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THURSDAY, OCTOBER 12, 1978

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[Last Listing: October 11, 1978]

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International Development and Food Assistance Act of 1978. (Oct. 6, 1978; 92 Stat. 937). Price: $1.20.

H.R. 11567 ..... Pub. L. 95-425
To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes. (Oct. 6, 1978; 92 Stat. 962). Price: $.60.

H.R. 12598 ..... Pub. L. 95-426
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H.R. 12841 ..... Pub. L. 95-427
To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes. (Oct. 7, 1978; 92 Stat. 996). Price: $.60.

H.R. 10822 ..... Pub. L. 95-428
To improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes. (Oct. 7, 1978; 92 Stat. 999). Price: $.60.

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presidential documents

[1505-01]

Title 3—The President

CORRECTION

Memorandum of September 26, 1978

Determination and Certification Under the International Security Assistance Act of 1978 Regarding Resumption of Full Military Cooperation With Turkey

In the heading of the Presidential memorandum of September 26, 1978, appearing at page 46821 in the FEDERAL REGISTER issue of October 11, 1978, a typographical error resulted in an incorrect reference to "[Presidential Determination No. 78-1818]." The correct reference is "[Presidential Determination No. 78-18]."

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Papaya Regulation 8, Amendment 3]

PART 928—PAPAYAS GROWN IN HAWAII

Regulation of Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum weight requirement applicable to intrastate shipments of Hawaiian papayas from 14 ounces to 13 ounces for individual papayas. Such action recognizes the current and prospective marketing situation for Hawaiian papayas and is consistent with the composition of the crop.

EFFECTIVE DATE: October 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Papaya Administrative Committee, established under this marketing order, and upon other information, it is found that this amendment will tend to effectuate the declared policy of the act.

The amendment reflects the Department's appraisal of the current and prospective demand for fresh intrastate shipments of papayas grown in Hawaii. Less restrictive size requirements for such fruit are consistent with the character of much of the fruit available for fresh intrastate shipment. The amendment is designed to permit movement of available supplies of papayas consistent with the interest of producers and consumers.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and the amendment relieves restrictions on the handling of papayas grown in Hawaii.

In § 928.308 (Papaya Regulation 8; 42 FR 65133; 43 FR 19813; 43 FR 27775) the provisions of paragraph (a)(1) are amended to read as follows:

§ 928.308 Papaya Regulation 8.

(a) • • •

(1) During the period October 9 through December 31, 1978, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: Provided, That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: Provided further, That such papayas individually weigh not less than 13 ounces.

• • • • • •

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 6, 1978, to become effective October 9, 1978.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-28797 Filed 10-11-78; 8:45 am.]

[3410-04-M]

Title 9—Animals and Animal Products

CHAPTER II—AGRICULTURAL MARKETING SERVICE (PACKERS AND STOCKYARDS), DEPARTMENT OF AGRICULTURE

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

Posted Stockyards; Rate Orders

AGENCY: Packers and Stockyards—Agricultural Marketing Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This action revokes statement of general policy 203.11 (9 CFR 203.11) vacation of rate orders under the Packers and Stockyards Act. This action is necessary to remove provisions that are not in consonance with the Department's policy of allowing stockyard operators and market agencies to competitively determine the level of their rates and charges absent valid objections from affected rate payers and with recently enacted legislation permitting the filing of percentage tariffs. A statement of general policy which will replace the revoked statement will be issued that conforms to present departmental policy.

EFFECTIVE DATE: This policy shall be effective October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack W. Brinckmeyer, Chief, Rates, Services, and Facilities Branch, Livestock Marketing Division, Packers and Stockyards, AMS, USDA, Washington, D.C. 20250, 202-447-4366.

SUPPLEMENTARY INFORMATION: On October 6, 1978, Packers and Stockyards—AMS, issued a statement of general policy which provides that the agency's review and approval of the rates and charges at livestock markets is exercised only if valid complaints are received from users of the services furnished at the markets or there are other compelling circumstances warranting such review. At the present time there are seven basic rate orders applicable to the operations at seven posted stockyards, which were

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issued less than ten years ago. The rate orders were prescribed after hearings in which there was minimal public objections to market originated rate proposals. Under the statement of general policy 203.11 petitions to dismiss or vacate a rate order are entertained only after the order has been in effect for 10 years. The provisions of § 203.11 are not in consonance with the current policy of promoting competition in rates in that the markets subject to the basic rate order are not free to determine the level of rates they wish to assess while other market operators are free to set their own rates. To place all stockyard operators on the same basis and release those under a basic rate order from more stringent procedures, statement of general policy 203.11 is revoked. A statement of general policy replacing the present provisions which conforms to present Departmental policy and recently enacted legislation will be issued.

The Department has fully explored its rate regulation program. It held public hearings at seven locations across the United States, requesting views and comments on a proposed policy statement and revisions of the regulations. Also, hearings were held before the Livestock and Grain Subcommittee of the House Agriculture Committee concerning rate regulation at posted stockyards and the rate provisions of the Act have been amended. Because of this current exhaustive review and because the action taken eliminates a restriction, Chas B. Jennings, Deputy Administrator, Packers and Stockyards-AMS, has determined that a further public comment period will not be necessary and would unnecessarily delay the implementing of this aspect of the new rate policies under the Act. Furthermore, if petitions to dismiss such rate orders are filed under the new policy, notice of such petitions will be published in the FEDERAL REGISTER pursuant to the applicable rules of practice (9 CFR 202.37 (b)).

Accordingly, § 203.11 is revoked.

Dated: October 6, 1978.

CHAS B. JENNINGS,
Deputy Administrator,
Packers and Stockyards-AMS.

§ 203.11 [Revoked and reserved].

Section 203.11 is revoked.

Section 203.11 is reserved.

[FR Doc. 78-28759 Filed 10-11-78; 8:45 am]

[1505-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

PART 220—CREDIT BY BROKERS AND DEALERS

PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS

PART 224—RULES GOVERNING BORROWERS WHO OBTAIN SECURITIES

List of OTC Margin Stocks

Correction

In FR Doc. 78-28014 appearing at page 45821 in the issue for Wednesday, October 4, 1978, the list of additions on page 45822, in the second and third columns, should have read as set forth below:

Additions to List

Aceto Chemical Co., Inc.
$.01 par common

Aztec Manufacturing Company
$1.00 par common

Beneficial National Corporation
$.25 par common

Berkley, W. R. Corporation
$.20 par common

Billings Energy Corporation
$.01 par common

Bitco Corporation
$1.00 par common

C L Assets, Inc.
$1.00 par cumulative preferred

Captecn Inc.
$1.00 par common

Century 21 Real Estate Corporation
$.01 par common

Champion Products Inc.
$1.00 par common

Chattem Drug & Chemical Company
No par common

Comcast Corporation
Class A, $1.00 par common

Comdisco, Inc.
$.10 par common

Covington Brothers
$.50 par common

Domain Industries, Inc.
$1.00 par common

Dougherty Brothers Company
$.25 par common

Eastern Air Lines, Inc.
Warrants (expire 06/01/87)

Finnigan Corporation
$1.00 par common

First Fidelity Investment Trust
No par shares of beneficial interest

First Illinois Corporation
$5.00 par common

First National Bank of New Jersey
$5.00 par common

First Peoples Bank of New Jersey
$6.00 par capital

Florida Coast Banks, Inc.
$1.00 par common

Franklin State Bank
$3.50 par common

HNO International
$.10 par common

Harper Group, The
No par common

Heist, C. H. Corporation
$.05 par common

Hibernia Corporation
$10.00 par common

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Homestead Financial Corporation
$.75 par common

Impell Corporation
$.02 par common

Ivy Corporation
$.10 par common

Jamaica Water Properties, Inc.
$.10 par common

Jenoa Inc.
No par common

King International Corporation
$1.00 par common

Leonard Silver International, Inc.
$.01 par common

Liberty National Bank and Trust Company of Louisville
$8.33-1/3 par common

Lippincott, J. B. Company
No par common, $1.00 stated value

Liqui-Box Corporation
No par common

Longview Fibre Company
$7.50 par common

Med General, Inc.
$.01 par common

Mentor Corporation
$.10 par common

Midland Resources, Inc.
$.50 par common

Modular Computer Systems Inc.
8.5% convertible subordinated debentures

Mountain Banks, Ltd.
$5.00 par common

NFC Corporation
8% covertible subordinated debentures

National Computer Systems, Inc.
$.03 par common

National Reserve Life Insurance Company
$1.00 par common

National Security Insurance Company
$1.00 par common

National Shoes, Inc.
$1.00 par common

National State Bank, The (Elizabeth, N. J.)
$7.00 par common

Ocean Oil & Gas Company
$1.00 par common

Old Kent Financial Corporation
$10.00 par common

Old Stone Corporation
$1.00 par cumulative convertible preferred

Optical Radiation Corporation
$.50 par common

Orion Research Inc.
$.10 par common

Pacesetter Building Systems, Inc.
$.25 par common

Pacesetter Financial Corporation
$10.00 par common

Pacific Resources, Inc.
No par common

Park-Ohio Industries, Inc.
$1.00 par cumulative convertible preferred

Piedmont Management Company Inc.
$.50 par common

Porta Systems Corp.
$.01 par common

Precision Castparts Corporation
No par common

Rangaire Corporation
$.10 par common

Revell, Inc.
$1.00 par common

Save-Way Industries, Inc.
$.10 par common

Security Bancorp, Inc.
$.01 par common

Southland Bancorporation
$2.50 par common

Southwest Factories, Inc.
$.40 par common

T-Bar Inc.
$.25 par common

Timberland Industries, Inc.
$.16 par common

Union Trust Bancorp
$5.00 par common

United Carolina Bancshares Corporation
$4.00 par common

University Real Estate Trust
No par shares of beneficial interest

Valtec Corporation
$.01 par common

Vance, Sanders & Company, Inc.
Non-voting, $.50 par common

Vanderbilt Energy Corporation
$.10 par common

Wabash International Corporation
No par common

Western States Life Insurance Company
$1.00 par common

Wiley, John & Sons Inc.
$1.00 par common

Wisconsin Centrifugal, Inc.
$1.00 par common

Zondervan Corporation, The
$1.00 par common

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[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 6, Amendment 20; Revision 3, Amendment 12]

PART 120—BUSINESS LOAN POLICY

PART 122—BUSINESS LOANS

Improvements to SBA Blanket Guaranty, Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects a final rule published in the FEDERAL REGISTER on September 28, 1978 (43 FR 44470).

DATES: Effective October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Timothy F. O'Leary, Chief, Programs and Systems Division, 1441 L Street NW., Washington, D.C. 20416. 202-653-6429.

In FR Doc. 78-27221 appearing at page 44470 in the issue for Thursday, September 28, 1978, in Item 1 of the amending instructions, in the first line "Section 120.3(b)" should read "Section 120.3(b)(1)." In item 2 of the amending instructions, in the first line, "Section 122.10(b)" should read "Section 122.10(b)(1)."

OLETA F. WAUGH,
Federal Register Liaison Officer.

OCTOBER 5, 1978.

[FR Doc. 78-28809 Filed 10-11-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-NE-12; Amdt. 39-3315]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney JT8D-1, -1A, -1B, -7, -7A, -7B, -9, and -9A Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires a third-stage turbine blade displacement inspection and installation of improved blade retention rivets and washers on JT8D model engines. The AD is needed to prevent third-stage turbine blade retention failure which could result in failure of the low turbine shaft and/or penetration of engine casings by turbine blade and vane debris.

DATES: Effective date, December 20, 1978; compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section (ANE-214), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7347.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal aviation regulations to include an airworthiness directive requiring a third-stage turbine blade displacement inspection and installation of improved blade retention rivets and washers was published in the FEDERAL REGISTER at 43 FR 22374. The proposal was prompted by reports of third-stage turbine blade retention device failures resulting in blade loss and penetration of the engine casings and fan ducts and, in some cases, separation of the low turbine shaft. The low turbine shaft failure occurs when it contacts the high turbine shaft inner wall and a machining action takes place. Contact between the shafts is caused by a high rotating unbalance load applied to the low turbine shaft following loss of third-stage turbine blades.

Since this condition is likely to exist or develop in other engines of the same type design, the AD requires repetitive blade displacement inspection and eventual installation of improved blade retention rivets and washers. The blade displacement inspection will be required by Pratt & Whitney Aircraft Service Bulletin No. 4592. Engines incorporating the older service repair rivet, P/N 618749, in accordance with Pratt & Whitney Aircraft Service Bulletin No. 1903, are not subject to the blade displacement inspection requirement.

The blade rivet failures have occurred randomly with respect to operating time, and no specific time interval can be identified for incorporation of improved blade retention rivets. The compliance date of June 30, 1980, is therefore based on availability of replacement parts and the earliest possible operator maintenance schedule. The blade displacement inspection is required until the improved retention rivets are installed and will be done initially at 3,000 hours since installation of third-stage turbine blades in the third-stage turbine disk and every 1,000 hours thereafter. This interval is based on known failure statistics.

Interested persons have been afforded an opportunity to participate in the making of the amendment.

One commentator stated the 0.032-inch blade displacement criteria, in the NPRM, was unnecessarily restrictive and should be revised to allow continued operation with blades displaced up to 0.117 inch. The commentator based the proposal on a more frequent inspection interval and a blade displacement rate of 0.0273 inch per 60 flight-hours for its fleet.

The FAA has given this comment careful consideration and does not agree with the commentator. The 0.032-inch blade displacement criteria was selected after review of the entire JT8D fleet blade displacement failure statistics, inspection method accuracy, and fleetwide displacement rates. The rate of blade displacement, upon which the commentator's proposal is based, has been found to vary from engine to engine depending on the unknown amount of blade shroud notch wear, retention rivet tightness, and other effects related to amount of operating time on the assembled rotor. Therefore, the FAA still considers the 0.032-inch blade displacement criteria, as proposed in the NPRM, the most appropriate displacement criteria for this AD in terms of safety.

Subsequent to the issuance of the NPRM, the manufacturer, Pratt & Whitney Aircraft, has developed and included in the JT8D maintenance manual an alternate borescope displacement inspection procedure. This procedure utilizes a rigid, rather than flexible, borescope which provides third-stage turbine blade root platform position information relative to adjacent blade root platforms. The FAA concurs with this alternate procedure, and the final rule includes provisions for this inspection method. In addition, minor editorial changes have been made for clarity.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal aviation regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT: Applies to Pratt & Whitney Aircraft JT8D-1, -1A, -1B, -7, -7A, -7B, -9, and -9A turbofan engine models not incorporating third-stage turbine blade retention rivets, P/N 759351 or P/N 618749.

Compliance required as indicated unless already accomplished.

To prevent third-stage turbine blade rivet failure which could result in failure of the low turbine shaft and/or noncontainment of turbine blade and vane debris, accomplish the following:

1. Inspect engines for proper position of the third-stage turbine blade in the disk blade slot in accordance with the procedures in the Pratt & Whitney Aircraft JT8D Maintenance Manual, P/N 481671, Section 72-00, Borescope or Radioisotope Inspection of Third-Stage Turbine Blade, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region, prior to the accumulation of 3,000 hour's time in service since installed in disk or within the next 600 hours' time in service after the effective date of this AD, whichever is later. Engines with no measurable third-stage turbine blade mismatch or displacement must be reinspected every 1,000 hours' time in service thereafter. Engines with third-stage turbine blade roots displaced axially more than 0.032 inch relative to the disk rear surface or engines with third-stage turbine blade root platform rear surface displaced axially more than 0.032 inch relative to an adjacent third-stage turbine blade root platform rear surface must be removed prior to further flight. Engines with third-stage turbine blade mismatch or axial displacement 0.032 inch or less shall be subject to 300-hour repetitive displacement inspections. Engines with third-stage turbine blade mismatch confirmed by an initial displacement inspection and two 300-hour repetitive displacement inspections during which there is no change in blade position, indicating blades were mismatched at last assembly, may then revert to the 1,000-hour repetitive inspection interval.

NOTE.—a. Mismatch of the blade relative to the disk or the blade root platform rear surface relative to an adjacent blade root platform rear surface is the result of manufacturing tolerance buildup.

b. Displacement of the blade is axial movement of the blade relative to its position when originally installed.

c. A piece of 0.032-inch safety wire may be used with the borescope technique as a guide to determine the position of the blade relative to the disk rear face or the blade root platform rear surface relative to an adjacent blade root platform rear surface.

d. The rigid borescope and radioisotope inspection methods provide blade displacement information by comparing one blade root platform rear surface to an adjacent blade root platform rear surface. The flexible borescope inspection method provides blade displacement information by comparing the blade root with the disk rear surface.

2. Install by June 30, 1980, improved third-stage turbine blade retention rivets, P/N 759351, in accordance with Pratt & Whitney Aircraft Service Bulletin No. 4592, Revision 1, dated August 20, 1976, or later revision approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's alert service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corp., 400 Main Street, East Hartford, Conn. 06108. This document may also be examined at the Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. An historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at New England Region.

This amendment becomes effective December 20, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Burlington, Mass., on October 3, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc. 78-28713 Filed 10-11-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-37]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone: Lakehurst, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the Lakehurst, N.J., control zone. This alteration will permit changes in the daily time of control by publication in the notices to airmen. This is needed in the interest of more flexible utilization and scheduling of aircraft by the commanding officer of the naval facility.

EFFECTIVE DATE: 0901 G.m.t., November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, JFK. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3091.

SUPPLEMENTARY INFORMATION: The FAA published a notice of proposed rulemaking in the FEDERAL REGISTER on Thursday, June 29, 1978, on page 28207. Interested parties were given time in which to submit comments on the proposal. There were no objections.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart F of part 71 of the Federal aviation regulations (14 CFR part 71) is amended, effective 0901 G.m.t., November 2, 1978, as published.

(Secs. 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, N.Y., on September 28, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

1. Amend § 71.171 of part 71 of the Federal aviation regulations by adding the following to the description of the Lakehurst, N.J., control zone: "or during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the airport/facility directory."

[FR Doc. 78-28715 Filed 10-11-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WE-17]

PART 73—SPECIAL USE AIRSPACE

Redesignation of Ajo, Ariz., Restricted Area; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of August 21, 1978 (43 FR 36896) the amendatory action to divide the Ajo, Ariz., Restricted

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Area, inadvertently omitted rescission of the original area and inclusion of the east area. This correction includes the omitted action to the amendatory language of this docket.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER IMFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The FEDERAL REGISTER Document 78-23449 was published on August 21, 1978 (43 FR 36896) with an effective date of November 2, 1978, and divided the Ajo, Ariz., Restricted Area R-2301 into two areas, R-2301W and R-2301E. Action is taken herein to include in the amendatory language of the docket the description of R-2301E and the deletion of R-2301.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 78-23449 as published on August 21, 1978 (43 FR 36896) is amended in the ADOPTION OF THE AMENDMENT by adding, between "as follows:" and "R-2301W" the following: R-2301 Ajo, Ariz. Title and text is deleted.

R-2301E Ajo East, Ariz., is added as follows:

R-2301E AJO EAST, ARIZ.

Boundaries. Beginning at lat. 32°50'25" N., long. 112°48'00" W.; thence direct to lat. 32°11'30" N., long. 112°56'45" W.; thence direct to lat. 32°11'30" N., long. 113°05'30" W.; thence direct to lat. 31°58'00" N., long. 113°05'30" W.; along the United States-Mexican border to the intersection of the United States-Mexican border and long. 113°30'30" W.; thence direct to lat. 32°44'15" N., long. 113°41'05" W.; thence direct to lat. 32°45'50" N., long. 113°34'30" W.; thence direct to the point of beginning.

Designated altitudes: Surface to flight level 800.

Time of designation: Intermittent.

Controlling agency: Federal Aviation Administration, Albuquerque ARTC Center.

Using agency: Commander, Luke AFB, Ariz.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 3, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-28716 Filed 10-11-78; 8:45 am]

[1505-01-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 386—EXPORT CLEARANCE

Deletion of General License GMS

Correction

In FR Doc. 78-27299 appearing on page 44482 in the issue of Thursday, September 28, 1978, in the middle column, § 371.2 [Reserved] should read. § 371.20 [Reserved].

[4810-22-M]

Title 19—Customs Duties

[T.D. 78-381]

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 4—FEE SCHEDULE FOR VESSEL SERVICES

Navigation Fees

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The Customs Service charges and collects fees under several statutes for specific services provided to vessels by Customs officers. Because the fees do not cover the costs of providing the services, and to give the Secretary of the Treasury discretion to set fees sufficient to cover the costs, the statutes have been repealed. This notice informs the public that until a new schedule of fees is established to return to the Government the approximate costs of the services, Customs will continue to charge and collect the fees presently provided in its regulations.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 ("the Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which Customs has been charging and collecting fees for specific services provided to vessels by Customs officers. These fees designated as "Navigation Fees" in § 4.98, Customs Regulations (19 CFR 4.98), are as follows:

Fee No	Description of services	A	B
1	Entry of vessel, including American, from foreign port (19 U.S.C. 58):		
	(a) Less than 100 net tons	$1.50	
	(b) 100 net tons and over	2.50	
2	Clearance of vessel, including American, to foreign port (19 U.S.C. 58):		
	(a) Less than 100 net tons	1.50	
	(b) 100 net tons and over	2.50	
3	Issuing permit to foreign vessel to proceed from district to district, and receiving manifest (46 U.S.C. 325, 330)	2.00	$0.10
4	Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade (46 U.S.C. 329, 330)	2.00	0.10
5	Receiving post entry (19 U.S.C. 58, 46 U.S.C. 330)	2.00	2.00
6	Receiving official bond not otherwise provided for (19 U.S.C. 58)	0.40	
7	Certifying payment of tonnage tax for foreign vessels only (19 U.S.C. 58)	0.20	0.20
8	Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated (19 U.S.C. 58)	0.20	0.20

The fees in column A are those collectible on the Atlantic, Gulf, and Pacific coasts and on the Mississippi River and tributaries; those in column B are collectible on the northern, northeastern, and northwestern frontiers (Great Lakes, Lake Champlain, and St. Lawrence River).

Because these fees do not cover the costs of providing the services, section 214 of the Act authorizes the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. These fees are to be consistent with section 501 of the Independent Offices Appropriation Act, 1952 (31 U.S.C. 483a), the so-called "User Charges Statute," which provides that the costs of specific services for private interests shall be reimbursed to the Government.

A new fee schedule to replace the existing fee schedule in section 4.98 is now being prepared. It is anticipated that the fees to be charged and collected will be based upon the amount of time the average service in a specific area requires of a Customs officer in the third step of GS-11 plus an allowance for overhead costs. When completed, the new fee schedule will be published in the FEDERAL REGISTER and interested parties will be provided an opportunity to submit written comments before the new schedule is incorporated into the Customs regulations. Until the new fee schedule is effective, however, interim action is required so that fees may be charged and collected for the services provided.

ACTION

Until the new fee schedule becomes effective, Customs will continue to charge and collect the fees set forth in § 4.98, Customs regulations, for services provided to vessels by Customs officers.

AUTHORITY

(R.S. 251, section 501, 65 Stat. 290, Pub. L. 95-410, 92 Stat. 888 (19 U.S.C. 66, 31 U.S.C. 483a).)

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

R. E. CHASEN,
Commissioner of Customs.

Approved: August 3, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-28760 Filed 10-11-78; 8:45 am]

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 640—CERTIFICATION ACCEPTANCE

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule prescribes the regulations which provide an alternative procedure authorized by section 117 of title 23, United States Code, for administering Federal-aid highway projects not on the Interstate System. The procedure is an alternative to that otherwise prescribed in title 23, United States Code, and provides for processing projects by using State laws, regulations, directives, and standards and reducing Federal involvement in individual project actions.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph W. Burdell, Jr., Chief, Federal-Aid Division, 202-426-0442; or Ruth R. Johnson, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On January 9, 1978, the Federal Highway Administration (FHWA) published an interim rule (23 CFR part 640 at 43 FR 1328) on certification acceptance (CA). The effective date for the regulations was January 13, 1978. As indicated at that time, the CA regulations were again issued as interim regulations due to substantive changes that had been made from the version proposed in the notice of proposed rulemaking. The agency invited comments on the interim regulations.

Comments were received from eight agencies and organizations and two individuals regarding the interim rule. The comments were generally favorable toward the CA concept.

The Center for Auto Safety's comments expressed concern and disappointment that FHWA had not accepted more of the revisions it had urged. The center, however, refrained from taking issue with the regulations pending further developments in the litigation in progress regarding FHWA's acceptance of a Georgia certification in September 1974.

Several varied comments suggested editorial changes to the text of the regulations and these have been incorporated where appropriate. Most of the substantive comments were primarily addressed to three major areas: (1) The scope of an FHWA evaluation of a State's performance and resources to provide a basis for a finding of State capability, (2) the "less than $500,000" criteria for projects administered under a limited-coverage State certification, and (3) the requirement that a State certification include a listing and a copy of the State laws, regulations, directives, and standards marked to show coverage to accomplish policies and objectives of title 23, United States Code.

DISCUSSION OF MAJOR COMMENTS

The Illinois Department of Transportation commented that the new interim regulations have increased the complexity of the certification process by requiring a detailed review of a State's performance and resources. Section 640.109 was written to clearly specify an FHWA finding that the State highway agency has the capability to carry out projects in accordance with State requirements as a prerequisite to acceptance of either a full or partial coverage State certification. We believe this is a sound administrative practice.

With regard to detail, an attempt was made to be more specific on the materials which may be considered in making a "finding." With few exceptions, the reviews and reports listed have been previously made and, when aggregated and categorized, provide a comprehensive record of FHWA's ongoing evaluation of a State's performance and resources. Where additional reviews are necessary, the responsibility rests primarily with FHWA and should impose very little burden on the State.

Comments from the Illinois Department of Transportation and two individuals expressed concern with the $500,000 limitation in the limited-coverage State certification option described in § 640.107(d). We are cognizant that the dollar limit will make this option unattractive to some States, but all States have the alternative of requesting acceptance of either a full or partial coverage certification structured to meet their particular needs.

Although the possibility for manipulation exists whenever a dollar value is specified as a control, we do not envision administrative problems with the $500,000 limit. Should flagrant abuse occur, the FHWA has the authority to rescind acceptance of a State's certification.

Several comments took issue with the procedural requirement for sub-

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mission of the State laws, regulations, directives, and standards marked to show coverage to accomplish the objectives of title 23 described in the interim regulations. The language of 23 U.S.C. 117 requires the Secretary, before accepting a State certification, to make a finding that projects will be carried out in accordance with State requirements which will accomplish the policies and objectives contained in or issued pursuant to title 23. We believe that submittal of a marked copy of State requirements would facilitate the finding. However, we have reconsidered the matter and decided that identification of pertinent State requirements will suffice. Experience has shown that this finding can best be accomplished through a cooperative State and FHWA effort.

The regulations have been revised to require that a State certification, providing full or partial coverage, contain a listing of applicable title 23 policies and objectives and citation of State laws, regulations, directives, and standards that will be applied to accomplish each of them. In making a finding the FHWA will rely on copies of State publications either previously furnished or made available by the State for inspection.

NOTE.—The Federal Highway Administration has determined that this document does not contan a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044.

Issued on September 25, 1978.

JOHN S. HASSELL, JR.,
Deputy Administrator.

Part 640 of title 23, Code of Federal Regulations, is hereby amended to read as follows:

Sec.
640.101 Purpose.
640.103 Definitions.
640.105 Effect of certification acceptance.
640.107 Coverage.
640.109 Requirements for certification acceptance.
640.111 Content of State certification.
640.113 Procedures.
640.115 Evaluations.
640.117 Rescission.
Appendix A—FHWA reports.

AUTHORITY: 23 U.S.C. 101(e), 117, and 315; 49 CFR 1.48(b).

§ 640.101 Purpose.

The purpose of this regulation is to provide instructions for preparation and acceptance of State certification proposals to accomplish the policies and objectives of title 23, United States Code, using State laws, regulations, directives, and standards. Also covered are procedures for administering projects under certification acceptance and evaluating State performance.

§ 640.103 Definitions.

As used in this regulation:

(a) Action plan—A document describing the organization to be utilized and the process to be followed in the development of Federal-aid highway projects to assure public participation and consideration of social, economic, and environmental effects of such projects (23 CFR 795).

(b) Certification acceptance (CA)—the alternative procedure authorized by 23 U.S.C. 117(a) for administering Federal-aid projects not on the Interstate System.

(c) Secondary road plan—a written statement setting forth the standards and procedures adopted by the State highway agency to be used in the administration of Federal-aid projects on the Federal-aid secondary (FAS) system (23 CFR 642).

(d) State certification—a written statement prepared by a State highway agency setting forth the laws, regulations, directives, and standards it will use, or cause to be used, in the administration of certain highway projects.

§ 640.105 Effect of certification acceptance.

(a) Acceptance of a State certification permits a State to discharge certain responsibilities otherwise assigned to the Secretary under title 23, United States Code, for Federal-aid projects. A State may permit performance and project certification by capable local governments.

(b) Acceptance of a State certification does not constitute a commitment or obligation of Federal funds.

(c) Acceptance of a State certification does not preclude FHWA access to and review of a Federal-aid project at any time.

(d) Certification acceptance as an alternative procedure does not replace the fundamental provisions of law in title 23 with respect to the basic structure of the Federal-aid highway program, such as the authorization of funds (23 U.S.C. 102), Federal-aid systems (23 U.S.C. 103), apportionments (23 U.S.C. 104), programs (23 U.S.C. 105), designation of urbanized area boundaries (23 U.S.C. 101(a)), allocation of urban system funds (23 U.S.C. 150), Federal share payable (23 U.S.C. 120), toll roads and bridges (23 U.S.C. 129), and maintenance (23 U.S.C. 116). Acceptance of a CA proposal does not preclude application of any provision of title 23 that may be advantageous to the State.

(e) Nothing in this regulation shall affect or discharge any responsibility or obligation of the FHWA under any Federal law other than title 23.

§ 640.107 Coverage.

(a) Certification acceptance may apply to projects on all Federal-aid highway systems except the Interstate System. If other FHWA regulations and title 23 permit, projects not on a Federal-aid system may be administered under the provisions of an accepted State certification.

(b) The CA procedure shall not apply to transportation planning and research (23 U.S.C. 134 and 307), highway safety (chapter 4, title 23), or those public transportation projects not administered by FHWA under title 23.

(c) A State certification may provide for either full or partial coverage of the eligible systems, programs, phases of work, and classes of projects.

(d) A simplified CA application procedure is provided in paragraph (b) of § 640.109 of this regulation, should a State desire to limit coverage to projects which are both (1) determined to be a nonmajor action in accordance with 23 CFR 771.9 and (2) estimated to cost less than $500,000 for physical construction. Such limited-coverage State certification will apply only to the FHWA responsibilities for project plans, specifications, estimates, surveys, contract award, design, inspection, and/or construction.

§ 640.109 Requirements for certification acceptance.

(a) Acceptance of either a full or partial coverage State certification as described in § 640.107(c) will be based upon:

(1) A State request and identification of the State laws, regulations, directives, and standards that will accomplish the policies and objectives contained in or issued pursuant to title 23, United States Code, and

(2) An FHWA finding that the State highway agency has the capability to carry out projects in accordance with such State requirements.

(i) State laws, regulations, directives, and standards, either separately or collectively, must be aimed at accomplishing the following title 23 policies and objectives:

(A) Public involvement in the development of projects in the location and design stages,

(B) Application of appropriate design and construction standards,

(C) Emphasis on increasing safety in location, design, and construction of projects,

(D) Controls to assure quality and economy of construction and maintenance,

(E) Provision of adequate signing, marking, and traffic control devices,

(F) Minimizing adverse economic, social, and environmental impacts of any project,

(G) Equal employment opportunity, nondiscrimination on the basis of sex, and highway construction training,

(H) Competitive bidding and payment of prevailing wage rates on construction contracts, and

(I) Preservation of natural beauty.

(ii) The finding that the State highway agency has the capability to carry out project responsibilities will be based on an FHWA evaluation of the State's performance and resources.

(A) Evaluation of a State's performance shall be based on previously conducted reviews, including secondary road plan reviews, action plan reviews, safety reviews and reports, audit reports, reviews of State bidding practices, inspections in depth, and maintenance inspections. If these reviews are considered to be insufficient to form a conclusive judgment, they may be supplemented by inquiries or additional reviews in specific areas to determine the State's performance. These additional reviews may involve examination of a sample of typical projects in varying degrees of development.

(B) Evaluation of a State's resources shall be based on previously conducted reviews, including financial and administrative studies and reports, or on FHWA's general knowledge of the State and its highway agency. If this information is considered to be insufficient to form a reasonable judgment of State resource adequacy, inquiries or additional reviews may be made of the State highway agency. These inquiries or reviews may include such things as the availability of professional and technical personnel, training provided State personnel, control of contract administration, the planned reassignment of responsibilities and/or personnel if the State certification is accepted, and the State's internal review practices.

(b) Acceptance of a limited-coverage State certification as described in § 640.107(d) will be based on an evaluation of the State's operations and performance under an approved secondary road plan. These evaluations must support findings that:

(1) The policies and objectives of title 23 are being accomplished under the State's approved secondary road plan and action plan. Supplementary standards and procedures appropriate to the types of projects to be added to the coverage must provide similar assurance, and

(2) The State's performance under the plan has been found to be satisfactory in the last 4 years by an FHWA evaluation of the State's operation.

(c) A State certification may be accepted in whole or in part, depending on FHWA findings. Where minor deficiencies are found, acceptance may be conditioned or may exclude the affected State operations until the deficiences are corrected. Where deficiencies are found which are of such magnitude as to create doubt that the policies and objectives of title 23 would be accomplished, the State certification will not be accepted until the deficiencies are corrected.

§ 640.111 Content of State certification.

(a) The State certification shall include the following:

(1) The name of the State highway agency and the legal authority which permits such agency to accomplish the policies and objectives contained in or issued pursuant to title 23, United States Code,

(2) A statement of the systems, programs, phases of work, and classes of projects or combinations thereof that the State is including in the certification being submitted for acceptance,

(3) For submissions providing full or partial coverage of projects as described in § 640.107(c), a listing of the title 23 policies and objectives described in § 640.109(a)(2)(i) and citation of State laws, regulations, directives, and standards that will be applied to accomplish each of them. Any of the policies and objectives that are not applicable due to partial coverage may be omitted. For submissions providing limited coverage as described in § 640.109(b), supplementary standards and procedures which, together with the State's approved secondary road plan, will apply to the types of projects to be covered. Design standards include noise, geometric, hydraulic, structural (including pavements), and traffic control device standards. Construction standards include standard plans and standard specifications covering contract, construction, and material requirements, and

(4) A description of the State's methods for assuring local government knowledge of an compliance with State and Federal requirements where they perform services on projects administered under this alternative procedure.

(b) Existing assurances and formal agreements between the State and FHWA with respect to equal employment opportunity, current billing, and control of outdoor advertising will continue in full force and effect and may be incorporated by reference. Likewise, the State's approved action plan may be incorporated by reference.

(c) State certifications are to be signed by the chief official of the State highway agency and submitted through the FHWA Division Administrator.

§ 640.113 Procedures.

(a) Established procedures for system revisions, program actions, and record retention will not be affected by acceptance of a State certification.

(b) Authorization by FHWA to proceed with work on a CA project shall be in writing in response to a request from the State highway agency.

(c) If the State finds that exceptions to CA procedures or standards are appropriate on a project, such exceptions shall be brought promptly to the attention of the FHWA for consideration.

(d) A project agreement shall be executed as soon as practicable after authorization on form PR-2 (Federal-Aid Project Agreement), based on the best available cost estimate. Agreement amounts shall be modified promptly on Form PR-2A (Modification of Federal-Aid Project Agreement) upon the award of a contract for construction or when any other project action substantially changes total costs.

(e) Reports requested by FHWA are to be furnished by the State for projects administered under CA. (See appendix A.)

(f) The FHWA shall make an inspection of each physical construction project upon its completion. The State is to notify FHWA when a project is complete and/or ready for such inspection. Form FHWA 1446C may be used for this purpose.

(g) Final vouchers shall be submitted to the FHWA on form FHWA 1447, on which the State certifies that the plans, design, and construction for the project were in accord with the laws, regulations, directives, and standards contained in the State certification or such project exceptions as were approved by the FHWA.

(h) Revisions or amendments to State certifications will be made when necessary and processed as provided in § 640.111(c). The existing State certification is to be reviewed periodically to determine its adequacy in light of this regulation, the statutes in effect at the time of the review, and the operational reviews made by FHWA.

§ 640.115 Evaluations.

(a) Periodically, evaluations of the State's operations under CA shall be made. These evaluations shall include coverage of all areas of the State's administration of CA projects at least once every 4 years.

(b) If a failure to comply with Federal or State laws occurs and the State is unable or unwilling to effect corrective action of the deficiency, an evaluation report, together with recommendations of the regional office, shall be furnished to FHWA headquarters office for advice.

§ 640.117 Rescission.

The acceptance of a State certification may be rescinded at any time upon request of the State or if considered necessary by FHWA to protect the Federal interest. The rescission may be applied to all or part of the programs or projects covered in the State certification.

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APPENDIX A.—*FHWA Reports*

[Originating in the field and in program areas that can be included under certification acceptance]

Originating office and title	Format	Frequency	Due date	Respondents
Associate Administrator for Engineering and Traffic Operations (HEO)				
HNG—Force Account Affirmative Finding (except projects on FAS system).	Nar	SA	January 15, July 15	States.
HNG—Bid Price Data*	PR-45	AR	Award of contract	Do.
HNG—Report on Opening of Bids (except projects on FAS system).	Tabulation	AR	do	Do.
HHO—Federal-aid Highway Construction Contractor's Semiannual Training Report.	FHWA-1409	SA	January 20, July 20	Contractors.
HHO—Federal-aid Highway Construction Semiannual Training Report.	FHWA-1410	SA	January 30, July 30	States.
HNG—Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds*.	PR-47	AR	Completion of project	Contractors.
HNG—Lists of Candidate Bridges for Replacement	Punched computer cards (5)	AR	As soon as possible	States.
HNG—Urban Railroad Demonstration Project Status	Nar	Q	End of quarter plus 30	Do.
Associate Administrator for Safety (HHS)				
HHS—Progress and Effectiveness of Unified Safety Improvement Programs (4).	Nar	A	August 31	Do.
HHS—Progress and Effectiveness of Pavement Marking Demonstration Program.	Nar with FHWA-1451	A	September 30	Do.
Associate Administrator for Right-of-Way and Environment (HRE)				
HRW—Outdoor Advertising and Junkyard Report	FHWA-1424	Q	End of quarter plus 20	Do.
Associate Administrator for Administration (HAD)				
HFS—Accounting Statement, Accrued Unbilled Costs	FHWA-186	Q	End of quarter plus 8th workday.	Do.
HFS—Project Status Record	PR-37	AR	As soon as possible	Div.-Reg.
Office of Chief Counsel (HCC)				
HCC—Semi-Annual Labor Compliance Enforcement Report.	PR-1286 to be changed to FHWA-1494.	SA	January 10, July 10	Div.-Reg.

*Except any project on FAS system, or projects on the FAP or FAU systems costing less than $500,000.

[FR Doc. 78-28731 Filed 10-11-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4583]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule

SUMMARY: This rule lists communities participating in the national flood insurance program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the national flood insurance program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The national flood insurance program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a flood hazard boundary map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
California	Monterey	Del Rey Oaks, city of	June 23, 1978, emergency	May 14, 1976	060197
Colorado	Washington	Otis, town of	do	May 24, 1974 and Oct. 31, 1975.	080178-A
Kansas	Shawnee	Unincorporated areas	do	Feb. 21, 1978	
Do	Butler	Towanda, city of	do	August 8, 1975	200534
Nevada	Elko	Unincorporated areas	do		320027
Do	Nye	Gabbs, city of	do	May 24, 1977	320034-A
Wyoming	Johnson	Kaycee, town of	do	Nov. 22, 1974	560028
Do	Lincoln	Unincorporated areas	do		560032
Maryland	Montgomery	Barnesville, town of	June 26, 1978, emergency	Jan. 21, 1977	240094-A
Missouri	Clay	Prathersville, village of	June 6, 1978, emergency	Feb. 18, 1977	290101
New Mexico	Berhalillo	Los Ranchos, village of	June 26, 1978, emergency	Nov. 5, 1976	350123
North Carolina	Bladen	Unincorporated areas	do	Jan. 20, 1978	370293
Do	Lee	Sanford, city of	do	Apr. 15, 1977	370143-A
Ohio	Union	Union, village of	do	Feb. 14, 1975	390704
Oklahoma	Haskell	Keota, town of	do	Oct. 1, 1976	400391

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date[1]
Alabama	Mobile	Bayou La Batre, city of	015001-A	June 15, 1978, suspension withdrawn.	Mar. 18, 1972	June 15, 1978.
Colorado	Arapahoe	Aurora, city of	080002-A	do	July 26, 1974	Do.
Do	Routt	Hayden, town of	080151-B	do	June 28, 1974	Do.
Do	Adams	Thornton, city of	080007-B	do	May 21, 1976 Nov. 1, 1974 Oct. 1, 1976	Do.
Connecticut	Middlesex	Cromwell, town of	090123-B	do	Mar. 22, 1974 Dec. 10, 1976	Do.
Do	Hartford	Glastonbury, town of	090124[2]-A	do	Apr. 20, 1973 Nov. 19, 1976	Do.
Delaware	New Castle	Newport, town of	100054-B	do	Dec. 20, 1974 Dec. 12, 1975	Do.
Florida	Brevard	unincorporated areas	125092-B	do	Sept. 27, 1972	Do.
Do	Broward	do	125093-C	do	Oct. 26, 1972	Do.
Do	Palm Beach	Jupiter Inlet Colony, town of.	125120-B	do	Sept. 27, 1972	Do.
Do	Broward	Lauderhill, city of	120044-B	do	Feb. 8, 1974 Jan. 30, 1976	Do.
Idaho	Blaine	Ketchum, city of	160023-B	do	Feb. 15, 1974	Do.
Illinois	Dupage	Carol Stream, village of	170202-B	do	Apr. 12, 1974 Aug. 27, 1976	Do.
Indiana	Monroe	Bloomington, city of	180169-B	do	June 21, 1974 June 25, 1976	Do.
Iowa	Pottawattamie	Council Bluffs, city of	190235-B	do	June 28, 1974 July 23, 1976	Do.
Kentucky	Henderson	Henderson, city of	210109-B	do	Feb. 15, 1974 July 9, 1976	Do.
Do	Woodford	Unincorporated areas	210230-A	do	Oct. 18, 1974	Do.
Louisiana	Concordia	Vidalia, town of	220057-B	do	Jan. 16, 1974 Nov. 14, 1975	Do.

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State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date
Maine	Penobscott	Bangor, city of	230102-B	June 15, 1978, suspension withdrawn.	Mar. 29, 1974 Oct. 31, 1974	June 15, 1978.
Michigan	St. Clair	St. Clair, city of	280279-B	do	June 28, 1974 June 11, 1976	Do.
Missouri	Stoddard	Advance, city of	290420-B	do	Mar. 1, 1974 Oct. 31, 1975	Do.
New Jersey	Somerset	Branchburg, township of	340431-B	do	Apr. 12, 1974 Sept. 3, 1976	Do.
Do	Ocean	Point Pleasant, borough of	345313-A	do	July 7, 1972	Do.
Do	Morris	Rockaway, borough of	34515-A	do	Sept. 3, 1971	Do.
Do	Bergen	Rutherford, borough of	340072-B	do	Mar. 8, 1974 July 30, 1976	Do.
Do	Broome	Endicott, village of	360045-A	do	Oct. 1, 1976	Do.
North Carolina	Dare	Nags Head, town of	375356-A	do	Nov. 10, 1972	Do.
Do	Rowan	Rockwell, town of	370214-B	do	Mar. 8, 1974	Do.
Oregon	Umatilla	Unincorporated areas	410204	do	June 15, 1978	Do.
Vermont	Washington	Barre, town of	500273-B	do	July 26, 1974 June 18, 1976	Do.
Virginia	Rockingham	Elkton, town of	510137-B	do	June 28, 1974	Do.
Do	Botetourt	Unincorporated areas	510018-A	do	Sept. 6, 1974	Do.
Wisconsin	Dane	Monona, city of	550088-B	do	Nov. 30, 1973 Apr. 16, 1976	Do.
West Virginia	Mason	Point Pleasant, town of	540250-A	do	Feb. 7, 1975	Do.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Alabama	Baldwin	Robertsdale, city of	Aug. 28, 1978, emergency	Jan. 28, 1977	010222-A
Iowa	Lee	West Point, city of	do	July 30, 1976	190683
Texas	Shelby	Timpson, city of	do	Nov. 5, 1976	481007
Pennsylvania	Beaver	Patterson Heights, borough of.	Aug. 29, 1978, emergency		
Tennessee	Johnson	Unincorporated areas	do	Jan. 17, 1975	470230
Idaho	Gem	do	Apr. 12, 1974, emergency. Apr. 17, 1978, regular. Apr. 17, 1978, suspended. Aug. 23, 1978, reinstated.	Apr. 17, 1978	160127-A
New York	Herkimer	Herkimer, village of	Feb. 12, 1974, emergency. June 1, 1978, regular. July. 3, 1978, suspended. Aug. 21, 1978, reinstated.	May 10, 1974 and May 28, 1976.	360307-B
West Virginia	Monongalia	Star City, town of	Apr. 18, 1975, emergency. Aug. 1, 1978, regular. Aug. 1, 1978, suspended. Aug. 21, 1978, reinstated.	Nov. 22, 1974	540273-A
Virginia	Fluvanna	Unincorporated areas	Oct. 4, 1973, emergency. Aug. 15, 1978, regular. Aug. 15, 1978, suspended. Aug. 24, 1978, reinstated.	Dec. 13, 1974	510058-A

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date
California	Alameda	Berkeley, city of	060004-A	Sept. 1, 1978, suspension withdrawn.	Dec. 7, 1973	Sept. 1, 1978.
Do	Orange	Newport Beach, city of	060227-B	do	Mar. 15, 1974 July 9, 1976	Do.
Colorado	Douglas	Castle Rock, town of	080050-B	do	Mar. 29, 1974	Do.
Do	do	Silverton, town of	080165-B	do	June 14, 1974 May 28, 1976	Do.
Delaware	Sussex	Millsboro, town of	100043-B	do	June 21, 1974	Do.
Florida	Levy	Yankeetown, town of	120147-A	do	Aug. 20, 1971 Feb. 27, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date
Kansas	Barton	Ellinwood, city of	200018-B	Sept. 1, 1978, suspension withdrawn.	Mar. 15, 1974 Oct. 24, 1975	Sept. 1, 1978.
Louisiana	St. Mary	Morgan City, city of	220196-A	do	Oct. 5, 1973	Do.
Maryland	Allegany	Cumberland, city of	240003-B	do	July 26, 1974 Feb. 27, 1976	Do.
Michigan	Bay	Bay City, city of	260020-B	do	May 3, 1974 June 4, 1976	Do.
Do	St. Clair	China, township of	260203-B	do	Aug. 16, 1974 Mar. 25, 1977	Do.
Do	Monroe	Erie, township of	260145-C	do	June 28, 1974 Aug. 22, 1975	Do.
Do	Macomb	New Baltimore, city of	260125-B	do	Apr. 12, 1974 June 18, 1976	Do.
Do	Iosco	Oscoda, township of	260101-B	do	Aug. 2, 1974 Aug. 6, 1976	Do.
Do	Bay	Pinconning, township of	260025-B	do	June 7, 1974 July 9, 1976	Do.
Minnesota	Ramsey	New Brighton, city of	270380-B	do	May 31, 1974	Do.
Mississippi	Bolivar	Cleveland, city of	280016-B	do	May 10, 1974 Aug. 27, 1976	Do.
Missouri	St. Louis	Bridgeton, city of	290339-B	do	Feb. 8, 1974 Dec. 13, 1974	Do.
New Jersey	Somerset	Bernards, township of	340428-A	do	Jan. 9, 1974	Do.
Do	Morris	Boonton, township of	340336-B	do	May 31, 1974 Jan. 9, 1976	Do.
Do	Camden	Lawnside, borough of	340502-B	do	Nov. 12, 1976	Do.
Do	do	Voorhees, township of	340538-A	do	Feb. 21, 1975	Do.
New York	Dutchess	Wappinger Falls, village of	360223-B	do	May 31, 1974 Nov. 21, 1975	Do.
North Carolina	Carteret	Beaufort, town of	375346-B	do	Dec. 2, 1972	Do.
Ohio	Cuyahoga	Cleveland, city of	390194-B	do	June 7, 1974 June 18, 1976	Do.
Do	Clermont, Warren, and Hamilton.	Loveland, city of	390068-B	do	Feb. 1, 1974 May 28, 1976	Do.
Do	Warren	South Lebanon, city of	390563-B	do	May 24, 1974	Do.
Pennsylvania	Alleghany	Etna, borough of	421062-B	do	July 26, 1974 Oct. 24, 1975	Do.
Do	Tioga	Jackson, township of	420820-B	do	Dec. 28, 1973 Dec. 17, 1976	Do.
Rhode Island	Providence	Johnston, town of	440018-B	do	Nov. 22, 1977	Do.
Vermont	Windsor	Ludlow, town of	500150-B	do	Mar. 11, 1977	Do.
Do	do	Ludlow, village of	500294-B	do	Nov. 15, 1974 July 30, 1976	Do.
Do	Rutland	Pawlet, town of	500097-B	do	June 28, 1974 Mar. 4, 1977	Do.
Do	do	Shrewsbury, town of	500102-B	do	June 28, 1974 Feb. 10, 1976	Do.
Virginia		Clifton Forge, city of	510038-B	do	Feb. 8, 1974 May 21, 1976	Do.
Do	Prince Edward and Cumberland.	Farmville, town of	510118-B	do	Apr. 5, 1974 Nov. 28, 1975	Do.
Do		Lynchburg, city of	510093 B	do	Aug. 9, 1974 Aug. 6, 1976	Do.
Do	Prince William	Occoquan, town of	510124-B	do	July 19, 1974 Sept. 12, 1975	Do
Wisconsin	Dane	DeForest, village of	550082-B	do	Dec. 7, 1973 May 21, 1976	Do.
Do	Rusk	Ladysmith, city of	550375-B	do	June 28, 1974	Do.
Do	Taylor	Medford, city of	550435-B	do	Dec. 28, 1973 June 25, 1976	Do.
Wyoming	Fremont	Landor, city of	560020-C	do	May 3, 1974 May 7, 1976	Do.
Wyoming	Sheridan	Sheridan, city of	560044 B	Sept. 1, 1978, suspension withdrawn.	Jan. 16, 1974 Oct. 1, 1976	Sept. 1, 1978.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Arkansas	Jefferson	Unincorporated areas	Sept. 6, 1978, emergency	Dec. 6, 1977	050440
Illinois	Morgan	South Jacksonville, village of.	do	Mar. 29, 1974 and June 4, 1976.	170519-A
Iowa	Polk	Unincorporated areas	do	Aug. 23, 1977	190901-A
Ohio	Hamilton	Lockland, city of	do	Feb. 15, 1974 and Jan. 13, 1978.	390223-A
Do	Medina	Unincorporated areas	do	Jan. 10, 1975 and Apr. 15, 1977.	390378-A
Texas	Cameron	Combas, town of	do	May 10, 1974 and May 21, 1976.	480194-B
Iowa	Lee	Unincorporated areas	Sept. 11, 1978, emergency	June 21, 1977	190182-A

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State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No
California	Los Angeles	Commerce, city of	Sept. 12, 1978, emergency	June 28, 1974	060110
Minnesota	Hennepin	Minnetrista, city of	do	Jan. 13, 1978	270175
Ohio	Defiance	Unincorporated areas	do	do	390143
Do	Franklin	Lockbourne, village of	do	Jan. 31, 1975	390691
Pennsylvania	Beaver	Homewood, borough of	do		422318
Texas	Bastrop	Unincorporated areas	do	Aug. 9, 1977	481193 A
Wyoming	Lincoln	Kemmerer, town of	do	Mar. 29, 1974 and Dec. 17, 1976.	560035-B
Maine	Knox	Friendship, town of	Sept. 13, 1978, emergency	Jan. 3, 1975	230225
Pennsylvania	Tioga	Gaines, township of	Jan. 15, 1974, emergency; Sept. 1, 1978, regular; Sept. 1, 1978, suspended; Sept. 19, 1978, reinstated.	June 14, 1974 and July 30, 1976.	421905 B
Kansas	Reno	Unincorporated areas	Sept. 20, 1978, emergency	Aug. 16, 1977	200567 A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719).)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28484 Filed 10-11-78; 8:45 am]

[4210-01-M]

[Docket No. 4582]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the flood insurance rate map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESS: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the flood insurance rate map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may, at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 24 CFR 1916.8:

State	County	Location	Name and date of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida	Dade County		Miami Herald, Aug. 18, and Aug. 25, 1978.	Mr. Merrett Stierheim, county manager of Dade County, 73 West Flagler, Miami, Fla. 33130.	Aug. 25, 1978	125098B
California	Santa Barbra	City of Carpinteria	Carpinteria Herald, June 29, and July 6, 1978.	Hon. Ernest C. Wullbrandt, mayor, city of Carpinteria, 5775 Carpinteria Ave., Carpinteria, Calif. 93013.	July 7, 1978	060332B
Delaware	New Castle	Wilmington	Wilmington News-Journal	Hon. William T. McLaughlin, mayor of Wilmington, City-County Bldg., 800 French St., Wilmington, Del. 19801.	June 14, 1978	100026B

State	County	Location	Name and date of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
North Dakota	Pembina	City of Pembina	Pembina New Era, June 21, and June 28, 1978.	Hon. A. Franklyn Barron, mayor, city of Pembina, P.O. Box 3, Pembina, N. Dak. 58271.	June 30, 1978	385368C
South Carolina		Charleston County	News and Courier	Mr. Lonnie Hamilton, Chairman, Charleston County Council, County Office Bldg., 2 Courthouse Sq., Charleston, S.C. 29402.	July 5, 1978	455413B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended (39 FR 2787, Jan. 24, 1974).)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28485 Filed 10-11-78; 8:45 am]

[4310-02-M]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

PART 258—INDIAN FISHING—HOOPA INDIAN RESERVATION

Rescission of Fishing Closure Order

AGENCY: Department of the Interior.

ACTION: Final rule; Cancellation of in-season adjustment No. 3, issued August 28, 1978.

SUMMARY: The rules governing Indian fishing on the Hoopa Valley Indian Reservation, as promulgated on July 7, 1978, and published in the FEDERAL REGISTER on July 13, 1978 (43 FR 30047), have since been modified by various in-season adjustment orders issued pursuant to § 258.12 of this part. In-season adjustment order No. 3, as issued and effective on August 28, 1978, placed certain restrictions on Indian fishing which are hereby rescinded.

DATE: Effective date: 12:01 a.m., October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Galen Buterbaugh, Deputy Associate Director—Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-343-5333.

SUPPLEMENTARY INFORMATION: The Department adjusted the regulations appearing at 25 CFR Part 258 on August 8, 18 and 28 to be consistent with conservation management of the fishery. The major underlying concern addressed by the development, promulgation and enforcement and adjustment of the regulations has been the conservation of the resource. The adjustment of the regulations promulgated on August 18 recognized the smaller than usual size of the fall salmon run.

In-season adjustment No. 3 was issued on August 28, 1978. This adjustment stipulated the closure of all Indian fishing effort below the Highway 101 bridge, and all Indian commercial fishing above the bridge. The State of California initiated action to close the sport fishery on the Klamath River at the same time. These actions were taken in an effort to allow passage of sufficient numbers of chinook salmon to the spawning grounds to perpetuate the run. Biologists estimated at the time of closure that less than 10 percent of the anticipated run had entered the river.

Biologists now estimate that the run is more than 80 percent complete. It is expected that the 1978 chinook run will approximate 125,000 fish, or about 90 percent of expected numbers. Although the size of the returning population is reduced, the closure instituted by in-season adjustment No. 3 resulted in about 100,000 of the returning fish reaching the spawning area. With proper management of future offshore and river fishing efforts, this population will perpetuate the run. However, indiscriminate fishing pressure on this year class when they return as adults will further reduce the population. If sound management practices are instituted, including the restricting of fishing effort, both offshore and in the river, the population can be stabilized and a fishery maintained.

The 1978 run of chinook salmon is almost complete. There are sufficient fish in the spawning area to assure, with good management, that the population can be perpetuated. In our opinion reopening of the subsistence fishery at this time will not cause harm to the population.

Section 258.12 contemplates that in-season adjustment No. 3 would be effective upon issuance and remain effective until terminated. By their emergency nature, the issuance of these adjustments cannot be preceded by the notice and public participation procedures of the Administrative Procedure Act, 5 U.S.C. 553. To the extent that such requirements apply, it is hereby found that they are impractical, unnecessary, and contrary to the public interest.

Accordingly, effective at 12:01 a.m. on October 11, 1978, the closure instituted by in-season adjustment order No. 3 of August 28, 1978, will be rescinded. The rules published on July 13, 1978 (43 FR 30047) remain in effect. Under these rules, commercial fishing is prohibited [§ 258:11 (a), (b)] and Indian subsistence fishing is allowed above and below the Highway 101 bridge, pursuant to the restrictions found in [§ 258:11 (c)].

Issued this 6th day of October 1978.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc. 78-28763 Filed 10-6-78; 3:31 pm]

[3710-08-M]

Title 32—National Defense

CHAPTER V—DEPARTMENT OF THE ARMY

[USASCH Reg. 210-21]

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Entry Regulations for Certain Army Training Areas in Hawaii

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: This section clarifies the entry procedures for certain Army training areas in Hawaii as defined herein. The clarification is needed to provide public notice that entry onto the training areas described herein is prohibited except as authorized under the procedures established by this section. Entry upon these training areas is restricted because the continued and uninterrupted use of these training areas by the military is vital in order to maintain and improve combat readiness. In addition, conditions exist within these training areas which could be dangerous to any unauthorized persons who enter these areas. The intended effect of this section is

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to alert the public to the fact that entry onto these training areas in Hawaii is prohibited at all times except as authorized under the procedures established by this section. On August 1, 1978, this proposed rule was published in the FEDERAL REGISTER (43 FR 33749) with information that all comments pertaining thereto must be received by September 5, 1978. No comments were received during the comment period.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert N. Kittel, Major, JAGC, Assistant Staff Judge Advocate, 808-438-2287.

Dated: September 26, 1978.

WILLIAM MASTORIS, Jr.,
Colonel, Infantry
Chief of Staff.

Accordingly, 32 CFR part 552 is amended by adding a new § 552.25 to read as follows:

§ 552.25 Entry regulations for certain Army training areas in Hawaii.

(a) *Purpose.* (1) This regulation establishes procedures governing the entry upon certain Army training areas in Hawaii as defined by paragraph (d) of this section.

(2) These procedures have been established to prevent the interruption of the use of these Army training areas by any person or persons. The continued and uninterrupted use of these training areas by the military is vital in order to maintain and improve the combat readiness of the U.S. Armed Forces. In addition, conditions exist within these training areas which could be dangerous to any unauthorized persons who enter these areas.

(b) *Scope.* The procedures outlined herein apply to all individuals except for military personnel and civilian employees of the United States who in performance of their official duties enter the areas defined herein.

(c) *Definition.* For the purpose of this regulation, "certain Army training areas in Hawaii" is defined as:

(1) Makua Valley, Waianae, Oahu, Hawaii: That area reserved for military use by Executive Order No. 11166, paragraph (f)(3) of this section.

(2) Pohakuloa Training Area, Hawaii: That area reserved for military use by Executive Order No. 11167, paragraph (f)(4) of this section.

(d) *Procedures.* (1) Except for military personnel and civilian employees of the United States in the performance of their official duties, entry upon any Army training area described herein for any purpose whatsoever without the advance consent of the Commander, U.S. Army Support Command, Hawaii or his authorized representative, is prohibited (reference paragraph (f)(1) and (f)(2) of this section).

(2) Any person or group of persons desiring the advance consent of the Commander, U.S. Army Support Command, Hawaii, shall, in writing, submit a request to the following address:

Commander, USASCH, Attention: Chief of Staff, Fort Shafter, Hawaii 96858.

(3) Each request for entry will be considered on an individual basis weighing the operational and training commitments of the area involved, security, and safety with the purpose, size of party, duration of visit, destination, and the military resources which would be required by the granting of the request.

(e) *Violations.* (1) Any person entering or remaining upon any training area described herein without the advance consent of the Commander, USASCH, or his authorized representative shall be subject to the penalties prescribed by reference paragraph (f)(1) of this section, which provides in pertinent part: "Whoever, within the jurisdiction of the United States, goes upon any military, naval * * * reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation * * * shall be fined not more than $500 or imprisoned not more than 6 months or both."

(2) Moreover, any person who willfully violates this regulation is subject to a fine not to exceed $500 or imprisonment for not more than one (1) year or both as provided in reference paragraph (f)(2) of this section.

(3) In addition, violation of this regulation by persons subject to the Uniform Code of Military Justice (10 U.S.C. 801-940) is a violation of Article 92 of the Uniform Code of Military Justice.

(f) *References.* (1) Title 18, United States Code, section 1382.

(2) Internal Security Act of 1950, section 21 (50 U.S.C. 797).

(3) Executive Order No. 11166 of August 15, 1964 (3 CFR, 1964-1965 Comp., pp. 219-220).

(4) Executive Order No. 11167 of August 15, 1964 (3 CFR, 1964-1965 Comp., pp. 220-222).

[FR Doc. 78-28592 Filed 10-11-78; 8:45 am]

[1505-01-M]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 7; Docket No. 73-64]

PART 528—SELF-POLICING REQUIREMENTS FOR SECTION 15 AGREEMENTS

Correction

AGENCY: Federal Maritime Commission.

ACTION: Correction.

SUMMARY: In FR Doc. 78-26488 appearing at page 42757 in the issue of Thursday, September 21, 1978, on page 42757, in the first column, in the "SUMMARY" paragraph, the last sentence is incorrect and should be changed to read: "A provision was added which prohibits rate-fixing agreements from preventing the release of self-policing body records to the Commission."

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5740.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28838 Filed 10-11-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20781; RM-2585]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Decatur and Huntsville, Ala.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action adds TV channel 54 at Huntsville-Decatur, Ala., so that a new station could be built in either Huntsville or Decatur, and deletes channel 23 from Decatur.

EFFECTIVE DATE: November 6, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Carol F. Foelak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: September 22, 1978.

Released: October 3, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Huntsville and Decatur, Ala.), docket No. 20781, RM-2585.

1. In response to a petition filed by Pioneer Communications, Inc. ("Pioneer"), we adopted a notice of proposed rulemaking, 41 FR 17785 (April 26, 1976), which proposed adding TV channel 54 at Huntsville, Ala. After analyzing comments on that proposal, we issued a further notice of proposed rulemaking, 42 FR 62164 (November 30, 1977), proposing, as an alternative to assigning channel 54 at Huntsville, to assign it to Decatur and delete channel 23 at Decatur.

2. Comments responding to our further notice were filed by Pioneer; North Alabama Broadcasters, Inc. ("WHNT"), licensee of station WHNT-TV, channel 19 Huntsville; Rocket City Television, Inc. ("Rocket City"), licensee of station WAAY-TV, channel 31, Huntsville; Tennessee Valley Radio & Television Corp. ("WYUR"), licensee of station WYUR-TV, channel 48, Huntsville; the Association of Maximum Service Telecasters ("MST"); and C. H. Quick of radio station WMSL, Decatur. Reply comments were filed by Pioneer, WHNT; WYUR; MST; and American Family Corp. ("AFC"), proposed assignee of WYUR-TV.

3. *Background.* Huntsville (1970 pop. 139,282), seat of Madison County (1970 pop. 186,540), is located 37 kilometers (23 miles) northeast of Decatur, Ala. (1970 pop. 38,044), and 132 kilometers (83 miles) north of Birmingham, Ala. The four UHF television channels assigned to Huntsville are occupied by station WHNT-TV, channel 19 (CBS); WAAY-TV, channel 31 (NBC); WYUR (TV), channel 48 (ABC); and WHIQ (TV), channel *25 (noncommercial educational). Channel 23 is the only channel assigned to Decatur, and it is presently unoccupied.

4. In response to our original proposal to assign channel 54 at Huntsville, Pioneer stated generally that with three successful network affiliates in the Huntsville area, there is need for an independent program service, and that it would apply for channel 54 if assigned. The opponents, Huntsville TV stations, argued that Huntsville and Decatur are part of the same TV market and that since channel 23, Decatur, is vacant, no channel should be added at Huntsville, since this would foreclose development of channel 23. Further, they said, whether considering the population of Huntsville alone, with four existing TV assignments, or of Huntsville and Decatur together, with five existing assignments, an additional assignment is not warranted, based on the population criteria enunciated in the Sixth Report and Order on Television Allocations, 41 FCC 148, 169 (1952).

5. In reply, Pioneer alleged that channel 23 could not be developed as a competitive station, noting that WYUR's predecessor had operated channel 23 for several years before abandoning it in favor of channel 48, Huntsville. Pioneer stated that while the Huntsville stations transmit from sites 1,000 to 1,200 feet above sea level, Decatur, measured at the county courthouse, is only 588 feet above sea level. Channel 23 cannot operate from Monte Sano Mountain, where the Huntsville stations are, due to spacing requirements. Thus, because of the height advantage enjoyed by the Huntsville stations and the fact that receiving antennas would be oriented away from where channel 23 would have to be located, Pioneer believes that a competitive station could not possibly be developed on channel 23.

6. After analyzing these comments, we stated in our further notice that, in accordance with the sixth report and order, we would certainly place a higher priority on having a first operating station at Decatur than a fifth (fourth commercial) at Huntsville. Huntsville stations, with only a secondary obligation to serve Decatur, cannot substitute for a station at Decatur with a primary obligation to Decatur. However, we observed that there seemed to be no interest in channel 23, and if it is really impractical for use at Decatur, then it should be deleted. Further, channel 54 could be assigned to Decatur instead of Huntsville, or to both on a hyphenated basis, and still operate from Monte Sano Mountain where the other stations are. Thus, we proposed as an alternative to our original proposal which was to add channel 54 at Huntsville, to add channel 54 at Decatur instead and delete channel 23.

7. *Response to our further notice.* Pioneer reiterates its interest in assigning channel 54 at Huntsville, stating generally that there is a demand for additional TV service in Huntsville as shown by the fact that independent TV stations are viewed locally on cable and by the financial success of the existing Huntsville stations. As to the argument that Huntsville is not entitled to an additional assignment under the population criteria in the sixth report and order, Pioneer says that there is a large population served by Huntsville stations and that the population criteria in the sixth report and order have not been applied rigidly. Pioneer states that it has no interest in channel 54 at Decatur, stating that it wishes to locate near the Huntsville stations on Monte Sano Mountain and believing this would not be possible for a Decatur station. Pioneer also argues against a hyphenated assignment to Huntsville-Decatur since it believes that it would be necessary to maintain staffs and studios in two cities with such an assignment.

8. C. H. Quick of WMSL radio, Decatur, tells us that he owns the tower and antenna used by the defunct channel 23 station, having bought them with the intention of applying for channel 23. Because it would not be possible to get a network affiliation, he says that it has been difficult to put together a group to apply for it, but he assures us of his feeling that there is still interest in channel 23 in Decatur. On this basis, he urges that channel 23 not be deleted and channel 54 not be added at Huntsville since development of another Huntsville station would make it impossible ever to operate another independent station at Decatur in the same market.

9. Pioneer argues in its reply comments that the prospects of a future channel 23 station appear dim and thus we should not protect such a possible station by refraining from assigning channel 54 at Huntsville. It observes that Mr. Quick has had about 8 years to apply for channel 23 and has not yet been able to do so. Further, it questions whether his old antenna would meet FCC standards today and whether it is capable of transmitting an acceptable signal. Pioneer believes that the antenna has been used for many years and was causing problems to the station when it was taken out of service in 1969. The tower, it says, is the same short tower which proved inadequate for the defunct station.

10. MST commented that channel 54 at the Decatur reference point would be short-spaced by about 18 miles to the reference point for allocated, but unoccupied channel 47 at Tuscumbia, Ala., and a channel 47 station at Tuscumbia would have to be located, to avoid short-spacing to an unrestricted channel 47 assignment at Decatur, at least 13 miles beyond the common transmitter site of stations WOWL-TV and WFIQ-TV, Florence, Ala. At the closest point to Tuscumbia at which a channel 47 station might locate, the station would be subject to disadvantageous receiving antenna orientation vis-a-vis the other two stations. Thus, it urges that any channel 54 assignment to Decatur must be subject to a requirement that a site must be used

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which meets all mileage separation requirements.

11. Based on the information presented and the history of the matter, it seems clear that channel 23 is most unlikely to be activated at Decatur at any time soon. Continuing that assignment there serves no useful purpose and it will be deleted. In view of Pioneer's obvious intention to apply for a station and our concern over the lack of a station licensed to Decatur, we will assign channel 54 as a hyphenated assignment at Huntsville-Decatur. This does not mean, as Pioneer supposed, that an applicant for the facilities must maintain facilities and staffs in the two cities. It only means that an applicant may apply for a station to be licensed to either (or both). Thus, Pioneer can apply for Huntsville, if it chooses, and owe no greater duty to Decatur than would any other Huntsville station. It will be necessary to select a site that will not be short-spaced to channel 47 at Tuscumbia, Ala. Since there is reason to believe that a channel 54 station licensed to either Huntsville or Decatur would locate on Monte Sano Mountain, the highest spot around and the location of other area stations, this should present no problem. Assigning the channel on a hyphenated basis permits the filing of an application for Decatur if real interest in such an operation exists. However, if this is not the case, it will not impede a proposal for Huntsville. We think this course best serves the public interest.

12. *It is ordered*, That effective November 6, 1978, the television table of assignments (§ 73.606(b) of the Commission's rules) is amended as follows:

City	Channel No.
Decatur, Ala.	23
Huntsville-Decatur, Ala.	54

13. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

14. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-28719 Filed 10-11-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

PART 1249—REPORTS OF MOTOR CARRIERS

Annual Reports and Uniform System of Accounts for Class I and Class II Motor Carriers of Property; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction notice.

SUMMARY: Parts 1207 and 1249 of the October 1, 1977, edition of Title 49, Transportation, Code of Federal Regulations, are not correct. In part 1207, notes D and E to the text of account 5930, Professional Services—Debit, contain errors. In part 1249, sections 1249.4, 1249.5, 1249.6, 1249.11, 1249.12 and 1249.15 were omitted. This notice corrects part 1207 and reinstates the appropriate sections in part 1249. The errors in part 1207 and omissions in part 1249 apparently stem from changes authorized in docket No. 36556, Annual Reports and Uniform System of Accounts for class I and class II Motor Carriers of Property. This appeared in the October 3, 1977, FEDERAL REGISTER (42 FR 53622). Notes D and E to account 5930 in part 1207 were correct in the FEDERAL REGISTER but incorrect in the CFR edition. The language amending part 1249 inadvertently omitted the paragraphs being reinstated by this notice.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7334.

H. G. HOMME, Jr.,
Acting Secretary.

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Account 5930, Professional Services—Debit, Notes D and E, is corrected to read as follows:

5930 Professional Services—Debit.

. . . . . .

NOTE D.—Regulatory expenses which by approval or direction of the Commission are to be spread over future periods shall be charged to Account 1512—Other Deferred Debits, and amortized by charges to this account.

NOTE E.—This account shall not be used to record charges for services by affiliated companies that are routine in nature. Such amounts shall be charged to the appropriate transportation related operating expense account.

PART 1249—REPORTS OF MOTOR CARRIERS

Part 1249 is amended by adding the following to the list of sections appearing at the beginning of the part:

. . . . . .

1249.3 . . .
1249.4 Annual reports of class III carriers of property.
1249.5 Annual reports of class I carriers of passengers.
1249.6 Annual reports of carriers of passengers other than class I carriers.
1249.11 Quarterly reports of passenger revenues, expenses, and statistics.
1249.12 Quarterly financial reports.
1249.15 Quarterly report of freight loss and damage claims.

The following sections are added after the text of § 1249.3—Annual reports of motor carrier holding companies:

. . . . . .

§ 1249.4 Annual reports of class III carriers of property.

Commencing with the year ended December 31, 1976, and for subsequent years thereafter, until further order, all class III motor carriers of property, as defined in § 1240.5 of this chapter, are required to file a uniform annual report in accordance with Motor Carrier Annual Report Form M-3 (property). Such report shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 30 of the year following the year to which it relates.

§ 1249.5 Annual reports of class I carriers of passengers.

Commencing with reports for the accounting year of 1974, as described in part 1206 instruction 3 of this chapter, and thereafter, until further order, all class I motor carriers of passengers, as defined in § 1240.4 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form MP-1 (passenger). Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.6 Annual reports of carriers of passengers other than class I carriers.

Commencing with the reports for the accounting year 1974, as described in part 1206 instruction 3 of this chapter, and thereafter, until further order, all motor carriers of passengers other than class I carriers, as defined in § 1204.4 of this chapter, are required to file annual reports in accordance with Motor Carriers' Annual Report Form MP-2 (passenger). Such report shall be filed in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before April 30 of the year following the year to which it relates.

§ 1249.11 Quarterly reports of passenger revenues, expenses, and statistics.

Commencing with reports for the quarter ended March 31, 1968, and for subsequent quarters thereafter, until further order, all class I common and contract motor carriers of passengers, as defined in § 1240.4 of this chapter, subject to part II of the Interstate Commerce Act, shall compile and file quarterly reports in accordance with motor carrier Quarterly Report of Revenues, Expenses, and Statistics (class I carriers of passengers), form QPA. Such quarterly reports shall be filed in duplicate in the Office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates.

§ 1249.12 Quarterly financial reports.

Commencing with reports for the quarter ending March 31, 1974, and for subsequent quarters thereafter, until further order, all class I and class II common and contract motor carriers of property as defined in § 1240.5 of this chapter, subject to part II of the Interstate Commerce Act, shall compile and file quarterly financial reports in accordance with the Quarterly Results of Operations Form QFR. Such quarterly reports shall be filed in duplicate in the Office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 30 days after the close of the period to which it relates.

§ 1249.15 Quarterly report of freight loss and damage claims.

Commencing with reports for the quarter beginning January 1, 1976, and for subsequent quarters thereafter, until further ordered, all common and contract carriers of property having annual operating revenues (including interstate and intrastate) of $1 million, or more, from property motor carrier operations, shall compile and file quarterly reports in accordance with Motor Carrier Quarterly Report of Freight Loss and Damage Claims, form QL&D. Carriers shall be exempt from filing such quarterly reports commencing with the year immediately following the third consecutive year in which a carrier fails to meet the minimum revenue qualification. Such quarterly reports (which need not include damage to shipments transported in armored truck service, as described in Classification of Motor Carriers of Property, 2 MCC 703, at page 712) shall be filed in duplicate in the Office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 40 days after the close of each quarter.

[FR Doc. 78-28789, Filed 10-11-78; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Prohibition of Take Incidental to Commercial Fishing Operations—Northern Striped Dolphin

AGENCY: National Marine Fisheries Service.

ACTION: Notice of prohibition of take of the northern stock of striped dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking the northern stock of striped dolphin (*Stenella coeruleoalbra*) is being implemented because observer records show that the 1978 quota for that stock has been exceeded. The northern stock of striped dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, category 2; encircling gear, purse seining involving the intentional taking of marine mammals.

DATES: The effective date of this notice is October 19, 1978.

ADDRESS: Observer records may be reviewed at the Office of the Director, Southwest Region, 300 South Ferry Street, Terminal Island, Calif., telephone: 213-548-2575.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: 50 CFR 216.24(d)(2)(i)(A), (3) and the permit issued to the American Tunaboat Association for 1978, impose a limit of fifty (50) mortalities of the northern stock of striped dolphin in 1978. The Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration has determined that this limit has been exceeded. Therefore, further taking of the northern stock of striped dolphin will be prohibited except as provided for in 50 CFR 216.24(d)(2)(i)(C) (accidental take policy), and notice of the effective date of this prohibition is hereby published in accordance with 50 CFR 216.24(d)(2)(i)(B).

Dated: October 6, 1978.

JACK W. GEHRINGER,
Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 78-28743 Filed 10-11-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Parts 303, 304, and 328]

REMOTE SERVICE FACILITY

Proposed Revision of Procedures

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: These rules would revise FDIC procedures relating to "remote service facilities." Remote service facilities include automated teller machines, cash dispensing machines, point-of-sale terminals, and other remote electronic facilities where deposits are received, checks paid, or money lent. The proposed regulations are designed to (1) comply with judicial branching decisions, (2) reduce administrative burdens for applicant banks as well as the FDIC, and (3) provide the FDIC with information relating to these facilities necessary for proper supervision.

DATE: Comments must be received by November 13, 1978.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4628.

SUPPLEMENTARY INFORMATION: In recent years there has been controversy concerning whether remote service facilities (also called EFT or CBCT) constitute branches. Following a ruling by the Comptroller of the Currency that CBCT's were not branches, numerous lawsuits were filed. In all cases where this issue has been decided by U.S. Courts of Appeals, the courts have concluded that such facilities are branches. (See for example, *IBAA* v. *Smith*, 402 F. Supp. 207, aff'd 534 F. 2d 921 (D.C. Cir. 1976), cert. denied 429 U.S. 862; *State of Illinois* v. *Continental Illinois National Bank & Trust Co.*, 409 F. Supp. 1167 aff'd and rev'd in part 536 F. 2d 176 (7th Cir. 1976) cert. denied 429 U.S. 871; *State of Colorado* v. *First National Bank of Fort Collins*, 394 F. Supp. 979, aff'd 7 rev'd in part 540 F. 2d 497 (10th Cir. 1976), cert. denied 429 U.S. 1091; *State of Missouri* v. *First National Bank in St. Louis*, 405 F. Supp. 733, aff'd 538 F. 2d 219 (8th Cir. 1976), cert. denied 429 U.S. 941.)

These regulations are also designed to relieve some administrative burdens both for banks and the FDIC. Existing application and publication requirements have proven unduly burdensome when large numbers of banks share a network of remote facilities. Some States require any financial institution that establishes a remote service terminal to share any such terminal with all banks which wish to participate in the system. Under existing procedures each time another terminal is added to such a system, every State nonmember bank in the system must (a) have its board of directors adopt a resolution authorizing the application, (b) file a lengthy application form, and (c) publish notice in a newspaper in the community where ther terminal is located. These proposed regulations considerably simplify application requirements.

SUMMARY OF NEW PROCEDURES

Authority is to be delegated to the Director of the Division of Bank Supervision and Regional Diectors to approve remote service facility branches. Approval of remote service facility branches would be based on the six statutory factors listed at 12 U.S.C. 1816, and approval under delegated authority would not be subject to the additional criteria listed in § 303.12(c)1-9. Banks which establish (own or rent) remote service facilities would file a revised form 6210/09. Approval of this application will entitle the bank to establish additional terminals without further formal application by advising the FDIC in advance, by publishing notice of its intention, and by providing a current list of banks or other entities (if any) which share in the use of the facility. The FDIC would reserve the right during the 30-day period following the last publication of notice to suspend the automatic approval, and provide for approval or denial of the terminal by specific order. Denial of original applications or disapproval of new terminals will not be made through delegated authority.

2. Existing procedures permit banks to elect whether they want branch consideration of a proposed facility. These proposed rules attempt to minimize any refiling burden by treating original filings as applications under the new procedures, and requiring only minimal supplementation to place banks which have already filed in the same position as new applicants.

3. Remote service facilities will be excepted from certain requirements relating to posting of the official FDIC sign.

It is therefore proposed to amend parts 303, 304, and 328 of 12 CFR in the manner set forth below.

By order of the Board of Directors, October 5, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

1. By revising paragraph (c) of § 303.12 to read as follows:

§ 303.12 Applications where authority is not delegated.

. . . . . .

(c) *Conditions precedent to delegation to approve branch applications other than remote service facility branch applications.* (Important: The requirements set forth in this paragraph (c) are procedural in nature only and should not be construed as standards or criteria which will be used in determining whether a specific application will be approved or denied.) Authority to approve branch applications, other than remote service facility branch applications, pursuant to § 303.11(a)(7) is delegated only where each of the six factors set forth in section 6 of the Federal Deposit Insurance Act has been considered and favorably resolved and, in addition, all the following requisites have been satisfied:

. . . . . .

2. By revising paragraph (a) (2) and (3) of § 303.14 to read as follows:

§ 303.14 Application procedures.

(a) • • • (2) applications by insured State nonmember banks to establish branches, including remote services facility branches; (3) applications by insured State nonmember banks to relocate their main or branch offices, including remote service facility branches offices; • • •

. . . . . .

3. By adding a new paragraph (*l*) to § 303.14 to read:

. . . . . .

(*l*) *Special procedures for remote service facility branches.*—(1) *Definition.* Remote service facilities include automated teller machines, cash dispensing machines, point-of-sale terminals, and other remote electronic facilities where deposits are received, checks paid, or money lent.

(2) *Application procedures.*—(i) *Establishing a remote service facility or system of facilities.* For purposes of this section "establishing" means owning or leasing a remote service facility either individually or jointly. An establishing bank will file a revised form 6210/09 with the appropriate Regional Office and comply with the notice provisions of paragraph (b) of this section. The applicant will be advised whether the application is approved. Once this application is approved, an establishing bank may add additional sites without further formal application by:

(A) Advising the appropriate Regional Office of the bank's intention to establish a new facility or facilities,

(B) Complying with the notice provisions of paragraph (b) of this section, and

(C) Providing a current list of banks, or other entities if any, which may share in the use of the facility.

Unless notified otherwise within 30 days of the last publication of the notice required by paragraph (b) of this section, the additional facility will be considered approved.

(ii) *Procedures for banks which have filed under preexisting regulations for consent to operate remote service facilities as branches.* (A) Establishing bank which has had one or more remote service facilities approved as a branch: The bank's previous filing will be considered an approved application under subparagraph (2)(i) of this paragraph, and additional sites may be added in accordance with that paragraph.

(B) Establishing bank which has established remote service facilities without obtaining branch approval: The bank's previous filing will be considered a pending application under subparagraph (2)(i) of this paragraph, except compliance with procedures for publication of notice will not be required. Unless the bank is notified otherwise by the Regional Director within 60 days of the effective date of this amendment, the application will be considered approved. Notification by the Regional Director during this period may be in the form of a request for additional information, and is not necessarily an indication the application will be denied. However, once notified by the Regional Director, the application will not be considered approved unless the bank receives a formal order from the FDIC. Once approval has been obtained, either through the passage of 60 days without notification, or the issuance of a formal order, additional sites may be added in accordance with subparagraph (2)(A) of this paragraph.

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

4. By revising paragraphs (a), (b), (d), (e), (g), (h), and (z) of § 304.3 to read as follows:

§ 304.3 Forms and Instructions.

. . . . . .

(a) *Form 82: Application of proposed bank (other than mutual savings) for Federal deposit insurance.* The proposed incorporators are required to make statements and representations and to submit information with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816). The application on form 82 must be executed in quadruplicate. Three applications signed by the proposed incorporators must be forwarded to the Regional Director of the Federal Deposit Insurance Corporation region in which the proposed bank will be located and the other application may be retained by the prospective incorporators. Applications filed on form 82 must be accompanied by a certified copy of the proposed articles of incorporation or association and the requisite number of properly executed forms 83. A proposed bank's application on form 82 must be accompanied by a properly executed form 85 for each branch, other than a remote service facility branch, which it intends to establish, and by a properly executed form 6210/09 if it intends to establish one or more remote service facility branches. After incorporation is duly effected, the bank must submit a properly executed form 82a.

(b) *Form 82-M: Application of proposed mutual savings bank for Federal deposit insurance.* Form 82-M, which is substantially the same as form 82, should be used when the proposed bank is to be a mutual savings bank and should be prepared and submitted in the same manner as form 82. A proposed bank's application on form 82-M must be accompanied by a properly executed form 85-M for each branch, other than a remote service facility branch, which it intends to establish, and by a properly executed form 6210/09 if it intends to establish one or more remote service facility branches.

. . . . . .

(d) *Form 84: Application for Federal deposit insurance by an existing noninsured State bank (other than mutual savings).* The applicant bank is required to submit statements, representations, and information with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) and a copy of the resolution of its board of directors authorizing the bank's president or vice president and cashier or secretary to make the application. The application must be executed in quadruplicate, signed by such officers, and the bank's corporate seal attached thereto. Three signed applications must be forwarded to the Regional Director of the Federal Deposit Insurance Corporation region in which the bank is located and the other application may be retained by the bank. Applications filed on form 84 must be accompanied by the requisite number of properly executed form 83 and a certified copy of the articles of incorporation or association, including any amendments thereto. A bank's application on form 84 must be accompanied by a properly executed form 85 for each branch, other than a remote service facility branch, and by a properly executed form 6210/09 for any or all of its remote service facility branches.

(e) *Form 84-M: Application for Federal deposit insurance by an existing noninsured mutual savings bank.* Form 84-M, which is substantially the same as form 84, should be used by mutual savings banks and should be prepared and submitted in the same manner as form 84. A bank's application on form 84-M must be accompanied by a properly executed form 85-M for each branch, other than a remote service facility branch, and by a properly executed form 6210/09 for any or all of its remote service facility branches.

(f) • • •

(g) *Form 85, form 85a, and form 85b: Application of insured State nonmember bank (except district bank and mutual savings bank) to establish or move its main office or branch (other than remote service facility branch).* (1) Form 85 is an application to establish a branch other than a remote service facility branch. The applicant bank is required to submit statements, representations, and infor-

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mation with respect to the several factors enumerated in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) and a copy of the resolution of its board of directors authorizing the bank's president or vice president and cashier or secretary to make the application. The application must be executed in quadruplicate, signed by the president or vice president, have the corporate seal of the bank affixed thereto, and be attested by the cashier or secretary. Three signed applications must be forwarded to the Regional Director of the Federal Deposit Insurance Corporation in which the applicant bank is located and the other application may be retained by the bank. The application must be accompanied by a certified copy of the bank's articles of incorporation or association, including any amendments thereto unless previously submitted to the Corporation and not subsequently amended.

(2) Form 85a is an application to move a main office or branch other than a remote service facility branch. It is similar to form 85 and should be prepared and submitted in the same manner as form 85.

(3) Form 85b is an application to establish a branch other than a remote service facility branch pursuant to designation as depository and financial agent of the U.S. Government. It is similar to form 85 and should be prepared and submitted in the same manner as form 85.

(h) *Form 85-M and form 85a-M: Application by insured nonmember mutual savings banks to establish a branch other than a remote service facility branch; or move its main office or branch other than a remote service facility branch.* (1) Form 85-M is substantially the same as form 85 and should be prepared and submitted in the same manner as form 85.

(2) Form 85a-M is substantially the same as form 85a and should be prepared and submitted in the same manner as form 85a.

* * * * *

(z) *Form 6210/09: Remote service facility branch.* Form 6210/09 is an application by an insured State nonmember bank to establish a remote service facility branch or branches. Form 6210/09 is to be filed with the Regional Director of the Federal Deposit Insurance Corporation region in which the bank's main office is located.

PART 328—ADVERTISEMENT OF MEMBERSHIP

5. By revising paragraphs (a) and (c) of § 328.1 to read as follows:

§ 328.1 Mandatory requirements with regard to the official sign and its display.

(a) *Insured banks to display official sign.* Each insured bank shall continuously display an official sign as prescribed below at each station or window where insured deposits are usually and normally received in its principal place of business and in all its branches except remote service facility branches as defined in paragraph (a) of § 303.15: *Provided*, That no bank becoming an insured bank shall be required to display such official sign until twenty-one (21) days after its first day of operation as an insured bank. The official sign may be displayed by any insured bank prior to the date display is required. Additional signs in other sizes, colors, or materials, incorporating the basic design of the official sign, may be displayed in other locations within an insured bank.

* * * * *

(c) *Receipt of deposits at same teller's station or window as noninsured bank or institution.* An insured bank is forbidden to receive deposits at any teller's station or window, except a remote service facility as defined in paragraph (a) of § 303.15, where any noninsured bank or institution receives deposits or similar liabilities.

* * * * *

(Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891 (12 U.S.C. 1819, 1829).)

* * * * *

[FR Doc. 78-28796 Filed 10-11-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-47]

TRANSITION AREA

Proposed Alteration: Raton, N. Mex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Raton, N. Mex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Crews Field Airport. The circumstance which created the need for the action was the establishment of a nondirectional radio beacon (NDB) off the airport.

DATE: Comments must be received by November 13, 1978.

ADDRESSES: Send comments on the proposal to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (43 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Alteration of the transition area at Raton, N. Mex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received by November 13, 1978, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Raton, N. Mex. The FAA believes this action will enhance IFR operations at the Crews Field Airport by providing additional controlled airspace for aircraft executing proposed instrument approach procedures using the newly established NDB located off the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) by altering the Raton, N. Mex., transition area to read as follows:

RATON, N. MEX.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Crews Field (latitude 36°44'29" N., longitude 104°30'04" W.) excluding that portion northwest of a line 5 miles northwest of and parallel to the Cimarron VORTAC 050° radial, an within 3.5 miles each side of the 214° bearing from the NDB (latitude 36°42'02" N., longitude 104°32'21" W.) extending from the 8.5-mile radius area to 9.5 miles southwest of the NDB; and that airspace extending upward from 1,200 feet above the surface within 6.5 miles northwest of the Cimarron VORTAC 050° radial extending from the VORTAC to 45 miles northeast, within 16.5 miles southeast of the Cimarron VORTAC 050° and 230° radials extending from 1.5 miles southwest to 29 miles northeast of the VORTAC, and within 8.5 miles southeast of the Cimarron VORTAC 050° radial extending from 29 miles northeast to 45 miles northeast of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on September 29, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-28712 Filed 10-11-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-46]

TRANSITION AREA

Proposed Designation: Kountze-Silsbee, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Kountze-Silsbee, Tex. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the Hardin County Airport. The circumstance which created the need for the action was the establishment of a nondirectional radio beacon (NDB) on the airport to provide capability for flight under instrument weather conditions to the airport.

DATE: Comments must be received by November 13, 1978.

ADDRESSES: Send comments on the proposal to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (43 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Kountze-Silsbee, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal aviation regulations (14 CFR Part 71) to designate a transition area at Kountze-Silsbee, Tex. The FAA believes this action will enhance IFR operations at the Hardin County Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the newly established nondirectional radio beacon (NDB) located on the airport. Subpart G of part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of part 71 of the Federal aviation regulations (14 CFR Part 71) as republished (43 FR 440) by adding the Kountze-Silsbee, Tex., transition area as follows:

V 43 / 198 0 OCT 12 78 UMI

KOUNTZE-SILSBEE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Hardin County Airport (latitude 30°20'13" N., longitude 94°15'34" W.) and within 3.5 miles either side of the 327° bearing from the NDB (latitude 30°20'14" N., longitude 94°15'36" W.) extending from the 5-mile radius to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on October 2, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-28714 Filed 10-11-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[PSDR-37C; Docket No. 25875; Dated: September 29, 1978]

U.S./EUROPE CHARTER SERVICE

General Rate Policy; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking in docket 25875; PSDR-37.

SUMMARY: The Civil Aeronautics Board is terminating a proposed rulemaking which would have established minimum-rate guidelines for charter service between the United States and Europe. This action is being taken on the Board's initiative formally to close this proceeding.

FOR FURTHER INFORMATION CONTACT:

Steven Rothenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5205.

SUPPLEMENTAL INFORMATION: In PSDR-37, 38 FR (25453), September 7, 1973, the Board proposed to amend part 399 of its regulations (14 CFR Part 399) by establishing minimum-rate guidelines for charter service between the United States and Europe.

Citing the deteriorating health of the charter industry and the inability of the carriers to establish an acceptable minimum charter rate structure themselves, the Board issued a final rule in PS-57 on October 18, 1974, adopting minimum charter rate guidelines. The guidelines set by the Board were not those suggested in its notice of proposed rulemaking but, rather, reflected the comments and cost data subsequently submitted by the carriers. The guidelines adopted added seasonal variations, equipment differentials, and some other minor adjustments.

On February 11, 1975, the Board issued PS-64, vacating the guidelines adopted in PS-57. In doing so, we cited our inability to determine the proper equipment differentials with the information then available to us and the impossibility of adopting guidelines soon enough to be applicable to the 1975 charter season.[1] PS-64 also invited comments from interested parties on what further steps the Board might take in dealing with charter fares.

Ten comments were received, four favoring an unregulated charter market and six favoring some form of price control.[2] Those opposing a price floor argued that it would harm the educational system, tour operators, the airline industry, and the public generally. Those favoring minimum-rate guidelines cited the need to coordinate policies with other governments, protect scheduled carriers, and foster the charter industry.

After reviewing those comments, we have concluded that there is no reasonable basis upon which to reestablish minimum-fare guidelines and that we should terminate the proceeding. Minimum ratefixing is contrary to the competitive pricing policies we are trying to implement, and there is no reason in this instance to make an exception. The charter industry is an important component of the air transportation system, which provides a competitive spur to scheduled service. Setting minimum prices might tend to raise charter prices and thus weaken that pressure. Reestablishing minimum fare guidelines would be especially unwise now because they would reduce the ability of charters to compete with scheduled carriers, which have been given increased pricing flexibility. Thus, minimum charter price regulation would provide no protection for charter carriers; significantly, the all-charter carriers oppose the idea.

Because there is no reasonable basis for minimum-rate guidelines, the Board is formally terminating this proceeding.

Accordingly, the Civil Aeronautics Board terminates the proceeding in docket 25875.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28830 Filed 10-11-78; 8:45 am]

[1] The Board's decision to vacate its minimum-rate guidelines was also a response to a suit brought by the Department of Justice challenging PS-57 and a report issued by the Senate's Subcommittee on Administrative Practice and Procedure severely criticizing the guidelines.

[2] Comments were received from the Rochester Institute of Technology, the Airline Charter Tour Operators Association, the National Student Travel Bureau, Roger Conant, British Caledonian Airways, the Justice Department, the European Civil Aviation Conference, British Airways, Trans World Airlines, and Pan American World Airways.

[7040-01-M]

SUSQUEHANNA RIVER BASIN COMMISSION

[18 CFR Part 809]

WATER CONSERVATION POLICY AND STANDARDS FOR THE SUSQUEHANNA RIVER BASIN

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposed policy, proposed regulation, and opportunity for public comment.

SUMMARY: The Commission proposes to adopt a water conservation policy requiring new users and suppliers to maximize their water use efficiency by using available, feasible water conservation technology. Existing water users and suppliers would also have to comply with the conservation requirement within a reasonable time. In conjunction with adoption of the policy, the Commission also proposes to amend its regulations governing review of projects.

DATES: A public hearing to receive comments has been scheduled for November 9, 1978, beginning at 2 p.m. Written comments from those not wishing to testify at the hearing must be submitted by December 8, 1978.

ADDRESSES: The public hearing will be held at the Penn Harris Motor Inn, Bypass Routes 11 and 15, Camp Hill, Pa. Written comments should be sent to the Office of the Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102.

FOR FURTHER INFORMATION CONTACT:

Robert J. Bielo, Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102, 717-238-0422.

SUPPLEMENTARY INFORMATION: The Commission is a Federal-interstate agency charged with the overall management and development of the water and related resources of the basin. As the water resource management agency with basinwide authority, the Commission's goal is to effect coordinated planning, conservation, management, utilization, development, and control of the basin's water resources.

The proposed water conservation policy and implementing measures are one part of a three-part program to fulfill the Commission objective of assuring the availability of water for all users. Wise use of the basin's available resources is an important element to justifying future water supply development programs and reconciling potential water use conflicts.

The proposed policy requires that all new water users and suppliers maximize their water use efficiency by using available, feasible water conservation technology. Existing users and suppliers would also have to comply with the conservation requirement within a reasonable time. Available technology to reduce water usage includes reuse of water, metering, and pressure control as well as water reduction devices.

The proposed water conservation policy is considered by the Commission as a logical step toward achieving its overall water supply objective as set forth in the comprehensive plan, and as a necessary action to assure efficient use of available surface and ground water supplies. Expected beneficial effects of the policy when implemented are reduced water use, waste water flow and treatment costs, and energy consumption in the basin's water supply/waste water management systems.

The Commission will coordinate its water conservation program with appropriate signatory agencies and to the extent practical utilize their existing resources and authority. To implement the water conservation policy, the Commission will adopt appropriate standards, evaluate economic incentives, and actively promote through an information program the public's understanding and acceptance of water conservation measures.

Standards that the Commission is proposing to adopt are listed below. They would be applied in the Commission's review of proposed projects and promoted through direct contacts with existing users. Because the Commission is considering adoption of the proposed standards concurrently with the proposed policy, the attention of interested parties is directed to the proposed standards and comments on the standards are solicited.

Economic incentives often provide a mechanism to allocate resources to the best uses. Evaluation of a water pricing program designed to encourage demand reduction and support development of increased water supplies will be a part of the conservation program development.

The Commission will develop information reports relating to the varied aspects of water conservation measures and their applicability. This information will be made available on request and informational meetings will be held with various interest groups from agriculture, industry, and municipalities to discuss conservation technology, droughts, and problems.

The proposed water conservation policy and implementing standards are printed below. For a copy of background information regarding the proposed policy and standards, contact the Office of the Executive Director at the address given above.

PROPOSED POLICY

Now therefore be it resolved, That:

1. The Commission hereby adopts a water conservation policy (a) to require new industrial, commercial, municipal, and agricultural water users in the Susquehanna River Basin to maximize their water use efficiency by utilizing available, feasible water conservation technologies including the reuse of water, metering, pressure control and other use reduction techniques and (b) to require within reasonable time and as may be feasible existing users adopt similar water conservation practices.

2. To implement this policy, the Commission shall develop a water conservation program consisting of appropriate standards, economic incentives, and measures to promote the public understanding of conservation benefits and costs.

3. The Commission shall coordinate implementation of its conservation program with the appropriate signatory agencies to take full advantage of their ongoing programs and capabilities.

PROPOSED STANDARDS

§ 803.63 **Water conservation requirements.**

Any project sponsor proposing to withdraw water from surface or ground water sources or both shall comply with the following requirements:

(a) *Public water supply utilities.* As circumstances warrant, the utility shall:

(1) Reduce distribution system losses to a level not exceeding 20 percent of the gross withdrawal.

(2) Install meters for all users and/or otherwise establish a program of water conservation that will include:

(i) The installation of water conservation devices, as applicable, by all classes of users;

(ii) Preparation and distribution of literature to customers describing available water conservation techniques; and

(iii) Implementation of a water pricing structure which encourages conservation.

(b) *Industrial water users.* Industrial users shall:

(1) Establish a company representative to manage plant water use.

(2) Install meters as necessary for accurate determination of water use by various parts of the company operation.

(3) Install flow control devices, which match the needs of the equipment being used for production.

(4) Evaluate and implement applicable recirculation and reuse practices.

(c) *Agricultural irrigation.* Water users for irrigation purposes shall:

(1) Utilize irrigation systems properly designed for the farm's respective soil characteristics, topography, and cropping systems.

(2) Irrigate for food crops only as necessary to achieve optimum crop production, except in periods of prolonged drought when irrigation is applied to protect against crop failure.

Dated: October 3, 1978.

ROBERT J. BIELO,
Executive Director.

[FR Doc. 78-28709 Filed 10-11-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 6]

INTERNATIONAL AIRPORTS OF ENTRY

Proposed Revocation of International Airport Status of Akron Municipal Airport, Akron, Ohio

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule

SUMMARY: This document proposes to revoke the international airport status of Akron Municipal Aiport in Akron, Ohio. Air traffic in the area has shifted to the newer and larger Akron-Canton Airport, located between Akron and Canton in Summit County, Ohio. Because of this shift, the volume of Customs business clearing through Akron Municipal Airport no longer justifies the maintenance of inspection equipment and personnel. In addition, it is becoming increasingly difficult for Customs to provide adequate and timely service to both airports. If this change in status is made, all international flight normally will be inspected by Customs at Akron-Canton Airport. This will enable Customs to improve service to the public and provide for more effective enforcement of the Customs laws and regulations.

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DATE: Comments must be received on or before December 11, 1978.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Robert Schenarts, Inspection and Control Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8151.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under section 1109(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the United States as ports of entry for civil aircraft arriving from any place outside of the United States and for merchandise carried on the aircraft. These airports are referred to as "international airports," and the location and name of each are listed in § 6.13, Customs Regulations (19 CFR 6.13). In accordance with § 6.2, Customs Regulations (19 CFR 6.2), the first landing of every civil aircraft arriving in the United States must be at one of these international airports unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Customs officers are assigned to all international airports to accept entries of entries of merchandise, collect duties, and enforce Customs laws and regulations. If a civil aircraft desires to land at a "landing rights airport," which means an airport which has not been designated as an international airport, permission must first be obtained and Customs must assign personnel to that airport for that aircraft.

Within the Akron, Ohio, area there are two airports: Akron Municipal Airport, which has been designated as an "international airport," and Akron-Canton Airport, A "landing rights airport."

There has been a significant decrease in the number of international arrivals landing at Akron Municipal Airport. During the past 3 years, only 146 aircraft required Customs clearance there. International flights have shifted to the newer and larger Akron-Canton Airport, located between Akron and Canton, in Summit County, Ohio.

A review of Customs operations in the area indicates that because of this shift in air traffic, the volume of business clearing through Akron Municipal Airport no longer justifies the maintenance of inspection equipment and personnel. In addition, it is becoming increasingly difficult for Customs to provide adequate and timely service to both airports.

Therefore, to improve service to the public and provide more effective enforcement of the Customs laws and regulations, it is considered desirable to revoke the international airport status of Akron Municipal Airport. This revocation would not preclude aircraft arriving from foreign countries from applying for permission to land at Akron Municipal Airport as a "landing rights airport" under the same procedure aircraft now use to land at the Akron-Canton Airport. Aircraft denied permission to land at Akron Municipal Airport could easily be handled, without undue inconvenience, at Akron-Canton Airport, where Customs service would be available.

AUTHORITY

The authority for this proposed revocation is provided in section 1109(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)).

COMMENTS

Before adopting thisd proposal, consideration will be given to any written comments that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations, (19 CFR 103.8(b)), during regular business hours at the Regulations and legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this document was Harold M. Singer, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

PROPOSED AMENDMENTS

It is proposed to amend § 6.13, Customs Regulations (19 CFR 6.13) by deleting "Akron, Ohio-Akron Municipal Airport" from the alphabetical list of international airports set forth in that section.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: September 21, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-28703 Filed 10-11-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 19660; RM-690]

INTERNATIONAL RECORD CARRIER'S SCOPE OF OPERATIONS IN THE CONTINENTAL UNITED STATES, INCLUDING POSSIBLE REVISIONS TO THE FORMULA PRESCRIBED UNDER SECTION 222 OF THE COMMUNICATIONS ACT

Order Extending Time for Filing Requested Information

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing comments in a proceeding involving the authorization of additional gateways and free direct access.

DATE: Comments must be received on or before October 30, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Helene Bauman, Common Carrier Bureau, 202-632-7834.

SUPPLEMENTARY INFORMATION: None.

Order. In the matter of International record carrier's scope of operations in the continental United States, including possible revisions to the formula prescribed under section 222 of the Communications Act, docket No. 19660, RM-690.[1]

1. The Commission is herein considering a motion for extension of time filed by TRT Telecommunications Corp. (TRT) on September 14, 1978, requesting an extension of time from September 29, 1978, until October 30, 1978, in which to file an amended gateway application and related data required by paragraphs 14 and 17 of the Commission's notice of inquiry and further notice of proposed rulemaking (notice) released in this docket on July 28, 1978 (FCC 78-511).

2. In reply to TRT's motion, Western Union International, Inc. (WUI) submitted a letter of support on September 20, 1978. RCA Global Communications, Inc. (RCAGC) also submitted a letter, and ITT World Communications Inc. (ITTWC) submitted a reply, both filed September 22, 1978.

3. TRT states that the notice calls for the submission of detailed data and information which is not readily obtainable from TRT's records, involving the collection of historic data, the formulation of forecasts, and the conduct of engineering and cost studies for 26 gateway areas. TRT further states that although it is proceeding diligently, it is clear that it will be impossible to complete this task by September 29, 1978, for filing in a form facilitating review by the Commission and other parties. The above-mentioned submissions by WUI, RCAGC, and ITTWC, in essence, support TRT's motion.

4. We find the foregoing adequate cause for the requested extension of time. Accordingly, your request is hereby granted, and the time in which all parties may file the above-mentioned requested information is extended until October 30, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
LARRY F. DARBY,
Acting Chief, Common Carrier Bureau.

[FR Doc. 78-28720 Filed 10-11-78; 8:45 am]

[1] 43 FR 34167, Aug. 3, 1978.

[6712-01-M]

[47 CFR Part 21]

[CC Docket No. 78-183]

PERMITTING THE USE OF OFFSET CHANNELS IN THE DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE ON THE 150 MHZ BAND

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: The FCC extends the time period within which to file reply comments on the notice of inquiry on whether to permit the use of offset channels in the domestic public land mobile radio service on the 150 MHz band. The extension is in response to a request from the American Telephone & Telegraph Co.

DATE: Reply comments must be filed on or before October 6, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert J. Miller, Common Carrier Bureau, 202-632-6450.

Adopted September 29, 1978.

Released October 3, 1978.

Order. In the matter of amendment of part 21 of the Commission's rules to permit the use of offset channels in the domestic public land mobile radio service on the 150 MHz band, CC docket No. 78-183.[1]

1. The American Telephone & Telegraph Co. (A.T. & T.) has filed a request for an extension of time from September 29, 1978, to October 6, 1978, to file its reply comments on the above-captioned proceeding.

2. According to A.T. & T., it did not receive copies of the comments filed from its copy service until September 12, 1978, despite ordering the service 2 weeks earlier on a "rush basis." A.T. & T. claims that because of the technical complexity of the issues involved, coupled with the late date it received the comments, it now needs additional time to file its comments. Based on these reasons set forth by A.T. & T., we believe that the requested extension of time is consistent with the public interest.

3. We believe that the difficulty of the issues involved also warrants additional time for the other parties to file their reply comments. Therefore, the request made by A.T. & T. to extend the filing date for reply comments will apply to all parties to this proceeding.

4. Accordingly, *it is ordered*, pursuant to § 0.303 of the Commission's rules, that the extension of time request to file reply comments is granted.

LARRY F. DARBY,
Acting Chief, Common Carrier Bureau.

[FR Doc. 78-28718 Filed 10-11-78; 8:45 am]

[1] See 43 FR 35969, Aug. 14, 1978.

V 4 3 / 1 9 8 0 C 1 2 7 8 (M)

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON JUDICIAL REVIEW

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 10 a.m., Thursday, October 26, 1978, in the seventh floor conference room at Covington and Burling, 888 Sixteenth Street NW., Washington, D.C.

The Committee will meet for the second time to discuss Professor Frederick Davis' report on whether or not Veterans Administration determinations should be subject to judicial review.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The committee Chairman, if he deems it approriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

OCTOBER 5, 1978.

[FR Doc. 78-28725 Filed 10-11-78; 8:45 am]

[6110-01-M]

COMMITTEE ON RULEMAKING AND PUBLIC INFORMATION

Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10:30 a.m., October 27, 1978, in the Library of the Conference, 2120 L Street NW., Suite 500, Washington, D.C.

The committee will meet to discuss the Conference's project on the Federal Trade Commission, trade regulation rulemaking.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information concerning this committee meeting, contact Joseph B. Scott, 202-254-7020. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

OCTOBER 6, 1978.

[FR Doc. 78-28724 Filed 10-11-78; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

GOSPEL-HUMP ADVISORY COMMITTEE

Meeting

The Gospel-Hump Advisory Committee will meet at 7 p.m., November 2, 1978, in the Nezperce Forest Supervisor's Office, Grangeville, Idaho. The purpose of this meeting is to evaluate and advise on the fish and game research program and the multipurpose resource development plan for the "management areas" in the Gospel-Hump area of the Nezperce National Forest.

The meeting will be open to the public. Persons who wish to attend should notify Ed Raven, 319 East Main, Grangeville, Idaho, telephone 208-983-1950. Written statements may be filed with the committee before or after the meeting.

Minutes of all committee meetings will be published.

DON BIDDISON,
Forest Supervisor.

OCTOBER 3, 1978.

[FR Doc. 78-28748 Filed 10-11-78; 8:45 am]

[3410-11-M]

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Extension of Comment Period

Proposed rules for National Forest System land and resource management planning pursuant to the National Forest Management Act of 1976 were published in the FEDERAL REGISTER on August 31, 1978. The review period was set from August 31, 1978, to October 30, 1978. Due to numerous requests, the comment period was later extended to November 29, 1978.

With this notice, the review period is now extended to November 29, 1978.

Dated: October 4, 1978.

DOUGLAS R. LEISZ,
Deputy Chief.

[FR Doc. 78-28781 Filed 10-11-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

DRY CREEK WATERSHED, KANSAS

Intent To Not Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Qualities Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dry Creek Watershed, Clay, Cloud, Republic, and Washington Counties, Kans.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the human environment. As a result of these findings, Mr. Robert K. Griffin, State conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The Dry Creek Watershed project concerns watershed protection and flood prevention. The proposed project is to be implemented under authority of the Watershed Protection and Flood Prevention Act (Pub. L. 566, 83d Cong., 68 Stat. 666) as amended. The plan includes three floodwater retarding dams, an accelerated land treatment program to achieve 90 percent of the needed land treatment in the watershed, and an educational program on wildlife habitat improvement.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 760 South Broadway, Salina, Kans. 67401, 913-825-9535. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until November 13, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: October 4, 1978.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-28745 Filed 10-11-78; 8:45 am]

[3410-16-M]

INDIAN CREEK-VAN BUREN WATERSHED PROJECT, IOWA AND MISSOURI

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Indian Creek-Van Buren Watershed Project, Van Buren County, Iowa and Clark County, Mo.

The environmental assessment of this federally assisted action indicates that the project may cause significant local regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, fish and wildlife development, and additional water for municipal and industrial and other agricultural use. The planned works of improvement include one multiple purpose structure for flood prevention, fish and wildlife, and additional water for municipal and industrial and other agricultural use and nine additional structures for flood prevention.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, 515-284-4260.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public L. 83-566, 16 U.S.C. 1001-1008.)

Dated: October 4, 1978.

VICTOR H. BARRY, JR.,
Deputy Administrator, for Programs, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-28746 Filed 10-11-78; 8:45 am]

[3410-16-M]

LOWER ELK RIVER WATERSHED SUPPLEMENTAL PLAN NO. 1, KANSAS

Intent To Not Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Elk River Watershed Supplemental Plan No. 1, Elk, Chautauqua, and Wilson Counties, Kans.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the human environment. As a result of these findings, Mr. Robert K. Griffin, State conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The supplemental project action involves adding municipal and industrial water supply to Floodwater Retarding Structure No. 21. The supplemental action will provide 170,000 gallons per day water supply for the city of Moline and a rural water district. Surface area permanently inundated by this structure will increase from 55 to 185 acres.

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 760 South Broadway, Salina, Kans. 67401, 913-825-9535. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until November 13, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: October 4, 1978.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-28747 Filed 10-11-78; 8:45 am]

[6320-01—M]

CIVIL AERONAUTICS BOARD

[Docket No. 30390; Order 78-9-136]

ALLEGHENY AIRLINES, INC., AND EASTERN AIR LINES, INC.

Order To Show Cause Regarding Route Realinement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

By application and petition filed October 29, 1976, conforming to the June 26, 1976 informational guidelines in order 76-7101, Eastern Air Lines has requested the Board to issue an order directing interested persons to show cause why Eastern's certificate of public convenience and necessity for route 5 should not be amended and modified to realine the existing certificates for route 5, and the domestic authority on routes 6, 10, 71 and 145, into a single linear segment and to eliminate specific operation restrictions which Eastern claims are no longer required for competitive reasons.

In support of its application and petition, Eastern alleges that the goals sought by route realinements of increased economic efficiency and improved service to the public apply to the unsubsidized trunk carriers as well as the local service carriers. Furthermore, Eastern claims its proposed realinement is consistent with our realinement guidelines established in orders 76-5-101 and 76-7-101, issued May 21, 1976 and July 26, 1976, respectively.

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Answers in opposition were filed by several carriers and two civic parties. The following local service carriers objected to Eastern's proposed realinement because of their general opposition to trunkline realinements,[1] in addition to their objection to the removal of restrictions in specific markets: Allegheny Airlines, Frontier Airlines, North Central Airlines, Ozark Air Lines, Piedmont Aviation, Southern Airways, and Texas International Airlines.[2,3] Objections to specific markets in Eastern's petition were filed by the following trunk carriers: American Airlines, Braniff Airways, Continental Air Lines, Delta Air Lines, National Airlines, Trans World Airlines, United Air Lines and Western Air Lines. Finally, the State of Maryland and the cities and Chambers of Commerce of Tallahassee, Fla., and Cincinnati, Ohio, have filed objections to Eastern's proposed realinement which concern the possible increase of dormant authority at Baltimore/Washington International Airport, Tallahassee, and Cincinnati, respectively in addition to Maryland's opposition to the use of show-cause procedures rather than oral hearing for realinements generally. The Cincinnati parties otherwise favor the adoption of Eastern's proposed realinement.

Eastern filed a reply to the answers in opposition to its petition.

As we stated in Ozark, Delta, and Western route realinements,[4] it is our policy to realine the route systems of the certificated scheduled carriers to maximize the opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair meaningful market development, and inhibit significant improvement in the carrier's economic performance. These objectives are equally applicable to trunk and local service carriers.[5]

We tentatively conclude that Eastern's proposed realinement, as modified by this order, and in accordance with our realinement guidelines, conforms with the board's policy and objectives discussed above and that substantial service and carrier benefits will result from the realined route system. Furthermore, the proposed realinement will allow Eastern significantly to improve its operating efficiency and permit it to provide improved service to the traveling public.

No arguments have been raised by the local service carriers, the trunk carriers, or the civic parties that we have not already fully discussed in the Western, Delta, Ozark and American realinement orders. In our orders in the Western (order 76-5-101) and Delta (order 78-4-109) realinements, we have in effect addressed ourselves to the concerns of the local service carriers and the civic parties over the use of show-cause procedures and the increase in dormant authority which is likely to occur if Eastern receives improved authority in minor and monopoly markets; the contention that the doctrine of *Ashbacker Radio Corp. v. F.C.C.*, 326 U.S. 327 (1945) bars the Board's consideration of requests by Eastern for improved authority in specific markets; and the problem of realinement applicants receiving under the guidelines authority at satellite airports which is superior to what they could obtain at principal metropolitan airports under the same guidelines. As stated more fully in the previous realinement orders: Show-cause procedures protect the rights of all parties; *Ashbacker* is not a bar to our realinement decisions; and authority will not be granted to a realinement applicant at satellite airports which is superior to that which it could obtain under the realinement guidelines at the principal municipal airport, unless its satellite authority is already superior to its main airport authority.

Finally, Eastern has requested a waiver of the requirements of Part 312 of the Board's Procedural Regulations, which require the filing of an environmental evaluation. Eastern supports its request by stating that the realignment of its routes will enable it to operate more efficiently and produce greater opportunities for improved scheduling, flexibility and equipment use. Furthermore, Eastern states that, while it is possible some new service may be provided as a result of the realignment, in any given market it will be relatively minor and cannot be projected with any degree of specificity. We tentatively find that the action we propose here will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and, under our authority in section 312.6, we waive the requirement of filing an environmental evaluation. We also tentatively find, under Part 313 of our Procedureal Regulations, that realignment of Eastern's Route 5 will probably lead to more efficient use of fuel through the greater opportunity to provide nonstop and single-plane service in place of multi-stop service and on-line connections. Therefore, our action does not constitute a major regulatory action requiring an energy statement under the Engery Policy and Conservation Act (42 U.S.C. 6201 et seq.).

The restriction removals proposed for Allegheny, American, Braniff, National, North Central, Northwest, Piedmont, Southern, Texas International, TWA and United in the accompanying orders will enable those carriers to operate more efficiently, and will not constitute either major Federal actions within the meaning of NEPA or major regulatory actions within the meaning of the energy Policy and Conservation Act.

We further tantatively find that Eastern is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing complete with the opportunity for oral cross-examinatin is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain gereral, vague, or unsupported objections.

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Eastern's certificates for Routes 5, 6, 10, 71 and 145 in the manner set forth in the accompanying proposed certificate (Appendix A[6]);

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to suport the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed we will accord full consideration to the matters or issues raised by the objections before we take further action; [6a]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action;

5. We grant Eastern's application for a waiver of Part 312;

6. We will serve a copy of this order upon all persons listed in Appendix I; and

7. We deny Allegheny's motion to consolidate its application for certificate amendment.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28813 Filed 10-11-78; 8:45 am]

[1] Eight local service carriers, including those in this case, filed a motion requesting a stay of further procedural steps on trunkline realinement applications for purposes of receiving written and oral argument on certain legal and policy issues. This motion was denied in the Western realinement proceeding by Order 77-11-74, November 17, 1977, at 4-13. See also, Order 78-4-109, April 19, 1978, at 3 n.6, for fuller history of this motion.

[2] Piedmont, on January 10, 1977, filed an application to amend its certificate for inclusion of various markets involved here. Piedmont did not file a motion to consolidate its application, but requested contemporaneous consideration with the Eastern realinement. We will not consider Piedmont's application here. See fn. 3 below.

[3] Allegheny, on January 21, 1977, filed a motion to consolidate its own application for certificate amendment for Route 97 into the Eastern proceeding. Subsequently, American, Delta, Eastern and United filed answers in opposition to Allegheny's Motion to Consolidate. We view Allegheny's motion as repetitive of the local service carriers' motion denied in Order 77-11-74, November 17, 1977, at 4-13, and will deny it.

[4] Orders 78-6-4, 78-4-109 and 77-11-74, finalizing Order 76-5-101, respectively.

[5] See Order 78-6-4 at 2; Order 78-4-109 at 4-5.

[6] Appendices A through I filed as part of the orginal document.

[6a] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[7] All Members Concurred.

[6320-01-M]

[Docket No. 33320]

HOUSTON SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 2, 1978, at 10 a.m. in Room 1003, Hearing Room C, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before October 13, 1978, and the other parties on or before October 26, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 5, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-28829 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket No. 32845]

BALTIMORE/WASHINGTON-ST. LOUIS ROUTE PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 28, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served May 18, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 6, 1978.

RICHARD J. MURPHY,
Administrative Law Judge.

[FR Doc. 78-28828 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket Nos. 31496, etc.; Order 78-9-148]

PIEDMONT AVIATION, INC. AND SOUTHERN AIRWAYS, INC.

Order To Show Cause and Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

In the matter of application of Piedmont Aviation, Inc., for amendment of its certificate for Route 87, application of Piedmont Aviation, Inc., for an exemption under section 416(b) of the Federal Aviation Act of 1958, as amended, and application of Southern Airways, Inc., for amendment of its certificate for Route 98.

On October 7, 1977, Piedmont applied to amend its certificate of public convenience and necessity for Route 87 to add a new segment between the terminal point Charleston, S.C., and the terminal point Miami-Fort Lauderdale. On December 16, 1977, it filed an amended application to authorize air transportation over a new segment between the terminal points of Charleston and Columbia, S.C., on the one hand, and the hyphenated terminal point Miami-Fort Lauderdale, on the other. It simultaneously moved for a hearing.[1] On August 4, 1978, it applied for an exemption from section 401 of the act to permit it to operate one daily nonstop round trip between Columbia and Miami. It requested this authority for 2 years, or until 60 days after final Board decision on its application in Docket 31496.[2]

Southern, on August 23, 1978, applied to amend its certificate for Route 98, to add a new segment between the coterminal points Charleston and Columbia, and the terminal point Miami-Fort Lauderdale, and it simultaneously moved to consolidate with Piedmont's applications and motion for hearing in Dockets 31496 and 33150.[3]

Piedmont supports its request to extend its system to Miami/Fort Lauderdale by arguing that, if it receives this authority, nearly 290,000 passengers will be benefited in the first year of its operations; that it will make $14.1 million in passenger revenues (amounting to 10 percent of its total 1976 transport revenues); and that it will be able to operate the Columbia-Charleston-Miami route at lower than its average systemwide costs, because the length of hop will be twice that of its current system and its passenger haul 1.75 times. Finally, it states that the new route will strengthen its system and contribute to the efficiency of the air transportation industry, without significantly harming other carriers. It suggests the use of a show-cause order.

The Greensboro-High Point Airport Authority, the State of Maryland, Dade County, Fla., the Miami Traffic Association, the Metropolitan Richmond Chamber of Commerce, the Charleston County Aviation Authori-

[1] Docket 31496.

[2] Docket 33150. On August 19, 1978, by means of Order 78-4-129, we granted Piedmont an exemption to permit it to operate one daily round trip flight between Charleston and Miami. We took this action in response to an October 4, 1977, exemption request by it, the Charleston County Authority, County of Charleston, city of North Charleston, and all other related aviation interests, and the State of Maryland.

[3] Docket 33280. Southern currently holds authority at all three points, but its route structure prohibits it from operating nonstop frequencies between Columbia or Charleston and Miami.

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ty, the Commonwealth of Virginia, and the Richland-Lexington Airport Commission answered in support of Piedmont's proposal. The North Carolina Department of Transportation moved for leave to file an untimely answer in support. We will grant its motion.

Delta, National, and Eastern oppose and question Piedmont's exhibits. They claim that its projected stimulation and participation factors are overstated and that it did not adequately account for the services currently available in the Miami-Charleston/Columbia/Greensboro/Raleigh/Richmond markets.[4] Eastern argues that, once these factors are considered, Piedmont's proposed services would produce an operating profit of only $88,000 (as opposed to Piedmont's forecast of $2.64 million)[5] and would divert $3.304 million of Eastern's revenues.[6]

The opposing carriers also argue that additional service is not warranted by the size of these markets and the service currently offered in them. Indeed, Delta and Eastern contend that Piedmont does not need Miami authority to operate some of the flights it proposes (i.e., between Charleston and Columbia, on the one hand, and Baltimore, Richmond, and Raleigh, on the other). They calculate that it can make a profit on these flights independently of Miami traffic, and conclude[7] that it should concentrate on those markets.

The carriers also make the procedural arguments that we should not give Piedmont priority hearing treatment, in view of allegedly more important and urgent matters on our docket, and that show-cause procedures should not be used because material facts are in dispute.

Piedmont filed a consolidated reply.[7]

In support of its request for exemption authority, Piedmont states that it is concerned that we may not be able to take final action on its Miami entry application in time for it to prepare its schedule changes for the Miami peak season, which begins on December 15;[8] that the public interest requires the grant of the exemption because its service will remedy existing service deficiencies in the market and produce significant low fare benefits; that the grant of the exemption will produce an operating profit of $955,000 and will result in minimal diversion from other carriers; and that its proposal meets the statutory prerequisites of section 416(b) of the act.

Dade County, Fla., the Greater Miami Traffic Association, the Metropolitan Richmond Chamber of Commerce, and the Richland-Lexington Airport Commission support the exemption application.

Eastern opposes the exemption request, contending that there is no "imminent crisis or critical shortage of service" in the Columbia-Miami market that would justify a statutory finding of unusual circumstances; it and Delta are providing adequate service in the market; and the market is not subject to significant seasonal variations.

Piedmont replied to Eastern's answer.

Southern moved for leave to file an untimely answer opposing Piedmont's exemption application.[9] It objects to any award of Columbia-Miami authority to Piedmont unless and until the Board considers its own application for authority in the Charleston/Columbia-Miami market. It did not file for an exemption to operate in the Columbia-Miami market.

Piedmont replied to Southern's answer and in opposition to its motion to consolidate.

On the basis of the tentative findings below, we tentatively conclude that the public convenience and necessity require the addition of new segments to Piedmont's certificate for Route 87 and to Southern's certificate for Route 98,[10] between the coterminal points [11] Charleston and Columbia, on the one hand, and the coterminals Miami and Fort Lauderdale, on the other.[12] We will also grant Piedmont's exemption request for a period of 2 years or until 60 days after final decision in Docket 31496, whichever occurs first.[13][14] The grant of the certificate requests by an order to show cause is warranted because there are no issues involving material, determinative facts requiring resolution in an oral evidentiary hearing. The requests clearly fall within the class of applications we have considered by show-cause procedures.[15]

Implementation of the proposal will produce significant improvements in single plane and competitive service in many markets, as shown in the appendix.[15a] The contention that Piedmont can operate some of its proposed routes without the Miami extension does not dissuade us from our tentative conclusion that the public will be benefited from the grant of its application.

As to Eastern's downward revisions of Piedmont's profit forecast,[16] we find that there is sufficient traffic in the markets for which it would receive authority to sustain profitable operations, if not under its proposal, then under a plausible variation.[17] We need not find that Piedmont's precise proposal here, or any other specific service pattern, can in fact be profitably operated.[18] If Piedmont's proposal or a variation can be operated on a profitable basis, service is likely to be provided, and we are persuaded that this has been plausibly shown here.[19] However, even if the service is or becomes unprofitable the carrier is free, under permissive authority, to cease serving the markets We are satisfied that nothing developed in an oral evidentiary hearing would reverse this conclusion.[20] Further, since we propose to make these operations permissive and Category II subsidy-ineligible, Piedmont can reduce them or leave the market if its predictions prove overly optimistic and its service unprofitable.

Eastern is the only carrier that complained of diversion. Piedmont's exhibits calculate diversion from the incumbents, using both the projected participation and growth offset methods. Under the projected participation method, Piedmont forecasts diversion of $4.276 million from Eastern,[21] and, under the growth offset method, $1.451 million.[22] Eastern made no attempt to show that either figure is incorrect or that diversion will threaten its ability to perform its certificate obligations or necessarily will result in their termination of essential services that could not be replaced by other carriers. Either amount is substantially less than 1 percent of Eastern's commercial revenues.[23]

The public interest warrants grant of Piedmont's exemption request since the Columbia-Miami market currently lacks nonstop service and Piedmont's proposal will fill that gap in time for the peak winter season. It also will offer improved service in four beyond markets, as a result of its New York/Newark-Richmond-Columbia-Miami flight routing.[24] In view of the circumstances, and given the time required for a certification proceeding, enforcement of section 401 would deprive the public of required service.

We find that enforcement of the act and the terms, conditions, and limitations of the carrier's certificate would be an undue burden by reason of the limited extent of, and unusual circumstances affecting, its operations. Clearly the expense of a certification proceeding would be prohibitive in view of the limited and temporary operation to be authorized and would be totally out of proportion of the benefits to be derived by the carrier.[25]

We will not take Piedmont's Columbia-Miami operations into account in making our final detemination in this proceeding. As the carrier is aware, commencing service under exemption authority before the outcome of a certificate application is inherently risky. In this case, we do not believe the risk is economically unjustifiable. Since exemption authority is permissive, Piedmont will be able to reduce or eliminate its services without prior Board approval if they prove uneconomic; and since Piedmont already has stations at both Columbia and Miami, the operation will not require a great commitment of resources.

Accordingly, we find that enforcement of section 401 of the act, and the terms, conditions, and limitations of Piedmont's certificate for Route 87, to the extent they would otherwise prevent Piedmont from providing one daily round trip Columbia-Miami flight, would be an undue burden on it by reason of the unusual circumstances affecting its operations and would not be in the public interest.[26]

We will give interested persons 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final. We expect their objections to be supported by detailed economic or legal arguments. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague or unsupported objections. Answers shall be filed within 10 days after the date for filing objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending Piedmont's certificate for Route 87 and Southern's certificate for Route 98 so as to add a new segment, which is permissive and Category II subsidy ineligible, to each of the respective routes, between the coterminal points Charleston and Columbia, S.C., on the one hand, and the coterminal points Miami and Fort Lauderdale, on the other;

2. We order any interested person objecting to the issuance of an order making final the proposed findings, conclusions and certificate amendments set forth here to, no later than November 2, 1978, file with us and serve upon all persons listed in paragraph 9 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than November 13, 1978;

3. If timely and properly supported objections are filed, we will fully consider the issues raised before we take further action; [27]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions we have set forth here;

5. We exempt Piedmont Aviation from the provisions of section 401 of the act and the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 87 to the extent necessary to permit it to provide one daily round trip flight between Columbia, S.C. and Miami, Fla.;

6. The authority granted in paragraph 5 shall be on a Category II subsidy-ineligible basis, shall be effective on the date of this order, shall terminate after 2 years or 60 days after final decision in Docket 31496, whichever occurs first, and may be amended or revoked at any time in our discretion without a hering;

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[1] In September 1977, National discontinued its Charleston-Miami single-plane service and reinstated a two-stop north-bound flight in the peak winter season. Delta and National argue that Piedmont should have considered National's service in its analysis of its projected market share.

[2] PI-401.

[3] Eastern's answer, at 11.

[4] The reply was accompanied by a motion to file an unauthorized document. We will grant this motion.

[5] Piedmont requests that we act on its exemption application by October 15, so that it can make the necessary schedule changes in time for the start of the winter season.

[6] We will grant its motion.

[7] We have tentatively decided to amend Southern's certificate because this amendment is in the nature of a restriction removal, and it is our policy to remove restrictions in the absence of affirmative reasons for their retention. The amendment of its certificate will make possible improvement in its scheduling flexibility, equipment utilization, and operating efficiency. We have not received any objections to its application. Further, we believe that the award of authority to both carriers is in the public interest because, even if one carrier does not use its authority, its presence on the edge of the market will influence the incumbents to offer the price/service options desired by the traveling public. (See also Piedmont's Dallas/Fort Worth Entry Application, Order 78-9-60, September 13, 1978, at 3).

[8] By our designation of certain city-pairs as coterminals, we intend to permit the carriage of local traffic between them. See Order 78-3-45, March 9, 1978, fn. 1, indicating that the terminology, "coterminal points" signifies the authority to carry local traffic between them.

[9] We have decided to add Miami and Fort Lauderdale as separate points, even though Piedmont and Southern requested their hyphenation. Our decision is based on the fact that, by virtue of Order 78-8-192, we proposed to grant Braniff, Continental, National, Delta, Northwest, United, Eastern, and TWA operating authority between Miami and Fort Lauderdale, in the interests of affording them servicing and operating flexibility. It is only fair to give Piedmont and Southern the same flexibility. Charleston and Columbia will also be separately added in recognition of the carriers' current authority to carry local traffic between them.

[10] This authority also will be subsidy-ineligible under Category II.

[11] We tentatively find that Piedmont and Southern are citizens of the United States and are fit, willing, and able properly to perform the proposed air transportation and to conform to the provisions of the Act and the Board's rules.

On the basis of Piedmont's environmental evaluation, we tentatively conclude that our proposed action will not be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975 (EPCA), as defined in § 313.9(2)(1) of the Board's Procedural Regulations. Southern did not file an environmental evaluation or request a waiver under Part 312 of the Board's Procedural Regulations. We tentatively find, however, that this certificate amendment is not likely to be a major Federal action with a significant effect on the quality of the human environment or a major regulatory action under EPCA. It will make possible improved scheduling flexibility, equipment utilization, and operating efficiency, and produce greater opportunities for reduction in fuel consumption, air pollution, and ambient noise levels. We will waive the filing of an environment evaluation.

[12] E.g., Piedmont Boston Entry, Order 78-8-97, August 17, 1978; Eastern Albany Entry, Order 78-7-168, July 31, 1978, and Air New England Hartford/Springfield Entry, Order 78-8-129, August 23, 1978.

[13] Appendix filed as part of the original document.

[14] EA-1. We note, however, that even under Eastern's forecast Piedmont would make a profit.

[15] Order 78-4-69. For the calendar year 1977, the O. & D. plus connecting traffic in the Miami-Charleston market was 17,990, and 17,850 in the Miami-Columbia market. Source: CAB O. & D. Survey Tables 8 and 10.

[15a] See Piedmont Boston Entry Application Order 78-4-69 (order to show cause), at pp. 6-7, Order 78-8-97 (final order).

[16] As noted in Order 78-4-69, our conclusion that Piedmont has made a plausible showing that service can be profitably provided is not an element of our tentative findings of public convenience and necessity but rather of our determination to give this application priority of processing.

[17] National and Delta claim that Piedmont's base year statistics are too high and its estimated growth rate excessive. The objecting carriers also argue that Pidemont's true O. & D. plus on-line connecting stimulation factors are excessive. Even if all of these criticisms are well taken, our conclusion that Piedmont's proposal, or some plausible variation, can be operated on an economic basis, is not undermined.

[18] PI-502.

[19] PI-504.

[20] PI-502, 504.

[21] It will offer the only Newark-Columbia service, both northbound and southbound and provide the only morning service from New York to Columbia. In the New York/Newark-Richmond market, it will offer the first morning departure at 8:15. It will supplement the existing one-stop round trip service offered in the Richmond-Miami market, and will offer the first single-plane service between Richmond and Columbia.

[22] We have granted exemption applications under similar circumstances. *See, e.g.*, Order 78-4-129, April 19, 1978.

[23] As only one daily round trip is involved, we find that this decision does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[24] Since we have provided for the filing of objections, we will not entertain petitions for reconsideration of the show cause order.

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7. We consolidate into Docket 31496 Southern's application, filed in Docket 33280;

8. We grant Piedmont's motion for leave to file an unauthorized document and those of the North Carolina Department of Transportation and Southern Airways to file late;

9. We waive Southern's requirement to file an environmental evaluation under Part 312 of the Board's Procedural Regulations; and

10. We will serve this order on Piedmont Aviation, Allegheny Airlines, Ameican Airlines, Braniff International, Continental Air Lines, Delta Air Lines, Eastern Air Lines, National Airlines, Northwest Airlines, Ozark Air Lines, Southern Airways, Trans World Airlines, The Maryland Department of Transportation, United Air Lines, the North Carolina Department of Transportation, the South Carolina Aeronautics Commission, the Greensboro/High Point Airport Authority, the Charleston County Aviation Authority, New Jersey Department of Transportation, the Newark Airport Authority, the Columbia Airport Authority, the Virginia Division of Aeronautics, the Charleston International Airport, The Richmond Airport Authority, the Airport Director Raleigh/Durham Airport Authority, the Airport Managers, Byrd International Airport and Roanoke Municipal Airport, the Greater Miami Traffic Association, the Richmond-Metropolitan Chamber of Commerce, the Mayors of West Columbia, Charleston, Columbia, Raleigh, Durham, Greensboro, Miami, Richmond, Fort Worth, and the Governors of the States of North Carolina, Virginia, Florida, and South Carolina.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[28]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28823 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket No. 33575; Order 78-9-144]

SOUTHERN AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificate of Rublic Convenience and Necessity for Route 98

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realine the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in 14 minor markets [1] where Southern holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Southern as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on Southern's operations in the 14 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Southern's certificate for Route 98 to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28824 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket No. 33577; Order 78-9-146]

TRANS WORLD AIRLINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 2

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

By order 78-9-136, issued concurrently with this order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in the Columbus-Nashville minor market [1] where TWA holds restricted authority.[2] As discussed in orders 78-4-109, 77-11-74, and 76-5-

[28] All Members concurred.

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both Southern and Eastern currently hold restricted authority are set forth in Appendix A to this order. (Appendix A filed as a part of the original document.)

[3] We further conclude that Southern is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day or 7,300 per year.

[2] For the year ending Sept. 30, 1975, there were 6,280 true O. & D. plus interline connecting passengers in this market, where TWA currently has one-stop via St. Louis authority.

101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on TWA as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in order 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on TWA's operations in the Columbus-Nashville market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to the specific market, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending TWA's certificate for Route 2 to remove operating restrictions in the Columbus-Nashville market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments the modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in appendix I of order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in appendix I of order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28825 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket No. 33576; Order 78-9-145]

TEXAS INTERNATIONAL AIRLINES, INC.

Order to Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 82

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in the Corpus Christi-Memphis minor market [1] where TXI holds unrestricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on TXI as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on TXI's operations in the Corpus Christi-Memphis market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to the specific market, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending TXI's certificate for Route 82 to remove operating restrictions in the Corpus Christi-Memphis market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues

[3] We further conclude that TWA is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[1] A minor market is one with fewer than 20 true O&D plus interline connecting passengers a day or 7,300 per year.

[2] For the year ending September 30, 1975, there were 2,850 true O&D plus interline connecting passengers in this market, where TXI currently has one-stop authority.

[3] We further conclude that TXI is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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raised by the objections before we take further action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,[5]
Secretary.

[FR Doc. 78-28826 Filed 10-11-78; 8:45 am]

[6320-01—M]

[Docket No. 33578; Order 78-9-147]

UNITED AIR LINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 1

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in 92 minor markets[1] where United holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on United as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on United's operations in the 92 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending United's certificate for Route 1 to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28827 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket 33568; Order 78-9-137]

ALLEGHENY AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 97; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in 28 minor markets [1] where Allegheny holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Allegheny as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on Allegheny's operations in the 28 markets listed in appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Allegheny's certificate for Route 97 to remove restrictions in the markets listed in appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28814 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket 33569; Order 78-9-138]

AMERICAN AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 4; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of September, 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, given Eastern unrestricted authority in three minor markets[1] where American holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on American as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on American's operations in the three markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly,

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings, and conclusions stated here and amending American's certificate for Route 4 to remove operating restrictions in the markets listed in appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take furtyher action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 28815 Filed 10-11-78; 8:45 am]

[1] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[1] A minor market is one with fewer than 20 true O&D plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both United and Eastern currently hold restricted authority are set forth in Appendix A to this order. (Appendix A filed as part of the original document.)

[3] We further conclude that United is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[1] A minor market is one with fewer than 20 true O&D plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both Allegheny and Eastern currently hold restricted authority are set forth in Appendix A to this order. (Appendix A filed as part of original document.)

[3] We further conclude that Allegheny is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All Members concurred.

[1] A minor market is one with fewer than 20 ture O&D plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both American and Eastern currently hold restricted authority are set forth ion appendix A to this order. (Appendix A filed as part of the original document.)

[3] We further conclude that American is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

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[6320-01-M]

[Docket 33570; Order 78-9-139]

BRANIFF AIRWAYS, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 9; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this order, the Board has proposed to realine the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in 14 minor markets[1] where Braniff holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Braniff as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on Braniff's operations in the 14 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Braniff's certificate for Route 9 to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action;[4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28816 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket No. 33571; Order 78-9-140]

NATIONAL AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 31; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realine the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in 27 minor markets[1] where National holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on National as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on National's operations in the 27 markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this Order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections[3]

[1] A minor market is one with fewer than 20 true O&D plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both Braniff and Eastern currently hold restricted authority are set forth in Appendix A to this order. (Appendix A filed as part of the original document.)

[3] We further conclude that Braniff is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All Members concurred.

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both National and Eastern currently hold restricted authority are set forth in Appendix A to this order. (Appendix A filed as part of the original document.)

[3] We further conclude that National is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transporta-

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Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending National's certificate for Route 31 to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action;[4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28817 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket 33573; Order 78-9-142]

NORTH CENTRAL AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 86; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of September, 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in the Columbus-Omaha minor market[1] where North Central holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74 and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on North Central as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on North Central's operations in the Columbus-Omaha market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to the specific market and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending North Central's certification for Route 86 to remove operating restrictions in the Columbus-Omaha market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action;[4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28818 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket 33572; Order 78-9-141]

NORTHWEST AIRLINES, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 3; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of September 1978.

By Order 78-9-136, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in the Portland-Tampa minor market[1] where Northwest holds restricted authority.[2] As discussed in

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tion proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[1] A minor market is one with fewer than 20 true O&D plus interline connecting passengers a day, or 7,300 per year.

[2] For the year ending September 30, 1975, there were 4,960 true O&D plus interline connecting passengers in this market where North Central currently has two-stop authority.

[3] We further conclude that North Central is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All Members concurred.

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day or 7,300 per year.

[2] For the year ending September 30, 1975, there were 5,360 true O. & D. plus interline connecting passengers in this market, where

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Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Northwest as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on Northwest's operations in the Portland-Tampa market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to the specific market, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly:

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Northwest's certificate for Route 3 to remove operating restrictions in the Portland-Tampa market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action;[4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to such part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28819 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket Nos. 31897 and 32821; Order 78-10-4]

PAN AMERICAN WORLD AIRWAYS, INC., AND TRANS WORLD AIRWAYS, INC.

Order Extending Authorizations

Issued under delegated authority, October 3, 1978.

In the matter of application of Pan American World Airways, Inc. for further extension of authority to discuss the feasibility of a joint computerized reservations system for use in Germany and application of Trans World Airlines, Inc. for an extension of authority to discuss the feasibility of a joint computerized reservations system for use in Ireland.

By Order 78-1-70, January 17, 1978, the Board approved the petition by Pan American World Airways, Inc. (Pan American) for authorization to discuss with various other parties, including U.S. certificated and foreign air carriers, the feasibility of a joint computerized reservations system for use within the Federal Republic of Germany. The Board, by Order 78-2-75, February 14, 1978, extended the duration of that discussion authority to July 31, 1978. By Order 78-6-53, June 7, 1978, the Board approved the petition of Trans World Airlines, Inc. (TWA) for authority to discuss the implementation of a similar system within the Republic of Ireland. The order specified that TWA's authorization would expire after June 22, 1978.

Pan American, in Docket 31897, and TWA, in Docket 32821, now request that the Board extend their respective discussion authorizations for an additional six-month period.

Pan American states that the carrier participants in the earlier discussions continue to be interested in exploring the feasibility, cost, and pricing of the system proposed for Germany. Similarly, TWA states that various carriers present at its discussions demonstrated sufficient interest in a joint computerized reservations system to warrant formation of an airline committee to discuss further the pricing and development of a multi-access system for Ireland.[1] Both carriers submit that these systems could provide important public benefits through increased convenience for the traveling public public as well as through time and cost savings for the industry. In doing so they refer to the Board's discussion of these benefits in earlier orders.[2]

TWA filed an answer in support of Pan American's request. No answers in opposition to either petition have been received.

We conclude that the requests for extension of the discussion authorizations are reasonable and may result in a more definitive and useful period of research than might otherwise be possible. As the applicants submit, the Board previously has established that discussions of this type clearly could secure important public benefits. Therefore, we will waive the requirement that the applicants justify their requests in accordance with Order 78-7-110, July 21, 1978,[3] and will approve the requests. However, as we noted in approving the original discussion authority requests, we are concerned that all interested parties, not merely air carriers, are able to participate in the discussions and to have their comments considered by the air carrier participants. Therefore, we will attach conditions to our approval of these extensions.

Under authority delegated by the Board in its orders granting the origi-

Footnotes continued from last page

Northwest currently has one-stop via Chicago authority.

[3]We further conclude that Northwest is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All Members concurred.

[1]TWA indicates that carrier participation in this working group initially will consist of Air Canada, British Airways, British Caledonian Airways Limited, Scandinavian Airlines System, and TWA, with the participation of all carriers having a sales interest in Ireland being solicited.

[2]The carriers cite the Board's approval of Pan American's earlier discussions in Germany and our approval in Orders 76-3-36, March 5, 1976, and 76-8-156, August 31, 1976, regarding the development of a multi-access computerized reservations system for use in the United States.

[3]In that order, we declared our intention to require that all future requests for discussion authority be fully justified under our Local Cartage standard as enunciated in the *Capacity Reduction Agreements Case*, Order 75-7-98, July 21, 1975, in order to show clearly and convincingly that the discussion authority is required by a serious transportation need or is necessary to secure other important public benefits.

nal discussion authorizations in Dockets 32821 and 31897, we will extend the duration of the respective authorizations for six (6) months from the date of service of this order, subject to conditions.

Accordingly,

1. We approve the petition of Trans World Airlines, Inc. for extension of its discussion authorization in Docket 32821, subject to the conditions set forth in subparagraphs 2(a) through 2(f) below;

2. We approve the petition of Pan American World Airways, Inc. for extension of its discussion authorization in docket 31897, subject to the following conditions:

(a) All U.S. certificated air carriers and foreign air carriers serving the country covered by the authorization, all interested travel agents and/or their trade associations, all interested government agencies, and all other interested persons shall be given an opportunity to be present at, to observe or participate in all discussions held pursuant to this order;

(b) Any notices agenda, or rules for the presentation of interested persons' views during the discussions shall be sent to all participants, the Board's Docket Section, and all persons who so request. The rules shall provide for the consideration of interested persons' views before the start of, or during, the discussions, and then after an oral presentation by the air carrier participants;

(c) Complete and detailed minutes of these discussions shall be maintained by the participants, including a summary of each item discussed and the opinions expressed on each point. These minutes shall be filed with the Board's Section, and sent to all other persons who so request,[4] within 5 business days after the date of the discussions;

(d) Any agreement or agreements reached as a result of the discussions shall be filed with the Board, pursuant to the requirements of section 412(a) of the Act (49 U.S.C. 1382) and Part 261 of the Board's Economic Regulations (14 CFR 261) and Subpart P of the Board's Rules of Practice (14 CFR 302.1608) and shall not become effective unless and until approved by the Board pursuant to section 412(b) of the Act; the air carriers filing the agreement shall accompany their application with a detailed justification for each aspect of it;

(e) The authorization granted shall extend to six (6) months after the date of service of this order;

(f) The authorization granted may be extended, modified, clarified, or revoked at any time.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

This order shall be served on all certificated air carriers, on all other persons who responded to the application, and on the United States Departments of Transportation and Justice.

This order shall also be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28820 Filed 10-11-78; 8:45 am]

[6320-01-M]

[Docket 33354; Order 78-10-01]

PAN AMERICAN WORLD AIRWAYS, INC.

Petition for Authority To Discuss Feasibility of a Joint Computerized Reservations System For use in Italy; Order Authorizing Discussions

Issued under delegated authority, October 2, 1978.

On September 5, 1978, Pan American World Airways petitioned the Board for authorization to discuss with various other parties, including U.S. certificated and foreign air carriers, the feasibility of a multicarrier computerized reservations system for use within the Republic of Italy. Pan American states that, along with other international carriers serving Italy,[1] it has been invited to attend a meeting sponsored by KLM-Royal Dutch Airlines to discuss the technical and cost feasibility of jointly developing such a system. The initial meeting to be held in London on or about the last week in October, is expected to be followed by subsequent meetings in which interested carriers will discuss the pricing and possible implementation of the system. Thus, Pan American requests that the Board authorize discussions which would take place over a 6-month period.

Pan American submits that the Board previously has authorized similar discussions regarding the development of multicarrier computerized reservations systems for use abroad.[2] It contends that the important public benefits which the Board concluded could accrue from those discussions could also flow from these discussions.

Trans World Airlines, Inc. has filed an answer in support of the petition. We have received no answers in opposition to the petition.

We have decided to grant Pan American's request. As the applicant contends, the factors which moved the Board previously to authorize other discussions concerning joint computerized reservations systems are present here. The Board has established that discussions of this type clearly could secure important public benefits.[3] Thus, we will waive the requirement that the applicant justify its request in accordance with Order 78-7-110, July 21, 1978,[4] and will approve the request. However, as previously has been the case with discussions in this area, travel agents, various equipment and service suppliers, as well as all air carriers, may have an interest in the discussions.[5] Therefore, we will attach conditions to our approval to insure that all interested persons will be able to participate in the discussions and to provide that their comments will be considered by the air carrier participants.

Accordingly, we grant Pan American's petition in Docket 33354 for authorization to discuss the feasibility of a multicarrier computerized reservations system for use in Italy, subject to the following conditions:

(a) All U.S. certificated air carriers and foreign air carriers serving the Republic of Italy, all interested travel agents and/or their trade associations, all interested government agencies, and all other interested persons shall be given an opportunity to be present at, to observe or participate in all discussions held pursuant to this order;

(b) Any notices, agenda, or rules for the presentation of interested persons'

[4]The participants are not precluded from setting a nominal charge to be paid for those requesting copies of the minutes; such charge should not exceed the cost of duplicating and sending such copies.

[1]According to Pan American, KLM-Royal Dutch Airlines, Trans World Airlines, Inc., British Airways and CP Air have expressed an interest in attending the discussions.

[2]Pan American cites Orders 78-1-70, January 17, 1978, and 78-6-53, June 7, 1978, respectively authorizing analogous discussions with respect to the Federal Republic of Germany and the Republic of Ireland.

[3]In addition to those orders cited by Pan American, see Order E-25635, September 6, 1967, approving various carriers' participation in the development of a common automated reservations system; Order 74-11-37, November 8, 1974, approving American Airlines' application for discussion authority; Order 76-3-36, March 3, 1976, approving ASTA's application for discussion authority, and order 76-8-156, August 31, 1976, approving the resulting agreement establishing pilot projects for a multicarrier/travel agent automated reservations system.

[4]In that order, we declared our intention to require that all future requests for discussion authority be fully justified under our local cartage standard as enunciated in the *Capacity Reduction Agreements* case, Order 75-7-98, July 21, 1975, in order to show clearly and convincingly that the discussion authority is required by a serious transportation need or is necessary to secure other public benefits.

[5]See Order 74-11-37, discussed in footnote 3.

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views during the discussions shall be sent to all participants, the Board's Docket Section, and all persons who so request. The discussants shall provide for the consideration of interested persons' views before the start of, or during, the discussions, and then after an oral presentation by the discussants of the tentative conclusions reached in their discussions;

(c) Complete and detailed minutes of these discussions shall be maintained by the participants, including a summary of each item discussed and the opinions expressed on each point. These minutes shall be filed with the Board's Docket Section, and sent to all other persons who so request,[6] within 5 business days after, the date of the discussions;

(d) Any agreement or agreements reached as a result of the discussions shall be filed with the Board, under section 412(a) of the act and Part 261 of the Board's Economic Regulations and Subpart P of the Board's Rules of Practice and shall not become effective unless and until approved by the Board under section 412(b) of the act; the air carriers filing the agreement shall accompany their application with a detailed justification for each aspect of it;

(e) The authorization shall extend to six (6) months after the date of service of this order;

(f) The authorization granted may be extended, modified, clarified, or revoked at any time.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

This order shall be served on all certificated air carriers, on all other persons who responded to the application, and on the U.S. Departments of Transportation and Justice.

This order shall also be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28821 Filed 10-11-78; 8:45 am]

[6] The discussants are not precluded from setting a nominal charge to be paid for those requesting copies of the minutes; such charge should not exceed the cost of duplicating and sending such copies. Pan American will serve as the party to contact to make such requests.

[6320-01—M]

[Docket 33574; Order 78-9-143]

PIEDMONT AVIATION, INC.

Amendment of Certificate of Public Convenience and Necessity for Route 87; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September, 1978.

By Order 78-9-136, issued concurrently with this order, the Board has proposed to realine the domestic route system of Eastern Air Lines in a manner which would, among other things, give Eastern unrestricted authority in four minor markets [1] where Piedmont holds restricted authority.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Piedmont as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carrriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively conclude that the elimination of restrictions on Piedmont's operations in the four markets listed in Appendix A is required by the public convenience and necessity, and is consistent with the board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

We will give interested persons 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If a full-blown evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.[3]

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Piedmont's certificate for Route 87 to remove operating restrictions in the markets listed in Appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than November 6, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-136, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than November 16, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the markets or issues raised by the objections before we take further action; [4]

4. In the event no objections are filed to any part of this order, we will deem all further procedural steps relating to sueh part or parts to have been waived, and we will take final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-136.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-28822 Filed 10-11-78; 8:45 am]

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day or 7,300 per year.

[2] The minor markets where both Piedmont and Eastern currently hold restricted authority are set forth in Appendix A to this order. (Appendix A filed as part of the original document.)

[3] We further conclude that Piedmont is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4] All motions or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All Members concurred.

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

MINNESOTA ADVISORY COMMITTEE

Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission scheduled for October 13, 1978 (FR Doc. 78-24004) on page 38068 has been canceled.

Dated at Washington, D.C., October 6, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-28758 Filed 10-11-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

ARMY SCIENCE BOARD

Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee meeting:

NAME OF COMMITTEE: Army Science Board

DATES OF MEETING: 31 October-1 November 1978.

PLACE: The Pentagon, Washington, D.C. (2E715B).

TIME: 0800-1700 hours, 31 October 1978; 0800-1600 hours, 1 November 1978.

PROPOSED AGENDA: The meeting is partially closed because the members will receive classified briefings and classified discussions regarding the threat which relate to the offensive and defensive postures of the U.S. and other nations in the area of "Chemical Decontamination/Contamination Avoidance." The portion of the meeting which will be closed is between 0800-1230 hours, 31 October 1978. This portion will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof.

ROBERT F. SWEENEY,
Lieutenant Colonel, GS Executive Secretary Army Science Board.

[FR Doc. 78-28732 Filed 10-11-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on: Wednesday and Thursday, 6 and 7 December 1978.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the United States Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 6, 1978.

[FR Doc. 78-28723 Filed 10-11-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

POWER AUTHORITY OF THE STATE OF NEW YORK AND LONG SAULT, INC.

Application to Amend Presidential Permits PP-24, 25

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Application to amend Presidential Permits PP-24, 25.

SUMMARY: The Department of Energy given notice of application by Power Authority of the State of New York and Long Sault, Inc. to amend their respective Presidential Permits so as to modify an existing international transmission line at the United States-Canadian border.

DATE: Petitions and protests must be received by November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr, Systems Reliability and Emergency Response Branch, Department of Energy, Room 538, Vanguard Building, 2000 M Street NW., Washington, D.C. 20461, 202-634-5620.

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9995 or 202-566-9380.

SUPPLEMENTARY INFORMATION: On August 22, 1978, the Power Authority of the State of New York (PASNY) and Long Sault, Inc. (Long Sault) filed for modification of Presidential Permits issued by the Federal Power Commission pursuant to Executive Order No. 10485 in Docket Nos. E-6631 and E-6632 respectively authorizing the construction, operation, maintenance and connection of electric transmission facilities to cross the United States-Canadian border. The modifications requested are: (1) That ownership of an existing 115 kilovolt circuit, which was constructed and maintained by PASNY on PASNY's double circuit tower, but owned and operated by Long Sault in accordance with FPC Docket No. E 6632, be transferred to PASNY pursuant to a prior agreement between the two companies; (2) That the 115 kV circuit be operated at 230 kV, and (3) that the present interconnection at the international border with facilities of Cedars Rapids Transmission Co, Ltd. a Canadian corporation (Cedars) be abandoned and the line be made part of the 230 kV interconnection between PASNY and Ontario Hydro. According to the applicants, no change in the facilities will be required since the tower, insulators and conductors were initially designed and installed for eventual operation of the 115 kV line at 230 kV.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Director, Division of Power Supply and Reliability, Economic Regulatory Administration, room 538, Vanguard Building, 2000 M Street NW., Washington, D.C. 20461 in accordance with sections 1.8 and 1.10 of the Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions and protests should be filed on or before November 30, 1978. Protests will be considered by ERA in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must filed a petition to intervene. Copies of this application are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket room, room B-210, 2000 M Street NW., Washington, D.C., and at the Division of Power Supply and Reliability, room 4070, 1111 20th Street NW., Washington, D.C.

Issued in Washington, D.C. on October 5, 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, U.S. Department of Energy.

[FR Doc. 78-28726 Filed 10-11-78; 8:45 am]

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[6740-02-M]

Federal Energy Regulatory Commission

PIPELINES

Tentative Valuations

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1977 REPORTS

(OCTOBER 5, 1978).

Valuation Docket No PV	
1364	Acorn Pipe Line Co., P.O. Box 5008, Houston, Tex. 77012.
1414	Allegheny Pipeline Co., P.O. Box 2521, Houston, Tex. 77001.
1439	Amdel Pipe Line Co., P.O. Box 2159, Dallas, Tex. 75221.
1440	American Petrofina Pipe Line Co., P.O. Box 1311, Big Spring, Tex. 79720.
1302	Amoco Pipeline Co., P.O. Box 6110-A, Chicago, Ill. 60680.
1378	Arapahoe Pipe Line Co., 1650 East Golf Rd., Schaumburg, Ill. 60196.
1329	Arco Pipe Line Co., Arco Building, Independence, Kans. 67301.
1291	Ashland Pipe Line Co., 1409 Winchester Ave., Ashland, Ky. 41101.
1381	Badger Pipe Line Co., P.O. Box 300, Tulsa, Okla. 74102.
1430	Belle Fourche Pipeline Co., P.O. Drawer 2360, Casper, Wyo. 82602.
1425	Black Lake Pipe Line Co., P.O. Box 308, Independence, Kans. 67301.
422	Buckeye Pipe Line Co., P.O. Box 368, Emmaus, Pa. 18049.
1302	Butte Pipe Line Co., P.O. Box 2648, Houston, Tex. 77001.
1434	Calnev Pipe Line Co., 1901 Slover Ave., Bloomington, Calif. 92316.
1416	Chevron Pipe Line Co., 575 Market St., San Francisco, Calif. 94105.
1368	Cheyenne Pipeline Co., P.O. Box 370, Cody, Wyo. 82414.
1427	Chicap Pipe Line Co., 1650 East Golf Rd., Schaumburg, Ill. 60196.
1312	Cities Service Pipe Line Co., P.O. Box 300, Tulsa, Okla. 74102.
1433	Collins Pipeline Co., P.O. Box 2511, Houston, Tex. 77001.
1422	Colonial Pipeline Co., Lenox Towers, P.O. Box 18855, Atlanta, Ga. 30326.
1316	Continental Pipe Line Co., P.O. Drawer 1267, Ponca City, Okla. 74601.
1426	Cook Inlet Pipe Line Co., P.O. Box 900, Dallas, Tex. 75221
1441	CRA, Inc., 3315 North Oak Trafficway, Kansas City, Mo. 64116.
1332	Crown Central Pipe Line & Transportation Corp., 6750 West Loop South, Suite 300, Bellaire, Tex. 77401.
1365	Crown-Rancho Pipe Line Corp., 6750 West Loop South, Suite 300, Bellaire, Tex. 77401.
1349	Diamond Shamrock Corp., P.O. Box 631, Amarillo, Tex. 79173.
1320	Phillips Pipe Line Co., 890 Adams Building, Bartlesville, Okla., 74004.
1372	Pioneer Pipe Line Co., P.O. Drawer 1267, Ponca City, Okla. 74601.
1343	Plantation Pipe Line Co., P.O. Box 18616, Atlanta, Ga. 30326.
1367	Platte Pipe Line Co., 539 South Main St., Findlay, Ohio. 45840.
1410	Portal Pipe Line Co., 2900 First National Bank Building, Dallas, Tex. 75202.
1347	Portland Pipe Line Corp., P.O. Box 2590-30 Hill St., South Portland, Maine 04106.
1437	Powder River Corp., 890 Adams Building Bartlesville, Okla. 74004.
1327	Pure Transportation Co., 1650 East Golf Rd., Schaumburg, Ill. 60196.
1428	Santa Fe Pipe Line Co., 1200 Thompson Building, 5th & Boston Sts., Tulsa, Okla. 74103.
1369	Shamrock Pipe Line Corp., P.O. Box 631, Amarillo, Tex. 79173.
1328	Shell Pipe Line Corp., P.O. Box 2648, Houston, Tex. 77002.
1335	Sohio Pipe Line Co., P.O. Box 5774, Cleveland, Ohio. 44101.
1424	Southcap Pipe Line Co., 1650 East Golf Rd., Schaumburg, Ill. 60196.
1393	Southern Pacific Pipe Line Inc., 610 South Main St., Los Angeles, Calif. 90014.
1370	Sun Oil Line Company of Michigan, P.O. Box 2039, Tulsa, Okla. 74102.
1315	Sun Pipe Line Company, P.O. Box 2039, Tulsa, Okla. 74102.
1386	Tecumseh Pipe Line Co., P.O. Box 308, Independence, Kans. 67301.
1300	Texaco-Cities Service Pipe Line Co., P.O. Box 430, Bellaire, Tex. 77401.
1408	Texas Eastern Transmission Corp., (Little Big Inch Division) P.O. Box 2521, Houston, Tex. 77001.
1293	Texas-New Mexico Pipe Line Co., P.O. Box 430, Bellaire, Tex. 77401.
1330	The Texas Pipe Line Co., P.O. Box 430, Bellaire, Tex. 77401.
1379	Trans Mountain Oil Pipe Line Corp., 400 East Broadway, Vancouver, B. C., Canada V5T1X2
1412	Trans-Ohio Pipeline Co., P.O. Box 2521, Houston, Tex. 77001.
1388	West Emerald Pipe Line Corp., P.O. Box 631, Amarillo, Tex. 79173.
1411	Dixie Pipeline Co., P.O. Box 2220, Houston, Tex. 77001.
1385	Emerald Pipe Line Corp., P.O. Box 631, Amarillo, Tex. 79173.
1338	The Eureka Pipe Line Co., 963 Market St., Parkersburg, W.Va. 26101.
1394	Exxon Pipeline Co., P.O. Box 2220, Houston, Tex. 77001.
1389	Four Corners Pipe Line Co., 1957 East Del Amo Blvd., Compton, Calif. 90220.
1402	Getty Pipeline Inc., 1437 South Boulder, Tulsa, Okla., 74119.
1436	Gulf Central Pipeline Co., 5th & Boston, Tulsa, Okla. 74103.
1333	Gulf Refining Co., P.O. Box Drawer 2100, Houston, Tex. 77001.
1409	Hess Pipeline Co., P.O. Box 502, Woodbridge, N.J. 07095.
1431	Hydrocarbon Transportation, Inc., 2223 Dodge St., Omaha, Nebr. 68102.
1406	Jayhawk Pipeline Corp., P.O. Box 1030, Wichita, Kans. 67201.
1413	Jet Lines, Inc., 522 Cottage Grove Rd., Bloomfield, Conn. 06002.
1375	Kaneb Pipe Line Co., P.O. Box 22029, Houton, Tex. 77027.
1299	Kaw Pipe Line Co., P.O. Box 430, Bellaire, Tex. 77401.
1399	Kenai Pipe Line Co., P.O. Box 575 Market St., San Francisco, Calif. 94105.
1429	Kerr-McGee Pipeline Corp., Kerr-McGee Center, Oklahoma City, Okla. 73125.
1435	Kiantone Pipeline Corp., P.O. Box 780, Warren, Pa. 16365.
1419	Lake Charles Pipe Line Co., P.O. Drawer 1267, Ponca City, Okla., 74601.
1354	Lakehead Pipe Line Co., Inc., 3025 Tower Ave., Superior, Wisc. 54880.
1403	Laurel Pipe Line Co., P.O. Box 3706, Houston, Tex. 77001.
1392	Marathon Pipe Line Co., 539 South Main St., Findlay, Ohio 45840.
1357	Michigan-Ohio Pipeline Corp., 600 West Pickard St., Mt. Pleasant, Mich. 48858.
1395	Mid-America Pipeline System Division, 1800 South Baltimore Ave., Tulsa, Okla. 74119.
1353	Mid-Valley Pipeline Co., P.O. Box 2039, Tulsa, Okla. 74102
1384	Minnesota Pipeline Co., 4111 E. 37th St., North, Wichita, Kans. 67220.
131	Mobil Pipe Line Co., First International Building, 1201 Elm, Dallas, Tex. 75270.
1292	Ohio River Pipe Line Co., 1409 Winchester Ave., Ashland, Ky. 41101.
1417	Olympic Pipe Line Co., P.O. Box 900, Dallas, Tex. 75221.
1420	Paloma Pipe Line Co., 1600 First National Bank Building, Dallas, Tex. 75202.
1396	West Shore Pipe Line Co., 200 East Randolph Drive, Chicago, Ill. 60601.
1362	West Texas Gulf Pipe Line Co., P.O. Box 3706, Houston, Tex. 77001.
1421	White Shoal Pipeline Corp., Kerr-McGee Center, Oklahoma City, Okla., 73102.
1423	Williams Pipe Line Co., P.O. Drawer 3448, Tulsa, Okla. 74101.
1377	Wolverine Pipe Line Co., P.O. Box 900, Dallas, Tex. 75221.
1355	Wyco Pipe Line Co., 200 East Randolph Drive, Chicago, Ill. 60601.
1373	Yellowstone Pipe Line Co., P.O. Drawer 1267, Ponca City, Okla. 74601.

On or before November 13, 1978, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 72 of the Interstate Commerce Commission's "General Rules of Practice" (49 CFR 1100.72), and original and three copies of a petition for leave to intervene in this proceeding. Jurisdiction over oil pipelines, as it relates to establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission to the Federal Energy Regulatory Commission (FERC), pursuant to sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 FR 46267 (September 15, 1977).

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the act, thereby enabling it to file a protest. It is required that a copy of the petition to intervene be served on the individual company at the address shown above and that an appropriate certificate of service be attached to the petition. Persons specifically designated in section 19a(h) of the act need not file a protest as a matter of right under the statute.

LEON J. SLAVIN
Administrative Officer
Oil Pipeline Board.

[FR Doc. 78-28694 Filed 10-11-78; 8:45 am]

[3128-01-M]

Office of the Secretary

International Energy Agency, Industry Working Party

Voluntary Agreement and Plan of Action to Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meeting:

A meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on October 12, 1978, at the offices of the International Energy Agency, 2 Rue Andre Pascal, Paris 16, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IWP at a meeting of the IEA Standing Group on the Oil Market (SOM). The agenda for the meeting is under the control of the SOM, and is as follows:

1. Discussion of FIS Forms IV and V and instructions for their completion.
2. Discussion of IWP response to SOM paper on publication of oil market data.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and conservation Act, this meeting will not be open to the public, as provided by § 209.32 of DOE regulations, IEP requirements and unanticipated procedural delays in processing this notice require the usual 7 day notice period to be shortened.

Issued in Washington, D.C. October 5, 1978.

ROBERT C. GOODWIN, Jr.,
Assistant General Counsel for International Trade and Emergency Preparedness.

[FR Doc. 78-28761 Filed 10-11-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

(FRL 985-7); [OPP-50385]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 3125-EUP-153. Mobay Chemical Corp., Chemagro Agricultural Division, Kansas City, Mo. 64120. This experimental use permit allows the use of 375 pounds of the herbicide 4-amino - 6 - (1,1-dimethylethyl) - 3- (methylthio)-1,2,4-triazin-5(4*H*)-one on sugar cane to control certain grasses and broadleaf weeds. The experimental use permit is effective from August 15, 1978 to August 15, 1979. (Room E-315, telephone 202/755-4851)

No. 3125-EUP-154. Mobay Chemical Corp., Chemagro Agricultural Division, Kansas City, Mo. 64120. This experimental use permit allows the use of 375 pounds of the herbicide 4-amino - 6 - (1,1-dimethylethyl) - 3- (methylthio)-1,2,4-triazin-5(4*H*)-one on sugar cane to evaluate control of certain grasses and broadleaf weeds. A total of 500 acres is involved for both this permit and the one above; the programs are authorized only in the State of Florida. This experimental use permit is also effective from August 15, 1978 to August 15, 1979. The permits will use the same active ingredient, but different formulations. A permanent tolerance for residues of the active ingredient in or on sugarcane has been established (40 CFR 180.332). Food additive regulations for residues of the active ingredient in sugarcane molasses and sugar cane bagasse have been established (21 CFR 561.41 and 21 CFR 193.25). (Room E-315, telephone 202/755-4851)

No. 41847-EUP-1. Mobil Chemical Co., Plastics Division, Macedom, N.Y. 14502. This experimental use permit allows the use of 3.95 pounds active ingredient of a formulation of cinnamaldehyde and methyl nonyl ketone to evaluate its effectiveness as a dog and cat repellent on trash bags/cans in households at 60 locations. The program is authorized only in the State of New York. The experimental use permit is effective from August 17, 1978 to August 17, 1979. (Room E-229, telephone 202/755-9315).

Interested parties wishing to review the experimental use permits are refered to the Registration Division (TS-767), Office of Pesticide programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

STATUTORY AUTHORITY: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated October 4, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-28690 Filed 10-11-78; 8:45 am]

[6560-01-M]

[FRL 985-8]

REGULATORY REFORM INITIATIVES

Quarterly Report and Request for Public Comments

ACTION: Quarterly report and request for public comments.

SUMMARY: The Environmental Protection Agency (EPA) reports on its progress in identifying and implementing regulatory reforms. The reforms include specific initiatives to use alternatives and supplements to direct regulation, to improve the regulation development process, to reduce regulatory burdens on the public, and to improve external participation in EPA decision making.

CONTACT: If you have suggestions or comments, please contact Lawrence E. McCray, Regulatory Reform Unit (PM-223), EPA, Washington, D.C. 20460.

EPA'S REGULATORY REFORM INITIATIVES

THE ADMINISTRATOR'S STATUS REPORT: AUGUST 1978

Preface

Regulatory reform is one of the Environmental Protection Agency's top priorities. We are trying:

- To test new, flexible approaches to Government regulation;
- To improve the quality of our regulations;
- To minimize both avoidable costs and regulatory delay;
- To open the regulatory process as much as possible to outside ideas and participants;
- And, most important, to insure that the Nation's environment and public health are adequately protected.

Last December, I released a list of 40 regulatory reform initiatives EPA was proposing. Attached is the first of our quarterly status reports on those and subsequent reforms.

EPA has a very broad, rapidly evolving, and technically complex set of jobs to do. In large part, regulatory reform means learning how to do these jobs better—more surely, more efficiently, less intrusively. We are trying to find better ways. To reduce the health risks of our advanced industrial technology, particularly risks from increased use of toxic chemicals; to make the air, water, and land safe; and to encourage new pollution control technologies and new economic patterns that conserve scarce environmental resources.

Our reform agenda grows largely out of specific problems and opportunities the Agency has identified as a result of a series of critical reviews we have undertaken of our operations. I am sure there are many other opportunities we should exploit. Please let me or my regulatory reform staff know if you have any suggestions. We will follow up, and future reports will summarize our progress in exploring and implementing suggestions that I feel offer real promise.

There are many different types of regulatory reform. Let me identify the

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most important and give an example or two of each from the list of projects on which we are now working.

Alternatives/Complements to Traditional "Command and Control" Regulation

Most regulation now follows a common pattern: The regulatory agency writes a series of rules that define what the public must do, and then it seeks to enforce these rules through the courts. Because this form of regulation cannot make fine or quick distinctions, it tends to be rigid, wasteful, and sometimes simply illogical. We are trying to complement this traditional legalistic approach with more flexible, more economically-oriented alternatives where possible.

EPA commonly regulates individual processes in a plant such as storage vessels and loading/transfer facilities. This approach facilitates our inspections, but leaves the plant's managers little room to find more cost effective ways of reducing the plant's overall emissions. We are working to develop an easily enforceable way to put an emissions control "bubble" over the plant as a whole and let the plant manager substitute a relatively inexpensive tightening of his storage vessel controls for more costly abatement in his loading and transfer facilities. Removing a pound of pollution for fifty cents rather than a dollar is good for the manager as well as the environment.

We are already implementing another example: economically determined penalties for firms that ignore their clean-up responsibilities. Until now, delay in complying with the law has been profitable. Now we will seek penalties equal to what violators save by not complying, including the rate of return they can earn on the use of these savings. This new approach finally makes compliance economically profitable, protects complying firms from the unfair edge a noncomplying firm would otherwise gain, and gives both the Agency and the courts an objective standard to use in assessing uniform penalties across the country.

The Regulation Development Process

We are further refining the internal process we use to develop regulations. Our process (the model for the President's recent Executive Order on Improving Governmental Regulations) ensures an open discussion, a review of all the issues (environmental impact, economic, public participation, etc.), and full peer collaboration across organizational lines. Strengthening this process is the most effective way of improving the quality of our regulations.

We will adopt our new, improved regulation development process in a formal Agency Manual this fall. The changes we are now proposing will help move us toward a number of important goals:

- It will help top management *focus on the most important regulations.*
- We will subject the most significant new regulations to a *Regulatory Analysis,* which will study the environmental, economic, and energy effects of each proposal and of a number of alternative options. All Regulatory Analyses will be made public in draft and final form.
- We have made *English our official language:* We will not approve regulations unless they are clearly and understandably written.
- We will continue to publish a *Regulatory Agenda* on a regular basis. It describes each regulatory proposal on which the Agency is working and lists its expected date of publication and the name, address and telephone number of an Agency contact.
- We are beginning to *review all our existing regulations* to root out those that are duplicative or otherwise do not contribute to effective environmental protection and to simplify or improve the rest.
- We have coordinated our regulatory actions for hazardous substances with three other Federal agencies—the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission. So far, the *Interagency Regulatory Liaison Group* has set up eight teams, each working to avoid duplication and conflicting action in such areas as enforcement, testing, research, risk assessment, public education, and regulation writing. The regulation writing team has already developed an *early warning system* to ensure cooperative action on upcoming regulations that affect more than one agency.

Reductions in Avoidable Regulatory Burdens

Where we can reduce the burden of regulation without any substantive relaxation, we must do so.

Reducing the paperwork burden we impose on both business and State and local governments is one such opportunity we are pursuing vigorously. Starting this summer, all reporting requirements contained in new regulations will be subject to a "sunset" provision, by which they will lapse after five years (in most cases) unless EPA can justify a continued need for the information. In addition, we will subject these new requirements to a reports impact analysis before we formally propose them, in order that we can determine in advance if the degree of burden imposed is justified by the need for the information.

We are also trying to encourage industry to use new pollution control techniques which show promise but which may not yet meet current standards. Under new provisions of the 1977 Clean Air and Clean Water Amendments, EPA can waive some control requirements for limited periods of time to test these new control systems.

Simpler, Faster Proceedings

We are trying to simplify and speed our hearings, grant reviews, permitting procedures, etc.

We have changed our grant regulations to allow applicants to file only one application when seeking funds under different EPA programs. We have appointed permit expeditiors in each regional office to harmonize scheduling for different new source permit applications, help resolve potential conflicts among different environmental requirements, and help reduce duplicate reviews. We are working to develop common forms for a number of different permit programs.

Increased Public Participation in EPA Decisionmaking

We are trying to remove obstacles to public participation.

We have begun a pilot project to reimburse the expenses of participants in Agency rulemaking on the recently proposed regulations to control polychlorinated biphenyls (PCBs). The Agency will pay the costs of participants in its public hearings who will make a substantial contribution to a fair determination of the issues, who have a small economic stake in the issues, and who do not have sufficient resources to participate without EPA assistance. The results of this pilot project should help us extend the concept of reimbursement to other types of agency proceedings so that financial barriers no longer inevitably prevent an outside group or individual from participating in the decisionmaking process.

With this first quarterly report, EPA reaffirms its commitment to be a regulatory reform leader.

OCTOBER 4, 1978.

DOUGLAS M. COSTLE,
Administrator.

REGULATORY REFORM INITIATIVES
ENVIRONMENTAL PROTECTION AGENCY

AUGUST 1978, STATUS REPORT

I. ALTERNATIVES TO TRADITIONAL "COMMAND AND CONTROL" REGULATORY APPROACHES

1. *Clean Air Noncompliance Penalties.* In the Clean Air Act Amendments of 1977, Congress for the first time gave an executive agency the authority to use economic disincentives as a supplement to traditional regulation. Under section 120 of the new law, EPA will collect from each violator of air pollution standards the amount of money which the violator has saved by not installing pollution control equipment. EPA, rather than a court as is true with traditional civil penalties, will assess and collect the penalties. The noncompliance penalties will provide more effective enforcement for air pollution regulations, end the current economic incentive to resist environmental standards rather than comply with them, and remove the competitive advantage which violators currently enjoy because their costs are lower than those of companies that have complied with the laws.

The Administrator vigorously supported the proposed noncompliance penalties when testifying before Congress on the Clean Air Act Amendments.

The Agency created a work group in September 1977, shortly after passage of the amendments, to begin implementation of the section. The group has prepared working drafts of the regulations and of a technical support document, and together with a contractor has developed a proposed formula for the calculation of the penalties.

The amendments set a February 1978, deadline for EPA to issue the noncompliance regulations. The Agency missed that deadline, but the work group hopes to publish proposed regulations in the FEDERAL REGISTER this month.

Agency contact: Bob Homiak, Stationary Source Enforcement Division (EN-341), 755-2581.

2. *Economic Disincentive Basis for Air and Water Civil Penalties.* The Agency's Office of Enforcement (OE) last year began using the amount of a violator's cost savings as the starting point for setting the amount of a traditional (court-imposed) civil penalty for a violator of the Clean Air Act or the Clean Water Act. A private contractor helped OE develop uniform formulas for calculating the amount of the violator's savings. After using these formulas to determine how much the violator has saved, OE examines other relevant factors to see if it should adjust this amount before proposing it to the court as the civil penalty.

Agency contact: Mike Richardson, Office of Enforcement (EN-329), 755-2500.

3. *Study of Economic Incentives.* EPA initiated in 1977 a major research program on economic incentives as alternatives to traditional regulatory controls. The agency has designed and is carrying out the program with the cooperation of the Council on Environmental Quality, the Council of Economic Advisors, and a panel of experts from industry, academia, and local government. EPA is paying for the program with money from its research and development budget.

The research program is in three phases. Phase One is an evaluation of existing regulatory and administrative programs for controlling air pollution from stationary sources. For this phase, a contractor will collect data on: Actions which trigger the existing incentives (such as permit writing); compliance and noncompliance; ways of determining whether sources are in compliance (such as reporting, monitoring, inspecting, and sampling); the types of sanctions available to, and their use by government agencies; and the response of polluters to these sanctions. EPA has requested and received proposals for research in this phase, and expects to award a contract calling for a study and final report by January 1979.

Phase Two will focus on the effectiveness of existing economic incentive programs. A contractor will collect and analyze data on municipal sewer "surcharges" (now used in Los Angeles, Calif.; Salem, Oreg.; and Cincinnati, Ohio); selected European effluent charge systems; and the Connecticut delayed compliance fee program. EPA is now reviewing an internal draft request for proposals for a research contract for this phase.

Phase Three is a study of using economic incentives to get companies to properly operate and maintain the pollution control equipment which they have installed. This phase of the research program is a part of the evaluation of operation and maintenance strategies which is described in item I. 8.

In addition to this three-phase research program, the Agency is conducting, under the Clean Air Act Amendments of 1977, related studies of economic incentives for air pollution control. One study, mandated by section 405(f) of the act, concerns the possible use of economic incentives to: (1) Strengthen the effectiveness of existing methods of controlling air pollution; (2) abate air pollution to a greater degree than current regulatory approaches do; and (3) control air pollution problems that the current programs do not address. The interagency work group has identified several possible uses of economic incentives, and has awarded a contract to a Harvard research team to study the use of economic incentives to reduce: (1) nitrogen oxide pollution from motor vehicles, (2) sulfuric oxide pollution from copper smelters, and (3) benzene pollution. The group is planning to award other contracts to study other possible uses of economic incentives, such as ensuring that owners properly operate and maintain pollution control equipment for stationary sources of air pollution, and that automobiles meet pollution standards while they are in use (as well as when they come off the assembly line).

Agency contacts: Jim Vickery, Program Evaluation Division (PM-222), 755-0306, for Phases One and Two; Willard Smith, Economic Analysis Division (PM-220), 755-2887, for Phase Three and section 405.

4. *Analysis of Alternative Means for Limiting Fluorocarbon Emissions.* In September 1977, EPA contracted with the Rand Corp. for an evaluation of ways other than traditional "command and control" regulation to reduce fluorocarbon emissions from non-aerosol sources. Among the alternative ways of control Rand will examine is the use of marketable permits. Under this scheme EPA would allocate (possibly by auction) permits for the production or use of fluorocarbons. The manufacturers or users getting permits in turn could trade or sell them. The market, not the government, would thus determine which fluorocarbon uses should continue and which should end. Rand will also assess the relative advantages and disadvantages of product charges and emission fees to control fluorocarbon emissions. After the contractor completes its evaluation of the different strategies, the Agency will be able to choose among those innovative approaches and a traditional "command and control" regulatory approach which a work group in the Office of Toxic Substances is developing.

The contractor has completed its collection of data on fluorocarbon production and use, and is now beginning the analysis of alternative ways of emission reduction. Rand will make an interim report this summer on the basic data and the models for analysis of the data. A draft of the final report should be ready in December, 1978, with the final report itself ready in March of 1979.

To increase external participation in the evaluation of the alternative strategies and to encourge independent evaluations, EPA will release publicly Rand's interim report. This will make readily available to any interested person the contractor's data and models.

Agency contact: Douglas Hale, Economic Analysis Division (PM-220), 755-2669.

5. *Federal Procurement Incentives.* The Federal Government could use its purchase of goods from private industry to encourage the development of environmentally superior products. EPA is cooperating with other agencies in two efforts in this area, both as-

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sociated with EPA's noise control program.

The first of EPA's efforts is under the authority of the Noise Control Act of 1972. Section 15 of that law authorizes the Federal Government to pay a premium for products which EPA has certified as low noise emitters. Under this premium program, the Government can pay for each low noise emission product as much as 12.5 section of the lowest bid price for a comparable uncertified product. In May 1977, as a step towards setting up this program, EPA proposed rules for certifying medium and heavy duty trucks and portable air compressors. The program office has spent the past 13 months resolving the issue of how much quieter than EPA standards a product must be to be eligible for certification, and expects to soon submit the final rules for internal Agency review.

In its second effort in this area, EPA has cooperated with the General Services Administration (GSA) and the Experimental Technology Incentives Program (ETIP) of the National Bureau of Standards in a successful experiment of Federal procurement of low noise lawn mowers. In 1977, when purchasing mowers, GSA indicated its willingness to pay more than the regular purchase price for mowers that are quieter than the normal GSA specification. The amount that GSA was willing to pay for the mowers increased as the mowers became quieter. GSA bought 10,000 mowers which were half as noisy as the normal specification, even with the premium, GSA paid less than the amount it normally pays for mowers, EPA, ETIP, and GSA are planning to extend this concept to other products. EPA and GSA have entered into an interagency agreement, which ETIP is now reviewing, for an expanded program. This summer EPA expects to identify other types of products for possible purchase under the expanded program.

Agency contact: Stanley B. Durkee, Technology and Federal Programs Division (AW-471), 557-8292.

6. *Study of Innovative Resource Conservation and Solid Waste Management Alternatives.* With enactment of the Resource Conservation and Recovery Act of 1976, Congress established the cabinet-level, interagency Resource Conservation Committee. The administrator of EPA chairs the committee, which is composed of the Secretaries of Treasury, Interior, Commerce, and Labor; the Chairman of the council on Environmental Quality; and representatives from the Council of Economic Advisors, the Office of Management and Budget, and the Department of Energy. The committee is examining serveral innovative actions as possible ways to conserve resources and manage solid waste.

In January 1978, the Committee issued a report to Congress and the public entitled "Committee Findings and Staff Papers on National Beverage Container Deposits". The committee found that a uniform deposit, of at lest five cents per container, on all sealed containers for beer and soft drinks would be an effective way to reduce litter, and could eliminate as much as 2 percent of the Nation's solid waste. However, the Committee postponed a decision on whether to recommend legislation establishing a national deposit on beverage containers. The Committee will decide whether to make that recommendation after it completes other studies.

In addition to beverage container deposits, the Committee is studying several other measures besides traditional requlation to conserve resources. These possible measures include:

- Imposing charges on products which will likely become solid waste, with the amount of the charge depending upon the amount of potential solid waste;
- Giving subsidies to users or suppliers of recycled materials;
- Requiring deposits on durable goods;
- Helping local governments impose user fees on people using municipal solid waste systems;
- Imposing small excise taxes on goods which consumers often throw away as litter;
- Using serverance taxes to discourage the use of virgin natural resources; and
- Revising existing Federal policies (such as depletion allowances, capital gains taxes, and shipping rates) which may encourage resource consumption.

The Committee held public meetings on June 23, 26, and 30, 1978 to gather public comment on the options before it. Although the Resource Conservation and Recovery Aet requires the Committee to issue a final report by October, 1978, the committee does not expect to make its report until March, 1979.

Agency contact: John Robinson, Policy Planning Division (PM-221), 755-2733.

7. *Noise Emission Labelling for Consumer Products.* Although Congress has given EPA authority to directly regulate the noisc emitted by consumer products, the Agency is trying to abate the noise products by requiring manufacturers to label them with their noise levels. Consumers can then make informed choices among competing products on the basis of their noise levels.

In June 1977, EPA proposed general product labelling provisions and specific rules covering effectiveness labels for hearing protectors. The Agency has not yet proposed final rules. EPA is also developing proposed labelling rules for vacuum cleaners, air conditioners, and chain saws.

Agency contact: Edwin Ricci, Office of Noise Abatement and Control (AW-471), 557-7695.

B. 8. *Study of Operation and Maintenance Strategies.* The Nation's recent pollution control efforts have emphasized installing new control equipment and facilities. A separate task, equally important to pollution control, is operating and maintaining the equipment and facilities.

In October 1977, the Agency began a 1 year examination of ways to insure that companies operate their pollution control equipment. Focusing on publicly owned treatment works, stationary sources of air pollution, and industrial dischargers of water pollution, the work group is analyzing three issues: (1) Whether there are operation and maintenance problems; (2) what is currently being done to deal with those problems; and (3) what alternatives exist for solving the problems.

Among policy options that the Agency is evaluating are two that may not resort to traditional Government requlations. These are (1) requiring suppliers of pollution control equipment to post performance bonds as a quarantee that the equipment will work and (2) calculating penalties for those who violate pollution standards at the level necessary to remove their cost savings from not maintaining the equipment.

Agency contacts: Ed Reich, Stationary Source Enforcement Division (EN-341), 755-2550; Walt Mardis, Office of Planning and Evaluation (PM-219), 755-0350.

9. *Study of Alternative Strategies for Clean Air Nonattainment Areas.* One of the most complex and difficult issues under the Clean Air Act is whether and to what extent the national ambient air quality standards permit new industrial growth in areas where pollution exceeds the standards. In December 1976, EPA issued a rule interpreting the law to allow the construction of a new or modified stationary source of air pollution in nonattainment areas if certain requirements are met. One of the requirements is that either the owner of the new source or others in the nonattainment area reduce emissions from existing sources enough to more than offset the expected pollution from the new source. Under this policy, a company which does not have existing plants in the area must seek either to persuade other companies to reduce their pollution enough to allow the first company to build its new plant, or to persuade the local government to require that reduction. This has created the possibility of an offset emissions market, since existing sources can in effect sell their reducible pollution to others wanting to build plants in the area.

At the direction of both Congress and the President, EPA is reviewing this policy and alternative ways to deal with the control of pollution in nonattainment areas. In August 1977, a task force began examining, among other matters, policy options for new construction and pollution reduction in the areas. This analysis will include evaluations of such nontraditional means of pollution control as emission charges, the offset emissions market, and other economic approaches. The task force expects to make an interim report this month describing: (1) The nature and extent of the nonattainment problems; (2) the results of studies in three regions (Houston-Galveston, Philadelphia, and Chicago); and (3) the experience so far under the offset policy. The task force expects to make a final report by October or November 1978. The final report will include analysis of: (1) the costs of attainment, (2) the impacts on the iron and steel industry and the petroleum industry, and (3) policy alternatives.

Agency contacts: Cheryl Wasserman, Policy Planning Division (PM-221), 755-2733; Darryl Tyler, Office of Air Quality Planning and Standards, Research Triangle Park, N.C., FTS 629-5497.

10. *Study of Economic Incentives for Prevention of Significant Deterioration of Air Quality.* EPA is examining the merits and feasibility of marketable permits and other economic incentives for use in implementing the prevention of significant deterioration (PSD) of air currently cleaner than the national standards. This study will develop an alternative to the traditional system of "first come, first served" permit allocation. The Agency will make the results of the study available to States to use if they so desire in revising their implementation plans to prevent significant deterioration. The Agency hopes to complete its study by October; the States must revise their implementation plans by March 1979.

Agency contact: Marty Wagner, Policy Planning Division (PM-221), 755-4803.

11. *Plantwide Emission Reduction ("Bubble" Concept).* EPA is studying the "bubble" concept appropriate to air and water pollution control. Under their current policies, EPA and State agencies set separate pollution control standards for each polluting process in an industrial plant. Under the bubble concept, EPA would give a company some flexibility to adjust the stringency of its control efforts on different processes—further reducing pollution where the control is easiest and cheapest, and allowing more pollution where the control is more difficult and expensive—so long as total pollution from the plant (viewed as if it were under a bubble) would not exceed that allowed under the current standards. This concept offers the potential of meeting pollution standards at a lower cost.

The Agency organized a task force in May 1978 to examine the bubble concept and prepare a plan for implementing it. The group plans to propose its plan by the end of the summer.

Agency contact: James Kamihachi, Economic Analysis Division (PM-220), 755-2677.

II. IMPROVEMENTS IN THE QUALITY OF REGULATION

The procedure by which an agency develops a regulation is a prime determinant of the quality of the final regulation. EPA develops its regulations through procedures set forth in the Agency's manual, *Development of Regulations.* The basic procedural requirements in the Manual form the foundation upon which the Agency is building many of its regulatory reforms.

EPA produces regulations in a five stage process: (1) Starting work on a regulation, (2) preparing a development plan, (3) preparing a decision package, (4) internally reviewing the regulation and decision package, and (5) publishing the regulation in the FEDERAL REGISTER. Each regulation goes through the last three stages twice, first as a proposed regulation and again as a final regulation.

To begin work on a regulation, the lead office—the program office with primary responsibility for the subject of the planned regulation—prepares a decision memorandum for the Administrator. The memorandum includes enough information for the Administrator to determine whether: (1) A regulatory action is the most appropriate and effective course; (2) there will be an effective program of public participation throughout the regulation development process; and (3) the Agency has the resources necessary to develop the regulation. The lead office includes in the memorandum, among other information, an analysis of the alternatives to regulation and a public participation plan for involving other levels and agencies of government and the public in the regulation development. Before the lead office submits the decision memorandum to the Administrator, it is circulated through "red border" review (an internal agency review in which Assistant Administrators and staff office directors evaluate proposed Agency actions).

After the Admininstrator authorizes the lead office to begin preparing the regulation, the office forms a work group with members from relevant Agency offices. With the help of the work group, the lead office then prepares a plan for developing the regulation. The Steering Committee—a group of representatives of the Assistant Administrators and chief staff offices, that generally oversees the regulation development process—reviews the plan.

After the Steering Committee approves the development plan, the lead office, with the help of the work group, carries out the plan. Upon completion of that process, the office submits an action memorandum and supporting material to the Steering Committee and senior officials on the red border list for their review, and then to the Administrator for his decision. After the Administrator approves a proposed or final regulation, the Agency publishes it in the FEDERAL REGISTER.

Agency contact: Henry Beal, Standards and Regulations Evaluation Division (PM-223), 755-2265.

1. *Priority Classification of Regulations.* As part of its response to President Carter's Executive Order on improving Government regulations, EPA on June 28, 1978 changed its regulation development procedures to make them conform with the President's requirements. One of these changes is a classification of proposed regulations into priority categories, so that Agency officials and interested people outside EPA can concentrate their attention on the most important areas.

First, the lead office will classify proposed regulations as either significant or minor. The Agency will follow more stringent procedures in its review of significant regulations. (See, for example, II.7.

The lead office will further divide all significant regulations into major and routine. The lead office will prepare regulatory analyses on major regulations meeting certain criteria. (See II.4.)

The lead office will further divide all significant regulation into major and routine. The lead office will prepare regulatory analyses on major regulations meeting certain criteria. (See II.4.)

The Acting Administrator approved this classification system on June 28, 1978. The system will apply to all regulations that were not already before the Steering Committee for review on that date.

Agency contact: Henry Beal, Standards and Regulations Evaluation Division (PM-223), 755-2265.

2. *Regulatory Agenda and Regulatory Calendar.* EPA is currently preparing and preparing and printing a regulatory agenda and a regulatory calendar to inform both EPA staff and others of the status of regulations

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which the Agency is developing. The regulatory agenda is a semiannual statement, published in the FEDERAL REGISTER, on the subject of regulations the Agency is preparing; of the authority for the possible Agency actions; of the expected dates for publication of the proposed or final regulations; and of the name, address, and phone number of an Agency contact for each regulation. The regulatory calendar is a quarterly booklet, for internal Agency use, containing similar information.

Agency contact: Phil Schwartz, Standards and Regulations Evaluation Division (PM-223), 755-2693.

3. *Evaluation of Regulatory alternatives.* Under the Agency's old procedures, a lead office included an analysis of alternatives to regulations in the decision memorandum it submitted to the Administrator before beginning work on a regulation. (See the introduction to category II.) Because this was the first step in the regulatory process, the decision memorandum in effect forced the program office to evaluate (and rule out, if it decided to proceed, with regulation development) alternatives to regulation early in the process, with no input from outside the program office.

Therefore, the Acting Administrator on June 28, 1978, approved new procedures under which a program office merely notifies the Agency's senior management that work is beginning on a regulation. The notification form does not include an evaluation of alternatives to regulation, as the current decision memorandum does. Instead, it informs others in the Agency that the program office is contemplating a regulation and invites relevant offices to designate members of the work group.

Under the new procedures, the lead office, with the advice and assistance of the work group, then prepares a development plan which includes a brief description of the possible need to regulate and the consequences of no regulation and a summary of the major options (including alternatives and supplements to traditional regulation) the lead office will evaluate. The Agency must approve the development plan before work can proceed. For routine regulation, the lead office must approve and the Steering Committee must review the development plan. For a major regulation, the Steering Committee must review the plan and the Administrator and Assistant Administrators must approve it.

When a lead office, after completing its analysis, submits to the Administrator a recommendation for action, it must attach an analysis of alternatives and supplements to traditional, direct regulation. Before making the final Agency decision to regulate, the Administrator will thus be able to satisfy himself that regulation would be preferable to possible alternatives.

Further, the Standards and Regulations Evaluation Division is in the process of hiring a contractor who will evaluate upcoming Agency actions to insure that the program offices consider all reasonable alternatives to regulations.

Agency contact: Henry Beal, standards and Regulations Evaluation Division (PM-223), 755-2265.

4. *Evaluation of the Impacts of Regulation.* EPA's current Regulation Development Manual requires the lead office to prepare economic impact analyses for all regulations which will:

- Impose additional costs on the regulated industries of at least $100 million within 1 year;
- Increase the price of a major product by more than 5 percent;
- Increase national energy consumption by the equivalent of 25,000 barrels of oil a day; or
- Increase the demand for or decrease the supply of key materials by three percent.

These economic impact analyses include identification of the incremental costs of compliance, the people who will pay those costs, the effects on economic productivity, indirect effects on the economy, and impacts on energy consumption. The Agency makes this information publicly available, and considers it during internal preparation and review of the proposed regulation.

To conform with President Carter's Executive Order on improving Government regulation, the Acting Administrator on June 28, 1978, approved a new Agency requirement for a regulatory analysis rather than the economic impact analysis. Except for the different name, the regulatory analysis differs from the economic impact analysis only in that the former includes an evaluation of alternatives to regulation.

Agency contacts: Henry Beal, Standards and Regulations Evaluation Division (PM-223), 755-2265; Frans J. Kok, Economic Analysis Division (PM-220), 755-0733.

5. *Studies of Cumulative Regulatory Impacts.* EPA is conducting, with contractor assistance, a number of studies of the cumulative impacts of the Agency's air and water regulations on major industries. These studies are assessments of the effects which pollution control has on prices, production, capital formation, employment, and the balance of trade, with forecasts of effects into the mid-1980's. The Agency can then use the studies to increase its awareness of the overall impacts of EPA regulations and to identify any industries which deserve special EPA attention.

The Agency completed studies of the petroleum refining and electric utility industries in 1976; of the integrated iron and steel industry, and the pulp and paper industry in 1977; and of the copper smelter industry in early 1978. The Agency is now conducting studies of the automobile and iron foundry industries and plans to undertake studies of the chemical and agricultural industries.

Agency contact: Willard Smith, Economic Analysis Division (PM-220), 755-2887.

6. *Plain English.* The Agency has established new requirements and has undertaken new projects to ensure that it writes its regulations and other documents in plain English.

Lead offices are primarily responsible for writing their regulations clearly. As part of their responsibility for helping lead offices prepare regulations, staff members of the Office of Planning and Evaluation and the Office of General Counsel are helping the program offices use clear language. They will recommend that their superiors not concur in poorly written new regulations.

The Agency is undertaking two specific projects to help its regulation writers use plain English. First, the Standards and Regulations Evaluation Division and the Office of General Counsel (OGC) are concentrating their efforts on the development of model regulations in plain English. The Acting Administrator on June 28, 1978 requested each program office to select an upcoming regulation and, with SRED and OGC assistance, prepare it in plain English. Those selections have been made and the regulations are now undergoing editorial review.

As a second project to help the Agency use plain English, SRED will hire one or more editorial consultants or contractors to help program offices use plain English and to review the language of proposed regulations. SRED has advertised its need for the consultant, and is now reviewing candidates. The Division hopes to have the consultant at work by this fall.

Agency contacts: Chris Kirtz, Standards and Regulations Evaluation Division (PM-223), 755-9010; Nell Minow, Office of General Counsel (A-130), 755-0709.

7. *Evaluation of New Regulations.* President Carter's Executive Order on Government regulation requires that each agency include in its new significant regulations a plan for a future evaluation of its effectiveness. To comply with the Executive Order, EPA requires each lead office, in consultation with the Program Evaluation Division, to develop an evaluation plan. Evaluation plans will indicate the resources and data needed for the evaluation and a schedule for the review.

Agency contacts: Henry Beal, Standards and Regulations Evaluation Division (PM-223), 755-2265; Tom Kelly, Program Evaluation Division (PM-222), 755-3975.

8. *Retrospective Review of Existing Regulations.* EPA is in the first stages of beginning a review of all existing regulations to decide which can be eliminated, simplified, or otherwise improved. President Carter's Executive Order on improving Government regulation requires all agencies to undertake this review.

The Agency was already preparing to review many of its most important regulations in response to judicial or legislative requirements. These regulations in the air program cover ambient air quality standards; new source performance standards; and approval of implementation plans and monitoring and reporting procedures. These regulations in the water program cover water quality management regulations and national pollutant discharge elimination system (NPDES) permit regulations. The Agency will review these regulations first under the new Agencywide retrospective review.

To make the review of existing regulations a comprehensive program, EPA will screen all existing regulations to select those for more detailed review. Each program office will form a work group to conduct the screening. After completion of the initial screening, the program office will summarize its assessment of each regulation, designate those selected for intensive review, and prepare a plan for completion of that intensive review within 5 years.

The Acting Administrator approved on June 28, 1978, the procedures for the retrospective review, and the program offices are now conducting the initial screening.

Agency contacts: Henry Beal, Standards and Regulations Evaluation Division (PM-223), 755-2265; Tom Kelly, Program Evaluation Division (PM-222), 755-3975 for the initial screening.

9. *Interagency Regulatory Liaison Group (IRLG). EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission have formed the Interagency Regulatory Liaison Group to coordinate all Federal efforts to reduce public exposure to harmful substances.*

The principals of the four agencies direct the IRLG, and have established interagency work groups to coordinate action in these eight areas:

Testing standards and guidelines,
Epidemiology,
Information exchange,
Regulatory development,
Compliance and enforcement,
Research planning,
Public education and communication, and
Risk assessment.

Agency contact: Toby Clark, Office of the Administrator (A-100), 755-0453.

III. REDUCTIONS IN THE BURDENS OF REGULATIONS AND AGENCY PROCEEDINGS

1. *Sunset Policy for New Reporting Requirements.* To reduce the burden on private industry of reporting information to the Government, the Agency adopted on June 28, 1978, a "sunset" policy for reporting requirements in new regulations. This policy will force a cyclical review of the burdens and benefits of all reports which EPA proposes to require from private parties, after the Agency and the people preparing the report have experience with the requirement, and repeal automatically those which the Agency cannot justify.

Under the sunset policy, new regulations that impose a reporting requirement will include a date on which the requirement will expire unless the Agency renews it. The date will normally be five years after the regulation takes effect, but the program office may adopt a different date in certain situations.

Six months before a requirement ends, the Agency will publish a notice of the upcoming expiration. If the program office or another party requests extension of the requirement, the Agency will create a work group to assess its costs, burdens, and usefulness. The work group will recommend whether the Agency should continue the requirement, modify it or allow it to die. The Administrator will decide what action to take, following Steering Committee review of the work group's recommendation.

Agency contact: Henry Beal, Standards and Regulations Evaluation Division (PM-223), 755-2265.

2. *Reports Impact Analysis.* President Carter's Executive Order requires all agencies to analyze any new reporting or recordkeeping requirements before adopting new significant regulations. On June 28, 1978, the Acting Administrator approved a new Agency policy of a reports impact analysis for new regulations. This analysis will describe the reason for any reports required by the regulation; evaluate alternatives to the reports (such as using existing information); outline the information the report would require and the format of the report; and estimate the costs of the report to EPA and the people collecting and preparing the information. The report's impact analysis will be part of the decision package for the regulation.

Agency contact: Richard M. Hardesty, Program Reporting Division (PM-227), 245-3000.

3. *Retrospective Review of Reporting Requirements.* During the Agency's review of existing regulations to see if it should eliminate or change them (see item II, 7), EPA will focus particular attention on the need to eliminate or modify current reporting and record-keeping requirements.

Agency contact: Richard M. Hardesty, Program Reporting Division (PM-227), 245-3000.

4. *Zero-Based Review of Reporting Requirements.* Before President Carter issued his Executive Order requiring agencies to retrospectively review their existing requirements for reports, EPA had initiated a pilot project for zero-based review of its existing reporting requirements, using procedures similar to zero-based budgeting. The Agency has tested the procedures using requirements for reports from grant recipients, and is now revising its Zero-base Reporting (ZBR) Manual. The Agency will test the ZBR procedure on a major program area reporting requirement in the near future.

Agency contact: Richard M. Hardesty, Program Reporting Division (PM-227), 245-3000.

5. *Report Reduction Task Forces.* In 1977 EPA established two task forces to reduce the reports it requires from its regional offices and State agencies.

In early 1977, the Deputy Administrator appointed a task force to examine the necessity for the reports which the Agency requires in its annual guidance to the regional offices. In April 1977 the task force reported to the Deputy Administrator that it had reduced by 36 percent the reports required by the Agency's formal planning and reporting system.

After completion of the first task force's work, the Deputy Administrator created another task force with the broader mission of identifying and reducing the major reporting problems at the EPA regional office and State levels. The task force visited five State governments that helped identify the problems. The task force has prepared a draft report on those reports which the regional offices and State governments identified as candidates for major reductions, and has discussed those candidates with the appropriate program offices. The task force is now preparing a final report to the Deputy Administrator, indicating the reductions which the task force and the program office agreed to, and recommending that she direct the program offices to make reductions in some instances where the task force and the program offices could not reach agreement.

Agency contacts: Ferial Bishop, Office of Toxic Substances (TS-794), 755-8963; Jack Stanton, Program Reporting Division (PM-227), 245-3064;

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and Larry Reed, Program Evaluation Division (PM-222), 755-0306.

6. *Guidelines for Water Program Reports.* Section 308 of the Clean Water Act authorizes EPA to request information from dischargers. To ensure that the Agency does not overuse this authority, the Office of Water Planning and Standards in October 1977 required all offices preparing questionnaires to gather information from dischargers to comply with detailed guidelines and to prepare a justification. Statisticians review the proposed questionnaire and its justification to guarantee that the Agency is gathering the information with minimal cost and annoyance to the dischargers. As one example of the results of their review, the statisticians could propose a representative survey rather than an industry-wide questionnaire.

Agency contact: Swep T. Davis, Office of Water Planning and Standards (WH-551), 755-0402.

7. *Reduction in Small Business Impacts.* In the fall of 1977, EPA and the Small Business Administration (SBA) entered into an interagency agreement to coordinate EPA's requirements for pollution control by small businesses and SBA's programs of financial assistance to small businesses. Under our Memorandum of Understanding, the agencies cooperate to assure that small businesses do not bear an undue proportion of the impacts of environmental requirements, and that assistance is available to small businesses for their pollution control efforts.

Agency contact: Sheldon Sacks, Office of Analysis and Evaluation (WH-586), 426-2503.

8. *Encouragement of Innovative Technology.* In 1977, Congress added to the Clean Air Act two new provisions to encourage private industry to develop and use innovative technology to reduce air pollution from stationary sources. Under Section 113 EPA can give an existing source using innovative technology an extension of up to 5 years for meeting emission standards. Under Section 111 EPA can give a new source using innovative technology a waiver from the otherwise applicable new source performance standards for up to 4 years from the time the source begins operating. This flexibility will allow polluters to solve startup problems common to new mechanical systems.

The Agency has issued preliminary guidelines to its regional offices on the use of these provisions, and expects to issue final guidelines by the end of this summer. Meanwhile, seven existing sources have applied for section 113 extensions and three new sources have applied for section 111 waivers as of August 1. Of the seven section 113 applications, the Agency has sent three back to the regional offices for more information, has denied two, and is evaluating two. Of the three section 111 applications, the Agency has denied two and is evaluating one.

In 1977 Congress added similar flexibility to the Clean Water Act. Under the new provisions, EPA or a State can give a point source of water pollution (other than a publicly owned treatment facility) an extension of the normal date for compliance with an effluent limitation, if the source is using an innovative system of pollution control that has potential for industry-wide application. An extension under this section can be until as late as July 1987.

In addition, Congress instructed EPA to not make any grants to State or local government agencies for construction of treatment facilities unless the agencies had first fully investigated innovative alternatives to treatment plants. EPA has proposed regulations covering this requirement and expects to issue final regulations in September 1978.

Further, Congress authorized EPA to grant to State and local governments 85 percent of the construction cost of innovative and alternative pollution control facilities and processes, rather that 75 percent of the construction cost as is true for conventional facilities. Similarly, Congress authorized EPA to warrant the effectiveness of these innovative facilities and techniques. The Agency has proposed regulations covering these programs and expects to issue final regulations in September, 1978.

Agency contacts: Francis J. Biros, Stationary Source Enforcement Division (EN-341), 755-2560 for air program compliance date extensions; Stephen Bugbee, Permits Division (EN-336), 472-3665 for water program compliance date extensions; Tom O'Farrell, Municipal Construction Division (WH-547), 426-8976 for consideration of alternative systems; Joe Easley, Municipal Construction Division (WH-547), 426-4445 for grants and warranties for innovative systems.

9. *Simplified New Source Permit Reviews.* Different levels and agencies of government often require numerous permits before a company can begin construction of a new source of pollution. EPA often requires a new source to secure difficult permits from it different program offices. To reduce the delay, complexity, and uncertainty inherent in this type of situation, EPA in early 1978 created a New Source Review Task Force.

Last month the Deputy Administrator circulated to the Agency's senior management for comments a set of six management initiatives which the task force proposed. Upon final adoption of the recommendations, the Agency will:

- Appoint a new source permit facilitator/expeditor in each regional office to coordinate and track different offices' reviews of a new source's permit applications;
- Establish a permit tracking system with administrative milestone for each new source;
- Harmonize the schedules and procedures for the different permit reviews of a single applicant;
- Assist applicants in the completion of their permit applications;
- Agree with each State to reduce duplication among EPA, State, and local reviews; and
- Assess and resolve early in an applicant's review any potential conflict among different environmental requirements for that source.

The task force will next consider projects:

- To develop a consolidated permit application form;
- To computerize a system for tracking the progress of multiple permit applications;
- To harmonize regulatory procedures;
- To possibly consolidate one or more permit programs;
- To conditionally indicate to a company the likely acceptability of proposed new sources for which the company has not completed detailed designs;
- To develop screening procedures for companies to use in their early planning of new projects; and
- To encourage companies to consult with environmental agencies as early as possible in their planning for new sources.

Agency contact: Cheryl Wasserman, Policy Planning Division (PM-221), 755-2723.

10. *Revised Adjudicatory Hearing Procedures.* EPA's statutes require the Agency to use formal adjudicatory hearings in two types of agency proceedings: Cancellation of pesticide registration and issue of water pollution discharge permits. These hearings are patterned after formal court proceedings and are in many ways ill-suited for agency decisionmaking based upon complex technical information.

OGC is revising the pesticide cancellation procedures to use technical panels for gathering information and to increase the administrator's direction of the process by deciding interlocutory appeals. For the discharge permits, where the statute gives EPA greater flexibility, OGC is proposing to change the hearings from adversary proceedings to informal legislative style hearings before relevant program staffers under the direction of an Administrative Law Judge. In both situations, the proposed changes should

lead to better decisionmaking while preserving the parties' rights.

OGC has submitted its proposal for changes in the water pollution permit hearings to the Administrator, and will shortly circulate its proposal for changes in pesticide registration hearings for internal agency review.

Agency contact: Bill Pederson, Office of General Counsel (A-130), 426-0508 for water permits; David E. Menotti, Office of General Counsel (A-132), 755-9301 for pesticide registrations.

11. *Consolidation of Grant Procedures.* EPA has proposed to the Office of Management and Budget draft legislation to simplify and to increase the flexibility of its grant programs. Under the proposed bill, for example, an applicant receiving grants under different EPA programs could transfer money from one program category to another. OMB has not yet given EPA approval for submitting the bill to Congress.

Further, the Agency has administratively consolidated its grants program so that an applicant need file only one request for grants under different programs.

Agency contact; Gary Katz, Grants Administration Division, (PM-216), 755-2896.

IV. INCREASED EXTERNAL PARTICIPATION IN EPA DECISIONMAKING

1. *Special Assistant to the Administrator.* To increase public participation in the Agency's decisionmaking, the Administrator in April 1978 created the new position of Special Assistant to the Administrator for public participation and appointed Sharon Francis to that position.

Agency contact: Sharon Francis, Office of the Administrator (A-100), 755-0425.

2. *Public Participation Task Force.* In April 1978 the Administrator and Deputy Administrator created an internal task force on public participation, chaired by the Administrator's Special Assistant and composed of representatives of all major EPA offices. The task force is working to:

- Improve EPA's ability to involve the public in program development and implementation;
- Increase the effectiveness of EPA's techniques of obtaining public participation;
- Assure consistency and coordination of public participation efforts among programs and the wisest allocation of the Agency's public participation resources; and
- Recommend public participation goals for EPA.

The task force first met on May 30, 1978.

Agency contact: Sharon Francis, Office of the Administrator (A-100), 755-0425.

3. *Office of Public Awareness.* The Agency has reorganized the old Office Affairs, changing its title to the Office of Public Awareness and expanding its institutional support of public participation.

Agency contact: Joan Martin Nicholson, Office of Public Awareness (A-107), 755-0700.

4. *Agency Policy on Public Participation.* EPA plans to set up a standard policy for public participation in the regulation writing process. The Standards and Regulations Evaluation Division began working with the Administrator's task force and other Agency offices and members of the public in June 1978, to develop the policy.

Agency contact: Stephen Saunders, Standards and Regulations Evaluation Division (PM-223), 755-2884.

5. *Office of Water and Waste Management Public Participation Policy.* OWWM has prepared a proposed regulation establishing public participation requirements for programs under the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Clean Water Act.

OWWM began work on the regulation in November 1977, with the creation of a working group. Before drafting the proposed rule, the working group prepared a set of concept papers on public participation and used them to solicit comments from 10,000 individuals, interested groups, EPA headquarters and regional staff, and State and local governments. OWWM has submitted the proposed regulation to the Administrator for his approval. After publication of the proposal in the FEDERAL REGISTER, OWWM will hold a public hearing and operate a toll-free long distance telephone line to gather public comments.

Agency contact: Lee Daneker, Office of Water and Waste Management (WH-556), 755-7638.

6. *Reimbursement for Public Participation.* The Agency has begun a pilot project on reimbursement of the expenses of participants in Agency rulemaking. The pilot project is on the regulation proposed on June 6, 1978, for control of polychlorinated biphenyls.

The Agency will pay the costs of participants in the public hearings who will "substantially contribute to a fair determination of the issues", whose economic state in the issue is small, and who do not have sufficient resources to participate on their own.

Agency contact: Bill Pederson, Office of General Counsel (A-130), 426-0508.

7. *Increased Participation by State and Local Governments.* EPA has undertaken two projects to expand State and local government participation in its operations.

First, the Agency has given a grant to the National Governors Association (NGA), the National Association of Counties (NACO), and the National League of Cities (NLC) to facilitate EPA, State, and local cooperation in the first year of implementation of the Clean Air Act Amendments of 1977. NGA, NACO, and NLC have held meetings in Washington, and are now holding regional meetings on implementation of the amendments. In addition, the three associations are disseminating information on the new law to their members.

Second, EPA is cooperating with the Southern California Association of Governments (SCAG) in a pilot project to improve the Office of Management and Budget's Circular A-85 guidelines for cooperation among the Federal and local governments. EPA gives SCAG quarterly reports to inform the Association members of upcoming regulatory actions; the local governments are therefore better able to contribute to EPA decisionmaking.

Agency contact: Dennis Tapsak, Office of Regional and Intergovernmental Operations (A-101), 755-0444.

8. *Toll-free Information Telephones.* The Agency has had two different sets of telephones for people to call for information on the status of regulations and other matters. Both have toll-free long distance lines. The Standards and Regulations Evaluation Division operated an experimental service for information on the status of regulations listed in the regulatory agenda. The Industry Assistance Office of the Office of Toxic Substances operates a service (No. 800-424-9065) for information on implementation of the Toxic Substances Control Act.

Agency contacts: Phil Schwartz, Standards and Regulations Evaluation Division (PM-223), 755-2693; John B. Ritch, Jr., Industry Assistance Office (TS-788), 755-3852.

[FR Doc. 78-28691 Filed 10-11-78; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[H. C. No. 2255]

HIGHFIELD FINANCIAL GROUP (U.S.A.) LTD., AND KEY SAVINGS AND LOAN ASSOCIATION

Receipt of Application for Approval of the Acquisition of

OCTOBER 6, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Highfield Financial Group (U.S.A.) Ltd., 1773 South 8th Street, Building L, Suite 3, Colorado Springs, Colo. 80906 for approval, pursuant to

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section 408(e) of the National Housing Act and § 584.4 of the regulations for Savings and Loan Holding Companies, of the acquisition of Key Savings and Loan Association 3501 South Broadway, Englewood, Colo 80110. Said acquisition is proposed to be accomplished through the purchase of approximately 89 percent of the outstanding common stock of Key Savings and Loan Association pursuant to a certain stock purchase agreement, and applicant's agreement to offer to purchase the remaining outstanding common stock. Comments on the proposed acquisition should be submitted to the Director, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank board.

[FR Doc. 78-28727 Filed 10-11-78; 8:45 am]

[6230-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 23, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement Nos. T-3727 and T-3727-A. Filing party: Mr. Stuart R. Breidbart, Secretary and General Counsel, United States Lines, Inc., One Broadway, New York, N.Y. 10004.

Summary: Agreement No. T-3727, between Sea-Land Service, Inc., (Sea-Land) and United States Lines, Inc. (USL), provides for USL's 5-year (with renewal options) sublease from Sea-Land of the berth space rights of Wharf 68 and right of use of Gantry Cranes Nos. 8 and 9, at Kaohsiung, Taiwan. Under the terms of the agreement, Sea-Land, as prime tenant, has priority berthing rights at Wharf 68. The rights subleased to USL are secondary, as outlined in the agreement. As compensation, USL shall pay a rental for berthing at Wharf 68 at a rate to be established in accordance with the proportion of the number of gantry crane moves (as defined by the Kaohsiung Harbour Bureau Tariff) made by or for USL during each rental period in relation to the total number of gantry crane moves during that period, such proportion to be calculated in accordance with the provisions set forth in FMC Agreement No. T-3727-A.

Agreement No: T-3727-A, between the same parties, provides that Sea-Land will: (1) sublease USL certain container yard, warehouse, and office facilities, together with four transtainers, two gantry cranes and berthing space; (2) furnish USL container crane services; and (3) furnish stevedoring services at Berth 68, Kaohsiung. The term of Agreement No. T-3727-A is coextensive with that of Agreement No. T-3727, above. Compensation is as set forth in detail in the agreement.

By order of the Federal Maritime Commission .

Dated: October 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28808 Filed 10-11-78; 8:45 am]

[6730-01-M]

[Docket No. 78-35]

ALLIED CHEMICAL, S.A. v. FARRELL LINES, INC.

Filing of Complaint

Notice is hereby given that a complaint filed by Allied Chemical, S.A. against Farrell Lines, Inc. was served October 3, 1978. Complainant alleges that it has been subjected to charges in excess of those lawfully applicable in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 3, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28695 Filed 10-11-78; 8:45 am]

[6730-01-M]

[Docket No. 78-36]

BALTIC SHIPPING CO.

RATES AND PRACTICES IN THE U.S. GULF COAST/NORTH EUROPE TRADE; ORDER TO SHOW CAUSE

The Baltic Shipping Co. (Baltic) is a common carrier in the foreign commerce of the United States providing liner service between the United States Gulf of Mexico ports and Continental European ports in the Bordeaux/Hamburg range. Baltic is a state corporation of the Union of Soviet Socialist Republics.

Pursuant to section 21 of the Shipping Act, 1916, the Comission issued an Order to Baltic to furnish certain specified information concerning its activities in the foreign commerce of the United States. The Order was issued on April 17, 1978. As indicated in that Order, the Commission has reason to believe that Baltic may be in violation of sections 15, 16, 17 and 18 of the Shipping Act, 1916, and the Commission has determined that the information requested of Baltic is necessary to establish whether such violations exist. Also, as indicated in the section 21 Order, the requested information will enable the Commission to determine whether conditions unfavorable to shipping in the foreign trade in the United States exist and have arisen out of, or result from, competitive methods or practices employed by Baltic requiring the Commission to promulgate rules and regulations pursuant to section 19 of the Merchant Marine Act, 1920, to adjust or meet such conditions.

On May 17, 1978, Baltic filed a Petition for Reconsideration of the Commission's section 21 Order. by Order dated May 26, 1978, the Commission denied Baltic's Petition for Reconsideration, established an extended timetable for compliance with its section 21 order, and required Baltic to file, no later than June 13, 1978, any further legal objections to compliance. The May 26, 1978 order notified Baltic that the filing of objections would not operate to stay the prescribed time for compliance. Baltic filed its legal objections on June 13, 1978.[1]

To date, Baltic has filed cargo manifests and other documentation which respond adequately to paragraphs (A)(1) through (A)(3)(d), and paragraphs (C)(3) through (C)(5) of the Commission's April 17, 1978 section 21 order. Baltic has not, however, adequately responded to paragraphs (A)(3)(e), (B)(1) through (B)(3), (C)(1) and (C)(2) of the section 21 order.

Paragraph (A)(3)(e) of the order calls for tariff item numbers and tariff authority for Baltic rate assessments. Only Baltic knows the basis upon which it assessed rates; the Commission could only speculate, and even speculation would require an extremely cumbersome search of all the possible tariff provisions that might apply. The Commission cannot make a definitive determination of the legality of Baltic's rates and practices if it does not know how Baltic assessed the rates or established the practices.

Paragraphs (B)(1) through (B)(3) of the order call for records, descriptions and memoranda concerning the practice of combining Baltic's equipment with that of other carriers, and concerning container leasing arrangements with other carriers by Baltic. Through counsel, Baltic filed a response indicating that there are no such records, descriptions or memoranda. This response was accompanied by the sworn statement of Bernard Katz, employee of Baltic's sole general agent in the U.S. Gulf Coast/North Europe trade, stating that: "To the best of my personal information, knowledge, and belief, Baltic's Response herein is true and accurate and contains all documents requested in the order that are under the care, custody and control of Baltic in the United States." This statement apparently limited Baltic's response to information located within the United States, despite the fact that the information sought by the order would be more likely to exist outside the United States. In its May 26, 1978 order, the Commission required that: "[I]f Baltic's response to this paragraph is consistent with the statement made in the Affidavit of Bernard Katz, • • • the response shall be verified by a principal of Baltic, authorized to make such a statement, and who has made the necessary inquiries to determine the truth of the statement." If Baltic's original statement were true as to all the information in Baltic's possession *wherever located*, compliance with the requirements of the May 26, 1978 order by the June 30, 1978 deadline prescribed therein would have been a simple matter. Baltic has neither complied with the May 26, 1978 order nor offered any explanation for its failure to elaborate upon its initial response after being notified of its inadequacy. The information sought in paragraphs (B)(1) through (B)(3) is essential to the Commission's inquiry into Baltic's practices in the foreign commerce of the United States and is not available to the Commission except through Baltic.

Paragraphs (C)(1) and (C)(2) of the Commission's April 12, 1978 order apply to "space charters (containerships)", as described under rule 575, Baltic Shipping Co. Eastbound Gulf Intermodal Tariff No. 4, FMC 34, for the period of March 31, 1977 through March 31, 1978. Paragraphs (C)(1) and (C)(2) call for descriptions of all negotiations with other carriers subject to the Shipping Act regarding the chartering of space blocks, and copies or memoranda of all requests (written or oral) received from each "established common carrier." Baltic has not responded to paragraphs (C)(1) or (C)(2); it has only reiterated its legal objections and indicated that there are no *written* requests from "established common carriers" in its possession. The information sought in paragraphs (C)(1) and (C)(2) is necessary to an adequate evaluation by the Commission of the legality of Baltic's space charter rates and practices under the Shipping Act, 1916. The information is not accessible to the Commission except through Baltic.

To date, Baltic has not come forward with any adequate legal justification or factual excuse for its failure to comply with paragraphs (A)(3)(e), (B)(1)-(B)(3), and (C)(1)-(C)(2) of the Commission's section 21 order. In an attempt to justify its failure to comply fully with the Commission's orders of April 17, 1978 and May 26, 1978, Baltic has made the following legal arguments: (1) that the Commission's reach under section 21 of the Shipping Act, 1916, is limited to "facts and historical data" reflected in presently existing business records, and does not extend to information not contained in such records, such as the terms of oral agreements or negotiations; (2) that full compliance with the section 21 order would impose an unreasonable financial burden upon Baltic which is not justified by the scope of the Commission's inquiry; and (3) that Baltic is prevented by foreign law from complying with any portion of the section 21 order which would require the production of documents or information located outside the United States.

In support of the first argument, Baltic refers to cases and legislative history wherein the power of regulatory agencies to *inspect* corporate records has been limited to comport with the agencies' power to prescribe and regulate corporate record keeping procedures in the first instance.[2] The authorities cited by Baltic are not apposite to orders issued pursuant to section 21 of the Shipping Act to *produce* specific information.

Section 21 was enacted to enable the Commission to inquire into the possible violations of the Shipping Act, 1916:

> The purpose of section 21 is not far to seek. Other sections forbid allowance of rebates, require the filing of agreements fixing or regulating rates, granting special rates, accommodations or privileges, which may be disapproved, cancelled, or modified if the board finds them unjustly discriminatory or violative of the act, prohibit undue or unreasonable preferences or the cutting of established rates and unjust discrimination between shippers or ports. To enable it to perform its functions the [Federal Maritime] board may well need such information as that which the section gives it power to demand.[3]

To construe section 21 as limiting the Commission's inquiry to business records that the carrier chooses to keep would render it virtually useless in light of the fact that the Commission does not specify which records must be maintained in the normal course of the carrier's business. Congress did not intend such a result, and the courts have not attributed any such intent to it. Section 21 orders requiring that the terms of certain oral agreements be "set forth in a memorandum in sufficient detail to represent a true and complete record of the contract" have been upheld.[4] The fact that the information sought concerns oral discussions or other matters not presently memorialized in business records is beside the point. The permissible scope of an order issued pursuant to section 21 of the Shipping Act, 1916, is determined by the relevancy of the information sought to matters within the authority of the Commission, and:

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[1] The Commission's Bureau of Hearing Counsel submitted a memorandum of law in response to Baltic's legal objections, and, on July 12, 1978, Baltic filed a reply to hearing counsel's memorandum.

[2] *Alcoa Steamship Co. v. Federal Maritime Commission*, 348 F. 2d 756 (D.C. Cir. 1965), *Burlington Northern, Inc. v. Interstate Commerce Commission*, 462 F. 2d 280 (D.C. Cir. 1972).

[3] *Isbrandtsen-Moller Co. v. United States*, 300 U.S. 139, 144-145 (1937).

[4] *Kerr Steamship Co. v. United States*, 284 F. 2d 61 (2d Cir. 1960) *appeal dismissed as moot*, 369 U.S. 422 (1962). Baltic attempts to distinguish the *Kerr* case on the ground that it required only the filing of agreements that were required to be filed by other provisions of the Shipping Act. Baltic's assertion is incorrect; the *Kerr* case also upheld that portion of the contested section 21 order which required the filing of agreements between a carrier and another person "whether or not he was 'subject to the Act'." *Id.* at 64. *See also Montship Lines, Ltd. v. Federal Maritime Board*, 295 F. 2d 147 (D.C. Cir. 1961).

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Nobody would argue, we should suppose, that oral agreements made in other countries could have no effect upon the commerce of the United States, which was the subject being investigated * * *. It would be absurd, for example, to hold that the [Federal Maritime] Board had no power to examine a witness as to what had been agreed abroad, if that was relevant to the terms and conditions of the eventual carriage.[4]

In support of its argument that the Commission's section 21 Order is unreasonably burdensome, Baltic had asserted, in its May 17, 1978 Petition for Reconsideration, that the commission's inquiry is essentially limited to Baltic's space charter shipments. The Commission corrected this misapprehension in its May 26, 1978 Order by again advising Baltic of the full Scope of its inquiry, which includes possible violations of sections 15, 16, 17 and 18 of the Shipping Act, 1916 and the possible existence of unfavorable conditions in the foreign trade, within the meaning of section 19 of the Merchant Marine Act, 1920. The matters encompassed by the sction 21 Order are of legitimate concern to the commission, and are within the scope of its statutory authority; the demand for informatin is not vague or indefinite and the information sought is clearly relevant to the matters under inquiry. This being the case, the Commission's section 21 Order is both reasonable and lawful.[5]

Finally, Baltic argues that "to the extent that certain documents or information requested by the Commission exist and are in the care, custody or control of Baltic outside the United States, the production of such documents or information in this proceeding is barred by the laws of the country(ies) in which such documents or information are located." Baltic refers to no specific laws, and no particulr country, in making the foregoing assertion, nor does it make any attempt to describe what type of information would be considered confidential under foreign law. Further, Baltic has not presented any evidence that it is unable to obtain a waiver of any applicable foreign law. The Commission cannot adequately consider Baltic's argument that foreign law precludes its compliance with the Commission's orders unless it has more information. Therefore:

Prior to determining whether these foreign laws do in fact forbid the production of documents such as those required by the * * * order and, if so, what effect this should have upon compliance, the appropriate procedure is to require these petitioners to make a good faith attempt to obtain a waiver of such restrictions from their respective governments * * *. *Societe Internationale* v. *Rogers*, 1958, 357 U.S. 197, 78 S. Ct. 1087, 2 L.Ed 1255.[7]

All of Baltic's legal objections to compliance with the commission's section 21 Order other than the applicability of foreign law have been aired and fuly considered by the Commission. They are without merit, and are rejected. It appears, therefore, that Baltic shipping Co. is in violation of the Commission's Order of April 17, 1978, as modified by its Order of May 26, 1978, to produce information in accordance with section 21 of the Shipping Act, 1916. Before finding that Baltic is in violation of section 21 and considering appropriate sanctions, however, the Commission wishes to consider the possible affirmative defense of foreign law which has been adverted to, but not yet presented, by Baltic.

Therefore, It Is Ordered, That pursuant to section 21 of the Shipping Act, 1916, and in accordance with Part 502.66 of the Commission's rules (46 CFR 502.66), the Baltic Shipping Co. is ordered to show cause why it should not be found to be in violation of section 21 of the Shipping Act, 1916, by reason of its failure fully to comply with the commission's Orders of April 17, 1978, and May 26, 1978 issued pursuant thereto;

It is Further Ordered, That this proceeding is limited to the submission of affidavits of fact and memoranda of law solely on the issue of the applicability and effect of foreign law upon the information sought by the commission's Orders of April 17, 1978 and May 26, 1978. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, and why such proof cannot be submitted through affidavit. Request for hearing shall be filed no later than November 27, 1978.

It is further ordered, That pursuant to part 502.66 of the Commission's rules (46 CFR 502.66), Baltic Shipping Co. is required to answer this show cause order by providing all information available to it concerning:

(1) The existence and terms of any applicable foreign law or regulation which purports to prohibit the gathering or release of information by Baltic Shipping Co. in response to the Commission's Orders of April 17, 1978, and May 26, 1978;

(2) The nature, description and location of the information or documents covered by the Commission's Orders of April 17, 1978 and May 26, 1978, the gathering or release of which the foreign law purports to prohibit, or which Baltic Co. has not yet released for any other reasons;

(3) The penalties provided by the foreign law in the event it is violated; and

(4) The nature and extent of any efforts by Baltic Shipping Co. to obtain a waiver of any applicable foreign law purporting to prohibit the gathering or release of information by Baltic Shipping Co. in response to the Commission's Orders of April 17, 1978 and May 26, 1978;

It is further ordered, That notice of this show cause order be published in the FEDERAL REGISTER and that a copy thereof be served upon the Baltic Shipping Co.; and

It is further ordered, That the Baltic Shipping Co. shall file the information described in the third ordering paragraph hereof, together with any additional matters it may wish to submit in accordance with the second ordering paragraph hereof, no later than October 25, 1978 with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies;

It is further ordered, That the Commission's Bureau of Hearing Counsel be made a party to this proceeding. Reply affidavits and a memorandum of law shall be filed by the Bureau of Hearing Counsel no later than November 9, 1978, with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies; and

It is further ordered, That a rebuttal memorandum and affidavits responding to the memorandum and affidavits filed by the Bureau of Hearing Counsel shall be filed by Baltic Shipping Co. no later than November 20, 1978 with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573 in an original and 15 copies.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28696 Filed 10-11-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

COLONIAL AMERICAN BANKSHARES CORP.

Proposed Retention of Colonial American Mortage Corp. Lynchburg, Va. Office.

Colonial American Bankshares Corp., Roanoke, Va., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. §1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to retain the Lynchburg, Va. office of Colonial American Mortgage Corp., Roanoke, Va.

Notice of the application was published on August 21, 1978 in *The News*, a newspaper circulated in Lynchburg, Va.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring or servicing loans secured primarily by second mortgages on real property and acting as agent in the sale of credit life insurance and credit accident and health insurance in connection with such loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested person may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased compitition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 3, 1978.

Board of Governors of the Federal Reserve System, October 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28734 Filed 10-11-78; 8:45 am]

[6210-01-M]

FALSBUILDING, INC.

Acquistion of Bank

Falsbuilding, Inc., Columbia Falls, Mont., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3) to indirectly acquire 80 percent of the voting shares of United National Bank of Libby, Libby, Mont., by directly acquiring Lincoln Corp., Libby, Mont. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28736 Filed 10-11-78; 8:45 am]

[6210-01-M]

FIRST TEXAS BANCORP, INC.

Proposed Acquisition of Universal Bankers Life Insurance Co. of Texas

First Texas Bancorp, Inc., Georgetown, Tex. has applies, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 22.4(b) (2) of the Board's regulation Y (12 CFR 225.4 (b) (2)), for permission to aquire voting shares of Universal Bankers Life Insurance Co. of Texas, Georgetown, Tex. ("Bankers"). Notice of the application was pubished on: September 3, 1978, in the Killeen Daily Herald of Killeen; September 14, 1978, in the Lampasas Record of Lampasas County, the Round Rock Leader of Williams County, and the Temple Daily Telegram of Bell County; and September 17, 1978, in the Sunday Sun of Williamson County; all in Texas.

Applicant states that Bankers would engage in the activity of acting as underwriter for credit life insurance and credit accident and health insurance, which is directly related to extensions of credit by the member banks in the holding company system. Mortgage redemption and mortgage cancellation insurance will not be underwritten. Such activities have been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as under concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28737 Filed 10-11-78; 8:45 am]

[6210-01-M]

MARYLAND NATIONAL CORP.

Proposed Acquisition of GECC and MN Leasing Corporation

Maryland National Corp., Baltimore, Md., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's regulation Y (12 CFR § 225.4(b)(2)), for permission to engage through its wholly owned subsidiary, Maryland National Leasing Corp., in forming a joint venture with General Electric Credit Corp., Stamford, Conn., to acquire voting shares of GECC and MN Leasing Corp., Stamford, Conn. Notice of the application was published on July 24, 1978, in the Wall Street Journal, a newspaper of general circulation; on September 15,

[1] *Kerr Steamship Co.* v. *United States*, 284 F. 2d 61, 64 (2d Cir. 1960).

[2] *Montship Lines, Ltd.* v. *Federal Maritime Board*, 295 F. 2d 147, 154 (D.C. Cir. 1961). *Cf. Isbrandtsen-Moller Co.* v. *United States*, 300 U.S. 139 (1937).

[3] *Montship Lines, Ltd.* v. *Federal Maritime Board*, 295 F. 2d and 156.

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1978, in the Baltimore News-American, a newspaper circulated in Baltimore, Md.; and on September 21, 1978, in the Advocate, a newspaper circulated in Stamford, Conn.

Applicant states that the proposed joint venture would engage generally in the activities of leasing personal and real property. Such activities have been specified by the Board in § 225.4(a) of regulation Y as permissible for bank holding companies, such to Board approval of individual proposals in accordance with the procedures of § 225.4(b)

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28738 Filed 10-11-78; 8:45 am]

[6210-01-M]

NEW VIRGINIA BANCORP.

Acquisition of Bank

New Virginia Bancorp., Springfield, Va., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent of the voting shares of First City Bank of Newport News, Newport News, Va. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 30, 1978.

Board of Governors of the Federal Reserve System, October 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28739 Filed 10-11-78; 8:45 am]

[6210-01-M]

JACKSONVILLE NATIONAL CORP.

Formation of Bank Holding Company

Jacksonville National Corp., Jacksonville, Fla., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 98 percent or more of the voting shares of Jacksonville National Bank, Jacksonville, Fla. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve bank, to be received not later than October 31, 1978.

Board of Governors of the Federal Reserve System, October 4, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28740 Filed 10-11-78; 8:45 am]

[6210-01-M]

ST. ANTHONY NATIONAL CO.

Formation of Bank Holding Company

St. Anthony National Co. St. Anthony Village, Minn. has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring approximately 93.32 percent or more of the voting shares of St. Anthony National Bank, St. Anthony Village, Minn. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28741 Filed 10-11-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on September 29, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 30, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory reports Review, United States General Accounting Office, room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

INTERSTATE COMMERCE COMMISSION

The ICC requests clearance for the new reporting requirements embodied in Ex Parte No. 55 and identified as 49 CFR 1106.7. This section provides for the inclusion of energy impact information along with other evidence submitted by the applicant in support of an application. The information is required with applications identified in section 1106.5 as major regulatory actions. The data will be used by the Commission to consider energy impact in its decisions as required by the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6201, et. seq.). The ICC states that respondents will be ICC regulated transportation firms. The ICC estimates that it will receive 10,000 responses annually and that reporting burden for the energy impact information will average 1 hour per response.

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Ex Parte 55, which was served on July 12, 1978, made this reporting requirement effective immediately. However, the reporting is contingent on ICC's compliance with 44 U.S.C. 3512 which precludes the collection of information from 10 or more persons until the Comptroller General has had the opportunity to determine that the information required is not presently available from other Federal sources and that the proposed reporting requierment is consistent with section 3512. This notice represents the beginning of the GAO review.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-28722 Filed 10-11-78; 8:45 am]

[4110-39-N]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Meeting

Notice is hereby given that the next meeting of the Panel for the Review of Laboratory and Center Operations will be held on October 28-29, 1978, in room 823 of the National Institute of Education, 1200 19th Street NW., Washington, D.C. The Panel will meet from 9 a.m. until 5:30 p.m. on Saturday, October 28 and from 9 a.m. until 3 p.m. on Sunday, October 29.

The Panel for the Review of Laboratory and Center Operations is established under section 405 of the General Education Provisions Act, as amended by section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e. Its functions include: (a) The review of long-range plans submitted by the 17 existing educational laboratories and research and development centers to the National Institute of Education; (b) the review of the operations of the laboratories and centers; and (c) making recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers.

The entire meeting will be open to the public. Although the agenda cannot be specified with precision, it will consist of four main elements: (1) Discussion and determination of recommendations to NIE and the Congress with regard to the support of individual laboratories and centers, based in part on the Panel's review of long-range institutional plans and the recommendations of Panel site visit teams; (2) discussion of the scope and content of the final report to Congress and the Director of NIE, including discussion of the first drafts of aspects of the report prepared by Panel members and groups of Panel members since the last meeting (September 23-24, 1978); (3) discussion of the schedule and strategies for completing the writing and production of the final report; and (4) discussion of the dates and purposes of future meetings. The discussion of recommendations for the support of individual labs and centers will be the first major item on the agenda on October 28, and will likely carry over into the afternoon. The remainder of the session on October 28 and on October 29 will be devoted to issues related to the Panel's final report and future activities.

Interested persons are invited to attend these sessions. Written statements relevant to an agenda item or any topic deemed of interest to the Panel may be submitted to the Panel staff at the address below.

Copies of the records of all Panel proceedings may be obtained through the office of the Panel staff. Minutes require approval by the Panel at a subsequent meeting and are available to the public 2 weeks following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, persons likely to attend the Panel meeting may contact the Panel staff office as indicated below:

Panel for the Review of Laboratory and Center Operations, National Institute of Education, Washington, D.C. 20208, 202-254-5830 or 254-5306.

Dated: October 10, 1978.

GRADY McGONAGILL,
Staff Director, Panel for the Review of Laboratory and Center Operations.

[FR Doc. 78-28862 Filed 10-11-78; 8:45 am]

[4110-12-M]

Office for Civil Rights

PROPOSED ANNUAL OPERATION PLAN. FISCAL YEAR 1979

Extension of Comment Period

This notice extends the period for comments to the notice, published September 1, 1978 (43 FR 39262), proposing the Office for Civil Rights (OCR) compliance and enforcement activities for fiscal year 1979. The time has been extended to October 30, 1978, to give additional time for constructive comments from all interested parties.

Dated: October 5, 1978.

DAVID S. TATEL,
Director, Office for Civil Rights.

[FR Doc. 78-28863 Filed 10-11-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 18073; Survey Group 108]

MINNESOTA

Filing of Plats of Survey

On September 27, 1977, four plats of survey of islands were accepted. They will be officially filed in this office as of 10 a.m. on November 6, 1978.

The plats represent surveys of islands omitted from the original township surveys. All of the following described lands are similar to the adjacent surveyed lands in that they were formed by the deposition of glacial debris, and all are located in the fifth Principal Meridian, Minnesota:

T. 142 N., R. 37 W.
Tract 37 (2.86 acres);
Tract 38 (0.88 of an acre);
Tract 39 (0.44 of an acre).
T. 143 N., R. 37 W.
Tract 37 (0.78 of an acre);
Tract 38 (2.69 acres);
Tract 39 (3.13 acres).
T. 143 N., R. 39 W.
Tract 37 (3.52 acres);
Tract 38 (0.56 of an acre).
T. 146 N., R. 39 W.
Tract 37 (3.64 acres);
Tract 38 (0.40 of an acre).

The area aggregates 18.90 acres, more or less.

The islands in T. 142 N., R. 37 W., which are located in Lake of the Valley, have a soil composition of a thin layer of organic matter on a base of glacial till. All are scattered with rocks. Tract 37 rises from the ordinary high water line to an elevation of approximately 10 feet; Tract 38 rises to approximately 8 feet; and Tract 39 rises to approximately 6 feet. Timber on these islands consists primarily of Norway and Jack pine, spruce, balsam, birch, and poplar. The undergrowth is comprised of young timber, briars, hazel, juneberry, and/or native grasses and vines.

In T. 143 N., R. 37 W., the islands described are located in Long Lost Lake. All have a soil composed of a base of glacial till with a layer of duff and undergrowth primarily consisting of native grasses and young timber. On Tract 37, the timber is mainly red and white pine, aspen, and white birch. The timber on Tracts 38 and 39 is mostly red and white pine, ash, oak, basswood, and aspen. Tracts 37, 38 and 39 rise to elevations of approximately 4 feet, 10 feet, and 12 feet, respectively.

The two islands in Bass Lake were omitted from the original survey of T. 143 N., R. 39 W. Tract 37, rising to an elevation of approximately 20 feet, has a soil composition of glacial till with a moderate amount of organic matter

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incorporated in the top layer. Timber consists of white and red pine, oak, ash, basswood, aspen, elm, and birch; undergrowth consists of native grasses, willow, hazel, briars, and vines. Tract 38, having a soil composition of a thin layer of duff on a base of glacial till, rises to an elevation of approximately 6 feet. The timber therein is comprised of red and white pine, aspen, and white birch with an undergrowth of grasses and young timber.

Located in Island Lake are the two tracts described in T. 146 N., R. 39 W. Rising to approximately 7 feet, Tract 37 has: Soil composed of a thin layer of duff on a base of glacial till; timber consisting of red and white pine, aspen, elm, ash, birch, willow, balm of Gilead, oak, poplar, balsam, and spruce; and an undergrowth of native grasses, briars and small trees. Tract 38 barely rises above the ordinary high water mark, has soil composed of glacial till covered with a thin layer of sand and gravel, and has vegetation consisting of native grass, briars, and willows.

Tract 38, T. 146 N., R. 39 W., was found to be less than 50 percent upland in character within the interpretation of the Swampland act of September 28, 1850. Therefore, title to that tract inured to the State of Minnesota as of that date, and it is subject only to selection by the State under that act.

The remaining lands described are over 50 percent upland in character within the meaning of the Act of September 28, 1850. They are, therefore, held to be public land.

Except for valid existing rights, there lands will not be subject to application, petition, location, selection, or to any other type of appropriation under any public law, including the mining and mineral leasing laws, until a further order is issued.

All inquiries relating to these lands should be addressed to Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

LANE J. BOWMAN,
Acting Director,
Eastern States.

Copies of the notice will be mailed to:

1. Honorable Wendell R. Anderson, U.S. Senate, Washington, D.C. 20510.
2. Honorable Muriel Humphrey, U.S. Senate, Washington, D.C. 20510.
3. Honorable Arlan Stangeland, House of Representatives, Washington, D.C. 20515.
4. Mr. Robert F. Schneider, Schneider & Buxton, Box 292, Walker, Minn. 56484.
5. Mr. Donald D. Busker, First National Bank Building, Box 871, Detroit Lakes, Minn. 56501.
6. Mr. James G. Bingham, Midwest Minnesota Corp. P.O. Box 376, Mahnomen, Minn. 56557.
7. Area Director, Minneapolis Area Office, Bureau of Indian Affairs, 831 Second Avenue South, Minneapolis, Minn. 55402.
8. Bureau of Indian Affairs, Third Floor, Federal Building, Bemidji, Minn. 56601.
9. Clerk of Courts, Clearwater County, Bagley, Minn. 55308.
10. Clerk of Courts, Becker County, Detroit Lakes, Minn. 56501.
11. Clerk of Courts, Mahnomen County, Mahnomen, Minn. 56557.
12. Postmaster, Bagley, Minn. 55308.
13. Postmaster, Detroit Lakes, Minn. 56501.
14. Postmaster, Mahnomen, Minn. 56557.
15. The Farmers Independent, Farmers' Publishing Co., Bagley, Minn. 55308.
16. Becker County Record, Box 828, Detroit Lakes, Minn. 56501.
17. The Pioneer, Box N, Mahnomen, Minn. 56557.
18. State of Minnesota, Department of Natural Resources, 658 Cedar Street, St. Paul, Minn. 55155.

[FR Doc. 78-28749 Filed 10-11-78; 8:45 am]

[4310-84-M]

[ES 17760; Survey Group 109]

MINNESOTA

Filing of Plat of Survey; Correction

In FR Doc. 78-25892, appearing on pages 41099 and 41100 in the issue for Thursday, September 14, 1978, in the first column of page 41100, the first sentence of the third paragraph of the notice, "By Proclamation No. 2216 of December 29, 1936, all public lands in T. 147 N., R. 30 W., Fifth Principal Meridian, Michigan, were included in the Chippewa National Forest," should be corrected to read, "By Proclamation No. 2216 of December 29, 1936, all public lands in T. 147 N., R. 30 W., Fifth Principal Meridian, Minnesota, were included in the Chippewa National Forest."

LANE J. BOUMAN,
Acting Director,
Eastern States.

[FR Doc. 78-28750 Filed 10-11-78; 8:45 am]

[4310-84-M]

[NM 34673]

NEW MEXICO

Application

OCTOBER 3, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 11 W.,
Sec. 1, S½SW¼.

This pipeline will convey natural gas across 0.20 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promtly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28751 Filed 10-11-78; 8:45 am]

[4310-84-M]

[NM 34690]

NEW MEXICO

Application

OCTOBER 2, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Yates Petroleum Corp. has applied for two 2⅞-inch natural gas pipelines right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 24 E.,
Sec. 1, SW¼NE¼ AND SE¼NW¼.

These pipelines will convey natural gas across .604 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28752 Filed 10-11-78; 8:45 am]

[4310-84—M]

[NM 34762]

NEW MEXICO

Application

OCTOBER 3, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 14 S., R. 28 E.,
Sec. 11, SE¼SW¼.

This pipeline will convey natural gas across .126 of a mile of public land in Chaves County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28753 Filed 10-11-78; 8:45 am]

[4310-84-M]

[NM 34755, 34778, and 34779]

NEW MEXICO

Applications

OCTOBER 2, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), transwestern Pipeline Co. has applied for three 4-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 24 E.,
Sec. 4, E½SW¼;
Sec. 8, E½NE¼, SW¼NE¼ AND NW¼SE¼;
Sec. 9, NW¼NW¼;
Sec. 18, SE¼SW¼.
T. 18 S., R. 24 E.,
Sec. 12, SW¼SE¼.

These pipelines will convey natural gas across 1.06 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28754 Filed 10-11-78; 8:45 am]

[4310-84-M]

[NM 34734, 34736, 34739, 34767, 34768, 34769, 34770, 34776 and 34777]

NEW MEXICO

Applications

OCTOBER 2, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for nine 4½-inch natural gas pipelines and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 4, S½NW¼.
T. 28 N., R. 7 W.,
Sec. 8, SW¼SW¼;
Sec. 11, SE¼SW¼;
Sec. 17, NW¼NE¼ AND N½NW¼;
Sec. 19, NW¼NE¼;
Sec. 32, NE¼NW¼.
T. 30 N., R. 7 W.,
Sec. 3, SE¼NW¼;
Sec. 9, SW¼NE¼ AND W½SE¼.

These pipelines will convey natural gas across 2.445 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28755 Filed 10-11-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

DRUG ENFORCEMENT ADMINISTRATION

[Docket No. 78-14]

THOMAS R. PRENDERGAST, CONROY'S PHARMACY, CORAOPOLIS, PENNSYLVANIA

Hearing

Notice is hereby given that on June 30, 1978, the Drug Enforcement Administration, Department of Justice, issued to Thomas R. Prendergast, Conroy's Pharmacy, Coraopolis, Pa., an Order to Show Cause as to why the Drug Enforcement Administration should not deny Respondent's application for registration, executed March 17, 1978, under 21 U.S.C. 823, to dispense controlled substances listed in Schedule(s) II, IIN, III, IIIN, IV and V as a retail pharmacy.

Thirty days having elapsed since the said Order to Show Cause was received by the Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Friday, October 27, 1978, in the Hearing Room, room 1210, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C.

Dated: October 4, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-28762 Filed 10-11-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-41]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS

MARINE ACCIDENT REPORT

The National Transportation Safety Board has released its report on investigation into the accident involving the M/V CHESTER A. POLING which occurred January 10, 1977, about 6nmi ESE of Cape Ann, Mass. The report, No. NTSB-MAR-78-7, was made available October 3, 1978.

Investigation revealed that the 281-foot coastal tankship broke in two in 25- to 30-foot seas while en route from Everett, Mass., to Newington, N.H., during a severe winter storm. The vessel was partially ballasted and carried no cargo; only a minor pollution resulted. Of the seven persons aboard, six were rescued. One person, who fell into the ocean while attempting to enter the Coast Guard helicopter's

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rescue basket, is missing and presumed dead.

The Safety Board determined that the probable cause of the accident was the brittle fracture of a bottom longitudinal stiffener, which led to buckling of the adjacent bottom plating panels and subsequent failure of the complete bottom and sides. The bottom longitudinal stiffener failed because of the high stresses created by the improper distribution of ballast water and the heavy seas. Contributing to the accident were the lack of a loading manual to indicate proper ballasting procedures, the speed of the vessel, and the inaccuracy of the National Weather Service's weather forecasts.

Contributing to the loss of life were the lost seaman's failure to wear a personal flotation device, and the improper handling of the Coast Guard helicopter's resuce basket by the POLING's crew, which resulted from the crew's lack of training and their inability to hear Coast Guard instructions over the noise created by the helicopter, high winds, and breaking seas.

As a result of investigation of this accident, the Safety Board in two separate letters dated September 22, 1978, addressed the following recommendations to:

U.S. Coast Guard—

Require that a loading manual indicating proper cargo and ballast loading arrangements and procedures be prepared for each coastal tankship. (M-78-63)

Study the feasibility of providing estimated hull stress information based on loading condition, sea state, and ship speed and relative heading in graphical form in coastal tankship loading manuals. (M-78-64)

Require that exposure suits be provided for each crewmember on vessels that routinely operate in areas of cold air or sea temperatures. (M-78-65)

Require that at least one inflatable liferaft be stowed near each accommodation and working space on coastal tankships. (M-78-66)

Develop an effective method to insure that each merchant seaman is instructed and trained in the proper use of helicopter-borne rescue baskets. (M-78-67)

Install a placard of simple user instructions suitable for emergency situations on each Coast Guard helicopter-borne resuce basket. (M-78-68)

Maritime Administration of the U.S. Department of Commerce—

With assistance from the U.S. Coast Guard and maritime industry management and labor, develop a survival and rescue training course to provide instruction in Coast Guard sea rescue methods and in the proper actions merchant seaman should take to aid in their rescue. (M-78-69)

With the exception of M-78-64, each of the above recommendations is designated "Class II, Priority Action." Recommendation M-78-64 is designated "Class III, Longer Term Action." The recommendations are reproduced in the accident report.

Responses to Safety Recommendations

Highway

H-77-21.—Letter of September 20 from the Federal Highway Administration (FHWA) responds to one of three recommendations issued following investigation of the October 16, 1976, accident on Interstate 70 near Byers, Colorado. This and four similar accidents occurring at this location resulted in 12 deaths in less than 5 years as a result of errant vehicles entering the median, driving behind the guardrail, and plunging over the embankment between twin bridges.

The Safety Board Recommended that FHWA insure that all State highway departments are using current FHWA and American Association of State Highway and Transportation Officials (AASHTO) guidelines for barriers installed at bridge approaches, and insure that the departments periodically inform and instruct their maintenance forces about changes to these guidelines.

In response, FHWA reports that it has for some time been conducting safety design reviews in the individual States with the primary objective to determine whether States are incorporating into their projects safety design features which represent the current state of the art. A major national review of safety design has been made on new projects and safety upgrading of previously constructed projects. A major thrust of this review was to evaluate barriers installed at bridge approaches and to review current design standards for these barriers. Also, FHWA continues to develop training courses in the area of safety design. These courses are for FHWA, State, and local personnel involved in all facets of highway work which includes maintenance forces.

Specifically in the area of traffic barriers, FHWA has distributed to its field offices copies of the new AASHTO Guide for Selecting, Locating, and Designing Traffic Barriers. This publication was transmitted with an FHWA Notice which specifically requested field offices to review traffic barrier practice, in light of the Guide, to effect improvements in practices that fall short of suggestions in the Guide. FHWA notes that information from the AASHTO Guide is a significant feature of a training course entitled "Safety Design and Operational Factors for Streets and Highways" which is being conducted by FHWA for Federal, State, and local engineers.

FHWA also reports on issuance on November 17, 1977, of Notice N7560.5, "Federal-Aid Participation in Highway Appurtenances" which directly addresses the intent of H-77-21; a copy is attached to FHWA's letter. Further, an FHWA Bulletin is being prepared to alert FHWA elements and others of the continuing need to insure that State and local authorities use the latest guidelines for barriers.

H-78-42.—FHWA's letter of September 21, is in response to a recommendation developed as a result of investigation into the Ford Construction Company truck-semitrailer/Dodge van collision on U.S. Route 221 near Marion, N.C., May 12, 1977. The recommendation urged FHWA to maintain strict surveillance of Ford Construction Company's compliance with the provisions of the Federal Motor Carrier Safety Regulations (FMCSR).

In response, FHWA notes that the transportation involved in this accident was an interstate movement of construction equipment in furtherance of a commercial enterprise, serving primarily to move equipment intermittently to and from or between job sites. Ford Construction Co. is not engaged in "for hire" transportation operations. Such an operation is deemed to be private carriage subject to FMCSR. There is no Federal requirement that private carriers obtain operating authority or register their operations in any manner. FHWA states that this carrier was unknown to the Bureau of Motor Carrier Safety (BMCS) and had not been served with the FMCSR or subjected to any prior safety compliance investigation.

FHWA reports that 3 weeks after the accident the carrier's president was personally served with the FMCSR, and a safety compliance survey conducted at that time disclosed a pattern of general noncompliance with the FMCSR. FHWA reports that another safety compliance survey made on the carrier on July 18, 1978, disclosed improvement in compliance but still some areas of violation, particularly in recordkeeping. Intention to bring about full compliance has been indicated to BMCS, and a third safey survey will be conducted in about 6 months. FHWA will continue surveillance and will take enforcement action if necessary.

H-78-1 through 4.—FHWA has provided the following responses (letters dated September 20 regarding H-78-2 and September 22 regarding H-78-1, 3 and 4) to highway safety recommendations resulting from investigation of the collision of the *S.S. Marine Floridian* with the Benjamin Harrison Bridge at Hopewell, Va., February 24, 1977.

Recommendation H-78-1 asked FHWA to study and report on the completeness and effectiveness of its bridge classification/inspection program under 23 U.S.C. 144, 23 CFR Part 650, and the AASHTO "Manual for Maintenance Inspection of Bridges" Part 2.5, especially as to bridges over navigable channels, for their ability to sustain pier impact at water level and for the design of the traffic control system on the bridges.

In response, FHWA notes that under 23 CFR Part 650, Subpart C, and 23 U.S.C. 144, all bridges on the Federal-Aid system are inspected and classified every 2 years and reports on the state of the Nation's bridges, with recommendations, are made to the Congress annually. The States record the condition of the bridge substructure and channel protection and note the condition and effectiveness of the fendering system if any exists (p. 3-13, Bridge Inspector's Training Manual 70). This data is for State use and is retained in the State's files. FHWA further states, "It would be counterproductive as well as a monumental task to ask the States to calculate the ability of their bridge piers to sustain a pier impact at water level." FHWA plans no additional action in response to H-78-1.

Recommendation H-78-2 asked FHWA to work with the U.S. Coast Guard to develop specifications for design, and issue guidelines for placement of dolphins, fenders, and other energy absorbtion and/or vessel redirection devices for the protection of both bridge and vessel during an accidental impact. FHWA's interim response reports a meeting with Coast Guard to plan a course of action, and notes that Coast Guard has a research study underway on the design of dolphins and fenders which is being conducted by the University of Maryland. When the report is received, FHWA/Coast Guard engineers will evaluate it, but it is too early to predict implications of the study. Reportable progress is not expected until next April.

In response to recommendation H-78-3, which asked FHWA to bring together in one publication all guidelines for traffic control at movable bridges, including signs, signals, pavement markings, and restraint devices, FHWA is completing the following actions: (1) Consolidation of requirements for traffic controls in the Manual on Uniform Traffic Control Devices (MUTCD); (2) removal of material in Federal-Aid Highway Program Manual (FHPM) 6-3-3-1 related to movable bridges; and (3) including detailed guidelines for traffic controls at movable bridges in the MUTCD Handbook.

FHWA states that revision of MUTCD has been accomplished through a change "Sg-67 (Chng.)—Traffic Control Devices at Movable Bridges," approved May 9, 1977, which revises sections 4E, 4E-14, 4E-15, 4E-16, and 4E-17 to incorporate standards on traffic control devices on movable bridges taken form the FHPM Volume 6, Chapter 8, Section 3, Subsection 1, "Traffic Control Devices on Federal-Aid and Other Streets and Highways," and from the Code of Federal Regulations 655.603. A copy of the revised text of MUTCD sections 4E-13 through 4E-17 is attached to FHWA's response. Further, FHWA reports that FHPM 6-8-3-1 is in final stages of complete revision, and material related to movable bridges will be deleted to avoid duplication of regulations. Finally, FHWA is preparing an MUTCD Handbook which will include detailed information as guidelines for traffic control devices at movable bridges—estimated completion date June 1980.

Recommendation H-78-4 asked FWHA to include as part of the Federal-Aid Highway Program Manual 6-8-3-4, Paragraph 5d(3), "Special Purpose Surveillance and Control Systems," a description of surveillance and control systems used on multispan bridges over wide navigable waterways. FHWA states that regulations on surveillance and control systems for bridges are included in FHPM Volume 6, Chapter 8, Section 3, Subsection 4. FHWA's Regulations Reduction Task Force has concluded that the FHPM's should contain only regulatory materials, so FHWA will issue descriptive material concerning surveillance and control systems in another form. A "Technical Advisory" on surveillance and control systems is being prepared with a planned issuance in April 1979. Also, a new edition of MUTCD Handbook, which is planned for June 1980, will contain such descriptive material.

In the covering letter of September 22, FHWA states that copies of the above responses are being forwarded to its field offices with instructions to take on an active role in assuring that the information in the updated version of the MUTCD on movable bridges, as well as the bridge inspection program itself, will pay special attention to movable bridges and the issues raised by the Safety Board.

Pipeline

P-78-45 through 49.—Columbia Gas of Ohio, Inc., on September 25 responded to the Safety Board's recommendations issued following investigation of the pipeline accident at the company's facilities in Mansfield, Ohio, which occurred last May 17 when a low-pressure distribution system was overpressured. (See 43 FR 38960, August 31, 1978.)

Columbia, in response to recommendation P-78-45, reports that it has already taken action to see that a pressure gauge is utilized whenever there are two or more mains in the same location that cannot be positively identified, as recommended.

Columbia indicates that further consideration will have to be given to implementing recommendation P-78-46, which called for devising a method of physically marking and identifying high- and low-pressure mains if they are the same size and are installed on the same side of the street or have the possibility of crossing each other during installation. Columbia states that at the present time there is no practical way to accomplish this objective on existing facilities, nor would a crew working on a job like the situation in the Mansfield incident be assured that this type of marking or identifying could be relied upon. Columbia believes that the positive way to identify this type of situation is to actually check the pressure in the line.

Concerning recommendation P-78-47, which called for revised mapping procedures to require that details of intersections crossed by many gas mains be shown on larger scale drawings where lot line dimensions can be shown. Columbia does not believe that such revision of its mapping procedures would prevent a similar incident. Columbia states, "The Mansfield incident indicates again that maps should not be relied upon for positive identification when making 'hot taps.'" Columbia's maps provide for larger scale detail where gas mains are close to each other, but Columbia's crews are advised not to rely on drawings for exact pipeline locating purposes. The company stresses this fact in its procedure.

Columbia agrees with recommendation P-78-48, and has already reviewed the Columbia incident with company supervisors, again emphasizing the need for positive identification of the type of gas main involved before tapping it. This same information is reviewed with each construction crew involved with tapping operations.

Recommendation P-78-49 asked Columbia to revise its company procedure manual to require the use of pressure gauges before tapping a gas main that cannot be positively identified by other means. Columbia notes that while its procedure did contain some material with respect to the use of pressure gauges, after the Mansfield incident, this requirement was reviewed and the manual has been revised as recommended.

Railroad

R-78-23.—Letter of August 8 from the Federal Railroad Administration is in response to the recommended developed following investigation of the side collision of two Southern Railway Company trains at Spencer, N.C., October 8, 1977. FRA was asked to require that the track shunt circuit imposed by contact closure in a circuit controller be phased out as soon as

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practicable and a series break-type circuit, which will satisfy the requirements of FRA's Rules, Standards, and Instructions, be used in place thereof.

In response, FRA expresses its belief that the design of the switch shunting circuit does satisfy the requirements of the Rules, Standards, and Instructions for Railroad Signal System, § 236.5 of which reads, "All control circuits the functioning of which affects safety on train operation shall be designed on the closed circuit principle." FRA contends that the switch shunting circuit, which is not designed on the closed circuit principle, is not subject to § 236.5 because it is not a control circuit. "A control circuit is an electrical circuit, while a switch shunting circuit is a shunting circuit, one which bypasses an electrical circuit," FRA states. FRA notes that it is the purpose of the track circuit, an electrical circuit designed on the closed circuit principle, to determine that the track is in place in proper condition for the passage of trains at maximum speed. Thus, the track circuit, not the switch shunting or series break-type circuits, provides broken rail protection and is subject to § 236.5.

FRA believes that as protective circuits, the purpose of which is to determine the switch is lined properly for the passage of trains at maximum speed, the switch shunting and series break-type circuits are equally effective. Either is subject to malfunction caused by improper maintenance or other factors, FRA states.

In FRA's opinion, the choice between switch shunting circuits and series break-type circuits becomes one of economics. Both designs have similar average life spans and normal maintenance costs, but differences arise in installation, replacement, and conversion costs. FRA says that to convert about 125,000 switch shunting circuits now installed on the Nation's railroads to the more expensive series break-type circuits would cost about $312,500,000, or about $2,500 per circuit. Therefore, FRA states, it will not require all track shunt circuits to be replaced by series break-type circuits.

R-78-38 and 40.—Amtrak on August 23, in reply to the Safety Board's request of August 3, furnished copies of Amtrack Bulletin Orders applicable to these two recommendations which were issued in connection with the Board's investigation of the collision last June 9 of Amtrak's "Montrealer" and a ConRail commuter train at Seabrook, Md. Amtrak has also furnished a copy of the notice posted in the cab of all self-propelled cars and locomotives equipped with the signal appliance in question. With respect to the Signal System Study referenced in Amtrak's initial response of June 30 (43 FR 35567, August 10, 1978), Amtrak states that a great deal of data has been accumulated, but there are additional tests to be performed.

NOTE: The above notice summarizes Safety Board documents recently released and recommendation response letters received. Single copies of accident reports are available without charge as long as supplies last. Copies of the Board's recommendation letters and letters in response to such recommendations may be obtained free of charge.

All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20494.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virgina 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 6, 1978.

[FR Doc. 78-28757 Filed 10-11-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Docket No. MC76-5]

BASIC MAIL CLASSIFICATION REFORM SCHEDULE, 1976

Possible Technical Changes in Appendix A of Stipulation and Agreement of January 30, 1978

OCTOBER 5, 1978.

Pursuant to Commission Order No. 158 and Presiding Officer's Notice of February 3, 1978, we currently have under consideration a proposed Stipulation and Agreement concerning the proper scope, extent, and degree of detail of the Domestic Mail Classification Schedule. In accordance with the terms of the settlement agreement, the Commission is considering appropriate resolutions of those issues—stated in app. B to the agreement—on which evidentiary hearings were held.

In addition, the Commission has at the same time been examining the uncontested portions of the draft classification schedule furnished by the signatories (in app. A to the proposed Stipulation and Agreement) for consistency with applicable statutory standards and the policies of the Postal Reorganization Act. While the Commission has not yet reached an overall conclusion regarding the consistency of the uncontested classification provisions with the applicable standards, we have identified several provisions which, if recommended, we would be inclined to change in order to state currently applicable mail classification law more accurately. Specifically, we believe the following changes in the identified app. A provisions would result in more technically accurate statements of pre-existing rules:

Page	Section	Possible Change
11	100.022	Change to read as follows: "Presorted first-class mail is regular or post card first-class mail which is presented in a single mailing of 500 or more pieces, properly prepared and presorted, and posted at the applicable first-class rates."
11	100.031	Change to read as follows: "Cards exceeding the maximum post card dimensions set forth in section 100.021 c. may be mailed only at regular first-class rates applicable to matter defined in section 100.020 or section 100.022."
13	100.060	Insert "that" between "except" and "when"
41	300.020	Change "sections 300.021 and 300.022," to "sections 300.021 or 300.022."
41	300.021	Change to read as follows: "Bulk mail is third-class mail consisting of properly prepared and presorted mailings of not less than 50 pounds or not less than 200 pieces identical in size and weight. Each piece of the minimum quantities required must be addressed to a different addressee."
54	400.022 c.	Insert "public" before the word "library."

The Commission realizes that paragraphs 4.a. and 13.a. of the Stipulation and Agreement of January 30, 1978, are intended by the signatories to limit severely the Commission's decisional function with respect to the uncontested provisions contained in app. A. However, the possible modifications set out above are technical in character and would not, in our view, vary the scope, extent, or degree of detail embodied in the provisions to which they pertain. For these reasons, we are giving notice of the contemplated changes in order to give interested parties the opportunity to comment upon these possible technical improvements. such comments should be filed with the Commission by October 16, 1978.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-28733 Filed 10-11-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel No. 15204; SR-CBOE-78-24]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

OCTOBER 2, 1978.

On August 3, 1978, the Chicago Board Options Exchange, Incorporated ("CBOE") La Salle at Jackson Chicago, Illinois 60603 filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which amends its disciplinary rules. The proposed changes would: (1) make explicit the obligation of all CBOE members and associated persons to cooperate in Exchange investigations involving possible rule violations; (2) codify the right of all CBOE members to be represented by counsel during an Exchange investigation; (3) provide that the Exchange staff submit reports to the Business Conduct Committee only with respect to investigations where the staff finds reasonable grounds to believe a violation has been committed; (4) require that the Board of Directors, as well as the member who is the subject of the investigation and the complainants, if any, be notified when the Business Conduct Committee, upon consideration of a staff report determines not to initiate charges; (5) require parties to an investigation to exchange documents and witness lists well in advance of the hearing date and to attempt to arrive at agreeement on uncontroverted issues in advance of the hearing; (6) provide the Business Conduct Committee with the authority to call for the production of witnesses and evidence; (7) make explict that the Board of Directors upon review of Business Conduct Committee decisions, may increase the sanctions; and (8) provide that sanctions imposed by the Business Conduct Committee will become effective upon completion of the Exchange review process, notwithstanding further appeal to the Commission.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-15063, August 14, 1978) and by publication in the FEDERAL REGISTER (43 FR 36727, August 18, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28708 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Administrative Proceeding, File No. 3-5545; File No. 2-53436 et al.]

IMPERIAL CHEMICAL INDUSTIRES LIMITED AND UNION PACIFIC CORP.

Application and Opportunity for Hearing

OCTOBER 3, 1978.

In the matter of IMPERIAL CHEMICAL INDUSTRIES, File Nos. 2-53436 and 2-60564 and Union Pacific Corp. File Nos. 2-53284 and 2-55431.

Notice is hereby given that Imperial Chemical Industries Ltd., an English company ("Imperial"), and Union Pacific Corp., A Utah corporation ("UP"), have filed a joint application (the "application") under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission ("Commission") that the trusteeships of Morgan Guaranty Trust Co. of New York (the "Bank") under four existing indentures which are qualified under the Act (the "Four Qualified Indentures") and under two new indentures which are not qualified under the Act (the "Two New Indentures") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as trustee under any of the Four Qualified Indentures.

Imperial and UP allege that:

1. *Summary.* The application relates to a highly complex series of transactions. In essence, eight insurance companies in a private placement are buying notes issued under one new indenture from a corporation, which in turn re-lends the funds under the second new indenture to an affiliated partnership, which is building a petrochemical complex in Corpus Christi, Tex. The corporation and the partnership are ultimately controlled as follows: 37½ percent by Imperial; 37½ percent by UP; and 25 percent by Solvay & Cie, N.A., a Belgian corporation ("Solvay"). Imperial and UP each have certain ultimate obligations to put up cash if the partnership or the corporation defaults. Should these ultimate obligations make Imperial and UP "obligors" on the securities issued under the Two New Indentures, the application seeks a Commission finding that the trusteeship of the Bank under the Four Qualified Indentures is not so likely to involve a material conflict of interest as to disqualify the Bank from acting as trustee under any of the indentures.

2. (a) *1975 ICI Indenture.* The Bank, as Trustee, has entered into an Indenture dated as of June 1, 1975 (the "1975 ICI Indinture") with ICI North America Inc., a Delaware corporation ("ICI NA"), and Imperial pursuant to which $100,000,000 aggregate principal amount of ICI NA's 9.05 percent Guaranteed Sinking Fund Debentures due June 1, 1995 have been issued. These debentures are fully guaranteed by Imperial. Imperial's guaranty is wholly unsecured. The 1975 ICI Indenture was filed as Exhibit 4 to Registration Statement No. 2-53436 under the Securities Act of 1933 (the "1933 Act"), and has been qualified under the Act.

(b) *1978 ICI Indenture.* The Bank, as Trustee, has also entered into an Indenture dated as of January 15, 1978 (the "1978 ICI Indenture") with ICI NA and Imperial pursuant to which $175,000,000 aggregate principal amount of ICI NA's 8¾ percent Guaranteed Sinking Fund Debentures due January 15, 2003 have been issued. These debentures are fully guaranteed by Imperial. Imperial's guaranty is wholly unsecured. The 1978 ICI Indenture was filed as ICI NA's Exhibit 4(b) and Imperial's Exhibit 4 to Registration Statement No. 2-60564 under the 1933 Act and has been qualified under the Act.

(c) Hence, Imperial is an "obligor" with respect to the securities outstanding under two of the Four Qualified Indentures (ICI NA, also such an "obligor", is unrelated to the balance of this application).

(d) *1975 UP Indenture.* The Bank, as Trustee has entered into an Indenture dated as of May 1, 1975 (the "1975 UP Indenture") with UP pursuant to which $100,000,000 aggregate principal amount of UP's 8.60 percent Notes due 1983 have been issued. The 1975 UP Indenture was filed as Exhibit 2 Registration Statement No. 2-53284 under the 1933 Act and has been qualified under the Act.

(e) *1976 UP Indenture.* The Bank, as Trustee has entered into an Indenture dated as of March 1, 1976 (the "1976 UP Indenture") with UP pursuant to which $150,000,000 aggregate principal amount of UP's 8.40 percent Sinking Fund Debentures due 2001 have been issued. The 1976 UP Indenture was filed as Exhibit 2 Registration State-

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ment No. 2-55431 under the 1933 Act and has been qualified under the Act.

(f) *UP's Insecured Obligations.* The securities issued under the 1975 UP Indenture and the 1976 UP Indenture are wholly unsecured obligations of UP. Hence, UP is an "obligor" with respect to securities outstanding under two of the Four Qualified Indentures.

3. *New Unqualified Collateral Trust Indenture.* The Bank, as Trustee (the "Purchasers Trustees"), has entered into a Collateral Trust Indentures dated as of July 26, 1978 (the "Collateral Trust Indenture") with Corpus Christi Capital Corp., a New York corporation ("CCCC") pursuant to which up to $525,000,000 aggregate principal amount of CCCC's 9¼ Series A Secured Notes (the "Secured Notes") may be issued over a period of approximately two years. The Secured Notes are to be sold to eight insurance companies (the "Purchasers") pursuant to separate Secured Note Agreements dated as of July 26, 1978 between CCCC and Corpus Christi Petrochemical Co., a Texas general partnership ("CCPC"), on the one hand, and each of the Purchasers on the other hand. On July 26, 1978, $126,537,000 aggregate principal amount of Secured Notes were issued and sold to the Purchasers.

4. *New Unqualified Mortgage Note Indenture.* The Bank and Mr. Malcolm S. Nielson, as Trustees (the "Company Trustees"), have entered into an Indenture of Mortgage and Deed of Trust dated as of July 26, 1978 (the "Mortgage Note Indenture") with CCPC pursuant to which up to $525,000,000 aggregate principal amount of CCPC's 9¼ percent Series A Mortgage Notes (the "Mortgage Notes") may be issued. The Mortgage Notes are to be sold to CCCC pursuant to a Mortgage Note Agreement dated as of July 26, 1978 between CCPC and CCCC. On July 26, 1978 a Mortgage Note in the principal amount of $126,537,000 was issued and sold to CCCC. The Collateral Trust Indenture and the Mortgage Note Indenture have not been qualified because the issuer alleges that the sale of the securities issued thereunder is exempt as a private placement under the applicable provisions of the Securities Act of 1933 and the Act.

5. *Ownership of CCCC.* The stock of CCCC is owned as follows:

(a) 37½ percent by ICI Petrochemicals Inc., a Delaware corporation ("ICI Petrochemicals"), which is a wholly-owned subisidiary of ICI Americas Inc., a Delaware corporation ("ICI Holdings"), which is a wholly-owned subsidary of Imperial;

(b) 37½ percent by Champlin Petrochemicals, Inc., a Delaware corporation ("Champlin Petrochemicals"), which is a wholly-owned subisidiary of Champlin Petroleum Co., a Delaware corporation ("Champlin Petroleum"), which is a wholly-owned subsidiary of UP; and

(c) 25 percent by Soltex Petrochemicals, Inc., a Delaware corporation ("Soltex Petrochemicals"), which is a wholly-owned subsidiary of Soltex Polymer Corp., a Delaware corporation ("Soltex Polymer"), which is a wholly-owned subsidiary of Solvay.

6. *Ownership of CCPC.* ICI Petrochemicals, Champlin Petrochemicals and Soltex Petrochemicals (each a "Partner" and collectively, the "Partners") are also the partners in CCPC, having partnership interests in CCPC in the same portion as their respective stock ownership interests in CCCC.

7. *Investment in Petrochemical Complex.* CCCC will apply the proceeds from the issuance to the Purchasers of Secured Notes to the purchase of CCPC's Mortgage Notes, which have financial terms identical to the Secured Notes and which will be pledged with the Bank, as Purchasers Trustee under the Collateral Trust Identure, as security for the Secured Notes. CCPC will use the proceeds from the issuance of its Mortgage Notes to finance the construction of a petrochemical complex and related facilities (the "Project") in Corpus Christi, Texas. The Mortgage Notes pledged under the Collateral Trust Indenture will be secured by a security interest in the Project in favor of the Company Trustees under the Mortgage Note Indenture. Thus the Secured Notes issued to the Purchasers will be indirectly secured by a security interest in the Project.

8. *Chain of Payment Commitments from Intermediary Corporation.* In addition, CCPC has entered into Partner Cash Deficiency Agreements dated as of July 26, 1978 (the "Partner Cash Deficiency Agreements") with each Partner has agreed to pay directly to the Purchasers Trustee its percentage (37½ percent in the case of the Imperial and UP subsidiaries) of amounts due and payable but unpaid by CCPC with respect to the Mortgage Notes. Amounts so paid will be applied by the Purchasers Trustee to amounts due with respect to the Secured Notes and extinguish the corresponding liability of CCPC on the Mortgage Notes.

CCPC has also entered into Direct Parent Financing Agreements dated as of July 26, 1978 (the "Direct Parent Financing Agreements") with ICI Americas and ICI Holdings (acting jointly and severally), Champlin Petroleum and Soltex Polymer (each a "Direct Parent" and collectively, the "Direct Parents"), pursuant to which each Direct Parent has agreed to pay directly to the Purchasers Trustee any amounts which the Partner subsidiary of such Direct Parent fails to pay pursuant to its Partner Cash Deficiency Agreement.

9. *Payment Obligations of Ultimate Parents.* Finally, CCPC has entered into Ultimate Parent Financing Agreements dated as of July 26, 1978 (the "Ultimate Parent Financing Agreements") with Imperial, UP and Solvay (each an "Ultimate Parent" and collectively, the "Ultimate Parents"), pursuant to which each Ultimate Parent has agreed to pay directly to the Purchasers Trustee any amounts which the Direct Parent subsidiary of such Ultimate Parent fails to pay pursuant to its Direct Parent Financing Agreement.

10. *Unsecured Nature of Respective Payment Obligations.* The payment obligations contained in the Partner Cash Deficiency Agreements, the Direct Parent Financing Agreements and the Ultimate Parent Financing Agreements are unsecured general obligations of the respective corporations.

The rights of CCPC to enforce certain covenants in such agreements have been assigned to the Company Trustees as security for the Mortgage Notes. However, the assigned covenants are not for the payment of money and, in the case of Imperial and UP, rather related merely to the maintenance of corporate existence of the obligors and other similar matters.

11. *Additional Unsecured Payment Obligations.* Still another set of agreements and obligations serves to "back up" payment of the Secured Notes. CCPC has entered into a Pipeline Service Agreement dated as of July 26, 1978 (the "Pipeline Service Agreement") with South Texas Pipeline Co., a Delaware corporation ("STPC"), whose capital stock is owned by the Direct Parents as follows: ICI Americas: 37½ percent, Champlin Petroleum: 37½ percent and Soltex Polymer: 25 percent. In the Pipeline Service Agreement, STPC has agreed to develop, construct, maintain, operate and, in certain events, expand pipelines to be used by CCPC to ship the ethylene and propylene produced by the Project to storage facilities or to market. CCPC has entered into Shareholder Pipeline Agreements dated as of July 26, 1978 (the "Shareholder Pipeline Agreements") with the Direct Parents pursuant to which each Direct Parent has agreed to pay to STPC its share of amounts necessary to enable STPC to pay all of its costs, expenses, liabilities, obligations and charges. In addition, CCPC has entered into Pipeline Guaranty Agreements") with the Ultimate Parents pursuant to which each Ultimate Parent guarantees the performance by its Direct Parent subsidiary of its payment obligations under such Direct Parent's Shareholder Pipeline Agreement. The payment obligations of the Direct Parents and Ultimate Parents in the Shareholder Pipeline Agreements and Pipeline Guaranty Agreements, respectively, are unsecured general obligations of the obligors thereon.

12. *Pledges of Shares.* ICI Americas, Champlin Petrolem and Soltex Polymer have also entered into Pledge Agreements dated as of July 26, 1978 with the Purchasers Trustee, as Pledgee, pursuant to which each such company has pledge its shares of STPC stock with the Purchasers Trustee as further security for the Secured Notes. Neither Imperial nor UP has made any pledge in connection with these transactions.

13. *Relevant Provisions of ICI Indenture.* Under sections 8.08(c)(1) of the two ICI Indentures, the Bank shall not be deemed to have a conflicting interest by reason of being trustee under another indenture under which any other securities are outstanding where Imperial is an "obligor" if Imperial shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the two ICI Indentures and such other indenture are not so likely to involve a material conflict of interest to disqualify the Bank from acting as Trustee under one of such Indentures.

14. *Relevant Provisions of UP Indentures.* Similar provisions are contained in Sections 608(c)(1) of the two UP Indentures with respect to trusteeships held by the Bank under other indentures relating to securities where UP is an "obligor".

15. *Other Pertinent Provisions of the Four Qualified Indentures.* No default has at any time existed under any of the Four Qualified Indentures. The obligations of Imperial and UP in respect of the securities issued under such Indentures and, pursuant to their Ultimate Parent Financing Agreements and the Pipeline Guaranty Agreements, in respect of the Secured Notes and the Mortgage Notes are wholly unsecured and rank pari passu with their respective obligations under the Four Qualified Indentures. The two ICI Indentures contain covenants of Imperial relating to limitations on liens and sale and lease-backs. The two UP Indentures contain covenants of UP relating to limitations on liens, limitations on disposition of certain assets and limitations on dividends and other payments on account of stock. The Ultimate Parent Financing Agreements and the Pipeline Guaranty Agreements include no comparable covenants.

16. *No Likelihood of Material Conflicts of Interest.* The respective obligations of (a) Imperial under the two ICI Indentures and under Imperial's Ultimate Parent Financing Agreement and Pipeline Guaranty Agreement and (b) UP under the two UP Indentures and under UP's Ultimate Parent Financing Agreement and Pipeline Guaranty Agreement are all wholly unsecured and rank pari passu and are therefore not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of such Indentures.

Imperial and UP state that the application assumes, without conceding, that the obligations of Imperial and UP under their respective Ultimate Parent Financing Agreement and Pipeline Guaranty Agreements could be deemed to make them "obligors" on the Secured Notes or Mortgage Notes, or both. Imperial and UP submit that, but for the obligations of the Ultimate Parents under the Ultimate Parent Financing Agreements to make payments directly to the Bank, as Purchasers Trustee, the application would not be necessary.

Imperial and UP have waived notice of hearing and any and all rights to specify procedures under the rules of practice of the Securities and Exchange Commission in connection with the matter.

For a more detailed statement of the matters of fact and law asserted here, all persons are referred to said application, which is a public document on file in the offices of the Commission, at the Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than October 24, 1978 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission, may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

(FR Doc. 78-28711 Filed 10-11-78; 8:45 am.)

[8010-01-M]

[Release No. 10424; 812-4355]

CAPITAL FUND OF AMERICA, INC., AND NEW PERSPECTIVE FUND, INC.

Application for an Order Exempting Proposed Transaction

OCTOBER 13, 1978.

Notice is hereby given that Capital Fund of America, Inc. ("CAP"), Two Embarcadero Center, P.O. Box 7650, San Francisco, CA 94120, and New Perspective Fund, Inc. ("NPF"), c/o Thomas E. Terry, Esq., 611 West Sixth Street (32d floor), Los Angeles, CA 90017 (hereinafter collectively referred to as "Applicants") have filed an application on August 23, 1978, and an amendment thereto on September 28, 1978, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order exempting from the provisions of section 17(a) of the Act a proposed sale of substantially all of CAP's assets to NPF. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

CAP was incorporated in the State of Delaware on April 4, 1960, and is registered under the Act as an open-end diversified management investment company having, as of June 30, 1978, 12,280,236 shares outstanding and net assets of $94,355,450. NPF, also a registered open-end diversified management investment company, was incorporated in the State of Maryland on September 5, 1972, and as of June 30, 1978, had net assets of $173,281,077 with 9,709,815 shares outstanding. Capital Research and Management Co. ("CRMC") is the investment adviser for both CAP and NPF.

The Applicants propose to enter into an Agreement Plan of Reorganization ("Agreement") under which NPF will purchase the assets and assume the liabilities of CAP. The application states that, before such transactions become effective, the following contingencies must occur: (1) The Agreement must be approved by a majority vote of the shareholders of CAP; (2) legal counsel to each Applicant must furnish an opinion that the transaction will constitute a tax-free reorganization; (3) the Order requested herein must be issued; and (4) issuance of any other orders of State or Federal regulatory authorities which may be necessary. The Applicants assert that the Agreement contains customary warranties and representations by each Applicant, the truth and correctness of which are also conditions precedent to the consummation of the reorgani-

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zation. The above-mentioned shareholders vote is proposed to occur at a special meeting of CAP shareholders called for that purpose and which is scheduled for October 23, 1978. The proposed effective date of the reorganization is November 3, 1978.

If the Agreement is consummated, the Applicants state that the assets and liabilities of CAP will be transferred to NPF in exchange for that number of full and/or fractional shares of NPF which will have an aggregate net asset value equal to the total net asset value of CAP. CAP will then distribute to each of its shareholders NPF shares the aggregate net asset value of which is equal to the net asset value of such shareholder's CAP shares. Net asset value per share is to be determined by each Applicant in the manner described in their respective prospectuses and will be calculated at the close of the New York Stock Exchange on the effective day of the reorganization; provided, however, that should the Exchange not be open on that date, the calculation will be based on the last preceding date on which the Exchange was open, but in no event more than 3 days prior to the effective date of the reorganization. Following distribution of NPF shares to its shareholders in the manner proposed, CAP intends to dissolve pursuant to the Corporation Law of the State of Delaware.

The Application states that as of May 31, 1978, CAP had a capital loss carry-over of approximately $73,200,000, of which $5,800,000, $22,300,000, $31,000,000, and $14,100,000 may be used to offset capital gains during the years 1979, 1981, 1982, and 1983, respectively. As of that same date, CAP had net realized gains of approximately $2,600,000 and net unrealized gains of $10,200,000. The application further states that, as of May 31, 1978, NPF had no capital loss carryovers, but that it had net realized gains of $5,900,000, which will be distributed prior to the effective date of the reorganization, and $37,600,000 of unrealized capital gain. According to the application, Applicants respective Boards of Directors have concluded that the value of the capital loss carryovers is not readily determinable and would be largely a matter of speculation. The Boards have therefore recommended that no adjustment be made to Applicants net asset values to reflect any potential income tax effect on their shareholders resulting from their respective tax positions.

Prior to the effective date of the reorganization, CAP states that it will distribute to its shareholders a dividend consisting of substantially all its net taxable income.

Applicants believe that the combination of CAP and NPF will produce lower proportionate expenses due to the economies of scale which may be achieved through the spreading, over Applicants combined assets, of such fixed expenses as: (1) Audit, accounting and legal fees; (2) qualification of shares in the various jurisdictions where shares are sold; (3) preparation and printing of stockholder reports, prospectuses and proxy materials; and (4) custodian fees and other expenses. According to the application, the expense ratio of CAP for the fiscal years ending November 30, 1975, 1976, and 1977 were 0.8 percent, 0.86 percent, and 0.94 percent, respectively. The expense ratios of NPF for the last 3 fiscal years ending September 30, 1975, 1976, and 1977 were 0.99 percent, 0.95 percent, and 0 99 percent, respectively. It is asserted by the Applicants that, had the Applicants been combined for the 12 months period ending May 31, 1978, the expense ratio would have been approximately 0.92 percent. The exhibits attached to the application disclose that the number of shares outstanding of CAP has decreased from 24,670,000, at the close of the November 30, 1971 year to 14,582,000 for the 6 months ending May 31, 1977. The application further states that, in a declining stock market situation, with the reduced number of CAP shares outstanding, the problem of increasing expense ratios could become particularly acute.

It is asserted in the application that the Directors of the Applicants considered the timing of the reorganization and chose to recommend the period between the close of NPF's fiscal year (September 30) and the conclusion of CAP's fiscal year (November 30) as the most beneficial time for the reorganization. According to Applicants, while CAP's capital loss carryovers are of indeterminate value, they are of potential value. By effecting the reorganization during the above period, acceleration of the expiration of capital loss carryover periods will, according to the application, be minimized. After balancing the cost of delaying the anticipated savings in operating expenses, the loss of a portion of the capital loss carryover, and the probability of shareholder approval of the reorganization against the expected costs of the special shareholders meeting, the Board of Directors of CAP considers it desirable and in the best interest of its shareholders to effect the reorganization during the above mentioned period.

According to the application, each of the Applicants proposes to pay its own expenses incurred in connection with the reorganization. Applicants estimate that CAP will incur expenses of $40,000, including the cost of its special shareholders meeting, and that approximately $35,000 of expenses will be incurred and borne by NPF. In addition, Applicants estimate that between $15,000 and $20,000 of brokerage commissions will be generated by reason of the elimination of securities presently held by CAP, which are not fully compatible with NPF's objectives. It is proposed that such elimination take place following the effective time of the reorganization.

The application describes the primary investment objective of both CAP and NPF as long term growth of capital. The stated secondary objective of CAP is current income, while the secondary objective of NPF is the production of future income. CAP invests primarily in common stocks of both foreign and domestic corporations while NPF invests primarily in common stock and securities convertible into common stock. NPF is authorized to have up to 40 percent of its investments in foreign securities.

The application states that both Applicants have the same investment adviser, CRMC, which is a subsidiary of the Capital Group, Inc. The Investment Advisory and Service Agreement between CRMC and NPF provides for a fee payable to the adviser of 0.75 of 1 percent per year on the first $160,000,000 of NPF's net assets, plus 0.50 of 1 percent of net assets over $160,000,000 but less than $600,000,000, and 0.45 of 1 percent on net assets in excess of $600,000,000. The investment Advisory and Service Agreement between CRMC and CAP provides for a fee of 0.50 of 1 percent per year on net assets up to $150,000,000 and 0.40 of 1 percent per year on net assets in excess of that amount. The Applicants state that, had the reorganization been in effect on May 31, 1978, the pro forma fee paid to the investment adviser would have been at a rate of 0.65 of 1 percent of the combined assets. According to the application, at present asset levels, the fees payable to CRMC will not be increased by reason of the proposed reorganization.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell or to purchase from such registered company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company involved and with the general purposes of the Act. While Applicants do not concede that they are affiliated persons of each other, or that they are affiliated persons of such persons, they acknowledge that the view has been taken that registered investment companies have a common investment adviser are under that adviser's common control and therefore are affiliated persons of each other. Applicants have, therefore, filed this application to avoid any question being raised under section 17(a) of the Act with respect to the proposed transaction.

The Applicants assert that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person.

Applicants further assert that the transaction is consistent with the policies of each of them and is consistent with the general purposes of the Act. The Applicants assert that the shareholders of both will benefit from the spreading of relatively fixed costs over the combined assets of the Applicants. Applicants concede that the shareholders of CAP are not expected to see an immediate substantial reduction in the expense ratio; however, Applicants assert that, in the future, the combined fund should experience certain economies of scale since there would be a larger asset base to absorb fixed costs.

Notice is further given that any interested peson may, not later than October 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof-of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28798 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Rel. No. 20723; 70-6207]

CENTRAL POWER & LIGHT CO.

Proposed Settlement Agreement Involving Subsidiary's Receipt of Interest in a Trust Holding Securities

OCTOBER 14, 1978.

Notice is hereby given that Central Power & Light Co. ("CPL"), P.O. Box 2121, Corpus Christi, Tex. 78403, an electric utility subsidiary company of Central & South West Corp., a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 thereof as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

CPL seeks authority to enter into a settlement agreement in its suit against Coastal States Gas Producing Co. ("Producing"). Such settlement, which is further described below, involves CPL's acquisition of a security and of an option on coal properties, both of which acquisitions are subject to the approval of this Commission.

In 1974 CPL sued Producing, a subsidiary of Coastal States Gas Corp. ("Coastal"), alleging contractual violations by Producing and its subsidiary, Lo-Vaca Gathering Co. ("Lo-Vaca"), CPL's principal gas supplier, and seeking damages of $623 million. Some 400 other customers of Lo-Vaca and Producing filed claims against them, mainly in the 200th Judicial District Court of Travis County, Tex. ("District Court"). On December 12, 1977, the Railroad Commission of Texas ("Railroad Commission"), which has jurisdiction over rates charged for intrastate sales of natural gas, ordered refunds to customers of Lo-Vaca and Producing of about $1,600 million. On March 10, 1978, the Railroad Commission granted a rehearing with respect to its December 12 order and on August 7, 1978, determined that the proposed settlement agreement, tentatively agreed to by customers representing over 90 percent of Lo-Vaca's 1975 sales volume, was a viable alternative to its December 12 order.

Under the settlement agreement CPL will receive as consideration for its dismissal of the 1974 suit and its release of any liability of Producing and Lo-Vaca under it, an appoximate 9.7 percent interest in the settlement trust and an approximate 10.6-percent interest in the gas search program described below.

The settlement agreement provides that Producing will be reorganized and renamed Valero Energy Corp. ("Valero"), all of whose common stock will be initially held by Coastal but which will be distributed as a dividend to the holders of Coastal common stock. Most of the Texas gas pipeline assets currently owned by Producing and its subsidiaries, including Lo-Vaca, will be owned by Valero. In addition, certain lignite properties owned by Coastal, located in the Texas counties of Bastrop, Fayette, and Washington, will be sold by Coastal at book value to a newly created subsidiary of Valero. CPL and three other settling customers (the city of Austin, Tex., the Lower Colorado River Authority and the City Public Service Board of San Antonio, Tex.) will have a 2-year option to purchase such properties at net book value. Exercise of such option by CPL will require separate authorization from this Commission.

A banking corporation appointed by the District Court will administer the settlement trust, to be established pursuant to the settlement agreement, for the benefit of all settling customers of Lo-Vaca and Producing. There will be transferred to the settlement trustee the following securities, which will constitute the corpus of the settlement trust: (1) Approximately 1,196,218 shares of Coastal common stock; (2) 13.4 percent of the outstanding common stock of Valero; (3) 1,150,000 shares of Valero's $8.50 cumulative preferred stock, series A ($115 million aggregate liquidation value); and (4) a promissory note of Valero in the amount of $8 million, due in 1 year. The settlement trustee is required to use its best efforts to sell the trust securities by public or private sale for cash within 7 years, and distribute the net proceeds from such sales to the settling customers on a pro rata basis. The settling customers have no right to control the sales of or to vote the securities in the trust.

The settlement agreement also provides that Coastal will enter into a gas search agreement to find and develop reserves which will be sold by Coastal at current prices to Lo-Vaca customers. Coastal will be entitled to fixed prices for the natural gas sold and any difference between the fixed prices in the gas search agreement and the then current market price will be paid to the settlement trustee for distribution to the settling customers. Coastal's obligation is to expend a minimum of $180 million and a maximum of $240 million over a period not longer than 15 years, upon such pro-

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gram. Coastal will issue note obligations to the settlement trustee subject to payment in the event the necessary expenditures are not made in the amount or in the periods required by the gas search agreement.

The settlement agreement is subject to the favorable resolution of certain Federal tax questions, certain questions under the Securities Act of 1933, approval by customers representing at least 90 percent of the gas sales volume of Lo-Vaca in 1975, approval by certain creditors of Coastal and Producing, the approval of the District Court and the meeting of certain other conditions.

CPL proposes to account for the settlement by debiting Account No. 124, Other Investments—Investments in Lo-Vaca Settlement Trust, and crediting Account No. 253, Other Deferred Credits—Deferred Credits Lo-Vaca Settlement Trust, for the estimated value of CPL's interest in the securities to be issued to the settlement trust. As funds are distributed by the settlement trustee, CPL will credit such amounts to its investment and write off a like amount from other deferred credits to fuel expense, thus passing such benefits to its customers through its fuel adjustment clause. Proceeds received from the settlement trustee as a result of the gas search program will be credited to fuel expense as received and thus passed through to customers through the fuel adjustment clause.

The fees and expenses to be incurred by CPL in connection with the proposed transactions are estimated at $7,000, including legal fees of $4,000. The Railroad Commission of Texas has jurisdiction over the proposed transaction. No other State commision and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 1, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 89-28799, Filed 10-11-78; 8:45 am]

[8010-01-M]

[Rel. No. 20722; 70-5769]

CENTRAL POWER & LIGHT CO.

Proposed Increase in Fuel Exploration and Development Budget

OCTOBER 14, 1978.

Notice is hereby given that Central Power & Light Co. ("CPL"), P.O. Box 2121, Corpus Christi, Tex. 78403, an electric utility subsidiary of Central & South West Corp. ("CSW"), a registered holding company, has filed with this Commission a posteffective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 thereof as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 29, 1977 (HCAR No. 20352), CPL was authorized to expend up to $8,192,000 for the year ending December 31, 1978, for fuel exploration and development activities. Approximately $3,036,000 of such amount represented budgeted expenditures for oil and gas ventures to be conducted in south Texas, and $5,156,000 represented budget expenditures for coal, lignite, and uranium reserves, all of which are conducted in joint ventures with other CSW utility subsidiaries.

By posteffective amendment CPL requests an increase in its budget authorization from $8,192,000 to $9,192,000 for the year ending December 31, 1978. CPL estimates the additional $1 million of expenditures will be required beyond the $3,036,000 tentatively allocated for oil and gas exploration and development in 1978, for previously nonbudgeted expenditures described below.

Approximately $713,500 of nonbudgeted expenditures will be required for the drilling ($612,000) and, if drilling is successful, the completion ($101,500) of a 12,000-foot test well on State tract 125 in the Bartell's Pass area of Aransas County, Tex. It is stated that drilling on such site was originally scheduled for January 1979, but has become possible earlier since a drilling rig has recently become available. Approximately $700,500 of nonbudgeted expenditures will also be required for the drilling ($488,500) and completion ($212,000) of an 11,000-foot test well on a tract on the Morales Prospect in Starr County, Tex. Recent acquisitions by CPL in this area include leases which begin to expire at the end of 1978. CPL states that such lease expirations would deny it a coherent tract upon which to conduct exploration and development activities and seriously impair its ability to assemble similar tracts in the future. Expenditures for this drilling were not included in the 1978 budget because lease acquisitions on this prospect were not expected to be completed in time for drilling to commence in 1978.

CPL estimates that $500,000 of the $1,414,000 additional expenditures described above could be absorbed by the unexpended portions of the tentative allocation for oil and gas in its currently authorized fuel budget. CPL requests an additional $1 million authorization to cover the $914,000 additional expenditures which cannot be absorbed in the budget and allow a small margin for possible additional lease acquisitions. CPL states that it had spent $2,025,124.72, or approximately 67 percent of the $3,036,000 tentative allocation for such activities, for oil and gas exploration and development from January 1, 1978, through August 31, 1978.

The additional fees and expenses to be incurred in connection with the proposed transaction are estimated at $1,000. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 1, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as further amended by said posteffective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said posteffective amendment, or as it may be further amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28800 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Release No. 5967; 18-21]

DEFERRED COMPENSATION AND SAVINGS PLAN OF BAKER & BOTTS

Filing of Application for an Order Exempting From Provisions

OCTOBER 15, 1978.

Notice is hereby given that Baker & Botts, 3000 Shell Plaza, Houston, Tex. 90071 a law firm organized as a partnership under the laws of the State of Texas ("Applicant"), on September 18, 1978, filed an application for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Baker & Botts deferred compensation and savings plan (the "Plan"). All interested persons are refered to that application, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

INTRODUCTION

Applicant's plan provides that partners and employees of the Applicant are eligible to participate therein if they have completed the requisite hours of service and received admissible annual compensations (i.e., the portion of the first $100,000 of their annual earnings in excess of the maximum considered wages for FICA tax purposes for such year). Participation in the Plan by eligible partners and employees of Applicant is mandatory, and each eligible employee is automatically admitted to participation as of the first anniversary date following his commencement of service of a Plan year during which he or she received admissible annual compensation and during which either: (i) He or she completed 1,000 or more hours of service or (ii) he or she completed an employment year which ended with or within such Plan year and within which he or she completed 1,000 or more hours of service.

The Plan is a trusteed profit-sharing plan which covers persons (in this case Applicant's partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, as amended (the "Code") and, therfore, is excepted from the exemption provided by section 3(a)(2) of the Act for interests or participations in certain employee benefit plans of corporate employers.

Section 3(a)(2) of the Act provides, however, that the Commission may exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant represents that the Plan was adopted effective as of January 1, 1968, and was amended and restated in its entirety, effective as of January 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant has adopted the second amendment which makes certain changes in the vesting rules under the Plan and other nonsubstantive changes to comply with recent Internal Revenue Service and Department of Labor Regulations. In connection with these amendments to the Plan, Applicant has applied to the Internal Revenue Service ("IRS") for a determination that the Plan, as amended, will continue to be qualified under section 401(a) of the Code. Applicant requests that the Commission assume that the IRS will rule favorably as to the qualification of the Plan.

Applicant states that, under the Plan, contributions to the Plan are made by Applicant based on a percentage of the participating employees' admissible annual compensation. In addition, an active participant may make voluntary additional contributions to the Plan for his or her account subject to limitations as to the amount set forth in the Plan. Such voluntary contributions may be withdrawn by a participant upon notice to the trustee. Each participant may designate annually the percentage of the contributions for his or her account to be invested in either of two investment funds: An equity fund and a fixed income fund, maintained by the trustee, the Texas Commerce Bank of Houston, Tex. In addition, each participant may elect annually to transfer all or part of his or her account in one investment fund to the other. In the event a participant does not designate the fund into which contributions on his or her behalf are to be paid, they will be invested in the fixed income fund.

Applicant represents that the Plan is administered by a committee (the "Committee") consisting of three to five persons each of whom may or may not be a participant in the Plan. The Committee has overall responsibility and authority for administration of the Plan, including interpretation of the provisions of the Plan, establishment and enforcement of rules and regulations relating to administration of the Plan, determination of the amounts of benefits which shall be payable to any person in accordance with the Plan and authorization of payment of such benefits and of the proper expenses of administering the Plan.

Applicant states that the assets of the Plan will be held in a trust for the exclusive benefit of Plan participants or their beneficiaries. Each participant may designate annually the percentage of the contributions for his or her account to be invested in either of the two investment funds. In addition, each participant may elect annually to transfer all or part of his or her account in one investment fund to the other. In the event a participant does not designate the fund into which contributions on his or her behalf are to be paid, they will be invested in the fixed income fund. The administrative committee has the power to appoint and to remove investment managers with respect to Plan assets. Applicant has retained power to amend the Plan, subject to the conditions that no amendment will cause any of the Plan's assets to be used or diverted to any purpose other than the exclusive benefit of participants, former participants or their beneficiaries.

The Plan is subject to the reporting and disclosure requirements of the Employee Retirement Income Security Act of 1974 ("ERISA"). A summary plan description has been delivered to each participant and person currently receiving benefits and Applicant represents it will continue this practice. Certain forms and reports to which the participants have access have been filed with the IRS and Department of Labor and Applicant represents that such reports will be filed on a timely basis in the future as required under applicable regulations.

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DISCUSSION

Applicant contends that if Applicant were a corporation, rather than a partnership, interests or participations issued in connection with the Plan would be exempt from registration under section 3(a)(2) of the Act. Applicant further represents that the Plan assets are not commingled in collective investment media with the assets of any plan of any other employer; that the Plan is subject to the fiduciary standards and reporting and disclosure requriements of ERISA; that the Applicant has retained substantial administrative control of the Plan, including ultimate control over investment policies; that the Applicant is engaged in providing legal services involving sophisticated and complex financial matters and can adequately represent its and its employees' interests; and that no solicitation of voluntary contributions has been or will be made.

Applicant submits that, in light of the foregoing, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than October 30, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing theron. Any such communication shall be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following October 30, 1978, unless the Commission therafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28301 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Release No. 20721; 70-6210]

GEORGIA POWER CO.

Proposal To Lease Hopper Cars

OCTOBER 3, 1978.

Notice is hereby given that Georgia Power Co. ("Georgia"), 270 Peachtree Street NW., Atlanta, Ga. 30303, an electric utility subsidiary of the Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act ("Act"), designating sections 9(a) and 10 of the Act and rule 23 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Georgia proposes to enter into a lease arrangement ("Lease") with GATX/G.P. Leasing Corp. ("Lessor") with respect to 150 Ortner rapid discharge open-top hopper cars ("cars"). The cars are currently on order from the Ortner Freight Co. ("Ortner") at a quoted price of $37,000 per car (Lessor's total purchase price $15,550,000). Delivery of the cars to Georgia is scheduled to commence on November 13, 1978, at a rate of 15 cars per week. Under the terms of the arrangement with Lessor, Georgia will be treated as the purchaser of "new section 38 property", pursuant to I.R.C. section 48(d) in order that the investment tax credit be available to Georgia.

The terms of the lease provide, among other things, that the cars will be divided into two groups, group A to include those cars delivered on or before December 31, 1978 (approximately 88 cars), and group B to include those cars delivered between January 1, 1979, and April 1, 1979 (approximately 62 cars); that Georgia will make semiannual rental payments for each group at a rate estimated to be between 5.1 percent and 5.6 percent of the Lessor's purchase price, stated above, such rental rate being subject to certain enumerated financial variables; that Lessor will enter into a car service agreement and will maintain or cause to be maintained the cars at the rate of cost plus 15 percent if maintenance work is performed by Lessor and cost plus 5 percent for maintenance performed elsewhere; that the Lease will be a net financial lease with all fixed expenses, other than Lessor's net income taxes, to be paid by Georgia; and that Georgia may, with at least 120 days prior written notice, renew such Lease for all of the Equipment for its then Fair Rental Value. Georgia contemplates utilizing all of the cars for its own purposes throughout the Lease term; in the event, however, any of the cars are subleased, Georgia would account for the proceeds therefrom by crediting FERC account 151, such account previously having been properly charged with the Lease expense.

Georgia states that neither Ortner nor Lessor is affiliated with Georgia and that the terms of the Lease, negotiated at arm's length, are competitive with the terms which would otherwise be available in the market. Georgia currently leases 874 other coal cars under a similar lease with Lessor. Georgia believes that the terms of the Lease are fair and reasonable and that it is in the best interests of Georgia's investors and consumers. Georgia further states that Lessor is a large company with considerable experience and expertise in leasing and maintaining coal cars, and that Lessor's particular combination of qualifications is a unique and necessary feature in Lessor's obligations to maintain Georgia's coal cars.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transaction will be filed by amendment. Georgia believes that the proposed transaction may be construed under Georgia law as an issue of an "evidence of debt" (Ga. Code Ann. Section 93-414) and accordingly may require approval of the Georgia Public Service Commission ("GPSC"). Application for such approval will be made and any order of decision thereon will be filed by amendment hereto. It is stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be address: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application, as filed

or as it may be amended, may be granted effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28302 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Release No. 10427; 812-4361]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASSMUTUAL CORPORATE INVESTORS, INC.

Filing of Application for Order

OCTOBER 5, 1978.

Notice is hereby given that Massachusetts Mutual Life Insurance Co. ("Insurance Company"), 1295 State Street, Springfield, Massachusetts 01111, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and MassMutual Corporate Investors, Inc. ("Fund"), a nondiversified, closed-end, management investment company registered under the Investment Company Act of 1940 ("Act") (hereinafter collectively referred to as "Applicants"), filed an application on August 31, 1978, pursuant to section 17(d) of the Act and rule 17d-1 thereunder, for an order of the Commission permitting the Insurance Company to purchase at direct placement a 12-year mortgage loan in the amount of $1,400,000 at 9¾ percent interest (the "Mortgage Loan") of Aberdeen Manufacturing Corp. ("Aberdeen") secured by a first mortage on real property. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that pursuant to an order of the Commission issued on August 19, 1971 (Investment Company Act Release No. 6690, referred to herein as the "Order"), the Insurance Company, which acts as investment adviser to the Fund, is permitted to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement, and to exercise warrants, conversion privileges and other rights at the same time as the Fund. Among the conditions of the order are that neither the Insurance Company nor the Fund, unless otherwise permitted by order of the Commission, may acquire any further interest in the issuer or in any affiliated person of the issuer or in securities issued by such issuer or affiliated person, other than interests in all respects identical.

The application states that the Insurance Company has been offered for purchase, at direct placement, the Mortgage Loan of Aberdeen, secured by a first mortgage on real property in Kaufman, Tex., and that the Insurance Company will be the sole purchaser of the Mortgage Loan if it secures the order requested by the application. The Insurance Company states that Aberdeen intends to apply the proceeds from the sale of the Mortgage Loan to provide long-term financing for a 156,250 square foot light manufacturing and warehouse building located in Kaufman, Tex., on an irregular site of approximately 14.2 acres. The application states that the land and the improvements subject to the proposed first mortgage lien have been valued by the Insurance Company at $1,670,000.

The application state that the Insurance Company holds $1,454,500 in principal amount of Aberdeen 7¾ percent senior notes due 1989; $390,000 in principal amount of Aberdeen 5¾ percent convertible subordinated debentures due 1988; and $5,000,000 in principal amount of Aberdeen 9½ percent senior notes due 1992 (collectively referred to as the "Insurance Company-Held Aberdeen Securities"). The Insurance Company and the Fund each hold the following Aberdeen securities: (1) $962,500 in principal amount of Aberdeen 9 percent senior notes due 1989, and (2) $500,000 in principal amount of Aberdeen 7¼ percent convertible senior notes due 1989 collectively referred to as the "Jointly Held Aberdeen Securities"). The application further states that the 7¼ percent convertible senior notes are convertible into shares of common stock of Aberdeen presently at $9.26 per share, and that the AMEX-Composite closing price for a share of Aberdeen common stock was $9.125 as of August 25, 1978. Applicants state that neither the Insurance Company or any affiliated person nor the Fund or any affiliated person of the Fund own any securities of Aberdeen other than those described above.

Applicants submit that, unless the relief they seek is granted, the aforementioned condition of the order, which was issued pursuant to section 17(d) of the Act and rule 17d-1 thereunder, would preclude the Insurance Company from acquiring the Mortgage Loan.

Section 17(d) of the Act and rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that the investment opportunity presented to the Insurance Company by the Mortgage Loan is not less advantageous to the Fund than to the Insurance Company and is consistent with the provisions, policies and purposes of the Act. The Fund's investment policy specifies that the principal investments of the Fund will be long-term obligations and, occasionally, preferred stocks, purchased directly from the issuers, if such obligations or preferred stocks have equity features such as accompanying shares of common stock or rights to acquire, or to convert such obligations or preferred stocks into, such shares. Applicants assert that the Mortgage Loan does not have any accompanying equity features and, therefore, would not be an investment permitted by the investment policies of the Fund. Applicants further assert that the Fund is not designed as a vehicle for mortgage investment.

Applicants state that at the time of the purchase of the Jointly-Held Aberdeen Securities in 1973, and the purchase by the Insurance Company of the Aberdeen 9½ percent senior notes in 1977, the Insurance Company did not contemplate any investment in the Mortgage Loan, nor were the purchases of the Insurance Company-Held Aberdeen Securities or the Jointly-Held Aberdeen Securities tied to or induced by any discussions with respect to the purchase and sale of the Mortgage Loan or any similar securities. Applicants further state that there is no connection between the purchasers of the Insurance Company-Held Securities or the Jointly-Held Aberdeen Securities and the proposed issuance and sale of the Mortgage Loan to the Insurance Company other than the fact that the Insurance Company, continued a relationship with Aberdeen at the time of the acquisitions of the Insurance Company-Held Aberdeen Securities and the Jointly-Held Aberdeen Securities.

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The application states that in the judgement of the Insurance Company, the Mortgage Loan would be an attractive investment for the Insurance Company. Applicants state that the purpose of the application is to avoid disadvantage to the Insurance Company, which they assert will occur if the Insurance Company is not permitted to invest in the Mortgage Loan.

Notice is further given that any interested person may, not later than October 30, 1978 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28803 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Rel. No. 20724; 70-6181]

OHIO POWER CO. AND CENTRAL OHIO COAL CO.

Proposed Bank Borrowing by Subsidiary Coal Company

OCTOBER 5, 1978.

Notice is hereby given that Ohio Power Co. ("Ohio"), 301 Cleveland Avenue SW., Canton, Ohio 44702, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, and Central Ohio Coal Co. ("COCO"), P.O. Box 98, Cumberland, Ohio 43732, a coal mining subsidiary company of Ohio, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, and 12 of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

COCO was organized in 1946 for the purpose of conducting surface mining operations on behalf of Ohio. COCO operates three mines owned by Ohio in Morgan, Muskingum, and Noble Counties, Ohio; and its total output is utilized by Ohio's Muskingum River Generating Station. It is stated that the Muskingum Mine has produced coal at an annual level of 3.0 to 3.2 million tons, but that to meet environmental standards which become effective in 1979, 2.3 to 2.5 million annual tons will be required. It is further stated that unless new equipment is acquired, production will drop to 1.4 million annual tons by 1981. It was determined that a 110 cubic yard dragline, to remove overburden, would be an appropriate mining machine to help avoid a drop in annual production below 2.3 to 2.5 million tons. Additionally, a 23 cubic yard shovel is required to load uncovered coal, and movable electric substations are required to support these mining machines. On December 15, 1977, Ohio acquired one Marion (Model 8750) 110 cubic yard dragline ("Dragline") from AMAX, Inc. for $18,742,000. Since the Dragline was delivered unassembled, Ohio is entering into a contract for the erection of the Dragline ("Erection Contract").

It is currently estimated that the total erected cost of the Dragline will be $27,000,000. Ohio also contracted to purchase one Bucyrus-Erie (Model 295) 23 cubic yard shovel ("Shovel"), having an approximate cost of $2,000,000, and two 138/22.9 kVA skid mounted substations and related electrical support equipment for the Dragline ("Electrical Support Equipment"), having an approximate cost of $1,000,000.

It is proposed that Ohio sell the Dragline to COCO, which will reimburse Ohio for the amount expended by Ohio to acquire the Dragline. Ohio will also assign the Erection Contract and the contract for the Electrical Support Equipment to COCO, and COCO will pay for the erection of the Dragline and for the purchase of the Electrical Support Equipment. The Commission, by order of August 7, 1978, in File No. 70-6157 (HCAR No. 20660), has authorized the assignment of the Shovel by Ohio to Girard Bank as trustee under a trust for the benefit of C.I.T. Corp., a wholly owned subsidiary of C.I.T. Financial Corp., and the leaseback of the Shovel to COCO.

To finance the acquisition and erection of the Dragline and the acquisition of the Electrical Support Equipment for the Dragline, COCO proposes to enter into a Credit Agreement with Irving Trust Co. pursuant to which COCO may borrow an aggregate principal amount not to exceed $30,000,000 outstanding at any one time. These borrowings will be evidenced by a note or notes issued by COCO to Irving Trust Co. Each note will represent the obligation of COCO to pay Irving Trust Co. the unpaid amount of the loan made by Irving Trust Co. pursuant to such note, together with interest thereon as set forth below. Each note is to be dated as of the date of the loan evidenced thereby. Borrowings may be made from time to time on or after the date of execution of the Credit Agreement to, but not including, February 29, 1980. Borrowings made pursuant to the Credit Agreement will be due and payable on February 29, 1980. Each note will bear interest from the date thereof on the principal amount thereof from time to time at an annual rate of interest equal to 105 percent of the prime rate of Irving Trust Co. in effect from time to time. Each note will be prepayable by COCO at any time without premium or penalty. In the event that the Indenture, dated as of February 15, 1946, between COCO and Ohio ("Coal Supply Agreement") shall cease to be fully enforceable by COCO in accordance with its terms or in the event a regulatory body with jurisdiction in the premises shall initiate proceedings directed at the termination of the Coal Supply Agreement, COCO shall, within 90 days thereafter, prepay in full each and every Note issued pursuant to the Credit Agreement.

It is further stated that subject to the receipt of regulatory approval, COCO will pay to Irving Trust Co. a commitment fee for the period from July 1, 1978, to, but not including, February 29, 1980, or such earlier date as of which the Credit Agreement may be terminated pursuant to the terms thereof, computed at the rate of one-half of 1 percent per annum on an amount equal to the difference between $19,000,000 and the aggregate amount of borrowings outstanding from time to time: *Provided, however,* That no commitment fee will accrue in the event the aggregate amount of borrowings outstanding from time to time shall equal or exceed $19,000,000.

It is stated that borrowings pursuant to the Credit Agreement will be made in contemplation of a sale-leaseback transaction involving the Dragline, the Shovel and the Electrical Support Equipment for the Dragline, which transaction is the subject of the application in File No. 70-6057, supra.

It is further stated that as an inducement to Irving Trust Co. to make loans to COCO pursuant to the Credit Agreement, Ohio proposes to give to Irving Trust Co. a letter ("Letter Agreement") advising Irving Trust Co. (1) that, while any such loans are outstanding, Ohio intends to maintain 100 percent voting control of the capital stock of COCO and to continue to own the coal lands mined by COCO, (2) that any such loans are to be made in contemplation of a sale-leaseback transaction involving the Dragline, the Shovel and the Electrical Support Equipment for the Dragline, the proceeds of which sale-leaseback transaction would be used to repay any such loans, and (3) that, if such sale-leaseback transaction is not consummated, COCO would repay any such loans with funds supplied to COCO by Ohio pursuant to the Coal Supply Agreement.

Fees and expenses, exclusive of commitment fees, to be incurred in connection with the proposed transactions are estimated at $6,000, including legal fees of $2,000. It is stated that the Public Utilities Commission of Ohio may have jurisdiction over the Letter Agreement, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted, and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28804 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Release No. 5896; 18-10]

RETIREMENT PLAN FOR LEGAL AND OTHER PERSONNEL OF SIMPSON THACHER & BARTLETT

Filing of Application for an Order Exempting From Provisions

OCTOBER 3, 1978.

Notice is hereby given that Simpson Thacher & Bartlett, One Battery Park Plaza, New York, N.Y. 10004, a law firm organized as a partnership under the laws of the State of New York (hereinafter referred to as the "Applicant" or "Firm"), on March 20, 1978, filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Retirement Plan for Legal and Other Personnel of Simpson Thacher & Bartlett (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

I. INTRODUCTION

All employees and partners are eligible to participate in the Plan if they are at least 25 years of age and have completed three years of service with the Applicant. As of September 30, 1977, 53 partners, 48 associates, and 138 nonlegal employees of Applicant were entitled to participate in the Plan.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, whose participants include persons (in this case Applicant's partners) who are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore, is excepted from the exemption from the registration provisions of the Act provided by section 3(a)(2) of the Act for interests or participations in certain employee benefit plans of corporate employers. However, section 3(a)(2) of the Act provides that the Commission may exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a pension or profit-sharing plan which covers employees, some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

II. DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant states that the Plan was originally adopted in 1964 and was amended and restated in its entirety, effective as of October 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant has applied to the Internal Revenue Service (the "IRS") for a determination that the Plan as amended will continue to be a qualified plan under section 401(a) of the Code.

Contributions are made by Applicant each year on behalf of all employee participants in amounts equal to specified percentages of their compensation. Contributions are also made each year by each partner in amounts designated by such partner no less than a specified minimum and no greater than the lesser of $7,500 or a specified percentage of such partner's compensation. In addition, each Plan participant may make voluntary contributions in any year up to the lesser of $10,000 or 10 percent of such participant's compensation.

Applicant states that the assets of the Plan are segregated into two investment funds—a discretionary fund consisting of stocks and other securities selected by a registered investment advisor, which serves as investment manager for the discretionary fund, and a fixed income fund whose assets are presently invested in a group annuity contract issued by a major insurance company. Each participant's interest in the Plan is allocated between these two funds according to the participant's specific designation.

Applicant states that the assets of the Plan are maintained by Manufacturers Hanover Trust Co. as Trustee (the "Trustee") for the Plan under an amended trust agreement (the "Trust Agreement"). Under the Trust Agreement, the Trustee has exclusive authority and discretion to manage such assets except to the extent that Applicant has appointed one or more investment managers to manage some or all of the assets of the Plan. The Plan provides for the appointment of a Retirement Committee which at present consists of five partners in the Firm. The Committee has overall responsibility and authority for administration of the Plan and for setting investment policy. The Administrative Committee of the Firm has responsibility and authority under the Plan for appointing the Trustee, any investment managers, and the members of the Retire-

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ment Committee, as well as for making any amendments to the Plan.

Applicant states that if it were a corporation or if its partners were not included among Plan participants, interests and participations in the Plan would be exempt from registration under section 3(a)(2) of the Act. Applicant submits that Congress excepted interests issued in connection with Keogh plans from the section 3(a)(2) exemption primarily out of concern over interests in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in financial matters. Applicant notes that the Plan is not a prototype or master plan marketed to the public by a sponsoring financial institution and that Plan assets are not commingled in collective investment media with the assets of plans of other employers. Applicant states that the characteristics of the Plan are essentially no different from the retirement plans maintained by many single corporate employers, for which section 3(a)(2) provides an exemption, and that the concerns which led to that section's inapplicability to Keogh plans do not apply to Applicant's Plan.

Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan. Applicant makes available to Plan participants upon request and without charge, copies of the Plan, the Trust Agreement and the latest interim financial statements of the Plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and for that reason, as well as the extensive administrative control over the Plan maintained by the Firm, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice if further given that any interested person may, not later than October 27, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. An order disposing of the matter will be issued as of course following October 27, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28805 Filed 10-11-78; 8:45 am]

[8010-01-M]

[Release No. 20725; 70-6208]

SYSTEM FUELS, INC., ET AL.

Proposal Relating to Short-Term Debt Issued To Finance Nuclear Fuel Procurement by a Nonutility Subsidiary for Use by Operating Companies.

OCTOBER 5, 1978.

In the matter of System Fuels, Inc., 225 Baronne Street, New Orleans, La. 70112; Arkansas Power & Light Co., First National Building, Little Rock, Ark. 72203; Louisana Power & Light Co., 142 Delaronde Street, New Orleans, La. 70174; Middle South Energy, Inc., 225 Baronne Street, New Orleans, La. 70112; Mississippi Power & Light Co., Electric Building, Jackson, Miss. 39205; New Orleans Public Service, 317 Baronne Street, New Orleans, La. 70112.

Notice is hereby given that Arkansas Power & Light Co. ("Arkansas"), Louisiana Power & Light Co. ("Louisiana"), Mississippi Power & Light Co. ("Mississippi"), and New Orleans Public Service Inc. ("NOPSI") (collectively referred to as "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("Middle South"), a registered holding company, and System Fuels, Inc. ("SFI"), a jointly-owned nonutility subsidiary company of the Operating Companies, have filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7, 12(b) and 12(f) of the Act and Rules 45 and 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Under a Nuclear Fuel and Fuel Services Purchase Agreement ("Purchase Agreement"), dated as of June 15, 1978, among SFI, Arkansas, Louisiana, and Middle South Energy, Inc. ("MSE"), a subsidiary of Middle South Utilities, Inc., organized in 1974 to own and finance certain future base load generating plants in the System, Arkansas, Louisiana, and MSE have previously agreed with SFI, with certain exceptions noted in the Purchase Agreement, to purchase their requirements of certain nuclear materials and nuclear fuel services from SFI (HCAR No. 20525). Based upon current estimates, SFI anticipates net expenditures for the above referenced program of $35,897,000, and $34,961,000, for 1978 and 1980, respectively; SFI anticipates to generate net sales of $22,100,000, and $16,169,000, for 1979 and 1981, respectively.

In order to finance the above requirements or to provide funds to reimburse the parent companies for borrowings previously made to effect certain of the above acquisitions of nuclear materials or nuclear fuel services, SFI proposes to issue its Commercial Paper Notes ("Notes" or individually, "Note"), pursuant to an arrangement by which the Aetna Casualty and Surety Co. ("Aetna") would, under a Bond of Indemnity ("Bond"), undertake to pay any Note if it is not paid when presented. The maximum principal amount of the Notes outstanding at any one time until November 1, 1981, may not exceed $60,000,000 less the amount, if any, of Notes paid by Aetna for which Aetna shall not have been reimbursed. The Notes will be discount notes payable to bearer at the office of an issuing and paying agent ("Agent"), which will be a major commercial bank located in New York, N.Y.

The Notes will be in the form of unsecured promissory notes with varying maturities not to exceed 270 days, the actual maturities to be determined by market conditions, effective cost of money to SFI and SFI's anticipated cash requirements at the time of issuance. In accordance with the established custom and practices in the market, the Notes will not be payable prior to maturity. SFI proposes to issue, reissue and sell the Notes in denominations of not less than $50,000 directly to Lehman Brothers Kuhn

Loeb Inc., or Lehman Commercial Paper Inc. ("Lehman"), a dealer in commercial paper, pursuant to a Placement Agreement ("Placement Agreement") to be entered into between SFI and Lehman. The Notes will be sold to Lehman at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality of that particular maturity sold to commercial paper dealers. No commission or fee will be payable by SFI in conneciton with the issuance and sale of the Notes. Lehman, as principal, will reoffer and sell the Notes at a discount rate of ⅛ of 1 percent per annum less than the prevailing discount rate to SFI. The dealer in reoffering the commercial paper will limit the reoffer and sale to a nonpublic customer list of not more than 200 buyers of commercial paper. Each such list will be prepared in advance of each offering and will include commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and university funds, municipal and state funds and other financial and nonfinancial corporations which normally invest funds in commercial paper. Such list will be furnished to the Commission and no change will be made therein without advising the Commission of such change.

SFI and Aetna will enter into a Participation Agreement ("Participation Agreement") which will set forth the terms under which the Bond will be issued. Under the Bond, Aetna will agree unconditionally that, if at any time there shall be insufficient funds on deposit with the Agent and available for the payment of Notes. Aetna shall deposit with the agent the funds required to make the paymants in full. SFI will pay Aetna quarterly a premium at a per annum rate equal to the sum of (a) ½ of 1 percent plus (b) 7 percent of the minimum commercial lending rate charged from time to time by Morgan Guaranty Trust Co. of New York for loans in New York City ("Morgan Guaranty MCLR"), computed on the daily average principal amount of Notes outstanding during such quarter. Based upon present interest rates, the effective cost of the Aetna proposal to SFI is estimated to be 9.81 percent. Under the terms of the Participation Agreement, SFI may reimburse Aetna within 60 days after the date of any payment for each payment made by Aetna under the Bond, together with interest thereon at a per annum rate equal to 125 percent of the Morgan Guaranty MCLR. SFI may also reimburse Aetna within such 60 day period for all losses and expenses incurred in connection with the Bond and in connection with the enforcement of SFI's obligations under the Participation Agreement, including interest thereon, at the same rate as applied to payments by Aetna. Prior to such reimbursement, SFI may issue Notes, provided certain terminating events have not occurred, but may use the proceeds only for the purposes of refunding outstanding Notes and acquiring funds in order to effect such reimbursement.

In the event that Aetna is not reimbursed for any payment made by it under the Bond or for any other losses, expenses, or interest under the Participation Agreement within such 60 days, SFI may not issue or sell any additional Notes without Aetna's written approval, and Aetna may cancel the Bond. Following such a cancellation SFI shall, as specified below, (i) pay Aetna all amounts then owed by SFI under the participation Agreement or the Security Agreement (as hereinafter defined) and (ii) pay the Agent an amount sufficient to provide for the payment of all Notes issued by SFI and unpaid at the time of such cancellation. Any cancellation of the Bond by Aetna shall relate solely to Notes issued after the effectiveness of such cancellation and shall not affect Aetna's obligation under the Bond with respect to Notes issued prior to the effectiveness of such cancellation.

To the extent internal funds are unavailable, SFI proposes to obtain funds to pay the Notes and reimburse Aetna, as may be required by the Participation Agreement during 1978, through borrowings under its Loan Agreement ("Loan Agreement") with its parent companies, dated January 4, 1978 (HCAR No. 20363). Authority is herein requested to make borrowings under such Loan Agreement, if necessary, in an amount sufficient to enable SFI to make such payment and reimbursement. Requisite borrowing capacity is available for such purpose as the $40,000,000 of loans from Citibank, N.A., which matured April 17, 1978, were extended through April 17, 1980.

Under the terms of a Security Agreement to be entered into between SFI and Aetna ("Security Agreement"), Aetna will also receive a security interest (i) in SFI's nuclear materials and nuclear fuel services inventory which is to be financed through the sale of the Notes, (ii) in payments for such materials and services under the Purchase Agreement and (iii) in certain contract rights, funds, and claims related to the sale of the Notes and to such materials and services.

In connection with the proposed transactions, the parent companies will covenant and agree with Aetna that so long as SFI shall have any obligations under the Participation Agreement, the Bond, the Security Agreement or the Placement Agreement, the parent companies will, severally in accordance with their present respective shares of ownership of the common stock of SFI, take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to perform and discharge, and will cause SFI to perform and discharge, in a timely manner, all of its obligations under the documents referred to in this application and under the Purchase Agreement.

Before SFI accepted the Aetna proposal, the Company requested proposals from four investment institutions and received a response from three. SFI evaluated all proposals. Based on economics, utilization, and other subjective matters, such as Middle South Utilities System Companies' other financing arrangements and future financing needs, it was determined that the Aetna proposal was the most economical and in the best interest of SFI and the Middle South Utilities System.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions; however, Arkansas must file pertinent information relating to its participation in the proposed transactions with the Arkansas Public Service Commission ("APSC") two weeks prior to this filing, such APSC filing having been made on September 1, 1978.

Notice is further given that any interested person may, not later than October 30, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commisison should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, of the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will re-

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ceive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28805, Filed 10-11-78; 8:45 am]

[8010-01-M]

[Release No. 10426; 812-4271]

VANCE, SANDERS INVESTORS FUND, INC., AND ERIC PIERCE

Filing of Application for Order Exempting Proposed Transaction From Provisions; Permitting Participation in Such Transaction; and Granting Exemption From Provisions

Notice is hereby given that Vance, Sanders Investors Fund, Inc. (the "Fund"), an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (the "Act"), and Mr. Eric Pierce, One Beacon Street, Boston, Mass. 02109, a director of the Pierce Co., Inc. ("PCI") (hereinafter the Fund and Mr. Eric Pierce are collectively referred to as "Applicants"), filed an application on September 29, 1978, pursuant to sections 6(c), 17(b) and 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission (1) exempting from the provisions of section 22(d) of the Act the Fund's issuance of shares, at net asset value, in connection with a reorganization of the Fund with PCI, and exempting from the provisions of Rule 22c-1 under the Act the issuance of shares at a price based upon the net asset value per share determined on the business day immediately preceeding the closing date of such reorganization, (2) exempting the proposed transaction from the provisions of section 17(a) of the Act, and (3) permitting the participation in such reorganization, of Mr. Pierce. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that PCI is a corporation orgainized and existing under the laws of Massachusetts, which files its tax returns as a personal holding company, and that PCI's only class of securities outstanding is common stock, which is held of record and beneficially by fewer than one hundred persons. Applicants assert that PCI is not making and does not propose to make a public offering of its securities, and assert that PCI is not, accordingly, an investment company as defined in the Act. Mr. Eric Pierce is a director and shareholder of PCI, and participated in PCI's determination to reorganize with the Fund to the extent described below. Mr. Pierce owns less than 5 percent of PCI's outstanding shares.

According to the application, the Fund and PCI have entered into an agreement and plan of reorganization (the "Plan") which provides for the transfer of substantially all of the assets of PCI to the Fund in exchange for shares of common stock of the Fund. To preclude variations in valuation procedures, the Plan provides that the assets of PCI will be valued in accordance with the valuation procedures followed by the Fund. Thus, Applicants assert that the value of assets transferred to the Fund will substantially equal the net asset value of shares of the Fund received by PCI in such transfer. The valuation of PCI's assets and determination of the Fund's net asset value per share is proposed to be made as of the close of business on the New York Stock Exchange on the business day next preceding the closing date, which will be within twenty-four hours of such valuation. The Plan provides that PCI will retain cash in an amount estimated by PCI to be sufficient to pay its debts, obligations and liabilities. On a date subsequent to the closing date any such cash so retained and not expended for such purposes shall be transferred to the Fund in exchange for additional Fund shares. Applicants state that this transfer will be based upon the net asset value per share of the Fund next computed after receipt of such cash.

Applicants represent that the securities of PCI are suitable for the Fund and consistent with its investment objective and policies as set forth in its current registration statement.

Applicants state that, as of June 30, 1978, the net assets of PCI were $7,474,587 and that such assets had a book cost, for fedral income tax purposes, of $8,285,865. At the same date the Fund had net assets of $133,746,643 and a cost for federal income tax purposes of $122,296,756.

Applicants state that PCI will bear its costs incurred in connection with the reorganization, and the Fund will bear its costs, including costs of filing a registration statement with respect to the Fund shares to be transferred in the reorganization and costs of seeking Commission exemptive orders, which expenses are not expected by Applicants to exceed $7,000.

Applicants state that the average commission paid by the Fund in purchasing preferred and common stocks is approximately eight cents per share, making a net savings of brokerage commissions on the acquisition of the common and preferred shares held by PCI of approximately $9,300. Applicants further assert that the imputed commission on bonds and U.S. Government obligations is approximately $2,500, for a total net brokerage saving by the Fund of approximately $11,800.

Applicants represent that there is no connection between the Fund and PCI, other than as described below, and that no officer, director, or shareholder of PCI is an affiliated person of the Fund.

Vance, Sanders & Co., Inc. ("Vance, Sanders") is the investment adviser and principal underwriter of the Fund. Mr. Eric Pierce, a shareholder and director of PCI, is an officer, director, and shareholder of Vance, Sanders. Section 2(a)(3) of the Act includes, within the definition of the term "affiliated person" of another person, an officer or director of such other person. Therefore, as an officer and director of Vance, Sanders, Mr. Pierce is an affiliated person of Vance, Sanders.

Section 2(a)(3) of the Act also includes, within the definition of "affiliated person" of an investment company, the investment adviser of the investment compan·. Therefore, as the investment adviser to the Fund, Vance, Sanders is an affiliated person of the Fund, and Mr. Pierce is an affiliated person of an affiliated person of the Fund.

Section 17(a) of the Act provides, in part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, knowingly to sell to such registered investment company any security or other property. Pursuant to section 17(b) of the Act, the Commission, upon application, shall grant an exemption from such prohibition if evidence establishes that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 17(d) of the Act, and rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, to effect any transaction in which such investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis

different from or less advantageous than that of other participants.

Applicants state that Mr. Pierce participated in the PCI Board of Directors' determination to seek to merge with a registered investment company, and in the Board's establishment of certain criteria that such investment company must meet. Applicants state that Mr. Pierce participated in the discussions leading up to the selection of the Fund, but did not participate in the actual decision of the Board to enter into the Plan. Applicants assert that Mr. Pierce did not, in any manner, participate in the decision of the Fund's Board of Directors to enter into the Plan.

Applicants submit that if the Fund were acquiring the assets of PCI under a statutory merger whereby the Fund acquired outstanding shares of PCI in exchange for Fund shares, an order would have to be granted pursuant to sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder because of Mr. Pierce's affiliation with Vance, Sanders and his role in the negotiations. Applicants state that since the Plan provides for the sale of PCI's assets to the Fund in exchange for Fund shares which then are to be distributed to the shareholders of PCI, the transaction may similarly be deemed to be subject to the provisions of sections 17(a) and 17(d) of the Act. Applicants request an order of the Commission pursuant to section 17(b) of the Act exempting the proposed transaction from the provisions of section 17(a) of the Act, and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting the participation of Mr. Pierce in the transaction.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus.

Applicants state that the Fund's current prospectus states that the Fund may issue shares at net asset value in connection with the acquisition of the assets of an investment company. Applicants submit, notwithstanding this fact, that it may be that the basis upon which the Fund will issue its shares in exchange for assets of the company and the transfer of any retained cash for shares of the Fund at net asset value on a date subsequent to the original closing date will be different from the public offering price described in the Fund's current prospectus. Therefore, Applicants request an order of exemption pursuant to section 6(c) of the Act from the provisions of section 22(d) of the Act to permit the exchange of assets of PCI at the closing of the proposed transaction (and to permit the proposed later cash transfer) to be effected at net asset value.

Rule 22c-1 promulgated under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell any such security except at a price based on the current net asset value of such security which is next computed after receipt of an order to purchase such security. Applicants submit that, since the shares to be issued on the closing date will be issued at a price based upon the net asset value per share determined as of the close of business of The New York Stock Exchange on the business day immediately preceding the closing date, an exemption from the provisions of Rule 22c-1 under the Act is necessary in order that the exchange may be consummated. Applicants seek such an exemption pursuant to section 6(c) of the Act.

Applicants state that the management of the Fund believes (1) that the proposed acquisition by the Fund of substantially all of the assets of PCI in exchange solely for shares of the Fund at net asset value is at a reasonable and fair price, arrived at by arms-length bargaining; does not involve overreaching on the part of any person concerned; does not involve the participation of the Fund on any basis different from or less advantageous than any other person; and is consistent with the policy of the Fund as recited in its registration statement; and (2) that the granting of the proposed exemptions in connection with the transaction is appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants state that the management of the Fund further believes that the proposed transaction will be beneficial to the shareholders of the Fund because (1) the transfer of securities will cause the Fund less expense than the purchase of securities of the same issuers in the open market because there will be no brokers' commissions, (2) those expenses of the Fund which do not rise proportionately with an increase in portfolio size will be spread over a larger number of shares and therefore will be a smaller amount per share to the benefit of existing shareholders, and (3) the Fund will acquire additional securities for its existing portfolio without affecting the market in such securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 30, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20459. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-28807 Filed 10-11-78; 8:45 am]

SMALL BUSINESS ADMINISTRATION

[8025-01-M]

MAXIMUM INTEREST RATES

Notice is given that the Small Business Administration ("SBA") has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA on and after October 5, 1978, under section 7 of the Small Business Act, as amended, and section 502 of the Small Business Investment Act, as amended.

Effective October 5, 1978, the maximum rate of interest acceptable to SBA on a guaranteed loan or a guaran-

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teed revolving line of credit shall be eleven and one-quarter percent (11¼%) per year, and the maximum rate on an immediate participation loan shall be ten and one-quarter percent (10¼%) per year. These maximum interest rates are one-half percent higher than the rates published in the FEDERAL REGISTER on July 26, 1978, and shall remain in effect until notification of a change is issued by SBA.

In recognition of the substantially different characteristics of the economy of Alaska, including a substantially higher level of loan interest rates, as compared with the "lower 49 States", an interest rate differential of three-fourths percent (¾%) above the maximum allowable interest rate otherwise applicable for SBA loans remains in effect for SBA loans made to borrowers in Alaska by lenders located in Alaska. This action is taken in light of the relatively limited availability of loan funds, and the higher costs experienced by lenders in Alaska. The action is consistent with the fact that, SBA in recognition of the State's economy, has published a size standard differential for Alaskan small businesses, and in further recognition of existing differentials to wage scales and cost of living allowances as applicable to Alaska.

The "SBA Optional Peg Rate" for the October-December 1978 quarter will be eight and one-half percent (8½%) per year. This is an optional "peg" rate for use in connection with fluctuating interest rate loans made in participation with SBA.

This notice is issued under 13 CFR 120.3(b)(2)(iv). Catalog of Federal Domestic Assistance programs:

Catalog No.:

59.002 Economic injury disaster loans (E,F).
59.012 Small business loans (E,F).
59.013 State and local development company loans (E,F).
59.014 Coal mine health and safety loans (E,F).
59.017 Consumer protection loans (E,F).
59.018 Occupational safety health loans (E,F).
59.001 Displaced business loans (E,F).
59.005 Economic opportunity loans for small businesses (E,F).
59.010 Product disaster loans (E).
59.020 Base closing economic injury loans (E,F).
59.021 Handicapped assistance loans (E,F).
59.022 Emergency energy shortage economic injury loans (E,F).
59.023 Strategic arms economic injury loans (E,F).
59.024 Water pollution control loans (E,F).
59.025 Air pollution control loans (E,F).

Dated: October 2, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-28810 Filed 10-11-78; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

A.I.D. MISSIONS AND OFFICES IN NEAR EAST REGION

Redelegation of Authority No. 162-8

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40, dated March 5, 1978 (43 FR 11293) with respect to Source, Origin and Nationality for Procurement; and No. 113, dated October 15, 1975, I hereby redelegate to the Directors of A.I.D. Missions in Afghanistan, Egypt, Jordon, Morocco, Syria and Tunisia and the A.I.D. Representative in Portugal, authority to exercise any of the following functions assigned to me for the country to which such official is assigned, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to execute loan and grant agreements (including project agreements), (hereinafter referred to as "such agreements") and amendments thereto with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended, (the Act) in accordance with the terms of the authorizations of such loans or grants.

2. Authority to negotiate and implement such agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, in accordance with Regulations, Policies and Procedures now or hereafter established or modified and promulgated within A.I.D. This authority shall include the following:

(a) Authority to prepare, negotiate, and execute letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agreements;

(d) Authority to sign or approve Project Implementation Orders;

(e) Authority to review and approve the terms of country contract and contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto;

(f) Authority to waive source, origin and nationality requirements for individual transactions of goods and services up to $250,000 (exclusive of transportation cost) and of motor vehicle up to $25,000; and

(g) Authority to extend terminal dates for signing such agreements, and meeting initial and additional conditions precedents for a cumulative period of not to exceed 180 days for each; and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACD's) for a cumulative period of not to exceed 365 days for each.

3. The authorities redelegated in paragraphs 1 and 2 may be exercised only after consultation with appropriate Mission or Office technical personnel and the Regional Legal Advisor.

4. The authorities herein redelegated are subject to guidance by the Office in AID/Washington (Office of Project Development or Office of Technical Support) having responsibility for supporting implementation of the activity.

5. The authorities herein redelegated may be exercised by a person who is serving in an "Acting Director" or "Acting Representative" capacity and may be redelegated but not successively redelegated, except that the authorities enumerated in paragraph 1, paragraph 2(e) with respect to approval of the terms of country contracts and amendments and modifications thereto of over a 10 percent increase in total contract price, and paragraph 2(f) may not be redelegated.

6. The authorities enumerated in paragraph 1 are also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassadors to the countries covered by this Redelegation and to any person acting in the Ambassador's official capacity, except that such authorities may not be redelegated.

7. The following Redelegations of Authority are hereby revoked:

a. No. 162-4, dated October 20, 1976 (41 FR 49688), as amended, to Mission Director, USAID/Egypt.

b. No. 162-6 dated March 7, 1976 (43 FR 9402) to Mission Director, USAID/Afghanistan.

8. Any official action taken prior to the effective date hereof by officers duly authorized pursuant to the redelegations revoked hereunder are hereby continued in effect unless modified or revoked by an official to whom I have redelegated relevant authority in this redelegation.

9. This Redelegation of Authority is effective immediately.

Dated: September 20, 1978.

JOSEPH C. WHEELER,
Assistant Administrator,
Bureau for Near East.

[FR Doc. 78-28704 Filed 10-11-78; 8:45 am]

[4710-02-M]

DIRECTOR, OFFICE OF TECHNICAL SUPPORT AND DEPUTY DIRECTOR, OFFICE OF TECHNICAL SUPPORT, BUREAU FOR NEAR EAST

Redelegation of Authority No. 162-9

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 28, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38 dated June 21, 1977 (42 FR 31511) with respect to Project Agreements, Trust Fund Agreements and Grant Agreements; No. 40 dated March 5, 1978 (43 FR 11293), with respect to Source, Origin and Nationality for Procurement; and No. 113 dated October 15, 1975 (40 FR 49682), I hereby redelegate to each of the individuals listed above, for the programs, projects, or activities with the responsibility of the Office of Technical Support, authority to exercise any of the following functions assigned to me retaining for myself concurrent authority to exercise any of the functions herein redelegated.

1. Authority to negotiate and execute loan and grant agreements (including project agreements) and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act) in accordance with the terms of the authorizations of such loans or grants.

2. Authority to implement loan and grant agreements (including project agreements) (hereinafter referred to as "Such agreements") in accordance with Regulations, Policies and Procedures now or hereafter established or modified and promulgated within A.I.D. with respect to loans and grants authorized under the Act.

This authority shall include the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agreements;

(d) Authority to sign or approve Project Implementation Orders; (e) Authority to review and approve the terms of country contracts and contractors, amendments and modifications to such contracts, and invitations for bids and requests for proposals with respect thereto;

(f) Authority to waive source, origin and nationality requirements for individual transactions of goods and services up to $500,000 (exclusive of transportation cost) and of motor vehicles up to $25,000; and

(g) Authority to extend terminal dates for signing such agreements, meeting conditions precedent and disbursement authorizations, terminal disbursement dates, and Project Assistance Completion Dates (PACD's).

3. The authorities enumerated above may be redelegated for specific actions to Mission Directors or Ambassadors for countries within my area of responsibility.

4. The following authorities enumerated above my be redelegated by the individuals listed above to persons within the Office of Techical Support, Bureau for Near East;

(a) Authority described above in paragraph 1, with respect to negotiating loan and grant agreements and amendments related thereto;

(b) Authority described above in paragraph 2 to the following extent:

(1) Authority to prepare and negotiate letters of implementation;

(2) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(3) Authority to review and approve the selection of host country contractors, amendments and modifications to country contracts of up to a 10 percent in total contract price and invitations for bids and requests for proposals with respect to such contracts financed by funds made available under such agreements.

(4) Authority to negotiate and implement documents ancillary to such agreements.

5. This Redelegation of Authority is effective immediately.

Dated: September 20, 1978.

JOSEPH C. WHEELER,
Bureau for Near East.

[FR Doc. 78-28705 Filed 10-11-78; 8:45 am]

[4710-02-M]

DIRECTOR, OFFICE OF PROJECT DEVELOPMENT AND DEPUTY DIRECTOR, OFFICE OF PROJECT DEVELOPMENT, BUREAU FOR NEAR EAST

Redelegation of Authority No. 162-10

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 28, 1961 (27 FR 449), as amended, with respect to Loan Agreements; Delegation of Authority No. 23, dated December 28, 1962 (23 FR 563), as amended; No. 38 dated June 21, 1977 (42 FR 31511) with respect to Project Agreements, Trust Fund Agreements and Grant Agreements; No. 40 dated March 5, 1978 (43 FR 11293), with respect to Source, Origin and Nationality for Procurement, and No. 113, dated October 15, 1975 (40 FR 49582), I hereby redelegate to each of the individuals listed above, for the programs, projects or activities within the responsibility of the Office of Project Development, authority to exercise any of the following functions assigned to me retaining for myself concurrent authority to exercise any of the functions here redelegated:

1. Authority to negotiate and execute loan and grant agreements (including project agreements) and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act) in accordance with the terms of the authorizations of such loans or grants.

2. Authority to implement loan and grant agreements (including project agreements), (hereinafter referred to as "such agreements") in accordance with Regulations, Policies and Procedures now or hereafter established or modified and promulgated within A.I.D. with respect to loans and grants authorized under the Act, loans authorized by the Board of Directors of the corporate Development Loan Fund and loans authorized under section 104(e) of the Agriculture Trade Development and Assistance Act of 1954, as amended (Public Law 480). This authority shall include the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to negotiate, execute and implement all documents ancillary to such agreements;

(d) Authority to sign or approve Project Implementation Orders;

(e) Authority to review and approve the terms of country contracts and contractors, amendments and modifications to such contacts and invitations for bids and requests for proposals with respect thereto;

(f) Authority to waive source, origin and nationality requirements for individual transactions of goods and services up to $500,000 (exclusive of transportation cost) and of motor vehicles up to $25,000; and

(g) Authority to extend terminal dates for signing such agreements, meeting conditions precedent and disbursement authorizations, terminal disbursement dates, and Project Assistance Completion Dates (PACD's).

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3. The authorities enumerated above may be redelegated for specific actions to Mission Directors or Ambassadors for countries within my area of responsibility.

4. The following authorities enumerated above may be redelegated by the individuals listed above to persons within the Office of Project Development, Bureau for Near East:

(a) Authority described above in paragraph 1, with respect to negotiating loan and grant agreements and amendments related thereto;

(b) Authority described above in paragraph 2 to the following extent:

(1) Authority to prepare and negotiate letters of implementation;

(2) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(3) Authority to review and approve the selection of host country contractors, amendments and modifications to country contracts of up to a 10 percent increase in total contract price and invitations for bids and requests for proposals with respect to such contracts financed by funds made available under such agreements.

(4) Authority to negotiate and implement documents ancillary to such agreements.

5. Redelegation of Authority No. 162-5 from the Assistant Administrator, Bureau for Near East, to the Director and Deputy Director, Office of Capital Development, dated November 30, 1976 is hereby revoked.

6. Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to the redelegation revoked hereunder are hereby continued in effect unless modified or revoked by an official to whom I have delegated relevant authority in this redelegation.

7. This Redelegation of Authority is effective immediately.

Date: September 20, 1978.

JOSEPH C. WHEELER,
Assistant Administrator,
Bureau for Near East.

[FR Doc. 78-28706 Filed 10-11-78; 8:45 am]

[4710-02-M]

MISSION DIRECTOR, USAID/YEMEN

Redelegation of Authority No. 162-11

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated June 21, 1977 (42 FR 31511), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grant Agreements; No. 40, dated March 5, 1978 (43 FR 11293) with respect to Source, Origin and Nationality for Procurement; and No. 113, dated October 15, 1975, I hereby redelegate to the Mission Director, USAID/Yemen authority to exercise any of the following functions assigned to me for Yemen in accordance with Regulations, Policies, and Procedures now or hereafter established or modified and promulgated within A.I.D., retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. (a) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under loan and grant agreements (including project agreements) (hereinafter referred to as "such agreements") and amendments thereto with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act);

(b) Authority to sign or approve Project Implementation Orders;

(c) Authority to review and approve the terms of country contracts and contractors, amendments and modifications to such and invitations for bids with respect thereto financed by funds made available under such agreements, provided that the aggregate amount of each individual contract in U.S. dollars and local currency does not exceed $100,000 or the local currency equivalent;

(d) Authority to waive source, origin and nationality requirements for individual transactions of goods and services up to $100,000 (exclusive of transportation cost) and of motor vehicles up to $25,000; and

(e) Authority to extend terminal dates for signing such agreements, and meeting initial and additional conditions precedents for a cumulative period of not to exceed 180 days for each; and to extend terminal dates for requesting disbursement authorizations, terminal disbursement dates and Project Assistance Completion Dates (PACD's) for a cumulative period of not to exceed 365 days for each.

2. The authorities herein redelegated are subject to guidance by the Office in AID/Washington (Office of Project Development or Office of Technical Support) having responsibility for supporting implementation of the activity.

3. The authorities herein redelegated may be exercised by a person who is serving in an "Acting Director" capacity.

4. The authorities herein redelegated may not be redelegated.

5. This redelegation of authority is effective immediately.

Dated: September 20, 1978.

JOSEPH C. WHEELER,
Assistant Administrator,
Bureau for Near East.

[FR Doc. 78-28707 Filed 10-11-78; 8:45 am]

[4710-01-M]

Office of the Secretary

[Public Notice CM-8/115]

ADVISORY COMMITTEE ON HISTORICAL DIPLOMATIC DOCUMENTATION

Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on November 3, 1978, at 9 a.m. in room 1205 of the department of State Building.

The principal purpose of the Committee is to give advice to the Bureau of Public Affairs (particularly the Office of the Historian) regarding the solution of professional problems connected with the preparation of the "Foreign Relations" series and other responsibilities of that Office. Special attention will be given to classified documents, more than 20 years old, that are now being reviewed for possible declassification and publication.

In accordance with section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that a portion of the above meeting will necessarily involve discussion concerned with matters recognized as not subject to public disclosure under 5 U.S.C. 552(b)(c)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting beginning at 9 a.m. will be open to the public, and the chairman will entertain questions and discussion from the public as time allows. Following completion of public discussion, the remainder of the meeting will be closed in accordance with section 10(d) cited above.

Persons wishing to attend the open portion of the meeting should come before 9 a.m. to the diplomatic entrance of the Department of State building at 22d and C Streets NW., Washington, D.C. They will be escorted to room 1205 and (at the conclusion of the open portion of the meeting) back to the diplomatic entrance.

Any questions concerning the meeting should be directed to David F. Trask, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Washington, D.C. 20520, telephone 202-632-8888.

DAVID F. TRASK,
Executive Secretary.

[FR Doc. 78-28783 Filed 10-11-78; 8:45 am]

[49-1014-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-132]

CHEMICAL TRANSPORTATION ADVISORY COMMITTEE

Annual Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) (1976 edition), notice is hereby given of a meeting of the Chemical Transportation Advisory Committee to be held on Tuesday, 14 November 1978, beginning at 9:00 a.m. in Room 2230, Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

Reports from the following subcommittees will be presented to the Advisory Committee for review:

1. Liquefied gas facilities
2. Bulk liquid facilities
3. Break bulk and container facilities
4. Commercial explosives
5. Chemical vessels
6. Liquefied gas vessels
7. Ship stores

Participation by the Coast Guard in UN and IMCO conferences concerning the Transport of Dangerous Goods by Water will also be reviewed.

Attendance is open to the interested public. Members of the public may present oral statements at the meeting, with the approval of the Chairman. Persons wishing to make oral statements should notify Captain William N. Spence, Commandant (G-MHM/83) U.S. Coast Guard, Washington, D.C. 20590, telephone 202-426-2306, not later than November 9, 1978. Any person may present a written statement to the Committee at any time.

Issued in Washington, D.C., on October 4, 1978.

W. D. MARKLE, Jr.,
Captain, U.S. Coast Guard,
Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-28793 Filed 10-11-78; 8:45 am]

[4910-22-M]

Federal Highway Administration

[FHWA Docket No. 78-6]

EFFECTS OF DELAYED OR HALTED HIGHWAY PROJECTS

Request for Public Comments

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to request information on adverse social and economic effects caused by delayed or halted highway projects and on possible ways of dealing with these effects.

DATES: Information and suggestions must be received on or before (December 11, 1978.

ADDRESS: FHWA Docket No. 78-6, Federal Highway Administration, HCC-10, room 4205, 400 Seventh Street SW., Washington, D.C. 20590. All responses to this notice will be availabale for examination at the above address between 7:45 a.m. and 4:15 p.m. eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. King, Chief, Relocation Assistance Division, 202-426-0116; or Mr. Stanley H. Abramson, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 a.m. to 4:15 p.m. eastern time.

SUPPLEMENTARY INFORMATION: Over the past 10 years, the FHWA has concentrated its efforts on studying the adverse social, economic, and environmental effects of proposed highway projects and developing ways to minimize these effects before any land is acquired or construction work begins. The purpose of this notice is to request information on the adverse effect that delays in the completion of ongoing highway projects have had on communities and neighborhoods and on the lives and properties of individuals, families and businesses and, in particular, on those who live or work in the path of highway projects that have been delayed or halted after land or "right-of-way" acquisition has begun. The FHWA is also interested in receiving suggestions on possible ways to avoid these effects and to deal with them when they occur.

Highway projects may be delayed from several months to 10 years or more for a variety of reasons including funding problems of acquiring agencies, changing legal requirements, shifting local priorities, and lawsuits. These delays can occur at any time during the development of a project and often occur after right-of-way acquisition has begun.

While projects are halted, those who own properties in the path of the highway are unable to sell their homes or businesses at a fair price and are reluctant or unable to spend money for needed repairs. Even when a willing buyer can be found, it is often impossible to get a mortgage. The inability to sell and the lack of maintenance often adversely affect homeowners, tenants and businesses, with additional complications caused by advanced age, poor health, fixed income, extreme financial problems, or endangered health, safety and welfare.

Recent preliminary surveys by FHWA indicate that the following problems may be developing in urban areas around the Nation where ongoing highway projects are delayed or halted, particularly after right-of-way acquisition has begun:

A. Dangerous and adverse living conditions.
1. Higher crime rates.
a. Robbery.
b. Burglary.
c. Assault.
d Murder.
e. Muggings.
f. Rape.
g. Arson.
g. Vandalism.
2. Health Hazards.
a Rodents.
b. Emotional and nervous strain.
c. Reduction of available medical personnel and facilities.
3. Curtailment of public facilities and services.
4. Large number of elderly and/or incapacitated residents.
5. Isolation of remaining homes, apartment buildings and businesses.
6. Fewer retail and service establishments.
B. Economic Conditions.
1. Large number of low income residents.
2. Abandoned and boarded up homes and businesses.
3. Buildings condemned and demolished as health and safety hazards before they can be acquired for the highway.
4. Property owners, forced to sell, victimized by speculators.
5. Insurance not available or only at excessive rates.
6. Mortgage loans, including VA and FHA, not available.
7. Higher security expenses for remaining businesses.
8. Remaining residences in worse condition and with more deferred maintenance than those in surrounding areas.
9. Owners responsible for mortgages in excess of realizable market value.
10. Lower occupancy rates and rental values than apartments in surrounding areas.

In these situations it is often necessary for State or local government agencies to step in to relieve hardship cases. The FHWA assists in this effort to a limited extent by providing a portion of the funds needed to acquire properties in those situations where strict conditions (23 CFR 712.204(d)) can be met. The criteria for hardship acquisitions have been narrowed considerably as a result of recent Federal court decisions. (See 42 FR 26651, May 25, 1977.) Under current FHWA procedures, each request for hardship acquisition must show that an individual property owner has been placed in an extraordinary or emergency situation

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beyond that of other property owners remaining on the project, and that this situation is a result of delay in the completion of the project and a resulting inability to sell the property in question. During calendar year 1977, only 36 requests met these requirements for Federal approval.

The FHWA believes that it has a responsibility to consider additional ways to assist State and local governments in relieving adverse social and economic effects caused by projects which are delayed or halted after right-of-way acquisition has begun.

Additional information on the nature and extent of problems caused by such delays and suggestions for possible corrective action are requested from all interested parties. All responses to this notice will be available for examination by any interested person at the above address both before and after the closing date for comments.

Copies of this notice are being sent direcly to the following organizations: The Advisory Commission on Intergovernmental Relations, the American Association of State Highway and Transportation Officials, the Center for Auto Safety, the Insurance Institute for Highway Safety, the National Association of County Officials, the National Association of Regional Councils, the United States Conference of Mayors, the National League of Cities, the National Urban League, the National Wildlife Federation, and all State highway agencies.

Issued on: October 4, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-28730 Filed 10-11-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket 75-29; Notice 3]

SAFETY ASPECTS OF MOTORIZED BICYCLES

Proposed Agency Recommendations

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Notice of proposed agency recommendations.

SUMMARY: This notice announces proposed agency recommendations concerning regulation by the States of the operational safety of motorized bicycles (mopeds). This action is taken to allow the public an opportunity to review and comment on the recommendations before they are completed.

PROPOSED EFFECTIVE DATE: November 13, 1978.

ADDRESS: Comments should refer to the docket number and be submitted to: Room 5108, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis Buchanan, Driver and Pedestrian Safety Division, Traffic Safety Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-2180.

On November 28, 1975, the National Highway Traffic Safety Administration (NHTSA) published a request for comments concerning the operational safety of motorized bicycles (40 FR 55375).

Since that time, the NHTSA has analyzed the comments received in response to this notice as well as an increasing volume of safety data which has become available as the number of mopeds has increased. Based on this analysis, and in response to requests for NHTSA's views in this area, the agency has reached a number of conclusions concerning the operational safety of mopeds and has formulated recommendations for moped regulations which it intends to make available to the States and other interested parties. Before issuing these recommendations in final form, the agency has decided to make them available to the public for 30 days to obtain the benefit of any new information that may be supplied.

These recommendations represent the agency's opinion at this time concerning the operational safety of mopeds. They are merely recommendations, however, and are intended to be modified as additional data becomes available. Consequently, Docket 75-29; Notice 3 will remain open as a depository for information concerning mopeds and moped safety.

It is important to note that these recommendations do not represent highway safety standards. If the NHTSA decides to enter into formal rulemaking, the public will be notified and given the opportunity to comment.

PROPOSED RECOMMENDATIONS FOR MOPED REGULATION

DEFINITION

"Moped" means a motor-driven cycle with mechanical linkage to permit muscular propulsion and a power source that provides a maximum of 2 brake horsepower. The power source shall not be capable of propelling the vehicle unassisted at a speed in excess of 30 mph (48.28 kilometers per hour) on a level road.

VEHICLE REGISTRATION AND LICENSING

Each moped should be registered and its operation licensed in such a way that it can be identified as a motorized bicycle.

ACCIDENT RECORDS

Reporting of all accidents, in conformance with American National Standards Institute Standard D-20, Model Motorist Data Base, should be required. Accident reporting data should be complied in such a way that moped accident data can be clearly identified. Moped accident data should be separated from bicycle and motorcycle accident data.

VEHICLE EQUIPMENT

At the time of manufacture mopeds must meet applicable Federal Motor Vehicle Safety Standards. Vehicle Equipment Safety Commission Regulation VESC-17, Minimum Requirements for Construction and Equipment of Mopeds should be used as a guide for registration eligibility.

INSURANCE—FINANCIAL RESPONSIBILITY

Liability insurance or financial responsibility requirements should be applicable to moped operators.

OPERATOR'S LICENSE, MINIMUM AGE, AND TEST REQUIREMENTS

A motorcycle operator's license or endorsement, or a special moped operator's license or endorsement should be required for moped operation.

The minimum age for moped operator licensing should be the same as for automobile operator licensing.

Moped operators should be required to pass skill and knowledge tests designed for motorcycle operation or skill and knowledge tests designed especially for moped operation.

MOPED OPERATOR'S HANDBOOK

A moped operator's handbook should be prepared. This publication should contain information on all legal requirements for moped operation as well as information on recommended safe driving practices.

TRAFFIC LAW ENFORCEMENT

Moped operators should be required to obey all applicable traffic laws and regulations. Police agencies should establish which will insure that enforcement personnel are well informed about moped regulations and that traffic regulations pertaining to mopeds are equitably enforced.

MOPED OPERATOR EDUCATION

Motorcycle safety education programs should include appropriate information on moped operation. Persons wishing to operate a moped should be encouraged to enroll in these motorcycle safety education courses.

Additionally, information on moped regulations and safe driving practices should be incorporated into high school and adult driver education courses for automobile operators, so that they are knowledgeable concerning moped operators rights and duties.

PUBLIC INFORMATION AND EDUCATION

Information on moped regulations and safe driving practices should be incorporated into highway safety public information and education programs. These programs should also inform other drivers of the legal rights and restrictions for moped operators. Moped operators should be encouraged to check with local police agencies when in doubt about moped regulations.

PASSENGERS

Passengers should be prohibited on mopeds unless the vehicles are specifically designed to carry passengers.

USE ON HIGH-SPEED (ABOVE 35 MPH) ROADWAYS

Differences in speed between mopeds and other motor vehicles on high-speed roads can be as much as 45 mph. Speed differences that large can greatly increase the likelihood of accidents. However, safer low-speed alternative routes are often available. Priority should be given to finding and designating these low-speed alternative routes. Where alternative routes are not available, consideration should be given to designating bicycle lanes on the roadways and permitting mopeds to use them. Consideration should also be given to allowing mopeds to use the improved shoulders on designated roadways when alternative low-speed routes are not available. However, mopeds should not be permitted under any circumstances to operate on high-speed limited access highways.

Implementation of this recommendation will require extensive analyses of high-speed roads and alternative routes by traffic engineering specialists. In some cases it may be impractical to provide direct access by moped to all places a moped rider might wish to go. However, these analyses should be made with the goal of providing the greatest degree of access and mobility for moped users that adherence to traffic engineering and highway safety principles will permit.

USE OF ON-ROAD BICYCLE FACILITIES

on heavily congested roads it may be desirable to separate mopeds from other motor vehicle traffic. The use of on-road bicycle lanes by mopeds offers a practical means of achieving the needed separation. All on-road bicycle lanes should be examined to determine those on which moped use could be permitted with little increase in risk to other bicycle lane users. Those facilities where joint use appears to be compatible should then be designated for use by mopeds as well as bicycles.

USE OF BICYCLE PATHS

A need exists to determine the characteristics of the interaction between pedestrians, bicycles, and mopeds on off-road facilities. If adequate control exists, the State may wish to consider permitting, on an experimental basis, the use of motor and/or pedal powered mopeds on bicycle paths in order to determine the safety of this type of interaction. Such experimentation shall not be allowed on facilities funded under 23 U.S.C. 217(d) which prohibits motorized vehicles on "trails and walkways authorized under this section."

USE OF SAFETY HELMETS

The use of either a bicycle safety helmet or a motorcycle safety helmet should be required.

VISIBILITY

Moped operators should be encouraged to make themselves as visible as possible to other drivers. This can be accomplished by the use of brightly colored clothing and helmets, the use of the moped's headlight during the day, the use of a bicycle flag, and at night, by the use of retro-reflective materials on the vehicle, flag, clothing and helmet.

The principal author of this notice was Frederic W. Schwartz, Jr. of the office of Chief Counsel.

(Pub. L. 89-564, 80 Stat. 731; (23 U.S.C. 401, et seq.), delegations at 49 CFR 1.50 and 49 CFR 501.8(d)).

Issued: October 4, 1978.

CHARLES F. LIVINGSTON,
Acting Associate Administrator, Traffic Safety Programs.

[FR Doc. 78-28697 Filed 10-11-78; 8:45 am]

[4910-61-M]

Saint Lawrence Seaway Development Corporation

ADVISORY BOARD

Meeting

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the St. Lawrence Seaway Development Corp., to be held at 10 a.m., December 1, 1978, in the Seaway offices of the Seaway Corp., 800 Independence Avenue SW., Washington, D.C. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of Programs and Operations; and Closing Remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the pubic may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than November 29, 1978, and information may be obtained from Robert D. Kraft, Deputy General Counsel, St. Lawrence Seaway Development Corp., 800 Independence Avenue SW., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C. on October 2, 1978.

D. W. OBERLIN,
Administrator.

[FR Doc. 78-28710 Filed 10-11-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CARBON STEEL BARS, CARBON STEEL STRIP, CARBON STEEL PLATES, AND CERTAIN STRUCTURAL CARBON STEEL SHAPES FROM THE UNITED KINGDOM

Termination of Antidumping Investigations

AGENCY: U.S. Treasury Department.

ACTION: Termination of antidumping investigations.

SUMMARY: This notice is to advise the public that the antidumping investigations concerning carbon steel bars, carbon steel strip, carbon steel plates, and certain structural carbon steel shapes from the United Kingdom are being terminated. The terminations are based on the withdrawal of the original antidumping petitions, as detailed in the body of this notice and the appendix hereto.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Linda F. Potts, Assistant to the Director, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2951.

SUPPLEMENTARY INFORMATION: On December 5, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27. Customs regulations (19 CFR 153.26, 153.27) from

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Counsel on behalf of Armco Steel Corp. (now Armco, Inc.) alleging that certain steel products from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of he Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

This information was the subject of four "Antidumping Proceeding Notices" involving carbon steel bars, carbon steel strip, carbon steel plates, and certain structural carbon steel shapes from the United Kingdom, which were published in the FEDERAL REGISTER of January 23, 1978 (43 FR 3231-33). A notice extending the antidumping investigatory period for the four investigations was published in the FEDERAL REGISTER on July 26, 1978 (43 FR 32343).

Armco, Inc. submitted a letter dated September 29, 1978, formally withdrawing its petition. This letter is reproduced as an appendix to this notice.

Treasury has been monitoring and will continue carefully to monitor entries of carbon steel bars, carbon steel strip, carbon steel plates, and certain structural carbon steel shapes under the the trigger price mechanism and to take appropriate action to insure the effective enforcement of the Antidumping Act with respect to these products. In this connection, it should be noted, as indicated in the notice of proposed rulemaking regarding the special summary steel invoice (42 FR 65214), that Treasury views its authority to withhold appraisement retroactively in appropriate cases as an important tool for providing effective enforcement of the Antidumping Act.

Accordingly, I hereby conclude that based upon the withdrawal of the antidumping petition and in view of the fact that the carbon steel products described above are subject to the "trigger price mechanism" administered by this Department, it is appropriate to terminate these investigations. These terminations are without prejudice to the filing of one or more subsequent antidumping petitions concerning the same products.

Dated: October 6, 1978.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 29, 1978.

Re. Armco Inc. antidumping complaint covering basic *steel mill products from the United Kingdom.*

ROBERT H. MUNDHEIM, Esq.,
General Counsel,
Department of the Treasury, Room 3000 Main Treasury Building,
Washington, D.C. 20220

DEAR MR. MUNDHEIM: On December 2, 1977, Armco Steel Corp. (now Armco Inc.) submitted to the Commissioner of Customs a petition for the institution of antidumping proceedings in regard to the following categories of carbon steel mill products imported into the United States from the United Kingdom: plates, structural shapes, cold rolled sheets and coils, wire rods and hot rolled bars and bar shapes. The petition included information which tended to establish that these steel mill products were being sold in the United States at less than their fair value within the meaning of section 201 of the Antidumping Act, 1921, as amended.

Subsequent to the submission of Armco's petition, the President approved the report and recommendations of the Under Secretary of the Treasury for Monetary Affairs, the Honorable Anthony M. Solomon, for the establishment of a Trigger-Price Mechanism to enable the Treasury to monitor imports of steel mill products as a constructive measure to elminate the then widespread practice of foreign suppliers of selling such products in the United States at less than their fair value. In the ensuing months, all factors in the steel market have cooperated with the Department of The Treasury in its commendable efforts to establish the Trigger Price Mechanism, to update it, and to make it an effective instrumentality to accomplish its intended purpose.

The Department's cognizant spokesmen have repeatedly warned of the consequences to this innovative program should its limited resources of technically qualified manpower, required for the administration of the TPM, be diverted to the mandatory deadlines attaching to major antidumping investigations of steel mill products. Responsive to these warnings, other complainants in antidumping proceedings involving steel mill products from Japan, the U.K., and other E.E.C. countries, initiated prior to Armco's case, have withdrawn their several complaints, the most recent being the action of National Steel Corp. on August 14, 1978.

Armco's consideration of similar action has been prolonged by the surge of imports of steel mill products in July and August, 1978, and by the anxiety which is felt throughout the domestic steel mill products industry that the structural characteristics of the TPM may make it an effective instrument for achievement of the President's purpose, and those of The Department. We are reassured by the President's public statements this week and by our understanding of the intention of the Under Secretary and yourself to continue the Department's efforts to update and improve the TPM and its administration more effectively to achieve its intended purpose.

Armco does not desire to handicap these constructive efforts. It appears that the continued pendency of the Antidumping Investigations concerning steel mill products from the United Kingdom, initiated upon Armco's petition of December 2, 1977, may indeed have this unintended, and unfortunate effect. Accordingly, with the hope and expectation that the TPM (demonstrably inadequate in 1978) will be revised so that it will effectively and promptly reduce the unprecedented volume of steel imports into the U.S., Armco hereby withdraws it petition of December 2, 1977.

If in the future it appears that the TPM as modified from time to time, and its administration, are unequal to the achievement of the declared purpose of the President and the Under Secretary, Armco will be forced to reconsider its position, and possibly to resubmit antidumping petitions against what may then appear to be the more grievous dumping practices of foreign suppliers of steel mill products to the United States market.

With assurances of our respect and esteem for your personal efforts, as well as those of the Under Secretary, and with appreciation for the President's interest in this problem and his support of the TPM, I am

Very sincerely yours,
C. WILLIAM VERITY, Jr.

OCTOBER 6, 1978.

Mr. WILLIAM C. VERITY, Jr.,
Chairman, Armco, Inc.
Middletown, OH 45043.

DEAR MR. VERITY: Thank you for your letter of September 29, 1978, in which Armco withdraws its antidumping petition involving carbon steel bars, carbon steel strip, carbon steel plates, and certain structural carbon steel shapes from the United Kingdom.

Pursuant to your request we have terminated our investigation with respect to the above-named products without prejudice. Enclosed is a copy of a termination notice which will be published in the FEDERAL REGISTER.

Sincerely,
ROBERT H. MUNDHEIM.

[FR Doc. 78-28795 Filed 10-11-78; 8:45 am]

[4810-25-M]

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings

Notice is hereby given that the announcement of Monday, October 2 (43 FR 45497) is amended to include a working session on the afternoon of October 23 for the Public Securities Association, U.S. Government and Federal Agencies Securities Committee.

Dated: October 6, 1978.

ROGER C. ALTMAN,
Assistant Secretary (Domestic Finance).

[FR Doc. 78-28744 Filed 10-6-78; 2:36 pm]

[4810-25-M]

UNITED STATES—DENMARK TAX TREATY

Meeting

The Treasury Department announces that it will hold a public meeting on November 6, 1978, to solicit the views of interested persons regarding issues being considered during negotiations to develop a new income tax treaty between the United States and Denmark.

The public meeting will be held at the Treasury Department, at 2 p.m., in room 4121. Persons interested in attending are requested to give notice in writing by November 1, 1978, of their intention to attend. Notices should be addressed to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Washington, D.C. 20220.

Today's announcement of the November public meeting follows the recent conclusion of a further round of negotiations between representatives of the United States and Denmark to develop a new income tax treaty for the avoidance of double taxation and the prevention of tax evasion. The income tax treaty presently in effect dates from 1948.

In the course of the recent negotiations, many subjects of mutual concern were identifed and discussed. Among the issues being considered are: Taxation of dividends, including the treatment of Denmarks's imputation system; taxation of independent personal services, artists and athletes, and directors' fees; taxation of insurance companies; taxation of child support payments; relief from double taxation for U.S. citizens resident in Denmark; inclusion of the Virgin Island in treaty coverage; and treatment of contributions to pension plans.

The Treasury seeks the views of interested persons in regard to those issues, as well as other matters that may have relevance in the context of an income tax treaty between the United States and Denmark. The November 6 public meeting is being held to provide an opportunity for an exchange of views, as well as for the purpose of discussing the United States position in regard to the issues presented in the negotiations.

Dated: October 5, 1978.

DONALD C. LUBICK,
Assistant Secretary, Tax Policy.

[FR Doc. 78-28717 Filed 10-11-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 3, 1978, at 1 p.m., the Des Moines Regional Office Station Committee on Educational Allowances shall at room 1025, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in B-Flight, Inc., Fairfield, Iowa, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: October 3, 1978.

ROBERT L. WINTERS,
Director.

[FR Doc. 78-28756 Filed 10-11-78; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Vol. No. 27]

DECISION NOTICE

Correction

In FR Doc. 78-25142, appearing at page 39894 in the issue for Thusday, September 7, 1978, on page 39902, in the third column, in the paragraph for MC 138308 (Sub-55F), in the seventh line, the word "regular" should be corrected to read "irregular".

[1505-01-M]

[Decisions Volume No. 16]

DECISION-NOTICE

Correction

In FR Doc. 78-22239, appearing at page 35608 in the issue for Thursday, August 10, 1978, on page 35609, in the third column, in the paragraph for MC 71593 (Sub.-9F), in the 21st line, the State abbreviation "NB" should be corrected to read "NV".

[7035-01-M]

AGRICULTURAL COOPERATIVE

Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

OCTOBER 6, 1978.

The following Notices were filed in accordance with section 203(b)(5) of the Interstate Commerce Act provided for under 49 CFR 1047.23. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOp 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change, concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) The Arkansas Rice Growers Cooperative Association d.b.a. Riceland Foods. (Complete legal name of cooperative association or federation of cooperative associations.)

P.O. Box 927, Stuttgart, Ark. 72160. (Principal mailing address (street No., city, State and zip code).)

P.O. Box 927, Stuttgart, Ark. 72160. (Where are records of your motor transportation maintained (street No., city, State, and zip code)?)

C. A. Gunnell, Vice President for Finance & Secretary-Treasurer, P.O. box 927, Stuttgart, Ark. 72160. (Person to whom inquiries and correspondence should be addressed (name and mailing address).)

(2) Wilco Farmers. (Complete legal name of cooperative association or federation of cooperative associations.)

P.O. Box 258, Mount Angel, Oreg. 97362. (Principal mailing address (street No., City, State, and zip code).)

210 Monroe Street, Mount Angel, Oreg. 97362. (Where are records of your motor transportation maintained (street No., city, State, and zip code)?)

John Kuenzi, 210 Monroe Street, Mount Angel, Oreg. 97362. (Person to whom inquiries and correspondence should be addressed (Name and mailing address).)

(3) Rainbow Farm Lines, Inc. (Complete legal name of cooperative association or federation of cooperative associations.)

P.O. Box 14006-A, Orlando, Fla. 32857. (Principal mailing address (street No., city, State, and zip code).)

P.O. Box 14006-A, Orlando, Fla. 32857. (Where are records of your motor transportation maintained (street No., city, State, and zip code)?)

Stoney Mullins, P.O. Box 14006-A, Orlando, Fla. 32857. (Person to whom inquiries and correspondence should be addressed (name and mailing address).)

(2) Neillsville Co-op Transport. (Complete legal name of cooperative association or federation of cooperative associations.)

Box 30, Neillsville, Wis. 54456. (Principal mailing address (street No., city, State, and zip code).)

Box 30, Neillsville, Wis. 54456. (Where are records of your motor transportation maintained (street No., city, State, and zip code)?)

L. H. Fankhauser, Manager, Box 30, Neillsville, Wis. 54456. (Person to whom inquiries

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and correspondence should be addressed (name and mailing address).)

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28788 Filed 10-11-78; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 73-A Under Revised Service Order No. 1252]

REROUTING TRAFFIC

To: The Alton & Southern Railway Co., Burlington Northern Inc., The Baltimore & Ohio Railroad Co., Chicago & North Western Transportation Co., Chicago, Rock Island & Pacific Railroad Co., Consolidated Rail Corp., Illinois Central Gulf Railroad Co., Illinois Terminal Railroad Co., Louisville & Nashville Railroad Co., Manufacturers Railway Co., Missouri-Kansas-Texas Railroad Co., Missouri Pacific Railroad Co., Norfolk & Western Railway Co., St. Louis-San Francisco Railway Co., St. Louis Southwestern Railway Co., Southern Railway Co., and Terminal Railroad Association of St. Louis.

Upon further consideration of I.C.C. Order No. 73, and good cause appearing therefor: *It is ordered*, I.C.C. Order No. 73 is vacated.

This order shall become effective at 9 a.m., September 29, 1978, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 29, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-28790 Filed 10-11-78; 8:45 am]

[7035-01-M]

[Notice No. 728]

ASSIGNMENT OF HEARINGS

OCTOBER 6, 1978.

Cases assigned for hearings, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 121568 (Sub-10), Humbolt Express, Inc., now being assigned for continued hearing on December 12, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 11758 (Sub-45), Provisioners Frozen Express, Inc., now assigned for October 11, 1978, at Denver, CO, is canceled and application dismissed.

MC 144149, Rim Investments, Inc. d.b.a. B & C Transportation, now assigned for December 11, 1978, at San Francisco, CA, is canceled and application dismissed.

MC 135797 (Sub-93), J. B. Hunt Transport, Inc., now being assigned for continued hearing on October 26, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

FD 28499 (Sub-1F), Norfolk & Western Railroad Co. and Baltimore & Ohio Railroad Co.—control—Detroit, Toledo & Ironton Railroad Co. and FD 28676 (Sub-1F), Grand Trunk Western Railroad—control—Detroit, Toledo & Ironton Railroad Co. and Detroit & Toledo Shore Line Railroad Co., now being assigned for continued prehearing conference on October 16, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 143236 (Sub-11), White Tiger Transportation, Inc., now assigned October 16, 1978 at New York, NY (5 days) is postponed to October 23, 1978 at New York, NY (1 week) in room 305-B Federal Building, 26 Federal Plaza.

MC 121683 (Sub-3F), Jackson Express, Inc., now assigned November 14, 1978 at Jackson, TN (4 days) in the Holiday Inn, room 402, 45 Bypass.

MC 143999, Allied International Trucking Co., Inc., now assigned November 20, 1978 (1 day) in Boston, MA, in a hearing room to be later designated.

MC 144263, Basel-Kiene, now assigned December 6, 1978 at Olympia, WA (3 days), in a hearing room to be later designated.

MC 12160 (Sub-51), Arrow Truck Lines, Inc., now assigned November 13, 1978 (1 day), for prehearing conference at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 144741 (Sub-1F), Nettleton Enterprise Co., Inc., d.b.a. Norwood Transport, now assigned November 21, 1978 (2 days) at Chicago, IL in a hearing room to be later designated.

MC 124211 (Sub-317F), Hilt Truck Lines, Inc., now assigned November 15, 1978 (2 days) at Columbus, OH in room 228, Federal Building, 85 Marconi Boulevard.

AB 7 (Sub-62), Stanley E. G. Hillman, trustee of the property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, abandonment near Faribault and Zumbrota, in Rice and Goodhue Counties, MN now assigned November 27, 1978 (5 days) at Zumbrota, MN in a hearing room to be later designated.

MC-F-13461, United Trucking Service, Inc.—purchase (portion)—Eastern Express, Inc., and MC 79151 (Sub-51), United Trucking Service, Inc., now assigned December 9, 1978 at Washington, DC at the offices of the Interstate Commerce Commission and will be continued to January 9, 1979 at Washington, DC at the offices of the Interstate Commerce Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28792 Filed 10-11-78; 8:45 am]

[7035-01-M]

[Decisions Volume No. 37]

DECISION-NOTICE

Decided: September 29, 1978.

The following applications are governed by special rule 247 of the commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication (October 12, 1978).

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authrity sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, Members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Acting Secretary.

MC 2202 (Sub-564F), filed July 24, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) serving Longview, and Marshall, TX, as intermediate points on applicant's regular route between Birmingham, AL, and Dallas, TX; (2) serving Jacksonville, TX, as an intermediate point on applicant's regular route between Denison, TX, and Houston, TX; and (3) serving Cleburne, TX, as an off-route point to applicant's regular route between Denton, TX, and Hillsboro, TX. (Hearing site: Dallas, TX or Washington, DC.)

MC 3252 (Sub-103F), filed July 27, 1978. Applicant: MERRILL TRANSPORT CO., a corporation, 1037 Forest Avenue, Portland, Me 04104. Representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cullet bottles and cans, for recyling*, from points in ME to points in MA, RI, CT, NH, NY, and NJ. (Hearing site: Boston, MA.)

MC 112074 (Sub-441F), filed August 9, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel tubing* (except commodities which because of size or weight require the use of special equipment), from the facilities of the Georgia Tubing Corp., at or near Cedar Springs, GA, to points in AL, AR, FL, KY, LA, MS, MO, NC, OK, SC, TN, and TX. (Hearing site: Jacksonville, FL or Birmingham, AL.)

MC 21866 (Sub-106F), filed July 31, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and plastic containers*, and (2) *materials* used in the manufacture and distribution of glass containers and plastic containers (except commodities in bulk), between the facilities of Drug Plastic & Glass Co., Inc., at or near Kittanning, PA, on the one hand, and, on the other, points in the United States (except AK, HI, and PA). (Hearing site: Washington, DC or Philadelphia, PA.)

MC 22509 (Sub-8F), filed September 6, 1978. Applicant: MISSOURI-NEBRASKA EXPRESS, INC., an Iowa corporation, 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends*, from Chicago, IL, Milwaukee, WI, and LaPorte, IN, to points in KS, NE, and OK. (Hearing site: Chicago, IL.)

MC 30844 (Sub-620F), filed August 4, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box

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5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations*, from Minneapolis, MN, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 61282 (Sub-2F), filed July 5, 1978. Applicant: ASPEN TRANSPORTATION SERVICE, INC., 435 Main Street, Gardner, MA 01440. Representative: William Humphrey Tucker, One State Street, Boston, MA 02109. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Franklin, Hampden, Hampshire, Middlesex, and Worcester Counties, MA; and (2) *furniture and pianos*, between points in MA. Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request, of certificate of registration MC 57519 (Sub-1). (Hearing site: Boston, MA.)

NOTE.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity.

MC 61788 (Sub-36F), filed August 25, 1978. Applicant: GEORGIA-FLORIDA-ALABAMA TRANSPORTATION CO., a corporation, P.O. Box 2268, Dothan, AL 36302. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Mobile, AL, and Gulfport, MS, (1) over U.S. Hwy 90, and (2) over Interstate Hwy 10, serving all intermediate points, and restricted in (1) and (2) above (a) that any authority granted herein shall not be severable by sale or otherwise from the irregular-route authority held by carrier between points within 75 miles of Bay Minette, AL, including Bay Minette, and (b) no irregular route operations may be conducted between Mobile, AL, and Gulfport, MS. (Hearing site: Mobile, AL or Gulfport, MS.)

MC 70083 (Sub-34F), filed August 21, 1978. Applicant: DRAKE MOTOR LINES, INC., a Delaware corporation, 20 Olney Avenue, Cherry Hill, NJ 08002. Representative: Richard Rueda, 133 North 4th Street, Philadelphia, PA 19106. To Operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ladies apparel, and* (2) *supplies* used in the distribution of the commodities in (1) above (except commodities in bulk), from the facilities of Petrie Stores Corp., at Secaucus, NJ, to the facilities of Petrie Stores Corp., at Cleveland, OH, and Detroit, MI. Condition: The person or persons who control applicant may be engaged in common control with a freight forwarder and must submit an affidavit establishing that such control is not in violation of section 411 (a)(1) of the Interstate Commerce Act. (Hearing site: Camden, NJ or Philadelphia, PA.)

MC 70083 (Sub-35F) filed August 21, 1978. Applicant: DRAKE MOTOR LINES, INC., a Delaware corporation, 20 Olney Avenue, Cherry Hill, NJ 08002. Representative: Richard Rueda, 133 North 4th Street, Philadelphia, PA 19106. To operate as a *common carrier, by motor vehicle*, over irregular routes, transporting: (1) *Ladies apparel* and (2) *supplies* used in the distribution of the commodities in (1) above (except commodities in bulk), (a) from the facilities of the Miller-Wohl Co., Inc., at Secaucus, NJ, to the facilities used by the Miller-Wohl Co., Inc., at Cleveland, OH, and Detroit, MI, and (b) from the facilities or by the Miller-Wohl Co., Inc., at Cleveland, OH, to the facilities of the Miller-Wohl Co., Inc., at Detroit, MI. Condition: The person or persons who control applicant may be engaged in common control with a freight forwarder and must submit an affidavit establishing that such control is not in violation of section 411(a)(1) of the Interstate Commerce Act. (Hearing site: Camden, NJ or Philadelphia, PA.)

MC 74416 (Sub-16F), filed July 31, 1978. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete products*, from Eddystone, PA, to points in CT, DE, MD, NJ, NY, OH, VA, WV, and DC. (Hearing site: Washington, DC or Philadelphia, PA.)

MC 87511 (Sub-22F), filed August 7, 1978. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Station 1, Houma, LA 70360. Representative: Phillip Robinson, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), serving the facilities of Monsanto Co., at or near Chocolate Bayou, TX, as an off-route point in connection with carrier's otherwise-authorized regular-route operations. (Hearing Site: Houston, TX or New Orleans, LA.)

MC 87909 (Sub-28F), filed September 5, 1978. Applicant: KROBLIN TRANSPORTATION SYSTEMS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL, on the one hand, and, on the other, Louisville, KY, and points in IN. (Hearing site: Des Moines, IA and Boston, MA.)

MC 95540 (Sub-1033F), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats* and *canned meats*, from New York, NY, Philadelphia, PA, and Wilmington, DE, to points in OH, IN, IL, KY, TN, WV, MI, MS, VA, NC, WI, MN, IA, KS, and MO. (Hearing site: Philadelphia, PA or Washington, D.C.)

MC 95540 (Sub-1034F), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Pet Inc., at or near (1) Chambersburg, PA, to points in FL, GA, MS, NC, SC, and TN, and (2) Frankfort, Benton Harbor, and Hart, MI, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: St. Louis, MO or Washington, DC.)

MC 95540 (Sub-1035F), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Applicances, and parts and accessories for applicances*, from the facilities of the Maytag Co., at or near Newton, IA, to points in FL, GA, NC, and SC. (Hearing site: Des Moines, IA or Washington, DC.)

MC 95540 (Sub-1036F), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail sewing centers*, from Trumann, AR, to Shrewsbury, MA, Richmond, VA, Los Angeles and San Francisco, CA, North Bergen, NJ, Tampa, FL, Charlotte, NC, and Philadelphia, PA. (Hearing site: New York, NY, or Washington, DC.)

MC 95540 (Sub-1037F), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Louisville, KY, to points in NC, SC, TN, and MS. (Hearing site: St. Louis, MO, or Louisville, KY.)

MC 95540 (Sub-1038F), filed September 11, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Confectionery* (except in bulk, in tank vehicles), from Ashton, RI, to points in CA, AR, LA, and TX; and (2) *foodstuffs* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from points in CT, MA, NJ, NY, PA, and RI, to points in FL, GA, NC, SC, TN, MS, AL, and VA. (Hearing site: New York, NY, or Washington, DC.)

MC 100666 (Sub-407F), filed July 28, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos products and construction and insulating materials* (except iron and steel articles and commodities in bulk), from the facilities of GAF Corp., at or near St. Louis, MO, to points in AL, AR, CO, FL, GA, IA, IL, IN, KS, KY, LA, MI, MS, NC, NE, OH, OK, PA, TN, TX, and WI. (Hearing site: St. Louis, MO).

MC 106401 (Sub-49F), filed August 7, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, NC 28234. Representative: Thomas G. Sloan (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Liquid Paper Corp. at or near Greenville, TX, as an off-route point in connection with carrier's otherwise-authorized regular-route operations between Atlanta, GA, and Fort Worth, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 107107 (Sub-469F), filed August 17, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW., 42d Avenue, Opa Locka, FL 33054. Representative: Ford W. Sewell (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Epoxy moulding compounds*, in vehicles equipped with mechanical refrigeration, from Carteret, NJ, to points in AL, FL, GA, LA, MS, NC, SC, and TX. (Hearing site: New York, NY.)

MC 108207 (Sub-484F), filed August 8, 1978. Applicant FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic materials*, in vehicles equipped with mechanical refrigeration, from Irving, TX, to points in NM. (Hearing site: Dallas, TX.)

MC 108207 (Sub-485F), filed August 11, 1978. Applicant FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities as are dealt in by* grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilites of Kraft, Inc., at Garland, TX, to points in AR, KS, LA, MS, MO, OK, and TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX.)

MC 108341 (Sub-111F), filed August 7, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. BOx 8409, Charlotte, NC 28208. Representative: Jack F. Counts (same address as applicant), to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Georgetown County, SC to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Charleston, SC, or Washington, DC.)

MC 109397 (Sub-425F), Filed August 4, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., a DE corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cooling equipment and components for cooling equipment*, and (2) *equipment and materials* used in the installation, manufacture, and distribution of the commodities named in (1) above, between Tulsa, OK, and points in Mayes County, OK, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Tulsa, OK, or Dallas, TX.)

NOTE.—The person or persons it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 109501 (Sub-16F), filed July 27, 1978. Applicant: CALHOUN TRANSPORTATION, INC., 319 Jacet Road Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 6193, Five World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by plumbing, building and industrial supply houses, between the facilities of ITT Grinnell Corp. and ITT Grinnell Valve Co., Inc., at Elmira, NY, Columbia, East Hempfield Township, and Wrightsville, PA, Warren, OH, Clito, GA, Henderson, TN, Princeton, KY, Temple, TX, and Indianapolis, IN, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contracts with ITT Grinnell Corporation and ITT Grinnell Valve Co., Inc., both of New York, NY. (Hearing site: Providence, RI.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 110525 (Sub-1261F), filed August 28, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrazine and hydrazine solutions*, in bulk, in tank vehicles, (1) from the facilities of Olin Corp., at Lake Charles, La, to points in the United States (including AK but excluding HI and LA), and (2) from the facilities of Mobay Chemical Corp., at points in Chambers County, TX, to the facilities of Olin Corp., at Lake Charles, LA. (Hearing site: New Orleans, LA.)

NOTE.—Dual operations may be at issue in this proceeding.

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MC 112304 (Sub-147F), filed July 27, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ferro alloys, silico manganese, silicon metal, and scrap metal* (except commodities in bulk in dump vehicles), from the facilities of Airco Alloys at or near Calvert City, KY, and Charleston, SC, to points in the United States (except AK and HI); and (2) *scrap metals and ferro alloy fines* (except commodities in bulk in dump vehicles), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or St. Louis, MO.)

MC 113267 (Sub-363F), filed August 7, 1978. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 AMF, Memphis, TN 38130. Representative: Lawrence A. Fischer (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NC, ND, OK, OH, SC, SD, TN, TX, and WI. Condition: Pursuant to the notice to the parties in MC 113267 (Sub-353), et al., served July 5, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made in MC 113267 (Sub-355). (Hearing site: Memphis, TN, or Chicago, IL.)

MC 113651 (Sub-279F), filed August 4, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: H. Barney Firestone, 10 South La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, dessert preparations, gumball machines, and gumball stands* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL, to points in AL, AR, FL, GA, LA, MS, and TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 113651 (Sub-284F), filed August 7, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by producers and distributors of alcoholic beverages (except commodities in bulk in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI).

MC 113855 (Sub-444F), filed August 28, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Underground tunnel support systems, steel beams, structural steel plates, nuts, bolts, machinery*, and *machine parts*, between the facilities of (a) Commercial Shearing, Inc., at Youngstown, OH, (b) Gregory Galvanizing Co., at Canton, OH, (c) Dura Bond, Inc., at Export, PA, (d) Young Galvanizing Co., at Pulaski, PA, (e) Hanlon Gregory Co., at Pittsburgh, PA, and (f) Commercial Stamping & Forging, at Bedford Park, IL, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Washington, DC.)

MC 114632 (Sub-179F), filed August 4, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Arlington and Ortonville, MN, and Bloomer, WI, to points in the United States (except AK and HI). (Hearing site: Minneapolis, MN, or Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115826 (Sub-332F), filed July 31, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Long Beach, CA, to points in IA, IL, KS, MN, MO, ND, NE, SD, and WI. (Hearing site: Denver, CO.)

MC 115826 (Sub-333F), filed July 31, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from thr facilities of (1) Vernon Calhoun Packing CO., at or near Palestine, TX, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY, (2) Estes Packing Co., at or near Fort Worth, TX, to points in AZ, CA, and CO, and (3) Newhouff Packing, at or near Dallas, TX, to points in AZ, CA, CO, IL, OH, and WI, restricted in (1), (2), and (3) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Denver, CO.)

MC 117786 (Sub-22F), filed July 11, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85009. Representative: Thomas F. Kilroy, Suite 405, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, from the facilities of Cincinnati Milacron, at Cincinnati, OH, to points in AZ, CA, FL, IA, NE, OR, TX, and WA. (Hearing site: Cincinnati, OH.)

MC 117786 (Sub-27F), filed July 31, 1978. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: Baldo J. Lutich, 1441 East Thomas Road, Phoenix, AZ 85014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuts, bolts, and steel articles*, from the facilities of (1) VSI Fasteners, Division of VSI Corp., at Los Angeles, CA, to the facilities of VSI Fasteners, at Phoenix, AZ, and (2) VSI Fasteners, at Phoenix, AZ, to Dallas and El Paso, TX, Norcross, GA, and Broadview, IL. (Hearing site: Phoenix, AZ.)

MC 118159 (Sub-288F), filed September 5, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium bicarbonate, sodium carbonate, and cleaning compounds* (except commodies in bulk), from the facilities of Church & Dwight Co., Inc., in Sweetwater County, WY, to points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Atlanta, GA.)

MC 118159 (Sub-289F), filed September 6, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., a Louisiana corporation, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed* (except in bulk), from Red Bay, AL and Tupelo, MS, to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Atlanta, GA.)

MC 118831 (Sub-163F), filed August 7, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank or hopper-type vehicles, from Old Hickory, TN, to points in AL, AR, GA, KY, IN, IL, MI, MO, MS, NC, OH, SC, TN, VA, and WV. (Hearing site: Washington, DC.)

MC 119632 (Sub-76F), filed August 3, 1978. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: John P. McMahon, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk, in tank vehicles), from the facilities of Duffy Mott Co., Inc., at Hamlin and Williamson, NY, to points in IL, IN, KY, MI, and MO. (Hearing site: Washington, DC.)

MC 119700 (Sub-44F), filed September 5, 1978. Applicant: STEEL HAULERS, INC., 305 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Dallas, TX, to points in AR, CO, KS, LA, MO, MS, NM, and OK. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 119765 (Sub-59F), filed August 25, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Norfolk Iron & Metal Co., at or near Norfolk, NE, to points in CO, IL, IN, IA, KS, MN, MO, MT, OK, SD, TX, UT, WI, and WY. (Hearing site: Omaha, NE.)

MC 119775 (Sub-75F), filed September 5, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials and materials and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corp., at or near Lockland, OH, on the one hand, and, on the other, these points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Tampa, FL.).

MC 121060 (Sub-76F), filed September 5, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials and materials and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corp., at or near Chicago, IL, on the one hand, and, on the other, points in WI, IA, PA, KS, NE, MO, KY, IN, MI, OH, WV, MN, NY, and MA. (Hearing site: Tampa, FL.)

MC 121300 (Sub-5F), filed August 24, 1978. Applicant: HARRIS TRANSPORTATION CO., a corporation, 14880 Dove's Lane, Victorville, CA 92392. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude talc*, in bulk, from points in Inyo County, CA, to San Diego, CA, and the Dunn rail siding and Field rail siding, near Yermo, CA. (Hearing site: Los Angeles, CA.)

MC 123272 (Sub-2UF), filed August 1, 1978. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, and materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc. at Columbus, OH. (Hearing site. Chicago, IL or Columbus, OH.)

MC 124004 (Sub-45F), filed July 28, 1978. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feed, and dry animal and poultry feed ingredients*, (except salt and salt products), and (2) *agricultural commodities* otherwise exempt from regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with the commodities in (1) above, between points in NY, CT, MA, RI, NH, VT, ME, PA, NJ, DE, MD, VA, WV, and OH. (Hearing site: New York, NY or Washington, DC.)

MC 124692 (Sub-221F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and nonferrous and aluminum support systems*, from Troy and Highland, IL, to points in AK, AZ, CA, CO, ID, KS, MN, MT, NE, NV, NM, ND, OK, OR, IA, SD, TX, UT, WA, and WY, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL.)

MC 124692 (Sub-224F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal buildings, and component parts for metal buildings*, (2) *materials and supplies* used in the construction of the commodities in (1) above, and (3) *building materials*, (a) from Dallas, TX, to points in AR, AZ, CA, CO, ID, IL, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI, and WY, and (b) from Lubbock, TX, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Dallas, TX.)

MC 124692 (Sub-225F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mechanical jacks, accessories for mechanical jacks, and steel rods*, between Kansas City, KS, and points in AZ, CA, CO, NV, ND, OR, SD, UT, WA, MT, and WY, restricted to the transportation of traffic originating at or destined to the facilities utilized by Double J. Manufacturing Co. Inc. (Hearing site: Kansas City, MO.)

MC 124692 (Sub-226F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347,

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Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by farm supply cooperatives (except foodstuffs, commodities in bulk, household goods as defined by the Commission, feed, feed ingredients, commodities which because of size and weight require the use of special equipment, agricultural machinery and implements other than hand and agricultural tractors), from points in IA, IN, MI, MN,OH, IL, and WI, to points in MT, WY, ID, ND, SD, UT, WA, and OR, restricted to the transportation of traffic originating at the named origins and destined to the facilities of Farmers Union Central Exchange, Inc., (Cenex) at the indicated destinations. (Hearing site: St. Paul, MN.)

MC 124692 (Sub-227F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron pipe and steel pipe*, from the facilities of Keystone Tubular Service Corp., at Chicago, IL, to the facilities of Keystone Tubular Service Corp., at Kansas City, MO, and Denver, CO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 124692 (Sub-228F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and fabricated metal articles, parts, materials, and accessories* for fabricated metal articles, from Stafford, KS, and Tulsa, OK, to points in AZ, CA, ID, MT, NV, ND, OR, SD, UT, WA, and WY. (Hearing site: Kansas City, MO.)

MC 124896 (Sub-63F), filed July 28, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3465, Wilson, NC 27893. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum, petroleum products, vehicle body sealers, and deadener compounds* (except commodities in bulk), and (2) *oil filters and air filters*, from Buffalo, NY, North Warren, Farmers Valley, Emlenton, and New Kensington, PA, and St. Marys and Congo, WV, to points in FL, IL, IN, MO, VA, and WI. (Hearing site: Pittsburgh, PA or Kansas City, MO.)

MC 126118 (Sub-94F), filed September 5, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers of games, toys, sporting goods, and plastic recreational items, between the facilities of WHAM-O Manufacturing Co., at San Gabriel and Rosemead, CA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of WHAM-O Manufacturing Co., at San Gabriel and Rosemead, CA. (Hearing site: Los Angeles, CA or Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 127812 (Sub-26F), filed August 4, 1978. Applicant: TYSON TRUCK LINES, INC., 185 5th Avenue SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), between Fargo, ND, on the one hand, and, on the other, points in Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Jackson, LaCrosse, Oneida, Pepin, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Trempealeau, Washburn, and Vilas Counties, WI, and MN. (Hearing site: St. Paul, MN.)

MC 128616 (Sub-94F), filed July 31, 1978. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* used in the business of banks and banking institutions, (except currency and negotiable securities), between Omaha, NE, on the one hand, and, on the other, points in Harrison, Pottawattamie, Mills, Montgomery, Shelby, Page and Fremont Counties, IA, under continuing contracts with banks and banking institutions. (Hearing site: Omaha, NE or Kansas City, MO.)

MC 129124 (Sub-16F), filed August 6, 1978. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from points in NY, to points in Kanawha County, WV. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 129191 (Sub-9F), filed August 7, 1978. Applicant: RICHARD T. PLATTNER, d.b.a. JANS MOTOR SERVICE, 4640 West 120th Street, Alsip, IL 60658. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay pipe and flue lining*, from Uhrichsville, OH, to points in IN, IL, WI, MN, and IA. (Hearing site: Chicago, IL.)

MC 133095 (Sub-196F), filed August 25, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Rocky Moore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed publications*, from the facilities of Magazine Shippers Association, Inc., at or near Bridgeport, CT, to points in AL, GA, AR, MS, FL, SC, and NC. (Hearing site: Dallas, TX, or New York, NY.)

MC 133591 (Sub-49F), filed August 7, 1978. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main Street, Winchester, KY 40391. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pesticides* and *agricultural chemicals*, (except commodities in bulk), and (2) *applicators* for the commodities in (1) above, from points in Alameda, Contra Costa, and Solano Counties, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: San Francisco, CA, or Washington, DC.)

NOTE.—Dual operations may be involved in this proceeding.

MC 133655 (Sub-119F), filed August 25, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC and 209 and 766.

(except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near El Paso, TX, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 134286 (Sub-69F), filed July 31, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *Common Carrier*, by motor vehicle, over irregular routes, transporting: (1) *Needles, syringes, and blood collection tubes*, and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk from the facilities of Sherwood Medical Industries, at or near Norfolk, NE, to Atlanta, GA, North Brunswick, NJ, St. Louis, MO, Dallas, TX, Libertyville, IL, Anaheim and Hayward, CA, Boston, MA, and Minneapolis, MN. (Hearing site: Omaha, NE, or Sioux City, IA.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 134286 (Sub-70F,) filed July 31, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slab zinc, zinc oxide, zinc dust, and metallic cadmium* (except commodities in bulk), from the facilities of St. Joe Zinc. Co., in Beaver County, PA, to Chicago, IL, St. Louis, Mo, and points in CA, OR, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (hearing site: Pittsburgh, PA, or Sioux City, IA.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 134467 (Sub-31F), filed Agust 10, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frosting mixes*, (except commodities in bulk), from the facilities of Chelsea Milling Co. at or near Chelsea, MI, to points in AZ, CA, OR, UT, and WA. (Hearing site: Detroit, MI; or Little Rock, AR.)

MC 134467 (Sub-32F), filed August 10, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845 Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Paper and paper products, and (2) *materials and equipment* used in the manufacture or distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of Scott Paper Co., at or near (a) Chester, PA, and (b) Landisville, NJ, on the one hand, and, on the other, the facilities of Scott Paper Co., at or near Rogers, AR. (Hearing site; Philadelphia, PA).

MC 134477 (Sub-264F), filed August 11, 1978. Applicant: SCHANNO TRANSPORTATION, INC., Five West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric ranges and microwave ovens*, and (2) *materials and equipment* used in the manufacture and distribution of electric ranges and microwave ovens, between the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: St. Paul, MN.)

MC 134501 (Sub-31F), filed August 4, 1978. Applicant: INCORPORATED CARRIERS, LTD., a corporation, P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Restaurant furniture, restaurant fixtures, and restaurant equipment*, from Columbus, OH, to points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Dallas, TX.)

MC 135410 (Sub-27F), filed September 5, 1978. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North Sixth Street Road, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Commercial Distribution Center, Inc., at or near Independence, MO, to points in IL, IN, KY, MI, OH, PA, NY, VT, NJ, NH, ME, MA, CT, RI, DE, MD, WI, WV, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 135539 (Sub-17F), filed September 5, 1978. Applicant: FARM SERVICE & SUPPLY, INC., P.O. Box 5351, Evansville, IN 47715. Representative: Robert J. Gill, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain drying equipment, grain handling and storage equipment, flail equipment*, and *field refueling systems*, (2) *supplies and accessories* for the commodities in (1) above, and (3) *materials and components* for the commodities in (1) and (2) above, between the facilities of Mathews Co., at Crystal Bake, IL, on the one hand, and, on the other, points in the United States (except AK, HI, and IL), under a continuing contract with Mathews Co., of Crystal Lake, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 136315 (Sub-35F), filed August 28, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route Nine, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of Georgia-Pacific Corp., at or near Belk, AL, to points in IL, IN, IA, MO, OH, and WI. (Hearing site: Jackson, MS, or Memphis, TN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 136635 (Sub-11F), filed August 28, 1978. Applicant: UNIVERSAL CARTAGE, a corporation, 640 West Ireland Road, South Bend, IN 46614. Representative: Edwin J. Simcox, Suite 800, Circle Tower Building, Five East Market Street Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquor, beer, beer tonic, and nonintoxicating cereal beverages*, in vehicles equipped with mechanical refrigeration, from points in CO, MO, NM, AZ, TX, and KS, to points in Marion County, IN, restricted to the transportation of traffic destined to the facilities of Rocky Mountain Distributors, Inc., of Indianapolis, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 138104 (Sub-55F), filed July 18, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX

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76106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the facilities of Chaparral Steel Co., at or near Midlothian, TX, to points in the United States (except AR, CO, LA, MS, NM, OK, TN, AK, and HI); and (2) *materials and equipment* used in the manufacture of iron and steel articles, from points in the United States (except AK and HI), to the facilities of Chaparral Steel Co., at or near Midlothian, TX. (Hearing site: Fort Worth or Dallas, TX.)

MC 138469 (Sub-79F), filed September 5, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets*, from the facilities of Triangle Pacific Corp., at Auburn, NE, to points in IL, IN, MI, MN, ND, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX.)

MC 138832 (Sub-127F), filed August 3, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL, 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquets, hickory chips, and fireplace logs*, from Burnside, KY, to points in OH, MI, IL, IN, and WI. (Hearing site: Montgomery AL, or Louisville, KY.)

MC 138832 (Sub-131F), filed August 1, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707 Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Suite 200, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, and wood-pulp*, from the facilities of Bowater Southern Paper Corp., at Calhoun, TN, to points in MD, NJ, NY, MI, OH, WV, VA, DE, IN, KY, MO, PA; and DC; and (2) *materials and equipment* used in the manufacture of the commodites in (1) above (except commodities in bulk), in the reverse direction. (Hearing Site: Nashville, TN, or Montgomery, AL.)

MC 139482 (Sub-64F), filed August 3, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat, in boxes*, from Boston, MA, New York, NY, Philadelphia, PA, and Wilmington, DE, to points in MI, IL, IN, IA, OH, MN, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140484 (Sub-33F), filed July 20, 1978. Applicant: LESTER COGGINS TRUCKING, INC. 2671 East Edison Avenue, P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric motors, electric welders, parts and assessories for electric motors and electric welders, welding supplies, and hand truck parts* (except those commodities which because of size or weight require the use of special equipment), from the facilities of the Lincoln Electric Co., at or near Cleveland and Mentor, OH, to Baton Rouge, New Orleans, and Shreveport, LA, and points in AR and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Cleveland, OH or Washington, DC.)

MC 140487 (Sub-2F), filed July 17, 1978. Applicant: YELLOWSTONE TRUCKING, INC., North 9 Post Street, Room 425, Peyton Building, Spokane, WA 99210. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *Lumber*, from (a) Peshastin, WA, and (b) points in a territory bounded by a line beginning in WA on the International boundary line between the United States and Canada, then south along U.S. Hwy 97 to junction WA-OR State line, then east along the WA-OR State line to junction WA-OR-ID State lines, then north along the WA-ID State line to U.S. Hwy 95 at Lewiston, ID, then south along U.S. Hwy 95 to junction ID Hwy 13 at Grangeville, ID, then east along ID Hwy 13 to junction U.S. Hwy 12 at Kooskia, ID, then east along U.S. Hwy 12 to junction U.S. Hwy 93 at Lolo, MT, then north along U.S. Hwy 93 to junction U.S. Hwy 2 at Kalispell, MT, then east along U.S. Hwy 2 to junction MT Hwy 49 at East Glacier Park, MT, then north along MT Hwy 49 to junction U.S. Hwy 89 at Kiowa, MT, then north along U.S. Hwy 89 ending at the International boundary line between the United States and Canada, at Port of Piegan, MT, to points in CO, ID, KS, MO, MT, OH, UT, WA, and WY, under a continuing contract with The Pack River Co., of Spokane, WA. (Hearing site: Spokane, WA or Washington, DC.)

MC 140612 (Sub-51F), filed July 31, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. BOX 2207, Cedar Rapids, IA 52406. Representative: J. L. KAZIMOUR (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Television sets, electronic equipment, and components, accessories, materials, and equipment* used in the manufacture, and distribution of the above commodities (except commodities in bulk), between the facilities of Sanyo Manufacturing Corp., at or near Forrest City, AR, on the one hand, and, on the other, points in CA. (Hearing site: Little Rock, AR.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141124 (Sub-21F), filed July 26, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (*Chemicals* (except in bulk), and (2) *such commodities* as are dealt in by manufacturers and distributors of laboratory materials, laboratory equipment, and laboratory supplies (except commodities in bulk), between Norwood, OH, and Elmsford, NY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Philadelphia, PA or Columbus, OH.)

MC 141150 (Sub-6F), filed June 28, 1978. Applicant: ATLAS WAREHOUSING CO., a corporation, 510 West Kearsley Street, Flint, MI 48506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores*, from Saginaw and Flint, MI, to the facilities of K-mart Corp. (1) at Alma, MI, and (2) points in MI on and north of a line beginning at Port Sanilac, then west along MI Hwy 46 to junction U.S. Hwy 31, then north along U.S. Hwy 31 to junction U.S.B.R. 31 and then west to Lake Michigan, under a continuing contract with K-mart Corp., of Troy, MI. (Hearing site: Lansing or Flint, MI.)

MC 141532 (Sub-32F), filed July 24, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98003. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos cement, plastic pipe, asphalt roofing, asphalt shingles* and *asphalt rolls*, from points in CA, to points in ID and MT. (Hearing site: San Francisco or Oakland, CA.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 141740 (Sub-7F), filed September 5, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46012. Representative: Jeffry Stoops, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical components, electric furnaces, air conditioners, and heat pumps*, from Dallas and Mesquite, TX, to Miami, Orlando, St. Petersburg, and Tampa, FL, and Atlanta, GA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations, under a continuing contract with Square D Co., of Florence, KY. (Hearing site: Chicago, IL, or Indianapolis, IN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142447 (Sub-8F), filed July 31, 1978. Applicant: LOUISIANA-PACIFIC TRUCKING CO., an Oregon corporation, P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips and sawdust*, from the facilities of Louisiana-Pacific Corp., at or near Carthage, TX, to the facilities of Western Craft Paper Group, at or near Campti, LA, under a continuing contract with Louisiana Pacific Corp., of New Waverly, TX. (Hearing site: Houston, TX.)

MC 142507 (Sub-2F), filed August 9, 1978. Applicant: FEDERAL REFRIGERATED TRANSPORT, INC., 1301 NW. 89th Court, Miami, FL 33172. Representative: John P. Bond, P.O. Box 340370, Coral Gables, FL 33134. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, motor vehicles, commodities in bulk, those requiring special equipment, and cement), from Port Everglades, FL, to points in Dade County, FL, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Miami, FL.)

MC 142508 (Sub-28F), filed September 8, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from points in Jefferson County, CO, to points in IA, MO, and WA; and (2) and *materials and supplies* used by brewers of malt beverages (except commodities in bulk), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing sited: Denver, CO, or Omaha, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 142559 (Sub-41F), filed September 1, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3839 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Parts, materials, and supplies* for television picture tubes (except commodities in bulk), between Circleville, OH and Dunmore, PA. (Hearing site: Columbus, OH or Washington, D.C.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 143136 (Sub-1F), filed July 25, 1978. Applicant: NEWMAN'S GARAGE & TOWING SERVICE, INC., 1514 Heidt Street, Columbia, SC 29201. Representative: Melton Kligman, P.O. Box 12125, Columbia, SC 29211. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disabled motor vehicles*, and (2) *replacement vehicles* for the commodities in (1) above, in tow-away service, between Columbia, SC, on the one hand, and, on the other, points in SC, those in FL on, north and west of a line beginning at St. Augustine and extending along FL Hwy 16 to intersection of U.S. Hwy 301, then along U.S. Hwy 301 to intersection FL Hwy 100, then along FL Hwy 100 to intersection FL Hwy 10, then along FL Hwy 10 to intersection Interstate Hwy 75, then along Interstate Hwy 75 to the FL-GA State line, those in GA on, east, and north of a line beginning at the FL-GA State line and extending along Interstate Hwy 75 to Tifton, then west along U.S. Hwy 82 to intersection GA Hwy 55, then north along GA Hwy 55 to intersection U.S. Hwy 280, then north along U.S. Hwy 280 to the GA-AL State line, those in AL on and east of a line beginning at the GA-AL State line and extending along U.S. Hwy 431 to intersection Interstate Hwy 20, then along Interstate Hwy 20 to intersection U.S. Hwy 431, then north along U.S. Hwy 431 to Gadsden, then along Interstate Hwy 59 to the AL-GA State line, those in TN on and east of a line beginning at the GA-TN State line and extending along Interstate Hwy 75 to intersection TN Hwy 63, then along TN Hwy 63 to the TN-KY State line, those in VA within an area bounded by a line beginning at the TN-VA State line and extending along U.S. Hwy 58 to intersection U.S. Hwy 23, then along U.S. Hwy 23 to intersection Alternate U.S. Hwy 58, then along Alternate U.S. Hwy 58 to intersection U.S. Hwy 19, then along U.S. Hwy 19 to intersection Interstate Hwy 81, then along Interstate Hwy 81 to intersection Interstate Hwy 77, then along Interstate Hwy 77 to the VA-WV State line, then along the VA-WV State line to Interstate Hwy 64, then along Interstate Hwy 64 to Charlottesville, then along U.S. Hwy 15 to intersection U.S. Hwy 460, then along U.S. Hwy 460 to Petersburg, then along Interstate Hwy 95 to intersection U.S. Hwy 58, then along U.S. Hwy 58 to Suffolk, then along U.S. Hwy 13 to the VA-NC State line, those in WV within an area bounded by a line extending from the VA-WV State line and extending along Interstate Hwy 77 to Charleston, then along U.S. Hwy 60 to intersection Interstate Hwy 64, then along Interstate Hwy 64 to the WV-VA State line, and those in NC on and west of a line beginning at the VA-NC State line and extending along U.S. Hwy 13 to intersection U.S. Hwy 17, then along U.S. Hwy 17 to New Bern, then along U.S. Hwy 70 to Morehead City. (Hearing site: Columbia, SC or Atlanta, GA.)

MC 143754 (Sub-4F), filed August 4, 1978. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, MO 63068. Representative: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer* and *liquid fertilizer ingredients*, in bulk, in tank vehicles, from the facilities of Quad State Terminals, Inc., in Holt County, MO, to points in KS, NE, IA, and MO. (Hearing site: Kansas City, MO.)

MC 143762 (Sub-2F), filed August 1, 1978. Applicant: STEVE T. ALLEN, d.b.a., RIGGS & ALLEN TRANSPORTATION, 528 Harbor Boulevard, West Sacramento, CA 95691. Representative: Ann M. Pougiales, 100 Bush Street, 21st Floor, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, between points in CA and AZ. (Hearing site: Los Angeles, CA.)

MC 143787 (Sub-5F), filed August 9, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO

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80203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Paul, MN, and Milwaukee, WI, to Worland, WY, under a continuing contract with Teton Distributors, Inc., of Worland, WY. (Hearing site: Casper or Cheyenne, WY.)

MC 143930 (Sub-1F), filed August 24, 1978. Applicant: WY-TEX LIVESTOCK, TRUCKING, INC., P.O. Box 30476, Amarillo, TX 79120. Representative: Wayne Cope (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and fertilizer*, between points in AR, AZ, CO, KS, LA, NE, NM, OK, TX; and WY, under a continuing contract with Wy-Tex Livestock, Inc., of Amarillo, TX. (Hearing site: Amarillo, TX or Oklahoma City, OK.)

MC 144122 (Sub-19F), filed July 28, 1978. Applicant: CARRETTA TRUCKING, INC., South 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wall covering, wall facings, plastic film, plastic sheeting, store display racks, and stands, shades, doors, partitions, and hardware*, from Bayonne, NJ, to points in TX and IL, restricted to the transportation of traffic originating at the facilities of Clopay Corp., at Bayonne, NJ, and destined to the indicated destinations. (Hearing site: New York, NY or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144122 (Sub-20F), filed July 28, 1978. Applicant: CARRETTA TRUCKING, INC., South 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tape, tape products, and materials and equipment* used in the manufacture of tape and tape products (except commodities in bulk), between the facilities of Technical Tape, Inc., at Beacon, NY, Passaic, NJ, and Carbondale, IL, on the one hand, and, on the other, points in CA, AZ, and NV, restricted to the transportation of traffic originating at or destined to the named facilities; and (2) *springs, spring assemblies*, and, *materials* and *equipment* used in the manufacture of springs and spring assemblies, from Carthage, MO, to points in IL, IN, OH, MI, PA, NY, NJ, GA, and TX, restricted to the transportation of traffic originating at the facilities of Steadley Co. (a subsidiary of Technical Tape, Inc.) at Carthage, MO, and destined to the indicated destinations. (Hearing site: New York, NY or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144122 (Sub-21F), filed July 28, 1978. Applicant: CARRETTA TRUCKING, INC., South 160 Route 17 North, Paramus, NJ 07652. Representative: Joseph Carretta (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, chemicals, optical and scientific instruments and tools, artist's supplies, school supplies, and draftsman's drawing film* (except commodities in bulk), from the facilities of Keuffel & Esser Company, at Rockaway, NJ, to Fort Wayne, IN, and Houston, TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144140 (Sub-20F), filed July 31, 1978. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: Gene Baugh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages and citrus products* (except commodities in bulk), from the facilities of Doric Foods Corp., at Mt. Dora, FL, and the facilities of Adams Packing Association, at Auburndale, FL, to points in AL, GA, LA, MS, and TN. (Hearing site: Orlando, FL or Washington, DC.)

NOTE.—Dual operations are involved.

MC 144212 (Sub-3F), filed July 20, 1978. Applicant: SLACK TRANSPORT LTD., Box 579, Caledonia, ON, Canada NOA 1AO. Representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, NY 14202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum products and roofing materials*, from ports of entry on the International boundary line between the United States and Canada in MI and NY, to points in AL, AR, CT, DE, FL, GA, IA, KY, LA, ME, MD, MA, MN, MS, MO, NH, NJ, NC, SC, TN, VT, VA, WV, and WI; and (2) *materials* used in the manufacture of gypsum products and roofing materials, in the reverse direction under a continuing contract with Domtar Construction Materials Group of Domtar Inc., of Montreal, Quebec, Canada. (Hearing site: Buffalo, NY.

NOTE.—Traffic is originating at points in the Provinces of Ontario and Quebec, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. The restriction and conditions contained in the grant of authority in this proceeding are phrases in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 144244 (Sub-4F), filed July 31, 1978. Applicant: CRESTON TRANSPORTATION, INC., East Highway 34, Creston, IA 50801. Representative: Frank W. Davis, Jr., 2600 Ruan Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Feed and feed ingredients*, from points in AR, MI, SD, ND, NE, KS, MO, and IL, (b) *fertilizer*, from points in AR, MI, NE, KS, MO, and IL, (c) *steel products*, from points in MI, KS, and IL, and (d) *lumber and building materials*, from points in MO, IL, WI, NE, KS, and AR, to Creston and Benton, IA; and (2)(a) *seed*, from points in MI, ND, SD, NE, and MO, and (b) *liquefied petroleum gas*, from points in NE, KS, and IL, to Creston, IA. With respect to liquefied petroleum gas only, the certificate shall be limited in point of time to a period expiring 5 years from date of issue. (Hearing site: Des Moines, IA.)

MC 144314 (Sub-1F), filed August 3, 1978. Applicant: FARWEST INDUSTRIES OF LONGVIEW, INC., 225 Industrial Way, Longview, WA 98632. Representative: Robert Portner (same address as above). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated poles and treated piling*, from Longview, WA, to points in OR, CA, and NV, under a continuing contract with International Paper Co., of New York, NY. (Hearing site: Portland, OR or Seattle, WA.)

MC 144605 (Sub-3F), filed August 25, 1978. Applicant: HOPPY LINES, INC., 420 Devonshire Drive, Brea, CA 92521. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, (except in bulk), (1) from Azusa, CA, to points in AZ, CO, KS, MO, NM, NV, LA, OK, OH, TX, and UT, and (2) between Cincinnati, OH, Indianapolis, IN, Chicago, IL, and Edgerton, Milwaukee, and Wauwatosa, WI, on the one hand, and, on the other, Azusa, CA, Kansas City, KS, and points in LA and TX. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be at issue in this proceeding. The certificate authorized to be issued will expire 2 years from the date of its issuance unless, prior to the expiration date but no earlier than 6 months prior to such date applicant files a petition for extension of its certificate and demonstrates that it has been in full compliance with the requirements of the Interstate Commerce Act and this Commission's regulations.

MC 144610 (Sub-2F), filed September 5, 1978. Applicant: C. ALLEN TRUCKING, INC., 1 Nenninger Lane, East Brunswick, NJ 08816. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ships' stores* (except foodstuffs and commodities in bulk), (1) from Willimantic, CT; Hamburg, Kenilworth, New Brunswick, Passaic, and Trenton, NJ; Chester, Farmingdale, and Mineola, NY; Mechanicsburg, Schuykill Haven, and York, PA; and Bethel, VT; to Mobile and Montgomery, AL; Miami and Tampa, FL; New Orleans, LA; Pascagoula, MS; and Houston, TX; (2) from Atlanta, GA, and New Orleans, LA, to Chester, PA, and Brooklyn, NY, and (3) from Haleyville, AL, and Atlanta, GA, to New Orleans, LA, under a continuing contract with L. F. Gaubert & Co., Inc., of New Orleans, LA. (Hearing site: New Orleans, LA.)

MC 144622 (Sub-9F), filed July 31, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant) To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures, castings, and metal stampings*, from El Dorado, AR, to points in the United States (except AK and HI). (Hearing site: Little Rock, AR.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144714 (Sub-1F), filed July 31, 1978. Applicant: UPPER CUMBERLAND FREIGHT, INC., 337A East Stevens Street, Cookeville, TN 38501. Representative: Clyde E. Randolph, Route 7, Box 336, Sparta, TN 38583. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste glass, in containers, pallets, and cardboard containers*, from Sparta, TN, to Danville, KY; and (2) *glass rods, glass tubing, and glass bulbs*, in containers, from Danville, KY, to Sparta, TN, under a continuing contract in both (1) and (2) above, with Wagner Electric Corp., of St. Louis, MO. (Hearing site: Nashville, TN or Atlanta, GA.)

MC 144999 (Sub-2F), filed September 1, 1978. Applicant: JEM TRUCKING CO., INC., P.O. Box 326, Wilkesboro, NC 28697. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Kenosha Beef International, Ltd., at or near Kenosha, WI, to points in KY, NC, TN, VA, and WV, under a continuing contract with Kenosha Beef International, Ltd., of Kenosha, WI. (Hearing site: Charlotte, NC or Washington, DC.)

MC 145074F, filed July 21, 1978. Applicant: FREDERICKSEN TANK LINES, INC., 850 Delta Lane, P.O. Box 717, West Sacramento, CA 95691. Representative: Martin J. Rosen, 256 Montgomery Street, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, (except liquefied petroleum gas), in bulk, in tank vehicles, (1) from points in Contra Costa, Solano, Sacramento, San Joaquin, Butte, and Yolo Counties, CA, to points in Washoe, Humboldt, Pershing, Lander, Churchill, Storey, Lyon, Douglas, Mineral, and Carson City Counties, NV, and (2) from Sparks, NV, to points in Lassen, Plumas, Sierra, Nevada, Placer, El Dorado, Amador, Alpine, Mono, and Solano Counties, CA. (Hearing site: San Francisco or Sacramento, CA.)

MC 145112F, filed July 31, 1978. Applicant: BUTLER CARRIERS, INC., Box 97, Chase City, VA 23924. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, forest products, boxes, pallets, skids, and wood byproducts*, between the facilities of Butler Lumber Co., Inc., at Chase City, Lawrenceville, and Scottsburg, VA, and Butler Land & Timber Co., Inc., at Creedmoore and Columbia, NC, on the one hand, and, on the other, those points in the United States in and east of WI, IL, KY, TN, and MS, under continuing contracts with Butler Lumber Co., Inc., and Butler Land & Timber Co., Inc., of Chase City, VA. (Hearing site: Richmond, VA or Raleigh, NC.)

MC 145122F, filed July 28, 1978. Applicant: SKYLAND, INC., 256 Celia SW., Wyoming, MI 49508. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, houschold goods as defined by the Commission, and liquid commodities in bulk), between points in Arenac, Gladwin, Clare, Isabella, Midland, Bay, Tuscola, Sanilac, St. Clair, Lapeer, Genesee, Saginaw, Shiawassee, Gratiot, Clinton, Ionia, Montcalm, Kent, Ingham, Livingston, Oakland, Macomb, Wayne, Washtenaw, Lenawee, and Monroe Counties, MI, and Lucas, Fulton, and Wood Counties, OH, on the one hand, and, on the other, the Detroit Metropolitan Airport, at or near Romulus, MI, and Willow Run airport, at or near Ypsilanti, MI, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Detroit or Lansing, MI.)

MC 145130 (Sub-1F), filed August 30, 1978. Applicant: ATICO TRANSPORT, INC., 6700 South LeClaire, Avenue, Chicago, IL 60602. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by manufacturers of silicone products*, from Midland, MI, to Elk Grove Village and Melrose Park IL. (Hearing site: Chicago, IL.)

MC 145204F; filed August 4, 1978. Applicant: TVF SECURITY CO., INC., P.O. Box 815, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are sold in vending machines, and* (2) *materials, equipment, and supplies* for vending machines, from St. Louis, MO, and points in IL, OH, MI, KY, IN, and WI, to the facilities of Bertsch Vending Co., Inc., at Warsaw, Marion, Goshen, Elkhart, Wabash, Lebanon, and Bloomington, IN, and Owensboro, KY, under a continuing contract with Bertsch Vending Co., Inc., of Warsaw, IN. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 145300F, filed August 30, 1978. applicant: MINUTE MAN TRANSIT, INC., 24 Williams Street, Dedham, MA 02026. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Data processing materials*, from Hopkinton, Brookline, and Burlington, MA, to points in CT, ME, NH, NY, RI, and VT. (Hearing site: Boston, MA.)

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PASSENGER AUTHORITY

MC 126624 (Sub-3F), filed July 24, 1978. Applicant: G. A. BAILEY LTD., 4 Princess Street, Leamington, ON, Canada N8H 2Y1. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage* in the same vehicle as passengers, in round-trip charter operations, beginning and ending at ports of entry on the international boundary line between the United States and Canada, and extending to points in the United States, including AK (except HI); and (2) *passengers and their baggage and express*, in the same vehicle as passengers, between the ports of entry on the international boundary line between the United States and Canada, at Detroit, MI, on the one hand, and, on the other, the Detroit Metropolitan Airport at or near Romulus, MI. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE.—Applicant states that traffic is moving to and from points in the Province of ON, Canada. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect.

MC 144602 (Sub-2F), filed July 31, 1978. Applicant: CONTINENTAL LIMOUSINE SERVICE, INC., 3123 North Washington Boulevard, Arlington, VA 22201. Representative: Thomas N. Willess, 1000 Sixteenth Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between the Armed Forces Testing Center, at Linthicum Heights, MD, on the one hand, and, on the other, the Armed Forces recruiting offices at Alexandria, Falls Church, Woodbridge, and points in Arlington and Fairfax Counties, VA, Hillcrest Heights, MD, and Washington, DC, restricted to the transportation of not more than 14 passengers in any one vehicle, not including the driver. (Hearing site: Washington, DC.)

MC 145167F, filed August 11, 1978. Applicant: CHECKERLLAC TRANSPORTATION, INC., 1612 Forest Avenue, Staten Island, NY 10302. Representative: Robert A. Straniere, 358 St. Mark's Place, Staten Island, NY 10301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Richmond County, NY, and extending to Atlantic City, NJ, restricted to the transportation of not more than fourteen (14) passengers in any one vehicle, not including the driver, and not including children under ten (10) years of age who do not occupy a seat. (Hearing site: New York, NY, or Newark, NJ.)

BROKER AUTHORITY

MC 130516F, filed July 24, 1978. Applicant: FIRST NATIONAL TRAVEL AGENCY, INC., P.O. Box 608, Hutchinson, KS 67501. Representative: Bill Cole, First National Bank Building, Hutchinson, KS 67501. To engage in operations, in interstate or foreign commerce, as a *broker*, at Hutchinson, KS, in arranging for the transportation, by motor vehicle, of: *Passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in KS, NE, IA, MO, OK, and CO, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Kansas City, MO, or Omaha, NE.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54 MCC 291 (1952).

[FR Doc. 78-28788 Filed 10-11-78; 8:45 am]

[7035-01-M]

[Notice No. 186]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 8948 (Sub-112TA), filed August 14, 1978. Applicant: WESTERN GILLETTE, INC., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Fredonia, AZ, and points in its commercial zone to Salt Lake City, UT, and points in its commercial zone, for 180 days. Supporting shipper: Maxwell Petroleum, Inc., 2388 Andrew Avenue, Salt Lake City, UT 84104. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 32882 (Sub-99TA), filed August 15, 1978. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, 3341 North Columbia Boulevard, Portland, OR 97217. Representative: Edward G. Rawle, 1229 North Blue Gum Avenue, Anaheim, CA 92806. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in appendix V to the report in Descriptions in Motor Carriers Certificates, 61 MCC 209, from the facilities of Bethlehem Steel Corp., at Vernon, CA, to points in Salt Lake City and Ogden, UT, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bethlehem Steel Corp., 6055 East Washington Boulevard, City of Commerce, CA 90040; P.O. Box 2336, Terminal Annex, Los Angeles, CA 90051. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 53841 (Sub-12TA), filed August 14, 1978. Applicant: W. H. CHRISTIE & SONS, INC., P.O. Box 517, Knox, PA 16232. Representative: John A. Pillar, Attorney at Law, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and materials, equipment, and supplies* used in the manufacture of sale of containers (except commodities in bulk), between the facilities of Beverage Bottle Division, Hoover Ball & Bearing Co., at New Castle, DE, on the one hand, and, on the other, points in PA on and west of the Susquehanna River, for 180 days. Supporting shipper(s): Beverage Bottle Division, Hoover Universal Corp., Route 2, Triport Road, Georgetown, KY 40324. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 63417 (Sub-162TA), filed August 14, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: Willian E. Bain (address same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incandescent bulbs and packaging material* between Lexington, KY, on the one hand, and on the other, Bellevue, Cleveland and its commercial zone, Ravenna, Warren, and Youngstown, OH, for 180 days. Supporting shipper(s): General Electric Co., Cleveland, OH 44112. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 63417 (Sub-163TA), filed August 14, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: Willian E. Bain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foam or expanded plastic forms or shapes* from Coldwater, MI to Sylacauga, AL, for 180 days. Supporting shipper(s): Voltek, Inc., Coldwater, MI 49036; Merryweather Foam Latex Co., P.O. Box 1286, Sylacauga, AL 35150. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 69833 (Sub-134TA), filed July 28, 1978. Applicant: ASSOCIATED TRUCK LINES, INC. (Michigan corporation), 200 Monroe Avenue NW., Sixth Floor, Vandenberg Center, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, rubber, and plastic and rubber-coated articles and display racks*, serving the facilities of Rubbermaid, Inc., Wooster, OH, as an off-route point in connection with carrier's regular route authority, for 180 days. Supporting shipper(s): Rubbermaid, Inc., 1147 Akron Road, Wooster, OH 44691. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 103051 (Sub-449TA), filed August 14, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Temporary authority is sought to operate for 180 days, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liginin sulfonate*, in bulk, in tank vehicles, from Stevenson, AL, to Walnut Ridge, AR. Supporting shipper: Frit Industries, Ozark, AL 36360. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, Federal Building, 801 Broadway, Nashville, TN 37203.

MC 107403 (Sub-1112TA), filed August 21, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., 10 West Baltimore Avenue, Lansdowne, PA 19050. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar pitch*, in bulk, in tank vehicles, from Point Comfort, TX, to Oklahoma City, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Koppers Co., Inc., 850 Koppers Buildings, Pittsburgh, PA 15219. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107515 (Sub-1165TA), filed August 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., Serby & Mitchell, P.C., 3390 Peachtree Road, Fifth Floor, Lenox Towers S, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Hudson Industries, Inc. located in Pike County, AL, to points in the United States in and east of MN, IA, KS, OK, and TX, for a period of 180 days. Supporting shipper: Hudson Industries, Inc., P.O. Box 847, Troy, AL 36081. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 107515 (Sub-1166TA), filed August 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers I, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities utilized by John Morrell & Co. at or near East St. Louis, IL, to points in IN and OH, for a period of 180 days. Supporting shipper: Mr. Curt Y. Hopkins, Manager of Transportation, John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 309, Atlanta, GA 30309.

MC 111485 (Sub-21TA), filed July 28, 1978. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Mr. Robert H. Kinker, 314 West Main Street, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Paris, TN and its commercial zone and Murray, KY, and its commercial zone over U.S. Hwy 641, serving no intermediate points, for 180 days. Restricted against tacking with presently held authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fisher Price Toys, Division of Quaker Oats Co., R.R. 2, Murray, KY 42071. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2606, 100 North Main Street, Memphis, TN 38103.

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NOTE.—Applicant intends to interline with other carriers at Paris, TN, and its commercial zone.

MC 112908 (Sub-8TA), filed August 14, 1978. Applicant: KINGSWAY TRANSPORTS LTD., 123 Rexdale Boulevard, Rexdale, ON, Canada M9W 1P3. Representative: Gary J. Rodrigue, 123 Rexdale Boulevard, Rexdale, ON, Canada M9W 1P3. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (excluding commodities in bulk in tank vehicles), between the international boundary at Port Huron, MI, Sarnia, ON, and Detroit, MI, for 180 days. (For operating convenience only during strike at Ambassador Bridge.) Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amway of Canada Ltd., Highway 135, London, ON; Spraymotor Ltd., 980 Greenvalley Road, London, ON; Goodyear Canada Inc., 3050 Lakeshore Boulevard, Toronto, ON. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 116142 (Sub-26TA), filed August 14, 1978. Applicant: BEVERAGE TRANSPORTATION, INC., 625 Eberts Lane, P.O. Box M-25, York, PA 17405. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facility of F & M Schaefer Brewing Co. at or near Fogelsville, PA, to points in NY and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: F & M Schaefer Brewing Co., P.O. Box 2562, Allentown, PA 18001. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, 278 Federal Building, 228 Walnut Street, P.O. Box 869, Harrisburg, PA 17108.

MC 115806 (Sub-65TA), filed August 14, 1978. Applicant: ARNOLD BROS. TRANSPORT, LTD., 851 Lagimodiere Boulevard, Winnipeg, MB, Canada R2J 3K4. Representative: Bernard J. Kompare, Esq., 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from the ports of entry on the international boundary line between the United States and Canada, located in MI and NY, to points in NY, for 180 days. Restriction: Restricted to traffic originating at the facilities of Weldwood of Canada Ltd., located at Longlac, ON, Canada, and destined to points in the named destination State; and further restricted to traffic moving in foreign commerce. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weldwood of Canada Ltd., Guinness Tower, 1055 West Hastings, Vancouver, BC, Canada. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 Second Avenue North, Fargo, ND 58102.

MC 119493 (Sub-225TA), filed August 14, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street, Joplin, MO 64801. Representative: Lawrence Kloeppel, P.O. Box 1196, West Street, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass, flat glass, and glass articles*, from facilities of Fourco Glass Co. at or near Clarksburg, WV, and Jerry Run, Taylor County, near Flemington, WV, to AL, AR, IA, LA, MN, MS, MO, TN, and WI; materials and supplies used in the manufacture and distribution of glass, flat glass, and glass articles, from destinations States named to facilities of Fourco Glass Co. at or near Clarksburg, WV, and Jerry Run, Taylor County near Flemgton, WV, for 180 days. Supporting shipper(s): Fourco Glass Co., P.O. Box 890, Bridgeport, WV. Send protests to: District Supervisor John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 121569 (Sub-1TA), filed August 11, 1978. Applicant: GATOR FREIGHTWAYS, INC., 2175 Commonwealth Avenue, Jackson, FL 32209. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 South Orange Avenue, Orlando, FL 32801. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment over regular routes as follows:* Between Jacksonville and the FL-GA State line via State Road 15 (U.S. 1) and State Road 5 (U.S. 170 serving all intermediate points); between Jacksonville and Miami via State road (U.S. 1) serving all intermediate points and the off-route points in Allenhurst, Artesia, Canaveral, Canaveral Beach, Canaveral Harbor, Cocoa Beach, Courtney, Fellsmere, Georgiana, Indiatlantic, Jesen Beach, Lotus, Melbourne Beach, Patrick Air Force Base, Port Canaveral, Shiloh, Titusville Beach, Tropic, and Wilson; between Bunnell and Flagler Beach via State Road 100 serving intermediate points and the off-route points of the Lehigh Portland Cement Co., Inc., Bunnell to junction of State Road 11 and U.S. 92 and Deland via State Roads 11 and 15, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 33 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor G. H. Fauss, Jr., ICC, Bureau of Operations, P.O. Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124711 (Sub-60TA), filed August 14, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: Rufus H. Lawson, 2400 Northwest 23d Street, Oklahoma City, OK 73007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, and *zinc sulphate*, in bulk, in tank vehicles, from the facilities of National Zinc Co. at Bartlesville, OK, to points in IA, NE, KS, MO, AR, LA, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Zinc Co., P.O. Box 579, Bartlesville, OK 74003. Send protests to: James H. Berry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 128822 (Sub 5TA), filed August 15, 1978. Applicant: RITTER & SMITH TRUCKING, INC., 1910 Halethorpe Farm Road, Halethorpe, MD 21227. Representative: Chester A Zyblut, Esq., 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated steel pipe, plain galvanized or asphalt coated, highway guard rail, tunnel liner plates, sectional plate pipe, steel piling, and accessories and fittings for the above commodities*, from the facilities of Armco, Inc., Halethorpe, MD to points in NC, under a continuing contract or contracts with Armco, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles W. Hall, Director of Transportation, Armco, Inc., 703 Curtis Street, Middletown, OH 45043. Sent protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 128905 (Sub-5TA), filed July 28, 1978. Applicant: ZERKLE TRUCKING CO., OH corporation, 2400 Eighth Avenue, P.O. Box 5628, Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and fittings, and materials used in the installation of plastic pipe* from Wilton, IA to points in KY and OH, (2) *insulation board* from Rockdale, IL to points in KY, OH and WV, (3) *cement pipe containing asbestos fibre, and building materials* from Waukegan, IL to points in KY, OH and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Edwin T. Sinclair, Regional Traffic Manager, Johns-Manville Sales Corp., 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

MC 128951 (Sub-19TA), filed July 28, 1978. Applicant: ROBERT H. DITTRICH d.b.a. BOB DITTRICH TRUCKING, 1000 North Front Street, New Ulm, MN 56073. Representative: Bruce A. Rasumussen, 1110 Northwestern Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mink feed in bag or in bulk or in combination* moving in the same truck equipped with self-unloading equipment by auger discharge from the plantsite of Wisco Milling Co. in Abbotsford, WI to points in MN, OH and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wisco Milling Co., Div. of Wisco Frozen Foods, Inc., Box 10, Abbotsford, WI 54405. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 129032 (Sub-52TA), filed August 15, 1978. Applicant: TOM INNMAN TRUCKING CO., INC., 6015 South 49th West, P.O. Box 9667, Tulsa, OK 74107. Representative: David R. Worthington (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials* and (2) *materials, equipment, and supplies* used in brewery houses and empty containers for recycling, from Jefferson County, CO to MO and WA (2) from WA and MO to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Adolph Coors Co., Golden, CO 80401. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 NW., Third Street, Oklahoma City, OK 73102.

MC 129326 (Sub-30TA), filed August 14, 1978. Applicant: CHEMICAL TANK LINES, INC., P.O. Drawer 437, Highway 60 West, Mulberry, FL 33860. Representative: Keith Alexander, P.O. Drawer 437, Highway 60 West, Mulberry, FL 33860. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry urea*, in bulk, in tank vehicles from Savannah, GA to Aubaurnadale, FL. There is no environmental impact involved in the application. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc. P.O. Box 9300, Dept. 29, Minneapolis, MN 55440. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Room 101, 8410 NW. 53d Terrace, Miami, FL 33166.

MC 133655 (Sub-118TA), filed August 14, 1978. Applicant: Trans-National Truck, Inc., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured or distributed by manufacturers or distributors of medical, hospital and surgical supplies; cloth, dry goods and fabrics, either woven or nonwoven; natural, and/or synthetic fiber; tapes, industrial and/or pipe covering; and pipeline coatings or primer, rust preventative between points in Franklin, KY; Griswoldville and Walpole, MA; and Windham, CT on the one hand, and, on the other, Dallas, TX; New Orleans, LA; Los Angeles and San Jose, CA, for 180 days. Supporting shipper: The Kendall Co., One Federal Street, Boston, MA 02101 (J. V. Garrison). Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Herring Plaza, Box H-4395, Amarillo, TX 79101.

MC 135641 (Sub-6TA), filed July 28, 1978. Applicant: M. B. CUTHBERTSON & B. G. CUTHBERTSON, d.b.a. M. B. CUTHBERTSON & SON, P.O. Box 37, Rural Route No. 2, Toledo, IA 52342. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated houses, component parts, for houses, and materials, equipment, and supplies* (except materials and supplies in bulk), used in the manufacture, processing, sales, and distribution of prefabricated houses, from Toledo, IA to points in IL, MO, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: E & S Homes, Highway 30 West, Toledo, IA 52342. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 136809 (Sub-2TA), filed August 14, 1978. Applicant: O. K. LEASING CORP., 437 Parkinson, Terrace, Orange, NJ 07050. Representative: Paul J. Keeler, Esq., P.O. Box 253, South Plainfield, NJ 07080. Authority sought to operate as a *contact carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hand yarns, instruction pamphlets, stitchery and needlepoint craft items; rug craft items; kits, picture, wallpanel or plaque; machine knitting yarn*, from South Hackensack, NJ to El Segundo, CA. (2) *Yarn, dyed, on cone tubes or in skeins;* from South Hackensack, NJ to Mount Airy, NC (3) yarn, undyed or raw, from points in NC and SC to South Hackensack, NJ. Restricted to a transportation service to be performed under a continuing contract or contracts with Spinnerin Yarn Co., Inc. of South Hackensack, NJ, for 180 days. Applicant has also filed an underlying ETA up to 90 days of operating authority. Supporting shippers: Spinnerin Yarn Co., Inc., 30 Wesley Street, South Hackensack NJ 07606. Send protests to: District Supervisor Joel Morrows Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 136818 (Sub-32TA), filed August 14, 1978. Applicant: SWIFT TRANSPORTATION CO, INC., 335 West Elwood Road, Phoenix AZ 85030. Representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, in refrigerated vehicles, from Jefferson County, CO, to points in MO, IA, and WA, and (2) *empty containers* for recycling and *materials and supplies* on return, from points in MO, IA, and WA, to points in Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Adolph Coors Co., Golden, CO 80401. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building,

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230 North first Avenue, Phoenix, AZ 85025.

MC 138432 (Sub-9TA), filed July 28, 1978. Applicant: GARLAND GEHRKE, Rural Route 1, Lincoln, IL 62656. Representative: James R. Madler, 120 West Madison Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from St. Louis, MO, to Bloomington, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. F. Kauffmann, Traffic Manager—Rates, Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, MO 63118. John W. Wombacher, B & J Sales, Inc., 1105 East Lafayette Street, Bloomington, IL 61701. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 138890 (Sub-11TA), filed August 15, 1978. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk) from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Restriction: Restricted to traffic originating at the named origin and destined to the named states. Supporting shipper(s): Ore-Ida Foods, Inc., Owyhee Plaza, Boise, ID, 83702. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 139261 (Sub-11TA), filed August 14, 1978. Applicant: BUCKEYE EXPRESS, INC., P.O. Box 368, Perrysburg, OH 43551. Representative: Michael M. Briley, Attorney at Law, 300 Madison Avenue, 12th Floor, Toledo, OH 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery, and food business houses, institutions, catalog showroom stores, and home center stores, except commodities in bulk, from the facilities of Tara Foods Co., Inc., located at Perrysburg, OH, to all points in CA, CO, FL, GA, IL, IN, LA, MA, MI, MO, NJ, and TX, limited to transportation services to be performed for and under a continuing contract or contracts, with Tara Foods Co., Inc., for 180 days. Supporting shipper(s): Tara Foods Co., Inc., 30600 Oregon Road, Perrysburg, OH 43551. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 139577 (Sub-26TA), filed August 15, 1978. Applicant: ADAMS TRANSIT, INC., 204 East Winnebago Street, P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI, to points in and east of MN, IA, MO, AR, and LA, for 180 days. Restriction: Restricted to traffic originating at the named origins and destined to the named States. Supporting shipper: Ore-Ida Foods, Inc., Owyhee Plaza, Boise, ID 83702. Send protests to: Ronald A. Morken, District Supervisor, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 140024 (Sub-123TA), filed August 14, 1978. Applicant: J. B. MONTGOMERY, INC., a Delaware corporation, 5565 East 52d Avenue, Commerce City, CO 80022. Representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *High temperature bonding mortar, firebrick, and refractory material*, from Siloam, KY, to points in MI, OH, IN, Chicago, IL, and Milwaukee, WI, including points in the commercial zones of destination cities named, for 180 days. Supporting shipper: C-E Industrial Products Division, Combustion Engineering, Inc., P.O. Box 828, Valley Forge, PA 19482. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, Denver, CO 80202.

MC 140061 (Sub-8TA), filed July 28, 1978. Applicant: DONALD MULDER, d.b.a. DON MULDER TRUCKING, 1735 North 50th Street, Lincoln, NE 68504. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled vehicles, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, trailers, accessories, attachments, and parts*, from Lincoln, NE, to points in the United States (except AK, HI, and NE), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: OMC-Lincoln, Division of Outboard Marine Corp., Harold E. Wright, Traffic Manager, 900 North 21st Street, Lincoln, NE 68501. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 140612 (Sub-50TA), filed July 28, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Television sets, electronic equipment, components, parts, accessories, materials, supplies, and equipment used in the manufacture, production, and distribution of the above commodities* (except commodities in bulk), between the facilities utilized by Sanyo Manufacturing Corp., located at or near Forrest City, AK, on the one hand, and, on the other, points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sanyo Manufacturing Corp., 3333 Sanyo Road, Forrest City, AK 72335. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 140612 (Sub-52TA), filed July 28, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational and gymnastic equipment, accessories, materials, and supplies used in the manufacture, production, and distribution of the above commodities* (except commodities in bulk), from Cedar Rapids, IA, to points in AZ, CA, ID, NV, UT, OR, and WA, and from Hanging Rock, OH, and Waupaca, WI, to Cedar Rapids, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nissen Corp., 930 27th Avenue SW., Cedar Rapids, IA 52406. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 140665 (Sub-35TA), filed August 14, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts and accessories*, from the facilities utilized by the Ford Motor Co., at or near Nashville, TN, Mansfield, OH, and Melvindale, MI, to Pico Rivera and Milpitas, CA, for 180 days. Supporting shipper(s): Ford Motor Co., Dearborn, MI 48121. Send protests to: District Supervisor John V. Barry, Room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 142310 (Sub-4TA), filed August 15, 1978. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Restriction: Restricted to traffic originating at the named origin and destined to the named States. Supporting shipper(s): Ore-Ida Foods, Inc., Owyhee Plaza, Boise, ID 83702. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 142948 (Sub-11TA), filed August 14, 1978. Applicant: THE GRADER LINE, INC., 434 Atlas Drive, Nashville, TN 37211. Representative: Edward C. Blank II, Middle Tennessee Bank Building, P.O. Box 1004, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, for 180 days, transporting: *Cosmetics, hair and body products and store supplies including advertising materials* from the facilities of W. H. Feronce Co., Philadelphia, PA, to points in the United States. Restriction: Restricted to traffic originating at the above named location, and destined to the above named destination points. Supporting shipper: American United Chemical & Compounding Corp., d.b.a. Ali Products Distributing Co., 2550 Fifth Avenue, Suite 601, San Diego, CA 92103. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, ICC, Suite A, 422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 142954 (Sub-6TA), filed August 14, 1978. Applicant: GLENN BROS. MEAT CO., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oak dimension and fiberboard* from Little Rock, AR to Richmond, Jasper, and Celestine, IN, Cedar Hill and Dallas, TX, Colorado Springs, CO, Fergus Falls, MN, Adrian, MI, and Colombia, MS, for 180 days. Supporting shipper(s): Industrial Wood Products, P.O. Box 182, Little Rock, AR 72203. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201. (Hearing site: Little Rock, AR or Washington, DC.)

MC 143648 (Sub-6TA), filed August 21, 1978. Applicant: CORALVILLE TRANSPORT, INC., Rural Route No. 1, Lamont, IA 50650. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O' Lakes Agricultural Services Division at or near Mason City, IA to points in the states of MN, WI, ND, SD, and NE, for 180 days. Supporting shipper(s): Land O' Laked, Agricultural Services Division, 2827 Eight Avenue South, Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, De Moines, IA 50309.

MC 144452 (Sub-3TA), filed July 28, 1978. Applicant: ARLEN LINDQUIST d.b.a. ARLEN LINDQUIST TRUCKING, 3242 Old Hwy 8, Minneapolis, MN 55418. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires* from Memphis, TN to CO, KS, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fleetwood Tire West, Inc., Box 6556, Colorado Springs, CO 80934. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Forth Street, Minneapolis, MN 55401.

MC 144688 (Sub-9TA), filed August 14, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in or used by retail and wholesale grocery, drug and food business houses* (except frozen commodities and commodities in bulk), (1) from Chatanooga, TN, to points in the States of AL, FL, GA, KY, LA, MS and TN; and (2) from Atlanta, GA, to points in the states of AL, FL, GA, NC and TN (restricted in parts (1) and (2) to the transportation of shipments originating at the facilities of A. E. Staley Manufacturing Co., at or near Chattanooga, TN, and Atlanta, GA, and destined to the above-named destination States), for 180 days. Supporting shipper: A. E. Staley Manufacturing Co., R. L. Lighthall, assistant to the director, corporate transportation, 2200 Eldorado Street, Decatur, IL 62525. Send protests to: Eugene A. Bryant, District Supervisor, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 144978 (Sub-3TA), filed July 28, 1978. Applicant: MIDWESTERN PLASTICS & CHEMICALS, INC., 1025 Avenue M, Grand Prairie, TX 75050. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic resins* (except in bulk), from Bayport, and Houston, TX, to points in FL, AL, GA, SC, NC, TN, KY, OH, IN, IL, MA, NJ, CT, and MN; and (2) *scrap plastic materials* (except in bulk), from Lake Charles, LA, to Houston, TX, for 180 days. Restriction: Restricted to the transportation of shipments under a continuing contract or contracts with Synthetic Materials Corp. Supporting shipper(s): Synthetic Materials Corp., 700 Turkey, Houston, TX 77020. Send protests to: Opal M. Jones, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145093 (Sub-1TA), filed July 28, 1978. Applicant: J.C. TRANSPORT CORP., 53 East Broadway, P.O. Box 142, North Salem, NH 03073. Representative: S. L. Watts, vice president—consulting services (registered practitioner), TDS, Inc., 1050 Waltham Street, Lexington, MA 02173. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Yogurt, cheese, cheese foods and cultured products* from the facilities of Colombo, Inc. and in the return direction, products used or useful in the manufacture, processing and marketing of the above products (applicant will not operate in bulk service), between the States of MA, NH, CT, RI, NY, NJ, PA, DE, MD, OH, MI, IN, and DC on the one hand, and the facilities of Colombo, Inc. on the other. Colombo facilities are located at Methuen, MA and Hagerstown, MD, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colombo, Inc., Danton Drive, Methuen, MA 01844. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 145105 (Sub-1TA), filed July 28, 1978. Applicant: WEBBER TRANS-

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PORT CO., 885 U.S. Route 1, Avenel, NJ 07001. Representative: Venezia & Nolan, Esqs., 306 Main Street, Woodbridge, NJ 07095. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported motor vehicles in truckaway service*, from Port Newark, NJ, to points in ME, NH, VT, RI, CT, NY, PA, DE, MD, WV, OH, IN, MI, IL, DC, VA, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Honda Motor Co., Inc., 100 West Alondra Boulevard, Gardena, CA 90247. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission 9 Clinton Street, Newark, NJ 07102.

MC 145107 (Sub-1TA), filed August 9, 1978. Applicant: FRANCIS P. CONATY, d.b.a. WILMINGTON DELIVERY, 806 Seville Avenue, Wilmington, DE 19809. Representative: Martin R. Martino, 205 Pennsylvania Avenue SE., Washington, DC 20023. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory equipment, furniture, instruments, supplies and chemicals* for use in hospital laboratories, educational, government and industrial laboratories between King of Prussia, PA, on the one hand, and, on the other, points in PA, DE, NJ, and MD, under a continuing contract or contracts with Fisher Scientific Co., for 180 days. Supporting shipper(s): Fisher Scientific Co., 191 South Gulph Road, King of Prussia, PA 19406. Send protests to: T. M. Esposito, transportation assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 145126 (Sub-1TA), filed August 14, 1978. Applicant: JERRY D. MARTIN, d.b.a. MARTIN TRUCKING CO., West Williams Street, Route 2, Cardington, OH 43315. Representative: James Duvall, Esq., P.O. Box 97, Dublin, OH 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scales, and electronic and/or mechanical parts and/or subassemblies therefor*, (1) between the facilities of Toledo Scales, a Division of Reliance Electric Corp., at or near Charlotte, NC; Toledo, Findlay, Westerville, Sidney, and Worthington, OH; Greenville and Inman, SC; and Franksville, WI, and (2) between the points in (1) above, on the one hand, and, on the other, the port of entry at the international boundary at or near Windsor, ON, Canada, under a continuing contract or contracts with Toledo Scales Division, Reliance Electric Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Toledo Scales Division, Reliance Electric Corp., 350 West Wilson Bridge Road, Worthington, OH 43085. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 145191TA, filed August 11, 1978. Applicant: LASALLE CARTAGE CO., INC., 2707 Territorial Road, St. Paul, MN 55114. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Industrial solvents, epoxy resins, lubricating oil, industrial soap, and polymers*, from the facilities of Worum Chemical Co., Inc. in St. Paul, MN to points in WI; Fargo, Grand Forks, and Devils Lake, ND; Sioux Falls, Mitchell, and Brookings, SD; Houghton, MI and points in IA on and north of U.S. Hwy 18. (2) *Materials and supplies used in the manufacture of fiber glass* from the facilities of Worum Fiberglass Supply Co., Inc. in St. Paul, MN to points in WI; Fargo, Grand Forks, and Devils Lake, ND; Sioux Falls and Brookings, SD; Houghton, MI and points in IA on and north of U.S. Hwy 18, under a continuing contract or contracts with Worum Chemical Co., Inc. and Worum Fiberglass Supply Co., Inc. of St. Paul, MN, for 180 days. Supporting shipper(s): Worum Chemical Co., Inc., 2130 Kasota Avenue, St. Paul, MN 55108. Worum Fiberglass Co., Inc., 2130 Kasota Avenue, St. Paul, MN 55108. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 145235 (Sub-1TA), filed August 14, 1978. Applicant: DUTCH MAID PRODUCE, INC., Route 2, Willard, OH 44890. Representative: David A. Turnano—George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products and materials, equipment and supplies* used in the manufacture, sale and distribution of paint and paint products (except commodities in bulk) between the facilities of Glidden Coatings & Resins Division of S.C.M. Corp. at or near Huron, OH on the one hand, and on the other, points in GA, IL, IN, IA, KY, MD, MI, MN, NE, NY, PA, TX, VA, and WI. Restricted to service performed under contract or contracts with Glidden Coatings & Resins Division of S.C.M. Corp. of Huron, OH, for 180 days. Supporting shipper(s): Glidden Coatings & Resins, Division of S.C.M. Corp., 300 Sprowl Road, Huron, OH 44839. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations—ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 145253TA, filed August 14, 1978. Applicant: GEORGE MARKOTA d.b.a. GEORGE MARKOTA TRUCKING, 7540 Salem-Warren Road, Berlin Center, OH 44401. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the facilities of National Industrial Lumber Co. located at North Jackson, OH and Columbus, OH to points in PA and west of U.S. Hwy 219, points in WV on and north of a line extending eastwardly from KY-WV State border along I-64 to its junction with WV State Route 4 then northeast along State Route 4 to U.S. Hwy 119 to the PA-WV border, and points in IN on and east of U.S. Hwy 31, under a continuing contract or contracts with National Industrial Lumber Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Industrial Lumber Co., North Jackson, OH. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 145294TA, filed August 21, 1978. Applicant: JAMES T. BARTLETT and CHARLES C. BROWN d.b.a. CHASE & THOMAS TRUCKING CO., P.O. Box 610, Bridgeport, WV 26330. Representatives: James T. Bartlett and Charles C. Brown, Chase & Thomas Trucking Co., P.O. Box 610, Bridgeport, WV 26330. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica glass sand*, in bulk, in dump vehicles from Gore, VA to Jerry Run, WV, for 180 days. Supporting shipper(s): Bruce G. Wells, director of purchasing, Fourco Glass Co., Jerry Run Division, P.O. Box 890, Bridgeport, WV 26330. Send protests to: Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28784 Filed 10-11-78; 8:45 am]

[7035-01-M]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 185]
OCTOBER 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particuar portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 21866 (Sub-108TA), filed August 21, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, Esq., 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cases, covers and vent caps* used in the manufacture of electric storage batteries from the facilities of the Richardson Co. in Indianapolis, IN to the facilities of Lancaster Battery Co., Inc. in Lancaster, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lancaster Battery Co., Inc., 1330 Harrisburg Avenue, P.O. Box 1745, Lancaster, PA 17604. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 26396 (Sub-195TA), filed August 21, 1978. Applicant: POPEIKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Sharon L. Hamlett, P.O. Box 990, Livingston, MT 59047. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* from points in AR, MS, TX, and KS to points in ND, MN, SD, NE, IA, and KS; and from points on the international boundary line between the United States and Canada located in ND and MT to points in the States of OK, TX, AR, LA, TN, MO, NE, KS, and KY, for 180 days. Supporting shipper(s): R. N. Watkins, general manager, Continental Lumber Co., 127 West First, Halstead, KS. Send protests to: District Supervisor Paul J. Labane, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 35807 (Sub-85TA), filed August 16, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Denver, CO; Las Vegas, NV; commercial zone, Philadelphia, PA, Phoenix, AZ, commercial zone; Reno, NV, commercial zone and Stateline, NV under a continuing contract or contracts with General Services Administration, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Services Administration, GSA-FSS(FZTC), Washington, DC 20406. Send protest to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 W. Peachtree Street Northwest, Room 300, Atlanta, GA 30309.

MC 51146 (Sub-628TA), filed August 21, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Wooden door components and wooden door sections*, from Centralia, WA, to the facilities of Baywood Manufacturing Co., Green Bay, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Baywood Manufacturing Co., 1330 Elizabeth Street, Green Bay, WI 54308 (Arnold Schmidt). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 102150 (Sub-14TA), filed August 21, 1978. Applicant: JENSEN TRANSPORT, INC., P.O. Box 368, Highway 65 South, Albert Lea, MN 56007. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279 Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by moter vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division at or near Mason City, IA, to points in the States of MN, WI, ND, SD, and NE, for 180 days. Supporting shipper: Land O'Lakes Agricultural Services Division, 2827 Eighth Avenue South, Fort Dodge, IA 50501. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 106398 (Sub-825TA), filed August 16, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, OK 74103. Representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Iron and steel articles*, from the facilities of the Caine Steel Co., Atlanta, GA, to all points in AL, FL, IL, IN, IA, KY, LA, MI, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, and TX, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Caine Steel Co., 1315 Chattahoochee Avenue, Atlanta, GA 30318. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma City, OK 73102.

MC 107295 (Sub-883TA), filed August 16, 1978. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Blountstown, FL, to points in AL, CT, DE, DC, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WI, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Donald R. Roarty, Manager, Traffic, Abitibi Corp., 3250 West Big Beaver Road, Troy, MI 48084. Send protests to: Charles D. Little, District Supervisor,

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Interstate Commerce Commission, 414 Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 107403 (Sub-1110TA), filed August 21, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Haynes, Jr., 10 West Baltimore Avenue, Lansdowne, PA 19050. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Pascagoula, MS, to Harvey & Geismar, LA, and Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: First Chemcial Corp., P.O. Box 1427, Pascagoula, MS 39567. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, room 3238, Philadelphia, PA 19106.

MC 107496 (Sub-1159TA), filed August 21, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane gas*, in bulk, from West Memphis, AR, to points in TN, for 180 days. Supporting shipper: Northern Propane Gas Co., 4934 East Shelby Drive, Memphis, TN 38118. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 107496 (Sub-1160TA), filed August 21, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Clarksville, MO to points in NE, for 180 days. Applicant has also filed an underlying ETA up to 90 days of operating authority. Supporting shipper: Dundee Cement Co., P.O. Box 67, Clarksville, MO 63336. Apollo Concrete Co., P.O. Box 12, Bennington, NE 68007. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 110525 (Sub-1258TA), filed August 16, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Lake Charles, LA to points in the United States (excluding AK and HA), for 180 days. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 112617 (Sub-406TA), filed August 16, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford, vice president, traffic (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except petrochemicals), in bulk, in tank vehicles, from the plantsite of W. R. Grace and Co., at or near Owensboro, KY, to South Acton; MA, and Brooklyn, NY, for 180 days. Supporting shipper: J. D. Feagin, traffic manager, W. R. Grace and Co., 55 Hayden Avenue, Lexington, MA 02173. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 114211 (Sub-366TA), filed August 21, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, Iowa 50704. Representative: Adelor J. Warren, P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut log homes* from the facilities of Northern Products, Inc., at or near Bangor, ME, to points in WI, IL, IA, and MN, for 180 days. Supporting shipper: Gates Forest Products, Inc., P.O. Box 244, RR 1, Spring Green, WI. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114569 (Sub-241TA), filed August 21, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except frozen foods and except commodities in bulk, in tank vehicles) from Philadelphia, PA to points in AZ, AR, CO, KS, KY, LA, IL, IN, IA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY, and (2) *Frozen foods* from Philadelphia, PA to points in AR, CO, IA, KS, KY, LA, MI, MN, MS, NO, NE, NV, NM, ND, OK, SD, TN, TX, WI, and WY. Supporting shippers: FOSTER IMPORTING CO., New York, NY; Nestle Co., Inc., White Plains, NY; Borden, Inc., Columbus, OH; Armour Food Co., Phoenix, AZ; John A. Steer Co., Philadelphia, PA; Mar Meat Co., Inc., St. Louis, MO; and Sanna Division, Beatrice Foods Co., Madison, WI. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108, for 180 days.

MO 114569 (Sub-242TA), filed August 21, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper and printed forms* from Penn Tech Paper Co. at or near Johnsonburg, PA and Standard Register Co. at or near Bedford, PA to points in CA and AZ. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Register Co., 121 Mt. Zion Road, York, PA 17405. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108. For 180 days.

MC 114896 (Sub-69TA), filed August 21, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Phoenix, AZ, and its commercial zone; Denver, CO; Las Vegas, NV, and its commercial zone; Reno, NV, and its commercial zone; Stateline, NV, and its commercial zone; and Philadelphia, PA, for 180 days. Supporting shipper: General Services Administration, Chief, Contracts and Negotiations Branch, Washington, DC 20406. Send protests to Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007. Under a continuing contract or contracts with General Services Administration.

MC 115517 (Sub-8TA), filed August 16, 1978. Applicant: B & L TRUCKING CO. INC., Route 4, Albemarle, NC 28001. Representative: Joshua J. Morton, Jr., P.O. Box 267, Albemarle, NC 28001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, pipe fittings and insulation* used in building brick kilns, hospitals, school buildings, and commercial buildings from Albemarle, NC, point

of origination, to the States of OK, TN, OR, and AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lorch Plumbing & Heating Co. Inc., P.O. Box 1339, Albemarle, NC 28001. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 115654 (Sub-105TA), filed August 16, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of George A. Hormel & Co. at or near Memphis, TN to points in AR and MS, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George A. Hormel & Co., 3939 Whitebrook Plaza, Suite 115, Building H, P.O. Box 18664, Memphis, TN. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 117910 (Sub-5 TA), filed August 16, 1978. Applicant: W. H. FROH, INC., 57760 Main Boulevard, New Haven, MI 48048. Representative: Walter N. Bieneman, attorney, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal products*, containers therefor, *and equipment, materials and supplies* used in the manufacture of such products, under a continuing contract, or contracts with Mueller Brass Co., between Port Huron, MI, on the one hand, and, on the other, those points in the United States in and east of the States of MN, IA, MO, AR, and LA, for 180 days. Supporting shipper: Mueller Brass Co., Port Huron, MI 48060. Sent protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 321 West Lafayette Boulevard, Detroit, MI 48226.

MC 119726 (Sub-140 TA), filed August 16, 1978. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington Street, Suite 1000, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, fiberboard, and corrugated boxes*, from the facilities of Container Corp., of America, at or near Fernandina Beach, FL, to Atlanta, GA, Winston-Salem and Shelby, NC, Memphis, TN, and Ft. Worth, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Container Corp. of America, 500 East North Avenue, Carol Stream, IL 60187. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 119789 (Sub-511 TA), filed August 16, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 266188, Dallas, TX 75266. Representative: Lewis Coffey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregualr routes, transporting: *Frozen bakery products* from Ashland, KY to Brea, CA., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rich Products Corp., 1145 Niagara Street, Buffalo, NY 142213. Send protests to: Opal M. Jones, Transportation Assistant, 110 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120646 (Sub-24 TA), filed August 16, 1978. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, NC 28803. Representative: Henry E. Seaton, 915 Pennsylvania Building, Pennsylvania Avenue and 13th Street, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furnishings and commodities* used in the manufacture of new furniture between Homer, LA on the one hand, and, on the other hand, points in the United States in, and west of, MI, OH, KY, TN, GA, and FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: River Oak Furniture Co., Homer, LA. Send protests to: Terrel Price, District Supervisor, 800 Briar Creek Road, Room CC 516, Mart Office Building, Charlotte, NC 28205.

MC 127187 (Sub-40TA), filed August 16, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* between Sioux Falls, SD, on the one hand, and, on the other, points in MT and ND, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Moyer Chemical & Equipment Co., Inc., 700 West Cherokee, P.O. Box 1083, Sioux Falls, SD 57101. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 Second Avenue North, Fargo, ND 58102.

MC 128527 (Sub-123TA), filed August 18, 1978. Applicant: May Trucking Co., P.O. Box 398, Payette, ID 83661. Representative: Timothy R. Stivers, registered practitioner, P.O. Box 162, Boise, ID 83701. Authority sought to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel*, unfinished; *structural steel;* and *steel articles, viz: coil, plate, and sheet* from the facilities of Metra Steel at or near Portland, OR, to points in Cache, Box Elder, Davis, Salt Lake, Utah, Wasatch and Weber Counties, UT, and Oakland and Sacramento, CA, and points in their commercial zones. Supporting shipper: Metra Steel, P.O. Box 3154, Portland, OR 97204. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 1471 Shoreline Drive, Suite 110, Boise, ID 83706. For 180 days.

MC 134958 (Sub-10TA), filed August 16, 1978. Applicant: HAMS EXPRESS, INC., 3499 South Third Street, Philadelphia, PA 19148. Representative: David M. Schwartz, 1025 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), *meat, meat products, and meat byproducts and such merchandise* as used by a food processor, from plantsite of American Home Foods, Division of American Home Products Corp. at Milton, PA, to points in IL, IN, IA, MI, MN, MO, NJ, OH, and WI; from Mt. Airy, MD and the commercial zones of Baltimore, MD; New York, NY; Philadelphia, PA and Wilmington, DE, to Milton, PA and LaPorte, IN, for 180 days. Supporting shipper: American Home Foods, Division of American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 135082 (Sub-74TA), filed August 15, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road NE., Albuquerque, NM 87125. Representative: Randall R. Sain, (same as above). Authority

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sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rolled plastic sheeting* from the facilities of Crown Zellerbach Corp., at or near Orange, TX, to the facilities of Crown Zellerbach Corp., at or near Portland, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Crown Zellerbach Corp., 3400 North Marine Drive, Portland, OR 97212. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 135283 (Sub-43TA), filed August 21, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, NE 68801. Representative: Gailyn L. Larsen, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Swift & Co., at or near Grand Island, NE, to which Wichita, KS, and its commercial zone, for 180 days. Supporting shipper: Swift & Co., John H. Groth, Manager, Claims and Services, 115 West Jackson Boulevard, Chicago, IL. Send protests to: Max Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 135598 (Sub-16TA), filed August 21, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Pabst, GA to points in MO, IA, IL, and WI, for 180 days. Supporting shipper: Pabst Brewing Co., 917 West Juneau Avenue, Milwaukee, WI 53201. Send protests to Harold C. Jolliff, Transportation Specialist, Interstate Commerce Commission, P.O. Box 2418, Springfield, IL 62705.

MC 13581 (Sub-35TA), filed August 21, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, and medicines* from New Brunswick, Somerset, and South Plainfield, NJ to Mission, KS under continuing contract or contracts with E. R. Squbb & Sons, Inc., for 180 days. Supporting shipper: E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, NJ 08903. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 136343 (Sub-150TA), filed August 16, 1978. Applicant: MILTON TRANSPORTATION, INC., R.D. 1, P.O. Box 355, Milton, PA 17847.Representative: Gorge A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter, books, equipment, products, and supplies* used in the manufacture and sale of the foregoing (except commodities in bulk) between the facilities of Independent News Co., located at Bethany, Bloomfield, Bristol, North Haven, CT; Springfield, Lowell, MA; New York, Albany, Buffalo, NY; Philadelphia, PA; Atlanta, GA; and DC, on the one hand, and, on the other, points in the States of CA, CT, DE, FL, GA, IN, IL, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TX, VT, VA, WA, WV, and DC, for 180 days. Authority is required to operate interstate between the States involved because of stopoffs, in the same State, and export and import traffic. Supporting shipper: Independent News Co., 75 Rockefeller Plaza, New York, NY 10019. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 136899 (Sub-28TA), filed August 15, 1978. Applicant: HIGGINS TRANSPORTATION LTD, P.O. Box 192, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 East Gilman, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, used, distributed or manufactured by lawn and garden supply houses from the facilities of Power-O-Peat located in St. Louis County, MN to points in the U.S. (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joseph A. Leoni d.b.a. Power-O-Peat, P.O. Box 956, Gilbert, MN 55741. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 E. Washington, Avenue, Room 317, Madison, WI 53703.

MC 138157 (Sub-81TA), filed August 18, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Owens-Illinois, Inc. at or near Clarion, PA to Tullahoma, TN, for 180 days. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 139906 (Sub-18TA), filed August 16, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Beveridge Paper Co., at Indianapolis, IN to points in CO, UT, WA, OR, NM, AZ, and CA, for 180 days. Supporting shipper: Beveridge Paper Co., Inc., 717 West Washington, Indianapolis, IN 46204. Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 140563 (Sub-14TA), filed August 14, 1978. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newsprint paper and groundwood paper*, from the facilities of Bowater Southern Paper Corp. at or near Calhoun, TN, to points in NY, and (2) *Materials, equipment and supplies* used in the manufacture or distribution of commodities named in (1) above (except commodities in bulk), from points in NY to the facilities of Bowater Southern Paper Corp. at or near Calhoun, TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree

Street, NW., Room 300, Atlanta, GA 30309.

MC 141245 (Sub-5TA), filed: August 21, 1978. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Drive, Burlington, VT 05401. Representative: Brian L. Troiano, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Cranston, RI, to Barre, VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Calmont Beverage Co., Inc., 21 South Main Street, Barre, VT 05641. Send protests to: David Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, VT 05602.

MC 141402 (Sub-17TA), filed August 16, 1978. Applicant: LINCOLN FREIGHT LINES, INC., State Highway Route 32, P.O. Box 332 & Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Joliet, IL, to Cincinnati, OH and New Kensington and Schenley, PA. Restricted to a contract or continuing contracts with Universal Glass-National Bottling Corp., for 180 days. Supporting shipper: Universal Glass-National Bottling Corp., One Decker Square, Bala Cynwyd, Philadelphia, PA 19004. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 141921 (Sub-18TA), filed August 21, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03103. Representative: John A. Sykas, 143 Frontage Rd., Manchester, NH 03103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising material*, (2) *empty containers for recycling and materials and supplies used in the manufacturing and distribution of malt beverages and related advertising material*; (1) from Jefferson County, CO, to points in IA, MO and WA, (2) from points in IA, MO and WA to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Co., Golden, CO 80401, Attention: Lou Bonner, Director of Transportation. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 143027 (Sub-3TA), filed August 21, 1978. Applicant: MICHAEL J. RESUDEK, d.b.a. CAPITOL CARTAGE CO., 3521 International Lane, Madison, WI 53704. Representative: Michael S. Varda, P.O. Box 2509, 121 South Pinckney St., Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical switches and parts, materials, and supplies used in the manufacture of electrical switches*, between the facilities of Allen-Bradley Co. at or near Richland Center, WI, on the one hand, and, on the other, Dane County Regional Airport at Madison, WI, and (2) *hydraulic valves and cylinders, and parts, materials, and supplies used in the manufacture of hydraulic valves & cylinders*, between the facilities of Tivett, Inc. at or near Mineral Point, WI, on the one hand, and on the other, Dane County Regional Airport at Madison, WI, for 180 days. Restriction: Restricted in parts (1) and (2) to traffic having a prior or subsequent movement by air. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allen-Bradley Co., 1201 South 2nd St., Milwaukee, WI 53204. Rivett, Inc., 7700 Capitol Drive, Pewaukee, WI 53072. Send protests to: Ronald Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson St., Madison, WI 53703.

MC 143503 (Sub-4TA), filed August 21, 1978. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furnishings*, and *appliances*, from the facilities of Finger Furniture Company, Inc., at or near Beaumont and Houston, TX, to points in Acadia, Allen, Beauregard, Calcasie, Camerson, Evangeline, Jefferson Davis, Lafayette, Rapides, Sabine, Vermillion, and Vernon Parishes, LA, for 180 days. Supporting shipper: Finger Furniture Co., Inc., P.O. Box 194, Houston, TX 77001. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143649 (Sub-6TA), filed August 21, 1978. Applicant: FIGANBAUM TRUCKING, INC., Tripoli, IA 50676. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division at or near Mason City, IA, to points in the States of MN, WI, ND, SD, and NB, for 180 days. Supporting shipper: Land O'Lakes, Agricultural Services Division, 2827 8th Avenue South, Ft. Dodge, IA 50501. Send protests to: Mr. Herbert Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 143753 (Sub-3TA), filed August 16, 1978. Applicant: BOLES & FRANKLIN, INC., Route 2, Box 169, Weaverville, NC 28787. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Clay County, KY, to points in Pickaway and Sandusky Counties, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Trucker's Coal Market, Inc., Route 4, Box 183, Manchester, KY 40962. Send protests to: Terrel Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 143868 (Sub-2TA), filed August 21, 1978. Applicant: R.E.T.E.N.A. CARRIERS, INC., 2011 North Tyler, Suite H, South El Monte, CA 91733. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultrual pesticides*, from Los Angeles, CA to points in AL, AR, AZ, FL, GA, KY, LA, MI, MN, MS, MO, NC, OK, SC, TN, TX, VA, and WI, and, *Ingredients* for agricultural pesticides, from Henderson, NV, Kingsport, TN, Niagara Falls, NY, and North Charleston, SC to Los Angeles, CA, for 180 days. Supporting shipper: Amvac Chemical Corp., 4100 East Washington Blvd., Los Angeles, CA 90023. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, 300 North Los Angeles Street., Los Angeles, CA 90012. Under a continuing contract or contracts with Amvac Chemical Corp.

MC 144452 (Sub-4TA), filed August 16, 1978. Applicant: ARLEN LINDQUIST, d.b.a ARLEN E. LINDQUIST TRUCKING, 3242 Old Highway 8, Minneapolis, MN 55418. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oil*, in cases and drums, from (a) Roxana, IL to Portage, Baraboo, De-

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Forest, Richland Center, Lyndon Station, Dodgeville, Plain, Wisconsin Dells, Shawano, Waupaca, Stevens Point, Wisconsin Rapids, Marshfield, Colby, Beaver Dam, Green Lake, Waupun, Seymour, Oconto Falls, Merrill, Eagle River, Rhinelander, Chippewa Falls, Wausau, Mellen and Antigo, WI; and (b) Oil City, PA to Chippewa Falls, WI. (2) *Empty oil drums*, from Portage, Baraboo, DeForest, Richland Center, Lyndon Station, Dodgeville, Plain, Wisconsin Dells, Shawano, Waupaca, Stevens Point, Wisconsin Rapids, Marshfield, Colby, Beaver Dam, Green Lake, Waupun, Seymour, Oconto Falls, Merrill, Eagle River, Rhinelander, Chippewa Falls, Wausau, Mellen and Antigo, WI to St. Louis, MO. (3) *Lubricants* (ECIB) from New Orleans, LA to Richland Center, WI. (4) *Anti-freeze*, from Chicago, IL to Portage and Dodgeville, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN.

MC 144947 (Sub-1TA), filed August 21, 1978. Applicant: HARMON'S EXPRESS, INC., 1206 Salem Street, Groveland, MA 01834. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone and sand aggregate, in bulk, in dump vehicles*, from Westbrook, ME, to Seabrook, NH, for 180 days. Supporting shipper: Public Service Co. of New Hampshire, P.O. Box 700, Seabrook, NH 03874. Send protests to Max Gorenstein, District Supervisor, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 145154 (Sub-1TA), filed August 23, 1978. Applicant: YOUNG'S TRANSPORTATION CO., 3310 L Ella Boulevard, Houston, TX 77018. Representative: Eric Meierhoefer, Suite 432, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and rugs* from points in GA to Houston, TX, and points in the commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 11 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 145225 (Sub-1TA), filed August 16, 1978. Applicant: GAULCO, LTD., 1700 Church Avenue, Winnipeg, MB, Canada R2X 2W9. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the installation of carpet from ports of entry on the United States-Canada border located in ID, MI, MN, MT, ND, and WA, with an origin point of Edmonston, AB, Canada, to points in CA, FL, GA, IL, IN, MD, MN, NY, ND, OR, PA, RI, SC, VA, and WA, under a continuing contract with Grip-Rite Carpet Accessories, Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Grip-Rite Carpet Accessories, Ltd., 12002 75 Street, Edmonton, AB, Canada T5B 2B6. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 Second Avenue North, Fargo, ND 58102.

MC 145244TA, filed August 16, 1978. Applicant: HAROLD E. FELGAR, 1315 East Seventh Street, Room 312, Los Angeles, CA 90012. Representative: Timothy P. Johnson, 18952 Mac Arthur Boulevard, No. 300, Irvin, CA 92715. Authority sought to sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods, packaged foods, vitamins, health foods, food supplements, yogurt, and cheese*, between St. Augustine, FL, Los Angeles, CA, and San Francisco, CA, under a continuing contract or contracts with Tree of Life, Inc., for 180 days. Supporting shipper: Tree of Life, Inc., P.O. Box 410, 315 Industrial Boulevard, St. Augustine, FL 32084. Send protests to: Irene Carlos, 300 North Los Angeles Street, Room 1321, Los Angeles, CA 90012.

MC 145291TA, filed August 21, 1978. Applicant: ALBERT HULSE, JR., 59 Myrtle Street, Methuen, MA 02108. Representative: George A. McLaughlin, Jr., 44 School Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oil*, in tank vehicles, between points in MA and NH located within 75 miles of Methuen, MA, for 180 days, under a continuing contract or contracts with Automatic Heating Service, Inc. Supporting shipper: Automatic Heating Service, Inc., 56 Union Street, Methuen, MA 01844. Send protests to: Max Gorenstein, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

PASSENGER CARRIERS

MC 141369 (Sub-4TA), filed August 21, 1978. Applicant: V. P. I. LIMOUSINE, INC., 11 Brownhouse Road, Stamford, CT 06902. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, in nonscheduled, door-to-door service, limited to the transportation of no more than six passengers (not including the driver) in any one vehicle at any one time between points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, NJ, on the one hand, and, on the other, points in New York City and Nassau, Suffolk, and Westchester Counties, NY, for 180 days. Supporting shipper(s): There are approximately nine statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

MC 141369 (Sub-5TA), filed August 21, 1978. Applicant: V. P. I. LIMOUSINE, INC., 11 Brownhouse Road, Stamford, CT 06902. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, in nonscheduled, door-to-door service, limited to the transportation of no more than six passengers (not including the driver) in any one vehicle at any one time between points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, and Union Counties, NJ, on the one hand, and, on the other, points in Fairfield County, CT, for 180 days. Supporting shipper(s): Amax, Inc., Amax Center, Greenwich, CT 06830. McKinsey & Co., 245 Park Avenue, New York City, NY 10017. Combustion Engineering, Inc., 900 Long Ridge Road, Stanford, CT 06902. Bowater, Inc., 1500 East Putnam Avenue, Old Greenwich, CT 06870. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-28785 Filed 10-11-78; 8:45 am]

[7035-01-M]

[Volume No. 118]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

OCTOBER 4, 1978.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 730 (Sub-272) (M1F) (notice of filing of petition to modify certificate), filed August 24, 1978. Petitioner: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, P.O. Box 958, Oakland, CA 94604. Representative: Alfred G. Krebs (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 730 Sub-272 issued October 27, 1966 authorizing transportation, over regular routes, as pertinent of: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commisison, commodities in bulk, and those requiring special equipment), between Chicago, IL, and Boston, MA, serving the intermediate points of Akron, OH, and those within 10 miles of Akron and Mansfield, OH, Syracuse, NY, all intermediate points in NY located east of Syracuse, all intermediate points in MA, RI, and CT, intermediate and off-route points in the Chicago, IL, commerical zone, as defined by the Commission, off-route points located within 10 miles of Akron, off-route points located within 20 miles of Boston, and the off-route points of Gloversville and Rome, NY, without restriction; and the intermediate points of South Bend, Mishawaka, Elkhart, Fort Wayne, and Warsaw, IN, the off-route point of Goshen, IN, and intermediate points in OH (except Akron and Mansfield and points within 10 miles of Akron), restricted to the pickup of eastbound traffic and the delivery of westbound traffic; and intermediate points in NY west of Syracuse, restricted to the delivery of westbound traffic. By the instant petition, petitioner seeks to modify the above authority be deleting the language of "pickup of eastbound traffic and the delivery of westbound traffic" in reference to the restriction in connection with OH points and named IN cities.

MC 10343 (MIF) (Notice of filing of petition to modify certificate), filed August 24, 1978. Petitioner: CHURCHHILL TRUCK LINES, INC., P.O. Box 250, Chillicothe, MO 64601. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Petitioner holds a motor *common carrier* certificate in MC 10343 issued March 20, 1975, authorizing transportation, over regular routes, as pertinent, of (C) *General commodities* (except those of unusual value, classes A and B explosives, households as defined by the Commission, commodities in bulk, and those requiring special equipment), serving all intermediate points on U.S. Hwy 36 between St. Joseph, MO, and Cameron, MO, in connection with carrier's regular-route operations authorized in section (B) (except those points that carrier is already authorized to serve in section (B)). Between Kansas City, MO., and Chillicothe, MO, serving all intermediate points: From Kansas City over U.S. Hwy 24 to Waverly, MO, then over U.S. Hwy 65 to Chillicothe, and return over the same route. Between junction U.S. Hwys 36 and 61 and Chicago, IL, serving no intermediate points, and serving junction U.S. Hwys 24 and 66 for purposes of joinder only: From junction U.S. Hwys 36 and 61 over U.S. Hwy 36 to Springfield, IL, then over U.S. Hwy 66 via its junction with U.S. Hwy 24 to Chicago, and return over the same route. Between junction IL Hwy 96 and U.S. Hwy 24, and junction U.S. Hwys 24 and 66, serving no intermediate points and serving junction IL Hwy 96 and U.S. Hwy 24 and junction U.S. Hwys 24 and 66 for purposes of joinder only: From junction IL Hwy 96 and U.S. Hwy 24 over U.S. Hwy 24 to junction U.S. Hwy 66, and return over the same route. Between Monmouth, IL, and Good Hope, IL, serving all intermediate points: From Monmouth over U.S. Hwy 67 to Good Hope, and return over the same route. Between junction IA Hwy 22 and U.S. Hwy 61, and Dubuque, IA, serving all intermediate points: From junction IA Hwy 22 and U.S. Hwy 61 over U.S. Hwy 61 to Dubuque, and return over the same route. Between Davenport, IA, and junction U.S. Hwys 6 and 63, serving all intermediate points: From Davenport over U.S. Hwy 6 to junction U.S. Hwy 63, and return over the same route. Between junction U.S. Hwys 6 and 63 and Princeton, MO, serving no intermediate points, and serving junction U.S. Hwys 6 and 63 and Princeton for purposes of joinder only: From junction U.S. Hwys 6 and 63, over U.S. Hwy 6 to junction U.S. Hwy 65, then over U.S. Hwy 65 to Princeton, and return over the same route. Between Donnelson, IA, and Cedar Rapids, IA, serving all intermediate points: From Donnelson over U.S. Hwy 218 to Cedar Rapids, and return over the same route. Between Ottumwa, IA, and Waterloo, IA, serving all intermediate points: From Ottumwa over U.S. Hwy 63 to Waterloo, and return over the same route. Between junction U.S. Hwy 63 and IA Hwy 149 and Iowa City, IA, serving all intermediate points: From junction U.S. Hwy 63 and IA Hwy 149 over IA Hwy 149 to Sigourney, IA, then over IA Hwy 92 to junction IA Hwy 1, then over IA Hwy 1 to Iowa City, and return over the same route. Between Bloomfield, IA and Kirksville, MO, serving all intermediate points: From Bloomfield over U.S. Hwy 63 to Kirksville, and return over the same route. Between junction U.S. Hwy 63 and IA Hwy 149 and Iowa City, IA, serving all intermediate points: From junction U.S. Hwy 63 and IA Hwy 149 over IA Hwy 149 to Sigourney, IA, then over IA Hwy 92 to junction IA Hwy 1, then over IA Hwy 1 to Iowa City, and return over the same route. Between Bloomfield, IA and Kirksville, MO, serving all intermediate points: From Bloomfield over U.S. Hwy 63 to Kirksville, and return over the same route. Between St. Joseph, MO, and Kansas City, MO, serving no intermediate points and serving the termini for purposes of joinder only: From St. Joseph over Interstate Hwy 29 to Kansas City, and return over the same route. In connection with the routes described above in section (C) service is authorized to all points in that part of IA on and east of U.S. Hwy 63; those in that part of MO on and north of U.S. Hwy 40; those in that part of IL north of a line beginning at a point on U.S. Hwy 24 at the IL-MO State line and extending along U.S. Hwy 24 to junction U.S. Hwy 66, then along U.S. Hwy 66 to Chicago, IL, (including all points in the Chicago, IL, Commercial Zone as defined by the Commission, as off-route points in connection with carrier's authorized regular-route operations in section (C) above, and with carrier's otherwise authorized regular-route operations). Restriction: Said op-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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erations are restricted to the transportation of traffic moving between Meadville, MO, and points within 10 miles thereof, on the one hand, and, on the other, Kansas City, KS, and points in IA, MO, and IL. By the instant petition, petitioner seeks to modify the above authority by deleting the above restriction.

MC 55822 (Sub-8) (M-2F) (notice of filing of petition to modify permit), filed August 31, 1978. Petitioner: Victory Express, Inc., P.O. Box 4076, Trotwood, OH 45426. representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Petitioner holds permit in MC 55822 (sub-8), issued October 16, 1974, authorizing transportation, as here pertinent, over irregular routes, of: *General commodities* (except classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk, and commodities which because of their size or weight require the use of special equipment), between points in the United States (except Alaska and Hawaii) restricted to the transportation of shipments originating at, or destined to, the plantsites, warehouses and branch facilities of the NCR Corp., under a continuing contract with the NCR Corp. of Dayton, OH. By the instant petition, petititoner seeks to modify the above authority by adding Appleton Papers, Ihc., as a contracting shipper.

MC 94201 (Sub-135) (M1F) (notice of filing of petition to modify certificate), filed August 30, 1978. Petitioner: BOWMAN, TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Petitioner holds a motor *common carrier* certificate in MC 94210 Sub-135, issued June 2, 1977, authorizing transportation, over regular routes, of *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between various points in GA, SC, FL, AL, and TN, generally, with the following restrictions: (1) Between points in AL (and points within their commercial zones) on and south of U.S. Hwy 80 and points in Lee and Chambers Counties, AL, on the one hand, and, on the other, points in GA (and points within their commercial zones) on and south of U.S. Hwy 80 and points in FL, (2) Between points in GA (and points in their commercial zones) on and south of U.S. Hwy 80, on the one hand, and, on the other, points in AL (and points in their commercial zones) on and south of U.S. Hwy 80, points in Lee and Chambers Counties, AL, and points in FL, (3) Between points in FL on and north of a line beginning at Melbourne, FL, extending over U.S. Hwy 192 to its junction with U.S Hwys 17 and 92, then over U.S. Hwys 17 and 92 to their junction with U.S. Hwy 41, then over U.S. Hwy 41 to Piney Point, FL, and points in FL east of Jefferson County, FL, on the one hand, and, on the other, points in SC, NC and the following points in VA: Chesapeake, Suffolk, Portsmouth, Virginia Beach, Norfolk, Newport News and Hampton, VA, and points within their respective commercial zones, (4) Between Memphis, TN, and Nashville, TN, and points within their respective commercial zones, on the one hand, and, on the other, Florence, AL, and points within 10 miles of Florence, AL, (5) To or from all intermediate and off-route points in the State of MS, (6) Between points in the State of FL, between points in the State of AL; and between points in the State of TN; (7) Between points in AL outside the 65-mile radius of Birmingham, AL, on the one hand, and, on the other, points in FL north of FL Hwy 44, (excepted from this restiction are points authorized to be served by Bowman in its Sub-Nos. 59 authority; and (8) restricted against the tacking or joining the authority granted in this proceeding with carrier's present authority, so as to perform service between Memphis, TN, and points in its commercial zone, on the one hand, and, on the other, Chicago, IL, and points in its commercial zone. By the instant petition, petitioner seeks to modify or eliminate the restrictions as follows: (1) To eliminate "and points in Lee and Chambers Counties, AL" in Restriction (1) which would enable Bowman to transport the authorized commodities. Between points in Lee and Chambers Counties, AL, on the one hand, and, on the other points in GA (and points within their commercial zones) on and south of U.S. Hwy 80 and points in FL without having to traverse the 5 points (Cedartown, Lindale, Mt. Berry, Rome and Summerville) or Atlanta gateway. (2) To eliminate the words "points in Lee and Chambers Counties, AL" in paragraph (2) of the Restrictions which would enable Bowman to transport the involved commodities. Between points in GA (and points within their commercial zones) on and south of U.S. Hwy 80, on the one hand, and, on the other, points in Lee and Chambers Counties, AL, without having to traverse the Atlanta or 5 points (Cedartown, Lindale, Mount Berry, Rome and Summerville) GA gateways. (3) To eliminate Restriction (3) in the Sub-135 certificate which restricts same against the movement of traffic: Between points in FL on and North of a line beginning at Melbourne, FL extending over U.S. Hwy 192 to its junction with U.S. Hwys 17 and 92, then over U.S. Hwys 17 and 92 to their junction with U.S. Hwy 41, then over U.S. Hwy 41 to Piney Point, FL, and points in FL east of Jefferson Co., Fl, on the one hand, and, on the other, points in SC, NC and the following points in VA: Chesapeake, Suffolk, Portsmouth, Virginia Beach, Norfolk, Newport News and Hampton, VA, and points within their respective commercial zones. Elimination of this restriction would enable Bowman to transport the involved traffic moving between points in Fl on and North of a line beginning at Melbourne, FL extending over U.S. Hwy 192 to its junction with U.S. Hwys 17 and 92, then over U.S. Hwys 17 and 92 to their junction with U.S. Hwy 41, then over U.S. Hwy 41 to Piney Point, FL, and points in FL east of Jefferson Co., FL, on the one hand, and, on the other, points in SC, NC and the following points in VA: Chesapeake, Suffolk, Portsmouth, Virginia Beach, Norfolk, Newport News and Hampton, VA, and points within their respective commercial zones. Direct without operating through the gateways of Atlanta or the 5 GA points (Cedartown, Lindale, Mount Berry, Rome or Summerville).

MC 133095 (Sub-152) (M1F) (notice of filing of petition to modify certificate), filed August 10, 1978. Petitioner: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. Petitioner holds a motor *common carrier* certificate in MC 133095 Sub-152, issued March 28, 1978 authorizing transportation over irregular routes, of: *Hair care toiletries and equipment*, from the facilities of Clairol, Inc., at or near Camarillo, CA, to Dallas, TX, Chicago, IL, Atlanta, GA, and Stamford, CT. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the named origin and destined to the named destination points. By the instant petition, petitioner seeks to modify the above authority by Los Angeles, CA, as an additional origin point.

MC 133095 (Sub-159) (M1F) (notice of filing of petition to modify certificate), filed August 10, 1978. Petitioner: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. Petitioner holds a motor *common carrier* certificate in MC 133095 (Sub-159) issued March 26, 1978 authorizing transportation over irregular routes, of: (1) *Hair care toiletries and equipment*, from Camarillo, CA, to Portland, OR, and (2) *Materials, supplies, and ingredients* used in the packaging, manufacture, and distribution of toiletries and toiletry equipment (except in bulk), in vehicles equipped with mechanical refrigeration, from Stamford, CT, to Camarillo, CA. Restriction: The authority granted herein is restricted to the transportation of shipments originating at and destined to the facilities utilized by Clairol, Inc. By the instant petition, petitioner seeks to modify the above authority by adding Los Angeles, CA, as an origin in (1) and as a destination in (2) above.

MC 133119 (Sub-30) (M1F) (notice of filing of petition for modification of certificate) filed August 2, 1978. Petitioner: HEYL TRUCK LINES INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O.Box 81849, Lincoln, NE 68501. Petitioner holds motor *common carrier* authority in MC 133119 (Sub-30), authorizing transportation over irregular routes of: Bananas and agricultural commodities, the transportation of which is exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed shipments with bananas, from the facilities of the Del Monte Banana Co., at Charleston, S.C., to points in WI, MN, and ND. By the instant petition, petitioner seeks to delete the phrase, "the facilities of the Del Monte Banana Co. at".

MC 134599 (Subs-110 and 119) (M1F) (notice of filing of petition to modify permits), filed August 16, 1978. Petitioner: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard Peterson, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds motor *contract carrier* permits in MC 134599 (Subs- 110 and 119) issued January 29, 1976, and April 12, 1976, respectively. MC 134599 (Sub-110) authorizes transportation, over irregular routes, of: *Crated office furniture, parts* of office furniture and *advertising, sales, and promotional materials* for office furniture, from the facilities of Steelcase, Inc., at Grand Rapids, MI, to points in VA. MO (except St. Louis, MO, and points in its commercial zone as defined by the Commission), AR, LA, KS, OK, TX, CO, and NM, under a continuing contract with Steelcase, Inc., of Grand Rapids, MI. MC 134599 (Sub-119) authorizes transportation, over irregular routes, of: (1) *Crated office furniture and parts* of office furniture (except in bulk or those which because of size or weight require the use of special equipment), from the facilities of Steelcase, Inc., in Grand Rapids, MI, to points in MT, WY, NC, SD, NE (except Omaha), IA (except Des Moines), ME, NH, VT, and WV; and (2) *equipment, materials and supplies* used in the manufacture of office equipment (except in bulk or, which because of size or weight, require special handling and special equipment), from points in MT, WY, ND, SD, NE (except Omaha), IA (except Des Moines), ME, NH, VT, and WV to the facilities of Steelcase, Inc., in Grand Rapids, MI, under a continuing contract(s) in (1) and (2) above with Steelcase, Inc. By the instant petition, petitioner seeks to modify the above authority by (1) removing the restriction (except St. Louis, MO, and points in its commercial zone) in Sub-110; and (2) removing the restrictions (except Omaha) and (except Des Moines) in its Sub-119 authority.

MC 135009 (Sub-2) (M1F) (notice of filing of petition to modify permit), filed August 22, 1978. Petitioner: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, NJ 07055. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Petitioner holds a motor *contract carrier* permit in MC 135009 (Sub-2) issued December 30, 1977, authorizing transportation, over irregular routes, of *books, printed matter, and such commodities* as are used in the manufacture, sale, and distribution of books (except commodities in bulk, in tank vehicles), (1) Between Clifton, NJ, on the one hand, and, on the other, points in AL, AR, CA, CT, FL, GA, IL, IN, MA, MS, MO, NJ, NY, NC, OH, OR, PA, SC, TN, TX, UT, VT, WV, and WI; and (2) Between Elk Grove Village, IL, on the one hand, and, on the other, points in AL, AR, CA, CT, FL, GA, IL, MA, MS, MO, NJ, NY, NC, OR, PA (except points in Beaver, Indiana, and Westmoreland Counties, PA), SC, TN, TX, UT, VT, WV, and WI. Restriction: The service authorized herein shall be limited to a transportation service to be performed under a continuing contract, or contracts, with Holt, Rinehart & Winston. By the instant petition, petitioner seeks to modify the above be adding Bellmawr, NJ, as a base point in (1) of the territorial description.

MC 135828 (M1F) (notice of filing of petition to modify certificate), filed August 31, 1978. Petitioner: PEACE BRIDGE BROKERAGE LTD., 33 Walnut St., Fort Erie, ON, Canada. Representative: H. A. Simons, (same address as petitioner). Petitioner holds a motor *common carrier*, certificate in MC 135828 issued April 10, 1975, authorizing transportation, over irregular routes, of *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) in express service, between points in Erie, Genesee, and Niagara Counties, NY, on the one hand, and, on the other, Buffalo, Lewiston, and Niagara Falls, NY. Restriction: The service authorized herein is subject to the following conditions: The operations authorized herein are restricted to the transportation of shipments originating at or destined to points in Canada, and (2) The operations authorized herein are restricted to the transportation of packages or articles weighing in the aggregate less than 300 pounds per shipment from any one consignor to any one consignee on any one day. By the instant petition, petitioner seeks to modify the weight limitation in the above restriction to 1,000 pounds in lieu of 300 pounds per shipment.

MC 143061 (M1F) (notice of filing of petition to modify permit), filed August 30, 1978. Petitioner: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, NC 27288. Representative: K. Edward Wolcott, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. Petitioner holds a motor *contract carrier* permit in MC 143061 issued April 12, 1978 authorizing transportation, over irregular routes, of (1) *Electrical equipment, devices, and products*, (2) *parts* of the commodities in (1), and (3) *commodities* used by and dealt in by manufacturers of the commodities in (1) (except any commodities in bulk, commodities which because of size or weight require special equipment, and aerospace craft and aerospace craft parts); (a) between Somersworth, NH, Pittsfield, MA, and Rotterdam, NY, and (b) between the facilities of General Electric Co., at or near Somersworth, NH, Pittsfield, MA, Rotterdam, NY, Salisbury, Hickory, and East Flat Rock, NC, on the one hand, and, on the other, points in the United States on and west of the eastern State boundary line of WI, IA, MO, AR, and LA (except AK and HI); and points in the Upper Peninsula of MI, under a continuing contract with General Electric Co. By the instant petition, petitioner seeks to modify the above authority by adding Schenectady, NY, as an additional service point in (a) and as a base point in (b) of the territorial description.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register. An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Spe-

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cial Rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the previse manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier, if no representative is named.

MC 114211 (Sub-329) (Republication), filed November 7, 1977, published in the FEDERAL REGISTER issue of December 30, 1977, and republished this issue. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard St., Waterloo, IA 50704. Representative: Daniel Sullivan, Suite 1600, 105 South LaSalle, Chicago, IL 60604. A decision of the Commission, Review Board No. 3, decided July 31, 1978, and served August 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *used irrigation systems and accessories* for use with used irrigation systems, between points in the United States (except AK and HI), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to delete the restriction.

MC 115331 (Sub-441) (republished), filed December 5, 1977, published in the FEDERAL REGISTER issue of February 2, 1978, and republished this issue. Applicant: TRUCK TRANSPORT, INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. A decision of the Commission, Review Board No. 3, decided August 14, 1978, and served September 1, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Pebble lime Springfield, MO, to Hawesville, KY; and (2) fly ash*, in bulk, from in bulk, from point in Pike County, IN, to points in IL, KY, MO, AR, and TN, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description and indicate Hawesville, KY, in lieu of Wickliffe, KY, as an origin points in part (1) above.

MC 119641 (Sub-149F) (Republication), filed February 9, 1978, published in the FEDERAL REGISTER issue of March 23, 1978, and republished this issue. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Alkie E. Scopelitis, 815 Merchants Bank Bldg., Indianapolis, IN 46404. A decision of the Commission, Review Board No. 3, decided August 21, 1978, and served September 11, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *plywood, particle board, hardboard, gypsum board, moulding, and plastic articles*, from the facilities of Weyerhaeuser Co., at Chesapeake, VA, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WV, and WI, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of KY as a destination State.

MC 138882 (Sub-35) (Republication), filed January 10, 1978, published in the FEDERAL REGISTER issue of February 24, 1978, and republished this issue. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A decision of the Commission, Review Board No. 2, decided August 14, 1978, and served September 21, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicles, over irregular routes, in the transportation of *veneer and plywood*, from the facilities of Capitol Veneer Works, Inc., at or near Montgomery, AL, to points in NY, VT, MD, VA, NC, SC, GA, FL, TN, KY, OH, MS, AZ, UT, CO, CA, AR, IN, IL, MO, IA, TX, CT, ME, MA, RI, and NH, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description, and add TX, CT, ME, MA, RI, and NH as destination points.

MC 140051 (Sub-4) (Republication), filed January 12, 1978, published in the FEDERAL REGISTER issue of March 16, 1978, and republished this issue. Applicant: DANIEL C. NEACE, d.b.a., LANCER ENTERPRISES, 3131 Crest Road, Cincinnati, OH 45247. Representative: Timothy T. Slater, 6343 Birchdale Court, Cincinnati, OH 45230. A decision of the Commission, Review Board No. 1, decided September 14, 1978, and served September 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Carpet, linoleum, and tile;* and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of Carson, Pirie, Scott & Co., at Cincinnati, OH, to points in Allen, Huntington, Wells, Adams, Grant, Blackford, Jay, Tipton, Madison, Delaware, Randolph, Marion, Hancock, Henry, Wayne, Johnson, Shelby, Rush, Fayette, Union, Brown, Bartholomew, Decatur, Franklin, Jackson, Jennings, Ripley, Dearborn, Ohio, Switzerland, Jefferson, Scott, Washington, Clark, Floyd, and Harrison Counties, IN, under a continuing contract or contracts with Carson, Pirie, Scott & Co., of Cincinnati, OH, will be consistent with the public interest and the national transportation policy, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

MC 141124 (Sub-15F) (Republication), filed February 8, 1978, published in the FEDERAL REGISTER issue of March 16, 1978, and republished this issue. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. A decision of the Commission, Review Board No. 2, decided August 30, 1978, and served September 15, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Paper and paper products*, from the facilities of Champion International Corp., at or near Canton, Waynesville, Asheville, and Fletcher, NC, to points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT; and (2) *equipment, materials, and supplies* used in the manufacture of paper and paper products (except commodities in bulk), from points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, to the facilities of Champion International Corp., at or near Canton, Waynesville, Asheville, and Fletcher, NC, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the applicant's actual grant of authority.

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form to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate CT in lieu of CO, as a destination State.

FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13458. (amendment) (HOLLAND MOTOR EXPRESS, INC.—Purchase (portion)—NAVAJO FREIGHT LINES, INC.), published in the December 30, 1977 issue of the FEDERAL REGISTER. Applicants have requested by letter dated August 7, 1978, that the Commission permit the amending of their application. In a decision served September 18, 1978, applicants were permitted to amend their application to include the following authority that was inadvertently omitted: *General commodities*, with exceptions, as a *common carrier* over regular routes between the junction of U.S. Hwy 27 and MI Hwy 60 and Jackson, MI, over MI Hwy 60, serving no intermediate points.

MC-F-13694F (correction) (COOPER MOTOR LINES—Purchase (portion)—CRESCENT MOTOR LINES), published in the September 13, 1978, issue of the FEDERAL REGISTER, on page 40991. Previous notice inadvertently published the notice as Docket No. MC-F-3694. The correct number is No. MC-F-13694F.

MC-F-13724F. Authority sought for purchase by DUDLEY TRUCKING, INC., P.O. Box 1651, Tacoma, WA 98402, of a portion of the operating rights and property of Dudley Boat & Trailer Transportation, Inc., 13315 8th Street East, Sumner, WA, 98390, and for acquisition by Terry L. Rucker and Chris M. Rucker, both of 1819 Olympic Street, P.O. Box 1651, Tacoma, WA 98402, of control of such rights through the transaction. Applicants' representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA, 98101. Operating rights sought to be transferred: *Iron and steel articles and pipe*, as a *common carrier* over irregular routes, between points in OR and WA. Dudley Trucking, Inc., holds no authority from this Commission. However, Dudley Trucking, Inc., is controlled by Terry L. Rucker and Chris M. Rucker. Terry L. Rucker and Chris M. Rucker are affiliated with Rucker Bros. Trucking Inc., who has authority to operate as a common carrier in the States of WA and OR. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13726F. (correction) (LEE WAY MOTOR FREIGHT, INC.—Purchase (portion)—O.K. MOTOR SERVICE, INC.), published in the September 13, 1978, issue of the FEDERAL REGISTER, on page 40992. Previous notice should have read as follows: *General commodities*, with exceptions, as a *common carrier* over regular routes between * * *.

No. MC-F-13740F. Authority sought for purchase by FAST FREIGHT SYSTEMS, INC., 118 North Congress Street, Jackson, MS 39205, of a portion of the operating rights of DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508, of control of such rights through the transaction. Applicants' representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Operating rights sought to be transferred: (I) MC-106603 (Sub-142) (portion), (a) *Iron and steel articles*, as a *common carrier* over irregular routes, from the plantsite and storage facilities of North Star Steel Co. located at or near Wilton, IA, to points in AL, MS, and TN, and (b) *Materials, equipment and supplies*, used in the manufacture and distribution of iron and steel articles, from points in the States named in part (a) above, to plantsite and storage facilities of North Star Steel Co., located at or near Wilton, IA. Restriction: The authority in (a) and (b) above is restricted to the transportation of traffic originating at and destined to the named origins and destinations; the authority in (b) is further restricted against transportation of commodities in bulk. (II) MC-46240 (Sub-16), *brass, bronze, copper, and aluminum products and equipment materials, and supplies* used in the manufacture of such products (except commodities in bulk), as a *common carrier* over irregular routes between Fulton, MS, on the one hand, and, on the other, points in the United States (except AK and HI). (III) MC-46240 (Sub-17) (portion), *copper, brass, bronze, and aluminum articles*, as a *common carrier* over irregular routes from Hartsville, TN, to points in OH, IN, IL, WI, PA, KY, WV, MO, IA, NY, NJ, AL, AR, CT, DE, FL, GA, LA, MA, MN, and MS, with no transportation on return except as otherwise authorized. Vendee is authorized to operate a *common carrier* in MI, WI, IA, IL, IN, OH, PA, WV, KY, and MO. Application has been filed for temporary authority under section 210a(b).

MC-F-13744E. Authority sought for purchase by WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405, of a portion of the operating rights of Southwest Truck Service, P.O. Box AD, Watsonville, CA 95076, and for acquisition by Edward P. Barton, and M. Dean Barton, 85647 Hwy 99 South, Eugene, OR 97405, of control of such rights through the transaction. Applicants' representative: Jerry R. Woods, Suite 1440, 200 Market Building, Portland, OR 97201. Operating rights sought to be transferred: Permit No. MC-128246 (Sub-15) issued March 31, 1978, (1) *Foodstuffs, not frozen and in containers*, and (2) *plastic and paper food service items prepackaged for individual use*, from Manteca, Spreckels, and Woodland, CA, to points in OR and WA; and (3) returned shipments of the commodities described in (1) and (2) above, from points in OR and WA to Manteca, Spreckels, and Woodland, CA, restricted to a transportation service to be performed, under continuing contract or contracts, with Spreckels Sugar Division of Amstar Corp. Vendee is authorized to operate as a *common carrier* under certificate MC-112989, in the States of OR, WA, CA, ID, UT, MT, NV, NM, AZ, CO, KS, OK, ND, SD, TX, and WY. Application has not been filed for temporary authority under section 210a(b).

MC-F-13753F. Authority sought for the transfer to PALMER TRANSPORTATION, INC., Main and Cross Streets, Chester, NY 10918, of the operating rights of L. P. TRANSPORTATION, INC., Main and Cross Streets, Chester, NY 10918. Applicants' representatives: John L. Alfano and Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, NY 10528. Operating rights sought to be transferred: *common carrier*, over irregular routes, transporting, in bulk, in tank vehicles, *liquefied petroleum gas*, from Providence, RI, Everett, MA, and Newington, NH, to points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT; *liquefied petroleum gases*, between points in NY, NJ, and PA within 150 miles of Chester, NY; *liquefied propane gas*, from Newark, NJ, to points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, MD, DE, and DC; *liquefied petroleum gas*, from various pipeline outlets in PA and NY and Bath, Harford Mills, and Hudson Falls, NY, to points in CT, MA, NH, NJ, NY, PA, RI, VT, DE, MD, OH, VA, WV, and DC; *liquefied petroleum gases*, from Lyndonville, VT, to

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Auburn and Brewer, ME, North Dartmouth, Sandwich, Somerville, South Deerfield, Taunton, and Topsfield, MA, and Gonic, Lakeport, Londenderry, and Wolfeboro, NH; *cement*, from Alsen, NY, to points in ME, NH, VT, CT, MA, RI, PA, and NJ; and *liquefied natural gas*, between points in CT, DE, MD, ME, MA, NH, NJ, NY, PA, RI, TN, VT, VA, and DC. Transferee is now authorized to operate as a *common carrier* of various syrups and blends, in bulk, in the States of CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, VT, VA, RI, WV, and DC. (1) Common control by Andrew L. Palmer of the operating rights sought to be consolidated has been approved in Docket MC-F-8905; (2) No temporary authority is sought; (3) (Hearing site: New York, NY, or White Plains, NY).

MC-F-13755F. Authority sought for control by TRANSPORTATION CONSULTANTS, INC., P.O. Box 487, 5950 Fisher Road, East Syracuse, NY 13057, of operating authority of J. R. BUTLER, INC., P.O. Box 155, 1031 Reeves Street, Dunmore, PA 18512, through acquisition of the stock of J. R. BUTLER, INC. and control of such rights by Frederic J. Durkin and John C. Durkin, Jr., through the acquisition. Applicant's representatives: Martin Werner, Esq. and Michael R. Werner, Esq., P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Motor *contract carrier* operating rights sought to be controlled: Under MC-145298 (pending). Irregular routes, *Such commodities as are dealt in by mail order houses and retail chain department stores, and equipment, materials and supplies used in the conduct of such business (except commodities in bulk)*, between points in MD, NY, NJ, DE, and PA, under continuing contract(s) with Hess, Inc. of Allentown, PA. Transportation Consultants, Inc. holds no authority from this Commission. However, it is in control of the following contract carriers: Food Haul, Inc. is authorized to operate as a contract carrier in AK, FL, GA, IL, IN, KY, MD, MI, MO, NC, OH, PA, SC, TN, TX, VA, and WV; J. C. D. Transportation Corp. is authorized to operate as a contract carrier in CT, MA, NY, and PA; Fleetwood Transportation Corp. is authorized to operate as a contract carrier in PA, NY, NJ, MD, DE, DC, VA, WV, CT, MA, RI, MI, OH, KY, and IN; Fairfield Transportation Corp. is authorized to operate as a contract carrier in NY, CT, MA, NJ, and PA; Barr Transportation Corp. is authorized to operate as a contract carrier in MA, CT, NH, MD, PA, NY, RI, VT, NJ, DE, OH, WV, and DC. Application has not been filed for temporary authority under section 210a(b).

MC-F-13756F. Authority sought for purchase by SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106, of a portion of the operating rights of RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 722, Adelphia, MD, 20783, and for acquisition by L. R. CIMINO, 680 North 57th Street, Omaha, NE 68132, of control of such rights through the transaction. Applicants' representative: Robert M. Cimino, Suite 325, 7000 West Center Road, Omaha, NE 68106. Operating rights sought to be transferred: (1) *Foodstuffs used in the preparation and serving of foods in restaurants and commissaries*, between DC on the one hand, and, on the other, points in MD, PA, DE, NJ, NY, VA, WV, NC, SC, GA, FL, OH, IN, MI, IL, WI, MN, IA, NE, MO, KS, LA, TX, TN, AL, MS, AR, and OK, restricted to operations to be performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Washington, DC; (2) *Foodstuffs, and equipment and supplies used in the preparation and serving of food*, between DC, on the one hand, and, on the other, points in CT, KY, ME, MA, NH, RI, and VT, restricted to operations to be performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Washington, DC; (3) *Food products, related advertising materials, and equipment and supplies used in the preparation and serving of foods in restaurants or commissaries*, between DC, on the one hand, and, on the other, points in MD, PA, DE, NJ, NY, VA, WV, NC, SC, GA, FL, OH, IN, MI, IL, WI, MN, IA, NE, MO, KS, LA, TX, TN, AL, MS, AR, and OK, restricted to operations performed under a continuing contract, or contracts, with Fairfield Farm Kitchens, Division of the Marriott Corp., Washington, DC. Vendee is authorized to operate as a common carrier in the States of NE, IA, CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, WV, and DC, and as a contract carrier in AL, AR, CT, DE, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NJ, NY, NC, PA, RI, SC, TN, VA, WV, OH, WI, and NE. Application has been filed for temporary authority under section 210a(b).

MC-F-13757F. Authority sought for purchase by LOUIS J. KENNEDY TRUCKING CO., 342 Schuyler Avenue, Kearny, NJ 07032, of a portion of the operating rights of CALHOUN TRUCKING CORP., 319 Jacet Road, Kearny, NJ 07032, and for acquisition by Louis J. Kennedy, also of Kearny, NJ, of control of the right through the purchase. Applicant's attorney: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Operating rights sought to be purchased: *Wire mesh, over irregular routes*, from Kearny, NJ, to points in MA, RI, CT, NY, PA, DE, and MD, with no transportation for compensation on return except as otherwise authorized. From Baltimore, MD, to points in OH, RI, MA, NH, VT, ME, IN, MI, PA, NY, NJ, CT, VA, NC, WV, DE, MD, and KY, and DC, with no transportation for compensation on return except as otherwise authorized. From Atlanta, GA, to points in TN, AL, VA, GA, MD, KY, SC, and NC, and DC, with no transportation for compensation on return except as otherwise authorized. From Tampa, FL, to points in FL and GA, with no transportion for compensation on return except as otherwise authorized. *Wire*, from Jacksonville, FL, and Atlanta, GA, to Baltimore, MD, Atlanta and Savannah, GA, Tampa, FL, and Kearny, NJ, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with National Wire Products Corp., of Baltimore, MD. Vendee is authorized to operate as a contract carrier of general and specified commodities over irregular routes in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, WV, and WI. Approval of the transaction will not result in (a) dual operation: (b) splitting of operating authority; or (c) duplicating authority. Application has been filed for temporary authority under section 210a(b).

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28786 Filed 10-11-78; 8:45 am]

[7035-01-M]

[Notice No. 27]

SPECIAL PROPERTY BROKERS

OCTOBER 6, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative,

or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-77-38, filed September 20, 1978. Applicant: FRED P. GASKELL CO., INC., 301 East Plume Street, Norfolk, VA 23514. Representative: W. J. Garris, II (same address as applicant).

B-78-95, filed August 14, 1978. Applicant: A. ARNOLD & SON TRANSFER & STORAGE CO., INC., 2600 West Broadway, Louisville, KY 40211. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036.

B-78-99, filed March 23, 1978. Applicant: STEVENS FORWARDERS, INC., 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-103, filed September 15, 1978. Applicant: GRADY MOVING & STORAGE, INC., 120 Brynn Marr Road, P.O. Box 1020, Jacksonville, NC 28540. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-104, filed September 23, 1978. Applicant: BAYSIDE MOVING & STORAGE, INC., 316 West 30th Street, National City, CA 92050. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-105, filed September 21, 1978. Applicant: GEO. S. BUSH & CO., INC., 259 Colman Building, Seattle, WA 98104. Representative: J. W. Hansford (same address as applicant).

B-78-106, filed September 26, 1978. Applicant: STARCK VAN LINES OF COLUMBUS, INC., 3747 Groveport Road, Columbus, OH 43207. Representative: Joseph F. Mullins, Jr., 1700 K Street NW., Washington, DC 20006.

B-78-107, filed September 26, 1978. Applicant: STARCK VAN LINES, INC., R.D. No. 1, Burgettstown, PA 15021. Representative: Joseph F. Mullins, Jr., 1700 K Street, NW., Washington, DC 20006.

B-78-108, filed September 26, 1978. Applicant: OCEAN-AIR INTERNATIONAL, INC., R.D. No. 1, Burgettstown, PA 15021. Representative: Joseph F. Mullins, Jr., 1700 K Street NW., Washington, DC 20006.

B-78-109, filed September 26, 1978. Applicant: W. G. PAUL, 1863 Union Street, San Francisco, CA 94123. Representative: W. G. Paul (same address as applicant).

B-78-1104, filed September 27, 1978. Applicant: J. A. R. FREIGHT FORWARDING, INC., 13837 Redskin Drive, Herndon, VA 22037. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-114, filed September 29, 1978. Applicant: GEO. W. NOFFS MOVING & STORAGE, INC., 1735 East Davis Street, Arlington Heights, IL 60005. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-116, filed September 11, 1978. Applicant: SPUD HAULERS, INC., 555 Main Street, Presque Isle, ME 04769. Representative: Stephen A. Canders, 520 Main Street, Presque Isle, ME 04769.

B-78-117, filed September 20, 1978. Applicant: M. E. DEY & CO., INC., 759 North Milwaukee Street, Milwaukee, WI 53202. Representative: Allen G. Lemke (same address as applicant).

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-28788 Filed 10-11-78; 8:45 am]

V 43 / 198 0 OCT 12 78 UM

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-168, Amdt. 4; Oct. 4, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the October 5, 1978, Agenda.

TIME AND DATE: 10 a.m., October 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Item 10. Dockets 31129 and 32910, Commuter Airlines' exemptions to operate large aircraft (Memo 8152-A, BPDA, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Chairman has requested that item 10 be deleted from the October 5, 1978, agenda in order for the staff to do additional work. Accordingly, the following Members have voted that agency business requires the deletion of item 10 and that no earlier announcement of this deletion was possible.

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2053-78 Filed 10-10-78; 11:29 am]

[6320-01-M]

2

[M-168, Amdt. 5; Oct. 5, 1978]

CIVIL AERONAUTICS BOARD.

Notice of change of time and deletion of items from the October 5, 1978, agenda.

TIME AND DATE: 11 a.m., October 5, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

6a. Dockets 28366 and 32710, *Denver-Alaska Service Investigation, San Francisco-Reno-Albuquerque-Texas Service Investigation*—Orders on Reconsideration (Memo 8193, OGC).

13. Increased fares proposed by American. The carrier proposes to increase most fares in its U.S.-Caribbean/Bermuda markets 5 percent (Memo 8216, BPDA, DIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 6a was deleted from the October 5, 1978, agenda in order to provide additional time for the staff to complete their work. Item 13 was not circulated to the Office of General Counsel prior to its circulation and calendaring. Upon OGC review it was concluded that further staff consultation is desirable before the Board acts on this matter. Accordingly, the following Members voted that agency business requires the deletion of items 6a and 13 and that no earlier announcement of these changes was possible:

Acting Chairman, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2054-78 Filed 10-10-78; 11:29 am]

[6712-01-M]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 10, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Emergency closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—The decision in *Central Florida Enterprises, Inc.* v. *FCC* (D.C. Circuit No. 76 1742).

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 10, 1978.

[S-2058-78 Filed 10-10-78; 3:23 pm]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 12, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Safety and Special Radio Service—1—The creation of a new Personal Radio Service.
Safety and Special Radio Service—2—Personal Use Radio Advisory Committee Final Report.

If additional information is required concerning this meeting it may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 10, 1978.

[S-2059-78 Filed 10-10-78; 3:23 pm]

[6714-01-M]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 3 p.m. on October 5, 1978, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw the following item from consideration.

Memorandum and resolution proposing the final adoption of amendments to part 335 of the Corporation's rules and regulations, entitled "Securities of Insured State Nonmember Banks," in order to bring that part into substantial similarity with comparable regulations of the Securities and Exchange Commission.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2052-78 Filed 10-10-78; 11:29 am]

[6730-01-M]

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 46417, October 6, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 12, 1978.

CHANGES IN THE MEETING: Addition of the following item to the closed session:

2. Enforcement claim against certain carriers.

[S-2060-78 10-10-78; 3:23 pm]

[6735-01-M]

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., October 17, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The following cases will be considered and acted upon by the Commission. Motions for the withdrawal of pending appeals have been filed in these cases.

1. Docket No. IBMA 76-31, Eastern Associated Coal Corp.
2. Docket No. IBMA 76-62, Eastern Associated Coal Corp.
3. Docket No. IBMA 76-74, Eastern Associated Coal Corp.
4. Docket No. IBMA 76-75, Affinity Mining Co.
5. Docket No. IBMA 76-76, Sterling Smokeless Coal Co.
6. Docket No. IBMA 76-89, Eastern Associated Coal Corp.
7. Docket No. IBMA 76-100, Eastern Associated Coal Corp.
8. Docket No. IBMA 76-112, Affinity Mining Co. and Eastern Associated Coal Corp.
9. Docket No. IBMA 76-115, Eastern Associated Coal Corp.

The following case will be considered and acted upon by the Commission. The sole issue concerns the timeliness of filing of the petition for discretionary review.

10. Docket Nos. PITT 78-343 and PITT 78-344, Iselin Preparation Co.

The following proceedings will be considered and acted upon by the Commission:

11. Docket No. IBMA 76-57, Pittsburgh and Midway Coal Co.
12. Docket No. IBMA 77-66, Inland Steel Coal Co.
13. Docket No. IBMA 77-7, Christopher Coal Co.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Philip Paschall, 202-632-4770.

JEROME R. WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

[S-2062-78 Filed 10-10-78; 3:23 pm]

[6210-01-M]

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, October 18, 1978. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open and part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Request by First Oklahoma Bancorporation, Inc., Oklahoma City, Okla., for a 6-month extension of time in which to comply with divestiture requirements imposed by a Board order.
2. Proposal to eliminate Bank Holding Company Registration Statement forms F.R. Y-5 and F.R. Y-5(a).
3. Proposed amendments to the Board's Rules of Procedure concerning handling (a) comments on applications and (b) requests for reconsideration of Board actions on applications.
4. Proposed amendment to Interpretation § 226.904 of Regulation Z (Truth in Lending) concerning disclosure of the right of rescission in connection with open end credit plans.

DISCUSSION AGENDA

1. Proposed guidelines for enforcement of Regulation Z (Truth in Lending). (Proposed earlier for public comment; Docket No. R-0122.)
2. Proposed policy statement regarding outside professional activities of Board employees.
3. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Closed portion:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Federal Reserve Bank senior officers salary procedures.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2056-78 Filed 10-10-78; 12:59 pm]

[7590-01-M]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of October 9, 1978.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed (changes).

MATTERS TO BE CONSIDERED:

V 43 / 198 OC 12 78

TUESDAY, OCTOBER 10; 3 P.M. (APPROXIMATE)

1. Discussion and vote on issues remaining for Commission consideration in the Midland Proceeding (approximately one-half hour, closed—exemption 10).

NOTE.—Replaces discussion of ALAB 399 and 487 which has been postponed.

FRIDAY, OCTOBER 13; 10:30 A.M.

1. Discussion of Risk Assessment Review Group Report (tentative, approximately 1 hour, public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: October 6, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-2055-78 Filed 10-10-78; 11:44 am]

[7600-01-M]

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m., October 20, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-4015.

Dated: October 10, 1978.

[S-2057-78 Filed 10-10-78; 1:01 pm]

[8010-01-M]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 46627, October 10, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED DATE: Tuesday, October 10, 1978.

CHANGES IN THE MEETING: Deletion of item to be considered.

The following item will not be considered by the Commission at the closed meeting scheduled for Tuesday, October 10, 1978, at 10 a.m.:

Report of investigation.

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

OCTOBER 10, 1978.

[S-2061-78 Filed 10-10-78; 3:23 pm]

federal register

THURSDAY, OCTOBER 12, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

WATER HEATERS, HOME HEATING EQUIPMENT (NOT INCLUDING FURNACES), KITCHEN RANGES AND OVENS, CLOTHES WASHERS, AND FURNACES

Final Energy Efficiency Improvement Targets

V 4 3 / 1 9 8

0 C 1 2 7 8

[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Energy Efficiency Improvement Targets for Five Types of Appliances

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule prescribes final energy efficiency improvement targets for water heaters, home heating equipment (not including furnaces), kitchen ranges and ovens, clothes washers, and furnaces. Energy efficiency improvement targets are one element of the consumer product efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Consumer Products Efficiency Branch), Department of Energy, 20 Masachusetts Avenue NW., Room 2248, Washington, D.C. 20545, 202-376-4815.

Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

William J. Dennison (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7148, Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

I. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for appliances, pursuant to section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for appliances was established by FEA pursuant to title III, part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). Section 325 of the Act, as amended by section 161 of the Energy Conservation and Production Act (Pub. L. 94-385), requires that energy efficiency improvement targets be prescribed for certain types of covered appliances, specifically:

(1) Refrigerators and refrigerator-freezers.
(2) Freezers.
(3) Dishwashers.
(4) Clothes dryers.
(5) Water heaters.
(6) Room air-conditioners.
(7) Home heating equipment, not including furnaces.
(8) Television sets.
(9) Kitchen ranges and ovens.
(10) Clothes washers.
(11) Humidifiers and dehumidifiers.
(12) Central air-conditioners.
(13) Furnaces.

DOE hereby amends title 10, chapter II, Part 430, Code of Federal Regulations, to prescribe energy efficiency improvement targets for water heaters, home heating equipment (not including furnaces), kitchen ranges and ovens, clothes washers, and furnaces. A target for furnaces was proposed by FEA on September 23, 1977 (42 FR 52426, September 30, 1977), and a public hearing was held on November 8, 1977. Targets for the other four product types covered by today's rulemaking were proposed by FEA on July 8, 1977 (42 FR 36648, July 15, 1977), and public hearings were held August 16-19, 1977. Final efficiency targets for all other product types listed above were previously issued on April 5, 1978 (43 FR 15138, April 11, 1978).

The targets for product types (1) through (10) above are required by section 325 to be designed so that, if met, the aggregate energy efficiency of all such products which are manufactured in 1980 will exceed the aggregate energy efficiency of all such products manufactured in 1972 by the maximum percentage improvement which DOE determines to be economically and technologically feasible, but which in any case is not less than 20 percent. Targets for products (11) through (13) are required to be designed so as to achieve the maximum improvement in energy efficiency determined by DOE to be technologically and economically feasible by 1980.

Analysis leading to the establishment of the targets was accomplished in three stages. First, potential energy efficiency improvement design options for each product type were identified and then analyzed to determine whether they were technologically feasible. The energy savings of individual design options were combined to provide a single target for each product. In the second stage, the economic feasibility of the energy efficiency targets calculated in the first stage was evaluated. In the third stage the individual product type targets for products (1) through (10) were combined to determine the aggregate energy efficiency improvement of those product types manufactured in 1980 as compared with the aggregate energy efficiency of those product types manufactured in 1972.

As described earlier, section 325 requires that the aggregate energy efficiency improvement for product types (1) through (10) be at least 20 percent above the 1972 base year efficiency. Four of the targets prescribed today fall within this category. These four targets, when combined with the other six pertinent targets prescribed on April 5, 1978, amount to a 26.4-percent energy efficiency improvement for product types (1) through (10), so that the 20-percent aggregate requirement of section 325 is met.

As envisioned by the Act, the appliance program is responsible for encouraging manufacturers to produce, and consumers to purchase, significantly more efficient appliances by 1980. The Act sets forth two interrelated strategies for accomplishing this objective.

The first is to establish voluntary efficiency improvement targets representing aggregate industry-wide levels of efficiency improvement to be achieved by 1980. As an incentive for the industry to reach these targets, a reporting and monitoring system will be established to track industry progress. In the event that achievement of any target appears unlikely, this system will require DOE to initiate an administrative proceeding to prescribe a mandatory minimum efficiency standard for the product in question.

The second strategy entails development of a labeling program to require that manufacturers label each product with energy information to allow consumer comparisons. The Federal Trade Commission, (FTC) is charged with responsibility for establishing labeling rules and administering the labeling program.

In conjunction with issuance of the labeling rules, a consumer education effort will enhance consumer awareness of the labels and create a better understanding of the information provided on the labels. This is intended to encourage comparison shopping and to enhance consumer demand for the more efficient products. As a consequence, it is anticipated that manufacturers will be influenced to expedite efficiency improvements for their various product lines to meet market demand.

In order to support these dual strategies, section 323 of the Act requires that DOE develop test procedures for each covered product for the determination of estimated annual energy costs and at least one other measure of energy consumption which will assist consumers in making purchasing decisions. The test procedures, when applied to individual manufacturers' product lines, will provide comparable data on a variety of energy characteristics of all products covered by a given test procedure. The FTC has proposed that manufacturers apply the test procedures to provide test-related data for FTC product labels and for representations regarding energy consumption. Test procedure design must be flexible enough to allow for technological variation among different product lines, yet standardized enough to assure that each manufacturer's product line will be subject to the same measurement criteria.

An outline of the provisions of subparts A, B, and C of part 430 which have so far been established, including the provisions in today's rulemaking, is as follows:

[1] Editorial Note: It is contemplated that ch. II will be renamed at a future date to reflect the fact that it contains regulations administered by the Department of Energy, including regulations of the appliance program and other regulations administered by the Office of Conservation and Solar Applications.

Subpart A—General Provisions

Sec.
430.1 Purpose and scope.
430.2 Definitions.

Subpart B—Test Procedures

430.21 Purpose and scope.
430.22 Test procedures for measures of energy consumption.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air-conditioners.
(g) Unvented home heating equipment.
(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air-conditioners.
(n) Furnaces.
(o) Vented home heating equipment.
430.23 Units to be tested [Reserved].
430.24 Representations regarding measures of energy consumption.[2]
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air-conditioners.
(g) Unvented home heating equipment.
(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air-conditioners.
(n) Furnaces.
(o) Vented home heating equipment.

APPENDICES TO SUBPART B

Appendix A1—Uniform test method for measuring the energy consumption of electric refrigerators and electric refrigerator-freezers.

• • • • •

Appendix B—Uniform test method for measuring the energy consumption of freezers.
Appendix C—Uniform test method for measuring the energy consumption of dishwashers.
Appendix D—Uniform test method for measuring the energy consumption of clothes dryers.
Appendix E—Uniform test method for measuring the energy consumption of water heaters.
Appendix F—Uniform test method for measuring the energy consumption of room air-conditioners.
Appendix G—Uniform test method for measuring the energy consumption of unvented home heating equipment.
Appendix H—Uniform test method for measuring the energy consumption of television sets.
Appendix I—Uniform test method for measuring the energy consumption of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/convention ranges.
Appendix J—Uniform test method for measuring the energy consumption of clothes washers.
Appendix K1—Uniform test method for measuring the energy consumption of central system humidifiers.
Appendix K2—Uniform test method for measuring the energy consumption of room humidifiers.
Appendix L—Uniform test method for measuring the energy consumption of dehumidifiers.
Appendix M—Uniform test method for measuring the energy consumption of central air-conditioners.
Appendix N—Uniform test method for measuring the energy consumption of furnaces.
Appendix O—Uniform test method for measuring the energy consumption of vented home heating equipment.

Subpart C—Energy Efficiency Improvement Targets

430.31 Purpose and scope.
430.32 Energy efficiency improvement targets.
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
(g) Home heating equipment (not including furnaces).
(h) Television sets.
(i) Kitchen ranges and ovens.
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air-conditioners.
(n) Furnaces.

II. Final Target Determinations and Discussion of Comments

After careful consideration of the oral and written comments received in response to the proposed targets, DOE is today prescribing the following targets (proposed targets which differed from the targets prescribed today are noted in parentheses):

[Figures in percent]

Water heaters	23	
Home heating equipment (not including furnaces)	11	(13)
Kitchen ranges and ovens	40	(64)
Clothes washers	35	(47)
Furnaces	20	(23)

Major comments received regarding these targets are summarized and discussed below. To avoid confusion in the discussion of comments, "DOE" is used throughout even though activities prior to October 1, 1977, regarding this rule were conducted by FEA. For a detailed explanation of the technological and economic methodologies used to arrive at the targets, refer to the FEDERAL REGISTERS of July 15, 1977 (42 FR 36648, July 15, 1977) for the first four product types listed above and September 30, 1977 (42 FR 52426, September 30, 1977) for furnaces. Revised economic and technical background papers as well as a microeconomic analysis for each product affected by today's action are available for inspection in the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

A. WATER HEATERS

DOE has determined that the proposed efficiency improvement target of 23 percent for water heaters is the maximum improvement which is technologically and economically feasible. Table 1 summarizes the final efficiency improvement target and associated energy factors.

1. *On/off switches for electric water heaters.* A comment suggested that DOE should include, in its list of design options for electric water heaters, a switch which would allow the user to turn the water heater on or off at will. Also suggested was a variation of this design option which would allow the on/off switch to be located away from the electric water heater.

NBS has investigated the energy saving potential of an on/off switch, often referred to as a "vacation switch," for water heaters. The results of that investigation show that such a switch provides no significant energy savings unless the water heater is turned off for an extended period, such as several days or more. Because such long "off" periods are not typical of national water heater usage patterns, DOE is presently unable to estimate the potential energy savings, if any, of this design option, or to draw any conclusions regarding its usefulness and feasibility.

[2] DOE is currently proposing to delete § 430.24 and to establish a new § 430.23, in order to prescribe statistical sampling provisions applicable to any testing required under the Act relating to representations respecting the energy consumption of, or cost of energy consumed by appliances and relating to the labeling of appliances (43 FR 40192, Sept. 8, 1978).

V 4 3 / 1 9 8

TABLE 1.—*Water Heater Energy Efficiency Improvement Target*

	1972 energy consumption × 10^{12} Btu	Energy savings (percent)	Energy efficiency improvement target (percent)	1972 energy factor (percent)	1980 energy factor (percent)
Water heaters	176.9	1.9	23		
Electric	49.6	15	18	80	94
Gas	125.6	20	25	44	55
Oil	1.7	17	20	46	55

2. *Oil water heater exemption from targets.* Comments from oil water heater manufacturers requested that oil water heaters be exempted from the target program on the ground that a target would result in the deterioration of the oil water heater industry. Comments cited the small-business nature of the oil water heater industry and expressed concern about the industry's ability to undertake the necessary investment to improve efficiency.

DOE is aware that many oil water heater manufacturers are small businesses which lack extensive research and development facilities and resources. DOE is also aware that some individual manufacturers may have limited access to the investment capital necessary for the implementation of the energy-saving design options. However, based on currently available information, DOE has determined that certain of the design improvements applicable to oil water heaters can be implemented by 1980, and that the oil water heater industry is able to undertake the investment necessary to implement these design changes.

3. *Improved heat transfer for oil water heaters.* Some comments stated that, in order to improve heat transfer for oil water heaters, combustion chambers and flue-ways would have to be redesigned, requiring extensive engineering and testing programs. These comments stated that the leadtime for the implementation of this design option would be at least 5 years, rather than the 1 year estimated by DOE.

In the case of oil water heaters, DOE analysis indicated that only center-flue type oil water heaters offered a potential for saving energy through improved heat transfer. DOE determined that redesign of the flue baffling of this category of oil water heaters would yield a 3.8-percent energy savings for these water heaters alone. Since only 35 percent of the oil water heaters produced in 1972 were of the center-flue type, the production-weighted energy savings for all oil water heaters attributable to improved heat transfer is 1.3 percent.

DOE, after reviewing this matter, finds that the 1.3-percent energy savings associated with the improved heat transfer design option for oil water heaters can in fact be achieved by redesigning the flue baffling of center-flue type oil water heaters alone. Further, DOE finds that the specified energy savings can be achieved without redesigning the combustion chambers of any oil water heaters. Since no information was received which would substantiate a contrary conclusion, DOE believes that this design option may feasibly be implemented by 1980.

4. *Insulation improvements or additions.* Some comments stated that water heater manufacturers are currently receiving shipments of insulation from suppliers on a fixed allotment basis and that manufacturers are unable to procure additional insulation. Comments further stated that because of these constraints, manufacturers of water heaters will be unable to achieve the 8-percent energy savings which DOE attributed to this design option and, hence, would be unable to meet the 1980 energy efficiency target.

DOE has evaluated the availability of various types of insulation materials which may be used to insulate water heaters. While water heater manufacturers have operated under some form of allocation system with regard to the purchase of insulation materials, it appears that sufficient supplies of the appropriate kinds of insulation will be available so as not to jeopardize achievement of the target in 1980. A major producer of water heater insulation has indicated to DOE that the increased demand which could result from the implementation of this design option can and will be met by insulation manufacturers. Recent analyses conducted by independent industry experts support this view. DOE concludes that sufficient supplies of the appropriate kinds of insulation materials will be available to water heater manufacturers and that no change in the energy savings associated with this design option is warranted.

One comment suggested that the increased or improved insulation design option would require a redesign of oil water heater insulation jackets. This comment stated that the implementation of this design option would constitute a major change in production, requiring a leadtime of 5 years rather than the 2 years estimated by DOE.

DOE finds that some oil water heater manufacturers would have to redesign the jackets of oil water heaters to accommodate additional insulation material if they choose to increase the amount of insulation rather than to use an improved quality of insulation to achieve the 8-percent energy savings associated with the increased or improved insulation design option. DOE does not, however, have any basis for modifying this design option for oil water heaters, especially in view of the fact that the same design option can be implemented by 1980 for gas and electric water heaters.

An additional comment expressed concern about the possible fire hazard posed by the use of foam insulation in water heaters, and about foam insulation shrinkage over time. The 8-percent energy savings which DOE associated with the increased or improved insulation design option for water heaters was not predicated on the use of foam insulation. DOE finds that this energy savings can be achieved by increasing the thickness of the insulation presently used in some water heaters or through the use of an insulation material other than foam which has a lower thermal conductivity per unit thickness than that currently used on oil water heaters. DOE does not find the possible unsuitability of foam insulation for water heater applications to be grounds for modifying this design option.

5. *Heat traps for oil water heaters.* Commenters generally agreed with DOE's estimate that the heat trap design option could yield a 1-percent production-weighted energy savings, but stated that the leadtime associated with this design option would be 5 years in order that appropriate field design evaluations could be made. DOE has determined that the adoption of the heat trap design option involves only a change in the configuration of the inlet and outlet water supply piping of oil water heaters. It does not necessitate the redesign of any aspect of oil water heaters because heat traps can be readily attached to the inlet and outlet water supply pipe connections of present models. Therefore, DOE finds that it is feasible to implement the heat trap

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feature into the design of oil water heaters by 1980.

6. *Ignition system improvement for oil water heaters.* Comments questioned DOE's estimate that 2.0 percent of the total energy consumed by an oil water heater could be saved by improving the ignition system. Upon reexamination of its technical analysis for this design option, DOE finds that a mathematical error led DOE to overestimate the energy savings associated with the design option. DOE now finds that although the design option can achieve a 38-percent savings in electrical energy consumption, it will result in only a 0.3-percent reduction in the total energy consumption of an oil water heater. The lifetime cost savings associated with this energy savings is estimated to be $9 in current dollars. The estimated increase in the retail cost of oil water heaters with this design option is zero, since the cost of the new ignition system is estimated to be the same as that of the ignition system it would replace. No new tooling costs or increases in labor costs are projected. Therefore, while DOE's claim of a 2-percent energy savings for this design option was erroneous and has been corrected to 0.3 percent, the design option will save energy and is cost-effective.

Table 1 reflects the reduction in the aggregate energy savings for oil water heaters (from 19 percent to 17 percent) attributable to reducing the energy savings associated with the ignition system improvement design option from 2.0 percent to 0.3 percent. The individual oil water heater energy efficiency improvement percentage and 1980 energy factor values which are presented in table 1 were reduced from their proposed values for the same reason; from 23 percent to 20 percent in the case of efficiency improvement, and from 56.6 percent to 55 percent in the case of the 1980 energy factor. These changes had a negligible effect on the aggregate energy savings and the final energy efficiency improvement target for water heaters because oil water heaters account for a very small share of the water heater market.

Further comments concerning this design option stated that a new ignition system would require extensive testing to insure that it would not pose a reliability problem. After analysis, DOE has determined that there is no reason to presume at this time that the improved ignition systems currently being developed for oil-fueled appliances cannot be adequately tested for reliability prior to incorporation into production units by 1980.

7. *Pilot elimination.* One commenter objected to any energy efficiency improvement design option for water heaters which would call for the elimination of the pilot in LP-gas water heaters. DOE did not identify the elimination of pilots in either LP or natural gas water heaters as an energy efficiency improvement design option, and the target for water heaters does not include the elimination of the pilot.

8. *Cost increases.* One commenter stated that the price increase associated with producing more energy-efficient gas water heaters, excluding the heat trap design, would be $25 to $35 per unit. DOE believes that a figure of $9 to $10.15 per unit is most likely. Even at the commenter's highest estimated price increase of $35 excluding the heat trap design option, the implementation of all design options for gas water heaters would be economically feasible because of the significant amount of energy savings attributable to the more efficient design options.

B. HOME HEATING EQUIPMENT, NOT INCLUDING FURNACES

DOE has determined that for home heating equipment (not including furnaces) an efficiency improvement target of 11 percent is the maximum improvement which is technologically and economically feasible. Analysis of the comments and information received in response to the proposal resulted in an increase of the possible energy savings for gas-fueled vented heaters from the proposed 12 percent to 14 percent, and thus increased the efficiency improvement percentage for all vented heaters from the proposed 13 percent to 15 percent. There were no changes made to the proposed energy savings for oil-fueled vented heaters. Unvented home heating equipment is considered 100 percent efficient at the point of use, and the maximum feasible efficiency improvement for unvented heaters is therefore 0 percent. Unvented heaters were mistakenly excluded from the calculation of the target for home heating equipment (not including furnaces) in the proposal. Recalculation of the target to include unvented heaters has resulted in a reduction of the target from 15 percent to 11 percent. Table 2 summarizes the final efficiency improvement target and the associated energy factors for home heating equipment (not including furnaces).

TABLE 2.—*Home Heating Equipment (Not Including Furnaces) Energy Efficiency Improvement Target*

	1972 energy consumption × 10^{12} Btu	Energy savings (percent)	Energy efficiency improvement target (percent)	1972 energy factor (percent)	1980 energy factor (percent)
Home heating equipment (aggregate)	38.67	10	11		
Vented home heating equipment (aggregate)	30.63	13	15		
Gas heater	22.40	14	16	53	61.3
Oil heater	8.23	11	12	41	45.8
Unvented home heating equipment	8.04	0	0	100	100

1. *Electric ignition and reduced pilot.* One comment stated that only a small number of gas-fueled vented heaters would ever be sold with electric ignition because most heaters in this category are not amenable to connection with an electrical supply. The proposal anticipated that half of the forced air gas-fueled vented heaters, or 11 percent of all gas vented heaters, could be equipped with electric ignition.

Based on data submitted by the commenter, DOE has reduced the number of gas-fueled vented heaters to be equipped with electric ignition from 11 percent to 9 percent. This represents a decrease in the estimate of the population of forced air gas-fueled vented heaters from 22 percent to 18 percent of all gas-fueled vented heaters.

This commenter also stated that the retail price increase of $45 for electric ignition cited in the proposal was too low. A $100 to $125 price increase was suggested, but no substantiation of this estimate was provided. After careful review of the retail price increase estimate and after consideration of the fact that furnaces are currently being sold with a similar electric ignition for a premium of $60, DOE has revised its retail price estimate upward to $60. A price increase of $60, which translates to a production-weighted price increase of $5.40, has been determined by DOE to be economically feasible. The payback period to the consumer for purchasing a unit with electric ignition is estimated to be 6½ years.

As an alternative to electric ignition, manufacturers might also reduce pilot input in order to eliminate some of the energy waste associated with the continuously burning pilot. Preliminary data submitted by NBS have shown energy savings from reduced pilot input to be about 5 percent for all gas-fueled vented heaters, compared to 1 percent for electric ignition in those products which are amenable to electric ignition. Data regarding this option are presently insufficient, however, to determine its feasibility for purposes of the target program.

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2. *Improved heat transfer.* One commenter stated that the improved heat transfer design option is not feasible for gravity gas-fueled wall heaters. The reason given for this view was that forced convection, implicit in this design option, is not economically feasible in light of the cost of fitting such units for connection with an electrical supply. DOE agrees with this point and has also determined that improving heat transfer by derating the burner and rebaffling the heat exchanger also does not appear to be feasible since gravity circulation must be maintained in these units. Therefore, DOE has eliminated gravity gas-fueled wall heaters from the production-weighted energy saving for this design option. As a result, the production-weighted energy savings for improved heat transfer in all gas-fueled vented heaters has been reduced from the proposed 7.6 percent to 4.9 percent.

3. *Stack damper.* In the proposal DOE estimated that 18 percent of gas-fueled vented heaters and 15 percent of oil-fueled vented heaters would incorporate electric stack dampers in 1980 production. Comments objected to the inclusion of the stack damper design option in the target because they doubted the economic feasibility of equipping relatively inexpensive home heating equipment with costly electric stack dampers.

The final target is based on the application of less expensive thermal stack dampers for gas-fueled vented heaters. These thermal dampers, with their relatively low cost and independence from electrical supply requirements, are considered by DOE to be applicable to all gas-fueled vented heaters except those with direct vent systems. At the time of the proposal there was doubt as to the feasibility of incorporating thermal dampers in 1980 production because little work had been done on a national safety standard for thermal dampers. Since the time of the proposed rulemaking substantial progress has been made on a national standard for thermal dampers and DOE anticipates that this design option can be implemented in the 1980 production.

Because thermal dampers are typically loose fitting, compared to electric dampers, DOE's technical analysis has led to a reduction in the estimated energy savings attributed to a stack damper from the proposed 13 percent for the tighter fitting electric damper to the final 9 percent for the thermal damper. However, the final production-weighted energy savings is now 7.7 percent for gas-fueled vented heaters, rather than the proposed 3.5 percent, because it is technologically and economically feasible to apply the thermal damper to all gas-fueled vented heaters except those with direct vent systems.

NBS believes the applicability of thermal dampers to oil-fueled heaters is questionable since carbon deposits may render the damper inoperable. Therefore, the electric stack damper option remains as proposed for oil-fueled vented heaters.

4. *Baseline data.* One commenter stated that the annual usage estimates relied upon by DOE were "merely guesstimates" and that more data should be accumulated in order to refine these estimates. However, the annual usage data submitted by this same commenter is in close agreement with the NBS estimates relied upon by DOE. For this reason, DOE continues to accept the NBS figures.

5. *Low-income groups.* One commenter stated that low-income groups would not be able to purchase the more efficient but more expensive home heating appliances contemplated by the proposed target.

DOE accounted for the possible negative impact on low-income purchasers in the proposed target for home heating equipment by production-weighting the individual design options included in 1980 shipments, and believes that the production-weighting insures that low-income purchasers, who account for 42 percent of the market, will have available for purchase more efficient home heating equipment at minimal increases in price. In researching the issue of low-income consumers DOE assumed that low-income persons purchasing appliances were homeowners rather than renters, and DOE therefore used the 1976 annual housing survey, published by the Bureau of Census and the Department of Housing and Urban Development, to determine the portion of the home heating equipment market that falls into the low-income category. The 1976 Bureau of Census definition for the annual poverty level income of a family of four is $5,815. In determining low-income homeowners DOE included families who earned up to $7,000. This has been done to account for those homeowners who earn more than the poverty level income, but might still encounter financial difficulties when faced with a substantial increase in the price of an essential appliance.

6. *1980 shipment estimates.* One commenter questioned the accuracy of DOE's estimates of 1980 shipments of gas-fueled vented home heating equipment. After review of past industry shipments, both before and after 1972, DOE believes that the base year of 1972 was an unusually strong year for the home heating industry. The historical trend indicates that replacement demand in 1980 will be closer to 500,000 units, rather than the 700,000 units previously forecast by DOE. The lower shipment forecast of 500,000 units in 1980 does not affect the economic feasibility of the target for gas-fueled vented home heaters because the attendant costs and benefits were reduced commensurately as a result of this revision. The revised forecast also has a minimal effect on the negative impacts described in stage IV of the economic analysis section of the proposed target notice (42 FR 35657, July 15, 1977).

C. KITCHEN RANGES AND OVENS

DOE has determined that an efficiency improvement target of 40 percent for kitchen ranges and ovens is the maximum improvement which is technologically and economically feasible. Analysis of the comments received indicates that in the proposal DOE overestimated the energy savings of several of the design options. As a result of this analysis, the estimated aggregate energy savings has been adjusted from 39 percent to 29 percent, and the efficiency improvement target has been adjusted from the proposed 64 percent to 40 percent. Table 3 summarizes the final efficiency target and associated energy factors.

1. *Baseline data for 1972.* Several comments questioned the accuracy of the 1972 energy consumption baseline data used in arriving at the proposed target. The initial NBS target recommendations used the best available data and estimates for the 1972 base period. In February 1978, the Association of Home Appliance Manufacturers (AHAM) furnished DOE with revised 1972 base year energy consumption and efficiency data for conventional electric ovens, cooking tops, and ranges. These new data generally confirmed the estimates in the proposal. Since these data reflect the final DOE test procedure calculations, however, this new material has been used to adjust the 1972 base year energy consumption.

TABLE 3.—*Kitchen Ranges and Ovens Energy Efficiency Improvement Target*

	1972 energy consumption - 10^{12} Btu	Energy savings (percent)	Energy efficiency improvement target (percent)	1972 energy factor (percent)	1980 energy factor (percent)
Kitchens ranges and ovens	32.24	29	40		
Electric ranges/ovens	8.43	3	3		
Ranges	7.37	3	3	43.57	44.69
Cooking tops	.54	0	0	74.84	74.84
Ovens	.52	4	4	12.99	13.53
Gas ranges/ovens	23.71	38	62		
Ranges	22.01	38	62	12.43	20.12
Cooking tops	.83	42	72	21.40	36.80
Ovens	.87	35	53	3.58	5.48
Microwave ovens	.10	5	5	38.00	39.90

For gas-fueled conventional ovens, cooking tops, and ranges, the 1972 base year energy consumption and cooking efficiency data have been revised based on NBS's analysis of American Gas Association Research Report No. 1510 and additional data furnished in January 1978 by the Gas Appliance Manufacturer's Association. No change in the final target for kitchen ranges and ovens was required as a result of the baseline revisions.

2. *Energy factor.* The method of calculating the energy factor for kitchen ranges and ovens was modified in the final test procedures for kitchen ranges and ovens, 10 CFR 430.22(i)(4) (43 FR 20108, May 10, 1978). Although the target prescribed today is not affected by this modification, both the 1972 and 1980 energy factors listed in table 3 have been adjusted to reflect the changes in the final test procedures. The modifications to the energy factor, as noted above, are discussed in detail in the technical background paper for kitchen ranges and ovens available in the DOE Freedom of Information Office.

3. *Elimination of standing pilots.* One manufacturer suggested that the elimination of standing pilot lights from gas ranges would save 33 to 40 percent of the total energy consumed by these appliances, rather than the 47-percent savings estimated by DOE. Based upon its own measurements of the pilot energy consumption of typical gas ranges, and evaluation of data from the American Gas Association laboratories and other sources, NBS has determined that the previous estimate was too high, but that a 40-percent energy savings is attainable. DOE accepts this determination.

Several comments requested that the target be adjusted to permit pilot lights for those products which are fueled by propane. These comments suggested that electric ignition devices are unsafe for such products because propane, being heavier than air, will tend to collect in low places, with a risk of explosion. It was also suggested that the use of matches to light burners on those occasions in which the electric ignition is not operational, presents a safety problem.

The American Gas Association tests gas-fueled kitchen ranges and ovens, including those having electrical ignition systems, and certifies that such products comply with national safety standards as specified in the American National Standard (ANS-Z21.1-1974 and its amendment ANS-Z21.1a-1974, section 2.7). This standard makes no distinction between the safety requirements of ignition systems designed for use with propane and those designed for use with natural gas. Kitchen ranges and ovens are currently manufactured which are convertible between natural gas and propane and which also have electric ignition devices.

Several comments called attention to the possibility that elimination of the standing pilot in those ovens and ranges purchased by low-income consumers would be unduly burdensome. It was claimed that lower income groups tend to purchase lower priced ranges which require no electrical power for operation. In some cases, low-income households either have no electrical service or are located in remote areas with undependable electrical service. It was also noted that the use of electric ignition could require additional wiring in some homes to provide an electrical outlet for the range at a cost of about $150.

After review of the comments and analysis of existing market data, DOE has determined that the design option for electric ignition in natural gas and LP-gas ranges which require no electrical power for operation is not economically feasible for low-income consumers. Based on DOE estimates of the number of low-Income households, households without properly located electrical outlets, and the number of households with poor or no electrical service, DOE has found it necessary to reduce the production-weighting of the design option for the elimination of standing pilot on gas ranges and ovens by 10 percent, from 100 percent to 90 percent. This in turn, reduces the production-weighted energy saving from 40 percent to 36 percent for this design option.

4. *Reduction of excess flue gas losses.* Several comments addressed the design option to reduce excess flue gas losses. In the proposal DOE estimated that 100 percent of 1980 shipments could incorporate this design option. One manufacturer commented that it could not achieve the projected energy savings because excess flue gas losses had already been reduced on its products prior to 1972. DOE now finds that excess flue losses had already been sufficiently reduced for 16 percent of all gas ranges manufactured in 1972. As a consequence, the 1972 production-weighting for this design option has been increased from 0 to 16 percent, and thus, the production-weighted energy savings is correspondingly lower.

Comments from manufacturers also stated that this design option, which DOE estimated would result in an energy savings of 4 percent, is technologically infeasible for ovens smaller than standard size ovens and for ovens which incorporate a broiler in the main oven cavity (referred to as "dual cavity-type ovens" in the hearing comments). Manufacturers further claimed that the inclusion of "dual cavity-type ovens" as part of this target could cause their elimination from the marketplace. DOE reiterates that the efficiency improvement target for kitchen ranges and ovens is applicable not to particular units but to the aggregate energy efficiency of all units, and no adjustment to the target has been made as a result of this comment. It should be noted, however, that even if the design option had been determined to be technologically infeasible for the products in question, no change would result in the final target for kitchen ranges and ovens because these products occupy such a small percentage of the market.

In the proposal the energy savings for reducing excess flue gas losses was based on the carbon dioxide (CO_2) levels measured in the flue gases during maintenance of oven temperature. During the review and analysis process, NBS discovered this method of measurement to be in error. NBS has reexamined the conditions under which the CO_2 should be measured, and has determined that the average CO_2 content should be measured during heatup, when the burner is on continuously, rather than during temperature maintenance, when the burner is on only intermittently. This change in the method of measurement has reduced the energy savings for reduction of excess flue gas losses for gas ranges from 4 percent to 2 percent.

One commenter, the Gas Appliance Manufacturers Association, questioned DOE's initial estimate of the investment requirements needed to implement this same design option, suggesting that the true figure would be

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$200,000 per manufacturer rather than zero, as suggested by DOE. DOE accepts the GAMA estimate of capital investment, which translates to a retail price increase of $3 per unit. This level of investment remains economically feasible in light of the investment capability of the industry, and the negligible demand impact of a $3 price increase.

5. *Improved insulation.* One consumer questioned the availability of additional insulation material in 1980. DOE has investigated this matter and has concluded that in 1980 the fiberglass industry will be able to meet all foreseeable needs of appliance manufacturers.

In the proposal, DOE estimated that insulation could be improved in 100 percent of the non-self-cleaning ovens by increasing either the quantity or the quality of insulation material. Comments indicated, and DOE now agrees, that replacement of fiberglass insulation with higher quality insulation would not be technologically feasible by 1980.

Several comments further stated that in certain instances manufacturers would be unable, without retooling, to increase the quantity of insulation in their products. NBS has reviewed these comments, as well as additional available information, and concludes that 30 percent of the non-self-cleaning ovens are amenable to greater insulation without retooling.

Comments further indicated that in certain instances where retooling was necessary, the capital investment would be economically prohibitive. According to NBS estimates, 70 percent of non-self-cleaning ovens would require retooling in order to improve insulation substantially. After reviewing the industry structure, DOE has determined that it would be economically feasible for manufacturers having 10 percent or more of the market share to retool in order to increase insulation. Firms of this size account for approximately 70 percent of the market for kitchen ranges and ovens. This 70-percent market share for large manufacturers, multiplied by the 70 percent of non-self-cleaning ovens for which retooling would be necessary in the first place, yields approximately 49 percent of non-self-cleaning ovens which could feasibly be improved if retooling were undertaken. Added to the 30 percent of non-self-cleaning ovens which can be improved without retooling, this design option is economically feasible for approximately 79 percent of the non-self-cleaning ovens manufactured in 1980, compared to the 100 percent previously proposed by DOE. The production-weighted energy savings for this design option is proportionately reduced from 6 percent to 5 percent.

6. *Adjustment of energy savings due to safety regulations.* In the proposed targets the estimated percentage of energy savings for electric kitchen ranges and ovens included a 1-percent adjustment because of design changes made by manufacturers since 1972 to meet various new safety requirements. One commenter requested that a similar adjustment be made for gas kitchen ranges and ovens. No information was provided relating to the impact of new safety requirements upon the efficiency of gas ranges and ovens since 1972, and information available to DOE indicates that the impact of new safety requirements for gas ranges and ovens is negligible in terms of the final target.

7. *Ranges and ovens in mobile homes and recreational vehicles.* One comment requested that recreational vehicle ranges and ovens be excluded from the target program, because they are not used in residences, and are subject to entirely different consumer usage patterns. The comment also requested that ranges in mobile homes be excluded because such units are subject to regulations promulgated by the Department of Housing and Urban Development (HUD).

Ranges and ovens used in recreational behicles and in mobile homes fall within the definition of "Kitchen Ranges and Ovens" in 10 CFR 430.2 (43 FR 20108, May 10, 1978) and are therefore included in the target program. Further, DOE, in prescribing an energy efficiency improvement target, does not consider it relevant that the products are regulated for purposes other than energy efficiency by another Federal agency.

D. CLOTHES WASHERS

DOE has determined that an efficiency improvement target of 35 percent for clothes washers is the maximum improvement which is technologically and economically feasible. Analysis of the comments resulted in lowering the estimate of the energy savings for one design option related to reducing the water temperature of the wash cycle. Consequently, total energy savings have been reduced from 32 percent to 26 percent, and the efficiency improvement target has been reduced from 47 percent to 35 percent. Table 4 summarizes the final energy efficiency improvement target and associated energy factors.

TABLE 4.—Clothes Washer Energy Efficiency Improvement Target

Energy efficiency improvement target (percent)	35
1972 energy factor (cubic feet/kilowatt-hour)	0.65
1980 energy factor (cubic feet/kilowatt-hour)	0.88

1. *Resubmission of baseline data.* A comment by the Association of Home Appliance Manufacturers (AHAM) stated the need to recalculate the 1972 base year energy consumption, because DOE's final test procedures for clothes washers are different from the test procedures used to establish the 1972 base year data cited by DOE. AHAM offered to supply new data to reestablish the base year energy consumption according to the final test procedures for clothes washers. The clothes washer target is based on this new data. Changes between the proposed and final test procedures also required reestablishing the 1972 base year energy factor in terms of cubic feet per kilowatt-hour, but this energy factor revision did not affect the energy efficiency improvement target.

Another industry comment suggested that the baseline energy consumption data should reflect a 100-percent efficiency for water heating. This has been the method used by DOE to calculate the baseline consumption. Details of the baseline calculation are provided in the technical background paper for clothes washers available in the DOE Freedom of Information Office.

2. *Eliminate warm rinse.* One comment stated that more motor torque would be required to agitate clothes in cold water, suggesting the need for the development of higher torque motors at increased costs, but no supporting evidence was provided to support this claim. Testing by NBS has revealed no evidence of any measurable variation of motor torque as the temperature of the rinse water is changed from warm to cold. Therefore, no revision to the energy efficiency improvement target has been made as a result of this comment.

One comment stated that some customers who are accustomed to warm water rinsing may not accept clothes washers without this feature. However, most of the comments agreed that DOE's estimate of the energy savings resulting from elimination of the warm rinse option is reasonable and achievable. There were no major concerns over any significant reduction in performance as a result of using all cold water rinses, and laboratory test data confirms that there are no significant performance differences between warm and cold rinses. Further, DOE believes that government and industry consumer education efforts will mitigate any potential negative consumer reaction to this design option.

3. *Reduce warm water wash temperature setting.* One energy saving option proposed by DOE for clothes washers was a 40/60 water mixing valve which would provide warm water by combining 40 percent hot water with 60 percent cold water. Industry representatives expressed concern that the reduced wash/water temperature would produce unsatisfactory washability performance and would reduce bacterial elimination, which is important in winter months in regions with colder climates. In addition, comments suggested that consumers might utilize a hot water wash cycle more often, because the new warm mix might appear cool to the touch.

Subsequent analysis by DOE indicated that due to the variability of cold water inlet temperatures, the 40/60 valve could produce unacceptable performance in the colder regions of the country. Therefore, DOE recommends a warm water mixture of 50 percent hot water and 50 percent cold water. DOE believes that this will provide acceptable year-round performance, and that consumer usage patterns will not be altered significantly as a result of this design option. Currently available information indicates that the inclusion of a 50/50 valve will not significantly affect a washer's ability to remove bacteria.

The energy savings attributed to this design option has been recalculated to reflect a hot/cold water mix ratio of 50 percent hot and 50 percent cold. The revised production-weighted energy savings has been reduced from 8.0 percent in the proposal to 2.3 percent for this design option. The energy savings reduction in this case is very large because many of the products produced in 1972 incorporated a 50/50 valve and there will be no savings attributable to this design option for these products in 1980.

E. FURNACES

DOE has determined that an efficiency improvement target of 20 percent for furnaces is the maximum improvement which is technologically and economically feasible. Analysis of the comments received showed that practical limitations of the implementation of the design option calling for improved heat transfer of cast iron boilers reduced the aggregate energy savings for gas and oil boilers from 5 to 1.0 percent. Further, the aggregate energy savings for the improved heat transfer and electric ignition design options was reduced by 15 percent from 9.3 to 7.9 percent to account for potential negative impacts on low-income consumers resulting from retail price increases. Consequently, the efficiency improvement target for furnaces has been reduced from the proposed 23 percent to 20 percent. Table 5 summarizes the final efficiency improvement target and the associated annual fuel utilization efficiencies.

TABLE 5.—*Furnace and Boiler Efficiency Improvement Target*

	1975 energy consumption, 10^{12} Btu	Energy savings (percent)	Energy efficiency improvement target (percent)	1975 annual fuel utilization efficiency (percent)	1980 annual fuel utilization efficiency (percent)
Furnaces and boilers	147.3	17	20		
Gas boilers and furnaces	122.7	18.0	22	61.5	75.0
Oil boilers and furnaces	24.6	9	10	74	81.4

1. *Improved heat transfer.* Some comments questioned the feasibility of improving the heat transfer characteristics of furnaces and boilers by 1980. These comments stated that such improvements might require the relocation of fan and safety controls, as well as a complete redesign of the heat exchanger. DOE agrees that a major redesign of the heat exchanger section would not be feasible by 1980. However, in the proposal DOE intended that improvement in the heat transfer of furnaces be achieved in 1980 without such redesign, by derating the burner input and baffling airflow through the heat exchanger section. DOE believes that this design option remains both technologically and economically feasible for all furnaces and boilers, except as noted in paragraph 6 below.

2. *Power burner.* In the proposal DOE estimated that 40 percent of gas furnaces could incorporate power burners in 1980 production and that the remaining production could incorporate stack dampers. Both of these design options are effective for minimizing off-cycle losses. Several commenters stated that inclusion of the power burner design option in 1980 products was not feasible. One commenter believed that power burners could be incorporated in some furnace designs by 1980 but that large-scale implementation of power burners was not practicable.

After review of the comments and further analysis of the issue, DOE has modified the production-weighting for power burners and stack dampers and now estimates that 20 percent of gas-fired furnaces could have power 80 percent could incorporate stack burners by 1980 while the remaining dampers. It should be emphasized that the exact mix of these two design options is not important because different mixes of these two design options in 1980 production will also result in achievement of the target.

3. *Stack damper.* Some comments indicated that the estimated energy savings for stack dampers contained in the proposed target was not consistent with values obtained by using the DOE furnace test procedures. DOE has evaluated industry test data developed in accordance with the DOE test procedures for furnaces and boilers, however, and has found close agreement between the industry data and the values of energy savings cited by DOE in the proposed energy efficiency improvement target.

The proposed target was based on incorporation of the electrical-type stack damper in 1980 production. Additional studies conducted by NBS conclude that thermal and mechanical stack dampers will also be available as design options for furnaces manufactured in 1980. Therefore, DOE has included in the final efficiency target a production-weighted mix of 60 percent electrical or mechanical stack dampers and 20 percent thermal stack dampers. This modification does not affect the final target for gas furnaces.

Another comment stated that the energy savings for a stack damper would vary depending on furnace location inside or outside the structure being heated. The basic premise for determining the energy savings of stack dampers for indoor furnaces is that both the heat trapped in the furnace heat exchanger, and the reduced air infiltration through the furnace/chimney system, contribute to reducing the heat load on the furnace system. If a furnace is an outdoor unit or one intended for installation in an unheated area, such as an attic or crawlspace, there is no incentive for manufacturers to install stack dampers because the DOE furnace test procedure does not credit energy savings for a stack damper installed on such a furnace. Therefore, the final target reflects application of stack dampers on indoor furnaces only.

4. *Electric ignition.* One commenter stated that the energy savings of electric ignition devices, as calculated by the proposed DOE furnace test procedures, did not agree with the estimates of such energy savings in the proposed target. Calculations of energy savings for electric ignition using the final DOE furnace test procedures published on May 10, 1978 (43 FR 20147) yield energy savings of about 6 percent, which is also the basis for the energy savings for electric ignition in today's final efficiency target.

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5. *Base year data.* Some comments criticized the fact that the 1975 baseline annual fuel utilization efficiencies for furnaces and boilers published in the proposed energy efficiency improvement target for furnaces were only estimates, and were not based on test data. Since the publication of the proposed target, new base year data have been obtained which are based on test data using final DOE test procedures for furnaces and boilers. These data were used to revise the baseline annual fuel utilization efficiencies of furnaces and boilers. The 1975 base year figures are given in Table 5—Furnace Energy Efficiency Improvement Target. These values have been used to derive the target for 1980 annual fuel utilization efficiencies.

6. *Investment.* In the proposal DOE estimated that the investment necessary to meet the target was between $120,000 and $137,000 per manufacturer. Several comments indicated that the magnitude of the investment was much larger and would be economically prohibitive. Of major concern to manufacturers were DOE's investment estimates for improved heat transfer and power burners.

After review of the comments and analysis of additional information DOE now estimates that total investment is $157,000 for each furnace and steel boiler manufacturer and $72,000 for each cast iron boiler manufacturer. The major portion of total investment consists of the two design options mentioned above: Improved heat transfer and power burners. As noted in paragraph 1 above, DOE has made no change regarding the energy savings to be derived from improving heat transfer for furnaces and steel boilers, and the investment associated with this design option remains at $85,000 per firm. For cast iron boilers, improving heat transfer would have required an investment of between $1 million and $1.6 million per manufacturer. This level of investment has been determined to be economically infeasible for cast iron boiler manufacturers, and the production-weighting of the heat transfer design option has been lowered to reflect this determination. This change in production-weighting reduces the energy savings of the design option for gas and oil boilers from 5 to 1 percent, and contributes to the reduction in the final efficiency improvement target summarized in table 5.

In the proposal, the design option for power burners was assumed to require no new investment. After reevaluating this question, DOE now estimates that new investment of approximately $20,000 per manufacturer is likely to be necessary.

Although total investment for all design options supporting the furnace target has been revised to $157,000 per firm ($72,000 for cast iron boiler manufacturers), direct investment undertaken by furnace manufacturers could be as low as $105,000 ($20,000 for cast iron boiler manufacturers), because in many cases a portion of the investment would be incurred by manufacturers' suppliers. This level of investment for furnace manufacturers remains economically feasible.

7. *Retail price.* One comment indicated that the target for furnaces would increase prices to a level that would be burdensome for low- to moderate-income consumers. In reviewing the possible retail price increase that would result from the implementation of the design options, DOE has found that considerable burden could be placed on low-income groups. The average price increase for lower priced gas and oil furnaces could exceed 69 percent and 56 percent, respectively. DOE has found it necessary to reduce by 15 percent the production weights for the improved heat transfer design option for gas and oil furnaces, and the electric ignition design option for gas furnaces, in order to minimize the potential negative impacts on low-income consumers. The change in production weights reduces the aggregate energy savings for these two design options from 9.3 to 7.9 percent and contributes to the reduction in the final efficiency improvement target summarized in table 5.

8. *Elasticity.* One comment questioned DOE's estimate of possible 1980 demand changes resulting from more costly but more efficient boilers. Based on new information supplied by the boiler industry, DOE has revised downward the previous forecast of a demand increase resulting from achievement of the energy improvement target. The possibility of shifts in demand for boilers is constrained by the predominantly replacement-oriented market for these products, the essential nature of heating equipment, and the limited substitutability of other forms of central heating. DOE now estimates that projected demand for boilers will remain relatively constant, and that this steady demand supports the economic feasibility of the target.

9. *LP-gas furnaces.* One comment recommended that the design option for electric ignition be eliminated from the target for furnaces fueled by LP-gas. Several reasons were given for this recommendation. Some areas are not served by electricity, and in some areas where electric service does exist there are often periods of extended interruption. Under these conditions the inability of the electric ignition to function properly results in health and safety hazards. The pilot acts as a safety factor in LP-gas furnaces because, unlike gas ranges, furnaces cycle on and off by thermostatic control, and failure of the electric ignition might not be readily discoverable. This does not present a problem in natural gas furnaces because natural gas is less likely to collect around the furnace and is less energy intensive.

DOE has modified the production weights for the electric ignition design option to exclude LP-gas furnaces. Due to the very small market for these products, however, there is no resulting change in the overall energy savings for the electric ignition design option or the target for furnaces.

This rulemaking complies with DOE's interim prodecures for implementing Executive Order 12044, entitled "Improving Government Regulations."

An economic impact statement including the five targets prescribed today was prepared and is available in the DOE Freedom of Information Office.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 430 of chapter II of title 10, Code of Federal Regulations, is amended as set forth below to establish efficiency improvement targets for five appliance types, effective November 13, 1978.

Issued in Washington, D.C., October 5, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

§ 430.32 [Amended]

1. Section 430.32 is amended by adding paragraphs (e), (g), (i), (j), and (n), to read as follows:

* * * * *

(e) The energy efficiency improvement target for water heaters shall be a 23-percent increase in the energy efficiency of the total number of water heaters manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of water heaters manufactured by all manufacturers in calendar year 1972.

* * * * *

(g) The energy efficiency improvement target for home heating equipment (not including furnaces) shall be an 11-percent increase in the energy efficiency of the total number of home heating equipment units (not including furnaces) manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of home heating equipment units (not including furnaces) manufactured by all manufacturers in calendar year 1972.

* * * * *

(i) The energy efficiency improvement target for kitchen ranges and ovens shall be a 40-percent increase in the energy efficiency of the total number of kitchen ranges and ovens manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of kitchen ranges and ovens manufactured by all manufacturers in calendar year 1972.

(j) The energy efficiency improvement target for clothes washers shall be a 35-percent increase in the energy efficiency of the total number of clothes washers manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of clothes washers manufactured by all manufacturers in calendar year 1972.

* * * * *

(n) The energy efficiency improvement target for furnaces shall be a 20-percent increase in the energy efficiency of the total number of furnaces manufactured by all manufacturers in calendar year 1980 when compared with the energy efficiency of the total number of furnaces manufactured by all manufacturers in calendar year 1975.

[FR Doc. 78-28688 Filed 10-11-78; 8:45 am]

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Federal Register

THURSDAY, OCTOBER 12, 1978
PART III

ENVIRONMENTAL PROTECTION AGENCY

GRANTS FOR STATE UNDERGROUND WATER SOURCE PROTECTION PROGRAMS

Final Rules

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[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

[FRL 966-8]

PART 35—STATE AND LOCAL ASSISTANTS

Grants for State Underground Water Source Protection Programs

AGENCY: Environmental Protection Agency.

ACTION: Rule.

SUMMARY: The Safe Drinking Water Act provides for the regulation of underground injection practices which may endanger underground drinking water sources. Congress intends that primary enforcement be the responsibility of the States. To assist States in carrying out this responsibility, the Act authorizes the Environmental Protection Agency (EPA)-to make grants for developing and administering a State program to protect underground drinking water sources.

The Administrator of the EPA is issuing final regulations governing grants to States which will help them to implement a program to protect underground drinking water sources. An underground water source protection program means a program for adopting and enforcing an underground injection control program.

These regulations specify the eligibility requirements for the grants. In addition, the regulations specify the applicable grant procedures; they describe the method of allocating available grant funds; they identify appropriate program elements; and they specify the criteria for evaluation of program objectives and performance.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas Belk, Chief, Ground Water Protection Branch, Office of Drinking Water (WH-550), 401 M Street SW., Washington, D.C. 20460, telephone 202-426-3934.

SUPPLEMENTARY INFORMATION: EPA is authorized to make these grants by sections 1443(b) and 1450 of the Safe Drinking Water Act. A tentative allotment of grant funds among all States will be made on the basis of geographical area, population, and injection practices. Grant funds will be awarded only to those States determined by the Administrator to be eligible under § 35.659. The Administrator shall list States determined to be eligible in the FEDERAL REGISTER. One of the conditions of grant award to an eligible State is that the State shall implement a program which meets the requirements of section 1421 of the Act and 40 CFR part 129.

In accordance with the allotment formula described in § 35.655, the Administrator will make an initial allotment of grant funds to all States. However, actual grant awards will be made only to those States which the Administrator lists as requiring an underground injection control program. Grant funds allotted to eligible States which do not apply for grants or which will not assume primacy may be used in part, or in whole, by the Administrator, subject to the limitations contained in the Appropriations Acts, to implement a program in those States. Grant funds which had been tentatively allotted to States which are not awarded or used by the Administrator shall be reallotted to eligible States. As soon as practicable, but no later than April 1 of each year, the Administrator shall reallot all unobligated funds to eligible States.

To complement State fiscal planning, we are using "forward funding" for this program. Forward funding means using the funds appropriated in the present fiscal year for grant awards beginning the next fiscal year. For example, we will use fiscal year 1978 grant funds to fund fiscal year 1979 programs. Each year we will notify the States of the actual funds available for each State for the next fiscal year. We shall provide this information to them early in their planning cycle so that they can prepare their legislative budgets and programs.

The Administrator shall publish a notice in the FEDERAL REGISTER outlining the deadline date and procedures for States to request to be added to the list of eligible States. Those States which the Administrator adds to the list in fiscal year 1980 will be eligible to receive grants for the fiscal year 1981 program year.

For the fiscal year 1979 grant awards, a letter from the Chief Executive of the State assuring the State's intent to assume primary enforcement responsibility within 2 years from the date of the initial grant award must be submitted to EPA no later than 6 months from the date of the initial grant award. For initial grant applications submitted in subsequent years, this letter from the Chief Executive of the State must be submitted to EPA as part of the grant application. All grant applications must include the State's program plan as defined in § 35.670-4. In determining the adequacy of the public participation program element, the Regional Administrator shall be guided by 40 CFR part 105 until 40 CFR part 25 is promulgated.

In these and other regulations currently under review and revision, EPA is including the concept of a State/EPA agreement. This agreement will provide a way for EPA Regional Administrators and States to coordinate and, to the maximum extent feasible, to integrate programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and, possibly, other laws which EPA administers. Since this subpart governs only that part of the State/EPA agreement relating to underground water source protection grants, other programs included in the State/EPA agreement will be governed by the applicable provisions found elsewhere in this chapter. Beginning in fiscal year 1980, State programs funded under the Act will be part of the State/EPA agreement and the State/EPA agreement must be completed before grant award. EPA will issue guidelines on the development and content of the State/EPA agreement.

These regulations were propposed on August 31, 1976 (41 FR 36726). We received 34 comments on the proposed regulations. We have revised the dates and schedules in the regulations to reflect the delays in promulgating these regulations. In addition, we have modified several other items in response to the comments. The major revision to the proposed regulations relates to § 35.655, "Determination of Allotments."

The majority of commentors addressed the proposed grant allocation formula and offered suggestions for improvement. The commentors wanted to include a "need" factor which would take into account a State's fiscal capability or a State's need for a program based upon the extent of the State's ground water contamination potential. Some commentors recommended that we take into account personal income and a State's revenue effort to determine a State's fiscal capability. Personal income, however, is not a determinant of a State's fiscal capability. Similarly, State revenue is not a determinant of the actual overall tax effort made by a State. We believe that including a State's fiscal capacity would detract from the primary purpose of the program which is to prevent the contamination of underground water supplies.

A few commentors noted that the grant allocation formula in the proposed regulations did not include a factor which addressed a State's need for an underground injection control program based upon the extent of the potential ground water contamination problem in the State. The contamination of a sole source of water supply is acknowledged to pose a far more significant problem than the contamination of one of several sources. People in States which are relatively less dependent upon ground water supplies are not as affected by contaminated supplies as those in States with a relatively high dependency upon such sources. We believe the hardship inflicted by contaminated water affects each citizen similarly and that the absolute number potentially affected, rather than the percentage, is more relevant as an indicator of the potential need for the program. Therefore, we determined that equity in the formula would not be improved by including factors relating to ground water withdrawals and the State population relying on ground water.

Other commentors raised a concern that we did not include a factor for the volume of fluids injected. The reason for this omission is that data on the volume of fluids injected in each State in proportion to the total volume injected in all States is not available. However, this concern has been taken into consideration because the current weighting system accords greater importance to higher volume injected. The formula for fiscal years 1979 and 1980 provides a weight of 10 percent on area, 10 percent on population, and 80 percent on injection practices. These injection practices are included in the criteria used by EPA to designate States which, in the Administrator's judgment, require an underground injection control program. The injection practices incorporated are the number of industrial and municipal waste disposal wells, brine disposal and recovery wells, number of mining sites, number of gas storage reservoirs, and manufacturing and service establishments. For fiscal year 1981 and subsequent years, the formula may change as information becomes available.

Some commentors indicated that the grant formula was not related to the criteria used to designate States. This new formula relates the grant program to the list of States requiring an underground injection control program under section 1421.

These regulations contain reference to the underground injection control regulations to be reproposed in 40 CFR Part 129 (originally proposed as 40 CFR Part 146 in the FEDERAL REGISTER on August 31, 1976). Because of major issues raised during the comment period, EPA will repropose these regulations. We expect to repropose the program regulations within 2 months and promulgate final regulations within 8 months. We are aware that many States are anxious to receive grant awards for the underground injection control program. EPA is promulgating the grant regulations so that grants can be awarded. There are a number of activities the States will be required to undertake under the program regulations that can be initiated now. States could utilize grant funds for such activities as: Gathering data necessary to begin identifying aquifers to be protected as existing or potential sources of drinking water, initiating inventories of the practices and facilities covered by the program regulations, and initiating an assessment of shallow injection wells in the States. States wishing to make immediate application for grant awards should contact the Regional Office for guidance in developing its program and preparing an application.

Section 1443(b) of the Act states that no grant shall be made to an eligible State for any period beginning 2 years after the award of the State's initial grant, unless the State has assumed and is maintaining primary enforcement responsibility within the State. This 2-year period begins from the State's initial grant award even though the program regulations have not been promulgated.

ECONOMIC ASSESSMENTS.—The economic assessments of the underground injection control program and the grant program regulations will be discussed in the preamble to the underground injection control program regulations.

Dated: October 4, 1978.

DOUGLAS M. COSTLE,
Administrator.

40 CFR part 35 is amended as follows:

1. By adding new §§ 35.650 through 35.680 to read as follows:

STATE UNDERGROUND WATER SOURCE PROTECTION PROGRAM GRANTS

Sec.

35.650 Scope and purpose.
35.653 Definitions.
35.655 Determination of allotments.
35.655-1 Allotments for fiscal years 1979 and 1980.
35.655-2 Allotments for fiscal year 1981 and subsequent fiscal years. [Reserved]
35.656 Determination of reallotments.
35.657 Rate of Federal assistance.
35.659 Eligibility for grant award.
35.659-1 Fiscal years 1979 and 1980.
35.659-2 Fiscal year 1981.
35.659-3 Fiscal year 1982 and subsequent fiscal years. [Reserved]
35.660 Limitation on grant award.
35.661 A-95 clearinghouse review.
35.662 Allowable costs.
35.664 Budget period.
35.666 Reduction of grant amount.
35.670 Annual State program grant plan.
35.670-1 General.
35.670-2 State program grant preparation.
35.670-3 State program grant submission.
35.670-4 Major program elements and outputs.
35.670-5 Regional Administrator's action on grant application.
35.675 Assignment of personnel.
35.680 Program evaluation and reports.
35.680-1 Program evaluation.
35.680-2 Reports.

AUTHORITY: Secs. 1443, 1450 of Pub. L. 93-523, as amended by Pub. L. 95-190, 88 Stat. 1660 (42 U.S.C. 300j-2, 300j-9).

STATE UNDERGROUND WATER SOURCE PROTECTION PROGRAM GRANTS

§ 35.650 Scope and purpose.

Sections 35.650 through 35.680 of this subpart establish regulations and procedures for providing program grant funds to eligible States for the development and administration of underground water source protection programs as authorized by section 1443(b) of the Safe Drinking Water Act as amended. This subpart supplements EPA general grant regulations and procedures set forth in part 30 of this chapter.

§ 35.653 Definitions.

Other terms used herein shall have the same meaning as prescribed in the definition of terms contained in part 129 of this chapter. As used in this subpart, except as otherwise specifically provided:

(a) "Act" means the Public Health Service Act as amended by the Safe Drinking Water Act as amended (42 U.S.C. 300f et seq.).

(b) "Allotment" means the sum reserved for each State from funds appropriated by Congress. An allotment is not an absolute entitlement of funds for any State; rather, it represents the amount for which an eligible State may apply.

(c) "State" means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Marianas.

(d) "Eligible State" means: (1) A State listed by the Administrator under section 1422(a) as requiring an underground injection control program or (2) a State that (i) requests to be included on the list within the time specified by the Administrator, (ii) declares its intent to implement a program in accordance with section 1421 of the Act, and (iii) is subsequently listed by the Administrator as requiring an underground injection control program.

(e) "Underground water source protection program" means a program for: (1) Adopting and enforcing a program which meets the requirements of section 1421 of the Act and regulations in part 129 of this chapter and (2) keeping records and making reports required by section 1422(b)(A)(ii) of the Act.

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§ 35.655 Determination of allotments.

§ 35.655-1 Allotments for fiscal years 1979 and 1980.

(a) An allotment of funds among the States for fiscal years 1979 and 1980 shall be made on the basis of the following factors and weights:

(1) The population of each State in proportion to the total population of all States (weight factor: 10 percent). Population statistics are drawn from table 10 of the Statistical Abstract of the United States, 1977.

(2) The geographical area of each State in proportion to the total geographical area of all States (weight factor: 10 percent). Geographical area statistics are drawn from table 327 of the Statistical Abstract of the United States, 1977.

(3) The number of injection practices in the State in proportion to the total number of injection practices in all States (weight factor: 80 percent). Injection practices included are: Industrial and municipal waste disposal wells, brine disposal and injection for recovery, mining sites, gas storage reservoirs, and manufacturing and service establishments. Statistics on these practices may be obtained from:

(i) National Environmental Reserch Center Report, "Review and Assessment of Deep Well Injection of Hazardous Waste," 1975.

(ii) Interstate Oil Compact Commission, "Water Problems Associated With Oil Production in the United States," Oklahoma City, Okla.

(iii) U.S. Department of the Interior, Bureau of Mines, "Mineral Industry Services, Director of Company Producing Salts in U.S.," 1976.

(iv) American Gas Association 25th Annual Report, "the Underground Storage of Gas in the United States and Canada," December 31, 1975.

(v) U.S. Department of Commerce, Bureau of Census, "Statistical Abstract of the United States," 1977.

(vi) EPA staff documents, "Development of the Methodology for Listing States" (with supporting data).

(b) The allotted amounts will be rounded to the nearest $100.

§ 35.655-2 Allotments for fiscal year 1981 and subsequent fiscal years. [Reserved]

§ 35.656 Determination of reallotments.

(a) Funds allotted to eligible States shall not be available for reallotment unless so determined by the Administrator. Subject to the limitations contained in the Appropriations Act, allotments and any subsequent reallotments for any eligible State which has not applied for or which indicates it will not assume primary enforcement responsibility for the underground injection conrol program may be used in part, or in whole, by the Administrator to implement underground injection control programs in those States.

(b) As soon as possible after determination of State eligibility under § 35.659, but in no event later than April 1, the Administrator will reallot remaining unobligated funds to eligible States except as provided in § 35.656(a). The reallotment will include sums allotted to States which do not meet the eligibility criteria in § 35.659 and other funds made available by reduction of grant amounts under § 35.666. The funds will be reallotted on the basis of the factors and weights set forth in § 35.655-1(a).

(c) From the funds reallotted, the Administrator will issue advices of allowance to the Regional Administrators for reallotments to eligible States.

(d) Any funds remaining unobligated at the end of a fiscal year will be included in the reallotments for the next fiscal year.

§ 35.657 Rate of Federal assistance.

(a) The rate of Federal assistance furnished to a grantee shall not exceed 75 percent of the allowable costs of the EPA approved State's underground water source protection program as described in § 35.670, annual State program grant plan.

(b) The actual amount of each eligible State's grant shall be determined of the grant award by the Regional Administrator, but the actual amount received in any fiscal year shall not exceed the total of the State's allotment and any reallotments.

§ 35.659 Eligibility for grant award.

§ 35.659-1 Fiscal years 1979 and 1980.

For fiscal years 1979 and 1980, only States which are listed by the Administrator as requiring underground injection control programs within a specified time will be eligible for grants.

§ 35.659-2 Fiscal year 1981.

For fiscal year 1981, only those States that are listed by the Administrator during fiscal year 1980 will be eligible for grants.

§ 35.659-3 Fiscal year 1982 and subsequent fiscal years. [Reserved]

§ 35.660 Limitation on grant award.

(a) Notwithstanding any other provision of this part, the Regional Administrator may not approve an application of an eligible State for its initial grant to carry out an underground water source protection program unless the Regional Administrator determines that the eligible State: (1) Has established, or will establish, within 2 years from the date of the grant award, an underground water source protection program as defined in section 1421 of the Act, and (2) will assume within that 2-year period and maintain primary enforcement responsibility for underground water source protection within the State in accordance with part 129 of this chapter.

(b) Notwithstanding any other provision of this chapter, no grant shall be made to an eligible State for any period beginning 2 years after the award of the eligible State's initial grant, unless the eligible State has assumed and is maintaining primary enforcement responsibility within the State in accordance with part 129 of this chapter.

(c) No grant will be awarded if the Regional Administrator determines that Federal grant funds will supplant rather than supplement non-Federal funding committed to underground water source protection efforts by the eligible State.

(d) Beginning in fiscal year 1980, State programs funded under the Act will be part of the State/EPA agreement and the State/EPA agreement must be completed before grant award.

§ 35.661 A-95 clearinghouse review.

All States applying for program grants shall comply with all applicable requirements of the Office of Management and Budget (OMB) Circular A-95 in accordance with § 30.305 of this chapter.

§ 35.662 Allowable costs.

Allowable costs shall be determined in accordance with § 30.705 of this chapter by showing that the costs are reasonable and proper for carrying out an approved grant program. No funds shall be used (a) to routinely study and monitor aquifers, (b) to assist States in undertaking broad geological studies, (c) to conduct geological studies in support of sole source aquifer petitions, or (d) to support State data management activities other than those required under § 35.670-2(h).

§ 35.664 Budget period.

The budget period for the grant shall be the Federal fiscal year, except that the budget period for the fiscal year 1979 grant may be for a period less than the Federal fiscal year.

§ 35.666 Reduction of grant amount.

(a) If the Regional Administrator's annual performance evaluation reveals that the grantee will fail, or has failed, to achieve the expected outputs or to perform the activities described in the grantee's approved program, the grant amount may be reduced by the approved estimated program cost to produce such outputs under § 35.670. These funds will be available for allotment or reallotment in accordance with §§ 35.655 and 35.656.

(b) A State shall be notified prior to any reduction in the amount of Federal support. This notification shall include the reasons for reduction and, if appropriate, what steps the State must take to regain funding.

§ 35.670 Annual State program grant plan.

§ 35.670-1 General.

(a) Any State applying for a grant shall prepare and submit to the Regional Administrator for approval a program plan pursuant to § 35.670. The program plan shall address the requirements of these regulations and the narrative requirements of part IV of the grant application.

(b) The application for an initial grant shall include a letter from the Chief Executive of the State stating that the State (1) has established or intends to establish an underground water source protection program within 2 years from the award of the initial grant, and (2) has or intends to assume within such 2-year period primary enforcement responsibility in accordance with the requirements of part 129 of this chapter. For fiscal year 1979, the letter may be submitted within 6 months of the initial grant award. For subsequent fiscal years, the letter shall be included with the initial application.

(c) The Chief Executive shall designate a State agency to administer the grant and coordinate the State program with EPA. However, an eligible State may allocate funds among State agencies as it deems appropriate, as long as such allocations are generally proportional to their respective share of the approved plan for conducting the State underground water source protection program.

§ 35.670-2 State program grant preparation.

Each State applying for a grant shall prepare, in consultation with the Regional Administrator, an annual program plan as follows:

(a) The State plan shall identify and describe the underground injection control problem in the State.

(b) The State plan shall relate the utilization of available resources—both Federal and non-Federal—to the achievement of expected outputs and shall include:

(1) A summary of the current year's work program and resources.

(2) A description by program element (see § 35.670-4) of the State's proposed work program for the coming year, including:

(i) A description within each program element of the work to be performed and outputs to be achieved (with identification of estimated related costs and work years to be expended) and the relationship to the State plan;

(ii) An identification of all funds, both Federal and non-Federal, which the State anticipates receiving during the fiscal year for the work program; and

(iii) The proposed distribution of funds and output achievement responsibilities among State and sub-State entities.

(c) A plan must be included for the detailed identification and designation of aquifers or their portions as underground sources of drinking water.

(d) The initial State submission for the first grant must include a brief description of the State's existing program with associated resources.

(e) The program plan shall describe how the planned accomplishments address the underground injection problem in the State and are consistent with the objectives of the Act and EPA's annual program guidance.

(f) The State permit plan required under part 129 of this chapter.

(g) A plan for regulating any other practices which may be regulated by either rule or permit as specified in part 129 of this chapter.

(h) A plan for the completion of inventories and assessment of underground injection facilities.

§ 35.670-3 State program grant submission.

Each State applying for a grant shall submit an annual program as follows:

(a) For fiscal year 1979, each eligible State must submit an application which includes the annual State program plan as required by § 35.670 of this subpart to the Regional Administrator no later than March 1, 1979.

(b) For fiscal year 1980 and subsequent fiscal years, an eligible State must submit a draft State program plan in accordance with § 35.670 to the Regional Administrator no later than June 1.

(c) For fiscal year 1980 and subsequent fiscal years, an eligible State must submit a final application, which includes the annual State program plan submission, to the Regional Administrator no later than August 1.

§ 35.670-4 Major program elements and outputs.

(a) The following program elements are appropriate for carrying out underground water source protection programs. Other program elements may be included in the State program plan if the State can demonstrate that such other program element is appropriate for the conduct of its underground water source protection program. For an eligible State with primary enforcement responsibility, the State must include program elements satisfying the requirements of part 129 of this chapter. Information on each major program element shall be presented in summary form and shall include:

(1) *Inventories and assessment of underground injection facilities.* Plan and schedule of activities for the completion of inventories and assessment of underground injection facilities within the timeframe set forth in part 129 of this chapter. Subsequent to the initial grant, an updated summary inventory of underground injection facilities of the preceding calendar year must be provided to EPA prior to December 1 of each fiscal year.

(2) *Administration and program development.* Planning, development, and coordination of program activities for the management of an underground water source protection program including general program direction and supervision; development of staffing and budget needs; and development and evaluation of basic underground water source protection legislation, regulations, policies, and public information.

(3) *Technical assistance.* Surveys of underground injection operations on an established schedule with written survey reports to the well injection operators; technical assistance to well injection operators, water suppliers, and others regarding the plan, design, operation, maintenance, treatment, quality control, and assessment of underground injection operations.

(4) *Plan review and approval.* A plan review and approval activity for new or proposed underground injection operations, and modifications or additions to existing underground injection operations.

(5) *Permit approval.* An activity for the issuance and review of underground injection control permits and for the inspection or monitoring of permits issued.

(6) *Training.* An activity for the training of State personnel.

(7) *Enforcement.* An activity for the establishment and implementation of procedures for the administrative and judicial enforcement of State underground water source protection responsibilities.

(8) *Data management.* A data management activity for input into the centralized EPA system to maintain essential records needed to conduct the underground water source protection program and for its submission to EPA, including the maintenance of an inventory for all underground injection operations.

(9) *Surveillance and investigation.* The maintenance of a coordinated activity with State and local agencies to detect, investigate, and report suspected ground water contamination cases.

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(b) *Public participation and information.* Each State program plan shall include a program element for public participation. This element shall include a public education and information program to encourage informed public involvement in the planning and operation of the federally assisted State underground water source protection program, provision for consultation with the public in significant decisions in program plan implementation, and a system for handling citizen complaints. The State shall prepare a summary of its responses to public comment following significant decisions in the course of program plan implementation and shall make these available to the public. The State's public participation activities shall be summarized in the State's annual report. In determining the adequacy of the public participation program element proposed by the State, the Regional Administrator shall be guided by the requirements of part 25 of this chapter.

§ 35.670–5 Regional Administrator's action on grant application.

(a) Each eligible State's final grant application shall be approved or disapproved by the Regional Administrator within 45 days of receipt.

(b) Should the Regional Administrator's review of the final grant application reveal that the planned accomplishments are not consistent with the level of funding requested, the Regional Administrator shall negotiate with the eligible State. Funds released by this procedure will be available for use in accordance with § 35.656.

§ 35.675 Assignment of personnel.

Upon written request of a State agency, the Regional Administrator may assign EPA personnel to such State agency, under section 1450(c) of the Act upon such terms and conditions as the Administrator may establish.

§ 35.680 Program evaluation and reports.

§ 35.680–1 Program evaluation.

Program evaluation is primarily a grantee responsibility and should be continuous throughout the budget period. It is EPA policy to limit EPA evaluation to that which is necessary for responsible management of regional and national efforts to control underground injecton. The Regional Administrator shall conduct at least annually a State performance evaluation which shall include a review and assessment of the State's effectiveness in meeting objectives and outputs in carrying out related activities as set forth in the grantee's approved program. An exit interview will be conducted following the program evaluation to inform the grantee of any preliminary EPA findings and recommendations.

§ 35.680–2 Reports.

The Regional Administrator shall prepare a summary of evaluation findings. The report prepared by the Regional Administrator should outline deficiencies in program performance through the time of the evaluation. When appropriate, the report shall contain recommendations for upgrading current State operations as well as provide guidance for the development of the upcoming grant application. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings and recommendations.

2. By revising §§ 35.400 through 35.425 to read as follows:

Subpart B—Program Grants

Sec.
35.400 Purpose.
35.400–1 Air pollution control agency grant awards.
35.400–2 Water pollution control program grant awards.
35.400–3 Public water system supervision program grant awards.
35.400–4 Solid and hazardous waste management program support grant awards.
35.400–5 [Reserved]
35.400–6 Underground water source protection program grant awards.
35.403 Authority.
35.404 Annual guidance.
35.405 Criteria for evaluation of program objectives.
35.410 Evaluation of agency performance.
35.415 Financial status report.
35.420 Payment.
35.425 Federal and grantee program support.

AUTHORITY: Secs. 105, 301(b), Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g)); secs. 106, 501, Federal Water Pollution Control Amendments of 1972 (33 U.S.C. 1256 and 1361); secs. 1443, 1450 of the Safe Drinking Water Act (42 U.S.C. 300j-2 and 300j-9); secs. 3011, 4007, 4008, 4009, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6931, 6947, 6948, and 6949).

Subpart B—Program Grants

§ 35.400 Purpose.

This subpart establishes and codifies policy and procedures for air pollution, water pollution, public water system supervision, solid and hazardous waste management support, and underground water source protection program grants, and supplements the EPA general grant regulations and procedures (part 30 of this chapter). These grants are intended to aid programs for air pollution control, water pollution control, public water system supervision, solid and hazardous waste management, and underground water source protection at the State, interstate, or local level.

§ 35.400–1 Air pollution control agency grant awards.

Grants may be awarded to air pollution control agencies for the planning, development, establishment, improvement, and maintenance of programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in accordance with the applicable implementation plan.

§ 35.400–2 Water pollution control program grant awards.

Grants may be awarded to State and interstate water pollution control agencies to assist them in developing or administering programs for the prevention, reduction, and elimination of water pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

§ 35.400–3 Public water system supervision program grant awards.

Grants may be awarded to State agencies to assist them in developing or administering public water system supervision programs.

§ 35.400–4 Solid and hazardous waste management program support grant awards.

Grants may be awarded to agencies having responsibility for solid and hazardous waste management to assist them in developing and implementing solid and hazardous waste management work programs.

§ 35.400–5 [Reserved]

§ 35.400–6 Underground water source protection program grant awards.

Grants may be awarded to eligible States to assist them in developing and administering programs to protect underground sources of drinking water by adoption and enforcement of a program which meets the requirements of sections 1421 and 1422(b)(1)(A)(ii) of the Safe Drinking Water Act and regulations promulgated under these sections.

§ 35.403 Authority.

This subpart is issued under sections 105 and 301(b) of the Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g)); sections 106 and 501 of the Federal Water Pollution Control Amendments of 1972 (33 U.S.C. 1256 and 1361); section 1443 and 1450 of the Safe Drinking Water Act (42 U.S.C. 300j-2 and 300j-9); sections 3011, 4007, 4008, and 4009 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6931, 6947, 6948, and 6949).

§ 35.404 Annual guidance.

The Environmental Protection Agency will develop and disseminate annual guidance to be used by the grantee to structure air pollution, water pollution, public water system supervision, solid and hazardous waste management, and underground water source protection programs for the coming Federal fiscal year. The guidance will contain a statement of the national strategy, including national objectives and national priorities for the year, together with planning figures for Federal program grant assistance based on the EPA budget approved by the President. The annual guidance will be disseminated each year as soon as practicable during the month of February.

§ 35.405 Criteria for evaluation of program objectives.

(a) Programs set out in the application and submitted in accordance with these regulations shall be evaluated in writing by the Regional Administrator to determine:

(1) Consistency and compatibility of objectives and expected results with EPA national and regional priorities in implementing purposes and policies of the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, or the Resource Conservation and Recovery Act.

(2) Feasibility of achieving objectives and expected results in relation to existing problems, past performance, program authority, organization, resources, and procedures.

(b) Approval of the program developed under § 35.526 (air) or § 35.565 (water pollution) or § 35.626 (public water system supervision) or § 35.718 (solid and hazardous waste management) or § 35.650 (underground water source protection) shall be based on the extent to which the applicant's program satisfies the above criteria.

§ 35.410 Evaluation of agency performance.

(a) A performance evaluation shall be conducted at least annually by the Regional Administrator and the grantee to provide a basis for measuring progress toward achievement of the approved objectives and outputs described in the work program. The evaluation shall be consistent with the requirements of § 35.538 for air pollution control agencies, § 35.570 for water pollution control agencies, § 35.626(d) for public water system supervision agencies, § 35.744 for solid and hazardous waste management agencies, and § 35.680 for underground water source protection agencies.

(b) The Regional Administrator shall prepare a written report of the annual evaluation. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.415 Financial status report.

Within 90 days after the end of each budget period, the grantee must submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, grant payments may be withheld under § 30.615-3 of this chapter until this report is received.

§ 35.420 Payment.

Grant payments will be made in accordance with § 30.615 of this chapter. Notwithstanding the provisions of § 30.345 of this chapter, the first grant payment subsequent to grant award may include reimbursement of all allowable costs incurred from the beginning of the approved budget period: *Provided,* That monthly costs incurred from the beginning of the budget period to the date of grant award do not exceed the level of costs incurred in the last month of the prior budget period.

§ 35.425 Federal and grantee program support.

(a) For purposes of establishing the amount of resources which will be committed by the agency to particular budget categories or program elements under § 35.527 (air), § 35.561(a) (water), § 35.626-1 (public water system supervision), or § 35.670-2 (underground water source protection), Federal and grantee financial contributions shall be considered as combined sums, and shall not be separately identified for each budget category or program element. For purposes of this subpart, and under § 30.700(a) of this chapter, all project expenditures by the grantee shall be deemed to include the Federal share.

(b) A grantee may not unilaterally reduce the non-Federal share of project costs. In the event of a significant proposed or actual reduction in the non-Federal contribution, the Regional Administrator must consider a reduction in the Federal share or an increase to the Federal percentage.

[FR Doc. 78-28689 Filed 10-11-78; 8:45 am]

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federal register

THURSDAY, OCTOBER 12, 1978
PART IV

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

TRAFFIC SAFETY IN HIGHWAY AND STREET WORK ZONES

Preconstruction Procedures

V 43 / 198 0 OCT 12 78 (UM)

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 630—PRECONSTRUCTION PROCEDURES

Traffic Safety in Highway and Street Work Zones

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule

SUMMARY: The Federal Highway Administration (FHWA) is issuing this document in order to provide guidance and establish procedures to assure that adequate consideration is given to motorists, pedestrians, and construction workers on all Federal-aid construction projects.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Daves, 202-426-4847, Office of Highway Operations; or Mrs. Kathleen S. Markman, 202-426-0790, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are Monday to Friday from 7:45 a.m. to 4:15 p.m. e.t.

SUPPLEMENTARY INFORMATION: On September 20, 1976, the FHWA issued an advance notice of proposed rulemaking requesting suggestions for increasing safety in construction zones on Federal-aid Highways, 49 FR 41712 (September 23, 1976). Comments on this advance notice were received and evaluated. On August 22, 1977, the FHWA issued a notice of proposed rulemaking which proposed to require States to prepare process management plans (PMP) assuring that adequate consideration is given to the safety of motorists, construction workers, and pedestrians in construction zones on Federal-aid highway projects, 42 FR 42877 (August 25, 1977), FHWA docket No. 76-14. Comments on this proposal were received from 35 States and State highway departments, 12 organizations and associations including the Center for Auto Safety, 3 counties, 7 cities, 6 individuals, 1 supplier, and 2 contractors. While in several instances different persons within the same State or organization replied to the notice, the consolidated comments of the State or organization were counted only once in the above summary. The principal subjects of the comments are discussed below.

Process Management Plan

FHWA proposed to require a process management plan (PMP), a developed action plan which when put into effect would detail the procedures that a State highway agency utilizes to assure that adequate provisions are made for the safety of motorists, pedestrians, and workmen on Federal-aid highway construction projects. Thirty-six comments specifically addressed this topic. Twenty-eight replies opposed the PMP approach due to the facts that it would cause a further proliferation of redtape, increase the cost of their operations and impose additional workloads as well as the fact that these entities already have in effect sufficient construction zone procedures, standards, manuals, processes, etc., already addressing this matter. Two other commenters stated that the PMP guidelines were too rigid. Two other commenters stated that the PMP guidelines need to be spelled out, or that model guidelines need to be developed. Two commenters indicated that review and approval of the PMP should be by the FHWA Division Administrator only; while two other commenters felt that review and approval of the PMP should extend to locals, including city and county representatives. The FHWA has considered these comments and has concluded that the PMP requirement may very well result in additional redtape and unnecessary paperwork (in violation of the provisions of 23 U.S.C. 101(e)) which will impede rather than further the objective of improved highway safety. However, beneficial elements of the PMP, including the traffic control plan have been retained.

Traffic Control Plan

FHWA proposed to require a traffic control plan (TCP), a detailed plan for handling traffic through a specific highway or street work zone or project. Fifty-seven comments specifically addressed this proposal. Sixteen replies were opposed to the requirement of a TCP for the various reasons that it did not provide for flexibility, would increase costs, did not provide for subcontractor involvement and would increase redtape. Nine replies supported the TCP requirement. Six replies indicate that the TCP requirement is not really needed and that current manuals suffice. Eleven commenters indicated that the TCP should be prepared by the contractor. One commenter indicated that the section stating, in part, that a "TCP should be developed" should be stricken. Five replies indicated that the TCP requirements should be decided by the States. One commenter indicated that the requirements for TCP were too restrictive. Two commenters indicated that the TCP should not be required in the plans, specifications, and estimates (P.S. & E.). Four replies suggested that a State-prepared TCP would transfer tort liability from the contractor to the State. The FHWA does not consider that there is any provision of the regulation which will inherently alter the current relationship between the States and their contractors in this regard. Furthermore, the issue of tort liability is one of local law to be determined by the courts at the State level. To the extent it can be addressed at the national level, FHWA notice 5080.76 entitled Traffic Safety in Highway and Street Work Zones,[1] published concurrently with this rule, does deal with the issue of tort liability. Two commenters indicated that the TCP requirements were too vague or not specific enough. In response to there comments, FHWA has modified the TCP requirement to indicate that the TCP is mandatory for all projects, that it be included in the P.S. & E., and that it be consistent with part VI of the manual on uniform traffic control devices (MUTCD). The final rule further provides that the TCP may range in scope from a very detailed TCP designed solely for a specific project to a reference to standard plans, a section of the MUTCD, or a standard highway agency manual. The final rule further indicates that under certain conditions the contractors may develop and use their own TCP's "if the highway agency and FHWA find that these plans are as good or better than those provided in the P.S. & E." One commenter suggested, in part, that the TCP should contain a standard list of important elements of consideration for traffic planning for each construction zone. Most of the suggested elements are those included in part VI of the MUTCD. Additional guidance has been and will continue to be provided to FHWA field offices by the Office of Highway Operations. This commenter further suggested that the FHWA "provide a synthesis of guiding principles required by the States for use in their formulation of TCP's." In this regard, FHWA intends to develop a handbook which would contain guidance on how and when to use traffic control devices in construction zones and to issue it separately in a combined package with the part of the MUTCD pertaining to construction zone safety by approximately January 1979.

Responsible Person

FHWA proposed to require the contracting agency to designate a person

[1]The FHWA notice 5080.76 entitled Traffic Safety in Highway and Street Work Zones is available for inspection and copying as prescribed in 49 CFR Part 7, App. D.

at the project level who would have the primary responsibility and sufficient authority for assuring that the TCP and other safety aspects of the contract were effectively administered. Forty-seven comments specifically addressed this proposal. Seven replies opposed the requirement that a person be specifically assigned to administer the TCP. Most of those opposed to the responsible person (RP) requirement indicated that the project engineer should be the RP. One reply opposed the concept of one-person-only responsibility. Six commenters suggested that the project engineer, and no one else, is the logical person to be the RP. Six commenters were opposed to notifying the FHWA division administrator who the RP would be. Ten commenters supported the RP concept. Five commenters suggested that the TCP section be modified so that the RP is not liable for the acts of the contractor. One reply indicated that the duties of the RP should be detailed. One reply indicated that the training qualifications of the RP should be outlined. Six commenters indicated that the FHWA division administrator should be notified of the identity of the RP prior to the beginning of construction rather than at the time when "concurrence in award" is requested. One commenter suggested that the notification of the identity of the RP should be mandatory rather than permissive. Some of those commenters supporting and some opposing the requirement of a RP indicated that the RP should be named by title only. One commenter suggested that the RP be the contractor's employee. Two indicated that the RP should be specified.

In response to the above comments, the section dealing with the RP has been slightly revised. The final rule requires that designation of a qualified person and provides that while the project engineer or resident engineer may have this responsibility, another person should be assigned at the project level to handle traffic control on a full-time basis on large complex projects. The training of RP is covered in 23 CFR 630.1010(d) of the final rule. The final rule indicates in 23 CFR 630.1010(b) that the RP will have "the primary responsibility and sufficient authority for assuring that the TCP and other safety aspects of the contract are effectively administered."

Pay Items

FHWA's proposal indicated that the P.S. & E. should include unit pay items for providing, installing, moving, replacing, maintaining, and cleaning traffic control devices required by the TCP and that the lump-sum method of payment should be used only to cover very small projects, projects of short duration, contingency, and general items. Thirty-seven comments specifically addressed this proposal. Six replies supported the requirement of unit pay items. Ten replies opposed the unit pay item provision. Those opposed to this provision indicated that it would be impossible or difficult to document, would create additional work, and would require additional people in order to comply. One commenter supported a system of unit price per day as the pay item. One commenter suggested that the unit price item provision should only be used for special devices. Eight commenters supported the lump-sum pay method. Seven commenters indicated that the pay method should be left to the discretion of the State. Two commenters opposed the entire pay item section. Two commenters opposed the lump-sum pay procedures. One of these commenters suggested, in part, that "FHWA's failure to require P.S. & E. inclusion of separable pay items for traffic control will therefore reinforce the tendency of contractors to treat traffic control as incidental to their 'real' contract work." In response to these comments, the final rule indicates that the P.S. & E. should indicate unit pay items. It also indicates that suitable force account procedures may be utilized for traffic control items. The lump-sum method of payment should be used only to cover very small projects, projects of short duration, contingency, and general items. Payment for traffic control items as incidental to other items of work is discouraged.

Training

FHWA's proposal indicated, in essence, that the State highway agency should train persons responsible for traffic control. Twenty comments specifically addressed this proposal. Fourteen replies supported the training provision. One reply indicated that the State should have this responsibility while two other replies indicated that the State should not have this responsibility. One commenter suggested that the requirement for training be mandatory rather than permissive. One commenter suggested that the training section be omitted altogether. One commenter suggested that FHWA require the States to certify to FHWA that every person whose actions affect construction zone safety has received adequate training. In response to these comments, the final rule makes mandatory the requirement that all persons "responsible for the development, design, implementation, and inspection of traffic control" be adequately trained.

Emergency Plans

FHWA's proposal indicated that each "State should develop contingency plans for each project which could be implemented in the event of emergencies, major backups, or disasters." Seventeen comments specifically addressed this proposal. Four replies indicated that standard techniques and procedures are adequate so that emergency plans are unnecessary. Eight replies opposed this provision. One commenter supported this provision for some projects only. One commenter indicated that the provision was good but that more detail was needed. One commenter indicated that this could be handled in a general manner rather than for each project. Two commenters indicated that the contractor should be involved in the emergency plan development. In response to these comments, the specific provision for the emergency plan has been omitted from the final rule. It is FHWA's view that emergency plans should be included as an element of the TCP on appropriate projects, and that a separate requirement is not necessary in this regard.

Process and Review Evaluation

FHWA's proposal indicated, in part, that "a review team consisting of State central office design and construction personnel should review randomly selected active projects throughout the State for the purpose of assessing the effectiveness of the PMP," and that accident data should be utilized to promote highway safety. Nineteen comments specifically addressed this proposal. Three replies supported the provision, while three replies opposed the provision. Three commenters supported the recommendation that a State central office member be included on the review team. One commenter suggested that the provision for random reviews be mandatory rather than permissive. Two commenters supported the utilization of accident data. Two commenters supported the concept of accident data utilization for major projects only. Three commenters opposed the accident data provision. One commenter suggested that the accident data provision should be mandatory rather than permissive. One of the above commenters suggested, in essence, that required inspection and surveillance techniques be part of every TCP. In response to the above comments, FHWA has revised this provision to make mandatory the review of randomly selected projects and the analysis and use of construction zone accident data to correct deficiencies on individual projects and to improve the content of future traffic control plans.

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FHWA also received 11 miscellaneous comments regarding the proposal primarily addressing the guidance already provided by the MUTCD, the major and minor revision requirements as well as FHWA supervision. The various revisions indicated in the final rule respond to most of these comments. A General Accounting Office (GAO) report entitled, "Highway Construction Zone Safety—Not Yet Achieved," B-164497(3), dated December 23, 1977, indicated that GAO's review of construction zone safety in seven States revealed widely varying safety deficiencies at the 26 sites visited. From this and other information obtained during the review, GAO concluded that project-level officials of the State highway agencies and FHWA field offices have not been devoting enough attention to safety. The GAO believes that this has happened because these officials did not always know how to make the worksites safe, did not fully appreciate the need for safety in construction zones or placed higher priority on other matters. The GAO then recommended that the Secretary of Transportation require the Federal Highway Administrator to:

1. Revise the manual on uniform traffic control devices (MUTCD) to include specific guidance on how and when to use traffic control devices in construction zones.

2. Require training to help insure that Federal and State officials are made aware of the importance of construction zone safety and have the capability to plan, implement, and inspect these safety measures.

3. Establish field office inspection procedures to identify hazardous conditions and insure that they are corrected.

FHWA's specific comments on the GAO recommendations are as follows:

1. Because of the type and amount of guidance needed on how and when to use traffic control devices in construction zones, FHWA believes it would be inappropriate to include such detailed specifics in the MUTCD. Rather, FHWA proposes to develop a handbook that would contain such guidance and to issue it separately in a combined package with the part of the MUTCD that pertains to construction zone safety. Recognizing the lengthy process involved in developing such a handbook, issuance is not expected until January 1979.

2. FHWA has developed a number of training packages and has presented them to numerous State and Federal employees. However, it acknowledges that all personnel responsible for safety in highway work zones have not received enough of such training. Accordingly, FHWA intends to require, by the following rule, that persons responsible for development, design, implementation (particularly those persons responsible for traffic control at the project level), shall be properly trained to carry out these responsibilities. FHWA will also assure that all of its affected personnel are properly trained.

3. FHWA prefers not to mandate uniform inspection procedures for nationwide application because conditions vary so widely among the States and because FHWA considers its field offices fully capable of recognizing unique conditions and reacting to them appropriately or taking positive action on them, as necessary. It does, however, propose to take two actions on this recommendation: (a) Put still greater emphasis on safety in highway work zones by increasing the personal involvement of its top management, and (b) expand its headquarters oversight of regional office procedures for review of divisional inspection procedures.

In consideration of the foregoing, the Federal Highway Administration hereby adds a new subpart J to part 630, chapter I of title 23, Code of Federal Regulations as set forth below.

Issued on October 5, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

Subpart J—Traffic Safety in Highway and Street Work Zones

Sec.
630.1002 Purpose.
630.1004 Background.
630.1006 Policy.
630.1008 Implementation.
630.1010 Contents of the agency procedures.

AUTHORITY: 23 U.S.C. 109(b), 109(d), 315, and 402(a); 23 CFR 1.48(b).

Subpart J—Traffic Safety in Highway and Street Work Zones

§ 630.1002 Purpose.

The purpose of this regulation is to provide guidance and establish procedures to assure that adequate consideration is given to motorists, pedestrians, and construction workers on all Federal-aid construction projects.

§ 630.1004 Background.

Part VI of the manual on uniform traffic control devices (MUTCD)[1] sets forth basic priniciples and prescribes standards for the design, application, installation, and maintenance of the various types of traffic control devices for highway and street construction, maintenance operation, and utility work. The manual cannot address in depth the variety of situations that occur in providing traffic control in work zones. Although agencies responsible for traffic control and work area protection have attempted to develop some guidelines, a coordinated and comprehensive effort to develop greater uniformity is desirable. National reviews have shown that more attention is needed to insure that the MUTCD is properly implemented on all highway projects.

§ 630.1006 Policy.

It is the policy of the Federal Highway Administration that each highway agency shall develop and implement procedures consonant with the requirements of this regulation that will assure the safety of motorists, pedestrians, and construction workers on Federal-aid highway construction projects. The procedures shall be consistent with the provisions of the MUTCD. Highway agencies should be encouraged to implement these procedures for non-Federal-aid projects and maintenance operations as well.

§ 630.1008 Implementation.

The FHWA Division Administrator shall review and approve the highway agency's implementation of its procedures at appropriate intervals. The FHWA shall take appropriate action to assure that the highway agency's procedures are being followed and achieve the results intended. Major revisions in established procedures shall be submitted to the FHWA Division Administrator for information.

§ 630.1010 Contents of the agency procedures.

The agency's procedures shall include, but not necessarily be limited to the following:

(a) *Traffic control plan (TCP).* (1) A traffic control plan is a plan for handling traffic through a specific highway or street work zone or project. These plans may range in scope from a very detailed TCP designed solely for a specific project, to a reference to standard plans, a section of the MUTCD, or a standard highway agency manual. The degree of detail in the TCP will depend on the project complexity and traffic interference with construction activity.

(2) Traffic control plans shall be developed for all projects and be included in plans, specifications, and estimates (P.S. & E.'s) and shall be consistent with part VI of the MUTCD.

(3) The scope of the TCP should be determined during planning and design phases of a project.

(4) Provisions may be made to permit contractors to develop their own TCP's and use them if the highway agency and FHWA find that these plans are as good as or better than those provided in the P.S. & E.

[1] The MUTCD is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. It is incorporated by reference at 23 CFR 625.3.

(b) *Responsible person.* The highway agency shall designate a qualified person at the project level who will have the primary responsibility and sufficient authority for assuring that the TCP and other safety aspects of the contract are effectively administered. While the project or resident engineer may have this responsibility, on large complex projects another person should be assigned at the project level to handle traffic control on a full-time basis.

(c) *Pay items.* The P.S. & E. should include unit pay items for providing, installing, moving, replacing, maintaining, and cleaning traffic control devices required by the TCP. Suitable force account procedures may be utilized for traffic control items. Lump-sum method of payment should be used only to cover very small projects, projects of short duration, contingency, and general items. Payment for traffic control items as incidental to other items of work should be discouraged.

(d) *Training.* All persons responsible for the development, design, implementation, and inspection of traffic control shall be adequately trained.

(e) *Process review and evaluation.* (1) A review team consisting of appropriate highway agency personnel shall annually review randomly selected projects throughout its jurisdiction for the purpose of assessing the effectiveness of its procedures. The agency may elect to include an FHWA representative as a member of the team. The results of this review are to be forwarded to the FHWA Division Administrator for his review and approval of the highway agency's annual traffic safety effort.

(2) Construction zone accidents and accident data shall be analyzed and used to continually correct deficiencies which are found to exist on individual projects, and to improve the content of future traffic control plans.

[FR Doc. 78-28729 Filed 10-11-78; 8:45 am]

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federal register

THURSDAY, OCTOBER 12, 1978
PART V

DEPARTMENT OF THE TREASURY
Comptroller of the Currency
FEDERAL RESERVE SYSTEM
FEDERAL DEPOSIT INSURANCE CORPORATION
FEDERAL HOME LOAN BANK BOARD

■

Community Reinvestment Act of 1977; Implementation

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[6720-01-M]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

CHAPTER II—FEDERAL RESERVE SYSTEM

PART 228—COMMUNITY REINVESTMENT

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 345—COMMUNITY REINVESTMENT

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

PART 563e—COMMUNITY REINVESTMENT

Community Reinvestment Act of 1977; Implementation

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: These regulations implement the Community Reinvestment Act of 1977, and are intended to encourage regulated financial institutions to fulfill their continuing and affirmative obligation to help meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institutions. The regulations provide that the Agencies will assess institutions' records in doing so, and take those records into account when evaluating certain applications by those institutions.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Jerauld Kluckman, Board of Governors of the Federal Reserve system: 202-452-3401; Alan Herlands, Comptroller of the Currency: 202-447-1177; Roger Hood, Federal Deposit Insurance Corporation: 202-389-4628; Nancy Feldman, Federal Home Loan Bank Board: 202-377-6443.

SUPPLEMENTARY INFORMATION: On page 29918 of the FEDERAL REGISTER of July 11, 1978, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (collectively referred to as "the Agencies") proposed regulations to implement the Community Reinvestment Act of 1977 ("the CRA"). It is the purpose of the CRA, which was enacted as Title VIII of the Housing and Community Development Act of 1977 (Pub. L. 95-128), to require that, in connection with their examination of institutions under their jurisdiction, the Agencies encourage each institution to help meet the credit needs of its local community. The CRA further requires the Agencies to assess each institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution, and to take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisition of bank or savings institution shares or assets. The Agencies have received numerous comments regarding the proposed regulations and have revised the regulations after considering the concerns of the commenters.

The Agencies' final regulations, which are presented together for convenience, are identical in their substantive provisions, but contain technical and procedural variations. An explanation of the comments regarding each provision of the regulation, and of changes in those provisions, is set forth below.

PURPOSE: Commenters suggested that the proposed language, that a purpose of the regulation is to "require institutions to demonstrate that their offices serve the convenience and needs of their communities," was not within the scope of the CRA. While this language is contained in the findings of the CRA, this section has been revised to reflect more closely the operating language of the statute.

DELINEATION OF COMMUNITY

Most of the comments received on the delineation of entire community section indicated that the proposed section did not make the responsibilities of institutions clear. In particular, there was confusion about the relationship between an institution's "entire" community and its "local" community or communities. Both terms are used in the statute. The section has been revised to clarify the delineation process. Each institution's entire community will consist of one or more local communities, and guidelines are given on how to define the local community or communities. As suggested by commenters, the revised regulation requires, instead of encourages, the use of maps to delineate local communities to insure a clear and understandable delineation.

The regulation contains two suggested bases for delineating local communities: One takes boundaries from existing areas such as counties, and the other defines an area known as the effective lending territory. Both types of areas are subject to certain adjustments.

In general, a local community based on existing boundaries should be no larger than an SMSA or non-SMSA county, which are areas that the Agencies have used to approximate relevant markets for the purpose of evaluating the competitive effects of mergers and holding company acquisitions. If an institution has offices in more than one such area, it will have more than one local community. When an institution has an office near the boundary of an SMSA or county, it should include those portions of adjacent counties that it serves. In rural areas, a local community may encompass more than one county, but, generally, institutions should not use States or regions of States to delineate local communities. A small institution that serves an area smaller than an SMSA or county may define its community to be a part of the SMSA or county.

A local community based on the effective lending territory of an institution with one office will be a roughly circular area around that office which includes the area in which the institution makes a substantial portion of its loans. Where an institution has several offices serving the same local area, the local community should be drawn to include the areas where each office makes a substantial portion of its loans and all other areas equally close to any of the offices. Use of existing boundaries is still encouraged where practicable.

Communities defined on either basis can be adjusted for other factors such as significant geographic barriers. In addition, subsection (b)(3) permits the use of any other local area to serve as a basis for delineating a local community.

Several comments suggested that low- and moderate-income neighborhoods should be defined. The Agencies are undertaking a program, using the Department of Housing and Urban Development definition of low- and moderate-income, to assist their examiners in identifying areas that may be low- and moderate-income neighborhoods. Further guidance will be contained in the Agencies' examination procedures which will be publicly available on or about November 6, 1978. Institutions are expected to be generally aware of low- and moderate-income neighborhoods within their community, without undertaking extensive research.

The Agencies received a variety of comments regarding the inclusion of off-premises electronic depository facilities in the term "office." In general, the Agencies believe that unshared facilities should be included for purposes of delineating an institution's community. However, the revised regulation provides that an electronic deposit facility, the use of which is shared with another financial institution, need not be taken into account in delineating local communities unless the Agency determines otherwise.

COMMUNITY REINVESTMENT ACT STATEMENT

Many commenters found the requirements of the proposed Community Reinvestment act Statement ("CRA Statement") section unclear. To clarify what is required of institutions, that section has been divided into three: one provides for the adoption and availability of CRA Statements; another sets forth requirements for public files; and a third requires a public notes of the availability of the CRA Statement and files.

Revised subsection (a) of the CRA Statement section now requires that a CRA Statement be prepared for each local community which an institution serves. The same CRA Statement is to be used for every office within one local community.

Several commenters felt that the list which now appears in subsection (b)(2) of the statement section indicated an Agency preference for types of credit which were not covered by the purposes of the CRA. This list is intended by the Agencies only as an example of the degree of specificity that an institution should use to describe the types of credit which it is prepared to extend within its local community.

Subsection (c) describes the additional material the Agencies encourage each institution to include as part of its CRA Statement. A new provision encouraging each institution to describe its efforts to ascertain community credit needs, including communication with community members, has been added. New subsections (e) and (f) clarify the manner in which an institution must make its CRA Statement available to the public.

FILES OF PUBLIC COMMENTS AND RECENT CRA STATEMENTS

This new section clarifies requirements formerly contained in section (f) of the CRA Statement section in the proposed regulation. Some commenters recommended that the comment file not be made public, but the Agencies believe that it may contribute to more effective community comment. In response to other comments received by the Agencies with regard to the file requirement, the new section now provides that only signed, written comments that specifically relate to any CRA Statement or to an institution's performance in helping to meet the credit needs of its community must be retained. Materials should not be included that are harmful to any person's good name or reputation (including employees of the financial institution or its supervisory agency), or relate only to the particulars of any person's credit application. This provision does not permit the institution to exclude materials from the file merely because they are critical of the institution's CRA Statement or performance. An institution may include its own responses to public comments in the file. New subsection (c) indicates where the files must be maintained by the institution.

PUBLIC NOTICE

This new section combines in one place the materials required to be included in a public notice. To simplify preparation of the notice, this section now prescribes a standard public notice to be used by all institutions. An institution may reprint this notice as a poster or flyer to be place in its lobby. The notice requirement may also be satisfied by making the CRA Statement, which includes the notice, available as a brochure in the lobby.

The final two paragraphs of the notice embody one outcome of the Agencies' decision to review their procedures for giving notice of applications to the public. They will inform members of the public that they may request to be informed of applications covered by the CRA made by the institution or its holding company.

A major purpose of the sections on the CRA Statement, files and notice is to promote a dialogue between the institutions and their communities regarding community credit needs. Obtaining community members' views would not, as some commenters suggested, alter management's role in arriving at credit decisions.

Many commenters thought that the requirements of these sections would place an undue burden on institutions, and in response to the Agencies' request for specific comments many commenters recommended that institutions with assets of less than $10 million, or less than $25 million, or institutions in rural areas, be exempted from the CRA Statement requirements. However, the Agencies concluded that these requirements are essential to effective implementation of the CRA and are not unduly burdensome.

ASSESSING THE RECORD OF PERFORMANCE

Several commenters felt that the assessment would only be made in connection with an application. This section states that the Agencies will assess an institution's record of performance "in connection with its examination of" the institution. Although the examination may be divided into several parts, which may be conducted at different times and cover different areas of an institution's operations, the Agencies examine institutions on a regular schedule.

The proposed regulations indicated that the Agency would review an institution's "marketing and lending policies and practices to determine whether they are designed to help meet those needs and assess its record of performance." Commenters felt that this implied a recordkeeping requirement or a broad policy of interference with an instutition's business decisions. Neither was intended, and the phrase has been deleted to avoid confusion. The assessment will focus on the factors enumerated in this section and will be based on the institution's existing records in addition to the CRA Statement and files.

Some commenters believed that institutions attempting to comply with the CRA would be forced to make imprudent credit decisions. However, the Agencies will always conduct their assessments giving consideration to the safety and soundness of the institution.

Several comments suggested that the factors should be made more specific or given specific weights or developed into an explicit scoring system. The factors have been revised slightly to clarify them, but the Agencies believe that specific weights or scoring systems would not adequately address the diversity of institutions and communities amd would prevent rather than encourage thoughtful response to community needs. No weighting scheme is intended by the order in which factors are presented.

Factors (a) through (c) related to an institution's record of communication with its community and its efforts to gear its policies to community needs. Subsection (a) combines (a) and (b) from the proposed regulation. The revision makes it clear that while communication about credit services is encouraged, the institution is responsible for the establishment of its policies. An institution may find it helpful to communicate with local goverment officials, housing and community development agencies, and representatives of business groups and community organizations. Subsection (b) (former (c)) includes not only advertising but communication with real estate brokers and activities such as mortgage

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counselling. Subsection (c) (former (e)) deals with board participation in its institution's consideration of the CRA. Commenters suggested that the regulation not specify the role of the board. The Agencies believe, however, that the CRA presents issues at a level of importance that warrant the board's attention.

Subsections (d) through (f) and, in part, (g) deal with evidence of practicies which are or may be in conflict with the purpose of the CRA. Subsection (d) has been revised to read "practices intended to discourage applications" to make clear that the Agencies wish the list of credit in the CRA Statement to be made in good faith. An institution will not be adversely assessed if general credit conditions make it temporarily impossible for the institution to offer listed credits.

Subsection (e) (former (f)) involves an assessment of an institution's lending patterns to see if the institution discriminates between geographic areas or excludes qualified borrowers from low- and moderate-income neighborhoods. It will be based on records required under Federal Reserve Board Regulations B and C and other existing data, and, in appropriate cases, Agency research. Proposed subsection (1), which addressed the issue of displacement, has been eliminated as commenters found it confusing. However, in connection with their assessments, the agencies will look favorably upon efforts by institutions to assist existing residents in neighborhoods undergoing a process of reinvestment and change.

Subsection (f) (former (j)) refers chiefly to violations of the Equal Credit Opportunity Act and the Fair Housing Act. Some commenters felt that "violations" could be determined only by a court. However, the Agencies believe evidence of violations found by examiners would be a material consideration in evaluating applications covered by the CRA. Subsection (g) (former (k)) refers in part to closing offices, and the failure to provide usual services—such as not accepting mortgage applications—at certain branches, where the effects are contrary to the purposes of the CRA.

Subsection (g), in part, and subsections (h) through (j) refer to efforts by an institution to meet the credit needs of its community. Subsection (g) refers in part to opening offices in low- and moderate-income neighborhoods and providing services, such as bilingual staff, in response to the needs of particular neighborhoods. Subsection (h) (former (g)) includes institution participation in the HUD Community Development Block Grant program and other efforts sponsored by Federal or State agencies, as well as development programs of local governments and private groups.

Subsection (i) (former (h)) lists the types of loans which the Agencies believe are most directly related to the purposes of the CRA. A record of providing these types of credit to all segments of its community consistent with safe and sound operation will be viewed favorably by the Agencies.

Several commenters were opposed to subsection (j) (former (l)). However, their comments were aimed chiefly at discriminatory policies of certain institutions in granting conventional versus Government insured mortgages. Several commenters were in favor of (j) and the Agencies believe that the programs can be used to meet the credit needs of many communities. Subsection (k) (former (m)) makes it clear that an institution's service to its community will be assessed with consideration given to its size and financial condition; legal restrictions on permissible activities, interest rates, and branches; and other factors which affect its ability to help meet community credit needs.

Several commenters suggested possible additional factors for agency consideration. Subsection (l) (former (n)) indicates that the list of factors is not exhaustive. The Agencies wish to encourage innovative responses to community needs and will be ready to consider favorably any efforts to meet community credit needs.

Several commenters suggested that State and municipal bond purchases should be included as a factor. Implementation of the CRA is not intended to discourage the purchase of these bonds, or secondary mortgage market securities, or to impair or disrupt capital flows from surplus to deficit regions, or to impose any other general priority in the use of an institution's available funds. Therefore, the Agencies will not give special consideration to the purchase of State and municipal bonds unless they further special purposes in the community, such as the construction or rehabilitation of low- and moderate-income housing or other neighborhood or community development, or are issued by municipalities or other local public financing units which do not have access to the capital markets.

Effect on Applications

This section is somewhat different from Agency to Agency to allow for procedural variations. However, each of the Agencies has added a statement that an institution's record of performance may be the basis for denying an application. When that record has been considered to be a material factor in evaluating an application, the Agencies will discuss the institution's record of performance in its statement announcing its decision.

Several commenters felt that the Agencies should make their examination of institutions' records public on a regular basis. However, the Agencies believe that this would impair the objective appraisal of an institution's performance required in the examination process.

Related Regulations

Elsewhere in this issue of the Federal Register each Agency is publishing separately revised regulations regarding notice of applications to the public and other procedural matters. These are in addition to the provisions of the final paragraph of the required Public Notice.

The Federal Reserve Board, Comptroller of the Currency and the Federal Deposit Insurance Corporation have also published in this issue of the Federal Register an interpretation of the regulation which exempts institutions which conduct only correspondent banking, trust company, or clearing agency business. Further, the FDIC has published an interpretation which clarifies the regulation with respect to insured branches of foreign banks.

The Agencies find that publication of the amendments for the full 30-day period specified in 5 U.S.C. 553(d) would not be in the public interest because the regulations are required by statute to take effect on November 6, 1978.

Accordingly, the Agencies hereby amend 12 CFR parts 25, 228, 345, 563e to read as set forth below.

[4810-33-M]

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

Regulations

Sec.
25.1 Authority.
25.2 Purposes.
25.3 Delineation of community.
25.4 Community Reinvestment Act statement.
25.5 Files of public comments and recent CRA statements.
25.6 Public notice.
25.7 Assessing the record of performance.
25.8 Effect on applications.

Interpretations

25.101 National banks performing limited services.

Authority: Community Reinvestment Act of 1977 (Title VIII, Pub. L. 95-128, 91 Stat. 1147 (12 U.S.C. 2901 et seq.)); 12 U.S.C. 21, 22, 26, 27, 30, 36, 161, 215, 215a, 481, 1814, 1816, 1828(c).

§ 25.1 Authority.

The Comptroller of the Currency ("Comptroller") issues this part under the authority of the Community Reinvestment Act of 1977 (title VIII of Pub. L. 95-128), and under provisions of title 12 of the United States Code authorizing the Comptroller to charter national banks (secs. 21, 22, 26, and 27), to issue certificates to national banks to commence or resume the business of banking (secs. 1814, 1816), to consider applications from national banks to relocate a main office (sec. 30) or to establish or relocate a branch office (sec. 36), to consider applications for a merger, consolidation, acquisition of assets, or assumption of liabilities where the acquiring, assuming, or resulting bank is a national bank (secs. 215, 215a, 1828(c)), to require reports of condition (sec. 161), and to conduct examinations of national banks (sec. 481).

§ 25.2 Purposes.

The purposes of this regulation are to encourage national banks to help meet the credit needs of their local community or communities; to provide guidance to national banks as to how the Comptroller will assess the records of national banks in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-in come neighborhoods, consistent with the safe and sound operation of those banks; and to provide for taking into account those records in connection with certain applications.

§ 25.3 Delineation of community.

(a) Each national bank shall prepare, and at least annually review a delineation of the local community or communities that comprise its entire community, without excluding low- and moderate-income neighborhoods. Maps shall be used to portray community delineations. The reasonableness of the delineations will be reviewed by national bank examiners.

(b) A local community consists of the contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a national bank may be included in the same local community. Unless the Comptroller determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a national bank may use any one of the three bases set forth below.

(1) Existing boundaries such as those of standard metropolitan statistical areas (SMSA's) or counties in which the bank's office or offices are located may be used to delineate a local community. Where appropriate, portions of adjacent areas should be included. The bank may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas that are extremely large or of unusual configuration. In addition, a small bank may delineate those portions of SMSA's or counties it reasonably may be expected to serve.

(2) A national bank may use its effective lending territory, which is defined as that local area or areas around each office or group of offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas. Adjustments such as those indicated in paragraph (b)(1) of this section may be made.

(3) A national bank may use any other reasonably delineated local area that meets the purposes of the Community Reinvestment Act (CRA) and does not exclude low- and moderate-income neighborhoods.

§ 25.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each national bank shall adopt a Community Reinvestment Act (CRA) statement for each delineated community.

(b) Each CRA statement shall include at least the following:

(1) The delineation of the local community;

(2) A list of specific types of credit within certain categories, such as residential loans for one to four dwelling units, residential loans for five dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, farm loans, community development loans, commercial loans, and consumer loans, that the bank is prepared to extend within the local community; and

(3) A copy of the Community Reinvestment Act notice provided for in § 25.6.

(c) Each national bank is encouraged to include the following in each CRA statement:

(1) A description of how its current efforts, including special credit-related programs, help to meet community credit needs;

(2) A periodic report regarding its record of helping to meet community credit needs; and

(3) A description of its efforts to ascertain the credit needs of its community, including efforts to communicate with members of its community regarding credit services.

(d) Each national bank's board of directors shall review each CRA statement at least annually and shall act upon any material change made in the interim at its first regular meeting after the change. Such actions shall be noted in its minutes.

(e) Each current CRA statement shall be readily available for public inspection:

(1) At the head office of the bank; and

(2) At each office of the bank in the local community delineated in the statement, except off-premises electronic deposit facilities.

(f) Copies of each current CRA statement shall be provided to the public upon request. A national bank may charge a fee not to exceed the cost of reproduction.

§ 25.5 Files of public comments and recent CRA statements.

(a) Each national bank shall maintain files that are readily available for public inspection consisting of:

(1) Any signed, written comments received from the public within the past 2 years that specifically relate to any CRA statement or to the bank's performance in helping to meet the credit needs of its community or communities;

(2) Any responses to the comments that the bank wishes to make; and

(3) Any CRA statements in effect during the past 2 years.

(b) These files shall not contain any comments or responses that reflect adversely upon the good name or reputation of any person other than the bank or publication of which would violate specific provisions of law.

(c) These files shall be maintained by each national bank as follows:

(1) All materials at the head office; and

(2) Those materials relating to each local community at a designated office in that community.

§ 25.6 Public notice.

Within 90 days after the effective date of this part, each national bank shall provide, in the public lobby of each of its offices other than off-premises electronic deposit facilities, the public notice set forth below. Bracketed material shall be used only by banks having more than one local community. The last item shall be included only if the bank is a subsidiary of a holding company that is not prevented by statute from acquiring additional banks.

Community Reinvestment Act Notice

The Federal Community Reinvestment Act (CRA) requires the Comptroller of the Currency to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when the Comptroller decides on certain applications submitted by us. Your involvement is encouraged.

You should know that:

● You may obtain our current CRA statement for this community in this office.

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[Current CRA statements for other communities served by us are available at our head office, located at ————.]

● You may send signed, written comments about our CRA statement[s] or our performance in helping to meet community credit needs to (title and address of bank official) and to the Regional Administrator of National Banks (address). Your letter, together with any response by us, may be made public.

● You may look at a file of all signed, written comments received by us within the past 2 years, any responses we have made to the comments, and all CRA statements in effect during the past 2 years at our office located at (address). [You also may look at the file about this community at (name and address of designated office).]

● You may ask to look at any comments received by the Regional Administrator of National Banks.

● You also may request from the Regional Administrator of National Banks an announcement of applications covered by the CRA filed with the Comptroller.

● We are a subsidiary of (name of holding company), a bank holding company. You may request from the Federal Reserve Bank of (city, address) an announcement of applications covered by the CRA filed by bank holding companies.

§ 25.7 Assessing the record of performance.

In connection with its examination of a national bank, the Comptroller shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the bank. The Comptroller will review the bank's CRA statement(s) and any signed, written comments retained by the bank or the Comptroller. In addition, the Comptroller will consider the following factors in assessing a bank's record of performance:

(a) Activities conducted by the bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank;

(b) The extent of the bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank;

(c) The extent of participation by the bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act;

(d) Any practices intended to discourage applications for types of credit set forth in the bank's CRA statement(s);

(e) The geographic distribution of the bank's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The bank's record of opening and closing offices and providing services at offices;

(h) The bank's participation, including investments, in local community development and redevelopment projects or programs;

(i) The bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The bank's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The bank's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions, and other factors; and

(l) Other factors that, in the Comptroller's judgment reasonably bear upon the extent to which a national bank is helping to meet the credit needs of its entire community.

§ 25.8 Effect on applications.

(a) In considering an application for: (1) The establishment of a domestic branch or other facility with the ability to accept deposits; (2) the relocation of the main office or a branch office; or (3) a merger or consolidation with or the acquisition of assets or assumption of liabilities of a federally insured bank, the Comptroller will take into account, among other factors, the applicant's record of performance.

(b) In considering an application for conversion from a State bank charter to a national bank charter, the Comptroller will assess the applicant's record of performance, and will take into account, among other factors, that record.

(c) Applicants for a national bank charter other than a State bank shall submit a proposed CRA statement when the application is made. In considering the application, the Comptroller will take into account, among other factors, the proposed CRA statement.

(d) In considering an application described in paragraph (a), (b), or (c) of this section, the Comptroller will take into account, among other factors, any views expressed by State or other Federal supervisors of depository institutions or other interested parties, which are submitted in accordance with the Comptroller's procedures set forth in 12 CFR part 5.

(e) A bank's record of performance may be the basis for the denial of an application described in paragraph (a) or (b) of this section. The proposed CRA statement of an applicant for a national bank charter may be the basis for the denial of the application.

INTERPRETATIONS

§ 25.101 National banks performing limited services.

In response to its proposed regulation, 12 CFR 25, to implement the Community Reinvestment Act ("CRA"), the Comptroller of the Currency received several inquiries from institutions that, although they are chartered as banks, do not perform commercial or retail banking services. These institutions serve solely as correspondent banks, or as trust companies, or as clearing agents, and they do not extend credit to the public for their own account. The Comptroller concludes that the CRA is not intended to cover these institutions. It is the purpose of the CRA to require the Comptroller to encourage national banks to meet the credit needs of their local communities. To this end, the Comptroller must assess banks' records of performance and take those records into account in acting on certain applications affecting the banks. The Comptroller believes that these provisions were intended to cover all banks that are in the business of extending credit to the public, including both "wholesale" and "retail" banks. The lending activities of these banks affect the economic health of the communities in which they are chartered. However, the Comptroller believes it would be pointless to encourage or to assess the credit granting record of institutions that are not organized to grant credit to the public in the ordinary course of business, other than as an incident to their specialized operations. Accordingly the term "national bank" as used in the Comptroller's regulation, part 25 (12 CFR Part 25), does not include banks that engage solely in correspondent banking business, trust company business, or acting as a clearing agent.

Dated: October 5, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[6210-01-M]

[Docket No. R-0139; R-0181; Regulation BB]

PART 228—COMMUNITY REINVESTMENT

Sec.
228.1 Authority.
228.2 Purposes.
228.3 Delineation of community.
228.4 Community Reinvestment Act statement.
228.5 Files of public comments and recent CRA statements.
228.6 Public notice.
228.7 Assessing the record of performance.
228.8 Effect on applications.

Sec.
228.100 Applicability of the Community Reinvestment Act to certain special purpose banks.

AUTHORITY: Community Reinvestment Act of 1977 (title VIII, Pub. L. 95-128, 91 Stat. 1147 (12 U.S.C. 2901 et seq.)); 12 U.S.C. 321, 325, 1814, 1816, 1828, 1842.

§ 228.1 Authority.

The Board of Governors of the Federal Reserve System issues this part to implement the Community Reinvestment Act (12 U.S.C. 2901 et seq.). The regulations comprising this part are issued under the authority of the Community Reinvestment Act and under the provisions of the United States Code authorizing the Board to conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325), to conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. 1844), and to consider applications for domestic branches by State member banks (12 U.S.C. 321), for Federal deposit insurance in connection with applications for membership in the Federal Reserve System by State banks (12 U.S.C. 321, 1814, 1816), for merger in which the resulting bank would be a State member bank (12 U.S.C. 1828), and for formation of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842).

§ 228.2 Purposes.

The purposes of this regulation are to encourage State member banks to help meet the credit needs of their local community or communities; to provide guidance to State member banks as to how the Board will assess the records of State member banks in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of those banks; and to provide for taking into account those records in connection with certain applications.

§ 228.3 Delineation of community.

(a) Each State member bank shall prepare, and at least annually review, a delineation of the local community or communities that comprise its entire community, without excluding low- and moderate-income neighborhoods. Maps shall be used to portray community delineations. The reasonableness of the delineations will be reviewed by Federal Reserve System examiners.

(b) A local community consists of the contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a State member bank may be included in the same local community. Unless the Board determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a bank may use any one of the three bases set forth below.

(1) Existing boundaries such as those of standard metropolitan statistical areas (SMSA's) or counties in which the bank's office or offices are located may be used to delineate a local community. Where appropriate, portions of adjacent areas should be included. The bank may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas that are extremely large or of unusual configuration. In addition, a small bank may delineate those portions of SMSA's or counties it reasonably may be expected to serve.

(2) A bank may use its effective lending territory, which is defined as that local area or areas around each office or group of offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas. Adjustments such as those indicated in paragraph (b)(1) of this section may be made.

(3) A bank may use any other reasonably delineated local area that meets the purposes of the Community Reinvestment Act (CRA) and does not exclude low- and moderate-income neighborhoods.

§ 228.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this subpart, the board of directors of each State member bank shall adopt a Community Reinvestment Act (CRA) statement for each delineated local community.

(b) Each CRA statement shall include at least the following:

(1) The delineation of the local community;

(2) A list of specific types of credit within certain categories, such as residential loans for 1- to 4-dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, farm loans, community development loans, commerical loans, and consumer loans, that the bank is prepared to extend within the local community; and

(3) A copy of the Community Reinvestment Act notice provided for in § 228.6.

(c) Each State member bank is encouraged to include the following in each CRA statement:

(1) A description of how its current efforts, including special credit-related programs, help to meet community credit needs;

(2) A periodic report regarding its record of helping to meet community credit needs; and

(3) A description of its efforts to ascertain the credit needs of its community, including efforts to communicate with members of its community regarding credit services.

(d) Each State member bank's board of directors shall review each CRA statement at least annually and shall act upon any material change made in the interim at its first regular meeting after the change. Such actions shall be noted in its minutes.

(e) Each current CRA statement shall be readily available for public inspection:

(1) At the head office of the bank; and

(2) At each office of the bank in the local community delineated in the statement, except off-premises electronic deposit facilities.

(f) Copies of each current CRA statement shall be provided to the public upon request. A State member bank may charge a fee not to exceed the cost of reproduction.

§ 228.5 Files of public comments and recent CRA statements.

(a) Each State member bank shall maintain files that are readily available for public inspection consisting of:

(1) Any signed, written comments received from the public within the past 2 years that specifically relate to any CRA statement or to the bank's performance in helping to meet the credit needs of its community or communities;

(2) Any responses to the comments that the bank wishes to make; and

(3) Any CRA statements in effect during the past 2 years.

(b) These files shall not contain any comments or responses that reflect adversely upon the good name or reputation of any person other than the bank, or publication of which would violate specific provisions of law.

(c) These files shall be maintained by each State member bank as follows:

(1) All materials at the head office; and

(2) Materials relating to each local community, at a designated office in that community.

§ 228.6 Public notice.

Within 90 days after the effective date of this part, each State member bank shall provide, in the public lobby of each if its offices other than off-premises electronic deposit facilities, the public notice set forth below. Bracketed material shall be used only by banks having more than one local community. The last item in this notice shall be included only if the

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bank is a subsidiary of a holding company that is not prevented by statute from acquiring additional banks.

COMMUNITY REINVESTMENT ACT NOTICE

The Federal Community Reinvestment Act (CRA) requires the Federal Reserve Board to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when the Board decides on certain applications submitted by us. Your involvement is encouraged.

●You should know that:

●You may obtain our current CRA statement for this community in this office. [Current CRA statements for other communities served by us are available at our head office, located at (address).]

You may send signed, written comments about our CRA statement[s] or our performance in helping to meet community credit needs to (title and address of State member bank official) and to Community Reinvestment Officer, Federal Reserve Bank of ——— (address). Your letter, together with any response by us, may be made public.

●You may look at a file of all signed, written comments received by us within the past 2 years, any responses we have made to the comments, and all CRA statements in effect during the past 2 years at our office located at (address). [You also may look at the file about this community at (name and address of designated office).]

●You may ask to look at any comments received by the Federal Reserve Bank of ———.

●You also may request from the Federal Reserve Bank of ——— an announcement of applications covered by the CRA filed with the Federal Reserve System.

●We are a subsidiary of (name of holding company), a bank holding company. Applications filed by bank holding companies that are covered by the CRA are included in the Federal Reserve announcement of applications referred to in the previous paragraph.

§ 228.7 Assessing the record of performance.

In connection with its examination of a State member bank, the Board shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the bank. The Board will review the bank's CRA statement(s) and any signed, written comments retained by the State member bank or the Federal Reserve Bank. In addition, the Board will consider the following factors in assessing a bank's record of performance:

(a) Activities conducted by the State member bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank;

(b) The extent of the State member bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank;

(c) The extent of participation by the State member bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act;

(d) Any practices intended to discourage applications for types of credit set forth in the State member bank's CRA statement(s);

(e) The geographic distribution of the State member bank's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The State member bank's record of opening and closing offices and providing services at offices;

(h) The State member bank's participation, including investments, in local community development and redevelopment projects or programs;

(i) The State member bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The State member bank's participation in governmentally-insured, guaranteed, or subsidized loan programs for housing, small businesses or small farms;

(k) The State member bank's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions and other factors; and

(l) Other factors that, in the Board's judgment, reasonably bear upon the extent to which a State member bank is helping to meet the credit needs of its entire community.

§ 228.8 Effect on Applications.

(a) In considering any application

(1) For membership in the Federal Reserve System where membership would confer Federal deposit insurance on a bank,

(2) By a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(3) By a State member bank for the relocation of a domestic branch,

(4) For merger, consolidation, acquisition of assets or assumption of liabilities if the acquiring, assuming, or resulting bank is to a State member bank,

(5) To become a bank holding company, and

(6) By a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the Board will take into account, among other factors it considers, the record of performance in meeting the credit needs of its entire community of each applicant bank, each subsidiary bank of an applicant bank holding company, and each proposed subsidiary bank of an applicant under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) that has an officer, director, employee, or significant stockholder associated with the applicant. Those records of performance may be the basis for denying the application.

(b) In the case of each application for membership that would confer Federal deposit insurance, each application by a State member bank, and each application by a bank holding company with a State bank subsidiary, the Board will consider any views expressed by the respective State bank supervisors as to whether the State-chartered banks involved have been helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of those banks.

(c) At the request of an applicant, the Board will include in its consideration of an application the record of performance of nonbanking subsidiaries of bank holding companies in helping to meet the credit needs of the communities served by affiliated applicant banks or by subsidiary and proposed subsidiary banks of applicants under section 3 of the Bank Holding Company Act (12 U.S.C. 1842).

(d) At the time an application for membership that would confer Federal deposit insurance is made, the proposed State member bank shall submit to the Board a proposed CRA statement conforming to the requirements of § 228.4.

§ 228.100 Applicability of the Community Reinvestment Act to certain special purpose banks.

In response to its proposed regulation BB to implement the Community Reinvestment Act ("CRA") (12 U.S.C. 2901-05) the Board received several inquiries from institutions that, although they are chartered as banks, do not perform commercial or retail banking services. These institutions serve solely as correspondent banks, or as trust companies, or as clearing agents, and they do not extend credit to the public for their own account. The Board concludes that the CRA is not intended to cover these institutions. It is the purpose of the CRA to require the Board to encourage banks to meet the credit needs of their local communities. To this end, the Board must assess banks' records of performance and take those records into account in acting on certain applications affecting the banks. The Board believes that these provisions were intended to cover all banks that are in the business of extending credit to the public including both "wholesale" and "retail" banks. The lending activities of these banks affect the economic health of the communities in which they are chartered. However, the Board believes it would be pointless to encourage or to assess the credit-granting record of institutions that are not organized to grant credit to the public in the ordinary course of business, other than as an incident to their specialized operations. Accordingly the term "State member bank" as used in the Board's Regulation BB (12 CFR 228) does not include banks that engage solely in correspondent banking business, trust company business, or acting as a clearing agent.

By order of the Board of Governors, effective November 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[6714-01-M]

PART 345—COMMUNITY REINVESTMENT

REGULATIONS

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345.1 Authority.
345.2 Purposes.
345.3 Delineation of community.
345.4 Community Reinvestment Act Statement.
345.5 Files of public comments and recent CRA statements.
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345.7 Assessing the record of performance.
345.8 Effect on applications.

INTERPRETATIONS

345.101 Special purpose banks and trust companies not engaged in lending.
345.102 Insured branches of foreign banks.

AUTHORITY: Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. 95-128; 91 Stat. 1147, et seq. (12 U.S.C. 2901 note)).

§ 345.1 Authority.

The provisions of this part 345 issued under the Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. No. 95-128; 91 Stat. 1147, et seq.).

§ 345.2 Purposes.

The purposes of this regulation are to encourage insured State nonmember banks to help meet the credit needs of their local community or communities; to provide guidance to banks as to how the FDIC will assess the records of insured State nonmember banks in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of those banks; and to provide for taking into account those records in connection with certain applications.

§ 345.3 Delineation of community.

(a) Each insured State nonmember bank shall prepare, and at least annually review, a delineation of the local community or communities that comprise its entire community, without excluding low- and moderate-income neighborhoods. Maps shall be used to portray community delineations. The reasonableness of the delineations will be reviewed by FDIC examiners.

(b) A local community consists of the contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a bank may be included in the same local community. Unless the FDIC determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a bank may use any one of the three bases set forth below:

(1) Existing boundaries such as those of standard metropolitan statistical areas (SMSA's) or counties in which the bank's office or offices are located may be used to delineate a local community. Where appropriate, portions of adjacent areas should be included. The bank may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas that are extremely large or of unusual configuration. In addition, a small bank may delineate those portions of SMSA's or counties it reasonably may be expected to serve.

(2) A bank may use its effective lending territory, which is defined as that local area or areas around each office or group of offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas. Adjustments such as those indicated in paragraph (b)(1) of this section may be made.

(3) A bank may use any other reasonably delineated local area that meets the purposes of the Community Reinvestment Act (CRA) and does not exclude low- and moderate-income neighborhoods.

§ 345.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each insured State nonmember bank shall adopt a Community Reinvestment Act (CRA) statement for each delineated local community.

(b) Each CRA Statement shall include at least the following:

(1) The delineation of the local community;

(2) A list of specific types of credit within certain categories, such as residential loans for one to four dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, farm loans, community development loans, commercial loans, and consumer loans, that the bank is prepared to extend within the local community; and

(3) A copy of the Community Reinvestment Act notice provided for in § 345.6 below.

(c) Each bank is encouraged to include the following in each CRA statement:

(1) A description of how its current efforts, including special credit-related programs, help to meet community credit needs;

(2) A periodic report regarding its record of helping to meet community credit needs; and

(3) A description of its efforts to ascertain the credit needs of its community, including efforts to communicate with members of its community regarding credit services.

(d) Each bank's board of directors shall review each CRA statement at least annually and shall act upon any material change made in the interim at its first regular meeting after the change. Such actions shall be noted in its minutes.

(e) Each current CRA statement shall be readily available for public inspection:

(1) At the home office of the bank; and

(2) At each office of the bank in the local community delineated in the statement, except off-premises electronic deposit facilities.

(f) Copies of each current CRA statement shall be provided to the public upon request. A bank may charge a fee not to exceed the cost of reproduction.

§ 345.5 Files of public comments and recent CRA statements.

(a) Each insured State nonmember bank shall maintain files that are readily available for public inspection consisting of:

(1) Any signed, written comments received from the public within the past 2 years that specifically relate to any CRA statement or to the bank's performance in helping to meet the credit needs of its community or communities;

(2) Any responses to the comments that the bank wishes to make;

(3) Any CRA statements in effect during the past 2 years.

(b) These files shall not contain any comments or responses that reflect adversely upon the good name or reputa-

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tion of any person other than the bank, or publication of which would violate specific provisions of law.

(c) These files shall be maintained by each bank as follows:

(1) All materials at the home office; and

(2) Materials relating to each local community, at a designated office in that community.

§ 345.6 Public notice.

Within 90 days after the effective date of this part, each insured State nonmember bank shall provide, in the public lobby of each of its offices other than off-premises electronic deposit facilities, the public notice set forth below. Bracketed material shall be used only by banks having more than one local community. The last item in this notice shall be included only if the bank is a subsidiary of a holding company that is not prevented by statute from acquiring additional banks.

COMMUNITY REINVESTMENT ACT NOTICE

The Federal Community Reinvestment Act (CRA) requires the FDIC to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when the FDIC decides on certain applications submitted by us. Your involvement is encouraged.

You should know that:

- You may obtain our current CRA statements for this community in this office. [Current CRA statements for other communities served by us are available at our head office, located at ————.]
- You may send signed, written comments about our CRA statements[s] or our performance in helping to meet community credit needs to (title and address of bank official) and to (title and address of the FDIC's regional office). Your letter, together with any responses by us, may be made public.
- You may look at a file of all signed, written comments received by us within the past 2 years, any responses we have made to the comments, and all CRA statements in effect during the past 2 years at our office located at (address). [You also may look at the file about this community at (name and address of designated office).]
- You may ask to look at any comments received by (the FDIC's regional office) at (address).
- You also may request from the Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, an announcement of applications covered by the CRA filed with the FDIC.
- We are a subsidiary of (name of holding company), a bank holding company. You may request from the Federal Reserve bank of ———— (address) an announcement of applications covered by the CRA filed by bank holding companies.

§ 345.7 Assessing the record of performance.

In connection with its examination of a bank, the FDIC shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the bank. The FDIC will review the bank's CRA statement(s) and any signed, written comments retained by the bank or the FDIC. In addition, the FDIC will consider the following factors in assessing a bank's record of performance:

(a) Activities conducted by the bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank;

(b) The extent of the bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank;

(c) The extent of participation by the bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act;

(d) Any practices intended to discourage applications for types of credit set forth in the bank's CRA statement(s);

(e) The geographic distribution of the bank's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The bank's record of opening and closing offices and providing services at offices;

(h) The bank's participation, including investments, in local community development and redevelopment projects or programs;

(i) The bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The bank's participation in governmentally-insured, guarantee, or subsidized loan programs for housing, small businesses, or small farms;

(k) The bank's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions and other factors; and

(l) Other factors that, in the FDIC's judgment, reasonably bear upon the extent to which a bank is helping to meet the credit needs of its entire community.

§ 345.8 Effect on applications.

(a) The assessment of the record of performance under § 345.7 shall be taken into account in connection with applications to the FDIC for: (1) Deposit insurance in connection with a newly chartered bank; (2) approval of an establishment of a domestic branch or other facility with the ability to accept deposits for which an application is required; (3) approval of a relocation of the main office or a branch office; and (4) approval of a merger, consolidation, acquisition of assets, or assumption of liabilities.

(b) The assessment of a bank's record of performance in helping to meet the credit needs of its community may be the basis for denial of an application cited in paragraph (a).

(c) Specific applications.

(1) In considering an application where a State member or national bank will convert into, merge or consolidate with, or have its assets acquired or liabilities assumed by a State nonmember bank, the FDIC will take into account any views expressed by State member or national bank's present State and Federal supervisors.

(2) In considering an application for deposit insurance, the FDIC will take into account the bank's CRA statement.

INTERPRETATIONS

§ 345.101 Special purpose banks and trust companies not engaged in lending.

In response to its proposed regulation part 345 to implement the Community Reinvestment Act ("CRA") (12 U.S.C. 2910-05), the Corporation received several inquiries from institutions that, although they are chartered as banks, do not perform commercial or retail banking services. These institutions serve solely as correspondent banks, or as trust companies, or as clearing agents, and they do not extend credit to the public for their own account. The Corporation conlcudes that the CRA is not intended to cover these institutions. It is the purpose of the CRA to require the Corporation to encourage banks to meet the credit needs of their local communities. To this end, the Corporation must assess banks' records of performance and take those records into account in acting on certain applications affecting the banks. The Corporation believes that these provisions were intended to cover all banks that are in the business of extending credit to the public including both "wholesale" and "retail" banks. The lending activities of these banks affect the economic health of the communities in which they are chartered. However, the Corporation believes it would be pointless to encourage or to assess the credit granting record of institutions that are not organized to grant credit to the public in the ordinary course of business, other than as an incident to their specialized operations. Accordingly the term "insured State nonmember bank" as used in the Corporation's regulation part 345 (12 CFR part 345) does not include banks that engage solely in correspondent banking business, trust company business, or acting as a clearing agent.

§ 345.102 Insured branches of foreign banks.

The Community Reinvestment Act, by its terms, applies to all "insured banks" as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813). The recently enacted International Banking Act, among other things, amends section 3 of the Federal Deposit Insurance Act to include within the definition of the term "insured bank" any foreign bank having a branch, any deposits in which are insured by the Federal Deposit Insurance Corporation. Accordingly, the Community Reinvestment Act requires the Corporation, in the case of an insured State branch of a foreign bank, to assess the bank's record of meeting the credit needs of its entire community, and to take that record into account in acting upon certain applications that may be filed by any such foreign bank. In light of the purposes of the Community Reinvestment Act, it would appear that the record of the foreign bank branches in the United States should be the record that should be assessed by the Corporation and taken into account in the case of applications, rather than the record of the foreign bank as a whole in meeting the credit needs of its communities abroad. In recognition of the anomaly of assessing and taking into account a foreign bank's foreign operations in meeting the needs of its foreign community, the Corporation will consider only the foreign bank's U.S. operations. Accordingly, the Corporation's regulation part 345, in the case of foreign banks that are "insured banks" within the meaning of section 3 of the Federal Deposit Insurance Act, should be construed as applying only to the insured branches of the foreign banks in the United States. Thus, where § 345.3(a) requires each insured State nonmember bank to prepare and at least annually review a delineation of its local community, in the case of a foreign bank that is an "insured bank", the community or communities delineated should relate to the insured branch or branches within the United States. Similarly, the phrase "office of group of offices" in § 345.3(b) refers to insured branches located within the United States and the phrase "effective lending territory" refers to areas or to an area geographically within the United States. Indeed, the phrase "community" as it appears throughout the regulation is intended to refer to a local geographical area within the boundaries of the United States. In the case of foreign banks that are "insured banks", the requirement in § 345.4 that a bank's board of directors adopt a CRA statement would apply to any officer or local managing board which directs the operations of the insured branch or branches rather than the board of directors itself. Similarly, the requirement in § 345.4(d) for board of directors review of CRA statements and approval of changes may, in the case of foreign banks that are "insured banks" may be satisfied by any officer or local managing board rather than the board of directors itself. In the case of a foreign bank, copies of CRA statements, signed written comments from the public, in response thereto, need not be retained in the head office of the foreign bank, nor would the public notice required by § 345.6 be provided at any office outside of the United States.

By order of the Board of Directors, October 5, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION.

ALAN R. MILLER,
Executive Secretary.

[6720-01-M]

PART 563e—COMMUNITY REINVESTMENT

Sec.
563e.1 Authority.
563e.2 Purposes.
563e.3 Delineation of community.
563e.4 Community Reinvestment Act statement.
563e.5 Files of public comments and recent CRA statements.
563e.6 Public notice.
563e.7 Assessing the record of performance.
563e.8 Effect on applications.

AUTHORITY: Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. 95-128; 91 Stat. 1147, et seq. 12 U.S.C. 2901 et seq.); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, 407, and 408, 48 Stat. 1256, 1257, 1260, and 1260a as amended (12 U.S.C. 1725, 1726, 1730, 1730a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 (Comp. 1071).

§ 563e.1 Authority.

The provisions of this part 563e are issued under the Community Reinvestment Act of 1977 (title VIII of the Housing and Community Development Act of 1977, Pub. L. 95-128, 91 Stat. 1147, et seq.); and under sections 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, 407, and 408, 48 Stat. 1256, 1257, 1260, and 1260a as amended (12 U.S.C. 1725, 1726, 1730, 1730a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Com. 1071).

§ 563e.2 Purposes.

The purposes of this regulation are to encourage insured institutions to help meet the credit needs of their local community or communities; to provide guidance to institutions as to how the Board will assess the records of institutions in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of those institutions; and to provide for taking into account those records in connection with certain applications.

§ 563e.3 Delineation of community.

(a) Each insured institution shall prepare, and at least annually review, a delineation of the local community or communities that comprise its entire community, without excluding low- and moderate-income neighborhoods. Maps shall be used to portray community delineations. The reasonableness of the delineations will be reviewed by the Board's examiners.

(b) A local community consists of the contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of an institution may be included in the same local community. Unless the Board determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, an institution may use any one of the three bases set forth below.

(1) Existing boundaries such as those of standard metropolitan statistical areas (SMSA's) or counties in which the institution's office or offices are located may be used to delineate a local community. Where appropriate, portions of adjacent areas should be included. The institution may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas that are extremely large or of unusual configuration. In addition, a small institution may delineate those portions of SMSA's or counties it reasonably may be expected to serve.

(2) An institution may use its effective lending territory, which is defined as that local area or areas around each office or group of offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas. Adjustments such as those indicated in paragraph (b)(1) of this section may be made.

(3) An institution may use any other reasonably delineated local area that meets the purposes of the Community Reinvestment Act (CRA) and does not exclude low- and moderate-income neighborhoods.

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§ 563e.4 Community Reinvestment Act statement.

(a) Within 90 days after the effective date of this part, the board of directors of each institution shall adopt a Community Reinvestment Act (CRA) statement for each delineated local community.

(b) Each CRA statement shall include at least the following:

(1) The delineation of the local community;

(2) A list of specific types of credit within certain categories, such as residential loans for 1- to 4-family dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans, small business loans, farm loans, community development loans, commercial loans, and consumer loans, that the institution is prepared to extend within the local community; and

(3) A copy of the Community Reinvestment Act notice provided for in § 563e.6.

(c) Each institution is encouraged to include the following in each CRA statement:

(1) A description of how its current efforts, including special credit-related programs, help to meet community credit needs;

(2) A periodic report regarding its record of helping to meet community credit needs; and

(3) A description of its efforts to ascertain the credit needs of its community, including efforts to communicate with members of its community regarding credit services.

(d) Each institution's board of directors shall review each CRA statement at least annually and shall act upon any material change made in the interim at its first regular meeting after the change. Such actions shall be noted in its minutes.

(e) Each current CRA statement shall be readily available for public inspection:

(1) At the home office of the institution; and

(2) At each office of the institution in the local community delineated in the statement, except off-premises electronic deposit facilities.

(f) Copies of each current CRA statement shall be provided to the public upon request. An institution may charge a fee not to exceed the cost of reproduction.

§ 563e.5 Files of public comments and recent CRA statements.

(a) Each institution shall maintain files that are readily available for public inspection consisting of:

(1) Any signed, written comments received from the public within the past 2 years that specifically relate to any CRA statement or to the institution's performance in helping to meet the credit needs of its community or communities;

(2) Any response to the comments that the institution wishes to make; and

(3) Any CRA statements in effect during the past 2 years.

(b) These files shall not contain any comments or responses that reflect adversely upon the good name or reputation of any persons other than the institution, or publication of which would violate specific provisions of law.

(c) These files shall be maintained by each institution as follows:

(1) All materials at the home office; and

(2) Those materials relating to each local community at a designated office in that community.

§ 563e.6 Public notice.

Within 90 days after the effective date of this part, each institution shall provide, in the public lobby of each of its offices other than off-premises electronic deposit facilities, the public notice set forth below. Bracketed material shall be used only by institutions having more than one local community.

COMMUNITY REINVESTMENT ACT NOTICE

The Federal Community Reinvestment Act (CRA) requires the Federal Home Loan Bank Board to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when deciding on certain applications submitted by us. Your involvement is encouraged.

You may obtain our current CRA statement for this community in this office. [Current CRA statements for other communities served by us are available at our home office, located at ————————.]

You may send signed, written comments about our CRA statement[s] or our performance in helping to meet community credit needs to (title and address of institution official) and to (title of officer), Federal Home Loan Bank of ———— (address). Your letter, together with any response by us, may be made public.

You may look at a file of all signed, written comments received by us within the past 2 years, any responses we have made to the comments, and all CRA statements in effect during the past 2 years at our office located at (address). [You also may look at the file about this community at (name and address of designated office).]

You may ask to look at any comments received by the Federal Home Loan Bank of ————.

You also may request from the Federal Home Loan Bank of ———— an announcement of applications covered by the CRA filed with the Federal Home Loan Bank Board.

§ 563e.7 Assessing the record of performance.

In connection with its examination of an institution, the Board shall assess the record of performance of the institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. The Board will review the institution's CRA statement(s) and any signed, written comments retained by the institution or the agency. In addition, the Board will consider the following factors in assessing an institution's record of performance:

(a) Activities conducted by the institution to ascertain the credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit-related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's CRA statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community development and redevelopment projects or programs;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions and other factors; and

(l) Other factors that, in the Board's judgment, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

§ 563e.8 Effect on applications.

(a) Assessments under this part shall be taken into account in determining whether to grant charters, deposit insurance, branches and other deposit

facilities, relocations, mergers, consolidations, acquisitions of assets or assumptions of liabilities, and savings and loan holding company acquisitions. Assessment of an institution's record of performance may be the basis for denying an application.

(b) The Board will take into account any views expressed by State-chartered applicants' State supervisory authorities with regard to whether applicants are helping to meet the credit needs of their communities.

(c) The Board may consider the credit-granting record of any financial subsidiaries of savings and loan holding companies when such holding companies submit to the Board applications listed under paragraph (a) of this section.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

OCTOBER 3, 1978.

[FR Doc. 78-28852 Filed 10-10-78; 10:55 am]

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[4810-33-M]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 5—SUPPLEMENTAL APPLICATION PROCEDURES FOR CHARTERS, DOMESTIC BRANCHES, MERGERS, RELOCATIONS, CONVERSIONS, DOMESTIC OPERATING SUBSIDIARIES, FIDUCIARY POWERS AND TITLE CHANGES

AGENCY: Comptroller of the Currency.

ACTION: Final rule.

SUMMARY: This rule revises procedures of the Office of the Comptroller of the Currency for applications for charters, branches, mergers, and relocations. The changes are prompted by the Community Reinvestment Act of 1977 and regulations issued pursuant to the Act and by suggestions received during the comment period following publication of the proposed regulations to implement the CRA. The goal of these changes is to improve the opportunity for public participation in the decision process on the affected applications listed above.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan Herlands, Director, Regulations Analysis, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1177.

SUPPLEMENTARY INFORMATION: On July 11, 1978, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board jointly published proposed regulations to implement the Community Reinvestment Act of 1977. After studying approximately 550 comments received during the comment period following the publication of the proposed regulations, the agencies are adopting final regulations.

Many of the comments on the proposed regulations also suggested amendments to the procedures under which regulated financial institutions apply to their respective regulatory authorities for the following: A charter; deposit insurance; the establishment of a domestic branch or other deposit facility; the relocation of the home office or a branch office; a merger or consolidation; or an acquisition by a holding company.

Each of the agencies is adopting changes to its regulations governing the treatment of these applications so that the agencies' procedures are substantially similar. For each agency, these changes will facilitate public involvement in the decisionmaking process and increase the level of communication between the agencies, the institutions, and the public.

The major changes in the regulations provide for more frequent public notice of a pending application and for interested persons to have greater opportunity to comment on an institution's CRA performance when the institution has an application pending. Specifically, the amendment revises the notice by publication provision of 12 CFR 5.2(b) to expand the one-time publication to publication on the same day of 2 consecutive weeks. In addition to the general requirements of § 5.2(b)(1), a paragraph (b)(2) has been adopted to specifically address applications for mergers and relocations.

There was also concern expressed in the comments to the proposed regulation that procedures be adopted to assure that interested persons have the opportunity to be informed of pending applications in order to comment for CRA purposes. The Comptroller's current regulations provide that such notice will be provided to any person who has requested notification in writing to the Regional Administrator. Currently, this provision applies to all applications other than applications for CBCT branches. The Comptroller is now adopting an identical provision, 12 CFR 5.2a(c), to cover CBCT applications.

Interested parties may also receive notification of the Comptroller's final disposition of any application by requesting such in writing to the Regional Administrator (12 CFR 5.13).

Section 5.13 has been revised to clarify that the Comptroller will issue a public opinion whenever the decision represents, in the Comptroller's judgment, a new or changed policy or presents issues of general importance to the public or the banking industry.

These amendments are being issued in final form, to take effect on November 6, 1978 and will apply to applications filed on or after that date. However, the Comptroller of the Currency and the other agencies have undertaken to review the regulations' effectiveness as they gain experience in operating under them. The agencies will also accept and consider written comments for 6 months from the effective date of the regulations. Comments may be submitted to Alan Herlands, Director, Regulations Analysis, Office of the Comptroller of the Currency, Washington, D.C. 20219.

ADOPTION OF AMENDMENTS

12 CFR Part 5 is amended by revising § 5.2(b), adding § 5.2a(c), and revising § 5.13 as follows:

§ 5.2 Notice of filing applications.

* * * * *

(b) *By publication.* (1) Except in the case of proposed transactions where notice by publication is governed by statute, the applicant shall, within 15 days after receipt of a notice in writing that an application has been accepted for filing, publish on the same day of two (2) consecutive weeks in a newspaper of general circulation in the community in which the applicant's head office is located and in a newspaper of general circulation in the community in which the applicant proposes to engage in business (or engages in business in the case of a title change) a notice containing the name of the applicant or applicants, the subject matter of the application, and the date upon which the application was accepted for filing. Immediately thereafter, the applicant shall furnish the Regional Administrator with an affidavit evidencing such publication.

(2) In addition to the requirements of paragraph (1), the following is required of applications for mergers and relocations:

(i) Mergers—In addition to statutory requirements, notice must be published on the same day of two (2) consecutive weeks in a newspaper of general circulation in the community in which the head office of each merging bank is located;

(ii) Relocations—Notice must be published on the same day of two (2) consecutive weeks in a newspaper of general circulation in the community in which the office to be relocated is located. On the date of the first notice by publication, an additional identical notice must be posted in the office to be relocated. This notice must remain posted for at least twenty-one (21) days after the notice by publication.

* * * * *

§ 5.2a Notice of filing of CBCT branch applications.

* * * * *

(c) *By the Regional Administrator.* The Regional Administrator shall give timely notice to the State official who supervises commercial banks in the State in which the applicant is or will be located, and to any other person requesting such written notification. Notice may also be given to other parties who the Regional Administrator believes, in his sole discretion, might have an interest in the pending application.

§ 5.13 Comptroller's decision.

The applicant and all persons so requesting in writing shall be notified of the final disposition of the application. The Comptroller will issue a public opinion whenever the decision represents, in the Comptroller's judgment, a new or changed policy or presents issues of general importance to the public or the banking industry.

Dated: October 5, 1978.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc. 78-28853 Filed 10-10-78; 10:55 am]

[6210-01-M]

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0182]

PART 262—RULES OF PROCEDURE

Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This rule would revise procedures of the Board for certain applications for membership, applications for branches, mergers, or relocations, and certain applications under the Bank Holding Company Act. The goal of these changes is to improve the opportunity for public participation in the decision process on the affected applications listed above.

DATES: Effective date: November 6, 1978.

The Board will accept and consider written comments for 6 months from the effective date of this amendment. Such comments should be submitted to Theodore E. Allison, Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and should refer to docket No. R-0182.

FOR FURTHER INFORMATION CONTACT:

Julius L. Loeser, Senior Attorney, 202-452-3236, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Section 262.3 is amended by adding the following subsection (b) and redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i) respectively.

§ 262.3 Applications

* * * * *

(b) *Notice of applications.* (1) In the case of applications—

(i) For membership in the Federal Reserve System where such membership would confer Federal deposit insurance on a bank,

(ii) By a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(iii) By a State member bank for the relocation of a domestic branch office,

(iv) For merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank,

(v) To become a bank holding company, and

(vi) By a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the applicant shall, prior to filing such application, cause to be published on the same day of each of 2 consecutive weeks a notice containing the name of the applicant or applicants, the subject matter of the application, the location at which the applicant proposes to engage in business, and an invitation to the public to give written comment upon the application to the appropriate Federal Reserve Bank no later than 30 days after the date of publication of the first notice. Such notice shall be published in a newspaper of general circulation in (A) the community in which the head office of the bank is or is to be located in the case of an application for membership that would confer deposit insurance, (B) the community or communities in which the head office of the bank and the proposed branch or other facility (other than an electronic funds transfer facility) are located in the case of an application for the establishment of a domestic branch or other facility that would be authorized to receive deposits, (C) the community or communities in which the head office of the bank, the office to be closed, and the office to be opened are located in the case of an application for the relocation of a domestic branch office, (D) the community or communities in which the head office of each of the banks to be party to the merger, consolidation, or acquisition of assets or assumption of liabilities are located in the case of an application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities, or (E) the community or communities in which the head offices of the largest subsidiary bank, if any, of an applicant and of each bank, shares of which are to be directly or indirectly acquired, are located in the case of applications under section 3 of the Bank Holding Company Act.

(2) In addition to the foregoing notice, an applicant, in the case of an applicaition to relocate a domestic branch office or other facility that would be authorized to receive deposits, shall post in a conspicuous public place in the lobby of the office to be closed a notice containing the information specified in § 262.3(b)(1). Such notice should be posted on the date of the first notice required by § 262.3(b)(1).

* * * * *

Board of Governors of the Federal Reserve System, effective November 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-28854 Filed 10-10-78; 10:55 am]

[6714-01-M]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Relocation Applications Amendments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: These amendments to § 303.14 of part 303 reflect implementation of part 345, the Community Reinvestment Act regulations. The amendments increase the number of times that notice of application filing must be published for branch, relocation, and deposit insurance applications; they also increase the number of communities in which published notice must be made for branch and relocation applications. Additionally, for relocation applications, notice must be posted in the public lobby of the office(s) to be moved to another location. The intended effect of the amendments is to provide greater public awareness of intended actions by banks to which the Community Reinvestment Act of 1977 is applicable, and improve application procedures.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, telephone 202-389-4628.

SUPPLEMENTARY INFORMATION: On July 11, 1978, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the Federal Deposit Insurance Corporation ("the Agencies") proposed regulations to implement the Community Reinvestment Act of 1977 ("the CRA"). The proposed regulations were identical in their substantive provisions although they contained procedural variations. In the preamble to those proposed regulations, notice was given that the Agencies were considering modifications to their existing ap-

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plication procedures concerning public notice and opportunity to be heard with respect to applications covered by the CRA. Subsequently, the Agencies agreed to amend their application procedures to provide minimum standards as to certain basic application procedures for public notice and opportunity to be heard. The amendments herein reflect these minimum application procedures and are described below.

§ 303.14(a) SCOPE OF SECTION.

The only change made is the addition of footnote 11b-1. It states that an off-premises electronic facility that receive deposits for more than one depository institution is deemed to constitute a branch only of the bank or banks which own or lease the facility.

Moreover, the CRA regulation specifically exempts shared depository facilities from inclusion in the requirement of delineating a community for an institution's offices. Due to this exemption for such facilities, an insured State nonmember bank need not apply for prior consent from the Corporation to share a facility owned or leased by another entity. Footnote 11b-1 is added to reflect these considerations.

§ 303.14(b) NOTICE OF FILING OF APPLICATION.

Subparagraph (ii) of paragraph (1) Notice by Publication has been changed to require banks to publish notice of an application twice in a newspaper of general circulation rather than only once. At a minimum, the publication must be on the same day for 2 consecutive weeks.

The published notice varies as to the number of communities in which the publication must be made depending on the type of application. For branches, publication must be made in the communities of the home office and the branch to be established. For relocations of home or branch offices, publication must be made in the communities of the home office, the office to be closed, and the office to be opened. For deposit insurance, publication must be made in the community of the home office of the applicant. Prior to its amendment the paragraph required that publication be made only in the community in which the applicant proposed to engage in business.

§ 303.14(b)(1-a) NOTICE BY POSTING.

The four agencies determined that increased notice to the public for proposed relocations is needed. Banks will now be required to post notice of an application for relocation in the public lobby of the office(s) to be moved to another location. This posted notice is in addition to the requirement of newspaper publication.

§ 303.14(b)(2) COMMENTS AND PROTEST.

The "Comments and Protests" paragraph has been changed to reflect the fact that published notice must be made twice for branch, office relocation, and deposit insurance applications. The same reason accounts for the deletion of paragraph (ii) in subparagraph (3) "Notice of Right to Comment or Protest."

§ 303.14(c) PUBLIC FILE.

The word "comments" has been included to recognize the provision for comments in paragraphs "Comments and Protests," "Notice of Right to Comment or Protest," and "Solicitation of Comments by Regional Director."

§ 303.14(f) HEARING RULES.

These rules, as amended, provide all participants the right to make closing arguments at hearings.

In adopting this amendment to FDIC's rules and regulations, FDIC's Board of Directors did not follow the requirements of sections 553 (b) and (d) of title 5 of the United States Code and §§ 302.1, 302.2, and 302.5 FDIC's rules and regulations with respect to notice, public participation, and delayed effective date, because the amendment relates to agency procedure and practice, and because the Board of Directors found that, in light of the need to adopt the amendments to take effect concurrently with the Community Reinvestment Act regulations, notice and public procedure thereon are impracticable and contrary to the public interest.

Accordingly, the following amendments to § 303.14 of part 303 of Federal Deposit Insurance Corporations regulations are adopted, to take effect November 6, 1978.

Approved October 5, 1978.

By order of the Board of Directors.

ALAN R. MILLER,
Executive Secretary.

1. § 303.14, paragraph (a) is amended by inserting the footnote designation "11b-1" after the word "branches" in numbered clause (2), and by adding the following footnote:

11b-1 .For purposes of this section, unless the Corporation determines otherwise, an off-premises electronic facility which receives deposits for more than one depository institution is deemed to constitute a branch only of the bank or banks which own or lease the facility.

2. In § 303.14, paragraphs (b), (c)(1)(ii), and (f)(1)(v) are revised to read as follows:

§ 303.14 Application procedures.

• • • • • •

(b) • • •

(1) • • •

(ii) In the case of all other applications described in paragraph (a) of this section, within 15 days after the Regional Director has notified the applicant in writing that an application has been accepted for filing, the applicant shall publish notice of the proposed transaction at least once each week on the same day for 2 consecutive weeks in a newspaper of general circulation in the community or communities referred to below:

(A) *Applications to establish a branch.*—In the communities in which the home office and the branch to be established are located;

(B) *Applications to relocate an office.*—In the communities in which the home office, office to be closed, and office to be opened are located;

(C) *Applications for deposit insurance.*—In the community in which the home office is located.

The published notice shall include the name of the applicant, the subject matter of the application, the location or locations at which the applicant proposes to engage in business, and the date upon which the application was accepted for filing.

(iii) • • •

(1-a) *Notice by posting.* In the case of applications to relocate home offices or branch offices, in addition to the notice by publication described in paragraph (b)(1) of this section, notice of the application shall be posted in the public lobby of the office(s) to be relocated.

(2) *Comments and protests.* Anyone who wishes to comment on an application may do so by filing comments in writing with the Regional Director. Anyone who wishes to protest the granting of the application has a right to do so if he or she files a written notice of his or her intent with the Regional Director within 15 days of the last publication of the notice required by paragraph (b)(1) of this section.

(3) *Notice of right to comment or protest.* In order to fully apprise the public of its rights under paragraph (b)(2) of this section, the notice described in paragraph (b)(1) of this section shall include a statement describing the right to comment upon or protest the granting of the application. This notice shall consist of the following statement:

Any person wishing to comment on this application may file his or her comments in writing with the Regional Director of the Federal Deposit Insurance Corporation at its Regional Office (address of the Regional Office). If any person desires to protest the granting of this application he or she has a right to do so if he or she files a written notice of his or her intent with the Regional Director by (the 15th day following the last date of required publication). The nonconfidential portions of the application are on file in the Regional Office as part of the public file maintained by the Corporation. This file is available for public inspection during regular business hours.

(4) • • •

(c) • • •

(1) • • •

(ii) Data, comments, and information submitted by interested persons in favor of or in opposition to such application.

• • • • • •

(f) Hearing rules.—(1) Order of presentation. The following schedule is intended to serve as a general guide to the conduct of the hearing. It is not fixed and may be varied at the discretion of the presiding officer. The presiding officer shall determine the order of opening and closing statements and presentations to be followed by all participants other than the applicant who in each instance shall have the opportunity to speak first.

(i) • • •

(ii) • • •

(iii) • • •

(iv) • • •

(v) *Summary statement.* After all the above presentations have been concluded, the applicant and each other participant may make a short concise rebuttal.

(Secs. 5, 6, 8, 9, 18, 19, Pub. L. 797, 64 Stat. 876, 879, 881, 891, 893 (12 U.S.C. 1815, 1816, 1818, 1819, 1828, 1829).)

[FR Doc. 78-28855 Filed 10-10-78; 10:55 am]

[6720-01-M]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

[No. 78-518]

Amendments Relating to Acquisitions

OCTOBER 3, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: The Bank Board hereby amends its application procedures to expand public notice, protest, and hearing provisions; to incorporate certain provisions relating to the Community Reinvestment Act of 1977 ("CRA"); and to simplify the language of affected regulations.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy L. Feldman, Assistant General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552, 202-377-6443.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 78-518-A (October 3, 1978), today issued final regulations to implement the Community Reinvestment Act of 1977 ("CRA"). The regulations, set forth at new 12 CFR Part 563e, provide for (1) assessment of an insured institution's record in helping to meet the credit needs of its entire community, including low- and moderate/income neighborhoods, consistent with the safe and sound operation of such institution, and (2) consideration of such record when evaluating certain applications made by an institution.

The Bank Board hereby amends its application procedures affected by the CRA in order to insure adequate public notice and opportunity for meaningful protest and hearing on any required application to the Bank Board for a charter; deposit insurance; branch or other deposit facility; relocation; merger; consolidation, acquisition of assets, or assumption of liabilities; or acquisition of a deposit facility by a savings and loan holding company.

Additionally, this opportunity has been taken to simplify and shorten the language of affected regulations, but they remain substantively the same with the exception of the changes noted below. In this connection, all notice forms have been removed; these may be obtained from the Supervisory Agent of the Federal Home Loan Bank in the district where the application is to be filed. In addition, public inspection procedures have been amended to exclude from public disclosure application information exempted under the Freedom of Information Act (5 U.S.C. 552); this exclusion is cited in notice forms but was not previously specified in the regulations.

Although these are final regulations, the Bank Board intends to review the expanded procedures over the next 6 months to determine if they facilitate public participation in application proceedings; public comment regarding their effectiveness is invited during this period.

CHARTER APPLICATIONS (12 CFR 543.2)

Previous § 543.2(b) listed four factors which applicants for Federal savings and loan association charters must address. A fifth factor—a description of community credit needs—is added.

Previous § 543.2(e) required applicants to publish one notice in a newspaper printed in the English language and having general circulation in the community to be served by the proposed Federal association. This requirement, now located in paragraph (d), is expanded to require publication on the same day of each of 2 consecutive weeks. In addition publication in appropriate foreign language(s) may be required if the Supervisory Agent determines that the primary language of a significant number of the adult residents of the community to be served by the proposed association is a language other than English. Further, paragraph (d) directs the Supervisory Agent to give notice to appropriate State regulators, persons who request announcements of applications under the Bank Board's CRA regulations (§ 563e.6), and other persons she/he believes might have an interest in a pending application. These notices are in addition to the legal notification (newspaper notice) required as described above.

Paragraph (e) incorporates the "substantiality" concept of protest consideration, previously used only in branch office applications, to charter applications. In determining whether a protest is substantial, the Supervisory Agent shall look to the substance and not the form of protests filed by individuals or community groups which pertain to an applicant's CRA performance.

Paragraph (f) provides flexibility in scheduling a hearing on an application to insure that the time and place of any hearing is reasonably convenient to those whose protests relate to part 563e.

REMOTE SERVICE UNITS (12 CFR 545.4-2)

Previous regulations did not contain public notice procedures because the Bank Board considers RSU's to be merely a convenience service for customers whose accounts are based at branch offices, and this view has been judicially upheld. However, because the CRA applies to applications for any "facility with the ability to accept deposits," such procedures have been adopted for RSU applications involving deposit services.

BRANCH APPLICATIONS (12 CFR 545.14, 545.14-1, 545.14-4, 545.14-5)

Procedural changes for branch office applications are substantively the same as those applicable to charters, except that: (1) Required newspaper publication of notice of application shall be made both in applicant's home office community and in the community to be served by the proposed branch; and (2) the application shall include information relating to applicant's performance in helping to meet community credit needs in its existing local communities.

Changes to the regulations for drive-in facilities (§ 545.14-1) mobile facilities (§ 545.14-4) and satellite offices (§ 545.14-5) parallel branch office regulation changes, including application procedures regarding protest. The new procedures for satellite offices adopt, in part, Board Resolution No. 77-605 (42 FR 55822-55823; October 19, 1977), in which the Bank Board proposed that a protestant could request oral argument on a satellite application only if the Supervisory Agent determines that the protest is "substantial." Most respondents favored this amendment, and it brings satellite office application procedures into conformance with procedures for all other applications.

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CHANGE-OF-OFFICE LOCATION (12 CFR 545.16)

Previous procedures followed the requirements for branch applications except that the Supervisory Agent had broad discretion to waive notice, protest, and hearing requirements. New procedures conform to those required for the other types of applications. Additionally, an applicant for relocation is now required to publish notice in the community where the office is to be closed and to post a notice at such office. Further, the previous application exception for redesignation of a branch as a home office has been abolished.

MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION (12 CFR 546.2)

Previous regulations offered no opportunity for protest or hearing and allowed applicants either to publish notice of application or to notify all members of each merging institution. Under the new procedures, notice, protest, and hearing requirements for other applications substantially apply except that, while applicants may mail notice to voting members of each institution, they must publish notice in the community where the home office of each merging institution is located.

INSURANCE OF ACCOUNTS (12 CFR 562.4, 562.5, AND 562.6)

Previous regulations followed the procedures set forth for charter applications; new expanded procedures continue to do so. Previous § 562.6(c) exempted operating State-chartered institutions applying for deposit insurance from most of the procedural requirements of this part. This exemption has been eliminated.

MERGER, CONSOLIDATION, OR PURCHASE OF BULK ASSETS (12 CFR 563.22)

Previous regulations were the same as merger regulations under 12 CFR 546; the same changes apply.

HOLDING COMPANY ACQUISITIONS (12 CFR 584.5(g))

Previous regulations required the Federal Savings and Loan Insurance corporation to publish notice in the FEDERAL REGISTER upon receipt of an application filed under this section and to solicit public comment, but did not provide for protest and hearings.

New procedures eliminate FEDERAL REGISTER publication and, instead, require applicants to comply substantially with the procedures for charter applications, except that publication of notice of application must be made in the community in which the home offices of the largest subsidiary insured institution and any institution to be acquired are located.

The Bank Board's statement of policy describing staff handling of applications for charters and branches, set out at 12 CFR 556.5, is being revised in light of the changed procedures described above, and will be amended at a later date.

The Bank Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. 553(b) and 12 CFR 508.11 because these amendments relate to rules of agency procedure; and publication of the amendments for the full 30-day period in 5 U.S.C. 553(d) and 12 CFR 508.14 would not be in the public interest because it is important that these changes take effect concurrently with the CRA regulations.

Accordingly, the Federal Home Loan Bank Board hereby amends 12 CFR 543.2, 545.4-2, 545.14, 545.14-1, 545.14-4, 545.14-5, 545.16, 546.2, 562.4, 563.22, and 584.5, and deletes 12 CFR 562.5 and 562.6(c), to read as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

1. Section 543.2 is revised to read as follows:

§ 543.2 Application for permission to organize.

(a) *General.* Questions regarding this section shall be directed to the Board's Supervisory Agent (as defined in § 501.11 of this chapter) of the district in which the proposed association is to be located. Recommendations by Supervisory Agents and officers and employees of the Board regarding application for permission to organize a Federal association are privileged, confidential, and subject to § 505.6 of this chapter.

(b) *Form; supporting information.* Persons applying for permission to organize a Federal association shall obtain Board-approved application and notice forms and related instructions from the Supervisory Agent. An application and all required supporting information shall be executed by at least seven persons residing in the community to be served by the proposed association (the "applicants") and submitted to the Supervisory Agent. The application shall include an estimate of the annual income and expenses of the proposed association and of the annual volume of business to be transacted by it, and a statement of the personnel and office facilities to be provided for the operation of such association. The supporting information shall show: (1) Applicants are citizens of the United States of good character and responsibility; (2) there is a necessity for the proposed association in the community to be served by it; (3) the association has a reasonable probability of success; (4) it can be established without undue injury to properly conducted existing local thrift and home-financing institutions; and (5) a description of local community credit needs. An application shall be deemed filed when four copies of such materials are delivered to the Supervisory Agent; the application shall be deemed complete when the Supervisory Agent determines that all information required under this paragraph has been submitted.

(c) *Amendment of application; additional information.* An applicant may amend an application or file additional supporting information only until publication of notice under paragraph (d) of this section, unless otherwise requested to do so by the Supervisory Agent or the Board.

(d) *Public notice and inspection.* (1) After the Supervisory Agent determines that the application is complete, the applicant shall be directed in writing to publish notice within 15 days of receipt of such direction. Notice shall be published on the same day of each of 2 consecutive weeks in a newspaper printed in the English language and having a general circulation in the community in which the home office of the new association is to be located. If the Supervisory Agent determines that the primary language of a significant number of the adult residents of the community is a language other than English, she/he may require that notice also be given in the appropriate language(s).

(2) Promptly after publication, the applicant(s) shall transmit to the Supervisory Agent two copies of each notice and publisher's affidavit of publication.

(3) The Supervisory Agent shall give notice of the application to the State official who supervises savings and loan associations in the State in which the new association is to be located, and to persons whose requests for announcements under § 563e.6 of this chapter have been received in time for such notification; these notices shall be in addition to legal notification as set forth in paragraph (d) of this section. The Supervisory Agent may also give notice to any other persons she/he believes might have an interest in the application.

(4) The application and its filing shall be confidential until publication of notice. Thereafter, the application and all related communications may be inspected by any person at the Supervisory Agent's office during regular working hours, unless application information is exempted from public disclosure under § 505.5 of this chapter.

(e) *Protest.* Communications and answers to protests shall be submitted only as provided in this paragraph or as requested by the Supervisory Agent or the Board. (1) Within 10 days of the last date of publication of notice of application (or 30 days after such date if extension is requested in writing within the 10-day period), any person may file a communication in favor or protest of the application by furnishing four copies to the Supervisory Agent.

(2) Within 10 days after filing of a protest, the Principal Supervisory Agent shall advise the protestant and the applicant, in writing, whether the protest is considered "substantial."

(3) The applicant may file an answer to any protest until 15 days after the last date for filing of communications by furnishing four copies to the Supervisory Agent.

(4) A protest shall be considered "substantial" only if it is written, seasonably filed, and contains at least the following:

(i) A summary of the reasons for the protest;

(ii) The specific matters in the application to which the protestant objects, and the reasons for each objection;

(iii) Facts supporting the protest, including relevant economic or financial data; and

(iv) Any adverse effects on the protestant which may result from approval of the application.

(5) The Principal Supervisory Agent's determination whether a protest is "substantial" is final. A protest filed by an individual or community group pertaining to an applicant's performance under part 563e of this chapter (the Community Reinvestment Act regulations) shall not be considered insubstantial merely because of the form in which it is submitted.

(f) *Oral argument.*—(1) *General.* Oral argument on the merits of an application shall be heard if (i) the applicant or a person who has filed a substantial protest so requests and the request is received by the Supervisory Agent within 10 days after the time for filing communications has expired; or (ii) the Supervisory Agent, after reviewing the application and other pertinent information, considers oral argument desirable. The Supervisory Agent shall mail notice of the time (which shall be not less than 10 days after such mailing) and place of oral argument to the applicants and persons who filed communications. In the case of protests pertaining to part 563e of this chapter, the Supervisory Agent shall insure that the time and place of any oral argument is reasonably convenient to the protestants.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, may hear oral arguments and determine all matters relating to the conduct thereof. Arguments may be made in person or by authorized representatives and unless otherwise permitted by the Supervisory Agent, shall be based only on written information previously filed regarding the application. A reasonable time of at least 1 hour shall be allowed to each side for oral argument. A transcript of the oral argument shall be made and included in the application file.

(g) *Approval.* Decisions on all applications for permission to organize Federal associations will be made by the Board. Approvals of applications will condition issuance of any charter on the following: (1) A minimum number of subscribers to the association's capital; (2) a minimum amount of capital to be paid into the association's accounts on issuance of the charter; and (3) satisfaction of any other requirement the Board may impose. Approval of an application does not obligate the Board to issue a charter.

PART 545—OPERATIONS

2. Paragraph (p) of § 545.4-2 is amended by adding a new subparagraph (4) thereto, to read as set forth below.

§ 545.4-2 Remote service unit.

* * * * *

(p) *Applications.* * * *

(4) *Procedures.* Processing of an application for a remote service unit involving the offering of deposit services shall follow the procedures set forth in §§ 543.2 (c) and (d) and 545.14(d)(2) of this subchapter and, in the case of communications pertaining to part 563e of this chapter, § 543.2 (e) and (f) of this subchapter.

* * * * *

3. Section 545.14 is amended by revising paragraphs (c), (d), and (e), and deleting paragraphs (f), (g), and (h) thereof, as set forth below; and changing the cross-reference to paragraph (g)(3) contained in paragraph (k) to refer to paragraph (e).

§ 545.14 Branch office.

* * * * *

(c) *Application form; supporting information.* An applicant for permission to establish a branch office shall obtain Board-approved application and notice forms, and related instructions from the Supervisory Agent. Supporting information shall be furnished to show: (1) A necessity for the proposed branch in the community to be served by it at the time it is opened; (2) the branch has a reasonable probability of success; (3) the branch can be established without undue injury to properly conducted existing local thrift and home-financing institutions; and (4) applicant's performance in helping to meet the credit needs of its existing local communities.

(d) *Filing; completion; supervisory objection.* (1) An application shall be deemed filed when four copies of the materials described in paragraph (c) of this section are delivered to the Supervisory Agent; the application shall be deemed complete when the Supervisory Agent determines that all information required under paragraph (c) has been submitted. (2) No application shall be accepted for processing if, in the opinion of the Board, the association is not eligible, or its policies, condition, or operations afford a basis for supervisory objection. A determination by the Supervisory Agent that the application is complete, applicant is eligible, and that as a preliminary matter there is no basis for supervisory objection to the application, shall be made before direction is given for publication of notice.

(e) *Amendment of application; additional information; public notice and inspection; processing.* Processing of an application for a branch office shall follow the procedures set forth in § 543.2 (c), (d), (e), and (f) of this subchapter, except that (1) the required newspaper publication of notice of application shall be made both in the applicant's home office community and in the community to be served by the proposed branch office; and (2) the application and its filing shall be confidential until publication of notice, unless otherwise provided in a working understanding between the Board and a State agency which regulates State-chartered savings and loan associations, and the applicant is so informed upon filing; after publication of notice, the application file, including any communication and answers, shall be available as provided in § 543.2(d)(4).

(f) [Deleted]

(g) [Deleted]

(h) [Deleted]

* * * * *

4. Section 545.14-1 is amended by adding new subsection (c) to read as set forth below.

§ 545.14-1 Drive-in facility.

* * * * *

(c) *Procedures.* (1) Processing of an application for a drive-in facility under the preceding paragraph shall follow the procedures set forth in § 545.14 (d), (e), and (k). (2) The applicant must additionally submit information regarding its performance in helping to meet the credit needs of its existing local communities.

5. Section 545.14-4 is amended by deleting the last sentence of paragraph (d) and substituting a new sentence therefor; revising paragraph (e); and deleting paragraphs (f), (g), (h), and (i), thereof; to read as set forth below.

§ 545.14-4 Mobile facility.

* * * * *

(d) *Application form; supporting information.* * * * It shall also contain information relating to the applicant's performance in helping to meet the credit needs of its existing local communities.

(e) *Procedures.* Processing of an application for a mobile facility shall

follow the procedures set forth in § 545.14 (d), (e), and (k).

(f) [Deleted]
(g) [Deleted]
(h) [Deleted]
(i) [Deleted]

• • • • • •

6. Section 545.14-5 is amended by removing the word "and" immediately before subparagraph (2) of paragraph (d), placing it after such subparagraph, and adding a new subparagraph (3) thereto; revising paragraph (e); amending paragraph (g) by adding a new subparagraph (5) thereto; and deleting paragraphs (f) and (h) thereof; to read as set forth below.

§ 545.14-5 Satellite office.

• • • • • •

(d) *Application form; supporting information.* • • • and (3) applicant's performance in helping to meet the credit needs of its existing local communities.

(e) *Procedures.* Processing of an application for a satellite office shall follow the procedures set forth in § 545.14 (d), (e), and (k).

(f) [Deleted]

(g) *Approval by Supervisory Agent.* • • •

(5) Applicant's record of performance in helping to meet the credit needs of its existing local communities has been taken into account and, in the opinion of the Supervisory Agent, should not result in denial of the application;

• • • • • •

(h) [Deleted]

• • • • • •

7. Section 545.16 is amended by adding a sentence to the end of paragraph (b); revising paragraphs (c); deleting paragraphs (d), (e), (f), and (h) thereof, to read as set forth below; and amending paragraph (g) by deleting the words "paragraphs (d), (e), and (f) of this section," and substituting the words "paragraphs (d) and (e) of § 545.14 of this part".

§ 545.16 Change of office location.

• • • • •

(b) *Application form; supporting information.* • • • In addition, the application shall contain information, relating to the applicant's performance in helping to meet the credit needs of its existing local communities.

(c) *Processing of application.* Processing of an application for a change of office location or redesignation of a home and branch office shall follow the procedures set forth in § 545.14 (d), (e), and (k), except that (1) the required newspaper publication of notice of application shall be made in (i) applicant's home office community, (ii) the community to be served by the new office, and (iii) the community where the office is to be closed or the home office is to be redesignated as a branch; and (2) notice of application shall be posted conspicuously in the office described in subdivision (iii) of this paragraph.

(d) [Deleted]
(e) [Deleted]
(f) [Deleted]

• • • • •

(h) [Deleted]

PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

8. Section 546.2 is amended by revising subparagraph (d)(1) and deleting paragraph (e) thereof, to read as set forth below.

§ 546.2 Procedure; effective date.

• • • • •

(d) (1) Processing of an application under this part shall follow the procedures set forth in § 543.2(c), (d), (e), and (f) of this subchapter, except that (i) the required newspaper publication of notice of application shall be made in the communities in which the home offices of the merging and resulting institutions are located; and (ii) applicants may additionally mail such notice to the voting members of each such institution, within the time specified in § 543.2(d).

• • • • • •

(e) [Deleted]

• • • • •

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 562—APPLICATIONS FOR INSURANCE OF ACCOUNTS

9. Part 562 is amended by revising § 562.4, and deleting § 562.5 and paragraph (c) of § 562.6 thereof, to read as set forth below.

§ 562.4 Processing of application.

Processing of an application under this part shall follow the procedures set forth in § 543.2 (d), (e), and (f) of this chapter.

§ 562.5 [Deleted]

§ 562.6 Exceptions to the foregoing procedure.

• • • • •

(c) [Deleted]

PART 563—OPERATIONS

10. Section 563.22 is amended by revising paragraphs (b) and (d) and deleting paragraph (c) thereof, to read as set forth below.

§ 563.22 Merger, consolidation, or purchase of bulk assets.

• • • • •

(b) Processing of an application under this section shall follow the procedures set forth in § 543.2 (c), (d), (e), and (f) of this chapter, except that (i) the required newspaper publication of notice of application shall be made in the communities in which the home offices of the merging and resulting institutions are located; and (ii) applicants may additionally mail such notice to the voting members of each such institution within the time specified in § 543.2(d).

(c) [Deleted]

(d) The requirements of paragraph (b) of this section do not apply to any merger authorized by the Corporation to be instituted for supervisory reasons.

• • • • •

SUBCHAPTER F—SAVINGS AND LOAN HOLDING COMPANIES

PART 584—REGULATED ACTIVITIES

11. Section 584.4 is amended by revising paragraph (g) thereof to read as set forth below.

§ 584.4 Acquisitions

• • • • •

(g) *Procedure on applications.* (1) Processing of applications under this section shall follow the procedures set forth in § 543.2 (c), (d), (e), and (f) of this chapter, except that the required newspaper publication of notice of application shall be made in (i) the community in which the home office of any institution to be acquired is located; and (ii) the community in which the home office of the largest subsidiary insured institution of the acquiring institution is located.

(2) The provisions of subparagraph (1) do not apply to acquisitions instituted for supervisory reasons.

(Sec. 801, 91 Stat. 1147, 12 U.S.C. 2901 et seq., Pub. L. 95-128 (the Community Reinvestment Act of 1977); sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; secs. 402, 403, 407, 408, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; 82 Stat. 5, Pub. L. 90-255, 12 U.S.C. 1730a; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-28856 Filed 10-10-78; 10:55 am]

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federal register

FRIDAY, OCTOBER 13, 1978

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FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshops (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

ALBANY, NEW YORK

WHEN: October 27 and 28, 1978, at 1:00 p.m.
WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.
RESERVATIONS: Call Elizabeth Closson, 518-474-5943.

DALLAS, TEXAS

WHEN: October 30, 1978, at 9:30 a.m.
WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.
RESERVATIONS: Call Federal Information Center, 214-749-2131.

FORT WORTH, TEXAS

WHEN: October 31 1978, at 9:30 a.m.
WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.
RESERVATIONS: Call Federal Information Center, 817-334-3624.

AUSTIN, TEXAS

WHEN: November 2, 1978, at 2 p.m.
WHERE: Room 1008, Regan Office Building, 15th & Congress Sts., Austin, Texas.
RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512-475-6725.

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HEW—Procurement regulations 39778; 9-7-78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: October 12, 1978]

H.R. 12930 ..... Pub. L. 95-429
"Treasury, Postal Service, and General Government Appropriations Act, 1979". (Oct. 10, 1978; 92 Stat. 1001). Price: $1.00.

H.R. 11005 ..... Pub. L. 95-430
To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979. (Oct. 10, 1978; 92 Stat. 1020). Price: $.60.

H.R. 12934 ..... Pub. L. 95-431
"Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979". (Oct. 10, 1978; 92 Stat. 1021). Price: $1.20.

H.R. 13349 ..... Pub. L. 95-432
To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes. (Oct. 10, 1978; 92 Stat. 1046). Price: $.60.

H.R. 10581 ..... Pub. L. 95-433
Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes. (Oct. 10, 1978; 92 Stat. 1047). Price: $.60.

H.R. 11400 ..... Pub. L. 95-434
National Science Foundation Authorization Act for fiscal year 1979. (Oct. 10, 1978; 92 Stat. 1049). Price: $.60.

H.R. 9214 ..... Pub. L. 95-435
To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund. (Oct. 10, 1978; 92 Stat. 1051). Price: $.60.

S. 409 ..... Pub. L. 95-436
To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center". (Oct. 10, 1978; 92 Stat. 1054). Price: $.60.

H.R. 10126 ..... Pub. L. 95-437
Federal Employees Part-Time Career Employment Act of 1978. (Oct. 10, 1978; 92 Stat. 1055). Price: $.70.

S. 425 ..... Pub. L. 95-438
To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired). (Oct. 10, 1978; 92 Stat. 1060). Price: $.60.

S. 286 ..... Pub. L. 95-439
To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes. (Oct. 10, 1978; 92 Stat. 1061). Price: $.60.

S. 1267 ..... Pub. L. 95-440
To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents. (Oct. 10, 1978; 92 Stat. 1062). Price: $.60.

S. 2946 ..... Pub. L. 95-441
To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control. (Oct. 10, 1978; 92 Stat. 1064). Price: $.60.

S. 2951 ..... Pub. L. 95-442
To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs. (Oct. 10, 1978; 92 Stat. 1065). Price: $.60.

S. 3045 ..... Pub. L. 95-443
To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products. (Oct. 10, 1978; 92 Stat. 1066). Price: $.60.

S. 3067 ..... Pub. L. 95-444
Civil Rights Commission Act of 1978. (Oct. 10, 1978; 92 Stat. 1067). Price: $.60.

S. 3092 ..... Pub. L. 95-445
Humane Methods of Slaughter Act of 1978. (Oct. 10, 1978; 92 Stat. 1069). Price: $.60.

S. 3274 ..... Pub. L. 95-446
To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center". (Oct. 10, 1978; 92 Stat. 1071). Price: $.60.

S. 3036 ..... Pub. L. 95-447
To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes. (Oct. 10, 1978; 92 Stat. 1072). Price: $.60.

H.R. 13125 ..... Pub. L. 95-448
Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes. (Oct. 11, 1978; 92 Stat. 1073). Price: $1.10.

S.J. Res. 29 ..... Pub. L. 95-449
To authorize the President to issue a proclamation designating the week in November 1978, which includes Thanksgiving Day as "National Family Week". (Oct. 11, 1978; 92 Stat. 1094). Price: $.60.

H.R. 12025 ..... Pub. L. 95-450
"Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act". (Oct. 11, 1978; 92 Stat. 1095). Price: $.70.

S. 3467 ..... Pub. L. 95-451
To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station". (Oct. 11, 1978; 92 Stat. 1100). Price: $.60.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 180—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Revision of Personal Property Claims Regulations

AGENCY: Civil Service Commission.

ACTION: Final.

SUMMARY: The Civil Service Commission is revising Part 180 of Title 5, Code of Federal Regulations. A review of claims filed under current regulations indicates a need to revise the regulations to more fully comport with the apparent intent of the governing statute—the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. § 240 to 243.

EFFECTIVE DATE: October 13, 1978

FOR FURTHER INFORMATION CONTACT:

John Murphy, Office of the General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415 202-632-7600.

Accordingly, 5 CFR Part 180 is revised as set forth below:

Sec.
180.101 Scope and purpose.
180.102 Claimants.
180.103 Time limitations.
180.104 Allowable claims.
180.105 Claims not allowed.
180.106 Claims involving carriers and insurers.
180.107 Claims procedure.
180.108 Settlement of claims.

AUTHORITY: Sec. 3, 78 Stat. 767, as amended; 31 U.S.C. 241.

§ 180.101 Scope and purpose.

(a) The Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 240 to 243, authorizes the Chairman of the Civil Service Commission to settle and pay (including replacement in kind) claims of officers and employees of the Commission, amounting to not more than $15,000, for damage to or loss of personal property incident to their service. Claims are payable only for such types, quantities, or amounts of tangible personal property (including money) as the approving authority shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss. In determining what is reasonable, useful, or proper, the approving authority will consider the type and quantity of property involved, circumstances attending acquistion and use of the property, and whether possession or use by the claimant at the time of damage or loss was incident to service.

(b) The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual tastes. While the Government does not attempt to limit possession of property by an individual, payment for damage or loss is made only to the extent that the possession of the property is determined to be reasonable, useful, or proper. If individuals possess excessive quantities of items, or expensive items, they should have such property privately insured.

§ 180.102 Claimants.

(a) The following are proper claimants:

(1) Officers and employees of the Commission;

(2) Former officers and employees of the Commission whose claims arose out of incidents which occurred before their separation;

(3) The authorized agent or legal representative of persons in §§ 180.102(a)(1) and 180.102(a)(2);

(4) Survivors of persons in §§ 180.102(a)(1) and 180.102(a)(2) in the following order of precedence:

(i) Spouse,

(ii) Children,

(iii) Father or mother, or both,

(iv) Brothers or sisters, or both.

(b) A claim may not be presented by or for the benefit of a subrogee, assignee, conditional vendor, or other third party.

§ 180.103 Time limitations.

A claim must be presented in writing within 2 years after it accrues, except during war or armed conflict. If war or armed conflict occurs within the 2-year period following accrual, when claimant shows good cause, the claim may be presented within 2 years after the cause ceases to exist but not more than 2 years after termination of the war or armed conflict. A claim accrues when loss or damage is or should have been discovered by claimant even though such loss or damage occurred at a prior time.

§ 180.104 Allowable claims.

(a) A claim may be allowed only if:

(1) The damage or loss was not caused wholly or partly by the negligent or wrongful act of the claimant, claimant's agent, a member of claimant's family, or claimant's private employee (the standard to be applied is that of reasonable care under the circumstances);

(2) The possession of the property damaged or lost and the quantity possessed is determined to have been reasonable, useful, or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this part shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss or solely because the claimant was not legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in § 180.104(a) and the other provisions of this part, any claim for damage to or loss of personal property incident to service with the Commission may be considered and allowed. The following are examples of the principal types of claims which may be allowed. These examples are not exclusive and other types of claims may be allowed unless excluded by § 180.106:

(1) *Property damaged or lost in quarters.* Claims may be allowed for damage to or loss of property located at:

(i) Quarters within the 50 States and the District of Columbia that were assigned to the claimant or otherwise provided in kind by the United States;

(ii) Quarters outside the 50 States and the District of Columbia that were occupied by the claimant, whether or not they were assigned or otherwise provided in kind by the United States, except when the claimant is a local inhabitant; or

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(iii) Any warehouse, office, working area, or other place (except quarters) authorized or apparently authorized for the reception or storage of property.

(2) *Transportation or travel losses.* Claims may be allowed for damage to or loss of property incident to transportation or storage pursuant to orders, or in connection with travel under orders, including property in custody of a carrier, an agent or agency of the Government, or the claimant.

(3) *Motor vehicles.* Claims may be allowed for automobiles and other motor vehicles damaged or lost in oversea shipments provided by the Government. "Shipments provided by the Government" means via Government vessels, charter of commercial vessels, or by Government bills of lading on commercial vessels, and includes storage, unloading, and offloading incident thereto. Other claims for damage to or loss of automobiles and other motor vehicles may be allowed only when use of the vehicle on a non-reimbursable basis was required by the claimant's supervisor.

(4) *Mobile homes.* Claims may be allowed for damage to or loss of mobile homes and their contents under the provisions of § 180.104(c)(2). Claims for structural damage to mobile homes, other than that caused by collision, and damage to contents of mobile homes resulting from such structural damage must contain conclusive evidence that the damage was not caused by structural deficiency of the mobile home and that it was not overloaded. Claims for damage to or loss of tires mounted on mobile homes may be allowed only in cases of collision, theft, or vandalism.

(5) *Money.* Claims for money in an amount that is determined to be reasonable for the claimant to possess at the time of the loss are payable:

(i) Where personal funds were accepted by responsible Government personnel with apparent authority to receive them for safekeeping deposit, transmittal, or other authorized disposition, but were neither applied as directed by the owner nor returned;

(ii) When lost incident to a marine or aircraft disaster;

(iii) When lost by fire, flood, hurricane, or other natural disaster;

(iv) When stolen from the quarters of the claimant where it is conclusively shown that the money was in a locked container and that the quarters themselves were locked;

(v) When taken by force from the claimant's person.

(6) *Clothing.* Claims may be allowed for clothing and accessories worn on the person which are damaged or lost:

(i) During the performance of official duties in an unusual or extraordinary-risk situation;

(ii) In cases involving emergency action required by natural disaster such as fire, flood, hurricane, or by enemy or other belligerent action;

(iii) In cases involving faulty equipment or defective furniture maintained by the Government and used by the claimant as required by the job situation; or

(iv) When using a motor vehicle.

(7) *Property used for benefit of the Government.* Claims may be allowed for damage to or loss of property (except motor vehicles) used for the benefit of the Government at the request of, or with the knowledge and consent of, superior authority or by reason of necessity.

(8) *Enemy action or public service.* Claims may be allowed for damage to or loss of property as a direct consequence of:

(i) Enemy action or threat thereof, or combat, guerilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nationals;

(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster; or

(iii) Efforts by the claimant to save human life or Government property.

(9) *Marine or aircraft disaster.* Claims may be allowed for personal property damaged or lost as a result of marine or aircraft disaster or accident.

(10) *Government property.* Claims may be allowed for property owned by the United States only when the claimant is financially responsible to an agency of the Government other than the Commission.

(11) *Borrowed property.* Claims may be allowed for borrowed property that has been damaged or lost.

§ 180.105 Claims not allowed.

(a) A claim is not allowable if:

(1) The damage or loss was caused wholly or partly by the negligent or wrongful act of the claimant, claimant's agent, claimant's employee, or a member of claimant's family;

(2) The damage or loss occurred in quarters occupied by the claimant within the 50 States and the District of Columbia that were not assigned to the claimant or otherwise provided in kind by the United States;

(3) Possession of the property lost or damaged was not incident to service or not reasonable or proper under the circumstances.

(b) In addition to claims falling within the categories of § 180.105(a), the following are examples of claims which are not payable:

(1) *Claims not incident to service.* Claims which arose during the conduct of personal business are not payable.

(2) *Subrogation claims.* Claims based upon payment or other consideration to a proper claimant are not payable.

(3) *Assigned claims.* Claims based upon assignment of a claim by a proper claimant are not payable.

(4) *Conditional vendor claims.* Claims asserted by or on behalf of a conditional vendor are not payable.

(5) *Claims by improper claimants.* Claims by persons not designated in § 180.102(a) are not payable.

(6) *Small items of substantial value.* Claims are not payable for money or for small articles of substantial value, such as watches or expensive jewelry, when shipped with household goods or as unaccompanied baggage.

(7) *Articles of extraordinary value.* Claims are not payable for expensive articles of gold, silver, other precious metals, paintings, antiques other than bulky furnishings, relics, and other articles of extraordinary value when shipped with household goods by ordinary means or as unaccompanied baggage at normal released valuation. Claims for such articles are payable when their loss is incident to shipment by expedited mode in accordance with current joint travel regulations. This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked, provided that reasonable protection or security measures have been taken by the claimant.

(8) *Articles acquired for other persons.* Claims are not payable for articles intended directly or indirectly for persons other than the claimant or members of the claimant's immediate household. This prohibition includes articles acquired at the request of others and articles for sale.

(9) *Property used for business.* Claims are not payable for property normally used for business or profit.

(10) *Unserviceable property.* Claims are not payable for wornout or unserviceable property.

(11) *Violation of law or directive.* Claims are not payable for property acquired, possessed, or transported in violation of law, regulation, or other directive. This does not apply to limitations imposed on the weight of shipments of household goods.

(12) *Intangible property.* Claims are not payable for intangible property such as bank books, checks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money order, and traveler's checks.

(13) *Government property.* Claims are not payable for property owned by the United States unless the claimant is financially responsible for the property to an agency of the Government other than the Commission.

(14) *Motor vehicles.* Claims for motor vehicles, except as provided for by § 180.104(c)(3), will ordinarily not be paid. However, in exceptional cases, meritorius claims for damage to or loss of motor vehicles may be recommended to the Office of the General Counsel for consideration and appproval for payment.

(15) *Enemy property.* Claims are not payable for enemy property, including war trophies.

(16) *Losses recoverable from carrier.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from a carrier, except as permitted under § 180.106.

(17) *Losses recoverable from insurer.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from an insurer, except as permitted under § 180.106.

(18) *Losses recoverable from contractor.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable under contract, except as permitted under § 180.106.

(19) *Fees for estimates.* Claims are not normally payable for fees paid to obtain estimates of repair in conjuction with submitting a claim under this part. However, where, in the opinion of the approving authority, the claimant could not obtain an estimate without paying a fee, such a claim may be considered in an amount reasonable in relation to the value or the cost of repairs of the articles involved, provided that the evidence furnished clearly indicates that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(20) *Items fraudulently claimed.* Claims are not payable for items fraudulently claimed. When investigation discloses that a claimant, claimant's agent, claimant's employee, or member of claimant's family has intentionally misrepresented an item claimed as to cost, condition, cost to repair, etc., the item will be disallowed in its entirety even though some actual damage has been sustained. However, if the remainder of the claim is proper it will be paid. This does not preclude appropriate disciplinary action if warranted.

§ 180.106 Claims involving carriers and insurers.

(a) Claimants must comply with the following before presenting claims involving a carrier or insurer:

(1) Whenever property is damaged or lost while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the carrier according to the terms of its bill of lading or contract before submitting a claim against the Government. The claimant may present a claim to the Government immediately after making demand on the carrier.

(2) Whenever property which is damaged or lost incident to the claimant's service is insured in whole or in part, the claimant must make a written demand against the insurer for reimbursement under the terms and conditions of the insurance coverage. Such demand should be made within the time limit provided in the policy and prior to the filing of a claim against the Government. The claimant may present a claim to the Government immediately after making demand on the insurer.

(b) If the claimant fails to make the required demand on the carrier or insurer or make reasonable efforts to collect the amount recoverable, the amount payable under the provisions of these regulations shall be reduced by the maximum amount recoverable. However, no deduction will be made if the circumstances of the claimant's service were such as to preclude timely filing of the claim with the carrier or insurer and it is determined that a demand would have been impracticable or unavailing in any event.

(c) When a claim is paid by the Commission, the claimant will assign to the United States, to the extent of any payment on the claim accepted by claimant, all rights, title, and interest in any claim against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. On request, the claimant also will furnish such evidence as may be required to enable the United States to enforce the claim.

(d) After payment of a claim by the United States, if the claimant receives any payment from a carrier, contractor, insurer, or other third party, the claimant will pay the proceeds to the United States to the extent of the payment received by the claimant from the United States.

§ 180.107 Claims procedure.

(a) *Filing a claim.* Claims not exceeding $500 shall be filed with the appropriate bureau or regional director. Claims in excess of $500 shall be filed with the Office of the General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Claims shall be in writing, using G.C. Form 33 when available, and shall contain as a minimum:

(1) Name, address, and place of employment of the claimant;

(2) Place and date of the damage or loss;

(3) A brief statement of the facts and circumstances surrounding the damage or loss;

(4) Cost, date, and place of acquisition of each piece of property damaged or lost;

(5) Two itemized repair estimates, or value estimates, whichever is applicable;

(6) Copies of police reports, if applicable;

(7) A statement from the claimant's supervisor that the loss was incident to service;

(8) A statement that the property was or was not insured;

(9) With respect to claims involving thefts or losses in quarters or other places where the property was reasonably kept, a statement as to what security precautions were taken to protect the property involved;

(10) With respect to claims involving property being used for the benefit of the Government, a statement by the claimant's supervisor that the claimant was required to provide such property or that the claimant's providing it was in the interest of the Government; and

(11) Other evidence as may be required.

(b) *Single claim.* A single claim shall be presented for all lost or damaged property resulting from the same incident. If this procedure causes a hardship, the claimant may present an initial claim with notice that it is a partial claim, an explanation of the circumstances causing the hardship, and an estimate of the balance of the claim and the date it will be submitted. Payment may be made on a partial claim if the approving authority determines that a genuine hardship exists.

(c) *Claims investigator.* When a claim is filed, the appropriate bureau or regional director, or the General Counsel, shall appoint a claims investigator to evaluate the claim and make a recommendation as to its disposition. Where the cost to repair damaged property does not exceed $100 per item and the claims investigator has inspected the damaged property, the claimant and the approving authority may agree upon a reasonable amount to be claimed for repair of an individual item in lieu of an independent estimate by a qualified repairman. In such a case, the claims investigator and the approving authority will certify that the property has been examined and that the amount claimed is a reasonable allowance for the cost of the repairs.

(d) *Loss in quarters.* Claims for property loss in quarters or other authorized places should be accompanied by a statement indicating:

(1) Geographical location;

(2) Whether the quarters were assigned or provided in kind by the Government;

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(3) Whether the quarters are regularly occupied by the claimant;
(4) Name of the authority, if any, who designated the place of storage of the property if other than quarters;
(5) Measures taken to protect the property; and
(6) Whether the claimant is a local inhabitant.

(e) *Loss by theft or robbery.* Claims for property loss by theft or robbery should be accompanied by a statement indicating:
(1) Geographical location;
(2) Facts and circumstances surrounding the loss, including evidence of the crime such as breaking and entering, capture of the thief or robber, or recovery of part of the stolen goods; and
(3) Evidence that the claimant exercised due care in protecting the property prior to the loss, including information as to the degree of care normally exercised in the locale of the loss due to any unusual risks involved.

(f) *Transportation losses.* Claims for transportation losses should be accompanied by the following:
(1) Copies of orders authorizing the travel, transportation, or shipment or a certificate explaining the absence of orders and stating their substance;
(2) Statement in cases where property was turned over to a shipping officer, supply officer, or contract packer indicating:
(i) Name (or designation) and address of the shipping officer, supply officer, or contract packer;
(ii) Date the property was turned over;
(iii) Inventoried condition when the property was turned over;
(iv) When and where the property was packed and by whom;
(v) Date of shipment;
(vi) Copies of all bills of lading, inventories, and other applicable shipping documents;
(vii) Date and place of delivery to the claimant;
(viii) Date the property was unpacked by the carrier, claimant, or Government;
(ix) Statements of disinterested witnesses as to the condition of the property when received and delivered, or as to handling or storage;
(x) Whether the negligence of any Government employee acting within the scope of his employment caused the damage or loss;
(xi) Whether the last common carrier or local carrier was given a clear receipt, except for concealed damages;
(xii) Total gross, tare, and net weight of shipment;
(xiii) Insurance certificate or policy if losses are privately insured;
(xiv) Copy of the demand on carrier or insured, or both, when required, and the reply, if any;
(xv) Action taken by the claimant to locate missing baggage or household effects, including related correspondence.

(g) *Marine or aircraft disaster.* Claims for property losses due to marine or aircraft disaster should be accompanied by a copy of orders or other evidence to establish the claimant's right to be, or to have property, on board.

(h) *Enemy action, public disaster, or public service.* Claims for property losses due to enemy action, public disaster, or public service should be accompanied by:
(1) Copies of orders or other evidence establishing the claimant's required presence in the area involved, and
(2) A detailed statement of facts and circumstances showing an applicable case enumerated in § 180.104(c)(8).

(i) *Property used for benefit of Government.* Claims for property loss when the property was used for the benefit of the Government should be accompanied by:
(1) A statement from the proper authority that the property was supplied by the claimant in the performance of official business at the request of, or with the knowledge and consent of, superior authority or by reason of necessity; and
(2) If the property being used for the benefit of the Government was damaged or lost while not in use, evidence that the loss occurred in an authorized storage area.

(j) *Money.* Claims for loss of money deposited for safekeeping, transmittal, or other authorized disposition, should be accompanied by:
(1) Name, grade, and address of the person or persons who received the money and any others involved;
(2) Name and designation of the authority who authorized such person or persons to accept personal funds, and the disposition required; and
(3) Receipts and written sworn statements explaining the failure to account for funds or return them to the claimant.

(k) *Motor vehicles in transit.* Claims for damage to motor vehicles in transit should be accompanied by a copy of orders or other available evidence to establish the claimant's lawful right to have the property shipped and evidence to establish damage in transit.

§ 180.108 Settlement of Claims.

(a) *Authority.* Bureau Directors and Regional Directors are authorized to settle and pay any claim not exceeding $500 and arising under this part. The General Counsel is authorized to settle and pay any claim not exceeding $15,000 and arising under this part. Unless cognizable under § 180.104 (c)(3), claims for damage to or loss of motor vehicles may be settled and paid only by the General Counsel.

(b) *Redelegation.* The approving authorities may establish such procedures and make such redelegations as may be required to fulfill the objectives of this part.

(c) *Cost or value.* The amount awarded on any item of property will not exceed the cost of the item (either the price paid in cash or property) or the value at the time of acquisition if not acquired by purchase or exchange. The amount payable will be determined by applying the principles of depreciation to the adjusted dollar value or other base price of property lost or damaged beyond economical repair; by allowing the cost of repairs when an item is economically repairable, provided the cost of repairs does not exceed the depreciated value of the item; and by deducting salvage value, if appropriate.

(d) *Depreciation.* Depreciation in value of an item is determined by considering the type of article involved, its cost, condition when damaged beyond economical repair or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(e) *Appreciation.* There will be no allowance for appreciation in the value of the property except that the cost of the item may be adjusted to reflect changes in the purchasing power of the dollar before depreciation is computed. Appreciation will not be allowed solely because the loss occurred or the claimant now resides in an area remote from the place of purchase of the property.

(f) *Expensive articles.* Allowance for expensive items (including heirlooms and antiques) or for items purchased at unreasonably high prices will be based on the fair and reasonable purchase price for substitute articles of a similar nature.

(g) *Acquisition.* Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter. No reimbursement will be made for articles acquired in black market or other prohibited activities.

(h) *Replacement.* Replacement of damaged or lost property may be made in kind whenever appropriate.

(i) *Amount allowable.* Subject to the limitations of §§ 180.108(c) through 180.108(h), the amount allowable in settlement of a claim is either:
(1) The depreciated value immediately prior to damage or loss of property damaged beyond economical repair or lost, less any salvage value; or
(2) The reasonable cost of repairs when property is economically repairable, provided that the cost of repairs does not exceed the depreciated value.

(j) *Notification.* The approving authority shall notify the claimant in writing of the action taken on the claim and, if the claim is disapproved or only partially approved, the reasons therefor.

(k) *Carrier or insurer.* In the event a claim submitted against a carrier or insurer under § 180.106 had not been settled before settlement of a claim against the Government under this part, the approving authority shall notify such carrier or insurer to pay the proceeds of the claim to the Commission to the extent the Commission has made payment to the claimant.

(l) *Review.* The action of the approving authority is final; however, the decision may be reconsidered if the claimant so requests and submits a written explanation why reconsideration is appropriate.

(m) *Attorney's fees.* No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating this or any other provision of sections 240 to 243 of title 31, United States Code, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1000.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28616 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Schedule A 213.3115(d) is amended to change the headnote from Manpower Administration to Employment and Training Administration; change the name of the division of Indian Manpower Programs to Division of Indian and Native American Programs; change the title of the position of manpower development officer to supervisory manpower development specialist; show grade level coverage; and delete the word "manpower" from the last sentence of the authority. These changes are made to keep the authority current. This amendment also revokes Schedule B 213.3215(c) for 35 manpower development specialist positions in the Manpower Administration because the authority is no longer used.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533

Accordingly, the headnote of 5 CFR 213.3115(d) and (d)(1) are amended and 5 CFR 213.3215 is revoked as follows:

§ 213.3115 Department of Labor.

• • • • • •

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of supervisory manpower development specialist and manpower development specialist, GS-7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

• • • • • •

§ 213.3215 [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
James C. Spry,
Executive Assistant to the Commissioners.

[FR Doc. 78-28617 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment revokes the Schedule A authorities for the President's Commission on Mental Health, the American Revolution Bicentennial Administration, and the President's Commission on Military Compensation because these organizations no longer exist.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533

Accordingly, 5 CFR 213.3199 (j), (k), and (v) are revoked, as follows:

§ 213.3199 Temporary Boards and Commissions.

• • • • • •

(j) [Revoked]
(k) [Revoked]

• • • • • •

(v) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-28618 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The schedule A authority for employment of students who need the income to stay in school is amended: (1) To permit employment of mentally retarded and severely physically handicapped students because it is impracticable to examine for such appointments; (2) to eliminate the age restriction of 22 to comply with the Age Discrimination in Employment Act; and (3) to permit all students employed under this authority to work full-time during any period (regardless of length) when their school is officially closed because such employment will not interfere with their education.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3102(w) is amended as set out below:

§ 213.3102 Entire Executive Civil Service.

• • • • • •

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign or when filled by mentally retarded or severly physically handicapped students, provided that the following conditions are met: (1) Appointees are enrolled in or accepted in a resident secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in

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any calendar week, except that students may work full-time during any period in which their school is officially closed; (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, that such appointments may be made for additional periods of not to exceed 1 year each if the conditions for initial appointments are still met. Persons may not be appointed under this authority unless they have reached their 16th birthday. Appointments may not be made under this authority between May 1 and August 31, inclusive.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29049 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Four positions of project officer at grades GS-14 and 15 associated with the Social Security Administration's future process project are excepted under schedule A because it is impracticable to examine for them. No one may serve under this authority after December 31, 1985, when the project will be completed.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3116(d)(6) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(d) *Social Security Administration.*

* * *

(6) Four project officers at grades GS-14 and 15 associated with the future process project. No one may serve under this authority after December 31, 1985.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29050 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Smithsonian Institution.

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The service limit for veterinary interns with the National Zoological Park is extended from 15 to 24 months to allow enough time for interns to acquire the full knowledge and skills in exotic animal medicine needed by American zoos. Schedule B exception is still appropriate for the positions because it is still impracticable to hold a competitive examination for them.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3274(a)(1) is amended as set out below:

§ 213.3274 Smithsonian Institution.

(a) *National Zoological Park.*

(1) Four positions of veterinary intern, GS-8/9. Employment under this authority is not to exceed 24 months.

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29051 Filed 10-12-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md. room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Jefferson, Jo Daviess, Knox Counties in Illinois; Garfield County in Utah.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in §78.20 because it has been determined that they now come within the definition of Certified Brucellosis-Free Area in § 78.1(l): Mills County in Iowa.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Jefferson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jersey, Johnson, Kane, Kankakee, Kendall, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Decatur, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Logan, Marion, Marshall, Meade, Mitchell, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman Smith, Stanton, Stevens, Thomas, Trego, Wallace, Washington, Wichita, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Dodge, Douglas, Perkins, Thurston.

New Mexico. Catron, Colfax, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance, Union.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davision, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Clairborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glassock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Peces, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell St. Clair, Shelby, Sumter, Talladege, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Woodruff, Yell.

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Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bonneville, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Jefferson, Jo Daviess, Knox, Massac.

Iowa. Adams, Appanoose, Guthrie, Page, Ringgold, Taylor, Wayne.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Crawford, Dickinson, Ellis, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Sumner, Wabaunsee, Wilson, Woodson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Lacue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Conoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Pierce, Platte, Polk Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, Eddy, Lea, Mora, Quay, Roosevelt, San Miguel, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Heckley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Garfield.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 2, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 129, 132, (21 U.S.C. 111–113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25))

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of October.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator
Veterinary Services.

[FR Doc. 78-28619 Filed 10-12-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

Clarification of Requirement that an Export License Application Must Be Based on an Order

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision restates the general requirement that an export license application must be based on an export order. It highlights the fact that the order need not be in the form of an agreement that can presently be executed or that would become a binding contract upon acceptance. It notes that an order need not be an unconditional offer to buy, but it must be more than a mere business inquiry relating to a possible export. It is issued to clarify and simplify the regulations and does not change the regulations in any substantive manner.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, § 372.6 of the Export Administration regulations (15 CFR 372.6) is revised to read as follows:

§ 372.6 Substantiation of facts on application.

(a) *Orders and other material facts.*—(1) *Order.* An application for an export license must be based on an order. An "order" means a communication from a person in a foreign country or his representative expressing an intent to import commodities or technical data from the applicant or order party, as defined in § 372.6(b) below. While an order must, in any case, be more than a mere business inquiry relating to a possible export, it need not be an agreement that can presently be executed or that would become a binding contract upon acceptance. Furthermore, an order need not be an unconditional offer to buy. An order, for instance, may be contingent upon certain variable conditions such as market price, time of delivery, availability of the commodities in kinds and quantities desired, and other undetermined factors. Such a contingent offer still constitutes an order within the meaning of these provisions. Similarly, a continuing or "open" order that remains at all times flexible in some respects may be acceptable. If, however, all of the terms of the order are not finally determined before an application is submitted, all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction. (The Office of Export Administration may grant a waiver of this order requirement under certain circumstances. See § 372.6(c)(1)).

(2) *Documentary evidence.* Before filing an application for an export license, the applicant should have in his possession documentary evidence of the order and of the following facts relating to the purchase transaction that appear on the license application:

(i) Country of ultimate destination;

(ii) Names and addresses of the ultimate consignee, intermediate consignee (if any), purchaser (if other than ultimate consignee), and any other party to the transaction, whether principal or agent, including but not limited to brokers, representatives, or other agents through whom the order was received;

(iii) Quantity, value and description of commodity or technical data to be exported; and

(iv) End use of the export.

If the applicant does not have the documentary evidence that is required, the evidence must be in the possession of the order party involved in the transaction.

(3) *Definitions.* (i) The term "applicant" is defined as the party (or his duly authorized agent) who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the commodities and technical data out of the country and is thus, in reality, the exporter. The applicant must be subject to the jurisdiction of the United States. (ii) The term "order party" is defined as that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and received the order from the foreign purchaser or ultimate consignee. (iii) The term "documentary evidence" means any document(s) from the foreign purchaser or his representative which contain the terms and conditions of an offer to buy the commodities or technical data for which the export license is requested. Such evidence may take the form of a contract signed by both parties, or of letters, telegrams, cables, confirmations, or other documents which set forth the terms of the offer of the foreign purchaser to buy or the acceptance by the foreign purchaser of the exporter's offer to sell. (iv) "Evidence of the facts relating to the purchase transaction" means any document(s) from the purchaser or ultimate consignee that contain the information required in a license application as set forth in § 372.6(a)(2) above. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on a letterhead or order form shall not constitute evidence of either his identity, country of ultimate destination, or end use of the commodities described in the application.

(4) *Order received by foreign agent.* An order received by a foreign agent of a U.S. exporter must be transmitted to the U.S. exporter before an application may be submitted. An application, however, will be accepted if it is based on an order from the foreign agent of a U.S. exporter covering commodities intended for general resale by the foreign agent to presently unknown end users.

(b) *Signature of order party.* The application must be signed by the order party, as well as by the applicant if they are different. The order party should be shown in the "Order Party's Certification" item on the application. The signature of the order party is not required, however, in cases where maintenance, repair, or operating supplies are to be exported for use and consumption by the ultimate consignee and not for resale, and where the applicant has complete records and information concerning the transaction(s), including all correspondence between the foreign consignee and the person in the United States who originally received the order (the order party).

(c) *Export transactions where no order has been received.*—(1) *Exceptions to the order requirement.* If no order has been received, or if an inquiry has been received that does not clearly meet the requirements of an order as defined in § 372.6(a)(1) above, the Office of Export Administration

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will consider granting a waiver of the order requirement where the applicant is able to show that an exception is warranted. Some examples of reasons that, if fully substantiated, might warrant an exception are:

(i) An unusual expenditure of time, money or technical skill, in excess of ordinary sales expenses is necessary before negotiations for an order may be pursued and before a bid can be submitted or an order obtained.

(ii) The applicant is under an unusual obligation to export immediately the commodities or technical data covered because of a special trade or industry practice.

(iii) The export involves a sample, gift, relief, or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

An applicant requesting such exception should submit with his application all required supporting documentation whenever possible and a statement explaining in full the reason(s) for the requested exception. If it is not possible to obtain the required documentation at the time the waiver request is submitted, these supporting documents shall be submitted as soon as they are obtainable. If the exception request is granted and the license is issued, certain conditions or limitations on the export may be imposed.

(2) *Inquiry regarding prospects of obtaining license or other authorization.* The Office of Export Administration gives a formal licensing decision only through the issuance of a license or other appropriate document. Such decisions are based upon the actual submission of a formal application or other formal request setting forth all the facts relevant to the export transaction and supported by all required documentation. However, if negotiations of the terms of an export order depend upon an indication of the prospects of obtaining an export license covering the transaction, the person proposing to export may submit an inquiry, before filing a license application. If at all possible, the Office of Export Administration will respond with a preliminary opinion on the outlook for approval. The inquiry, of course, should describe the proposed transaction in full detail and explain why an advisory opinion is needed.

(d) *Copies of documents.* Section 387.11 defines the recordkeeping requirements of the Office of Export Administration, including the types of documents that must be kept. In the course of processing an application, the Office of Export Administration may request either the originals or copies of the documents constituting evidence of an order. The time and manner of submission will be made known to the applicant at the time the request for submission is made. In accordance with § 375.5, all documents submitted in connection with a license application must be identified clearly as a part of that application. All terms and abbreviations must be explained, and an English translation of documents in a foreign language must be attached.

(e) *Changes in facts.* Answers to all items on the application shall be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the purchase transaction or other transaction, shall be promptly reported to the Office of Export Administration, whether a license has been granted or the application is still under consideration. If a license has been granted, such changes shall be reported immediately to the Office of Export Administration, in accordance with the provisions of § 372.7(b), even though shipments against the license may be partially or wholly completed. Change in intermediate consignee must be reported on the Shipper's Export Declaration, and in certain cases an amendment to the export license is required. (See §§ 372.3(b)(3) and 372.11(e).)

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department organization order 10-3, dated December 4, 1977, 42 FR 64721(1977); and Industry and Trade Administration Organization and function order 45-1, dated December 4, 1977, 42 F.R. 64715 (1977).)

Dated: October 6, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary For Trade Regulation.

[FR Doc. 78-28034 Filed 10-12-78; 8:45 am]

[3510-25-M]

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

Change in Title and Addition of General Provisions: Monitoring

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Act requires the monitoring of exports and contracts for exports of nonagricultural commodities under certain actual or threatened domestic short supply or price situations. While the Department conducts no export monitoring programs at present, this rule establishes the framework under which such monitoring programs will be conducted as the need arises. Additional provisions containing detailed instructions on the monitoring of specific commodities will be issued when a monitoring program(s) for such commodities is established.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: In the past, commodities designated for monitoring under provisions of section 4(c)(1) of the Export Administration Act of 1969, as amended, have been included in part 376 with specific instructions for preparing and submitting monitoring reports. This revision establishes a new § 377.15, "General Provisions: Monitoring", which explains the purpose of and the statutory provision for monitoring. Because requirements for monitoring reports will differ for each commodity, no attempt is made in § 377.15 to explain details of reporting. No commodities are being monitored by the Office of Export Administration at this time, but sections defining specific requirements will be added as commodities are designated for monitoring.

In order to identify accurately its new contents, part 377 has been retitled "Short Supply Controls and Monitoring." Section 377.1 is renamed "General Provisions: Short Supply Controls," and §§ 377.7 through 377.14 have been reserved in order to provide ample space for additional commodities which may be subject to short supply controls in the future.

Accordingly, part 377 of the Export Administration Regulations (15 CFR Part 377) is amended as follows:

1. The title of part 377 is amended to read as follows:

PART 377 SHORT SUPPLY CONTROLS AND MONITORING

2. The title of § 377.1 is amended to read as follows:

§ 377.1 General provisions: Short supply controls.

. . . . . .

§§ 377.7-377.14 [Reserved]

3. Sections 377.7 through 377.14 are added and reserved.

. . . . . .

4. A new § 377.15 is added to read as follows:

§ 377.15 General provisions: Monitoring.

(a) *Statutory requirements.* Section 4(c)(1) of the Export Administration Act of 1969, as amended, requires the monitoring of exports and contracts for exports, of any article, material or supply (except those commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious impact on the economy or any sector thereof. The Act further requires that such monitoring shall commence at a time adequate to insure that data sufficient to permit achievement of the policies of the Act will be available in a timely fashion. These statutory requirements are implemented primarily by the provisions contained in this part 377.

(b) *Commodities subject to monitoring.* Commodities currently subject to export monitoring are listed in supplements to this part 377.

(c) *Reporting requirements.* Reports are submitted on form DIB-661P, monitoring report. Data to be submitted, reporting periods, and details of the reporting vary according to the commodities being monitored. Form DIB-661P is a general purpose form which is modified as may be necessary for specific monitoring programs. Part 1 of the form may be used alone or in conjunction with part 2. Refer to the sections on specific commodities subject to monitoring below for details on reporting requirements and specific instructions on preparing and submitting reports.

NOTE.—As of (publication date), no commodities were subject to export monitoring pursuant to section 4(c)(1) of the Export Administration Act of 1969, as amended.

(d) *Publication of monitoring reports.* To the extent practicable, the results of this monitoring are aggregated and included in weekly reports compiled by the Office of Export Administration, setting forth with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply and demand. If there is sufficient information to justify weekly reports, the Office of Export Administration may compile reports on a monthly basis. In either instance the reports are published in the FEDERAL REGISTER.

(e) *Confidentiality.* The information obtained in the monitoring programs is subject to the confidentiality provisions of section 7(c) of the Export Administration Act of 1969, as amended.

(f) *Control decisions.* The information obtained through monitoring and contained in the reports is also used by the Department of Commerce in determining whether the export of the commodities subject to monitoring should be controlled.

(g) To the extent consistent with the monitoring provisions of this part 377, the other portions of the Export Administration's regulations are applicable to such provisions, including the enforcement, recordkeeping and penalty provisions contained in parts 387 and 388 of this chapter.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department organization order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and function order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: October 6, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-29055 Filed 10-12-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2927]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Public Service Co. of Colorado

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Denver, Colo, utility company to cease, in connection with the advertising and sale of non-utility products and services, failing to properly provide consumers with credit disclosures required by Federal Reserve Systems regulations.

DATES: Complaint and order issued Sept. 12, 1978.[1]

[1] Copies of the Complaint, and decision and Order are filed with the original document.

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Col. 80202, 303-837-2271.

SUPPLEMENTARY INFORMATION: On Wednesday, May 3, 1978, there was published in the FEDERAL REGISTER, 43 FR 19053, a proposed consent agreement with analysis In the Matter of Public Service Co. of Colorado, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly; § 13.73 Formal regulatory and statutory requirements; § 13.73-92 Truth in Lending Act; § 13.155 Prices; § 13.155-95 Terms and conditions; § 13.155-95(a) Truth in Lending Act; § 13.205 Scientific or other relevant facts. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1623-95 Truth in Lending Act—Prices: § 13.1823 Terms and conditions; § 13.1823-20 Truth in Lending Act. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements: § 13.1852-75 Truth in Lending Act; § 13.1892 Sales contract, right-to-cancel provision; § 13.1892-10 Recording liens or executing judgment on same; § 13.1905 Terms and conditions; § 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28859 Filed 10-12-78; 8:45 am]

[6355-01-M]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

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PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Exemption From Labeling Requirements for Certain Writing Instruments Cartridges

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission exempts certain rigid or semirigid writing instrument cartridges from the labeling requirements of the Federal Hazardous Substances Act insofar as such requirements would apply because the ink contained in the cartridge is a hazardous substance because it is "toxic" as defined by the Commission's regulations and/or because the ink contains 10 percent or more by weight of ethylene glycol or diethylene glycol. The exemption was issued because the conditions specified in the exemption are such that full compliance with the labeling requirements otherwise applicable under the Act is not necessary for the adequate protection of the public health and safety.

DATES: The effective date of the exemption is October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6400.

SUPPLEMENTARY INFORMATION: Under section 2(f) of the Federal Hazardous Substances Act ("the Act"), 15 U.S.C. 1261(f), the term "hazardous substance" includes any substance or mixture of substances which is "toxic" if such substance or mixture of substances may cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children. The term "hazardous substance" also includes any substances which the Consumer Product Safety Commission by regulation finds meet this definition. Section 2(g) of the Act defines toxic as including "any substance * * * which has the capacity to produce personal injury or illness to man through ingestion * * *." Section 2(p) of the Act provides that a hazardous substance which is intended, or packaged in a form suitable, for use in the household or by children is misbranded if it does not bear a label conspicuously stating certain specified information and warning statements. The Commission's regulations (16 CFR 1500.3(c)(2)) further define "toxic" as including any substance that produces death within 14 days in half or more of a group of white rats (each weighing between 200 or 300 grams) when a single dose of from 50 milligrams to 5 grams per kilogram of body weight is administered orally. (The dosage required to produce death in one-half of the rats in this test is referred to as the LD-50 single oral dose.)

Section 3(b) of the Act (15 U.S.C. 1262(b)) authorizes the Commission to issue regulations establishing reasonable variations or additional label requirements if it finds that the requirements of section 2(p)(1) of the Act are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance. Pursuant to section 3(b) of the Act, the Commission's regulations (16 CFR 1500.14(b)(1, 2)) establish special labeling requirements for substances containing 10 percent or more by weight of diethylene glycol or ethylene glycol.

Section 3(c) of the Act provides that if the Commission finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements of the Act is impractical or is not necessary for the adequate protection of the public health and safety, it may issue regulations exempting such substance from the requirements to the extent consistent with the adequate protection of the public health and safety.

PETITION

In a petition received January 3, 1977 (HP 77-4), the Parker Pen Co. requested an exemption to the labeling requirements of the Act. The product category for which the exemption was requested was rigid or semirigid writing instrument cartridges that have a writing point and an ink reservoir containing ink as a free liquid and that comply with the following conditions:

(a) The cartridge is constructed so that the ink will emerge only from the writing tip under any reasonably foreseeable condition of manipulation and use.

(b) When tested by the method described in 16 CFR 1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 2.5 grams per kilogram of body weight of the test animal.

(c) If the ink contains ethylene glycol or diethylene glycol, the amount of such substance, either singly or in combination, will not exceed 1 gram per cartridge.

(d) The cartridge will not contain more than 3 grams of ink.

The petition requested an exemption for these products from the special labeling requirements of 16 CFR 1500.13(b) (1, 2), which would otherwise apply if the ink had 10 percent or more by weight of ethylene glycol or diethylene glycol. The petition explained the funetional advantages of using higher percentages of ethylene glycol or diethylene glycol. The petition also requested an exemption to the allowable LD-50 single oral dose limit for the unlabeled product (5.0 grams per kilogram of body weight) so that inks having an LD-50 of 2.5 grams per kilogram of body weight could be used. The petition stated that the lower LD-50 would allow additional freedom in the development of future ink formulations and provided data to support the minor hazard presented by the cartridges for which the exemption is sought, both on the basis of the requested LD-50 limit and on the basis of the use of more than 10 percent of ethylene glycol and/or diethylene glycol.

THE PROPOSAL

The Commission considered the data submitted with the petition and analyzed the degree of risk associated with ink cartridges that meet the conditions specified in the requested exemption.

The data available to the Commission showed that approximately 4,200 injuries that were associated with pens and marking pens were treated in hospital emergency rooms in the United States during calendar year 1976. Injuries caused by the ink itself would probably be included in the category of "dermatitis and poisonings," which constituted 4 percent of the reported diagnoses. No deaths in this category have been reported.

After considering the available data, the Commission found that, in view of the difficulty of extracting ink from the writing tip, and in view of the limitation of the amount of ink in each cartridge to 3 grams, the requested LD-50 single oral dose of 2.5 grams per kilogram of body weight of the test animal will provide an adequate degree of protection of the public health and safety. Similarly, the Commission found that the difficulty in extracting the ink from the tip and the limitation that the amount of ethylene glycol and/or diethylene glycol shall not exceed 1 gram per cartridge will provide an adequate degree of protection of the public health and safety where the percentage by weight of either of these substances is 10 percent or more. Accordingly, the Commission preliminarily found that full compliance with the labeling requirements otherwise applicable under the Federal Hazardous Substances Act is not necessary for the adequate protection of the public health and safety. As a result of this finding, the Commission proposed an exception for these ink cartridges, subject to the conditions described above (Nov. 14, 1977; 42 FR 58959).

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COMMENT ON THE PROPOSAL

In response to its proposal to exempt these ink cartridges from the full labeling requirements of the Act, the Commission received five comments. Two of these comments indicated general opposition to the granting of the exemption, and one comment was in favor of the exemption. The remaining two comments presented substantive issues concerning the proposed exemption and are discussed below:

1. One of these comments opposes the exemption as it would apply to cartridges containing ethylene glycol. The comment cites support for the proposition that ethylene glycol is a severe exposure hazard and questions whether "any studies [have] been conducted as to the other possible hazards, such as contact with the eye or flammability." This aspect of the comment overlooks the fact that the exemption does not apply to hazards other than toxicity. The act also applies to substances that are irritants or are flammable. Substances that are shown to be eye irritants or to be flammable, as defined in the Commission's regulations at §§ 1500.42, 1500.43 must meet the labeling requirements of the Act that are applicable to these hazards, and these requirements would not be affected by the proposed exemption. (The information available to the Commission indicates that ethylene glycol is not flammable.)

This comment also states that the objection to the exemption is based on (1) the fact that if anything can go wrong with an ink cartridge, it will, and (2) that small children who can't read will undoubtedly account for the vast majority of accidents. The Commission has considered the likelihood that a defective cartridge may allow access to the ink contained therein in concluding that the full labeling requirements of the FHSA are not necessary for the protection of the public health and safety in relation to the cartridges covered by the exemption. This aspect is also addressed by the condition in the exemption that the ink will emerge only from the writing tip under any reasonably foreseeable condition of manipulation and use. The fact that the group subject to the most risk of accidental ingestion is small children who can't read would not appear to be a reason to label these cartridges with warnings the children could not read.

For the reasons discussed above, the arguments in this comment in opposition to the proposed exemption are not persuasive, and the Commission still believes that issuing the exemption is consistent with the criteria set forth in section 3(c) of the FHSA.

2. A comment on the proposal was received from the Gillette Co., which stated that although Gillette did not oppose the objective of the proposed exemption nor any of its stated conditions, Gillette believes that the exemption is unnecessarily limited in that (1) it applies only if the ink were contained in the reservoir as a free liquid and (2) it applies only to writing instrument cartridges and not to writing instruments in general.

Concerning the first of those limitations, Gillette pointed out that many writing instruments contain ink which is contained in the reservoir within an absorbent material and not as a free liquid. They argue that these absorbent materials retain significant amounts of the ink that is stored in the reservoir and that they therefore allow less ink to be available for accidental ingestion than would be the case if the ink were in the reservoir as a free liquid. They conclude that writing instruments that contain absorbent material in the reservoir are inherently safer than those that do not and that the proposed limitation of "containing ink in the reservoir as a free liquid" should be deleted from the exemption.

Concerning the second limitation, Gillette argues that there is no logical or safety-related distinction between writing instrument cartridges and writing instruments in general.

After carefully considering the comments submitted by Gillette, the Commission agrees that there is no apparent reason why the conditions in the exemption that is issued below would not protect the public health and safety as adequately for writing instruments in general as for ink cartridges containing ink in the reservoir as a free liquid. However, before broadening the scope of the exemption as requested by Gillette, the Commission believes that it should propose these changes for public comment in order to obtain the benefit of any data, views, or arguments that interested persons believe should be considered by the Commission when it makes the final decision on whether or not Gillette's request should be granted. Accordingly, the Commission is issuing the exemption requested by Parker as originally proposed and will in the near future separately propose to expand the scope of the exemption as requested by Gillette.

ADDITIONAL ISSUE

The labeling requirements from which an exemption is sought for these ink cartridges are intended to protect against the acute toxic effects that can occur soon after the ingestion of a hazardous substance. These labeling requirements are not intended to address the hazard of products that may cause cancer or other injuries a long time after the initial exposure. The test of rats provided for in § 1500.3(c)(2)(i) would not detect carcinogenic effects, because the test animals are observed for only 14 days and are given only a single oral dose of the substance.

The Commission's staff has noted that certain ink dyes are similar (but not identical) in chemical structure to dyes which are suspected of being carcinogenic. The regulation, if warranted, of any ink dyes that are ultimately determined to be carcinogenic would have to be accomplished in a separate rulemaking proceeding.

As explained above, the risks that may be associated with possibly carcinogenic substances do not relate to the categories of labeling requirements with which this exemption is concerned. In addition, the dyes could be used in presently marketed inks, regardless of whether the exemption is approved. Accordingly, the issue of the potential use of possible carcinogenic dyes is separate from the issues relating to this exemption.

CONCLUSION

After considering the petition, the comments on the proposal, and the information obtained by the Commission's staff, the Commission finds that because of the size of the package involved, the minor hazard of the substance contained therein, and for the other good and sufficient reasons discussed above, full compliance with the labeling requirements otherwise applicable under the Federal Hazardous Substances Act is impracticable and not necessary for the adequate protection of the public health and safety.

Because this rule grants an exemption, the requirement of the Administrative Procedure Act that publication shall be made not less than 30 days before the effective date (5 U.S.C. 553(d)) is not applicable, and the exemption is therefore effective immediately.

Therefore, pursuant to the Federal Hazardous Substances Act (secs. 2(f, p), 3(a-c), 74 Stat. 372, 374, 375, as amended; 15 U.S.C. 1261(f, p), 1262 (a-c)), the Commission amends title 16, chapter II, of the Code of Federal Regulations by adding to Subchapter C, Part 1500, § 1500.83, a new paragraph (a)(38) to read as follows (the text of the introductory portion of § 1500.83(a), although unchanged, is included for context):

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§ 1500.83 Exemption for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.82:

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(38) Rigid or semirigid writing instrument cartridges having a writing point and an ink reservoir and containing ink in the reservoir as a free liquid are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i) of the regulations) and of regulations issued under section 3(b) of the act (§ 1500.14(b)(1,2)) insofar as such requirements would be necessary because the ink contained therein is a "toxic" substance as defined in § 1500.3(c)(2)(i) and/or because the ink contains 10 percent or more by weight ethylene glycol or diethylene glycol, if all the following conditions are met:

(i) The writing instrument cartridge is of such construction that the ink will, under any reasonable foreseeable condition of manipulation and use, emerge only from the writing tip.

(ii) When tested by the method described in § 1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 2.5 grams per kilogram of body weight of the test animal.

(iii) If the ink contains ethylene glycol or diethylene glycol, the amount of such substance either singly or in combination does not exceed 1 gram per writing instrument cartridge.

(iv) The amount of ink in the writing instrument cartridge does not exceed 3 grams.

(Secs. 2(f, p), 3(a-c), 74 Stat. 372, 374, 375, as amended; 15 U.S.C. 1261(f, p), 1262(a-c).)

Effective date: This amendment becomes effective October 13, 1978.

Dated: October 10, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29053 Filed 10-12-78; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-15215, IA-640]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Applicability of the Investment Advisers Act to Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Response to requests for comment.

SUMMARY: The Commission previously announced that it would allow a temporary exemption from the Investment Advisers Act of 1940 for certain brokers and dealers to expire. In addition, the Commission set forth current staff views on the meaning of the term "special compensation" and solicited public comments on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts. The staff has decided not to modify at this time its previously expressed views concerning "special compensation" and the Commission has decided not to take any action at this time concerning brokers or dealers who have discretionary authority over customers' accounts.

FOR FURTHER INFORMATION CONTACT:

Michael Berenson, Esq., Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1815.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The adoption of Rule 19b-3 (17 CFR 240.19b-3)[1] under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) ("Exchange Act"), if followed by the "unbundling" of brokerage commission charges and charges for research and other investment advice, could have caused those brokers or dealers who unbundled to become investment advisers as that term is defined in the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) ("Advisers Act"). To allow time for adjustment, the Commission adopted a series of temporary exemptions from the Advisers Act, in the form of Rule 206A-1(T) (17 CFR 275.206A-1(T)) under the Advisers Act, for certain brokers and dealers who had been registered pursuant to Section 15 of the Exchange Act (15 U.S.C. 78o) prior to the May 1, 1975 effective date of Rule 19b-3 and who were not then registered as investment advisers.

On April 27, 1978, the Commission issued a release[2] in which it announced the final extension of Rule 206A-1(T), until October 31, 1978. A current staff interpretation of the term "special compensation" as used in section 202(a)(11)(C) of the Advisers Act[3] (15 U.S.C. 80b-2(a)(11)(C)) was also set forth and public comments were solicited on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts. The Commission has considered the comments received and has determined not to take any action at this time with respect to brokers or dealers who exercise discretionary authority over their customers' accounts. Further, the Division of Investment Management ("Division") has reviewed the comments which discussed the term "special compensation" and intends for the present to continue to interpret that term in the manner described in Advisers Act Release No. 626. The Commission also notes that the temporary exemption will expire on October 31, 1978, as previously announced and that the staff will consider other rule changes suggested by commentators.

COMMENTS RECEIVED

As was stated in that release, the Division, as a general principle, regards special compensation as existing only where there is a clearly definable charge for investment advice. The release then set forth certain applications of this principle to specific situations.

Two public commentators addressed themselves to this issue. One expressly agreed with, and the other did not appear to object to, the controlling interpretative principle. They did disagree, in differing respects, as to the application of the principle to certain situations.

The Division believes the best approach for now is to continue to interpret this term as described in Advisers Act Release No. 626, believing that if experience is gained with concrete situations, a better basis would exist for making any interpretative change. In that connection, the Division will be mindful of the desirability of price competition between brokers who unbundle services and those who do not unbundle, to the extent compatible with adequate protection of users of advisory services.

Several commentators addressed the Commission's statement that it was considering whether to take action so that the exclusion in section 202(a)(11)(C) would not be available to a broker-dealer who manages his customers' accounts on a discretionary basis. The commentators questioned the Commission's statutory authority to limit the scope of the exclusion in section 202(a)(11)(C). In addition, the commentators asserted that there were policy reasons which mitigate against this approach. The Commission has determined not to take such action at this time. The Commission's staff will continue to examine the applicability of the Federal securities laws to discretionary accounts. For the present, the Division will continue to take the position that brokers or dealers who exercise discretionary authority over a limited number of their customers' accounts, but do not receive special compensation for such services, can rely on the exclusion in section 202(a)(11)(C). However, if the business of a broker or dealer consists almost exclusively of managing accounts on a discretionary basis, the Division would not regard such broker or dealer as providing investment advice solely incidental to his business as a broker or dealer and therefore the broker or dealer would not be eligible for the exclusion in section 202(a)(11)(C).

Three commentators suggested that the temporary rule be further extended to allow for further study. While the Commission will continue to give attention to these matters, it does not appear at present that statutory standards (set forth in section 206A of the Advisers Act (15 U.S.C. 80b-6A)) are met for granting an exemption to broker-dealers broader than that which the Advisers Act already provides.

Two commentators suggested (a) a modification of Rule 206(3)-2 (17 CFR 275.206(3)-2),[4] relating to certain agency transactions and (b) the adoption of a similar rule under section 206 (15 U.S.C. 80b-6) relating to principal transactions, to ease burdens on dual registrants. The staff will give active attention to these suggestions.

[1] Rule 19b-3 prohibits any national securities exchange from adopting or retaining any rule that requires, or from otherwise requiring, its members to charge fixed rates of commission for transactions executed on, or by the use of the facilities of, such exchange.

[2] Advisers Act Release No. 626, Securities Exchange Act Release No. 14714, 43 FR 19224 (May 4, 1978).

[3] Section 202(a)(11)(C) excludes from the definition of an investment adviser "any broker or dealer whose performance of such (advisory) services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor."

[4] Rule 206(3)-2 under the Advisers Act was adopted on June 1, 1977, Advisers Act Release No. 589, 42 FR 29300, June 8, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 5, 1978.

[FR Doc. 78-28880 Filed 10-12-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75P-0361]

PART 136—BAKERY PRODUCTS

Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the standards of identity for bread, rolls, and buns by removing the limit on the use of mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function. The Commissioner for Food and Drugs has determined that it is appropriate to remove these limitations from the standards because technical considerations make it unlikely that excessive amounts of these ingredients would be used.

DATES: Effective November 14, 1978; objections by November 13, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fisher Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Harold Salwin, Bureau of Foods (HFF-416), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, 202-245-8531.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 26, 1978 (43 FR 22728), the Food and Drug Administration published a proposal to amend the standards of identity for bread, rolls, and buns as set forth in § 136.110 (21 CFR 136.110) of the regulations by removing the limit on the use of mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function. These ingredients are frequently used in breadmaking as antistaling agents to delay the firming of bread. Provision for the optional use of these ingredients was included in a revision of the standards for bread published in the FEDERAL REGISTER of February 12, 1976 (41 FR 6242). Section 136.110(c)(5)(ii) limited the total quantity to not more than 0.5 part for each 100 parts by weight of flour used, but the provision was stayed by objections to the effect that the limit is unnecessarily restrictive. The May 26, 1978 proposal to remove the limit was made because information became available to the Commissioner of Food and Drugs demonstrating that more than 0.5 part of mono- and diglyceride mixtures per 100 parts of flour is frequently required, and that technical considerations make it unlikely that excessive amounts of these or other bread softeners would be used. The Commissioner also proposed certain editorial changes in § 136.110(c)(15) and (18). Interested persons were invited to submit comments by July 25, 1978. No comments were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 136 is amended by revising paragraph (c)(5)(ii), (15), and (18) to read as follows:

§ 136.110 Bread, rolls, and buns.

• • • • • •

(c) • • •

(5) • • •

(ii) Mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function.

• • • • • •

(15) Dough strengtheners and other dough conditioners not listed or referred to in this paragraph, if the total quantities of such ingredients or combination is not more than 0.5 part for each 100 parts by weight of flour used.

• • • • • •

(18) Other ingredients that do not change the basic identity or adversely affect the physical and nutritional characteristics of the food.

• • • • • •

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Any person who will be adversely affected by the foregoing regulation may at any time on or before November 13, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective November 14, 1978, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: October 4, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28782 Filed 10-12-78; 8:45 am]

[4110-03-M]

SUBCHAPTER C—DRUGS FOR HUMAN USE

[Docket No. 77N-0149]

PART 310—NEW DRUGS

Requirements for Patent Labeling for Progestational Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing a final regulation to require patient labeling for progestational drug products. The new labeling requirements will provide consumers with written information concerning the risks of use of progestational drug products during the early stages of pregnancy. The regulation specifies the kind of information and warnings to be contained in the patient labeling and states how the labeling is to be made available to the patient.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 22, 1977 (42 FR 37643), the Food and Drug Administration (FDA) proposed a new requirement for patient labeling of progestational drug products. The agency proposed requiring that written information describing the risks of birth defects associated with drug use during the first 4 months of pregnancy be distributed to patients taking progestational drugs. Interested persons were given until September 20, 1977 to submit written comments. More than 200 individuals, physicians, manufacturers, and professional and trade organizations commented on the proposal. The following discussion summarizes and responds to the most substantial issues raised by the comments:

1. *Statutory authority.* Several comments challenged the agency's statutory authority under the Federal Food, Drug, and Cosmetic Act to require patient labeling. The comments suggested that the sections of the act cited as authority do not provide such authority.

The Commissioner of Food and Drugs has concluded that the Federal Food, Drug, and Cosmetic Act authorizes the promulgation of patient labeling requirements. This issue was discussed in detail in paragraph 4 of the preamble to the proposed regulation on the content and format of prescribed drug labeling, published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392). It has been similarly discussed in the final regulations requiring patient labeling for estrogenic drug products, published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636), and revising the requirements for patient labeling for oral contraceptives, published in the FEDERAL REGISTER of January 31, 1978 (43 FR 4214). The Commissioner advises that the statement of the authority to issue patient labeling requirements stated in those FEDERAL REGISTER documents applies equally to the requirements issued herein.

2. *Progesterone and hydroxyprogesterone.* A number of comments objected to the inclusion of certain drug products in the class of progestational drugs requiring patient labeling. In particular, the comments noted certain characteristics of progesterone and hydroxyprogesterone that distinguish these drugs from the other progestational drug products and warrant excluding progesterone and hydroxyprogesterone from the warning about teratogenic risk. Progesterone, the comments argued, is a physiologically occurring hormone that is present during normal pregnancy in blood levels considerably higher than can be produced in therapeutic dosages by exogenous administration. The comments pointed out, moreover, that the references cited in physician labeling upon which the inclusion of hydroxyprogesterone is based implicate the drug in only one instance of congenital anomaly, although the drug is probably the most widely used progestational agent.

The Commissioner concludes that differences that would warrant a distinction in the labeling between progesterone, hydroxyprogesterone, and other progestational drug products have not been adequately demonstrated. A recent article appearing in the literature on the subject of sex hormones used in pregnancy and congenital anomalies notes that in the group of patients who received progestogens only, cardiovascular malformations occurred at a rate of 16.4 per 1,000, while a rate of 7.8 per 1,000 was recorded in offspring of patients who did not receive female sex hormones during pregnancy (Heinonen et al., "Cardiovascular Birth Defects and Antenatal Exposure to Female Sex Hormones," *New England Journal of Medicine* 296:67, 1977). (A copy of this article is on file in the office of the Hearing Clerk, Food and Drug Administration.) Of particular interest, the Commissioner notes that in the group receiving only progestogens, of 7 cases reported with cardiovascular malformations, 2 were exposed to progesterone alone while a third case was given progesterone along with norethindrone. Three other cases received a progesterone derivative exclusively.

Although these data do not confirm a cause and effect relationship with progesterone, they do raise an element of suspicion which could require a considerably larger study to rule out a positive relationship. It is true that in several published studies progesterone per se was not specifically implicated, but it is also true that in many cases the route of administration mentioned suggests that the exact hormone given, although not known, could very well have been progesterone.

Furthermore, in view of the large number of orally active progestational drugs available and the limited number of studies conducted, the Commissioner would expect to find that in some studies no cases were associated with the use of injectable products such as progesterone or hydroxyprogesterone. Finally, in no study did any one specific hormone stand out, but rather sex hormones—both estrogens and progestogens—have been implicated as a class.

The Commissioner does not agree that the safety of exogenous progesterone is demonstrated by the high rate of endogenous secretion of progesterone during pregnancy. In pregnancy, there is also a high rate of secretion of estrogens, yet the exogenous use of all estrogens is contraindicated during pregnancy because of reported adverse fetal effects. Furthermore, the use of exogenous progesterone could produce a progesterone level in patients that would be in excess of the normal range for a particular phase of pregnancy and that could conceivably have an adverse fetal effect.

In summary, the Commissioner believes that there is not sufficient evidence to permit the exclusion of any of the progestational drug products from the patient labeling requirements. If more information becomes available that can be relied upon to distinguish within the class, certain progestational drug products may be exempted from the patient labeling requirements.

3. *Consistency with previously announced policies.* One comment recommended that the implementation of a patient labeling regulation for progestational drug products be delayed until an overall policy on patient prescription drug labeling is published. The comment argued that such a course of action would be consistent with FDA's previously announced policy, published in the FEDERAL REGISTER of November 7, 1975 (40 FR 52075). The comment urged, moreover, that intensive, scientifically controlled analysis of all the benefits and risks associated with patient labeling be undertaken and the cumulative results of such analysis utilized before implementation of a patient labeling program for particular prescription drugs, including progestational drugs.

The Commissioner does not believe that promulgation of this final regulation represents a departure from previously announced policies. As noted in paragraph 5 of the preamble to the July 22, 1977 final regulation requiring patient labeling of estrogenic drug products, the Commissioner did not intend the November 7, 1975 notice to suggest that FDA would defer the adoption of requirements for patient labeling for specific drugs when the need for such labeling was clearly demonstrated. In the case of progestational drug products, the Commissioner believes that such a need has been demonstrated and that it is necessary to supplement and reinforce the physician's discussion of the risks of progestational drug products with a written warning to the patient concerning the teratogenic risks associated with use of the drug during the early stages of pregnancy.

The Commissioner is committed to a systematic evaluation and analysis of the effectiveness of patient labeling to assist in preparing and designing a better patient labeling program. This commitment, however, does not necessitate a delay in implementing patient labeling for particular drugs, especially where patient labeling will perform the limited function of communicating a specific warning regarding the risks of drug use.

4. *Interference in practice of medicine.* Several comments contended that implementation of the regulations would result in significant Federal interference in the practice of medicine and infringement on the physician/patient relationship. The comments suggested that this result was contrary to past expressions of congressional policy.

The Commissioner rejects this contention. This issue was fully discussed in paragraph 3 of the preamble to the July 22, 1977 final regulation requiring patient labeling of estrogenic drug products, and the Commissioner reaffirms the conclusions stated in that publication. Patient labeling is not intended to preempt the physician's responsibility, nor will it have that effect. Rather, in situations where physicians are conscientious in discussing the relative benefits and risks of progestational drugs with their patients, the patient labeling will simply reinforce what the physician has explained to the patient and serve as a written reminder that can be referred to by the patient during the course of therapy. Even in those situations in which information regarding the benefits and risks of drug use is not fully provided by the physician, the labeling is not intended to supersede the role of the physician in informing the patient or to interfere in any way with communications between physician and patient.

5. *Requests for delay in implementation.* Two comments noted that litigation is pending in several Federal courts challenging FDA's authority under the act to require patient labeling for prescription drug products. The comments requested that FDA not issue this regulation until a final decision that FDA does have such authority is made. The Commissioner has determined that deferral of a final regulation requiring patient labeling for progestational drug products would not be in the public interest. The Commissioner believes that to assure the safe and effective use of progestational drug products, women should be provided with written information telling them of the risks of using such drug products during pregnancy. A deferral of this regulation until a final judicial determination of the agency's statutory authority would deprive many women of the benefit of that written information and would increase the likelihood that some women to whom the drug is prescribed would take the drug, ignorant of its risks. The Commissioner notes that the authority to require patient labeling of prescription drugs has been preliminarily upheld by the one court that has reviewed the matter (*Pharmaceutical Manufacturers Association v. FDA*, No. 77-291 (D. Delaware, October 5, 1977) (order denying preliminary injunction)).

6. *Distribution of labeling in health-care institutions.* One comment noted that it is impractical to provide patient labeling each time a dose is dispensed to inpatients in health-care institutions. The comment recommended that the proposed distribution requirements be revised by permitting health-care institutions to provide patient labeling to patients before the first dose is administered or, if it is a long-term care facility, before the first administration and every 30 days thereafter.

As indicated in paragraph 11 of the preamble to the July 22, 1977 final regulation requiring patient labeling for estrogen drug products, the Commissioner agrees that hospitals and other health-care institutions should have some flexibility in meeting requirements regarding distribution of patient labeling. The Commissioner concludes that it would be impractical and unnecessary to require that patient labeling be made available to the hospitalized or institutionalized patient every time a drug is administered. The final regulation has, therefore, been revised by providing in § 310.516(e) (21 CFR 310.516(e)) that in acute-care hospitals and long-term care facilities, the requirements of § 310.516 are met if patient labeling is provided to the patient before first administration of the drug, and every 30 days thereafter, as long as the therapy continues. This revision in the proposed regulation answers the objection raised by the comment, but avoids the somewhat complicated procedure that would result from having different requirements for acute-care and long-term care facilities.

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7. *Directions for use.* One comment recommended that § 310.516(b) be amended by adding a requirement for a statement regarding the need to take the drug only as directed and to follow precisely instructions for use of the drug.

The Commissioner recognizes the importance of such information and believes that in the usual case patient labeling can perform a useful role in conveying warnings of the kind recommended by the comment. The Commissioner does not believe, however, that progestational drug product patient labeling is the most appropriate vehicle for conveying information which pertains to the use of all drugs, because progestational drug product labeling is intended to convey a very specific and relatively brief message about the risks of birth defects. The Commissioner is, in this case, particularly convinced of the need to avoid burdening the text of the labeling with the kind of additional statements recommended by the comment. Therefore this comment is rejected.

8. *Inflationary impact of intended action.* One comment objected to the statement in the preamble to the proposed regulation that FDA had determined that the document did not contain a major proposal requiring preparation of an inflation impact statement. The comment argued that a substantial increase in drug prices would result from implementation of a patient labeling requirement, reflecting costs incurred by disruption of presently utilized methods of packaging, labeling, storing, and dispensing progestational drug products.

The Commissioner believes that the figures quoted in the economic impact assessment placed on file with the Hearing Clerk when the proposal was published accurately approximate the direct impact the proposed requirement will have on the costs of progestational drug products. Possible indirect costs resulting from the patient labeling requirement are not reflected in the assessment, but the Commissioner notes the hypothetical nature of such costs and the difficulty of quantifying these costs in specific dollar amounts. In this regard, the Commissioner regrets that the comment submitted on this matter does not more specifically describe the nature or estimate the magnitude of the potential cost increases involved.

The comment also appears to misunderstand the basis upon which FDA determines whether a document requires preparation of an impact statement. Not all proposed actions with some potential economic impact require preparation of an economic impact statement (currently identified as a regulatory analysis). What is required, and what has been done in this case, is the preparation of an economic impact assessment setting forth the criteria and the threshold amounts for determining whether an action will have a major inflation impact. Only if the action will have a major impact is an impact statement required. Here, assuming that all potential cost increases referred to in the comment are realized, it is clear that these costs, added to the costs already reflected in the economic impact assessment, do not meet the criteria or reach the threshold amounts described in the assessment. Therefore, measured against the standards as set forth in the assessment, the progestational drug patient labeling requirement is not an action that will have a major economic impact and does not require the preparation of an economic impact statement. The economic impact assessment for this action is on file with the Hearing Clerk, FDA.

9. *Effective date provisions.* A manufacturer with extensive warehouse and distribution facilities objected to the schedule for implementing the patient labeling requirements. The comment noted that the effective date provisions as outlined in proposed § 310.516(e)(4) would, if finalized, require the burdensome and costly retrieval and relabeling, by the effective date, of drug products packaged before the effective date. The comment urged that the "catch-up" provisions be deleted so that the new patient labeling requirements would apply only to products packaged after the effective date.

Another comment suggested that, in light of the importance of progestational patient labeling, the regulation be made effective immediately upon publication in the FEDERAL REGISTER.

The Commissioner does not believe that it would be in the best interest of patients to limit the applicability of the regulation to those drug products packaged after the effective date. A limitation of that kind would clearly delay the time by which the labeling will be available to all patients. It could also result, because of differences in manufacturing inventories, in variations in the time when products with patient labeling would begin to be furnished to patients. The effective date provision as proposed and as adopted herein is intended to prevent any further distribution of progestational drugs without patient labeling on or after the effective date, without necessitating the recall of stock in the possession of persons who are not responsible for the content of the labeling.

At the same time, the Commissioner rejects the comment that urged that the regulation be effective immediately upon publication. That policy would increase the likelihood of disruption and delays in the supply of progestational drugs. The Commissioner believes that the 60 days allowed for manufacturers to comply with the patient labeling requirements will provide patient labeling at an early date, insure a steady supply of the drug product to patients, and not unduly burden manufacturers.

10. *Ongoing distribution of patient labeling.* The Commissioner is also revising § 310.516(e)(2) to provide that in the case of progestational drug products in bulk package intended for multiple dispensing, a sufficient number of patient-labeling pieces "shall be included in or shall accompany each bulk package" to assure that the labeling can be furnished with each package dispensed to the patient. This revision is intended to clarify that patient labeling must physically accompany the drug product but need not be actually placed inside the immediate bulk package container.

The Commissioner anticipates that manufacturers and labelers will employ a reliable statistical method to determine how many patient-labeling pieces must be included in or with each bulk package, but recognizes that in some cases additional pieces may, for a variety of reasons, be required. The Commissioner is therefore adding a sentence to § 310.516(e)(2) to indicate that the manufacturer or labeler may also employ a supplementary distribution system to supply additional patient labeling to the dispenser. That system shall not, however, act as a substitute for the requirement that patient labeling be supplied in or with each bulk package.

11. *Use of uniform labeling.* The final regulation adopts without change the proposed requirements that the labeling identify both the name of the drug product and the name and place of business of the manufacturer, packer, or distributor. These provisions are intended to assure that the labeling can be satisfactorily related to and dispensed with a specific manufacturer's drug products. However, the Commissioner is aware that similar provisions in the final regulation requiring patient labeling for estrogenic drug products have elicited objections from a number of prescription drug dispensers who point out that these provisions preclude the use of uniform or "generic" labeling and require the storage, collation, and distribution of large numbers of individualized patient-labeling leaflets. In response to these objections, the Commissioner has tentatively concluded that certain revisions are appropriate to facilitate the use of uniform labeling. Published elsewhere in this issue of the FEDERAL REGISTER is a proposal which, if finalized, will enable dispensers to use class

labeling suitable for all drugs subject to the patient labeling regulations for estrogenic, oral contraceptive, and progestational drug products. Pending the receipt of comments and the final decision on the use of "generic" labeling, the Commissioner advises that he will not object to the use by dispensers of uniform labeling consistent with the provisions outlined in the accompanying proposal.

Section 310.516(f) requires that FDA make available progestational drug product patient labeling that is responsive to all items that are specified in § 310.516(b). A Drug Efficacy Study Implementation (DESI) notice containing both a guideline patient labeling text and revised physician labeling was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37646). Comments received in response to that notice have been carefully reviewed and the Commissioner has determined that no changes in the texts of either physician labeling or patient labeling are required. (An agency report responding to the most significant issues raised by the comments has been provided directly to a number of persons commenting on the notice. A copy of this report has been placed on file in the office of the Hearing Clerk, FDA.) The Commissioner advises that the text of the patient labeling as set forth in the July 22, 1977 notice is a guideline (see § 10.90 (21 CFR 10.90)) which, if followed, will enable any person to comply with the requirements of § 310.516(b) as finalized herein.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new § 310.516 to Subpart E, to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of any progestational drug product requires that patients be informed that there is an increased risk of birth defects in children whose mothers have taken this drug during the first 4 months of pregnancy. Accordingly, except as provided by paragraph (d) of this section, any progestational drug product that is the subject of a new drug application approved either before or after October 9, 1962 and all identical, related, or similar drug products as defined in § 310.6, whether or not the subject of an approved new drug application, shall be dispensed to patients with labeling in lay language containing such a warning. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.

(2) Name and place of business of the manufacturer, packer, or distributor.

(3) A warning that there is an increased risk of birth defects in children whose mothers take this drug during the first 4 months of pregnancy.

(4) A brief discussion of the nature of the risks of birth defects resulting from the use of these drugs during the first 4 months of pregnancy.

(5) A brief statement that these drugs are no longer considered safe as a test for pregnancy.

(6) A statement that the patient should inform her physician as soon as possible if she discovers that she was pregnant when she took the drug.

(c) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size shall be one-sixteenth of an inch in height.

(2) Letter heights pertain to the lower-case letter "o" or its equivalent that shall meet the minumim height standard.

(3) Type used shall conform to the minimum letter height. The body copy shall contain 1-point leading, noncondensed type, and shall not contain any light-face type or small capital letters.

(d) This section does not apply to a progestogen-containing product intended for contraception, which shall be labeled according to the requirements of § 310.501.

(e)(1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient. Patient labeling for drug products dispensed in acute-care hospitals or long-term care facilities will be considered to have been provided in accordance with this section if provided to the patient before first administration of the drug and every 30 days thereafter, as long as the therapy continues.

(2) In the case of progestational drug products in bulk packages intended for multiple dispensing, a sufficient number of patient-labeling pieces shall be included in or shall accompany each bulk package to assure that one can be included with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispenser to include one patient-labeling piece with each package dispensed to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient-labeling pieces to the dispenser.

(3) In the case of progestational drug products for injection, each package shall include a sufficient number of patient-labeling pieces for the volume of the vial, and instructions to the practitioner administering the drug to give one patient-labeling piece to each premenopausal woman, except those in whom childbearing is impossible, receiving the drug.

(4) Any progestational drug product, except as noted in paragraph (d) of this section, that is not labeled as required by this section and is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce, is misbranded pursuant to section 502 of the Federal Food, Drug, and Cosmetic Act. However, a progestational drug product in the possession of a wholesaler or retailer before December 12, 1978, is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after that date to obtain such labeling with the product. The requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

(f) The Food and Drug Administration has available patient labeling for progestational drug products that includes information responsive to all items specified in paragraph (b) of this section. The labeling has been published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37646) as part of a drug efficacy study implementation (DESI) notice. Any person may rely on this labeling as complying with paragraph (b) of this section after the effective date of this section.

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) of this section on or before December 12, 1978. The labeling may be put into use without advance approval by the Food and Drug Administration.

Effective date. This regulation shall be effective December 12, 1978.

(Secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)))

Dated: October 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28572 Filed 10-12-78; 8:45 am]

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[4110-03-M]

SUBCHAPTER F—BIOLOGICS

[Docket No. 78N-0119]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Sterility; Membrane Filtration; Amendment

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends a section of the biologics regulations by revising the reference to the United States Pharmacopeia (U.S.P.). This change is being made to ensure consistency with improvements in the sterility test by membrane filtration as prescribed in the U.S.P.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Iris Hyman, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: The Bureau of Biologics is conducting a continuing review of the existing regulations governing biological products to assure that the criteria of safety, purity, potency, and effectiveness established by such regulations are updated to reflect current requirements for licensed products, consistent with the review, the Commissioner is amending § 610.12(f) (21 CFR 610.12(f)) to change the reference to the membrane filtration test from the 18th Revision of the U.S.P., to the 19th Revision, in order to update a procedure which manufacturers are in fact already using.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), § 610.12 is amended in paragraph (f) by revising the first sentence, to read as follows:

§ 610.12 Sterility.

• • • • • •

(f) *Membrane filtration.* Bulk and final container material or products containing oil or products in water insoluble ointments shall be tested for sterility using the membrane filtration procedure set forth in the United States Pharmacopeia (19th Revision, 1975), section entitled "Membrane Filtration," pages 594-595, except that (1) the test samples shall conform with paragraph (d) of this section; (2) the temperature of incubation for the test using Fluid Thioglycollate Medium shall be 30° to 32° C; and (3) in addition, for products containing a mercurial preservative, the product shall be tested in a second test using Fluid Thioglycollate Medium incubated at 20° to 25° C in lieu of the test in Soybean-Casein digest Medium. • • •

• • • • • •

Under the Adminsitrative Prodedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 610.12(f) because it does not impose an additional duty or burden on any person, but rather relieves unnecessary requirements.

Effective date. October 13, 1978,

(Sec. 351, 58 stat. 702, as amended (42 U.S.C. 262))

Dated: October 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28573 Filed 10-12-78; 8:45 am]

[4710-07-M]

Title 22—Foreign Relations

CHAPTER XI—INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

PART 1101—PRIVACY ACT OF 1974

Nomenclature Changes

AGENCY: International Boundary and Water Commission, United States and Mexico, United States Section.

ACTION: Final rule.

SUMMARY: This document amends the regulations relating to the Privacy Act of 1974 by changing references to the Comptroller to read FOIA Administrator. This change is due to an organizational change.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Leo Van Reet, 915-543-7334.

In part 1101 of title 22 of the Code of Federal Regulations, the title "Comptroller" should be replaced by "FOIA Administrator" wherever it appears.

LEO VAN REET,
FOIA Administrator.

[FR Doc. 78-28974 Filed 10-12-78; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

[Docket No. S-102]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Ground-Fault Protection; Supplemental Statement of Reasons

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; supplemental statement of reasons.

SUMMARY: This notice announces OSHA's decision to reaffirm the ground-fault protection standard (29 CFR 1910.309(c) and 1926.400(h)) as promulgated on December 21, 1976 (41 FR 55696). This decision is made after consultation with the Advisory Committee on Construction Safety and Health pursuant to remand by the U.S. Court of Appeals for the District of Columbia Circuit. No change is made in the ground-fault protection standard as promulgated on December 21, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue, NW., Room N-3112, Washington, D.C. 20210, telephone 202-523-8034.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 21, 1976, OSHA promulgated a rule, to be effective February 22, 1977, requiring employers to provide either: (a) Ground-fault circuit interrupters on construction sites, or (b) a scheduled and recorded, assured equipment grounding conductor program (29 CFR 1910.309(c) and 1926.400(h); 41 FR 55696). This rule was promulgated after lengthy proceedings which are described in detail in the FEDERAL REGISTER document of December 21, 1976.

On February 17, 1977, the National Constructors Association petitioned the U.S. Court of Appeals for the District of Columbia Circuit, to review and set aside the rules OSHA had promulgated on ground-fault protection.

The court issued its decision on June 28, 1978 (*National Constructors Association* v. *Marshall*, C.A.D.C. No.77-1197). The court found that the Assistant Secretary had not completely followed OSHA's rulemaking procedures in promulgating the ground-fault protection standard. Although the Advisory Committee on Construction Safety and Health had been consulted with regard to ground-fault circuit interrupters, the court found that no such consultation occurred specifically with regard to the alternative assured grounding conductor program. The court held that such consultation was required by OSHA's procedural rule found in 29 CFR 1911.10(a).

Accordingly, the court remanded the record to the Assistant Secretary with specific instructions to consult with the Committee. After discussing several possible results of the consultation with the Committee, and the appropriate action to be taken based on these results, the court concluded with the following:

• • • once the Assistant Secretary has convinced himself of the wisdom of a chosen course of action after he has had the benefit of the Committee's recommendations, and once he is convinced that further public comment would shed no new light on the matter, he may return the record to this court for entry of an appropriate order. (Page 27.)

Inasmuch as the court did not find any "glaring deficiencies" in the evidence supporting the standard nor any other procedural or legal deficiencies, the court ordered that the regulation remain in effect during the time period necessary for consultation with the Advisory Committee and evaluation of its recommendations.

AGENCY ACTION AFTER COURT REMAND AND SUPPLEMENTAL STATEMENT OF REASONS

On July 20, 1978, at a previously scheduled meeting of the Advisory Committee on Construction Safety and Health, OSHA preliminarily notified the Committee of the court's decision. A brief oral summary of the decision was presented to the Committee. The Committee was then advised that a special meeting would be held on August 15, 16, and 17, 1978, in compliance with the court's instructions, to discuss the substantive issues of the ground-fault protection standard, and to solicit the Committee's recommendations. To assist the Advisory Committee in its review of the standard in preparation for the August meeting, OSHA provided each member with copies of the following documents:

1. A copy of the court decision.
2. An index of the rulemaking record on ground-fault protection.
3. FEDERAL REGISTER notice, vol. 40, No. 67, April 7, 1975, Ground-Fault Circuit Protection—Proposed Revocation of Standard (40 FR 15390).
4. FEDERAL REGISTER notice, vol. 40, No. 170, September 2, 1975, Notice of Hearing on Ground-Fault Circuit Protection.
5. The Ground-Fault Protection Standard, FEDERAL REGISTER, vol. 41, No. 246, December 21, 1976.

In addition, OSHA staff advised the Advisory Committee that other specific items in the record would be made available upon request.

Accordingly, on July 28, 1978, OSHA published a notice in the FEDERAL REGISTER (43 FR 32884) announcing that a meeting of the Advisory Committee on Construction Safety and Health was to be held on August 15, 16, and 17, 1978. The notice explained that the meeting was in response to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *National Constructors Association* v. *Marshall, supra*, regarding OSHA's ground-fault circuit protection standard (29 CFR 1910.309(c) and 29 CFR 1926.400(h)). At the meeting, the Advisory Committee would review said standard, and make such recommendations as appropriate.

Additionally the public was invited to submit written data, views, or arguments and anyone wishing to make an oral presentation was instructed to notify OSHA's Division of Consumer Affairs.

On August 15, 1978, the Advisory Committee meeting was convened in Washington, D.C. The legal framework of the Committee's deliberations was discussed by a member of the Solicitor's Office, and a complete technical presentation of the ground-fault protection standard was made by OSHA staff to the Advisory Committee. The technical presentation provided the data and rationale which led OSHA to promulgate the standard requiring the use on construction sites of either ground-fault circuit interrupters or an assured equipment grounding conductor program. This presentation included a review of the data in the official record and included the following subjects:

1. Low voltage electrical fatalities on construction sites;
2. Ground-fault protection requirements in OSHA regulations;
3. Need to supplement these requirements;
4. Method of supplementing the requirement for the utilization of an equipment grounding conductor;
5. Data available on efficacy of GFCI's;
6. Data available on viability of an assured equipment grounding conductor program;
7. Operating principle of GFCI's; and
8. Review of the entire ground-fault protection standard as promulgated on December 21, 1976.

Upon completion of OSHA's technical presentation, two scheduled oral presentations were given by public participants. Both proposed the use of a new device, presently under development, which would continuously monitor the presence of the equipment grounding conductor from the receptacle back to the electric supply. Neither device, in their present configuration, would monitor the equipment grounding conductor in tools. Testing and records of tests would still be manually accomplished for tools whenever an employer chose to use the assured equipment grounding conductor program. Both public participants acknowledged this limitation on their devices and agreed that although the test for tools would still be a manual one, the continuous monitoring of extension cords and receptacles would still result in benefits in both added safety and simpler implementation of the testing and recording of the equipment grounding conductor. Both participants noted that the devices they demonstrated were prototype models and not yet available on the open market. At the conclusion of their presentation, a member of the audience expressed his views on these devices. He indicated that these particular units might not be reliable enough, and, under certain conditions, could give false indications as to the presence of the equipment grounding conductor.

Three additional public participants gave their oral views on the ground-fault circuit protection standard. All three endorsed the standard as promulgated, including the assured equipment grounding conductor program. The Advisory Committee received six written comments on the standard and all strongly requested that the committee recommend the retention of the assured equipment grounding conductor program.

After examining the record, evaluating OSHA's presentation, and considering relevant public comment the Advisory Committee concluded that no change, modification, or amendment was warranted with respect to the final rule on ground-fault protection as promulgated in the FEDERAL REGISTER on December 21, 1976. The Advisory Committee accordingly concurred in the judgment of the Assistant Secretary regarding the standards now in effect for ground-fault circuit protection in 29 CFR 1910.309(c) and 29 CFR 1926.400(h) which require either the use of GFCI's or the implementation of an assured equipment grounding conductor program on construction sites.

Since the Advisory Committee on Construction Safety and Health recommended no change in the standard as promulgated by OSHA, and in the

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absence of any indication that further public comment would shed any new light on the matter, OSHA concludes that no change in the standard is warranted. Accordingly, the ground-fault protection standard at 29 CFR 1910.309(c) and 29 CFR 1926.400(h), as promulgated on December 21, 1976, is hereby reaffirmed.

(Secs. 6(b) and 8(c), Pub. L. 91-596, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); sec. 107, Pub. L. 91 54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

Signed at Washington, D.C., this 3d day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-28687 Filed 10-12-78; 8:45 am]

[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1110-2-241]

PART 208—FLOOD CONTROL REGULATIONS

Use of Storage Allocated for Flood Control and Navigation Purposes

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This revision of 33 CFR 208.11 regulations prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation. The revised regulations are applicable to dam and reservoir projects licensed, maintained, and operated under provisions of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A))), Pub. L. 83-436, and other similar authorizing legislation; as well as to reservoir projects constructed wholly or in part with Federal funds as directed by section 7 of the Flood Control Act of 1944. These regulations are intended to establish an understanding between project owners, operating agencies and the Corps of Engineers with regard to certain activities and responsibilities concerning water control management throughout the Nation in the interest of flood control and navigation. Interested persons were given until November 2, 1977 (42 FR 57141) to submit comments. No written comments were received.

DATES: This regulation is effective on October 15, 1978.

ADDRESSES: HQDA (DAEN-CWE-HY) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314 202-693-7330.

SUPPLEMENTARY INFORMATION: This final regulation is essentially the same as the proposed rule (42 FR 53637), however, certain reordering has been done of the reference material presented in § 208.11(b). Specifically, excerpts from sections 4(e), 10(a), and 10(c) of the Federal Power Act have been added for improved clarity. Also Federal Power Commission order No. 540 issued October 31, 1975, and published November 7, 1975 (40 FR 51998), amending § 2.9 of the Commission's general policy and interpretations which prescribed standardized conditions (Forms) for inclusion in preliminary permits and licenses issued under part I of the Federal Power Act has been cited and appropriately excerpted. Reference to and citation from article 33 of Federal Power Commission license No. 2009 have been deleted in lieu thereof.

In addition to the proposed action, certain project names and pertinent data are added to and deleted from the list of projects shown in § 208.11(e), list of projects (42 FR 53637). The following projects are added to the list of projects:

(a) U.S. Army Corps of Engineers, Missouri River Division area: Webster Dam and Lake.

(b) U.S. Army Corps of Engineers, New England Division area:

(i) Bear Swamp Pumped Storage Project.

(ii) Turners Falls Reservoir.

(c) U.S. Army Corps of Engineers, North Pacific Division area:

(i) American Falls Dam and Reservoir.

(ii) Anderson Ranch Dam and Reservoir.

(iii) Arrowrock Dam and Reservoir.

(iv) Brownlee Dam and Reservoir.

(v) Grand Coulee Dam and Franklin D. Roosevelt Lake.

(vi) Hells Canyon Dam and Reservoir.

(vii) Kerr Dam and Flathead Lake.

(viii) Mayfield Dam and Reservoir.

(ix) Mossyrock Dam and Davisson Lake.

(x) Oxbow Dam and Reservoir.

(xi) Priest Rapids Dam and Reservoir.

(xii) Ririe Dam and Reservoir.

(xiii) Rocky Reach Dam and Lake Entiat.

(xiv) Ross Dam and Reservoir.

(xv) Upper Baker Dam and Baker Lake.

(xvi) Wanapum Dam and Reservoir.

(xvii) Wells Dam and Lake Pateros.

(d) U.S. Army Corps of Engineers, South Atlantic Division area: Lewis M. Smith Dam and Reservoir.

(e) U.S. Army Corps of Engineers, South Pacific Division area:

(i) Indian Valley Dam and Reservoir.

(ii) Lemon Dam and Reservoir.

(iii) Navajo Dam and Reservoir.

(iv) Paoina Dam and Reservoir.

(v) Vallecito Dam and Reservoir.

The following projects are deleted from the list of projects:

(a) U.S. Army Corps of Engineers, South Altantic Division area: H. Neely Henry Dam and Reservoir.

(b) U.S. Army Corps of Engineers, South Pacific Division area:

(i) Causey Dam and Reservoir.

(ii) Devil Creek Dam and Reservoir.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority Pub. L. 90-483).

Dated: October 10, 1978.

CHARLES I. MCGINNIS,
Major General, USA,
Director of Civil Works.

Section 208.11 is revised to read as follows:

§ 208.11 Regulations for use of storage allocated for flood control or navigation and/or project operation at reservoirs subject to prescription of rules and regulations by the Secretary of the Army in the interest of flood control and navigation.

(a) *Purpose.* This regulation prescribes the responsibilities and general procedures for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation, except projects owned and operated by the Corps of Engineers; the International Boundary and Water Commission, United States and Mexico; and those under the jurisdiction of the International Joint Commission, United States, and Canada, and the Columbia River Treaty. The intent of this regulation is to establish an understanding between project owners, operating agencies, and the Corps of Engineers.

(b) *Responsibilities.* The basic responsibilities of the Corps of Engineers regarding project operation are set out in the cited authority and described in the following paragraphs:

(1) Section 7 of the Flood Control Act of 1944 (58 Stat. 890, 33 U.S.C. 709) directs the Secretary of the Army to prescribe regulations for flood control and navigation in the following manner:

Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided,* That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department.

(2) Federal Energy Regulatory Commission (formerly Federal Power Commission (FPC)) licenses.

(i) Responsibilities of the Secretary of the Army and/or the Chief of Engineers in Federal Energy Regulatory Commission (FERC) licensing actions are set out in the Federal Power Act. Pertinent sections of that Act are cited herein. The Commission may also stipulate, as part of license conditions, that the licensee enter into an agreement with the Department of the Army providing for operation of the project during flood times, in accordance with rules and regulations prescribed by the Secretary of the Army.

(A) Section 4(e) of the Federal Power Act requires approval by the Chief of Engineers and the Secretary of the Army of plans of dams or other structures affecting the navigable capacity of any navigable waters of the United States, prior to issuance of a license by the Commission as follows:

The Commission is hereby authorized and empowered to issue licenses to citizens • • • for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from or in any of the streams or other bodies of water over which Congress has jurisdiction • • • *Provided further,* That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of the Army.

(B) Sections 10(a) and 10(c) of the Federal Power Act specify conditions of project licenses including the following:

(1) Section 10(a). That the project adopted • • • shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use of benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public use • • •.

(2) Section 10(c). That the licensee shall • • • so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commisssion may from time to time prescribe for the protection of life, health, and property. • • •

(C) Section 18 of the Federal Power Act directs the operation of any navigation facilities built under the provision of that act, be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigation facilities which may be constructed as part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army. • • •

(ii) Federal Power Commission order No. 540 issued October 31, 1975, and published November 7,1975 (40 FR 51998), amending section 2.9 of the Commission's general policy and interpretations prescribed standardized conditions (forms) for inclusion in preliminary permits and licenses issued under part I of the Federal Power Act. As an example, article 12 of standard form L-3, titled: "Terms and Conditions of License for Constructed Major Projects Affecting Navigable Waters of the United States," sets out the Commission's interpretation of appropriate sections of the Act, which deal with navigation aspects, and attendant responsibilities of the Secretary of the Army in licensing actions as follows:

The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operation of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, • • •, and the Licensee shall release water from the project reservoir at such rate • • •, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

(3) Section 9 of Public Law 436, 83d Congress (68 Stat. 303) provides for the development of the Coosa River, Ala. and Ga., and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows:

The operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and navigation.

NOTE.—This Regulation will also be applicable to dam and reservoir projects operated under provisions of future legislative acts wherein the Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation. The Chief of Engineers, U.S. Army Corps of Engineers, is designated the duly authorized representative of the Secretary of the Army to exercise the authority set out in the congressional acts. This regulation will normally be implemented by letters of understanding between the Corps of Engineers and project owner and will incorporate the provisions of such letters of understanding prior to the time construction renders the project capable of significant impoundment of water. A water control agreement signed by both parties will follow when deliberate impoundment first begins or at such time as the responsibilities of any corps-owned projects may be transferred to another entity. Promulgation of this regulation for a given project will occur at such time as the name of the project appears in the FEDERAL REGISTER in accordance with the requirements of § 208.11(d)(11). When agreement on a water control plan cannot be reached between the corps and the project owner after coordination with all interested parties, the project name will be entered in the FEDERAL REGISTER and the Corps of Engineers plan will be the officials water control plan until such time as differences can be resolved.

(c) *Scope and terminology.* This regulation applies to Federal authorized flood control and/or navigation storage projects, and to non-Federal projects which require the Secretary of the Army to prescribe regulations as a condition of the license, permit or legislation, during the planning, design and construction phases, and throughout the life of the project. In compliance with the authority cited above, this regulation defines certain activities and responsibilities concerning water control management throughout the Nation in the interest of flood control and navigation. In carrying out the conditions of this regulation, the owner and/or operating agency will comply with applicable provisions of Pub. L. 85-624, the Fish and Wildlife Coordination Act of 1958, and Pub. L. 92-500, the Federal Water Pollution Control Act Amendments of 1972. This regulation does not apply to local flood protection works governed by § 208.10, or to navigation facilities and associated structures which are otherwise covered by part 207 (Navigation Regulations) of title 33 of the code. Small reservoirs, containing less than 12,500 acre-feet of flood control or navigation storage, may be excluded from this regulation and covered under § 208.10, unless specifically required by law or conditions of the license or permit.

(1) The terms "reservoir" and "project" as used herein include all water resource impoundment projects constructed or modified, including natural lakes, that are subject to this regulation.

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(2) The term "project owner" refers to the entity responsible for maintenance, physical operation, and safety of the project, and for carrying out the water control plan in the interest of flood control and/or navigation as prescribed by the Corps of Engineers. Special arrangements may be made by the project owner for "operating agencies" to perform these tasks.

(3) The term "letter of understanding" as used herein includes statements which consummate this regulation for any given project and define the general provisions or conditions of the local sponsor, or owner, cooperation agreed to in the authorizing legislative document, and the requirements for compliance with section 7 of the 1944 Flood Control Act, the Federal Power Act or other special congressional act. This information will be specified in the water control plan and manual. The letter of understanding will be signed by a duly authorized representative of the Chief of Engineers and the project owner. A "field working agreement" may be substituted for a letter of understanding, provided that the specified minimum requirements of the latter, as stated above, are met.

(4) The term "water control agreement" refers to a compliation of water control criteria, guidelines, diagrams, release schedules, rule curves and specifications that basically govern the use of reservoir storage space allocated for flood control or navigation and/or release functions of a water control project for these purposes. In general, they indicate controlling or limiting rates of discharge and storage space required for flood control and/or navigation, based on the runoff potential during various seasons of the year.

(5) For the purpose of this regulation, the term "water control plan" is limited to the plan of regulation for a water resources project in the interest of flood control and/or navigation. The water control plan must conform with proposed allocations of storage capacity and downstream conditions or other requirements to meet all functional objectives of the particular project, acting separately or in combination with other projects in a system.

(6) The term "real-time" denotes the processing of current information or data in a sufficiently timely manner to influence a physicial response in the system being monitored and controlled. As used herein the term connotes * * * the analyses for and execution of water control decisions for both minor and major flood events and for navigation, based on prevailing hydrometeorological and other conditions and constraints, to achieve efficient management of water resource systems.

(d) *Procedures.* (1) *Conditions during project formulation.* During the planning and design phases, the project owner should consult with the Corps of Engineers regarding the quantity and value of space to reserve in the reservoir for flood control and/or navigation purposes, and for utilization of the space, and other requirements of the license, permit or conditions of the law. Relevant matters that bear upon flood control and navigation accomplishment include: runoff potential, reservoir discharge capability, downstream channel characteristics, hydrometeorological data collection, flood hazard, flood damage charateristics, real estate acquisition for flowage requirements (fee and easement), and resources required to carry out the water control plan. Advice may also be sought on determination of and regulation for the probable maximum or other design flood under consideration by the project owner to establish the quantity of surcharge storage space, and freeboard elevation of top of dam or embankment for safety of the project.

(2) *Corps of Engineers involvement.* If the project owner is responsible for real-time implemenetation of the water control plan, consultation and assistance will be provided by the Corps of Engineers when appropriate and to the extent possible. During any emergency that affects flood control and/or navigation, the Corps of Engineers may temporarily prescribe regulation of flood control or navigation storage space on a day-to-day (real-time) basis without request of the project owner. Appropriate consideration will be given for other authorized project functions. Upon refusal of the project owner to comply with regulations prescribed by the Corps of Engineers, a letter will be sent to the project owner by the Chief of Engineers or his duly authorized representative describing the reason for the regulations prescribed, events that have transpired, and notification that the project owner is in violation of the Code of Federal Regulations. Should an impasse arise, in that the project owner or the designated operating entity persists in noncompliance with regulations prescribed by the Corps of Engineers, measures may be taken to assure compliance.

(3) *Corps of Engineers implementation of real-time water control decisions.* The Corps of Engineers may prescribe the continuing regulation of flood control storage space for any project subject to this regulation on a day-to-day (real-time) basis. When this is the case, consultation and assistance from the project owner to the extent possible will be expected. Special requests by the project owner, or appropriate operating entity, are preferred before the Corps of Engineers offers advice on real-time regulation during surcharge storage utilization.

(4) *Water control plan and manual.* Prior to project completion, water control managers from the Corps of Engineers will visit the project and the area served by the project to become familiar with the water control facilities, and to insure sound formulation of the water control plan. The formal plan of regulation for flood control and/or navigation, referred to herein as the water control plan, will be developed and documented in a water control manual prepared by the Corps of Engineers. Development of the manual will be coordinated with the project owner to obtain the necessary pertinent information, and to insure compatibility with other project purposes and with surcharge regulation. Major topics in the manual will include: Authorization and description of the project, hydrometeorology, data collection and communication networks, hydrologic forecasting, the water control plan, and water resource management functions, including responsibilities and coordination for water control decisionmaking. Special instructions to the dam tender or reservoir manager on data collection, reporting to higher Federal authority, and on procedures to be followed in the event of a communication outage under emergency conditions, will be prepared as an exhibit in the manual. Other exhibits will include copies of this regulation, letters of understanding consummating this regulation, and the water control agreements. After approval by the Chief of Engineers or his duly authorized representative, the manual will be furnished the project owner.

(5) *Water control agreement.* (i) A water control diagram (graphical) will be prepared by the Corps of Engineers for each project having variable space reservation for flood control and/or navigation during the year; e.g., variable seasonal storage, joint-use space, or other rule curve designation. Reservoir inflow parameters will be included on the diagrams when appropriate. Concise notes will be included on the diagrams prescribing the use of storage space in terms of release schedules, runoff, nondamaging or other controlling flow rates downstream of the damsite, and other major factors as appropriate. A water control release schedule will be prepared in tabular form for projects that do not have variable space reservation for flood control and/or navigation. The water control diagram or release schedule will be signed by a duly authorized representative of the Chief of Engineers, the project owner, and the designated operating agency, and will be used as the basis for carrying out this regulation. Each diagram or schedule will contain a reference to this regulation.

(ii) When deemed necessary by the Corps of Engineers, information given on the water control diagram or release schedule will be supplemented by appropriate text to assure mutual understanding on certain details or other important aspects of the water control plan not covered in this regulation, on the water control diagram or in the release schedule. This material will include clarification of any aspects that might otherwise result in unsatisfactory project performance in the interest of flood contol and/or navigation. Supplementation of the agreement will be necessary for each project where the Corps of Engineers exercises the discretionary authority to prescribe the flood control regulation on a day-to-day (real-time) basis. The agreement will include delegation of the responsibility. The document should also cite, as appropriate, section 7 of the 1944 Flood Control Act, the Federal Power Act and/or other congressional legislation authorizing construction an/or directing operation of the project.

(iii) All flood control regulations published in the FEDERAL REGISTER under this section (part 208) of the code prior to the date of this publication which are listed in paragraph 208.11(e) are hereby superseded.

(iv) Nothing in this regulation prohibits the promulgation of specific regulations for a project in compliance with the authorizing acts, when agreement on acceptable regulations cannot be reached between the Corps of Engineers and the owner.

(6) *Hydrometeorological instrumentation.* The project owner will provide instrumentation in the vicinity of the damsite and will provide communication equipment necessary to record and transmit hydrometeorological and reservoir data to all appropriate Federal authorities on a real-time basis unless there are extenuating circumstances or are otherwise provided for as a condition of the license or permit. For those projects where the owner retains responsibility for real-time implementation of the water control plan, the owner will also provide or arrange for the measurement and reporting of hydrometeorological parameters required within and adjacent to the watershed and downstream of the damsite, sufficient to regulate the project for flood control and/or navigation in an efficient manner. When data collection stations outside the immediate vicinity of the damsite are required, and funds for installation, observation, and maintenance are not available from other sources, the Corps of Engineers may agree to share the costs for such stations with the project owner. Availability of funds and urgency of data needs are factors which will be considered in reaching decisions on cost sharing.

(7) *Project safety.* The project owner is responsible for the safety of the dam and appurtenant facilities and for regulation of the project during surcharge storage utilization. Emphasis upon the safety of the dam is especially important in the event surcharge storage is utilized, which results when the total storage space reserved for flood control is exceeded. Any assistance provided by the Corps of Engineers concerning surcharge regulation is to be utilized at the discretion of the project owner, and does not relieve the owner of the responsibility for safety of the project.

(8) *Notification of the general public.* The Corps of Engineers and other interested Federal and State agencies, and the project owner will jointly sponsor public involvement activities, as appropriate, to fully apprise the general public of the water control plan. Public meetings or other effective means of notification and involvement will be held, with the initial meeting being conducted as early as practicable but not later than the time the project first becomes operational. Notice of the initial public meeting shall be published once a week for 3 consecutive weeks in one or more newspapers of general circulation published in each county covered by the water control plan. Such notice shall also be used when appropriate to inform the public of modifications in the water control plan. If no newspaper is published in a county, the notice shall be published in one or more newspapers of general circulation within that county. For the purposes of this section a newspaper is one qualified to publish public notices under applicable State law. Notice shall be given in the event significant problems are anticipated or experienced that will prevent carrying out the approved water control plan or in the event that an extreme water condition is expected that could produce severe damage to property or loss of life. The means for conveying this information shall be commensurate with the urgency of the situation. The water control manual will be made available for examination by the general public upon request at the appropriate office of the Corps of Engineers, project owner or designated operating agency.

(9) *Other generalized requirements for flood control and navigation.* (i) Storage space in the reservoirs allocated for flood control and navigation purposes shall be kept available for those purposes in accordance with the water control agreement, and the plan of regulation in the water control manual.

(ii) Any water impounded in the flood control space defined by the water control agreement shall be evacuated as rapidly as can be safely accomplished without causing downstream flows to exceed the controlling rates; i.e., releases from reservoirs shall be restricted insofar as practicable to quantities which, in conjunction with uncontrolled runoff downstream of the dam, will not cause water levels to exceed the controlling stages currently in force. Although conflicts may arise with other purposes, such as hydropower, the plan or regulation may require releases to be completely curtailed in the interest of flood control or safety of the project.

(iii) Nothing in the plan of regulation for flood control shall be construed to require or allow dangerously rapid changes in magnitudes of releases. Releases will be made in a manner consistent with requirements for protecting the dam and reservoir from major damage during passage of the maximum design flood for the project.

(iv) The project owner shall monitor current reservoir and hydro- meteorological conditions in and adjacent to the watershed and downstream of the damsite, as necessary. This and any other pertinent information shall be reported to the Corps of Engineers on a timely basis, in accordance with standing instructions to the dam-tender or other means requested by the Corps of Engineers.

(v) In all cases where the project owner retains responsibility for real-time implementation of the water control plan, he shall make current determinations of: Reservoir inflow, flood control storage utilized, and scheduled releases. He shall also determine storage space and releases required to comply with the water control plan prescribed by the Corps of Engineers. The owner shall report this information on a timely basis as requested by the Corps of Engineers.

(vi) The water control plan is subject to temporary modification by the Corps of Engineers if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

(vii) The project owner may temporarily deviate from the water control plan in the event an immediate short-term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious hazards. Such actions shall be immediately reported by the fastest

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means of communication available. Actions shall be confirmed in writing the same day to the Corps of Engineers and shall include justification for the action. Continuation of the deviation will require the express approval of the Chief of Engineers, or his duly authorized representative.

(viii) Advance approval of the Chief of Engineers, or his duly authorized representative, is required prior to any deviation from the plan of regulation prescribed or approved by the Corps of Engineers in the interest of flood control and/or navigation, except in emergency situations provided for in paragraph (d)(9)(vii) of this section. When conditions appear to warrant a prolonged deviation from the approved plan, the project owner and the Corps of Engineers will jointly investigate and evaluate the proposed deviation to insure that the overall integrity of the plan would not be unduly compromised. Approval of prolonged deviations will not be granted unless such investigations and evaluations have been conducted to the extent deemed necessary by the Chief of Engineers, or his designated representatives, to fully substantiate the deviation.

(10) *Revisions.* The water control plan and all associated documents will be revised by the Corps of Engineers, as necessary, to reflect changed conditions that come to bear upon flood control and navigation, e.g., reallocation of reservoir storage space due to sedimentation or transfer of storage space to a neighboring project. Revision of the water control plan, water control agreement, water control diagram, or release schedule requires approval of the Chief of Engineers or his duly authorized representative. Each such revision shall be effective upon the date specified in the approval. The original (signed document) water control agreement shall be kept on file in the Office, Chief of Engineers, Department of the Army, Washington, D.C. Copies of the agreement shall be kept on file and may be obtained from the office of the project owner, or from the office of the appropriate Division Engineer, Corps of Engineers.

(11) *Federal Register.* The following information for each project subject to section 7 of the 1944 Flood Control Act and other applicable congressional acts shall be published in the FEDERAL REGISTER prior to the time the projects becomes operational and prior to any significant impoundment before project completion or * * * at such time as the responsibility for physical operation and maintenance of the Corps of Engineers owned projects is transferred to another entity: (i) Reservoir, dam, and lake names, (ii) stream, county, and State corresponding to the damsite location, (iii) the maximum current storage space in acre-feet to be reserved exclusively for flood control and/or navigation purposes, or any multiple-use space (intermingled) when flood control or navigation is one of the purposes, with corresponding elevations in feet above mean sea level, and area in acres at the upper and lower limits of said space, (iv) the name of the project owner, and (v) congressional legislation authorizing the project for Federal participation.

(e) *List of projects.* The following tables, "Pertinent Project Data—Section 208.11 Regulation," show the pertinent data for projects which are subject to this regulation.

(Sec. 7, Pub. L. 78-534, 58 Stat. 890 (33 U.S.C. 709); the Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)); and Sec. 9, Pub. L. 83-436, 68 Stat. 303.)

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PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS — MULTIPLE-USE

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION AREA acres		MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l.		AREA acres		PROJECT OWNER	AUTH. LEGIS.
			UPPER	LOWER		UPPER	LOWER	UPPER	LOWER		
Alpine Dam	Keith Creek	Winnebago,IL	51.88	0	-	-	-	-	-	City of Rockford,IL	PWA Proj.
Agency Valley Dam & Res	N. Fork Malheur Riv.	Malheur,OR	-	-	60.0	3340.0	3263.21	1,900	0	Bureau of Reclamation	PL 68-292
American Falls Dam & Reservoir	Snake River	Power,ID	-	-	1,700	4343.2	4295.6	56,100	0	Bureau of Reclamation	FPC NO. 2259
Anderson Ranch Dam & Reservoir	S.Fk. Boise River	Elmore,ID	-	-	423.2	4196.0	4043.0	4,740	1,150	Bureau of Reclamation	Rec. Proj. Act of 1939 (53 Stat. 1187)
Arrowrock Dam & Reservoir	Boise River	Elmore,ID	-	-	286.6	3216.0	2967.0	3,100	200	Bureau of Reclamation	Rec.Act of 17 Jun 1902 (32 Stat. 388)
Bear Creek Dam	Bear Creek	Marion & Ralls MO	540	0	-	-	-	-	-	City of Hannibal,MO	PL 83-780
Bear Swamp Pumped Storage Proj.	Trib. of Deerfield River	Franklin, MA	-	-	(No specific FC/Nav. Storage Allocation)					New Eng Power CO.	Fed. Power Act.
Big Dry Creek and Diversion	Big Dry Creek and Dog Creek	Fresno,CA	520.0	393.0	1,530	0	16.5	425.0	-	-	Reclamation Board CA	PL 77-228
Bonny Dam & Reservoir	S. Fork Republican River	Yuma, CO	3672.0	5,036	2,042	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Boysen Dam & Reservoir	Wind River	Fremont, WY	4725.0	22,100	19,560	146.1	4725.0	4717.0	19,560	16,955	Bureau of Reclamation	PL 78-534
Brownlee Dam & Reservoir	Snake River	Baker,OR; Washington,ID	-	-	-	980.3	2077.0	1976.0	13,840	6,650	Idaho Power Company	FPC No. 1971-C
Bully Creek Dam & Reservoir	Bully Creek	Malheur,OR	-	-	-	31.65	2523.0	2456.8	1,082	140	Bureau of Reclamation	PL 86-248
Camanche Dam & Reservoir	Mokelumne River	San Joaquin, CA	-	-	-	200.0	235.5	205.1	7,600	5,507	East Bay Mun Util Dist. Oakland,CA	PL 86-645
Canyon Ferry Dam & Lake	Missouri Riv.	Lewis & Clark MT	3797.0	35,181	34,435	799.1	3797.0	3770.0	34,435	24,126	Bureau of Reclamation	PL 78-534

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	LOWER
Alpine Dam	Keith Creek	Winnebago,IL	0.585	796.0	764.0
Agency Valley Dam & Res	N. Fork Malheur Riv.	Malheur,OR	-	-	-
American Falls Dam & Reservoir	Snake River	Power,ID	-	-	-
Anderson Ranch Dam & Reservoir	S.Fk. Boise River	Elmore,ID	-	-	-
Arrowrock Dam & Reservoir	Boise River	Elmore,ID	-	-	-
Bear Creek Dam	Bear Creek	Marion & Ralls MO	8.7	546.5	520.0
Bear Swamp Pumped Storage Proj.	Trib. of Deerfield River	Franklin, MA	-	-	-
Big Dry Creek and Diversion	Big Dry Creek and Dog Creek	Fresno,CA	16.25	425.0	393.0
Bonny Dam & Reservoir	S. Fork Republican River	Yuma, CO	128.8	3710.0	3672.0
Boysen Dam & Reservoir	Wind River	Fremont, WY	146.0	4732.0	4725.0
Brownlee Dam & Reservoir	Snake River	Baker,OR; Washington,ID	-	-	-
Bully Creek Dam & Reservoir	Bully Creek	Malheur,OR	-	-	-
Camanche Dam & Reservoir	Mokelumne River	San Joaquin, CA	-	-	-
Canyon Ferry Dam & Lake	Missouri Riv.	Lewis & Clark MT	104.3	3800.0	3797.0

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Cedar Bluff Dam & Reservoir	Smoky Hill River	Trego, KS	191.9	2166.0	2144.0	10,790	6,869	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Clark Canyon Dam & Reservoir	Beaverhead River	Beaverhead, MT	79.1	5560.4	5546.1	5,903	5,160	50.4	5546.1	5535.7	5,160	4,496	Bureau of Reclamation	PL 78-534
Del Valle Dam & Reservoir	Alameda Creek	Alameda, CA	37.0	745.0	703.1	1,060	710	1.0	703.1	702.2	710	700	CA Dept of Water Resources	PL 87-874
East Canyon Dam & Reservoir	East Canyon Creek	Morgan, UT	-	-	-	-	-	48.0	5705.5	5577.0	684	127	Bureau of Reclamation	PL 81-273
Echo Dam and Reservoir	Weber River	Summit, UT	-	-	-	-	-	74.0	5560.0	5450.0	1,455	0	Bureau of Reclamation	PL 81-273
Emigrant Dam & Reservoir	Emigrant Creek	Jackson, OR	39.0	2241.0	2131.5	801	80	-	-	-	-	-	Bureau of Reclamation	PL 83-606
Enders Dam & Reservoir	Frenchman Creek	Chase, NB	30.0	3127.0	3112.3	2,405	1,707	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Folsom Dam & Lake	American River	Sacramento, CA	-	-	-	-	-	400.0	466.0	427.0	11,450	9,040	Bureau of Reclamation	PL 81-356
Friant Dam & Reservoir (Millerton Lake)	San Joaquin River	Fresno, CA	-	-	-	-	-	390.0	578.0	466.3	4,850	2,101	Bureau of Reclamation	PL 75-392 & PL 76-868
Gaston-Roanoke Rapids Dam & Reservoir	Roanoke River	Northampton & Halifax, NC	63.0	203.0	200.0	22,500	20,300	-	-	-	-	-	VA Electric & Power Co.	Fed Power Act
Glen Elder Dam & Waconda Lake	Solomon River	Mitchell, KS	722.3	1488.3	1455.6	38,682	12,602	-	-	-	-	-	Bureau of Reclamation	PL 78-534 & PL 79-526
Glendo Dam & Reservoir	N. Platte River	Platte, WY	271.9	4653.0	4635.0	17,986	12,365	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Grand Coulee Dam, Franklin D. Roosevelt Lake	Columbia River	Grant & Okanogan, WA	-	-	-	-	-	5185.45	1290.0	1208.0	82,280	45,592	Bureau of Reclamation	PL 89-561 3rd Power-house
Heart Butte Dam & Lake Tachida	Heart River	Grant, ND	150.0	2094.5	2064.5	6,625	3,400	-	-	-	-	-	Bureau of Reclamation	PL 78-534

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Hells Canyon Dam & Reservoir	Snake River	Wallowa, OR; Adams, ID	-	-	-	-	-	11.7	1688.0	1683.0	2,380	2,280	Idaho Power Company	FPC No. 1971-A
Hoover Dam & Lake Mead	Colorado River	Clark NV & Mohave, AZ	1500.0	1229.0	1219.6	162,700	156,500	15.853	1219.6	1083.0	156,500	83,500	Bureau of Reclamation	PL 70-642
Hungry Horse Dam & Reservoir	S. Fork Flathead Riv.	Flathead, MT	2982.0	3560.0	3336.0	23,800	5,400	-	-	-	-	-	Bureau of Reclamation	PL 78-329
Indian Valley Dam&Reservoir	N.Fork Cache Creek	Lake, CA	-	-	-	-	-	40.0	1485.0	1474.7	3,975	3,749	Yolo Cty Fl. Cont&WtrCons Dist.	PL 84-984
Jamestown Dam & Reservoir	James River	Stutsman, ND	185.4	1454.0	1432.67	13,206	2,555	6.6	1432.67	1429.8	2,555	2,085	Bureau of Reclamation	PL 78-534
Kerr Dam Flathead Lake	Flathead River	Lake, MT	-	-	-	-	-	1219.0	2893.0	2883.0	125,560	120,000	Montana Power Co.	FPC No. 5
Keyhole Dam & Reservoir	Belle Fourche	Crook, WY	140.2	4111.5	4099.3	13,686	9,394	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Kirwin Dam & Reservoir	N. Fork Solomon River	Phillips, KS	215.1	1757.3	1729.25	10,640	5,073	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Lemon Dam & Reservoir	Florida River	La Plata, Colorado	-	-	-	-	-	39.0	8148	8023	622	62	Bureau of Reclamation	PL 84-485
Lewis M. Smith Dam & Reservoir	Sipsey Fork Black Warrior Riv.	Cullman & Walker, AL	280.6	522.0	510.0	25,700	21,200	-	-	-	-	-	Alabama Power Co.	Fed.Power Act
Little Wood River Dam & Reservoir	Little Wood River	Blain, ID	30.0	5237.3	5127.8	574	0	-	-	-	-	-	Bureau of Reclamation	PL 84-993
Logan Martin Dam & Reservoir	Coosa River	Talladega, AL	245.3	477.0	465.0	26,310	15,260	-	-	-	-	-	Alabama Power Co.	PL 83-436
Los Banos Dam & Detention Res.	Los Banos Creek	Merced, CA	-	-	-	-	-	14.0	353.5	327.8	619	467	Bureau of Reclamation	PL 86-488
Lost Creek Dam & Res.	Lost Creek	Morgan, UT	-	-	-	-	-	20.0	6005.0	5912.0	365	93	Bureau of Reclamation	PL 81-273
Lovewell Dam & Reservoir	White Rock Creek	Jewell, KS	50.5	1595.3	1582.6	5,025	2,986	-	-	-	-	-	Bureau of Reclamation	PL 78-534

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Markham Ferry Dam & Lake Wash E. Hudson	Grand (Neosho) River	Mayes, OK	244.2	636.0	619.0	18,000	10,900	-	-	-	-	-	Grand River Dam Authority	PL 76-476
Mayfield Dam & Reservoir	Cowlitz River	Lewis, WA	-	-	-	-	-	21.4	425.0	415.0	2,070	1,825	City of Tacoma	FPC No. 2016-A
Medicine Creek Dam & Harry Strunk Lake	Medicine Creek	Frontier, NB	52.2	2386.2	2366.1	3,465	1,850	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Mossyrock Dam Davisson Lake	Cowlitz River	Lewis, WA	-	-	-	-	-	1397.0	778.5	621.5	11,800	5,000	City of Tacoma	FPC No. 2016-B
Navajo Dam Reservoir	San Juan River	Rio Arriba & San Juan, NM	-	-	-	-	-	1036.1	6085	5990	15,610	7,400	Bureau of Reclamation	PL 84-485
New Exchequer Dam & Lake McClure	Merced River	Tuolomne, CA	-	-	-	-	-	400.0	867.0	799.7	7,110	4,849	Merced Irrig. District	PL 86-645
Norton Dam & Reservoir	Prairie Dog Creek	Norton, KS	98.8	2331.4	2304.3	5,316	2,181	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Ochoco Dam & Reservoir	Ochoco Creek	Crook, OR	51.4	3136.2	3048.1	1,150	120	-	-	-	-	-	Bureau of Reclamation	PL 84-992
Oroville Dam & Lake	Feather River	Butte, CA	-	-	-	-	-	750.0	900.0	848.5	15,800	13,346	CA Dept of Wtr Resources	PL 85-500
Oxbow Dam & Reservoir	Snake River	Baker, OR; Adams, ID	-	-	-	-	-	5.0	1805.0	1800.0	1,165	1,115	Idaho Power Company	FPC No. 1971-B
Pactola Dam & Reservoir	Rapid Creek	Pennington, SD	43.0	4621.5	4580.2	1,232	860	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Palisades Dam & Reservoir	Snake River	Bonneville, ID	1202.0	5620.0	5452.43	16,100	2,170	-	-	-	-	-	Bureau of Reclamation	PL 81-864
Paonia Dam & Reservoir	Muddy Creek	Gunnison, Colorado	-	-	-	-	-	17.0	6447.5	6373.0	334	120	Bureau of Reclamation	PL 80-117 PL 84-485
Pineview Dam & Reservoir	Odgen River	Weber, UT	-	-	-	-	-	110.0	4900.0	4818.0	2,874	0	Bureau of Reclamation	PL 81-273
Platora Dam & Reservoir	Conejos River	Conejos, CO	6.0	10034.0	10027.5	947	920	540.0	10027.5	994.5	920	0	Bureau of Reclamation	PL 76-640
Priest Rapids Dam & Reservoir	Columbia River	Grant, WA	-	-	-	-	-	44.0	488.0	481.5	7,100	6,500	Grant County PUD No. 2	FPC No. 2114-A
Prineville Dam & Reservoir	Crooked Creek	Crook, OR	153.0	3234.8	3112.0	2,990	120	-	-	-	-	-	Bureau of Reclamation	PL 84-992

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Prosser Creek & Reservoir	Prosser Creek	Nevada, CA	-	-	-	-	-	20.0	5741.2	5703.7	745	334	Bureau of Reclamation	PL 84-858
Red Willow Dam & Hugh Butler Lake	Red Willow Creek	Frontier, NB	48.9	2604.9	2581.8	2,682	1,629	-	-	-	-	-	Bureau of Reclamation	PL 78-534 &PL 85-783
Ririe Dam & Reservoir	Willow Creek Snake River	Bonneville, ID	-	-	-	-	-	90.0	5119.0	5023.0	1,560	360	Bureau of Reclamation	PL 87-874
Rocky Reach Dam Lake Entiat	Columbia River	Chelan, WA	-	-	-	-	-	37.0	707.0	703.0	9,600	0	Chelan Cnty PUD No. 1	FPC No. 2145
Ross Dam & Reservoir	Skagit River	Whatcom, WA	-	-	-	-	-	530.5	1602.5	1475.0	6,000	2,168	City of Seattle	FPC No. 553-C
Savage River Dam & Res.	Savage River	Garrett, MD	-	-	-	-	-	16.028	1468.5	1400.0	366	127	Upper Potomac Riv Commission	PL 79-526
Shadehill Dam & Reservoir	Grand River	Perkins, SD	217.7	2302.0	2272.0	9,900	4,800	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Shasta Dam & Lake	Sacramento River	Shasta, CA	-	-	-	-	-	1300.0	1067.0	1018.6	29,570	23,894	Bureau of Reclamation	PL 75-392 &PL 76-868
Smith Mtn & Leesville Dam & Res.	Roanoke River	Bedford, Campbell & Pittsylvania, VA	-	-	-	-	-	(No Specific FC/Nav. Storage Allocation)					Appalacian Power Co.	Fed. Power Act
Trenton Dam & Reservoir	Republican River	Hitchcock, NB	133.8	2773.0	2752.0	7,975	4,974	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Turner Falls Res (Includes Northfield Mtn Pumped Storage Project)	Connecticut River (Briggs Brook)	Franklin, MA	-	-	-	-	-	(No Specific FC/Nav. Storage Allocation)					Northeast Utilities Service Co. Hartford, CT	Fed. Power Act
Twitchell Dam & Reservoir	Cuyama River	Santa Barbara, CA	89.0	651.5	623.0	3,690	2,650	-	-	-	-	-	Bureau of Reclamation	PL 83-774
Upper Baker Dam Baker Lake	Baker River	Whatcom, WA	-	-	-	-	-	220.63	724.0	655.0	4,890	0	Puget Sound Power & Light Co.	Sec. 201 PL 89-298 FPC No. - 2150-B

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PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

EXCLUSIVE MULTIPLE-USE

PROJECT NAME	STREAM	COUNTY & STATE	FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. UPPER	FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Vallecito Dam & Reservoir	Los Pinos River	La Plata, Colorado	115.4	7665	7600	2,723	693	Bureau of Reclamation	PL 61-288 PL 68-292
Wanapum Dam & Reservoir	Columbia River	Grant, WA	151.6	571.5	560.0	14,400	9,600	Grant County PUD No. 2	FPC No. 2114-B
Wanship Dam & Rockport	Weber River	Summit, UT	61.0	6037.0	5930.0	1,077	121	Bureau of Reclamation	PL 81-273
Warm Springs Dam & Res.	Middle Fork Malheur Riv.	Malheur, OR	191.0	3406.0	3327.0	4,600	90	50%Vale Irr. Dist & 50% Bu. of Rec.	-
Waterbury Dam & Reservoir	Little River	Washington, VT	27.7	617.5	592.0	1,330	890	State of Vermont	PL 78-534
Weiss Dam & Reservoir	Coosa River	Cherokee, AL	397.0	574.0	564.0	50,000	30,200	Alabama Power Co.	PL 83-436
Wells Dam & Lake Pateros	Columbia River	Douglas, WA	[illegible]74.0	779.0	771.0	10,700	7,700	Douglas Cnty. PUD No. 1	FPC No. 2149
Webster Dam & Reservoir	S. Fork Solomon Riv.	Rooks, KS	183.4	1923.7	1892.45	8,480	3,766	Bureau of Reclamation	PL 534-78-2
Yellowtail Dam & Bighorn Lake	Bighorn River	Big Horn, MT	259.0	3657.0	3640.0	17,298	12,685	Bureau of Reclamation	PL 78-534

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[7527-01-M]

Title 45—Public Welfare

CHAPTER XVII—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PART 1705—PRIVACY REGULATIONS

Implementation

AGENCY: National Commission on Libraries and Information Science.

ACTION: Final rule.

SUMMARY: The Commission adopts regulations implementing the Privacy Act of 1974. The regulations set forth the procedures under which the public may determine what systems of records are maintained by the Commission and procedures on how access may be gained for purpose of review, amendment and/or correction of those records.

DATES: Effective October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Alphonse F. Trezza, Executive Director, National Commission on Libraries and Information Science, 1717 K Street NW., Suite 601, Washington, D.C. 20036, 202-653-6252.

SUPPLEMENTARY INFORMATION: On August 7, 1978 (45 FR 34805) the Commission published its proposed regulations implementing the Privacy Act of 1974. No comments were received. The Commission adopts the proposed regulations as published.

ALPHONSE F. TREZZA,
Executive Director.

Part 1705 is added to Title 45 of the Code of Federal Regulations.

Sec.
1705.1 Purpose and scope.
1705.2 Definitions.
1705.3 Procedures for requests pertaining to individual records in the D/AC File.
1705.4 Times, places, and requirements for identification of individuals making requests.
1705.5 Disclosure of requested information to individuals.
1705.6 Request for correction or amendment to the record.
1705.7 Agency review of request for correction or amendment of the record.
1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1705.9 Disclosure of record to a person other than the individual to whom the record pertains.
1705.10 Fees.
1705.11 Penalties.
1705.12 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 1705.1 Purpose and scope.

These procedures provide the means by which individuals may safeguard their privacy by obtaining access to, and requesting amendments or corrections in, information, if any, about these individuals which is contained in the White House Conference Delegate/Alternate Certification File (D/AC File), which is under the control of the National Commission on Libraries and Information Science (hereafter, the Commission).

§ 1705.2 Definitions.

For the purpose of these procedures:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item or set of items about an individual that is maintained by the Commission in either hard copy or computerized form, including name, residence and other information obtained from the form, "Certification of State/Territorial Delegates/Alternates to the White House Conference on Library and Information Services."

(d) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1705.3 Procedures for requests pertaining to individual records in the D/AC File.

(a) An individual who wishes to know whether the D/AC File contains a record pertaining to him or her shall submit a written request to that effect to the System Manager at the Commission. The System Manager shall, within 10 days of receipt of such submission, inform the individual whether the D/AC File contains such a record.

(b) An individual who desires access to any identified record shall file a request therefor addressed to the System Manager indicating whether such individual intends to appear in person at the Commission's offices or whether he or she desires to receive a copy of any identified record through the mail.

§ 1705.4 Times, places, and requirements for identification of individuals making requests.

(a) An individual who, in accord with § 1705.3(b) indicated that he or she would appear personally shall do so at the Commission's offices, 1717 K Street NW., Suite 601, Washington, D.C., between the hours of 8:30 a.m. and 4 p.m. Monday through Friday (legal holidays excluded) and present either: (1) The response from the System Manager indicating that such a record exists; or (2) a copy of the executed certification form, as well as another suitable form of identification, such as a valid drivers license or equivalent.

(b) In response to a request for mail delivery, the Commission will mail only to the home address appearing in the D/AC File a copy of the record for that individual within 10 working days.

§ 1705.5 Disclosure of requested information to individuals.

Upon verification of identity, the System Manager shall disclose to the individual (a) the information contained in the record which pertains to that individual; and (b) the accounting of disclosures of the record, if any, required by 5 U.S.C. 552a(c).

§ 1705.6 Request for correction or amendment to the record.

If a person wishes a change to be made in the record, he or she should follow the procedures for making changes which are included in the instructions accompanying the certification form by which the information was obtained. Copies of these instructions will be mailed to any delegate/alternate upon request.

§ 1705.7 Agency review of request for correction or amendment of the record.

Within 10 days of the receipt of the request to correct or to amend the record, the System Manager will acknowledge in writing such receipt and promptly either: (a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete and inform the individual of same: or (b) inform the individual of his or her refusal to correct or amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the System Manager to correct or to amend his or her record may submit a request for review of such refusal to the Chairman of the Commission, 1717 K Street NW., Suite 601, Washington, D.C. 20036. The Chairman will, not later than 30 days from the date on which the individual requests such review, complete such review and make a final determination

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unless, for good cause shown, the Chairman extends such 30-day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1705.9 Disclosure of record to a person other than the individual to whom the record pertains.

An individual to whom a record is to be disclosed in person may have a person of his or her own choosing accompany the individual when the record is disclosed.

§ 1705.10 Fees.

(a) The Commission will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission will not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish him or her with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual) the Commission will charge a fee of $0.25 per page (maximum per page dimension of 8½ by 13 inches) to the extent that the request exceeds $5 in cost to the Commission. Requests not exceeding $5 in cost to the Commission will be met without cost to the requester.

§ 1705.11 Penalties.

Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)), makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i) (1) and (2) of the Privacy Act (5 U.S.C. 552a(i) (1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 1705.12 Exemptions.

No Commission records system is exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a (j) and (k).

[FR Doc. 78-28850 Filed 10-12-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Muscatatuck National Wildlife Refuge, Ind., to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Muscatatuck National Wildlife Refuge to rabbit and quail hunting is compatible with the objectives for which the area was established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public.

DATES: November 10, 1978, through January 31, 1979, for rabbit; November 10, 1978, through December 25, 1978, for quail.

FOR FURTHER INFORMATION CONTACT:

Charles E. Scheffe, refuge manager, Muscatatuck National Wildlife Refuge, P.O. Box 631, Seymour, Ind. 47274, telephone; 812-522-4352.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of rabbit and quail is permitted on the Muscatatuck National Wildlife Refuge, Ind. only on refuge lands lying south of Myers Road, designated by signs as open to hunting. This area comprising 1,320 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting of rabbits and quail shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 4, 1978.

CHARLES E. SCHEFFE,
Refuge Manager.

[FR Doc. 78-28858 Filed 10-12-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1505-01-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

Proposed 1978 Crop Grade Loan Rates—Burley Tobacco

Correction

In FR Doc. 78-26166, appearing at page 41991 in the issue for Tuesday, September 19, 1978, the heading now reading "Tobacco Plan Program", should read as set forth above.

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 444]

CREDIT PRACTICES

Publication of Presiding Officer's Report Regarding Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of presiding officer's report.

SUMMARY: This document gives notice that the presiding officer's report concerning the proposed trade regulation rule on credit practices has been made public. The report is required by the Commission's rules of practice for rulemaking and consists of the presiding officer's summary, findings, and conclusions with regard to the proposed rule.

DATE: The 60-day period which the rules of practice for rulemaking (16 CFR 1.13(g)) provide for public comment on both the report by the presiding officer and the report of the staff will not commence until the staff's report has been made public and placed on the public record. Therefore, comment on the presiding officer's report alone would be considered premature at this time.

FOR FURTHER INFORMATION CONTACT:

Henry B. Cabell, Presiding Officer, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045.

SUPPLEMENTARY INFORMATION: On June 24, 1977, the presiding officer published in the FEDERAL REGISTER (42 FR 32259) final notice of the proposed trade regulation rulemaking proceeding. The presiding officer's report, required by the Commission's rules of practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings, and conclusions with regard to the proposed rule and to those issues designated by him, has been made public and placed on Public Record 215-42. A limited number of copies of the presiding officer's report have been printed for distribution; to obtain a copy, address a request to the Federal Trade Commission/SSD, Washington, D.C. 20580. When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the FEDERAL REGISTER. The presiding officer's report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

Issued: October 6, 1978.

HENRY B. CABELL,
Presiding Officer.

[FR Doc. 78-29054 Filed 10-12-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1307]

CONSUMER PRODUCTS CONTAINING BENZENE

Extension of Time for Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time for promulgation of rule.

SUMMARY: The Commission extends the time from October 16, 1978 to April 16, 1979 in which it must issue a consumer product safety rule to declare that certain benzene-containing consumer products are banned hazardous products under section 8 of the Consumer Product Safety Act (CPSA) or to withdraw the rule proposed on May 19, 1978. This extension is necessary to enable Commission staff to analyze the technical data submitted by commenters as well as to address complicated scientific issues raised by comenters.

DATES: The Commission extends the time from October 16, 1978 to April 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6453.

SUPPLEMENTARY INFORMATION: On May 19, 1978, the Commission proposed a ban under section 8 of the Consumer Product Safety Act (CPSA) of all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. (see 43 FR 21838). Based on information discussed in the proposal, the Commission preliminarily concluded that benzene-containing consumer products present an unreasonable risk of injury to the public because benzene inhalation can cause blood disorders, chromosomal abnormalities, and leukemia. The Commission also concluded that no feasible standard could adequately protect the public from these risks. The proposed ban specified that written comments should be submitted on or before June 30, 1978. The proposal also invited interested persons to make an oral presentation at a proceeding that was conducted on June 14, 1978.

On June 27, 1978, the Commission, at the request of several interested parties, extended the comment period on issues relating specifically and solely to the proposed ban on benzene as a contaminant until August 31, 1978. (see 43 FR 27852). At that time the Commission indicated that the splitting of the comment period might mean that the Commission would take final action on the proposed ban on benzene as an intentional ingredient before taking final action on the proposed contaminant ban. The Commission noted that the issues surrounding the contaminant portion of the ban appeared to be more comlex and the hazards presented less urgent because of the smaller amounts of benzene in products containing the chemical as a contaminant.

The Commission has received a total of 42 comments as well as 6 oral presentations concerning both portions of the proposed ban. Many of the comments and oral presentations criticize the proposal and raise complex scientific and technical issues, including the

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claim that there is no evidence that low levels of exposure to benzene constitute a health hazard, the contention that a safe threshold level for exposure to benzene exists, the assertion that the Commission's risk assessment is inadequate, and the claim that the proposed contamination level is neither justified nor commercially feasible. The data the Commission must analyze in order to address there comments and presentations are voluminous.

In addition, a review of the comments and presentations has indicated that it may not be appropriate to take final action on the intentional ingredient ban separately and in advance of any action on the contaminant ban. It is difficult to distinguish those parts of the submissions which are comments on benzene as an intentional ingredient from those parts which are comments on benzene as a contaminant and in fact, many of the comments received at the Commission on August 31, 1978 actually raise issues relevant to the intentional ingredient ban. Since the scientific basis for both portions of the ban is the same, the Commission has decided that the comments received by June 30, 1978 as well as the comments received by August 31, 1978 should be reviewed and analyzed together. While such an analysis now will require more time than analysis directed solely at frist issuing a final regulation concerning benzene as an intentional ingredient, the Commission points out that the need for immediate action on the intentional use of benzene in consumer has recently diminished. Information available to the Commission indicates that by the end of the year not a single manufacturer will be making consumer products containing intentionally added benzene.

Therefore, in view of the complexity of the issues raised in the comments on the proposal, the desirability of reviewing all the comments submitted as a total body of information, and the need to analyze and respond to each substantive comment in any final regulation, the Commission, in accordance with section 9(2) of the Consumer Product Safety Act (15 U.S.C. 2058(a)), finds that good cause exists to extend the period within which it must promulgate a consumer product safety rule or withdraw the proposal for 6 months, until April 16, 1979. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: October 10, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29052 Filed 10-12-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR PART 310]

[Docket No. 78N-0274]

ESTROGENIC, ORAL CONTRACEPTIVE, AND PROGESTATIONAL DRUG PRODUCTS

Proposed Requirements for Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend patient-labeling requirements for estrogenic, oral contraceaptive, and progestational drug products to permit dispensers to use uniform or "generic" labeling. The agency is also proposing amendments to the patient-labeling regulations to clarify dispensers' responsibilities when drug products subject to the regulations are dispensed to legally incompetent patients. The proposed amendments are made in response to the requests of a number of-dispensers of prescription drugs.

DATE: Comments by December 12, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is proposing to amend the regulations requiring patient labeling for estrogenic, oral contraceptive, and progestational drug products to provide for the use by drug dispensers of uniform or "generic" labeling for all members of the class of drug products subject to each patient-labeling regulation. This action is taken in response to the requests of several dispensers of prescription drugs who claim that current requirements entail the excessively burdensome and costly storage, collation, and distribution of a large volume of product-specific patient-labeling leaflets.

Under current regulations the use of a slightly modified kind of uniform labeling is already possible. With each of the patient-labeling regulations published to date, the agency has made available a guideline patient-labeling text and advised that any person could rely on the text to comply with the requirements of the regulation. This policy is compatible with the use of uniform labeling, i.e., labeling which could be used interchangeably for all drugs in a patient-labeling class. However, regulations arguably prevent the use of completely uniform labeling by requiring that the labeling identify the name of the particular drug being dispensed to the patient and the name and place of business of the manufacturer, packer, relabeler, or distributor of the drug. These provisions, which were intended to require the labeling to identify the particular product being dispensed, do not clearly authorize attempts to use completely uniform labeling.

In response to the final rule requiring patient labeling for estrogenic drug products published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636), FDA received a number of requests from dispensers of prescription drugs urging the agency to amend the regulation to permit the use of uniform labeling. The requests noted the difficulties posed for dispensers in storing, collating, and distributing the large number of individualized patient-labeling leaflets. Several requests suggested that a revision of the patient-labeling regulation to facilitate the use of uniform labeling would significantly reduce the dispenser's burden without seriously detracting from the major purposes and benefits of patient-labeling. Copies of the requests have been placed on file in the office of the Hearing Clerk, FDA (address above).

The Commissioner of Food and Drugs has tentatively concluded and is proposing that the patient-labeling regulations should permit the use of uniform labeling. This proposal, if adopted, would permit the substitution of the class name of the drug product (i.e., "oral contraceptives," "estrogens for general use," "progestational drug product") for the required name of the particular drug product (brand name and generic name). The proposal would also permit the identification of the name and place of business of the dispenser in place of the presently required name and place of business of the manufacturer, packer, relabeler, or distributor. These changes would enable dispensers to meet the requirements of the patient-labeling regulations by employing one of the following distribution methods:

1. The dispenser of the drug may continue to use the patient labeling which is supplied with each shipment of the drug product; or

2. The dispenser may replace the patient labeling received from the channels of distribution with uniform patient labeling prepared for or by the dispenser. The dispenser would then assume responsibility for assuring that the labeling complied with all current regulatory requirements.

The Commissioner does not intend this proposal to permit dispensers to substitute their own patient labeling for the labeling contained in unit-of-use packages (e.g., oral contraceptive monthly "compacts") prepared by the manufacturer, packer, labeler, or distributor and intended to be dispensed to the patient as initially packaged.

Section 201.150 of the drug labeling regulations (21 CFR 201.150) currently permits drugs which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than the one where originally processed or packed, to be shipped in interstate commerce under certain circumstances without meeting specified labeling requirements. One such circumstance is under a labeling "agreement," wherein the person who will process, label, or repack the drugs agrees in writing to abide by conditions which insure that the drugs will not be misbranded or adulterated upon completion of the processing, labeling, or repacking.

Although the proposed requirements (in §§ 310.501(a)(7), 310.515(d)(4), and 310.516(e)(5)) would permit dispensers or retailers to prepare and dispense patient labeling in the absence of an agreement, the use of uniform patient labeling by pharmacies and other dispensers presents a situation in which labeling agreements may be useful. Manufacturer-prepared labeling becomes superfluous and is likely to be discarded before use when the dispenser prepares its own generic labeling. Accordingly, the Commissioner proposes to permit dispensers and manufacturers, repackers, and distributors to enter into labeling agreements under which the dispenser would agree to meet applicable patient-labeling requirements. Under such an agreement the manufacturer, packer, relabeler, or distributor would be relieved of the obligation to ship patient labeling with the drug product. Persons entering into such agreements would assume responsibility to comply with the requirements pertaining to written agreements as set forth in § 201.150 of the regulations. Additionally, the proposal would require that the labeling agreement include: (1) A copy of the patient labeling to be used by the dispenser and (2) a statement that the dispenser will prepare and distribute labeling that meets the requirements of the patient-labeling regulation.

The use of dispenser-prepared uniform labeling would not subject dispensers to the registration and drug listing requirements as set forth in section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and Part 207 of the regulations (21 CFR Part 207). The Commissioner considers the use of dispenser-prepared uniform labeling to be within the terms of § 207.65 of the regulations (21 CFR 207.65), which exempts certain domestic drug establishments, including pharmacies, hospitals, and clinics, from registration and drug listing.

The Commissioner acknowledges that there are some advantages to retaining those requirements that assure the use of product-specific labeling. Product-specific labeling, in identifying the name and the source of particular drug products, may enhance the possibility that manufacturers can assist dispensers in updating and, if necessary, recalling labeling, because the labeling can be correlated to the various products' lot numbering systems. Moreover, such labeling does provide some assurance that a specific manufacturer's patient labeling will be dispensed with the manufacturer's product, a consideration of some importance to dispensers in terms of their legal responsibility. However, the Commissioner notes that the amendments proposed by this document are permissive in nature—this proposal would not prohibit the use of product-specific labeling, but rather would make possible the alternative use of uniform patient labeling. To the extent that the advantages of product-specific patient labeling are plainly demonstrated, the Commissioner believes that such labeling will continue to be widely used.

In response to the requests asking that the agency permit the use of uniform labeling, the Bureau of Drugs has advised a number of dispensers that, as a matter of compliance policy, the Bureau does not object to dispensers assuming responsibility for complying with the requirements of the patient labeling regulation through the use of dispenser-prepared uniform labeling. Copies of the Bureau's written responses announcing this policy have been placed on file in the office of the Hearing Clerk, FDA (address above). Pending the receipt of comments on the proposal and the Commissioner's final decision on the matter, this compliance policy will remain in effect. If the Commissioner determines not to adopt this proposal as a final rule, a notice announcing that decision will be published in the FEDERAL REGISTER. A decision not to adopt this proposal would, of course, require the agency to reconsider the present compliance policy, and perhaps to modify any dispenser-initiated patient-labeling programs that have been undertaken.

LABELING FOR LEGALLY INCOMPETENT PATIENTS

The Commissioner is also proposing to amend the patient-labeling regulations for oral contraceptives, estrogens, and progestational drug products to permit dispensers to distribute patient labeling to the parent or legal guardian of a legally incompetent patient. This action is taken in response to inquiries asking the agency to clarify and address explicitly the obligations of dispensers when drug products subject to the regulation are dispensed to mentally disabled adults or to children who are not legally competent to consent to medical treatment with the drug product. Although the Commissioner hopes that in appropriate circumstances the dispenser will provide the labeling to the parent or legal guardian of the patient, the Commissioner understands that circumstances frequently do not enable the dispenser to determine the legal capacity of the patient. Therefore this proposal would not require distribution of labeling to the parent or legal guardian of the patient, but rather would permit such distribution in lieu of providing the labeling directly to the patient.

The patient labeling regulations currently require that labeling for drug products dispensed in acute-care hospitals or long-term-care facilities be provided to the patient before administration of the first dose and then at 30-day intervals for as long as the therapy continues. Because this proposed amendment would apply to inpatients as well as outpatients, its adoption would permit labeling to be provided to the legal representative of the legally incompetent inpatient at the stated 30-day intervals. However, the Commissioner recognizes that in acute-care and long-term-care facilities the provision of labeling to a parent or legal guardian of the patient poses significant difficulties because the parent or legal guardian is frequently unavailable. Therefore this document proposes to amend the regulation to provide that in the case of a legally incompetent institutionalized patient, patient labeling may be provided to the parent or legal guardian of the patient before first administration of the drug and subsequently each time the patient's drug therapy is reevaluated with the parent or legal guardian. This revision should insure that the labeling is distributed to the parent or legal guardian of the patient at the most critical junctures in the course of the patient's therapy.

Section 310.501(a)(6) of the oral contraceptive patient-labeling regulation (21 CFR 310.501(a)(6)) requires that

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the manufacturer, packer, relabeler, or distributor provide patient labeling to the "retailer" of the drug product. As used in this context, "retailer" is synonymous with "dispenser." This document proposes to amend § 310.501(a)(6) to indicate clearly that the two words are synonymous.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) and therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Accordingly, under the Federal Food, Drug and Cosmetic Act (secs. 201, 502(a), 503(a), 505, 701(a), 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321, 352(a), 353(a), 355, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend part 310 of chapter I of title 21 of the Code of Federal Regulations as follows:

1. In § 310.501, by revising paragraphs (a)(1), (a)(3) (i) and (ii), and the introductory text of paragraph (a)(6); by redesignating existing paragraphs (a)(7), (a)(8), and (a)(9) as (a)(9), (a)(10), and (a)(11), respectively, and adding new paragraphs (a)(7) and (a)(8); and by revising newly designated paragraph (a)(11), to read as follows:

§ 310.501 Preparations for contraception; labeling directed to the patient.

(a) *Oral contraceptives.* (1) The Commissioner of Food and Drugs concludes that the safe and effective use of oral contraceptive drug products requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Information in lay language concerning effectiveness, contraindication, warnings, precautions, and adverse reactions shall be furnished to each patient receiving oral contraceptives. This information shall be given to the patient in the form of a brief summary of certain essential information included in each package dispensed to each patient, and in a longer, detailed labeling piece in or accompanying each package dispensed to each patient.

• • • • • •

(3) • • •

(i) Name of the drug product (brand name and generic name) or class name of the drug ("Oral Contraceptives").

(ii) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

• • • • • •

(6) Patient labeling for each oral contraceptive drug product shall be provided to the retailer or dispenser by the manufacturer, packer, relabeler, or distributor as follows:

• • • • • •

(7) A manufacturer, packer, relabeler, or distributor may, with the retailer or dispenser of the drug product, enter into a labeling agreement under which the retailer or dispenser assumes responsibility to prepare and distribute oral contraceptive patient labeling in full compliance with this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of § 201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this paragraph with respect to the oral contraceptive drug product that are subject to such agreement. In addition to the requirement of § 201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies with all requirements of this section.

(8) Patient labeling for each oral contraceptive drug product shall be provided by the retailer or dispenser to the patient as follows:

(i) The brief summary patient labeling shall be included in each package dispensed or administered to the patient.

(ii) The detailed patient labeling shall be included in or shall accompany each package dispensed or administered to the patient.

(iii) In the case of oral contraceptive drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, the labeling (brief summary and detailed patient labeling) may be provided to the parent or legal guardian of the patient.

(iv) Patient labeling for drug poducts dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before administration of the first dose of estrogen and every 30 days thereafter, as long as the therapy continues. However, in the case of patients in acute-care hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian before first administration of the oral contraceptive and each subsequent time the patient's drug therapy is reevaluated with the parent or legal guardian.

• • • • • •

(11) Holders of new drug applications for oral contraceptive drug products that are subject to paragrah (a) of this section shall submit supplements under § 314.8(d) of his chapter to provide for the labeling required by paragraph (a)(2) and (3) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

• • • • • •

2. In § 310.515, by revising paragraphs (b)(1), (b)(2), and (d)(1), and by adding new paragraph (d)(4), to read as follows:

§ 310.515 Estrogens; labeling directed to the patient.

• • • • • •

(b) • • •

(1) Name of the drug product (brand name and generic name) or class name of the drug ("Estrogens for general use").

(2) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

• • • • • •

(d)(1) Patient labeling for each estrogen drug product shall be provided in or with each package of the drug product intended to be dispensed or administered to the patient.

(i) In the case of estrogen drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, patient labeling may be provided to the parent or legal guardian of the patient.

(ii) Patient labeling for drug products dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before administration of the first dose of estrogen and every 30 days thereafter, as long as the therapy continues. However, in the case of patients in acute-care hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian of the patient before first administration of the estrogen and each subsequent time the patient's drug therapy is reevaluated with the parent or legal guardian.

• • • • • •

(4) A manufacturer, packer, relabeler, or distributor may, with the dispenser of the drug product, enter into a labeling agreement under which the dispenser assumes responsibility to prepare and distribute estrogen drug product patient labeling in full compliance with the requirements of this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of § 201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this section with respect to the estrogenic drug products that are subject to such agreement. In addition to the requirements of § 201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies will all requirements of this section.

• • • • • •

3. In § 310.516, by revising paragraphs (b)(1), (b)(2), and (e)(1); by adding a new paragraph (e)(5); and by revising paragraph (g), to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

• • • • • •

(b) • • •

(1) Name of the drug product (brand name and generic name) or class name of the drug ("Progestational drug product").

(2) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

• • • • • •

(e)(1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient.

(i) In the case of progestational drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, patient labeling may be provided to the parent or legal guardian of the patient.

(ii) Patient labeling for progestational drug products dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before administration of the first dose of the drug and every 30 days thereafter, as long as the therapy continues. However, in the case of patients in acute-care hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian of the patient before first administration of the drug and each subsequent time the patient's drug therapy is reevaluated with the parent or legal guardian.

• • • • • •

(5) A manufacturer, packer, relabeler, or distributor may, with the dispenser of the drug product, enter into a labeling agreement under which the dispenser assumes responsibility to prepare and distribute progestational drug product patient labeling in full compliance with the requirements of this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of § 201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this section with respect to the progestational drug products that are subject to such agreements. In addition to the requirements of § 201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies with all requirements of this section.

• • • • • •

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

Interested persons may, on or before December 12, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 3, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28571 Filed 10-12-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4600]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Decatur, Morgan County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Decatur, Morgan County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at North Cen-

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tral Alabama Regional Council of Governments, 5th Floor, Decatur City Hall, P.O. Box 488, Decatur, Ala. 35602. Send comments to: Mayor Bill Dukes or Mr. Gary Voketz, Executive Director, North Central Alabama Regional Council of Governments, 5th Floor, Decatur City Hall, P.O. Box 488 Decatur, Ala. 35602.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, room 5270, 451 Seventh Street SW., Washington, D.C. 10410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Decatur, Morgan County, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Tennessee River....	Just upstream U.S. Highways 31 and 72.	560
	Confluence of Flint Creek.	561
Betty Rye Branch.	Western corporate limits.	566
	Just downstream 2d St...	578
Dry Branch.....	Just downstream Washington St.	561
	Just upstream Moulton St.	564
	2d Ave.....	576
	Just downstream of 19th Ave.	601
Flint Creek.....	Just upstream of State Highway 67.	562
	Southern Corporate limits.	565
Brush Creek.....	Flint Rd.....	565
	Chenault Dr.....	569
Clark Spring Branch.	Stanley St.....	572
	Just upstream of Sandlin Rd.	586
	Confluence of No. 3 Tributary to Clark Spring Branch.	601
No. 3 Tributary to Clark Spring Branch.	Just downstream Danville Rd.	608
	Just upstream Danville Rd.	610
Sheet Flow area	Intersection of Fairway Circle and Fairway Dr.	569

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28639 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR PART 1917]

[Docket No. FI-4601]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Guin, Marion County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Guin, Marion County, Ala. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 249, Guin, Ala. Send comments to: Mayor C. P. Guin, City Hall, P.O. Box 249, Guin, Ala. 35563.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Guin, Marion County, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Purgatory Creek ...	Just upstream of Alabama Highway 118.	415
	Just downstream of U.S. 278.	427
	Just downstream RR. Spur to 3M Co.	439
Reedy Branch.....	Just upstream of U.S. Highway 78/43.	452
Little Creek.....	Just upstream of 10th Ave.	433
	Just upstream of 15th Ave.	447
Tributary 1.....	Approximately 100 feet downstream Alabama Highway 118.	426

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: September 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28640 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4039]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Avondale, Maricopa County, Ariz.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 16746 of the FEDERAL REGISTER of April 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following corrections are made:

Along Agua Fria River at Broadway Road Extension—934 feet.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 19, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28641 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4296]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Phoenix, Maricopa County, Ariz.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on July 19, 1978, at 43 FR 31026 in the FEDERAL REGISTER and in the *Arizona Republic* on June 5 and 6, 1978, describing 83d Avenue Bridge Upstream at 974 feet and 99th Avenue (Extended) Upstream at 960 feet listed under Salt River in Phoenix, should be corrected to read 83d Avenue (Extended) Upstream 974 and 99th Avenue (Extended) Upstream at 958 feet.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28642 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4602]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Dermott, Chicot County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Dermott, Chicot County, Ark. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Dermott, Ark. 71638. Send Comments to: Mayor Ben Bynum or Mr. Ed Hanum, Community Development Director, City Hall, P.O. Box 375, Dermott, Ark. 71638.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Dermott, Chicot County, Ark., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Bayou Slough.	Intersection of East Hickory Street and Deer Street.	138
	Intersection of East Broadway and South Donard Street.	137

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28643 Filed 10-12-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4603]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Eudora, Chicot County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Eudora, Chicot County, Ark. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 239 South Main Street, Eudora, Ark. 71640.

Send comments to: Mayor H. E. Nunnelee, City Hall, 239 South Main Street, Eudora, Ark. 71640.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Eudora, Chicot County, Ark., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Macon Bayou	Southern corporate limits.	108
	Just downstream of Macon Bayou Bridge.	109

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28644Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4604]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Suffield, Hartford County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Suffield, Hartford County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 97 Mountain Road, Suffield, Conn. Send comments to: Mr. Earl Waterman, First Selectmen, Town of Suffield, Town Hall, 97 Mountain Road, Suffield, Conn. 06078.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Suffield, Conn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	ConRail—100 ft*	36
	Old Bridge St. Bridge piers—50 ft*.	44
	Enfield Dam—100 ft*	50
	Old State Route 190 Bridge piers—50 ft*.	53
Stony Brook	Canal Bridge—30 ft*	38
	1st crossing pipe crossing—50 ft**.	39
	1st crossing pipe crossing—100 ft*.	49
	2d crossing pipe crossing—50 ft*.	59
	Boston Neck Road Bridge—100 ft**.	88
	Boston Neck Road Bridge—100 ft*.	105

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Suffield Street Bridge—100 ft*.	113
	State Route 75 bridge—100 ft*.	116
	Dam upstream ConRail bridge—100 ft**.	118
	Dam upstream ConRail bridge—100 ft*.	123
	2d Crossing Farm Bridge—100 ft*.	130
Muddy Brook	State Route 190 bridge—50 ft*.	119
	Stiles Road Bridge—50 ft*.	122
Philo Brook	Russell Avenue—50 ft*	124
	Halladay Avenue Bridge—50 ft*.	130

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28645 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4605]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Maitland, Orange County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Maitland, Orange County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 66, Maitland, Fla. 32751. Send comments to: Mayor James Houser, City Hall, P.O. Box 66, Maitland, Fla. 32751.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Maitland, Orange County, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Sybelia	Intersection of Lake Sybelia Dr. and Jackson St.	78
Lake Jackson	Just north of Brook Dr.	84
Lake Destiny	Just west of Lake Destiny Dr.	93
Lake Lucien	At Maitland Cemetery	94
Lake Hungerford	Intersection of Calver Ave. and Bethune Dr.	97
Lake Charity	Approximately 400 ft north of Maitland Blvd.	73
Lake Hope	Lake Hope at the northern corporate limits.	74
Lake Faith	Just northwest of the intersection of Maitland Ave. and Greenwood Rd.	73
Park Lake	Just north of Gem Lake Dr.	73
Lake Maitland	Intersection of Whitecaps Circle and Adams Dr.	68
Lake Minnehaha	At Minnehaha Lane	68
Lake Catherine	Lake Catherine Dr	71
Howell Creek	Just downstream of Horatio Ave.	68
Stream A	Chippewa Trail (extended).	68
Lake Gem	Just north of the intersection of Monroe Ave. and Lewis Dr.	73

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28646 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4606]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pompano Beach, Broward County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Pompano Beach, Broward County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Pompano Beach, Fla. Send comments to: Hon. William Alsdorf, Mayor, City of Pompano Beach, P.O. Drawer 1300, Pompano Beach, Fla. 33061.

FOR FURTHER INFORMATION CONTACT:

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Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Pompano Beach, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Intersection of Andrews Ave. and SW. Eighth St.	8
	Intersection of South Cypress Rd. and SE. 11th St.	8
	Intersection of North Riverside Dr. and North Ocean Blvd.	8
Shallow Ponding	Intersection of NW. 15th St. and NW. 14th Ave.	13
	Intersection of NW. Fourth Ave. and NW. 10th St.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28647 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4607]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The City of Aberdeen, Bingham County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Aberdeen, Bingham County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Aberdeen, Idaho. Send comments to: Hon. Cliff Wrides, Mayor, City of Aberdeen, P.O. Box 190, Aberdeen, Idaho 83210.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Aberdeen, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Aberdeen Wasteway.	Central Avenue road.—50 ft*.	4,387
	Bingham Ave.—40 ft*	4,390
	Main St.—50 ft*	4,392
	County road 2800 west—50 ft**.	4,393

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28648 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4608]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Blackfoot, Bingham County, Idaho.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Blackfoot, Bingham County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 157 North Broadway, Blackfoot, Idaho. Send comments to: Hon. Arthur C. Bergner, mayor, city of Blackfoot, City Hall, 157 North Broadway, Blackfoot, Idaho 83221.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Blackfoot, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Snake River	County road bridge—50 ft*.	4,480
	U.S. Highway 26—50 ft*.	4,481
	Interstate 15—50 ft*	4,493
Blackfoot River	Downstream corporate limits.	4,489
	Upstream corporate limits.	4,499
	Area adjacent to Pendelbury Lane (shallow flooding).	**2
	At intersection of Willis St. and South University Ave. (shallow flooding).	**1

* Upstream of centerline.
**Depth.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28649 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4609]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Prospect Heighis, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Prospect Heights, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Prospect Heights City Hall, 4 East Camp McDonald Road, Prospect Heights, Ill. 60070. Send comments to: Hon. Richard Wolf, mayor of Prospect Heights, 4 East Camp McDonald Road, Prospect Heights, Ill. 60070.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Prospect Heights, Cook County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	Upstream corporate limits.	638
	Downstream corporate limits and State Route 21.	637
McDonald Creek	Upstream corporate limits.	667
	Stonegate Rd. (west)	664
	Palatine Rd. (upstream).	659
	Wheeling Rd. (upstream).	652
	Camp McDonald Rd. (upstream).	648
	Downstream corporate limits.	644
Tributary A McDonald Creek.	Oakton Rd. (upstream)	666
	Elm St. (upstream)	665
	Elmhurst Rd. (upstream).	655
	Willow Rd. (upstream)	653

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

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Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28650 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4610]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Benham, Harlan County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Benham, Harlan County, Ky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Benham, Ky. 40807. Send comments to: Mayor Floyd Smith or Ms. Betty Howard, City Clerk, City Hall, Benham, Ky. 40807.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Benham, Harlan County, Ky., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Looney Creek.....	Just downstream of Kentucky Avenue Bridge.	1,521
	Kentucky 160 Bridge.....	1,580
Maggard Branch...	Just downstream of Kentucky 160 Bridge.	1,591
Haggard Branch....	Just upstream of Central Avenue Bridge.	1,615

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28651 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4611]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Colfax, Grant Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Colfax, Grant Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 401 Eighth Street, Colfax, La. 71417. Send comments to: Mayor Herschel Nugent, Town Hall, 401 Eighth Street, Colfax, La. 71417.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Colfax, Grant Parish, La., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red River	Northern corporate limits.	106
	Southern corporate limits.	106
Bayou Rigolette	Intersection of Church and Iatt Sts.	95
System (backwater area).	Intersection of Graham and Lake Sts.	95

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28652 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4612]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Guilford, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Guilford, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Guilford, Maine. Send comments to: Mr. Robert Littlefield, Town Manager, Town of Guilford, Town Office, Guilford, Maine 04443.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Guilford, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River..	Eastern corporate limit..	365
	Just downstream of Lows Bridge.	378
	Just downstream of Sangerville Rd.	385
	200 ft downstream of Guilford Dam.	389
	Just upstream of State Route 15.	398
	Western corporate limit.	399
Schoolhouse Brook.	At the confluence with Piscataquis River.	388
	Just upstream of North Guilford Rd. (nearest Dover Rd.).	390
	100 ft upstream of North Guilford Rd. (second crossing from Dover Rd.).	391
	50 ft downstream of North Guilford Rd. (third crossing from Dover Rd.).	422
	50 ft upstream of North Guilford Rd. (fourth crossing from Dover Rd.).	441

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28653 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4613]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Rumford, Oxford County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Rumford, Oxford County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, Rumford, Maine. Send comments to: Mr. Howard Waite, Chairman, Board of Selectmen, Town of Rumford, Town Office, Rumford, Maine 04276.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Rumford, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

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stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:-

Source of flooding	Location	Elevation, feet, national geodetic vertical datum
Androscoggin River.	Ridlonville Bridge—100 ft.*.	436
	Rumford Avenue Footbridge—50 ft.*.	441
	Chisholm Bridge—40 ft.*.	460
	Morse Bridge—20 ft.*.....	495
	High Bridge—50 ft.*.....	612
	Martin Bridge—20 ft.*....	626
Swift River.....	Red Bridge—20 ft.*	441
	150 ft. upstream of confluence with Scotty Brook.	451

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28654 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4614]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of North Attleboro, Bristol County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of North Attleboro, Bristol County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Town Office Building, North Attleboro, Mass. Send comments to: The Honorable Susan Nelson, Chairwoman, Board of Selectmen, Town of North Attleboro, 43 South Washington Street, North Attleboro, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of North Attleboro, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ten Mile River.....	Downstream corporate limits.	137
	Just upstream of Cedar Rd.	139
	Just upstream of Freeman St.	144
	Just upstream of Sturdy Lane.	146
	Just upstream of Towne St.	148
	Just upstream of Mount Hope St.	151
	Just upstream of Falls Pond Dam.	176
	Just downstream of Washington St.	176
	Just upstream of Chestnut St.	181
	Just upstream of Orne St.	184
	Just downstream of Whiting Pond Dam.	185
	Just upstream of Whiting Pond Dam.	191
	Upstream corporate limit.	191
Bungay River.....	Downstream corporate limit.	126
	Confluence of Landry Avenue Brook.	128
	Bungay Rd.....	129
Sevenmile River....	Downstream corporate limit.	141
	Just upstream of Old Mill Dam.	145
	845 ft upstream of Old Mill Dam.	146
	2,100 ft downstream of Interstate 295.	152
	Just upstream of Interstate 295.	157
	Just upstream of Adams Ave.	161
	Just downstream of private drive, near Adams Ave.	164
	Just upstream of private drive, near Adams Ave.	168
	1,100 ft downstream of Washington St.	169
	1,020 ft upstream of Washington St.	178
	300 ft downstream of Hoppin Hill Rd.	186
	Just upstream of Hoppin Hill Rd.	189
Rattlesnake Brook	At confluence with Ten Mile River.	142
	Just downstream of Commonwealth Ave.	146
	Just upstream of Commonwealth Ave.	150
	Just upstream of Ivy St .	162
	Just downstream of Towne St.	175
	Just upstream of Towne St.	180
Mason Park Brook	At confluence with Ten Mile River.	150
	At Mount Hope Cemetery.	151
	Just downstream of Spring and Lyman Sts.	175
	Just upstream of Spring and Lyman Sts.	180
	Just downstream of Janice Lane.	187
	Just upstream of Janice Lane.	191
	420 ft upstream of Janice Lane.	196
	100 ft downstream of Landry Ave.	202
	150 ft upstream of Landry Ave.	206
Scotts Brook	At the confluence with Ten Mile River.	179

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of Washington St.	187
	Just upstream of Washington St.	189
	Just downstream of gravel road, upstream of Washington St.	191
	Just upstream of gravel road, upstream of Washington St.	193
	Just downstream of Avery St.	206
	Just upstream of Avery St.	209
	100 ft downstream of Broadway.	209
	Just downstream of Broadway.	214
	Just upstream of Broadway.	217
	Just downstream of old railroad grade.	218
	Just upstream of old railroad grade.	222
	Just downstream of Arnold Rd.	249
	Just upstream of Arnold Rd.	253
	Just downstream of High St.	266
	Upstream of High St	271
Elmwood Street Brook.	At confluence with Ten Mile River.	185
	Just downstream of Washington St.	188
	Just upstream of Washington St.	192
	Just downstream of Parmenter Lane.	285
	Just upstream of Parmenter Lane.	288
Whiting Pond Bypass.	At confluence with Ten Mile river.	182
	Just upstream of Whiting St.	182
	Upstream corporate limit.	185
Mary Kennedy Brook.	At confluence with Bungay River.	126
	200 ft upstream of Mary Kennedy Drive Extension.	126
	Just downstream of Mary Kennedy Dr.	131
	Just downstream of Kelley Blvd.	133
	Just upstream of Kelley Blvd.	138
Armstrong Brook..	At confluence with Bungay River.	126
	Just upstream of gravel road near confluence with Bungay River.	127
	Just downstream of Lindsey St.	129
	200 ft upstream of Lindsey St.	130
Landry Avenue Brook.	Just downstream of Fish Hatchery Rd.	128
	Just upstream of Fish Hatchery Rd.	131
	Just downstream of Bungay Rd.	135
	Just upstream of Bungay Rd.	138
	150 ft downstream of Tennant Circle.	140
	Just downstream of Kelley Blvd.	152
	Just upstream of Interstate 95.	164
	Just upstream of Landry Ave.	177
	Just upstream of Kostka Dr.	184
	Just upstream of Hall Dr.	191
Abbott Run.....	200 ft downstream of Mendon Rd.	78
	740 ft upstream of Mendon Rd.	80
	Just upstream of Cushman Rd.	88
	Just upstream of abandoned railroad.	92
	Just downstream of Hunts Bridge Rd.	93
	Just upstream of Hunts Bridge Rd.	96
	Upstream corporate limits.	101

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-28655 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4344]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Cedarville, Menominee County, Mich.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 35060 of the FEDERAL REGISTER of August 8, 1978.

EFFECTIVE DATE: August 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following correction are made:

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Cedarville Township Hall, Cedar River, Mich.

Send comments to: Mr. Peter Bardowski, Township Supervisor, Cedarville Township Hall, Cedar River, Mich. 49813.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28879 Filed 10-12-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-100-78]

INCOME TAX

Regulations Project Relating to the Requirements for Creditable Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments.

SUMMARY: This document provides notice of an extension of time for submitting comments concerning the invitation for public comments with respect to the requirements for creditable foreign taxes. The extended deadline for submission of comments is November 27, 1978.

DATE: Written comments must be delivered or mailed by November 27, 1978.

ADDRESS: Send comments to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: By an invitation for public comments published in the FEDERAL REGISTER for Monday, August 28, 1978 (43 FR 38429), comments with respect to the invitation were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224, by October 27, 1978. The date by which such comments must be delivered or mailed is hereby extended to November 27, 1978.

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This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

DAVID E. DICKINSON,
Assistant Director, Legislation and Regulations Division.

[FR Doc. 78-29058 Filed 10-12-78; 8:45 am]

[4110-87-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 11]

RESPIRATORY PROTECTIVE APPARATUS

Use of Approved Devices

AGENCIES: Mine Safety and Health Administration (MSHA), Department of Labor, and National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: This document proposes to extend the cutoff dates for use of certain self-contained breathing apparatus approved under the former Bureau of Mines approval program. Mine operators and others have requested that continued use of this equipment be permitted and have indicated that economic hardship would result in order to replace a major portion of their equipment by the cut-off date now established.

DATES: Comments must be received on or before November 13, 1978.

ADDRESSES: Comments and inquiries may be submitted to: Ms. Mary Flint, Regulations Specialist, National Institute for Occupational Safety and Health, 5600 Fishers Ln., Room 8-11, Rockville, Maryland 20857. Comments will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary Flint, phone 301-443-3745.

SUPPLEMENTARY INFORMATION: On March 25, 1972, (37 FR 6244), the Department of Health, Education, and Welfare (HEW) and the Department of Interior jointly adopted Part 11 of Title 30, Code of Federal Regulations, to implement sections 202(h) and 204 of the Federal Coal Mine Health and Safety Act of 1969. Part 11 provides for the testing of occupational respirators and the issuance of joint approvals for those meeting certain requirements for performance and respiratory protection. Until recently, the joint approval program was conducted by the National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW, and the Mining Enforcement and Safety Administration (MESA), Department of the Interior. On November 9, 1977, Congress enacted the Federal Mine and Safety and Health Act of 1977 (Pub. L. 95-164). This Act repealed the Federal Metal and Nonmetallic Mine Safety Act and established a single law for all mining operations under an amended Coal Mine Health and Safety Act of 1969. Under the new legislation, the functions of MESA were transferred to the Department of Labor as the Mine Safety Health Administration (MSHA). Except for the transfer of functions, the provisions for joint approval of respirators remain the same.

Prior to the promulgation of part 11 in 1972, respirator approvals were issued by the Bureau of Mines (BOM) of the Department of the Interior. When the new respirator approval regulations were issued in 1972, dates were established which were designed to eliminate older BOM-approved respriators from workplaces in an orderly and reasonable manner, to be replaced with respirators approved under Part 11. At that time, March 31, 1979, was established as the cut-off date for use of self-contained breathing appartus (SCBA) approved under BOM Approval Schedules 13-13E, inclusive. On November 22, 1974, (39 FR 40950), the regulations were amended to establish June 30, 1975, as a cut-off date for purchase of Schedule 13-13E devices which would continue to be approved for use until March 31, 1979. All SCBA purchased after June 30, 1975, must be approved under Part 11 approval requirements. SCBA approved under Part 11 are superior to many of the earlier apparatus because they have low pressure warning devices (remaining service life indicators), higher airflow, and better low temperature operation. However, Schedule 13E approvals and some Schedule 13D approvals are equipped with low pressure warning. This became a requirement in 1968 (Schedule 13E approvals) as a matter of added safety, particularly for firefighters.

Since establishment of the March 31, 1979, cut-off date in 1972, experience has shown that the older BOM-approved devices, when properly maintained, can remain functional for several years. In fact, large numbers of this equipment are still in use by the fire service and in mine rescue operations. If this equipment is maintained in an approved condition so that it will not jeopardize the safety of the wearer and if it is equipped with the added safety feature of a low pressure warning device when used for other than mine rescue operations, NIOSH and MSHA believe there is little risk in permitting its continued use.

Many mine operators and fire service personnel, their representatives, and their programs, have requested that continued use of this equipment be permitted. They have indicated that it would be an economic hardship for them to have to replace by March 1979 a major portion of their equipment which they contend is still functioning properly and safely.

Since there are insufficient data available to justify that continued use of certain BOM-approved SCBA would jeopardize the safety of the respirator user, NIOSH and MSHA have agreed to extend the approved use date. Schedule 13D and 13E devices that are equipped with a remaining service life indicator (low pressure warning) that does not require preadjustment by the wearer would continue to be approved for use until March 31, 1982. In addition, certain Schedule 13 approved devices would continue to be approved for use in mine rescue operations until further notice. Low pressure warning devices would not be required on mine rescue SCBA because the apparatus is examined by the MSHA contends that it has adequate administrative control over the condition of mine rescue apparatus and its continued use for this purpose is justified. The cut-off dates for use of the various respiratory protective equipment are being combined in tabular form in Part 11 for easier reference by the users.

Therefore, it is proposed to amend 30 CFR Part 11 as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order No. 11949, and OMB Circular A-107.

Dated: August 5, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Dated: October 3, 1978.

ROBERT B. LAGATHER,
Assistant Secretary of Labor for Mine Safety and Health Administration.

1. Section 11.2 is revised to read as follows:

§ 11.2 Approved respirators and gas masks.

(a) Respirators, combinations of respirators, and gas masks shall be approved for use in hazardous atomospheres, provided that they are maintained in an approved condition and are the same in all respects as those devices for which a certificate of approval has been issued under this part.

(b) Self-contained breathing apparatus, supplied-air respirators and gas masks approved under the former Bureau of Mines approval program shall continue to be accepted for use in hazardous atmospheres according to the schedule set forth below: *Provided* they (1) were fabricated, assembled or built under an approval or any modification thereof issued by the U.S. Bureau of Mines, Department of the Interior; and (2) were purchased on or before the date specified therein; and (3) are maintained in an approved condition according to this part.

Type of device	Use	Bureau of Mines approved devices	Purchased on or before—	Approved for use until—
Self-contained breathing apparatus	All uses as permitted or required by regulation.	Schedule 13-13E inclusive	June 30, 1975	Mar. 31, 1979
	Use in mine rescue efforts only.	Approval Nos. 1303, 1303S, 1307, 13D-14, 13D-15, 13D-16, 13E-25, and 13E-26.	do	(1)
	For uses other than mine rescue as permitted or required by regulation.	Schedule 13D and 13E devices that are equipped with a remaining service life indicator which operates without preadjustment by the wearer.	do	Mar. 31, 1982
Supplied air respirators	All uses as permitted or required by regulation.	Schedule 19B (dated Apr. 19, 1955)	do	Mar. 31, 1980
Gas masks	do	Schedule 14F (dated Apr. 23, 1955)	Date to be established.	(2)

[1] Further notice.
[2] Date to be established.

2. Section 11.2-1 is deleted from the Code of Federal Regulations and § 11.2-2 is redesignated as § 11.2-1.

§ 11.2-1 [Redesignated from § 11.2-2]

[FR Doc. 78-28702 Filed 10-11-78; 8:45 am]

[4510-43-M]

[30 CFR Parts 55, 56, and 57]

METAL AND NONMETAL MINES

Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Extension of time for comments.

SUMMARY: On Tuesday, September 12, 1978 (43 FR 40766-40799), proposed rules were published as part VIII in the FEDERAL REGISTER under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977. These proposed rules would revoke or revise and make mandatory existing safety and health advisory standards applicable to metal and nonmetal mines. Interested persons were originally given until October 9, 1978, to submit comments and data and the comment period was extended to October 17, 1978, by a notice in the FEDERAL REGISTER of Tuesday, September 26, 1978 (43 FR 43475). The comment period is further extended to November 3, 1978.

DATES: Comments must be received on or before November 3, 1978.

ADDRESS: Comments should be sent to Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

SUPPLEMENTARY INFORMATION: The public comment period on the proposed rule is extended until November 3, 1978, because of additional delays in mailing copies of the proposed regulations to mine operators and other interested persons and organizations, and to provide the public an adequate opportunity to submit any and all comments on these regulations, which are of great importance to the metal and nonmetal mining industries.

The effort made by many persons and organizations to submit written comments by October 17, 1978, is greatly appreciated and they may submit additional comments within the extended time.

Dated: October 5, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28623 Filed 10-6-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 988-2]

[40 CFR Parts 6, 122, 123, 124, 125, 151]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the national pollutant discharge elimination system (NPDES) proposed rules (43 FR 37078-37134, Aug. 21, 1978) for 30 days until November 20, 1978. EPA is also extending the comment periods for the spill prevention control and countermeasure proposed rules (43 FR 39276-39280, Sept. 1, 1978) and the best management practices proposed rules (43 FR 39282-39284, Sept. 1, 1978) until November 20, 1978.

DATE: Comment period ends November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward A. Kramer, Office of Water Enforcement (EN-336), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: On August 21, 1978, the Environmental Protection Agency (EPA) proposed a rule (43 FR 37078-37134) which would extensively revise existing regulations governing the national pollutant discharge elimination system (NPDES) program. The revisions were proposed as 40 CFR, Parts 122-125 with a 60-day comment period ending October 20, 1978.

On September 19 and 21, 1978, EPA held public meetings to discuss the proposed NPDES rule. At these public

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meetings and in letters submitted to EPA commenting on the proposed rules, many commenters indicated that more time was needed to properly assess and comment on the rules. Many commenters indicated that a 30-day extension of the comment period woud be sufficient.

EPA recognizes the complexity and sheer volume of changes to the NPDES program included in the NPDES proposed rule, and is sensitive to commenters' concerns that additional time is necessary to analyze the proposed rules. EPA, therefore, is extending the comment period for 30 days—until November 20, 1978—which will meet both the public's concerns and, at the same time, assure that issuance of the final rule will not be unduly delayed.

EPA is also extending the comment period for two other proposed rules which are integrally related to the proposed NPDES rule. They are:

(a) Proposed requirements for spill prevention control and countermeasure plans to prevent discharges of hazardous substances from certain facilities (43 FR 39276-39280, Sept. 1, 1978); and

(b) Criteria and standards for imposing best management practices for ancillary industrial activities (43 FR 39282-39284, Sept. 1, 1978).

The comment periods for these two proposed rules are both presently scheduled to close on October 31, 1978. This date is now extended to November 20, 1978, to coincide with the new closing date for the proposed NPDES rules.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Materials.

JEFFREY G. MILLER,
Acting Assistant Administrator for Enforcement.

OCTOBER 10, 1978.

[FR Doc. 78-29061 Filed 10-12-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 986-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co., Plant No. 2

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co. The order requires the company to bring air emissions from its plant No. 2 coke ovens in Vansant, Va. into compliance with certain regulations contained in the federally approved Virginia State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on whether EPA should approve the order as a delayed compliance order.

DATE: Written comments must be received on or before November 13, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT.

Mr. Gary Gross at the address above or telephone 215-597-8907.

SUPPLEMENTARY INFORMATION: Jewell Coal & Coke Co. operates a nonrecovery coke oven plant at Vansant, Va. The order under consideration addresses emisions from the 45 sole flue ovens known as plant No. 2 at the facility, which are subject to §§ 4.02.01 and 4.04.01 of the Virginia regulations for the control and abatement of air pollution as approved in the Virginia SIP. The regulations limit the emissions of particulate and visible emissions, and are part of the Federally approved Virginia State implementation plan. The order required final compliance with the regulation during charging, pushing, and quenching portions of the cycle by June 30, 1979 through installation of common tunnel afterburners, split sole flues, a state-of-the-art quench tower using clean water make-up, and a pushing emission control device. This order does not apply to coking offgas emissions from plant No. 2.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. Based on information presently available, EPA believes all statutory requirements have been satisfied. Section 13 of the State order states, "The Board may modify this order for good cause shown by Jewell, or on its own motion after notice to Jewell and an opportunity for a hearing". In accordance with section 113(d)(2) of the Act, no such modification shall take effect until such time as the Administrator determines that such modification satisfies the requirements of the Act.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 [1] will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. (A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, replaced by a notice promulgating these new regulations.)

(42 U.S.C. 7413, 7601.)

Dated: October 2, 1978.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc. 78-28835 Filed 10-12-78; 8:45 am]

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[1] Published at 43 FR 44522, Sept. 28, 1978.

[6560-01-M]

[40 CFR Part 162]

[FRL 971-7; OPP—30007]

PESTICIDE PROGRAMS

Exemption of Pesticides That Are Also New Drugs From Requirements of the Federal Insecticide, Fungicide, and Rodenticide Act

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rulemaking.

SUMMARY: The intent of this proposed rulemaking is to exempt those pesticides offered solely for use on humans that are also new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972 and 1975. (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 et seq.) (FIFRA.) The proposed rulemaking also clarifies the policy of EPA relative to the registration of pesticide products that are not new drugs or new animal drugs. This action is taken because of the similarities of the registration processes that are used for registering new human drugs by the EPA and the FDA. The elimination of review of these new drug product applications by EPA is intended to lessen the duplication of time and resources by both agencies and the sponsors of these products.

DATES: Proposed effective date: Thirty (30) days from the date of publication of the final regulation.

Comments must be received on or before sixty (60) days from date of publication.

ADDRESS: Interested persons are invited to submit written comments with reference to this notice to the Federal Register section, Technical Services division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20406. The comments should bear the identifying notation OPP—30007. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Herbert Harrison, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-426-4110.

SUPLEMENTARY INFORMATION: The intent of pesticide regulation under the amended FIFRA is to insure that pesticides are safe and effective for their intended uses and to prevent unreasonable adverse effects to man, other animals, and the environment from pesticide usage. To effect this protection, a pesticide product must be registered with EPA in accordance with the provisions of FIFRA. The applicant must show that his product will meet the registration requirements by producing appropriate toxicity, chemical, and efficacy data. Based on these data and the provisions of the FIFRA, labeling must appear on the pesticide product in a manner that will assure proper use and minimize any hazards associated with the use of the product.

There are certain pesticide products that also fall within the statutory definition of "drug" in the Federal Food, Drug and Cosmetic Act (FFDCA) and, as such, are also subject to the jurisdiction of the Food and Drug Administration (FDA), U.S. Department of Health, Education, and Welfare (DHEW). In fulfilling its responsibilities, FDA protects the public health of the Nation by assuring that drug products intended for use in man or other animals are safe, effective, and properly labeled and that residues of drugs in edible products derived from animals treated with such drugs are safe for consumption.

For products that are new drugs for use on humans (hereinafter "new drugs for human use") or new animal drugs, the manufacturer of the product is required to submit an application to FDA for review and approval prior to the marketing of the product. The purpose of the application is to provide safety and effectiveness data and other information necessary to satisfy the requirements of the FFDCA (21 U.S.C. 355 and 360b) as set forth in 21 CFR Part 314 of the human drug regulations and in 21 CFR Part 514 of the animal drug regulations.

A new drug, as defined by section 201(p), and a new animal drug, as defined by section 201(w) of the FFDCA, must be approved by FDA before it can be marketed. Any drug that does not fall within the definition of a new drug or new animal drug does not require approval from FDA prior to marketing, but the product must, among other things, be safe and effective for its intended use and not be adulterated or misbranded within the meaning of the FFDCA.

INTERAGENCY AGREEMENTS BETWEEN EPA AND FDA

For those products that fall within the applicable statutory definitions of both "pesticide" and "drug" and therefore come under the jurisdiction of both EPA and FDA, the two agencies entered into an agreement describing the procedures to be followed in the joint review and approval of these products. These procedures were published in the FEDERAL REGISTER of December 22, 1971 (36 FR 24234). Item 3 of the interagency agreement was intended to revolve the jurisdictional overlap which resulted from the two agencies' possessing authority and responsibility for regulating the same products.

The agreement informed manufacturers seeking approval of these products: (1) Which Agency has primary jurisdiction; (2) that the product will be referred to the other Agency for a decision under its law; and (3) that approval for marketing the product will not be granted unless both Agencies approve the product under their respective authorities.

Subsequently, other jurisdictional problems were identified with respect to the review and approval of products that are intended to be used as animal drugs and pesticides. These problems, in part, identified the need for further elaboration of the interagency procedures; thus, an amendment to item 3 of the 1971 interagency agreement was developed and published in the FEDERAL REGISTER of September 6, 1973 (38 FR 24233). The amendment provided more information on each Agency's responsibilities.

Since publication of the agreement, many of the problems that were associated with the dual jurisdiction of pesticide products have been resolved. However, instances of confusion and delays in the interagency processing of applications for approval of products continue to occur. It is for this reason that FDA and EPA decided to jointly reevaluate the procedures in item 3 of the interagency agreement and its amendment.

NEW DRUGS FOR HUMAN USE

The reevaluation indicated that in most, if not all respects, the requirements for obtaining registration of a pesticide under FIFRA parallel those for approval of a new drug for human use under the FFDCA. An applicant seeking approval of a new drug under the FFDCA [21 U.S.C. 355(b)] must submit to FDA:

(1) Full reports of investigations which have been made to show whether or not the drug is safe for use and whether it is effective in use;

(2) A full list of the articles used as components of the drug;

(3) A full statement of its composition;

(4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packaging of the drug;

(5) Samples of the drug and of the articles used as components thereof as FDA may require; and

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(6) Specimens of the labeling proposed to be used for the drug.

Similar information must be submitted to FDA for approval of new animal drugs.

The reevaluation further indicated that the criteria followed by FDA in the approval (or disapproval) of the new drug application are generally comparable to those of EPA for pesticide registration. These include consideration by FDA of the environmental effects that may result from the use of the drug in accordance with the National Environmental Policy Act of 1969 as set forth in 21 CFR Part 6.

On the basis of the above, EPA and FDA have concluded that the dual review of pesticide/new drug products offered solely for human use represents an expensive duplication of time and resources for both the Agencies and the sponsors of these products without any significant increase in benefits to public health and/or to the environment. It is further concluded that regulation of these products solely by FDA under the FFDCA would adequately serve the intent of FIFRA.

Therefore, pursuant to section 25(b)(1) of the amended FIFRA, the Administrator proposes to exempt from the requirements of FIFRA any pesticide that is offered solely for use on humans that is also a new drug as defined by section 201(p) of the FFDCA. Accordingly, 40 CFR 162.5(b) will be amended to include this proposed exemption. This will give FDA the sole authority to regulate those products previously regulated jointly by EPA and FDA which are considered to be both new drugs offered solely for human use and pesticides. Such products will therefore be submitted to FDA for review and approval under the new drug procedures of section 505 of the Federal Food, Drug, and Cosmetic Act.

Drugs for Human Use for Which an Approved New Drug Application (NDA) is not Required

Drugs for human use which are not new drugs within the meaning of section 201(p) of the FFDCA that are also pesticides will not be exempt from EPA registration, except when the Secretary of DHEW has established by regulation the conditions whereby the drugs are generally recognized as safe and effective and not misbranded. Since these drug products do not require FDA approval prior to marketing, they will continue to be subject to EPA regulation until such time as FDA issues specific final regulations for these drug products. No such regulations exist at this time. Therefore, in the interim, registration with EPA under FIFRA will provide for premarketing clearance and control of these products.

Pesticides Offered Concurrently for Use on Both Humans and Inanimate Objects

The proposed exemption does not apply to those pesticide/human drug products that are offered concurrently, for both human and nonanimal use, e.g., a disinfectant solution offered concurrently for use both on humans and on inanimate objects. Because registration under FIFRA provides premarketing clearance and control of the product, FDA and EPA agree that these products should continue to be subject to EPA regulation. However, any such product submitted to EPA will still be referred to FDA prior to EPA registration. FDA will then review the labeling and formulation accompanying the submission and determine if the pesticide/drug requires an approved new drug application. FDA will notify EPA of those products that do have an approved NDA and EPA will then make its decision regarding registration. FDA will also notify EPA of those products that require an NDA but do not have approval. EPA will withhold its registration of such unapproved pesticide/new drug products until an approved NDA has been obtained.

As a matter of policy, EPA will not grant registration if the product does not comply with FDA requirements under the FFDCA. Accordingly, 40 CFR 161.7(d)(1)(vi) is also proposed to be amended to further clarify EPA's handling of applications for the registration of pesticides that are drugs, but are not "new drugs."

Pending a final regulation on the proposed exemption, EPA and FDA will continue to follow the procedure set forth in the interagency agreement in the reviewing and approving of products that are both pesticides and human drugs. When a final rule is issued, the interagency agreement will be amended accordingly.

Animal Drugs

In June 1975, a committee within the House of Representatives held a hearing concerning EPA pesticide regulation. This hearing dealt in part with the problems that EPA and FDA were experiencing concerning the joint regulation of pesticides that are also new animal drugs. As a result of that hearing, Pub. L. 94-140, an amendment to FIFRA, was enacted which among other things exempts new animal drugs from the definition of "pesticides" under FIFRA. This amendment gives FDA sole authority to regulate those products previously regulated jointly by EPA and FDA which are considered to be both a new animal drug and a pesticide. Such products must therefore now be submitted only to FDA for review and approval as new animal drug applications (NADA's).

Products which are not new animal drugs that are also pesticides will not be exempt from the definition of "pesticides" under this amendment, except for products that have been determined by the Secretary of DHEW not to be a new animal drug by a regulation establishing conditions for use of the product. Since these "not new animal drugs" do not require FDA approval prior to marketing, they will continue to be subject to EPA regulation until such time as FDA issues specific regulations for these products. In the interim, registration with EPA under FIFRA will provide for premarketing clearance and control of these products.

In any case, however, any pesticide product with animal drug claims that is submitted to EPA will be referred to FDA prior to EPA registration. FDA will than review the labeling and formula accompanying the submission and determine the status of the animal drug (new or not new). FDA will notify EPA of those products that are determined to be new animal drugs, and EPA will exempt these drugs from its registration requirements. For not new animal drugs, FDA will send its comments to EPA on the acceptability of the products as formulated and labeled. EPA will then make its decision regarding registration. As a matter of policy, EPA will not grant registration if the product does not comply with FDA requirements under the FFDCA. As discussed above, EPA proposes to amend section 162.7(d)(1)(vi) to clarify this policy.

Scientific Advisory Panel and USDA Review

On May 19, 1977, a copy of this proposed rule was transmitted to the FIFRA Scientific Advisory Panel (SAP) as required by section 25(d). On July 26, 1977, the SAP waived scientific review and comment on the proposed rule.

On June 9, 1977, a copy of this proposed rule was sent to the Secretary of Agriculture for comment as required by section 25(a)(2)(B). On July 6, 1977, the Secretary's designee replied that USDA had reviewed the document and had no objection to its publication in the Federal Register for comment.

Pursuant to section 25(a)(3) of the FIFRA, a copy of the proposed rule was forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate on June 14, 1977.

Executive Order 12044

This rule is a "minor" regulation under EPA's proposal for implementing Executive Order 12044, "Improving Government Regulations" (43 FR 29891).

Dated: October 6, 1978.

Douglas M. Costler,
Administrator.

Authority: Sections 3 and 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 et seq.).

The Administrator proposes to amend 40 CFR 162 by redesignating § 162.5(b)(6) as new § 162.5(b)(7), and by adding a new § 162.5(b)(6), to read:

. . . . . .

§ 162.5 Pesticides that are also new drugs for human use.

. . . . . .

(b) * * *

(6) a pesticide product that is offered solely for human use and is also (i) a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, or (ii) an article that has been determined by the Secretary of Health, Education, and Welfare not to be a new drug by a regulation establishing conditions of use for the article, is exempt from the requirements of the FIFRA. Such products are subject solely to regulation by the Food and Drug Administration in accordance with the Federal Food, Drug, and Cosmetic Act and implementing regulations set forth in Title 21 of the Code of Federal Regulations.

. . . . . .

§ 162.7 [Amended]

The Administrator also proposes to amend 40 CFR part 162 by revising § 162.7(d)(1)(vi) to read:

. . . . . .

EPA has been notified by FDA that the product complies with the requirements of the Food and Drug Administration if the product, in addition to being a pesticide, is a "drug" within the meaning of section 201(g) of that Act, but is not a "new drug" or "new animal drug" under sections 201(p) and 201(w) respectively of the Federal Food, Drug, and Cosmetic Act.

. . . . . .

[FR Doc. 78-28837 Filed 10-12-78; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Parts 3-7 and 3-57]

WITHHOLDING OF CONTRACT PAYMENTS

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health Education, and Welfare is proposing to establish policy regarding the withholding of contract payments if a contractor fails to comply with contract delivery terms and conditions. The proposed amendments have been developed as a result of the Secretary's memorandum of May 18, 1977, entitled "Actions Required to Correct Major Deficiencies in the Contracting and Grant Processes." In the memorandum, the Secretary cited the failure of the contracting officer to insure that contracts are properly performed. In some instances, it was found that the contractor was remiss in complying with the contract delivery terms and conditions, and the Department was not initiating remedial action. Therefore, the Department is proposing the amendments to insure that supplies, products, or services that are contracted for are received, and that contracts requiring the submission of progress or other reports are submitted when required by the contract.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed amendments may do so by filing them, in duplicate, with E. S. Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, room 539H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

FOR FURTHER INFORMATION, CONTACT:

E. S. Lanham, phone 202-245-6347.

SUPPLEMENTARY INFORMATION: The policy is to be established under a new Subpart 3-57.1, Contract Monitoring, under a new Part 3-57, Contract Administration.

Appropriate contract clauses have been developed for use with the withholding of contract payments policy and are proposed to be added under Part 3-7, Contract Clauses.

The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

It is therefore proposes to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: October 5, 1978.

E. T. Rhodes,
Deputy Assistant Secretary for Grants and Procurement.

1. Part 3-7, Contract Clauses, Subpart 3-7.50, Special Contract Clauses, is amended to add the following:

. . . . . .

§ 3-7.5023 Withholding of contract payments.

The following clause is to be included in all solicitations, resultant contracts, and contract modifications effecting supplemental agreements as specified in § 3-57.104-3(a):

Withholding of Contract Payments

Notwithstanding any other payment provisions of this contract, failure of the contractor to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the contractor of its intention to withhold payment of any invoice or voucher submitted.

§ 3-7.5024 Excusable delays.

The following clause is to be included in solicitations and contracts (and contract modifications effecting supplemental agreements) as specified in § 3-57.104-3(b)(3):

Excusable Delays

Except with respect to failures of subcontractors, the contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the contractor.

Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either or them, the contractor shall not be deemed to have failed in performance of this contract, unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other

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sources, (b) the contracting officer shall have ordered the contractor in writing to procure such supplies or services from such other sources, and (c) the contractor shall have failed to comply reasonably with such order. Upon request of the contractor, the contracting officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

2. Part 3-57, Contract Administration, is hereby established. Under Part 3-57, the table of contents, scope of part, and Subpart 3-57.1, Contract Monitoring, are also established.

3-57—CONTRACT ADMINISTRATION

Sec.
3-57.000 Scope of part.

Subpart 3-57.1—Contract Monitoring

3-57.104 Withholding of contract payments.
3-57.104-1 Policy.
3-57.104-2 Applicability.
3-57.104-3 Contract clauses.

§ 3-57.000 Scope of part.

This part sets forth responsibilities, policies, and procedures to be followed by Departmental personnel in the administration of contracts.

Subpart 3-57.1—Contract Monitoring

§ 3-57.104 Withholding of contract payments.

§ 3-57.104-1 Policy.

It is the Department's policy that:
(a) All solicitations and resultant contracts contain:
(1) A withholding of contract payments clause, and
(2) An excusable delays clause or a clause which incorporates the definition of excusable delays.
(b) A separate notice to the contractor highlighting its agreement with the withholding of contract payments clause be included in the transmittal or cover letter of the contract.
(c) No contract payment is to be made as long as:
(1) Any report required to be submitted by the contractor is overdue, or
(2) The contractor fails to perform or deliver work or services required by the contract.
(d) A 10-day notice is to be issued, or appropriate termination action is to be initiated, for any failure in the contractor's performance stated under the preceding paragraph (c).

§ 3-57.104-2 Applicability.

The foregoing policy applies to all solicitations and resultant contracts. The policy is to be applied to all contract modifications effecting supplemental agreements which did not contain the policy requirements in the basic contract.

§ 3-57.104-3 Contract clauses.

(a) The contracting officer is to include the withholding of contract payments clause in § 3-7.5023 in the special provisions of all solicitations and resultant contracts, and in contract modifications effecting supplemental agreements when the basic contract did not contain the clause.
(b) The contracting officer is to ensure that all solicitations and resultant contracts, including contract modifications effecting supplemental agreements, contain a contract clause which defines the term excusable delays.
(1) If the term is defined in another clause which is to be included in the solicitation and resultant contract, as, for example, in article 5 of Standard Form 23-A, General Provisions (Construction Contract), or article 11 of Standard Form 32, General Provisions (Supply Contract), the contracting officer need not take further action.
(2) If the solicitation and resultant contract are to contain a termination for default clause where the term excusable delays is not defined, the contracting officer is to include the excusable delays clause cited in § 1-8.708.
(3) If the solicitation and resultant contract are to contain neither a termination for default clause nor a definition of the term excusable delays, the contracting officer is to include the clause in § 3-7.5024 in both the solicitation and resultant contract.

[FR Doc. 78-29101 Filed 10-12-78; 8:45 am]

[4110-92-M]

Office of Human Development Services

[45 CFR Part 1370]

STATE VOCATIONAL REHABILITATION PROGRAMS

Evaluation Standards

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice of decision to revise regulations.

SUMMARY: The proposed Rehabilitation Services Administration regulations would revise, simplify, and recodify evaluation standards used to evaluate State vocational rehabilitation programs. Compliance with these standards is determined annually by the Secretary in order to renew or supplement financial assistance authorized under the Rehabilitation Act.
The proposed revisions will be based upon use and experience with the present regulations. They will:
Clarify ambiguities regarding various terms,
Eliminate errors in the present standards,
Remove confusion regarding the purpose and use of the standards,
Eliminate unnecessary standards, data elements and performance levels.
The proposed regulations will follow Operation Common Sense principles, the HEW initiative to revise, simplify, and recodify regulations to promote better public understanding of regulations.

FOR FURTHER INFORMATION CONTACT:

Rodney Pelton, Ph. D., Director, Division of Evaluation, Rehabilitation Services Administration, Room 2324, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-245-0688.

Dated: October 6, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-29046 Filed 10-12-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Gen. Docket No. 78-323; RM-3058; FCC 78-699]

USE OF AERONAUTICAL ADVISORY FREQUENCIES BY AERONAUTICAL UTILITY MOBILE STATIONS LOCATED AT CERTAIN LANDING AREAS WHICH DO NOT HAVE A CONTROL TOWER OR FAA FLIGHT SERVICE STATION

Proposed Authorization

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Communications Commission proposes to amend the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

DATES: Comments must be received on or before November 15, 1978, and Reply Comments must be received on or before November 27, 1978.

ADDRESSES: Federal Communication, Commission, Washington, D.C. 20554.

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FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of parts 2 and 87 of the rules to authorize the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station, Gen. docket No. 78-323, RM 3058.

Adopted: September 26, 1978.

Released: October 12, 1978.

SUMMARY

1. In this notice we are proposing to amend the Commission's rules to permit certain ground vehicles which routinely operate on airports that have no functioning control tower or FAA flight service station, but which are served by an aeronautical advisory station, to utilize aeronautical advisory frequencies for safety related communications.

BACKGROUND

2. The Commission has received a letter from the Federal Aviation Administration (FAA) requesting that the rules be amended to allow FAA vehicles and certain other ground vehicles to utilize aeronautical advisory frequencies while operating on landing areas not served by a control tower or FAA flight service station. FAA feels that safety and operating efficiency would be enhanced at these airports by permitting vehicles used for inspecions, maintenance, emergencies and the like, to communicate with the local aeronautical advisory station (unicom) when operating on the airfield. Primarily, these vehicles would be expected to monitor the appropriate frequency and only transmit or acknowledge relevant safety information. FAA recommends that communications by such vehicles, if authorized, be subject to the supervision of the advisory station operator. Also it is recommended that nonsafety communications, such as dispatching, not be permitted. We note that from time to time the Commission has received, and in appropriate cases granted, requests for waivers to provide similar communications capabilities for certain ground vehicles operating on nontower airfields.

DISCUSSION

3. Presently, aeronautical advisory frequencies are limited to the necessities of safe and expeditious operation of private aircraft, such as runway conditions, types of fuel available, wind conditions, weather information and dispatching. Further, only one aeronautical advisory station is permitted on a landing area.[1] Due to congestion problems on the then one available aeronautical advisory frequency at uncontrolled airports, the Commission amended the rules to provide two additional frequencies for advisory purposes at these landing areas.[2] In view of the nature of this radio service and the potential that increased traffic would negate the beneficial effects of the two additional frequencies recently provided, we are cautious regarding the grant of broader access to the advisory frequencies.

4. However, it appears that with appropriate safeguards, as discussed below, the FAA recommended rule change would provide an added safety feature at many uncontrolled airports without appreciably increasing message traffic on the advisory frequencies. Therefore, we propose to amend the rules substantially as requested by FAA, to permit FAA vehicles and aeronautical utility mobile stations to utilize aeronautical advisory frequencies on a noninterference basis, at airports which have an aeronautical advisory station but no control tower or FAA flight service station (FSS). Also, at landing areas which have a part-time control tower and/or part-time FSS, utility mobile stations will be permitted to use advisory frequencies during the hours that neither the control tower nor FSS is in operation, on the same basis as utility mobile stations at nontower, non-FSS airfields. Communications by utility mobile stations on advisory frequencies will be limited to the necessities of safety (such as runway conditions and hazards on the landing area). Further, these stations will be required to discontinue transmission when so requested by the advisory station operator.

5. Eligibility for authority to operate utility mobile stations will be limited to those applicants able to demonstrate a legitimate need and authority to operate a ground vehicle on the particular airport movement area. An airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramps and parking areas. For example, the use of ground vehicles for inspection of airport movement areas by airport operators and state and local governmental organizations, and the various emergency and support vehicles, such as crash trucks and snowplows, customarily used on an airfield, would satisfy the proposed eligibility requirements. On the other hand, fuel trucks which normally operate only on ramp and parking areas, serve as an example of the type of vehicle not contemplated to be eligible. Our intention in proposing this rule amendment is to provide a means for vehicles which routinely operate on a nontower, non-FSS landing area to monitor the advisory frequency and communicate when safety considerations so dictate.

[1] This restriction has been retained in the rules since the inception of the aeronautical advisory service. As indicated in a report prepared by Special Committee 113 of the Radio Technical Commission for Aeronautics (Document No. DO-129, November 23, 1965) such a limitation is necessary for safety, legal and technical considerations.

[2] Report and order, docket No. 20123, FCC 77-253, adopted April, 1977; 42 FR 20469, 64 FCC 2d 573.

PROPOSAL

6. Accordingly, we propose to amend §§ 2.106, 87.257 and subpart J of part 87 of the Commission's rules to permit aeronautical advisory frequencies to be utilized on a noninterference basis by FAA vehicles and aeronautical utility mobile stations authorized to operate at landing areas having an aeronautical advisory station and either a part-time or no control tower or FAA flight service station.

7. The proposed amendments to the Commission's rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303(b), (c), (d) and (r) of the Communications Act of 1934, as amended.

COMMENTS

8. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 15, 1978, and reply comments on or before November 27, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking, will be available for public inspection in the docket reference room in the Commission's Offices in Washington, D.C.

10. Regarding questions on matters covered in this document contact Robert McNamara, 202-632-7107.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Parts 2 and 87 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

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PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In Section 2.106 footnote US31 is amended to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

U.S. FOOTNOTES

* * * * *

US31 Except as provided below the band 121.9375-123.0875 MHz is for use by private aircraft stations.

The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary noninterference basis to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas. * * *

* * * * *

PART 87—AVIATION SERVICES

1. In § 87.257, paragraph (d)(5) is added to read as follows:

§ 87.257 Scope of service.

* * * * *

(d) * * *

(5) Aeronautical advisory stations may communicate with aeronautical utility mobile stations and FAA ground vehicles, concerning runway conditions and safety hazards on the landing area when neither an airdrome control tower nor FAA flight service station is in operation. (Transmissions by aeronautical utility mobile stations are subject to the control of the aeronautical advisory station to the extent that communications by ground vehicles must be discontinued when so requested by the aeronautical advisory station).

* * * * *

2. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) At landing areas having an airdrome control tower or an FAA flight service station, the frequencies 121.600 through 121.925 MHz listed in § 87.410(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.401(a) may be assigned to utility mobile stations on such landing areas only after FCC coordination with FAA. The frequency that will be assigned to the utility mobile station at an airport served by a control tower or flight service station, is the frequency that is used by the control tower for ground traffic control or the flight service station to communicate with ground vehicles.

(b) In addition to the frequencies described in paragraph (a) of this section, at landing areas which have a part-time airdrome control tower or part-time FAA flight service station and an aeronautical advisory station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. However, utility mobile stations may transmit on the advisory frequency only when the control tower or flight service station has ceased operations.

(c) At landing areas which have an aeronautical advisory station but, no airdrome control tower or FAA flight service station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. (The frequencies available for assignment to aeronautical advisory stations are described in § 87.253.)

3. Section 87.432 is amended to read as follows:

§ 87.432 Eligibility.

(a) Authorization to operate an aeronautical utility mobile station on the frequencies described in § 87.431(a) will be issued only for operation at landing areas having an airdrome control tower or FAA flight service station.

(b) Authorization to operate an aeronautical utility mobile station on an aeronautical advisory frequency will be issued only for operation at landing areas having an aeronautical advisory station and either a part-time or no airdrome control tower or FAA flight service station. In addition, an applicant must: (1) Demonstrate a need to routinely operate a ground vehicle on the airport movement area (the airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas); (2) identify the vehicle in which the station is to be located; and (3) either attach a statement that the applicant is the airport owner or operator, or a state or local governmental aeronautical agency; or attach a statement from the airport owner of operator granting permission to operate the subject vehicle(s) on the specified airport movement area.

4. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

(a) Communications by an aeronautical utility mobile station at a landing area which has an airdrome control tower or FAA flight service station in operation, are limited to the management of ground traffic at the airport.

(b) Aeronautical utility mobile stations which operate on the aeronautical advisory station frequency are authorized only to transmit and acknowledge information relating to safety, such as runway conditions and hazards on the airfield. (Such stations are expected to be employed primarily for monitoring advisory communications.)

5. Section 87.437, including the heading, is amended to read as follows:

§ 87.437 Supervision by operator of airdrome control tower, FAA flight service station or aeronautical advisory station.

(a) Transmissions by an aeronautical utility mobile station are subject to the control of the airdrome control tower, the FAA flight service station or the aeronautical advisory station, as appropriate at the particular landing area. When so requested by the control tower, the flight service station or advisory station, a utility mobile station must discontinue transmitting immediately.

(b) An aeronautical utility mobile station must guard its assigned frequency during periods of operation.

(c) Aeronautical utility mobile stations operating on the frequency assigned to an airdome control tower or FAA flight service station must cease to transmit on that frequency when neither of these stations are in operation.

6. Section 87.439 is amended to read as follows:

§ 87.439 Frequency change.

In the event that the utility frequency is changed by the Federal Aviation Administration (to a frequency in the band 121.600-121.925 MHz) or by the Federal Communications Commission, an aeronautical utility mobile station licensee has temporary authority for a period of 90 days to use the new frequency in place of the one listed on the license. An application for modification of the station license to specify the new frequency must be submitted within ten days from the date that the station commences operation on the new frequency.

[FR Doc. 78-29055 Filed 10-12-78; 8:45 am]

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[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-321; RM-3124]

TELEVISION BROADCAST STATION IN GARDEN CITY, LINCOLN CENTER, AND RANDALL, KANS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of noncommercial eductional television channels to Garden City and Randall, Kans., and the deletion of the noncommercial educational assignment at Lincoln Center, Kans. The proposed reserved assignments would enable noncommercial educational service to be extended to large areas now unserved.

DATES: Comments must be received on or before November 27, 1978. Reply comments must be received on or before December 18, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 28, 1978.

Released: October 4, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Garden City, Randall, and Lincoln Center, Kans.), BC docket No. 78-321, RM-3124.

1. The Commission has before it a petition for rule making,[1] filed by Garden City Community College ("petitioner"), requesting the assignment of noncommercial educational television channel *9 to Garden City, Kans. Petitioner states that in order to utilize channel *9 at Garden City, channel *9 (unoccupied and unapplied for) assigned to Lincoln Center, Kans., should be deleted and reassigned to Randall, Kans. Petitioner states it will apply for the proposed channel at Garden City, if assigned. No responses to the proposal have been received.

2. Garden City (pop. 14,790), seat of Finney County (pop. 19,029),[2] is located in southwest Kansas, approximately 305 kilometers (190 miles) west of Wichita, Kans. It is assigned channel 11 (KGLD) and channel 13 (KUPK-TV). Randall (pop. 195), in Jewell County (pop. 6,099), is located in north-central Kansas, approximately 65 kilometers (40 miles) north of Lincoln Center, Kans. It presently has no television assignments. Lincoln Center (pop. 1,582), seat of Lincoln County (pop. 4,582), is located in north-central Kansas, approximately 50 kilometers (30 miles) northwest of Salinas, Kans. Channel *9 (unoccupied and unapplied for) is the only television channel assigned to Lincoln Center.

3. Petitioner states that it is a part of the educational system of the State of Kansas and as such has been designated by the Kansas Public television Board ("KPTB") to implement KPTB's proposal to establish and educational television station in Garden City, thereby fulfilling KPTB's objectives of providing educational television to southwestern Kansas. It claims that the proposed facility in Garden City would provide coverage to approximately 120,700 persons and would make educational programing available to a substantial population currently lacking such service. Petitioner asserts that reassigning channel *9 for Lincoln Center to Randall would be consistent with KPTB's network plan for the State which is designed to serve many rural constituencies presently unserved by public television. Petitioner further states that KPTB proposes to activate a station on the proposed Randall channel *9 assignment if these changes are adopted.

4. The proposed assignments meet the Commission's distance separation requirements. The channel deletion at Lincoln Center represents the only change in any existing assignment in the table of assignments required by petitioner's proposal. No interest has been shown for use of the Lincoln Center channel since its assignment to that community in 1966. Because the proposed assignments could be used to bring noncommercial educational television service to areas now unserved, we believe it is in the public interest to consider this proposal in a rulemaking proceeding.

5. Accordingly, it is proposed to amend the television table of assignment, § 73.606(b) of the Commission's rules, with respect to the cities listed below, as follows:

City	Channel No.	
	Present	Proposed
Garden City, Kans.	11+, 13–	*9, 11+, 13–
Lincoln Center, Kans.	*9	
Randall, Kans.		*9–

6. The Commission's authority to institute ruemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix below and are incorporated by reference herein.

NOTE.—A showing of continuing interest with respect to each proposed assignment is required by par. 2 of the appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

[1] Public notice of the petition was given on June 7, 1978, Report No. 1125.

[2] Population figures are taken from the 1970 U.S. Census.

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5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filing made in this proceeding will be available for examination by interested parties during regular business hour in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-29057 Filed 10-12-78; 8:45 am]

[6712-01-M]

[47 CFR Parts 73 and 76]

[BC Docket No. 78-239]

MULTIPLE OWNERSHIP OF AM, FM AND TELEVISION STATIONS AND CATV SYSTEMS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments in a proceeding concerning the amendment of Commission rules relating to multiple ownership of AM, FM and television stations and CATV systems. Petitioner, Citizens Communications Center, states the additional time is necessary so that it can respond to the issues involved.

DATES: Comments must be filed on or before November 27, 1978, and reply comments on or before December 29, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Bonnie H. Lea, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:
Adopted: October 4, 1978.
Released: October 6, 1978.

In the matter of amendment of §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's rules relating to Multiple ownership of AM, FM and Television stations and CATV systems, BC Docket No. 78-239.

1. On August 16, 1978, the Commission issued a Notice of Inquiry and notice of proposed rulemaking, 43 FR 36978, (August 21, 1978) concerning the above-entitled proceeding. The comment and reply comment dates for that notice are October 12, and November 13, 1978, respectively.

2. On September 27, 1978, a request was filed by the Citizens Communications Center ("Citizens"), seeking an extension of time for filing comments to and including December 12, 1978. Citizens states that because of the numerous complex issues raised by the Commission in its notice, which involve interrelated questions of law, economics and basic public policy, Citizens intends to assemble for the Commission data and analysis analogous to that recently presented in the "Top-50" (Docket 78-101) proceeding. It contends that preparation of comments encompassing such a project will entail far more time than that which has been originally envisioned by the Commission. Citizens states further that it anticipates petitioning the Commission for financial assistance in obtaining the expert consultants necessary to insure that the Commission obtains the best possible sources of detailed, accurate and relevant information upon which to rely in the instant proceeding.[1]

3. While we are persuaded that some additional time is warranted, we believe an extension of time for filing comments and reply comments to and including November 27, and December 29, 1978, is sufficient to respond to the issues involved.

4. *Accordingly, it is ordered,* That the request for extension of time filed by the Citizens Communications Center is granted to the extent that the dates for filing comments and reply comments are extended to and including November 27, and December 29, 1978, respectively, and is denied in all other respects.

5. This action is taken pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29056 Filed 10-12-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611 and 672]

PACIFIC COD

Limitation on the Foreign Harvest

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed amendment to proposed regulations; approval of fishery management plan amendment.

SUMMARY: An amendment to the fishery management plan (FMP) for groundfish in the Gulf of Alaska, submitted by the North Pacific Fishery Management Council (Council), is approved. The amendment permits foreign longline fishermen to take the entire Chirikof total allowable level of foreign fishing (TALFF) (and any allocated reserves) for Pacific cod in that portion of the Chirikof subarea west of 157° W. longitude. The proposed regulations are proposed to implement the FMP amendment.

DATE: Comments are invited until November 20, 1978.

ADDRESS: Comments may be submitted to Mr. Harry Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

FOR FURTHER INFORMATION CONTACT:

Person and address mentioned above.

SUPPLEMENTARY INFORMATION: The FMP for the groundfish fishery of the Gulf of Alaska (43 FR 17242), published on April 21, 1978, would limit the total foreign longline harvest of Pacific cod in the area west of 157° W. longitude, an area which includes 40 percent of the Chirikof statistical area. The FMP established an optimum yield (OY), reserve, and TALFF for all of the Chirikof area, and would limit tne foreign longline catch of Pacific cod in the area west 157° W. longitude to 40 percent of that reserve and TALFF. On June 29, 1978, the Council submitted an amendment to the FMP which would allow foreign longline vessels to harvest the reserves and TALFF of the entire Chirikof area in the directed longline fishery west of 157° W. longitude. That amendment was approved on September 8, 1978.

The Assistant Administrator for Fisheries has found that this amendment is consistent with the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq. (Act), the national standards of the Act, and other applicable law. Under the FMP, Pacific cod in the Chirikof statistical area are considered a single stock. Therefore, the amendment will not lead to overfishing of local stocks. The OY's and TALFF's established in the FMP are unchanged. Incidental catch of halibut will not be increased, and may be reduced if longliners (instead of trawl vessels) harvest a higher proportion of the Pacific cod TALFF.

The Assistant Administrator for Fisheries has determined that this is not a significant action requiring the preparation of a regulatory impact analysis under Executive Order 12044. The Assistant Administrator, having reviewed the Act and the available information relating to this action, has determined that there would be no significant environmental impact resulting from this action. This determination was made on July 26, 1978.

Commenters should be aware that two additional amendments to this FMP, and proposed implementing regulations, have been published. The first (43 FR 34825) extends the OY's, TALFF's, reserves and assessments of domestic capacity for this FMP until October 31, 1979. The second amendment, published on October 6, 1978, proposes establishment of a "special joint venture" reserve and lowers the initial TALFF's for all species regulated by the FMP. Therefore, the TALFF's reserves and domestic capacity assessments stated in this amendment may be reduced in the final amendment and regulations to be consistent with other FMP amendments.

Signed in Washington, D.C., this 6th day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

The FMP is amended as follows:

Part 611—FOREIGN FISHING

§ 611.92 [Amended]

1. It is proposed to amend 50 CFR 611.92(b)(1) (43 FR 17015) as follows: In table I, footnote 1, strike "20 percent." Strike "6,233" and substitute "7,600."

2. It is proposed to amend § 611.92(b)(3)(i)(c) (43 FR 17016) as follows: Strike each occurrence of "4,000" and substitute "4,860." Strike "6,233" and substitute "7,600."

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. In table 62 (43 FR 17315), footnote 2, strike "20 percent." Also strike "6,233" and substitute "7,600" so that the last footnote reads:

[2]The maximum allowable foreign catch (including the reserve) for the area would be 7,600 mt.

4. In table 63 (43 FR 17315), footnote 1, add at the end of the sentence a second sentence:

[1] * * * Because all of the Pacific cod in the Chirikof statistical area are considered one stock, the TALFF for longliners may include all of the TAC (and the reserve if later apportioned to the foreign fishery) available in that statistical area.

5. In table 64 (43 FR 17316), footnote 3, strike "only" after "total." Strike "6,233" and substitute "7,600" so that the sentence reads:

[3] * * * (including the reserve) 7,600 mt can be taken west of 157° W. longitude.

[FR Doc. 78-28877 Filed 10-12-78; 8:45 am]

[1] Citizens is hereby advised that no funds are presently available for this purpose.

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

Intent for Decisionmaking on the 1979 program and Opportunity For Public Comment.

SUMMARY

The Administrator of the Agricultural Stabilization and Conservation Service hereby gives advance notice of forthcoming decisions to be made on certain aspects of the Agricultural Conservation Program (ACP).

The pending Agriculture, Rural Development, and Related Agencies Appropriations Act for fiscal year 1979, provides specific direction concerning the ACP. Among other things, the act provides that assistance will not be used for carrying out measures and practices that are primarily production oriented or that have little or no conservation or pollution abatement benefits. Due to a general lack of information with respect to specific impacts of conservation and pollution abatement practices, it would be difficult to implement this direction by way of binding regulations without risking significant adverse social and environmental impacts. Consequently, the agency proposes to implement the directive contained in the 1979 Appropriations Act by means of guidelines, criteria and procedures so as to allow flexibility to quickly accommodate new information as it becomes available. However, the public participation aspects of rulemaking procedures will be followed as a means of helping to provide an provide an adequate basis for decisions.

On or about November 1, 1978, proposed guidelines, criteria, and procedures by which to select soil and water conservation and environmental protection practices to be eligible for Federal financial assistance under the ACP will be issued for publication in the FEDERAL REGISTER together with a preliminary list of practices thought to meet the proposed criteria.

PUBLIC COMMENTS

The ASCS invites and requests suggestion, comments, or other inputs from the public concerning the development of the criteria, guidelines, and procedures to govern the ACP. All suggestions, comments and other inputs received by October 30, 1978, will be considered in the development of the proposed guidelines, criteria, and procedures. Suggestions, comments and other inputs may be delivered by mail or in person to:

Alan Durick, Acting Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, Room number 3096, South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

In addition, suggestions, comments and other inputs may be delivered at the following public meetings:

General Public Meeting, October 25, 1978, 1:30-4:30 p.m., room number 4960, South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

National Program Development Meeting October 27, 1978, 1:30-4:30 p.m., room number 4960, South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

GENERAL INFORMATION

Public comment on the proposed guidelines, criteria, and procedures will be solicited for 60 days following their publication. Comments may be delivered by mail or in person to an address to be published with the proposal.

Final decisions on the guidelines, criteria, and procedures to be used to govern the ACP will be published on or about January 1, 1979. A list of conservation and environmental protection practices which are determined, at that time, to be eligible for Federal financial assistance will also be published. The Administrator recognizes, however, that conditions may warrant revising the list of practices eligible for financial assistance. Accordingly, procedures will be established to provide for a periodic (or continuous) review and updating of the list of practices which are eligible for financial assistance.

FOR FURTHER INFORMATION CONTACT:

Gardner P. Smith, Deputy Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013, 202-447-5295.

Signed at Washington, D.C., on October 5, 1978.

S. N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-28693 Filed 10-12-78; 8:45 am]

[6335-01-M]

CIVIL RIGHTS COMMISSION

HEARING

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on November 14, 1978, in Washington, D.C. More specific information on the location on the hearing will be published in the FEDERAL REGISTER on or about November 1, 1978, and may also be obtained by calling the Office of the General Counsel, 202-254-6671, after that date. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States.

Dated at Washington, D.C., October 11, 1978.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 78-29207 Filed 10-12-78; 9:05 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

ESTABLISHMENT OF PRESCRIBED MINIMUM EDUCATIONAL REQUIREMENTS

Ecology Series, GS-408

AGENCY: U.S. Civil Service Commission.

ACTION: Notice.

SUMMARY: The Civil Service Commission has revised the prescribed minimum educational requirement of ecologists employed within the Federal service. Ecology is a professional occupation whose minimum educational requirement was intially established in May 1977. The changes will facilitate the procurement of qualified candidates at grade levels GS-5 through GS-15 for ecologists employed within the Federal service.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Brauer, Chief, Science and Engineering Occupations Section, Standards Division, Bureau of Policies and Standards, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5612.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of title 5, United States Code, the Civil Service Commission in May 1977 established a prescribed minimum educational requirement for ecologists employed within the Federal service. The subsequent revised requirement reduces the required course work in the biological, physical, and mathematical sciences, and in ecology.

THE ECOLOGY SERIES, GS-408 GS-5 THROUGH GS-15

Mininim Educational Requirements. Candidates must have successfully completed a course of study in an accredited college or university leading to a bachelor's or higher degree in biology or a related field of science underlying ecological research. This total course of study must have included at least 30 semester hours in basic and applied biological sciences, including a total of at least 9 semester hours in ecology. In addition, candidates' total course of study also must include at least 12 semester hours in the physical or mathematical sciences. The nature and quality of this required course work must have been such that it would serve as a prerequisite for more advanced study in ecology.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29006 Filed 10-12-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

NATIONAL RADIO ASTRONOMY OBSERVATORY—TUCSON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6886C of the Deparment of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00303. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRB2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No intrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency in the range between 105-111 gigahertz. The National Bureau of Standards (NBS) advises in its memorandum dated August 31, 1978, that: (1) The capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28962 Filed 10-12-78; 8:45 am]

[3510-25-M]

RICHARD B. RUSSELL AGRICULTURAL RESEARCH CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 76-00453. Applicant: Richard B. Russell Agricultural Center, Agricultural Research Service/USDA, P.O. Box 5677, Athens, Ga. 30604. Article: NMR Spectrometer System, Model JNM-PS/PFT 100. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in experiments in which the following objectives will be pursued:

(a) Determination of the structural features of the polymeric compounds which are the cell wall constituents affecting digestibility,

(b) Structural elucidation of beneficial and/or deleterious biologically active constituents in forages and feeds,

(c) Determination of sites of silica deposition in plants and elucidation of the process of silica deposition,

(d) Identification and determination of pesticide residues and metabolites in forages, feeds, and animals ingesting forages and feeds,

(e) Elucidation of protein structure and conformation, and

(f) Evaluation of the nature of polymer cross-linking in cell wall constituents.

Comments: Comments dated August 6, 1976 were received from Varian Associates (Varian) which allege inter alia that the model XL 100-15 is of equivalent scientific value to the foreign article.

Decision: Application denied. An instrument or appartus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 23, 1972).

Reasons: This application is a resubmission of docket Nos. 73-00008-33-77030 and 74-00228-33-77030 which were denied without prejudice to resubmission on August 27, 1973 and January 19, 1976, respectively, for informational deficiencies.

The applicant's response to question 8 is essentially the same as the response to that question in the second submission (docket No. 74-00226-33-77030). However, the applicant's letter of June 17, 1976, expands the response

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to question 8. The applicant alleges that the foreign article provides certain features which are pertinent to the intended use of the article that are unmatched in comparable domestic instruments. In reviewing these claims, the Department of Health, Education, and Welfare (HEW) advises in its memoranda dated January 17, 1977 and November 28, 1977 (which reaffirms its findings on the applicant's prior submissions), that these features are either not pertinent within the meaning of § 301.2(n) of the regulations or were matched by a comparable domestic instrument which was available at the time of order. (Varian's XL 100-15 nuclear magnetic resonance spectrometer (NMR) equipped with pulsed Fourier Transform (PFT), external lock and variable temperature control.)

HEW indicated that this Varian instrument is scientifically equivalent to the foreign article for its intended purposes.

A discussion of the applicant's allegations relative to pertinency and domestic availability follows.

High Pulse Power

Power in a PFT instrument is needed to acheve a short intense pulse. The actual power in watts needed to achieve such a pulse is not a true indication of pulse power since some systems are more efficient than others. Thus, both the foreign and the domestic manufacturers specify pulse power in terms of pulse width. And, to provde an even more meaningful measure of power, manufacturers define this capability as the pulse width that can impart a specific pulse angle (e.g., 90°) to a particular nucleus (e.g., ^{13}C). In comparing instruments with respect to pulse power, comparable specifications should be used. The pulse width of the foreign article is described in several ways. First, there is the description provided in the applicant's request for quote (RFQ). Although the applicant claims a need for a 90° pulse in the vicinity of 20 microseconds (μ-sec) for the performance of the purposes described in response to question 7, it is noted that RFQ 61-RN-ARS-72, incorporating these same purposes (as the intended use of the article), indicated that a pulse width of up to 150 μ-sec would be satisfactory. Next, there are the specifications provided in the foreign manufacturer's literature on the article wherein pulse power amplifier output is given as sufficient to give a 20 μ-sec width of 90° pulse. Finally, there is the quotation of the foreign manufacturer which states, more precisely, that the ^{13}C, 90° pulse width is 30 μ-sec in a 10 mm tube. Almost 2 months before the foreign article was ordered, Varian shipped an XL-100-15 system providing a ^{13}C, 90° pulse width of 40 μ-sec in a 12 mm tube. The foreign manufacturer has printed a supplement to the brochure describing the foreign article indicating that the article provides a ^{13}C, 90° pulse width of 20 μ-sec in an 8 mm tube and 30 μ-sec in a 10 mm tube. Thus, at best, the foreign article has but a slightly superior pulse width.

The applicant cited both pulse power and pulse width as pertinent specifications and claimed that Varian's pulse width at the time the article was ordered was 150 μ-sec. After review of the initial application HEW advised that the applicant had not demonstrated a clear relation between planned experiments and specific instrumental characteristics claimed to be lacking in the domestic instrument. HEW further advised that Varian had furnished proof that it could deliver and XL 100-15 NMR system with 40 μ-sec pulse power at the time of order, well within the specifications in the applicant's RFQ. HEW's advice was conveyed to the applicant via the Department's denial without prejudice to resubmission.

In the second submission (docket No. 74-00226-33-77030), the applicant's response to question 8 was similar to that of the intitial submission. The requirement for pulse power and width was described as follows:

1. Available pulse power limits the chemical shift range over which accurate T_1 values can be measured. In the Varian system, the strength of the pulsed field is too low to permit accurate measurements on ^{13}C; this would eliminate some of the studies mentioned in section 7.a.(3) (a) and (e). ("Section 7.a.(3) (a) and (e)" refer to specific portions of the applicant's response to question 7.)

2. Pulse widths must be small compared to the relaxation times to be studied. Varian's pulse widths are about (150) μ-sec for 0 90 (90° pulse width) and 300 μ-sec for 0 180, at least a factor of seven greater than those of (the foreign article). Since crystalline samples often have T_2 100μ-sec and 19 F in gas samples are known to have T_1 of the order, of 100 μ-sec, the utility of Varian's instrument is again questionable in the studies of section 7a.(3) (a) and (e).

In section 7.a.(3)(a) the ^{13}C and ^{1}H spectra of certain relatively insoluble polysaccharides are to be measured at or near the glass transition temperature where, according to the applicant, T_1 and T_2 values can be 1 millisecond (msec) or less. In this connection, HEW provided the following advice:

1. Repeated references are given to measurements of T_2 yet neither the Varian system nor the foreign article is equipped to carry out such measurements in the manner indicated.

2. * * * it is implied that the samples will be dissolved, but a "glass transition temperature" is referred to, where a T_1 of 1 msec is expected. It is not clear whether this number is intended to refer to protons or ^{13}C. Unless * * * (certain) * * * species are present (which are not discussed), it is almost certain that a ^{13}C T_1 as short as 1 msec would not be obtained, and it is doubtful that a proton T_1 that short at 100 MHz would be found in what is evidently a more or less fluid sample. The values of pulse width which the 1 msec T_1 is compared refer to ^{13}C, not protons, for which much shorter pulse widths would be obtained with the Varian spectrometer.

Section 7a.(3)(e) involves ^{13}C, T_1 and T_2 measurements on very low concentrations of proteins and model protein systems requiring (among other things) long data accumulations with minimum drift over a 24-hour period. HEW advises that this experiment can be performed equally well with the Varian system or the foreign articles. (In this connection, the Department notes that 7.a.(3)(e) bears a similarity to an experiment on lignin described in the applicant's third submission with respect to long data accumulations. The lignin experiment, as can be seen in the discussion under the heading "Short Receiver Dead Time and Pulse Width" below, provided no grounds for duty-free entry.) HEW's advice on the second submission was conveyed to the applicant in the denial without prejudice to resubmission.

Except for corrections of typographical errors the applicant's response to question 8 in this, the third submission, is identical to that of the second. However, the applicant, in a letter attached to the application dated June 17, 1976, did attempt to correct the deficiencies pointed out by HEW in its recommendation relating to docket No. 74-00226-33-77030.

In connection with pulse power, the applicant described an experiment of 100,000 or more pulses in which "the combination of higher pulse power, short receiver dead time * * * and consequently shorter pulse width" was stated to provide an advantage. The applicant also discussed the possibility (not yet attained) of obtaining accurate T_1's below 1 msec. This additional material as shown in separate treatments under the headings "Short Receiver Dead Time and Pulse Width" and "T_1, for ^{13}C in the Range of a Millisecond" below, provides no justification for duty-free entry. In view of the foregoing, HEW advises that the article's specified pulse power provides no scientifically significant advantage over that of the domestic instrument for any of the applicant's planned work. The Department concurs.

Short Receiver Dead Time

No documentation is provided to support the applicant's statement that the receiver dead time of the foreign article is 12 μ-sec. In RFQ 61-RN-ARS-72 the applicant requested a recovery time of 150 μ-sec. In both the foreign manufacturer's quotation to the applicant (dated Apr. 12, 1972), and the article's specifications, recovery time is given simply as less than 20 μ-sec. In any case, the applicant states in this third submission (docket No. 76-00453) that this feature is connected with pulse width. As will be shown below the combination of pulse power, short receiver dead time and pulse width of the articles provides no scientifically significant advantage with respect to the applicant's intended experiments.

Thus, HEW advises, and we concur, that short receiver dead time is not pertinent.

Short Receiver Dead Time and Short Pulse Width

The applicant alleges that the combination of higher pulse power, and shorter receiver dead time (and consequently shorter pulse widths than the domestic instrument) would save time on long experiments (upwards of 100,000 pulses) such as ^{13}C studies on lignin. The applicant also states that this time-saving feature combined with the article's "single scan"* ^{13}C sensitivity makes the article superior to any comparable equipped 100 megahertz (MHz) instrument on the market today. The article's "single scan" ^{13}C sensitivity, measured in the applicant's laboratory, is alleged to be 470:1 on the largest peak of a 90 percent ethylbenzene sample in a 10 mm tube at ambient temperature with 5,000 Hertz (Hz) spectral width. The applicant further alleges that as of May 3, 1976 Varian's stated maximum sensitivity under these conditions was 200:1.

Regarding the saving of time, HEW advises that for the sample cited a saving of only 11 seconds in a total experiment time of close to 24 hours would accrue. Thus HEW finds, and the Department concurs, that the differences in receiver pulse power, receiver dead time and pulse width between the article and Varian's XL 100-15 is not pertinent for the planned work.

Regarding sensitivity, the following is noted:

1. The procedure of denial without prejudice to resubmission affors the applicant an opportunity to correct deficiencies in an application which are pointed out in writing. (Sensitivity was not alleged to be pertinent and unmatched by domestic instruments in either of the two prior applications for duty-free entry of the article although eight other features were repeatedly discussed in reply to question 8). Although the question of single scan ^{13}C sensitivity is being raised for the first time in this third submission, the denial without prejudice to resubmission procedure is not intended to be a route for the introduction of wholely unexpected or previously unexplored issues ad infinitum.

2. 470:1 value for sensitivity provided by the applicant is not the guaranteed sensitivity of the article (which according to the foreign manufacturer's quotation is 140:1 under the conditions described by the applicant) but rather one stated to have been measured in the applicant's laboratory. Subsection 301.11(a) of the regulations stipulates that in our comparison of the foreign article with domestic instruments guaranteed specifications are to be considered. The applicant's RFQ does not specify a single pulse sensitivity but does specify a continuous wave ^{13}C sensitivity of 30:1 in an 8 mm tube. Varian's letter of april 12, 1972 listing exceptions to the applicant's RFQ did not take exception to any of the applicant's sensitivity specifications. Varian, in its comments, states a belief that its guaranteed ^{13}C signal to noise sensitivity specifications have always been equal to or greater than those guaranteed by the manufacturer of the foreign article.

Thus, the 470:1 figure provided by the applicant cannot be a factor in our deliberations. The applicant, in the above-cited letter of June 17, 1976 (item A1.), acknowledges that where guaranteed sensitivity of the article and the Varian system can be compared (i.e., for continuous wave ^{1}H), the two instruments are equivalent.

Accurate Digital Pulse Programming

The applicant alleged in response to question 8 in all three applications for duty-free entry of the foreign article that this feature is required in DEFT (driven equilibrium Fourier transform) and Carr-Purcell experiments.

DEFT and a form of the Carr-Purcell method known as SEFT (spin echo Fourier transform) are of interest for enhancing signals above those attainable by ordinary Fourier transform techniques when certain conditions prevail, i.e., the spin-lattice relaxation time, T_1, is very long and T_1 is approximately equal to the spin-spin relaxation time, T_2. The Carr-Purcell sequence is also used for finding T_2. In its recommendation relating to the applicant's initial submission (docket No. 73-00008-33-77030), HEW advised that there was no indication that Carr-Purcell is in any way related to experiments that the applicant intends to perform and, after review of the applicant's second submission (docket No. 74-00226-33-77030), HEW advised that in the applicant's description of experiments to be conducted there are repeated references to the measurement of T_2, yet neither the Varian instrument nor the foreign article is equipped to carry out such experiments in the manner indicated. In this third submission, the applicant did not provide any new information on the requirement for Carr-Purcell but did expand on the requirement for DEFT. The applicant "visualized" that DEFT could be useful on lignin, lignin-carbohydrate complexes, and polysaccharides of forage plant cell walls to attain better signal-to-noise ratios (S/N) than attainable with a normal single pulse sequence without a significant increase in the total time required for an experiment. In connection with the requirement for DEFT HEW advises that DEFT is useful in improving the efficiency of ^{13}C NMR only in cases where T_1 is long and T_2 is approximately equal to T_1. HEW further advises that because of spin coupling between ^{13}C and protons, T_2 in polysaccharides and other compounds cited by the applicant is expected to be appreciably shorter than T_1 (HEW references Shoup, Becker and Farrar, J. Magnetic Resonance 8, 298 (1972) as well as references given therein for further detail). Finally, in connection with the use of Carr-Purcell for measurement of T_2, the Department notes that T_2 can be measured in other ways. For example, T_2 can be derived from the width of a spectral line in many samples (such as polysaccharides) where the line width is much greater than magnetic field in homogeneity. HEW further advises that at the time of order no manufacturer, domestic or foreign, offered Carr-Purcell measurements on a high resolution Fourier transform NMR spectrometer.

Capability of Operating in Either International or External-Locked Mode

Although HEW advises that an external lock is pertinent to the applicant's work, the Department of Commerce has established, and HEW con-

*It is clear from material attached to the application that the applicant is referring to single pulse.

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curs, that the XL-100-15 system could be provided with internal and external locks at the time the foreign article was ordered to match the pertinent specification of the article. In this connection, it is noted that Varian shipped an XL-100-15 system with internal and external locks more than one year before the article was ordered.

Capability of Running Wide Sweeps in a Locked Mode

The Department notes that the applicant refers to his response in question 7.a.(3) (a) and (e) to establish the pertinency of this feature of the article. This work cited by the applicant will require the Fourier Transform capabilities of the article. The Department is cognizant that the wide sweeps in a locked mode provided by the article are used only in continuous wave (cw) nuclear magnetic resonance spectrometry and are not used in the Fourier Transform mode. Generally, cw work is not done when PFT is available. Several texts point out that the spectral range or sweep width in the Fourier Transform mode is determined by the amount of power applied to the sample and the rate at which the computer digitizes the data (e.g., T. C. Farrar and E. D. Becker, Pulsed and Fourier Transform NMR. Introduction to Theory and Methods, pp. 67, 69-71, Academic Press, New York (1971)). HEW advises that this feature is not pertinent for the work described by the applicant. The Department concurs.

Sufficiently Wide Temperature Range

Although HEW advises that the need for a variable temperature capability is pertinent to the applicant's work, the Dpeartment of Commerce has established, and HEW concurs, that the XL-100-15 system could be provided with variable termperature capability in the range required by the applicant (−150° to +200° centigrade) for the size tube required by the applicant (a sample tube of 10 mm or greater) at the time the foreign article was ordered. (These features were offered with the domestic instrument introduced in 1969 and continued to be offered with the XL-100-15 PFT.) Thus, this feature is matched in the XL-100-15 system.

In addition, the applicant in his response to question 8.(c)3 alleged, "• • • In addition to having a wider temperature range available, [the article's] variable termperature system is better in that it provides a calibrated readout of the temperature at the sampel, which Varian's system does not." In his letter of June 17, 1976 the applicant states, "• • • JEOL on the other hand offered a 10 mm VT probe with direct temperature readout • • •." We note the applicant's RFQ specified VT for an 8 mm tube and a 5 mm tube but not a 10 mm tube. Further, it provided no instructions relative to calibrated readout of temperature at the sample. Moreover, this feature is not described in the specifications of the article or the foreign manufacturer's quotation. However, technical literature permitted comparison of the instruments in question with respect to "readout". Both the variable temperature accessory of the article and XL-100-15 provide dials and/or meters for indication of temperature in the vicinity of the sample tube (for 10 mm or larger tubes), once temperature has been calibrated by an acceptable method. The foreign article provides a temperature meter on the magnet whereas Varian provides a temperature setting dial plus a temperature variation meter on the console. Precise temperature work in both systems, however, would require exacting calibration techniques which provide the actual temperature inside the sample tube. One such technique utilizes compounds with temperature sensitive lines which can be added directly to the sample or placed in a capillary inserted therein. Another very precise technique utilizes a special thermometer which can be placed in the sample tube cavity (or even sample tube). Since similar variable temperature experiments can be caried out in both the foreign and the domestic system, we find these systems to be scientifically equivalent with respect to temperature identification for the applicant's intended use. In any event, HEW did not find "calibrated readout of temperature at the sample" to be pertinent.

Water Cooling of Probe

Varian claims that the proble of the XL-100-15 system can be operated without water cooling because the electrical shim coils are mounted on the pole caps and therefore do not transmit any heat to the NMR sample area. In our denial without projudice to resubmission of the applicant's initial submission, the applicant was informed that Varian claimed its proble was designed to eliminate transmission of heat to the sample area. The applicant in two subsequent submission provided no new information on the issue of the cooled probe. In any case, HEW advises that this design feature is not pertinent to the applicant's work.

T_1 for ^{13}C in the Range of a Millisecond

In the applicant's letter of June 17, 1976, the applicant states that although accurate T_1's below 1 msec (millisecond) have not been obtained, such values are not inconceivable for glycerol backbone carbons in the very viscous natural states in the plant seed. However, HEW advises that, with regard to possible T_1's for ^{13}C in the range of a msec, it is known that dipolar relaxation cannot give ^{13}C T_1's of less than 20 msec. HEW further advises that contrary to the applicant's statement, increase in viscosity of the sample will cause T_1 to go through a minimum of about 20 msec and then increase, while T_2 continues to decrease. Thus, HEW advises that this feature is not pertinent to the planned work.

Available Domestic Instrument

Applicant's allegations.—Although the XL-100-15 was discussed the applicant alleged that the Department should base its determination on a comparison of the foreign article with the XL-100-12. In a letter, dated November 16, 1973 attached to the second application (docket No. 74-00226-33-77030), the applicant stated, "• • • the government can only accept prototype equipment when it is the only source. Our solicitation was for an advertised system. Varian did not bid the XL-100-15 and took several exceptions for the XL-100-12 • • •". In this submission (docket No. 76-00453), the applicant's letter of June 17, 1976 stated, "• • • Comments concerning the Varian XL-100-15 may be irrelevant to the discussion since Varian Associates did not bid that instrument • • •". Consideration of these allegations by the Department involved criteria for determining domestic availability, Varian's comments, Varian's quote in response to the applicant's RFQ, less formal contact of the applicant with Varian and factual information in the public domain.

Criteria for determining domestic availability.—Although it is not conceded that the XL-100-15 was an unadvertised prototype, it must be pointed out that the specific purchasing policies of the applicant are not standards of domestic availability for purposes of duty-free entry. According to § 301.11(b) of the regulations a domestic instrument or apparatus is considered available (whether produced for stock, produced on order or custom made) if the U.S. manufacturer is able and willing to produce it and have it available without unreasonable delay. The subsection also indicates that normal commercial practices applicable to the production and delivery of the instrument in question is to be considered in the determination of domestic availability. As will be shown below, the XL-100-15 system meets the criteria of § 301.11(b).

Varian's comments.—Varian stated that (1) its records show that both the XL-100-12 and the XL-100-15 were

freely available at the time the XL-100-12 was quoted [April 12, 1972], (2) the XL-100-15 was, and is, the higher volume product [i.e., Variance manufactures and sells more XL-100-15's than XL-100-12's], (3) the decision to formally bid the XL 100-12 in response to the applicant's RFA was based on factors other than technical specifications, and (4) Varian would have been pleased to quote the XL-100-15 had it been specifically requested to do so.

Varian's quotation.—The Department notes that it lacks information on the nature of Varian's response to the applicant's solicitation (No. 61-RN-ARS-72). A letter dated April 12, 1972, which was attached to Varian's response, indicated that an XL 100-12 without external lock, DEFT, or variable temperature was quoted. But this letter was all that was supplied by the applicant and practically all the detail of Varian's quote (No. 54-472-3) is not available to us because neither the applicant not Varian could supply us with a copy of Varian's quotation. Thus, we cannot verify the specifications actually offered, price, alternatives, etc.

Other contacts between the applicant and Varian.—The applicant indicated that contact with Varian (with salesmen and Dr. Leroy F. Johnson) took place from June 1971 to February 1972. However, little detail is given on the nature of these contacts and when the Department, in its denial without prejudice to resubmission of docket No. 74-00226-33-77030 (the second submission), asked when (between June 1971 and February 1972) a particular conversation (on pulse power) with Dr. Johnson took place the applicant, on resubmission, responded, "• • • It was, to the best of my recollection between November 1972 and February 1973 • • •". The response to question 9 which covers the applicant's contact with domestic manufacturers does not appear to cover the relatively informal contacts with Varian cited above. However, the Department notes a significant omission in the applicant's response to question 9.a.(3). In response to this question the applicant indicated that Varian was requested to bid, but the balance of the question, which asked whether cost limitations were involved in this request, was not answered. It is also significant that, in the Solicitation Instructions and Conditions attached to the applicant's RFQ, item 10. (Award of Contract) reads in pertinent part, "(a) the contract will be awarded to that responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, *price*, and other factors considered." (emphasis added). This is significant because the price of an XL 100-15 system matching the article would be higher than that of either the article of the XL 100-12 and the applicant purchased the article from the lowest acceptable bidder. In accordance with § 301.2(n), difference in cost between the article and the most closely comparable domestic instrument is not considered a basis for duty-free entry.

Information in public domain.—Varian's willingness and ability to supply the XL 100-15 was clearly a matter of public record at the time the foreign article was ordered. The instrument was first introduced in 1969. At that time PFT for proton was offered as an option. The basic instrument and its improvement with time has been advertised in the trade literature, demonstrated at exhibits and at Varian's applications laboratory, discussed at owner's conferences, described in catalogs, ordered, shipped, discussed in application for duty-free entry etc. from 1969 to 1972 (and thereafter). Further, the publicity on the XL 100 series clearly indicated that the XL 100-15 had significantly higher capability than the XL 100-12. Thus, Varian demonstrated its willingness to supply the XL 100-15 by offering it in quotations, timely advertisements etc. and Varian demonstrated its ability to supply the XL 100-15 by manufacturing it (to a greater extent than the XL 100-12) and shipping it. The Department has documentation to support the statement that Varian shipped and offered units of its XL 100-15 PFT NMR spectrometer system comparable to the foreign article. Varian shipped such a unit to Harvard University on March 30, 1972 (i.e., before the article was ordered) and quoted similar units to Pennsylvania State University and Albert Einstein College of Medicine on February 24, 1972 and July 22, 1971 respectively. Both Pennsylvania State University and Albert Einstein College of Medicine applied for and obtained duty-free entry of instruments essentially identical to the foreign article (dockets No. 72-00504-01-77030 and 73-00136-01-77030 respectively). In the second submission (docket No. 74-00226-33-77030) the applicant cited these two cases as precedents and stated that the XL 100-15 was "unavailable" (citation of these precedents was not repeated on resubmission). The Department's approval of these applications, however, were not based on the nonavailability of a comparable XL 100-15 system but the inability of that system to perform certain specific experiments within the capability of its foreigh counterpart. Such specific experiments are not described in any of the applications that are the subject of this decision.

In view of the above, the Department finds that Varian was both willing and able to provide an XL 100-15 PFT NMR spectrometer with all necessary accessories for the applicant's intended uses at the time the foreign article was ordered. The Department further finds that difference in cost between the foreign article and this domestic instrument and Varian's knowledge that this difference would be critical in the award of the purchase contract is a reasonable explanation of Varian's bid of an XL 100-12.

Based on the foregoing considerations, HEW advice, our own review of the application as well as other factual information in our possession (specifications, textbooks etc.) we find that the model XL 100-15 NMR system was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28963 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF ILLINOIS—URBANA

Decision on Applicotion for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00284. Applicant: University of Illinois Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Reflection-Transmission Unit for Beckman-RIIC FS-720 Fourier infrared spectrometer. Manufacturer: Beckman-RIIC Ltd., United Kingdom. Intended use of article: The article is intended to be used for reflectance and transmission studies of metals such as TaSe, and V_3Si which have interactions between vibrations of the atoms and the electrons responsible for electrical conductivity. The frequency range of interest is the far infrared.

Comments: No comments have been received with respect to this application.

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Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The National Bureau of Standards (NBS) advises in its memorandum dated August 30, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28964 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF WISCONSIN—MADISON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00256. Applicant: University of Wisconsin—Madison Plasma Physics, 1150 University Avenue, Madison, Wis. 53706. Article: 35 GHz, 15 W extended interaction oscillator, type VKQ 2420E. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be usd in a microwave scattering experiment in which density fluctuations in the plasma will be probed revealing their characteristic frequencies and wavelengths. The density fluctuations to be studied are common to octupoles, tokamaks, and many other devices.

Comments: No comments hve been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a high power source (75 watts) required to generate microwave radiation in the 35 gigahertz range. The National Bureau of Standards (NBS) advises in its memorandum dated September 5, 1978 that (1) the specification described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28965 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA, DAVIS SCHOOL OF VETERINARY MEDICINE ET AL

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 2, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00422. Applicant: University of California, Davis, School of Veterinary Medicine, Davis, Calif. 95616. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended used of article: The article is intended to be used for ultrastructural studies of animal tissues and morphological investigations of animal virus structures. The most important projects for which the article is to be used as an essential investigative tool are:

I. Pulmonary effects of environmental oxidant pollutants.
II. Ultrastructural characterization of animal viruses.
III. Ultrastructural pathology of the musculoskeletal system.
IV. Trypanosomiasis.
V. Abortion in cattle and sheep.
VI. Procedures for rapid viral diagnosis.
VII. Special post mortem diagnostic procedures.
VIII. Effects of beta/lysins and cationic proteins on morphology of bacteria.

Undergraduate, graduate and professional (veterinary) students in the following courses will use the article during laboratory exercises and for examining specimens.

1. Anatomy 205—Ultramicroscopic Anatomy.
2. Pathology 282—Tumor Pathology.
3. Pathology 299—Research in Veterinary Pathology.
4. Veterinary Microbiology 128—Biology of Animal Viruses.
5. Veterinary Microbiology 130—Animal Virology Laboratory.
6. Veterinary Microbiology 299—Research.
7. Veterinary Medicine 150B—Agents of Disease and Host Responses.

Application received by Commissioner of Customs: September 13, 1978.

Docket No. 78-00426. Applicant: Medical College of Ohio, Department of Pathology, C.S. 10008, Toledo, Ohio 43699. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials (human and animal tissues) which have been embedded in hardened epoxy resins for sectioning. Experiments to be conducted will include cyto and histochemical studies of enzyme and subcellular organelle localization in cells and tissues and subcellular changes in cells induced by changes due to infectious agents, biochemical and/or physical environments. In addition, the article will be used in the course diagnostic electron microscopy to introduce students to the principles and techniques of electron microscopy in order to apply gained knowledge to diagnostic pathology. Application received by Commissioner of Customs: September 14, 1978.

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Docket No. 78-00427. Applicant: Yale University, Biology Department, Kline Biology Tower, New Haven, Conn. 06520. Article: LKB 2088 Ultrotome V Ultramicrotome with LKB 14800-3 Cryokit and accessories. Manufacturer: LKB Produkter AB, Sweden Intended use of article: The article is intended to be used for studies of cell ultrastructure and intracellular localization of elements in: (a) Plant cells that undergo large rhythmic and light-regulated changes in turgor: (b) protoplasts isolated from cereals and regenerating new walls; (c) cells of plants subjected to gravitational stimulation; (d) cells of plants subjected to environmental pollutants; (e) pathological and normal tissue from animals and plants. The article will also be used in the course Cell Biology by advanced students who are learning cryoultramicrotomy. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00428. Applicant: Veterans' Adminstration Hospital, 1400 V.F.W. Parkway, West Roxbury, Mass. 02132. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden Intended use of article: The article is intended to be used to section biological materials for ultrastructural studies on normal and pathologic tissues, developmental studies on fungal and bacterial systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at cell-cell interfaces, and subcellular changes in cells induced by changes in their biochemcial and physical enviroments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in amimal models) and to correlate these changes in clinical alterations seen in human diseased tissues. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00429. Applicant: Purdue University, ADMS Building, West Lafayette, Ind. 47907. Article: Electron Microscope, Model JEM 100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to do diagnostic virology. The research is directed toward three main areas: Nervous system, skeletal system, and the heart. The main direction of the research involving the nervous system consists of the prenatal development of neuroblasts and their processes and a study of a gangliosidosis in the dog. The second main area of research involving the nervous system is directed to the characterization of a gangliosidosis of dogs as a model for better understanding of a similar disease of man. A continuing study of the skeletal system of animals, particularly the portion directed toward the understanding of the development of secondary centers of ossification will be conducted. The article will also be used for the study of the response of heart muscle to deficiency disease. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00430. Applicant: University of Florida, Institute of Food and Agricultural Sciences, McCarty Hall, Department of Microbiology, Gainesville, Fla. 32611. Article: Electron Microscope, Model JEM-100CX with standard side entry and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine and analyze biological materials ranging from naked DNA to viruses to bacteria to single-celled eucaryotes to whole organisms. Ultrastructure of the development and subcellular organelles in the above-listed biological materials will be done. In addition, the article will be used in the courses MCS 653, Electron Microscope Techniques and MCS 655 EM Cytochemistry to give students thorough training in EM techniques so that they may use the article in their dissertation research. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00431. Applicant: New York University Medical School, 550 First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of cultured cells of the animal nervous system including clonal lines with neuronal properties. Various types of cells from animal tumors will be studied as well as biopsy specimens from the human and animal nervous system. The experiments to be conducted will involve studying the organization of subcellular fibrous organelles and their alterations during the development and aging process as well as the changes which they might undergo in neoplastic transformation. Attempts will be made to experimentally alter the distributions and connections of these organelles. Other studies will be done to monitor the subcellular fractionation and purification of both fibrous organelles and membranes from tissues as a correlate to biochemical studies. In addition, the article will be used to instruct graduate students, students in the M.D.-Ph. D. program and postdoctoral fellows in the basic techniques of electron microscopy and their application to the study of drug mechanisms of actons and drug effects on living systems. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00432. Applicant: Northwestern University, Chemistry Department, Evanston, Ill. 60201. Article: Rare Gas Halide Laser Kit and Accessories. Manufacturer: Lumonics Research, Canada. Intended use of article: The article is intended to be used to create large quantities of molecular fragments which will be studied with respect to measuring the initial energy distribution of these fragments. This will allow for the testing and formulation of theories of chemical dynamics and the reactivity of excited molecules. In another set of experiments the article will be used as a HF laser to pump energy into overtone vibrations of molecules. The reactivity of these excited molecules will then be studied. In a third set of experiments, the output of this laser will be used in the 300—nm region of the spectrum to pump a dye laser which will then be used to probe excited state molecular fragment energy distributions. The article will also be used in nonlinear optics experiments in which high peak power is very important. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00433. Applicant: Wayne State University, 540 East Canfield Avenue, Detroit, Mich. 48201. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of a variety of mammalian tissues, organs, and glands in addition to isolated cells, membrane fragments, and other cellular components. Investigations will include ultrastructural studies of the effects of a variety of drugs on whole mammalian exocrine glands, and dispersed glandular cell preparations, toxicological studies of agents affecting the liver cytochemical localization of enzymes in inner mitochondria membrane preparations and in isolated vas deferens membranes and ultrastructural changes induced by drugs or ionic shifts in cardiac muscle fibers. A workshop entitled "Basic Techniques in Electron Microscopy" is the instructional course in which this instrument will be used. The workshop is intended as an introduction to the techniques of specimen preparation and to the use of the electron microscope as a tool for studying biological fine structure and various subcellular organelles. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00435. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, Mass. 02115. Article: LKB 2258 PMV Cryo-Microtome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, specifically tissue from animal spe-

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cials, such as monkey, cat, and rodents. Whole unfixed frozen animals' brains will be mounted in matrix of carboxylmethyl cellulose frozen in metal frames and then sectioned at a relatively low temperature. The investigation includes measuring the rates of glucose consumption in the central nervous system by using the (C^{14}) 2-deoxyglucose method and the autoradiography technique, followed by histoiogical examination of the cells' morphology. The objectives of this research are to demonstrate the anatomical system and the function of the visual cortex's two independent systems: The ocular dominance columns and the orientation columns. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00437. Applicant: Northwest Community Hospital, 800 West Central Road, Arlington Heights, Ill. 60008. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, especially human tissues from surgically excised specimens, autopsy tissue, body fluids, and blood cells, bacteria and fungi. Many tumor specimens, as well as kidney and liver biopsies, will be sectioned. Ultrastructural studies on human tissues, cells, or by-products will be performed for the purposes of diagnosis of disease and elucidation of disease mechanisms. This will probably include ultramicroscopic, histochemical, and immunologic techniques. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00438. Applicant: University of Colorado, Purchasing Services Department, Willard Administrative Center, No. 160, Boulder, Colo. 80309. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials (cells and tissues). The experiments to be conducted will consist of ultrastructure of normal and transformed cells and tissues with special emphasis on three-dimensional organization visualized through use of thick sections in a high-voltage electron microscope. Ultimately experiments will concentrate on such visualization in frozen materials. In addition, the article will be used in the courses MCDB-132 Cell and Tissue Biology and MCDB-513 Advanced Topics in Electron Microscopy in hopes of increasing expertise in various research areas handled by electron microscopy and specimen sectioning. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00439. Applicant: Louisiana State University Center for Agricultural Sciences and Rural Development, Department of Plant Pathology and Crop Physiology, Life Sciences Building, Baton Rouge, La. 70803. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section plant material which is infected, healthy plant materials used as controls and insects which are involved in the infections process. These sections will be viewed with the electron microscope to determine what the pathogen is, where it is located and what effect it has on the plant's ultrastructure. These studies will be constructed to identify the pathogens involved in these plant diseases and to learn more about these pathogens. In addition, the article will be used in the courses Plant Virology and Methods in Plant Pathology to furnish graduate level training in plant pathology. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00440. Applicant: The Regents of the University of California, Irvine, Calif., California College of Medicine, Irvine, Calif. 92717. Article: Electron Microscope, Model EM-400 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine tissues at low, intermediate, and high magnification, to examine freeze-etch replicas of biological membranes and tissue sections at various magnifications, for various applications of histochemical procedures from low to high magnification, to examine thick specimens, to examine stereo pairs of membranes and various tissues with both freeze-etch and thin section preparations, and to apply analytical electron microscopy to various tissue systems. Examples of the research projects include:

(1) Diabetic angiopathy and neovascularization.
(2) Identity of nascent capillaries.
(3) Investigation of localization of ^{125}I-insulin on purified plasma membrane preparations.
(4) Investigation of stereo pairs of biological materials.
(5) Studies of the endocrine pancreas in streptozotocin-induced diabetic mice.

The article will also be used in an electron microscope course being designed for graduate students and research fellows. In this course, the techniques and applications of EM will be heavily emphasized, and an independent EM project will be expected. Application received by Commissioner of Customs: September 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28966 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF FLORIDA, DEPARTMENT OF CHEMISTRY, ET AL

Consolidated Decision on Applications for Duty Free Entry of Nuclear Magnetic Resonance Spectrometers

The following is a consolidated decision on applications for duty-free entry of nuclear magnetic resonance spectrometers pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00103. Applicant: University of Florida, Department of Chemistry, 109 Leigh Hall, Gainesville, Fla. 32611. Article: JNM/FX-100 High Resolution Fourier Transform Multi-Nuclear Magnetic Resonance System, with accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research involving standard proton and carbon spectra for structure determination:

(1) Investigation of whether certain carbonium ions are static bridged species or occur as an equilibrating mixture of two or more forms.
(2) Investigation of the kinetics of the isoindene photoisomerization and thermal reversion.
(3) Relaxation time measurements, particularly $T_{1\rho}$, to distinguish these mechanisms and to measure the mobility of the reporter molecules. $T_1/T_{1\rho}$ studies to investigate molecular motions over a longer time scale than those affecting T_1. Similarly the binding of anthracycline antitumor drugs to DNA is under investigation; kinetic studies of drug/DNA complexing and dissociation will be facilitated by the auto-stacking capability of the article.
(4) Determination of the stereochemistry of polymer end groups and inter-conversion rates of carbanion rotamers will be investigated using the auto-stacking and $T_{1\rho}$ features.
(5) $T_{1\rho}$ measurements to determine the locations of the metal atom in the exchanging species and the effects of UV irradiation in situ on various metal complexes will be tested.

(6) The study of osmotic membranes using relaxation time measurements to follow the behavior of water molecules at the membrane.
(7) The study of the kinetics of the sulfite ion cleavage of thiamine in the presence of other nucleophiles using the auto-stacking feature and to search for a sulfite ion adduct by proton and carbon $T_{1\rho}$ measurements at the ring sites.
(8) Synthesis of polymers by use of novel organic reactions, a study of the mechanisms of the polymerization reactions, and determination of the fundamental physical properties of the polymers.
(9) Research devoted to the synthesis and synthetic use of novel heterocyclic systems.
(10) The study of reversible and irreversible rearrangement processes in organometallic σ-complexes at low concentrations.
(11) Use of relaxation times of proton and carbon resonance as a probe of the transport of paramagnetic and quadrupolar ions.
(12) Relaxation time measurements on substances related to cell wall materials.

Application received by Commissioner of Customs: January 23, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 20, 1978. Article ordered: September 16, 1977.

Docket No. 78-00207. Applicant: University of Oklahoma, 1000 Asp Avenue, Room 314, Norman, Okla. 73019. Article: Nuclear Magnetic Resonance Pulse Spectrometer, Model CPS-2 and Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article is intended to be used for the study of the motional behavior of water and sodium ions in muscle, collagen and other body tissues in laboratory animals in the aging process. The two techniques which will be used in this project are the study of spin-spin relaxation time in the rotating framework (T_1) and self-diffussion coefficient by applying pulse magnetic field gradient. Continued studies of the effect of cross-linking of collagen on interaction between ATP and collagen molecules, will also be conducted. Application received by Commissioner or Customs: April 13, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 13, 1978. Article ordered: March 22, 1978.

Docket No. 78-00252. Applicant: Vanderbilt University (Chemistry Department), Nashville, Tenn. 37235. Article: JNM/FX-90Q High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide range of different experiments in the areas of organic chemistry, inorganic chemistry, analytical chemistry, biochemistry, pharmacology and related biomedical sciences. Categories of the principal research projects which will use the article are:

(i) Characterization of newly synthesized organic compounds including (1) alkaloids, (2) polyketides, (3) terpenes, (4) prospective drugs, (5) nonbenzenoid polycyclic aromatic compounds, (6) novel chelating agents, (7) novel amino acids and (8) intermediates in their synthesis.

Docket No. 78-00109. Applicant: University of California, 1156 High Street, Santa Cruz, Calif. 95064. Article: JNM/FM-100R Nuclear Magnetic Resonance Spectrometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a large variety of research studies of molecular structure, molecular association, and molecular dynamics for biochemical, organic chemical, biological, and marine studies problems. These research applications will consist of the following:

1. The Structure and Dynamics of Lipids in Biological Membranes.
2. NMR Characterization of Enzyme-Substrate Intermediate Trapped at Subzero Temperatures.
3. Mechanisms of RNA Protein Interactions.
4. Natural Products Chemistry of Marine Organisms.
5. New Synthetic Methods and Their Use in Natural Product Total Synthesis.

The article will also be used for educational purposes in the following chemistry courses:

Chemistry 135. Biophysical Chemistry.
Chemistry 140. Advanced Organic Laboratory.
Chemistry 164. Physical Chemistry Laboratory.
Chemistry 180A-B-C. Senior Research.
Chemistry 199. Tutorial.
Chemistry 243. Physical Properties and Molecular Structure.
Chemistry 299. Thesis Research.

Application Received by Commissioner of Customs: January 26, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 21, 1978. Article order: October 12, 1977.

(ii) *Characterization of novel organic compounds obtained from natural sources* including terpenes, alkaloids, polyketides and compounds of uncertain classification.
(iii) *Metabolic studies of natural products in the organism from which they originate.* Biosynthesis of terpenes, polyketides, alkaloids and aromatic amino acids; studies of the further transformations of these natural products by the organisms.
(iv) *Metabolism of natural products in organisms other than those from which they originate.* Metabolic activation of relatively harmless natural substances to form toxic compounds.
(v) *Metabolism of synthetic compounds.* In particular, the metabolic fate of drugs in mammalian systems. Example: metabolism of barbiturates and hydantoins.
(vi) *Characterization of the products of enzyme-mediated reactions.* On example would be the characterization of products of enzymic hydrolysis of N-acyl derivatives of complex amino acids as a method for determining absolute configurations.
(vii) *Structural studies of novel organometallic compounds and inorganic complexes.* (1) Transition metal carbene complexes, (2) chelates of metalloacetylacetonates, (3) coordination compounds of the antitumor agent cyclophosphamide.
(viii) *Dynamic studies.* (1) Mechanism of antibiotic action of the ristocetin-group antibiotics—a study of the association of aliphatic peptides with the antibiotics to determine the site of binding, (2) studies of the molecular basis of toxicity of compounds such as moniliformin which appear to owe their toxicity to reversible binding processes, (3) identification of active coordination sites for heavy metals in multidentate chelating agents containing several polarizable sites, (4) studies of isomer-conformer equilibra in chiral compounds such as clozapine which derive asymmetry from ring distortions.

In addition, the article will be used for teaching purposes in several courses, the most important being Chemistry 221, Laboratory Techniques in Organic Chemistry and Chemistry 222, Advanced Organic Chemistry. Application received by Commissioner of Customs: May 30, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 22, 1978. Article ordered: March 13, 1978.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides the capability for making T_{1rho} measurements. The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that the specification of each article described above is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent specification at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

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(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28967 Filed 10-12-78; 8:45 am]

[3510-25-M]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Meeting Cancellation

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice was published in 43 FR 43531 on September 26, 1978, that a meeting of the Telecommunications Equipment Technical Advisory Committee would be held on October 17, 1978. This is a notice that the meeting has been cancelled.

Dated: October 10, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-29005 Filed 10-10-78; 3:39 pm]

[3510-22-M]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL; GROUNDFISH ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established an Advisory Subpanel on Groundfish. This panel will meet to review a draft fishery management plan.

DATES: The meeting will convene on Monday, October 30, 1978 at 10 a.m. and adjourn at 5 p.m.; and Tuesday, October 31, 1978, at 8 a.m. and adjourn at 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Capri Room of the International American Motor Inn, 2601 Severn Avenue, Metairie, La.

FOR FURTHER INFORMATION CONTACT:

Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

Dated: October 6, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-28843 Filed 10-12-78; 8:45 am]

[3510-22-M]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended meeting notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., appendix I, notice is hereby given of a change in the agenda, dates, and location for the separate and joint meetings of the North Pacific Fishery Management Council and its SSC and AP (FR Vol. 43, No. 189, p. 44562, dated Sept. 28, 1978).

DATES: The SSC will meet separately on Wednesday, October 25, 1978, and on Thursday, October 26, 1978, (instead of November 1, 1978) convening at 10 a.m. and adjourning at approximately 5 p.m. on both days. The meeting may be extended depending upon progress of the agenda.

ADDRESS: The SSC on Wednesday, October 25, 1978, and on Thursday, October 26, 1978, will meet at the Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard, East, Seattle, Wash. 98112.

FOR FURTHER INFORMATION CONTACT:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

SUPPLEMENTARY INFORMATION: All council, SSC, and AP meetings will be open to the public. For imformation on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

PROPOSED AGENDA

OCTOBER 25-26, 1978

The proposed agenda for the SSC will also include a discussion of the FMP's, "High Seas Salmon Fishery Off the Coast of Alaska East of 175° E. longitude," "Halibut Off the Coast of Alaska," and "Bering Sea and Aleutian Islands Groundfish Fishery."

NOVEMBER 3, 1978

(1) The proposed agenda for November 3, joint meeting, will also include a discussion and probable decision on proposed amendments to the tanner crab FMP which primarily deal with a request by the Japanese Tanner Crab Association to be allowed to fish south of 58° N. latitude and west of 171° or 173° W. longitude in the event of severe winter icing and completion of the U.S. fishery in that area. Additionally, the Council will consider all public comments received on the FMP "High Seas Salmon Fishery Off the Coast of Alaska East of 175° E. longitude," and adopt a proposed management regime to be reviewed again on November 30 and December 1, for submission to the Secretary of Commerce.

Dated: October 6, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-28845 Filed 10-12-78; 8:45 am]

[3510-22-M]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council, established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Progress of snapper-grouper FMP; (2) status of swordfish FMP; (3) discussion on billfish FMP; (4) review of foreign fishing permits; (5) review of mackerel, coral, stone crab and other species on target for FMP's; and (6) other management business.

DATES: The meeting will convene on Tuesday, October 31, 1978, at approximately 1 p.m. and adjourn on Thursday, November 2, 1978, at approximately 12 noon. This meeting is open to the public.

ADDRESS: The meeting will take place at Quality Inn, Cordillo Parkway, Hilton Head Island, S.C.

FOR FURTHER INFORMATION CONTACT:

Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, S.C. telephone 803-571-4366.

SUPPLEMENTARY INFORMATION:

For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: October 6, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-28844 Filed 10-12-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

FEDERATIVE REPUBLIC OF BRAZIL

Increasing Import Restraint Level for Certain Cotton Apparel Products

OCTOBER 10, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the import restraint level established for women's, girls', and infants' cotton knit shirts and blouses in category 339, exported from Brazil during the year which began on April 1, 1978.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: Paragraphs 5 and 8 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United specific ceilings may be increased by designated percentages and that under specified conditions shortfalls in certain category ceilings during one agreement year may be applied to those ceilings in the succeeding agreement year. Pursuant to these provisions of the bilateral agreement, the level of restraint for category 339 is being increased to 250,573 dozen for the 12-month period which began on April 1, 1978 and extends through March 31, 1979.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On July 12, 1978, a letter dated July 7, 1978 was published in the FEDERAL REGISTER (43 FR 29975) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of cotton textile products under the new textile category system, which have been produced or manufactured in Brazil and exported to the United States during the 12-month period which began on April 1, 1978. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton textile products in category 339, produced or manufactured in Brazil, at the increased level of 250,573 dozen during the agreement year which began on April 1, 1978.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

OCTOBER 10, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: On July 7, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on April 1, 1978 and extending through March 31, 1979 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Brazil, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to paragraphs 5 and 8 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 10, 1978, to amend the 12-month level of restraint established for cotton textile products in category 339 to 250,573 dozen.[2]

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc.78-28961 Filed 10-12-78; 8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of April 22, 1976 between the Governments of the United States and the Federative Republic of Brazil, as amended, which provides, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by specified percentages; (2) these levels may be increased within the aggregate and applicable group limits upon agreement between the two Governments; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two Governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any entries after March 31, 1978.

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 15, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 1009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and the service to Procurement List 1978, November 14, 1977 (42 FR 59015):

CLASS NONE

Mattress, bed, innerspring (commercial), 38"×75", 53"×75".

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SIC 7399

Labeling of supplies, Defense Depot Mechanicsburg, Mechanicsburg, Pa.

CLASS NONE

Strap, mail tray, Postal Service Item No. 01067.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28959 Filed 10-12-78; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1978 a service to be provided by and a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 13, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher 703-557-1145.

SUPPLEMENTARY INFORMATION: On July 14, 1978 and August 11, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 30330 and 43 FR 35744) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodity are hereby added to Procurement List 1978:

SIC 7349

Janitorial/custodial service at the following U.S. Army Reserve centers in Massachusetts:
1. Belmont and Manley Streets, Brockton.
2. 915 West Chestnut Street, Brockton.
3. John Williams Street, Attleboro.
4. 675 American Legion Highway, Roslindale.
5. 130 Eldridge Street, Taunton.

CLASS 6230

Lantern, electric, head 6230-00-643-3562.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28958 Filed 10-12-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 78-12]

ESCALATORS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of Petition.

SUMMARY: The Commission denies a petition requesting it to develop a mandatory safety standard addressing risks of injury associated with escalators. The Commission denies the petition because the currently available information is insufficient to indicate that escalators as they are presently constructed and designed present an unreasonable risk of injury to consumers.

FOR FURTHER INFORMATION CONTACT:

Irwin L. Greif, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the FEDERAL REGISTER.

On April 18, 1978, the Commission received a petition and supporting documents from members of the Ad Hoc Committee for Greater Safety on Escalators, of Cleveland, Ohio. The petition alleged that escalators present an unreasonable risk of injury, particularly to children and the elderly, due to inadequate warning signs and unsafe construction and design. The petition called particular attention to the risk of body parts being pulled into the escalator mechanism.

In analyzing this petition, the Commission considered injury information submitted by the petitioners, its own investigation of injury data, economic and engineering data, and applicable voluntary standards.

Two major hazards patterns emerged from a search of the Commission's National Injury Information Clearinghouse data: Falls, and entrapment of body parts or shoes between moving components of the escalator. Falls appear to be the most common type of accident associated with escalators and usually involve the elderly. Entrapment of shoes, feet, hands, and so forth is the second most common type of accident associated with escalators. This hazard seems to involve primarily children under 12.

The causes of entrapment accidents are generally quite specific—the victim is typically wearing soft soled shoe which becomes caught in the mechanism, or a child is playing on the escalator in such a way as to expose fingers or clothing to moving parts of the escalator. Most reports of falling incidents give only general statements as to cause, such as "lost balance," with no identificable reason for losing balance.

A search of the National Electronics Injury Surveillance System (NEISS) revealed 125 accidents associated with escalators during the period January 1, 1977 through May 31, 1978. The age range of the victims was from five to 65+, with injuries ranging from contusions, to strains and sprains, to lacerations and fractures, with virtually all body parts being affected. A review of 21 in-depth investigation reports dating from 1967-77 disclosed 13 entrapment incidents and eight falls. In addition, 6 deaths involving escalators have been reported to the Commission. It appears that 2 of the 6 deaths may be classified as industrial in nature due to the type of injuries involved. The other 4 victims were injured when they fell down escalators.

Commission investigation reveals that these accidents are occurring in the context of at least 32 billion escalator rides per year, on 18,000 escalator units (a unit is either an up or down escalator).

The Commission notes that many States have statewide elevator and escalator codes. The American National Standards Institute (ANSI) Code for Elevators, Dumbwaiters, Escalators, and Moving Walks (ANSI A17.1), which has been adopted at least as a technical basis for a State code in 22 States, contains many safety features relating to fall, entrapment, and pinching hazards. In addition, Commission staff have been informed that the ANSI Escalator Subcommittee has recently approved and transmitted to the Executive Subcommittee a proposed revision of the escalator standard which would provide for the uniform placement of emergency on-off stop switches and would establish requirements for the size, wording, and location of warning signs for escalators. It is anticipated that this revision will be approved some time before the end of the year.

However, the Commission has noted that the current A 17.1 may be inadequate in two other respects. The injury data involving escalators suggest that the severity of injuries suffered once a foot entrapment occurs may be related to the duration of entrapment and the distance the victim is dragged along the length of the escalator before the escalator stops. A 17.1 presently requires one automatic shutoff device (skirt obstruction device) near the lower combplate. Further investigation is needed to determine whether and to what extent increasing the number of skirt obstruction devices on an escalator will reduce the severity of entrapment injuries. In addition, the maximum ⅜" side clearance (between the step and the balustrade) permitted by the ANSI Code may be too large to prevent many entrapment accident.

The Commission has carefully considered the matters raised in the petition and the injury and technical data submitted by the staff. Based on this information, the Commission concludes that considering that millions of consumers use escalators daily, the injury data are insufficient to indicate that escalators present an unreasonable risk of injury. Accordingly, the Commission has denied the petition. In reaching this decision, the Commission considered the relative priority of the risk of injury associated with escalators in the context of Commission resources available for rulemaking for all hazardous consumer products.

The Commission recognizes, however, that skirt obstruction devices and allowable side clearance may be factors in the number and severity of entrapment injuries. Therefore, the Commission has indicated an interest in the staff encouraging an industry effort to determine whether skirt obstruction devices capable of detecting entrapment along the entire length of an escalator, and whether less side clearance than that currently permitted by A 17.1 would appreciably reduce the number and severity of these injuries. If a determination is made that the presence of more skirt obstruction devices and less side clearance would result in a significant reduction in number and severity of entrapment injuries, Commission staff would then encourage and monitor appropriate amendments of ANSI A 17.1.

Copies of the petition and the staff's briefing package to the Commission on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Dated: October 10, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29008 Filed 10-12-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

DISCHARGE REVIEW BOARDS

Modification of Army, Navy, and Air Force Discharge Review Boards Index

Notice is made that the Army, Navy, and Air Force Discharge Review Boards have modified the index which was published in the FEDERAL REGISTER of February 18, 1977 (42 FR 10028). There is no change in the purpose and publication schedule previously announced.

The basic purpose of this modification is to include in the subject listing of the index, terminology contained in DOD Directive 1332.28 that was published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13564). Modification for this purpose was specifically ordered on August 23, 1978, in the case of *Urban Law Institute of Antioch College, Inc., et al., v. Secretary of Defense*, No. 76-0530 (D.D.C., Aug. 23, 1978). Other modifications were made to publicly explain the use of the index, and to better conform the subject listing in accordance with terminology basic to the discharge process in the military services.

The new indexing procedure will improve the access of applicants, counsel and the public to the decisions of the Discharge Review Boards. The Department of Defense has been ordered by the District Court to use the new terminology in the index scheduled to be published in the last week of November 1978. This will entail indexing several thousand decisions under the new terminology. In order to accomplish this task in an efficient and effective manner, the military departments must begin immediately to use the new index terminology. Therefore, notice and prepublication of the new terminology for public comment is impracticable, unnecessary, and contrary to the public interest.

Effective date: October 6, 1978.

Dated: October 6, 1978.

WILLIAM E. WEBER,
Colonel, IN, President, Army Discharge Review Board.

SUBJECT/CATEGORY LISTING
TO ACCOMPANY THE
ARMED FORCES DISCHARGE REVIEW/CORRECTION BOARDS INDEX

FOREWORD

This listing is provided for use with the Armed Forces Discharge Review/Correction Boards Index. Its purpose is to assign numerical codes to various "Reasons for Discharge" used in the index in connection with discharge cases, and to issues which have been identified as being addressed in both discharge and other types of cases.

This listing reflects a modification of Section I (Discharge Cases) to incorporate the terminology contained in Department of Defense Directive 1332.28, Discharge Review Board (DRB) Procedures and Standards. Discharge review cases listed in the Basic Index and Index Supplements 1, 2, 3, and 4 were indexed using the listing in section 1A. Discharge review cases listed in Supplement 5 (Nov. 78) and all subsequent supplements will be indexed using the listing in section IB. Section II (Nondischarge Cases) is unchanged from the original version.

This document is maintained and published by the DA Military Review Boards Agency as proponent agency for the Department of Defense. (DA Military Review Boards Agency, SFBA, Room 1E520, The Pentagon, Washington, D.C. 20310.)

CONTENTS

Section I—Discharge Case Index Numbers.
A—Index numbers used to index discharge cases listed in Basic Index and Supplements 1-4 (Numerical Codes 001.00-009.99).
B—Index numbers used to index discharge cases listed in Supplement 5 and all subsequent Supplements (Numerical Codes A00.01-A99.99).
Section II—Index numbers used to index nondischarge cases listed in Basic Index and all Supplements (Numerical Codes 100.00-199.99).

SECTION IA

Index numbers used to index discharge cases listed in Basic Index and Supplements 1-4.

(Numerical Codes 001.00-099.99)

DISCHARGE REVIEW BOARD INDEX

A

(01.00) Absence without leave
(01.01) Less than 30 days
(01.02) Less than 60 days
(01.03) Less than 1 year
(01.04) One year or longer
(02.00) Abuse of Discretion
(72.00) Activation From Reservist Status (Sufficiency)
(03.00) Administrative Discharge Board Hearing
(03.01) Command influence
(03.02) Composition of Board—proper and adequate
(03.03) Composition of Board—improper or inadequate
(03.04) Counsel—proper and adequate
(03.05) Counsel—ineffective or absence of
(03.06) Counsel—nonlawyer
(03.07) Evidence—proper and adequate
(03.08) Evidence—irrelevant or immaterial
(03.09) Evidence—hearsay
(03.10) Evidence—preservice
(03.11) Recommendation—proper and adequate
(03.12) Recommendation—arbitrary
(03.13) Recommendation—too harsh
(03.14) Right of cross-examination
(03.15) Right to appear
(03.16) Witness—denial
(03.17) Witness—availability
(03.18) Other
(04.00) Administrative Discharge Process
(04.01) Commander's report/record—complete and inadequate
(04.02) Commander's report/record—incomplete or inadequate

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(04.03) Counseling—proper and adequate
(04.04) Counseling—lack of or adequate
(04.05) Discharge authority/action—proper and adequate
(04.06) Discharge authority/action—improper or inadequate
(04.07) Discharge authority/action—delegation
(04.08) Expeditious discharge
(04.09) Failure to follow regulations
(04.10) Hearing—proper and adequate
(04.11) Hearing—improper or denied
(04.12) Legal counsel—proper and adequate
(04.13) Legal counsel—ineffective or absence of
(04.14) Legal counsel—nonlawyer
(04.15) Medical and psychiatric report—proper and adequate
(04.16) Medical and psychiatric report—lack of or inadequate
(04.17) Notice—proper and adequate
(04.18) Notice—lack of or inadequate
(04.19) Notice—not timely
(04.20) Rehabilitative transfer/effort—proper and adequate
(04.21) Rehabilitative transfer/effort—inadequate or denied
(04.22) Statements submitted
(04.23) Statement not submitted
(04.24) Waiver—proper and adequate
(04.25) Waiver—unknowing or unintelligent
(04.26) Waiver—coerced
(04.27) Other
(05.00) AFQT Scores
(05.01) Improper or inadequate
(05.02) Considered as an indication of ability to perform
(06.00) Alcohol
(06.01) Alcoholism
(06.02) Alcohol-related offenses
(07.00) Arbitrary/Capricious Command Action
(07.01) Board actions
(07.02) Good of service discharge
(07.03) Expeditious trainee discharges
(07.04) Civil convictions discharges
(08.00) Article 32
(09.00) Article 138 Complaint
(10.00) AWOL
(10.01) Extenuating/mitigating factors—length
(10.02) Extenuating/mitigating factors—voluntary return
(10.03) Extenuating/mitigating factors—personal
(10.04) Unjustified
(10.05) Other

B

(11.00) Bad Conduct Discharge
(11.01) Equitableness of
(11.02) Legal sufficiency
(11.03) Other

C

(12.00) Civil Conviction
(12.01) Appellate process not completed
(12.02) Status changed subsequent to discharge
(12.03) Current standards
(13.00) Combat Duty
(14.00) Combat Service
(14.01) Board actions
(14.02) Good of service discharges
(14.03) Civil conviction discharges
(15.00) Confession
(15.01) Proper and adequate
(15.02) Article 31
(16.00) Conscientious Objection
(16.01) Board actions
(16.02) Good of service discharges
(17.00) Conscientious Objector
(17.01) Proper and adequate denial
(17.02) Improper or inadequate denial
(17.03) Eligible
(17.04) No application
(76.00) Convenience of the Government
(18.00) Conviction by Civilian/Foreign Court
(18.01) Aggravating—nature of offense
(18.02) Aggravating—sentence
(18.03) Extenuating/mitigating—nature of offense
(18.04) Extenuating/mitigating—sentence
(18.05) Extenuating/mitigating—drug
(18.06) Extenuating/mitigating—alcohol related
(18.07) Extenuating/mitigating—pardon
(18.08) Rights
(18.09) Status change subsequent to discharge
(18.010) Other
(19.00) Counseling
(19.01) Improper or inadequate
(19.02) No opportunity
(73.00) Courts Martial
(73.01) Conviction/special
(73.02) Conviction/summary
(73.03) Due process error
(73.04) Inadequate/improper counsel

D

(20.00) Demotion Board
(21.00) Desertion
(22.00) Discharge Based on Conduct Previously Considered at Administrative/Judical Process
(22.01) Board actions
(22.02) Good of service discharges
(23.00) Discharge for Good of the Service (Chapter 10)
(23.01) Counseling
(23.02) Procedural error
(23.03) Record of service overall
(24.00) Discrimination
(24.01) Institutional
(24.02) Racial
(24.03) Other
(25.00) Drugs/Possession
(25.01) Aggravation
(25.02) Extenuating, mitigating, aggravating factors
(25.03) Intent to sell inferred
(25.04) Investigative
(25.05) Laird Memo
(25.06) Limited priviledged communications program
(25.07) Post-Laird
(25.08) Pre-Laird
(25.09) Sale/transfer/trafficking
(25.10) Treatment
(25.11) Type, quantity
(25.12) Urinalysis
(25.13) Use/possession
(25.14) Other
(26.00) Drug Sale
(26.01) Extenuating, mitigating, aggravating factors
(26.02) Versus more transfer/agent
(26.03) Other

E

(27.00) Enlistment
(27.01) Enlistment contract—proper and adequate
(27.02) Enlistment contract—breach of
(27.03) Erroneous
(27.04) Other
(28.00) Erroneous Entry
(28.01) Enlistment
(28.02) Induction
(29.00) Executive Clemency
(30.00) Expeditious Discharge
(30.01) Offered counseling
(30.02) Procedural error
(30.03) Record of service overall
(75.00) Expiration of Required Service

F

(31.00) Failure To Pay Debts
(31.01) Dishonorable intent
(30.02) Lack of evidence of dishonorable intent
(32.00) First Amendment
(32.01) Free speech
(32.02) Free assembly
(32.03) Free religion
(32.04) Free political activities
(33.00) Fraudulent Entry
(33.01) Civil record
(33.02) Drug
(33.03) Homosexual
(33.04) Medical disqualifications
(33.05) Mental disqualifications
(33.06) Age
(33.07) Recruiter connivance
(33.08) Prior service
(33.09) Counseling
(33.10) Procedural error
(33.11) Service record overall

G

(34.00) General Misconduct
(34.01) Absenteeism and desertion
(34.02) Bad conduct discharge by special court-martial
(34.03) Civil court disposition
(34.04) Drug abuse
(34.05) Failure to pay just debts
(34.06) Failure to support dependents
(34.07) Fraudulent enlistment
(34.08) Frequent involvement—civil or military
(34.09) Resignation and discharge for the good of the service
(34.10) Sexual perversion
(34.11) Shirking—established pattern

H

(35.00) Hardship
(35.01) Financial
(35.02) Marital/family
(35.03) Medical
(36.00) Homosexuality
(36.01) Aggravating factors—minor
(36.02) Aggravating factors—force
(36.03) Aggravating factors—nondiscreet
(36.04) Extenuating/mitigating factors—youth
(36.05) Extenuating/mitigating factors—isolated
(36.06) Extenuating/mitigating factors—off-base
(36.07) Extenuating/mitigating factors—off-duty
(36.08) Extenuating/mitigating factors—treatment
(36.09) Extenuating/mitigating factors—duress
(36.10) Extenuating/mitigating factors—consenting adults
(36.11) Proper processing
(36.12) Improper processing
(36.13) Tendencies
(36.14) Isolated incidents
(36.15) Confirmed
(36.16) Counseling
(36.17) Procedural error
(36.18) Service record overall
(36.19) Other
(36.20) Current standards
(37.00) Humanitarian Reasons

I

(38.00)

J

(39.00)

K

(40.00)

L

(41.00)

M

(42.00) Medical
(42.01) Treatment
(42.02) Qualifications
(43.00) Medical Discharge
(44.00) Medical Problems
(44.01) Organic
(44.02) Psychiatric
(45.00) Minority Discharge

N

(46.00) Nonfulfillment of Service Contract
(46.01) Board actions
(46.02) Good of service discharges
(74.00) Nonjudicial Punishments
(74.01) Article 15

O

(47.00) Officers
(47.01) Administrative discharge—unfitness (commissioned)
(47.02) Administrative discharge—unacceptable conduct (commissioned)
(47.03) Administrative discharge—in interest of national security (commissioned)
(47.04) Administrative discharge—other (commissioned)
(47.05) Elimination—substandard performance of duty (commissioned)
(47.06) Elimination—moral or professional dereliction (commissioned)
(47.07) Administrative separation—resignation (commissioned and WO)
(47.08) Administrative separation—resignation in lieu of other action (commissioned and WO)
(47.09) Administrative separation—resignation for good of service (commissioned and WO)
(47.10) Administrative separation—discharge upon application (commissioned and WO)
(47.11) Administrative separation—pregnancy (commissioned and WO)
(47.12) Administrative separation—involuntary discharge (commissioned and WO)
(47.13) Administrative separation—vacation appointment (commissioned and WO)
(47.14) Administrative Separation—Dropped from the rolls (commissioned and WO)
(47.15) Administrative separation—Release from extended active duty/voluntary and upon expiration of term of service (commissioned and WO)
(47.16) Administrative separation—release from extended active duty (commissioned and WO)
(47.17) Expiration of required service
(48.00) Outside Pressure
(48.01) Board actions
(48.02) Good of service discharges
(48.03) Civil conviction discharges

P

(49.00) Personal Problems
(49.01) Board actions
(49.02) Good of service discharges
(49.03) Civil conviction discharges
(49.04) Expeditious discharges
(50.00) Post Service Conduct
(50.01) Aggravating
(50.02) Board actions
(50.03) Civil conviction discharges
(50.04) Good of service discharges
(50.05) Expeditious discharges
(50.06) Mitigating
(51.00) Procedural/Legal Error
(51.01) Board actions
(51.02) Good of service discharges
(51.03) Expeditious/trainee discharges
(51.04) Civil conviction discharges
(52.00) Project 100,000
(53.00) Promises/Threats/Intimidation
(53.01) Chain of command
(53.02) Peers
(53.03) Recruiter
(53.04) Defense counsel

Q

(54.00) Qualitative Management Program

R

(55.00) Racial Discrimination
(56.00) Record of Service Overall
(56.01) Board actions
(56.02) Good of service discharges
(56.03) Civil conviction discharges
(56.04) Expeditious discharges
(57.00) Rehabilitation
(57.01) Not waived
(57.02) Failure
(58.00) Religious Discrimination
(59.00) Request for Discharge for the Good of the Service

S

(60.00) Search and Seizure
(61.00) Selective Reenlistment Program
(62.00) Stacking of Offenses
(62.01) Board actions
(62.02) Good of the service discharges

T

(63.00) Trainee Discharge Program
(63.01) Counseling
(63.02) Procedural errors
(64.00) TWSR

U

(65.00) Unfitness (see general misconduct)
(66.00) Unsuitability
(66.01) Alcohol abuse
(66.02) Apathy, defective attitude, and inability to expend effort constructively
(66.03) Financial irresponsibility
(66.04) Homosexual or other aberrant tendencies
(66.05) Character and behavior disorders (personality disorders)
(66.06) Inaptitude
(66.07) Personal abuse of drugs
(66.08) Personality disorder
(66.09) Unsanitary habits
(66.10) Unspecified

V

(67.00) Vietnam—Special Discharge Review Program
(67.11) Tour in Southeast Asia or Western Pacific
(67.12) Wounded in combat
(67.13) Decorated for valor/merit
(67.14) Previous Honorable Discharge
(67.15) Satisfactorily served 24 months prior to discharge
(67.16) Completed alternate service or was excused in accordance with Presidential Proclamation 4313
(67.21) Age, aptitude, length of service at time of discharge
(67.22) Education level
(67.23) Deprived background
(67.24) Personal distress
(67.25) Waiver to enlist
(67.26) Conscience
(67.27) Drugs of alcohol
(67.28) Good citizenship
(67.29) Other factors
(67.31) Discharged for act(s) of violence
(67.32) Discharged for act(s) of dishonor
(67.33) Discharged for desertion in or from combat theater
(67.34) Discharged for offense(s) subject to civilian criminal prosecution
(67.40) President Ford Memo 19 January 1977

W

(68.00)

X

(69.00)

Y

(70.00)

Z

(71.00)

NOTE: Numbers 72.00-99.00 have been reserved for future use, if required, by the DRB.

SECTION IB

Index numbers used to index discharge cases listed in Supplement 5 and all subsequent supplements.

(Numerical Codes A00.01-A99.99)

OUTLINE TO THE REVISED SUBJECT/CATEGORY LISTING

Propriety Considerations

Part A—*Common Elements to All Discharges* (Index Nos (A01.00-A01.32))
Part B—*Common Elements to Discharges Where SM Has Right to Board Hearing* (Index Nos (A02.00-A02.32))
Part C—*Reasons for Discharge and Specific Elements Pertaining to These Discharges* (Index Nos (A03.00-A84.00))
Part D—*Specifically Retroactive Policy Changes* (Index Nos (A85.00-A89.00))

Equity Considerations

Part E—*Policy Changes Not Specifically Retroactive* (Index Nos (A90.00-A91.06))
Part F—*Quality of Service* (Index Nos (A92.00-A92.32))
Part G—*Capability To Serve* (Index Nos (A93.00-A93.30))
Part H—*Other Equitable Considerations* (Index Nos (A94.00-A98.00))

Other Considerations

Part I—*Administrative Actions Indirectly Related to Discharge* (Index Nos (A99.00-A99.16))
Part J—*Special Programs* (Index Nos (A00.00-A00.58))

SECTION 1

REVISED SUBJECT/CATEGORY LISTING (1978)

Propriety Considerations

Part A—Common Elements Throughout the Discharge Process

(A01.01/02) Separation action *not* properly Initiated

V 4 3 / 1 9 9

0 C 1 3 7 8

(A01.03/04) SM *not* properly notified of Separation Action
(A01.05/06) Improper physical Examination at Separation
(A01.07/08) Discharge Authority *not* proper
(A01.09/10) Characterization based in part on Prior Service
(A01.11/12) Characterization based in part on Pre-Service Record
(A01.13/14) Evidence in Record does *not* Support Reason for Discharge
(A01.15/16) SM *not* Separated within Reasonable Time after Approval
(A01.17/18) JAG (Legal) Review, when required, defective
(A01.19/20) SM's ratings/grades were *not* properly calculated or administered
(A01.21/22) Evidence Obtained in Violation of Article 31, UCMJ, (Self-incrimination) improperly considered
(A01.23/24) Evidence Obtained from Unlawful Search Improperly Considered
(A01.25/26) Hearsay Evidence Improperly Considered
(A01.27/28) Unsworn Testimony or Statements Improperly Considered
(A01.29/30) Exempt Evidence (Alcohol/Drug Rehabilitation Program) Improperly Considered
(A01.31/32) Other Evidence Improperly Considered, Including Defective Records of Disciplinary Offenses

Part B—Elements Common to Discharges Where SM Has Right to Board Hearing

(A02.01/02) Commander's Report improper
(A02.03/04) SM *not* properly notified of Rights to Request Board Hearing
(A02.05/06) SM *not* properly notified of Right to submit Statements
(A02.07/08) Improper Counsel for Consultation
(A02.09/10) Waiver of Board Hearing *not* proper
(A02.11/12) Improper Denial of Request for Board Hearing.
(A02.13/14) Improper Composition of Board
(A02.15/16) Improper Counsel for Representation
(A02.17/18) Ineffective Assistance of Counsel
(A02.19/20) Request for Witness improperly Denied
(A02.21/22) Command Intervention (influence) improper
(A02.23/24) Improper Denial of Request to Personally Appear
(A02.25/26) Recommendation of Board improper
(A02.27/28) Discharge Authority's approval improper in light of Board recommendation
(A02.29/30) Withdrawal of waiver not properly considered
(A02.31/32) Improper Vacation of Suspended Administrative Discharge

Part C—Reasons for Discharge and Specific Elements Pertaining to These Discharges

(A03.00) *Discharge for Expiration of Term of Service/Enlistment (ETS)*
(A03.01/2) SM did meet regulatory criteria for Honorable Discharge
(A03.03/4) Personal Decoration during Current Service *not* considered
(A03.05/6) Characterization based on Isolated Acts of Indiscipline.
(A03.07/8) Characterization based on Mental Status or other Medical Evaluation
(A03.09/10) Characterization improperly changed by Commanding Officer of Transfer Activity, and appropriate entries *not* made in file showing reason
(A04.00) *Discharge For CONVENIENCE OF GOVERNMENT (See Specific Categories A05.-A30. below)*
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(A24.00) Marginal Performer Discharge (EDP/QMP): Non-Trainee
(A24.01/02) SM *not* properly Counseled by Command
(A24.03/04) SM met required Standards of Performance after award of MOS
(A24.05/06) SM *not* in Unit from which separated required Period of Time
(A24.07/08) SM did *not* consent to Discharge
(A24.09/10) Improper Counsel for Consultation (when required)
(A24.11/12) Statement submitted *not* considered
(A24.13/14) Not separated within specified Period of Time in Service
(A25.00) Marginal Performer Discharge (TDP): Trainee
(A25.01/02) SM *not* discharged within required Period of Time after Enlistment
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(A25.05/06) Trainee *not* properly Counseled by Command before Discharge
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(A40.03/04) Rehabilitative Requirements *not* met or waived
(A40.05/06) Mental status Evaluation (when required) not conducted
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(A46.03/04) Did *not* Exhibit, profess or Admit to Homosexual Tendencies
(A46.05/06) Psychiatric/Psychological Evaluation (when required) *not* performed
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(A54.00) Established Pattern of Shirking
(A55.00) Established Pattern of Failure to Pay Debts
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[FR Doc. 78-28960 Filed 10-12-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of two public meetings to be held to discuss BPA's fiscal year 1980 draft program environmental statement. The purpose of the meeting is twofold: To present to the public BPA's proposed fiscal year 1980 program (including major new proposed facilities included as part of this program), and to solicit comments from the public with respect to the environmental impact of BPA's proposed program. This fiscal year 1980 proposed program EIS also contains a draft facility planning supplement discussing proposed upgrading of electric service in the Salem-Albany area of northwestern Oregon, for which comments are also being solicited.

The meetings will be held as follows: November 14, 1978, at 7 to 10 p.m. in the Brush College Elementary School, 2623 Doaks Ferry Road NW., Salem, Oreg.; and November 16, 1978, at 7 to 10 p.m. in the Albany Main Public Library, 1390 Southeast Waverly Drive, Albany, Oreg.

For those who cannot attend the meetings, written comments will be accepted until the close of comment date, November 24, 1978. Copies of the environmental statement as well as additional or clarifying information may be obtained by writing or calling the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208, 503-234-3361, extension 5137.

Dated at Washington, D.C., this 6th day of October 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28848 Filed 10-12-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Availability of Draft Environmental Impact Statement and Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Public Hearing.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332, et seq., and 10 CFR 208.15(a) and 305.9, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of a draft environmental impact statement prepared concerning the proposed issuance of a Notice of Effectiveness (NOE) to the following powerplant prohibition order recipient:

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-075, OFU-076	New England Electric System.	Brayton Point	1 and 2	Somerset, Mass.
OFU-077	New England Power Co.	do	3	Do.

Pursuant to a prohibition order issued to these powerplants on June 30, 1977, the DOE has performed an analysis and review of the environmental impact of the proposed issuance of an NOE to these powerplants and has determined that making the prohibition order effective will have a significant impact on the quality of the human environment, within the meaning of NEPA. DOE has prepared a draft environmental impact statement detailing significant impacts and now requests public comments. As a part of the public comment process, DOE will also receive oral statements at a public hearing. After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.

DATES: Comments by December 1, 1978, 4:30 p.m.; Requests to speak by November 8, 1978, 4:30 p.m.; Hearing Date: November 21, 1978, 2 to 5 p.m., 7 to 9 p.m., November 22, 1978, 9:30 a.m.

ADDRESSES: Written comments to Office of Public Hearing Management, Department of Energy, Box VU, Room 2313, 2000 M Street NW., Washington, D.C. 20461; requests to speak to DOE, Region I, 150 Causeway Street, Boston, Mass. 02114, telephone

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number 617-223-5257, Attention: Kathy Healy.

HEARING LOCATION: Somerset Public Library, Meeting Room, 1464 County Street, Somerset Mass. 02726.

FOR FURTHER INFORMATION CONTACT:

Steven A. Frank, Division of Coal Utilization, Department of Energy, Room 7202, 2000 M Street NW., Washington, D.C. 20461, 202-254-6246.

J. Thomas Wolfe, Office of General Counsel, Department of Energy, Room; 8217, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4262.

Robert Stern, Division of NEPA Affairs/EV., Department of Energy, Room 7121 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment procedures
A. Written Comments
B. Public Hearing

I. Background

The prohibition order issued to the above-named powerplants, if made effective, would prohibit the use of natural gas or petroleum products as their primary energy source.

This order was issued on June 30, 1977 (42 FR 36292, July 14, 1977), under authority of section 29(a) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) 15 U.S.C. 791 et seq., as amended by Pub. L. 94-163 and Pub. L. 95-70. The prohibition order provided, however, that in accordance with the requirements of 10 CFR 303.10(b), and 305.7, the order would not become effective until DOE had considered the environmental impact of making the order effective pursuant to 10 CFR 208.15(c) and 305.9, and until DOE had served the affected company with an NOE. The ERA, DOE had analyzed the potential environmental impacts that would result from the proposed NOE issuance to these powerplants. DOE has determined that the proposed issuance of an NOE for the prohibition order issued to the above-named powerplants will constitute a "major Federal action significantly affecting the quality of the human environment." Therefore, pursuant to 10 CFR 208.15(a) and 305.9, DOE has concluded that an environmental impact statement is required. Single copies of the draft environmental impact statement are available upon request from Mr. Steven A. Frank and Ms. Kathy Healy at the addresses indicated above. Copies of the draft statement also are available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

II. Comment Procedures

A. Written Comments

Interested parties are invited to submit written comments with respect to this draft environmental impact statement to the Office of Public Hearing Management, Box VU, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. All comments should be received by DOE no later than December 1, 1978, in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted (one copy only) in accordance with the procedures set forth at 10 CFR 205.9(f). Any material not filed in accordance with such section will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

B. Public Hearing

The time and place for the hearing are indicated in the dates section of this notice. If you have an interest in this matter or represent a group or class of persons that has an interest in the matter, you may write to request an opportunity to speak. If selected to speak you will be notified by DOE, Region I, before 4:30 p.m., November 14, 1978, and must bring 7 copies (for the hearing panel's use) of your statement to the hearing site on the day of the hearing.

DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination. Each speaker will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statement will follow the conclusion of each initial statement and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to DOE, Region I, at the address indicated in the address section of this notice, before 4:30 p.m., November 20, 1978. If you wish to ask a question at the hearing you may submit the question, in writing, to the presiding officer. The ERA, or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may buy a copy of the transcript from the reporter.

After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.

Issued in Washington, D.C., October 10, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-28903 Filed 10-12-78; 8:45 am]

[3128-01-M]

HANFORD GENERATING PROJECT

Amendment to Order Confirming and Approving Special Contract Rates for Sale of Thermal Power

On September 26, 1978, the Assistant Administrator for Utility Systems, Economic Regulatory Administration (ERA), upon request of the Assistant Secretary for Resource Applications (Assistant Secretary), issued an order confirming and approving special contract rates for the sale of thermal power and energy from the Hanford generating project, ERA Docket No. BPA 78-3. The order was published in the FEDERAL REGISTER on October 3, 1978 (43 FR 45630-1). The rates that were confirmed and approved in ERA's order are contained in contracts between the Bonneville Power Administration and investor-owned utilities (contract No. 14-03-79120) and between the Bonneville Power administration and direct-service industries (contract No. 14-03-79121). The order failed to specify that ERA's confirmation and approval of the rates contained in the direct-service industries contract applies to sales authorized by such contract of withdrawn Hanford project power to third parties as well as to sales of power to the direct-service industries. Therefore, the Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, hereby amends the order, issued September 26, 1978, confirming and approving the special contract rates to redesignate paragraph No. 3 of the Assistant Administrator's order on page 5 (43 FR 45631) as paragraph No. 4 and to insert the following as new paragraph No. 3:

3. The proposed rates and charges contained in contract No. 14-03-79121 are hereby confirmed and approved for a period ending June 30, 1983, for sales to entities other than the direct-service industries of that portion of Hanford project generation withdrawn by the Bonneville Power Administration pursuant to the provisions of such contract.

Issued in Washington, D.C., this 5th day of October 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-28899 Filed 10-12-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RP76-10 (PGA78-3)]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets Reflecting Purchased Gas Cost Adjustment

OCTOBER 5, 1978.

Take notice that on September 29, 1978, Arkansas Louisiana Gas Co. (Arkla) tendered for filing 16th Revised Sheet No. 185 to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective November 1, 1978.

Arkla states that the purpose of 16th Revised Sheet No. 185 is to track producer and pipeline supplier price changes as of November 1, 1978, and to recover the accumulated deferred purchased gas costs as of July 31, 1978, through unit rate adjustments computed pursuant to provisions of Arkla's purchased gas cost adjustment clause contained in its FERC Rate Schedule No. X-26.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla's jurisdictional customer and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28975 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. CP78-266, CP78-267]

BEAR CREEK STORAGE CO.

Technical Conference

OCTOBER 4, 1978.

In the matter of Bear Creek Storage Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co. Take notice that a 1 p.m. on Tuesday, October 10, 1978, staff will meet with representatives of the above-captioned companies for the purposes of obtaining clarification of certain data already submitted regarding the calculation of depreciation allowance and other matters of accounting and finance.

The conference will be held in Room 3200 of the Commission's office at 941 North Capitol Street NE., and all parties may at their option attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28976 Filed 10-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-65 (PGA No. 78-4) (AP No. 78-1)]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

OCTOBER 4, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. Columbia states that this filing amends its filing of September 12, 1978, and proposes an effective date of September 2, 1978. Columbia states that the proposed changes are the result of the reduced rates of Texas Eastern Transmission Corp. at docket No. RP75-73, filed September 22, 1978, to become effective September 1, 1978. As a result of this revision, Columbia's revised rates herein proposed to become effective September 2, 1978, reflect a purchased gas cost adjustment which is $201,774 less than that filed by Columbia on September 12, 1978.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28977 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-95]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

OCTOBER 4, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1978: Forty-seventh Revised Sheet No. 16.

Columbia states the Forty-seventh Revised Sheet No. 16 is necessary in order to comply with Commission order issued January 20, 1975, at docket No. RP73-86 which provides for phased removal of its multiple zone system. In compliance with the above-mentioned order the rates contained in this filing reflect a further one-sixth movement to be effective November 1, 1978, toward a system-wide rate structure.

Copies of this filing were served upon the company's jurisdictional customers, interested State commissions, and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commis-

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sion's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28978 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP77-7 and RP77-140]

CONSOLIDATED GAS SUPPLY CORP.

Settlement Conference

OCTOBER 4, 1978.

Take notice that an informal settlement conference in the subject proceedings will be convened on October 12, 1978, at 11 a.m. in a conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28979 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. CP77-216 et al.]

DISTRIGAS OF MASSACHUSETTS CORP.

Informal Conference

OCTOBER 4, 1978.

Take notice that on October 23, 1978, at 10 a.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, Room 8402.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss the use of flash-gas incinerators as directed in the Commission's letter order of September 8, 1978, page 2, condition 2.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28980 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. ER78-417 and EL78-22]

KENTUCKY UTILITIES CO.

Order Accepting for Filing and Suspending Supplemental Service Agreement and Directing Further Compliance

SEPTEMBER 29, 1978.

On July 6, 1978, Kentucky Utilities Co. (KU) tendered for filing in docket No. ER78-417, a proposed rate increase applicable to Jackson Purchase Electric Cooperative Corp. (Jackson Purchase) and other of KU's wholesale for resale customers.[1] The revised rate schedule, identified by KU as rate schedule WPS-78, was intended to govern service to Jackson Purchase at 19 existing delivery points.

By order issued on August 4, 1978, in docket Nos. ER78-417 and EL78-22, the Commission, inter alia, accepted KU's submittal for filing, denied certain motions, granted interventions, suspended the effectiveness of the proposed WPS-78 rate filing, and instituted hearing procedures. In addition, for reasons that were fully developed in the August 4 order, we dismissed an application for an order directing KU to permit an additional physical connection of facilities which was filed on May 12, 1978, by Jackson Purchase and Big Rivers Electric Corp. (Big Rivers), in docket No. EL78-22, pursuant to section 202(b) of the Federal Power Act.

Jackson Purchase and Big Rivers sought the interconnection with KU's facilities so that Jackson Purchase could receive a portion of its power requirements from KU at a new twentieth delivery point (Reidland Substation). Based upon representations made by KU in answer to the section 202(b) application, we determined that it would prove counterproductive to initiate independent section 202(b) proceedings. Instead, the August 4 order directed KU to supplement its WPS-78 rate filing, on or before September 6, 1978, by submitting an appropriate service agreement applicable to the proposed Reidland Substation delivery point.[2] We further directed KU to stand ready to commence service at the Reidland Substation as of the effective date designated for the additional service agreement, in accordance with the rates, terms, and conditions of the WPS-78 filing, subject to such refunds as may be required in docket No. ER78-417.

On September 1, 1978, in response to those directives, KU tendered for filing an unexecuted service agreement for the Reidland delivery point,[3] together with the WPS-78 rate schedule and the pertinent rules, regulations, terms, and conditions. KU's submittal is, in all material respects, identical to its prior filing in docket No. ER78-417 for Jackson Purchase's existing delivery points.

Subsequently, on September 6, 1978, KU filed a response to the Commission's order of August 4, 1978.[4] This response initially relates KU's unsuccessful efforts to secure an executed copy of the subject service agreement from Jackson Purchase. According to KU, Jackson Purchase's refusal to execute the offered service agreement has precluded KU from complying with the Commission's requirement that KU supplement its earlier filing by submitting such a service agreement. KU's observation is somewhat curious in view of the fact that its September 1, 1978 submittal, as indicated above, purported to be in compliance with the Commisson's August 4, 1978 order.

With regard to the second requirement set forth in our prior order, KU states that it does currently stand ready to initiate service at the Reidland Substation in accordance with its earlier representations. However, KU asserts that its consent to the proposed new delivery point has been and continues to be limited by the prerequisite that Jackson Purchase first execute a suitable contract prescribing the applicable rates, terms, and conditions of service. The substance of KU's response is summarized in its concluding statement that KU should not be expected to prejudice its rights by voluntarily commencing service at the new delivery point only under a rate schedule and without a reciprocal contractual commitment by Jackson Purchase.

Jackson Purchase addresses the foregoing contentions in a reply to KU's response which was filed by Jackson Purchase on September 11, 1978. Jackson Purchase notes that our August 4, 1978 order did not require KU to submit an executed agreement for service at the Reidland Substation delivery point, but simply directed KU to tender a service agreement in a format similar to the previously filed for Jackson Purchase's other 19 delivery points.

Jackson Purchase correctly construes our prior order in these dockets, which neither required nor contemplated the submittal of an executed contract governing service at the new location. Each of the service agreements for Jackson Purchase which KU filed in docket No. ER78-417 was, in fact, unexecuted. Moreover, the rates, terms and conditions applicable to the Reidland delivery point would not differ from those embodied in the remaining service agreements; the justness and reasonableness of the WPS-78 rates as well as each of the contractual terms and conditions proposed by KU will be subject to inquiry in the hearing to be convened in docket No. ER78-417. As we indicated in the August 4, 1978 order, that hearing will provide a suitable forum in which to litigate disputed provisions of the proposed service agreements and rate schedule as applied to any of Jackson Purchase's delivery points, including the Reidland Substation. As with any service agreement or rate schedule which is permitted to become effective subject to refund, the terms and conditions of KU's proposed agreement will apply to service at the Reidland Substation, pending such modifications as the Commission may determine to be appropriate and in the public interest. We continue to believe that the procedures established in our order of August 4, 1978, fully accomodate the interests of the public and of the parties to this proceeding.

KU's continued recalcitrance with respect to initiation of service at the Reidland Substation is in derogation of our earlier order and such noncompliance with Commission mandates cannot be countenanced. Accordingly, we will require KU to make service available at the Reidland delivery point immediately.

Despite KU's apparent disclaimer of compliance with the supplemental filing requirement set forth in the August 4, 1978, order, we find that KU's submittal of September 1, 1978, does comport with the Commission's directive. Our August 4 order provided that upon timely filing of the supplemental service agreement, we would grant an effective date for that agreement coincident with the effective date established for the filing submitted in docket No. ER78-417. At that time we anticipated that the Reidland interconnection would be energized on or about September 6, 1978, in compliance with the Commission's order. Such has not been the case and it would be unreasonable to permit KU to invoke certain minimum monthly bill provisions prescribed in the proposed service agreement prior to the actual initiation of service under that agreement. Accordingly, we will accept the additional service agreement and accompanying documents for filing and suspend them, to become effective subject to refund, upon initiation of service at the Reidland Substation as herein ordered.

The Commission orders:

(A) KU is hereby directed, in accordance with the Commission's order of August 4, 1978, in docket Nos. ER78-417 and EL78-22, to immediately stand ready to initiate service to Jackson Purchase at the Reidland Substation delivery point and to make such service available under the rates, terms, and conditions specified in KU's September 1, 1978, submittal, subject to refund and such modifications as the Commission may hereafter direct.

(B) Pending the hearing initiated by the Commission's order of August 4, 1978, and decision thereon, KU's supplemental filing of September 1, 1978, is hereby accepted for filing and suspended, to become effective subject to refund, upon initiation of service at the Reidland delivery point as ordered in paragraph (A) above.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-28981 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-100 (PGA78-8)]

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing, and Establishing Procedures

SEPTEMBER 29, 1978.

On August 28, 1978, National Fuel Gas Supply Corp. (National Fuel) filed revised tariff sheets [1] to become effective October 1, 1978, reflecting (1) a 0.54-cent-per-Mcf increase in current purchased gas costs of $1,065,680 annually from pipeline and producer suppliers, (2) a 5.11-cent decrease in the surcharge adjustment [2] to recover deferred purchase gas costs of $3,885,439, and (3) the elimination of a 12.18-cent special refund credit surcharge as of September 30, 1978.[3]

National Fuel's proposed PGA rates include the costs of local purchases from small producers within New York. Based on a review of this filing as well as other data in our files concerning the physical location and operation of this pipeline system, the Commission has concluded that these volumes purchased locally cannot flow across the New York border and into Pennsylvania, the other State served by National Fuel. Because this gas is produced, transported, and consumed totally within the State of New York, these sales and the prices paid to the producers are not subject to the Commission's jurisdiction under section 1(b) of the Natural Gas Act.[4] Nonetheless, the Commission has full jurisdiction over National Fuel's collection of these purchased gas costs from its customers. *See, Colorado Interstate Gas Company,* docket No. RP72-122 and RP78-51, order issued September , 1978.

This PGA filing indicates that these local purchases have been made at rates in excess of the nationwide rates. These excess rates apparently result from "favored nations" clauses in the New York producer contracts. There is insufficient evidence for the Commission to find that the prices paid for these purchases were at rates a prudent pipeline would have paid under similar circumstances. Accordingly, the Commission shall suspend National Fuel's PGA filing for 1 day, until October 2, 1978, at which time it may be made effective subject to refund. We will also set for hearing the question of the prudence of these nonjurisdictional purchases.

Public notice of National Fuel's filing was issued on September 7, 1978, with protests and petitions to intervene due on or before September 20, 1978.

The Commission orders: (A) National Fuel's proposed tariff sheets referenced herein are hereby accepted for filing and suspended for 1 day, until October 2, 1978, when they shall become effective subject to refund.

(B) Pursuant to the authority of the Natural Gas Act and the Commission's

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[1] Old Dominion Power Co., Berea College, city of Nicholasville, Ky. (No. 3 substation), and city of Paris, Ky.

[2] KU's filing in docket No. ER78-417 included nineteen unexecuted service agreements and rate WPS-78 to encompass Jackson Purchase's existing delivery points.

[3] Designated as: *Kentucky Utilities Co.*, rate schedule FERC No. 122 (service agreement), supplement No. 1 (rate WPS-78), supplement No. 2 (rules, etc.).

[4] We note that KU has not properly pursued or exhausted its available remedies before this Commission. No application for rehearing or petition for reconsideration of our order was filed by KU. Rather, KU submitted a document captioned as a "response" to the August 4, 1978 order, which makes no specific prayer for relief. If we were to construe KU's pleading as, in essence, seeking rehearing of the underlying order, that pleading was untimely under Section 313(a) of the Federal Power Act and under section 1.34 of our regulations, both of which require such submittals to be filed within 30 days after the challenged order. Despite KU's waiver of its appropriate administrative remedies, we will address the issues raised in KU's "response" as a matter of discretion in order to alleviate any misconceptions and to direct compliance with our earlier order, thereby expediting initiation of service to Jackson Purchase at the new delivery point.

[1] Twenty-first Revised Sheet No. 4 to FERC Gas Tariff, Original Vol. No. 1.

[2] This would decrease the surcharge adjustment from 8.07 cents to 2.96 cents.

[3] Commission order issued Dec. 15, 1977, in docket No. RP74-100 (PGA78-1 and 78-1A) provided for a special refund surcharge credit to be effective Dec. 1, 1977, through Sept. 30, 1978.

[4] Opinion No. 777, issued Sept. 30, 1976, *Colorado Interstate Gas Company,* docket Nos. CP75-323 and CP75-300.

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rules and regulations, a public hearing shall be held in this proceeding to determine the prudency of National Fuel's nonjurisdictional New York producer purchases.

(C) National Fuel's case-in-chief in support of the prudence of the above-referenced purchases shall be filed with the Commission no later than October 27, 1978.

(D) Staff's statement of position shall be filed on or before November 30, 1978.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of staff's statement of position in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate, or dismiss) as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-28982 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-621]

NEW BEDFORD GAS & EDISON LIGHT CO.

Filing of Unit Power Sale Rate Schedule

OCTOBER 4, 1978.

Taken notice that on September 21, 1978, New Bedford Gas & Edison Light Co. (New Bedford) filed a rate schedule governing the sale of New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s Unit No. 2 (the Unit).

By provisions of the tendered rate schedule, New Bedford indicated that it proposes to sell to the Holden Municipal Light Department 0.1712 percent of the net capability of the Unit (as defined at article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Holden, according to the company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropraite action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28983 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2738]

NEW YORK STATE ELECTRIC & GAS CORP.

Application for Major License (Constructed)

OCTOBER 5, 1978.

Take notice that on November 8, 1973, New York State Electric & Gas Corp. (NYSEG) (correspondence to: L. Theodore Everett, Vice President, New York State Electric & Gas Corp., P.O. Box 287, Ithaca, N.Y. 14850, and Huber, Magill, Lawrence & Farrell, 99 Park Avenue, New York N.Y. 10016) filed an application for a major license with the Federal Energy Regulatory Commission for the constructed project No. 2738 located on the Saranac River in Clinton County, N.Y.

The project consists of four developments:

A. High Falls, which is located near Moffittsville, consists of: (1) A reinforced concrete gravity dam, 274 feet wide and 65 feet high; (2) an eastern wingwall 80 feet long and a western one 320 feet long; (3) a reservoir with 550 acre-feet of storage at a normal pool elevation of 1032.0 feet msl; (4) a horseshoe-shaped forebay canal 800 feet long and 250 feet wide; (5) a steel penstock 10 feet in diameter and 1,442 feet long; (6) an 11- by 12-foot concrete-lined tunnel 3,581 feet long; (7) another steel pipe penstock 6 feet in diameter and 487 feet long; (8) a steel surge tank 30 feet in diameter and 67 feet high; (9) a concrete and brick powerhouse 5,200 feet downstream from the dam; (10) two generators rated 4.0 MW each under a design head of 255 feet and one generator rated at 6.1 MW under a head of 230 feet; and (11) appurtenant facilities.

B. Cadyville, which is located 10 miles downstream from the High Falls Development, consists of: (1) A reinforced concrete gravity dam 237 feet wide and 50 feet high with stone masonry and concrete wingwalls; (2) a reservoir with 575 acre-feet of storage at crast elevation of 726.33 feet msl; (3) a concrete intake structure 62 feet long and 20 feet wide leading to a steel penstock 10 feet in diameter and 1,654 feet long; (4) a two-story brick and concrete powerhouse 1,350 feet downstream from the dam; (5) two generating units rated at 1.2 MW each under a design head of 77 feet; and (6) appurtenant facilities.

C. Mill "C" which is approximately 4,000 feet downstream from the Cadyville Development, consists of: (1) A stone masonry gravity dam approximately 350 feet wide and 57 feet high; (2) a reservoir with 20 acre-feet of storage at a crest elevation of 649.2 feet msl; (3) a riveted steel penstock 402 feet long ranging in diameter from 9.5 to 12 feet; (4) a cinder block and stone masonry powerhouse 400 feet downstream from the dam; (5) two generating units, one rated at 1.25 MW and one at 1.0 MW, each under a design head of 66 feet; and (6) appurtenant facilities.

D. Kent Falls, located 1 mile below mill "C" consists of: (1) A reinforced concrete hollow arch dam, 165 feet wide and 58 feet high; (2) a reservoir with 95 acre-feet of storage at a normal pool elevation of 580.27 feet msl; (3) a stone and concrete headworks structure; (4) a steel penstock 11 feet in diameter and 2,668 feet long, bifurcating into two steel penstocks each 6 feet in diameter and 140 feet long; (5) a surge tank 28 feet in diameter and 47 feet high; (6) a concrete and brick powerhouse 2,700 feet downstream from the dam; (7) two generating units each rated at 3.2 MW under a design head of 161 feet; and (7) appurtenant facilities.

The applicant integrates the power developed from the project into its main transmission system for delivery to its customers within New York State.

Existing recreational facilities include a swimming area, picnic tables, and fireplaces on land leased to the town of Plattsburgh, and a small boat launching ramp at the Cadyville site. The applicant states that, in general, steep banks, a steep river slope, and the small water surface areas of the ponds preclude the development of any future recreational facilities other than parking areas for fishermen.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28984 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-546]

NORTHWEST PIPELINE CORP.

Application

OCTOBER 4, 1978.

Take notice that, on September 28, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-546 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southwest Gas Corp. (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As stated in the application, Applicant proposes to transport for Southwest's account up to 6,000 [1] Mcf per day of natural gas. Specifically, Applicant requests authority to transport volumes of natural gas presently developed on an acreage dedicated to Southwest plus the authority to transport such additional volumes of natural gas as may be developed for sale and delivery to Southwest under the acreage set forth in exhibit "A" to that certain agreement dated September 12, 1978, and which would be connected to the facilities of Applicant.

The subject of the instant application is a certain Gas Purchase, Gathering and Transportation Agreement (Agreement), dated September 12, 1978, which provides, inter alia, that Applicant would gather, transport, and redeliver to Southwest up to 6,000 Mcf of natural gas per day which Southwest controls in Grand and Uintah Counties, Utah, and Garfield and Mesa Counties, Colo. The volumes of natural gas proposed for transportation herein would be those volumes developed on the acreage set forth in exhibit "A" to the Agreement which Applicant contemplates connecting to its natural gas transmission system, it is said.

It is stated that pursuant to the terms of the Agreement, Applicant would perform a wellhead gathering service for up to 6,000 Mcf per day for Southwest from present or future wells, located on the acreage set forth on exhibit "A" to the Agreement, which can be connected to Northwest's facilities. It is stated that the acreage dedicated to Southwest is in the general proximity of Applicant's mainline transmission facilities and/or Applicant's Bar-X gathering system in Garfield County, Colo., and Grand County, Utah. Applicant contemplates that it would construct and operate the facilities necessary to connect Southwest's existing wells to Applicant's Bar-X gathering system and/or to Applicant's transmission system. It is stated that the final determination of the precise route of the gathering facilities to connect the existing and future wells dedicated to Southwest would be dependent on the proximity of the individual wells to various of Applicant's facilities and upon the nature of the terrain in the general area. It is further stated that initially, Applicant would connect one existing well to its mainline transmission system.

It is stated that Applicant would transport, by displacement or otherwise, the volumes received at the wellhead for the account of Southwest, less 25 percent of such volumes which Applicant has the right to purchase from Southwest and less applicable fuel and line loss, to either:

(a) An existing point of interconnection between the facilities of Southwest and Applicant on the Idaho-Nevada border in Owyhee County, Idaho. It is said that volumes of natural gas to be transported and delivered at the Idaho-Nevada delivery point would be delivered to Southwest for utilization on Southwest's northern Nevada system; or

(b) A point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo. It is said that Applicant understands that El Paso would redeliver equivalent volumes to Southwest. It is further said that the volumes of gas delivered to El Paso for Southwest's account would be utilized by Southwest in Arizona or southern Nevada.

The application states that, in consideration for the proposed gathering and transportaion service, Applicant proposes to charge Southwest a gathering charge of 23.05 cents per Mcf plus a transmission charge which would be 20.69 cents per Mcf for those volumes physically transported on Applicant's main transmission system or 50 percent of that amount, i.e., 10.345 cents per Mcf, for those volumes delivered for Southwest's account by displacement. It is said that initially, any volumes delivered at the El Paso delivery point for the account of Southwest, would be by displacement and, therefore, Southwest would be charged the 50-percent rate. It is further said that volumes delivered to Southwest at the Idaho-Nevada border would be physically transported and Applicant would charge Southwest the full transportation rate of 20.69 cents for such deliveries.

It is said that initially, Applicant estimates that approximately 200 Mcf per day would be available for delivery by Southwest to Applicant for gathering and transportation thereunder.

It is also said that pursuant to the Agreement, Applicant would purchase from Southwest up to 25 percent of the volumes delivered for gathering and transportation at a cost equal to Southwest's actual cost of purchasing such volumes.

The application states that Applicant would construct any jurisdictional gathering facilities necessary to effectuate the proposal pursuant to the authorization granted Applicant by the order issued September 30, 1977, at docket No. CP77-507 for budget-type gas purchase facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 19, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be un-

[1] Unless otherwise specified, all volumes are stated at 14.73 psia and 60° F.

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necessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28985 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-547]

NORTHWEST PIPELINE CORP.

Application

OCTOBER 4, 1978.

Take notice that on September 28, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-547 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southwest Gas Corp. (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As stated in the application, Applicant proposes to gather and transport for Southwest's account up to 2,000[1] Mcf per day of natural gas. Specifically, Applicant requests authority to transport volumes of gas presently developed on an acreage dedicated to Southwest plus the authority to transport such additional volumes of natural gas as may be developed for sale and delivery to Southwest under the acreage set forth in exhibit "A" to that certain agreement dated September 12, 1978, and which would be connected by Applicant to the gathering system of RMNG Gathering Co. (RMNG).

The subject of the instant Application is a certian Gas Purchase, Gathering and Transportation Agreement (Agreement), dated September 12, 1978, which provides, inter alia, that Applicant would gather, transport and redeliver to Southwest up to 2,000 Mcf of natural gas per day, which Southwest controls in Grand and Uintah Counties, Utah and Garfield and Mesa Counties, Colo. The volumes of natural gas proposed for transportation herein would be those volumes developed on the acreage set forth in exhibit "A" to the Agreement which Applicant contemplates connecting to RMNG's gathering system.

It is stated that pursuant to the terms of the Agreement, Applicant would perform a wellhead gathering service for up to 2,000 Mcf per day for Southwest from present or future wells, located on the acreage set forth on exhibit "A" to the Agreement, which can be connected to RMNG's gathering system. The acreage dedicated to Southwest is in the general, proximity of RMNG's gathering system in Garfield County, Colo., it is stated. Applicant contemplates that it would construct and operate the facilities necessary to connect Southwest's existing wells to RMNG's gathering system. It is asserted that the final determination of the precise route of the gathering facilities to connect the existing and future wells dedicated to Southwest would be dependent on the proximity of the individual wells to various of RMNG's facilities and upon the nature of the terrain in the general area. Initially, it is stated, Applicant would connect three existing wells to RMNG's gathering system.

It is further stated that pursuant to a Gas Purchase, Transportation and Exchange Agreement between Applicant and RMNG, RMNG would transport all volumes delivered into its gathering system and redeliver equivalent volumes, adjusted for heating value and less any compressor fuel required, at a point of interconnection between the main transmission facilities of Applicant and the gathering facilities of RMNG located in Mesa County, Colo. It is stated that Applicant would transport, by displacement or otherwise, the volumes delivered by RMNG, for the account of Southwest, less 25 percent of such volumes which Applicant has the right ot purchase from Southwest and, less applicable fuel and line loss, to either:

(1) An existing point of interconnection between the facilities of Southwest and Applicant on the Idaho-Nevada border in Owyhee County, Idaho. It is stated that the volumes of natural gas to be transported and delivered at the Idaho-Nevada delivery point would be delivered to Southwest for utilization on Southwest's Northern Nevada System; or

(2) A point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo. It is stated that Applicant understands that El Paso would redeliver equivalent volumes to Southwest. The volumes of gas delivered to El Paso for Southwest's account would be utilized by Southwest in its Arizona and southern Nevada market areas.

It is said that Applicant and RMNG have agreed to amend further the gas purchase, transportation and exchange agreement, dated February 2, 1977 to add the additional delivery points and acreage necessary to accommodate the delivery to RMNG of the volumnes of gas dedicated to Southwest. It is further stated RMNG would charge Applicant 8 cents per Mcf for the gas transported for Southwest, which amount would be reimbursed by Southwest. RMNG would not have a right to purchase any of the gas delivered by Applicant from wells dedicated to Southwest, it is said.

The application states that in consideration for the gathering and transportation service proposed herein, Applicant proposes to charge Southwest a gathering charge of 23.05 cents per Mcf plus a transmission charge which would be 20.69 cents per Mcf for those volumes physically transported on Applicant's main transmission system or 50 percent of that amount, i.e., 10.345 cents per Mcf for those volumes delivered for Southwest's account by displacement. It is said that initially, any volumes delivered at the El Paso delivery point for the account of Southwest, would be by displacement and, therefore, Southwest would be charged the 50 percent rate. It is further said that volumes delivered to Southwest at the Idaho-Nevada border would be physically transported and Applicant would charge Southwest the full transportation rate of 20.69 cents for such deliveries. As heretofore stated, in addition to the aforementioned gathering and transportation charges, Southwest would reimburse Applicant for the 8 cents per Mcf to be paid RMNG for RMNG's transportation service.

It is said that initially, Applicant estimates that approximately 600 Mcf per day would be available for delivery by Southwest to Applicant for gathering and transportation hereunder.

It is also said that pursuant to the Agreement, Applicant would purchase from Southwest up to 25 per cent of the volumes delivered for gathering and transportation at a cost equal to Southwest's actual cost of purchasing such volumes.

The application states that Applicant would construct any jurisdictional gathering facilities necessary to effectuate the proposal herein pursuant to the authorization granted Applicant by the order issued September 30, 1977 in docket No. CP77-507 for budget-type gas purchase facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 19, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28986 Filed 10-12-78; 8:45 am]

[1] Unless otherwise specified, all volumes are stated at 14.73 psia.

[6740-02-M]

[Docket No. RP77-120]

STINGRAY PIPELINE CO.

Change in Tariff

OCTOBER 4, 1978.

Take notice that on September 21, 1978, Stingray Pipeline Co. (Stingray) tendered for filing Second Substitute Tenth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1.

Stingray submits that this revised tariff sheet reflects the settlement rate as approved by the Commission letter order dated September 11, 1978, in docket No. RP77-120.

Stingray states that copies of its filing have been served on all customers, interested State commissions and parties to the proceeding.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants praties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28987 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2854]

TOWN OF VIDALIA, LA.

Application for Preliminary Permit

OCTOBER 5, 1978.

Take notice that on June 16, 1978, and revised on September 19, 1978, the town of Vidalia, La. (correspondence to: Sidney A. Murray, Jr., Mayor, Town Hall, Vidalia, La. 71373, and J. B. Lancaster, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, La. 70896), filed an application for a preliminary permit with the Federal Energy Regulatory Commission for the proposed Old River project No. 2854, to be located in Concordia Parish, La., about 1 mile southwest of the Mississippi-Louisiana border on the Old River control structure outflow channel which regulates flows between the Mississippi and Red-Atchafalaya Rivers.

The proposed project would use waters diverted by the Corps of Engineers between the Mississippi River and Red-Atchafalaya Rivers, navigable waters of the Unitcd States, and would affect lands of the United States under the jurisdiction of the Corps of Engineers.

The Old River project No. 2854 would be operated as a run-of-river project and would consist of: (1) A concrete dam approximately 65 feet high to provide approximately 11 feet of head; (2) a powerplant located approximately 2,000 feet down channel from the existing Corps of Engineers low sill structure; (3) 15 hydroturbine/generators each rated at 8.1 MW capable of total annual generation of 788.4 million kilowatt-hours; (4) 110 miles of 230 kV transmission lines, running both north to the vicinity of the town of Vidalia and south to Big Cajun station near New Roads, La.; and (5) appurtenant facilities.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Applicant proposes to utilize power from this project to meet its present and anticipated load requirements with any surplus capacity or energy being sold to, or exchanged with, electric utilities in the area.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriated action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28988 filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-94]

ADOBE OIL AND GAS CORP.

Notice of Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 14, 1978, Adobe Oil and Gas Corp. (Adobe), 1100 Western United Life Building, Midland, Tex. 79701, filed a petition for special relief in Docket No. RI78-94 pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Adobe states rising operating expenses render production from its Mathis-Davis "A" No. 1 Well, located in the Keyes Area Field, Cimarron County, Okla., uneconomical under the present rate (36 cents). Adobe seeks a rate of 57 cents which it believes will enable it to recover the remaining reserves and to avoid abandonment. Gas produced from this well is sold to Panhandle Eastern Pipe Line Co.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirement of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 27, 1978. All protests filed with the Commission will be considered by it in determining the appropri-

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ate action to be taken but will not serve to made the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29009 Filed 10-12 78; 8:45 am]

[6740-02-M]

[Docket No. RA-78-4]

BAYOU STATE OIL CORP.

Notice Granting Extension of Time

OCTOBER 2, 1978.

On September 22, 1978, Counsel for the Secretary of Energy filed a motion for extension of time within which to file the administrative record and reply to the petition for review in the above captioned proceeding. The motion noted belated service of the petition for review upon the Secretary.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 23, 1978, for the filing of the administrative record and reply to petition for review in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78 29010 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No CP78—544]

COLUMBIA GULF TRANSMISSION CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 28, 1978, Columbia Gulf Transmission Co. (Columbia), 3805 West Alabama, Houston, Tex. 77027, and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, (Applicants) filed in Docket No. CP78-544 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas by Columbia and the exchange of natural gas between Applicants, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia requests authorization to transport up to 50,000 Mcf of natural gas per day through existing facilities for Transco pursuant to a transportation and exchange agreement dated August 8, 1978, between Applicants, which gas Columbia would receive into its existing facilities at the terminus of a pipeline system owned by Sea Robin Pipeline Co. (Sea Robin), near Erath, La., and transported to Columbia's Rayne, La., Compresssor Station (Exchange Point) at which point, Columbia would retain such gas as exchange gas.

Pursuant to said August 8, 1978, Agreement, Columbia would deliver to Transco at a proposed point of interconnection in Terrebonne Parish, La. the thermal equivalent of the gas received by Columbia at the terminus of the Sea Robin pipeline, adjusted for the removal of liquefiable hydrocarbons and for a pro rata share of the volume of gas unaccounted for and/or used as fuel in the facilities through which the gas is transported to the Exchange Point, it is stated. Columbia also seeks authorization to operate for itself and Transco the facilities at the pont of delivery in Terrebonne Parish.

It is indicated that Columbia would need to construct minor facilities at Transco's expense, at the point of delivery in Terrebonne Parish.

The application states that Transco would pay Columbia for the proposed transportation service a monthly demand charge of 71.0 cents per Mcf (at 14.73 psia) of Contract Demand or such other charge as may be determined by the Commission in an appropriate proceeding.

Applicants assert that the proposed transportation arrangements would connect an estimated 37,300,000 Mcf of gas reserves to Transco's system for initial delivery during the latter part of the 1978-79 winter season which would likely be a period of high demand on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F PLUMB,
SECRETARY.

[FR Doc 78-29011 Filed 10-12-78, 8:45 am]

[6740-02-M]

[Docket No. CP78-529]

CONSOLIDATED GAS SUPPLY CORP., ET AL

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 19, 1978, Consolidated Gas Supply Corp. (Consolidated), 455 West Main Street, Clarksburg, W. Va. 26301, Columbia Gas Transmission Corp. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-529 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing limited-term transportation and storage service for the West Ohio Gas Co. (West Ohio), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated proposes to accept from West Ohio and inject into storage, during an injection period commencing on or about October 1, 1978, and ending no later than October 19, 1978, up to 200,000 Mcf 14.73 psia of natural gas at reasonably constant daily rates. Commencing on or about November 1, 1978, and ending on November 29, 1978, Consolidated would withdraw the subject storage gas and deliver the same to West Ohio, also at reasonably constant daily rates, it is said, and the entire transaction would take place in less than 60 consecutive days.

It is indicated as consideration for the described storage service, West Ohio has agreed to pay Consolidated in accordance with the rates contained in Consolidated's GSS rate schedule in its effective FERC Gas Tariff, adjusted to an average rate per dekatherm

equivalent of natural gas stored, which would be 30.0 cents per dt injected for storage.

The storage service proposed herein would be on a best-efforts basis and would be subordinate to Consolidated's other delivery obligations.

The gas to be delivered to Consolidated by West Ohio for storage would be delivered by means of concurrent reductions in daily takes by West Ohio from Columbia, one of West Ohio's suppliers, and by Columbia from one of its suppliers, Texas Gas, at an existing delivery point near Lebanon, Ohio. Contemporaneously, Texas Gas would increase its deliveries to Consolidated by an equivalent quantity at Texas Gas' delivery point to Consolidated also near Lebanon, Ohio, thus completing the interchange of gas from West Ohio to Consolidated, it is stated. It is stated that the return transportation of the stored quantities would be accomplished in reverse sequence, and no new facilities would be required to render the propsed service.

For those storage withdrawal volumes transported to West Ohio during the period November 1, 1978, through November 29, 1978, West Ohio has agreed to pay Columbia a transportation charge reflecting Columbia's average systemwide unit storage and transmission cost, exclusive of company use and unaccounted for gas, this being 23.5 cents per Mcf, it is indicated. Such transportation charge would be applied to the total volume of gas delivered by Texas Gas to Columbia near Lebanon, Ohio, for redelivery to West Ohio, it is said. Columbia shall retain for company use and unaccounted-for gas, 2.51 percent of the total volume of gas delivered by Texas Gas to Columbia near Lebanon, Ohio, for redelivery to West Ohio, during the period November 1, 1978, through November 29, 1978, the application indicates.

It is asserted that Texas Gas' verbal agreement with West Ohio to exchange by displacement the storage injection and withdrawal volumes would involve no rates or charges.

It is stated that West Ohio is in need of the storage service proposed herein in order to assure maintenance of adequate service to its high priority customers' requirements in the event of colder than normal weather during the upcoming heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Consolidated, Columbia or Texas Gas to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29012 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CI78-1207]

ESTATE OF H. L. HUNT

Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 18, 1978, the Estate of H. L. Hunt (Petitioner), 2900 First National Bank Building, Dallas, Tex. 75202, filed a petition for special relief in Docket No. CI78-1207.

Petitioner states that on Juanuary 17, 1956, in Docket No. G-10335 the Federal Power Commission issued a certificate of public convenience and necessity to H. L. Hunt to make sales of gas in interstate commerce to Trunkline Gas Co. from the Clear Creek Field located in Beauregard and Allen Parishes, La.[1] By FPC order issued April 30, 1975, in Docket No. G-4866, et al. The certificate of public convenience and necessity in Docket No. G-10335 was amended by substituting the Estate of H. L. Hunt in lieu of H. L. Hunt as certificate holder.

Petitioner further states that on January 13, 1975, the Estate of H. L. Hunt and Shenandoah Oil Corp. entered into a gas gathering and compression agreement. Under this agreement, Petitioner, in its unit facilities, gathered, dehydrated, and compressed gas produced by Shenandoah for delivery to Trunkline Gas Co. Petitioner believes that Shenandoah Oil Corp. holds a small producer certificate which covers its gas sales to Trunkline.

Petitioner's sales to Trunkline ceased in December of 1976 due to insufficient production. However, Petitioner states that during the calendar year 1977, Shenandoah's gas was flowing through the unit facilities of Petitioner, and that Petitioner inadvertently used 43,492 Mcf of Shenandoah's gas for its own unit operations for the production of oil. Since the unit has been unproductive, Petitioner is without gas with which to compensate either Shenandoah or Trunkline.

Petitioner requests authorization to pay to either Trunkline Gas Co. or Shenandoah Oil Corp. a sum of money as consideration for the gas inadvertently diverted. In the event that Trunkline Gas Co. objects to Petitioner's proposal for payment and insists upon additional remedies, Petitioner requests authorization to purchase 43,492 Mcf of gas which is not dedicated in interstate commerce and to cause that gas to be delivered to Trunkline Gas Co. In the event that such a purchase is necessary Petitioner further requests that the Commission's authorization be structured so as to subject the sellers of said gas to the jurisdiction of the Commission for this limited purpose only.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 27, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to in-

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

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tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29013 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-95]

JOSEPH P. MUELLER

Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 15, 1978, Joseph P. Mueller (Petitioner), 1010 Wilson Building, Corpus Christi, Tex. 78476, filed a petition for special relief in Docket No. RI78-95 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner requests authorization to charge 101.21¢ per Mcf at 14.65 psia for the sale of gas from its Tomas Saenz No. 1 Well and its Isabelle R. Ferrell "C"-1 Well, Ramirena Field, Live Oak County, Tex., to Valley Gas Transmission Co. Petitioner asserts that due to water influx and lower flowing pressures additional two-stage compression is required in order to continue production. Therefore, petitioner maintains that the above mentioned rate increase is necessary if future production is to be economically feasible.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29014 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. EL78-34]

METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO

Granting Second Extension of Time

OCTOBER 2, 1978.

On September 22, 1978, Counsel for the Metropolitan Sanitary District of Greater Chicago filed a motion for a second extension of time within which to answer the Commission's Order to Show Cause issued August 14, 1978, in the captioned proceeding. The motion noted that a preliminary draft form has been submitted to the Commission.

Upon consideration, notice is hereby given that a second extension of time is granted to and including October 11, 1978, for the Metropolitan Sanitary District of Greater Chicago to file a complete response to the Show Cause Order in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-29026 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP74-316]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Amendment

OCTOBER 5, 1978.

Take notice that on September 21, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP74-316 an amendment to its pending petition to amend filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the construction and operation of two 3,600 horsepower compressor units, in lieu of the 3,000 horsepower units which Applicant previously requested authorization to construct and operate, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of July 7, 1977, in the instant docket Applicant was authorized, among other things, to acquire and develop as an underground storage field the Leonard Field in Oakland County, Mich., and that on May 4, 1978, Applicant filed a petition to amend said order so as to authorize the acquisition and development for underground natural gas storage of the South Chester 15 Field in Otsego County, Mich., including the construction and operation of facilities incident thereto, in lieu of developing the Leonard Field, which facilities included two 3,000 horsepower compressor units.

The amendment states that Applicant solicited and received quotations from engine manufacturers for the 3,000 horsepower compressor units. However, the engine manufacturer submitting the lowest quotation found, in compiling performance curves, that its 3,600 horsepower compressor units had distinct advantages over the smaller units and suggested that consideration be given to their selection, it is said. Applicant states that in response to this suggestion, it requested and has received from the manufacturer a formal quotation of the 3,600 horsepower units, and that after a detailed engineering analysis, it has concluded that the 3,600 horsepower units are preferable for the following reasons:

1. The 3,600 horsepower unit is environmentally superior in that its nitrogen oxide emissions are lower.

2. The larger engines would permit higher rates of injection into storage early in the storage injection cycle.

3. The cost of the proposed 3,600 horsepower units is lower than the cost estimate of the 3,000 horsepower units. The bid price for the two 3,600 horsepower units is $2,092,712, or some $100,000 less than had been estimated, it is said. It indicated that an offsetting factor is the increased installation cost of the larger units. Even after reflecting this increase, the net increase in the total cost of the compressor station is only $173,000, it is stated.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29015 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. E-9502]

MINNESOTA POWER & LIGHT CO.

Granting Extension of Time

OCTOBER 6, 1978.

On September 25, 1978, Counsel for Minnesota Power & Light Co. (M.P. & L.) filed a motion for extension of time within which to comply with ordering paragraph (B) of Commission opinion No. 20 issued August 3, 1978 in the captioned proceeding. The motion notes that M.P. & L. has recently complied with numerous Commission data requests.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 16, 1978, for M.P. & L. to comply with ordering paragraph (B) of Commission opinion No. 20 in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29016 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-538]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 26, 1978, Mountain Fuel Supply Co. (Mountain Fuel), 180 East First South Street, P.O. Box 11368, Salt Lake City, Utah 84139, filed in docket No. CP78-538 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 1,000 Mcf per day of natural gas with Northwest Pipeline Corp. (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Northwest has certain gas reserves committed to it in the Yellow Creek Unit in Uinta County, Wyo., which is remote from Northwest's existing system and that Mountain Fuel has natural gas gathering and transmission facilities in said area and is willing to transport and exchange natural gas with Northwest. It is stated that Mountain Fuel and Northwest have entered into a gas purchase, transportation, and exchange agreement, dated June 22, 1978, providing for the subject proposal.

Mountain Fuel proposes to receive gas delivered by Northwest at a point on Mountain Fuel's gathering facilities in Uinta County, Wyo. Mountain Fuel would, under its proposal, then redeliver by displacement, equivalent volumes, at an existing point of interconnection between the facilities of Mountain Fuel and Northwest in Sweetwater County, Wyo. It is asserted that Mountain Fuel has the right to purchase up to 25 percent of the volumes delivered by Northwest. It is further stated that Mountain Fuel would charge 8 cents per Mcf for transportation of all gas not purchased by Mountain Fuel.

It is asserted that the subject agreement would be for a primary term of 10 years commencing on the first day of the month following the initiation of deliveries, and on a year-to-year basis thereafter.

It is asserted that the facilities necessary to gather Northwest's volumes and to connect these facilities to Mountain Fuel's transmission system are already in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 29017 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-534]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 22, 1978, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-534 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for South Texas Natural Gas Gathering Co. (South Texas) and the construction and operation of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Applicant and South Texas have entered into a Transportation Agreement dated August 18, 1978, whereby Applicant would receive on a best efforts basis up to 3,000 Mcf per day of natural gas from South Texas at a mutually agreeable point on Applicant's 8-inch lateral in Starr County, Tex. Applicant states that it would redeliver to South Texas equivalent volumes on an Mcf-for-Mcf basis at an existing interconnection located in Hidalgo County, Tex.

It is stated that Applicant proposes to construct and operate a 3-inch tap connection on its 8-inch lateral in Starr County, Tex., at a cost estimated by Applicant to be $7,100.

It is stated that under the terms of the abovementioned Agreement, Applicant would charge South Texas for the transportation service one-quarter of 1 cent (¼¢) per Mcf of transportation gas delivered to South Texas at the point of redelivery, or a monthly charge of $250, whichever is greater. The term of the agreement is 3 years from the date of first deliveries thereunder and thereafter until canceled by thirty (30) days notice of one party to the other, it is indicated.

It is further stated that the environmental impact of construction and operation of the proposed facilities would be minimal.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no peti-

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tion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29018 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP71-125 (PGA No. 78-2)]

NATURAL GAS PIPELINE CO. OF AMERICA

Granting Revised Procedural Schedule

OCTOBER 5, 1978

On September 25, 1978, Counsel for Natural Gas Pipeline Co. of America (Natural) filed a motion to revise the procedural schedule in the captioned proceeding pursuant to the Commission's order of August 31, 1978. The motion stated that staff counsel agrees to the proposed schedule revision.

Upon consideration, notice is hereby given that the following procedural schedule is established for this proceeding:

October 20, 1978—Service of Natural's response to interrogatories

October 31, 1978—Prehearing Conference

November 14, 1978—Service of Natural's case-in-chief

December 14, 1978—Staff's statement of position

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29019 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2738]

NEW YORK STATE ELECTRIC & GAS Corp.

Application for Major License (Constructed)

OCTOBER 5, 1978.

Take notice that on November 8, 1973, New York State Electric & Gas Corp. (NYSEG) (correspondence to: L. Theodore Everett, Vice President, New York State Electric & Gas Corp., P.O. Box 287, Ithaca, N.Y. 14850, and Huber, Magill, Lawrence & Farrell, 99 Park Avenue, New York, N.Y. 10016) filed an application for a major license with the Federal Energy Regulatory Commission for the constructed Project No. 2738 located on the Saranac River in Clinton County, N.Y.

The project consists of four developments:

A. High Falls, which is located near Moffittsville, consists of: (1) a reinforced concrete gravity dam, 274 feet wide and 65 feet high; (2) an eastern wingwall 80 feet long and a western one 320 feet long; (3) a reservoir with 550 acre-feet of storage at a normal pool elevation of 1032.0 feet msl; (4) a horseshoe shaped forebay canal 800 feet long and 250 feet wide; (5) a steel penstock 10 feet in diameter and 1,442 feet long; (6) an 11 by 12 foot concrete-lined tunnel 3,581 feet long; (7) another steel pipe penstock 6 feet in diameter and 487 feet long; (8) a steel surge tank 30 feet in diameter and 67 feet high; (9) a concrete and brick powerhouse 5,200 feet downstream from the dam; (10) two generators rated 4.0 MW each under a design head of 255 feet and one generator rated at 6.1 MW under a head of 230 feet; and (11) appurtenant facilities.

B. Cadyville, which is located 10 miles downstream from the High Falls Development, consists of: (1) a reinforced concrete gravity dam 237 feet wide and 50 feet high with stone masonry and concrete wingwalls; (2) a reservoir with 575 acre-feet of storage at crest elevation of 726.33 feet msl; (3) a concrete intake structure 62 feet long and 20 feet wide leading to a steel penstock 10 feet in diameter and 1,654 feet long; (4) a two story brick and concrete powerhouse 1,350 feet downstream from the dam; (5) two generating units rated at 1.2 MW each under a design head of 77 feet; and (6) appurtenant facilities.

C. Mill "C" which is approximately 4,000 feet downstream from the Cadyville Development, consists of: (1) a stone masonry gravity dam approximately 350 feet wide and 57 feet high; (2) a reservoir with 20 acre-feet of storage at a crest elevation of 649.2 feet msl; (3) a riveted steel penstock 402 feet long ranging in diameter from 9.5 to 12 feet; (4) a cinder block and stone masonry powerhouse 400 feet downstream from the dam; (5) two generating units, one rated at 1.25 MW and one at 1.0 MW, each under a design head of 66 feet; and (6) appurtenant facilities.

D. Kent Falls, located one mile below Mill "C" consists of: (1) a reinforced concrete hollow arch dam, 165 feet wide and 58 feet high; (2) a reservoir with 95 acre-feet of storage at a normal pool elevation of 580.27 feet msl; (3) a stone and concrete headworks structure; (4) a steel penstock 11 feet in diameter and 2,668 feet long, bifurcating into 2 steel penstocks each 6 feet in diameter and 140 feet long; (5) a surge tank 28 feet in diameter and 47 feet high; (6) a concrete and brick powerhouse 2,700 feet downstream from the dam; (7) two generating units each rated at 3.2 MW under a design head of 161 feet; and (8) appurtenant facilities.

The applicant integrates the power developed from the project into its main transmission system for delivery to its customers within New York State.

Existing recreational facilities include a swimming area, picnic tables, and fireplaces on land leased to the town of Plattsburgh, and a small boat launching ramp at the Cadyville site. The applicant states that, in general, steep banks, a steep river slope, and the small water surface areas of the ponds preclude the development of any future recreational facilities other than parking areas for fishermen.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29020 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ES78-58]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 25, 1978, Northwestern Public Service Co. filed an application with the Commission pursuant to section 204 of the Act and Part 34 of the Regulations, for authorization to engage in negotiations for the sale of up to $12 million first Mortgage Bonds and up to 400,000 shares of Common Stock, par value $7 per share, pursuant to section 34.1a(a)(4) and 34.2(f)(2) of the Regulations under the Act.

Applicant is incorporated under the laws of the State of Delaware, with its principal business offices at Huron, S. Dak., and is authorized to do business in the States of Iowa, North Dakota, and Nebraska.

Applicant indicates that a portion of the proceeds from the proposed First Mortgage Bond and Common Stock financings will be used to repay outstanding short-term bank loans, which are expected to total $17,000,000 at the anticipated time of closing, with the balance to become treasury funds to be used for the company's 1979 construction program.

Applicant beleves that a negotiated underwritten public offering of the Common Stock would be advantageous because of the relatively small amount of Common Stock involved, because of the successful prior negotiated offerings of Common Stock, and because the underwriter will be required to presell the issue to ensure a satisfactory market.

Applicant states that it believes that a negotiated sale of the First Mortgage Bonds would be advantageous for similar reasons, but indicates that the decision whether to sell the Bonds in a public offering or through a private placement will be made after consideration of data to be developed in negotiations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests shall be filed on or before October 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29021 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-513]

PUBLIC SERVICE CO. OF INDIANA, INC.

Granting Extension of Time

OCTOBER 5, 1978.

On September 14, 1978, Public Service Co. of Indiana, Inc. (PSCI) filed a motion for extension of time within which to comply with the Commission's order of August 25, 1978, in the captioned proceeding. The motion stated that all intervening wholesale customers do not oppose the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 25, 1978, for PSCI to comply with the Commission's order of August 25, 1978 in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29022 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP70-7 (Phase II)]

SOUTHERN NATURAL GAS CO.

Petition To Amend

OCTOBER 5, 1978.

Take notice that on September 20, 1978, Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend pursuant to sections 7(b) and (c) of the Natural Gas Act the order of the Commission of October 29, 1969[1] (42 FPC 944), as amended, issued in said docket pursuant to section 7(c) of the Natural Gas Act issuing a certificate of public convenience and necessity authorizing the sale and delivery of natural gas. Southern proposes to increase its contract demand sales of natural gas to Atlanta Gas Light Co. (Atlanta) from 739,550 Mcf per day to 740,080 Mcf per day, to deliver such additional gas at the delivery point formerly used to serve the city of Temple, Ga., and to abandon its sales of natural gas to the latter customer. Southern's proposals are more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Southern states that it has been informed by Atlanta that Atlanta purchased from the city of Temple the gas system of the city of Temple and as a part of such purchase Southern's maximum delivery obligation to the city of Temple of 530 Mcf per day was assigned to Atlanta. Southern requests that it be authorized to sell to Atlanta an additional contract demand of 530 Mcf per day, that it be authorized to deliver this gas to Atlanta at the delivery point formerly utilized by the city of Temple, and that it be permitted to abandon sales and deliveries to the city of Temple.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29024 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-73 (AP No. 78-3)]

TEXAS EASTERN TRANSMISSION CORP.

Granting Extension of Time

OCTOBER 5, 1978.

On September 21, 1978, Counsel for Texas Eastern Transmission Corp. (Texas Eastern) filed a motion for extension of time within which to file its case-in-chief in the captioned proceeding pursuant to the Commission's order of September 1, 1978. The motion stated that staff agrees to the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 10, 1978, for the filing of Texas Eastern's case-in-chief in this proceeding. Staff's statement of position shall be filed on or before November 22, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29025 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-227]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

OCTOBER 5, 1978.

Take notice that on September 27, 1978, Transcontinental Gas Pipe Line Co. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-227 a petition to amend the order of June 22, 1978, issued in the instant docket (57 FPC ——) pursuant to section 7(c) of the Natural Gas Act so as to authorize the continued transportation of natural gas for Trunkline Gas Co. (Trunkline) through December 31, 1979, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of June 22, 1978, Petitioner was authorized to

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

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transport on an interruptible basis up to 75,000 Mcf of natural gas per day for Trunkline during a limited period ending December 31, 1978. Petitioner states that Trunkline delivers or causes the subject gas to be delievered into Petitioner's Southwest Louisiana Gathering System in Cameron Parish, La., and that Petitioner delivers a thermally equivalent quantity (less compressor fuel and line loss makeup) to Trunkline at existing interconnections between the two system near Katy, Waller County, Tex., and Ragley, Beauregard Parish, La. It is asserted that the transportation service assists Trunkline by delivering to its system pending the installation of expanded facilities on Trunkline's Lakeside Lateral, substantial volumes of gas available to Trunkline in the High Island Area, offshore Texas and delivered to Petitioner in Cameron Parish through facilities of High Island Offshore System and U-T Offshore System. Pursuant to the Transportation agreement between Petitioner and Trunkline date February 1, 1978, the subject transportation would continue in effect from April 1, 1978, until the date Trunkline has installed and placed in service the expanded facilities on its Lake Side Lateral, presently expected to be in service by November 1, 1978 or until December 31, 1978, whichever first occurs, it is stated.

It is indicated that Trunkline has advised Petitioner that its capacity problem in the South Louisiana area would continue past the present termination date of the February 1, 1978, agreement and requests that Petitioner extend the term of said agreement through December 31, 1979. Consequently, Petitioner and Trunkline have entered into an amendatory agreement dated September 6, 1978, which agreement extends the term of the transportation service through December 31, 1979.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.0) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accorance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29027 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-40]

GAS ROCK CORP., ET AL.

Petition for Special Relief

OCTOBER 4, 1978.

Take notice that on March 13, 1978, Gas Rock Corp., P.O. Drawer 1729, Hattiesburg, Miss. 39401 and Wiley Fairchild, P.O. Box 1609, Hattiesburg, Miss. 39401 (Petitioners), filed a joint petition for special relief in Docket No. RI78-40 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Take further notice that on August 29, 1978, petitioners filed an amended petition in order to request a specific rate as required by § 2.76.

Petitioners seek authorization to charge 79.68 cents per Mcf for gas sold to Southern Natural Gas Co. from the Fairchild-Dock Magee gas well located on a unit described as Section 12, Township 2 North, Range 11 West, Walthall County, Miss. Petitioners state that production from the Dock Magee well would have been curtailed as of July 31, 1977 without the installation of a compressor which was installed on a rental basis in August 1977. Therefore Petitioners seek said relief retroactive to August 1, 1977.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28991 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CI76-253]

CIG EXPLORATION, INC.

Petition to Intervene Out of Time and to Reopen Record

OCTOBER 3, 1978.

Take notice that August 22, 1978, Monsanto Co., et al.[1] (Petitioners), 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056, filed a petition out of time in Docket No. CI76-253 for leave to intervene and with the request that the record be reopened pursuant to §§ 1.7 and 1.8 of the Commission's Rules of Practice and Procedure (18 CFR 1.7 and 1.8).

Petitioners state that on January 18, 1978, CIG Exploration, Inc. (CIGE) was granted a certificate of public convenience and necessity in Docket No. CI76-253 authorizing the sale of natural gas to Colorado Interstate Gas Co. (CIGC) from the Madden Deep Field, Freemont County, Wyo. On the same day, January 18, 1978, a complaint was filed by petitioners in the District Court for the Ninth Judicial District, County of Freemont, State of Wyoming, in Civil Action No. 18750. As a result of this lttigation it may be determined that CIGE owns no interest in gas produced and sold pursuant to the authorization granted in Docket No. CI76-253. Therefore, Monsanto et al., desire to intervene in this proceeding in order to protect their interests as they may appear and request that the record in this proceeding be reopened for the limited purpose at this time of receiving the complaint in Civil Action No. 18750 as evidence of their potentially adverse interest of ownership in the gas now being delivered to CIGC.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 20, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28989 Filed 10-12-78; 8:45 am]

[1] Joining in this petition are Monsanto Co., W. A. Moncrief, Jr.; Inexco Oil Co., North Central Oil Corp., Sohio Natural Resources Co. (formerly Sohio Petroleum Co.), W. A. Grace & Co., Yates Drilling Co., Martin Yates III; Erving Wolfe and Harold B. Ehrlich.

[6740-02-M]

[Docket No. RP76-135]

CITIES SERVICE GAS CO.

Proposed Changes In FERC Gas Tariff

OCTOBER 2, 1978.

Take notice that Cities Service Gas Co. (Cities Service) on September 22, 1978, tendered for filing Third Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that this filing is in compliance with the Commission's order issued December 21, 1977, in Docket No. RP76-135, approving the September 13, 1977, Stipulation and Agreement (Article V, Section 2).

Cities Service states that copies of its filing were served on all jurisdictional customers, interested State commissions and all parties to the proceedings in Docket Nos. RP72-142, RP74-4, and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28990 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-37]

LAWRENCEBURG GAS TRANSMISSION CORP.

Certification of Record in Connection With Proposed Settlement Agreement

OCTOBER 4; 1978.

Take notice that on August 15, 1978, Chief Administrative Law Judge Zwerdling certified to the Commission the record compiled in this docket in connection with a settlement agreement which had been filed with the Commission on July 3, 1978.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 30, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28992 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-93]

MAPCO Inc.

Petition for Special Relief

OCTOBER 4, 1978.

Take notice that on September 12, 1978, MAPCO Inc., 1800 South Baltimore Avenue, Tulsa, Okla. 74119 (Petitioner), pursuant to the provisions of § 2.76 of the Statements of General Policy and Interpretations of the Federal Energy Regulatory Commission, filed a Petition for Special Relief from the applicable adjusted rate ceiling for residue natural gas to be sold from a proposed new replacement processing plant at Tyrone, Okla. Petitioner requests authority to increase its sales price of residue gas to Northern Natural Gas Co. under its Gas Rate Schedule No. 10 in the amount of 2.4240 cents per Mcf above the applicable adjusted rate. Petitioner asserts that the replacement processing plant will conserve and make available significant volumes of residue gas now consumed as fuel at the existing processing plant, as well as permit the extraction of additional volumes of natural gas liquids. the Department of Energy's Office of Hearings and Appeals has already granted MAPCO Inc.'s Application for Exception, conditionally permitting it to sell the natural gas liquids produced at the new replacement processing plant at a price in excess of that specified in Subpart K of the Department of Energy's Mandatory Petroleum Price Regulations. Under the order, the exception relief granted by DOE is contingent upon Petitioner filing a petition for special relief pursuant to 18 CFR 2.76. The DOE will make appropriate adjustments in the level of exception relief applicable to the natural gas liquids depending on the extent of relief granted by the FERC. Special rate relief is requested from the FERC as a means of equitably distributing the costs generated by the investment between consumers of the additional volumes of residue gas and natural gas liquids to be made available by construction of the new replacement processing plant. The requested special rate relief would apportion to the residue gas a share of the cost of the relief awarded by the Department of Energy's Office of Hearings and Appeals, calculated on the basis of the ratio between the respective Btu contents of the additional volumes of residue gas and natural gas liquids which will result from construction of the replacement gas plant.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28993 Filed 10-12 78; 8:45 am]

[6740-02-M]

[Docket No. CP78-327, etc.]

MID-CONTINENT GAS STORAGE CO., ET AL.

Settlement Proposal

OCTOBER 5, 1978.

In the matter of Mid-Continent Gas Storage Co., Southern Natural Gas Co., docket No. CP78-327; Northern Illinois Gas Co., docket No. G-10632; Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Midwestern Gas Transmission Co., Southern Natural Gas Co., docket No. CP78-349.

Take notice that on October 2, 1978, the above-captioned parties filed a proposed Stipulation and Agreement and a motion for approval thereof in hopes of securing a settlement in the instant dockets. The substance of the proposal is quoted as follows:

STORAGE SERVICE

Southern has a serious need to increase its permanent storage capacity in order to satisfy its peak day requirements as has been demonstrated during the past two winters. In the 1976-77 winter, southern was required to curtail 100 percent of the gas allocated for industrial uses on its system for the entire period beginning January 11, 1977, and ending February 22, 1977. For 2 days in the middle of Janu-

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ary during this period, Southern had to curtail deliveries partially to priority 1 customers (residential and small commercial requirements) because of extended cold temperatures. similar but less severe curtailments were experienced during the 1977-78 winter. All priority 3 requirements were curtailed from January 22, 1978, through March 18, 1978, as were 40 percent of priority 2 from February 9, 1978, through March 11, 1978. If the proposed storage service had been available to Southern at the time, it would have been able to serve all of its high priority 1 through 3 requirements during the past winter. Testimony submitted in docket No. TC78-25, Southern's omnibus filing, projects that due to an improvement in gas supply all priority 1 through 3 needs can be met during the 1978-79 winter even under colder than normal weather conditions. However, that projection is partly based on the assumption that the instant storage proposal will be operational.

To meet its need on a long term basis, Southern, along with Tennessee & Bear Creek Storage Co. have filed applications with the Commission to develop a natural gas storage field in the Bear Creek field located in Bienville Parish, La. Because the Bear Creek project is not expected to be operational before the winter of 1981-82, Southern contracted with Mid-Continent for a temporary storage service until that time.

The Limited Term Storage Agreement (Agreement) between Mid-Continent and Southern, dated March 23, 1978, provides that Mid-Continent will provide Southern with up to 15 Bcf of storage capacity for each injection period (April 1 through November 30) during the term of the Agreement. Because the Agreement permits Southern to make advance withdrawals of gas, this storage capacity will be available to Southern for use during the up-coming winter heating season.

By providing Southern with immediate storage capacity through the 1980-81 winter, the proposed storage service fulfills Southern's temporary storage needs. for this reason, all parties agree that the proposed storage service is in the public interest and that the present and future public convenience and necessity require certification of the services proposed by Southern and the granting of a limited term certificate with pregranted abandonment to Mid-Continent to docket No. CP78-327.

Since the parties believe the proposed storage service is in the public interest, a settlement price of 82.40 cents per Mcf of storage capacity has been agreed to. The amendment to the Agreement providing for this price (and certain other minor necessary modifications to the Agreement) is attached as exhibit A. An affidivit by William E. Matthews, IV, Senior Vice President of Southern, supporting the reasonableness of this price is attached as exhibit B.

JURISDICTION

In order to provide the proposed storage services to Southern, Mid-Continent has leased an undivided interest in NI-Gas' intrastate storage and related transportation system pursuant to the terms and provisions of a "Limited Term Storage Leasing Agreement" dated March 23, 1978 (the "Lease").[1] The Lease is for an express limited term ending November 30, 1981. This Lease does not involve NI-Gas in any interstate transportation or sale of natural gas.

Under the terms of the Lease, Mid-Continent must accept injection gas from Southern at the already existing interconnection of NI-Gas' intrastate facilities with those of Midwestern Gas Transmission Co. ("Midwestern") or one or more of NI-Gas' other existing pipeline suppliers. The net effect of the Lease upon NI-Gas is that during some months, deliveries from Midwestern will increase but will be decreased by a corresponding equivalent amount during other months. "Withdrawal" of storage gas will be accomplished by NI-Gas backing off its interstate takes and causing such volumes to be made available to Southern via Midwestern and Tennessee. Physically, such an arrangement will not result in any increase of annual deliveries to NI-Gas and all gas received by NI-Gas from Mid-Continent under the terms and provisions of the Lease will be physically received and consumed In Illinois. None of the gas so received by NI-Gas can or will at any time thereafter flow outside the State of Illinois or in interstate commerce.

In the course of the settlement discussions, questions were raised as to the effect of the transactions contemplated under the Lease upon NI-Gas' status under the Natural Gas Act. As a public utility with all of its operations conducted solely within the State of Illinois, NI-Gas is subject to the jurisdiction of the Illinois Commerce Commission (Ill. C.C.) under the Illinois Public Utilities Act and the Lease is subject to Ill. C.C. review and approval. Pursuant to an Order issued July 26, 1956, in Docket No. G-10632. NI-Gas is exempt from the provisions of the Natural Gas Act under Section 1(c) thereof. In Docket No. G-10632, NI-Gas requested the Commission to issue an order declaring that its existing exemption under Section 1(c) will not be affected by the lease arrangement with Mid-Continent.

This Stipulation and Agreement recognizes that (1) Mid-Continent will be a jurisdictional natural gas company subject to Commission jurisdiction and (2) by conditioning the certificated in accordance with this Stipulation and Agreement, the Commission will have exercised plenary jurisdiction over the subject storage transaction. Therefore, since the Lease is conditioned upon the continuation of NI-Gas' nonjurisdictional status under the Natural Gas Act it is agreed that the exemption order requested by NI-Gas in Docket No. G-10632 should be issued.

TRANSPORTATION

In Docket No. CP78-349, Tennessee requested authorization to transport all injection and withdrawal volumes for Southern. For this transportation service, Southern has agreed to pay 21.09 cents per Mcf of gas delivered to Tennessee for Southern's account for injection into storage (see exhibit D for the deriviation of this rate) and to permit Tennessee to retain 4.67 percent of the volumes of gas delivered to Tennessee by Southern for transportation for fuel, company use, and loss and unaccounted for gas incurred by Tennessee in rendering the transportation service. In the event the total amoung paid to Tennessee for transportation services rendered during any injection period (April through November) is less than $2,109,000, then Southern will pay an additional charge equal to the difference between $2,109,000 and the amount actually paid. Southern will receive a credit against such charge to the extent that Tennessee's inability to transport gas results in less than 10 Bcf of gas being transported during any injection period. Tennessee has contracted with Midwestern for the transportation, in part, of Southern's gas and has agreed to pay Midwestern 7.48 cents per Mcf of gas delivered for Southern's account for injection into storage and to permit Midwestern to retain a portion of the 4.67 percent fuel and use volume. Tennessee will also pay a minimum bill based upon the transportation of 10 Bcf during each injection period and will also receive a credit against said minimum bill to the extent Midwestern's inability to transport gas results in less than 10 Bcf being transported during any injection period.

In the same docket, Southern requested authorization to modify the existing facilities at the interconnection of its system and Tennessee's system near Pugh, Miss., and to install certain new facilities at this point of interconnection in order to facilitate the delivery and receipt of the injection and withdrawal volumes. The estimated cost of these modifications is approximately $142,447.

The parties agree that it is in the public interest for Tennessee and Midwestern to render the proposed transportation services at the proposed rates [2] and for Southern to make the proposed modification to the interconnection between its system with Tennessee's system near Pugh, Miss., and that the present and future public convenience and necessity require certification of the activities proposed by Tennessee, Midwestern, and Southern in Docket No. CP78-349.

EFFECTIVENESS

This Stipulation and Agreement shall become effective upon the receipt and acceptance of the Commission's order approving the same without modification or condition, provided however, that if any party shall file a petition for rehearing of said order, the effectiveness of this Stipulation and Agreement shall abate at the option of either Southern or Mid-Continent until said order shall have become final and no longer subject to judicial review.

* * *

Comments to the proposed Stipulation and Agreement may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 16, 1978. Such Comments will be considered by the Commission in determining appropriate action, but will not serve to make commenters parties to the proceeding.

The record in this proceeding, including the Stipulation and Agreement, the motion for approval tariff filing, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28994 Filed 10-12-78; 8:45 am]

[1] The Lease has been amended by an Amendatory Agreement dated September 11, 1978, to conform to the amendment to the Limited Term Storage Agreement of even date. This Amendatory Agreement is attached as exhibit C.

[2] Actual transportation rates will reflect the outcome of Midwestern's and Tennessee's rate cases pending in Docket Nos. FP78-23 and RP78-62, respectively.

[6740-02-M]

[Docket No. CP78-528]

NORTHWEST PIPELINE CORP.

Application

OCTOBER 4, 1978.

Take notice that on September 19, 1978, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-528, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the construction and operation of a new point of delivery of natural gas to the Washington Water Power Co. (Water Power), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Water Power has requested Applicant to make a farm tap on its 6-inch Couer D'Alene Lateral in order to provide natural gas service to a worm farm located in Spokane County, Wash. It is stated that the maximum daily deliverability would be 2.4 Mcf of gas and that the annual volumes would be 285 Mcf of gas, with such volumes to be from quantities previously authorized for delivery to Water Power. It is further stated that the proposed service is necessary in order to maintain a temperature of 65° F in the worm shed to assure adequate protection of the product.

Applicant proposes no further changes in its service to Water Power.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28995 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2216]

POWER AUTHORITY OF THE STATE OF NEW YORK

Notice Granting Intervention

OCTOBER 2, 1978.

The Power Authority of the State of New York (PASNY) filed a Petition for Declaratory Order on March 6, 1976. PASNY requests the entire amount of replacement power (445,000 kilowatts) Niagara Mohawk Power Corp. (Niagara Mohawk) receives from PASNY under Article 22 of the license for the Niagara Project No. 2216 be allocated by Niagara Mohawk to industries located in the western New York area.

On May 24, 1978, the Municipal Electric Utilities Association of New York State (MEUA) filed a petition to intervene. MEUA is a nonprofit corporation consisting of 46 municipal and rural electric cooperatives in New York State. MEUA states that, as preference customers, they are entitled to at least 50 percent of the power made available for sale from the Niagara Project No. 2216. MEUA further states that they are not currently receiving their 50 percent and request that the 173 MW of power subject to dispute in this case be allocated to and reserved for preferential use by MEUA members.

No responses to MEUA's petition have been filed.

Pursuant to § 3.5(a) of the Commission's Rules of Practice and Procedure, 18 CFR 3.5(a), as promulgated by the FERC Rulemaking RM78-9 (issued August 14, 1978), MEUA is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)-825(r). Participation of the Intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petitions to intervene. The admission of the Intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this preceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28996 Filed 10-12-78; 8:45 am]

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[6740-02-M]

[Docket No. ER78-507]

PUBLIC SERVICE CO. OF COLORADO

Order Accepting Rates for Filing, Suspending Proposed Rate Increase, Allowing Interventions, and Establishing Procedures

OCTOBER 4, 1978.

On July 24, 1978, as completed September 5, 1978,[1] Public Service Co. of Colorado (PSCC) tendered for filing a proposed rate increase to five municipals, two private utilities, and two cooperative customers.[2] The proposed rate increase would result in additional revenues of approximately $2,052,707 (7.8%), based upon a test period consisting of the 12 months ending December 31, 1978.

Public notice of PSCC's filing was issued on July 27, 1978, with responses due on or before August 11, 1978.

On August 11, 1978, Intermountain Rural Electric Association (IREA) and Central Telephone & Utilities Co. (CTU), filed protests to PSCC's application and petitions to intervene. IREA requested a 1-day suspension of PSCC's proposed rates. On August 28, 1978, the town of Lyons, Colo. (Lyons) filed a Motion to Permit Late Filing of Protest and Petition to Intervene. Lyons urges the Commission to institute a hearing and suspend the proposed rates for the full statutory period.

In support of its filing, PSCC states that the rate increase is necessary because of the effect on PSCC's operations of escalating costs and inadequate rate of return on its investment.

We note that PSCC's case-in-chief includes an allocation of a portion of Liquid Metal Fast Breeder Reactor (LMFBR) research contributions and Electric Power Research Institute (EPRI) contributions to the resale cost of service. In *Carolina Power & Light Co.*, Opinion No. 19, we affirmed that part of the Initial Decision in which the Presiding Judge removed LMFBR contributions from the wholesale customers' cost of service.[3]

Contributions to EPRI are voluntary and are made on the basis of retail sales. Moreover, many wholesale customers make contributions to LMFBR and EPRI on the basis of their retail sales. Accordingly, we shall summarily dispose of the allocation to resale cost of service of contributions to LMFBR and EPRI. However, in this case, we shall not require PSCC to refile since the cost of refiling may outweigh the benefits to consumers. In the future, utilities should file cost support in accordance with our determination herein.

In addition, we note that PSCC has functionalized general plant by plant investment ratios. In *Minnesota Power & Light Co.*, Opinion No. 20, issued August 3, 1978, in Docket Nos. E-9499, et al., we held that general plant should be allocated on the basis of labor ratios. Further, we held that labor ratios should be used in allocating general plant in succeeding cases. In two subsequent orders,[4] we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable." PSCC bears this same burden in the instant case.

not merely that PSCC's alternative method might be reasonable. *Pennsylvania Electric Co.*, Docket No. ER78-494 (Order issued September 27, 1978); *Public Service Co. of Indiana*, Docket No. ER78-513, (Order issued August 25, 1978).

Our review indicates that the rates filed by PSCC have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Therefore, we shall accept for filing the submittals in this docket, except for those parts summarily disposed of, supra, and suspend same for 4 months to become effective February 5, 1979, subject to refund.

We find that participation by the petitioners in this proceeding may be in the public interest. Accordingly, the Commission will grant the Petitioners' intervention pursuant to § 1.8(d) of the Commission's Rules of Practice and Procedure.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(A) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Public Service Co. of Colorado in this proceeding.

(B) Pending such hearing and decision thereon, the rates proposed by Public Service Co. of Colorado are hereby accepted for filing and suspended for 4 months, to become effective as of February 5, 1979, subject to refund.

(C) The Federal Energy Regulatory Commission staff shall prepare and serve top sheets on all parties on or before January 27, 1979.

(D) All petitioners are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation by these intervenors shall be limited to matters set forth in their respective petitions to intervene; and *Provided, further,* That the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission in this proceeding.

(E) A presiding administrative law judge to be desingated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said law judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A—PUBLIC SERVICE CO. OF COLORADO RATE SCHEDULE DESIGNATIONS

Filing date: September 5, 1978.
Dated: Undated.
Other parties: wholesale customers, as indicated.
Index code: F.

DESIGNATION AND DESCRIPTION
City of Aspen, Colo.
Supplement No. 7 to rate schedule FPC No. 3 (supersedes supp. No. 6)—Schedule of rates for service.
Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 3 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.
Town of Lyons, Colo.
Supplement No. 7 to rate schedule FPC No. 6 (supersedes supp. No. 6)—Schedule of rates for service.
Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 6 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.
Home Light & Power Co.
Supplement No. 11 to rate schedule FPC No. 9 (supersedes supp. No. 10)—Schedule of rates for service.
Supplement No. 1 to supplement No. 11 to rate schedule FPC No. 9 (redesignation of supp. No. 1 to supp. No. 10)—Fuel cost adjustment clause.
City of Glenwood Springs, Colo.
Supplement No. 6 to rate schedule FPC No. 11 (supersedes supp. No. 5)—Schedule of rates for service.
Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 11 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.
Colorado-Ute Electric Association, Inc.
Supplement No. 12 to rate schedule FPC No. 12 (supersedes supp. No. 11)—Schedule of rates for service. (including transmission agreement).
Supplement No. 1 to supplement No. 12 to rate schedule FPC No. 12 (redesignation of supp. No. 1 to supp. No. 11)—Fuel cost adjustment clause.
Central Telephone & Utilities Corp. (Southern Colorado Power Division)
Supplement No. 7 to rate schedule FPC No. 13 (supersedes supp. No. 6)—Schedule of rates for service.
Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 13 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.
Intermountain Rural Electric Association
Supplement No. 6 to rate schedule FPC No. 14 (supersedes supp. No. 5)—Schedule of rates for service.
Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 14 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.
City of Burlington, Colo.
Supplement No. 6 to rate schedule FPC No. 15 (supersedes supp. No. 5)—Schedule of rates for service.
Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 15 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.
Town of Center, Colo.
Supplement No. 2 to rate schedule FPC No. 17—Schedule of rates for service.
Supplement No. 1 to supplement No. 2 to rate schedule FPC No. 17 (redesignation of supp. No. 1 to supp. No. 1)—Fuel cost adjustment clause.

[FR Doc. 78-29023 Filed 10-12-78; 8:45 am]

[1] By letter dated August 14, 1978, Public Service Co. of Colorado (PSCC) was apprised that the filing of July 24, 1978, had been assessed deficient. On September 5, 1978, PSCC filed additional information curing the deficiency.

[2] See Attachment A for Rate Schedule Designations.

[3] See also *Connecticut Light & Power Co.*, Docket No. ER77-517 (Order issued August 31, 1978).

[4] Pennsylvania Electric Co., Docket No. ER78-494 (Order issued September 27, 1978); *Public Service Co. of Indiana*, Docket No. ER78-513, (Order issued August 25, 1978).

[6740-02-M]

[Docket No. AR61-2, etc.]

SOUTHERN NATURAL GAS

Declaratory Order Requiring Payment of Interest on Refunds

OCTOBER 2, 1978.

Take note that on September 1, 1978, the Alabama Muncipal Distributors Group (MDG) filed with the Commission a petition for Declaratory Order Requiring Payment of Interest on Refunds in the above-referenced dockets. On September 14, 1978, Alabama Gas Corp. joined that petition.

MDG states that Southern Natural Gas Co., Docket Nos. AR61-2, AR67-1 & AR69-1, *et al.*, G-13258, G-18512, G-20509 & RP60-15, RP64-31, RP70-5 & RP70-16, RP70-38, *et al.*, and RP72-91, *et al.*, has had in its posession certain producer refund dollars for varying periods of time and has refunded to its customers only the amounts actually received by Southern (including in some instances principal and interest for certain producer's refunds). MDG further states that Southern has not refunded to its customers any interest for the various periods during which Southern has held the producer refunds. MDG further states that Southern is obligated to include interest for the period of time it held the producer refunds and should be required to make a refund of this interest to its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or comments should be filed on or before October 23, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28997 Filed 10-12-78; 8:45 am]

[6740-02]

[Docket No. CI78-1009]

SUN OIL CO.

Application for Certificate Pursuant to Optional Procedure

OCTOBER 3, 1978.

Take notice that on July 17, 1978, Sun Oil Co. (Sun), P.O. Box 20, Dallas, Tex. 75221, filed an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, and 18 CFR 2.75 (optional procedure).

Sun requests an initial rate of $3.21/Mcf plus 4 percent annual escalations for sales of its natural gas from High Island Blocks A-327 and A-332, offshore Texas to Trunkline Gas Co. (Trunkline). Sun calculates the average requested price for the life of the reserves (adjusted for a 3 month delay in price relief) to equal $3.51/Mcf, inclusive of a 17 percent rate of return. Sun estimates it will sell 23.5 Bcf of reserves to Trunkline over the 12 year life of the subject reserves.

The subject gas sale contracts contain depth limitation clauses and area rate clauses. Sun "conditionally" waives its area rate clause, pursuant to the requirements of 18 CFR 2.75(f). Sun owns 18.5 percent of the working interest in each of the 2 blocks, and Pennzoil Louisiana and Texas Offshore (Plato), Pennzoil Oil and Gas, Inc. (POGI) and Pogo Producing Co. (Pogo) together own 13 percent of the working interests of the blocks. Plato has filed for an optional procedure rate for these two blocks, inter alia, in Docket No. CI78-767 on May 17, 1978.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28998 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-114]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

OCTOBER 2, 1978.

Take notice that on September 25, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), filed a plan for disposition of refunds which it received from Sea Robin Pipeline Co. in Docket No. RP77-6.

Tennessee states that upon Commission approval of its refund plan it will flow through to its customers the entire $499,265.83 which is received by means of a credit to its Unrecovered Purchased Gas Cost Account.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

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with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28999 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-90]

TIPPERARY OIL & GAS CORP.

Petition for Special Relief

OCTOBER 4, 1978.

Take notice that on September 5, 1978, Tipperary Oil & Gas Corp., 500 West Illinois, P.O. Box 3179, Midland, Tex. 79702 (Petitioner) filed a petition for special relief from the pricing provisions of FPC Opinion No. 770-A, issued November 5, 1976, with regard to the Calf Canyon Unit, Garfield County, Colo. Petitioner requests that $1.50 per Mcf be added to the applicable FERC regulated price and paid to the working interest owner (Petitioner) in order to permit an equitable return on a proposed gathering system that would serve the Calf Canyon Unit. Petitioner states that the applicable wellhead natural gas prices, to which the $1.50 rate would be added, vary from $0.697 to $1.20 per Mcf. The purchaser of the gas is identified as Northwest Pipeline Corp., P.O. Box 15267, Salt Lake City, Utah 84110. Petitioner also states that seven Calf Canyon Unit wells have been drilled to date, with one more planned during 1978.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29000 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP 78-541]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

OCTOBER 5, 1978.

Take notice that on September 27, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-541 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (8 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the constuction, during the 12-month period commencing October 22, 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $12,000,000, with the cost of no single offshore projects to exceed $2,500,000 and the cost of no single onshore project to exceed $1,500,000. Applicant indicates that the cost of the proposed facilities would be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unncessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29028 Filed 10-12-78; 8:45]

[6740-02-M]

[Docket No. CP78-536]

TRUNKLINE GAS CO.

Application

OCTOBER 5, 1978.

Take notice that on September 25, 1978, Trunkline Gas Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-536 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing upon the date of issuance of the requested certificate, and operation of certain natural gas purchase facilities, to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to take into its certificated mainline pipeline system such natural gas which is or may become available due to expansion, development or production of existing or new sources of supply in the general area of its system or to connect such gas to the system of another natural gas company authorized to transport for or exchange with Applicant such gas.

Applicant states that the total cost of the proposed facilities would not exceed $10 million, with no single onshore project to exceed $1,500,000 and no single offshore project to exceed $2,500,000. Applicant states that the proposed facilities would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29029 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RA78-5]

YOUNG REFINING CORP.

Notice Granting Extension of Time

OCTOBER 2, 1978.

On September 22, 1978, Counsel for the Secretary of Energy filed a motion for extension of time within which to file the administrative record and reply to petition for review in the above captioned proceeding. The motion noted belated service of the petition for review upon the Secretary.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 23, 1978, for the filing of the administrative record and reply to petition for review in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-29030 Filed 10-12-78; 8:45 am]

[3128-01-M]

Office of Hearings and Appeals

NATURAL GAS PLANT OPERATORS

Applications for Exception; Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Departmental Determinations with Respect to Amendments to 10 CFR, Part 212, Subpart K, 43 FR 42984 (Sept. 21, 1978).

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) hereby gives notice of the procedures which it has adopted and will follow with respect to Applications for Exception from 10 CFR, Part 212, Subpart K. The DOE adopted amendments to those regulations effective November 1, 1978, concerning nonproduct cost passthroughs for natural gas plant operators. 43 FR 42984 (Sept. 21, 1978). The parties affected by this Notice include operators of approximately 350 gas plants whose current exception relief expires after November 1, 1978; 20 firms which have filed initial applications for exception relief; 20 firms to whom Proposed Decisions and Orders have been issued; 9 firms who have objections outstanding to Proposed Decisions and Orders; and approximately 47 firms which have applied for extensions of previous exception relief.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 2000 M Street NW., Room 8014 Washington, D.C. 20461 202-254-9681.

SUPPLEMENTARY INFORMATION: The Department of Energy has adopted amendments to 10 CFR, Part 212, Subpart K, which govern the prices at which natural gas liquids (NGLs) and natural gas liquid products (NGLPs) may be sold. See 43 FR 42984 (Sept. 21, 1978). These regulatory amendments, which will become effective on November 1, 1978, permit natural gas plant operators to pass through certain of their increased nonproduct costs relating to the processing and marketing of NGL's and NGLP's.

Under the provisions of § 212.165 of Subpart K which existed prior to the September 21 modifications and which will remain in effect until November 1, 1978, natural gas plant operators have been permitted to increase the prices of NGL's and NGLP's to reflect certain increased nonproduct costs, up to $0.005 per gallon for NGLPs and $0.00375 for NGL's. In a preamble to the rulemaking proceeding in which the original Subpart K was promulgated, the Federal Energy Administration recognized that some natural gas plant operators could experience inequities as a result of the regulatory limitations on cost passthroughs. Accordingly, the FEA indicated that:

> Any firms that have increased nonproduct costs of gas processing that would justify a greater price increase than 0.5 cents per gallon may request permission to charge higher prices, on a case-by-case basis through the exceptions process.

39 FR 44407 (Dec. 24, 1974).

On May 28, 1975, the Superior Oil Co. filed an Application for Exception in which it stated that it had incurred increased nonproduct costs since May 15, 1973 at four of its natural gas processing plants. According to Superior, those increases ranged from $0.009 per gallon to $0.032 per gallon. The firm claimed that its inability to increase its selling prices to reflect these increased nonproduct costs constituted a gross inequity. In reviewing that contention, the FEA found that:

> No public purpose will be served by prohibiting natural gas processors which have incurred nonproduct cost increases substantially in excess of $0.005 per gallon from passing through these cost increases.

Superior Oil Co., 2 FEA Par. 83,271 (Aug. 29, 1975).

The FEA noted that exception relief to allow the passthrough of those costs would prevent continued inequitable treatment of natural gas plant operators and could also provide an incentive for those firms to increase their production to alleviate the nationwide shortage of NGL's. Therefore, the FEA granted exception relief to Superior, permitting the firm to increase its selling prices to reflect the increased nonproduct costs which it had incurred. In addition, the FEA stated that it would, as a general rule:

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[G]rant exception relief to any gas processing plant which can demonstrate that its nonproduct costs, since May 1973, have increased substantially in excess of the $0.005 per gallon passthrough permitted under the provisions of § 212.165.

Id. at p. 83,865.

Following the issuance of the *Superior* decision, the FEA Office of Exceptions and Appeals and its successor, the DOE Office of Hearings and Appeals, have received numerous requests for exception relief involving hundreds of natural gas processing plants. The general practice of the Office of Hearings and Appeals with regard to those requests has been to grant exception relief from the provisions of § 212.165 to any natural gas plant operator which can demonstrate that its nonproduct unit cost increase is materially in excess of the passthrough permitted under the regulations.

However, after the November 1, 1978 effective date of the amendments to the Subpart K regulations, natural gas plant operators will be authorized to pass through the allowable nonproduct cost increases specified in § 212.165 without a dollar limitation. In contrast to the existing version of Subpart K, the amendments specify in detail the allowable categories of nonproduct costs. In addition, the new regulations set forth the general accounting procedures to be used and indicate the principles for specific costs such as extraordinary and irregular nonrecurring expense items and processing costs that are deemed to be incurred by a firm. The amended version of § 212.166 describes in detail the method of recovering increased marketing costs. Finally, a news § 212.169 has been added which sets forth provisions regarding the methods for carrying forward unrecovered increased costs and for correcting overrecoveries of such costs (the "banking" provisions).

Since natural gas plant operators will be permitted after November 1, 1978 to pass through certain increased nonproduct costs without a dollar limitation, we believe that the need for those firms to continue to apply for exception relief under the *Superior* precedent on a plant-by-plant basis will be eliminated. In order to facilitate the transition from a case-by-case exception process to a self administered regulatory system, the Office of Hearings and Appeals has taken a number of steps that will affect those firms which have previously been granted exception relief or which have filed applications for exception relief from the former provisions of Subpart K. The remainder of this Notice describes the procedures which the Office of Hearings and Appeals has adopted and expects to follow in processing pending exception applications and providing administrative relief during the transitional period prior to November 1 in those situations in which a firm has been granted exception relief.

Firms With Exception Relief in Effect After November 1

The DOE has granted exception relief with respect to approximately 350 natural gas plants which will expire, under the terms of the respective orders, after the November 1, 1978 effective date of the new Subpart K regulations. In anticipation of the adoption of amendments to Subpart K, each Decision and Order included the following ordering paragraph:

If § 212.165 which specifies the limitation on the passthrough of nonproduct cost increases is amended subsequent to the effective date of this Order or if the applicant alters its operations at any of its plants to produce natural gas liquid products rather than natural gas liquids, then the exception relief granted above shall be reduced by any excess of (i) the average limitation on the passthrough of nonproduct cost increases, which the firm is required under § 212.165 of the DOE regulations to utilize for the plant concerned in calculating its allowable nonproduct cost increase during the period for which the relief provided in this Order is effective, over (ii) the level of increased nonproduct cost passthroughs under § 212.165 for that natural gas processing plant which was utilized to calculate the level of exception relief in this Order.

In those cases in which the level of exception relief on a per unit basis is less than the level of passthrough permitted under the revised regulations, the exception relief will be automatically reduced to zero by the provision quoted above. The firms involved may of course increase their prices to the full extent permitted under the new regulations. However, it is possible that a small number of firms will actually incur a lower level of increased nonproduct costs at certain plants following November 1 than they were authorized to pass through under the terms of exception decisions. Those firms would continue to set prices on the basis of the level of exception relief specified in the Decision and Order issued to them. The amount of exception relief specified would constitute the total amount of nonproduct cost passthrough permitted for the period of relief.

Pending Applications for Exception

Approximately twenty firms have filed initial applications for prospective relief under the *Superior Oil* precedent. The Office of Hearings and Appeals has dismissed the applications without prejudice to a refiling. The rationale for the dismissals was that the full passthrough of nonproduct cost increases will be available under the new regulations following November 1, 1978. Consequently, exception relief will no longer be necessary after that date.

In addition, one firm has filed an application for retroactive exception relief from the former version of Subpart K. See *Estates of Inez and Loyce Phillips*, Case No. DEE-0319 (D.O.E. filed November 25, 1977). This application will be processed in the course of the normal review process administered by the Office of Hearings and Appeals.

Pending Proposed Decisions and Orders

From July 24 through August 22, 1978, the Office of Hearings and Appeals issued twenty Proposed Decisions and Orders, involving 51 natural gas processing plants, concerning requests for exception relief from the existing nonproduct cost passthrough ceilings. With respect to those Proposed Decisions and Orders for which no Notice of Objection has been filed, the Office of Hearings and Appeals has determined that the exception relief specified in those Proposed Decisions will be granted in final form. See e.g., *Allied Chemical Company*, 2 DOE Par. (September 29, 1978). As indicated in that determination, the exception relief will expire on October 31, 1978, instead of continuing in effect throughout the normal 6-month period. This result will provide exception relief to this class of affected firms until the regulatory changes take effect on November 1, 1978. Once the amended regulations are effective, however, nonproduct cost increases will be passed through in accordance with the new regulatory provisions.

Objections to Proposed Decisions and Orders have been received from 9 firms, involving 22 gas plants. Those Objections will be reviewed in accordance with the normal adjudicatory procedures, and determinations will be issued to those applicants in final form.

Pending Applications for Extension of Exception Relief

The Office of Hearings and Appeals has received applications for extension of exception relief from approximately 47 firms, involving 301 gas plants. Each of those firms was previously granted exception relief which expires on or before September 30, 1978. On October 2, 1978, the DOE issued a Proposed Decision and Order granting each firm an extension of exception relief for the period October 1 through October 31, 1978. *Allied Chemical Corporation, et al.*, Cases Nos. DXE-1561, *et al.*, Proposed Decision and Order (D.O.E. October 2, 1978). The passthrough allowed under the Proposed Decision and Order is equal in amount to the exception relief most recently granted for each gas plant by the Office of Hearings and Appeals.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95 70, Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95 91; Department of Energy Organization Act Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., October 6, 1978.

Melvin Goldstein,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-29064 filed 10-12-78; 8:45 am]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Issuance of Proposed Decisions and Orders; September 18 through September 22, 1978

Notice is hereby given that during the period September 18 through September 22, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

Dated: October 5, 1978.

Melvin Goldstein,
Director,
Office of Hearings and Appeals.

Proposed Decisions and Orders

Aminoil U.S.A., Inc., Washington, D.C., DEE-1432, crude oil.

Aminoil U.S.A., Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Aminoil to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 20, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Charter Oil Co., Jacksonville, Fla., DXE-1398, crude oil.

Charter Oil Co. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Charter of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Custer Gas Service, Custer, S. Dak., DEE-1077, propane.

Custer Gas Service filed an application for exception from the provisions of 10 CFR 212.93. The exception request, if granted, would relieve the firm of its obligation to refund revenues which it obtained by charging prices for propane that exceeded maximum permissible prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

DeMenno Resources, Los Angeles, Calif., DEE-0965, crude oil.

DeMenno Resources filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve DeMenno of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 18, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Getty Oil Co., Los Angeles, Calif., DEE-1377 through DEE-1381, crude oil.

Getty Oil Co. filed five applications for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell the crude oil produced from five leases in the Zaca Field located near Santa Maria, Calif., at prices in excess of the levels set forth in 10 CFR, Part 212, Subpart D. On September 22, 1978, the DOE issued a proposed decision and order in which it determined that exception relief should be granted in part for the five leases.

Kewanee Oil Co., Tulsa, Okla., DXE-1288, crude oil.

Kewanee Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to Kewanee and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the South Stanley Lease located in Burbank Field, Osage County, Okla. On September 19, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Little America Refining Co., Washington, D.C., DXE-1465, crude oil.

Little America Refining Co. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Little America of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Newhall Refining Co., Inc., Dallas, Tex., DXE-1322, crude oil.

Newhall Refining Co., Inc. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Newhall of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

P & M Petroleum Management, Denver, Colo., DXE-1606, crude oil.

P & M Petroleum Management filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to P & M and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the track lease located in the Tule Creek South Field in Roosevelt County, Mont. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Pierremont Petroleum Corp., Scott County, Miss., DEE-1429, crude oil.

On July 20, 1978, the Pierremont Petroleum Corp. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell crude oil produced from the C. G. Henderson 17-8 No. 1 well at upper tier ceiling prices. On September 20, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

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Sidney E. Pinkston, Jr., Natchez, Miss., DEE-1409, crude oil.

Sidney E. Pinkston, Jr. filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from the U.S.A. No. 1, U.S.A. No. 5 and U.S.A. No. 7 wells located on lease BLM-A-011586-C in the Beaver Branch Field of Adams County, Miss. at upper tier ceiling price levels. On September 20, 1978 the DOE issued a proposed decision and order which determined that the exception request be granted.

S & W Engine Supply Co., Oklahoma City, Okla., DXE-1472, crude oil.

The S & W Engine Supply Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit S & W to continue to sell certain quantities of the crude oil which it produces from the Baker Townsend Lease at upper tier ceiling prices. On September 18, 1978, the Department of Energy issued a proposed decision and order which determined that the exception request be granted.

Tenneco Oil Co., Houston, Tex., DEE-1557, crude oil.

Tenneco Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell certain quantities of the crude oil produced from the south coast unit, located in St. Mary Parish, La., at upper tier ceiling prices. On September 20, 1978, the DOE issued a proposed decision and order which determined that the Tenneco exception request be granted.

[FR Doc. 78-28900 Filed 10-12-78; 8:45 am]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Case Filed Week of September 22 through September 29, 1978

Notice is hereby given that during the week of September 22 through September 29, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

OCTOBER 5, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 22 through Sept. 29, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 22, 1978	Kenr, Houston, Tex	DFA-0221	Appeal of an information request denial. If granted: The Aug. 18, 1978 information request denial would be rescinded and KENR would receive access to certain DOE data concerning Tauber Oil Co.
Do	Sun Co., Inc., Dallas, Tex	DXE-1869	Extension of the relief granted in *Sun Company, Inc.*, case No. FXE-4784 (decided June 5, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Pledger plant.
Do	do	DEE-1881 through DEE-1885.	Price exception (sec. 212.165). If granted: Sun Co., Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Dragon Trail, Levelland, Okeene, Star Lacey, and Womack plants.
Sept. 26, 1978	Coastal States Gas Corp., Houston, Tex	DXE-1893	Extension of the relief granted in *Coastal States Gas Corp.*, case No. DXE-0458 (decided July 6, 1978) (unreported decision). If granted: Coastal States Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Lakin plant.
Do	Continental Oil Co., Houston, Tex	DEE-1889	Price exception (sec. 212.83). If granted: Continental Oil Co. would be permitted to adjust its May 1973 marketing cost base to reflect its subsequent divestiture of motor gasoline marketing facilities.
Do	Craft Petroleum Co., Inc., Jackson, Miss	DEE-1886	Price exception (sec. 212.73). If granted: Craft Petroleum Co., Inc. would be permitted to sell the crude oil produced from the Rosenblatt No. 1 well located in Wilkinson County, Miss., at upper tier ceiling prices.
Do	Econ-O-Gas, Inc., Temple, Tex	DSG-0031	Request for special redress. If granted: The Office of Hearings and Appeals would review the Nov. 22, 1978 assignment order, the three-party agreement submitted for Econ-O-Gas, Inc., Atlantic Richfield Co., and Foremost Petroleum Corp., and the Dec. 22, 1978 termination order to assess their compliance with the requirements of due process.
Do	Gulf Oil Corp., Tulsa, Okla	DEE-1894 through DEE-1902.	Price exception (sec. 212.165). If granted Gulf Oil Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Diamond "M", Gulf Venice, McLean, Okeene, Selling, Slaughter, Thompson, Wright, and Yowlumne plants.
Do	McAfee, Taft, Mark, Bond, Rucks & Woodruff, Oklahoma City, Okla.	DFA-0222	Appeal of information request denial. If granted: The information request denial of Sept. 6, 1978, would be rescinded and McAfee, Taft would be granted access to copies of transcripts of interviews regarding a notice of probable violation issued to Unit Operations, Inc.
Do	Natrogas, Inc., Minneapolis, Minn	DEE-1887	Exception to change suppliers. If granted: Natrogas, Inc. would be assigned a new, lower-priced supplier of propane to replace its base period suppliers, Shell Oil Co., Mobil Oil Corp., and Warren Petroleum.
Do	New England Power Co., Houston, Tex	DRD-0113	Motion for discovery. If granted: Discovery would be granted to New England Power Co. with respect to its statement of objections to a proposed remedial order issued by the Office of Special Counsel for Compliance to Coastal States Gas Corp. on Sept. 6, 1978.
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-1888	Price exception (sec. 212.73). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Evelyn "A" lease located in Converse County, Wyo., at upper tier ceiling prices.
Do	Robert B. Sutton, Tulsa, Okla	DSG-0032 and DES-0104.	Request for special redress. Request for stay. If granted: The Office of Hearings and Appeals would review the Aug. 31, 1978 denial of the application to quash a subpena submitted by Rober B. Sutton and compliance with the subpena would be stayed pending a determination of his request for special redress.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 22 through Sept. 29, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Texas City Refining, Inc., Washington, D.C.	DSG-0033	Request for special redress. If granted: Texas City Refining, Inc. would receive a stay of its entitlement purchase obligations for the period September through November 1978.
Sept. 27, 1978	Dunaway, McCarthy & Dye, Washington, D.C.	DFA-0223	Appeal of an information request denial. If granted: The information request denials of Aug. 21 and Aug. 30, 1978, would be rescinded and Dunaway, McCarthy & Dye would be granted access to certain DOE material relating to the applicability of the mandatory petroleum allocation and price regulations (10 CFR pts. 221 and 212) to the sale of covered products under future contracts.
Do	Edgington Oil Co., Inc., Washington, D.C	DXE-1890	Extension of the relief granted in *Edgington Oil Co., Inc.*, 2 DOE par. — (Aug. 16, 1978). If granted: Edgington Oil Co., Inc. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	Northland Oil & Refining Co., Tulsa, Okla.	DEE-1892	Exception to the entitlements program. If granted: Northland Oil & Refining Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to the firm's entitlement purchase obligation for the period July through December 1978.
Do	Warrior Asphalt Co. of Alabama, Washington, D.C.	DXE-1891	Extension of the relief granted in *Warrior Oil Co. of Alabama*, 2 DOE par. — (July 20, 1978). If granted: Warrior Asphalt Co. of Alabama would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Sept. 28, 1978	Advanced Sales Corp., St. Petersburg, Fla	DFA-0224	Appeal of an information request denial. If granted: The Sept. 1, 1978 information request denial would be rescinded and Advanced Sales Corp. would receive access to certain DOE data regarding orders issued by DOE region IV on Apr. 5 and July 12, 1974.
Sept. 29, 1978	Baltimore Gas & Electric Co., Baltimore, Md.	DEA-0225	Appeal of an ERA order. If granted: The Aug. 24, 1978 decision and order would be rescinded and Baltimore Gas & Electric Co. would be assigned a base period volume and use authorization of propaned for possible Btu enrichment.
Do	Mobil Oil Corp., New York, N.Y	DRH-0105 and DRD-0105.	Request for evidentiary hearing and motion for discovery. If granted: An evidentiary hearing would be conveyed in connection with Mobil Oil Corp.'s statement of objections regarding a proposed remedial order issued to it on Aug. 23, 1978. In addition, Mobil would be authorized to take depositions of Mr. August P. Rossi, Jr. and Mr. Douglas J. Siemer.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 26, 1978	Damson Oil Corp., Houston, Tex	DXE-1607
Do	Dixie Gas Industries, Inc., Goldenrod, Fla	DEO-0120

Proposed Remedial Orders

Sept. 26, 1978	Raymond Oil Co., Huron, S. Dak	DRO-0118
Do	Lundells, Texas, Alice, Tex	DRO-0119

[FR Doc. 78-28901 Filed 10-12-78; 8:45 am]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Cases Filed Week of September 15, 1978 through September 22, 1978

Notice is hereby given that during the week of September 15, 1978 through September 22, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 28, 1978.

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APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 15, 1978 through Sept. 22, 1978]

Date	Name and location of applicant	Case No.	Type of Submission
Sept. 15, 1978	Graham-Michaelis Drilling Co., Wichita, Kans.	DEE-1837	Price exception (sec. 212.165). If granted: Graham-Michaelis Drilling Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Mooreland plant.
Do	Meason Operating Co., Natchez, Miss	DXE-1836	Extension of relief granted in *Meason Operating Company*, 1 DOE par. 81,038 (Dec. 14, 1977). If granted: Meason Operating Co. would be permitted to sell crude oil produced from the Arnold Perry unit No. 1, East Keilly field located in Wilkinson County, Miss., at upper tier ceiling prices.
Do	Quincy Oil, Inc., Boston, Mass	DED-0447	Motion for discovery. If granted: Quincy Oil, Inc. would be granted discovery with respect to a DOE audit regarding the firm's sales of No. 6 fuel oil and with respect to various DOE administrative proceedings involving the firm.
Do	Tenneco Oil Co., Houston, Tex	DXE-1838 through DXE-1850.	Extension of relief granted in *Tenneco Oil Company*, case Nos. DXE-0874 through DXE-0885 (decided Apr. 20, 1978) and case No. FXE-4738 (decided Nov. 4, 1977) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Chesterville, La Porte, Leabo, Pearce, Stephens, Ward, Dover Hennessey, Lake Bouef, Mayfield, Mermentau, Normanna, Prentice, and South Fullerton plants.
Do	do	DEE-1851 through DEE-1855.	Price exception (sec. 212.165). If granted: Tenneco Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Pashing field, Hollywood, Mooreland, Nueces River, and Sea Robin plants.
Sept. 18, 1978	Jimmie Austin d.b.a. Austin Drilling Co., Seminole, Okla.	DRX-0108	Supplemental order. If granted: The appeal procedure specified in the remedial order issued to Austin Drilling Co. on Sept. 14, 1978, would be altered to provide that any party aggrieved by the determination may seek judicial review.
Do	Charter Oil Co., Jacksonville, Fla	DEX-0109	Supplemental order. If granted: Charter Oil Co. would receive a stay of its entitlement purchase obligations.
Do	Energy Consumers & Producers Association, Seminole, Okla.	DEE-1856	Price exception (sec. 212.73). If granted: The Energy Consumers & Producers Association would be permitted to sell the crude oil produced from the Austin Chalk-Buda Trend of South Texas at upper tier ceiling prices.
Do	Gulf Oil Corp., Houston, Tex	DEX-0107	Supplemental order in *Gulf Oil Corp.*, 1 DOE par. 80,227 (Mar. 21, 1978). If granted: The DOE's decision and order in case No. FRA-1423, issued on Mar. 21, 1978, would be rescinded.
Do	Little America Refining Co., Englewood, Colo.	DEX-0110	Supplemental order. If granted: Little America Refining Co. would receive a stay of its entitlement purchase obligations.
Do	Charles Schwartz, Berkeley, Calif	DFA-0214	Appeal of an information request denial. If granted: The DOE's June 23, 1978 information request denial would be rescinded and Charles Schwartz would receive access to certain DOE data relating to the selection of the directors of the Los Alamos Scientific Laboratory and Lawrence Livermore Scientific Laboratory, as well as correspondence regarding enhanced radiation weapons.
Do	True Oil Purchasing Co., Casper, Wyo	DFA-0215	Appeal of an information request denial. If granted: The DOE's information request denial of Aug. 14, 1978, would be rescinded and True Oil Purchasing Co. would be granted access to certain DOE materials relating to the promulgation of 10 CFR, pt. 212, subpt. L (reseller regulations).
Sept. 20, 1978	American Petrofina, Inc., Dallas, Tex	DPI-0020	Appeal of an oil imports order. If granted: The Sept. 15, 1978 order issued by the Office of Oil Imports would be rescinded and American Petrofina would be permitted to import crude oil on a fee-exempt basis during the period May 1, 1978 through Apr. 30, 1979.
Do	City of Long Beach, Calif	DXE-1870	Extension of relief granted in *City of Long Beach, California*, 1 DOE par. 81,105 (Apr. 11, 1978). If granted: The city of Long Beach would be permitted to sell the crude oil produced from the block III unit located in Los Angeles County, Calif., at upper tier ceiling prices.
Do	Coastal States Gas Co., Houston, Tex	DEE-1863	Price exception (sec. 212.165). If granted: Coastal States Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Bluebell plant.
Do	Crown Central Petroleum Corp., Bellaire, Tex.	DEE-1872	Price exception (sec. 212.73). If granted: Crown Central Petroleum Corp. would be permitted to sell the crude oil produced from the Santa Ana and Fresno land lease located in Fresno County, Calif., at upper tier ceiling prices.
Do	Exxon Co., U.S.A., Houston, Tex	DFA-0216	Appeal of an information request denial. If granted: The DOE's Aug. 14, 1978 and June 8, 1978 information request denials would be rescinded and Exxon Co., U.S.A. would receive access to certain DOE data regarding the regulation of natural gas liquids and natural gas liquid products.
Do	Geronimo Oil Co., Corpus Christi, Tex	DEE-1873	Price exception (sec. 212.73). If granted: Geronimo Oil Co. would be permitted to sell the crude oil produced from the Lillian S. Morris, et al. lease in San Patricio County, Tex., at upper tier ceiling prices.
Do	Getty Oil Co., Los Angeles, Calif	DRH-0092 and DRD-0092.	Motion for evidentiary hearing; motion for discovery. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Getty Oil Co. to a proposed remedial order issued to the firm by the Office of the Special Counsel on July 20, 1978. In addition, Getty Oil Co. would be granted discovery with respect to the objections it has raised.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 15, 1978 through Sept. 22, 1978]

Date	Name and location of applicant	Case No.	Type of Submission
Do	Great Western Drilling Co., Midland, Tex	DEE-1875 and DEE-1876.	Extension of relief granted in *Great Western Drilling Company*, case Nos. FXE-4793 and FXE-4794 (decided Nov. 4, 1978) (unreported decision). If granted: Great Western Drilling Co. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Prentice and West Seminole plants.
Do	Gulf Oil Corp., Tulsa, Okla	DXE-1859	Extension of relief granted in *Gulf Oil Corp.*, 1 DOE par. —— (June 6, 1978). If granted: Gulf Oil Corp. would be permitted to sell the crude oil produced from the Kiefer unit located in Creek County, Okla., at upper tier ceiling prices.
Do	do	DMR-0032	Request for modification in *Gulf Oil Corp.*, 1 DOE par. —— (June 6, 1978). If granted: The DOE's decision and order in case No. DEE-0612, issued June 6, 1978, would be modified to correct a Gulf error made with respect to the percentage of the working interest reported for its Kiefer unit.
Do	Herlocker Fuel Co., Albermarle, N.C	DEE-1862	Exception to change suppliers. If granted: Herlocker Fuel Co. would be assigned a new, lower priced supplier of fuel oil, kerosene, diesel fuel and gasoline to replace its base period supplier, Mainliner Oil Co.
Do	Hunt Petroleum Corp., Dallas, Tex	DXE-1864	Extension of the relief granted in *Hunt Petroleum Corp.*, case No. DXE-0940 (decided July 7, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Kinder plant.
Do	San Joaquin Refining Co., Newport Beach, Calif.	DES-1049	Stay request. If granted: San Joaquin Refining Co. would be granted a stay of the entitlements purchase obligations which it incurred during July 1978 pending a final determination on its application for exception (case No. DXE-1049).
Do	Sierra Anchor Refining Co., San Marino, Calif.	DEA-0218	Appeal of the entitlements notice for June 1978. If granted: The DOE would increase the inventory adjustments to the entitlements position of the Sierra Anchor Refining co. which were made by the Domestic Crude Oil Allocation Office as reflected in the June 1978 entitlement notice (43 FR 38072 (Aug. 25, 1978)) to account for the firm's startup inventories of crude oil.
Do	Skelton Oil Co., Hobbs, N. Mex	DEE-1861	Price exception (sec. 212.73). If granted: Skelton Oil Co. would be permitted to sell the crude oil produced from the Lowe well No. 1 located in Lea County, N. Mex., at upper tier ceiling prices.
Do	Smith & Boyd, Inc., Philadelphia, Pa	DRA-0217	Appeal of revised remedial order. If granted: The Sept. 5, 1978 revised remedial order issued by DOE region III would be rescinded and Smith & Boyd, Inc. would not be required to refund overcharges made in its sales of No. 2 fuel oil to Philadelphia Electric Co.
Do	Marathon Oil Co., Washington, D.C	DSG-0030, DEH-0030, DED-0030, and DES-0103.	Request for special redress; motion for evidentiary hearing; motion for discovery; stay request. If granted: The Office of Hearings and Appeals would remand the Marathon Oil Co.'s application for review of the deputy special counsel's denial of application to quash subpena to an appropriate DOE official under the provisions of 10 CFR 205.8(h). Marathon would be granted a stay of its application for review pending a determination of its request for special redress. An evidentiary hearing would be convened in connection with the application for review and the firm would also be granted discovery with regard to material facts not previously disclosed to the firm.
Do	Pacific Resources, Inc., Honolulu, Hawaii	DEE-1874	Exception to the entitlements program. If granted: Pacific Resources, Inc. would receive additional entitlements to compensate the firm for the cost of shipping fuel oil from its Hawaii refinery to the east coast.
Do	Placid Refining Co., Washington, D.C	DEE-1857	Exception to the entitlements program. If granted: Placid Refining Co. would receive an exception which would result in the calculation of the entitlements program small refiner bias on a separate firm basis.
Do	Sun Co., Inc., Dallas, Tex	DXE-1865 through DXE-1868.	Extension of relief granted in *Sun Company, Inc.*, case Nos. DXE-0915, DXE-0941, DXE-0918, DXE-0942 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Canales, Peoria, Spivey, and Sun plants.
Do	Texaco, Inc., White Plains, N.Y	DEE-1858	Price exception (sec. 212.83). If granted: Texaco, Inc. would receive an exception from the provisions of 10 CFR 212.83 with respect to the calculation of its F_t factor.
Do	Texaco, Inc., New Orleans, La	DXE-1871	Extension of the relief granted in *Texaco, Inc.*, 1 DOE par. 81,129 (May 17, 1978). If granted: Texaco, Inc. would be permitted to sell the crude oil produced from the BF Reno RA Sand unit located in Pointe Coupee Parish, La., at upper tier ceiling prices.
Do	Texas Pacific Oil Co., Inc., Dallas, Tex	DXE-1878 through DXE-1880.	Extension of the relief granted in *Texas Pacific Oil Co.*, case Nos. DXE-0911 through DXE-0913 (decided July 7, 1978) (unreported decision). If granted: Texas Pacific Oil Co., Inc., would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Adena, Hamlin and South Fullerton plants.
Do	Allen K. Trobaugh, Midland, Tex	DXE-1860	Extension of the relief granted in *Allen K. Trobaugh*, 1 DOE par. 81,116 (Apr. 19, 1978). If granted: Allen K. Trobaugh would be permitted to sell the crude oil produced from the Bailey No. 1 well located in Hockley County, Tex., at upper tier ceiling prices.
Sept. 21, 1978	Southern Union Refining Co., Hobbs, N. Mex.	DEZ-1406	Interlocutory order. If granted: The Office of Hearings and Appeals would issue an interlocutory order clarifying and narrowing the issues which will be considered in an exception proceeding initiated by Southern Union Refining Co. (case No. DEE-1406).
Do	Taylor Oil Co., Sioux Falls, S. Dak	DFA-0219	Appeal of an information request denial. If granted: The DOE's Aug. 16, 1978 information request denial would be rescinded and Taylor Oil Co. would receive access to certain DOE data regarding a DOE audit of its transactions in covered products.

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APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 15, 1978 through Sept. 22, 1978]

Date	Name and location of applicant	Case No.	Type of Submission
Sept. 22, 1978	Pennzoil Producing Co., Houston, Tex	DXE-1877	Extension of relief granted in *Pennzoil Producing Company*, 1 DOE par. 81,134 (May 15, 1978). If granted: Pennzoil Producing Co. would be permitted to continue to sell the crude produced from the Perry Sand Waterflood unit—north segment at upper tier ceiling prices.
Do	Trends Publishing, Inc., Washington, D.C	DFA-0220	Appeal of an information request denial. If granted: The DOE's June 16, 1978 information request denial would be rescinded and Trends Publishing, Inc. would receive access to certain DOE data concerning the Nuclear Materials & Equipment Corp.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 15, 1978	Crest Resources & Exploration Co., Houston, Tex	DEE-0944
Do	E. B. Brooks, Jr., Dallas, Tex	DEE-0154
Sept. 20, 1978	Williams Oil Co., Inc., Newport, Tenn	DEO-0114
Do	McMinnville Gas Co., McMinnville, Oreg	DEO-0115
Do	"Mac" Hardy Oil Co., Danville, Va	DEO-0117
Sept. 22, 1978	Mull Drilling Co., Inc., Wichita, Kan	DXE-1674

Remedial Orders

Sept. 15, 1978	Estate of William Herbert Hunt, Dallas, Tex	DRO-0112
Sept. 18, 1978	Coastal States Gas Corp., Houston, Tex	DRO-0113
Sept. 20, 1978	Bultman, Inc., Elkhart, Kans	DRO-0116

[FR Doc. 78-28902 Filed 10-12-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 986-2]

1981 AUTOMOBILE CARBON MONOXIDE EMISSION STANDARDS

Guidelines for Applications for Waiver of the 981 Carbon Monoxide Emission Standard

I. INTRODUCTION AND GENERAL INSTRUCTIONS

Under section 202(b)(5)(A) of the Clean Air Act, as amended (hereinafter the "Act"), 42 U.S.C. 7521(b)(5)(A) (1977), at any time after August 31, 1978, any manufacturer may apply for a waiver of the 1981 carbon monoxide (CO) standard of 3.4 grams per vehicle mile for any model of light-duty motor vehicles manufactured during the 1981 and 1982 model years. As stated in section 202(b)(5)(B), the maximum CO level for which a waiver may be granted is 7.0 grams per mile. Based on the Administrator's determination of what level of CO emissions is attainable by the applicant, the waiver may be granted for a more stringent standard than that requested. In order for a waiver to be granted, each of the criteria specified in section 202(b)(5)(C) must be satisfied. Under these criteria, a waiver can only be granted if the Administrator finds that protection of the public health does not require attainment of the standard of 3.4 grams per mile for those model years and those vehicle for which a waiver is sought. In addition, section 202(b)(5)(C) of the Act provides that a

waiver may only be granted if the Administrator determines that:

(i) Such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) All good faith efforts have been made to meet the standards established by this subsection;

(iii) The applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideratrion costs, driveability, and fuel economy; and

(iv) Studies and investigations of the National Academy of Science conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

The decision of the Administrator is required to be made within 60 days after receipt of the application, and after a public hearing (sections 202(b)(5) (A) and (C)). If the Administrator determines that a waiver should be granted, the CO emission standard for those vehicles and those model years to which the waiver is applicable will be prescribed by regulation issued simultaneously with the waiver decision (section 202(b)(5)(A)).

The purpose of this notice is to establish guidelines concerning the information which should be provided in any application for a waiver of the CO standards. In seeking a waiver under section 202(b)(5) of the Act, an affirmative burden is placed on the manufacturer to provide sufficient information to demonstrate that a waiver should be granted. The information contained in the application must be sufficient to satisfy each of the waiver criteria specified above.

The application should contain separate responses to each item specified in section III of these guidelines. The applicant may add to or expand upon any item to the extent he deems necessary or helpful to support the request for a waiver. The application may include any reports, records, or information pertinent to the request. The Administrator may request additional information on any item from the applicant if such information is deemed necessary or useful to the waiver determination. Furthermore, the Administrator need not base his decision solely on the application, and may consider any additional information as well.

The determinations in these proceedings will be based on a public record, and EPA intends to make all information available for public review. Accordingly, an applicant should make every effort to only provide information which can be included in the pulic record. Information claimed to be confidential should only be submitted where the failure to submit such information would seriously jeopardize the success of his application, or where the information has been submitted pursuant to a subpena, and where the release of such confidential information would cause the applicant significant harm. Information for which a claim of confidentiality has been made will be treated according to the following procedures.

In order to claim confidentiality, the manufacturer must submit the confidential information in a separate package identified by a label such as "trade secrets," "company confidential," or other appropriate label. Failure to assert a confidentiality claim in this manner will automatically result in the placing of the information in the public record without further notice. The information will then be reviewed pursuant to the procedures set forth in 40 CFR 2, Subpart B to determine to what, if any, extent the information claimed to be confidential is confidential. If the information is found to be confidential, EPA may, in any case, disclose it pursuant to 40 CFR § 2.301(g). That regulation provides for the disclosure of confidential information upon a determination that it is relevant to the proceeding and that making the information available to the public would serve the public interest. In no instance does section 307(a)(1) of the Act permit a claim of confidentiality with regard to emission data, as defined in 40 CFR § 2.301(a) (1977).

Under section 307(a)(1) of the Act, the Administrator is authorized to "issue subpenas for the attendance of witnesses and the production of relevant papers, books, and documents" in section 205(b)(5) proceeding. Because the Administrator must consider the activities of other vehicle manufacturers in assessing availability of effective technology and the air quality and public health impacts of granting the requested waiver, he may issue such subpenas to other light-duty vehicle manufacturers. Other manufacturers may be required to testify and submit information relevant to the applicant's waiver request, including data that potentially may be used in the manufacturers' waiver applications.

As provided in section 202(b)(5)(C), the waiver decision is to be made after a public hearing. In order to assure meaningful satisfaction of this requirement, interested persons must be given adequate and timely access to the application. Therefore, a minimum of ten (10) (if possible) copies of the application should be submitted to the Director, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. For purposes of initiating the sixty (60) day period specified in the Act, an application will be considered filed on the day it is received by the Director, Mobile Source Enforcement Division. Any question regarding the guidelines published today may be addressed to Matthew A. Low, Mobile Source Enforcement Division, at the above address.

II. DISCUSSION AND LEGISLATIVE HISTORY

The CO waiver of section 202(b)(5) was added to the Act as part of the Clean Air Act Amendments of 1977, Pub. L. 95-95, 91 Stat. 685 (hereinafter "1977 Amendments"). The provision was put into the 1977 Amendments by the conference committee, after agreement was reached on the statutory light-duty emission standards. See H.R. Rept. 95-564, 95th Cong., 1st sess. 166 (1977) (hereinafter "Conference Report").

The CO waiver provision is intended to be narrow in scope, and a waiver will only be granted if each of the criterion enumerated in section 202(b)(5) of the Act is satisfied. 123 Cong. Rec. S13702-03 (daily ed. August 4, 1977) (remarks of Senator Muskie). As stated by Senator Muskie during Senate consideration of the Conference Report, "the waiver in this bill is tightly constrained to apply only to the minimum extent necessary." Id. at S13703. As further explained by Senator Muskie:

> This waiver is not a general waiver for all manufacturers, nor is it a general waiver for all models of vehicles produced by a single manufacturer. The waiver is intended to assist in the deployment of new technology. It is not to be considered a step in the direction of relaxation of the statutory carbon monoxide standard.

Id.

According to the language of section 202(b)(5)(A), any manufacturer may request a waiver. Under section 216(1) of the Act, 42 U.S.C. 7550(1) (1977), a manufacturer is defined as:

> Any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

A manufacturer may request a waiver for any model of light-duty vehicles or engines. "Light-duty vehicle" is defined in 40 CFR § 86.077-2 (1977) as "a passenger car or passenger car derivative seating 12 passengers or less." As used in section 202(b)(5)(A), "engines" will mean engines which are to be incorporated into light-duty vehicles. For purposes of section 202(b)(5),

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"model" will be considered synonymous with "engine family" as that phrase is defined in 40 CFR § 86.077-2 (1977), and as further defined in 40 CFR § 86.078-24 (a)(2) through (a)(4) (1977). Any separation of "model" based upon 40 CFR § 86.078-24(a)(4) should be fully justified in the application. A separate application should be submitted for each model for which a waiver is sought. In order to avoid a multiplicity of hearings, however, the manufacturer is requested to submit simultaneously applications for all models for which CO waivers will be sought. The manufacturer may cross-reference his other CO waiver applications where appropriate, provided that the precise nature and extent of the cross-reference is noted.

Under section 202(b)(5)(C), a waiver may only be granted if the Administrator finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 grams per mile for those model years for which a waiver is sought, with respect to the vehicles covered by the application. The manufacturer should provide any available information on the public health effects associated with the difference between meeting a CO standard of 3.4 grams per mile and the standard sought in the application, for those vehicles and model years covered by the application. The manufacturer should provide sufficient information in the application to permit the Administrator to determine the effect the waiver would have on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought.

In order to grant a waiver under section 202(b)(5) of the Act, the Administrator must be able to make each of the determinations enumerated in section 202(b)((5)(C)(i)-(iv), which are similar to the criteria that applied to requests for suspension under section 202(b)(5)(C) of the Act prior to the 1977 Amendments. As stated in section 202(b)(5)(C)(I) of the current Act, the granting of a waiver requires a determination that "such waiver is essential to the public interest or the public health and welfare of the United States." The manufacturer has the burden of providing sufficient information in the application to demonstrate that this criterion is satisfied. The question of whether the waiver is essential to the public health and welfare involves inquiry into all the health and welfare consequences of denying the waiver, including and examination of fuel economy and unregulated pollutant emission levels. As an example, the waiver could be considered essential to public health if, assuming the waiver were not granted, the use of available technology would result in emissions of some unregulated pollutant which would constitute a health risk. See 40 FR 11900, 11902 (1975) (suspension of 1977 standards due to expected increase in sulfuric acid emissions). This criterion also involves a comparison of the consequences of granting the waiver and denying the waiver. That is, even if denying the waiver would pose a health risk, the applicant must also demonstrate that granting the waiver would eliminate or substantially reduce this risk. With regard to whether the waiver is essential to the public interest, this issue will include consideration of whether the basic demand for automobiles can be met if the waiver is not granted. As explained by Senator Muskie:

> The determination of whether a carbon monoxide waiver is essential to the public interest or the public health or welfare of the United States will, of course, be affected by the performance of the industry as a whole. If only a small percentage of cars appear unable to meet the statutory standard of 3.4 grams, the denial of such a waiver would not make it impossible for the industry to meet the basic demand for automobiles. In addition, the inability of only a small number of cars to meet the statutory carbon monoxide question [sic] may call into question the good faith effort of the manufacturer.

123 Cong. Rec. S13702 (daily ed. August 4, 1977) (remarks of Senator Muskie).

Under section 202(b)(5)(B), the maximum CO level for which a waiver can be granted is 7.0 grams per mile. However, if a manufacturer can meet a more stringent standard during the period for which the waiver is sought, then a waiver will only be granted for this attainable level. Similarly, although a waiver may be sought for the 1981 and 1982 model years, the waiver will be granted only for the 1981 model year if the manufacturer can meet the 3.4 grams per mile standard in the 1982 model year.

III. Application

The waiver application should be prepared in five major sections, and should correspond to the following format.

Section 1. This section should not include any confidential information and should:

a. Identify the applicant as a manufacturer, and identify any other person engaged in the manufacturing, distribution, and sale of vehicles manufactured, distributed, or sold by the applicant.

b. Contain a summary of the applicant's position and supporting arguments with respect to each of the criteria set forth in the above Introduction and Discussion.

c. Describe the model of light-duty vehicles for which the waiver is sought.

d. Set forth the model years for which the waiver is sought.

e. Set forth the interim CO standard for each model year which the applicant believes should be established in lieu of the standard which would otherwise be applicable.

f. Identify to the extent possible those other models and model years for which additional CO waivers will be sought.

Section 2. This section should contain sufficient information to demonstrate that protection of the public health does not require attainment of the 3.4 grams per mile CO standard for those model years for which a waiver is sought, with respect to those vehicles covered by the application. In this section, for the subject vehicles the manufacturer should provide in detail any information which is either currently available or in the process of being generated, concerning the public health effects associated with the difference between meeting a CO standard of 3.4 grams per mile and the standard sought in the application. This information should be sufficient to permit the Administrator to determine the effect the waiver would have on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers.

Section 3. This section should provide sufficient information to demonstrate that the waiver being sought is essential to the public interest or the public health and welfare of the United States. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers. If the manufacturer claims that the waiver is essential to the public interest, this section of the application should specify the particular aspect of the public interest which would be served by the waiver, and should describe in detail the consequences of denying the waiver request. As an example, one aspect of the public interest would be the ability to meet basic market demand for automobiles. Similarly, if the manufacturer claims that the waiver is essential to the public health and welfare, this section of the application should specify the particular aspect of the public health and welfare which would be served by the waiver, and should examine in detail the health and welfare consequences of denying the waiver. For example, the waiver could be considered essential to the public health if denying the waiver would result in the emission of some unregulated pollutant in such levels as would pose a risk to public health.

Regardless of whether the manufacturer claims that the waiver is essential to the public health and welfare, this section of the application should also examine the public health consequence of granting the waiver, in order to insure that the waiver will not endanger public health. This involves inquiry into the emission levels and associated health effects of all unregulated pollutants. As part of the demonstration of the necessity for this waiver to benefit the public interest or health and welfare, the manufacturer should fully explain why other models, not requiring such a waiver, could not be substituted into the manufacturer's product line to satisfy the needs of the marketplace.

Section 4. This section of the application should provide all the information necessary to demonstrate that the manufacturer has made all good faith efforts to meet the CO standard of 3.4 grams per mile. this section should include a statement which fully explains the total effort made by the manufacturer, or expected to be made in the future, to achieve compliance with a standard of 3.4 grams per mile, and a detailed account of the manufacturer's financial commitment to this aspect of light-duty vehicle emission control. Section 4 should contain the following subsections:

a. This subsection should present the applicant's statement concerning the level of effort expended in research, development, testing, and engineering programs in the area of light-duty emissions control. This should include all efforts aimed at control of CO, and all other programs dealing with light-duty emission control development which might affect the applicant's CO control program. The statement should include;

1. The overall organizational chart for light-duty emission control activity with an indication of the decisionmaking process in major areas, for example, selection of the first choice 1981 model year system.

2. The composition of the program(s), presented in sufficient detail to include the number and qualifications of professional personnel assigned to CO or related emission control activity, and the academic or functional disciplines involved, the type(s) and quality of major items of laboratory equipment used (e.g., visible, ultraviolet, and infrared spectrophotometers), and the laboratory and testing facilities used. When equipment, projects, and personnel are only partially dedicated to CO or related emission control activities, applicant should indicate the percentage portion of such equipment, projects, and personnel so dedicated.

3. The purpose of each program, including the specific technical problem or area toward which the program is directed, the reasons for the program, the date the program was started and its projected or actual end date.

4. The progress of each program toward achieving the goals set out for it, including information as to: (i) Whether the program is ahead or behind schedule, (ii) important milestones that have been met/not met, (iii) the number of times the program's progress has been reviewed (date and specifics) and the personnel responsible for the review, (iv) the outcome of the program reviews, and (v) any changes there have been in the rate of progress for the program as a result of review and redirection.

5. A narrative discussion of the results. Quantitative data should be included here to the extent it is not presented in other sections of the application.

6. Where an individual project within a program is of significant importance or has been fully discussed in the program description, a narrative description providing at least the following: Time of project start/end, level of effort (man-hours), reason for starting and stopping the project, results obtained, and how the results of the project were used in the overall approach to the emission control program being investigated.

7. That portion of the program(s) carried out under contracts or agreements with other firms or ad hoc organizations.

8. The accomplishments of the research, development, testing, and engineering program(s) in terms of determination of feasible and nonfeasible approaches to emission control, patents obtained or pending, and publications in technological journals, including knowledge and account of any pertinent independent research conducted by facilities not associated with the applicant.

b. This subsection should contain a detailed expression of the applicant's financial commitment to CO or related emission control research, development, testing, and engineering activities for light-duty vehicles.

1. A project narrative should be completed for each project or particular phase of a project in research, development, testing, and engineering for the years 1969 through 1982 (as applicable). The project narrative should include the following:

A. Project title, number, or designation and date started or planned to start.

B. Project description, including objectives, scope, approach, phase, and status. Phase refers to research, development, engineering, testing, or other areas of the CO or related emission control program. Project status should indicate the percentage completion of the project and which phases of the program have been completed for the project and which phases are pending.

C. Description of the project's relationship to the total effort to meet the CO or related emission standards for the 1981 model year and relationship to or dependency upon other projects. The descriptions should include whether the project was originated because of the 1977 Amendments to the Clean Air Act, the original objectives of the project if they have changed since inception, the percent of direct cost attributed to the present project objectives, and the basis of the percentage attribution.

2. Direct research, development, testing, and engineering costs should be summarized. These costs should be presented as shown below, by the type of expense and year of expenditure, including projections for 1979-82, for each project described in section 4(b)(1) of the application, as discussed above. Financial data presented in this subsection must be consistent with the project narratives in 4(b)(1), and should conform to the applicant's normal accounting year (with designation of the fiscal year end).

The outline below is suggested as the format for reporting the direct costs for each project identified in 4(b)(1).

Project title: ————.
Actual cost: 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978.
Projected costs: 1979, 1980, 1981, 1982.

Direct project costs

A. Salaries and wages:
(1) Professionals.
(2) Laboratory technicians.
(3) Other technical and clerical personnel.
B. Chemical and gases.
C. Laboratory supplies.
D. Outside services (identify).
E. Rental expenses.
F. Equipment purchases expense.
G. Depreciation expense.[1]
H. Other direct costs (identify).
I. Total direct project costs.

Other information

J. Number of personnel directly assigned to project at end of each year:
(1) Professionals.
Full time.
Part time.
(2) Laboratory technicians.
(3) Other technical and clerical personnel.

If the expanse classifications listed above are expanded or contracted, such modifications should be done in a consistent manner. Changes in these classifications should be specifically indicated and explained.

[1] Submit separate schedule indicating costs of buildings and-or equipment purchased and the respective asset life used to calculate depreciation.

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3. Applicant should indicate in this subsection all other costs that may be allocated to the emission control projects reported in 4(b)(1). Such costs are to be listed by year of expenditure, including projections through 1982. This subsection should also include a statement of the manufacturer's total annual light-duty research and development costs (actual or projected) for the years 1969 through 1982, and total domestic (U.S.) annual light-duty vehicle sales (actual or projected) for the years 1969 through 1982.

Section 5. In this section the manufacturer should provide all the information regarding the availability of effective control technology, processes, operating methods, or other alternatives taking into consideration costs, driveability, and fuel economy. This information should establish, with respect to the model(s) covered by the application, that the technology necessary to comply with a 3.4-gram-per-mile CO standard (1) is not presently available, (2) cannot be developed and implemented in the time between the submission of the application and the start of 1981 or 1982 model year production, and (3) will not become available during the 1981 or 1982 model year. All the information and data requested in this section should include and emphasize data regarding that configuration of the model, for which a waiver is requested, having the greatest likelihood of meeting the 3.4-gram-per-mile CO standard. The information requested in this section, if provided with sufficient support material and in sufficient detail, will be considered by the Administrator to be the minimum required of the applicant to establish his inability to comply with the standards. An applicant is, however, encouraged to submit additional data and information which is necessary to support the request.

The section should be divided into two parts. The first part should present a general discussion of the applicant's argument as it relates to the topics listed below. The second part should give a detailed presentation, in the format shown below, of the technical information required to make a meaningful assessment of the applicant's argument.

a. General information: 1. What emission control results have been achieved to date for the first choise system and all alternative system considered for compliance in 1981 and 1982 model years.

2. Engineering goals for the emission levels to be achieved by low-mileage engineering prototypes in order to achieve compliance with the emission standards, including assumptions made to arrive at those goals, factors assumed to allow for production variations, prototype-to-production slippages, and deterioration; and change in production variations assumed to occur by 1981 model year production.

3. Major problems associated with the most promising system investigated, including fuel consumption, emissions of currently unregulated pollutants, reduced driveability, other performance penalties, and any safety, maintenance, servicing, warranty, development (emission performance, durability, and producibility), production tooling, and vendor problems.

4. Plans for resolving the problems identified in 3, including use of technology developed outside the company or outside the automobile industry, timetable for developing solutions, critical milestones for meeting this timetable, confidence palced in the schedule, areas of greatest uncertainty, probable or possible breakthrough(s) that would result in a significant reduction in leadtime.

5. Detailed leadtime schedule for model years 1981 and 1982 production, including crucial milestones, commitment and signoff dates, leadtime requirements of vendors, and specific leadtime schedules for those emission control system components which are most critical. Discussion of how much less leadtime would be required to produce a reduced number of models or nameplates that will comply.

6. The efforts that have been made to identify useful technology developed by other companies.

7. The interim standards which could be met in each of the model years 1981-82 (not to exceed 0.41 HC, 7.0 CO, 1.0 NOx) including the assumptions used to arrive at these attainable levels, emission control system to be used, the extra cost to the car buyer for such a system, and the associated increased annual operating cost. Such interim standards should reflect the greatest degree of emission control achievable by application of available technology.

b. Technical information. Information should be submitted on each and every program, project, or working area that impacts on the overall emission control system development relevant to the waiver application. This should include all programs/projects that are directed toward the development of systems or subsystems to be used in 1981 and 1982 model year emission control systems as well as those programs/projects aimed at the development of systems or subsystems not how actively under consideration for incorporation into 1981 and 1982 model year systems but which at one time were under consideration. Information on all system or subsystem development relevant to the waiver application is necessary even if the program/project was started before the passage of the Clean Air Act Amendments of 1977.

The Administrator will review all data from each of the programs discussed to determine the likelihood that the applicant's systems will be capable of meeting the 3.4 CO standard. A Monte Carlo simulation will be used as part of the analysis methodology applied to these data for that determination. To assure that this technique may be employed, the applicant should supply all data for both emission data prototypes as well as duriability vehicle prototypes. In order that the methodology be properly applied, for each model for which the manufacturer seeks a waiver, variability data must be submitted. The data shall include test-to-test variability data, car-to-car variability data, and DF variability data. All the data, the distributions inherent to the data, and the appropriate standard deviations for the data shall be supplied. The manufacturer's waiver application shall also contain recommendations for the test-to-test, car-to-car, and DF standard deviations to be used in EPA's methodology, along with analyses and rationale that support the recommendations. The treatment of this information in determining the ability of the applicant to meet the 3.4 CO standard will be similar to that described in similar analyses performed in past waiver and suspension considerations (for example, see—In re: Application for Suspension of 1975 Model Year Motor Vehicle Exhaust Emission Standards, *Decision of the Administrator on Remand from the United States Court of Appeals for the District of Columbia Circuit*, April 1973, Appendix B).

1. Test procedures and emission data format. For maximum usefulness all emission data reported should be taken by the 1975 Federal Test Procedure. If this is not possible, data should be reported in its original form, specifying the appropriate test procedure. The data should then be converted into a 1975 test procedure equivalent (if possible) by the applicant. The basis for such a conversion process should include tests with the same type of emission control systems on similar vehicles using both the non-1975 test procedure and the 1975 test procedure. The explanation of each conversion should include a statistical justification of the conversion factors chosen.

2. Vehicle and test description. The vehicles on which the emission data is presented should be fully identified with respect to the following 20 items:

A. Vehicle Description: Vehicle identification No., marketing name and model, body type, tire size, tire manufacturer, tire type, weight (full fuel tank), and intertia weight.

B. Purpose of Test: Durability, experimental system evaluation, etc.

C. Mileage Accumulation Procedure: A.M.A. driving cycle, company durability cycle (specify cycle and maintenance performed), etc.

D. Emissions Test Procedure: 1975 test procedure. Modal emission data are also considered important and should also be supplied, if available.

E. Testing Frequency: Planned/actual mileage accumulation between tests.

F. Engine: Displacement, configuration, bore, stroke, combustion chamber type, and compression ratio.

G. Fuel Metering:

(1) Fuel injection—Type of injection, manufacturer's model number, air/fuel ratio curve, altitude compensation, cold start calibration, and feed back control characteristics.

(2) Carburetion—Type, manufacturer's name and model number, air/fuel ratio curve, altitude compensation, cold start calibration, and feed back control characteristics.

H. Aspiration: Naturally aspirated, supercharged, turbocharged, maximum system air flow rate (cfm).

I. Air Cleaner: Intake air treatment, heat source, modulation procedure, set point temperature, etc.

J. Powertrain: Type—automatic, manual 3 speed, 4 speed, etc.

K. Torque Converter: Size and manufacturer, model No., stall speed, torque muliplication, etc. Indicate if torque converter lockup is used and on which gears.

L. Clutch: Type.

M. Transmission: Type, manufacturer, model No., stall speed, torque multiplication, gear ratios, etc. For automatic transmissions indicate if the shift actuations are controlled conventionally or electronically.

N. N/V: Engine speed with transmission in revolutions per minute divided by vehicle speed expressed in miles per hour.

O. Exhaust Gas Recirculation: Type of control. Flow rate as a function of engine load and speed. Admission flow characteristics, method of modulation, EGR-AECD's.

P. Exhaust Gas Aftertreatment Devices: Thermal reactor—type (lean/rich), configuration, materials, internal flow geometry.

(1) Catalysts—type (reducing, oxidizing, three-way), active material (general) class, loading by noble metal and total weight, per type of metal and of each catalyst material, and the total in troy ounces per vehicle, substrate structure type (monolith/pellet), number of substrate cells per square inch, substrate composition, washcoat composition, total surface area of the washcoat, surface area per displacement of the washcoat, catalyst location, shape and size, geometry, manufacturer and manufacturer's identification number, nominal space velocity, and space velocity range.

(2) Trap Oxidizer—type, configuration, materials, flow geometry.

Q. Electronic controls: Electronic control unit type (analog, digital), parameters sensed (coolant temperature, engine speed, exhaust oxygen content, throttle position, manifold vacuum, humidity, etc.), parameters controlled (air/fuel ratio, ignition timing, EGR rate, choke position, secondary air modulation, etc.), size and amount of program primary storage, relationship between sensed and controlled parameters (equations, graphical representations, etc.), method of programing controller, transducers and actuators used, schematic of electronic control system, effect of power supply voltage variations on control signals, default control logic during failure of any combination of sensors, transducers, and/or actuators.

R. Special System Feature: Any components not shown above which affect the control of emissions.

S. Fuel: Type (gasoline or diesel), all other information required in the application for certification format, as applicable.

T. Engine Lubricant: Brand name, SAE viscosity range, content of sulfur, phosphorous, lead, calcium, etc. Discussion of special additives studied.

U. The date of the test, the driver's full name, the responsible engineer's full name and the project under which this test was performed.

3. Durability testing. Durability testing results are considered important. Durability test data submitted should include at least the following information:

A. A description of the type of durability schedule. The EPA-AMA certification durability schedule is one example. Since this is the schedule from which vehicle deterioration factors are derived for certification purposes, it is considered the most important. It is realized, however, that other durability procedures are considered important to manufacturers. Any available data from so-called "customers service durability" or other schedules, may also be useful. This type of schedule should be clearly identified and described in detail. The reasons for the existence of the test and the way in which the results are used should be identified. If the emissions on these tests (tests other than EPA durability) differ from the emissions on the EPA schedule, the reasons for the differences should be explained.

B. Data taken on EPA durability tests should be reported at the same mileage increments (approximately 5,000 miles) as on regular certification tests. Any variation from the nominal 5,000 mile increment should be explained.

C. More than one data point at each mileage point is preferred. The deterioration factor should be explained fully as to frequency of testing and number of tests at each mileage interval. The explanation should include reasons for conducting the emission testing program, so that the rationale for any characteristic of the test program, such as a single test instead of back to back tests, etc., is apparent.

D. If a test is reported to have been terminated, the reasons for the termination should be explained fully for each case in which durability testing was stopped. The precise reason for the termination of the test, one that is logically consistent with the overall program rationale, should be provided. A discussion of what was learned from terminated tests, for example, a description of the analysis made of failed components, should be included for each test that was stopped. How the results of unsuccessful (or successful) tests feed back to the direction and emphasis of the program is considered important.

E. The number of vehicles used, their relationship to the current and planned product mix, and the number of duplicate vehicles for each engine/transmission family undergoing durability testing should be explained fully. The explanation should indicate (i) the estimated confidence level in the results from the number of test vehicles, and (ii) a comparison between the number of vehicles claimed adequate for emission control systems durability testing and the number of vehicles usually tested for durability in proving out other systems.

4. Test results. All relevant data resulting from developmental programs and projects should be reported. This includes data from durability, performance, component/subsystem checkout, calibration and optimization testing.

A. Emission Test Results. This information should be presented as indicated in section 5(b)(1) of these guidelines and include in chronological order a record of all system changes, maintenance (including reasons for performing maintenance), and a detailed explanation of reasons for test termination when it occurs. Emission data for the system without its catalyst(s) should also be presented, if available, or if determined by modal test performed both upstream and downstream of the catalyst.

B. Costs:

(1) The additional cost of meeting the statutory 3.4 grams per mile CO standard versus those costs which would result from meeting the applicant's suggested waiver standard will be considered in the Administrator's

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determination. Therefore, the applicant should fully describe those cost differences outlined in the following paragraphs.

(2) First Cost:

(a) The cost breakdown should be by major components such as catalysts, EGR valves, air pumps, ECU's, sensors and/or transducers, and include as separate items such additional hardware as vacuum lines, wiring harnesses, brackets, belts, pulleys, insulation, shields, and requisite engine and/or vehicle modifications.

(b) The production volume assumed, number of suppliers or vendors, and each supplier's approximate market share should be clearly stated.

(c) The method(s) used to estimate the cost to the applicant and the resulting retail price equivalent or "sticker price" such as the expected vendor price times a markup factor should also be described. If such a markup factor is used, the factor should be explicitly stated and a discussion of what influences the level of this factor such as the number of suppliers, component complexity, consumer target market, etc. should also be presented. If the cost to the applicant varies between different suppliers, discuss the extent of such variation relative to the size of the purchasers.

(d) All cost data shall be presented for two cases: Case I: meeting the 3.4 CO standard; Case II: meeting the applicant's recommended interim standard. The incremental cost difference shall also be determined, both as it affects the applicant and as it affects the initial cost to the consumer or the sticker price.

(e) All costs attributable to meeting Federal fuel economy requirements.

(3) Operating Costs:

This should include expected extra costs to the vehicle owner(s) over the vehicle lifetime (assume 100,000 miles) due to:

(a) Fuel and lubricant cost, specifying the miles per gallon fuel economy assumed for each engine emission control system and a comparison to similar earlier model year vehicles.

(b) Maintenance cost, identifying parts and labor cost separately, providing the estimated parts costs and ratio of estimated parts cost for replacement vs. OEM parts for required maintenance on each major emission control component which results in such costs. Labor costs shall be described using labor hours and hourly rate.

C. Driveability. The Administrator will Consider the effect on driveability which may result by meeting either the statutory 3.4 grams per mile CO standard or applicant's suggested waiver standard. In this regard, the applicant should present all available data which indicates that adverse driveability resulting from meeting the statutory 3.4 grams per mile CO standard would lead to increased CO emissions from in-use vehicles due to tampering, maladjustment or similar actions.

To allow a meaningful evaluation of this criterion, the applicant should present all available driveability rating information associated with each engine, control system, transmission, N/V ratio, and vehicle body style combination under consideration for a waiver. The test procedures used by the applicable driveability rating should be fully disclosed, including the applicant's criteria used to determine if the vehicle provides acceptable driveability for sale to consumers.

Since the driveability of vehicles may vary depending upon whether they are prototype developmental vehicles, certification vehicles, running change vehicles, and/or actual production vehicles, the applicant should supply detailed information concerning the driveability of vehicles from previous model year which compares the driveability of prototype developmental certification vehicles, running change vehicles and, finally, production vehicles in consumer use. The information required is as follows: The applicant should supply driveability data on all models, beginning with model year 1967 (and, if the applicant desires, earlier model years) through data from model year 1978 and data available to date on model year 1979 prototype vehicles. For each model year and for each model, driveability and other data should be provided for the engineering sign off vehicle (assumed to be a prototype), the durability vehicle, the emission data vehicle(s) and all running change vehicles of the same model type. The CO standard (1975 FTP basis or emission level for 1967 vehicles) for which each model was designed to meet shall also be provided. In addition for the emission data, durability and running change vehicles, the actual CO data shall be provided.

In addition, for each model and model year the applicant should provide all driveability data from production vehicles. This data can be from vehicles produced and audited for driveability by the manufacturer before sale or subsequent use by the manufacturer, and/or vehicles used in driveability evaluations (e.g., the yearly CRC programs), and/or vehicles that were obtained from owners and tested for driveability by the manufacturers, and/or from warranty and in-use complaint data. With respect to warranty and in-use complaint data, the applicant should provide a summary of all driveability-related warranty and in-use complaint data for each and every model and model year. This summary should specifically identify each and every driveability malperformance area, and the percentage of models affected by each and every driveability problem. Also, the corrective action that was taken and-or recommended by the applicant for each driveability problem should be provided. This comparison will be used as a guide for the Administrator to make projection (as and if necessary) of the driveability performance of vehicles in hands of the public, if data from prototype vehicles are all that are available.

Manufacturers employ a variety of procedures to rate the driveability of their vehicles. It will be of benefit in determining the relative driveability characteristics of the vehicles, therefore, if the manufacturer also supplies parallel sets of driveability ratings performed on the subject vehicles following a commonly accepted procedure such as the CRC rating procedure.

D. Fuel Economy. The Administrator will also consider the effects on fuel economy of requiring that the applicant attain the 3.4 grams per mile CO standard. Therefore, the applicant should present, along with relevant emission data, a comparison of the fuel economy which is estimated to result from the imposition of a 3.4 gram per mile CO standard and the fuel economy which is estimated to result from the imposition of the CO waiver standard for which the applicant is applying. The comparison data should be developed from vehicles whose caracteristics that affect fuel economy are as nearly identical as possible, aside from differences required to meet different CO levels. All vehicle specifications should be fully disclosed as outlined in section 5(b)(2). The data should be developed from the EPA recognized FTP and HWFET procedures.

In addition to actual fuel economy values, the applicant should fully discuss the effect that programs aimed at vehicle weight reduction, vehicle power-to-weight reduction, drivetrain improvement, and engine efficiency improvements will have on fuel economy when considered in conjunction with both the 3.4 gram per mile CO standard and the waiver standard recommended by the applicant.

5. Other pollutants—

A. General. All programs, tests or analyses conducted by or for the applicant, or known by the applicant to have been conducted by component suppliers or others, to identify, quantify, or control the effect of candidate emission control systems on emissions of substances, other than HC, CO, and NOx, should be described. Such descriptions should, at a minimum, identify the organization conducting the study, the types of systems studied, the procedures employed and the types and/or levels or emissions those procedures were expected to identify, quantify, or control and a general description of the results obtained. Detailed discussions of the results of studies in which effects of systems on such emission were found should be provided in subparagraphs B through D below.

B. Particulates. All relevant data on organic and inorganic particulate emissions should be presented. The test procedure by which the particulate emissions were determined should be specified in detail, including the type of instruments, their calibration, and correlation with other methods or instruments.

C. Gaseous emissions. All relevant data and information concerning the amount and nature of gaseous emissions (other than HC, CO, NOx, or sulfur oxides) produced by any developmental control system should be presented. The test procedures by which the emissions were determined should be specified in detail, including the type of instruments, their calibration, and correlation with other methods or instruments.

D. Sulfates. All relevant data and information concerning the amount and nature of sulfate or sulfur oxides emissions should be presented including details on the test conditions, instrumentation, and sampling and analytical methods used. Information regarding the applicant's current activity and results concerning the control of sulfate emissions are especially important and should be provided as follows:

(1) A description of each sulfate emission control device or sulfate emission control method explored by the applicant. Describe the device or method in detail, with an explanation of the principle of operation.

(2) A listing of all tests performed by the applicant with sulfate control devices or methods. Describe the vehicle and the control device/method fully, indicate what the test procedure and analysis method were, and give the baseline results and the modified results for sulfate emissions.

(3) Assessment of the practicability of controlling sulfate emissions on the vehicle. The practicability of control should be based on the applicant's own test and/or knowledge of vehicular sulfate emissions control.

(4) A full description of the level of effort now underway in the area of sulfate emissions control. Note that this includes not only sulfate emissions characterization, i.e., determining how much sulfate emissions are emitted and what factors influence the emission levels, but also the level of effort directly targeted toward developing control of sulfate emissions. Indicate how many engineers and technicians, in man-years of equivalent effort, are now assigned to this area, how much testing and support is being given to this project (for example how many test cells and how much prototype hardware fabrication support is assigned), and what the current plans are for this area (explanation, same level of effort, or lower level of effort).

(5) A full description of any CO/sulfate relationship that may exist or is claimed to exist for the vehicles for which the applicant desires a waiver. A description of programs undertaken to modify the CO/sulfate relationship to enable acceptable performance for both CO and sulfate to be attained. The Administrator is aware that CO/sulfate "tradeoffs" may be postulated. However, that there is a relationship between CO and sulfate for some systems (e.g., oxidation catalysts with uncontrolled air injection systems) has been known for some time, and it is expected that the existence of, and the effort devoted to improved CO and sulfate control will be evaluated from both the technological feasibility point of view and with respect to the determination under section 202(b)(5)(c)(ii).

Dated: October 4, 1978

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-28834 Filed 10-12-78; 8:45 am]

[6560-01-M]

[FRL 986-1]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE

Open Meeting

As required by Pub. L. 92-463 notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 a.m., October 30 and 31, 1978, in the Administrator's Conference Room (Room 1101, West Tower), EPA Headquarters, 401 M Street SW., Washington, D.C.

The agenda includes a briefing on the implementation status of the Toxic Substances Control Act; a discussion of alternatives for promoting a greater cooperation of research activities between universities and the Environmental Protection Agency; plans for reviewing the water quality criteria documents for 65 water pollutants; and a discussion of hazardous disposal issues. The meeting is open to the public.

Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Staff Director, Science Advisory Board, 202-755-0263, by close of business October 25, 1978.

Dated: October 6, 1978.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 78-28833 Filed 10-12-78; 8:45 am]

[6560-01-M]

[FRL 986-6; OPP-42049D]

NEBRASKA

Implementation of a Federal Plan for Certification of Pesticide Applicators

On December 7, 1977, the U.S. Environmental Protection Agency (EPA) published in the FEDERAL REGISTER proposed regulations (42 FR 61873) specifying the requirements which would apply to applicators of restricted use pesticides under a Federal certification program. A 30-day public comment period ending on January 6, 1978, was provided.

On June 8, 1978, EPA published in the FEDERAL REGISTER (43 FR 24834) final regulations governing "Federal Certification of Pesticide Applicators in States or on Indian Reservations Where There Is No Approved State or Tribal Certification Plan in Effect." These regulations amended 40 CFR Part 171 by adding a new § 171.11, and became effective on June 8, 1978. All Federal certification plans implemented by EPA must be consistent with these regulations.

On March 15, 1978, EPA Region VII published a notice of its "Intent to Implement a Federal plan for the Certification of Pesticide Applicators" in Nebraska (Notice of Intent) in the FEDERAL REGISTER (43 FR 10727). This notice summarized the planned certification program and provided a 30-day public comment period ending April 15, 1978. Comments were received from seven individuals and organizations. Certain changes in the Federal plan have been made in response to these comments and in agreement with 40 CFR 171.11. Significant comments and modifications to the March 15, 1978, proposed plan are discussed below.

Four commenters questioned the need for a Federal certification program, contending that the Nebraska State plan submitted on June 28, 1977, was adequate and should be approved. The Nebraska State plan was disapproved by the Regional Administrator, EPA Region VII, on November 14, 1977, after a long and careful review, which included a public hearing in the State. A FEDERAL REGISTER notice was published on November 25, 1977 (42 FR 60223), discussing the deficiencies in the State plan. Reasons for rejecting the Nebraska State plan were also briefly summarized in the preamble to the March 15, 1977, Notice of Intent. Nothing has since occurred to change

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this decision and the Agency's position on this matter remains the same.

Several commenters suggested that the 2-year certification period for commercial applicators under the Federal plan be extended. Some of the commenters argued that the period should be lengthened to 4 years, which would be equal to the average certification period for commercial applicators under approved State plans. One commenter requested that a 3-year period be adopted in order to be consistent with the length of certification for private applicators under this plan. Two commenters also suggested that the 3-year private applicator certification period established by this plan be extended to 4 years to be consistent with the average period under approved State plans. Similar comments were made to the proposed Federal certification regulations, referenced earlier in this notice, and were rejected. The reasons for rejecting these requests were fully discussed in the preambles to the proposed Federal certification rule (42 FR 61873) and the final rule (43 FR 24834-34835), also referenced earlier. The same reasons justify rejection of the comments to this plan. In addition, the certification periods established in this plan must be, and are, consistent with those established by the Federal certification rule at 40 CFR 171.11(c)(4) and 171.11(d)(2).

Several commenters objected to the provision in the proposed plan requiring commercial applicators to renew their certification by passing a written examination. These commenters suggested that completion of an approved training course be allowed as an alternative method of renewal. Similar requests were made in regard to the proposed Federal certification rule and were acted upon by EPA. Accordingly, 40 CFR 171.11(c)(6) now recognizes completion of approved training as a method of renewing commercial applicator certification, and the Federal plan for Nebraska has been amended to reflect this change. However, as stated in the preamble to the Federal certification rule, EPA is not now in a position to provide the training required for renewal of certification. The availability of training will, therefore, be dependent upon the willingness and capability of public or private organizations to develop recertification training programs which can be approved by EPA. Region VII will, on its part, work closely with the Nebraska Cooperative Extension Service (CES), as well as with other training experts, in developing criteria for approving recertification training programs. A memorandum of understanding was finalized on August 14, 1978, between EPA, Region VII, and the University of Nebraska Cooperative Extension Service (CES), assigning the responsiblity for administering the Nebraska pesticide applicator training program for initial certification and for recertification to the CES.

In addition to the previously described changes in commercial applicator recertification methods, the final Federal plan for Nebraska is modified by adding provisions which require certified commercial and private applicators to complete recertification procedures during the 12-month period preceding the certification expiration date. The purpose of this addition is to insure that recertification procedures are not completed so far in advance of certification expiration as to be nonindicative of the applicator's competency at the time his or her certification is renewed. This addition is also required by the final Federal certification rule (40 CFR 171.11(c)(6) and 171.11(d)(3)).

Four commenters criticized the discussion of EPA's inspection and investigation procedures in the Notice of Intent. The commenters were apparently confused by the brief summary contained in the FEDERAL REGISTER notice. They seemed to fear that EPA will engage in unauthorized and unreasonable warrantless searches of commercial and private premises, without seeking the consent of the property owner. They also seemed to believe that EPA's inspectors are not sufficiently guided and regulated in the exercise of their duties. Such fears are groundless. The Federal plan itself described in some detail the procedures inspectors will follow and the limits placed on their authority. This includes a commitment by EPA to seek a warrant or consent before inspecting private premises where pesticides are being applied. Proposed amendments to FIFRA, recently approved by a congressional conference committee, do expressly confirm EPA's interpretation that it has authority to conduct warrantless inspections of the books, records, and business establishments of commercial applicators applying pesticides for hire in States, such as Nebraska, where EPA has primary responsibility for enforcing pesticide use laws. However, such warrantless inspections, and all other inspections in Nebraska, will be conducted consistently with procedures and methods carefully specified in EPA's Pesticides Inspection Manual. These restraints and guidelines insure that EPA inspectors will continue to act within the bounds of their authority, and will respect the rights of all individuals.

Five commenters suggested that region VII accept as sufficient for Federal certification purposes, commercial applicator examinations administered by the Nebraska Department of Agriculture after December 31, 1977, as it has agreed to do for examinations administered during 1977. This was reviewed in the March 15, 1978, Notice of Intent. During 1977, EPA Region VII provided the State department of agriculture with a grant requiring the State to administer a certification program which would meet Federal standards. This grant has expired and has not been renewed. Without such a grant or a formal agreement between EPA Region VII and the Nebraska Department of Agriculture, the State is under no obligation to administer a certification program that meets the Federal standards. Without such assurances, EPA would need to continually evaluate each State examination to determine whether it meets the minimum Federal standard. Since this agreement was unattainable, State examinations will not be accepted after December 31, 1977. Therefore, region VII rejects this proposal.

Four commenters expressed their opinion that training and examination of commercial applicators should be offered more often and in more locations than are currently planned. Their desire is apparently to make certification more convenient for commercial applicators. EPA has already arranged the most reasonable and convenient examination and training schedules possible within the Agency's budget. Examinations will be arranged daily, on request, to EPA's office in Lincoln, Nebr. Examinations will also be offered on a regularly scheduled basis at other locations in the State. Also, the Nebraska CES will offer training semiannually to commercial applicators seeking such training. No revisions are contemplated at this time.

Four commenters asked for clarification as to how a Nebraska reciprocal certification would relate to a State with a longer time period before expiration. As stated in the Notice of Intent, a Nebraska reciprocal certification will expire 2 years from the date of issuance or upon termination of the certification issued by the other State, whichever occurs first. This procedure is designed to facilitate administrative efficiency. Therefore, EPA Region VII believes the Federal plan is adequate as written and does not need further revision.

Five commenters objected to the proposed recordkeeping requirements for commercial applicators on the grounds that the required record contents would exceed those established by regulation as the minimum required under an approvable State plan (40 CFR 171.7(b)(1)(iii)(E)). EPA Region VII believes that the recordkeeping requirements are consistent with those established at 40 CFR 171.11(c)(7). Similar comments were made to the proposed Federal certification rule, and were generally rejected for reasons stated in the preamble to the final Federal certification rule.

On commenter suggested that recordkeeping requirements for dealers of restricted use pesticides be discussed in the Federal plan for Nebraska. EPA currently does not require dealers who are not producers of pesticides to keep any records. However, proposed amendments to FIFRA, expected to be enacted in the near future, expressly authorize EPA to require dealers to keep records specified by the Administrator. EPA expects that such recordkeeping requirements will be imposed soon after the amendments to FIFRA become law. In the interim, EPA Region VII will exercise it authority under section 8(b) of FIFRA to inspect the records which dealers keep in the ordinary course of their business, as described in section VI.A of the Federal plan for Nebraska.

One commenter asked if a person certified in the subcategory food processing and grain handling also needs to be certified in the category industrial, institutional, structural and health related pest control. A person need not be certified in the category to work in the subcategory because the two are separate and independent.

Finally, certain minor technical corrections have been made in the Federal plan for Nebraska. Neither these changes, nor the ones made in response to comments or to changes in the Federal certification rule, substantially change the basic design or operation of the Federal plan. Therefore, further public comment on this plan is not necessary.

Accordingly, the Regional Administrator, Region VII, hereby gives notice that the Federal plan for the State of Nebraska, as amended, is effective upon signature of this notice.

Dated: September 21, 1978.

KATHLEEN O. CAMIN,
Regional Administrator,
Region VII.

[FR Doc. 78-28831 Filed 10-12-78; 8:45 am]

[6560-01-M]

[FRL 986-3; OPP-180239]

OKLAHOMA DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Botran 75W To Control Sclerotinia Blight on Peanuts

The Environmental Protection Agency (EPA) has granted a specific exemption to the Oklahoma Department of Agriculture (hereafter referred to as the "Applicant") to use Botran 75W for the control of *Sclerotinia* Blight on 15,000 acres of peanuts in 10 counties in Oklahoma. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, Washington, D.C. 20460.

According to the Applicant, the *Sclerotinia* Blight which is caused by the plant pathogen *Sclerotinia sclerotiorum* (syn. *S. minor*) is a relatively new disease on peanuts in the United States, being first reported in 1971. *S. sclerotiorum* invades the tap root, lateral branches, and pegs at the soil line and eventually causes rotting of the peanut pods. Cool, wet conditions are optimum for its development. Because of the overhead irrigation system used to grow peanuts in Oklahoma, these conditions exist and 30,000 acres of peanuts in the counties of Bryan, Caddo, Carter, Grady, Hughes, Johnson, Lincoln, Love, Marshall, and Stephens are infected with this pathogen. Since the peanut growing season is close to completion, the Applicant stated that only 15,000 acres could be treated this year.

There are no EPA-registered fungicides for the control of *S. sclerotiorum* on peanuts. Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* Blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of Benomyl also provided adequate control. Neither of these fungicides is registered although PCNB has a registration for peanut pod rot complex. Botran 75W has been shown to be efficacious for control of *S. sclerotiorum.* In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, onions, and potatoes).

The Applicant will use Botran 75W, manufactured by the Upjohn Company, containing the active ingredient 2,6-dichloro-4-nitroaniline, in a single application at a dosage rate of 4 pounds of product (3 pounds active ingredient) per acre. Applications of Botran will be made through overhead irrigation sprinkler systems by peanut growers. The diagnosis of this plant pathogen must be made before Botran 75W is applied.

The Applicant estimates that yield losses of about 714 pounds of peanuts per acre, representing a monetary loss of $2,142,000, could occur without a suitable control program.

This use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. Treated peanut vines or hay may not be used as livestock feed items.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of *Sclerotinia* Blight has occurred; (b) there is no pesticide presently registered and available for use to control this pest in Oklahoma; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 7, 1978, to the extent and in the manner set forth in the applications. This specific exemption is also subject to the following conditions:

1. The Upjohn product, Botran 75W, which contains the active ingredient dichloran (2,6-dichloro-4-nitroaniline), is authorized at a dosage rate of 4 pounds product (3 pounds active ingredient) per acre applied via overhead irrigation systems. Up to 15,000 acres of peanuts located in the 10 counties named above may be treated;

2. A single application per acre per season is authorized;

3. Botran 75W is to be used only after the presence of *Scleortinia* Blight is diagnosed in a given area by State Extension personnel;

4. All tail water must be contained when Botran 75W is used in irrigation systems;

5. Growers may apply this pesticide provided pesticide dealers disseminate copies of the proper procedures to be followed in applying Botran 75W under this specific exemption. Agricultural Extension agents, plant pathologists, and peanut specialists shall be available to assist growers;

6. All label precautions, directions, and restrictions must be adhered to;

7. Botran 75W-treated peanut fields must not be grazed nor shall the treated vines be used as a feed item;

8. A pre-harvest interval of 30 days shall be observed;

9. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of Botran 75W in

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connection with this specific exemption; and

11. A final report, which summarizes the results of this program, must be submitted to the EPA by May 31, 1979. This report shall include, but is not limited to, the following information: (a) what residues of dichloran occurred in peanuts treated with Botran 75W via irrigation systems; and (b) the degree of control of *Sclerotinia* Blight achieved by this method of applying Botran 75W.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: October 5, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-28832 Filed 10-12-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: October 6, 1978.

Released: October 10, 1978.

Cutoff Date: November 15, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 16, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Poet's Seat Broadcasting, Inc. (File No. BPH-10440), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-10660—(new) Greenfield, Mass., Green Valley Broadcasting, Req: 95.3 MHz, No. 237; .315 kW; 777 feet

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28954 Filed 10-12-78; 8:45 am]

[6712-01-M]

[BC Docket No. 78-326; File No. BRCT-746; FCC 78-674]

FAITH CENTER, INC.

Order and Notice of Apparent Liability; Designating Applications for Hearing on Stated Issues

Adopted: October 2, 1978.

Released: October 11, 1978.

1. The Commission has before it for consideration the captioned application and its inquiries into the operation of Station KHOF-TV, San Bernardino, Calif., licensed to Faith Center, Inc.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or remain the licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the Station KHOF-TV license renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That the captioned application is designated for hearing pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine all the facts and circumstances surrounding Faith Center, Inc.'s, failure to permit Commission access to certain licensee books, records, and employees.

(b) To determine whether Faith Center, Inc., failed to submit information requested by the Commission in the Commission's letter dated June 15, 1978.

(c) To determine whether in its over-the-air fund-raising broadcasts, Faith Center, Inc., violated, or is in violation of, Title 18, United States Code Section 1343.

(d) To determine, in light of the evidence adduced under the preceding issues, whether the applicant possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. *It is further ordered,* That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a Bill of Particulars with respect to Issues (a), (b) and (c).

5. *It is further ordered,* That if it is determined that the hearing record does not warrant an Order denying the captioned application for renewal of license for Station KHOF-TV, it shall also be determined whether the applicant has violated Title 18 U.S.C. 1343. If so, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $20,000 or some lesser amount, should be issued for any such violations.

6. *It is further ordered,* That this document constitutes a Notice of Apparent Liability for forfeiture for violation of Title 18 U.S.C. 1343. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we *stress* that the inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

7. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a), (b), and (c) and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience, and necessity.

8. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered,* That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

10. *It is further ordered,* That the Secretary of the Commission send a copy of this Order by Certified Mail, Return Receipt Requested to Faith Center, Inc., licensee of Station KHOF-TV, San Bernardino, Calif.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28956 Filed 10-12-78; 8:45 am]

[6712-01-M]

[SS Docket Nos. 78-318, 78-319; File Nos. 176-A-L-58, 221-A-L-68]

TRANS REGIONAL AIR AND CITY OF BIG SPRING

Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 29, 1978.

Released: October 5, 1978.

In re applications of Trans Regional Air Big Spring, Tex., SS Docket No. 78-318, File No. 176-A-L-58; city of Big Spring, Big Spring, Tex., SS Docket No. 78-319, File No 221-A-L-68; for an aeronautical advisory station to serve the Big Spring Municipal Airport, Big Spring, Tex.

1. The City of Big Spring, Tex. (hereinafter called The City) and Trans Regional Air (hereinafter called Trans Regional) have both filed applications to operate an aeronautical advisory station at Big Spring Municipal Airport, Big Spring, Tex. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. On July 17, 1978, the Commission issued a license to Trans Regional Airlines to operate Aeronautical Advisory Station WQT 4 at the Big Spring Municipal Airport. The City of Big Spring, Tex., in a letter dated July 20, 1978, stated that they never received written notice that Trans Regional Air was intent on filing an application for the Aeronautical Advisory Station at Big Spring Municipal Airport. Since § 87.251(b) of our rules requires that each applicant give written notice of their intent to file an application for an Aeronautical Advisory station to the owner of the landing area and all aviation service organizations on the landing area the authorization to operate Station WQT 4 from July 17, 1978, to July 17, 1983, was set aside on July 28, 1978, pursuant to § 1.113 of our rules.[1]

3. The City filed its application for an aeronautical advisory station on July 28, 1978. This application became mutually with Trans Regional's application assuming that notice was not, in fact, given to the City by Trans Regional. In this connection Trans Regional maintains that notice was given and the City's position is that it never received notice. If it is determined in this proceeding that Trans Regional did, in fact, give the City notice then the City would not be entitled to file a competing application under the "cut-off" rules (§ 1.227) and the station authorization (WQT 4) previously granted to Trans Regional and set aside by the Commission should be reinstated nunc pro tunc. On the other hand, if it is determined that Notice was not given as alleged by the City then the applications are mutually exclusive and subject to a comparative hearing. Appropriate issues follow to resolve this matter.

4. In view of the foregoing: *It is ordered,* That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

a. To determine if Trans Regional Air gave the City of Big Spring written notice of their intent to file an application for an Acronautical Advisory station at Big Spring Municipal Airport as required by § 87.251(b) of our rules, and if not

b. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations;

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators; and,

c. To determine if Trans Regional's failure to give notice was willful and if so the effect of such conduct on its ability to be a licensee of a Unicom station at Big Spring Municipal Airport;

d. To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

4. *It is further ordered,* That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issues (a) and (c) where the burdens are on Trans Regional and issue (d) which is conclusory.

5. *It is further ordered,* That to avail themselves of an opprotunity to be heard, Trans Regional and The City, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-28955 Filed 10-12-78; 8:45 am]

[1] Section 1.113 Action modified or set aside by person, panel, or board reads in part "Within 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion."

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Notice of Meeting

OCTOBER, 3,1978.

Pursuant to section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, November 13; Tuesday, November 14; and Wednesday, November 15, 1978. The meeting will commence at 9 a.m. on November 13, 14, and 15 at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. in the sixth floor Board Room.

MONDAY, NOVEMBER 13

9 a.m.—General Discussion.
9:20 a.m.—Bank Board Goals.
10:30 a.m.—Dividend Equalization Program.
Inclusion of FHA and VA in Scheduled Items.
Reserve Earmarking Requirements.
Review of Federal Reserve Rule Allowing Automatic Transfers.
1 p.m.—Acceptable Collateral for Treasury Tax and Loan Accounts
Appraisal Distribution Regulation and Alternatives Thereto.
90 percent loans to Owner-Occupied 3-4 Family Units.
Mortgage Revenue Bond Issues.
Implementation of the Community Investment Fund.
Money Market Certificates.
Underwriting Guidelines.
Review of Examination Procedures.
Deferred Fees and Acquisition Credits.
Commercial Bank Ownership in the Federal Home Loan Mortgage Corporation.
Retirement Savings Accounts.
Associations With Similar Names.

TUESDAY, NOVEMBER 14

9 a.m.—Continued discussion of Monday afternoon topics.
1 p.m.—General discussion.

WEDNESDAY, NOVEMBER 15

9 a.m.—General discussion.

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The meeting of the Federal Savings and Loan Advisory Council is open to the public.

ROBERT H. MCKINNEY,
Chairman.

[FR Doc. 78-28860 Filed 10-12-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

COLLECTIVE BARGAINING AGREEMENTS

Notice of Temporary Exemption

Notice is hereby given that on October 3, 1978, the Commission determined the following collective bargaining agreements to be temporarily exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), pending FEDERAL REGISTER notice, opportunity for comment, and subsequent determination by the Commission that the agreements (or any specific provision thereof) should be permanently exempt from the filing and approval requirements of section 15 of the Shipping act, 1916, or should be approved, disapproved or modified under that section. This action was taken in accordance with our interim policy statement—collective bargaining agreements, served June 12, 1978. This temporary exemption is effective until January 11, 1979.

Interested parties may inspect the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or at the field offices located at New York, NY., New Orleans, La., San Francisco, Calif., Chicago, Ill., and San Juan, P.R. Comments on the agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Comments should include facts and arguments concerning the exemption, approval, modification or disapproval of the proposed agreements. Comments shall discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or are in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: LM-23, as amended and supplemented, between the International Longshoremen's & Warehousemen's Union and the Pacific Maritime Association.

Filing party: R. Frederic Fisher, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, Calif. 94111.

Summary: The following agreements constitute the 1978-1981 collective bargaining agreement between the International Longshoremen's & Warehousemen's Union (ILWU) and the Pacific Maritime Association (PMA) concerning ILWU watchmen in San Francisco, Los Angeles and Long Beach, Calif.:

LM-23: Agreement dated September 5, 1973;
LM-23-1: Memorandum of understanding dated August 18, 1975;
LM-23-2: Memorandum of understanding dated August 15, 1978;
LM-23-3: August 15, 1978, letter agreement confirming certain understandings reached during the 1978 ILWU-PMA watchmen's negotiations;
LM-23-A: ILWU-PMA watchmen pension plan agreement; and
LM-23-B: First amended ILWU-PMA watchmen pension fund-declaration of trust.

By order of the Federal Maritime Commission.

Dated: October 10, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28872 Filed 10-12-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76P-0163]

IDENTITY AND QUALITY STANDARD FOR CANNED PINEAPPLE JUICE

Amended Notice of Interim Standards

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document modifies the advice given in the partial confirmation notice, previously published, that pineapple juice from concentrate should contain an amount of soluble solids equivalent to that of the single strength pineapple juice from which the concentrate was prepared. This document advises that pineapple juice from concentrate may be marketed at 12.5° Brix or more pineapple juice soluble solids. This advice on the appropriate soluble solids level is an interim measure pending a decision as to whether a hearing will be necessary to resolve issues raised by objections to the 132.5° Brix minimum pineapple juice soluble solids which would have been required by the final regulation.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 14, 1978 (43 FR 10552), the Commissioner of Food and Drugs issued a notice of partial confirmation of effective date and stay of one provision of the final regulation amending the standards of identity (21 CFR 146.185(a)) and quality (21 CFR 146.185(b)) for canned pineapple juice. Based upon an objection and request for a hearing, the effective date of the 13.5° Brix minimum pineapple juice soluble solids requirement for pineapple juice from concentrate in the standard of quality published in the FEDERAL REGISTER of May 28, 1976 (41 FR 21768) was stayed pending a determination of whether a public hearing is necessary to resolve the issue raised by the objection. The Commissioner advised that, pending final resolution of the issue, he would consider pineapple juice from concentrate to be misbranded if the level of pineapple juice soluble solids is not equivalent to that in the single strength pineapple juice from which the concentrate was prepared.

In regard to this advice on the interim requirement, the Pineapple Growers Assn. of Hawaii (PGAH) submitted a comment stating that the soluble solids of pineapple juice is at a constantly changing Brix as it is being processed into concentrated pineapple juice in a "continuous system." Consequently, PGAH asserted it is not practical to reconstitute pineapple juice from concentrate to a soluble solids level equivalent to that of the juice from which the concentrate was prepared. PGAH stated that the juice is fed continuously into the evaporator at approximately 100 gallons per minute and, therefore, the Brix of the juice being concentrated is constantly fluctuating. PGAH requested that, in view of the impracticality of the interim requirement, the March 14, 1978 notice be amended by deleting the requirement and establishing in its place a 12.5° Brix minimum soluble solids requirement for "pineapple juice from concentrate" pending the resolution of the issue resulting from the objection. Juice Bowl Products, Inc., the objector to the original 13.5° Brix minimum soluble solids requirement, has advised the Food and Drug Administration that it does not object to the PGAH request.

The Commissioner has considered the request submitted by PGAH regarding the interim soluble solids level for pineapple juice from concentrate. He believes that pineapple juice from concentrate will be misbranded if it is not reconstituted to a reasonable approximation of the Brix level of the pineapple juice from which it is made. He is persuaded that 12.5° Brix minimum pineapple soluble solids level can be considered a reasonable approximation of the Brix level as an interim matter pending a decision on whether a hearing is necessary. Therefore, he modifies the advice provided in the partial confirmation of effective date by advising that pineapple juice from concentrate will not be regarded as misbranded if it has a minimum Brix level of 12.5°. The food should also be labeled in accordance with 21 CFR 146.185(b)(3).

Dated: October 4, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner 04for Regulatory Affairs.

[FR Doc. 78-28698 Filed 10-12-78; 8:45 am]

[4110-03-M]

MICROBIOLOGY DEVICES SECTION OF THE IMMUNOLOGY AND MICROBIOLOGY DEVICES PANEL

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Microbiology Devices Section of the Immunology and Microbiology Devices Panel meeting announced by a notice in the FEDERAL REGISTER of September 22, 1978 (43 FR 43068), for October 31, and November 1, 1978, has been cancelled.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.

Dated: October 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-28699 Filed 10-12-78; 8:45 am]

[4110-83-M]

Health Resources Administration

EXPANDED FUNCTION DENTAL AUXILIARY TRAINING GRANTS

Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Expanded Function Dental Auxiliary (EFDA) training are now being accepted under authority of section 783 of the Public Health Service Act, Title VII.

Section 783 authorizes the Secretary to make grants to public and nonprofit private schools of dentistry, or other public or non-profit private entities, which have programs for the training of dental hygienists or dental assistants, to meet the cost of projects to: plan, develop and operate or maintain programs for the educational preparation of dental hygienists and dental assistants to be efficient members of the dental health care team, who can perform legally delegated expanded functions under supervision of the dentist.

These educational entities shall offer ongoing educational programs which extend for at least one academic year and consist of supervised clinical practice and at least four (4) months (in the aggregate) of classroom instruction and plan to enroll not less than eight (8) students for expanded functions training.

All public and non-profit private schools of dentistry or other public or non-profit private entities, which have programs for the training of dental hygienists or dental assistants and which are accreddited by the Commission on Accreditation for Dental and Dental Auxillary Educational Programs, within the United States, its territories and possessions are eligible to apply.

Based on the proposed appropriation for the EFDA program and projected requirements for continuation grants, and estimated $300,000 will be available for competitive grant awards in Fiscal Year 1979.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer,
Bureau of Health Manpower,
Health Resources Administration,
Center Building, Room 4-27,
3700 East-West Highway,
Hyattsville, Maryland 20782,
Phone: 301-436-6564.

To be considered for fiscal year 1979 funding, completed applications must be postmarked no later than November 30, 1978, and sent to the Grants Management Officer at the above address.

Should additional program information be required, please contact:

Education Development Branch,
Division of Dentistry,
Bureau of Health Manpower,
Health Resources Administration,
Center Building, Room 3-30,
3700 East-West Highway,
Hyattsville, Maryland 20782,
Phone: 301-436-6514

Dated: October 3, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-29037 Filed 10-12-78; 8:45 am]

[4110-08-M]

Public Health Service

NATICNAL INSTITUTES OF HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HN (National Institutes of Health) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 43 FR 4114, January 31, 1978) is amended to reflect the establishment of the Office for Medical Applications of Research (HNA9) within the Office of the Director, National Institutes of Health (NIH). This Office will play an important role in increasing the timely and effective transfer of research knowledge into health practice.

Sec. HN-B, Organization and Functions, is amended as follows:

(1) Under the heading Office of the Director (HNA), insert the following statement after the statement for the Division of Scientific Reports (HNA83):

Office for Medical Applications of Research (HNA9): (1) Advises the Director, NIH, and his senior staff, and provides guidance to the bureaus, institutes, and divisions on medical applications of research; (2) coordinates, reviews, and facilitates the systematic identification and evaluation of clinically relevant NIH research program information; (3) promotes the effective transfer of this information to the health care community and through the PHS Office of Health Technology (OHT) to those agencies requiring such information; (4) provides a link between technology assessment activities of the bureaus, institutes, and divisions of the NIH and the OHT; and (5) monitors the effectiveness and progress of the assessment and transfer activities of the NIH.

Dated: October 4, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-29033 Filed 10-12-78; 8:45 am]

[4110-08-M]

National Institutes of Health

ADVISORY COMMITTEES

Filing of Annual Reports

Pursuant to sections 10(d) and 13 of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the annual reports for the com-

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mittees listed below have been filed with the Library of Congress. Copies are available to the public for inspection at the Library of Congress, special forms reading room, main building, or on weekdays, at the Department Library, North Building, room 1436, Washington, D.C. 20201, between 9 a.m. and 4:30 p.m.

Advisory Committee To The Director, NIH.
Aging Review Committee.
Allergy and Clinical Immunology Research Committee.
Allergy and Immunology Study Section.
Animal Resources Advisory Committee.
Applied Physiology and Orthopedics Study Section.
Arteriosclerosis and Hypertension Advisory Committee.
Artificial Kidney-Chronic Uremia Advisory Committee.
Bacteriology and Mycology Study Section.
Behavioral Sciences Research Contract Review Committee.
Bioanalytical and Metallobiochemistry Study Section.
Biochemistry Study Section.
Biomedical Library Review Committee.
Biometry and Epidemiology Contract Review Committee.
Biophysics and Biophysical Chemistry A Study Section.
Biophysics and Biophysical Chemistry B Study Section.
Biopsychology Study Section.
Biotechnology Resources Advisory Committee.
Bladder and Prostatic Cancer Review Committee.
Blood Diseases and Resources Advisory Committee.
Board of Regents of the National Library of Medicine.
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis.
Board of Scientific Counselors, Division of Cancer Cause and Prevention.
Board of Scientific Counselors, Division of Cancer Treatment.
Board of Scientific Counselors, NEI.
Board of Scientific Counselors, NHLBI.
Board of Scientific Counselors, NIA.
Board of Scientific Counselors, NIAID.
Board of Scientific Counselors, NIAMDD.
Board of Scientific Counselors, NICHD.
Board of Scientific Counselors, NIDR.
Board of Scientific Counselors, NIEHS.
Board of Scientific Counselors, NINCDS.
Breast Cancer Task Force Committee.
Cancer and Nutrition Scientific Review Committee.
Cancer Clinical Investigation Review Committee.
Cancer Control and Rehabilitation Advisory Committee.
Cancer Control Community Activities Review Committee.
Cancer Control Grant Review Committee.
Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee.
Cancer Control Treatment, Rehabilitation, and Continuing Care Review Committee.
Cancer Research Manpower Review Committee.
Cancer Special Program Advisory Committee.
Carcinogenesis Program Scientific Review Committee.
Cardiology Advisory Committee.
Cardiovascular and Pulmonary Study Section.
Cardiovascular and Renal Study Section.
Cell Biology Study Section.
Cellular and Molecular Basis of Disease Review Committee.
Clearinghouse on Environmental Carcinogens.
Clinical Applications and Prevention Advisory Committee.
Clinical Cancer Education Committee.
Clinical Cancer Program Project and Cancer Center Support Review Committee.
Clinical Trials Committee.
Clinical Trials Review Committee.
Combined Modality Committee.
Committee on Cancer Immunobiology.
Committee on Cancer Immunodiagnosis.
Committee on Cancer Immunotherapy.
Committee on Cytology Automation.
Communicative Disorders Review Committee.
Communicative Sciences Study Section.
Contraceptive Development Contract Review Committee.
Contrapective Evaluation Research Contract Review Committee.
Dental Caries Program Advisory Committee.
Dental Research Institutes and Special Programs Advisory Committee.
Developmental Therapeutics Committee.
Diagnostic Research Advisory Group.
Endocrinology Study Section.
Epidemiology and Disease Control Study Section.
Epilepsy Advisory Committee.
Ethical Advisory Board.
Experimental Therapeutics Study Section.
Experimental Virology Study Section.
General Clinical Research Centers Committee.
General Medicine A Study Section.
General Medicine B Study Section.
General Research Support Program Advisory Committee.
Genetics Study Section.
Heart, Lung, and Blood Research Review Committee A.
Heart, Lung, and Blood Research Review Committee B.
Hematology Study Section.
Human Development Study Section.
Human Embryology and Development Study Section.
Immunobiology Study Section.
Immunological Sciences Study Section.
Large Bowel and Pancreatic Cancer Review Committee.
Lipid Metabolism Advisory Committee.
Mammalian Cell Lines Committee.
Maternal and Child Health Research Committee.
Medicinal Chemistry A Study Section.
Mental Retardation Research Committee.
Metabolism Study Section.
Microbial Chemistry Study Section.
Microbiology and Infectious Diseases Advisory Committee.
Minority Access to Research Careers Review Committee.
Molecular Biology Study Section.
Molecular Cytology Study Section.
National Advisory Allergy and Infectious Diseases Council.
National Advisory Child Health and Human Development Council.
National Advisory Council on Aging.
National Advisory Dental Research Council.
National Advisory Environmental Health Sciences Council.
National Advisory Eye Council.
National Advisory General Medical Sciences Council.
National Advisory Neurological and Communicative Disorders and Stroke Council.
National Advisory Research Resources Council.
National Arthritis Advisory Board.
National Arthritis, Metabolism, and Digestive Diseases Advisory Council.
National Cancer Advisory Board.
National Commission on Digestive Diseases.
National Diabetes Advisory Board.
National Heart, Lung, and Blood Advisory Council.
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee.
Neurological Disorders Program—Project Review A Committee.
Neurological Disorders Program—Project Review B Committee.
Neurological Sciences Study Section.
Neurology A Study Section.
Neurology B Study Section.
Nutrition Study Section.
Oral Biology and Medicine Study Section.
Pathobiological Chemistry Study Section.
Pathology A Study Section.
Pathology B Study Section.
Periodontal Diseases Advisory Committee.
Pharmacology Study Section.
Pharmacology-Toxicology Research Program Committee.
Physiological Chemistry Study Section.
Physiology Study Section.
Population Research Committee.
President's Cancer Panel.
Primate Research Centers Advisory Committee.
Pulmonary Diseases Advisory Committee.
Radiation Study Section.
Recombinant DNA Molecule Program Advisory Committee.
Reproductive Biology Study Section.
Research Manpower Review Committee.
Sickle Cell Disease Advisory Committee.
Social Sciences and Population Study Section.
Surgery and Bioengineering Study Section.
Surgery, Anesthesiology and Trauma Study Section.
Toxicology Study Section.
Transplantation Biology and Immunology Committee.
Tropical Medicine and Parasitology Study Section.
Virology Study Section.
Virus Cancer Program Scientific Review Committee.
Vision Research Program Committee.
Visual Sciences A Study Section.
Visual Sciences B Study Section.

Dated: September 26, 1978.

THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28770 Filed 10-12-78; 8:45 am]

[4110-08-M]

ANIMAL RESOURCES ADVISORY COMMITTEE AND PRIMATE RESEARCH CENTERS ADVISORY COMMITTEE

Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the National Institutes of Health announces the merger on September 2, 1978, by the Secretary, HEW, with the concurrence of the Committee Management Secretariat, of the Animal Resources Advisory Committee and the Primate Research Centers Advisory Committee, and the renewal of these committees as one under the new title of the Animal Resources Review Committee.

Authority for the above committee will expire on March 2, 1979, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 26, 1978.

THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28771 Filed 10-12-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS, NEI

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, December 18 and 19, 1978, Building 31, room 6A-35, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on December 18 from 8:30 a.m. until 2:30 p.m. for general remarks by the Institute Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 18 from 2:30 p.m. until adjournment and the entire day on December 19 for review, discussion, and evaluation of individual projects conducted by the Laboratory of Vision Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, room 6A-25, telephone 301-496-5248 will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. Carl Kupfer, Director, National Eye Institute, Building 31, room 6A-03, telephone 301-496-2234, National Institutes of Health, Bethesda, Md. 20014.

Dated: October 5, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-28774 Filed 10-12-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS, NICHD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, November 13, 1978, in Building 31, room 2A-52. This meeting will open to the public from 9 a.m. to 3 p.m. on November 13 for the review of the NICHD Intramural Research Programs. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3 p.m. to adjournment on November 13 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, room 2A-04, National Institutes of Health, Bethesda, Md., area code 301, 496-1848, will provide a summary of the meeting and a roster of Board members. Dr. James Sidbury, Scientific Director, NICHD, Building 31, room 2A-50, National Institutes of Health, Bethesda, Md., area code 301, 496-2133, will furnish substantive program information.

Dated: September 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28769 Filed 10-12-78; 8:45 am]

[4110-08-M]

CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Cancellation and Rescheduling of Subgroup Meetings

Notice is hereby given of the cancellation and rescheduling of meetings of Subgroups of the Clearinghouse on Environmental Carcinogens which were published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39431). The October 25, 1978 meeting of the Experimental Design Subgroup has been cancelled. The meeting of the Data Evaluation/Risk Assessment Subgroup, scheduled for October 26, 1978, will now meet on October 25, 1978, at the Holiday Inn of Bethesda, 8110 Wisconsin Avenue, Bethesda, Md. 20014. The meeting will be entirely open to the public from 9 a.m. to adjournment. Attendance will be limited to space available. For further information, please contact Dr. James A. Sontag, Executive Secretary, Building 31, room 3A16, National Institutes of Health, Bethesda, Md. 20014, 301-496-5108.

Dated: October 3, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28765 Filed 10-12-78; 8:45 am]

[4110-08-M]

CLINICAL CANCER EDUCATION COMMITTEE

Meeting

Pursuant to Pub. L. 92- 463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, November 1-2, 1978, Landow Building, Conference room A, 7910 Woodmont Avenue, Bethesda, Md. 20014. The meeting will be open to the public on November 1, 1978, from 8:30 a.m.-9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 1, 1978, from 9:30 a.m.-5:00 p.m., and on November 2, 1978 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will provide summaries of the meeting and a roster of committee members, upon request.

Dr. Margaret H. Edwards, Executive Secretary, National Cancer Institute, Westwood Building, room 10A18, National Institutes of Health, Bethesda, Md. 20014 301-496-7761 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13. 398, National Institutes of Health.)

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Dated: September 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28767 Filed 10-12-78; 8:45 am]

[4110-08-M]

GRANT APPLICATIONS

Notice of Meetings for Review

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications, as indicated. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and pesonal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of Committee: Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee).
Dates: November 1, 1978; 8:30 a.m.
Place: Continental Plaza Hotel, 909 Michigan Avenue, Chicago, Ill. 60611.
Times: Open—November 1, 8:30 a.m. to 10 a.m. Closed—November 1, 10:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. William E. Straile. Address: Westwood Building, room 853, National Institutes of Health. Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Nos. 13.393, 13.394, 13.395 National Institutes of Health.)

Name of Committee: Cancer Clinical Investigation Review Committee.
Dates: November 6-7, 1978; 9 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open—November 6, 9 a.m. to 12:30 p.m. Closed—November 6, 1:30 p.m. to 5 p.m. Closed—November 7, 8:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Mr. C. W. White. Address: Westwood Building, room 819, National Institutes of Health. Phone: 301-496-7481.

(Catalog of Federal Domestic Assistance No. 13.395 National Institutes of Health.)

Name of Committee: Clinical Cancer Program Project and Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee).
Dates: November 16, 1978; 8:30 a.m.
Place: Linden Hill Hotel, Terrace Room, 5400 Pooks Hill Road, Bethesda, Md. 20014.
Times: Open—November 16, 8:30 a.m. to 10 a.m. Closed—November 16, 10 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Robert L. Manning. Address: Westwood Building, room 803, National Institutes of Health. Phone: 301-496-7721.

(Catalog of Federal Domestic Assistance No. 13.397 National Institutes of Health.)

Name of Committee: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee).
Dates: November 17, 1978; 8 a.m.
Place: Holiday Inn (Pennsylvania Conference Room), 8120 Wisconsin Avenue, Bethesda, Md. 20014.
Times: Open—November 17, 8 a.m. to 9 a.m. Closed—November 17, 9 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo. Address: Westwood Building, room 853, National Institutes of Health. Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Nos. 13.393, 13.394, 13.395 National Institutes of Health.)

Dated: September 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-28768 Filed 10-12-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER ADVISORY BOARD AND PRESIDENT'S CANCER PANEL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board and the President's Cancer Panel, November 20-21, 1978, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Md.

The entire meeting will be open to the public from 9 a.m. to adjournment. Agenda items include presentations and discussions of the programs of the Division of Cancer Treatment and the Division of Cancer Biology and Diagnosis, NCI; a report on training (Pathobiology Workshop); immunoprevention; and the NCI Science Content Analysis System. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will provide summaries of the meeting, substantive program information, and rosters of Board and Panel members.

Dated: October 5, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institute of Health.

[FR Doc. 78-28773 Filed 10-12-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), the Director, National Institutes of Health, announces the renewal by the Director, NCI, of the following committees:

COMMITTEE AND TERMINATION DATE
Cancer Control and Rehabilitation Advisory Committee, September 22, 1980.
Clinical Cancer Education Committee, September 22, 1980.
Cancer Control Community Activities Review Committee (renamed Cancer Control Merit Review Committee), September 22, 1980.

Authority for these committees will expire on the dates indicated, unless renewed by appropriate action as authorized by law.

Dated: September 26, 1978.

THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28772 Filed 10-12-78; 8:45 am]

[4110-08-M]

RECOMBINANT DNA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Md. 20014, on October 30-31, 1978, from 9 a.m. to 5 p.m.

The entire meeting will be open to the public for consideration of:

Report of Working Group on Lower Eukaryotic Host-Vector Systems.
Report of Working Group on Prokaryote Host-Vectors Other Than *E. coli* K-12.
Organisms that exchange genetic information.
Review of protocols for required containment levels.
Requests for lowering of containment levels on the basis of characterization of clones.
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available. Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, room 4A52, telephone 301-496-6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

Dated: October 3, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28766 Filed 10-12-78; 8:45 am]

[4510-08-M]

REPORT ON BIOASSAY OF 3-AMINO-9-ETHYLCARBAZOLE (HYDROCHLORIDE) FOR POSSIBLE CARCINOGENICITY

Availability

3-Amino-9-ethylcarbazole (hydrochloride) (CAS 132-32-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 3-Amino-9-ethylcarbazole (hydrochloride) for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Both the free amine form and the hydrochloride salt were used. Applications of the chemical include use as an intermediate in the manufacture of dyes.

It is concluded that under the conditions of this bioassay, 3-Amino-9-ethylcarbazole (hydrochloride) was carcinogenic for the liver, inducing hepatocellular carcinomas in Fischer 344 rats and B6C3F1 mice of both sexes. Other tumors induced in the rats were carcinomas or papillomas of the integumentary system in males, carcinomas of the Zymbal's gland of the ear in males and females, and adenocarcinomas of the uterus.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 5, 1978.

DONALD S. FREDERICKSON,
Director, National Institutes of Health.

[FR Doc. 78-28777 Filed 10-12-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 1 - AMINO - 2 - METHYLANTHRAQUINONE FOR POSSIBLE CARCINOGENICITY

Availability

1-Amino-2-methylanthraquinone (CAS 82-28-0) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of technical-grade 1-amino-2-methylanthraquinone was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a dye and as an intermediate in dye manufacture. 1-amino-2-methylanthraquinone was administered in the feed, at either of two concentrations, to groups of 45 to 50 males and females of each species.

Under the conditions of this bioassay, 1-amino-2-methylanthraquinone was carcinogenic in Fischer 344 rats, inducing hepatocellular carcinomas in rats of both sexes, and kidney tumors in male rats. The compound was carcinogenic in female B6C3F1 mice, producing an increased combined incidence of hepatocellular carcinomas and neoplastic nodules.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-28775 Filed 10-12-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 3-(CHLOROMETHYL)PYRIDINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

3-(Chloromethyl)pyridine hydrochloride (CAS 6959-48-4) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 3-(chloromethyl)pyridine hydrochloride for possible carcinogenicity was conducted by administering the test chemical by gavage to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in manufacturing of a variety of chemicals.

It is concluded that under the conditions of this bioassay, 3-(chloromethyl)pyridine hydrochloride was carcinogenic in male Fischer 344 rats and in B6C3F1 mice of both sexes, producing papillomas and carcinomas at the site of topical application, the stomach.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-28776 Filed 10-12-78; 8:45 am]

[4110-85-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

TECHNICAL CONSULTANT PANEL ON THE HEALTH INTERVIEW SURVEY OF THE U.S. NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1978:

Name: Technical consultant Panel on the Health Interview Survey of the U.S. National Committee on Vital and Health Statistics.
Date and Time: October 24-25, 1978, 9 a.m.
Place: Room 727-A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20001.
Open for entire meeting.
Purpose: The Technical consultant Panel on the Health Interview Survey is to examine the Health Interview Survey in order to assess whether it is meeting its goal in particular areas of data collection and analysis.
Agenda: The Technical Consultant Panel will discuss the following agenda items: (1) Draft outline of the final report on recommendations of the TCP regarding the Health Interview Survey; (2) items of concern to OMB and other issues not specifically addressed in the draft final report including: (a) timeliness issues; (b) periodicity of data; and (c) coordination and/or

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consolidation of the Health Interview Survey with Health and Nutrition Examination survey (HANES).

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Date: October 4, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-29121 Filed 10-12-78; 8:45 am]

[4110-92-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

Federal Council on the Aging

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of Older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on October 26 and 27, 1978 from 9:30 a.m. to 5 p.m., Room 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The Agenda will consist of a report from the Executive Committee of the Council on priorities and resources needed for Council work in fiscal year 1979. Up-dated reports will be given by the Committee on Senior Services, the Committee on Long Term Care, the Committee on Policy Development and Program Evaluation; and the Committee on Special Aging Populations. The Council will also further review and discuss the requirements of the new AOA legislation that have Council implications. Finally, the Council will consider additional plans for carrying out assigned responsibilities in program review and initiation in the field of aging.

Further information on the Council may be obtained from the FCA Secretariat, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0441. FCA meetings are open for public observation.

Dated: September 28, 1978.

NELSON H. CRUIKSHANK,
Chairman, Federal Council on the Aging.

[FR Doc. 78-29031 Filed 10-12-78; 8:45 am]

[4110-02-M]

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part EE.10 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to reflect several changes in the organization of the Office of Education. The major emphasis is the creation of two Executive Deputy Commissioners, one for Educational programs and the other for Management, Budget, and Evaluation, to whom the the Commissioner of Education will delegate the responsibility for day-by-day operation of the Office of Education.

The specific changes are as follows:

(1) The Bureau of Postsecondary Education is retitled the Bureau of Higher and Continuing Education and its functional statement published at 39 FR 14739 (April 26, 1974) is deleted and replaced by the following:

The Bureau of Higher and Continuing Education formulates policy for, directs and coordinates activities of the elements of the Office of Education which deal with programs for assistance to postsecondary educational institutions, students and international education.

(2) The title and statement for the Division of Education Replication, Bureau of Elementary and Secondary Education, published at 41 FR 31931 (July 30, 1976), are deleted in their entirety.

(3) The title and statement for the Division of Education Systems Development, Bureau of Occupational and Adult Education, published at 39 FR 14738 (April 26, 1974), are deleted in their entirety.

(4) The following title and statement are to be added immediately after the title and statement for the Division of International Education, Bureau of Higher and Continuing Education:

Division of Educational Systems Development (EEPE). Administers programs of financial support: To institutions of higher education, States, and local educational agencies for demonstration projects designed to reduce the number of elementary and secondary school dropouts; and to Teacher Centers where elementary and secondary teachers may develop curriculum and receive training to improve their skills. Provides professional advice and developmental assistance to the education community on strategies for dropout prevention and the reform of training programs for the education profession.

(5) The title and statement for the Office of Planning, published at 38 FR 32154 (November 21, 1973), are deleted in their entirety.

(6) The title of the Office of Planning, Budgeting, and Evaluation is changed to the Office of Evaluation and Dissemination and the functional statement published at 40 FR 52657 (November 11, 1975) is deleted and replace by the following:

The Office of Evaluation and Dissemination has responsibility for evaluating the effectiveness of Office of Education programs and coordinating the dissemination of exemplary materials to State and local education agencies.

Designs, directs the conduct of, and reports the results from, national evaluations of Office of Education programs. Following Departmental procedures, interfaces with ASE, ASPE, OMB, and GAO, the Educational Data Acquisition Council (EDAC), and the Committee of Evaluation and Information Systems (CEIS) of the Council of Chief State School Officers on all matters relating to education program evaluation. Prepares summaries of completed evaluations for dissemination. Supplies advice and recommendations on matters of policy, budget, legislation, and program operation to the Commissioner for Legislation based on the results of evaluation studies.

Develops strategies and supports activities to assure widespread dissemination of exemplary projects and programs, and assists in their replication by State and local education agencies.

Conducts historical studies of the Office of Education and administers the OE oral history project.

(7) The title and statement for the Division of Planning and Budgeting, published at 40 FR 52657 (November 11, 1975), are deleted in their entirety.

(8) The following title and statement are added immediately after the title and statement for the Division of Occupational, Handicapped, and Developmental programs, Office of Evaluation and dissemination: *Division of Educational Replication (EEFR).* Develops and implements policies concerning the dissemination and diffusion activities administered by the Office of Education. Has primary operational resonsibility for programs to facilitate the adoption of successful educational practices, including the National Diffusion Network. Maintains the master file of, and disseminates information on, all projects approved by the Education Division's Joint Dissemination Review Panel. Supports and promotes the dissemination and implementation of Program Information Packages (PIPS) developed by the Division of Elementary and Secondary programs.

(9) The following title and statement are to be inserted immediately after the title and statement for the Editorial Services Division, Office of Public Affairs:

OFFICE OF THE EXECUTIVE DEPUTY COMMISSIONER FOR EDUCATIONAL PROGRAMS (EEB)

Provides executive policy leadership, direction, and integration to the operation of the educational programs of the Office of Education and oversees the administration of the headquarters Bureaus and the Regional Offices of Educational programs. Serves as a principal advisor to the Commissioner on the development, formulation, adoption, and execution of policies in the field of education. Represents the Commissioner and the Office of Education in top-level relationships with members of the educational community. Administers the arts in education, energy education, and women's educational equity programs.

(10) The following titles and statements are to be added immediately after the title and statement for the right to read program:

OFFICE OF THE EXECUTIVE DEPUTY COMMISSIONER FOR MANAGEMENT, BUDGET, AND EVALUATION

Directs the evaluation of the impact of Federal education programs and other agency dissemination efforts. Provides leadership to long-range planning efforts. Determines goals, priorities, and timeframes to assure maximum achievement of program objectives. Serves as a principal advisor to the Commissioner on the development, formulation, adoption, and execution of policies in the field of education. Represents the Commissioner and the Office of Education in top-level relationships with members of the education community. Serves as the principal advisor to the Commissioner on matters of administrative management and regulations development.

DIVISION OF PLANNING AND BUDGETING (EEEB)

Is responsible for preparing and defending the forward plan and annual budget estimates of the Office of Education, including necessary liaison with the Office of the Assistant Secretary for Education, the Office of the Secretary, DHEW, the Office of Management and Budget, and in cooperation with appropriate HEW staff, the Appropriations and Budget Committees of the Congress. Implements major planning and budgetary decisions including the assurance that program budgets are congruent with overall agency goals, objectives and priorities. Develops analysis of program issues and integrates policy analyses with budget proposals. Receives all funds appropriated or transferred to the Office of Education and issues allotments and limitations to the subdivisions of the Office. Administers the antideficiency regulations.

DIVISION OF AUDITS AND APPEALS (EEEC)

Responsible for coordination of audit matters between Office of Education operating units and audit organizations. Assists OE units in the timely and appropriate disposition of audit reports. Assists OE and client organizations in identifying ways in which management improvements can be made to avoid future audit problems. Provides administrative support for the Office of Education Hearing Board which provides due process for educational agencies and institutions contesting adverse findings by Federal fiscal and education program officials.

DIVISION OF REGULATIONS MANAGEMENT (EEER)

Insures by establishing policies and standards and by providing guidance and interpretations and monitoring and evaluations, that the Agency is effectively developing regulatory documents necessary for operations within the requirements of law. Develops policies, systems, methods, and procedures for the development and processing of regulatory documents of the Agency. Serves as the Agency monitor and coordination point for compliance activities as required by the Administrative Procedures Act of 1946 and Section 431, General Education Provisions Act including the schedule of dates for the publication of regulations. Insures that all regulatory documents conform to Agency policies, Department requirements, and the requirements of the Office of the Federal Register, the Advisory Commission on Intergovernmental Relations and the Office of Management and Budget.

(11) Part EE.50 (formerly 2-F), order of succession, published at 36 FR 20551 (October 23, 1971), is deleted and replaced by the following:

EE.50 *Order of succession.* During the absence or disability of the Commissioner of Education, or in the event of a vacancy in that position, the first official listed below who is available shall act as Commissioner, except during a period of planned absence for which a different order has been designated under (b) below:

(a)(1) Executive Deputy Commissioners in order of the seniority of their appointments as Deputy Commissioners or, in the event of concurrent appointments, in order of the seniority of their appointments to the Office of Education;

(2) Bureau Deputy Commissioners in order of the seniority of their appointments as Deputy Commissioners or, in the event of concurrent appointments, in order of the seniority of their appointments to the Office of Education;

(b) For a planned period of absence, the Commissioner may specify a different order of succession.

Dated: September 28, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-29032 Filed 10-12-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ROSEBUD INDIAN RESERVATION, S. Dak.

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicating Beverages—Amendment

SEPTEMBER 27, 1978.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary— Indian affairs, by 230 DM 2, and in accordance with the Act of August 15, 1953, Pub. L. 277, 83d Congress, 1st Session, (67 Stat. 586). I certify that the following resolution and ordinance amending ordinance No. RB 74-20 relating to the application of the Federal Indian liquor laws on the Rosebud Indian Reservation, S. Dak., was adopted on December 16, 1977, and amended on June 29, 1978, by the Rosebud Sioux Tribal Council, which has jurisdiction over the area of Indian country included in the resolution and ordinance, reading as follows:

RICK C. LAVIS,
Acting Assistant Secretary—Indian Affairs.

RST RESOLUTION No. 77-111

Whereas the Rosebud Sioux Tribe has presently in effect in its tribal law and order code chapters 17, 18, 19, 20, 21, 22, and 23 dealing generally with liquor sales on the Rosebud Indian Reservation, which chapters correspond to and are identical with chapter I, II, III, IV, V, VI, and VII of tribal liquor control ordinance No. RB74-20;

Whereas the Rosebud Sioux Tribal Council is of the opinion that liquor licenses should be issued to persons and/or corporations other than the

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Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation;

Whereas there are some questions as to whether or not the present tribal law and order code within the aforementioned chapters would allow licenses to issue other than to the Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation;

Whereas liquor sales on the Rosebud Indian Reservation are being made without any regulations by the Rosebud Sioux Tribe;

Whereas those selling liquor on the Rosebud Sioux 0Pi142°Indian Reservation should be required to carry insurance to pay those persons harmed by intoxicated persons.

Therefore, be it resolved, That the Rosebud Sioux Tribal Council repeals chapter 17 of the Rosebud Sioux Tribal Law and Order Code entitled "Alcoholic Beverages" and enacts in lieu thereof chapter 17 entitled "Alcoholic Beverages" which is attached hereto and incorporated herein as if specifically set out.

It is further resolved, That chapter 18 of the Rosebud Sioux Tribal Law and Order Code entitled "Local Option and Community Involvement" is repealed.

It is further resolved, That chapter 19 of the Rosebud Sioux Tribal Law and Order Code entitled "Liquor Licenses and Sales" is repealed and in lieu therof the Rosebud Sioux Tribal Council hereby enacts chapter 19 entitled "Liquor Licenses and Sales" which is attached hereto and incorporated herein as if specifically set out.

It is further resolved, That chapters 20 and 21 of the Rosebud Sioux Tribal Law and Order Code entitled "Low Point Beer" and "Sales Tax" are repealed.

It is further resolved, That chapters 22 and 23 of the Rosebud Sioux Tribal Law and Order Code entitled, respectively, "Age Requirements," and "Profits, Repealing, and Amendments," shall remain in effect as previously enacted.

CERTIFICATION

This is to certify that the above resolution 77-111 was duly passed by the Rosebud Sioux Tribal Council by a vote of twenty-two (22) in favor, five (5) opposed, and three (3) not voting. The said resolution was adopted pursuant to authority vested in the council. A quorum was present at the meeting conducted on December 16, 1977.

ED DRIVING HAWK,
President,
Rosebud Sioux Tribe.

Attest: John King, Jr., Secretary, Rosebud Sioux Tribe.

CHAPTER 17—ALCOHOLIC BEVERAGES

1. This ordinance shall be cited as the "Rosebud Sioux Tribal Liquor Ordinance," and under the inherent sovereignty of the Rosebud Sioux Tribe shall be deemed an exercise in the police power of the tribe for the protection of the welfare, health, peace, morals, and safety of the people of the tribe, and all its provisions shall be liberally construed for the accomplishment of its purpose, and its is declared to be public policy that the sale of alcoholic beverages is so affected with the public interest that it should be regulated to the extent of prohibiting all traffic in it, except as provided in this ordinance.

2. It shall be unlawful to sell, offer, keep for sale, or possess intoxicating liquor or low-point beer except upon the terms, conditions, limitations, and restrictions specified in this ordinance.

3. There is hereby created a Rosebud Sioux Tribal Liquor Commission to administer and enforce the laws of the tribe concerning intoxicating liquor and low-point beer. The principal place of business of the Department shall be at Rosebud, S. Dak., and suitable quarters of offices shall be provided for the Department by the Rosebud Sioux Tribal Council.

4. There is hereby created with the Department a Rosebud Sioux Liquor Commission composed of three members. No person may be a member of the Commission if such person or any member of his or her immediate family is also a member of the Rosebud Sioux Tribe governing body or has an interest directly or indirectly in the production, transportation, or sale of intoxicating liquor or low-point beer, or in any building or property in any way used in connection with any such business. The commission shall be held strictly accountable for the enforcement of all the provisions of this ordinance and shall be directly responsible to the Rosebud Sioux Tribal Council.

(a) *Appointment-term-qualifications-compensation.* Appointments to the commission shall be for terms of 3 years and shall be made by a majority vote of the Rosebud Sioux Tribal Council. Members of the commission shall be appointed so that one member's term in office expires on January 1 of each year. Members of the commission shall be chosen on the basis of ability and may be reappointed for one additional term. Each member appointed shall received full compensation for their services in addition to reasonable and necessary expenses incurred while attending meetings. Vacancies shall be filled by a majority vote of the Rosebud Sioux Tribal Council only for the unexpired portion of the vacant position.

(b) *Bonds.* Each member of the commission shall post a bond in such amount and with such sureties as the tribal council shall approve to guarantee to the tribe the proper handling and accounting of such moneys, merchandise, and other properties as may be required in the administration of this ordinance.

(c) *Commssion meetings.* The Commission shall meet at least once per month and each year shall select one of is members as chairman, which member shall serve in such capacity for the succeeding year. Special meetings of the commission may be called by the chairman or when any two members file with the chairman a written request for a meeting. Written notice of the time and place of each meeting shall be given to each member of the commission and the president of the Rosebud Sioux Tribe. All commission meetings shall be held within the reservation. Two members of the commission shall constitute a quorum.

5. The tribal council shall hire under contract a director who in no event shall be a member of the commission nor shall such a person be appointed if he or a member of his or her immediate family is a member of the Rosebud Sioux Tribe governing body or has an interest directly or indirectly in the production, transportation, or sale of intoxicating liquor or low-point beer, or in any building or property in any way used in connection with any such business. Such director's original contract shall be for a duration of 1 year and may be renewed on a yearly basis thereafter. The director's salary shall be in such amount as may be determined by the Rosebud Sioux Tribal Council. The director shall be qualified, in a managerial ability or in experience to perform his duties; and shall act in the name of and serve at the pleasure of the tribal council, but shall be directly responsible to the commission.

The director shall devote such time as necessary to the discharge of his duties. He shall not accept or solicit, directly or indirectly, contributions or anything of value in behalf of himself, any special interest group on the reservation, any political party, or any person seeking an elective or appointive office nor use his official position to advance the candidacy of anyone seeking an elective or appointive office. The director must physically reside on the Rosebud Reservation. A violation of this section may subject the director to removal from office.

6. Members of the commission, the director and other employees of the Department shall be allowed their actual and necessary expenses while traveling on business of the Department outside of their place of residence on the reservation, however, an itemized account of such expenses shall be verified by the claimant and certified by the director. If such account is paid, copies of the same shall be filed with the Department and be and remain a part of its permanent records. All expenses (and salaries) of commission members, the director and other employees shall be paid from appropriations for such purposes.

7. Any commission member or the director shall be removed for cause and such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the tribe or the United States. Any member or director so removed shall be entitled to an opportunity to be heard before the tribal council before removal.

8. No commission member, director, or employee of the Department shall be personally liable for damages sustained by any person due to the act of such member, officer, or employee performed in the reasonable discharge of his duties in accordance with the provisions of this ordinance.

9. No person responsible for the administration or enforcement of this chapter and any other provision of this ordinance, shall accept or solicit donations, gratitudes, political advertising, gifts, or other favors directly or indirectly, from any liquor licensee or vendor.

10. The commission shall have the following duties and powers:

(1) To direct the director to perform any of the functions specified in this ordinance or by the tribal council;

(2) To purchase alcoholic beverages for resale by the Department in the manner set forth in this ordinance;

(3) At the direction of the tribal council, to establish, maintain, or discontinue tribal liquor stores and determine the location of such stores;

(4) To rent, lease, or equip any building or any land necessary to carry out the provisions of this ordinance;

(5) To lease all plants and lease or buy equipment necessary to carry out the provisions of this ordinance;

(6) To appoint vendors, clerks, or agents or other employees required for carrying out the provisions of this chapter; to dismiss such employees for cause; and to designate their title, duties, and powers;

(7) To accept applications and grant licenses provided for by this ordinance;

(8) To investigate any violation of the provisions of this ordinance within twenty (20) days from receipt of information or complaint of such violation; and

(9) The commission shall have such other powers and duties necessary and proper to carry out the provisions of this ordinance.

11. The commission may adopt and promulgate, with the approval of the tribal council, such rules and regulations that are necessary to carry out the provisions.

12. The Rosebud Sioux Tribal Council shall, when it deems advisable to do so, direct the tribal liquor commission to establish and maintain anywhere on the Rosebud Sioux Indian Reservation a tribal liquor store or stores for the sale of alcoholic beverages in accordance with provisions of this ordinance. The commission may, from time to time, fix the prices of the different classes, varieties, or brands of alcoholic liquor and low-point beer to be sold.

13. In directing the Rosebud Sioux Tribal Liquor Commission to operate a liquor store within a particular geographical area, the Rosebud Sioux Tribal Council shall indicate whether or not any other liquor stores shall be permitted to operate in the same area. If other licenses are not permitted, no other licenses shall be granted for that area.

14. Upon the granting of an application for a license by the Rosebud Sioux Tribe, all similar licenses existing in that area terminate 30 days therafter. No similar licenses shall be granted thereafter for that area unless the Rosebud Sioux Tribal Council specifically permits.

15. The Rosebud Sioux Tribe shall acquire the stock, equipment, and fixtures from any licensee whose license has been terminated by reason of the tribal monopoly, such acquisition to be by purchase, condemnation, or arbitration.

16. In the conduct and management of tribal liquor stores the Commission is empowered to emplyoy a person who shall be under the direct supervision of the Director, and who shall observe all provisions of this ordinance and rules and regulations that may be prescribed by the Commission under this ordinance.

17. There shall be charged a filing fee of $300 for an application for a class A license, $250 for a class B license, and $125 for a class C license.

18. No license for a class A, B, or C license as the same are defined and classified under the provisions of this ordinance shall be granted to an applicant for any such license, except after public hearing, upon notice, as provided hereinafter in this chapter. The Commission shall make findings of fact in either rejecting or granting the application.

Any person whose application for license is rejected shall have the right to appeal such decision to the Rosebud Sioux Tribal Court. The appeal must be filed within 5 days after receipt of notice from the Commission. The Commission shall forthwith, upon such appeal being made, certify to the tribal court the complete record and findings of fact. The court shall thereupon fix a time and place for hearing and notice of which hearing shall be given to all the parties to the appeal.

The appeal shall be conducted by the tribal court in the same manner as an appeal from the termination of a license. If any reason under law exists for rejection of the application for license, the decision of the Commission must be affirmed.

19. If any tribal member of any community as recognized by the constitution or by laws or ordinances of the Rosebud Sioux Tribe shall file with the Commission a written request that he or she be notified of the time and place of hearing upon any specified application for a liquor license, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purposes of this section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the scheduled date of the hearing.

20. The Commission shall fix the time and place for hearing upon all such applications which may come before the Commission and the Director shall publish notice once in the official newspaper of such community which notice shall be headed "Notice of Hearing Upon Application for Sale of Alcoholic Beverages," and shall state the time and place when and where such applications will be considered by the Commission and that any person interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Commission shall consider such applications and all objections thereto, if any, prior to final decision thereon.

21. No license granted pursuant to the provisions of this ordinance shall be transferred. If a transfer to a new location is requested by a licensee, the licensee must make application showing all the relevant facts as to such new location, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location, however, such licensee must pay the actual costs involved in the notification of hearing as published in the official newspaper.

22. Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination to any licensee under the provisions of this ordinance. A complete report of such

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purchase and sale must be made by both the purchaser and licensee to the Commission. At the discretion of the Commission, an additional twenty (20) days extension to sell may be granted to the licensee by the Commission.

23. Any person may file with the Commission a duly notarized complaint as to any violations of the provisions of this ordinance and immediately upon receipt thereof, the Commission shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Commission must cause a revocation of the license in question and/or take other appropriate action.

24. The Commission shall upon complaint or its own motion, on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked.

25. For the purpose of conducting the hearing as prescribed above, the Commission shall have the power to subpena witnesses and to administer oaths. Witnesses so subpenaed shall be paid to the then prevailing witness rate for the Rosebud Sioux Tribal Court. Criminal proceedings must be filed in tribal court and may be instituted by the Commission or Director as complainant against any violator.

26. If the Commission determines the license should not be revoked, it shall dismiss the complaint. If the Commission determines the license should be revoked, and revokes such license, it must make, in writing, findings of fact as to every such violation alleged in such complaint before it revokes such license. It must, in addition, by the time of the next Tribal Council meeting, make a report to the Tribal Council.

27. The Commission may, if the facts warrant, mitigate the revocation to a suspension. When in any proceeding upon a verified complaint, the Commission is satisfied that the nature of such violation and the circumstances thereof are such that a suspension of the license would be adequate, it may suspend the license for a period not exceeding sixty (60) days, which suspension shall become effective 24 hours after service of notice thereof upon the licensee. During the period of such suspension such licensee shall exercise no rights or privileges whatsoever under the license.

28. All hearings under the provisions of this ordinane shall be public and place of hearing shall be specifically designated in the notice of hearing. It shall be permissable, when due notice has been given, for the Commission to hold hearings in the community hall of the community wherein the license is operative.

29. In any case where the Commission approves the revocation of a license, it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee all of such licensee's rights under such license shall terminate three (3) days after such notice, except in the event of a stay on appeal.

30. Any licensee, except the Rosebud Sioux Tribe, whose license is revoked shall not for a period of two (2) years thereafter be granted any license under the provisions of this ordinance.

31. Any licensee whose license is revoked by the Commission regardless of how the proceedings were instituted may appeal from such revocation to the Rosebud Sioux Tribal Court within five (5) days after notice to the licensee of such revocation, and such appeal operates to stay all proceedings for a period of fifteen (15) days thereafter and for such an additional period of time that the Rosebud Sioux Tribal Court may in its discretion extend. Under no circumstances may the tribal court extend the stay for a period of more than twenty-five (25) days including the original fifteen (15) days stay period. The Commission shall forthwith, upon such appeal being made, certify to the tribal court a complete record in the proceedings and the court shall thereupon fix a time and place for hearing and notice of which hearing shall be given to all concerned parties involved in the appeal. For the purpose of appeal under this ordinance, the appeal shall be heard by all duly qualified and selected judges of the Rosebud Sioux Tribal Court sitting as one body.

32. Upon appeal the tribal court judges shall review the record as certified by the Commission and shall then immediately during that court date enter an order either affirming or reversing the decision revoking such license. In reaching its determination the tribal court judges shall not hear any testimony, but shall examine the record as certified by the commission as to whether it disclosed evidence of any violation of law or rules or regulations charged in the complaint, and if the certified record so disclosed a violation of law, the court is bound to affirm the decision of the Commission. An appeal will be denied unless a clear majority of the tribal judges sitting on the appeal vote for reversal. In the event of a tie, the actions of the Commission shall be affirmed and the license revoked.

33. Any person who, by himself, or through another acting for him shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or low-point beer with the intent to sell of dispense of such liquor or low-points beer or otherwise in violation of law, or who shall, within this reservation in any manner, directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or low-point beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or low-point beer to any person under legal age for any purpose except as authorized and permitted in this ordinance, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than $300 nor more than $500 and to a jail sentence of not less than three (3) months nor more than six (6) months or both such fine and jail sentence plus costs.

34. Any person violating any provision of this ordinance for which a specific penalty is not provided shall be punished by a fine of not less than $150 nor more than $500 or by imprisonment in the Tribal jail for not more than six (6) months, or by both such fine and imprisonment plus costs.

35. Terms used in this ordinance, unless the context otherwise plainly requires, shall mean as follows:

(1) Alcoholic beverages—any intoxicating liquor, low-point beer or any wine.

(2) Application—a formal written request for the issuance of a license supported by a verified statement of facts.

(3) Foreign corporation—any corportation not incorporated under the laws of the Rosebud Sioux Tribe.

(4) Immediate family—shall mean and include as defined under both the Anglo-American and Lakota systems of jurisprudence but is not limited to, the following relationships: grandparents, parents, spouses, sons, daughters, grandchildren, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, aunts, uncles, and cousins, in addition to all lineal and collateral relatives whether in the whole or half blood or adopted.

(5) Low-point beer—any liquid commonly used or reasonably adapted to use for beverage purposes and which is produced wholly or in part from brewing of any grain or grains or malt substitute, and which contains any alcohol whatsoever but no more than three and two-tenths per centum of alcohol by weight.

(6) Low-point license—authority to sell only low-point beer.

(7) On sale—the selling of any alcohol beverages for consumption on the premises where sold.

(8) On sale license-authority to sell any alcoholic beverage for consumption on the premises where sold.

(9) Package dealer—any person or corporation that sells or keeps for sale any alcoholic beverage for consumption off the premises where sold.

(10) Package dealer license—authority to sell any alcoholic beverage off the premises where sold.

(11) Public place—shall mean any place, building or conveyance to which the public has or is permitted access.

(12) Sale—the transfer, for consideration, of title to any alcoholic beverage.

(13) Wine—any beverage containing alcohol obtained by the fermentation of natural sugar contents of fruits or other agricultural products.

Chapter 18—Local Option and Community Involvement

Repealed.

Chapter 19—Liquor Licenses and Sales

1. The power to establish categories of licenses and levy taxes with respect to the sale of alcoholic beverages is vested exclusively with the Rosebud Sioux Tribal Council.

2. Classes of licenses under this chapter, with the fee for each class, shall be as follows:

(a) Class A—Package dealer—$2,500.
(b) Class B—On sale—$1,500.
(c) Class C—Low point—$750.

3. In accepting or rejecting a request for a license, the Tribal Liquor Commission shall consider the need of the area to be served for such liquor sales, the number of existing licensed businesses covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

4. Any corporation seeking a license for the sale of liquor must be a corporation organized under the laws of the Rosebud Sioux Tribe; provided, however, that if the applicant is a foreign corporation, it shall be eligible if, prior to the application, it has complied with the laws of the Rosebud Sioux Tribe and the United States concerning doing business within the Rosebud Reservation. Both corporations and individuals, prior to making application for a liquor license, must have secured an Indian traders license.

5. Any license issued must be in the name of one person only.

6. Applications for licenses under this chapter shall be submitted to the Tribal Liquor Commission as specified and established. The commission shall have absolute discretion to approve or disapprove the same in accordance with the provisions governing its administration.

7. Every application for a license, unless exempted by the Tribal Council for good reason, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of $10,000 and must be on a form approved by the Tribal Liquor Commission. It shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Rosebud Sioux Tribe when due all taxes and licensee fees payable by it under the provisions of this ordinance and any costs assessed against it in any judgment for violation of the terms of this ordinance. All bonds required by this ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

8. Every application for a license must be accompanied by a policy of insurance indicating that the insurance company will promptly pay all sums, not exceeding $100,000 per person, which the applicant shall become legally obligated to pay as damages because of bodily injury, property damage, or death proximately caused to himself or others by any person who becomes intoxicated by the consumption of alcohol sold by the applicant.

9. Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this ordinance shall have a direct right of acting upon the bond in tribal court for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the person injured. Any person suffering bodily injury, property damage, or death proximately caused by any person becoming intoxicated by the consumption of alcohol sold by the applicant shall have a cause of action against the applicant for such damage sustained.

10. Every application for a license under this ordinance must include an agreement by the applicant that his premises, for the purpose of search and seizure laws of the Rosebud Sioux Tribe, shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Liquor Commission or a duly appointed tribal or Federal policemen, be open to inspection, and that all its books and records dealing with the sale or ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute a contract between the licensee and the Rosebud Sioux Tribe entitling the Tribal Liquor Commission, for the purpose of enforcing the provisions of this ordinance, to inspect the premises and books at any time.

11. The period covered by licenses under this ordinance shall be for the period of one year from the date that the license was first issued.

12. The provisions of this ordinance, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Rosebud Sioux Indian Reservation may buy sacramental wines from any person in such quantities as necessary for their religious purposes only.

13. No licensee under this ordinance shall make any delivery of alcoholic beverages outside the premises described in the license.

14. No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this ordinance or refill any such package.

15. No licensee shall sell any alcoholic liquor to: (1) Any person under the age of 19 years (2) any person who is intoxicated at the time or who is known to the licensee or his help to be a habitual drunkard (3) any person to whom the licensee has been requested in writing not to make any sale of alcoholic liquor, where such request is by the tribal court or the husband or wife of the person (4) any mentally ill or mentally retarded person.

16. No licensee shall permit any person under the age of 19 years on the premises covered by the license.

17. No licensee shall sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license.

18. No licensee shall allow any gambling or gambling devices on its premises or permit any lewd or indecent entertainment on said premises.

19. No fighting shall be allowed on the premises covered by the license.

20. All sales of alcoholic liquor shall be for cash only. No licensee shall engage in any pawn business of any kind.

21. No licensee of an on-sale establishment shall allow to be sold any alcoholic beverages in a package, whether sealed or unsealed, or whether full or partially full. Licensee herein includes low-point beer.

22. No licensee of a package establishment shall allow to be consumed on the premises covered by the license any alcoholic beverages.

23. No licensee shall sell liquor within 500 feet of any elementary or secondary educational institution.

V 43 / 199 OCT 13 78

CHAPTER 20—LOW-POINT BEER

Repealed.

CHAPTER 21—SALES TAX

Repealed.

CHAPTER 22—AGE REQUIREMENTS

1. *Furnishing beverages to child.* It shall be unlawful to sell or give any alcoholic beverage, except low-point beer, to any person under the age of 21 years, or sell or give to any person under the age of 19 years any low-point beer. Any person who violates this section shall be guilty of an offense and upon conviction therof shall be punished by a fine of not less than $100 nor more than $360 or by imprisonment in the tribal jail for not less than 30 days nor more than 180 days, or by both such fine and imprisonment with costs.

2. *Purchase, possession by minor.* It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the tribal jail for a period not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

3. *Purchase or possession of low-point beer.* It shall be unlawful for any person under the age of 19 years to purchase, attempt to purchase, possess or consume low-point beer, or to misrepresent his age for the purpose of purchasing or attempting to purchase low-point beer. Any person who violates the provisions of this section shall be guilty of an offense and upon conviction shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the tribal jail for not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

4. *Evidence of legal age demanded.* Upon attempt to purchase any alcoholic beverages in any tribal or community liquor store by any person who appears to the vendor to be under legal age, such vendor shall demand and the prospective purchaser upon such demand shall display satisfactory evidence that he is of legal age. Any person under legal age who represents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in section 3 above.

CHAPTER 23—PROFITS, REPEALING, AND AMENDMENTS

1. *Profits from all liquor restricted.* The expenditures of the Tribal Council of all profits realized by the Rosebud Sioux Tribe under the provisions of this ordinance shall be limited to the following in order of priority:

(1) Programs designed to care and provide for the elderly members of the Rosebud Sioux Tribe, *Provided,* That such expenditures shall be supplemental to any funds now provided by the Federal Government regardless of whether such funds are channeled directly from the Federal Govenment to the tribe or though the State of South Dakota.

(2) Programs designed to upgrade the law and order department of the Rosebud Reservation, *Provided,* That such expenditures shall be supplemental to those provided by the Bureau of Indian Affairs and other Federal agencies regardless of whether such funds are channeled directly from the Federal government to the tribe or through the State of South Dakota.

(3) Supplemental grants to tribal members for education; preference to be given in the areas of special and professional education. Grants will stipulate such conditions as are deemed advisable by the Rosebud Sioux Tribal Council.

(4) Programs designed for community development.

2. *Severability.* If any section of any chapter of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter and ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

3. *All prior ordinances and resolutions repealed.* All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this ordinance are hereby repealed.

4. *Amendment or repeal of ordinance.* This ordinance may be amended or repealed only by a three-fourths vote of the Tribal Council in regular session.

5. *Applicable law.* All acts and transactions under authority of any liquor license issued pursuant to this ordinance shall be in conformity with the laws of the State of South Dakota and shall also be in conformance with this ordinance and the tribal license issued.

6. *Disclaimer.* Nothing set forth in this ordinance shall be construed to authorized criminal jurisdiction by any entity created thereunder or by the Rosebud Sioux Tribal Court over any non-Indian for any violation of any provision of this ordinance.

CERTIFICATION

It is hereby certified that the Rosebud Sioux Tribal Council is the governing body of the Rosebud Indian Reservation of South Dakota composed of 33 members, of which 30 members were present at a regular meeting held on December 16, 1977, when the foregoing ordinance was adopted by the affirmative vote of 22 in favor, 5 opposed, and 3 not voting, and of which 24 members were present at a regular meeting held on June 29, 1978, when the foregoing ordinance as amended was adopted by the affirmative vote of 24 in favor, none opposed, and none not voting.

EDWARD DRIVING HAWK,
President
Rosebud Sioux Tribe.

Attest: John King, Jr., Secretary, Rosebud Sioux Tribe.

[FR Doc. 78-28861 Filed 10-12-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[Group 599]

CALIFORNIA

Notice of Filing of Plat of Survey

OCTOBER 6, 1978.

1. A plat of survey of the following described land, accepted August 7, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 21, 1978:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 N., R. 4 E.,
Sec. 2, lots 13, 14, 15, and 16;
Sec. 38, lots 1 and 2;
Sec. 39, lots 1 and 2.
The area described totals 266.76 acres.

The plat represents a dependent resurvey of a portion of the north and east boundaries, a portion of the subdivisional lines and a survey of a portion of the subdivision of section 2 and of the hiatus sections 38 and 39.

2. This survey was executed at the request of the U.S. Forest Service.

3. The above-described lands are within the Lassen National Forest, and are therefore not subject to disposition under the public land laws generally by reason of the official filing of the plat of survey.

HERMAN J. LYTTGE,
Chief, Branch of Records
and Data Management.

[FR Doc. 78-28863 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Group 682]

CALIFORNIA

Notice of Filing of Plats of Survey

OCTOBER 6, 1978.

1. Plats of survey of the following described lands, accepted July 28, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 21, 1978:

HUMBOLDT MERIDIAN, CALIFORNIA

T. 11 N., R. 1 E.,

A dependent resurvey of portions of the township subdivisional lines, subdivisional lines of section 20, boundaries of the Redwood National Park and lot No. 43 of the Chester Consolidated Placer Claim and a subdivision of section 20.

T. 16 N., R. 1 W.,

A dependent resurvey of a portion of the third standard parallel north along the south boundary, a portion of the subdivisional lines, and the metes and bounds survey of parcel A, within the Redwood National Park, of section 35.

2. These surveys were executed at the request of the National Park Service.

3. The above-described lands are within the Redwood National Park, and are therefore not subject to disposition under the public land laws generally by reason of the official filing of the plat of survey.

HERMAN J. LYTTGE,
Chief, Branch of Records
and Data Management.

[FR Doc. 78-28864 Filed 10-12-78; 8:45 am]

[4310-84-M]

CALIFORNIA DESERT WILDERNESS INVENTORY

Meetings

Notice is hereby given of a series of public meetings at various locations in California December 4-15, 1978, to obtain public comment on the draft wilderness inventory for the California Desert Conservation Area.

A draft wilderness inventory map and narrative descriptions of study areas will be available approximately November 1, 1978. A 90-day period for review and comment by the public will follow issuance of the map and descriptions.

The public meetings will be held between 9 a.m. and noon and again between 7 and 10 p.m. in the following locations:

December 4, Sacramento, Resources Auditorium, 1416 Ninth Street.
December 5, Needles, City Council Chamber, 1111 Bailey Street.
December 6, Los Angeles, Supervisors Hearing Room, 500 West Temple Street.
December 7, Barstow, City Council Chambers, 220 East Mountain View.
December 8, Riverside, City Council Chambers, 10th and Main.
December 11, Santa Ana, Ramada Inn, 1600 East First Street.
December 12, Trona, Kerr-McGee Recreation Hall.
December 13, San Diego, San Diego Gas & Electric Auditorium, 101 Ash Street.
December 14, Lone Pine, Town Hall, Bush and Jackson.
December 15, El Centro, Imperial Irrigation District Auditorium, 285 Broadway.

Public comment is being sought on the existence or nonexistence of roads and wilderness characteristics in the California Desert Conservation Area. "Wilderness characteristics" include size, naturalness, outstanding opportunities for solitude or a primitive unconfined type of recreation, and ecological, geological, or other features of scientific, educational, scenic, or historical value as defined in section 2(C) of the Wilderness Act of 1964.

The wilderness inventory map and narrative descriptions of the meetings will be available from the Wilderness Inventory Team, Bureau of Land Management, 1695 Spruce Street, Riverside, Calif. 92507, on or shortly after November 1, 1978.

Dated: October 4, 1978.

ROBERT E. METZGER
Acting State Director.

[FR Doc. 78-28865 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Wyoming 65077]

WYOMING

Notice of Application

OCTOBER 2, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 112 W.,
Sec. 26, NW¼SW¼.

The proposed pipeline will transport natural gas produced from the Champlin 285A No. 1 well located in the E½SW¼ of sec. 27, to a point of connection with Northwest Pipeline Corp.'s existing pipeline designated as trunk A in the NW¼SW¼ of sec. 26, T. 20 N., R. 112 W., in Sweetwater County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Mineral Operations.

[FR Doc. 78-28866 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Wyoming 65317]

WYOMING

Notice of Application

OCTOBER 2, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 114 W.,
sec 9, SW¼SE¼

The proposed pipeline will transport natural gas from their well Fogarty Creek No. 7-9 northerly to a point of connecting with their gathering system located within the SW¼SE¼ section 9, T. 28 N., R. 114 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB
Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 78-28867 Filed 10-12-78; 8:45 am]

V 43/199 OCT 13 78

[4310-84-M]

[Wyoming 65315]

WYOMING

Notice of Application

OCTOBER 3, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 92 W.,
sec. 18, lot 2 and SW¼NE¼, N½NE¼, and SE¼NW¼.
T. 20 N., R. 93 W.,
sec. 14, S½NE¼.

The proposed pipeline will transport natural gas from the Latham No. 1-14 well located in section 14, T. 20 N., R. 93 W., in a generally southerly and northeasterly direction to a point of connection with an existing line in section 17, T. 20 N., R. 92 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28868 Filed 10-12-78; 8:45 am]

[4310-84-M]

(Wyoming 65332)

WYOMING

Notice of Application

OCTOBER 3, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 94 W.,
sec. 4, S½SE¼;
sec. 9, W½E½;
sec. 20, E½SE¼;
sec. 32, E½W½.

The proposed pipeline will transport natural gas from the No. 1-4 Lost Creek natural gas well, located in section 4, T. 23 N., R. 94 W., in a generally southerly direction to a point of connecting with an existing line in section 32, T. 23 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Avenue, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28869 Filed 10-12-78; 8:45 am]

[4310-84-M]

PLAN FOR PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS—1980-1982

Pursuant to documents filed with the U.S. District Court for the District of Columbia on September 11, 1978, regarding civil action No. 1983-73, the plan for preparation of grazing environmental statements for livestock grazing on public lands for fiscal years 1980-82 is as shown on attached exhibit "A."

The schedule for completion of environmental statements in 1978 and 1979 is as proposed in the FEDERAL REGISTER of September 1, 1977, page 44020.

ARNOLD E. PETTY,
Acting Associate Director.

EXHIBIT A

Bureau of Land Management
Grazing Environmental Statement Schedule 1980-82

August 3, 1978

	Fiscal Year 1980		Fiscal Year 1981		Fiscal Year 1982	
State	Name	Acres (000's)	Name	Acres (000's)	Name	Acres (000's)
Arizona	Shivwits	1,397	Haulapai-Aquarius	943	Harcuvar-Vulture	1,461
California	Cow Head-Massacre	769	Mountain Dome	42	Willow Creek	299
	California Desert	11,000	Benton-Owens Valley	530	Bodie-Colville	250
			Cal-Neva	639	Sierra	240
			McCain Valley	94		
Colorado	Gunnison	636			Glenwood Springs	528
	White River	1,506				
	Royal Gorge	498				
Idaho	Owyhee	1,183	North Idaho	160	Ellis	374
	Bannock-Oneida	450	Sun Valley	243	Twin Falls	242
			Big Desert	800	Brunsau-Saylor Creek	2,247
Montana	Mountain Foothills	1,054	Prairie Potholes	1,735	Big Dry	1,322
Nevada	Tonopah	1,750	Paradise-Denio	3,642	Las Vegas	1,314
			Sonoma-Gerlach	4,563	Schell	4,182
					Reno	681
New Mexico	San Juan	973	Southern Rio Grande	2,156	Westside Socorro	929
	McGregor Range	515				
Oregon	Ironside	1,002	Lakeview	3,366	Harney	2,668
					Brothers	1,014
Utah	Kanab-Escalante	2,498	Ashley Creek	542	Pinyon	1,222
	Mountain Valley	480	Price River	1,591	Henry Mountain	1,397
Wyoming	Green Mountain	1,138	Salt Wells - Pilot Butte	1,645		
			Grass Creek	1,004		
Total	16 Statements	29,049	17 Statements	23,695	17 Statements	22,370

[FR Doc. 78-28870 Filed 10-12-78; 8:45 am]

[4310-84-M]

[NM 34738, 34782]

NEW MEXICO

Notice of Application

OCTOBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 24, NE¼SE¼.
T. 32 N., R. 11 W.,
Sec. 12, SW¼SE¼;
Sec. 13, NW¼NE¼ AND NE¼NW¼.

These pipelines will convey natural gas across 0.466 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29038 Filed 10-12-78; 8:45 am]

[4310-84-M]

[NM 34728]

NEW MEXICO

Application

OCTOBER 3, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 28 E.,
Sec. 12, SW¼NE¼ AND N½SE¼.
T. 18 S., R. 29 E.,
Sec. 7, lots 3, 4, SE¼SW¼ AND SW¼SE¼.

These pipelines will convey natural gas across 1.294 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29039 Filed 10-12-78; 8:45 am]

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[4310-84-M]

[NM 34528]

NEW MEXICO

Application

OCTOBER 6, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 6-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 31 E.,
Sec. 28, NE¼SW¼;
Sec. 29, SE¼SE¼;
Sec. 31, SE¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 32, N½NE¼, NE¼NW¼, S½NW¼ and

This pipeline will convey natural gas across 2.00 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29002 Filed 10-12-78; 8:45 am]

[4310-70-M]

DEPARTMENT OF THE INTERIOR

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, November 3, 1978, at 1 p.m., at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Mass.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) Request for approval of proposed extension of seasonal liquor license to year-round license; (2) proposal to locate fish processing plant on State-owned land adjacent to seashore property in Provincetown; (3) proposed new facilities at Coast Guard and Nauset Light Beaches, Eastham; (4) status report on proposed new zoning standards; (5) report of Concession Management Subcommittee; and (6) dunes migration studies, province lands.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least 7 days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663, telephone 617-349-3785. Minutes of the meeting will be available for public information and copying 4 weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Mass.

LAWRENCE C. HADLEY,
Superintendent, Cape Cod National Seashore.

OCTOBER 13, 1978.

[FR Doc. 78-28913 Filed 10-12-78; 8:45 am]

[4310-70-M]

National Park Service

VOYAGEURS NATIONAL PARK

Notice of Public Meetings on Draft Master Plan and of Availability of Draft Master Plan and Draft Environmental Statement

Notice is hereby given of the availability of a draft master plan for Voyageurs National Park. The plan will be the subject of a series of public meetings as noted below. Notice is further given of the availability of draft environmental statement which has been prepared for this plan. Public comment on both documents is invited.

The master plan will be the basic document in guiding development and management of the park. The draft master plan will be reviewed and explained at each of the public meetings listed below and persons who wish to do so may comment verbally. The meeting schedule:

November 13, 7:30 p.m. (CST)—Rainy River Community College, International Falls, Minn.
November 14, 7:30 p.m. (CST)—Orr High School, Orr, Minn.
November 15, 7:30 p.m. (CST)—Mesabi Community College, 905 West Chestnut Street, Virginia, Minn.
November 16, 7:30 p.m. (CST)—Rochester Community College, Rochester, Minn.
November 17, 7 p.m. (CST)—St. Paul Civic Center, Concourse Meeting Rooms 1 and 2, I. A. O'Shaughnessy Plaza (143 West Fourth Street), St. Paul, Minn.
November 18, 2 p.m. (CST)—Arena Auditorium, 350 South Fifth Avenue West, Duluth, Minn.

Written comments on the draft master plan also may be submitted. They should be sent to Franklin G. Ackerman, Acting Superintendent, Voyageurs National Park, P.O. Drawer 50, International Falls, Minn. 56649, and will be received until December 18, 1978.

Copies of the draft master plan may be obtained from the Acting Superintendent at the same address. The draft is available for inspection, during normal business hours, at the office of the Acting Superintendent, Voyageurs National Park, Highway 53 South, International Falls, Minn., or at either the following offices:

Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.
Superintendent, Grand Portage National Monument, P.O. Box 666, U.S. Highway 61 South, Grand Marais, Minn. 55604.

The Department of the Interior has prepared the draft environmental statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. The environmental statement considers the ecological, cultural, and socioeconomic effects of preservation, development, and management of the park upon implementation of the plan or the alternatives.

Written comments on the draft environmental statement are invited and will be accepted for a period of forty-five (45) days from the date of this notice. Copies of the statement will be available from, or for inspection, during normal business hours, at the offices of the Acting Superintendent of Voyageurs National Park, the Superintendent of Grand Portage National Monument, and the Regional Director, Midwest Region, National Park Service, at the addresses listed above. Written comments should be directed to these same offices.

Dated: October 11, 1978.

ROBERT STANTON,
Acting Deputy Director, National Park Service.

[FR Doc. 78-29142 Filed 10-12-78; 8:45 am]

[4310-70-M]

Office of the Secretary

COUNCIL OF THE NATIONAL PARK SYSTEM ADVISORY BOARD

Establishment

This notice is issued in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The Secretary of the Interior is establishing the Council of the National Park System Advisory Board to participate in activities of, and to further the purposes of, the National Park System Advisory Board in advising the Secretary of the Interior in regard to matters relating to the National Park System, and to matters related to the administration of the Historic Sites Act of August 21, 1935. Further information regarding the Council of the National Park System Advisory Board may be obtained from Shirley M. Luikens, Advisory Boards and Commissions, National Park Service, Department of the Interior, Washington, D.C. 202-343-2012.

CERTIFICATION

I hereby certify that establishment of the Council of the National Park System Advisory Board is in the public interest in connection with the performance of duties imposed on this agency by law.

Dated: October 4, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-28914 Filed 10-12-78; 8:45 am]

[4510-24—M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL COMMITTEES

Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on October 31, November 1 and 2 in room 4454, General Accounting Office Building, 441 G Street NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, OCTOBER 31

9:30 a.m.—Committee on Foreign Labor and Trade.

1. International comparisons of labor statistics—the recommendations of the Panel to Review Productivity Statistics.
2. Review of the Bureau of Labor Statistics program on Import and Export Price Statistics.

TUESDAY, OCTOBER 31

1:30 p.m.—Committee on Productivity, Technology and Growth.

1. Implications for productivity programs of (a) the termination of the National Center for Productivity and (b) the recommendations of the Panel to Review Productivity Statistics.
2. Capital stock, employment and output data by industry.
3. Labor force projections to 1990.
4. Economic growth model—economic and employment projections to 1990.

WEDNESDAY, NOVEMBER 1

9:30 a.m.—Committee on Wages and Industrial Relations.

1. Work in progress—progress of BLS Wages and Industrial Relations programs.
2. Program planning and budget cycles and proposed subcommittee on long-range planning.
3. Changing structure of employee compensation—past structure changes and discussion of future outlook.

THURSDAY, NOVEMBER 2

9:30 a.m.—Committee on Employment Structure and Analysis.

1. Issues relating to Current Population Survey definitions and methodology before the National Commission on Employment and Unemployment Statistics.
2. Additional Current Population Survey redesign issues.
3. Job vacancies.
4. The application of the Standard Industrial Classification revision to the Employment and Earnings (790 establishment) series.
5. Report on the status of the Current Population Survey program of weekly and hourly earnings.

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6. Budget and program for fiscal 1980.

THURSDAY, NOVEMBER 2

1:30 p.m.—Committee on Prices and Living Conditions.

1. Consumer Price Index—problems, if any, encountered in current CPI calculations.
2. Consumer Price Index—comparison of revised and unrevised Consumer Price Indexes.
3. Family Budgets—status report.
4. Producer Price Index—current developments in Producer Price Index revision.
5. International Price Program—impact of revisions on price indexes.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1247.

Signed at Washington, D.C., this 4th day of October 1978.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 78-28622 Filed 10-12-78; 8:45 am]

[4510-30-M]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 10th day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 7, 1978

NAME OF APPLICANT, LOCATION OF ENTERPRISE, AND PRINCIPAL PRODUCT OR ACTIVITY

Fiber Glass Industries, Inc., Amsterdam, N.Y., manufacture of fiber glass roving.
American Wood Products, Inc., Perry, Lake City, Polk City, and Longwood, Fla., manufacture of cypress lumber and horticulture products.
Texfi Industries, Inc., Asheboro Goldsboro Kinston, Liberty New Bern Rocky Mount, Swepsonville, Fayetteville and Greensboro, N.C. and New York City, N.Y., manufacture of doubleknit fabrics.
Florida Crushed Stone Co., Lake Hernando, and Sumter Counties, Fla., mining of crushed and broken limestone.
Chrysler Corp., Kokomo, Ind., manufacture of aluminum die castings. J Land Co/C Jack Kennedy, President Clear Lake, Iowa, motel and restaurant.
Jeff-Co., Glenwood Springs, Colo., motel and restaurant.
Knecht Industries, Inc., Rapid City, S. Dak., manufacture of residential building and building products.
Black Hills Milk Producers, Rapid City, S. Dak.; Billings, and Bozeman, Mont.; Ogden, Utah, manufacture of dairy products.
Southwest Chemicals Corp., Navajo County, Ariz., manufacture and sales of rosin and related products.

[FR Doc. 78-29007 Filed 10-12-78; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on October 31 starting at 9:30 a.m. in Room N5437 A, B, and C New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Announcements
II. Appointments and reappointments of FACOSH members
III. Election of the Vice Chairperson for Calendar Year 1979
IV. Committee Reports:
A. Ad Hoc Committee on Part 1960—Discussion and presentation on revised procedure for handling of employee reports of unsafe or unhealth working conditions
B. Standing Committee on FARS—Standardized Reporting System contract award.
C. Ad Hoc Subcommittee on Federal Safety and Health Staffing Guide—Report on Committee activities
D. Standing Committee on Occupational Noise—Report on Committee activities
E. Standing Committee on Field Federal Safety and Health Councils—Report on Committee activities
F. Standing Committee on Federal Safety and Health Conferences—Report on Committee activities
V Government—Industry Data Exchange Program (GIDEP)—Status of SAF—ALERT System.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business October 27, 1978, will be provide to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business October 27, 1978. The request must included the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street, NW., Washington, D.C. 20210, telephone 202-653-5500.

Signed at Washington, D.C., this 6th day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-29004 Filed 10-12-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3775]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, CONCENTRATION PLANT, MAGNA, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing concentrate raw copper ore at the Magna, Utah Concentrator plant of the Utah Mines Division of Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawl, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated. Signed at Washington, D.C., this 2d of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28429 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3776]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, UTAH COPPER DIVISION REFINERY, GARFIELD, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978, in response to a worker petition received on May 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in refining blister copper into cathodes at the Utah Copper Division Refinery, Garfield, Utah, of the Utah Mines Division of the Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 2d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28430 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3777]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, UTAH COPPER DIVISION SMELTER, GARFIELD, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978 in response to a worker petition received on May 22, 1978 in response filed by the United Steelworkers of America on behalf of workers and former workers producing blister copper at the Utah Copper Division Smelter, Garfield, Utah of the Utah Mines Division of the Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 2d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28431 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3765]

KENNECOTT COPPER CORP., RAY MINES DIVISION, HAYDEN, ARIZ.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 24, 1978, in response to a worker petition received on May 19, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers mining copper bearing ores, copper anodes, and cathdoes at the Hayden, Arizona plant of the Ray Mines Division of Kennecott Copper Company, Corporation. During the course of the investigation it was determined that the name of the company is Kennecott Copper Corporation.

Notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28432 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3710]

KIRSON HANDBAGS, INC., NEWBURGH, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3710: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on April 18, 1978 which was filed on behalf of workers and former workers producing ladies' vinyl handbags at Kirson Handbags, Inc., Newburgh, N.Y.

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The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kirson Handbags, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports continued to increase from 22.1 million units during the first quarter of 1977 to 34.0 million units during the first quarter of 1978.

Customers of Kirson Handbags who were surveyed reduced purchases from Kirson during 1977 and the first quarter of 1978 while increasing purchases of imported handbags during that period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' vinyl handbags produced by Kirson Handbags, Inc., Newburgh, N.Y., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Kirson Handbags, Inc., Newburgh, N.Y., who became totally or partially separated from employment on or after April 7, 1977 and before November 15, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28433 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3652]

LAMAY COAT CO. JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3652: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Roma Fashions, Inc., Jersey City, N.J. During the course of the investigation, it was determined that the petitioning group of workers were employed by the Lamay Coat Co. until it closed in November 1977. Roma Fashions, Inc., a new firm, began operations in these facilities in April 1978.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Roma Fashions, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978.

A survey of manufacturers who purchased ladies' coats and raincoats produced at Lamay Coat Co. indicated that one manufacturer accounting for a majority of sales in fiscal year ending May 31, 1977 ceased purchases from the subject firm and increased purchases of imported ladies' coats in fiscal year ending May 31, 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and raincoats produced at Lamay Coat Co., Jersey City, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Lamay Coat Co., Jersey City, N.J., who became totally or partially separated from employment on or after May 1, 1977 and before December 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after December 15, 1977 are not eligible for program benefits.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28434 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-4010]

MANHATTAN SHIRT CO., INC., AMERICUS, GA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4010: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 24, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress and sport shirts and ladies' blouses at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. During the course of the investigation, it was established that Americus, Ga. plant did not produce men's sport shirts nor ladies' blouses, but produced only men's dress shirts.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-31). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Manhattan Shirt Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

On June 9, 1976, workers at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. were certified as eligible to apply for trade adjustment assistance (TA-W-697). This certification expired on June 9, 1978.

The Department's investigation revealed that the average number of production workers at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. increased 1.1 percent in fiscal year 1977 [1] compared to fiscal year 1976 and increased 5.3 percent in the period February through July 1978 compared to the same period in 1977. The average number of hours worked per week increased 2.8 percent in fiscal year 1977 compared to fiscal year 1976 and remained unchanged in the period February through July 1978 compared to the same period in 1977.

No layoffs have occurred at the Americus, Ga. facility during fiscal year 1977 and the first half of fiscal year 1978. Company officials indicate that there is no threat of total or partial separations in the foreseeable future.

CONCLUSION

After careful review, I determine that all workers of the Americus, Ga. plant of the Manhattan Shirt Co., Inc. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28435 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3691]

MICHELLE RENA FASHIONS, INC., RED BANK, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats and raincoats at Michelle Rena Fashions, Inc., Red Bank, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Michelle Rena Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28436 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3559]

MILT POSNER FUR CORP., NEW YORK, N.Y.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3559: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 17, 1978 which was filed by the Furriers Joint Council of New York on behalf of workers and former workers producing ladies' split cowhide jackets and coats at Milt Posner Fur Corp., New York, N.Y. During the course of the investigation, it was established that ladies' fake fur coats were also produced.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Milt Posner Fur Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers producing fake fur coats at Milt Posner Fur Corp.:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that production of fake fur coats at Milt Posner Fur Corp. increased, in quantity, in 1977 as compared to 1976 and then increased, in quantity, during the first quarter of 1978 as compared to the first quarter of 1977. Production and sales are equivalent at Milt Posner Fur Corp.

With respect to workers producing split cowhide (leather) jackets and coats, all of the group eligibility requirements of section 222 of the act have been met.

United States imports of women's, misses' and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and to 2,723 thousand dozen in 1977. Imports decreased slightly in the first quarter of 1978 to 572 thousand dozen, as compared to 590 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 38.9 percent in 1975 to 48.3 percent in 1976 and to 54.9 percent in 1977.

United States imports of leather coats and jackets (men's, boy's, women's, misses', juniors', and children's) increased from 115.5 million dollars in 1975 to 177.8 million dollars in 1976 and to 186.4 million dollars in 1977. The ratio of imports of leather coats to domestic production increased substantially from 59.5 percent in 1975 to 96.3 percent in 1976, and then declined in 1977 to 85.3 percent, a level which still far surpasses the import/production ratios of 1973 though 1975.

A survey was conducted by the U.S. Department of Commerce among retail customers of Milt Posner Fur Corp. Results indicated that major customers decreased their purchases of split cowhide (leather) jackets and coats from Milt Posner in 1977 compared to 1976 and increased split cowhide leather coat and jacket purchases from foreign sources during this time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with split cowhide jackets and coats produced by Milt Posner Fur Corp. of New York, N.Y. contributed importantly to the decline in sales and production and to the separation of workers engaged in employment related to the production of such products at the firm. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of ladies' split cowhide jackets and coats at Milt Posner Fur Corp. of New York, N.Y. who became totally or

[1] Fiscal year represents February 1 through January 31.

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partially separated from employment on or after June 3, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in employment related to the production of fake fur coats at Milt Posner Fur Corp. of New York, N.Y. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28437 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2906]

M. HOFFMAN CO., INC., BOSTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2906: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 29, 1977, which was filed on behalf of workers and former workers producing sailor pants and jeans at the Boston, Mass. plant of M. Hoffman Co., Inc. The investigation revealed that the workers produced a denim jean used by the U.S. Navy.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M. Hoffman Co., Inc., the U.S. Navy, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' jeans and dungarees increased from 9 million units in 1975 to 14 million units in 1976 and increased again to 23 million units in 1977. The ratio of imports of jeans to domestic production increased from 3.8 percent in 1975 to 5.4 percent in 1976 and increased again to 8.5 percent in 1977. Imports of jeans in the first quarter of 1978 increased to 7.9 million units compared to 4.5 million units in the first quarter of 1977.

Two thirds of the jeans produced at the Boston plant are sold to the U.S. Navy; the remainder are samples. The decrease in production at the Boston plant in 1977 is attributable to reduced sales to the Navy. The decrease in production in the first quarter of 1978 is due largely to the company's decision to substitute imports for much of its domestic production, thereby reducing the need for samples produced at the Boston plant. Company imports of jeans, similar to those produced at Hoffman's three other domestic plants, began in 1977 and were 2.8 percent greater than the Boston plant's production in 1977. Company imports increased 218.5 percent in the first quarter of 1978 compared to the first quarter of 1977 and were 17 times greater than the Boston plant's production in the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with jeans produced by the Boston, Mass. plant of M. Hoffman Co., Inc., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Boston, Mass. plant of M. Hoffman Co., Inc. who became totally or partially separated from employment on or after December 2, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28438 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3751]

MIAMI-INSPIRATION HOSPITAL, INC., MIAMI, ARIZ.

Negative Determination Regarding Application for Reconsideration

On September 6, 1978, the petitioner requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of the Miami-Inspiration Hospital, Inc., Miami, Ariz. The determination was published in the FEDERAL REGISTER on August 25, 1978 (43 FR 38131).

Pursuant to 29 CFR § 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner cites that separations from work at the hospital are affected by layoffs at the Inspiration Consolidated Copper Co. (TA-W-2412) and Cities Services Co. (TA-W-2579) both of which are currently certified. The basis for the Department's denial is that services are not "articles" within the meaning of section 222 of the Trade Act of 1974 and that independent firms for which the hospital provides services cannot be considered the "workers' firm."

The Department has earlier determined that services, such as transportation services, are not "articles" within the meaning of section 222(3) of the Act (see Notice of Negative Determination, Pan American World Airways, Inc., TA-W-153, 40 FR 54639). Further, the Department has determined that a firm for which such services are provided and which is independent of the petitioners' firm cannot be considered to be the "workers' firm" within the meaning of the Act (see Notice of Negative Determination, Nu-Car Driveaway, Inc., TA-W-393, 41 FR 12749).

The Department's investigation has revealed that the hospital is not corporately affiliated with any other company. Further, all workers performing hospital medical and surgical services at the hospital are employed by Miami-Inspiration, Inc., and are not under the supervision by either of the mining companies. Moreover, all personnel actions and payroll transactions are controlled by the hospital. Thus, Miami-Inspiration Hospital, Inc., must be considered the "Workers' firm."

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28439 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3394]

MIGHT MAC, INC., GLOUCESTER, MASS.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor issued a cerfification of Eligibility to apply for adjustment assistance on August 31, 1978, applicable to all workers of the Gloucester, Mass. plant of Mighty Mac, Inc., who became totally or partially separated from employment on or after October 22, 1977. The Notice of Certification was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40567).

The Massachusetts division of Employment Security has informed the Labor Department that the effective separation date of a substantial number of workers intended to be covered by the certification issued is October 21, 1977, and consequently the October 22, 1977 date would not provide the intended coverage.

The intent of the certification is to cover all workers at the Gloucester, Mass. plant of Mighty Mac, Inc. who were adversely affected by the decline in production of men's and boys' outer coats and jackets importantly because of increased imports. The certification therefore, is revised providing a new impact date of October 21, 1977.

The revised certification applicable to TA-W-3394 is hereby issued as follows:

All workers of the Gloucester, Mass. plant of Mighty Mac, Inc., who became totally or partially separated from employment on or after October 21, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28440 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3779]

NEEDLECRAFT DRESS MANUFACTURING CO., CORP. AND CHESTERFIELD DRESS CO., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3779: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 25, 1978 in response to a worker petition received on May 17, 1978 which was filed on behalf of workers and former workers producing ladies' dresses and suits at the Fall River, Mass. plant of Needlecraft Dress Mfg. Co., Corp. The investigation was expanded to include the Chesterfield Dress Co., Fall River, Mass. The investigation revealed that ladies' dresses were the sole product in 1977 and in 1978. The Notice of Investigation incorrectly stated that ladies' gowns were produced.

The Notice of Investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-8). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Needlecraft, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Imports of women's and misses' dresses increased 2 percent from 1975 to 1976, and declined 11 percent from 1976 to 1977. The ratios of imports to domestic production and consumption declined from 4.6 percent and 4.4 percent, respectively, in 1976 to 4.0 percent and 3.8 percent, respectively, in 1977.

Imports of women's, misses', and children's suits declined 1 percent from 1975 to 1976, and declined 6 percent from 1976 to 1977. The ratios of imports to domestic production and consumption declined from 11.4 percent and 10.2 percent, respectively, in 1976 to 10.5 percent and 9.5 percent, respectively, in 1977.

Both Needlecraft and Chesterfield were engaged in contract work solely for one manufacturer during the period under investigation. A Department survey revealed that this manufacturer, which accounted for 100 percent of the companies' business, did not employ any foreign contractors, nor did the manufacturer import any dresses or suits during the past 3 years.

CONCLUSION

After careful review, I determine that all workers of the Fall River, Mass. plant of the Needlecraft Dress Mfg. Co., Corp. and of the Chesterfield Dress Co. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28441 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3541]

NORRWOCK SHOE CO., PLANT NO. 20, CALAIS, MAINE

Certificotion Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3541: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978 in response to a worker petition received on April 12, 1978 which was filed on behalf of workers and former workers producing men's, women's, and children's shoe uppers at the Calais, Maine plant (plant No. 20)of Norrwock Shoe Co.

The Notice of Investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Norrwock Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

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requirements of section 222 of the act must be met. The investigation has revealed that all the requirements have been met.

The Department's investigation revealed that the ratio of imports to domestic production of men's, women's and children's shoes increased in 1977 compared to 1976. Imports of men's, and women's shoes increased absolutely during the first quarter of 1978 compared to the same period of 1977.

Prior to August 1977, Plant No. 20 in Calais produced shoe uppers in support of shoe production at five Norrwock Shoe plants. Three of those plants closed in August 1977. Following a Department investigation, workers at those three plants—located in Skowhegan and North Jay, Maine—were certified as eligible to apply for adjustment assistance (TA-W-2339). A survey of customers of Norrwock Shoe revealed that several customers reduced purchases from Norrwock Shoe while increasing purchases of imports. The closure of these three plants reduced the demand for uppers stitched by the Calais plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with shoe uppers produced by Plant No. 20, Norrwock Shoe Co., Calais, Maine contributed importantly to the decline in production and separation of workers from that plant.

In accordance with the provisions of the act, I make the following certification:

All workers of Norrwock Shoe Co., Plant No. 20, Calais, Maine who became totally or partially separated from employment on or after November 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28442 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3599]

NU LOOK MANUFACTURING CO., PATERSON, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on May 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Nu Look Fashions, Inc., Paterson, N.J. During the course of the investigation, it was determined that the name of the company was Nu Look Manufacturing Co.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short terms of operation of Nu Look Maufacturing Co. and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 3d of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28443 Filed 10-11-78; 8:45 am]

[4510-28-M]

[TA-W-3807]

PALEY ASSOCIATES, INC., MILTON, MASS.

Negative Detemination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4010: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 5, 1978 in response to a worker petition received on April 27, 1978 which was filed on behalf of workers and former workers producing men's outerwear coats at Paley Associates, Inc., Milton, Mass.

The Notice of Investigation was published in the FEDEAL REGISTER on June 20, 1978 (43 FR 26498-26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paley Associates, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production and salaried workers engaged in employment related to the production of men's outerwear coats increased from 1976 to 1977 and increased in the first half of 1978 compared to the same period in 1977. Employment has increased in the last six quarters compared to the same quarters of the previous year. Average weekly hours worked by these workers have not changed significantly.

CONCLUSION

After careful review, I determine that all workers of Paley Associates, Inc., Milton, Mass. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28444 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3641]

PAM COAT CO., INC., PASSAIC, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3641: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's coats at Pam Coat Co., Inc., Passaic, N.J. During the course of the investigation it was determined that workers at Pam Coat Co., Inc. produce girls' and misses' coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pam Coat Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252,000 dozen in 1976 to 2,723,000 dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports of domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Pam Coat Co., Inc. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Pam Coat Co., Inc. and increased purchases of imported girls', and misses' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Pam Coat Co., Inc. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the girls' and misses' coats produced at Pam Coat Co., Inc., Passaic, N.J. contributed importantly to the decline in sales and to the separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of Pam Coat Co., Inc., Passaic, N.J. who became totally or partially separated from employment on or after November 12, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28445 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3660]

PAUL TERRI SPORTSWEAR, INC., LONG BRANCH, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3660: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Paul Terri Sportswear, Inc., Long Branch, N.J. During the course of investigation it was established that Paul Terri Sportswear, Inc. does not produce ladies' suits. Paul Terri produces ladies' coats and a small amount of ladies' blazers.

The Notice of Investigation was published in the FEDEAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paul Terri Sportswear, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

A survey of Paul Terri's major manufacturers in 1976 and 1977, indicated that none of the manufacturers decreased purchases from the subject firm while increasing purchases of imports. Those manufacturers who decreased purchases from the subject firm reported that they do not purchase imports. These manufacturers experienced increased sales during the period under investigation. Company sales, adjusted to 1975 dollars, increased in 1977 compared to 1976. Although Paul Terri's sales declined in the first 5 months of 1978 compared to the same period in 1977, none of the manufacturers surveyed have purchased any imports or used foreign contractors in 1978.

CONCLUSION

After careful review, I determine that all workers of Paul Terri Sportswear, Inc., Long Branch, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28446 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3481]

PENNSYLVANIA TIRE & RUBBER CO. OF MISSISSIPPI, INC., TUPELO, MISS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3481: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 30, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing passenger car tires and truck tires at the Tupelo, Miss., plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of passenger car tires increased from 9,940,000 units in 1975 to 12,643,000 units in 1976 and to 13,077,000 units in 1977.

U.S. imports of truck tires (including Mobile Homes) increased from 1,686,000 units in 1975 to 3,562,000 units in 1976 and to 4,093,000 units in 1977.

Company imports of bias passenger car tires decreased 100 percent in 1977 compared to 1976 but increased during the January-April period of 1978 compared to the same period of 1977. Company imports of truck tires increased 57.6 percent in 1977 compared to 1976 and increased 80.7 percent during the January-April period of

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1978 compared to the same period of 1977.

A Department survey of customers who purchased passenger car tires and truck tires from the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., indicated that some customers decreased their purchases from Pennsylvania Tire & Rubber Co. and increased their purchases of imported tires in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires and truck tires produced at the Tupelo, Miss., plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Tupeol, Miss. plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., who became totally or partially separated from employment on or after July 15, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28447 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3110]

PITTSBURGH & LAKE ERIE RAILROAD, GATEWAY YARD, STRUTHERS, OHIO

Negative Determination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3110: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 9, 1978 in response to a worker petition received on January 17, 1978 which was filed by the United Transportation Union on behalf of workers and former workers transporting goods at the Gateway Yard, Struthers, Ohio, facility of the Pittsburgh & Lake Erie Railroad.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Pittsburgh & Lake Erie Railroad and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that the Pittsburgh & Lake Erie Railroad (P. & L.E.) was founded in 1878, and is currently incorporated in Delaware. The railroad is a subsidary of Penn Central Transportation Co.

The Pittsburgh & Lake Erie Railroad is a common carrier licensed by the ICC with rail lines extending from Brownsville and Connellsville, Pa. to Youngstown, Ohio and with trackage rights to Ashtabula, Ohio. Facilities including terminal buildings, warehouses, yards and shops are owned by P. & L.E. Equipment including freight cars, diesel locomotives, motor vehicles and machinery used in maintenance of way operations is under trust and/or lease agreements.

The Pittsburgh & Lake Erie Railroad transports goods according to tariff schedules on file with the Interstate Commerce Commission, and the Pennsylvania & Ohio Public Utilities Commission. The P. & L.E. also provides some passenger transport. The P. & L.E. is not, in any way, engaged in any production operations.

The petitioning workers are employed in the Gateway Yard of the Struthers, Ohio facility of the Pittsburgh & Lake Erie Railroad. Workers in the Struthers, Ohio facility are engaged in transporting goods and passengers and do not produce an article within the meaning of section 222 (3) of the act.

The Pittsburgh & Lake Erie Railroad and its customers have no controlling interest in each other.

All workers engaged in maintaining and providing transportation services for the Pittsburgh & Lake Erie Railroad are employed by that firm. All personnel actions and payroll transactions are controlled by the Pittsburgh & Lake Erie Railroad. All employee benefits are provided and maintained by the P. & L.E. Workers are not at any time under employment or supervision by customers of the P. & L.E. Thus, the Pittsburgh & Lake Erie Railroad must be considered to be "the workers' firm."

CONCLUSION

After careful review, I determine that all workers of the Gateway Yard, Struthers, Ohio, facility of the Pittsburgh & Lake Erie Railroad are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28448 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3752]

PISCES FASHIONS, INC., DEER PARK, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation regarding certification of eligibility to apply for worker adjustment assistance was initiated on May 23, 1978, in response to a worker petition received on May 5, 1978, which was filed on behalf of workers and former workers producing ladies' coats at Pisces Fashions, Inc., Deer Park, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

Information obtained during the course of the investigation revealed that workers employed at Pisces Fashions, Inc., Deer Park, N.Y., are covered under a petition received by the Department on April 17, 1978 (TA-W-3552). Notice of the ongoing investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069).

Since an investigation regarding workers at Pisces Fashions, Inc., Deer Park, N.Y., is already in progress, further investigation under TA-W-372 would serve no purpose. The investigation is therefore terminated.

Signed at Washington, D.C., this 27th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28449 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3832]

PRECISION GAS PRODUCTS, INC., RAHWAY, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3832: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 5, 1978, which was filed by the International Chemical Workers Union on behalf of workers producing specialty gases at the Rahway, N.J., plant of Precision Gas Products, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Burdox, Inc., Precision Gas Products, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirement of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that Precision Gas Products manufactures specialty gases (gases used for a specific purpose, not mass produced) such as hydrogen and nitrogen and compounds of these gases.

Imports of industrial gases enter the United States under TSUSA 415.5000, "Chemical Elements, Not Elsewhere Specified". Such gases cannot be economically transported for great distances, either as a gas or as a liquid; consequently imports of such gases are negligible. Hydrogen, oxygen, and nitrogen cannot be economically stocked as a gas because of the large, heavy containers needed or as a liquid because of the loss due to heat inflow and the high cost of cryogenic containers.

CONCLUSION

After careful review, I determine that workers of the Rahway, N.J., plant of Precision Gas Products, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28450 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3199]

PRIMO COAT CORP., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3199: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 22, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing men's suit coats and sportcoats at Primo Coat Corp., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

On January 29, 1976, the Department issued a certification of eligibility to apply for adjustment assistance for workers at Primo Coat Corp. This certification expired January 29, 1978. 2 years from its date of issuance.

The information upon which the determination was made was obtained principally from officials of Primo Coat Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment of production workers increased in the third and fourth quarters of 1977 compared to the same quarters of 1976. Average employment increased 4 percent and 9 percent respectively for the first time and second quarters of 1978 over the comparable quarters of 1977. There were no significant partial separations during this period.

There is no immediate threat of separations to workers of Primo Coat.

CONCLUSION

After careful review I determine that all workers of Primo Coat Corp., New York, N.Y., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28451 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2703]

PUBLICKER INDUSTRIES, INC., PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2703: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 5, 1977, in response to a worker petition received on November 23, 1977, which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America on behalf of workers and former workers producing acetic acid at Publicker Industries, Inc., Philadelphia, Pa. The investigation was expanded to include workers and former workers producing ethyl acetate at the Bigler Chemical Building of Publicker, also located in Philadelphia, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63487). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Publicker Industries, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

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eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

U.S. imports of acetic acid increased from 612 thousand pounds in 1975 to 28,441 thousand pounds in 1976 and to 29,729 thousand pounds in 1977. The import to domestic production ratio increased from 0.03 percent in 1975 to 1.15 percent in 1976 and remained stable at 1.15 percent in 1977.

U.S. imports of ethyl acetate increased to 1,463 thousand pounds in 1976 compared to 87 thousand pounds in 1975 and increased to 9,295 thousand pounds in 1977. The import to domestic production ratio increased from 0.05 percent in 1975 to 0.67 percent in 1976 to 5.8 percent in 1977.

Publicker began importing acetic acid in the last quarter of 1977. The company plans to continue importing acetic acid. Ethyl acetate is a byproduct of acetic acid. Since production of acetic acid has been decreased at the Bigler Street Plant, Publicker has begun importing ethyl acetate.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with acetic acid and ethyl acetate produced by Publicker Industries, Inc., Philadelphia, Pa., contributed importantly to declines in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the Acetic Acid Department and Bigler Chemical Building of Publicker Industries, Inc., Philadelphia, Pa., who became totally or partially separated from employment on or after September 28, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28452 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3693]

Q & T COAT CORP., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3693: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Q & T Coat Corp., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Q & T Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,225 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Q & T worked in 1976 and 1977.

Manufacturers that accounted for a significant portion of sales in 1977 reported that they reduced purchases from Q & T and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Q & T Coat Corp., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Q & T Coat Corp., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28453 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2584]

RCA CORP., MEADOW LANDS, PA.

Negative Determination Regarding Application for Reconsideration

On May 18, 1978, the petitioners for workers and former workers of RCA, Meadow Lands, Pa. requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of RCA Corp., Meadow Lands, Pa. The determination was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18793).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of the facts or of the law justifies reconsideration of the decision.

In their application, the petitioners make a basic claim that they should be certified because (1) the Department of Labor's negative determination was based on only TACTEC units and do not consider other plant production, and (2) no other RCA plant has ever been denied eligibility under the Trade Act of 1974.

In defense of their claim, the petitioners note the following:

(1) That the Department of Labor's investigation did not include workers laid off in the production of citizen band tranceivers, language laboratory units and land mobile radio units.

(2) That 50 percent of RCA Meadow Lands' engineering and laboratory employees as well as technical writing, manufacturing and other personnel were affected by layoffs in June 1975, and

(3) That Japanese electronic engineers performed inspection functions at the RCA Meadow Lands plant in 1971 and 1972, and

(4) That a new venture will begin in June 1978 when land mobile units from Japan will be affecting production employees, and

(5) That units and/or components are now being received at RCA Meadow Lands which contain labels indicating foreign manufacture.

Citizen band transceivers and language laboratory units were not produced at the Meadow Lands plant during a period relevant to the investigation. RCA Meadow Lands' production of citizen band transceivers and language laboratory units ceased in 1965 and 1969, respectively. The Trade Act of 1974 permits coverage of total or partial separations importantly related to import competition to such separations occurring not more than 1 year prior to the date of the petition filed on behalf of the workers. In this case, the petition was dated October 24, 1977; therefore, no worker separated prior to October 24, 1976, could have been covered under a certification. This "1-year rule" vitiates the petitioners' claim for eligibility for the engineering and laboratory personnel laid off in June 1975 and other workers laid off in 1971 and 1972.

The petition submitted on behalf of the workers did not indicate that workers producing land mobile units were intended to be included. Consequently, the original investigation did not consider imports of land mobile units. For the record, it is noted that imports of land mobile radio units decreased from $73.1 million in 1976 to $58.1 million in 1977 and from $37.7 million in the first 6 months of 1977 to $23.1 million in the like period in 1978. The import to production ratio decreased from 10.5 percent in 1976 to 7.1 percent in 1977 and from 9.7 percent in the first 6 months of 16977 to 4.9 percent for the like period in 1978. Given the statutory requirement that there be increased imports of products like or directly competitive with the products produced by the workers, it is apparant that even if the petition covered land mobile units a basis for certification would not exist.

Although it may be true that component parts are imported at the Meadow Lands plant, they are parts which the Meadow Lands plant has never produced. Concerning company imports of land mobile radio units, there are currently agreements for off-shore delivery of two different types of land mobile radio units neither of which has ever been produced at Meadow Lands. Further, these additional types of land mobile radio units are intended to supplement and not compete with the units now being produced at Meadow Lands. Should it develop that the imported land mobile units substitute for units produced at Meadow Lands, a new petition can be filed on behalf of the workers affected by such substitution.

The petitioners' claim that no other RCA plant has ever been denied eligibility is one devoid of merit. The Department of Labor's basis of certification rests solely upon the criteria designated in section 222 of the Trade Act of 1974.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28454 Filed 10-12-78; 8:45 am]

[4510-28—M]

[TA-W-2753]

RIVEREDGE CORP., NEW BEDFORD, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2753: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 8, 1977 in response to a worker petition received on November 28, 1977, which was filed on behalf of workers and former workers producing women's and men's garments at Riveredge Corporation, New Bedford, Massachusetts. The Department's investigation revealed that women's dresses, slacks, suits, blouses and jackets and men's vests are produced.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (43 FR 63307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Riveredge Corporation, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average annual employment of production workers increased from 1975 to 1976 and from 1976 to 1977 and in the first half of 1978 compared to the same period of 1977. There were no significant partial separations during this period.

There is no immediate threat of separations to workers at Riveredge.

Conclusion

After careful review I determine that all workers of Riveredge Corporation, New Bedford, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28455 Filed 10-12-78; 8:45 am]

[[4516-28-M]

[TA-W-3921]

ROBINSON EXCAVATING & TRUCKING METALINE FALLS, WASH.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 29, 1978 in response to a worker petition received on June 29, 1978 which was filed on behalf of workers and former workers of Robinson Excavating and Trucking, Metaline Falls, Wash. who hauled ore between the Yellowhead and Pend Oreille mines of Bunker Hill Co., Metaline Falls, Wash.

Notice if Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29851). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers were separated from employment at Robinson Excavating and Trucking at the Yellowhead and Pend Oreille Mines, Metaline Falls, Wash. by June 13, 1977. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The filing date of the petition in this case in June 26, 1978. Since workers separated form employment at Robinson Excavating and Trucking prior to June 26, 1977 are not eligible for program benefits under Title II, Chapter 2 Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Conse-

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quently, the investigation has been terminated.

Signed at Washington, D.C. this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28456 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2117]

ROMAN CERAMICS CORP., MAYFIELD, KY.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2117: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 1, 1977, in response to a worker petition received on May 31, 1977, which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers and former workers producing custom pottery at Roman Ceramics Corp., Mayfield, Ky.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Roman Ceramics Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of ceramic containers increased from 1975 to 1976 and declined from 1976 to 1977. The 1977 level of imports remained well above the 1973 through 1975 levels. The ratios of imports to domestic production and consumption increased from 34.9 percent and 25.9 percent, respectively, in 1975 to 72.3 percent and 42.0 percent, respectively, in 1976 and then declined to 55.0 percent and 35.5 percent, respectively, in 1977.

Imports increased in the first 5 months of 1978 compared to the same period in 1977. The ratios of imports to domestic production and consumption increased from 82.0 percent and 45.0 percent, respectively, in the January-May period in 1977 to 109.1 percent and 52.2 percent, respectively, in the January-May period in 1978.

Customers of Roman Ceramics are primarily distillers and cosmetic producers. A survey of customers revealed that customers increased purchases of imports from 1976 to 1977 and decreased purchases from Roman Ceramics during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with ceramic containers produced at Roman Ceramics Corp., Mayfield, Ky., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at Roman Ceramics Corp., Mayfield, Ky. who became totally or partially separated from employment on or after May 26, 1976 and on or before December 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated after December 31, 1977 are denied eligibility.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28457 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3607]

ROSE MARIE COAT CO., PATERSON, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Rose Marie Coat Co., Paterson, N.J. During the course of the investigation, it was revealed that Rose Marie Coat Co. also produces ladies' sportswear (component parts for ladies' suits).

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Rose Marie Coat Co., and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28458 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3608]

S & B COAT CO., PATERSON, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, and investigation regarding eligibility to apply for worker adjustment assistance was initiated on May 8, 1978 in response to worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at S & B Coat Co., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Information obtained during the course of the investigation revealed that workers employed at S & B Coat Co. would not meet the qualifying requirements in section 231 of the act.

Production of ladies' coats began in September, 1977 at the S & B Coat Co. Production continued through November 1977, when the company closed. The company reopened for three weeks in May and one week in June before permanently closing on June 23, 1978.

In view of the above facts, further investigation would serve no purpose. Therefore, the investigation is terminated.

Signed at Washington, D.C. this 28th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28459 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3497]

S & F COAT CO., INC. BEACON, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3497: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 11, 1978 in response to a worker petition received on March 31, 1978 which was filed by the International Ladies Garment Workers Union on behalf of workers formerly producing ladies' raincoats at S & F Coat Co., Inc., Beacon, N.Y. The investigation revealed that ladies' coats were also produced.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from S & F Coat Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's raincoats, the major product of S & F Coat Co., decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. The ratio of imports to domestic production fell from 45.0 percent in 1976 to 40.3 percent in 1977.

A survey of the manufacturers for whom S & F Coat Co., sewed ladies' raincoats and coats on contract indicated that none purchased imported raincoats or coats. None of the manufacturers' sales had declined in 1977 compared to 1976, and their utilization of other domestic contractors during that period had either increased or remained the same.

CONCLUSION

After careful review, I determine that all workers of S & F Coat Co., Inc., Beacon, N.Y. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28460 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3016]

SENATE BUTTON CO., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3016: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 2, 1978, in response to a worker petition received on January 19, 1978, which was filed on behalf of workers formerly selling buttons at Senate Button Co., New York, N.Y. Senate Button Co. was a sales outlet and a subsidiary of Button Corp. of America.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Senate Button Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make and affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Senate Button Co., a subsidiary of Button Corp. of America, was integrated into the production operation of Button Corp. by being the New York City sales outlet for Button Corp.'s products. Senate Button sold only buttons that had been produced by Button Corp. of America.

U.S. imports of plastic buttons (casein, urea resin, polyester, and acrylic) decreased from 5,870 thousand gross in 1975 to 4,212 thousand gross in 1976 and increased to 7,227 thousand gross in 1977.

A Department survey of customers of Senate Button Co. revealed that major customers increased their purchases of imported buttons in each year from 1975 to 1977 and decreased their purchases from Senate Button Co. during this time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with buttons sold by Senate Button Co., New York, N.Y. contributed importantly to the decline in sales and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Senate Button Co. of New York, N.Y. who became totally or partially separated from employment on or after January 9, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 26th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28461 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3876]

SILURIA TEXTILES, INC. SILURIA, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3876: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 20, 1978, in response to a worker petition received on June 19, 1978, which was filed on behalf of workers and former workers producing denim fabric at Siluria Textiles, Inc., Siluria, Ala.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Siluria Textiles, Inc.; its parent firm, Canton Textile Mills, Inc.; its customers; the American Textile Manufacturers Institute; the U.S. Department of Commerce; the U.S. International Trade Commission; industry analysts; and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The investigation revealed that U.S. imports of bleached and dyed cotton broadwoven fabric increased to 142 million square yards in 1976 compared to 100.5 million square yards in 1975. Imports were 134.7 million square yards in 1977. In the first quarter of 1978 imports increased to 34.4 million square yards compared to 24.8 million square yards for the same quarter in 1977. The imports to domestic produc-

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tion ratio for bleached and dyed cotton broadwoven fabric increased from 3.2 percent to 4.1 percent in 1976 and further increased to 4.3 percent in 1977.

Customers surveyed by the Department and accounting for a substantial proportion of Siluria Textiles' 1977 sales of denim fabric indicated that they decreased purchases of denim fabric from Siluria in 1977 and the first half of 1978 and increased purchases of imported denim fabric during this period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with denim fabric produced by Siluria Textiles, Inc., Siluria, Ala. contributed importantly to the decrease in sales and production and to the separations of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Siluria Textiles, Incorporated, Siluria, Alabama who became totally or partially separated from employment on or after June 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28462 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-4030]

SPORTSWEAR INTERNATIONAL, INC. JENKINTOWN, PENNSYLVANIA

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 2, 1978 in response to a worker petition received on July 28, 1978 which was filed on behalf of workers and former workers producing knit shirts, sweaters, and woven shirts at Sportswear International, Inc., Jenkintown, Pa.

Notice of the investigation was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Sportswear International were separated from employment in March 1977. Section 223(b) of the Trade Act of 1974 states that a certification under this section may not apply to any workers whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is July 14, 1978 and thus, workers terminated prior to July 14, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 26th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28463 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3561]

ST. LOUIS-SAN FRANCISCO RAILROAD BIRMINGHAM, ALABAMA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3561: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 14, 1978, which was filed by the United Transportation Union on behalf of workers and former workers transporting all types of commodities at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the St. Louis-San Francisco Railroad and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department had determined that services are not "articles" within the meaning of section 222 of the act, and that independent firms for which the subject firm provides services connot be considered to be the "workers' firm."

The Department's investigation revealed that the St. Louis-San Francisco Railroad (Frisco RR.) was founded in 1916 and incorporated in Missouri. The railroad has no parent firm, but owns several subsidiaries involved in transportation, real estate, and mineral rights.

The St. Louis-San Francisco Railroad is engaged in transporting all types of commodities over 4,500 miles of company owned track located in 9 States.

The petitioning workers are employed at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad. Workers at the Birmingham, Ala. terminal of the Frisco RR are engaged exclusively in transporting commodities and do not produce an article within the meaning of section 222 (3) of the act.

The St. Louis-San Francisco Railroad and its customers have no controlling interest in one another.

All workers engaged in providing transport services at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad are employed by that firm. All personnel actions and payroll transactions are controlled by the Frisco RR. All employee benefits are provided and maintained by the Frisco RR. Workers are not, at anytime, under employment or supervision by customers of the St. Louis-San Francisco Railroad. Thus, the St. Louis-San Francisco Railroad must be considered to be the "workers' firm."

CONCLUSION

After careful review, I determine that all workers of the Birmingham Ala. terminal of the St. Louis-San Francisco Railroad are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28464 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3670]

SUPER CRAFT COATS, INC., GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3670: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Super Craft Coats, Inc., Garfield, N.J. The investigation revealed that ladies' coats, jackets, and raincoats are produced.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Super Craft Coats, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Super Craft Coats, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Super Craft and increased purchases of imported coats and jackets in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Super Craft and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats, jackets, and raincoats produced at Super Craft Coats Inc., Garfield, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Super Craft Coats Inc., Garfield, N.J., who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28465 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3338]

TELEDYNE VASCO, INC., MONACA, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3883: Investigation regarding eligibility to apply for workers adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing specialty steel flat rolled products at the Monaca, Pa., plant of the Teledyne Vasco Co., Inc.

The notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Teledyne Vasco, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The Monaca, Pa., plant of Teledyne Vasco produces tool steel. Teledyne Vasco also owns a plant in Latrobe, Pa., which produces tool steel.

Evidence developed during the investigation revealed that production equipment from the Monaca, Pa., plant of Teledyne Vasco has been gradually transferred from the Monaca plant to the Latrobe plant during the last 8 years. Further evidence revealed that as sales, production, and employment have declined at the Monaca plant, sales production and employment have increased at the Latrobe plant. It is therefore concluded that employment losses at the Monaca, Pa., plant of Teledyne are attributed to the transfer of production equipment to the Latrobe, Pa., plant and not to increases of imports of articles like or directly competitive with tool steel produced at the Monaca, Pa., plant of Teledyne Vasco.

CONCLUSION

After careful review I determine that all workers at the Monaca, Pa., plant of Teledyne Vasco are denied eligibility to apply for adjustment assistance under title II, chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28466 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3539]

LAMSON AND SESSIONS CO. CLEVELAND, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3539: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 25, 1978 in response to a worker petition received on April 12, 1978 which was filed by the United Auto Workers on behalf of workers and former workers producing threaded screws and nuts at the Cleveland, Ohio plant of Lamson and Sessions Co.

The Notice of Investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-19479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lamson and Sessions Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the requirements have been met.

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U.S. imports of bolts increased both absolutely and relative to domestic production during 1976 compared to 1975 and during 1977 compared to 1976. Imports of bolts increased absolutely during the first quarter of 1978 compared to the first quarter of 1977. U.S. imports of large screws increased absolutely during the first quarter of 1978 compared to the first quarter of 1977. U.S. imports of nuts increased relative to domestic production during 1977 compared to 1976, and increased absolutely during the first quarter of 1978 compared to the first quarter of 1977.

Lamson and Sessions' Cleveland plant produced primarily standard bolts and screws during 1976 and 1977.

Customers of products produced at the Cleveland plant were surveyed by the Department. Several of the customers increased purchases of imported fasteners while reducing purchases from the Cleveland plant of Lamson and Sessions Co.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with threaded screws and nuts produced at the Cleveland, Ohio plant of Lamson and Sessions Co. contributed importantly to the total or partial separation of workers and to the decline in sales and production at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Cleveland, Ohio plant of Lamson and Sessions Co. who became totally or partially separated from employment on or after April 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28467 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2990]

TIMET DIVISION, TITANIUM METALS CORP. OF AMERICA, TORONTO, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2990: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 30, 1978, in response to a worker petition received on January 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing titanium mill products at the Toronto, Ohio plant of the Timet Division of the Titanium Metals Corp. of America.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Titanium Metals Corp. of America, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility of section 222 of the Trade Act of 1974 must be met, the investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. exports of titanium mill products have exceeded imports of each year since 1973. The ratio of imports of titanium mill products to domestic production was 2.23 percent in 1976 and 2.29 percent in 1977.

Customers of the Timet Division who were surveyed reported that they have not increased purchases of imported titanium mill products during 1977 and 1978 while decreasing purchases of domestic titanium mill products.

CONCLUSION

After careful review, I determine that workers of the Timet Division of the Titanium Metals Corp. of America, Toronto, Ohio, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28468 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3683]

TONY'S OUTLET, INC. LODI, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies spring blazers at Colleen Fashions, Inc., Lodi, N.J. During the course of the investigation it was determined that the name of the company is Tony's Outlet, Inc., and it produces ladies spring blazers and winter coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Tony's Outlet and to the seasonality of the ladies coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-23469 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3458]

UNION CARBIDE CORP., METALS DIVISION MINE AND MILL, HOT SPRINGS, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3458: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was intiated on March 30, 1978, in response to a worker petition received on March 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers mining and processing vanadium ore at the Hot Springs, Ark., Metals Division Mine and Mill of Union Carbide Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Carbide Corp., its customers, the U.S. Department of Interior the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Hot Springs plant consists of open pit mines and a milling facility. The plant produces vanadium trioxide which is an intermediate product used in the production of vanadium ferroalloys at other Union Carbide plants.

Imports of vanadium ferroalloys increased in 1976 from 1975 and increased 90 percent in 1977 from 1976. The ratio of imports to domestic production increased from 4.2 percent in 1976 to 6.5 percent in 1977.

A survey of customers of Union Carbide revealed minimal impact of imports on Union Carbide's sales of vanadium ferroalloys. Customers who reported purchases of imported vanadium ferroalloys accounted for less than 3 percent of the net decline in Union Carbide sales in 1977 from 1976. The consensus among the customers surveyed was that there is little or no import influence in the vanadium ferroalloy market.

The closing of the Hot Springs facilities was due, in part, to decreased demand in 1977 for vanadium in the United States and world market. The market for vanadium is closely tied with economic growth, primarily in the transportation and construction industries. U.S. exports of vanadium ferroalloys, which exceeded imports by 134 percent in 1976, decreased 35 percent in 1977 from 1976 due to the slow recovery of the world economy. Total curtailment of domestic production by Union Carbide was at the Hot Springs facilities rather than at its Colorado vanadium producing facility because at the Colorado facility vanadium is produced as a by-product of uranium production and the current demand for uranium is high.

CONCLUSION

After careful review I determine that all workers at the Hot Springs, Ark., Metals Division Mine and Mill of Union Carbide Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington D.C., this 27th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28470 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3818]

UPTEGRAFF TRANSFORMER CO., SUMERSET, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3818: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 7, 1978, in response to a worker petition received on June 5, 1978 which was filed on behalf of workers formerly producing distribution tansformers at Uptegraff Transformer Co., Somerset, Pa. Uptegraff Transformer Co. is a subsidiary of R. E. Uptegraff Manufacturing Co. of Scottdale, Pa.

The notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Uptegraff Transformer Co., its customers, *Electrical Week*, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of distribution transformers decreased from 27.3 thousand units in 1976 to 25.2 thousand units in 1977. Imports of transformers in the first half of 1978 decreased to 5.8 thousand units, compared to 19.5 thousand units in the same period in 1977. The ratio of imports to domestic production declined from 3.1 percent in 1976 to 2.3 percent in 1977; and in the first half of 1978, the ratio declined to 0.9 percent compared to 3.7 percent in the same period in 1977.

A survey of the customers of Uptegraff Transformer Co. revealed that none of the customers had purchased imported distribution transformers during 1976, 1977, or the first 6 months of 1978.

CONCLUSION

After careful review, I determine that all workers of Uptegraff Transformer Co., Somerset, Pa., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28471 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3141]

VALLEY MANUFACTURING CO., BUCHANAN, VA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3141: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 15, 1978 in response to a worker petition received on February 2, 1978 which was filed by the Virginia Employment Commission on behalf of workers and former workers producing nurses and waitresses uniforms at the Buchanan, Va. plant of Valley Manufacturing Co. The investigation revealed that the petition was filed by the International Ladies Garment Workers Union and that workers produced women's dresses and pant suits, and uniforms which were dresses and pant suits.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

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eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing dresses, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 222 of the act have been met. U.S. imports of women's, misses', and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Buchanan, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in the production of pant suits at the Buchanan, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Buchanan, Va. plant of Valley Manufacturing Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28472 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3142]

VALLEY MANUFACTURING CO., RADFORD, VA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3142: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 15, 1978 in response to a worker petition received on February 2, 1978 which was filed by the Virginia Employment Commission on behalf of workers and former workers producing nurses and waitresses uniforms at the Radford, Va. plant of Valley Manufacturing Co. The investigation revealed that the petition was filed by the International Ladies Garment Workers Union and the workers produced women's dresses and pant suits, and uniforms which were dresses and pant suits.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing dresses, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses's, and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 222 of the act have been met. U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude the increases of imports of articles like or directly competitive with pant suits produced by the Radford, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in the production of pant suits at the Radford, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Radford, Va. plant of Valley Manufacturing Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28473 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3140]

VALLEY MANUFACTURING CO., ROANOKE, VA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3140: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 15, 1978 in response to a worker petition received on February 2, 1978 which was filed by the Virginia Employment Commission on behalf of workers and former workers producing nurses and waitresses uniforms at the Roanoke, Va. plant of Valley Manufacturing co. The Investigation revealed that the petition was filed by the International Ladies Garment Workers Union and that workers produced women's dresses and pant suits, and uniforms which were dresses and pant suits.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing dresses, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 22 of the act have been met. U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Roanoke, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in the production of pant suits at the Roanoke, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Roanoke, Va. plant of Valley Manufacturing Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28474 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3713]

VULCAN CORP., WALNUT RIDGE, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3713: Investigation regarding certification of eligiblity to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on May 2, 1978, which was filed on behalf of workers and former workers producing shoe lasts (form the shoe is made on) at the Walnut Ridge, Ark. plant of the Vulcan Corp.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Vulcan Corp. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of shoe lasts were negligible in 1975, 1976, and 1977. Imports were also negligible in the first 6 months of 1978.

Evidence developed during the course of the investigation revealed that customers of Vulcan who responded to a Departmental survey purchased no imported shoe lasts in 1976, 1977, or the first 6 months of 1978. These results are consistent with industry data, which show negligible imports of shoe lasts during the past 5 years.

CONCLUSION

After careful review I determine that all workers of the Vulcan Corp. Walnut Ridge, Ark. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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Signed at Washington, D.C., this 22nd day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28475 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3419]

WEAN UNITED, INC. CRESCENT STREET PLANT, YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3419: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 8, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing iron rolls at the Crescent Street, Youngstown, Ohio Plant (plant 16) of Wean United, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wean United, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or an appropriate subdivision have contributed importantly to such total or partial separations, or threats thereof, and to the absolute declines in sales or production.

The Department's investigation revealed that U.S. imports of rolling mill machinery and parts increased from 21.0 million dollars in 1975 to 29.5 million dollars in 1976, and decreased to 17.4 million dollars in 1977. The ratio of imports to domestic production increased from 3.7 percent in 1975 to 4.7 percent in 1976, and decreased to 2.6 percent in 1977.

Imports figures for rolls are not available under a separate TSUSA number; therefore, the Department surveyed major importers of rolls. The survey indicated that imports of rolls decreased 30 percent from 1976 to 1977.

Sales and production of rolls at the Crescent Street, Youngstown, Ohio plant of Wean United, Inc. increased in terms of both quantity and value in the first quarter of 1978 compared to the same quarter of 1977 and compared to the previous quarter.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Crescent Street, Youngstown, Ohio plant (plant 16) of Wean United, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28476 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3562]

WEBSTER SPORTSWEAR CORP., FRANKLIN, N.H.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3562: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 14, 1978 which was filed on behalf of workers and former workers producing ladies' dresses, skirts, pants and tops at Webster Sportswear Corp., Franklin, N.H. During the course of the Department's investigation it was revealed that "tops" referred to blazers and vests.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Webster Sportswear Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

A survey of manufacturers for whom Webster Sportswear did contract work revealed that the manufacturers reported increased sales. The one manufacturer, who purchases imports indicated that import purchases declined in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Webster Sportswear Corp., Franklin, N.H. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28477 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3755]

WERTHAN INDUSTRIES, INC., PRINTING AND FINISHING DIVISION, NASHVILLE, TENN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3755: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 18, 1978 which was filed on behalf of workers and former workers producing printed and finished fabric at Werthan Industries, Inc., Printing and Finishing Division, Nashville, Tenn.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Werthan Industries, Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petition alleges that imports of finished garments (men's shirts and pajamas) have contributed to decreased sales and employment at Werthan Industries. Imported wearing apparel cannot be considered to be like or directly competitive with finished fabric. Imports of all types of finished fabric must be considered in determining import injury to workers producing finished fabric at Werthan Industries.

Aggregate imports of all finished fabric (bleached, dyed, and printed) declined absolutely from 1976 to 1977 and then increased in the first quarter of 1978 compared to the same period in 1977. The ratio of imports to domestic production and consumption remained less than 2 percent from 1974 through 1976.

Customers who purchased finished fabric from Werthan Industries were surveyed. The survey revealed that customers did not purchase imported fabric during the period from 1976 through the first quarter of 1978.

CONCLUSION

After careful review I determine that all workers of Werthan Industries, Inc., Printing and Finishing Division, Nashville, Tenn. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28478 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3911]

WHEEELING-PITTSBURGH STEEL CORP. ADMINISTRATIVE OFFICES, WHEELING, W. VA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3911: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in sction 222 of the act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of various steel products at the administrative offices of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364-5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Workers producing over 90 percent of Wheeling-Pittsburgh Steel Corp's. output have been certified eligible to apply for adjustment assistance by the Department in previous determinations.

(See TA-W-1397, 1472, 1572, 2742, 2743, 2744, 2745, 2746.)

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with various steel products produced by Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in production and to the total or partial separation of workers at the administrative offices of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va.

In accordance with the provisions of the act, I make the following certification:

All workers of the administrative offices of Wheeling-Pittsburgh Steel Corporation, Wheeling, West Virginia who became totally or partially separated from employment on or after June 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28479 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3912]

WHEELING-PITTSBURGH STEEL CORP. EXECUTIVE OFFICES, PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3912: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of various steel products at the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. The petition was expanded by the Department to include workers at the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this Notice.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364-5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Workers producing over 90 percent of Wheeling-Pittsburgh Steel Corp.'s output have been certified eligible to apply for adjustment assistance by the Department in previous determinations.

(See TA-W-1397, 1472, 1572, 2742, 2743, 2744, 2745, 2746.)

APPENDIX

TA-W-3911—Administrative Offices, 1134 Market Street, Wheeling, W. Va.
TA-W-3912—Executive Offices, 4 Gateway Center, Pittsburgh, Pa., and the following District sales offices.

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STATE/ADDRESS

California—6151 W. Century Blvd., Suite 908, Los Angeles 90045.
Georgia—P.O. Box 18824, Lenox Square Station, Atlanta 30326.
Illinois—903-6 McCormick Bldg., 322 S. Michigan Ave., Chicago 60604.
Indiana—6100 N. Keystone Ave., Indianapolis 46220.
Michigan—24700 Northwestern Hwy., Southfield 48075. 405-G Waters Bldg., 161 Ottowa NW., Grand Rapids 49502.
Missouri—Suite 100, Clayton Plaza Bldg., 7700 Clayton Road, St. Louis 63117.
New Jersey—Park 80 Plaza West, Saddlebrook 07662.
Ohio—Westgate Plaza, 20325 Center Ridge Rd., Cleveland 44116. 3131 S. Dixie Dr., Dayton 45349.
Oklahoma—Philtower Bldg., Tulsa 74103.
Pennsylvania—4 Gateway Center, Pittsburgh 15230. One Bala Ave., Bala Cynwyd 19004.
Texas—2004 Bank of The Southwest Bldg., Houston 77002. 1407 Main St., Dallas 75202.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with various steel products produced by Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in production and to the total or partial separation of workers at the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. and the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this Notice.

In accordance with the provisions of the act, I make the following certification:

All workers of the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. and the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this notice who became totally or partially separated from employment or on after June 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28480 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3695]

WILLIAM P. GOLDMAN AND BROTHERS BROOKLYN N.Y. NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3695: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 11, 1978 in response to a worker petition received on May 2, 1978 which was filed on behalf of workers and former workers producing men's and boys' suits, sportcoats, slacks and outercoats at William P. Goldman and Brothers, Brooklyn, N.Y. In the course of the investigation, it was determined that William P. Goldman and Brothers also maintained offices in New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on May 30, 1978 (43 FR 23036). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of William P. Goldman and Brothers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased form 5,465,000 units in 1975 to 6,965,000 units in 1976, before declining to 6,269,000 units in 1977. Imports increased from 1,323,000 units in the first quarter of 1977 to 1,777,000 units in the first quarter of 1978. The ratio of imported tailored dress coats and sportcoats to domestic production increased from 28.2 percent in 1976 to 30.0 percent in 1976 and then declined to 26.5 percent in 1977.

U.S. imports of men's and boys' tailored suits increased from 3,106,000 units in 1975 to 3,562,000 units in 1976 and to 4,091,000 units in 1977. Imports declined from 1,834,000 units in the first quarter of 1977 to 1,132,000 units in the first quarter of 1978. The ratio of imported suits to domestic production increased from 19.0 percent in 1976 to 20.0 percent in 1977.

U.S. Imports of men's and boys' dress and sport trousers and shorts increased from 55,508,000 units in 1975 to 73,209,000 units in 1976 and to 76,419,000 units in 1977. Imports increased again from 17,152,000 units in the first quarter of 1977 to 24,039,000 units in the first quarter of 1978. The ratio of imported dress and sport trousers and shorts to domestic production increased from 34.1 percent in 1975 to 40.9 percent in 1976 and then declined to 38.0 percent in 1977.

U.S. imports of men's and boys' outercoats and jackets increased from 20,034,000 units in 1975 to 22,060,000 units in 1976 and to 27,432,000 units in 1977. Imports increased from 5,438,000 units in the first quarter of 1977 to 6,048,000 units in the first quarter of 1978. The ratio of imported outercoats and jackets to domestic production increased from 28.1 percent in 1975 to 29.6 percent in 1976 and to 35.3 percent in 1977.

A survey was conducted by the Department of Labor among the retail customers of William P. Goldman and Brothers. The survey revealed that, from 1976 to 1977 and during the first quarter of 1978 as compared to the first quarter 1977, several customers decreased their purchases from Goldman and increased imports of men's and boys' suits, sportcoats, slacks and outercoats either directly from foreign sources or indirectly from other domestic sources, which sell garments that have been manufactured offshore.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' suits, slacks, sportcoats and outercoats produced by the Brooklyn, N.Y. plant of William P. Goldman and Brothers contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant and at the New York, N.Y. offices.

In accordance with the provisions of the act, I make the following certification:

All workers at the Brooklyn, N.Y. plant and at the New York, N.Y. offices of William P. Goldman and Brothers who became totally or partially separated from employment on or after October 21, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28481 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3754]

W & W ELECTRONICS, BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3754: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on April 14, 1978 which was filed on behalf of workers and former workers producing printed circuit boards at W & W Electronics, Boston, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-24634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of W & W Electronics, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Contractors who accounted for over 80 percent of sales by W & W Electronics during the period under investigation indicated that they did not purchase any imported printed circuit boards and did not contract with offshore firms to produce such electronic components.

CONCLUSION

After careful review, I determine that workers of W & W Electronics, Boston, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28482 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3348]

AQUADA PRODUCTS, INC., LONG ISLAND CITY, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3348: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1978 in response to a worker petition received on February 21, 1978, which was filed on behalf of workers and former workers producing heat-sealed vinyl products at Aquada Products, Inc., Long Island City, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14774). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aquada Products, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that the ratio of imports of miscellaneous plastic products to domestic production was only 1.7 percent in 1975, 2.1 percent in 1976 and decreased to 2.0 percent in 1977. This negligible influence by imports in the domestic market is reflected in the results of the customer survey. The Department conducted a survey of customers of Aquada Products, Inc., representing a major proportion of 1976 sales. The survey revealed that none of those customers reported puchasing imports in 1976. The survey further indicated that in 1977 customers who reduced purchases from Aquada did not purchase imports.

CONCLUSION

After careful review I determine that all workers of Aquada Products, Inc., Long Island City, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28483 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3170]

DELTON CLOTHING, LTD., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3170: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The workers at Delton Clothing, Ltd., were certified as eligible to apply for trade adjustment assistance on January 17, 1976 (TA-W-300). That certification expired on January 17, 1978.

The Department's investigation revealed that average employment of production workers at Delton Clothing, Ltd. increased in the first 6 months of 1978 compared to the same period of 1977. There were no significant partial separations at Delton Clothing.

There is no immediate threat of separations to workers at Delton Clothing.

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CONCLUSION

After careful review, I determine that all workers at Delton Clothing, Ltd., New York, N.Y. are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28884 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3621]

EMIL FASHIONS, INC., HOBOKEN, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats and jackets at Jay Cee Coats, Hoboken, N.J. During the course of the investigation, it was revealed that the name of the company was Emil Fashions, Inc. and it produces ladies' coats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Emil Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in Section 231 of the Act may not be met at this time. Consequently, he investigation has been terminated.

Signed at Washington, D.C. this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28885 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3764]

FUR MODES, INC., JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3764: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Fur Modes, Inc., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fur Modes, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of women's, misses', and children's coats and jackets increased in 1975 to 1,517 thousand dozen, increased in 1976 to 2,252 thousand dozen, and increased in 1977 to 2,723 thousand dozen.

The imports to domestic production ratio for woman's, misses', and children's coats and jackets increased in 1975 to 38.9 percent. increased in 1976 to 48.3 percent, and increased in 1977 to 54.9 percent.

A Department survey of manufacturers who contract with Fur Modes, Inc. revealed that one of the manufacturers, representing a substantial proportion of Fur Modes' sales in 1977, began importing ladies' winter coats during the last quarter of 1977. This manufacturer further increased his purchases from foreign sources during the period January-June 1978 and ceased all contract work with Fur Modes during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' man-made fur coats produced by Fur Modes, Inc., Jersey City, N.J., contributed importantly to the decline in sales and to the total or partial separation fo workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Fur Modes, Inc., Jersey City, N.J. who became totally or paritally separated from employment on or after September 23, 1977 are eligible to apply for ajdustment assistance under title II, chapter 2 of the Trade act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28886 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3176]

GEORGE HELLER, INC., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3176: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's trousers at George Heller, Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of George Heller, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The workers at George Heller, Inc., were certified as eligible to apply for trade adjustment assistance on January 17, 1976 (TA-W-300). That certification expired on January 17, 1978.

The Department's investigation revealed that there were no layoffs and no reduction in average hours worked at George Heller, Inc. since the expiration of the certification. Employment and hours worked have not changed from February, 1977 through June, 1978, and no change is expected in the foreseeable future.

There is no immediate threat of separations to workers at George Heller.

CONCLUSION

After careful review I determine that all workers at George Heller, Inc., New York, N.Y. are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28887 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3879]

IRVING SPORTSWEAR, GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3879: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Irving Sportswear, Garfield, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Irving Sportswear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's suits decreased from 408,000 dozen in 1976 to 384,000 dozen in 1977. Imports increased from 62,000 dozen in the first quarter of 1977 to 104,000 in the first quarter of 1978. The ratio of imports to domestic production decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

U.S. imports of women's, misses', and children's skirts decreased from 791,000 dozen in 1976 to 654,000 dozen in 1977. Imports increased for 103,000 dozen in the first quarter of 1977 to 296,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 14.2 percent in 1976 to 10.5 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Irving Sportswear worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Irving Sportswear and increased purchases of import in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Irving Sportswear and increased purchases of imports in the first quarter of 1978 as compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' skirts, slacks, and vests produced at Irving Sportswear, Garfield, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Irving Sportswear, Garfield, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28888 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3677]

J AND R MANUFACTURING CO., INC., NEWARK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3677: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at J and R Manufacturing Co., Inc., Newark, N.J. The investigation revealed that women's and children's coats and raincoats are produced.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J and R Manufacturing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which J and R Manufacturing Co., Inc., worked in 1976 and 1977. Manufacturers that accounted a majority of sales in 1977 reduced purchases from J and R Manufacturing Co., Inc., and increased purchases of imported women's coats and raincoats in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's and children's coats and raincoats produced at J and R Manufacturing Co., Inc., Newark, N.J., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

V 43 / 199 OCT 13 78

All workers of J and R Manufacturing Co., Inc., Newark, N.J., who became totally or partially separated from employment on or after November 1, 1977 and before April 1, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers of J and R Manufacturing Co., Inc., who became totally or partially separated from employment on or after April 1, 1978, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28889 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3173]

LEXCRAFT, INC., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3773: Investigation regarding certification of eligility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 25, 1978, in response to a worker petition received on May 23, 1978, which was filed on behalf of workers and former workers producing ladies' loungewear and sleepwear at the Fall River, Mass., plant of Lexcraft, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lexcraft, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of ladies' sleepwear and loungewear by Lexcraft increased in quantity from 1976 to 1977, and increased in the first 5 months of 1978 compared to the same period of 1977. Production increased in each of the last three quarters of 1977 and in the first quarter of 1978 compared to the same quarters of the previous year. Sales and production are equivalent, since all clothing is produced to order on a contract base.

CONCLUSION

After careful review I determine that all workers of Lexcraft, Inc., Fall River, Mass., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration and Planning.

[FR Doc. 78-28890 Filed 10-11-78; 8:45 am]

[4510-28-M]

[TA-W-3842]

PACIFIC MOTOR TRUCKING CO., SOUTH GATE YARD, LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3842: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 14, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers transporting new vehicles for General Motors at the South Gate Yard, Los Angeles, Calif., facility of Pacific Motor Trucking Co.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pacific Motor Trucking Co. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Pacific Motor Trucking Co. was founded in 1933 and incorporated in California. the firm is a subsidiary of Southern Pacific Transportation Co., a rail common carrier which also owns two other subsidiaries engaged in providing transportation services.

Pacific Motor Trucking (PMT) operates as a highway common carrier of general commodities in and between the States of Oregon, California, Nevada, Arizona, New Mexico, and Texas. Additionally, PMT is a contract carrier for General Motors Corp. at its assembly plants at South Gate, Van Nuys (Raymer), and Fremont, Calif. Auto transport operations of Pacific Motor trucking Co. are performed in its own name under interstate and intrastate operating authorities issued to PMT by the Interstate Commerce Commission and the California State Public Utilities Commission.

The petitioning workers are employed at the South Gate Yard, Los Angeles, Calif., facility of PMT. At this location, PMT loads new automobiles from the GM assembly plant onto rail cars for delivery to various destinations and also transports automobiles over the road for delivery to consignees. PMT assumes responsibility for the autos at the receiving gate of the assembly plant. Facilities are leased from GMC. Most of the equipment used is owned by PMT.

Workers at the South Gate Yard are engaged in providing transport services and do not produce an article within the meaning of section 222(3) of the trade Act.

Pacific Motor Trucking Co. and its customers have no controlling interest in each other.

All workers engaged in providing transport services at the South gate Yard are employed by Pacific Motor Trucking Co. All personnel actions and payroll transactions are controlled by PMT. All employee benefits are provided and maintained by PMT. Workers are not at any time under supervision or employment by customers of Pacific Motor Trucking Co. Thus, Pacific Motor Trucking Co. must be considered to be "the workers' firm."

CONCLUSION

After careful review, I determine that all workers in the South Gate Yard, Los Angeles, Calif., facility of Pacific Motor Trucking Co. be denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28891 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3644]

RCR SPORTSWEAR, INC., PASSAIC, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3644: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at RCR Sportswear, Inc., Passaic, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCR Sportswear, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all of the requirements have been met.

U.S. imports of women's misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses' and childrens' raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 46.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which RCR Sportswear worked in 1976 and 1977. A manufacturer that accounted for a majority of sales in 1976 reduced purchased from RCR Sportswear and increased purchases of imported women's coats and raincoats in 1977 compared to 1976. This manufacturer ceased purchases from RCR Sportswear in the first 5 months of 1978, while continuing to increase imports during this period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the women's coats and raincoats produced at RCR Sportswear, Inc., Passaic, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of RCR Sportswear, Inc., Passaic, N.J., who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3d day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28892 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3651]

REMM FASHIONS, INC., JERSEY CITY, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' and children's coats at Remm Fashions, Inc., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Remm Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28893 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3739]

RO TARR FASHIONS, INC., NEWBURGH, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3739: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers producing wool coats and raincoats for women at Ro Tarr Fashions, Inc., Newburgh, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-25499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ro Tarr, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Ro Tarr produces under contract exclusively for one manufacturer who does not contract with foreign sources. That manufacturer decreased purchases slightly from Ro Tarr in 1977 while increasing purchases from other domestic contractors. Orders from the manufacturer to Ro Tarr increased in the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review, I determine that workers of Ro Tarr Fashions, Inc., Newburgh, N.Y., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

V 4 3 / 1 9 9 0 C 1 3 7 8

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28894 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3457]

SHURON DIVISION OF TEXTRON, INC., TAMPA, FLA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3457: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 21, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ophthalmic lenses at the Tampa, Fla., plant of the Shuron Division of Textron, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Shuron Division of Textron, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of ophthalmic lenses decreased from 3,435 thousand pair in the first quarter of 1977 to 2,884 thousand pair in the first quarter of 1978.

Customers of Shuron who were surveyed did not reduce purchases from Shuron in favor of imports. The termination of lens operations at the Tampa plant resulted largely from a decision by Shuron officials to consolidate all glass lens production at the firm's Barnwell, S.C., facility.

CONCLUSION

After careful review, I determine that workers engaged in employment related to the production of ophthalmic lenses of the Tampa, Fla., plant of the Shuron Division of Textron, Inc. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 3d day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration & Planning.

[FR Doc. 78-28895 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3456]

STYLISH SPORTSWEAR, CO., INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3456: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 21, 1978, which was filed on behalf of workers and former workers producing ladies' sportswear at Stylish Sportswear Co., Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stylish Sportswear Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and the Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's slacks and shorts increased from 10,067 thousand dozen in 1975 to 11,040 thousand dozen in 1976 to 11,622 thousand dozen in 1977. Imports increased to 4,545 thousand dozen in the first quarter of 1978 compared to 3,374 thousand dozen in the first quarter of 1977.

The ratio of U.S. imports to domestic production increased from 35.2 percent in 1975 to 36.8 percent in 1976 to 38.9 percent in 1977.

A survey of major customers of Stylish Sportswear indicated that those customers who decreased purchases from Stylish from 1976 to 1977, increased purchases of imported slacks.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' slacks produced by Stylish Sportswear Co., Inc., New York, N.Y., contributed importantly to the decline in sales and production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Stylish Sportswear Co., Inc., New York, N.Y., who became totally or partially separated from employment on or after March 17, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28896 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3667]

TIARA COAT FASHIONS, INC., WEST NEW YORK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3667: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Tiara Coat Fashions, Inc., West New York, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Tiara Coat Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufactureres for which Tiara Coat Fashions, Inc. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Tiara Coat Fashions, Inc. and increased purchases of imported coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Tiara Coat Fashions, Inc. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and raincoats produced at Tiara Coat Fashions, Inc., West New York, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Tiara Coat Fashions, Inc., West New York, N.J., who became totally or partially separated from employment on or after November 20, 1977, eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28897 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3654]

VENUS COAT CO. JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3654: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Venus Coat Co., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Venus Coat Co., its manufacturers,the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certificate of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Venus Coat Co. worked in 1976 and 1977. One manufacturer that accounted for a majority of sales in 1976 reduced purchases from Venus Coat Co. and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Venus Coat Co. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Venus Coat Co., Jersey City, N.J. contributed importantly to the decline in sales and production and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Venus Coat Co., Jersey City, N.J. who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28898 Filed 10-12-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-42]

INTENT TO GRANT EXCLUSIVE PATENT LICENSE

Notice is hereby given of intent to grant to Transolar, Inc., Chattanooga, Tenn., a revocable, limited exclusive license to practice the inventions described in U.S. Patent No. 3,977,197 for "Thermal Energy Storage System," issued on August 31, 1976, and U.S. Patent No. 3,951,129 for "Solar Energy Absorber," issued on April 20, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. Copies of the above patents may be purchased from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972.

NASA will grant the exclusive license unless, within 60 days of this notice, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such inventions, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention or inventions to practical application within a reasonable period.

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The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: October 3, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-28873 Filed 10-12-78; 8:45 am]

[7510-01-M]

[Notice 78-43]

NASA ADVISORY COUNCIL (NAC) AERONAUTICS ADVISORY COMMITTEE

Meeting

A meeting of the Informal Executive Committee of the NAC Aeronautics Advisory Committee will be held October 18, 1978, from 9 a.m. to 1 p.m., in room 647, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including committee members and participants).

The Aeronautics Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of aeronautical research and technology. The Executive Committee's purpose is to meet and discuss the operation of the Aeronautics Advisory Committee and subjects that should be studied through the formation of informal ad hoc subcommittees. It is necessary that this Informal Executive Committee meet at this time in order that the informal ad hoc subcommittees established by the Committee will have time to meet and discuss subjects pertinent to NASA's planning and budget cycle and present their findings to the NAC Aeronautics Advisory Committee in February 1979. The Chairman is Dr. Robert C. Loewy. There are seven members on the Informal Executive Committee.

For further information, contact Mr. C. Robert Nysmith, Executive Secretary, 202-755-8550, NASA Headquarters, Code R, Washington, D.C. 20546.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

OCTOBER 6, 1978.

[FR Doc. 78-28874 Filed 10-12-78; 8:45 am]

[7510-01-M]

[Notice 78-4]

NASA WAGE COMMITTEE

Reestablishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the General Services Administration, NASA has determined that the reestablishment of the NASA Wage Committee is in the public interest in connection with the performance of duties imposed upon NASA by law. The function of this Committee is to provide recommendations to NASA relating to a survey of wages and the establishment of wage schedules for trades and labor employees in the Cleveland, Ohio wage area. NASA has been designated as the "lead agency" for that area under Federal Personnel Manual Supplement 532-1.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

OCTOBER 6, 1978.

[FR Doc. 78-28875 Filed 10-12-78; 8:45 am]

[7527-01-M]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PRIVACY ACT OF 1974

Notice of New System; Adoption

The National Commission on Libraries and Information Science (NCLIS) is creating a new record system subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 522a.

This new system is identified as the White House Conference Delgate/Alternate Certification File, and will include information provided by persons named as official delegates or alternates from their respective States or territories to the White House Conference on Library and Information Services (WHCLIS). The information is necessary to insure the wide representation required by the WHCLIS legislation, Pub. L. 93-568.

On August 11, 1978 (45 FR 35805) the Commission published notice of the proposed new system. No comments were received. The system is adopted as published in that notice.

OCTOBER 10, 1978.

ALPHONSE F. TREZZA,
Executive Director.

[FR Doc. 78-28851 Filed 10-12-78; 8:45 am]

[4510-27-M]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The eighth meeting of the NCUC will be held in the Austin Marriott Hotel, Austin, Tex. in the Sundance Room on October 19, 20, and 21. The meeting will begin at 9 a.m. on October 19 and will conclude at 12:15 p.m. on October 21.

TENTATIVE AGENDA—OCTOBER MEETING

Marriott Hotel, Austin, Tex., Sundance Room.

OCTOBER 19

9 a.m. to 12:30 p.m.— Public Hearings—The Emphasis will be on agricultural coverage.
2 to 3 p.m.—Presentation by Texas Employment commission.
3 to 5:30 p.m.—Commission discussion of First Interim Report.

Adjourn—5:30 p.m.

OCTOBER 20

9 a.m. to 12:30 p.m.—Commission discussion of First Interim Report.
2 to 5:30 p.m.—Commission discussion of First Interim Report.

Adjourn 5:30 p.m.

OCTOBER 21

9 a.m. to 12 p.m.—Commission discussion of First Interim Report.
12 noon to 12:30 p.m.—Commission business meeting.

Adjourn 12:30 p.m.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, phone 703-235-2782.

Signed at Washington, D.C., this 5th day of October, 1978.

JAMES M. ROSBROW,
Executive Director National Commission on Unemployment Compensation.

[FR Doc. 78-28882 Filed 10-12-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR CHEMISTRY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.
Date and time: October 30-31, 1978—9 a.m. to 5 p.m., each day.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. Richard S. Nicholson, Division of Chemistry, Room 340, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4262.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: To provide program oversight concerning NSF support for research in chemistry.
Agenda: The meeting will involve briefing of the Committee by NSF staff on items of topical interest to the Committee. In addition, the Division will seek the Committee's advice concerning the support of post-doctorals in chemistry. There also will be a discussion of the future plan for the regional instrumentation facilities program.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28907 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON CELL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: October 30, 31, and November 1, 1978: 9 a.m. to 6 p.m.
Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Liselotte Mezger-Freed, Program Director for Cell Biology, Room 331-B, National Science Foundation, Washington, D.C. 20550, telephone 202-634-4117.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in cell biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28908 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON ECONOMICS OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.
Date and time: November 3 and 4, 1978—November 3—9 a.m. to 5 p.m., November 4—8 a.m. to 4 p.m.
Place: Room 628, Nation Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Part open—November 3—9 a.m. to 5 p.m.—Closed. November 4—8 to 10 a.m.—Closed. November 4—10 a.m. to 12 p.m.—Open. November 4—12:30 to 4 p.m.—Closed.
Contact person: Dr. James H. Blackman, Program Director, Economics Program, National Science Foundation, Washington, D.C. 50550, telephone 202-632-5968.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning research support in Economics.
Agenda: November 4—10 a.m. to 12 p.m.—Open session. General discussion of computer technology and other equipment advances relevant to economics of standards for assessing need for equipment, and of research topics which deserve special emphasis. November 3—9 a.m. to 5 p.m. and November 4, 8 a.m. to 10 a.m. and November 4—12:30 to 4 p.m.—Closed sessions. To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. Theses matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28912 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR GEOGRAPHY AND REGIONAL SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Geography and Regional Science.
Date and time: October 30, 1978—8:30 a.m. to 5 p.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Open: 8:30—9 a.m. Closed: 9 a.m.—5 p.m.
Contact person: Patricia J. McWethy, Associated Program Director, Room 316, National Science Foundation, Washington, D.C. 20550, telephone 202-634-6683.
Purpose of subcommittee: To provide advice and recommendation concerning support for research in Geography and Regional Science.
Agenda: Open: To review status of Geogrpahy and Regional Science Program and discuss equipment grant program. Closed: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on February 18, 1977.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committe Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28906 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON HISTORY AND PHILOSOPHY OF SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences.
Date and time: October 30, 1978—9 a.m. to 5 p.m.
Place: National Science Foundation, Room 628.
Type of meeting: Closed.
Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4182.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.

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Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28905 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON THE MATERIALS RESEARCH LABORATORIES OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on the Materials Research Laboratories of the Advisory Committee for Materials Research.

Date and time: November 2 and 3, 1978—9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: November 2, closed; November 3, open.

Contact person: Dr. R. J. Wasilewski, Head, Materials Research Laboratory Section, Room 408, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7408.

Purpose of subcommittee: To provide advice and recommendations concerning core support of research at the Materials Research Laboratories.

Agenda: November 2—9 a.m. to 5 p.m.—Review and evaluation of research proposals and programs as part of the selection process for awards. November 3—9 a.m. to noon—Review of the report on the Evaluation Study of the Materials Research Laboratory Program; 1:30 to 5 p.m.—Future outlook and directions.

Reason for closing: The first day's meeting is closed since the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28911 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON SOCIAL AND DEVELOPMENTAL PSYCHOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: November 2 and 3, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact person: Dr. Kelly G. Shaver, Program Director, Social and Developmental Psychology, Room 317, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5714.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28910 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE TO REVIEW THE STRUCTURAL MATERIALS AND GEOTECHNICAL ENGINEERING AND WATER RESOURCES, URBAN AND ENVIRONMENTAL ENGINEERING PROGRAMS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee to Review the Structural Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering Programs of the Advisory Committee for Engineering.

Date and time: November 2 and 3, 1978—9 a.m. to 5 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Part-Open—November 2, 1978—9 a.m. to noon—Open 1:30 to 5 p.m.—closed. November 3, 1978—9 a.m. to 1 p.m.—Open 2 to 5 p.m.—closed.

Contact person: Dr. Ronald L. Huston, Section Head, Engineering Mechanics, Room 419, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5787.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and counsel concerning the status and new directions of Engineering Mechanics research in Structural, Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering.

Agenda:

THURSDAY, NOVEMBER 2—OPEN 9 A.M. TO NOON.

9—Introduction by Section Head. Engineering Division Status Report.
9:45—Question and Answer.
10:15—Briefing of Engineering Mechanics Program. Section Overview. Structural, Materials and Geotechnical Engineering, Water Resources, Urban and Environmental Engineering.
11—Briefing by Division of Program—Focused Research. Applications of the Directorate for Applied Science and Research Applications.
11:30—Question and Answer.
12—Recess.

THURSDAY, NOVEMBER 2—CLOSED—1:30 TO 5 P.M.

1:30—Review of declinations containing names of applicant institutions and principal investigators and of the peer review documentation pertaining to awards.

FRIDAY, NOVEMBER 3—OPEN 9 A.M. TO 1 P.M.

9—Oral reports from Subcommittee.
9:30—Subcommittee Discussion of future directions of programs.
10:30—Subcommittee discussion of Section-wide and Division-wide concerns.
11:30—Drafting of preliminary subcommittee response.

FRIDAY, NOVEMBER 3—CLOSED—2 TO 5 P.M.

2—Further review of peer review process on individual grants and declinations.
5—Adjourn.

Reason for closing: The Subcommittee will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Committe Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28909 Filed 10-12-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE SURRY POWERPLANT, UNITS 1 AND 2

Meeting

The ACRS Subcommittee on the Surry Powerplant, units 1 and 2, will hold a meeting on October 28, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555 to discuss the steam generator repair program for units 1 and 2.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during these portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Saturday, October 28, 1978.
8:30 a.m. until the conclusion of business.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Virginia Electric Power Co., and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber, telephone 202-634-3267 between 8:15 a.m. and 5 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Swem Library, College of William and Mary, Williamsburg, Va. 23185.

Dated: October 10, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-29068 filed 10-12-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 4, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Farm and Rural Development Administration, Tenant Certification, FMHA 444-8, Annually, FMHA multiple family housing borrowers, 60,000 responses, 15,000 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of the Census, Survey of Assessed Values, GP-33, single time, State officials in charge of assessed values, 51 responses, 153 hours, Office of Federal Statistical Policy and Standards, C. Louis Kincannon, 673-7977.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Product License Application for the Manufacturers of Antihuman Globulin, FD-3096, on occasion, manufacturers of antihuman globulin sera, 40 responses, 30 hours, Richard Eisinger, 395-3214.

Alcohol, Drug Abuse, and Mental Health Administration:

Study of the Contexts of Drinking, single time, Households in Suburban Community, 1,224 responses, 1,469 hours, Office of Federal Statistical Policy and Standards, Richard Eisinger, 673-7977.

Use of Annual Evaluation Report Review, single time, staff of federally funded CMHC's with evaluation reports reviewed, 48 responses, 24 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Application for Urban Homesteading Program, on occasion, States or units of general local government, 300 responses, 18,600 hours, Caywood, David P., 395-3443.

REVISIONS

DEPARTMENT OF LABOR

Employment and Training Administration, Job Corps Placement and Assistant Record, ETA-678, on occasion, Sesa's, job corps centers and other placement agencies, 50,000 responses, 50,000 hours, Arnold Strasser, 395-6132.

EXTENSIONS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Monthly Report of Participants Under Grant, Loan, or Contract Programs, AID 1380-9, monthly, universities and profes-

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sional assistances, 384 responses, 384 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Permission to Occupy—Project Mortgages, FHA-2485, on occasion, project mortgages, 150 responses, 75 hours, Caywood, David P., 395-3443.

Housing Management:

Recertification of Family Income and Composition, Section 235(b), HUD-93101, 93101A, and 93101B, annually, homeowners receiving assistance and mortgage lenders, 500,000 responses, 500,000 hours, Caywood, David P., 395-3443.

Recertification for Benefits Under Section 404(b), Disaster Relief Act of 1974, HUD-9954, on occasion, victims of Presidentially declared disasters, 20 responses, 10 hours, Caywood, David P., 395-3443.

Mortgage/Landlord Statement, HUD-9952, on occasion, mortgage lenders/landlords, 25 responses, 13 hours, Caywood, David P., 395-3443.

Application for Temporary Housing Assistance, HUD-9060, on occasion, victims of Presidentially declared disasters, 3,000 responses, 1,500 hours, Caywood, David P., 395-3443.

Housing Production and Mortgage Credit, Application for Designation as Fee Personnel, FHA-2563, on occasion, Inspection, Appraisal, MC examination, seeking to be members of fee panels, 1,000 responses, 500 hours, Caywood, David P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-28848 Filed 10-12-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public recieved by the Office of Management and Budget on October 5, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of the Census:

Post Enumeration Area Sample—1978 Census of Agriculture, 78-A3, single-time, Heads of households and selected household members, 15,000 responses, 2,505 hours, office of Federal Statistical Policy and Standard, Kincannon, C. Louis, 673-7977.

Quality Control/Listing and Matching Record—1980, Decennial Census, D-169, single-time, Sample of households in prelist and conventional areas, 1,800,000 responses, 59,400 hours, Office of Federal Statistical Policy and Standards, Reese, Barbara, 673-7977.

DEPARTMENT OF DEFENSE

Departmental and other, 1978 Post-election voting survey—form B, single-time, Residing overseas, 7,500 responses, 1,875 hours, Office of Federal Statistical Policy and Standards, Marsha Traynham, 673-7977.

VETERANS ADMINISTRATION

Nationwide Survey of Veterans, single-time, Noninstitutionalized male veterans, 11,000 responses, 8,250 hours, Caywood, David P., 395-3443.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Uniform Grain Storage Agreement, CCC-25, and 25-2, on occasion, Warehousemen, 5,000 responses, 5,000 hours, Ellett, C.A., 395-6132.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Food Stamp Program Regulations, part 278, participation of retail food stores, wholesale food concerns and banks, FNS-252, 252-2, 350, on occasion, Retail food stores and wholesalers, 325,000 responses, 27,207 hours, Ellett, C.A., 395-6132.

U.S. CIVIL SERVICE COMMISSION

Medical Report (Epilepsy), SF-217, on occasion, Medical doctors, 1,500 responses, 750 hours, Topelius, Warren, 395-6134.

DEPARTMENT OF DEFENSE

Departmental and other, cost performance report, monthly, Defense contractors, 1,800 responses, 28,800 hours, Office of Federal Statistical Policy and Standards, Marsha Traynham, 673-7977.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Survey of Library Networks and Cooperative Library Organizations, NCES 2396-2, single-time, Library networks, 10,368 responses, 5,025 hours, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 673-7956.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, prices paid by farmers for petroleum products and for motor supplies, monthly, stores and service stations that sell the products, 16,000 responses, 3,200 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of Census, construction machinery shipments, MA-35D, annually, construction machinery manufacturing establishments, 65 responses, 48 hours, Office of Federal Statistical Policy and Standard, 673-7056, C. Louis Kincannon.

Domestic and International Business Administration, approval of triangular transactions involving commodities covered by a U.S. import certificate, EAR 368.2(a)(8) and (9), on occasion, commercial exporters, 100 responses, 50 hours, Kincannon, C. Louis, 395-3211.

Domestic and International Business Administration, destination control provisions, EAR 386.6 of Export Administration regulations, on occasion, commercial exporters, 480,000 responses, 11,200 hours, Kincannon, C. Louis, 395-3211.

U.S. CIVIL SERVICE COMMISSION

Medical report (diabetesmillitus), CSC 3684, on occasion, medical doctor for applicant, 2,300 responses, 575 hours, Topelius, Warren, 395-6134.

Certificate of medical examination, SF-78, on occasion, medical doctor for applicant, 492,300 responses, 246,150 hours, Topelius, Warren, 395-6134.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Affairs regulatory functions, certificate page for settlement statement, HUD-9596, on occasion, closing agents hired by HUD, 75,000 responses, 18,750 hours, Caywood, David P., 395-3443.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, exemplary project recommendation, LEAA 2300/6, annually, any criminal justice program, 100 responses, 800 hours, Collins, Laverne V., 395-3214.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29036 Filed 10-12-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15223; File No. SR-MSE-78-19]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes. The Midwest Stock Exchange, Inc. has provided the Commission with the following statement of the terms of substance, basis, and purpose of the proposed rule change.

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes, if approved, would provide for the implementation and operation of the intermarket trading system (ITS) and the pre-opening application on the floor of the exchange.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule change is to permit the Midwest Stock Exchange to participate in the Plan previously submitted to the Securities and Exchange Commission by the New York Stock Exchange by letter dated March 8, 1978, proposing the creation and operation of an intermarket communications linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This plan in general provides for a communications system linkage of the various participants' trading floors in order to permit a trade to take place between the members of different participants.

Pursuant to the intent of the Congress, as expressed in section 11A(a)(3)(B) of the Securities Exchange Act of 1934, as amended (the Act)—that self-regulatory organizations act jointly in planning, developing, operating, and regulating a national market system (or a subsystem or one or more facilities thereof)—the MSE and the American, Boston, Pacific, New York, and Philadelphia Stock Exchanges have entered into a plan agreement (the Plan) providing for an electronic communications system (the System) which will link together the various trading floors maintained by the participating exchanges. This System is intended to support the intermarket trading system application (ITS) and the pre-opening application.

The ITS application of the System will facilitate intraday (post opening) trades between broker-dealers on different participants. The following example describes the operation of ITS:

Assume that a member firm of the NYSE receives from a customer an order to purchase 100 shares of a given NYSE listed stock that is also traded on the Midwest (MSE) and Philadelphia (PHLX) Stock Exchanges and sends that order to the NYSE floor for execution. There a NYSE member, acting as agent for the customer, will receive the order and attempt to execute it. He will go to the post at which the stock is traded on the NYSE and inquire as to the market for that stock. He may find that the best bid on the NYSE floor is 40 and that the best offer is 40¼. A continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the NYSE floor, identifying the participant with the best bid and the participant with the best offer. Thus, the broker may discover that the best offer from other participants is one of 40¼ on the MSE. Having learned this information the broker may decide to attempt to buy the 100 shares for his customer from the 40¼ offer on the MSE. The broker would send, or cause to be sent, through ITS a so-called "commitment to trade" to the MSE. (As used in the Plan, the term "commitment to trade" means a message issued by a broker-dealer in one participating market center which is sent to another participating market center through ITS and which communicates the sender's firm offer to buy (or sell) a specific number of shares of a specific security at a specified price or "at the market.") In this example, the broker would send to the MSE a commitment to buy 100 shares of the stock at 40¼. If the 40¼ offer on the MSE is still available when the commitment to buy reaches the MSE and if the rules of the MSE permit an execution at that price, then the MSE offer would accept the commitment and an execution at 40¼ would take place.

The preopening application of the System will enable a specialist on any participant who wishes to open his market in a security traded through ITS to obtain through the System any preopening interest of other specialists registered in that security on the other participants. In this way, the specialist in a given stock on one participant may be able to participate (as agent and/or principal) in the opening transaction in that stock on another participant and thus be able to provide an execution for limited price orders left with him which might otherwise go unexecuted. Briefly stated, the preopening application would operate as follows:

Whenever a specialist on any participant, in arranging an opening transaction in his market in a stock traded through ITS, determines that the opening transaction will be at a price which is more than one-fourth of a point away from the previous day's closing price of that stock, as reported on the consolidated tape, the specialist will notify specialists in that stock on the other participants of such situation by sending a message, called a preopening notification, through the System. This message will identify the stock and will state the side of the market in which the order imbalance exists, the amount of the imbalance, and the amount paired off. The specialist who issues a preopening notification is referred to in the Plan as the "inquiring specialist."

If any specialist who receives a preopening notification desires to participate in the inquiring specialist's opening transaction in the stock in question, he would do so be sending through the System to the inquiring specialist a message, known as a "preopening response" containing "obligations to trade," both as a principal for his own account and/or as agent for orders left with him, at each price level at which the stock might open. The specialist who issues a preopening response is referred to in the Plan as the "responding specialist."

Upon receiving such obligations to trade from the responding specialist(s), the inquiring specialist would combine them with the orders he already holds in the stock in question and, on the basis of this aggregated information, decide upon the opening transaction in that stock.

Responses to preopening notifications are voluntary, but, each obligation to trade which is included in any preopening response, or in any modification of a preopening response, will remain binding on the responding specialist, and on any person for whom he is acting, until the inquiring specialist has either opened the stock in question or received a cancellation or modification of such obligation.

ITS and the preopening application, and the various procedures related thereto as agreed upon by the participants, are explained fully in the Plan.

The Plan, which has been submitted separately to the SEC for approval, describes a number of rules and rule changes that each participant agrees to adopt in order to insure that both the preopening application and ITS operate in the manner intended by the Plan participants.

Thus, the general purpose of the proposed rule changes submitted in this filing is to provide for the implementation and operation of ITS and the preopening application on the floor of the MSE in accordance with the provisions and intent of the Plan.

The exchange proposes to adopt new rules 36 and 37 to article XX, in connection with ITS and preopening application and the liability of the exchange relating to operation of ITS. 000

Specific to rule 36 of article XX, the proposed rule change would:

* * * define key terms that are unique to the Plan;

* * * incorporate the salient provisions of the Plan into rule so the exchange membership will be aware of them and so that they can be properly enforced by the exchange; and

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• • • identify those rules which would be applicable to commitments to trade received on the floor through ITS and those rules which would be applicable to commitments to trade and also obligations to trade issued from the floor of the exchange through ITS or the preopening application, respectively.

Proposed rule 37, of article XX, provides in effect that if the MSE side of a System transaction is to be settled by an exchange member who becomes insolvent to clearance, the exchange would not be required to assume that side of the transaction for its own account and risk.

The Plan provides that the trading rules of the participating market center in which a commitment to trade is received through ITS shall be applicable to that commitment and any execution thereof within the market of that participant.

Thus, the Plan contemplates that such commitments to trade will be handled in the normal course of business in the receiving market center and will not be subject to any special restrictions except those which are specifically agreed to by the participating market centers in the Plan. To further emphasize this principle the Plan provides that the rules of each participant shall provide that a commitment to trade received in its market during the trading day shall, except as otherwise provided for in the Plan, be treated in the same manner and entitled to the same privileges as would an "immediate or cancel" order that reaches the trading floor of that participant at the same time.

The Plan also provides that each participating market center shall be free to determine the extent to which its trading rules will be made applicable with respect to commitments to trade which are issued from such market center. Specifically, the proposed rule changes would make the following existing rules applicable to commitments to trade issued from the floor of the exchange:

Rules 3 and 5 of article IX, rules 3, 5, 25, and 33 of article XX, rules 17 and 18 of article XXI, rules 9 and 10 of article XXX, and rule 13 of article XXXI. Moreover, the exchange has determined that these rules should also be applicable to obligations to trade issued from the floor of the exchange through the preopening application of the System.

In addition to the foregoing, changes are also proposed to article XX, rules 1 and 8, article XXX, rule 2, Interpretations and Policies .03 and article XXX, rule 4. These changes are intended to clarify the application and meaning of the rules in terms compatible with the ITS System.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The proposed rule changes relate to section 11A(a) of the Act because they would provide for the implementation and operation of the intermarket trading system and the preopening application on the equity floor of the MSE. Implementation of the intermarket trading system and the preopening application is consistent with the findings and directives of the Congress, as expressed in section 11A(a) of the Act, that:

> New data processing and communications techniques create the opportunity for more efficient and effective market operations (section 11A(a)(1)(B));
>
> It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure • • • the practicability of brokers executing investors' orders in the best market • • • (section 11A(a)(1)(C)(iv));
>
> The linking of all markets for qualified securities through communications and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders (section 11A(a)(1)(D));
>
> The Commission is authorized • • • by rule or order, to authorize to require self-regulatory organizations to act jointly with respect to matters as to which they share authority under (the Act) in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more facilities thereof • • • (section 11A(a)(3)(B)).

The proposed rule changes also relate to section 6(b)(1) of the Act in that they would enable the exchange to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange in an environment where exchange members on the floor of the MSE will be able to effect securities transactions with broker-dealers located in different market centers.

Finally, the proposed rule changes relate to, and are consistent with, section 6(b)(5) of the Act in that they are designed to promote just and equitable principles of trade; to remove impediments to, and perfect the mechanism of, a free and open market and a national market system; and, in general, to protect investors and the public interest.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The exchange has not solicited nor has it received any comments regarding the proposed rule changes.

BURDEN ON COMPETITION

The proposed rule changes will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

On or before November 20, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 13, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary

OCTOBER 6, 1978.

[FR Doc. 78-28849 Filed 10-12-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Boston, Mass., will hold a public meeting at 1:30 p.m., on Monday, October 30, 1978, in the Conference Room, 150 Causeway Street, 10th Floor, Boston, Mass., to discuss such matters as may be presented members, staff of the Small Business Administration, or others present.

For further information, write or call Thomas A. McGillicuddy, District Director, U.S. Small Business Administration, 150 Causeway Street, Boston, Mass. 02114, 617-223-4074.

Dated: October 6, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-28841 Filed 10-12-78; 8:45 am]

[8025-01-M]

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 12 noon on Tuesday, October 31, 1978, at Guido's, 333A Water Street, Augusta, Maine, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call G. Leroy Perry, Acting District Director, U.S. Small Business Administration, Federal Building, 40 Western Avenue, Augusta, Maine 04330, 207-622-6171, extension 282.

Dated: October 6, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-28842 Filed 10-12-78; 8:45 am]

[8025-01-M]

[License No. 05/05-0132]

ARLINGTON VENTURE CAPITAL CORP.

Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to section 107.102 of the SBA regulations (13 CFR 107.102 (1978)), by Arlington Venture Capital Corp., 2355 South Arlington Heights Road, Arlington Heights, Ill. 60005, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. et seq.).

The proposed officers, directors, and stockholders are:

Name and address	Title and relationship	Percent of ownership
Douglas W. Dodds, 600 West Polo Dr., Clayton, Mo. 63105.	President, general manager, and director.	57
Marshall Brodien, 22 West 303 Foster, Medinah, Ill. 60157.	Treasurer, assistant secretary and director.	10
Roger G. Fein, 1661 North Lane, Northbrook, Ill. 60062.	Secretary and director	3
James T. Ryan, 1308 Watling Rd., Arlington Heights, Ill. 60004.	Assistant treasurer, assistant secretary, and director.	10
John G. Sellas, 21 West Ambleside, Des Plaines, Ill. 60016.	Director	10
Carl M. Teutsch, Jr., 1928 Prairie St., Schaumburg, Ill. 60195.	do	10

The applicant proposes to begin operations with a capitalization of $500,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns. The applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any person may, not later than October 30, 1978, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of the notice will be published in a newspaper of general circulation in Arlington Heights, Ill.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-28839 Filed 10-12-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1532]

TEXAS

Declaration of Disaster Loan Area

Bexar and Shelby Counties and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by high wind, lightening, excessive rains, rising water and flooding which occurred in San Antonio on September 13, 1978, and in Shelby on September 14, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 4, 1978, and for economic injury until the close of business on July 3, 1979, at:

Small Business Administration, District Office, 727 East Durango—Room A-513, Federal Building, San Antonio, Tex. 78206.

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Tex. 75242.

or other locally announced locations.

(Catalog of Federal domestic assistance program Nos. 59002 and 59006.)

Dated: October 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-28840 Filed 10-12-78; 8:45 am]

[4710-01-M]

DEPARTMENT OF STATE

[CM-8/116]

FINE ARTS COMMITTEE

Notice of Meeting

The Fine Arts Committee of the Department of State will hold its fall meeting on Monday, November 13, 1978, at 2:30 p.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 4 p.m.

The agenda for the committee meetings will include a summary of the work of the Fine Arts Office since its last meeting in December 1977, the announcement of all gifts and loans since January 1, 1978, as well as a report on the status of the architectural improvements in the Entrance Hall and Lounges of the Diplomatic Reception Rooms. Also on the agenda will be a report from the Finance Committee on the fundraising dinner held in the spring.

The meeting is open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office by Monday, November 6, 1978, telephone 202-632-0298 to make arrangements to enter the building.

Dated: October 4, 1978.

CLEMENT E. CONGER,
Chairman, Fine Arts Committee.

[FR Doc. 78-28871 Filed 10-12-78; 8:45 am]

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[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA, BRAZIL, COLOMBIA, INDIA, PHILIPPINES, THE REPUBLIC OF CHINA (TAIWAN), REPUBLIC OF KOREA, URUGUAY, MALAYSIA, MEXICO, PAKISTAN, SINGAPORE, AND THAILAND

Clarification of Notices of Receipt of Countervailing Duty Petition and Initiation of Investigation and of Preliminary Countervailing Duty Determinations

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Clarification of countervailing duty notices.

SUMMARY: This notice is to advise the public of a clarification in the description of the products subject to the countervailing duty investigations of men's and boys' apparel and textile products of cotton, wool, and manmade fibers from Argentina, Brazil, Colombia, India, the Philippines, the Republic of China (Taiwan), the Republic of Korea, Uruguay, Malaysia, Mexico, Pakistan, Singapore, and Thailand.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly A. Kuga, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 30, 1978, notices of receipt of countervailing duty petition and initiation of investigation were published in the FEDERAL REGISTER for men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers from Argentina (43 FR 3963), Brazil (43 FR 3964), Colombia (43 FR 3968), India (43 FR 3970), the Philippines (43 FR 3975), the Republic of China (Taiwan) (43 FR 3966), the Republic of Korea (43 FR 3972), and Uruguay (43 FR 3977). The description of the product coverage of the investigations, identical in all notices, followed the description contained in the petition. "Men's and boys' apparel" was defined by describing the covered items, together with their tariff schedule classifications, in an appendix to the initiation notice. "Textile mill products" were defined as "• • • includ(ing) yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements;" a footnote set out the relevant category numbers from the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated.

On June 1, 1978, notices of preliminary countervailing duty determination were published in the FEDERAL REGISTER for Argentina (43 FR 23781), Brazil (43 FR 23783), Colombia (43 FR 23786), India (43 FR 23788), the Philippines (43 FR 23793), the Republic of China (Taiwan) (43 FR 23785), the Republic of Korea (43 FR 23791), and Uruguay (43 FR 23795). In the period between publication of the initiation notices and the preliminary determinations the Treasury Department learned that the Department of Commerce had streamlined and consolidated the textile and apparel categories, thereby affecting the category numbers set forth in the footnote in the initiation notices. The description of product coverage in the preliminary determinations was identical to the description in the initiation notices except that the footnote listed category numbers from the revised textile and apparel categories.

A comparison of the revised category numbers with those listed in the initiation notices has disclosed that certain textile mill products within the scope of these investigations were inadvertently omitted from the revised category numbers listed in the preliminary determinations. This notice is intended to clarify that there has been no change in the scope of product coverage; it remains as set forth in the petition and the initiation notices. It has been determined, though, that it would be clearer if the description of product coverage were described in terms of item numbers from the Tariff Schedules of the United States Annotated rather than category numbers from the textile and apparel categories. Accordingly, footnote 1 and the appendix in each of the above-cited initiation notices and preliminary determinations are replaced by the appendix to this notice, and the textual description of the scope of product coverage is amended to read as follows:

For purposes of this notice "textile mill products" include yarn, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to this notice; and "men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix. Exclusions from the above-described product coverage are noted in the footnotes to the appendix.

On August 28, 1978, notices of receipt of countervailing duty petition and initiation of investigation were published in the FEDERAL REGISTER for men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers from Malaysia (43 FR 38479), Mexico (43 FR 38482), Pakistan (43 FR 38485), Singapore (43 FR 38489), and Thailand (43 FR 38492). Since the same petitioner is involved and product coverage is meant to be the same as for the eight previously initiated investigations, it has been determined that the textual description of product coverage in those notices should also be amended to read as set forth above and that footnote 1 and the appendix in each of those notices should be and is, hereby, replaced by the appendix to this notice.

ROBERT H. MUNDHEIM,
General Counsel,
of the Treasury.

OCTOBER 5, 1978.

APPENDIX

I. COTTON TEXTILES AND TEXTILE PRODUCTS

Textile yarns and threads:
300.60
301.—
303.—
303.10
303.20
Cordage:
315.05
315.10
315.15
Fabric:
319.21
319.23
319.25
312.27
319.29
320.—
321.—
322.—
323.—
324.—
325.—
326.—
327.—
328.—
329.—
330.—
331.—
332.10
332.40
Fabrics of special construction:
345.10(a)
345.35(a)
346.05
346.10
346.15
346.20
346.22
346.24
346.30
346.32
346.35
346.40
346.45
346.50(a)
346.56(a)
346.70
347.10
347.15
347.26
347.33
348.05(a)
349.10(a)
349.15
349.30(a)

I. COTTON TEXTILES—Continued
351.05
351.25(a)
351.40(a)
351.46(a)
351.50(a)
351.60(a)
351.80(a)
351.90(a)
352.10(a)
352.50(a)
352.80(a)
353.10(a)
353.50(a)
355.02
355.35
355.50
357.05(a)
357.70(a)
357.80(a)
358.05(a)
359.10
Furnishings:
360.20
360.25
360.30
360.76
360.81
361.05(a)
361.16(a)
361.50
361.54(a)
361.56
363.01
363.05(a)
363.30
363.40(a)
363.45(a)
363.50(a)
363.51(a)
363.55(a)
363.60(a)
364.07
364.13
364.16(a)
365.00
365.40(a)
365.50(a)
365.75(a)
365.77
365.78
366.03
366.06
366.09
366.15(a)
366.18
366.21
366.24
366.27
366.42
366.45
366.46
366.47
366.57(a)
366.60
366.63
366.65
366.69
366.75
366.77
366.79
727.82
Wearing apparel:
370.04(b)
370.08(b)
370.16(b)
370.24(b)
370.28(b)
370.32(b)
370.36(b)
370.40(b)
370.44(b)
370.48(b)
370.52(b)
370.56(b)
370.60(b)
370.64(b)
370.68(b)
372.04(b)
372.08(b)
372.10 (a) (b)
372.15(b)
373.05 of cotton
373.10(a)
376.04 (a) (b)
376.54(b)
378.05 (a) (b)
378.10 (a) (b)
378.15 (a) (b)
378.20 (a) (b)
378.25 (a) (b)
380.00
380.05(a)
380.06
380.09
380.12
380.15
380.18
380.21
380.24
380.27
380.30
380.33
380.36
380.39
380.45(a)
380.51(a)
380.72(a)
380.75(a)
380.90(a) all 3 fibers
Miscellaneous textile products:
385.25
385.30
385.40
385.55(a)
385.60(a)
385.75(a)
385.80(a)
386.04
386.50
Headwear, gloves, luggage and handbags:
702.06(b)
702.12(b)
704.05 (a) (b)
704.10 (a) (b)
704.15 (a) (b)
704.40 (a) (b)
704.45 (a) (b)
704.50 (a) (b)
706.20 (a) (b)
706.22(b)
706.24 (a) (b)

(a) Cotton articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

II. WOOL TEXTILES AND TEXTILE PRODUCTS

Yarns and threads:
307.30
307.50
307.60
307.62
307.64
Cordage:
316.40
Fabrics:
335.35
336.10
336.15
336.20
336.25
336.30
336.35
336.40
336.50
336.55
336.60
337.50
337.55
339.05
Fabrics of special construction:
345.10(a)
345.30
345.35(a)
346.50(a)
346.52
346.56(a)
346.82
347.40
348.05(a)
349.30
351.20(a)
351.25(a)
351.80(a)
353.50(a)
355.15
355.16
355.18
357.10
357.15
357.20
357.60(a)
357.70(a)
358.98
358.09
358.30
358.35
359.30
Furnishings:
360.05
360.10(a)
360.15(a)
360.40(a)
360.46(a)
360.48(a)
360.65
360.70
361.05(a)
361.07
361.10
361.20(a)
361.42
361.44
361.46
361.48
361.80
363.10
363.15
363.20
363.65
363.70
368.75
364.20
364.22
365.11(a)
365.88(a)
367.05
367.10

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II. WOOL TEXTILES—Continued
- 367.15
- 367.20
- 367.25
- 367.30

Wearing apparel:
- 372.08(b)
- 372.10 (a) (b)
- 372.25 (for male infants)
- 372.30(b)
- 372.35(b)
- 372.40(b)
- 372.45(b)
- 373.05 of wool
- 373.15
- 376.08(b)
- 376.35(b)
- 376.40(b)
- 376.45(b)
- 380.02
- 380.05(a)
- 380.45(a)
- 380.51(a)
- 380.57
- 380.59
- 380.61
- 380.63
- 380.66
- 380.72(a)
- 380.75(a)
- 380.90(a)

Miscellaneous textile products:
- 385.20
- 386.08(a)
- 388.10
- 388.20
- 388.30
- 388.40

Footwear, headwear, gloves:
- 700.75(b)
- 702.54(b)
- 702.58(b)
- 702.60(b)
- 702.65(b)
- 702.70(b)
- 702.75(b)
- 702.80(b)
- 704.20(b)
- 704.25(b)
- 704.30(b)
- 704.55(b)
- 704.56(b)
- 704.60(b)
- 704.65(b)
- 704.70(b)

(a) Wool articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

III. MANMADE FIBER TEXTILES AND TEXTILE PRODUCTS

Yarns and Threads:
- 308.69(a)
- 308.65(a)
- 308.66(a)
- 308.70(a)
- 308.71(a)
- 308.75(a)
- 309.98
- 309.99
- 310.01
- 310.02
- 310.05
- 310.06
- 310.10
- 310.11
- 310.20
- 310.21
- 310.40
- 310.50
- 310.60
- 310.80
- 310.90
- 310.91

Cordage:
- 316.60

Fabric:
- 335.60(a)
- 337.60(a)
- 337.70(a)
- 337.80(a)
- 337.90(a)
- 338.10(a)
- 338.15(a)
- 338.25
- 338.27
- 338.30

Fabrics of special construction:
- 345.10(a)
- 345.35(a)
- 345.50(a)
- 346.50(a)
- 346.56(a)
- 346.60
- 346.99
- 347.55
- 347.60
- 347.65
- 347.68
- 347.69
- 347.70
- 348.00(a)
- 348.05(a)
- 349.10(a)
- 349.25(a)
- 349.30(a)
- 350.00(a)
- 351.20(a)
- 351.25(a)
- 351.30
- 351.40(a)
- 351.50(a)
- 351.70(a)
- 351.80(a)
- 351.90(a)
- 352.20(a)
- 352.30(a)
- 352.40(a)
- 352.80(a)
- 353.50(a)
- 355.25
- 355.45(a)
- 355.60
- 355.82
- 357.35(a)
- 357.45(a)
- 357.60(a)
- 357.70(a)
- 357.80(a)
- 359.50

Furnishings:
- 360.46(a)
- 360.48(a)
- 360.78
- 360.83
- 361.05(a)
- 361.18(a)
- 361.20(a)
- 361.54(a)
- 361.56(a)
- 363.25(a)
- 363.85
- 364.30
- 365.11(a)
- 365.20
- 365.31(a)
- 365.35(a)
- 365.45(a)
- 365.50(a)
- 365.70(a)
- 365.75(a)
- 365.80(a)
- 367.50
- 367.55
- 367.59
- 367.60

Miscellaneous textile products:
- 385.53
- 385.61
- 385.70(a)
- 385.75(a)
- 385.85(a)
- 389.62(a)

Wearing apparel:
- 370.21(b)
- 370.88(b)
- 372.06(b)
- 372.08(b)
- 372.10 (a) (b)
- 372.70(b)
- 372.75(b)
- 373.05 of manmade fibers
- 373.25
- 373.27
- 376.56 (a) (b)
- 378.05 (a) (b)
- 378.60(b)
- 378.65(b)
- 380.04
- 380.45(a)
- 380.51(a)
- 380.72(a)
- 380.75(a)
- 380.81
- 380.84
- 380.90(a)

Headwear, gloves:
- 703.05(b)
- 703.10(b)
- 703.15(b)
- 703.90 (a) (b)
- 703.95 (a) (b)
- 704.32(b)
- 704.85(b)
- 704.90(b)

(a) Manmade fiber articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

Gloves:

IV. LEATHER *
- 705.30
- 705.35
- 705.40
- 705.42
- 705.43
- 705.45
- 705.46
- 705.48
- 705.50
- 705.51
- 705.53
- 705.54
- 705.55
- 705.57
- 705.58

Wearing apparel:
- 791.74(a)
- 791.76(b)

Rubber and plastics:
- 705.85(b)
- 705.86—gloves (dipped) (b)

* These items apply only to the cases involving Brazil, Colombia, India, the Philippines, Mexico and Pakistan. The cases involving Malaysia, Singapore, and Thailand include all of these items except Nos. 705.30 and 791.76.

(a) Leather articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangements Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classifed under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

[FR Doc. 78-28904 Filed 10-12-78; 8:45 am]

[4810-25-M]

Office of the Secretary

[General Counsel Order No. 1 (Rev.)]

LEGAL DIVISION

Organization and Functions

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, by Department Circulars 519 of June 30, 1934, and 595 of September 13, 1938, and by Treasury Department Order No. 190 (Revised), I hereby define and prescribe the organization and functions of the Legal Division of the Treasury Department.

1. The Legal Division consists of a consolidated legal staff headed by the General Counsel, who is by statute the chief law officer of the Department of the Treasury, and is composed of all attorneys providing legal service in all offices and bureaus of the Treasury Department and all support personnel assigned to them. The legal staff provides legal advice to the Secretary of the Treasury and to the officers, offices and bureaus of the Department in accordance with the designations made by this Order. The General Counsel operates principally through a Deputy General Counsel, the Assistant General Counsels, the Chief Counsels, and the Legal Counsels listed herein, to whom delegations of specific authority are made by Legal Division Orders.

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service and the Assistant General Counsel—Tax Legislative Counsel who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advice concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Monetary Affairs), the Assistant Secretary (International Affairs), the Assistant Secretary (Economic Policy), the Commissioner of Customs (on tariff affairs), the Deputy Assistant Secretary (Tariff Affairs), and the Special Assistant to the Secretary (National Security). He supervises the Senior Counsel (Developing Nations Finance) and the Senior Counsel (International Trade and Tariff Affairs). He reports to the General Counsel through the Deputy General Counsel.

7. The Assistant General Counsel (Administration, Legislation and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Secretary, the Assistant Secretary (Legislative Affairs), and to the Office of the Secretary generally with respect to administrative procedure and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Assistant Secretary (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the nontax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement and Operations) provides legal advice to the Assistant Secretary (Enforcement and Operations). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Senior Counsel (Enforcement and Operations), the Chief Counsel, U.S. Customs Service, the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, the Legal Counsel, U.S. Secret Service, the Legal Counsel, Federal Law Enforcement Training Center, and the Legal Counsel, Bureau of Engraving and Printing. He reports to the General Counsel through the Deputy General Counsel.

9. The Assistant General Counsel (Domestic Finance) provides legal advice to the Assistant Secretary (Domestic Finance) and to the subordinates of that official. He supervises the Chief Counsel, Office of Revenue Sharing. He reports to the General Counsel through the Deputy General Counsel.

10. The Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He reports to the General Counsel through the Deputy General Counsel.

11. The Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

12. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports to the General Counsel through the Deputy General Counsel.

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13. The Chief Counsel, United States Customs Service, is the chief law officer for that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

14. The Chief Counsel, Foreign Assets Control, is the chief law officer for that office and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

15. The Chief Counsel, Bureau of the Public Debt, is the chief law officer for that Bureau, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel.

16. The Chief Counsel, Office of Revenue Sharing, is the chief law officer for that Office, and reports to the General Counsel through the Assistant General Counsel (Domestic Finance) and the Deputy General Counsel.

17. The Legal Counsel, Bureau of the Mint, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

18. The Legal Counsel, United States Secret Service, provides legal advice to that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

19. The Legal Counsel, Federal Law Enforcement Training Center, provides legal advice to that Center and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

20. The Legal Counsel, Bureau of Engraving and Printing, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

21. The Director of Practice (1) directs the legal functions performed in his office and reports with respect to those functions to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel; (2) makes operating decisions in carrying out the responsibilites placed on him under 31 U.S.C. 1026 and by 31 CFR Part 10 under the administrative supervision of the General Counsel exercised by the General Counsel or the Deputy General Counsel; and (3) serves as Executive Director of the Joint Board of Actuaries pursuant to Part 901, Chapter VIII of Title 20, CFR.

A change in title of any official in the Office of the Secretary shall not affect the foregoing assignments unless the change includes a change of function. The General Counsel may, without formal Order, reassign on a temporary basis a function of an Assistant General Counsel or the Counselor.

Dated: October 10, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-29003 Filed 10-12-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-64; General Temporary Order No. 11; Section 210a(a)]

GRANTING OF SHORT TERM EMERGENCY TEMPORARY AUTHORITY

Supplemental Decision

Decided: October 5, 1978.

By order served on January 18, 1978, in Ex Parte No. MC-64, General Temporary Order No. 11, which remains in effect continuously until cancelled, the Commission established procedures which under situations resulting in serious hardship to shippers and possible danger to life and property allow for the granting of short term emergency temporary authority at times when Commission employees are not generally available. Such times would be weekends, holidays and after business hours.

It is ordered: In view of several changes in staff, the following is an amended list of officials of the Commission designated as authorized to grant applications of the type described in the original order for a period not to exceed 10 days.

Name, residence and home phone No.

Arthur E. Bacon, Boston, Mass., 617-275-8696.
Daniel B. Lorusso, New York, N.Y., 914-738-4841.
Robert W. Waldron, Philadelphia, Pa., 609-227-2793.
Anthony W. Bummara, Philadelphia, Pa., 609-227-2793.
Jack K. Huff, Atlanta, Ga., 404-351-5301.
Bruce R. Reichelderfer, Atlanta, Ga., 404-992-9416.
David V. Armitage, Park Forest, Ill., 312-747-5022.
A. Paul Bates, Wheaton, Ill., 312-690-1365.
James H. Berry, Fort Worth, Tex., 817-926-3385.
Haldon G. West, Fort Worth, Tex., 817-294-0965.
John E. Nance, San Francisco, Calif., 415-489-8630.
Joseph F. Kucera, San Francisco, Calif., 415-755-7790.
Philip Yallowitz, Los Angeles, Calif., 213-347-3037.

The original order inadvertently failed to include the requirement that applicants who do not hold authority from the Commission must also furnish evidence as to the designation of agents for service of process.

This supplemental decision shall become effective October 10, 1978.

The provisions of General Temporary Order No. 11, effective February 1, 1978 and this Supplemental Decision will remain in effect until cancelled by further decision of the Commission.

Notice of this order shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 1, Commissioners Stafford, Gresham and Christian.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-29041 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 187]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 730 (Sub-419TA), filed August 17, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO. (PIE), P.O. Box 958, Oakland, CA 94612. Representative: R. N. Cooledge, P.O. Box 958, Oakland, CA 94612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (in bulk, in tank vehicles), from Boise, ID. to Salem and Medford, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Co., 600 South Cherry Street, Denver, CO 80222. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2202 (Sub-566TA), filed August 18, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Canton, MS, as an off-route point in connection with applicant's regular routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ryan & Co., P.O. Box 647, Canton, MS 39046. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 3854 (Sub-44TA), filed August 17, 1978. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, NC 27703. Representative: G. E. Martin, Jr., 815 Ellis Road, Durham, NC 27703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building materials and industrial asphalt*, from the plantsite of Trumbull Asphalt Co. at Morehead City, NC, and points in Carteret County, NC, to points in VA, for 180 days. Supporting shipper: Trumbull Asphalt Co., Inc., Morehead City, NC. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 4483 (Sub-23TA), filed August 17, 1978. Applicant: MONSON DRAY LINE, INC., R.R. No. 1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, from the port of entry on the United States-Canada border at or near Sault St. Marie, MI, to points in MN for 180 days. Supporting shipper: Abitibi Paper Co., Ltd., Toronto Dominion Centre, Toronto, Ontario, Canada M5K 1B3. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 59055 (Sub-16TA), filed August 17, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: Richard J. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and shipping materials and supplies, and return rejected containers*, between Piscataway, NJ, and Perry, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corp., Route 287 and South Randolphville Road, Piscataway, NJ 08854. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commision, 26 Federal Plaza, New York, NY 10007.

MC 61396 (Sub-355TA), filed August 18, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials* (in bulk), from the facilities of Land O'Lakes Agricultural Services Division at or near Mason City, IA, to points in the States of MN, WI, ND, SD, and NE, for 180 days. Supporting shipper: Sue Johnson, Distribution Control Specialist, Land O'Lakes, Agricultural Services Division, 2827 8th Avenue South, Fort Dodge, IA 50501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 63417 (Sub-164TA), filed August 17, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials and materials and supplies* used in the installation of insulating material, from Spring Hope NC, to points in DE, FL, GA, IN, KY, MD, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, for 180 days. Supporting shipper: Spring Hope Rockwool, Inc., Spring Hope, NC 27882. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 102567 (Sub-211TA), filed August 15, 1978. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, 2040 North Loop West, Suite 208, Houston, TX 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank and hopper-type vehicles between ERCO Industries, Inc., plant located approximately 5 miles south of Monroe, LA on Hwy. 165 at or near the community known as Rilla, LA) and points in AL, AR, FL, GA, KY, MS, MI, NC, OK, SC, TN, TX, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ERCO Industries, Inc., P.O. Box 1612, Monroe, LA 71201. Send protests to: Connie A. Guillory, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 104896 (Sub-54TA), filed August 17, 1978. Applicant: WOMELDORF, INC., P.O. Box "G", Knox, PA 16232. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, (except frozen foods and commodities in bulk), from the facilities of Dauphin Distribution Services, Inc., at Camp Hill, Hampden Township and Silver Spring Township, PA, to points in PA, and NY, for 180 days. Supporting shipper: Dauphin Distribution Services, Inc., 5023 E. Trindle Road, Mechanicsburg, PA 17055. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 109124 (Sub-51TA), filed August 18, 1978. Applicant: SENTLE TRUCK-

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ING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products and materials and supplies* used in the installation and distribution thereof, from the facilities of Georgia Pacific Corp., Gypsum Products Division, located at Buchanan and Croton-on-Hudson, Westchester County, NY, to points in MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Pacific Corp., Gypsum Products Division, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 109638 (Sub-33TA), filed August 17, 1978. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 145, Hodges Street, Washington, DC 27889. Representative: Cecil W. Bradley, P.O. Box 145, Cherry Road, Washington, DC 27889. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, and landscape timbers*, from Plymouth and Weyco, NC, to points in DE and NJ, from Kellum and Lewiston, NC, to points in ME, MA, CT, RI, VT, NY, NJ, PA, DE, MD, VA, DC and NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Co., P.O. Box 787, Plymouth, NC. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 110420 (Sub-784TA), filed August 17, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and shortenings*, (in bulk, in tank vehicles), from Columbus, OH, to points in WI, for 180 days. Supporting shipper: Capital City Products Co., 525 West First Avenue, Columbus, OH 43216. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 112801 (Sub-208TA), filed August 17, 1978. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup and corn sweeteners* (in bulk, in tank vehicles), from the facilities of A. E. Staley Mfg. Co., located in the Chicago, IL, Commercial Zone to points in IL, IN, KY, MI, NY, OH, PA, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert L. Lighthall, Assistant to Director, Corporate Transportation, A. E. Staley Mfg. Co., 2200 East Eldorado Street, Decatur, IL 62525. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 114457 (Sub-402TA), filed August 18, 1978. Applicant: DART TRANSIT CO. 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products in packages*, from the facilities of Texaco in Jefferson County, TX, to points in MN, WI, IA, MO, IL, IN, NE, SD, ND, OH, MI, and Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 1100 South Fourth Street, Minneapolis, MN 55401.

MC 115311 (Sub-300TA), filed August 9, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, 1200 Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum and oypsum products* from the facilities of United States Gypsum Co. at Martin County, IN to points in OH, KY, TN, WV, IL, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, GA 30309.

MC 116763 (Sub-428TA), filed August 10, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale, or chain grocery, drug and food business houses (except frozen and in bulk), from the facilities of Gulf Atlantic Distribution Services at Forest Park, GA to points in FL, on or south of FL Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gulf Atlantic Distribution Services, Mr. Clair Williams, Manager, Marketing & Distribution Services, P.O. Box 2588, Houston, TX 77001. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 119789 (Sub-512TA), filed August 17, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and medicine*, from New Brunswick, Somerset and South Plainfield, NJ, to Mission, KS, for 180 days. Supporting shipper: E. R. Squibb & Sons, 5 Georges Road, New Brunswick, NJ 08903. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120257 (Sub-46TA), filed August 17, 1978. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 207, Ore City, TX 75683. Representative: Nolan Killingsworth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel castings*, from Little Rock, AR, to Lufkin, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lufkin Industries, Inc., P.O. Box 849, Lufkin, TX 75901. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120427 (Sub-20TA), filed August 17, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, 2128 East Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Milwaukee, WI, and commercial zone thereof, to Kearney, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stuart Huber, Purchasing Agent, P.O. Box 388, Caldwell Manufacturing Co., Kearney, NE 68847. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123048 (Sub-410TA), filed August 16, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain drying, storage, handling, conditioning and aeration equipment and attachments, accessories and parts*, from Mattoon, IL, to points in AR, IN, IA, KY, MN, MS, MO, NE, NY, ND, OH, PA, SD, TN, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Equipment Manufacturing Co., 1321 South 19th, Box 768, Mattoon, IL 61938 (Max E. Sample, Traffic Manager). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue; Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-853TA), filed August 18, 1978. Applicant: SCHWERMAN TRUCKING CO., P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hagerstown, MD, to points in DE, DC, NJ, NC, PA, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G & W Natural Resources Group-Marquette Co., 2200 First American Center, Nashville, TN 37238 (Steven W. Cardin Manager Transportation Pricing). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124554 (Sub-28TA), filed August 17, 1978. Applicant: LAND CARTAGE CORP., P.O. Box 513, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail mail order houses, from the facilities of Stanley Home Products, Inc., at Dubuque, IA, to points in Benton, Carlton, Chisago, Isanti, Kanabec, Mille Lacs, Pine, St. Louis, and Sherburne Counties, MN, and Ashland, Bayfield, Douglas, Iron, and Vilas Counties, WI, under a continuing contract, or contracts, with Stanley Home Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stanley Home Products, Inc., 3110 Washington Street, Dubuque, IA 52001. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 126118 (Sub-90TA), filed August 18, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and cardboard articles*, from Louisiana and Shelbina, MO, and their commercial zones to Lincoln and Fremont, NE, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Kenneth Grosenbach, Traffic Manager, Hy-Gain Electronic, Division of Telex Communications, Inc., 8601 Northeast Hwy 6, Lincoln, NE 68505; (2) Arnett Wise, Inventory Control Manager, Consolidated Aluminum Co., Douglas and Chestnut Streets, Shelbina, MO 63468. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-92TA), filed August 18, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles*, from Franklin, IN, and Hot Springs, AR, and their commercial zones to points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: John Blankenship, General Manager, Alliance Rubber Co., P.O. Box 306, Franklin, KY 42134. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building, and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 127274 (Sub-49TA), filed August 18, 1978. Applicant: SHERWOOD TRUCKING, INC., P.O. Box 2189, 1517 Hoyt Avenue, Muncie, IN 47302. Representative: Donald W. Smith, Suite 945, 9000 Kenstone Crossing, P.O. Box 40695, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in IN south of U.S. Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 134806 (Sub-50TA), filed August 18, 1978. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stuffed toys and animals*, from Keene, NH, to Chicago, IL; Salt Lake City, UT; Denver, CO; Reno, NV, and points in CA, under a continuing contract, or contracts, with Douglas Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Douglas Co., Inc., Drawer D, Krif Road, Keene, NH 03431. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, VT 05602.

MC 135524 (Sub-12TA), filed August 18, 1978. Applicant: G. F. TRUCKING CO., 1028 West Raven Avenue, P.O. Box 229, Youngstown, OH 44501. Representative: George Fedorisin, 1455 McCollum Road, Youngstown, OH 44509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conveyors, conveyor systems and accessories, parts, materials, supplies, and equipment* necessary for the erection, installation, completion, and maintenance thereof, from Florence, KY, to Williamsburg, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Litton Unit Handling Systems, 7100 Industrial Road, Florence, KY 41042. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 136818 (Sub-33TA), filed August 9, 1978. Applicant: SWIFT TRANS-

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PORTATION CO., INC., 335 West Elwood, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard and gypsum plaster*, from Clark County, NV to San Diego, Orange, Riverside, Los Angeles, Ventura, San Bernardino, Kern, and Imperial Counties, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flintkote Supply Co., 2201 East Washington Boulevard, Los Angeles, CA 90021. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 138255 (Sub-5TA), filed August 11, 1978. Applicant: DAYTON AIR FREIGHT, INC., Dayton International Airport, P.O. Box 78, Vandalia, OH 45377. Representative: Linda A. McCorkle, Esq., 1015 18th Street NW., Suite 408, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dayton International Airport, Vandalia, OH; Greater Cincinnati Airport, Erlanger, KY; and Weir Cook International Airport, Indianapolis, IN; and (2) between the points named in (1) above, on the one hand, and, on the other, O'Hare International Airport, Chicago, IL; JFK International Airport, Jamaica, NY; Detroit Metropolitan Airport, Romulus, MI; and Willow Run Airport, Detroit, MI; having a prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately seven statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 500 Main Street, Cincinnati, OH 45202.

MC 139485 (Sub-11TA), filed August 18, 1978. Applicant: TRANS CONTINENTAL CARRIERS, INC., 169 East Liberty Avenue, Anaheim, CA 92803. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables*, from Santa Clara, San Benito, Monterey, and Santa Cruz Counties, CA, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Golden West Foods, Inc., 1350 Pacheco Pass Hwy, Gilroy, CA 95020. Send protests to: Irene Carlos, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 140033 (Sub-64TA), filed August 17, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10666 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Winkle & Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items*, from Covington, TN, to AL, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, OH, OK, OR, SC, UT, WI, WY, TX, and WA, for 180 days. Supporting shipper: Charms Co., Halls Mill Road, Freehold, NJ 07728. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140101 (Sub-6TA), filed August 15, 1978. Applicant: I. T. A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Restriction: Restricted to traffic originating at the named origin and destined to the named States. Supporting shipper: Ore-Ida Foods, Inc., Owyhee Plaza, Boise, ID 83702. Send protests to: Ronald A. Morken, District Supevisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 141220 (Sub-2TA), filed August 16, 1978. Applicant: MOYER TRUCK LINE, INC., 715 North Mallenix, Kirksville, MO 63501. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed ingredients*, from the plantsite of Farmland Industries, Inc., in Kansas City, KS, to the plantsite of Farmland Industries in Boone County, MO, for 180 days. Supporting shipper: Farmland Industries, Inc., 315 North Oak, Kansas City, MO 64116. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 142020 (Sub-1TA), filed August 18, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers or converters of paper and paper products* (except commodities in bulk), between Memphis, TN, and points in its commercial zone, on the one hand, and, on the other, points in LA; (2) *automotive parts, materials, and supplies; pipe fittings, hose, and accessories thereto; and equipment, materials, and supplies utilized in the manufacture of the previously-named items*, between Batesville, MS; Trumann, AR; Arlington, TX; East Lake and Cleveland, OH; and points in their commercial zones, for 180 days. Supporting shippers: (1) Kimberly-Clark Corp., 1414 West Larsen Road, Neenah, WI 54956; (2) Parker-Hannifin Corp., 17325 Euclid Avenue, Cleveland, OH 44112. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 142207 (Sub-21TA), filed August 15, 1978. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29287, New Orleans, LA 70189. Representative: Bruce E. Mitchell, SERBY & MITCHELL, P.C., Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (1) between points in NC, SC, GA, AL, TN, MS, LA, AR, OK, and TX; and (2) between points in the territory identified in (1) above, on the one hand, and on the other, points in FL, VA, WV, MD, PA, NY, OH, KY, IN, MI, IL, WI, MO, IA, MN, KS, and NE, for 180 days. Restriction: Restricted to traffic moving on the bills of lading of Steel City Lumber Co. and Stringfellow Lumber Co. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Steel City Lumber Co., P.O. Box 20217, Birmingham, AL 35216 and Stringfellow Lumber Co., Inc., P.O. Box 1107, Birmingham, AL 35201. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 142559 (Sub-38TA), filed August 17, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Personal care products, chewing gum, cough drops and candies*, from Rockford, IL, and New York, NY, to Atlanta, GA, and its commercial zone, for 180 days. Supporting shipper: Warner-Lambert Co., 201 Tabor Road, Morris Plains, NJ 07950. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 142559 (Sub-39TA), filed August 18, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furnaces and central air conditioning units, and materials, equipment and supplies* used in the installation and operation thereof, (except commodities in bulk), from Utica, NY, to all points in west and south of OH, PA and NJ, for 180 days. Supporting shipper: Friedrich Group, Utica Manufacturing Operations, Wylain, Inc., 2007 Beechgrove Place, Utica, NY 13301. Send protests to: Interstate Commerce Commmission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143088 (Sub-2TA), filed August 18, 1978. Applicant: ROBERT TARBOX, d.b.a. TARBOX TRUCKING, Johnson Heights, Blossburg, PA 16912. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk soybean meal and/or hulls*, from the facilities of Cargill, Inc., at or near Sidney, OH to points in DE, MD, NJ, NY, PA, VT, and CT., for 180 days. Supporting shipper: Cargill, Inc., 2400 Industrial Drive, Sidney, OH 45365. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 143209 (Sub-4TA), filed August 15, 1978. Applicant: HOUSTON FREIGHTWAYS, INC., 9431 Sanford, P.O. Box 4730, Galena Park, TX 77547. Representative: J. G. Dial, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tank materials, and equipment and supplies* used in the erection of tanks, from the facilities of Chicago Bridge & Iron Co., and its vendors located at Houston, TX to points in AL, AR, LA, MS, NM, and OK from points in AL, AR, LA, MS, NM, and OK, to the facilities of Chicago Bridge & Iron Co., located at Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago Bridge & Iron Co., P.O. Box 40066, Houston, TX 77040. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 144697 (Sub-1TA), filed August 17, 1978. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33d Street, Terre Haute, IN 47805. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Clay and Dubois Counties, IN, to Cook, Crawford, Grundy, St. Clair, and Will Counties, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Tower Fuel Co., 540 Frontage Road, P.O. Box 422, Northfield, IL 60093; (2) P-V Corp., R.R. 1, Ferdinand, IN 47532. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 145227TA, filed August 17, 1978. Applicant: ROGERS TRANSPORTATION CO., INC., 1316 South Blount Street, Raleigh, NC 27611. Representative: David H. Permar, P.O. Box 527, 327 Hillsborough Street, Raleigh, NC 27602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, (in bulk, in tank trucks), from pipeline terminals or port facilities at or near Wilmington, Morehead City, and Selma, NC, to points in Horry, Dillon, Marlboro, and Spartanburg Counties, SC, under a continuing contract, or contracts, with Rogers Oil Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rogers Oil Co., 1316 South Blount Street, Raleigh, NC 27611. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 145230 (Sub-1TA), filed August 18, 1978. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39191. Representative: Robert J. Gill, 29 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, a manufacturer of lawn and snow removal products, (except commodities in bulk), between the facilities of Jacobsen Manufacturing Co., at Brookhaven, MS, on the one hand, and, on the other, all points in the United States, (except AK and HI), under a continuing contract, or contracts, with Jacobsen Manufacturing Co., for 180 days. Supporting shipper: Jacobsen Manufacturing Co., P.O. Box 568, Brookhaven, MS 39601. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145237 (Sub-1TA), filed August 18, 1978. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic or rubber film or sheeting*, from points in MA and NJ to Denver, CO, under a continuing contract or contracts with Watersaver Co., Inc., Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Watersaver Company, Inc., P.O. Box 16465, Denver, CO 80216. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145242 (Sub-1TA), filed August 18, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 1156, Huntington, WV 25714. Representative: Paul Beery, 275 E. State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from Huntington, WV, to points in IN, IL, and NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Connor's Steel Division, 17th Street and Second Avenue, Huntington, WV. (2) Martin Steel, Inc., P.O. Box 7994, Huntington, WV. Send protests to: Interstate Commerce Commission, 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

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MC 145246TA, filed August 17, 1978. Applicant: A. E. SCHULTZ CORP., 901 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough castings*, from Waupaca, WI, to Cedar Rapids, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Waupaca Foundry, Inc., Waupaca, WI. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145247 (TA), filed August 17, 1978. Applicant: HERSCHEL T. LAMB, d b.a. CAROLINA SOUTHERN, 2816 South Stratford Road, Winston-Salem, NC 27103. Representative: Francis J. Ortman, 710 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, and meat byproducts*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk), seafood, fruit, vegetables, and foodstuffs, from Washington, DC, to points in GA and FL; and (2) *Meat, meat products, and meat byproducts*, as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk), from the facilities of Max Bauer Meat Packer, Inc., at or near Miami, FL, to Washington, DC, under a continuing contract, or contracts, with District Hotel Supply Co., Inc., for 180 days. Applicant has also filed an underlying ETA Seeking up to 90 days of operating authority. Supporting shipper: District Hotel Supply Co., Inc., 300 E Street, SW., Washington, DC 20024. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145249 (TA), filed August 18, 1978. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 North Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, Winkle & Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials and supplies* used in the installation of floor coverings, (1) from points in NJ, PA, GA, CA, and MS, to points in TX, OK, AR, LA, MS, MO, CO, UT, AZ, KS, NM, and TN; and (2) between points in TX, OK, AR, LA, MS, KS, MO, CO, UT, AZ, TN, NM, and CA, under a continuing contract, or contracts, with L. D. Brinkman & Co., Inc., for 180 days. Supporting shipper: L. D. Brinkman & Co., Inc., 520 North Wildwood, Irving, TX 75060. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145254 (TA), filed August 18, 1978. Applicant: BOATNER'S TRUCKING CO., INC., Route 1, Benton, MS 39039. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Yazoo County, MS, to points in AL, AR, FL, GA, LA, MO, NE, NC, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Burley Smith Lumber Co., Yazoo City 8, MS 39194; (2) McGraw-Curran Lumber Co., P.O. Box 450, Yazoo City, MS 39194. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145289 (TA), filed August 15, 1978. Applicant: LARRY SWIFT d.b.a. LARRY SWIFT TRUCKING, P.O. Box 303, Philip, SD 57567. Representative: Larry Swift (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, (2) *iron and steel*, (1) from Philip, SD to Minneapolis and St. Paul, MN, (2) from Minneapolis and St. Paul, MN, Sioux City, IA to Philip, SD, under a continuing contract or contracts with Little Scotchman Industries, Inc., for 180 days. Supporting shipper: Little Scotchman Industries, Inc., P.O. Box "F", Philip, SD 57567. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

PASSENGER CARRIER

MC 145248 (TA), filed August 17, 1978. Applicant: AIR NEW MEXICO, INC., d.b.a. LAS CRUCES/EL PASO AIRPORT STAGE LINE, 9531 Dyer Street, El Paso, TX 79924. Representative: Lewis Conner, 10560 Janway Street, El Paso, TX 79925. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and baggage of passengers* on a scheduled and charter basis, from El Paso International Airport, El Paso, TX, via Interstate Hwy 10 to Holiday Inn de Las Cruces, Las Cruces, NM, and return, for 180 days. Supporting shipper: Todd Travel, P.O. Drawer 1480, Las Cruces, NM 88001. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29042 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 188]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must idenfify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Intersate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 2392 (Sub-115 TA), filed August 3, 1978. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Keith D. Wheeler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of Chevron Chemical Co. near Friend, KS to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jonah Pollack, Traffic Representative, Chevron Chemical Co., 3001 LBJ Freeway, Suite 130, Dallas, TX 75234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 5623 (Sub-41 TA), filed August 3, 1978. Applicant: ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth-drilling machinery and equipment, materials, supplies, and pipe incidental* to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (A) between points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, RI, SC, VA; and (B) between points named in (A) above, on the one hand, and, on the other, points in AR, CO, IL, IN, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, PA, TX, UT, VT, WV, and WY, for 180 days. Supporting shippers: There are approximately 37 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 35890 (Sub-49TA), filed August 11, 1978. Applicant: BOLDGETT FURNITURE SERVICE, INC., 5650 Foremost Drive, P.O. Box 880, Grand Rapids, MI 49508. Representive: Ronald C. Nesmith, Law Department, Allied Van Lines, Inc., P.O. Box 4403, Chicago, IL 60680. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Expanded plastic and expanded plastic articles* from the plantsite of E. I. du Pont de Nemours & Co., in or near Wurtland, KY to points in CT, DE, IL, MD, MA, MI, NJ, NY, PA, RI, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. du Pont de Nemours & Co., 10th and Market Street, Wilmington, DE 19898. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 37896 (Sub-27TA), filed August 3, 1978. Applicant: YOUNGBLOOD TRUCK LINES, INC., Highway 25, P.O. Box 38, Fletcher, NC 28732. Representative: Charles Ephraim, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stoves and stove parts* from the facilities of Bort Manufacturing Co. at Charlotte, NC, to points in the United States except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bart Manufacturing Co., 5019 Hovis Road, Charlotte, NC 28208. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 40270 (Sub-13TA), filed August 11, 1978. Applicant: CRABBS TRANSPORT, INC., P.O. Box 3486, Enid, Oklahoma 73701. Representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23d Street, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Salt and salt products, on pallets and return of empty pallets*, from Lyons, KS, to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Salt Co., 3142 Broadway, Kansas City, MO 64111. Send protests to: Connie Stanley, Transportation Assitant, Room 240 Old Post Office and Court House Building, 215 Northwest Third Street, Oklahoma City, OK.

MC 61396 (Sub-353), filed August 3, 1978. Applicant: HERMAN BROTHERS, INC., 2565 St. Mary's Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith, II (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of the Cochin Pipeline Co. (1) at or near Mankato and Benson, MN to points in SD, ND, IA and WI) (2) at or near Carrington, ND, to points in SD and MN; (3) at or near New Hampton, IA, to points in WI and WN, for 180 days. Supporting shippers: Glenn D. Carlson, Director of Traffic and transportation, Northern Propane Gas Co., 4820 Excelsior Boulevard; Elmer Brenna, Supervisor, Traffic-Petroleum Division, Farmers Union Central Exchange (CENEX), P.O. Box 43089, St. Paul, MN 55164. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 72069 (Sub-14TA), filed July 28, 1978. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, Esq., 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Sussex County, DE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Paul Caras, Vice President, Sales, Jenkins Foods Corp., P.O. Box 263, Charles Street, Milford, DE 19963. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 107906 (Sub-37TA), filed August 3, 1978. Applicant: TRANSPORT MOTOR EXPRESS, INC., P.O. Box 958, Meyer Road, Fort Wayne, IN 46801. Representative: James Eber, P.O. Box 958, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stainless steel ingots and billets*, in shipper-owned trailers between Fort Wayne, IN and Corry, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joslyn Stainless Steel, 2400 Taylor Street, Fort Wayne, IN 46804. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 109725 (Sub-10TA), filed August 3, 1978. Applicant: K. F. CROCKER TRANSPORTATION CO., INC., Jewell Hill Road, Ashby, MA 01431.

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Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main Street, Suite 413, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and liquid feed supplements*, in bulk, in tank vehicles, from Brooklyn, NY and Albany, NY to points in NH, ME, VT, CT, and RI; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ingredient Technology Corp., 120 Wall Street, New York, NY 10005; Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, NJ 07632. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 112617 (Sub-403TA), filed July 28, 1978. Applicant: LIQUID TRANSPORTERS, INC. (KY CORP.), 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford, Vice President, Traffic (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, from Ashland Oil, Inc., refineries at or near Catlettsburg, KY, to Ashland Oil, Inc. refinery at Canton, OH, for 180 days. Supporting shipper: Mr. Emil M. Sturzenegger, Traffic Manager, Ashland Petroleum Co., P.O. Box 391, Ashland, KY 41101. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 112750 (Sub-346TA), filed August 3, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, (a) between Louisville, KY, on the one hand, and, on the other, points in IN, OH (on and south of Interstate Hwy 70) and TN (on and east of TN Hwy 13), (b) between points in MO, on traffic having an immediately prior or subsequent movement by air, (c) between points in AR, on traffic having an immediately prior or subsequent movement by air, (d) between points in IL, on traffic having an immediately prior or subsequent movement by air, (e) between Memphis, TN, on the one hand, and, on the other, points in TN (on and west of TN State Hwy 13) and points in Greene, Craighead, MS, Poinsett, Crittenden, St. Francis and Phillips Counties, AR, on traffic having an immediately prior or subsequent movement by air, (f) between points in OH (on and north of Interstate Hwy 70) on traffic having an immediately prior or subsequent movement by air, (g) between St. Louis, MO, on the one hand, and, on the other, points in IL (on and south of U.S. Hwy 36) on traffic having an immediately prior or subsequent movement by air, for 90 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Intermediate Credit Bank, 210 West Main Street, Louisville, KY 40202. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112822 (Sub-461), filed August 11, 1978. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Dudley G. Sherrill, 1401 North Little Street, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, except commodities in bulk, in tank vehicles, and related advertising materials, and (2) *empty returns*, from (1) Jefferson County, CO to MO and (2) from MO to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Co., Golden, CO 80401. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third Street, Oklahoma City, OK 73102.

MC 112989 (Sub-75TA), filed July 28, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids; adhesives; tanners' bate; acrylates, alcohols* (other than alcoholic liquors), *chemicals, resin, sodium, zinc; cleaning, scouring or washing compounds, soap; compounds, fuel oil treating, tree or weed killing, water clarifying; deodorants or disinfectants; tanners' depilatory; tanning extracts; feed supplements and feeding compounds; insecticides or fungicides or repellants; paints, stains or varnishes, plasticizers, solvents; petroleum products; plastic materials, other than expanded; plastic or rubber articles; sizing; acid sludge; and textile softeners*, from the facilities of Rohn & Haas Co., located at Hayward, CA to Portland, OR and Seattle, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rohn & Haas Co., Independence Mall West, Philadelphia, PA 19105. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 114273 (Sub-442TA), filed August 3, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sausage*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from the facilities of Bob Evans Farms at or near Galva, IL to Zenia, OH, for 180 days. Supporting shipper: Bob Evans Farms, Inc., P.O. Box 44, Zenia, OH 45385. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114632 (Sub-178TA), filed July 28, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distrubuted by meat packinghouses* (except commodities in bulk), from the facilities of Oscar Mayer & Co. at Perry, IA and Des Moines, IA to all points in Cook, Will, Dupage, Kane, and Lake Counties, IL; Madison, WI and Jefferson, WI, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, WI 53704 (Joseph R. Dixon, Distribution Planning Manager). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 117589 (Sub-52TA), filed July 28, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible packinghouse products, fresh or frozen, unfit for human consumption*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles): (1) From Fort Morgan and Sterling, CO to Forest Grove and Tualatin, OR; (2) from Sterling, CO to Midvale, UT, for 180 days. Supporting shipper: Landers & Sowers, Inc., P.O. Box 21134, North Pecos Branch, Denver, CO 80221. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 118142 (Sub-182TA), filed August 11, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed meat* from the facilities of Urban N. Patman Meat Co., Inc. at or near Los Angeles, CA, to Florence, KY, for 180 days. Supporting shipper: Urban N. Patman Meat Co., Inc., 2638 East Vernon, Los Angeles, CA 90058. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 118560 (Sub-7TA), filed August 3, 1978. Applicant: GENERAL TRUCKING CO., INC., 110 School Street, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Middle Tennessee Bank Building, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gravel and silica sand* from the plant site of Southern Stone Co., Inc., Elmore County, AL, to Hooker Chemicals & Plastics Corp. plant in Maury County, TN, for 180 days. Restriction: Restricted to transportation of commodities listed in dump trucks and dump trailers, and further restricted to traffic originating at the above named location and destined to the above named destination point. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Stone Co., Inc., 2111 Eighth Avenue South, Birmingham, AL 35233. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 123407 (Sub-485), filed August 3, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and iron and steel articles (galvanized or painted)*, (1) From Chicago, IL; Wilmington, DE; Canonsburg, PA; Jersey City, NJ; New Orleans; Camden NJ; Savannah, Ga; and Houston, TX; to points in the United States in and east of ND, SD, NE, CO, and AZ; and (2) From Los Angeles, CA, to points in CA, NM, AZ, and CO, for 180 days. Supporting shipper: North Pacific Lumber Co., P.O. Box 3915, Portland, OR 97208. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 123744 (Sub-42TA), filed July 28, 1978. Applicant: BUTLER TRUCKING CO. (PA corporation), P.O. Box 88, Woodland, PA 16881. Representative: E. Steward Butler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, from Farber, MO to points in OH, PA, WV, MD, NY, and Ashland KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: North American Refractories Co., 900 Hanna Building, East 14th & Euclid Avenue, Cleveland, OH 44115. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 124078 (Sub-844TA), filed July 27, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from West Des Moines, IA, to Latrobe, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Penn-Dixie, Industries, Inc., Cement Division, P.O. Box 152, Nazareth, PA 18064 (David L. Williams). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124154 (Sub-69TA), filed August 11, 1978. Applicant: WINGATE TRUCKING CO., INC., 10042 First Avenue, P.O. Box 645, Albany, GA 31702. Representative: Slo H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Galecron* from Fresno and Los Angeles, CA; Cockeysville, MD; Bayonne, NJ; Cincinnati, OH; Milwaukee, OR; and Waco, TX, to St. Gabriels, LA, and (2) *Weed killing compounds* from St. Gabriels, LA; Mobile, McIntosh, and Birmingham, AL, to Fresno and Los Angeles, CA, Cockeysville, MD; Bayonne, NJ; Cincinnati, OH; Milwaukee, OR; and Waco, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CIBA-Geigy Corp., Saw Mill River Road, Ardsley, NY 10502. Send protests to: District Supervisor G. H. Fauss, Jr., ICC Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124230 (Sub-36TA), filed July 27, 1978. Applicant: C. B. JOHNSON, INC. (a CO corporation), P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore and ore concentrates*, in bulk, from points in Lake County, CO, to Pueblo, Denver, and Canon City, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ASARCO, Inc., 405 Montgomery Street, San Francisco, CA 94104. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 124692 (Sub-231TA), filed August 11, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. aughority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Cascade Steel Rolling Mills at or near McMinnville, OR to points in CA, for 180 days. Applicant has also filed an undferlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norman L. Van Camp, V. P., Amador Steel Corp., 5157 McGraw Road, Livermore, CA 94550. Neil Strand, Shipping superintendent, Cascade Steel Rolling Mills Inc., 3200 North Highway 99W, McMinnville, OR 97128. Send portests to: D/S Paul J. Labane, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124711 (Sub-59TA), filed July 28, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from facilities of Chevron Chemical Co. near Friend, KS, to points in CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seek-

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ing up to 90 days of operating authority. Supporting shipper: Chevron Chemical Co., 3001 LBJ Freeway, No. 130, Dallas, TX 75234. Send protests to: M.E. Taylor, District supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 124813 (Sub-187TA), filed July 28, 1978. Applicant: UMTHUN TRUCKING CO. (IA corporation), 910 South Jackson Street, P.O. Box 166, Eagle Grove, IA 50533. Representative: James M. Hodge, 1980 financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railroad ties* from points in Linn, Buchanan, and Fayette Counties, IA to points in Milwaukee and Waukesha Counties, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dieleman Construction & Industrial Salvage Co., R.R. No. 1, Kellogg, IA 50135. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 126118 (Sub-85TA), filed July 27, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled vehicles under 5,000 pounds, mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, trailers, accessories, attachments and parts*, from Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) *materials, equipment, supplies, and parts* used in the manufacture of the commodities in (1) above, from points in the United States (except AK, HI, and NE), to Lincoln, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Restriction: Restricted in Part (1) to the transportation of traffic destined to the facilities of OMC-Lincoln, Division of Outboard Marine Corp., and in Part (2), restricted to the transportation of traffic originating at the facilities of OMC-Lincoln, Division of Outboard Marine Corp., at Lincoln, NE. Supporting shipper: Harold E. Wright, Traffic Manager, OMC-Lincoln, Division of Outboard Marine Corp., 900 North 21st Street, Lincoln, NE 68501. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

NOTE.—Common control may be involved.

MC 126118 (Sub-86TA), filed July 28, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Those commodities used by and dealt in by retail and wholesale institutional suppliers including plastic articles* (except in bulk), from points in CA and Salem, OR, and Othello, WA, and their commercial zones to Lincoln, NE, and its commercial zone, (2) *Cleaning compounds, cleaning products, including detergent controllers, detergent reservoirs, control meters, and injectors, and food products*, including in mixed shipments, from Wyandotte and Coloma, MI, Iowa City and Muscatine, IA, St. Louis, MO, and their commercial zones, to Lincoln, NE, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert P. Howe, Purchasing Agent, Pegler & Co., 1700 Center Park Road, Lincoln, NE 68501. Glenn Schnieber, President and General Manager, Schnieber Fine Foods, 2400 North 27th Street, Lincoln, NE 68503. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

NOTE.—Common control may be involved.

MC 126118 (Sub-87TA), filed July 28, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and clay products*, from the plantsite and shipping facilities of Waverly Mineral Products Co., located at or near Meigs, GA, to NE, KS, MO, IA, MN, WI, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lucy E. Tessing, Traffic Manager, Waverly Mineral Products Co., 3018 Market Street, Philadelphia, PA 19106. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 128273 (Sub-314TA), filed August 11, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper boxes other than corrugated, knocked down or folded flat* (except commodities in bulk in tank vehicles), from the facilities owned or utilized by Potlatch Corp. at or near Sikeston, MO, to Lemon Grove and San Bernardino, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potlatch Corp., P.O. Box 1016, Lewiston, ID 83501. Send protests to: M.E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, 110 North Market Street, Wichita, KS 67202.

MC 128279 (Sub-33TA), filed August 11, 1978. Applicant: ARROW FREIGHTWAYS, INC., 150 Woodward Road SE, P.O. Box 25125, Albuquerque, NM 87125. Representative: Olif Q. Boyd, President, 150 Woodward Road SE, P.O. Box 25125, Albuquerque, NM 87125. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Commodities requiring the use of special equipment*, except commodities in bulk, between points in AZ, CO, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 133805 (Sub-13TA), filed July 27, 1978. Applicant: LONE STAR CARRIERS, INC. (a Texas corporation), Route 1, P.O. Box 48, Tolar, TX 76476. Representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel shot* (not ammunition NOI) from the facilities of Ervin Industries at or near Adrian, MI, and Butler, PA to points in the States of AL, CO, GA, KS, LA, MS, MO, OK, and TX, restricted to traffic originating at the above named facilities and destined to points in the named destination States, for 180 days. Supporting shipper: Ervin Industries, 121 South Division Street, Ann Arbor, MI 48106. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 135598 (Sub-14TA), filed August 11, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Louis, MO, and St. Paul, MN, to Burlington, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Krohn Distributing Co., Inc., 105 South Roosevelt Avenue, Burlington, IA 52601. Send protests to Harold C. Jolliff, Transportation Specialist, Interstate Commerce Commission, P.O. Box 2418, Springfield, IL 62705.

MC 136635, (Sub-9TA), filed August 10, 1978. Applicant: UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN 46614. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, in interstate commerce in the transportation of *general commodities* (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment and Class A and B explosives) between points in IN on and north of U.S. Hwy 40 on the one hand and on the other, the rail ramps located at or near Elkhart, IN and Chicago, IL. Restriction: Restricted to traffic having a prior or subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 138144 (Sub-33TA), filed August 3, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: Elaine M. Conway, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials*, from the plantsite of the Celotex Corp. located at or near Chicago, IL to points in WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 138732 (Sub-15TA), filed July 27, 1978. Applicant: OSTERKAMP TRUCKING, INC., P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 67 Larkstone Court, Danville, CA 94526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, plywood, particleboard and wood products*, from points in OR to points in CA from Carson City, Churchill, Douglas, Lyon, Mineral, Storey, and Washoe Counties, NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 4 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138762 (Sub-25TA), filed August 11, 1978. Applicant: MUNICIPAL TANK LINES LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt products, in bulk*, in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located at or near Buffalo, NY to points in NY, restricted to traffic in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M.L. Donofrio, Mgr. Special Projects, McAsphalt Industries, Ltd., P.O. Box 247, Westhill, ON, Canada. Send protests to: D/S Paul J. Labane, ICC, 2602 First Avenue, North, Billings, MT 59101.

MC 139349 (Sub-7TA), filed August 11, 1978. Applicant: E Z FREIGHT LINES, 348 Ocean Avenue, Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures, and lamps, and equipment, materials and supplies used in the manufacture and sale, except in bulk*, between Elgin, IL, and Warren, OH, on the one hand, and, on the other, LA, MN, and TX, and points in the United States east of the Mississippi River for 180 days. Condition: Authority is limited to service rendered under contract or continuing contracts with Lightolier, Inc., and Duro-Test Corp. Supporting shippers: Lightolier, Inc., 346 Clairmont Avenue, Jersey City, NJ 07305 and Duro-Test Corp., 2321 Kennedy Boulevard, North Bergen, NJ 07047. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 139543 (Sub-3TA), filed August 14, 1978. Applicant: MOLASSES TRANSPORTERS, INC., P.O. Box 144, Port Allen, LA 70767. Representative: Mr. Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Asphalt and asphalt products in bulk* from the facilities of Exxon Co., U.S.A., located at or near Baton Rouge, LA to Mobile, AL, under a continuing contract or contracts with Exxon Co., U.S.A., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Exxon Co., U.S.A., P.O. Box 2180, Houston, TX 77001, GAF Corp., 1316 Alps Road, Wayne, NJ 07470. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 141252 (Sub-3TA), filed August 11, 1978. Applicant: PAN WESTERN CORP., 4105 Las Lomas Avenue, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive Carson City, NV 89701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. *Hot and cold steel in coils* from the facilities of Kaiser Steel at Montebello, CA and Fontana, CA. 2. *Precut steel plates* (blanks) from the facilities of Kaiser Steel at Montebello, CA and from the facilities of National Steel at Torrance, CA. 3. *Frit* (glass lining material) from the facilities of Ferro Corp. at Los Angeles and Long Beach Harbor CA. 4. *Hot and cold rolled steel in coils* from the docks at Long Beach Harbor, CA (No. 4 restricted to shipments having an immediately prior movement in foreign commerce) to Henderson, NV, for 180 days. Supporting shipper: State Industries, Inc., Lake Mead, NV 89015. Send protests to: Interstate Commerce Commission, District Supervisor W. J. Huetig, 203 Federal Bldg., 705 North Plaza Street, Carson City, NV 89701.

MC 141804 (Sub-123TA), filed August 11, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Paper labels, gummed paper, corrugated boxes and materials, parts and ac-*

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cessories used in the manufacture of paper labels and gummed paper, from the facilities of Avery Label at or near Flowery Branch, GA, to the facilities of Avery Label at or near Azusa and Monrovia, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avery Label, 777 East Foothill Boulevard, Azusa, CA 91702. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143775 (Sub-16TA), filed August 11, 1978. Applicant: PAUL YATES INC., 6601 West Orangwood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Hair care toiletries, and hair care accessories, and equipment, materials, supplies, and ingredients used in the packaging, manufacturing and distribution of toiletry equipment* (except in bulk) in temperature controlled vehicles. From Cheshire and Milford, CT; Garden City, NY; Saddlebrook and Lakewood, NJ; Walpole, NH; and their respective commercial zones, to Chicago, IL; Atlanta, GA; Stamford, CT; Dallas, TX; LaMirada, CA; Portland, OR; and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clairol Inc. One Blachley Road, Stamford, CT 06902. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building 230 North First Avenue, Phoenix, AZ 85025.

MC 144929 (Sub-1TA), filed August 11, 1978. Applicant: B & J TRUCKING, INC., Frontage Road, Route 3, Piedmont, SC 29673. Representative: Brian S. Stern, 2425 Wilson Boulevard, No. 327, Arlington, VA 22201. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Textiles* (a) from the facilities of Monsanto Co. at Decatur and Sand Mountain (near Guntersville), AL, Greenwood and Blacksburg, SC, and Gonzalez, FL. (b) from the facilities of Monsanto, North Carolina, Inc., a wholly owned subsidiary of Monsanto Co. at Fayetteville, NC (c) from the facilities of Fovil Manufacturing Co., Inc., a wholly owned subsidiary of Monsanto Co., at Foley, AL, and Abbeville, SC, and (d) from the facilities utilized by Monsanto Co. at Huntsville, AL, to points in CA, NM, OR, TX, and WA; (2) *adipic acid* (except in bulk), from the facilities of Monsanto Co. at Gonzalez, and Pensacola FL, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA commercial zones; (3) *resin plasticizers* (except in bulk), shipped by Monsanto Co. from Inman, SC, to Los Angeles, CA; (4) *insecticides* and *resin plasticizers* (except in bulk), from the facilities of Monsanto Co at Anniston, AL, to Los Angeles, CA; (5) *Bleach assistant compounds* (except in bulk), from the facilities of Monsanto, Co. at Luling, LA, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA, commercial zones; and (6) *food preserving compounds* (except in bulk), from the facilities of Monsanto Co. at Texas City and Chocolate Bayou, TX, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA, commercial zones, restricted in (1) through (6), above, to a transportation service performed under a continuing contract or contracts with Monsanto Co., of St. Louis, MO, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building Columbia, SC 29201.

MC 145006 (Sub-1TA), filed August 11, 1978. Applicant: WESTERN BATTERY TRUCKING, 32 East 1300 South, Salt Lake City, UT 84115. Representative: Lorin S. Miller, 32 East 1300 South, Salt Lake City, UT 84115. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New and used automotive and industrial batteries,* between points in Fullerton, Visalia and Commerce, CA; Salt Lake City, UT; and Missoula, MT, for 180 days. Supporting shipper: Western Battery & Electric Co., 32 East 1300 South, Salt Lake City, UT 84115 (Lorin S. Miller, president/owner). Send protest to: District Supervisor L. D. Helfer, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 145111 (Sub-1TA), filed August 11, 1978. Applicant: MORRIS D. HAMMOND, d.b.a. MORRIS CAB CO., Route 4, Trenton, MO 64683. Representative: Thomas O. Pickett, 924 Main Street, P.O. Box 71, Trenton, MO 64683. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Personnel for Rock Island and Milwaukee Railroads,* from all points between Trenton, MO; Eldon, IA; Ottumwa, IA; and Des Moines, IA, for 180 days. Applicant has also filed an undrlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago, Rock Island & Pacific Railroad, Rock Island, Depot, Trenton, MO 64683. Send protests to: Vernon V. Coble, D/S, Interstate Commerce Commission 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 145135 (Sub-1TA), filed August 11, 1978. Applicant: JOHN E. DILLON, T/A, DILLON TRUCKING CO., P.O. Box 144, Farmville, VA 23901. Representative: Carroll B. Jackson, 1810 Vencennes Road, Richmond, VA 23229. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Buildings, knocked down: Parts: Attachments: and materials and supplies when moving with buildings.* From the site of Traditional Log Homes, Inc., at or near State Road (Surry Ct.) NC, to points in CD, KY, MD, OH, SC, IN, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Traditional Log Homes, Inc., Route 2, Box 198, State Road, NC 28676. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 145173TA, filed August 11, 1978. Applicant: BELDON LAMBIRTH, JR., d.b.a. L. & S. TRANSPORTATION, P.O. Box 31534, Billings, MT 59104. Representative: Jeff Essman, 500 Midland Bank Building, 303 North Broadway, Billings, MT 59101. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Bentonite* (except in bulk) from Crook, Weston, Natrona, Washakie, and Big Horn Counties, WY to Sacramento, Yolo, Kern, Colusa, Ventura, Los Angeles, Humbolt Mendocino, Lake, Sonoma, Contra Costa, Monterey, Tehama, Fresno, Glenn and Kings Counties, CA, for 180 days. Supporting shippers: Bill New, president, Northern Mud Sales & Service Co., Inc., 3400 Patton's Way, P.O. Box 665, Bakersfield, CA 93308. Pete Smith, Chief, Mud Inc., 6205 Dennen Street, Bakersfield, CA 93307. John R. Farrow, Gen., Mgr., Calada Materials, 3501 Dock Street, Terminal Island, Long Beach, CA 90731. Send protests to: D/S Paul J. Labane, ICC, 2602 First Avenue, North, Billings, MT 59101.

MC 145174TA, filed August 9, 1978. Applicant: NORTH FORTY LINES, INC., 6700 Driftwood Lane, Missoula, MT 59801. Representative: Bruce K. Meier (same as above). Authority sought to operate as a *contract carrier,* by motor vehicle over irregular routes, transporting: *Precut log and wood buildings, knocked down, and materials and supplies* used in the construction, installation and erection thereof, to include windows and doors, from the facilities of Real Log Homes, Inc., located near Missoula, MT, to all points in CO, ID, UT, and WY, under a continuing contract or contracts with Real Log Homes, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John D. Currens, General Manager, Real Log Homes, Inc., Box 8509, Missoula, MT 59807. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue, North, Billings, MT 59101.

MC 145176TA, filed August 11, 1978. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: E. Edward Glasscock, 1600 Citizens Plaza, Louisville, KY 40202. Authority sought to operate as a *contract carrier,* by motor vehicle over irregular routes, transporting: (1) *Foodstuffs* (except frozen and in bulk); and (2) *materials, equipment, and supplies* (except commodities in bulk) used or useful in the manufacture, distribution, and sale of foodstuffs, from points in the United States (except AK, HI, and MS) to the facilities of Vlasic Foods, Inc., at or near Greenville, MS, under a continuing contract or contracts with Vlasic Foods, Inc., for 180 days. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, W. Bloomfield, MI 48033. Send protests to: Alan C. Tarrant, D/S Interstate Commerce Commission, Room 212 145 East Amite Building, Jackson, MS 39201.

PASSENGER CARRIER

MC 145167 (Sub-1TA), filed August 11, 1978. Applicant: CHECKERLLAC TRANSPORTATION, INC., 1612 Forest Avenue, Staten Island, NY 10302. Representative: Robert A. Straniere, Esq., 358 St. Mark's Place, Staten Island, NY 10301. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage in special and charter operations, limited to the transportation of not more than 14 passengers in any one vehicle, not including the driver, and not including children under 10 years of age who do not occupy a seat or seats.* Beginning and ending at Staten Island (Richmond County) NY to Atlantic City, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Fred Stanzione Travel Bureau, 646 Forest Avenue, Staten Island, NY 10301. Riviera Travel, Inc. 62 New Drop Plaza, Staten Island, NY 10305. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

OCT 13 1978

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29043 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 192]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 10, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

W-1308 (Sub-1TA), filed August 17, 1978. Applicant: BLAINE F. CLAYPOOL, d.b.a. RED WING EXCURSIONS, 218 North Franklin Street, Lake City, MN 55041. Representative: Stephen A. Lawrence, Lawrence, Costello & Moratzka, 3154 North Service Drive, Red Wing, MN 55066. On September 29, 1978, the Motor Carrier Board granted authority to applicant to operate as a common carrier, by water vehicle, transporting *passengers and their baggage* in regular, daily, scheduled, sightseeing trips and special charter sightseeing trips between points and ports along the Mississippi River between Hastings and Wabasha, MN, and Prescott, WI on the St. Croix River. Supporting shippers: Seven statements of support attached to the application may be examined at the Interstate Commerce Commission in Washington, DC, or copies of same may be examined at the Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. Petitions for reconsideration: Any interested party may file a petition for reconsideration within 20 days from the date this notice is published. Such a petition should be sent to the Acting Secretary, Interstate Commerce Commission, Washington, DC 20423.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29044 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 115]

OCTOBER 13, 1978.

MOTOR CARRIER TRANSFER PROCEEDINGS

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR 1132:

MC-FC-77776. By application filed September 12, 1978, WILLIAM M. HAZZARD, JR., an individual, d.b.a. ACE DELIVERY SERVICE, 215 Lorewood Avenue, Wilmington, DE 19804, seeks temporary authority to transfer the operation rights of Francis Lenza, an individual, d.b.a. Bern-Mart's Express, 1206 Glenside Avenue, Wilmington, DE 19803, under section 210a(b). The transfer to William M. Hazzard, Jr., an individual, d.b.a. Ace Delivery Service, of the operating rights of Francis Lenza, an individual, d.b.a. Bern-Mart's Express, is presently pending.

MC-FC-77853. By application filed September 28, 1978, SURFACE TRANSPORTATION CO., INC., 125 South, Van Brunt Street, Englewood, NJ 07631, seeks temporary authority to transfer a portion of the operating rights of Lapadula & Villani, Inc., P.O. Box 158, Cedarhurst, NJ 11516, under section 210a(b). The transfer to Surface Transportation Co., Inc., of a portion of the operating rights of Lapadula & Villani, Inc., is presently pending.

MC-FC-77865. By application filed October 3, 1978, ANTHONY D. FIAMINGO, an individual, d.b.a. FIAMINGO MOVING & STORAGE CO.,

V 4 3 / 1 9 9 0 C 1 3 7 8 UM

R.D. No. 3, Box 678, Mansfield, PA 16933, seeks temporary authority to transfer the operating rights of John F. Murphy, an individual, d.b.a. Murphy Trucking Co., 33 Davenport Street, Hornell, NY 14843, under section 210a(b). The transfer to Anthony D. Fiamingo, an individual, d.b.a. Fiamingo Moving & Storage Co., of the operating rights of John F. Murphy, an individual, d.b.a. Murphy Trucking Co., is presently pending.

MC-FC-77866. by application filed October 5, 1978, MEYER FARMS TRANSPORT, INC., Box 65, Oregon, MO 64473, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, box 224, Faucett, MO 64448, under section 210a(b). The transfer to Meyer Farms Transport, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77867. By application filed October 5, 1978, JOHN L. HAWK TRUCKING, INC., 2908 Pear, St. Joseph, MO 45603, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 210a(b). The transfer to John L. Hawk Trucking, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77868. By application filed October 3, 1978, DONALD J. HOHMAN, an individual, d.b.a. CROSS TRUCKING & STORAGE, 301 Regina Street, Pittsburgh, PA 15209, seeks temporary authority to transfer the operating rights of Darby Transfer, Inc., 535 Forest Avenue, Pittsburgh, PA 15106, under section 210a(b). The transfer to Donald J. Hohman, an individual, d.b.a. Cross Trucking & Storage, of the operating rights of Darby Transfer, Inc., is presently pending.

MC-FC-77869. By application filed September 29, 1978, BARLOW TRUCK LINES, INC., Route 2, Warrensburg, MO 64093, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 201a(b). The transfer to Barlow Truck Lines, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77870. By application filed September 28, 1978, GOPHER TRUCK LINES, INC., 1931 East 27th Street, Vernon, CA 90058, seeks temporary authority to transfer the operating rights of Service Truck Co., 2163 East 14th Street, Los Angeles, CA 90021, under section 210a(b). The transfer to Gopher Truck Lines, Inc., of the operating rights of Service Truck Co., is presently pending.

By the Commission. 6H. G. Homme, Jr.,

Acting Secretary.

[FR Doc. 78-29040 Filed 10-12-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6715-01-M]

1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, October 18, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

• • •

DATE AND TIME: Thursday, October 19, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-74, AO 1978-79.
Computer contract procurement.
Earmarked contributions.
Appropriations and budget.
Presidential campaign disclosure form.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Nonfiler procedures.
Recordkeeping and reporting of particulars for expenditures—Presidential candidates and authorized committees.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on October 18, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2067-78 Filed 10-11-78; 3:36 pm]

[6730-01-M]

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 18, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to authority delegated to the managing director.
2. Agreement No. T-3690 between Matson Terminals, Inc., and Polynesia Line, Ltd., providing for preventive maintenance and container repair services at Oakland and Los Angeles.
3. Docket No. 74-12: Agreement No. 9939-1 (Modification and Extension of a Pooling, Sailing and Equal Access to Government Controlled Cargo Agreement)—Review of Order of Discontinuance.
4. Docket No. 76-10: *Joy Manufacturing Co. v. Lykes Bros. Steamship Co., Inc.*—Discussion off the record.
5. Docket Nos. 76-34/76-36: Tariff FMC 6, Rule 22, of the Continental North Atlantic Westbound Freight Conference/Tariff Rules Concertedly Published Defining Practices of Conferences and Rate Agreement Members Regarding the Acceptance and Responsibility for Shipper-Owned or Shipper-Leased Trailers or Containers—Discussion off the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2063-78 Filed 10-11-78; 11:34 am]

[6730-01-M]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2:30 p.m., October 18, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Interagency Maritime Study.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2064-78 Filed 10-11-78; 11:34 am]

[6750-01-M]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Friday, October 20, 1978.

PLACE: Room 532 (open), Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public:

1. Oral argument in SKF Industries, Docket No. 9046.

Portions closed to the public:

2. Executive Session to discuss oral argument in SKF Industries, Docket No. 9046.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2066-78 Filed 10-11-78; 1:39 pm]

[7035-01-M]

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 17, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open regular conference.

MATTER TO BE CONSIDERED: Staff briefing on Milwaukee Road—Levels of service provided, prospects for winter, status of any merger negotiations, and status of employee layoffs.

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CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

OCTOBER 11, 1978.

[S-2068-78 Filed 10-11-78; 3:52 pm]

[4410-01-M]

6

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Thursday, October 19, 1978 at 8:30 a.m. to 10 a.m.; returning at 12:30 p.m. and closing at 6 p.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 20 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-2065-78 Filed 10-11-78; 11:34 am]

[6155-01-M]

7

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9:30 a.m., October 20, 1978.

PLACE: Board for International Broadcasting Conference Room, Suite 430, 1030 15th Street NW., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1), 1 CFR 460.4 (c) and (h) of the Board's rules (42 FR 9388, February 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the U.S. Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, 1030 15th Street NW., Washington, D.C. 20005, 202-254-8040.

[S-2069-78 Filed 10-11-78; 4:00 pm]

OCT 13 1978

federal register

FRIDAY, OCTOBER 13, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF LABOR

Employment Standards Administration

federal register

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

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OCT 13 78

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS ARE BASED UPON INFORMATION OBTAINED CONCERNING CHANGES IN PREVAILING HOURLY WAGE RATES AND FRINGE BENEFIT PAYMENTS SINCE THE DECISIONS WERE ISSUED.

The determinations of prevailing rates and fringe benefits made in the Modifications and supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pusuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Connecticut:	
CT78-3055, CT78-3056	July 28, 1978
Mississippi:	
MS78-1079	Sept. 15, 1978
Washington, D.C.:	
DC78-3008	Mar. 17, 1978
West Virginia:	
WV77-3083	Sept. 30, 1977

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL76-1138(AL78-1082)	Dec. 3, 1976.
Georgia:	
GA77-1117(GA78-1088); GA77-1118 (GA78-1089)	Sept. 30, 1977.
Louisiana:	
LA78-4072(LA78-4113)	July 14, 1978.
Minnesota:	
MN78-2096(MN78-2118); MN78-2098 (MN78-2119)	Sept. 29, 1978.
South Carolina:	
SC75-1055(SC78-1087)	May 23, 1975.
Virginia:	
AR-2032(VA78-3072)	Aug. 30, 1974.
VA78-3050(VA78-3073)	May 5, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS—NONE

Signed at Washington, D.C., this 6th day of October, 1978.

DOROTHY P. COME,
Assistant Administrator
Wage and Hour Division.

MODIFICATIONS P. 2

DECISION #CT78-3056 - MOD #5
(43 FR 33030 - July 28, 1978)
Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS: (Heavy & Highway Construction)	$ 9.60	.75	.75	b	
LABORERS: (Heavy & Highway Construction)					
Change Pension Fund on all Heavy & Highway Construction Laborers to $.75					
POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)					
Class 1	11.80	.90	.85	a	.10
Class 2	11.64	.90	.85	a	.10
Class 3	11.29	.90	.85	a	.10
Class 4	11.09	.90	.85	a	.10
Class 5	10.93	.90	.85	a	.10
Class 6	10.73	.90	.85	a	.10
Class 7	10.51	.90	.85	a	.10
Class 8	9.58	.90	.85	a	.10
Class 9	9.69	.90	.85	a	.10
Class 10	10.07	.90	.85	a	.10
Class 11	10.43	.90	.85	a	.10
Class 12	9.21	.90	.85	a	.10
Class 13	10.00	.90	.85	a	.10
Survey Crews					
Chief of Party	10.06	.90	.85	a	.10
Ass't Chief of Party	9.34	.90	.85	a	.10
Instrument Man	8.63	.90	.85	a	.10
Rodman & Chainman	8.46	.90	.85	a	.10
TRUCK DRIVERS: (Heavy & Highway Construction)					
Class 1	7.91	.74	.725	a	
Class 2	8.01	.74	.725	a	
Class 3	8.11	.74	.725	a	
Class 4	7.96	.74	.725	a	
Class 5	8.06	.74	.725	a	
Class 6	8.11	.74	.725	a	

MODIFICATIONS P. 1

DECISION #CT78-3055 - MOD #2
(43 FR 33029 - July 28, 1978)
Fairfield, Litchfield and Windham Counties, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS: (Heavy & Highway Construction)					
Greenwich	$10.00	.55	.55	b	
Darien & Stamford Except Greenwich, Darien & Stamford	9.92	.83	.25	b	
LABORERS: (Heavy & Highway Construction)	9.60	.75	.75	b	
Change Pension fund on all Heavy & Highway Construction Laborers to $.75					
POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION					
Class 1	11.80	.90	.85	a	.10
Class 2	11.64	.90	.95	a	.10
Class 3	11.29	.90	.95	a	.10
Class 4	11.09	.90	.85	a	.10
Class 5	10.93	.90	.85	a	.10
Class 6	10.73	.90	.85	a	.10
Class 7	10.51	.90	.85	a	.10
Class 8	9.58	.90	.85	a	.10
Class 9	9.69	.90	.95	a	.10
Class 10	10.07	.90	.85	a	.10
Class 11	10.43	.90	.85	a	.10
Class 12	9.21	.90	.85	a	.10
Class 13	10.00	.90	.85	a	.10
SURVEY CREWS					
Chief of Party	10.06	.90	.85	a	.10
Ass't Chief of Party	9.34	.90	.85	a	.10
Instrument Man	8.63	.90	.85	a	.10
Rodman & Chainman	8.46	.90	.85	a	.10
TRUCK DRIVERS: (Heavy & Highway Construction)					
Class 1	7.91	.74	.725	a	
Class 2	8.01	.74	.725	a	
Class 3	8.11	.74	.725	a	
Class 4	7.96	.74	.725	a	
Class 5	8.06	.74	.725	a	
Class 6	8.11	.74	.725	a	

MODIFICATIONS P. 3

Decision # MS-78-1079 - Mod. #1 (43 FR 41348 September 15, 1978) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers (Jackson and Harrison	10.95	.55	1.05	c	.02
Bricklayers:					
Bricklayers	9.35		.40		
Blockmasons	9.35		.40		
Caulkers & Pointers	9.35		.40		
Marble masons	9.35		.40		
Stonemasons	9.35		.40		
Plasterers	9.25		.40		
Terrazzo workers	9.25		.40		
Tile setters	9.25		.40		
Cement masons	8.75		.40		
DECISION #DC78-3008 - Mod. # 5 (43 FR 11469 - March 17, 1978) District of Columbia: Maryland Montgomery and Prince Georges; and D. C. Training School; Virginia - Independent City of Alexandria & Arlington					
Change:					
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: All Counties					
BUILDING CONSTRUCTION: Excluding Alexandria, Virginia					
Bricklayers	$11.55	1.10	.85		.10
PAVING AND INCIDENTIAL GRADING: (District of Columbia only) except paving project where the grading is incidential to the paving:					
Bricklayers	11.55	1.10	.85		.10
WATER AND SEWER LINES: (District of Columbia and Montgomery County Maryland only)					
Bricklayers	11.55	1.10	.85		.10
Power Equipment Operators: Trenching machines(up to 8' 3"), boilers &kelton, well drilling machines	7.94	.35	.65		.05

MODIFICATIONS P. 4

DECISION #WV77-3003 - Mod. #6
(42 FR 53172 - September 30, 1977)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers and Stone Masons:					
Area 8	9.65				
Electricians:					
Area 6					
Contracts under $12,000:					
Wiremen	5.50	.50	3%+1.02	1.52	.02
Contracts $12,000 or more:					
Wiremen	10.05	.50	3%+1.02	1.52	.02
Cable Splicers	10.20	.50	3%+1.02	1.52	.02
Area 17					
Contracts under $30,000:					
Wiremen	6.45	.50	3%		3/4%
Contracts $30,000 or more:					
Wiremen	10.20	.50	3%		3/4%
Line Construction:					
Area 4					
Linemen & Equipment Operators	9.65	.50	3%+.52	2.02	4%
Cable Splicers	10.615	.50	3%+.52	2.02	4%
Groundmen & Truck Drivers	7.72	.50	3%+.52	2.02	4%
Painters:					
Area 1					
Painters-					
An area within 50 miles of Huntington, W.V.	9.02	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	10.27	.30	.35		.02
Structural Steel -					
An area within 50 miles of Huntington, W.V.	10.12	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	11.37	.30	.35		.02
Bridge & Hazardous Work (including towers, smoke stacks, flag poles & tanks)					
An area within 50 miles of Huntington, W.V.	10.84	.30	.35		.02
An area 50 miles and beyond of huntington, W.V	12.09	.30	.35		.02
Area 4					
New Construction:					
Brush	9.96	.40	.30		.01
Roller	10.22	.40	.30		.01
Spray & Blast, Pot-Men	10.98	.40	.30		.01

NOTICES

MODIFICATIONS P. 5

DECISION #WV77-3023

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 4 Cont'd					
Repaint Work					
Brush	8.54	.40	.30		.01
Roller	8.82	.40	.30		.01
Spray-Pot-Men	10.98	.40	.30		.01
Bridge					
Brush	10.66	.40	.30		.01
Roller	10.91	.40	.30		.01
Spray, Blast, Glove	11.66	.40	.30		.01
Open structural steel	10.31	.40	.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30 feet high	10.91	.40	.30		.01

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Montgomery
DECISION NUMBER: AL78-1082 DATE: Date of Publication
Supersedes Decision No.: AL76-1138 dated December 3, 1976 in 41 FR-52241
DESCRIPTION OF WORK: Building Construction, (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	5.72				
Bricklayers	7.15				
Carpenters	5.66				
Form setters	3.25				
Cement masons	4.15				
Electricians	7.58				
Elevator constructors	9.74	.565	.35	.78	
Glaziers	7.15	.50	.40		
Ironworkers, structural & ornamental	4.40				
Ironworkers, reinforcing	4.00				
Laborers:					
Laborers	3.05				
Asphalt raker	3.75				
Pipelayers	4.00				
Lathers	6.75				
Painters:					
Brush	5.90				
Sandblasters and spray	7.80		.30		
Paperhanger	7.45		.40		
Plasterers	5.75				
Plumbers & pipefitters	6.66				
Roofers	4.67				
Pettlemen	3.50				
Sheet metal workers	5.81				
Soft floor layers	5.41				
Sprinkler fitters	6.45				
Tile setters	6.00				
Truck drivers	3.75				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt rollers	4.75				
Asphalt spreader	5.25				
Backhoe	4.90				
Bulldozer	6.00				
Crane operator	6.61				
Finishing machine	4.00				
Front end loader	4.85				
Motor grader	6.00				
Motor patrol	6.51				
Piledriver	5.50				
Screed operator	3.50				
Tractor	3.75				

NOTICES

SUPERSEDEAS DECISION

STATE: GEORGIA
DECISION NUMBER: GA78-1088
Supersedes Decision No. GA77-1117, dated September 30, 1977, in 42 FR 52998.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4-stories).

COUNTY: CHATHAM
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.19	.45	.60		
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.30	.40	.20		.01
CARPENTERS & SOFT FLOOR LAYERS	9.05	.50			
CEMENT MASONS	7.75				
ELECTRICIANS:					
Wiremen	9.90	.60	3% + .65		1/5 of 1%
Cable splicers	10.15	.60	3% + .65		1/5 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.255	.745	.56	1½ +a+b	.025
Helpers	6.185	.745	.56	1½ +a+b	.025
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.50	.70	.90		.03
LATHERS	7.65				
MILLWRIGHTS	9.65	.50			
PAINTERS:					
Brush & roller	8.10				
Paperhangers, drywall tapers, & paint burners	8.35				
Window jacks, steel brush, & steel roller	8.60				
Sandblasting, paint spraying, paint mitts & gloves, & power tools (no roller larger than 9")	8.85				
PILEDRIVERMEN	9.30	.50			
PLASTERERS					
PLUMBERS & PIPEFITTERS:					
Contracts $15,000.00 or less	10.05	.45	.60		.05
Contracts over $15,000.00	10.70	.45	.60		.05
ROOFERS	5.50				
SHEET METAL WORKERS	9.23	.45			.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION GA78-1088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
General laborers, traffic flagman, track spotter	$ 5.07	.15	.13		.10
Operators of jackhammer, tamp, paving breaker, chipping hammer, spade, chainsaw, vibrators, motorized buggies, mason tenders, cement mason tenders, terrazzo helpers, railroad or track laborers, walk behind compactor or roller plasterer and carpenter tenders	5.22	.15	.13		.10
Mortar mixers (hand or machine), pipelayers, (harner, potman, etc.), flagman, (cranes, derricks, etc.)	5.32	.15	.13		.10
Burner (torch) on demolition work, track or wagon drills used in blasting	5.57	.15	.13		.10
Powderman or blaster	6.07	.15	.13		.10

DECISION GA78-1088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Cranes, derricks, draglines, sidebooms, cherry pickers, mechanics, pilsdrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shell, drill operators, concrete mixers plant, locomotive, two drum hoist, shovels, generators (250 KW & UP), and hydraulic cranes over 10 tons	$10.03	.55	.50		.02
Bulldozers, hydraulic boom trucks (10 tons & under), scrapers, end loaders, fork tractors, one drum hoist, air compressors 600 CFM & over, motor graders, tuggers, rollers, plain tractors, fireman, rubber tired backhoe less than 3/4 cy., push dozer, trenching machines	8.60	.55	.50		.02
Oiler, pump operator (over 4" dia.), small backhoe, air compressors under 600 CFM	7.90	.55	.50		.02
Mechanics' helpers, servicing welding machines, pump up to 4" Dia.	6.05	.55	.50		.02

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service. or 3% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: GEORGIA
DECISION NUMBER: GA78-1089
Supersedes Decision No. GA77-1118, dated September 30, 1977, in 42 FR 53000.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4-stories).

COUNTY: RICHMOND
DATE: DATE OF PUBLICATION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 8.85	.45	.50		
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, & PLASTERERS	8.85				.02
CARPENTERS	9.05				
CEMENT MASONS	8.45				
ELECTRICIANS:					
Wiremen	9.76	.50	3% + .20		1/5 of 1%
Cable splicers	10.01	.50	3% + .20		1/5 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.255	.745	.56	1½ +a+b	.025
Helpers	6.185	.745	.56	1½ +a+b	.025
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.50	.70	.90		.03
LABORERS:					
Building & Construction laborers	5.10	.15			.10
Power & air tool operators, concrete or clay pipe layers & wipers, mortar makers &, power buggy operators	5.25	.15			.10
Powderman, wagon drill operators, tool room tenders, tunnel laborers, shaft laborers, burners, acetylene (demolition work), slip form workers (steel or wood, screw or jack type), potman, creosote materials handler, steel form setter (on grade), chimney or stack workers	5.30	.15			.10
LATHERS	7.65				
LINE CONSTRUCTION:					
Linemen	9.76	.50	3% + .20		1/5 of 1%
Cable splicers	10.01	.50	3% + .20		1/5 of 1%
Truck operators	6.05	.50	3% + .20		1/5 of 1%
Groundmen	5.47	.50	3% + .20		1/5 of 1%
MILLWRIGHTS	10.05				.02

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DECISION NO. GA78-1089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush & 9" roller, & drywall finisher	$ 7.60	.45	.30		
Paper hanging, sign painting, glazing, structural steel (painting & cleaning) excluding metal doors & frames	8.10	.45	.30		
Power tools, all type epoxy & chemical materials, such as bitumastic, conaps, clormate, all stage work, window jacks, botsun chair, ladder jacks & built-up scaffold, extension ladder over 36'	8.60	.45	.30		
Regular spray & gloves	8.85	.45	.30		
Blasting	9.10	.45	.30		.02
PILEDRIVERMEN	9.35				.03
PLUMBERS & PIPEFITTERS	10.53	.50	.50		
ROOFERS	7.45	.30	.20		.04
SHEET METAL WORKERS	9.35				.08
SPRINKLER FITTERS	10.80	.75	1.05		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

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DECISION NO. GA78-1089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Cranes, derricks, draglines, sidebooms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shell, drill operators, concrete mixers plant, locomotive, two drum hoist, shovels, generators (250 KW & up), and hydraulic cranes over 10 tons.	$10.03	.55	.50		.02
Bulldozers, hydraulic boom trucks (10 tons & under), scrapers, end loaders, fork tractors, one drum hoist, air compressors (600 CFM & over), motor graders, tuggers, roller, plain tractors, fireman, rubber tired backhoe (less than 3/4 cy.), push dozer, trenching machines.	8.60	.55	.50		.02
Oiler, pump operator (over 4" dia.), small backhoe, air compressors under 600 CFM.	7.90	.55	.50		.02
Mechanics' helpers, servicing welding machines, pump up to 4" dia.	6.05	.55	.50		.02

NOTICES

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA78-4113
PARISHES: Bossier, Caddo & Calcasieu
DATE: Date of Publication

Supersedes Decision No. LA78-4072, dated July 14, 1978, in 43 FR 30456.

DESCRIPTION OF WORK: Residential construction consisting of single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$10.43	.40	.76		.03
Calcasieu Parish	11.47	.525	.90		.04
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	9.90	.40	.45		
Calcasieu Parish	11.25	.53	.30		.02
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	9.55	.40	.35		.04
Millwrights	11.30	.40	.35		.04
Piledrivermen	9.80	.40	.35		.04
Calcasieu Parish:					
Carpenters & piledrivermen	10.05	.50	.33		.07
Millwrights	11.73				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	9.05	.35			
Calcasieu Parish	9.45				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	11.80	1.00	3%		1%
Cable splicers	12.30	1.00	3%		1%
Calcasieu Parish:					
New & old single or multiple family residences & apartment complexes, not to exceed 12 units, 2 story walk-up	6.25	.35	3%+.20		3/10%
Other work:					
Electricians	13.05	.35	3%+.40		1/10%
Cable splicers	13.30	.35	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
Calcasieu Parish:					
Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS:					
Bossier & Caddo Parishes	8.28		.30		.04
Calcasieu Parish	11.15				.02
IRONWORKERS:					
Bossier & Caddo Parishes	10.75	.45	.90		.06
Calcasieu Parish	10.70	.35	.60		.05

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DECISION NO. LA78-4113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Building laborers	$ 6.50	.20	.10		.05
GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	6.60	.20	.10		.05
GROUP 3 - Mortar mixers	6.65	.20	.10		.05
GROUP 4 - Air jacks, vibrators; sewer pipe layers & wipers	6.70	.20	.10		.05
Calcasieu Parish:					
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	7.80	.20	.10		.05
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment	7.90	.20	.10		.05
GROUP 3 - Mortar mixers	7.95	.20	.10		.05
GROUP 4 - Jackhammer operator	8.05	.20	.10		.05
GROUP 5 - Blasterers	8.76	.20	.10		.05
GROUP 6 - Blaster helpers; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	8.32	.20	.10		.05
GROUP 7 - Wipe joints, laying pipe & tile from pumpcrete	8.16	.20	.10		.05
GROUP 8 - Interior or closed tanks & vessels manually	7.85	.20	.10		.05
LATHERS:					
Bossier & Caddo Parishes	10.75				
Calcasieu Parish	10.585	.30			.01
MARBLE SETTERS:					
Bossier & Caddo Parishes	8.85	.30			
Calcasieu Parish	11.25	.53	.30		.02
PAINTERS:					
Bossier & Caddo Parishes:					
Painters, tape & float, vinyl & paperhangers	9.20	.40	.30		.05
Calcasieu Parish:					
GROUP 1 - Brush, roller, buffer	10.685		.10		
GROUP 2 - Paperhangers, taping & floating	10.885		.10		
GROUP 3 - Spray, sandblasting	11.03		.10		
PLASTERERS:					
Bossier & Caddo Parishes	9.75			1.00	
Calcasieu Parish	10.07				
PLUMBERS & PIPEFITTERS:					
Bossier & Caddo Parishes	10.54	.50	.60	.95	.09
Calcasieu Parish	11.97	.67	.72		.08
ROOFERS:					
Bossier & Caddo Parishes:					
Roofers	9.35		.20		.04
Kettlemen	6.48		.20		.04

NOTICES

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DECISION NO. LA78-4113

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (CONT'D):					
Calcasieu Parish:					
Roofers	$10.03		.20		
SHEET METAL WORKERS:					
Bossier & Caddo Parishes	6.46	3%+.40			.12
Calcasieu Parish	11.47	.45	.55		.13
SOFT FLOOR LAYERS:					
Bossier & Caddo Parishes	9.55	.40	.35		.04
Calcasieu Parish	10.05	.50	.33		.07
SPRINKLER FITTERS	10.80	.75	1.05		.08
TERRAZZO WORKERS:					
Bossier & Caddo Parishes	8.85	.30			
Calcasieu Parish	11.25	.53	.30		.02
TILE SETTERS:					
Bossier & Caddo Parishes	8.85	.30			
Calcasieu Parish	8.30	.48	.30		.02
TRUCK DRIVERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Pick-ups, spotters & dumpers	5.47				
GROUP 2 - Stake bodies; flat beds (all sizes)	5.55				
GROUP 3 - Single axle dumps & water trucks; transit mix up to & including 3 yds.	5.80				
GROUP 4 - Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer	5.95				
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels	6.10				
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring dumps, 3 axle trucks, transit mix over 3 yds.	6.30				
Calcasieu Parish:					
GROUP 1 - Pick-ups	4.91				
GROUP 2 - Stake bodies(all sizes)	5.34				
GROUP 3 - Trucks trailer & dump over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagon & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds.)	5.55				
GROUP 4 - Mixers on trucks up to & including 3 yds.	5.35				
GROUP 5 - Winch trucks	5.45				
GROUP 6 - Dump trucks	5.37				
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.	5.76				

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DECISION NO. LA78-4113

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays - A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Calcasieu Parish:					
GROUP 1	$ 7.43	.65	.48		.05
GROUP 2	7.11	.65	.48		.05
GROUP 3	6.90	.65	.48		.05
GROUP 4	7.71	.65	.48		.05
GROUP 5	10.095	.65	.48		.05
GROUP 6	8.12	.65	.48		.05
GROUP 7	8.80	.65	.48		.05

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
GROUP 2 - Pumps under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 ft. on structures other than buildings); Hoist (2 drums or over); Locomotive (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Pile-drivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 & over); Winch Truck with A-Frame (5 ton & over); Work Boats-requiring licensed operator
GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass cutters, etc.); Hoist-1drum (under 4 stories or buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack & under); Motorized street sweepers self-propelled; Pump (3" & over); Test Pump-Internal combustion engine powered; Water Blast Pumps
GROUP 7 - Asphalt Plant Operators; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Scraddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boats-not requiring licensed operator

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Blue Earth, Fairbault, Freeborn & Mower

DECISION NUMBER: MN78-2118

DATE: Date of Publication

Supersedes Decision NO. MN78-2096, dated September 29, 1978 in 43 FR 45135

DESCRIPTION OF WORK: Building Construction (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Blue Earth County					
Bricklayers, Stonemasons & Blocklayers	9.855	.50	.51	.61	
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon & the City of Blooming Prairie:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	10.575	.50	.25		
Fairbault & Remainder of Freeborn County					
Bricklayers, Stonemasons, Tuck-Pointers & Blocklayers	10.18	.57	.25		
CARPENTERS:					
Building:					
Blue Earth County					
N. W. Portion of County	10.20				
Remainder of County	10.90	.50			.02
Freeborn & Fairbault Counties					
Carpenters, Millwrights & Piledrivermen	10.12				
Mower County					
Carpenters & Piledrivermen	10.12				
Site Preparation, Excavating & Incidential Paving					
Blue Earth County	7.32	.30			
Fairbault, Freeborn & Mower Cos.	8.48				
CEMENT MASONS & PLASTERERS:					
Building:					
Blue Earth County					
Cement Masons	10.10				
Plasterers	9.40				
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon:					
Cement Masons & Plasterers	9.35	.50	.25		

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DECISION NO. MN78-2118

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake in Sherburne County:					
Jobs under $50,000	8.45	7½%	6%	10%	1½%
Jobs over $50,000	10.60	7½%	6%	10%	1½%
Remainder of Sherburne County	11.20	5 3/4%	5 7/8%	11½%	3/8%
GLAZIERS	10.03	.40			
IRONWORKERS	11.65	.75	.60		.04
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	8.30	.20	.15		
Power Buggy Operators	8.35	.20	.15		
Mortar Mixers; Plasterer Tenders	8.40	.20	.15		
Jackhammer Men	8.45	.20	.15		
Underground; Caisson; Cofferdam & Tunnel work	8.55	.20	.15		
Dynamite Men	8.60	.20	.15		
Sherburne County:					
Common, Carpenter Tender	8.30	.45	.45	.40	
Wrecking & demolition	8.40	.45	.45	.40	
Vibrator Opr; Jackhammermen; Mortar Mixers	8.45	.45	.45	.40	
Underground Work	8.55	.45	.45	.40	
Pipelayers	8.60	.45	.45	.40	
Caisson Work - Underpinning	8.65	.45	.45	.40	
Dynamite Men	9.005	.45	.45	.40	
LATHERS:					
Benton & Stearns Counties	10.19	.50	.65	.01	
MARBLE SETTERS	10.355	.555	.33		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	$10.08	.55		.25	.09
Spray, Structural Steel & Sandblasting	10.68	.55		.25	.09
Benton, & Stearns Counties & the Remainder of Sherburne County:					
Residential	8.50			3%	
Brush	7.90			3%	
Structural Steel	8.40			3%	
Spray	8.90			3%	
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	10.39	.38	.50	1.35	.05
Steamfitters Eastern ½ of County	10.39	.38	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co: Plumbers & Steamfitters	11.82	.53	.50		.06
ROOFERS:					
Roofers	8.90	.64	.25		
SHEET METAL WORKERS	11.52	.52	.31		.03
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS - Building	8.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

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MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.35	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler
CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Sub Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)
CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)
CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Oher work more than 0' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Landman
CLASS 7 - Nozzleman (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

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MINN-11-LAB

LABORERS:
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	$ 8.15	.55	.35	.40	
CLASS 2	8.20	.55	.35	.40	
CLASS 3	8.25	.55	.35	.40	
CLASS 4	8.30	.55	.35	.40	
CLASS 5	8.40	.55	.35	.40	
CLASS 6	8.70	.55	.35	.40	
CLASS 7	8.75	.55	.35	.40	
CLASS 8	8.80	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborer-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municipal Type Curb & Sidewalk, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); Chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson Work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-1-FEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.25	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumperete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Cunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

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MINN-7M-FEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W					
GROUP 1	$14.75	.55	.50		.05
GROUP 2	11.46	.55	.50		.05
GROUP 3	11.15	.55	.50		.05
GROUP 4	11.02	.55	.50		.05
GROUP 5	10.93	.55	.50		.05
GROUP 6	10.15	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFM or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman.conveyor op., deckhand. Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-6-FEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stearns Co: (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.: (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	9.85	.55	.50		.05
GROUP 7	9.45	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping

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(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd)

machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PDO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Remainder of Bunton & Stearns Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.00	.55	.50		.05
GROUP 2	9.82	.55	.50		.05
GROUP 3	9.32	.55	.50		.05
GROUP 4	9.18	.55	.50		.05
GROUP 5	9.10	.55	.50		.05
GROUP 6	8.57	.55	.50		.05
GROUP 7	8.17	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Sherburne County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

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MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

47438

STATE: Minnesota — COUNTIES: Benton, Sherburne & Stearns
DECISION NUMBER: MN78-2119 — DATE: Date of Publication
Supersedes Decision No. MN78-2098, dated September 29, 1978, in 43 FR 45143
DESCRIPTION OF WORK: Building (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.40		.25	1.00	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co. Carpenters, Millwirghts & Piledrivermen	10.46	.65	.50	.50	.02
Soft Floor Layers	10.10	.61	.54	.45	.02
Cities of Little Rock & Skaja in Benton County					
Carpenters	9.35				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	10.08			.75	
Soft Floor Layers	7.50				
Site Preparation, Excavation & Incidential Paving					
Sherburn Co.; Northern Bondary of T-34-N & East of the Western Boundary of R-27-W	8.21	.40	.30	.50	.02
Benton Co., Stearns Co. (East of A North-South Line Drawn from the intersection of Stearns, Todd & Morrison Cos.) & the remainder of Sherburne Co.	7.47			.75	
Remainder of Stearns County	7.62				
CEMENT MASONS:					
Building Construction					
Benton & Stearns Counties					
Cement masons & Plasterers	9.55		.25	.35	
Sherburne County					
Cement Masons	10.13	.60	.60		
Plasterers	10.00	.70	.25	.65	.01
Site Prepatation, Excavation & Incidential Paving					
Sherburne County	10.13	.60	.60		
Benton & stearns Counties	9.90			.25	

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CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault Co., & Remainder of Freeborn No.:					
Cement Masons & Plasterers	$ 9.28	.57	.25		
Site preparation, Excavation & Incidentsl Paving					
Blue Earth County	10.10				
Fairbault Co.; Freeborn Co: (West of a line running North & South from Geneva to Gordonsville)	9.43	.42	.25		
Mower Co. & Remainder of Freeborn County	9.50	.35	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	8.45	7½%	6%	10%	1%
Jobs within a 5 mile radius of Mankato $50,000 & over	10.60	7½%	6%	10%	1%
Freeborn & Mower Counties $75,000 or more	10.65	.60	3%	6%	.25%
$75,000 or less & Residential	8.52	.60	3%	6%	.25%
ELEVATOR CONSTRUCTORS:					
Blue Earth County					
Constructors	10.87	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Blue Earth County	8.20				
Remainder of Counties	10.00				
IRONWORKERS	11.65	.75	.60		.04
LABORERS: Building					
General Laborers & Carp. Tender	8.50	.20	.15		
Mason tenders & Vibrator Oprs.	8.60	.20	.15		
Mortar Mixers	8.65	.20	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	10.355	.555	.33		
Terrazzo Workers	10.79	.64	.25		
Tile Setters	10.75	.62	.50		
Marble Setters' Finishers	9.35	.37	.50		
Tile Setters Finishers	9.90	.62	.50		

DECISION NO. MN78-2119

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Mower County					
Brush	$ 9.50	.37	.25		.08
Spray	10.00	.37	.25		.08
Remainder of Counties					
Brush	9.90	.60	.15		.11
Spray	10.40	.60	.15		.11
Structural Steel	10.90	.60	.15		.11
PLUMBERS & STEAMFITTERS:					
Blue Earth County	11.72	.53			.05
Remainder of Counties	11.61	.30	.20		.02
ROOFERS:					
Mower County	9.62		.20		
Remainder of Counties	9.95	.55			
SHEET METAL WORKERS	10.74	.52	.33		
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	8.50				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 8% BHR for over 5 years service & 6% BHR for under 5 years service as Vacation Pay. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day and Day after Thanksgiving

NOTICES

47439

DECISION NO. MN78-2119

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atomspheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam
CLASS 5 - Leadman
CLASS 6 - Nozzle (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

DECISION NO. MN78-2119

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN78-2119

MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	10.25	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge Oper. (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing earthwork & bituminous, Locamotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Straddle carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic

DECISION NO. MN78-2119

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrc , gunite op. gunall, lead greader on truck or rack, loaderop., power actuated Augers and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similat HP with power take-off)
GROUP 7 - Brakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2119

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Fairbault County	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2119

MINN-7-TD

TRUCKD RIVERS: SITE PREPARATION, EXCAVATING & INCIDENTIAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2119

MINN-55-TD

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: South Carolina

COUNTIES: Berkeley, Charleston, & Dorchester

DECISION NUMBER: SC78-1087

DATE: Date of Publication

Supersedes Decision No. SC75-1055 dated May 23, 1975 in 40 FR 22785.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$7.50				
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS	6.54				
CARPENTERS	6.90				
CEMENT MASONS	6.25				
ELECTRICIANS	7.50				
GLAZIERS	4.94				
IRONWORKERS	7.50				
INSULATORS	7.50				
LABORERS, unskilled	3.24				
LATHERS	7.00				
MARBLE SETTERS	3.75				
MILLWRIGHTS	7.50				
PAINTERS:					
Brush	4.00				
Spray	3.89				
PLASTERERS	6.25				
PLUMBERS & PIPEFITTERS	7.50				
ROOFERS	4.52				
SHEET METAL WORKERS	6.08				
SOFT FLOOR LAYERS	4.25				
SPRINKLER FITTERS	8.25	.75	1.05		.08
TILE SETTERS	6.00				
TRUCK DRIVERS	3.57				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidential.					
POWER EQUIPMENT OPERATORS:					
Backhoes	5.41				
Blade graders	6.75				
Boom trucks	6.35				
Bulldozers	4.00				
Cranes, derricks, & draglines	7.15				
Finishing machines	5.25				
Fork lifts	5.35				
Front end loader	4.32				
Gradalls	6.75				
Mechanics	6.25				

DECISION NO. SC78-1087 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd):					
Motor graders	$4.50				
Oilers	5.50				
Piledrivers	6.50				
Scraper-pans	3.45				
Tractors	6.35				
Trenching machines	3.65				

SUPERSEDEAS DECISION

STATE: Virginia COUNTIES: Amelia, Brunswick, Charles City Chesterfield, Dinwiddie, Goochland Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince George and the city of Richmond

DECISION NO.: 78-VA-3072

DATE: Date of Publication

Supersedes Decision No. AR-2032, dated August 30, 1974, in 39 FR 31871

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	4.11				
CARPENTER, STRUCTURE	5.17				
CARPENTER HELPER, STRUCTURE	4.00				
CONCRETE FINISHER	5.01				
CONCRETE FINISHER HELPER	4.00				
ELECTRICIAN	11.24	5%	3%		4%
FORM SETTER ROAD	4.00				
GUARDRAIL/FENCE ERECTOR	4.00				
IRON WORKER, REINF.	5.43				
IRON WORKER, REINF. HELPER	5.02				
IRON WORKER, STRUCTURAL	9.75	.55	.50		.05
LABORER, UNSKILLED	3.52				
LANDSCAPE WORKER	5.65				
MECHANIC	5.00				
MECHANIC HELPER	4.56				
PAINTER	4:54				
PILE DRIVER LEADSMAN	6.74				
PIPE LAYER	3.95				
SIGN ERECTOR	3.50				
ASPHALT DISTRIBUTOR OPERATOR	4.66				
ASPHALT PAVER OPERATOR	4.43				
BACKHOE OPERATOR	5.11				
BULLDOZER OPERATOR	5.01				
BULLDOZER OPERATOR (UTILITY)	4.67				
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	6.02				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	6.02				
DRILL OPERATOR	5.62				
FORM GRADER OPERATOR	6.00				
LOADER OPERATOR (2 YDS. & UNDER)	4.68				
LOADER OPERATOR (OVER 2 YDS.)	4.68				
MOTOR GRADER OPERATOR (FINE GRADE)	5.28				
MOTOR GRADER OPERATOR (ROUGH GRADE)	5.28				
PILE DRIVER OPERATOR	5.09				
POWER TOOL OPERATOR	5.83				
ROLLER OPERATOR (ROUGH)	3.85				
ROLLER OPERATOR (FINISH)	4.23				
SCRAPER PAN OPERATOR	4.50				
SHOVEL OPERATOR (1 YD. & UNDER)	5.25				
STABILIZER OPERATOR	4.13				

DECISION NO. 78-VA-3072 PAGE 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STONE SPREADER OPERATOR	4.50				
TRACTOR OPERATOR (CRAWLER)	3.86				
TRACTOR OPERATOR (UTILITY)	4.50				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	3.94				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	3.94				
TRUCK DRIVER (MULTI-REAR AXLE)	3.61				
TRUCK DRIVER (SINGLE-REAR AXLE)	3.61				

SUPERSEDEAS DECISION

STATE: Virginia LOCATION: Radford Army Ammunition Plant

DECISION NO.: VA78-3073 DATE: Date of Publication

Supersedes Decision No. VA78-3040 dated May 5, 1978 in 43 FR 19579

DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.58	.70	.65		.01
BOILERMAKERS	10.70	1.00	1.00		.02
BRICKLAYERS	8.50				
CARPENTERS	8.20	.35	.30		.02
CEMENT MASONS	5.95				
ELECTRICIANS	9.50	.50	3%		4%
IRONWORKERS:					
STRUCTURAL AND REINFORCING	9.30	.60	.65		.03
LABORERS:					
COMMON LABORERS	5.50	.25	.25		.05
MASON TENDERS	5.60	.25	.25		.05
AIR TOOL OPERATORS	5.75	.25	.25		.05
LATHERS	8.25				
MILLWRIGHTS	10.60	.35	.30		.02
PAINTERS:					
BRUSH	7.55	.35	.30		
SPRAY	7.95	.35	.30		
PLUMBERS AND PIPEFITTERS	9.75	.35	.65	.25	.05
SHEET METAL WORKERS	9.55	.30	.55		.04
SPRINKLER FITTERS	9.48	.65	.95		.08
POWER EQUIPMENT OPERATORS:					
BACKHOE OPERATORS	7.29				
BULLDOZER OPERATORS	9.49	.45	.55	a	.03
CRANE OPERATORS	7.62				
OILERS	4.88				
ROLLERS	7.75	.45	.55	a	.03
PILEDRIVERS	6.32				

FOOTNOTE:

a. Paid Holidays: New Year's Day; Memorial Day; Labor Day; Independence Day; Thanksgiving Day and Christmas Day provided the employee works the regularly scheduled work day before and after the holiday

[FR Doc. 78-28794 Filed 10-12-78; 8:45 am]

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Federal Register

FRIDAY, OCTOBER 13, 1978
PART III

DEPARTMENT OF INTERIOR

Heritage Conservation and Recreation Service

FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

Implementation of Executive Orders 11988 and 11990

V 43 / 199 OC 13 78

PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR Page No.
Interior Department, Bureau of Land Management	Sept. 28	44793
Commerce Department, Office of the Secretary	Sept. 29	45284
Transportation Department, Office of the Secretary	Sept. 29	45286
Nuclear Regulatory Commission	Oct. 6	46496

[4310-03-M]

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

FLOODPLAINS AND WETLANDS EXECUTIVE ORDERS

Availability for Public Comment on Heritage Conservation and Recreation Service Procedures for Implementation

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Draft procedures.

SUMMARY: The Heritage Conservation and Recreation Service is making available for public review and comment the procedures it proposes to use to implement Executive order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

DATE: Comments or suggestions should be submitted in writing no later than November 13, 1978.

ADDRESS: All comments should be sent to the Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis E. Reid, Jr., Chief, Office of Environmental Affairs, Heritage Conservation and Recreation Service, Washington, D.C. 20240, phone 202-343-5711.

SUPPLEMENTARY INFORMATION: In furtherance of the National Environmental Policy Act of 1969, as amended, the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, in order to avoid to the extent possible the long-and short-term adverse impacts associated with the occupancy and modification of the floodplain and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, the Heritage Conservation and Recreation Service shall provide leadership and shall take action to reduce the risk of flood loss to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring and disposing of Federal lands and facilities, (2) providing federally financed or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related resource planning.

Executive Order 11988, Floodplain Management, affirmed that it is administration policy to protect and enhance the natural and beneficial values of floodplains and actively to discourage noncompatible development. Executive Order 11990, Protection of Wetlands, recognized that the Nation's remaining wetlands are a valuable national resource. All Federal agencies must take all appropriate actions to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11988 (43 FR 6030, Feb. 10, 1978) provide basic implementation guidelines. The Heritage Conservation and Recreation Service's draft procedures, based on the Department of the Interior's draft procedures, apply the Water Resources Council's guidelines to various Heritage Conservation and Recreation Service programs. A proposed Directive described in this notice will guide the agency's employees in assuring that their actions further the intent and purpose of both Presidential Executive Orders.

The notice also contains draft changes to be made in existing Heritage Conservation and Recreation Service manuals and other operational guidelines.

HERITAGE CONSERVATION AND RECREATION SERVICE COMPLIANCE WITH EXECUTIVE ORDERS 11988 (FLOODPLAIN MANAGEMENT) AND 11990 (PROTECTION OF WETLANDS)

The Heritage Conservation and Recreation Service (HCRS) has examined its procedures, regulations, and policies as required by Executive Orders 11988 and 11990. The following actions are being taken to assure that all of the agency's actions are in compliance with these orders.

1. A Directive implementing the guidelines will be issued in November by the Director of HCRS and sent to all HCRS offices.

This will require essentially similar treatment for the proposed actions in floodplains or wetlands and will state that:

a. It is the policy of the Heritage Conservation and Recreation Service to insure that its recreation, historic, archeological, and architectural projects are compatible with preservation and restoration of the natural and beneficial values of floodplains and wetlands. Whenever there is a reasonable alternative, the Agency will not undertake, support, or permit activities under its authorities that would cause adverse impacts on the natural or beneficial values of floodplains or wetlands.

b. The planning concepts outlined in Part II—Decisonmaking Process of the U.S. Water Resources Council's Floodplain Management Guidelines (43 FR 6030, Feb. 10, 1978)—will be used in planning all Heritage Conservation and Recreation Service activities affecting floodplains and wetlands.

C. Environmental Assessments or Environmental Impact Statements are to be prepared for all actions proposed in floodplains or wetlands. These will state direct and indirect impacts of the actions on floodplains and wetlands and the alternatives considered. The Environmental Assessments or Environmental Impact Statements for activities or elements of activities which will result in construction in a floodplain or wetland, or otherwise affect their natural or beneficial values, will also state the degree of risk to the public investment, safety, and whether or not an alternate location or course of action could accomplish the proposed objectives. Where applicable, the assessment or statement will outline steps to be taken to minimize harm to existing facilities and to the natural and beneficial values of floodplains or wetlands.

d. Rehabilitation of idle structures and rehabilitation projects incorporating significant enlargements that will result in changes in existing natural values associated with the wetland or floodplain area require compliance with the guidelines (this includes all historic preservation projects and some Land and Water Conservation Fund projects). This requirement is not applicable to normal maintenance.

e. The Heritage Conservation and Recreation Service will prepare and circulate notices of intent to conduct, support, or allow actions in floodplains or wetlands, or cause such notices to be prepared and circulated. The notice will (1) explain concisely why the proposed action is to be taken in a floodplain or wetland, (2) provide a list of expected environmental impacts of the action as a part of a brief summary of the environmental effects, (3) state that the action conforms to applicable State and local floodplain and wetland protection standards and to the requirements of Executive Orders 11988 and 11990, and (4) provide a simple location map. The notice also must state where the environmental assessment and additional information on the project are available for inspection or can be obtained. The notice must not exceed three pages in length; it also will serve as the notice for A-95 clearinghouses.

When circulation of the notices results in receipt of adverse comments, HCRS will send copies of the notices, statements of findings, and NEPA documents on the proposed activities to the office of the following agencies

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nearest the site of the proposed action: Environmental Protection Agency; Federal Insurance Administration; U.S. Geological Survey; Bureau of Reclamation (western States only); Corps of Engineers; soil Conservation Service; and the Fish and Wildlife Service.

f. both Executive Orders require that public comments be solicited for all projects. They state that opportunity must be provided "* * * for early public review of any plans or proposals for actions * * * whose impact is not significant enough to require the preparation of an environmental impact statement * * *." Similar public involvement is necessary, of course, when an environmental impact statement is required. forthright solicitation of suggestions and comments from the public is necessary. In cases where proposed development is in accordance with plans which have already undergone documented public review, the requirement may be considered to have been fulfilled. A sound public information effort might still be worthwhile, especially when considerable time has elapsed since approval of plans. Public information programs in these circumstances will be conducted at the option of offices originating the proposed actions. In all cases, press releases will be prepared for local dissemination. These will describe the proposed action and urge the public to provide its views to the Heritage Conservation and Recreation Service or the project sponsor. The press release also may be sent to nearby local governmental bodies, adjacent property owners, and other concerned individuals and organizations such as Federal agencies, State agencies, conservation groups, farm and taxpayer organizations, and historic and preservation organizations.

For projects where substantial citizen interest is expected, a public meeting should be considered during the early planning stage to allow a full discussion of the issues. Environmental documentation must be made available for the public meeting if one is to be held. A record of public information efforts and a summary of comments received must be maintained in the project files. the office originating and/or approving the proposed action will determine whether the public concern is substantial enough to warrant convening a public meeting.

g. Requests for new authorizations or appropriations for proposals in or potentially affecting floodplains or wetlands must be justified by a statement that the proposals comply with the intent of the Executive Orders.

h Step 7, Part II, of the Water Resources Council Guidelines describes the process for issuing statements of findings and explains to the public why projects will, after consideration of alternatives, be located in floodplains. Final project documents must identify actions the Heritage Conservation and Recreation Service proposes to undertake. The Statement of Findings can be included in final environmental impact statements or in findings of no significant impact.

i. any new legislative mandates which are issued to the Service will be reviewed and analyzed for compliance with the Executive Orders. Floodplain Management and Protection of Wetlands principles will be made part of any new programs that are applicable.

j. In accordance with the documentation requirements of the Executive Orders, the various Service programs affecting Floodplans and/or Wetlands must include provisions for keeping records on any project located in the floodplain or wetland. Most important is the type of project and the number of acres affected.

k. When questions or problems arise concerning a project to be located in a floodplain or wetland, it is HCRS policy to consult with WRC, CEQ, FIA, COE or other government agency with expertise concerning the subject.

2. Section 660.2.3(H)(2) of the Outdoor Recreation Grants-in-Aid Manual used by the States when applying for Land and Water Conservation Fund assistance will be amended to read:

a. All projects must comply with the intent of Executive Order 11988, Floodplain Management, and 11990, Protection of Wetlands, and with the U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11988 (43 FR 6030, February 10, 1978).

b. The environmental assessment for all development projects must state whether or not there will be an impact on floodplains or wetlands.

c. Direct or indirect Fund support of floodplain development or of new construction in wetlands should be avoided when there is an adverse impact on the natural and beneficial values and practicable alternatives exist. This also includes the rehabilitation of idle structures or significant enlargement of existing facilities. Normal maintenance and rehabilitation of functioning structures or facilities are not included.

d. When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will reduce the risk of flood loss in a floodplain, minimize the destruction or degradation of wetlands, and preserve and enhance their natural and beneficial fish and wildlife values.

e. Acquisition projects for the future establishment of facilities which do not impede floodwaters or disturb wetlands are normally consistent with the intent of the Executive Orders and are excluded from these procedures. However, these procedures will apply to acquisition projects for future development which may have an adverse effect on the natural and beneficial values of the floodplain or wetland.

f. the environmental documentation shall include:

(1) The extent of the direct and indirect impacts.

(2) Measures to be taken to minimize the adverse impacts.

(3) alternative actions and locations considered in the event of an adverse impact.

(4) Acknowledgement that all State and local floodplain and wetland regulations and standards are being met.

g. The project sponsor shall insure that the general public has an opportunity for early review of the development plans or proposals for actions affecting floodplains or wetlands. In all cases, a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide their views to the project sponsor. it shall expressly state that the proposed site is in a floodplain or wetland.

h. The project sponsor or the State shall include a copy of the press notice and public comments received, the Notice of Intent, and the proposed environmental assessment with the project information submitted to A-95 clearinghouses for review. In addition to (f) above, the assessment shall explain why the proposed action is to be taken in the floodplain or wetland and include a simple location map.

i. When adverse comments have been received as a result of the A-95 review process or early public review, the HCRS Regional Office will forward copies of all notices and NEPA documents to the Regional or Field Offices of the Federal agencies noted above.

j. The Service's Step 7 Statement of Findings will be incorporated into the EIS or negative declaration by the Regional Office when alternative actions have been considered during project review.

k. State Comprehensive Outdoor Recreation Plans must address the requirements and goals of the Floodplains and Wetlands Executive Orders (Section 630 of the G-I-A Manual).

3. Subject to regulations to be issued by the General Services Administration respecting the disposal of Federal real property and implementation of E.O. 11988 and 11990, Program Directive 120-1-1 is proposed to be added to the Surplus Property Handbook and application instructions related to P.L. 91-485 and amending the Federal Property Act.

It will state that:

a. All surplus property applications must comply with the intent of Executive Order 11988, Floodplain Management, and 11990, Protection of Wetlands, and with the U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11988 (43 FR 6030, February 10, 1978).

b. The environmental assessment for all development proposals must state whether or not there will be an impact on floodplains or wetlands.

c. Proposed developments and/or construction in wetlands should be avoided when there is an adverse impact on the natural environment and beneficial values and practicable alternatives exist. This also includes the rehabilitation of idle structures or significant enlargement of existing facilities. Normal maintenance and rehabilitation of functioning structures or facilities are not included.

d. When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will reduce the risk of flood loss in a floodplain, minimize the destruction or degradation of wetlands, and preserve and enhance their natural and beneficial fish and wildlife values.

e. Applications to acquire Surplus Property for passive recreational facilities normally are consistent with the intent of the Executive Orders and are excluded from these procedures.

f. The environmental documentation shall include:

(1) The extent of the direct and indirect impacts.

(2) Measures to be taken to minimize the adverse impacts.

(3) Alternative actions and locations considered in the event of an adverse impact.

(4) Acknowledgement that all State and local floodplain and wetland regulations and standards are being met.

g. The project sponsor shall insure that the general public has an opportunity for early review of the development plans or proposals for actions affecting floodplains or wetlands. In all cases, a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide its views to the project sponsor.

h. The applicant shall include a copy of the proposed environmental assessment with the application submitted to the appropriate Regional Office for review and approval prior to the Service's request for assignment of the property from the General Services Administration. In addition to (e) above, the assessment shall explain why the proposed development is to be located in the floodplain or wetland and shall include a simple location map.

i. When the General Services Administration provides the Service with adverse comments received as a result of the A-95 review process or early public reviews, the HCRS Regional Office will forward copies of all notices and NEPA documents to the Regional or Field Offices of the following Federal agencies: Environmental Protection Agency, Federal Insurance Administration; U.S. Geological Survey; Bureau of Reclamation (western states only); Corps of Engineers; Soil Conservation Service; and the Fish and Wildlife Service.

j. The Service's findings will be forwarded to the appropriate GSA Regional Office for incorporation into Environmental Impact Statements, assessments, or statements of no significant findings by the GSA Regional Office when alternative actions have been considered during the project review.

4. Except where extreme conditions dictate otherwise, the HCRS Division of Resource Area Studies will recommend measures which protect, restore and/or enhance the recreation, natural, and cultural values which floodplains and wetlands offer. The Division of Resource Area Studies will not recommend support or approve of actions which will impact floodplains and wetlands adversely except where there is no practical alternative.

Relevant programs and interests under the purview of the Resource Area Studies Division include natural area studies and involve plans, reports, and recommendations stemming from such studies and the review of reports, projects, and recommendations of other studies which the Division comments upon or which it assists in preparing.

LOUIS E. REID, JR.,
Chief, Office of Environmental Affairs.

[FR Doc. 78-29177 Filed 10-12-78; 8:45 am]

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federal register

FRIDAY, OCTOBER 13, 1978
PART IV

DEPARTMENT OF LABOR

Mine Safety and Health Administration

HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

Final Rules

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[4510-43-M]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER H—EDUCATION AND TRAINING

PART 48—HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

Final Rule

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: Section 115 of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires each mine operator to have a health and safety training program for miners, which must be approved by the Secretary of Labor (Secretary), and requires the Secretary to publish rules governing such programs. These rules implement section 115 (a), (b) and (c) of the Mine Act by setting forth the requirements for obtaining approval of training programs and specifying the kinds of training, including refresher and hazard training, which must be provided to miners. These rules are intended to insure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal of reducing the frequency and severity of injuries in the Nation's mines.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry L. Schell, Office of Education and Training, Room 514, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1515.

SUPPLEMENTARY INFORMATION:

Statutory and Rulemaking Background

The Mine Act, Pub. L. 91-173, as amended by Pub. L. 95-164, applies to coal, metal, and nonmetal mines. The Secretary is responsible under section 115(a) of the Mine Act for promulgating regulations with respect to health and safety training programs for miners. The Secretary has therefore established a new subchapter H of chapter I of title 30 CFR containing this new part 48.

An advisory committee was established in accordance with sections 101 and 102(c) of the Mine Act in order to assist the Secretary in the development of the proposed rules on mine health and safety training. The committee held two series of meetings in March and April 1978 in which the public participated, and submitted recommendations to the Secretary. The proposed rules, which adopted with a few changes the advisory committee's recommendations, appeared in 43 FR 30990-30999 (July 18, 1978) and a correction of the proposed rules appeared in 43 FR 34504-34505 (August 4, 1978). Interested persons were given an opportunity to submit comments until August 23, 1978, and were notified that hearings would be held on the proposed rules. The hearings were held in Charleston, W. Va., St. Louis, Mo., and Phoenix, Ariz., on August 14, 16, and 18, 1978, respectively. A total of 36 witnesses presented testimony. In addition, the Mine Safety and Health Administration (MSHA) has received and reviewed over 240 written comments and statements from interested persons.

Discussion of Comments and Changes

1. *General discussion.* The predominant concern expressed by the mining industries, particularly the metal and nonmetal industries, in testimony and written comments, was that the proposed rules, if adopted and applied, would be extremely burdensome and costly to implement, forcing many small operations to curtail production during training periods or go out of business altogether, and resulting in substantial increases in the prices of mined materials. A related concern was that the rules, as proposed, were neither tailored to fit the needs of the various types of mining operations nor flexible enough to be adaptable to those needs.

The first year costs of the training requirements contained in the Mine Act and these final rules will total approximately $125 million for all mining industries. A discussion of economic issues is contained under the heading "Economic Analysis" in this preamble. Congress recognized that "miner training may strain the financial resources of many small operators." Conference Report No. 95-461, 95th Cong., 1st sess. 63 (1977). To help alleviate this burden, Congress directed the Secretary "to maintain a flexible approach in approving * * * training programs * * *." Conference Report No. 95-461, supra at 63.

In keeping with this mandate, the mining industries can be assured that MSHA will make every effort to be flexible in carrying out its responsibilities with respect to training in order to be as responsive as possible to the needs and circumstances of the various segments of the mining community and of individual operators. Several of the changes made in these final rules reflect that intention.

There was also concern expressed that, in attempting to comply with the date Congress established in section 114 of the Mine Act for publication of the final rules, MSHA would not be able to review and consider thoroughly the testimony and comments received on this important proposal. MSHA has a fundamental responsibility to comply with this congressional directive to the maximum extent feasible without compromising the basic objective of the rulemaking process, which is to develop and implement rules which have a rational basis, are effective and are responsive to the concerns of the affected public. MSHA believes that this balance has been achieved in these rules; it has studied the public response carefully and appropriate changes have been made.

However, MSHA wishes to emphasize that it is sensitive to the uncertainty and anxiety with which these new training requirements are being met. As experience is gained under the program, changes in these rules and in the procedures MSHA uses to implement them may prove to be desirable or even necessary. Therefore, MSHA encourages continued public response on these matters in order to assess the need for possible revisions and to provide the most effective training to the Nation's miners without unduly burdening the affected industries.

2. Discussion of Major Issues

a. *Definition of "miner."* The most frequently raised criticism of the proposed rules was that the definition of the term "miner" was too broad and vague and that coverage under these rules should be more precisely drawn. MSHA agrees. The language in the proposed rule which would have included "any person whose duties require" either being underground in subpart A or the person's presence at the mine in subpart B has been eliminated.

(i) Subpart b—surface mines and surface areas of underground mines. With respect to surface operations, MSHA generally agrees with the comments suggesting that only those workers who are regularly exposed to the many hazards associated with the mining industry need receive the full range of training. It is those workers who Congress sought to insure would be fully apprised of those hazards and familiarized with safe work practices at the time work duties begin. Accordingly, the final rule requires that, in addition to those workers actually performing extraction or production functions, most maintenance and service workers and workers whose duties require a substantial presence at those locations in the mine where extraction or production occurs and who are thereby exposed on a frequent basis to the risks at those areas should also receive the comprehensive training set

forth in the rules. Such workers would include, for example, dragline oilers and haulage workers transporting minerals from the pit areas through preparation stages to storage facilities.

The proposed rule excluded "nonproduction and nonmaintenance personnel" from the definition of "miner" in § 48.22(a). In reappraising the definition based upon the comments received, MSHA has determined that certain changes are appropriate with respect to the proposed exclusion. While only those persons most directly and regularly exposed to mining hazards need to undergo comprehensive training, other workers at the mine, such as scientific, office, or delivery personnel, either employed or contracted by the operator, or short term maintenance or service personnel contracted by the operator are exposed to certain mine hazards on a less regular basis in performing duties ancillary to or supportive of extraction or production. Such workers, if not given any training, could expose not only themselves but other miners to unnecessary risks. These workers should, therefore, have periodic instruction concerning the hazards they may encounter from time to time at the extraction or production site. Accordingly, MSHA has added sections to subpart B which would require the operator to acquaint such individuals with the specific hazards they may confront at the mine. It is contemplated that this should not generally require classroom instruction and may often consist of an instructional sheet distributed to the worker containing a "checklist" of hazards. It may be that certain workers in these categories, depending on the nature and location of their duties, are exposed to no significant mining hazards at a particular mine. Examples might include the person who refills the vending machines or certain clerical employees. However, MSHA expects a realistic appraisal by the operator of the hazards associated with such jobs. The operator should certify that such workers have received this instruction and should include the proposed method for providing this instruction in the training plan.

Also subject to this type of hazard training under these final rules are students who are not purely short-term visitors but whose work may require their presence at the mine for more than one day for the purpose of fulfilling academic or professional requirements. Such projects might include geological studies conducted by geology students or the development of a reclamation plan by landscape architecture students. These types of projects require the student to spend some time at the mine site to collect information. Such a person should be instructed in the hazards he or she may confront or present to others while on mine property.

Confusion was also expressed concerning the status of visitors to the mine, such as corporate or government officials, or students on a field trip. These types of persons are not covered by these rules. However, it is expected and the comments and testimony reflect that such persons will be accompanied by experienced miners and will be provided appropriate safety equipment.

Many commenters suggested that other categories of mine workers, such as short-term workers, seasonal workers, and vacation student workers be exempted from the surface training requirements. These workers are exposed to the same hazards, present the same hazards and need the same training as other similarly situated "long-term" workers. The need for training is usually not diminished, and may, in fact, be increased because such workers are slated for a short work tenure. Accordingly, short-term workers should generally receive the same training as other miners, with the exceptions discussed above.

(ii) Subpart A—underground mines. MSHA generally believes that the same distinctions discussed above with respect to the training of surface miners are also applicable to underground miners. For example, those engaged in the extraction or production process are required to undergo the comprehensive training prescribed in §§ 48.5 through 48.8, as applicable. Mine personnel, such as office personnel, who are not regularly exposed to mining hazards and who may go underground during the course of their duties are required to have periodic instruction concerning the hazards they may encounter and must, in addition, be accompanied at all times while underground by an experienced miner. Accompaniment is believed to be necessary because of the more hazardous conditions which generally exist in underground mines. Although visitors are not, per se, covered under these rules, it is likewise expected that such persons will be provided with and given instruction in the use of appropriate safety equipment and will be accompained at all times while underground by an experienced miner.

(iii) Training of nonemployees. Mining industry representatives contended that an operator should not be responsible for training workers who are not employed by the operator. Nothing in the Mine Act removes from the operator the primary responsibility for the health and safety of all miners on mine property. The operator has control not only over his own employees but, either directly or indirectly, over those with whom he contracts and allows to perform work on mine property. The operator remains ultimately responsible for, and is the beneficiary of all work done at the mine. Moreover, in the specific area of training, an operator can best assure that all miners working at his mine receive systematic training consistent with the health and safety needs and conditions existing at the mine. Accordingly, except with respect to those independent contractors that may be identified as operators under rules currently being developed, operators will be primarily responsible for training workers on mine property.

A somewhat unique problem exists with certain specialized contract production and extraction workers, particularly drillers and blasters, who come onto mine property for short duration to perform their tasks and then move to other sites. Since these workers are unquestionably engaged in the extraction process, they would ordinarily be subject to the full training requirements of §§ 48.5 through 48.8 or §§ 48.25 through 48.28. MSHA believes such workers should be subject to "new miner" training if they are inexperienced or to "new task" training if they are new to the specialty. However, it would not serve any useful purpose to require such individuals to undergo newly employed experienced miner training each time they go to a new job for a few days. They are skilled at their particular tasks and need only be acquainted with the specific hazards they may encounter at the mine site. Accordingly, they will be required to take only hazard training, discussed previously. However, it will be necessary for this category of worker to take annual refresher training, at least with respect to those subjects which are not mine-specific, such as first aid.

b. *Full training of new miners prior to commencement of work duties.* There was strong opposition from the nonmetal mining industry concerning the requirement in the proposed rule that the 24 hours of new miner training under subpart B must all be given prior to the commencement of job duties. There was very little resistance to an identical provision with respect to the 40-hour inexperienced miner training requirement for underground mines. The comments came primarily from and on behalf of smaller surface operations for whom this requirement would work particular hardship due to the inability to hire or spare employees for training purposes and the often high employee turnover rates. MSHA is sensitive to the economic hardships that many provisions of the Mine Act may have upon small operators and seeks to be responsive to the congressional directive to minimize

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the adverse impact of the training requirements.

The testimony and comments received on this issue focus almost exclusively on the adverse economic impact of this requirement rather than the effect a change in the proposed requirement might have upon health and safety of new miners. MSHA remains convinced that in most cases, the health and safety of miners is best served by requiring the inexperienced miner to be fully trained in the subjects delineated in the rules prior to commencing job duties. However, in response to the genuine concern expressed in the record by small surface mine operators, the final rules have been changed so that MSHA may permit, in appropriate cases, as determined by the Training Center Chief, new surface miners to receive up to 16 hours of training within 60 days after assignment to work duties: *Provided*, That at least 8 hours of training is furnished prior to the commencement of work duties. In such cases, to insure that the miner is familiarized with the job environment and associated hazards the initial 8 hours of training shall include the following courses: Hazard recognition, introduction to work environment, and health and safety aspects of the tasks the new miner will be assigned. In addition, until the new miners affected by this provision have received the full 24 hours of training, they must always work under the close supervision of an experienced miner. An operator must submit a request to the training center as part of the proposed training plan in order to be permitted to take advantage of this exception to the usual rule. The training center will consider such factors as the size and the safety record of the mine and the rate of employee turnover at the mine.

c. *MSHA-approved instructors.* Many commenters questioned the necessity for having instructors approved by MSHA. Instead, it was suggested that a "competent person" be required to give the instruction for purposes of training new miners, training newly employed experienced miners, and providing annual refresher training for all miners.

MSHA believes that it is essential for a person who is going to be responsible for instructing miners concerning the health and safety aspects of their jobs to be highly qualified, not only in the particular subject matter he or she proposes to teach, but in the skills an instructor must have in order to teach that subject effectively. The testimony and comments have not persuaded MSHA that there is an acceptable alternative method to insure that those goals are met, and these rules retain the requirement for MSHA approval of instructors.

The comments reflect a great deal of concern and confusion about how instructors will be approved and whether MSHA has the capabilities to insure timely training of instructors. MSHA is making every effort to provide a flexible system of instructor approval in order to meet the expected demand.

There are two basic types of instructor courses offered by MSHA. One will enable an individual to train miners. The other will enable an individual to be approved by MSHA to train other instructors, who will then be able to train miners but not additional instructors. For example, an industry association in a State could make arrangements for a certain number of individuals to receive instructor training and approval from MSHA. These persons would then be able to return to their State to give instructor training to skilled persons in particular subject matter areas, e.g., electrical. These skilled individuals could then write to MSHA, describing their experience in the particular subject matter and provide proof of having received instructor training. Based upon this submission, these persons would be approved by MSHA to provide training of miners under these rules.

It may also be possible for an instructor to receive approval by requesting MSHA to have a representative attend classes of a prospective instructor and provide approval based upon performance at the classes. Such a request should be made a part of the operator's proposed training plan. MSHA's resources do not permit the frequent use of this method of approval. Therefore, the operator should demonstrate, based upon such factors as the size of the mine, remoteness from a training center, and other relevant considerations, that utilizing other methods of instructor approval would work an extreme hardship on the operator. Utilization of this method of instructor approval will be at the discretion of the training center.

In addition, if a person already has taught courses or given health and safety workshops or seminars or has other comparable experience, it may not be necessary to take the MSHA instructor training course. Such a person may receive approval based solely on qualifications and teaching experience.

d. *Submission of proposed plan to miners' representatives.* Many comments were received objecting to the inclusion of the miners' representative as the recipient of an operator's proposed training plan 2 weeks prior to submission to the Training Center Chief for approval, and the participation of the miners' representatives in consultations over required revisions of the training plan. Congress recognized that an active participation by MSHA, the operator, and the miner were necessary to maximize the health and safety benefit derived from the mandated training program. Numerous references to the "representative of miners" throughout the Mine Act evidence the importance of involving the miner in all aspects of mine health and safety. Nowhere does the Mine Act either explicitly or implicitly limit the participation of the representative of miners only to the enumerated situations in the Act. A miner's intimate knowledge of health and safety conditions at his particular mine, and his instinctive concern for his fellow miners, make the representative of miners an ideal resource in the formulation of an effective training plan. Indeed, MSHA would be remiss in attempting to fulfill its statutory obligation to insure that the training plan submitted by the operator would afford adequate training to miners if it failed to include the representative of miners in the approval process.

3. DISCUSSION OF OTHER SIGNIFICANT ISSUES

a. *Course requirements.* Commenters expressed concern that the language of the proposed rules appeared to require all operations, including milling or other production facilities covered by the Mine Act, to give instruction in all of the delineated courses even if some of the courses are not applicable to conditions at the mine. This was not intended and clarifying changes have been made. Most of the courses enumerated will generally be applicable to most mining operations. However, MSHA does not expect workers engaged solely in milling operations, for example, to be trained in highwall and ground control plans. The operator needs only to include in the proposed training plan those courses which are relevant to conditions at the site and should add those courses, not outlined in the rules, which would be important for the workers at the facility involved. MSHA intends to adopt a practical approach to course requirements.

b. *Coverage of the rules.* These rules are applicable to all facilities which are covered under the Mine Act. MSHA does not have the authority to exempt or exclude operations otherwise covered by the Act from the training requirements. Thus, milling, dredging, and clay winning operations are subject to these requirements. MSHA is aware that the scope of the Mine Act and these rules is broad and that each type of operation may have unique safety and health problems. MSHA encourages operators to contact MSHA's training centers in order to discuss the type of operations involved and the type of training program which may be appropriate to

meet the needs of the workers at that operation.

c. *New task training.* Questions were raised in the record about whether the training required for miners assigned new tasks (§§ 48.7, 48.27) could be incorporated into the 24 hours of new miner training or whether new miners are required to take new task training in addition to new miner training before commencing work assignments. The proposed rules discussed miners "assigned" to new tasks. In reviewing the Mine Act and the legislative history, MSHA has determined that, in the words of section 115 of the Mine Act, Congress was seeking to cover miners who are "reassigned" new tasks. The intent is to provide task training for experienced miners who are undertaking a new task assignment. Therefore, new task training is not a part of new miner training and does not have to be provided to new miners who are receiving the 24 hours of initial training. Under §§ 48.5(b)(13) and 48.25(b)(12), new miners will receive training in the health and safety aspects of their initially assigned tasks as part of the new miner training. Only if those miners are subsequently assigned to a new task do they have to take new task training.

d. *Certificate of training.* Commenters stated that MSHA should provide the certificates to be given to the trainee upon completion of training, and that miners who receive the training, as well as operators, should acknowledge the completion of the training course on the certificate. Although MSHA intends to supply the certification forms and will distribute them to MSHA field offices and operators as soon as the Government clearance process has been completed, it is the operator's statutory obligation to certify completion of the training on the forms. MSHA also believes that it is advisable, both for the protection of the miner as well as the operator, for the miner to sign the certificate.

e. *Approval of phases of the training plan.* Several complaints were voiced concerning the provisions of the proposed rule which would permit MSHA to approve "separate phases of the training program and withold approval of other phases * * *" (§§ 48.3(h)(2), 48.23(h) (2)). Commenters argued that the piecemeal approach to plan approval suggested by this language would result in chaotic and cumbersome implementation by an operator. The purpose of this provision is to provide MSHA with the flexibility to approve a major "phase" of the plan, referred to in the final rules as a "program," such as new task training or new miner training, even if there is a problem with another major "phase" or "program" such as annual refresher training. Each of these major programs of an operator's plan is discrete enough in application to be approved separately, if necessary, without disrupting the operator's overall training effort. MSHA does not believe that, under the circumstances, training under approved major programs of the plan should be delayed pending approval of the entire plan. MSHA does not intend to approve plans in phases except under the limited conditions just described. The proposed rule is therefore adopted with the nomenclature changes just discussed.

f. *Annual submission of refresher training schedule.* Sections 48.3(c)(7) and 48.23(c)(7) of the proposed rules would have required the annual submission of a "schedule" of refresher training information. It was argued by commenters that to require such annual reporting was administratively burdensome and that it would be extremely difficult to pinpoint from year to year precisely when refresher training might be given. MSHA agrees that it is important to maintain a flexible approach to refresher training in order that it might be offered at particularly appropriate times to be of maximum benefit. It is therefore unnecessary to submit the plan annually if no changes are being proposed. Under §§ 48.3(1) and 48.23(1), operators must notify MSHA and the representative of miners of proposed modifications in the refresher training schedule. In order to permit training center personnel to monitor all training classes, under §§ 48.3(e) and 48.23(e) operators must provide MSHA, upon request, with the times upcoming training classes are scheduled to be given.

g. *Reimbursement for costs of attending training.* Several commenters objected to provisions of proposed §§ 48.10 and 48.30 concerning compensation of miners for costs incurred if training is given somewhere other than the normal work site. MSHA agrees that the proposed language neither took into account certain possible alternative methods of transporting workers nor adequately reflected the provisions of section 115(b) of the Mine Act. Therefore, the final rule uses the language of the statutory provision and requires miners to be compensated for all actual "additional costs they may incur" in attending training sessions away from their work site.

h. *Explosives.* Commenters argued that the requirement in the proposed rules to have all miners receive instruction in the "handling of explosives" would actually have an adverse effect on the safety of the miners and would also be contrary to the practices of operators in the industry, who only allow handling of explosives by persons with specialized training in the handling and use of explosives. While all miners should receive a review of the hazards related to explosives, as required in §§ 48.5(b)(9), 48.8(b)(9), 48.25(b)(11) and 48.28(b)(9), MSHA agrees that "instruction in the procedures for the safe handling of explosives" should only be given to miners assigned to handle or use explosives. Therefore, this phrase has been deleted from the final rule.

Miners assigned to handle or use explosives will receive safety and health training for such assignments in new miner training and new task training, as applicable. Moreover this comports with the operator's responsibility of assuring that persons handling explosives are experienced or under the supervision of experienced persons and understand the hazards involved, and that explosives are used in a permissible manner, in accordance with §§ 15.19, 15.24 (note), 55.6-90, 56.6-90, 57.6-90, 75.1303 and 77.1303(a) of Title 30, Code of Federal Regulations.

MSHA emphasizes that the handling of explosives means the physical contact with explosives in any way, and includes the loading and unloading of explosives from vehicles, and the hauling of explosives from location to location at the mine site.

i. *Content of miners' rights course.* Several commenters were uncertain over the content of the course covering miners' rights. MSHA is providing and will continue to provide assistance in the development of a course that will deal with the statutory rights of miners. This course will be available to the operator and instructors and provide them with the content necessary to teach the course and provide sufficient information to the miners. In addition, MSHA's Office of Information is also in the process of developing a pamphlet dealing with the same subject.

Through both of these sources and through others who may develop materials on the same subject, MSHA believes that adequate information will be provided for clarification of course content. This does not, however, preclude the operator from developing his own materials should he feel the need to do so.

j. *Hazard recognition training.* Several commenters have suggested that the word "known" be inserted before course titles such as "hazard recognition" and "electrical hazards" because of possible legal repercussions that may result from such an omission. MSHA agrees that the courses should include known hazards at the mine. However, such courses should also include training in the recognition and avoidance of possible hazards beyond those that may have actually resulted in accidents or are obvious. Instruction should also be given with respect to

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potential hazards which are reasonably foreseeable under the circumstances at the mine. The scope of this type of instruction can be discussed with MSHA training center personnel in order to arrive at what it is reasonable to teach.

k. *Construction occuring underground.* It was suggested that the exclusion of workers engaged in the "sinking of slopes and shafts" should cover not only the actual construction of the slope or shaft itself, but the installation in the completed slope or shaft of such things as belts, track, hoists, loading equipment or other machinery prior to the time the mine is operational. This would mean that coverage under subpart A would be limited to the construction or repair of underground facilities while the mine is operational and the normal hazards associated with an operating mine are encountered. MSHA agrees that construction of facilities in the slope or shaft prior to commencing operations and the construction of major additions or facilities to an existing mine which require the mine to cease operations, should be covered under the same rules which govern construction workers generally. The training of most construction workers will be the subject of future rulemaking and this rule has been changed accordingly to cover only underground construction occuring while the mine is in operation.

l. *Revocation of instructors' approval.* A few commenters urged that due process protection be afforded an instructor when MSHA intends to revoke the instructor's approval. The proposed regulations provided that approval could only be revoked "for cause" and thereby contemplated protection, including administrative appeal, from arbitrary agency action. However, recognizing that personal livelihood and significant property interests may be at issue, the final rule has been changed to expressly provide that instructors are entitled to a statement of agency reasons for intended revocation and an opportunity to demonstrate or achieve compliance before any revocation of approval is effective. Moreover, initial decisions to revoke approvals may be appealed to the Director of Education and Training. Such appeal will be expedited to avoid negative impact upon the instructors and training programs affected by the revocations.

In addition, operators who are using a particular instructor will be notified if that instructor's approval is revoked. This notice will serve to prevent the operators from relying, in good faith, upon the services of an instructor who has lost approval and to alert the operators that a new instructor may be needed to maintain compliance.

m. *Other appropriate courses.* Commenters have objected to those portions of the proposed rule which would permit MSHA to prescribe courses not enumerated, based on "circumstances and conditions at the mine." Just as it is necessary for MSHA to be flexible in order for operators to be able to adopt effective training programs which fit conditions at a particular mine, MSHA also must have flexibility to require appropriate courses which address specific problems at a mine. Examples of such problems might be unusually high accident rates of a certain type or the existence of particularly hazardous conditions.

n. *Training of supervisors.* The final rule retains the exclusion from these training requirements of supervisory personnel subject to an approved State certification program. Some commenters were not aware of State certification requirements for supervisory personnel. Presently, certification programs are generally administered by coal producing states and are used by operators when complying with the training requirement for certified personnel found in §§ 75.160, 75.160-1, 77.107 and 77.107-1, Title 30, Code of Federal Regulations. MSHA will approve or evaluate the State certification programs to assure that such programs provide sufficient training as an alternative to the training requirements of subparts A and B; no formal approval process is contemplated. Commenters questioned why only those supervisors certified by approved State programs should be exempt from the training requirements. State certification programs are administered according to specific criteria, which helps insure that supervisors will receive adequate training. MSHA believes that a person is not necessarily adequately trained by virtue of holding a supervisory position and that it is essential for supervisors to receive formal training.

o. *Normal working hours and pay.* Several commenters objected to §§ 48.10 and 48.30 requiring training of miners during normal working hours. Commenters contended that this restriction limited their opportunities for conducting training during equipment downtime and slack periods of production.

Section 115(b) of the Mine Act specifically requires that training "shall be provided during normal working hours." This insures that miners will be alert and receptive during scheduled training sessions.

Similarly, MSHA has no authority in promulgating these rules to make any exceptions to the requirement of section 115(b) of the Mine Act that miners "shall be paid at their normal rate of compensation" for training. Accordingly, miners are to receive the same pay they would have received if they had been working at that time.

p. *Task training.* Reference was made to the word "task" not being defined clearly enough to provide sufficient guidance to the operator as to what is required for task training. MSHA intends to provide guidelines for the development of training programs for surface mines and surface areas of underground mines as well as for underground mines. The guidelines will include a section on training of miners assigned to a task in which they have had no pervious experience and will state that in order to have a complete and efficient program for new task training, it is necessary to know:

1. All jobs that are being performed,
2. What tasks each of these jobs entails,
3. The skills, knowledge, and abilities necessary to perform the tasks,
4. Any hazards that may be associated with the tasks and
5. Training that may be required to perform the tasks in a safe and efficient manner.

Many of the tasks can be listed from recall or from looking at job descriptions. Developing a complete list of tasks should entail talking with individuals now working on the job or watching them actually do the job. Talking to the supervisor, consulting established operating procedures and reviewing or developing job safety analyses (JSA's) will assist in completing the list of tasks. For instance, the job of general laborer includes several tasks such as manual handling of material, manual handling of equipment and operating a forklift. Depending upon the actual analysis of the tasks involved, these tasks may be further broken down into, among other things, loading and unloading supplies from a truck, receiving and distributing parts from a storeroom, use of handtools for various jobs, and operating air compressors and spray guns. Some of the hazards that may be included are slips and falls, inadequate lighting, adverse weather conditions and improper lifting. The training required for these tasks would include mandatory health and safety standards, hazard recognition, proper lifting techniques and proper use of handtools.

q. *Economic analysis.* Witnesses and commenters were in agreement that the training requirements encompassed by the proposed rule would constitute an economic impact for major segments of the mining industry. There was concern expressed that, given this impact, no regulatory analysis was prepared under Executive Order 12044. In the reamble to the proposed rule, this action was justified by explaining that the major portion of the economic impact of the proposal was represented by the hours of training required under the Mine Act itself.

Section 115 of the Mine Act does not permit a reduction of the required hours of training. Since the purpose of a regulatory analysis is to provide a basis for assessing alternative approaches to an issue which is the subject of rulemaking, such an analysis would not be fruitful with respect to the impact of the statutory requirements. In addition, the requirements of the proposed rule which are not statutory in origin do not impose a "major" increase in costs upon the mining industries sufficient to necessitate the preparation of a regulatory analysis. Finally, it must be pointed out that the rulemaking process has been expedited in certain respects in order to come as close as possible to meeting the date set forth in the statute for the promulgation of these rules. Only the most compelling of circumstances could justify further delay.

Taking into account these considerations, MSHA nevertheless believes that conformance with the spirit of Executive Order 12044 is important in this case and that analysis of the economic consequences of the requirements of the Mine Act and these rules, and of possible alternative approaches, is warranted. A summary discussion of that analysis follows:

With respect to the statutory requirements themselves, it is estimated that the costs associated with the training of new miners, annual refresher training and task training for both underground and surface miners in all mining industries will total over $102 million during the first year. As noted previously, there are no alternatives which would result in a lowering of the cost of this requirement since the statute sets forth the minimum number of hours to training required in each of the statutory categories and these rules adopt the minimum levels.

This cost estimate is based upon a projected average daily cost per miner of $140, which includes the miner's wages, meals, transportation and lodging, where appropriate, and a proportionate share of the cost for training facilities, materials and wages of an instructor. It also assumes a 30 percent annual employee turnover rate, with one-third of the replacement employees being new miners and the remaining two-thirds being experienced miners. Based upon Bureau of Labor Statistics (BLS) date for the coal and metal mining industries, this 30 percent turnover rate is considerably overinflated. However, statistics are not yet being kept by BLS for nonmetal mining employee turnover and testimony from this segment of the mining community indicated a frequently high turnover. MSHA nevertheless believes that the 30 percent figure is an absolute maximum. A further assumption is that 25 percent of all miners will be required to undergo new task training annually.

These rules do impose two economically significant requirements beyond those minimally necessary to comply with the statutory mandates. These are the training of newly-employed experienced miners and the obtaining of MSHA approval in order to be qualified as an instructor. The total cost of these features of the final rule for both underground and surface mines in all mining industries is estimated to be approximately $28 million during the first year. The assumptions used to compute the cost of the newly-employed experienced miner training are similar to those used above with respect to the statutory requirements and, in addition, that an average of 8 hours will be required for such training.

MSHA could have eliminated this requirement altogether. However, MSHA's experience leads to the conclusion that even experienced miners should be thoroughly familiarized with their particular mining environment and the attendant hazards before they begin their new job duties. In addition, there was virtually no disagreement expressed during the rulemaking process that it was appropriate to include this category of miner in the training rules. Another alternative would have been possible to require only hazard training for newly-employed experienced miners. However, MSHA believes that hazard training, as described in §§ 48.11 and 48.31, is adequate only for persons only occasionally exposed to a limited range of mining hazards.

With respect to MSHA approval of instructors, it is assumed that approximately 17,500 new approved instructors will be required and that 80 percent will be operator-employed persons for whom replacement personnel will have to be acquired for the 3-day period of instructor training. It should first be pointed out that the rules themselves provide several alternative methods for obtaining MSHA approval. These are discussed on pages 14-16 of the preambie. MSHA does not believe, however, for reasons also discussed on those pages, that the elimination of the approval mechanism in favor of a system of instruction by "competent persons" will insure an adequate level of training.

Effective Date

These rules will take effect upon publication in accordance with section 101 of the Mine Act.

Drafting Information

The principal persons responsible for drafting this final rule are: John S. Curtis, Office of Education and Training, Mine Safety and Health Administration, Robert C. Snashall, Jr. and Manuel R. Lopez, Attorney Advisors, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: October 6, 1978.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

SUBCHAPTER H—EDUCATION AND TRAINING

1. A new subchapter H is added to chapter I of title 30, CFR, to read as set forth above and a new part 48 is added to subchapter H, as set forth below:

PART 48—TRAINING AND RETRAINING OF MINERS

Subpart A—Training and Retraining of Underground Miners

Sec.
48.1 Scope.
48.2 Definitions.
48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
48.4 Cooperative training program.
48.5 Training of new miners; minimum courses of instruction, hours of instruction.
48.6 Training of newly-employed experienced miners; minimum courses of instruction.
48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
48.9 Records of training.
48.10 Compensation for training.
48.11 Hazard training.
48.12 Appeals procedures.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

48.21 Scope.
48.22 Definitions.
48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
48.24 Cooperative training program.
48.25 Training of new miners; minimum courses of instruction, hours of instruction.

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48.26 Training of newly-employed experienced miners; minimum courses of instruction.
48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
48.28 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
48.29 Records of training.
48.30 Compensation for training.
48.31 Hazard training.
48.32 Appeals procedures.

AUTHORITY: Secs. 115(a), (b) and (c) and sec. 101(a)(2) of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164).

Subpart A—Training and Retraining of Underground Miners

§ 48.1 Scope.

The provisions of this subpart A set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working in underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working at surface mines and surface areas of underground mines are set forth in subpart B of this part.

§ 48.2 Definitions.

For the purposes of this subpart A—

(a)(1) "Miner" means, for purposes of §§ 48.3 through 48.10 of this subpart A, any person working in an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works underground on a continuing, even if irregular, basis. Short term, specialized contact workers, such as drillers and blasters, who are engaged in the extraction and production process and who have received training under § 48.6 (Training of newly-employed experienced miners) of this subpart A may, in lieu of subsequent training under that section for each new employment, receive training under § 48.11 (Hazard training) of this subpart A. This definition does not include:

(i) Workers under subpart C of this part 48, including shaft and slope workers, workers engaged in construction activities ancillary to shaft and slope sinking, and workers engaged in the construction of major additions to an existing mine which requires the mine to cease operations;

(ii) Supervisory personnel subject to MSHA approved State certification requirements; and,

(iii) Any person covered under paragraph (a)(2) of this section.

(2) Miner means, for purposes of § 48.11 (Hazard training) of this subpart A, any person working in an underground mine and excluding persons covered under paragraph (a)(1) of this section and subpart C of this part and supervisory personnel subject to MSHA approved State certification requirements. This definition includes any delivery, office, or scientific worker or occasional, short term maintenance or service worker contracted by the operator, and any student engaged in academic projects involving his or her extended presence at the mine.

(b) "Experienced miner" means a person who is employed as an underground miner, as defined in paragraph (a)(1) of this section, on the effective date of these rules; or a person who has received training acceptable to MSHA from an appropriate State agency within the preceding 12 months; or a person who has had at least 12 months experience working in an underground mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 months as prescribed in § 48.5 (Training of new miners) of this subpart A.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal working hours" means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls or supervises an underground mine; or any independent contractor identified as an operator performing services or construction at such mine.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilities and job knowledge.

(g) "Act" means the Federal Mine Safety and Health Act of 1977.

§ 48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of an underground mine which is operating on the effective date of this subpart A, the operator of the mine shall submit such plan for approval within 90 days after the effective date of this subpart A.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new underground mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart A, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine.

(b) The training plan shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of § 48.7 (New task training of miners) of this subpart A, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task" in § 48.2 (f) of this subpart A.

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those

work assignments listed according to paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under § 48.7 of this subpart A.

(d) The operator shall furnish to the representative of the miners a copy of the training plan two weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the chief of the training center.

(e) All training required by the training plan submitted to and approved by the Chief of the Training Center as required by this subpart A shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training programs. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs. Upon request from the Office of Education and Training, MSHA, the operator shall make available for evaluation by the Office of Education and Training the instructional materials, handouts, visual aids and other teaching accessories used or to be used in the training programs. Upon request from the Office of Education and Training, MSHA, the operator shall provide information concerning the schedules of upcoming training.

(f) The operator shall make a copy to the MSHA approved training plan available at the mine site for MSHA inspection and for examination by the miners and their representatives.

(g) Except as provided in § 48.7 (New task training of miners) and § 48.11 (Hazard training) of this subpart A, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the Office of Education and Training, MSHA, in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons designated by the Office of Education and Training, MSHA, to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructors' qualifications and teaching experience.

(3) At the discretion of the Chief of the Training Center, instructors may be designated by MSHA as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Operators shall indicate in the training plans submitted for approval whether they want to have instructors approved based on monitored performance. The Training Center Chief shall consider such factors as the size of the mine, the number of employees, the mine safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(4) On the effective date of this subpart A, cooperative instructors who have been designated by MSHA to teach MSHA approved courses and who have taught such courses within the 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once every 24 months. Before any revocation is effective, the Chief of the Training Center must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate or achieve compliance before the Chief of the Training Center on the matter. A decision by the Chief of the Training Center to revoke an instructor's approval may be appealed by the instructor to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Director of Education and Training within 5 days of notification of the Chief of the Training Center's decision. Upon revocation of an instructor's approval, the chief of the training center shall immediately notify operators who use the instructor for training.

(j) The Chief of the Training Center for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which the training plan is filed, of the approval or status of the approval of the training programs.

(l) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or to propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of the miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under § 48.8(c) (Annual refresher training of miners) of this subpart A, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the Chief of the Training Center, MSHA, in the area in which the mine is located, and the miners' representative of any changes or modifications the operator proposes to make in the approved training plan. The operator shall obtain the approval of the Training Center Chief for such changes or modifications.

(m) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the Chief of the Training Center or the Director of Education and Training

§ 48.4 Cooperative training program.

(a) An operator of a mine may conduct his own training programs, or may participate in training programs conducted by MSHA, or may participate in MSHA approved training programs conducted by State or other Federal agencies, or associations of

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mine operators, miners' representatives, other mine operators, private associations, or educational institutions.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training programs shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.5 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 40 hours of training as prescribed in this section before such miner is assigned to work duties. Such training shall be conducted in conditions which as closely as practicable duplicate actual underground conditions, and approximately 8 hours of training shall be given at the minesite.

(b) The training program for new miners shall include the following courses:

(1) *Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors.* The course shall include instruction in the statutory rights of miners and their representatives under the Act, including a discussion of section 2 of the Act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(2) *Self-rescue and respiratory devices.* The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. Such course shall be given before the new miner goes underground.

(3) *Entering and leaving the mine; transportation; communications.* The course shall include instruction on the procedures in effect for entering and leaving the mine; the check-in and checkout system in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(4) *Introduction to the work environment.* The course shall include a visit and tour of the mine, or portions of the mine which are representative of the entire mine. A method of mining utilized at the mine shall be observed and explained.

(5) *Mine map; escapeways; emergency evacuation; barricading.* The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; and the location of abandoned areas. Also included shall be an introduction to the methods of barricading and the locations of the barricading materials, where applicable. The program of instruction for escapeways and emergency evacuation plans approved by the District Manager shall be used for this course.

(6) *Roof or ground control and ventilation plans.* The course shall include and introduction to and instruction on the roof or ground control plan in effect at the mine and procedures for roof and rib or ground control; and an introduction to and instruction on the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

(7) *Health.* The course shall include instruction on the purpose of taking dust, noise, and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the act and warning labels shall also be explained.

(8) *Cleanup; rock dusting.* The course shall include instruction on the purpose of rock dusting and the cleanup and rock dusting program in effect at the mine, where applicable.

(9) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(10) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(11) *First aid.* The course shall include instruction in first aid methods acceptable to MSHA.

(12) *Mine gases.* The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

(13) *Health and safety aspects of the tasks to which the new miner will be assigned.* The course shall include instruction in the health and safety aspects of the tasks to be assigned, the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks.

(14) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods, including oral, written, or practical demonstration, to determine successful completion of the training shall be included in the training plan. The methods for determining such completion shall be administered to the miner before he is assigned work duties.

(d) Upon proof by an operator that a newly employed miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give and the miner shall receive and complete the instruction and progam of training set forth in paragraph (b) of § 48.6 (Training of newly employed experienced miners), and § 48.7 (New task training of miners), if applicable, before commencing work.

§ 48.6 Training of newly employed experienced miners; minimum courses of instruction.

(a) A newly employed experienced miner shall receive and complete training in the program of instruction prescribed in this section before such miner is assigned to work duties.

(b) The training program for newly employed experienced miners shall include the folowing:

(1) *Introduction to work environment.* The course shall include a visit and tour of the mine. The methods of mining utilized at the mine shall be observed and explained.

(2) *Mandatory health and safety standards.* The course shall include the mandatory health and safety standards pertinent to the tasks to be assigned.

(3) *Authority and responsibility of supervisors and miners' representatives.* The course shall include a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(4) *Entering and leaving the mine; transportation; communications.* The course shall include instruction in the procedures in effect for entering and leaving the mine; the check-in and checkout system in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miner and materials; and the use of the mine communication systems, warning signals, and directional signs.

(5) *Mine map; escapeways; emergency evacuation; barricading.* The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; the location of abandoned areas; and, where applicable, methods of barricading and the locations of barricading materials. The program of instruction for escapeways and emergency evacuation plans approved by the District Manager shall be used for this course.

(6) *Roof or ground control and ventilation plans.* The course shall include an introduction to and instruction on the roof or ground control plan in effect at the mine and procedures for roof and rib or ground control; and an introduction to and instruction on the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

(7) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(8) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, roof and ground control machine operators, and those in blasting operations shall not perform new work tasks in these categories until training prescribed in this paragraph and paragraph (b) of this section has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. This training shall also not be required for miners who have performed the new work tasks and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. The training program shall include the following:

(1) *Health and safety aspects and safe operating procedures for work tasks, equipment, and machinery.* The training shall include instruction in the health and safety aspects and the safe operating procedures related to the assigned tasks, and shall be given in an on-the-job environment; and

(2) (i) *Supervised practice during nonproduction.* The training shall include supervised practice in the assigned tasks, and the performance of work duties at times or places where production is not the primary objective; of

(ii) *Supervised operation during production.* The training shall include, while under direct and immediate supervision and production is in progress, operation of the machine or equipment and the performance of work duties.

(3) *New or modified machines and equipment.* Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(4) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(b) Miners under paragraph (a) of this section shall not operate the equipment or machine or engage in blasting operations without direction and immediate supervision until such miners have demonstrated safe operating procedures for the equipment or machine or blasting operation to the operator or the operator's agent.

(c) Miners assigned a new task not covered in paragraph (a) of this section shall be instructed in the safety and health aspects and safe work procedures of the task, prior to performing such task.

(d) Any person who controls or directs haulage operations at a mine shall receive and complete training courses in safe haulage procedures related to the haulage system, ventilation system, firefighting procedures, and emergency evacuation procedures in effect at the mine before assignment to such duties.

(e) All training and supervised practice and operation required by this section shall be given by a qualified trainer, or a supervisor experienced in the assigned tasks, or other person experienced in the assigned tasks.

§ 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a minimum of 8 hours of annual refresher training as prescribed in this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

(1) *Mandatory health and safety standards.* The course shall include mandatory health and safety standard requirements which are related to the miner's tasks.

(2) *Transportation controls and communication systems.* The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(3) *Barricading.* The course shall include a review of the methods of barricading and locations of barricading materials, where applicable.

(4) *Roof or ground control and ventilation plans.* The course shall include a review of roof or ground control plans in effect at the mine and the procedures for maintaining and controlling ventilation.

(5) *First aid.* The course shall include a review of first aid methods acceptable to MSHA.

(6) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(7) *Prevention of accidents.* The course shall include a review of accidents and causes of accidents, and instruction in accident prevention in the work environment.

(8) *Self-rescue devices and respiratory devices.* The course shall include instruction in the use, care, and maintenance of self-rescue and respiratory devices.

(9) *Explosives.* The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when there are no explosives used or stored on the mine property.

(10) *Mine gases.* The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

(11) *Health.* The course shall include instruction on the purpose of taking dust, noise, and other health measurements and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(12) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All experienced miners already employed at a mine on the effective date of the Act (March 9, 1978) shall receive refresher training, as prescribed in this section and in accordance with the approved plan, to begin not more than 90 days after the date of approval of the training program required by this subpart A.

(d) Where annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of annual refresher training.

§ 48.9 Records of training.

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the minesite for inspection by MSHA and for examination by the miners, the miner's representative, and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Act.

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(c) Copies of training certificates for currently employed miners shall be kept at the minesite for 2 years, or for 60 days after termination of employment.

§ 48.10 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.2(d) (Definition of normal working hours) of this subpart A.

(b) If such training shall be given at a location other than the normal place of work, miners shall be compensated for the additional cost, such as mileage, meals, and lodging, they may incur in attending such training sessions.

§ 48.11 Hazard training.

(a) Operators shall provide to those miners, as defined in § 48.2(a)(2) (Definition of miner) of this subpart A, a training program before such miners commence their work duties. This training program shall include the following instruction, which is applicable to the duties of such miners:

(1) Hazard recognition and avoidance;

(2) Emergency and evacuation procedures;

(3) Health and safety standards, safety rules, and safe working procedures;

(4) Self-rescue and respiratory devices; and

(5) Such other instruction as may be required by the Chief of the Training Center based on circumstances and conditions at the mine.

(b) Miners shall receive the instruction required by this section at least once every 12 months.

(c) The training program required by this section shall be submitted with the training plan required by § 48.3(a) (Training plans: Submission and approval) of this subpart A and shall include a statement on the methods of instruction to be used.

(d) In accordance with § 48.9 (Records of training) of this subpart A, the operator shall maintain and make available for inspection certificates that miners have received the hazard training required by this section.

(e) Miners subject to hazard training shall be accompanied at all times while underground by an experienced miner, as defined in § 48.2(b) (Definition of miner) of this subpart A.

§ 48.12 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by a Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, the miners, or their representatives, and the Chief of the Training Center, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

§ 48.21 Scope.

The provisions of this subpart B set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working at surface mines and surface areas of underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working in underground mines are set forth in subpart A of this part.

§ 48.22 Definitions.

For the purposes of this subpart B—

(a)(1) "Miner" means, for purposes of §§ 48.23 through 48.30 of this subpart B, any person working in a surface mine or surface areas of an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works at the mine on a continuing, even if irregular, basis. Short-term, specialized contract workers, such as drillers and blasters, who are engaged in the extraction and production process and who have received training under § 48.26 (Training of newly employed experienced miners) of this subpart B, may in lieu of subsequent training under that section for each new employment, receive training under § 48.31 (Hazard training) of this subpart B. This definition does not include:

(i) Construction workers and shaft and slope workers under subpart C of this part 48;

(ii) Supervisory personnel subject to MSHA approved State certification requirements; and

(iii) Any person covered under paragraph (a)(2) of this section.

(a)(2) Miner means, for purposes of § 48.31 (Hazard training) of this subpart B, any person working in a surface mine or surface areas of an underground mine excluding persons covered under paragraph (a)(1) of this section and subpart C of this part and supervisory personnel subject to MSHA approved state certification requirements. This definition includes any delivery, office, or scientific worker, or occasional, short-term maintenance or service worker contracted by the operator, and any student engaged in academic projects involving his or her extended presence at the mine.

(b) "Experienced miner" means a person who is employed as a miner, as defined in paragraph (a)(1) of this section, on the effective date of these rules; or a person who has received training acceptable to MSHA from an appropriate State agency within the preceding 1 months; or a person who has had at least 12 months' experience working in a surface mine or surface area of an underground mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 month as prescribed in § 48.25 (Training of new miners) of this subpart B.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal working hours" means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a surface mine or surface area of an underground mine; or any independent contractor identified as an operator performing services or construction at such time.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilitities and job knowledge.

(g) "Act" means the Federal Mine Safety and Health Act of 1977.

§ 48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of a mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of a mine which is operating on the effective date of this subpart B, the operator of the mine shall submit such plan for approval within 150 days after the effective date of this subpart B.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart B, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine unless the mine is reopened or reactivated periodically using portable equipment and mobile teams of miners as a normal method of operation by the operator. The operator to be so excepted shall maintain an approved plan for training covering all mine locations which are operated with portable equipment and mobile teams of miners.

(b) The training plan shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of § 48.27 (New task training of miners) of this subpart B, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task" in § 48.22(f) of this subpart B.

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those work assignments listed according to paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under § 48.27 of this subpart B.

(d) The operator shall furnish to the representative of the miners a copy of the training plan 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the plan shall be posted on the mine bulletion board 2 weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the Chief of the Training Center.

(e) All training required by the training plan submitted to and approved by the Chief of the Training Center as required by this subpart B shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training programs. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs. Upon request from the Office of Education and Training, MSHA, the operator shall make available for evaluation by the Office of Education and Training the instructional materials, handouts, visual aids, and other teaching accessories used or to be used in the training programs. Upon request from the Office of Education and Training, MSHA, the operator shall provide information concerning schedules of upcoming training.

(f) The operator shall make a copy of the MSHA approved training plan available at the mine site for MSHA inspection and examination by the miners and their representatives.

(g) Except as provided in § 48.27 (New task training of miners) and § 48.31 (Hazard training) of this subpart B, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the Office of Education and Training, MSHA, in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons designated by the Office of Education and Training, MSHA, to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructors' qualifications and teaching experience.

(3) At the discretion of the Chief of the Training Center, instructors may be designated by MSHA as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Operators shall indicate in training plans submitted for approval whether they want to have instructors approved based on monitored performance. The Training Center Chief shall consider such factors as the size of the mine, the number of employees, the mine safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(4) On the effective date of this subpart B, cooperative instructors who have been designated by MSHA to teach MSHA approved courses and who have taught such courses within 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once every 24 months. Before any revocation is effective, the Chief of the Training Center must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate or achieve compliance before the Chief of the Training Center on the matter. A decision by the Chief of the Training Center to revoke an instructor's approval may be appealed by the instructor to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Director of Education and Training within 5 days of notification of the Chief of the Training Center's decision. Upon revocation of an instructor's approval, the Chief of the Training Center shall immediately notify operators who use the instructor for training.

(j) The Chief of the Training Center for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which

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the training plan is filed, of the approval or status of the approval of the training programs.

(l) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under § 48.28(c) (Annual refresher training of miners) of this subpart B, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the Chief of the Training Center, MSHA, in the area in which the mine is located and the miners' representative of any changes or modifications which the operator proposes to make in the approval training plan. The operator shall obtain the approval of the Training Center Chief for such changes or modifications.

(m) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the Chief of the Training Center or the Director of Education and Training.

§ 48.24 Cooperative training program.

(a) An operator of a mine may conduct his own training programs, or may participate in training programs conducted by MSHA, or may participate in MSHA approved training programs conducted by State or other Federal agencies, or associations of mine operators, miners' representatives, other mine operators, private associations, or educational institutions.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training programs shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.25 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 24 hours of training as prescribed in this section. Except as otherwise provided in this paragraph, new miners shall receive this training before they are assigned to work duties. At the discretion of the Chief of the Training Center, new miners may receive a portion of this training after assignment to work duties: *Provided*, That no less than 8 hours of training shall in all cases be given to new miners before they are assigned to work duties. The following courses shall be included in the 8 hours of training: Introduction to work environment, hazard recognition, and health and safety aspects of the tasks to which the new miners will be assigned. Following the completion of this preassignment training, new miners shall then receive the remainder of the required 24 hours of training, or up to 16 hours, within 60 days. Operators shall indicate in the training plans submitted for approval whether they want to train new miners after assignment to duties and for how many hours. In determining whether new miners may be given this training after they are assigned duties, the Training Center Chief shall consider such factors as the mine safety record, rate of employee turnover and mine size. Miners who have not received the full 24 hours of new miner training shall be required to work under the close supervision of an experienced miner.

(b) The training program for new miners shall include the following courses:

(1) *Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors.* The course shall include instruction in the statutory rights of miners and their representatives under the Act, including a discussion of section 2 of the Act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(2) *Self-rescue and respiratory devices.* The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices, where applicable.

(3) *Transportation controls and communication systems.* The course shall include instruction on the procedures in effect for riding on and in mine conveyances where applicable; the controls for the transportation of miners and materials; and the use of mine communication systems, warning signals, and directional signs.

(4) *Introduction to work environment.* The course shall include a visit and tour of the mine, or portions of the mine which are representative of the entire mine. The method of mining or operation utilized shall be observed and explained.

(5) *Escape and emergency evacuation plans; firewarning and firefighting.* The course shall include a review of the mine escape system, and escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(6) *Ground control; working in areas of highwalls, water hazards, pits and spoil banks; illumination and night work.* The course shall include, where applicable, and introduction to and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits and spoil banks; the illumination of work areas; and safe work procedures during the hours of darkness.

(7) *Health.* The course shall include instruction on the purpose of taking dust measurements, where applicable, and noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(8) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine.

(9) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(10) *First aid.* The course shall include instruction in first aid methods acceptable to MSHA.

(11) *Explosives.* The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when no explosives are used or stored on mine property.

(12) *Health and safety aspects of the tasks to which the new miner will be assigned.* The course shall include instructions in the health and safety aspects of the tasks to be assigned, the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks.

(13) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods, including oral, written or practical demonstration, to determine successful completion of the training shall be included in the training plan. Upon completion of training, the methods for determining successful completion shall be administered to the miner. The method for determining successful completion of preassignment training under paragraph (a) of this section shall be administered to the miner before he is assigned to work duties.

(d) Upon proof by an operator that a newly employed miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give and the miner shall receive and complete the instruction and program of training set forth in paragraph (b) of § 48.26 (Training of newly employed experienced miners) and § 48.27 (New task training of miners), if applicable, before commencing work.

§ 48.26 Training of newly employed experienced miners; minimum courses of instruction.

(a) A newly employed experienced miner shall receive and complete training in the program of instruction prescribed in this section before such miner is assigned to work duties.

(b) The training program for newly employed experienced miners shall include the following:

(1) *Introduction to work environment.* The course shall include a visit and tour of the mine. The methods of mining or operations utilized at the mine shall be observed and explained.

(2) *Mandatory health and safety standards.* The course shall include the mandatory health and safety standards pertinent to the tasks to be assigned.

(3) *Authority and responsibility of supervisors and miners' representatives.* The course shall include a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(4) *Transportation controls and communication systems.* The course shall include instruction on the procedures in effect for riding on and in mine conveyances; the controls for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(5) *Escape and emergency evacuation plans; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(6) *Ground controls; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work.* The course shall include, where applicable, an introduction to and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks, the illumination of work areas, and safe work procedures for miners during hours of darkness.

(7) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(8) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, ground control machine operators, and those in blasting operations shall not perform new work tasks in these catergories until training prescribed in this paragraph and paragraph (b) of this section has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. This training shall also not be required for miners who have performed the new work tasks and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. The training program shall include the following:

(1) *Health and safety aspects and safe operating procedures for work tasks, equipment, or machinery.* The training shall include instruction in the health and safety aspects and safe operating procedures related to the assigned tasks, and shall be given in an on-the-job environment; and,

(2)(i) *Supervised practice during nonproduction.* The training shall include supervised practice in the assigned tasks, and the performance of work duties at times or places where production is not the primary objective; or,

(ii) *Supervised operation during production.* The training shall include, while under direct and immediate supervision and production is in progress, operation of the machine or equipment and the performance of work duties.

(3) *New or modified machines and equipment.* Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(4) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(b) Miners under paragraph (a) of this section shall not operate the equipment or machine or engage in blasting operations without direction and immediate supervision until such miners have demonstrated safe operating procedures for the equipment or machine or blasting operation to the operator or the operator's agent.

(c) Miners assigned a new task not covered in paragraph (a) of this section shall be instructed in the safety and health aspects and safe work procedures of the task, prior to performing such task.

(d) All training and supervised practice and operation required by this section shall be given by a qualified trainer, or a supervisor experienced in the assigned tasks, or other person experienced in the assigned tasks.

§ 48.28 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a mimimum of 8 hours of annual refresher training as prescribed in this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

(1) *Mandatory health and safety standards.* The course shall include mandatory health and safety standard requirements which are related to the miner's tasks.

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(2) *Transportation controls and communication systems.* The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(3) *Escape and emergency evacuation plans; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(4) *Ground control; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work.* The course shall include, where applicable, a review and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks; the illumination of work areas; and safe work procedures during hours of darkness.

(5) *First aid.* The course shall include a review of first aid methods acceptable to MSHA.

(6) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(7) *Prevention of accidents.* the course shall include a review of accidents and causes of accidents, and instruction in accident prevention in the work environment.

(8) *Health.* The course shall include instruction on the purpose of taking dust measurements, where applicable, and noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(9) *Explosives.* The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when there are no explosives used or stored on the mine property.

(10) *Self-rescue and respiratory devices.* The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices, where applicable.

(11) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All experienced miners already employed at a mine on the effective date of the Act (March 9, 1978) shall receive refresher training, as prescribed in this section and in accordance with an approved plan, to begin not more than 90 days after the date of approval of the training program required by this subpart B.

(d) Where annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of annual refresher training.

§ 48.29 Records of training.

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the mine site for inspection by MSHA and for examination by the miners, the miners' representative and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Act.

(c) Copies of training certificates for currently employed miners shall be kept at the mine site for 2 years, or for 60 days after termination of employment.

§ 48.30 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.22(d) (Definition of normal working hours) of this subpart B.

(b) If such training shall be given at a location other than the normal place of work, miners shall be compensated for the additional costs, such a mileage, meals, and lodging, they may incur in attending such training sessions.

§ 48.31 Hazard training.

(a) Operators shall provide to those miners, as defined in § 48.22(a)(2) (Definition of miner) of this subpart B, a training program before such miners commence their work duties. This training program shall include the following instruction, which is applicable to the duties of such miners:

(1) Hazard recognition and avoidance;

(2) Emergency and evacuation procedures;

(3) Health and safety standards, safety rules and safe working procedures;

(4) Self-rescue and respiratory devices; and,

(5) Such other instruction as may be required by the Chief of the Training Center based on circumstances and conditions at the mine.

(b) Miners shall receive the instruction required by this section at least once every 12 months.

(c) The training program required by this section shall be submitted with the training plan required by § 48.23(a) (Training plans: Submission and approval) of this subpart B and shall include a statement on the methods of instruction to be used.

(d) In accordance with § 48.29 (Records of training) of this subpart B, the operator shall maintain and make available for inspection, certificates that miners have received the instruction required by this section.

§ 48.32 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by the Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, the miners or their representatives, and the Chief of the Training Center, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

[FR Doc. 78-29001 Filed 10-12-78; 8:45 am]

federal register

FRIDAY, OCTOBER 13, 1978
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

WATER RESOURCES POLICIES AND AUTHORITIES

Federal Participation in Covered Flood Control Channels

V 43/199 OCT 13 78

[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165-2-118]

PART 239—WATER RESOURCES POLICIES AND AUTHORITIES: FEDERAL PARTICIPATION IN COVERED FLOOD CONTROL CHANNELS

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: The Chief of Engineers is promulgating a regulation for Civil Works elements of the U.S. Army Corps of Engineers to follow for participating in covered flood control channels. This regulation provides current policy guidance required to determine the desirability of covering flood control channels and the extent of non-Federal cost-sharing required.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Kaighn, 202-693-6807, or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN-CWR-R.

SUPPLEMENTARY INFORMATION: Congress in the Flood Control Act of 1936, established as a nationwide policy that flood control on navigable waters or their tributaries is in the interest of the general welfare and is therefore a proper activity of the Federal Government in cooperation with the States and local entities. It provided that the Federal Government may improve streams or participate in improvements "for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected." The 1936 and subsequent acts further specified the details of Federal participation. The scope of the Federal interest includes consideration of all alternatives in controlling flood waters, reducing the susceptibility of property to flood damage, and relieving human and financial losses.

Non-Federal participation in flood control projects is required. Non-Federal participation usually includes provision at local cost of all lands, easements, rights-of-way, as well as all necessary alterations and relocations to utilities, streets, bridges, buildings, storm drains, and other structures and improvements. The sponsoring local agency must also agree to hold the United States free from damages due to the construction works, not including damages due to the fault or negligence of the United States or its contractors; and assure continued non-Federal operation and maintenance of the project after completion. The above requirements are generally known as the "a-b-c" requirements of local cooperation from their description in section 3 of the 1936 Flood Control Act as amended. Other additional local participation is required where special local conditions warrant.

The Army Corps of Engineers is authorized by section 206 of the 1960 Flood Control Act, as amended, to provide information, technical planning assistance, and guidance to non-Federal entities to help them in identifying the magnitude and extent of the flood hazard and in planning wise use of the flood plains.

Accordingly, 33 CFR is amended by adding a new part 239 as set forth below:

This is an interpretive rule providing agency guidance concerning Corps of Engineers participation in urban flood control projects. It is exempt from the notice of proposed rulemaker requirements in 5 U.S.C. 553(6)(3)(A).

NOTE.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 10, 1978.

Approved:

THORWALD R. PETERSON,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

Sec.
239.1 Purpose.
239.2 Applicability.
239.3 References.
239.4 Policy.
239.5 Engineering considerations.
239.6 Level of protection.
239.7 Separation of flood control works from urban drainage.
239.8 Cost sharing.
239.9 Effective date.

AUTHORITY: Pub. L. 738, 74th Congress 33 U.S.C. 701a.

§ 239.1 Purpose.

This regulation establishes policy for determining the extent of Federal participation in covered flood control channels.

§ 239.2 Applicability.

This regulation applies to all OCE elements and all field operating agencies having civil works responsibilities.

§ 239.3 References.

(a) Executive Order 11988, Floodplain Management, 24 May 1977.
(b) ER 1105-2-200.
(c) ER 1165-2-21.

§ 239.4 Policy.

Projects will be formulated and evaluated in accordance with the policies and procedures described in ER 1105-2-200. If, during the planning process, it appears that covered flood control channels are desirable, reporting officers may evaluate them and include them when they best serve the public interest. Selection of the plan which best serves the public interest is based upon the ability of the plan to meet planning objectives, the contributions which the plan makes to the National Economic Development (NED), Environmental Quality (EQ), Regional Development (RD) and Social Well Being (SWB) accounts, and the public response to alternative plans. Thus, covered flood control channels may be proposed if they are desired by the public and (a) increase net EQ and/or NED benefits; or, (b) reduce adverse effects on RD or SWB without incurring an unjustified loss in net NED or EQ benefits.

§ 239.5 Engineering considerations.

Reports on proposals to provide covered channels shall include a discussion of the following matters.

(a) Impacts of sudden reduction in discharge and increased upstream channel stages when the channel entrance is submerged. This discussion shall include the effects resulting from the SPF.

(b) Dangers of rupture resulting from pressurization.

(c) Features provided to prevent human ingress and their impact on project functions.

(d) Effect of the cover on inspection and maintenance costs.

(e) Features provided for pressure release and air venting.

(f) Need for a storm warning system.

(g) Facilities provided to divert flows exceeding the design flow.

§ 239.6 Level of protection.

Evaluation of the above items may indicate that submergence of entrances to covered channels may have significant impacts on the level of flooding. The requirements of EO 11988 and the significance of the resulting flood damage may require that the covered portion of the channel be enlarged to provide capacity to pass the SPF. If inclusion of SPF capacity on the covered portions of the project cannot be justified, the added capacity may be reduced to the extent that the project will not increase upstream stages resulting from the SPF when compared to the without-project condition. If this capacity is still not feasible, covered channels shall not be recommended.

§ 239.7 Separation of flood control works from urban drainage.

Covered channels are likely to be considered in boundary areas demarking urban drainage and flood control. Reporting officers shall apply the policies given in ER 1165-2-21 to separate flood control facilities from urban drainage facilities.

§ 239.8 Cost sharing.

At local protection projects local interests are required to provide all lands, easements, rights-of-way and all alterations and relocations of utilities, streets, bridges, buildings, storm drains and other structures and improvements; hold and save the United States free from damages due to the construction works except damages due to the fault or negligence of the United States or its contractor; and assume operation and maintenance of the works after completion. In addition, local interests are required to provide additional cost sharing to reflect special local benefits or betterments. Such additional special cost sharing will not be required for covered channels when the addition of the cover increases net NED flood control benefits when compared to the open channel or when they are provided for safety in schoolyards, playgrounds, or other known play areas for juveniles. However, the separable cost of providing covers for mitigating SWB or RD impacts or to provide areas for public or private uses such as parking, or the provision of areas for recreation development, etc., will be assigned to local interests. The separable cost of recreational facilities to be constructed on or adjacent to the cover, i.e. picnic facilities, etc., are eligible for Federal participation in accordance with cost-sharing policies for recreation facilities at local protection projects. Cost-sharing policies for project features which are included to make positive contributions to the EQ account are being developed. Until such policies are developed, proposals to cover channels on this basis will be coordinated with HQDA (DAEN-CWP), Washington, D.C. 20314.

§ 239.9 Effective date.

These regulations are applicable to all projects not approved by OCE prior to the date of this regulation.

[FR Doc. 78-29045 Filed 10-12-78; 8:45 am]

V 43 / 199 OC 13 78

federal register

FRIDAY, OCTOBER 13, 1978
PART VI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Imposition of Sanctions on Health Care Practitioners and Providers of Health Care Services

V 43 / 199 OCT 13 78

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 455 and 474]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Imposition of Sanctions on Health Care Practitioners and Providers of Health Care Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: These regulations would establish procedures under which the Department will invoke sanctions against a practitioner or provider who furnishes or orders items or services which: (1) Are not medically necessary; (2) do not meet professionally recognized standards; or (3) are not properly documented as to the medical necessity or quality of the services. The regulations would also explain the role of the medicaid State agency and establish the rights and responsibilities of the practitioner or provider, the Professional Standards Review Organization (PSRO), the Statewide Professional Standards Review Council, and the Health Care Financing Administration in this process.

The regulations would implement section 1160 of the Social Security Act and apply to health care services for which payment may be made under that Act. The purpose of the sanction process is to discipline providers and practitioners and protect the public.

DATE: Consideration will be given to comments or suggestions received by December 12, 1978.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, Welfare, P.O. Box 2382, Washington, D.C. 20013.

When commenting, please refer to file code HSQ-2-P Agencies and orgainzations are requested to submit their comments in duplicate.

Comments will be available for public inspection, beginning approximatley 2 weeks after publication, in room 5321 of the Department offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Tirone, telephone 202-245-2196.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1160 of the Social Security Act (42 U.S.C. 1320c-9) sets forth certain obligations of all practitioners and providers who furnish, order, or arrange for health care services for which payment may be made under the medicare, medicaid, or maternal and child health programs. These obligations include: Ordering or furnishing only care that is medically necessary; furnishing care which meets professionally recognized standards of quality; and providing such evidence of the medical necessity and quality as a PSRO may reasonably require. There is also an obligation to assure that inpatient care is furnished at the proper type of facility.

PSRO's are required to review health care items and services to insure that practitioners and providers are fulfilling these obligations. If the PSRO finds that the obligations are not being met, section 1157 of the Act (42 U.S.C. 1320c-6) requires that it report its finding to HCFA. HCFA may, as a result of this report, detemine that the practitioner or provider has violated an obligation under the Act and invoke a sanction. The statute authorizes two types of sanctions: Exclusion from the programs and assessment of a monetary penalty. Application of these sanctions differs to some degree between the medicare and medicaid programs.

For medicare, exclusion means that a practitioner or provider will not receive medicare reimbursement for items or services furnished during a specified period and a medicare beneficiary will not be reimbursed for such items and services.

For medicaid, exclusion means that Federal financial participation (FFP) will not be available for State payments for services furnished by a practitioner or provider that has been excluded for violation of an obligation.

A monetary penalty would mean that, as a condition for continued participation in the medicare and medicaid programs, the practitioner or provider that caused the medically improper or unnecessary care to be furnished would be required to reimburse HCFA for the actual or estimated cost (up to $5,000) of such care. The monetary penalty could either be deducted from any sums owed to the practitioner or provider by the United States or paid by the provider or practitioner within 6 months. The monetary penalty would not be withheld from FFP payments to States under the medicaid program.

ROLE OF PRACTITIONERS AND PROVIDERS

Health care practitioners and providers are responsible for the care they furnish to medicare and medicaid patients and for insuring that the obligations specified above are met. The proposed regulation would require practitioners and providers, to make available to PSRO's the information necessary to attest that they are, in fact, meeting these obligations. Therefore, a practitioner or provider that did not allow PSRO access to pertinent records, or did not adequately document the necessity and quality of care, could be subject to sanction.

ROLE OF THE PSRO AND THE STATEWIDE PSRO COUNCIL

PSRO's must make known these obligations and provide information (such as the professionally developed norms for quality of care) that is necessary to enable practitioners and providers to comply with their obligations. Moreover, the legislative history makes clear that only after voluntary and educational efforts fail to correct or remedy improper situations should the PSRO submit a report and recommend a sanction. (S. Rept. No. 92-1230, 92d Cong. 2d Sess. (1972), p. 266). The proposed rule, therefore, would require that whenever a PSRO identified a situation that could result in a violation, the PSRO would notify the practitioner or provider and provide information necessary to assist in preventing a violation from occurring. However, if the PSRO determined that a violation had already occurred, it would not be required to furnish this notice and opportunity for correction. In this instance the PSRO woud normally prepare a sanction report.

Before concluding that a violation had occurred, the PSRO woud be required to consider whether the practitioner or provider has either failed to comply substantially with any obligation in a significant number of cases or has violated an obligation in a gross and flagrant manner in one or more instances. A finding under this latter provision woud ordinarily be made only when the services or items involved were so excessive or of such poor quality as to be harmful to an individual.

In keeping with the legislative history, these are the same factors which the statute requires HCFA to consider before it imposes a sanction. (S. Rept. 92-1230, 92d Cong. 2d Sess. (1972), p. 266.)

If the PSRO concluded that violations had occurred, it would have to notify the practitioner or provider of its conclusion and afford them opportunity to submit information or meet with the PSRO. The PSRO would then submit its report to HCFA through the Statewide Professional Standards Review Council (if there is one). The report would recommend that the practitioner or provider be found in violation of an obligation, and the sanction, if any, to be imposed. The Statewide Council would review the report and attach a statement of concurrence or nonconcurrence with the PSRO recommendations before transmitting the report to HCFA.

ROLE OF HCFA

This proposed rule sets forth the criteria and process that HCFA would follow in imposing a sanction and the appellate process available to the practitioner or provider. The criteria HCFA would consider include the same factors that were reviewed by the PSRO when it made its recommendation.

The process would include (as required by statute), notice to the practitioner or provider and the public before a sanction was imposed. If the sanction were exclusion, the practitioner or provider and the beneficiaries and recipients would be given at least 15 days notice to enable them to make other arrangements to deliver or obtain health care services. These notice provisions are consistent with those proposed on June 8, 1978 (43 FR 24988), for suspension of practitioners under Medicare.

The statute also provides that the practitioner or provider must have the opportunity for a hearing and judical review of HCFA's determination. The proposed rule provides that, once the determination has been made by HCFA and a sanction imposed, the practitioner or provider could invoke the administrative hearing procedures set forth in 42 CFR Part 405, Subpart O. These procedures include an opportunity for a hearing before an administrative law judge and for judical review of the final administrative decision.

ROLE OF THE MEDICAID STATE AGENCY

The medicaid agency would not participate directly in the PSRO's decision to recommend a sanction. Section 1160(c) of the Act (42 U.S.C. 1320c-9) does provide for the PSRO to consult with the medicaid agency and to request its assistance in assuring that practitioners and providers meet their obligations under section 1160 of the Act. In the event of such a request, the State agency would be expected to exercise whatever influence or authority it may have over the practitioners or providers to achieve compliance with the obligations.

If HCFA decided to impose the sanction of exclusion, it would deny Federal financial participation (FFP) in medicaid payments for the services of a practitioner or provider that had been excluded for violating an obligation. However, it would be the medicaid agency's responsibility to disqualify an excluded practitioner or provider from eligibility to receive payments from the State. If the sanction were a monetary penalty, the State woud not be required to collect the amount of the penalty and HCFA would not withhold it from FFP. The practitioner or provider would pay the monetary penalty directly to HCFA, or have it withheld from other funds due from the Federal Government.

Medicaid regulations at 42 CFR 455.23 would be revised to make clear that FFP will not be available in State payments for services furnished by an excluded practitioner or provider. Cross-references to §§ 405.315-1 and 405.614 are to regulations proposed on June 8, 1978 (43 FR 24988).

REINSTATEMENT

Policies and procedures governing reinstatement of a provider or practitioner after an exclusion were also proposed in the June 8, 1978, notice. When final regulations on exclusion are adopted, those policies will be incorporated by reference in these regulations.

42 CFR Chapter IV is amended as set forth below:

1. Section 455.23 is revised to read as follows:

§ 455.23 Denial of FFP.

(a) No FFP is available in payments for services by a provider or other person who is ineligible to receive payment under medicare:

(1) Because of a determination under § 405.315-1 or § 405.614 of this chapter that the provider or other person has submitted false or excessive claims or furnished services that are substantially in excess of the recipient's needs or of unacceptable quality; or

(2) Because of a determination under § 474.10 of this chapter that the provider or other person has failed to comply with his obligation, as set forth in section 1160(a) of the Act, to:

(i) Order or furnish only care that is medically necessary, of acceptable quality, and at an appropriate level; and

(ii) Furnished such evidence of the medical necessity and quality of the services or items as a Professional Standards Review Organization (PSRO) may reasonably require.

(b) Denial of FFP (1) is effective when the Administrator notifies the agency of the determination; and (2) applies to services furnished after the effective date of exclusion as specified on the exclusion notice.

(c) FFP will be available in services furnished by a provider or other person after he is reinstated.

2. A new part 474 is added to read as follows:

PART 474—IMPOSITION OF SANCTIONS ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES

Sec.

474.0 Scope and definitions.
474.1 Statutory obligations of practitioners and providers.
474.2 Sanctions.
474.3 PSRO responsibilities.
474.4 Action on potential violation.
474.5 Factors in PSRO determination of a violation.
474.6 Basis for recommended sanction.
474.7 Notice and review of PSRO determination of violation.
474.8 PSRO report to the Statewide Council or to HCFA.
474.9 Role and functions of the Statewide Council.
474.10 Action by HCFA on receipt of the report.
474.14 Effective dates of exclusion.
474.15 Reinstatement after exclusion.
474.17 Right to judicial review.

AUTHORITY: Secs. 1102, 1157, and 1160(b), Social Security Act (42 U.S.C. 1302, 1320, 1320c-6, and 1320c-9).

§ 474.0 Scope and definitions.

(a) *Scope.* This part implements sections 1157 and 1160 of the Act by:

(1) Setting forth certain obligations imposed on practitioners and providers of services under medicare and medicaid;

(2) Establishing criteria and procedures for the reports required from Professional Standards Review Organizations and Statewide Councils when there is failure to meet those obligations;

(3) Specifying the policies and procedures for making determinations on violations and imposing sanctions; and

(4) Establishing policies and procedures for appeals by the affected party or review by HCFA.

(b) *Definitions.* As used in this part, unless the context indicates otherwise:

(1) "Act" means the Social Security Act.

(2) "Beneficiary" means an individual entitled to medicare benefits under title XVIII of the Act.

(3) "Exclusion" means that items or services furnished by a specified health care practitioner or provider will not be reimbursed under medicare, and State medicaid payments for such services are not subject to Federal financial participation.

(4) "Federal financial participation (FFP)" means the Federal share of State payments for services furnished to medicaid recipients.

(5) "HCFA" stands for Health Care Financing Administration.

(6) "Health care services" or "Services" means services or items for which payment may be made (in whole or in part) under the Act.

(7) "Medicaid agency" means the single State agency designated to ad-

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minister the medicaid program under title XIX of the Act.

(8) "Physician" means a doctor of medicine or osteopathy or another individual who is authorized under State or Federal law to practice medicine and surgery, or osteopathy.

(9) "Practitioner" means a physician or other health care professional licensed under State law to practice his or her profession.

(10) "Provider" means a hospital or other health care facility, agency, or organization.

(11) "PSRO" stands for Professional Standards Review Organization.

(12) "PSRO area" means the geographic area subject to review by a particular PSRO.

(13) "Recipient" means an individual receiving medicaid benefits under title XIX of the Act.

(14) "Statewide Council" means the Statewide Professional Standards Review Council.

§ 474.1 Statutory obligations of practitioners and providers.

(a) It is the obligation of any health care practitioner or provider who furnishes or orders health care services to assure that those services are:

(1) Furnished only when, and to the extent that, they are medically necessary;

(2) Of a quality that meets professionally recognized standards of health care; and

(3) Supported by such evidence of medical necessity and quality as is reasonably required by the PSRO.

(b) A health care practitioner who orders, authorizes, or directs another practitioner or provider to furnish health care services to a patient is responsible, to the extent of his influence or control, for assuring that the health care services are:

(1) Furnished only when, and to the extent, they are medically necessary; and

(2) Of a quality that meets professionally recognized standards of health care.

(c) A health care practitioner or provider must not take any action that would authorize a beneficiary or recipient to be admitted, or to continue, as an inpatient of a hospital or other health care facility unless the practitioner or provider has determined that, consistent with professionally recognized health care standards, the inpatient care is medically necessary, and

(1) Cannot be provided more economically in a health care facility of a different type; or

(2) Although it could be provided more economically in a health care facility of a different type, no such facility is available in the area in which the individual is located, at the time when the care is needed.

§ 474.2 Sanctions.

In addition to any other sanction provided under law, a practitioner or provider may be:

(a) Excluded permanently or for a stated period of time from medicare and medicaid; or

(b) Required, as a condition for continued participation in those programs, to reimburse an amount not in excess of the cost of the improper or unnecessary services that were furnished or ordered, or $5,000, whichever is less. HCFA will either require the practitioner or provider to pay the monetary assessment within 6 months of the date of notice or will have it deducted from any sums owed to the practitioner or provider by the Federal Government.

§ 474.3 PSRO responsibilities.

(a) The PSRO shall identify situations that may result in a violation of the obligations specified in § 474.1 and help to prevent their occurrence as provided in § 474.4.

(b) The PSRO shall determine when a violation of an obligation has occurred and report the matter, with recommendations for action, to the Statewide Council or, if there is no Council, to HCFA.

§ 474.4 Action on potential violation.

If a PSRO identifies a situation that may result in a violation, it shall send the practitioner or provider a written notice containing the following information:

(a) The obligation involved;

(b) The situation, circumstances, or activity which, if continued, may result in a violation;

(c) The authority and responsibility of the PSRO to report a violation of obligations;

(d) A suggested method for correcting the situation and complying with the obligation;

(e) At the discretion of the PSRO, a time period for corrective action by the practitioner or provider;

(f) The sanction that the PSRO could recommend if a violation occurs; and

(g) An invitation to discuss the problem with representatives of the PSRO.

§ 474.5 Factors in PSRO determination of a violation.

If the PSRO identifies a violation, it shall determine:

(a) Which obligation specified in § 474.1 has been violated; and

(b) Whether the practitioner or provider has:

(1) Failed to comply substantially with an obligation, in a significant number of cases; or

(2) Grossly and flagrantly violated an obligation in one or more instances.

§ 474.6 Basis for recommended sanction.

The PSRO's recommendation of the type of sanction to be imposed shall be based on a consideration of:

(a) The type of offense involved;

(b) The severity of the offense;

(c) The anticipated deterrent effect of the recommended sanction;

(d) The previous sanction record of the practitioner or provider; and

(e) Other factors that the PSRO concludes are relevant to a particular case.

§ 474.7 Notice and review of PSRO determination of violation.

(a) *Written notice.* If the PSRO determines that a violation has occurred, it shall promptly give written notice to the practitioner or provider containing the following information:

(1) The determination of a violation;

(2) The obligation violated;

(3) The basis for the determination;

(4) The sanction to be recommended; and

(5) The right of the practitioner or provider to submit to the PSRO, within 20 days of the date on the notice, additional information or a written request for a meeting with the PSRO to review and discuss the determination, or both.

(b) *Review of determination.* (1) The PSRO may, on the basis of additional information submitted by the practitioner or provider, affirm, modify, or reverse its determination or the sanction to be recommended; and

(2) The PSRO shall promptly give written notice to the practitioner or provider of any action it takes as a result of the additional information received.

§ 474.8 PSRO report to the Statewide Council or to HCFA.

(a) *Manner of reporting.* If the PSRO determines that a violation has occurred, it shall submit a report to the Statewide Council or, if there is no Council, directly to HCFA.

(b) *Content of the report.* The PSRO report shall include:

(1) Identification of the practitioner or provider, and in the case of a provider, the name of its director, administrator, or owner;

(2) The type of health care service involved;

(3) A statement of facts describing each failure to comply with an obligation, with specific dates, places, circumstances, and any other relevant information;

(4) Pertinent documentary evidence;

(5) Copies of written corespondence and written summaries of oral exchanges with the practitioner or provider regarding the violation;

(6) The PSRO's finding that the practitioner or provider has violated an obligation under the Act; and

(7) The PSRO's recommendation of the sanction, if any, and the basis for that recommendation.

§ 474.9 Role and functions of the Statewide Council.

(a) *Council review and comment.* The Council shall:

(1) Review the report submitted by the PSRO to assure that it is complete and complies with all requirements set forth in § 474.8(b); and

(2) Prepare a statement concuring or nonconcurring with the PSRO's recommended action, and identifying any areas in which the PSRO report is incomplete.

(b) *Transmittal to HCFA.* The Council shall promptly transmit to HCFA the PSRO report and its statement of concurrence of nonconcurrence, with any additional comments or recomendatons.

§ 474.10 Action by HCFA on receipt of the report.

(a) *Determination of violation.* HCFA will review the PSRO report and determine (on the basis of the factors specified in § 474.5) whether a violation has occurred.

(b) *Determination of sanction.* If HCFA concludes that there is a violation, it will determine whether to impose a sanction after considering:

(1) The recommendation of the PSRO and the Statewide Council;

(2) The type of offense;

(3) The severity of the offense;

(4) The anticipated deterrent effect of the sanction;

(5) The previous sanction record of the practitioner or provider;

(6) Availability of alternative sources of services in the community; and

(7) Any other matters relevant to the particular case.

(c) *Notice to provider or practitioner.* (1) HCFA will notify the provider or practitioner of an adverse determination and of the sanction to be imposed at least 15 days before the effective date of the sanction.

(2) The notice will specify:

(i) The basis for the determination;

(ii) The sanction to be imposed;

(iii) The effective date and, if appropriate, the duration of the exclusion;

(iv) The appeal rights of the practitioner or provider; and

(v) In the case of exclusion, the earliest date on which HCFA will accept a request for reinstatement.

(d) *Public notice.* HCFA will notify the public by publication in a newspaper of general circulation in the PSRO area. The notice will identify the sanctioned provider or practitioner; specify the sanction imposed; and if the sanction is exclusion, the effective date and duration.

(e) *Notice to other affected entities.* HCFA will give notice, as appropriate, to:

(1) The PSRO that originated the sanction report and the Statewide Council involved;

(2) State medicaid and title V agencies, State medicaid fraud control units, and State licensing bodies;

(3) Hospitals, skilled nursing facilities, home health agencies, and health maintenance orgainzations (HMO's);

(4) Medical societies and other professional orgainzations; and

(5) Medicare carriers and intermediaries, health care prepayment plans, and other affected agencies and organizations.

(f) *Effect of HCFA determination.* (1) A practitioner or provider dissatisfied with a HCFA determination is entitled to a hearing and review by the appeals council in accordance with §§ 405.1531–405.1595 of this chapter.

(2) The HCFA determination will continue in effect unless revised by a hearing decision.

§ 474.14 Effective dates of exclusion.

(a) *General provisions.* Except as provided in paragraph (b) of this section:

(1) Payment will not be made under medicare to an excluded practitioner or provider and FFP will not be available under medicaid for services furnished by an excluded practitioner or provider after the effective date of exclusion. (See § 455.23 of this chapter.)

(2) Assignment of a beneficiary's claim for services furnished after the effective date of exclusion will not be valid.

(b) *Exceptions.* (1) For inpatient hospital services or posthospital extended care services furnished to a beneficiary or recipient who was admitted before the effective date of exclusion, payment will be available for services provided up to 30 days after that date.

(2) For home health services furnished under a plan established before the effective date of exclusion, payment will be available for services furnished through the end of the calendar year in which exclusion became effective.

(c) *Denial of payment to beneficiaries.* If a beneficiary submits claims for services furnished by an excluded practitioner or provider after the effective date of exclusion:

(1) HCFA will pay the first claim submitted by the beneficiary and immediatley give notice to the beneficiary of the exclusion; and

(2) The beneficiary's right to payment will extend to services provided up to 15 days after the date on the notice.

(d) *Effective date of termination of provider agreement.* For the effective date of termination of a medicare provider agreement under § 405.614, of this chapter, see § 405.615 of this chapter.

§ 474.15 Reinstatement after exclusion.

Exclusion shall remain in effect until HCFA determines, in accordance with § 405.315-1(j) of this chapter, that the reason for the determination has been removed and that there is reasonable assurance that it will not recur.

§ 474.17 Right to judicial review.

Any practitioner or provider dissatisfied with a decision of the appeals council or an administrative law judge (if a request for appeals council review is denied) may file a civil action in accordance with the provisions of section 205(g) of the Act.

(Secs. 1102, 1157, and 1160(b) of the Social Security Act, 42 U.S.C. 1302, 1320c-6 and 1320c-9.)

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Programs; 13.773, Medicare-Hospital Insurance; 13.774, Medicare-Supplementary Medical Insurance.)

Dated: August 2, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 30, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc. 78-29047 Filed 10-12-78; 8:45 am]

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federal register

FRIDAY, OCTOBER 13, 1978
PART VII

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

ORGANIZATIONAL CONFLICTS OF INTEREST

Proposed Policy; Invitation for Public Comment and Notice of Public Hearing

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[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[32 CFR Ch. I]

[41 CFR Ch. I]

ORGANIZATIONAL CONFLICTS OF INTEREST

Proposed Policy; Invitation for Public Comment and Notice of Public Hearing

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of a public hearing and a proposed regulation governing organizational Conflicts of Interest.

SUMMARY: This proposed policy would amend the Federal Procurement Regulations by adding a section 24 and would supersede appendix G of the Armed Services Procurement Regulation (ASPR), and is a revision of the proposed regulation published in the FEDERAL REGISTER, Vol. 42, No. 182, Tuesday, September 20, 1977, page 47223.

The problem of organizational conflicts of interest has received much recent attention by Federal executive agencies and Congress. It is the view of this Office that any attempted solution to this problem—to the extent it involves imposing procurement regulations and contractual requirements—should be uniformly applicable Governmentwide.

This policy is directed to the avoidance of contractual relationships which might encourage contractors to give biased advice and to the reduction of opportunities for contractors to gain an unfair competitive advantage. The policy would require contractors to disclose existing potential organizational conflicts when submitting an offer, and to stay free of conflicts during performance or be terminated.

DATE: Comments must be received on or before December 13, 1978, and a public hearing will be held on November 17, 1978, in Room 2010, NEOB, at 10 a.m. Statements for public hearing should be received prior to November 15, 1978.

ADDRESSES: Comments and request to be scheduled to make statements at the public hearing should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

Hearing will be held in Room 2010, New Executive Office Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Nadol, Deputy Associate Administrator for Regulations and Procedures, telephone 202-395-6166.

SUPPLEMENTARY INFORMATION: Under Pub. L. 93-400, authority for Federal procurement policy is vested in the Administrator for Federal Procurement Policy. All executive agency procurement policies, regulations, procedures, and forms are subject to those prescribed by the Administrator.

The Office of Federal Procurement Policy, Office of Management and Budget, is considering the adoption of a policy which would require the use by all Federal executive agencies of regulations and contract clauses governing organizational conflicts of interest.

The "Organizational Conflicts of Interest" regulations and clauses which follow are proposed for mandatory use by all Federal Executive agencies.

SECTION ANALYSIS

Section 2402. Defines organizational conflicts of interest (OCI) as an interest that may diminish objectivity or give unfair competitive advantage. This definition includes the interest of chief executives and directors of an organization to insure that (OCI) rules will not be circumvented by creation of a sister corporation by directors who have no legal affiliation. It also includes subcontractors and consultants so as to reduce another opportunity for abuse.

Section 2403. Lists possible situations where OCI may exist or arise. This is to overcome the belief by many that OCI covers only "hardware exclusion" and restrictive specifications.

Section 2404. Requires offerors to disclose potential OCI. One of the major weaknesses of the current regulation is that no disclosure is required and contracting officers are making awards with little knowledge of potential OCI.

Section 2405. Requires notice in the solicitation that if an OCI could result, a clause to eliminate OCI will be incorporated into the contract. Such a clause could prohibit a contractor from some future work and he should be advised of this prior to making a proposal.

Section 2406. Requires that a solicitation representation be included in all evaluation, consultant, management support, and professional service contracts. The requirement in the first draft that such solicitation notice and clauses be contained in other contracts was deleted since the potential for OCI in such contracts is limited and the administration burden very heavy.

Section 2407-1. The general conflict clause requires the contractor to disclose potential OCI or certify in the absence of any disclosure that there is no conflict of interest, and requires notice to the contracting officer (C.O.) if one arises. It also gives the C.O. the authority to terminate.

LESTER A. FETTIG,
Administrator.

EDITORIAL NOTE.—This proposed policy would amend the Federal Procurement Regulations by adding the following new regulations and would supersede appendix G of the Armed Services Procurement Regulations (ASPR) and is a revision of the proposed regulation published September 20, 1977 (42 FR 47223).

Subpart 1.24—Organizational Conflicts of Interest

Sec.

1.2400 Scope of subpart.
1.2401 Policy.
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1.2404 Disclosure of organizational conflicts of interest.
1.2405 Notices and representations; action required of contracting officers.
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1.2409 Action in lieu of termination.
1.24010 Architect-engineering and construction contracts.
1.2411 Subcontracts.
1.2412 Remedies.
1.2413 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Subpart 1.24—Organizational Conflicts of Interest

§ 1.2400 Scope of subpart.

This subpart sets forth policies and procedures regarding organizational conflicts of interest.

§ 1.2401 Policy.

It is the policy of the Government that organizational conflicts of interest connected with the procurement of supplies, construction, and services be identified, prior to award and be adequately eliminated, or neutralized.

§ 1.2402 Definitions.

(a) The term "organizational conflicts of interest" means that a relationship exists whereby an offeror or a contractor (including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors where they may be in a position to influence the advice or assistance rendered to the Government) (1) has interests which may diminish its capacity to give impartial, technically sound, objective assistance and advice, (2) will result in an unfair competitive advantage. It does not incude the normal flow of benefits from the performance of a contract.

(b) The term "contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliate thereof, which is a party to a contract with the United States of America. As used in this definition, the term "affiliate" has the same meaning as provided in 41 CFR Sec. 1-1.601-1(e).

§ 1.2403 Conflict of interest

(a) In addition to other situations contained in § 1.2413, an organizational conflict of interest may exist or arise:

(1) Even though no follow-on procurement is anticipated;

(2) When a contract is awarded on a noncompetitive or a sole source basis;

(3) Even though a hardware exclusion clause may not be appropriate;

(b)(1) An organizational conflict of interest is more likely to be disclosed if a contract is competitive. Accordingly, greater care shall be exercised in the absence of competition.

(2) This regulation does not apply to competitively awarded (1) design-build, turnkey, total package, or multistep contracts; (2) contracts awarded in accordance with OMB Circular A-109; or (3) contracts for performance against functional specifications. The competitive nature of such contracting methods negates OCI.

(c) An organizational conflict of interest is presumed to exist whenever one of the contractual relationships prohibited by paragraph 1-2413 would appear to result.

§ 1.2404 Disclosure of organizational conflicts of interest.

When submitting offers (quotations and proposals) contemplating a negotiated contract for (1) evaluation services and for technical direction, consulting, management support services, and professional services, and (2) or for negotiated solicitations declared by the head of the procuring activity to warrant such disclosure in connection with the procurement of supplies and services, offerors and contractors (with respect to modifications) shall be required to disclose relevant information bearing on the possible existence of any organizational conflicts of interest or complete the representation required by § 1.2406. When the Government finds that an organizational conflict of interest exists or may exist with respect to an offeror or contractor, no contract or contract modification award covered by § 1.2406 shall be made until the organizational conflict of interest has been adequately eliminated or neutralized, except as provided in § 1.2408 below.

§ 1.2405 Notices and representations; action required of contracting officers.

(a) The disclosure or representation required by § 1.2406 is designed to alert the contracting officer to situations or relationships which may constitute either present or anticipated organizational conflicts of interest with respect to a particular offeror or contractor. However, this disclosure or representation may not identify a potential organizational conflict of interest involving a successful offeror that could affect his participation in subsequent procurements arising out of or related to work performed under a contract that results from the solicitation currently under consideration. Accordingly, whenever such potential conflicts are foreseeable by the Government, a special notice also shall be included in the solicitation informing offerors of the fact that such a potential conflict is foreseen and that a special contract clause designed to eliminate or neutralize such conflict will be included in any resultant contract as required by § 1.2407(.2). Such notice shall specify the proposed extent and duration of restrictions to be imposed with respect to participation in subsequent procurements. A fixed term of reasonable duration is measured by the time required to eliminate what would otherwise constitute an unfair competitive advantage. This is a variable; and in no event shall an exclusion be stated which is not related to a specific expiration date or an event certain. The Government shall not determine without notice on an after-the-fact basis that performance of a contract created an organizational conflict of interest with respect to procurements arising out of or related to work performed under that contract.

§ 1.2406 Disclosure or representation.

(a) The disclosure or representation prescribed by this section shall be included in all solicitations, scope modifications, and unsolicited proposals (1) for the conduct of evaluation services and for technical direction, consulting, management support services, and professional services. It may also be employed as otherwise deemed desirable by the heads of agencies.

(b) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or current planned interest (financial, contractural, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. The offeror may also provide relevant facts that show how their organizational structure and/or management systems limit their knowledge of possible organization conflicts of interest relating to other division or sections of the organization and how that structure or system would eliminate or neutralize such organizational conflict.

(c) In the absence of any interest referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such interest exists.

(d) The Department will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Department, will be used to determine whether an award to the offeror may create an organizational conflict of interest. If such organizational conflict of interest is found to exist, the Department may (1) impose appropriate conditions which eliminate or neutralize such conflict, (2) disqualify the offeror, or (3) determine that it is otherwise in the best interests of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(e) Failure to provide the disclosure or execute the representation will be deemed to be a minor informality and the offeror or contractor will be permitted to correct the omission.

(f) Refusal to provide the disclosure or representation and any additional information as required, or the willful nondisclosure or misrepresentation of any relevant interest shall disqualify the offeror or contractor for award.

§ 1.2407 Contract clauses.

§ 1.2407-1 General contract clause.

All contract actions subject to the disclosure or representation requirement of § 1.2406 shall include the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST—GENERAL

(a) The contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, he does not have any organizational conflict of interest, as defined in the Federal Procurement Regulations (see 41 CFR 1.2402(a)) and the Armed Services Procurement Regulation (see par. 1-2402(a)) or that he has disclosed all relevant information and requested the contracting officer to make a determination with respect to this contract.

(b) The contractor agrees that, if after award he discovers an organizational conflict of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to eliminate or neutralize the conflict. The Government may, however, terminate the contract for the conven-

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ience of the Government if it would be in the best interests of the Government.

(c) In the event that the contractor was aware of organizational conflict of interest prior to the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default. (End of clause.)

§ 1.2407-2 Special contract clause.

When an organizational conflict of interest is found to exist, it shall be adequately eliminated, or neutralized through the use of an appropriate special contract clause. Examples of the types of clauses which may be employed include but are not limited to the following:

(a) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(b) Software exclusion clauses;

(c) Clauses which require the contractor, members of his Board of Directors, or his chief executives to eliminate, or neutralize an organizational conflict of interest; and

(d) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use.

(e) Clauses that prohibit other segments or divisions of the contractor from becoming invoved in the performance of the contract work or being in a position to influence such work.

The prospective contractor shall be given the opportunity to negotiate the terms and conditions of the clause and its application. The extent and time period of any restrictions shall be specified in the clause.

§ 1.2408 Contract award when an organizational conflict of interest is present.

(a) No contract or modification award of the type defined in § 1.2406(a) shall be made to an offeror or contractor having an organizational conflict of interest with respect to that contract or modification unless:

(1) The conflict has been eliminated or neutralized; or

(2) The contracting officer of the agency determines that the award of the contract would be otherwise in the best interests of the Government. Where such a determination is made, an appropriate written finding and determination shall be placed in the contract file.

(b) Examples of circumstances justifying such a determination include but are not necessarily limited to:

(1) Situations where the public exigency will not otherwise permit; and

(2) Situations where the requirement cannot otherwise be obtained.

§ 1.2409 Action in lieu of termination.

If the contracting officer determines that it would not be in the best interests of the Government to terminate a contract as provided in the clause required by § 11.2407, the contracting officer shall take every reasonable action to eliminate, or otherwise neutralize the organizational conflict of interest.

§ 1.2410 Architect-engineering and construction contracts.

The award of architect-engineering or project manager contracts and follow-on construction contracts or subcontracts to the same contractor is prohibited. However, competitively awarded design-build or turnkey contracts are not prohibited.

§ 1.2411 Subcontracts

The contractor shall require a disclosure or representation in accordance with § 1.2406 from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the Government and shall include in consultant agreements or in such subcontracts involving performance of work under a prime contract covered by this section, contract clauses in accordance with § 1.2407.

§ 1.2412 Remedies

In addition to other remedies permitted by law or contract, the agency may disqualify a contractor from subsequent agency contracts for a knowing breach of the restriction in this section or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed by this section.

§ 1.2413 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Introduction: The following examples illustrate types of organizational conflicts of interest which frequently arise, but they are not all inclusive. They are not rules in the literal sense, but are only examples of the two principles enumerated in the definition of an "organizational conflict of interest" set forth in paragraph 1-2402 above. These two basic principles—(1) preventing conflicting roles and competing interests which might bias a contractor's judgment, and (2) preventing a contractor from gaining an unfair competitive advantage over others—are the fundamental goals which must always be borne in mind in reaching a determination as to the presence or absence of an organizational conflict of interest. Organizational conflicts may involve software and services, as well as hardware. Many consulting and engineering firms, for example, have no hardware capability but may nevertheless perform work under contractual situations giving rise to potential conflicts under the two principles mentioned above. Therefore, the possible need for using both hardware and software exclusion clauses must be considered in appropriate cases, particularly in the field of research studies, technical consultant and management support services and test and evaluation, where objectivity may be influenced or a competitive advantage gained through access to information regarding future Government plans or programs.

(a) If a contractor agrees to provide systems engineering and technical direction or management support for a project without at the same time assuming overall contractual responsibility for:

(1) Development, or

(2) Integration, assembly, and checkout, or

(3) Production or construction,

then that contractor shall not later be allowed to supply the system or any major components construction thereof, or to be a subcontractor or consultant to a supplier of the system or construction or any major components thereof.

Explanation: The contractor occupies a highly influential and responsible position as an agent of the Government both in determining basic concepts of a project and in supervising their execution by other contractors. To assure the objectivity of its services and hence a more soundly planned project, the contractor must not be in a position to make decisions which could favor its own products or services. Furthermore, it would be inconsistent with the managerial responsibility of a contractor for it to be concurrently one of the component supplies or contractors.

(b) If a contractor agrees to prepare and furnish complete specifications covering nondevelopmental items to be used in competitive procurement, that contractor shall not be allowed to furnish such items, either as a prime or subcontractor, for a reasonable period of time including, at least, the initial procurement. This example shall not apply to:

(1) Contractors who furnish at Government request specifications or data with respect to the product they furnished, even though the specifications or data may have been paid for separately or in the price of the product.

(2) Situations where one or more contractors acting as industry representatives assist Government agencies in preparing, refining, or coordinating specifications, regardless of source, which assistance is supervised and controlled by Government representatives.

(3) Contracts for developmental or prototype items.

(4) Competitive contracts awarded pursuant to OMB Circular A-109.

(5) Competition for performance against function specifications.

Explanation: If a single contractor is engaged by the Government to draft complete specifications for nondevelopmental equipment, he should be eliminated for a reasonable time from competition for production based on the specifications. This should be done in order to avoid a situation where he could draft specifications which would favor his own products or capabilities. In this way the Government can be assured of getting unbaised advice as to the content of its specifications and can avoid allegations of favoritism in the award of production contracts. In the development work it is normal to select firms which have done the most advanced work in the field. It is to be expected that these firms will design and develop around their own prior knowledge. Development contractors can frequently start production earlier and more knowledgeably than firms which did not participate in the development, and this affects the time and quality of production, both of which are important to the Government. In many instances the Government may have financed such development. Thus, the development contractor may have an unavoidable competitive advantage which is not considered unfair and no prohibition should be imposed. In instances of cooperation between industry and Government agencies to prepare, refine, or coordinate specifications, there is continuous participation and supervision by Government representatives and, usually, more than one contractor concerned. In these circumstances Government supervision prevents the establishment of specifications oriented to favor a given contractor's products or capabilities.

Illustration A: Company A prepares updated Government specifications for a standard refrigerator to be procured competitively. Company A shall not be allowed for a reasonable period of time to compete for supply of the refrigerator.

Illustration B: Company A designs or develops a new electronic equipment and, as a result of the design or development, prepares specifications. Company A may supply the electronics equipment.

Illustration C: A Tool Company and/or Machinery Company representing the American Tool Institute work under the supervision and control of Government representatives to refine specifications or to clarify the requirements of a specific procurement. These companies may supply the item.

Illustration D: Prior to selection of the Automatic Data Processing (ADP) Equipment, a company is awarded a contract to develop software to automate an Air Force function. Since software can be written to favor a particular vendor's commercial ADP hardware, a potential conflict of interest exists. Accordingly, the company should be barred from at least the initial follow-on ADP hardware procurement using the software developed under its development contract.

Illustration E: A System Engineering and Integration contract is awarded to Company A. As part of its effort it is required to identify and modify commercially available software packages, integrate them into a system, and identify and provide performance specifications for the commercial hardware requirements to operate the resulting system. Since the identified packages and modifications can be biased toward a particular vendor's hardware when used in a follow-on acquisition, Company A should be barred from at least the initial follow-on computer hardware procurement.

Illustration F: A study contract is awarded to Company A to solve a computer interface problem. The effort will require the identification of commercial equipment that will solve the interface problem. Since the vendor's judgment could be biased if allowed to recommend its own equipment, it should be barred from at least the initial follow-on procurement resultant from its interface effort.

(c) If a single contractor, other than a company which has participated in the development or design of a system, agrees to assist a Government agency or a contractor of a Government agency in the preparation of a statement of work, or agrees to provide material leading directly, predictably, and without a delay to a statement of work to be used in the competitive procurement of a system or services, that contractor shall not be allowed to supply the services, or the system or major components thereof, unless it is the sole source. The content of a statement of work shall not be considered predictable if more than one contractor is involved in the preparation of material leading to it.

Explanation: The various services related to a statement of work to be used in a competitive procurement should normally be performed by the Government agency. However, when it is necessary to seek the assistance of contractors, they may often be in a position to favor their own products or capabilities. To overcome this possibility of bias, such contractors are to be prohibited from supplying a system or services procured on the bais of work statements growing out of their services. No prohibitions are imposed on development contractors for the reasons given in the explanation to rule (b).

Illustration A: Company A receives a contract to define the detailed performance characteristics a Government agency will require for the purchase of rocket fuels. A has not developed the particular fuels. At the time the contract is awarded, it is clear to both parties that the performance characteristics arrived at will be used by the Government agency to choose competitively a contractor to develop or produce the fuels. Company A shall not be permitted to bid on this procurement.

Illustration B: Company A receives a contract to prepare a detailed plan for the procurement of services aimed at the advanced scientific and engineering training of a Government agency's personnel. It suggests a curriculum which the agency endorses and incorporates in requests for proposals to various institutions to establish and conduct such training. Company A shall not be permitted to bid on this procurement.

Illustration C: Company A prepares a feasibility study of a new weapons system without proposing in detail the characteristics of a possible final device. It may bid to produce the system or components thereof.

(d) If a contractor gains access to proprietary data of other companies incidental to the performance of a Government contract, the contractor must agree with such companies to protect such data from unauthorized use or disclosure so long as it remains proprietary. In addition, the contractor shall not be permitted to utilize the data for any purpose other than that for which it was furnished to him unless otherwise specifically provided for in his contract or unless written authorization from the owner of the data has been obtained.

Explanation: Proprietary data is information considered so valuable by its owners that it is held secret by them and their licensees. Where a contractor must obtain such data from others for purposes of performing a Government contract, and can obtain it by the leverage of that contract, he will gain an advantage over other companies unless there are restrictions upon his use of the data. Such restrictions are necessary both to protect the data, and to encourage companies to furnish it to contractors when necessary for the performance of a Government contract. The rule is not intended to protect proprietary data furnished voluntarily by companies without limitations as to use, or data which falls into the public domain.

Illustration A: Company A is selected to study the use of lasers in military communications. The Government agency will request that firms doing research in the field make proprietary data available to A. In order to receive the contract, A must agree with such firms to protect any proprietary data it obtains, so long as it remains proprietary, and shall not be permitted to utilize the data in supplying any lasers to the Government agency. While A could not receive a competitively awarded contract to perform additional studies of lasers using such data, it may receive a contract award if it is the sole source.

(e) A contractor who in connection with the performance of a study, consulting or similar contract will be given information by a Department regarding the Department's plans or programs, which is not available to other interested potential contractors shall not be permitted to compete with

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such firms for work relating to such plans or programs.

(f) A contractor shall not, without making a full disclosure to the contracting officer, and in the absence of adequate safeguards, be allowed to evaluate or perform other consulting services: (1) Which will necessarily require the evaluation of the contractor's own work product, or (2) with respect to the product or services of any other contractor with which the contractor has an existing consulting relationship.

(g) A contractor performing evaluation or consulting services for the Government in connection with a competitive procurement shall not be permitted to enter into a contractual relationship with the successful offeror with respect to work directly and predictably arising out of or related to the performance of the contract resulting from the competition.

[FR Doc. 78-29070 Filed 10-12-78; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3419-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 168]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 15-21, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 10, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. the committee reports the demand for lemons is good for sizes 140's and larger, slight improvement on size 165's, but easier on sizes 200's and 235's.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.468 Lemon Regulation 168.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 15, 1978, through October 21, 1978, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October, 12, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29222 Filed 10-12-78; 11:48 am]

[3410-02-M]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Qualification Requirements and Nomination Procedure for Public Members of the Industry Committee; and Deletion of Obsolete Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document establishes qualification requirements and nomination procedure for public members of the Industry Committee, which locally administers the Federal marketing order covering, Georgia peaches, and it deletes obsolete rules now in effect.

EFFECTIVE DATE: November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking on this matter was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40027). The notice invited interested persons to submit comments in connection with the proposal through September 25, 1978. No such material was received.

The proposal was submitted by the Industry Committee which is established under Marketing Order No. 918, as amended (7 CFR Part 918; 42 FR 40883). The order regulates the handling of fresh peaches grown in Georgia and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

A recent amendment of the marketing order provided that the committee could be increased by one public member. Such public member (and alternate) should be nominated by the "grower members" of the Industry Committee and selected by the Secretary. Consistent with order provisions, the committee recommended establishment of the qualification requirements and nomination procedure, hereafter set forth, applicable to the public member (and alternate) of the committee.

Said amendment of the order also updated certain sections of the basic order rendering the sections of the Industry Committee Regulations, hereafter set forth, obsolete.

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After consideration of all relevant matter presented, including the proposal in the notice, the recommendation of the committee, and other available information, it is hereby found that the amendment, hereinafter set forth, of said rules and regulations is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

1. In Subpart—Industry Committee Regulations (7 CFR 918.100-918.131) a new § 918.112 is added reading as follows:

§ 918.112 Qualification requirements and nomination procedure for public members of the Industry Committee.

(a) Public members shall not have a financial interest in or be associated with the production, processing, financing, or marketing (except as consumers) of Georgia peaches.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly, and become familiar with the background and economics of the industry.

(c) Public members must be residents of Georgia.

(d) Public members should be nominated by the committee prior to December 31 of each year, and should serve a 1-year term which coincides with the term of office of other members of the committee.

§§ 918.110 and 918.131 [Deleted]

2. In Subpart—Industry Committee Regulations (7 CFR 918.100-918.131), § 918.110 *Change in representation by districts on the Industry Committee*, and § 918.111 *Redefinition of districts*, are deleted.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Effective date: November 15, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29116 Filed 10-13-78; 8:45 am]

[3410-02-M]

PART 965—TOMATOES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Subpart—Rules and Regulations

REESTABLISHMENT OF DISTRICTS

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule authorizes the reestablishment of districts within the production area of Marketing Order 965 covering Texas Valley tomatoes. The changes in districts reflect changes in number of producers and volume of production and provide equitable representation on the committee.

EFFECTIVE DATE: August 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Order 965 regulates the handling of tomatoes grown in the Lower Rio Grande Valley of Texas (the counties of Cameron, Hidalgo, Starr and Willacy in the State of Texas). It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Texas Valley Tomato Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the September 8, 1978, FEDERAL REGISTER (43 FR 40023) inviting comments by September 23, 1978. None was received.

This rule is based upon recommendations made by the committee at its public meeting held May 2, 1978.

There has been a significant shift in tomato acreage and in number of producers since the inception of Order 965, and there are now fewer producers and less acreage in all districts. The order provides that upon the recommendation of the committee the Secretary may reestablish districts within the production area. After carefully considering the criteria in § 965.25 the committee at a meeting on May 2, 1978, unanimously recommended the reestablishment of districts described in the rule which follows. It recommended preserving an equitable distribution of membership and combining the districts with similar growing conditions. Thus District No. 1, Cameron County, and District No. 4, Willacy County, would be combined to form a new District No. 1. Also District No. 2, Hidalgo County, and District No. 3, Starr County, would form a new District No. 2. After consideration, the committee recommended that the membership to represent the redistricted production area should be unchanged and that the new districts should each have the same committee membership as the two current districts that form each new district.

Findings: After consideration of all relevant matters, including the proposal recommended by the Texas Valley Tomato Committee set forth in the notice, it is hereby found and determined that §§ 965.150 and 965.151 should be added to the rules and regulations to read as follows:

§ 965.150 Reestablishment of districts.

Effective August 1, 1979, districts within the production area are reestablished, pursuant to § 965.25 *Redistricting*, as follows: District No. 1, the County of Cameron, and District No. 4, the County of Willacy, and their respective membership are combined to form a new District No. 1; and District No. 2, the County of Hidalgo, and District No. 3, the County of Starr, and their respective membership are combined to form a new District No. 2.

§ 965.151 Selection.

Effective August 1, 1979, the Secretary shall select four members and their respective alternates to represent District No. 1, and five members and their respective alternates to represent District No. 2.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: October 10, 1978, to become effective August 1, 1979.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29115 Filed 10-13-78; 8:45 am]

[3410-02-M]

PART 984—WALNUTS GROWN IN CALIFORNIA

Expenses of Walnut Marketing Board, and Rate of Assessment for 1978-79 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978-79 marketing year, to be collected from handlers to support activities of the Board which locally administers the Federal marketing order covering walnuts grown in California.

DATES: Effective Aug. 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Board, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

§ 984.330 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Board during the 1978-79 marketing year, will amount to $286,930.

(b) The rate of assessment for said year payable by each handler in accordance with § 984.69 is fixed at 0.25 cent per kernelweight pound for certified merchantable walnuts.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular marketing year shall apply to all assessable walnuts handled from the beginning of such year which began August 1, 1978. To enable the Board to meet marketing year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Board. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: October 10, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-29117 Filed 10-13-78; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

OBLIGATIONS INCURRED BEFORE LOAN CLOSING

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration amends its regulations regarding rural rental housing (RRH). This action is taken to permit RRH loan funds to be used to retire temporary financing to a State or local public agency. The action is being taken as a result of an administrative decision to finance certain needed housing projects.

EFFECTIVE DATE: October 16, 1978. Comments must be received on or before December 15, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul Conn, Director, Multiple Family Housing Loan Division, 202-447-7207.

SUPPLEMENTARY INFORMATION: Paragraph (c)(1) of § 1822.86, Subpart D, Part 1822, Chapter XVIII, Title 7 in the Code of Federal Regulations is amended to clarify that RRH loan funds may be used to retire a development loan made to a State or local public agency specifically intended as temporary financing.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is published effective on an interim basis. This action is being taken to make the program immediately available to State or local public agencies that have interim financing on rental housing projects. The result of this action will permit affordable rental rates for low- to moderate-income families, some of whom presently live in substandard housing because adequate housing is not within their repayment ability. Therefore, any delay in implementing this amendment would be contrary to the public interest. Comments made pursuant to this publication will be considered in the development of the final rule.

Accordingly, § 1822.86, paragraph (c)(1) is amended to read as follows:

§ 1822.86 Limitations.

. . . . . .

(c) *Obligations incurred before loan closing.* • • •

(1) The debts were incurred: (i) After the applicant filed a written application for a loan with FmHA; or (ii) after the submission of a preliminary proposal to the Department of Housing and Urban Development (HUD) in the case of a project involving the Section 8 Housing Assistance Payments Program with a loan made in compliance with this Instruction; or (iii) prior to the date of application as part of a predevelopment loan specifically intended as temporary financing from a public agency or nonprofit organization and prior concurrence of the National Office is obtained; or (iv) prior to the date of application as part of a development loan made to a State or local public agency specifically intended as temporary financing and prior concurrence of the National Office is obtained.

. . . . . .

(42 U.S.C. 1480; Delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70).

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-29111 Filed 10-13-78; 8:45 am]

[3410-07-M]

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 456.1]

PART 1864—DEBT SETTLEMENT

Approval of Settlement and Submission to National Office

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

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SUMMARY: The Farmers Home Administration amends its regulations regarding debt settlement. This action is taken as a result of passage of a public law. The effect of this action is to increase the approval authority of Farmers Home Administration State Directors regarding debt settlement actions.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas Baden, phone 202-447-2331.

SUPPLEMENTARY INFORMATION: Section 1864.14, paragraphs (a) (1) and (2) of Part 1864, Chapter XVIII, Title 7, Code of Federal Regulations amended. The amendment increases the authority for State Director approval of debt settlement actions in accordance with the Agricultural Credit Act of 1978 from up to $15,000 to up to $25,000, resulting in fewer cases being submitted to the National Office and faster service on such actions. The State Director's authority for redelegating approval authority to subordinate officials has been deleted.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to conform FmHA regulations with the provisions of the Agricultural Credit Act of 1978 and publication is therefore unnecessary.

Accordingly, § 1864.14 paragraphs (a) (1) and (2) as amended, read as follows:

§ 1864.14 Approval of settlement and submission to National Office.

(a) * * *

(1) By the State Director where the indebtedness involved in the settlement is less than $25,000 (including principal, interest and other charges).

(2) By the Administrator when the indebtedness involved in the settlement is $25,000 or more (including principal, interest, and other charges).

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO, 29 FR 14764, 33 FR 9850).

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-29110 Filed 10-13-78; 8:45 am]

[6705-01-M]

Title 12—Banks and Banking

CHAPTER VI—FARM CREDIT ADMINISTRATION

ORGANIZATION, PERSONNEL ADMINISTRATION, AND FUNDING OPERATIONS

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, took final action to amend its regulations pertaining to the organization, personnel adminstration, and funding operations of the Farm Credit System. The amendment to the regulations covering organization clarifies the existing policy of requiring Farm Credit Administration approval prior to the establishment of a branch or other office by a Farm Credit bank. The amendment to the regulations covering personnel administration deletes a section requiring reports of certain conflict of-interest situations because of its limited applicability. The amendments to the regulations covering funding operations authorize the issuance of Farm Credit Investment Bonds in denominations of $100,000 or more, make all employees of the Farm Credit Administration ineligible to purchase Farm Credit Investment Bonds, and clarify that such bonds may be issued either in book-entry or definitive form.

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee R. Brobst, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza SW., Washington, D.C. 20578, 202-755-2131.

SUPPLEMENTARY INFORMATION: By notices published in the FEDERAL REGISTER on July 5, 1978, and August 15, 1978, interested persons were afforded the opportunity to file written comments or suggestions on these proposed amendments. Two comments were received on the proposed revision of the regulation dealing with establishment of branch offices. One favored the amendment as drafted. The other suggested that the present regulation sufficiently met the requirements of the Farm Credit Act of 1971 regarding the establishment of branch offices. The Farm Credit Administration does not believe that the present regulation fully reflects its policy of requiring approval. Therefore, no changes were made in the regulation as proposed. Three comments were received on the revision dealing with personnel administration and all favored deletion of the reporting requirement. No comments were received on the proposed revision of the regulations governing the funding operation of the Farm Credit System. The proposed amendments were adopted by the Federal Farm Credit Board as written.

FCA's regulations on personnel administration have required a Farm Credit institution to report to FCA any credit based on an obligation of a director, officer, or employee which it extends to another financing institution. Experience has demonstrated that there is no substantial need for this reporting requirement. Therefore, it has been deleted.

The regulations on funding have limited investment bonds issued by the Farm Credit banks to denominations under $100,000. In order to better meet the requirements of member-borrowers of the Farm Credit System and to provide the banks for cooperatives with a viable addition to their funding program, the regulations have been amended to provide for the issuance of the investment bonds in denominations of $100,000 or more. These bonds are subject to the limitations in the Federal Reserve Board's Regulation Q which currently prescribes interest rate ceilings on consumer-type deposits under $100,000.

Chapter VI of title 12 of the Code of Federal Regulations is amended by revising §§ 611.1070, 615.5110, and 615.5120 as follows and by deleting § 612.2260:

PART 611—ORGANIZATION

§ 611.1070 Branches.

A bank may establish branches or other offices necessary for the effective operation of its business if authorized by its board and approved by the Farm Credit Administration. An association may establish such branches or other offices necessary for the effective service to borrowers when approved by the supervising bank.

PART 612—PERSONNEL ADMINISTRATION

§ 612.2260 [Deleted]

PART 615—FUNDING AND FISCAL AFFAIRS LOAN POLICIES AND OPERATIONS AND FUNDING OPERATIONS

§ 615.5110 Authority to issue (other funding).

Any Farm Credit bank may issue Farm Credit Investment Bonds directly to those eligible as set forth in § 615.5120(a). The bonds are subject to the limitations contained in the Federal Reserve Board's regulation Q.

§ 615.5120 Purchase eligibility requirement.

(a) *Limitations.* Eligibility to purchase Farm Credit Investment Bonds shall be limited to members and employees of the Farm Credit banks and associations, except any bank officers, directors, and employees who are involved in setting the term or rate, to retired employees who are beneficiaries of a pension or retirement program of the Farm Credit banks or associations, and to retired employees of the Farm Credit Administration. A member of a Farm Credit association or a bank for cooperatives need not be an active borrower to be eligible. A member of any Farm Credit institution may purchase investment bonds from any of the institutions in the district which offer the purchase program. Patrons, members, employees, or stockholder of other financing institutions discounting loans with the Federal intermediate credit bank or of any legal entity which is a borrower from any Farm Credit institution as such are ineligible as they are not members of a Farm Credit institution. Stock or participation certificates shall not be sold merely to qualify a party for the purchase of Farm Credit Investment Bonds. For purposes of this section "member" means a stockholder or participation certificate holder who acquired stock or participation certificates to obtain a loan, to purchase stock for investment or to qualify for other services of the association or bank. A person who assumes a loan is not a member unless he becomes a stockholder or participation certificate holder in connection with that loan. Employee means a regular full-time employee of a Farm Credit bank or association. Retired employee means a retiree who is a direct beneficiary of a pension or retirement program of a Farm Credit bank or association or the Farm Credit Administration under civil service retirement.

(b) *Form and ownership.* Farm Credit Investment Bonds are registered bonds issued in definitive or book-entry form depending on investor preference. The registration used must express the actual ownership of an interest in the bond and will be considered by the issuing institution as conclusive of such ownership and interest. No designation of an attorney, agent, or other representative to request or receive payment on behalf of the owner or coowner, nor any restriction on the right of the owner or coowner to receive payment of the bond or interest, except as provided in this section, may be made in the registration or otherwise. Registrations requested in applications for the purchase shall be clear, accurate, complete, and conform with one of the registration provisions set forth in this section, and include the appropriate taxpayer identifying number. Registrations requested will be inscribed on the face of the bond if in definitive form or on the confirmation of investment if in book-entry form. The following provisions shall apply for registration of Farm Credit Investment Bonds:

(1) In all cases the member's name (whether a natural person, fiduciary, or legal entity) or employee's name must appear as owner of the bond.

(2) A bond may be registered in the name of a fiduciary only if the fiduciary is in fact the member.

(3) A member or employee may not use a form of registration (such as a gift to a minor, irrevocable trust, etc.) which would divest himself of ownership. However, a minor may be named as coowner or beneficiary.

(4) If a member is a natural person, a second natural person, member or nonmember, may be named as coowner or beneficiary. Coownership may not involve a fiduciary or private organization.

(5) In the coownership form the connective "or" shall serve the same purpose as "joint tenants with right of survivorship."

C. K. CARDWELL,
Acting Governor,
Farm Credit Administration.

[FR Doc. 78-29135 Filed 10-13-78; 8:45 am]

[1505-01-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15131; Amdt. No. 36-8]

PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Noise Limits and Acoustical Change Requirements for Subsonic Transport Category Large Airplanes and Turbojet Powered Airplanes: Correction to Minimum Thrust Cutback Altitudes

Correction

In FR Doc. 78-27112 appearing at page 44474 in the issue for Thursday, September 28, 1978, on page 44475, in the middle column, in the amendment to Section C36.7, paragraphs (b) (1) and (2) should be corrected to read as follows:

Section C36.7 Takeoff test conditions.

* * * * *

(b) * * *

(1) *For Stage 1 airplanes and for Stage 2 airplanes that do not have turbojet engines with a bypass ratio of 2 or more,* the following apply: * * *

(2) *For Stage 2 airplanes that have turbojet engines with a bypass ratio of 2 or more and for Stage 3 airplanes,* the following apply:

* * * * *

[4910-13-M]

[Airspace Docket No. 78-WE-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone; Winslow, Ariz.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the effective hours of the control zone so as to coincide with the hours of operation for weather observations conducted at Winslow, Ariz.

EFFECTIVE DATE: October 16, 1978.

ADDRESSES: Federal Aviation Administration, Air Traffic Division Chief, Airspace and Procedures Branch, AWE-530 15000 Aviation Boulevard Lawndale, Calif. 90261.

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FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261. Telephone: 213-536-6182.

SUPPLEMENTARY INFORMATION: In Subpart F, § 71.171 (43 FR 355) of FAR Part 71, the Winslow, Ariz. Control Zone is designated as full time. The National Weather Service at Winslow, Ariz., will reduce its hours of the hourly and special weather observations from full time to part time effective November 2, 1978. Since the effective hours of the control zone are dependent upon weather observations, it will be necessary to reduce the time of designation of the control zone to coincide with weather reporting capabilities.

This alteration will allow for control zone designation to exist when hourly and special weather observations are made. To make this possible, a change is required in the designation of the control zone to allow for part-time operation.

Since this alteration is mandated by regulation, we have determined that notice and public procedures provisions of the Administrative Procedures Act is unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 355) is amended, effective upon publication of this amendment in the FEDERAL REGISTER as follows:

§ 71.171 [Amended]

In § 71.171 under Winslow, Ariz., following * * * "to the Winslow 292° radial." Add: "This control zone shall be effective during the specific dates and times established in advance by a notice to airmen which thereafter will be continuously published in the Airport/Facility Directory."

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on October 3, 1978.

LEON C. DAUGHERTY,
Acting Director, Western Region.

[FR Doc. 78-28881 Filed 10-13-78; 8:45 am]

[6320-01-M]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1077; Amdt. No. Ch. II]

ORGANIZATIONAL CHANGE

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 5, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule reflects the consolidation of the Office of the Consumer Advocate and the Bureau of Enforcement into a new Bureau of Consumer Protection.

DATES: Adopted: October 5, 1978. Effective: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. 202-673-5442.

SUPPLEMENTARY INFORMATION: For the reasons discussed in OR-133, the Board has consolidated its Office of the Consumer Advocate and Bureau of Enforcement into a new Bureau of Consumer Protection. The consolidation is reflected in specific amendments to parts 384, 385, and 302, which are made in OR-133, OR-134, and PR-179, respectively. Those amendments are also being issued today.

This rule substitutes the new Bureau's name for the Bureau of Enforcement in all other Board regulations. Since the name "Office of the Consumer Advocate" does not appear outside parts 302 and 384, no substitution for it is necessary here.

Since these amendments are administrative in nature, affecting rules of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends all its regulations (14 CFR Chapter II), except parts 302, 384, and 385, as follows:

"Bureau of Enforcement" is replaced by "Bureau of Consumer Protection" wherever it appears.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29194 Filed 10-13-78; 8:45 am]

[6320-01-M]

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-179; Amdt. No. 42]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Bureau of Consumer Protection; Conforming Amendment

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 5, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment to the Board's rules of practice reflects the consolidation of the Office of the Consumer Advocate and the Bureau of Enforcement into a new Bureau of Consumer Protection.

DATES: Adopted: October 5, 1978. Effective: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: For the reasons discussed in OR-133, also adopted today, the Board has consolidated its Office of the Consumer Advocate and Bureau of Enforcement into a new Bureau of Consumer Protection. This rule substitutes the new Bureau's name for the Bureau of Enforcement. The name "Office of the Consumer Advocate" appears only in § 302.9, which currently states that the term "party" shall include the Bureaus of the Board and that Office. The latter reference has become obsolete, so this amendment deletes it.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 302 of its procedural regulations, Rules of Practice in Economic Proceedings (14 CFR Part 302), as follows:

1. "Bureau of Enforcement" is replaced by "Bureau of Consumer Protection" wherever it appears.

2. Section 302.9 is amended by deleting "and the Office of the Consumer Advocate."

3. Section 302.210 is amended by replacing "enforcement attorney" with "attorney from the Bureau of Consumer Protection."

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29195 Filed 10-13-78; 8:45 am]

[6320-01-M]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-133, Amdt. No. 11]

PART 384—STATEMENT OF ORGANIZATION, DELEGATION OF AUTHORITY, AND AVAILABILITY OF RECORDS AND INFORMATION

Creation of the Bureau of Consumer Protection

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 5, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends its statement of organization to reflect the consolidation of the Office of the Consumer Advocate and the Bureau of Enforcement into a new Bureau of Consumer Protection.

DATES: Adopted: October 5, 1978. Effective: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board recently consolidated its Office of the Consumer Advocate and Bureau of Enforcement into a new Bureau of Consumer Protection. The new Bureau has assumed the responsibilities and staff of the previous office and bureau, except for the Board's audit functions, which were transferred to the Bureau of Accounts and Statistics.[1]

This reorganization is intended to insure that consumers receive the benefits of a competitive air transportation system, to increase the Board's capability in the area of antitrust enforcement, and to underscore its commitment to have the consumer interest adequately represented in matters that come before it. The Board intends by this merger to increase its ability to inform, assist, and protect consumers in dealings with the air transportation industry and to resolve more sastisfactorily the consumer complaints that it receives.

This amendment reflects the creation of the new bureau in the Board's statement of organization. OR-134 amends part 385, which sets out the Board's specific delegations of authority. PR-179 and ER-1077 make conforming amendments to part 302 and the rest of the Board's regulations, respectively. Those amendments are also being issued today. A separate amendment to part 385, reflecting the transfer of the audit functions to the Bureau of Accounts and Statistics, will be issued in the near future.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 384 of its organization regulations, Statement of Organization, Delegation of Authority, and Availability of Records and Information (14 CFR Part 384) as follows:

Section 384.7 is amended by revoking and reserving paragraph (a)(7) and revising paragraph (f), to read:

§ 384.7 Organization and delegation of authority.

* * * Generally speaking, the Board's staff comprises:

(a) * * *

(7) [Reserved]

. . . . . .

(f) The Bureau of Consumer Protection, which is responsible for insuring that the consumer perspective is represented in all matters considered by the Board; which seeks to deter anticompetitive tendencies in air transportation through the enforcement of antitrust laws; which operates programs and provides services to inform and educate consumers in their contacts with the air transportation industry; which handles consumer complaints and mediates their resolution where possible; and which protects consumers by insuring their rights under the law through the investigation of suspected violations of the Federal Aviation Act and the Board's regulations and through the enforcement of the Act and regulations.

. . . . . .

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29197 Filed 10-13-78; 8:45 am]

[6320-01-M]

[Reg. OR-134, Amdt. No. 72]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Creation of the Bureau of Consumer Protection

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 5, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board amends its delegations of authority to reflect the consolidation of the Office of the Consumer Advocate and the Bureau of Enforcement into a new Bureau of Consumer Protection.

DATES: Adopted: October 5, 1978. Effective: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. 202-673-5442.

SUPPLEMENTARY INFORMATION: For the reasons discussed in OR-133, also adopted today, the Board recently consolidated its Office of the Consumer Advocate (OCA) and Bureau of Enforcement into a new Bureau of Consumer Protection. This amendment updates the delegations of authority to reflect that consolidation. Since the OCA Director has not had any delegated authority, the amendment merely substitutes the new Bureau name for the Bureau of Enforcement. The Board also takes this occasion to confirm that the Director-Designate and the Deputy Director-Designate of the new Bureau have had the authority, since July 10, 1978 (the effective date of the consolidation) to exercise the functions set forth in § 385.22, which until now was titled "Delegation to the Director, Bureau of Enforcement." A separate amendment of part 385, reflecting the transfer of audit functions to the Bureau of Ac-

[1] This change does not preclude special agents of the Bureau of Consumer Protection (BCP) from examining accounting records and supporting documentation in connection with a BCP investigation.

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counts and Statistics, will be issued in the near future.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unecessary and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 385 of its Organization Regulations, Delegations and Review of Action under Delegation; Nonhearing Matters (14 CFR Part 385) as follows:

"Bureau of Enforcement" is replaced by "Bureau of Consumer Protection" wherever it appears.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29196 Filed 10-13-78; 8:45 am]

[6351-01-M]

Title 17—Commodities and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

Amendment to Rule Providing an Exemption From Suspension of Commodity Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The CFTC is amending its regulations to reduce the net worth requirement from $10 million to $5 million for grantors of options on physical commodities as a condition for exemption from the general commodity option suspension. This action is based on a petition for rulemaking to reduce the net worth requirement.

EFFECTIVE DATE: October 6, 1978.

CONTACT:

Fred M. Santo, Assistant General Counsel, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-5543.

SUPPLEMENTARY INFORMATION: Rule 32.11 of the interim commodity option regulations generally makes unlawful the solicitation or acceptance of orders for, or the acceptance of payment for, the purchase or sale of commodity options on and after June 1, 1978 (43 FR 16153 et seq. (April 17, 1978)). Rule 32.12 provides an exemption from the general suspension of the offer or sale of commodity options on physical commodities ("dealer options") where the grantor and the seller of an option satisfy certain conditions set forth in the rule. (43 FR 23704 et seq. (June 1, 1978)). One of these conditions, set forth in § 32.12(a)(1), requires a grantor to have a net worth of at least $10 million. On September 7, 1978, the Commission received a petition for interim rulemaking, filed pursuant to 17 CFR 13.2 (1977), to amend § 32.12(a)(1) to reduce the net worth requirement from $10 million to $5 million. The Commission has determined to grant the petition by amending § 32.12(a)(1).

Section 32.12 was adopted by the Commission in anticipation of possible congressional action designed to allow certain persons to continue to offer and sell dealer options notwithstanding any general ban that may be in effect. This was done in order to assure that these dealers would not be required unnecessarily to cease operations during the relatively brief period before a congressional exemption judgment could be made whether to exempt a class of option dealers from any general ban on option sales that Congress might enact.[1] To make certain that the Commission exemption would not be broader than the exemption Congress seemed likely to adopt, § 32.12 incorporated the most stringent provisions of the bills reported out of the Senate Committee on Agriculture, Nutrition, and Forestry,[2] and the House Committee on Agriculture,[3] and added additional protections the Commission believed essential for customer protection.

Section 32.12(a)(1) incorporated the $10 million net worth requirement set forth in the Senate Committee proposal. However, the final congressional action on the minimum net worth requirement as contained in Pub. L. 95-405, 92 Stat. 865 (September 30, 1978), establishes a minimum net worth requirement of $5 million. This law further requires that the Commission issue regulations concerning the granting and offering of dealer options which shall include certain statutorily prescribed criteria. While the Commission is making its determinations concerning dealer options, § 32.12 will continue in effect. Since it is clear, however, that any net worth provision adopted by the Commission would have to establish "a net worth of at least $5 million" the Commission has decided to amend § 32.12(a)(1) at this time to reflect that figure.

Inasmuch as this amendment to § 32.12(a)(1) is a substitute rule which relieves a restriction, good cause exists to find that the notice and public participation requirements of 5 U.S.C. 553 (1976) are impracticable, unnecessary, or contrary to the public interest. On that basis, it may also be made effective on less than 30 days' notice. See 5 U.S.C. 553(d)(1) (1976).

In consideration of the foregoing, the Commission, pursuant to the authority contained in sections 2(a)(1), 4c(b) and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6c(b), and 12a (1976), hereby amends Part 32 of Title 17 of the Code of Federal Regulations by revising § 32.12(a)(1) to read as follows:

§ 32.12 Exemption from suspension of commodity option transaction.

(a) • • •

(1) The grantor has a net worth of at least $5 million.

• • • • •

Issued in Washington, D.C., on October 6, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-29118 Filed 10-13-78; 8:45 am]

[8010-01-M]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5985, IC-10419, File No. S7-578]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Certain Special Offerings to Mutual Fund Shareholders; Interpretation of Statutes

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; interpretation of statutes.

SUMMARY: The Commission announces that it is interpreting statutory provisions governing the pricing of publicly offered mutual fund shares to permit any fund to sell its shares to its existing shareholders at no sales load or at sales loads which are lower than those being charged to new shareholders. The Commission is soliciting the comments of interested persons on this interpretation. In a separate release the Commission is withdrawing a proposed rule governing certain offerings similar to the types of offerings which are the subject of this interpretation. (The offerings covered by the proposed rule were called "open seasons." For convenience the offerings covered by the interpretation issued in this release will also be referred to as open seasons.) In a related matter the Commission is amending the rules governing advertising by investment companies to permit the sending of notices of open seasons to shareholders and interpreting the statutory definition of a prospectus not to include a notice of such an offering which is sent to a shareholder who has previously been sent a current statutory prospectus. These actions taken together conclude proceedings which ensued from a recommendation contained in a Commission staff report on the mutual fund distribution system. These actions will make it clear that the requirement that fund shares be sold at a public offering price set forth in the prospectus does not prohibit offerings consistent with pertinent statutory conditions to existing shareholders at prices which reflect sales loads different from those imposed on purchases by new shareholders.

DATES: Effective October 4, 1978; comments by November 30, 1978.

ADDRESSES: Interested persons should submit their views and comments about the Commission's interpretive position that mutual funds may sell shares to existing shareholders at sales loads which differ from those imposed on sales to new shareholders in triplicate to George A. Fitzsimmons, Secretary, Washington, D.C. 20549. All submissions should refer to File No. S7-578 and will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Richard W. Grant, Esq., 202-755-0242, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On August 19, 1975, the Commission published a proposal to: (1) Adopt Rule 22d-4 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) (the "Act"); and (2) amend Rule 134 (17 CFR 230.134) under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the "Securities Act").[1] Proposed Rule 22d-4 would have provided a limited exemption from Section 22(d) of the Act to permit an investment company issuing redeemable securities and underwriters and dealers in such securities to offer such securities to shareholders of that company, or of another company whose shares were underwritten by the same underwriter, at no sales load or at a sales load lower than that being charged new shareholders, subject to certain conditions. The amendment of Rule 134 was necessary to permit the sending of notices of such offerings to shareholders.

As more fully discussed below, the Commission has determined not to adopt Rule 22d-4[2] but has decided to interpret the Act to permit similar offerings to existing shareholders. The proposed amendment to Rule 134 continues to be necessary and appropriate and is being adopted in this release.

BACKGROUND

On November 4, 1974, the Commission transmitted to the United States Senate a report of its staff entitled "Mutual Fund Distribution and Section 22(d) of the Investment Company Act of 1940."[3] The Report contained a number of administrative and legislative recommendations pertaining to Section 22(d) which were designed to eliminate certain inequities and inefficiencies in the existing mutual fund distribution system. A number of these recommendations reflected a degree of change from the staff's traditional view that Section 22(d) required that, in general, any sales load on the sale of mutual fund shares follow a single schedule of charges with respect to all sales to the public.

One such recommendation related to what the report termed "open seasons." The report concluded that it would be appropriate to permit mutual funds to charge no sales load to repeat investors or to charge them a sales load which was lower than that being imposed on purchases by new shareholders on the theory that repeat investors may not need or received significant selling services when they purchase additional shares of the same fund. To implement this recommendation, the Commission proposed Rule 22d-4, which would have allowed shares to be offered to existing shareholders of a particular fund or any other fund in the same complex at a reduced load or no load, subject to the following limitations: (1) Shareholders to whom such an offer was directed would have had to have owned shares for at least six months; (2) shareholders would have had to be notified of the offer at least 30 days before it became effective; and (3) the offer would have had to remain in effect for at least 30 days. As stated earlier, the Commission proposed at the same time to amend Rule 134 to permit notices to shareholders of "open seasons."

DISCUSSION

COMMENTS ON PROPOSED RULE 22D-4

Of the 30 comments received, 20 were opposed to adoption of Rule 22d-4, including 9 of the 11 comments received from dealers and 8 of the 10 comments from fund managers and distributors. Most of the comments in opposition expressed concern about the effects open sessions could have on dealers. One argument was that open seasons would deprive dealers of opportunities to earn commissions on repeat sales thereby reducing dealers' incentives to make initial sales and provide follow-up services after sales. Another major argument advanced in opposition to the proposal was that dealers would face difficult ethical problems in making sales, especially repeat sales, at the full sales load if they knew that a fund offered open seasons.

The Commission has considered these objections and concluded that they do not establish any grounds of law or policy which would justify imposing restrictions on open seasons. It appears to the Commission that the question of whether offerings to existing shareholders at no-load or at a reduced load would reduce dealers' incentives and, if so, whether such offerings should be made is a matter of

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[1] The option suspension was scheduled to (and in fact did) go into effect June 1, 1978. The effective date of any amendments to the Commodity Exchange Act would be subsequent to that date, but prior to October 1, 1978. Accordingly, the Commission adopted § 32.12 effective June 1, 1978.

[2] S. 2391, 95th Cong., 2d Sess. § 2(3) (1978). See S. Rep. No. 95-850, 95th Cong. 2d Sess. (1978).

[3] H.R. 10385, 95th Cong., 2d Sess. § 2(3) (1978). See H.R. Rep. No. 95-1181, 95th Cong., 2d Sess. (1978).

[1] Securities Act Release No. 5607, Investment Company Act Release No. 8894, (40 FR 40555, Sept. 3, 1975).

[2] The Commission is withdrawing proposed Rule 22d-4 in a separate release (Investment Company Act Release No. 10420).

[3] Section 22(d) of the Act provides:

(d) No registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or the issuer, except at a current public offering price described in the prospectus. Nothing in this subsection shall prevent a sale made (i) pursuant to an offer of exchange permitted by section 11 including any offer made pursuant to section 11(b); (ii) pursuant to an offer made solely to all registered holders of the securities, or of a particular class or series of securities issued by the company proportionate to their holdings or proportionate to any cash distribution made to them by the company (subject to appropriate qualifications designed solely to avoid issuance of fractional securities); or (iii) in accordance with rules and regulations of the Commission made pursuant to subsection (b) of section 12.

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business judgment for individual funds. Concerning ethical problems which might be faced by dealers selling shares of funds which offer open seasons, the Commission recognizes that compliance with Commission rules and NASD requirements may require dealers to make difficult decisions in dealing with their customers. However, the Commission does not believe that the existence of open seasons would alter the nature of those obligations or make them impossible to fulfill in the absence of restrictive regulations.

DECISION TO ISSUE INTERPRETATION RATHER THAN ADOPT PROPOSED RULE 22D-4

After reconsideration of this matter, the Commission is now of the view that Section 22(d) of the Act, and Section 22(d)(ii) specifically, already permits funds to offer shares to existing shareholders at prices which reflect reduction or elimination of the sales loads being imposed on sales to new shareholders. The Commission has also concluded that the conditions on open seasons set forth in proposed Rule 22d-4 are not necessary or appropriate. Accordingly, the Commission has decided to withdraw proposed Rule 22d-4 and issue this interpretation in order to make clear its view of the meaning of Section 22(d)(ii). In issuing this interpretation, the Commission wishes to stress that it is not expressing favor or disfavor of open seasons. As indicated above, the Commission believes that whether or not funds offer open seasons is a matter of business judgment.

Section 22(d) generally prohibits sales of mutual fund shares at other than a public offering price disclosed in the prospectus. This section has traditionally been interpreted as requiring that, in general, any sales loads follow a single schedule of charges with respect to all sales to the public. However, Section 22(d) also provides that: "Nothing in this subsection shall prevent a sale made * * * (ii) pursuant to an offer made solely to all registered holders of the securities, or of a particular class or series of securities issued by the company proportionate to their holdings * * *." The Commission has concluded that the plain meaning of Section 22(d)(ii) compels the conclusion that special offerings by mutual funds to existing shareholders in the nature of open seasons are permissible, provided only that such offerings be made to all shareholders and that they be "proportionate." [1]

[1]The statute appears to contemplate that open seasons could exist simultaneously with normal public offerings. Any staff interpretations which could be construed as suggesting the contrary are hereby superseded.

The Commission has also concluded that the conditions on open seasons contained in proposed Rule 22d-4 are neither necessary nor appropriate. Rule 22d-4 would have required that offers be made only to shareholders who had owned shares for at least 6 months. This condition was designed to prevent investors from treating dealers unfairly by purchasing small amounts of shares at the full sales load and then purchasing more shares at a reduced load or at no-load. Other conditions designed to insure fair treatment of shareholders required 30 days' notice of an open season and a 30-day term for an open season. Upon reconsideration, the Commission has concluded that conditions of these types would make open seasons unduly complicated and inflexible and would not necessarily achieve their objectives. The Commission now believes that reliance on the terms of Section 22(d)(ii) should be sufficient to insure fairness to all parties.

Funds could deal with the problem of investors making small initial purchases and larger subsequent purchases during open seasons by limiting the number of shares existing shareholders could purchase in open seasons. Section 22(d)(ii) requires offerings to existing shareholders to be proportionate to their holdings. Nothing would prevent funds from permitting shareholders to purchase only a small number of shares relative to their holdings.

On the other hand, it does not appear to be necessary to set arbitrary notice and duration requirements in order to prevent unfair discrimination against certain classes of existing shareholders. Compliance with the requirement in Section 22(d)(ii) that offerings be made to "all" shareholders should insure that open seasons offerings give sufficient notice to investors and have sufficient duration to insure that the terms of the offering do not, in effect, favor some shareholders over others.

REQUEST FOR COMMENT

The Commission believes that the foregoing interpretation of Section 22(d)(ii) comports with the plain meaning of the statute; however, because proposed Rule 22d-4 was controversial and because of the passage of time since comment was received on the proposed rule, the Commission believes it is appropriate to give interested persons another opportunity to present their views; therefore, the Commission is requesting comments on this matter. The interpretation is effective, however, as of October 4, 1978.

COMMUNICATIONS TO SHAREHOLDERS ABOUT OPEN SEASONS

Communications to shareholders about open seasons may vary depending on such factors as whether open seasons are continuous, periodic, or occasional, or whether shareholders have received current prospectuses. The following discussion is intended to explain the applicability of Securities Act prospectus requirements to open seasons and to explain certain administrative actions taken to facilitate sending notices of open seasons to shareholders.

PROSPECTUS DISCLOSURE

Information about open seasons could be very material to persons contemplating purchases of mutual fund shares. Accordingly, the prospectus of any mutual fund which offers, or plans to offer, shares to existing shareholders at reduced sales loads or no-load pursuant to section 22(d)(ii) should make appropriate disclosure. What is appropriate will depend on the nature of the offering. For example, a fund which has a continuous open season should be able to make quite specific disclosure of the terms of the offering, including the sales load, if any. On the other hand, a fund which contemplates having open seasons only occasionally may not be able to provide very detailed information about such offerings. If a fund does not make a continuous offer and the precise dates of any offer are not set forth in the regular prospectus, shareholders should be given specific notice of each such offering, and at the same time a sticker should be added to the prospectus giving the dates of the offering.[5]

NOTICES OF OPEN SEASONS

A fund which has an open season may wish to send a notice to shareholders, regardless of whether the open season is continuous, periodic, or occasional. Such a notice might be considered a prospectus within the meaning of section 2(10) of the Securities Act [6] and be required to meet the requirements of section 10 of the Securities Act unless one of the exceptions in section 2(10)(a) or 2(10)(b) was available. The Commission has taken certain actions as discussed below to facilitate the sending of notices which are not full statutory prospectuses.

INTERPRETATION OF SECTION 2(10) OF THE SECURITIES ACT

Many mutual funds send their shareholders current effective prospectuses. Section 2(10)(a) of the Securities Act excepts from the definition of a prospectus a communication which is preceded or accompanied by a statutory prospectus. Accordingly, notices of open seasons need not be accompanied by statutory prospectuses if shareholders have already been sent current effective prospectuses. If the current prospectus does not describe precisely the terms of the open season, as might be the case if a fund has open seasons periodically or occasionally, the notice should take the form of, or be accompanied by, a sticker describing the precise terms of the offering.

[5]As indicated below, the notice to shareholders can be given merely by sending them a copy of the sticker if an otherwise current effective prospectus already has been sent.

[6]Section 2(10) defines the term "prospectus" to include "any communication * * * which offers any security for sale * * *."

AMENDMENT OF RULE 134

In order to permit funds which have not sent current effective prospectuses to shareholders to send notices of open seasons, the Commission is adopting an amendment to rule 134 under the Securities Act.[7] The amendment simply includes a notice of open seasons among communications not deemed to be a prospectus. Such a notice must include the legend required by rule 134, and a current effective prospectus (including any applicable stickers) should be sent to shareholders expressing their interest in the offer.[8] Of course, even if shareholders are notified of the offer by means of a rule 134 communication, the terms of the offer must be set forth in a sticker to the prospectus, if this information is not otherwise contained in the prospectus.

COMMISSION ACTION

The Commission hereby amends rule 134 under the Securities Act, effective October 4, 1978, pursuant to the authority set forth in Section 2(10) (15 U.S.C. 77b(10)(b)), and Section 19(a) (15 U.S.C. 77s(a)) of the Securities Act of 1933 as follows. Paragraph (a)(3)(iii) of § 230.134 of Chapter II of Title 17 of the Code of Federal Regulations is hereby amended to add new paragraph (a)(3)(iii)(H), to follow paragraph (a)(3)(iii)(G). The word "and" preceding paragraph (a)(3)(iii)(G) is deleted, and paragraph (a)(3)(iii) is amended to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(a) * * *

(3) * * *

(iii) * * * and (H) written notice of the terms of an offer made solely to all registered holders of the securities, or of a particular class or series of securities, issued by the company proportate to their holdings, offering to sell additional shares to such holders of securities at prices reflecting a reduction in, or elimination of, the regular sales load charged: *Provided*, That, (*1*) if any printed material permitted by pargraphs (a)(3)(iii) (A) through (H) of this section is included, such communication shall also contain the following legend set in a size type at least as large as and of a style different from, but at least as prominent as, that used in the major portion of the advertisements:

For more complete information about [Name of Company] including charges and expenses [get] [obtain] [send for] a prospectus [from (Name and Address)] [by sending this coupon]. Read it carefully before you invest or [pay] [forward funds] [send money].

Or, (*2*) * * *

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 4, 1978.

[FR Doc. 78-29098 Filed 10-13-78; 8:45 am]

[8010-01-M]

[Release Nos. 34-15219; IC-10428, File No. S7-654]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Securities Confirmations

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; rule rescission.

SUMMARY: The Commission is adopting several new delivery and disclosure requirements for confirmations sent to customers by brokers and dealers when the they buy for or from their customers or sell for or to those customers any security (other than U.S. Savings Bonds or municipal securities). Under the new requirements, brokers and dealers must make disclosures relating to odd-lot differentials, remuneration received in certain principal transactions, and market making activities. The rule also revises current requirements pertaining to the use of quarterly statements in lieu of immediate confirmations for transactions effected pursuant to "investment company plans." In addition, the Commission is rescinding an existing rule that sets forth confirmation delivery and disclosure requirements that are superseded by the new requirements.

EFFECTIVE DATE: December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Jeffrey L. Steele, Esq., Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-7587.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of amendments to rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934 (the "Act"), and the rescission of rule 15c1-4 (17 CFR 240.15c1-4) under the Act. The amendments to rule 10b-10 prescribe certain disclosures to be made by a broker or dealer when effecting transactions in securities (other than U.S. Savings Bonds or municipal securities) for or with a customer, and revise existing requirements for the use of quarterly statements in connection with "investment company plans." Together with the amendments adopted today, rule 10b-10, which was adopted by the Commission on May 5, 1977, becomes effective on December 18, 1978 (with the exception of certain paragraphs of the rule which became effective on June 1, 1977).[1] Rule 15c1-4, which sets forth existing confirmation delivery and disclosure requirements, is rescinded, effective December 18, 1978.

Pursuant to its authority under the Act, the Commission is taking the actions summarized below:

(1) *Disclosure of odd-lot differentials.* As amended, rule 10b-10 will require brokers and dealers to disclose, in confirming an odd-lot transaction in which an odd-lot differential has been charged, that an odd-lot differential has been charged and that the amount of the differential is available upon oral or written request.[2]

(2) *Disclosure of mark-ups and mark-downs in "riskless" principal transactions.* As amended, rule 10b-10 will require a dealer trading for its own account to disclose the mark-up

[7]Rule 134 was adopted pursuant to section 2(10)(b) of the Securities Act which excepts from the definition of a prospectus communications which contain only certain limited specified information and such other information as the Commission permits by rules or regulations deemed necessary or appropriate in the public interest and for the protection of investors. Communications which comply with rule 134 are deemed not to be prospectuses. This amendment to rule 134 was proposed along with rule 22d-4.

[8]An order for shares pursuant to section 22(d)(ii) can be filled without sending a prospectus to the shareholder placing the order if he has already been sent a current effective prospectus and any stickers which have been added.

[1]See Securities Exchange Act Release Nos. 13508 (May 5, 1977), 42 FR 25318 (May 17, 1977); and 14942 (July 7, 1978), 43 FR 30270 (July 14, 1978).

[2]Paragraph (c) of rule 10b-10 prescribes the time periods within which information requested by a customer must be given or sent to the customer.

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or mark-down in a "riskless" principal transaction in an equity security unless the dealer is acting as a market maker in the security being purchased or sold. In a separate release, issued today, the Commission is soliciting further comment on whether to require such disclosure in the case of transactions in nonmunicipal debt securities and municipal securities.[3]

(3) *Disclosure of market maker status.* As amended, rule 10b-10 will also require a dealer trading for its own account in an equity security to disclose whether it is a market maker in the security being purchased or sold (otherwise than by reason of its acting as a block positioner in that security).

(4) *Investment company plans.* The Commission has adopted revised procedures permitting the use of quarterly statements in lieu of immediate confirmations for certain transactions in securities issued by investment companies.

(5) *Disclosure of best bid and offer prices.* The Commission has withdrawn at this time its proposal to require confirmation disclosure by brokers and dealers of the best bid and offer prices displayed in NASDAQ or an equivalent interdealer quotation system at the time of a transaction in a security that is not listed on an exchange.

(6) *Disclosure of remuneration paid by third parties to dealers.* The Commission has withdrawn at this time its proposal to require disclosure of remuneration paid by third parties to dealers.

(7) *Rescission of rule 15c1-4.* The Commission has rescinded Rule 15c1-4 under the Act. That rescission takes effect on December 18, 1978, the date on which Rule 10b-10, as amended, becomes generally effective.

I. Background and Purpose of Rule 10b-10

On September 16, 1976, the Commission announced a proposal (1) to adopt Rule 10b-10 to establish revised confirmation delivery and disclosure requirements for broker-dealers effecting transactions for or with the account of a customer and (2) to rescind Rule 15c1-4, which sets forth the Commission's basic confirmation requirements.[4] After receiving and considering the comments of interested persons, the Commission adopted Rule 10b-10 with certain revisions on May 5, 1977, and reiterated its intention to rescind Rule 15c1-4.[5] The rule's effective date, however, was subsequently postponed until December 18, 1978.[6] When it adopted Rule 10b-10, the Commission also decided not to adopt at that time certain of the provisions contained in Rule 10b-10 as originally proposed, such as the proposal to require disclosure of markups and markdowns in "riskless" principal transactions. It stated, however, that it would republish those proposals in revised form for further comment, and did so on June 23, 1977,[7] the Commission has now concluded, after considering the views of commentators, to adopt certain of those proposed requirements.

The Commission believes that the confirmation is an important disclosure document. By requiring brokers and dealers to disclose facts to a customer at or before the completion of a transaction, as defined in the rule, the confirmation rule is intended to deter and prevent deceptive and fraudulent acts and practices. At the same time, confirmations can have important informational value to customers beyond whatever value they may have as an investor protection measure. Among other things, confirmations should assist customers in evaluating the costs and quality of services provided by brokers and dealers in connection with the execution of securities transactions.

Numerous factors may be pertinent to the making of an investment decision. In addition to various factors pertaining to the suitability of a security for the customer's investment needs, customers may wish to take into account, as information material to their investment decisions, variations in transaction costs incurred in trading different types of securities and variations in the transaction charges of competing broker-dealers. While confirmations provide investors with only an after-the-fact record of transaction costs, they nevertheless can serve to make investors aware of those costs in making future investment decisions.

II. Commission Action on the Proposed Disclosure Requirements

A. Odd-lot differentials

Paragraph (a)(3) of Rule 10b-10, as amended requires the disclosure of whether any odd-lot differential has been charged and that the amount of the differential is available upon oral or written request. Where an odd-lot differential is charged in connection with an odd-lot transaction, the practice within the securities industry has been for dealers to add that differential to the round lot price of the security. The Commission has concluded that disclosure of whether any odd-lot differential has been charged by a dealer should be made so long as that charge remains an amount added to or subtracted from the price of a security.[8] If the odd-lot differential were instead reflected in the Commission charge disclosed or exempted from disclosure pursuant to paragraph (a)(4)(ii) of the rule,[9] it would not have to be separately identified.

The Commission understands that some dealers do not charge any differential, that some charge either 12½ cents per share or 25 cents per share and that some charge a differential only under certain circumstances. Perhaps in part because of these disparities in practices, questions have been raised concerning the economic rationale for the odd-lot differential. One commentator asserted, "From all indications, it would seem that an odd-lot charge is a carryover concept from the days of fixed rates that will not survive in the marketplace of tomorrow."[10] Another commentator expressed the view that it would be preferable to eliminate the odd-lot differential altogether rather than to require its disclosure.[11] The Commission is not now prepared to conclude that it is improper to charge an odd-lot differential, but it does believe customers should be made aware of whether an odd-lot differential has been charged and that the amount is available on oral or written request.

The proposed amendment to Rule 10b-10 would have required that the amount of the odd-lot differential, if any, be disclosed on each confirmation. Of the seven commentators that addressed the proposed disclosure requirement, most pointed out that there were practical difficulties in determining whether an odd-lot differential has been charged, identifying the amount of any odd-lot differential charged, and recording that information on the confirmation.[12] Commentators pointed out that differentials are not charged on all odd-lot orders. Furthermore, it was stated that when odd-lot orders have been placed with, and executed by, a specialist, the specialist typically does not indicate whether an odd-lot differential has been charged, or the amount of such differential, when it reports the execution to the customer's broker.[13] It was asserted that even if the amount of an odd-lot differential could be determined, the absence of uniform practices by specialists in charging odd-lot differentials would make it difficult and expensive to design a computer system to capture each charge.[14] On the other hand, it was asserted that manual recordation of the amount of odd-lot differentials could lead to increased chances for error.[15] Commentators who perceived such difficulties generally believed that it would be sufficient to indicate on the confirmation that an odd-lot differential may have been charged and that the amount, if any, would be available on request.[16]

The Commission, nevertheless, believes that it is important that customers at least be made aware of whether an odd-lot differential has in fact been charged so that they may understand the nature of the costs associated with the execution of securities transactions on their behalf. Accordingly, as amended, Rule 10b-10 will require brokers and dealers to disclose on a customer's confirmation whether an odd-lot differential has been charged to the customer and, if so, that the amount is available upon oral or written request. As noted above, an exception to this disclosure requirement is provided if the differential or fee is included in the renumeration disclosed, or exempted from disclosure, pursuant to paragraph (a)(4)(ii) of the rule.

The Commission recognizes that requiring broker-dealers to disclose whether an odd-lot differential has in fact been charged on an odd-lot transaction is more burdensome than requiring that broker-dealers disclose that such a differential may have been charged. The former requires broker-dealers to make a specific entry in confirming an odd-lot transaction on which a differential has in fact been charged, whereas the latter could be satisfied by a standard legend without any specific notation on each odd-lot confirmation. At the same time, requiring disclosure of whether an odd-lot differential has been charged may be somewhat less burdensome than the odd-lot provision as originally proposed, which would have required disclosure in each case of the specific amount of any differential charged. While broker-dealers may have to incur reprogramming and other costs in preparing for either requirement, the requirement adopted by the Commission may involve less risk of error and appears to the Commission to represent, at this time, an appropriate balancing of the need to provide adequately for disclosure to investors and the need to be cautious in imposing regulatory burdens on brokers and dealers.[17]

B. Markups or markdowns by dealers effecting "riskless" principal transactions

Paragraph (a)(5)(i) of Rule 10b-10, as adopted, requires a dealer (other than a market maker)[18] acting as a principal for his own account to disclose the amount of any markup, markdown, or similar renumeration received in a transaction in an equity security when, after receiving an order to buy or sell a security from a customer, the dealer purchases the security from another person to offset a contemporaneous sale to such customer or sells the security to another person to offset a contemporaneous purchase from such customer.

The Commission has concluded that it is necessary and appropriate for the protection of investors to require disclosure of the amount of markups or markdowns in "riskless" principal transaction in equity securities. Disclosure of markups and markdowns will enable customers to make their own assessments of the reasonableness of transaction costs in relations to the services offered by broker-dealers. The level of transaction costs for a particular transaction may vary among broker-dealers and may also vary in accordance with the nature of the security being purchased or sold. The Commission believes that it can be important for customers to be aware of such variations in transaction costs to the extent practicable and believes disclosure of markups and markdowns in "riskless" principal transactions in equity securities will help accomplish that goal.

In addition, as is discussed further below, the Commission believes that competition among broker-dealers may well be an effective supplement to existing regulatory controls on markups and markdowns in limiting the opportunity for unreasonable charges. In the absence of disclosure of markups and markdowns in such transactions, the possibility of real competition with respect to the level of such charges appears remote. "Riskless" principal transactions, as defined in the rule, are in many respects equivalent to transactions effected on an agency basis,[19] and customers should be made aware of the costs incurred regardless of technical variations employed by broker-dealers in structuring such transactions.[20]

A substantial portion of the transactions in equity securities effected by broker-dealers for retail customers are effected on exchanges and in the over-the-counter markets on an agency basis and the commissions charged are disclosed to the customer. Consequently, the absence of such disclosure of compensation in "riskless" principal transactions may mislead unsophisti-

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[3] See Securities Exchange Act Release No. 15220 (Oct. 6, 1978).

[4] Securities Exchange Act Release No. 12806 (Sept. 16, 1976), 41 FR 41432 (Sept. 22, 1976).

[5] Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318 (May 17, 1977).

[6] Securities Exchange Act Release Nos. 14942 (July 7, 1978), 43 FR 30270 (July 14, 1978); 14573 (Mar. 16, 1978), 42 FR 11981 (Mar. 23, 1978); and 14184 (Nov. 17, 1977), 42 FR 60734 (Nov. 29, 1977).

[7] Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

[8] The Commission understands that odd-lot differentials per se are generally not charged on transactions in debt securities although the prices for small orders in debt securities vary from prices negotiated on large orders. The odd-lot differential requirement is not intended to reach those differences in pricing. See comment letter of Sullivan & Cromwell.

[9] Paragraph (a)(4)(ii) prescribes the remuneration disclosures (including brokerage commissions) to be made by a customer's broker.

[10] Comment letter of the National Association of Securities Dealers, Inc. (the "NASD"). The NASD pointed out, however, that the price to be paid for 100 shares of a security could be different than the price which may be negotiated for orders involving either more or less than 100 shares.

[11] See comment letter of J. & W. Seligman & Co.

[12] See, e.g., comment letters of Sullivan & Cromwell; Merrill Lynch, Pierce, Fenner & Smith Inc.; and First Manhattan Co.; and White, Weld & Co., Inc.

[13] See comment letters of Sullivan & Cromwell; and First Manhattan Co.

[14] See, e.g., comment letter of Merrill Lynch, Pierce, Fenner & Smith Inc.

[15] See comment letter of J. & W. Seligman & Co.

[16] See comment letters of the NYSE; and Merrill Lynch, Pierce, Fenner & Smith Inc.

[17] As proposed, the odd-lot differential disclosure requirement was phrased in terms of any odd-lot differential paid "directly or indirectly" by the customer. The Commission has deleted those words and refrained from adding them to other parts of the confirmation rule since the rule by its terms would reach any direct of indirect payment of the various types covered even without the addition of the words "directly or indirectly." See also section 20 of the Act.

[18] The term "market maker" is defined in section 3(a)(38) of the Act (15 U.S.C. 78c(a)(38)).

[19] The Commission does not mean to suggest, however, that all disclosures pertaining to "riskless" principal transactions should be identical to those required for agency transactions. For example, the Commission has not proposed any general requirement that broker-dealers effecting "riskless" principal transactions disclose the identity of the "other side."

[20] The language of the markup disclosure requirement has been revised to eliminate certain ambiguites. As adopted, it applies whenever a broker-dealer not acting as a market maker, after having received an order to buy from a customer, purchases the security from another person to offset a contemporaneous sale to the customer or, after having received an order to sell from such customer, sells the security to another person to offset a contemporaneous purchase from the customer. That requirement would apply regardless of variations in mechanical techniques for structuring and sequencing transactions that are designed to offset one another. For example, a broker-dealer filling a customer's purchase order would not avoid the requirement by effecting a sale to his customer immediately before purchasing the security from another person instead of first purchasing the security from the other person for resale to the customer and then selling it to the customer. Similarly, a broker-dealer would not avoid the requirement in filling a customer's sale order by first purchasing the security from the customer for resale to another person and then selling it to that other person instead of first selling it to the other person and then purchasing it from his customer. In addition, the provision adopted makes clear that disclosure of the markup or markdown would be required regardless of whether the same share certificates were delivered to the other side of the "riskless" principal transaction in circumstances where the broker-dealer's principal transactions were structured as offsetting transactions.

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cated customers into believing that no such compensation is being paid. Even if the investor is not so misled, he is left with uncertainty as to how the broker-dealer is being compensated as well as the amount of such compensation. This uncertainty can have an adverse effect on investor confidence in the over-the-counter market.

Commentators, however, asserted that for several reasons this requirement is both unnecessary and inappropriate. First, commentators urged that the markup disclosure requirement is not necessary to protect investors. It was suggested that the Rules of Fair Practice of the NASD already provide sufficient protection against overreaching by dealers.[21] In that connection, commentators referred particularly to the NASD's rule requiring a broker-dealer, when acting for his own account, to "buy or sell at a price which is fair" [22] and the "markup rule" or "five percent policy," embodied in an interpretation thereunder. Commentators stated that the NASD's markup rule has been vigorously and effectively enforced.[23] Similarly, it was suggested that the "best execution rule" of the NASD [24] "has been effective in preventing dealers' overreaching and has resulted in customers receiving best execution in the over-the-counter market." [25] Some commentators also expressed the view that industry competition is sufficient to limit opportunities for abuse.[26] In addition, it was suggested that brokers and dealers are constrained to keep markups within reasonable limits because they are aware that the public has access to external sources for quotations in many securities.[27] It was also pointed out that in any event customers are free to request disclosure of the remuneration received by broker-dealers, and customers may stipulate the amount of the markups they are willing to pay.[28]

[21] See e.g., comment letters of Peterson & Co.; Reinholdt & Gardner; Mabon, Nugent & Co.; Roose, Wade & Co.; White Weld & Co.; Inc.; and the NASD.

[22] See article III, section 4, of the NASD Rules of Fail Practice, NASD Manual (CCH) ¶2154.

[23] See, e.g. comment letters of the NASD; Merrill Lynch, Pierce, Fenner & Smith Inc.; and Weinrich, Zitzmann, Whitehead, Inc.

[24] See Interpretation .03 under article III, section 1 of the NASD Rules of Fair Practice, NASD Manual (CCH) ¶2151.

[25] See comment letter of the Securities Industry Association, citing the statement made by Gordon S. Machlin, President, NASD, at the Commission's hearings on off-board trading rules (August 16, 1977). Securities and Exchange Commission File No. 4-180.

[26] See Comment letters of Authurs, Lestrange & Short; Peterson & Co.; and Reinholdt & Gardner.

[27] See comment letters of Reinholdt & Gardner; Mr. G. Shelby Friedricks; and White, Weld & Co. Inc.

[28] See comment letter of Sutro & Co., Inc.

In proposing the markup disclosure requirement for "reskless" principal transactions, the Commission did not intend to replace any of the NASD investor protection provisions enumerated above. The markup disclosure requirement is intended to supplement those provisions. Nor did the Commission intend to imply that broker-dealers routinely charge excessive or unreasonable markups or markdowns in securities transactions with their customers. As the same time, disclosure of markups and markdowns is an appropriate means of insuring that customers have an opportunity to identify and object to any unreasonably high charges. That opportunity may well serve as a significant means of protecting investors against unfair and unreasonable pricing practices. It may also, as a practical matter, permit those broker-dealers which consistently observe the highest standards of practice to compete more effectively against broker-dealers which on occasion or more frequently charge unreasonably high markups or markdowns. In that way, the "riskless" principal disclosure requirement may help to insure that brokers and dealers adhere to appropriate standards of professional responsibility.

Furthermore, the Commission does not view the "riskless" principal disclosure requirement solely as a means to address abusive practices; as noted above, the "riskless" principal requirement is important also to permit investors themselves to make informed judgments about the transaction services they receive and pay for. Disclosure of markups and markdowns in "riskless" principal transactions should assist investors in comparing the costs they incur in transactions effected by broker-dealers on either an agency or "riskless" principal basis and in assessing those costs in relation to the quality of services provided by competing broker-dealers.[29]

[29] The markup rule of the NASD does not impose any precise upper limit on the range of permissible markups. As the NASD Rules of Fair Practice indicate, the markup policy is "a guide—not a rule" (see interpretation of article III, section 4, NASD Rules of Fair Practice). Some commentators observed that flexibility in any markup policy is desirable in view of the variety of factors relevant to a determination of what constitutes an appropriate markup. The "riskless" principal disclosure requirement should, nevertheless, be useful to investors in evaluating transaction costs in all situations regardless of compliance or noncompliance with NASD rules.

In that connection, the Director of the Corporation and Securities Bureau of the Department of Commerce of the State of Michigan observed:

"From various investigations and enforcement proceedings in this State, a pattern appeared whereby small brokerage firms have been purchasing low-rated securities and using high pressure sales techniques to place them with unsophisticated and inexperienced investors. During the sales period the market price in thinly traded securities was maintained by small purchases. The securities were sold to the public at NASD maximum markup, producing high yields to the firm, followed shortly by substantial investor losses in the millions of dollars.

"I would note also that certain small firms have engaged in the practice of advertising highly rated securities in local papers, drawing in unsophisticated investors, and selling them to the public in riskless transactions at maximum NASD markups, despite the fact that most firms in the area were charging a commission at significantly lower rates."

The assertion that existing competitive forces may deter unreasonable markups might be true in some instances but does not lead the Commission to conclude that this disclosure requirement is unnecessary. Current quotations are, of course, not always available to public investors for all securities; in addition, many investors, particularly individuals, may not always be able to acquire inside or inter-dealer quotations on over-the-counter securities. In light of the reluctance evident in numerous comment letters to reveal markups to the public,[30] it is not clear that all, or even most, customers would be able to obtain such information in the absence of a requirement of the sort imposed by Rule 10b-10. Unless such information is made available, it seems unlikely that customers can, without great difficulty, compare the costs of effecting transactions that are structured as "riskless" principal transactions.[31]

The second principal concern of commentators was that the markup disclosure requirement would impose costs upon dealers that outweighed the benefits of disclosure. It was observed that to disclose the markup or markdown would increase the expense of confirming transactions.[32] Some suggested that disclosure of markups would adversely affect the income of dealers, in that, as a general rule, markups, although reasonable, might be difficult to justify, and as a result,

[30] For example, Weinrich, Zitzmann, Whitehead, Inc. stated in its comment letter that "the customer has no fundamental right to this information."

[31] See also Securities and Exchange Commission, Report of Special Study of Securities Markets, H.R. Doc. No. 95, Pt. 2, 88th Cong., 1st sess. 676 (1963). As noted earlier, brokers acting as agents have been required to disclose commissions on confirmations. Some commentators questioned, however, whether customers are able to judge the fairness of a markup (see, e.g., comment letter of Investment Income Services, Inc.). On the other hand, an investor's ability to judge markups may well improve as a result of disclosure.

[32] See, e.g., comment letters of Mr. Keith Wentz; Richards, Merrill & Peterson, Inc.; Investment Income Services, Inc.; and Jefferies & Co., Inc.

might have to be decreased.[33] Several commentators stated that in no other business are gross profits required to be disclosed, and they argued that it is unfair to single out the securities industry in this way.[34] A decrease in markups reportedly would destroy the incentive of securities salesmen, and, consequently, the public's interest in purchasing securities would decline.[35] It was also asserted that, because brokers provide numerous uncompensated services, profitable principal transactions are necessary to recoup expenses.[36]

These arguments appear to the Commission to be overstated. The markup disclosure requirement is not applicable to all principal transactions engaged in by broker-dealers, but solely to those transactions in which the dealer structures as two back-to-back principal transactions what is in economic substance an agency transaction. Furthermore, these arguments all appear to be premised upon the assumption that if customers knew what they are routinely being charged on "riskless" principal transactions, they would object because they would invariably view markups or markdowns as unfair and be able without any reasonable basis to force dealers to lower markups currently charged. While competitive forces might cause markups to be lowered in some instances, the Commission has not adopted this disclosure requirement on the basis of any predictions as to its effects on the level of markups. Instead, the Commission has based its decision to adopt the requirement in large part on the belief that investors should have an opportunity to make their own informed judgments as to the reasonableness of transaction charges.

The fact that markup disclosures may or may not be made in other industries does not answer the question whether such a requirement is appropriate for securities transactions. Because of the special nature of securities, analogies to the standards of conduct prevailing in other industries may not be pertinent. Indeed, by the very nature of a broker-dealer's relationship with its securities customers, and particularly its retail customers, the broker-dealer is frequently in an advisory role where principles of caveat emptor and arm's length bargaining are simply not applicable. Although a securities professional generally may act both as broker and as dealer with his securities customers, the Commission, the self-regulatory organizations and the courts have recognized that the existence of special duties toward those customers does not turn on the capacity in which the securities professional acts.[37] In addition to those grounds for finding analogies to other industries not pertinent in this context, there is a practical ground. Whereas the prices of many retail goods are relatively stable, permitting customers to "comparison shop," securities prices are sufficiently volatile to make comparison shopping on the basis of net price extremely difficult in many instances, particularly for retail customers.

Predicting that the cost of preparing confirmations would rise and income would fall as a result of the markup disclosure requirement, many commentators also predicted that the structure of the securities industry would be altered. Some predicted that mergers would increase;[38] others predicted that the financial condition of small securities firms would be threatened.[39] Commentators also predicted that the liquidity in locally and inactively traded securities would be adversely affected by this disclosure requirement.[40] It was suggested that the increased costs occasioned by the difficulty of effecting transactions in these securities justifies a greater markup than for exchange-listed or more widely traded over-the-counter securities. The Commission believes, however, that even if markups for these securities are justified, investors are entitled to know the amounts of such charges. The depth of the markets for, and liquidity of, locally traded securities and the continued ability of small broker-dealers to compete are matters of concern to the Commission, but the assertions made by commentators are highly speculative, depending in large part on predictions about future investor preverences. Those predictions and certain other competitive implications of the "riskless" principal requirement are further discussed later in this release.[41]

Debt Securities. Finally, the Commission notes that several commentators have argued that a disclosure requirement for "riskless" principal transactions should not apply to debt securities.[42]

The Commission first proposed to require confirmation disclosure of markups and markdowns in "riskless" principal transactions in September 1976, when it published its proposal to adopt Rule 10b-10.[43] As originally proposed, Rule 10b-10 would have required disclosure of markups and markdowns in "riskless" principal transactions in equity and debt securities, including municipal securities. When the Commission adopted Rule 10b-10 in May 1977,[44] it provided that Rule 10b-10 would not apply to municipal securities. At the same time, the Commission determined to revise and republish for further public comment the "riskless" principal markup disclosure provision.[45] The proposal, as then revised, applied to both equity securities and non-municipal debt securities.

Shortly after the Commission proposed those amendments, the MSRB undertook to determine whether confirmation disclosure of markups and markdowns should be required in the case of municipal securities. On August 3, 1977, the MSRB solicited public comment on that question and later held two public meetings in October 1977. Following those meetings, the MSRB sent to the Commission a letter dated November 16, 1977, summarizing some of the arguments made by commentators opposed to disclosure of markups and markdowns. On February 10, 1978, the MSRB sent to the Commission a letter in which it

[33] See, e.g., comment letters of Lowell H. Listrom & Co., Inc.; Sutro & Co., Inc.; Investment Income Service, Inc.; Barrett & Co.; and Handel, Lundborg & Co.

[34] See, e.g., comment letters of Adams, Hess, Moore & Co.; Imperial Investment Co.; Mabon, Nugent & Co.; Elmer E. Powell & Co.; and Weinrich, Zitzmann, Whitehead, Inc.

[35] See, e.g., comment letters of Wulff, Hansen & Co.; Mabon, Nugent & Co.; and Carolina Securities Corp.

[36] See comment letter of Martin Nelson & Co.

[37] See, e.g., *Arleen W. Hughes*, 27 SEC. 629 (1948), *aff'd sub nom. Arleen W. Hughes* v. *SEC*, 174 F.2d 969 (D.C. Cir. 1949); *Charles Hughes & Co., Inc.*, 13 SEC 676 ((1943), *aff'd sub nom. Charles Hughes* v. *SEC*, 139 F.2d 434 (2d Cir. 1943); *Duker* v. *Duker*, 6 SEC 386 (1939); *Chasins* v. *Smith Barney & Co. Inc.*, 305 F. Supp. 489 (S.D.N.Y. 1969), *aff'd*, 438 F. 2d 1167 (2d Cir. 1971); *Opper* v. *Hancock Securities Corp., 250 F. Supp. 668 (S.D.N.Y.), aff'd*, 367 F.2d 157 (2d Cir. 1966); *Cant* v. *A. G. Becker & Co., Inc.*, 374 F. Supp. 36 (N.D. Ill. 1974). See generally NASD Rules of Fair Practice, NASD Manual (CCH), para. 2001 et seq.

[38] See comment letters of Martin Nelson & Co.; and Mabon, Nugent & Co.

[39] See, e.g., comment letters of Wulff, Hansen & Co.; Mr. G. Shelby Friedrichs; Handle, Lundborg & Co.; and Smyth, Akins & Lerch, Inc.

[40] See, e.g., comment letters of the NASD; Elmer E. Powell & Co.; Mabon, Nugent & Co.; Lowell M. Listrom & Co.; and Reinholdt & Gardner.

[41] See text accompanying note 51.

[42] See, e.g., comment letters of Goldman, Sachs & Co.; John Nuveen & Co., Inc.; Mabon, Nugent & Co; Merrill Lynch, Pierce, Fenner & Smith Incorporated; the Municipal Securities Rulemaking Board (the "MSRB"); the Securities Industry Association; and Sullivan & Cromwell. A number of persons who did not comment on this proposed amendment to Rule 10b-10 commented on a similar provision published by the Commission when it proposed to adopt Rule 10b-10. See Securities Exchange Act Release No. 12806 (Sept. 16, 1976), 41 FR 41432 (Sept. 22, 1976).

[43] See Securities Exchange Act Release No. 12806 (Sept. 16, 1976), 41 FR 41432 (Sept. 22, 1976).

[44] See Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318 (May 17, 1977).

[45] See Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

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stated its conclusion that "the imposition of a requirement to disclose remuneration in principal transactions in municipal securities is unnecessary and inappropriate." [46]

The Commission has determined to defer a final decision on whether to require disclosure of "riskless" principal compensation in transactions in debt securities, including municipal securities, in order to solicit more specific public comment on that matter. The MSRB has provided its views, as well as those of several commentators in the municipal securities industry, on the application of such a requirement to transactions in municipal securities. Nevertheless, the Commission received very limited comment on the application of "riskless" principal disclosures to nonmunicipal debt securities. In a separate release, issued today, the Commission is soliciting further comment on those matters in connection with specific rule proposals that would require such disclosure for "riskless" principal transactions for municipal and nonmunicipal debt securities. [47]

Exclusion of market makers. The "riskless" principal markup disclosure requirement does not apply to a transaction in a security for which a dealer acts as a "market maker." The term "market maker" is defined in section 3(a)(38) of the act to mean "any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an interdealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis."

The Commission has provided an exemption for market makers because the "riskless" principal disclosure requirement might otherwise create substantial compliance problems for market makers. In making a two-sided market, involving price quotations for both the bid and the offer, a market maker may often engage in transactions that effectively offset one another, giving the appearance of being "riskless" principal transactions, even though the market maker did not structure any particular pair of transactions as offsetting, "riskless" principal transactions. As a result, the problem of identifying when a "riskless" principal disclosure might have to be made could create substantial practical and interpretive difficulties for a bona fide market maker. For that reason, the Commission has determined to provide an exemption from the "riskless" principal disclosure requirement for broker-dealers which are in fact acting as market makers in the security in which customer transactions are being effected. At the same time, the Commission cautions that those not actually making a bona fide market in a security will not qualify for the market maker exemption.

As noted above, the statutory definition of the term "marker maker" includes "any dealer acting in the capacity of block positioner." While the term "block positioner" is not defined in the act, the term is generally used to describe a broker-dealer who facilitates the execution of a block transaction in an equity security by positioning at least some part of the block, that is by committing its own capital to fill a part of a customer's block sale order or effecting a short sale (or a sale from inventory) to fill part of a customer's block purchase order. [48]

Because a block transaction in a particular security is generally distinguishable from other transactions in that security, the Commission has not attempted to define the term "block" or the term "block positioner" for purposes of rule 10b-10. A determination as to whether a quantity of a security is a block necessarily rests to some degree on the purpose for which the determination is being made and frequently involves the number of shares as well as the dollar value of the shares traded. [49] In an effort to provide some objective guidance, the Commission notes that an order involving a quantity of securities having a market value of $200,000 should generally be considered to involve a block for purposes of rule 10b-10. [50] The Commission stresses, however, that the $200,000 guide is intended merely to provide a general standard for those seeking to establish their entitlement to the market maker exemption in rule 10b-10 on the basis of their acting as block positioners and should not be considered to be the exclusive measure for rule 10b-10 or for other purposes in circumstances where a different result would be appropriate.

In assembling the "other side" of a block transaction, broker-dealers are frequently able to fill portions of a block order by affecting transactions with other customers, leaving only a residual portion to be positioned for the broker-dealer's own account. Particularly if the block transaction is effected in the over-the-counter market, it appears possible for the broker-dealer to structure such transactions with customers on the "other side" either as agency transactions at disclosed commissions or as "riskless" principal transactions. Accordingly, questions might arise as to whether any such "riskless" principal transactions should be exempt as block positioning (and thus market making) transactions or, instead, treated separately as nonblock positioning transactions and thus subject to the disclosure requirement of rule 10b-10, even though the broker-dealer has positioned, at its own risk, some portion of the block order. As a general matter, the Commission believes that the phrase "acting in the capacity of block positioner," as it relates to the market maker exemption from the "riskless" principal disclosure requirement, should be interpreted to make the exemption available for portions of a block trade which may take the form of "riskless" principal transactions with persons on the "other side" where the broker-dealer has positioned at its own bona fide risk more than a nominal part of the block order.

Competitive implications. Several commentators stated that the "riskless" principal proposal could have anticompetitive effects. [51] Since the proposed disclosure requirement did not apply to market making transactions of bona fide inventory transactions, some commentators suggested that adoption of the requirement might result in a disparity between broker-dealers who routinely deal from a bona fide inventory or act as market makers and those who do not and instead effect "riskless" principal transactions. [52]

While, for practical considerations, the disclosure requirement applies only to "riskless" principal transactions and not to bona fide inventory or market making transactions, the Commission is not persuaded that that disparity will necessarily result in any unjustifiably anticompetitive or discriminatory effect. It has been pointed out that many regional and smaller broker-dealers often effect "riskless" principal transactions, but it appears that some larger, nationally based firms effect either "riskless" principal or agency transactions in securities in which regional firms make markets. In addition, it is by no means clear that the disclosure of markups and markdowns will cause customers of firms making such disclosures to go elsewhere.

[46] The MSRB's letters of November 17, 1977, and February 10, 1978, have been filed in Securities and Exchange Commission File No. S7-654.

[47] See Securities Exchange Act Release No. 15220 (Oct. 6, 1978).

[48] Block positioners are sometimes described as "upstairs market makers" since they augment the market making capacity offered by exchange specialists and other dealers who make two-sided markets.

[49] See, e.g., NYSE Rule 127, 2 NYSE Guide (CCH) ¶2127; and Proposed Rule 13e-2(d), Securities Exchange Act Release No. 10539 (Dec. 6, 1973), 2 Federal Securities Law Reporter (CCH) ¶79,600.

[50] See Rule 17a-17(b)(1), 17 CFR 240.17a-17(b)(1); Regulation U of the Board of Governors of the Federal Reserve System, 12 CFR 221.3(z)(2).

[51] See n. 41, supra.

[52] See, e.g., comment letter of Mabon, Nugent & Co.

Predictions that such a pattern could develop depend in large measure on the speculative assumption that customers will inappropriately conclude that the prices they receive from dealers who disclose markups and markdowns are necessarily inferior to the prices they obtain when dealing "net" with other broker-dealers whose markups and markdowns remain undisclosed. In that connection, the Commission notes that one leading broker-dealer for several years has followed a policy of disclosing markups and markdowns in principal transactions in equity securities, apparently without adverse effects on its competitive position. [53]

At the same time, disclosure of markups and markdowns in "riskless" principal transactions may enhance competition in the pricing of services provided by broker-dealers. In the absence of markup or markdown disclosure in "riskless" principal transactions, it remains difficult for customers to assess the level of transaction costs incurred in relation to the services provided in connection with those transactions.

On balance, and in the absence of any clear support for the proposition that investors will generally make inappropriate decisions regarding disclosed transaction costs, the Commission does not believe that this disclosure requirement will impose any burden on competition that would not be necessary or appropriate in furtherance of the purposes of the act.

C. MARKET MAKING

Paragraph (a)(5)(ii) of rule 10b-10 in the form proposed would require that a dealer effecting a transaction in an equity security disclose whether he is a market maker in that security. [54] This provision codifies certain principles of existing case law. [55] While commentators generally did not object to it, a few questioned the need to apply the requirement to those broker-dealers which are market makers solely by reason of their acting as block positioners. [56] The Commission has concluded that it would be appropriate to exclude from the disclosure requirement a dealer which, in the transaction in question, is a market maker, within the meaning of section 3(a)(38) of the act, solely by reason of its acting as a block positioner.

[53] In addition, exchange member firms dealing in listed equity securities apparently have not been competitively disadvantaged in doing business at disclosed commissions while third market firms were dealing at net prices in the same securities.

[54] The term "market maker" is defined in section 3(a)(38) of the act.

[55] See *Chasins* v. *Smith Barney & Co., Inc.*, 438 F.2d 1167 (2d Cir. 1971).

[56] See comment letters of Salomon Brothers; and the Securities Industry Association.

[57] See paragraph (a)(4) of the proposed amendments to rule 10b-10, Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

[58] Article III, sec. 4 of the NASD Rules of Fair Practice, NASD Manual (CCH) ¶ 2154. See comment letters of Merrill Lynch, Pierce, Fenner & Smith Inc.; Reinhodt & Gardner; Roose, Wade & Co.; and the National Securities Traders Association.

[59] Article III, sec. 1 of the NASD Rules of Fair Practice, interpretation .03, NASD Manual (CCH) ¶ 2151. See comment letters of Morgan, Olmstead, Kennedy & Gardner, Inc.; and the National Securities Traders Association.

[60] See comment letters of Morgan, Olmstead, Kennedy & Gardner, Inc.; Reinholdt & Gardner; and Herzog, Heine & Co., Inc.

[61] See comment letters of the NASD; and the National Securities Traders Association.

[62] See comment letters of Wulff, Hansen & Co.; Jefferies & Co., Inc.; J. & W. Seligman & Co.; the NASD; the National Securities Traders Association; and S. C. Parker & Co., Inc.

[63] See comment letters of Reinholdt & Gardner; and Goldman Sachs & Co.

[64] See comment letter of Merrill Lynch, Pierce, Fenner & Smith, Inc.

D. PREVAILING MARKET PRICES

The Commission has decided to withdraw its proposal to amend rule 10b-10 to require disclosure on confirmations of the best bid and offer prices displayed on level 2 of NASDAQ, or on an equivalent interdealer quotation system, at the time the transaction was effected. [57]

Numerous commentators urged for several reasons that the Commission not adopt this proposal. First, it was suggested, in light of the protection provided by the NASD's markup policy [58] and best execution rule [59] and the availability of quotations, [60] that this requirement is unnecessary. It was also conjectured that enforcement of this provision would prove cumbersome. [61]

Second, it was stated that the proposal could increase substantially the costs of doing business for some broker-dealers. It was suggested that, inasmuch as some broker-dealers now subscribe only to level 1 of NASDAQ, this provision would require them either to absorb the expense of subscribing to level 2 of NASDAQ or to forego trading in all securities except those traded on a national securities exchange or those not listed on any electronic quotation service. [62] Commentators further suggested that the proposal might also require some broker-dealers to acquire new computer facilities [63] or to adapt their existing computer facilities so that they could interface with NASDAQ level 2 or some other information system for the purpose of capturing quotations at the time orders are executed. [64] If quotations were instead entered manually, it was noted, the likelihood for error might increase substantially and broker-dealers might have to adopt costly procedures to verify the information recorded. [65] Finally, several commentators contended that, for transactions involving more than 100 shares, inside market quotations for 100 shares would be irrelevant [66] and might mislead customers as to the quality of executions they were receiving. [67] In addition, it was conjectured that requiring the disclosure of inside market prices might pressure broker-dealers to lower retail prices to inside market levels. [68] If retail prices fell closer to inside market levels, commentators suggested, broker-dealers might be discouraged from effecting transactions in over-the-counter securities, and the liquidity of markets in those securities might thereby be endangered. [69]

While the Commission has not concluded that any or all of these arguments obviate the ultimate need for disclosure of best bid and offer prices, it has determined to withdraw the proposed requirement at this time. The Commission intends, however, to give additional consideration to the disclosure of "inside" or inter-dealer quotations as other legal and technological developments occur.

E. REMUNERATION PAID BY THIRD PARTIES TO DEALERS

The Commission has decided to withdraw its proposal to require disclosure of the source and amount of certain remuneration received or to be received by a dealer from any person other than the customer. [70] That provision was intended to require disclosure of special or irregular inducements paid by a third party to a dealer in connection with a securities transaction.

In withdrawing its proposal to require confirmation disclosure of such payments, the Commission stresses that it is not in any way suggesting that such disclosure would not be required under other Commission rules or provisions of the act. Indeed, the Commission believes that a failure to

[65] See comment letters of Arthurs, Lestrange & Short; Jefferies & Co.; and Merrill Lynch, Pierce, Fenner & Smith, Inc.

[66] See, e.g., comment letters of S. C. Parker & Co., Inc.; the NASD; Merrill Lynch, Pierce, Fenner & Smith, Inc.; Reinholdt & Gardner; and Goldman, Sachs & Co.

[67] See, e.g., comment letters of Merrill Lynch, Pierce, Fenner & Smith, Inc.; Sutro & Co., Inc.; J. & W. Seligman & Co.; NASD; and the National Securities Traders Association.

[68] See, e.g., comment letters of Arthurs, Lestrange & Short; Morgan, Olmstead, Kennedy & Gardner, Inc.; and Herzog, Heine & Co., Inc.

[69] See comment letters of Morgan, Olmstead, Kennedy & Gardner, Inc.

[70] See paragraph (a)(5)(i) of the rule as proposed to be adopted in Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

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disclose special payments intended to induce dealers to effect transactions with customers would violate the anti-fraud provisions of the act.

At the same time, however, the Commission intends to consider whether broker-dealers should be required to disclose the amount of special compensation paid by a broker or dealer to an account executive or any other person associated with the broker or dealer in connection with customer transactions in a security designated by the broker-dealer where (1) investment recommendations for the purchase or sale of that security are made to customers and (2) such compensation exceeds the normal or customary renumeration that would otherwise have been paid by the firm to that employee or associated person. Among other things, it appears that many customers may regard the amount of such additional renumeration as important in evaluating investment recommendations made to them. Before proposing any such requirement, however, the Commission would appreciate receiving any data, views or arguments interested persons may care to make concerning such a requirement.

III. Proposal To Permit the Delivery of Quarterly Confirmations for Investment Company Plans

Paragraph (b) of rule 10b-10, as amended, permits brokers and dealers to use quarterly statments instead of immediate confirmations for transactions effected pursuant to investment company plans as defined in paragraph (d)(5) of the rule. Investment company plans, as defined, include (1) individual, tax qualified retirment plans, (2) contractual or systematic plans pursuant to which a customer agrees to buy specified securites in specified amounts at regular intervals and (3) certain group plans where the members of the group purchase securities collectively through a person designated by the group provided that the purchase arrangements meet several specific requirements.

The Commission has previously permitted the use of quarterly statements rather than immediate confirmations in some circumstances in order to reduce regulatory costs that appear to outweigh the benefits to investor protection. The Commission has examined the existing quarterly statement provisions of rule 15c1-4 in light of its understanding that the quarterly statement procedure has not been used. The Commission has sought to revise those procedures for investment company plans to the extent it believes appropriate in view of the need to maintain adequate protection for investors and has determined to adopt paragraph (b) and the definitions set out in paragraph (d) substantially in the form proposed.

Most of the comments concerning the investment company plan provisions were to the effect that, unless revised still further, the procedure for quarterly statements would remain unused. At the outset, some commentators suggested that the definition of "investment company plan" in paragraph (d)(5) of the rule is too limited to make the quarterly procedure useful.[71] It was suggested that the quarterly procedure would not be economically feasible because qualifying plans do not represent a significant proportion of all accounts and are not readily identifiable. One commentator suggested that the quarterly statement procedure could appropriately be made available for all transactions in securities offered by investment companies where payments are made directly to the investment company by the customer.[72] While the Commission appreciates the concerns for cost savings prompting these suggestions, it nevertheless believes that the cost savings of eliminating the requirement to send immediate confirmations in all such situations would not sufficiently outweigh the risks to investor protection.

Some commentators also stated that they regarded the language in paragraph (d)(5)(i), which stated that an investment company plan includes "an individual retirement or pension plan qualified under the Internal Revenue Code," to be vague and possibly subject to restrictive interpretation.[73] Those commentators suggested that this language might be regarded as permitting use of the quarterly confirmation procedure only with respect to individual retirement accounts established under the Employee Retirement Income Security Act of 1974 ("ERISA"), and perhaps corporate pension plans. In response to that comment, paragraph (d)(5)(i) has been revised to reflect more clearly the Commission's intention that it not have any application to pension plans established for more than one individual. That provision does, however, permit the use of quarterly confirmations with respect to any retirement or pension plan established for a single individual and qualifying under the Internal Revenue Code regardless of whether that plan is also subject to provisions of the Internal Revenue Code added by ERISA.

Most persons commenting upon the investment company plan provisions of proposed rule 10b-10 regarded the "negative" confirmation procedure set forth in paragraph (d)(5)(iii)(B) as a continuing deterrent to the employment of quarterly confirmation for group plans.[74] While it was acknowledged that decreasing this requirement to a single confirmation following a period of investment inactivity might result in some cost reduction over current "negative" confirmation procedures, some commentators contended that the principal cost of compliance with this requirement arise from the necessity to establish and operate a confirmation system that includes even a single "negative" confirmation.[75]

The Commission received comments from one company currently employing the quarterly confirmation procedure.[76] That commentator stated generally that it had been able to reduce its costs "considerably" through the use of quarterly statements and that they had been "well received" by customers. It also stated that it sends negative confirmations to participants in its group plans in each quarter in which there is not any account activity and stated that it did "not find the proposed negative confirmation requirements particularly onerous • • •." That experience suggests that these expenses may not be as prohibitive as some have predicted, and the Commission continues to believe that a "negative" confirmation is appropriate for the protection of investors in this context.

Finally, concern was reflected in several comments on proposed paragraph (d)(5)(iii)(C) of the rule, which required, among other things, that the "arrangement" be terminated if payment is not received from a group plan's designated person within 10 days of the date designated for delivery of payment. Some persons indicated that it was unclear whether the "arrangement" required to be terminated referred to the use of quarterly statements or the entire purchase plan.[77] It was noted that this provision would require careful attention to precisely when payments were due, a difficult matter for plans involving employers not following uniform payment patterns.[78] It would also require installation of a confirmation system to back up the quarterly statement procedure should payments not be made within the prescribed period.[79]

The Commission believes that if payment is not received within 10 days of the date specified in the plan, quarterly statements should not be used in lieu of immediate confirmations. The wording of paragraph (d)(5)(iii)(C) has been revised, however, to avoid possible confusion, and the rule, as adopted, will require immediate confirmations to be sent for at least the next three succeeding payments in the event a payment is not received within the prescribed time limits. Thereafter, quarterly statements could again be used in lieu of immediate confirmations. The Commission continues to believe that investors are entitled to assurances that payments made by them or on their behalf are promptly applied to the purchase of securities. The requirement that payments be made within 10 days of a date certain specified for delivery of payment is intended to provide this assurance. The Commission believes that it is realistic to expect employers or other designated persons to deliver payments within 10 days of the dates specified for payment and that it is reasonable to require broker-dealers to advise customers if payments are not received under these circumstances.

IV. Statutory Basis

The Securities and Exchange Commission, acting pursuant to the act, and particularly sections 3, 9, 10, 11, 15, 17, and 23 thereof (15 U.S.C. 78c, 78i, 78j, 78k, 78o, 78q, and 78w), hereby adopts amendments to § 240.10b-10 of Title 17 of the Code of Federal Regulations, effective December 18, 1978. The Commission also rescinds § 240-15cl-4, effective December 18, 1978. The revisions made in these amendments as orlginally proposed are either technical in nature or make less restrictive existing or proposed requirements; accordingly, the Commission finds, pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), that further notice and public procedure are not necessary.

The Commission also finds that the amendments to rule 10b-10 do not impose any burdens on competition not necessary or appropriate in furtherance of the purposes of the act. The confirmation rule, as adopted, imposes some regulatory burdens and costs on broker-dealers, but the Commission has determined that the rule does not impose any inappropriate burdens on competition. The Commission believes that the disclosures required by rule 10b-10, as amended, are necessary and appropriate not only to protect investors against certain abuses but also to provide investors with information concerning transaction costs. The disclosure of odd-lot differentials may in fact increase competition among dealers which charge such differentials and those who do not. While some commentators have suggested that the "riskless" principal disclosure requirement will burden competition, those concerns are based largely on speculative judgments about future investor preferences. On balance, the Commission believes that any burdens imposed by rule 10b-10, as amended, are justified in view of, among other things, the important role confirmations serve in protecting the investing public.

17 CFR Part 240 is amended by revising § 240.10b-10 to read as follows:

§ 240.10b-10 Confirmation of transactions.

(a) It shall be unlawful for any broker or dealer to effect for or with the account of a customer any transaction in, or to induce the purchase or sale by such customer of, any security (other than U.S. Savings Bonds or municipal securities) unless such broker or dealer, at or before completion of such transaction, gives or sends to such customer written notification disclosing—

(1) Whether he is acting as agent for such customer, as agent for some other person, as agent for both such customer and some other person, or as principal for his own account;

(2) The date and time of the transaction (or the fact that the time of the transaction will be furnished upon written request of such customer) and the identity, price, and number of shares or units (or principal amount) of such security purchased or sold by such customer; and

(3) Whether any odd-lot differential or equivalent fee has been paid by such customer in connection with the execution of an order for an odd-lot number of shares or units (or principal amount) of a security and that the amount of any such differential of fee will be furnished upon oral or written request; *Provided, however,* That such disclosure need not be made if the differential or fee is included in the remuneration disclosed, or exempted from disclosure, pursuant to paragraph (a)(4)(ii); and

(4) If he is acting as agent for such customer, for some other person, or for both such customer and some other person,

(i) The name of the person from whom the security was purchased, or to whom it was sold, for such customer or the fact that such information will be furnished upon written request of such customer; and

(ii) The amount of any remuneration received or to be received by him from such customer in connection with the transaction unless remuneration paid by such customer is determined, pursuant to a written agreement with such customer, otherwise than on a transaction basis; and

(iii) The source and amount of any other remuneration received or to be received by him in connection with the transaction; *Provided, however,* That if, in the case of a purchase, the broker was not participating in a distribution, or in the case of a sale, was not participating in a tender offer, the written notification may state whether any other remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of such customer; and

(5) If he is acting as principal for his own account—

(i) The amount of any mark-up, mark-down, or similar remuneration received in a transaction in an equity security if he is not a market maker in that security and if, after having received an order to buy from such customer, he purchased the security from another person to offset a contemporaneous sale to such customer or, after having received an order to sell from such customer, he sold the security to another person to offset a contemporaneous purchase from such customer; and

(ii) In the case of a transaction in an equity security, whether he is a market maker in that security (otherwise than by reason of his acting as a block positioner in that security).

(b) A broker or dealer may effect transactions for or with the account of a customer without giving or sending to such customer the written notification described in paragraph (a) of this section if—

(1) Such transactions are effected pursuant to a periodic plan or an investment company plan; and

(2) Such broker or dealer gives or sends to such customer within 5 days after the end of each quarterly period a written statement disclosing each purchase or sale, effected for or with, and each dividend or distribution credited to, or reinvested for, the account of such customer (pursuant to the plan) during the period; the date of each such transaction; the identity, number and price of any securities purchased or sold by such customer in each such transaction; the total number of shares of such securities in such customer's account; any remuneration received or to be received by the broker or dealer in connection therewith; and that any other information required by paragraph (a) of this section will be furnished upon written request; *Provided, however,*

[71] See comment letters of the NASD; and USAA Investment Management Co.

[72] See comment letter of the NASD.

[73] See comment letters of the NASD; and the Investment Company Institute.

[74] Concern was also expressed regarding the applicability of the so-called "negative" confirmation requirement of paragraph (d)(5)(iii)(B) to individual retirement and pension plans described in paragraph (d)(5)(i). See comment letter of American Council of Life Insurance. Paragraph (d)(5)(iii)(B) is included in rule 10b-10 as part of a proviso applicable by its terms only to paragraph (d)(5)(ii); accordingly, it is not a condition to plans under paragraphs (d)(5)(i) or (ii).

[75] See generally comment letters of the NASD; and the Investment Company Institute.

[76] See comment letter of the Variable Annuity Life Insurance Co. ("VALIC").

[77] See comment letters of the NASD; and VALIC.

[78] See comment letter of VALIC.

[79] See comment letter of the NASD.

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That the quarterly written statement may be delivered to some other person designated by the customer for distribution to the customer; and

(3) In the case of transactions effected pursuant to an investment company plan—

(i) Payments for the purchase of securities by such customer or by such customer's designated agent are made directly to, or made payable to, the registered investment company, or the principal underwriter, custodian, trustee, or other designated agent of the registered investment company; and

(ii) The intention to give or send to the customer the written statement referred to in paragraph (b)(2) of this section, in lieu of the written notification required by paragraph (a) of this section, is disclosed in writing to such customer.

(c) A broker or dealer shall give or send to a customer information requested pursuant to this rule within 5 business days of receipt of the request; *Provided, however,* That in the case of information pertaining to a transaction effected more than 30 days prior to receipt of the request, the information shall be given or sent to the customer within 15 business days.

(d) For the purposes of this rule—

(1) "Customer" shall not include a broker or dealer;

(2) "Completion of the transaction" shall have the meaning provided in rule 15c1-1 under the Act;

(3) "Time of the transaction" means the time of execution, to the extent feasible, of the customer's order;

(4) "Periodic plan" means any written authorization for a broker acting as agent to purchase or sell for a customer a specific security or securities (other than securities issued by an open end investment company or unit investment trust registered under the Investment Company Act of 1940), in specific amounts (calculated in security units or dollars), at specific time intervals and setting forth the commissions or charges to be paid by the customer in connection therewith (or the manner of calculating them); and

(5) "Investment company plan" means any plan under which securities issued by an open-end investment company or unit investment trust registered under the Investment Company Act of 1940 are purchased or sold by a customer pursuant to—

(i) An individual retirement or individual pension plan qualified under the Internal Revenue Code;

(ii) A contractual or systematic agreement under which the customer purchases at the applicable public offering price, or redeems at the applicable redemption price, such securities in specified amounts (calculated in security units or dollars) at specified time intervals and setting forth the commissions or charges to be paid by such customer in connection therewith (or the manner of calculating them; or

(iii) Any other arrangement involving a group of two or more customers and contemplating periodic purchases of such securities by each customer through a person designated by the group; *Provided,* That such arrangement requires the registered investment company or its agent—

(A) To give or send to the designated person, at or before the completion of the transaction for the purchase of such securities, a written notification of the receipt of the total amount paid by the group;

(B) To send to anyone in the group who was a customer in the prior quarter and on whose behalf payment has not been received in the current quarter a quarterly written statement reflecting that a payment was not received on his behalf; and

(C) To advise each customer in the group if a payment is not received from the designated person on behalf of the group within 10 days of a date certain specified in the arrangement for delivery of that payment by the designated person and thereafter to send to each such customer the written notification described in paragraph (a) of this section for the next three succeeding payments.

(e) The Commission may exempt any broker or dealer from the requirements of paragraphs (a) and (b) of this section with regard to specific transactions of specific classes of transactions for which the broker or dealer will provide alternative procedures to effect the purposes of this section; any such exemption may be granted subject to compliance with such alternative procedures and upon such other stated terms and conditions as the Commission may impose.

(Secs. 3, 9, 10, 11, 15, 17, 23, 48 Stat. 891, 89 Stat. 97, 121, 137, 156 (15 U.S.C. 78c, 78i, 78j, 78k, 78o, 78q, 78w).)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 6, 1978.

[FR Doc. 29123 Filed 10-13-78; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7568]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Definition of "Other Security of the United States" for Purposes of Determining Book-Entry Security

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations that add the Federal Home Loan Mortgage Corporation to the list of entities an obligation of which may qualify as an "other security of the United States" for purposes of the regulatory definition of "book-entry security." Under the new regulations, obligations of the Federal Home Loan Mortgage Corporation may be identified upon their sale or transfer (for basis and holding period purposes) by their lot numbers.

DATE: The regulations apply to sales and transfers of book-entry securities made after December 31, 1970.

FOR FURTHER INFORMATION CONTACT:

Walter H. Woo of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3734).

SUPPLEMENTARY INFORMATION: Under existing § 1.1012-1(c)(7), taxpayers who sell or transfer book-entry securities of qualifying entities may identify those securities (for basis and holding period purposes) merely by specifying their lot numbers. Paragraph (c)(7)(iii)(*a*) of § 1.1012-1 defines book-entry securities to include Treasury bonds, notes, certificates of indebtedness, or bills issued under the Second Liberty Bond Act, or "other security of the United States." The amendment modifies § 1.1012-1(c)(7)(iii)(*b*) to add the Federal Home Loan Mortgage Corporation to the list of entities obligations of which may qualify as an "other security of the United States" for purposes of the definition of the term "book-entry security."

This amendment merely liberalizes the identification rules for purposes of determining basis and holding period in the case of certain securities. Accordingly, it is found unnecessary to issue this Treasury decision with notice and public procedure. Additionally, this regulation is not a significant regulation under paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for May 24, 1978 (43 FR 22319) because it does not materially change existing policy.

DRAFTING INFORMATION

The principal author of this regulation is Walter H. Woo of the Legislation and Regulations Division, of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended by revising paragraph (c)(7)(iii)(*b*) of § 1.1012-1 to read as follows:

§ 1.1012-1 Basis of property.

* * * * *

(c) *Sale of stock.* * * *

(7) *Book-entry securities.*

(iii) * * *

(*b*) The term "other security of the United States" means a bond, note, certificate of indebtedness, bill, debenture, or similar obligation which is subject to the provisions of 31 CFR Part 306 or other comparable Federal regulations and which is issued by (*1*) any department or agency of the Government of the United States, or (*2*) the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal Land Banks, the Federal Intermediate Credit Banks, the Banks for Cooperatives, or the Tennessee Valley Authority;

* * * * *

Because this Treasury decision merely liberalizes the identification rules for purposes of determining basis and holding period in the case of certain securities, it is found unnecessary to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: October 5, 1978.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 78-29190 Filed 10-11-78; 4:26 pm]

[4810-35-M]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE; DEPARTMENT OF THE TREASURY

TREASURY TAX AND LOAN ACCOUNTS

Announcement of Effective Date of Final Rules and Amendments to Certain Provisions Concerning Collateral Pledged

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Announcement of effective date of final rules and amendments to certain provisions concerning collateral pledged under 31 CFR Part 203.

SUMMARY: In the FEDERAL REGISTER of May 2, 1978 (43 FR 18960) the Treasury Department issued final regulations (31 CFR Parts 203, 214, 317, and 321) and interim regulations (31 CFR 226) to implement the investment provisions of Pub. L. 95-147 of October 28, 1977. The regulations issued on May 2, 1978, called for an effective date of July 6, 1978, provided the Congress had appropriated funds to cover the payment of fees for certain services rendered under the regulations. Since the Congress had not appropriated the necessary funds, a notice was published in the FEDERAL REGISTER on June 19, 1978 (43 FR 26309) deferring that effective date.

The Congress has now made the necessary funds available. Accordingly, the effective date of both the final and interim rules issued on May 2 as amended by this notice is November 2, 1978.

The intent of Pub. L. 95-147 is to permit the Treasury to earn interest by the investment of its operating cash balances and, at the same time, pay fees for certain services which have not heretofore been compensable.

Subpart D of 31 CFR Part 203 relating to collateral pledged as security by depositaries for tax and loan accounts as published in the FEDERAL REGISTER of May 2 is being amended. First, by this amendment, the maturity of the type of collateral security accepted under subparagraph 9 of § 203.15(d) (i.e., commerical and agricultural paper and bankers' acceptances) is being extended from one year to two years. Second, by this amendment, a new paragraph (i.e., paragraph (f)) is being added to § 203.15 to describe actions which will be taken, upon the insolvency of a depositary, to perfect the Treasury's security interest in the proceeds of the collateral which that depositary has pledged as security for tax and loan funds.

Further, 31 CFR Part 226, entitled "Recognition of Insurance Covering Treasury Tax and Loan Depositaries" which was published as an interim rule on May 2 is hereby being adopted as a final rule.

EFFECTIVE DATES: The provisions of the rules which were published in the FEDERAL REGISTER of May 2 (43 FR 18960) and as amended by this notice are effective on November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Secretary, Department of the Treasury, Washington, D.C. 20220, 202-566-2849.

Additionally, financial institutions having questions as to operating procedures may direct such questions to the Federal Reserve Bank or Branch serving the geographical area in which the institution is located.

SUPPLEMENTARY INFORMATION: By this notice, the effective date of the regulations issued on May 2, 1978, as amended, is being established. Certain paragraphs of the regulations issued on May 2, 1978, cited specific dates which were predicated on the presumption that those regulations were to be effective on July 6, 1978. Consequently, due to the postponement of the effective date to November 2, 1978, those paragraphs are hereby being revised to reflect dates consistent with the revised effective date.

In the preamble to the final regulations issued on May 2, 1978, it was stated that the Treasury was considering what action it could take to expand categories of eligible collateral. While the Treasury's study of collateral is continuing, the Department is now extending the maturity limitation of the collateral security accepted under subparagraph (9) of § 203.15(d) from one year to two years: at 90 percent of face value.

Further, by this amendment, the Treasury is adding a new paragraph (paragraph f) to § 203.15 to describe general requirements pertaining to the perfection of the Treasury's security interest in the proceeds of pledged collateral in the event of the insolvency of the depositary. This is an amendment of a technical nature which is intened to preserve, subsequent to the insolvency of a depositary, the Treasury's interest in the proceeds of the collateral that a tax and loan deposi-

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tary has pledged for the purpose of securing the tax and loan funds on deposit or invested with it.

Since each Treasury Tax and Loan Depositary enters into a depositary contract as stated at § 203.6, the Treasury is of the view that the amendments involve a matter relating to "contracts" as that term is used in 5 U.S.C. 553(a)(2). Further, the Treasury is of the view that because the amendments (1) add to the supply of securities available to depositaries to secure tax and loan funds, and (2) set forth requirments intended to solidify the Treasury's rights to the proceeds of the collateral which a depositary has pledged to secure public funds, subsequent to the insolvency of that depositary, they involve a matter relating to "public property" within the meaning of 5 U.S.C. 553(a)(2).

Consequently, it has been determined that the amendments are not subject to the rulemaking requirements, including notice or proposed rulemaking, which are contained in 5 U.S.C. 553.

31 CFR Part 226, entitled "Recognition of Insurance Covering Treasury Tax and Loan Depositaries" was published as an interim rule in the FEDERAL REGISTER of May 2, 1978 (43 FR 18972). Since the publication of that part, the Department received one written comment concerning that interim rule. In essence that comment was a request for clarification of one of the provisions of that rule. Accordingly, in view of the absence of any substantive comment, the Department is of the view that 31 CFR Part 226, which was published in the FEDERAL REGISTER of May 2, 1978, as an interim rule, should hereafter be regarded as a final rule. By this notice, 31 CFR Part 226 is being adopted as a final regulation.

On May 24, 1978, a proposed Treasury directive entitled "Criteria and Procedures for the Preparation, Review and Approval of Regulations" was published at 43 FR 22319, in implementation of Executive Order 12044 (March 23, 1978; 43 FR 12661). Although the proposed directive was made effective on May 22, 1978, it was provided that regulations in process of preparation before that date which had been the subject of a public hearing would not be subject to the requirement of paragraph 9 of the proposed directive that a work plan be prepared. As the instant publication is the culmination of a regulatory project which was the subject of a public hearing on January 12, 1978, no work plan has been prepared. Nevertheless, the other applicable requirements of the proposed Treasury directive have been complied with.

In consideration of all the foregoing, 31 CFR Chapter II is amended as follows:

PART 203—TREASURY TAX AND LOAN DEPOSITORIES

§ 203.3 [Amended]

1. Section 203.3 is amended by changing the date, "July 5, 1978," in the first sentence of paragraph (a), to "November 1, 1978."

§ 203.11 [Amended]

2. Section 203.11 is amended as follows:

(a) By changing the date, "July 5, 1978," in the first sentence of paragraph (a), to "November 1, 1978."

(b) By changing the date, "July 6, 1978," in the last sentence of paragraph (a), to "November 2, 1978."

(c) By changing the date, "July 6, 1978," each time it appears in paragraphs (b) and (c), to "November 2, 1978."

3. Section 203.15 is amended by amending paragraph (d)(9) and by adding a new paragraph (f) to read as follows:

§ 203.15 Collateral security requirements.

* * * * *

(d) * * *

(9) Commercial and agricultural paper and bankers' acceptances approved by the Federal Reserve Bank of the district and having a maturity at the time of pledge not to exceed 2 years: At 90 percent of face value.

* * * * *

(f) *Effecting payments of principal and interest on securities pledged as collateral subsequent to the insolvency of a depositary*—(1) *General.* In the event of the depositary's insolvency or closure, or in the event of the appointment of a receiver, conservator, liquidator or other similar officer to terminate its business, the depositary agrees that all principal and interest payments on any security pledged to protect the note account (if applicable) and the Treasury tax and loan account, due as of the date of the insolvency of closure, or thereafter becoming due, shall be held separate and apart from any other assets and shall constitute a part of the pledged security available to satisfy any claim of the United States.

(2) *Payment procedures.* (i) Subject to the waiver in subparagraph (2)(iii) of this paragraph, each depositary (including, with respect to such depositary, an assignee for the benefit of creditors, a trustee in bankruptcy, or a receiver in equity) shall immediately remit each payment of principal and/or interest received by it with respect to collateral pledged pursuant to this section to the Federal Reserve Bank of the district, as fiscal agent of the United States, and in any event shall so remit no later than ten days after receipt of such a payment.

(ii) Subject to the waiver in subparagraph (2)(iii) of this paragraph, each obligor on a security pledged by a depositary pursuant to this section shall make each payment of principal and/or interest due with respect to such security directly to the Federal Reserve Bank of the district, as fiscal agent of the United States.

(iii) The requirements of subparagraphs (2) (i) and (ii) of this paragraph are hereby waived for only so long as a pledging depositary remains solvent. The foregoing waiver is terminated without further action immediately upon the insolvency of a pledging depositary or, if earlier, upon notice by the Treasury or the Federal Reserve Bank of the district of such termination. For purposes of this paragraph, a depositary is insolvent when, voluntarily or by action of competent authority, it is closed because of present or prospective inability to meet the demands of its depositors or shareholders.

4. Section 203.18 is amended to read as follows:

§ 203.18 Effective date.

This revision of this part is effective November 2, 1978.

PART 214—DEPOSITORIES FOR FEDERAL TAXES

5. Section 214.9 is amended to read as follows:

§ 214.9 Effective date.

This revision of this part is effective November 2, 1978.

PART 226—RECOGNITION OF INSURANCE COVERING TREASURY TAX AND LOAN DEPOSITARIES

6. Section 226.7 is amended to read as follows:

§ 226.7 Effective date.

The provisions of this part become effective November 2, 1978.

7. Interim 31 CFR Part 226, as amended in item 6. of this document, is hereby adopted as a final rule.

PART 317—REGULATIONS GOVERNING AGENCIES FOR ISSUE OF U.S. SAVINGS BONDS OF SERIES E AND U.S. SAVINGS NOTES

8. Section 317.5 is amended by changing paragraph (e) to read as follows:

§ 317.5 Issuance of bonds.

* * * * *

(e) The provisions of this section, as amended, are effective November 2, 1978.

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

9. Section 321.5 is amended by changing paragraph (e) to read as follows:

§ 321.5 Paying agent fees and charges.

* * * * *

(e) The provisions of this section, as amended, are effective November 2, 1978.

Dated: October 11, 1978.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-29199 Filed 10-13-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-681]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This document corrects a final rule (Order FCC 78-681) appearing in the FEDERAL REGISTER October 4, 1978 at 43 FR 45842 relating to reregulation of radio and television broadcasting.

EFFECTIVE DATE: October 16, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Reiser, Steve Crane, Philip Cross, Broadcast Bureau, 202-632-9660.

Released: October 6, 1978.

In the matter of reregulation of Radio and TV Broadcasting.

In the above captioned Order FCC 78-681, appearing in the FEDERAL REGISTER October 4, 1978 at 43 FR 45842, the Preamble reads November 1, 1978 for an effective date and should read: October 16, 1978; and paragraph 24 of Appendix A should be corrected to read as follows:

24. Section 73.99 headnote is amended to read as follows:

§ 73.99 Presunrise service authorizations (PSA).

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29063 Filed 10-13-78; 8:45 am]

[4910-59-M]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-15, Notice 1]

PART 511—ADJUDICATIVE PROCEDURES

Final Rule; Request for Comment

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule, request for comment.

SUMMARY: This rule contains the procedures and rules of practice that will be followed in adjudications to enforce title V of the Motor Vehicle Information and Cost Savings Act, as amended. Title V concerns average fuel economy standards for passenger automobiles and light trucks. Congress, by adding title V to the Cost Savings Act, gave to the Secretary of Transportation, or his delegate, the Administrator of the National Highway Traffic Safety Administration, the responsibility to enforce provisions of that title, and regulations issued thereunder. These procedural regulations are necessary to carry out that enforcement responsibility. These regulations are intended to enable a full, fair, and expeditious hearing in all cases of alleged violations of the provisions of title V administered by the National Highway Traffic Safety Administration, or of regulations or orders issued thereunder. Because this rule is procedural, it is issued as an interim final rule without notice and opportunity for comment. However, interested persons have an opportunity to comment on this rule before the agency adopts a permanent final rule.

DATES: This rule is effective November 15, 1978. Comments on this rule must be received on or before November 30, 1978.

ADDRESS: Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that ten copies be submitted.

FOR FURTHER INFORMATION, CONTACT:

Roger Fairchild, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-2992.

SUPPLEMENTARY INFORMATION: This rule establishes the procedures and rules of practice which the agency will follow in enforcing the provisions of title V of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act), as amended, 15 U.S.C. 2001 et seq., relating to automotive fuel economy. Section 508(a)(2) of the Cost Savings Act provides that civil penalties be assessed by the Secretary of Transportation, or his delegate, the Administrator of the National Highway Traffic Safety Administration (NHTSA), if after a hearing on the record, he determines that a manufacturer or other person or organization, has violated an average fuel economy standard, or some other regulation or order established by or under title V and enforced by the NHTSA. The procedures and rules of practice established herein will govern the "hearing on the record" required by the statutory language of section 508(a)(2).

The starting point for these regulations is the Administrative Procedure Act (APA), 5 U.S.C. 551 et seq. Section 554 of the APA sets forth requirements for administrative adjudications required by statute to be determined on the record after opportunity for agency hearing. This section dictates that the provisions of the APA governing formal, trial-type administrative hearings (secs. 554, 555, 556, and 557) are applicable, in accordance with their terms, to such adjudications. Because section 508 of the Cost Savings Act provides for adjudications on the record after opportunity for hearing, the formal hearing requirements of sections 554, 555, 556, and 557, of the APA apply, in accordance with their terms.

In addition to the formal hearing provisions of the APA, title V of the Cost Savings Act contains several provisions that affect the rights of persons or parties in adjudicative proceedings. Therefore, the procedures set out herein, in addition to conforming to requirements of the APA, also must conform to the requirements of title V. For example, the issue of settle-

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ment, which will be discussed fully below, is a procedural area much affected by the specific language of title V.

The APA provisions governing formal hearings provide only a general framework for a formal trial-type adjudicative hearing. There is much that must be filled in by the agency. Because the formal, adjudicative hearings are essentially trial-type hearings, the agency used the Federal Rules of Civil Procedure as a general model in fashioning this rule. In addition, the agency also considered and benefited greatly from formal hearing procedures proposed by the Consumer Product Safety Commission, 42 FR 31431, June 21, 1977. However, the agency has made numerous departure from these two models to suit both statutory requirements and the particular needs of proceedings to enforce the requirements of the automotive fuel economy program. Although the structure of these procedures may look familiar to persons conversant with the Federal Rules of Civil Procedure or the proposed rules of the Consumer Product Safety Commission, interested persons are cautioned to note the differences between those procedures, and the procedures set out here.

Following is a discussion of the specific provisions of the agency formal hearing procedures and rules of practice. Many sections are quite straightforward and not controversial, and will be discussed in a very summary way. Other provisions which the agency believes to be more controversial, or which otherwise warrant attention, will be discussed more fully.

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings; Definitions. These rules apply only to enforcement cases arising under portions of title V of the Cost Savings Act administered by the NHTSA. Such cases would include cases of violation of average fuel economy standards for either passenger automobiles or light trucks established by or under section 502 of the Cost Savings Act, failure to comply with a reporting requirement or request for information made pursuant to section 505 of the Cost Savings Act, failure to comply with the regulations of the Environmental Protection Agency under section 506(b) of the Cost Savings Act relating to the display of automobile gas mileage guides, or failure to comply with any other regulation established under title V except those issued pursuant to section 506(a) concerning automobile fuel economy labeling, section 510 regarding passenger automobiles acquired by executive agencies, and section 511 regarding retrofit devices.

It is the policy of the agency to conduct hearings expeditiously, with due regard for the rights of all parties, and persons, and the public interest.

It should be noted that the term "motion" is limited to requests for rulings or orders which may be ruled upon after opportunity for response only by each affected party. The agency contemplates that certain motions, for example, discovery motions, may not affect all parties. The agency believes that allowing each party to respond to motions that do not affect each party may generate needless delay and paperwork with no corresponding benefits. Therefore, the agency believes that the Presiding Officer should have the flexibility to limit the number of parties who may respond to a motion. This flexibility is specifically provided in § 511.23, *Motions.* Of course, it is intended that the Presiding Officer will limit the opportunity for a party to respond to a motion only when such a limitation would not significantly prejudice any party.

It should also be noted that the Presiding Officer in these proceedings will be an Administrative Law Judge qualified under title 5, United States Code, section 3105. This is to be distinguished from a Presiding Officer under 49 CFR part 510, Information Gathering Powers, who may be the Administrator, or any agency official or employee designated by the Administrator.

Subpart B—Pleadings; Form; Execution; Service of Documents. This subpart deals with matters of form relating to pleadings, commencement of proceedings, time and its computation, and the service of documents. All pleadings are to be concise, and sufficient to illuminate the positions of the parties, their contentions, and the areas of real factual or legal controversy. An adjudicative proceeding is initiated by the issuance of a complaint. Each complaint must contain a recital of the legal authority upon which it is based, identification of the respondent, a clear statement of the charges, and the relief sought by the agency. Complaints are published in the FEDERAL REGISTER in order to notify the public of the enforcement proceeding. The FEDERAL REGISTER notice also advises persons who may wish to intervene that they must file petitions to that effect prior to the first prehearing conference. It is the intention of the agency that petitions to intervene be filed by the first prehearing conference so that the parties in the proceeding are known at an early stage, and that there is no undue delay in the case caused by latecoming persons who wish to be parties.

Answers to complaints must meet the issues raised in the complaint, and must indicate the areas of contention in the case. The rules allow amendment and supplementation of pleadings which will facilitate the proceedings and not result in undue prejudice or delay.

The subpart specifies the form of pleadings, where and when they are to be filed, and how to compute time under the rules. Service of documents may be by registered or certified mail, delivery to a person, or delivery to an address.

Section 511.17 relates to intervention in a formal adjudication. Section 508(a)(2) of the Cost Savings Act provides: "Any interested person may participate in any proceeding under this paragraph." Since a proceeding under these rules is clearly a proceeding under paragraph 508(a)(2), interested persons are guaranteed the right to participate in formal enforcement proceedings.

In order to assure that interested persons are able to participate in proceedings under these regulations, while also reducing the possibility that the proceedings become hopelessly bogged down by large number of parties, the agency has provided for two types of participation by interested members of the public; the intervenor and the nonparty participant (referred to as a "participant"). An intervenor, once granted leave to intervene by the Presiding Officer, will have all rights of a party, including such rights as the right to present evidence, and to cross-examine witnesses. Participants will have a more limited role in the proceedings; they will have the right to make a written or oral statement of position, and to file proposed findings of fact, conclusions of law, and a posthearing brief in accordance with these rules.

Any person may participate as a participant merely by filing a notice of intention to participate, and serving a copy on all parties before the commencement of the hearing. The agency believes that such a filing requirement, although a slight burden on the right to participate, is permissible as a necessary housekeeping measure, so that the Presiding Officer and the parties know who, and how many persons are likely to participate in the proceeding. Because the agency believes that the nonparty participants will be able to make a meaningful contribution to the hearing, and by so doing, affect the issues considered and the direction of the hearing, the rule requires the participants to make their intentions to participate known before the commencement of the hearing.

Persons or organizations wishing to participate as an intervenor, with all the rights of a party, may petition the Presiding Officer for leave to intervene. Copies of such petitions must be filed with all parties. So that the proceedings are not unduly delayed by petitions to intervene, such petitions must be filed no later than the beginning of the first prehearing conference. Petitions to intervene must set forth the interest of the petitioner in the proceeding, state how the petitioner's interest may be affected by the outcome of the proceeding, and, with particular reference to the considerations on which the Presiding Officer shall base his or her ruling, state why the petitioner believes that he should be allowed to participate as a party in the proceeding. In ruling on a petition to intervene, the Presiding Officer shall consider the nature and extent of the petitioner's interest in the proceeding, the extent to which the petitioner's participation as a party is likely to assist in developing a sound record for the hearing, the extent to which the petitioner's participation as a party may broaden the issues or delay the proceedings, and the extent to which the petitioner's interest may be protected by other means, such as the participation of other parties, the designation of a single representative or the participation of the petitioner as a nonparty participant. It is the agency's intention that the Presiding Officer, by a consideration of the factors outlined above, the general policy of the agency favoring public participation in agency activities, and a sound exercise of discretion, will be able to accommodate the interests of public participation in agency activities and the need for expeditious completion of enforcement proceedings. Moreover, in order to afford maximum protection to a person's, or organization's, interest in participating as a party, a denial of a petition to intervene may be appealed to the Administrator as an interlocutory matter, under § 511.24 of the rules.

Finally, the Presiding Officer will have the authority to consolidate two or more matters which have been scheduled for adjudicative proceedings, and which involve similar issues.

Subpart C—Prehearing Procedures; Interlocutory Appeals; Summary Decision; Settlement. Subpart C deals with a critical stage of the formal hearing process: That time subsequent to the commencement of a proceeding, but prior to the beginning of the hearing. It is during this period that the Presiding Officer and the parties can structure the hearing, and through clarification and simplification of the issues, and resolution of threshold procedural and housekeeping issues, do much to insure that the hearing can conclude expeditiously and fairly. Indeed, the prehearing procedures may result in the termination of the case without the need for a formal hearing, through settlement or summary decision.

Section 511.21 relates to the prehearing conference. The prehearing conference is the primary means by which issues will be simplified and procedural matters resolved prior to the hearing. Matters to be considered at the prehearing conference include petitions for leave to intervene, motions for consolidation of proceedings, identification and simplification of the issues, amendments to pleadings, stipulations and admissions of fact, matters as to which official notice will be taken, limitation and identification of witnesses, consideration of offers for settlement, and matters relating to discovery, including the issuance of subpenas. Of particular importance are stipulations and admissions of fact, and matters of which official notice will be taken. The agency anticipates that proceedings to enforce average fuel economy standards may be decided on the basis of fuel economy tests conducted pursuant to requirements of the Environmental Protection Agency, about which there may be no material issues of fact that would warrant a formal trial-type hearing. Therefore, admissions or official notice of such facts are likely to be dispositive of such cases.

Prehearing conferences will be convened only after public notice. Although it is anticipated that a single prehearing conference will be sufficient, the Presiding Officer will have the discretion to convene additional prehearing conferences. Prehearing conferences will normally be open to the public, and will be stenographically recorded. After the prehearing conference, the Presiding Officer will enter an order reciting the rulings made and agreements reached at the prehearing conference. The prehearing order will govern the subsequent course of the proceeding, unless modified to prevent injustice.

Section 511.22 provides that all parties and intervenors must file and serve prehearing briefs, setting forth a statement of facts expected to be proved, the anticipated order of proof, a statement of issues and the legal arguments in support of the parties contentions regarding each issue, and a table of supporting authorities.

Section 511.23 governs motions. Motions may be oral or written, and are to be addressed to the Presiding Officer, except for motions to disqualify the Presiding Officer, which shall be filed with the Executive Secretary and decided by the Administrator. Any party that may be affected by a motion will have the right to reply.

Section 511.24 addresses the question of interlocutory appeals to the Administrator of rulings by the Presiding Officer. In general, such interlocutory appeals will not be permitted, except in certain enumerated situations. These situations include where the Presiding Officer requires the production of confidential records, or the testimony of a supervisory official of the agency who does not have particular knowledge of the facts under adjudication, or where an attorney is excluded from participation, or where a petition to intervene is denied or unduly limited. Interlocutory review of decisions on these matters may be obtained at the discretion of the Administrator by petition to the Administrator. Interlocutory appeals may also be obtained through a determination of the Presiding Officer that a ruling involves a controlling question of law or policy as to which there is substantial grounds for a difference of opinion, and that an immediate appeal will materially advance the disposition of the proceeding, or that subsequent review would be an inadequate remedy. Interlocutory appeals will not stay a proceeding unless the Administrator or the Presiding Officer so orders. With the exception of appeals of rulings requiring the production of records which are claimed to be confidential. Such rulings will be automatically stayed for 10 days to permit affected parties to petition for an interlocutory appeal.

Section 511.25 provides for summary decision. Summary decision may be obtained by motion, if there are no material issues of fact, and if one party is entitled to a decision as a matter of law. An order granting a motion for summary decision constitutes the Initial Decision of the Presiding Officer, and may be appealed to the Administrator. Complaint Counsel may move for summary decision after thirty days following the issuance of a complaint, and any other party may so move at any time.

Section 511.26 governs settlement in all cases except cases of alleged violation of average fuel economy standards. The settlement procedures for fuel economy standards violation cases are found in Subpart G, and will be discussed fully in connection with that subpart. Settlement procedure is bifurcated because title V of the Cost Savings Act imposes limitations on the authority of the agency to settle cases of alleged violation of average fuel economy standards, within which limitations the agency must act. In brief, section 508 of the Cost Savings Act allows the Administrator to settle cases of violations of average fuel economy standards only when necessary to prevent insolvency or bankruptcy, or when the violation was the result of a fire, strike, or act of God, or if the Federal Trade Commission certifies that settlement is necessary to avoid a lessening of competition.

Even though section 554(c)(1) of the APA provides that the agency shall

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give interested parties the right to submit offers of settlement, that provision in the APA does not override the specific limitations on settlement found in title V. It is an established rule of statutory construction that a statute dealing with a specific facet of a subject matter controls rather than an earlier statute dealing with the same subject matter in only a general fashion. Since the APA preceded title V, and deals with settlement in only a general fashion, the APA is superseded by the limitations placed on settlement by title V. Sutherland, STATUTORY CONSTRUCTION, 4th ed., § 23.16. Moreover, the right to settlement contained in the APA is a limited right. Under the APA, settlement must be available only when the nature of the proceedings, time, or the public interest permit. In title V, Congress has provided that the public interest will be better served by a limited opportunity for settlement of cases alleging violations of average fuel economy standards. Therefore, even if the APA were controlling, settlement of cases involving violations of average fuel economy standards must be in accordance with title V.

Settlement of cases other than average fuel economy standards violations is governed by § 511.26. Such settlement may be offered by any party. Offers of settlement are transmitted to the Presiding Officer, shall be in the form of a consent agreement, shall be signed by its proponent and endorsed by any other parties who wish to do so. Each proposed agreement shall be accompanied by a motion to transmit the agreement to the Administrator, and an order outlining the provisions of the agreement and reasons why the Administrator should accept the agreement. The contents of any proposed settlement agreement are set out in the regulation, and include an admission of jurisdictional facts, a waiver of further procedural steps, a description of the alleged violation or noncompliance, and a description of the corrective measures that will be taken. The Presiding Officer will transmit all settlement offers correct in form to the Administrator for decision, with or without a recommendation relating to whether the offer should be accepted. The proceedings will be stayed pending a decision on the settlement offer only if the offer has been endorsed by all parties. The Administrator determines whether to accept a proposed settlement. Rejected offers of settlement, or the fact of offer of settlement will not be admissible into evidence over the objection of any party.

Subpart D—Discovery; Compulsory Process. Discovery under these procedures is available only to parties or intervenors. Discovery may be obtained from other parties, or any other persons who are not parties. There are four methods of discovery under these rules: Written interrogatories, requests for the production of documents and things, requests for admissions, and testimony upon oral examination. Discovery may be had regarding any matter, not privileged, which is relevant to the subject matter of the proceeding. The Presiding Officer may issue protective orders to limit discovery when justice requires. Discovery may begin any time after the filing of an answer, and should be completed as soon as practicable, usually no longer than 150 days after the issuance of a complaint. Parties are under a duty to supplement responses to discovery to include after acquired information. If a party refuses to provide or permit discovery, the Presiding Officer may take such action as is appropriate, including allowing the inference that the admission, testimony, document or other evidence sought to be discovered would have been adverse to the party refusing discovery.

Subpenas are obtained by application made by a party to the Presiding Officer, and may be served in person or by registered or certified mail. Any person served with a subpena may move to quash or limit the subpena.

Subpart E—Hearings. Subpart E sets out the procedures and the rules that govern the actual hearing phase of an enforcement proceeding. Section 511.41 sets out general rules. Hearings are public unless otherwise ordered by the Presiding Officer. Hearings shall proceed as expeditiously as possible. Each party, including the intervenor is guaranteed all rights essential to a fair hearing, including, but not limited to timely notice, the right to be heard by objection, brief and argument, the right to present evidence, and the right to conduct cross examination. Non-party participants have the right to make a statement of position, and file proposed findings of fact, conclusions of law, and a post-hearing brief. Any person who is compelled to appear as a witness may be accompanied and advised by counsel, may obtain a copy of the transcript of his testimony at no cost, and will be reimbursed for his time and travel expenses.

Section 511.42 sets out the duties and powers of the Presiding Officer. The primary duty of the Presiding Officer is to conduct full, fair, and impartial hearings, as expeditiously as possible. The Presiding Officer has all powers necessary to accomplish that end. Section 511.42 enumerates certain of those powers, including the power to administer oaths and affirmations, to resolve issues relating to discovery, to rule on and receive evidence, to hold prehearing conferences, to consider and rule on motions made in the course of an adjudication, to issue Initial Decisions, to certify questions to the Administrator for determination, and to take any other action authorized by these rules, or by the APA.

The Presiding Officer, for good cause stated on the record, as the authority to exclude from the proceeding any person who violates the standards of conduct set out in § 511.76 of these rules. The Presiding Officer also has the authority to exclude himself from the proceedings if he believes he is unable to carry out his responsibilities. Moreover, parties may move to have a Presiding Officer removed.

The Presiding Officer, in the performance of adjudicative functions, is not subject to the supervision of any officer, agent, or employee of the agency who is engaged in investigative or prosecuting functions.

Section 511.43 relates to evidence. All relevant and reliable evidence is admissible in proceedings under this rule, notwithstanding the fact that such evidence may not be competent under the rules of evidence. It is universally recognized that the rules of evidence were designed to insure that impressionable juries would not be improperly swayed by the consideration of evidence which, while appealing, was not reliable. Where no jury is involved, as in adjudications under this rule, the need for the protections afforded by the rules of evidence diminishes dramatically. Therefore, the Presiding Officer is specifically granted the authority to receive evidence that may not be admissible under the rules of evidence. However, the Presiding Officer considers the Federal Rules of Evidence as a general guide in evaluating the reliability of evidence. In all cases, the Presiding Officer may exclude evidence if its probative value is outweighted by confusion of issues, or by considerations of delay, immateriality, or the needless presentation of cumulative evidence.

Objections to evidence must be timely interposed, shall appear on the record, and must contain the ground upon which they are based. Formal exception to an adverse ruling is not necessary to preserve the question for appeal. When an objection is sustained, the party sponsoring the offer of evidence may make an offer of what he expects to prove by the evidence. Any other party may then made an offer to how he or she expects to rebut or contract that offer of proof. Written offers of proof and of rebuttal become part of the record.

The Presiding Officer may take official notice of facts not appearing on the record, or the inferences drawn from such facts, either on his own initiative, or on motion of any party. The record must reflect the facts or inferences which have been noticed. An officially noticed fact or conclusion must not be subject to reasonable dispute, in that it is generally known in the Presiding Officer's jurisdiction or expertise, or it is capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned. The agency contemplates that the results of testing supervised by the Environmental Protection Agency to measure average fuel economy may be one kind of fact liable to official notice under this section. In all cases, however, any party will have the right to rebut any fact of which official notice is taken, either by written or oral presentation.

Section 511.44 governs expert witnesses. A written statement of the elements of the testimony of any expert witness must be filed and exchanged between the parties no later than 10 days preceding the commencement of the hearing. This requirement is to enable all parties to prepare a meaningful cross-examination of an expert witness without requiring a delay in the hearing. A party may waive direct examination of an expert by stating that the written statement constitutes the testimony of the expert. In such cases, the written statement becomes part of the record, and cross-examination and redirect examination proceed as if the expert had been examined on direct.

Section 511.45 relates to *in camera* materials. *In camera* materials are those documents, testimony or other data that the Presiding Officer, or the Administrator in the context of an interlocutory appeal, orders to be kept confidential. Only materials which are exempt under the Freedom of Information Act can be afforded *in camera* treatment. Determinations whether alleged confidential business records are exempt under the Freedom of Information Act are made by the NHTSA's Chief Counsel pursuant to the NHTSA's regulations governing confidential business information (49 CFR part 512). In general, the parties will be permitted access to the *in camera* materials. However, there are two situations in which the parties will not be granted access. The first situation is when the Government has obtained confidential information from a person not a party to the instant proceeding, and the second situation is when one of the parties to the proceeding provides confidential information which should not be disclosed to the other parties. In these situations, parties may examine the *in camera* materials only after leave of the Presiding Officer, or the Administrator in the case of an appeal. The Presiding Officer, Administrator, or a reviewing court may order the release of *in camera* materials after notice to the party or parties requesting *in camera* treatment.

Section 511.46 provides that all parties and participants may file posthearing briefs, including proposed findings of fact, conclusions of law, and a proposed order, together with the reasons therefore. Parties may also file reply briefs to posthearing briefs. The time for the submission of posthearing briefs and reply briefs is set by the Presiding Officer, but is not later than 45 days after the closing of the record for the posthearing briefs, and not more than 15 days after filing of the posthearing briefs for the reply briefs.

Sections 511.47 through 511.49 relate to housekeeping matters involving the record, the official docket, and fees. Hearings will be transcribed, will become part of the record, and will be available for purchase from the reporter. Corrections of the transcript may be made, but corrections will be made as interlineations in the original transcript. An official docket for a proceeding will be maintained in the docket room of the agency. Witnesses appearing pursuant to subpena will be paid at least the same attendance and mileage fees as are paid witnesses in the courts of the United States. Such fees will be paid by the party at whose instance the witness appears.

Subpart F—Decision. Section 511.51 relates to the initial decision. An initial decision is to be made and filed by the Presiding Officer who presided over the hearing, unless otherwise ordered by the Administrator. The initial decision should be filed no later than 60 days after the close of the record, the filing of posthearing briefs, or the filing of reply briefs, whichever is latest. The initial decision should be based upon a consideration of the entire record, and should be supported by reliable, probative and substantial evidence. The initial decision shall include findings and conclusions on all the material facts, issues of law, and exercise of discretion, with the reasons therefore, and where practical, shall include citations to the record and to legal or other materials relied upon. At any time prior to or concomitant with the filing of the initial decision, the Presiding Officer may reopen the proceedings for the reception of further evidence. The initial decision shall also include an appropriate order.

Section 511.52 provides that the initial decision will become the final decision of the Administrator unless appeal is taken, or unless the Administrator determines to review the decision on his or her own motion.

Section 511.53 provides for appeal from the initial decision. Any party may appeal an initial decision to the Administrator. However, a notice of intention to appeal must be filed and served within ten days after issuance of the initial decision. The appeal shall be in the form of a brief filed within forty days after the issuance of the initial decision, and shall include an index of the matters in the brief, a concise statement of the case, a specification of the position urged, argument in support of that position, and a proposed order. Other parties and participants may file answering briefs within thirty days after service of the appeal brief. If a timely notice of appeal is filed, other parties may file cross appeals, which shall be included in the answering brief. Reply briefs to answering briefs may be filed, but are limited to rebuttal of matters in answering briefs, including matters raised in cross appeal. Oral argument may be allowed by the Administrator.

Section 511.54 provides that the Administrator may order review of an initial decision, after which parties shall, and participants may, file briefs in accordance with the briefing schedule set out in § 511.53. However, the Administrator may establish a different briefing schedule in his or her order.

Reaching a final decision after appeal or review of an initial decision is governed by § 511.55. The Administrator considers the record in review of the initial decision, and adopts, modifies, or sets aside the findings and conclusions in the initial decision. An order shall be issued reflecting the final decision, and shall include a statement of reasons or bases of the Administrator's actions.

Under § 511.56, any party may petition for reconsideration of the final decision. Any party desiring to oppose such a petition shall file an answer thereto.

Section 511.57 provides that consent orders are effective immediately, but that litigated orders are effective upon the expiration of the statutory review period specified in section 508(c)(1) of the Motor Vehicle Information and Cost Savings Act.

Subpart G—Settlement procedures in cases of violation of average fuel economy standards. As discussed earlier, Congress placed certain limitations on the authority of the agency to settle cases in which it is alleged that a manufacturer has violated an average fuel economy standard established by or under section 502 of the Motor Vehicle Information and Cost Savings Act. This subpart establishes the special procedures by which such cases may be settled, within the authority granted to the agency by Congress.

Section 511.61 provides that the procedures set out in subpart G are the only means of settlement of cases alleging a violation of an average fuel economy standard. Section 511.62 sets out the definitions used in the subpart. The term "settlement" is defined

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as compromise, modification, or remission of a civil penalty assessed under these rules. There is no provision for, and no opportunity for, settlement of any kind prior to a finding of a violation of an average fuel economy standard. Congress, by establishing the detailed criteria governing settlement discussed below, has shown a clear intent that cases are to be settled only in accordance with those criteria. The agency believes that allowing settlement of a case of alleged violation of an average fuel economy standard prior to a finding of a violation would be a circumvention of a clear congressional intent. Therefore, settlement of average fuel economy standard violation cases will be made only in accordance with this subpart.

Section 511.63 sets out the criteria for settlement of cases of violation of average fuel economy standards cases. These criteria are those contained in section 508(b)(3) of the Cost Savings Act. Under those criteria, settlement is available only to the extent that is necessary to prevent insolvency or bankruptcy of the manufacturer, that the violation of the average fuel economy standard was the result of a strike, fire, or act of God, or that the Federal Trade Commission certifies reduction is necessary to prevent a substantial lessening of competition. However, it should be emphasized that in all cases, even where one or more of the criteria for settlement are met, settlement is within the discretion of the Administrator.

The agency also concludes that the settlement process contemplated by section 508 of the Cost Savings Act was intended by Congress to take place apart from the formal adjudicative hearing, and therefore, not be subject to the requirements of sections 554, 555, 556, and 557 of the APA. This conclusion is based upon the language and structure of section 508.

Section 508(a)(2) provides that opportunity for a hearing on the record, or a formal hearing under the APA, is required before the Secretary can determine whether there has been a violation of an average fuel economy standard, or other regulation or order issued under title V which is subject to enforcement by the agency. However, once the Secretary has made that determination, the right to a hearing ends. If a violation is found, the Secretary is required to assess civil penalties as prescribed by the Cost Savings Act, subject to a later modification. the requirement of penalties and the amount of penalties are mandated by the Cost Savings Act, and are not matters for determination by any type of hearing, let alone a formal, trial-type, adjudicative hearing.

Moreover, the language of section 508(b)(3), which relates to modification of civil penalties, clearly contemplates that such modifications are matters for the Secretary's discretion, not matters to be determined by a hearing, and that the exercise of that discretion is to take place after the fact of violation has been determined, and therefore, after the right to a formal hearing has expired. Section 508(d)(3) provides in relevant part:

> "• • • The Secretary shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection, except that any civil penalty assessed for a violation of [an average fuel economy standard] may be so compromised, modified, or remitted only to the extent—
>
> (A) necessary to prevent the insolvency or bankruptcy of such manufacturer,
>
> (B) such manufacturer shows that the violation • • • resulted from an act of God, a strike, or a fire, or
>
> (C) the Federal Trade Commission has certified that modifications of such penalty is necessary to prevent a substantial lessening of competition, • • •

Thus, modification of civil penalties is expressly discretionary, and can take place only after a penalty has been assessed. Both the timing and the discretionary nature of the modification of civil penalty process indicate that Congress intended the settlement process to be a process separate from the process of adjudication to establish a violation. Because settlement is not part of the hearing on the record, there is no need for formal adjudicative procedures.

Section 511.64 sets out the procedures by which manufacturers may seek settlement. The settlement process is commenced by the filing of a petition seeking settlement. This petition must be filed within 30 days after the issuance of a final order assessing a civil penalty. The petition should contain sufficient information to allow the Administrator to determine that at least one of the criteria set out in § 511.63 is met, and that settlement would be in the public interest. In addition to this general requirement, there are particular requirements for petitions claiming to fall within three enumerated settlement criteria.

Section 511.64 sets out the procedures by which manufacturers may seek settlement. The settlement process is commenced by the filing of a petition seeking settlement. This petition must be filed within 30 days after the issuance of a final order assessing a civil penalty. The petition should contain sufficient information to allow the Administrator to determine that at least one of the criteria set out in § 511.63 is met, and that settlement would be in the public interest. In addition to this general requirement, there are particular requirements for petitions claiming to fall within three enumerated settlement criteria. Petitions claiming that settlement is necessary to prevent bankruptcy or insolvency must submit corporate financial records, auditors reports, or other documentation in support of the assertion that the assessment of a civil penalty would cause bankruptcy or insolvency. Such petitions must also contain a payment schedule that would allow the manufacturer to pay the entire civil penalty over a period of time, without resulting in insolvency or an act of bankruptcy. Petitions asserting that the violation was the result of a fire, strike, or act of God, must specify the corrective and ameliorative steps taken to mitigate the effects of the fire, strike, or act of God.

In addition, each petition must include proposed conditions for settlement. The agency believes that unconditional settlement will seldom, if ever, be in the public interest. Conditions for settlement can include educational programs or research programs related to improving automotive fuel economy, or any activity related to fuel economy that will confer a public benefit.

Because the agency believes that public participation in this settlement process is clearly in the public interest, such participation is guaranteed by § 511.65. Notice of the receipt of a petition seeking settlement will be published in the FEDERAL REGISTER, and the petition and supporting documentation will be placed in a public docket, except that the Administrator is authorized to segregate from the public docket information in support of a petition for settlement which has been determined to be confidential business information under the agency's regulations on that subject (49 CFR Part 512). Any settlement proposal agreed to by the Administrator will be placed in the public docket, and there will be a 30-day period in which interested persons may comment on the agreement. No agreement shall be binding until the Administrator has considered all comments received.

Section 511.66 provides that an order of settlement be issued when the Administrator allows settlement under this subpart. This order of settlement must set out the terms of the settlement, and must contain a brief discussion of the factors underlying the Administrator's decision, including a discussion of significant comments received under § 511.65.

Subpart H—Appearances; Standards of Conduct. Sections 511.71 through 511.77 govern appearances and general standards of conduct. Section 511.78 relates to a particular type of prohibited conduct, prohibited *ex parte* contacts.

In general, in a proceeding under these rules, a party or participant may appear in person, or may be represented by counsel or some other representative. The Presiding Officer may require any individual acting in a representative capacity to show his authority to act in that capacity. Any person who appears at a proceeding must file a written notice of appearance. A person who has previously appeared in a proceeding may withdraw his appearance by filing a written notice of withdrawal of appearance.

An attorney-at-law may appear in a representative capacity in a proceeding. A person may also appear upon his own behalf, or upon the behalf of a corporation, partnership, or association of which that person is a partner, officer, or regular employee. Other persons who wish to appear may file applications with the Presiding Officer, requesting leave to appear, and setting out the applicant's qualifications. Such other persons may appear only if their applications are approved.

In general, persons appearing in a proceeding under these rules must act with integrity, in an ethical manner, and in good faith. The Presiding Officer may exclude from participation persons who do not meet these standards of conduct.

Section 207 of Title 18, United States Code, shall govern past Administrators or agency employees with respect to their activities in matters connected with their former duties and responsibilities. In brief, that statute forever prohibits a former agency official or employee from representing a party before the agency on a matter in which the former official or employee participated personally and substantially during the time of his employment with the agency, and prohibits for 1 year a former official or employee from representing a person on a matter subject to that former official or employee's responsibility during the time of his or her agency employment.

Section 511.78 governs *ex parte* communications in adjudications under these rules, and reflects the requirements of the Administrative Procedure Act. Section 511.78 is applicable from the time of the issuance of a complaint to the time of a final order of the Administrator deciding the case. It is not applicable to settlement procedures set out in Subpart G, which procedures are not part of an adjudication.

Section 511.78 prohibits all written communications relevant to the merits of a proceeding made to the decision maker, either the Presiding Officer or the Administrator, that are not served on all other parties, and all oral communications relevant to the merits of a proceeding to the decision maker, either the Presiding Officer or the Administrator, made without advance notice to other parties, and opportunity for them to be present. *Ex parte* communications authorized by statute or these rules are excepted from the general prohibition. In the event a prohibited *ex parte* communication is made, the recipient of the prohibited communication shall forward a copy of the communication, or a memorandum regarding the communication, to the Executive Secretary. Such copies or memoranda will then be placed in a public file and served upon all parties. A person making a prohibited *ex parte* communication will be subject to an appropriate sanction, including exclusion from the proceedings, or an adverse ruling on the issue which is the subject of the communication.

Because this regulation is procedural, it is being issued as an interim final rule without notice.

The economic impacts of this regulation have been considered and the agency has determined the regulation is not significant within the meaning of Executive Order 12044. Further, the impacts are so minimal that a detailed evaluation of the regulation is not warranted. As noted above, this regulation does not set forth substantive requirements. It merely sets forth the procedural requirements for the hearings on the record specified by title V of the Motor Vehicle Information and Cost Savings Act.

It is the judgment of this agency, based on available information, that no significant environmental impact would result from execution of this action.

In consideration of the foregoing, Title 49, Code of Federal Regulations, is amended by adding a new Part 511, *Adjudicative Procedures* to read as set forth below.

Interested persons are invited to submit comments on this interim rule. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. In view of the number and breadth of issues in this notice, the agency has determined that the 15-page limitation in 49 CFR 553.21 (Nov. 14, 1977; 42 FR 58949) on rulemaking should not apply to this notice. Instead, a limit of 20 pages for comments on this notice is adopted. Additional supporting material may be submitted as appendices of attachments. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

The lawyer principally responsible for the development of this regulation is Nancy Eager.

Issued on October 2, 1978.

JOAN CLAYBROOK,
Administrator.

Title 49, Chapter V, of the Code of Federal Regulations is amended by adding Part 511 to read as follows:

PART 511—ADJUDICATIVE PROCEDURES

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings, Definitions

Sec.
511.1 Scope of the rules.
511.2 Nature of adjudicative proceedings.
511.3 Definitions.

Subpart B—Pleadings; Form; Execution; Service of Documents

511.11 Commencement of proceedings.
511.12 Answer.
511.13 Amendments and supplemental pleadings.
511.14 Form and filing of documents.
511.15 Time.
511.16 Service.
511.17 Intervention.
511.18 Joinder of proceedings.

Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Judgment; Settlement

511.21 Prehearing conferences.
511.22 Prehearing briefs.
511.23 Motions.
511.24 Interlocutory appeals.
511.25 Summary decision and order.
511.26 Settlement.

Subpart D—Discovery; Compulsory Process

511.31 General provisions governing discovery.
511.32 Written interrogatories to parties.
511.33 Production of documents and things.
511.34 Requests for admission.
511.35 Testimony upon oral examination.
511.36 Motions to compel discovery.
511.37 Sanctions for failure to comply with order.
511.38 Subpenas.
511.39 Orders requiring witnesses to testify or provide other information and granting immunity.

Subpart E—Hearings

511.41 General rules.
511.42 Powers and duties of presiding officer.
511.43 Evidence.
511.44 Expert witnesses.
511.45 *In camera* materials.

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511.46 Proposed findings, conclusions, and order.
511.47 Record.
511.48 Official docket.
511.49 Fees.

Subpart F—Decision.

511.51 Initial decision.
511.52 Adoption of initial decision.
511.53 Appeal from initial decision.
511.54 Review of initial decision in absence of appeal.
511.55 Final decision on appeal or review.
511.56 Reconsideration.
511.57 Effective date of order.

Subpart G—Settlement Procedure in Cases of Violation of Average Fuel Economy Standards

511.61 Purpose.
511.62 Definitions.
511.63 Criteria for settlement.
511.64 Petitions for settlement; timing; contents.
511.65 Public comment.
511.66 Confidential business information.
511.67 Settlement order.

Subpart H—Appearances; Standards of Conduct

511.71 Who may make appearances.
511.72 Authority for representation.
511.73 Written appearances.
511.74 Attorneys.
511.75 Persons not attorneys.
511.76 Qualifications and standards of conduct.
511.77 Restrictions as to former members and employees.
511.78 Prohibited communications.

Appendix I—Final Prehearing Order.

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 20002); delegation of authority at 41 FR 25015, June 22, 1976.

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings, Definitions

§ 511.1 Scope of the rules.

This part establishes rules of practice and procedure for adjudicative proceedings conducted pursuant to section 508(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. Pub. L. 94-163, 89 Stat. 911, Sec. 2008(a)(2)), which are required by statute to be determined on the record after opportunity for a public hearing.

§ 511.2 Nature of adjudicative proceedings.

Adjudicative proceedings shall be conducted in accordance with title 5, United States Code, sections 551 through 559 and this part. It is the policy of the agency that adjudicative proceedings shall be conducted expeditiously and with due regard to the rights and interests of all persons affected, and to the public interest. Therefore, the presiding officer and all parties shall make every effort at each stage of a proceeding to avoid unnecessary delay.

§ 511.3 Definitions.

As used in this part:

(1) The term "application" means an *ex parte* request by a party for an order that may be granted or denied without opportunity for response by any other party.

(2) The term "NHTSA" means the National Highway Traffic Safety Administration.

(3) The term "Administrator" means the Administrator of the National Highway Traffic Safety Administration.

(4) The term "Complaint Counsel" means prosecuting counsel for the NHTSA.

(5) The term "motion" means a request by a party for a ruling or order that may be granted or denied only after opportunity for response by each affected party.

(6) The term "party" means the NHTSA, and any person named as a respondent or any intervenor in a proceeding governed by this part.

(7) The term "person" means any individual, partnership, corporation, association, public or private organization, or Federal, State or municipal governmental entity.

(8) The term "petition" means a written request, made by a person or a party and addressed to the Presiding Officer or the Administrator, that the addressee take some action.

(9) The term "Presiding Officer" means the person who conducts an adjudicative hearing under this part, who shall be an administrative law judge qualified under title 5, United States Code, section 3105 and assigned by the Chief Administrative Law Judge of the Civil Service Commission.

(10) The term "Respondent" means any person against whom a complaint has been issued.

(11) The term "Executive Secretary" means the Executive Secretary of the National Highway Traffic Safety Administration.

(12) The term "staff" means the staff of the National Highway Traffic Safety Administration.

Subpart B—Pleadings; Form; Execution; Service of Documents

§ 511.11 Commencement of proceedings.

(a) *Notice of institution of an enforcement proceeding.* An adjudicative proceeding under this part is commenced by the issuance of a complaint by the NHTSA.

(b) *Form and content of complaint.* The complaint shall be signed by the Complaint Counsel under seal of the NHTSA, and shall contain the following:

(1) Recital of the legal authority for instituting the proceeding, with specific designation of the statutory provisions involved in each allegation.

(2) Identification of each respondent.

(3) A clear and concise statement of the charges, sufficient to inform each respondent with reasonable definiteness of the factual basis of the allegations of violation. A list and summary of documentary evidence supporting the charges shall be attached.

(4) A statement of the civil penalty which the Complaint Counsel believes is in the public interest, or which is required by law.

(c) *Notice to the public.* Once issued, the complaint shall be imediately submitted to the FEDERAL REGISTER for publication. The notice in the FEDERAL REGISTER shall state that petitions to intervene as a party must be filed no later than the first prehearing conference.

§ 511.12 Answer.

(a) *Time for filing.* A respondent shall have twenty (20) days after service of a complaint within which to file an answer.

(b) *Content of answer.* An answer shall conform to the following:

(1) *Contested allegations.* An answer in which the allegations of a complaint are contested shall contain:

(i) Specific admission or denial of each allegation in the complaint. If the respondent is without knowledge or information sufficient to form a belief as to the truth of an allegation, respondent shall so state. Such a statement shall have the effect of a denial. Denials shall fairly meet the substance of the allegations denied. Allegations not thus answered shall be deemed to have been admitted.

(ii) A concise statement of the factual and/or legal defenses to each allegation of the complaint.

(2) *Admitted allegations.* If the respondent admits or fails to deny any factual allegation, he or she shall be deemed to have waived a hearing as to such allegation.

(c) *Default.* Failure of the resondent to file an answer within the time provided, unless extended, shall be deemed to constitute a waiver of the right to appear and contest the allegations set forth in the complaint and to authorize the Presiding Officer to make such findings of fact, reasonable under the circumstances.

§ 511.13 Amendments and supplemental pleadings.

Whenever determination of a controversy on the merits will be facilitated thereby, the Presiding Officer upon motion, may allow appropriate amendments and supplemental pleadings which do not unduly broaden the issues in the proceeding or cause undue delay.

§ 511.14 Form and filing of documents.

(a) *Filing.* Except as otherwise provided, all documents submitted to the

Administrator or a Presiding Officer shall be addressed to and filed with the Executive Secretary. Documents may be filed in person or by mail and shall be deemed filed on the day of filing or mailing.

(b) *Caption.* Every document shall contain a caption setting forth the name of the action in connection with which it is filed, the docket number, and the title of the document.

(c) *Copies.* An original and nine (9) copies of all documents shall be filed. Documents may be reproduced by printing or any other process, provided that all copies filed are clear and legible.

(d) *Signature.* (1) The original of each document filed shall be signed by a representative of record for the party; or in the case of parties not represented, by the party; or by a partner, officer, or regular employee of any corporation, partnership, or association, who files an appearance on behalf of the party.

(2) The act of signing a document constitutes a representation by the signer that the signer has read it; that to the best of the signer's knowledge, information and belief, the statements made in it are true; and that it is not filed for purposes of delay.

(e) *Form.* (1) All documents shall be dated and shall contain the address and telephone number of the signatory.

(2) If printed, documents shall be on opaque, unglazed paper not more than seven (7) inches by ten (10) inches, nor less than six and one-eighth (6⅛) inches by nine and one-quarter (9¼) inches.

(3) If typewritten, the impression shall be on only one side of the paper and shall be double spaced, except that quotations of more than three lines shall be single spaced and indented. The documents shall be on paper not less than eight (8) inches nor more than eight and one-half (8½) inches by not less than ten and one-half (10½) inches nor more than eleven (11) inches.

(4) The type size for both printed and typewritten documents shall not be less than standard elite or twelve (12) point type. The type shall be clear and adequately leaded.

(5) All documents shall be fastened at the top left corner. The left margin of each page shall be at least one and one-half (1½) inches and the right margin at least one (1) inch.

§ 511.15 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by the rules in this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this part, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

(b) *Additional Time After Service by Mail.* Whenever a party is required or permitted to do an act within a prescribed period after service of a document and the document is served by mail, three (3) days shall be added to the prescribed period.

(c) *Extensions.* For good cause shown, the Presiding Officer may extend any time limit prescribed or allowed under this part or by order of the Administrator or the Presiding Officer, except those governing the filing of interlocutory appeals and appeals from Initial Decisions and those expressly requiring the Administrator's action. Except as otherwise provided by law, the Administrator, for good cause shown, may extend any time limit prescribed under this part, or by order of the Administrator or the Presiding Officer. A party or participant may petition the Presiding Officer or the Administrator, as appropriate, for an extension under this paragraph. Such a petition shall be filed prior to the occurrence of the time limit which is the subject of the petition.

§ 511.16 Service.

(a) *Mandatory service.* Every document filed with the Executive Secretary shall be served upon all parties and participants to a proceeding, i.e., Compaint Counsel, respondent(s), and party intervenors, and upon the Presiding Officer.

(b) *Service of complaint, ruling, order, decision, or subpena.* Service of a complaint, ruling, order, decision, or subpena may be effected as follows:

(1) *By registered or certified mail.* A copy of the document shall be addressed to the person, partnership, corporation or unincorporated association to be served at his or its residence or principal office or place of business; registered or certified; and mailed; or

(2) *By delivery to an individual.* A copy of the document may be delivered to the person to be served; or to a member of the partnership to be served; or to the president, secretary, or other executive officer, or a director of the corporation or unincorporated association to be served; or to an agent authorized by appointment or by law to receive service; or

(3) *By delivery to an address.* A copy of the document may be left at the principal office or place of business of the person, partnership, corporation, unincorporated association, or authorized agent with an officer, a managing or general agent; or it may be left with a person of suitable age and discretion residing therein, at the residence of the person or of a member of the partnership or of an executive officer, director, or agent of the corporation or unincorporated association to be served.

(c) *Service of documents with prescribed response periods.* When service of a document starts the running of a prescribed period of time for the submission of a responsive document or the occurrence of an event, the document shall be served as provided in paragraph (b) of this section.

(d) *Service of other documents.* All documents other than those specified in paragraph (c) of this section may be served as provided in paragraph (b) of this section, or by ordinary first-class mail, properly addressed, postage prepaid.

(e) *Service on a representative.* When a party has appeared by an attorney or other representative, service upon that attorney or other representative shall constitute service on the party.

(f) *Certificate of service.* The original of every document filed with the agency and required to be served upon all parties to a proceeding shall be accompanied by a certificate of service signed by the party making service, stating that such service has been made upon each party to the proceeding. Certificates of service may be in substantially the following form:

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding by mailing, postage prepaid (or by delivering in person) a copy to each such party.

Dated at ——————this ——day of ——————, 19——.

(Signature) ——————

For ——————

(g) *Date of Service.* The date of service of a document shall be the date on which the document is deposited in the United States mail or is delivered in person.

§ 511.17 Intervention.

(a) *Participation as an intervenor.* Any interested person who desires to participate as a party in a proceeding commenced pursuant to § 511.11 shall file a written petition for leave to intervene with the Executive Secretary and shall serve a copy of such petition on each party to the proceeding. A pe-

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tition shall be filed not later than the opening of the prehearing conference. Nontimely filings will not be entertained absent a determination by the Presiding Officer that the petitioner has made a substantial showing of good cause for failure to file on time. A petition shall (1) set forth the interest of the petitioner in the proceeding, (2) state how the petitioner's interest may be affected by the results of the proceeding, and (3) state any other contentions of the petitioner, including the facts and reasons why the petitioner should be permitted to intervene as a party, with particular reference to the factors set forth in paragraph (d) of this section. Any person who files a petition for leave to intervene pursuant to this paragraph and whose petition is granted by the Presiding Officer shall be known as an "intervenor" and as such shall have the full range of litigating rights afforded to any other party.

(b) *Participation by a person not an intervenor.* Any person interested in a proceeding commenced pursuant to § 511.11 who does not elect to petition for leave to intervene in the proceeding as an intervenor pursuant to paragraph (a) of this section, but who desires to participate in the proceeding as a nonparty, shall file with the Executive Secreatary a notice of intention to participate in the proceeding and shall serve a copy of such notice on each party to the proceeding. A notice of intention to participate shall be filed not later than the commencement of the hearing. Untimely filings will not be accepted absent a determination by the Presiding Officer that the person making the request has made a substantial showing of good cause for failure to file on time. Any person who files a notice to participate in the proceeding as a nonparty shall be known as a "participant" and shall have the right to make a written or oral statement of position, file proposed findings of fact, conclusions of law and a post hearing brief with the Presiding Officer, and file an appellate brief if an appeal is taken or review is ordered in accordance with §§ 511.53–511.54.

(c) *Response to petition to intervene.* Any party to a proceeding may file a response to a petition for leave to intervene after the petition is filed with the Executive Secretary, with particular reference to the factors set forth in paragraph (d) of this section. A response shall be filed not later than the commencement of the hearing.

(d) *Ruling by Presiding Officer on petition to intervene.* In ruling on a petition for leave to intervene as an intervenor, the Presiding Officer shall consider the following factors, among other things:

(1) The nature and extent of the petitioner's interest in ensuring compliance with regulations issued under Title V of the Motor Vehicle Information and Cost Savings Act,

(2) The nature and extent of the petitioner's property, financial or other substantial interest in the proceeding;

(3) Whether the petitioner would be aggrieved by any order which may be entered in the proceeding;

(4) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record;

(5) The extent to which the petitioner's interest will be represented by existing parties;

(6) The extent to which the petitioner's participation may broaden the issues or delay the proceeding; and

(7) The extent to which the petitioner's interest can be protected by other available means.

If the Presiding Officer determines that a petitioner does not meet the requirements to be an intervenor, the Presiding Officer shall view such petition to intervene as if it had been timely filed as a notice to participate in the proceeding as a participant pursuant to paragraph (b) of this section.

(e) *Designation of single representative.* If the Presiding Officer, in the course of a hearing held under this part, determines that a petitioner pursuant to paragraph (a) of this section is a member of a class of prospective intervenors who share an identity of interest, the Presiding Officer may limit such intervention through designation of a single representative of such a class.

§ 511.18 Joinder of proceedings.

Two or more matters which have been scheduled for adjudicative proceedings, and which involve similar issues, may be consolidated for the purpose of hearing, appeal or the Administrator's review. A motion for consolidation for the purpose of hearing may be filed by any party to such proceedings not later than thirty (30) days prior to the hearing. A motion for consolidation for the purpose of appeal may be filed by any party to such proceedings within 10 days after issuance of the Initial Decision. A motion to consolidate shall be served upon all parties to all proceedings whose joinder is contemplated. The proceedings may be consolidated to such extent and upon such terms as may be deemed proper. Such consolidation may also be ordered upon the initiative of the Presiding Officer or the Administrator, as appropriate.

Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Judgment; Settlement

§ 511.21 Prehearing conferences.

(a) *When held.* (1) A prehearing conference shall be held in person or by conference telephone call, except in unusual circumstances, approximately fifty (50) days after publication in the FEDERAL REGISTER of the complaint, upon ten (10) days notice to all parties and participants, to consider any or all the following:

(i) Petitions for leave to intervene;

(ii) Motions for consolidation of proceedings;

(iii) Identification, simplification and clarification of the issues;

(iv) Necessity or desirability of amending the pleadings;

(v) Stipulations and admissions of fact and of the content and authenticity of documents;

(vi) Oppositions to notices of oral examination;

(vii) Motions for protective orders to limit or modify discovery;

(viii) Issuance of subpenas to compel the appearance of witnesses and the production of documents;

(ix) Limitation of the number of witnesses, particularly the avoidance of duplicate expert witnesses; and

(x) Matters of which official notice will be taken and matters which may be resolved by reliance upon findings of other Federal agencies.

§ 511.22 Prehearing briefs.

Not later ten (10) days prior to the hearing, the parties shall, except when ordered otherwise by the Presiding Officer in unusual circumstances, simultaneously serve and file prehearing briefs, which shall set forth (a) a statement of the facts expected to be proved, and of the anticipated order of proof; (b) a statement of the issues and the legal argument in support of the party's contentions with respect to each issue; and (c) a table of authorities with a designation by asterisk of the principal authorities relied upon.

§ 511.23 Motions.

(a) *Presentation and disposition.* During the time a proceeding is before a Presiding Officer, all motions, whether oral or written, except those filed under § 511.42(e), shall be addressed to the Presiding Officer, who shall rule upon them promptly after affording an opportunity for response.

(b) *Written motions.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor. If a motion is supported by memoranda, affidavits or other documents, they shall be served and filed with the motion. All motions shall contain a proposed order setting

forth the relief sought. All written motions shall be filed with the Executive Secretary and served on all parties, and all motions addressed to the Administrator shall be in writing.

(c) *Responses.* Within ten (10) days after service of any written motion or petition or within such longer or shorter time as may be designated by these Rules or by the Presiding Officer or the Administrator, the opposing party or parties shall file a written response to such motion. Where a motion would affect only a single party, or an identifable group of parties, the Presiding Officer or Administrator may limit the response to the motion to the affected party or parties. Failure to respond to a written motion may, in the discretion of the Presiding Officer be deemed as consent to the granting of the relief sought in the motion. The moving party shall have no right to reply, except as permitted by the Presiding Officer or the Administrator.

(d) *Rulings on motions for dismissal.* When a motion to dismiss a complaint or motion for other relief is granted with the result that the proceeding before the Presiding Officer is terminated, the Presiding Officer shall issue an Initial Decision and Order thereon in accordance with the provisions of § 511.51. If such a motion is granted as to all issues alleged in the compliant in regard to some, but not all, the respondents, or is granted as to any part of the allegations in regard to any or all the repondents, the Presiding Officer shall enter an order on the record and consider the remaining issues in the Initial Decision. The Presiding Officer may elect to defer ruling on a motion to dismiss until the close of the case.

§ 511.24 Interlocutory appeals.

(a) *General.* Rulings of the Presiding Officer may not be appealed to the Administrator prior to the Initial Decision, except as provided herein.

(b) *Exceptions*—(1) *Interlocutory appeals to Administator.* The Administrator may, in his or her discretion, entertain interlocutory appeals where a ruling of the Presiding Officer:

(i) Requires the production of records claimed to be confidential;

(ii) Requires the testimony of a supervisory official of the agency other than one especially cognizant of the facts of the matter in adjudication.

(iii) Excludes an attorney from participation in a proceeding pursuant to § 511.42(b);

(iv) Denies or limits a petition to intervene pursuant to the provisions of § 511.17.

(2) *Procedures for interlocutory appeals.* Within ten (10) days of issuance of a ruling, any party may petition the Administrator to entertain an interlocutory appeal on a ruling in the categories enumerated above. The petition shall not exceed fifteen (15) pages. Any other party may file a response to the petition with ten (10) day of its service. The response shall not exceed fifteen (15) pages. The Administrator shall thereupon act upon the petition, or the Administrator shall request such further briefing or oral presentation as he may deem necessary.

(3) *Interlocutory appeals from all other rulings*—(i) *Grounds.* Interlocutory appeals from all other rulings by the Presiding Officer may proceed only upon motion to the Presiding Officer and a determination by the Presiding Officer in writing, with justification in support thereof, that the ruling involves a controlling question of law or policy as to which there is substantial ground for differences of opinion and that an immediate appeal from the ruling may materially advance the ultimate termination of the litigation, or that subsequent review will be an inadequate remedy.

(ii) *Form.* If the Presiding Officer determines, in accordance with paragraph (b)(3)(i) of this section that an interlocutory appeal may proceed a petition for interlocutory appeal may be filed with and acted upon by the Administrator in accordance with paragraph (b)(2) of this section.

(c) *Proceedings not stayed.* A petition for interlocutory appeal under this part shall not stay the proceedings before the Presiding Officer unless the Presiding Officer shall so order, except that a ruling of the Presiding Officer requiring the production of records claimed to be confidential shall be automatically stayed for a period of 10 days following the issuance of such ruling to allow an affected party the opportunity to file a petition for an interlocutory appeal pursuant to § 511.24(b)(2). The filing of such a petition shall automatically extend the stay of such a ruling pending the Administrator's action on such petition.

§ 511.25 Summary decision and order.

(a) *Motion.* Any party may move, with a supporting memorandum, for a Summary Decision and Order in its favor upon all or any of the issues in controversy. Complaint Counsel may so move at any time after thirty (30) days following issuance of a complaint, and any other party may so move at any time after issuance of a complaint. Any such motion by any party shall be filed at least twenty (20) days before the date fixed for the adjudicatory hearing.

(b) *Response to motion.* Any other party may, within ten (10) days after service of the motion, file a response thereto with a supporting memorandum.

(c) *Grounds.* A Summary Decision and Order shall be granted if the pleadings and any testimony upon oral examination, answers to interrogatories, admissions, and/or affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to a Summary Decision and Order as a matter of law.

(d) *Legal effect.* A Summary Decision and Order upon all the issues being adjudicated shall constitute the Initial Decision of the Presiding Officer, and may be appealed to the Administrator in accordance with § 511.53. A Summary Decision, interlocutory in character, may be rendered on fewer than all issues and may not be appealed prior to issuance of the Initial Decision, except in accordance with § 511.24.

(e) *Case not fully adjudicated on motion.* A Summary Decision and Order that does not dispose of the whole case shall include a statement of those material facts as to which there is no substantial controversy, and of those material facts that are actually and in good faith controverted. The Summary Order shall direct such further proceedings as are just.

§ 511.26 Settlement.

(a) *Applicability.* This section applies only to cases of alleged violations of section 507(3) of the Motor Vehicle Information and Cost Savings Act, Pub. L. 94-163, 89 Stat. 911 (15 U.S.C. Section 2007(3)). Settlement in other cases may be made only in accordance with Subpart G of this part.

(b) *Availability.* Any party shall have the opportunity to submit an offer of settlement to the Presiding Officer.

(c) *Form.* Offers of settlement shall be in the form of a consent agreement and order, shall be signed by the party submitting the offer or his representative, and may be signed by any other party. Each offer of settlement shall be accompanied by a motion to transmit to the Administrator the proposed agreement and order, outlining the substantive provisions of the agreement, and the reasons why it should be accepted.

(d) *Contents.* The proposed consent agreement and order which constitute the offer of settlement shall contain the following:

(1) An admission of all jurisdictional facts;

(2) An express waiver of further procedural steps, and of all rights to seek judicial review or otherwise to contest the validity of the order;

(3) A description of the alleged noncompliance, or violation.

(4) Provisions to the effect that the allegations of the complaint are resolved by the proposed consent agreement and order;

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(5) A listing of the acts or practices from which the respondent shall refrain;

(6) A detailed statement of the corrective action(s) which the respondent shall execute and the civil penalty, if any, that respondent shall pay.

(e) *Transmittal.* The Presiding Officer may transmit to the Administrator for decision all offers of settlement and accompanying memoranda that meet the requirements enumerated in paragraph (d) of this section. The Presiding Officer may, but need not, recommend acceptance or rejection of such offers. Any party or participant, may object to a proposed consent agreement by filing a motion and supporting memorandum with the Administrator.

(f) *Stay of proceedings.* When an offer of settlement has been agreed to by the parties and has been transmitted to the Administrator, the proceedings shall be stayed until the Administrator has ruled on the offer. When an offer of settlement has been made and transmitted to the Administrator but has not been agreed to by all parties, the proceedings shall not be stayed pending the Administrator's decision on the offer.

(g) *Administrator's ruling.* The Administrator will rule upon all transmitted offers of settlement. If the Administrator accepts the offer, the Administrator shall issue an appropriate order. The order shall become effective upon issuance.

(h) *Rejection.* If the Administrator rejects an offer of settlement, the Executive Secretary shall give written notice of that decision to the parties and the Presiding Officer. Promptly thereafter, the Presiding Officer shall issue an order notifying the parties of the resumption of the proceedings, including any modifications to the schedule resulting from the stay of the proceedings.

(i) *Effect of rejected offer.* Rejected offers of settlement shall not be admissible in evidence over the objection of any signatory, nor shall the fact of the proposal of the offer be admissible in evidence.

Subpart D—Discovery; Compulsory Process

§ 511.31 General provisions governing discovery.

(a) *Applicability.* The discovery rules established in this subpart are applicable to the discovery of information among the parties to a proceeding. Parties seeking information from persons not parties may do so by subpena in accordance with § 511.38.

(b) *Discovery methods.* Parties may obtain discovery by one or more of the following methods: (1) Written interrogatories; (2) requests for production of documents or things; (3) requests for admissions; or (4) testimony upon oral examination. Unless the Presiding Officer otherwise orders under paragraph (d) of this section, the frequency of use of these methods is not limited.

(c) *Scope of discovery.* The scope of discovery is as follows:

(1) *In general.* Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the proceedings, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Exception.* Parties may not obtain discovery of documents which accompanied the staff's recommendation as to whether a complaint should issue.

(3) *Hearing preparation: Experts.* A party may obtain discovery of facts known and opinions held by experts, regardless of whether they are acquired or developed in anticipation of or for litigation. Such discovery may be had by any of the methods provided in paragaph (b) of this section.

(d) *Protective orders.* Upon motion by a party, and for good cause shown, the Presiding Officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, competitive disadvantage, oppression or undue burden or expense, including one or more of the following: (1) That the discovery shall not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time and/or place; (3) that the discovery shall be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters shall not be inquired into, or that the scope of discovery shall be limited to certain matters; (5) that discovery shall be conducted with no one present except persons designated by the Presiding Officer; (6) that a trade secret or other confidential research, development, or commercial information shall not be disclosed or shall be disclosed only in a designated way or only to designated parties; and (7) that responses to discovery shall be placed *in camera* in accordance with § 511.45.

If a motion for a protective order is denied in whole or in part, the Presiding Officer may, on such terms or conditions as are just, order that any party provide or permit discovery.

(e) *Sequence and timing of discovery.* Discovery may commence at any time after filing of the answer. Unless otherwise provided in these Rules or by order of the Presiding Officer, methods of discovery may be used in any sequence and the fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(f) *Supplementation of responses.* A party who has responded to a request for discovery shall supplement the response with information thereafter acquired.

(g) *Completion of discovery.* All discovery shall be completed as soon as practical but in no case longer than one hundred fifty (150) days after issuance of a complaint unless otherwise ordered by the Presiding Officer in exceptional circumstances and for good cause shown. All discovery shall be served by a date which affords the party from whom discovery is sought the full response period provided by these Rules.

(h) *Service and filing of discovery.* All discovery requests and written responses, and all notices of the taking of testimony, shall be filed with the Executive Secretary and served on all parties and the Presiding Officer.

(i) *Control of discovery.* The use of these discovery procedures is subject to the control of the Presiding Officer, who may issue any just and appropriate order for the purpose of ensuring their timely completion.

§ 511.32 Written interrogatories to parties.

(a) *Availability; procedures for use.* Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of the Presiding Officer, be served upon any party after filing of the answer.

(b) *Procedures for response.* Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the persons making them, and the objections singed by the respresentative making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after service of the interrogatories. The Presiding Officer may allow a shorter or longer time for response. The party submitting the interrogatories may move for an order under § 511.36 with respect to any objection to or other failure to answer an interrogatory.

(c) *Scope of interrogatories.* Interrogatories may relate to any matters which can be inquired into under § 511.31(c)(1), and the answers may be used to the extent permitted under this part. An interrogatory otherwise proper is not objectionable merely because an answer to the interrogatory would involve an opinion or contention that relates to fact or to the application of law to fact, but the Presiding Officer may order that such an interrogatory need not be answered until a later time.

(d) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served, or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to the interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts, or summaries.

§ 511.33 Production of documents and things.

(a) *Scope.* Any party may serve upon any other party a request (1) to produce and permit the party making the request, or someone acting on behalf of that party, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, phono-records, and any other data-compilation from which information can be obtained, translated, if necessary, by the party in possession into reasonably usable form), or (2) to inspect and copy, test or sample tangible things which constitute or contain matters within the scope of § 511.31(c)(1) and which are in the possession, custody or control of the party upon whom the request is served.

(b) *Procedure for request.* The request may be served at any time after the filing of the answer without leave of the Presiding Officer. The request shall set forth the items to be inspected either by individual item or by category, and shall describe each item or category with reasonable particularity. The request shall specify a reasonable time, place and manner for making the inspection and performing the related acts.

(c) *Procedure for response.* The party upon whom the request is served shall serve a written response within twenty (20) days after service of the request. The Presiding Officer may allow a shorter or longer time for response. The response shall state, with respect to each item or category requested, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to only part of an item or category, that part shall be so specified. The party submitting the request may move for an order under § 511.36 with respect to any objection to or other failure to respond to the request or any part thereof, or to any failure to permit inspection as requested.

§ 511.34 Requests for admission.

(a) *Procedure for request.* A party may serve upon any other party a written request for the admission, for the purposes of the pending proceeding only, of the truth of any matters within the scope of § 511.31(c)(1) set forth in the request that relate to statements or opinions of fact or if the application of law to fact, including the genuineness of documents described in the request. Copies of documents shall be served with the request unless they have been, or are otherwise, furnished or made available for inspection and copying. The request may, without leave of the Presiding Officer, be served upon any party after filing of the answer. Each matter as to which an admission is requested shall be separately set forth.

(b) *Procedure for response.* The matter as to which an admission is requested is deemed admitted unless within thirty (30) days after service of the request, or within such shorter or longer time as the Presiding Officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or the party's representatives. If objection is made, the reasons therefore shall be stated.

The answer shall specifically admit or deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission. When good faith requires that a party qualify an answer or deny only a part of the matter as to which an admission is requested, the party shall specify the portion that is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny, unless the party states that he or she has made reasonable inquiry and that the information known or readily available to him or her is insufficient to enable him or her to admit or deny. A party who considers that a matter as to which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request but may deny the matter or set forth reasons why the party cannot admit or deny it. The party who has requested an admission may move to determine the sufficiency of the answer or objection thereto in accordance with § 511.36. If the Presiding Officer determines that an answer does not comply with the requirements of this section, he or she may order that the matter be deemed admitted or that an amended answer be served.

(c) *Effect of admission.* Any matter admitted under this section is conclusively established unless the Presiding Officer on motion permits withdrawal or amendment of such admission. The Presiding Officer may permit withdrawal or amendment when the presentation of the merits of the action will be served thereby and the party that obtained the admission fails to satisfy the Presiding Officer that withdrawal or amendment will prejudice that party in maintaining an action or defense on the merits.

§ 511.35 Testimony upon oral examination.

(a) *When testimony may be taken.* At any time after the first prehearing conference, upon leave of the Presiding Officer and under such terms and conditions as the Presiding Officer may prescribe, any party may take the testimony of any other party, including the agents, employees, consultants or prospective witnesses of that party at a place convenient to the witness. The attendance of witnesses and the production of documents and things at the examination may be compelled by subpena as provided in § 511.38.

(b) *Notice of oral examination.*—(1) *Examination of a party.* A party desiring to examine another party to the proceeding shall, after obtaining leave from the Presiding Officer, serve written notice of the examination on all other parties and the Presiding Officer at least ten (10) days before the date of the examination. The notice shall state (i) the time and place for making the examination; (ii) the name and address of each person to be examined, if known, or if the name is not known, a general description sufficient to identify him; and (iii) the subject matter of the expected testimony. If a subpena *duces tecum* is to be served on the person to be examined, the designation of the materials to be produced, as set forth in the subpena, shall be attached to or included in the notice of examination.

(2) *Examination of a nonparty.* A party desiring to examine a person who is not a party to the proceeding shall make application for a subpena, in accordance with § 511.38, to compel the attendance, testimony and/or pro-

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duction of documents by such person who is not a party. The party desiring such examination shall serve written notice of the examination on all other parties to the proceeding, after issuance of the subpena by the Presiding Officer of a designated alternate.

(3) *Opposition to notice.* A person served with a notice of examination may, within 3 days of the date of service, oppose, in writing, the examination. The Presiding Officer shall rule on the notice and any opposition and may order the making of all noticed examinations, upon a showing of good cause therefor. The Presiding Officer may, for good cause shown, enlarge or shorten the time for the making of an examination.

(c) *Persons before whom examinations may be made.* Examinations may be taken before any person authorized to administer oaths by the laws of the United States or of the place where the examination is held. No examination shall be taken before a person who is a relative or employee or attorney or representative of any party, or who is a relative or employee of such attorney or representative, or who is financially interested in the action.

(d) *Procedure.*—(1) *Examination.* Each witness shall be duly sworn, and all testimony shall be duly recorded. All parties or their representatives may be present and participate in the examination. Examination and cross-examination of witnesses may proceed as permitted at the hearing. Questions objected to shall be answered subject to the objections. Objections shall be in short form, and shall state the grounds relied upon. The questions propounded and the answers thereto, together with all objections made, shall be recorded by the official reporter before whom the examination is made. The original or a verified copy of all documents and things produced for inspection during the examination of the witness shall, upon a request of any party present, be marked for identification and annexed to the record of the examination.

(2) *Motion to terminate or limit examination.* At any time during the examination, upon motion of any party or of the witness, and upon showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass or oppress the witness or party, the Presiding Officer may, upon motion, order the party conducting the examination to terminate the examination, or may limit the scope and manner of the examination as provided in § 511.31(d).

(3) *Participation by parties not present.* In lieu of attending an examination, any party may serve written questions in a sealed envelope on the party conducting the examination. That party shall transmit the envelope to the official reporter, who shall unseal it and propound the questions contained therein to the witness.

(e) *Transcription and filing of testimony.*—(1) *Transcription.* Upon request by any party, the testimony recorded at an examination shall be transcribed. When the testimony is fully transcribed, the transcript shall be submitted to the witness for examination and signing, and shall be read to or by the witness, unless such examination and signature are waived by the witness. Any change in form or substance which the witness desires to make shall be entered upon the transcript of the official reporter with a statement of the reasons given by the witness for making them. The transcript shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the transcript is not signed by the witness within thirty (30) days of its submission to him, the official reporter shall sign it and state on the record the fact of the waiver of signature or of the illness or absence of the witness or the fact of the refusal to sign, together with a statement of the reasons therefor. The testimony may then be used as fully as though signed, in accordance with paragraph (i) of this section.

(2) *Certification and filing.* The official reporter shall certify on the transcript that the witness was duly sworn and that the transcript is a true record of the testimony given and corrections made by the witness. The official reporter shall then seal the transcript in an envelope endorsed with the title and docket number of the action and marked "Testimony of [name of witness]" and shall promptly file the transcript with the Executive Secretary. The Executive Secretary shall notify all parties of the filing of the transcript and shall furnish a copy of the transcript to any party or to the witness upon payment of reasonable charges therefor.

(f) *Costs of examination.* The party who notices the examination shall pay for the examination. The party who requests transcription of the examination shall pay for the transcription.

(g) *Failure to attend or to serve subpena; expenses.* If a party who notices an examination fails to attend and proceed therewith and another party attends in person or by a representative pursuant to the notice, the Presiding Officer may order the party who gave the notice to pay the attending party the reasonable expenses incurred. If a party who notices an examination fails to serve a subpena upon the witness and as a result the witness does not attend, and if another party attends in person or by a representative because that party expects the examination to be made, the Presiding Officer may order the party who gave notice to pay the attending party the reasonable expenses incurred.

(h) *Examination to preserve testimony.*—(1) *When available.* By leave of the Presiding Officer, a party may examine his or her witness for the purpose of perpetuating the testimony of that witness. A party who wishes to conduct such an examination shall obtain prior leave of the Presiding Officer by filing a motion. The motion shall include a showing of substantial reason to believe that the testimony could not be presented at the hearing. If the Presiding Officer is satisfied that the perpetuation of the testimony may prevent a failure of justice or is otherwise reasonably necessary, he or she shall order that the deposition be taken.

(2) *Procedure.* Notice of an examination to preserve testimony shall be served at least fifteen (15) days prior to the examination. The examination shall be taken in accordance with the provisions of paragraph (d) of this section. Any examination taken to preserve testimony shall be fully transcribed and filed in accordance with paragraph (e) of this section.

(i) *Use of testimony obtained under this section.* At the hearing or upon a motion or interlocutory proceeding, any part or all of testimony obtained at an examination may be used against any party or participant for any purpose, in the discretion of the Presiding Officer. If only part of the testimony is offered in evidence by a party, any other party may move to introduce any other part of the testimony.

§ 511.36 Motions to compel discovery.

If a party fails to respond to discovery, in whole or in part, the party seeking discovery may move within twenty (20) days for an order compelling an answer, or compelling inspection or production of documents, or otherwise compelling discovery. For purposes of this subsection, an evasive or incomplete response is to be treated as a failure to respond. If the motion is granted, the Presiding Officer shall issue an order compelling discovery. If the motion is denied in whole or in part, the Presiding Officer may make such protective order as it would have been empowered to make on a motion pursuant to § 511.31(d). When making oral examinations, the discovering party shall continue the examination to the extent possible with respect to other areas of inquiry before moving to compel discovery.

§ 511.37 Sanctions for failure to comply with order.

If a party fails to obey an order to provide or permit discovery, the Presiding Officer may take such action as is just, including but not limited to the following:

(1) Infer that the admission, testimony, document of other evidence would have been adverse to the party;

(2) Order that for the purposes of the proceeding, the matters regarding which the order was made or any other designated facts shall be taken to be established in accordance with the claim of the party obtaining the order;

(3) Order that the party withholding discovery not introduce into evidence or otherwise rely, in support of any claim or defense, upon the documents or other evidence withheld;

(4) Order that the party withholding discovery not introduce into evidence, or otherwise use at the hearing, information obtained in discovery;

(5) Order that the party withholding discovery not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony documents, or other evidence would have shown;

(6) Order that a pleading, or part of a pleading, or a motion or other submission by the party, concerning which the order was issued, be stricken, or that decision on the pleadings be rendered against the party, or both; and

(7) Exclude the party or representative from proceedings, in accordance with § 511.42(b).

Any such action may be taken by order at any point in the proceedings.

§ 511.38 Subpenas.

(a) *Availability.* A subpena shall be addressed to any party or any person not a party for the purpose of compelling attendance, testimony and production of documents at a hearing or oral examination.

(b) *Form.* A subpena shall identify the action with which it is connected; shall specify the person to whom it is addressed and the date, time and place for compliance with its provisions; and shall be issued by order of the Presiding Officer and signed by the Executive Secretary or by the Presiding Officer. A subpena *duces tecum* shall specify the books, papers, documents, or other materials or data-compilations to be produced.

(c) *How obtained*—(1) *Content of application.* An application for the issuance of a subpena stating reasons shall be submitted in triplicate to the Presiding Officer.

(2) *Procedure for application.* The original and two copies of the subpena, marked "original," "duplicate" and "triplicate," shall accompany the application. The Presiding Officer shall rule upon an application for a subpena *ex parte*, by issuing the subpena or by issuing an order denying the application.

(d) *Issuance of a subpena.* The Presiding Officer shall issue a subpena by signing and dating, or ordering the Executive Secretary to sign and date, each copy in the lower right-hand corner of the document. The "duplicate" and "triplicate" copies of the subpena shall be transmitted to the applicant for service in accordance with these Rules; the "original" copy shall be retained by or be forwarded to the Executive Secretary for retention in the docket of the proceeding.

(e) *Service of a subpena.* A subpena may be served in person or by certified mail, return receipt requested, as provided in § 511.16(b). Service shall be made by delivery of the signed "duplicate" copy to the person named therein.

(f) *Return of service.* A person serving a subpena shall promptly execute a return of service, stating the date, time, and manner of service. If service is effected by mail, the signed return receipt shall accompany the return of service. In case of failure to make service, a statement of the reasons for the failure shall be made. The "triplicate" of the subpena, bearing or accompanied by the return of service, shall be returned forthwith to the Executive Secretary after service has been completed.

(g) *Motion to quash or limit subpena.* Within five (5) days of receipt of a subpena, the person against whom it is directed may file with the Presiding Officer a motion to quash or limit the subpena, setting forth the reasons why the subpena should be withdrawn or why it should be modified or limited in scope. Any such motion shall be answered within five (5) days of service, and shall be ruled on immediately thereafter. The order shall specify the date, if any, for compliance with the specifications of the subpena.

(h) *Consequences of failure to comply.* In the event of failure to comply with a subpena, the Presiding Officer may take any of the actions enumerated in § 511.37 or may order any other appropriate relief to compensate for the withheld testimony, documents, or other materials. If in the opinion of the Presiding Officer such relief is insufficient, the Presiding Officer shall certify to the Administrator a request for judicial enforcement of the subpena.

§ 511.39 Orders requiring witnesses to testify or provide other information and granting immunity.

(a) A party who desires the issuance of an order requiring a witness to testify or provide other information upon being granted immunity from prosecution under title 18, United States Code, section 6002, may make a motion to that effect. The motion shall be made and ruled on in accordance with § 511.22, and shall include a showing:

(1) That the testimony or other information sought from a witness or prospective witness may be necessary to the public interest; and

(2) That such individual has refused or is likely to refuse to testify or provide such information on the basis of that individual's privilege against self-incrimination.

(b) If the Presiding Officer determines that the witness' testimony appears necessary and that the privilege against self-incrimination may be invoked, he or she may certify to the Administrator a request that he or she obtain the approval of the Attorney General of the United States for the issuance of an order granting immunity.

(c) Upon application to and approval of the Attorney General of the United States, and after the witness has invoked the privilege against self-incrimination, the Presiding Officer shall issue the order granting immunity unless he or she determines that the privilege was improperly invoked.

(d) Failure of a witness to testify after a grant of immunity or after a denial of the issuance of an order granting immunity shall result in the imposition of appropriate sanctions as provided in § 511.37.

Subpart E—Hearings

§ 511.41 General rules.

(a) *Public hearings.* All hearings pursuant to this Part shall be public unless otherwise ordered by the Presiding Officer.

(b) *Expedition.* Hearings shall proceed with all reasonable speed, and insofar as practicable and with due regard to the convenience of the parties and shall continue without suspension until concluded, except in unusual circumstances.

(c) *Rights of parties.* Every party shall have the right of timely notice and all other rights essential to a fair hearing, including, but not limited to, the rights to present evidence, to conduct such cross-examination as may be necessary in the judgment of the Presiding Officer for a full and complete disclosure of the facts, and to be heard by objection, motion, brief, and argument.

(d) *Rights of participants.* Every participant shall have the right to make a written or oral statement of position, file proposed findings of fact, conclusions of law and a posthearing brief, in accordance with § 511.17(b).

(e) *Rights of witnesses.* Any person compelled to testify in a proceeding in

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response to a subpena may be accompanied, represented, and advised by counsel or other representative, and may obtain a transcript of his or her testimony at no cost.

§ 511.42 Powers and duties of Presiding Officer.

(a) *General.* A Presiding Officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order. He or she shall have all powers necessary to that end, including the following powers:

(1) To administer oaths and affirmations;

(2) To compel discovery and to impose appropriate sanctions for failure to make discovery;

(3) To issue subpenas;

(4) To rule upon offers of proof and receive relevant and probative evidence;

(5) To regulate the course of the hearings and the conduct of the parties and their representatives therein;

(6) To hold conferences for simplification of the issues, settlement of the proceedings, or any other proper purposes;

(7) To consider and rule, orally or in writing, upon all procedural and other motions appropriate in an adjudicative proceeding;

(8) To issue initial decisions, rulings, and orders, as appropriate;

(9) To certify questions to the Administrator for determination; and

(10) To take any action authorized in this Part or in conformance with the provisions of title 5, United States Code, sections 551 through 559.

(b) *Exclusion of parties by Presiding Officer.* A Presiding Officer shall have the authority, for good cause stated on the record, to exclude from participation in a proceeding any party, participant, and/or representative who shall violate requirements of § 511.76. Any party, participant and/or representative so excluded may appeal to the Administrator in accordance with the provisions of § 511.23. If the representative of a party or participant is excluded, the hearing shall be suspended for a reasonable time so that the party or participant may obtain another representative.

(c) *Substitution of Presiding Officer.* In the event of the substitution of a new Presiding Officer for the one originally designated, any motion predicated upon such substitution shall be made within five (5) days of the substitution.

(d) *Interference.* In the performance of adjudicative functions, a Presiding Officer shall not be responsible to or subject to the supervision or direction of the Administrator or of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for NHTSA. All directions by the Administrator to a Presiding Officer concerning any adjudicative proceeding shall appear on and be made a part of the record.

(e) *Disqualification of Presiding Officer.* (1) When a Presiding Officer deems himself or herself disqualified to preside in a particular proceeding, he or she shall withdraw by notice on the record and shall notify the Chief Administrative Law Judge and the Executive Secretary of the withdrawal.

(2) Whenever, for any reason, any party shall deem the Presiding Officer to be disqualified to preside, or to continue to preside, in a particular proceeding, that party may file with the Executive Secretary a motion to disqualify and remove, supported by affidavit(s) setting forth the alleged grounds for disqualification. A copy of the motion and supporting affidavit(s) shall be served by the Executive Secretary on the Presiding Officer whose removal is sought. The Presiding Officer shall have ten (10) days from service to reply in writing. Such motion shall not stay the proceeding unless otherwise ordered by the Presiding Officer or the Administrator. If the Presiding Officer does not disqualify himself or herself, the Administrator will determine the validity of the grounds alleged, either directly or on the report of another Presiding Officer appointed to conduct a hearing for that purpose, and shall in the event of disqualification take appropriate action, by assigning another Presiding Officer or requesting loan of another Administrative Law Judge through the U.S. Civil Service Commission.

§ 511.43 Evidence.

(a) *Applicability of Federal Rules of Evidence.* The Federal Rules of Evidence shall apply to proceedings held under this part only as a general guide. The Presiding Officer may admit any relevant and probative evidence.

(b) *Burden of proof.* (1) Complaint counsel shall have the burden of sustaining the allegations of any complaint.

(2) Any party who is the proponent of a legal and/or factual proposition shall have the burden of sustaining the proposition.

(c) *Presumptions.* A presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the hearing upon the party on whom it was originally cast.

(d) *Admissibility.* All relevant and reliable evidence is admissible, but may be excluded if its probative value is substantially outweighed by unfair prejudice or confusion of the issues, or by considerations of undue delay, waste of time, immateriality, or needless presentation of cumulative evidence.

(e) *Official notice—(1) Definition.* Official notice means use by the Presiding Officer of extra-record facts and legal conclusions drawn from those facts. An officially noticed fact or legal conclusion must be one not subject to reasonable dispute in that it is either (i) generally known within the jurisdiction of the Presiding Officer or (ii) known by the Presiding Officer in areas of his or her expertise; or (iii) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(2) *Method of taking official notice.* The Presiding Officer may at any time take official notice upon motion of any party or upon its own initiative. The record shall reflect the facts and conclusions which have been officially noticed.

(3) *Opportunity to challenge.* Any party may upon application in writing rebut officially noticed facts and conclusions by supplementing the record. The Presiding Officer shall determine the permissible extent of this challenge; that is, whether to limit the party to presentation of written materials, whether to allow presentation of testimony, whether to allow cross-examination, or whether to allow oral argument. The Presiding Officer shall grant or deny the application on the record.

(f) *Objections and exceptions.* Objections to evidence shall be timely interposed, shall appear on the record, and shall contain the grounds upon which they are based. Rulings on all objections, and the bases therefore, shall appear on the record. Formal exception to an adverse ruling is not required to preserve the question for appeal.

(g) *Offer of proof.* When an objection to proffered testimony or documentary evidence is sustained, the sponsoring party may make a specific offer, either in writing or orally, of what the party expects to prove by the testimony or the document. When an offer of proof is made, any other party may make a specific offer, either in writing or orally, of what the party expects to present to rebut or contradict the offer of proof. Written offers of proof or of rebuttal, adequately marked for identification, shall accompany the record and be available for consideration by any reviewing authority.

§ 511.44 Expert witnesses.

(a) *Definition.* An expert witness is one who, by reason of education, training, experience, or profession, has peculiar knowledge concerning the matter of science or skill to which his or her testimony relates and from which he or she may draw inferences based upon hypothetically stated facts or from facts involving scientific or technical knowledge.

(b) *Method of presenting testimony of expert witness.* Except as may be otherwise ordered by the Presiding Officer, a detailed written statement of the elements of the direct testimony of an expert witness shall be filed on the record and exchanged between the parties no later than 10 days preceding the commencement of the hearing. The statement must contain a full explanation of the methodology underlying any analysis, and a full disclosure of the basis of any opinion. The direct testimony of an expert witness shall not include points not contained in the written statement. A party may waive direct examination of an expert witness by indicating that the written statement be considered the testimony of the witness. In such a case, the written testimony shall be incorporated into the record and shall constitute the testimony of the witness.

(c) *Cross-examination and redirect examination of expert witness.* Cross-examination, redirect examination, and re-cross-examination of an expert witness will proceed in due course based upon the written testimony and any amplifying oral testimony.

(d) *Failure to file and/or to exchange written statement.* Failure to file and/or to exchange the written statement of an expert witness as provided in this section shall deprive the sponsoring party of the use of the expert witness and of the conclusions which that witness would have presented.

§ 511.45 In camera materials.

(a) *Definition. In camera* materials are documents, testimony, or other data which by order of the Presiding Officer or the Administrator, as appropriate under this Part, are kept confidential and excluded from the public record. Only materials exempt under the Freedom of Information Act may be kept confidential and excluded from the public record. Pursuant to 49 CFR Part 512, the Chief Counsel of the NHTSA is responsible for determining whether an alledged confidential business record is exempt from the Freedom of Information Act. The right of the Presiding Officer, the Administrator and reviewing courts to order disclosure of *in camera* materials is specifically reserved.

(b) In Camera *Treatment of documents and testimony.* The Presiding Officer or the Administrator, as appropriate under this part, shall have authority, when good cause is found on the record, to order documents or testimony offered in evidence, whether admitted or rejected, to be received and preserved *in camera.* The order shall specify the length of time for *in camera* treatment and shall include:

(1) A description of the documents and/or testimony;

(2) The reasons for granting *in camera* treatment for the specified length of time.

(c) *Access and disclosure to parties.* (1) The Administrator and Presiding Officer, and their immediate advisory staffs shall have complete access to all *in camera* materials. All other parties shall also have complete access to all *in camera* materials, except that these parties may seek access only in accordance with paragraph (c)(2) of this section when:

(i) The *in camera* materials consist of information obtained by the government from persons not parties to the proceeding; or

(ii) The *in camera* materials consist of information provided by one of the parties to the proceeding which is confidential as to the other parties to the proceeding.

(2) Any party desiring access to and/or disclosure of the *in camera* materials specified in paragraph (c)(1) (i) and (ii) of this section for the preparation and presentation of the that party's case shall make a motion which sets forth the justification therefore. The Presiding Officer or the Administrator, as appropriate under this part, may grant such motion only for substantial good cause shown and shall enter a protective order prohibiting unnecessary disclosure and requiring other necessary safeguards. The Presiding Officer or the Administrator, as appropriate, may examine the *in camera* materials and excise portions thereof before disclosing the materials to the moving party.

(d) *Segregation of* in camera *materials. In camera* materials shall be segregated from the public record and protected from public view.

(e) *Public release of* in camera *materials. In camera* materials constitute a part of the confidential records of the NHTSA and shall not be released to the public until the expiration of *in camera* treatment.

(f) *Reference to* in camera *materials.* In the submission of proposed findings, conclusions, briefs, or other documents, all parties shall refrain from disclosing specific details of *in camera* materials. Such refraining shall not preclude general references to such materials. To the extent that parties consider it necessary to include specific details of *in camera* materials, the references shall be incorporated into separate proposed findings, briefs, or other documents marked "CONFIDENTIAL, CONTAINS *IN CAMERA* MATERIAL," which shall be placed *in camera* and become part of the *in camera* record. These documents shall be served only on parties accorded access to the *in camera* materials in accordance with paragraph (c)(2) of this section.

§ 511.46 Proposed findings, conclusions, and order.

Within a reasonable time after the closing of the record and receipt of the transcript, all parties and participants may, simultaneously, file post-hearing briefs, including proposed findings of fact, conclusions of law and a proposed order, together with reasons therefore. The Presiding Officer shall establish a date certain for the filing of the briefs, which shall not exceed 45 days after the close of the record except in unusual circumstances. The briefs shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on. Replies shall be filed within fifteen (15) days of the date for the filing of briefs unless otherwise established by the Presiding Officer. The parties and participants may waive either or both submissions.

§ 511.47 Record.

(a) *Reporting and transcription.* Hearings shall be recorded and transcribed under the supervision of the Presiding Officer by a reporter appointed by the Administrator. The original transcript shall be a part of the record and the official transcript. Copies of transcripts are available from the reporter at a cost not to exceed the maximum rates fixed by contract between the NHTSA and the reporter.

(b) *Corrections.* Corrections of the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. The Presiding Officer may order corrections, either on his or her own motion or on motion of any party. The Presiding Officer shall determine the corrections to be made and so order. Corrections shall be interlineated or otherwise inserted in the official transcript so as not to obliterate the original text.

§ 511.48 Official docket.

(a) The official docket in adjudicatory proceedings will be maintained in the Docket Section, Room 5108, 400 Seventh Street S.W., Washington, D.C. and will be available for public inspection during normal working hours (7:45 a.m.–4:15 p.m.) Monday through Friday.

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(b) Fees for production or disclosure of records contained in the official docket shall be levied as prescribed in the NHTSA's Procedures for Disclosure or Production of Information under the Freedom of Information Act.

§ 511.49 Fees.

(a) *Witnesses.* Any person compelled to appear in person in response to a subpena or notice of oral examination shall be paid at least the same attendance and mileage fees as are paid witnesses in the courts of the United States, in accordance with Title 28, United States Code, Section 1821.

(b) *Responsibility.* The fees and mileage referred to in this section shall be paid by the party at whose instance witnesses appear.

Subpart F—Decision

§ 511.51 Initial decision.

(a) *When filed.* The Presiding Officer shall endeavor to file an Initial Decision with the Administrator within sixty (60) days of the close of the record, the filing of post-hearing briefs, or the filing of replies thereto, whichever is latest.

(b) *Content.* The Initial Decision shall be based upon a consideration of the entire record and it shall be supported by reliable, probative, and substantial evidence. It shall include:

(1) Findings and conclusions, as well as the reasons or bases therefore, upon the material questions of fact, material issues of law, or discretion presented on the record, and should, where practicable, be accompanied by specific page citations to the record and to legal and other materials relied upon.

(2) An appropriate order.

(c) *By whom made.* The Initial Decision shall be made and filed by the Presiding Officer who presided over the hearing, unless otherwise ordered by the Administrator.

(d) *Reopening of proceeding by presiding officer; termination of jurisdiction.* (1) At any time prior to or concomitant with the filing of the Initial Decision, the Presiding Officer may reopen the proceedings for the reception of further evidence.

(2) Except for the correction of clerical errors, the jurisdiction of the Presiding Officer is terminated upon the filing of the Initial Decision, unless and until the proceeding is remanded to the Presiding Officer by the Administrator.

§ 511.52 Adoption of initial decision.

The Initial Decision and Order shall become the Final Decision and Order of the Administrator forty (40) days after issuance unless an appeal is noted and perfected or unless review is ordered by the Administrator. Upon the expiration of the fortieth day, the Executive Secretary shall prepare, sign and enter an order adopting the Initial Decision and Order.

§ 511.53 Appeal from initial decision.

(a) *Who may file notice of intention.* Any party may appeal an Initial Decision to the Administrator provided that within ten (10) days after issuance of the Initial Decision such party files and serves a notice of intention to appeal.

(b) *Appeal brief.* The appeal shall be in the form of a brief, filed within forty (40) days after service of the Initial Decision, duly served upon all parties. The appeal brief shall contain, in the order indicated, the following:

(1) A subject index of the matters in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(2) A concise statement of the case;

(3) A specification of the position urged;

(4) The argument, presenting clearly the points of fact and law relied upon in support of the position on each question, with specific page references to the record and the legal or other material relied upon; and

(5) A proposed form of order for the Administrator's consideration in lieu of the order contained in the Initial Decision.

(c) *Answering brief.* Within thirty (30) days after service of the appeal brief upon all parties, any party may file an answering brief which shall also contain a subject index, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto. Such brief shall present clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the record and legal or other material relied upon.

(d) *Participant's brief.* Within thirty (30) days after service of the appeal brief upon all parties, any participant may file an appeal brief which should contain a subject index, with page references, and a table of authorities being relied upon. Such brief shall present clearly the position taken by the participant on each question raised by the appellant(s).

(e) *Cross appeal.* If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal within ten (10) days of the date on which the first notice of appeal was filed. Cross-appeals shall be included in the answering brief and shall conform to the requirements for form, content and filing specified in paragraph (c) of this section. If an appeal is noticed but not perfected, no cross-appeal shall be permitted and the notice of cross-appeal shall be deemed void.

(f) *Reply brief.* A reply brief shall be limited to rebuttal of matters in answering briefs, including matters raised in cross-appeals. A reply brief shall be filed and within fourteen (14) days after service of an answering brief, or on the day preceding the oral argument, whichever comes first.

(g) *Oral argument.* The purpose of an oral argument is to emphasize and clarify the issues. Any party may request oral argument. The Administrator may order oral argument upon request or upon his or her own initiative. All oral arguments shall be reported and transcribed.

§ 511.54 Review of initial decision in absence of appeal.

The Administrator may, by order, review a case not otherwise appealed by a party. Thereupon the parties shall and participants may file briefs in accordance with § 511.53 (b), (c), (d), (e), and (f) except that the Administrator may, in his or her discretion, establish a different briefing schedule in his or her order. Any such order shall issue within forty (40) days of issuance of the Initial Decision. The order shall set forth the issues which the Administrator will review.

§ 511.55 Final decision on appeal or review.

(a) Upon appeal from or review of an Initial Decision, the Administrator shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and, in addition, shall, to the extent necessary or desirable, exercise all the powers which it could have exercised if he or she had made the Initial Decision.

(b) In rendering his or her decision, the Administrator shall adopt, modify, or set aside the findings, conclusions, and order contained in the Initial Decision, and shall include in his or her Final Decision a statement of the reasons or bases for his or her action. The Administrator shall issue an order reflecting his or her Final Decision.

§ 511.56 Reconsideration.

Within twenty (20) days after issuance of a Final Decision and Order, any party may file with the Administrator a petition for reconsideration of such decision or order, setting forth the relief desired and the grounds in support thereof. Any party desiring to oppose such a petition shall file an answer thereto within ten (10) days after service of the petition. The filing of a petition for reconsideration shall not stay the effective date of the Decision and Order or toll the running of

any statutory time period affecting the decision or order unless specifically so ordered by the Administrator.

§ 511.57 Effective date of order.

(a) *Consent orders.* An order which has been issued following acceptance of an offer of settlement in accordance with § 511.26 becomes effective upon issuance.

(b) *Litigated orders.* All other orders become effective upon the expiration of the statutory period for court review specified in Section 508(c)(1) of the Motor Vehicle Information and Cost Savings Act, Title 15, United States Code Section 2008(c)(1), Pub. L. 94-163, 89 Stat. 911, or, if a petition for review has been filed, upon court affirmance of the Administrator's order.

Subpart G—Settlement Procedure in Cases of Violation of Average Fuel Economy Standards

§ 511.61 Purpose.

This subpart establishes the procedures and requirements necessary to obtain a settlement of a case of violation of section 507 (1) or (2) of the Motor Vehicle Information and Cost Savings Act, as amended, Pub. L. 94-163, 89 Stat. 911 (15 U.S.C. Section 2007(1)(2)). No settlement of such cases may be had except as in accordance with this subpart.

§ 511.62 Definitions.

"Average fuel economy standard" means an average fuel economy standard established by or pursuant to the Motor Vehicle Information and Cost Savings Act.

"Insolvency" means the inability to meet expenses when due.

"Settlement" means a compromise, modification, or remission of a civil penalty assessed under this Part for a violation of an average fuel economy standard.

§ 511.63 Criteria for settlement.

Settlement of a case of violation of an average fuel economy standard is discretionary with the Administrator. The Administrator will consider settlement only to the extent—

(a) Necessary to prevent the insolvency or bankruptcy of the person seeking settlement, or

(b) That the violation of the average fuel economy standard resulted, as shown by the person seeking settlement, from an act of God, a strike, or fire, or

(c) That modification of a civil penalty assessed under this part is necessary to prevent lessening of competition, as determined and as certified by the Federal Trade Commission under section 508(b)(4) of the Motor Vehicle Information and Cost Savings Act, Pub. L. 94-163, 89 Stat. 911 (15 U.S.C. sec. 2008(b)(4)).

§ 511.64 Petitions for settlement; timing, contents.

(a) A petition seeking settlement under this subpart must be filed within 30 days after the issuance of a final order assessing a civil penalty for a violation of an average fuel economy standard.

(b)(1) A petition for settlement should be sufficient to allow the Administrator to determine that at least one of the criteria set out in § 511.63 is satisfied, and that the public interest would be served by settlement.

(2) A petition asserting that settlement is necessary to prevent bankruptcy or insolvency must include:

(i) Copies of all pertinent financial records, auditors reports, and documents that show that the imposition of a civil penalty would cause insolvency, or would cause a company to do an act of bankruptcy, and

(ii) A payment schedule that would allow the petitioner to pay a civil penalty without resulting in insolvency or an act of bankruptcy.

(3) A petition asserting that the violation of the average fuel economy standard was caused by an act of God, fire, or strike must describe corrective and ameliorative steps taken to mitigate the effects of the act of God, fire, or strike.

(4) A petition based on a certification by the Federal Trade Commission that modification of the civil penalty assessed is necessary to prevent a substantial lessening of competition must include a certified copy of:

(i) The application to the Federal Trade Commission for a certification under section 508(b)(4) of the Motor Vehicle Information and Cost Savings Act, Pub L. 94-163, 89 Stat. 911 (15 U.S.C. Sec. 2008(b)(4)), and materials supporting the application,

(ii) The administrative record of any Federal Trade Commission proceeding held in regard to the application, and

(iii) The certification by the Federal Trade Commission.

(c) It is the policy of the National Highway Traffic Safety Administration that unconditional settlements of violations of average fuel economy standards are not in the public interest, and absent special and extraordinary circumstances, will not be allowed. All petitions for settlement shall contain a section proposing conditions for settlement. Conditions for settlement can be specific acts designed to lead to the reduction of automotive fuel consumption, which the petitioner is not otherwise required to perform pursuant to any statute, regulation, or administrative or judicial order, such as sponsoring public education programs, advertising, accelerating commercial application of technology, accelerating technology development programs, or making public the results of privately performed studies, surveys, or research activities.

§ 511.65 Public comment.

Notice and opportunity for comment are provided to the public in regard to settlements under this part. Subject to § 511.66, notice of receipt of a petition for settlement is published in the FEDERAL REGISTER, and a copy of such petitions and any supporting information is placed in a public docket. Any settlement agreed to by the Administrator shall be placed in the public docket for 30 days so that interested persons may comment thereon. No settlement is binding until the Administrator has considered all comments that are submitted.

§ 511.66 Confidential business information.

The Administrator shall have authority to segregate from the public docket and to protect from public view information in support of a petition for settlement which has been determined to be confidential business information pursuant to 49 CFR Part 512. The provisions of 49 CFR Part 512 pertaining to discretionary release by the Administrator of and to limited disclosure of, information determined to be confidential business information pursuant to 49 CFR Part 512, shall apply to this section.

§ 511.67 Settlement order.

If, in accordance with this subpart, the Administrator allows a settlement of a case of violation of an average fuel economy standard, an order of settlement shall be issued, setting out the terms of the settlement, and containing a brief discussion of the factors underlying the exercise of the Administrator's discretion in allowing the settlement, including a discussion of comments received under § 511.65.

Subpart H—Appearances; Standards of Conduct

§ 511.71 Who may make appearances.

A party or participant may appear in person, or by a duly authorized officer, partner, regular employee, or other agent of this party or participant, or by or with counsel or other duly qualified representative, in any proceeding under the part.

§ 511.72 Authority for representation.

Any individual acting in a representative capacity in any adjudicative proceeding may be required by the Presiding Officer or the Administator to show his or her authority to act in

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such capacity. A regular employee of a party who appears on behalf of the party shall be required by the Presiding Officer or the Administrator to show his or her authority to so appear.

§ 511.73 Written appearances.

(a) Any person who appears in a proceeding shall file a written notice of appearance with the Executive Secretary or deliver a written notice of appearance to the reporter at the hearing, stating for whom the appearance is made and the name, address, and telephone number (including area code) of the person making the appearance and the date of the commencement of the appearance. The written appearance shall be made a part of the record.

(b) Any person who has previously appeared in a proceeding may withdraw his or her appearance by filing a written notice of withdrawal of appearance with the Executive Secretary. The notice of withdrawal of appearance shall state the name, address, and telephone number (including area code) of the person withdrawing the appearance, for whom the appearance was made, and the effective date of the withdrawal of the appearance, and such notice of withdrawal shall be filed within five (5) days of the effective date of the withdrawal of the appearance.

§ 511.74 Attorneys.

An attorney at law who is admitted to practice before the Federal courts or before the highest court of any State, the District of Columbia, or any territory or Commonwealth of the United States, may practice before the NHTSA. An attorney's own representation that he or she is in good standing before any of such courts shall be sufficient proof thereof, unless otherwise ordered by the Presiding Officer or the Administrator.

§ 511.75 Persons not attorneys.

(a) Any person who is not an attorney at law may be admitted to appear in an adjudicative proceeding if that person files proof to the satisfaction of the Presiding Officer that he or she possesses the necessary legal, technical, or other qualifications to render valuable service in the proceeding and is otherwise competent to advise and assist in the presentation of matters in the proceedings. An application by a person not an attorney at law for admission to appear in a proceeding shall be submitted in writing to the Executive Secretary, not later than thirty (30) days prior to the hearing in the proceedings. The application shall set forth in detail the applicant's qualifications to appear in the proceedings.

(b) No person who is not an attorney at law and whose application has not been approved shall be permitted to appear in the Administration's proceedings. However, this provision shall not apply to any person who appears before the NHTSA on his or her own behalf or on behalf of any corporation, partnership, or association of which the person is a partner, officer, or regular employee.

§ 511.76 Qualifications and standards of conduct.

(a) The NHTSA expects all persons appearing in proceedings before it to act with integrity, with respect, and in an ethical manner. Business transacted before and with the NHTSA shall be in good faith.

(b) To maintain orderly proceedings, the Presiding Officer or the Administrator, as appropriate under this part, may exclude parties, participants, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against certain ex parte communications.

(c) An excluded party, participant, or representative thereof may petition the Administrator to entertain an interlocutory appeal in accordance with § 511.24. If, after such appeal, the representative of a party or participant, is excluded, the hearing shall, at the request of the party or participant, be suspended for a reasonable time so that the party or participant may obtain another representative.

§ 511.77 Restrictions as to former members and employees.

The postemployee restrictions applicable to former Administrators and NHTSA employees, as set forth in 18 U.S.C. 207, shall govern the activities of former Administrators and NHTSA employees in matters connected with their former duties and responsibilities.

§ 511.78 Prohibited communications.

(a) *Applicability.* This section is applicable during the period commencing with the date of issuance of a complaint and ending upon final NHTSA action in the matter.

(b) *Definitions.* (1) "Decision-maker" means those NHTSA personnel who render decisions in adjudicative proceedings under this part, or who advise officials who render such decisions, including:

(i) The Administrator;

(ii) The Administrative Law Judges;

(2) "Ex parte communications" means:

(i) Any written communication other than a request for a status report on the proceeding made to a decisionmaker by any person other than a decisionmaker which is not served on all parties,

(ii) Any oral communication other than a request for a status report on the proceeding made to a decisionmaker by any person other than a decisionmaker without advance notice to the parties to the proceeding and opportunity for them to be present.

(c) *Prohibited ex parte communications.* Any oral or written ex parte communication relative to the merits of a preoceeding under this part is a prohibited ex parte communication, except as provided in paragraph (d) of this section.

(d) *Permissible ex parte communications.* The following communications shall not be prohibited under this section:

(1) Ex parte communications authorized by statute or by this part.

(2) Any staff communication concerning judicial review or judicial enforcement in any matter pending before or decided by the Administrator.

(e) *Procedures for handling prohibited ex parte communication.* (1) Prohibited written ex parte communication. To the extent possible, a prohibited written ex parte communication received by any NHTSA employee shall be forwarded to the Executive Secretary rather than to a decisionmaker. A prohibited written ex parte communication which reaches a decisionmaker shall be forwarded by the decisionmaker to the Executive Secretary. If the circumstances in which a prohibited ex parte written communication was made are not apparent from the communication itself, a statement decribing those circumstances shall be forwarded with the communication.

(2) Prohibited oral ex parte communication.

(i) If a prohibited oral ex parte communication is made to a decisionmaker, he shall advise the person making the communication that the communication is prohibited and shall terminate the discussion.

(ii) In the event of a prohibited oral ex parte communication, the decisionmaker shall forward to the Executive Secretary a dated statement containing such of the following information as is known to him/her:

(A) The title and docket number of the proceeding;

(B) The name and address of the person making the communication and his/her relationship (if any) to the parties to the proceeding;

(C) The date and time of the communication, its duration, and the circumstances (telephone call, personal interview, etc.) under which it was made;

(D) A brief statement of the substance of the matters discussed;

(E) Whether the person making the communication persisted in doing so after being advised that the communication was prohibited.

(3) *Filing.* All communications and statements forwarded to the Executive Secretary under this section shall be placed in a public file which shall be associated with, but not made a part of, the record of the proceedings, to which the communication or statement pertains.

(4) *Service on parties.* The Executive Secretary shall serve a copy of each communication and statement forwarded under this section on all parties to the proceedings. However, if the parties are numerous, or if other circumstances satisfy the Executive Secretary that service of the communication or statement would be unduly burdensome, he or she may, in lieu of service, notify all parties in writing that the communication or statement has been made and filed and that it is available for inspection and copying.

(5) *Service on maker.* The Executive Secretary shall forward to the person who made the prohibited ex parte communication a copy of each communication and/or statement filed under this section.

(f) *Effect of ex parte communications.* No prohibited ex parte communication shall be considered as part of the record for decision unless introduced into evidence by a party to the proceedings.

(g) *Sanctions.* A party or participant who makes a prohibited ex parte communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction or sanctions, including but not limited to, exclusion from the proceedings and adverse rulings on the issues which are the subject of the prohibited communication.

APPENDIX I—FINAL PREHEARING ORDER

CASE CAPTION

Final Prehearing Order

A prehearing conference was held in this matter pursuant to Rule 21 of the Administration's Rules of Practice for Adjudicative Proceedings, on the —— day of ————, 19—, at —— o'clock, —M.

Counsel appeared as follows:

For the Administration staff:

For the Respondent(s):

Others:

1. NATURE OF ACTION AND JURISDICTION.

This is an action for ————————

and the jurisdiction of the Administration is involved under Section —— of Title —, U.S.C. The jurisdiction of the Administration is (not) disputed. The questions of jurisdiction was decided as follows:

2. STIPULATIONS AND STATEMENTS.

The following stipulations and statements were submitted, attached to, and made a part of this order:

(a) A comprehensive written stipulation or statement of all uncontested facts;

(b) A concise summary of the ultimate facts as claimed by each party. (Complaint Counsel must set forth the claimed facts, specifically; for example, if violation is claimed, Complaint Counsel must assert specifically the acts of violation complained of; each respondent must reply with equal clarity and detail.)

(c) Written stipulations or statements setting forth the qualifications of the expert witnesses to be called by each party;

(d) A written list or lists of the witnesses whom each party will call, a written list or lists of the additional witnesses whom each party *may* call, and a statement of the subject on which each witness will testify;

(e) An agreed statement of the contested issues of fact and of law, and/or separate statements by each party or any contested issues of fact and law not agreed to;

(f) A list of all depositions to be read into evidence and statements of any objections thereto;

(g) A list and brief description of any charts, graphs, models, schematic diagrams, and similar objects that will be used in opening statements or closing arguments, but will not be offered in evidence. If any other such objects are to be used by any party, they will be submitted to opposing counsel at least three days prior to hearing. If there is then any objection to their use, the dispute will be submitted to the Presiding Officer at least one day prior to hearing;

(h) Written waivers of claims or defenses which have been abandoned by the parties.

The foregoing were modified at the pretrial conference as follows:

[To be completed at the conference itself. If none, recite "none".]

3. COMPLAINT COUNSEL'S EVIDENCE.

3.1 The following exhibits were offered by Complaint Counsel, received in evidence, and marked as follows:

[Identification number and brief description of each exhibit]

The authenticity of these exhibits has been stipulated.

3.2 The following exhibits were offered by the Complaint Counsel and marked for identification. There was reserved to the respondent(s) and party intervenors, if any, the right to object to their receipt in evidence on the grounds stated:

[Identification number and brief description of each exhibit. State briefly ground of objection, e.g., competency, relevancy, materiality]

4. RESPONDENT'S EVIDENCE.

4.1 The following exhibits were offered by the respondent(s), received in evidence, and marked as herein indicated:

[Identification number and brief description of each exhibit]

The authenticity of these exhibits has been stipulated.

4.2 The following exhibits were offered by the respondent(s) and marked for identification. There was reserved to Complaint Counsel and party intervenors, if any, the right to object to their receipt in evidence on the grounds stated:

[Identification number and brief description of each exhibit. State briefly ground of objection, e.g., competency, relevancy, materiality]

5. PARTY INTERVENOR'S EVIDENCE.

5.1 The following exhibits were offered by the party intervenor(s), received in evidence, and marked as herein indicated:

[Identification number and brief description of each exhibit]

The authenticity of these exhibits has been stipulated.

5.2 The following exhibits were offered by the party intervenor(s) and marked for identification. There was reserved to Complaint Counsel and respondent(s) the right to object to their receipt in evidence on the grounds stated:

[Identification number and brief description of each exhibit. State briefly ground of objection, e.g., competency, relevancy, materiality]

NOTE.—If any other exhibits are to be offered by any party, they will be submitted to opposing counsel at least ten (10) days prior to hearing, and a supplemental note of evidence filed into this record.

6. ADDITIONAL ACTIONS.

The following additional action was taken:

[Amendments to pleadings, agreements of the parties, disposition of motions, separation of issues of liability and remedy, etc., if necessary]

7. LIMITATIONS AND RESERVATIONS.

7.1 Each of the parties has the right to further supplement the list of witnesses not later than ten (10) days prior to trial by furnishing opposing counsel with the name and address of the witness and general subject matter of his or her testimony and filing a supplement to this pretrial order. Thereafter additional witnesses may be added only after application to the Presiding Officer, for good cause shown.

7.2 Rebuttal witnesses not listed in the exhibits to this order may be called only if the necessity of their testimony could not reasonably be foreseen ten (10) days prior to trial. If it appears to counsel at any time before trial that such rebuttal witnesses will be called, notice will immediately be given to opposing counsel and the Presiding Officer.

7.3 The probable length of hearing is — days. The hearings will be commenced on the —— day of ————, 19—, at —— o'clock —M. at (location) ————.

7.4 Prehearing briefs will be filed not later than 5:00 p.m. on ——— (Insert date not later than ten (10) days prior to hearing.) All anticipated legal questions, including those relating to the admissibility of evidence, must be covered by prehearing briefs.

This prehearing order has been formulated after a conference at which counsel for the respective parties appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing. It will control the course of the hearing, and it

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may not be amended except by consent of the parties and the Presiding Officer, or by order of the Presiding Officer to prevent manifest injustice.

(Presiding Officer's Name)
(Presiding Officer's Title)

APPROVED AS TO FORM AND SUBSTANCE

Date: ————.

Complaint Counsel.

Attorney for Respondent(s).

NOTE.—Where intervenors appear pursuant to § 511.17, the prehearing order may be suitably modified; the initial page may be modified to reflect the intervention.

[FR Doc. 78-28878 Filed 10-13-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Pinckney Island National Wildlife Refuge, S.C., to Big Game Hunting

ACTION: Final rule.

SUMMARY: This rule adds Pinckney Island National Wildlife Refuge, S.C. to the list of refuge areas open for the hunting of big game. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for the refuge. Hunting, subject to annual special regulations, will provide population controls necessary to the proper management of wildlife on the refuge.

EFFECTIVE DATE: November 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION: Donald G. Young is also the principal author of the final rule. On August 7, 1978, there was published (43 CFR 34825) a notice of proposed rulemaking adding Pinckney Island National Wildlife Refuge, S.C. to the list of refuge areas which are open to the hunting of big game. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

The public was provided a 30-day comment period and was advised that an environmental assessment had been prepared on the proposal and was available for public inspection. No comments were received on the proposed rulemaking.

Accordingly, 50 CFR 32.31 is amended as follows:

§ 32.31 List of open areas; big game.

SOUTH CAROLINA

Pinckney Island National Wildlife Refuge.

Dated: October 6, 1978.

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-29137 Filed 10-13-78; 8:45 am]

[3510-22-M]

CHAPTER III—INTERNATIONAL REGULATORY AGENCIES (FISHING AND WHALING)

PART 351—WHALING

Subpart B—International Whaling Commission Current Schedule of the International Convention for the Regulation of Whaling

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Section 916K of the Whaling Convention Act, 16 U.S.C. 916 et seq., requires that the Schedule of the International Convention for the Regulation of Whaling, 1946, be published in the FEDERAL REGISTER by the Secretary of Commerce in order for the schedule to "become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations * * *." This final rule consists of the most recent amendments to the Schedule of the International Convention for the Regulation of Whaling.

DATES: The amendments to the schedule become effective at noon on October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: At its 30th annual meeting in London, held June 26-30, 1978, the International Whaling Commission agreed to amend the schedule for the Southern Hemisphere 1978-79 pelagic season and 1979 coastal season, and for the Northern Hemisphere 1979 season. In addition, with respect to the Bering Sea stock of bowhead whales only, the Commission agreed to amend the schedule for the Northern Hemisphere 1978 season. The 1978 bowhead amendment has already been published, 43 FR 43025 (September 22, 1978). This publication sets forth all remaining amendments to the schedule which were adopted at the 30th annual meeting.

The United States received official notice of the amendment on July 21, 1978. By the terms of the Convention, these amendments become effective on October 19, 1978.

Regulations under the Whaling Convention Act, which will implement amendments to the schedule for 1979 which relate to the taking of bowhead whales, will be published at a later date and will appear in 50 CFR Part 230.

Dated: October 11, 1978.

JACK W. GEHRINGER,
Acting Deputy Assistance Administrator for Fisheries.

50 CFR Part 351 is amended as follows:

Section 351.1 is revised as follows:

§ 351.1 Definitions.

(a) The following expressions have the meaning respectively assigned to them, that is to say:

"Baleen whale" means any whale which has baleen or whale bone in the mouth, i.e., any whale other than a toothed whale.

"Beaked whale" means any whale belonging to the genus *Mesoplodon*, or any whale known as Cuvier's beaked whale (*Ziphius cavirostris*), or Shepherd's beaked whale (*Tasmacetus shepherdi*).

"Blue whale" (*Balaenoptera musculus*) means any whale known as blue whale, Sibbald's rorgual, or sulphur bottom, and including pygmy blue whale.

"Bottlenose whale" means any whale known as Baird's beaked whale (*Berardius bairdii*), Arnoux's whale (*Berardius arnuxii*), southern bottlenose whale (*Hyperoodon planifrons*), or northern bottlenose whale (*Hyperoodon ampullatus*).

"Bowhead" (*Balaena mysticetus*) means any whale known as bowhead, Arctic right whale, great polar whale, Greenland right whale, Greenland whale.

"Bryde's whale" (*Balaenoptera edeni, B. brydei*) means any whale known as Bryde's whale.

"Dauhval" means any unclaimed dead whale found floating.

"Fin whale" (*Balaenoptera physalus*) means any whale known as common finback, common rorqual, fin whale, herring whale, or true fin whale.

"Gray whale" (*Eschrichtius robustus*) means any whale known as gray whale, California gray, devil fish, hard head, mussel digger, gray back, or rip sack.

"Humpback whale" (*Megaptera novaeangliae*) means any whale known as bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale.

"Killer whale" (*Orcinus orca*) means any whale known as killer whale or orca.

"Minke whale" (*Balaenoptera acutorostrata, B. bonaerensis*) means any whale known as lesser rorqual, little piked whale, minke whale, pikeheaded whale or sharp headed finner.

"Pilot whale" means any whale known as long-finned pilot whale (*Globicephala melaena*) or short-finned pilot whale (*G. macrorhynchus*).

"Right whale" (*Eubalaena glacialis, E. australis*) means any whale known as Atlantic right whale, Biscayan right whale, Nordkaper, North Atlantic right whale, North Cape whale, Pacific right whale, Southern right whale.

"Pygmy right whale" (*Caperca marginata*) means any whale known as southern pygmy right whale, pygmy right whale.

"Sei whale" (*Balaenoptera borealis*) means any whale known as sei whale, Rudolphi's rorqual, pollack whale, or coalfish whale.

"Sperm whale" (*Physeter macrocephalus*) means any whale known as sperm whale, spermacet whale, cachalot or pot whale.

"Toothed whale" means any whale which has teeth in the jaws.

"Lost whale" means any that has been taken but not delivered to the factory ship or land station.

"Whales taken" means whales that have been killed and either flagged or made fast to catchers.

"Lactating whale" means (1) with respect to baleen whales—a female which has any milk present in a mammary gland, (2) with respect to sperm whales—a female which has milk present in a mammary gland the maximum thickness (depth) of which is 10 cm or more. This measurement shall be at the mid ventral point of the mammary gland perpendicular to the body axis, and shall be logged to the nearest centimeter: that is to say, any gland between 9.5 cm and 10.5 cm shall be logged as 10 cm. The measurement of any gland which falls on an exact 0.5 centimeter shall be logged at the next 0.5 centimeter, e.g., 10.5 cm shall be logged as 11.0 cm. However, notwithstanding these criteria, a whale shall not be considered a lactating whale if scientific (histological or other biological) evidence is presented to the appropriate national authority establishing that the whale could not at that point in its physical cycle have had a calf dependent on it for milk.

"Small-type whaling" means catching operations using powered vessels with mounted harpoon guns hunting exclusively for minke, bottlenose, beaked, pilot or killer whales.

Paragraph (d) of § 351.33 is revised.

§ 351.33 Classification of areas and divisions.

* * * * *

(d) Geographical boundaries in the North Pacific. The geographical boundaries for the sperm and Bryde's whale stocks in the North Pacific are:

SPERM WHALE STOCKS

(1) *Western Division.* West of a line from the ice edge south along the 180° meridian of longitude to 180°, 50° N, then east along the 50° N parallel of the latitude to 160° W, 50° N, then south along the 160° W meridian of longitude to 160° W, 40° N, then east along the 40° N parallel of latitude to 150° W, 40° N, then south along the 150° W meridian of longitude to the equator.

(2) *Eastern Division.* East of the line described in (1).

BRYDE'S WHALE STOCK

(1) *Western Stock.* West of the 160° W meridian of longitude.

(2) *Eastern Stock.* East of the 160° W meridian of longitude.

§ 351.34 [Amended]

* * * * *

[Amend the first sentence of § 351.34, paragraph (a)(1)(iii) to read: "For the 1978/79 pelagic season and the 1979 coastal season in the Southern Hemisphere and for the 1979 season in all other areas * * *."]

* * * * *

Tables 1 and 2 are revised as follows:

TABLE 1. BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

SOUTHERN HEMISPHERE - 1978/79 pelagic season and 1979 coastal season.

AREA	LONGITUDES	SEI		MINKE		BRYDE'S		FIN		BLUE	HUMP-BACK	RIGHT, BOWHEAD, PYGMY RIGHT	GRAY		BOTTLE-NOSE
		Classi-fication	Catch limit	Classi-fication	Catch limit	Classi-fication	Catch limit	Classi-fication	Catch limit	Classi-fication	Classi-fication	Classi-fication	Classi-fication	Catch limit	Classi-fication
I	120°W - 60°W	PS	0	-	738	IMS	0	PS	0	PS	PS	PS	-	-	-
II	60°W - 0°	PS	0	-	1,272	IMS	0	PS	0	PS	PS	PS	-	-	-
III	0° - 70°E	PS	0	-	2,510	IMS	0	PS	0	PS	PS	PS	-	-	-
IV	70°E - 130°E	PS	0	-	1,389	IMS	0	PS	0	PS	PS	PS	-	-	-
V	130°E - 170°W	PS	0	-	563	IMS	0	PS	0	PS	PS	PS	-	-	-
VI	170°W - 120°W	PS	0	-	371	IMS	0	PS	0	PS	PS	PS	-	-	-
Total catch not to exceed -			0		6,221		0*		0	0	0	0	-	-	-
NORTHERN HEMISPHERE - 1979 season															
ARCTIC		-	-	-	-	-	-	-	-	-	-	PS	-	-	-
NORTH PACIFIC															
Whole region		PS	0	-	-	-	-	PS	0	PS	PS	PS	-	-	-
Okhotsk Sea-West Pacific Stock		-	-	SMS	400	-	-	-	-	-	-	-	-	-	-
Sea of Japan Stock		-	-	SMS	-	-	-	-	-	-	-	-	-	-	-
Remainder		-	-	IMS	0*	-	-	-	-	-	-	-	-	-	-
Eastern Stock		-	-	-	-	IMS	0*	-	-	-	-	-	SMS	17A+++	-
Western Stock		-	-	-	-	IMS	454	-	-	-	-	-	PS	0	-
NORTH ATLANTIC															
Whole region		-	-	-	-	IMS	0*	-	-	PS	PS	PS	-	-	PS++
West Greenland Stock		-	-	SMS***	394	-	-	SMS***	15[1]	-	-	-	-	-	-
Newfoundland-Labrador Stock		-	-	-	-	-	-	IMS	90	-	-	-	-	-	-
Canadian East Coast Stock		-	-	SMS	48	-	-	-	-	-	-	-	-	-	-
Nova Scotia Stock		PS	0	-	-	-	-	PS	0	-	-	-	-	-	-
East Greenland-Iceland-Jan Mayen Stock		-	-	SMS	320	-	-	-	-	-	-	-	-	-	-
East Greenland-Iceland Stock		-	-	-	-	-	-	SMS	304**	-	-	-	-	-	-
Iceland-Denmark Strait Stock		SMS	84	-	-	-	-	-	-	-	-	-	-	-	-
Spain-Portugal-British Isles Stock		-	-	-	-	-	-	SMS+	-	-	-	-	-	-	-
Svalbard-Norway-British Isles Stock		-	-	SMS	1,790	-	-	-	-	-	-	-	-	-	-
West Norway-Faroe Islands Stock		-	-	-	-	-	-	PS	0	-	-	-	-	-	-
North Norway Stock		-	-	-	-	-	-	SMS***	61	-	-	-	-	-	-

* Pending a satisfactory estimate of stock size.
** The total catch of fin whales shall not exceed 1,524 in the six years 1977 to 1982 inclusive.
*** Provisionally listed as SMS for 1979, pending the accumulation of sufficient information for classification.
\+ Provisionally listed as SMS for 1979, catches not to exceed present catch levels.
++ Provisionally listed as PS for 1979, pending the accumulation of sufficient information for classification.
+++ Available to be taken by aborigines or a Contracting Government on behalf of aboriginese pursuant to paragraph 11, but not for commercial purposes.
1 The combined catch limit of fin and humpback whales in West Greenland waters shall not exceed 15 whales.

TABLE 2. SPERM WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

SOUTHERN HEMISPHERE - 1978/79 pelagic season and 1979 coastal season

DIVISIONS	LONGTITUDES	MALES		FEMALES	
		Classification	Catch limit	Classification	Catch limit
1	60°W - 30°W	SMS	273	SMS	91
2	30°W - 20°E	IMS	808	IMS	241
3	20°E - 60°E	SMS	847	SMS	281
4	60°E - 90°E	IMS	566	PS	0
5	90°E - 130°E	SMS	402	IMS	159
6	130°E - 160°E	IMS	276	IMS	83
7	160°E - 170°W	SMS	176	SMS	98
8	170°W - 100°W	IMS	874	IMS	261
9	100°W - 60°W	PS	0	PS	0

NORTHERN HEMISPHERE - 1979 season

NORTH PACIFIC

Western Division	SMS	-[3]	SMS	-[3]
Eastern Division	IMS	-[3]	IMS	-[3]

	TOTAL	
	Classification	Catch Limit
NORTH ATLANTIC	SMS	685

[3] Catch limits for 1979 are to be set later by decision of the Commission before operations start.

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Section 351.35 is revised.

§ 351.35 Catch limits for baleen whales.

(a) The number of baleen whales taken during the open season in the Southern Hemisphere by factory ships, land stations, or whale catchers attached thereto under the jurisdiction of the contracting governments shall not exceed 6,221 minke whales and 0 Bryde's whales pending a satisfactory estimate of stock size, in the 1978–79 pelagic season and the 1979 coastal season. The total catches taken in any of the areas I and VI shall not exceed the limits shown in table 1. However, in no circumstances shall the sum of the area catches exceed the total quotas for each species.

(b) The number of baleen whales taken in the North Pacific Ocean and dependent waters in 1979 and in the North Atlantic Ocean in 1979 shall not exceed the limits shown in table 1.

Paragraph (a) of § 351.36 is amended by revising subparagraphs (1) and (2) and adding (3).

§ 351.36 Limitations on the taking of humpback, gray, and bowhead whales.

(a) * * * with respect to the Bering Sea stock of bowhead whales that:

(1) In 1978, hunting shall cease when either 20 have been struck or 14 landed,

(2) In 1979, hunting shall cease when either 27 have been struck or 18 landed,

(3) It is forbidden to strike, take, or kill calves or any bowhead whale accompanied by a calf.

* * * * *

Section 351.38 is revised.

§ 351.38 Catch limits for sperm whales.

(a) The number of sperm whales taken in the Southern Hemisphere in the 1978–79 pelagic season and the 1979 coastal season shall not exceed 4,222 males and 1,214 females. The total catch in any of the divisions 1 to 9 shall not exceed the limits shown in table 2.

(b) The number of sperm whales taken in the North Pacific Ocean and dependent waters in 1979 and in the North Atlantic Ocean in 1979 shall not exceed the limits shown in table 2.

Section 351.71 is amended by adding new paragraphs (e) and (f) as follows:

§ 351.71 Reports and records.

* * * * *

(e) All whale catchers operating in conjunction with factory ships and land stations shall report the following information on each whale taken:

(1) Methods used to kill a whale, other than a harpoon, and in particular compressed air.

(2) Number of whales struck but lost.

(f) A record similar to that described in subparagraph (e) of this section shall be maintained by vessels engaged in "small-type whaling" operations and by native peoples taking species listed in section 351.1 and all the information mentioned in the said subparagraph shall be entered therein as soon as available.

§ 351.72 [Amended]

Section 351.72 is amended as follows:

Delete "fin, sei," in the first sentence. The remainder of § 351.72 is unchanged.

Section 351.74 is amended by revising paragraph (a)(1).

§ 351.74 Collection of specimens.

(a) Where possible all factory ships and land stations shall collect from each whale taken:

(1) Both ovaries or the combined weight of both testes.

* * * * *

The remainder of § 351.74 is unchanged.

[FR Doc. 78-29171 Filed 10-13-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 905]

HANDLING OF ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Proposed Extension of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: This notice invites written comment on a proposal that would continue through October 14, 1979, current minimum grade and size requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit. The regulations will expire on November 12, 1978, unless extended. The proposed action is necessary to assure shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers.

DATES: Comments must be received on or before October 27, 1978.

PROPOSED EFFECTIVE DATE: November 13, 1978.

ADDRESSES: Send two copies of comments to: Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The Department is considering extension of the regulations, as hereinafter set forth, effective under the marketing agreement, and Order No. 905, both as amended (7 CFR Part 905; 42 FR 59367, 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and to a conforming extension of the regulation for imported grapefruit, effective pursuant to section 8e of the act. The proposed action is based upon recommendations of the Citrus Administrative Committee established under the marketing order.

The proposed minimum grade and size requirements for domestic and export markets reflect the committee's appraisal of the need for regulation of the designated varieties of Florida oranges, grapefruit, tangerines, and tangelos during the specified period based on the available supply and current and prospective market demand conditions. The committee reports that such requirements are necessary to establish and maintain orderly marketing, consistent with the objectives of the act and the interests of producers and consumers.

The committee estimates the 1978–79 season's crop of Florida round oranges at about 10 percent over last season's production. It estimates grapefruit production slightly higher than the record large 1976–77 season production and that the Temple orange, tangelo, and tangerine crops are comparable in size to those harvested last season. The committee reports the Florida citrus industry has recovered extremely well from the severe freeze of January 1977 and groves are generally in excellent condition. The bloom period peaked around April 1, about three to four weeks later than normal. The new crop should be of good quality, and as a result of ample rainfall, individual fruit sizes are generally running average to larger than average for this time of year. The Committee's appraisal indicates fresh market demand at 19,500 carlots of round oranges, 4,000 carlots of Temple oranges, 10 carlots of seeded grapefruit, 37,500 carlots of seedless grapefruit, 4,800 carlots of tangelos, and 6,100 carlots of tangerines. Hence, considering the available supply and the reported size and quality of the fruit more than ample quantities of each of the specified fruits meeting the proposed grade and size requirements will be available to supply such demands.

The proposed minimum grade and size requirements for imported grapefruit would be consistent with section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

The proposal is that § 905.302 Orange, Grapefruit, Tangerine and Tangelo Regulation 2 (43 FR 43013) and § 944.102 Grapefruit Regulation 2 (43 FR 43013; 43015) be amended to read as follows:

§ 905.302 Orange, grapefruit, tangerine, and tangelo regulation 2.

Order. (a) During the period specified in column (2) of table I no handler shall ship between the production area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table.

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges:			
Early and midseason	Nov. 13, 1978 to Oct. 14, 1979	U.S. No. 1	2 6/64
Navel	do	U.S. No. 1 Golden	2 6/64
Valencia and other late type.	do	U.S. No. 1	2 6/64
Temple	do	do	2 6/64
Grapefruit:			
Seeded, except pink	do	do	3 3/64
Seeded, pink	do	do	3 3/64
Seedless, except pink	do	Improved No. 2	3 6/64
Seedless, pink	do	do	2 6/64
Tangerines:			
Robinson	do	U.S. No. 1	2 6/64
Dancy	do	do	2 6/64
Honey	do	Florida No. 1	2 1/64
Tangelos:			
Tangelos	do	U.S. No. 1	2 6/64

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(b) During the period specified in column (2) of table II no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in columns (3) and (4) of such table.

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Oranges:			
Early and midseason	Nov. 13, 1978 to Oct. 14, 1979	U.S. No. 1	2 4/64
Navel	do	U.S. No. 1 Golden	2 4/64
Valencia and other late type.	do	U.S. No. 1	2 4/64
Temple	do	do	2 4/64
Grapefruit:			
Seeded, except pink	do	do	3 5/64
Seeded, pink	do	do	3 5/64
Seedless, except pink	do	Improved No. 2	3 5/64
Seedless, pink	do	do	3 5/64
Tangerines:			
Robinson	do	U.S. No. 1	2 4/64
Dancy	do	do	2 4/64
Honey	do	Florida No. 1	2 4/64
Tangelos:			
Tangelos	do	U.S. No. 1	2 4/64

(c) *Size tolerances:* In the determination of minimum size as prescribed in tables I and II, the following tolerances are permitted (1) for oranges, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than Navel and Temple Oranges shall be based only on the oranges in the lot measuring 2 1/64 inches or smaller in diameter, and the tolerance for Honey tangerines shall be as specified in § 51.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for grapefruit, as specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for tangerines, as specified in § 51.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for tangelos, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in rule No. 20-35.03 of the regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter, shall mean the same as is given to the terms in the revised U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140-51.1180), the revised U.S. Standards for Florida Tangerines (7 CFR 51.1810-51.1835), or the revised U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750-51.784).

§ 944.102 Grapefruit Regulation 2.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, during the period specified in column (2) of table I, in § 905.302, the importation into the United States of any variety of grapefruit listed in column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in columns (3) and (4) of said table. In the determination of minimum size as prescribed in table I, a tolerance is permitted as specified in paragraph (c) of § 905.302.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944; 43 FR 19340).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate, does not exceed 10 standard packed cartons, equivalent to four-fifths (⅘) of a U.S. bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

Dated: October 10, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29114 Filed 10-13-78; 8:45 am]

[3410-02-M]

[7 CFR Part 1126]

[Docket No. AO-231-A46]

MILK IN THE TEXAS MARKETING AREA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends changes in the present order provisions based on industry proposals considered at a public hearing held June 13-14, 1978. The recommended amendments would modify the basis on which a person may qualify as a "producer-handler" under the order. They also would allow handlers to divert milk between pool distributing plants and would modify the payment requirements of the order. The proposed changes are necessary to reflect current marketing conditions and to insure orderly marketing in the area.

DATE: Comments are due on or before November 6, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing: Issued May 26, 1978, published June 1, 1978 (43 FR 23725). Partial recommended decision: Issued August 4, 1978, published August 8, 1978 (43 FR 35047). Partial final decision: Issued September 1, 1978, published September 8, 1978 (43 FR 40030).

PRELIMINARY STATEMENT

Notice is hereby given of the filing with the hearing clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Texas marketing area, and of the opportunity to file written exceptions thereto. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before 20 days after FEDERAL REGISTER publication. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Dallas, Tex., on June 13-14, 1978, pursuant to notice thereof which was issued May 26, 1978 (43 FR 23725).

The material issues on the record of the hearing relate to:

1. the "dairy farmer for other markets" provision.
2. Diversions to nonpool plants.
3. Diversions between pool plants.
4. Producer-handler provisions.
5. Classification of shrinkage and products that are dumped and disposed of for animal feed.
6. Partial payments to a cooperative association.

This decision deals only with issues 3 through 6. A previous decision issued September 1, 1978, dealt with issues 1 and 2.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on issues 3 through 6 are based on evidence presented at the hearing and the record thereof:

3. *Diversions between pool plants.* The proposal to revise the producer milk definition to allow diversions of milk between pool distributing plants should be adopted.

Currently, the order permits producer milk to be diverted from pool distributing plants to pool supply plants and to pool balancing plants operated by cooperative associations.

A handler who operates 2 distributing plants in Dallas (zone 1) and a distributing plant at Tyler, Tex. (zone 2) proposed the change, which was not opposed. The handler indicated that he prefers to assign his producers to a particular plant and use that plant's payroll to make settlement for the monthly milk production of his producers. It has been his experience that the listing of a producer on only one payroll avoids confusion for the producer and the handler's personnel. However, in order to maintain a producer on only one payroll, it has been necessary under the current order provisions for the handler to physically receive the total monthly milk production of the producer at one of his pool plants and then transfer milk of such producer, if needed, to the other two pool plants operated by the handler. This method of operation has resulted in additional expense for the handler since the milk must be unloaded at the plant where the producer has been assigned and then reloaded for delivery to other plants operated by the handler.

The handler pointed out, too, that the location of the producers relative to his three plants is such that it costs about the same for the milk of a producer to be delivered directly from the farm to any of his three plants. The handler proposed, therefore, that he be permitted to associate the milk of his producers with a particular plant and then divert milk from such plant to his other plants as needed.

The order should promote the efficient handling of milk by permitting diversions between pool distributing plants. The change proposed herein will allow the diverting handler to maintain only one payroll in accounting for the total monthly milk production of his producers, irrespective of the plant to which the milk may actually be delivered. In this way a distributing plant operator may avoid unnecessary and costly movements of milk merely for the purpose of associating a producer with a specific distributing plant for payrolling purposes.

The pricing point for milk diverted from a pool distributing plant would be the same as currently provided under the order for milk diverted to any other plant. The milk would be priced at the plant to which diverted.

4. *Producer-handler provisions.* The order should be revised to modify the present limit on fluid milk products that a producer-handler may receive from pool plants by including within the limit not only the products received at his plant but those received at any other point within his distribution system. The proposal that would require a producer-handler to operate the entire distribution system through which he disposes of class I milk should not be adopted.

The present order specifies that a producer-handler is any person who operates a dairy farm and a processing plant and who receives no fluid milk products from sources other than his own farm production and pool plants. Any such receipts from pool plants during the month may not exceed the lesser of 5 percent of his class I disposition during the month or 10,000 pounds. A producer-handler may not dispose of any other source milk in the form of a fluid milk product except through the addition of nonfat milk solids to fortify fluid milk products received from his own farm or from pool plants. To qualify as a producer-handler, such person must provide proof satisfactory to the market administrator that the care and management of the dairy farm and other resources necessary for his own farm production of milk and the management and operation of the processing plant are the personal enterprise and risk of such person.

A handler who operates regulated distributing plants in the market proposed that the milk distribution system of a producer-handler, as well as the dairy farm and processing plant, be the personal enterprise and risk of the same person. The handler's proposal also would require a producer-handler to treat any product received within his distribution system as though it were received at his plant in determining whether or not his receipts from pool plants exceeded the allowable limits contained in the order.

Proponent claimed that the intent of this proposal was to prevent the possibility of a producer-handler circumventing the present order provisions pertaining to the restrictions on receipts of milk supplies from sources other than his own farm. This proposal and the testimony given by the proponent were supported by the cooperative association that represents a majority of the producers who supply the Texas market.

A producer under the order who plans to qualify as a producer-handler at some future date opposed the proposal at the hearing. Opposition was

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expressed also by a producer-handler in his posthearing brief. These persons claimed that no evidence was presented on the record to support imposing further restrictions on producer-handlers. Opponents held that the proposal was based only on speculation and predictions. The producer claimed that adoption of the proposal would prevent him from obtaining producer-handler status. The producer-handler alleged that the proposed change would likely put him out of business. Both claimed it would be impractical to own their entire distribution system and distribute only milk products from their own farm.

To assure that the exemption of producer-handlers from the pooling and pricing provisions of the order does not have an adverse impact on the market, the present order provisions were drafted to require such persons to operate basically in a self-sufficient manner. However, as indicated, producer-handlers may receive limited quantities of fluid milk products from pool plants. Under the present application of the order provisions, the limitation has applied only to fluid milk products actually received at the producer-handler's processing plant. Thus, a producer-handler who operates his own distribution routes could pick up packaged fluid milk products at pool plants or distribution depots of other handlers and distribute these products, presumably along with those from his own plant, without bringing them into his plant. In this manner, he could circumvent the present limitation on the amount of milk that may be obtained from pool plants.

To effectively carry out the intent of the limitation on purchases of milk from pool plants, the order should preclude the opportunity to circumvent this limitation. Accordingly, the order should specify that the limit on receipts of fluid milk products from pool plants shall include such products which a producer-handler obtains at a location other than his processing plant for distribution on his routes. Although there was no indication that producer-handlers are circumventing the current limitation on receipts from pool plants, this order change is proper since it merely carries out the initial intent of the limitation.

It is not necessary on the basis of this record to require a producer-handler to operate the distribution system through which all his route disposition in the marketing area is made. There is no indication that producer-handlers are causing any disorderly marketing conditions that would warrant the adoption of the proposal. The proponent handler provided no evidence concerning the actual operations of producer-handlers in the market and their competitive impact on regulated handlers. Also, there was no testimony by other witnesses that suggested any need for the proposal. Accordingly, the proposal is denied.

5. *Classification of shrinkage and products that are dumped or disposed of for animal feed.* The proposal to combine certain plant shrinkage, animal feed, and dumped products into a single use category and to permit up to 3 percent of a plant's receipts of bulk fluid milk products and bulk fluid cream products claimed in such use to be classified as class III milk should not be adopted.

The order presently classifies as class III milk any fluid milk products, fluid cream products, eggnog, yogurt, or similar filled products that are dumped by a handler or disposed of for animal feed. In the case of shrinkage, the order permits up to 2 percent of a plant's receipts of producer milk to be classified as class III milk. If the plant's receipts are from a cooperative association in its capacity as a handler on bulk tank milk, then the 2 percent allowance is divided between the cooperative and the plant operator, with the cooperative receiving a 0.5 percent allowance and the plant operator receiving 1.5 percent. However, if the plant operator buys the milk on the basis of farm weights and tests, he gets the full 2 percent allowance. One and one-half percent of receipts also is the maximum allowable shrinkage that can be assigned to class III with respect to receipts of bulk milk from other plants. To the extent that the quantity of shrinkage in these cases exceeds the specified limits on class III uses, the order provides that the excess shall be classified as class I milk. All shrinkage assigned to receipts of other source milk for which class II or class III uses is requested is classified as class III milk.

A handler who operates a pool distributing plant proposed that plant shrinkage now subject to the 2-percent limit, animal feed, and dumped fluid milk products be combined into a single use classification. He would then allow up to 3 percent of a plant's receipts in such use category to be classified as class III milk. Proponent claimed that his objective in proposing the revision is to simplify the procedures and reduce the costs on the part of the market administrator and handlers in accounting for animal feed and dumped products. He pointed out that his proposal would minimize delays in disposing of route returns that can not be salvaged and thereby reduce the health hazards associated with disposing of such products. Proponent modified his proposal at the hearing to recognize circumstances in which a handler may need to dispose of a large quantity of receipts due to an unusual situation. In such circumstance, he would permit the handler to dump such milk and classify such loss as class III milk without limit provided that the market administrator is notified of the handler's intention to dump the milk and is given an opportunity to verify such dumpage.

A handler who operates three pool distributing plants opposed the proposal. Opponent claimed that combining shrinkage, animal feed and dumped products into a single classification would not simplify the accounting for such products. The plant operator also maintained that animal feed and dumped products are distinct utilizations which can be measured, tested and verified. He pointed out that shrinkage, on the other hand, is a residual figure and is a loss that cannot be measured, tested or verified.

The principal cooperative association supplying handlers in the Texas market also opposed any change in the current method of classifying shrinkage, animal feed, and dumped milk products. The cooperative contended that the amount of skim milk that could be classified as class III milk under proponent's proposal is greater than is justified by the record evidence. In that connection, the cooperative contended that handlers would receive an increase in the amount of milk that can be classified as class III by not maintaining adequate records of accountability. In addition, the cooperative contended that the amount of time required by the market administrator's office to audit the books and records of handlers would not be reduced since the same auditing procedures now used would have to be continued. Also, under proponent's proposal the market administrator's employees would still be required to monitor the dumping of milk in those situations where a large quantity of milk must be dumped.

Handlers normally experience some shrinkage losses in milk processing operations and, occasionally, must dispose of spoiled products either by dumping the products or disposing of them for animal feed. Because a handler's costs are affected by the quantities of these products that are priced as class I and class III milk, proponent's proposal to combine these three categories of milk use into a single classification and allow up to 3 percent of the handler's receipts in such uses to be classified as class III milk would have varying impacts on the cost of milk to the various handlers in the market. The proposal could reduce the cost for those handlers who otherwise would have excess shrinkage. This could occur in situations where a handler has little or no dumped products or animal feed but has shrinkage that exceeds the present allowable limits for class III use. Other handlers who otherwise would have all of their shrinkage, animal feed usage and dumped products classified as class III milk could have some of such usages classified as class I milk in the event the quantity of dumped products and animal feed uses exceeds 1 percent of producer receipts at such plant.

An analysis of data for the market reveals that the adoption of proponent's proposal would be to the disadvantage of a number of pool plant operators. An examination of data for May 1977 reveals that as many as one-third of the pool plant operators could be disadvantaged.

For example, 16 of the 44 pool plants regulated by the Texas milk order disposed of more than one percent of their receipts as animal feed, whereas proponent would have limited a handler's uses for animal feed and dumped products (excluding unusual losses) to 1 percent of receipts. Three of the sixteen plants had animal feed disposition in excess of 1.5 percent while two plants disposed of more than 2 percent of their receipts as animal feed. On the basis of data for November 1977, 9 of the 44 pool plants disposed of more than 1 percent of their receipts of skim milk or butterfat as animal feed. Three of the nine pool plants disposed of more than 1.5 percent of their receipts in such uses.

An analysis of data submitted by proponent with respect to his plant's operation reveals that the percentage of his plant's receipts disposed of as animal feed and dumped milk products during some months of the year also exceeded the limit that he proposed. While proponent is willing to accept a class I classification for milk that exceeds the limits he has proposed, there is no reason to deny other handlers a class III classification for milk for which they can produce records substantiating the use of milk receipts as either animal feed disposition or as dumped milk products.

The reasons set forth by proponent for adopting his proposal are not compelling reasons for changing the current classification provisions as they relate to shrinkage, animal feed and dumped products. Accordingly, the proposal is denied.

6. *Partial payments to a cooperative association.* The order should be revised to allow a handler to elect whether or not to adjust the announced class III price for the preceding month by the butterfat differential to reflect the butterfat content of bulk fluid milk products received from a cooperative's pool plant in making partial payment for such milk. There was no opposition expressed at the hearing to the proposed change.

The order currently provides that a handler who receives bulk fluid milk products from a pool plant operated by a cooperative association shall make two payments during the month to the market administrator in settlement for such purchases. The handler must make a partial payment on or before the 26th day of the month for those products received during the first 18 days of the month at the class III price for the preceding month adjusted by the butterfat differential. On or before the 18 day after the end of each month, the handler must make payment for all bulk fluid milk products received during the month from a cooperative's pool plant at the applicable class prices adjusted by the butterfat differential, less the amount of the pyament made on or before the 26th day of the month.

For producer milk and milk received from a cooperative association in its capacity as a handler on farm bulk tank milk, the order provides that the handler, in making a partial payment for the milk, shall pay the previous month's class III price without adjustment for the butterfat content of the milk received.

Some proprietary handlers in the Texas market receive whole milk from a cooperative association in its capacity as a handler on farm bulk tank milk and on occasion from the same cooperative's pool plant as well. In making partial payments, these handlers have tended to pay the previous month's announced class III price without adjustment for butterfat for both the bulk tank milk and the plant milk. In some instances, the butterfat content of the milk received from the cooperative's plant has been above 3.5 percent and, as a consequence, the handler's payment has been less than the value of such milk. Usually, the amount of the underpayment has been relatively insignificant. However, such underpayment violates the order's provisions and subjects the handler to a late payment charge on the amount of the underpayment.

It is not necessary for the orderly marketing of milk to require handlers to adjust the previous month's class III price to reflect the butterfat content in making partial payments for bulk milk received from a cooperative's pool plant. The value of the milk, including any added value due to the butterfat content exceeding 3.5 percent, is reflected in the handler's final payment to the cooperative association. For that reason, handlers should be permitted to make partial payments at the previous month's class III price without adjustment for butterfat for milk that is received from a cooperative's pool plant.

The order should provide, however, that the buying handler may adjust the class III price to reflect the butterfat content if he desires to do so. This option will benefit handlers who receive skim milk from a cooperative's pool plant. In such situations, payment at the announced class III price would result in a payment in excess of the classified use value of such milk. At the time of final payment, the handler then would be due a credit from the cooperative association. This unnecessary additional transaction can be avoided by allowing a handler to adjust his partial payment to reflect the butterfat content of milk purchased from a cooperative's pool plant.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

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RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Texas marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1126.10(c) is revised as follows:

§ 1126.10 Producer-handler.

. . . . . .

(c) Whose receipts of fluid milk products (including such products which he obtains at a location other than his processing plant for distribution on his routes) during the month from pool plants do not exceed the lesser of 5 percent of his class I disposition during the month or 10,000 pounds;

. . . . . .

2. Section 1126.13(d) is revised as follows:

§ 1126.13 Producer milk.

. . . . . .

(d) Diverted from a pool plant described in § 1126.7(a) for the account of the handler operating such plant to another pool plant, except that milk diverted to a plant operated by a cooperative association may not be milk of the cooperative association's members. Milk so diverted shall be priced at the plant to which diverted; or

. . . . . .

3. Section 1126.73(g)(1) is revised as follows:

§ 1126.73 Payments to producers and to cooperative associations.

. . . . . .

(g) . . .

(1) On or before the 26th day of each month, an amount determined by multiplying such receipts during the first 18 days of the month by the class III price for the preceding month. If the handler so elects, such price may be adjusted by the butterfat differential specified in § 1126.74 for the preceding month; and

. . . . . .

Signed at Washington, D.C., on October 11, 1978.

JAMES E. SPRINGFIELD,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-29167 Filed 10-13-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-15220; File No. S7-654]

SECURITIES CONFIRMATIONS

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Securities and Exchange Commission is proposing two related rulemaking actions that would require disclosure on the customer's confirmation of the amount of any markup, markdown or similar remuneration received (1) by any broker or dealer effecting a "riskless" principal transaction in a nonmunicipal debt security with a customer, and (2) by any broker, dealer or municipal securities dealer effecting a "riskless" principal transaction in a municipal security with a customer. The proposals would extend to transactions in debt securities the confirmation disclosure requirements applicable to "riskless" principal transactions in equity securities adopted by the Commission today in amendments to the existing confirmation delivery and disclosure requirements.

DATES: Comments must be received on or before December 1, 1978.

ADDRESSES: All comments should refer to File No. S7-654 and should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Room. Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Jeffrey L. Steele, Esq., Office of the Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 202-755-7587.

SUPPLEMENTARY INFORMATION: The Commission today announced a proposal to amend Rule 10b-10 (17 CFR 240.10b-10) under the Securities Exchange Act of 1934 (the "Act")[1] and to adopt Rule 15c2-12 (17 CFR 240.15c2-12) under the Act.

[1] 15 U.S.C. 78a et seq.

The proposed amendment to Rule 10b-10 would make it unlawful for any broker or dealer (other than a market maker) trading as principal for its own account to effect a transaction in a non-municipal debt security[2] with a customer unless the broker or dealer, at or before completion of the transaction, gives or sends to the customer written notification disclosing the amount of any markup, markdown, or similar remuneration received if, after having received an order to buy from the customer, he purchased the security from another person to offset a contemporaneous sale to the customer or, after having received an order to sell from such customer, he sold the security to another person to offset a contemporaneous purchase from the customer.[3] Transactions effected in the manner described above have been generally referred to as "riskless" principal transactions.

Proposed Rule 15c2-12 would require comparable disclosure in the case of transactions of the same type in a municipal security effected by a broker, dealer, or municipal securities dealer.

The amendment to Rule 10b-10 is proposed to be adopted pursuant to the Act, and particularly Sections 3, 10, 11, 15, 17, and 23 thereof (15 U.S.C. 78c, 78j, 78k, 78o, 78q and 78w). Rule 15c2-12 is proposed to be adopted pursuant to the Act, and particularly Sections 3, 10, 11, 15, 15B, 17, and 23 thereof (15 U.S.C. 78c, 78j, 78k, 78o, 78o-4, 78q, and 78w).

BACKGROUND

In a separate release, the Commission today announced the adoption of amendments to Rule 10b-10.[4] That rule generally requires brokers and dealers to give or send to customers written confirmation of transactions in securities other than U.S. Savings

[2] The proposed amendment would amend paragraph (a)(5)(i) of Rule 10b-10 by deleting the phrase "in a transaction in an equity security" which currently causes that paragraph to apply only to transactions in equity securities.

[3] That requirement would apply regardless of variations in mechanical techniques for structuring and sequencing transactions that are designed to offset one another. For example, a dealer filling a customer's purchase order would not avoid the requirement by effecting a sale to his customer immediately before purchasing the security from another person instead of first purchasing the security from the other person for resale to the customer and then selling it to the customer. Similarly, a dealer would not avoid the requirement in filling a customer's sale order by first purchasing the security from the customer for resale to another person and then selling it to the other person instead of first selling it to the other person and then purchasing it from his customer.

[4] See Securities Exchange Act Release No. 15219 (Oct. 6, 1978).

Bonds or municipal securities. As amended, Rule 10b-10 requires brokers and dealers (except market makers) trading for their own account with customers to disclose markups and markdowns in "riskless" principal transactions in equity securities.[5] With the exception of certain paragraphs that became effective on June 1, 1977, Rule 10b-10, as amended, becomes effective on December 18, 1978.

As orginally proposed in September 1976, Rule 10b-10 would have required disclosure of markups and markdowns in "riskless" principal transactions in all equity and debt securities, including municipal securities.[6] When the Commission adopted Rule 10b-10 in May 1977, however, it provided that Rule 10b-10 would not apply to municipal securities.[7] At the same time, it determined to revised and republish for further public comment the "riskless" principal markup disclosure provision. The proposed requirement, as revised, would have applied to both equity securities and nonmunicipal debt securities.[8]

Shortly thereafter, the Municipal Securities Rulemaking Board (the "MSRB") undertook to determine whether confirmation disclosure of markups and markdowns should be required in the case of municipal securities.[9] On August 3, 1977, the MSRB solicited public comment on that question, and it later held two public meetings in October 1977. On November 16, 1977, the MSRB sent to the Commission a letter summarizing arguments made by commentators opposed to disclosure of markups and markdowns. On February 10, 1978, the MSRB sent to the Commission a second letter in which it stated its conclusion that "the imposition of a requirement to disclosure remuneration in principal transactions in municipal securities is unnecessary and inappropriate."

[5] Id.

[6] See Securities Exchange Act Release No. 12806 (Sept. 16, 1976), 41 FR 41432 (Sept. 22, 1976).

[7] See Securities Exchange Act Release No. 13508 (May 5, 1977), 42 FR 25318 (May 17, 1977).

[8] See Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977). When the Commission proposed the amendments to Rule 10b-10, it stated at n. 7 that "[s]hould the [MSRB] not resolve to develop such adaptations as may be necessary in the application of the 'riskless' principal requirement, the Commission plans to revisit the question of including municipal securities transactions generally under Rule 10b-10 . . ."

[9] The MSRB has adopted MSRB rule G-15 imposing confirmation delivery and disclosure requirements for municipal securities transactions. MSRB Manual (CCH) ¶3571. See also Securities Exchange Act Release ¶13942 (Sept. 9, 1977).

BASIS AND PURPOSE

In Securities Exchange Act Release No. 15219, published today, the Commission has discussed at length its reasons for adopting a provision in Rule 10b-10 that requires disclosure of markups and markdowns in "riskless" principal transactions in equity securities. The Commission has determined that it is important for customers to be provided with the opportunity, to the extent practicable, to make their own assessments of the reasonableness of transaction costs incurred in effecting transactions in equity securities, regardless of technical variations employed by broker-dealers in structuring such transactions. While the Commission has received a number of comment letters opposing the imposition of a "riskless" principal disclosure requirement for debt securities, it has not determined on the basis of those comments that application of a requirement to debt securities would necessarily be inappropriate.

"Riskless" principal transactions in equity securities became a source of concern and controversy in 1963, when the Commission's Special Study of Securities Markets recommended that such transactions be prohibited.[10] The issue of "riskless" principal transactions in nonmunicipal debt securities and municipal securities was not specifically considered in the special study and has not received much public attention until recently. In addition, many of those who previously commented on the "riskless" principal provision in rule 10b-10 focused primarily on the application of that requirement to equity securities and did not separately consider debt securities. The Commission has concluded, therefore, that it would be advisable to solicit further comment on the matter before reaching a final decision, and, accordingly, has issued the proposals set forth in this release.

Previous comments. The Commission has received the views of the MSRB and other commentators to the effect that it would be unnecessary and inappropriate to require disclosure of markups and markdowns in "riskless" principal transactions in municipal securities and other debt securities.[11] Some of those commentators have asserted that the structural and transactional differences between the debt markets and the equity markets are sufficiently important that the Commission should not require disclosure of markups and markdowns for "riskless" principal transactions in debt securities.

Commentators noted that in the debt markets broker-dealers customarily effect transactions on a principal rather than an agency basis, that there is far greater variety in the types of debt securities than in equity securities, that execution of transactions in debt securities is rarely mechanical and requires special judgment and expertise, that many debt instruments are traded primarily among purchasers and sellers who are very sophisticated, that the absence of a centralized clearing facility increases the risks broker-dealers incur if customers fail to deliver funds or securities to the broker-dealer in connection with a transaction, and that, because debt securities are traded on the basis of yield and are priced in relation to developments in the money markets, there are important constraints on the pricing of debt securities.

Evaluation of comments. The Commission recognizes that the markets for debt and equity securities differ in many important respects. It is not currently clear to the Commission, however, that such differences warrant nondisclosure of markups and markdowns in "riskless" principal transactions in debt securities. The fact that most transactions in debt securities may be effected on either a risk principal or "riskless" principal basis does not necessarily answer the question whether disclosure of transaction costs in at least "riskless" transactions should be required. If it may be assumed that comparatively fewer transactions in the debt markets, by comparison to the equity markets, are currently structured on an agency (as opposed to a "riskless" principal) basis, that might be thought to underscore the need for the "riskless" principal disclosure requirement in order to permit investors in debt securities to become aware of possible differences in the level of transaction costs among various markets when they evaluate the benefits and costs of one investment as opposed to another.[12] Inves-

[10] Securities and Exchange Commission, Report of Special Study of Securities Markets, H.R. Doc. No. 95, pt. 2, 88th Cong., 1st sess. 676 (1963).

[11] See, e.g., comment letters of the Securities Industry Association.

[12] The Commission also recognizes that there are some business risks associated with effecting transactions in every class of security and that those risks may be greater for securities traded in the absence of centralized market facilities. Nevertheless, the Commission does not propose to base a decision concerning the "riskless" principal disclosure requirement on any belief that "riskless" principal transactions indeed are totally free of business risks. The term "riskless" has been applied to principal transactions where a dealer essentially performs the functions of an agent and is, of course, only a trade term used to describe a type of securities transaction. While the level of business risks associated with the execution of agency transactions for differ-

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tors in equity securities are accustomed to receiving disclosure of agency commissions (and will receive disclosure of "riskless" principal compensation upon the effectiveness of rule 10b-10, as amended). Such investors, and particularly retail investors, may be misled or uncertain as to whether any such compensation is being paid on transactions in debt securities.

Similarly, the fact that the execution of "riskless" principal transactions in debt securities may often involve the exercise of special judgment and expertise does not demonstrate that disclosure of transactions costs would necessarily be inappropriate. One might expect that more difficult and time-consuming transactions would involve higher transaction costs than comparatively simpler executions, but it is not clear why investors in debt securities should not be furnished with information concerning those costs in order to enable them to weigh that factor in reaching investment decisions.

Arguments have also been made that the amount of compensation a dealer receives on a "riskless" principal transaction in debt securities is not material information to the investor.[13] Those arguments have been predicated on the fact the debt securities are generally priced on the basis of yield (even if prices are also expressed in dollar amounts) and that a dealer's remuneration in "riskless" principal transactions generally represents a small percentage of the dollar value of transactions. Retail customers are generally not aware of the amount of markups and markdowns and, it was suggested, are interested only in current not yield and yield to maturity or call rather than the dollar price of a security.[14]

The Commission recognizes the importance of yield in the pricing of debt securities and that most investors in debt securities have some knowledge of prevailing yields on various types of debt instruments. Accordingly, even comparatively unsophisticated investors might refuse to purchase a security that was priced at a level that caused its yield to be noticeably outside the range of prevailing yields for similar securities.

Yield is, of course, affected by various factors in addition to prevailing interest rates. Maturity date, quality, source of the security interest being pledged, marketability, and special features, such as callability, affect yield. While bond ratings have some bearing on yield, debt securities having the same rating and maturity (including call features) may nevertheless be priced contemporaneously at different levels, in part because bond ratings represent only an approximate guide as to the quality of the bonds.

Transaction costs, such as markups and markdowns in "riskless" principal transactions, also directly affect the yield to maturity that the customer realizes. The effect on yield to maturity of a transaction charge of specified size would be greater for a short-term security than it would be for a longer term security. As a result, a markup or markdown on short-term securities must be relatively modest in order not to have a noticeable effect on yield to maturity but can be substantially larger for long-term securities.

The Commission understands that, in both corporate and municipal securities, dealers' spreads, as well as markups, markdowns, and concessions, are generally calculated on a basis that reflects yield to maturity. The dollar amount of spreads, concessions, markups, and markdowns is generally greater on long-term securities than on short-term securities. In the case of risk principal transactions, the differential in spreads between short- and long-term debt securities reflects, in part, the fact that long-term debt securities are more volatile in price for a given variation in prevailing interest rates than are short-term debt securities and that, as a result, the risk attendant to carrying long-term securities in a dealer's inventory is greater than the risk for short-term securities.

The Commission understands, however, that the amount of markups and markdowns in "riskless" transactions is greater for long-term securities than for short-term securities even though the risks of market fluctuation attendant to "riskless" transactions are generally conceded to be substantially less than those attendant to maintaining a bona fide inventory. At the same time, it has not been suggested that the costs incurred by broker-dealers in principal transactions vary in accordance with the maturity of securities being purchased and sold in that fashion. Also, while yield to maturity may apply substantial controls on the dollar amount of markups and markdowns for short-term securities, those controls are much less significant in the case of long-term securities. Accordingly, it is not clear that yield to maturity provides any means for comparing transaction costs, particularly between securities of differing maturities.[15] In addition, since various factors, including the amount of a markup or markdown, can affect yield even on securities of the same maturity, it is not clear why investors should not receive specific information concerning the amount of any markup or markdown charged in a "riskless" principal transaction.[16]

Footnotes continued from last page

ent types of securities varies, presumably transaction costs take those risks into account to some extent. In any event, it does not currently appear that the presence of business risks in either agency transactions or "riskless" principal transactions warrants nondisclosure to customers of transaction costs.

[13] See MSRB letter of Nov. 16, 1977, summarizing the views of persons commenting to the MSRB in response to its solicitation of views regarding the development of a "riskless" principal disclosure requirement for municipal securities, Securities and Exchange Commission File No. S7-654.

[14] Some commentators have suggested that transactions with institutional investors should be exempted from the "riskless" principal disclosure requirement. Although many institutional investors may have adequate means to make fully informed investment decisions, a decision to exempt certain classes of institutional transactions on the basis of a presumed level of expertise and sophistication among institutional investors would involve predictive judgments that may not be justified in all cases. Also, many institutional investors are acting in a fiduciary capacity. Disclosure documents, such as confirmations, can provide an important source of information concerning the performance of fiduciary duty.

[15] The MSRB has suggested that a markup policy such as that of the National Association of Securities Dealers, Inc. would be inappropriate for municipal securities since, among other things, published quotations in municipal securities show only the offer side of the market and in some instances it may be extremely difficult to ascertain a representative market price against which to measure the markup. MSRB, Statement on Form 19b-4A (concerning proposed MSRB rule G-30), at 27 (File No. SR-MSRB-77-12), Securities Exchange Act Release No. 13987 (Sept. 22, 1977), 42 FR 49856 (Sept. 28, 1977). As a result, it may be particularly important in the case of municipal securities to place greater reliance on disclosure than on more direct forms of regulation as a means of reducing the opportunity for abuse.

[16] One additional problem with undisclosed "riskless" principal markups is the inducement that may be afforded to an unscrupulous dealer to gain high markups by passing off low quality securities to unsophisticated customers at yields that resemble yields generally characteristic of higher quality securities. While it might take substantial capital to undertake such an operation on a risk principal basis, the "riskless" principal transaction does not require any similar capital commitment. Although the MSRB has proposed rules of fair practice which would require dealers to deal fairly with their customers and to charge customers only net prices that are fair and reasonable, the existence of such rules alone does not prevent fradulent conduct. The confirmation rule, together with the recordkeeping rules, can have a further deterrent effect. It is doubtful whether the practice referred to above would withstand disclosure. At the same time, if disclosure were required, a failure to disclose such markups and to retain appropriate records, once discovered, would provide a predicate for administrative or judicial sanction.

SOLICITATION OF FURTHER COMMENT

The Commission concluded, in adopting a "riskless" principal requirement for transactions in equity securities, that such a requirement would be appropriate for that class of securities. The Commission's reasons for reaching that conclusion are set forth in Securities Exchange Act Release No. 15219 (Oct. 6, 1978).

At the same time, the Commission noted that the MSRB had earlier concluded that a "riskless" principal disclosure requirement was not necessary or appropriate for municipal securities, and the Commission also noted that other commentators had not focused specifically on the application of such a requirement to nonmunicipal debt securities. Accordingly, the Commission believed it should solicit further comment on that matter before reaching a final decision. Commentators are specifically invited to consider and to provide data, views and arguments concerning the following questions:

(1) In view of the Commission's reasons for adopting a "riskless" principal disclosure requirement for transactions in equity securities, and the discussion of previous comments set forth above in this release, should such disclosure nevertheless not be required for transactions in debt securities?

(2) Would it be appropriate for the Commission to require "riskless" principal disclosure for certain classes of debt securities but not for others? In particular, should a different result be reached for municipal securities than for U.S. Government or corporate debt securities?

(3) Would the proposed amendment to Rule 10b-10 or proposed Rule 15c2-12 impose any burden on competition and, if so, would that burden be necessary or appropriate in furtherance of the purposes of the Act?

Commentators may also wish to take note of one difference between proposed Rule 15c2-12 and paragraph (a)(5)(i) of Rule 10b-10, which contains the "riskless" principal remuneration provision in that rule for equity securities (and, as proposed to be amended, for nonmunicipal debt securities). Largely because of the problems in determining which transactions should be covered by the "riskless" principal disclosure requirement in the case of a market maker quoting a two-sided market in an equity security, and certain features of block positioning in equity securities, Rule 10b-10 contains an exemption for transactions in which a broker-dealer is a market maker in the security being purchased or sold. The proposed amendment to Rule 10b-10 would preserve the market maker exemption for nonmunicipal debt securities to the extent dealers in such securities act as market makers in those securities. This exemption has not been included in proposed Rule 15c2-12 dealing with municipal securities because the Commission understands that the term "market maker," as defined in section 3(a)(38) of the Act,[17] has little or no application to transactions in municipal securities because of differences between municipal securities and other types of securities.[18] Commentators may wish to consider whether compliance problems, similar to those faced by equity market makers, or considerations similar to those identified for block positioners in equity securities,[19] may nevertheless make it appropriate to extend this or a similar exemption to municipal securities transactions or whether it would be more appropriate to eliminate any exemption for nonmunicipal debt securities as well as for municipal securities.

The Commission proposes to amend part 240 of chapter II of title 17 of the Code of Federal Regulations as follows:

1. By revising paragraph (a)(5)(i) of § 240.10b-10 to read as follows ("[ ]" indicates material to be deleted):

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[17] 15 U.S.C. 78c(a)(38).

[18] See MSRB letter to the Commission, November 16, 1977 (Securities and Exchange Commission File No. S7-654), in which the MSRB stated:

Securities professionals ordinarily to not make two-sided markets in municipal securities, principally because the nonfungible, serial nature of most municipal securities would make it extremely difficult to cover short positions. There are also considerations relating to the tax status of municipal securities sold short. However, many municipal securities professionals stand ready and willing to bid for securities of issues in their region. Although they do not make two-sided markets, and may not have an inventory position in certain maturities of certain issues of a particular issuer, many commentators have suggested that municipal securities professionals are market makers in a broad sense and that transactions effected by them in the issues in which they make markets should be exempt from a [riskless principal] disclosure requirement.

[19] See Securities Exchange Act Release No. 15219 (Oct. 6, 1978).

§ 240.10b-10 Confirmation of transactions.

(a) • • •

(5) • • •

(i) The amount of any markup, markdown, or similar remuneration received [in a transaction in an equity security] if he is not a market maker in that security and if, after having received an order to buy from such customer, he purchased the security from another person to offset a contemporaneous sale to such customer or, after having received an order to sell from such customer, he sold the security to another person to offset a contemporaneous purchase from such customer; and

• • • • • •

2. By adopting § 240.15c2-12 to read as follows:

§ 240.15c2-12 Confirmation of municipal securities transactions.

(a) It shall be unlawful for any broker, dealer, or municipal securities dealer, acting as principal for its own account, to effect with the account of a customer any transaction in any municipal security unless the broker, dealer, or municipal securities dealer, at or before completion of the transaction, gives or sends to the customer written notification disclosing the amount of any markup, markdown, or similar remuneration received if, after having received an order to buy from the customer, he purchased the security from another person to offset a contemporaneous sale to the customer or, after having received an order to sell from the customer, he sold the security to another person to offset a contemporaneous purchase from the customer.

(b) For the purposes of this rule,

(1) "Customer" shall not include a broker, dealer or municipal securities dealer; and

(2) "Completion of the transaction" shall have the meaning provided in § 240.15c1-1.

• • • • • •

All interested persons are invited to submit three copies of written data, views, and arguments on the proposed amendment to Rule 10b-10 and on proposed Rule 15c2-12 to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than December 1, 1978. Reference should be made to File No. S7-654. All submissions will be made available for public inspection at the Commission's Public Reference

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Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 16, 1978.

[FR Doc. 78-29124 Filed 10-13-78; 8:45 am]

[8010-01-M]

[17 CFR Part 270]

[Release No. IC-10420, File No. S7-578]

SALES LOAD VARIATION WITH RESPECT TO PURCHASES OF ADDITIONAL SHARES BY MUTUAL FUND SHAREHOLDERS

Withdrawal of Proposal

AGENCY: Securities and Exchange Commission

ACTION: Withdrawal of proposed rule.

SUMMARY: The Securities and Exchange Commission is withdrawing a proposed rule which would have established conditions under which open-end investment companies could have sold shares to their existing shareholders without a sales load or at a load lower than that charged new shareholders. The Commission has concluded that pertinent statutory provisions permit offerings similar to those contemplated by the proposed rule and that the particular conditions contained in that proposed rule are neither necessary nor appropriate. In a separate release the Commission is issuing an interpretation clarifying that offerings of this type may be made subject only to the terms of the pertinent statutory provisions.

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard W. Grant, Esq. Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0242.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is withdrawing proposed Rule 22d-4 under the Investment Company Act of 1940 ("act") (15 U.S.C. 80a et seq.). The rule, which was proposed in Securities Act of 1933 Release No. 5607, Investment Company Act Release No. 8894 (August 19, 1975) (40 FR 40555, September 3, 1975), would have exempted from certain provisions of section 22(d) of the act, subject to certain conditions, investment companies, underwriters, and dealers with respect to sales of redeemable securities issued by a registered investment company to persons who were shareholders of that company or of another investment company offering redeemable securities whose shares were underwritten by the same underwriter. The rule would have permitted such sales to be made, under certain conditions, at a price reflecting reduction or elimination of the sales load charged to other investors.

The Commission has concluded that to fashion conditions adequate to protect investors under all circumstances with regard to sales of this type would result in an unduly complicated and inflexible rule.

However, in re-examining this area, the Commission has determined that it is appropriate to interpret section 22(d) as permitting, under some circumstances, reduced-load or no-load sales to existing shareholders of a mutual fund at the same time shares are sold to new shareholders at the regular sales load, although such sales would be subject to certain limitations which would not have been provided for in proposed Rule 22d-4. In this regard, reference is made to Securities Act Release No. 5985, also published today.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 4, 1978.

[FR Doc. 78-29099 Filed 10-13-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 1]

[Docket No. RM78-22]

REVISION OF RULES OF PRACTICE AND PROCEDURE

Extension of Time for Comments

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of extension of time.

SUMMARY: Pursuant to requests from various persons, and extension of time for the filing of comments in docket No. RM78-22, Revision of part I, Title 18, Code of Federal Regulations, rules of practice and procedure, was granted to and including November 13, 1978. The request for comments in this proceeding was issued August 25, 1978 (43 FR 39122, September 1, 1978) with the Commission asking for suggestions on the revision of its rules of practice and procedure.

DATES: Comments due on or before November 13, 1978.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 202-275-4166.

SEPTEMBER 20, 1978.

Several motions have been filed [1] requesting an extension of time within which to submit comments in this matter pursuant to the request for comments issued on August 25, 1978. The requested extensions range from 30 to 60 days.

Upon consideration, notice is hereby given that the time within which comments may be filed in this matter is extended to and including November 13, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29160 Filed 10-13-78; 8:45 am]

[6740-02-M]

[18 CFR Ch. I]

[Docket No. RM78-2; Formerly ICC Docket Ex Parte No. 308]

VALUATION OF COMMON CARRIER PIPELINES

Oral Argument: Change in Date

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice changing date of oral argument.

SUMMARY: Pursuant to a request of the Association of Oil Pipe Lines in docket RM 78-2 (formerly ICC docket No. Ex Parte 308), the Commission changed the date for oral argument from October 16 and 17, 1978, to October 23 and 24, 1978. The order which set the oral argument was issued September 21, 1978 (43 FR 43728) and stated that participants are free to discuss any topic relating to the Commission's oil pipeline responsibilities as well as the topics of rate of return and rate base.

DATES: Oral argument to be held on October 23 and 24, 1978.

ADDRESSES: Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, 202-275-4166.

SEPTEMBER 22, 1978.

On September 21, 1978, the Association of Oil Pipe Lines filed a motion requesting that the dates of the oral argument established by order issued September 21, 1978, be changed to a date no earlier than October 23, 1978.

Upon consideration, notice is hereby given that the oral argument in the above-designated matter will be held on October 23 and October 24, 1978. All other provisions of the order issued September 21, 1978, remain unchanged.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27785 Filed 9-29-78; 8:45 am]

[1] Interstate Natural Gas Association of America & American Gas Association; Edision Electric Institute; and the Federal Energy Bar Association.

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 141]

IMPORTATION OF CERTAIN STEEL ARTICLES

Proposed Amendment to Customs Regulations Relating to Documents and Information

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: It is proposed to amend the Customs Regulations regarding the Special Summary Steel Invoice ("SSSI") which must be presented to Customs for each shipment of certain articles of steel having an aggregate price over $2,500. The proposed amendment would modify the SSSI to require the name of the producer and the price paid for the articles covered by the invoice by the initial and each subsequent purchaser in every case.

It also is proposed to modify the existing instructions for preparation of the SSSI to reflect this amendment and to clarify existing instructions relating to freight charges incurred after importation of the merchandise into the United States and to the submission of information concerning commissions. The additional information provided will be used in connection with the administration of the "trigger price mechanism" ("TPM") under the Antidumping Act, 1921, as amended.

DATE: Comments must be received on or before November 15, 1978.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Peter D. Ehrenhaft, Deputy Assistant Secretary and Special Counsel (Tariff Affairs), Department of the Treasury, Washington, D.C. 20220, 202-566-2806.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 13, 1978, a final rule published in the FEDERAL REGISTER (43 FR 6065) amended the Customs Regulations to require that a Special Summary Steel Invoice ("SSSI") be presented to Customs for each shipment of certain articles of steel having an aggregate purchase price over $2,500. The information provided by the SSSI is used in the administration of the Antidumping Act, 1921, as amended.

In addition, the notice of proposed rulemaking on this matter, published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65214), announced that the Secretary of the Treasury would implement a "trigger price mechanism" ("TPM"), as recommended to and approved by the President, as a part of the program to monitor steel imports. The notice also stated that "trigger prices" established for certain steel mill products would provide the basis upon which imports of such products would be monitored for the purpose of determining whether investigations under the Antidumping Act, 1921, as amended, would be appropriate.

Sections 141.86 and 141.89, Customs Regulations (19 CFR 141.86, 141.89), set forth the invoicing requirements for the Special Summary Steel Invoice, Customs Form 5520. The instructions for preparation of the SSSI implement the regulatory requirements. They were published as part of the final rule in the FEDERAL REGISTER on February 13, 1978 (43 FR 6065).

Since implementation of the TPM and adoption of the SSSI, a number of problems have arisen in administering the program which indicate that some information presently required is not being provided and certain information not presently required is needed to administer the program effectively. The three specific areas in which enhanced data is needed concern foreign affiliations of producers and importers, freight charges incurred after the merchandise is imported into the United States, and buying commissions.

PRODUCER INFORMATION

From the SSSI's received during the past six months, it appears that steel is occasionally sold to exporters unrelated to the producer of the steel rather than directly to a U.S. buyer. Some of these exporters are or may be controlled by a U.S. buyer. This situation has given rise to allegations that a U.S. buyer can evade the trigger price monitoring system through the use of foreign buying agents. Although no specific cases of such evasion have been identified, it has been argued that a U.S. importer or purchaser of steel can buy steel below the trigger price through a foreign buying agent and then have that agent export it to the United States at or above the trigger price. However, it is argued that such a transaction should not be considered to be at or above the trigger price as interpreted under the Antidumping Act, because the relevant price for comparison with the "trigger price" is the price at which the steel is purchased by the foreign agent.

To assure collection of the data needed to prevent evasion of the trigger price mechanism, it is proposed to modify the SSSI by adding a new section 1a, titled "Producer If Other Than Seller (Name, Address, and Relationship to Seller)". Present section 19 would be redesignated section 19b, and a new section 19a, titled "Mill Price", would be added.

In order to provide for this modification to the SSSI, it is proposed to amend § 141.89, Customs Regulations (19 CFR 141.89), by adding a new subparagraph (E) which would require that the name of the producer, plus the price paid by the initial and each subsequent purchaser of the steel, be included on the SSSI in every case.

This information will enable the Treasury Department to determine whether it is appropriate to initiate an antidumping proceeding under the trigger price mechanism. Generally the policy of the Department is not to self-initiate an investigation if the ex-mill price is equal to, or more than, the trigger price minus the actual importation charges if included in the price.

COMMISSIONS AND FREIGHT CHARGES

Although sections 9 and 26 of the SSSI specifically require information relating to commissions, information concerning buying commissions is not always provided. Accordingly, it is proposed to modify section 12, the "Declaration of the Sellef/Shipper, or Agent" and the instructions for that section to require the identification of any commissions paid or allowed on exportation as buying or selling commissions, and an itemization of all such payments. This information will be used to make appropriate adjustments in the invoice price before a comparison is made to the trigger prices if it is determined that a U.S. consumer of steel has an interest directly or indirectly through a foreign subsidiary in the export sales transaction.

Similarly, although section 26 of the SSSI requires all charges and fees, including freight charges, to be identified separately by name and amount, charges for freight in the United States paid by the exporter are not always identified specifically. To facili-

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tate the necessary adjustment in the invoice price to take account of such charges before a comparison is made to the trigger price, it is proposed to add a new section 26a, titled "Freight from U.S. Point of Importation."

EDITORIAL CHANGES

Because the title to section 23, "Domestic Freight Charges" apparently has not been understood, and because of the addition of new section 26a, it is proposed to change the title of section 23 to "Transportation Costs to Point of Exportation". It also is proposed to modify section 24 to read "Ocean, Air, or International Freight".

The Department has been requested to modify the format of the SSSI by placing sections 10 through 12 and 22 through 26 below section 13 through 21. It was suggested that this change would expedite preparation and conform the document to the format of other international trade documents, including the Special Customs Invoice, Customs Form 5515. It is proposed to modify the format as outlined.

The instructions for completing present section 19 (redesignated section 19b), "Home Market" unit price, also are being changed to clarify the intent of this section.

PROPOSED MODIFIED SSSI

The proposed modified SSSI and instructions are set forth below:

FORM APPROVED
O.M.B. No. 48-R0547

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
19 CFR 141.89, 141.90, 141.91

SPECIAL SUMMARY STEEL INVOICE *(Prepare in Duplicate)*

ADDITIONAL SPACE FOR EXTRAS SHOWN IN BOX 11.

1. SELLER
2. DOCUMENT NR.
3. INVOICE NR. AND DATE
4. REFERENCES
5. CONSIGNEE
6. BUYER *(if other than consignee)*
7. ORIGIN OF GOODS
8. DATE PRICE TERMS AGREED
8a. CURRENCY USED/EXCH. RATE *(if fixed or agreed)*
9. TERMS OF SALE, PAYMENTS AND DISCOUNTS
10a. PRODUCER IF OTHER THAN SELLER (Name, Address, and Relationship to Seller.)

13. MARKS AND NUMBERS	14. AISI Category	15. DESCRIPTION OF GOODS (INCLUDE SPECIFICATIONS)	16. QUANTITY	17. UNIT PRICE	18. EXTRAS a. WIDTH	b. LENGTH	c. CODE	d. $	19a. MILL PRICE	UNIT PRICE 19b. HOME MARKET	20. INVOICE	21. INVOICE TOTALS

11. CODE FOR OTHER EXTRAS*
e. Edging
f. Chemistry
g. Quality (commercial deep drawing)
h. Heat treating
i. Coating
j. Inspection and testing
K. Surface treatments
L. Other (specify)

22. PACKING COSTS
23. TRANSPORTATION COSTS TO POINT OF EXPORTATION
24. OCEAN, AIR, OR INTERNATIONAL FREIGHT
25. INSURANCE COSTS
26. OTHER COSTS *(Specify Above)*
26a. FREIGHT FROM U.S. POINT OF IMPORTATION

12. DECLARATION OF SELLER/SHIPPER (OR AGENT):

I declare:

(A) ☐ If there are any commission, rebates, drawbacks or bounties allowed upon the exportation of goods, I have checked box (A) and itemized separately above.

(B) ☐ If any unrelated incentives or reimbursements of dumping duties, or other inducements not reflected in this invoice have been, or will be, paid or granted, I have checked Box (B) and explained above.

10. ☐ If the production of these goods involved furnishing goods or services to the seller (e.g., assists such as dies, molds, tools, engineering work) and the value is not included in the invoice price, check box (10) and explain above.

I further declare that there is no other invoice differing from this one (unless otherwise described below) and that all statements contained in this invoice and declaration are true and correct.

(SIGNATURE OF SELLER/SHIPPER (OR AGENT))

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U.S. CUSTOMS SERVICE

INSTRUCTIONS FOR PREPARATION OF SPECIAL SUMMARY STEEL INVOICE

(Required for all shipments of steel over $2,500)

NOTE.—Where this summary invoice covers several types of merchandise priced in different ways, each should be shown separately. Prepare in duplicate.

Sections 1, 2-7, 8b, 9, 10, 13, 16, 20-22, and 24-26 may be completed in the same manner as the equivalent sections on Special Customs Invoice, Customs Form 5515.

Section 1a. Producer if Other Than Seller: Show here the producer's name, address, and relationship to seller. If producer is the same as seller, so indicate in this section.

Section 8a. Date Price Terms Agreed: Show here the date on which the final sales price for this shipment was agreed.

Section 11. Codes for Extras: This section refers to the additional price charged for extras (other than width and length, which are provided for in 18a and 18b). The code(s) for the extras shown should be reflected in section 18c, and the amount for each extra should be shown in 18d. The extras listed are expressed in terms as now understood in the U.S. market.

Section 12. Declaration of Seller/Shipper: Complete and explain if any buying or selling commission, payment or other element of value, other than shown on this invoice, has been or will be made or granted.

Section 14. AISI Category: This column should be completed with the appropriate category number from the following list.

Section 15. Description of Goods: In addition to the full description of goods as usually required on the Special Customs Invoice, steel specifications which this merchandise meets must be shown.

Section 17. Base Price: Show here for each steel category the price per unit, exclusive of extras, on which the total sales price was based.

Section 18. Extras. Show here the charge for each category of any extra added to the base price. Use appropriate codes from section 11 where appropriate.

Section 19a. Mill Price: In all cases where the exporter is other than the producer, show here the unit price paid by the initial and each subsequent pruchaser. If the producer is selling directly to the U.S. buyer, this section need not be completed.

Section 19b. Home Market Unit Price: State the unit price in home market currency at which such or similar goods were sold or offered for sale and consumption in the home market at the date nearest to the date shown in section 8a.

Section 23. Transportation Costs to Point of Exportation: Show here the cost of transportating the goods from the mill or factory to the point of exportation, that is, the foreign inland freight charge.

Section 26a. Freight from U.S. Point of Importation: Show here the cost of transportating the goods from the point of importation in the U.S. if these costs are borne by the exporter or a party related to the exporter. If these costs cannot be determined prior to entry, provide the contract terms stating the exporter's liability.

CATEGORY NO. AND PRODUCTS

1. Ingots, blooms, billets, slabs, etc.
2. Wire rods.
3. Structural shapes—plain 3 inches and over.
4. Sheet piling.
5. Plates.
6. Rail and track accessories.
7. Wheels and axles.
8. Concrete reinforcing bars.
9. Bar shapes under 3 inches.
10. Bars—hot rolled—carbon.
11. Bars—hot rolled—alloy.
12. Bars—cold finished.
13. Hollow drill steel.
14. Welded pipe and tubing.
15. Other pipe and tubing.
16. Round and shaped wire.
17. Flat wire.
18. Bale ties.
19. Galvanized wire fencing.
20. Wire nails.
21. Barbed wire.
22. Black plate.
23. Tin plate.
24. Terne plate.
25. Sheets—hot rolled.
26. Sheets—cold rolled.
27. Sheets—coated (including galvanized).
28. Sheets—coated—alloy.
29. Strip—hot rolled.
30. Strip—cold rolled.
31. Strip—hot and cold rolled—alloy.
32. Sheets other—electric coated.

(b) *Special summary steel invoice.* (1) * * *

(E) The name of the producer and the price paid by the initial and each subsequent purchaser. One or more continuation sheets may be used to supply this information, if necessary.

* * * * *

R. E. CHASEN,
Commissioner of Customs.

Approved: October 10, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-29073 Filed 10-13-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR PART 1917]

[Docket No. FI-4447]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the city of Halstad, Norman County, Minn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38720 of the FEDERAL REGISTER of August 30, 1978.

EFFECTIVE DATE: August 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410. 202-755-5581 or toll free line 800-424-8872

The following:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Red River of the North.	At northern corporate limit.	867
	At southern corporate limit.	867

Should be corrected to read:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Red River of the North.	Intersection of Lake St. and 4th St.	867
	Intersection of Main St. and 5th St.	867

Source of Flooding	Location	Depth in feet (above-ground level)
Red River of the North.	Intersection of northern corporate limit and U.S. Highway 75.	3
	Intersection of 5th St. and U.S. Highway 75.	3
	Intersection of 2nd Ave. and 5th St.	3

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Fedeal Insurance Administrator 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28656 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4448]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Perley, Norman County, Minn.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 43 FR 38720 of the FEDERAL REGISTER of August 30, 1978.

EFFECTIVE DATE: August 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

The following:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Red River of the North.	Entire Community.....	878

Should be corrected to read:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Red River of the North.	West of U.S. Highway 75.	876

Source of Flooding	Location	Depth in feet, above-ground level
Red River of the North.	East of U.S. Highway 75	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28657 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4584]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Preston, Fillmore County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Preston, Fiilmore County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Preston, Minn. Send comments to: the Honorable Richard Nelson, Mayor, City of Preston, Preston City Hall, Preston, Minn. 55965.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Preston, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch Root River.	East corporate limit.....	932
	Just upstream of Fillmore St. near Bluff St.	937
	Just upstream of Preston City Rd.	952
	Western corporate limit.	955

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

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Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28658 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4585]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bella Villa, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Bella Villa, St. Louis County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Bella Villa, Mo. Send comments to: The Honorable George J. Appel, Mayor, City of Bella Villa, City Hall, Bella Villa, Mo. 63125.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Bella Villa, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gravois Creek.....	Northeast corporate limits.	431
	Northwest corporate limits.	431

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator..

[FR Doc. 78-28659 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4586]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Berkeley, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Berkeley, St. Louis County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Berkeley, Mo. Send comments to: Mr. Larry Arft, City Manager, City of Berkeley, City Hall, Berkeley, Mo. 63134.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Berkeley, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maline Creek	Northeastern corporate limits.	516
	Just downstream from Interstate 70.	519
	Just upstream from Interstate 70.	526
	Southern corporate limits.	528

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28860 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4587]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Sarcoxie, Jasper County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sarcoxie, Jasper County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Sarcoxie, Mo. Send comments to: The Honorable Nelson Brown, Mayor, City of Sarcoxie, City Hall, Sarcoxie, Mo. 64862.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Sarcoxie, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swift Creek	1,040 ft downstream of business Interstate 44.	1,083
	450 ft downstream of business Interstate 44.	1,083
	150 ft upstream of business Interstate 44.	1,634
	Just downstream of Center St.	1,091
	Just downstream of Joplin St.	1,100
	1,150 ft upstream of Joplin St.	1,107
	1,700 ft upstream of Joplin St. at southern corporate limit.	1,108
Center Creek	1,075 ft downstream of business Interstate 44.	1,083
	930 ft upstream of business Interstate 4.	1,086

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28661 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4588]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of St. Ann, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of St. Ann, St. Louis County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 10405 St. Charles Rock Road, St. Ann, Mo. Send comments to: The Honorable Clarence G. Tiemeyer, Mayor, City of St. Ann, City Hall, 10405 St. Charles Rock Road, St. Ann, Mo. 63704.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of St. Ann, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coldwater Creek ...	Northwest corporate limits.	540
	Just downstream from footbridge No. 3.	543
	750 ft downstream from Wright Rd.	546
	100 ft upstream from Wright Rd.	550
	Eastern corporate limits	555
Dawson Creek.....	Confluence with Coldwater Creek.	548
	250 ft downstream from St. Charles Rock Rd.	550
	Just downstream from St. Charles Rock Rd.	552
	Just upstream from St. Charles Rock Rd.	557

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28662 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4589]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Steele, Pemiscot County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Steele, Pemiscot County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 115 South Walnut Street, Steele, Mo. Send comments to: Hon. Ed Aumon, Mayor, City of Steele, City Hall, 115 South Walnut Street, Steele, Mo. 63877.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Steele, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Main ditch 6.....	Kelly St.—100 ft*.....	259
	Walnut St.—100 ft*.....	259
Lateral A	Steele Auxiliary Airfield	258

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28663 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4590]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Belleville, Essex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Belleville, Essex County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Belleville City Hall, 152 Washington Avenue, Belleville, N.J. 07109. Send comments to: Mr. Eugene Varnet, Town Clerk of Belleville, 152 Washington Avenue, Belleville, N.J. 07109.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Belleville, Essex County, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Confluence of Second River.	10.1
	Belleville Turnpike	10.5
Second River.....	Confluence with Passaic River.	10.1
	McCarter Highway.....	11.4
	ConRail	18.4
	Summer Ave.....	33.7
	Union St.....	41.9
	Park Dr	53.1
	Franklin Ave	76.5
	Upstream corporate limits.	99.5
Third River.....	Downstream corporate limits.	75.0
	Joralemon St.....	81.3
	Upstream corporate limits.	82.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28664 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4591]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Eastampton, Burlington County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Eastampton, Burlington County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, Smithfield Road, Mount Holly, N.J. Send comments to: Hon. Michael Feinberg, Mayor, Township of Eastampton, township Hall, Smithfield Road, Mount Holly, N.J. 08060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Eastampton, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Branch Rancocas Creek.	Smithville Dam—60 ft* ..	22
	Smithville Dam—40 ft** .	25
	U.S. Route 206—50 ft*	26

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28665 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4592]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Tonawanda, Erie County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Tonawanda, Erie County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Tonawanda City Hall, 200 Niagara Street, Tonawanda, N.Y. 14150. Send comments to: Hon. G. Delwin Hervey, Mayor of Tonawanda, 200 Niagara Street, Tonawanda, N.Y. 14150.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

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SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Tonawanda, Erie County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tonawanda Creek	Railroad spur	571
	River Rd.	571
	Main St.	571
Elliott Creek	East Niagara	571
	Delaware St	571
	Fremont St	571
	ConRail	571
	Young St.	571
	Corporate limits (upstream).	572
Niagara River Tonawanda Channel.	Lasalle Yacht Club	568
	Confluence with Tonawanda Creek.	571
	Huntley Station	571

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28666 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4593]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Wales, Erie County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Wales, Erie County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of Mr. Edward Holt, Building Inspector, 13237 Big Tree Road, East Aurora, N.Y. 14052. Send comments to: Mr. Adrian Keem, Supervisor of Wales, Wales Town Hall, Wales Center, N.Y. 14169.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Wales, Erie County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buffalo Creek	Big Tree Rd. (State Route 20A).	889
	Confluence of Hunter Creek.	898
	Strykersville Rd.	901
	Confluence of Stony Bottom Creek.	903
	Merlau Rd. (State Route 386).	918
	East Creed Rd. (State Route 387).	931
	Wales Creek Rd. (State Route 540).	938
Hunter Creek	Confluence with Buffalo Creek.	898
	Strykersville Rd. (upstream side).	903
	Holland Rd.	911
East Branch Cazenovia Creek.	Downstream town boundary.	923
	State Route 16	927
	Upstream town boundary.	944

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28667 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4594]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hebron, Morton County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hebron, Morton County, N. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Fire Hall, 620 Washington Avenue, Hebron, N. Dak. Send comments to: Hon. Anthony L. Kovarik, Mayor, City of Hebron, Hebron, N. Dak. 58638.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hebron, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Knife River	Main Ave.—50 ft*	2,150
	Fulton Ave.—50 ft*	2,159
	Elk St.—50 ft*	2,163
	Lincoln Ave.—50 ft*	2,170
	2d crossing Burlington Northern RR—20 ft*.	2,174

* Upstream of certerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28668 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4595]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Briar Creek, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Briar Creek, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mayor Oscar Welsh, 2606 West Front Street, Berwick, Pa. 17603. Send comments to: Hon. Oscar Welsh, Mayor of Briar Creek, 2606 West Front Street, Berwick, Pa. 18603.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Briar Creek, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Confluence with Briar Creek.	492
Briar Creek	ConRail (upstream)	495
	Rittenhouse Rd. (upstream).	506
East Branch Briar Creek.	State Route 93 (upstream).	507

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28669 Filed 10-13-78; 8:45 am]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4596]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Cleveland, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Cleveland, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Cleveland Township Municipal Building, Fisherdale, Pa. Send comments to: Mr. Richard H. Hornberger, Chairman of Cleveland, Rural Delivery 1, Elysburg, Pa. 17824.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Cleveland, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roaring Creek	Covered bridge No. 10 (upstream).	621
	Bridge No. 11 (upstream).	645
	Bridge No. 12 (upstream).	692
South branch Roaring Creek.	Confluence with Mugser Run.	613
	Bridge No. 31 (upstream).	647
	Bridge No. 32 (upstream).	661
Mugser Run	Confluence with South Branch Roaring Creek.	613
	Township Route 316 (upstream).	632
	Johnson covered bridge (upstream).	663

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28670 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4597]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Coudersport, Potter County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Coudersport, Potter County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Coudersport Borough Building, 201 South West Street, Coudersport, Pa. 16915. Send comments to: Mr. Robert Mitcheli, President of the Council of Coudersport, Coudersport Borough Building, Coudersport, Pa. 16915.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Coudersport, Potter County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dingman Run	Abandoned railroad bridge 412 ft upstream from U.S. Route 6 (upstream).	16,34
	Abandoned railroad bridge 267 ft upstream from U.S. Route 6 (upstream).	1,632
	U.S. Route 6 (upstream)	1,631
	Confluence of Allegheny River.	1,631
North Hollow Run	U.S. Route 6 (upstream)	1,714
	Confluence of Mill Creek.	1,709
Allegheny River	Upstream corporate limits.	1,700
	Reese Hollow Run (upstream).	1,686
	Abandoned railroad 3,696 ft downstream from Reese Hollow Rd. (upstream).	1,678
	7th St. (upstream)	1,660
	4th St. (upstream)	1,657
	2d St. (upstream)	1,653
	Confluence with Mill Creek.	1,646
	Main St. (upstream)	1,644
	Chestnut St. (upstream)	1,640
	Confluence with Dingman Run.	1,631
	Toles Hollow Rd. (upstream).	1,628
Mill Creek	Buffalo St. (upstream)	1,710
	Driveway 5,000 ft downstream from Buffalo St. (upstream).	1,682
	Driveway 1,520 ft upstream from Mill St. (upstream).	1,665
	Footbridge 335 ft upstream from Mill St. (upstream).	1,654
	Mill St. (upstream)	1,652
	Borie St. (upstream)	1,647

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28671 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4598]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Franklin, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Franklin, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Richard Fetterman, R.D. 2, Catawissa, Pa. 17820. Send comments to: Mr. Frank Getty, Chairman of Franklin, Rural Delivery 2, Catawissa, Pa. 17820.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Franklin, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	Confluence with Roaring Creek limits.	467
	Upstream corporate limits.	473
Roaring Creek	ConRail	467
	Old concrete dam (upstream).	481
	Covered bridge No. 6 (upstream).	552
	Bridge No. 7 (upstream 100 ft).	567
	State Route 487 (upstream 100 ft).	596
	Upstream corporate limits.	620
South Branch	Bridge No. 24 (upstream).	573
Roaring Creek	Bridge No. 25 (upstream).	600

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978,

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28672 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4599]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Halifax, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Halifax, Dauphin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Halifax Borough Building, Second and Arm-

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strong Streets, Halifax, Pa. 17032. Send comments to: Mr. Allen Kinsinger, President of the Council of Halifax, Highland Lane, Halifax, Pa. 17032.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Halifax, Dauphin, County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Corporate limits extended (downstream).	371
	Rise St. (upstream)	372
	Corporate limits extended (upstream).	372

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28673 Filed 10-13-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4615]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Hemlock, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Hemlock, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Herman Ikeler, Chairman of Hemlock, Rural Delivery 2, Bloomsburg, Pa. 17815. Send comments to: Mr. Herman Ikeler, Chairman of Hemlock, Rural Delivery 2, Bloomsburg, Pa. 17815.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Hemlock, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Creek	State Route 44 (upstream).	478
	Railroad St. (upstream)	485
	Interstate Route 80 (upstream).	497
Hemlock Creek	Legislative Route 19100 (upstream).	478
	State Route 2 (upstream).	492
	Interstate Route 80 (upstream).	543
Little Fishing Creek.	Legislative Route 239 (upstream).	501
	Dam	519
	Township Rd. 519 (upstream).	549
	Upstream corporate limits.	552

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Adminstrator.

[FR Doc. 78-28625 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4616]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Herndon, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Herndon, Northumberland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Municipal Building, Main Street, Herndon, Pa. 17870. Send comments to: Hon. Lewis Knoedler, Mayor of Herndon, Main Street, Herndon, Pa. 17870.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Herndon, Northumberland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream corporate limits.	422
	Pine St. (extended)	423
	Confluence of Mahanoy Creek.	426

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28626 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4617]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Locust, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Locust, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the RCV Elementary School, Route 42, Numidia, Pa. Send comments to: Mr. Aldon G. Mensch, Chairman of Locust, Rural Delivery 3, Catawissa, Pa. 17820.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Locust, Columbia County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roaring Creek	State Route 42 (upstream).	728
	LR 19086 (upstream)	758
	LR 19005 (upstream)	786
	Covered bridge No. 17 (upstream).	798
	Covered bridge No. 19 (upstream).	850
	LR 19009 (upstream)	878
	Confluence of tributary No. 16 to Roaring Creek.	916
Mill Creek	Confluence with Roaring Creek.	853

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28627 Filed 10-13-78; 8:45 am]

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[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4618]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Lower Augusta, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Lower Augusta, Northumberland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Lower Augusta Township Building, Hollowing Run Road, Lower Augusta, Pa. 17801. Send comments to: Mr. Talmadge Johnson, Chairman of Lower Augusta, Rural Delivery 3, Sunberry, Pa. 17801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Lower Augusta, Northumberland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream corporate limits.	429
	Confluence of Boile Run	431
	ConRail	438
Boile Run	Confluence of Susquehanna River.	431
	State Route 147	431
	Legislative Route 49023 .	451
	Snyder Rd	466
	Butler Rd	478
	Footbridge (950 ft upstream of Butler Rd).	488
	Wooden bridge (1,340 ft upstream of Butler Rd).	493
	Legislative Route 49023 .	519
	Township Route 390	559
	Township Route 394	579
	Legislative Route 49023..	601
	Unnamed road (1,100 ft upstream of Legislative Route 49023).	616
	Legislative Route 49023..	633
	Fetterman Rd	657
	Township Route 396	692
	Legislative Route 49023..	722

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 78-28628 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4619]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Montour, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Montour, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Montour Township Municipal Building, Route 42, Rupert, Pa.

Send comments to: Mr. Albert Wirt, Chairman of Montour, 341 Valley Road, Bloomsburg, Pa. 17815.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Montour, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings

and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	State Route 42 (upstream).	474
	Confluence with Fishing Creek.	476
Fishing Creek	Covered bridge No. 65	477
	ConRail	477
	State Route 42 (upstream).	478
Hemlock Creek	Legislative Route 19100 (upstream).	478
	Legislative Route 19119 (upstream).	497

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28629 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4620]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Orange, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Orange, Columbia County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mrs. Suzanne Moore, Rural Delivery 2, Orangeville, Pa. 17859. Send comments to: Mr. Clyde Bartholomew, Chairman of Orange, Rural Delivery 2, Orangeville, Pa. 17859.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Orange, Columbia County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Creek	Confluence with Stony Brook.	538
	Confluence with Deer Lick Run.	558
	Legislative Route 19031 (upstream).	564
	State Route 487 (downstream).	583
	State Route 487 (upstream).	588
Green Creek	Upstream corporate limits.	612
	Confluence with Fishing Creek.	569
	Legislative Route 19030 (upstream).	580
	Covered bridge No. 12 (upstream).	597
	Upstream corporate limits.	606

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28630 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4621]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Union, Union County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Union, Union County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Harold Bennett, Stein Lane, Winfield, Pa. 17889.

Send comments to: Mr. K. Palmer Felmey, Chairman of Union, Route 1, Winfield, Pa. 17889.

FOR FURTHER INFORMATION CONTACT:

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Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Union, Union County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch	U.S. Route 11 Bridge	451
Susquehanna River.	Confluence of Winfield Creek.	456
Winfield Creek	U.S. Route 15	456
	Legislative Route 59047	456
	Township Route 358	501
	Farm road No. 1 (2,320 ft upstream of township Route 356).	513
	Farm road No. 2 (5,325 ft upstream of township Route 356).	537
	Farm road No. 3 (8,450 ft upstream of township Route 356).	558

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28631 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4622]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Wellsboro, Tioga County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Wellsboro, Tioga County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Wellsboro Building, 28 Crafton Street, Wellsboro, Pa. 16901. Send comments to: Mr. Robert Russell, Borough Manager of Wellsboro, Wellsboro Borough Building, Wellsboro, Pa. 16901.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Wellsboro, Tioga County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Marsh Creek	ConRail (90 ft from downstream Corporate limits) upstream side.	1,248
	ConRail (1,370 ft from downstream Corporate limits) downstream side.	1,263
	ConRail (2,170 ft from downstream Corporate limits) downstream side.	1,272
	Confluence with Charleston Creek.	1,283
Charleston Creek	Confluence with Marsh Creek.	1,283
	Bacon St. (upstream side).	1,294
	ConRail (upstream side)	1,298
	Jackson St. (upstream side).	1,306
	Dam No. 61 (upstream side).	1,315
Tributary No. 1 to Charleston Creek.	Confluence with Charleston Creek.	1,313
	Unnamed Road No. 1 (upstream side).	1,323
Morris Branch	Confluence with Charleston Creek.	1,283
	Charleston St. (upstream side).	1,289
	Bradley St. (upstream side).	1,305
	Grant St. (upstream side).	1,321
	Morris Lane (upstream side).	1,323
	Footbridge (upstream side).	1,330
	Central Ave. (upstream side).	1,363
	Upstream corporate limits.	1,427
Kelsey Creek	Main St. (upstream side)	1,285
	Riberolle St. (upstream side).	1,289
	Queen St. (upstream side).	1,298
	West Water St. (upstream side).	1,306
	Norris St. (upstream side).	1,313
	King St. (upstream side)	1,319
	West Ave. (upstream side).	1,327
	Confluence with Boyden Brook.	1,355
	715 ft upstream of confluence with Boyden Brook.	1,365
	1,275 ft upstream of confluence with Boyden Brook.	1,375
Hoover Brook	Unnamed Road No. 1 (upstream side).	1,321
	Unnamed Road No. 2 (upstream side).	1,328
	Unnamed Road No. 3 (downstream side).	1,333
	Eberenz St. (upstream side).	1,347
	West Water St. (upstream side).	1,356
	Stickley St. (upstream side).	1,361
	670 ft upstream of Stickley St.	1,372
	1,210 ft upstream of Stickley St.	1,386
Boyden Brook	Confluence with Kelsey Creek.	1,355
	Kelsey St. (upstream side).	1,375
	490 ft upstream of Kelsey St.	1,385
	870 ft upstream of Kelsey St.	1,395
	1,370 ft upstream of Kelsey St.	1,405
	Greenwood St. (upstream side).	1,420

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENZ,
Federal Insurance Administrator.

[FR Doc. 78-28632 Filed 10-18-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4623]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Norfolk, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Norfolk, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Norfolk City Hall Building, Norfolk, Va. 23501. Send comments to: Mr. Julian F. Hirst, City Manager of Norfolk, 1101 City Hall Building, Norfolk, Va. 23501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Norfolk, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chesapeake Bay and Hampton Roads.	Entire reach	9
Willoughby Bay	do	9
Little Creek	Shore Dr	9
	Cape View Ave	9
Lake Whitehurst	Shore Dr	9
	Azalea Garden Rd	9
Lake Taylor	Kempsville Rd	9
Elizabeth River	Entire reach	9
Eastern branch of Elizabeth River.	Campostella Rd	9
	Military Rd	9
Broad Creek	Virginia Beach Blvd	9
Lafayette River	Hampton Blvd	9
North branch of Lafayette River.	Norfolk & Western RR	9
Wayne Creek	Tidewater Dr	9
Smith Creek	Brambleton Ave	9
Mason Creek	Granby St	7
Oats Creek	do	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28633 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4624]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Warrenton, Fauquier County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Warrenton, Fauquier County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Engineer's Office, Municipal Building, Warrenton, Va. 22186. Send comments to: Mr. Edward Brower, Town Manager of Warrenton, 18 Court Street, P.O. Drawer 341, Warrenton, Va. 22186.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Warrenton, Fauquier County, Va., in accordance with section 110 of the Flood Disaster Pro-

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tection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cemetery Run	State Route 211	480
	Private road	498
	Garrett St	512
	Moffet St	536
Creek Run	Von Roijen St	490
	Waterloo Rd	497
White Mills Branch.	Alexandria St	435
	Blackwell Rd	460
	Winchester St	502

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Admininstrator.

[FR Doc. 78-28634 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4625]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kennewick, Benton County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Kennewick, Benton County, Wash.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at City Hall, 210 West 6th Avenue, Kennewick, Wash. Send comments to: Hon. Donald Kuhns, mayor, city of Kennewick, P.O. Box 6108, Kennewick, Wash. 99336.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Kennewick, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Zintel Canyon	Tacoma St.—50 ft*	433
	Vancouver St.—60 ft*	443
	Upstream corporate limits.	472

Source of flooding	Location	Depth in feet
Zintel Canyon	Intersection of West Kennewick Ave. and South Quincy St. (shallow flooding).	2
	Intersection of West 6th Ave. and South Rainier St. (shallow flooding).	2

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Zintel Canyon	Intersection of East 10th Ave. and South Garfield St.	391

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28635 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4626]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Parsons, Tucker County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Parsons, Tucker County, W. Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Parsons mayor's office, 222 Water Street, Parsons, W. Va. 26287. Send comments to: Hon. Charles W. Rowsenau, mayor of Parsons, 222 Water Street, Parsons, W. Va. 26287.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Parsons, Tucker County, W. Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic, vertical datum
Shavers Fork of the Cheat River.	Downstream corporate limits.	1,640
	1st St	1,648
	Whitmer St	1,652
	Upstream corporate limits.	1,660
Mill Race	Downstream corporate limits.	1,641
	Magnolian St	1,646
	Upstream corporate limits.	1,654
Black Fork of the Cheat River.	Downstream corporate limits.	1,642
	Magnolia St. (extended).	1,646
	Pennsylvania Ave. (U.S. 219).	1,654
	Upstream corporate limits.	1,654

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: August 31, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-28636 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4627]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Laramie, Albany County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Laramie, Albany County, Wyo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at city manager's office, 203 South Fourth Street, Laramie, Wyo. Send comments to: Hon. Norman E. Roberts, mayor, city of Larmie, P.O. Box C, Laramie, Wyo. 82070

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Laramie, Wyo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Laramie	Curtis St.—1,160 ft*	7,130
	Curtis St.—460 ft**	7,132
	New Wyoming State Highway 130-230—940 ft**.	7,137
	Interstate Highway 80—at centerline.	7,141
Spring Creek	Confluence with Laramie River.	7,139
	Pine St. (approximately 1,308 ft upstream of confluence with Laramie River)—12 ft**.	7,143
	2d St.—150 ft**	7,152
	9th St.—50 ft**	7,167
	13th St.—60 ft**	7,174
	17th St.—595 ft**	7,186
	Corthell Rd.—80 ft**	7,195
	Grand Ave.—90 ft**	7,249
	Corporate limit 6,520 ft upstream of centerline of Grand Ave., 20 ft downstream of that corporate limit.	7,332
Spring Creek Overflow.	Steele St.—at centerline.	7,182
	26th St.—70 ft*	7,221

*Downstream of centerline.
**Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

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Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 21, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28637 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4650]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Buckeye, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Buckeye, Maricopa County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Buckeye, Ariz. Send comments to: Mr. Steven L. Thompson, town manager of Buckeye, P.O. Box 157, Buckeye, Airz. 85326.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator,, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Buckeye, Maricopa County, Ariz. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buckeye Canal	North of canal	[1]
	South of canal	[1]
Southern-Pacific RR.	North of railroad	[2]891

[1] AO depth.
[2] AH elevations.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28915 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4041]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determination for the Town of Goodyear, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Goodyear, Maricopa County, Ariz. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the FEDERAL REGISTER, vol. 43 FR, page 16747 on April 20, 1978.

DATE: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the office of the town manager, 119 North Litchfield Road, Goodyear, Ariz. Send comments to: Mr. E. W. Kleinschmidt, town manager of Goodyear, 119 North Litchfield Road, Goodyear, Ariz. 85338.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the town of Goodyear, Maricopa County, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gila River	Reams Rd. extended	911
	Bullard Ave	919
	Confluence with Agua Fria River.	924
Agua Fria River	Southern Ave. extended.	924
	Broadway Rd.	934

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gila River Breakout at Buckeye Canal.	Reams Rd	915
	Confluence with Gila River.	918

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28916 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4651]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Maricopa County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Administration Building, Maricopa County, Ariz. Send comments to: Mr. George Campbell, Chairman of the Board of Supervisors of Maricopa County, 603 Administration Building, 111 South Third Avenue, Phoenix, Ariz. 85003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Maricopa County, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gila River	323d Ave. (extended)	777
	Brunner Rd. (extended)	807
	Wilson Rd. (extended)	816
	U.S. Route 80	826
	Miller Rd. (extended)	838
	Watson Rd. (extended)	854
	Dean Rd. (extended)	862
	Airport Rd	869
	Jackrabbit Rd	878
	Citrus Rd. (extended)	890
	Cotton Lane (extended)	895
	Sarival Ave. (extended)	904
	Reems Rd. (extended)	911
	Bullard Ave	918
	Litchfield Rd. (extended).	926
	Dysart Rd. (extended)	931
	El Mirage Rd	939
	115th Ave	947
Salt River	do	949
	107th Ave. (extended)	952
	99th Ave. (extended)	959
	83d Ave. (extended)	976
	79th Ave	981
	75th Ave	989
	67th Ave	994
	59th Ave. (extended)	1,007
	51st Avenue Bridge	1,015
	35th Avenue Bridge	1,035
	Scottsdale Rd	1,164
	Hayden Rd	1,173
	Pima Rd. (extended)	1,182
Hassayampa River	Atchison, Topeka & Santa Fe RR (downstream side).	1,845
	Atchison, Topeka & Santa Re RR (upstream side).	1,854
	0.5 mi above AT & SF RR.	1,862
	1.0 mi above AT & SF RR.	1,868
	1.5 mi above AT & SF RR.	1,879
	2.0 mi above AT & SF RR.	1,893
	2.5 mi above AT & SF RR.	1,908
	3.0 mi above AT & SF RR.	1,924
	3.5 mi above AT & SF RR.	1,932
	4.0 mi above AT & SF RR.	1,947
	4.5 mi above AT & SF RR.	1,961
	5.0 mi above AT & SF RR.	1,975
	5.5 mi above AT & SF RR.	1,986
	6.0 mi above AT & SF RR.	2,000
	6.5 mi above AT & SF RR.	2,016
	7.0 mi above AT & SF RR.	2,028
	7.5 mi above AT & SF RR.	2,041
	8.0 mi above AT & SF RR.	2,054
	8.5 mi above AT & SF RR.	2,067
	9.0 mi above AT & SF RR.	2,078
	9.5 mi above AT & SF RR.	2,092
	County boundary	2,104
Agua Fria River	Southern Ave. (extended).	924
	Broadway Rd. extension	934
	Lower Buckeye Rd	948
	U.S. Route 80 (Buckeye Rd.).	963
	Van Buren St	974
	McDowell Rd	986
	Thomas Rd	999
	Indian School RD	1,010
	Camel Back Rd	1,026
	Luke Air Force Base—Glendale Rd.	1,049
	Northern Ave	1,067
	Olive Ave	1,081
	Peoria Ave	1,094
	Cactus Rd. (extension)	1,111
	Atchinson, Topeka & Santa Fe RR.	1,127
	Greenway Rd	1,139
	Bell Rd	1,162
	Pinnacle Peak Rd. (extension).	1,290
New River	Bethany Home Rd. (extension).	1,042
	Glendale Ave	1,065
	Northern Ave	1,080
	Olive Ave	1,093
	Peoria Ave	1,112
	Grand Ave	1,136
	Thunderbird Ave	1,154
	Confluence of Skunk Creek.	1,167
	Bell Rd	1,204
	Union Hills Rd	1,230
	Beardsley Rd	1,253
	Deer Valley Rd	1,282
	Pinnacle Peak Rd	1,311
Skunk Creek	83d Avenue	1,179
	Greenway Rd	1,184
	Bell Rd	1,221
	67th Ave	1,235
	59th Ave	1,270
	51st Ave. (extended)	1,298
	Beardsley Rd	1,329
	Deer Valley Rd. (extended).	1,362
	Pinnacle Peak Rd	1,394
	Happy Valley Rd	1,432
	Black Canyon Highway	1,471

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	2 mi above Black Canyon Highway.	1,545
	Carefree Highway	1,678
Scatter Wash	35th St	1,353
	Deer Valley Dr	1,375
	27th Ave	1,395
Scatter Wash East	Confluence with Scatter Wash.	1,363
	27th Ave	1,390

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28917 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4652]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Santa Cruz County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Santa Cruz County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at County Planners Office, Santa Cruz Courthouse, Nogales, Ariz. Send comments to: Mr. William G. Baffert, Chairman, Board of Supervisors, Santa Cruz County, Santa Cruz County Courthouse, Nogales, Ariz. 85621.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Santa Cruz County, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sonoita Creek	Pendleton Dr	3,439
	Unimproved road	3,523
	Confluence with Fresno Canyon.	3,561
Josephine Canyon	Southern Pacific RR	3,299
	Jeep Trail (most downstream crossing).	3,361
	Jeep Trail (most upstream crossing).	3,531
Ephriam Canyon	State Highway 189 and confluence with Mariposa Canyon.	3,798
	State Highway 189, Southbound Lane-85 ft upstream from centerline.	4003
Mariposa Canyon (Tributary No. 2).	State Highway 189, access road.	3,802
	Trailer Park Rd	3,815
Mariposa Canyon (Tributary No. 1).	Headwall Interstate 19 and confluence with Mariposa Canyon.	3,792
Mariposa Canyon (Valley Profile).	State Highway 189	3,881
	Coronado National Forest boundary.	3,957
Mariposa Canyon (Channel Profile).	Confluence with Nogales Wash.	3,737
	State Highway 189, 10 ft downstream from centerline (upstream crossing).	3,880
	Coronado National Forest boundary.	3,971
Nogales Wash (flow west of U.S. Highway 89 and/or Southern Pacific RR.	U.S. Highway 89	3,654
	Country Club Rd	3,661
	Valle Verde Circle (downstream crossing).	3,683
	Valle Verde Circle (upstream crossing).	3,687
Nogales Wash	Confluence with Potrero Creek.	3,607
	Southern Pacific RR 25 ft upstream from centerline.	3,694
	Baffert Dr culverts	3,734
	Monte Carlo Dr	3,745
	Nogales corporate limits (east flood plain).	3,791
Potrero Creek (tributary No. 1).	Confluence with Potrero Creek.	3,647
	Interstate 19, northbound Lane.	3,654
Potrero Creek (flow west of Southern Pacific RR and Sewage Lagoon Levee).	Confluence with Santa Cruz River.	3,346
	Waste treatment plant road.	3,478
	Southern Pacific RR branch line (most upstream crossing).	3,490
Potrero Creek	Sewage Logoon Levee	3,476
	Pena Blanca Rd	3,521
	Navajo St	3,625
	Meadow Hills Dr	3,678
	Coronado National Forest boundary.	3,742
Agua Fria Canyon	Rio Rico Dr	3,419
	Calle Teruno	3,501
	Camino Agua Fria	3,522
	Coronado National Forest boundary.	3,619
Peck Canyon	Interstate Highway 19 (northbound Lane).	3,355
	Interstate Highway 19 (southbound Lane).	3,358
	Pulido Rd	3,369
	Peck Canyon Dr	3,437
	Coronado National Forest boundary.	3,451
Sopori Wash	Confluence with Santa Cruz River.	3,032
	East Frontage Rd	3,065
	Confluence with Toros Wash.	3,110
	Spori Rach Rd	3,197
	Confluence with Proctor Wash.	3,234
	Confluence with Elias Draw.	3,298
Sopori Wash (flow north along U.S. Highway 89).	U.S. Highway 89	3,070
Santa Cruz River (flow east of Southern Pacific RR).	Gravel Rd	3,062
	Kennedy Rd.—50 ft downstream from centerline.	3,215
	Kenedy RD.-50 ft upstream from centerline.	3,218
	Santa Gertrudis Lane	3,270
	Rio Rico Dr	3,410
Santa Cruz River	Pima-Santa Cruz County Line.	3,028
	Amado Rd	3,060
	Grebbs Rd	3,144
	Williams Rd	3,218
	Santa Gertrudis Lane	3,267
	Confluence with Deck Canyon.	3,351
	Rio Rico Dr.-50 ft downstream from centerline.	3,414
	Rio Rico Rd.-50 ft upstream from centerline.	3,418
	Penna Blanca Rd	3,502
	Confluence with Burro Canyon.	3,543
	River Rd	3,615

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Xavier Way Rd.-55 ft downstream from centerline.	3,666
	Xavier Way Rd.-55 ft upstream from centerline.	3,671
	International boundary-Mexico.	3,727

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28918 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4653]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Conway, Faulkner County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Conway, Faulkner County, Ark. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Conway, Ark. 72032. Send comments to: Mayor Jim Hoggard or Mr. John Henderson, Administrative Assistant, Municipal Building, Conway, Ark. 72032.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Conway, Faulkner County, Ark., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gold Creek	Approximately 200 ft upstream of county road.	278
	Approximately 150 ft upstream of farm road.	282
	Just downstream of Brookfield Dr.	297
Little Creek, main stem.	Approximately 100 ft downstream of Mockingbird Lane.	284
	Approximately 100 ft upstream of U.S. Highway 64.	295
Little Creek, tributary No. 1.	Just downstream of Simon St. (extended).	284
Little Creek, tributary No. 2.	Just upstream of Pamala Lane (extended).	299
	Just upstream of Siebenmorgan Rd.	315
Railroad Creek	Just downstream of Robins St.	296
	Just upstream of South Blvd.	299
Stonedam Creek	Just upstream of Hillman St. (extended).	294
Tucker Creek	Just upstream of Salem Rd.	282
	Just downstream of College Ave.	296
	Approximately 150 ft upstream of Prince St.	309

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Adminstrator.

[FR Doc. 78-28919 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4654]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Healdsburg, Sonoma County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Healdsburg, Sonoma County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 126 Matheson Street, Healdsburg, Calif. Send comments to: Mr. Michael McDonald, City Manager, City of Healdsburg, City Hall, 126 Mateson Stree, Healdsburg, Calif. 95448.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Healdsburg, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Russian River	Healdsburg bridge—centerline.	94
Dry Creek	Canal Way—within corporate limits.	96

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28920 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4655]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Oakdale, Alameda County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Oakdale, Alamaeda County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 280 North Third Avenue, Oakdale, Calif. Send comments to: Mr. Carl Hatfield, City Manager, City of Oakdale, P.O. Box 305, Oakdale, Calif. 95361.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Oakdale, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stanislaus River	Corporate limits located 5,200 ft downstream Highway 120.	99
	Highway 120 bridge—50 ft*.	104
	Corporate limits located 4,050 ft upstream Highway 120.	108
	Downstream corporate limits in Kerr Park.	112
	Upstream corporate limits in Kerr Park.	113

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28921 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4656]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pinole, Contra Costa County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Pinole, Contra Costa County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 2131 Pear Street, Pinole, Calif. Send comments to: Honorable Thomas Gozzano, Mayor, City of Pinole, 2131 Pear Street, Pinole, Calif. 94564.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Pinole, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pinole Creek	Southern Pacific RR	6
	Tennent Avenue Bridge.	7
	Atchison, Topeka & Santa Fe RR.	11
	San Pablo Avenue Bridge.	14
	Pinole Valley Rd. (1st crossing).	20
	Pinole Valley Rd. (2d crossing).	49
	Ramona Ct	54
	Simas Ave	71
	Pinole Valley Rd. (3d crossing).	101
	Pinole Valley Rd. (4th crossing).	122
	Upstream corporate limits (40 ft downstream).	140

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28922 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4657]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Lafayette, Boulder County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Lafayette, Boulder County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 201 East Simpson, Lafayette, Colo. Send comments to: Hon. Roy Roberts, Mayor, City of Lafayette, City Hall, 201 East Simpson, Lafayette, Colo. 80026.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Lafayette, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coal Creek	South 120th St.—50 ft*	5,142
	Burlington Northern RR.—100 ft.	5,147
	U.S. Highway 287	5,167
	Most upstream corporate limits.	5,260
Rock Creek	Downstream corporate limits—100 ft upstream.	5,136
	South 120th St.	5,152
	Upstream corporate limits.	5,194

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28923 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4658]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Clearwater County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

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Clearwater County, Idaho. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Clearwater Courthouse, Orofino, Idaho. Send comments to: Mr. William T. Bird, Chairman, Board of Commissioners, Clearwater . County, Clearwater County Courthouse, Orofino, Idaho 83544.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Clearwater County, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clearwater River...	100 ft upstream confluence with North Fork Clearwater River.	981
	State Highway 7—50 ft*.	1,013
Orofino Creek.....	Private bridge—50 ft*	1,038
	Konkolville bridge—50 ft*.	1,188
	1st crossing county bridge—100 ft*.	1,239
	2d crossing county bridge—10 ft*.	1,329
Whiskey Creek	County bridge—40 ft.....	1,217
	Camas Prairie railroad bridge—60 ft*.	1,229
	1st crossing private bridge—40 ft*.	1,267
	2d crossing private bridge—20 ft*.	1,368
Jim Ford Creek	Camas Prairie railroad bridge—40 ft*.	1,042
	County bridge—60 ft*	1,058
	80 ft upstream convergence with Grasshopper Creek.	2,985
Grasshopper Creek.	80 ft upstream confluence with Jim Ford Creek.	2,985
Elk Creek.....	Elk River Dam—50 ft*...	2,823
	Elk Creek Bridge—20 ft*	2,825

*Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28924 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4659]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Hodgkins, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Hodgkins, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Hodgkins Village Hall, 8990 Lyons Street, Hodgkins, Ill. 60525. Send comments to: Mr. Leon Cook, President of the Village of Hodgkins, 8990 Lyons Street, Hodgkins, Ill. 60525.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Hodgkins, Cook County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
DesPlaines River...	Downstream corporate limit of Willow Springs and Hodgkins.	598
	Interstate 55	598
	Upstream corporate limit of Hodgkins and unincorporated Cook County.	599

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28925 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4660]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Marengo, McHenry County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Marengo, McHenry County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Marengo, Ill. Send comments to: The Honorable James Cowan, Mayor, City of Marengo, 120 East Prairie Street, Marengo, Ill. 60152.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Marengo, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).)

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed Creek	Northern corporate limit.	798
	750 ft upstream of northern corporate limit.	800
	1,320 ft downstream from State St.	802
	500 ft downstream of State St.	803
	At State St.....	806
	At Hale St.....	807
	At Page St.....	808
	890 ft upstream of Telegraph Ave.	810
	200 ft upstream of Prospect St.	811
	Eastern corporate limit..	813

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28926 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4661]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Mokena, Will County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Mokena, Will County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the village clerk's office, Mokena, Ill. Send comments to: the Honorable Robert L. Teske, mayor, village of Mokena, 11004 Carpenter Street, Mokena, Ill. 60448, attention: Mr. Owen Maue, village administrator.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Mokena, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hickory Creek	At westernmost corporate limit.	657
	1,650 ft upstream of westernmost corporate limit.	659
	900 ft downstream of Wolf Rd.	662
	Just downstream of Wolf Rd.	663

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrtor.

[FR Doc. 78-28927 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4662]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Jeffersonville, Clark County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Jeffersonville, Clark County, Ind. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the city clerk's office, City County Building, Jeffersonville, Ind. Send comments to: The Hon. Richard Vissing, mayor, city of Jeffersonville, 502 Court Avenue, Jeffersonville, Ind. 47130

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Jeffersonville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Just upstream of Interstate 65 bridge.	450
	Upstream corporate limit.	450
Silver Creek	Just upstream of ConRail.	462
Woodland Court tributary.	Downstream corporate limit.	463
	Downstream side of Northside Church Rd.	472
	Upstream side of Northern Church Rd.	475
	Upstream corporate limit.	475
Greenbriar tributary.	Upstream side of Reeds Lane.	454
	Upstream side of Harmony Lane.	456
	Upstream side of 10th St.	457
Hamburg Pike tributary.	Downstream corporate limit.	455
	Downstream side of Hamburg Pike.	464
Mill Creek	Downstream side of Interstate 65 southbound.	442
	Upstream side of Eastern Blvd.	443
	Upstream side of ConRail.	444
	Upstream corporate limit (Hamburg Pike).	446

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28928 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4663]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Edgerton, Johnson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Edgerton, Johnson County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Edgerton, Kans. Send comments to: The Hon. Robert P. Burton, Mayor, City of Edgerton, City Hall, Edgerton, Kans. 66021.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Edgerton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Marin Creek.....	Downstream side of Santa Fe RR. at corporate limit.	960
	Upstream side of the second crossing of the Sante Fe RR. over Martin Creek.	964
	500 ft downstream from U.S. Highway 56.	965
Santa Fe Lake tributary.	Eastern corporate limits below Santa Fe Lake Dam.	960
	Downstream side of Santa Fe Lake Dam.	965
	Upstream side of Santa Fe Lake Dam.	969
	Corporate limit 1,600 ft upstream from Santa Fe Lake Dam.	969

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28929 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4664]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Hopkinsville, Christian County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hopkinsville, Christian County, Ky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, 101 North Main Street, Hopkinsville, Ky. 42240. Send comments to: Maor Al Rutland, Municipal Building, 101 North Main Street or Mr. Richard Bernhardt, planning director, Hopkinsville Planning Commission, Courthouse Annex, Hopkinsville, Ky. 42240.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hopkinsville, Christian County, Ky., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North fork of the Little River.	Just downstream of Millbrook Dr.	512
	Just downstream of North Dr.	523
	Just downstream of Virginia St.	527
South fork of the Little River.	Just downstream of Marietta Dr.	519
	Just downstream of Fort Campbell Blvd. (U.S. Highway 41A).	520
	Just downstream of Nashville Rd.	528
Sanderson Creek...	Just downstream of Glass Ave.	526
	Just downstream of Andrew Ave.	540

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENZ,
Federal Insurance Administrator.

[FR Doc. 78-28930 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4665]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Monroe, Ouachita Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Monroe, Ouachita Parish, La. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or

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show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 123, Monroe, La. 71201. Send comments to: Mayor W. L. Howard, City Hall, P.O. Box 123, Monroe, La. 71201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Monroe, Ouachita Parish, La., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youngs Bayou	Just upstream of Frontage Rd.	69
Railroad Canal	Just upstream of Thomas St.	73
Swayze School Canal.	Just upstream of Frontage Rd, upstream of south bound lane of U.S. 165.	70
West prong Youngs Bayou.	Just upstream of Adams St.	73
	Just upstream of Roselawn Ave.	74
Oliver Rd. Canal	Just upstream of DeSiard St.	73
	Just upstream of Louisville Ave.	74
	Just upstream of Forsythe Ave. (downstream crossing).	75
East branch Oliver Rd. Canal.	Just downstream of Missouri Pacific RR.	75
East prong Youngs Bayou.	Just downstream of Calypso St.	72
	Just upstream of Adams St.	73
Rogers St. Canal	Just upstream of Renwick St.	72
White St. ditch	Just upstream of Powell St.	74
Airport Canal	Approximately 120 ft downstream of the Missouri Pacific RR.	74
Ouachita River	Just upstream of U.S. Highway 80 bridge.	85

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28931 Filed 10-13-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4666]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Montague, Franklin County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Montague, Franklin County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Clerk, One Avenue A, Turner's Falls, Mass. Send comments to: Chairman, Board of Selectmen, Town of Montague, Town Hall, One Avenue a, Turner's Falls, Mass. 01376.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Montague, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	Boston & Maine RR Bridge—100 ft*.	140
	Fifth Street Bridge—100 ft*.	153
	Turner's Falls Bridge—20 ft*.	160
	Turner's Falls Bridge 20 ft*.	207

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Millers River	East Mineral Rd. Bridge—50 ft*..	192
	Bridge Street Bridge—150 ft**..	216
	Bridge Street Bridge—50 ft*..	234
	Main Street Bridge—100 ft*..	238
	Breached dam—100 ft**.	250
	Breached dam—50 ft*.....	264
Sawmill River	Farm Bridge—50 ft*.....	138
	Meadow Rd. Bridge—100 ft*..	155
	Dam located 1,000 ft upstream Meadow Road Bridge:.	
	100 ft**.....	159
	100 ft*.....	171
	Dam located 159 ft downstream Depot Street Bridge:.	
	50 ft**.....	175
	50 ft*.....	192
	Central Street Bridge—50 ft*..	212
	South Main Street Bridge—100 ft*..	230
	Bridge—50 ft*.....	290
	Dam located 900 ft upstream Central Vermont RR Bridge:.	
	50 ft**.....	305
	100 ft*.....	313
	Chestnut Hill Rd.—50 ft*..	392
	North Leverett Rd. Bridge—50 ft*..	405
Hatchery Brook	Dam and footBridge—50 feet**..	139
	Dam and footBridge—20 ft*..	148
	Beaubiens Rd. Bridge—20 ft*..	150
Pond Brook	Swamp Rd.—60 ft**.....	209
	Swamp Rd.—50 ft*.....	214
	Dam located 1,045 ft upstream Swamp Rd:.	
	80 ft**.....	214
	20 ft*.....	223

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-28932 Filed 10-13-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP 7E1953/P92; FRL 987-6]

PROPOSED TOLERANCES FOR THE PESTICIDE CHEMICAL ALDICARB

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide aldicarb on coffee beans. The proposal was submitted by Union Carbide Corp. This regulation would establish a maximum permissible level for residues of aldicarb on coffee beans.

DATE: Comments must be received on or before November 15, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 202-755-3915.

SUPPLEMENTARY INFORMATION: Union Carbide Corp., 1730 Pennsylvania Ave. NW., Washington, D.C. 20006, has submitted a pesticide petition (PP 7E1953) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.269 be amended by the establishment of a tolerance for combined residues of the insecticide and nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methylsulfinyl)propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)propionaldehyde *O*(methylcarbamoyl)oxime in or on the raw agricultural commodity coffee beans at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included two-year rat and dog-feeding studies with a no-observable-effect level (NOEL) of 0.3 milligram (mg)/kilogram (kg) of body weight (bw)/day and 3.3 ppm respectively; an 18-month mouse feeding study with an NOEL of 0.7 mg/kg bw; a rat teratology study (negative at 1 mg/kg bw/day); a hen neurotoxicity study (negative at 4.5 mg/kg bw/day); and a three-generation rat production study with an NOEL of 0.7 mg/kg bw.

Based on the two-year rat feeding study with an NOEL of 0.3 mg/kg bw/day and using a 100-fold safety factor, the acceptable daily intake (ADI) for man is 0.003 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerances does not exceed the ADI. (Tolerances have previously been established for residues of aldicarb on a variety of raw agricultural commodities at levels ranging from 1 ppm to 0.002 ppm.)

The metabolism of aldicarb is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of aldicarb, nor are there any other relevant considerations involved in establishing the proposed tolerance, nor are any desirable data lacking from the petition. There is no reasonable expectation of residues in eggs, meat, milk, or poultry.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 0.1 ppm on coffee beans established by amending 40 CFR 180.269 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before November 15, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E1953/P92". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 6, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

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It is proposed that Part 180, Subpart C, § 180.269 be amended by alphabetically inserting coffee beans at 0.1 ppm in the table to read as follows:

§ 180.269 Aldicarb; tolerances for residues.

Commodity:	Parts per million
Coffee beans	0.1

[FR Doc. 78-29112 Filed 10-13-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 63 and 64]

[CC Docket No. 78-219]

REVISION OF PROCESSING POLICIES FOR WAIVERS OF THE TELEPHONE COMPANY-CABLE TELEVISION "CROSS OWNERSHIP RULES"

Order Extending Time for Filing Comments and Reply Comments

Revision of the processing policies for waivers of the telephone company-cable television "cross ownership rules" (CC docket No. 78-219).

AGENCY: Federal Communications Commission.

ACTION: Order granting extension of time for the filing of comments.

SUMMARY: This item grants an extension of time for the filing of comments in CC docket No. 78-219, which proposes to revise the processing policies for waivers of the telephone company-cable television "cross ownership rules," sections 63.54 and 64.601 of the Commission's rules and regulations.

DATES: Comments must be received before October 18, 1978. Reply comments must be received before November 1, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Richard O. Pullen, Common Carrier Bureau, 202-632-6440.

SUPPLEMENTARY INFORMATION:

Adopted: September 15, 1978.

Released: October 11, 1978.

Order. In the matter of revision of the processing policies for waivers of the telephone company-cable television "cross ownership rules," §§ 63.54 and 64.601 of the Commission's rules and regulations, CC docket No. 78-219.[1]

1. The Commission, by the Chief of the Common Carrier Bureau acting pursuant to delegated authority, has before it a request for extension of time filed August 30, 1978, by the National Cable Television Association (NCTA). NCTA asks that the time for filing comments in the above-captioned matter be extended from September 18, 1978, to October 18, 1978. The request is unopposed.

2. NCTA argues that a 30-day extension is required to complete the study necessary to provide the Commission with documentation on the feasibility of independent cable television construction in rural areas.

3. Since this matter is unusually complex, we believe that good cause has been shown for a reasonable extension of time. *Accordingly, it is ordered,* Pursuant to the delegated authority of § 0.303(c), that NCTA's request for a 30-day extension of time is granted, and that comments will be due on or before October 18, 1978, with reply comments due on or before November 1, 1978.

LARRY F. DARBY,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-29131 Filed 10-13-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[Docket No. 21513; RM-2882]

FM BROADCAST STATION IN FREEPORT, TEX.

Request for Supplemental Information

AGENCY: Federal Communications Commission.

ACTION: Request for supplemental information.

SUMMARY: FCC requests information concerning the availability of a transmitter site for an FM facility on class C channel 273 at Freeport, Tex. This action is expected to bring a first FM radio station to Freeport. This channel assignment resulted from a petition filed by Weymar, Inc.

DATES: Comments must be filed on or before December 4, 1978. Reply comments must be filed on or before December 26, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 4, 1978.

Released: October 12, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Freeport, Tex.), docket No. 21513, RM-2882.[1]

1. We have under consideration in this proceeding the comments filed in response to our notice of proposed rulemaking which proposed the assignment of class C channel 273 to Freeport, Tex. (1970 population 11,997), as its first FM assignment.[1a] Comments were filed by Weymar, Inc. ("Weymar"), petitioner in this proceeding and Coastal Broadcasting, Inc. ("Coastal"), licensee of AM Station KBRZ, Freeport, Tex., and FM station KGOL, Lake Jackson, Tex.[2]

2. As stated in the notice, assignment of channel 273 to Freeport requires that the transmitter site be located approximately 21 kilometers (13 miles) southwest of the Freeport post office in order to comply with the minimum distance separation requirements. From such a site it would be able to provide the requisite city coverage to Freeport. Since the required site for the proposed assignment is located on a narrow strip of land abutting the Gulf of Mexico, the petitioner was requested to indicate in its comments the basis upon which it believes that such a transmitter site could be obtained. In response to this request, Weymar conducted what it terms an extensive study of the area in question. Petitioner determined that the area it had designated in its petition as the "permissible site location zone" is situated at the extreme western edge of what presently is part of the San Bernard National Wildlife Refuge which is operated by the U.S. Fish and Wildlife Service ("Service"). According to Weymar, it has had preliminary discussions with representatives of the Regional Director of the Fish and Wildlife Service in Albuquerque, N. Mex., concerning the availability to Weymar of a small tract of land within the western edge of the Refuge for use as a transmitter site.[3] During

[1] See 43 FR 36285, Aug. 16, 1978.

[1] See 43 FR 1511, Jan. 10, 1978.

[1a] No class A channels are available for assignment to Freeport, Tex.

[2] A pleading styled as a supplemental pleading by Weymar, although actually a late-filed reply, shall be considered as it is only 1 week late, not prejudicial to the party opposing the proposal, and will assist the Bureau in determining the appropriate action to be taken at this time.

[3] Petitioner submits that at this outer edge roads and other means of access are available as well as means of bringing to the site necessary utility and other services. In response to Coastal's questions regarding site access, Weymar notes that while access is not via superhighway or even paved roads, it is available and adequate for maintenance. Petitioner submits that if channel 273 is assigned to Freeport, in its application for use of the frequency, it will propose to locate its studio in a more convenient lo-

Footnotes continued on next page

these discussions, petitioner was advised that the bird flyways had been mapped with some precision. With this information plotted against the location of petitioner's "permissible zone," Weymar submits that a location for its tower, compatible with the purposes of the Refuge is feasible. Based on its discussion with the Fish and Wildlife Service, petitioner asserts that it is confident that it will be able to obtain approval of its application for obtaining a lease for the site in question which it has submitted to the Service.

3. In opposition to the proposal, Coastal submits that William Fisher of the Regional Office of the Fish and Wildlife Service confirmed receipt of a request for a "permit" to construct a radio station in the San Bernard National Wildlife Refuge and stated that such a request might be granted if it is determined that such a use is consistent with the purposes of the Refuge. However, according to Coastal, Ron Bisbee, manager of the San Bernard National Wildlife Refuge, noted that structures such as antenna towers and their guy wires are a severe hazard to the flight patterns of birds. In Coastal's opinion, it is apparent from its discussion with Mr. Bisbee that a structure such as an antenna tower would be incompatible with a bird sanctuary and refuge.

4. As noted by Coastal, there is a serious question as to whether any transmitter will be allowed in the Refuge area. Thus, it would be premature to assign channel 273 to Freeport, Tex., at this time. As stated in *Pinckneyville, Illinois,* 42 FR 36258, 41 R.R. 2d 69 (1977), in making assignments, we require a reasonable assurance that a transmitter site meeting the applicable Commission requirements would be available. The information presently available to us does not provide a basis for such a conclusion in regard to the Freeport proposal. Thus, Weymar should inform the Commission of the progress of its negotiations with the Fish and Wildlife Service and the likelihood of its obtaining the Refuge site.

5. Authority for the action contained herein appears in section 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations.

6. Interested parties may file comments on or before December 4, 1978, and reply comments on or before December 26, 1978. All submissions by parties to this proceeding, or persons acting on behalf of such parties, shall be made in written comments, reply comments, or other appropriate pleadings.

Footnotes continued from last page

cation and request Commission authority to operate its transmitter by remote control.

7. In accordance with the provisions of § 1.415 and 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau

[FR Doc. 78-29132 Filed 10-13-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-330; RM-3145]

FM BROADCAST STATION IN PINCONNING, MICH.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a class A FM channel to Pinconning, Mich. The proposal for that community's first FM assignment was made in a petition filed by David C. Schaberg.

DATES: Comments must be filed on or before December 4, 1978. Reply comments must be filed on or before December 26, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 5, 1978.

Released: October 11, 1978.

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Pinconning, Mich.), BC docket No. 78-330, RM-3145.

1. The Commission has under consideration a petition for rulemaking[1] seeking the amendment of the Commission's rules, the table of FM assignments. The petition was filed by David C. Schaberg ("petitioner"), proposing the assignment of FM channel 265A on a hyphenated basis to the communities of Standish and Pinconning, Mich. The channel could be assigned in conformity with the minimum distance separation requirements without affecting the present assignments in the FM table. Petitioner states that he will file an application for the proposed channel, if assigned. No responses to the proposal have been received.

2. Standish (population 1,184), seat of Arenac County (population 11,149), is located approximately 45 kilometers (28 miles) north of Bay City, Mich. Pinnconning (population 1,320), in Bay County (population 117,339),[2] is located approximately 14 kilometers (9 miles) south of Standish. There is no local aural broacast service in either Standish or Pinconning.

3. In support of his proposal, petitioner states that the area is known as the "Garden Spot of Michigan," which processes and produces more and varied kinds of agricultural products in 100 square miles than most States produce. He notes that the area is rapidly becoming a tourist center because of the availability of lake front property on Lake Huron. Petitioner claims the proposed assignment could serve the interests of all residents of the Standish-Pinconning area and would provide for an outlet for the expression of local views.

4. Although petitioner requests assignment of the channel on a hyphenated basis to Standish and Pinconning, no justification has been shown for doing so. Therefore, the assignment will be proposed for Pinconning, the larger of the two communities. However, if the channel is assigned as proposed, it would be available for use at Standish under the provisions of § 73.202(b) of the rules since the communities are separated by less than 16 kilometers (10 miles).

5. Pinconning is located within 402 kilometers (250 miles) of the United States-Canada border and the proposed assignment requires coordination with the Canadian Government before it can be adopted.

6. In view of the foregoing information, and the fact that the proposed FM channel could bring a first local aural broadcast service to Pinconning, the Commission proposes to amend the FM table of assignments, § 73.202(b) of the rules, with respect to Pinconning, Mich., as follows:

City	Channel No.	
	Present	Proposed
Pinconning, Mich		265A

7. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and

[1] Public notice of the petition was given on July 18, 1978, report No. 1134.

[2] Population figures are taken from the 1970 U.S. Census.

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filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before December 4, 1978, and reply comments on or before December 26, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposal's advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.145 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-29134 Filed 10-13-78; 8:45 am]

[6712-01-M]

[47 CFR Parts 83 and 91]

[SS Docket No. 78-324; FCC 78-701]

POLLUTION PREVENTION, TO BROADEN PERMISSIBLE COMMUNICATIONS ABOARD VESSELS INVOLVED IN LARGE OIL TRANSFER OPERATIONS

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: Amendment of rules in regard to use of frequencies aboard ship (involving both onboard communications (Maritime Services) and low-power (2 watts) Business Radio Service); to permit vessels to comply with pollution prevention rulemaking in progress by the United States Coast Guard; in connection with pollution prevention, to expand and to revise the current uses of frequencies available for on-board communications and to apply those same uses to low-power Business Radio frequencies when used aboard ship.

DATES: Comments must be received on or before November 15, 1978, and reply comments must be received on or before November 27, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Walter E. Weaver, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: September 26, 1978. Released: October 12, 1978.

In the matter of amendment of parts 83 and 91—to aid pollution prevention, to broaden permissible communications aboard vessels involved in large oil transfer operations, SS Docket No. 78-324.

1. The Commission is proposing to amend its rules: (1) To broaden the permissible communications which may be handled on the onboard frequencies aboard vessels involved in large oil transfer operations; and (2) withdraw authority for use of the low-power (2 watts) Business Radio Service frequencies aboard ship.

2. The FEDERAL REGISTER of June 27, 1977 (42 FR 32670), sets forth proposed rule amendments of 33 CFR Parts 154, 155, and 156 released by the United States Coast Guard (USCG) in regard to pollution prevention applicable to vessel and oil transfer facilities. In part, these proposed rules will required that a communication capability be provided between persons located at both ends of a connecting hose through which more than 250 barrels of oil are transferred. It applies to all types of vessels (tanker, dry cargo, barge, lighter, etc.) and whether the oil transferred is cargo or is to be used as fuel (bunkering).

3. The proposed amendment of part 83, § 83.815(a)(2), broadens the usage which may be made of onboard communication channels, to meet the expanded requirement included in the USCG proposed rules. The frequencies which are available for onboard communications are also available under the Business Radio Service rules (part 91). The proposed amendments of part 91 have two objectives (1) to discontinue licensing ship stations to use these frequencies under part 91, and (2) in the future to grant such licenses only under part 83. This action will remove the current inconsistency between parts 91 and 83 and, thereby, will apply uniformly to all ship stations the conditions of use set forth in subpart Z of part 83 of the rules.

4. The proposed amendments to the Commission's rules as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 (b), (c), (d), (f), (g), and (r) of the Communications Act of 1934, as amended.

5. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 15, 1978, and reply comments on or before November 27, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

6. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Parts 83 and 91 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES.

In § 83.815, paragraph (a)(2) is amended to read as follows:

§ 83.815 Points of communication.

• • • • • •

(a) • • •

(2) For pollution prevention by spillage, from one ship to another ship, barge, or lighter, and return, or from ship to dock for large (250 barrels or greater) oil transfer operations of cargo vessel fueling (bunkering).

• • • • • •

Part 91—INDUSTRIAL RADIO SERVICES

In § 91.554, paragraph (b)(49) is amended and subparagraph (b)(50) is reserved, to read as follows:

§ 91.554 Frequencies available.

• • • • • •

(b) • • •

(49) This frequency is used on a shared and cooperative basis with onboard stations in the maritime mobile service. To provide for the uniform usage of this frequency by ship stations in the maritime mobile service, a station license for use aboard ship will be granted only under and subject to the provisions of subpart Z of part 83 of this chapter. Any license to use this frequency granted under this part does not authorize operation aboard a ship.

(50) [Reserved]

• • • • • •

[FR Doc. 78-29133 Filed 10-13-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 229]

[Docket No. RSGM-1, Notice 2]

LOCOMOTIVES, PASSENGER CARS, AND CABOOSES

Proposed Minimum Safety Requirement for Glazing Materials Installed in Windows

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to add a new part 229 to establish minimum safety requirements for glazing materials that are installed in the windows of locomotives, passenger cars and cabooses. The intended effect of this regulation is to reduce the risk of death or serious injury for railroad crew members and railroad passengers resulting from such persons being struck by flying objects, such as bullets.

DATES: (1) Written comments must be received on or before December 15, 1978. Comments received after that date will be considered to the extent practicable. (2) A public hearing will be held at 10 a.m. on November 29, 1978. (3) Any person who desires to make an oral statement at the public hearing should notify the FRA Docket Clerk before November 22, 1978.

ADDRESSES: (1) Written comments should identify the docket and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel (RCC-1), Federal Railroad Administration (Trans Point Building), 2100 Second Street SW., Washington, D.C. 20590. All written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 4406 of the Trans Point Building at the address listed in this paragraph. (2) A public hearing will be held at 10 a.m. on November 29, 1978 in room 3201, Trans Point Building, 2100 Second Street SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

PRINCIPAL AUTHORS

Principal Program Person: Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-0924. Principal Attorney: Lawrence I. Wagner, Office of the Chief Counsel, Federal Railroad Adminstration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION: On September 21, 1978, the Association of American Railroads (AAR) and the Railway Labor Executives Association (RLEA) jointly filed a rulemaking petition requesting that FRA issue a regulation which would require the use of improved glazing materials in the windows of locomotives, passenger cars, and cabooses. The purpose of this notice is to respond to that joint AAR/RLEA request by proposing to adopt minimum safcty standards for glazing materials that are used in the windows of railroad rolling equipment.

BACKGROUND

The FRA has been studying the feasibility of using improved glazing materials for some period of time. After completing an initial staff review, FRA sponsored a series of public meetings on this topic during 1976 and 1977. In order to obtain additional information from the public the FRA published an advance notice of proposed rulemaking (ANPRM) on March 10, 1977 (42 FR 13309). The analysis of the responses to that ANPRM was completed just prior to receipt of the AAR/RLEA request.

Although the issuance of this notice is directly related to the prior ANPRM, FRA has decided to reduce the scope of the applicability of the proposed rule. At the time FRA issued the ANPRM, it was believed that any regulation relating to glazing materials should be applicable to all railroad rolling equipment, including that used in rapid transit operations. This notice proposes to exclude equipment used in rapid transit operations from the requirements of this rule since there has been a judicial finding that FRA lacks the legal authority to regulate rapid transit operations. (*Chicago Transit Authority* v. *Flohr*, 570 F.2d 1305 (7th Cir. 1977)).

In view of the reduced scope of applicability, FRA has omitted from the following summary of the responses to the ANPRM, the views expressed by any party directly related to rapid transit operations. Furthermore, FRA has omitted any views expressed by the AAR and RLEA in view of their recent joint petition for the issuance of a regulation.

In soliciting views and comments, FRA posed a series of seven questions in the ANPRM. The first of these questions inquired whether any party believed that FRA should issue a regulation or whether alternate courses of action could be suggested together with some analysis of the cost and effectiveness involved. The responses to this question generally supported the issuance of a regulation. Responses from the Long Island Railroad (LIRR), the National Railroad Passenger Corporation (Amtrack), the Southeastern Pennsylvania Transportation Authority (SEPTA), the National Transportation Safety Board (NTSB), the State of Washington Utilities and Transportation Commission (W.U. & T.C.), the State of Oregon Public Utility Commission (OPUC), and organizations identified as the Ohio Association of Railroad Passengers (OARP) and the Louis T. Klauder Associates all urged adoption of Federal glazing standards. Two railroads, the Elgin & Joliet and Eastern (E.J. & E.) and the Consolidated Rail Corporation (CONRAIL) indicated that they opposed Federal regulation because they do

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not believe the vandalism problem to be of such magnitude as to warrant regulation. Both the E.J. & E. and CONRAIL indicated a belief that a better solution to vandalism would be increased law enforcement activity. Several suppliers of glazing material suggested that "Federal attention" should be given to the issue but generally indicated that "Flexibility" should be given so that the railroads could select materials based on their assessments of the hazards involved.

The second question contained in the ANPRM sought to obtain any data that might be available about the frequency and magnitude of the vandalism problem as it pertained to the issue of glazing. The responses to this question were very limited. The E.J. & E. indicated no record of vandalism problems involving glazing for a period of in excess of 2 years. CONRAIL provided some data both on a system wide basis and on the basis of its commuter operations in the New York City area. In supplying this data, CONRAIL noted that several years ago a program of installing improved glazing materials in the windows of its New York commuter equipment had been instituted and that this program resulted in reduced costs for replacement windows as well as a reduction in personal injuries for passengers.

The third question contained in the ANPRM sought to obtain suggestions for alternate courses of action to the issuance of a Federal regulation. FRA received very limited responses to this question. The use of increased law enforcement activity to deter vandals was the most frequently mentioned alternative. The use of grates or screens over the windows and the installation of fences along railroad rights of way were the other alternatives proposed. No commenter was able to assess the cost or effectiveness of these alternatives.

The fourth question contained in the ANPRM inquired whether a Federal Requirement for glazing should be applicable only to new equipment or whether existing equipment should also have such glazing installed. This question also sought data on the costs of each approach, their effectiveness and the amount of time needed for implementation. Except for the two railroads that voiced opposition to any standards, all parties that responded to this question believed that new equipment should contain improved glazing. These commenters were not in total agreement on the issue of replacing existing materials with one party opposing replacement requirements and another limiting the replacement effort to a need to repair broken or damaged glazing. These parties were unable to provide cost data, other than rough approximations, in the absence of data about the actual specifications for the new glazing materials.

The fifth question contained in the ANPRM inquired about types of objects and possible velocity for those objects that FRA ought to consider in developing a glazing standard. Most replies suggested that FRA use the prior experience of the railroads to determine the level of impacts and generally implied that the highest necessary level of protection should be required on the basis of that experience. Several commenters suggested that FRA adopt the same standards used in the automotive or aircraft industry.

The sixth question contained in the ANPRM inquired about the availability of material to withstand the impacts noted by FRA in the background data to the notice. The responses to this question generally indicated that glazing was available to meet these proposed impact levels. The manufacturers or suppliers who responded voiced reservations about the data provided by FRA concerning testing methods and criteria. They indicated a need to resolve these data questions before responding fully on the issues of thickness, cost and supply availability.

The last question contained in the ANPRM inquired about the need for specific performance criteria, testing methods to verify that criteria, and the appropriateness of providing variable criteria for different window locations. The parties who responded to this question indicated a need to have FRA established such criteria, except for two commenters who recommended use of existing standards and one commenter who suggested the AAR be allowed to set criteria. All commenters, who responded to the testing methods portion of the question, indicated the need to establish such methods. Likewise, those commenters who responded to the need to vary the criteria by glazing location stated that in their judgement this was a correct way to proceed but one commenter suggested a need to verify the impact energy levels experienced at various locations.

Subsequent to publication of the ANPRM, FRA decided to conduct a series of tests at Aberdeen Proving Grounds to obtain additional data about readily available or "off the shelf" glazing materials. As a part of this test effort, FRA reviewed the available data to determine the actual types and levels of the impacts currently being experienced by virtue of bullets or other objects that are striking the glazing materials. This data indicated the various levels of the impacts to which glazing materials are subjected. Using this spectrum of potential impact levels, FRA began subjecting existing samples of currently available glazing materials to actual impact testing. On the basis of the data collected through this impact testing, FRA was able to obtain reliable data on possible performance standards for glazing materials.

These potential performance criteria were assessed in terms of the existing FRA regulations, which are contained in §§ 230.229(b) and 230.423(b) of the locomotive inspection regulations (49 CFR 230.229(b), 230.423(b)), and § 231.10 of the safety appliance standards (49 CFR 231.10), as well as in terms of any known State governmental provisions relating to glazing for the railroad rolling equipment. That assessment led FRA to conclude that none of the existing standards requires widespread use of glazing materials designed to meet the impact levels to which such glazing is consistently exposed. This absence of effective regulations, when combined with the general tenor of the responses to the ANPRM and the joint AAR/RLEA petition has led FRA to conclude that it is appropriate to propose minimum Federal requirements for the glazing materials that are utilized in the windows of locomotives, passenger cars and cabooses.

Proposed Rule Analysis

The tests conducted at Aberdeen Proving Grounds Demonstrated that in order to provide meaningful performance criteria for glazing materials, it would be necessary to establish penetration resistance levels for a combination of two extremes, mass and velocity. After considering the range of possible penetration resistance levels for glazing materials, FRA selected the level of penetration resistance that it believes will provide the appropriate degree of safety enhancement for the occupants of locomotives, passenger cars or cabooses. The level of penetration resistance selected by FRA is contained in the appendix to the proposed rule.

The proposed level of penetration resistance is expressed in terms of the resistance that a given specimen of glazing material will provide when subjected to the high velocity impact generated by a .22 caliber long rifle bullet and to the massive impact created by a standard cinder block. Although the penetration resistance levels are expressed in this proposal in terms of a specific rifle bullet and a specific large object, glazing materials that survive such impacts will resist impact penetration from other weapons and other large objects under a variety of conditions.

The level of penetration resistance being proposed by FRA is equivalent to that suggested in the AAR/RLEA request. The proposed level of penetration resistance will also provide protection from virtually all of the impact sources mentioned in response to the ANPRM. However, the level of penetration resistance being proposed will not provide impact protection in all instances since weapons are available that can penetrate even the steel siding of railroad equipment.

It should be noted that the performance criteria being proposed by FRA contain differences for side facing and end facing glazing. In this manner, FRA will require that end facing glazing, that is glazing located so that it faces the end of the equipment (on which the coupler is mounted), will be capable of withstanding the higher impact levels encountered when impacting large suspended objects.

FRA proposes that this improved or "certified" glazing be installed in all windows of newly constructed locomotives, passenger cars and cabooses. This requirement would become mandatory within 6 months of the date that this proposal is adopted as a final rule. FRA believes that builders of railroad equipment will be capable of complying within that time interval since improved glazing is readily available from glazing manufacturers. FRA also believes that if existing equipment is rebuilt, the improved or "certified" glazing should be installed as part of the rebuilding process. This proposal reflects that FRA position and includes a definition of the term rebuilt to provide a clear indication of when that proposed requirement would be applicable.

FRA is also proposing that improved or "certified" glazing be installed in existing railroad equipment. The approach being proposed for existing equipment is more complex than that outlined for new or rebuilt equipment. This complexity reflects the different issues that FRA reconciled in preparing this proposal. These issues included the longstanding practice of some railroads to voluntarily install stronger glazing in recent years; the direct and immediate impact that a retrofitting program, with its attendant out of service time, can have to reduce or limit the capability of a railroad to render effective service; and the available data which suggest that vandalism to equipment operating exclusively within a specific yard is a very limited problem.

In resolving these issues, FRA has decided to adopt the suggestions made by AAR and RLEA since their joint approach, in FRA's judgment, strikes the proper balance among the competing policy considerations. Consequently, FRA proposes to require that only those locomotives which a railroad intends to have a crew occupy must be fitted with improved glazing. In this way a railroad that seeks to minimize its retrofit program can confine that effort to those locomotives which are designated as lead or controlling units. By assuring that these units are always in the lead or are always the controlling unit occupied by the crew the railroad need not modify its entire fleet of locomotives to comply with this proposal. FRA has also attempted to limit the impact of the locomotive retrofit proposal by excluding from this requirement existing yard locomotives that are used exclusively within the confines of a single yard. Finally, FRA attempted to avoid requiring the retrofitting of locomotives that are currently equipped with some of the various types of stronger or "shatterproof" glazing. In what may be referred to as a "grandfather clause", FRA proposes to limit the retrofitting of such "shatterproof" glazing to those instances in which that glazing is broken or damaged and needs replacement. To determine whether a specific type of "shatterproof" glazing material was in fact installed in existing locomotives each railroad will have to ascertain that the installed material is capable of withstanding one of the impact tests provided for in the proposed appendix A. In view of the involvement of the glazing manufacturers in the Aberdeen Proving Grounds test effort, FRA believes this information is readily available to the railroads. However, for convenient reference, FRA has listed below the data that it currently has available about glazing materials that have already been subjected to testing procedures at Aberdeen Proving Grounds and appear to meet the proposed criteria for at least one glazing location. This list is not intended to be all inclusive since FRA is aware of additional testing being conducted by other parties. In furnishing this data, FRA is not certifying or approving these materials. In view of the voluntary submission of the material, FRA cannot fully verify the exact specifications of each material. In some instances, precise designations were not provided by the entity submitting the material, consequently FRA has used the designation I or II to distinguish between samples from the same source.

Source	Description
1. Elcon—National—Triplex (5/16 in)	3 layers: glass, plastic, glass.
2. GE—Lexan MR 4000 (1/8 in)	Single sheet: plastic.
3. GE—Lexan MR 4000 (3/8 in)	Do.
4. Goodyear II (1/2 in)	3 layers: glass, plastic, glass.
5. PPG 1 (9/16 in)	3 layers: glass, layer, plastic, layer, glass.
6. Rohm & Haas Tuffak CM (1/8 in)	Single sheet: plastic.
7. Rohm & Haas Tuffak CM (3/8 in)	Do.
8. Rohm & Haas Tuffak CM (1/4 in)	Do.
9. Sierracin RT 3000 (5/16 in)	3 layers: glass, plastic, glass.
10. Sierracin RT 5000 (5/16 in)	4 layers: glass, plastic, glass, spall shield.
11. Sierracin RT 9000 (5/16 in)	6 layers: glass, layer, plastic layer, glass, spall shield.
12. Globe Amerada—Type II (1 1/16 in)	3 layers: glass, glass, glass.

FRA proposes that the retrofit program for existing locomotives, passenger cars and cabooses be completed within 3 years of the date that this proposal is adopted as a final rule. However, this schedule as been modified to require expedited retrofitting of glazing in those locomotives which, as the result of vandalism, have a window damaged or broken. In this manner, FRA believes that immediate attention will be directed toward those areas where the vandalism problem is most acute, thereby more rapidly enhancing safety where it is most needed.

FRA proposes a nearly identical approach for cabooses to that proposed for locomotives. The principal difference being the absence of any provision analogous to the "lead" or "controlling" unit found in the locomotive proposal.

FRA proposes a very similar approach for railroad passenger cars to that proposed for locomotives. The principal differences being the absence of any provision analogous to the lead or controlling unit found in the locomotive proposal and the addition of a provision relating to emergency release windows, the slightly different approach being proposed for passenger cars reflects the unique impact of this glazing requirement on this segment of the affected group of rolling equipment in the event of an accident. Although there are many different designs for passengers cars, reflecting both the varying vintage of the equipment and its intended service function, when an accident or derailment occurs the emergency escape route for the occupants is frequently through the windows of the passenger car. FRA, in proposing to require the use of glazing that is more difficult to break, is concerned that the difficulty in breaking such materials could hinder people in emergency situations. Consequently, FRA proposes to require the installation of at least four quick release or

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emergency opening windows during the retrofitting program.

The FRA proposal for the installation of emergency opening or quick release windows does not contain specific details about the operational design of such windows because of the known wide range of variables present in the existing fleet of passenger cars. FRA, therefore, is proposing only that a minimum of four windows be equippped so that they have the functional capability of rapid and easy removal in an emergency situation. FRA believes that such windows, given appropriate spacing, will provide for passage into or out of passenger cars in the event of an accident or derailment and will overcome possible access problems in a crisis situation. The proposed regulation contains identical language concerning the installation of such emergency windows for new and rebuilt passenger cars.

In addressing the unique aspects of the glazing problem prescribed by passenger cars, FRA has adopted the suggestion of AAR and RLEA that self-propelled equipment capable of multiple unit operation, be treated as passenger cars rather than locomotives. Consequently, FRA proposes to define for the purposes of this regulation only the term "passenger car" so that it includes self-propelled units.

Finally, FRA proposes to require that when a locomotive which is equipped with improved glazing is in a multiple unit consist, it must be used as the lead or controlling unit. This is an interim measure to assure that to achieve maximum safety during the 3 year period for retrofitting existing locomotives. To facilitate this approach, FRA has an additional provision to require the use of a stencil to identify fully equipped units.

Regulatory Impact Evaluation

This proposal has been evaluated in accordance with the policies for evaluation of regulatory impacts contained in Executive Order 12044 on the matter of "Improving Government Regulations" which was issued March 23, 1978 (43 FR 12661) and the existing and proposed policies of the Department of Transportation discussed in the Federal Register on June 1, 1978 (43 FR 23925). On the basis of that evaluation, FRA has concluded that this proposal constitutes a "nonsignificant" and "nonmajor" regulatory proposal as those terms are used in the Executive order and departmental policy statements, although the total economic effect of this proposal has been virtually impossible to determine with great precision.

As noted, the responses to the ANPRM indicated that costs could not be determined until more data, particularly data concerning performance criteria, was available. Having made a preliminary determination on performance criteria, FRA has attempted to establish the resulting cost impacts.

The cost estimates made by FRA have focused on the incremental cost that will be incurred in the initial construction or rebuilding of a single locomotive, passenger car, or caboose and in the retrofitting of each type of equipment. The FRA data indicates that the average estimated incremental cost for installing glazing that complies with this proposal will range between $800 to $1,200 for each new or rebuilt locomotive unit. The FRA data acquisition about the costs for cabooses and passenger cars is limited because of the lack of uniformity in caboose and passenger car design requirements and the practice of most railroads to voluntarily specify the use of stronger glazing materials in passenger cars during recent years. Allowing for these variables, FRA data indicates that the average incremental cost for each new or rebuilt caboose will be $1,100 and for each new or rebuilt passenger car it will be $600. Assuming that the number of newly constructed locomotives, passenger cars and cabooses for a given calendar year remains constant, FRA believes that the total incremental cost for new equipment will be less than $2 million annually.

FRA has also attempted to estimate the cost of retrofitting existing equipment. This estimate has been very difficult to obtain because of the number of variables present in the design of existing equipment since railroads are operating rolling equipment that varies from 1930 vintage to 1970 vintage. Allowing for such variables, the FRA data indicates that the retrofitting costs on an average estimated basis are approximately $900 for a locomotive, $1,700 for a passenger car and $1,300 for a cabose. In view of the variables that are contained in the proposal for retrofitting FRA has been unable to accurately determine the total incremental cost for retrofitting existing equipment. Consequently, FRA assumed a worst case basis, that all existing equipment was retrofitted during the 3-year period, and estimates that the average incremental cost for retrofitting during each of those years would be approximately $15 million. This economic impact data is summarized from a more extensive analysis. A copy of that analysis has been placed in the public docket for this proceeding.

Public Participation

Interested persons are invited to participate in this proceeding by submitting written data, views or comments. All such communications must identify the appropriate docket number for this proceeding and should be submitted in triplicate to the docket clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street SW, Washington, D.C. 20590. Communications received before December 15, 1978 will be considered before final action is taken on the proposed amendment. Comments received after that date will be considered as far as practicable. All comments received will be placed in the public docket and will be available for examination by the public during regular business hours in room 4406 of the Trans Point Building, 2100 Second Street SW., Washington, D.C.

In addition, the FRA will conduct a public hearing on November 29, 1978 in room 3201, 2100 Second Street SW., Washington, D.C. at 10 a.m. The hearing will be informal and not a judicial or evidentiary hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for the hearing. Interested persons will then have an opportunity to present their oral statements. Additional procedures for conducting the hearing will be announced at the hearing. Any person who wishes to make a statement at the hearing should notify the docket clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street SW., Washington, D.C. 20590, phone 202-472-5311 before November 24, 1978, stating the amount of time required for that statement.

The proposals in this notice may be changed in light of the writtin comments received in response to this notice or the oral statements made at the public hearing.

In consideration of the foregoing, it is proposed to add part 229 to title 49 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., on October 6, 1978.

John M. Sullivan,
Administrator.

Subpart A—General

Sec.

229.1 Purpose.
229.3 Application.
229.5 Definitions.
229.7 Waivers.
229.9 Civil penalty.
229.11 Requirements for new of rebuilt equipment.
229.13 Requirements for existing locomotives.
229.15 Requirements for existing cabooses.
229.17 Requirements for existing passenger cars.
229.19 Identification of equipped locomotives and cabooses.
229.21 Interim utilization of equipped locomotives.
Appendix A—Certification of glazing materials.

Authority: Sec. 202, 84 Stat. 971 (45 U.S.C. 431); Sec. 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Subpart A—General

§ 229.1 Purpose.

This part provides minimum requirements for glazing materials in order to protect railroad employees and railroad passengers from injury as a result of objects striking the windows of locomotives, cabooses and passenger cars.

§ 229.3 Application.

(a) This part applies to railroads that are operating rolling equipment on standard gage track which is a part of the general railroad system of transportation.

(b) This part does not apply to—

(1) Locomotives, cabooses, and passenger cars that operate only on track inside an installation which is not part of the general railroad system of transportation;

(2) A rapid transit railroad that operates only on track used exclusively for short haul rapid transit passenger service in a metropolitan or suburban area; and

(3) Locomotives, passenger cars and cabooses that are operated only in trains consisting of historical or antiquated equipment which are used for excursion, educational, or recreational purposes.

§ 229.5 Definitions.

As used in this part • • •

(a) "Locomotive" means a self-propelled unit of equipment designed primarily for moving other equipment while occupied by an operating crew. It does not include self-propelled passenger cars and if a multiple unit consist is operated only the controlling unit shall be considered the locomotive."

(b) "Caboose" means a car in a freight train intended to provide transportation for crew members while occupied by an operating crew.

(c) "Passenger car" means a unit of rolling equipment intended to provide transportation for members of the general public and include self-propelled units designed to carry baggage, mail, express and passengers.

(d) "Yard" is a system of auxiliary tracks used exclusively for the classification of passenger or freight cars according to commodity or destination; assembling of cars for train movement; storage of cars; and movement for loading, unloading or repair.

(e) "Yard locomotive" means a locomotive that is operated only to perform switching functions within a single yard.

(f) "Yard caboose" means a caboose that is used exclusively in a single yard.

(g) "Rebuilt locomotive, caboose or passenger car" means a locomotive, caboose or passenger car that has undergone overhaul which has been identified by the railroad as a capital expense under Interstate Commerce Commission accounting standards.

(h) "Windshield" means the combination of individual units of glazing material of the locomotive, passenger car, or caboose that are positioned in an end facing glazing location.

(i) "End facing glazing location" means any location where a line perpendicular to the plane of the glazing material makes an angle of 50 degrees or less with the centerline of the locomotive, caboose, or passenger car. Any location which due to curvature of the glazing material can meet the criteria for either a front facing location or a side facing location will be considered a front facing location.

(j) "Side facing glazing location" means any location where a line perpendicular to the plane of the glazing material makes an angle of more than 50 degrees with the centerline of the locomotive caboose or passenger car.

(k) "Certified glazing" means a glazing material which has been tested and has met the requirements set forth in appendix A of this part for use in an end facing glazing location or in a side glazing location.

(l) "Emergency opening window" means that segment of a side facing glazing location which has been designed to permit rapid and easy removal during a crisis situation.

§ 229.7 Waivers.

(a) A railroad may petition the Federal Railroad Administration for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by part 211 of this chapter.

§ 229.9 Civil penalty.

Each railroad to which this part applies that violates any requirement prescribed by this part is liable to a civil penalty of at least $250, but not more than $2,500 for each violation.

§ 229.11 Requirement for new or rebuilt equipment.

(a) Locomotives, including yard locomotives, built or rebuilt after (6 months from issuance of the final rule) must be equipped with certified glazing in all windows.

(b) Cabooses, including yard cabooses, built or rebuilt after (6 months from issuance of the final rule) must be equipped with certified glazing in all windows.

(c) Passenger cars, including self-propelled passenger cars, built or rebuilt after (6 months from issuance of the final rule) must be equipped with certified glazing in all windows and at least four emergency opening windows.

§ 229.13 Requirement for existing locomotives.

(a) Locomotives, other than yard locomotives, built or rebuilt prior to (6 months from issuance of the final rule), which are equipped in the forward and rearward end facing glazing locations of the windshield with a glazing material that meets the criteria for either portion of the impact testing required for a type I test under the provisions of appendix A of this part, will not require the installation of certified glazing in the windshield location until that windshield glazing material is broken or damaged.

(b) Locomotives, other than yard locomotives, built or rebuilt prior to (6 months from issuance of the final rule), which are equipped in all side facing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a type II test under the provisions of appendix A of this part, will not require the installation of certified glazing in the sidefacing glazing locations until that sidefacing glazing material is broken or damaged.

(c) Except for yard locomotives and locomotives equipped as described in paragraphs (a) and (b) of this section, locomotives built or rebuilt prior to (6 months from the issuance of the final rule) shall be equipped with certified glazing in all windows after (3 years from issuance of the final rule).

(d) Each locomotive subject to the provisions of paragraph (c) of this section which, as a result of an act of vandalism has a window that is broken or damaged so that the window fails to permit good visibility the locomotive shall be equipped with certified glazing in the following manner:

(1) If the broken or damaged window is a part of the windshield all of the forward and rearward end facing glazing locations must be replaced immediately with certified glazing.

(2) If the broken or damaged window is a part of the sidefacing window all of the sidefacing glazing locations must be replaced immediately with certified glazing.

§ 229.15 Requirements for existing cabooses.

(a) Cabooses, other than yard cabooses, built or rebuilt prior to (6 months from issuance of the final rule), which are equipped in the forward and rearward end facing glazing locations, of the windshield with a glazing material that meets the crite-

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ria for either portion of the impact testing required for a type I test under the provisions of appendix A of this part, will not require the installation of certified glazing in the windshield location until that windshield glazing material is broken or damaged.

(b) Cabooses, other than yard cabooses, built or rebuilt prior to (6 months from issuance of the final rule) which are equipped in all side facing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a type II test under the provisions of appendix A of this part will not require the installation of certified glazing in the sidefacing glazing locations until that sidefacing glazing material is broken or damaged.

(c) Except for yard cabooses and cabooses equipped as described in paragraphs (a) and (b) of this section, cabooses built or rebuilt prior to (6 months from the issuance of the final rule) shall be equipped with certified glazing in all windows after (3 years from issuance of the final rule).

(d) Each caboose subject to the provisions of paragraph (c) of this section which, as a result of an act of vandalism has a window that is broken or damaged so that the window fails to permit good visibility, the caboose shall be equipped with certified glazing in the following manner:

(1) If the broken or damaged window is a part of the windshield all of the forward and rearward end facing glazing locations must be replaced immediately with certified glazing.

(2) If the broken or damaged window is a part of the sidefacing window all of the sidefacing glazing locations must be replaced immediately with certified glazing.

§ 229.17 Requirements for existing passenger cars.

(a) Passenger cars built or rebuilt prior to (6 months from issuance of the final rule), which are equipped in the forward and rearward end facing glazing locations of the windshield with a glazing material that meets the criteria for either portion of the impact testing required for a type I test under the provisions of appendix A of this part will not require the installation of certified glazing in the windshield location until that windshield windshield glazing material is broken or damaged.

(b) Passenger cars built or rebuilt prior to (6 months from issuance of the final rule), which are equipped in the sidefacing glazing locations with a glazing material that meets the criteria for either portion of the impact testing required for a type II test under the provisions of appendix A of this part, will not require the installation of certified glazing until that sidefacing glazing material is broken or damaged.

(c) Except for passenger cars described in paragraphs (a) and (b) of this section, passenger cars built or rebuilt prior to (6 months from issuance of the final rule) shall be equipped with certified glazing in all windows and a minimum of four emergency windows after (3 years from issuance of the final rule).

(d) Each passenger car subject to the provisions of paragraph (c) of this section which, as a result of an act of vandalism, has a window that is broken or damaged so that the window fails to permit good visibility the passenger car shall be equipped with certified glazing in the following manner:

(1) When the broken or damaged window is a part of the windshield all of the forward and rearward end facing glazing locations must be replaced with certified glazing.

(2) When the broken or damaged window is a part of the sidefacing window the individual portion sidefacing glazing location that was broken shall be replaced with certified glazing.

§ 229.19 Identification of equipped locomotive and cabooses.

All locomotives and cabooses that are fully equipped with certified glazing shall be stenciled on an interior wall of the locomotive cab or caboose. "Fully equipped FRA Part 229 glazing" or similar words conveying that meaning in letters at least 1" in height.

§ 229.21 Interim utilization of equipped locomotives.

After (60 days from issuance of the final rule), when a fully equipped locomotive is assigned to a multiple unit consist, that locomotive shall be the controlling locomotive and located in the "lead" or "head end" position in the train.

APPENDIX A—CERTIFICATION OF GLAZING MATERIAL

As provided in this part, glazing materials installed in locomotives, passenger cars, or cabooses after (6 months from issuance of the final rule) must be certified by the glazing manufacturer in accordance with the following procedures:

a. General requirements.

(1) Each railroad that installs glazing materials as required by this part, shall obtain from the manufacturer of that glazing material a written certification verifying that the glazing material has been tested in accordance with this appendix and test verification data is available upon request by the railroad or the Federal Railroad Administration.

(2) The test verification data shall contain all pertinent original data logs and documentation that the selection of material samples, test setups, test measuring devices, and test procedures were performed by qualified personnel using recognized and acceptable practices and in accordance with this appendix.

(3) Glazing material which has been tested and has successfully met the requirements set forth in this appendix shall be marked on each individual unit prior to installation in the following manner:

(i) Glazing material which has successfully passed the type I testing for use in end or side facing locations will be permanently marked with a 1-inch diameter blue circle.

(ii) Glazing material which has successfully passed the type II testing for use in side facing locations only will be permanently marked with a 1-inch blue square.

b. Testing requirements.

(1) The material to be tested (target material) shall be a full scale sample of the largest dimension intended to be produced and installed.

(21) The target material shall be representative of production material and shall be selected on documented random choice basis.

(3) The target material shall be securely and rigidly attached in a fixture so that the fixture own characteristics will not induce test errors.

(4) The target material so selected and attached shall constitute a test specimen.

(5) The test specimen will then be equipped with a witness plate that shall be mounted parallel to and at a distance of 6 inches in back of the target material. The witness plate shall have at least an area which will cover the full map of the target material.

(6) The witness plate shall be an unbacked sheet of maximum 0.002 inch 2024-T3 or T4 aluminum alloy stretched within the perimeter of a suitable frame to provide a taut surface.

(7) The test specimen will be positioned so that the defined projectile impacts it at an angle of 90 degrees to the test specimen surface.

(8) The point of impact of the defined projectile will be within a radius of 3" of the centroid of the target material.

(9) Velocity screens or other suitable velocity measuring devices will be positioned so as to measure the impact velocity of the defined projectile within a 10 percent accuracy tolerance; with test modifications made to guarantee that the stipulated minimum velocity requirements are met.

(10) The test specimen for glazing material that is intended for use in end facing glazing locations shall be subjected to a type I test regimen consisting of the following tests:

(i) Ballistic impact in which a standard 22 caliber long rifle lead bullet of 40 grams in weight impacts at a minimum of 960 feet per second velocity.

(ii) Large object impact in which a cinder block of 24 lbs minimum weight with dimensions of 8 inches by 8 inches by 16 inches nominally impacts at the corner of the block at a minimum of 44 feet per second velocity. The cinder block must be of the composition referenced in American Society for Testing and Materials (ASTM) specifications C33L or ASTM C90.

(11) The test specimen for glazing material that is intended for use only in side facing glazing locations shall be subjected to a type II test regimen consisting of the following tests:

(i) Ballistic impact in which a standard 22 caliber long rifle lead bullet of 40 grams in

weight impacts at a minimum of 960 feet per second velocity.

(ii) Large object impact in which a cinder block of 24 lbs minimum weight with dimensions of 8 inches by 8 inches by 16 inches nominally impacts at the corner of the block at a minimum of 29 feet per second velocity. The cinder block must be of the composition referenced in ASTM C33L or ASTM C90.

(12) Three different test specimens must be subjected to the ballistic impact portion of these tests.

(13) Two different test specimens must be subjected to the large object impact portion of these tests.

(14) A material so tested must perform so that

(i) There shall be no penetration of the back surfaces (side closest to witness plate) of the target material by the projectile. Partial penetration of the impact (front) surface of the target material does not constitute a failure and;

(ii) There shall be no penetration of particles from the back side of the target material through the back side of the prescribed witness plate.

(15 Test specimens must consecutively pass the required number of tests at the required minimum velocities. Individual tests resulting in failures at greater than the required minimum velocities may be repeated but a failure of an individual test at less than the minimum velocity shall result in termination of the total test and failure of the material.

(16) After successful completion of the prescribed set of required consecutive tests a manufacturer may certify in writing that a particular glazing material meets the requirements of these standards.

[FR Doc. 78-29200 Filed 10-13-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY ORGANIZATION AND PERSONNEL

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Organization and Personnel of the Administrative Conference of the United States, to be held at 10:30 a.m., Wednesday, November 1, 1978, in the Conference's library, 2120 L Street NW., Suite 500, Washington, D.C.

The Committee will meet to review the status of two Committee projects: a newly commissioned project by Prof. Thomas D. Morgan, Standards for Deciding When Participation in a Matter before an Agency by a Former Agency Attorney or His Associate is Inappropriate, and Prof. Michael Cardozo's study of agency experience under the Federal Advisory Committee Act.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this meeting contact Richard K. Berg, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

OCTOBER 10, 1978.

[FR Doc. 78-29074 Filed 10-13-78; 8:45 am]

[6110-01-M]

COMMITTEE ON AGENCY DECISIONAL PROCESSES

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 10 a.m., Tuesday, October 31, 1978, in the office of Ginsburg, Feldman, and Bress, 1700 Pennsylvania Avenue NW., Suite 300, Washington, D.C.

The Committee will meet to discuss its draft recommendation based on Professor Michael Baram's study of the use of cost-benefit analysis in Federal regulation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

OCTOBER 10, 1978.

[FR Doc. 78-29075 Filed 10-13-78; 8:45 am]

[3410-22-M]

DEPARTMENT OF AGRICULTURE

Science and Education Administration

ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD

Meeting

According to the Federal Advisory Committee Act of October 6, 1972, Pub. L. 92-463, the Science and Education Administration announces the following meeting:

ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD

Date: October 26-27, 1978.
Time: 9 a.m.
Place: Room 3109, South Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250.
Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: The Board will consult with and advise the Secretary of Agriculture on implementing animal health and disease research programs. Recommendations will be made also on priorities of research in these programs.
Board names and agenda: Available from contact person below.
Contact person: Dr. Anson R. Bertrand, Director of Science and Education, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-5923.

Done at Washington, D.C., this 11th day of October 1978.

ANSON R. BERTRAND,
Director,
Science and Education.

[FR Doc. 78-29169 Filed 10-13-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

HURRICANE ROAD CRITICAL AREA TREATMENT RC&D MEASURE, NEW YORK

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hurricane Road Critical Area Treatment RC&D Measure, Essex County, N.Y.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert L. Hilliard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include sloping and vegetating 655 linear feet of critically eroding roadbank. The present roadbank slope of 1.2:1.0 will be altered to 2.0:1.0 and seeded.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert L. Hilliard, State Conservationist, Soil Conservation Service, Room 771, U.S. Courthouse and Federal Building, 100 South Clinton Street, Syracuse, N.Y. 13260, telephone 315-423-5493. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 15, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C 590 a-f, q.))

Dated: October 5, 1978.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc. 78-29076 Filed 10-13-78; 8:45 am]

[3410-16-M]

RIVER ROAD PARK WATER-BASED RECREATION RC&D MEASURE, ALABAMA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the River Road Park Water-Based Recreation RC&D Measure, Tuscaloosa County, Ala.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project measure concerns a plan for developing a 21.2 acre water-based day-use recreational area. The planned measure includes facilities for picnicking, nature enjoyment, parking, and sanitation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. William B. Lingle, State Conservationist, Soil Conservation Service, 138 South Gay Street, Auburn, Ala. 36830, telephone 205-821-8070. An Environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until November 15, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590-f,q))

Dated: October 5, 1978.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc. 78-29077 Filed 10-13-78; 8:45 am]

[3410-16-M]

SOUTH NATCHITOCHES FLOOD PREVENTION AND AGRICULTURAL LAND DRAINAGE RC&D MEASURE, LOUISIANA

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the South Natchitoches Flood Prevention and Agricultural Land Drainage RC&D Measure, Natchitoches Parish, La.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Alton Mangum, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The measure concerns a plan for flood prevention and agricultural land drainage. The planned works of improvement include the installation of 10 miles of channels and appurtenant structures for erosion control.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Alton Mangum, State Conservationist, Soil Conservation Service, 3737 Government Street, Alexandria, La. 71301, telephone 318-448-3421.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590 a-f, q).)

Dated: October 5, 1978.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc. 78-29078 Filed 10-13-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 32994; Order 78-10-32]

ALLEGHENY AIRLINES, INC.

Order Granting Exemption and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1978.

On July 6, 1978, Allegheny applied for an exemption to permit it to provide nonstop service in the Charleston, West Virginia-Pittsburgh market, in which it has a one-stop restriction. Allegheny also requested the grant of such other authority or relief as the Board may conclude is in the public interest, including grant of relief by means of show-cause procedure.

In support of its request, Allegheny states that it will offer new competitive service between Charleston and Pittsburgh, a United monopoly market generating 60,000 passengers per year and served by United's three nonstop flights[1]; that its two proposed Charleston-Pittsburgh round trips will convenience 50,000 passengers (25,000 in the Charleston-Pittsburgh market and and additional 25,000 beyond Pittsburgh) while the elimination of its Charleston-Baltimore service (two round trips) will cause only minimal inconvenience to the 25,000 passengers in that market, because of the availability of numerous on-line connections at Pittsburgh; that its proposed Pittsburgh service, in lieu of Baltimore, will provide the Charleston passengers with much greater on-line connecting possibilities because Pittsburgh is Allegheny's largest traffic hub; that its proposed change will produce a net earnings improvement of more than $500,000; that the Pittsburgh service offers Allegheny that best opportunity to serve Charleston

[1] Allegheny Commuter also serves the Charleston-Pittsburgh maket with four one-stop flights. According to Alegheny very little Charleston-Pittsburgh traffic is carried on the commuter flights and grant of nonstop authority to Allegheny will have virtually no impact on the Allegheny Commuter.

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on an economical basis; that even if its estimates are overstated, it should be permitted to operate the new service since the Board no longer requires a definite showing of first year profitability (Order 78-4-69); and finally that the removal of the one-stop restriction will not have any sizeable diversionary impact on United, which does not need protection in any event.

The Charleston Regional Chamber of Commerce and Development filed an answer supporting Allegheny's application. Piedmont Airlines submitted and answer in opposition to the exemption request. However, Piedmont subsequently withdrew this answer when it determined not to prosecute its own exemption application.

On review of the application we have decided to grant the exemption and have tentatively decided to remove the one-stop restriction permanently through the use of show-cause procedures.

On the basis of the following considerations, we find that it would be in the public interest to exempt Allegheny from the terms, conditions, and limitations of its certificate for Route 97 so as to authorize it to operate nonstop between Charleston and Pittsburgh. We find that the proposed service is of limited nature; it involves only two daily round trips on an 164-mild segment for a temporary period, i.e., until the Board's final action in the certificate amendment proceeding in Docket 32994, and requires simply removing a stop restriction in a market in which Allegheny is already authorized. Accordingly we find that enforcement of section 401 of the act and the terms, conditions, and limitations of Allegheny's certificate for Route 97, to the extent that they would otherwise prevent it from providing nonstop service on two daily Charleston-Pittsburgh round trips, would be an undue burden on it by reason of the limited extent of its operations and would not be in the public interest.[2]

Grant of the requested exemption authority will result in immediate benefits to Allegheny and the traveling public. However, as pointed out by the applicant, its pleading contains enough data in support of not only temporary exemption but also permanent certification. And certification is the norm under the act. We conclude therefore that the public convenience and necessity require the removal of Allegheny's one-stop restriction in the Charleston-Pittsburgh market. We also conclude tentatively that a hearing is not necessary. No competing applications have been filed to date, and no party objects to the restriction removal.[3]

Our conclusions are supported by the tentative findings below.[4]

Amendment of Allegheny's certificate to permit it to provide non-stop service between Charleston and Pittsburgh will enable it to adjust its Charleston flight patterns and initiate competitive service so as to serve the Charleston passenger traffic to and through the Pittsburgh gateway more effectively than at Baltimore, and on a viable basis.[5] It will also benefit the carrier by affording it greater operating flexibility on its entire system.

In our view Allegheny's one-stop restriction in the Charleston-Pittsburgh market is inherently wasteful and inconvenient to the traveling public and should be removed unless there are affirmative reasons for retaining it. Certainly, United cannot claim any significant diversionary impact on a system basis, and it has not.

Also, as we have stated before, even if the additional nonstop service should prove uneconomic this would not dissuade us from our decision. We need not find that the proposed operations will be profitable in order to find that they will be in the public interest. It is up to carrier management, responding to market forces, to determine the level of service which will maximize its net revenue. Since Allegheny's authority will be permissive, it will be able to discontinue nonstop service it finds uneconomic. We also do not believe that the authorization of a second carrier will result in either conducting unoconomic operations. In fact, it may actually stimulate the market through the introduction of competitive service benefits such as lower fares and new price/quality options.

Allegheny has requested a waiver of the requirement to file an environmental evaluation. We shall grant it. Allegheny is replacing two Charleston-Baltimore round trips with two Charleston-Pittsburgh round trips. The environment at Charleston will not be affected. At Baltimore the environmental effect will be positive. The impact on Pittsburgh will be unnoticeable since Allegheny already operates nearly 400 daily arrivals and departures at that airport. In any event Allegheny is free to operate one-stop service between Charleston and Pittsburgh. Such a one-stop operation would have a greater environmental impact than would nonstop. Allegheny is also free to add service at both Charleston and Pittsburgh without Board approval. Taking into account the above considerations we find that the proposed service does not constitute a major action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of The National Environment Act of 1969.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to support their objections, if any with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If a full evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly, 1. We exempt Allegheny Airlines temporarily from the provisions of section 401 of the act and the terms, conditions, and limitations of its certificate of public convenience and necesssity for Route 97 to the extent necessary to permit it to provide nonstop service between Charleston, W. Va., and Pittsburgh, Pa., on no more than two daily round trips;

2. We shall make the authority granted in paragraph 1 effective on the date of service of this order and it shall continue until 60 days after final decision in Docket 32994;

3. We may amend or revoke the exemption authority granted in this order at any time in the discretion of the Board without a hearing;

4. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Allegheny's certificate for Route 97 so as to remove its one-stop restriction in the Charleston-Pittsburgh market;

5. We require any interested person having objections to the issuance of an order making final the proposed findings, conclusions, and certificate amendments no later than November 9, 1978, to file with the Board and serve upon all persons listed in paragraph 8 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed by November 19, 1978;[6]

6. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised before further action is taken;

7. If no one files objections to any part of this order, we will consider all further procedural steps relating to such part or parts waived, and the case submitted to us for further action; and

8. We will serve a copy of this order upon all persons named in the service list of Docket 32994.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29185 Filed 10-13-78; 8:45 am]

[2] Since this exemption will be temporary and authorize only two nonstop roundtrips, in a market in which the applicant is already free to provide one-stop service at any time, our action here does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the national Environmental Policy Act, and will not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975 as defined in § 313.4(a)(1) of the Board's Regulations.

[3] Allegheny's pleading included and alternate request for relief by means of show-cause procedures, to which interested parties could have responded.

[4] Furthermore, we find tentatively that Allegheny is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the transportation proposed here and to conform to the provision of the Act and the Board's rules.

[5] Allegheny estimates that its Charleston-Pittsburgh service will benefit 50,000 local and connecting passengers and result in a net economic gain of $260,000. At Pittsburgh, Charleston passengers will have excellent and numerous connections. Although Charleston-Baltimore passengers will lose single-plane service, they will have numerous connections available at Pittsburgh, as well as service through the Washington National Airport.

[6] Since provision is made for filing objections, we will not entertain petitions for reconsideration.

[7] *All Members concurred* except Member Schaffer who did not participate.

[6320-01-M]

[Docket Nos. 33216, etc.; Order 78-10-12]

ALLEGHENY AIRLINES, INC., ET AL

Order on Motions to Consolidate Applications

Issued under delegated authority, October 4, 1978.

Louisville-Kansas City Nonstop Route Investigation, Docket 33216; Applications of Allegheny Airlines, Inc., Dockets 31581; Braniff Airways, Inc., 33342; Continental Air Lines, Inc., 33497; Eastern Air Lines, Inc., 33503; North Central Airlines, Inc., 33507; Piedmont Aviation, Inc., 33470; Texas International Airlines, Inc., 33430.

Order 78-8-94, served August 22, 1978, instituted as Docket 33216 an investigation to determine whether the public convenience and necessity require the grant of new nonstop authority in the Louisville-Kansas City market.

Order 78-8-94 consolidated into this proceeding the applications of Frontier Airlines in Docket 28183, and Ozark Air Lines in Docket 31678. The same order delegated "to the presiding Administrative Law Judge the authority to consolidate by order any applications which conform to the scope of the proceeding".[1] That delegation implicitly includes the authority to dismiss without prejudice any motion to consolidate to the extent consolidation is not granted. 14 CFR 302.12(d).

Applications, and motions to consolidate them, were timely filed by Allegheny, Braniff, Continental, Eastern, North Central, Piedmont and Texas International. No answers to these motions to consolidate have been filed. Moreover, all applications do conform to the scope of this investigation. None seek other than nonstop authority in the Louisville-Kansas City market.

Consolidation of these applications to the extent they are within the scope of this proceeding is in the public interest, conducive to the proper dispatch of the Board's business and the ends of justice, and will not unduly delay the proceeding. They will, therefore, be consolidated into Docket 33216.

Accordingly, it is ordered: That: 1. The motions to consolidate the applications of Allegheny Airlines, Inc. in Docket 31581, Braniff Airways, Inc., in Docket 33342, Continental Air Lines, Inc. in Docket 33497, Eastern Air Lines, Inc., in Docket 33503, North Central Airlines, Inc., in Docket 33507, Piedmont Aviation, Inc. in Docket 33470, and Texas International Airlines, Inc., in Docket 33430, into the investigation in Docket 33216 are granted to the extent that they conform to the scope of the investigtion into the need for new nonstop authority in the market specified in Order 78-8-94, and such applications are otherwise dismissed.

2. The following are made parties to the proceeding in Docket 33216: Allegheny Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Eastern Air Lines, Inc., North Central Airlines, Inc., Piedmont Aviation, Inc., and Texas International Airlines, Inc.

Persons entitled to petition the Board for review of this order pursuant to Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29184 Filed 10-13-78; 8:45 am]

[1] Order 78-8-94, Fn.2.

[6320-01-M]

[Docket Nos. 33275, etc.; Order 78-10-19]

AMERICAN AIRLINES, ET AL

Order on Motions To Consolidate

Issued under delegated authority October 5, 1978.

New Orleans-West Service Investigation, Docket 33275; Motions of American Airlines, Inc., Dockets 33436; Eastern Air Lines, Inc., 33445; Frontier Airlines, Inc., 33423; Hughes Air Corp. d.b.a. Hughes Airwest, 33402;North Central Airlines, Inc., 33455; Northwest Airlines, Inc., 33420; Southern Airways, Inc., 33424; Western Air Lines, Inc., 33433; Braniff Airways, Inc., 31699; Continental Air Lines, Inc., 33439; Delta Air Lines, Inc., 33447; Ozark Air Lines, Inc., 33415; Texas International Airlines, Inc., 33431.

By Order 78-8-122, served August 25, 1978 (and later corrected), the Board instituted this investigation to consider "whether the public convenience and necessity require new or additional service between New Orleans, on the one hand, and Amarillo, Lubbock, Oklahoma City, Portland, Seattle, and Wichita, on the other hand." Thus, as instituted, the order contemplates investigation of the need for additional nonstop service in seven New Orleans markets.

Five petitions have been filed requesting reconsideration of Order 78-8-122 and expansion of the scope of the proceeding. The petitioners would add 10 more markets for a total of 17 nonstop markets; or, if Delta's petition were granted to change the scope to service "between and among" the points, a total of 153 markets would be under investigation. Even if no new markets were added, service "between and among" the points currently included in the investigation would result in 28 markets rather than 7 and would move the focus of the investigation away from New Orleans.

Of the 13 carriers who have filed timely applications and motions to consolidate, 8 request authority within the current scope of the investigation. Those 8 motions will be granted.

With a range of possibilities between 7 and 153 markets to investigate, it would obviously be futile to call a prehearing conference before the Board acts on the petitions for reconsideration.[1] Nor would it be productive to separate out at this time those por-

[1] That it is a waste of the time of all interested persons to attempt to proceed with a case before the Board acts on petitons for reconsideration is apparent from two recent cases in which procedural dates previously set had to be indefinitely postponed, in one case a few days before direct exhibits were to be filed. See orders of the judge dated September 11, 1978, in Docket 32708, and September 18, 1978, in Docket 32711.

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tions of the five remaining applications which conform to the present scope of the investigation. Therefore, the judge will take no further action until after the Board decides what it wants to be heard and any further applications are filed as a result of the Board's order.

Accordingly, pursuant to authority delegated by the Board in Order 78–8–122,

It is ordered, That: 1. The motions to consolidate the applications of American Airlines, Inc., in Docket 33436, Eastern Air Lines, Inc., in Docket 33445, Frontier Airlines, Inc., in Docket 33423, Hughes Air Corp. d.b.a. Hughes Airwest, in Docket 33402, North Central Airlines, Inc., in Docket 33455, Northwest Airlines, Inc., in Docket 33420, Southern Airways, Inc., in Docket 33424, and Western Air Lines, Inc., in Docket 33433 into the investigation in Docket 33275 are granted.

2. Action on the motions to consolidate Amendment No. 2 to the application of Braniff Airways, Inc., in Docket 31699, and the applications of Continental Air Lines, Inc., in Docket 33439, Delta Air Lines, Inc., in Docket 33447, Ozark Air Lines, Inc., in Docket 33415, and Texas International Airlines, Inc., in Docket 33431, in the investigation in Docket 33275 is deferred.

3. The following are made parties to the proceeding in Docket 33275: American Airlines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp. d.b.a. Hughes Airwest, North Central Airlines, Inc., Southern Airways, Inc., and Western Air Lines, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29186 Filed 10-13-78; 8:45 am]

[6320-01-M]

[Docket Nos. 28457 etc.; Order 78-10-25]

BRANIFF AIRWAYS, INC., AND TEXAS INTERNATIONAL AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 6, 1978.

Petition of the Cities and Chambers of Commerce of Midland and Odessa, Tex., for an investigation of air service to the east, Docket 28457; application of Braniff Airways, Inc., for amendment of its certificate of public convenience and necessity for Route 9, Docket 29136; application of Texas International Airlines, Inc., for amendment of its certificate of public convenience and necessity for Route 82, Docket 32954.

On May 12, 1978, the Midland/Odessa Parties [1] filed a petition for an order to show cause why Midland/Odessa should not be added to the certificate of Braniff Airways for Route 9, and they requested that the Board grant Braniff a temporary exemption to provide service between Dallas/Fort Worth and Midland/Odessa pending completion of the show-cause procedures.

In support of their petition and request for exemption, the Midland/Odessa Parties state that Continental Air Lines advised them that effective June 1, 1978, it would reduce its service in the Midland/Odessa-Dallas market from three round trips to one morning round trip and that by the end of the summer it would eliminate its service in the market entirely; that Continental also intended to elimate its round-trip service between Midland/Odessa and Oklahoma City and Tulsa; that they turned to Braniff Airways for assistance because the withdrawal of Continental's service would create a serious transportation emergency; that there is ample precedent for granting Braniff an exemption and issuing a show-cause order as the Parties request; [2] that grant of the relief sought will not harm any other carrier; that 73 percent of Midland's O. & D. traffic in the year ended June 30, 1977, was exchanged with points on Braniff's existing system; and that immediate action is required to fill the void created by Continental's reduction in service. The Parties further request that Continental be required to obtain Board authority before resuming Midland/Odessa-Dallas/Fort Worth service in order to avoid destructive competition against Braniff's new services.

Texas International Airlines (TXI) filed a motion to dismiss the petition of Midland/Odessa to the extent that it requests an emergency exemption for Braniff in the Midland/Odessa-Dallas/Fort Worth market, contending that it does not meet any of the criteria for grant of such relief. Braniff opposed TXI's motion to dismiss, stating that Continental's withdrawal from the market would indeed create an emergency since that carrier carried 60 percent of the single-carrier traffic for the year ended September 30, 1977.

On June 15, 1978, Braniff filed an answer to Midland's petition for an order to show cause,[3] in which it provided economic and operating data upon which it expects the Board to rely in granting the petition.[4] It plans to operate three daily round trips with the flights continuing on beyond Dallas/Fort Worth to Chicago, New York and New Orleans. For the forecast year 1980, Braniff expects to benefit over 150,000 passengers. It contends that an award to it would do no more than insure that competition continues between Dallas/Fort Worth and Midland/Odessa.

On June 16, 1978, Continental filed an answer to Midland's petition, stating that it has no objection to Braniff's entering the primary market, but it does object to Midland's request that Midland/Odessa should be added to Braniff's certificate without hearing. It contends that the petition is not clear as to what new authority Braniff would gain in other Midland markets. Finally, Continental objects to any restriction on its own services between Dallas and Midland, which it contends it is not planning to eliminate entirely in any event.

The Midland Parties filed a motion for leave to file an otherwise unauthorized document, to which were appended copies of numerous letters supporting the addition of Braniff's services at Midland.[5]

On June 30, 1978, TXI filed three documents—an application in Docket 32954 for amendment of its certificate for Route 82 to add a new segment between Dallas/Fort Worth and Oklahoma City, a motion to consolidate the application with any proceeding instituted by the Board in response to Midland's petition in Docket 28457, and a third pleading which contained (1) an answer to Midland's petition and (2) a motion for an order to show cause why the authority sought in Docket 32954 should not be granted without a hearing. In its answer, TXI contends that there is no emergency regarding service in the Dallas/Fort Worth-Midland/Odessa market because TXI has increased its service by one daily

[1] The cities and chambers of commerce of Midland and Odessa, Tex.

[2] Midland cited the award to Piedmont of Charleston-Miami authority when National terminated its services (Order 78-4-129) and the Board's order to show cause why Boston should not be added to Piedmont's route (78-4-69).

[3] The date on which answers were due was extended to June 30.

[4] Braniff's original application involved a new segment from El Paso through Midland/Odessa and Dallas/Fort Worth to the northeast; it now proposes to add only a Midland/Odessa-Dallas/Fort Worth segment.

[5] We will grant the motion.

round trip and will add another if the need exists; that it is in an excellent position to provide whatever new or improved services Midland/Odessa needs; [6] that the request to grant Braniff improved authority by show-cause procedures should be denied since the basis for the showing of need no longer exists; that the single-plane services Braniff proposes to the East may not last because of lack of available traffic; and that Braniff will not offer significant fare reductions as are already available on TXI and Southwest. In support of its motion for an order to show cause, TXI states that if the Board decides to act favorably on Midland's petition, TXI's request to serve the Oklahoma City-Midland/Odessa market one-stop via Dallas/Fort Worth should be given equal consideration, since Continental is abandoning that market altogether.

Braniff filed separate answers to TXI's motion to consolidate and petition for an order to show cause. Braniff contends that TXI's application involves the entirely new market Dallas/Fort Worth-Oklahoma City, which is not the subject of Midland's petition; that it would add parties and issues to the Midland proceeding; and that it would delay an otherwise simple case. Braniff further argues that TXI's motion for show cause is legally and procedurally deficient; that it lacks an economic forecast, and the certificate of service does not indicate that carriers serving Oklahoma City were served; and that Braniff will be able to serve the Midland/Odessa-Oklahoma City market on the same basis as would TXI under the proposed one-stop authority.

On August 14, 1978, TXI filed economic data in support of its motion to show cause.

We have decided to issue an order to show cause which proposes to add a new segment to Braniff's certificate for Route 9 to authorize permissive nonstop service between Midland/Odessa and Dallas/Fort Worth. We will deny Midland's motion for an interim exemption to Braniff pending completion of the show-cause procedures.

We tentatively conclude that the public convenience and necessity require the amendment of Braniff's certificate for Route 9 so as to add the nonstop segment Midland/Odessa-Dallas/Fort Worth. In support of our conclusion, we make the following tentative findings. Midland/Odessa is located in the center of the Permian Basin, which contains a significant percentage of this country's ore reserves. Its location midway between Dallas and El Paso makes it isolated from the major air transportation centers and creates a high demand for air service. Furthermore, the number of passengers generated at the city has grown tremendously during the past 5 years, to 511,000 in 1977, up 62 percent from 1972. The Dallas-Midland market has grown to 222,420 O. & D. plus connecting passengers, up 69.5 percent from 1972. This does not include the passengers using Southwest Airlines' extensive intrastate services.

In the primary market, Braniff will offer three daily round trips with B-727-200 equipment, and will make available its super-saver and home-free fares. It forecasts carrying 176,175 passengers over the segment in 1980 and realizing an operating profit of $415,000. Nearly half of the passengers it will carry are in markets in which Braniff will offer first single-plane or first single-carrier service. It proposes to offer direct service between Midland/Odessa and Chicago, New Orleans, and New York, points which do not now receive single-plane service. Thus, our award here will not only benefit the Midland-Dallas market but will provide significant beyond-market benefits as well.

We also tentatively conclude that the proposed certificate amendment should be unrestricted. All Braniff services at Midland will be required to operate via Dallas/Fort Worth, and we find that further restrictions on its Midland flights will not serve any useful purpose. TXI's authority at Midland is basically unrestricted,[7] and Continental will have unrestricted authority in all of its Midland markets as soon as its route is realined.[8] Therefore, Braniff will not receive any competitive advantage at Midland as a result of our action here.[9]

We further find that Braniff is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here, and to conform to the provisions of the Act and the Board's rules, regulations and requirements; that the certificate action we propose here will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act of 1969; and that it is not a "major regulatory action" as the Board has defined that term for purposes of complying with the Energy Policy and Conservation Act.

We cannot conclude, however, that the parties have made a sufficient showing to warrant the grant of interim exemption authority. There are 11 daily round trips being offered between Dallas and Midland by TXI and Southwest,[10] and therefore no emergency exists which requires the immediate grant of new authority. Further, show-cause procedures we are using here can be concluded rapidly. Under these circumstances, we will deny Midland's motion for an emergency exemption to Braniff.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due 10 days later. We expect those persons to direct their objections, if any, to specific matters dealt with here, and to support their objections with detailed economic analysis. If an oral evidentiary hearing complete with the opportunity for cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

We will deny TXI's motion to consolidate its certificate amendment application in Docket 32954 with this proceeding. The time for answers to its pleadings has just recently passed. We can see no reason to delay issuing this order while the application is being processed. We will therefore handle it on its own merits in a later order. We wish to emphasize, however, that we will act on TXI's request as expeditiously as possible.

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Braniff's certificate for Route 9 by adding the segment Midland/Odessa, Tex.-Dallas/Fort Worth, Tex.;

2. We direct any interested persons having objections to the issuance of an

[6] TXI states that it currently provides convenient single-plane or on-line connecting service from Midland/Odessa over Dallas/Fort Worth to the major points of Houston, Kansas City, Little Rock, Memphis and New Orleans. In addition, it indicates that it is involved in route proceedings which hold the prospect of improved easterly service over Dallas/Fort Worth or Houston to Minneapolis/St. Paul, Philadelphia, Baltimore/Washington, the Bahamas, Miami, Fort Lauderdale, Tampa and Orlando.

[7] In the Midland-New Orleans market, TXI has a restriction allowing nonstop service on flights serving Denver or Salt Lake City (but otherwise requiring one intermediate stop).

[8] See Order 78-7-91, July 21, 1978.

[9] We will in no way limit Continental's discretion on what level of service to operate in the Midland-Dallas/Fort Worth market. Apart from the question of how we could legally place such limits, we have recently and often stated our belief in the positive role of dormant authority in keeping operating carriers responsive to the traveling public. See, e.g., Order 78-4-121. We have been shown no reason to believe that there will be destructive competition in the market at issue.

[10] TXI reduced its service from five round trips to four on September 5, 1978.

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order making final the proposed findings, conclusions and certificate amendments set forth here to file with the Board, no later than November 9, 1978, and serve upon all persons listed in paragraph 10 below, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; interested persons shall file answers to objections no later than November 20, 1978;

3. If timely and properly supported objections are filed, we will give full consideration to the matters or issues raised before we take further action; [11]

4. In the event no objections are filed to any part of this order, we will eliminate all further procedural steps relating to such part or parts and we will proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

5. We will grant the petition of Midland/Odessa for an order to show cause;

6. We will deny the motion of Texas International Airlines to consolidate its application in Docket 32954 with Docket 28457;

7. We will deny the motion of Texas International Airlines to dismiss the petition of Midland/Odessa for emergency exemption;

8. We will grant the motion of Midland/Odessa for leave to file an unauthorized document;

9. We will deny the request of Midland/Odessa for an emergency exemption; and

10. We shall serve this order on Braniff Airways, Inc.; Texas International Airlines, Inc.; the Midland/Odessa Parties; the Texas Aeronautics Commission; Continental Air Lines, Inc.; the Dallas/Fort Worth Parties; the City of Oklahoma City; American Airlines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; Frontier Airlines, Inc.; Ozark Air Lines, Inc.; Trans World Airlines, Inc.; North Central Airlines, Inc.; Northwest Airlines, Inc.; and Western Air Lines, Inc.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[12]
Secretary.

[FR Doc. 78-29188 Filed 10-13-78; 8:45 am]

[11] We direct that all motions and/or petitions for reconsideration be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[12] All Members concurred.

[6320-01-M]

[Docket No. 31808]

CHICAGO-ALBANY/SYRACUSE-BOSTON COMPETITIVE SERVICE INVESTIGATION

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Greer M. Murphy to Administrative Law Judge Richard J. Murphy.

Dated at Washington, D.C., October 6, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-29193 Filed 10-13-78; 8:45 am]

[6320-01-M]

[Docket Nos. 32696, 32697; Order 78-9-150]

ORDER TO SHOW CAUSE

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1978.

On May 18, 1978, Frontier Airlines filed an application for an amendment of its certificate of public convenience and necessity for Route 73, extending segment 2 (Denver-Sacramento) to include the terminal point Redding, California.[1] Concurrently, Frontier filed, in Docket 32697, an application for exemption authority to provide one daily Redding-Sacramento-Denver round trip on a subsidy ineligible basis for a period of two years or until 90 days after Board action in Docket 32696.

Subsequently, on July 11, 1978, Frontier filed a petition, requesting that the Board issue an order to show cause why its certificate application for Sacramento-Redding authority in Docket 32696 should not be granted, rather than issuing exemption authority under 416(b) of the Act. The carrier indicates that its change of procedural preference is occasioned by a letter from the California Public Utilities Commission stating its position that CAB exemption authority does not supplant the need for California authority for the transportation of intrastate passengers.

Frontier's service proposal consists of one daily round trip, Redding-Sacramento-Denver. In support of its application, it claims that the authority will permit it to provide Redding passengers with their first direct access to the Midwest, Southwest, and Eastern portions of the country.[2] It projects that 27,420 passengers will benefit from the service in 1979 and that it will provide a $433,000 profit over and above taxes. Diversion from other carriers is estimated to be minimal.

A number of parties have filed answers to Frontier's applications and petition. The County of Sacramento and the City of Redding support Frontier's proposed service. Hughes Airwest does not object to the two-year exemption request limited to one daily round-trip, but opposes certificate authority unless it is both conditioned to expire in two years and to require that all flights serving Redding must also serve both Sacramento and Denver.[3] The purpose of the conditions is to protect both existing and prospective Airwest service from diversion.

Eureka Aero Industries, a commuter carrier that received Redding-Sacramento authority from the California PUC on July 26, 1978, opposes any Frontier authority to serve the Redding-Sacramento market.

We tentatively conclude, on the basis of the findings below, that the public convenience and necessity require the amendment of Frontier's certificate for Route 73 so as to authorize service between Redding and Sacramento/Denver. We also tentatively find that Frontier is fit, willing and able properly to perform the air transportation it proposes and to conform to the provisions of the Act and the Board's rules, and, on the basis of the environmental evaluation submitted by Frontier, that our proposed action would not be a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 or a major regulatory action under the Energy Policy and Conservation Act of 1975.

Frontier's certificate application, parallel to Piedmont's Boston entry proposal,[4] falls within the class of cases that can be handled by show-cause procedures, because of the absence of any material, determinative issue of fact requiring resolution in a formal evidentiary proceeding.

We find that the implementation of Frontier's service proposal would significantly benefit the traveling public in many Redding markets, by providing first certificated nonstop service between Redding and Scramento, first single-plane service between Redding and Denver and first single-carrier servie between Redding and major destinations beyond Denver.[5] Frontier will be able to offer these benefits by means of a short extension of existing

[1] No motion for hearing or petition for an order to show cause was filed at that time.

[2] Airwest, the only certificated carrier now serving Redding, provides service between Redding and San Francisco/Portland.

[3] In its petition, Frontier expressed a willingness to accept reasonable certificate restrictions.

[4] Order 78-4-69.

[5] Denver is the hub of Frontier's system. On-line connections would be available with flights serving Dallas/Ft. Worth, St. Louis, and Kansas City, as well as other cities.

flights, thereby attracting new passengers to its Sacramento-Denver flights and increasing revenues through relatively minor increases in costs. Further, we find that the authority we are considering will not threaten the ability of any carrier to perform its certificate obligations or result in the termination of essential services that could not be replaced by other carriers.[6] Finally, we find that the public convenience and necessity require that the authority we propose to grant Frontier be permissive, so that its management can have flexibility to gear its service to the demands of the market. It will be Category II subsidy ineligible.

With regard to Eureka Aero's opposition, we have consistently rejected granting commuters route protection from competition from certificated carriers,[7] and the idea is even more anomalous in light of our general policy of promoting more competition in the certificated system.

Airwest indicates it would not oppose authority to Frontier limited to a two-year period and conditioned to require that all Redding flights also serve both Sacramento and Denver. We find that such restrictions would unreasonably restrict the carrier's flexibility and constitute an unnecessary denial of prospective public benefits.

Our decision to grant the certificate sought by Frontier is based exclusively on the findings above and by no means reflects acquiescence in California'a apparent view that an exemption under Section 416 of the Federal Aviation Act has different of less preemptive force than a certificate under section 401. As we said in Order 78-2-22 (Feburary 1, 1978), "[w]hether the Board issues a certificate or an exemption does not change the fact that *federal* operating authority is conferred." Like a certificate, an exemption is an affirmative federal authorization to engage in the operations covered by the Federal Aviation Act.[8] It follows that the considerations applicable to State interference, with certificated operations apply with equal force to operations conducted under authority of an exemption. See, e.g., *Pioneer Airways* v. *City of Kearney*, 258 N.W. 2d 324 (S. Ct. Neb., 1977). In other words, a carrier with an exemption to carry interstate traffic between two points within a state may do so regardless of whether it has authority from the State.[9]

Interested persons will be given 30 days following the date of service of this order to show cause why these tentative findings and conclusions should not be made final. Answers will be due within ten days after the expiration of that period. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that connot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Frontier's certificate for Route 73 so as to add Redding, Calif., as a terminal point to Segment 2;

2. Any interested person having objections to the issuance of an order making final the proposed findings, conclusions and certificate amendment set forth here shall no later than November 9, 1978 file with the Board and serve upon all persons listed in paragraph 7 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than November 20, 1978;

3. If timely and properly supported objections are filed, we will fully consider the matters or issues raised before taking further action;[10]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for further action;

5. We dismiss Frontier's application for exemption authority in Docket 32697;

6. We grant Eureka Aero's motion for leave to file late; and

7. We shall serve a copy of this order upon all persons named in the service list of Dockets 32696 and 32697.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[11]
Secretary.

[FR Doc. 78-29187 Filed 10-13-78; 8:45 am]

[6320-01-M]

[Docket No. 32708; Order 78-10-34]

FRONTIER AIRLINES, INC.

Houston-Phoenix/Tucson Case; Order Naming Party

Issued under delegated authority October 6, 1978.

By Order 78-9-85, dated September 19, 1978, the Board reversed the judge's ruling and granted the motion of Frontier Airlines, Inc. to consolidate its application in Docket 33078 into this proceeding. The Board did not, however, make Frontier a party to Docket 32708. In order that Frontier may participate fully in this investigation, this order will rectify that oversight.

Accordingly, pursuant to authority delegated by the Board in its Regulations, 14 CFR 385.11, to grant intervention.

It is ordered, That Frontier Airlines, Inc., is made a party to Docket 32708.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motions.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29192 Filed 10-13-78; 8:45 am]

[11] All Members concurred.

[6] Airwest claims that diversion of Redding traffic potential could erode the economics of its feeder services in small southern Oregon and northern California markets, but provided no specific showing of diversion.

[7] *The Baltimore-Norfolk Service Case*, Order 76-6-53, June 9, 1976; *Great Lakes-Local Service Investigation*, 31 C.A.B. 442 (1960); *TAG Airlines, Detroit-Cleveland Certificate*, 52 C.A.B. 579 1969.

[8] This reality is underscored by two simple and irrefutable conclusions. The first is that authority from the Board is essential to lawful interstate operations since the states are powerless to confer it. *Cf. Castle* v. *Hayes Freight Lines*, 348 U.S. 61, 63 (1954). The second is that operation under authority of an exemption is "as legal and proper as is the operation of certificated carriers." *Seaboard & Western Airlines* v. *CAB*, 181 F.2d 515, 518 (C.A.D.C. 1949), *cert. denied*, 339 U.S. 963.

[9] In Order 78-2-22 we declined to consider the certification of a helicopter operator using and intending to use only aircraft within the size limitations of Part 298. We found that it already had all the operating authority it needed under Part 298. Under the circumstances, we concluded that we should not invoke our certificate procedures to bring the carrier within the interpretation of a state law that regognizes the preemptive nature only of a federal certificate. The situation here is completely distinguishable. We would be inclined to grant Frontier's application on its merits whether or not the impetus to press its 401 application in preference to its exemption requist was the policy of the California PUC.

[10] Since provision is made for filing objections, no petitions for reconsideration will be entertained.

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[6320-01-M]

[Docket Nos. 33019, etc.; Order 78-10-40]

NORTH CENTRAL AIRLINES, INC. ET AL.

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of October 1978.

Chicago-Midway Expanded Service Proceeding, Docket 33019; applications of North Central Airlines, Inc., Docket 33108; Alaska Airlines, Inc., Docket 33116; Ozark Air Lines, Inc., Docket 33117; Frontier Airlines, Inc., Docket 33118; Southern Airways, Inc., Docket 33122; Midway Airlines, Inc., Docket 33123; Allegheny Airlines, Inc., Docket 33129; DHL Airways, Inc. & DHL Corp., Docket 33132; Northwest Airlines, Inc., Docket 33135; Continental Air Lines, Inc., Docket 33138; Eastern Air Lines, Inc., Docket 33140; Western Air Lines, Inc., Docket 33144; Braniff Airways, Inc., Docket 33146; Texas International Airlines, Inc., Docket 33147; Federal Express Corp., Docket 33148; American Airlines, Inc., Docket 33149; National Airlines, Inc., Docket 33152; Midway (Southwest) Airway Co., Docket 33153; Piedmont Aviation, Inc., Docket 33154; Trans World Airlines, Inc., Docket 33156; Evergreen International Airlines, Inc., Docket 33157; Wien Air Alaska, Inc., Docket 33178.

By Order 78-7-41, served July 14, 1978, the Board instituted the *Chicago-Midway Expanded Service Proceeding* (*"Midway II"*) and called for applications, motions to consolidate, interventions and petitions for reconsideration within 21 days. In addition to those pleadings, we received from Administrative Law Judge Ronnie A. Yoder a certification of certain questions affecting the case which Judge Yoder wants resolved before the hearing. This order will dispose of motions to consolidate, petitions for reconsideration and Judge Yoder's certified questions; he will rule on interventions separately under delegated authority.

Petitions for reconsideration or clarification were filed by American Airlines, Midway (Southwest) Airway Co., Trans World Airlines, Western Air Lines, the Bureau of Pricing & Domestic Aviation (BPDA) and civic parties representing the Quad Cities, Niagara Falls, Peoria, Lincoln, Houston, Rockford, and Nashville.[1] Answers supporting or opposing the petitions were filed by American, Midway Airlines, Midway (Southwest), Northwest Airlines, United Air Lines, and Columbus, Ohio, parties.

The petitions of American, Midway (Southwest), TWA, and BPDA and the answers of American, Midway Airlines, and United raise two points in need of clarification: (1) Did the Board intend to allow carriers to propose to serve two or more of the 17 cities in issue without serving Midway Airport as an intermediate point, and if so, are traffic rights between and among the 17 cities in issue; and (2) did the Board want to preclude traditional carrier selection? Midway (Southwest) argues that we should consider granting local traffic rights, without a Midway stop, among the 17 points subject to the condition that all flights serve Midway Airport. This would afford carriers more operating flexibility and might allow them to offer more service than they otherwise would in some of the smaller markets. American, Midway Airlines, and United claim that inclusion of that question would delay and complicate the case, would divert its focus from Midway's service needs and would be inconsistent with the purpose of the case which is to supplement what we did in the *Chicago-Midway Low-Fare Route Proceeding*, Orders 78-7-40 and 78-8-203. On the second point, TWA does not want us to preclude traditional carrier selection while BPDA asks us to confirm that that is precisely what we want to do.

Judge Yoder's certification is, as he acknowledges, unusual and not specifically provided for in our Rules of Practice; nevertheless, it is a useful expedient for resolving procedural issues at this stage to avoid complications at the later substantive stages of the case. His questions are:

1. Did the Board intend tentatively to determine in Order 78-7-40 (*Midway I*) that the public convenience and necessity require the certification of all fit, willing and able carriers (*i.e.*, multiple permissive authority) to serve markets at issue in this proceeding, but not at issue in *Midway I*, where some service is found to be otherwise required in the public interest?

2. If so, did the Board intend to conclude that the Board has the constitutional power to determine in *Midway I* public convenience and necessity (PC&N) as to multiple permissive entry for markets at issue in *Midway II* but not at issue in *Midway I*?

3. Does Order 78-7-41 contemplate commencement of any *Midway II* hearing or prehearing submissions before a final determination of multiple permissive entry policy questions in *Oakland* and *Midway I*?

It is our intention that this case proceed on the same principles as the *Oakland Service Case*, Order 78-4-121, but use slightly different procedures. In instituting *Midway II*, we have made a policy decision that the public convenience and necessity require permissive certification of all fit, willing, and able applicants in each market in which a need for additional authority is found (see Order 78-4-121 at 19-56 for a complete explication of the rationale). We reached that conclusion in light of our analysis in *Midway I* of what it would take to revitalize Midway Airport, and it was not specific to the six markets in issue there.[2] Hence, we are not proposing, as Judge Yoder suggests, to bind anyone who was not a party to *Midway I* to any findings or conclusions peculiar to the six markets in that case. We are confirming, however, our conclusion that "it is the development of new traffic and the concomitant rapid institution of full service patterns by a number of carriers that will revive Midway and to a lesser extent slow the pace of growth at O'Hare."[3] In other words, the goal of developing Midway Airport, as opposed to developing competitive service and lower fares in certain Midway markets only, will best be achieved by authorizing all fit applicants when there is a need for service between Midway Airport and any market.

Since this is essentially a policy determination, we will give interested persons 21 days to comment upon it, as we did in *Oakland* for the reasons stated in Order 78-4-121 at 57-58. While we will listen to all arguments, we prefer that parties not rehash the general arguments about the propriety or legality of the multiple permissive entry policy, but rather concentrate on their specific objections to its application in *Midway II*. In the meantime, the case should proceed as quickly as possible on the assumptions set out in this order and in Order 78-7-41. We would like to reach our final decision as early as possible in 1979, and we ask the judge and the parties to bear that in mind in setting the procedural schedule at the prehearing conference.[4]

Western Air Lines and all the civic petitioners, except Niagara Falls, seek expansion of the case. We have decided that inclusion of seven additional cities will not delay processing appreciably, given the procedures that are to be followed. Houston and Peoria have the support of at least two of the carrier applicants, and we see no reason to preclude proposals to serve

[1] BPDA and the Metropolitan Nashville Airport Authority filed motions for permission to file their late petitions. The motions are granted.

[2] Order 78-7-40 at 12-25; Order 78-8-203 at 3 and 10.

[3] Order 78-8-203 at 3.

[4] In response to TWA's petition, we do not expect traditional carrier selection to take place, so we will not require carrier-selection evidence. The evidence required of applicants on the public convenience and necessity issues will be that described in the *Oakland* order (Order 78-4-121, pp. 59-60 and Appendix H). Applicants not now operating certificated service, whose fitness has not been determined in *Midway I* or another proceeding, will also be required to submit the fitness evidence specified in Appendix I to Order 78-4-121.

Quad Cities, Lincoln, Rockford, Nashville, or Sioux Falls at this time. We delegate authority to the judge to consolidate applications for the seven additional cities. Any such applications should be filed no later than the date of the prehearing conference. Niagara Falls wants us to redesignate Buffalo as "Buffalo-Niagara Falls." We will grant that request.

We have decided to grant the petition of Midway (Southwest) in part, by expanding the scope of the case to include consideration of both nonstop and one-stop service between Midway Airport and the other points as issue. As the carrier suggests, this will allow applicants increased flexibility and may well result in a greater volume of service to Midway than would otherwise be possible in some of the smaller merkets if only nonstop service were put in issue. However, we intend to keep the case basically focused on service to Midway Airport, so we will provide that all flights operated pursuant to authority granted in this case must serve Midway. Also, since we doubt very much that two-stop service between any of the points at issue and Midway would be of much use to the traveling public, we will not put authority for such two-stop service in issue. For the same reasons, we will not grant one-stop authority involving more than 50 per cent circuity.[5] Within the foregoing boundaries, we believe that the proceeding, conducted as it will be on the principle of multiple permissive entry, should not be unduly complicated by including consideration of one-stop service to Midway. Applicants desiring authority for such service should so specify at the outset. A successful applicant will be granted authority encompassing one-stop service between Midway and each of the non-Midway points named in its new Midway segment via any other such point meeting the 50 percent maximum circuity criterion, subject to the Midway service requirement set forth above, unless it specifies that it desires less extensive or no such one-stop authority. Applicants need not submit an illustrative service proposal for each possible one-stop routing; we require only that each point at which it seeks new Midway authority be covered by at least one illustrative service proposal—a nonstop proposal, if that shows that at least some nonstop service can be economically operated in the Midway market in question, or, if there is any doubt about the latter criterion being met, a one-stop proposal with the point in question served as either a terminal or intermediate point, showing that at least some such one-stop service is feasible.

Finally, we will consolidate all the applications except DHL's in Docket 33132. On August 24, DHL filed a motion to dismiss its applications, which we will grant.[6] We will also grant Wien's motion to file its application because we believe that good cause has been shown in its motion.

Reply to the dissent. Our dissenting colleague, having disagreed with our decision in *Midway I* to award permissive authority to all qualified applicants in the six markets there at issue,[7] now objects to our tentative decision to follow the same policy in the 24 additional markets at issue in *Midway II*. He would have us suspend judgment "until all the facts are in," and accuses us of arbitrary and doctrinaire behavior in giving advance notice that we expect in all likelihood to follow the same course of multiple permissive awards in *Midway II* as in *Midway I*. We readily agree that our specific findings and conclusions in *Midway I* are not *res judicata* as to any participants in *Midway II* who were not parties to the earlier case; but while the doctrine of *stare decisis* does not have the same compelling force in administrative law as it does, say, in the law of property, surely an agency cannot be faulted for resolving to behave consistently from one case to the next. Indeed, it is departures from consistency in decisional standards, not adherence to it, that an agency is required to explain with particular care.[8]

The dissenter urges us to wait "until all the facts are in" before arriving at even a tentative conclusion about what course we expect to follow in this case, but omits to mention what facts he anticipates may turn up for the first time in *Midway II* that would require a different conclusion. Very little in *Midway I* turned on the facts peculiar to the six markets there at issue; everything turned on the facts there disclosed about the history of service at Midway and O'Hare, which led us and our dissenting colleague alike to conclude that the incumbent carriers at O'Hare cannot be relied on to restore Midway to its former status as a vigorously active facility serving large numbers of Chicago air travelers, and that only new carriers not holding parallel authority at O'Hare will have the necessary incentives to achieve this important public purpose. These same facts, together with our knowledge of the economics of the airline industry, further convinced us (though not our colleague) that multiple permissive awards were most likely to achieve our common goal. It will be most surprising if the testimony and exhibits in *Midway II* disclose any facts about the history or present status of the Midway problem that we have not already thoroughly explored, and we see no reason—certainly our colleague suggests none—to expect that any facts peculiar to the 24 addi-

[5] In our view, a flight from point A to Midway via point B involving more than 50 per cent circuitry would be unlikely to carry any significant amount of Midway traffic on the A-B leg; hence the focus on service to Midway would be jeopardized if such service were considered here.

[6] On September 11, Judge Yoder served a document entitled "Initial Decision and Order of Administrative Law Judge," which dismissed DHL's application. Concluding that he did not have delegated authority to act, Judge Yoder attempted to deal with it in a creative way. Unfortunately, Rule 27 of the rules of practice, which delegates authority to judges to make initial decisions, refers to decisions "on the merits of the proceeding and on all ancillary procedural issues remaining for disposition *at the close of the hearing* (emphasis added)." Since no hearing has been held, there can be no "initial decision." Second, even if the judge could issue an initial decision now, there is no indication on the face of his document that he has compiled with the service requirements of Rule 27(b). Finally, if this were a valid I.D., review would lie under Rule 28, not 14 CFR 385.50, which is mentioned in his document but which applies only to actions taken under the delegations of authority in Part 385 of the Regulations. He purports to rely on Rule 27, not Part 385. We appreciate Judge Yoder's effort to handle this procedural matter without bringing it to the Board, but that is impossible. We conclude, therefore, that his document has no legal effect and is superseded by this order.

[7] Order 78-7-40, dissent of Member O'Melia, dated August 4, 1978. In view of our dissenting colleague's expressed concern over the legality of our developing policy of multiple permissive awards—a matter which we have dealt with at considerable length in our two orders in the *Oakland Service Case*, Orders 78-4-121 and 78-9-96—we feel justified in pointing out again that his preferred solution to the Midway problem involves at least equally serious legal difficulties, *i.e.*, (1) an unprecedented and legally questionable use of the Board's Airport Notice procedure (14 CFR 202.13(a)) to bar the incumbent carriers from exercising their long-standing albeit now dormant authority to serve Chicago through Midway Airport, where the withdrawal of this authority was never put in issue in *Midway I*; and (2) a similarly unprecedented and questionable use of the Board's rate-suspension powers under Section 1002 of the Act to prevent the incumbents at O'Hare from matching the new carriers' expected low fares at Midway. As to the latter, our colleague does not indicate on what basis he would have us find even preliminarily that such matching fares would be "unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial" (to quote section 1002(d)(1)), particularly in view of our announced policy of allowing air carriers to engage in price competition within very broad limits, see PS—80, August 25, 1978. Compare *Continental Air Lines* v. *CAB*, 522 F.2d 107 (D.C. Cir. 1974).

[8] See *Braniff Airways* v. *C.A.B.*, 306 F.2d 739 (D.C. Cir. 1962); *City of Lawrence* v. *C.A.B.*, 343 F.2d 583 (1st Cir. 1965); *Continental Air Lines* v. *C.A.B.*, 443 F.2d 745 (D.C. Cir. 1971).

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tional Midway markets will lead us to change our conclusions.[9]

Our colleague does us less than justice, however, in suggesting that our minds are already irrevocably made up and that the opportunity for parties to comment we have here provided is a mere sham. Any such suggestion is simply untrue. The Board frequently issues orders to show cause embodying tenative findings and conclusions reached on the basis of an inspection of the parties' initial pleadings, but we do not understand our colleague (who has joined in many such orders) to suggest that they represent an unacceptable form of prejudgment, or that the opportunity they afford parties to reply is a sham. The same is true here. While we have heard extensive oral and written debate over the past six months on the legality and general merits of a policy of multiple permissibe awards and its application to a wide variety of markets, we are still prepared to listen to any new arguments that do not simply repeat what has aleady been said. We have not adopted a general policy of multiple permissibe awards, and the adoption of such a policy is not at issue here. We are, however, prepared to give careful attention to any showing that particular circumstances make a specific market or group of markets at issue here unsuitable for multiple permissibe awards. If such a showing is made, we would expect to follow a different prescription for those markets, and, if necessary, to reopen the record to admit any carrier selection evidence that might thus become necessary.

In the meantime, however, we do not expect to admit such evidence, nor do we expect the administrative law judge to suspend the proceedings until after we have received and evaluated the parties' comments on the policy issue. In suggesting that we do so, our colleague appears to have lost sight of the pressing need for a prompt decision in this case—not merely because a prompt decision is always desirable, but because it may well make the critical difference between success and failure of the whole effort to revive service at Midway. The evidence in *Midway I* convinced us (and our colleague evidently agrees), first, that the chances of a new carrier or carriers securing a foothold at Midway will be greatly enhanced if the number of markets it can serve is expanded well beyond the six at issue in *Midway I*, and second, that the chances of restoring Midway to vigorous life are dependent upon bringing in flights from as many other cities as possible, so that travelers will begin to see Midway as an active full service airport.

Prompt decision, however, is utterly incompatible with a conventionally run case in which all the traditional carrier-selection evidence is brought out and examined. When *Midway I* was first set down we limited the markets at issue to six because we were convinced that a fifteen-market case would take far too long to try.[10] A conventionally run 24-market case would undoubtedly still be in process in late 1980, a delay we simply cannot accept. However, as we pointed out in our *Oakland* order,[11] one of the incidental benefits of dispensing with carrier-selection evidence is that it will enable us enormously to simplify and speed up our proceedings. Only in this way can we hope to authorize new service in 24 additional Midway markets by early 1979 as is our objective.

Much of what our colleague says in his dissent makes it clear, however, that what he hopes will convert us to his viewpoint is not evidence of circumstances peculiar to the 24 additional Midway markets that would make them unsuited for multiple permissive awards, but evidence which he believes will show that our awards in *Midway I* have failed to produce the desired results. We agree that in some situations it might be a wise course to apply a new policy in a few cases, a few markets, and then await the results before applying it in additional cases and markets. But, two weighty considerations preclude our following that course here. First, it is almost universally agreed that a policy of much freer entry into air transportation, if applied on a limited basis or in only a few selected markets, will offer incentives for perverse behavior by established carriers whose remaining systems are still protected, and therefore will be unlikely to produce results that will be a reliable guide to what can be expected if the policy is widely or universally applied.[12] Second, as already noted, the success of the entire Midway experiment may well depend on the rapidity with which we can authorize new service in additional markets. We cannot prudently delay action in *Midway II* for a year or two while awaiting the results of *Midway I*—and that is essentially what our colleague is proposing—when those results may well depend on our ability to finish *Midway II* in record time.

In any case, we think our colleague's pessimism about the results of our awards in *Midway I* is misplaced or, at very least, premature. It is of course disappointing that the established carriers to whom we awarded new Midway authority have deferred implementing it, but this appears to be explainable more by shortages of capacity[13] and more immediate profit opportunities elsewhere than by the nature of our awards in *Midway I*. It is hardly reasonable to expect either of the completely new carriers we certificated, Midway Airlines and Midway (Southwest), to be close to inaugurating service only two months after our final decision.[14] In a recent pleading in another docket[15] Midway Airlines represents that it has proceeded with its efforts to obtain financing; that these efforts have been given a substantial boost by the Board's institution of *Midway II* "with its implied assurance that Midway would receive an award of authority therein to serve 17 additional Chicago markets"[16] and by the fact that no other carrier appears to be preparing to institute new service at Midway Airport within the next twelve months; and that it "anticipates that in a short time it will complete its arrangements for financing necessary to commenc(e) service by the Spring of 1979."[17] These representations make the situation appear far more hopeful to us than it does to our colleague, and we certainly are not prepared to delay *Midway II* by including carrier selection in the issues while waiting to see if these hopes come to fruition.

As to our inclusion of one-stop authority among the issues in the new case, we must respectfully disagree with our colleague on what is clearly a matter of judgment, not principle. We

[9] We forbear to analyze our colleague's grotesque caricature of our reasoning, other than to point out that if we proceeded by syllogism it would run approximately thus: *Major premise.* The evidence in *Midway I* convinces us that multiple permissive awards are the most promising means to achieve the agreed end, and this conclusion is not based materially on facts unique to the particular Midway markets here at issue. *Minor premise:* There is no apparent reason to suppose that the 24 markets of *Midway II* are materially different in this respect than the six of *Midway I. Conclusion:* Our conclusions in *Midway I* will probably apply to *Midway II* as well, and this is sufficiently probable to justify our shaping the procedures of the case on this assumption, unless and until disproved.

[10] See Order 77-5-81.

[11] Order 78-4-121, pp. 52-55.

[12] See our recent opinion in the *Las Vegas-Dallas/Fort Worth Nonstop Service Investigation*, Order 78-7-116; and see also the *Oakland Service Case*, Order 78-9-96, at pp. 47-50.

[13] In our recent *Oakland* order (Order 78-9-96, p. 44) we pointed out the constraints on carrier behavior imposed by temporary externalities outside regulatory control, and specifically the present developing shortage of capacity which may temporarily limit the ability of carriers to inaugurate extensive new services until additional capacity can be ordered and brought on line. We concluded, however, that such short-term constraints in no way impair the long-run validity of our conclusions about multiple permissive entry.

[14] Indeed, throughout the proceeding neither of these applicants anticipated beginning service before the spring of 1979.

[15] Docket 33223, Answer of Midway Airlines, filed September 25, 1978.

[16] *Ibid.* at p. 3.

[17] *Ibid.*

are not trying to tell the applicants how to run their airlines, but simply trying to broaden their options. No applicant will be compelled to seek one-stop authority, much less operate one-stop service, unless its own managerial judgment so dictates. If by holding out this option we can ensure superior new service in some of the smaller Midway markets, our purpose will have been served. We do not believe inclusion of one-stop authority in the issues will significantly complicate or prolong the proceeding, once carrier-selection evidence has been excluded.[18] If as our colleague suggests most applicants do not want or need this authority, little time will be spent on it. In any event its inclusion will have no effect whatever on the legal issues; will not add to the civic parties; and can hardly add much to the number of carrier parties since almost every domestic carrier is already in the case as an applicant.

In concluding, we would like to correct a misapprehension of our colleague, most fully set forth in his "interim statement" appended to our recent *Oakland* order (Order 78-9-96). In that and our earlier *Oakland* order (Order 78-4-121) we spoke frequently of our incipient policy of multiple permissive awards as involving carrier selection by "the marketplace" rather than by this Board. Our many references to "the market" and "the marketplace" have filled our colleague with apprehension and doubt: he sees "the market" as an "impersonal agent" to which we have unjustifiably imputed "near-human attributes of insight, rationality, and purposefulness," or as a "metaphysical potter" who "doesn't work like an instructed and fully subservient genie" and may "turn out a real clinker;" and he thinks it "very unlikely that the market—if it had cognitive intelligence—would share our views . . . as to what constitutes the public interest."

We would like to reassure our colleague: "the market" is neither an impersonal agent nor a genie, subservient or otherwise, much less a metaphysical potter. Perhaps we are to blame for couching our *Oakland* analysis in a bit of economists' jargon. The truth is that out there in the real world, away from our offices, there is no "market" or "marketplace," except as a convenient abstraction. What there is out there is millions of ordinary Americans who want fast, convenient, and inexpensive intercity transportation. They have a full measure of insight, rationality, purposefulness, and cognitive intelligence; more to the point, they know what they want and are prepared to pay for it. On the other side are some hundreds of air carriers (if we count the commuters) and many would-be air carriers who are eager to sell air transportation and to compete for the consumers' dollars.

The fundamental theory of our national life is that, in most situations where sellers are prepared to sell and buyers are prepared to buy a service or commodity, both the greatest satisfaction of consumer desires and the most efficient use of resources will take place where sellers are left free to compete in offering their wares or services and buyers are left free to select the wares or services which most appeal to them at prices which both buyers and sellers find acceptable, with the government keeping out of the way except to prevent violence, fraud, deceit, monopoly, predatory practices, and avoidable threats of life and health. This is "the market" at work. To be sure, there are a small minority of situations where "the market" does not operate satisfactorily, most often because the buyers in a particular area have access to only a single seller and it is difficult or impossible for new sellers to enter. In these situations the government—usually by means of an administrative agency—intervenes to prevent the seller from abusing his monopoly power. But outside of these exceptional situations it has not been our national philosophy that any group of government officials, however well intentioned, should substitute their judgment for that of the individual buyers and sellers in the marketplace.

In 1938, in the wake of the Great Depression, the Congress thought it discerned a danger that the infant air transportation industry, then heavily subsidized through mail pay, would fall into a condition of destructive competition that would end either in the failure of all the competitors, so that the public would receive no air service at all, or in the monopoly domination of the market by one or a few carriers. To avert this danger, and to administer subsidy more fairly than before, Congress set up this Board and endowed it with extensive powers over which carriers would be allowed to enter the marketplace, where they would be allowed to fly, what services they would be allowed to offer, and what prices they would be allowed to charge. This Board has labored mightily for forty years, keeping most newcomers (except those flying small airplanes) out of the market, choosing "the best" one or two or three from among the established carriers to serve each route, and preventing the carriers from either raising or lowering their prices more than the Board thought reasonable at the time. In the process, the Board has interfered pretty extensively with the consuming public's freedom to choose the air services it liked best; but it was all done in the name of what was then viewed to be the higher public good.

Today, however, air transportation is no longer a struggling infant industry, but a mature giant hundreds of times larger than in 1938. Subsidy is no longer a central feature of the system; the major carriers receive none, and even the remaining subsidized carriers for the most part receive only a small fraction of their revenues from this source. Rather, the driving force of the system is consumer demand. We have reassessed our policies, we have studied the present-day economics of the industry, and we find that, in the Midway and Oakland markets at least, and in a number of other markets we have investigated, there is no discernible danger of the kind of destructive competition Congess feared in 1938. In the light of Congress's own express mandate for competition in section 102 of the Act, and the broad discretion the Act gives us, is it not then our plain duty to get out of the way as much as we can and let the consumers in these markets select the air transportation services *they* prefer, as they select the hotels and resorts and automobiles and newspapers and soft drinks and toothpaste which most appeal to them? And must we stick to our old practices simply because of the possibility that the public's choice of air carriers and air services may turn out to be different than ours would have been? What warrant have we to assert that our choice would be "better" than theirs?[19]

To us these questions seem hardly debatable, given our factual finding that multiple permissive awards in the markets at issue will not lead to the destructive competition Congress once feared. If our colleague disagrees with that finding, we think he ought to tell us what evidence supports his contrary view. Otherwise, once he realizes that "the market" is not some mysterious bogey but simply the American people making free choices from among the offerings of competing sellers, we hope he will join us in throwing open the gates on the sellers' side of the marketplace to the fullest extent the law permits.

Accordingly, the Board: 1. Revises ordering paragraph 2(a) of Order 78-7-41 to read as follows:

"(a) Whether the public convenience and necessity require the grant of additional

[18] We note that *Midway I* was not materially complicated by inclusion there of the issue of one-stop service via Midway between peripheral cities. Despite fears at the outset, the parties paid relatively little attention to such one-stop service as the case actually developed.

[19] Our colleague fears that "the market" will not observe "due process" in making its choices. We can only say that this has not been thought an adequate justification for bureaucratizing the marketplace for most other goods and services sold in this country.

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nonstop or one-stop route authority between Chicago's Midway Airport, on the one hand, and any or all of the following points: Buffalo-Niagara Falls, N.Y.; Cincinnati, Columbus, and Dayton, Ohio; Des Moines, Iowa; Louisville, Ky.; Memphis and Nashville, Tenn.; Omaha and Lincoln, Nebr.; Indianapolis, Ind.; Boston, Mass.; Hartford, Conn.; New York, N.Y.-Newark, N.J.; Philadelphia, Pa.; Baltimore, Md.-Washington, D.C.; Atlanta, Ga.; Denver, Colo.; Dallas/Ft. Worth and Houston, Tex.; Sioux Falls, S. Dak.; Peoria and Rockford, Ill.; and Quad Cities, Iowa-Ill.; subject to the condition that—

"(i) All flights operated pursuant to authority granted in this proceeding shall serve Midway Airport;

"(ii) Only the points named above will be considered as intermediate points; and

"(iii) One-stop service between Midway Airport and another point in issue involving more than 50 per cent mileage circuitry will not be authorized."

2. Invites interested parties to file comments on the Board's initial determination to award permissive authority to all fit, willing and able applicants in each Midway market in which any need for additional authorization is shown. Comments must be filed by October 27, 1978;

3. Consolidates the following applications with Docket 33019:

North Central Airlines, Docket 33108; Alaska Airlines, 33116; Ozark Air Lines, 33117; Frontier Airlines, 33118; Southern Airways, 33122; Midway Airlines, 33123; Allegheny Airlines, 33129; Northwest Airlines, 33135; Continental Air Lines, 33136; Eastern Air Lines, 33140; Western Air Lines, 33144; Braniff Airways, 33146; Texas International Airlines, 33147; Federal Express Corp., 33148; American Airlines, 33149; National Airlines, 33152; Midway (Southwest) Airway Co., 33153; Piedmont Aviation, 33154; Trans World Airlines, 33156; Evergreen International Airlines, 33157; Wien Air Alaska, 33178.

4. Dismisses the applications of DHL Airways and SHL Corp. in Dockets 33132.

5. Delegates to the presiding administrative law judge authority to consolidate applications for authority between Midway Airport and any or all of the seven cities added to the proceeding by this order;

6. Directs applicants to file environmental evaluations for the seven additional cities within 21 days of the service date of this order;

7. Grants the motions of Wien Air Alaska, the Bureau of Pricing & Domestic Aviation, and the Nashville Metropolitan Airport Authority for leave to file late pleadings; and

8. Denies all petitions for reconsideration or clarification of Order 78-7-41 except to the extent granted by this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[20]
Secretary.

[FR Doc. 78-29191 Filed 10-13-78; 8:45 am]

[6320-01-M]

[Docket No. 32705; Order 78-10-31]

POPULAR LATIN TRAVEL AGENCY, INC.

Order Requesting Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1978.

Popular Latin Travel Agency, by motion dated May 19, 1978, has asked the Board to reexamine and disapprove or modify the Air Traffic Conference of America's Resolutions governing declarations of defaults by travel agents (ATC Resolution 80.10, section VII.B and 80.15, paragraph 15). Section VII.B of Resolution 80.10 requires ATC's Executive Secretary to remove all ATC members' ticket stock and the carriers their validation plates if any ATC member declares and agent in default. Under paragraph 15 of Resolution 80.15, the Sales Agency Agreement, the agent agrees that an individual carrier may withdraw its ticket stock and plates if an agent is in default to it or any other participant in ATC's Agency Resolution. ATC has filed an answer, accompanied by a motion for leave to file an unauthorized ducument.[1]

On the basis of the pleadings, the events leading up to the petition are as follows. In the latter part of 1976, blank ticket stock was stolen from Popular Latin, apparently by one of its employees. Under the Sales Agency Agreement, paragraph 18, ATC Resolution 80.15, agents are responsible to carriers for lost or stolen tickets. There is an exception to this general rule for stolen tickets if the theft is reported promptly and if the agent has taken certain security measures, but the exception does not apply if the thief was the agent or an agency employee. There is a dispute as to whether Popular Latin gave prompt notice. Since it is conceded that the thief was a Popular Latin employee, the question need not be resolved. The exception would not be available in any event. Following notification of the theft, an ATC employee investigated and on the basis of his report, ATC's Executive Secretary determined that Popular Latin was not eligible for the exception and that it would be liable under the Sales Agency Agreement. Various carriers honored tickets written on the stolen stock and billed Popular Latin.

Popular Latin apparently was able to satisfy all carriers that honored the stolen tickets except American, which declared it in default under section VII.B of Resolution 80.10 and under paragraph 15 of Resolution 80.15. Popular Latin attempted to have the default declaration arbitrated under ATC arbitration procedures. ATC denied the request because, under the current rules, declarations of default by individual carriers are not included in the class of disputes subject to arbitration.

Under section VII.B of Resolution 80.10, ATC is required to recover ticket stock for all members and the members themselves are required to remove plates and exchange orders. ATC has attempted to perform its function under paragraph VII.B and Popular Latin has attempted to block it in New York State Civil Courts. To date, Popular Latin has not been successful,[2] but the latest decision adverse to it is pending on appeal.

Popular Latin asserts that ATC's default procedure, which does not allow for a hearing before ticket stock and identification plates of all carriers are removed, amounts to a taking of property without a hearing and is a denial of due process. It also asserts that ATC and the carriers do not apply the default provisions uniformly to all agents and that this results in unfair discrimination.

ATC has challenged the motion on procedural and substantive grounds. It asserts that although Popular Latin's motion purports to be made under Rule 18 of the Board's Rules of Practice, 14 CFR 302.18, it is in fact a petition for reconsideration, which is not authorized by that rule according to its explicit language.

As to the substance of Popular Latin's motion, ATC asserts that the complainant has confused the roles of individual carriers and ATC under section VII.B of Resolution 80.10. American, not ATC, put Popular Latin in default, it asserts; ATC was merely performing its duties under the Agency Resolution. It argues that the issue which might have been subject to arbitration was the declaration of default by American; that this was a matter between American and Popular Latin; that ATC should not have been a party to any arbitration proceeding; and that the Agency Resolution and

[20] All Members concurred except Member O'Melia, who dissented and filed his attached dissent, and Member Schaffer, who did not participate. Dissenting statement of Member O'Melia filed as part of the original document.

[1] Because the late filed answer will not further delay this proceeding and because it will assist our determination we will grant the motion.

[2] The court decisions against Popular Latin appear to be based on the courts' conclusions that American and ATC acted in accordance with the agency agreement approved by the Board.

Sales Agency Agreement do not in fact, provide for arbitration of default declarations under section VII.B.

ATC further argues that since it is an association of private businesses it is not required under the Constitution to give due process of law in administering contractual relationships with other businesses;[3] that, in any event, due process requires only that a hearing be held at some point before a final decision is made; and that Popular Latin had a variety of opportunities to obtain such a hearing in civil courts under the existing Sales Agency Agreement.

We have concluded that Popular Latin's motion has raised serious questions, which cannot be answered on the basis of the pleadings, about whether the ATC's default procedures provided in section VII.B may be adverse to the public interest.

At the outset, we reject ATC's argument that Popular Latin's motion is procedurally defective. Section 412 of the Act confers on the Board the authority and responsibility to disapprove any section 412 agreement ". . . whether or not previously approved by it, that it finds to be adverse to the public interest or in violation of the Act." Popular Latin's motion, therefore, is not so much a petition for reconsideration as it is a request that the Board perform the reexamination of an agreement that is contemplated under section 412 of the Act. Furthermore, we could in any event conduct such a reexamination sua sponte, and the public interest would not be served if we declined to review the agreement because its possible defects were called to our attention by a third party motion which may not conform to all of the procedural niceties of our Rules of Practice. Indeed, our ability to perform our regulatory responsibilities would be severely impaired if we were not able to rely on requests from affected persons to direct us to agreements, the reexamination of which the public interest requires.[4]

Turning to the default provisions in case of ticket stock thefts, there are a number of discrete actions which might be considered to be denials of due process of law or anticompetitive concerted actions. The steps which would lead to a default declaration are as follows:

(1) Following the report of the theft, an investigation by ATC and a determination by the Executive Secretary as to whether the agent is exempt from liability.

(2) Honoring tickets by ATC carriers and request for reimbursement from the agent.

(3) Following refusal by the agent to reimburse it, the individual carrier declares the agent in default.

(4) Following the declaration of default, ATC removes ticket stock and individual carriers are required to remove their plates.

Since the first step of the process results in a determination of the agent's liability that could result in a loss of its funds, it may constitute a denial of due process. ATC's assertion that private parties are not required to give due process in their contractual relations is correct where the contractual relations are between two individual parties. Where competitors act in concert in making contracts, however, and that concerted action is to be immunized from the antitrust laws, private persons can be required to give due process to those with whom they deal. In *Silver* v. *New York Stock Exchange*, 373 U.S. 341 (1963), the Supreme Court imposed a due process of law requirement on the New York Stock Exchange. Silver was an over-the-counter dealer whose phone and teletype lines with exchange members were ordered severed. The Exchange never informed Silver of the reason for its action, nor did it give him an opportunity to challenge it. The Exchange argued that the Securities and Exchange Act of 1934 contemplated self-regulation by exchanges, and that its actions against Silver were acts of self-regulation that must be immunized from antitrust laws if the intention of the 1934 Act were to be fulfilled. The Court concluded that while self regulation might justify immunizing certain anticompetitive acts, it did not justify acts which denied due process of law to injured persons.

Silver, of course, involved an explicit delegation of regulatory duties from Congress to private businesses, whereas ATC's agency program does not,[5] and so we are not bound by *Silver*. Nevertheless, we agree with the basic principle of the case, i.e., that even where special regulatory concerns justify immunizing concerted anticompetitive actions, they do not justify immunizing actions that deny to affected persons due process of law. We have in fact for some time consistently required that agents be afforded due process, with, at minimum, notice and opportunity for hearing.[6] As noted in the *Agency Resolution Investigation*:[7]

> [the] entire system of joint carrier screening of travel agents is a substantial departure from the normal free competitive practices of our economy, and • • • it would be clearly in violation of Federal antitrust laws were it not for the immunity extended by section 414 of the Act. This is not a situation therefore, where we can grant to the carriers on the basis of management expertise or discretion substantial freedom to make decisions • • • Through the ATC system, the carriers hold life and death power over the travel agencies and it would be unthinkable that the carriers should exercise these powers without giving full notice of their reasons and providing ample opportunity for appeal.

The determination by ATC's Executive Secretary that an agent is not exempt from liability is binding on all ATC members. Hence it falls into the class of concerted actions that should be subject to due process if it is to be immunized, especially since the decision might, as here, ultimately result in termination of the agency relationship. The present record does not, however, permit us to decide whether the procedure does so. We expect that parties commenting here will discuss whether the current procedure affords due process to agents and also the question of what procedures might do so.

The next step at which a question of due process might arise is the carrier's declaration of the agent to be in default. This step cannot be considered in isolation, however, since under ATC's current agreement it leads automatically to removal of all ticket stock and carrier identification plates. ATC has stated that a default declaration under Section VII.B is not subject to review by the Travel Agent Commissioner and to arbitration because it is a private dispute between an agent and an individual carrier. The flaw in this argument is that under the existing agreements, the effect of the dispute is not limited to relations between the individual carrier and agent. ATC's resolutions provide for severence of relations with the agent by all

[3] ATC cites *Shelly* v. *Kraemer*, 334 U.S. 1,13 (1948).

[4] See, e.g., *Hawaii Common Fares*, Order 76-11-117, in which the Board reviewed and disapproved a previously approved rate agreement on the basis of a request from an affected person.

[5] Popular Latin has alleged that the agency program represents delegation of regulatory power from the Board to ATC. The Board, however, does not have jurisdiction to regulate travel agents and it does not consider carrier/agent relations except when carriers agree among themselves to uniform practices.

[6] E.g., *ATC Agency Resolution Investigation*, 29 CAB 258 (1959), requiring notice and hearing for agents that are denied initial accreditation or that are subsequently removed from the agency list, ATC Agreements Concerning Travel Agents' Procedural Rules and Practices, Order 76-5-57, May 14, 1976, approving an agreement establishing a Travel Agent Commissioner, that is designed to provide further procedural and substantive fairness to agents and, Air Traffic Conference of America, Order 77-11-10, Nov. 22, 1977, in which we conditioned our approval of an agreement establishing a third party collection system on requirements that agents be provided sufficient information to meaningfully contest claims againts them and that agents not be penalized, even indirectly for contesting them.

[7] 29 CAB 264, 265.

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ATC air carriers, even when the dispute is with only one, without notice or opportunity for hearing. For this reason, the standards for concerted action by all ATC members rather than those for individual carrier action should apply and some measure of due process to agents is required.

Due process questions aside, the removal of ticket stock and plates for all ATC members following the declaration of default raises other anticompetitive questions. Specifically, this is the type of concerted refusal to deal that would be illegal per se under the antitrust laws absent Board approval. Its continued approval must, therefore, rest on a showing that it is required by a serious transportation need or in order to secure important public benefits, and that less anticompetitive alternatives do not exist to meet the ends.[8] Although we would require that due process be afforded agents before action against them is taken under secion VII.B, due process alone would not meet the *Local Cartage* test. Our due process requirement is a procedural rule while the *Local Cartage* test is a substantive one, and the agreements in question must past muster under it independently of due process consideration.

In examining ATC's rules on agency appointment and removal, we have balanced due process and competitive considerations with the carrier's needs to protect themselves from unscrupulous agents. We have in fact, relied on the ability of the ATC's Executive Secretary to summarily terminate agency appointments for flagrant breaches of the Agency Resolution as a means of protecting air carriers when we have required ATC to adopt notice and hearing and arbitration procedures.[9] This past reliance does not, however, compel us to accept summary removal of ticket stock and plates on the basis of a default declaration by a single carrier. In the first place, the disputes that would have been subject to arbitration in the Agency Resolution Investigaion were more likely to affect all ATC members, e.g., failure to maintain bond accounts, or repeated failures to remit or to remit on time. Hence the loss to carriers, and ultimately to the public were potentially greater.[10] More importantly, in the case, we disapproved a provision that would have required removal of ticket stock pending arbitration on retention question that were subject to arbitration and required that agents be permitted to retain ticket stock. We believe that our decision to impose due process requirements on default declarations by individual carriers is supported by these previous actions.[11]

The present record does not permit us to engage in the balancing process as we have in the past, and we are therefore deferring action to permit interested persons to comment on section VII.B of Resolution 80.10, and to suggest alternatives. In general, we are concerned not only with providing agents with due process of law so long as sction VII.B results in a concerted refusal to deal, but also with the question of whether, even if an agent is afford due process, an agreement that requires all ATC members to stop dealing with that agent on the basis of a dispute with only one is adverse to the public interest. More specifically, persons commenting should discuss the following:

(1) Does the Executive Secretary's determination on whether an agent is exempt from liability for lost or stolen tickets afford due process to the agent and if not what changes would be required to provide due while protecting ATC members?

(2) What changes to the current section VII.B of Resolution 80.10 are necessary to insure that agents are assured due process of law before ticket stock and identification plates of all ATC members are removed and that carriers funds are protected?

(3) Even if agents were accorded due process, does withdrawal of Ticket Stock and plates of all ATC members under section VII.B fill a serious transportation need or provide important public benefits?

(4) Can this need or these benefits be provided by other less anticompetitive means and what are these means?

We request that interested persons not only comment on the terms of the current agreement but also suggest and comment upon alternatives. Argument and evidence will be due 45 days from the date of service of this order. Reply materials will be due 21 days later. To the extent that parties rely on the need for the carriers to protect themselves as a justification for a particular procedure, they should provide evidence which compares the cost to carriers of adopting their procedure with the cost of those advocated by others.

Accordingly: 1. We will afford interested persons an opportunity to file evidence and arguments, concerning the motion of Popular Latin Travel Agency in Docket 32075 and the issues raised in this order;

2. We will require comments and evidence to be filed not later than November 24, 1978; and reply comments and evidence not later than December 15, 1978; and

3. We shall serve this order on Popular Latin Travel Agency, Inc., the Air Traffic Conference of America, the American Society of Travel Agents, the Association of Retail Travel Agents, the Association of Bank Travel Departments, the Antitrust Divisions, U.S. Department of Justice, and Paul S. Quinn, Esquire.

We shall publish a copy of this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[12]
Secretary.

[FR Doc. 78-29189 Filed 10-13-78; 8:45 am]

[8]See, *Local Cartage Agreements Case*, 15 CAB 850,852 (1952), *Capacity Reduction Agreements Case*, Order 75-7-96 July 21, 1975, and *Eastern Air Lines*, Order 78-3-106, March 23, 1978.

[9]See, *ATC Agency Resolution Investigation*, 29 CAB at 265, 30 CAB at 579.

[10]In the course of that investigation, the predecessor to the Bureau of Pricing and Domestic Aviation had requested the Board to require that summary terminations be subject to after the fact arbitration. The Board denied the request on precedural grounds and so that decision does not affect our decision here.

[11]It must also be remembered that in 1959 carriers settled with agents individually rather than through the clearing house system of the Area Settlement Plan, and one carrier might be justifiably concerned over an agent's failure to settle with another. In contrast, today if an agent is maintaining its ongoing obligations under the Area Settlement Plan there is less risk to carriers as a result of an agent's refusal to settle a claim with an individual carrier over stolen tickets.

[12]All Members concurred.

[1505-01-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

Correction

In FR Doc. 78-27838 appearing at page 45627 in the issue for Tuesday, October 3, 1978, on page 45628, in the first column, in the application for the University of Hawaii, Institute for Astronomy, "Docket No. 78-00083" should be corrected to read "Docket No. 78-00068".

[3510-25-M]

EXPORTS OF RESIDUAL FUEL OIL FROM THE WEST COAST AND RELATED ISSUES

Hearing and Request for Comments

In a notice published in the FEDERAL REGISTER on August 18 (43 FR 36618), the Department of Commerce announced amendments to the Export Administration Regulations establishing a temporary program for licensing exports of residual fuel oil from the west coast.

This program implemented one of the measures announced by the Department of Energy (DOE) on June 15, 1978, to stimulate the market for heavy, high sulphur California crude oil. In its August 18 notice, the Department of Commerce stated that it intended to keep this temporary program under continuing review and to periodically reevaluate, in consultation with DOE, its effectiveness in achieving the objectives of the program announced by DOE on June 15.

On September 21, 1978, the Department of Energy announced a public hearing and invited written comments regarding the effect of the various measures it announced on June 15, including the Department of Commerce's temporary program for licensing exports of residual fuel oil from the west coast. The public hearing is scheduled to be held in the City Council Chambers in the City Hall, Long Beach, Calif., on October 18, 1978, commencing at 9:30 a.m., and to be continued on the following day if the number of requests to testify so warrants. In addition, submission of written comments is permitted until October 31.

The Department of Commerce will be represented on the panel which will conduct this hearing. The views expressed at the hearing and comments submitted to the Department of Energy in response to its notice which have a bearing on the temporary residual fuel oil export program or otherwise related to exports will be considered by the Department of Commerce, in consultation with the Department of Energy, in determining whether any changes relating to these issues should be made in the Export Administration regulations.

For further details concerning the public hearing and submission of comments, see the FEDERAL REGISTER of September 28, 1978 (43 FR 44468).

LAWRENCE J. BRADY,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-29264 Filed 10-12-78; 4:17 pm]

[3510-15-M]

Maritime Administration

[Docket No. S-622]

COVE CARRIERS, INC.

Application

Notice is hereby given that Cove Carriers Inc., Wall Street Plaza, Suite No. 1630, New York, N.Y. 10005, has filed an application dated September 25, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1978, unless extended, to operate the SS *Cove Spirit*, 26,371 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before October 25, 1978, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and serviced by citizens of the United States, would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS).)

Dated: October 11, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-29198 Filed 10-13-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL, SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL, COASTAL MIGRATORY PELAGICS ADVISORY SUBPANEL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils were established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Councils have established Advisory Subpanels on Coastal Migratory Pelagics. These subpanels will meet to review a draft fishery management plan on coastal migratory pelagics (mackerels).

DATES: The Coastal Migratory Pelagics Advisory Subpanels will convene on Wednesday, October 25, 1978, 10 a.m. until 6 p.m.; and on Thursday, October 26, 1978, from 8 a.m. until 6 p.m. This meeting will be open to the public.

ADDRESS: The meeting will take place in the Tampa Room of the Barclay Best Western Inn, 5303 West Kennedy Boulevard, Tampa, Fla.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone: 813-228-2815.

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Dated: October 11, 1978.

JACK W. GEHRINGER,
Acting Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 78-29172 Filed 10-13-78; 8:45 am]

[3510-22-M]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee (SSC). The committee will meet to review a draft fishery management plan for groundfish.

DATES: The meeting will convene at 10 a.m. on Thursday, November 2, 1978, adjourning at 5 p.m., and will convene at 8 a.m. on Friday, November 3, 1978, adjourning at approximately 12 noon.

ADDRESS: The meeting will take place in the Victorian Room of the International American Motor Inn, 2601 Severn Avenue, Metairie, La.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone: 813-228-2815.

Dated: October 11, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-29173 Filed 10-13-78; 8:45 am]

[3510-22-M]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Surf Clam/Ocean Quahog Management Plan; (2) Other Flounders Management Plan; (3) Status of Fishery Management Plans; and (4) Other Administrative matters.

DATES: The meeting will convene at 1 p.m. on Wednesday, November 15, 1978, and will adjourn approximately at 1 p.m. on Friday, November 17, 1978.

ADDRESS: The meeting will take place at the Best Western Philadelphia Airport Motel, Philadelphia Airport, Route No. 291, Philadelphia, Pa. 19153, 215-365-700.

FOR FURTHER INFORMATION CONTACT:

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Del. 19901, telephone: 302-674-2331.

Dated: October 11, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-29174 Filed 10-13-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL'S DUNGENESS CRAB ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Public Meetings

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Dungeness Crab Advisory Subpanel and Plan Development Team of the Pacific Fishery Management Council established under section 302(a) of the Fishery Conservation and Management Act (Pub. L. 94-265) will meet to review the working draft of the Dungeness Crab Fishery Management Plan.

DATES: The meeting will convene at 1 p.m. on Wednesday, November 15, 1978, and at 8 a.m. on Thursday, November 16, 1978, adjourning at approximately 5 p.m. on both days.

ADDRESS: The meeting will take place at the Thunderbird Motor Inn, located at 400 Industry, Astoria, Oreg.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201.

Dated: October 11, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-29175 Filed 10-13-78; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL'S BILLFISH ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Billfish Advisory Subpanel and Plan Development Team of the Pacific Fishery Management Council established under section 302(a) of the Fishery Conservation and Management Act (Pub. L. 94-265) will meet to discuss the preliminary draft of the Billfish Fishery Management Plan.

DATES: The meeting will convene at 10 a.m. and adjourn at about 5 p.m. on Friday, November 3, 1978.

ADDRESS: The meeting will take place at the California Fish and Game Office located at 350 South Golden Shores, Long Beach, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201.

Dated: October 11, 1978.

WINFRED H. MEIGOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-29176 Filed 10-13-78; 8:45 am]

[3510-18-M]

Office of the Secretary

ADVISORY COMMITTEE ON FEDERAL POLICY ON INDUSTRIAL INNOVATION AND ADVISORY SUBCOMMITTEE ON ENVIRONMENT, HEALTH, AND SAFETY REGULATION

Meeting

Pusuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Advisory Subcommittee on Environment, Health, and Safety Regulations of the Advisory Committee on Federal Policy on Industrial Innovation will hold a series of four meetings the first of which will be held on Thursday, October 19, 1978, from 9:30 a.m. until 5 p.m. at the U.S. Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The room number for this meeting will be set by October 17. Call Mr. John R. Heizer at 202-377-3648 for this information.

The Advisory subcommittee on Environment, Health, and Safety Regulations was established on October 4, 1978, to examine the impact of Federal environment health, and safety regulations policy on industrial innovation.

The agenda for this meeting is:

1. Refine the scope of work.
2. Discuss the views and orientation of the sumcommittee members.
3. Define the final work product.

Three additional meetings of this subcommittee will be held on the following dates:

Tuesday, November 16, 1978, in New York City.
Wednesday, December 6, 1978, in Washington, D.C.
Wednesday, December 13, 1978, in Chicago, Ill.

The time and place for these three meetings will be set by November 1. Call Mr. John R. Heizer at 202-377-3648 for this information. The agenda for these three meetings will involve the review of the work-to-date and the development of the format and content of the final subcommittee report. At the final meeting on December 13, the final report will be reviewed and approved.

The meetings will be open to public observation. A limited number of seats will be available to the public and press on a first-come, first-serve basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the subcommittee chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce, Central Reference and Records Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mr. John R. Heizer, Room 3868A, U.S. Department of Commerce, Washington, D.C., telephone 202-377-3648.

The Department regrets that emergency circumstances have prevented us from giving at least 15 days advanced notice of the meeting on October 19, 1978. The work plan for the Domestic Policy Review on Industrial Innovation requires that the subcommittee produce a printed report of its recommendations by December 15, 1978. the four meetings specified in this notice are essential to the completion of the committee's work by that deadline. Earlier notice was not possible because the subcommittee members were appointed only a week ago on October 4, 1987, and it was necessary to await such appointments before establishing a schedule for the meetings. The subcommittee's report will be subject to public review and criticism.

Dated: October 10, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and technology.

[FR Doc. 78-29276 Filed 10-13-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENT

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS FROM THE REPUBLIC OF CHINA

Adjusting the Import Restraint Levels

OCTOBER 11, 1978

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the level of restraint applicable to certain men's and boys' knit shirts in Category 638, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978; and decreasing the level of restraint applicable to women's, girls' and infants' knit shirts and blouses in Category 639 by an equivalent square yard amount. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).)

SUMMARY: Paragraph 7(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, of June 8, 1978, between the Governments of the United States and the Republic of China, provides that the limit for Category 638 may be exceeded by up to ten percent, but with an equivalent square yard amount deducted in the same agreement year from the limit for Category 639. The Government of the Republic of China has requested application of the provisions of Paragraph 7(b).

EFFECTIVE DATE: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On June 16, 1978, a letter dated June 15, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (43 FR 26102), which established the levels of restraint applicable to certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of China and exported to the United States during the 12-month period beginning on January 1, 1978, and extending through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint for Category 638 to 1,678,764 dozen and decrease the level for Category 639 to 4,870,914 dozen.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

OCTOBER 11, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: On June 15, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain specific categories, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed further to amend, effective on October 11, 1978, the levels of restraint previously established for man-made fiber textile products in Categories 638 and 639 during the twelve-month period which began on January 1, 1978 to the following:

Category	Amended 12-Month Level of Restraint*
638	1,678,764 dozen
639	4,870,914 dozen

*The levels of restraint have not been adjusted to reflect any imports after December 31, 1977.

[1]The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, betweeen the Governments of the United States and the Republic of China which provide, in part, that: (1) within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward up to 7.15 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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The action taken with respect to the Government of the Republic of China and with respect to imports of man-made fiber textile products from the Republic of China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-29156 Filed 10-13-78; 8:45 am]

[3710-03-M]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army.

ACTION: Notice of one new and two deleted systems of records.

SUMMARY: The Department of the Army proposes a new system of records identified as A0401.02bDAAG, entitled: "Mailing List for Army Newspapers/Periodicals". The record system notice is published in its entirety below. This makes obsolete two systems notices identified below.

DATES: This system shall become effective as proposed without further notice in 30 calendar days from the date of this publication unless comments are received on or before November 15, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Comments may be sent to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, the Adjutant General Center, Department of the Army, Room GA-084, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 40007) September 28, 1977.
FR Doc. 78-23953 (43 FR 38070) August 25, 1978.
FR Doc. 78-25562 (43 FR 40272) September 11, 1978.
FR Doc. 78-26373 (43 FR 42026) September 19, 1978.
FR Doc. 78-25819 (43 FR 42374) September 20, 1978.
FR Doc. 78-26699 (43 FR 43059) September 22, 1978.
FR Doc. 78-26996 (43 FR 43539) September 26, 1978.

The proposed system of records incorporates categories of publications now covered in Army systems of records A0102.03b, "Mailing List for Army Periodicals" and A0708.09aMTMC, "Mobilization Designee Files". It encompasses those Army staff and field agencies and commands/activities which disseminate on a recurring basis to the general public or to specified individuals who have requested placement on such a mailing list to receive news digests, variously described as command newspapers, professional and/or trade journals, and/or special interest recurring publications of an official or quasi-official but nondirective nature.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 11, 1978.

DELETIONS

A0102.03bDAAG

System name:

Mailing Lists for Army Periodicals (42 FR 50430) September 28, 1977.

Reason:

This system is covered by the new system notice published below.

A0708.09aMTMC

System name:

Mobilization Designee Files (42 FR 50535) September 28, 1977.

Reason:

This system is covered by the new system notice published below.

ADDITION

A0401.02bDAAG

System name:

401.02 Mailing List for Army

System location:

HQDA Staff and Field Operating Agencies, Major Commands, field installations and activities, Army Service Schools/Colleges, Army National Guard Bureau Headquarters and field activities. Official addresses are in the Department of Defense Directory appearing in the Annual Compilation of System Notices.

Categories of individuals covered by the system:

File contains name and current mailing address of recipients of Army and/or National Guard magazines, newspapers, professional and trade publications, journals, digests, and newsletters. Recipients may be current of former Army and/or National Guard personnel, staff and faculty or graduate/resident/correspondence student of Service Schools, military reservists, ROTC cadets, civilian academicians, professional or other personnel who have requested inclusion on mailing lists.

Categories of records in the system:

Mailing lists containing names and addresses of recipients of various periodicals published by the Army and/or the National Guard which have public relations value. Types of periodicals include but are not limited to the following:

a. Journals published by military schools and colleges, medical facilities, and training institutions.

b. Army newspapers or digests containing official or quasi-official but non-directive data of either a technical or administrative nature. Other personal data may be included such as Alumni Association Member number, professional society or trade organization of which a member and related information.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012; Title 32 U.S.C., Section 110.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. To produce mailing lists for distribution of Army periodicals, newspapers and various journals, digests and newsletters.

b. To perform statistical analyses and surveys of reader interest and opinion.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records, magnetic and computer tape, disk, cards, printouts, and addressograph plates.

Retrievability:

By name of individual.

Safeguards:

Records are maintained by authorized personnel who have a need-to-know.

Retention and disposal:

Retained until no longer needed, normally until individual requests deletion from mailing list, after which record is destroyed.

System manager and address:

Heads of DA Staff and Field Operating Agencies, Major Commands, commanders of installations/activities, Army Service Schools/Colleges and National Guard activities that publish periodicals, command newspapers, or other special-interest recurring publications.

Notification procedure:

Information may be obtained from either the Editor of the publication or the Public Affairs Officer of the Army and/or National Guard element publishing the periodical.

Record access procedures:

Requests should be addressed to the Editor or the Public Affairs Officer as in "Notification procedure".

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determations are contained in Army Regulation 340-21.

Record source categories:

Individual's application for the periodical; records of the Army and/or National Guard organization publishing same.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-29130 Filed 10-13-78; 8:45 am]

[3810-71-M]

Department of the Navy

TECHNOLOGY SUB-PANEL OF THE CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Technology Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on October 31-November 1, 1978. The October 31 session of the meeting will be held at the Navy Foreign Material Program Facility, Chesapeake Beach, Md., and the November 1 session of the meeting will be held at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 9 a.m. and terminate at 5:30 p.m. on both days. All sessions of the meeting will be closed to the public.

The entire agenda will be devoted to discussions of Soviet naval research and development and related intelligence. The agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO, Executive Panel Advisory Committee, 1401 Wilson Blvd., Room 405, Arlington, Va. 22209, telephone 202-694-3191.

Dated: October 11, 1978.

P. A. WILLE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-29138 Filed 10-13-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON STRATEGIC PLANNING EXPERIMENT IN THE MARITIME BALANCE AREA

Advisory Committee Meeting

The Defense Science Board Task Force on Strategic Planning Experiment in the Maritime Balance Area will meet in closed session on November 6, 1978, in Palo Alto, Calif.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on Strategic Planning Experiment in the Maritime Balance Area has been scheduled for November 6, 1978, to discuss the conduct of an experiment in applying business policy/strategic planning concepts to the development of a competitive strategy for the Maritime Balance Area. The Task Force and its associated Navy Study Group will focus on the long term competition between the United States and the Soviet Union in the maritime area.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives DOD/WHS.

OCTOBER 11, 1978.

[FR Doc. 78-29129 Filed 10-13-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

PIPELINE ADVISORY COMMITTEE ON VALUATION

Determination for Establishment

OCTOBER 12, 1978.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of a Pipeline Advisory Committee on Valuation is in the public interest in connection with the duties imposed upon the Federal Energy Regulatory Commission, by the Department of Energy Organization Act of 1977, section 624, and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular A-63 (revised).

1. *Name of advisory committee.* Pipeline Advisory Committee on Valuation.

2. *Purpose.* The Committee will provide the Office of Pipeline and Producer Regulation (OPPR), Federal Energy Regulatory Commission (FERC), and Department of Energy (DOE) with data and information needed by FERC to determine annual price/cost indices for pipeline facilities and equipment. These indices are vital to the FERC in determining:

(a) Original (basic) valuations of all oil pipelines as required by section 19a of the Interstate Commerce Act.

(b) Annual valuations for each pipeline which the FERC must do to comply with the requirement of section 19a that on completion of such original valuations it shall keep itself informed of all new construction, extensions, and improvements in each such pipeline and all changes in the investment and the valuation.

In certain cases valuations have been the basis upon which the FERC has determined the reasonableness of pipeline rates, and these valuations are certified by the FERC to the Department of Justice for its use in determining compliance by the pipelines with the oil pipeline Consent Decree.

These valuations are also used by State and local authorities in the regulation of pipeline rates and in the taxation of pipeline properties.

The Committee will serve in an advisory capacity only; completely independent and final calculation of data and information submitted by the Committee will be made by the OPPR's Valuation Branch.

3. *Effective date of establishment and duration.* This Advisory Committee is established effective 15 days after publication of this notice and

after filing of the charter with the standing committees of Congress having legislative jurisdiction over the

3. Discuss a timetable for completion of the study.

4. Discuss any other matters perti-

the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et

cine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities

Dated: October 6, 1978.

DOUGLAS D. CAMPT,
Acting Director,

Dated: October 10, 1978.

PETER L. COOK,
Acting Director,

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after filing of the charter with the standing committees of Congress having legislative jurisdiction over the Department of Energy and with the Library of Congress. The Committee will terminate 1 year from the date of its establishment.

4. *Membership.* The membership of the Advisory Committee shall be fairly balanced in terms of the points of view and functions of the industry and users affected, including those of residential, commercial, and industrial consumers. There will be no discrimination on the basis of race, color, national origin, religion, age, or sex.

5. *Operation.* The Pipeline Advisory Committee on Valuation will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), DOE policy and procedures, OMB Circular A-63 (revised) and other directives and instructions issued in accordance with the implementation of the Act.

6. *Objectivity.* The advice and recommendations of the Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the Advisory Committee's independent judgment.

CHARLES B. CURTIS,
Chairman.

[FR Doc. 78-29168 Filed 10-13-78; 8:45 am]

[3128-01-M]

Intergovernmental and Institutional Relations

NATIONAL PETROLEUM COUNCIL SUBCOMMITTEE ON REFINERY FLEXIBILITY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Refinery Flexibility of the National Petroleum Council will meet Thursday, November 2, 1978, at 10 a.m., in the Pan American Room of the Capitol Hilton, 16th and K Streets NW., Washington, D.C.

The parent committee was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

The subcommittee will make an analysis of refinery flexibility for the U.S. oil and gas industry, and will report its findings to the parent committee.

The tentative agenda is as follows:

1. Discuss the scope of the study to be conducted in response to the Secretary of Energy's request for an analysis of refinery flexibility.

2. Discuss an organizational structure for the study.

3. Discuss a timetable for completion of the study.

4. Discuss any other matters pertinent to the overall assignment from the Secretary.

The meeting is open to the public. The chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee concerning matters on the agenda will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to matters on the agenda should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5935, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on October 11, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-29092 Filed 10-13-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[PP 8G2024/T164; FRL 987-5]

CYANO(3 - PHENOXYPHENYL)METHYL 4 - CHLORO - ALPHA - (1 - METHYLETHYL) BENZENEACETATE

Establishment of Temporary Tolerances

Shell Chemical Co., Suite 200, 1025 Connecticut Ave. NW., Washington, D.C. 20036, submitted a pesticide petition (PP 8G2024) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for residues of the insecticide cyano(3-phenoxyphenyl)methyl 4-chloro-*alpha*-(1-methylethyl)-benzeneacetate in or on the raw agricultural commodities pears at 1 part per million (ppm) and soybeans, peanuts, and potatoes at 0.02 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Shell Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 19, 1979. Residues not in excess of 1 ppm remaining in or on pears and 0.02 ppm remaining in or on soybeans, peanuts, and potatoes after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Charles Mitchell, Acting Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-9425.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: October 6, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-29109 Filed 10-13-78; 8:45 am]

[6560-01-M]

[PP 8G2032/T167; FRL 986-8]

GLYPHOSATE

Establishment of Temporary Tolerances

Monsanto Co., 800 North Lindbergh Avenue, St. Louis, Mo. 63166, submitted a pesticide petition (PP 8G2032) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for combined residues of the herbicide glyphosate (*N*-phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities sugar beet roots and tops and potatoes at 0.2 part per million (ppm) and in liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use. A nitrosamine compound, which is a suspect carcinogen, appears in the formulations as an impurity. However, no detectable residues of the compound are present in the raw agricultural commodities. Thus, it was determined that establishment of the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

These temporary tolerances expire September 5, 1980. Residues not in excess of 0.2 ppm remaining in or on sugar beet roots and tops and potatoes and 0.1 ppm remaining in liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (U.S.C. 346a(j)).)

Dated: October 6, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-29108 Filed 10-13-78; 8:45 am]

[6560-01-M]

[FRL 988-3]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1, entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to section 1500.11(c) of the CEQ Guidelines.

Traditionally, the FEDERAL REGISTER notice for EIS's received during a given week has been published on the Friday of the following week. However, as indicated last week, future EPA weekly notice will be published in the FEDERAL REGISTER on the second Monday following the given week. However, computation of review periods will not be altered, that is, the 45-day review period for draft EIS's will continue to be computed from the Friday following the given week and the 30-day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from September 25, 1978, through September 29, 1978; the date of submission of comments on draft EIS's as computed from October 6, 1978, is November 20, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Wshington, D.C. 20036.

Dated: October 10, 1978.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Desolation Land Management Plan, Umatilla National Forest, Union, Grant, and Umatilla Counties, Oreg., September 25: Proposed is a land management plan for the 448,840-acre desolation planning unit, Umatilla National Forest, Umatilla, Union, and Grant Counties, Oreg. The preferred alternative features: (1) The management of the Greenhorn Mountain Area for future designation as a special interest area, (2) primative/remote undeveloped recreational areas, (3) commodity management and production with management of elk and fish habitat, (4) a historical and cultural assessment area, and (5) wood fiber production and domestic grazing areas. Seven alternatives are considered in total. (USDA-FS-06-14-78-02.) (EPA Order No. 81036.)

Final

Trabco Unit Plan, Cleveland National Forest, Orange, Riverside, and San Diego Counties, Calif., September 25: Proposed is the selection of a new land management plan for portions of the Cleveland National Forest in San Diego, Orange, and Riverside Counties, Calif. Four alternative plans are proposed: (1) Continue the present management program, (2) increase the present levels of opportunities for recreation uses with emphasis on dispersed use, (3) emphasize the high levels of developed recreation opportunities with major increases in road and trail construction for access by standard automobiles, and (4) emphasize the primitive and near primitive recreation. Comments made by: EPA, AHP, USDA, DOI, DOD, DOT, DOE, State and local agencies, and individuals and businesses. (EPA Order No. 81037.)

Great Bear Wilderness Proposal; Montana, September 26: Proposed is the addition to the wilderness system of two separate units in northwestern Montana; the 289,400-acre western portion is on the Flathead National Forest and the 9,600-acre eastern portion is on the Lewis and Clark National Forest. Both areas are adjacent to the northern boundary of the Bob Marshall Wilderness. The wilderness quality of the study area is very high and although most of the study area is suitable for wilderness, 26,440 acres are not recommended because of the need for a more manageable wildnerness boundary. Comments made by: DOI, EPA, FPC, and State agencies. (EPA Order No. 81042.)

DEPARTMENT OF DEFENSE, ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310.

Final supplement

Disposal of Chemical Agent Identification

of 1,050 mgd. The plan also includes expansion of the associate collection system. Operation, maintenance, financial, and man-

SECTION 104(H)

The following are community development block grant statements prepared and

ious resource uses and minimal conflict. (FES-78-25.) Comments made by: AHP, DOI, USDA, COE, State and local agencies,

Grande as the boundary, and (4) alternative No. 3 with wildlife enhancement (EPA Order No. 81048).

International Airport. The facility will have limited access. (FHWA-GA-EIS-78-01-D) (EIS Order No. 81092).

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Final supplement

Disposal of Chemical Agent Identification Set, Adams County, Colo., September 25: This final statement supplements a final EIS issued during October 1977 concerning the relocation of 1,734 chemical agent identification sets from various military storage sites located throughout the country for disposal at the Rocky Mountain Arsenal in Adams County, Colo. This supplement concerns the relocation of the remaining sets from 15 sites to the arsenal for disposal. Procedures to be used will be the same as those discussed in the final statement which has been included as an attachment to this final supplement. (EIS Order No. 81040.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final supplement

Trimble Wildlife Area, Replacement, Little Platte River, Jackson, Ray, and Clay Counties, Mo., September 26: Proposed is authorization for acquisition of 2,610 acres of land in Jackson, Ray, and Clay Counties, Mo., for basic replacement of Trimble Wildlife Area. Seven alternatives are considered which are: (1) No action, (2) direct purchase, (3) Camp Branch site, (4) Edgartown site, (5) New Point site, (6) twenty-two other sites in western and northwestern Missouri, and (7) levee protection of existing Trimble Wildlife Area. (Kansas District.) (EIS No. 81043.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9760

BONNEVILLE POWER ADMINISTRATION

Draft

BPA Fiscal Year 1980 Program, several Idaho, Montana, and Oregon counties, September 27: This statement includes the draft BPA proposed 1980 fiscal year program and draft facility planning supplements which will involve the States of Idaho, Montana, Oregon, and Washington. The project will include: (1) Approximately 180 to 210 miles of new transmission line, (2) four possible new substations and related structures, including power system control stations, (3) possible equipment additions to six existing substations, (4) maintenance of approximately 12,814 miles of existing transmission line, and (5) control of vegetation. (EPA Order No. 81045.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: George R. Alexander, Jr., Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2000.

Final

Detroit Water Pollution Control Systems, Wayne, Oakland, and Macomb Counties, September 29: The proposed action involves Federal financial assistance for the upgrading and expansion of an existing regional waste water treatment plant in the city of Detroit, Mich. The plant capacity would be expanded to treat an average daily flow of 600 mg with a 48-hour sustained peak flow of 1,050 mgd. The plan also includes expansion of the associate collection system. Operation, maintenance, financial, and management improvement changes will be incorporated as well as modifications to existing contracts and ordinances. (EPA Region 5.) Comments made by: DOI, DOT, DOC, HEW, State and local agencies, and groups, individuals, and businesses. (EPA Order No. 81051.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, 202-566-0405.

Draft

Construction of Federal Building and Related Facilities, Douglas County, Nebr., September 28: Proposed is the construction of a Federal office building, parking facility, and vehicle maintanance facility on a site of at least 127,000 square feet to be acquired in the downtown area of Omaha, Douglas County, Nebr. Seven alternatives are considered which include: (1) No action; (2) utilization of existing Government-owned space; (3) utilization of leased space; (4) construction of the new facilities, retention of old facilities with consolidation of leased locations; (5) alteration/modernization; (6) acquisition and rennovation of an existing non-Federal building or facility; and (7) construction of new facilities, disposal of old ones. (EPA Order No. 81049.)

Final

Leasehold, 1900 Half Street SW., Buzzards Point, Washington, D.C., September 29: GSA proposes that full occupancy be achieved for the 461,500 square feet of space in the 1900 Half Street building, located in the Buzzard Point area of Southwest Washington, D.C. In August 1973, GSA acquired a leasehold interest in this property which includes 271 parking spaces. Presently, the building is partially occupied by 1,085 Federal Government employees and GSA proposed to move agencies and emplcyees in to fill the vacant space. At full occupancy, the building will house approximately 2,300 to 2,700 employees. (EDC/8004.) Comments made by: DOI, DOT, COE, FERC, DOC, EPA, HUD, local agencies and groups, individuals, and businesses. (EPA Order No. 81056.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Alderbrook Estates, Master Plan, King County, Wash., September 26: Proposed is the issuance of home mortgage insurance for Alderbrook Estates in King County, Wash. The subdivision, which encompasses approximately 171.75 acres, will include approximately: (1) 541 single-family lots, (2) 170 multifamily units, and (3) 87,000 square feet of business space. The three alternatives considered are: (1) Disapproval of the proposed development or cancellation by the applicant, (2) disapproval of one or both rezone applications, and (3) rejection of participation by HUD. (HUD-R010-EIS-78-40.) (EPA Order No. 81041.)

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

North Hollywood Redevelopment Project, Los Angeles County, Calif., September 29: Proposed is the redevelopment of North Hollywood located in Los Angeles City, Los Angeles County, Calif. Features of the project include: (1) Rehabilitation of existing deteriorated residential and commercial structures, (2) new residential and commercial development, (3) development of community facilities, (4) open space development, and (5) improvement of the local street system. Four alternatives are considered which include: (1) No project, (2) delay in the project, (3) change of project, and (4) change in design of project. (B-78-MC-06-0523.) (EPA Order No. 81052.)

Final

Lovick-Trussville Water Project, Jefferson County, Ala., September 26: The proposed action will involve the extension of a potable water supply to residents within the Lovick-Trussville impact area, located in Jefferson County, Ala. The project will extend water to 153 households, dispersed over 6.5 square miles, and require placement of 47,520 linear feet of pipe. The existing Birmingham Water Works Board (BWWB) mains would be tapped and water piped into the impact area. The BWWB will assume the related engineering and maintenance responsibilities. (CD-4-02-21A-LVK.) Comments made by: DOI, DOT, COE, AHP, and State agencies. (EPA Order No. 81044.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Stat Lake, BISII regional coal, McKinley and San Juan Counties, N. Mex., September 29: Proposed is the issuance of right-of-way for the construction and operation of a railroad and a high voltage transmission line to serve the coal mining in the Star Lake-BISII Region, McKinley and San Juan Counties, N. Mex. The applicants are: (1) Star Lake Railroad Co., and (2) the Public Service Co., of New Mexico. No action and partial action are considered as alternatives. Also included is a full development scenario and a transportation alternative. (DES-78-41.) (EPA Order No. 81054.)

Final

Upper Gila-San Simon livestock grazing, Arizona and New Mexico, September 29: This statement proposes to implement a livestock grazing management program based on multiple-use concepts. The grazing area is located in the States of Arizona and New Mexico and includes a total land area of 2,346,062 acres, which includes public, Federal, State, and private lands. The grazing area will total 193 units and be used for livestock grazing with incorporation of various resource uses and minimal conflict. (FES-78-25.) Comments made by: AHP, DOI, USDA, COE, State and local agencies, groups, individuals, and businesses. (EPA Order No. 81055.)

1979 OCS oil and gas sale No. 49, mid-Atlantic, New Jersey and Delaware, September 29: The proposed action is the leasing of 136 tracts, totaling 774,273 acres, of OCS lands off the coasts of New Jersey and Delaware in an area known as the Baltimore Canyon Trough. The tracts vary from 50-100 miles off shore with depths from 115 to 4,100 feet. The proposal is to lease these tracts for exploration, development, and production of potential oil and gas resources. If implemented, this sale is tentatively scheduled to be held in spring of 1979. (FES-78-20.) Comments made by: DOI, EPA, USCG, FERC, DOE, DOC, State and local agencies, groups and businesses (EPA Order No. 81053).

Hot desert grazing management plan, Dixie Resource, Washington County, Utah, September 27: This statement concerns livestock grazing management plans on 529,564 acres of public land in the Dixie Resource Area, Washington County, Utah. The plan will involve 42 allotment plans, 14 custodial plans and 3 plans to eliminate grazing. Four basic systems are proposed which consist of: (1) A 1-year rest period on 401,271 acres; (2) delayed grazing on a portion of each allotment during the growing season; (3) delay of grazing until after the growing season; and (4) season long use primarily during the winter period. (FES-78-21.) Comments made by: DOI, EPA, State and local agencies (EPA Order No. 81046).

Sandy area livestock grazing management, several counties in Wyoming, September 28: This statement concerns a grazing management program for the sandy area located in Sweetwater, Lincoln, Sublette and Freemont Counties, Wyo. The project proposes management of grazing on approximately 1,997,330 acres and no grazing on 970 acres. The plan will involve 16 allotment plans (AMP's) and 33 custodial pastures employing a variety of grazing/rest rotation plans. The action will also provide for, within the AMP's seasonal use, proper grazing, allowance of animal unit months (AUM's) available, boundaries, grazing land treatment, and conversion of livestock qualification in AUM's. (FES-18-22.) Comments made by: AHP, DOI, EPA, USDA, State and local agencies, groups, individuals, and businesses (EPA Order No. 81050).

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Draft

Rio Grande boundary preservation, Hudspeth and Presido Counties, Tex., September 28: Proposed is a joint United States-Mexico project which would restore and provide for the preservation of the Rio Grande River as an international boundary in accordance with the 1970 boundary treaty. The proposed action includes restoration of about 86 miles of river channel and a narrow strip of grasslands along each side of 170 miles of river channel between Fort Quitman and Presido, Hudspeth and Presido Counties, Tex. Four alternatives are considered which include: (1) No action, (2) monument the boundary, (3) restoration and preservation of the channel of the Rio Grande as the boundary, and (4) alternative No. 3 with wildlife enhancement (EPA Order No. 81048).

DEPARTMENT OF TRANSPORTATION

Contact Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Saginaw River Bridge study, Bay City, Bay County, Mich., September 25: Proposed is the construction of a new bridge across the Saginaw River in Bay City, Bay County, Mich. The improvements range from functional replacement of the old two-lane bridge at Third Street to the construction of either a two-lane or four-lane bridge at a new location. Relocation facilities include necessary bridge approaches and the construction of an arterial at-grade type facility from both the west and east bridge approaches. The total length of the project is approximately 2 miles and will require some new right-of-way. (FHWA-M1-EIS-78-03-0.) (EPA Order No. 81038).

Final

I-15, through Bear River Valley, Box Elder County, Utah, September 25: Proposed is the construction of a 15-mile segment of four-lane divided Interstate Route 15, between Interstate 84 near Tremonton and that portion of I-15 under construction near the community of Plymouth, Utah. Environmental impacts would be expected primarily in the spheres of agriculture, wildlife, business relocation, aesthetics, and changes in land use. Some land currently in crop production would be converted to residential use as the growth projected for the valley (resulting from project implementation) is approached. (FHWA-UT-EIS-76-01-F). Comments made by: AHP, USDA, HEW, HUD, DOI, EPA, DLAB, DOT, GSA, ICC, State and local agencies (EPA Order No. 81039).

OFFICIAL RETRACTION

It has come to EPA's attention that the following EIS's were not distributed to the public at the same time the official filing was made by the originating agency. Therefore, notice of availability is hereby republished. The review periods of 45 days for drafts and 30 days for finals will begin on the new date as specified below.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

Draft

I-75, widening and improvement, Fulton and Clayton Counties, Ga., October 6: Proposed is the widening and improvement of I-75 in Fulton and Clayton Counties, Ga. This project will be known as Georgia projects I-75-2(51) and I-75-2(58), and follow I-75 northwest to the interchange area at Lakewood Freeway (GA-166). Also included will be interchange improvement at Central Avenue and Cleveland Avenue, with an interchange to be added to serve Hartsfield International Airport. The facility will have limited access. (FHWA-GA-EIS-78-01-D) (EIS Order No. 81092).

Originally filed with EPA on August 10, 1978, and published in the FEDERAL REGISTER dated August 21, 1978.

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. C. Grant Ash, Office of Environmental Policy, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Mouth of the Colorado River, Tex., Matagorda County, Tex., October 2: The proposed project consists of an entrance channel in the gulf, 15 feet deep by 200 feet wide, protected by jetties. The proposed east jetty is a weir type, designed to pass littoral material into an impoundment basin for periodic transfer to the Down-Drift Beach. From the Gulf inland to its connection with the Gulf Intracoastal Waterway (GIWW), the proposed channel will be dredged to 12 feet in depth and 100 feet in width. Adverse effects include the elimination of most of the benthic populations occupying the affected areas. About 242 acres of terrestrial wildlife habitat will be removed or modified. (Galveston District.) Comments made by: EPA, DOI, DOC, AHP, HEW, USDA, DOT, State agencies (EIS Order No. 80949).

Originally filed with EPA on August 29, 1978 and published in the FEDERAL REGISTER dated September 18, 1978.

OFFICIAL CORRECTION

The EPA has been notified by the Civil Aeronautics Board that the correct contact name and address for the draft statement, *Oakland Service* case, docket 30699, published in the Monday, September 18, 1978, FEDERAL REGISTER is:

Contact: Steve Rothenburg, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5205.

[FR Doc. 78-29103 Filed 10-13-78; 8:45 am]

[6560-01-M]

[OPP-00076; FRL 990-2]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Thursday and Friday, October 26 and 27, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway,

Arlington, Va., and will be open to the public.

tion against registration) on Endrin products;

oral statements will be taken into consideration by the Panel in formulating

MEXICAN LIST No. 287—Continued

Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under §§ 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Completion of Panel review of proposed regulatory action to conclude the RPAR (rebuttal presumption against registration) on Endrin products;

2. Completion of Panel review of proposed regulatory action to complete the RPAR process on Strychnine products;

3. Presentation of the decision options being considered by the Agency to conclude the Amitraz (BAAM) RPAR; and

4. In addition, the Agency may present status reports on other ongoing programs of the the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit three copies of a summary no later than October 20, 1978.

Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to insure appropriate consideration by the Panel.

(Sec. 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a)) et seq.) and sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).)

Dated: October 13, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-29295 Filed 10-13-78; 10:55 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

MEXICAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

SEPTEMBER 1, 1978.

MEXICAN LIST NO. 287

Call letters	Location	Power Watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (ft)	Ground system: No. of radials	Ground system: Length (ft)	Proposed date of change or commencement of operation
				550 kHz					
XEGUZ	Cd. Guzman, Jal., *N. 19°47'45", W. 103°28'56"*	.200	ND-D-175	D	III	*361*	120	*328*	Mar. 1, 1979.
				610 kHz					
XEJA	Jalapa, Ver., *N. 19°30'56", W. 96°55'34"* (PO 0.500/kw/U)	1.000D/ .500N	ND-U-175	U	III	*469*	*120*	*574*	
				630 kHz					
(New)	Cananea, Son., N. 30°58'57", W. 110°18'01"	5.000	ND-D-175	D	III	390	120	328	Do.
				680 kHz					
XELV	Hermosillo, Son., N. 29°05'03", W. 110°57'54"	0.250	ND-D-175	D	II	262	120	308	Do.
				790 kHz					
XEGZ	Cd. Lerdo, Dgo., N 25°32'30", W. 103°31'12" (*shares antenna with XEBP, 1450 kHz*)	1.000D/ .250N	ND-U-174	U	III	*305*	120	*216*	Do.
				810 kHz					
XEIN	Cintalapa, Chis., N. 16°41'42", W. 93°42'23" (PO 1450 kHz)	1.000	ND-D-175	D	II	304	90	243	Do.
				950 kHz					
XEYJ	Nueva Rosita, Coah., N. 27°55'23", W. 101°14'45"(PO *10 kwD*/0.100 kwN, *ND-U-180*)	10,000D/ 10.000N	ND-D-180, DA-N.	U	III	264	90	264	
				950 kHz					
XEORF	El Fuerte, Sin., *N. 26°14'25"*, W. *108°42'33"* (PO 1/kw/D, ND-D-190)	1.000D/ .500N	ND-U-*178*	U	III	*256*	120	*202*	
				1010 kHz					
XEEO	Chihuahua, Chih., N. 28°38'12", W. 106°04'42"	1.000	ND-D-190	D	II	244	120	244	Immediately.
				1080 kHz					
XEXK	Poza Rica, Ver., N. 20°30'05", W. 97°28'28"	.500	*ND-D-160*	D	II	*115*	90	205	Do.
				1190 kHz					
(New)	Cd. Saucillo, Chih., N. 28°02'48", W. 105°15'07"	.250	ND-D-175	D	II	166	90	166	Mar. 1, 1979.
				1200 kHz					

MEXICAN LIST NO. 287—Continued

Call letters	Location	Power Watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (ft)	Ground system: No. of radials	Ground system: Length (ft)	Proposed date of change or commencement of operation
XEPLA	Pabellon, Ags., *N. 22°09'16"*, W. *102°16'18"*	1.000	ND-*D-183*	D	II	*187*	120	*187*	Do.
				1250 kHz					
XESC	Sabinas, Coah., N. 27°51'13", W. 101°06'34"	1.000	ND-D-175	D	III	157	90	177	Immediately.
				1260 kHz					
XEUAS	Culiacan, Sin., N. 24°48'40", W. 107°23'30" (PO 1330 kHz)	5.000D/ .500N	ND-U-190	U	III	195	120	195	Mar. 1, 1979.
				1260 kHz					
XELTZ	Loreto, Zac., *N. 22°16'16"*, W. *101°58'56"*	.500	ND-*D-179*	D	III	*177*	120	*164*	Do.
				1280 kHz					
(New)	Tizimin, Yuc., N. 21°07'11", W. 88°09'07"	1.000	ND-D-190	D	III	192	120	192	Do.
				1330 kHz					
XEUAS	Culiacan, Sin., N. 24°48'34", W. 107°23'58" (change to 1260 kHz)	5.000D/ 1.000N	ND-D-190, DA-N.	U	III	185	120	185	
				1360 kHz					
XEIK	Piedras Negras, Coah., N. 28°41'55", W. 100°31'35"	.500D .250N	ND-U-187	U	III	223	120	133	Immediately.
				1360 kHz					
XEXM	Jerez, Zac., N. 22°38'51", W. 102°59'48"	1.000D/ .100N	ND-U-190	U	III	180	120	180	Do.
				1380 kHz					
XEAPM	Apatzingan, Mich., N. 19°04'54", W. 102°15'31"	1.000D/ .100N	ND-U-190	U	III	178	120	178	Mar. 1, 1979.
				1390 kHz					
XERUY	Merida, Yuc., N. 20°59'00", W. 89°38'43" (assignment deleted)	10.000D/ .250N	ND-N-185, DA-D.	U	III	167	120	167	
				1400 kHz					
XEQJ	Tamazula, Jal., N. 19°40'00", W. 103°16'00"	1.000	ND-D-190	D	IV	176	120	176	Immediately.
				1400 kHz					
XELR	Linares, N.L., N. 24°51'39", W. 99°34'05"	.250D/ .100N	ND-U-150	U	IV	109	90	109	Mar. 1, 1979.
				1400 kHz					
XERUY	Merida, Yuc., N. 20°59'00", W. 89°38'00" (see 1390 kHz)	1.000D/ .250N	ND-U-185	U	IV	167	120	167	Immediately.
				1420 kHz					
(New)	Tizimin, Yuc., N. 21°04'30", W. 88°09'00"	.500D/ .250N	ND-U-175	U	III	169	114	128	Mar. 1, 1979.
				1430 kHz					
XETT	Tlaxcala, Tlax., N. 19°17'59", W. 98°14'22" (*PO 0.500/kw/D, ND-D-190*)	*.800*	ND-D-190	D	III	172	120	172	
				1440 kHz					
(New)	Buctzotz, Yuc., N. 21°12'11", W. 88°47'42"	.500D/ .100N	ND-U-175	U	III	177	120	177	Do.
				1450 kHz					
XEBP	Torreon, Coah., N. 25°32'18", W. 103°27'55" (*shares antenna with XEGZ, 790 kHz*)	1.000D/ .250N	ND-U-*234*	U	IV	*305*	*120*	*216*	Do.
				1450 kHz					
XEIN	Cintalapa, Chis., N. 16°41'58", W. 93°43'24" (change to 810 kHz. PO 1/kw/D, .200/kw/N, ND-U-175)	1.000D/ .200N	ND-D-175	U	IV	246	120	246	
				1450 kHz					
XEZC	Rio Grande, Zac., N. 23°52'30", W. 103°02'00" (change to 710 kHz. PO 0.250/kw/U, ND-U-165)	.500D/ .250N	ND-U-187	U	IV	180	90	180	
				1470 kHz					
XEQF	Loma Bonita, Oax., *N. 18°05'06"*, *W. 95°54'37"*	5.000D/ 5.000N	ND-D-184, DA-N.	U	III	167	90	167	Do.
				1470 kHz					
(New)	Becal, Camp., N. 20°25'52", W. 90°03'39"	1.000	ND-D-190	D	III	167	120	167	Do.
				1510 kHz					
XERB	Cozumel, Q.R., *N. 20°29'02"*, W. *86°54'19"*	5.000	DA-D	D	II	...	...	...	Do.
				1510 kHz					
XEKI	Navojoa, Son., N. 27°04'42", W. 109°27'13"	.500	ND-D-190	D	II	164	120	164	Do.
				1510 kHz					
XEKI	Villa de Seris, Son., N. 29°03'30", W. 110°57'30" (assignment deleted)	.250	ND-D-190	D	II	164	120	164	
				1530 kHz					
XEZYB	Oaxaca, Oax., N. 17°03'49", W. 96°44'10"	.500	ND-D-190	D	II	161	120	161	Do.
				1540 kHz					
(New)	Cabo San Lucas Bcs., N. 22°54'00", W. 109°54'54"	5.000	ND-D-190	D	II	160	120	160	Do.
				1550 kHz					

MEXICAN LIST NO. 287—Continued

A two-step procedure will be followed. It will both permit the consideration of distress sales by the limited group of licensees involved in hearings

We reaffirm our conclusion, contained in the original Policy Statement, that licensees generally cannot be permitted, far less encouraged, to knowingly

ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States.

V 43/200/C 16 78 C

MEXICAN LIST No. 287—Continued

Call letters	Location	Power Watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (ft)	Ground system No. of radials	Ground system Length (ft)	Proposed date of change or commencement of operation
XEUVV	Jalapa, Ver., N. 19°31'35", W. 96°54'51"	10.000D/10.000N	ND-U-175.....	U	I-B	131	90	131	Do.
				1560 kHz					
XEZW	Cerritos, Slp., *N. 22°26'44", W. 100°16'56"*	.500	ND-*D-185*.....	D	II	*148*	120	*148*	Do.
				1580 kHz					
XEAF	Apaseo El G. Gto., *N. 20°32'28", W. 100°41'48"*	1.000	ND-D-175.....	D	II	148	90	148	Do.
				1580 kHz					
XEFP	Jalpa, Zac., N. 21°39'37", W. 102°56'40" (PO 1/kw/D, 0.250/kw/N, ND-U-190)	2.000D/.25N	ND-U-190.....	U	II	156	120	156	
				1590 kHz					
XECSI	Culiacan, Sin., N. 24°51'24", W. 107°23'47"	.250	ND-D-190.....	D	III	155	120	155	Do.
				1590 kHz					
XECP	Valladolid, Yuc., N. 20°41'24", W. 88°12'23"	10.000	ND-D-175.....	D	III	164	90	164	Do.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-28957 Filed 10-13-78; 8:45 am]

[6712-01-M]

[FCC 78-725]

CLARIFICATION OF DISTRESS SALE POLICY

OCTOBER 11, 1978.

On May 25, 1978, the Commission issued a "Statement of Policy on Minority Ownership of Broadcasting Facilities", FCC 78-322, designed to encourage minority ownership of broadcast facilities, and announced two specific policies designed to implement that goal. One of those policies permits consideration of "distress sales" of broadcast facilities at reduced prices to minority groups by licensees who had been designated for hearing on their qualifications but were not yet involved in hearing proceedings.[1] This limitation was considered necessary both to encourage early consideration of such sales, thereby avoiding the expense and delay of protracted hearings, and to prevent belated efforts to assign licenses when an adverse outcome of hearing appeared likely to the incumbent.

Since publication of the minority ownership policy, several licensees have pointed out that the announcement of the distress sale policy followed the commencement of their hearing proceedings so that they had no opportunity to consider the distress sale alternative. As recently noted by Commissioner Brown in remarks before the National Association of Black Journalists, the policy as initially framed forecloses exploration of such sales by any and all licensees already involved in hearing as of May 25, 1978.

Accordingly, the Commission is persuaded that those licensees who were in hearing status prior to May 25, 1978, should be eligible to file distress sale applications under the procedure outlined below. The Commission will not, however, consider such applications from this limited class of licensees after an initial decision has been issued by the Administrative Law Judge.

[1] Since issuing the "Statement of Policy on Minority Ownership of Broadcasting Facilities", Public Notice No. FCC 78-322, on May 25, 1978, (hereafter Policy Statement), the Commission has applied it on two occasions; *Golden Broadcasting Systems, Inc.*, FCC 78-508 (released July 26, 1978); *Leflore Broadcasting Co., Inc.*, FCC 78-432 (released July 20, 1978). In both cases initial decisions had already been issued by the Administrative Law Judge and the appeals process had been initiated or completed. On this basis the requests for consideration as a distress sale under the Policy Statement were denied. Nevertheless, in so doing the Commission stated, "in view of our policy to review these matters on a case-by-case basis, consideration of requests for distress sales involving cases in early stages of hearing prior to the rendering of an initial decision cannot be precluded."

A two-step procedure will be followed. It will both permit the consideration of distress sales by the limited group of licensees involved in hearings as of May 25, 1978, and serve to allay any possibility of abuse of Commission processes. In the interest of avoiding otherwise protracted licensing hearings, these licensees shall therefore be given a limited period within which to seek distress sale relief. Accordingly, we shall require licensees interested in the distress sale avenue to elect that option by November 13, 1978. Licensees not declaring their election will be required to continue in hearing as a matter of course until final resolution of the designated issues and must face the prospect that they will not be permitted to assign their station if they are ultimately found unqualified. Licensees declaring their election will have until April 13, 1979, in which to submit a formal application for distress sale, and absent unusual circumstances, such sales will be expected to be promptly consummated.[2] Again, if an assignment application in proper form is not submitted by this deadline, the licensee must continue in hearing until resolution of the questions committed to that proceeding. The Commission, for its part, will attempt to expedite staff and Commission review of such transactions, as it has in other minority ownership contexts, in recognition of the additional financial burden attendant on protracted administrative consideration.

It should be emphasized that while the class of licensees in hearing as of May 25, 1978, is eligible for consideration of distress sale proposals, such special relief will be granted only after examination of individual cases to determine a proper balance of the various public interest factors involved.[3] Relief will not be extended to licensees designated for hearing after May 25, 1978, who are not in hearing proceedings; those licensees, as we stated in the Policy Statement as modified by subsequent cases, must explore and resolve the prospects for such an assignment prior to, or, possibly, shortly following the commencement of hearing.

[2] In the event a licensee's exploration of (or application for) distress sale relief is unsuccessful, however, the suspended qualification hearing will be resumed.

[3] Distress sales are an option only where no competing applicant is involved in the hearing. In comparative hearings the *Ashbacker* rights of the challenger to a full administrative comparison with the incumbent properly preclude departure of the existing licensee from the administrative process.

We reaffirm our conclusion, contained in the original Policy Statement, that licensees generally cannot be permitted, far less encouraged, to knowingly play roulette with Commission licensing processes.

The number of possible distress sales by licensees already in hearing before the announcement of our policy is relatively small. Moreover, these applications are necessarily subject to cut-off dates as noted above. Whatever the actual number of such applications tendered and granted as a result of today's action, the Commission believes that our express willingness to consider such transactions will work to further encourage minority ownership without adversely affecting the Commission's interest in preserving its sanctions against misconduct.

Action by the Commission October 5, 1978. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, White and Brown.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29126 Filed 10-13-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 6, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3723.

Filing party: Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, Calif. 90801.

Summary: Agreement No. T-3723, between City of Long Beach (City) and Powell River-Alberni Sales Corp. (Powell River), provides for the 5-year, nonexclusive, preferential assignment to Powell River of berths 52, 53, 54, and pier 2 in Long Beach, Calif., to be used as a marine terminal and distribution warehouse. City's general manager will have the right to make temporary or secondary assignments as provided in the Port of Long Beach tariff. As compensation, Powell River will pay to City all revenue from dockage and wharfage and other applicable tariff charges accruing from its operations up to a minimum obligation of $220,000 per 12-month period, after which City and Powell River will divide revenues. Agreement No. T-3723 will supersede agreement No. T-2736.

Agreement No. T-3724.

Filing party: Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, Calif. 90801.

Summary: Agreement No. T-3724, between city of Long Beach and Powell River-Alberni Sales Corp. (Powell River), provides for the 5-year lease to Powell River of warehouse No. 6 and adjacent yard area containing approximately 110,683 square feet, for use in the storage of paper and wood products and for other purposes incidental to Powell River's warehousing operation. As compensation, Powell River will pay $10,985 per month, plus utility charges.

Agreement No. 9718-6.

Filing party: Charles F. Warren, Attorney, Warren & Associates, P. C., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Summary: Agreement No. 9718-6, among Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd., would amend the second "Whereas" clause of the basic Japan-California Ports containership service agreement to include ports in Korea in the scope thereof.

Dated: October 11, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29127 Filed 10-13-78; 8:45 am]

[4110-86-M]

DEPARTMENT OF HEALTH

Delegates	Scope of authority
A. Deputy Commissioner of Social Security.....	A. to D. The incumbents of these positions may ex-

III. The redelegations specified in section II. above must be exercised in accordance with standards provided in

A synopsis of the recommendations contained in the plan is also available from each of these offices upon re-

Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,

[4110-86-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting, Change in Location

Notice of the October 26-28, 1978, meeting of the Safety and Occupational Health Study Section of the National Institute for Occupational Safety and Health was published in the FEDERAL REGISTER on Wednesday, September 13, 1978, volume 43, No. 178, pages 40924-5.

The location of the meeting has been changed from Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md., to the Fairfax Room, Dulles Marriott Hotel, Dulles International Airport, Washington, D.C.

All other aspects of the notice published on September 13, 1978, remain the same.

Dated: October 3, 1978.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc. 78-29079 Filed 10-13-78; 8:45 am]

[4110-07-M]

Social Security Administration

DEPUTY COMMISSIONER OF SOCIAL SECURITY, ET AL.

Redelegations of Authority With Respect to the Disposition of Supplemental Security Income Benefit Overpayments

I. Section 1631(b) of the Social Security Act, as amended (the Act), provides the Secretary of Health, Education, and Welfare (the Secretary) with authority to approve or deny waiver of adjustment or recovery of those supplemental security income (SSI) benefit payments made under the provisions of title XVI of the Act found to be incorrect, where the overpaid individual is without fault and recovery of the overpayment would defeat the purposes of title XVI, or would be against equity or good conscience, or would, because of the small amount involved impede efficient or effective administration of title XVI. The Secretary has delegated his authority under Section 1631(b) of the Act to the Commissioner of Social Security (the Commissioner), with authority to redelegate (38 FR 15648, dated June 14, 1973). Notice is hereby given that the Acting Commissioner has redelegated this authority to the following Social Security Administration (SSA) positions, as indicated:

Delegates	Scope of authority
A. Deputy Commissioner of Social Security	A. to D. The incumbents of these positions may exercise the subject authority with respect to any case involving an overpayment of benefits under title XVI of the Act, regardless of the amount of overpayment, and without concurrence from any other delegate.
B. Associate Commissioner for Program Operations and Deputy Associate Commissioner for Program Operations.	
C. Regional Commissioners	
D. Assistant Regional Commissioners, Supplemental Security Income.	
E. District Managers, Assistant District Managers, Branch Managers, Operations Supervisors, Claims Representatives and Field Representatives in District and Branch Offices, Office of Program Operations.	E. The incumbents of these positions may exercise the subject authority as follows: (1) In cases where the amount of overpayment is $1,000 or less, these delegates have full authority to make the waiver determination, without concurrence from another delegate. (2) In cases where the amount of overpayment is between $1,001 and $5,000, the waiver determination requires two actions: a recommendation by one of these delegates and concurrence in that recommendation from an Operations Supervisor or the Assistant District Manager, Branch Manager or District Manager, as appropriate. (3) In cases where the amount of overpayment is $5,001 or more, the waiver determination requires two actions: a recommendation by one of these delegates and concurrence in that recommendation from the Assistant Regional Commissioner, Supplemental Security Income or the Regional Commissioner.

II. Under the Federal Claims Collection Act of 1966 (FCCA), codified at 31 U.S.C. 951-953, the Secretary, or his designee, is authorized to compromise, suspend or terminate collection action on certain debts owed to the Department of Health, Education, and Welfare (HEW), provided appropriate HEW regulations have been promulgated in accordance with standards provided in Joint Regulations of the Department of Justice and the General Accounting Office (4 CFR Parts 101-105). Such regulations for HEW are published in the Code of Federal Regulations at 45 CFR 30.1. The Secretary's authority is restricted to those debt claims which involve compromise, suspension or termination of collection action regarding amounts of $20,000 or less, exclusive of interest, and which do not involve fraud, presentation of a false claim, misrepresentation on the part of the debtor or any other party having an interest in the claim, or conduct in violation of anti-trust laws. Claims which cannot be collected, suspended, compromised or terminated, or which amount to more than $20,000, exclusive of interest, are referred to the General Accounting Office for disposition. Those cases involving fraud, false claims, misrepresentation, or violation of anti-trust laws are handled by the Department of Justice. The Secretary has delegated his authority under the FCCA to the Commissioner, with authority to redelegate (33 FR 5836 and 5843, dated April 16, 1968), insofar as that authority relates to the mission of SSA. Notice is hereby given that the Acting Commissioner has redelegated this authority, as it pertains to the disposition of overpayments of SSI benefits under title XVI of the Act, to the following SSA positions, as indicated:

Delegates	Scope of authority
A. Deputy Commissioner of Social Security	A. to D. The incumbents of these positions may exercise the subject authority with respect to any case involving an overpayment of benefits under title XVI of the Act amounting to $20,000 or less, exclusive of interest, without concurrence from any other delegate.
B. Associate Commissioner for Program Operations and Deputy Associate Commissioner for Program Operations.	
C. Regional Commissioners	
D. Assistant Regional Commissioners, Supplemental Security Income.	
E. District Managers, Assistant District Managers, Branch Managers, Operations Supervisors, Claims Representatives and Field Representatives in District and Branch Offices, Office of Program Operations.	E. The incumbents of these positions may exercise the subject authority as follows: (1) In cases where the amount of overpayment is $1,000 or less, exclusive of interest, these delegates have full authority for decision, without concurrence from another delegate. (2) In cases where the amount of overpayment is between $1,001 and $5,000, exclusive of interest, the decision requires two actions: a recommendation by one of these delegates and concurrence in that recommendation from an Operations Supervisor or the Assistant District Manager, Branch Manager or District Manager, as appropriate. (3) In cases where the amount of overpayment is between $5,001 and $20,000, exclusive of interest, the decision requires two actions: a recommendation by one of these delegates and concurrence in that recommendation from the Assistant Regional Commissioner, Supplemental Security Income or the Regional Commissioner.

III. The redelegations specified in section II. above must be exercised in accordance with standards provided in Joint Regulations of the Department of Justic and the General Accounting Office, which are specified in 4 CFR 101-105, and those HEW standards provided in 45 CFR 30.1.

IV. The redelegations specified in section II. above do not apply to the handling of any debt claim where there is an indication of fraud, the presentation of a false claim, misrepresentation on the part of the debtor or any other party having an interest in the claim, or conduct in violation of anti-trust laws. Such cases are to be handled by the Department of Justice.

V. The redelegations specified in section II. above do not apply to cases involving amounts in excess of $20,000, exclusive of interest. These cases are to be handled by the General Accounting Office.

VI. All of the redelegations specified in sections I. and II. above shall be effective as of the date that this General Notice thereof is published in the FEDERAL REGISTER. To the extent that any actions taken by the incumbents of the positions enumerated in sections I. and II. above, in effect, involve the exercise of the subject authorities prior to the date that this notice is published in the FEDERAL REGISTER, such actions are hereby affirmed and ratified, provided they fall within the scope of these redelegations. Further redelegations of any of the authorities specified in sections I. and II. above are not authorized.

Dated: October 3, 1978.

DAN WORTMAN,
Acting Commissioner of Social Security.

[FR Doc 78-29159 Filed 10-13-78; 8:45am]

[4310-80-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DESOLATION-GRAY RIVER MANAGEMENT PLAN

Availability of Draft Plan

The draft river management plan for Desolation and Gray Canyons of the Green River, Utah is available for review and comment at the following locations:

Price Resource Area Headquarters, 900 North 7 East, P.O. Box AB, Price, Utah 84501.

Moab District Office, 125 West 2nd South, P.O. Box 970, Moab, Utah 84532.

Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

A synopsis of the recommendations contained in the plan is also available from each of these offices upon request.

The plan primarily provides for the management of the floatboating recreation resource on the river from Sand Wash (3 miles north of Carbon County line) to Swasey's rapids (12 miles north of the town of Green River, Utah).

Comments received will be used in the preparation of the environmental assessment and in developing the final plan. Comments should be addressed to the District Manager, P.O. Box 970, Moab, Utah 84532 and must be submitted no later than November 17, 1978, to assure full consideration.

S. GENE DAY,
Moab District Manager.

OCTOBER 6, 1978.

[FR Doc. 78-29088 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34671 and 34672]

NEW MEXICO

Application

OCTOBER 4, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for two 4-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 10 W.,
Sec. 18, lot 5.
T. 32 N., R. 10 W.,
Sec. 18, lot 9.

These pipelines will convey natural gas across 0.12 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29080 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34541]

NEW MEXICO

Application

OCTOBER 4, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for two 4½-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDAN, NEW MEXICO

T. 30 N., R. 6 W.,
Sec. 35, W½SE¼.
T. 29 N., R. 7 W.,
Sec. 7, lots 5 and 6.
T. 29 N., R. 8 W.,
Sec. 12, NE¼NE¼.

These pipelines will convey natural gas across 0.412 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29081 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34766]

NEW MEXICO

Application

OCTOBER 3, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. as applied for one 4½-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

[4310-84-M]

These pipelines will convey natural gas across 2.594 miles of public lands in Chaves County, New Mexico.

[4310-84-M]

[NM 34725]

Dated: August 16, 1978.

DENNIS E. MCGINNIS,
Superintendent, Fort McHenry National Monument.

Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Rep-

V 43 / 200 / C 16 / 78

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 7 W.,
Sec. 4, SE¼SE¼.

This pipeline will convey natural gas across .136 of a mile of public land in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29082 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34670]

NEW MEXICO

Application

OCTOBER 4, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for one 20-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 N., R. 9 W.,
Sec. 10, N½NE¼ and SE¼NE¼;
Sec. 11, SW¼NW¼.

This pipeline will convey natural gas across 0.66 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29083 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34763]

NEW MEXICO

Application

OCTOBER 4, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 6-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 25 E.,
Sec. 34, SE¼NW¼, E½SW¼ and SW¼SE¼.
T. 20 S., R. 25 E.,
Sec. 3, lot 2, SW¼NE¼, N½SE¼ and SE¼SE¼;
Sec. 14, SE¼NW¼ and SW¼SE¼;
Sec. 23, E½SE¼;
Sec. 25, W½NW¼;
Sec. 26, E½NE¼ and NE¼SE¼.

This pipeline will convey natural gas across 3.38 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29084 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34740]

NEW MEXICO

Application

OCTOBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Cities Service Co. has applied for one 6-inch and two 4-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDAN, NEW MEXICO

T. 7 S., R. 31 E.,
Sec. 33, SW¼SE¼.
T. 8 S., R. 31 E.,
Sec. 3, lots 1, 2, 3 and 4;
Sec. 4, lots 1, 2, 3, 4 and SE¼NW¼.

These pipelines will convey natural gas across 2.594 miles of public lands in Chaves County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29085 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34731, 34785, 34786]

NEW MEXICO

Applications

OCTOBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 25 E.,
Sec. 1, lots 10, 14, 15, 18 and 19.
T. 22 S., R. 26 E.,
Sec. 6, lot 7 and SE¼SW¼.
T. 24 S., R. 34 E.,
Sec. 18, S½NE¼.
T. 21 S., R. 36 E.,
Sec. 18, lot 4 and SE¼SW¼.

These pipelines will convey natural gas across 1.968 miles of public lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29086 Filed 10-13-78; 8:45 am]

[4310-84-M]

[NM 34725]

NEW MEXICO

Application

OCTOBER 4, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C 185), as amended by the act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 31 E.,
Sec. 34, NE¼ SE¼;
Sec. 35, S½NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 0.721 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29087 Filed 10-13-78; 8:45 am]

[4310-70-M]

National Park Service

[Order No. 2, Amdt. 1]

ADMINISTRATIVE TECHNICIAN, ET AL.

Delegation of Authority Regarding Purchase Orders for Supplies, Equipment, or Services

2. *Administrative Technician.* The Administrative Technician, Fort McHenry National Monument, may issue purchase orders not in excess of $500 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriations. This authority may be exercised by the Administrative Technician in behalf of any area administered by the Superintendent of Fort McHenry National Monument.

(National Park Service Order No. 77 (38 FR 7478), as amended; Mid-Atlantic Region Order No. 1 (39 FR 3694), as amended;) Fort McHenry National Monument Order No. 1 (33 FR 14653.)

Dated: August 16, 1978.

DENNIS E. MCGINNIS,
Superintendent, Fort McHenry National Monument.

[FR Doc. 78-29125 Filed 10-13-78; 8:45 am]

[4410-05-M]

DEPARTMENT OF JUSTICE

Bureau of Prisons

ADVISORY CORRECTIONS COUNCIL

Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Friday, November 3, in Jacksonville, Fla. The Council will tour the Union Correctional Institution in Raiford, Fla., and meet in Jacksonville.

Agenda items include a discussion of the role of the Federal Government in corrections; cooperation between State and Federal correctional agencies; the status of the revised criminal code; and Department of Justice correctional standards.

Signed at Washington, D.C., this 10th day of October, 1978.

NORMAN A. CARLSON,
Director, Bureau of Prisons.

[FR Doc. 78-29128 Filed 10-13-78; 8:45 am]

[4410-09-M]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 11, 1978, Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, N.Y. 11530, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Oxycodone (9143)	II
Hydrocodone (9193)	II
Oxymorphone (9652)	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than November 16, 1978.

Dated: October 10, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-29119 Filed 10-13-78; 8:45 am]

[4410-09-M]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 21, 1978, Eli Lilly and Co., 1249 South White River Parkway, East Drive, Bldg. 80, Indianapolis, Ind. 46225, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substances amobarbital (2125) and secobarbital (2315).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, U.S. Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than November 16, 1978.

Dated: October 10, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc 78-29120 Filed 10-13-78; 8:45 am]

[6820-35-M]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

OCTOBER 5, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other

project, the corporation shall announce publicly * * * such grant, contract, or project."

General with a recommendation that it be accepted.

As part of this program, Safety

tive controls, and modifies the Technical Specifications to require three operable fire pumps, and increased spray

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,

for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear

for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear

project, the corporation shall announce publicly * * * such grant, contract, or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Wisconsin Judicare in Wausau, Wis., to serve the Native Americans on the Bad River, Lac Courte Oreilles, Lac Du Flambeau, Menominee, Mole Lake, Oneida, Potawatomi, Red Cliff, St. Croix, Stockbridge-Munsee, and Winnebago Reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corp., Denver Regional Office, 1726 Champa Street, Denver, Colo. 80202.

THOMAS EHRLICH,
President, Legal Services Corporation

[FR Doc. 78-29062 Filed 10-13-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear powerplants. These codes and guides will be developed in the following five areas: Government Organization, Siting, Design, Operation, and Quality Assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA Codes of Practice and Safety Guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA Working Group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft Code of Practice or Safety Guide is then sent to the IAEA Senior Advisory Group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the Member States. The Senior Advisory Group then considers the Member State comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-QA6, "Safety Guide on Quality Assurance in the Design of Nuclear Power Plants," has been developed. The Working Group, consisting of Mr. S. K. Hellman (The Ralph M. Parsons Co.), United States of America; Mr. A. Kakodkar, India; and Mr. L. Laurent, France, developed the initial draft of this Safety Guide from an IAEA collation during a meeting January 30-February 3, 1978. The Working Group draft of this Safety Guide was modified by the IAEA Technical Review Committee on Quality Assurance which met in April 1978, and we are soliciting public comments on this modified draft. Comments on this draft received by December 1, 1978 will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Md., this 29th day of September 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-29069 Filed 10-13-78; 8:45 am]

[7590-01]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO., CONNECTICUT LIGHT & POWER CO., HARTFORD ELECTRIC LIGHT CO., AND WESTERN MASSACHUSETTS ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Provisional Operating License No. DPR-21 to Northeast Nuclear Energy Co., The Connecticut Light & Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co. (the licensees), which amended the license and its appended Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 1, located in the Town of Waterford, Conn. The amendment is effective as of its date of issuance.

This amendment adds license conditions relating to the completion of facility modifications for fire protection and the implementation of administrative controls, and modifies the Technical Specifications to require three operable fire pumps, and increased spray and/or sprinkler systems and fire hose stations to be operable in the turbine building.

This amendment adds license conditions relating to the completion of facility modifications and implementation of administrative controls for fire protection, and modifies the Technical Specifications to require three operable fire pumps and additional spray and/or sprinkler systems and fire hose stations to operable in the turbine building. The amendment also changes the limiting conditions for operation by adding the requirement for a fire watch.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 24, 1978, (2) the licensee's submittals dated April 12, 1978, July 11, 1978, July 27, 1978, and August 17, 1978, (3) Amendment No. 53 to License No. DPR-21 including the Commission's letter of transmittal, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of September 1978.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-29071 Filed 10-13-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Notice was published FEDERAL REGISTER on September 28, 1978 (43FR 44547) of proposed amendments to 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," and to 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," that would ensure continuing control of byproduct materials such as those contained in sources used in logging techniques for oil, gas, and mineral exploration. Regulatory Guide 6.8, "Identification Plague for Irretrievable Well-Logging Sources," is being issued for public comment concurrently with the proposed rule changes. This guide describes methods that would be acceptable to the NRC staff for meeting the proposed requirements with respect to the characteristics and the mounting of a permanent identification plaque at the surface of a well that contains an irretrievable well-logging source.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. public comments on Regulatory Guide 6.8 will, however, be particularly useful in evaluating the need for an early revision if received by December 11, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 5th day of October 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-29094 Filed 10-13-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for pemits and licenses.

Revision 1 of Regulatory Guide 1.130, "Service Limits and Loading Combinations for Class 1 Plate-and-Shell-Type Component Supports," delineates acceptable levels of service limits and appropriate combinations of loadings associated with normal operation, postulated accidents, and specified seismic events for the design of American Society of Mechanical Engineers Code Class 1 plate-and-shell-type component supports in light-water-cooled reactors.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-29095 Filed 10-13-78; 8:45 am]

[7590-01-M]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced. FEDERAL REGISTER notice dated December 8, 1977). the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to § 4.2, Fuel System Design, of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear powerplants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 4.2 is $4. Foreign price information is available from NTIS. A copy of the

Standard Review Plan including all revisions published to date is available for public inspection at the NRC's

ously imposed for steam generator tube inspections is the date for the next inspection.

thereunder, a proposed rule change setting forth a new fee schedule for use by NSCC after consolidation of operations or, prior to consolidation, for

providing the services in that category.[2]

As part of its analysis, NSCC stated that it factored in the cleared share

ed (geographic price mutualization ("GPM"));

(2) Encouraging the use of book-entry services rather than services in-

curate reporting by participants.[7] NSCC also proposes to charge a paper input fee in order to encourage participants to submit data in machine rea-

Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 2d day of October 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-29096 Filed 10-13-78; 8:45 am]

[7590-01-M]

[Construction Permit Nos. CPPR-139 & CPPR-140]

UNION ELECTRIC CO. (CALLAWAY PLANT, UNITS 1 AND 2)

Show-Cause, Construction Permit Proceeding; Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this show-cause, construction permit proceeding:

Alan S. Rosenthal, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: October 10, 1978.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 78-29072 Filed 10-13-78; 8:45 am]

[7590-01-M]

[Docket No. 50-281]

VIRGINIA ELECTRIC & POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-37, issued to Virginia Electric and Power Co. (the licensee), which adds license conditions related to operation of the Surry Power Station, Unit No. 2 (the facility) located in Surry County, Va. This amendment is effective as of the date of issuance.

This amendment specifies license conditions related to steam generator tube inspections for Surry Unit 2. Operating limits on these plant parameters were previously governed by NRC Order for Modification of License dated April 7, 1978, which is superseded by the amendment. The only change to the operating limits previously imposed for steam generator tube inspections is the date for the next inspection.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 28, 1978 as supplemented August 16, 1978; (2) Amendment No. 44 to License No. DPR-37; and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, VA. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3d day of October 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-29093 Filed 10-13-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 15222 (SR-NSCC-77-8)]

NATIONAL SECURITIES CLEARING CORP.

Order Approving Proposed Rule Change

OCTOBER 6, 1978

On September 1, 1977, National Securities Clearing Corp. ("NSCC") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(s)(b)(1), and Rule 19b-4 thereunder, a proposed rule change setting forth a new fee schedule for use by NSCC after consolidation of operations or, prior to consolidation, for use by the ASECC and SCC Divisions of NSCC at the discretion of NSCC's board of directors.

Notice of the proposed rule change was given and a request for public comment was made in Securities Exchange Act Release No. 13968 (September 19, 1977) and in the FEDERAL REGISTER (42 FR 49534, Sept. 27, 1977). The Commission received one comment letter. NSCC also solicited comments by means of a notice to participants. NSCC received five comment letters and attached them as an exhibit to the proposed rule change.

After publication of the proposed rule change, at the request of the Commission staff, NSCC submitted an internal NSCC memorandum, prepared for NSCC's Board of Directors, discussing the proposed fee schedule. By letter dated September 13, 1978, the Commission also requested that NSCC engage its independent public accountant to review the proposed fee schedule and to issue a report on certain aspects of it. On September 25, 1978, NSCC submitted that report, prepared by Price Waterhouse & Co. (the "PW report"). Attached to the PW report was a memorandum prepared by NSCC discussing the bases used in developing its proposed fee schedule. The two NSCC memoranda and the PW report, as well as all comment letters, have been placed in file No. SR-NSCC-77-8 and are available to the public. In addition, NSCC provided a copy of the PW report and the accompanying memorandum to each registered clearing agency. To date no comments have been received.

NSCC's FEE SCHEDULE AS SUBMITTED

A. THE DEVELOPMENT OF NSCC'S PROPOSED FEE SCHEDULE

NSCC indicated that it began developing its proposed fee schedule by first estimating that its operating expenses after consolidation would be $23,645,000 per year or approximately $2,000,000 per month.[1] Next, NSCC divided its services into four general categories and estimated the percentage of total expenses that would be required to provide the services in each of those categories. NSCC then set individual fees so that the percentage of total revenues produced by fees for services within each category would approximately equal the expense of

[1] NSCC's estimate of annual expenses by principal category was:

Administrative costs	$2,000,000
Depository fees paid to the Depository Trust Co. ("DTC")	5,153,000
Facilities management expenses paid to the Securities Industry Automation Corp. ("SIAC") (with 1 minor exception)	16,492,000
	23,645,000

providing the services in that category.[2]

As part of its analysis, NSCC stated that it factored in the cleared share volume from four sample months (which NSCC indicates reflected the average activity for all of 1976.[3] Based on the cleared share volume from those sample months, NSCC next estimated that the proposed fees and other income would have generated total revenues of $32,840,000. Using its estimated cost of providing services at that volume level ($23,645,000), NSCC computed that, under its proposed rebate program, it would have rebated approximately 24 percent of those revenues ($7,755,000) to participants leaving $1,440,000 (or approximately $660,000 after taxes) for retained earnings.[4] NSCC projected that its revenues would equal expenses at a daily average cleared share volume of 14,300,000 shares from the NYSE, 1,500,000 shares from the Amex, and 2,700,000 shares from the OTC market. NSCC established its fee schedule so that revenues would equal expenses at a volume level somewhat lower than the then current average volume in order to help assure a sufficient revenue stream in low volume periods and to avoid frequent free amendments because of changing conditions. Excess revenues, as noted, will be returned to participants under NSCC's rebate program.

B. THE ESTABLISHMENT OF SPECIFIC FEES

1. *General.* In establishing specific fees, NSCC considered not only the cost of providing a service but also other factors. Those considerations resulted in some fees to be paid by individual participants not being based entirely on the cost of providing a service to those participants. NSCC indicated, however, that overall, the revenues produced by fees for each service were related to the cost of that service.

Among those other factors were:

(1) Providing equal services at equal fees to all participants wherever located (geographic price mutualization ("GPM"));

(2) Encouraging the use of book-entry services rather than services involving the physical movement of securities; and

(3) Maintaining the method of pricing individual servies as close to the current method of pricing as possible.

2. *Participant fees.* NSCC indicated that participant fees are designed to recover the administrative cost of providing certain services to participants. The proposed participant fees for individual NSCC services are: (a) $1 per side for trade processing with a maximum of $100 per month; (b) $50 per month for the Envelope Settlement System; (c) $50 per month for the Correspondent Delivery and Collection Service ("CDCS"); (d) $50 per month for the National Transfer Service ("NTS"); and (e) $50 per month for the Dividend Settlement Service ("DSS"). NSCC proposes to limit total participant fees to a maximum of $150 per month per participant because it believes that administrative costs attributable to a participant do not increase in direct proportion to the number of services a participant utilizes.

3. *Trade comparison and recording fees.* In this area, NSCC indicated that it set fees on the basis of four services: equity trade comparison, bond trade comparison, equity trade recording and bond trade recording.[5] NSCC proposes that participants pay the same fee for this service regardless of whether they relate to NSCC through NSCC's New York City facility, through a branch office, or through NSCC's direct clearing procedures.

NSCC indicated that for trades compared at NSCC it will impose a trade correction fee for each stamped advisory submitted in order to encourage the prompt and accurate reporting of transactions.[6] In addition, NSCC proposes to base its fee for comparison on reported trades rather than on compared trades in order to encourage accurate reporting by participants.[7] NSCC also proposes to charge a paper input fee in order to encourage participants to submit data in machine readable form.

In establishing the fees for comparison, NSCC stated that it considered dollar value, sides and shares as alternative bases for billing. NSCC eliminated a dollar-value charge because it did not want to charge different fees for performing the same function. That is, NSCC did not view the cost of comparing trades as being affected by the value of the securities being compared. As for a per-side charge basis, NSCC recognized that, in general, it might reflect more closely than a per-share charge the work required to perform comparsion. NSCC also recognized that a per-share fee would result in comparison fees varying because of the size of the trade being compared. NSCC was concerned, however, that a per-side charge would penalize a participant for splitting an order between markets or cleaning up limit orders on the specialist's book. NSCC also indicated that a per-share charge is NSCC's current method of billing for comparison and trade recording in the ASECC and SCC Divisions.

As a result, NSCC concluded that, although a per-side charge might more closely represent the work done for each individual trade, a per-share charge was still a better choice overall because (i) it provided continuity to the existing method of pricing used in the ASECC and SCC Divisions, (ii) it was agreeable to participants, (iii) it favored best execution, and (iv) revenues produced would still be approximately equal to the cost of the service. A per-share charge therefore was selected.[8]

4. *Clearance processing fees.* Clearance processing is the netting and settling of a participant's compared trades. In its continuous net settlement ("CNS") system, NSCC, for each issue in which a participant has compared trades, nets those trades until the participant has either a net long position (that is, the participant is a net buyer of the security) or a net short position (that is, the participant is a net seller of the security). NSCC then settles those netted transactions by making a book-entry movement either into or out of the participant's depository account.

[2] That analysis produced the following projection:

	Expense (percent)	Revenue (percent)
Trade comparison and recording	25.5	25.1
Clearance processing	42.9	43.0
Envelope settlement	11.6	11.6
Other services	20.0	20.3

[3] Those sample months and the daily average cleared share volume by market were:

	NYSE	AMEX	OTC
November 1975	14,700,000	1,500,000	2,900,000
January 1976	26,000,000	2,200,000	4,400,000
April 1976	20,200,000	2,700,000	4,400,000
July 1976	21,400,000	2,300,000	3,800,000
Average	20,600,000	2,200,000	3,900,000

[4] NSCC intends to rebate to participants revenues in excess of operating expenses and a retained earnings reserve. The rebates will be made by discounting each participant's total monthly bill.

[5] NSCC's trade recording fee is a fee for NSCC entering into its system trades compared at other clearing agencies but shipped through an interface to NSCC for clearance and settlement.

[6] In the NSCC system, if a participant submits a trade for which there is no match (that is, a corresponding side was not submitted by the participant named as the contra party to the trade or was submitted too late for inclusion in that processing cycle, or errors in one or both of the submitted sides made comparison impossible), NSCC sends an advisory to the participant named as then contra party in the submitted trade. If the participant receiving the advisory acknowledges the trade, it stamps the advisory and returns it to NSCC. NSCC believes that a fee for submitting stamped advisories will encourage participants to submit their trades promptly and accurately and thus reduce the number of advisories NSCC has to send out.

[7] For example, if a trade is correctly submitted by a participant and compares during the first comparison cycle, the participant will be charged only once for comparison. If the participant incorrectly reports the trade, however, and has to correct and resubmit it, the participant will incur a second charge.

[8] In the case of bonds, the fee is a face-value charge that is essentially the equivalent of a per-share charge for equities.

The clearance processing function also includes the processing of designated valued deliveries submitted by special representatives.[9] Outside of

ed, however, that deliveries and receipts were the most realistic measures from the standpoint of cost and there were no overriding considerations, as

fees for inter-city deliveries also will be a per-envelope charge but will be the same regardless of the location of the NSCC facility to which the enve-

at the Depository Trust Co. ("DTC"). Through NSCC, a participant can deposit securities into and withdraw securities from its DTC account, or give

York City agent. Currently, NSCC participants who use direct clearing pay a fee of $0.50 per transaction for NSCC acting as their New York City

OTC market makers; (4) specialists; (5) regional firms using direct clearing; (6) regional firms with a New York City office; and (7) banks. NSCC also

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The clearance processing function also includes the processing of designated valued deliveries submitted by special respresentatives.[9] Outside of the CNS system, clearance processing entails the issuance of security orders.[10]

The proposed fees in this category are: (a) $1.20 for each position delivered from the CNS system to a participant's account (called a "receive" by NSCC); [11] (b) $1 for each delivery from a participant's account to CNS during the night cycle; (c) $2 for each delivery to CNS during the day cycle: [12] (d) $0.20 per side for designated valued deliveries entered through special representative procedures; (e) $0.20 for each security order generated; and (f) $2 for each buy-in submitted. NSCC proposes that participants pay the same fees regardless of whether they relate to NSCC through NSCC's New York City facility, through a branch office or through NSCC's direct clearing procedures.

A dollar-value basis again was not used because NSCC did not want clearance processing fees to vary with the value of the securities being cleared and settled. Shares (face value for bonds) was considered in order to be consistent with the fees for comparison and trade recording. NSCC decided, however, that deliveries and receipts were the most realistic measures from the standpoint of cost and there were no overriding considerations, as there were in choosing shares as the basis for trade comparison and recording fees. NSCC also preferred to have a single basis for billing clearance processing (deliveries and receipts) rather than to differentiate between the processing of debt and equity securities.

NSCC indicated that generating security orders and processing designated valued deliveries are not as costly to NSCC as making CNS deliveries and receipts, and, accordingly, set those fees at a lower rate.

5. *Delivery service fees.* These are fees for services involving the physical movement of securities and include the following specific services: (a) The Envelope Settlement System; (b) the Correspondent Delivery and Collection Service ("CDCS"); (c) order outs from clearing; (d) deposits to clearing; (e) underwriting pickups; (f) physical receives from third parties; and (g) handling of participants' depository accounts. Each of these proposed fees is based on a per item charge.

Many of the services requiring physical movement of securities involve what NSCC calls a "primary receive location." A primary receive location can be either NSCC's New York City facility or a branch office. Each participant will choose one location as its primary receive location. NSCC proposes that participants pay the same fee for NSCC moving securities to or from their primary receive location regardless of where it is located.

Currently, NSCC operates three envelope settlement services. Two of those, run by the SCC Division and the NCC Division, operate only in New York City. The New York City envelope systems are, in essence, a central location where participants can drop off envelopes containing securities and have those envelopes placed in another participant's box. Participants come to the central location during the day to see if they have received an envelope. The third service, the National Envelope Settlement System, run by the NCC Division, is similar except that it operates in 11 regional cities. Envelopes are shipped overnight by couriers.

On switching the processing of over-the-counter transactions from the NCC Division to the SCC Division, NSCC intends to discontinue the intra-city envelope system run by the NCC Division and to move the NCC Division inter-city envelope system to the SCC Division. The proposed fees for intra-city deliveries in the ongoing SCC Division envelope system will be a per-envelope charge and will be based on the time of day that the envelope is submitted for delivery. the proposed fees for inter-city deliveries also will be a per-envelope charge but will be the same regardless of the location of the NSCC facility to which the envelope is delivered or the time of day of the delivery. The inter-city delivery fee will be higher than the fee for intra-city deliveries.

CDCS is a delivery service currently operated by NSCC that consists of a network of facilities to which participants can deliver securities for shipment by courier and at which participants or nonparticipants can receive shipments of securities. It is available to any entity which executes a CDCS agreement with NSCC. The CDCS fee is a per-envelope charge plus a passthrough of any cost for deliveries outside of the immediate area of the receiving CDCS facility. The fee is the same regardless of the location of the CDCS facility to which the securities are delivered.

Order outs from clearing will allow a CNS participant to have its CNS long position delivered to it on settlement day. The delivery can be either free or against payment. If the securities are delivered to the participant's primary receive location, the fee is the same regardless of which primary receive location the participant has selected. The participant can have securities ordered out to it at other than its primary receive location for an additional charge. Participants also can deliver to other participants or to third parties either free or against payment by combining the order out service with CDCS or the envelope system. In that situation, the participant also is charged for the use of CDCS or the envelope settlement system.

Deposits to clearing will enable participants to deposit securities for next-day credit to cover CNS short positions. the deposits can be made at any NSCC branch office or at NSCC's New York City facility for the same fee.

The underwriting pick-up fee is for NSCC picking up a participant's share of a distribution from the underwriter and delivering it to the participant's primary receive location. If a participant wants to deliver all or part of the securities to another location, to another participant, or to a third party, it utilizes other NSCC services such as CDCS or the envelope system and pays the additional fees.

Physical receives is a service whereby NSCC, if instructed by a participant, will accept delivery of securities on behalf of that participant either free or against payment. The delivery can be made to any NSCC branch office, and NSCC will take deliveries from anyone. The fee includes redelivery of the securities to the receiving participant's primary receive location.

Depository handling fees are for NSCC acting as a participant's agent

[9] A designated valued delivery is an instruction to CNS from a special representative to transfer a valued position (that is, one against which money is owed) directly from one NSCC participant to another or, through a clearing interface, to a nonparticipant. For a discussion of special representative procedures, see, Securities Exchange Act release No. 13456 (Apr. 21, 1977), 42 FR 21881.

[10] A security order is an instruction to deliver or receive securities outside of the CNS system. Those instructions are generated when securities are not eligible for CNS processing or when both parties to a transaction wish to settle outside the CNS system. Security orders may be issued on an item-by-item basis or netted through balance order procedures.

[11] In making book-entry deliveries of securities from the depository accounts of participants with CNS short positions to the depository accounts of participants with CNS long positions, NSCC makes its first attempt to deliver on the evening prior to settlement date and then makes repeated attempts on settlement date. Often, a participant with a short position will not have sufficient securities available to meet its entire delivery requirement until several passes have been made. As a result, NSCC may have to make two or more deliveries to satisfy a receiving participant's long position. Because the receiving participant has no control over when there are sufficient securities in the system to fill its long position, NSCC will treat multiple receipts in a security as one receipt for billing purposes.

[12] NSCC indicated that it set a lower fee for night cycle processing because computer processing costs during the night are lower, and it wants to encourage participants to have sufficient securities available for night cycle deliveries.

at the Depository Trust Co. ("DTC"). Through NSCC, a participant can deposit securities into and withdraw securities from its DTC account, or give instructions to DTC. This service also can be combined with NSCC's envelope system or CDCS.

6. *Special services.* This category of services includes the National Transfer Service ("NTS"), the Dividend Settlement Service ("DSS"), options processing, the customer transfer service and commission billing. These fees are based on per-item charges.

The National Transfer Service is a service in which participants deliver envelopes to NSCC containing securities for transfer. NSCC sorts the envelopes, batches them and sends them to the appropriate transfer agent. This service currently operates only in New York City and only runs to certain transfer agents.

The customer transfer service, another NSCC transfer service, will operate both in and outside of New York City and will run to any transfer agent. In this service, NSCC does not merely deliver envelopes to transfer agents but rather acts as the participant's agent in effecting the transfer.

The Dividend Settlement Service provides a system for processing dividend claims. In brief, a participant submits to NSCC in-house proof of entitlement to payment of the dividend and a notice that within 5 days it will submit a claim. Upon receipt of the claim form, NSCC credits the participant's settlement account with the money value stated on the claim and debits the settlement account of the participant against whom the claim was made. A reclaim procedure is available. DSS currently is limited to New York City.

Options processing fees are for NSCC acting as a participant's agent in comparing American Stock Exchange ("Amex") option transactions or for acting as a participant's agent at the Options Clearing Corporation ("OCC"). [13] NSCC also will do a participant's OCC cashiering. OCC cashiering involves accounting for money obligations between OCC and a participant, principally margin obligations and premiums.

Commission billing is a service that participants can use to collect commissions from other participants. NSCC indicated that this service is used principally by specialists and floor brokers on the American and New York Stock Exchanges.

7. *Direct clearing.* Direct clearing is a service that NSCC provides for SCC and ASECC Division participants who do not want to maintain a New York City presence. NSCC, in effect, acts as the direct clearing participants' New York City agent. Currently, NSCC participants who use direct clearing pay a fee of $0.50 per transaction for NSCC acting as their New York City presence plus a monthly fee of $1,000. Direct clearing participants also pay variable monthly fees designed to recover the remainder of NSCC's cost of providing direct clearing. Those variable fees are $x per delivery and receipt and $x per $1,000 of value of each delivery or receipt. In addition, direct clearing participants pay the same fees as other NSCC participants for certain other services.

Under the new fee schedule, both the variable charges for direct clearing and the $1,000 monthly charge will be eliminated. Instead, direct clearing participants will pay the same fees other NSCC participants pay for services. NSCC, however, will continue to collect $0.50 per transaction for acting as the direct clearing members' New York City presence.

8. *Interface fees.* NSCC ceased charging fees for clearing and settling transactions through interfaces in the summer of 1977. NSCC's filing formally removes those fees from the fee schedule. NSCC, however, will retain a charge for interface exclusion and inclusion instructions.[14]

9. *DTC sponsored accounts.* Because the SCC and ASECC Divisions of NSCC are operationally linked with DTC, SCC and ASECC Division participants currently also have to be DTC participants. for those participants who do not believe their activity justifies DTC participation or, who, for other reasons, do not wish to be DTC participants, NSCC will open a sponsored account at DTC. NSCC's fees for this service will be $0.75 for ech delivery or receipt to or from the sponsored account plus a passthrough of all related DTC fees except for DTC membership fees. There will be a maximum charge of $400 per month for deliveries and receipts. NSCC indicated that it set the maximum fee higher than DTC's $260 per month membership fee to encourage participants with sufficient volume to join DTC directly.

C. NSCC'S ESTIMATE OF THE EFFECT OF THE PROPOSED FEE SCHEDULE ON ITS PARTICIPANTS

After formulating its proposed fee schedule, NSCC tested the effect of the proposed fee schedule on sample groups of participants. the sample groups used were: (1) Retail wire houses; (2) institutional houses; (3) OTC market makers; (4) specialists; (5) regional firms using direct clearing; (6) regional firms with a New York City office; and (7) banks. NSCC also ran a test against the average activity of essentially all its participants.[16]

In its test, NSCC estimated that, at an average daily cleared volume level of 16.4 million shares from the NYSE, 1.8 million shares from Amex and 3.1 million shares from the OTC market, revenues produced by the current fees would equal revenues produced by the new fees. At the average daily volume level of the four sample months discussed earlier [16] (20.6 million shares from the NYSE, 2.2 million from Amex and 3.9 million from the OTC market), NSCC's figures show that participants would experience a reduction in fees (after rebates) of $3,540,000 per year. NSCC believes that at higher volume levels participants will experience greater savings.

NSCC's estimate of the impact of the proposed fee schedule on the different classes of participants at the average volume level of the four test months was:

	Average monthly fee		
	Current fee structure	Proposed fee structure	Percent change
Retail wire houses	$57,869	$53,526	−7.5
Institutional houses	35,488	29,476	−16.9
OTC market makers [17]	16,254	10,009	−38.4
Specialists	5,200	5,722	10.0
Regional firms—direct clearing	17,476	11,567	−33.8
Regional firms—NYC office	9,697	10,597	9.3
Banks	5,467	12,035	120.0
Average participant	8,831	7,908	−10.4

[17] Much of the reduction in OTC processing costs reflects savings anticipated to result from the transfer of OTC processing from the NCC Division to the SCC Division.

As another measure, NSCC, using the same volume levels, ran a test to estimate the effect of only the proposed fees for trade comparison and clearance processing. The result of that test, expressed in cost per side and cost per 100 shares, was:

	Current schedule		Proposed schedule	
	Per side	Per 100 shares	Per side	Per 100 shares
Retail wire houses	$0.555	$0.189	$0.518	$0.176
Institutional houses	.600	.110	.819	.112
OTC market makers [18]	1.452	.322	.653	.145
Specialists	.295	.080	.322	.087
Regional firms—direct clearing	.900	.274	.871	.265
Regional firms—NYC office	.794	.300	.819	.310

[18] The comment made in footnote 17 also applies here.

[13] NSCC currently relates only to OCC's New York City office.

[14] For example, if an NSCC participant has left standing instructions with NSCC to ship compared trades through an interface to another clearing agency for clearance and settlement, the participant can instruct NSCC to exclude certain transactions from its standing instructions.

[15] A few inactive participants were excluded.

[16] Supra p. 3.

COMMENTS RECEIVED ON NSCC'S FEE SCHEDULE

should be based on a per-item charge and not on both a per-item charge and a charge related to the value of the se-

participants and is, therefore, appropriate.

E. *Bradford Securities Processing*

sonable. Moreover, the Commission has requested and received from NSCC an undertaking that, among other things, it will promptly update

PCC also stated that the NYSE and Amex trade comparison system is "antiquated" and forces regional brokers either to maintain a New York City

mission has requested and received from NSCC an undertaking that, among other things, it will promptly update and revise its fee schedule in

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COMMENTS RECEIVED ON NSCC'S FEE SCHEDULE

A. *TAD Depository Corp.* (*"TAD"*). TAD, which ceased doing business earlier this year, had reached an agreement with NSCC to establish an interface. TAD's comments related to that interface. TAD's first comment was that, since NSCC would open sponsored accounts at DTC for NSCC participants who did not want to have their own DTC account, NSCC, if requested by NSCC participants, should open sponsored accounts for them at TAD. TAD's other comments related to NSCC developing two fee schedules, one based on DTC fees and one based on TAD fees.

In view of TAD's determination to cease operations, it is not possible to be responsive to TAD's comments. If TAD chooses to resume operations, the Commission will consider its comments at that time.

B. *Salomon Bros.* Salomon Bros. stated that, overall, the new NSCC fee schedule was an improvement. It suggested, however, that fees for envelope deliveries should not be based on the time when an envelope is submitted for delivery. Salomon Bros. argued that it has no control over when it receives securities needed for redelivery.

In response to Salomon Bros.' comment, NSCC stated that there is a fee differential based on the time an envelope is submitted for delivery in order to encourage participants to submit their envelopes early. NSCC continued that, the earlier a delivery is made, the greater the opportunity for receiving participants, like Salomon Bros., to turn those securities around the same day. NSCC indicated that early deliveries also will help it to process envelope deliveries more smoothly.

The Commission believes NSCC's policy of using its fee schedule to encourage early deliveries will promote more efficient clearing and therefore is appropriate.

C. *The Chase Manhattan Bank, N.A.* (*"Chase Manhattan"*). With regard to the envelope settlement system and CDCS, NSCC initially proposed a fee based on both a per-item charge and a charge for the value of the securities being delivered. NSCC's rationale was that those two services were designed to provide for the safekeeping and rapid turnaround of higher valued securities and that, as a result, higher valued securities should bear a proportionately greater share of the cost. Also, NSCC felt that the cost of those services should be related to the risk of loss to the clearing corporation.

Chase Manhattan commented that the cost of delivering envelopes is not greatly affected by the value of the securities in the envelopes. Chase Manhattan continued that, as a result, fees should be based on a per-item charge and not on both a per-item charge and a charge related to the value of the securities. In response to that and other comments, NSCC, noting that the increased costs for insurance were not significant in relation to the total cost of the envelope system, changed the fee.

D. *Stifel, Nicolaus & Co., Inc.* (*"Stifel, Nicolaus"*). Stifel, Nicolaus commented that the clearance processing charge should be based on the number of sides submitted rather than on receipts and deliveries. Stifel, Nicolaus felt that a fee based on deliveries. Stifel, Nicolaus felt that a fee based on deliveries and receipts discriminated in favor of participants that submitted a large number of trades. Stifel, Nicolaus stated that, for example, using the NSCC fee of $1 for night cycle deliveries to CNS, a small firm with ten trades in a security which net to one delivery obligation would pay an effective rate of $0.10 per trade for clearance processing while a larger broker with 50 trades which net to one delivery obligation would pay only $0.02 per trade.

The principal work of clearance processing in NSCC's CNS system is effecting deliveries to and receipts from participants' depository accounts and generating money settlement instructions. These are services related not to the number of sides submitted for clearance processing but rather to the number of netted positions. For example, if a CNS participant has two trades in a particular stock, both purchases of 100 shares, the participant will have a net long position of 200 shares, and NSCC will make one bookentry delivery of 200 shares to that participant's depository account on settlement day. If another participant had bought 100 shares and sold 100 shares, its CNS position would net to zero, and NSCC would make no bookentry movement either into or out of the participant's depository account.

Under NSCC's new fee schedule, both participants would pay for the comparison of two sides, but only the first would pay for clearance and settlement. Under Stifel, Nicolaus' rationale, NSCC would charge both participants for comparison and for clearance processing even though, in the latter case, there was no delivery into or out of the participant's depository account. Stifel, Nicolaus' theory is that the benefit to both brokers is equal. NSCC's theory is that the processing cost is not the same for both brokers and that fees should be based on cost, not benefit. The Commission believes NSCC's selection of deliveries and receipts as the basis for its clearance processing fee reasonably allocates the costs of that service among participants and is, therefore, appropriate.

E. *Bradford Securities Processing Services, Inc.* (*"BSPS"*). BSPS had several comments. Its first was that where NSCC had little or no direct competition (trade comparison and recording and envelope settlement) its fees were above cost and where there was a competitor (physical receipts and deliveries) its fees were below cost. As evidence, BSPS stated that for physical receipts and deliveries its fees and those of banks it surveyed were much higher. BSPS continued that NSCC's fees for physical receipts dnd deliveries were below BSPS's cost for performing similar services.

BSPS comments that the fees for the envelope settlement service should not be based on the value of the contents of the envelop but rather on the number of deliveries and the ancillary services involved. BSPS also was concerned about NSCC proposing fees for services (order outs from clearing and deposits to clearing) when NSCC did not then offer those services.

In addition, BSPS argued that the comparison fee should be a per-item charge rather than a charge based on the number of shares being compared. BSPS stated that the cost of doing comparison is unrelated to the number of shares compared.

BSPS indicated that it had developed a rough model of NSCC's proposed fee structure and that it discriminated against associate members and specialists and favored retail an institutional broker-dealers. BSPS also stated that NSCC had not established a sufficient basis for justifying the new fee structure.

Finally, BSPS requested an interface with NSCC.

BSPS' initial comment is that NSCC is engaging in predatory pricing by allowing revenues from services where there is little competition to subsidize services where there is competition, thus setting artifically low prices. BSPS also suggested that certain groups of NSCC participants are discriminated against and that NSCC has not developed a sufficient basis for its fee schedule. Although BSPS presented no data to support its allegations, the Commission nevertheless requested NSCC to review its proposed fee schedule with its independent public accountant and have its accountant issue a report on certain aspects of NSCC's proposed fee schedule. The Commission believes that the data submitted by NSCC, in particular the report of NSCC's independent public accountant, demonstrate that, when developed, NSCC's fees for individual services were reasonably related to the projected cost of providing those services and that the bases for allocating cost to lines of service also were reasonable. Moreover, the Commission has requested and received from NSCC an undertaking that, among other things, it will promptly update and revise its fee schedule in the light of actual operating experience.

BSPS's suggestion that NSCC should base its envelope settlement fee on the number of deliveries and not on the value of the securities being delivered was incorporated into NSCC's fee schedule. As for BSPS's comment on NSCC proposing fees for services not yet established, the Commission recently approved a rule change, SR-NSCC-77-10 (Securities Exchange Act release No. 15142, September 13, 1978) which, among other things, permits NSCC's SCC Division to offer those services.

In considering NSCC's choice of a per-share basis, rather than one based on the number of sides, the Commission reviewed the rationale advanced by NSCC.[19] NSCC appears to have made a reasonable choice among alternatives by selecting one which, among other things, favors best execution. Moreover, the Commission found it significant that no participant using NSCC's comparison service objected to a per-share basis for NSCC's comparison fee.[20] While the Commission, as a result has determined to permit the fee as proposed, the Commission will ask NSCC, in preparing its revised fee schedule, to reexamine its choice of a per-share basis and provide further data on the effect of that choice on various groups of participants.

Finally, the Commission does not consider it appropriate to consider BSPS's request for an interface in the context of approving NSCC's fee schedule under Rule 19b—4. Development of interfaces among clearing agencies in general, and BSPS's request in particular, have been and will continue to be part of the Commission's ongoing responsibilities with regard to the national clearance and settlement system. The Commission stands ready, at anytime, to work with NSCC and BSPS regarding the establishment of an interface between them.

F. *Pacific Clearing Corp.* PCC's first comment was that there should not be a participant fee of up to $100 per month for trade processing in addition to separate fees for comparison. PCC argued that it did not object to a fee for comparison, but that the participant fee forces brokers who clear and settle New York Stock Exchange ("NYSE") and American Stock Exchange ("Amex") trades at a regional clearing corporation to pay "membership dues" to NSCC.

[19] Discussed supra pp. 5–6.

[20] BSPS, which raised the only objection to NSCC's use of a per-share basis for its comparison fee, does not use NSCC's comparison service.

PCC also stated that the NYSE and Amex trade comparison system is "antiquated" and forces regional brokers either to maintain a New York City presence, use a correspondent, or pay the NSCC direct clearing charge of $0.50 per side for remote trade comparison. PCC argued that regional brokers, having established one of those three arrangements for comparison of NYSE and Amex transactions were likely to stay at NSCC for clearance and settlement. In addition, PCC argued that: (i) NSCC's proposed fee for comparison was too high;[21] (ii) NSCC should supply a cost jusitification for the direct clearing fee of $0.50 per transaction (which PCC refers to as a "remote comparison fee"); and (iii) NSCC should charge that direct clearing fee only when transactions compared through direct clearing procedures fail to compare on the first comparison cycle.

PCC felt that NSCC's trade recording fee is an inappropriate toll on brokers who execute transactions in markets other than the NYSE and Amex and clear at NSCC. PCC indicated that it charges no trade recording fee.

PCC argued that basing NSCC's clearance processing fee on the number of delivers and receipts (a netted fee) rather than on cleared shares encourages regional brokers to use correspondents.

Finally, PCC stated that the regulatory fee collected by NSCC for the NYSE and Amex is not related to the cost of the regulatory services NSCC receives and that the excess represented "royalties" to the NYSE and Amex.[22]

NSCC's participant fee for trade processing is designed to recover the adminstrative costs of providing trade processing. In that sense, PCC is correct that that fee is similar to a "membership fee." A fee based on cost is not predatory, however, and the Commission believes that the information NSCC sumitted in conjunction with its fee schedule demonstrates that NSCC's fees for individual services, when developed, were reasonably related to the projected cost of providing those services. Similarly, with regard to PCC's concerns about NSCC justifying its direct clearing fee and about NSCC's comparison fee being too high, the Commission believes that NSCC has demonstrated that its fees, when developed, were reasonably related to cost. In addition, the Commission has requested and received from NSCC an undertaking that, among other things, it will promptly update and revise its fee schedule in the light of actual operating experience.

With regard to PCC's concern about the NYSE and Amex comparison system being "antiquated," NSCC's participants have not expressed to the Commission dissatisfaction with that process, and NSCC has argued that its procedures for comparison best meet the needs of its participants. Accordingly, the Commission does not find PCC's charge that the system is antiquated, of itself, a sufficient reason to reexamine NSCC's comparison procedure at this time.

PCC is concerned, however, that broker-dealers who are potential regional clearing agency participants will be discouraged from regional participation by NSCC's comparison process. That concern appears to stem from a misunderstanding of the requirements of the Commission's order granting NSCC registration as a clearing agency (Securities Exchange Act release No. 13163, Jan. 13, 1977). PCC suggests that brokers must compare NYSE and Amex trades either by having a New York City office, using a correspondent, or using direct clearing. PCC then argues that brokers which utilize a correspondent for comparison will also use it for clearance and settlement. Similarly, if brokers bear the expense of opening a New York City back office for comparison, PCC believes they will use it to complete the clearing process as well. Accordingly, the only alternative, in PCC's view, that permits comparison of NYSE and Amex trades at NSCC and clearance and settlement elsewhere is direct clearing.

PCC's argument appears to continue that, if direct clearing fees are unduly high that creates a "front-end load" that locks brokers into NSCC. In effect, if the $0.50 charge for direct clearing results in participants paying more than cost for comparison but less than cost for clearance and settlement at NSCC, it will inhibit movement to other clearing agencies.[23] PCC therefore proposes that NSCC only charge a direct clearing fee when a trade fails to compare on the first comparison cycle.

[21] As noted, supra p. 4, NSCC proposes to charge the same fee for comparison regardless of whether a participant relates to NSCC through NSCC's New York City facility, through a branch office or through NSCC's direct clearing procedures.

[22] Although PCC does not mention it in its comment letter, NSCC also collects this fee for the National Association of Securities Dealers, Inc. (the "NASD").

[23] For example, if total fees for a transaction were $1.50 at clearing agency A, divided into $1 for comparison (more than cost) and $0.50 for clearing and settlement (less than cost), while clearing agency B charged $0.50 for comparison and $1 for clearing and settlement (assumed to be a cost-based allocation), participants who compare transactions at clearing agency A would tend to stay for clearing and settlement paying a total of $1.50 rather than move compared trades to clearing agency B and incur fees of $2 ($1 for comparison at A and $1 for clearing and settlement at B).

This misperceives the situation in three ways. First, the NSCC registration order required NSCC to provide

creased since NSCC made its cost analysis. And the last is that NSCC has not accounted for the effects of inflation.[29]

granting NSCC registration as a clearing agency but remanded two issues to the Commission for further consideration. One of those issues was the use

handling services incorporate GPM through the primary receive location concept and through the use of a flat-rate charge for inter-city envelope de-

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This misperceives the situation in three ways. First, the NSCC registration order required NSCC to provide for remote comparison including comparison through other clearing agencies. Thus brokers are not required to utilize direct clearing. Second, the $0.50 fee is not, in any case, a comparison fee but rather a fee for NSCC acting as a participant's New York City agent. The comparison fee is the same regardless of how a participant relates to NSCC. Third, NSCC's fee is cost/based. Eliminating the charge entirely, or, as PCC suggests, eliminating it when trades compare on the first cycle, would subsidize participants who utilize direct clearing and shift those expenses elsewhere, causing other NSCC services to be no longer cost-based. Accordingly, the Commission views PCC's proposal as inapposite.

PCC argues that NSCC's trade recording fee discourages trading on regional exchanges in that brokers who choose to clear and settle transactions at NSCC and who trade on regional exchanges will have to pay both a comparison fee to the clearing agency affiliated with the regional exchange and a trade recording fee to NSCC. PCC continues that, if those brokers executed their transactions on the NYSE and Amex, they would pay only a comparison fee. PCC concludes that the trade recording fee is a toll on executions outside of New York City and is, in effect, an interface fee that is imposed only on NSCC participants who execute outside New York.[24]

PCC's argument is not that the trade recording fee discourages regional clearing, but rather that it discourages regional execution.[25] The Commission, however, in the absence of more persuasive evidence, cannot conclude that a trade recording fee of $0.03 per hundred shares would influence a broker's choice of market of execution for a transaction.

PCC also was concerned that NSCC charges a clearance processing fee based on deliveries and receipts. PCC felt that such a fee would encourage the use of correspondents. PCC's argument centers on the fact that, in NSCC's ASECC and SCC Division system, the greater the number of transactions a participant has in a particular security, the lower the cost per transaction of clearance processing for that participant. That is, an NSCC participant with 10 transactions in a security on a particular day will pay the same clearance processing fee as a participant with one transaction that day.[26] PCC believes that correspondents, by combining the processing volume of many brokers, will achieve lower clearing fees and can use those savings as a means of attracting customers.

Assuming PCC's analysis is correct and a correspondent would have clearance processing fees smaller than the sum of the clearance processing fees its customers would incur if each customer were a direct participant, that does not necessarily lead to the conclusion PCC draws. First, the savings achieved by correspondents may not be substantial in terms of overall clearing costs. In any case, the correspondents may choose not to pass the savings back to their broker-dealer customers. Second, correspondents charge for their services, and those charges may offset any savings. Third, correspondents tend to offer a package of services often including research and execution as well as comparison, clearing, and settlement, and it would be difficult to demonstrate that the NSCC clearance processing fee was the controlling factor in a broker's decision to use a correspondent. Last, the Commission believes NSCC's selection of deliveries and receipts as the basis of its clearance processing fee more reasonably allocates the costs of that service among NSCC participants than a fee based on cleared shares. In the system operated by the ASECC and SCC Divisions, there is no more work involved in making a delivery of 100 shares than of 1,000 shares.

Nevertheless, the Commission will ask NSCC in revising its fee schedule to study this matter further and to present data on the extent to which this fee may have a competitive impact. The Commission also will examine the problem as part of its ongoing monitoring program. In the interim, however, because the fee is derived from a reasonable allocation of NSCC's costs to the service provided, the Commission believes it should be permitted.

Finally, with regard to PCC's concern about NSCC collecting the NYSE and Amex regulatory fee, it is not clear whether PCC objects to the existence of an additional $0.12 per side charge in NSCC's fees or to NSCC's collecting that charge. In the former case, the additional $0.12 would tend to make NSCC's charges less competitive *vis-a-vis* other clearing agencies such as PCC. In the latter case, it is a common practice for clearing agencies to collect charges imposed on their broker-dealer participants by entities other than the clearing agency. Moreover, in granting NSCC registration as a clearing agency, the Commission considered, and found appropriate, NSCC's decision to collect that regulatory fee (Securities Exchange Act release No. 13163 (Jan. 13, 1977), pp. 98-101).[27]

Approval of NSCC's Proposed Fee Schedule

The information submitted by NSCC in connection with its proposed fee schedule, in particular the PW report, demonstrates that, at the time they were developed, NSCC's proposed fees reasonably approximated the projected cost of providing the respective services and that the basis for allocating costs to lines of service also was reasonable. In establishing specific fees, however, NSCC considered other factors, particularly geographic price mutualization, that in some situations may cause fees paid by an individual participant to vary from the cost of providing a service to that participant. Even in those instances, NSCC related the overall fees for a service to the estimated cost of providing that service. Moreover, NSCC's plan to rebate excess revenues is intended to ensure that, in the event actual expenses and gross revenues vary from NSCC's projections because of fluctuations in volume or other factors, net revenues will remain tied to the cost of operations.[28]

The Commission recognizes, however, that certain changes have occurred since NSCC's fee schedule was prepared that may have affected NSCC's estimate of its cost for providing services. The first is that DTC, to which NSCC pays a significant amount of fees, instituted a new fee schedule after NSCC's cost analysis was completed. NSCC indicated that it was uncertain whether the net effect of the new DTC fees would be to increase or decrease its costs. The second is that NSCC has experienced a loss of participants due principally to mergers. The third is that the average volume of shares cleared by NSCC has increased since NSCC made its cost analysis. And the last is that NSCC has not accounted for the effects of inflation.[29]

Nevertheless, the Commission has decided to approve NSCC's fee schedule at this time, rather than have NSCC submit a revised proposed fee schedule, for three reasons. First, there always will be a gap between the time a fee schedule is developed and its effective date. That results from the need to gather underlying data regarding participants' activities; prepare, test and revise fees; and obtain participants' comments, board approval, and Commission approval.[30]

Second, the implementation of the fee schedule is necessary to facilitate NSCC's transfer of OTC processing from its NCC Division to a separate processing stream within its SCC Division. As discussed in Securities Exchange Act releases Nos. 15143 and 15221 this step is expected to have important benefits for the development of a national clearance and settlement system and for the investing public.[31] Third, modifications based on hypothetical projections would not be as accurate as those made in the light of day-to-day experience.

In view of the changes which have occurred since NSCC developed its fee schedule, however, the Commission has requested and received from NSCC an undertaking that it will: (i) Update and revise the fee schedule promptly in light of actual operating experience; (ii) present with the revised fee schedule such information as the Commission may request on the effects of geographic price mutualization or other pertinent factors; and (iii) review the revisions and information with its independent public accountant.

The Commission also has considered the opinion of the United States Court of Appeals for the District of Columbia Circuit in "Bradford National Clearing Corp., et al. v. Securities and Exchange Commission" (D.C. Cir Nos. 77-1199, and 77-1547, Sept. 19, 1978) in reviewing NSCC's proposed fee schedule. The Court affirmed the order granting NSCC registration as a clearing agency but remanded two issues to the Commission for further consideration. One of those issues was the use by NSCC of geographic price mutualization ("GPM").[32]

Specifically, the Court requested that the Commission—

> [provide] a better explanation, if one exists, of how GPM may be utilized without thwarting regional [clearing agency] competition. Failing that, the Commission must either condition registration on NSCC's abandonment of GPM, or at least convincingly conclude that the loss of regional competition engendered by GPM will not upset the favorable balance of benefits and anti-competitive effects that [the Commission] originally calculated on the assumption that such competition would exist. (Op., P. 54.)

The Commission has been monitoring the effects of NSCC's registration, including NSCC's use of GPM. Among other things, the Commission in its Hearings into the Development of a National Clearance and Settlement System (File No. 600-15, Mar. 6-10 and Apr. 19-20, 1978) requested comment upon "whether there currently are geographic differences in the costs of engaging in business as a broker or dealer which make inappropriate geographic mutualization of charges for clearing and settlement services."[33] More recently, the Commission requested and received from NSCC an undertaking that, NSCC will, among other things, provide the Commission with data on the effects of geographic price mutualization.

The Commission, prior to approval of NSCC's revised fee schedule, and prior to determining whether NSCC should be permitted to begin Phase II operations, will examine fully and resolve the issue of NSCC's use of geographic price mutualization. Until consideration of GPM is completed, the Commission believes that it is appropriate to attach certain conditions to its approval of NSCC's fee schedule. Those conditions are designed to restrict NSCC's use of GPM.

There are two principal ways in which NSCC has incorporated geographic price mutualization into its proposed fee schedule. The first is that NSCC proposes to charge participants the same fees for comparing, clearing and settling transactions regardless of whether they relate to NSCC through NSCC's New York City facility, through a branch office or through NSCC's direct clearing service.[34] Second, the fees for physical handling services incorporate GPM through the primary receive location concept and through the use of a flat-rate charge for inter-city envelope deliveries.[35]

Accordingly, the specific conditions that the Commission is imposing to restrict the use of GPM are: (i) NSCC may not, until further notice, compare, clear or settle transactions in listed securities through its branch offices or through other facilities located outside of New York City;[36] (ii) NSCC may not accept new participants into its direct clearing service unless NSCC has first given the Commission not less than 30 days notice, and the Commission may take appropriate steps to deny, limit or condition the use of direct clearing services by the prospective participants; and (iii) NSCC, in providing physical handling and envelope delivery services outside of New York City, must include in its fees the actual cost of transporting securities.

Accordingly, after careful review of all comments and data, and upon its own evaluation, the Commission finds that:

1. NSCC's proposed fees for individual services, when developed, were reasonably related to the projected cost of providing those services and the bases for allocating costs to lines of service likewise were reasonable. Furthermore, NSCC has undertaken to revise promptly its fee schedule in light of actual operating experience.

2. The new fee schedule is necessary and appropriate to facilitate NSCC's transfer of OTC processing from its NCC Division to a separate processing stream within the SCC Division.

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[24] Regional participants who execute in New York but clear regionally would pay only the NSCC comparison fee (if the regional clearing agency, like PCC, charged no trade recording fee). On the other hand, brokers who execute regionally, would be encouraged by this fee to clear regionally and not at NSCC in order to avoid the double fee.

[25] If anything, it encourages regional clearing. See, footnote 24.

[26] This is also discussed in conjunction with the Stifel, Nicolaus comment letter, supra p. 15.

[27] The Commission, however, indicated its intention to review the appropriateness of NSCC collecting that fee upon resolution of certain issues described in release No. 13163.

[28] Although the rebate will be given across-the-board and not only to those participants using the particular services generating excess revenues, the Commission does not believe that at this time it is necessary to require NSCC to compute the excess revenues attributable to specific services and rebate those revenues on a pro rata basis to the participants using those services. No NSCC participant or other interested person objected to NSCC's decision to use an across-the-board rebate. The Commission, however, will ask NSCC to consider the feasibility and desirability of a service-by-service rebate in revising its fee schedule.

[29] As long as volume remains high, NSCC will continue to collect sufficient revenues to cover its costs. NSCC's projection of its break-even point is discussed supra p. 3.

[30] The task is more complex when, as here, an entire new fee schedule is being prepared.

[31] In its letter of Sept. 13, 1978 (Securities Exchange Act release No. 15143) the Commission authorized NSCC to terminate the facilities management contract with Bradford National Clearing Corp. ("BNCC") for operation of the NCC Division and to switch OTC processing to the SCC Division. In its letter of Oct. 6, 1978 (Securities Exchange Act release No. 15221), the Commission declined to withdraw its authorization as requested by Bradford National Corp., parent of BNCC.

[32] The other issue remanded to the Commission for further consideration was NSCC's selection, without competitive bidding, of the Securities Industry Automation Corp. as facilities manager of its consolidated system.

[33] Securities Exchange Act release No. 14411 (Jan. 25, 1978).

[34] With regard to direct clearing, NSCC proposes to charge a fee of $0.50 per transaction for acting as the direct clearing participants' New York City agent. With that exception, direct clearing participants will pay the same fees as other NSCC participants. See, supra p. 11 for a discussion of direct clearing fees.

[35] See, supra pp. 8-9.

[36] In imposing this condition, the Commission recognizes that NSCC participants will be able to compare, clear and settle transactions in over-the-counter ("OTC") securities through NSCC branch offices at a mutualized price. The NCC Division, however, already offers NSCC participants OTC clearing through the branch offices at a mutualized price, a pricing mechanism used since the National Clearing Corporation, one of NSCC's predecessors, began OTC processing. The Commission also recognizes that the switching of OTC processing to the SCC Division system will result in lower fees for OTC processing. The Commission believes, however, that permitting NSCC to continue to offer OTC clearing through branch offices at a mutualized price until the Commission finishes its consideration of the GPM issue, does not represent a substantial alteration of the status quo. The Commission does not anticipate a significant impact on regional clearing agency competition, particularly because of the restriction on processing listed transactions through NSCC's branch offices.

3. The conditions imposed will restrict NSCC's use of geographic price mutualization while the Commission is

another lease ("1977 Lease") for nuclear material to be used at unit 2 of the Cook Plant, with AEP executing a

cal with the formula on the 1971 Lease. It is stated that the increase in the maximum permitted unrecovered acquisition cost and the revision of the

[8010-01-M]

[Rel. No. 15224 (SR-NYSE-76-44)]

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

ments to rule 10b-10 under the Act.[1] Rule 10b-10, among other things, pro-

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3. The conditions imposed will restrict NSCC's use of geographic price mutualization while the Commission is considering that issue.

4. Approval of the proposed fee schedule will not substantially improve NSCC's competitive position during the period prior to phase II.

Accordingly, the Commission finds the proposed rule change consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, 15 U.S.C. 78(s)(b)(2), that the above-mentioned proposed rule change be approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29090 Filed 10-13-78; 8:45 am]

[8010-01-M]

[Rel. No. 20727 (70-5925)]

INDIANA AND MICHIGAN POWER CO. ET AL.

Proposed Amendments to Nuclear Fuel Leases

OCTOBER 6, 1978.

In the matter of Indiana & Michigan Power Co., care of American Electric Power Service Corp., 2 Broadway, New York, N.Y. 10004; Indiana & Michigan Electric Co., 2101 Spy Run Avenue, Fort Wayne, Ind. 46801; American Electric Power Co., Inc., 2 Broadway, New York, N.Y. 10004.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), a registered holding company. Indiana & Michigan Electric Co. ("I. & M.E."), an electric utility subsidiary company of AEP, and Indiana & Michigan Power Co. ("I. & M.P."), an electric generating subsidiary company of I. & M.E., have filed a posteffective amendment to an application-declaration previously filed with this Commission pursuant to sections 9(a), 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By prior order in this proceeding (HCAR No. 19950, March 21, 1977), I. & M.E. was authorized to assign its right, title, and interest in a nuclear material lease ("1971 Lease") to I. & M.P., without limiting or affecting I. & M.E.'s obligation under the 1971 Lease. The nuclear material as for use at unit 1 of I. & M.P.'s Donald C. Cook Nuclear Plant ("Cook Plant"). The order also permitted I. & M.P. to enter another lease ("1977 Lease") for nuclear material to be used at unit 2 of the Cook Plant, with AEP executing a guaranty as to I. & M.P.'s obligations under the 1977 Lease. The lessor in both Leases is PruLease, Inc. ("PruLease"), a subsidiary of Pruco, Inc., which is a holding company subsidiary of Prudential Insurance Co. of America.

It is proposed that the 1971 and 1977 Leases be amended and restated as follows. The principal amendments to the 1971 Lease would (a) increase the maximum permitted unrecovered acquisition cost of PruLease, at any one time, from $43,500,000 to $75,000,000, (b) modify the formula for the calculation of rent so that (i) for nuclear material placed under lease subsequent to the effective date of the proposed posteffective amendment, that portion of rent which is based on money market rates will be at a rate equal to 1½ percent plus the rate on PruLease commercial paper (as opposed to the present rate of 1¾ percent plus the higher of (A) the prime rate or (B) the rate on PruLease commerical paper) and (ii) there shall be included in the calculation of rent a nonusage fee equal to 1 percent per annum on the excess of the maximum permitted unrecovered acquisition cost over the average daily balance of the stipulated casualty value of all nuclear material under lease, (c) delete the option on the part of I. & M.P. to purchase the nuclear material for its fair market value or the stipulated casualty value, whichever is greater, upon a termination of the lease, and provide instead in that event for the payment by I. & M.P. to the lessor of an amount equal to the stipulated casualty value, whereupon PruLease is to release I. & M.P. all of PruLease's right, title, and interest in the nuclear material, and (d) effect certain other modifications of the text of the 1971 Lease. It is stated that the changes to the 1971 Lease described in terms (c) and (d) above will have the effect of conforming the terms of the 1971 Lease to the terms of the 1977 Lease. It is stated that the increase in the amount of maximum permitted unrecovered acquisition cost which may be outstanding at any one time is deemed desirable in light of increased costs for nuclear material and the revision of the rent formula is deemed desirable inasmuch as it is anticipated to result in lower rent. I. & M.P. will consent to the amendment and restatement and remain responsible for performance under the 1971 Lease.

The principal amendments to the 1977 Lease would (a) increase the maximum permitted unrecoverd acquisition cost of PruLease, at any one time, from $55 million to $100 million and (b) change the formula for the calculation of rent so that it is identical with the formula on the 1971 Lease. It is stated that the increase in the maximum permitted unrecovered acquisition cost and the revision of the rent formula are deemed desirable for the same reasons as in the case of the amendments of the 1971 Lease. AEP will agree to an amendment of its guaranty of the 1977 Lease.

The fees and expenses to be incurred in connection with the proposed transactions will be filed by further amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions, except that I. & M.E. proposes to request the Public Sevice Corp. of Indiana, and I. & M.E. and I. & M. P. propose to request the Michigan Public Service Commission to authorize the 1971 Lease amendments, in each case to the extent they have jurisdiction thereof; and I. & M. P. proposes to request the latter commission to authorize the 1977 Lease amendments.

Notice is further given that any interested person may, not later than October 31, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of any attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said posteffective amendment or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29089 Filed 10-13-78; 8:45 am]

[8010-01-M]

[Rel. No. 15224 (SR-NYSE-76-44)]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

OCTOBER 6, 1978.

On September 13, 1976, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, N.Y. 10005, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and rule 19b-4 thereunder, copies of a proposed rule change. Under its proposal, the NYSE would delete rule 409(c), which requires that customers' confirmations bear a legend to enable a customer to determine the amount of any odd lot differential.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 34-12803, September 16, 1976) and by publication in the FEDERAL REGISTER (41 FR 41974, September 24, 1976). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. §552) were made available to the public at the Commission's Public Reference Room.

On October 6, 1978, the Commission announced the adoption of amendments to rule 10b-10 under the Act.[1] Rule 10b-10, among other things, provides that a broker-dealer must disclose to his customers (1) whether he was charged an odd lot differential and (2) that the amount of the differential will be disclosed to the customer upon oral or written request. In light of the Commission's adoption of a uniform standard for disclosure of odd lot charges, NYSE rule 409(c) is no longer necessary. Retention of this rule would impose an unnecessary burden on NYSE members, who have indicated that it would be costly and operationally difficult for them to comply with NYSE rule 409(c) absent a fixed odd lot differential rate.

Accordingly, the Commission finds that the proposed rule change of the NYSE is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29091 Filed 10-13-78; 8:45 am]

[1] Securities Exchange Act Release No. 15219. Action on rule filing SR-NYSE-76-44 was delayed pending Commission adoption of rule 10b-10.

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

APPLICATIONS FOR EXEMPTIONS

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's hazardous materials regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes November 15, 1978.

ADDRESS: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW APPLICATION

Application No.	Applicant	Regulation(s) affected	Nature of application
8077-N	Dependable Welding Service, Buckley, Calif.	49 CFR 173.247	To manufacture, mark and sell non-DOT specification steel drums comparable to DOT-5A specification for shipment of silicon tetrachloride. (Modes 1, 2.)
8078-N	Aerojet Solid Propulsion Co., Sacramento, Calif.	49 CFR 172.101, 175.30	To authorize shipments of a rocket motor, class B explosive, exceeding the weight limitation presently authorized by cargo-only aircraft. (Mode 4.)
8079-N	Container Corp. of America, Wilmington, Del.	49 CFR 178.35a	To manufacture, mark and sell DOT specification 2SL polyethylene container using a higher density, higher melt index resin than presently prescribed for shipment of various hazardous materials. (Modes 1, 2, 3.)
8080-N	Diamond Shamrock Corp., Cleveland, Ohio	49 CFR 173.164	To authorize the shipment of an oxidizer in a DOT specification 105A300W pressurized tank car modified to a DOT specification 111A100W tank car with sparger equipment. (Mode 2.)
8081-N	National Aeronautics and Space Administration, Greenbelt, Md.	49 CFR 172.101, 175.30	To authorize the shipment of rocket motors, class B explosive, exceeding the weight limitation presently authorized by cargo-only aircraft. (Mode 4.)
8082-N	Arctic Foundations Inc., Anchorage, Alaska.	49 CFR 172.101, 173.304, 175.3, 175.30.	To authorize shipment of liquefied carbon dioxide in a non-DOT specification container exceeding the weight limitation presently authorized by cargo-only aircraft. (Mode 4.)
8083-N	Farrell Lines Inc., New York, N.Y.	49 CFR 172.101	To authorize transportation of carbon disulfide and nickel carbonyl aboard vessels carrying class A or B explosives. (Mode 3.)
8084-N	Ireco Chemical, Salt Lake City, Utah	49 CFR 173.65(a)(5)	To authorize shipment of high explosives with no liquid explosive ingredient nor any chlorate, containing over 5 pct moisture without the polyethylene bag closure or the 2L lining. (Mode 1.)
8085-N	Railgard, Daggett, Calif	49 CFR 179.100-23	To allow DOT 112A and 114A tank cars to be equipped with head shields having certain design deviations from those prescribed. (Mode 2.)

NEW APPLICATION—Continued

Regulation(s) affected	Nature of application

Application No.	Applicant	Renewal of exemption
6816-X	U.S. Department of Defense,	6816

Application No.	Applicant	Parties to exemption
5736-P	Mobil Chemical Co.,	5736

other exercise of judgment concerning the merits of the petition.

General Motors has installed 48 improperly marked rims on heavy duty

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NEW APPLICATION—Continued

Application No.	Applicant	Regulation(s) affected	Nature of application
8086-N	Boeing Aerospace Co., Seattle, Wash	49 CFR 173.119(a)(10)	To authorize shipment of a flammable liquid in a non-DOT specification aluminum container. (Mode 1.)
8087-N	Union Carbide Corp., Bound Brook, N.J	49 CFR 173.154	To authorize the shipment of water reactive solids in DOT specification 56 portable tanks. (Mode 1.)
8088-N	Inland Steel Container, Chicago, Ill	49 CFR 178.80-8, 178.97-6	To manufacture, mark and sell DOT specification 5 and 6 series drums using round pipe sections instead of rolled I-bar sections for the shipment of certain hazardous materials. (Modes 1, 2, 3, 4.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on October 6, 1978.

J. R. GROTHE,
Chief, Exemptions Branch,
Office of Hazardous Materials Regulation,
Materials Transportation Bureau.

[FR Doc. 78-29059 Filed 10-13-78; 8:45 am]

[4910-60-M]

APPLICATIONS FOR RENEWAL OR MODIFICATION OF EXEMPTIONS OR APPLICATIONS TO BECOME A PARTY TO AN EXEMPTION

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier FEDERAL REGISTER publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g., to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.), they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes October 31, 1978.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for examination in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
2051-X	International Plastics, Inc., Colwich, Kans.	2051
2136-X	U.S. Department of Defense, Washington, D.C.	2136
3095-X	Dow Chemical Co., Tulsa, Okla.	3095
3193-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.[1]	3193
3216-X	Pennwalt Corp., Philadelphia, Pa.	3216
3216-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	3216
3768-X	Chemetron Corp., Chicago, Ill	3768
3992-X	Olin Chemicals Group, Stamford, Conn.	3992
3992-X	Stauffer Chemical Co., Westport, Conn.	3992
3992-X	Linden Chlorine Products, Inc., Cranford, N.J.	3992
4453-X	W. A. Murphy, Inc., El Monte, Calif.	4453
4453-X	Strawn Explosives, Inc., Dallas, Tex.	4453
4607-X	Armstrong Laboratories Division, West Roxbury, Mass.	4607
4717-X	Stauffer Chemical Co., Westport, Conn.	4717
4803-X	Dow Chemical Co., Tulsa, Okla.	4803
4834-X	Union Carbide Corp., Tarrytown, N.Y.	4834
5038-X	Western Electric Co., Lee's Summit, Mo.	5038
5188-X	U.S. Department of Energy, Washington, D.C.	5188
5232-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	5232
5403-X	BJ-Hughes Inc., Midland, Tex	5403
5403-X	Halliburton Services, Duncan, Okla.	5403
5792-X	Stauffer Chemical Co., Westport, Conn.	5792
5792-X	El Paso Products Co., Odessa, Tex.	5792
5792-X	Publicker Industries Inc., Philadelphia, Pa.	5792
5820-X	ICI Americas Inc., Wilmington, Del.	5820
5825-X	Phillips Petroleum Co., Bartlesville, Okla.	5825
5944-X	Dow Chemical Co., Midland, Mich.	5944
5959-X	El Paso Products Co., Odessa, Tex.	5959
6016-X	Guttman Supply Co., Belle Vernon, Pa.	6016
6121-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6121
6231-X	Lox Equipment Co.[2] Livermore, Calif.	6231
6334-X	U.S. Department of Defense, Washington, D.C.	6334
6349-X	Air Industrial Gases, Murray Hill, N.J.	6349
6369-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6369
6392-X	Stauffer Chemical Co., Westport, Conn.	6392
6418-X	Great Lakes Chemical Corp., El Dorado, Ark.	6418
6434-X	Mobil Chemical Co., Richmond, Va.	6434
6518-X	Union Carbide Corp., Bound Brook, N.J.[3]	6518
6538-X	Aladdin Industries Inc., Nashville, Tenn.	6538
6563-X	Liquid Carbonic Corp., Chicago, Ill.	6563
6563-X	Mada Medical Products, Inc., Carlstadt, N.J.	6563
6569-X	Blue Star Line, Inc., San Francisco, Calif.	6569
6602-X	Great Lakes Chemical Corp., El Dorado, Ark.	6602
6606-X	Stauffer Chemical Co., Westport, Conn.	6606
6611-X	Air Products & Chemicals Inc., Allentown, Pa.[3]	6611
6651-X	Heatbath Corp., Springfield, Mass.	6651
6651-X	Park Chemical Co., Detroit, Mich.	6651
6670-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6670
6743-X	Atlas Powder Co., Dallas, Tex.	6743
6793-X	Trafpak Ltd., Aylesbury, England.[4]	6793
6802-X	Fitch Industrial & Welding Supply, Lawton, Okla.	6802

Application No.	Applicant	Renewal of exemption
6816-X	U.S. Department of Defense, Washington, D.C.[4]	6816
6844-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	6844
6847-X	United Foam Corp., Compton, Calif.	6847
6932-X	Ugine Kuhlmann of America, Inc., Paramus, N.J.	6932
6984-X	IMC Chemical Group, Inc., Allentown, Pa.	6984
7023-X	Western Electric Co., Inc., Greensboro, N.C.	7023
7046-X	J. T. Baker Chemical Co., Phillipsburg, N.J.	7046
7066-X	The Procter & Gamble Manufacturing Co., Cincinnati, Ohio.	7066
7085-X	California Seal Control Corp., San Pedro, Calif.[4]	7085
7096-X	Fike Metal Products Corp., Blue Springs, Mo.	7096
7097-X	Fuller System, Inc., Woburn, Mass.	7097
7206-X	Ruan Transport Corp., Des Moines, Iowa.	7206
7275-X	Express Airways, Inc., Mojave, Calif.	7275
7567-X	Conus, Inc., Jonesboro, Ark.	7567
7568-X	W. A. Murphy, Inc., El Monte, Calif.	7568
7620-X	W. P. Butterfield (Engineers) Ltd., Shipley West Yorkshire, England.	7620
7620-X	Eastern Mediterranean (Container) Co., Ltd., London, England[7]	7620
7650-X	ICI Americas, Inc., Wilmington, Del.[4]	7650
7665-X	Phillips Petroleum Co., Houston, Tex.	7665
7683-X	Lubbock Manufacturing Co., Lubbock, Tex.	7683
7767-X	Hydraulic Research Textron, Pacoima, Calif.	7767
7820-X	LOWACO S.A., Geneva, Switzerland.	7820
7823-X	Allied Chemical Corp., Morristown, N.J.	7823
7828-X	Alaska International Air, Inc., Fairbanks, Alaska.	7828
7864-X	Callery Chemical Co., Callery, Pa.	7864
7881-X	FMC Corp., Philadelphia, Pa.	7881
7896-X	Monsanto Co., St. Louis, Mo.[8]	7896
7922-X	Allied Chemical Corp., Mt. Clemens, Mich.	7922
7923-X	Allied Chemical Corp., Mt. Clemens, Mich.	7923

[1] Renewal and to provide for shipments of certain compressed gases in DOT Specification 106A and 110A tanks by cargo vessel.
[2] Renewal and to authorize shipments of a water reactive flammable solid.
[3] Renewal and to delete the requirement for one-way travel time restriction, holding time tests, and requirements for certain venting reports.
[4] Renewal and to provide for certain tank design modifications.
[5] To authorize cargo vessel as an additional mode of transportation.
[6] Renewal and to authorize rail as an additional mode of transportation.
[7] To authorize certain tank design modifications.
[8] To renew and alter the retest period.
[9] To authorize shipment by rail as an additional mode of transportation.

Application No.	Applicant	Parties to exemption
2587-P	Welding & Therapy Service, Inc., Louisville, Ky.	2587
2587-P	C & C Oxygen Co., Chatanooga, Tenn.	2587
3126-P	Hercules Inc., Wilmington, Del.	3128
4390-P	Cordova Chemical Co., Sacramento, Calif.	4390
5736-P	Mobil Chemical Co., Beaumont, Tex.	5736
6126-P	Hoffman-La Roche Inc., Nutley, N.J.[4]	6126
8626-P	Zimmer Welding Supplies & Service, Inc., Brooklyn, N.Y.	8626
6984-P	Piedmont Explosives, Inc., Statesville, N.C.	6984
6984-P	Hazard Explosives Co., Hazard, Ky.	6984
7052-P	Ultra Energy Inc., El Paso, Tex.	7052
7654-P	Mallinckrodt, Inc., St. Louis, Mo.	7654
7990-P	Georgia-Pacific Corp., Newport Beach, Calif.	7990
7990-P	FMC Corp., Philadelphia, Pa.	7990
7992-P	FMC Corp., Philadelphia, Pa.	7992
8078-P	National Aeronautics & Space Administration, Greenbelt, Md.	8078

[1] To become a party to the exemption, accommodate packaging modification and to authorize transportation by common carrier.
[2] To become a party to the exemption and provide for shipments aboard cargo vessel as additional mode of transportation.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on October 6, 1978.

J. R. GROTHE,
Chief, Exemptions Branch,
Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-29060 Filed 10-13-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP78-8; Notice 1]

GENERAL MOTORS CORP.

Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corp. of Warren, Mich., has petitoned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.120, Motor Vehicle Safety Standard No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars.* The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

General Motors has installed 48 improperly marked rims on heavy duty vehicles manufactured between August 1977 and October 1977. The rims should have been marked "22×7.50–5"" and were instead marked "22.5×7.50–5°." The rims are intended for use with tube-type wheels. The company argues that safety implications are "limited to situations where the marking was used in connection with replacing a tire on these rims." Petitioner points out that the correct information is already provided through the placard installed in the vehicle in accordance with Standard No. 120 and on the sidewall of the tire being replaced, both of which correctly instruct the reader to use a 22-inch tube-type tire. GM states that there is no tube-type tire available in the 22.5-inch size and that even if a tubeless tire could be mounted on the rim (which it considers improbable if not impossible) it would not be possible to inflate it because of incompatibility between tubeless tire valves and rim slots provided for tube tire valve stems.

The manufacture date of the rims is not stated. NHTSA notes that the rim marking requirements became effective August 1, 1977, and if the rims were manufactured on or after such date, the misinformation noted would appear to be a noncompliance with §5.2(b) of Standard No. 120. However, if the rims were manufactured before the effective date of §5.2, the trucks on which the wheels were installed could be viewed as incorporating a safety related defect. In either event, GM's petition is appropriate.

Interested persons are invited to submit written data, views and arguments on the petition of General Motors Corp. described above. Comments should refer to the docket number and be submitted: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: November 15, 1978.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 10, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator

vices Administration of the United States of America, Chrysler Corp., and the Department of California Higway Patrol. All comments supported the

Paragraph S6 of Standard No. 301-75 sets forth requirements for barrier crash tests followed by static rollover. TEC manufactured 47 motor vehicles

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on October 6, 1978

promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings

state Commerce Commission, Washington, DC.

MC 18121 (Sub-19), Advance Transportation Co. & MC 18121 (Sub-20), Advance Trans-

V 43/200 OCT 16 78

Issued on October 10, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-29181 Filed 10-13-78; 8:45 am]

[4910-59-M]

[Docket No. EX77-1; Notice 2]

MODULAR AMBULANCE CORP.

PETITION FOR TEMPORARY EXEMPTION FROM FEDERAL MOTOR VEHICLE SAFETY STANDARD

This notice grants the petition by Modular Ambulance Corp. of Grand Prairie, Tex. for a temporary exemption from 49 CFR 571.301-75, Motor Vehicle Safety Standard No. 301-75, Fuel System Integrity, on the basis that compliance would cause it substantial economic hardship.

Notice of the petition was published on December 20, 1976 (41 CFR 55409), and an opportunity afforded for comment.

Petitioner is a final-stage manufacturer which mounts ambulance bodies on chassis manufactured by Chevrolet, Ford, and Dodge. In its fiscal year ending April 30, 1976, it assembled 480 such vehicles. Apparently the incomplete vehicle manufacturers concerned have been unable to provide petitioner with sufficient information to enable it to certify the completed vehicle with assurances that it will comply with fuel system integrity requirements. The company "does not feel that any of the ambulances that we modify or convert would have to be modified to achieve compliance because we do not alter the fuel system at all other than to attach the fuel filler hoses provided by the chassis manufacturer." But it believes the only way to assure compliance with confidence is to submit its vehicles to testing and "we do not have the test facilities or equipment" necessary. It estimated that testing costs to meet September 1, 1976, requirements are $218,500 and for those of September 1, 1977, almost $70,000. These estimates are based upon the presumed necessity of actually crash testing many different vehicles. The company had a net loss of $278,000 in its 1976 fiscal year, and a net income of $228,000 in its 1975 fiscal year. A 3-year exemption was sought. Petitioner argued that the exemption would be consistent with traffic safety objectives and in the public interest since it will allow cities and States to purchase ambulances in establishing "their Emergency Medical Services Systems as provided for by the Department of Transportation and Health, Education, and Welfare."

Three comments were received on the petition, from the General Services Administration of the United States of America, Chrysler Corp., and the Department of California Higway Patrol. All comments supported the petition.

The request by Modular Ambulance is similar to that frequently received by the agency and for which exemptions are granted, in that it represents the good faith belief of a manufacturer that the vehicle, in fact, complies but that the costs of testing are so expensive that to verify conformance would create hardship. Since Modular Ambulance does not alter the fuel system or the chassis of a vehicle that is certified as conforming when it is completed by its own chassis manufacturer (i.e., Chevrolet, Ford, Dodge) it would appear that there is a reasonable basis for its belief of conformance, and that an exemption would be consistent with traffic safety objectives. The costs of testing, which may be less than petitioner's estimate, would nevertheless appear to create hardship for a company which has a net loss of $50,000 in its last 2 fiscal years. An exemption covering the 1978 and 1979 model years will afford petitioner time in which to verify conformance and, if required, to modify its product, on a financial plan that will be less burdensome. Provision of a temporary exemption to a manufacturer of ambulances is in the public interest.

In consideration of the foregoing Modular Ambulance Corp. is hereby granted NHTSA Exemption No. 77-1 from 49 CFR 571.301-75, expiring January 1, 1980.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410) delegation of authority at 49 CFR 1.50.)

Issued on October 6, 1978.

HOWARD DUGOFF,
Acting Administrator.

[FR Doc. 78-29180 Filed 10-13-78; 8:45 am]

[4910-59-M]

[Docket No. EX77-6; Notice 2]

TRAVEL EQUIPMENT COP.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

This notice grants in part the petition by Travel Equipment Corporation ("TEC" herein) of Goshen, Ind., for a temporary exemption from paragraph S6 of 49 CFR 571.301-75, Motor Vehicle Safety Standard No. 301-75, *Fuel System Integrity*, on the basis that compliance with the standard would cause it substantial economic hardship.

Notice of the petition was published on September 22, 1977, and an opportunity afforded for comment (42 FR 47908).

Paragraph S6 of Standard No. 301-75 sets forth requirements for barrier crash tests followed by static rollover. TEC manufactured 47 motor vehicles in the 12-month period before filing its petition. It receives completed and certified vans, altering them into ambulances and buses. It also manufactures and incomplete vehicle known as the Rescue Type III ambulance. The fuel system is not disturbed in any of the alterations but a larger alternator is installed "outboard and slightly below the original location". In the event of a 30 degree angle front barrier crash conducted in accordance with Standard No. 301-75 "it is possible that the alternator would be displaced inboard and down to a position of interference with fuel pump". TEC appears to believe that its vehicles would comply with Standard No. 301-75 but cannot be sure without testing them. It sought and exemption for 2 years, covering approximately 230 vehicles and estimated total compliance testing costs for the 1977 and 1978 model years as approximately $208,000. The company had a net loss before taxes of $39,000 in fiscal year 1976. TEC argued that an exemption would be in the public interest as "more and more community rescue services and fire departments are finding that the small van type ambulance is more versatile, more economical, and a proven method to bring much needed swift life saving and life-sustaining services to their citizens".

No comments were received on the petition.

Because petitioner converts vehicles that are already certified as conforming to Standard No. 301-75 without disturbing fuel system components it would appear that its compliance problems may, in fact, be minimal or nonexistent and confined only to the frontal barrier crash aspects of S6.1, rather than the whole specrum of tests set forth in S6. In providing an exemption to TEC from S6.1 the agency has thus narrowed the scope from the petitioner's original request. The agency finds that a frontal barrier test and consequent engineering changes would cause substantial economic hardship to a company whose net loss before taxes in its last fiscal year was $39,000. NHTSA notes also that TEC has requested and exemption for less than the statutory maximum. Because the vehicles are intended for public transit and medical use, a temporary exemption has been found to be in the public interest.

In consideration of the foregoing Travel Equipment Corp. is herewith granted NHTSA Exemption No. 77-6 from S6.1 of 49 CFR 571.301-75, Motor Vehicle Safety Standard No. 301-75, *Fuel System Integrity*, expiring December 1, 1979.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on October 6, 1978.

HOWARD DUGOFF,
Acting Administrator.

[FR Doc. 78-29182 Filed 10-13-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

CENTRAL OFFICE EDUCATION AND TRAINING REVIEW PANEL

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Central Office Education and Training Review Panel authorized by section 1790(b), Title 38, United States Code, will be held in Room A-35, Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, D.C. on November 14, 1978, at 10 a.m. The meeting will be held for the purpose of reviewing the decision of the Director, Veterans Administration Regional Office, Columbia, S.C., that benefits to all eligible persons enrolled in Southeastern Business College, 560 King Street, Charleston, S.C. 29403 be discontinued.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Larry R. Stockmoe, Education and Rehabilitation Service, Veterans Administration Central Office (phone 202-389-2850) prior to November 6, 1978.

Dated: October 6, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-29113 Filed 10-13-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 729]

ASSIGNMENT OF HEARINGS

OCTOBER 11, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139434 (Sub-5), Mid-America Express, Inc., now being assigned January 9, 1979, (1 day), at Omaha, NE, in a hearing room to be later designated.

MC 129387 (Sub-46), Payne Transportation, Inc., now being assigned January 10, 1979, (1 day), at Omaha, NE, in a hearing room to be later designated.

MC 114569 (Sub-202), Shaffer Trucking, Inc., now being assigned January 11, 1979, (2 days), at Omaha, NE, in a hearing room to be later designated.

MC 120427 (Sub-9), Williams Transfer, Inc., now being assigned January 15, 1979, (5 days), at Omaha, NE, in a hearing room to be later designated.

MC 144546F, Lawyer Trucking Inc., now being assigned for prehearing conference on November 21, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 143446 (Sub-3F), Gary L. McCallister & Monte A. McCallister d b.a. McCallister Bros., now assigned for hearing on October 16, 1978, at Denver, CO is postponed to November 28, 1978, (3 weeks), at Denver, CO, in a hearing room to be later designated.

MC 112304 (Sub-133F), Ace Coran Hauling & Rigging Co., now assigned for hearing on October 19, 1978, at Chicago, IL, is cancelled and application dismissed.

MC 142789, Wetco, Inc., d.b.a. Key-Limousine, now assigned for hearing October 16, 1978, at Salt Lake City, UT is postponed indefinitely.

MC 107295 (Sub-73), Pre-Fab Transit Co., now being assigned October 31, 1978, (1 day), in Room No. 501, 150 Causeway, 5th floor, Boston, MA.

MC 144975F, Road Runner Trucking Co., Inc., now being assigned November 6, 1978, (1 day), in Room 501, 150 Causeway, 5th floor, Boston, MA.

MC 144225, Jadeel Trucking, Inc., now being assigned November 3, 1978, (1 day), in Room No. 501, 150 Causeway, 5th floor, Boston, MA.

MC 116915 (Sub-52F), Eck Miller Transportation Corp., now being assigned for prehearing conference on November 21, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC F13608, Arkansas Best Freight System, Inc.,—Control and Merger—Navajo Freight Lines, No. FD—28771, Arkansas Best Freight System, Inc., No. FD-28772, Arkansas Best Freight System, Inc., now being assigned for prehearing conference on November 20, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 113855 (Sub-430F), International Transport, Inc., now being assigned for hearing on December 7, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 134477 (Sub-229F), Schanno Transportation, Inc., now being assigned for hearing on November 30, 1978, at the Offices of, Interstate Commerce Commission, Washington, DC.

MC 109638 (Sub-32), Everette Truck Line, Inc., now being assigned for hearing on November 29, 1978, at the Offices of Interstate Commerce Commission, Washington, DC.

MC 18121 (Sub-19), Advance Transportation Co. & MC 18121 (Sub-20), Advance Transportation Co. are assigned for continued hearings on October 30, 1978 (5 days) at Waukesha, Wisconsin and will be held at Waukesha County Office Building, and will be continued on November 13, 1978 (5 days) at Madison, WI.

AB 43 (Sub-47), Illinois Central Gulf Railroad Co. Abandonment at Cherokee, Iowa and Sioux Falls, SD, In Cherokee, O'Brien, Sioux and Lyon Counties, Iowa, Rock County, MI and Minnehaha County, SD, now being assigned for continued hearing on October 24, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

AB 43 (Sub-47), Illinois Central Gulf Railroad Co. Abandonment at Cherokee, Iowa and Sioux Falls, SD, In Cherokee, O'Brien, Sioux and Lyon Counties, Iowa, Rock County, MI and Minnehaha County, SD, now assigned for continued hearing on October 24, 1978, at Washington, DC is postponed to October 26, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 143691 (Sub-8f), Pony Express Courier Corp., now being assigned December 4, 1978, (1 week), at Atlanta, GA, in Room 305, 1252 West Peachtree Street NW.

MC 36914 Georgia Intrastate Car Demurrage Rules-Free Time, now assigned November 28, 1978, (4 days), at Atlanta, GA, will be held in Room 305, 1252 West Peachtree Street NW.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-29161 Filed 10-13-78; 8:45 am]

[7590-01-M]

[Decisions Vol. No. 30]

DECISION-NOTICE

Correction

In FR Doc. 78-26196, appearing at page 42060 in the issue of Tuesday, September 19, 1978, in the second column on page 42066 under the heading, "MC 134282 (Sub-20F), in the 15th line, the stated abbreviation "MN" should read "NM."

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 11, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before October 31, 1978.

FSA 43611, Traffic Executive Association-Eastern Railroads, Agent's NO. E.R. 3074, rates on soda ash, in bulk, from East St. Louis, IL, and St. Louis, MO, to Huntington, WV, in Supp. 318 to its Tariff 400-S, I.C.C. C-382, to become effective November 11, 1978. Grounds for relief—water-truck competition.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

ally agreed upon: *Providing however,* That exercise of the option herein provided be contingent upon dedica-

as the instructions contained in the above-referenced decision.

H. G. HOMME, JR.,
Acting Secretary.

follows: *Agricultural machinery, implements and parts,* from the plantsite of Ferguson Manufacturing Co., Inc., at Suffolk, VA to points in AR, AZ,

als, supplies and equipment used in the manufacture, sale and distribution of the immediately aforementioned commodities (except in bulk), from

[7035-01-M]

[Notice No. 189]

MOTOR CARRIER TEMPORARY AUTHORITY

V 43 / 200 / OCT 16 78

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29162 Filed 10-13-78; 8:45 am]

[7035-01-M]

[Docket No. AB-31 (Sub-No. 5)]

GRAND TRUNK WESTERN RAILROAD CO. ABANDONMENT OF LAKE MICHIGAN CAR FERRY OPERATIONS

Findings

Notice is hereby given pursuant to Section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on May 30, 1978, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, the present and future public convenience and necessity permit the abandonment by the Grand Trunk Western Railroad Co. of its Lake Michigan car ferry service between Muskegon, MI, and Milwaukee, WI. The distance by water between the described port cities is approximately 88.8 miles. The land considered for abandonment in the application consists of the ferry slip and support facilities at Milwaukee, WI. This parcel of land includes 6.3 acres owned by the applicant and 24.165 acres presently leased by applicant. The subject leasehold interest by its terms will expire in the year 2006. The abandonment is subject to the conditions for the protection of railroad employees, submitted by the Grand Trunk Western Railroad Company (Grand Trunk), Railway Labor Executives' Association (RLEA) and National Maritime Union (NMU) in lieu of the labor conditions originally imposed and further subject to the following conditions: (1) Where existing rates now apply via Chicago, IL, applicant shall support continuation of cross-lake mileages for rate making purposes; and, shall neither initiate any rate increases based on route distances, nor concur with any other carriers who shall seek to raise rates based solely on route distance changes because of applicant's car ferry abandonment; (2) that applicant establish and maintain at least one or more points of interchange or gateway for the future movement of cross-lake traffic on through routes via the C&O and Ann Arbor Ferry System, their successors and assigns; and (3) that the States of Michigan and Wisconsin, their agents or assigns, jointly or severally, be granted a first and prior right of refusal for purchase of applicant's two existing vessels, or either of them, upon like terms and conditions as to any bona fide offer of purchase, or in the absence of such an offer, at such price and terms as shall be mutually agreed upon: *Providing however,* That exercise of the option herein provided be contingent upon dedication of said vessels to continued use in cross-lake rail car ferry service; and option to expire 90 days following the effective date of final authorization of abandonment in this proceeding or 90 days from the effective date of the final decision of the Commission disposing of the application C&O to abandon its cross-lake ferry service, docket AB-18 (Sub-No. 21), whichever event shall last occur; and, that applicant shall maintain said vessels in current operating condition during the term of said option. A certificate of abandonment will be issued to the Grand Trunk Western Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would: (a) Cover the difference the revenues which are attributable to such line of railroad and the avoidable cost of providing rail service on such line, together with a reasonable return on the value of such line, or (b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29163 Filed 10-13-78; 8:45 am]

[7035-01-M]

[Notice No. 116]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 15, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77634, filed April 14, 1978. Transferee: A M & M, INC., Highway U.S. 45 North, Henderson, TN 38340. Transferor: Record Truck Line, Inc., P.O. Box 2646, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Esq., 100 North Main No. 909, Memphis, TN 38103. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate Nos. MC 125277, Subs 7 and 10, issued November 21, 1966, and September 17, 1971, respectively, and Permits Nos. MC 133220 Subs 1, 7, and 8, issued June 5, 1974, February 8, 1978, and June 5, 1974, respectively, as

follows: *Agricultural machinery, implements and parts,* from the plantsite of Ferguson Manufacturing Co., Inc., at Suffolk, VA to points in AR, AZ, AL, CA, MS, TN, TX, OK, CO, IA, ID, KS, ND, SD, WY, NB, NM, MO, IL, MN, MT, NV, OR, UT, WA, KY, and WI; *and fire prevention sprinkler systems, parts, accessories, and attachments,* from, to, and between specified points, *and materials in return movements.* Transferee presently holds no authority from this Commission. Temporary authority under section 210a(b) was granted May 1, 1978.

MC-FC-77844, filed September 5, 1978. Transferee: SANDHILLS GRAIN, INC., 524 Augusta Street, Bassett, NE 68714. Transferor: Grand Island Contract Carriers, Inc., Box 2078, West Old Highway 30, Grand Island, NE 68801. Representatives: George L. Hirschbach, Hirschbach & Wichser, 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102; Jack Schulz, Box 82028, 13th and N Streets, Lincoln, NE 68501. Authority sought for purchase by transfere of a portion of the operating rights of transferor, as set forth in Permit Nos. MC 129808 (Sub-Nos. 16, 19, 20, 21, 22, and 27), issued by the Commission July 13, 1976, August 5, 1976, March 15, 1977, January 13, 1977, August 11, 1977, and July 5, 1978, as follows: *Home decorating trimmings and accessories,* from Grand Island, NE, to Dallas, TX. *Materials, supplies and equipment* used in the manufacture, sale, and distribution of home decorating trimmings and accessories, between Grand Island, NE, and Traverse City, MI. *Irrigation pipe and fittings,* from the facilities of Heinzman Manufacturing Co., Division of Heinzman Engineering, Inc., located at or near Grand Island, NE, to San Ysidro, CA. (1) *Irrigation pipe and fittings* (except iron and steel articles, earth drilling commodities), from the plantsite and warehouse facilities of Heinzman Manufacturing Co., Division of Heinzman Engineering, Inc., at or near Grand Island, NE, to points in the United States (except AK and HI and those in the Davenport, IA-Rock Island and Moline, IL commercial zone, as defined by the Commission. (2) *Materials, supplies and equipment* used in the manufacture, sale and distribution of irrigation pipe and fittings (except iron and steel articles, earth drilling commodities and commodities in bulk), from Lewisport and Hawesville, KY, Oswego, NY, Lancaster, PA, Los Angeles, CA, and Seattle, WA, to the facilities of Heinzman Manufacturing Co., at or near Grand Island, NE. (1) *Home decorating trimmings and accessories,* from Grand Island, NE, to points in CA, CT, CO, IA, IL, IN, KS, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, TN, TX, VA, WA, and WI; (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of the immediately aforementioned commodities (except in bulk), from the destination points named in (1) above to Grand Island, NE. *Home decorating trimmings and accessories,* from Traverse City and Greenville, MI, to Grand Island, NE. *Home decorating trimmings and accessories,* from Traverse City, MI, to Grand Island, NE, and to Dallas and Big Springs, TX. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77856, filed September 13, 1978. Transferee: MARYLAND CONTINENTAL EXPRESS, INC., 129 Overhill Drive, Hagerstown, MD 21740. Transferor: Arthur H. Fulton, Inc., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, Attorney at Law, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Permit No. MC 129613 (Sub-No. 2), issued May 16, 1978, as follows: *Mulch, sawdust, wood chips, waste veneer,* and *lumber,* from Martinsburg, WV, to Louisville, KY, New Albany, IN, and points in NY, PA, MD, NC, SC, and points in VA (except points in Clark County). *Veneer,* from Martinsburg, WV, to Louisville, KY, and points in MD, NC, SC, and points in VA (except points in Clark County). Restriction: The operations authorized above are limited to a transportation service to be performed, under a continuing contract(s) with Erath Veneer Corp., of Martinsburg, WV. *Veneer,* between Martinsburg, WV, on the one hand, and, on the other, points in VA (except points in Clark County) and MD. From points in NC, to points in VT. From Martinsburg, WV, to points in AR. Between Martinsburg, WV, on the one hand, and, on the other, points in IN, KY, NC, SC, and PA. From Martinsburg, WV, to points in VT. Restriction: The operations authorized immediately above are limited to a transportation service to be performed under a continuing contract(s) with Erath Veneer Corp. and Berkeley Face Veneers, Inc., both of Martinsburg, WV. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29164 Filed 10-13-78; 8:45 am]

[7035-01-M]

[Notice No. 189]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1978.

The following area notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interestate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 15558 (Sub-7 TA), filed July 31, 1978. Applicant: WARWOOD TRANSFER CO., 2233-41 Warwood Avenue, Wheeling, WV 26003. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail discount, department or variety stores, between the facilities of Sears, Roebuck & Co., located in Belmont County, OH, on the one hand, and, on the other, points in Muskingum, Guernsey, Coshocton, Holmes, Tuscarawas, Stark, Columbiana, Jefferson, Harrison, Belmont, Monroe, Washington, Morgan, Noble, and Carroll Counties, OH; Allegheny, Wash-

ington, Greene, Beaver, and Fayette Counties, PA; and Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasing up to 90 days of operating authority. Supporting Shipper: IMCO Container Co., 75th and Cleveland, Kansas Bennett, Springfield, MO 65804. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New

tion Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Min-

Supporting shipper: Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate

mension stock, from the facilities of Dufferin Bros., Inc., at or near Wallace, MI, to Forth Smith, AR, Houston and Brownsville, TX, and Hickory and

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ington, Greene, Beaver, and Fayette Counties, PA; and Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Doddridge, Harrison, Marion, Monogalia, and Taylor Counties, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Sears, Roebuck & Co., 555 East Lancaster Avenue, St. Davids, PA 19087. Send Protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

MC 24379 (Sub-46 TA), filed August 3, 1978. Applicant: LONG TRANSPORTATION CO., 14510 West Eight Mile Road, Oak Park, MI 48237. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *General commodities* with usual exceptions from the plantsites of Ford Motor Co., located at Detroit, MI and commercial zone area as described in Exporte MC 37 (Sub-26), to the plantsites of Ford Motor Co., located at or near Norfolk, VA; (2) *empty pallets or racks,* and returned or rejected materials from the plantsite of Ford Motor Co., at or near Norfolk, VA to the plantsites of Ford Motor Co., located at Detroit, MI and commercial zone area as described in Exporte MC 37 (Sub-26), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ford Motor Co., One Parklane Boulevard, Parklane Towers-East, Suite 200, Dearborn, MI 48216. Send protest to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 30114 (Sub-6TA), filed August 8, 1978. Applicant: MOLA TRUCKING, INC., d.b.a. MITCHKO TRUCKING, Rainbow Trail, Mountain Lakes, NJ 07046. Representative: George A. Olsen, Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic articles and equipment, materials and supplies* used in the manufacture and sale of plastic articles (except commodities in bulk), between the facilities of IMCO Container, subsidiary of the Ethyl Development Corp., located at Belvidere, Rockaway, Plainfield, NJ; Lewistown, PA; Harrisonburg, VA; and Pittsfield, MA, on the one hand, and, on the other, points in the States of NJ, NY, PA, CT, DE, MD, MA, and VA, and DC, restricted against tacking at origin, or destination, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: IMCO Container Co., 75th and Cleveland, Kansas City, MO 64132. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 63562 (Sub-57TA), filed August 8, 1978. Applicant: BN TRANSPORT, INC., 6675 East Evans Avenue, P.O. Box 22694, Wellshire Station, Denver, CO 80224. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from Keystone Consolidated Industries, Inc., at Peoria, IL, points in ID, MN, MT, ND, OR, SD, WA, and WY, for 180 days. Supporting Shippers: Keystone Consolidated Industries, Inc., Peoria, IL. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 491 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 106401 (Sub-48TA), filed August 8, 1978. Applicant: JOHNSON MOTOR LINES, INC., 2426 North Graham Street, P.O. Box 10877, Charlotte, NC 28201. Representative: Thomas G. Sloan, P.O. Box 10877, Charlotte, NC 28234. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic and/or clay pipe, and articles required for installation thereof,* from the facilities of Can-Tex Industries, Division of Harsco Corp., at or near Mineral Wells, TX, points in LA, for 180 days. Supporting Shippers: Can-Tex Industries, Division of Harsco Corp., P.O. Box 340, Mineral Wells, TX 76067. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 111729 (Sub-142TA), filed July 26, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park NY 11040. Representative: Elizabeth L. Menoch, Purolator Courier Corp., 3333 New Hyde Park Road, New Hyde Park NY 11040. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints; complimentary replacement film; incidental dealer handling supplies and advertising literature moving therewith* (except motion picture film used primarily for commercial theatre and television exhibition), between Blytheville, AR, on the one hand, and, on the other, points in MO, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: Mellers Photo Labs, Inc., 1929 East Bennett, Springfield, MO 65804. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 113106 (Sub-58TA), filed August 4, 1978. Applicant: THE BLUE DIAMOND CO., 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 1030-15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* between the facilities of Midland Glass Co., at or near Cliffwood, NJ, on the one hand, and, on the other, Williamsburg, VA, and points within its commercial zone and the facilities of Midland Glass Co. at or near Newport News and Suffolk, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: B. Stein, Director of Transportation, Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 113651 (Sub-250TA), filed August 8, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing, P.O. Box 552, Riggin Road, Muncie, IN 47305. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* in mechanically refrigerated vehicles, from Bradenton, FL, to points in CT, IL, IN, KY, MI, MN, NY, OH, PA, TN, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tropicana Products, Inc., P.O. Box 338, 1001-13th Avenue East, Bradenton, FL 33506. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 114457 (Sub-427TA), filed August 8, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Metal containers and container lids,* from Tampa, FL, to Plover and Markesan, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Del Monte Corp., P.O. Box 89, Rochelle, IL 61068. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 116519 (Sub-53TA), filed July 31, 1978. Applicant: FREDERICK TRANSPORT LTD., R.R. No. 6, Chatham, ON, Canada M7M 5J6. Representative: Jeremy Kahn, Kahn & Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt lawn and leisure product dealers (except commodities in bulk), between the facilities of Deere & Co., located in IL, WI and IA, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada located in MI, NY, VT, NH, and ME, restricted (1) to foreign commerce, and (2) to traffic originating at or destined to the facilities and/or dealers of John Deere Ltd. in PQ, PE, NS, NB, and NF, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Deere & Co., John Deere Road, Moline, IL. Send protests to: Interstate Commerce Commission, District Office, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 117730 (Sub-22TA), filed July 26, 1978. Applicant: KOUBENIC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses,* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (expect hides and commodities in bulk), and (2) *Dairy products,* as described in section B of Appendix I to the report in Motor Carrier Certificates, 61 MCC 209 and 766 and *Foodstuffs* when moving in mixed loads with articles listed in (1) above, all moving in mechanically refrigerated equipment, between the facilities of Oscar Mayer & Co., Inc., at Davenport, IA and all points in Cook, DuPage, Will, Kane, and Lake Counties, IL, and Jefferson, WI, and from the facilities of Oscar Mayer & Co., Inc., at Davenport, IA, and Beardstown, IL, to all points in IN, Lower MI, OH, and Madison, WI, restricted to traffic originating at named origins and destined to named points or States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 118089 (Sub-26TA), filed August 7, 1978. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Articles* dealt in by convenience stores and supermarkets, when moving in trailers equipped with mechanical refrigeration units, (1) from points in CA, and AZ, to Albuquerque, NM, and points in its commercial zone, and (2) from points in AZ, and CA (except the facilities of McCormick & Sons, at or near Salinas, CA; to Phoneix, AZ; and El Paso, Amarillo, and Lubbock, TX; and points in their respective commercial zones, restricted to traffic destined to facilities utilized by Furr's, Inc., for 180 days. Supporting shipper: Furr's Inc., 1708 Avenue G, Lubbock, TX 79408. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 123061 (Sub-101TA), filed August 3, 1978. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84104. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brick and clay tile* from ports of entry on the International Boundary line between the United States and Canada at points at or near Blaine and Sumas, WA, Everett, and Spokane, WA, Pueblo, Trinidad, and Denver, CO, to UT and ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brick Co., 3451 South Third West, P.O. Box 151105, Salt Lake City, UT 84115. Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 123263 (Sub-10 TA), filed August 8, 1978. Applicant: FLOYD R. WANGERIN AND LORRAINE C. WANGERIN a partnership, d.b.a. WANGERIN TRUCKING CO., Rural Route No. 2, Stephenson, MI 49887. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dimension stock,* from the facilities of Dufferin Bros., Inc., at or near Wallace, MI, to Forth Smith, AR, Houston and Brownsville, TX, and Hickory and Lincolnton, NC, for 180 days. Supporting shipper: Dufferin Bros., Inc., P.O. Box 26, Wallace, MI 49893. Send protests to: C. R. Flemming District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 123285 (Sub-8 TA), filed August 3, 1978. Applicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clint Oldham, 1108 Continental Life Building, Ft. Worth, TX 76102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lime,* in bulk, from Batesville, AR to Valliant, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Lime Co., P.O. Box 851, Cleburne, TX 76031. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 124078 (Sub-849 TA), filed August 3, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bentonite clay,* in bulk, in tank vehicles, from Schwerman Distribution Center, Milwaukee, WI to points in IL, IN, IA and Upper Peninsula of MI for 180 days. Supporting shipper: Larpen Supply Co., Inc., 5501 West State Street, Milwaukee, WI 53208, Thomas H. Seeboth. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-850TA), Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from Middle Branch, OH to Fort Wayne, IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Masolite Concrete Products, Inc., 2200 LaFontain Street, Fort Wayne, IN 46804, Richard D. Weyler. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Op-

erations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI

points in AL, AR, MS, MO, OK, TN, TX and LA, to the plant sites of Willamette Industries, Inc., at Dodson,

21224. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clin-

21 W. Church Street, 1205 Universal Marion Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier,* by motor vehicle,

Lexington, Louisville, KY; Baton Rouge, Lafayette, Monroe, New Orleans, Shreveport, LA; Baltimore, Forestville, Greenbelt, MD; Ada, Detroit,

western boundary of IL and continue with Interstate 80 until its intersection with Interstate Hwy 55, thence south on Interstate 55 to its intersection

erations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 129282 (Sub-37 TA), filed August 8, 1978. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and nonalcoholic beverages and materials and supplies* used in the manufacture, sale, and distribution thereof, including empty containers, between Houston, TX, on the one hand, and Covington, LA, on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Champagne Beverage Co., Inc., P.O. Box 818, 619 N. Tyler St., Covington, LA 70433. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 133360 (Sub-3 TA), filed August 8, 1978. Applicant: UNION TRACTOR CO., INC., P.O. Box 1426, Havre, MT 59501. Representative: George Robert Crotty, Jr., 490 First National Bank Building, Great Falls, MT 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures and fittings and related equipment*, from the facilities of American Standard at (1) Plainfield, CT; Trenton, NJ; Salem, OH; Kokomo, IN, and Tiffin, OH, to points in and west of MT, WY, CO and NM; and (2) Piscataway, NJ, to Stockton, CA, for 180 days. Supporting shipper: Gregory J. Decker, Manager, Rates American Standard, Inc., P.O. Box 2003, New Brunswick, NJ 08903. Send protests to: Paul J. Labane District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 133501 (Sub-4 TA), filed July 31, 1978. Applicant: DELTA EXPRESS, INC., Old River Road, P.O. Box 776, Natchitoches, LA 71457. Representative: D. E. Lester (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill, forest and wood products, plywood and particleboard, preservatively treated or untreated*, from the plant sites of Willamette Industries, Incorporated at Dodson, Danville, Minden, Zwolle, Ruston, Simsboro, LA, and Emerson, AR, to AL, AR, MS, MO, OK, TN, TX, and LA, and products essential to the manufacture of these commodities, additionally, returned products manufactured by Willamette Industries, Inc., from points in AL, AR, MS, MO, OK, TN, TX and LA, to the plant sites of Willamette Industries, Inc., at Dodson, Danville, Minden, Natchitoches, Zwolle, Ruston, Simsboro, LA, and Emerson, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Willamette Industries, Inc., P.O. Box 606, Ruston, LA 71270. Send protests to: Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Forth Worth, TX 76102.

MC 133590 (Sub-13 TA), filed July 31, 1978. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, 71060 Millbury Street, USS Industrial Park, Worcester, MA 01613. Representative: David M. Marshall, Marshall and Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and apparel, and materials, supplies and equipment* used in the manufacture, distribution and sale of such commodities (except in bulk), from (1) Boston, Chicopee and Westfield, MA, and New York, NY, to the facilities of Western Carriers, Inc., at Worcester, MA; and (2) from the facilities of Western Carriers, Inc., at Worcester, MA, to points in the United States (except AK and HI), for 180 days under a continuing contract or contracts with Questor Corp. Restriction: Service from Boston, MA, and New York, NY, shall be restricted to the transportation of shipments having a prior movement by water and service from Chicopee and Westfield, MA, shall be restricted to service from the facilities of the A. G. Spalding Division of Questor Corp. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Questor Corp., 102 First Avenue, Chicopee, MA 01020. Send protests to: David M. Miller District Supervisor, Interstate Commerce Commission, 338 Federal Building and U.S. Courthouse, 436 Dwight Street, Springfield, MA 01103.

MC 134919 (Sub-6TA), filed August 8, 1978. Applicant: A & D EXPRESS, INC., Upper Jersey Avenue, Box 52, North Brunswick, NJ 08902. Representative: William J. Augello, 120 Main Street, P.O. Box A, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, NJ, to Baltimore, MD, for the account of Terminal Distributing Co., Inc., under a continuing contract, or contracts, with Terminal Distributing Co., Inc., for 180 days. Supporting shipper: Terminal Distributing Co., Inc., 7670 Canton Center Drive, Baltimore, MD 21224. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 138741 (Sub-48TA), filed August 8, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated lumber and lumber products*, from the facilities of Jennison-Wright Corporation at Granite City, IL, to points in IN, IA, and KY, for 180 days. Supporting shipper: The Jennison-Wright Corp., Doris Mathews, Traffic Manager, P.O. Box "J", Granite City, IL 62040. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 139234 (Sub-4TA), filed July 27, 1978. Applicant: BRUCE'S TRANSPORT SERVICE, INC., 5721 North Ventura Avenue, Ventura, CA 93001. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Barium sulfate*, in dry bulk form, from Humbolt and Landen Counties, NV and Kern, Ventura and Los Angeles Counties, CA to Douglas County, OR, for 180 days. Supporting shipper: IMCO Services, a division of Halliburton Co., 3711 Long Beach Blvd., Suite 521, Long Beach, CA. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 139638 (Sub-5TA), filed August 8, 1978. Applicant: N. L. MONTGOMERY, INC., Route 1, Box 37-A, Wirtz, VA 24184. Representative: W. T. Jones, P.O. Box 626, Rocky Mount, VA 24151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Belmont, Franklin, Geauga, Guernsey, Holmes, Jackson, Ross, Washington, and Wayne Counties, OH, to points in NC, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. M. Cramer Lumber Co., Hickory, NC 28601. (2) S. W. Barnes, Inc., Crozet, VA 22932. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 140025 (Sub-2TA), filed July 31, 1978. Applicant: L & T, INC., 2650 W. Beaver Street, Jacksonville, FL 32205. Representative: McCarthy Crenshaw,

21 W. Church Street, 1205 Universal Marion Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers or trailers (except motor vehicles, building and construction materials, commodities in bulk, and those requiring specialized handling or rigging), restricted to traffic having an immediately prior or subsequent movement by water carrier not regulated by Part III of the Interstate Commerce Act between the steamship piers in the City of Jacksonville, FL, on the one hand, and, on the other, all points within the City of Jacksonville, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Sea and Services, Inc., P.O. Box 1050, Elizabeth, NJ 07207. (2) Puerto Rico Maritime Shipping Authority, P.O. Box 26483, 10001 Lake Forest Blvd., 4th Floor, New Orleans, LA 70186. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, FL 32202.

MC 140248 (Sub-1 TA), filed August 3, 1978. Applicant: IDEAL CONTRACT CARRIERS INC. (a Delaware Corporation), 89 Main Street, P.O. Box Z, Medway, MA 02053. Representative: Grove, Jaskiewicz, Gilliam & Cobert, 1730 M Street, Suite 501, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, except commodities in bulk, between Holliston, MA, on the one hand, and, on the other, points in Athens, Birmingham, Dothan, Guntersville, Huntsville, Lafayette, Mobile, Montgomery, AL; Phoenix, Prescott, Tucson, AZ; Little Rock, Waldo, AR; Burbank, Encinatas, Huntington Park, La Habra, Lakewood, Los Agneles, Mountain View, Oakland, San Diego, San Francisco, Santa Ana, Upland, CA; Colorado Springs, Denver, Wheatridge, CO; Avon, Bridgeport, Bristol, Hamden, Hartford, Milford, New Haven, Norwalk, Orange, Southington, Stratford, West Haven, Westbrook, Winstead, CT; Wilmington, DE; Daytona Beach, Fort Lauderdale, Fort Meyers, Gainesville, Jacksonville, Melbourne, Miami, Ocala, Orlando, Pensacola, Pinellas Park, Saint Petersburg, Sunrise, Tallahassee, Tampa, Temple Terrance, West Palm Beach, FL; Albany, Atlanta, Decatur, Norcross, Roswell, Woodstock, GA; Chicago, Dixon, Milan, Morton Grove, Rockford, Springfield, IL; Evansville, Fort Wayne, Greenwood, Indianapolis, Mishawaka, Richmond, South Bend, Terre Haute, IN; Cedar Rapids, Des Moines, Waterloo, IA; Wichita, KS; Lexington, Louisville, KY; Baton Rouge, Lafayette, Monroe, New Orleans, Shreveport, LA; Baltimore, Forestville, Greenbelt, MD; Ada, Detroit, Flint, Grand Rapids, Niles, MI; Detroit Lakes, Minneapolis, MN; Gulfport, Jackson, Tupelo, MS; Joplin, Kansas City, Saint Louis, MO; Omaha, NE; Englewood, Lakewood, Newark, Paramus, Saddle Brook, Sewell, Summit, West Deptford, Woodbridge, NJ; Artesia, NM; Albany, Binghamton, Brooklyn, Buffalo, East Patchogue, Farmingdale, New York, Ozone Park, Rochester, NY; Charlotte, Greensboro, Raleigh, NC; Canton, Columbus, Strongsville, Youngstown, OH; Muskogee, Oklahoma City, Tulsa, OK; Allentown, Ardmore, Erie, Philadelphia, York, PA; Charlestown, Florence, SC; Chattanooga, Johnson City, Knoxville, Memphis, Nashville, TN; Amarillo, Dallas, El Paso, Fort Worth, Houston, Lubbock, Pasadena, San Antonio, Wichita Falls, TX; Lynchburg, Richmond, VA; and Milwaukee, WI.

MC 140686 (Sub-2TA), filed July 31, 1978. Applicant: V S M TRUCKING, INC., 901 N. Montoe Street, Abingdon, IL 61410. Representative: Robert or Howard Sampson, 211 South Main Street, Abingdon, IL 61410. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers' goods, bathroom and lavatory fixtures and supplies, therefore, to include the materials and supplies* used in the manufacture of said products, between the plantsite of Briggs Mfg. Co., at Abingdon, IL, on the one hand, and points and places in the States of AL, AR, CO, FL, GA, IN, IA, KY, MD, MI, MN, MO, NE, NC, OH, PA, SC, TN, TX, VA, WV, WI on the other hand, under a continuing contract, or contracts, with Jim Walter Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James D. Harrison Material Manager, Jim Walter Corp., 801 N Main Street, Abingdon, IL 61410. Send protests to: Charles D. Little District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 141913 (Sub-1TA), filed July 25, 1978. Applicant: V.N. TRANSPORTATION CO., INC., 37 Doctors' Park, 2000 N. 14th Street, Cape Girardeau, MO 63701. Representative: Richard D. Kinder, P.O. Box 643, Cape Girardeau, MO 63701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *All products* used in the operation and maintanance of a hospital, from St. Louis, MO, to all points in IL on and south of a line as follows: Begin at the point where Interstate Hwy 80 crosses the Mississippi River on the western boundary of IL and continue with Interstate 80 until its intersection with Interstate Hwy 55, thence south on Interstate 55 to its intersection with Illinois State Hwy 17, thence follow IL State Hwy 17 to the point where such highway crosses the IL–IN State boundary, together with return of shipments by consignees, also from St. Louis, MO, to all points in KY on and west of a line described as follows: Begin at Smithland, KY, and continue with KY Hwy 453 to its intersection with The Trace (formerly Hwy 453); thence south on The Trace until it crosses the KY-TN State boundary together with return of shipments by consignees, also from St. Louis, MO, to Obion County, TN, and Cherokee County, KS together with return of shipments by consignees, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norman A. Associates, Inc., 37 Doctor's Park, Cape Girardeau, MO 63701. Send protests to: Peter E. Binder Acting District Supervisor, Interstate Commerce Commission, 210 N. 12th Street, Room 1465, St. Louis, MO 63101.

MC 142874, filed August 4, 1978. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Mark C. Ellison, P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Kahoka, MO; Nauvao and Minonk, IL; Luana and St. Olaf, IA; Hillsboro, La Farge, Sherry and Argyle, WI, and their commercial zones to Atlanta, GA; Atlantic City, NJ; Boston, MA; Chicago, IL; Cincinnati and Cleveland, OH; Denver, CO; Detroit and Grand Rapids, MI; Houston, TX; Hyde Park and Logan, UT; Kansas City, MO; Los Angeles, CA; Miami, FL; New York, NY; Philadelphia, PA; and Washington, DC, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C.M.O. Co., 10010 Cheviot Drive, Los Angeles, CA 90064. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 143127 (Sub-9TA), filed July 26, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, P.O. Box 9764, Rochester, NY 14623. Representative: S. Michael Richards, Raymond A. Richards, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (1) from the facilities of

Curtice-Burns, Inc., at Alton, Egypt, Leicester, LeRoy, Phelps, Oakfield, Red Creek, Rushville, Shortsville, S.

from facilities of Kal Kan Foods, Inc., in Los Angeles, CA, to Amarillo, Dallas, El Paso, Ft. Worth, Garlan,

MC 143687 (Sub-4TA), filed August 8, 1978. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Rep-

Maine to Portsmouth, Madbury and Greenfield, NH, and Charlestown, Everett and Easton, MA, for 180 days. Applicant has also filed an underlying

mile radius thereof, under a continuing contract, or contracts, with Dry Wall Supply, Inc., for 180 days. Applicant has also filed on underlying ETA

ate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sweeteners*, (in bulk, in tank vehicles), from Lakeville, NY, to all points

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Curtice-Burns, Inc., at Alton, Egypt, Leicester, LeRoy, Phelps, Oakfield, Red Creek, Rushville, Shortsville, S. Dayton and Waterloo, NY, to all points in AL, GA, FL, NC and SC; and (2) from the facilities of Duffy-Mott Co., Inc., at Hamlin, and Williamson, NY, to all points in AL, GA, FL, NC and SC; and (3) from the facilities of Marion Foods Corp., Division of Seneca Foods Corp., at Dundee, Marion, Newark, Oaks Corners, Williamson and E. Williamson, NY, to all points in AL, GA, FL, NC and SC, restricted to traffic originating at the above-named facilities and destined to the destination states, for 180 days. Supporting shipper: (1) Curtice-Burns, Inc., Lent Avenue, LeRoy, NY 14482. (2) Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, NY 10017. (3) Marion Foods Corp., Division of Seneca Foods Corp., 60 S. Main Street, Marion, NY 14505. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, NY 13260.

MC 143159 (Sub-2TA), filed August 8, 1978. Applicant: BRICK HAULERS, INC., Route 1, Box 407, Forest City, NC 28043. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick*, from Augusta, GA; Blacksburg, Columbia, Gaffney, Ninety-Six and Van Wyck, SC, and Elizabethton, Johnson City and Kingsport, TN, and points in their Commercial Zones, (2) *Cement and mortar mix*, in bags, from Cayce, SC, (3) *Concrete block*, from Spartanburg, SC, and points in its Commercial Zone, and (4) *Sand*, in bulk, in dump vehicles, from Dixiana and Pageland, SC, and points in their Commercial Zones, to points in Cleveland and Rutherford Counties, NC, under a continuing contract, or contracts, with Clyde H. Robbins Brick & Concrete Products Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clyde H. Robbins Brick & Concrete Products Co., Inc., Rte 1, Box 407, Forest City, NC 28043. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 143163 (Sub-9TA), filed August 4, 1978. Applicant: RICHARDSON TRUCKING, INC., 3380 East 8th Street, P.O. Box 967, Greeley, CO 80631. Representative: Wm. Fred Cantonwine (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and packaged animal food*, from facilities of Kal Kan Foods, Inc., in Los Angeles, CA, to Amarillo, Dallas, El Paso, Ft. Worth, Garlan, Houston, Lubbock, and San Antonio, TX; and (2) *Inedible meat and meat by-products*, from facilities of Consolidated Pet Foods, Denver, CO, to facilities of Kal Kan Foods, Inc., Los Angeles, CA, under a continuing contract, or contracts, with Kal Kan Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 East 44th Avenue, Vernon, CA 90058. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 143552 (Sub-6TA), filed August 8, 1978. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield Street, Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Washing, cleaning, and scouring compounds*, (except in bulk), *fabric or textile softeners, contained or impregnated in foam, cellular or expanded plastic sheets or sheeting*, from points in NJ to Los Angeles, CA; Tacoma, WA; Dallas, TX; Denver, CO; New Orleans, LA; Atlanta, GA; Auburndale, FL; Salem, Roanoke, VA; Bristol, PA; Boston, MA; Toledo, OH; St. Louis, MO; Chicago, IL; and St. Paul, MN, under a continuing contract, or contracts, with Purex Corp., Carson, CA, for 180 days. Supporting shipper: Purex Corp., 24600 Main Street, Box 6200, Carson, CA 90749. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 143677 (Sub-3TA), filed August 8, 1978. Applicant: JIMMIE W. LEE, d.b.a. LEE'S LOWBOY SERVICE, 13506 Giles Road, Omaha, NE 68138. Representative: Joseph Winter, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete and concrete products*, (except commodities in bulk), from the facilities of Kroeger Precast, Inc., at Omaha, NE, to Campbell County, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Donald Kroeger, President, Kroeger Precast, Inc., 13800 Giled Road, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 143687 (Sub-4TA), filed August 8, 1978. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles (except in bulk) and cushioned envelopes*, from Hyannis, MA, to points in AZ, CA, FL, GA, IA, IL, MD, MN, MO, NE, NC, OH, SC, TX, and VA; and (2) *Equipment, materials, and supplies* used in the manufacture and distribution of plastic articles and cushioned envelopes (except in bulk), from the above-named destinations to the above-named origin, under a continuing contract or contracts with Sentinel Foam Products, Inc., located at Hyannis, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sentinel Foam Products, Inc., Airport Road, Hyannis, MA 02601. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 144057, filed August 3, 1978. Applicant: WHITEHALL TRANSPORT, INC., 1200 Main Street, P.O. Box 387, Whitehall, WI 54773. Representative: Ronald V. Dreckman, P.O. Box 162, Whitehall, WI 54773. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, corn cribs, grain bins, feed boxes, watering troughs, parts and attachments* used in farming and agricultural industries, from plantsite and storage facilities of Sioux Steel Co. at or near Hull, IA; Lennox and Sioux Falls, SD to points in MT, ND, SD, IA, IL, NE, KS, MO, MN, CO, and WI. Materials supplies and equipment used in the conduct of business by Sioux Steel from MT, ND, SD, IA, IL, NE, KS, MO, MN, CO, and WI, to plantsites and storage facilities of Sioux Steel at or near Hull, IA; Lennox and Sioux Falls, SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sioux Steel Co., 196½ E. 6th Street, Sioux Falls, SD 57102. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 144425 (Sub-2TA), filed August 8, 1978. Applicant: CLIFTON A. WOOD, R.F.D. No. 1, Fairfield Center, ME 04937. Representative: Clifton A. Wood (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed cars and scrap metals*, from points in Maine to Portsmouth, Madbury and Greenfield, NH, and Charlestown, Everett and Easton, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Isadore T. Miller Co., P.O. Box 12, Auburn, ME 04210. Send Protests to: Interstate Commerce Commission, Bureau of Operations, 76 Pearl Street, Room 305, Portland, ME 04111.

MC 144906 (Sub-2TA), filed August 4, 1978. Applicant: NORTH OPERATING CO., 39 Little Brook Road, Springfield, NJ 07081. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by chain grocery or department stores, from Paramus and South Hackensack, NJ, to Bay Shore, Binghamton, Cortland, Endicott, Plattsburgh, Rome and Vestal, NY; Norristown, Sunbury and West Chester, PA; and Burlington, VT. Restriction: Under a continuing contract, or contracts, with Grand Way and Grand Distributors, Division of Grand Union, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Grandway and Grand Distributors, Divisions of Grand Union, 100 Broadway, Elmwood Park, NJ 07047. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 145060 (Sub-1TA), filed August 8, 1978. Applicant: LEE PAINTER, 1454 Luna Drive, Fountain, CO 80817. Representative: Lee Painter, 1454 Luna Drive, Fountain, CO 80817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wall board*, from Western Gypsum Co., near Rosario, NM, to Denver, CO, and (10 mile redius thereof), under a continuing contract, or contracts, with Dry Wall Supply, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Wall Supply, Inc., 1805 West Irvington Place, Denver, CO. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145061 (Sub-1TA), filed August 8, 1978. Applicant: BILL J. FOUCHE, 713 Ohio, Canon City, CO 81212. Representative: Bill J. Fouche, 731 Ohio, Canon City, CO 81212. Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wall board*, from Western Gypsum Co., at Rosario, NM, to Denver, CO, and 10 mile radius thereof, under a continuing contract, or contracts, with Dry Wall Supply, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dry Wall Supply, Inc., 1805 West Irvington Place, Denver, CO. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 145125 (Sub-1TA), filed August 4, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Brass, bronze, copper and nickel products, brass, and copper alloys, and copper billets* from Reading and Ontelaunee, PA, to points in CA; and (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities described in (1) above, from points in CA, to Reading and Ontelaunee, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reading Industries, Inc., P.O. Box 1126, Reading, PA 19603. Send protests to: Charles F. Myers District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108.

MC 145150 (Sub-1TA), filed August 3, 1978. Applicant: HAYNES TRANSPORT CO., INC., P.O. Box 9, Rural Route No. 2, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110L, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregualr routes, transporting: *Anhydrous ammonia*, in bulk from the facilities of Chevron Chemical Company near Friend, KS, to CO, NE, OK, TX, and WY, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chevron Chemical Co., 3001 LBJ Freeway, Suite 139, Dallas, TX 75234. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building & U.S. Courthouse, Topeka, KS 66683.

MC 145155 (Sub-1TA), filed August 8, 1978. Applicant: TRANS-SWEET, INC., 3401 Rochester Road, Lakeville, NY 14480. Representative: A. Michael Richards, Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sweeteners*, (in bulk, in tank vehicles), from Lakeville, NY, to all points in CT, MA, MI, NJ, OH, PA, and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western New York Syrup Corp., 3401 Rochester Road, Lakeville, NY 14480. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton Street, Syracuse, NY 13260.

MC 145180TA, filed August 8, 1978. Applicant: THREE TRANSPORTATION, A Division of Polk Welding and Erection Co., Inc., 1909 East Hemlock Avenue, P.O. Box 2698, Tampa, FL 33619. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass and plastic gasoline storage tanks, preconditioners, ducts, and industrial ventilating equipment*, from the facilities of the Fiberglass Equipment Division of Dart Environmental Services Company at Bartow, FL, to points in AL, AR, GA, KY, LA, MS, NC, SC, TN and VA, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dart Industries, Inc., P.O. Box 3157, Terminal Annex, Los Angeles, CA 90051. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53d Terrace, Miami, FL 33166.

MC 145184TA, filed August 3, 1978. Applicant: HILL DISTRIBUTING, Martin Terrace, Berkeley Springs, WV. Representative: Loy, Shingleton and Caryl, 206 West Burke Street, Martinsburg, WV. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *West Virginia spring water products*, from Berkeley Springs, WV to south, central and north FL, under a continuing contract or contracts with A West Virginia Spring Water Co., for 180 days. Supporting shipper: A West Virginia Spring Water Co, 206 Burke Street, Martinsburg, WV 25401. Send protests to: W.C. Hersman, District Supervisor, interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423.

MC 145185TA, filed August 3, 1978. Applicant: DOYEN & SONS, East Highway 212, Clark, SD 57225. Representative: Doyen & Sons (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting:

French fried potatoes, from Clerk, SD to Watertown, SD for subsequent movement by railroad, under a con-

the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can

Carson City, NV, on the one hand, and on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and

85007. Representative: Charles R. Hallam, 3550 North Central Avenue, Suite 1700, Phoenix, AZ 85012. Authority sought to operate as a *common*

Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 69617 (Sub-19TA), filed August

thority. Supporting shipper: Louisville Freezer Center, 2000 South Ninth Street, Louisville, KY 40208. Send protests to: Sara K. Davis, Transportation

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French fried potatoes, from Clerk, SD to Watertown, SD for subsequent movement by railroad, under a continuing contract or contracts with Midwest Foods Corp., for 180 days. Supporting shipper: Midwest Foods Corp., Clark, SD 57225, Joseph Roe, President. Send protests to: J.L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 145192TA, filed August 8, 1978. Applicant: AUTO EXPRESS MEXICANO, DIV., PACIFICO, S.A. De C.V. CORP.-MEX ARROYO de GUADALUPE NO. 86, Fraccionamiento La Escalera, Mexico, 14, D.F. Representative: Paul F. Sullivan, 710 Washington, Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except household goods, dangerous explosives, commodities in bulk and those requiring special equipment), for 180 days. Supporting shipper: There are approximately (25) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Richard H. Dawkins District Supervisor, Interstate Commerce Commission, Room B-400 Federal Bldg., 727 E. Durango Street, San Antonio, TX 78206.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29165 Filed 10-13-78; 8:45 am]

[7035-01-M]

[Notice No. 190]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 2135 (Sub-15TA), filed August 9, 1978. Applicant: D. J. McNICHOL CO., 6951 Norwitch Drive, Philadelphia, PA 19153. Representative: Harold P. Boss, 1100 17th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and, in connection therewith, *equipment, materials and supplies* used in the conduct of such business between Philadelphia, PA; on the one hand, and, on the other, Endicott, Horseheads, Ithaca, Margaretville (Delaware County), and Painted Post, NY, including points in their commercial zones, under a continuing contract or contracts with The Greater Atlantic & Pacific Tea Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Greater Atlantic & Pacific Tea Co., Inc., 2 Paragon Drive, Montvale, NJ 07645. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 5227 (Sub-42TA), filed August 9, 1978. Applicant: ECKLEY TRUCKING, INC., P.O. Box 201, Mead, NE 68041. Representative: Lavern R. Holdeman of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, knocked down and in sections, building sections, building panels, and metal prefabricated structural components, and materials and supplies used in the manufacture and distribution thereof*, between the facilities of American Buildings Co., at or near Carson City, NV, on the one hand, and on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. Supporting shipper: American Buildings Co., Thomas J. Maggert, Plant Manager, P.O. Box 1768, 2401 Conestoga Drive, Carson City, NV 89701. Send protests to: Max Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 13134 (Sub-58TA), filed August 9, 1978. Applicant: GRANT TRUCKING, INC., Ohio State Route 93 North, P.O. Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged hydraulic cement* (calcium aluminate cement) from Chesapeake, VA to points in IN, IL, OH, MI, MO, KY, and that portion of PA west of Interstate 81, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. P. Edwards, Traffic Manager, Lone Star Lafarge, Inc., 18 Koger Executive Center, Suite 220, Norfolk, VA 23502. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street East, Charleston, WV 25301.

MC 51146 (Sub-623TA), filed August 9, 1978. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers* from the facilities of Hoover Universal, at or near Lenexa, KS, to points in CT, DE, DC, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hoover Universal, Beverage Bottle Division, Route 2, Tri Port Road, Georgetown, KY 40324 (Thomas E. Gould). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 56664 (Sub-4TA), filed July 14, 1978. Applicant: C. W. KEITH TRANSFER & WAREHOUSE CO., 2100 South 15th Avenue, Phoenix, AZ 85007. Representative: Charles R. Hallam, 3550 North Central Avenue, Suite 1700, Phoenix, AZ 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Repair parts, pipe fittings, materials used for home construction and maintenance, all types of fasteners, and maintenance supplies*, over the public highways designated as those between points in Arizona with a base of operations at Phoenix, AZ, for 180 days. Restricted to service for Cyprus Mines Corp. Applicant intends to interline at Phoenix, AZ. Supporting shipper: Cyprus Bagdad Copper Co., P.O. Box 245, Bagdad, AZ 86321. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 57239 (Sub-39TA), filed August 9, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, P.O. Box 882, Indianapolis, IN 46206. Representative: B. V. Beaman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cigars, cigarettes, snuff or manufactured tobacco, and related articles*, serving Detroit, MI, and its commercial zone as an off-route point in connection with applicant's presently authorized regular route service, restricted to traffic originating at Louisville, KY, and its commercial zone, for 180 days. Supporting shipper; Phillip Morris, U.S.A., P.O. Box 26603, Richmond, VA 23261. Brown & Williamson Tobacco Corp., 1600 West Hill Street, Louisville, KY 40232. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 71642 (Sub-18TA), filed July 27, 1978. Applicant: CONTRACTUAL CARRIERS INC., Harmony Industrial Park, Newark, DE 19711. Representative: Samuel W. Earnshaw, 833 Washington Boulevard, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except commodities in bulk) between Newark, DE, on the one hand, and, on the other, Milford, CT, Montgomery, IL, Leominster, MA, Des Moines, Mount Pleasant, Iowa City, IA, and Pittsburgh, PA, under a continuing contract or contracts with Westvaco Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Westvaco Corp., 2000 Ogletown Road, Newark, DE 19711. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 89617 (Sub-19TA), filed August 9, 1978. Applicant: LEWIS TRUCK LINES, INC., P.O. Box 1494, Conway, SC 29526. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling, composition board, iron and steel articles* from Charleston, SC, and points within its commercial zone to points in GA, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (7) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

NOTE.—SC traffic is in foreign commerce.

MC 106603 (Sub-181 TA), filed August 10, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium Chloride* (except in bulk), from Ludington and Midland, MI, to points in IL, IN, IA, KY, MO, OH, PA, WV, and WI, for 180 days. Supporting shipper: Dow Chemical Co., 690 Traffic Operations Building, Midland, MI 48640. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Lansing, MI 48933.

MC 107515 (Sub-1164 TA), filed August 9, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, GA 30050. Representative: Alan E. Serby and Richard M. Tettelbaum, Serby & Mitchell, P. C., Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from facilities of Louisville Freezer Center, Louisville, KY, to points in AL, AR, DE, GA, IL, IN, IA, MD, MI, MN, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Louisville Freezer Center, 2000 South Ninth Street, Louisville, KY 40208. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 111201 (Sub-32 TA), filed August 9, 1978. Applicant: J. N. ZELLNER & SON TRANSFER CO., P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice in glass quart containers*, from Miami, FL, to Atlanta, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Russell Fruit Juice Co., Inc., 2154 Northwest 10th Avenue, Miami, FL 33127. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309

MC 112304 (Sub-149 TA), filed August 9, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and cement pipe containing asbestos fibre*, from the plantsite of Johns-Manville Sales Corp., at or near Waukegan, IL, to MD, NJ, NY, OH, PA, VA, and WV, for 180 days. Supporting shipper: Johns-Manville Sales Corp., Edwin T. Sinclair, Regional Traffic Manager, Oak Brook, IL 60521. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B, Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 112963 (Sub-1 TA), filed August 9, 1978. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Representative: Leonard E. Murphy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferric chloride*, in bulk, in tank vehicles from Springfield and West Springfield, MA to points in NY, CT, VT, NH, RI, and ME, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hampden Color & Chemical Co., 126 Memorial Drive, Springfield, MA 01101. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission,

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150 Causeway Street, Boston, MA 02114.

MC 114457 (Sub-401TA), filed

Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Au-

Troy, MI 48084. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Com-

rier, by motor vehicle, over irregular routes, transporting: *Brick* from the facilities of Midland Brick Sales Co., at or near Utica, MO to points in IA,

vehicle, over irregular routes, transporting: *Building and roofing materials* (except in bulk) from the facilities of Bird & Son, Inc., Shreveport, LA to

MC 123255 (Sub-172TA), filed August 9, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Repre-

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150 Causeway Street, Boston, MA 02114.

MC 114457 (Sub-401TA), filed August 9, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients and additives* from Sherburne, NY to points in the United States in and east of the States of WI, IL, KY, TN, MS, and LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 114457 (Sub-419TA), filed August 9, 1978, Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers* from Cleveland, OH to Chicago and Danville, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Group, Inc., 1 Landmark Square, Stamford, CT 06901. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 114457 (Sub-426TA), filed August 9, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* from Arden Hills, MN to Tulsa, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Can Co., 10050 Regency Circle, Omaha, NE 68114. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

MC 114604 (Sub-55TA), filed August 9, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Building 33, State Farmers Market, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), when moving in mechanically refrigerated equipment, from the facilities of Munford Refrigerated Warehouse, Division of Munford Inc., at or near Atlanta, GA and from the facilities of Commercial Cold Storage, Inc., at or near Atlanta, GA to points in MS, TN (except Chattanooga), LA, FL (except points in and north of Levy, Marion, Putnam, and Flagler Counties and Daytona Beach), VA, WV, and KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Munford Refrigerated Warehouse, Division of Munford, Inc., 6150 Xavier Drive SW., Atlanta, GA 30336; Commercial Cold Storage, Inc., 4300 Pleasantdale Road, Atlanta, GA 30340. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115496 (Sub-101TA), filed August 9, 1978. Applicant: LUMBER TRANSPORT, INC., Highway 23, P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, and fiberboard*, from the facilities of Holly Hill Lumber Co., at Walterboro and Holly Hill, SC to points in the United States in and east of ND, SD, NB, KS, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Holly Hill Lumber Co., P.O. Box 128, Holly Hill, SC 29059. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115496 (Sub-102TA), filed August 9, 1978, Applicant: LUMBER TRANSPORT, INC., Highway 23, P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Blountstown, FL to points in AL, CT, DE, DC, FL, GA, IL, IN, KY, ME, ME, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WI, and WV, for 180 days. Supporting shipper: Abitibi Corp., 3250 West Big Beaver Road, Troy, MI 48084. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115496 (Sub-103TA), Filed: August 9, 1978, Applicant: LUMBER Transport, INC., Post Office Box 111, Cochran, GA 31014. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and fittings*, from the facilities of Charlotte Pipe & Foundry Co., at Charlotte and Bakers, NC, to points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Applicant has also filed corresponding emergency temporary authority application for Identical authority for 30 days. Supporting shipper: Charlotte Pipe & Foundry Co. Send protests to: Ms. Sarah K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW, Room 300, Atlanta, GA 30309.

MC 115904 (Sub-126TA), filed August 3, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, forest products, sawmill products, wood products, and composition board*, (1) from ID, MT, OR, and WA, to IL, IN, IA, KS, MI, MN, MO, NE, NM, ND, OH, SD, and WI; (2) from CA to IL, IN, IA, KS, MI, MN, MO, NE, NM, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: North Pacific Lumber Co., P.O. Box 3915, Portland, OR 97208; Hampton Lumber Sales Co., 901 Terminal Sales Building, Portland, OR 97205; Louisiana Pacific Corp., 1300 Southwest Fifth Avenue, Portland, OR 97201; Weyerhaueser Co., Tacoma, WA 98401; St. Regis Paper Co., 1203 East D Street, Tacoma, WA 98401; and Continental Forest Products, Inc., P.O Box 159, Lake Oswego, OR 97034 and American International Forest Products, P.O. Box 4166, Portland, OR 97208. Send protests to: Barney L. Hardin, District Supervisor, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 116164 (Sub-10TA), filed August 1, 1978. Applicant: ARROW TRANSPORTATION, 1911 58th Avenue, Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick* from the facilities of Midland Brick Sales Co., at or near Utica, MO to points in IA, NE, MN, and WI, under a continuing contract or contracts with Midland Brick Sales Co., Chillicothe, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Brick Sales Co., Box 428, Chillicothe, Mo 64601. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 116459 (Sub-71TA), filed July 19, 1978. Applicant: RUSS TRANSPORT, INC., P.O. Box 4022, Chattanooga, TN 37405. Representative: Charles T. Williams, P.O. Box 4022, Chattanooga, TN 37405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in tank or dump type vehicles, from Memphis, TN to points in AR, MO, and MS, for 180 days. Supporting shipper: International Salt Co., Inc., 1600 Tullie Circle NE., Suite 133, Atlanta, GA 30329. Send protests to: Glenda Kuss, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 119917 (Sub-51TA), filed August 9, 1978. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Drive SE., Atlanta, GA 30316. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products* (other than frozen), (1) from the facilities of Keebler Co., at Cincinnati, OH and Grand Rapids, ML, to the facilities of Keebler Co., at Alsip, IL, and (2) from the facilities of Keebler Co., at Alsip, IL, to the facilities of Keebler Co., at Appleton and Milwaukee, WI, Omaha and Hastings, NE, Fargo and Minot, ND, St. Paul, MN, and St. Louis and Kansas City, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keebler Co., One Hollow Tree Lane, Elmhurst, IL 60126. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 300, Atlanta, GA 30309.

MC 120761 (Sub-40TA), filed August 9, 1978. Applicant: NEWMAN BROS. TRUCKING CO., 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials* (except in bulk) from the facilities of Bird & Son, Inc., Shreveport, LA to points in TX, for 180 days. Supporting shipper: Bird & Son, Inc., Washington Street, East Walpole, MA 02032. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 121626 (Sub-6TA), filed August 8, 1978. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Ann M. Pougiales, Loughran & Hegarty, 100 Bush Street 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Such merchandise* as is dealt in by wholesale, retail, chain grocery, and food business houses and (b) *exempt commodities* when shipped in the same vehicle with the commodities described in (a) above, with transportation in (a) and (b) above, restricted to that moving in vehicles equipped with mechanical refrigeration, from the facilities of Servicecraft Warehouse at Buena Park, CA to points in the commercial zones of Phoenix and Tucson, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Brands, Inc., 1633 Bayshore Highway, Burlingame, CA 94010. Send protests to: District Supervisor A. J. Rodriquez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 121654 (Sub-14TA), filed August 9, 1978. Applicant: COASTAL TRANSPORT & TRADING CO., Post Office Box 458, Forest Park, GA 30050. Representative: Richard M. Tettelbaum, Serby & Mitchell, P.C., Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum and gypsum products*, and (2) *materials, equipment, and supplies* used in the manufacture, packaging, distribution, or installation of commodities in (1) above (except commodities in bulk), from the facilities of Georgia-Pacific Corp., at or near Brunswick, GA, to points in FL, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., Gypsum Division, 1602 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 123255 (Sub-172TA), filed August 9, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Representative: C. F. Schnee, Jr., Vice President, Traffic (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, vanities, and related articles* used in the installation thereof, from the facilities of IXL, Division of Triangle Pacific Corp., at or near Elizabeth City, NC, to points in the States of CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC, for 180 days. Applicant has also filed an underlying ETA seking up to 90 days of operating authority. Supporting shipper: Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 124078 (Sub-851TA), filed August 9, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil and vegetable oil products*, from Macon, GA to points in CT, DE, FL, MD, MA, NE (except Grand Island), NJ, NY (except Staten Island), NC, RI, PA, SC, VA, and WV, for 180 days. Supporting shipper: Procter & Gamble Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 127974 (Sub-12TA), filed August 9, 1978. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Avenue, Trenton, NJ 08610. Representative: Alan Kahn, Esq., 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board*, from the facilities of Celotex Corp. in Pennsauken, NJ to points in PA on and west of U.S. Hwy 15 and points in WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 133163 (Sub-7TA), filed August 9, 1978. Applicant: DELTA EXPRESS,

INC., Old River Road, P.O. Box 776, Natchitoches, LA 71457. Representative: D. E. Lester (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles* distributed by meat packinghouses, from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE to points in the United States in and east of ND, SD, NE, CO, NM, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Iowa Beef Processors, Inc., P.O. Box 515, Dakota City, NE 68731. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133221 (Sub-35TA), filed August 9, 1978. Applicant: OVERLAND CO., INC., 1000 Jackson Street, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Plastic articles*, from the facilities of Southeastern Industrial Products, Inc., at or near Sandersville, GA, to points in the United States (except Alaska and Hawaii). Restriction: The above-described authority is restricted to a transportation service to be performed under a continuing contract or contracts with Southeastern Industrial Products, Inc., P.O. Box 756, Sandersville, GA 31082. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133221 (Sub-36TA), filed August 9, 1978. Applicant: OVERLAND CO., INC., 1000 Jackson Street, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Plastic articles*, from Bossier City, LA, to points in the United States (except Alaska and Hawaii), (2) *plastic pellets*, from Frackville, PA, to Bossier City, LA, under a continuing contract or contracts with Southeastern Industrial Products, Inc., P.O. Box 756, Sandersville, GA 31082. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133221 (Sub-37TA), filed August 9, 1978. Applicant: OVERLAND CO., INC., 1000 Jackson Street, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Plastic articles*, from the facilities of Southeastern Industrial Products, Inc., at or near Sandersville, GA, to points in the United States (except Alaska and Hawaii). Restriction: The above-described authority is restricted to a transportation service to be performed under a continuing contract or contracts with Southeastern Industrial Products, Inc., P.O. Box 756, Sandersville, GA 31082. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

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INC., Old River Road, P.O. Box 776, Natchitoches, LA 71457. Representative: D. E. Lester (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill, and forest products* from the plantsites of Vancouver Plywood Co., Inc., at Fisher, Florien and Oakdale, LA to MS, TN, TX, OK, MO, AR, LA, and products essential to the manufacture of these commodities additionally returned products manufactured by Vancouver Plywood Co., Inc., from points in MS, TN, TX, OK, MO, AR, and LA to the plantsites of Vancouver Plywood Co., Inc., at Fisher, Florien, and Oakdale, LA, for 180 days. Supporting shipper: Vancouver Plywood Co., Inc., P.O. Box 125, Florien, LA 71429. Send protests to: Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133221 (Sub-33TA), filed August 9, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, GA 30245. Representative: Alvin Button, 1644 Tullie Circle NE., Suite 102, Atlanta, GA 30329. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper articles, floral pots, molded pulp, and peat products*, from the Keyes Fibre Co. facility at New Iberia, LA to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keyes Fibre Co., Waterville, ME 04901. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133221 (Sub-34TA), filed August 9, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Hwy., Lawrenceville, GA 30245. Representative: Alvin Button, 1991 Buford Hwy., Lawrenceville, GA 30245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Rigid polystyrene* from the facilities of Southeastern Foam Products Inc., at Conyers, GA, Adamstown, MD, Bargersville, IN, Burlington, NC, Elkhorn, WI, Foglesville, PA, Jonesboro TN, New Middleton, OH, Ocala, FL, Petersburg, VA, Wentzville, MO, to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southeastern Foam Products, Inc., P.O. Box 406, Conyers, GA 30207. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133221 (Sub-35TA), filed August 9, 1978. Applicant: OVERLAND CO., INC., 1991 Buford Hwy, Lawrenceville, GA 30245. Representative: Alvin Button, 1644 Tullie Circle NE., Suite 102, Lawrenceville, GA 30245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molded pulp and peat articles, paper articles, styrofoam products, plastic plates, knives, and spoons* (except in bulk) from the facilities of Keyes Fibre Co. at Hammond, IN, Waterville, ME, Welsch, WA, and Florin, CA, and Huntsman Container Corp. at Troy, OH, and Fullerton, CA to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Keyes Fibre Co. and Huntsman Container Corp. (a subsidiary), Waterville, ME 04901. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 133566 (Sub-119TA), filed Augst 9, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of Schrafft Candy Co. at or near Boston, MA; Middlesex, Norfolk, Essex and Suffolk Counties, MA, to points in the States of AR, CO, IN, IA, KS, LA, NE, OK, TN, and TX, for 180 days. Restricted to traffic originating at the named origins and destined to points in the named destinations. Supporting shipper: Schrafft Candy Co., 629 Main Street, Cambridge, MA 02109. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 133920 (Sub-17TA), filed August 9, 1978. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, GA 31082. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbide lime slurry*, in bulk, in tank vehicles, from Atlanta, Macon, Waycross, and Albany, GA to Pontotoc, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southeastern Industrial Products, Inc., P.O. Box 755, Sandersville, GA 31082. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 134467 (Sub-30TA), filed August 9, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, of natural or synthetic fibers, except in bulk, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) above, from the facilities of Scott Paper Co., at or near Chester, PA and Landisville, NJ, to the facilities of Scott Paper Co. at or near Rogers, AR, for 180 days. Supporting shipper: Scott Paper Co., Scott Plaza 1, Philadelphia, PA 19113. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135364 (Sub-36TA), filed August 9, 1978. Applicant: MORWALL TRUCKING, INC., R.D. No. 3, Box 76-C, Moscow, PA 18444. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Norfolk, VA, and Scranton, PA, to points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and WI, under a continuing contract, or contracts, with General Foam Plastics Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foam Plastics Corp., 3321 East Prineess Anne Road, Norfolk, VA 23502. Send protests to: District Supervisor, Paul J. Kenworthy, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 136220 (Sub-60TA), filed August 9, 1978. Applicant: ROY SULLIVAN d.b.a. SULLIVAN TRUCKING CO., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets and alfalfa meal* (in bulk, in dump vehicles), from the facilities of Western Alfalfa Corp., at Wellington, Belle Plaine, Oxford, and Douglass, KS, to

points in TX, for 180 days. Supporting shipper: Western Alfalfa Corp., P.O. Box 69, Shawnee Mission, KS 66201. Send protestes to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 136848 (Sub-20TA), filed August 10, 1978. Applicant: JAMES BRUCE LEE & STANLEY LEE, d.b.a. LEE CONTRACT CARRIERS, Old Route 66, P.O. Box 48, Pontiac, IL 61764. Representative: Edward F. Stanula, Attorney, 837 East 162d Street, South Holland, IL 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel hot rolled bars* from the facilities of Wisconsin Steel, in Chicago, IL, to Anderson, Muncie, New Castle, and Indianapolis, IN, under a continuing contract or contracts with Wisconsin Steel, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wisconsin Steel, 2800 East 106th Street, Chicago, IL 60617. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn, Chicago, IL 60604.

MC 141124 (Sub-25TA), filed August 7, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Representative: Boyd B. Ferris of Muldoon, Pemberton & Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and materials, equipment and supplies* (except commodities in bulk), dealt in by manufacturers or convertors of paper and paper products, between the plantsites and facilities of Paper Manufacturers Co., Inc., at or near Indianapolis, IN, and Philadelphia, PA, on the one hand, and on the other, points in ME, CT, RI, NY, MA, VT, NH, PA, NJ, WV, DE, MD, VA, MI, KY, IN, OH, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Paper Manufacturers Co., Inc., 9890 Bustleton Avenue, Philadelphia, PA 19115. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Philadelphia, PA 19106.

MC 141160 (Sub-4TA), filed August 9, 1978. Applicant: NEWTON TRANSPORTATION, INC., R.D. No. 1, Orwigsburg, PA 17961. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire and cable*, from Bossier City, LA, to points in the United States (except Alaska and Hawaii), (2) *plastic pellets*, from Frackville, PA, to Bossier City, LA, under a continuing contract or contracts with Cadillac Cable Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cadillac Cable Corp., P.O. Box 695, Pottsville, PA 17901. Sent protests to: District Supervisor Paul J. Kenworthy, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 142248 (Sub-34TA), filed July 31, 1978. Applicant: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, ON, Canada NOR 1GO. Representative: Thad. A. Gorski, 843 Central Avenue, Windsor, ON, Canada N8Y 4S2. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine and brandies* between the international boundary of Canada and the United States on one hand, and, on the other to Scobeyville, NJ, Lawrenceville, NJ, Clifton, NJ, Bardstown, KY, and Burlingame, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hiram & Sons, Ltd., P.O. Box 518, Windsor ON, Canada. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 142668 (Sub-14TA), filed August 9, 1978. Applicant: AERO DISTRIBUTING CO., INC., 7259 Delta Circle, Mableton, GA 30336. Representative: K. Edward Wolcott, Suite 1200 Atlanta Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. Authority seught to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors for the account of Shaklee Corp., from Chicago, IL, to points in MI (except Detroit, MI), under a continuing contract or contracts with Shaklee Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shaklee Corp., 2666 National Avenue, Hayward, CA 94545. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 143103 (Sub-3TA), filed August 9, 1978. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Avoset Foods Corp., at Gustine, CA, to points in IL, IN, MI, OH, KY, WV, VA, MD, DC, DE, PA, NY, NJ, CT, RI, MA, VT, NH, MO, IA, MN, WI, NE, KS, and CO, under a continuing contract, or contracts, with Avoset Foods Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avoset Foods Corp., 299 Fifth Avenue, Gustine, CA 95322. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 144428 (Sub-3TA), filed August 7, 1978. Applicant: TRUCKADYNE, INC., Route 16 (Uxbridge Road), Mendon, MA 01756. Representative: S. L. Watts, T.D.S., 1050 Waltham Street, Lexington, MA 02173. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionary products* (except in bulk service) *and materials* used in the manufacture of the above products in the return direction between the facilities of Nabisco Confections, Inc., located in Cambridge, MA, Manfield, MA, and Ashton, RI, on the one hand, and the States of GA, NC, FL, TX, IL, CO, CA, OR, VA, MI, PA, TN, UT, on the other, under a continuing contract or contracts with Nabisco Confections, Inc., for 180 days. Supporting shipper: Nabisco Confections, Inc., 810 Main Street, Cambridge, MA 02139. Send protests to: David M. Miller, District Supervisor, Interstate Commerce Commission, 436 Dwight Street, Room 333, Springfield, MA 01103.

MC 144436TA, filed July 27, 1978. Applicant: VICTOR & SON TRUCKING, INC., 15855 East Edna Place, Irwindale, CA 91706. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bidets*, from the facilities of Rusco American Bidet Corp. at Burbank, CA, to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Rusco American Bidet Corp., for 180 days. Supporting shipper: Rusco American Bidet Corp., 5099 North San Fernando Boulevard, Burbank, CA 91504. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building,

300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144965 (Sub-1TA), filed July 27, 1978. Applicant: RONALD ASHBY, [illegible]. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Wisconsin Steel, in Chicago, IL, to Anderson, Muncie, New Castle, and Indianapolis, IN, under a continuing contract or contracts with Wisconsin Steel, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wisconsin Steel, 2800 East 106th Street, Chicago, IL 60617. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn, Chicago, IL 60604.

MC 145000 (Sub-1TA), filed August 9, 1978. Applicant: ROBERT L. HOLLOWAY, d.b.a. HOLLOWAY TRUCKING, 1000 Lincoln Avenue, Lincoln, NE 68508. Representative: Robert L. Holloway (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from Omaha, NE, to points in IA, KS, MO, SD, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Cooperative Co., Box 1099, Hastings, NE 68901. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 145001 (Sub-1TA), filed August 9, 1978. Applicant: ROBERT L. HOLLOWAY, d.b.a. HOLLOWAY TRUCKING, 1000 Lincoln Avenue, Lincoln, NE 68508. Representative: Robert L. Holloway (address same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from Fargo, ND, to points in MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmers Cooperative Co., Box 1099, Hastings, NE 68901. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Room 268, U.S. Post Office, Federal Building, Fargo, ND 58102.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409).

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300 North Los Angeles Street, Los Angeles, CA 90012.

MC 144965 (Sub-1TA), filed July 27, 1978. Applicant: RONALD ASHBY, Route One, Giltner, NE 68841. Representative: Ronald Ashby (same as above). Authority sought to operater as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Internal combustion engines, parts and components thereof; and parts, components and accessories* used in connection with internal combustion engines, from Detroit, Marysville, and Farmington, MI, Jamestown, NY, Beaver Dam, WI, Rockford, ILL, Canton, OH, Omaha, NE, Lubbock, TX, and the commercial zones thereof to facilities of Industrial-Irrigation Services at or near Hastings, NE, under a continuing contract or contracts with Industrial-Irrigation Services, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John C. Osborne, President, Industrial-Irrigation Services, 221 East J Street, Hastings, NE 68901. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 145015TA, filed August 10, 1978. Applicant: P. M. E., LTD., P.O. Box 181, Group 261, R.R. No. 2, Winnipeg, MB, Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages*, from the facilities of G. Heileman Brewing Co., Inc., located at or near St. Paul, MN to ports of entry on the International Boundary Line between the United States and Canada at Noyes, MN, Portal, ND, Sweetgrass, MT and Blaine and Port Angeles, WA, under a continuing contract or contracts with Oppenheimer Bros., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Oppenheimer Bros. (Distribution Ltd.), 4405 Canada Way, Burnaby, BC, V5G 1J5. Send protests to: Ronald R. Mau, District Supervisor, Interstate Commerce Commission, Room 268, U.S. Post Office, Federal Building, Fargo, ND 58102.

MC 145178TA, filed August 9, 1978. Applicant: CHARLES INKS d.b.a. CHARLES INKS TRUCKING, 12400 Cypress, Space 37, Chino, CA 91710. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, from Bay City, Beaumont, and Houston, TX and Lake Charles, LA to points in Los Angeles and Orange Counties, CA for 180 days. Supporting shipper: C.B.M. Enterprises, 14120 Alondra Avenue, Suite F, Santa Fe Springs, CA 90670. Sent protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29166 Filed 10-13-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 17, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2070-78 Filed 10-12-78; 11:23 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 20, 1978.

PLACE: 2033 K Street NW., Washington, D.C. 8th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2071-78 Filed 10-12-78; 11:23 am]

[6210-01-M]

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 46417, October 6, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 11, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Review of Federal Reserve Bank employee conflict of interest regulation and of property ownerships under such regulation. (This matter was originally announced for a meeting on Friday, October 6, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2074-78 Filed 10-12-78; 1:30 pm]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 18, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Briefing on preparations of WARC '79, including status of consultations with foreign countries.

This is a continuation of the special closed meeting of October 3, 1978 (Public Notice No. 7830).

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 10, 1978.

[S-2079-78 Filed 10-12-78; 3:37 pm]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 18, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—2—Internal personnel matter.

This is a continuation of the discussion at the closed meeting of October 5, 1978 (Public Notice No. 7854).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

If additional information is required concerning this meeting it may be obtained from FCC Public Information Office, telephone 202-632-7260.

Issued: October 11, 1978.

[S-2080-78 Filed 10-12-78; 3:37 pm]

[6740-02-M]

6

OCTOBER 11, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., October 18, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—166TH MEETING, OCTOBER 18, 1978, REGULAR MEETING

CAG-1. Docket No. CP78-136, Transcontinental Gas Pipe Line Corp.
CAG-2. Docket No. CI78-230, Sun Oil Co.
CAG-3. Docket No. CI77-133, CIG Exploration, Inc. Docket No. CI77-448, Amoco Production Co.
CAG-4. Docket No. CI78-1020, CIG Exploration, Inc.
CAG-5. Docket No. CI78-323, HNG Oil Co.

CAG-6. Docket No. CI78-931, Amoco Production Co.
CAG-7. Docket No. CI78-1071, Kerr-McGee Corp.
CAG-8. Docket No. CI64-156, Marathon Oil

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP78-92, Southwest Gas Corp.
RP-2. Docket Nos. CP75-372 and CP75-373, Tennessee Gas Pipeline Co., a division of

[6740-02-M]

7

FEDERAL ENERGY REGULATORY

Dated: October 10, 1978.

GOODWIN CHASE,
Chairman.

[S-2073-78 Filed 10-12-78; 11:23 am]

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may

please contact Anthony A. Vertuno at 202-755-1192.

6. Consideration of a release requesting comments on proposed amendments to the schedules relating to the beneficial owner-

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CAG-6. Docket No. CI78-931, Amoco Production Co.
CAG-7. Docket No. CI78-1071, Kerr-McGee Corp.
CAG-8. Docket No. CI64-156, Marathon Oil Co. Docket No. CI78-631, J. M. Huber Corp. Docket No. CI78-671, Ashland Exploration, Inc. Docket No. CI78-446, Amoco Production Co. Docket No. CI77-660, Texaco, Inc.
CAG-9. Docket No. CP77-567, Michigan Wisconsin Pipe Line Co. Docket No. CP78-155, Texas Eastern Transmission Corp. Docket No. CP78-200, Texas Eastern Transmission Corp. Docket No. CP75-19, Trunkline Gas Co.
CAG-10. Docket No. CI77-139, Amoco Production Co. Docket No. CI77-711, Transco Exploration Co. Docket No. CI78-141, Getty Oil Co. Docket No. CI78-492, Placid Oil Co. Docket No. CI78-508, Sun Oil Co. Docket No. CI78-1058, HNG Oil Co. Docket No. CI78-1049, Cabot Corp. Docket No. CI78-1048, Cities Service Co. Docket No. CI78-986, Exxon Co., U.S.A. Docket No. CI78-615, Cities Service Co. Docket No. CI78-592, Champlin Petroleum Co. Docket No. CI78-571, Atlantic Richfield Co. Docket No. CI78-564, Cities Service Co. Docket No. CI78-505, Pioneer Production Co. Docket No. CI78-1110, Marathon Oil Co. Docket No. CI78-27, Exxon Corp. Docket No. CI78-691, Ashland Exploration, Inc. Docket No. CI78-656, American Natural Gas Production Co. Docket No. CI78-660, American Natural Gas Production Co. Docket No. CI78-708, American Natural Gas Production Co. Docket No. CI78-709, American Natural Gas Production Co. Docket No. CI78-1124, Terra Resources, Inc. Docket No. CI77-777, Mobil Oil Corp. Docket No. CI77-789, Mobil Oil Corp. Docket No. CI78-426, Continental Oil Co. Docket No. CI78-390, Cabot Corp. Docket No. CI78-395, Cabot Corp. Docket No. CI78-69, Mobil Oil Corp. Docket No. CI78-999, Atlantic Richfield Co. Docket No. CI78-973, Northwest Production Corp. Docket No. CI77-303, Transco Exploration Co. Docket No. CI78-1060, Transco Exploration Co.
CAG-11. Docket Nos. CI78-208 and CI78-851, Chevron U.S.A. Inc.
CAG-12. Docket Nos. G-11299, et al., Atlantic Richfield Co. (operator), et al.
CAG-13. Docket Nos. G-4614, et al., Southland Royalty Co.
CAG-14. Docket Nos. RI76-139, et al., Dorchester Gas Producing Co., et al.
CAG-15. Docket No. RI78-21, Braden-Deem, Inc.
CAG-16. Docket No. CP78-528, Northwest Pipeline Corp.
CAG-17. Docket No. CP77-499, Columbia Gulf Transmission Co. and Northern Natural Gas Co.
CAG-18. Docket No. CP78-428, Northern Natural Gas Co., Texas Eastern Transmission Corp., Transcontinental Gas Pipe Line Corp., and United Gas Pipe Line Co.
CAG-19. Docket No. CP78-375, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-20. Docket No. CP78-396, Panhandle Eastern Pipe Line Co.
CAG-21. Docket No. CP78-312, Transcontinental Gas Pipe Line Corp.
CAG-22. Docket No. CP78-497, Transcontinental Gas Pipe Line Corp.
CAG-23. Docket Nos. CP76-257, CP76-520, CP76-521 and CP76-522, Texas Gas Transmission Corp. Docket No. CP78-417, Transcontinental Gas Pipe Line Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP78-92, Southwest Gas Corp.
RP-2. Docket Nos. CP75-372 and CP75-373, Tennessee Gas Pipeline Co., a division of Tenneco Inc.

II. PRODUCER MATTERS

CI-1. Docket No. CI75-45, Tenneco Oil Co. Docket Nos. CI75-107 and CI75-684, Shell Oil Co.
CI-2. Docket No. CI74-78, Freeport Oil Co.
CI-3. Docket No. CP73-184, Colorado Interstate Gas Co. Docket No. CI73-485, CIG Exploration, Inc.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP76-500, Cities Service Gas Co.
CP-2. Docket No. RP77-137-1, South Georgia Natural Gas Co. (Great Southern Paper Company).
CP-3. Docket No. CP73-340, Colorado Interstate Gas Co. Docket No. CP74-243, Northern Natural Gas Co. Docket No. CI74-430, Colorado Oil and Gas Corp. and Gas Producing Enterprises, Inc.
CP-4. Transcontinental Gas Pipe Line Corp.
CP-5. Docket Nos. CI77-163 and CI77-164, McCulloch Gas Processing Corp. Docket Nos. CP76-121 and CP77-1, McCulloch Interstate Gas Corp. Docket No. CP76-494, Colorado Interstate Gas Co.

POWER AGENDA—166TH MEETING, OCTOBER 18, 1978, REGULAR MEETING

M-1. Docket No. RM78-10, Procedures for Review by the Federal Energy Regulatory Commission of remedial order issued by the Secretary of Energy.
M-2. Docket No. RM78-23, State of Louisiana first use tax in pipeline rate cases.

MISCELLANEOUS AGENDA—166TH MEETING, OCTOBER 18, 1978, REGULAR MEETING

CAP-1. Docket No. ER78-35, et al., Connecticut Light & Power Co., Hartford Electric Light Co.
CAP-2. Docket No. ER78-500, Indiana Gas & Electric Co.
CAP-3. Docket No. 78-582, Upper Peninsula Power Co.
CAP-4. Docket Nos. ER78-563 and ER78-564, Central Vermont Public Service Corp.
CAP-5. Project No. 1107, City of Ashland, Oreg.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. E-9520, Illinois Power Co.
ER-2. Docket Nos. ER76-39, ER76-340, and ER76-363, Kansas Power & Light Co.
ER-3. Docket No. ID-1709, Willis C. Fitkin. Docket No. ID-1710, William Cyrus Macinnes.
ER-6. Docket No. ER76-813, Jersey Central Power & Light Co.
ER-7. Docket Nos. ER76-714, ER76-715, and ER76-716, Indiana & Michigan Electric Co.
ER-8. Docket No. ER76-495, (AFUDC Issue), Carolina Power & Light Co.
ER-9. Docket Nos. ER78-508, et al., Florida Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-2075-78 Filed 10-12-78; 1:30 pm]

[6740-02-M]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 46626, published October 10, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 11, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CAG-20. RP77-138, United Gas Pipe Line Co.

KENNETH F. PLUMB,
Secretary.

[S-2073-78 Filed 10-12-78; 11:23 am]

[7910-01-M]

8

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, October 17, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to public observation. Matters 4 and 5 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held October 11, 1978, and other Board meetings if any.
2. Exemption recommendations (ACE List 3007):
A. Champion International Corp., fiscal year ended September 30, 1976.
B. DeLaval Turbine Inc., fiscal year ended September 30, 1976.
C. General Foods Corp., fiscal year ended September 30, 1976.
3. Recommended clearances without assignment (List 1922):
A. Eaton Corp., fiscal year ended December 1975.
B. American Microwave Industries, Inc., fiscal year ended May 18, 1976.
C. Morris Bean and Co., fiscal year ended March 31, 1976.
D. Airco, Inc., fiscal year ended December 31, 1975.
E. General Battery Corp., fiscal year ended December 31, 1975.
4. Approval of agenda for meeting to be held October 31, 1978.
5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 10, 1978.

GOODWIN CHASE,
Chairman.

[S-2072-78 Filed 10-12-78; 11:23 am]

[8010-01-M]

9

SECURITIES AND EXCHANGE COMMISSION.

STATUS: Closed meeting.

DATE AND TIME: Thursday, October 12, 1978, immediately following the open meeting scheduled for 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following items will be considered by the Commission at a closed meeting scheduled for Thursday, October 12, 1978, immediately following the open meeting:

Administrative proceeding.
Bankruptcy legislation.
Settlement of injunctive action.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A), and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of the matter and that no earlier notice thereof was possible.

OCTOBER 12, 1978.

[S-2077-78 Filed 10-12-78; 3:37 pm]

[8010-01-M]

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 16, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, October 17, 1978, at 10 a.m. Open meetings will be held on Wednesday, October 18, 1978, at 2:30 p.m., and on Thursday, October 19, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 17, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal order of investigation.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Settlement of administrative proceedings of an enforcement nature.
Other litigation matters.

The subject matter of the open meeting scheduled for Wednesday, October 18, 1978, at 2:30 p.m., will be:

Oral argument on the application of the First National Bank of Chicago and the Midwest Association of Credit Unions for an exemption from the provisions of the Investment Company Act of 1940. For further information, please contact R. Moshe Simon at 202-755-1530.

The subject matter of the open meeting scheduled for Thursday, October 19, 1978, at 10 a.m., will be:

1. Consideration of the Municipal Securities Rulemaking Board's proposed Rules of Fair Practice. For further information, please contact John M. McNally at 202-755-1368.
2. Consideration of whether or not to approve proposed rules submitted by the Securities Investor Protection Corporation ("SIPC"), relating to the determination and treatment of separate customer accounts for purposes of SIPC protection under the Securities Investor Protection Act of 1970, as amended. For further information, please contact Linda Kurjan at 202-376-7470.
3. Consideration of whether or not to propose for comment several regulatory initiatives designed to improve the manner in which last sale data and quotation information are disseminated and displayed. For further information, please contact George T. Simon at 202-755-1368.
4. Consideration of a proposed agreement between the National Association of Securities Dealers, Inc. ("NASD") and the Securities and Exchange Commission concerning the administration by the NASD of the Municipal Securities Rulemaking Board's Municipal Securities Representative Qualification Examination to SECO personnel and associated persons of certain banks. For further information, please contact Marcia L. MacHarg at 202-755-1369.
5. Consideration of whether of not staff procedures designed to reduce the time needed to process certain routine investment company filings should be adopted. The expedited procedures under consideration would affect review of annual updating post-effective amendments and preliminary proxy material. For further information, please contact Anthony A. Vertuno at 202-755-1192.
6. Consideration of a release requesting comments on proposed amendments to the schedules relating to the beneficial ownership of certain classes of equity securities. The purpose of the amendments is to enable the Commission to satisfy its statutory obligation to tabulate and promptly make available the information contained in the beneficial ownership reports filed with it. For further information, please contact J. Rowland Cook at 202-755-1750.
7. Consideration of an objection by the U.S. Trust Co. to the mailing to holders of the 6½ percent Convertible Subordinated Debentures due 1996 of the Chase Manhattan Mortgage and Realty Trust of a proposed communication from three of the holders. The grounds of the objection is that the mailing of such statement is not in the best interest of the debentures. For further information, please contact Norman Schou at 202-755-1240.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Mark Goldfus at 202-755-1129.

OCTOBER 10, 1978.

[S-2078-78 Filed 10-12-78; 3:37 p.m.]

[3510-13-M]

11

U.S. METRIC BOARD.

TIME AND DATE: 10 a.m., Thursday, October 19, 1978; 8:30 a.m., Friday, October 20, 1978.

PLACE: Department of Labor, 200 Constitution Avenue NW., Room 3437N, Washington, D.C. 20210.

STATUS: The portion of the Thursday, October 19, 1978, meeting between 10 a.m. and 12 noon will be closed to the public; the Thursday afternoon portion, beginning at 1:30 p.m., and the Friday, October 20, 1978, portion will be open to the public.

MATTERS TO BE CONSIDERED:

Portion closed to the public—October 19, 1978.

Personnel matters.
Budget review.

Portion open to the public—October 19 and 20, 1978.

Review of minutes of August 16-18, 1978 meeting.
Approval of agenda.
Reports.
National Metric Week.
Program review.
Appointment of Committees.
Approval of Board policies.
Presentation on Study of Statutes, Regulations and other Laws Impacted by Conversion to Metric Units.
Presentation on proposed Uniform Metric System Act.
Board meetings.

CONTACT PERSON FOR MORE INFORMATION:

Joan Phillips, 703-235-1934.

Dr. LOUIS F. POLK,
Chairman, U.S. Metric Board.

[S-2076-78 Filed 10-12-78; 1:30 pm]

V 43 / 200 / OCT 16 1978

MONDAY, OCTOBER 16, 1978
PART II

V 43 / 200 0 OC 16 78

federal register

MONDAY, OCTOBER 16, 1978
PART II

CONSUMER PRODUCT SAFETY COMMISSION

CLASSIFICATION AS BANNED HAZARDOUS SUBSTANCES OF CERTAIN TOYS AND OTHER ARTICLES PRESENTING MECHANICAL HAZARDS DUE TO SMALL PARTS; PROPOSED REGULATION

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

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sive and extremely critical. They addressed: The very broad and undefined scope of the regulation; the lack of

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[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1500 and 1501]

CLASSIFICATION AS BANNED HAZARDOUS SUBSTANCES OF CERTAIN TOYS AND OTHER ARTICLES PRESENTING MECHANICAL HAZARDS DUE TO SMALL PARTS

Proposed Regulation

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed regulation.

SUMMARY: The Commission is proposing a regulation that would classify as banned hazardous substances certain toys and other articles intended for use by children under 3 years of age. It would cover products which present a choking, aspiration or ingestion hazard, based on their failure to comply with specified size criteria. By banning these products, the regulation would reduce the risks to children under three from choking, aspirating, or ingesting small parts.

DATES: Comments must be received no later than December 15, 1978. The proposed effective date is 6 months following publication of the regulation in final form. All products introduced into interstate commerce after this date would be subject to the regulation.

ADDRESS: Send comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, locate l at 1111 18th Street NW.

FOR FURTHER INFORMATION CONTACT:

Elaine Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6453.

SUPPLEMENTARY INFORMATION:

Background

The Commission regulates the safety of toys and other children's articles under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 et seq.). Before the Commission began operating in May 1973, the Food and drug Administration (FDA) regulated toy safety under FHSA authority.

In 1970 the FDA issued two toy safety regulations which addressed the aspiration, ingestion, and choking hazards presented by particular small parts, such as noisemaking components in rattles, on toys (these regulations are now codified with the Commission's regulations at 16 CFR 1500.18(a) (1) and (2)). Under the authority of these regulations, the FDA and later the Commission took many actions against particular toys which contained loose, small objects that could injure children.

In January 1973 the FDA proposed for public comment a comprehensive regulation designed to (1) identify toys and other articles intended for use by children under 3 years of age which present a mechanical hazard from small parts, (2) identify mouth-actuated toys intended for use by children under 8 years of age which present a mechanical hazard from small parts, and (3) classify all such products as "banned hazardous substances" under the FHSA (38 FR 2179-80, Jan. 22, 1973).

The proposed regulation used a truncated, hollow cylinder of specified dimensions to determine which products were too small (or had components that were too small). In addition, the proposal referenced "use and abuse" test procedures to simulate the "normal use" and "reasonably foreseeable damage or abuse" that is part of the statutory definition of a mechanical hazard (section 2(s) of FHSA, 15 U.S.C. 1261(s)).

Some products which are normally intended by the manufacturer for children over 3 years of age may not be readily recognized by the purchaser as potentially unsuitable for younger children due to the presence of small parts. The FDA proposal therefore provided an exemption for those products if they had the "negative" label "Caution: Not Recommended for Children Under 3 Years Old." A similar exemption based on cautionary negative labeling was proposed for mouth-actuated toys "not generally recognized as being suitable for use only by children 8 years of age or older."

The proposal contained additional exemptions for chalk, crayons, and books made entirely from paper because the FDA believed the developmental benefits that children derive from the use of these products outweigh the potential danger of their being aspirated or ingested. In addition, parents and other adults who might give a child a piece of chalk or a crayon would be likely to recognize that the article is small and is capable of becoming smaller through normal use or breakage. These adults would be expected to take adequate precautions to prevent such products from being placed in the mouths of very young children.

In response to its proposal, the FDA received over 90 comments from manufacturers, distributors, trade associations, the American Academy of Pediatrics, and individual consumers. Many of these comments were extensive and extremely critical. They addressed: The very broad and undefined scope of the regulation; the lack of documentation for establishing the size and configuration of the test device; the vagueness of the labeling provisions and the exaggerated size requirements of lettering; the adverse effect of negative labeling; and the adequacy of lead time for compliance. In addition, the comments included requests for 20 different product class exemptions.

In proposing its revised small parts banning regulation, the Commission has taken into consideration the comments received in response to the FDA's January 1973 proposal.

Neither the FDA nor the Commission has previously taken action to withdraw or finalize the January 1973 proposed small parts regulation. Nevertheless, the cylinder it described has been used as the basis of voluntary toy safety efforts by FDA and Commission staff members. In addition, the Toy Manufacturers of America (TMA) incorporated the cylinder into its Voluntary Product Toy Safety Standard PS 72-76 (1976).

Injury Data

The Government and industry toy safety efforts directed at small parts have been effective in reducing the risk of injury presented by small parts on toys and other articles intended for use by children under 3 years of age.[1] Nevertheless, the Commission believes that an unreasonable risk still exists and should be addressed by a mandatory and comprehensive regulation. In particular, the fact that many of the injuries are fatal to children supports the finding of the unreasonableness of the risk from small parts.

During calendar year 1976, more than 7,000 children under 10 years of age were treated in U.S. hospital emergency rooms for injuries related to small parts. This is a Commission estimate which is based on data from a statistical sample of 119 hospitals comprising the National Electronic Injury Surveillance System (NEISS). A number of Commission efforts have led to additional injury information that focuses on the hazard which small parts present to children under 3:

(a) *Special study.* Between December 24, 1976 and February 9, 1977 the Commission's epidemiological staff conducted a special study of small

[1] The risk is presented by articles intended for use by children under 3 years of age, as well as toys. However, in an effort to simplify the preamble discussion, the term toy(s) will be used inclusively for both toys and other articles intended for use by children.

parts injuries reported through NEISS. The staff investigated and analyzed the injuries and found 153, representing an estimated 3,800 nationwide injuries for that period, which were verified to be ingestions, throat lodgments, or foreign body lodgments in ears or noses. Forty-six percent of these injuries were to children under 3 years of age, and 79 percent of all choking incidents were to children under three. (The complete study "Injuries Associated with Small Objects" is available from the Office of the Secretary.)

(b) *Bendix study.* In 1976 the Commission contracted with the Bendix Co. to conduct an investigation into the size of toys/small parts which have caused choking deaths or incidents in children under the age of 8 years. Bendix solicited information from the membership of the National Association of Medical Examiners.

Death certificates and injury reports obtained by Bendix indicated that toys, toy parts, and other objects ranging in size from 9/16 inch to 1¾ inches in greatest diameter can produce fatal obstruction of the air passage. (Copies of this Bendix report are available from the Office of the Secretary.)

(c) *Data on deaths associated with small parts.* The staff has compiled data, from its own files and from those of the Bendix Co., on deaths associated with small parts. Between March 1973 and March 1977 the Commission received 113 death certificates in which the cause of death was related to small parts. Forty-five deaths were associated with 14 different types of children's toys and nursey products.

The following causes of death were among those revealed by the certificates: (1) Lodgment of an object in the pharynx or larynx area in the throat, which blocked the air passage and resulted in suffocation; (2) drowning when an object became lodged, the victim attempted to vomit, and the gastric contents were unable to exit through the mouth or nose and thus entered the lungs; (3) swallowed sharp or pointed objects which cut or pierced internal organs; (4) aspiration of an object into a bronchus or lung.

Approximately half of the victims in the Commission's death certificate file on small parts were under 3 years of age. In the Bendix Co. data on deaths associated with choking, more than two-thirds of those who died were children under 3 years of age.

(d) *Other data bases.* The Commission also reviewed over 200 in-depth investigations and consumer complaints in its files which involved injuries from small parts. These involved foreign body throat lodgments, ingestions, and aspirations, as well as foreign body ear and nose lodgments. The throat lodgments cut off the breathing of many of the victims, and some children survived only because an adult was present to remove the object. Some of the victims died of suffocation. All of the victims who aspirated objects required hospital in-patient treatment.

Proposed Regulation

(a) *Statutory framework.* Under section 2(f)(1)(A) of the FHSA, the definition of "hazardous substance" includes "[a]ny toy or other article intended for use by children which the [Commission] by regulation determines * * * presents an electrical, mechanical, or thermal hazard." Under section 2(s) of the FHSA, "[a]n article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness * * * because the article (or any part or accessory thereof) may be aspirated or ingested * * * or * * * because of any other aspect of the article's design or manufacture."

The Commission is proposing to define as hazardous substances certain toys and other articles intended for use by children under 3 years of age, based on the small parts hazard they present. If the Commission issues a final regulation defining them as "hazardous substances," they are automatically "banned hazardous substances" under section 2(q)(1)(A) of the FHSA, because they would be "[toys] or other article[s] intended for use by children which [are] hazardous substance[s]."

Under section 3(e) of the FHSA, the Commission must follow the informal notice and comment rulemaking procdures of 5 U.S.C. 553 to determine that a toy presents a mechanical hazard, unless it elects alternative procedures. In this small parts proceeding the Commission will follow the 5 U.S.C. 553 procedures.

(b) *Scope.* The Commission is proposing the small parts regulation to apply to nearly all toys and other articles intended for children under 3 years of age. All children and adults are potential victims of the hazard presented by small parts, but children under 3 are particularly susceptible.

Children under 3 indiscriminately put things into their mouths and do not have the knowledge of cause and effect relating to protecting themselves from potential hazards as does an older child or adult (this is discussed fully in an April 17, 1978 staff report entitled "Normal Developmental Behavior in Young Children and Their Relationship to Potential Hazards" which is available from the Office of the Secretary). In addition, very small parts on toys that are intended for use by children under 3 usually serve a limited or no functional purpose.

Finally, it is easier to control the products to which children under 3 have access than to control the products to which older children have access. Children under 3 could, of course, encounter and choke on a coin, hairpin, or other adult item or on toys intended for use by their older brothers and sisters. However, the Commission believes that a regulation directed at toys intended to be used by children under 3 will have a positive impact in reducing injuries.

In determining which toys and other articles are intended for children under 3, the Commission will consider such factors as the manufacturer's stated intent (such as on a label) if it is a reasonable one; the advertising, promotion, and marketing of the toy; and whether the toy is commonly recognized as being intended for children under 3. None of these factors will necessarily be determinative. It should be noted that products which are inteneded both for children under 3 and for older children will fall within the scope of the regulation.

The proposed regulation covers all toys and other articles intended for use by children under 3 that are included in a long list of product categories (§ 1501.2). The list has been developed from a number of sources including the Toy Manufacturers of American classification system, published commercial promotional materials, and a retail store survey conducted by the Commission staff. While this list is not intended to be exhaustive, the Commission believes that the vast majority of toys covered by the regulation will fall within at least one of these categories. Because the scope of the proposed regulation is very broad, the list of product categories should be helpful to industry representatives and to consumers who want to focus on the products that the Commission intends to regulate. The Commission emphasizes that, even if a toy does not fall within a category on the list, it will be covered by the regulation as long as it is intended for use by children under 3 and is not specifically excluded from coverage.

The Commission has proposed exemptions for a number of products (§ 1501.3) whose utility or educational value far outweigh any possible hazard from small parts. In some cases, compliance with the small parts regulation would mean drastic redesign of useful everyday products at substantial cost to the consumer and very little additional safety. In other cases, compliance would be physically impossible because the product could not perform its function if redesigned.

As examples, books made of paper and writing materials are educational

The 1973 labeling proposal, although never issued by the FDA or the Commission, prompted many man-

standardized retail store survey suggest that the vast majority of toys and children's articles already meet the re-

reasonable risk of injury to children under 3 years of age. This preliminary finding of unreasonable risk is based on the belief that the relatively small

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As examples, books made of paper and writing materials are educational and are associated with no significant injuries based on their size. Children's clothing and accessories, such as shoe lace holders and buttons, are functional and present a similarly insignificant injury pattern. Modeling clay and fingerpaints cannot practicably be manufactured so that small bits of these substances will never break off. (Under the FHSA, any such products which are harmful to children because of their toxicity, as an example, are automatically banned.)

The Commission also proposes to exempt marbels and balloons from the small parts regulation. Although these products have been involved in some choking and ingestion incidents (especially when infants swallow and choke on deflated balloons), such incidents are relatively rare when compared with the billions of such products that have been in use. If the regulation covered marbles and balloons, they would be effectively banned. In addition, the Commission believes that marbles, when used in the game of "marbles," are generally intended for children over 3. However, the proposed regulation does cover any marbels which are part of a toy that is intended for children under 3.

Finally, the Commission proposes to exempt pacifiers and rattles from the small parts regulation. The Commission's existing regulations for these products both contain requirements which specifically address the risk of injury presented by small parts (see 16 CFR Part 1510 for the rattle regulation and 16 CFR Part 1511 for the pacifier regulation).

A comment to the January 1973 proposal requested an exemption for vending machine products. This was based on the claim that these products are not intended for children under 3 because such children cannot activate the machines. The Commission believes that some vending machine products are nevertheless intended for children under 3. In fact, it is likely that parents buy these inexensive products for their children, for example to keep them occupied while the parent is shopping. The proposed regulation does not exempt vending machine products as a broad category. They will therefore be evaluated individually as to whether they are intended for use by children under 3.

(c) *Regulatory criteria.* The proposed small parts regulation centers on a measuring device—a truncated, hollow cylinder—which separates toys and their components into two classes, according to size and shape (§ 1501.4(a)). If a toy or component fits entirely within the cylinder, the Commission believes that it is too small for children under 3 and must therefore be banned.

The dimensions of the cylinder, as proposed below, are identical to those proposed by FDA in January 1973. Data obtained by the Commission and analyses performed since 1973 confirm that a cylinder with these dimensions is the most meaningful, effective, and practical way to identify toys and components that present unreasonable risks of choking, aspiration, and ingestion to children under 3 years of age.

The Commission staff first evaluated the relevant medical data found in the existing literature. These data on the actual dimensions of air and food passages in humans are sparse and alone are probably insufficient to support the determination that objects of a particular size are hazardous. However, the data proved useful in establishing certain approximate size boundaries.

The staff then evaluated the sizes and shapes of the objects known to be involved in choking, aspiration, or ingestion incidents in children under 3. Many of these objects were identified in the Bendix contract report. The staff found that the cylinder would "screen out" the vast majority of such objects.

The staff also evaluated a test device with dimensions used by the Commission (43 FR 22002, May 23, 1978) and the Canadian government to define hazardous rattles. This device also screened out many objects which were involved in actual choking, aspiration, or ingestion incidents. However, the rattle test device additionally screened out a large number of products not so involved and not otherwise believed by the staff to be hazardous. Based on this analysis, the Commission decided to incorporate the test cylinder into its proposed regulation.

A June 5, 1978, Commission staff report, entitled "Human Factors Analysis of Ingestion, Aspiration, and Choking Injuries," discusses in some detail the link between the cylinder and the risks of injury it addresses. In particular, the report (which is available from the Office of the Secretary) traces the evolution of the cylinder and its dimensions.

Briefly, the design of the cylinder is derived from two screening devices originally proposed by the Toy Manufacturers of America (TMA). These devices consisted of a hollow sphere with an inside diameter of 1¼ inches and a long narrow cylinder having an inside diameter of ⅛-inch and a length of 2¼ inches. The intent of the sphere and the cylinder was to eliminate objects which had been involved in ingestions, aspirations, and airway obstructions. However, use of the two devices incorrectly implied that two separate and distinct problems existed. Therefore, FDA combined the two TMA devices into a single measuring tool, a truncated cylinder, which incorporated the dimensions of each. The truncated cylinder screens long slender objects such as pins, as well as bulkier objects such as small balls. It also screens small objects with unusual shapes, which may present the identified risks of injury.

The diameter of the cylinder is based upon a set of recommendations of the Accident Prevention Committee of the American Academy of Pediatrics. As stated in this committee's correspondence, the 1¼-inch dimension is intended to prevent acute tracheal occlusion. The depth of the cylinder is based upon data and medical literature available to the Commission which indicate that the vast majority of objects involved in injuries to children under 3 years of age were less than 2¼ inches in length.

The regulation proposed below also references certain "use and abuse" test procedures which the Commission published in final form in the FEDERAL REGISTER on January 7, 1975 (40 FR 1484–85) and which appear at 16 CFR 1500.51 and 1500.52 (excluding the bite test procedure—section (c) of both provisions). These procedures are intended to simulate the normal use and reasonably foreseeable damage or abuse to which a toy for children under three would be subjected. As mentioned in the Background section above, this concept is contained in the statutory definition of a mechanical hazard.

Under the proposed regulation, toys (and detached components) are tested as potential small parts by being placed in the cylinder. They must be large enough so that they do not fit entirely within the cylinder. If a toy does not fit entirely within the cylinder, it is then subjected to the referenced "use and abuse" procedures. The toy is again tested by being placed in the cylinder. In addition, any components or pieces that have become detached from the toy during the "use and abuse" procedures are separately tested in the cylinder. If any toy or any component or piece of a toy fails the test criteria (by being small enough to fit entirely within the cylinder), the toy is a banned hazardous substance.

(d) *Labeling.* The regulation proposed below does not contain any labeling requirements. The Commission has considered and rejected the "negative" labeling approach that FDA used in its 1973 proposal. According to that proposed regulation, any toy not intended for children under 3, which contained small parts, had to be labeled with the warning "Caution: Not Recommended for Children Under 3 Years Old."

The 1973 labeling proposal, although never issued by the FDA or the Commission, prompted many manufacturers and importers to apply this label to many of their products. Such labeling was apparently designed to exempt products automatically from coverage of any final small parts regulation that might be applied to toys intended for children under 3. The Commission believes that the label has been used indiscriminately and without regard for the intentions of the original proposal. For example, certain items, such as squeeze toys and stuffed animals which are clearly intended for infants, have been distributed in commerce bearing the label.

Needless to say, the Commission strongly discourages improper use of age labeling on children's products. The Commission will disregard any label on a toy clearly intended for children under 3 that states otherwise. However, the Commission encourages the use of proper age labeling, and this will be one factor it will consider before determining whether a particular toy is intended for use by children under 3 years of age (as discussed in the Scope section above).

The Commission believes that a negative labeling requirement is not needed because the proposal below clearly states the intended scope of the regulation.

(e) *Effective date.* The Commission believes that a 1-year lead time is consistent with the design-production cycle followed by most companies whose products would be subject to the regulation. This cycle is fully discussed in the May 1978 staff report entitled "Economic Assessment of the Proposed Small Parts Regulation," which is available from the Office of the Secretary.

However, the Commission would like to make the regulation effective sooner than 1 year after it is published in final form in the FEDERAL REGISTER. The test cylinder has been available since 1973 to toy companies, most of which already produce complying products (see economic discussion in section (f), below).

The Commission is proposing that the small parts regulation become effective 8 months after it is published in final form. The affected industry and consumers are especially invited to submit comments on this proposed effective date.

The regulation would apply to all covered toys which are introduced into interstate commerce after the effective date, and it includes an explanation of when this occurs (see § 1500.18(a)(9)).

(f) *Economic considerations.* The Commission expects the industrywide economic impact of the small parts regulation to be small. The results of a standardized retail store survey suggest that the vast majority of toys and children's articles already meet the requirements of the proposed regulation.

In part because of the existing voluntary standard (discussed in the Background section above) and the specific exemptions of certain toys under section 1501.3, only a small fraction of toys would be affected by the small parts regulation proposed below.

Of those firms whose products do not currently meet the requirements, the majority are expected to need only minor changes to bring their products into compliance. Frequently, the necessary adjustments will simply involve removal from the product of a small part which does not change the basic nature or function of the product. Alternatively, the manufacturer could redesign the product so that the small part is larger and thus complies with the regulation.

In some cases the regulation will pose problems for manufacturers of products which contain small parts that a child can easily detach from a toy. The Commission believes that existing technology can solve such problems because nearly identical products exist which do not have such easily-detached small parts. More glue, rivets, or other such solutions may be sufficient to bring a product into compliance, with only minor cost increases.

The Commission does not expect small businesses to face undue hardship in meeting the requirements of the regulation, as proposed. The economic considerations concerning the small parts proposal are fully discussed in the May 1978 staff report cited in the discussion of the effective date, above.

(g) *Environmental considerations.* An assessment of the potential environmental impact has been made of the small parts regulation proposed below. The Commission concludes that there are no potentially significant environmental impacts associated with it. Therefore, there is no need for an environmental impact statement. A copy of the environmental assessment is available from the Office of the Secretary.

CONCLUSION

The Commission finds preliminarily that certain toys and other articles intended for use by children under 3 years of age present an unreasonable risk of injury to children in this age group. Available injury data show that chokings, aspirations, and ingestions are caused by the small size of these products and by their components. The Commission believes that all products which are covered by the proposed regulation, and which fail to meet the test criteria, present an unreasonable risk of injury to children under 3 years of age. This preliminary finding of unreasonable risk is based on the belief that the relatively small economic impact that would result from regulation of these products is far outweighed by the reduction of the risk that will also result from the regulation.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), 2(q)(1)(A), 2(s), 3(e)(1), and 10, 74 Stat. 372, 374, 375 as amended 80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261, 1262, 1269)), in accordance with the provisions of 5 U.S.C. 553, and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92–573, sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)), the Commission proposes to amend title 16, chapter II, subchapter C by adding a new paragraph (a)(9) to § 1500.18 and by adding a new part 1501, as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

§ 1500.18 Banned toys and other banned articles intended for use by children.

(a) *Toys and other children's articles presenting mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has determined that the following types of toys or other articles intended for use by children present a mechanical hazard within the meaning of section 2(s) of the act because in normal use, or when subjected to reasonably foreseeable damage or abuse, the design or manufacture presents an unreasonable risk of personal injury or illness:

. . . . . .

(9) Any toy or other article intended for use by children under 3 years of age which presents a choking, aspiration, or ingestion hazard because of small parts as determined by part 1501 of this chapter and which is introduced into interstate commerce after the date that is 6 months following publication of the final regulation in the FEDERAL REGISTER. For purposes of this regulation, introduction into interstate commerce is defined as follows: A toy or children's article manufactured outside the United States is introduced into interstate commerce when it is first brought within a U.S. port of entry. A toy or children's article manufactured in the United States is introduced into interstate commerce (1) at the time of its first interstate sale, or (2) at the time of its first intrastate sale if one or more of its components and/or raw materials were received interstate, whichever occurs

earlier. Part 1501 defines the term "toy or other article intended for use by children under 3," as used in this use by children under 3 such as cribs, playpens, baby bouncers and walkers, strollers and carriages; dolls which are

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PART III

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earlier. Part 1501 defines the term "toy or other article intended for use by children under 3," as used in this regulation, and exempts certain products from banning under this regulation.

PART 1501—METHOD FOR IDENTIFYING TOYS AND OTHER ARTICLES INTENDED FOR USE BY CHILDREN UNDER 3 YEARS OF AGE WHICH PRESENT CHOKING, ASPIRATION, OR INGESTION HAZARDS BECAUSE OF SMALL PARTS

Sec.
1501.1 Purpose.
1501.2 Scope.
1501.3 Exemptions.
1501.4 Size requirements and test procedure.

AUTHORITY: Sec. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), and 10; 74 Stat. 372, 374, 375 as amended 80 Stat. 1304-05, 83 Stat. 187-89; (15 U.S.C. 1261, 1262, 1269).

§ 1501.1 Purpose.

Section 1500.18(a)(9) of this chapter classifies as a banned hazardous substance, any toy or other article intended for use by children under 3 years of age which presents a choking, aspiration, or ingestion hazard because of small parts. This part 1501 describes certain such articles which are subject to § 1500.18(a)(9); lists certain such articles which are specifically exempted; and provides a test method for determining whether such an article is hazardous to children under 3 because it, or one of its components which can be detached or broken off during normal or reasonably foreseeable use, is too small.

§ 1501.2 Scope.

(a) This regulation (1500.18(a)(9) and the criteria described in § 1501.4 below) applies to all toys and other articles intended for use by children under 3 years (36 months) of age that are introduced into interstate commerce after the effective date. Such articles include, but are not limited to: Squeeze toys; teethers; crib exercisers; crib gyms; crib mobiles; other toys or articles intended to be affixed to a crib, stroller, playpen, or baby carriage; pull and push toys; pounding toys; blocks and stacking sets; bathtub, wading pool and sand toys; rocking, spring, and stick horses and other figures; chime and musical balls and carousels; jacks-in-the-box; stuffed, plush, and flocked animals and other figures; preschool toys, games and puzzles intended for use by children under 3; riding toys intended for use by children under 3; infant and juvenile furniture articles which are intended for use by children under 3 such as cribs, playpens, baby bouncers and walkers, strollers and carriages; dolls which are intended for use by children under 3 such as baby dolls, rag dolls, and bean bag dolls; toy cars, trucks, and other vehicles intended for use by children under 3. In addition, such articles include any other toys or articles which are intended, marketed or labeled to be entrusted to or used by children under 3 years of age.

(b) This regulation does not apply to toys or articles which are solely intended for use by children 3 years of age or older. In addition, it does not apply to all articles to which children under 3 years of age might have access simply because of presence in a household. Certain articles which are specifically exempted from this regulation are listed in § 1501.3 below.

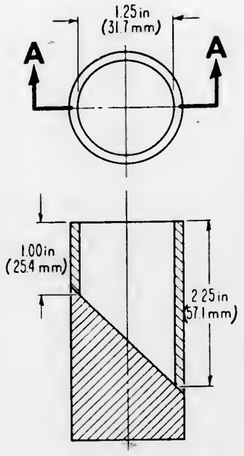
§ 1501.3 Exemptions.

Although often used by children under 3 years of age, the following articles are exempt from this regulation (§§ 1500.18(a)(9) and 1501.4 below):

(a) Balloons;
(b) Marbles (except as components of an article intended for use by children under 3 years of age);
(c) Books and other articles made of paper;
(d) Writing materials such as crayons, chalk, pencils, and pens;
(e) Children's clothing and accessories, such as shoe lace holders and buttons;
(f) Grooming, feeding, and hygiene products such as diaper pins and clips, barrettes, toothbrushes, drinking glasses, dishes, and eating utensils;
(g) Records;
(h) Modeling clay and similar products;
(i) Fingerpaints, watercolors and other paint sets;
(j) Rattles (as defined at 16 CFR 1510.2); and
(k) Pacifiers (as defined at 16 CFR 1511.2(a)).

§ 1501.4 Size requirements and test procedure.

(a) No toy or other children's article subject to § 1500.18(a)(9) and to this part 1501 shall be small enough to fit entirely within a cylinder with the dimensions shown in figure 1, when tested in accordance with the procedure in paragraph (b) of this section. In testing to ensure compliance with this regulation, the dimensions of the Commission's test cylinder will be no greater than those shown in figure 1. (In addition, for compliance purposes, the English dimensions shall be used. The metric approximations are included only for convenience.)



Section A-A

FIG I—SMALL PARTS CYLINDER

(b)(1) Place the article, without compressing it, into the cylinder. If the article fits entirely within the cylinder, in any orientation, it fails to comply with the test procedure. (Test any detached components of the article the same way.)

(2) If the article does not fit entirely within the cylinder, subject it to the appropriate "use and abuse" tests of 16 CFR 1500.51 and 1500.52 (excluding the bite tests of §§ 1500.51(c) and 1500.52(c)). Any components or pieces (excluding paper, fabric, yarn, or fuzz) which have become detached from the article as a result of the use and abuse testing shall be placed into the cylinder, one at a time. If any such components or pieces fit entirely within the cylinder, in any orientation and without being compressed, the article fails to comply with the test procedure.

Interested people are invited to submit, on or before December 15, 1978, written comments on this proposal. The Commission will consider late comments to the extent practicable. Comments and any accompanying data or materials should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments may be seen in the Office of the Secretary, 1111 18th Street NW., Washington, D.C. during working hours Monday through Friday.

Dated: October 11, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29136 Filed 10-13-78; 8:45 am]

Federal register

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PART III

ENVIRONMENTAL PROTECTION AGENCY

STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority for the State of Rhode Island

[6560-01-M]

ENVIRONMENTAL PROTECTION

ries set forth in paragraphs (A) and (B) of the following official letter to Mr. Edward Wood, Director of the De-

quired for any standards not included in the State's request of May 20, 1977, and for any delegated NSPS and NESHAPS which are

emptions or exceptions will be allowed except as specifically permitted by EPA regulations. EPA has primary responsibility for

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless

istration of the NSPS and NESHAPS programs. On June 12, 1978, Region I amended the March 31, 1978, notifica-

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 987-7]

STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to State of Rhode Island

On December 23, 1971 (36 FR 24876), March 8, 1974 (38 FR 9308), August 6, 1975 (40 FR 33152), September 23, 1975 (40 FR 43850), January 15, 1976 (41 FR 2232 and 2332), January 26, 1976 (41 FR 3826), May 4, 1976 (41 FR 18498), February 23, 1978 (43 FR 7568), and March 7, 1978 (43 FR 9452), under section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing Standards of Performance for New Stationary Sources (NSPS). On April 6, 1973 (39 FR 8820) and October 21, 1976 (41 FR 46560), under section 112 of the Clean Air Act, as amended, the Administrator promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPS) for four pollutants. Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On May 20, 1977, Dr. Joseph E. Cannon, Director of the Rhode Island Department of Health (the Department), submitted a request for delegation of authority for the NSPS and NESHAPS programs. This request was for the authority to administer, but not enforce, the provisions of section 111 and 112 of the Clean Air Act Amendments of 1970. The request letter cited the appropriate Rhode Island Statutes and the Department regulations which demonstrated the adequacy of the State's procedures. Also included in the State's request was a statement that the Counsel to the Department of Health, who cosigned the request letter, had reviewed the Rhode Island Division of Air Pollution Control's (DAPC) legal authority and agreed that the DAPC had the authority necessary to carry out any obligations created by the requested delegations. Subsequent to this, the State of Rhode Island transferred the responsibilities of the NSPS and NESHAPS programs from the Department of Health to the Department of Environmental Management (DEM). After a review of Rhode Island's request, the Regional Administrator has determined that for the source categories set forth in paragraphs (A) and (B) of the following official letter to Mr. Edward Wood, Director of the Department of Environmental Management, delegation is appropriate, subject to the conditions set forth in items (1) through (11) of that letter:

Mr. EDWARD WOOD,
Director,
Department of Environmental Management, 83 Park Street, Providence, R.I. 02908.

DEAR MR. WOOD: This is in response to Dr. Cannon's May 20, 1977 letter requesting delegation of authority for the administration of the New Source Performance Standards (NSPS) and the administration of the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Rhode Island Department of Environmental Management (Department), Division of Air Resources (DAR). The enforcement portion of this program, including advising sources of the results of evaluations, issuance of any necessary approval/disapproval actions and initiating any necessary litigation, will be retained by the Environmental Protection Agency (EPA), Region I.

We hereby grant delegation of the administrative and technical portion of the NSPS and NESHAPS programs to the Rhode Island Department of Environmental Management, Division of Air Resources as follows:

A. Authority for all sources located in the State of Rhode Island subject to the following Standards of Performance for New Stationary Sources as promulgated in 40 CFR Part 60 as of May 20, 1977: Fossil fuel-fired steam generators; incinerators; Portland cement plants; nitric acid plants; sulfuric acid plants; asphalt concrete plants; petroleum refineries; storage vessels for petroleum liquids; secondary lead smelters, secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper, zinc, and lead smelters; primary aluminum reduction plants; wet process phosphoric acid superphosphate plants; granular triple superphosphate storage facilities; coal preparation plants; ferroalloy production facilities; and electric arc furnaces.

B. Authority for all sources located in the State of Rhode Island subject to the following National Emission Standards for Hazardous Air Pollutants as promulgated in 40 CFR Part 61 as of May 20, 1977: asbestos (§§ 61.20, 61.21, 61.22, paragraph (c) only, §§ 61.23 and 61.24); beryllium; mercury; and vinyl chloride.

This delegation is based upon the following conditions:

1. The DAR will continue to submit semiannual reports to EPA as required.

2. The authority to enforce the NSPS and NESHAPS programs in the State of Rhode Island will continue to be the responsibility of the EPS. If in the course of the implementation of any delegated NSPS or NESHAPS, the DAR becomes aware of a violation of any applicable federal regulations, the DAR will immediately notify EPA in writing, in order that EPA may exercise its retained enforcement authority.

3. Acceptance of this delegation of enumerated presently promulgated NSPS and NESHAPS does not commit the Rhode Island Department of Environmental Management, DAR to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of May 20, 1977, and for any delegated NSPS and NESHAPS which are revised subsequent to May 20, 1977. In addition, a new request will be required should the Department desire delegation of the enforcement of any NSPS and NESHAPS provision.

4. The DAR has the authority to approve or disapprove the construction of sources. This authority will guarantee that the DAR will be informed of the construction or modification of all sources subject to the delegated standards. EPA will retain its authority for approving or disapproving the construction or modification of sources subject to NESHAPS. The DAR will be responsible for receiving and evaluating requests for such approval.

5. The DAR will at no time grant a variance or waiver for compliance with applicable NSPS and NESHAPS (40 CFR Parts 60 and 61). Should the DAR grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such relief by the DAR shall also constitute grounds for revocation of the delegation by EPA.

6. The delegation to the State of Rhode Island does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the State. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

7. The DAR and EPA will develop a system of communication sufficient to guarantee that each office is fully informed regarding the current compliance status of subject sources in the State of Rhode Island and regarding the interpretation of applicable regulations. EPA will make determinations regarding unique questions of applicability of delegated standards when requested by the DAR or at other times as determined by EPA. The DAR will provide the following information, as a minimum, to EPA: The name and address of each facility subject to NSPS and/or NESHAPS; the operational status of each facility; the compliance status of each facility with accompanying explanations of noncompliance where applicable; surveillance actions undertaken for such facility; and the results of all reports relating to emission data.

8. The DAR will release emission data obtained from owners and operators of stationary sources for public inspection as requested. If at any time a conflict arises between this agreement and any DAR regulations or State laws regarding this matter, the DAR will immediately notify EPA in order that EPA may exercise its concurrent authority. In addition, if at any time a member of the public requests data which the DAR feels cannot be released, the DAR will refer the person requesting such information to EPA.

9. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Parts 60 and 61), the Federal regulation must be applied if it is more stringent than that of the State.

10. The DAR will utilize the methods specified in 40 CFR Parts 60 and 61 in discussions with sources concerning the performance tests that are required by the NSPS and NESHAPS regulations. No exemptions or exceptions will be allowed except as specifically permitted by EPA regulations. EPA has primary responsibility for all activities directly related to source testing; i.e., pretest conference, observation of sampling, and evaluation of test results. The DAR will participate in these activities as resources permit. If the DAR desires legal responsibility for source testing, it must submit a request for such delegation of authority by EPA. If at any time a conflict arises between this agreement and any other DAR regulation or State law, the DAR will immediately notify EPA so that EPA may exercise its concurrent authority.

11. If the Regional Administrator determines that a State procedure for administration of NSPS and NESHAPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Department.

A notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS from sources located in the State of Rhode Island should be submitted to the Rhode Island Department of Environmental Management, Division of Air Resources.

Since this delegation is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within ten (10) days of the receipt of this letter, the State will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

Therefore, under the authority delegated to him by the Administrator, the Regional Administrator notified Mr. Wood on March 31, 1978, that authority to implement specified Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants was delegated to the State of Rhode Island Department of Environmental Management, Division of Air Resources.

Subsequent to the March 31, 1978 notification, Mr. Wood formally requested that the Department of Environmental Management be named as the agency responsible for the administration of the NSPS and NESHAPS programs. On June 12, 1978, Region I amended the March 31, 1978, notification to reflect this change.

Copies of the request for delegation of authority are available for public inspection at the U.S. Environmental Protection Agency, Region I, Room 2113, John F. Kennedy Federal Building, Boston, Mass. 02203.

Effective immediately, all reports required under the National Emission Standards for Hazardous Air Pollutants and the Standards of Performance for New Stationary Sources listed in the above letter should be submitted to EPA, Region I and should also be submitted to the Department at the following address: Rhode Island Department of Environmental Management, 83 Park Street, Providence, R.I. 02908.

(Secs. 111, 112, Clean Air Act, as amended, (42 U.S.C. 7411 and 7412.))

Dated: September 18, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

[FR Doc. 78-29104 Filed 10-13-78; 9:49 am]

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[6560-01-M]

Title 40—Protection of Environment

immediately in that it is an administrative change and not one of substantive content. No additional burdens

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

MONDAY, OCTOBER 16, 1978
PART IV

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[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY.

SUBCHAPTER C—AIR PROGRAMS

[FRL 987-8]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority for State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment.

SUMMARY: The delegation of authority to the State of Rhode Island for the standards of performance for new stationary sources (NSPS) was made on March 31, 1978. This amendment which adds the address of the Rhode Island Department of Environmenal Managment, reflects this delegation. A notice announcing this delegation is published today in the FEDERAL REGISTER.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

John Courcier, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-4448.

SUPPLEMENTARY INFORMATION: Under the delegation of authority for the standards of performance for new stationary sources (NSPS) to the State of Rhode Island on March 31, 1978, EPA is today amending 40 CFR 60.4, Address, to reflect this delegation. A notice announcing this delegation is published today elsewhere in this (43 part of the FEDERAL REGISTER. The amended § 60.4, which adds the address of the Rhode Island Department of Environmental Management to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on March 31, 1978, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 111 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: September 18, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

Part 60 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4 paragraph (b) is amended by adding subparagraph (OO) to read as follows:

§ 60.4 Address

. . . . . .

(b) • • •

(OO) State of Rhode Island, Department of Environmental Management, 83 Park Street, Providence, R.I. 02908

[FR Doc. 78-29105 Filed 10-13-78; 9:49 am]

[6560-01-M]

[FRL 988-1]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority for State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendment.

SUMMARY: The delegation of authority to the State of Rhode Island for national emissions standards for hazardous air pollutants (NESHAPS) was made on March 31, 1978. This amendment, which adds the address of the Rhode Island Department of Environmental Management, reflects this delegation. A notice announcing this delegation is published today in the FEDERAL REGISTER.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

John Courcier, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Mass. 02203, 617-223-4448.

SUPPLEMENTARY INFORMATION: Under the delegation of authority for the national emission standards for hazardous air pollutants (NESHAPS) to the State of Rhode Island on March 31, 1978, EPA is today amending 40 CFR 61.04, Address, to reflect this delegation. A notice announcing this delegation is published today elesewhere in this part of the FEDERAL REGISTER. The amended § 61.04, which adds the address of the Rhode Island Department of Environmental Management to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on March 31, 1978, and it serves no purpose to delay the technical change of this addition of the State address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7411.

Date: September 18, 1978.

WILLIAM R. ADAMS, Jr.
Regional Administrator,
Region I.

Part 61 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

In § 61.04 paragraph (b) is amended by adding subparagraph (OO) to read as follows:

§ 61.04 Address.

. . . . . .

(b) • • •

(OO) State of Rhode Island, Department of Environmental Management, 83 Park Street, Providence, R.I. 02908

[FR Doc. 78-29106 Filed 10-13-78; 9:49 am]

federal register

MONDAY, OCTOBER 16, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Public Health Service

■

GRANTS FOR PREDOCTORAL, GRADUATE, AND FACULTY DEVELOPMENT EDUCATIONAL PROGRAMS IN FAMILY MEDICINE

Interim-Final Regulations, Public Hearing, and Guidelines

[4110-83-M]

Funds are authorized in fiscal years 1978, 1979, and 1980 for grants and

The regulations as set forth below will be effective on October 16,1978.

Accordingly, a new subpart Q of 45

ty development programs who plan to teach in family medicine training programs.

family medicine, including courses, clerkships, or preceptorships in family medicine, which is part of a course of

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf

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[4110-83-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

Grants for Predoctoral, Graduate, and Faculty Development Educational Programs in Family Medicine

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations set forth requirements for grants to schools of medicine or osteopathy, hospitals, and other public or private nonprofit entities to plan, develop and operate or participate in predoctoral, graduate, or faculty training programs in family medicine.

DATES: These regulations are effectice immediately. As discussed below, comments on the regulations are invited. To be considered, comments must be received on or before December 15, 1978.

ADDRESSES: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Roberet F. Knouss, M.D., Director, Division of Medicine, Bureau of Health Manpower, room 4-44, at the above address, telephone 301-436-6418.

SUPPLEMENTARY INFORMATION: On October 12, 1976, the Health Professions Educational Assistance Act of 1976, Pub. L. 94-484, added a new section 786(a) to the Public Health Service Act (42 U.S.C. 296g-6(a)). The Assistant Secretary for Health, Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, is establishing a new subpart Q of 42 CFR Part 57 entitled "Grants for Predoctoral, Graduate, and Faculty Development Educational Programs in Family Medicine" in order to implement this new statutory authority.

Funds are authorized in fiscal years 1978, 1979, and 1980 for grants and contracts for schools of medicine or osteopathy or other public or private nonprofit entities to support approved professional training programs (including continuing education and residency or internship programs) in family medicine for medical and osteopathic students, interns, and residents.

Authority is also added for training physicians to teach family medicine and for traineeships and fellowships to these physicians. Osteopathic internship training is specifically made eligible for assistance.

Timely implementation is essential if eligible applicants are to have adequate time to comply with the requirements of this subpart for grants made prior to September 30, 1978. Therefore, the Secretary has determined in accordance with 5 U.S.C. 553 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than 60 days after publication of these regulations in the FEDERAL REGISTER will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

Furthermore, the Department is publishing guidelines related to the project requirements set forth in § 57.1605 of the Interim-Final regulations for public comment. These guidelines relate to family medicine education for medical students (including preceptorships and student assistantships), for interns and residents (including allopathic family practice residencies, osteopathic internships and osteopathic general practice residencies), and for physicians who plan to teach in family medicine (faculty development). The guidelines provide public guidance as to the minimum standards and criteria that the Department considers desirable, but are neither required nor sufficient, by themselves, for project approval and conduct. They are intended to provide guidance for improving the resources available for family medicine education and for expanding institutional commitment to family medicine. The guidelines are published separately elsewhere in this part.

The regulations as set forth below will be effective on October 16,1978.

Accordingly, a new subpart Q of 45 CFR Part 57 is adopted as set forth below.

Dated: September 14, 1978.

JULIUS B. RICHMOND,
Assistance Secretary for Health.

Approved: October 5, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Educational Programs in Family Medicine

Sec.

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AUTHORITY: Sec. 215 of the Public Health Service Act, 58 Stat. 690 as amended by 63 Stat. 35 (42 U.S.C. 216); Sec. 786(a) of the Public Health Service Act, 90 Stat. 2316 (42 U.S.C. 295g-6(a)).

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Educational Programs in Family Medicine

§ 57.1601 To what projects do these regulations apply?

The regulations of this subpart apply to the award of grants under section 786(a) of the Public Health Service Act (42 U.S.C. 295g-6(a)) to schools of medicine or osteopathy, hospitals, and other public or private nonprofit entities to meet the cost of projects to: (a) Plan, develop, and operate, or participate in predoctoral, graduate, or faculty development educational programs in family medicine; and (b) provide financial assistance to trainees participating in predoctoral or graduate educational programs who are in need of financial assistance and who plan to work in the practice of family medicine or to trainees in faculty development programs who plan to teach in family medicine training programs.

§ 57.1602 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Budget period" means the interval of time into which an approved activity is divided for budgetary purposes, as specified in the grant award document.

"Clerkship" means supervised clinical training in a specific field of medicine for predoctoral medical or osteopathic students.

"Faculty development program" means a systematic training program to increase faculty competence in teaching skills and in other areas related to academic responsibilities.

"Family medicine" includes "osteopathic general practice" and means the field of medicine in which the physician:

(1) Serves as a physician of first contact with families and with patients of all ages and provides a means of entry into the health care system;

(2) Evaluates the patient's total health needs, provides personal medical care within one or more fields of medicine, and refers the patient, when indicated, to appropriate sources of care while preserving the continuity of care;

(3) Assumes responsibility with the patient for comprehensive and continuous health care and acts as a leader or coordinator of others providing health services; and

(4) Considers the patient's total health care within the context of her or his environment, including the community and the family or comparable social units.

"Hospital" means a public or other nonprofit hospital which is accredited by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association.

"Nonprofit" as applied to any school or entity means one which is a corporation of association or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

"Osteopathic internship program" means an internship which emphasizes family medicine and is approved or provisionally approved by the American Osteopathic Association.

"Preceptorship" means an educational experience in which the trainee works individually with a designated physician, the preceptor, who teaches and personally supervises clinical activity.

"Predoctoral training program" means an educational program in family medicine, including courses, clerkships, or preceptorships in family medicine, which is part of a course of study leading to the degree of doctor of medicine or osteopathy, and student assistantships in family medicine.

"Project period" means the total time for which support for a project has been approved, as specified in the grant award document including any extensions.

"Residency training program" means a residency program in family practice which is fully or provisionally accredited by the Liaison Committee on Graduate Medical Education, or a postdoctoral program in osteopathic general practice which emphasizes family medicine and is approved or provisionally approved by the American Osteopathic Association.

"School of medicine or osteopathy" means a public or private nonprofit school which provides training leading respectively to a degree of doctor of medicine or to a degree of doctor of osteopathy and which is accredited as provided in section 772(b) of the Act (42 U.S.C. 295f-5).

"Secretary" means the Secretary of Health, Education, and Welfare, and any other officer or employer of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State" includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Student assistantship" means a research program in family medicine for predoctoral medical or osteopathic students.

"Trainee" means a medical or osteopathic student, an intern, resident, or physician participating in a training program supported by a grant under this subpart.

§ 57.1603 What entities are eligible to apply for a grant?

(a) In the case of predoctoral training programs, an applicant must be a school of medicine or osteopathy located in a State.

(b) In the case of graduate and faculty development training programs, an applicant must be located in a State and be a school of medicine or osteopathy, a hospital, or a public or private nonprofit entity which has the provision of health or educational programs as one of its major functions.

§ 57.1604 How must an entity apply for a grant?

(a) Each applicant desiring a grant under this subpart must submit an application in the form and at the time as the Secretary may require.[1]

(b) The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award including the regulations of this subpart.

(c) In addition to other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A full and adequate description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart; and

(2) A budget and a justification for the funds requested, including evidence that grant funds will not be used to supplant other available funds.

If the applicant requests funds for stipend support of interns or residents, the applicant must provide evidence showing that income available from other sources, including income derived from services of the interns or residents in the program, will be insufficient to pay their salaries. If an applicant requests funds for stipend support of trainees in faculty development programs, the applicant must provide evidence that income available from other sources will be insufficient to pay the trainees' salaries comparable to those of physician faculty with similar years of postdoctoral experience.

§ 57.1605 What requirements must a project meet?

(a) *General requirements.* A project supported under this subpart must be conducted in accordance with the following requirements:

(1) Each project must have a project director who works full time at the grantee institution, has relevant training and experience and has been approved by the Secretary to direct the project being supported under this subpart.

(2) Each project must have an appropriate administrative and organizational plan and appropriate faculty, staff, and facility resources for the achievement of stated objectives.

(3) Each project must systematically evaluate the educational program, including the performance of competence of trainees and faculty including preceptors, the administration of the program, and the degree to which program and educational objectives are met.

(4) Each project must use ambulatory care settings in which family medicine is practiced and in which an adequate portion of the clinical training is conducted.

[1]Applications, instructions, and program guidelines are available from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, 4th Floor, 3700 East-West Highway, Hyattsville, Md. 20782.

(5) Each project, other than a faculty development project, must have a

(i) The assistantship must not be a requirement for a degree nor be used to satisfy requirements for elective

educational activities and, in particular, have family medicine ambulatory care space sufficient to provide an ade-

merit of the proposed project based upon the factors in paragraph (a) of this section, and (2) the extent to

limited to that portion of the annual amount normally paid to other residents by the applicant which the Sec-

ly assisted programs on the basis of handicap).

(b) The grantee may not discrimi-

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(5) Each project, other than a faculty development project, must have a family medicine curriculum which:

(i) Is appropriate for the academic level of the trainees and the specific length and nature of the educational program;

(ii) Supplements any practical (including clinical) experiences with related educational activities;

(iii) Emphasizes subjects pertinent to:

(A) Ambulatory care;

(B) Psychosocial skills and topics; and

(C) Related nonclinical areas relevant to the practitioner of family medicine.

(b) *Additional requirements for predoctoral training programs.* In addition to the requirements of paragraph (a) of this section, projects for predoctoral training programs must also meet the following additional requirements:

(1) The training program must be sponsored and supervised by an appropriate administrative unit in family medicine, the faculty of which participates in the preparation and presentation of the preclinical curriculum and required courses and activities, for which faculty may be interdisciplinary, such as physical diagnosis, and clinical pathological conferences, and which coordinates the predoctoral offering of clerkships and other clinical experiences oriented to family medicine.

(2) Each training program must be part of an integrated institutional strategy to provide education and training in family medicine designed to encourage an appropriate percentage of its graduates, annually, to seek graduate (or predoctoral) training in family medicine and eventually to enter a career in family medicine.

(3) In the case of projects which include preceptorships in family medicine:

(i) The project must provide medical or osteopathic students with ambulatory care training in a community setting.

(ii) Preceptors must have practices which are consistent with the principles of family medicine and must be selected by the administrative unit in family medicine.

(iii) Stipend support from grant funds may only be given to trainees who incur extraordinary expenses resulting from participation in the preceptorship and who engage in the preceptorship full time for at least 4 consecutive weeks. This support may only be given to trainees who have indicated an interest in working in the field of family medicine.

(4) In the case of projects for student assistantships:

(i) The assistantship must not be a requirement for a degree nor be used to satisfy requirements for elective credit.

(ii) A family medicine faculty member of the administrative unit, identified under paragraph (b)(1) of this section, must supervise each student assistant.

(iii) The grantee must give preference in admission to the training program to applicants considering a career in academic family medicine.

(iv) Trainees must engage in student assistantship activities for at least 8 full-time consecutive weeks to be eligible for stipend support. This support may only be given to trainees who have indicated an interest in working in the field of family medicine.

(c) *Additional requirements for graduate training projects* (except faculty development). In addition to the requirements of paragraph (a) of this section, projects for approved residency training programs and approved osteopathic internship programs must meet the following additional requirements:

(1) Each program must have a full-time supervisor of training with appropriate experience and training who is responsible for coordination and supervision of training in the program.

(2) Each program must use an appropriate resident or intern recruitment and selection process, which assures that residents and interns in the program have applied specifically for training in the approved graduate training program.

(3) Each program must provide education for a sufficient number of interns or residents to provide an adequate collegial environment for the educational program and to enhance cost efficiency.

(4) Each program must have an adequate number of qualified faculty with training and experience in family medicine, and of behavioral sciences and liaison faculty in related specialties, for the number of interns or residents in the program. The faculty of the program must engage in periodic educational activities to improve their teaching skills.

(5) Each program must provide an appropriate amount of clinical training for each intern or resident in ambulatory care settings emphasizing family medicine in each year of the training program. This training will be for the purpose of assuring an adequate education in the principles of the practice of family medicine throughout the program. In addition, each program must provide clinical training in other ambulatory care settings relevant to family medicine, such as emergency units.

(6) Each program must have adequate facilities for the provision of the educational activities and, in particular, have family medicine ambulatory care space sufficient to provide an adequate clinical experience for the interns or residents.

(7) Each intern or resident must serve a sufficient number of families and individual patients with a variety of health care needs to provide the resident with a broad clinical experience.

(d) *Additional requirements for faculty development programs.* (1) Each project must have a curriculum which:

(i) Directly applies to family medicine training programs;

(ii) Emphasizes improvement of pedagogical skills for clinical and classroom settings; and

(iii) Uses didactic and nondidactic teaching strategies.

(2) Only physicians who teach or intend to teach in family medicine are eligible to participate as trainees in the program.

(3) Each program must have a sufficient number of trainees participating during the conduct of any educational activities to provide a collegial environment and to make the program cost efficient.

(4) Each program must be no longer than 1 calendar year for any trainee.

(5) To be eligible for financial assistance from grant funds, a trainee must be an individual not currently in a full-time faculty position and must:

(i) Intend to teach in a family medicine training program on a full-time basis; and

(ii) Be a full-time participant in the training program for at least 3 consecutive months.

§ 57.1606 What are the criteria for deciding which applications will be funded?

(a) The Secretary, after consultation with the National Advisory Council on Health Professions Education established by section 702 of the act, will approve or disapprove applications filed in accordance with § 57.1604, taking into consideration, among other pertinent factors:

(1) The potential effectiveness of the proposed project in carrying out training purposes of section 786(a) of the Act and this subpart;

(2) The degree to which the proposed project adequately provides for the project requirements set forth in § 57.1605;

(3) The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and

(4) The potential of the project to continue on a self-sustaining basis after the period of grant support.

(b) In determining the priority for funding applications approved under paragraph (a) of this section, the Secretary will consider (1) the relative merit of the proposed project based upon the factors in paragraph (a) of this section, and (2) the extent to which a proposed project contains any of the following elements:

(1) Substantial training experience in settings which exemplify interdependent utilization of physicians and physician assistants or nurse practitioners.

(2) Substantial portions of the training program are conducted in a health manpower shortage area(s) designated under section 332 of the Act, or in an area health education center funded, at least in part, under section 781 of the Act.

(3) For osteopathic postdoctoral education projects, coordination of training with an affiliated school of osteopathic medicine.

(4) For faculty development projects, emphasis on increasing the number of new faculty who will be teaching on a full-time basis in family medicine.

§ 57.1607 How will grant awards be made?

(a) *General.* (1) Within the limit of funds available for this purpose, the Secretary may award grants to those applicants whose projects will, in his or her judgment, best promote the purposes of section 786(a) of Act, as determined in accordance with § 57.1606.

(2) All grant awards must be in writing and must set forth the amount of funds granted and the period for which funds will be available for obligation by the grantee.

(3) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make additional supplemental, continuation, or other awards with respect to any approved project or any portion of an approved project. For continuation support, grantees must make separate application at this time and in the form which the Secretary may prescribe.

(4) The Secretary may make a grant award for an additional budget period for any previously approved project on the basis of an application and those progress and accounting records which may be required. If the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period, and the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section.

(b) *Determination of grant amount.* The Secretary will determine the amount of any award under this subpart on the basis of his or her estimate of the sum necessary for the direct and indirect costs of the project. In addition, in determining the amount of stipend support to be made available, the amount of any stipend must be limited to that portion of the annual amount normally paid to other residents by the applicant which the Secretary determines, on the basis of the documentation required in the application, cannot reasonably be paid from other available funds, including the incomes derived from the trainee's services.

§ 57.1608 How will grant payments be made?

The Secretary will, from time to time, make payments to a grantee of all or a portion of any grant award either in advance or by way of reimbursement.

§ 57.1609 Purposes for which grant funds may be spent.

(a) Any funds granted under this subpart, as well as other funds required as a condition of the grant to be used in the performance of the approved project, may be spent solely for carrying out the approved project in accordance with section 786(a) of the act, the regulations of this subpart, the terms and conditions of the grant award.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of the subsequent award will take into consideration the amount remaining in the grant account.

(c) Grants funds may not be used for sectarian instruction or for any other religious purpose.

§ 57.1610 What nondiscrimination requirements apply to grantees?

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs);

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulations, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the ground of race, color, or national origin);

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs); and

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.1611 How must grantees account for grant funds received?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available, evidence satisfactory to the Secretary of funds spent for costs meeting the requirements of this subpart.

(b) *Grant closeout.*—(1) *Date of final accounting.* The grantee must submit, with respect to each grant under this subpart, a full account, in accordance with this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraph (a) of this section and (ii) any other amounts due in accordance with 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by set off or other lawful action.

§ 57.1612 What additional regulations apply to grantees?

The relevant provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles apply to all grants awarded under this subpart.

§ 57.1613 What recordkeeping, audit, and inspection requirements apply to grantees?

Each school which receives a grant under this subpart must, in addition to the requirements of 45 CFR Part 74, meet the requirements of section 705 of the Act, concerning recordkeeping, audit, and inspection.

§ 57.1614 What additional conditions apply to grantees?

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his or her judgment these conditions are necessary to assure or protect the advancement of the approved activity, the interest of the public health, or the conservation of grant funds.

[FR Doc. 78-29139 Filed 10-13-78; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH,

SUPPLEMENTARY INFORMATION: Section 786(a) of the Public Health Service Act authorizes grants to

The hearings will be held on November 16 and 17, 1978, beginning at 9 a.m., at the McCormick Place, John

[4110-83-M]

DEPARTMENT OF HEALTH

standards and criteria that the Health Resources Administration considers desirable in meeting selected project

2. Organize personnel, including trainees, into functional units providing family medicine to patients, and

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[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

[42 CFR Part 57]

GRANTS FOR PREDOCTORAL, GRADUATE, AND FACULTY DEVELOPMENT EDUCATIONAL PROGRAMS IN FAMILY MEDICINE

Public Hearing

AGENCY: Health Resources Administration.

ACTION: Notice of public hearing.

SUMMARY: The Administrator of the Health Resources Administration, Department of Health, Education, and Welfare, announces a public hearing to be held in Chicago, Ill., on November 16 and 17, 1978, to receive information and views on the Interim-Final regulations and guidelines entitled "Grants for Predoctoral, Graduate and Faculty Development Educational Programs in Family Medicine," authorized under section 786(a) of the Public Health Service Act. The Secretary will consider the administrative record of these hearings in the preparation of final regulations or amendments to the guidelines.

DATES: Public hearing on November 16-17, 1978.

ADDRESS: McCormick Place, John Evers Theater, 23rd Street and Lake Shore Drive, Chicago, Ill. 60616. Notification of participation by calling: Program Coordination Branch, Bureau of Health Manpower, 301-436-7458 by 5 p.m. e.s.t., November 13, 1978.

FOR FURTHER INFORMATION CONTACT:

John Heyob, Acting Chief, Program Coordination Branch, Bureau of Health Manpower, Room 3-22, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7458.

SUPPLEMENTARY INFORMATION: Section 786(a) of the Public Health Service Act authorizes grants to schools of medicine or osteopathy, hospitals, and other public or nonprofit entities to meet the cost of projects to: (a) Plan, develop, and operate, or participate in, predoctoral, graduate, of faculty development educational programs in family medicine; and (b) provide financial assistance to trainees participating in predoctoral or graduate educational programs who are in need of financial assistance and who plan to work in the practice of family medicine or to trainees in faculty development programs who plan to each in family medicine. In this part of the FEDERAL REGISTER, the Secretary of Health, Education, and Welfare published Interim-Final regulations and guidelines implementing this authority. (42 CFR Part 57 Subpart Q).

In view of the importance of this program and the impact of the Interim-Final regulations, the Secretary has determined that, in addition to the 60-day period for written comments on the Interim-Final regulations and guidelines, an informal public hearing will be held in a central geographic area. This hearing is to provide an open forum for the presentation of information and views concerning all aspects of the regulations and guidelines by interested persons, including representatives of organizations.

In preparing a final regulation, or in considering amendments to the guidelines, the Secretary will consider the administrative record of these hearings along with all other written comments received during the comment period specified in the Interim-Final regulations and guidelines. Individuals or representatives of interested organizations are invited to participate in the public hearing in accord with the schedule and procedures set forth below.

The hearings will be held on November 16 and 17, 1978, beginning at 9 a.m., at the McCormick Place, John Evers Theater, 23rd Street and Lake Shore Drive, Chicago, Ill. 60616.

Individuals or representatives of organizations wishing to present their views orally on the Interim-Final regulations and/or the guidelines should register by 5 p.m. e.s.t., November 13, 1978, by calling the Program Coordinatin Branch, Bureau of Health Manpower, at 301-436-7458. If the schedule permits, speakers will be allowed to register at the door on November 16 and 17 beginning at 8 a.m. When registering, each person must state an approximate amount of time needed for his or her presentation.

Speakers will be schedule in order of registration. Only one presentation will be permitted for any one organization. In the event that insufficient time is available to accommodate all speakers who wish to testify, the presiding officer will allocate the available time among the persons making oral presentation.

Formal written statements or other written comments (preferably four copies) supplementing or expanding upon the oral presentations will be accepted by the presiding officer for inclusion in the administrative record.

Written comments and transcripts of the hearings will be made available for public inspection, as soon as they have been prepared, on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. at the Program Coordination Branch, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3-22, 3700 East-West Highway, Hyattsville, Md. 20782.

Dated: October 4, 1978.

ROBERT GRAHAM,
Acting Deputy Administrator.

[FR Doc. 78-29141 Filed 10-13-78; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

GRANTS FOR PREDOCTORAL, GRADUATE, AND FACULTY DEVELOPMENT EDUCATIONAL PROGRAMS IN FAMILY MEDICINE

Guidelines

AGENCY: Health Resources Administration.

ACTION: Notice of Guidelines.

SUMMARY: This notice sets forth guidelines for grants under the Public Health Service Act for predoctoral, graduate, and faculty development educational programs in family medicine.

DATES: These guidelines are effective immediately. As discussed below, comments are invited. To be considered, comments must be received on or before December 15, 1978.

ADDRESSES: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, 4th Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Robert F. Knouss, M.D., Director, Division of Medicine, Bureau of Health Manpower, Room 4-44, at the above address (telephone 301-436-6418).

SUPPLEMENTARY INFORMATION: Section 786(a) of the Public Health Service Act (the Act) authorizes grants to schools of medicine or osteopathy, hospitals, and other public or nonprofit entities to meet the cost of projects to: (a) Plan, develop, and operate, or participate in predoctoral, graduate, or faculty development educational programs in family medicine; and (b) provide financial assistance to trainees participating in predoctoral or graduate educational programs who are in need of financial assistance and who plan to work in the practice of family medicine or to trainees in faculty development programs who plan to teach in family medicine. Interim-final regulations, published elsewhere in this part, implementing this authority have been adopted by the Secretary of Health, Education, and Welfare (42 CFR Part 57, Subpart Q).

These guidelines are intended to provide guidance to applicants and grantees concerning the minimum standards and criteria that the Health Resources Administration considers desirable in meeting selected project requirements set forth in the regulations governing this grant program.

Interested persons are invited to submit written comments or data relating to these guidelines to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than December 15, 1978, will be considered. Furthermore, the Bureau of Health Manpower is considering holding a public hearing on these guidelines in a geographically central location at a time and place to be announced in the FEDERAL REGISTER. Following the close of the comment period and the conduct of the hearing, the guidelines will be revised as warranted by the public comments. Changes in the final regulations will also be incorporated into the guidelines.

GUIDELINES FOR GRANTS FOR TRAINING IN FAMILY MEDICINE

INTRODUCTION

Section 786(a) of the Public Health Service Act (42 U.S.C. 295g-6(a)), authorizes the award of grants to schools of medicine and osteopathy, hospitals, and other public or nonprofit private entities to meet the cost of projects to plan, develop, and operate or participate in predoctoral, graduate, or faculty development educational programs in family medicine. Interim-final regulations governing these grants are publiched elsewhere in this part (42 CFR Part 57, Subpart Q).

In light of the importance of this grant program, the Bureau of Health Manpower (Bureau) has decided to supplement these regulations with guidelines. The primary purpose of these guidelines is to advise applicants and grantees, in advance, of those activities which will be viewed by the Bureau as meeting the selected regulatory requirements. It should be understood that while applicants and grantees can be assured of meeting the requirements by following these guidelines, activities other than those contained in these guidelines may also meet the regulatory requirements.

In addition, these guidelines also contain a number of recommendations about activities which the Bureau considers desirable.

FAMILY MEDICINE AMBULATORY CARE SETTINGS

Section 57.1605(a)(4) of the regulations requires that each project must use ambulatory care settings in which family medicine is practiced.

The Bureau recommends that these ambulatory care settings should: 1. Primarily attract patients seeking family medicine;

2. Organize personnel, including trainees, into functional units providing family medicine to patients, and providing trainees with experience working with various types of health personnel, such as physician assistants, nurse practitioners, nurses, nutritionists, dieticians, mental health and social services professionals, as well as other staff;

3. Have systems for referring patients to other specialists and subspecialists which assure coordination with the patients' own primary physician(s);

4. Use an appointment system which facilitates the assignment of patients to their primary family physician(s);

5. Use a medical records system which:

a. Gives practitioners ready access to a patient's medical records, including data relating to members of the patient's family which is pertinent to the patient's care,

b. Is suitable for audit, and

c. Assures systematic review of the records.

6. Maintain affiliations so that trainees can routinely follow the clinical course of assigned patients prior to, during, and after hospitalization, and have access to necessary special services; and

7. Have instructors or preceptors who are physicians trained or experienced in the practice of family medicine.

PREDOCTORAL TRAINING PROGRAMS

Section 57.1605(b) of the regulations sets forth requirements for predoctoral training programs in family medicine at schools of medicine and osteopathy. The following material provides guidance as to activities on the part of applicants and grantees which will, in the Bureau's view, meet these requirements, as well as Bureau recommendations concerning desirable activities.

1. Section 57.1605(b)(1) requires that the training program must be sponsored by an appropriate administrative unit.

The Bureau recommends that to meet the requirement a program should:

(a) Have evidence of administrative autonomy, such as a separate budget or the authority to make separate budget decisions;

(b) Have faculty with academic rank comparable to that of faculty in analogous positions in other administrative units of the school; and

(c) Have direct and equitable representation on faculty committees regarding matters of budget, curriculum, faculty appointments and promotions, and student selection.

2. Section 57.1605(b) (1) and (2) set forth requirements for the training

program in which the faculty of the administrative unit participate.

training by the beginning of the second year of grant support under section 786(a) of the act and have at

health care needs to provide the resident with a broad clinical experience.

The Bureau recommends that to

should have substantial supervised ambulatory clinical experience in a family medicine ambulatory care set-

should have at least four interns in training by the beginning of the second year of grant support.

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program in which the faculty of the administrative unit participate.

The Bureau recommends that to meet these requirements a training program should include:

(a) At least 100 hours of contact with these faculty for a minimum of 25 percent of the students in each entering class during their period of preclinical training (exclusive of full-time preceptorship activities); and

(b) Clerkships and other clinical experiences oriented to family medicine to an extent that a minimum of 25 percent of the students who begin clinical training will have the equivalent of at least four full-time weeks of clinical instruction in family medicine by the date of graduation.

In addition, the Bureau recommends that clerkships in family medicine should provide the opportunity for students to engage in the following activities: Obtain and record a complete history and physical examination, perform initial laboratory studies, follow the course of assigned patients, record events in daily progress notes, participate in diagnostic and therapeutic procedures with faculty and housestaff, and attend and participate in conferences.

3. Section 57.1605(b)(3) sets forth requirements for preceptorships.

The Bureau recommends that these preceptorships should begin prior to the last 5 months of the predoctoral curriculum or otherwise provide the opportunity to affect positively the selection of a family medicine graduate training program by the participating students.

ALLOPATHIC RESIDENCY TRAINING PROGRAMS

Section 57.1605(c) of the regulations sets forth the requirements for graduate training projects (except in faculty development). The following material provides guidance as to activities on the part of applicants and grantees which will in the Bureau's view meet these requirements for allopathic residency training programs.

Section 57.1605(c)(1) requires that the program have a full time supervisor of training.

The Bureau recommends that to meet this requirement, this individual should be certified by the American Board of Family Practice or have satisfied all requirements for certification, if the individual is ineligible for certification due to a potential conflict arising from service on or for this organization.

Section 57.1605(c)(3) requires that each program must provide education for a sufficient number of interns or residents.

The Bureau recommends that to meet this requirement, a program should have at least four residents in training by the beginning of the second year of grant support under section 786(a) of the act and have at least 12 residents in training by the beginning of the fourth year of support.

It is also recommended that the project plan to have its residents distributed so that there is no decrease in the number of residents from the first to the third year of graduate training.

Section 57.1605(c)(4) requires that each program must have an adequate number of qualified faculty with training and experience in family medicine, and of behavioral sciences and liaison faculty in related specialties, for the number of interns or residents in the program.

The Bureau recommends that to meet this requirement, a program should have in addition to the supervisor of training, the following faculty resources, for every six residents:

(a) One full-time equivalent physician who is certified or experienced in the practice of family medicine;

(b) A reasonable number of physician faculty in the liaison specialties of internal medicine, pediatrics, obstetrics, and gynecology, and surgery; and

(c) An additional one-fourth full-time equivalent instructor with experience and training in behavioral sciences.

Section 57.1605(c)(5) requires that each program must provide an appropriate amount of clinical training for each intern or resident in ambulatory care settings emphasizing family medicine in each year of the training program.

The Bureau recommends that to meet this requirement, a training program should:

(a) Comprise at least 10 percent (i.e., at least one-half day per week) of the resident's training time (excluding vacation time) during each year in the program;

(b) Comprise a reasonable percent (but no less than 25 percent) of the resident's total training time (excluding vacation time) for the entire residency training period; and

(c) Be scheduled in at least 9 months of each year of training.

Section 57.1605(c)(6) requires that each program must have family medicine ambulatory care space.

The Bureau recommends that to meet this requirement, a project should include, in the aggregate, a number of examining rooms sufficient to provide at least two examining rooms for each resident while providing care in the setting, and adequate facilities, such as conference rooms, for teaching purposes.

Section 57.1605(c)(7) requires that each intern or resident must serve a sufficient number of families and individual patients with a variety of health care needs to provide the resident with a broad clinical experience.

The Bureau recommends that to meet this requirement, a resident should serve a panel of families and individual patients in the ambulatory care setting who recognize the resident as their provider of longitudinal and comprehensive (including preventive and psychosocial) health care.

OSTEOPATHIC RESIDENCY TRAINING PROGRAMS

Section 57.1605(c) of the regulations sets forth the project requirements for graduate training projects (except in faculty development). The following material provides guidance as to activities on the part of applicants and grantees which will in the Bureau's view meet these requirements for osteopatic residency training programs.

Section 57.1605(c)(1) requires that the program have a full time supervisor of training.

The Bureau recommends that to meet this requirement, this individual should be certified by the American Osteopathic Board of General Practice, or have satisfied all requirements for certification if the individual is ineligible for certification due to a potential conflict arising from service on or for this organization.

Section 57.1605(c)(3) requires that each program must provide education for a sufficient number of interns or residents.

The Bureau recommends that to meet this requirement, each program should have at least two residents in training by the beginning of the second year of grant support.

Section 57.1605(c)(4) requires that each program must have an adequate number of qualified faculty with training and experience in family medicine, and of behavioral sciences and liaison faculty in related specialties, for the number of interns or residents in the program.

The Bureau recommends that to meet this requirement, a project should have in addition to a full-time director of medical education or supervisor of training, the following faculty resources, for each resident:

(a) One-sixth full-time equivalent physician experienced in family medicine; and

(b) A reasonable number of physicians experienced in pediatrics, internal medicine, obstetrics and gynecology, and surgery.

Section 57.1605(c)(5) requires that each program must provide an appropriate amount of clinical training for each intern or resident in ambulatory care settings emphasizing family medicine in each year of the training program.

The Bureau recommends that to meet this requirement, each resident

should have substantial supervised ambulatory clinical experience in a family medicine ambulatory care setting during which families and individual patients are followed by the resident. A resident's activities in these settings should comprise a reasonable percent (but no less than 25 percent) of the resident's total training time (excluding vacation time) during each year in the program.

OSTEOPATHIC INTERNSHIP PROGRAMS

Section 57.1605(c) of the regulations sets forth the project requirements for graduate training projects (except in faculty development). The following material provides guidance as to activities on the part of applicants and grantees which will in the Bureau's view meet these requirements for osteopathic internship programs.

The Bureau recommends that, as part of the administrative and organizational plan as required in § 57.1605(a)(2), the director of medical education and the director of the department of osteopathic general practice should systematically coordinate all program elements.

Section 57.1605(c)(3) requires that each program must provide education for a sufficient number of interns or residents.

The Bureau recommends that to meet this requirement, a program should have at least four interns in training by the beginning of the second year of grant support.

Section 57.1605(c)(5) requires that each program must provide an appropriate amount of clinical training for each intern or resident in ambulatory care settings emphasizing family medicine in each year of the training program.

The Bureau recommends that to meet this requirement, each intern in the program should have a supervised clinical experience in a family medicine ambulatory care setting which comprises at least 10 percent of the intern's training time (excluding vacation time) in the program.

FACULTY DEVELOPMENT PROGRAM

Section 57.1605(d)(3) of the regulations requires that each faculty development program must have a sufficient number of trainees.

The Bureau recommends that to meet this requirement, a program should have a least four trainees participating at any one time. Furthermore, the training program should be operational within 6 months after the beginning of the project period.

Dated: September 11, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-29140 Filed 10-13-78; 8:45 am]

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MONDAY, OCTOBER 16, 1978
PART V

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federal register

MONDAY, OCTOBER 16, 1978
PART V

OFFICE OF MANAGEMENT AND BUDGET

BUDGET DEFERRALS

Report for October 1978

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

ATTACHMENT

CONTENTS OF FIRST SPECIAL MESSAGE FOR FY 1979

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[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

REPORT ON DEFERRALS

October 1978

Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344) Provides for a monthly report listing all budget authority for the fiscal year with respect to which, as of the first day of the month, a special message on rescissions and deferrals has been transmitted to the Congress. Because October 1, 1978, the first day of fiscal year 1979, fell on a Sunday, no funds were reported deferred as of the first day of October. However, the President did transmit a special message on October 2, the first working day of fiscal year 1979, that reported 30 referrals of fiscal year 1979 funds totaling $1,178.2 million. The attachment contains a listing of each of these items and the amount deferred.

JAMES T. MCINTYRE, JR.,
Director.

ATTACHMENT

CONTENTS OF FIRST SPECIAL MESSAGE FOR FY 1979
(in thousands of dollars)

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	Department of Agriculture:	
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Deferral #	Item	Budget Authority

Deferral #	Item	Budget Authority
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D79-30	Payments for directed rail service..	13,990
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1/ Outlays only.

[FR Doc. 78-29241 Filed 10-12-78; 3:30 pm]

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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(Revised as of April 1, 1978)

Quantity	Volume	Price	Amount
_____	Title 17—Commodity and Securities Exchanges	$8.25	$_____
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_____	Title 21—Food and Drugs (Parts 600 to 1299)	4.25	_____
_____	Title 24—Housing and Urban Development (Parts 0 to 499)	8.25	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

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Federal Register

TUESDAY, OCTOBER 17, 1978

highlights

HOW TO USE THE FEDERAL REGISTER

TAMPA, FLORIDA, WORKSHOPS
October 23, 1978

See inside cover for details.

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TAMPA, FLORIDA, WORKSHOP

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with the University of South Florida Library and Department of Library, Media, and Information Studies, the University of Tampa Library, Hillsborough Community College Library and the Tampa Public Library.

WHAT: Free public workshop (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: October 23, 1978, at 2:00 p.m.

WHERE: University of South Florida Tampa Campus, 4202 Fowler Avenue, College of Education Building, Room 302.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call 813-974-2100, Ext. 301 or 813-974-2557.

federal register

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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

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To amend the Act creating the Indian Claims Commission to repeal the provision limiting the activities of Commissioners during the two years following their terms of office. (Oct. 12, 1978; 92 Stat. 1110). Price: $.60.

S. 2640 ..... Pub. L. 95-454
"Civil Service Reform Act of 1978". (Oct. 13, 1978; 92 Stat. 1111). Price: $2.40.

H.R. 12603 ..... Pub. L. 95-455
To amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for United States registered pilots off the Great Lakes. (Oct. 13, 1978; 92 Stat. 1228). Price: $.60.

S. 2249 ..... Pub. L. 95-456
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Title 3—The President

Executive Order 12088 • **October 13, 1978**

Federal Compliance With Pollution Control Standards

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 22 of the Toxic Substances Control Act (15 U.S.C. 2621), Section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), Section 1447 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300j-6), Section 118 of the Clean Air Act, as amended (42 U.S.C. 7418(b)), Section 4 of the Noise Control Act of 1972 (42 U.S.C. 4903), Section 6001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6961), and Section 301 of Title 3 of the United States Code, and to ensure Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

1-1. *Applicability of Pollution Control Standards.*

1-101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1-102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

(a) Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*).

(b) Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*).

(c) Public Health Service Act, as amended by the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*).

(d) Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*).

(e) Noise Control Act of 1972 (42 U.S.C. 4901 *et seq.*).

(f) Solid Waste Disposal Act, as amended (42 U.S.C. 6901 *et seq.*).

(g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(h); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4377 of the FEDERAL REGISTER on February 1, 1978).

(h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1401, 1402, 1411-1421, 1441-1444 and 16 U.S.C. 1431-1434).

(i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*).

1-103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

1-2. *Agency Coordination.*

1-201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Adminis-

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trator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1-202. Each Executive agency shall consult with the Administrator and

1-604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

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trator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1-202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1-3. *Technical Advice and Oversight.*

1-301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1-302. The administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

1-4. *Pollution Control Plan.*

1-401. Each Executive agency shall submit to the Director of the Office of Management and Budget, through the Administrator, an annual plan for the control of environmental pollution. The plan shall provide for any necessary improvement in the design, construction, management, operation, and maintenance of Federal facilities and activities, and shall include annual cost estimates. The Administrator shall establish guidelines for developing such plans.

1-402. In preparing its plan, each Executive agency shall ensure that the plan provides for compliance with all applicable pollution control standards.

1-403. The plan shall be submitted in accordance with any other instructions that the Director of the Office of Management and Budget may issue.

1-5. *Funding.*

1-501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1-502. The head of each Executive agency shall ensure that funds appropriated and apportioned for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

1-6. *Compliance With Pollution Controls.*

1-601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1-102 of this Order), the Executive agency shall promptly consult with the notifying agency and provide for its approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1-602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1-603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statutes and regulations.

1-604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

1-605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

1-7. *Limitation on Exemptions.*

1-701. Exemptions from applicable pollution control standards may only be granted under statutes cited in Section 1-102(a) through 1-102(f) if the President makes the required appropriate statutory determination: that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1-702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1-703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1-704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

1-8. *General Provisions.*

1-801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1-802. Executive Order No. 11752 of December 17, 1973, is revoked.

Jimmy Carter

THE WHITE HOUSE,
October 13, 1978.

[FR Doc. 78-29406 Filed 10-13-78; 3:40 pm]

EDITORIAL NOTE: The President's statement of Oct. 13, 1978, on signing Executive Order 12088 and his memorandum for the heads of departments and agencies, dated Oct. 13, 1978, on Federal compliance with pollution control standards are printed in the Weekly Compilation of Presidential Documents (vol. 14, no. 41).

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[3195-01-M]

PROCLAMATION 4605

National Jogging Day, 1978

By the President of the United States of America

A Proclamation

Millions of Americans have come to view jogging as an enjoyable, affordable, and effective way to keep in shape.

Most medical authorities agree with them, saying that a reasonable and regular program of jogging improves the heart, the circulatory system, and the lungs, while helping runners take off, or ward off, excess weight.

Everyone who has run knows that its most important value is in removing tension and allowing a release from whatever other cares the day may bring. It is a blessing to our Nation that so many of our people have rediscovered this simple pleasure.

By Joint Resolution (H.J. Res. 685) the Congress has designated October 14, 1978, as National Jogging Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby declare October 14, 1978, as National Jogging Day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord nineteen hundred seventy-eight and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-29430 Filed 10-13-78; 5:01 pm]

[3195-01-M]

V 43/201 OCT 78

[3195-01-M]

REORGANIZATION PLAN NO. 4 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, August 10, 1978, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.[1]

Employee Retirement Income Security Act Transfers

SECTION 101. *Transfer to the Secretary of the Treasury.*

Except as otherwise provided in Sections 104 and 106 of this Plan, all authority of the Secretary of Labor to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of the Treasury:

(a) regulations, rulings, opinions, variances and waivers under Parts 2 and 3 of Subtitle B of Title I and subsection 1012(c) of Title II of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) (hereinafter referred to as "ERISA"),

EXCEPT for sections and subsections 201, 203(a)(3)(B), 209, and 301(a) of ERISA;

(b) such regulations, rulings, and opinions which are granted to the Secretary of Labor under Sections 404, 410, 411, 412, and 413 of the Internal Revenue Code of 1954, as amended, (hereinafter referred to as the "Code"),

EXCEPT for subsection 411(a)(3)(B) of the Code and the definitions of "collectively bargained plan" and "collective bargaining agreement" contained in subsections 404 (a)(1)(B) and (a)(1)(C), 410 (b)(2)(A) and (b)(2)(B), and 413(a)(1) of the Code; and

(c) regulations, rulings, and opinions under subsections 3(19), 3(22), 3(23), 3(24), 3(25), 3(27), 3(28), 3(29), 3(30), and 3(31) of Subtitle A of Title I of ERISA.

SECTION 102. *Transfers to the Secretary of Labor.*

Except as otherwise provided in Section 105 of this Plan, all authority of the Secretary of the Treasury to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of Labor:

(a) regulations, rulings, opinions, and exemptions under section 4975 of the Code,

EXCEPT for (i) subsections 4975 (a), (b), (c)(3), (d)(3), (e)(1), and (e)(7) of the Code; (ii) to the extent necessary for the continued enforcement of subsections 4975 (a) and (b) by the Secretary of the Treasury, subsections 4975(f)(1), (f)(2), (f)(4), (f)(5) and (f)(6) of the Code; and (iii)

[1] As amended September 20, 1978.

exemptions with respect to transactions that are exempted by subsection 404(c) of ERISA from the provisions of Part 4 of Subtitle B of Title I of ERISA; and

the Treasury shall be bound by the regulations, rulings, opinions, and exemptions issued by the Secretary of Labor pursuant to the authority transferred to

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exemptions with respect to transactions that are exempted by subsection 404(c) of ERISA from the provisions of Part 4 of Subtitle B of Title I of ERISA; and

(b) regulations, rulings, and opinions under subsection 2003(c) of ERISA,

EXCEPT for subsection 2003(c)(1)(B).

SECTION 103. *Coordination Concerning Certain Fiduciary Actions.*

In the case of fiduciary actions which are subject to Part 4 of Subtitle B of Title I of ERISA, the Secretary of the Treasury shall notify the Secretary of Labor prior to the time of commencing any proceeding to determine whether the action violates the exclusive benefit rule of subsection 401(a) of the Code, but not later than prior to issuing a preliminary notice of intent to disqualify under that rule, and the Secretary of the Treasury shall not issue a determination that a plan or trust does not satisfy the requirements of subsection 401(a) by reason of the exclusive benefit rule of subsection 401(a), unless within 90 days after the date on which the Secretary of the Treasury notifies the Secretary of Labor of pending action, the Secretary of Labor certifies that he has no objection to the disqualification or the Secretary of Labor fails to respond to the Secretary of the Treasury. The requirements of this paragraph do not apply in the case of any termination or jeopardy assessment under sections 6851 or 6861 of the Code that has been approved in advance by the Commissioner of Internal Revenue, or, as delegated, the Assistant Commissioner for Employee Plans and Exempt Organizations.

SECTION 104. *Enforcement by the Secretary of Labor.*

The transfers provided for in Section 101 of this Plan shall not affect the ability of the Secretary of Labor, subject to the provisions of Title III of ERISA relating to jurisdiction, administration, and enforcement, to engage in enforcement under Section 502 of ERISA or to exercise the authority set forth under Title III of ERISA, including the ability to make interpretations necessary to engage in such enforcement or to exercise such authority. However, in bringing such actions and in exercising such authority with respect to Parts 2 and 3 of Subtitle B of Title I of ERISA and any definitions for which the authority of the Secretary of labor is transferred to the Secretary of the Treasury as provided in Section 101 of this Plan, the Secretary of Labor shall be bound by the regulations, rulings, opinions, variances, and waivers issued by the Secretary of the Treasury.

SECTION 105. *Enforcement by the Secretary of the Treasury.*

The transfers provided for in Section 102 of this Plan shall not affect the ability of the Secretary of the Treasury, subject to the provisions of Title III of ERISA relating to jurisdiction, administration, and enforcement, (a) to audit plans and employers and to enforce the excise tax provisions of subsections 4975(a) and 4975(b) of the Code, to exercise the authority set forth in subsections 502(b)(1) and 502(h) of ERISA, or to exercise the authority set forth in Title III of ERISA, including the ability to make interpretations necessary to audit, to enforce such taxes, and to exercise such authority; and (b) consistent with the coordination requirements under Section 103 of this Plan, to disqualify, under section 401 of the Code, a plan subject to Part 4 of Subtitle B of Title I of ERISA, including the ability to make the interpretations necessary to make such disqualification. However, in enforcing such excise taxes and, to the extent applicable, in disqualifying such plans the Secretary of

the Treasury shall be bound by the regulations, rulings, opinions, and exemptions issued by the Secretary of Labor pursuant to the authority transferred to the Secretary of Labor as provided in Section 102 of this Plan.

SECTION 106. *Coordination for Section 101 Transfers.*

(a) The Secretary of the Treasury shall not exercise the functions transferred pursuant to Section 101 of this Plan to issue in proposed or final form any of the documents described in subsection (b) of this Section in any case in which such documents would significantly impact on or substantially affect collectively bargained plans unless, within 100 calendar days after the Secretary of the Treasury notifies the Secretary of Labor of such proposed action, the Secretary of Labor certifies that he has no objection or he fails to respond to the Secretary of the Treasury. The fact of such a notification, except for such notification for documents described in subsection (b)(iv) of this Section, from the Secretary of the Treasury to the Secretary of Labor shall be announced by the Secretary of Labor to the public within ten days following the date of receipt of the notification by the Secretary of Labor.

(b) The documents to which this Section applies are:

(i) amendments to regulations issued pursuant to subsections 202(a)(3), 203(b)(2) and (3)(A), 204(b)(3)(A), (C), and (E), and 210(a)(2) of ERISA, and subsections 410(a)(3) and 411(a)(5), (6)(A), and (b)(3)(A), (C), and (E), 413(b)(4) and (c)(3) and 414(f) of the Code;

(ii) regulations issued pursuant to subsections 204(b)(3)(D), 302(c)(8), and 304(a) and (b)(2)(A) of ERISA, and subsections 411(b)(3)(D), 412(c)(8), (e), and (f)(2)(A) of the Code; and

(iii) revenue rulings (within the meaning of 26 CFR Section 601.201(a)(6)), revenue procedures, and similar publications, if the rulings, procedures and publications are issued under one of the statutory provisions listed in (i) and (ii) of this subsection; and

(iv) rulings (within the meaning of 26 CFR Section 601.201(a)(2)) issued prior to the issuance of a published regulation under one of the statutory provisions listed in (i) and (ii) of this subsection and not issued under a published Revenue Ruling.

(c) For those documents described in subsections (b)(i), (b)(ii) and (b)(iii) of this Section, the Secretary of Labor may request the Secretary of the Treasury to initiate the actions described in this Section 106 of this Plan.

SECTION 107. *Evaluation.*

On or before January 31, 1980, the President will submit to both Houses of the Congress an evaluation of the extent to which this Reorganization Plan has alleviated the problems associated with the present administrative structure under ERISA, accompanied by specific legislative recommendations for a long-term administrative structure under ERISA.

SECTION 108. *Incidental Transfers.*

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for

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terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

SECTION 109. *Effective Date.*

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 30, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

[FR Doc. 78-29497 Filed 10-16-78; 12:05 pm]

LEGISLATIVE HISTORY:

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 32: Aug. 10, Presidential message transmitting Reorganization Plan No. 4 of 1978 to Congress. (Also printed as House Document No. 95-375.)
Vol. 14, No. 38: Sept. 20, Presidential message transmitting an amendment to Reorganization Plan No. 4 of 1978. (Also printed as House Document No. 95-384.)
HOUSE REPORT No. 95-1658 accompanying H. Res. 1308 (Comm. on Government Operations).
SENATE REPORT No. 95-1281 accompanying S. Res. 537 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Aug. 10, H. Res. 1308, resolution of disapproval, introduced in House and referred to Committee on Government Operations.
Aug. 11, S. Res. 537, resolution of disapproval, introduced in Senate and referred to Committee on Governmental Affairs.
Oct. 13, H. Res. 1308 rejected by House.
Oct. 13, S. Res. 537 rejected by Senate.

EDITORIAL NOTE: The President's statement of Oct. 14, 1978, on congressional action on Reorganization Plan No. 4 of 1978, is printed in the Weekly Compilation of Presidential Documents (vol. 14, no. 42).

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[1505-01-M]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 7]

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM-5)

MISCELLANEOUS AMENDMENTS

Correction

In FR Doc. 78-27926 appearing on page 45551 in the issue of Tuesday, October 3, 1978, in the middle column, the authority citation near the end of the document should read as follows:

(Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c); sec. 4, 80 Stat. 1528 (7 U.S.C. 1707a).)

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0155]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretation of regulation Z, regarding § 226.8(c) disclosures. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: On or after November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR 226.1(d)(2)(ii). As provided by 12 CFR 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) 15 U.S.C. 1640(f).

12 CFR Part 226, FC-0155

§ 226.8(c)—Where disclosures required by § 226.8(c) are repetitive or inapplicable, the disclosure of such terms may be combined or omitted, for example, "unpaid balance," "unpaid balance of cash price," and "amount financed."

SEPTEMBER 21, 1978.

This is in response to your letter of • • •, requesting an official staff interpretation of § 226.8(c) of regulation Z.

You state that your client, a publicly held corporation owning and operating health spa facilities, offers spa memberships to the public on credit. You indicate that your client imposes a charge for credit and makes credit sale disclosures pursuant to § 226.8(c).

Although disclosure of the "unpaid balance" is required by § 226.8(c)(5), your client omits this disclosure because no other charges, within the meaning of § 226.8(c)(4), are added to the "unpaid balance of cash price" and consequently, the "unpaid balance" would be identical to the "unpaid balance of cash price." You state that your client relies on the wording of § 226.8(c) that only applicable items need be disclosed to justify omitting the disclosure of "unpaid balance." In addition, you note that public information letters 213, 536, and 740 support this position. These letters reason that where certain charges are omitted and required terms (for example, "cash price" and "amount financed") are identical in amount, the disclosure of one or more such terms may be inapplicable and the terms may be combined or omitted as appropriate. Letter 536 specifically approved omitting the term "unpaid balance" where there are no other charges to be disclosed pursuant to § 226.8(c)(4) and no prepaid finance charges or required deposit balances to be disclosed pursuant to § 226.8(c)(6).

You request that the staff issue an official interpretation reiterating these informal positions taken previously concerning omission of the term "unpaid balance." In particular, you ask whether it would be proper to make a single disclosure either combining the "unpaid balance of cash price" and the "amount financed" and omitting the "unpaid balance" or combining the "unpaid balance of cash price," the "unpaid balance," and the "amount financed" where there are no § 226.8(c) (4) or (6) charges. The staff believes that the positions taken in the letters previously cited are correct and that either of the combined disclosures which you suggest would be permissible.

However, as you note, there are at least two Federal district courts which apparently have reached decisions contrary to the opinion expressed in this letter. The effect of an official staff interpretation that is contrary to such decisions is uncertain. Therefore, the staff believes that the most prudent course is to follow the court decisions in those jurisdictions in which a court has addressed the issue.

This is an official staff interpretation of § 226.8(c) of regulation Z, issued in accordance with § 226.1(d)(2) of the regulation and limited in its application to the facts and issues discussed herein. It will become effective November 16, 1978, unless a request for public comment made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Although you enclosed a copy of your client's disclosure form with your letter, nothing herein should be construed as either a review or approval of any portion of that form.

I trust this is responsive to your inquiry.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

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Board of Governors of the Federal Reserve System, October 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29259 Filed 10-16-78; 8:45 am]

[6210-01-M]

[Reg. Z; FC-0156]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretation of regulation Z, regarding the application of various requirements of § 226.15 to open end vehicle lease transactions that employ a "simple interest" accounting method. The agency is taking this action in response to a request for interpretation of this regulation.

EFFECTIVE DATE: On or after November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Dolores Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR 226.1(d)(2)(ii). As provided by 12 CFR 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) 15 U.S.C. 1640(f).

12 CFR Part 226, FC-0156

§ 226.15(b)—Lessor is not required to disclose, in a "simple interest accounting lease," continued accrual of lease charge when payment is late or vehicle is not returned upon termination as either a late payment charge or as a charge for delinquency or default.

§ 226.15(b)(15)—Limitations on lessee's liability do not apply to additional amounts that have accrued because lessee has failed to make timely payments in a "simple interest accounting lease."

OCTOBER 5, 1978.

This is in response to your letter of • • •, in which you request an official staff interpretation with respect to the consumer leasing disclosure requirements of regulation Z. Certain of your questions are being answered in this official staff interpretation; the others will be dealt with separately in an unofficial interpretation.

Your questions concern the application of various requirements of § 226.15 to open end vehicle lease transactions that employ a "simple interest" accounting method. You explain that simple interest lease transactions are analogous to simple interest loans in consumer credit transactions, and describe the accounting method as involving the application of a periodic rate to the unpaid lease balance (the outstanding balance of the vehicle's capitalized cost and other amounts being financed, such as insurance premiums). That rate (which could be annual or daily rate) is applied to the decreasing lease balance until the vehicle is returned to the lessor. You term the product the "lease charge."

You indicate that disclosure of the schedule of payments required by § 226.15(b)(3) is made on the assumption that all periodic payments will be received by the lessor on their respective due dates, and that the lessee wil return the vehicle to the lessor on the date the lease ends. Because the lease charge is calculated on the actual lease balance when a payment is received, periodic payments made before the scheduled due date will result in a smaller lease charge than anticipated or disclosed, and in a smaller total of periodic payments. Conversely, the receipt by the lessor of a periodic payment after its due date will result in the imposition of an increased lease charge. If the vehicle is not returned to the lessor on the date the lease terminates, the lease charge continues to accrue on the unpaid lease balance until the vehicle is returned.

You first ask whether the simple interest accounting method must be disclosed as the "method of determining the amount of any penalty or other charge for • • • late payments" under § 226.15(b)(10). It is the staff's opinion that the additional lease charge which accrues on the lease balance when a periodic payment is made after the due date does not constitute a penalty or other charge for late payment, and the lessor need not disclose the method of computing the charge under § 226.15(b)(10). This accounting method is analogous to that used in simple interest loans, and the staff believes the analysis regarding the continued accrual of interest in closed end credit transactions set forth in FC-0083 and public information letter 1099 is also applicable to the continued accrual of lease charges.

You also note that the lessor imposes a specified late payment charge if a payment is not received with in 10 days of its due date. This charge, which is imposed in addition to the continued accrual of the lease charge, must, of course, be disclosed under § 226.15(b)(10).

Your second question is whether the continued accrual of the lease charge on the unpaid lease balance after the termination date of the lease must be disclosed as a "penalty or other charge for delinquency [or] default" under § 226.15(b)(10). In the staff's opinion, accrual of the lease charge after termination of the lease because of the lessee's failure to return the vehicle does not constitute a charge under § 226.15(b)(10) in a simple interest lease transaction, so long as the lease charge accrues at the same or a lower rate as under the lease. This position is also analogous to that taken by the staff in FC-0083 with respect to accrual of interest on the unpaid principal balance of a simple interest loan after maturity. Where the lease charge accrues at a higher rate after the lease terminates than during the lease term, the method of determining the additional charge should be disclosed under § 226.15(b)(10). (See public information letter 1282 regarding posttermination default charges for not returning the leased vehicle.)

Your final question is whether the limitations on the lessee's liability at early termination or at the end of the lease term, set forth in section 183(a) of the Consumer Leasing Act and in § 226.15(b)(15)(ii) of the regulation, are applicable to that portion of the vehicle's capitalized cost that remains unamortized at early termination or at the end of the term because of the lessee's failure to make one or more periodic payments on the due date. These provisions provide that, in general, the lessor may not collect more than three times the average monthly payment from the lessee in leases where the lessee is liable for the difference between the estimated and realized values at early termination or at the end of the lease term.

In the staff's opinion, a lessor may collect amounts that have accrued because of the lessee's late payments notwithstanding these limitations on liability. The lessee's liability in these instances arises from the failure to make timely payments (resulting in increased lease charges and slower amortization of the capitalized cost) and is unrelated to the calculations governed by section 183(a) and § 226.15(b)(15)(ii).

This is an official staff interpretation issued pursuant to § 226.1(d)(2) of regulation Z. It will become effective November 16, 1978, unless the Board receives a proper and timely request for public comment. You will be notified if such a request is received.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, October 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29260 Filed 10-16-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2926]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

American Service Bureau, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Chicago, Ill., insurance investigation firm to cease soliciting or collecting impermissible information as a means of identifying consumers seeking required disclosure of file contents; and unfairly or deceptively attempting to obtain from consumers authorization to elicit excessive information. Additionally, the firm would be required to provide those persons requesting or disputing file information a prescribed statement regarding their rights under the Fair Credit Reporting Act.

DATE: Complaint and order issued September 7, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

William C. Erxleben, Director, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-4655.

SUPPLEMENTARY INFORMATION: On Tuesday, June 27, 1978, there was published in the FEDERAL REGISTER, 43 FR 27849, a proposed consent agreement with analysis in the matter of American Service Bureau, Inc. for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings, and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Confidential Information Unfairly: § 13.1 Acquiring confidential information unfairly. Subpart—Collecting, Assembling, Furnishing or Utilizing Consumer Reports: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports; § 13.382-1 Confidentiality, accuracy, relevancy, and proper utilization; § 13.382-1(a) Fair Credit Reporting Act; § 13.382-5 Formal regulatory and/or statutory requirements; § 13.382-5(a) Fair Credit Reporting Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records. Subpart—Securing Information by Subterfuge: § 13.2168 Securing information by subterfuge.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 84 Stat. 1127-36; 15 U.S.C. 1601 et seq.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-29258 Filed 10-16-78; 8:45 am]

[1] Copies of the complaint, and the decision and order are filed with the original document.

[6355-01-M]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1402—CB BASE STATION ANTENNAS, TV ANTENNAS, AND SUPPORTING STRUCTURES

Approval of Data Submission Requirements and Amendment to Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the approval by the General Accounting Office of the CPSC requirement that manufacturers (including importers) of: (1) Outdoor citizens band (CB) base station antennas, (2) outdoor television antennas, and (3) antenna supporting structures, furnish to the CPSC samples of the instructions, labels, and warning statements that are required by the Commission's regulations to address the hazard of contacting electric powerlines when the products are being put up or taken down. This document makes a technical amendment to the regulations to refer to the approval. In addition, the Commission amends the rule requiring that the manufacturers of these products provide instructions, labels, and warning statements to consumers to clarify that the rule does not apply to antenna supporting structures 5 feet or less in height.

DATE: This amendment becomes effective October 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Harleigh Ewell, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, phone 202-634-7770.

SUPPLEMENTARY INFORMATION: On June 29, 1978, the Commission issued 16 CFR part 1402 (43 FR 28392), which requires manufacturers of: (1) Outdoor citizens band (CB) base station antennas, (2) outdoor television antennas, and (3) antenna supporting structures, to provide purchasers with (a) instructions on how to avoid the hazard of contacting electric powerlines with the antenna or supporting structure while putting it up or taking it down, (b) labels on the antennas and supporting structures warning of this hazard and referring the reader to the instructions, and (c) statements on the packaging or parts container, and at the beginning of the instructions, warning of this hazard and referring the reader to the instructions. The rule also requires the manufacturers and importers to provide samples of the instructions, labels, and warning statements to the Commission by October 27, 1978. The rule was issued because the Commission believes that it will help to prevent injuries and death from electric shock caused by contact with electric powerlines when persons put up and take down antennas or antenna supporting structures. (The Commission estimates that approximately 495 persons were electrocuted in incidents involving communication antennas during the 2-year period of 1975-76.)

Pursuant to 44 U.S.C. 3501-3512 and 4 CFR part 10 (the Federal Reports Act of 1942, as amended, and its implementing regulations), the Commission applied to the U.S. General Accounting Office (GAO) for approval of the requirement to submit samples to the Commission. On September 15, 1978, GAO informed the Commission that the requirement had been approved, stating that the information requested does not unnecessarily duplicate information already available from other Federal sources, the burden on respondents has been minimized, and the reporting requirement is otherwise consistent with the provisions of the law.

In order to comply with GAO's regulations (4 CFR 10.12), the Commission is amending part 1402 to include a reference to the approval of the reporting requirement.

In addition, part 1402 is being corrected to point out that it does not apply to supporting structures that are 5 feet or less in length. This limitation on the coverage of the rule was discussed in the preamble of the document issuing the final rule and was also contained in the proposal, but was

inadvertently omitted from the text of the final rule.

Therefore, the Commission amends title 16, chapter II, subchapter B, part 1402, of the Code of Federal Regulations as follows:

§ 1402.4 [Amended]

1. Section 1402.4(b) is amended by adding a new paragraph (b)(3), reading as follows:

* * * * *

(b) * * *

(3) The reporting requirement contained in this section has been approved by the U.S. General Accounting Office under No. B-180232 (R0555).

§ 1402.1 [Amended]

2. The first sentence of § 1402.1(b)(3) is amended to read as follows:

* * * * * * *

(b) * * *

(3) Antenna supporting structures, which are elements over 5 feet in length that are intended to support these types of antennas at a higher elevation.

* * * * *

Effective date: This amendment becomes effective October 17, 1978.

Dated: October 12, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29268 Filed 10-16-78; 8:45 am]

[6351-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 30—FRAUD IN CONNECTION WITH COMMODITY TRANSACTIONS

Amendment of Statutory Authority Citations

AGENCY: Commodity Futures Trading Commission.

ACTION: Amendment of statutory authority citations.

SUMMARY: The Commodity Futures Trading Commission has amended the statutory authority citations applicable to § 30.03 of its regulations, 17 CFR 30.03 (1977), which makes unlawful fraudulent activities in connection with so-called leverage transactions in silver or gold bullion or bulk coins. The amendment reflects the enactment of the Futures Trading Act of 1978. Among other things, that Act incorporates into the Commodity Exchange Act the statutory authority formerly contained in section 217 of the Commodity Futures Trading Commission Act of 1974, under which § 30.03 was in part adopted.

DATE: Effective date: October 17, 1978.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT:

Teresa Hermosillo, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-5347.

SUPPLEMENTARY INFORMATION: Section 30.03 was adopted after public notice and comment effective June 24, 1975, under the authority conferred by sections 2(a) and 8a of the Commodity Exchange Act, 7 U.S.C. 2 and 12a (1976), and section 217 of the Commodity Futures Trading Commission Act of 1974, 7 U.S.C. 15a (1976).[1] (40 FR 26504 (June 24, 1975).) Section 217 basically provided that no person may offer to enter into, enter into, or confirm the execution of leverage transactions involving gold or silver bullion or bulk coins contrary to Commission rules and regulations designed to insure the financial solvency of the transactions or to prevent manipulation and fraud. On September 30, 1978, the President signed into law the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865 et seq. Sections 23 and 24 of that Act, among other things, add a new section 19 to the Commodity Exchange Act which incorporates the relevant substantive provisions of section 217 of the Commodity Futures Trading Commission Act of 1974 and simultaneously grant the Commission new regulatory authority over leverage transactions in commodities other than gold and silver coins and bullion. In this connection, section 2 of the Futures Trading Act of 1978 also replaces the reference to section 217 in section 2(a) of the Commodity Exchange Act with a reference to the new section 19.

In order to reflect these statutory changes, the Commission has determined to amend the statutory authority citations applicable to § 30.03. These amendments are technical in nature and do not alter existing law. Thus, fraudulent activity in connection with the transactions in silver or gold bullion or bulk coins described in § 30.03 continues to be a violation of the Commission's regulations, as it has been since June 24, 1975. For the foregoing reasons, the Commission is satisfied that the notice and comment provisions of the Commodity Exchange Act and of the Administrative Procedure Act, 5 U.S.C. 553(d), do not apply to these amendments.

This notice of amendment is issued under the authority of sections 2(a), 8a, and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 2 and 12a and Pub. L. 95-405, 92 Stat. 865, 876-877.

Based upon the foregoing the Commission hereby amends the statutory authority citations applicable to part 30 of chapter I of title 17 of the Code of Federal Regulations to read as follows:

AUTHORITY: Secs. 2(a), 4c, and 8a, 42 Stat. 998, 49 Stat. 1494, 1500, as amended by 49 Stat. 1401, 52 Stat. 205, 54 Stat. 1059, 68 Stat. 913, 69 Stat. 375, 82 Stat. 26, 413, 88 Stat. 1392, 1395, 1412, and secs. 2, 23, and 24 of Pub. L. 95-405 (92 Stat. 865, 876-877); 7 U.S.C. 2, 6c, and 12a.

Issued in Washington, D.C., on October 11, 1978.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-29212 Filed 10-16-78; 8:45 am]

[1] Sec. 2(a) of the Commodity Exchange Act grants the Commission exclusive jurisdiction over the transactions in gold and silver bullion and bulk coins described in sec. 217 of the Commodity Futures Trading Commission Act of 1974. Sec. 8a of the Act vests the Commission with broad general rulemaking authority.

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Internal Analgesic Panel

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) announces the termination of the Panel on Review of Internal Analgesic Including Antirheumatic Drugs and amends the regulations to delete it from the list of standing advisory committees. The Panel was terminated because it was no longer needed.

EFFECTIVE DATE: October 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Lee Geismar, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: The Panel's functions were to review the data and information submitted concerning, and to prepare a report on the safety, effectiveness, and labeling of, over-the-counter (OTC) products containing analgesic/antirheumatic ingredients for internal use. The conclusions and recommendations of the Panel were published in the FEDERAL REGISTER of July 8, 1977 (42 FR 35346).

Accordingly, the purpose of the Panel having been served, the Panel is no longer needed. On August 9, 1977, the Secretary of Health, Education, and Welfare terminated the committee's charter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 14 is amended in § 14.100 List of standing advisory committees by deleting paragraph (c)(20)(i)(*b*) and marking it reserved.

EFFECTIVE DATE: Because this is a technical conforming amendment to part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, October 17, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: October 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29065 Filed 10-16-78; 8:45

[4110-03-M]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76F-0260]

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for the safe use of 2,6-di-*a*-methyl benzyl)-4-methyl phenol as an antioxidant and/or stabilizer in olefin copolymers. This rule is based on a petition proposing such a regulation.

DATES: Effective October 17, 1978; objections by November 16, 1978.

ADDRESS: Written objections to the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 4, 1976 (41 FR 32635) announced that a food additive petition (FAP 6B3200) had been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Elm Street, Naugatuck, Conn. 06770, proposing that § 178.2010 Antioxidants and/or stablizers for polymers (21 CFR 178.2010, formerly § 121.2566, published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14609)), be amended to provide for the use of 2,6-di-*a*-methyl benzl)-4-methyl phenol as an antioxidant and/or stabilizer in olefin copolymers complying with § 177.1520(c), item 3.4 in the tabular listing. Having evaluated data in the petition and other relevant material, the Commissioner of Food and Drugs concludes that § 178.2010 should be amended. Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), § 178.2010 is amended by alphabetically adding to the list of substances under paragraph (b) a new item as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * *	* * * *
2,6-Di(*a*-methyl benzyl)-4-methyl phenol (Chemical Abstracts Service Registry No. 1817-68-1).	For use only at levels not to exceed 0.2 pct by weight of olefin polymers complying with item 3.4 in § 177.1520(c) of this chapter, provided that such olefin polymers are limited to use at a level not to exceed 25 pct by weight in other olefin polymers complying with § 177.1520 of this chapter; and the total amount in such finished olefin polymers not to exceed 0.05 pct by weight, including the level that may be contributed by its presence at 6 pct in the item "butylated, styrenated cresols * * *" listed in this paragraph; and further provided that the finished olefin polymers are intended for contact with foods, except those containing more than 8 pct alcohol.
* * * *	* * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 16, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office be-

tween the hours of 9 a.m. and 4 p.m., Monday through Friday.

In addition to proposing to affirm the GRAS status of aconitic acid, the Commissioner gave public notice that CAS Reg. No. 000499-12-7) occurs in the leaves and tubers of *Aconitum napellus* L. and other *Ranunculaceae.*

NOTE.—Incorporation by reference was approved by the Director of the Office of the Federal Register on July 10, 1973, and is on file in the Federal Register Library.

be suspended because of noncompliance with the flood plain management requirements of the program.

insurance is no longer available in the community.

In addition, the Federal Insurance

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tween the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective October 17, 1978.

Dated: October 6, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29066 Filed 10-16-78; 8:45 am]

[4110-03-M]

[Docket No. 77N-0035]

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Aconitic Acid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that aconitic acid is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review being conducted by this agency.

EFFECTIVE DATE: November 16, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 30, 1977 (42 FR 43642), the Commissioner of Food and Drugs proposed to affirm that aconitic acid is generally recognized as safe for use as a direct human food ingredient. This action is in accord with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

Under § 170.35 (21 CFR 170.35), relating to the affirmation of GRAS food ingredients, copies of the scientific literature review on aconitic acid and the report of the Select Committee on GRAS Substances are available for public review in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

In addition to proposing to affirm the GRAS status of aconitic acid, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, under approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of such sanctions so that the safety of any prior-sanctioned uses could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of aconitic acid approved by issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. The Commissioner also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned uses for aconitic acid were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of aconitic acid under conditions different from those set forth in this regulation has been waived.

A proposed amendment, published in the FEDERAL REGISTER of March 14, 1978 (43 FR 10577), corrected an error that occurred in the August 30, 1977, proposal. The August proposal incorrectly stated that aconitic acid is used in nonalcoholic beverages rather than correctly stating that it is used in alcoholic beverages. No comments were received in response to either proposal. The Commissioner therefore concludes that the proposal to affirm the GRAS status of aconitic acid should be promulgated as amended on March 14, 1978.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), parts 182 and 184 are amended as follows:

§ 182.60 [Amended]

1. In part 182, § 182.60 Synthetic flavoring substances and adjuvants is amended by deleting the entry for "Aconitic acid (equisetic acid, citridic acid, achilleic acid)."

2. In part 184 by adding new § 184.1007 to read as follows:

§ 184.1007 Aconitic acid.

(a) Aconitic acid (1,2,3-propenetricarboxylic acid ($C_6H_6O_6$), CAS Reg. No. 000499-12-7) occurs in the leaves and tubers of *Aconitum napellus* L. and other *Ranunculaceae*. Transaconitic acid can be isolated during sugarcane processing, by precipitation as the calcium salt from cane sugar or molasses. It may be synthesized by sulfuric acid dehydration of citric acid, but not by the methanesulfonic acid method.

(b) The ingredient meets the following specifications:

(1) *Assay.* Not less than 98.0 percent of $C_3H_3(COOH)_3$, using the Food Chemicals Codex, 2d ed. (1972)[1] test for citric acid, which is incorporated by reference, and a molecular weight of 174.11.

(2) *Melting point.* Not less than 195° C and the determination results in decomposition of aconitic acid.

(3) *Heavy metals (as Pb).* Not more than 10 parts per million.

(4) *Arsenic (as As).* Not more than 3 parts per million.

(5) *Oxalate.* Passes test.

(6) *Readily carbonizable substances.* Passes Food Chemicals Codex, 2d ed. (1972)[1] test for citric acid, which is incorporated by reference.

(7) *Residue on ignition.* Not more than 0.1 percent as determined by Food Chemicals Codex, 2d ed. (1972)[1] test for citric acid, which is incorporated by reference.

The substance should have infrared absorption bands at 3030, 2630, 1720, 1430, 1300, 1240, 910, 860, 780, and 750 cm^{-1}. Also, an aqueous solution of the substance should have major absorption peaks at 411 and 432 nanometers with little or no absorption at 389 nanometers.

(c) The ingredient is used as a flavoring substance and adjuvant as defined in § 170.3(o)(12) of this chapter.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.003 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.002 percent for alcoholic beverages as defined in § 170.3(n)(2) of this chapter, 0.0015 percent for frozen dairy products as defined in § 170.3(n)(20) of this chapter, 0.0035 percent for soft candy as defined in § 170.3(n)(38) of this chapter, and 0.0005 percent or less for all other food categories.

(e) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Effective date. This regulation is effective November 16, 1978.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

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[1] Copies may be obtained from National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20037.

NOTE.—Incorporation by reference was approved by the Director of the Office of the Federal Register on July 10, 1973, and is on file in the Federal Register Library.

Dated: October 6, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29067 Filed 10-16-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-4667]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATE: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of the Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in these communities by publishing a flood hazard boundary map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Insurance Administration's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Effective dates of authorization of sale of flood insurance for area	Hazard area identified	Community No.	Date[1]
•	•	•	•	•	•	•
Florida	Palm Beach	Atlantis, city of	Aug. 23, 1974, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Dec. 8, 1974	120193-A	Nov. 1, 1978.
Do	do	Lake Clarke Shores, town of	May 19, 1975, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Jan. 9, 1974 Oct. 24, 1975	120211-B	Do.
Illinois	Cook	East Chicago Heights, village of.	Apr. 11, 1975, emergency, Sept. 29, 1978, regular, Nov. 1, 1978, suspended.	Apr. 5, 1974 June 11, 1976	170084-B	Do.
Kansas	Pratt	Pratt, city of	Apr. 4, 1975, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Apr. 5, 1975 Oct. 24, 1975	200278-B	Do.
Louisiana	Calcasieu	Unincorporated areas	Dec. 31, 1971, emergency, Sept. 29, 1978, regular, Nov. 1, 1978, suspended.	Sept. 13, 1974	220037-A	Do.
Maryland	Prince Georges	Laurel, city of	Sept. 10, 1971, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Aug. 9, 1974 Dec. 19, 1975	240053-C	Do.
Minnesota	Winona	Elba, city of	July 30, 1974, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended..	Aug. 9, 1974 June 11, 1976	270527-C	Do.
Do	Rice	Fairbault, city of	Apr. 19, 1974, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Jan. 21, 1977	27404-C	Do.
Do	Itasca	Unincorporated areas	June 18, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Nov. 1, 1978	270200-A	Do.

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State	County	Location	Effective dates of authorization of sale of flood insurance for area	Hazard area identified	Community No.	Date[1]

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco

Subpart F of part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

FOR FURTHER INFORMATION CONTACT:

Mr. Robert O'Meara, engineer, 617-

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State	County	Location	Effective dates of authorization of sale of flood insurance for area	Hazard area identified	Community No.	Date [1]
Minnesota	Kanabec	Unincorporated areas	July 25, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Nov. 1, 1978	270214-A	Nov. 1, 1978.
Do	Scott and LeSeur	New Prague, city of	Apr. 30, 1974, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	May 10, 1974 Mar. 26, 1976	270249-B	Do.
Do	Carver	Watertown, city of	Mar. 14, 1975, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Nov. 5, 1976	270056-A	Do.
Missouri	Pemiscot	Hyati, city of	Feb. 14, 1975, emergency, Sept. 29, 1978, regular, Nov. 1, 1978, suspended.	Apr. 12, 1974 June 25, 1976	290276-B	Do.
New York	Allegany	Bolivar, village of	Sept. 12, 1977, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Jan. 7, 1977	360026-B	Do.
Do	Orleans	Carlton, town of	Apr. 5, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Aug. 2, 1974 Dec. 19, 1975	360542-B	Do.
Do	Livingston	Dansville, village of	Apr. 17, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Oct. 22, 1976	360383-A	Do.
Do	Suffolk	Huntington, town of	Nov. 1, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Aug. 2, 1974 Feb. 20, 1976	360796-B	Do.
Do	Monroe	Rochester, city of	Apr. 9, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	June 28, 1974 Aug. 27, 1976	360431-B	Do.
North Carolina	Wake	Fuquay-Varina, town of	Jan. 27, 1975, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	Apr. 11, 1975	370239-A	Do.
Ohio	Mahoning	Canfield, city of	June 25, 1975, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	May 17, 1974 Apr. 23, 1976	390369-B	Do.
Oregon	Douglas	Canyonville, city of	June 3, 1975, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	June 7, 1974 Feb. 8, 1976	410060-B	Do.
Pennsylvania	Lackawanna	Dalton, borough of	June 6, 1973, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	June 28, 1974 May 14, 1976	420998-B	Do.
Tennessee	Anderson	Lake City, town of	Oct. 23, 1970, emergency, Feb. 26, 1978, regular, Nov. 1, 1978, suspended.	Feb. 26, 1971	475436-B	Do.
Texas	Bandera	Unincorporated areas	Jan. 21, 1974, emergency, Nov. 1, 1978, regular, Nov. 1, 1978, suspended.	June 18, 1976	480020-A	Do.
Missouri	Johnson and Clay	Kansas City, city of	June 11, 1971, emergency, Sept. 29, 1978, regular, Nov. 1, 1978, suspended.	Nov. 8, 1974	290173	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-29102 Filed 10-16-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 984-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, takes no action on changes to the Monterey Bay Unified Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Wallace Woo, 415-556-7288.

SUPPLEMENTARY INFORMATION: On March 3, 1978, EPA published a notice of proposed rulemaking for revisions to the Monterey Bay Unified APCD's rules and regulations submitted on October 13, 1977, by the California Air Resources Board for inclusion in the California SIP.

Changes to the rules which are being acted upon by this notice include additon of a rule specifying wood wastes burning and addition of a rule specifying continuous emissions monitoring.

A list of the rules being considered by this action was published as part of the 43 FR 8809 notice of proposed rulemaking (Mar. 3, 1978). The proposed rulemaking provided 30 days for public comments.

Comments were received from the Monterey Bay Unified APCD requesting approval of Rule 422, Burning of Wood Wastes, as a SIP revision. The Monterey Bay Unified APCD pointed out that such burning has been allowed in the district since 1974, the emissions allowed are insignificant when compared to districtwide emissions, and the district believes that such burning has no impact on air quality.

Since the district submitted data showing that there will be no resultant increase in emissions and the 1977 air quality data shows ambient levels below the national standards, EPA is approving the rule.

It is the purpose of this notice to approve the revisions contained in the October 13, 1977, submittal as specified above and incorporate them into the California SIP.

Rule 215, Stack Monitoring, submitted October 13, 1977, is approved since it requires continuous monitoring for specified sources, and thereby partially fulfills the requirements of 40 CFR 51.19(e). It is noted, however, that rule 215 does not meet all of the requirements of 40 CFR 51.19(e) and appendix P of part 51.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: October 10, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(41)(vii) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(41) * * *

(vii) Monterey Bay Unified APCD.

(A) New rules 215, 422.

* * * * *

2. Section 52.234, paragraph (e)(8) is added as follows:

§ 52.234 Source surveillance.

* * * * *

(e) * * *

(8) North Central Coast Intrastate AQCR:

(i) Monterey Bay Unified APCD.

* * * * *

[FR Doc. 78-29205 Filed 10-16-78; 8:45 am]

[6560-01-M]

[FRL 982-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for the Town of Presque Isle, Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby issues a delayed compliance order to the town of Presque Isle, Maine. The order requires the town to bring air emissions from its conical refuse incinerator into compliance with certain regulations contained in the federally approved Maine State Implementation Plan (SIP). The town of Presque Isle's compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the order during the period the order is in effect.

DATE: This rule takes effect on October 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert O'Meara, engineer, 617-223-5610, or Mr. Wesley Marshall, attorney, 617-223-5600, both at EPA, Region I, Room 2103, J. F. K. Federal Building, Boston, Mass. 02203.

ADDRESS: The delayed compliance order, supporting material, and any comments received in response to a prior FEDERAL REGISTER notice proposing issuance of the order are available for public inspection and copying during normal business hours at: EPA, Region I, Room 2103, J. F. K. Federal Building, Boston, Mass. 02203.

SUPPLEMENTARY INFORMATION: On July 5, 1978, the Regional Administrator of EPA's Region I Office published in the FEDERAL REGISTER 43 FR 2905, a notice setting out the provisions of a proposed delayed compliance order for the town of Presque Isle, Maine. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments or requests for a public hearing were received in response to the proposed notice.

Therefore, a delayed compliance order effective this date is issued to the town of Presque Isle, Maine, by the Administrator of EPA pursuant to the authority of section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7413(d)(1). The order places the town of Presque Isle, Maine, on a schedule to bring its solid waste disposal system into compliance as expeditiously as practicable with section 100.4.2 of the Maine Department of Environmental Protection Air Pollution Control Regulations, a part of the federally approved Maine State Implementation Plan. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and reporting requirements. Although section 113(d)(C) of the Act normally requires emission monitoring in an order, no reasonable system of emission monitoring for the town of Presque Isle's incinerator exists. If the conditions of the order are met, it will permit the town of Presque Isle to delay compliance with the SIP regulations covered by the order until July 1, 1979. The town is unable to immediately comply with these regulations.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place the town of Presque Isle, Maine, on a schedule for compliance with the applicable requirement of the Maine State Implementation Plan.

(AUTHORITY: 42 U.S.C. 7413(d), 7601.)

V 4 3 / 2 0 1

Dated: October 10, 1978.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, chapter 1 of title 40 of the Code of Federal Regulations is amended as follows:

Subpart U—Maine

1. By amending the table in § 65.240 Federal delayed compliance orders issued under section 113(d)(1), (3), and (4) of the act, by adding the following entry:

. . . . . .

Source	Location	Order No.	SIP regulation involved	Date of FR proposal	Final compliance date
Town of Presque Isle	Maine	A-SS-76-449	§ 100.4.2	July 5, 1978	July 1, 1979

[FR Doc. 78-29206 Filed 10-16-78; 8:45 am]

[6560-01-M]

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Enforcement of Clean Air Act Requirements in the Northern Mariana Islands; Motor Vehicle Importation and Fuel Prohibitions

AGENCY: Environmental Protection Agency.

ACTION: Notice of suspension of enforcement of certain provisions and regulations.

SUMMARY: This notice announces that the enforcement of certain provisions of the Clean Air Act, as amended, and certain regulations promulgated under the Act, will be suspended with respect to the Northern Mariana Islands until June 1, 1979. These provisions and regulations concern importation of motor vehicles which do not meet Federal emission standards and the use of leaded and unleaded fuels in motor vehicles. This action is being taken to relieve undue hardship on local motor vehicle importers, dealers, and purchasers, and on retail fuel outlets due to the current unavailability of unleaded fuel in the Northern Mariana Islands.

DATE: Suspension of the affected provisions and regulations will be effective until June 1, 1979.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4534 (42 FR 56594 (1978)) made effective as of January 8, 1978, section 502(a)(2) of Pub. L. 94-241 which makes applicable to the Northern Mariana Islands all laws which are applicable to Guam and which are of general application to the several States. All States and Guam currently are subject to the imports and fuels sections of Clean Air Act, as amended (Act), and the regulations promulgated under them, so that those provisions are now applicable to the Northern Mariana Islands. Section 203(a)(1) of the Act prohibits the importation, by any person, of motor vehicles or motor vehicle engines that are not certified by EPA to meet Federal emission standards. Regulations promulgated under section 211(c) generally prohibit the introduction of leaded fuel into vehicles requiring unleaded fuel and require that retail distributors make unleaded fuel available.

However, immediate enforcement by the Environmental Protection Agency (EPA) of the fuels and imporatation prohibitions would impose undue hardship upon local motor vehicle importers, dealers, and purchasers, and retail fuel oulets due to the current unavailability of unleaded fuel in the Northern Mariana Islands. Many vehicles are certified to meet U.S. emission standards with lead-sensitive emission control systems and must be operated on unleaded fuel. These certified vehicles would have to be operated on leaded fuel until adequate supplies of unleaded fuel become available. Emission control systems requiring unleaded fuel (in particular, catalytic converters) would be rendered partially inoperative when operated on the only type of fuel available, leaded fuel. Enforcement of the section 203(a)(1) prohibitions would result in imposition upon vehicle importers and purchasers of the costs of certification and incorporation of catalysts for vehicles that would not remain controlled in actual use due to the effect of unleaded fuel on the emission control systems.

Enforcement of that provision of the fuels regulations which prohibits retail outlets from introducing leaded fuel into vehicles certified to operate on unleaded gasoline (40 CFR 80.22(a)) would effectively prohibit operation of these vehicles because proper fueling with unleaded gasoline would be impossible until such time as unleaded fuel is made available by the supplier, Mobil Oil of Micronesia. Similarly, the requirement that retail fuel outlets with specified sales volumes offer for sale unleaded gasoline (40 CFR 80.22(b)(1)) would be impossible to comply with by the five retail outlets currently subject to this provision until Mobil Oil of Micronesia completes the necessary changes in its production and delivery in order to supply the subject outlets with unleaded fuel. The Agency has determined that the period from the present date until June 1, 1979, is a reasonable time period within which the supplier and local retailers may procure the necessary equipment for compliance.

Therefore, notice is hereby given by EPA that enforcement of the following provisions of the Act and regulations promulgated thereunder, will be suspended with respect to the Northern Mariana Islands until June 1, 1979:

1. Regulations promulgated under section 211(c) of the Act which:

(a) Prohibit fuel retailers and wholesale purchaser-consumers from introducing, causing, or allowing the introduction of leaded gasoline into any motor vehicle labeled "unleaded gasoline only" or equipped with a gasoline tank filler inlet which is designed for the introduction of unleaded gasoline (40 CFR 80.22(a));

(b) Require retail fuel outlets located in urban areas which sold 200,000 or more gallons of gasoline during any calendar year beginning with 1971, or retail outlets located in rural areas which sold 150,000 or more gallons of gasoline during any calendar year beginning with 1971, to offer for sale unleaded gasoline (40 CFR 80.22(b)(1)); and

2. The section 203(a)(1) prohibition against importation, sale, introduction, or delivery for introduction into commerce of motor vehicles or engines not covered by a certificate of conformity with Federal emission standards and applicable regulations at 40 CFR Part 85.

The suspension is intended to provide relief to local motor vehicle importers and dealers, retail fuel outlets, and other individuals who are subject to the importation and fuels prohibitions under the Act.

No significant air quality impact will result from the suspension since the number of uncertified vehicles to be imported and sold in the Northern Mariana Islands until June 1, 1979, will be a small percentage of the approximately 3,500 vehicles presently operated there.

FOR FURTHER INFORMATION CONTACT:

Maureen D. Smith, Attorney-Adviser, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-426-9436.

Dated: October 4, 1978.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-29107 Filed 10-16-78; 8:45 am]

[6560-01-M]

[FRL 988-5; PP 6F1849 and 7F1995/R167]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Aldicarb

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide aldicarb on soybeans, dry beans, and sweet potatoes. The requests were submitted by Union Carbide Corp. This regulation establishes maximum permissible levels for residues of aldicarb on the above crops.

EFFECTIVE DATE: Effective on October 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James Rea, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW, Washington, D.C. 20460, 202-755-9315.

SUPPLEMENTARY INFORMATION: On September 24, 1976, and October 27, 1977, notices were given (41 FR 4196 and 42 FR 56643, respectively) that Union Carbide Corp., 1730 Pennsylvania Avenue NW., Washington, D.C. 20006, had filed pesticide petitions with the EPA. Pesticide petition (PP) 6F1849 proposed that 40 CFR 180.269 be amended to establish tolerances for residues of the insecticide and nematocide aldicarb (2 - methyl- 2 - (methylthio)propionaldehyde *O* - (methylcarbamoyl)oxime) and its cholinesterase - inhibiting metabolites 2 - methyl - 2 - (methylsulfinyl)propionaldehyde *O* - (methylcarbamoyl)oxime) and 2 - methyl - 2 - (methylsulfonyl)propionaldehyde *O* - (methylcarbamoyl)oxime in or on the raw agricultural commodities soybeans (succulent) at 0.02 part per million (ppm), soybeans (dry) at 0.1 ppm, soybean straw at 0.4 ppm, and dry beans at 0.1 ppm.

Subsequently, the petitioner amended the petition by deleting the tolerances of 0.4 ppm on soybean straw and 0.1 ppm on soybeans (dry). (The petitioner had proposed a tolerance of 0.1 ppm in or on dry beans, but this tolerance was inadvertently omitted by the Agency from the notice of filing. Thus, the tolerance of 0.1 ppm in or on dry beans is being included in this regulation.)

PP 7F1995 proposed that 40 CFR 180.269 be amended to increase the established tolerance for residues of aldicarb and the above cholinesterase-inhibiting metabolites in or on the raw agricultural commodity sweet potatoes from 0.02 ppm to 0.1 ppm. No comments were received in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included 2-year rat and dog-feeding studies with a no-observable-effect level (NOEL) of 0.3 milligram (mg)/kilogram (kg) of body weight (bw)/day and 3.3 ppm respectively; an 18-month mouse feeding study with an NOEL of 0.7 mg/kg bw; a rat teratology study (negative at 1 mg/kg bw/day); a hen neurotoxicity study (negative at 4.5 mg/kg bw/day); and a three-generation rat reproduction study with an NOEL of 0.7 mg/kg bw.

Based on the 2-year rat feeding study with an NOEL of 0.3 mg/kg bw/day and using a 100-fold safety factor, the acceptable daily intake (ADI) for man is 0.003 mg/kg bw/day. The theoretical maximal residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerances does not exceed the ADI. (Tolerances have previously been established for residues of aldicarb on a variety of raw agricultural commodities at levels ranging from 1 ppm to 0.002 ppm.)

The metabolism of aldicarb is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of aldicarb, nor are there any other relevant considerations involved in establishing the proposed tolerances, nor are any desirable data lacking from the petitions.

In the case of the proposed use of aldicarb on sweet potatoes, there is no reasonable expectation of residues in eggs or poultry as delineated in 40 CFR 180.6(a)(3). The established tolerances for residues of aldicarb in meat and milk are adequate to cover residues incurred from the feed use of cull sweet potatoes.

In the case of the proposed use of aldicarb on soybeans and dry beans, there is no reasonable expectation of residues in eggs, meat, milk, or poultry.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 0.1 ppm on dry beans and sweet potatoes and 0.02 ppm on soybeans established by amending 40 CFR 180.269 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before November 16, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on October 17, 1978, part 180 is amended as set forth below.

Dated: October 11, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(d)(2) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)).)

Part 180, subpart C, § 180.269 is amended by alphabetically inserting beans (dry) at 0.1 ppm and soybeans at 0.02 ppm in the table and by revising the item sweet potatoes at 0.02 ppm to read sweet potatoes at 0.1 ppm, as follows:

0 C 1 7 7 8

§ 180.269 Aldicarb; tolerances for residues.

Commodity:	Parts per million
Beans (dry)	0.1
Soybeans	0.02
Sweet potatoes	0.1

[FR Doc. 78-29204 Filed 10-16-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S.O. No. 1308]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars; Decision

OCTOBER 11, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Second Revised Service Order No. 1308).

SUMMARY: The Union Pacific Railroad Co. and the Illinois Central Gulf Railroad Co. are unable to furnish individual shippers with jumbo covered hopper cars for consecutive shipments of grain as required by the applicable tariffs. Second Revised Service Order No. 1308 waives the consecutive-trip provisions of the applicable tariffs, enabling these railroads to make a more equitable distribution of its supply of covered hopper cars among all potential users of these cars.

DATES: Effective 11:59 p.m., October 12, 1978; expires 11:59 p.m., January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

• An acute shortage of covered hopper cars for transporting shipments of grain, grain products, soybeans, or soybean meal exists on the Union Pacific Railroad Co. (UP) and the Illinois Central Gulf Railroad Co. (ICG). The UP has published certain rates in Transcontinental Freight Bureau Tariff 45-N, ICC 1850, Item 3208 series, which require the shipment of three consecutive lots of grain, each to comprise 4,750 net tons loaded into more than fifty (50) covered hopper cars of 100-ton capacity, or each to comprise 2,375 net tons loaded into not more than twenty-five (25) covered hopper cars of 100-ton capacity. The ICG has published certain rates in Illinois Central Gulf Tariffs 604-A, ICC 92, Item 350; 608, ICC 77, Item 350; and 609, ICC 99, Item 350, which require shipment of five (5) consecutive trips of grain. The consecutive-trip provisions of these tariff items are preventing the UP and ICG from making an equitable distribution of these covered hopper cars among all prospective shippers having a need to use such cars. The UP and ICG have requested authority to waive the consecutive-trip provisions of the tariff rules to enable them to continue to offer shippers the benefit of the lowest level of freight rates published in these items, while at the same time, making a fair and equitable distribution of their 100-ton covered hopper cars among the potential users of these cars.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

§ 1033.1308 Distribution of covered hopper cars.

(a) The Union Pacific Railroad Co. (UP) is authorized to waive the three-consecutive-trip requirements applicable to 4,750-ton shipments or to 2,375-ton shipments of grain or soybeans published in item 3208 series of Transcontinental Freight Bureau Tariff 45-N, ICC 1850, supplements thereto or reissues thereof. All other provisions of that tariff shall remain fully in effect.

• (b) The Illinois Central Gulf Railroad Co. (ICG) is authorized to waive the five-consecutive-trip requirements applicable to shipments of grain or soybeans published in ICG Tariffs 604-A, ICC 92, Item 350; 608, ICC 77, Item 350; and 609, ICC 99, Item 350, supplements thereto or reissues thereof. All other provisions of these tariffs shall remain fully in effect.

(c) *Rules and regulations suspended.* The operation of all other tariff provisions or of other rules and regulations insofar as they conflict with the provisions of this order, is hereby supended.

(d) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(e) *Effective date.* This order shall become effective at 11:59 p.m., October 12, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29266 Filed 10-16-78; 8:45 am]

• Change.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 703]

INVESTMENTS AND DEPOSITS

Investment Activities of Federal Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to restrict Federal credit union involvement in certain investment activities which the Administration believes are unauthorized or otherwise unsafe and unsound. The rule is necessary in order to avoid recurrence of recent incidents involving substantial losses to Federal credit unions.

DATES: Comments must be received on or before December 15, 1978.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert F. Schafer, Office of Examination and Insurance, at the above address. Telephone: 202-254-8760.

SUPPLEMENTAL INFORMATION:

1. *Caution*—During the comment period and until a final regulation is published, Federal credit unions should refrain from engaging in the activities described below.

2. *Background*—Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) specifies the investments that Federal credit unions are authorized to make; such investments consist primarily of loans to members and purchases of securities guaranteed by the U.S. Government. In recent months the Administration has learned of several instances of Federal credit unions engaging in various transactions involving Government securities for speculative purposes, rather than to meet legitimate investment and liquidity needs. These speculative transactions have included forward placement contracts, futures, repurchase agreements and reverse repurchase agreements. In some cases, abuses involving these related transactions have resulted in substantial losses to Federal credit unions, which may cause a reduction or loss of dividends to memebers, and may present a potential loss to the National Credit Union Share Insurance Fund. The purpose of this rule is to prevent further abuses by setting forth restrictions on Federal credit union involvment in these activities. This purpose would be accomplished by an amendment to Part 703 of the National Credit Union Administration's Rules and Regulations—"Investments and Deposits." Subsection 703.3(b)(1) has been included to provide that Federal credit unions may purchase and sell securities only when the purchase or sale is to be completed within five business days after the agreement is made. Essentially, this rule would provide that when exercising their investment powers, Federal credit unions shoud engage only in immediate cash settlement transactions.

3. *Forward Placement Contracts (Forwards)*—Forward placement contracts (also known as delayed delivery or future delivery contracts) are contracts to purchase or sell a security at a future date. Forwards were developed by the mortgage industry to facilitate the sale of mortgage-backed securities. As it was originally conceived, an institution that intended to package a pool of mortgages and issue a mortgage-backed security would contract with another party to purchase the security at a future date. The practice of delivery securities in the future is necessary because of the time required to originate and process the mortgage loans. Generally it takes between 60 to 120 days to package a mortgage-backed security.

The Administration believes that a forwards market to help facilitate the packaging of mortgage-backed securities is a useful vehicle in providing mortgage financing. However, in recent years, the forwards market has been subjected to numerous abuses by brokers and dealers. These firms and/or individuals have contracted with Federal credit unions for forwards which far exceed the time period necessary to develop a mortgage-backed security. Additionally, brokers and dealers have encouraged credit unions to engage in forwards which exceed the credit union's ability to purchase the underlying security on the settlement date. As a result, Federal credit unions, relying on the expertise of their brokers and dealers, have speculated in a very volatile market.

The Administration believes that some brokers and dealers are not using forwards as they were originally intended, but rather as a means of increasing their own profits and commissions at the expense of their customers.

At the present time the investment authority of Federal credit unions in marketable securities is virtually limited to U.S. government and agency securities. Brokers and dealers dealing exclusively in government securities are exempt from the filing and other requirements of the Securities and Exchange Act of 1934 and the self-regulatory proscriptions of the National Association of Securities Dealers (NASD). Additionally, it appears that brokerage firms which deal in government securities have taken little or no action to police their members.

The Administration cannot foresee when and if the abuses in the forwards market will be corrected. Therefore, the Administration proposes to prohibit Federal credit unions from engaging in the two types of forwards because the transactions are either not authorized under the Act or constitute unsafe and unsound practices as explained below.

a. *Standby Commitment.*—A standby commitment (also known as a standby or optional delivery contract) is an agreement for the sale of a security at a future date whereby the buyer is required to accept delivery of the security at the option of the seller. As consideration for the option, the seller usually pays a negotiated commitment fee to the buyer so that he will "standby" to accept delivery. The commitment fee is paid when the parties enter into the contract and is sometimes called "up front money." The fee is nonrefundable to the seller and is realized by the buyer as income even if the securities are not delivered.

The Administration believes that in a standby commitment one party purchases an option to sell and deliver the securities at a future date. The other party creates the option by agreeing to "standby" to purchase the securities if the first party elects to sell. Thus, the investment powers of Federal credit unions (see, 12 U.S.C. 1757(7)) do not include the authority to purchase or sell such an option. This conclusion is specifically set forth at § 703.3(b)(2), which provides that Federal credit unions may not enter into standby

commitments to purchase or sell securities.

b. *Cash Forward Agreement.*—A cash forward agreement (also known as a

funds and the dividend or interest earned on the securities.

However, if the market price declines and credit unions are forced to

in the secondary market, the transaction represents an investment which is separate and apart from the underly-

be shown in account No. 420, Gain (Loss) on Investments.

d. Cash forward agreements to sell securities

must be in compliance with section 107(5)(D) of the Act and NCUA Rules and Regulations.

iv. The securities used as collateral

To record purchase of security at lower of cost or market.

Dr. other deferred income (889)—10,000.

Cr. other nonoperating income (expense) (440)—10,000.

V 43/201 OCT 17 78

commitments to purchase or sell securities.

b. *Cash Forward Agreement.*—A cash forward agreement (also known as a mandatory delivery contract) is an agreement to purchase or sell a security at a future date which requires mandatory delivery and acceptance.

The Administration believes that in a properly controlled environment, where suitability standards have been developed and enforced, Federal credit union involvement in cash forward agreements might be a legitimate investment tool. The recurrence of abuses in the presently unregulated government securities market, however, causes the Administration to view Federal credit union involvement in cash forward agreements as an unsafe and unsound investment activity. This conclusion is stated in § 703.3(b)(3) of the rule, which provides that Federal credit unions may not enter into cash forward agreements.

The Administration would reconsider this position should the investment industry develop an adequate self-regulatory structure with respect to dealers of U.S. Government and agency securities.

4. *Reverse Repurchase Agreement (Reverse Repo).*—A reverse repurchase agreement is an agreement whereby a Federal credit union sells securities to a purchaser and repurchases the same securities from the purchaser at an agreed upon future date. The Federal credit union pays interest on the funds received for the sale of the securities at an agreed upon rate and usually continues to receive income from the dividends or interest borne by the securities during the period when they are "sold" to the purchaser. The Administration believes the reverse repurchase agreement is a borrowing activity by the credit union. As such, it is permissible subject to the limitations of section 107(9) of the Federal Credit Union Act (12 U.S.C. 1757(9)) that a Federal credit union may not borrow in excess of 50 percent of its paid in and unimpaired capital and surplus.

Some Federal credit unions have borrowed funds via reverse repos and used those funds to purchase new marketable securities. In some cases, the new securities have been used to borrow additional funds, which are also used to purchase new marketable securities. Credit unions engaging in this type of pyramiding are speculating that either:

a. The market price of the new marketable securities will increase and a profit will result from the sale of those securities, or

b. The market price will remain stable and increased income will result from the arbitrage, the difference between interest paid on the borrowed funds and the dividend or interest earned on the securities.

However, if the market price declines and credit unions are forced to sell the securities, losses will be incurred.

The use of reverse repurchase agreements for this and like speculative purposes is not properly incidental to the Federal credit union's borrowing authority, investment authority or any other express power, and is considered an unsafe and unsound practice. These conclusions are reflected in § 703.3(b)(6). However, Federal credit unions would not be prohibited from using reverse repurchase agreements to meet ordinary and unexpected liquidity needs such as temporary share withdrawals or loan demands.

5. *Repurchase Agreements.*—Having determined that reverse repurchase agreements were loans to credit unions, the Administration was required to consider the converse of that transaction; the repurchase agreement. The Administration recognizes that the repurchase agreement is a constructive investment technique which enables a credit union to invest its excess funds, particularly on an overnight or weekend basis. However, when such a transaction constitutes a loan, the credit union is then limited by seciton 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) to dealing with members, other credit unions, or credit union organizations. For a Federal credit union to engage in a repurchase agreement with organizations other than those cited in section 107(5), all the essential elements of a sale of the security must be present. The distinction between the loan-type and investment-type repurchase agreement is set forth in § 703.3(a)(4). The limitations on each type of repurchase agreement is set forth in § 703.3(b)(4) and 703.3(b)(5).

In addition to the legality of the transaction, the Administration has also considered the safety and soundness of the repurchase agreement. The major element of risk in the investment-type transaction would be the loss of dominion over the security. Therefore, the Administration proposes to authorize the investment-type repurchase agreement provided the Federal credit union takes possession of the securities or there is a segregation of the securities from the assets of the vendor. This requirement is contained in § 703.3(a)(4)(i)(1).

6. *Futures.*—A future is a standardized contract for future delivery of commodities, including certain government securities sold on designed commodities and exchange markets, e.g., the Chicago Board of Trade. Unless the contract represents a bonafide hedging contract incident to the assembly of a pool of mortgages for sale in the secondary market, the transaction represents an investment which is separate and apart from the underlying security. Therefore, Federal credit unions may not purchase a future since it is an investment not authorized by section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)). This determination is reflected in § 703.3(b)(7).

7. *Outstanding Commitments.*—Numerous Federal credit unions are already committed to the transactions noted above. Until a final determination is made on the permissibility of such transactions, Federal credit unions are required to comply with the following guidelines and accounting procedures:

a. Standby commitments to purchase securities.

i. The amount of the standby commitment must be shown as a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the commitment is outstanding. The footnote will reflect both the agreed upon purchase price and the market price on the statement date.

ii. The commitment fee may not be recognized as income until the date of settlement. Thus when the fee is received, it shall be recorded in account No. 889, Other Deferred Income. On the settlement date the fee will be recorded in account No. 440, Other Non-Operating Income (Expense).

iii. When purchased, the underlying security shall be recorded at the lower of cost or market. Losses, if any, shall be shown in account No. 420, Gain (Loss) on Investments.

b. Standby commitments to sell securities.

i. The amount of the standby must be shown as a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the commitment is outstanding.

ii. The commitment fee will be recognized as an expense on the date of commitment. The fee will be recorded in account No. 440, Other Non-Operating Income (Expense).

iii. The gain or loss on the sale of the underlying security will not be recognized until the settlement date.

c. Cash forward agreement to purchase securities.

i. The amount of the cash forward agreement must be shown as a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the commitment is outstanding. The footnote will reflect the agreed upon purchase price and the market price on the statement date.

ii. When purchased, the underlying security shall be recorded at the lower of cost or market. Losses, if any shall

be shown in account No. 420, Gain (Loss) on Investments.

d. Cash forward agreements to sell securities

i. The amount of the cash forward agreement must be shown as a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the commitment is outstanding.

ii. The gain or loss on the sale of the underlying security will not be recognized until the settlement date.

Examples of accounting entries for standby commitments to purchase and sell securities can be found in Appendixes A and B respectively. Accounting entries for cash forward agreements are the same as those for standbys, except for the commitment fee.

e. Investment-type repurchase agreements.

i. The security purchased will be recorded at cost in the appropriate investment account (series 740).

ii. The credit union's Statement of Financial Condition will be footnoted to reflect the amount of securities which are subject to resale and the date of resale.

iii. Gains and losses on the sale of the securities sold on the settlement date will be reflected in account No. 420, Gain (Loss) on Investments.

iv. The interest or dividend received on the securities during the period of ownership must be reflected in account No. 121, Income on Investments.

An example of the accounting entries for investment-type repurchase agreements can be found in Appendix C.

f. Loan-type repurchase agreements.

i. Loan-type repurchase agreements to members must be made in accordance with and within the limitations established in the Federal Credit Union Act, the Federal Credit Union Bylaws, the National Credit Union Administration Rules and Regulations, and policies established by the board of directors. These requirements include but are not limited to a maximum loan limit of 10 percentum of unimpaired capital and surplus to one member, the receipt of a properly supported loan application, approval of the loan by the credit committee, and execution of a note supported by documentation of the collateral. Account No. 705, Loans Subject to Repurchase Agreements, will be used to record these loans.

ii. Loan-type repurchase agreements to other credit unions must conform with limitations contained in section 107(7)(C) of the Act and Part 703.2 of the NCUA Rules and Regulations. These loans will be recorded in account No. 747, Loans to Other Credit Unions.

iii. Loan-type repurchase agreements to approved credit union organizations must be in compliance with section 107(5)(D) of the Act and NCUA Rules and Regulations.

iv. The securities used as collateral for the loan-type repurchase agreement will be identified in a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the repurchase agreement is outstanding. The footnote will reflect the market price of the securities on the statement date.

v. Income received from loans to members will be recorded in account No. 111, Interest on Loans. Income received from loans to credit union organizations and loans to other credit unions will be recorded in account No. 121, Income from Investments.

An example of the accounting entries for loan-type repurchase agreements can be found in Appendix D.

g. Reverse repurchase agreements.

i. Funds received from reverse repos will be recorded as borrowed funds in account No. 812, Notes Payable—Other.

ii. The securities used as collateral for the reverse repos will be identified in a footnote or memorandum entry on the credit union's Statement of Financial Condition for each month the reverse repo is outstanding. The footnote will reflect both the book value and the market price on the statement date.

iii. Interest paid on reverse repos will be recorded in account No. 340, Interest on Borrowed Money.

An example of the accounting entries for permissible reverse repurchase agreements can be found in Appendix E.

APPENDIX A.—ACCOUNTING ENTRIES FOR A STANDBY COMMITMENT TO PURCHASE A SECURITY

Assume that an FCU entered into a Standby Commitment to purchase at 95 a Federal Agency Security with a par value of $1 million. A one percent of par commitment fee is paid to the FCU and on the settlement date, the market value is 93.

ENTRIES

Date of commitment:
The records of the Federal credit union are footnoted.

Date commitment fee is received:
Dr. cash (731)—10,000.
Cr. other deferred income (889)—10,000.
To record receipt of commitment fee.

Date of settlement (securities not deliv ered):
Dr. other deferred income (889)—10,000.
Cr. other nonoperating income (expense) (44)—10,000.
To recognize income from Standby Commitment.

Date of settlement (securities delivered):
Dr. Federal agency securities (742)—930,000.
Dr. gain (loss) of investments (420)—20,000.
Cr. cash (731)—950,000.
To record purchase of security at lower of cost or market.
Dr. other deferred income (889)—10,000.
Cr. other nonoperating income (expense) (440)—10,000.
To recognize income from standby commitment.
Footnote is removed from records.

APPENDIX B.—ACCOUNTING ENTRIES FOR A STANDBY COMMITMENT TO SELL A SECURITY

Assume that an FCU entered into a Standby Commitment to sell a Federal Agency Security which has a par value of $1 million and is recorded on the credit union's books at 97. The agreed upon sale price is 98 and the commitment fee is 1½ percent.

ENTRIES

Date of commitment (and fee payment):
The records of the Federal credit union are footnoted.
Dr. other nonoperating income (expense) (440)—15,000.
Cr. cash (731)—15,000.
To record payment of commitment fee.

Date of settlement (securities delivered):
Dr. cash (731)—980,000.
Cr. Federal agency securities (742)—970,000.
Cr. gain (loss) on investments (420)—10,000.
To record sale of security.
Footnote is removed from records.

APPENDIX C.—ACCOUNTING ENTRIES FOR AN INVESTMENT-TYPE REPURCHASE AGREEMENT

Assume that FCU "A" enters into a repurchase agreement with its broker on April 15 whereby it purchases a $1 million Federal Agency Security at par. It also agrees to resell to the broker a similar type security on April 18. On April 18, the FCU decides to resell the same security, but the fair market value of the security is 99 2/32.

ENTRIES

April 15:
Dr. Federal agency securities (742)—1,000,000.
Cr. cash (731)—1,000,000.
To record purchase of security.
The records of the Federal credit union are footnoted.

April 18:
Dr. cash (731)—999,688.
Dr. gain (loss) on investments (420)—312.
Cr. Federal agency securities (742)—1,000,000.
To record sale of securities.
Dr. cash (731)—667.
Cr. income from investments (121)—667.
To record income from investment for three days.
Footnote is removed from records.

APPENDIX D.—ACCOUNTING ENTRIES FOR A LOAN-TYHPE REPURCHASE AGREEMENT

Assume FCU "A" enters into a Repurchase Agreement with FCU "B" whereby "A" lends $1 million to "B" on February 1 and receives as collateral a $1 million Federal Agency security valued at par. FCU "B" agrees to repay the loan on August 1. The interest rate is 6 percent. The value of the security on June 30 is 99.

ENTRIES ON THE BOOKS OF FCU "A"

February 1:

Dr. loans to other credit unions (747)—1,000,000.
Cr. cash (731)—1,000,000.
To record loan.

(3) "Reverse repurchase agreement" means an agreement whereby a Federal credit union enters into an understanding to sell securities to a purchas-

organizations. Loan-type repurchase agreements represent lending and are subject to the limitations of 12 U.S.C. 1757(5).

SBA financial assistance under § 120.2(d)(7). SBA has received further guidance from the legislative history, particularly House Report No. 95-1,

not less than a second lien as security provided that the total amount of all liens on the property could not exceed 80 percent of the fair value of the

free other funds to purchase, building sites or other vacant land, or to operate or hold residential or commerial rental property for the account of the

Dr. loans to other credit unions (747)—1,000,000.
Cr. cash (731)—1,000,000.
To record loan.
The records of the Federal credit union are footnoted.

August 1:
Dr. cash (731)—1,030,000.
Cr. loans to other credit unions (747)—1,000,000.
Cr. income from investment (121)—30,000.
To record repayment of loan with interest.
Footnote is removed from records.
Entries for FCU "B" are contained in Appendix E.

APPENDIX E.—ACCOUNTING ENTRIES FOR A PERMISSIBLE REVERSE REPURCHASE AGREEMENT

Referring to Appendix D, FCU "B" would record the transaction as a Reverse Repurchase Agreement. In addition to the information given in that example, assume also that FCU "B" is unable to repay the loan from available funds on settlement date. FCU "B" chooses to sell the underlying security at its fair market value of 99½. The security is booked at par.

ENTRIES ON THE BOOKS OF FCU "B"

February 1:
Dr. cash (731)—1,000,000.
Cr. notes payable—other (812)—1,000,000.
To record the reverse repo as borrowed funds.
The records of the Federal credit union are footnoted.

August 1:
Dr. cash (731)—995,000.
Dr. gain (loss) on investments (420)—5,000.
Cr. Federal agency securities (742)—1,000,000.
To record sales of the underlying security recognizing a $5,000 loss.
Dr. notes payable (812)—1,000,000.
Dr. interest on Borrowed money (340)—30,000.
Cr. cash (731)—1,030,000.
To record payment of notes payable and interest due.
Footnote is removed from records.

Accordingly, 12 CFR Part 703 is amended by adding a new section as set forth below.

LAWRENCE CONNELL,
Administrator.

OCTOBER 11, 1978.

AUTHORITY: Sec. 107, 91 Stat. 49 (12 U.S.C. 1757), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

703.3 Investment activities.

(a) Definitions.

(1) "Standby commitment" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.

(2) "Cash forward Agreement" means an agreement to purchase or sell a security at a future date more than five days after the agreement is made and that requires mandatory delivery and acceptance.

(3) "Reverse repurchase agreement" means an agreemcnt whereby a Federal credit union enters into an understanding to sell securities to a purchaser and to repurchase the same securities from that purchaser at a future date, irrespective of the amount of consideration paid by the Federal credit union or the purchaser.

(4) "Repurchase agreement" means an agreement whereby a Federal credit union enters into an understanding to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be of two types:

(i) "Investment-type repurchase agreement" means a repurchase that contains the essential elements of a sale of a security, namely:

(*a*) The Federal credit union purchasing the securities must take physical possession of the securities or must receive a custodial or safekeeping receipt from a bank or other financial institution evidencing that the securities have been segregated from the general assets of the vendor.

(*b*) The Federal credit union must not be required to deliver the identical securities in the event of repurchase.

(*c*) The Federal credit union must assume the risk of market fluctuations in the value of the securities it has purchased.

(*d*) The Federal credit union must receive the coupon or stated interest rate or dividend on the securities purchased for the time period owned.

(ii) "Loan-type repurchase agreement" means any repurchase agreement that does not qualify as an investment-type repurchase agreement.

(5) "Future" means a standardized contract for the future delivery of commodities, including certain government securities, sold on designated commodities exchanges.

(b) Limitations.

(1) Federal credit unions may purchase or sell securities authorized by 12 U.S.C. 1757(7) only when the purchase or sale is to be completed within five business days after the agreement is made.

(2) Federal credit unions may not enter into standby commitments to purchase or sell securities.

(3) Federal credit unions may not enter into cash forward agreements to purchase or sell securities.

(4) Federal credit unions may not enter into investment-type repurchase agreements unless all the conditions cited in §703.3(a)(4)(i) are met. Any repurchase agreements that do not meet such requirements constitute loan-type repurchase agreements subject to the limitations of §703.3(b)(5).

(5) Federal credit unions may enter into loan-type repurchase agreements only with their own members, other credit unions or approved credit union organizations. Loan-type repurchase agreements represent lending and are subject to the limitations of 12 U.S.C. 1757(5).

(6) Federal credit unions may not enter into reverse repurchase agreements with the intent of using the funds received to purchase securities authorized under 12 U.S.C. 1557(7)(B), (D), (E), (F), (I) or 12 U.S.C. 1757(8). Reverse repurchase agreements represent borrowing and are subject to the limitations of 12 U.S.C. 1757(9).

(7) Federal credit unions may not buy or sell a future contract except when used as a hedging contract incident to the assembly of a pool of mortgages for sale in the secondary market.

[FR Doc. 78-29213 Filed 10-16-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 120]

BUSINESS LOAN POLICY

Proposed Rulemaking

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The proposed rule would reflect changes mandated by the enactment of section 301 of Pub. L. 95-89, 91 Stat. 553. The proposed rule broadens the category of applicants eligible to be small contractors, extends the maturity period for SBA financing of small contractor loans, provides that SBA may take back a first or second lien, and places a percentage limit on how much of the loan proceeds may be used for community improvements which benefit more than the project site on which SBA has a lien.

DATE: Comments must be received on or before November 16, 1978.

ADDRESS: Written comments, in duplicate, are to be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L. Street NW., Washington, D.C. 20416, 202-653-6470.

SUPPLEMENTARY INFORMATION: The proposed regulation implements section 301 of Pub. L. 95-89, 91 Stat. 553, relating to the small general contractor program. The intent of the statutory amendment was to enlarge the program and to broaden the category of applicants eligible to receive

SBA financial assistance under §120.2(d)(7). SBA has received further guidance from the legislative history, particularly House Report No. 95-1, 95th Congress, 1st session (1977) and Senate Report No. 95-184, 95th Congress, 1st session (1977).

Under the current regulation, financial assistance must be repaid within 18 months (plus the period of construction or rehabilitation). The present program prohibits renting the property between completion of construction or rehabilitation and sale. In many parts of the country 18 months is too short a time to sell property, especially commercial or multiple housing structures, and many buyers of such property want the property at least partially rented before purchasing it. The proposed regulation changes the time period to 36 months and authorizes the contractor, with the SBA's written permission, to rent the constructed or rehabilitated property pending sale.

The existing program is open to only to small business operating under the Standard Industrial Classification (SIC) code Nos. 1521, 1522, 1531, and 1541. The proposed regulation broadens the category so that the eligible contractor can be a construction contractor, contractor or homebuilder who has demonstrated managerial and technical ability in constructing or renovating projects of comparable size.

The present program prohibits the purchase of vacant land for constructing a new building. In order to insure that the contractor has a dollar equity in the project and to avoid 100-percent financing for unimproved land, the proposed regulation provides that no more than 20 percent of any financial assistance from SBA may be used for the purchase of unimproved vacant land.

The present program is available only on a guaranty basis. The proposed regulation removes this limitation and permits financial assistance on a direct or immediate participation basis. Since SBA personnel do not have detailed knowledge of the real estate market in all rural and urban areas and SBA lacks the personnel to make construction inspections in all parts of any district, the proposed regulation requires the contractor to supply to the participating lender or SBA letters from (a) a mortgage lender, (b) an independent licensed real estate broker, and (c) an independent architect, appraiser or engineer.

The present program requires a first lien on the project site in most instances. One reason for this policy was to assure that the contractor had some equity in the project. The proposed regulation provides that SBA would grant financial assistance if it receives not less than a second lien as security provided that the total amount of all liens on the property could not exceed 80 percent of the fair value of the completed project.

Since Pub. L. 95-89 authorizes contractor loans for sale only, the proposed regulation provides that the financing must be repaid from proceeds received from the sale of the property to parties not affiliated with the borrower.

The present program does not allow proceeds from any contractor loan to be used for streets, curbs, water or sewer mains and other improvements that benefit an entire development. The proposed regulation provides that not more than 5 percent of the SBA financial assistance may be used for such purposes.

Accordingly, notice is hereby given that pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, it is proposed to amend §120.2(d)(7) of Part 120, Chapter I, Title 13 of the Code of Federal Regulations, to read as follows:

§120.2(d) Financial assistance will not be granted by SBA.

* * * * * *

(7) As a general rule, if the purpose of the financial assistance is to finance the acquisition, construction, improvement, or operation of real property which is, or is to be, held primarily for sale or investment and is not to be used in connection with the applicant's otherwise eligible business: *Provided, however,* That financial assistance may be provided for residential or commercial construction or rehabilitation for sale to applicants which comply with all the following conditions:

(i) Any such financial assistance must be repayable within 36 months (plus the period of construction or rehabilitation);

(ii) An eligible applicant must be a construction contractor, contractor or homebuilder who has demonstrated managerial and technical ability in constructing or renovating projects of comparable size.

(iii) The financial assistance must be used to finance the construction or rehabilitation of residential or commercial real property, or the acquisition and prompt and significant rehabilitation (costing more than one-third of the purchase price) of residential or commercial real property, for sale on completion for the applicant's account. Not more than twenty percent (20%) of any financial assistance is to be used for the purchase of unimproved (vacant) land. No part of such financing may be used to purchase, or free other funds to purchase, building sites or other vacant land, or to operate or hold residential or commerial rental property for the account of the applicant or an affiliate for investment or speculative purposes, except that applicant may, with the written permission of the SBA, rent the constructed or rehabilitated property pending sale.

(iv) Applicant must submit, to the participating lender or SBA, letters from (*a*) a mortgage lender, (*b*) an independent licensed real estate broker, and (*c*) an independent architect, appraiser or engineer. The mortgage lender shall advise whether permanent mortgage money is usually available to qualified borrowers to purchase real property in the project area for property similar to or comparable with the property to be constructed or rehabilitated by the applicant. The broker shall advise whether a sales market exists for the type of building to be constructed or rehabilitated by the applicant and whether the proposed construction or renovation would be compatible with the other buildings in terms of monetary and architectural values; the broker must truthfully state that he has at least three (3) years experience in real estate sales for similar property in the project area. The architect, appraiser or engineer shall agree to make construction inspections and certifications necessary to support interim construction disbursements. The cost of such inspections may be paid by applicant from its own funds or may be added to the loan amount.

(v) The financial assistance must be secured with not less than a second lien on the land and improvements to be acquired, constructed or rehabilitated: *Provided,* That all liens must permit the release of individual parcels of property upon payment of a predetermined amount of money and provide for transfer of clear title to the buyer: *And provided further,* That the total amount of all such liens cannot exceed eighty percent (80%) of the fair market value of the completed project.

(vi) Proceeds of any such financing may not be used as a construction loan to be repaid from permanent financing with the applicant or an affiliate retaining title. The financing must be repaid from proceeds received from the sale of the property to an unaffiliated third party.

(vii) The terms "construction" and "rehabilitation" are intended to include only on-site repair, alteration, conversion, extension, renovation, rehabilitation, new construction, or other improvement of residential or commercial buildings; and on-site underground connections to water, sewer, or gas mains, underground or

aboveground connections for electric or telephone service, septic tank construction, and landscaping of the property: *Provided,* That not more than five percent (5%) of the SBA financing

notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted

Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to

tice of the division or unit to accompany billing statements with return envelopes. Such notice shall in all material respects be consistent with, but need not be identical to,

has been refunded or a fully offsetting purchase has been made.

B. Within one hundred eighty (180) days after service of this Order, notify each cus-

A. Each refund required or permitted to be made by this Order shall be given to the customer by mailing a check payable to the order of the customer or mailing a credit

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aboveground connections for electric or telephone service, septic tank construction, and landscaping of the property: *Provided,* That not more than five percent (5%) of the SBA financing may be used for streets, curbs, open spaces, or construction of public water and sewer mains, or of waste disposal facilities, or costs of community improvements that benefit more than the structure(s) constructed or rehabilitated with SBA financial assistance.

Dated: October 11, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-29282 Filed 10-16-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3066]

HERTZ CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a New York City car rental company to provide each charge account customer having five dollars or more as a credit balance with periodic statements reflecting that balance, notify such customers that credit balances are refundable; and automatically refund unclaimed credit balances within seven months of their occurrence. The order would additionally prohibit the company from writing off credit balances, and would require the firm to refund, upon request, any credit balance created during the past six years.

DATE: Comments must be received on or before December 14, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Lewis H. Goldfarb, Assistant Director for Credit Practices, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580; 202-724-1139.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

HERTZ CORP.

[File No. 782 3066]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Hertz Corp., a corporation, and it now appearing that The Hertz Corp., a corporation, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between The Hertz Corp., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent The Hertz Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 660 Madison Avenue, New York, N.Y. 10021.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That the Hertz Corp., a corporation, its successors and assigns and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the extension of credit incident to the business of renting of automobiles in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from:

I

A. Failing to mail to each customer having a credit balance in excess of five dollars ($5.00), created after the date of service of this Order, a statement in each billing period following the creation of the credit balance, clearly setting forth such credit balance, except that with respect to central billing customer, as "central billing customer" is defined in Paragraph Four of the Complaint or other customers with accounts cumulatively billed on periodic statements, such statement shall be mailed whenever a credit balance in excess of one dollar ($1.00) is created; *Provided, however,* That no statement need be sent once a credit balance is refunded or a fully offsetting purchase is made; and provided further that if the credit balance is created in connection with a direct billing customer, as "direct billing customer" is defined in Paragraph Four of the Complaint, no statement need be sent if the balance is refunded within thirty (30) days following the time it was created.

B. Failing to notify each customer to whom respondent is required to send a statement under Paragraph I.A. of the customer's right to request and receive a refund in the amount of such credit balance, such notice to be accomplished by a clear and conspicuous disclosure on or enclosed with each statement required by Paragraph I.A. and accompanied by a return envelope, if it is the customary practice of the division or unit to accompany billing statements with return envelopes. Such notice shall in all material respects be consistent with, but need not be identical to, the following:

"NO PAYMENT REQUIRED

This Credit Balance shown on the enclosed statement represents money we owe you. You may obtain a refund by returning this statement with a request for a refund. If you do not use your account or request a refund, a check will be mailed to you within seven (7) months after you were sent the statement on which this credit was first reflected. But a credit balance of five dollars ($5.00) will not be refunded unless specifically requested."

The notice furnished in compliance with this paragraph shall not provide any additional information relating to credit balances, shall be set forth separately from any other written matter, and shall be made either entirely on the face of the statement, or entirely on the reverse side fo the statement, or entirely on one side of a separate page. In the event such notice is not on the face of the statement, then the statement shall state clearly and conspicuously on its face: "Credit balance. Do not pay. For refund see (enclosed instructions) OR (reverse side)."

C. Failing to refund to each customer with a credit balance of more than five dollars ($5.00) created after the date of service of this Order the full amount of said credit balance no later than the end of the seventh (7th), consecutive month after the first statement reflecting the credit balance was sent to the customer and during which the customer neither transacts any business on the account nor requests a refund, unless such credit balance is not in fact owed to the customer; provided, however, that nothing contained in this Paragraph C. shall prevent such a refund being made by giving a credit certificate or refund letter in the full amount of the credit balance which may, at the customer's option, be applied to subsequent rental charges or returned for a cash refund. Such certificate or refund letter or an accompanying notice attached to the certificate or refund letter shall clearly and conspicuously disclose that it is redeemable for cash if the customer returns the certificate or refund letter by mail with a request for a cash refund or that it may be applied to subsequent rental charges if the customer returns the certificate or refund letter in full or partial payment for such charges.

D. Writing off, deleting or transferring any credit balance of more than one dollar ($1.00) created after the date of service of this Order from a customer's account before a refund has been made or the customer has made a fully offsetting purchase, unless such credit balance is not in fact owed to the customer or unless there has been compliance with Section III. of this Order.

II

It is further ordered, That respondent shall:

A. Within one hundred and eighty (180) days after service of this Order, mail or deliver to each customer having a credit balance in excess of five dollars ($5.00) created during the three (3) year period immediately preceding the date of service of this Order a statement clearly setting forth such credit balance: *Provided, however,* That no statement need be sent if a credit balance has been refunded or a fully offsetting purchase has been made.

B. Within one hundred eighty (180) days after service of this Order, notify each customer to whom respondent is required to send a statement under Paragraph II.A. of the customer's right to request and receive a refund in the amount of such credit balance, such notice to be accompanied by a clear and conspicuous disclosure on or enclosed with the statement required by Paragraph II.A. and accompanied by a return envelope, if it is the customary practice of the division or unit to accompany billing statements with return envelopes. The first such notice shall in all material respects be consistent with, but need not be identical to, the following:

"NO PAYMENT REQUIRED

The Credit Balance shown on the enclosed statement represents money we owe you. You may obtain a refund by returning this statement with a request for a refund. If you do not use you account or request a refund, a check will be mailed to you within seven (7) months."

The disclosure furnished in compliance with this paragraph shall not provide any additional information relating to credit balances, shall be set forth separately from any other written matter, and shall be made either entirely on the reverse side of the statement, or entirely on one side of a separate page. In the event such disclosure is not on the face of the statement, then the statement shall state clearly and conspicuously on its face "Credit balance. Do not pay. For refund see (enclosed instructions) OR (reverse side.)"

C. Refund to each customer with a credit balance of more than five dollars ($5.00) created during the three (3) year period preceding the date of service of this Order the full amount of said credit balance no later than seven (7) months following the date the statement provided in Paragraph B. of this Section II. is sent and the customer neither transacts any business on the account nor requests a refund, unless such credit balance is not in fact owed to the customer; *Provided, however,* That nothing contained in this Paragraph C. shall prevent such a refund from being made by giving a credit certificate or refund letter in the full amount of the credit balance which may, at the customer's option, be applied to subsequent rental charges or returned for a cash refund. Such certificate(s) or refund letter or any accompanying notice attached to the certificate or refund letter shall clearly and conspicuously disclose that it is redeemable for cash if the customer returns the certificate or refund letter by mail with a request for a cash refund or that it may be applied to subsequent rental charges if the customer returns the certificate or refund letter in full or partial payment for such charges.

D. Refrain from writing off or deleting or transferring any credit balance of more than five dollars ($5.00) created during the three (3) year period immediately preceding the date of service of this Order from a customer's account before a refund has been made or the customer has made a fully offsetting purchase, unless such credit balance is not in fact owned to the customer or unless there has been compliance with Section III. of this Order.

III

It is further ordered, That:

A. Each refund required or permitted to be made by this Order shall be given to the customer by mailing a check payable to the order of the customer or mailing a credit certificate or a refund letter which clearly states that it may be returned for a cash refund or returned in full or partial payment of subsequent rental charges. Each statement, notice or refund sent pursuant to Paragraph I.A., I.B., or I.C. of this Order shall be mailed to the customer at the last known billing address of the customer and each such statement, notice, or refund sent pursuant to Paragraph I.A., I.B, I.C. of this Order shall have the notation "Address Correction Requested" appropriately placed on the envelope. In the event that any statement, notice or refund sent pursuant to this Order reflecting a credit in the amount of fifteen dollars ($15.00) or more is returned to respondent by reason of the fact that the customer to whom it was mailed is not located at the address to which it was sent, respondent shall then attempt to obtain from a credit bureau the most current address available for the customer by means of an in-file report or other report on information than existing in the credit bureau's file.

If a new address is obtained, respondent shall remail the check, statement, notice, refund letter or credit certificate to the customer at such address, except that in the case of credit balances created after the date of service of this Order, respondent may, at its option, deduct the cost of obtaining such information from the credit bureau from the amount owing to the customer.

With respect to all customers whose credit balances were created during the three (3) year period immediately preceding the date of service of this Order and who have not been located by the preceding method, respondent shall have no further obligation under this Order except as stated below. For all customers whose credit balances are created after service of this Order and who have not been located by the preceding method, respondent shall retain on the account the amount of the credit balance for one year from the date on which the statement, notice or refund was mailed, and respondent shall be relieved of any further obligation to send any additional statement, notice or refund with respect to the credit balance in question. *Provided, however,* That, in the event any customer should subsequently request a refund of any such credit balance, respondent shall treat such request in the manner provided in Paragraph III.B.

In the event that any statement, notice or refund sent pursuant to this Order reflecting a credit balance in the amount of less than fifteen dollars ($15.00) is returned to respondent by reason of the fact that the customer to whom it was mailed is not located at the address to which it was sent, respondent shall have no further obligation to send any additional statement, notice or refund with respect to the credit balance in question: *Provided, however,* That, in the event said customer should subsequently request a refund of any such credit balance, respondent shall treat such request in the manner provided in Paragraph III.B.

B. When a customer requests by mail, a refund of a credit balance in any amount which had been reflected at any time on such customer's account within the six (6) year period preceding such request, respondent shall, within thirty (30) days from receipt of such request, either refund the

entire amount requested, if owed, or furnish the customer with the reason(s) for refusing to refund the amount requested and supporting documentation, when requested and available, of the reason(s).

IV

It is further ordered, That a credit balance shall be deemed to be created (1) in the case of a central billing account, at the end of the billing period in which the credit balance is first recorded on a customer's account: *Provided, however*, That whenever the recorded amount of an existing credit balance is changed, the new credit balance, if any, resulting from such change shall be deemed to be created at the end of the billing period in which the change occurred, and respondent's obligations under this Order with respect to the credit balance existing prior to such change shall be terminated and shall be replaced by its obligations under this Order with respect to the new credit balance created by said change, and (2) in the case of a direct billing, at the time of receipt of the excess payment.

V

It is further ordered, That notwithstanding the foregoing, the provisions of this Order shall not be applicable to credit balances on accounts administered by third parties.

VI

It is further ordered, That respondent shall maintain the following data: Name and address of each customer who was sent a refund of a credit balance without request; the date the credit balance was created and the date it was refunded; and the amount of the credit balance. Respondent shall also maintain the following data: The names and addresses of all customers who requested a refund of a credit balance but whose request was refused; the date the request was made; the date a refusal was sent to the customer; the amount of the requested refund; a copy of any written explanation for the refusal sent to the customer; and, if no written explanation for the refusal was made, a statement of the reasons for the refusal.

VII

It is further ordered, That respondent shall retain the records required to be maintained by Paragraph VI. of this Order for a period of three (3) years and, upon request, shall produce said records for the purpose of examination and copying by representatives of the Federal Trade Commission.

VIII

It is further ordered, That in the event the Commission promulgates a Trade Regulation Rule affecting or governing the credit practices of companies engaged in the car rental business, the requirements of which Trade Regulation Rule are less onerous with respect to record preservation, notices, and procedures for and timing of refunds than those contained herein, respondent may elect to comply with such provisions in lieu of the corresponding provisions of this Order.

IX

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance with the obligations arising out of this Order.

X

It is further ordered, That respondent shall forthwith distribute a copy of this Order to each of its operating divisions engaged in the receipt of payments for rental of automobiles.

XI

It is further ordered, That respondent shall, within one hundred twenty (120) days after service of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this Order.

THE HERTZ CORP.

[File No. 782-3066]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from The Hertz Corporation, a corporation, with its principal place of business located at 660 Madison Avenue, New York, N.Y. 10022.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become a part of the public record. After sixty (60) days, the Commission will again review the consent order and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that Hertz is now and has been engaged in the offering to rent and renting of automobiles to the general public. Many of these rentals, the complaint alleges, are charged by customers to credit accounts established with Hertz.

The proposed complaint further alleges that, prior to May 1976, Hertz had no system of informing certain of its credit customers that their accounts reflected a credit balance and that they were entitled to request and receive a cash refund of these balances. Furthermore, Hertz did not refund credit balances without a request. The complaint finally alleges that by failing to notify customers whose accouts reflected a credit balance of their right to request, and receive a cash refund and by failing to make such refunds without a request, a number of Hertz' customers have been deprived of the use of substantial sums of money. These acts and practices, the complaint alleges are unfair and are therefore in violation of Section 5 of the Federal Trade Commission Act.

The agreement to the proposed consent order in this matter requires Hertz to:

1. Provide each charge account customer with a credit balance of $5.00 or more periodic statements reflecting that balance.

2. Notify each charge account customer with a credit balance of $5.00 or more of his or her right to request and receive a cash refund of that balance.

3. Automatically refund unclaimed credit balances of $5.00 or more within seven months of their occurrence.

4. Refrain from writing off, transferring or deleting credit balances of $1.00 or more unless there has been compliance with the order in this matter.

5. Refund within 30 days any credit balance requested within six years of its creation.

In addition to correcting the alleged unfair practices, the consent order requires Hertz to refund to customers unclaimed credit balances which were created during the three year period to the date of the order.

The purpose of this analysis is to facilitate public comments on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way the terms of the proposed order.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-29261 Filed 10-16-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1700]

HUMAN PRESCRIPTION DRUGS IN ORAL DOSAGE FORMS

Proposed Exemption of Methylprednisolone From Child-Protection Packaging Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend the child-resistant packaging regulations to exempt methylprednisolone in tablet form in packages containing nor more than 84 mg. of the drug. (Methylprednisolone is a steroid used as an oral prescription drug.) The exemption is proposed because the information available to the Commission indicates that child-resistant packaging for this product is not necessary to protect young children from serious personal injury or illness, due to the low oral toxicity of the drug and the lack of adverse human experience associated with accidental ingestions. In proposing the exemption, the Commission grants a petition from the Upjohn Co. (Petition PP 78-3).

DATES: Comments on this proposed exemption should be submitted by December 18, 1978. If the Commission issues a final regulation concerning the exemption, the Commission proposes that the exemption be effective on the date the final regulation is published in the FEDERAL REGISTER.

ADDRESS: Comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Third Floor, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Dr. Fred Marozzi, Division of Safety Packaging and Scientific Coordination, Directorate for Engineering and Science, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6477.

SUPPLEMENTARY INFORMATION: The regulations issued under the Poison Prevention Packaging Act of 1970 (the "PPPA", 15 U.S.C. 1471-1476) establish child protection packaging requirements (also called "special packaging") for human oral prescription drugs in order to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting these substances (16 CFR 1700.14(a)(10)).

On November 25, 1977, the Consumer Product Safety Commission received a petition from the Upjohn Co. to exempt the Medrol Dosepak containing 21 4-mg. methylprednisolone tablets from the child-resistant packaging requirements. Methylprednisolone is a steroid used in the treatment of a number of conditions, including certain types of endocrine disorders, arthritis, and skin conditions. The petition was supported by packaging specifications, a description of the product, test reports relating to the toxic characteristics of methylprednisolone, and copies of letters of complaint that Upjohn had received from persons who had difficulty opening the child-resistant packaging. After evaluating the material that was originally submitted, the Commission's staff requested additional data from the petitioner concerning the oral toxicity of methylprednisolone. This data was submitted on April 4, 1978.

Methylprednisolone is currently marketed by Upjohn in a child-resistant plastic box that contains 21 4-mg. tablets that are packaged on a cardboard sheet with a foil backing and a plastic blister covering each tablet.

After considering the information available to it, the Commission has decided to grant the petition and to propose an exemption from the child-resistant packaging requirements for the reasons discussed below.

GROUNDS FOR EXEMPTION

The Commission's decision to propose the exemption is based on the low acute oral toxicity of the drug and the lack of adverse human experience associated with accidental ingestions. Although it is known that prolonged use of steroids produces adverse effects on the hormonal and lymphatic systems, there appears to be little or no effect after a single large dose. The National Clearinghouse for Poison Control Centers reports 29 ingestions of Medrol by children under 5 years of age from 1969 through 1976. The Food and Drug Administration's review of these reports through 1975 indicates that there were no symptoms caused by these ingestions. The information available from the National Electronic Injury Surveillance System contains no reports of methylprednisolone poisonings to children under 5 years of age during 1977.

In addition, animal toxicity studies indicate the low toxicity of the product. The oral LD-50 (median lethal dose) in rats is over 12 gm. per kg. Extrapolating this data to humans indicates that a typical lethal dose for a 10 kg. (22.05 lb.) child would be in excess of 120 grams, which is over 1,400 times as much of the drug as is in the package to which the proposed exemption would apply.

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. Based on the lack of reported adverse human experience associated with accidental ingestion and the low acute oral toxicity of the drug, FDA concluded that the exemption should be granted.

The Commission also solicited comments from its Technical Advisory Committee on Poison Prevention Packaging. Of the 16 members that commented on the petition, 14 recommended granting the exemption, and 2 recommended denial due to their concern for the potentially harmful effects to the hormonal and lymphatic systems. (However, as discussed above, these adverse effects appear to be associated only with prolonged use of this type of product and not with large single doses.)

Based on its evaluation of the available toxicity information and human experience data, the Commission finds that this drug, in tablet form and in the dosage specified in the proposed exemption, does not pose a risk of serious personal illness or injury to children. The Commission emphasizes that the proposed exemption is limited to methylprednisolone in tablet form in packages containing not more than 84 mg. of the drug and containing no other substance subject to the requirements for special packaging under 16 CFR 1700.14(a)(10). The applicability of § 1700.14(a)(10) to ingredients other than methylprednisolone is not affected by this proposal. Products within the scope of this proposal must continue to be in special packaging until the effective date of any final exemption that may be issued.

In order to help insure that the requested exemption will apply to as many similarly situated manufacturers as possible, the proposed exemption is phrased in terms of the generic name and total amount of the drug that is present in the package rather than in terms of a specific tablet dosage or number of tablets.

CONCLUSION

Having considered the petition, human experience data as reported to the National Clearinghouse for Poison Control Centers, and other medical and scientific literature, and having consulted with the Technical Advisory Committee on Poison Prevention Packaging as required by section 3 of the Poison Prevention Packaging Act of 1970, the Consumer Product Safety Commission concludes that an exemption from the requirement of special packaging should be proposed for methylprednisolone in tablet form in packages containing not more that 84 mg. of the drug.

Accordingly, under provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601; secs. 2(4), 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573; sec. 30(a); 86 stat. 1371; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14 be amended by adding a new paragraph (a)(10) (xiv) as follows (the introductory portion of paragraph (a)(10), although unchanged, is included for context):

§ 1700.14 Substances requiring special packaging.

(a) • • •

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

• • • • • •

(xiv) Methylprednisolone in tablet form in packages containing not more than 84 mg. of the drug and containing no other substance subject to the provisions of this section.

(Secs. 2(4), 3, 5, Pub. L. 91-601, 84 Stat. 1670-1672 (15 U.S.C. 1471(4), 1472, 1474).)

Interested persons are invited to submit on or before December 18, 1978, written comments regarding this proposed amendment. Comments received after this date will be considered if practicable. Comments and any accompanying data or material should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief. Comments may be seen in the Office of the Secre-

tary, 1111 18th Street, NW., Third Floor, Washington, D.C. 20207.

Dated: October 12, 1978.

cordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood In-

posed base (100-year) flood elevations listed below for selected locations in the city of Woodland, Hennepin County, Minn.

Source of flooding	Location	Elevation in feet, national geodetic vertical

Source of Flooding	Location	Depth In Feet (Above-ground level)

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determi-

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tary, 1111 18th Street, NW., Third Floor, Washington, D.C. 20207.

Dated: October 12, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer
Product Safety Commission.

[FR Doc. 78-29267 Filed 10-16-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4633]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the city of Marine City, St. Clair County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Marine City, St. Clair, Mich.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 300 Broadway, Marine City, Mich.

Send comments to: Mr. James Southworth, City Manager, city of Marine City, City Hall, 300 Broadway, Marine City, Mich. 48039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Marine City, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Belle River	1,600 ft downstream of Bridge St.	580
	600 ft upstream of Michigan-29.	581
	1,800 ft upstream of Michigan-29.	582
St. Clair River	At downstream corporate limits.	580
	At upstream corporate limits.	580

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28937 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4634]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Woodland, Hennepin County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Woodland, Hennepin County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Woodland, Minn.

Send comments to: The Honorable George D. McClintock, Mayor, city of Woodland, City Hall, Woodland, Minn. 55391.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Woodland, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka	Shoreline	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28938 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4635]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The City of Tekamah, Burt County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Tekamah, Burt County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Tekamah, Nebr.

Send comments to: The Honorable A. L. Zink, Mayor, City of Tekamah, P.O. Box 143, Tekamah, Nebr. 68061.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for City of Tekamah, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
North Branch Tekamah Creek.	Confluence with Tekamah Creek.	1,059
	50 ft downstream of 16th St.	1,061
	70 ft upstream of 16th St.	1,066
	50 ft downstream of 17th St.	1,067
	Just upstream of 17th St.	1,073
	Just downstream of P St	1,073
	Just upstream of P St.....	1,083
	Upstream corporate limit.	1,086
	Upstream limit of extraterritorial jurisdiction.	1,163
	1,060 ft upstream of P St. extended.	1,166
	50 ft upstream of 13th St.	1,055
	350 ft upstream of L St. (near 13th St.).	1,059
	100 feet downstream of Chicago and Northwestern RR.	1,060
	Upstream corporate limit.	1,065
	Upstream of State Highway 32.	1,077
	Upstream limit of extraterritorial jurisdiction.	1,088
Tekamah Creek.....	Intersection of 8th and K St.	2
	Intersection of 8th and P St.	2
	Intersection of 12th and G St.	2
	Intersection of 12th and Q St.	2
	Intersection of 12th and L St.	3

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28939 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4636]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the township of Hillside, Union County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Hillside, Union County, N.J.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at town hall, Liberty and Hillside Avenues, Hillside, N.J.

Send comments to: Honorable Harold Wovsaniker, Mayor, township of Hillside, Town Hall, Liberty and Hillside Avenues, Hillside, N.J. 07205.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Hillside, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elizabeth River	North Avenue—100 ft *...	30
	Conrail—100 ft *	39
	Liberty Ave.—100 ft *.....	42
	U.S. Route 22 to 80 ft **.	49
	U.S. Route 22 to 60 ft *...	52
	Garden State Parkway—50 ft *.	55
	Interstate Route 78-100 ft.*.	60
	Union Ave. to 100 ft **....	62
	Union Ave. to 100 ft *.....	66
	Ramps to Interstate Route 78 to 100 ft *.	69

* Upstream of centerline.
** Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28940 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4637]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Belfield, Stark County, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Belfield, Stark County, N. Dak.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at city hall, Belfield, N. Dak.

Send comments to: Hon. Frank Kordonowi, Mayor, City of Belfield, P.O. Box 276, Belfield, N. Dak. 58622.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Belfield, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Heart River	U.S. Highway 85 to 100 ft *.	2,573
	Pedestrian Bridge-50 ft *	2,576
	2d Avenue East-30 ft *	2,578
	Main St-30 ft *.....	2,580
	6th Ave.-50 ft.....	2,583

* Upstream of centerline

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Heart River Tributary.	1st Crossing Pedestrian, Bridge-50 ft *.	2,581
	Second Ave. West-20 ft *	2,582
	2nd Crossing Pedestrian Bridge-50 ft *.	2,583
	4th St Northwest-50 ft *.	2,584
	Burlington Northern RR-50 ft *.	2,586

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 29, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28941 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4638]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Fairport Harbor, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for seleeted locations in the village of Fairport Harbor, Lake County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the village hall, 220 Third Street, Fairport Harbor, Ohio.

Send comments to: The Hon. Delbert Lintala, Mayor, village of Fairport Harbor, Village Hall, 220 Third Street, Fairport Harbor, Ohio 44077.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Fairport Harbor, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grand River.....	At mouth.....	576
	100 ft downstream of Fairport, Painesville & Eastern RR Bridge.	576
	600 ft upstream of Fairport, Painesville & Eastern RR.	577
	1,400 ft upstream of Fairport, Painesville & Eastern RR.	578
	850 ft downstream of Chessie RR.	579
	1,300 ft upstream of Chessie RR.	580
	100 ft downstream of North St. Clair St..	581
	560 ft upstream from North St. Clair St.	582
	Shoreline opposite Water St.	580
Lake Erie	Shoreline opposite eastern corporate limit.	580

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28942 Filed10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4639]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Jefferson, Ashtabula County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Jefferson, Ashtabula County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, 27 Jefferson Street, Jefferson, Ohio.

Send comments to: The Honorable Roger Brenneman, Mayor, Village of Jefferson, Village Hall, 27 East Jefferson Street, Jefferson, Ohio 44047.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Jefferson, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic

Send comments to: The Honorable Neil H. Crookshank, Mayor, City of Mentor-on-the-Lake, City Hall, 5860 Andrews Road, Mentor-on-the-Lake

[4210-01-M]

[24 CFR Part 1917]

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter require-

the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the village hall, Eagle Road, Waite Hill, Ohio.

Source of flooding	Location	Elevation in feet, national geodetic vertical

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cemetery Creek	At Poplar St	868
	200 ft upstream of Poplar St.	868
	600 ft upstream of Poplar St.	870
	250 ft downstream of Elm St.	872
	250 ft upstream of Elm St.	874
	Just downstream of Chestnut St.	882
	Just upstream of Chestnut St.	884
	500 ft upstream of Chestnut St.	885

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28943 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4640]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mentor-on-the Lake, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Mentor-on-the-Lake, Lake County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the city hall, 5860 Andrews Road, Mentor-on-the-Lake, Ohio.

Send comments to: The Honorable Neil H. Crookshank, Mayor, City of Mentor-on-the-Lake, City Hall, 5860 Andrews Road, Mentor-on-the-Lake, Ohio 44060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Mentor-on-the-Lake, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	Entire City of Mentor-on-the-Lake.	576

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78- 28944 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4641]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of North Perry, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of North Perry, Lake County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, North Perry, Ohio.

Send comments to: The Honorable Robert Orosz, Mayor, Village of North Perry, 2656 Antioch Road, North Perry, Ohio 44081.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of North Perry, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	Shoreline of community	581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28945 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4642]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Waite Hill, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Waite Hill, Lake County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the village hall, Eagle Road, Waite Hill, Ohio.

Send comments to: The Hon. Arthur Baldwin, Mayor, village of Waite Hill, Village Hall, Eagle Road, Waite Hill, Ohio 44094.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for village of Waite Hill, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chagrin River.....	At confluence of east branch Chagrin River (corporate limit).	618
	0.9 mi upstream of Riverside Drive.	625
	0.62 mi downstream of Eagle Rd.	636
	Upstream side of Eagle Rd.	644
	Upstream corporate limit.	651
East branch Chagrin River.	At confluence with Chagrin River.	618
	0.4 mi upstream of Northeast Bound I-90.	620
	0.64 mi downstream of Markell Rd.	628
	0.34 mi downstream of Markell Rd.	631
	Upstream corporate limit.	638

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28946 Filed 10-16-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4643]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Jackson, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Jackson, Northumberland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the International Order of Oddfellows Lodge (IOOF), Route 225, Dornsife, Pa. 17823. Send comments to: Mr. Norman E. Rothermel, Chairman of Jackson, R.D. 1, Herndon, Pa. 17830.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Jackson, Northumberland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstrean corporate limits.	422
	Confluence of Mahanoy Creek.	426
	Upstream corporate limits.	429
Mahanoy Creek.....	State Route 147	426
	Township Route 377.....	457
	Legislative Route 49020..	468
	Legislative Route 49019 .	483
	Upstream corporate limits.	493
Schwaben Creek....	State Route 225	470
	Confluence of Mouse Creek.	474
	Upstream corporate limits.	481

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28947 Filed 10-16-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4644]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Liverpool, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Liverpool, Perry County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Ms. Rebecca Hotzapple, 304 South Front Street, Liverpool, Pa. 17045.

Send comments to: Hon. Arthur Earnest, Mayor of Liverpool, Market Street, Liverpool, Pa. 17045.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Liverpool, Perry County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Sewage disposal plant 1500 ft downstream of Barger Run.	390
	Confluence of Barger Run.	392
	Confluence of tributary No. 37 to Susquehanna River.	393

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28948 Filed 10-16-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4645]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Mifflin, Columbia County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Mifflin, Columbia County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Mifflin Township Municipal Building, First Street, Mifflinville, Pa. 18631.

Send comments to: Mr. James R. Disidoro, Chairman of Mifflin, 239 First Street, Mifflinville, Pa. 18631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Mifflin, Columbia County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Confluence with Tenmile Run.	487
	Legislative Route 19013 (upstream).	489
	State Route 93 (upstream).	500
Tributary No. 3 to Susquehanna River.	Conrail (upstream).....	495
	West St (upstream).....	511
	Fair St (upstream).....	555
	Township Route 425 (upstream).	
	Township Route 425 (upstream).	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28949 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4646]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Moon, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Moon, Allegheny County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Moon Township Municipal Building, Moon, Pa.

Send comments to: Mr. Ronald Cost, Chairman of Moon, 1000 Beaver Grade Rd.; Coreopolis, Pa. 15108.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Moon, Allegheny County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Northwestern corporate limits.	712
	Dashields Lock and Dam.	714
	Sewickley Bridge	715
	Northeastern corporate limits.	717

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28950 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4647]

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation

Source of flooding	Location	Elevation in feet, national geodetic vertical datum

pervisors of Rye, R.D. 1, Box 141, Marysville, Pa. 17053.

FOR FURTHER INFORMATION CONTACT:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4647]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Newport, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Newport, Perry County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Newport Borough Building, Newport, Pa. 17074. Send comments to: Mr. James McGowan, President of the Council of Newport, 127 South Second Street, Newport, Pa. 17074.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Newport, Perry County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Buffalo Creek.	Downstream of ConRail and Pennsylvania Route 34.	393
	Pennsylvania Route 34...	393
	Dirt road 50035	405
	Dirt road 500 ft upstream of Road 50035.	408
Juniata River.....	Confluence of Little Buffalo Creek.	394
	State Route 34	395
	Confluence of Buffalo Creek.	397

(National Flood Insurance Act of 1968 (title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28951 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4648]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Oliver, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Oliver, Perry County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Oliver, Pa.

Send comments to: Mr. H. Donald Little, Chairman of the Board of Supervisors of Oliver, South Third Street, Newport, Pa. 17074.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Oliver, Perry County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Buffalo Creek.	Confluence with Juniata River.	393
	Pa. State Route 34	393
	Road 50035	405
	Dirt Road 500 ft upstream of Road 50035.	408

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream corporate limit of the township of Oliver.	425
Buffalo Creek.....	Confluence with Juniata River.	397
	Front St	397
	Tributary No. 1 to Buffalo Creek.	400
	Covered Bridge	418
Juniata River.....	Confluence of Little Buffalo Creek.	394
	Confluence of Buffalo Creek.	397

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28952 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4649]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Rye, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Rye, Perry County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Ms. Jean Snyder, Township Secretary, P.O. Box 45, Marysville, Pa. Send comments to: Mr. Robert Eichelberger, Chairman of the Board of Supervisors of Rye, R.D. 1, Box 141, Marysville, Pa. 17053.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Rye, Perry County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Creek West.	Footbridge 2,400 ft downstrean of New Valley Rd.	393
	Footbridge 1,400 ft downstream of New Valley Rd.	395
	New Valley Rd, downstream.	403
	New Valley Rd, upstream.	419
	Footbridge 2,000 ft upstream of New Valley Rd.	427
	Footbridge 160 ft downstrean of Bellview Rd. (extended).	445
	Pennsylvania Route 850, downstream.	462
	Pennsylvania Route 850, Upstream.	477
	Dirt road 1,700 ft upstream of Pennsylvania Route 850.	480
	Footbridge 2,300 ft downstream of Idle Rd.	495
	Idle Rd	505
	Dirt road 4,000 ft upstream of Idle Rd.	516
	Footbridge along extension of dirt road off of Pennsylvania Route 850.	545
Fishing Run.....	Farm road	506
	Pennsylvania Route 850.	518
	Pine Hill Rd.....	522
	Dirt road 2,400 ft upstream of Pine Hill Rd.	535
	Dirt road 1,000 ft downstream of Copenhaver Rd.	543
	Copenhaver Rd.....	547
	Lingle Rd	555
	Kiem Rd.....	564

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28953 Filed 10-11-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4628]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Watts, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Watts, Perry County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of

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the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of R. Pauline Huggins, R.D. 2, Duncannon, Pa. 17020.

Send comments to: Mr. Paul Knuth, Sr., Chairman of the Board of Supervisors of Watts, R.D. 2, Duncannon, Pa. 17020.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Watts, Perry County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Juniata River	Downstream corporate limits of the township of Watts.	383
	Confluence of Losh Run	370
	Upstream corporate limits of the township of Watts.	375
Susquehanna River.	Downstream corporate limits of the township of Watts.	364
	Confluence of Buffalo Creek.	367
	Notch Road (extended)	375

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28968 Filed 10-16-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4629]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Williams, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Williams, Northampton County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Williams Municipal Building, Williams, Pa. 18042.

Send comments to: Honorable E. W. R. Helm, Mayor of Williams, 1885 Morgan Hill Road, Easton, Pa. 18042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Williams, Northampton County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	Downstream corporate limits.	204
	Upstream corporate limits.	209
Delaware River	Downstream corporate limits.	163
	16,800 ft above downstream corporate limits.	174
	28,800 ft above downstream corporate limits.	180
	Upstream corporate limits.	188

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28969 Filed 10-16-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4630]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Gloucester, Providence County, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Gloucester, Providence County, R.I. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Main Street, Chepachet, R.I. Send comments to: Mrs. Jacqueline Ericson, President, Town Council, Town of Gloucester, P.O. Drawer B, Chepachet, R.I. 02814.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Gloucester, Rhode Island, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chepachet River	Steeres Lower Pond Dam, 50 ft.[1].	357
	U.S. Route 40 (Putnam Pike), 30 ft.[1].	405
	Dam located 325 ft upstream U.S. Route 44 (Putnam Pike):.	
	50 ft [2]	407
	90 ft [1]	416

[1] Upstream of centerline.
[2] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28970 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-3896]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determination for the City of Denton, Denton County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Denton, Denton County, Tex.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the FEDERAL REGISTER at 43 FR 6247 on February 14, 1978, and in the Denton Record Chronicle published on December 13, 1977, and December 14, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Municipal Building, 215 East McKinney Street, Denton, Tex.

Send comments to: Hon. Eleinor Hughes, Mayor of Denton, 215 East McKinney Street, Denton, Tex. 76201.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the city of Denton, Denton County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cooper Creek	U.S. Route 380 (upstream).	583
	Fishtrap Rd. (upstream)	588
	Confluence of Cooper Creek Tributary A.	601
	Old Lee St. (upstream)	604
	Nottingham Rd. (upstream).	613
	Devonshire Rd. 900 ft upstream of Nottingham Rd. (upstream).	618
	Devonshire Rd. 1,150 ft upstream of Nottingham Rd. (upstream).	620
	Windsor Rd. (upstream)	623
	Sherman Dr. (upstream)	637
	Stuart Rd. (upstream)	640
	Confluence of Cooper Creek Tributary B.	650
	North Locust St. (upstream).	660
Cooper Creek Tributary A.	Confluence with Cooper Creek.	601
	Broken Arrow Rd. (upstream).	607

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Source of flooding	Location	Elevation in feet, national geodetic

Source of flooding	Location	Elevation in feet, national geodetic

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

The proposed base (100-year) flood elevations for selected locations are:

		Elevation in feet

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream corporate limits.	619
Cooper Creek Tributary B.	Confluence with Cooper Creek.	650
	Yucca St. (upstream).....	655
	Hercules Lane (upstream).	657
	Confluence of unnamed tributary.	664
	North Locust St. (upstream).	667
Pecan Creek.....	Mayhill Rd. (upstream).	571
	Loop 288 (upstream).....	578
	Confluence of Pecan Creek Tributary A.	583
	Confluence of Pecan Creek Tributary B.	592
	Woodrow Lane (upstream).	599
	Wood St. (upstream).....	603
	Confluence of Pecan Creek Tributary C.	604
	Sycamore St. (upstream).	606
	Hickory St. (upstream)...	611
	McKinney St. (upstream).	612
	Frame St. (upstream).....	615
	Blount St. (upstream).....	621
	Confluence of North Pecan Creek.	622
	Austin St. (upstream).....	622
	North Locust St. (upstream).	624
	North Elm St. (upstream).	626
	Bolivar St. (upstream)....	627
	Parkway St. (upstream).	628
	North Carroll Blvd. (upstream).	631
	Congress St. (upstream).	633
	Alice St. (upstream).....	635
	Linden St. (upstream)....	637
	Crescent St. (upstream).	644
	Cordell St. (upstream)....	645
	Malone St. (upstream)....	649
	Georgetown St. (upstream).	652
	Unnamed dam 2,500 ft downstream from Bonnie Brae St. (downstream).	661
	Unnamed dam 2,500 ft downstream from Bonnie Brae St. (upstream).	679
	Bonnie Brae St. (upstream).	681
	Payne Dr. (upstream).....	682
	Westgate St. (upstream)	704
Pecan Creek Tributary A.	Confluence with Pecan Creek.	583
	Earthfill dam 750 ft upstream of the confluence with Pecan Creek (downstream).	585
	Earthfill dam 750 ft upstream of the confluence of Pecan Creek (upstream).	593
Pecan Creek Tributary B.	Confluence with Pecan Creek.	592
	Shady Oak Dr. (upstream).	608
	Spencer Rd. (upstream).	613
Pecan Creek Tributary C.	Confluence with Pecan Creek.	604
	Prairie St. (upstream).....	604
	Bradshaw St. (upstream).	608
	Lakey St. (upstream).....	612
	Maddox St. (upstream)..	620
	Skinner St. (upstream)...	621
	Industrial Rd. (upstream).	624
	Wainwright St. (upstream).	627
	South Locust St. (upstream).	630
	South Elm St. (upstream).	632
	East Prairie St. (upstream).	633
	Stroud St. (upstream).....	635
North Pecan Creek.	Confluence with Pecan Creek.	622
	Oakland St. (upstream)..	623
	Austin St. (upstream).....	624
	North Locust St. (upstream).	626
	North Elm St. (upstream).	629
	Bolivar St. (upstream)....	631
	Anna St. (upstream).....	635
	Crescent St. (upstream).	637
	Alice St. (upstream).....	648
	Sunset St. (upstream).....	648
	University Dr. West (upstream).	649
	Hinkle Dr. (upstream).....	657
Dry Fork Hickory Creek.	Interstate Highway 35 (upstream).	588
	Downstream corporate limits.	590
	Corporate limits 5,300 ft downstream of Airport Rd.	598
	Airport Rd. (upstream)..	614
	Confluence of unnamed tributary.	622
	Unnamed gravel road 6,900 ft upstream of Airport Rd. (upstream).	624
	Upstream corporate limits.	635
Dry Fork Hickory Creek Tributary A.	Downstream corporate limits.	607
	Airport Rd. (upstream)..	630
	Channel dam.....	646
Hickory Creek Tributary.	Atchison, Topeka, & Santa Fe Railway.	584
	Railroad spur 3,175 ft downstream of Rose Lawn St.	589
	Rose Lawn St. (upstream).	619
	Confluence of unnamed tributary.	628

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28971 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4631]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Shoreham, Addison County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Shoreham, Addison County, Vt.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Shoreham, Vt.

Send comments to: The Honorable Donald Treadway, Chairman, Board of Selectmen, Town of Shoreham, Town Office, Shoreham, Vt. 05770.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Shoreham, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Champlain....	From northern corporate limit to 2,400 ft south of northern corporate limit.	103

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28972 Filed 10-16-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4632]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Stonewood, Harrison County, W. Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Stonewood, Harrison County, W. Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Treasurer's Office, Stonewood City Hall, Stonewood, W. Va. 26301.

Send comments to: Hon. D. F. Oliverio, Mayor of Stonewood, 109 Cost Avenue, Stonewood, W. Va. 26301

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Stonewood, Harrison County, W. Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elk Creek.....	Downstream corporate limit.	969
	Plainwood Ave. (upstream).	971
	Upstream corporate limit.	974

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: September 28, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28973 Filed 10-16-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-267-76]

INCOME TAX

Involuntary Conversion of Real Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed income tax regulations relating to the involuntary conversion of real property. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with that Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 18, 1978. The amendments are proposed to be effective for certain dispositions occurring after December 31, 1974.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-267-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David B. Cubeta, of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202-566-3926.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1033 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 2140 and 1901(a)(128) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1932, 1785) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

EXPLANATION OF PROVISIONS

These proposed regulations contain the special rule of section 1033(f)(4) relating to the time within which involuntarily converted real property held for productive use in trade or business or for investment must be replaced in order to qualify for nonrecognition of gain. This rule provides

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that the period shall commence with the date of the property's disposition as a result of its seizure, requisition, or condemnation (or, if earlier, the date of the threat or imminence thereof) and end 3 years (rather than 2 years as under prior law) after the close of the first taxable year in which any part of the gain is realized.

These regulations are also amended to conform to the statute as amended by the deletion of various obsolete provisions.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations is David B. Cubeta, of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. Section 1.1033 (a)-1 is amended by striking out "§ 1.1033(b)-1" each place it appears and inserting in lieu thereof "§ 1.1033(a)-3", by striking out "§ 1.1033(c)-1" and inserting in lieu thereof "§ 1.1033(b)-1", by striking out §§ 1.1033(d)-1, 1.1033(e)-1, and 1.1033(f)-1" and inserting in lieu thereof "§§ 1.1033(c)-1, 1.1033(d)-1, and 1.1033(e)-1", by striking out "§ 1.1033(g)-1" and inserting in lieu thereof "§ 1.1033(f)-1", and by deleting the next to the last sentence of paragraph (a).

PAR. 2. Section 1.1033(a)-2 is amended by striking out "section 1033(a)(3)" each place it appears and inserting in lieu thereof "section 1033(a)(2)", by striking out "section 1033(c)" each place it appears and inserting in lieu thereof "section 1033(b)", by deleting the first sentence of paragraph (a), by revising the heading of § 1.1033(a)-2, and by adding flush material following subdivision (ii) of paragraph (c)(3). The revised and added material reads as follows:

§ 1.1033(a)-2 Involuntary conversion into similar property, into money or into dissimilar property.

* * * * *

(c) *Conversion into money or into dissimilar property.* * * *

(3) * * *

(ii) * * *

See section 1033(f)(4) and § 1.1033(f)-1 for the circumstances under which, in the case of the conversion of real property held either for productive use in trade or business or for investment, the 2-year period referred to in this paragraph (c)(3) shall be extended to 3 years.

* * * * *

§§ 1.1033(a)-3 and 1.1033(a)-4 [Deleted]

PAR. 3. Sections 1.1033(a)-3 and 1.1033(a)-4 are deleted.

§ 1.1033(b)-1 [Redesignated as § 1.1033(a)-3 and Amended]

PAR. 4. Section 1.1033(b)-1 is redesignated as § 1.1033(a)-3 and is amended by deleting the third and fourth sentences, and by striking out "section 1034(i)(2)" and inserting in lieu thereof "section 1034(i)".

§ 1.1033(c)-1 [Redesignated as § 1.1033(b)-1 and Amended]

PAR. 5. Section 1.1033(c)-1 is redesignated as § 1.1033(b)-1 and is amended by striking out "section 1033(c)" each place it appears and inserting in lieu thereof "section 1033(b)".

§ 1.1033(d)-1 [Redesignated as § 1.1033(c)-1 and Amended]

PAR. 6. Section 1.1033(d)-1 is redesignated as § 1.1033(c)-1 and is amended by striking out "section 1033(d)" each place it appears and inserting in lieu thereof "section 1033(c)".

§ 1.1033(e)-1 [Redesignated as § 1.1033(d)-1]

PAR. 7. Section 1.1033(e)-1 is redesignated as § 1.1033(d)-1.

PAR. 8. Section 1.1033(f)-1 is redesignated as § 1.1033(e)-1 and is amended by striking out "section 1033(f)" each place it appears and inserting in lieu thereof "section 1033(e)"

§ 1.1033(g)-1 [Redesignated as 1.1033(f)-1 and Amended]

PAR. 9. Section 1.1033(g)-1 is redesignated as § 1.1033(f)-1 and is amended by redesignating paragraph (b) as paragraph (c), by addiing a new paragraph (b) and by revising redesignated paragraph (c). The added and revised material reads as follows:

§ 1.1033(f)-1 Condemnation of real property held for productive use in trade or business or for investment.

* * * * *

(b) *Special rule for period within which property must be replaced.* In the case of a disposition described in paragraph (a) of this section, section 1033(a)(2)(B) and § 1.1033(a)-2(c)(3) (relating to the period within which the property must be replaced) shall be applied by substituting 3 years for 2 years. This paragraph shall apply to any disposition described in section 1033(f)(1) and paragraph (a) of this section occurring after December 31, 1974, unless a condemnation proceeding with respect to the property was begun before October 4, 1976. Thus, regardless of when the property is disposed of, the taxpayer has only 2 years to replace it (or apply for an extension) if a condemnation proceeding was begun before October 4, 1976. However, if the property is disposed of after December 31, 1974, and the condemnation proceeding was begun (if at all) after October 4, 1976, then the taxpayer has 3 years to replace it (or apply for an extension). For the purposes of this paragraph, whether a condemnation proceeding is considered as having begun is determined under the applicable State or Federal procedural law.

(c) *Limitation on application of special rule.* This section shall not apply to the purchase of stock in the acquisition of control of a corporation described in section 1033(a)(2)(A).

§ 1.1033(h)-1 [Redesignated as § 1.1033(g)-1 and Amended]

PAR. 10. Section § 1.1033(h)-1 is redesignated as § 1.1033(g)-1 and is amended by striking out "§ 1.1033(f)-1 and § 1.1033(g)-1" and inserting in lieu thereof "§ 1.1033(e)-1 and § 1.1033(f)-1."

§ 1.1034-1(h)(1) [Amended]

PAR. 11. Section 1.1034(h)(1) is amended by striking out "§ 1.1033(b)-1" and inserting in lieu thereof "§ 1.1033(a)-3."

§ 1.1033(a)—1.1033(h) [Deleted]

PAR. 12. The following sections are deleted: § 1.1033(a) and the historical note; § 1.1033(b); § 1.1033(c); § 1.1033(d); § 1.1033(e); § 1.1033(f) and the historical note; § 1.1033(g) and the historical note; and § 1.1033(h) and the historical note.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-29283 Filed 10-16-78; 8:45 am]

[3410-37-M]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 2852]

FROZEN GREEN BEANS AND FROZEN WAX BEANS [1]

Proposed United States Grade Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would change the grading standards for frozen green beans and frozen wax beans. This action is being taken at the request of the frozen food industry. The effect of this proposal would be to impove the standards.

DATE: Comments must be received on or before November 30, 1978.

ADDRESS: Comments should be sent to:
Executive Secretariat, FSQS, Room 3167-S, U.S. Department of Agriculture, Washington, D.C. 20250. Attention: Ann Langlois. Comments will be available for public inspection at the same address during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT:

Howard W. Schutz, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 202-447-4693.

SUPPLEMENTARY INFORMATION: The current U.S. Standards for Grades of Frozen Green Beans and Wax Beans classify various stages of overmaturity as defects. These defects (maturity) are grouped with other defects (such as mechanical damage, tough strings, stems, and vines) and applied against a single tolerance or Acceptable Quality Level (AQL). Under this proposed rule, separate tolerances for overmature beans would be established. These tolerance changes would have the net effect of retaining substantially the same quality level for each grade.

Some frozen green beans are intentionally multi-blanched (precooked) for special pruposes, such as frozen dinners. The Current standards downgrade the precooked beans because of dullness, even though the process was intentional. This proposed rule would correct this deficiency by providing for nulti-blanched beans as a separate type of pack.

Other changes are proposed in the interest of clarity and uniformity. These include elimination of dual grade designations, adjustments in AQL's and referencing sampling plans which appear in the general regulations.

Suitable manuals to guide the user of the "Regulation" sampling plans are available to the public. These manuals or information about their content may be obtained from the "contact person" mentioned previously.

Changes under this proposed rule are being made under the authority of the Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624). This proposed rule invites views, comments, and opinions from interested persons.

The rule proposed is:

Sec.
2852.2321 Product description.
2852.2322 Styles.
2852.2323 Style classification and tolerances.
2852.2324 Types.
2852.2325 Kinds of pack.
2852.2326 Definitions of terms.
2852.2327 Recommended sample unit sizes.
2852.2328 Grades.
2852.2329 Factors of quality.
2852.2330 Classification of defects.
2852.2331 Tolerances for defects.
2852.2332 Sample size.
2852.2333 Compliance with style requirements.
2852.2334 Compliance with quality requirements.

AUTHORITY: Agricultural Marketing Act of 1946, secs. 203, 205, 60 Stat. 1087, as amended (7 U.S.C. 1622, 1624).

§ 2852.2321 Product description.

"Frozen green beans" and "frozen wax beans," hereinafter called "frozen beans," means the frozen product prepared from the clean, sound succulent pods of the bean plant. The pod are stemmed, washed, blanched, sorted, and properly drained. The product is then frozen in accordance with good commercial practice and maintained at temperatures necessary for the preservation of the product.

§ 2852.2322 Styles.

(a) *"Whole"* means frozen beans consisting of whole pods of any length.

(b) *"Cut"* means frozen beans consisting of pods that are cut transversely into pieces less than 2¾ inches (7.0 cm) but not less than ¾ inch (1.9 cm) in length.

(c) *"Short Cut"* means frozen beans consisting of pods that are cut transversely into pieces less than ¾ inch (1.9 cm) in length.

(d) *"Mixed"* means a mixture of two or more of the following styles of frozen beans: whole, cut, or short cut.

(e) *"Sliced Lengthwise"* means frozen beans consisting of pods that are sliced lengthwise and may also be known as "French Style," "French Sliced," "Julienne," or "Shoestring."

§ 2852.2323 Style classification and tolerances.

(a) *General.* For the purpose of determining compliance with the styles of "cut" and "short cut", any pieces that are of the lengths specified in table I are considered as minor or major defects. Each "X" represents one defect.

(b) *Compliance.* Tolerances for compliance with style are contained in tables II and III as applicable for the style.

TABLE I—STYLE DEFECT CLASSIFICATION

Style	Defect	Classification	
		Minor	Major
Cut	Pieces shorter than ½ in (1.3 cm) in length.	X	
	Pieces longer than 2¾ in (7 cm).		X
Short Cut	Pieces ¾ in (1.9 cm) or longer but not longer than 1¾ in (4.5 cm).	X	
	Pieces longer than 1¾ in (4.5 cm).		X

TABLE II—CUT STYLE

TOLERANCES FOR STYLE COMPLIANCE

	Total [1]	Major
AQL [2]	20.0	2.5

TABLE III—SHORT CUT STYLE

TOLERANCES FOR STYLE COMPLIANCE

	Total [1]	Major
AQ L'	20.0	0.65

[1] Total = Minor plus Major.
[2] AQL expressed as percent defective.

§ 2852.2324 Types.

(a) The type of frozen beans is not incorporated in the grades of the finished product, since type of frozen beans is not a factor of quality for the purpose of these grades. The type of frozen beans is described as "round type" or "flat type."

(b) *"Round type"* means frozen beans having a width not greater than 1½ times the thickness of the bean.

(c) *"Flat type"* means frozen beans having a width greater than 1½ times the thickness of the beans.

§ 2852.2325 Kinds of pack.

(a) The kind of pack of frozen beans is not incorporated in the grades of the finished product, since the kind of pack is not a factor of quality for the purpose of these grades. The kind of pack of frozen beans is described as "regular process" or "multi-blanch process."

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

(b) *"Regular process"* means the frozen beans are processed in such a manner that the brightness is not affected by the process.

(ii) *Fairly well colored.* The individual units are lacking a distinct green color such that the color appearance is materially affected.

(l) *Sample unit.* The amount of product specified to be used for inspection. It may be:
(1) The entire contents of a contain-

(v) In the style of "sliced lengthwise," have not more than 70 g of small pieces; and

(vi) Have an appearance or eating quality that is not seriously affected by sloughing.

§ 2852.2329 Factors of quality.

The grade of a lot of frozen beans is based on compliance with the require-

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(b) *"Regular process"* means the frozen beans are processed in such a manner that the brightness is not affected by the process.

(c) *"Multi-blanch process"* means the frozen beans are intentionally processed in such a manner that the brightness is affected by the process.

§ 2852.2326 Definitions of terms.

(a) *Acceptable Quality Level (AQL).* The maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purposes of acceptance sampling, can be considered satisfactory as a process average.

(b) *Blemished.* Any unit which is affected or damaged by discoloration or any other means to the extent that the appearance or eating quality is affected: (1) not more than slightly; (2) materially; or (3) seriously.

(c) *Brightness.* The extent that the overall appearance of the sample unit as a mass is affected by dullness. (Applies to regular pack only.)

(1) Grade A—not affected.
(2) Grade B—slightly affected.
(3) Grade C—materially affected.
(4) Substandard—off-color.

(d) *Character*—(1) *Round type*—(i) *Good character.* The pods are full fleshed and tender and the seeds are not mealy.

(ii) *Reasonably good character.* The pods are reasonably fleshy and reasonably tender and the seeds are not mealy.

(iii) *Fairly good character.* The pods have not entirely lost their fleshy structure, are fairly tender, and the seeds may be slightly mealy.

(iv) *Poor character.* The seeds are hard and more than slightly mealy and the pods have no flesh.

(2) *Flat type.*—(i) *Good character.* The pods are tender and have a definite seed pocket. The seeds may be slightly enlarged for the type but are not mealy.

(ii) *Reasonably good character.* The pods are reasonably tender and may not have a definite seed pocket. The seeds may be no more than moderately enlarged for the type and may be slightly mealy.

(iii) *Fairly good character.* The pods are fairly tender and are lacking a seed pocket. The seeds may be enlarged and may be mealy and moderately hard.

(iv) *Poor character.* The pods are not tender and are lacking a seed pocket. The seeds may be enlarged, hard, and mealy.

(e) *Color (Individual units).*—(1) *Green beans.*—(i) *Well colored.* The individual units have a distinct green color that may range from a light shade of green color to a moderately dark shade of green characteristics of the variety.

(ii) *Fairly well colored.* The individual units are lacking a distinct green color such that the color appearance is materially affected.

(iii) *Poorly colored.* The individual units are lacking in green color such that the color appearance is seriously affected.

(2) *Wax beans.*—(i) *Well colored.* The individual units have a color ranging from a distinct green color to a distinct yellow color with intermediate stages of greenish-yellow to yellowish-green.

(ii) *Fairly well colored.* The individual units are lacking a distinct yellow color such that the color appearance is materially affected.

(iii) *Poorly colored.* The individual units have a chalky white color that seriously affects the color appearance of the units or are otherwise seriously affected.

(f) *Defect.* Any nonconformance of a unit(s) of product from a specified requirement of a single quality characteristic.

(g) *Detached stem.* The stem or portion of stem that attaches the bean pods to the vine stem, but has become separated from the pod.

(h) *Extraneous vegetable material.*—(1) *Class 1.*—Tender, green, edible vegetable material similar in color and texture to that of bean pods, including but not limited to: (i) leaves or portions of leaves or grass; or (ii) material from plants other than the bean plant.

(2) *Class 2*—Any material that is not tender, that may be tough or fibrous too hard, brittle, or woody, that may not be green, and includes but is not limited to: (i) discolored leaves or grass or portions thereof; (ii) bean stalk or vine material, including vine stems, regardless of color, length, or diameter; or (iii) material from plants other than the bean plant.

(i) *Fiber.*—(1) *Edible.* Fiber developed in the wall tissue of the bean pod that is noticeable upon chewing but may be consumed with the rest of the bean material without objection.

(2) *Tough.* Fiber developed in the wall tissue of the bean pod that is objectionable upon chewing and tends to separate from the rest of the bean material.

(j) *Flavor.*—(1) *Good flavor.* The product, after cooking, has a good characteristic flavor and odor and is free from objectionable flavors and odors of any kind.

(2) *Fairly good flavor.* The product, after cooking, may be lacking in good flavor and odor but is free from objectionable flavors and odors of any kind.

(k) *Mechanical damage.* Any unit that is broken or split into two parts, or that has very ragged edges, or is crushed, or is damaged by other mechanical means to such an extent that the appearance is seriously affected.

(l) *Sample unit.* The amount of product specified to be used for inspection. It may be:

(1) The entire contents of a container; or
(2) A portion of the contents of a container; or
(3) A combination of the contents of two or more containers; or
(4) A portion of unpacked product.

(m) *Small piece (sliced lengthwise style only).* A piece of pod less than ¾-inch (1.9 cm) in the longest dimension and loose seeds and pieces of seeds.

(n) *Tough strings.* Strings or pieces of strings removed from the cooked bean pod which will support a ½ pound (227 g) weight for not less than 5 seconds.

(o) *Unit.* A bean pod or any individual portion thereof.

(p) *Unsnipped unit.* A unit without an attached stem but with a stem collar that is hard or tough and would be objectionable upon eating.

(q) *Unstemmed unit.* A unit with attached stem or portion thereof that attaches the pod to the vine stem.

§ 2852.2327 Recommended sample unit sizes.

(a) In all styles, other than sliced lengthwise, a mechanically damaged unit that is broken into separate parts will be reassembled to approximate its original size and counted as one unit in the sample unit size.

(b) *Style requirements.* Compliance with the requirements for style is based on the following recommended sample unit sizes:

Cut and short cut—200 units.

(c) *Quality requirements.* Compliance with the requirements for factors of quality is based on the following sample unit sizes for the respective style:

(1) *Classified defects (other than character).* (i) Sliced lengthwise style—250 g (8.8 oz). (Use Table IX of § 2852.38b; Table XIX of § 2852.38c).
(ii) Whole style—100 units.
(iii) All other styles—200 units.

(2) *Character defects.* (i) Sliced lengthwise style—250 g (8.8 oz.).
(ii) Whole style—100 units.
(iii) All other styles—200 units.

§ 2852.2328 Grades.

(a) *"U.S. Grade A"* is the quality of frozen beans that: (1) Meets the following prerequisites in which the beans:

(i) Have similar varietal characteristics;
(ii) Have a good flavor and odor;
(iii) Have a good overall brightness as a mass that is not affected by dullness; (Regular pack only)
(iv) In the style of "sliced lenthwise":
(A) Have not more than 25 g of beans with fairly good character;
(B) Have not more than 2.5 g of beans with poor character;

(v) In the style of "sliced lengthwise," have not more than 70 g of small pieces; and

(vi) Have an appearance or eating quality that is not materially affected by sloughing.

(2) Are within the limits for defects as classified in Table IV or V and specified in Table VI, VII, VIII, or IX, as applicable, for the style.

(b) *"U.S. Grade B"* is the quality of frozen beans that: (1) Meets the following prerequisites in which the beans:

(i) Have similar varietal characteristics;
(ii) Have a good flavor and odor;
(iii) Have a reasonably good overall brightness as a mass which may be slightly dull; (Regular pack only)
(iv) In the style of "sliced lengthwise:"
(A) Have not more than 25 g of beans with fairly good character;
(B) Have not more than 2.5 g of beans with poor character;
(v) In the style of "sliced lengthwise," have not more than 70 g of small pieces; and

(vi) Have an appearance or eating quality that is not seriously affected by sloughing.

(2) Are within the limits for defects as classified in Table IV or V and specified in Table VI, VII, VIII, or IX, as applicable, for the style.

(c) *"U.S. Grade C"* is the quality of frozen beans that: (1) Meets the following prerequisites in which the beans:

(i) Have similar varietal characteristics;
(ii) Have a fairly good flavor and odor;
(iii) Have a fairly good overall brightness as a mass which may be dull but is not offcolor (Regular pack only)
(iv) In the style of "sliced lengthwise":
(A) Have not more than 25 g of beans with poor character.

(2) Are within the limits for defects as classified in Table IV or V and specified in Table VI, VII, VIII, or IX, as applicable, for the style.

(d) *"Substandard"* is the quality of frozen beans that fails to meet the requirements of U.S. Grade C.

§ 2852.2329 Factors of quality.

The grade of a lot of frozen beans is based on compliance with the requirements for the following quality factors:

(a) *Prerequisite quality factors:* (1) similar varietal characteristics; (2) flavor and odor; (3) brightness (regular pack only); (4) freedom from small pieces in sliced lengthwise style; and (5) freedom from sloughing.

(b) *Classified quality factors:* (1) individual unit color; (2) blemished; (3) mechanical damage (all styles except sliced lengthwise); (4) workmanship;

(5) extraneous vegetable material; and (6) character (all styles except sliced lengthwise).

§ 2852.2330 Classification of defects.

All defects, other than character defects, are classified as minor, major, severe, or critical. All character defects are classified as reasonably good, fairly good, or poor. Each "X" in Tables IV or V represents "one (1) defect."

TABLE IV—*Classification of Defects (Other Than Character)*

CUT, SHORT CUT, WHOLE, MIXED STYLES

Quality factor	Defects	Classification			
		Minor	Major	Severe	Critical
Individual unit color	Fairly good (in A and B only).		X		
	Poor (in A, B, and C)			X	
Blemished	Slightly	X			
	Materially		X		
	Seriously			X	
Mechanical damage	All styles except sliced lengthwise.	X			
Workmanship	Unstemmed unit			X	
	Detached stem			X	
	Unsnipped unit		X		
Fiber	Edible		X		
	Tough			X	
Tough strings			X		
Extraneous vegetable material.	Class 1			X	
	Class 2				X
SLICED LENGTHWISE STYLE					
Individual (each 2.5 g unit color increment).	Fairly good (in A and B only).		X		
	Poor (in A, B, and C)			X	
Blemished (each 2.5 g increment).	Slightly	X			
	Materially		X		
	Seriously			X	
Workmanship	Unstemmed unit			X	
	Detached stem			X	
	Unsnipped unit		X		
Fiber (each 2.5 g increment).	Edible		X		
	Tough			X	
Tough strings			X		
Extraneous vegetable material.	Class 1			X	
	Class 2				X

TABLE V—CLASSIFICATION OF CHARACTER DEFECTS

CUT, SHORT CUT, WHOLE, MIXED STYLES

Thereof, and Certain Other Processed Food Products" (7 CFR 2852.1—2852.83) for lot inspection and on-line inspection, as applicable.

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TABLE V—CLASSIFICATION OF CHARACTER DEFECTS

CUT, SHORT CUT, WHOLE, MIXED STYLES

Quality Factor	Defect	Reasonably Good	Fairly Good	Poor
Character	B units	X		
	C units		X	
	Substandard units			X

§ 2852.2331 **Tolerances for defects.**

TABLE VI—CUT, SHORT CUT, AND MIXED STYLES

ALL CLASSIFIED DEFECTS EXCEPT CHARACTER

	AQL [1] Total [2]	Maj	Sev	Crit
Grade A	6.5	2.5	0.65	0.10
Grade B	8.4	4.0	1.5	0.25
Grade C	12.5	5.0	2.5	1.0

[1] AQL expressed as defects per hundred units.
[2] Total = Minor + Major + Severe + Critical.

TABLE VII—WHOLE STYLE

ALL CLASSIFIED DEFECTS EXCEPT CHARACTER

	AQL [1] Total [2]	Maj	Sev	Crit
Grade A	10.0	4.0	1.5	0.10
Grade B	15.0	6.5	2.5	0.25
Grade C	20.0	8.5	4.0	1.0

TABLE VIII—SLICED LENGTHWISE STYLE

ALL CLASSIFIED DEFECTS EXCEPT CHARACTER

	AQL [1] Total [2]	Maj	Sev	Crit
Grade A	6.5	4.0	1.5	0.10
Grade B	8.5	6.5	2.5	0.25
Grade C	12.5	10.0	5.0	1.0

[1] AQL expressed as defects per hundred units.
[2] Total = Minor + Major + Severe + Critical.

TABLE IX—CUT, SHORT, CUT, MIXED, AND WHOLE STYLES

CLASSIFIED DEFECTS FOR CHARACTER ONLY

	Grade A			Grade B		Grade C
	Total [4]	Fairly good	Poor	Total [5]	Poor	Total [6]
AQL [3]	6.5	0.65	0.015	6.5	0.65	6.5

[3] AQL expressed as percent defective.
[4] Total = Reasonably Good + Fairly Good + Poor.
[5] Total = Fairly Good + Poor.
[6] Total = Poor.

§ 2852.2332 **Sample size.**

The sample size to determine compliance with the requirements of these standards shall be as specified in the sampling plans and procedures in the "Regulations Governing Inspection and Certification of Processsed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products" (7 CFR 2852.1—2852.83) for lot inspection and on-line inspection, as applicable.

§ 2852.2333 **Compliance with style requirements.**

(a) *Lot inspection.* A lot of frozen beans is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Tables II and III, as applicable for the style, are not exceeded.

(b) *On-line inspection.* A portion of production is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Tables II and III, as applicable for the style, are not exeeded.

(c) *Single sample unit.* Each unofficial sample unit submitted for style evaluation will be treated individually and is considered as meeting the requirements for style if the Acceptable Quality Levels (AQL) in Table II and III, as applicable for the style, are not exceeded.

§ 2852.2334 **Compliance with quality requirements.**

(a) *Lot inspection.* A lot of frozen beans is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2328 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, VIII, and IX, as applicable for the style, are not exceeded.

(b) *On-line inspection.* A portion of production is considered as meeting requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2328 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, VIII, and IX, as applicable for the style, are not exceeded.

(c) *Single sample unit.* Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 2852.2328 are met; and

(2) The Acceptable Quality Levels (AQL) in Tables VI, VII, VIII, and IX, as applicable for the style, are not exceeded.

NOTE.—The Department of Agriculture has determined that these regulations do not have major economic consequences requiring preparation of a Regulatory Analysis in accordance with sec. 3 of Executive Order 12044 (March 24, 1978).

Done at Washington, D.C., on October 10, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-29048 Filed 10-16-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, f ing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS, AND CHILDREN (WIC)

Program and Administrative Funding Formulas

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, October 11, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976.)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Food and Nutrition Service is publishing for public comment the formula for distributing funds to State agencies participating in the special supplemental food program for women, infants, and children.

DATED: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8206.

NOTICE: The Secretary of Agriculture has authority to allocate program funds to each State agency on the basis of a formula determined by the Secretary. Notice is hereby given detailing the proposed funding formula selected by the Department. The discussion which follows addresses the background and considerations which led to the selection of the new formula.

LEGISLATIVE BACKGROUND

In June 1977, public hearings were held by the Food and Nutrition Service to consider comments regarding possible legislative changes in the WIC program. Among the concerns raised by those presenting testimony were: The funding formulas employed to distribute available moneys to State agencies; the method by which administrative funds are provided; and the funding available for nutrition education. The level of interest demonstrated at the hearings reinforced the Agency's commitment to explore alternate methods of addressing these areas through the legislative process and administrative actions. As a result, pending legislation carries the provision that the Secretary must design separate funding formulas for the allocation of both program and administrative moneys. When that legislation is passed an administrative funding formula will be proposed.

FUNDING HISTORY

Since the authorization of the WIC program in 1972, the enabling legislation has not provided a mechanism or formula for orderly distribution of the available funds among the States implementing the program. Therefore, the distribution of WIC program funds has had a varied and often controversial history. The Department's initial reluctance to accept the WIC program and release funds to States resulted in a court suit to mandate WIC spending. The Federal district court order of August 1973 (*Dotson* v. *Butz*), required expenditure of the $40 million authorized by Congress for fiscal years 1973 and 1974 at $20 million each year and resulted in a rapid period of expenditure. To accomplish this expansion, grants were made directly through State agencies to local agencies approved by FNS on a first-come, first-served basis. (It was later that funds for the program were channeled directly to State agencies for subsequent distribution to local agencies as the State deemed appropriate.) The time constraints felt by the Department as a result of the Dotson Order were such that elaborate approval procedures were not developed to ensure funding of the most needy areas. In this connection, it was not until the affirmative action stipulation of January 1976 regulations (pursuant to Pub. L. 94-105) that a concerted effort was made to fund areas of greatest need.

Congress moved in November 1973 to expand the WIC program for fiscal year 1975 by authorizing $40 million. In June 1974 the authorization for fiscal year 1975 was increased to $100 million. In the absence of specific appropriating legislation, the enabling act called for the Secretary of Agriculture to use funds made available through section 32 of the Act of August 24, 1935. Section 32 funding was authorized through fiscal year 1977, but a direct appropriation of $250 million for the program was made for fiscal year 1977.

On June 22, 1976, the U.S. District Court of the District of Columbia issued an order in the case of *Durham, et al.*, v. *Butz, et al.*, which ordered the expenditure of the estimated $562.5 million available for the WIC program for the transition quarter and fiscal years 1977 and 1978, plus all funds unspent from fiscal years 1974, 1975, and 1976, during a 27-month period beginning July 1, 1976, through September 30, 1978.

On August 4, 1976, the estimated 27-month funding was initially allocated to each State agency by fiscal period (transition quarter, fiscal year 1977, and fiscal year 1978). To accomplish this the Department used the title V formula, which was currently in use by DHEW's maternal and child health program, as well as the plans for expansion submitted by each State. However, in order to insure compliance with the court order, a plan was also initiated to recover unobligated funds from each State agency and to reallocate the recovered amounts to those State agencies which demonstrated expenditure rates at or near their maximum obligation level.

The reallocation plan identified the maximum obligation level for each State agency and the procedures for reallocating unused funds to State agencies demonstrating the need for additional funds through actual performance. Recoveries of unused funds and reallocation occurred on a quarterly basis.

The criterion for State agency participation in each reallocation was based on their achievement of a prescribed spending performance level, the first being of a level of 65 percent of their monthly obligation level. Subsequent participation in quarterly reallocations required an incremental increase of 5 percent, each quarter, up to an 80 percent spending performance level. Having reached this level, three additional reallocations were done in January, April, and July 1978 with spending performance levels of 90, 95, and 95 percent respectively, as a prerequisite to participation.

This reallocation system resulted in a marked expansion of the WIC program, from 600,000 participants in July 1976 to 1.3 million in July 1978. However, the process and the use of the title V formula have been the sub-

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ject of considerable criticism. As a result, the administration undertook a review of possible funding formula al-

tary is instructed to develop a formula to accomplish this. The formula should be designed to reflect the prob-

economic and health need of the WIC target population in each State agency.

turity, access to prenatal care and other such factors which relate to the WIC target population.

Neonatal mortality was also dis-

which would be eligible under the 195 percent of poverty income eligibility requirement. Poverty should be a key indicator in the distribution of funds.

which incorporated two different funds of money. One fund, amounting to 70 percent of the food fund was to be distributed to State agencies based on

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ject of considerable criticism. As a result, the administration undertook a review of possible funding formula alternatives for use in future years.

PUBLIC PARTICIPATION PROCESS

In view of the historical funding problems of the WIC program, the Department and Congress clearly recognized in the development of new legislation that a fresh look at the funding formula was necessary.

In order to allow for varied input into the decision process, it was decided that a panel discussion on these funding issues would be held prior to officially proposing a funding formula to the Secretary. A panel on WIC's program and Administrative Funding Structure convened on September 6-8, 1978, to provide the Department with its recommendations concerning the best allocation method. The following people attended the panel meeting:

Mr. Philip Abadie, WIC Coordinator, Arizona.
Mr. Rims Barber, Children Defense Fund, Mississippi.
Ms. Janet Berkenfield, WIC Coordinator, Massachusetts.
Mr. C. Richard Blount, WIC Director, Missouri.
Mr. Sam Byrd, Idaho Migrant Council.
Mr. Richard Charles, local agency, New York.
Ms. Betsy Clarke, WIC Coordinator, Oregon.
Ms. Mary Egan, DHEW.
Mr. Ed. Epstein, local agency, Illinois.
Ms. Carol Fahey, FNS RO, New Jersey.
Mr. Ron Feazle, WIC Accountant, Choctaws, Oklahoma.
Ms. Stefan Harvey, Childrens' Foundation, Washington, D.C.
Ms. Elizabeth Hensler, WIC Director, Oklahoma.
Ms. Linda Katz, Advocate, Rhode Island.
Mr. Art Kotowski, FNS RO, Illinois.
Mr. Marlyn Lundgren, Finance Officer, Michigan.
Mr. Mike Montgomery, FNS RO, Texas.
Ms. Cynthia Perkins, WIC Director, Georgia.
Ms. Barbara Zang, National Child Nutrition Project, New Jersey.

A paper discussing the considerations, alternatives, and recommendations reached by the panel was then forwarded to the Secretary for the administration's official review. The selection of program and administrative funding formulas resulted from an extensive examination of the issues presented, as well as, consideration for the implication of any given formula on future WIC program operations.

FACTORS BEARING ON THE SELECTION OF A FUNDING FORMULA

In determining what formula to use and how to apply the formula, many considerations had to be taken into account. The law states that funds shall be allocated to "areas most in need of supplemental foods" and the Secretary is instructed to develop a formula to accomplish this. The formula should be designed to reflect the probability of need based on population, poverty, and health conditions by State agency. Since there is no direct means of identifying the potential eligible population universe, factors had to be selected for their realistic use as predictors without discriminating against the peculiar differences in the populations of the State agencies.

In selecting factors to use as a base for the formula for distribution of program funds, consideration was given to the adequacy and availability of the data base, and the degree of relevancy to the legislative mandate.

Athough several other health and income indices exist, the selection of indices was restricted by the fact that not all statistics are available for Indian populations. Special attention therefore was given to insure that the factors selected were also available on Indian State agencies, since in all other respects they are treated on an equal basis with all other State agencies. The review of available Indian data revealed a very limited universe of health and income indices.

Currently, statistics on Indians are gathered by Indian Health Services (IHS) based on counties and service areas. Since WIC program data needs did not alway coincide with the data available from IHS, some assumptions were made in regard to Indian populations, especially as to how they pertain to the WIC program service area as IHS service areas and WIC Indian State agencies service areas do not always agree.

This meant that some data on the Indian populations had to be calculated in order to make this data consistent with data collected for other State agencies. In order to utilize the available data, the assumption was made that all IHS service area Indians fall below 200 percent of the poverty level. Although all Indian populations do not fall in this category, this assumption does apply to the majority of Indian populations. Also, Indian populations tend to be small, thus they have a minimal effect in proportion to the rest of the U.S. population on the formula results.

After considerable review of all available health and income statistics, it was decided that possible statistics which could be used included: infant and neonatal mortality figures, infant mortality rates, live births and rural births and number of children under five years of age at or below the poverty level or 200 percent of the poverty level.

The factors were selected not only because they were available for Indian populations, but also because of the value of each factor in assessing the economic and health need of the WIC target population in each State agency.

The panel discussed the use of these factors at length and in the final analysis recommended two factors as the most appropriate for use in a WIC Program funding formula. The factors selected were infant mortality rate and number of children under five years of age at or below the poverty level or 200 percent of the poverty level.

Infant mortality includes all infant deaths up to one year of age from all causes including health related reasons as well as accidents. It has been determined that 74 percent of all infant mortalities are accounted for by deaths during the first four weeks of life. Infant mortality rate is an expression of the number of infant mortalities per 1,000 live births in the State agency. These factors are considered health related and tend to indicate the "remedial" need in a given area.

It is important to emphasize the use of infant mortality rates rather than the use of raw infant mortality figures. If the total number of infant deaths were used as a determining factor for the distribution of funds, those States with larger populations would receive more funding. A State agency administering a small population may report a low number of total infant deaths, while in actuality the infant mortality rate may be a high figure, possibly reflecting serious nutritional and health care deficiencies.

Evidence has been presented which clearly reflects an inverse relationship between socioeconomic status and infant mortality rate. In a study by MacMahon et al., mortality rates were higher for white infants in lower socioeconomic groups than in higher socioeconomic groups throughout the first year of life. The differences for deaths between lower and higher socioeconomic groups was considerably greater after the first week of life than in very early life. One of the factors accounting for this difference is that women of higher socioeconomic status are often better educated about proper nutrition, and are better able to utilize and afford prenatal and infant health care services. Since the WIC Program uses income level as well as nutritional need to determine eligibility, the relationship between low socioeconomic status and high infant mortality rates strengthens the argument for using these rates as funding distribution criteria.

The data is readily available on a regular basis and is considered to be a good index of the health status of a community. In addition, infant mortality rates are thought to be affected by (also related to) the age of the mother e.g., girls under 17 years of age, premature, access to prenatal care and other such factors which relate to the WIC target population.

Neonatal mortality was also discussed, but data is more difficult to obtain and is often limited as it only covers a small segment of the total infant population. Therefore, it was determined that infant mortality rate, as it includes neonatal mortalities, was a better health indicator for the purposes of the formula.

The Department also recognized the need for including a population indicator in the WIC distribution formula, since it is the purpose of the Program to provide supplemental foods to persons at nutritional risk because of both inadequate income and inadequate nutrition.

Factors directly relating to population include live births, rural births, population of children from 0-5 years, and birth by age of mother, however, these factors do not specifically target on low income. The factor "children under five years at or below poverty or 200 percent of poverty" has the advantage of being both a poverty factor as well as a population factor.

Additionally, children under five years of age who are members of families with incomes at or below 200 percent of poverty are potentially eligible for WIC. They may be at high nutritional risk and may be critically in need of WIC Program benefits. Further, pending legislation will probably establish an income eligibility requirement of 195 percent of the poverty level, so the use of children under 5 years at or below 200 percent of the poverty level would be consistent with the legislative intent of serving persons at or below 195 percent of poverty.

During early stages of development, children need iron, protein, vitamins and other nutrients. However, according to the "Ten State Nutrition Survey" conducted by the Department of Health, Education and Welfare (DHEW) many low-income families often cannot afford to buy sufficient food meet their children's nutritional needs. Often they must resort to giving their children inexpensive foods which are filling and satisfy the children's hunger but lacking in essential nutrients. Thus, the diets of low-income children often do not provide the nutrients necessary for adequate growth and normal blood levels. Consequently, as it is recognized that children in low-income families are generally at a greater potential risk and can benefit from the preventive health and nutrition aspects of the Program, the Department concluded that allocating funds on the basis of number of children under five years at or below 200 percent of the poverty level would focus funds on the target population which would be eligible under the 195 percent of poverty income eligibility requirement. Poverty should be a key indicator in the distribution of funds.

During the discussion on the factors to use, the Title V formula and the factors used in that formula were addressed. The Title V formula uses per capita income and live births statistics as a basis for distributing funds.

In the past, some States with a predominantly urban population did not believe Title V was an equitable formula because some of the statistical components were broken into urban and rural subsets with the rural subset being given double weight. While enabling legislation for Title V Programs recognized the special needs of rural areas for Maternal and Child Health (MCH) services, WIC Program legislation makes no specific distinction in the funding provision. However, the special needs of rural populations are addressed in other sections of the WIC legislation. Rurality also is reflected in infant mortality rate to some extent.

Besides the concern of urban areas, a number of other technical arguments have been voiced over the Title V formula. The health index does not distinguish between total live births and live births in the low-income population. As the WIC target population is composed of pregnant and breastfeeding women, infants and children under five years who are low-income, it is argued that poverty statistics considered in a formula should focus on these groups. Further, as per capita income is incorporated in the income index, urban areas might be at a disadvantage as the cost of living is generally higher in urban areas. Further, the total live birth index is not congruent to the preventive aspect of the Program in that more funds should go to States where infant mortality is higher relative to the rate of conception.

For these reasons, the per capita income factor was not favored for application into the formula. Although data is readily available, this factor had the limitation of relating to population as a whole, rather than reflecting the low income population which is the target population of the WIC Program. Consequently, the Panel believed that the factors used in Title V and the manner in which the formula applies the factors, were not the best alternative for funds distribution in the WIC Program.

SELECTION AND APPLICATION OF THE FOOD FUNDING FORMULA

Once the Panel had reached a decision on the best factors to use in the formula, the results of several formulas and various modifications were discussed. The Panel concluded that the best option was to utilize a formula which incorported two different funds of money. One fund, amounting to 70 percent of the food fund was to be distributed to State agencies based on each State agency's percent of children under 5 years at or below 200 percent of poverty or percent of children under 5 years at or below poverty and 200 percent of poverty compared to the national total. The other fund, 30 percent of the food funds, was to be distributed based on each State agency's percent of the infant mortality rate compared to the nationwide sum of infant mortality rates.

The Panel believed that this formula brought together the factors which reflected need based on poverty, population, and health factors. Poverty and population are each considered in the factor "children under 5 under poverty or under 200 percent of poverty". Because both poverty and population are to be covered by this one factor, it was given double weight by allocating 70 percent of the funds to be distributed based on this factor. The remaining 30 percent of funds was to be distributed based on infant mortality rate which considers the health need of the population rather than the size of the population.

The Department analyzed the results of this formula to determine the impact on WIC State agencies, and found after the panel meeting had concluded that the formula tended to allocate disproportionately large sums of money into State agencies with small populations. As the Panel concluded that a population/poverty factor should get a double weight (as indicated in giving 70 percent of the food fund based on children under 5 years at or below 200 percent of poverty), the Department believed the result of this formula was at variance with the Panel's intent.

Consequently, an adjustment was made to the formula to assure that the end result was more consistent with the philosophy expressed by the Panel members. The primary problem with the formula emanated from the 30 percent fund which was distributed on the infant mortality rate. This procedure allowed sparsely populated States to get as much money as heavily populated States if their infant mortality rate was the same. If a small State has a significantly higher infant mortality rate than a large State, the small State received a significantly larger portion of the money from this fund.

In order to resolve this inequity, and still remain true to the Panel's intended use of poverty, population and health indices, the Department developed the following formula: Chidren under 5 years at or below 200 percent of poverty multiplied times the result

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of the infant mortality rate divided by the national infant mortality rate.

This formula considers the poverty/population factor, but tempers that that factor based on the infant mortality rate of the State. If a State has an infant mortality rate higher than the national average, they receive a funding advantage over a State agency with an infant mortality rate below the national average.

In order to apply the formula, the Panel made several recommendations concerning procedures which would ensure that the most equitable allocation would be accomplished. Following is a discussion of those procedures.

Maximum grant. It was decided that no State agency should receive more funds than needed to serve their universe of potentially eligible WIC participants. Therefore, a maximum grant was computed to ensure that no State agency receives in excess of that Maximum grant amount.

The formula used to determine maximum grant was the number of children under 5 years at or below 200 percent of poverty plus the number of live births, with the sum of those two figures multiplied by the national average food package cost and multiplied by 12 months. (For Indian State agencies, rather than using the national average food package cost, the average food package for each State agency or the average food package cost among all Indian State agencies, whichever is highest, was used). The determination was made that no State agency received more than what their maximum grant allowed.

Hold harmless. It is essential that all State WIC agencies be guaranteed (or held harmless to) their fiscal year 1978 fourth quarter annualized level when the funding formula is applied. The held harmless provision is applied in recognition of the performance level States have attained during the past 27 months. Failure to hold harmless would negate past efforts and discourage future growth efforts and would impact additionally on adjunctive health services as well as local WIC program.

The program has experienced some recent growth in nearly all States. It would make little philosophic or programatic sense to cut back funding in some States while increasing funding in others, as funding cutbacks in States would remove current participants from the program. If all States are held harmless, the current caseload will be assured through fiscal year 1979 in States which would not benefit significantly from the application of the formula at the fiscal year 1979 funding level. The held harmless factor would continue to be used during the life of the formula as long as any State agency loses funds through application of the formula.

An inflation and growth rate factor based on USDA's estimate of projected food package cost increases in fiscal year 1979 was also included in the formula. Fiscal year 1979 funds will be available on a basis which again will allow only a gradual growth rate; therefore, according to Department calculations, each State agency requires an additional 10 percent of its fiscal year 1978 fourth quarter annualized allocation in order to maintain its fourth quarter caseload during fiscal year 1979 and to provide for limited growth in all State agencies in order to establish and maintain a stable system of program administration.

To accomplish this, the funding formula is run for all State agencies and the outcome is compared to their fourth quarter fiscal year 1978 annualized level. All State agencies with fourth quarter annualized amounts over the formula amount are held harmless and given increases of 10 percent.

Other State agencies receive funds via the formula application.

Migrant farmworkers. The needs of the migrant farmworkers and the unique difficulties they present in a funding methodology were also taken into consideration.

According to the National Association of Farmworker Organizations, recent statistics have shown that the infant mortality rate among migrant farmworkers is 25 percent higher than the national average. Also, nine times more births among migrants occur outside of hospitals than among nonmigrants. These figures show that the migrant population is in itself a high risk group and should have special provisions to ensure WIC benefits reach those women, infants and children within the migrant population. However, because migrants travel from State to State in the process of doing their work, and because each State has limited funds, migrants often enter the program and go through another waiting period in a new State which does not have any additional funds. In effect, migrants are penalized for their life style.

Since no realistic count of migrant women, infants and children is available nationwide, migrants could not be included in any funding formula. However, the Panel recommended and the Department concurred that migrant needs could be addressed best through regulatory requirements which mandate the following:

1. State agencies must include in their State Plans of Operation how the State agency will identify the migrant population and their specific needs and what specifically will be done to address migrant needs.
2. State agencies must coordinate with community based farmworker organizations, or other similar groups in order to develop programs to meet migrant needs.
3. FNS must develop specific performance standards and sanctions to ensure State agency compliance with approved plans.

The Department will also consider the need to serve additional migrant farmworkers in the reallocation criteria.

New State Agencies

Outlying territories such as Guam and the Trust Territories as well as Wyoming and the District of Columbia are not included in the apportionment of WIC funds because there are no programs presently operating in those jurisdictions, nor has the Department received a formal application for participation in the program from these potential State agencies. Legislative intent dictates that all appropriated funds should be made available to all State agencies currently participating or having made application to participate in the program. Therefore, any territory or State making application to participate in the program will receive funds from future reallocations of unspent funds in accordance with procedures established herein.

There was some discussion throughout the course of the Panel meeting as to whether a maximum cap should be set to limit State agencies to no more than a set percentage over their fiscal year 1978 fourth quarter annualized level. Although the Panel made no formal recommendation in this regard, the Department believes that given the modest increase provided for fiscal year 1979 over the current annualized level, it is wise to set a cap to prevent some State agencies from receiving a funding allocation which is far greater than what they could realistically spend in the upcoming fiscal year.

To this end, it was decided to set a cap whereby State agencies whose fourth quarter annualized level was over $5 million would receive no more than a 50 percent increase above that annualized level. This will ensure that these State agencies are provided ample funds, but not an amount which would cause expansion poorly integrated with health service. It also ensures that large sums of obligated funds do not remain unspent in a State agency's Letter of Credit because of difficulties in expending a large amount of money in a short time.

In summary, the formula selected for distribution of food monies is applied as follow:

1. The formula is applied to the $550 million appropriated as shown below

Number of each State's children under 5 under 200 percent poverty

divided by

Sum of all State agencies children under 5, under 200 percent poverty

times

State's infant mortality rate

divided by

National infant mortality rate

2. The results of the formula are then compared to each State agency's fourth quarter annualized level. If the fourth quarter annualized level is more than the amount allocated under the formula, that State agency is held harmless (or guaranteed at least that level of funding).

3. The maxium grant is computed for each State agency and is also compared to the State agency's fourth quarter annualized level. If the fourth quarter annualized level is higher than the maximum grant, the State agency receives the maximum grant (an exception is made for the first quarter of fiscal year 1979; any State agency whose fourth quarter annualized level is higher than the maximum grant will receive their fourth quarter annualized level). As the only State agencies which have reached maximum grant are Indian State agencies, the Department believes it is prudent to do further research on statistics available on Indian populations before applying the maximum grant limitation.

4. All State agences then receive a 10 percent increase over their fourth quarter annualized level (except those State agencies which are at maximum grant and are receiving only their fourth quarter annualized level) and a total is computed.

The total from number 4 is subtracted from the funds available and the formula is run again on the difference for only those State agencies which were not held harmless or at maximum grant.

6. The amount allocated by the 10 percent increase and the amount received through the second run of the formula is added together to arrive at the grant for the State agencies that participated in the second formula run.

At this point an analysis is made to determine if any State agency which has a fourth quarter annualized level of over $5 million has an increase of over 50 percent. For these State agencies, the amount in excess is recaptured, totaled and distributed through a third run of the formula to the other State agencies that participated in the second formula run.

Through the application of the formula, a State agency will receive a grant derived by one of the following:

1. Maximum grant.
2. Fourth quarter annualized level plus a 10 percent increase (hold harmless State agencies).
3. Fourth quarter annualized level plus a 10 percent increase plus a share of the funds from the second and third runs of the formula (State agencies not held harmless).

Shown below is a chart which indicates the first quarter funding level for each State agency. Administrative costs are included and were computed by providing each State agency with 20 percent of their program grant in compliance with P.L. 94-105. Since there is no new authorizing legislation we are currently held to this 20 percent level as specified in P.L. 94-105, the Department feels sure that new legislation will be passed in the near future. As a result of this passage, administrative funds would be determined by a formula rather than the straight 20 percent for the remainder of this fiscal year. Therefore, grant levels will change accordingly with some State agencies increasing while others decrease. The figures listed below represent the first quarter funding only, not one-fourth of the annual funding level.

A number of State agencies have two funding amounts listed. The first amount is their first quarter level; the amount in parenthesis is the first quarter maximum grant level. These State agencies are the ones being held harmless for the first quarter to allow for more accurate computation of maximum grant levels as discussed above.

New England Region		
Connecticut	$2,877,375	
Maine	846,029	
Massachusetts	2,263,972	
New Hampshire	382,181	
Rhode Island	574,761	
Vermont	1,515,842	
Mid-Atlantic Region		
Delaware	$292,773	
Maryland	2,655,619	
New Jersey	2,839,834	
New York	8,876,555	
Pennsylvania	5,567,266	
Puerto Rico	4,073,687	
Seneca Nation, New York	42,669	($39,780)
Virginia	3,294,298	
Virgin Islands	319,697	
West Virginia	1,500,004	
Southeast Region		
Alabama	$2,783,621	
Florida	14,623,516	
Georgia	4,465,363	
Kentucky	3,547,000	
Mississippi	2,693,033	
North Carolina	5,648,598	
South Carolina	3,857,615	
Tennessee	3,423,172	
Seminoles, Florida	24,417	($18,161)
Choctaws, Mississippi	81,453	(64,449)
E. Cherokee, North Carolina	74,400	(65,434)
Southwest Region		
Arkansas	$1,778,064	
Louisiana	3,665,951	
New Mexico	947,459	
Oklahoma	1,369,850	
Texas	9,030,000	
Pueblo of Acoma, New Mexico	46,835	($33,922)
Eight Northern Pueblos, New Mexico	38,483	
Isleta Pueblo, New Mexico	29,165	
Santa Domingo, New Mexico	28,059	(21,968)
Six Dandoval, New Mexico	89,112	(63,342)
WCD Enterprises, Oklahoma	194,370	
Choctaws, Oklahoma	117,942	
Cherokee, Oklahoma	320,702	
Chickasaw, Oklahoma	101,618	
Tonkawa, Oklahoma	16,500	
Midwest Region		
Illinois	$5,731,211	
Indiana	2,415,868	
Michigan	4,139,238	
Minnesota	1,626,897	
Ohio	6,625,613	
Wisconsin	1,805,206	
Mountain Plains Region		
Colorado	$1,186,290	
Iowa	1,367,410	
Kansas	849,734	
Missouri	3,163,177	
Montana	969,079	
Nebraska	623,218	
North Dakota	520,794	
South Dakota	399,186	
Utah	1,323,993	
Shoshone and Araphoe, Wyoming	58,556	($50,787)
Ute Mountain Tribe, Colorado	9,677	
Nebraska IITDC	33,000	(15,447)
Cheyenne River Sioux, South Dakota	72, 260	
Rosebud Sioux, South Dakota	81,909	
Standing Rock, North Dakota	110,000	(26,470)
Western Region		
Alaska	$136,864	
Arizona	3,481,456	
California	8,076,890	
Hawaii	396,887	
Idaho	767,599	
Nevada	596,691	
Oregon	1,732,879	
Washington	2,252,827	
ITCN, Nevada	56,850	

As the Department believes that the public should have an opportunity to comment on the contents of this notice, public comments will be accepted until November 10, 1978. The Department was unable to issue this notice and solicit comments prior to October 1, therefore, the Department feels the public interest is best served by putting this funding formula into effect immediately, based on public input received at the Panel meeting on Funding Structure, to enable State agencies to receive funds to operate the WIC program for the first quarter of fiscal year 1979. The Department is accepting comments for only 30 days so that sufficient time is allowed for a complete analysis of comments before December 15, as letters of credit must be completed by that time. All comments received will be carefully considered before a final decision is reached on a formula to distribute WIC program grants.

Comments may be sent to:

Jennifer R. Nelson, Director, Supplemental Food Programs Divison, Food and Nutrition Service, USDA, Washington, D.C. 20250.

Copies of all written submissions received will be made available for public inspection in Room 4301, 201 14th Street SW., Washington D.C., during regular business hours (8:30 a.m. to 5 p.m.).

Signed at Washington, D.C., on October 6, 1978.

LEWIS B. STRAUS,
Acting Administrator.

[FR Doc. 78-29139 Filed 10-16-78; 8:45 am]

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Forest Service

Environmental Impact Statement; Intent

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, USDA, will prepare an environmental impact statement for the proposed Forest Land and Resource Management Plan for the Allegheny National Forest.

The Forest Land and Resource Management Plan will provide direction for the management of the Allegheny National Forest for the next 10 years. The plan will be developed in accordance with the National Forest Management Act of 1976 and the Forest and Rangeland Renewable Resources Planning Act of 1974.

The environmental impact statement will be prepared by the Forest Service, Agriculture, 370 Reed Road, Broomall, Pa. 19008.

ROBERT D. WOLFE,
Deputy Regional Forester.

OCTOBER 6, 1978.

[FR Doc. 78-29140 Filed 10-16-78; 8:45 am]

Dated at Washington, D.C., October 10, 1978.

JOHN J. MATHIAS,
Deputy Assistant Secretary for Import Programs.

[FR Doc. 78-29141 Filed 10-16-78; 8:45 am]

Dated at Washington, D.C., October 10, 1978.

JOHN I. BINKLEY,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 78-29142 Filed 10-16-78; 8:45 am]

years 1979 and 1980, and other State civil rights issues.

This meeting will be conducted pursuant to the provisions of the rules

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Signed at Washington, D.C., on October 6, 1978.

LEWIS B. STRAUS,
Administrator.

[FR Doc. 78-28742 Filed 10-10-78; 8:45 am]

[3410-11-M]

Forest Service

1979 SPRUCE BUDWORM SUPPRESSION PROJECT

Northeastern Area, State and Private Forestry, Broomall, Pa.; Intent To Prepare an Environmental Statement

Pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969, the Forest Service, U.S. Department of Agriculture, in cooperation with the Bureau of Forestry, Maine Department of Conservation, will prepare an environmental statement for the proposed 1979 spruce budworm suppression project.

Environmental statements for annual projects to suppress the current budworm outbreak have been prepared since 1972. The information collected for these statements, comments received on them, the experience gained in carrying out the projects, and public meetings in the form of legislative hearing held in January each year will form the base of the 1979 statement.

The primary means of suppressing budworm populations in the past has been chemical insecticides, and chemical insecticides will probably be the primary means in 1979. Because chemical insecticides may have considerable impact upon the forest environment, an environmental statement will be prepared for the 1979 project. The 1979 project is expected to encompass 4 million acres of spruce-fir forests located throughout the northern half of Maine.

Robert Raisch, Director of the northeastern area, is the responsible Federal official, and Kenneth Knauer is the team leader for the environmental assessment and statement. Lloyd Irland of the Bureau of Forestry (Augusta) will represent the State of Maine.

The environmental assessment will require about 1 month. The draft environmental statement is scheduled for completion by November 22, 1978. This will be followed by a two-month review period. The final environmental statement is scheduled for filing February 2, 1979.

Comments on the notice of intent or on the project should be sent to Robert Raisch, Director, northeastern area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, Pa. 19008.

ROBERT D. WOLFE,
Acting Area Director.

OCTOBER 3, 1978.

[FR Doc. 78-29239 Filed 10-16-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-10-35, Docket Nos. 32708, 33356]

ALLEGHENY AIRLINES, INC.

Order of Consolidation

Issued under delegated authority October 6, 1978.

The prehearing conference in this proceeding was held on September 6, 1978. On that day, Allegheny Airlines, Inc., filed an application and a motion to consolidate the application into docket 32708. Since applications and motions to consolidate were required to be filed by July 12, Allegheny also filed a motion requesting leave to file late.

Allegheny did not show good cause for having filed so late; and, under ordinary circumstances, its motion would have been denied. However, on September 8, 1978, the Board served order 78-9-31, expanding the scope of the investigation, inviting further applications, and extending the time for filing applications to September 28 and answers to October 10. No additional applications were filed. In view of the Board's extension of time, Allegheny's motion to file late is moot, even though its application was not filed in response to the Board's order. The motion to file late will therefore be dismissed; and the motion to consolidate will be granted, since Allegheny's application conforms to the expanded scope of the proceeding.

Accordingly, pursuant to authority delegated by Order 78-9-31:

It is ordered, That:

1. The motion of Allegheny Airlines, Inc., for leave to file late is dismissed;

2. The motion of Allegheny Airlines, Inc., to consolidate its application in Docket 33356 into the investigation in docket 32708 is granted; and

3. Allegheny Airlines, Inc., is made a party to the proceeding in docket 32708.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless before that date a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29284 Filed 10-16-78; 8:45 am]

[6320-01-M]

[Docket 33363]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION

Hearing

The hearing on the application of Land Air Corp., heretofore announced in the order of the presiding administrative law judge, dated September 29, 1978, will be held one week later. This hearing and the hearing on the application of Miami Air Lease, Inc., will be held in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C. 20428, commencing at 9 a.m., as follows:

Land Air Corp., November 21, 1978.
Miami Air Lease, Inc., November 27, 1978.

Dated at Washington, D.C., October 10, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-29285 Filed 10-16-78; 8:45 am]

[6320-01-M]

[Docket 33364]

ROANOKE-PITTSBURGH SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on November 30, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before November 9, 1978, and the other parties on or before November 16, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 10, 1978.

JOHN J. MATHIAS,
Administrative Law Judge.

[FR Doc. 78-29286 Filed 10-16-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

CONNECTICUT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 9:30 p.m. on November 9, 1978, at the Holiday Inn, Meriden, Conn.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29242 Filed 10-16-78; 8:45 am]

[6335-01-M]

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 12 p.m. and will end at 2 p.m. on November 3, 1978, at the Community Legal Services Center, 913 Washington Street, Wilmington, Del. 19801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29243 Filed 10-16-78; 8:45 am]

[6335-01-M]

FLORIDA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Florida Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on December 2, 1978, in the Jet Room, Miami International Airport, P.O Box 2094, Miami, Fla. 33159.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Atlanta, Ga. 30303.

The purpose of this meeting is to discuss proposals of criminal justice survey and State employment project, also identification of proposed Commission programs for fiscal years 1980 and 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29244 Filed 10-16-78; 8:45 am]

[6335-01-M]

GEORGIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Georgia Advisory Committee (SAC) of the Commission will convene at 2 p.m. and will end at 5:30 p.m. on November 3, 1978, in the Savannah Hilton, 15 East Liberty, Hospitality Suite, Savannah, Ga. 31402.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, room 362, 75 Piedmont Avenue, NE., Atlanta, Ga. 30303.

The purpose of this meeting is to review SAC proposal "Equal Employment in Georgia State Government", national program and to plan for fiscal years 1979 and 1980, and other State civil rights issues.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29245 Filed 10-16-78; 8:45 am]

[6335-01-M]

LOUISIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Louisiana Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 1 p.m. on November 17, 1978, in the Chateau Capitol (Industrial Room), 201 Lafayette, Baton Rouge, La. 70801.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Tex. 78204.

The purpose of this meeting is to plan for the Louisiana State Advisory Committee.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29246 Filed 10-16-78; 8:45 am]

[6335-01-M]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 9 a.m. on November 16, 1978 and will end at 3 p.m. on October 17, 1978, in the Augusta Civil Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss the status of civil rights.

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This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29247 Filed 10-16-78; 8:45 am]

[6335-01-M]

NEW MEXICO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on November 13, 1978, at the Four Seasons Motor Inn (Parlor No. 3), 2500 Carlisle Boulevard NE., Albuquerque, N. Mex. 87190.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Tex. 78204.

The purpose of this meeting is to plan for New Mexico SAC.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29248 Filed 10-16-78; 8:45 am]

[6335-01-M]

NORTH CAROLINA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Carolina Advisory Committee (SAC) of the Commission will convene at 3:30 p.m. and will end at 8:30 p.m. on November 13, 1978, at Velvet Cloak, Queen Anne Room, 1505 Hillsborough Street, Raleigh, N.C. 27605.

Persons wishing to attend this open meeting should contact the Committee Chairperson, of the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Room 362, Atlanta, Ga. 30303.

The purpose of this meeting is to review and draft North Carolina SAC migrant report, national program planning for Fiscal Year 1979 and 1980, and other state civil rights issues.

This meeting will be conducted pursuant to the provisions or the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29249 Filed 10-16-78; 8:45 am]

[6335-01-M]

NORTH DAKOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 12 noon on November 8, 1978, in the United Tribes Conference Room, Building 61, 3315 S. Airport Road, Bismarck, N. Dak.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colo. 80202.

The purpose of this meeting is for the SAC to decide on five or six projects that will have priority for fiscal years 1979 and 1980.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29250 Filed 10-16-78; 8:45 am]

[6335-01-M]

OKLAHOMA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Oklahoma Advisory Committee (SAC) of the Commission will convene at 7 p.m. and will end at 10 p.m. on November 15, 1978, at the Hilton Inn (West), Room 202, 401 S. Meridian, Oklahoma, Okla. 73108.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Tex. 78204.

The purpose of this meeting is to plan for Oklahoma SAC.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29251 Filed 10-16-78; 8:45 am]

[6335-01-M]

RHODE ISLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meetin, of the Rhode Island Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 6:30 p.m. on November 6, 1978, in the Central Congregational Church, Providence, R.I.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Office.

[FR Doc. 78-29252 Filed 10-16-78; 8:45 am]

[6335-01-M

SOUTH CAROLINA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the South Carolina Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 1 p.m. on November 30, 1978, Burgundy Room, Carolina Town House, 1615 Gervais Street, Columbia, S.C. 29202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, 75 Piedmont Avenue NE., Room 362, Atlanta, Ga. 30303.

The purpose of this meeting is to discuss future Commission programs, press conference to release municipal services report, plan follow-up to report.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29253 Filed 10-16-78; 8:45 am]

[6335-01-M]

TEXAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Texas Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 4 p.m. on November 8, 1978, at the Hilton Inn (Forum Room), 6000 Middle Fiskville Road, Austin, Tex. 78752.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Tex. 78204.

The purpose of this meeting is to plan for Texas SAC members.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29254 Filed 10-16-78; 8:45 am]

[6335-01-M]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 5 p.m. on November 8, 1978, in the U.S. Court House, Post Office Building, 425 Juliana Street, Parkersburg, W. Va. 26101

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within the State.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-29255 Filed 10-16-78; 8:45 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

PRIVACY ACT OF 1974

Proposed New Routine Use

AGENCY: U.S. Civil Service Commission.

ACTION: Proposal for a new routine use for an existing system of records.

SUMMARY: The purpose of this document is to give notice pursuant to 5 U.S.C. 552a(e)(11) for the Privacy Act of 1974, of intent to establish a new routine use covering the disclosure of information to the Defense Nuclear Agency from the Official Personnel Folders of former civil service employees identified by the Defense Nuclear Agency as having participated in atmospheric nuclear testing between 1945 and 1962.

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before November 20, 1978.

ADDRESS: Address comments to the Assistant Director for Workforce Information, Bureau of Personnel Management Evaluation, U.S. Civil Service Commission (Room 6410), Washington, D.C. 20415. Comments received will be made available for public inspection at the above address between 9 am and 4 pm, Monday through Friday.

FOR FURTHER INFORMATION, CONTACT:

Mr. John Sanet, Office of Advisory Services, Bureau of Personnel Management Evaluation, 202-254-9790.

SUPPLEMENTAL INFORMATION: The published description of the affected system, General Personnel Records (CSC/GOVT-3), appears in the FEDERAL REGISTER of September 2, 1978 (43 FR 40106).

BACKGROUND: The Secretary of Defense has designated the Defense Nuclear Agency as the executive agent for all aspects of the effort to develop information on Department of Defense personnel who participated in atmospheric nuclear weapons testing. The Defense Nuclear Agency has established the Nuclear Test Personnel Review to carry out this task. The purpose of the Nuclear Test Personnel Review is to compile a census of all Department of Defense military and civilian personnel who participated in atmospheric nuclear testing between 1945 and 1962 to assist research organizations in determining if there is a relationship between exposure to low level ionizing radiation and subsequent incidence of disease.

As part of this effort, the Defense Nuclear Agency must be able to locate these individuals and to have access to their medical records in order to ascertain or verify any recorded exposures to ionizing radiation. The Defense Nuclear Agency's efforts will be limited to civilian personnel who were involved in the atmospheric nuclear test program. Military personnel who were involved are being identified by the various uniformed service elements.

The most direct and efficient approach would be to obtain the information from official personnel folders under the control of the Civil Service Commission located at the National Personnel Records Center in St. Louis, Missouri. For those individuals currently employed in the Federal work force, the present duty station will be released. This does not represent an invasion of privacy since the duty station of an employee is one of the listed data elements permitted to be disclosed to a requester under the Commission's regulations implementing the Freedom of Information Act (5 U.S.C. 552). These regulations are found at § 294.702 of Title 5 of the Code of Federal Regulations.

Under the proposed routine use, the Defense Nuclear Agency would provide the name and other identifying information on individuals who participated in the atmospheric testing. The National Personnel Records Center will then search its records and attempt to locate the appropriate official personnel folder, which might contain a forwarding address for the former Federal employees. This information will be provided to the Defense Nuclear Agency.

Though the home address of an individual is not considered to be public information, the benefit to the public in this instance is such as to outweigh the privacy factors involved. In a similar vein, any relevant medical records in the official personnel folder will be provided to the Defense Nuclear Agency.

Proposed routine use. The proposed routine use which follows will be added to the Civil Service Commission Government-wide system of General Personnel Records (CSC/GOVT-3). The current notice of this system is published at 43 FR 40106 et seq. (Sep-

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tember 8, 1978). The proposed routine use reads as follows:

. . . . . .

x. To disclose to the Defense Nuclear Agency the home address of and medical information concerning those individuals who participated in atmospheric nuclear testing between the years 1945 and 1962, in response to a mandate issued by the Secretary of Defense.

The comment period on the routine use ends at the close of business 30 days after the date of this notice (November 29, 1978). Unless a notice to the contrary is published, this routine use will become effective 30 days after the end of the comment period (December 21, 1978).

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29233 Filed 10-16-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Consideration of the draft FMP's for Spiny Lobster and for Shallow-Water Reef Fishes; (2) staff presentation on the development of an FMP for Mollusks; (3) selection of candidates for membership in the Scientific and Statistical Committee and the Advisory Panel of the Council; (4) foreign fishing applications; (5) fiscal year 1979 budget appropriations; (6) status of boundary limits and negotiations; (7) administrative matters; and (8) other Council business.

DATE: The meeting will convene at 9 a.m. on Tuesday, November 14, 1978, and will adjourn at approximately 12 noon on Thursday, November 16, 1978. This meeting is open to the public.

ADDRESS: The meeting will take place at the Windward Passage Hotel, Veterans Drive, Charlotte Amalie, St. Thomas, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, P.R. 00918, 809-753-4926.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: October 12, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-29219 Filed 10-16-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON APPAREL PRODUCTS IMPORTED FROM THE POLISH PEOPLE'S REPUBLIC

Adjusting the Level of Restraint

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Adjusting the level of restraint established for cotton tank tops in category 338 pt. (only T.S.U.S.A. Nos. 380.0651 and 380.0652), for the agreement year which began on January 1, 1978, by the application of flexibility and carryforward.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 834), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).)

SUMMARY: Paragraphs 8 and 9(a)(III) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and January 12, 1978, between the Governments of the United States and the Polish People's Republic provide, respectively, that specific ceilings may be increased by designated percentages for flexibility and that a prescribed amount of yardage may be borrowed from the succeeding year's level, such amount to be deducted from the affected category's limit in the succeeding year. Pursuant to the cited paragraphs of the bilateral agreement, the import restraint level for category 338 pt. (only T.S.U.S.A. Nos. 380.0651 and 380.0652) is being increased from 180,556 dozen to 204,028 dozen.

EFFECTIVE DATE: October 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonda, International Trade Specialist, Officer of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On March 22, 1978, a letter dated March 17, 1978, was published in the FEDERAL REGISTER (43 FR 11845), from the Chairman of the Committee for the implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of cotton textile products which have been produced or manufactured in Poland and exported to the United States during the 12-month period which began on January 1, 1978. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton textile products in category 338 pt. (only T.S.U.S.A. Nos. 380.0651 and 380.0652), produced or manufactured in Poland, at the increased level of 204,028 dozen during the agreement year which began on January 1, 1978.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

OCTOBER 16, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On March 17, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on January 1, 1978, and extending through December 31, 1978, of cotton, wool, and manmade fiber textile products in certain specified categories, produced or manufactured in Poland, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of January 6, 1977, you are directed, effective on October 18, 1978, to increase the 12-month level of restraint for category 338 pt. (only T.S.U.S.A. Nos. 380.0651 and 380.0652) to 204.028 dozen.[2]

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-29461 Filed 10-16-78; 10:50 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of Jan. 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic which provides, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages, (2) these levels may also be increased for carryover and carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after Dec. 31, 1977.

[3128-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 78-006-LNG]

GAS SERVICE, INC.; MANCHESTER GAS CO.

Joint Application To Import Liquefied Natural Gas Into the United States From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application and invitation to submit comments and petitions to intervene in the proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of a joint application under section 3 of the Natural Gas Act from Gas Service, Inc. (GSI), and the Manchester Gas Co. (Manchester) to import liquefied natural gas (LNG) from Gaz Metropolitan, Inc. (Gaz Metro), Montreal, Canada. GSI and Manchester will take delivery at Gaz Metro's truck loading facilities at its existing LNG plant in Montreal, Canada. Gas Inc. of Lowell, Mass., will transport the LNG for GSI and Manchester by tank vehicles to existing storage facilities at Nashua and Manchester, N.H.

DATE: Petitions to intervene, comments and requests for hearing: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street NW., Room 6318, Washington, D.C. 20461 telephone 202-254-9730. Mr. Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, telephone 202-566-9380.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 22, 1978, Gas Service, Inc., P.O. Box 807, Nashua, N.H. 02060, and Manchester Gas Co., 1260 Elm Street, Manchester, N.H. 03101, jointly filed an application (ERA Docket No. 78-006-LNG) pursuant to section 3 of the Natural Gas Act, and part 153 of the regulations under the Natural Gas Act, requesting authorization to import LNG by tank vehicles, from Canada to the United States as more fully set forth in the application on file with the ERA. The joint application is open to public inspection in ERA's Public Docket Room at 2000 M Street NW., Washington, D.C., Room No. B-120 between the hours of 1 to 5 p.m., Monday through Friday, except for Federal holidays.

GSI and Manchester have contracted individually with Gaz Metro to purchase LNG for a 10-year period commencing November 1, 1978. GSI proposed to purchase and import into the United States 30.879 million British thermal units (MMBtu) of LNG annually beginning November 1, 1978, and ending on October 31, 1988. Manchester proposes to purchase and import into the United States 20,586 MMBtu's of LNG between the period November 1, 1978, to October 31, 1979, and 41,172 MMBtu's of LNG for each subsequent contract year. Each applicant will pay $3.51 per MMBtu for the gas, subject to increase or decrease depending upon the cost of gas to Gaz Metro. Transportation costs are estimated to be 82.6 cents per MMBtu for GSI and 82.0 cents per MMBtu for Manchester. Applicants propose to take delivery of this LNG at Gaz Metro's truck loading facilities at Montreal. GSI and Manchester have contracted with Gas Inc., an ICC motor carrier, to have this LNG transported into the United States and delivered to their market areas. No new or additional facilities are necessary to effect the importation of this LNG.

The ERA hereby invites petitions for intervention, comments on the application in ERA docket No. 78-006-LNG, and requests for hearing to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street, Washington, D.C., 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 1.8) and the regulations under the Natural Gas Act (18 CFR 157.10). Such petitions for intervention, comments, or requests for hearing should be marked "ERA Docket No. 78-006-LNG" on the first page and the envelope, and will be accepted for consideration if filed no later than 4:30 p.m., October 31, 1978.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above-mentioned rules.

Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the ERA by, section 3 of the Natural Gas Act and the rules of practice and procedure, a formal hearing will not be held on this application if no petition to intervene is filed within the required time, or if the ERA on its own review of the matter finds that a grant of the approval is in the public interest. However, if during the appropriate comment period a request for such hearing is timely filed by an intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C., on October 10, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-29257 Filed 10-16-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Office of the Secretary

IMPORTATION AND EXPORTATION OF NATURAL GAS

Delegation of Functions by the Secretary of Energy to the Administrator of the Economic Regulatory Administration and the Federal Energy Regulatory Commission

AGENCY: Department of Energy.

ACTION: Notice of Delegations.

SUMMARY: Notice is hereby given of delegations by the Secretary of Energy to the Administrator of the Economic Regulatory Administration and to the Federal Energy Regulatory Commission respectively. The delegations convey authority to carry out functions vested in the Secretary under the Department of Energy Organization Act as those functions relate to approval or disapproval of applications to import or export natural gas pursuant to the Natural Gas Act and to build and operate border facilites for the import or export of natural gas pursuant to Executive Order No. 10485. The delegation orders are being issued in final form, but in view of the importance of these delegation orders to the administration of the Natural Gas Act and the implementation of the Department of Energy Organization Act, the public is

requested to comment on them in writing. If the public comment demonstrates serious problems created by these delegations, the Secretary will

of his functions to any officers and employees of the Department he may designate, which would include the

ance of payments, (3) the price proposed to be charged at the point of importation or exportation, (4) national

natural gas company's charging of rates based on import prices sanctioned by the Administrator. It should

uct to B for resale in the interstate market. Applicant A would simultaneously file with both ERA and the

Administrator. However, if the FERC found, for example, that the import price as proposed to be flowed through

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requested to comment on them in writing. If the public comment demonstrates serious problems created by these delegations the Secretary will consider appropriate changes.

DATE: Written comments by November 13, 1978.

ADDRESS TO: Office of Public Hearing Management, Economic Regulatory Administration, Room 2313, Box TQ, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Lynne H. Church, Division of Natural Gas Regulations, Economic Regulatory Administration, Room 3308, 2000 M Street NW., Washington, D.C. 20461, 202-632-4721.

Barry M. Smoler, Department of Energy, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, 202-566-9380.

Brian J. Heisler, Federal Energy Regulatory Commission, Office of General Counsel, 825 North Capitol Street NE., Room 8100, Washington, D.C. 20426, 202-275-4341.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Proposed delegation orders.
III. Proposed effective date and procedures for written comments.

I. Background

The delegations relate to applications for approval to import or export natural gas under section 3 of the Natural Gas Act (NGA) and applications to build and operate border facilities for the import or export of natural gas pursuant to Executive Order No. 10485. The Secretary of Energy (Secretary) has the authority to approve or disapprove these applications under the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 42 U.S.C. 7101, et seq. (1977). Subsection 301(b) of the DOE Act transfers to, and vests in, the Secretary all the functions of the Federal Power Commission not specifically vested by the DOE Act in the Federal Energy Regulatory Commission (FERC). Included in the transfer to the Secretary are functions under section 3 of the NGA and Executive Order No. 10485. In addition, subsection 402(f) of the DOE Act explicitly reserves to the Secretary exclusive jurisdiction with respect to the regulation of exports and imports of natural gas.

The Secretary's authority to regulate imports and exports of natural gas may be "assigned" in whole or in part to the FERC under subsections 402(e) and (f) of the DOE Act. Furthermore, section 642 of the DOE Act allows the Secretary to "delegate" any of his functions to any officers and employees of the Department he may designate, which would include the FERC. The proposed delegation and assignment order to the FERC is based on both of these sections of the DOE Act.

The Secretary's authority to regulate imports and exports of natural gas originally was delegated to the Administrator of the Economic Regulatory Administration (the Administrator) on October 1, 1977 (Delegation Order No. 0204-4, para. 6, 42 FR 60726, November 29, 1977.) The Administrator currently has pending before him a number of applications to import or export natural gas. Some have been filed directly with the Economic Regulatory Administration (ERA) since it was activated on October 1, 1977, and others have been transferred to ERA after completion of certain procedures before the FERC. (DOE final rule of October 1, 1977, 42 FR 55534, October 17, 1977).

Many of the applications, particularly those to import liquefied natural gas (LNG), require consideration of numerous factors ranging from the effects of an import on U.S. balance of payments to the safety and environmental impact of the terminal facilities proposed to be built. Some of these considerations are specific to the individual applications and are representative of those areas traditionally within the expertise of the FERC's predecessor, the Federal Power Commission. Imports or exports of natural gas also raise significant policy question concerning the nation's security, degree of dependence on foreign supplies, effect of imports or exports on the American economy, and the impact of a particular import or export on national energy stategies.

II. The Delegation Orders

The delegation order to ERA and the delegation and assignment order to the FERC provide a mechanism whereby the Secretary, through his delegate, the Administrator, maintains authority over imports and exports of natural gas to the extent that they broadly concern energy policies on an international, national and interregional scale. Those functions involving the continuing supervision of each of the interstate natural gas pipeline companies would rest within the FERC's jurisdiction.

More specifically, the delegation to the Administrator, which amends Delegation Order No. 0204-4, would allow him to determine whether a proposed import or export of natural gas is not inconsistent with the public interest within the meaning of section 3 of the NGA, based on certain considerations which may include (1) the security of supply, (2) the effect on the U.S. balance of payments, (3) the price proposed to be charged at the point of importation or exportation, (4) national and regional needs for the natural gas to be imported or exported, and (5) in the case of imported natural gas, the eligibility and respective shares of purchasers and participants. In addition, the Administrator would be authorized to determine whether the proposed import or export is consistent with the Department's regulations or statements of policy specifically applicable to natural gas imports and exports. An example would be any statement of policy on the import of LNG which the Department may adopt in accordance with section 301 of the DOE Act.

In considering those aspects of an import or export application within his jurisdiction, the Administrator would also be authorized to attach terms and conditions which he determines to be necessary to make the import or expert not inconsistent with the public interest. For example, the Administrator could condition his determination that a proposed import meets the standard of section 3 of the NGA with a requirement that the importer and his foreign supplier change the terms of the import contract with respect to initial price, or duration, or price changing clauses.

Finally, the delegation to the Administrator reserves to the Secretary the right to directly administer the functions vested in him if he deems it necessary or appropriate to do so.

The delegation order to the FERC authorizes it to exercise all other functions under section 3 of the NGA which are not delegated to the Administrator and which have not been previously exercised by him, as well as all functions under sections 4, 5 and 7 of the NGA insofar as authority under those sections may otherwise have been vested in the Secretary. Thus, the FERC would have the authority to approve or disapprove the siting, construction, and operation of particular facilities and the place of entry of imported natural gas. The Administrator would be able to disapprove the siting, construction and operation of particular facilities or the selection of a place of entry only in the implementation of Department regulations or statements of general policy, or on the basis of considerations of the security of supply or the effect on U.S. balance of payments.

Further, under the delegations, if an importer proposed to sell natural gas in interstate commerce for resale, the FERC would review the prices under the public convenience and necessity standard of section 7 of the NGA and the just and reasonable standard of sections 4 and 5 of the NGA. The FERC might thereby disapprove a

natural gas company's charging of rates based on import prices sanctioned by the Administrator. It should also be noted that the Commission itself would determine the applicability of sections 4, 5 and 7 of the NGA in a particular case, subject only to judicial review.

The FERC is delegated and assigned the function of issuing whatever orders, authorizations and certificates as are necessary or appropriate to implement the respective determinations made by the Administrator (to the extent that he determines a proposed import or export is not inconsistent with the public interest) and by the FERC. The delegation order requires that any authorization of an import or export issued by the FERC under section 3 of the NGA must include any terms and conditions previously attached by the Administrator, although the FERC would not be required to authorize an import or export if it determined that the application, as conditioned by the Administrator, is inconsistent with those provisions of the NGA vested in the FERC to administer or which have been delegated or assigned to the FERC to administer.

The mechanism set up in the delegations would apply to all natural gas import and export applications initially submitted to the ERA on or after October 1, 1977, or which were transferred to the Secretary or the Administrator pursuant to the Final Rule dated October 1, 1977, with the following exceptions:

a. Those cases initially pending before the Federal Power Commission and transferred in their entirety by rule to the FERC at the time the Department was activated (10 C.F.R. 1000.1(d); 42 FR 55534, October 17, 1977); and

b. Those functions already delegated by the Secretary to the FERC in DOE Delegation Orders No. 0204-1 (certain functions under the NGA not directly related to imports and exports of natural gas except for cases specifically assigned to the FERC by rule), No. 0204-8 (relating to the approved Alaskan natural gas transportation system) and No. 0204-14 (certain aspects of *Distrigas of Massachusetts Corp., et al.*, ERA Dockets No. 77-007-LNG and No. 77-011-LNG which have not already been decided by the ERA Administrator).

In addition, the mechanism would not apply to ERA Docket No. *77-001-LNG, Pacific Indonesia LNG Co., et al.*, which is in the rehearing stage. The Administrator would continue to exercise final decisional authority under section 3 of the NGA and Executive Order No. 10485.

Following is an example of how the proposed delegation would operate:

Assume Applicant A proposed to import liquified natural gas (LNG) at port X and to construct docking, storage and regasification facilities. A also proposed to resell the regasified product to B for resale in the interstate market. Applicant A would simultaneously file with both ERA and the FERC complete applications for the importation of the LNG, the construction of facilities and the resale of the gas. At the same time B would file a section 7 application with the FERC. If A's application involved a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, ERA would prepare or arrange for the preparation of an environmental impact statement on the project.

The ERA would proceed to obtain the necessary information and hear argument on those issues it would decide. These would include, at a minimum, the security of A's supply, whether the price A would pay at the point of importation or some earlier point is appropriate, whether A's division and direction of the gas to B in the first instance properly reflect national policy and national energy needs, and whether the import is otherwise consistent with Department policy.

If, after hearing, the Administrator decided on the basis of functions delegated to him that the import is not consistent with the public interest, he would deny the application outright. The applicant could then exercise the rights under section 19 of the NGA to apply to the Administrator for rehearing and to the appropriate United States Court of Appeals for judicial review. On the other hand, if the Administrator decided the application favorably on the basis of those considerations within his jurisdiction, he would issue a determination to that effect to the parties and to the FERC. The Administrator's decision approving an application might contain certain conditions to assure that the project is constructed and operated consistent with the terms of the approval. For example, the order could condition approval of A's renegotiating a price with its supplier that does not exceed a specified level.

Upon issuance of a favorable determination by the Administrator, the FERC's formal proceedings would begin and would include, among other things, consideration of any pipeline facilities to be constructed by A or B, the transportation rates, and the justness and reasonableness of the prices proposed to be charged the distribution companies. If the FERC determined to approve the applications, based upon the considerations within its jurisdiction, it would issue an order implementing both its own and the Administrator's determinations. The order would include all the terms and conditions previously imposed by the Administrator, However, if the FERC found, for example, that the import price as proposed to be flowed through would result in a particular tariff's either being unjust and unreasonable within the meaning of section 4 of the NGA or being contrary to the public convenience and necessity under section 7 of the NGA, it could not change the contract and pricing conditions imposed by the Administrator, but could deny the application entirely or impose additional requirements consistent with the Administrator's conditions. Rehearing before the FERC of the FERC's determination would be available at this point.

These delegation orders will be implemented through the promulgation of procedural regulations by ERA and the FERC. These regulations, which will be available for public comment prior to adoption, will be designed to expedite, to the extent possible, the Administrator's and the FERC's final decisions in natural gas import and export cases, while still providing all interested parties with an opportunity to submit evidence and views to both the Administrator and the FERC, as appropriate.

III. Effective Date and Procedures for Written Comments

The delegation orders are effective upon publication.

Delegation orders are internal agency organizational rules and typically are not made available for public comment. However, in view of the importance of these delegations to the administration of the Natural Gas Act and the implementation of the DOE Act, the public is invited to submit views, data or arguments with respect to the orders. If public comment indicates that these delegation orders create substantial problems in the administration of the NGA in import and export cases, the Secretary will consider making appropriate changes. Comments should be submitted to the address indicated above in this notice and should be identified on the outside envelope with the designation "Delegations by the Secretary of Energy Regarding the Importation and Exporation of Natural Gas." Thirty copies should be submitted. All comments received by November 13, 1978 will be considered in evaluating the delegation orders. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 1200 Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered to be confidential must be so identified and submitted in a single written copy. We reserve the right to determine the confidentiality of the infor-

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mation or data and to treat it according to our determination.

These delegations are procedural

the Administrator shall have the authority to disapprove the construction and operation of facilities, the site at which they shall be located, or the place of entry for

(4) All functions with respect to issuance of such orders, authorizations and certificates which the FERC determines to be necessary or appropriate to implement the re-

submitted pursuant to the regulations for PSD.

The plant was proposed for a site approximately 30 miles southwest of

The first issue addressed in the final determination is whether IPALCO has demonstrated scrubber efficiency with adequate design information for the

would constitute a violation of the Clean Air Act.

This determination may now be considered final agency action which is lo-

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mation or data and to treat it according to our determination.

These delegations are procedural only, and the requirement in section 7(c)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, that proposals "affecting the quality of the environment" be reviewed by the Environmental Protection Agency prior to issuance is therefore not applicable.

(Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C. on October 10, 1978.

LYNN R. COLEMAN,
General Counsel.

DEPARTMENT OF ENERGY

DELEGATION ORDER NO. 0204-25 TO THE ADMINISTRATOR OF THE ECONOMIC REGULATORY ADMINISTRATION

Pursuant to the authority vested in me as the Secretary of Energy ("Secretary") by the Department of Energy Organization Act ("DOE Act")—

(a) There is hereby delegated to the Administrator of the Economic Regulatory Administration ("Administrator") the authority under Section 3 of the Natural Gas Act and Executive Order 10485, as transferred to the Secretary by Sections 301 and 402(f) of the DOE Act, to determine (except with respect to ERA Docket No. 77-001-LNG) whether importation or exportation of natural gas is not inconsistent with the public interest, insofar as such determination is based on the following considerations:

(1) In the case of imported natural gas, the security of supply and effect on U.S. balance of payments;

(2) The price proposed to be charged at the point of importation or exportation;

(3) Consistency with duly promulgated and published regulations or statements of policy of the Department of Energy specifically applicable to imports or exports of natural gas;

(4) National need for the natural gas to be imported or exported; and

(5) Such other matters within the scope of Section 3 of the Natural Gas Act as the Administrator shall find in the circumstances of a particular case to be appropriate for his determination, including but not limited to:

(A) Regional needs for the natural gas to be imported or exported;

(B) In the case of imported natural gas, the eligibility of purchasers and participants and their respective shares.

(b) In exercising the functions delegated in paragraph (a) (1) through (5) above, the Administrator may attach such terms and conditions as he shall determine to be necessary to make the import or export not inconsistent with the public interest, which terms and conditions the FERC shall include in any order it may issue which authorizes the import or export pursuant to Delegation Order No. 0204-26.

(c) Notwithstanding paragraph (a)(5) above, the Administrator shall not exercise any authority under Section 3 of the Natural Gas Act to approve or disapprove an import or export based upon the construction and operation of facilities, the site at which they shall be located, or the place of entry for imported natural gas, except that the Administrator shall have the authority to disapprove the construction and operation of facilities, the site at which they shall be located, or the place of entry for imported natural gas on the basis of the considerations contained in paragraphs (a)(1) and (a)(3) above.

(d)(1) With respect to ERA Docket No. 77-001-LNG, the Administrator is hereby delegated all functions under Section 3 of the Natural Gas Act, as amended, and Executive Order 10485.

(2) Nothing in this delegation shall be construed to amend or supersede 10 CFR § 1000.1(d) (42 FR 55534, October 17, 1977) or DOE Delegation Orders No. 0204-1, No. 0204-8, and No. 0204-14.

(e) The authority delegated to the Administrator may be further delegated (except to the FERC) in whole or in part, as may be appropriate.

(f) Paragraph 6 of the Delegation Order No. 0204-4, is amended to read as follows:

"6. The functions delegated to the Administrator of ERA by Delegation Order No. 0204-25."

(g) All actions pursuant to any authority delegated prior to the Order, and all actions encompassed within the scope of the authority delegated by this Order but taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

(h) Nothing in this delegation by the Secretary shall preclude the Secretary from exercising any of the authority so delegated whenever in his judgment his exercise of such authority is necessary or appropriate to administer the functions vested in him.

This order is effective upon publication in the FEDERAL REGISTER.

JAMES R. SCHLESINGER,
Secretary of Energy.

DEPARTMENT OF ENERGY

DELEGATION ORDER NO. 0204-26 TO THE FEDERAL ENERGY REGULATORY COMMISSION

Pursuant to the authority vested in me as the Secretary of Energy ("Secretary") by Sections 402(e) and 642 of the Department of Energy Organization Act ("DOE Act"), there is hereby delegated and assigned to the Federal Energy Regulatory Commission ("FERC") such authority under the Natural Gas Act, Executive Order 10485, and Sections 301 and 402(f) of the DOE Act, as is vested in the Secretary to carry out the following functions with respect to the regulation of exports and imports of natural gas:

(1) Except insofar as such functions have been delegated to the Administrator of the Economic Regulatory Administration ("Administrator"), all functions under Section 3 of the Natural Gas Act to approve or disapprove the construction and operation of particular facilities and the site at which they would be located, and with respect to imports of natural gas, the place of entry.

(2) All other functions under Section 3 of the Natural Gas Act, which are not delegated to the Administrator under paragraphs (a)(1) through (4) or (d)(1) of Delegation Order No. 0204-25, and which have not been previously exercised by the Administrator under paragraph (a)(5) of Delegation Order No. 0204-25.

(3) All functions under Sections 4, 5, and 7 of the Natural Gas Act; and

(4) All functions with respect to issuance of such orders, authorizations and certificates which the FERC determines to be necessary or appropriate to implement the respective determinations made by the Administrator under Delegation Order No. 0204-25 (to the extent that he determines such import or export is not inconsistent with the public interest) and by the FERC under this Order.

This order does not delegate to the FERC authority to authorize an import or export under Section 3 of the Natural Gas Act unless such authorization adopts such terms and conditions as shall have been previously attached by the Administrator pursuant to the authority delegated to him by Delegation Order No. 0204-25. However, nothing in this paragraph shall require the FERC to authorize an import or export under any section of the Natural Gas Act if it determines that the application, as conditioned by the Administrator pursuant to the authority delegated by Delegation Order No. 0204-25, is inconsistent with provisions of the Natural Gas Act which the FERC has been delegated authority to administer by this Order or which are otherwise vested in the FERC.

The authority delegated and assigned to the FERC may be further delegated within the FERC, in whole or in part, as may be appropriate.

All actions pursuant to any authority delegated prior to this Order, and all actions encompassed within the scope of the authority delegated by this Order but taken prior to and in effect on the date of this Order, are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

This order is effective upon publication in the FEDERAL REGISTER.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-29220 Filed 10-16-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 988-7]

INDIANAPOLIS POWER & LIGHT CO., PATRIOT GENERATING STATION

Final Determination

In the matter of the applicability of Title I, Part C of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for Prevention of Significant Deterioration of Air Quality (PSD), to the Indianapolis Power & Light Co. (IPALCO), Patriot Generating Station (also known as Mexico Bottom).

On March 29, 1977, IPALCO submitted an application to the United States Environmental Protection Agency (U.S. EPA), Region V office, for an approval to construct the Patriot Generating Station. The application was submitted pursuant to the regulations for PSD.

The plant was proposed for a site approximately 30 miles southwest of Cincinnati on the west bank of the Ohio River, in Switzerland County, Ind. The application requested authority to construct three 650-megawatt (1,950 total) coal-fired units with a lime/limestone scrubber system to control sulfur dioxide and an electrostatic precipitator to control particulate matter.

IPALCO was notified on April 21, 1977, that the application contained certain deficiencies and on May 17, 1977, additional information was submitted. On June 6, 1977, IPALCO was notified that the application was complete. However, during the preliminary review, U.S. EPA noted a discrepancy between IPALCO's descriptive methodology and the actual dispersion modelling results. This descrepancy was corrected with a submittal dated July 1, 1977.

On August 7, 1977, the Clean Air Act Amendments effected certain immediate changes in the PSD review. IPALCO submitted the information necessitated by the changes on August 29, 1977. On September 15, 1977, IPALCO was notified that the application was deficient with respect to the Amendments. IPALCO submitted additional information on September 26, 1977, and on October 3, 1977, IPALCO was notified that the application was complete.

On February 23 and 24, 1978, U.S. EPA published notice of its decision to grant a preliminary approval to the Patriot Generating Station. A public hearing was requested as a result of the preliminary approval and on April 20, 1978, U.S. EPA conducted the hearing in Vevay, Ind. Numerous issues were raised, including scrubber reliability and the adequacy of the dispersion modelling used to predict air quality impact. IPALCO responded to the public comments on June 15, 1978, but failed to counter the demonstration made by the State of Kentucky that the PSD Class II 3-hour sulfur dioxide standard would be violated more than once per year (only one excursion is permitted) and to provide sufficient technological data for the proposed scrubber efficiency.

After review and analysis of all materials submitted by IPALCO, the public record established at the hearing, and written comments, on August 7, 1978, IPALCO was notified that U.S. EPA had determined that construction and operation of the Patriot Generating Station as proposed would cause a violation of the applicable Class II, 3-hour increment for sulfur dioxide. The disapproval was based on two technical issues and is reprinted in full below.

The first issue addressed in the final determination is whether IPALCO has demonstrated scrubber efficiency with adequate design information for the proposed scrubber system to achieve an emission rate of 0.554 lbs. of sulfur dioxide per million Btu heat input. IPALCO proposed to control the sulfur dioxide emissions with a lime/limestone scrubber that would be 91 percent efficient in removing sulfur dioxide from the combustion gases, claiming that this type of scrubber will be available for installation by the mid-1980's. Coal with a sulfur content as high as 3.47 percent would be burned with no provision for coal treatment prior to combustion. Nor did IPALCO suggest blending low sulfur coal with the regular fuel mixture in order to reduce sulfur dioxide emissions. Support data for the scrubber efficiency consists solely of letters from scrubber manufacturers attesting to but not guaranteeing that a 91 percent efficiency will be available in the 1980's. Since this documentation does not assure the achievement of the emission limitation, U.S. EPA found this portion of the application inadequate.

The second issue addressed in the final determination is whether it has been demonstrated that the 3-hour Class II PSD increment will not be exceeded more than once annually, as allowed. Although IPALCO submitted modelling data to U.S. EPA which indicated that the Class II increment would not be exceeded more than once, the Kentucky Division of Air Pollution Control (KDAPC) performed an additional modelling analysis of the area and found that on Day 201, and Day 203, 3-hour concentrations in excess of the allowable increment of 512 ug/SO_2/m^3 are predicted. Since IPALCO presented no information to refute KDAPC's modelling analysis, U.S. EPA was required to deny approval of the application under Section 165 of the Clean Air Act.

As a result of the disapproval, any claims IPALCO may have to the Class II increments for sulfur dioxide and particulate matter in Switzerland County and neighboring counties in Indiana, Kentucky, and Ohio, are invalidated.

This disapproval shall in no way abridge the right of IPALCO to prepare and submit to U.S. EPA a revised application for approval to construct the Patriot Generating Station. This disapproval in no way invalidates those other permits or approvals obtained by IPALCO for the purpose of constructing the Patriot Generating Station.

Any commencement of construction of the Patriot Generating Station without approval under 40 CFR 52.21 would constitute a violation of the Clean Air Act.

This determination may now be considered final agency action which is locally applicable under section 307(b)(1) of the Clean Air Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with section 307(b)(1), petitions for review must be filed sixty days from the date of this notice.

It is so determined on this 7th day of August 1978.

Valdas V. Adamkus,
Acting Regional Administrator,
Region V.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGION V

In the matter of Indianapolis Power & Light Co. Proceeding pursuant to the Clean Air Act, as amended, final determination to disapprove construction EPA-5-78-A-4.

AUTHORITY

1. This determination to disapprove construction is issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act), and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for the Prevention of Significant Deterioration of Air Quality (PSD).

FINDINGS

2. Indianapolis Power & Light Co. (IPALCO) proposes to construct the Patriot (formerly Mexico Bottom) Generating Station in a Class II area, as determined pursuant to the Act. The area has been designated attainment for all criteria pollutants by the State of Indiana (43 FR 8992, March 3, 1978).

3. On October 3, 1978, the U.S. Environmental Protection Agency (U.S. EPA) determined the application submitted by IPALCO for approval to construct the Patriot Generating Station, pursuant to 40 CFR 52.51, to be complete. The Patriot Generating Station is subject to the requirements of 40 CFR 52.21.

4. On February 6, 1978, U.S. EPA issued a preliminary approval for the Patriot Generating Station.

5. On February 23, 1978, and on February 24, 1978, U.S. EPA, published notice of the preliminary approval in the *Switzerland Democrat* and *Kentucky Post*. The notice sought written comments from the public and offered the opportunity for a public hearing on the application submitted by IPALCO and U.S. EPA's preliminary determination to approve construction of the Patriot Generating Station. A public hearing was requested and was held in Vevay, Ind., on April 20, 1978. Public comments were also received in writing until April 28, 1978, at the Region V office of U.S. EPA.

6. IPALCO was given the opportunity to comment on both the written comments and those made at the hearing and has submitted to U.S. EPA its response.

7. After review and analysis of all the materials submitted by IPALCO, the public record established at the hearing and written comments, U.S. EPA has determined that construction and operation of the Patriot Generating Station as proposed would cause a violation of the applicable Class II, three-hour increment for sulfur dioxide. This determination is based on the following:

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before November 15, 1978, should contact David L. Guthrie, P.E., Office of Water Enforcement (EN-338), U.S. EPA, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-8904.

public comment (42 FR 64734). A large number of comments were received, most favoring and some opposing Agency approval of the request. Some

was issued (attachment B to this notice) which permitted some limited use of Ferriamicide in Mississippi. This order resolved the open issues

2. EPA's POSITION

EPA does not agree with the Court's determination that Agency actions under section 18 of FIFRA are rules

to a procedural issue, however, all documents before the court will be placed in the record.

The comment period on Mississippi's

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triot Generating Station as proposed would cause a violation of the applicable Class II, three-hour increment for sulfur dioxide. This determination is based on the following:

a. IPALCO has submitted inadequate design information for the proposed scrubber system and has not demonstrated that the lime/limestone scrubber system can reliably achieve a 91 percent efficiency of sulfur dioxide removal. This level of efficiency is necessary to achieve an emission rate of 0.554 lbs. of sulfur dioxide per million BTU heat input. IPALCO proposed that at the above emission rate, the short-term sulfur dioxide PSD Class II increments would not be exceeded more than once annually, as allowed.

b. IPALCO has failed to adequately demonstrate that the three-hour Class II PSD increment for sulfur dioxide will only be exceeded once annually, as allowed.

DISAPPROVAL

1. U.S. EPA hereby disapproves the construction of the proposed Patriot Generating Station consistent with the reasoning above. Any claims IPALCO may have to the Class II increments for sulfur dioxide and particulate matter in Switzerland County and neighboring counties in Indiana, Kentucky, and Ohio are invalidated upon issuance of this disapproval.

2. This disapproval shall in no way abridge the right of IPALCO to prepare and submit to U.S. EPA a revised application for approval to construct the Patriot Generating Station. This disapproval in no way invalidates those other permits or approvals obtained by IPALCO for the purpose of constructing the Patriot Generating Station.

3. Any commencement of construction of the Patriot Generating Station without approval under 40 CFR 52.21 would constitute a violation of the Act.

4. A copy of this disapproval has been forwarded to the Switzerland County Public Library in Vevay, Ind.

VALDAS V. ADAMKUS,
Acting Regional Administrator.

AUGUST 7, 1978.

[FR Doc. 78-29202 Filed 10-16-78; 8:45 am]

[6560-01-M]

[FRL 988-8]

INTERIM NATIONAL MUNICIPAL POLICY AND STRATEGY

Availability

On October 2, 1978, the Environmental Protection Agency issued an Interim Municipal Policy and Strategy to be implemented immediately by EPA Regions and NPDES States while still allowing for future changes or clarifications as necessary.

The Policy and Strategy include significant aspects of the Municipal Enforcement, Permit, and Contruction Grant Programs. The final Policy and Strategy will be disturbed in November or December, 1978.

Anyone wishing to obtain a copy of the Interim National Municipal Policy and Strategy for review and comment before November 15, 1978, should contact David L. Guthrie, P.E., Office of Water Enforcement (EN-338), U.S. EPA, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0994.

JEFFREY G. MILLER,
Deputy Assistant Administrator for Water Enforcement.

OCTOBER 11, 1978.

[FR Doc. 78-29201 Filed 10-16-78; 8:45 am]

[6560-01-M]

[FRL 989-3; OPP-180172B]

MISSISSIPPI AUTHORITY FOR THE CONTROL OF FIRE ANTS

Proposed Emergency Exemption for Use of Ferriamicide To Control Fire Ants; Comment Period

AGENCY: Environmental Protection Agency, Office of Pesticide Programs (EPA, OPP).

ACTION: Proposed emergency exemption; additional comment period.

SUMMARY: As a result of the September 27, 1978, Memorandum Opinion of the U.S. District Court for the District of Columbia in *Environmental Defense Fund* v. *Blum, et al.*, Civil Action No. 78-0577, EPA is providing additional opportunity for public comment on a proposed emergency exemption to permit use of the pesticide Ferriamicide to control fire ants in Mississippi.

DATE: Comments on Mississippi's application are due ten (10) days after publication of this notice.

ADDRESS: Send comments to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy A. Gardner, Product Manager 15 (PM 15), Registration Division (TS-767), Office of Pesticide Programs, EPA, Room 229, East Tower, 202-426-9426.

SUPPLEMENTARY INFORMATION:

1. BACKGROUND

On December 16, 1977, the Mississippi Authority for the Control of Fire Ants (Mississippi Authority) submitted to EPA a request for issuance of an exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, to allow the use of Ferriamicide, an unregistered pesticide, to control imported fire ants in Mississippi. On December 28, 1977, EPA published a notice describing the Mississippi Authority's request and soliciting public comment (42 FR 64734). A large number of comments were received, most favoring and some opposing Agency approval of the request. Some 20,000 persons sent brief letters expressing concern about fire ants and in some cases supporting the application. In addition, a number of Federal legislators (most from southern States), State legislators, and other State officials urged approval of Mississippi's request. (Officials of several other States have applied under section 18 for permission to buy Ferriamicide bait from the Mississippi Authority for use in their own States.) (See FEDERAL REGISTER of Aug. 25, 1978 (43 FR 38084).)

On the other hand, a smaller number of commenters (including some Federal legislators) opposed the request. The Environmental Defense Fund, Inc. (EDF) submitted extensive comments in opposition to the use of Ferriamicide.

After extensive EPA staff consideration of the issues raised by the Authority's request, Mr. Steven D. Jellinek, the Agency's Assistant Administrator for Toxic Substances sent to Deputy Administrator Barbara Blum, on March 8, 1978, a document containing a series of recommendations on the matter. Deputy Administrator Blum adopted those recommendations on the same day, and so indicated by concurring on the document. (Attachment A to this notice.)

In March 1978, EDF filed an action in the United States District Court for the District of Columbia, saying that for a variety of reasons the Agency should be enjoined from allowing Mississippi to use Ferriamicide. (*EDF* v. *Blum, et al.*, Civil Action No. 78-0577.)

On June 16, 1978, a hearing was held, at which time the court stated that it appeared the Agency's decision was not yet final or reviewable (because of the certain matters still requiring resolution).[1] The parties then stipulated that the Agency's final decision would be issued on or about July 21, 1978, and that the Court would act in early September (following the filing of briefs by the parties). It was agreed that EPA would not authorize distribution or use of Ferriamicide until a final order was reviewed by the Court. On July 28, 1978, a final order

[1] In its September 27, 1978, Memorandum Opinion, the Court cited as an additional reason for deciding the March 8, 1978, agency memorandum was not a final order the fact that it had not been published in the FEDERAL REGISTER as required by the Agency's regulations (40 CFR § 166.10 (1977)). We note that the cited regulation merely requires the Agency to notify the public after an emergency exemption is granted; an exemption is final for purposes of judicial review as of the date of the grant, not the date of publication in the FEDERAL REGISTER.

was issued (attachment B to this notice) which permitted some limited use of Ferriamicide in Mississippi. This order resolved the open issues from the March 8 memorandum as to the precise conditions imposed upon the use of Ferriamicide. This final order also took into account additional health risk data which had come to light since the March 8 action and contained further quantitative risk analyses of the potential cancer and reproductive effects of the pesticide.

Thereafter the court received additional briefs and heard additional oral argument.

On September 27, 1978, the Court issued its decision. The Court sustained the Agency's determination that fire ant infestation in Mississippi constitutes an emergency, and granted summary judgment for EPA as to the Agency's compliance with the National Environmental Policy Act, and as to EPA's alleged consideration of improper political factors. (EDF filed a notice of appeal on these matters on September 28, 1978.)

The Court, however, remanded the case to the Agency after finding the decision to be procedurally defective because the Agency had considered certain documents without making them available for public comment. The Court noted that "substantial and perhaps decisive information relating to efficacy, health effects and the conditions to be placed on the [use of Ferriamicide]" had not been available for public adversarial comment. This decision was based on the Court's finding that the Ferriamicide decision was rulemaking and therefore subject to notice and comment procedures under the Administrative Procedure Act (5 U.S.C. 553). The Court found that the notice published on December 28, 1977, served to formally close the administrative record as of January 23, 1978, and that documents received after that time, but not made available for public comment, constitute improper *ex parte* communications.

The Court stated that if EPA should wish to pursue its consideration of Mississippi's application further, EPA must: (1) publish in the FEDERAL REGISTER a new notice and comment period, during which interested persons may comment on the documents received by the EPA since January 23, 1978, and introduce any new information relevant to the issues still remaining open; and (2) establish and maintain a file available for public inspection with respect to Mississippi's application, containing all material which has been submitted to the Court by the parties and all information received by the Agency during the new comment period.

2. EPA'S POSITION

EPA does not agree with the Court's determination that Agency actions under section 18 of FIFRA are rules subject to the notice and comment requirements of 5 U.S.C. 553. It is the Agency's position that decisions under section 18 granting an emergency exemption are licenses as the term is defined in 5 U.S.C. 551, which states:

"license" includes the whole or a part of an Agency permit, certificate, approval, registration, charter, membership, *statutory exemption*, or other form of permission. [Emphasis added.]

Since a section 18 exemption is licensing, it is an "order," which is an Agency final disposition "other than rulemaking but including licensing." (5 U.S.C. 551.)

Although the Agency believes the Court's holding was incorrect, the Agency has decided to provide the opportunity for comment which the Court's decision calls for, because the Agency believes this course will lead to the most expeditious resolution of the still-open issues.

3. NOTICE AND COMMENT

Accordingly, the comment period on the Ferriamicide decision is hereby reopened. The Agency invites comment on its determination that the uses permitted under the specific exemption will not cause unreasonable adverse effects on health or the environment.

The Agency particularly desires comment on its previous decision to permit ground broadcast application in parks, playgrounds, and schoolyards. The Agency will also consider any new information on any other aspects of the Ferriamicide emergency exemption.

Comments are invited on all documents the Agency has placed in the administrative record file which will be available through the Agency contract person designated above. The reading file will contain all documents submitted to the District Court in the Ferriamicide litigation which either the EDF or the EPA has designated as constituting the record in the Ferriamicide action. EPA, in no sense, concedes that all these documents should be designated as part of the administrative record in this proceeding, nor that the Agency should consider all the documents in making its final decision. Many documents are clearly irrelevant to the Agency decision (such as press releases prepared to explain, rather than make, the final Agency determinations); other documents, such as internal Agency drafts, papers indicating internal staff debate on issues, and handwritten notes of Agency staff, are subject to claims of privilege. In order to avoid further disputes on what, at this point, amounts to a procedural issue, however, all documents before the court will be placed in the record.

The comment period on Mississippi's application will remain open for ten (10) days after publication of this notice in the FEDERAL REGISTER. Any comments submitted after the deadline will be considered to the extent possible consistent with orderly Agency decisionmaking.

Dated: October 12, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

ATTACHMENT A

ENVIRONMENTAL PROTECTION AGENCY,

OFFICE OF TOXIC SUBSTANCES

Washington, D.C., March 8, 1978.

Subject: Section 18—Specific Exemption for the Use of Ferriamicide to Control Imported Fire Ants—Action Memorandum.

From: Steven D. Jellinek, Assistant Administrator for Toxic Substances (TS-788).

To: Deputy Administrator (A-101).

Issue.—Should the Agency, pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Part 166 of the FIFRA regulations, issue to the Mississippi Authority for the Control of Fire Ants (hereafter Mississippi Authority or Applicant) an emergency exemption allowing the use in Mississippi of an unregistered pesticide, Ferriamicide, to control imported fire ants, and if so, under what conditions? (If the Agency approves this request eight additional states will probably seek similar exemptions.)

BACKGROUND

A. THE FIRE ANT

Imported fire ants infest approximately 190,000,000 acres in Mississippi and eight other states, in urban, suburban and rural areas. The ants pose a problem for two reasons: (1) the bite of the ant is painful and, in some cases, causes serious reactions in hypersensitive persons; (2) the large mounds built by the ants may interfere with normal agricultural operations such as mowing and harvesting.

B. THE MIREX CANCELLATION

Effective December 1, 1977, pursuant to a Plan submitted by the Mississippi Authority ("Plan") the Administrator cancelled all end-use product registrations of Mirex, an insecticide that has been used to control fire ants since 1962. The Mississippi Authority was the sole remaining registrant of Mirex end-use products. According to

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the Plan, existing stocks of one Mirex formulation, 10:5 Bait, may be sold and used for ground broadcast and mound application until June 30, 1978. A discussion of the Administrator's reasons for accepting the Plan, as well as a history of the Mirex proceedings, a summary of evidence, and a discussion of risks and benefits associated with Mirex appears at 41 FR 56694 (December 29, 1976).

Mirex is formulated as a bait that, when properly foraged by the ants, results in reduced ant populations. The pesticide's end-use registrations were voluntarily cancelled, however, following the development of information that Mirex is carcinogenic in rodent test systems and therefore may pose a cancer risk to man. Mirex also exhibits other adverse effects, such as high persistence in the environment, accumulation in living tissue, and high toxicity to aquatic invertebrates (see 41 Fed. Reg. 56698-56700).

C. FERRIAMICIDE

1. *Applicant's request.*—Pursuant to the Plan, the Mississippi Department of Agriculture and Commerce greatly intensified research efforts to develop an alternative to Mirex that would be effective against fire ants but less persistent in the environment. This research has resulted in development of a new formulation of Mirex called Ferriamicide (Mirex plus ferrous chloride and an amine). Under laboratory conditions, the Mirex in Ferriamicide photodegrades considerably faster than Mirex alone.

On December 16, 1977, the Applicant requested a specific exemption to apply Ferriamicide by aerial equipment, ground equipment, or to individual mounds on approximately three million acres of land in Mississippi (see 42 FR 64734). The application requested approval for only a singel aerial application to a given area per year. All aeral and ground broadcast applications would be made by Federal and State applicators who would be certified through state certification programs. Homeowners who have received oral and written guidelines could apply Ferriamicide to individual mounds. Restrictions would apply to acriai applications on aquatic areas, coastral zones, wooded areas, agricultural lands, home sites and developed portions of public areas. Environmental monitoring would continue throughout the affected area. (Application, pp. 34-38.) The application describes the properties of Ferriamicide known at the present time, as well as the efficacy and toxicity tests that have been performed (application pp. 21-32). The Applicant states that it will agree to use no more Mirex than was approved under the original Plan accepted by the Administrator in the Mirex cancellation procedding (application, exhibit G). This means that no more than 11,800 pounds of Mirex would be used to produce Ferriamicide under an emergency exemption. Applicant proposes to use a Ferriamicide formulation containing .05 percent Mirex.

2. *Available data on Ferriamicide*—a. *Chemistry data.* Under laboratory conditions of continuous light, the Mirex in the ferrous chloride-amine-Mirex complex photodegrades rapidly. Applicant estimates a half life of 14-45 days. No photodepradation studies, however, have been conducted under actual field conditions. Since field persistence would be expected to increase in direct proportion to the amount of shade or darkness, the half-life of Ferriamicide in the field is expected to be considerable longer then the laboratory half-life. Laboratory studies on standard Mirex, in fact, yielded a much shorter half-life (124-173 days) than that which actually occurs under field conditions (730-7300 days). Even assuming that Ferriamicide fairly quickly photodegrades under filed conditions, there would be no advantage to this property if the pesticide bait is more quickly consumed by nontarget species. There is no data on the half-life of Ferriamicide in living matter.

The terminal residues of Mirex have not yet been ascertained; however, nono-, di-, tri-, tetra- and penta-hydro derivatives of Mirex have been identified as intermediate products.

b. *Biological activity.* Preliminary studies indicate that Mirex and its photodegradates may be biodegraded by microorganisms if an additional carbon and energy source is available, but not when Mirex or its photodegradates are used as the sole source of carbon and energy.

Several acute toxicity studies of Mirex and Ferriamicide on crayfish, grass shrimp, blue crab, and microorganisms indicated that undegraded Ferriamicide and bait photodegraded for 3 days exhibited the same toxicity as Mirex. After 10 days of degradation Ferriamicide was somewhat less toxic than Mirex. After 21 days of degradation Ferriamicide was significantly less toxic than Mirex.

c. *Unknown factors.* The following significant characteristics are not known about Ferriamicide or its photodegradates:

(1) Rate of photodegradation under actual field conditions;

(2) Identity under field use conditions of the degradation products;

(3) Toxicity of Ferriamicide and its degradation products to terrestrial organisms under actual field use (acute, subacute and chronic studies have not been conducted);

(4) Residues expected in crops, meat, milk, poultry, or eggs (no residue data has been submitted);

(5) Bioaccumulation properties (residue levels, tissue distribution, loss rates, and concentration factors)'

(6) Biomagnification properties;

(7) Toxicity to mammals (no mammalian toxicity studies have been conducted).

In short, very little is known about the properties, toxicity or environmental behavior of either Ferriamicide or its degradation products, although there is considerable knowledge of the characteristics of Mirex, Ferriamicide's active ingredient.

D. COMMENTS ON THE FERRIAMICIDE APPLICATION

EPA has received over 20,000 comments from citizens of Mississippi. The overwhelming majority of the 3,000 examined express general concern about the fire ant problem and the need to have an effective means of control.

The Environmental Defense Fund recommends denial of the emergency exemption request, arguing that (1) there are registered pesticides which could be used to control fire ants; (2) there is insufficient data to support the widespread use of Ferriamicide; (3) the carcinogenicity of Mirex and of Kepone, a degradation product of Ferriamicide, require a risk assessment before the exemption is issued; (4) we do not yet fully understand the population dynamics and biology of fire ants; (5) efficacy data submitted in support of Ferriamicide is not convincing; (6) actual emergency conditions do not exist, since Mirex 10:5 bait may be used until June 30, 1978; and (7) Mirex, itself, has not been effective in controlling fire ants, since the infested acreage has increased even after Mirex use began.

Do Emergency Conditions Exist?

A. STATUTORY AND REGULATORY CRITERIA

The statutory and regulatory criteria for determining whether to issue an emergency exemption are explained and analyzed in the three attached memoranda, transmitted by the Office of General Counsel on February 16, 1978. In summary, the Agency may allow an unregistered pesticide to be used if it finds that emergency conditions exist and that the benefits of the pesticide use would outweigh the risk of its use. This section discusses the criteria for finding whether emergency conditions exist with respect to Ferriamicide.

Section 18 of FIFRA states:

> The Administrator may, at his discretion, exempt any Federal or State Agency from any provision of this Act if the determines that emergency conditions exist which require such exemption.

Part 166 implements section 18; 40 CFR 166.1 states:

> An emergency will be deemed to exist when (a) a pest outbreak has or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. In determining whether an emergency condition exists, the Administrator will also give consideration to such additional facts requiring the use of section 18 as are presented by the applicant.

The criteria of clauses (a), (b), and (c) are not exclusive. EPA may find an emergency exists even if one or more of the conditions are absent.

To find an emergency in the case of Ferriamicide the Agency should first examine three basic issues:

(1) Do fire ants cause significant economic or health problems? (See 40 CFR 166.1 (a) and (b).)

(2) Will feasible non-pesticide methods or feasible methods employing registered pesticides be available to control the fire ant in time to reduce the emergency to an acceptable level? (See 40 CFR 166.1 (a) and (c).)

(3) Will Ferriamicide control fire ants? (See 40 CFR 166.1(b).)

Since the § 166.1 (a), and (b), and (c) criteria are not exclusive, the Agency may consider other pertinent factors such as the risks presented by use of registered pesticides that may be available for use against fire ants.

B. IT THERE AN EMERGENCY?

This section describes my reasoning for determining that emergency conditions exist requiring the use of Ferriamicide.

1. Nature of economic and health problems

The fire ant inflicts a painful sting upon humans. The severity of the problem is magnified by the multiple stings that may result if a persen disturbs a mound. The stings may give rise to secondary infections if not properly cleansed and cared for, or may cause other complications for a small number of sensitive persons. A large number of people receive fire ant stings in infested States. (See application p. 18-20; 41 FR 56701.)

Fire ant mounds physically interfere with agricultural equipment, especially in areas with clay soils. The ants also have caused injury to farm workers and animals, and damage to pasture land and crops. (See application p. 14-17.)

Applicant estimates that throughout the southern part of the Unite States the ants infest approximately 190,000,000 acres, a considerable portion of which is in Mississippi (see application p. 14-15). Infestation in a given acre can amount to 1 to 200 mounds. According to the application, the imported fire ant is present in all types of locations (other than those covered with water).

From the volume of mail EPA has received it is obvious that citizens in areas infested with these pests are very concerned about having some method of controlling them. The majority of the letters examined express apprehension about the painful stings which the fire ant inflicts.

If no feasible means of fire ant control were available, the problems caused by fire ants could be expected to increase, resulting in even more severe economic and health effects than currently exist. Mirex has been useful in controlling fire ant infestations. As of June 30, 1978, Mirex can no longer be lawfully used. Unless there are available alternative pesticidal or nonpesticidal control measures which will reduce infestations to acceptable levels, the imported fire ant may pose health problems in infested areas where people may disturb the ants and be stung. The ants will also cause some economic damage to farmers.

2. Alternative methods of fire ant control

a. *Nonpesticide alternatives.*—On agricultural lands where the fire ant mounds interfere with farm machinery a heavy beam may be dragged behind a tractor to disperse the mounds. In many cases this will reduce the problem sufficiently.

b. *Pesticide alternatives.*—The following registered pesticides have been considered:*

(a) Chlordane—Numerous currently registered chlordane labels bear use directions for fire ant mound treatment applications. While the use directions and application rates vary widely, it has been assumed that the majority of the application rates fall within "the range prescribed by the two labels held by the basic producer, Velsicol Chemical Corp.:

(1) Chlordane 72 percent EC (Reg. No. 876-102)—This emulsifiable concentrate is applied as a 0.5 percent mound drench. Although the actual percentage may vary. For the sake of comparison with alternative products, it is assumed that all applications shall be made at a rate of 100 mounds to the acre. Individual mound size, presumably, would also have to be taken into consideration in determining the dosage rate. The 72.0 percent EC label prescribes rates ranging to "as much as" 5 gallons of drench per mound depending upon size. It therefore, appears that a range of from 4 to 25 lbs. active ingredient per acre (A.I./A.) is prescribed. The 100-mound parameter could, however, be expected to result in an application rate of approximately 10 lb. A.I./acre.

(2) Chlordane 25 percent G (Reg. No. 876-39)—This granular formulation, according to the label, is applied at the rate of 0.8 to 1.6 cups of formulation per mound without the subsequent application of water. Using the same parameters as above, the possible application rates would result in the distribution of 7 to 14 lb. A.I./A. Again, 10 lbs. A.I./A is a likely application rate.

(b) Heptachlor—See also the chlordane discussion (heptachlor and chlordane are closely related compounds). Heptachlor 5 percent G (Reg. No. 876-187) and 10 percent G (Reg. No. 876-188)—The application directions for the heptachlor granular products provide for the placement of 2 to 4 cups and 1 to 2 cups per mound, respectively, for the 5 percent and 10 percent products. Using the 100-mound-per-acre parameter, the possible application range for both products is from 3.5 to 7.5 lb. A.I./A. A rate on the order of 5.0 lb. A.I./A is expected to be applied.

(c) Propoxur (Baygon)—Only one propoxur product is currently registered for use against fire ants and only for mound application. This product is the recently registered Boyle Midway 2 percent ant trap. Each ant trap consists of a bait formulation housed in a small metal canister. The current use directions limit appliction to the mound site. The Application of this product is further restricted to "* * * home use only." The application of this product to a 100-mound acre would result in the distribution of 0.002625 lb. A.I./A.

(d) Chlorpyrifos (Dursban)—As in the case of propoxur, only a single recently registered product exits. This product is a 6.7 percent emulsifiable concentrate labeled by the Occidental Chemical Corp. Additional distributor labels are anticipated with the Zoecon Corp. providing the major distribution channels. This product is applied as a 0.2 percent mound drench in 1 gallon of water. Again applying the 100-mound-per-acre parameter, the total application would result 0.78125 lb. A.I./A.

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*Applications for registration to control fire ants are pending for the following pesticides: Diazinon—four separate formulations. Carbaryl—40.38 percent formulation (Reg. No. 1016-68). 1,1,1 Trichloroethane—94.5 percent formulation. These pesticides are not yet registered, nor are they expected to be available in time to control fire ants for the summer and fall seasons. They may, however, be available in the future.

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(e) Lindane—(C.25 percent)+Naled (0.5 percent) (Reg. No. 239-907)—This formulation is a pressurized spray primarily intended for indoor use.

The Ferriamicide bait is a 0.05 percent active ingredient granular formulation. If it is assumed that in mound applications Ferriamicide bait is applied at the rate of 0.25 oz. of formulation per mound site (see 42 FR 6473), a 100-mound acre would receive 0.00078125 lb. A.I./A. or less than one third of a gram.

c. *Evaluation of alternatives.*—(a) Nonpesticidal methods—Mechanical means of mound control are somewhat effective on agricultural lands, but only as a means of eliminating interference with farm equipment. Prevention of other injuries (stings) on farm land will require use of a pesticide.

(b) Chlordane and Heptachlor—The consensus of those researchers recently contacted has been that chlordane and heptachlor provide a reasonable degree of mound reduction and population suppression. There is, however, some reason to question the efficacy of chlordane and heptachlor, because at the time they were registered information gaps existed with respect to fire ant testing methodology. As a result, there exists doubt as to whether chlordane and heptachlor provide total mound kill or promote mound migration. In the past few years much new information has come to light on fire ant movement. For example, the mound is now observed for a longer period to time after application of a pesticide.

It is generally believed that heptachlor is more active against ants than is chlordane, a premise reflected by the currently registered application rates, which require less heptachlor for use on a mound.

Chlordane and heptachlor, like Mirex, have been the subject of litigation because of the hazard which they pose to the environment. They present problems similar to those posed by Mirex.*

Chlordane, when used to control Imported Fire Ants, requires a dosage approximately 10,000 times that required when Mirex is used in the Ferriamicide bait formulation. Heptachlor requires a dosage approximately 5,000 times the Ferriamicide dosage.

(c) Propoxur (BAYGON)—is registered only for use around the home. The compound has not been tested under field conditions. While the efficacy data submitted in support of the registration of this product indicated substantial mound mortality, large scale field testing was not required due to the proposed label restrictions. Efficacy is therefore questionable under field conditions.

(d) Chlorpyrifos (DURSBAN)—Both the data provided for registration support and that made available by USDA researchers indicate very acceptable product performance (average mound reduction rate 90 percent as determined by field test data). This pesticide would not be practical, however, in widespread field use because of the large amount of water required. The dosage required would be about 1,000 times that required for Mirex in the Ferriamicide bait formulation.

Chlorpyrifos would be a practical alternative in some areas where the infestation of fire ants is relatively light. When the infestation is heavy or widespread, large amounts of water would have to be transported in order to use the mound drench. To treat fire ant mounds over a relatively large area it would, in most cases, be impractical to carry more than 5 gallons of water unless the applicator has special equipment. This is especially apparent when one considers that to apply Ferriamicide mound-to-mound all one must carry is a small container and hand dipper to apply approximately one teaspoonful of the formulated pesticide per mound.

(e) Lindane+Naled—This formulation would not be effective for mound control because there would be an insufficient quantity of finished product to saturate the mound.

(f) Ferriamicide—Efficacy testing of Ferriamicide has so far been inconclusive (application pp. 27-32). According to the Applicant, the combination of a very cold winter followed by a very dry early summer caused the fire ant populations to be very unstable, reducing foraging to the point that even proven baits were not effective. In many cases 40-50 percent of the control colonies did not survive for the duration of the test. This made efficacy testing difficult to conduct. (Application p. 30.)

The U.S Department of Agriculture has advised EPA that of materials filed tested up to this time Ferriamicide is the most effective replacement for 4x or 10:5 Mirex bait.

The document entitled "Summary of Evidence and Other Information and Statement of Reasons", published in conjuction with the acceptance of the Plan for the voluntary cancellation of Mirex, concluded that when Mirex, the active ingredient in Ferriamicide, is applied "in adequate amounts near fire ant mounds and properly foraged, the population of fire ants in the mound is severely reduced." (41 FR 56701). Although reinfestation might occur, control at the site is achieved. The efficacy of its active ingredient provides adequate support, for purposes of a Section 18 exemption, to conclude that Ferriamicide will effectively reduce fire ant populations and, thereby, significantly reduce the problems resulting from fire ants.

3. Conclusion regarding whether emergency conditions exist

a. *Areas where an emergency exists.*—(1) *Noncrop areas.* After June 30, 1978, an emergency will exist in Mississippi in noncrop areas where fire ant infestation occurs. This determination is based on the following factors;

(1) the widespread prevalence of fire ants in Mississippi,

(2) injury to humans from insect stings,

(3) the great public concern expressed for the need to control fire ants,

(4) lack of practical, available pesticides to control fire ants in all but areas of relatively light infestation,

(5) lack of available nonpesticide control methods that would be efficacious for noncrop lands.

(6) the expectation that no pesticide currently proposed for registration for fire ant control will be available by June 30, 1978, and

(7) the fact that Mirex may not be used after June 30, 1978.

(2) *Agricultural areas.* No pesticides are registered for fire ant control that are feasible for agricultural uses. Items 1 through 3, 6, and 7 relating to noncrop uses also apply to the determination of an emergency on agricultural lands. In addition, the economic damage on agricultural land could be considerable. In view of the foregoing it is my opinion, that an emergency will exist on agricultural lands after June 30, 1978

To some extent the economic emergency may be alleviated by nonpesticidal methods used to knock down and disperse mounds. No evidence has been presented, however, to indicate that mechanical methods of control, alone, could reduce the adverse effects of fire ants to an acceptable level.

b. *Areas for which feasible alternative are available.*—Chlorpyrifos and Propoxur, registered pesticides for control of fire ants in noncrop areas, are expected to be reasonably available after June 30, 1978. In areas where infestation is not particularly heavy it appears that they would control fire ants. Based upon the §166.1 (a), (b), and (c) criteria, I cannot recommend finding that an emergency exists in those areas where Chlorpyrifos or Propoxur may be used practically.

* According to the terms of the Administrator's Mar. 6, 1978, order in Velsicol Chemical Corporation, et al., FIFRA Docket No. 336 et al., there will be available no more than 350,000 pounds of technical chlordane for general use on imported fire ants.

SHOULD AN EMERGENCY EXEMPTION BE ISSUED?

A. DISCUSSION OF OPTIONS FOR ISSUING AN EXEMPTION

This section states my opinion and describes my reasons for determining that a conditional emergency exemption should be issued.

1. Emergency conditions

Once it has been determined that emergency conditions exist, the risks and benefits of issuing an exemption for the pesticide must be evaluated to determine whether such exemption should issue and what restrictions, if any, should be impose.

Section 18 of FIFRA authorizes the Agency to grant an exemption if "emergency conditions exist which require such exemption." For the reasons stated above, it is my opinion that emergency conditions exist in those areas of generally heavy infestation, but do not exist in areas of relatively light infestation where practical alternatives are available. There is, however, no practical way for the Agency to distinquish between these areas. In this particular case, the Agency could not effectively segregate the areas where Ferriamicide is needed, unless a survey of infested land were conducted and a study were made to decide where one pesticide would be practicle as opposed to another. I do not believe that such an undertaking is practical or that it could be accomplished before the onset of the expected June 30, 1978, emergency.

2. Health effects

Based on the information we have on the efficacy of Ferriamicide, it is likely that the pesticide will achieve site control of fire ants. Ferriamicide, however, contains Mirex, a substance which may pose a risk of cancer to man. The advantage of Ferriamicide is that the Mirex in it may be expected to photodegrade more rapidly than the Mirex in other formulations. One would expect, therefore, that the hazard from Ferriamicide would be less than the hazard from Mirex alone.

However, the photodegradates of Ferriamicide have not been completely identified and their toxic qualities are not known. No subchronic or chronic toxicity tests have been conducted, while accute toxicity testing has been extremely limited. No mammalian studies have been conducted, and no residue data are available.

It has not, furthermore, been verified that Ferriamicide under field conditions photodegrades as rapidly as is claimed. Mirex, itself, is less persistent in the laboratory than in the field.

Although Ferriamicide is related to Mirex and there is much we do not know about it, the amount proposed to be used in the Ferriamicide formulation is mininal, particularly if the use is restricted to limited ground broadcast and mound-to-mound applications. Assuming mound-to-mound application to a 100-mound acre, no more than one-third gram of Mirex per acre will be applied.

3. Options

The Administrator has four basic options to consider in this matter:

Option A: Grant the exemption as requested by Applicant but only for use after June 30, 1978.

Pro: Will make available an efficacious pesticide for the most economically feasible and efficient method of application.

Con: Leads to the most significant exposure potential to Mirex.

Option B: Deny the exemption in toto.

Pro: Reduces exposure to Mirex to the lowest possible level.

Con: Would leave no feasible means of controlling a pest that causes significant economic and health problems.

Option C: Grant the exemption in part by restricting use to those areas for which practical alternatives are not available, and by imposing restrictions on the method of application. Use will begin only after June 30, 1978.

Pro: Will enable the Administrator to make the pesticide available while keeping exposure low enough to be consistent with avoiding unnecessary health or environmental problems.

Con: (1) Puts the Agency in a position of imposing an unenforceable restriction, e.g., a label which permits use only in areas where infestation is more than, for example, five mounds per acre.

(2) May prevent use of Ferriamicide in areas where it may be needed, e.g., an area where there are ten mounds spread over two or three acres such that large amounts of water would have to be transported were DURSBAN to be used.

Option D: Grant the exemption in part by imposing restrictions on the method of application but permit use of Ferriamicide even in areas where a practical alternative will be available. Use will begin only after June 30, 1978.

Pro: (1) Eliminates the problem of an unenforceable label.

(2) Will insure that Ferriamicide may be used in any area where it is needed.

(3) Additional health or environmental effects will not be significantly increased because of the small amounts of pesticide that will be used.

Con: Would permit Ferriamicide to be used where a registered alternative is available.

B. RECOMMENDATION

Since there will be a need to control the fire ant after June 30, 1978, and minimal amounts of Mirex will be used, I recommend Option D. This will permit the Agency to make Ferriamicide available without causing unreasonable adverse effects to health or the environment. In arriving at this recommendation I have considered the following factors:

(1) Too many significant characteristics of Ferriamicide are unknown;

(2) Ferriamicide contains Mirex, which may pose a risk of cancer to man;

(3) Food residue should be kept as low as possible, since that is the most likely route of exposure to man;

(4) Direct exposure to humans and nontarget organisms should be minimized.

WHAT RESTRICTIONS SHOULD APPLY?

A. DISCUSSION OF OPTIONS FOR RESTRICTING USE

Option E: Authorize a single aerial, ground or mound application of Ferriamicide.

Pro: Aerial and ground broadcast methods are the only way to treat large areas economically.

Con: (1) The possibility of exposure to humans and nontarget organisms is high compared to other methods of application.

(2) Residues of Mirex or its degradates are likely to occur in the food chain.

(3) The Agency would be approving additional aerial application of Mirex, a practice which terminated under the Mississippi Plan on December 1, 1977.

(4) Aerial application could put at risk at least one endangered species—the Red Cockaded Woodpecker.

Option F: Permit limited ground broadcast—only in parks and cemeteries.

Pro: (1) Permits economical treatment in areas where people frequently come into contact with fire ants.

(2) Does not appreciably increase direct human exposure to the pesticide.

(3) Has no effect on food residues.

(4) Number of applicators exposed will be reduced.

Con: (1) There is significant probability that runoff into the water supply will occur.

(2) This option will result in greater exposure to nontarget (mammalian) species.

Option G: Permit mound-to-mound application.

Pro: (1) Minimizes environmental contamination—in a 100-mound acre

less than one-third of a gram of parent compound, Mirex, would be applied.

(2) Provides control of fire ants in both the economic damage and the health problems (possibility of stings) caused by fire ants.

(3) Agreement should be reached on the amount of product to be manufactured demonstrating satisfactory shelf-life of the product;

3. Agreement should be reached on

("EPA" or "Agency") issue an exemption from the other provisions of FIFRA to allow the use of an unregistered pesticide called Ferriamicide for

it causes a variety of other toxic effects in mammals as well.

Because of these concerns, the Agency in 1973-76 held a hearing to

cations were to be made only by trained, certified pesticide applicators. The Authority also asked permission to sell Ferriamicide bait to homeown-

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less than one-third of a grain of parent compound, Mirex, would be applied.

(2) Provides control of fire ants in areas where the threat to man and livestock is greatest.

Con: (1) Some exposure to the applicator occurs (more applicators required than for ground broadcast).

(2) Uneconomical in widespread infestation because it is too labor intensive.

B. EVALUATION OF OPTIONS FOR RESTRICTING USE

The following paragraphs state my opinion on the relative merits of the options for restricting use.

1. *Aerial and wide-scale ground broadcast*

Mirex, the parent compound of Ferriamicide, presents significant toxicity problems, and we know far too little about the toxicity of Ferriamicide and its photodegradates. Therefore, the possibility of broad exposure from Ferriamicide to the environment and to nontarget organisms that would occur from aerial or wide scale ground broadcast application would pose unreasonable risks of adverse effects.

2. *Limited ground broadcast*

a. *Agricultural lands.*—The fact that ground broadcast increases (over mound-to-mound application) the possibility of food residues of unknown toxicity makes ground broadcast unacceptable for agricultural uses.

b. *Noncrop areas (parks and cemeteries).*—On the other hand, in certain noncrop areas, specifically cemeteries and parks, where humans are subject to contact with heavy infestations over a broad area, ground broadcast provides a practical means of controlling the fire ant while not materially increasing human exposure over mound-to-mound treatment. There is somewhat less applicator exposure, since less applicators are required than for mound-to-mound treatment. In my opinion, therefore, it would be reasonable to permit ground broadcast in cemeteries and parks.

Since ground broadcast does present high possibilities for exposure to nontarget species and entry of the chemical into the environment, it would not be reasonable to permit such application for wide-scale use on other noncrop lands.

3. *Mound-to-mound application*

a. *Agricultural lands.*—Use of mound-to-mound application will pose the least likelihood of food residues of Mirex or the Ferriamicide degradation products. This application method, when used in with the mechanical methods available for mound dispersion, would provide a means to reduce both the economic damage and the health problems (possibility of stings) caused by fire ants.

b. *Noncrop lands.*—Although a greater number of applicators may be needed for mound-to-mound application than for ground broadcast, the area-wide environmental exposure from the mound-to-mound application would be extremely limited. Whatever threats Ferriamicide may pose to health or the environment will be kept to acceptable limits since the amount of toxicant to be applied is minimal, and the bait formulation applied to a mound would have almost no direct effect on nontarget organisms. Furthermore, Ferriamicide can be expected to control the mound populations and reduce infestation by this method in those areas where humans will be most likely exposed to the threat of fire ant stings.

C. CONCLUSION

I recommend, accordingly, that the exemption allow the following uses:

(1) ground broadcast for cemeteries and parks (Options F); and

(2) mound-to-mound application for all uses (Option G).

CONDITIONS TO BE IMPOSED UPON THE EXEMPTION

A. In order to insure that the Applicant continues to proceed with good faith efforts to obtain data to register Ferriamicide or another alternative pesticide for control of fire ants, I recommend that the following conditions be imposed on the emergency exemption.

(1) The exemption will be granted beginning July 1, 1978, and continue for only one year thereafter; and

(2) Granting of any further exemption will depend upon Applicant's good faith efforts to continue research to find an alternative for Mirex to control fire ants (assuming all other conditions required for granting an emergency exemption exist).

B. Before final authorization is issued and any distribution of Ferriamicide is permitted under the authority of a section 18 exemption, I recommend that the Applicant be contacted and that the items stated below be resolved consistent with the recommendations made above in order to reduce the likelihood of adverse effects from application of Ferriamicide:

1. Applicant should agree to commence further appropriate testing to ensure Applicant's continued good faith efforts to develop alternatives to control fire ants. EPA will offer assistance and use of its facilities where appropriate;

2. Applicant should furnish manufacturing process and product composition information, and data demonstrating satisfactory shelf-life of the product;

3. Agreement should be reached on the amount of product to be manufactured for use under this exemption and any other exemptions that may be issued, as well as the time period within which incremental amounts of product will be manufactured;*

4. Package sizes of the manufactured Ferriamicide bait should be such that the different user groups will receive packages of appropriate sizes;

5. We need to know which categories of persons will be authorized to apply Ferriamicide bait, by which methods and what applicator certification training requirements will be imposed;

6. The labeling must be consistent with the terms of the exemption, and must include appropriate use instructions and precautionary language;

7. Applicant should describe the authorized channels of distribution.

Conditions addressing the items contained in paragraph B could be dictated by EPA, but the resulting conditions may not be feasible under the circumstances existing in the State of Mississippi. Since EPA has not adopted the Mississippi proposal, it is appropriate to afford the State an opportunity to submit additional information on these matters, so that the most appropriate conditions and restrictions can be fashioned.

RECOMMENDATION

I recommend granting a specific exemption for use of Ferriamicide for mound-to-mound application and limited ground broadcast application, as discussed in Options D, F, and G, subject to the restrictions stated above, and subject to such further conditions as are determined to be appropriate after the Agency and the Applicant has resolved the outstanding matters discussed in paragraph B of the section titled "Conditions to be Imposed on the Exemption."

Approved in accordance with the reasoning stated here.

Dated: March 8, 1978.

BARBARA D. BLUM.

ATTACHMENT B

OPINION AND ORDER, UNDER § 18 OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, REGARDING USE OF FERRIAMICIDE IN MISSISSIPPI

The Mississippi Authority for the Control of Fire Ants ("Mississippi Authority") has requested, under § 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended ("FIFRA"), 7 U.S.C. 136p, that the Environmental Protection Agency ("EPA" or "Agency") issue an exemption from the other provisions of FIFRA to allow the use of an unregistered pesticide called Ferriamicide for the control of imported fire ants in Mississippi.

This Opinion and Order constitute final Agency action by EPA on the Mississippi Authority's application.

I. BACKGROUND

A. THE FIRE ANT PROBLEM

Imported fire ants are small ants which were accidentally introduced into this country early in this century and which now thrive in many areas of the Southern United States. They are now found in some 190,000,000 acres in Mississippi and eight other States in the South. They build mounds which can become as high as 1½ feet. When the mound is disturbed, the ants tend to attack the source of disturbance in large numbers. Their bites are very painful, and some persons who are hypersensitive to the ant venom suffer serious reactions to the bites. In addition, the large ant mounds can interfere with certain agricultural operations, such as mowing and combining.

Fire ants generally are most active above ground (and thus most troublesome) in the spring and fall, during warm, moist periods. During hot, dry summers, they tend to remain deep inside their mounds where moisture is available.

B. THE MIREX CANCELLATION

Mirex is a pesticide that has proven to be successful in controlling fire ant infestations. It is a relatively slow-acting insecticide which affects the ant's central nervous system when ingested. Because of its slow action, foraging worker ants will carry Mirex-treated bait into the mound, where it is consumed by other ants, including the queen, often resulting in the death of the entire colony of ants.

For may years Mirex bait formulations were applied widely (by aerial and ground broadcast methods) over large areas of the South, at a rate of approximately 1.7 grams active ingredient/acre.

Mirex is considered desirable for use against fire ants because it is relatively easy to apply, because comparatively small amounts of the active ingredient (when properly formulated and applied) are needed on a per-acre basis, and because it provides relatively inexpensive control.

However, Mirex is also very persistent in the environment, and causes harm to many nontarget species, especially aquatic species, even at low dosages. Test results (while not unambiguous) tend to show it induces cancerous lesions in rodent test species, and it causes a variety of other toxic effects in mammals as well.

Because of these concerns, the Agency in 1973-76 held a hearing to determine whether Mirex registrations should be canceled. This hearing ended when the Mississippi Authority, by then the only Mirex end-use registrant, proposed that the Agency accept a plan providing for the voluntary cancellation of all Mirex end-use registrations. The Administrator accepted this plan in December 1976. Under the plan, Mirex bait could be sold and used for ground-broadcast and mound-to-mound application until June 30, 1978. A discussion of the Administrator's reasons for accepting the plan, with a history of the Mirex proceedings, a summary of evidence presented, and a discussion of the risks and benefits of Mirex appears at 41 FR 56694 et seq. (December 29, 1976).

C. FERRIAMICIDE

The Mississippi Authority has conducted extensive research aimed at developing a pesticide that would be effective against fire ants in much the same manner as Mirex, but would be less persistent in the environment. The Authority has developed a product called Ferriamicide, the active ingredient of which is Mirex in combination with ferrous chloride and an amine. Laboratory tests have shown that the Mirex in Ferriamicide photodegrades (degrades by virtue of a chemical reaction caused when the Ferriamicide "absorbs" energy in the form of light) considerably faster than does Mirex alone.

The bait formulation the Authority proposes to use contains only 0.05 percent Mirex. The remainder of the product consists of inert ingredients, principally ground corncobs and soybean oil.

D. THE AUTHORITY'S SECTION 18 APPLICATION

Much of the testing required for registration of a pesticide under FIFRA section 3 has not yet been performed on Ferriamicide. However, although the voluntary cancellation plan provided that old-style Mirex bait was not to be available for sale or use after June 30, 1978, there was no reason to believe that the fire ants would cease their troublesome activity as of that date.

Accordingly, on December 16, 1977, the Mississippi authority submitted to EPA a request for the issuance of an exemption (under FIFRA section 18) allowing the use of Ferriamicide under certain circumstances even though it could not yet be registered. The Authority sought permission to apply Ferriamicide bait by aerial broadcast and ground broadcast methods over wide areas of Mississippi; these applications were to be made only by trained, certified pesticide applicators. The Authority also asked permission to sell Ferriamicide bait to homeowners and other persons for so-called "mound-to-mound" application (sprinkling the bait directly on the ant mounds). Various limitations and conditions were proposed in the application.

E. PRIOR EPA ACTION ON THE AUTHORITY'S REQUEST

On December 28, 1977, EPA published a notice describing the Authority's request and soliciting public comments.[1] A large number of comments were received, some favoring and some opposing Agency approval of the request. Some 20,000 Mississippi residents sent brief letters expressing concern about fire ants and in some cases supporting the application. In addition, a number of Federal legislators (most from Southern States), State legislators, and other State officials urged approval of Mississippi's request. (Officials of several other States planned to apply under section 18 for permission to buy Ferriamicide bait from the Mississippi Authority for use in their own States, if EPA approved the Mississippi request.)

On the other hand, a smaller number of commentors (including some Federal legislators) opposed the request. The Environmental Defense Fund, Inc. (EDF) submitted extensive comments in opposition to use of Ferriamicide.

After extensive EPA staff consideration of the issues raised by the Authority's request, Mr. Steven D. Jellinek, the Agency's Assistant Administrator for Toxic Substances sent to me, on March 8, 1978, a document containing a series of recommendations on the matter. I adopted those recommendations on the same day, and so indicated by concurring on the document [attached as Attachment A to this Opinion and Order].

Mr. Jellinek's recommended conclusions, which I adopted, in essence were these:

1. Fire ant infestation in Mississippi is a serious pest problem, which will become more serious once Mirex cannot be used.

2. There are alternative non-pesticidal treatments that provide some degree of relief in avoiding economic damage. There are also registered pesticide that in some circumstances can provide effective control.

3. However, in areas with widespread or heavy infestation, there is no practical method of treatment (other than Ferriamicide). In those areas, an "emergency" exists for purposes of FIFRA section 18.

4. Some of the registered alternative pesticides (notably heptachlor and

* The total amount of Ferriamicide produced for the entire period of product development may not contain more than 11,800 pounds of Mirex.

[1] 42 FR 64734.

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chlordane) are known to pose serious environment hazards.

5. Mirex is very effective against fire ants, and Ferriamicide bait, which contains Mirex, can also be expected to work well.

6. Although the Agency's knowledge of the properties and effects of Ferriamicide is incomplete, we do have a wide range of data on its active ingredient, Mirex.

7. The risks of Ferriamicide use can be kept very low by keeping exposure of humans to Ferriamicide at very low levels (both dietary residues and applicator exposure should be considered).

8. Aerial broadcasting and most ground broadcasting should not be allowed, because of the need to keep exposure levels low. Mound-to-mound application should be allowed primarily because it will pose very little, if, any risk of dietary exposure, yet will allow treatment of those areas where the need is greatest.

9. Practical considerations (primarily the difficulty of defining "heavy infestation" and of enforcing label restrictions) require allowing mound-to-mound treatments of Ferriamicide even where an alternative pesticide (such as chlorpyrifos) could be used.

10. A number of details remained to be resolved by agreement between the Authority and the Agency before final authorization for Ferriamicide use in Mississippi could be granted. Among other things, we needed to decide on the categories of persons who will be allowed to use the pesticide, the training requirements to be imposed, the use instructions and precautions to appear on the labeling, and the channels of distribution to be employed.

11. The exemption would be for one year, and at most could authorize use of 11,800 pounds of technical-grade Mirex for formulation into Feriamicide.[2]

F. THE ENVIRONMENTAL DEFENSE FUND'S COURT CHALLENGE

In March 1978, EDF filed an action [3] in the United States District Court for the District of Columbia, saying that for a variety of reasons the Agency should be enjoined from allowing Mississippi to use Ferriamicide.

On June 16, 1978, a hearing was held, at which time the Court stated that it appeared the Agency's decision was not yet final or reviewable (because of the matters still requiring resolution). The parties then stipulated that the Agency's final decision would be issued on or about July 21, 1978, and that the Court would act in early September (following the filing of briefs by the parties).

II. FINDINGS

A. THE FIRE ANT INFESTATION IN MISSISSIPPI CONSTITUTES "EMERGENCY CONDITIONS" WITHIN THE MEANING OF FIFRA [6] [18]

I find that "emergency conditions", within the meaning of FIFRA section 18, exist in those areas of Mississippi which are heavily infested with fire ants, for the reasons set forth on pages 7-12 of Attachment A. I adopt the "Conclusions regarding whether emergency conditions exist," set forth at pages 12-13 of Attachment A, as a part of this finding. The following paragraphs will serve to further explain this finding.

1. *Fire Ants Pose Serious Health and Economic Problems in Mississippi*

The nature of the harm fire ants cause is adequately explained in Attachment A and in the "Background" section of this Opinion, *supra*. Mirex, which has been useful in controlling infestations, can no longer be used in the formerly-registered formulations. The unavailability of Mirex can be expected to increase the degree of the problem where alternative control methods are not available.

2. *Alternatives for Fire Ant Control*

In areas heavily infested with fire ants there are no feasible registered pesicidal or non-pesticidal methods of control that are both safe for use and sufficiently effective to alleviate the emergency. Some pesticides are the subject of pending registration applications, but only for limited use near the home. Attachment A substantially dealt with the alternative methods for fire ant control (pp. 7-12).

The alternatives available for fire ant control fall into three classes.

In the first class of pesticides we have products like chlordane and EDC, both of which are carcinogens. However, these products under current label directions require far greater amounts of active ingredient to perform the same job as Ferriamicide. Chlordane requires 10,000 times the amount of active ingredient (Attachment A); EDC requires 1,000 times the active ingredient. (Attachment B). Methyl Bromide is a mound fumigant that could pose a greater acute hazard than Ferriamicide (Attachment C).

In the second class of pesticides are the many products tested by the USDA but not found to be effective as a fire ant bait. In addition other researchers have examined different pesticides, but found them ineffective (Attachments D and E).

The third class of methods of control have utility, but only in some circumstances. The most effective product in this class appears to be chlorpyrifos (Dursban). Available data indicate that chlorpyrifos works well, and is relatively low in toxicity. The dosage required would be about 1,000 times as much active ingredient as that in the Ferriamicide bait formulation.

Chlorpyrifos would be a practical alternative in some areas where the infestation of fire ants is relatively light. When the infestation is heavy or widespread, large amounts of water would have to be transported to the mounds. (The pesticide must be mixed with water, and one gallon of the mixture is applied per mound.)

In addition, there are other products for which registration applications are pending which might prove practical for use in relatively lightly infested areas around the home, even though their efficacy may not yet have been demonstrated (Attachment E).

3. *Efficacy of Ferriamicide*

It is expected that Ferriamicide will prove effective, based on the efficacy of its active ingredient, Mirex. (See Attachment A, pp. 11-12). There have been some problems to be solved regarding rancidification of the soybean oil in the Ferriamicide bait. When the oil rancidifies, it is no longer attractive to the ants and the product will not be effective for control. The addition of ferrous chloride to the bait not only facilitates the photodegradation of Mirex but could, in the presence of oxygen, cause the soybean oil to rancidify. The manner in which the Ferriamicide bait is formulated has been shown to influence the speed with which rancidification takes place, as does the availability of oxygen.

Mississippi has developed a "cold mix" manufacturing process and a formulation which uses, in addition to the original Ferriamicide formulation, citric acid and propylene glycol (Attachment A). The citric acid acts as an antioxidant, thereby inhibiting rancidification of the soybean oil. Shelf life tests conducted by the USDA facility at Gulfport, Mississippi indicate that the revised formulation maintained satisfactory acceptance by the fire ant (Attachment F). Mississippi has further addressed the shelf-life problem by packaging the one (1) and five (5) pound packages in airtight film bags. They will exhaust all oxygen from the bags and replace it with nitrogen at the time Ferriamicide is packaged. By this process the rancidification of the soyben oil cannot begin until the package is opened (Attchment G).

Once the package is opened, tests indicate the bait may be expected to lose its attractiveness to the ants in about 10 weeks (Attachment F). This will be sufficient to maintain usefulness of the product through the fall or spring treatment seasons, when the fire ants are most active. Homeowner purchasers will be informed of this when they buy the product.

Shortly after Attachment A was signed, Mississippi became aware that the way in which Ferriamicide was formulated influenced the amount of Kepone which was formed from the decomposition of Mirex.

The inclusion of propylene glycol and the adoption of the cold mix manufacturing process has reduced the amount of Kepone produced to less than 0.5 percent of the Mirex in the Ferriamicide (Attachment H). Since the Ferriamicide bait itself contains only 0.05 percent Mirex, the level of Kepone introduced into the environment would be at detection limits and should present very little threat to the environment.

B. PERMITTING LIMITED USE OF FERRIAMICIDE SUBJECT TO STRINGENT CONDITIONS WILL NOT CAUSE UNREASONABLE ADVERSE EFFECTS TO THE ENVIRONMENT

The extent to which a use of a pesticide will pose a hazard to humans depends not only on the inherent toxicity of the pesticide, but also on the degree to which humans will be exposed to the pesticide. If exposure can be kept very low, the hazard also will be very low even if the toxicity is high.

We know that Mirex causes various serious toxic effects in test species. Although Ferriamicide is designed to photodegrade rapidly, we do not know how much less inherently toxic than Mirex it is. Accordingly, it is prudent to proceed as if Ferriamicide were as toxic as Mirex. There is no reason to assume it has a higher degree of toxicity then Mirex.

The Agency's approach to the Authority's request for permission to use Ferriamicide has thus centered on the question whether exposure to Ferriamicide could be kept low enough so that the hazard posed by its use would be very small, and would be outweighed by the benefits its use would bring about.

1. *Aerial and ground broadcast application.* In my March 8 decision, I found that because of exposure considerations, it would not be reasonable to allow aerial application of Ferriamicide, nor to allow general ground broadcast application of the pesticide. I now reaffirm those findings, for the reasons stated on page 18 of Attachment A. I also found that ground broadcast application could be permitted in parks and cemeteries, because exposure to humans from that use pattern would be very low. I now reaffirm that finding also, as stated on pages 18-19 of Attachment A.

Mississippi has requested that it be permitted to apply Ferriamicide by ground broadcast on campgrounds, fairgrounds, schoolyards, playgrounds, and levees. I find that the same rationale for permitting this application method in parks and cemeteries applies to all these other areas except levees. Ground broadcast will not be permitted on levees because it is not uncommon for livestock to graze on or near them. Levees are, therefore, more appropriately considered in the same light as agricultural lands.

Ground broadcast rates shall be 1 to 2½ pounds per acre. These rates are derived from the calibrations on existing equipment. The largest amount that may be applied per acre, 2½ pounds, is the equivalent of mound-to-mound application on an acre infested with approximately 150 mounds. The maximum amount of Mirex that will be placed on any acre will be about ½ gram. In many cases the amount of Mirex will be considerable less. In view of the small amounts of Mirex and the fact that there will be no exposure through the food chain in the areas where ground broadcast will be permitted, and the benefits to be obtained by controlling fire ants in areas of widespread human exposure, I do not find the ground broadcast rates to be unreasonable.[4]

2. *Mound-to-mound application.* The remaining question is the extent to which the Agency should permit mound-to-mound application of Ferriamicide bait. Since the March 8 decision, new information has come to EPA's attention that affects my decision on that matter,[5] and further staff analysis has been performed.

The data availabe to the Agency indicate that there are two kinds of toxic effects in humans that we must be especially concerned with in evaluating the Mississippi Authority's request: Carcinogenicity and teratogenic effects. Our analysis indicates that there are only two possible routes of human exposure to Ferriamicide that require serious evaluation: Dietary exposure (from residues in or on food) and dermal absorption exposure of persons who may apply Ferriamicide.

a. *Reproductive (Teratogenic) effects.* One study which has recently come to the Agency's attention studied the effects of Mirex on reproductive performance and offspring development in the prairie vole, *Microtus Ochrogaster*.[6] Statistically significant adverse effects on the behavior of offspring were found when the prairie voles were dosed at 0.1 ppm of the diet, the lowest level tested. This effect level is estimated to be equal to 0.015 mg/kg bw/day, which translates in a 50 kg human to an effect level of 0.75 mg/day (Attachment L). Another recent study on the Swiss mouse [7] has shown serious physiological and behavioral effects in offspring when much higher doses were administered.

Although these tests involved repeated dosages, our analysis has used the conservative assumption that any one of the daily doses might have caused the observed effect in the offspring.

From the available residue data it seems likely that the present human dietary intake of Mirex (resulting from Mirex use in prior years) is no more than about 1 microgram per day (.001 mg/day).[8] That figure resulted from extensive prior aerial application to croplands and other areas at higher dosage rates. Many more pounds of Mirex were applied annually, and many more acres treated annually, than would be the case if mound-to-mound application of Ferriamicide were authorized for 1 year. Accordingly, I find that any dietary exposure that might result from mound-to-mound application of Ferriamicide for

[3] On August 31, 1976, the Mississippi Authority submitted a plan to the Administrator providing among other things, for the suspension of Mirex cancellation hearings which were then in progress, the phase-out of production and use of Mirex, and the voluntary cancellation of Mirex registrations. The Administrator accepted the Plan (See discussion at page 3 of this Opinion). EDF, which was a party to the Mirex proceeding, supported approval of the plan. Under the plan, 35,000 pounds of Mirex could be utilized during the phase-out period to produce Mirex products. However, only 23,200 pounds were in fact used. The maximum amount of Mirex that may be formulated into Ferriamicide is the remaining 11,800 pounds.

[3] *EDF v. Blum* et al., Civil Action No. 78-0577 (USDC, D.D.C.).

[4] It has been determined to produce Ferriamicide in 1, 5, and 50 lb bags. The 1 lb bags are for homeowner use and will be marketed for mound-to-mound application only to those persons who can justify the need for the product. The 5 lb bag will be available only to certified applicators for small scale ground broadcast in parks, cemeteries, and for mound-to-mound application for especially large acreage. The 50 lb bags will be available only to certified applicators for large scale ground broadcast.

[5] *Kepone /Mirex/ Hexachlorocyclopentadiene: An Environmental Assessment*, National Academy of Sciences, (1978), at 1-2 (hereafter NAS study). (Attachment I). The NAS study is one of three studies that have recently come to the Agency's attention and have been key documents in the exposure analysis. None of these studies were available when Mirex was canceled on October 1976.

The other two studies are on the reproductive effects of Mirex:

(1) Shannon V. C., *The Effects of Mirex on the Reproductive Performance and Behavioral Development of the Prairie Vole Microtus Ochrogaster* (doctoral dissertation, Iowa State University, Ames, Iowa, 1976) (unpublished). (Attachment J) Only the abstract is attached. The 320 pp. study will be available on request.

(2) Holevinski and Massaro, *The Effects of Gestational Exposure to Mirex on Offspring of the Mouse* (Dept. Biochemistry SUNY School of Medicine, Buffalo, NY.) (available only in abstract) (March 1978) (Attachment K).

[6] See footnote 5 supra

[7] See footnote 5 supra

[8] See, NAS study at 34, Attachment M

1 year will be so low as to pose no appreciable risk of teratogenic or other reproductive effects in humans.

When the possible reproductive/ter-

risk to humans from two exposure routes: dietary and applicator dermal contact. This analysis has been reviewed by the Agency's Carcinogen As-

few small residential plots are likely to now have heavy fire ant infestations; and that the 50-mound minimum will result in prompt use of most or all of a

ly fire ant mounds to treat on approximately acres."

For the foregoing reasons, I find that the benefits of the uses permited

when this exemption expires will depend very heavily on Mississippi's pursuing the appropriate testing pro-

and what applicator certification training requirements will be imposed. These two factors were considered in

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1 year will be so low as to pose no appreciable risk of teratogenic or other reproductive effects in humans.

When the possible reproductive/teratogenic effects arising from exposure to Mirex of persons who actually apply the Ferriamicide bait is considered, however, there is more cause for concern.

As already noted, if a pregnant woman were to ingest or otherwise be exposed to 0.75 mg of Mirex in a day, she would have received a daily dose equivalent (on a diet-to-body weight basis) to the dose which cause adverse reproductive effects and offspring behavior abnormalities in the praire vole.

The Agency's staff has prepared an estimate (Attachment N), using a presumed worst-case approach, of the amount of Mirex that might enter the body by dermal absorbtion if a woman were to apply a 1-pound bag of Ferriamicide bait by using her hands (not wearing gloves or using the measuring spoon, and thus violating the use instructions in two ways). If 1 percent of the Mirex content were to come in contact with her skin, and if 10 percent of that 1 percent were to be absorbed dermally, the resulting Mirex "dose" would be about 0.23 mg (0.0046 mg/kg for a 50 kg woman).

This estimated exposure is only one-third of the dose which caused adverse effect in prairie vole offspring. The estimate probably far exceeds the average actual exposure to applicators, since use of gloves and measuring spoons would reduce dermal contact with the bait to practically zero. But it can be expected that some persons will not take these precautions, and for them our estimates show there is no real margin of safety, since the calculated exposure is so close to an observed effect level.

Oral ingestion of 1.5 grams of the bait would also yield the same exposure level that caused prairie vole effects, but it appears that the dermal exposure route is of more concern, since it can be expected that almost everyone will guard against oral ingestion of the pesticide.

I find that the risk of reproductive/teratogenic adverse effects resulting from applicator exposure is serious enough to warrant steps to reduce exposure.

b. *Oncogenic effects.* Tests of the cancer-causing potential of Mirex have yielded results that have been interpreted in various ways.[9] However, for present purposes, Mirex is presumed to be carcinogenic.

The Agency has performed worst-case analysis[10] of the possible cancer risk to humans from two exposure routes: dietary and applicator dermal contact. This analysis has been reviewed by the Agency's Carcinogen Assessment Group (CAG).

The dietary exposure worst-case estimate concludes that in a hypothetical population of 10,000,000 about 0.681 additional cases of cancer per year would result on the average from the incremental use of 3,000 pounds of Mirex. (Attachment Q.) It is very likely that the actual number of cancer incidences would be even lower, because of the very conservative assumptions employed in the analysis.

The applicator dermal exposure analysis was based on the worst-case dermal absorption assumptions described above. It concluded that if one million persons apply the Ferriamicide, and if all of them fail to wear the prescribed rubber gloves and use the measuring spoon, no more than 30 of them would develop cancer as a result.

c. *Exposure-reduction measures to be imposed.* While the worst-case hazard estimates set forth above probably grossly overestimate the actual risks of Ferriamicide use, they do indicate that the benefits that Ferriamicide use might provide are not without their accompanying hazards. It is this Agency's duty to insure to the extent possible that no particular use of a pesticide creates risks that are unnecessarily or unreasonably great, when weighed against the benefits.

The main benefit of Ferriamicide is that the nature of its formulation and the small quantities required to make it easy to apply in areas of heavy and widespread infestation. Although treatment of a mound with chlorpyrifos will probably yield adequate results, chlorpyrifos treatment requires transportation of one gallon of water to each mound to be treated.

It is thus necessary to weigh the greater convenience of Ferriamicide against the hazards that its use presents. I find that in areas where chlorpyrifos can be used with only a modicum of inconvenience or extra work, it would be unreasonable to allow Ferriamicide use.

Although it is not easy to define the areas in which Ferriamicide may be used, it is necessary to draw the boundary somewhere. Accordingly, I find that chlorpyrifos can be used without serious inconvenience whenever there is less than 1 acre, or less than 50 mounds, to be treated. Where a person certifies in writing that he needs to treat more than 50 mounds and 1 acre or more, he will be permitted to purchase Ferriamicide bait from the Mississippi Authority.

In arriving at this conclusion, I have taken into account that fact that most (if not all) small plots of land will be relatively close to a water source; that few small residential plots are likely to now have heavy fire ant infestations; and that the 50-mound minimum will result in prompt use of most or all of a 1-pound bag, thus lessening the likelihood of opened bags being stored in or around homes.

I also find it necessary to require that the labels on all sizes of Ferriamicide must bear the following statement (in bold-face type, immediately below the CAUTION caption): "NOT TO BE APPLIED BY WOMEN OF CHILD-BEARING AGE."

I do not find it unreasonable to permit homeowners and other persons with severe infestations (over 50 mounds) and large acreages (over 1 acre) to use Ferriamicide in view of the extreme need for the product. While most homeowners at risk will be eliminated by the 1 acre, 50 mound restriction, the warning on the label should sufficiently warn the women of child-bearing age who live on the larger acreages.

Since the one pound package will be available to persons who are not certified, trained applicators, it is necessary to ensure that they are adequately informed of the dangers from use of the product. Mississippi will institute television and newspaper campaigns to inform the citizens about Ferriamicide and to instruct them in the proper way to use it. In addition, before being allowed to purchase the one pound bag, a person must read (or have for him) and sign a paper stating several cautions about the pesticide. That paper must contain the following statements:

1. Ferriamicide is not to be applied by women of child-bearing age. Tests on laboratory animals have shown if a pregnant femal is exposed to the active ingredient, harm to offspring may result.

2. Ferriamicide contains Mirex, which has caused tumors in rodent tests and may pose a risk of cancer to man; Mirex is also hazardous to fish and shellfish.

Precutions must be taken to ensure that the product does not come into contact with the skin. Therefore, wear rubber or plastic gloves when applying, and follow all other lable directions.

4. This product may become rancid approximately ten weeks after the package is opened, and, if so, will not be effective against fire ants.

5. The one-pound container will treat approximately 50 fire at mounds. If you do not have a need for that much pesticide within the ten week period after opening the bag, purchase another pesticide instead.

In addition, the paper must contain the following statement to be completed by the purchaser: "I have read the above statements. I have approximately fire ant mounds to treat on approximately acres."

[9] See Uiland, et al., *A Carcinogenicity Assay of Mirex in Charles River CD Rats*, J. Natl. Cancer 58:135-140, 1977. (Attachment O).

[10] See Attachments P and Q.

For the foregoing reasons, I find that the benefits of the uses permited under this Opinion and Order will outweigh the associated risks, in light of the restrictions imposed. In other words, use of Ferriamicide under these circumstances will not cause unreasonable adverse effects on the environment.

IV. Open Conditions in the March 8 Document

This section states the resolution of the conditions that were left open in the March 8 decision (Attachment A, pages 20-21).

1. *Applicant should agree to commence further appropriate testing to ensure Applicant's good faith efforts to develop alternatives to contol fire ants.*

This condition is designed to prevent repeated annual applications for emergency exemptions based on sparse data and to ensure that diligent efforts are made to find safe alternatives to control fire ants.

Mississippi is proceeding on two fronts. The State is obtaining funding from EPA in order to conduct research into altenatives other than Ferriamicide, and has initiated an extensive program to test Ferriamicide.

In a letter to EPA dated May 15, 1978 (Attachment R), Mississippi informed the Agency of a proposed research program to develop alternative pesticides other than Ferriamicide for fire ant control. Compounds are to be synthesized and a bioassay facility for testing newly developed pesticides will be established. In addition, there will be a team of chemists, zoologists, toxicologists, microbiologists and entomologists engaged in parrallel research. All of these investigations will be integrated into a single large program of synthesis, bioassay and toxicology.

Mississippi has submitted laboratory test protocols and an exensive testing program with the eventual aim of obtaining registration for Ferriamicide (Attachment S). EPA has submitted to Mississippi comments on the adequacy of the testing program (See Attachments T). In response, Mississippi has supplemented the documentation in support of its testing program (Attachment U). At this point I am prepared to find that Mississippi has exhibited good faith efforts to continue to find an alternative method to control fire ants, since in a relatively short period of time Mississippi has developed a testing program on Ferriamicide and appears to be pursuing research into alternatives. I restate my determination in the March 8, 1978, Action Memorandum that any Ferriamicide emergency exemptions requested when this exemption expires will depend very heavily on Mississippi's pursuing the appropriate testing programs.

2. *Applicant should furnish manufacturing process and product composition information and data demonstrating satisfactory shelf-life of the product.* This item is considered in the section of this Opinion concerning the efficacy of Ferriamicide.

3. *Agreement should be reached on the amount of product to be manufactured for use under this exemption and any other exemptions that may be issued, as well as the time period within which incremental amounts of product will be manufactured.* The March 8, 1978, Action Memorandum expressed my decision, which I hereby reaffirm, to limit the total amount of Mirex used in the entire Ferriamicide development program to no more than 11,800 pounds.

The authority has requested permission to distribute, for use in Mississippi, 500,000 pounds of Ferriamicide bait (that amount would require 250 pounds of Mirex). (See Attachment V) That request, however, contemplated some ground broadcast uses not permitted under this Opinion and Order. The Authority's figures indicate that the following amounts of Ferriamicide bait will be needed for permitted uses:

Mound-to-mound application by citizens: 120,000 pounds (number based on past requests from citizens for Mirex bait).

Mound-to-mound application for levees: 20,000 pounds (there are some 20,000 acres to be treated: at 50 mounds per acre, one pound per acre would be needed).

Mound-to-mound application by State employees on other sites, at request of citizens: 31,000 pounds.

Ground broadcast application on parks, fairgrounds, campgrounds, schoolgrounds, and cemeteries: 249,000 pounds (2 pounds per acre on 124,500 acres, including 4,500 acres of schoolgrounds).

Accordingly, it is my determination that not more than 420,000 pounds of Ferriamicide bait may be distributed by the Authority for use in Mississippi (this will require use of 210 pounds of Mirex, and will allow treatment of some 450,000 acres).

The amount of Ferriamicide bait that the Authority may sell for distribution and use in other States will be considered separately in connection with evaluation of the applications filed by the other States.

4. *Package sizes of the manufactured Ferriamicide bait should be such that the different user groups will receive packages of appropriate sizes; and*

5. *We need to know which categories of persons will be authorized to apply Ferriamicide bait, by which method, and what applicator certification training requirements will be imposed.* These two factors were considered in the hazard assessment section.

6. *The labeling must be consistent with the terms of the exemption and must include appropriate use instructions and precautionary language.* The language has been approved for the different Ferriamicide containers. These labels contain appropriate precautions for the different uses. The one pound package label is especially explicit in that it specifically prohibits use of the contents for aerial or ground broadcast use and states that an individual requiring less than one pound may not purchase the product.

All labels contain warnings as to the necessary precautions to avoid harm to humans, domestic animals and aquatic organisms. Instructions require that rubber gloves be worn when applying the pesticide to lessen dermal exposure.

Since Mirex is toxic to aquatic organisms, a special precaution appears relating to keeping the product out of any aquatic areas. Ferriamicide, after photodegradation, has exhibited no toxic effects on certain aquatic animals, but the precaution will appear as an added safety factor.

7. *Applicants should describe the authorized channels of distribution.* The Mississippi Authority for the Control of the Fire Ants is responsible for the manufacture, packaging and labeling of Ferriamicide bait. Within the State of Mississippi, they also will oversee the distribution of Ferriamicide bait.

The State Department of Agriculture and Commerce and the County Extension Services will act as points for end use distribution within the State of Mississippi.

These restrictions will facilitate monitoring of the exemption, since distribution will only take place through state facilities.

V. Ancillary Matters

A. Environmental Impact Statement

Among EDF's allegations in its court action is that EPA has failed to prepare an Environmental Impact Statement as required by the National Environmental Policy Act of 1969 (NEPA). While not conceding that EPA is required to file a NEPA statement with its section 18 exemption, I believe EPA has prepared the substantial equivalent.

Attachment A shows how the Agency considered the environmental impacts of using Ferriamicide. The memorandum actually considered virtually everything known at the time about Ferriamicide, including its relationship to the pesticide Mirex. In addition, it considered the alternatives to Ferriamicide and did not find any acceptable in areas of heavy infestation.

V 43/201 OCT 78

Attachment A and this document clearly constitute the "substantial equivalent" of an environmental impact statement. Admittedly much data concerning the environmental impact of Ferriamicide is lacking, but more will be obtained as we learn more from the experimental programs currently being conducted. The Agency has authorized an experimental use permit for Ferriamicide and is assisting, through the EPA Office of Pesticide Programs, in a research and development program being conducted by Mississippi and the United States Department of Agriculture. (40 CFR § 6.608(a)(5), which requires EPA to prepare environmental impact statements for certain actions involving field testing undertaken by the Office of Research and Development (ORD), does not apply in the case of the Ferriamicide research program, which is funded by the Office of Pesticide Programs.)

B. EDF'S "POLITICAL INFLUENCE" ALLEGATIONS

EDF, in its court challenge, has alleged that the Agency's decision to permit some use of Ferriamicide was reached because EPA was concerned solely or primarily with pleasing the southern Congressional delegation and the residents of southern states. This charge appears to be based mainly on the fact that EPA received and considered communications from Federal legislators and from citizens of Mississippi during the process of reaching its decision.

I wish to state for the record that I do not believe there was anything improper about the manner in which the decision was reached. The Agency certainly did take into account the fact that fire ant control is widely desired by citizens of Mississippi and other southern states. The degree of public concern about a pest problem is certainly relevant to the issue of whether "emergency conditions" exist, although a number of other factors are also relevant. (After all, fire ants are a problem largely because of their proximity to people and their tendency to interfere with everyday human activity; if citizens were not bothered by fire ants, it is unlikely that we would have received the § 18 request in the first place.)

It was in this light that the letters from Mississippi citizens, and from Congressmen and Senators representing infested southern states, were considered. I do not believe that these communications constituted an intrusion into the normal decision-making process of the Agency.

As for the idea that EPA's decision was somehow calculated to please the southern Congressional delegation, it should be pointed out that many of the letters from Congressmen specifically supported the request for approval of aerial application of Ferriamicide. The Agency's complete denial of that request should, it seems to me, indicate that the Agency's decision was not designed to show fawning responsiveness to whatever requests legislators have made.

ORDER

In accordance with the foregoing Opinion, I hereby authorize the Mississippi Authority for the Control of Fire Ants ("Mississippi Authority") to distribute and use Ferriamicide bait to control fire ants in Mississippi, subject to the following conditions:

(1) The bait formulation may contain no more than 0.05 percent Mirex.

(2) This authorization expires on June 30, 1979.

(3) The Mississippi Authority, through its county agents, shall be responsible for all distribution of the pesticide product and shall monitor all distribution and use to ensure compliance with the terms of this Order.

(4) The Ferriamicide bait shall be manufactured by the process and with the product composition approved in the foregoing Opinion so as to inhibit the degradation to kepone and maintain the efficacy of the product (after the package is opened) for at least 10 weeks.

(5) All applications are to be made by either ground broadcast or mound-to-mound application.

(6) Ground broadcast may be performed only in parks, cemeteries, schoolyards, campgrounds, and fairgrounds, only by certified applicators using properly calibrated equipment, at a rate of 1 to 2½ pounds of Ferriamicide bait per acre, and only on infested acreage. Rubber or plastic gloves must be worn when applying the product. Applicators shall take care to avoid mouth or eye contact with the pesticide.

(7) Mound-to-mound application must be made at a rate of no more than ¼ ounce of Ferriamicide bait per mound. The measuring spoon which is to be provided with the product shall be used to sprinkle the bait on the mound. The applicator must wear rubber or plastic gloves when applying the product. Applicators must take care to avoid contact of the bait with the mouth or eyes.

(8) Women of child-bearing age are prohibited from applying Ferriamicide.

(9) The Mississippi Authority may not distribute more than 420,000 pounds of Ferriamicide bait for use in Mississippi.

(10) Ferriamicide bait shall be packaged in 1, 5, and 50-pound bags. The 5-pound and 50-pound bags are to be made available only to certified applicators for ground broadcast and mound-to-mound application.

(11) The one-pound bags shall be used only for mound-to-mound applications, and may only be distributed to persons who have at least 50 mounds, and at least one acre, to treat.

(12) Before releasing a one-pound bag, the distributor must ensure that the purchaser reads (or has read to him), fills in, and signs the document containing the five cautionary statements as required by the Opinion.

(13) Labels shall contain all provisions necessary to ensure they are consistent with the terms of this Order and Opinion. The lables shall contain the provisions previously approved by EPA, with the following changes:

(a) All labels shall contain the following statement in bold-face type, above the Caution statement: "Not to be Used by Women of Child-bearing Age."

(b) The one-pound package's label shall state that the product may not be used by any person who has less than one acre, or less than 50 mounds, to treat.

(14) The Mississippi Authority shall submit all reports required by 40 CFR 166.5.

(15) This order shall not authorize the actual distribution or use of Ferriamicide bait until the Mississippi Authority is notified by the EPA Deputy Assistant Administrator for Pesticide Programs that distribution and use may commence.

Dated: July 28, 1978.

BARBARA BLUM,
Deputy Administrator,
Environmental Protection Agency.

[FR Doc. 78-29223 Filed 10-16-78; 8:45 am]

[6560-01-M]

[FRL 988-4]

MODIFICATION OF SECONDARY TREATMENT REQUIREMENTS FOR DISCHARGES INTO MARINE WATERS

Receipt of Preliminary Applications

AGENCY: U.S Environmental Protection Agency ("EPA").

ACTION: Notice of Receipt of Preliminary Section 301(h) Applications.

SUMMARY: EPA is today publishing a list of all preliminary applications for a modification of secondary treatment requirements under section 301(h) of the Clean Water Act which have been received by EPA as of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Thomas P. O'Farrell, Municipal Construction Division (WH-547), 401 M Street SW., Washington, D.C. 20460, 202-426-8976.

SUPPLEMENTARY INFORMATION: Section 301(h) preliminary applications have been received by EPA from the following:

REGION I

Connecticut

Groton

Maine

Bangor
Portland

Massachusetts

Gosnold
Boston.
  Deer Island
  Nut Island
Lynn
New Bedford
Salem
Swampscott
Fall River
Gloucester

Rhode Island

Newport

REGION II

New York

Westchester County
New York City:
  Coney Island
  North River
  Owls Head
  Red Hood
  Newtown Creek
  Bowery Bay
  Hunts Point
  Jamaica
  Oakwood Beach
  Port Richmond
  Tallman Island
  26th Ward
  Wards Island
  Rockaway
Suffolk County
Nassau County:
  Cedar Creek
  Inwood
  Bay Park

Puerto Rico

Arecibo
Aquadilla
Barceloneta
Bayamon
Carolina
Dorado
Pajardo
Guayama
Guayanilla
Humacao
Mayaguez
Ponce

Virgin Islands

St Thomas
St Croix

REGION III

Delaware

Rehoboth Beach
Lewes

Virginia

Hampton Roads:
  Lamberts Point
  Chesapeake-Elizabeth

REGION IV

Florida

Dade County:
  Virginia Key
  North District

REGION IX

Hawaii

Honolulu:
  Sand Island
  Honouliuli
  Waianae
  Kaneohe-Kailua
Pearl Harbor:
  Guam Naval Station
  Midway Naval Station
Hilo

American Samoa

Pago Pago

California

Morro Bay
Monterey
Pismo Beach
Pacifica
Oxnard
Goleta
Santa Cruz
Humbolt Bay Wastewater Authority
San Diego
Orange County
Los Angeles
Los Angeles County
San Diego County
Watsonville
Eureka
Carlsbad
San Francisco:
  Southwest Plant
  Southeast Plant
  Richmond-Sunset Plant
Marin County
Redwood Junior College, Eureka
East Bay Municipal Utility District, Oakland
Marina

Guam

Northern District STP
Agana STP

Marianas Islands

Kilonia
Tofol
Ebeye
Koror
Majuro
Lelu
Tafunsak
Utwe
Malen
Colonia (Yap)
Yap High School
Moen High School
Northern Marianas Islands:
  Agingan Point
  Garapan

REGION X

Washington

Coupeville
Clallum County:
  Sekiu
  Clallum Bay
Pierce County
Port Angeles
Mason County
Lynwood
Sequim
Anacortes
Wasilla
Westside Water District, Tacoma
Mukilteo
Tacoma
Oak Harbor
Seattle:
  Richmond Beach
  Carkeek Park
  West Point
  Alki
  Duwamish
Bellingham
Port Townsend
Southwest Suburban Sewer District, Seattle
Steilacoom
Friday Harbor

Alaska

Unalaska
Haines
Sitka
Dillingham
Seldovia
Juneau:
  Juneau
  Auke Bay
Wrangell:
  Wrangell
  Wrangell Institute
Kodiak
Skagway
North Slope Borough:
  Anaktuvak Pass
  Point Hope
  Point Lay
  Wainwright
  Atkasook
  Barrow
  Kaktovik
  Nuiqsut
Craig
Elmendorf AFB
Shemya AFB
Anchorage
Wasilla
Ketchikan
Pelican
Seward
Kenai
Whittier
Brevig Mission
Shaktoolik
Kivalina
Koyuk
Shishmaref
Teller
Deering
Gambell
Savoonga
St. Michael
Stebbins
Little Diomede
Perryville
Naknek
Ivanoff Bay
Ekuk
Egegik
Clarks Point
Chignik Lagoon
Yakutat
Klawock
Mekoryak
Toksook Bay
King Cove

Togiak
Pilot Point
Elim
Sand Point
Ouzinkie
Unalakleet
Hoonah
Wales
Golovin
Kasaan
Kipnuk
Kongiganak
Tununak
Quinhagak
Platinum
Kwigillingok
Goodnews Bay
Portage Creek
Port Heiden
South Naknek
Atka
Larsen Bay
Port Lions
Hydaburg
Saxman
English Bay
Kake
Angoon
Metlakatla
Karluk
Akhiok
Kotzebue
St. George
Old Harbor
Chignik
Nikolski
Nelson Lagoon
Akutan
False Pass
Port Graham
Bethel
Petersburg

Applications of communities which are marked with an asterisk were postmarked or delivered to EPA after September 25, 1978.

Any community which submitted an application and whose name does not appear on the above list or which believes it submitted a timely application and is marked with an asterisk should contact Mr. O'Farrell, whose address and telephone number appears above, immediately.

Dated: October 11, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-29203 Filed 10-16-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-37]

RENE D. LYON CO., INC. V. AMERICAN PRESIDENT LINES, LTD.

Notice of Filing of Complaint

Notice is hereby given that a complaint filed by Rene D. Lyon Co., Inc. against American President Lines, Ltd. was served October 11, 1978. Complainant alleges it has been subjected to payment of rates for transportation which were, when exacted and still are, unjust and unreasonable by reason of their being overchanges and as such are in violation of sections 17 and 18(b) of the Shipping Act.

Hearing in this matter, if any is held, shall commence on or before April 11, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY
Secretary.

[FR Doc. 78-29262 Filed 10-16-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

FICO, INC.

Formation of Bank Holding Company

FICO, Inc., Filley, Nebr., has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Filley Bank, Filley, Nebr. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1978.

Board of Governors of the Federal Reserve System, October 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29234 Filed 10-16-78; 8:45 am]

[6210-01-M]

NATIONAL DETROIT CORP.

Proposed Acquisition of Pioneer Mortgage Corp.

National Detroit Corp., Detroit, Mich., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's regulation Y (12 CFR 225.4(b)(2)), for permission to acquire certain assets of Pioneer Mortgage Corp., Upland, Calif. Notice of the application was published on August 21, 1978, in the Press Tribune, a newspaper circulated in Roseville, Placer County, Calif., and in the Daily Report, a newspaper circulated in Ontario, San Bernardino County, Calif. Notice was also published on September 18, 1978, in the Sacramento Bee, a newspaper circulated in Sacramento, Sacramento County, Calif., and on September 19, 1978, in the Los Angeles Times, a newspaper circulated in Los Angeles, Calif.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring, and servicing for its own accounts and for the accounts of others, mortgage loans and other extensions of credit in connection with the purchase, development, and/or improvement of real property. Such activities have been specified by the Board in section 225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors, at the Federal Reserve Bank of Chicago, or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 10, 1978.

Board of Governors of the Federal Reserve System, October 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29235 Filed 10-16-78; 8:45 am]

[6210-01-M]

OK BANCORPORATION, INC.

Formation of Bank Holding Company

OK Bancorporation, Inc., Okemah, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Okemah National Bank, Okemah, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 2, 1978.

Board of Governors of the Federal Reserve System, October 5, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29236 Filed 10-16-78; 8:45 am]

[6210-01-M]

SOUTH PLAINS BANCSHARES, INC.

Formation of Bank Holding Company

South Plains Bancshares, Inc., Idalou, Tex., has applied for the Board's approval under section 3 (a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of Idalou State Bank, Idalou, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than November 2, 1978.

Board of Governors of the Federal Reserve System, October 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29237 Filed 10-16-78; 8:45 am]

[6210-01-M]

THE WALSH BANCORPORATION, INC.

Formation of Bank Holding Company

The Walsh Bancorporation, Inc., Walsh, Colo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98.8 percent of the voting shares of the Colorado State Bank of Walsh, Walsh, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The appliation may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29238 Filed 10-16-78; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of November 1978: Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, November 14: 9 a.m.—Open Meeting, Conference Room 703-A, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201. Contact: Mr. James Vaughan, Room 16C-10, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857; 301-443-3888.

Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda: The meeting will consist of discussions of the Interagency Committee's functions and procedures, and the Federal data gathering contract. A presentation will be given on the Third Report to Congress on Alcohol and Health.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: October 11, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 29208 Filed 10-16-78; 8:45 am]

[4110-88-M]

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of November 1978:

Rape Prevention and Control Advisory Committee, November 27; 9 a.m.—Open Meeting, Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857. Contact: Ms. Elizabeth S. Kutzke, Room 10C-03, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problem of rape.

Agenda: The entire meeting will be open to the public. The one-day meeting of the Advisory Committee will be devoted to providing input on the National Center's fiscal year 1979 program activities.

Attendance by the public will be limited to space available. Substantive information may be obtained from the contact person listed above.

The NIMH Information Officer who will furnish summaries of the meeting and a roster of Advisory Committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: October 11, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-29209 Filed 10-16-78; 8:45 am]

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[4110-03-M]

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced.

Committee name	Date, time, and place	Type of meeting and contact person
1. Orthopedic Section of the Surgical and Rehabilitation Devices Panel.	Nov. 3, 10:30 a.m., Room 339-A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, D.C.	Closed committee deliberations 9 to 10:30 a.m.; open public hearing 10:30 to 11:30 a.m.; open committee discussion 11:30 a.m. to 5 p.m.; James G. Dillon (HFK-410), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7238.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Closed Committee deliberations. The Panel will review a product development protocol submission from a medical device manufacturer. This portion of the meeting will be closed to permit discussion of trade secret information (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to reclassification petitions before the Panel, clinical and preclinical guidelines, and classification of orthopedic devices to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by October 27, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make presentations.

Open Committee discussion. The Panel will review and comment on the reclassification petition (F780013), as required under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(2) submitted by Howmedica, Inc., concerning: (1) Semiconstrained hip prosthese (ceramic/metal femoral component and ceramic acetabular component)—Friedrichsfeld™, and (2) semiconstrained hip prosthesis (ceramic/metal femoral component and ceramic uncemented acetabular component)-Lindenhof™.

Interested persons may obtain copies of the petitions by writing the Public Records and Documents Center (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The Panel will review and discuss clinical and preclinical guidelines for testing orthopedic prosthetic devices. The Panel will also review and make recommendations on the classification of: (1) Nonconstrained ankle prosthesis; (2) constrained hip prosthesis (metal); (3) constrained hip prosthesis (metal/polymer); (4) femoral (hemihip) prosthesis (metal/UHWPE); (5) femoral (hip) resurfacing prosthesis; (6) pelvifemoral (hip) resurfacing prosthesis (metal/polymer); (7) ulnar (hemiwrist) prosthesis; (8) acetabular (hemihip) prosthesis (metal); (9) semiconstrained shoulder prosthesis (uncemented); (10) constrained wrist prosthesis (metal); and (11) glenoid (hemishoulder) prosthesis.

Committee name	Date, time, and place	Type of meeting and contact person
2. Ophthalmic Section of the Ophthalmic, Ear, Nose, and Throat; and Dental Devices Panel	Nov. 6 and 7, 9 a.m., Room 727-A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.	Closed committee deliberations Nov. 6, 9 a.m. to 3 p.m.; open public hearing Nov. 7, 9 to 10 a.m.; open committee discussion Nov. 7, 10 a.m. to 5 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7560.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—closed committee deliberations. Various sponsors of intraocular lens clinical investigations will present, as requested by the committee, a summary of the complications, adverse reactions, and other pertinent data derived from the first 6 months of production and sales figures and as such is proprietary. This portion of the meeting will be closed to permit discussion of trade secrets and commercial and/or financial information (5 U.S.C. 552b(c)(4)).

Open public hearing. Interested parties are encouraged to present information pertinent to the clinical investigations of intraocular lenses and hydrophilic contact lenses to Dr. Max W. Talbott, Bureau of Medical Devices (HFK-460). Submission of data on tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Talbott by October 27, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentations.

Open committee discussion. The Committee will discuss the current clinical investigations of intraocular lenses and hydrophilic contact lenses. The Committee will also consider for initial tentative classification a

number of previously unclassified ophthalmic devices. A tentative listing of these devices includes, but may not be limited to: (1) Vision, pupillometer, and keratometer test cards; (2) diploscope; (3) AC-powered gonioscope; (4) haploscope; (5) ocular pressure applicator; (6) oculorotor; (7) pachometer; and (8) specular microscope.

Committee name	Date, time, and place	Type of meeting and contact person
3. Circulatory System Devices Panel	Nov. 20, 9 a.m., Room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 to 10 a.m.; closed committee deliberations 10 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7559.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to this Panel's classification and premarket approval activities. Those desiring to make formal presentations should notify Glenn Rahmoeller by November 6, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Closed committee deliberations. The Panel will be reviewing trade secret information pertaining to applications for premarket approval. This portion of the meeting will be closed to permit discussion of trade secret information (5 U.S.C. 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
4. Obstetrics-Gynecology Section of the Obstetrics-Gynecology and Radiologic Devices Panel.	Nov. 20, 9 a.m., Room 6831, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 to 10 a.m.; closed committee deliberations 10 a.m. to 4 p.m.; Lillian Yin (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendation for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to this Panel's classification and premarket approval activities to Lillian Yin. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Lillian Yin by November 9, 1978, and submit a brief a statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Closed committee deliberations. The Panel will be reviewing trade secret information pertaining to applications for premarket approval (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1-hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for what ever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Person interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be

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closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files complies for law enforcement purposes; information the permature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial infomation submitted to the agency; consideration of matters involving investigatory files complied for law enforcement purposes; and review of matters, such as personnel records, or individual patient records where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigation or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated. October 13, 1978.

JOSEPH P. HILE,
Acting Commissioner of Food and Drugs

[FR Doc. 78-29294 Filed 10-16-78, 8:45 am]

[4110-35-M]

Health Care Financing Administration

Pharmaceutical Reimbursement Board

Postponement of Public Hearing and Extension of Comment Period

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice

SUMMARY: The public hearing before the Pharmaceutical Reimbursement Board, originally scheduled for October 18 and 19, 1978, is rescheduled for November 1 and 2, 1978 (9 a.m. to 5 p.m.). The comment period for proposed MAC limits on doxepin HCl capsules and phenylbutazone tablets is extended until October 27, 1978.

DATES: Hearing: November 1 and 2, 1978 (9 a.m. to 5 p.m.). End of extended comment period for doxepin HCl and phenylbutazone: October 27, 1978.

PLACE OF HEARING: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Rodler, Executive Secretary, pharmaceutical Reimbursement Board, 330 C Street SW., 3076 Switzer Building, Washington, D.C. 20201, 202-472-3821.

SUPPLEMENTARY INFORMATION: 1. On August 31, 1978, the Pharmaceutical Reimbursement Board proposed maximum allowable cost (MAC) limits and announced a public hearing concerning the proposed MAC's on various dosage forms and strengths of amoxicillin, erythromycin, penicillin G potassium, and ampicillin. See 43 FR 38941.

The hearing was scheduled for October 18 and 19. Under the provisions of 45 CFR 19.4(b), the Board had intended to make use of outside consultants to advise it during this hearing. However, less than 1 week before the hearing, Congress had not yet enacted an appropriation for the Department for the fiscal year beginning October 1, 1978. Since we were not authorized to incur contractual obligations during this period, we were unable to retain the services of outside consultants. We expect that the funding issue will be resolved before November 1. Therefore, we have rescheduled the hearing for that day, at which time we expect that consultants will be able to serve. The rescheduled hearing coincides with a previously announced hearing on several other proposed MAC's. See 43 FR 40547.

Our original announcement on August 31 indicated that all written comments received by the Board by October 2 concerning the proposed MAC's on amoxicillin, erythromycin, penicillin G potassium, and ampicillin would be considered. This comment period has ended and the Board will consider no additional written comments. Only one request to appear at the public hearing was received; that request concerned the proposed MAC limits on the erythromycin products. That presentation will be heard on November 1. No additional requests to appear will be granted.

2. On August 18, 1978, the Pharmaceutical Reimbursement Board announced proposed MAC limits on 10 mg, 25 mg, and 50 mg dosage strengths of doxepin HCl capsules. At that time, we specified that the written comment period for those drugs would end on September 18. See 43 FR 36698. On October 2, we announced that, because additional information of possible significance to the setting of MAC limits on doxepin HCl had been received after the close of the original comment period, the comment period was extended until October 11, 1978. See 43 FR 45478.

At the public hearing before the Board on October 4, the sole participant argued that there was a bioequivalence issue with the 10 mg, 25 mg, and 50 mg doxepin HCl capsules, since the Food and Drug Administration had not yet cleared with the Board 100 mg capsules of doxepin HCl. A representative from FDA stated that the studies of the 100 mg capsules had been completed and that there were no bioequivalence problems that would preclude the setting of a MAC on the drug. The Board has decided to reopen he comment period, in order that it might include in the record official written confirmation of this statement before it makes a final determination concerning the adoption of MAC limits on 10 mg, 25 mg, and 50 mg doxepin HCl capsules. The comment period is extended until October 27, 1978.

3. On August 18, 1978, the Pharmaceutical Reimbursement Board proposed a MAC limit on 100 mg phenylbutazone tablets. The comment period for that drug ended on September 18. The MAC for phenylbutazone 100 mg tablets was proposed at $0.0750 per tablet. This figure was based on information obtained from a HCFA-sponsored survey of pharmacy invoice prices. The survey price is based on the 70th percentile of invoice prices. The survey is updated monthly. Our latest survey indicates that the $0.0750 figure is out of date and that the updated figure is now $0.0783 per tablet. The Board will consider this information in its deliberations on a MAC limit for 100 mg phenylbutazone tablets. The comment period for phenylbutazone is extended until October 27, 1978.

Dated: October 13, 1978.

PETER RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-29446 Filed 10-16-78, 10:11 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

REPORT ON BIOASSAY OF CHLOROBENZILATE FOR POSSIBLE CARCINOGENICITY

Availability

Cholorbenzilate (CAS 510-15-6) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade chlorobenzilate for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an agricultural pesticide. Chlorobenzilate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, orally administered chlorobenzilate was carcinogenic in male and female B6C3F1 mice, causing an increased incidence of hepatocellular carcinomas. The results do not, however, provide sufficient evidence for the carcinogencity of chlorobenzilate in Osborne-Mendel rats.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

Dated October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

[FR Doc. 78-28780 Filed 10-16-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF CLONITRALID FOR POSSIBLE CARCINOGENICITY

Availability

Clonitralid (CAS 1420-04-8) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of clonitralid was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as a molluscicide and lamprey killer. Clonitralid was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no convincing evidence that clonitralid was carcinogenic to Osborne-Mendel rats or to female B6C3F1 mice. Poor survival of male mice did not permit an evaluation of carcinogenicity in these animals.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

Dated: October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

[FR Doc. 78-28779 Filed 10-16-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF P-ANISIDINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

p-Anisidine hydrochloride (CAS 20265-97-8) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of p-anisidine hydrochloride was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. p-Anisidine hydrochloride was administered in the feed, at either of two concentrations, to groups of 55 male and 55 female animals of each species.

Under the conditions of this bioassay, the evidence was insufficient to establish the carcinogenicity of p-anisidine hydrochloride in Fischer 344 rats. The compound was not carcinogenic in B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

Dated: October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research)

[FR Doc. 78-28778 Filed 10-16-78; 8:45 am]

[4110-89-M]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Notice of Charter Renewal

Notice is hereby given, pursuant to Pub. L. 92-463, that the Charter of the Advisory Council on Education Statistics has been renewed by the Secretary of the Department of Health, Education, and Welfare, Joseph A. Califano, Jr., for a 2-year period to expire on August 20, 1980. The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act, as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1221e-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Secretary for Education, and the National Center for Education Statistics; and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

Signed at Washington, D.C., on October 12, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

[FR Doc. 78-29232 Filed 10-16-78; 8:45 am]

[4310-03-M]

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Naminations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before 10-6-78. Pursuant to §60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 27, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

CONNECTICUT

Fairfield County

Bridgeport, *Black Rock Historic District*, roughly bounded Black Rock Harbor,

Suffolk County

Westhampton, *Jagger House*, Old Montauk Hwy.

SOUTH CAROLINA

that legislation, section 303(a)(9), but not found in the Juvenile Justice Act.

LEAA's policy for continuation of juvenile-related projects initially funded

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

up" and produce a greater danger to miners in the area than the absence of the switch.

(2) Therefore, Petitioner seeks to operate its overhead crane without the

Dated: October 6, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

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CONNECTICUT

Fairfield County

Bridgeport, *Black Rock Historic District*, roughly bounded Black Rock Harbor, Grovers Ave., Beacon and Prescott Sts.
Bridgeport, *Hotel Beach (Hotel Barnum)*, 140 Fairfield Ave.
Bridgeport, *Palace and Majestic Theaters*, 1315-1357 Main St.
Bridgeport, *Sterling Block-Bishop Arcade*, 993-1005 Main St.
Stamford, *Hait, Benjamin, House*, 92 Hoyclo Rd.

Hartford County

Hartford, *Roberts-Isham House*, 211 High St.
Marlborough, *Marlborough Tavern (Col. Elisha Buell House)* off CT 66.

Litchfield County

Kent, *Flanders Historic District*, U.S. 7, Cobble Rd., and Cobble Lane.

Middlesex County

Middletown, *Coite-Hubbard House*, 269 High St.
Middletown vicinity, *Plumb House*, W of Middletown at 872 Westfield St.
Old Saybrook Vicinity, *Black Horse Tavern*, SE of Old Saybrook at 175 N. Cove Rd.

New Haven County

Meriden, *Andrews, Moses, House*, 424 W. Main St.
Meriden, *Goffe, Solomon, House*, 677 N. Colony St.
Woodbridge vicinty, *Darling, Thomas, House and Tavern*, E of Woodbridge at 1907 Litchfield Tpke.

New London County

Groton, *U.S.S. Nautilus*, Naval Submarine Base.
Lebanon vicinity, *Clark Homestead*, S of Lebanon on Madley Rd.
North Stonington vicinity, *Randall, John, House*, SE of North Stonington on CT 2.

DELAWARE

Kent County

Little Creek vicinity, *Cherbourg Round Barn*, SW of Little Creek off DE 9.
Magnolia vicinity, *Truitt, Gov. George, House*, SW of Magnolia on Rte. 388.

IDAHO

Kootenai County

Spirit Lake, *Spirit Lake Historic District*, Main St.

ILLINOIS

Cook County

Chicago, *Jewish People's Institute*, 3500 W. Douglas Blvd.

NEW YORK

Onondaga County

Marcellus, *Bradley, Dan, House*, 59 South St.

Queens County

Astoria, *Paramount Studios Complex*, 35th Ave., 35th, 36th, and 37th Sts.

Suffolk County

Westhampton, *Jagger House*, Old Montauk Hwy.

SOUTH CAROLINA

Florence County

Florence, *Gregg, Dr. Benjamin, House*, 315 S. Coit St.

Greenville County

Greenville, *Broad Margin*, 9 W. Avondale Dr.
Greenville vicinity, *Bates, William, House*, E of Greenville on SC 14.

Lexington County

Cayce vicinity, *Manning Archeological Site*, S of Cayce.
Cayce vicinity, *Sam Site*, S of Cayce.

Williamsburg County

Nesmith vicinity, *Gamble House*, W of Nesmith off SC 502.

TENNESSEE

Shelby County

Memphis, *Annesdale Park Historic District*, roughly bounded by Peabody and Goodbar Aves., Cleveland St. and Rosenstein Pl.

UTAH

Sanpete County

Spring City, *Spring City School*, off UT 117.

[FR Doc. 78-28876 Filed 10-16-78; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

FUNDING OF JUVENILE-RELATED PROGRAMS PREVIOUSLY FUNDED UNDER THE CRIME CONTROL ACT

Clarification of Policy

Section 228(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, et seq., as amended (Pub. L. 93-415, as amended by Pub. L. 94-503 and Pub. L. 95-115) (hereinafter referred to as the Juvenile Justice Act), states as follows:

> In accordance with criteria established by the Administrator, it is the policy of Congress that programs funded under this title shall continue to receive financial assistance providing that the yearly evaluation of such programs is satisfactory.

In many instances, however, juvenile-related programs funded initially under the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, et seq., as amended (Pub. L. 90-351, as amended by Pub. L. 93-83, Pub. L. 93-415, Pub. L. 94-430, Pub. L. 94-503, and Pub. L. 95-115) (hereinafter referred to as the Crime Control Act), have been unable to obtain continuation funding as a result of the assumption of cost feature contained in that legislation, section 303(a)(9), but not found in the Juvenile Justice Act.

LEAA's policy for continuation of juvenile-related projects initially funded under the Crime Control Act is intended to reflect both the continuation funding provision of the Juvenile Justice Act and the assumption of cost provision of the Crime Control Act (see LEAA Office of General Counsel Legal Opinion 76-14, Jan. 5, 1976).

The assumption of cost provision of the Crime Control Act requires that State and local governments demonstrate a willingness to assume the costs of funded projects after a resonable period of Federal assistance. LEAA has determined that a reasonable period of assistance for juvenile justice and delinquency prevention projects may exceed the normal three year funding period established by State Planning Agency Grants Guideline M 4100.1F, Chapter 2, Paragraph 15, January 18, 1977. This determination is based on the continuation funding policy established by Congress for the Juvenile Justice Act and the historic difficulty of institutionalizing successful juvenile programs within State and local governments and providing adequate financial support.

Therefore, it is the policy of LEAA that States may modify their established assumption of cost policy for juvenile justice and delinquency prevention projects initially funded under the Crime Control Act to continue such projects beyond the State's policy for maximum length of funding—either from Crime Control Act Parts C and E or Juvenile Justice Act Part B formula grant funds—provided that the State planning agency determines that individual projects meet the following conditions:

(1) The State planning agency determination to extend the project must be based upon the following criteria:

1. The project has been evaluated and the evaluation indicates that the project is effective and is being operated efficiently;

2. Discontinuation would have a negative impact on State or local juvenile-related activities; and

3. The project has demonstrated a good faith effort to obtain funding elsewhere and intends to continue such efforts over the period of the extension.

(2) Extensions may be granted for 1 year with possible extension for 1 additional year.

JAMES M. H. GREGG,
Assistant Administrator, Office of Planning and Management.

[FR Doc. 78-29240 Filed 10-16-78; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-33-M]

IDARADO MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is here by given that Idarado Mining Co., Ouray, Colo., has filed a petition to modify the application of 30 CFR 57.19-83 (hoists), to its Idarado Mine, located in Ouray County, Colo., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The detailed alternate plan and diagram submitted by Petitioner for operating its electric hoist without a motor drive torque device will at all times guarantee no less than the same measure of protection as the above standard.

(2) The plan would include the addition of a horn circuit as an added safety feature in order to remind hoistmen to return the backout switch to the normal position after completing backout operations.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 16, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 6, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29183 Filed 10-16-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-40-M]

JESSIE S. MORIE & SON, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Jessie S. Morie & Son, Inc., Mauricetown, N.J., has filed a petition to modify the application of 30 CFR 56.16-14(b) (overhead cranes), to its Morie Division Mine, located in Cumberland County, N.J., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) In attempting to use automatic switches to halt uptravel on a prior occasion, Petitioner found that it interfered with the normal upward movement of the crane, causing it to "hang up" and produce a greater danger to miners in the area than the absence of the switch.

(2) Therefore, Petitioner seeks to operate its overhead crane without the use of an automatic uptravel switch.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 16, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Beulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 6, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-28179 Filed 10-16-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-45-M]

NEW JERSEY ZINC CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that the New Jersey Zinc Co. Austinville, Va. 24312, has filed a petition to modify the application of 30 CFR 57.19-11 (drum flanges), Austinville-Ivanhoe Mine, located in Wythe County, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is a as follows:

(1) The present hoist has operated in a multi-layer configuration for nearly thirty years with no history of improper layering or jumping of the flanges by the hoist rope.

(2) Because of limited clearance between the drum flanges and the housing of the hoist's speed reducer, extension of the drum flanges is impractical and would necessitate structural changes to the hoist which could diminish the safety of the miners using it.

For these reasons the petitioner requests that the requirements for 30 CFR 57.19-11 be modified for the above mine so that the minimum radial extension of the flanges beyond the last rope wrap be two rope diameters instead of three.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before (November 16, 1978). Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 6, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29178 Filed 10-16-78; 8:45 am]

[4510-28-M]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

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APPENDIX

Petitioner: Union/workers or	Location	Date	Date of	Petition	Articles produced

Corpus Christi, Tex., refinery of ASARCO, Inc.

The notice of investigation was published in the FEDERAL REGISTER on

the Corpus Chirsti, Tex., refinery of ASARCO, Inc. contributed importantly to the decline in production and to the total or partial separation of work-

1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000

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APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
AMF, Inc., Wheel Goods Division of Recreational Vehicle Group (USWA).	Little Rock, Ark	Sept. 27, 1978	Sept. 26, 1978	TA-W-4,218	Bicycles.
Bedford Knitting Mills (workers)	Brooklyn, N.Y	Sept. 29, 1978	Sept. 21, 1978	TA-W-4,219	Knitwear, women's sweaters.
Bethlehem Contracting Co. (workers).	Bath, Pa	Sept. 27, 1978	Sept. 22, 1978	TA-W-4,220	Contractors of steel buildings and bridges.
Columbia Belt & Novelties, Inc. (company).	Boston, Mass	do	Sept. 25, 1978	TA-W-4,221	Belts.
E. I. du Pont de Nemours & Co., Inc., Chambers Works (Chemical Workers Association, Inc.).	Deepwater, N.J	Sept. 22, 1978	Sept. 15, 1978	TA-W-4,222	Intermediates, dyes.
Essex Group, Inc. (USWA)	Sault Ste. Marie, Mich	Sept. 26, 1978	Sept. 1, 1978	TA-W-4,223	Wire harnesses for the automobile industry.
William Ornsteen Heel Co., Inc. (workers).	Bradford, Mass	Sept. 25, 1978	Sept 20, 1978	TA-W-4,224	Wood heels, plastic heels for women's novelty shoes and dress shoes.
S & H Co., Inc. (company)	Boston, Mass	Sept. 27, 1978	Sept. 25, 1978	TA-W-4,225	Handbags.
Standard Patent Co., Inc. (company)	Manchester, N.H	Sept. 29, 1978	do	TA-W-4,226	Papers, junks, soles, cuts, woods, die tins, marker papers and fiber markers.
Stop-Fire, Inc. (IAMAW)	New Brunswick, N.J	Sept. 28, 1978	Sept. 26, 1978	TA-W-4,227	Fire extinguishers.
The Lamson & Sessions Co. (company).	Bedford Heights, Ohio	Sept. 25, 1978	Sept. 21, 1978	TA W-4,228	Threaded screws and nuts of various lengths and dismeters.
United States Steel Corp. Central Furnaces (USWA).	Cleveland, Ohio	Sept. 28, 1978	Sept. 1, 1978	TA-W-4,229	Pig iron.

[FR Doc. 78-29158 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3885]

ANDREW WORSTED, INC., PASCOAG, R.I.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3885: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978 in response to a worker petition received on June 22, 1978 which was filed on behalf of workers and former workers producing women's and children's sportswear and coats at Andrew Worsted Mills, Inc., Pascoag, R.I. The investigation revealed that woven acrylic piece goods are produced by Andrew Worsted Mills.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365-66). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Andrew Worsted Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric increased from 408 million square yards in 1975 to 464 million square yards in 1976 and then decreased to 453 million square yards in 1977. The ratio of imports to domestic production increased from 1.8 percernt in 1976 to 1.9 percent in 1977. Imports of finished fabric increased from 90 million square yards in the first three months of 1977 to 129 million square yards in the first three months of 1978.

Andrew Worsted Mills produces woven acrylic piece goods on a commission basis for its sister company, Granite Worsted Mills. Respondents to a Departmental survey of Granite's customers indicated that they did not purchase imported finished fabric in 1976, 1977, or the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers of Andrew Worsted Mills, Incorporated, Pascoag, R.I. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29144 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3705]

ASARCO, INC., CORPUS CHRISTI, TEX.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3705: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 15, 1978, in response to a worker petition received on May 8, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing zinc, sulfuric acid, and cadmium at the Corpus Christi, Tex., refinery of ASARCO, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ASARCO, Inc., Metals Week, Metal Bulletin, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of the Interior, the American Bureau of Metal Statistics, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of slab zinc increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 before declining to 555,147 short tons in 1977. U.S. imports of slab zinc for the first 3 months of 1978 increased to 155,988 short tons from 121,120 short tons for the same period in 1977.

The ratio of imported slab zinc to domestic production increased from 76.7 percent in 1975 to 127.0 percent in 1976 and to 127.9 percent in 1977. The imports to domestic production ratio increased from 94.0 percent for the first 3 months of 1977 to 152.1 percent for the first 3 months in 1978.

Imports of zinc are affected by the differential between the domestic price of zinc established by U.S. producers and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the producers' price, the demand for imported zinc increases. Except for brief periods in the spring of 1976 and in March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producer price for zinc was 7.6 cents higher than the average LME zinc price in 1977 and 7.1 cents higher in the first quarter of 1978. This is well above the 5-cent limit at which domestic suppliers can remain competitive. Consequently, in the first quarter of 1978 when many domestic zinc producers curtailed production because of the depressed market price of zinc, imports of slab zinc increased 28.8 percent when compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of articles like or directly competitive with zinc produced at the Corpus Chirsti, Tex., refinery of ASARCO, Inc. contributed importantly to the decline in production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Corpus Christi, Tex., refinery of ASARCO, Inc. who became totally or partially separated from employment on or after April 30, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29143 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3682]

BRADE SPORTSWEAR, PERTH AMBOY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3682: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Brade Sportswear, Perth Amboy, N.J. The Department's investigation revealed that Brade Sportswear began producing ladies' sportswear; shirts, slacks, jackets, and dresses and blouses and children's clothes in March 1978.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brade Sportswear, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's misses', and children's raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the sole manufacturer for which Brade Sportswear Inc. worker in 1976 and 1977. This manufacturer reduced purchases from Brade Sportswear and increased purchases of imported ladies' coats and raincoats in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977. In March 1978, the company stopped producing ladies' coats and raincoats and began producing ladies' sportswear. Following the change in product lines, sales at Brade Sportswear increased compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Brade Sportswear, Perth Amboy, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Brade Sportswear, Perth Amboy, N.J., who became totally or partially separated from employment on or after March 28, 1977, and before April 1, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated from employment at Brade Sportswear, on or after April 1, 1978, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29145 Filed 10-16-78; 8:45 am]

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[4510-28-M]

[TA-W-3889]

DIX MILLS, INC., PASCOAG, R.I.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3889: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 22, 1978, which was filed on behalf of workers and former workers selling women's and children's sportswear produced by Andrew Worsted Mills, Inc. at Dix Mills, Inc., Pascoag, R.I. The investigation revealed that workers are engaged in employment related to the selling of acrylic piece good fabrics owned by Granite Worsted Mills, Inc.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365-66). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dix Mills, Inc., Granite Worsted Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threats thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric increased from 408 million square yards in 1975 to 464 million square yards in 1976 and then decreased to 453 million square yards in 1977. The ratio of imports to domestic production increased from 1.8 percent in 1976 to 1.9 percent in 1977. Imports of finished fabric increased from 90 million square yards in the first 3 months of 1977 to 129 million square yards in the first 3 months of 1978.

Dix Mills, Inc. is an outlet store located within a mill owned by Granite Worsted Mills, Inc., in Pascoag, R.I. Dix Mills sells fabric owned by Granite Worsted and other sewing materials to the general public.

The Department conducted a survey of some of Granite Worsted Mills' customers. Respondents indicated they did not purchase imported finished fabric in 1976, 1977, or the first quarter of 1978.

CONCLUSION

After careful review of facts obtained in the investigation, I conclude that all workers of Dix Mills, Inc., Pascoag, R.I., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29146 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3587]

E & M COAT CO., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3587: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and rainwear at E & M Coat Co., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E & M Coat Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all the criteria have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252,000 dozen in 1976 to 2,723,000 dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's raincoats and other waterproof outer garments declined from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports of domestic production declined from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which E & M Coat, Inc. worked in 1977. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from E & M Coat, Inc. and increased purchases of imported ladies' coats and rainwear in the first quarter of 1978 compared to the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at E & M Coat Co., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of E & M Coat Co., Inc., Paterson, N.J., who became totally or partially separated from employment on or after December 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29147 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-4012]

F/V "PETER" AND "LINDA," PROVINCETOWN, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4012: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 31, 1978, in response to a worker petition received on July 26, 1978, which was filed on behalf of fishermen and former fishermen catching fish for the F/V *Peter* and *Linda*, Provincetown, Mass.

The notice of investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the F/V *Peter* and *Linda*, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The F/V *Peter* and *Linda* catches ground and flatfish. Average crewmember earnings aboard the F/V *Peter* and *Linda* increased in 1977 compared to 1976 and in the first 6 months of 1978 compared to same period in 1977. No declines in earnings are threatened.

CONCLUSION

After careful review, I determine that fishermen of the F/V Peter and Linda, Provincetown, Mass., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29148 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3890]

GRANITE WORSTED MILLS, INC., PASCOAG, R.I.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3890: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 22, 1978, which was filed on behalf of workers and former workers producing and selling materials to the apparel industry at Granite Worsted Mills, Inc., Pascoag, R.I. The investigation revealed that woven acrylic piece goods are produced and sold by Granite Worsted.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365-66). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Granite Worsted Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm of appropriate subdivision have contributed importantly to the separations or threats thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric increased from 408 million square yards in 1975 to 464 million square yards in 1976 and then decreased to 453 million square yards in 1977. The ratio of imports to domestic production increased from 1.8 percent in 1976 to 1.9 percent in 1977. Imports of finished fabric increased from 90 million square yards in the first 3 months of 1977 to 129 million square yards in the first 3 months of 1978.

Respondents to a departmental survey of Granite Worsted Mills' customers indicated that they did not purchase imported finished fabric in 1976, 1977, or the first quarter of 1978.

CONCLUSION

After careful review of facts obtained in the investigation, I conclude that all workers of Granite Worsted Mills, Inc., Pascoag, R.I., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29149 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3996]

JULIUS ALTSCHUL, INC., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3996: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 26, 1978, in response to a worker petition received on July 21, 1978, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing ladies' and children's shoes at Julius Altschul, Inc. of Brooklyn, N.Y. During the course of the investigation, it was established that Julius Altschul, Inc. produces only children's shoes.

The notice of investigation was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34562). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Julius Altschul, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of children's nonrubber, nonathletic footwear decreased from 15.8 million pairs in 1976 to 13.5 million pairs in 1977. Imports decreased to 3.8 million pairs in the first quarter of 1978 from 4.8 million pairs in the same quarter of 1977. The ratio of imports to domestic production increased from 75.2 percent in 1976 to 82.3 percent in 1977. The ratio of imports to domestic production decreased from 114.3 percent during the first quarter of 1977 to 84.4 percent during the first quarter of 1978.

A survey conducted with the major customers of Julius Altschul, Inc. showed that customers had increased purchases of imported footwear and decreased purchases from Julius Altschul during 1977 as compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's shoes produced by Julius Altschul, Inc. of Brooklyn N.Y., contribut-

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ed importantly to the decline in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Julius Altschul, Inc. of Brooklyn, N.Y., who became totally or partially separated from employment on or after July 19, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29150 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3600]

PATERSON CLOAK & SUIT, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3600: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Paterson Cloak & Suit, Inc., Paterson, N.Y. During the course of the investigation it was revealed that Paterson Cloak & Suit no longer produces ladies' suits.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paterson Cloak & Suit, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the criteria have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the sole manufacturer for which Paterson Cloak & Suit, Inc. worked in 1976 and 1977. The manufacturer reduced purchases from Paterson Cloak & Suit, Inc. and increased purchases of imported ladies' coats in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Paterson Cloak & Suit, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Paterson Cloak & Suit, Inc., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29151 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3403]

PARAMOUNT COAT CO., INC., CAMBRIDGE, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3403: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1978, in response to a worker petition received on March 9, 1978, which was filed on behalf of workers and former workers producing men's and women's raincoats at Paramount Coat Co., Inc., Cambridge, Mass.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Paramount Coat Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' outer coats and jackets, which includes raincoats, increased from 22,060 thousand units in 1976 and to 27,432 thousand units in 1977. Imports increased from 5,438 thousand units in the first quarter of 1977 to 6,048 thousand units in the first quarter of 1978. The import to domestic production ratio increased from 29.6 percent in 1976 and to 35.3 percent in 1977.

U.S. imports of women's, misses', and children's raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The import to domestic production ratio decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

A Department survey conducted with the manufacturers who contract work to Paramount Coat Co. revealed that these manufacturers experienced increased sales, in value, from 1976 to 1977. These manufacturers did not import men's and women's raincoats or use foreign contractors. A survey of the retail customers of these manufacturers indicated that most respondents did not purchase imported raincoats.

CONCLUSION

After careful review, I determine that all workers of Paramount Coat Co., Inc., Cambridge, Mass., be denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29152 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3471, 3471a]

SUMMERFIELD INDUSTRIES, INC., RAEFORD AND ROCKY MOUNT, N.C.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3471 and 3471a: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 4, 1978, in response to a worker petition received on March 24, 1978, which was filed on behalf of workers and former workers producing double-knit polyester fabric for apparel at the Raeford, N.C., plant of Summerfield Industries, Inc.

The investigation was expanded to include the Rocky Mount, N.C., plant of Summerfield Industries, Inc.

During the course of the investigation it was established that the company produced finished polyester fabric for apparel.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360-1). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Summerfield Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separations, or threat thereof, and to such decline in sales or production.

Imported wearing apparel is not considered like or directly competitive with finished fabric. Imports of fabric must be considered in this case.

U.S. imports of manmade knit finished fabric are negligible. The ratio of imports to domestic production was 1.6 percent or less from 1973 through 1977. The ratio decreased from 0.7 percent in 1975 to 0.6 percent in 1976 and remained at 0.6 percent in 1977.

U.S. imports of finished fabric decreased from 1976 to 1977 and increased in the first quarter of 1978 compared to the same period of 1977. The ratio of imports to domestic production increased from 1.8 percent in 1976 to 1.9 percent in 1977.

Customers representing a substantial proportion of Summerfield Industries' sales in 1977 were surveyed by the Department. Respondents indicated that most do not purchase imported finished fabric. The survey further revealed that most respondents had increased purchases from Summerfield Industries from 1976 to 1977.

CONCLUSION

After careful review of the facts, I determine that all workers of the Raeford and Rocky Mount, N.C., plants of Summerfield Industries, Inc. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning

[FR Doc. 78-29153 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3631]

VERDI FASHION CO., INC., HOBOKEN, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3631: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' and men's coats at Verdi Fashion Co., Inc., Hoboken, N.J. During the course of the investigation it was discovered that Verdi Fashion Co., Inc., only manufactured ladies' coats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Verdi Fashion Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

Average company employment at Verdi Fashions increased in each of the last three quarters of 1977 when compared to the like quarters of 1976. Employment also increased in the first quarter and in the first 5 months of 1978 when compared to the like periods in 1977.

There have been no significant partial separations. There is no immediate threat of separation to the workers of Verdi Fashion Co.

CONCLUSION

After careful review, I determine that all workers of Verdi Fashion Co., Inc., Hoboken, N.J., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29154 Filed 10-16-78; 8:45 am]

[4510-28-M]

[TA-W-3820 and 3821]

SWANK REFRACTORIES CO., JOHNSTOWN AND CLAIRTON (LARGE), PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3820 and 3821: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 7, 1978, in response to worker petitions received on June 1, 1978, which were filed by the United Steelworkers of America on behalf of workers and former workers engaged in employment related to the production of clay and silica refractory products at the Johnstown and Clairton (Large), Pa.,

plants of the Swank Refractories Co. The investigation revealed that only clay products are produced.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,

WEDNESDAY, NOVEMBER 1, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated

provisions of sections 13 and 15(d) of the 1934 Act.

2. On April 25, 1978, pursuant to a merger with Thyssen Acquisition

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plants of the Swank Refractories Co. The investigation revealed that only clay products are produced.

The notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Swank Refractories, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threats thereof, and to such decline in sales or production.

Evidence developed during the investigation revealed that clay refractory products are used in the molten stages of metal production by the steel industry. Clay refractory products cannot be considered like or directly competitive with steel.

The ratio of imports to the domestic production of clay refractory products has been less than 1 percent from 1972 to 1977 and in the first quarter of 1978.

The Department conducted a survey of some of the customers of clay refractory products of Swank Refractories Co. Only one of the customers reported purchases of imported refractory products in 1977. That customer stated that the type of refractory product imported was not available from Swank and continued to state that the reduction in purchases from Swank in 1977 compared to 1976 was caused by a shift to other domestic sources. All of the respondents stated that imports of refractory products are not adversely affecting the domestic industry.

CONCLUSION

After careful review, I determine that all workers of the Johnstown and Clairton (Large), Pa., plants of the Swank Refractories Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 6th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29155 Filed 10-16-78; 8:45 am]

[4510-30-M]

NATIONAL COMMISSION FOR MANPOWER POLICY

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will cosponsor, together with the U.S. Department of Labor, Bureau of International Labor Affairs, a conference on November 15, 1978. The conference will be held in the Secretary's Conference Room, Room S-2508, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. The meeting will begin at 9 a.m. and adjourn at 5 p.m. The agenda will be concerned with identifying and exploring the employment effects of international trade.

The National Commission for Manpower Policy was established pursuant to title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the President, the Congress, the Secretary of Labor, and other Federal agency administrators on national employment and training issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

Members of the general public or other interested individuals may attend the conference. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the conference.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the conference permits. Such oral statements must be directly germane to the announced agenda and written applications must be submitted to the Director of the Commission 3 days before the conference. This application shall identify the following: The name and address of the applicant; the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter. The application shall also include a statement justifying why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the conference. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the conference will be available for public inspection 5 working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Suite 300, Washington, D.C.

Signed at Washington, D.C., this 4th day of October 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-29157 Filed 10-16-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON ADVANCED REACTORS

Meeting

The ACRS Subcommittee on Advanced Reactors will hold an open meeting on November 1, 1978, in Room 1167, 1717 H Street NW., Washington, D.C. 20555, to continue its review of matters related to the NRC-sponsored research on the safety of advanced reactor designs.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, NOVEMBER 1, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and their consultants, pertinent to the above topics. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, telephone 202-634-3267, between 8:15 a.m. and 5 p.m., e.s.t.

Dated: October 12, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-29318 Filed 10-16-78; 8:45 am]

[7590-01-M]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON REACTOR OPERATIONS

Meeting

The ACRS Subcommittee on Reactor Operations, will hold an open meeting on November 1, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555, to review NRC Office of Nuclear Regulatory Research programs being conducted by the Research Support Branch, and will hear a briefing by representatives of the NRC Division of Operating Reactors concerning its policies and activities. Notice of this meeting was published September 21, 1978 (43 FR 42826) as a 2-day meeting, October 31 and November 1.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978 (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, NOVEMBER 1, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and their consultants, pertinent to the agenda items. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and to formulate a report and recommendations to the full Committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Robert L. Wright, Jr., telephone 202-634-3314, between 8:15 a.m. and 5 p.m., e.s.t.

Dated: October 12, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-29319 Filed 10-16-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Admin. Pro. File No. 3-5539; File No. 81-374]

BUDD CO.

Notice of Application and Opportunity for Hearing

OCTOBER 6, 1978.

Notice is hereby given that the Budd Co. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a Pennsylvania corporation subject to the reporting provisions of sections 13 and 15(d) of the 1934 Act.

2. On April 25, 1978, pursuant to a merger with Thyssen Acquisition Corp., the Applicant became an indirect wholly owned subsidiary of Thyssen A. G., a West German corporation.

3. As a consequence of the merger, the Applicant's common and preferred shares ceased to be outstanding on April 25, 1978 and its 5¾ percent convertible subordinated debentures were redeemed on May 26, 1978.

In the absence of an exemption, Applicant is required to file reports pursuant to sections 13 and 15(d) of the 1934 Act and the rules and regulations thereunder for the balance of the fiscal year ending December 31, 1978. Applicant believes that its request for an order exempting it from the provisions of sections 13 and 15(d) of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort, and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person not later than November 3, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29228 Filed 10-16-78; 8:45 am]

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[8010-01-M]

[Admin. Pro. File No. 3-5515; File No. 81-389]

DRISKILL HOTEL CORP.

Notice of Application and Opportunity of Hearing

OCTOBER 6, 1978.

Notice is hereby given that the Driskill Hotel Corp. (the "Applicant") has filed an application, as amended, pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting the Applicant a partial exemption from certain provisions of sections 13 and 14 of the 1934 Act.

The Applicant states in part:

1. The Applicant was formed in 1970 to renovate and operate a hotel.

2. All of the assets of the Applicant were sold in 1975.

3. The Applicant's present and intended business is confined solely to collecting receipts pursuant to the contract of sale of the hotel, and applying these receipts to its remaining outstanding obligations.

4. Applicant will collect such receipts in a fixed amount on a semiannual basis through 1979.

5. Beginning in 1980, the Applicant will collect receipts on an annual basis in an amount based upon a percentage of the hotel's profits.

6. The Applicant has approximately 630 shareholders.

7. There has never been any trading in Applicant's common stock.

8. The Applicant requests an exemption from the following provisions:

(a) The requirements pursuant to section 13 of the 1934 Act to file periodic reports, except that the Applicant will file both an annual report on form 10-K containing unaudited financial statements, and current reports on form 8-K, including a report of the receipt of midyear payments under the contract of sale and the application of these proceeds. This portion of the exemption would terminate on December 31, 1980.

(b) The requirement pursuant to section 14 of the 1934 Act and regulation 14C promulgated thereunder to furnish shareholders with an annual report to shareholders in connection with the annual meetings of shareholders to be held in 1978 and 1979, where the only business to be conducted at such meetings is the election of directors. In lieu of this requirement, the information statement will contain a written summary of the material financial results, including the fact that payments have been received as well as the amounts which have been applied to the payment of expenses and to the reduction of the Applicant's outstanding debt. The Applicant will also offer in its information statement to furnish to shareholders either at the annual meeting or by return mail a copy of the Applicant's annual report on form 10-K.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person not later than November 3, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commisssion's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29229 Filed 10-16-78; 8:45 am]

[8010-01-M]

[Admin. Pro. File No. 3-5530; File No. 81-371]

EMERY INDUSTRIES, INC.

Notice of Application and Opportunity for Hearing

OCTOBER 6, 1978.

Notice is hereby given that Emery Industries, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the reporting provisions of section 15(d) of that Act.

The Applicant states, in part:

1. Applicant is incorporated under the laws of the State of Ohio.

2. As a result of a merger on May 19, 1978, the Applicant became a wholly owned subsidiary of National Distillers & Chemical Corp.

3. At this time the Applicant has only one shareholder, which is National Distillers & Chemical Corp.

In the absence of an exemption, Applicant is required to file reports pursuant to section 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the provisions of section 15(d) of the 1934 Act is appropriate in view of the fact that the Applicant is a wholly owned subsidiary with only one shareholder. Applicant believes that the time, effort and expense involved in the preparation of additional periodic reports would be disproportionate to any benefit of the public.

For a more detailed statement of the information presented, interested persons are referred to said application which is on file in the office of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that not later than November 3, 1978, any interested person may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At Any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29230 Filed 10-16-78; 8:45 am]

[8010-01-M]

[Admin. Pro. File No. 3-5535; File No. 81-399]

SOUTHWEST PETRO-CHEM, INC.

Notice of Application and Opportunity for Hearing

OCTOBER 6, 1978.

Notice is hereby given that Southwest Petro-Chem, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of sections 12(g), 13, 14, 15(d), and 16 of the 1934 Act.

The Applicant states in part:

1. Applicant is incorporated under the laws of the State of Kansas.

2. Prior to the merger with Witco Chemical Corp. ("Witco"), Applicant had one class of equity securities registered under the Securities Act of 1933.

3. Prior to the merger with Witco, Applicant was subject to the provisions of section 15(d) of the 1934 Act and its common stock was registered pursuant to section 12(g) of the 1934 Act.

4. As a result of the merger, Applicant became a wholly owned subsidiary of Witco on August 31, 1978.

In the absence of an exemption, Applicant is required to file certain reports with the Commission pursuant to sections 12(g), 13, 14, 15(d), and 16 of the 1934 Act because the common stock is registered with the Commission.

Accordingly, Applicant believes that its request for an order exempting it from the provisions of section 12(g), 13, 14, 15(d), and 16 of the 1934 Act is appropriate in view of the fact that Applicant believes that the time, effort, and expense involved in compliance with such provisions would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than November 3, 1978, may submit to the Commission in writing his views of any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29231 Filed 10-16-78; 8:45 am]

[8010-01-M]

[File No. 1-4829]

AMERICAN SAFETY EQUIPMENT CORP.

5½-Percent Convertible Subordinated Debentures Due 1993; Notice of Application To Withdraw From Listing and Registration

OCTOBER 10, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The 5½-percent convertible subordinated debentures ("Debentures") of American Safety Equipment Corp. (the "Company") have been listed for trading on the Amex since January 13, 1969. On July 28, 1978, pursuant to a plan and agreement of merger, the Company became a second-tier subsidiary of the Marmon Group, Inc. At the time of the merger, the principal amount of the outstanding Debentures was $1,900,000. As a consequence of the merger, the conversion right of each Debenture, which previously represented a right to convert a $1,000 Debenture into 92.76 shares of the Company's common stock, became a right to receive $973.98 in cash. As of September 30, 1978, the principal amount of the outstanding Debentures has been reduced by $765,000 (40 percent) to $1,135,000 and the number of registered holders has been reduced to less than 150. The Company is of the opinion that the Debentures are now unsuitable for continued trading on a national securities exchange because they lack the characteristics of a security which would benefit from an auction market. No trading in Debentures has occurred since the merger on July 28, 1978.

Any interested person may, on or before November 9, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29227 Filed 10-16-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 06/06-0204]

CAMERON FINANCIAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), under the name of Cameron Financial Corp., 1410 Frost Bank Tower, San Antonio, Tex. 78205, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the rules and regulations promulgated thereunder.

The proposed officers, directors, and shareholders are as follows:

A. Baker Duncan, President, Director, 336 Geneseo Rd., San Antonio, Tex. 78209.
Goodhue W. Smith III, Vice President, Secretary/Treasurer, Director, 103 Tuttle Rd., San Antonio, Tex. 78209.
J. David Oppenheimer, Director, 233 East Lullwood Ave., San Antonio, Tex. 78212.
Duncan-Smith Co., General Manager, Investment Adviser, 1410 Frost Bank Tower, San Antonio, Tex. 78205.
Cameron Capital Corp., 100 percent shareholder, 1410 Frost Bank Tower, San Antonio, Tex. 78205.

The beneficial holders of 10 percent or more of Cameron Capital Corp.'s voting securities are:

A. Baker Duncan, 36 percent.
Goodhue W. Smith III, 18 percent.
E. Bruce Street, 1035 Normandy, Graham, Tex. 76046, 18 percent.

Mr. Duncan owns 66.7 percent of Duncan-Smith Co., and Mr. Smith owns the remaining one-third.

There is to be only one class of stock with 1 million shares of common stock authorized. Cameron Capital Corp., a venture capital corporation, will own initially all of the issued and outstanding stock.

The applicant licensee proposes to commence operations with net private capital of $500,000. Applicant proposes to conduct its operations principally within the State of Texas.

Applicant will follow a diversified investment policy in providing long-term debt and equity capital to eligible small business concerns.

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Duncan-Smith Co., will serve as its investment adviser/manager on a contractual basis pursuant to § 107.809 of the SBA rules and regulations.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and regulations.

Notice is further given that any person, may, not later than November 1, 1978, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the applicant in a newspaper of general circulation in San Antonio, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 11, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29271 Filed 10-16-78; 8:45 am]

[8025-01-M]

[License No. 09/09-5167]

CHINESE INVESTMENT CORP. OF CALIFORNIA

License Surrender

Notice is hereby given that Chinese Investment Corp. of California, 1541 Wilshire Boulevard, Suite 100, Los Angeles, Calif. 90017, has surrendered its license to operate as a small business investment company pursuant to 13 CFR 107.105 (1976) of the Small Business Administrations's rules and regulations governing small business investment companies.

Chinese Investment Corp. of California was licensed March 1, 1974, to operate solely under the provisions of section 301(d) of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

It has surrendered its license to operate as a section 301(d) license.

Under the authority vested by the Act and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises therefrom are cancelled.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies.)

Dated: October 11, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29274 Filed 10-16-78; 8:45 am]

[8025-01-M]

[Proposed License No. 09/09-0227]

CROCKER VENTURES, INC.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) by Crocker Ventures, Inc., One Montgomery Street, San Francisco, Calif. 94104, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and principal stockholders are:

Name, Title, and Stockholder

John M. Boyle, Acting General Manager, Director, One Montgomery St., San Francisco, Calif. 94104.
David Alan Brooks, Director, One Montgomery St., San Francisco, Calif. 94104.
Donald Andrew Chiesa, Director, One Montgomery St., San Francisco, Calif. 94104.
Owen Howe Harper, Director, One Montgomery St., San Francisco, Calif. 94104.
Charles Mitchell Stockholm, Director, One Montgomery St., San Francisco, Calif. 94104.
Crocker National Bank, One Montgomery St., San Francisco, Calif. 94104, 100 percent.

The applicant which is a California corporation will begin operations with an initial capitalization of $1 million. No concentration in any particular industry is planned. The applicant intends to make investments in small business concerns, with growth potential located primarily within the State of California.

Matters involved in the SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the Act and SBA rules and regulations promulgated thereunder.

Any person may on or before November 1, 1978, submit to the SBA written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in San Francisco, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29278 Filed 10-16-78; 8:45 am]

[8025-01-M]

[License No. 09/12-0150]

CROCKER CAPITAL CORP.

Filing of Application for Transfer of Control and Ownership of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR 107.701 (1978)) for a transfer of control and ownership of Crocker Capital Corp. (CCC), 111 Sutter Street, Suite 600, San Francisco, Calif. 94104, a Federal license under the Small Business Investment Act of 1958, as amended (Act).

CCC was licensed on February 13, 1970. Its present combined paid-in capital and paid-in surplus (private capital) is $1,250,000. Their indebtedness to SBA approximates $2.2 million. The proposed transfer of control and ownership is subject to and contingent upon approval by SBA.

The outstanding common stock of CCC is presently owned by:

Crocker National Corp., One Montgomery Street, San Francisco, Calif. 94104; 49 percent, a bank holding company.
Crocker Associates, 111 Sutter Street, Suite 600, San Francisco, Calif. 94104, 39 percent, a limited partnership.
11 other individuals each owning less than 5 percent, 12 percent.

The change in control and ownership would result from CCC purchasing back its outstanding stock held by Crocker National Corp. (CNC). The private capital of CCC would be reduced to $895,500 as a result of the purchase. Crocker Associates would have 78 percent of the remaining outstanding stock. Crocker Associates is a limited partnership with Charles Crocker as the general partner. Mr. Crocker holds around 25 percent of the partnership equity. The ownership of Mr. Crocker and the Crocker Family in CNC is de minimus.

CNC is selling its stock in CCC because it has submitted an application for a license for Crocker Ventures, Inc. (CV), to operate as an SBIC. CV would be wholly owned by Crocker National Bank which is wholly owned by CNC. Section 107.702 of the regulations prohibits ten or more percent shareholders in more than one SBIC without prior written SBA approval.

Matters involved in the SBA consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the Act and SBA rules and regulations promulgated thereunder.

Any person may on or before November 1, 1978, submit to the SBA written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in San Francisco, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29281 Filed 10-16-78; 8:45 am]

[8025-01-M]

[License No. 01/02-0329]

FIRST GENERAL CAPITAL CORP.

Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's rules and regulations governing small business investment companies (CFR 107.105 (1978)), First General Capital Corp. (FGCC), 505 Park Avenue, New York, N.Y. 10022, incorporated under the laws of the State of New York has surrendered its license No. 02/02-0329 issued by the SBA on August 31, 1977.

FGCC has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited regulation, the license of FGCC is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 11, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29272 Filed 10-16-78; 8:45 am]

[8025-01-M]

[Proposed License No. 01/01-0293]

HELLMAN, GAL CAPITAL CORP.

Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) under the name of Hellman, Gal Capital Corp. (Applicant), for a license to operate as a Small Business Investment Company under the provisions of the Small Business Investment Act of 1958, as amended (Act), and the rules and regulations promulgated thereunder.

The Applicant was incorporated under the laws of the Commonwealth of Massachusetts and it will commence operation with a capitalization of $150,000, which will be obtained through the sale of its common stock to one investor, Hellman, Gal Investment Associates, a Massachusetts limited partnership. Hellman, Gal Investment Associates will subscribe for additional common stock of the Applicant in the amount of $850,000, such subscription to be made in such installments, and at such times, as Hellman, Gal Capital Corp. may request.

The following will be officers and directors of the Applicant.

Name and Title

Frederick Warren Hellman, North Brookwood Road, Stratton, Vt., Chairman and Director.
Joseph J. Gal, 861 Hale Street, Beverly Farms, Mass., President, Treasurer, and Director.
Paul J. Ferri, 27 Colony Road, Weston, Mass., Vice President and Director.
Richard Testa, 6 Longfellow Road, Wayland, Mass., Clerk.
Andrew E. Taylor, Jr., 28 Fisher Avenue, Newton, Mass., Assistant Clerk.

Messrs. Heilman, Gal, and Ferri are the only general partners of Hellman, Gal Investment Associates, the sole stockholder of the Applicant.

The Applicant will have its principal place of business at One Federal Street, Boston, Mass. 02110, and it intends to make investments principally in the Commonwealth of Massachusetts, and in other areas within the United States, its territories and possessions.

Matters involved in SBA's consideration of the Applicant include the general reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is hereby given that any person may on or before November 1, 1978, submit written comments on the Applicant to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Boston, Mass.

(Catalog of Federal Domestic Program No. 59.011, Small Business Investment Companies.)

Dated: October 2, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29277 Filed 10-16-78; 8:45 am]

[8025-01-M]

[License No. 01/01-0290]

NEW ENGLAND CAPTIAL RESOURCES CORP.

Issurance of License To Operate as a Small Business Investment Company

On April 19, 1978, a notice was published in the FEDERAL REGISTER that New England Capital Resources Corp., 50 Washington Street, South Norwalk, Conn. 06854, had filed an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license to operate as a small business investment company.

Interested parties were given until the close of business on June 5, 1978, to submit written comments on the application to the SBA.

Notice is hereby given that no written comments were received, and having considered the application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0290 on Septemer 29, 1978, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 11, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29270 Filed 10-16-78; 8:45 am]

[8025-01-M]

REGION VI ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, La., has changed the date of its public meeting from 9:30 a.m. on Friday, October 27, 1978, to 9:30 a.m. on Wednesday, November 15, 1978, at the Small

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Business Administration District Office, Plaza Tower Building, 1001 Howard Avenue, 17th Floor, New Orleans, La., to discuss such matters as

transfer of ultimate control of Licensee from Union Bancorp to SCB.

Matters involved in the SBA's consideration of the application include

damage caused by high wind, rainstorm, and flash flooding which occurred on August 22-23, 1978. Eligible persons, firms, and organizations may

[4810-25-M]

DEPARTMENT OF THE TREASURY

As previously announced, the applicable trigger price for a given imported steel mill product consists of the

(2) If a particular product measurement specification falls between two measurement specifications for which

Business Administration District Office, Plaza Tower Building, 1001 Howard Avenue, 17th Floor, New Orleans, La., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Joseph M. Conrad, Jr., District Director, U.S. Small Business Administration, 1001 Howard Avenue, Suite 1724, New Orleans, La. 70113, 504-589-2744.

Dated: October 11, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-29280 Filed 10-16-78; 8:45 am]

[8025-01-M]

[License No. 09/12-0145]

UNION VENTURE CORP.

Filing of Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR 107.701 (1978)) for the transfer of control of Union Venture Corp. (the Licensee), licensee No. 09/12-0145, 445 South Figueroa Street, Los Angeles, Calif. 90017, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act).

The Licensee was licensed on September 30, 1967, with paid-in capital and paid-in surplus of $705,000. As of December 31, 1977, the Licensee had private capital of $2,000,000. Union Bank owns 100 percent of the outstanding stock of the Licensee.

On July 14, 1978, Union Bank and its parent corporation Union Bancorp, Inc. (Union Bancorp), entered into an agreement (the Agreement) pursuant to which Union Bancorp will merge with a wholly owned subsidiary of the Standard Chartered Bank Ltd., a English banking corporation (SCB) upon the satisfaction of certain conditions precedent set forth in the Agreement, which conditions include the approval of such merger by the Federal Reserve Board and the California Superintendent of Banks and approval by the shareholders of Union Bancorp. The Agreement provides that SCB shall elect which of Union Bancorp or the other merging corporation shall cease to exist and which of them shall be the surviving corporation in such merger, and further provides that SCB may select the initial directors and officers of the surviving corporation. The Agreement thus provides for the transfer of ultimate control of Licensee from Union Bancorp to SCB.

Matters involved in the SBA's consideration of the application include the general business reputation and character of the proposed transferees and the probability of successful operation of the Licensee under their control and management in accordance with the Act and regulations.

Notice is further given than any interested person may, not later than November 1, 1978, submit their comments, in writing, on the proposed transfer of control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A similar notice shall be published by the Licensee in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 11, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29273 Filed 10-16-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1535]

VERMONT

Declaration of Disaster Loan Area

The area of (Bellows Falls Square) 38-43 Village Square in the town of Rockingham, Windham County, Vt., constitutes a disaster area because of damage resulting from a fire which occurred on August 19, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on December 11, 1978, and for economic injury until the close of business on July 11, 1979, at Small Business Administration, District Office, 87 State Street, Montpelier, Vt. 05602, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 11, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-29275 Filed 10-16-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1534]

WISCONSIN

Declaration of Disaster Loan Area

Ashland County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by high wind, rainstorm, and flash flooding which occurred on August 22-23, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on December 8, 1978, and for economic injury until the close of business on July 6, 1979, at Small Business Administration, District Office, 212 East Washington Avenue, Second Floor, Madison, Wis. 53703, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 6, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-29279 Filed 10-16-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Object Class No. 4910-06]

MINORITY BUSINESS RESOURCE CENTER ADVISORY COMMITTEE

Meeting

Pursuant to section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held on October 31, 1978, at 10 a.m. until 1 p.m. at the Federal Aviation Administration's Auditorium, 800 Independence Avenue SW., Room 318 (Auditorium), Washington, D.C. 20590. The agenda for the meeting is as follows:

Progess Report to Minority Trade and Business Development Organizations.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Mr. Harvey C. Jones, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, telephone 202-472-2449.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on October 10, 1978.

KENNETH E. BOLTON,
Executive Director.

[FR Doc. 78-29217 Filed 10-16-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

THIRD AND FOURTH QUARTER TPM MANUAL

Notice of Publication

The Treasury Department hereby announces the publication of a trigger price manual which incorporates in one volume all trigger prices announced to date. The manual is being used during the third and fourth quarters of 1978 by U.S. Customs officials at ports of entry. The manual is being distributed automatically by the Department of the Treasury to all persons on the Department's steel mailing list.

Since January 3, 1978, when trigger prices were first announced on basic steel mill products, numerous additions, adjustments and corrections have been made. Among other changes, trigger price levels have been adjusted to reflect changes in Japanese costs of production and dollar-yen exchange rates. This handbook consolidates all previously published corrections, adjustments and changes that have been generated by, or have come to the attention of, the Treasury Department and Customs Service Headquarters officials involved in administering the trigger price mechanism.

As previously announced, the applicable trigger price for a given imported steel mill product consists of the base trigger price for that product plus appropriate extras, as well as ocean freight, insurance, interest and handling costs. Each of these components is contained in this handbook.

Ocean freight and related costs are differentiated for each of the four major importing regions—the Atlantic Coast, Gulf Coast, West Coast, and Great Lakes.

The base prices herein are stated in U.S. dollars per metric ton and consist of the Japanese cost of production (including overhead and profit) estimated from Japanese-supplied information and other available evidence. The "extras" lists set forth the prices associated with the additional costs for different specifications, such as width, thickness, chemistry, and surface preparation.

Three types of circumstances commonly arise with respect to extras, and will be treated as follows:

(1) If a product embodies extras which are not listed in the handbook, the product does not become exempt from trigger price scrutiny. Instead, in that circumstance the base trigger price plus whatever applicable extras are listed in the handbook will apply.

(2) If a particular product measurement specification falls between two measurement specifications for which an extra is listed, the higher dollar value extra will be utilized, unless otherwise noted.

(3) If a measurement specification falls above or below the range of measurement specifications for which extras are listed, the product is usually not intended to be covered by trigger prices because it is not commonly made in or imported into the United States.

The trigger prices are published in the sequence of the 32 categories of basic steel mill products defined by the American Iron and Steel Institute. The categories for which there is trigger price coverage may be found in the table of contents. TSUSA numbers and duty rates are listed for the most commonly imported items in each of these categories. It should be noted, however, that these TSUSA numbers do not include all the products covered by trigger prices when the various extras are applied.

In addition to consolidating all published trigger prices in one publication, this Manual also makes changes to correct misprints in previous publications or to revise individual trigger prices based on most recent cost information. Below are listed certain changes of significance:

AISI catalog	Product description	Description of action
2	Spheroidized annealed wire rod, 4037, 9254, 52100	Thermal treatment extras changed to read: Regular anneal only—$21 per metric ton No heat treatment—$63 per metric ton
6	Heavy steel rails	Extras changed to read: Heat treating—$70 per metric ton End hardening—$3 per rail Quantity extras under 200 through 100 metric ton $4 under 100 through 50 metric $5 (previous publications gave these as a percentage).
11	Hot rolled AISI 8620 bar	Thermal treatment extras changed to read: Spheroidized anneal—$63 per metric ton Quench and temper—$116 per metric ton
14	Continuous buttweld pipe	Trigger price for extra strong wall thickness revised to reflect most recent Japanese cost data.
14 and 15	Pipe and tube products	Freight rates table expanded to include sizes up to 48 in.
15	Seamless carbon steel pressure tubing	Added random length deductions
16	Cold finished spheroidized annealed wire 4037, 9254	Thermal treatment extras changed to read: Regular anneal only—$21 per metric ton No heat treatment—$63 per metric ton
23	Electrolytic tin plate	Published revised extras tables for fourth quarter extras. The 13.77 pct increase for fourth quarter double-reduced extra applies only to double-reduced base weight and coating extras. The 2.39 percent fourth quarter increase for cut length, width and quality applies to both single-reduced and double-reduced ETP.
32	Tin-free steel	Published revised extras tables for fourth quarter extras. The 14.02 pct increase for fourth quarter double-reduced extra applies only to double-reduced base weight extra. The 1.15 pct fourth quarter increase for cut length, width and quality applies to both single-reduced and double-reduced TFS.

All the adjustments to trigger prices being announced here will be used by the Customs Service to collect information at the time of entry on all shipments of the products covered which are exported after the date of publication of this notice.

Due to the number of pages involved, only the table of contents and the substantive changes are published as a part of this notice.

Dated: October 10, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

THIRD AND FOURTH QUARTER TRIGGER PRICE HANDBOOK

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[FR Doc. 78-29256 Filed 10-13-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 117]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 17, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132.

MC-FC 77874. By application filed October 4, 1978, PATRICK J. ENNIS and DOUGLAS J. BRADLEY (noncarrier), a partnership, Popejoy, IA 50227, seeks temporary authority to transfer a portion of the operating rights of Sioux City Bulk Feed, Service, Inc., Hwy 75 North, Sioux City, IA 51108, under section 210a(b). The transfer to Patrick J. Ennis and Douglas J. Bradley (noncarrier), a partnership, of a portion of the operating rights of Sioux City Bulk Feed Service, Inc., is presently pending.

MC-FC 77882. By application filed October 6, 1978, LAVONNE R. JAHN, an individual, South Hokah Street, Caledonia, MN 55921, seeks temporary authority to transfer the operating rights of Theodore Ranzenberger, an individual, 403 East Madison, Caledonia, MN 55921, under section 210a(b). The transfer to Lavonne R. Jahn, an individual, of the operating rights of Theodore Ransenberger, an individual, is presently pending.

By the Commission.

H. G HOMME, JR.,
Acting Secretary.

[FR Doc. 78-29263 Filed 10-16-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

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[M-169; Oct. 12, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 2 p.m., October 19, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument—Dockets 33093 and 32128, Domestic Cargo Rules and Revised Air Freight Forwarder Rules.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2087-78 Filed 10-13-78; 3:45 pm]

[6335-01-M]

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, September 25, 1978, 9 a.m. to 12 noon; 1:30 to 4:30 p.m.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C. 20425.

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of agenda.
II. Approval of minutes from last meeting.
III. Staff Director's Report:
A. Status of funds.
B. Personnel report.
C. Correspondence:
1. Letter from Acting Staff Director to SBA.
2. Selected letters re Social Indicators report from: (a) MC Augustus F. Hawkins, (b) MC Louis Stokes, (c) Secretary of Labor Ray Marshall, (d) Acting BLS Commissioner Janet L. Norwood, and (e) Community Services Administration Director Graciela Olivarez.
3. Letter from Commerce Secretary Juanita Kreps re affirmative action.
4. Letter from Asst. Attorney General Drew Days re post-Bakke.
D. Office Director' Reports.
IV. Report on civil rights developments in the Northeast region.
V. Approval of interim appointments to Georgia, Maine, Missouri, Pennsylvania, Tennessee, and Vermont Advisory Committees.
VI. Review of Tennessee Advisory Committee Report on Police-Community Relations in Memphis.
VII. Discussion of Advisory Committee for Pacific Trust Territories.
VIII. Discussion of civil rights compliance in vocational education.
IX. Discussion of State Advisory Committee reports on post-Bakke reaction.

STATUS: Closed to the public.

MATTER TO BE CONSIDERED:

X. Briefing on immigration hearing (approximately 1½ hours).

STATUS: Open to the public, 1:30 to 4:30 p.m.

MATTERS TO BE CONSIDERED:

Review of school desegregation monograph.
Review of media update.

STATUS: Open to the public.

DATE AND TIME: Tuesday, September 26, 1978, 9:00 a.m. to 12 noon.

MATTERS TO BE CONSIDERED: Review of ERA monograph.

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-2086-78 Filed 10-13-78; 3:41 pm]

[6210-01-M]

3

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 11 a.m., Friday, October 20, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2081-78 Filed 10-13-78; 10:42 am]

[6750-01-M]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, October 20, 1978.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Meeting with members of the Chamber of Commerce of the United States to discuss the direction of the Federal Trade Commission in the areas of regulation and competition.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830, Recorded Message: 202-523-3806.

[S-2083-78 Filed 10-13-78; 10:42 am]

[6820-35-M]

5

LEGAL SERVICES CORPORATION (board of directors meeting).

TIME AND DATE: 9 a.m., Thursday and Friday, October 19-20, 1978.

PLACE: Marvin Center, George Washington University, 800 21st Street NW., Washington, D.C.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of the agenda.
2. Approval of minutes of July 6-7, 1978 meeting.
3. Reports by committees:

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a. Committee on Provision of Legal Services

Paper on "Support: Policies and Options for 1979 and Beyond".
Study mandated by section 1007(h) of the Legal Services Corporation Act.
Legal Services Institute proposal.
Reginald Heber Smith Program.

b. Committee on Appropriations and Audit

Status of the annual audit.
Status of the fiscal year 1978 budget.
Proposed allocation of the fiscal year 1979 budget.
Discussion of the fiscal year 1980 budget request.
Renewal of the contract with the Corporation's investment advisor.
Renewal of the agreement with the Treasury Department for disbursement of the fiscal year 1979 appropriations.

c. Committee on Regulations

Consideration of proposed amendments that were published for comment.
1602 Procedures for disclosure or production of information under the Freedom of Information Act.
1609 Fee-generating cases.
1620 Priorities in allocation of resources.
Internal staff directives concerning expansion.

d. Committee on Personnel and Facilities

Consultation on: (i) Staff salary adjustments and (ii) compensation of Corporation officers.
Approval of outside compensation of Corporation officers.
4. Reports by the President. The "Next Steps" process.
5. Future meeting dates.
6. Other business.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dellanor Young, Office of the President, telephone 202-376-5100.

Issued: October 12, 1978.

THOMAS EHRLICH,
President.

[S-2082-78 Filed 10-13-78; 10:42 am]

[7600-01-M]

6

[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m., October 27, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-4015.

Dated: October 13, 1978.

[S-2084-78 Filed 10-13-78; 3:23 pm]

[7910-01-M]

7

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, October 24, 1978; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to public observation. Matters 4 and 5 are closed to public observation. Matters 6 and 7 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held October 17, 1978, and other Board meetings, if any.

2. Recommended action on contractor's request for a statement of facts and reasons: DeLong Corp., fiscal year ended December 31, 1969.

3. Recommended assignment to a division: Kings Point Industries, Inc., consolidated with: Kings Point Manufacturing Co., Inc., fiscal years ended April 30, 1969, 1970, and 1971; and simultaneous with Victory Enterprises, Inc., fiscal years ended September 30, 1969, 1970, and 1971.

4. Court of Claims case: *Commander Industries, Inc. v. United States Court of Claims*, Nos. 288-75, 289-75, and 290-75.

5. Exemption of receipts or accruals of common carriers of ocean shipments of cargo at, or at rates below, rates filed with the Federal Maritime Commission and under prime contracts or agreements with the Military Sealift Command for transportation of cargo at rates based on the manifest measurement or manifest weight of such cargo, fiscal year ended September 30, 1976.

6. Approval of agenda for meeting to be held November 7, 1978.

7. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 13, 1978.

GOODWIN CHASE,
Chairman.

[S-2085-78 Filed 10-13-78; 3:23 pm]

federal register

TUESDAY, OCTOBER 17, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

FOOD STAMP PROGRAM

Implementation of the Food Stamp Act of 1977

[3410-30-M]

Title 7—Agriculture

ceived. Many letters contained detailed recommendations and criticisms concerning many aspects of the proposed rules. A number of letters expressed confusion about the definitions and local agencies requested clarification of such definitions as "period of application," "spouse," and "boarder." Some commenters also requested that

which makes FNS, instead of State agencies, responsible for reviewing most claims against recipients.

The final rules emphasize that the

It is the Department's position that State agencies have the primary obligation to handle complaints and to review their own complaint procedures

forts, the State agency may withhold confidential information such as the names of individuals who have dis-

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[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 152]

FOOD STAMP PROGRAM

Implementing the Food Stamp Act of 1977

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking implements major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost, eligibility criteria, certification and issuance procedures, and fraud disqualification requirements. The changes are intended to tighten eligibility criteria, to facilitate participation by eligible households, to strengthen program administration, and to reduce program fraud and abuse.

EFFECTIVE DATE: October 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

On May 2, 1978, the Department published a comprehensive and detailed proposal concerning major aspects of the Food Stamp Act of 1977. The Department explicitly invited careful public scrutiny of that lengthy proposal and encouraged "detailed written criticism and comment."

In addition to publication in the FEDERAL REGISTER (43 FR 18874-18958), the Department provided 10,000 reprints of the proposal to public interest law and food advocacy groups, State public assistance departments, other Federal agencies, local welfare groups, organizations with technical expertise or specialized knowledge, and other interested organizations or individuals.

Approximately 19,400 pages of comments were received from 7,828 organizations or persons, raising 38,783 specific points. Some comments were signed by more than one person or group;[1] 2,568 different letters were received. Many letters contained detailed recommendations and criticisms concerning many aspects of the proposed rules. A number of letters exceeded 50 pages in length.

This preamble articulates the basis and purpose behind significant changes from the May 2 proposal. The reasons supporting those provisions of the May 2 proposal which are unchanged by these final rules were carefully examined in light of the comments to determine the continued applicability of each justification. Unless otherwise stated, or unless inconsistent with the final rules or preamble, the rationale contained in the proposal should be regarded as a basis for the pertinent final rules. Thus, a thorough understanding of the grounds for the final rules may require reference to the May 2, 1978, publication (43 FR 18874).[2] In light of the massive nature of this rulemaking, the Department considered it cost inefficient to reprint justifications, expressed in the proposal, which the Department considers compelling even in light of the comments.

Moreover, while the Department examined all relevant letters, many comments did not disclose a factual or policy justification, or a significant rationale, for certain recommendations. Other comments requested changes contrary to the Act, or articulated a rationale inconsistent with statutory provisions. Still other recommendations, anticipated in the proposal, were unresponsive to departmental justifications stated in the May 2 preamble. Even though some of the types of comments discussed in this paragraph are addressed in the preamble, it was determined, in light of the large number of significant and responsive comments, that not all the points raised could be addressed in this preamble. Moreover, there were two issues, raised by comments, which need further departmental study. These issues concern the food stamp eligibility of North American Indians whose reservations cross the Canadian border and the food stamp eligibility of persons protected under certain international treaties. After further study, the Department expects to issue final rules on those issues.

DEFINITIONS

Approximately 80 individuals and groups commented on this section. A majority of the commenters suggested that additional terms be defined or that some definitions be revised. State and local agencies requested clarification of such definitions as "period of application," "spouse," and "boarder." Some commenters also requested that definitions be added for "child," "tax dependent," and "adult." Some comments suggested a nationwide definition of "adult" for use particularly in relation to the responsibilities of authorized representatives since the definition of "adult" may vary from State to State.

The Department has decided to define technical terms of unique applicability to the food stamp program in the definition section of the regulations. In addition, many terms which apply only to a specific program function are defined in the body of these regulations.

The definitions of "communal dining facility," "coupon," "drug addiction or alcoholic treatment and rehabilitation program" "eligible food," "meal delivery service," "nonprofit cooperative food purchasing venture," "retail food store," "staple food," and "wholesale food concern" are published at 43 FR 43272 (September 22, 1978). Those terms accompany the final rules on retailer and wholesaler participation in the program (parts 278 and 279).

For greater clarity, some definitions have been revised or added in accordance with the comments. These are "application for participation," "general assistance," "spouse," "Food Stamp Act," "project area," and "thrifty food plan."[3]

The definitions of "State" and "State agency" are retained from current rules pending implementation of additional sections of the Food Stamp Act of 1977.

Delegations. The proposed rules provided for the Federal administration of the program by FNS and the assignment of certain administrative responsibilities to State agencies. Pursuant to section 13 of the Act, State agencies were authorized to settle and adjust claims against households.

Fifteen comments on delegations were received, mostly from State and local agencies. Some commenters felt that the claims delegation to State agencies should expedite the clearance of claims. Other commenters preferred retaining the current system

[1] At least 3,800 commenters sent form letters or signed petitions. The Department based the final rules on its analysis of the content of the letters not on the numbers of commenters favoring a position, although strong concensus endorsing a suggestion was noted. Recommendations supported by adequate reasons were carefully considered.

[2] Copies of that rulemaking should be available in many public libraries and almost all law libraries. The Department has some remaining copies which are available upon request.

[3] Some of these changes, in definitions, were largely based on the Food Research and Action Center (FRAC) comment. The Texas Department of Human Resources noted that the reference to common law spouse "could greatly complicate the certification process * * *. Too much time could be expended attempting to ascertain if common law status exists * * *." The Department agrees with that analysis and also fears that common law determinations could depend on specialized legal knowledge of State judicial precedents. The final rule is relatively easy to apply and will obviate the need for a common law analysis in almost all circumstances.

which makes FNS, instead of State agencies, responsible for reviewing most claims against recipients.

The final rules emphasize that the Secretary reserves the ultimate administrative responsibility for the program. As contemplated by the Act, the proposed rules place responsibility for local program functions with the State agency. Delegating the responsibility for handling claims to the State level will eliminate duplication of efforts and the resulting needless paperwork. For example, for each claim on which a household is making payments, the State agency, the Regional Office, and the FNS comptroller currently keep records. Delegation of this responsibility to the States will eliminate this duplicate paperwork. Moreover, household data and financial records are maintained and updated by State agencies, sometimes at central data processing facilities. The Department also believes that claim collection efforts can be more efficiently conducted and assessed at the local level.

Coupons as obligations of the United States, crimes and offenses. Less than 10 individuals and groups commented on coupon issuer penalties and the monitoring of coupon issuer activities. These comments, by and large criticized the criminal penalties provided by the Act. The final regulations restate those statutory penalties.

Complaint procedures. The complaint procedure section of the proposed rules contains a list of FNS Regional Offices and advises that complaints and requests for information may be filed at the appropriate Regional Office, FNS. It should be noted that this complaint procedure is for complaints regarding matters other than discrimination. Discrimination complaints are addressed in section 272.7.

Approximately 30 individuals and groups commented on this section and all comments recommended certain modifications. About half of the comments suggested handling all complaints at the FNS regional and national level, using hotlines for reporting complaints, and establishing a time limit for FNS handling of complaints. Several commenters felt that States should be required to inform clients of the existence of the complaint procedure through notices, advertisements, or news releases. On the other hand, several program agencies wanted all complaints, including discrimination complaints, handled at the State level. It was argued that State processing of complaints would identify frequently occurring problems, and could facilitate corrective action. Two commenters suggested that a time limit be set for filing complaints.

It is the Department's position that State agencies have the primary obligation to handle complaints and to review their own complaint procedures to assure that the procedures are effective. The requirements for State agency handling of complaints will be forthcoming. States have a local organization and staff, ready access to household data and are closer than FNS to witnesses and sources of information about the complaint. Moreover, complaint evaluation is part of the State agency's overall responsibility to maintain the effectiveness of the program. To insure the prompt and effective resolution of problems, the Department believes that FNS Regional Offices should develop procedures, through the performance reporting system, to review the State agency's complaint resolution efforts. To provide an alternative remedy, any complaint will be handled by FNS, upon household request, unless the complainant wishes a fair hearing.

REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

GENERAL TERMS AND CONDITIONS

No aid reduction. Wording from section 8(b) of the Act has been inserted in this paragraph.[4] This language continues the current prohibition on aid reduction. In subsequent rulemaking, the Department will consider whether this section requires more detailed and specific rules to effectively enforce the statutory prohibition, especially in reference to general assistance (GA) grants.

Disclosure. The proposed regulations, which restated the current regulatory language, specified that use or disclosure of information obtained from applicant households shall be restricted to persons directly connected with the administration or enforcement of the provisions of the Act or regulations. Approximately 150 commenters recommended expansion or clarification of this paragraph. Consequently, to achieve greater administrative efficiency, the Department added clarifying language to stress that food stamp case file information is available to persons administering other federally aided, means tested assistance programs, such as AFDC, medicaid, SSI and to those administering general assistance programs, if such programs are subject to the joint processing requirements. Language was also added to provide that during normal business hours case file information must be available to households or their representatives. However, to avoid interfering with enforcement efforts, the State agency may withhold confidential information such as the names of individuals who have disclosed information about the household or the status of pending criminal prosecutions.

Information available to the public. The current regulatory language has been inserted in this section. The Department added State manuals to the list of information that must be maintained for public inspection by State agencies and in FNS, Regional, and National Offices. This requirement conforms with current policy.

IMPLEMENTATION

The Department proposed that the new program be implemented in two distinct phases. Upon publication of the final rules, States were to prepare, print, and distribute necessary instructions and forms, train staff, reprogram data processing equipment, and inform the public of the program changes. States were to be given 3 to 4 months to complete that phase.

The second phase involved converting the current caseload to the new program, as well as certifying all applicants under the new procedures. As households came due for recertification, they were to be converted according to the new regulations. All households which would not normally have been recertified during phase 2 would have been converted through State agency reviews of each case file (desk reviews). At the beginning of the second phase, the purchase requirement was to be eliminated for all households. Households previously certified under the income definition of the Food Stamp Act of 1964 would receive the bonus allotments, as determined by current regulations, at no cost until recertified under the new program rules.

Advocacy groups and participants urged that EPR be made effective immediately; State and local agencies strongly opposed the proposed implementation schedule and urged that they be given more flexibility or more time to prepare for and complete implementation of the new eligibility and benefit rules. The general scheme of the Act, made clear by the legislative history, is that the expansion of the program due to EPR would be offset by the termination or reduction in benefits of higher income households through lower eligibility standards (OMB poverty line cutoff) and the more restrictive income calculations (a standard deduction and a capped dependent care and/or excess shelter cost deduction replacing uncapped itemized deductions). Thus, no implementation schedule which did not closely link EPR with the new income and eligibility factors could be approved.

[4] Sec. 8(b) provides that "no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of receipt of an allotment under this Act".

In light of the reasons supporting State and local agency recommendations, the Department is concerned about the States' abilities to convert to the new program under the proposed schedule. Many commenters noted that the new benefit calculations would require substantial changes in computer programs and that the May 2 proposal would not allow sufficient time for those changes. Moreover, section 1303(a) of the Act allows the Secretary to implement the new benefit calculations by establishing precise deadlines and short time frames for the transition."

Moreover, section 1303(a) of the Act allows the Secretary to implement the new benefit calculations by establishing precise deadlines and short time frames for the transition." Although the Department has considered the comments and has concluded that a longer implementation period is appropriate for particular States or persons, the Department believes that the overall schedule, detailed in the regulations, is reasonable. Moreover, the is-

all households no later than the January 1, 1979, issuance.

(2) States must begin implementing the new eligibility and benefit deter-

Several commenters recommended that the use of volunteers be stressed or mandated. The Department agrees that in many instances volunteers can

3,000; 50 if 3,000 or less) the Department had chosen. Consequently, to provide adequate bilingual services" to

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In light of the reasons supporting State and local agency recommendations, the Department is concerned about the States' abilities to convert to the new program under the proposed schedule, while maintaining adequate service to recipients. The Department is convinced that the proposed schedule would have represented an unrealistic timetable, which could have resulted in chaotic implementation of the new rules with a high incidence of errors.[5]

As a solution, certain State and local agencies urged that States be given the option to eliminate the purchase requirement as the first step in the conversion phase. They asserted this would achieve a smoother transition, allow for maintenance of adequate services during the conversion, and minimize error rates. It was asserted that advance EPR would provide State agencies an opportunity to rectify any problems arising from implementation of a major aspect of the Act of 1977[6] before facing any difficulties arising during implementation of the new income and eligibility factors.[7] However, the Department believes that the Act and the legislative history demonstrate that EPR and the benefit calculations are closely interrelated.[8] Thus, the final schedule recognizes the close interrelationship between EPR and the new benefit calculations by establishing precise deadlines and short time frames for the transition.[9]

Moreover, section 1303(a) of the Act allows the Secretary to implement the Act in a manner "consistent with the effective and efficient operation of the program." Based on the comments, the final conversion schedule should maintain the efficiency and effectiveness of the program while implementing new rules as expeditiously as possible.[10]

The Department has also revised the implementation schedule for other changes. Based on State agency comments which reasonably demonstrated an inability to meet proposed deadlines, the Department has extended some aspects of the implementation schedule and made it more explicit.[11]

While the choice of any particular date to establish any given deadline may be challenged as not being appropriate for particular States or persons, the Department believes that the overall schedule, detailed in the regulations, is reasonable. Moreover, the issuance of specific timeframes or dates insures a more uniform national implementation and sets deadlines for State agencies to meet.

To provide FNS with flexibility to cope with problems not currently anticipated or serious difficulties in the actual implementation FNS may grant extensions for some of the deadlines, but only where the State agency presents compelling justification in writing and establishes an alternative schedule. Under no circumstances will extensions of more than 120 days be allowed.

One aspect of the special implementation schedule should be explained in more detail. To integrate the current procedures for claims and credits into the new program and to eventually eliminate the need to cope with stale claims and credits which arose under the Act of 1964, the Department shall consider that any causes of action, still existing on November 1, 1978, shall be considered to have arisen on November 1, 1978.

Households shall have until November 1, 1979, to file for benefits lost under the Act of 1964 through underissuances. State agencies shall have until November 1, 1979, to file claims against households for overissuances under the Act of 1964; so long as the cause of action existed on November 1, 1978.

To avoid maintaining active files on lost benefits and to convert to the new procedures, all households entitled to lost benefits at the time of conversion to the new program are entitled to restoration in one lump sum, even if ineligible, as specified in these rules. State agencies are encouraged to implement these procedures concurrently with the elimination of the purchase requirement. In addition, State agencies that can readily identify households that have been unable to receive their entitlement to lost benefits because they are ineligible must notify these households and restore the lost benefits within 4 months of implementation of the lost benefits procedures. In State agencies where these households cannot be readily identified, a one-time-only press release must be issued which notifies ineligible households that their lost benefits can now be restored.

The implementation schedule for the transition to the new allotment and income calculations is:

(1) All States [12] must have eliminated the purchase requirement effective for all households no later than the January 1, 1979, issuance.

(2) States must begin implementing the new eligibility and benefit determination rules no later than March 1, 1979.

(3) States may implement EPR earlier than January 1, 1979, provided they begin to convert to the new eligibility and benefit determination rules not later than 3 months from the date they implement EPR.

(4) State agencies may implement the restoration of lost benefits prior to implementation of the other certification rules. The restoration rules shall apply to all households, even those households certified under the Act of 1964. Households entitled to credits for lost benefits which have not received the benefits because of ineligibility, shall be entitled to a restoration of these lost benefits, as soon as the new restoration rules are implemented.

(5) Effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the EPR date, shall receive the bonus amount provided under the Food Stamp Act of 1964, instead of the regular allotment, until recertified or until desk reviewed.

(6) States have 120 days from the day they begin implementing the new eligibility and benefit rules to complete the conversion of the existing caseload, through recertification or desk reviews, to the new income and benefit determination rules. No extensions of this rule will be granted.

Program Administration and Personnel Requirements

Merit personnel. The proposed and final regulations specify that certification personnel must be employed in accordance with the current standards for a merit system of personnel administration or any standards later prescribed by the U.S. Civil Service Commission. This language is based on requirements of the Act. Several commenters questioned whether food stamp eligibility workers must be hired under exactly the same merit requirements as are applied to AFDC eligibility workers. In the future, the Department will issue proposed rulemaking addressing this subject. At this time, the Department intends to propose that equivalent personnel standards be applied to AFDC and food stamp eligibility workers.

Several commenters recommended that the use of volunteers be stressed or mandated. The Department agrees that in many instances volunteers can be useful to program administration. A statement was added to encourage State agencies to use volunteers in activities such as outreach, prescreening, assisting applicants in completing applications, and securing needed verification.

Staffing standards. The proposed and final regulations require State agencies to employ sufficient staff to certify and issue benefits to eligible households and to process fair hearing requests within the required timeliness standards. Approximately 780 commenters discussed staffing standards and most were concerned that specific caseload standards were not set by regulation. Prior to issuing definite standards, the Department will contract for a study and evaluation of State agency certification procedures and develop a general method for establishing staffing standards. The Department plans to issue this contract in December of this year so that the study will be conducted after the new eligibility criteria and processing standards are in effect. Comprehensive standards aimed at improving the quality and efficiency of services will be published as proposed rulemaking and comments will be solicited and analyzed prior to adoption of final rules.

Bilingual requirements. The proposed regulations required bilingual services based on the total number of households needing that service compared to the number of low-income households in a given project area. There were separate standards for large and small project areas. Large project areas (over 3,000 low-income households) had to provide bilingual materials and staff if they had at least 150 households of the same single language low-income group.[13] Small project areas (3,000 or less low-income households) had to provide bilingual materials and staff if they had at least 50 such households.

Although many commenters suggested adoption of a uniform percentage test, the Department rejected that concept because it could require bilingual service in sparsely populated areas where only two or three households are of a single language minority group. Conversely, in densely populated low-income areas, hundreds of single-language minority households could be an insufficient number to meet the percentage test required for bilingual services.

Other commenters took issue with the actual numbers (150 if more than 3,000; 50 if 3,000 or less) the Department had chosen. Consequently, to provide adequate bilingual services[14] to non-English speaking households and to also establish a more uniform standard that is equitable to all, regardless of project area population, the Department developed the following criteria. State agencies must provide appropriate language certification materials and bilingual staff or interpreters in each individual certification office that serves an area containing over 100 single-language minority low-income households and in each project area with less than 100 low-income households if a majority of these households are of a single-language minority.[15] Certification materials are defined in the final regulations as including the application form, change report form and notices to households. If State agencies are required to print notices in more than one language other than English, the notice may be printed in English with a summary of the content in all other required languages and with a telephone number to call for more information about the notice. In addition, State agencies must provide appropriate language outreach materials in each project area containing less than 2,000 low-income households if over 100 of those households are single-language minority low-income households. For project areas containing over 2,000 low-income households, bilingual outreach is mandated if over 5 percent of the low-income households are in the same single-language minority. In addition, any project area which is required to provide bilingual staff and certification materials must provide bilingual outreach materials. As previously proposed, project areas with seasonal influxes of non-English speaking households are required to provide bilingual services during those months when enough single-language minority households move into an area to trigger either the bilingual materials and staff or the bilingual outreach requirement.

The proposed regulations required State agencies to develop estimates of the number of households needing bilingual services in each project area. Suggested sources for the information were listed in the regulations. In response to comments, migrant service

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[5] For example, the Department of Social Services for Los Angeles County doubted their "ability to implement a totally new food stamp program within the proposed time schedule." That county recommended EPR 60 days in advance of the caseload conversion. Their letter notes: We fear an inadequate time allowance for a project of this magnitude could create a chaotic situation, which would be detrimental to clients and the agency alike * * *. The size and complexity of our department will require careful planning and coordination to avoid serious errors and logistical problems * * *. Implementation of the new regulations must be spread out to enable staff to maintain adequate service to our clientele during the training and conversion phases.

[6] New Mexico suggested that beginning the conversion process with EPR, would provide additional time to "* * * enable State administrators to analyze * * * manpower requirements * * *." The Legal Services Corporation of Alabama noted: Indeed, early implementation of EPR may simplify later implementation of the rest of the food stamp program by having most of the confusion inherent in this change (mainly, recipients wrongfully believing they will receive their entire allotment at no cost) straightened out first.

[7] Among States requesting EPR as the first step in the implementation of the new benefit calculations were: Vermont, Texas, New Mexico, New York, Colorado, Missouri, Nebraska, Rhode Island, Louisiana, Utah, and Oklahoma.

[8] Section 8(a) of the Act ties coupon allotment levels to the household income calculations found in section 5 of the Act. Moreover, the House Report discusses the close interrelationship of EPR to the new income and eligibility factors.

[9] While the Administrative Procedure Act (5 U.S.C. 553) requires that departments take into consideration compelling arguments raised by commenters, that Act would not allow the promulgation of final rules contrary to the Food Stamp Act.

[10] Shortly after the proposed schedule was published, a court decision concerning that schedule was issued by Federal District Judge Cale Holder, Southern District of Indiana. In *Indiana Welfare Rights Organization (IWRO) v. Bergland* (U.S.D.C. S.D. Ind., June 30, 1978) it was argued by IWRO that EPR was not closely interrelated or tied to the new household income calculations and that EPR should be effective Jan 1, 1977. The Department argued, based on the wording of the Act and the legislative history, that those two aspects of the program were inextricably linked.

The court denied plaintiffs' motion for immediate EPR based on 1303(a) of the Act which, as the court stated, "does not *require* any section of the Act to be implemented sooner than any other section of that Act." (Emphasis added.) The court also found that, "[t]he failure of the defendant Robert Bergland to eliminate the purchase requirement prior to implementation of the rest of the Act does not violate the rights of the plaintiffs * * *."

The Department believes that both the proposed and the revised implementation schedule are consistent with that opinion. While the decision provided that the Secretary is not "required" to implement EPR ahead of other provisions, it does not seem to limit the Secretary's discretion to implement EPR as the first step in a conversion process that recognizes the interrelationship of EPR and the new income calculations.

The fact that one implementation approach is found not inconsistent with the Act does not seem to preclude careful analysis and response to comments, as required by the Administrative Procedure Act, and the development of a different schedule which is also consistent with the Food Stamp Act.

[11] As noted earlier, sec. 1303(a) of the Act allows the Secretary to implement the Act, as expeditiously as possible, consistent with the effective and efficient operation of the program.

[12] The term "States" as used in this schedule, includes the "counterpart local agencies," in States "where such assistance pro-

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grams are operated on a decentralized basis," as referred to in sec. 3(n) of the Food Stamp Act of 1977 (7 CFR 270.1(n), current regulations).

[13] This phrase refers to households which speak the same non-English language and which do not contain adults fluent in English as a second language.

[14] Of course, households are permitted to bring their own interpreter with them to interviews.

[15] The Department believes that in sparsely populated areas, in which a non-English language may predominate, that there should be bilingual service regarding that language. For example, in areas of Puerto Rico where Spanish is the predominate language (and English is not spoken as a second language) it seems appropriate to respond to the needs of those households for bilingual service.

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organizations were added to the list of source agencies.

Although many commenters, particularly State agencies, stated that the suggested information sources were inadequate to make accurate estimates, the Department has retained the requirement in the final regulations. The Department assumes that many State agencies know in general terms if they have large numbers of non-English speaking residents and that most can make estimates of the number of such households by using the suggested information sources. However, for the benefit of those project areas that cannot determine from those sources whether they are required to provide bilingual materials or staff, the regulations have been expanded to include the following method for arriving at a determination. For a 6-month period, as described in the implementation section of the regulations, certification offices in each such project area should record the total number of single-language minority households that visit the office to make inquiry about the program, file a new application for benefits, or be recertified. If over 100 single-language minority households are served in the 6-month period, that certification office will be required to provide bilingual staff or interpreters.[16] Any project area containing a certification office required to provide such bilingual service (contains over 100 single-language minority households) must provide bilingual outreach materials.[17]

State agencies meeting the requirements for bilingual materials must develop and distribute those materials in accord with standards set by regulation for use by program participants and the potentially eligible. FNS will develop program materials in a number of languages and will provide States with either the actual materials or with the format and language for reproduction by the State. FNS Regional Offices will contact State agencies in the near future about this distribution process.

Training. The proposed regulations required States to designate a training coordinator to develop training materials, supervise training sessions, insure that appropriate personnel receive training, and monitor compliance with the requirement for public participation in training sessions. About 1,100 commenters recommended that the training coordinator be a full-time position. In light of the critical importance of training to the effective operation of the program, the regulations were revised to require a full-time State level training coordinator. In addition, States that can demonstrate to FNS that they can fulfill the training requirements with a part-time coordinator may obtain a waiver from the requirement for a full-time position.

The proposed and final regulations require that training programs cover eligibility criteria, certification procedures, household rights and responsibilities, and other job related responsibilities concerning the certification of households. Interviewing skills and civil rights training have been added as subjects for which training should be provided.

The proposed regulations also required the training of outreach workers and others who prescreen or provide other services to applicants. A requirement that hearing officials be trained at least once during the first year of tenure was also proposed. Many commenters recommended further expansion of the training requirement. In response to such recommendations and in recognition of the significance of training, the final regulations require training for receptionists who prescreen applicants and for hearing officials[18] and performance reporting system reviewers both before the assumption of their duties and periodically as needed.

Advocacy groups and members of the public commented that the rules for public attendance at formal certification training sessions were too restrictive, and the number of public slots should be expanded. A number of State agencies registered an opposing viewpoint, and asked that requirements for public attendance be deleted.

The Department has retained the public attendance requirement, but modified it substantially. Several State agencies commented that certification training is detailed and technical, that it might not be useful to members of the public with only a general interest in the food stamp program, and that the trainees might have to move more slowly and cover less material if these public members were to benefit from the training. The Department agrees with these comments. Accordingly, the final regulations focus public attendance on persons "who represent recipients or organizations working on behalf of recipients, who are knowledgeable about program eligibility rules and certification requirements, and who are actively engaged in work or volunteer activity related to food stamp certification rules." These persons are the members of the public who could benefit most from certification training. Other members of the public can be trained in State training sessions for individuals and organizations involved in outreach or prescreening, which both the proposed and the final rules require.

Because of this focus on a particular group of public representatives, the Department has determined that number of required public slots at these sessions can be reduced. Accordingly, the final rules provide that only 5 percent of the attendance at these training sessions, up to a maximum of five persons, need be set aside for the public. This is half the number required in the May 2 proposal. In addition, to avoid burdening State agencies with having to provide for public attendance in small training sessions, the final rules exempt training sessions of fewer than 20 persons. This exemption is consistent with the exemption contained in the proposed regulations, and retained in the final regulations, for training sessions that are not statewide, citywide, or regional. The comments from the State of Oregon suggested this general approach. Oregon commented that rather than opening these sessions to the general public, the Department should instead authorize States to limit public attendance to knowledgable client representatives. "Limiting public attendance to client advocate groups would better serve the general public," Oregon wrote. In addition, "[I]t would inform these groups on program [sic] while introducing them to the staff that carries out the program. Additionally, problem areas could possibly be resolved without long legal battles. Finally, it would enable them to see program administration from a different prospective."

Some States were also concerned that if they put out general announcements to the public, far more members of the public would show up than the 10 percent that the proposal envisioned. The Department agrees with this concern. Accordingly, the final rule specifies that States shall directly invite individual members of the public who can attend the session; the States need not issue general announcements.

The Department expects States to invite individuals who are knowledgeable about the rules, and directly engaged in food stamp work on behalf of low-income households. The final rules prohibit the exclusion of qualified individuals due to disagreements between these persons and the State concerning the State's food stamp program.

[16] Of course, the need for bilingual service changes with changing concentrations of persons needing the service.

[17] The presence of a certification office in a project area which is required to provide bilingual service would be, in most cases, indicative of the possible need for bilingual outreach in the entire project area. The relatively low additional costs for bilingual outreach, as compared to regular outreach, justifies these efforts.

[18] FRAC strongly recommended comprehensive ongoing training for hearing officials to insure that their decisions reflect current FNS regulatory requirements.

The Department also received comments from a few States expressing concern that public representatives would disrupt training sessions. Although the Department does not believe this would occur in many instances, the final rules do allow States the option of limiting the role of public attendees to observers. The Department hopes that few States will find it necessary to exercise this option.

The Department considered the comments from advocacy groups that more, not fewer, public representatives should be trained at these sessions. However, the Department believes that these persons can receive training through the required training sessions for persons engaged in outreach or prescreening work.

Because the Department believes that training is critical to the proper implementation of these regulations, a new paragraph has been added to the final regulations to explain the requirement for training prior to implementation. Eligibility workers and their supervisors must be trained on all new eligibility criteria and certification procedures, including the new processing standards, before households are certified under the new regulations. The requirement for public attendance at training sessions is to be implemented with these preimplementation training sessions. Hearing officials and quality control reviewers must also be trained before they assume their duties under the regulations

Outreach

Ongoing outreach. The proposed regulations did not contain any new ongoing outreach requirements. As that preamble pointed out, the ongoing outreach requirements will be published in subsequent rulemaking. Current outreach requirements will remain in effect until otherwise specified. There is one change from current requirements. Rather than have State agencies submit outreach plans covering January to June 1979, the final regulations require State agencies to submit outreach plans by December 1, 1978, covering January 1979 through September 1979. It is envisioned that the new outreach requirements will be implemented under approved plans by October 1, 1979. By extending the period of time covered by the next State outreach plan the Department hopes to insure continuity in the States' outreach programs and avoid duplication between ongoing and special transition requirements without requiring interim outreach plans.

Transitional outreach. The proposed regulations set specific requirements for printed information, hotlines, other publicity efforts such as press releases and radio spots, and for contacting organizations that can assist in outreach efforts. Those requirements remain unchanged in the final regulations except for the following revisions.

The proposed regulations required States to comply with the transitional outreach requirements 1 month prior to implementation of any program changes. Many commenters expressed concern that 1 month advance publicity was too early. The felt it would confuse households and cause demands for EPR before the State was prepared. Consequently, the 1-month requirement has been replaced by a 1-week requirement.

The proposed regulations required States administering a supplemental payment program for SSI recipients to mail notices of the food stamp changes to all SSI households. This requirements is deleted. The Social Security Administration has agreed to mail a notice on a nationwide basis (except in the States of Massachusetts, Wisconsin, and California). The Department is currently working with the Social Security Administration to design and print the notice for distribution with February SSI checks.

The proposed and final regulations require States to supply offices which serve the low-income households with brochures or pamphlets that describe the new eligibility criteria, application processes and household rights and responsibilities. In the proposed regulations, general assistance offices were inadvertently omitted from the list of offices subject to these requirements. General assistance offices are sometimes located apart from public assistance and food stamp offices and would represent a useful addition to the list of offices that should be supplied with outreach information. Commenters recommended that outside agencies be encouraged to distribute the printed materials. Accordingly, the requirements have been expanded to require States to contact local social security offices and State employment offices to enlist their cooperation in distributing the printed materials. FNS will develop suggested content and format for all required printed materials and in some instances will distribute the actual materials to State agencies. FNS regional offices will contact States in the near future to provide more information about this process.

The proposed regulations set forth definite requirements for the number of hotlines in proporation to number of participants in the State agency's caseload. Commenters expressed opposing views on the adequacy of the number of hotlines required in the proposal. The requirement was retained in the final regulations. As noted in the proposal, hotlines, "were chosen as the most expenditious way of disseminating infromation without greatly burdening local project areas."

However, State agencies which can demonstrate that the number of lines is excessive, may contact FNS after 3 months to request permission to reduce the number of hotlines. The Florida State agency and the Children's Foundation suggested that usuage could decline after initial operation.

In response to requests for clarification about hotlines, the following information was added to the final regulations. Hotline operators should provide the telephone numbers and addresses of local food stamp offices and should explain what documentation or information should be brought to certification interviews. Absolute statements about a caller's eligibility or ineligibility should not be made over a hotline. Upon request, hotline operators should mail food stamp application forms to callers. The hotlines used for food stamp purposes may also be used to disseminate information about other programs administered by State agencies.

Also in response to comments received, a sentence was added which requires State agencies that experience an influx of migrant farmworkers during the transition period to contact local farmworkers organizations to notify them of the availability of training and of printed materials of program requirements.

Nondiscrimination Compliance

Nondiscrimination requirement. The proposed and final regulations prohibit discrimination against any household in any aspect of program administration. In the proposed regulations, the prohibition of discrimination on the basis of color (a prohibition under the Civil Rights Act of 1964) was not made explicit. To insure the equal treatment of all persons, this prohibition has been added to the final regulations. In addition, because of the requirements of the Rehabilitation Act of 1973, a prohibition of discrimination on the basis of handicap has also been added.

Complaints. The proposed regulations required FNS to process all complaints of discrimination. Some State agencies already have nondiscrimination procedures in effect and recommended revision of the regulations to enable States to process nondiscrimination complaints. Accordingly, the final regulations permit States to develop and use a State complaint system. However, the State agency must explain both the FNS and the State complaint system to each person who expresses an interest in filing a complaint. All complainants must be given the opportunity to file a com-

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plaint in either or both systems. In addition, the State must submit a report to FNS on each discrimination complaint processed at the State level. FNS review will insure a uniform and consistent review process and facilitate the Department's compliance with the Civil Rights Act. The 180-day time period for filing a complaint is in accord with current departmental regulations (7 CFR 15.6) and was not changed although several commenters suggested a reduction of the time period.

Public notification. In the final regulations reference to the poster "And Justice For All" was deleted because the Department will be distributing a new nondiscrimination poster in the near future.

Data collection. The proposed regulations required the eligibility worker to record the applicant's racial/ethnic category based on observation. In response to the comments, the final regulations allow States to designate a place on the application form for applicants to voluntarily record the households' racial/ethnic category. States that choose this option must use an application form which clearly indicates that the information is voluntary, that it will not affect eligibility or benefits, and that the reason for the information is to insure that program benefits are distributed without regard to race, color, or national origin. The eligibility worker's impression of household racial/ethnic composition, from physical observation of the applicant, is not considered as reliable as a self-declaration made by the applicant. However, if the household fails to make an entry, the eligibility worker should complete the form based on observation.

The proposed regulations set forth a list of racial/ethnic data for the State agencies to collect and maintain in their recordkeeping systems. Many State agencies commented that they do not presently have the capability to collect the required information. The Department recognizes the complexity of the recordkeeping requirement as proposed. In addition, the Department has determined that the proposed data items may not be the best indicators of civil rights compliance. Therefore, the proposed requirement has been deleted from the final regulations. However, the Department continues to believe that increased attention to the treatment of minority group members is a vital part of its administrative responsibilities. Therefore, each data item will be reevaluated and future rulemaking will address requirements for both collecting and reporting racial/ethnic data. Until further notice, State agencies shall continue to report racial/ethnic data on participating households as is currently required.

Household Concept

Household definition. The proposed definition of household [18] was criticized in that it would have allowed spouses, and/or their minor children, to claim separate food stamp household status even though they were living together. Commenters felt it was most unlikely that any of these family members would, in fact, be separate household units. While some spouses (and/or their minor children) that live together could be independent units, the Department has adopted the general rule that separate household status shall not be extended to either spouse,[19] where both spouses live together, or to a minor child living with a parent or guardian.

Correct application of the proposed rule, allowing separate household status for spouses (and/or their minor children) which live together, could have involved intrusions into sensitive areas of family privacy. Yet, failure to examine those familial interrelationships would allow program abuse through unverifiable assertions of separate household status. The revised definition prevents this abuse, protects family privacy and expedites the certification process.[21]

Some commenters suggested that the phrase "unemancipated minor" replace the phrase child "under the parental control of a member of the household." While the proposed phrase, made final by this rulemaking, is not as legally precise as "unemancipated minor," that recommendation would mandate a knowledge of various State statutory and common law requirements and could require time consuming analyses in particular circumstances. In addition, many commenters expressed concern that spouses and other family members who actually comprise one unit could claim separate household status because they eat some of their meals away from home. For example, a married person who is an interstate truck driver could claim that that person "customarily" eats meals away from home. Under the proposed regulations the individual could have claimed household status, separate from spouse and children, even though that person had no other residence.[22] If the household were divided, the family would receive a larger allotment because the individual's income would not be attributed to the household. Under the final regulations, a person like the truck driver cannot claim separate household status.

The description of a group of individuals which make up one household was slightly revised because some readers had strictly interpreted the definition to mean that all household members had to go to the grocery store and cook meals together to be a single household.[23] It was not intended that household status be dependent on which member(s) of the household unit did the shopping or prepared the meals.

Nonhousehold members. Commenters expressed confusion about whether nonhousehold members could receive program benefits as separate households. As a result, a sentence was added to explain that nonhousehold members, who are otherwise eligible, may participate as separate households.

Although many commenters felt that boarders should not be eligible for food stamps, the eligibility of boarders was contemplated by the Act. Commenters also expressed concern that boarders would use food stamps to pay for board. Therefore, a clarification is added that requires that the payment for board be made in cash. The use of food stamps to pay for board would violate section 15 of the Act.

Households making reasonable payments for board may be eligible as separate food stamp households. The proposed regulations provided three reasonable payment standards for board. The proposed payment standards were: (1) the amount of the appropriate thrifty food plan; (2) the local rate, if less than the thrifty food plan; or (3) less than the thrifty food plan if some meals are eaten elsewhere. Many State agencies criticized the use of local community rates as vague and confusing in addition to representing a deviation from national uniform eligibility standards.[24] Consequently, that criterion has been eliminated from the regulations.

Many States also complained about the complexities of determining a reasonable payment for boarders who eat

[18] Certain comments suggested that the thrifty food plan reflect the increased nutritional needs of pregnant mothers by regarding the unborn fetus as a household member. The Department can find no justification for that position in the Act or in the extensive legislative history.

[19] A definition of spouse is now included in § 271.2 which clarifies that a ceremonial marriage is not always necessary for purposes of the restriction on the separation of households.

[21] Louisiana also noted that "[no] part of these regulations would have a more adverse effect on the image the public has of the food stamp program than to allow a man and wife to be certified as separate households."

[22] As noted in these rules, persons can only apply for food stamps in the project area in which they currently reside.

[23] The California State agency examined this problem in its comment.

[24] The North Carolina, Arkansas, and Pennsylvania comments are representative of this criticism.

some meals outside of the board arrangement. That provision has been retained, however, as the House Report states that, "[a] boarder should be anyone who pays compensation for his meals that is reasonable, whether or not that compensation is less than the allotment for a one-person household or one-fourth of the allotment for a four-person household." In an effort to simplify the administrative complexities of determining what constitutes a reasonable payment, the Department deleted the 60 cents per meal calculation. Instead, the eligibility worker should determine if the boarder generally eats more than two meals per day through the board arrangement. If so the full thrifty food plan amount would be the required board payment. However, if the boarder, on the average, eats two meals or less per day through the board arrangement, a payment equaling two-thirds of the thrifty food plan would be considered reasonable. This provision will prevent boarders from being required to make a full board payment when they eat some meals elsewhere on a routine basis, and yet is much easier to apply, less prone to errors, and more uniform than the proposal.

A commenter asked for clarification of the household status of an individual or family that, because of loss of income, was forced to temporarily move into the home of friends or relatives. Under such circumstances, that person or family which customarily purchases food and prepares meals separately from the household that took them in, could apply as a separate household. This clarification does not represent a change in policy and is consistent with the Act.

Boardinghouse. The proposed regulations defined a boardinghouse as an establishment which is recognized by the community as a commercial enterprise. The phrase "recognized by the community" was criticized as vague and difficult to apply. Commenters suggested that, where available, licensing standards be used. Accordingly, the Department incorporated a licensing standard into the regulations. However, in project areas without licensing requirements, boardinghouse shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit.

Head of household. In the proposed regulations, the head of household was defined as the household member responsible for acquiring the greatest amount of earned income within the previous 60 days.

Nearly all of the 300 commenters discussing this section criticized this definition because it would permit a minor to be the household head and would cause the household head to change frequently. Since this regulatory definition was proposed only for purposes of implementing the voluntary quit provision of the Act, it has been modified. States may devise their own method for designating the head of household. However, that definition may be used purely for recordkeeping purposes and cannot be used to impose restrictions on who may apply for food stamps. A definition of primary wage earner will be proposed in subsequent rulemaking in order to implement the voluntary quit provision.

Residents of institutions. The proposed regulations restate the current policy that individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services. In the proposed regulations the remainder of the sentence was inadvertently omitted and it has been added to these regulations. That addition reads "and the institution has not been authorized to accept coupons."

This revision protects the participation rights of the elderly residing in HUD's section 8 housing. Although some commenters suggested that the types of institutions eligible to participate in the program be broadened to include other social service centers, the Act does not allow that expansion.

Authorized representatives. Most States which commented on authorized representatives wanted clarification as to whether State agency employees can serve as authorized representatives. The proposed regulations appear sufficiently explicit. State agency employees may serve as authorized representatives if no one else is available to serve in that capacity and if an agency official, such as the local director, signs a statement approving that relationship.[25]

The proposed regulations required State agencies to maintain lists of authorized representatives who are not members of the household they represent. Several States pointed out that this requirement imposed an unnecessary recordkeeping burden. Consequently, the requirement for the listing has been eliminated.[26] Other commenters stated that employers, such as those that employ seasonal farmworkers, have been known to press households to allow them to act as authorized representatives and have then misrepresented the household's circumstances and/or withheld coupons from the household. Allegedly, a few employers have overstated the household's income to reduce the food stamp allotment and thereby keep the household dependent upon the employer. To avoid these problems the final regulations require States to report such abuses to FNS. FNS will carefully investigate complaints of this nature.

[25] To limit program abuse, the final rules also more thoroughly discuss the ability of persons disqualified for program fraud to act as authorized representatives.

[26] As noted by the Louisiana Department of Health and Human Resources, "historically the function of keeping a listing of authorized representatives has had minimal effect as a deterrent when compared to the administrative time and effort involved by the State agency. This time and effort could be used more advantageously."

Application Processing

Food stamp application form. The proposed rules, and the Act, require that all State agencies use an application form designated by FNS except that State agencies may deviate from the form to accommodate the use of a joint public assistance (PA)/food stamp application form or to accommodate the needs of a computer system or for other exigencies. The Department has designed and tested an application form. The results are now being evaluated and the final forms will be distributed shortly.

Over 1,400 letters contained comments on this section, with the large majority opposing some aspect of the proposal. Many commenters wanted the application to have a detachable receipt with the filing date and an explanation of processing rights and standards. Others requested that FNS devise a simplified form in large type, with easy instructions, and a full explanation of all household rights. A few groups wanted households to be given a copy of the completed form.

The Department is considering these comments, and other relevant comments, in its evaluation of the proposed application form. However, the Department believes that detachable receipts represent an unreasonable processing burden for State agencies. Since applicants have the option of mailing or submitting the initial application in person or through a representative, a complicated procedure for validating the tear-off receipt would have to be devised. In the case of households entitled to expedited service, a tear-off receipt would not be useful because application processing begins almost immediately. However, the Department is aware of the importance of advising applicants of their rights and responsibilities. The form that was tested has a filing page that is detachable and contains information about the applicant's filing rights. Clarification has been added which requires that the State agency document the date the application was filed by recording on the application the date it was received in the appropriate office.

Participant rights on filing and applying. The proposed rules provided

that the household has a right to file an application on the same day it contacts any food stamp office during office hours in the project area in

documented in the case file and the State agency shall confirm the withdrawal with the household.

The same day standard for mailing

remain the primary interview technique. The interview facilities were to be of adequate size and layout to preserve privacy and confidentiality and

views without requiring the household to show good cause for failing to appear at the original interview. If the

verification of eligible alien status only if the form is annotated to indicate that the bearer falls within spe-

bility to adequately verify information and could lessen program accountability.

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that the household has a right to file an application on the same day it contacts any food stamp office during office hours in the project area in which it resides. The proposed rules also required State agencies to encourage households to apply on the same day contact is made with the food stamp office and to mail applications on the same day an inquiry is received. The State agency must also make applications readily available to potentially eligible households and post a notice of a household's right to file an application in the certification offices.

Approximately 1,600 commenters mentioned some aspect of this section and just over 1,550 expressed some opposition to certain aspects of the requirements. Many comments requested that the final regulations require each certification office to maintain a log indicating when applications are filed. Others recommended that, either in addition to or instead of a log, households be given a receipt showing their filing date and explaining processing standards and also that rights to timely processing and immediate filing be publicized by posters, handouts, and by certification office staff. Several individuals suggested that receptionists be bilingual and be able to explain the application process to potential applicants and that eligibility workers be required to assist households with applications. Many letters from program administrators wanted to extend the same day standard for mailing out forms requested by phone. Some requested that more information be required on an application form prior to considering the form filed. The comments totally in favor of this provision approved of the household's right to receive a form and to file a partially completed application without delay.

In the final rules, the Department has revised the statement on the household's right to file an application to clarify that the processing time begins when the application is filed in the appropriate food stamp office designated by the State agency to accept the household's application. In conjunction with this, the rules contain a procedure for referring applications to the appropriate office by the office which received the application. The Department has also added a statement that the State agency shall provide an application form to anyone who requests it. To protect the household, the State agency will be required to record the date the form was received on the application form.

An additional paragraph has been included which provides for voluntary withdrawal of an application by a household at any time during the certification process. If a household does withdraw, the reason, if given, shall be documented in the case file and the State agency shall confirm the withdrawal with the household.

The same day standard for mailing out forms requested over the phone has been retained to assure that households unable to visit the office are provided with prompt service, especially since some of these households could be entitled to expedited service.

Household cooperation. The proposed rules stated that if the household refuses to cooperate with the State agency in completing the application process, the application shall be denied at the time of refusal. As noted in the proposal, "to be denied, the household must refuse to cooperate, not merely fail to cooperate or be unable to do so."

Nearly 350 comment letters mentioned this provision, and approximately 80 percent of these were negative concerning some aspect of it. Many public and group comments wanted the final regulations to stress that eligibility workers had an affirmative obligation to help applicants with the application process. Several program administrators wanted the regulations to clarify or define the difference between refusal and failure to cooperate. Public and advocacy groups suggested that the regulations include a provision requiring the State to send a notice to households of the intent to deny for failure to cooperate.[27]

They also requested that the rules clearly state that refusal to cooperate must be intentional, not merely a failure to cooperate or an unsuccessful attempt to provide verification.[28] To assure the expeditious handling of applications, State and local agencies were concerned that households must be made more responsible for providing needed information in a timely manner and suggested that the State agency be permitted to establish time frames for the return of information.

The Department has revised the rules to more precisely define a refusal to cooperate. A household must be able to cooperate, but clearly demonstrate that it will not do what is required to complete the application process. The final rules cite, as an example of a refusal, that the household must refuse to be interviewed, not merely fail to appear for the interview. The final regulations further state that if there is any question as to whether the household has refused to cooperate, the household shall not be denied.

Interviews. The Department proposed that the face-to-face interview remain the primary interview technique. The interview facilities were to be of adequate size and layout to preserve privacy and confidentiality and to protect the dignity of the applicants. However, upon household request, the State agency would waive the office interview if the household was unable to appoint an authorized representative and no responsible member was able to visit the office because of age (65 or older) or mental or physical handicap. The State agency would also waive the office interview if it determined that the household was unable to appoint an authorized representative and no responsible member could come to the office because of illness, lack of transportation, prolonged, severe weather or work hours that preclude in-office certification. If an office interview were waived, the State agency could conduct either a telephone interview or a home visit. The rules covering verification requirements and certification periods were the same no matter what interview technique was used.

Of approximately 300 comment letters on interviews, 250 were opposed to some aspect of the provision, the limitations on granting waivers to in-office interviews were of major concern. Several persons and groups felt the waiver should be automatically given to the physcially or mentally handicapped, the elderly (with the age limit reduced to 60 from 65) and all applicants in project areas which are out of compliance with the points and hours standards. Some organizations wanted State agencies to publicize the availability of alternative interview methods and to insure that eligibility workers actively assist households with applications.

State and local agencies saw home visits as a major issue. Several local agencies expressed opposition to prescheduled home visits and wanted the responsibilities of the household and the eligibiliy worker for completing home visits spelled out. Program administrators wanted precise guidelines for privacy standards while advocacy groups wanted the regulations to require adequate waiting rooms for local offices.[29]

The final rules for conducting interviews remain essentially the same as in the proposed rules. However, some language has been added to further clarify State agency requirements. State agencies shall be required to explain to applicants the processing standards and the household's responsibility to report changes. In addition, as an added household protection, State agencies shall reschedule interviews without requiring the household to show good cause for failing to appear at the original interview. If the household fails to appear at the rescheduled interview, the State agency need not initiate any further action unless the household requests that an interview be scheduled.

[27] Any denial for refusal to cooperate may be challenged in a fair hearing under the proposed and final rules.

[28] The Department believes that it is sufficiently clear that the refusal must be intentional before a household may be denied for that reason.

[29] The Department does not believe it can reasonably establish precise nationwide privacy standards, or other office layout requirements, for the variety and multitude of local offices.

The Department rejected the suggestion to reduce the age limit for mandatory waiver of the office interview to age 60. State agencies will have the option of allowing households between 60 to 65 to waive the office interview. However, the Department did not believe that a blanket mandatory waiver for this age group was necessary. Many people age 60 to 65 are in good health and do not have mobility problems significantly different from younger individuals.

Language has also been added which enables the office interview to be waived if household is living in a location not served by a certification office as defined in the points and hours regulation when they are published.

Verification and documentation. The Act requires that gross nonexempt income be verified but gives the Secretary broad discretion for setting standards to verify other factors of eligibility. In addition to requiring that gross nonexempt income be verified in all cases, the proposed regulations required verification of the alien status of household members identified on the application as aliens, verification of actual utility bills if they exceed the State's utility standard, and verification of shelter costs if they exceed an amount established by the State agency as reasonable for that shelter component. All other factors of eligibility would be verified only if inconsistent with other information on the application, previous applications, or other documented information known to the State agency.

In the final regulations, State agencies are still required to verify gross nonexempt income, actual utility expenses, and alien status. A few persons objected to the requirement that alien status be verified in all cases. Since many aliens may not know into which technical Federal alien category they have been placed, the Department believes it is essential that the eligibility worker ask the alien to present the appropriate INS documentation. The person's exact alien classification is critical, under the Act, to program eligibility.

The Department recently discovered that the proposed regulations did not deal adequately with INS form I-94. That form does not always precisely indicate whether the alien is in one of the categories eligible for food stamp benefits. The regulations regarding INS form I-94 are revised to indicate that the form is considered definitive verification of eligible alien status only if the form is annotated to indicate that the bearer falls within specific eligible categories. Also, if the INS form I-94 is annotated with the letters "A" through "L" it indicates ineligible alien status. Aliens bearing an INS form I-94 so annotated are classified by INS as nonimmigrants, and accordingly, are ineligible for food stamp benefits unless other evidence of eligible status is provided by the household. If the INS form I-94 does not bear evidence of alien classification that specifically indicates the alien is eligible or ineligible, and the alien has no other acceptable verification of alien status, the State agency must advise the alien of the exact classifications that result in eligibility. Also, the State agency must explain that if the alien acquires acceptable verification from INS, and meets all other eligibility requirements, that will result in eligibility for food stamp benefits. In addition, because of the technical nature of these classifications, the State agency must offer to assist the household by contacting INS for clarification of the alien's status. Although this requirement imposes somewhat of a burden upon both the State agency and the household, it is the only workable solution the Department could devise to conform with the requirements of the Act. These procedures are necessitated by the fact that the Act's classification of eligible and ineligible aliens does not always precisely coincide with INS documents.

The large majority of persons commenting on the verification of alien status strongly suggested that the regulations specify that State agencies be allowed to contact INS only with the written consent of alien. This suggestion is adopted. Under Federal law, aliens are required to have proper INS registration cards with them at all times. State agencies should not, as a matter of course, have to bear the costs and the responsibility of contacting INS on an alien's behalf if the alien has no INS documents. Securing these documents is the alien's responsibility. The final regulations specify that the household may withdraw the application or participate without the alien member, if the alien member cannot provide the proper INS documentation and the alien does not allow the State to contact INS.[26]

Most of the State agencies opposed significant aspects of the proposed verification procedures for the other eligibility factors. They felt the procedures did not give States enough flexibility to adequately verify information and could lessen program accountability.

The final regulations, regarding verification of other eligibility factors, have been considerably changed. The final regulations require that the other eligibility factors be verified only if they are questionable and would affect a household's eligibility or benefit level. Questionable information includes instances when the information on the application is inconsistent with statements made by the applicant, inconsistent with information on the application form or previous applications, or inconsistent with information received by the State agency. Therefore, unlike the proposed regulations, verification may be requested if statements made by the applicant during the interview are inconsistent with information on the application. Instead of requiring that the State agency have documented information which indicates that the information on the application is inconsistent, the State agency may, under the final regulations, request verification if it has received oral or written information that is inconsistent with the information contained on the application. Thus, to protect the integrity of the verification process, States are not limited to seeking verification only if they have documentation, independent of the interview, which indicates doubt regarding certain household information. However, the State agency is required to record in the case file the reason why information is considered questionable such that verification is required.

Several State agencies suggested that information on the application should automatically be verified if the household's total bills exceed its income. The final regulations allow the State agency to verify such circumstances, where the situation is still questionable after the household has had an opportunity to explain. Households may use resources or excluded income to pay bills or may not be paying all of its bills every month. The practice in some States of automatically denying a household when its expenses exceed its income is prohibited. The State agency must fully explore with the household how it is managing its expenses in light of its income and resources.[31]

Several comments on verification of citizenship suggested that State agencies accept as proof of citizenship a signed statement from someone who can attest that the member in question is a U.S. citizen. This suggestion is

[26] This approach is consistent with the House report which states that, "the Committee has no interest in turning food stamp certification workers into adjuncts of the Immigration and Naturalization Service informing on applications as alleged illegal aliens."

[31] It has come to the Department's attention that some households have been denied participation solely because its total bills have exceeded monthly income. This practice is not permissible under the regulations or the Act.

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adopted for only those cases where no other form of verification has been obtained, after reasonable efforts were made, and if the household can provide a reasonable explanation as to why verification is not available.

Participation in the AFDC program has also been added as an example of acceptable verification of citizenship if that verification was obtained as part of the AFDC certification process.

Under the proposed regulations, the State agency was required to substantiate that a household member was not a U.S. citizen or an eligible alien before that member could be denied benefits. Several agencies strongly objected to this provision as they believed it would be extremely difficult to prove that someone is not a U.S. citizen or an eligible alien, unless the State was allowed to contact INS. The final regulations place the burden of providing verification of U.S. citizenship on the household. However, verification of citizenship is required only in questionable cases.

Instead of providing that persons remain in the program until the State agency disproves citizenship, the final rules provide that the member whose citizenship is in question be given 2 months to prove citizenship, and be allowed to participate pending the verification of citizenship, if otherwise eligible and if efforts are being made to obtain the necessary verification. If verification is not received within 2 months, that member becomes ineligible.

State agencies were also concerned about verification of liquid resources and loans. Several State agencies felt that they should have more discretion to verify liquid resources and loans. In response to these comments, the final regulations give State agencies the flexibility to verify liquid resources and loans where they feel there is need so long as they verify in every case which is questionable. However, as in the proposal, a simple statement signed by both parties is sufficient to verify that money is exempt because it is a loan. However, to attempt to reduce the possibility of abuse, the final regulations require that the signed statement include language which specifies that the loan will be repaid. In response to public comment, the final regulations allow State agencies to require that the provider of the loan sign an affidavit which states that repayments are being made or will be made in accordance with a repayment schedule in cases where the household receives payments on a recurrent or regular basis from the same source and states that the payments are loans. There is a greater need for verification regarding arrangements involving a series of periodic payments to the household since personal loans are normally made by single payments.

Many commenters recommended that the regulations prohibit the use of a collateral contact without the express written consent of the household. Since the proposed regulations clearly state that the State agency must rely on the household to provide the name of a collateral contact, the Department believes the recommended change is unnecessary.

Several State agencies requested more discretion as to what to verify at recertification. The final regulations respond to these comments by giving State agencies the option of verifying income or actual utility expenses which are unchanged or have changed by $25 or less, provided verification is required when information is questionable. The final regulations also make clear that changes in income or actual utility expenses must be verified if the source has changed or the amount has changed by more than $25. Unlike the proposed regulations, which prohibited State agencies from verifying unchanged information, the final regulations allow State agencies to verify unchanged information if it is questionable. These changes are intended to aid States in helping to maintain program integrity.

Most of the comments regarding verification of the tax dependency status of students suggested that the student should not be denied if the parents did not cooperate in providing verification. The alternative, however, is to allow students to participate whenever the parents failed to respond, even though the student may actually be ineligible. Since the student has the right to request a fair hearing to demonstrate eligibility, and since the Department is unaware of information indicating that most parents of students would be uncooperative in this regard, the Department retains that policy.

Many State agencies were concerned about the extent of their responsibility to assist households in obtaining verification. Verification of shelter costs for unoccupied homes represented a frequent area of concern. The final regulations clarify that State agencies are not required to assist households in obtaining verification of shelter costs for unoccupied homes if verification would have to be obtained from a source outside of the project area.

Several local agencies suggested that households refusing home visits and households which were not at home for a scheduled home visit be denied program eligibility. The final rules provide that when a home visit is warranted under these regulations, a household may be denied for refusal to cooperate if it refuses the home visit. However, if the household is simply not at home for a scheduled home visit, this cannot be considered a refusal to cooperate and the household cannot be denied for this reason. In that situation, however, the household's eligibility would remain undetermined.

Several State agencies felt that a separate BENDEX release form was unnecessary since most social security offices accept the release statement that appears on the application currently used by State agencies. As long as the household member has signed an information release statement, regardless of whether the statement appears on the application form or on a separate form, the State agency has met the regulatory requirements.

Normal processing standards. The proposed rules, in accordance with the Act, require that applications be provided to all persons who make what may reasonably be interpreted as an oral or written request for food stamp assistance. The State may not withhold an application until an interview is scheduled. The 30-day statutory benefit delivery standard was detailed in the proposed rules. The standard began with receipt of an application that need not have been complete, as long as it contained the applicant's name, address, and signature. An opportunity to participate consisted of providing households with an ATP or other authorization and having an issuance facility open and available for the household to obtain its allotment. Within the 30 days following the filing of an application, the household must have completed the appliction, have been interviewed, have had certain information verified, and if eligible, have been provided an opportunity to participate. A standard was also set for processing unverified deductible expenses.

Approximately 200 comment letters touched on this section, and a little over half were critical of some aspect of it. Some comments on this section overlapped other provisions including retroactive benefits, the application form, and application filing rights.

Some groups, while supporting the specificity of both participants' filing rights and processing standards, thought that the regulations should do more to protect the participant and suggested ways for the State agency to be more accountable for meeting the processing standards. A number of groups also believed that the mail delivery of ATP cards would take more than 2 days and suggested alternatives to the 2-day mailing standard, including the use of local variations for mail delivery.

Several comments opposed the requirement that household certified without allowing a deduction for unverified deductible expenses [32] are entitled to restoration of lost benefits if the State agency contributed to the household's inability to verify the expense.

Advocacy groups suggested that households be given retroactive benefits whenever verification of the deductible expense is provided, regardless of whether the State agency contributed to the household's inability to verify. Other commenters, especially State agencies, felt that lost benefits were inappropriate for delays or lower benefits caused by the lack of verification.

While the Department carefully considered comments to make processing standards more stringent, no basic changes have been made. The Department contends that the expedited processing standards adequately address the problem of households with a need for immediate delivery of benefits. The comments from State and local administrators regarding the administrative difficulties of the proposed processing standard were also considered. The only change in the final rule was to add clarification regarding when the State agency must mail the ATP to assure that the ATP can be transacted after it is received but before the 30-day standard expires. The language of the proposed regulations seemed to imply that States had to allow 2 days to mail and 2 days for the household to transact its ATP.

Processing delays. The proposed rules provided special procedures when a State agency was not able to determine a household's eligibility because of a delay or incomplete information. If the delay was caused by the household, the State agency was to issue a notice of denial on the 30th day. The State agency would reopen the case without requiring a new application if the household took action to complete the application process within 30 days of the date the notice of denial was mailed. In addition, the State agency was required to allow at least 10 days for the household to provide verification before the delay could be considered to be caused by the household. If the household completed the application process within 30 days from the notice of denial and was found eligible benefits were to be provided retroactive to the month of application.

If a delay occurred and the State agency was at fault, the State was required to notify the household by the 30th day that the application process has not been completed and that the application is still being processed. The State agency would provide benefits retroactive to the month of application if the household was then determined eligible. Benefits delayed more than 60 days were to be restored in accordance with the restoration of lost benefits procedure.

Nearly all of the approximately 200 comment letters mentioning this provision were in opposition to some portion of it. Many of these letters were from program administrators. The largest number of comments concerned processing delays caused by the household. A number of State and local agencies and individuals opposed the proposed system for reopening a case that was denied at the end of 30 days, because of inaction by the household. Most preferred to hold the application pending for 30 additional days while others recommended that the case be denied after 30 days.

Most of the commenters suggested that retroactive benefits be provided in all situations, or suggested that retroactive benefits be provided for State agency delays and restored benefits be given for household-caused delays. Many comments were also opposed to providing benefits back to the month of application when the delay was caused by the household as they felt this provision might encourage households to fail to appear for an interview or provide verification.

The Department has revised this section in a number of respects. The final rules provide specific guidelines for what is a delay caused by the household and what is a delay caused by the State agency. The final rules also establish what procedures the State agency must follow if the delay is the household's fault, and what procedures must be followed when the State is at fault.

If the household is at fault, the State may choose any of several options. First, the State may send the household a notice of denial that informs the household of what additional action the household must take, and notes that if the household takes this action within the next 30 days, the original application shall be reactivated. As an alternative, the State may pend the case for an additional 30 days instead of denying it. If this option is chosen, the State must send the household a notice explaining that action on the case cannot be completed and explaining what additional action the household must take.

A variant of the second option is applicable where the application cannot be processed because the household has not provided all required verfication. In this circumstance, the State may choose to pend the case for 30 days from the date the State first requested the particular piece of verification that is still outstanding. This series of options is presented so that States may choose the option most suitable to them.

If an application is held pending and the household fails to take the necessary action, the final rules do not require any additional notices to be sent when the application is finally denied.

The final regulations also allow States to deny an application at the end of the initial 30-day period, without having to reopen it, if the household has failed to appear for two scheduled interviews and has made no subsequent contact with the State agency to express interest in participating. Such a household must file a new application if it wishes to participate. The application may also be denied if the household has been provided a full 30 days to present verification and has not done so. This situation would occur when a household is interviewed and all the needed verification is requested on the same day the household filed its application.

The final rules also modify procedures for providing retroactive benefits when a household is certified after the original 30-day processing period has ended. If the delay was the fault of the household, benefits will not be provided back to the month of application.[33] Instead, benefits will be provided to the month following the month of application.

If the delay was the fault of the State agency, benefits are still retroactive to the month of application. However, if an application cannot be processed in the initial 30 days because of the State's fault, but is subsequently not processed in the second 30 days because of the household's fault, the household shall lose its entitlement to retroactive benefits.

The rules are designed to protect a household's entitlement to retroactive benefits when the delay is the State's fault without rewarding a household for delays it has caused, itself.

Expedited service. The proposed rules implemented the legislative mandate that households with no income, after appropriate exclusions and deductions, be provided expedited certification and issuance services. Under the proposed rules, households would have qualified for expedited service within 2 working days on two separate criteria: (1) Zero net income for the month of application, or (2) a determination that the household was destitute [34] of income at the time the appli-

[32] The paragraph dealing with unverified deductible expenses has been moved to the section on application processing dealing with verification requirements.

[33] If households could delay the application process with impunity, there would be less incentive for households to provide needed information on a timely basis, which could result in the backlogging of pending cases.

[34] To have been considered destitute, the household's only income during the month of application must have been nonrecurring and must not have been in the same quarter of the month the application was filed.

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cation was filed, but expects to receive or had received income at some other time during the month.

A special same day processing standard was proposed for households eligible for expedited service that (1) had insufficient food to enable them to wait even 2 working days, and (2) had liquid resources less than the value of the thrifty food plan for a one-person household.

The proposed rules also required State agencies to make a collateral contact or other verification of the household's identity and residence prior to receiving expedited service. Households certified under expedited procedures had to be certified for the month of application only. However, if the household provided verificaiton within 30 days of the date the application was filed the State agency could assign a longer certification period. Once a household was certified under expedited procedure, verification had to be completed before the household could be certified again under normal or expedited procedures.

Nearly 3,000 persons or groups submitted at least one comment on this provision. Of these, over 2,500 opposed some aspect of it. Advocacy groups, State agencies, local agencies, and participants were concerned with the complexity of the provision. FRAC summarized this concern: "we are convinced that the proposed procedures are much too complicated, and will confuse case workers and clients alike."[35]

Same- and 2-day service, with varying eligibility criteria, and the definition of "destitute" based on nonrecurring income was also criticized as too complicated, error prone, and administratively difficult. While a majority of letters from the public and organizations preferred same-day service for all households with zero net income, State and local agencies discussed the difficulties of meeting same-day service and wanted a simpler method of determining the need for expedited service.

Most individuals favored determining need for expedited service based only on the household's available income. The alternatives suggested by program administrators were varied but often suggested longer time frames and the use of other relief services for households with immediate need.

Advocacy groups frequently requested that the regulations specify that simple documentary verification be used and that prescreening for expedited service be mandated. Program participants and other individuals and groups expressed concern that expedited services be extended to cover other emergency situations, such as the destruction of one's home.

Because of the large number of comments regarding the complexity of expedited service, the Department has eliminated the requirement for a two tiered expedited service procedure. In the final rules, State agencies must certify the household and mail an ATP or coupons no later than the second working day following the date the application was filed, or may have the ATP or coupons available for the household or its representative to pick up no later than the third working day following the date the application was filed if the applicant wishes to pick them up at the office. This is a maximum standard. State agencies may set a shorter expedited processing standard for all households, or the State agency may set up a multitiered system providing faster service to households with the greatest need of food assistance.

Since the final rules have a single expedited processing standard, the Department has eliminated any special food or asset tests, other than the resource eligibility standards that apply to all households. This will simplify the certification process.

The Department has also revised the definition of a destitute household. Households are destitute if: (1) they do not anticipate income of more than $25 within 10 calendar days from the date the application was filed; (2) any income anticipated after the date of application is from a new source; and (3) any income of more than $25 received between the first of the month and the date of application from a terminated source. A more detailed definition of destitute is given in the section entitled "Determining Household Eligibility and Benefits Levels."

The final rules also provide a more detailed description of the kinds of documents that are to be considered acceptable evidence of residency or identity. Acceptable documentation includes such things as a driver's license, work or school I.D., voter registration card, or birth certificate. The rules also allow for additional verification of income provided that delivery of benefits is not delayed beyond the maximum expedited processing standard solely because income verification is pending.

Language in the final rules for assigning certification periods has been revised to require State agencies to assign a normal certification period if verification for the household was not postponed in order to expedite the certification. The final rules give State agencies some latitude in assigning certification periods to households which have postponed completing verification requirements. State agencies may either assign a 1-month certification period or assign a longer certification period if the household's circumstances are stable. However, households must still provide verification before benefits can be continued past the month of application. This procedure is designed to allow State agencies to integrate expedited processing with its normal recertification procedures. In some cases, households which qualify for expedited processing will be stable enough to be assigned a certification period longer than 1 month. As long as the State agency notifies the household that benefits will only continue if verification is completed and that benefits will be adjusted without a notice of adverse action based upon the verification submitted, the Department contends that households certified under expedited procedures should be assigned normal certification periods. The Department also recognizes that State agencies have no way of forecasting which households will subsequently submit verification. Thus, an assignment of a certification period based on household circumstances is reasonable even for destitute households or households with zero net income.

The Department has developed separate expedited service standards for residents of drug addiction or alcoholic treatment and rehabilitation centers. For residents who are entitled to expedited service, the State agency shall mail an ATP or coupons or have the ATP or coupons available to be picked up no later than 7 working days following the date the application was filed. As noted in the comments, residents of treatment centers are not in an immediate need of food since the centers provide them with meals. Imposing needless additional administrative burdens on State agencies to immediately process these applications could delay the receipt of benefits to needier households.

A special procedure is included for applicants entitled to both expedited service and a waiver of the office interview. If a household mails an application and it contains sufficient information to indicate that the household is entitled to expedited service and out of office certification, the State agency must conduct an interview by the first working day following the date the application was filed. The benefit delivery standard begins on the date a completed application is received. For example, a household mails an application reporting no income. The State agency conducts a

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(This procedure is explained in more detail in the section entitled "Determining Household Eligibility and Benefit Levels.")

[35] The National Council of Local Public Welfare Administrators of the APWA stated that the proposed expedited service quarter system is, "administratively impossible (and) * * * will lead to numerous errors * * *."

telephone interview based on the information contained in the application, completing the remainder of the application and verifying the identity and residence of the household through a collateral contact. The State agency would then mail the completed application to the household on the same day the telephone interview was conducted, so that the household could sign the application. The benefit delivery standard then begins from the date the signed completed application is received. The Department added this procedure to integrate the expedited service provisions with the out of office interview requirements.

In response to comments questioning the adequacy of prescreening for households entitled to expedited services, the Department has introduced a special benefit delivery standard. If the State's prescreening process does not identify a household as entitled to expedited service and the State agency subsequently discovers that an entitlement exists, the household is still entitled to prompt processing. The benefit delivery standard will start on the date the State agency discovers the entitlement.

Public assistance and general assistance households. A major change between the 1977 Act and the current program is the elimination of the categorical food stamp eligibility of PA and some GA households. According to the House Report, this change was made "* * * to terminate the substantial inequity resulting from the fact that a working household with the same income as a welfare household could find itself ineligible simply because it did not get a welfare supplement to its income." However, Congress was concerned that the elimination of the categorical eligibility could lead to the creation of participation barriers that would discourage the participation of otherwise eligible PA and GA households in the food stamp program. Therefore, several provisions were included in the Act (sec. 11(e)) aimed at minimizing barriers to participation. The intent of the provisions was to spare households which are applying for benefits in both programs from having to go through the same application process for each program.

The proposed rulemaking set forth procedures for the joint processing of food stamp and PA applications. These procedures required that a single application be developed that could be used for both programs and that households applying for both programs be subject to a single interview. To insure that PA food stamp applicants had their applications considered on the same basis as nonassistance food stamp applicants, the joint processing procedures required that the combined PA/food stamp application be processed according to the same timeliness standards as nonassistance food stamp applications. The procedures required that the determination of food stamp eligibility not be delayed because of problems not related to food stamp requirements, such as a household's failure to comply with verification requirements that affect only the PA determination. The joint processing procedures also prohibited State agencies from delaying the processing of the food stamp portion of a case because the public assistance determination had not been made. State agencies were also required to complete the food stamp determination even if the public assistance application was denied. The joint processing procedures also required that State agencies endeavor to extend food stamp benefits to as many eligible PA households as possible.

The final rules require that joint PA/food stamp applications allow households to indicate if they do not want to apply for food stamps. State agencies are required to process all PA applications as food stamp applications unless the application positively indicates that food stamps are not desired. If for some reason it is not clear whether a household wants to be considered for food stamp benefits, the State agency must contact the household to determine whether the household wants to be considered for food stamps. If the household does, the State agency must process the application in accordance with the joint processing procedures.

Many commenters who addressed the proposed joint processing procedures complained that the procedures would force PA eligibility workers to make food stamp eligibility and basis of issuance determinations. The commenters argued that this would add work to already overworked PA workers; would result in food stamp determinations made by workers with little expertise in food stamp policy and procedures; and would make program administration more complex. Some suggestions made to alleviate these problems included: allow State agencies to choose whether they wanted to use the joint application procedures; allow a simultaneous interview by PA and food stamp eligibility workers; or allow two interviews, one for PA one for food stamps, provided that they occur during the same appointment. The Department carefully considered the problems and suggestions raised by the commenters. However, in light of the explicit legislative requirement that households applying for both PA and food stamps be allowed to do so through a single application and single interview, no change was made in the joint processing procedures. However, the joint processing procedures, as they stand, do not require PA eligibility workers to make food stamp eligibility and allotment level determinations. Following the completion of the single interview, State agencies are free to assign the case to two workers: one for PA, one for food stamps.

The comments noted that the joint application processing procedures would require effective lines of communications between the PA and food stamp units within agencies. While the Department agrees with that point, the final regulations were not changed to include specific requirements for such communication lines. There is no one effective method of communication that can be prescribed, nor does the Department feel it is equipped to advise agencies as to the best methods of transmitting information. Therefore, the Department decided to allow each State agency to develop and implement its own method of transmitting information between the PA and food stamp units.

Some commenters expressed confusion about whether the joint processing procedures are applicable to households that contain members not included in the unit applying for public assistance. The proposed rules stated that these households "may be required to file a separate application for food stamps" (§ 273.2(k)(1)(vi)). The final rules expand and clarify the original statement. As it now stands, State agencies have the option of deciding whether or not to process these households through the joint application processing procedures. State agencies are required to develop uniform procedures and not make these decisions on a case by case basis. The Department did not want some households in a project area treated differently than other households if there were no basic difference in household circumstances.

Finally, many commenters had questions about the use of the joint application processing procedures in GA programs. The proposed rules allowed some State agency administered GA programs to use the proposed procedures. Some commenters asked if locally administered GA programs that met the criteria set forth in the rules could jointly process GA and food stamp applications. Other comments asked whether GA programs administered by the Bureau of Indian Affairs could qualify to use the procedures. In response, the Department reexamined and revised the rules pertaining to GA programs. The rewritten rules identify different types of GA programs and specify the appropriate procedures.

GA programs that are administratively integrated with PA or food stamp programs and which use formalized application procedures and eli-

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gibility criteria that test levels of income and resources, are required to jointly process GA and food stamp applications according to the rules set forth for the joint processing of PA

households which move from place to place. However, applying in several locations for the purpose of obtaining excessive benefits is a criminal offense

though one or more household members have not verified their asserted alien status. It was felt that the household should not be penalized if verifi-

as a cash-out State.[37] Wisconsin has been added as it has become a cash-out State.

agency to provide work registration forms to the household and to forward the work registration forms to the

procedures, the final regulations exempt from food stamp work registration those individuals who regis-

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gibility criteria that test levels of income and resources, are required to jointly process GA and food stamp applications according to the rules set forth for the joint processing of PA and food stamp applications. The Department considers GA programs administratively integrated with PA or food stamp programs if the GA program shares eligibility workers with the PA or food stamp programs.

GA programs that are not integrated with the PA or food stamp programs can apply to, and be approved by FNS, for joint processing of GA and food stamp applications if these GA programs use formalized application procedures and eligibility criteria that test income and resource levels. GA programs that meet these criteria but which do not jointly process GA and food stamp applications are required to distribute and accept food stamp applications at GA offices and forward them to food stamp offices for processing. Under those circumstances, the timeliness and procedural standards for processing food stamp applications will take effect when the applications reach the food stamp offices.

The Department recognizes that GA programs are administered in a variety of ways. Not all of these programs are staffed through merit staffing systems. Not all of the programs make use of formalized application procedures or eligibility criteria that test levels of income and resources. With this in mind, the proposed rules allowed those State administered GA programs that had formalized application procedures and used eligibility criteria to test levels of income and resources to jointly process GA and food stamp applications.

Finally, State agencies must attempt to make food stamp applications and food stamp program information available at offices of locally administered GA programs not meeting the above criteria and at offices of GA programs administered by the Bureau of Indian Affairs. The Department hopes that through these efforts most eligible GA households will be given an opportunity to participate in the food stamp program.

Residency

The proposed and final regulations continue to prohibit any durational residency requirement and yet require that an individual live in the project area to receive food stamp benefits. Over 70 commenters expressed concern regarding this provision. Some stressed the need to highlight that applicants should not be denied for failure to live in a fixed residence.

Other commenters indicated that this provision is lax in not denying benefits to transients. The Act does not allow the Department to exclude households which move from place to place. However, applying in several locations for the purpose of obtaining excessive benefits is a criminal offense and is prohibited by the Act. Thus, eligible households which frequently move may participate so long as they reside in the project area at the time they apply and participate in only one project area during any given month. Thus, persons in a project area solely for a vacation (i.e., a brief visit for recreational reasons) may not apply for benefits in that project area. However, students who return home during school breaks and elderly individuals who spend a portion of the year with friends or relatives would not be considered vacationers.

Citizenship and Alien Status

The proposed regulations limit eligibility to U.S. citizens and the five categories of aliens specified in the Act. A few advocacy groups requested clarification on whether refugees covered by the United Nations Protocol on the Status of Refugees (19 United States Treaties 6223) and North American Indians, whose reservations border or cross U.S. borders, are eligible to participate. The Department has decided to more carefully study these issues and to determine if other treaties or international agreements accord an entitlement to food stamp benefits to specific categories of persons. The Department intends to issue final rules on these issues in the near future.

The proposed and final regulations require that the income and resources of ineligible aliens be disregarded when determining the eligibility and benefits of other household members. Comments from State and local agencies generally opposed this provision on the grounds that it could result in increased benefits to households in which a wage earner is an illegal alien. However, as noted in the preamble:

> Consideration of those resources and income could result in the reduction of food stamp benefits for the remainder of the household because of the technical alien status of the ineligible member, even though the remainder of the household is already receiving reduced benefits since the ineligible member is not counted in determining the value of the allotment.

Additionally, the House Report denoted a Congressional intent that the income and resources of the ineligible alien be disregarded. The final rules were revised to make clear that payments from ineligible aliens to the household will be considered as income the same as any other payments from nonhousehold members to a household.

This section has been reorganized and a new paragraph has been added to explain that other eligible household members should be certified even though one or more household members have not verified their asserted alien status. It was felt that the household should not be penalized if verification is not timely received, especially since the time when verification is received is not usually within the control of the household or the person temporarily ineligible. If proper verification is subsequently received, the State agency shall act on it as a reported change in household membership. The requirements regarding actual verification of alien status are found in § 273.2(f), which provides the verification standards for all eligibility criteria.

Tax Dependency

The proposed and final regulations make reference to specific terms as defined in the Internal Revenue Code and Internal Revenue Service (IRS) regulations. Several commenters recommended that the relevant IRS rules be paraphrased and incorporated into these regulations. Instead of adopting that recommendation, the Department will incorporate and explain the IRS rules in the revised Food Stamp Certification Handbook.

The tax dependency verification requirements for students are consolidated into § 273.2(f), with all other verification standards. Several State agencies asked for clarification regarding the initial benefits of a student who, because of pending verification of tax dependency, was not certified along with other household members. As in the section on aliens, a paragraph has been added to explain that, when such a student provides the proper verification, the State agency shall act on the verification as it would on any reported change in household membership. Other revisions to the section on tax dependency merely clarify the proposed regulations.

SSI Cash-Out States

States are allowed, pursuant to Pub. L. 93-233, as amended, and the Food Stamp Act of 1977, to provide SSI recipients the bonus value of their food stamp allotments in cash, in lieu of coupons, by increasing the SSI grant award.

The proposed regulations recognized California and Massachusetts as the two States for which the Secretary of Health, Education, and Welfare had determined that the SSI payments had been specifically increased to include the value of the food stamp allotment.[36] The State of California has been deleted from the regulations since California is no longer classified as a cash-out State.[37] Wisconsin has been added as it has become a cash-out State.

In response to concern for households which experience delays in the processing of application of SSI benefits, a paragraph has been added to clarify that application for SSI benefits does not affect eligibility for food stamps. The applicant must be approved and in receipt of the first SSI check before food stamp benefits are terminated. Section 6(g) of the Act prohibits food stamp participation for each person "who receives * * * (SSI) benefits * * *." However, if the State provides substitute payments equivalent in value to the SSI benefits, initial receipt of those payments will terminate participation in the food stamp program. Equivalent State payments, based on presumptive or actual eligibility for SSI benefits and determined under SSI rules, should be considered as a substitute for SSI payments. Once the SSI recipient begins receiving benefits, ineligibility for food stamp benefits shall remain in effect until the recipient is terminated from the SSI program. If for some reason, such as the theft of an SSI check, benefits are temporarily interrupted, the SSI recipient still cannot receive food stamp benefits. SSI rules will determine the appropriate relief. Several commenters recommended the temporary issuance of food stamp benefits to such individuals. However, the Act and the House Report contemplate that SSI recipients residing in cash-out States will be covered by the appropriate SSI regulations and not served by the food stamp program.[38]

[36] Sec. 6(g) of the Act provides that the Secretary of HEW has authority to make this determination.

[37] As noted at 43 FR 39075, California became ineligible for cash-out status on Sept. 1, 1978.

[38] Moreover, even if authorized, stop-gap food stamp relief could duplicate SSI replacement procedures and complicate SSI and food stamp operations.

Work Registration

Persons required to register. The proposed regulations specified that all able individuals between the ages of 18 and 60 must comply with the work registration requirement, unless they qualify for an exemption. In response to comments calling for clarification, the paragraph on exemptions was reorganized so that age and poor mental and physical health are listed there as exemptions. A sentence was added to clarify that the State agency shall determine which household members are required to register for employment. Another new sentence requires the State agency to explain to the household both the work registration requirement and the consequences of failure to comply.

State agencies should note that the final regulations direct the State agency to provide work registration forms to the household and to forward the work registration forms to the State employment service office after the household completes the forms and returns them to the food stamp office. State agencies are not permitted to require households to complete the work registration forms at the State employment service office.

Exemptions from work registration. Commenters asked if the work registration requirement would have to be fulfilled the same month a child attains the age that cancels the work registration exemption. To avoid burdening State agencies with the problem of keeping track of birth dates of children, the Department revised the final regulations to specify that under such circumstances the work registration requirement must be met at the next scheduled recertification, unless the person qualifies for another exemption.

Many commenters asked what constitutes appropriate verification of disability for employment. In response, the following clarification was included in these regulations. If a mental or physical disability is claimed and the disability is not evident, receipt of disability benefits will constitute adequate verification. A statement from a physician or licensed or certified psychologist will be considered verification if the individual does not receive disability benefits. The requirement for a statement from a physician or psychologist has been adopted from the Work Incentive Program (WIN) regulations.

The proposed and final regulations provide and exemption to one-parent households with a child under 12 and to one parent with a child under 18 in households where another parent is employed or is registered for work. Although many commenters complained that this policy penalizes the one-parent household, the Act requires that the exemption only apply up to age 12 for the one-parent household. In and example explaining the requirement regarding the two-parent household, the House Report referred to a child over age 12. The Act and the House Report contemplate a higher age requirement where, at least, one parent is employed or is in compliance with the work registration requirements. As in the proposal, "child" has been defined as a person under age 18.

The proposed regulations permitted an exemption for individuals in receipt of unemployment compensation but made no provision for applicants for such benefits. Many commenters noted that applicants for unemployment compensation in some States are required to register for work at the time of application. Consequently, to avoid duplication of work registration procedures, the final regulations exempt from food stamp work registration those individuals who registered for work as part of the unemployment compensation application process. However, those applicants for unemployment compensation who are not required to register for work until they begin receiving unemployment compensation benefits shall not receive an exemption from the food stamp work registration procedures until they actually are in receipt of unemployment compensation benefits.

Commenters from Alaska indicated that in some remote areas of the State there are no State employment service offices and no jobs. Households in those remote areas meet their basic needs by hunting and fishing instead of working at a salaried job. Consequently, the final regulations provide a self-employment exemption for persons who reside in certain designated areas of Alaska [39] and engage in subsistence hunting or fishing for a minimum of 30 hours per week.

Voluntary quit. This paragraph is reserved for subsequent rulemaking.

Job search. This paragraph is reserved for subsequent rulemaking.

Additional work requirements. The proposed regulations require work registrants to report to an employer when referred by the State employment service office. Several commenters pointed out that under the current program individuals have been referred to jobs to which they could not report because of the distance involved. Consequently, the final regulations specify that the registrant is obligated to report to an employer only if the potential employment meets the suitability requirements, outlined in § 273.7(i), which include provisions on commuting time.

Failure to comply. As the House Report recommended, the Department proposed that the 60-day disqualification (required by the Act) for primary wage earners who voluntarily quit their jobs also be applied to the failure to comply with the work registration requirements. Many commenters recommended that the 60 days be converted to 2 months and that the regulations specify when the 2-month disqualification period should begin. The Department agrees that because eligibility for program benefits is based on monthly periods, the 2-month period is more workable and has made this change. The Department also clarified that participating households must be given adverse notice and the opportunity for a hearing before the disqualification period begins. In addition, the final rules require the State agency to provide the State employment service

[39] Sec. 3(g) of the Act specifically recognizes the unique circumstances of certain eligible households in Alaska.

office sufficient advance notice to allow them to send a representative to attend the fair hearing, if such attendance is necessary.

or safety." Section 10 requires a determination that a dispute should "threaten substantially to interrupt

tions, a household shall not be denied food stamp benefits for failure to comply with the State requirement.

they have access to or that they may sell, and the value of that portion. State agencies will then count only the value of that portion in the re-

cation, or inhabitability caused by casualty or natural disaster. The exclusion for homes temporarily unoccupied because the household is on vaca-

commingled with other funds. After the 6-month period, all funds which had been commingled will be counted as resources. This rule will greatly

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office sufficient advance notice to allow them to send a representative to attend the fair hearing, if such attendance is necessary.

Determining good cause. Although some commenters suggested many specific examples of what constitutes good cause for failure to comply with the work registration requirements, the examples were not incorporated into the regulations. The final rules are basically a continuation of current policy which has been successfully employed for several years. Determining if good cause exists must remain an area where the State agency considers all facts and circumstances, and makes an evaluation based on the facts in each individual case. It is not possible for the Department to enumerate each individual circumstance which should or should not be considered good cause.

Ending disqualification. The proposed regulations allow persons disqualified for refusal to report to an employer to reestablish their household's eligibility by reporting to that employer. Commenters pointed out that by the time the State agency learned of the refusal and terminated the household, the job would probably have been filled by someone else. Consequently, the final regulations specify that reporting to the same employer to whom the person had previously refused to report is an acceptable cure only if the work is still available. Without this rule, certain registrants could avoid the work requirements and yet remain eligible for food stamps by complying after it is too late to accept the job and begin work.

Suitable employment. Some commenters felt that work offered at a struck worksite should always be defined as unsuitable. Other commenters preferred the current regulatory approach which provided that work was unsuitable, at a struck site, only if the strike was not determined to be unlawful. Based on the detailed justification found in the proposal (43 FR at 18884), the proposed rules, regarding strikes enjoined under the Taft Hartley Act, are made final.

In addition, suitable employment has been expanded to include employment at a site or plant subject to a strike or dispute where an injunction has been issued to enforce §10 of the Railway Labor Act. This modification of suitable employment is consistent with the rationale, explained in the proposal, which defined suitable employment as including employment at a site subject to a strike enjoined under §208 of the Labor Management Relations Act. Section 208 requires a determination that a "threatened or actual strike affecting an entire industry or a substantial part thereof • • • (will) • • • imperil the national health or safety." Section 10 requires a determination that a dispute should "threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." Under both sections, actions must be taken by the President of the United States based on the national interest in averting a strike or dispute. Both statutes provide for "cooling off" periods and under the final regulations, a court order would be necessary, under either Act, for a determination of suitable employment, and a denial of food stamp benefits to households containing a member refusing to comply with the court order.

The Department continues to believe that its regulations should not undermine the intent of Federal legislation designed to promote the settlement of labor disputes where national interests are at stake. The requirement that a judicial determination be made, before application of the regulatory provisions, will serve to protect the rights of the affected parties.

The proposed regulations state that employment would not be considered suitable if daily commuting time exceeds 25 percent of daily work time. It was pointed out that full-time students are only required to accept employment of 20 hours per week. Therefore, more than 30 minutes of commuting each way would be unsuitable under the proposal. However, a 30-minute commute is not that unusual or burdensome. Consequently, language similar to that of the WIN regulations has been adopted. Employment shall not be considered suitable if daily commuting time exceeds 2 hours per day, not including the transporting of a child to and from a child care facility.

Registration of PA and GA households. The proposed regulations provided project areas with no WIN program the opportunity to substitute State PA or GA work registration procedures for FNS procedures, if approved by FNS. Several commenters pointed out that State agencies should be allowed to use State registration procedures for AFDC recipients who are not registered for WIN even in project areas with a WIN program. Therefore, the final regulations allow such substitution of State work registration procedures if the procedures are equivalent to, or more restrictive than, FNS procedures and the registrants activities are monitored so that appropriate penalties for failure to comply are applied. Accordingly, WIN registrants are subject to WIN requirements and PA or GA registrants in a State work registration program are subject to the State requirements. However, if a State requirement exceeds the requirements of FNS regulations, a household shall not be denied food stamp benefits for failure to comply with the State requirement. Denial would only result for failure to comply with a State requirement which is equivalent to a food stamp work registration requirement.

Resources

Definition of resources. Except where dictated by statutory changes, the proposed regulations define resources very much as they are defined in the current regulations. Lump-sum payments, except those specifically excluded as a resource in these regulations, will continue to be counted as resources as of the month received. In the proposed regulations, it was explained that, lump-sum payments would not be counted as income. Apparently, several commenters overlooked the policy that includes those lump-sum payments as resources, regardless of whether they were excluded as income. The Department, therefore, listed lump-sum payments as an example of countable resources in the final regulations.

The Department inadvertently neglected to propose that the current policy regarding unlicensed vehicles be continued. Consistent with current policy, the equity value of unlicensed vehicles is to be counted as a resource unless the vehicle is exempt as either producing income consistent with fair market value or as essential to the employment or self-employment of a household member. To clarify that unlicensed vehicles are countable as a resource, at their equity value unless excluded under the provisions discussed above, they are listed as an example of a resource.

Jointly owned resources. The proposed regulations require that jointly owned resources be considered available in their entirety to each household, unless the applicant household could demonstrate that the resource was inaccessible to the household. This treatment of jointly owned resources drew much criticism from State agencies, advocacy groups, and other commenters. They argued that the rule implied that the entire value of the resource would be counted unless the household could prove the resource was entirely inaccessible to the household. However, jointly owned property may be only partially accessible or only partially salable by any single coowner. It was argued that only the value of that portion of the resource which may be used or sold by the household should be counted. The Department agrees. The proposed rule could have overstated the value of the resources owned by any given household. The regulations have been revised to permit households to demonstrate what percentage of the resource they have access to or that they may sell, and the value of that portion. State agencies will then count only the value of that portion in the resource computation. For resources which cannot practically be subdivided [9] and sold by the applicant household, no value will be ascribed to the partial ownership interest if the other owners refuse to allow the entire resource to be sold. Under those circumstances, the partial interest is considered inaccessible to the household.

Exclusions from resources. [11] The proposed regulations exclude one home and all surrounding property not separated by intervening property owned by others. This provision drew over 200 comments; the majority of commenters (125) strongly approved the definition. Most commenters felt the provision would benefit the rural poor.[12] Specific objections were varied; however, the major objection centered on the lack of a specific limit on the lot size surrounding the home. The Department, however, retains the definition to reduce administrative burdens and "establish a uniform national policy • • • (which) is easy to apply and will eliminate the need for State agencies to establish acreage limits or lot size limits." (43 FR 18885.) Furthermore, the Department is making efforts to establish eligibility standards that are more consistent with criteria used by other programs. In this instance the definition for home and surrounding lot conforms to that used by the SSI Program. Thus, elderly, blind, or disabled SSI recipients will not be denied food stamp benefits because their home lot exceeds a particular State acreage limit. As noted in the proposal, this area is targeted for review as part of the Department's study of assets required by the Act.

The proposed regulations also excluded the home during periods when the house is temporarily unoccupied for reasons of employment, illness, vacation, or inhabitability caused by casualty or natural disaster. The exclusion for homes temporarily unoccupied because the household is on vacation was deleted as unnecessary because vacationers are not eligible for benefits in other project areas. However, an exclusion was added for homes temporarily unoccupied because the household is pursuing training for future employment. Failure to provide this exclusion could impede job training which might enable the trainee to obtain increased income and end participation in the food stamp program. This exclusion is consistent with the exemption of a home temporarily unoccupied for reasons of employment.

Several commenters noted that migrant households often spend years purchasing land on which they intend to build a home. It was argued that the Department's home and lot exclusion favored households which could purchase both the home and lot at once and, therefore, disfavored the poorest of the poor households.[13] Accordingly, the Department added an exclusion for one lot per household if the household does not already own its home and if the household plans to build its home on that lot. In addition, if the household is in the process of building a home on the excludable lot, the value of the partially completed home will also be excluded. This policy promotes a fairer treatment of persons who wish to become homeowners and yet reduces the possibility of abuse by limiting the surrounding land exclusion to the value of one lot. The single lot rule should insure that only households owning property for the purpose of building a home would receive the exclusion.

The proposed regulations excluded the value of property which a household is making a good faith effort to sell. Several commenters requested that verification procedures be specified to enable State agencies to uniformly apply this rule. Therefore, a sentence has been added to explain that the State agency should accept such things as listings with real estate brokers and advertisements in local newspapers as evidence of good faith efforts.

Handling of excluded funds. The proposed regulations explained in detail how to determine if excluded funds, which had been commingled with nonexcluded funds, were exempt. Many commenters felt that the formula was needlessly complex and would lead to numerous administrative errors. Other commenters felt that no commingled resources should be excluded. The final regulations provide a 6-month exclusion for excluded funds commingled with other funds. After the 6-month period, all funds which had been commingled will be counted as resources. This rule will greatly reduce administrative burdens, avoid participant confusion, and simplify the handling of excludable resources. Nonetheless, the interests of recipients and the purposes of other legislation will be protected by the continuous exemption for noncommingled exempt funds and the 6-month exemption after commingling. Before the end of the 6-month period, withdrawals, shall be considered as withdrawals of nonexempt funds.

Fair market value of licensed vehicles. The proposed regulations require State agencies to assign the "blue book" value to licensed vehicles. Many commenters pointed out the need for more detailed instructions in this section. Accordingly, the Department added the following clarifications. The "wholesale" value should be assigned to vehicles, or, if a particular blue book uses a term other than wholesale value, the assigned value should be comparable to the wholesale value. To avoid complications regarding value calculations, which in many cases would not affect eligibility, the State agency shall not add the value of low mileage or optional equipment to the basic blue book value of the vehicle. Thus, if a vehicle is especially equippped with apparatus for the handicapped, the value of the apparatus should not be added to the value of the vehicle.[14]

It was noted that vehicles 7 years old and older are not listed in most blue books. Therefore, the final rule provides that the household's estimate of the value of older vehicles should be accepted unless the State agency has reason to believe the estimate is incorrect. In that case, the household should acquire an appraisal or produce a tax assessment or newspaper advertisement of other evidence of the value of the vehicle.

Handling of licensed vehicles. The proposed regulations require that all licensed vehicles be counted as resources to the extent they are worth over $4,500, unless they are exempt as income-producing vehicles. Many commenters complained that the $4,500 limit is unreasonably low. That figure is required by the Act.

The Act provides that income-producing vehicles are totally exempt. Based on the comments, the list of exempt vehicles has been expanded to include vehicles necessary for long-distance travel (other than daily commuting) that is essential to the em-

[9] A resource cannot be practically subdivided if the financial value of the proportionate share would be significantly reduced by sale of only the subdivision.

[11] To avoid confusion and in response to comments, note that security deposits for utilities and rent are, as in the current regulations, treated as inaccessible resources. Although, discussed under the excess shelter cost deduction in the current Food Stamp Certification Handbook, security deposits are probably the commonest example, regarding food stamp households, of inaccessible resources. For that reason, a return of the household's deposit does not represent income but, instead, the conversion of an inaccessible asset to an accessible asset.

[12] The Watauga County (North Carolina) Department of Social Services noted, for example, that, "[h]ere in the mountains many isolated rural elderly who desperately need food stamps but do not wish to sell their relatively invaluable small mountain farms will finally be able to participate in the program."

[13] This concept is presented by, among others, the State of Texas and the Migrant Legal Action Program, Inc.

[14] In this way, the handicapped are not penalized for adding features which are necessary for their use of the vehicle and State agencies are not required to make additional computations.

ployment of a household member. This exemption should apply to traveling salespersons, who need reliable ve-

verse notice period. It should be noted that a transfer of assests to qualify for the program is not a fraudulent action

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velop realistic standards; and (3) requiring a separate telephone standard. Which shelter expenses were deductible was a concern of approxima

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ployment of a household member. This exemption should apply to traveling salespersons, who need reliable vehicles for long-distance travel to transport equipment used in their trade, and to migrants.[45] The recent USDA study, "Food Stamp Participation of Hired Farmworker Families" cited by commenters, noted that "[o]ver a third of the migrants in 1975 traveled over 1,000 miles to do farmwork, not including the distance to return home." Moreover, public transportation is unavailable in many of the rural areas where migrants must go to obtain work and carpooling may not be an available option since often entire families travel to worksites.

An exemption has also been added for vehicles necessary for subsistence hunting or fishing. Since "income-producing" vehicles are statutorily exempt, it is consistent to also exempt vehicles which produce the equivalent of monetary income, i.e., game and fish necessary for the livelihood of the household.[46]

Based on comments received, the exemptions for equity value have also been modified regarding vehicles used to attend training or pursue education which is preparatory to employment and vehicles used to seek employment.

Many commenters requested that the sections on licensed vehicles be rewritten for clarity. In an attempt to respond to those commenters, the regulations have been restructured and a summary is included.

Transfer of resources. Only 11 of nearly 200 commenters favored the provisions on transfers of resources. However, the Act requires that households be disqualified for knowingly transferring assets for the purpose of qualifying or attempting to qualify for food stamp benefits. Several commenters erroneously thought that a fraud hearing would be required to impose the disqualification. Others did not understand when the disqualification period would begin. Therefore, a paragraph is added to explain that the disqualification period for applicant households will begin in the month of application and that the disqualification period for participating households will begin with the first month after expiration of the advance adverse notice period. It should be noted that a transfer of assests to qualify for the program is not a fraudulent action under the Act and these regulations. The Act contemplates separate treatment and separate disqualification procedures for improperly transferring assests to obtain stamps and for fraud. Only if the household member fraudulently conceals or misrepresents the assets transfer will fraud be involved. The transfer does not constitute fraud, in and of itself.

Many commenters recommeded elimination of or revisions to the proposed chart for the periods of disqualification. However, the chart was retained in the final regulations. As noted in the proposal, without standard guidelines, there would be no uniformity in the application of disqualification periods which would result in disparate eligibility standards.

INCOME AND DEDUCTIONS

Income eligibility standards. The Act of 1977 and the proposed rules base the income standards of eligibility on the annual nonfarm income poverty guidelines prescribed by the Office of Management and Budget (OMB). The proposed rules set a standard for the contiguous 48 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. A separate standard is set for Alaska and Hawaii.

Approximately 50 individuals and groups commented on this statutory provision. Comments on this section were rather evenly divided. The final rulemaking is based on the statute and contains no changes from the proposed rule.

Definition of income. The proposed regulatory definition of income followed the language of the statute. All moneys were to be considered as income, unless specifically excluded by the statute. The regulations distinguished between earned and unearned income to allow application of the statutory deduction for 20 percent of earned income. Included in earned income were training allowances and certain assistance payments which are provided in lieu of wages to individuals required to work as a condition of receiving the income. Two "payments" were not included as income because they did not fit within the broad statutory definition of income. They are recoupments of prior overpayments and the surrender of child support payments to the title IV-D agency (child support enforcement program). The definition of income also specified that the income of individuals disqualified from program participation, less that member's prorated share, would continue to be attributed to the household from which the member was disqualified.

Approximately 100 individuals and groups commented on this section. Positive statements supported the treatment of title IV-D child support payments received by AFDC participants since the household must assign all support payments to the State agency to maintain AFDC eligibility.[47] The most negative comments concerned the consideration of income of disqualified household members as available to the household. One commenter noted that counting the income of a disqualified member as available to the household is harmful to innocent household members who will be penalized for actions beyond their control. Many commenters offered suggestions on a variety of types of income that should not be considered as earned or unearned income.

The Department has not significantly changed the definition of income from the language contained in the proposed rules, since the overall framework is set by statute. The Department struck the reference to the Agriculture Stabilization and Conservation Service payments as unearned income. These payments contemplate the performance of work and are, therefore, more properly considered as earned income.[48] The comments that income of a disqualified household member should not be counted as income in determining eligibility and benefits for the remainder of the household were carefully considered. However, the Department still believes that Congress did not intend that a household benefit if one or more of its members were disqualified for fraud. As noted in the preamble to the proposal, disallowing the income and resources of a disqualified person would significantly hinder the Department's ability to deter fraud or noncompliance with the student work registration requirements. Since the head of the household and primary wage earner will, in many cases, be the individual disqualified, excluding that income would leave the remaining household members with increased benefits. As a result, the household and the disqualified individual could benefit by intentionally defrauding the program or intentionally failing to comply with the student work registration requirements. In the interest of equity, the final rules state that income from disqualified individuals, less the prorated share for the individual, will be counted as income.

Income exclusions. Approximately 400 individuals and groups commented on this provision. Most comments were negative regarding certain aspects of the rules. Approximately 70 comments out of 400 were positive.

Many comments supported the proposed proration of income of a household when the earnings of children cannot be differentiated from that of other household members. The Act requires the exclusion of income received by a child under 18 who is at least a halftime student. Implementation of that statutory exclusion is achieved by the proposed language which is hereby made final.

Many negative comments, most of which were from migrant interest groups, were in reference to wage advances. These commenters requested that wage advances be specifically excluded as loans, since migrants and seasonal farmworkers often receive wage advances as deferred payment loans. State and local agencies requested clarification on several provisions, including the loan definition which is discussed in the section on verification, vendor payment agreements, and treatment of title XX payments.

The Department carefully considered suggestions and comments regarding loans and reimbursements. The final rules still count wage advances as income when received and not, as recommended in the comments, at the point they are earned or deducted from wages. Counting wage advances is an extension of the general statutory rule to count all income from whatever source, except for specific exclusions.[49]

[45] The State of Wyoming, the National Association of Farmworker Organizations, and the migrant legal action program discussed the basis for this exemption.

[46] The Alaska Legal Services Corporation noted that: "As Congress has recognized, subsistence activities are an important component of the livelihood of many people in rural Alaska. (Sec. 3(g) of the Act.) These activities are usually carried out in lieu of wage earning employment and take place in areas where opportunities for such employment are scarce. Though a subsistence hunter or fisherman may not be producing case income for his family, he is producing in-kind income * * *."

[47] For a thorough explanation of these title IV-D payments refer to the proposal at 43 FR 18887.

[48] The State of North Dakota comment discusses this point.

[49] Wage advances are clearly distinguishable from loans. Advance wage payments are made in exchange for services or labor to be performed. Loans are made in exchange for repayments of the principal amount, plus in most circumstances, interest. The Act requires the exclusion of all loans but does not contemplate that some wages be initially disregarded, until the work is completed, and then counted. Even if the statute authorized this temporary disregard of available income, that policy would create serious administrative problems. If completion of the work was used to determine when the income is received, decisions regarding work completion would have to be made by the State agency. Moreover the longer it took to count those wages as income, the greater the likelihood of a disparity between actual household "available income" and income, as counted by the program. However, a travel advance made to cover travel expenses would be excludable as a reimbursement. Also, since incidental advance payments do not represent the types of recurring or periodic income which the Department intends to encompass by the expedited service rules, a wage advance of less than $25 is not considered as the first payment from an employer in terms of triggering the recurrent income rules. Consideration of these normally irregular or infrequent incidental payments would unnecessarily complicate the administration of the expedited service provisions. To avoid uneven application of this procedure, a uniform $25 national limit has been established.

Because of the comments requesting clarification of the vendor payments proposal, the final regulations have been revised.

There were some comments on the treatment of direct payments to a household from HUD for utility expenses. In furtherance of the rationale stated in the proposal regarding the HUD exception to the general vendor payment rule, the final rules are clarified to exclude from income only payments made to a household by HUD's experimental housing allowance program. Direct HUD payments to a household for utility expenses are not provided under the above experimental program, and are, therefore, not vendor payments.

In response to inquiries, note that the income exclusion for scholarships and deferred education loans for the tuition and mandatory fees of a school for the handicapped was clarified to indicate that the school can be at any level. This policy is consistent with section 5(d)(3) of the Act.

Based on an analysis of the Domestic Volunteer Service Act of 1973 and its legislative history, it is apparent that payments under title I (VISTA) are excluded only for individuals already receiving public assistance or food stamps when they joined VISTA. The House Report requires in determining these exclusions, that: "Each law would have to be reviewed in light of its specific terms and the associated intent of Congress to determine whether exclusion from food stamp income is appropriate." The VISTA income exclusion for food stamp purposes has been appropriately modified. The comments of Senator Dole, Congressional Record, July 21, 1978, at S. 11432-33, explain this issue in detail.

Standard deduction, earned income deduction, and dependent care deduction. Many individuals and groups commented on these provisions. Many commenters requested changes in regulatory provisions mandated by the Act. More than half of the public comments opposed the statutory elimination of the deduction for medical expenses.

Shelter deductions. Approximately 500 individuals and groups commented on this section. The proposal most frequently supported (60 comments) allowed households to switch from the utility standard to actual costs at any time. Many negative comments were received on the procedures for determining the amount of the utility standard and seasonal adjustments. Suggested alternatives included: (1) Prohibiting State agency use of PA or GA standards, unless such standards meet all the food stamp program criteria; (2) requiring State agencies to develop realistic standards; and (3) requiring a separate telephone standard. Which shelter expenses were deductible was a concern of approximately 300 writers. Thirty approved the section as written. The remainder recommended deducting such items as the cost of weatherization, repair and replacement costs, and security or utility deposits on apartments and utilities.

Several State agencies commented on determining the amount of the utility standard. Suggestions included developing standards for rent and telephone costs, developing a national standard and using the PA/GA utility standard. Two State agencies recommended deletion of deductions for an unoccupied home, since the agency felt that rarely could the shelter expenses of an unoccupied home be properly claimed. Two local agencies noted that often more than one food stamp household resides in a home. They requested clarification on which household may take the deduction; the household which gets the bill or the household which pays the bill? Or is the expense divided?[50]

The Department still believes that standardized utility allowances "can expedite the certification process and reduce errors and administrative costs."[51] However, in response to State agency requests, the Department will provide technical assistance to State agencies for developing a methodology to compute the standard allowances.

Several comments indicated that there was some confusion about the purpose of a utility standard. The standard should expedite the certification process and allow households to receive a deduction without being required to exactly project utility expenses over the course of a certification period. However, while a utility standard will simplify the certification process, the Department recognizes that households have widely varying utility expenses, based primarily on the types of utilities or fuels for which a household is billed. The proposed rules attempted to restrict the application of the utility standard, which should not be unreasonably low so that households would not use it, by not allowing it to be used for household

[50] The Department does not believe that a special exception should be created in these situations. The general rule, which allows a deduction for the household that is billed for the expense, applies in these cases. If more than one household is billed, the deduction will apply according to the billing. If the bill is in both names, the amount should be prorated. Note that particular rules apply to boarders regarding the treatment of shelter expenses.

[51] Congressman Foley noted in the Congressional Record (H. 9534; Sept. 16, 1977) that "standard utility allowances could ease the paperwork burden on both recipient and administrators."

holds that pay for no other utilities besides a telephone. The final regulations enlarge this rule. Households

The final rules allow States to restrict switching from the standard utility allowance to actual expenses,

fall within the concept of shelter costs. However, the rule will not allow a deduction if an insurance company

1979 when the next annual adjustment is scheduled.

Deductions for the outlying areas. This regulation contains (in two ap-

pendix B. The standard deductions for the outlying areas as of July 1, 1978, are as follows: Alaska, $110; Hawaii, $90; Guam, $125; Puerto Rico, $40;

normal notice and comment rulemaking is unnecessary, impractical, and contrary to the public interest.

The Department did not publish the

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holds that pay for no other utilities besides a telephone. The final regulations enlarge this rule. Households which are only charged for water, garbage collection, sewerage, or telephone, or any combination of these expenses, are not entitled to take the standard utility deduction. However, if a household is charged for any other utility expense, such as electricity, gas, heating or cooking fuel, the household is entitled to use the utility standard. This allows State agencies to issue a standard at a reasonable level without significantly overstating the costs for households which are billed for only water, garbage, sewerage, and/or telephone.

State agencies have the option of developing separate standards that cover the various utility expenses, including those that do not trigger the standard. For example, a State agency can calculate the average home utility expenses for an area using water, garbage collection, sewerage, electricity, coal, gas, and oil costs and arrive at utility standards. The State agency may also calculate the average cost of each utility and apply the appropriate standard for each utility the household is billed for.

While the final rules afford State agencies great flexibility in developing utility standards, State agencies must still demonstrate to FNS that the general standard or individual utility standards accurately reflect actual costs to food stamp households before FNS approval will be given.

Under either option, the final rules allow State agencies to develop and use a standard telephone service fee (base phone rate plus tax) which can be applied to all households regardless of the actual charge. Basic telephone costs are not subject to significant dollar variation within each State. Moreover, to obtain FNS approval the phone allowance would have to at least equal the base phone rate (plus tax) of most participating households within the State. Many of the households whose actual phone rate exceeds the standard would not be adversely affected since the other shelter/dependent care costs could already exceed the $80 per month deduction. The dollar impact on the relatively few households which would be actually adversely affected by use of the phone allowance is reduced by the 50-percent excess shelter cost factor and the 30-percent benefit reduction rate. Thus, the low incidence and nominal significance of the adverse impact on any given household, compared to the administrative cost savings and the possible decrease in the time it takes to be certified, makes a mandatory standard phone rate cost efficient.[52]

[52] The State of Michigan noted that, Currently, the (quality control) error rate is exceedingly high for telephone budget errors. Because of the policy requiring budgeting the actual basic charge plus tax, workers may be required to use as many as 40 different rates within a single project area. The rates may differ only by a few cents between companies/cities/neighborhoods. In effect, we are spending dollars to save dimes.

The final rules allow States to restrict switching from the standard utility allowance to actual expenses, and vice versa, to once during the certification period. State agencies noted that a household's certification and basis of issuance must be completely reprocessed each time the household switches to the standard or the actual costs. Since the standard is intended to simplify the certification process,[53] and since State agencies are required to keep the standard up to date, the Department contends that the administrative expense does not justify the slight increase in benefits which some households might receive by timing when to switch. Moreover, households which wish to receive benefits computed exactly according to actual utility costs may request the actual cost deduction at each certification.

The proposed rules also required States to establish a shelter standard for rent. Commenters generally opposed this, arguing that rents vary considerably and do not lend themselves to a standard. The final rules delete provision:

Some comments criticized allowing the shelter cost of an unoccupied home. However, households entitled to the allowance are being charged for the costs of maintaining a home the same as households charged with shelter costs for the home in which they reside. Moreover, as noted in the proposal, this allowance only applies in limited circumstances. Commenters who recommended deleting this paragraph were concerned primarily that these expenses are difficult to document and verify. The Department has appropriately revised the verification requirements. The new requirements are explained in the verification section of application processing.

The final rules also allow a shelter allowance (up to the maximum $80 shelter/dependent care deduction) for current charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as fire or flood. Since, after a fire or flood, a household may have to make expensive repairs to the structure in order to continue residing in the home, these expenses reasonably fall within the concept of shelter costs. However, the rule will not allow a deduction if an insurance company or private or public relief agency has or intends to reimburse the household for the cost of repairs. To the extent of any reimbursement, the household does not incur net shelter costs. Moreover, this deduction is not intended to cover normal wear and tear, or incidental repairs to the house.

Adjustment of deductions. This section contains procedures for semiannual adjustments of standard deductions and annual adjustment of shelter deductions. Approximately 60 individuals and groups commented on this provision. Commenters suggested that adjustments be made as cases come due for recertification, rather than as mass changes. State agencies objected to the use of mass change procedures, stating that those procedures increased administrative costs. However, these adjustments are required by the Act which provides the dates on which each change must be made effective. No changes were made in this section.

The Act provides that the standard deduction of $60 is to be adjusted semiannually by the changes in the Consumer Price Index (CPI) for items other than food for the 6-month period ending March 31, 1978. The unrevised CPI increased by 2.7 percent between September 1977 and March 1978. This increase, when applied to the $60 standard deduction, yields a $61.62 standard deduction. Since the Act requires that the deduction be rounded to the nearest $5, the standard deduction will remain $60. A similar computation will be done for the 6-month period ending September 1978 to determine if an adjustment will take effect in January 1979. It appears likely that the standard deduction will be increased to $65 at that time. However, because the CPI data for September 1978 will not become available until late in October, a final determination cannot be made until then.

The Act also requires that the excess shelter deduction be adjusted annually by the change in the shelter, fuel, and utilities component of the housing costs portion of the CPI for each 12-month period ending March 31. For the last 12-month period, the shelter components of the CPI went up 8.91 percent. The fuel and utilities component of the CPI increased by 7.15 percent. Combining the shelter and fuel and utilities components results in an overall increase of 8.56 percent: The increase, when applied to the excess shelter deduction of $75, yields $81.42. Since the Act requires that the deduction be rounded to the nearest $5, the excess shelter deduction becomes $80. The $80 limit on the shelter deduction will remain in effect at least until July

[53] It bears repeating that references to State agency administrative convenience, or time and cost savings, may translate into the more expeditious handling of household applications, complaints, fair hearing requests, or any other time or resource demand made on the State agency for the benefit of the household.

1979 when the next annual adjustment is scheduled.

Deductions for the outlying areas. This regulation contains (in two appendixes) charts which provide the amounts of the standard deduction and the excess shelter/dependent care deductions for the outlying areas for the period beginning July 1, 1978.

Standard deduction. Subsection 5(e) of the Food Stamp Act of 1977 requires that the Secretary develop separate standard deductions for households in Alaska, Hawaii, Puerto Rico, Virgin Islands, and Guam. These separate deductions must be based on the relationship of actual or potential itemized deductions in these areas to such deductions in the 48 States and the District of Columbia. The Secretary is further directed to use the best available information in determining these deductions. Effective July 1, 1979, the standard deductions must be adjusted every January 1 and July 1 to the nearest $5 to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for items other than food for the preceding 6 months, ending the preceding September 30 and March 31, respectively.

The best available source of information is the food stamp quality control data for the period July-December 1977. The quality control sample is a random sample of participating households. Not only is sample size sufficiently large to provide reliable data for the purpose of these computations, but it is the largest sample of such data that is available. It is also the most recent data available. For each of the outlying areas, the full quality control sample has been used. Information on deductions for the 48 States and the District of Columbia has been derived from the quality control subsample. Because of the large number of households contained within the subsample, equally reliable information for the 48 States and the District of Columbia can be obtained without using the entire quality control sample.

In computing the standard deduction for Alaska, Hawaii, Guam, Puerto Rico, and the Virgin Islands, the average total deduction for households in these areas and households in the 48 States and the District of Columbia was developed. A ratio was then derived by comparing the average deduction in each area, i.e., average total deduction in Alaska and average total deduction in the 48 States and the District of Columbia. These ratios were then applied to the $60 standard deduction. The unrounded standard deduction for each of the outlying areas was then updated, as prescribed by law, to reflect changes in the CPI, and rounded to the nearest $5 increment. These computations are shown in appendix B. The standard deductions for the outlying areas as of July 1, 1978, are as follows: Alaska, $110; Hawaii, $90; Guam, $125; Puerto Rico, $40; Virgin Islands, $55.

Further semiannual adjustments to the standard deductions for the outlying areas shall be based on the previous period's unrounded amounts, updated by changes in the CPI, and the result rounded to the nearest $5.

Excess shelter/dependent care deduction. Subsection 5(e) also requires the Secretary to develop separate excess shelter/dependent care deductions for each of the outlying areas based on the 48 States and the District of Columbia. These deductions must be updated annually, beginning July 1, 1978, to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities components of housing costs in the Consumer Price Index (published by the Bureau of Labor Statistics of the Department of Labor) for the 12-month period ending the preceding March 31.

Again because of its reliability, the quality control data for the period July-December 1977 were used to determine the average shelter expenses for all households claiming a shelter expense in each of the outlying areas and in the 48 States and the District of Columbia.

The average shelter expense for claiming households in each of the outlying areas was compared to average shelter expenses for claiming households in the 48 States and the District of Columbia, and a ratio was developed. This ratio was multiplied by the $75 excess shelter/dependent care deduction.

The excess shelter/dependent care deduction for each of the outlying areas was then updated, by changes in the shelter, fuel, and utility components of the CPI. These amounts were rounded to the nearest $5 to determine the excess shelter/dependent care deductions for the outlying areas as of July 1, 1978, as follows: Alaska, $140; Hawaii, $120; Guam, $100; Puerto Rico, $30; Virgin Islands, $60.

Future annual adjustments to the excess shelter/dependent care deduction for the outlying areas shall be based on the previous period's unrounded amount, updated by the changes in the shelter, fuel, and utilities components of the CPI, and the result rounded to the nearest $5.

It is the policy of the Department to publish rules, which may substantially affect low-income households in relation to the food stamp program, in proposed form for public comment. However, under these circumstances, publication of the methodology and computations regarding both the standard deduction and the excess shelter/dependent care deduction for normal notice and comment rulemaking is unnecessary, impractical, and contrary to the public interest.

The Department did not publish the deduction figures for the outlying areas at an earlier date because the quality control data from the July-December, 1977 period just recently became available. The Department had no other data more recent or more statistically reliable for food stamp deductions on the outlying areas or the United States. Because of the critical importance of using the most reliable and the most recent data, the Department determined that it would be advisable to wait until the data from the quality control sample could be used. Use of less reliable data would not serve the public interest. It should also be noted that the methodology for computing the two deductions is clearly articulated in section 5(e) of the Act. Public input on the actual calculations would not affect that procedure.

In addition, it is not practicable for the Department to publish this data and methodology as proposed rulemaking now, because this could render timely implementation of these rules impossible in the outlying areas. However, the Department does recognize that the level of these deductions is of substantial concern to some members of the public. Therefore, the Department will accept comments on the data base and the methodology used to compute the deductions for the outlying areas for a period of 30 days after the publication of these regulations. These comments will be carefully considered in determining the need for changes in the published tables. Comments may be sent to Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. Comments will be available for public inspection and copying at Food and Nutrition Services Offices, Room 753, 500 12th Street SW., Washington, D.C., during regular business hours.

Determining Household Eligibility and Benefit Levels

Month of application. The proposed regulations defined the period of application, now referred to as the month of application, as the calendar month in which the household applies. The household's initial eligibility would be determined based on income received, expenses billed, and other relevant circumstances during the month of application. The month of application was, in most circumstances, also the first month of the household's certification period. In rare instances, the household may have been ineligible for the month of application, but anticipate at the time of application changes which will

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result in eligibility for subsequent months. In those instances, a household would be denied for the month of application but certified for a subsequent certification period based on a

Determining income. The proposed regulations continued the current policy of basing eligibility and benefits on anticipated income. However, the proposal made clear that, if the

income cannot be averaged if monthly differences exceed $50. The household may either average income or have food stamp benefits determined by the exact amount of income anticipated

obtained for the entire certification period.

Determining deductions. The De-

subtracting that shelter figure from 50 percent of income.

Fewer than 50 comments were received on this provision. Most com-

curring [illegible] income that would not be received until later in the month. Most commenters preferred giving the household a full 1-month allotment if

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result in eligibility for subsequent months. In those instances, a household would be denied for the month of application but certified for a subsequent certification period based on a single application.

Approximately 100 groups and individuals commented on this provision. Most of these comments opposed some aspect of it. The provision that generated the most interest was the requirement to use the same application for denial for the month of application and determination of eligibility for subsequent months. About 70 opinions were received on this subject, and the majority were negative. Approximately 50 writers opposed using the same application for denial and approval and suggested requiring separate applications. Others suggested giving the household an application to mail in when the household considered itself eligible or advising the applicant of the right to reapply. Several States, local agencies, and caseworkers opposed this provision and suggested beginning eligibility the subsequent month if an application is received after the 15th or beginning certification on the day of approval.

The final rules are basically as proposed except that certification based on the original application, which can be for more than 1 month, must begin no later than the month after the month of application. The final rule is administratively efficient and avoids burdening the household with filling out a second application. In addition, the Department is considering combining the notices of eligibility and denial or pending status, partly in recognition of the State agency processing burden when a household is denied 1 month and is eligible in the following month based on the same application.

The Department also revised the definition of "period of application," now termed "month of application." The Department proposed that State agencies must be use calendar months since the "calendar month is a convenient, easily understood and explained measure of time." Certain State agencies commented that a fiscal month approach (e.g., 15th of one month to 15th of the next) would avoid costly changes to their automated data processing systems. The rule has been changed to accomodate State agencies which can demonstrate to FNS that a fiscal month system would be more efficient than a calendar month system. This fiscal month can be a standard period (e.g., 15th to the 15th) for all households or households in a certain category, or the fiscal month can begin from the date of each household's application (rolling month).[54]

[54] For any particular new applicant, with recent or imminent changes in income, the definition of month of application could affect the benefit level for the month of application. Choice of the definition could increase or reduce benefits for that time period, compared to the level that would have been calculated for any given household using the calendar month approach. Nonetheless, all these methods are consistent with the Act and the final rule will provide the Department with additional flexibility to accomodate the demonstrated needs of the State agencies.

Determining income. The proposed regulations continued the current policy of basing eligibility and benefits on anticipated income. However, the proposal made clear that if the amount or date of receipt of income is uncertain, the income should not be counted. Averaging income was permitted at client option, provided that the difference in highest and lowest monthly income did not exceed $50. For the self-employed and those under contract who derive annual incomes in periods less than a year, the Act and proposed rules require that income be averaged over a 12-month period. The rules also proposed that households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which the scholarship or loan was intended to cover.

Nearly 500 comments were received on this portion of the regulations. The most frequent public comment suggested that the income of seasonal farmworkers be disregarded, as their income is too erratic to anticipate. State and local agencies were frequently concerned with the use of the proposed multipliers for converting income received on a weekly (4.3) or biweekly (2.15) basis. Some recommended using 4.333 and 2.167 to conform to the AFDC factors for weekly and biweekly income conversions.

State and local agencies strongly supported the position that households should always have the option to average and that the $50 maximum variance on income, in order to average, should be removed. Other commenters suggested using a higher maximum monthly variance. The Social Security Administration commented that SSI and social security households could not income average since the variance in their income could be more than $50. For instance, if the first day of the month falls on a weekend or Monday that is a holiday, checks are mailed on the Friday before and are often received before the end of the month. Thus, a household could receive two SSI checks in 1 month and none the next. Other commenters suggested that PA households be excluded from averaging because of the indefinite certification periods often extended to these households.

In the final rules, the Department has eliminated the restriction that income cannot be averaged if monthly differences exceed $50. The household may either average income or have food stamp benefits determined by the exact amount of income anticipated for each month at the household's option. The Department has decided to allow the household to balance the convenience of income averaging "* * * against the importance of focusing on exact monthly income." 43 FR 18891. The rule will reduce the administrative burden on the State agency.[55] In addition, the final rules provide that destitute households and public assistance households subject to a monthly public assistance reporting requirement may not elect to have income averaged. Destitute households' applications are processed on an expedited basis with a special income calculation which may disregard certain anticipated income. The Department believes that entitlement to benefits based on a single month's income is more imperative for destitute households than for other households. This would be especially on point where the average amount would greatly overstate the first month's income for a destitute household. Moreover, computation of averaged benefits might delay the certification process for households in need of expedited service.

Public assistance households subject to a mandatory monthly PA reporting requirement also represent an exception to the rule of income averaging at household option. Information is available to State agencies with a monthly reporting requirement concerning recent changes in income. To fulfill food stamp reporting requirements, State agencies with a monthly reporting requirement must also require the household to report if the change will continue beyond the PA report month. In addition, State agencies adjust the PA household's monthly benefits based upon the most recent monthly report. Since the State agency assigns a lengthy PA redetermination period and then has the ability to adjust the level of benefits based upon anticipated income changes, the Department contends that a variable basis of issuance more accurately represents the true income picture than income averaging, and will not impose additional burdens on the household or the State agency.

The final rules permit State agencies to use the public assistance conversion factors for multiplying weekly or biweekly income to obtain monthly income. State agencies may also use the exact monthly figure if it can be

[55] Note, under sec. 5(f) of the Act and these regulations that the State agency may not average income which is not reasonably anticipated to be received during the certification period.

obtained for the entire certification period.

Determining deductions. The Department proposed to deduct allowable expenses on an as billed basis. This procedure was adopted from a rulemaking dated November 10, 1977 (42 FR 50916), which allowed utility expenses on an as billed basis. Expenses billed on other than a monthly basis shall be averaged forward over the period the billing is intended to cover or deducted at the household's option in the month billed. The regulations also proposed that households could elect to have expenses averaged over the certification period if the anticipated differences between the highest and lowest amounts were $25 or less.

Over 300 comments were received on this provision. Generally, advocate groups and members of the public approved the section. Over 20 approved the section as written and more than 200 approved using the "as billed" rather than the "as paid" methodology for determining the amount of the deduction. State agencies were primarily concerned with the averaging proposal. They were most interested in permitting averaging regardless of how much monthly variation there is in the bills since that approach could greatly reduce State agency computational burdens and might result in longer certification periods for participant households.

The final rules delete the restriction on averaging fluctuating expenses which exceed $25, and allow the household to decide whether to expense average. The Department has decided to allow the household to balance the convenience of expense averaging against the importance of using exact monthly billings. The remainder of the section was not changed. The Department is satisfied with the success of the "as billed" methodology. As noted in the proposal, that approach "is more convenient for program participants and administrators alike." Moreover, the Department continues to hold that "paying" and "billing" (for the kinds of expenses allowed) are virtually synonymous. Most comments expressed approval for the "as billed" approach.[56]

Determining eligibility and benefits. The proposed rules provided for rounding computations by dropping cents at various stages in the computation, with the exception of shelter costs. Exact shelter costs would have been computed and any cents in the total figure would be dropped prior to subtracting that shelter figure from 50 percent of income.

Fewer than 50 comments were received on this provision. Most comments on the computations criticized requirements found in the Act. State and local agencies expressed some concern with the rounding procedures, but there was no consensus of opinion. The rules, as explained in the preamble to the proposal, remain unchanged.

Destitute households anticipating income. The proposed regulations established special eligibility and benefit calculation procedures for households which had no current income but which anticipated income from a new source during the month. This provided destitute households with coupons for periods of the month when they were to be without income. For purposes of the proposed special income procedure, the month was divided into two distinct periods. In the proposal, the first period encompassed the time in which the household was to be without the new income (preincome period); the second period included that portion of the month in which the new income was anticipated (postincome period). To determine how much of the month would fall into the two respective periods, the month was divided into quarters and the allotment levels were distributed evenly over each quarter. Eligibility and the level of benefits were then calculated separately for the preincome and postincome periods. The exact details of this intricate system are fully explained on pages 18892-18893 of the proposal.

Over 1,700 comments were received with the majority disapproving of all or a part of the provisions. The two major concerns were: (1) When should a household be considered destitute; and (2) what income should be used in the income calculation. Generally speaking, there were 9 alternative definitions of what constituted a destitute household and 10 suggestions about what income should be counted. There was consensus on only one point—everyone disliked the quarter system. The majority of commenters recommended that a *Gutierrez*[57] type approach be implemented for all destitute households, disregarding nonrecurring[58] income that would not be received until later in the month. Most commenters preferred giving the household a full 1-month allotment if the monthly income minus deductions came to zero. State agencies strongly objected to the proposed quarterly system as extremely and unnecessarily complicated.

Based on comments, the Department has decided to replace the destitute income calculation procedure with a less complicated system. In the new procedure the goal is the same, i.e., to provide a special eligibility and benefit calculation for households who have no current income, but may anticipate income from a new source later in the month. However, the complicated quarter system of calculating benefits is eliminated. The final rules modify the *Gutierrez* income disregard rules to make them consistent with the statutory changes, to expand their scope to all households in need of immediate assistance rather than just to migrants, and to facilitate the certification of destitute households.

As noted in another section of this preamble, the final rules require State agencies to process applications on an expedited basis for all households with zero net income for the month of application. State agencies must also process households determined to be destitute under these special calculation procedures on an expedited basis. As a result State agencies shall first determine if a household anticipates zero net income for the month of application. If a household does not qualify for expedited service based on zero net income then the household has to meet two basic criteria to qualify for the special calculation and expedited processing procedures: (1) The household must not anticipate receipt of income of more than $25 from the new source by 10 calendar days of the date of application;[59] and (2) any income of more than $25 received between the first of the month of application and the date of application must be from a terminated source. The final rule continues the concept of income from terminated and new sources, although more detail has

[56] State agencies, consistent with current regulations (43 FR 1611; Jan. 11, 1978), are not permitted to average past utility bills to arrive at an anticipated amount.

[57] *Gutierrez v. Butz*, 445 F. Supp. 827 (D.C. 1976), provided for a half-month certification for newly arrived destitute migrant farmworkers anticipating income prior to the 15th of the month and the disregard of that initial payment for the first period of eligibility. Those destitute migrant farmworkers which anticipated income after the 15th would be certified for 1 month. The initial payment from a new source of income would also be disregarded in calculating household income.

[58] Nonrecurring income referred to the first payment from a new employer. The Department opposed the *Gutierrez* income disregard in the initial proposal since the "total disregard of income from a new source, *particularly if the household anticipates receipt within a few days*, would significantly understate the household's financial circumstances * * *" 43 FR 18892.

[59] As noted earlier, travel advances shall not trigger the recurring income test. Moreover, nominal wage advances (less than $25), shall not be regarded as the first of a series of periodic payments and thus shall not trigger the recurrent income rule. The administrative inconvenience of dealing with small irregular payments, in terms of expedited service, did not seem justified.

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been added to the regulations to define when a source has been added or lost and what constitutes a source. Income is considered from a terminated source if no income is anticipated from that source in the balance of the month or in the following month. Income shall be considered from a new source if it was not received from that particular source in the preceding 30 days. Receipt of wage advances of less than $25 and travel advances shall not affect the determination of destitution. However, if income is normally received less often than monthly, the normal interval between payments shall be substituted for the following month or for the preceding 30 days. Thus, the next anticipated payment from a source which makes periodic payments to the household may not be disregarded even if the regular interval between payments is lengthy.[60]

The Department admits that for any particular household the 10-day rule may not be as appropriate as a 7 or 13, or whatever, day rule. To avoid unnecessary complications, that could delay processing for expedited service households as well as regular participants, the Department has adopted this universal 10-day rule. As noted in preamble to the proposal, the *Gutierrez* methodology (which disregarded all new payments up to 30 days after application) was developed to avoid "situations in which the anticipation of income resulted in a *coupon purchase requirements* which destitute migrants could not pay since the income was not currently available." [Emphasis added.] The purchase requirement is, however, eliminated by these rules obviating the basis for the *Gutierrez* rule for migrants. Moreover, the 10-day rule is hereby adopted to determine which households, in addition to those households already at zero net monthly income, are entitled to expedited service. In this way, the purpose behind the *Gutierrez* decision is carried out in a manner consistent with the new Act.

In addition to requiring State agencies to process applications of households determined to be destitute on an expedited basis, the final rules set a special income calculation. All income which is received in the month of application, but prior to the date of application, is considered in determining eligibility and the level of benefits. Income from a new source which is anticipated in the remainder of the month shall be disregarded,[61] because this income is not available to meet the household's immediate living expenses.

A household is entitled to the special destitute procedures at initial application and at recertification, but only for the first month of the certification period.

Certification periods. Under the proposed regulations, the minimum certification period was 1 month and the maximum was a year. The regulations further proposed that the households be assigned the longest certification period possible in light of household circumstances. At the time of certification, the State agency had authority to increase certification periods of 3 months or less by 1 month, if the certification process was completed after the 15th day of the month of application. The rules stated procedures for coordinating the reviews of public assistance (PA) and general assistance (GA) households with recertification interviews for food stamps. State agencies could have assigned definite or indefinite certification periods depending on the timeliness of PA/GA reviews. In order to enable State agencies to forward timely notices of expiration to PA/GA households, the proposed rules allowed the certification period to expire the month after the PA/GA review.

Just over 300 persons commented on this provision, with nearly 200 positive comments. Many agreed with allowing the longest possible certification periods since short certification periods create hardships both on participants and State agencies. The most common recommendation was to require a certification period of at least 1 year for older persons with stable incomes to end needless recertifications. A few commenters felt that certification periods should conform as much as possible to calendar months. Most individuals who specifically addressed PA certification periods felt that food stamp certification periods should conform to PA certification periods regardless of length. Some suggested that when a certification period of less than 3 months was assigned the eligibility worker should document the reasons for the short certification period and explain those reasons in writing to the household. Some advocacy groups wanted to delete the reference to "day laborers" and "migrant workers" to avoid causing unnecessary use of 1-month certification periods for those persons.

The Department has not made substantive changes on establishing certification periods in the final rules. However, several paragraphs have been revised to clarify some provisions, particularly with respect to PA/GA households.

In the final rules, State agencies are required to assign certification periods that will allow the closest possible coordination, of the PA/GA redetermination process and the food stamp recertification process. Households in which all members are contained in a single PA/GA unit shall be recertified at the same time they are redetermined for PA/GA benefits, or be assigned a 12-month certification period, whichever is shorter. The only exception is that State agencies which require monthly PA reporting with a 12-month redetermination period, shall assign a 14-month certification period. This procedure avoids needless paperwork and recalculations of food stamp benefits and achieves a closer coordination between the food stamp and PA programs.

For households which contain more than one PA/GA unit, State agencies shall assign certification periods based on one unit's redetermination. For households in which some but not all members are included in PA/GA units, the State agencies may assign a certification period that coincides with the PA/GA unit if the food stamp household's circumstances are stable. If the food stamp household's circumstances are unstable, a shorter certification period may be more appropriate.

The final rules continue to require State agencies to assign the longest certification periods based on the predictability of the household's circumstances. Criteria for assigning various periods from 1 to 12 months have been edited to emphasize that once a household's financial and nonfinancial circumstances have been assessed as stable or unstable, the guidelines for the appropriate certification period must be followed.

Identification (ID) cards. The proposed rules required that ID cards be serialized and handled as accountable documents. The rules also allowed State agencies to use photo ID's if the household consented, provided that unwillingness or inability to be photographed would not affect eligibility or benefit levels.

Over 400 responses were received on ID cards, almost all were critical. State and local agencies strongly objected to serially numbered ID's because of the administrative complexities and expenses which would result. In addition, a substantial number of advocates objected to photo ID's. They felt that eligibility workers might refuse to certify clients who would not consent to have their pictures taken.

In the final rules, the Department has made the use of serially numbered ID's optional for State agencies. The rules continue to permit State agencies to use photo ID's. However, State agencies may not deny benefits because any household member is unable or refuses to be photographed. Photo ID's are permitted under current departmental rules upon household contents, and so far as the Department is aware, those provisions have not been abused by State agencies.

[60] This rule prevents the disregard, for example, of what could be substantial quarterly or semiannual payments which are intended to provide the household with income for the entire 3- or 6-month period.

[61] As soon as a household first receives a payment from a new source (except for an incidental wage advance or a travel advance) subsequent payments would be counted as recurring income.

ACTION ON HOUSEHOLDS WITH SPECIAL CIRCUMSTANCES

Self-employed households. The Act and proposed rules continued to exclude the cost of producing self-employment income. The Department added depreciation in the proposed rules as a cost of doing business and allowed self-employed individuals to claim the 20-percent earned income deduction. As under current rules, capital gains were included as income.

Over 100 comments were received on this provision, mostly from State and local agencies. The depreciation procedures were regarded as the major problem. State agencies were extremely critical of the proposal which required eligibility workers to: (1) calculate straight line depreciation; (2) take into account acquisitions and retirements of capital assets; (3) allow for noncapital repairs to capital assets; and (4) use the IRS Asset Depreciation Range Tables. Most States felt that the computations would be complicated, confusing, time consuming, and unreliable. Several States recommended that only amounts listed on last year's tax return be allowed as a business income exclusion. The Department agrees with the overwhelming criticism of State agencies and restricts the income exclusion in the final rules to that which is claimed in the household's most recent tax form or amended tax return.[62] The Department recognizes that this approach could increase or reduce the total yearly depreciation for any particular household, compared to that which would have been allowable under the proposed regulations (i.e., the projected depreciation for the current tax year).[63]

However, depreciation is not intended to accurately reflect net income, which should be a consideration for a food assistance program. Depreciation methods provide a means to offset the original purchase price of a capital asset [64] against future earnings, regardless of how or when the purchase price is actually paid.[65] However, regarding the types of self-employed persons who might be eligible for food stamps (usually owners of small businesses without large investments in assets), the final rule should represent a reasonable methodology to provide some allowance for depreciation.

Moreover, for long-term participants, the choice of the final regulatory depreciation procedure, as compared to the proposed procedure, would not affect the total depreciable amount for any given asset, but would only affect the rate at which the asset could be depreciated.[66]

The Department also revised the regulatory language to note that the certification period for a household receiving self-employment income is the period of time that the income is intended to support the household. The State agency, in consultation with the household, shall make this determination. For example, some self-employed households, such as farmers, clearly derive their support on an annual basis and thus will have their income annualized.

Boarders. The proposed rules contain a special income calculation for boarders and provide that boarders, and boardinghouse proprietors, may be eligible as food stamp households in their own right.

Most of the nearly 40 comments on this section showed confusion on how the income calculations would be handled. For instance, several commenters asked if boarders' food stamps can be accepted as room and board payments. Another concern was the procedure for handling eligible households which pay board to a food stamp household.

The final rules revise the procedure for calculating the cost of doing business for eligible households with boarders. A deduction from the boarders' payments shall be allowed for the cost of the thrifty food plan for a household size that is equal to the number of boarders, or the actual documented cost of providing room and board, if higher, provided that in no case will the deduction exceed the payments for lodging and meals made by the boarders. Thus, net self-employment business losses could not be substracted from other sources of household income. The Department does not believe that indirectly subsidizing failing businesses is appropriate under the Act.

Treatment of income and resources of disqualified members. This section proposed a procedure for handling the income, resources, deductible expenses, eligibility and benefit levels for households with members disqualified for fraud or disqualified for failure to meet student work registration requirements during the school year.

Nearly 250 comments were received with the majority recommending that only income actually contributed to the household by the disqualified member be counted in household income. The reason most often given was that it is unfair to assume that the prorated shares, counted under the proposal, would be made available to the remainder of the household.

As stated in this preamble, and the preamble accompanying the proposal, the legislative intent in disqualifying household members was clearly to reduce the household's benefits at least in proportion to the reduction in household size.[67] A household with a disqualified member can potentially receive increased benefits if the disqualified household member's income is not included on a pro rata basis. As a result, the final rules on treating income and resources of disqualified members have not been changed. Otherwise, as noted in the proposal the household and the disqualified individual could benefit by intentionally defrauding the program or intentionally failing to comply with the student work registration requirements.

Treatment of income and resources of other nonhousehold members. The proposed rules do not consider the income and resources of ineligible aliens or SSI recipients in cash-out States as available to the household. The proposal provided that the household was entitled to a deduction for expenses it actually paid and was entitled to a deduction on a pro rata basis for expenses which are shared (with ineligible aliens, SSI recipients in cash-out States or other persons not considered food stamp household members).

Of nearly 25 comments, most concerned ineligible aliens. The majority of commenters recommended that the income of an ineligible alien be prorated and counted as income to the remaining members of the household.

[62] Self-employed persons which have not filed for a depreciation allowance the prior year, and thus are denied the food stamp depreciation exclusion, may file a regular or amended tax return to obtain a food stamp depreciation exclusion for future months.

[63] Even by using a consistent tax depreciation approach, purchases, retirements, or changes in the usage of capital assets would result in a difference between the yearly depreciation amounts. Of course, use of the prior year's return, instead of a projected approach, could comparatively lower annual food stamp benefits if last year's depreciation allowance was less than the current year's depreciation projection. Thus, owners of businesses which are rapidly expanding (acquiring capital assets) might be less favorably treated in terms of the program than owners of businesses curtailing operations (not purchasing as many capital assets as in the prior year).

[64] Capital assets are normally those business assets which produce income for longer than 1 year.

[65] The House Report noted that the current prohibition on providing an allowance for payments on the principal of the purchase price for capital assets should be continued under the new Act.

[66] The final approach could more accurately reflect available net business income than, for example, the current month's projected straight line, declining balance, or sum-of-the-years' digits depreciation.

[67] Senator Dole pointed out in the Congressional Record (Sept. 9, 1977, S. 14578), that it was not intended that a household benefit if one or more of its members was disqualified for fraud.

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One commenter recommended that a household be allowed deductions for the expenses of an ineligible alien if the alien is a minor child and the household has a legal obligation to pay these expenses.

The Department does not believe that most commenters were aware that cash payments from the non-household member (for example, and ineligible alien living with the household) to the household were to be considered as household income. The final rules restate that principle in § 273.11(d). Moreover, the Department continues to endorse the basis for the income and resources disregard policy for SSI recipients in cash-out States and for ineligible aliens. As stated in the proposal, since the "ineligibility of certain aliens and SSI recipeints in cash-out States is predetermined by the Act and is not intended to be a penalty, the Department believes no penalty should be suffered by the remaining eligible household members by having a pro rata share of the ineligible member's income counted."

Addicts and alcoholics. The Act authorizes as food stamp households narcotics addicts or alcoholics who live under the supervision of a private nonprofit institution for the purpose of regular participation in a drug or alcoholic treatment program. The May 2, 1978, regulations designated the treatment center as the addicts' and alcoholics' authorized representative. The center would apply on behalf of the addict or alcoholic and would be liable for any overissuances. The rules also proposed that a household receive one-half of its coupon allotment if the addict or alcoholic left prior to the 16th day of the allotment month. A penalty of disqualification as a retailer was proposed for treatment centers which were found to have misused coupons or committed fraud.

There were 27 comments on this section, 21 of which were from State and local agencies. The largest number of comments concerned disqualifying treatment centers, there was some confusion on whether FNS would retain responsibility for these disqualifications. Other comments discussed the return of the coupon allotment to the household, strengthening reporting requirements, and clarifying that residents of treatment centers should be certified as one person households.

The final rules clarify the procedures for certifying residents of addict or alcoholic treatment and rehabilitation programs. It is explicit that each eligible resident shall be certified as a one-person household. The State agency shall require a list of currently participating households, on either a monthly or a semimonthly basis. FNS, rather than the State agency, shall disqualify the treatment centers when necessary in accordance with § 278.6. If FNS disqualifies an organization or institution as an authorized treatment program, the State agency shall suspend the center's authorized representative status for the same period of time as the FNS disqualification.

Reporting Changes

Household responsibility to report. In the May 2 regulations, the Department proposed that households be required to report all changes in income. Two alternative proposals were also offered in the May 2 preamble: (1) The household would report all income changes, but the State agency need not act on monthly changes of $10 or less; (2) the household would only report monthly changes in income of $20 or more. The $20 was to apply separately to each income source and not be cumulative. The State would act on any changes reported. The Department further proposed that households be required to report changes in dependent care or shelter costs only at recertification.

The largest number of commenters preferred the second alternative, only reporting changes in income of $20 more. However, the second largest number of commenters preferred the current procedures for reporting changes with a $25 minimum.

Based upon comments citing the administrative difficulties of the three reporting procedures offered in the proposed rules and the surprising number of comments supporting the current procedure, the Department has chosen to continue the current policy of requiring households to report all changes in monthly income over $25 within 10 days after the change becomes known to the household. The State agency shall take action on all changes reported, even changes that are less than $25. The Department continues to exempt households from reporting changes in their public assistance grants since this information is available to the State agency. Households are also required to report changes in household composition, changes in residence, the acquisition of a licensed vehicle not fully excludable under resource rules, and the acquisition of cash on hand, stocks, bonds, and money in a bank account or savings institution when that acquisition reaches a total of $1,750 or more. The Department believes that the acquisition of that much cash on hand (or its equivalent) is indicative of the need to determine whether the household has exceeded the statutory resource limitation.[68]

[68]The $1,750 eligibility resource limit, found in the Act, applies to the great majority of households. To avoid having to notify households as to whether the $1,750 or the $3,000 limit applied, the Department adopted this universal rule.

Report form. The Act and proposed rules require that households report changes in income or household circumstances on a form designed or approved by the Secretary. Some commenters were concerned that information unique to each household, which the proposal required be printed on the form by the State agency, would create an unnecessary administrative burden on the State agency. Many States do not have the capability to itemize the gross income of each household member as required in the proposal. As a result, the State agency would be burdened with an additional processing requirement.[69] Other commenters discussed the relationship between the proposed reporting requirement and the method of anticipating income for determining eligibility and level of benefits. There was some concern that a reported change might cause an adjustment to the household's basis of issuance, although that change would not continue through the rest of the certification period. There were also 300 comments on the postage paid provision, 200 of which were favorable.

The final rules provide that the report form shall contain a space for the household to report whether the reported change shall continue beyond the report month. The Department has made optional the requirement that the form include the amount of gross income used to certify the household, itemized by household member, and the source and frequency of the income. While the Department encourages States to include this information in its report form, some States do not currently have the capacity to conform to the requirement. The rules will continue to require that a postage paid return envelope be enclosed with the report form. States complained that this requirement is an excessive expense. However, State agencies can obtain a business reply permit and be charged only for envelopes actually returned through the mail. (Each piece of mail is charged at the first-class rate plus an accounting fee.) The Department believes that having postage paid return envelopes may encourage more reporting. In addition, the Department is considering a study in a few project areas to determine if different delivery methods (e.g., mail versus giving the form to households during the interview) would have an effect on the number of changes that households report.

State agency action on changes. The proposed rules set standards for State action to change a household's eligibility or level of benefits. The standards

[69]The Michigan State agency indicated that this requirement would create serious data processing problems with its automated data system.

were divided into changes which increased benefits and changes which decreased benefits. The Department also provided rules for expediting actions when a household reported a change which reduces its gross income by $50 or more or reported an additional household member that is not a certified member of another household. State agency action on reported changes was required within 2 or 10 days or no later than the next allotment, depending on the nature of the change and the impact on benefit levels.

A number of State and local agencies were opposed to the timeliness standards, particularly expedited action on certain changes, as being overly time consuming and complicated to the extent that other program services to eligible households might be delayed.

The Department has revised the State requirements for acting on changes. First, the final rules provide that the date a change is reported is the date the State agency receives a report form or is advised of the change by phone or by personal visit. The postmark date plus 2 days rule appeared a needless complication.

The timeliness standards have changed to accommodate verification requirements and increase administrative efficiency. The rules for expedited action on certain changes have been replaced with rules for taking action on changes which are reported late in the month. As a result, the rules now state that all changes which result in an increase in benefits shall be effective no later that the first allotment issued 10 days after the date the change was reported to the State agency. Changes which increase the household's allotment because gross income decreases by $50 or more, or because a new household member is added who is not a member of another certified household, must be effective the month following the month the change was reported. If the change is reported after the 20th of the month the State agency must provide the household with an opportunity to receive the increased benefits by the 10th of the month following the month the change was reported, or by the household's normal issuance cycle in that month, whichever is later. The State agency can issue a supplemental ATP or use and alternative method to provide the increased benefits. In addition, households must provide the required verification prior to issuance of the second normal monthly allotment in order to continue to receive the increased benefits.

These revised rules are responsive to State agency concerns that sufficient time be allotted to process reported changes. The rules also allow State agencies to set the same processing standard for nearly all changes. Only certain changes that are reported late in the month, and are of a lesser nature are given a longer time frame. As a result, the new processing deadlines accommodate State agency concerns and the needs of households which report more drastic changes.

Failure to report. The Department proposed that State agencies file a claim against a household for benefits to which it is not entitled because of a failure to report a change. There were some comments that this section does not address a household's right to a notice of adverse action, or the changes for which a household is liable for not reporting. The final rules clarify that a household is entitled to a notice of adverse action if the discovery of a household's failure to report results in a reduction or termination in benefits during a household's certification period. Also, a household is only liable for overissuances caused by failure to report changes that are required by these regulations.

Mass changes. Procedures were proposed for changes initiated by the State or Federal Government which may affect the entire caseload or significant portions of the caseload. The special procedures are separated into four categories: (1) Federal adjustments to eligibility standards, allotments, and deductions, and State adjustments to utility standards; (2) mass changes in public assistance; (3) mass changes in Federal benefits; and (4) mass changes resulting from implementation of the Food Stamp Act of 1977. Comments supporting and opposing this provision were about evenly divided. Adverse comments centered on the problems of converting the State caseload in a mass change.

Final rules for mass change procedures are the same as proposed except that all States with the automated processing capability shall handle individual changes in Federal benefits as a mass change. For example, if social security records can be cross-checked with State food stamp records by an automated system, social security changes affecting any given household shall be handled by the State agency as a mass change.

Reporting changes for PA households. The change reporting proposals applicable to PA food stamp households were essentially the same as those currently in effect. Any differences reflect the deletion of the categorical eligibility of PA households by the new Act.

The Department received many comments pertaining to these provisions. Generally, they were critical of certain aspects of this section. The largest number of commenters were concerned that changes reported to PA eligibility workers would not be reflected in the household's food stamp file. Proposed solutions to this problem included requiring the PA food stamp households report changes to both PA and food stamp eligibility workers or, for example, establishing a system whereby the PA household would obtain a receipt for the reported change so that the worker would be accountable for acting on it. However, the Department believes that lines of communication normally exist between PA and food stamp units in each State agency. In addition, the Department believes that any requirement that households report the same change twice to the same agency would be an added burden to the household.

Commenters also opposed the prohibition on State agency termination of food stamp eligibility for households where insufficient information was reported to accurately judge what effect the reported change had on the household's food stamp eligibility. Some comments advocated that State agencies terminate the household's participation in both programs in these situations. Commenters argued that the provision in the proposed rulemaking added needless complexity to the handling of reported changes. In addition, many commenters contended that, very often, changes in household circumstances would have similar effects on the household's eligibility for both the PA and food stamp programs. If action were withheld on the food stamp case, as the provision required, then ineligible household could receive food stamp benefits.

However, the Department believes that any changes made in a household's food stamp case should be based on information clearly indicating that a change is necessary. To terminate food stamp eligibility, without complete information, would represent a denial of due process.

The Department did, however, make some changes in this section. Language was added to clarify how State agencies could merge their PA and food stamp change reporting systems. Specifically, the provisions explain how State agencies can adapt their PA monthly reporting system for use in the food stamp program. These final regulations allow State agencies to make such adaptations provided that any adaptation does not impose more stringent change reporting requirements for food stamp purposes than are otherwise required by these rules. Thus, State agencies can adapt their PA reporting systems for food stamp use but cannot require monthly reporting for household information that is needed only for the food stamp program; cannot reduce or eliminate a household's food stamp benefits

merely because the household fails to submit a monthly report; and, still must accept changes reported outside the reporting system. Further, if a State agency does adapt its PA reporting system the State agency must still act on changes within the time frames established by these regulations. However, households which use such a system do not have to report changes within 10 days; they can follow the PA schedule for monthly reporting.

NOTICE OF ADVERSE ACTION

The proposed regulations required that the adverse notice period include an additional 2 days for mailing time. State agencies complained that the mailing time provision created unnecessary differences between the food stamp advance notice period and the Department of HEW standard for the AFDC program. Moreover, State agencies complained that the allowance for mail lag and for weekends or holidays would create computer programing problems. To reduce the administrative complexities, State agencies are permitted to use the same adverse notice period for both their food stamp and public assistance caseloads. To protect households which request a hearing late in the notice period, State agencies must continue benefits, as if the request had been received on the prior working day, for requests received the day after a weekend or holiday.

State agencies also indicated that some computers that generate notices are not able to print the worker's name on the notice as required by the proposal. Consequently, the requirement that the worker's name be on each notice has been deleted. However, the Department recommends that, if possible, workers' names be printed on notices. This information could facilitate the handling of household questions.

Some commenters recommended that the adverse notice include the FNS regulatory citation upon which the action is based. This suggestion was not adopted because most eligibility workers do not have access to Federal regulations. The final regulations already require that the reasons for each denial or reduction of benefits be clearly written on each notice of adverse action. Also, households can have the eligibility worker show them the State manual citation, which should conform to the Federal regulations,[70] on which the adverse action is based. Furthermore, if the household questions the validity of a State manual provision, it may request a hearing on the action and the hearing authority will have to cite the FNS regulation supporting the hearing decision.

Exemptions from notice. The proposed regulations provided for a waiver of adverse action for households which wrote a statement acknowledging that the information provided would result in a reduction or termination of benefits and that the household waived the right to the advance notice. Many commenters disapproved of this waiver and expressed concern that it would create problems for both households and States. Advocacy groups feared that households might not be made fully aware of the consequences of the rights' waiver. State agencies were concerned that they might be accused of unduly pressuring households to sign waivers. That issue, itself, could result in even more fair hearings. To avoid these problems, the waiver is deleted.

Although comments criticizing the other waivers were also received, the remaining waivers remain intact as previously proposed for reasons discussed in the proposal. One additional waiver has, however, been added for those cases where a household entitled to expedited service has been assigned a certification period of more than 1 month pending receipt of the postponed verification. If the verification provided results in a change in the household's eligibility or level of benefits, or the household fails to provide verification within 30 days, the regulations specify that the State agency shall terminate benefits or act on the change without sending a notice of adverse action. The waivers reduce State administrative expenses and processing burdens and could directly benefit households by allowing for longer certification periods. If the waivers were eliminated, households would be required to return to the certification office more frequently and States would have more applications to process. To provide more adequate notice, a clarification has been added to indicate that strikers must be advised that signing a waiver is an optional method to enable them to be certified for a longer period.

RECERTIFICATION

Nearly 300 individuals and groups commented on this section; most opposed some aspect of the recertification rules. Many commenters suggested: (1) Developing a short recertification form; (2) extending certification periods when there are no changes in income or household composition; and (3) eliminating interview requirements for PA, SSI, or GA recipients.

The Department has no objection to State agencies using a short recertification form provided the short form is approved by FNS, contains enough information to determine household eligibility, and provided that all eligibility factors are later reviewed during the household interview.

Allowing State agencies to extend the certification period when there are no changes in household income or composition is contrary to the Act. In explaining the statutory definition of certification period the House Report states:

> The food stamp program is not a program of permanent or continuing eligibility subject to periodic review. It is a program of distinct and separate entitlements known as certification periods, which limit participation in the program. When each such period ends for a household so does its eligibility * * *. The end of a certification period is, thus, the definitive cutoff of the right to participate in the absence of recertification.

The Department did not eliminate the requirement for conducting a recertification interview for PA, SSI, or GA recipients since the interview is a critical factor in the application process, and is necessary to assure that households are correctly certified.[71]

At least one State agency objected to sending a notice of expiration since the client should already know when its certification period ends based on the notice of eligibility, the I.D. card and the ATP card. The Act, however, specifically requires that a notice of expiration be sent. Note that State agencies may send the notice of expiration with the household's last ATP card as long as the ATP card is mailed within the time limit for mailing the notice of expiration.

Several persons objected to the proposed time limit for sending the notice of expiration. At least one State agency suggested that the Department delete the prohibition against mailing the notice of expiration any earlier than 15 days prior to the household's last month of certification. Deleting this prohibition would allow State agencies to mail the notice of expiration with the ATP card sent in the month prior to the household's last month of certification. The Act, however, requires that the household receive the notice of expiration "* * * immediately prior to or at the start of the last month of its certification period * * *." The Department believes that receipt of the notice nearer the end of the certification period would be a more effective incentive to apply for recertification. Therefore, the proposed rule is continued.

Because of the short period of time the State agency has to conduct an interview, obtain verification, and deliver benefits, one State agency suggested that they be allowed to schedule interviews during the 15-day period prior to the last month of the household's certification period. Under the *Basel* v. *Butz* court decision, State agencies cannot require that a household appear for an interview before the last month of its current certification period. However, there is nothing which prohibits households from voluntarily appearing for an interview prior to the last month. Therefore, language has been added which clarifies that State agencies may schedule interviews prior to the last month of the household's certification period or prior to the date the application is timely filed, as long as the household is not denied for failing or refusing to appear for that interview. The regulations further state that the State agency must schedule an interview on or after the date the application was timely filed if an interview has not been previously scheduled or the household fails or refuses to appear for an interview scheduled prior to the date the application was timely filed. Households that fail to appear for the interview scheduled after the application was timely filed shall lose the right to uninterrupted benefits, although the application shall not be denied at that point unless they have refused to cooperate.

One State agency objected to mailing out application forms with the notice of expiration. The regulations do not require that State agencies include an application with the notice of expiration but instead encourage State agencies to do so.

In § 273.14(c)(2), a phase which was included in the *Basel* regulations published on December 23, 1977 (42 FR 64357) was deleted by mistake. The phrase "even if the State agency must provide an opportunity to participate outside of the normal issuance system" has been added to the end of the second sentence of the paragraph.

FAIR HEARINGS

Local level hearings. A total of 1,840 individuals and groups commented on the proposed fair hearing procedures. The major opposition concerned the two-tiered system of hearings which provided for local level hearings with State level reviews. Approximately 350 commenters, including 37 local agencies, were concerned that the two-tiered system will become inefficient since the local decision is subject to review at the State level. Many commenters, however, were apparently not aware that the two-tiered system has been in use for years for both food stamp and public assistance hearings. Many commenters suggested that if the two-tiered system is retained, only 30 days be allowed to complete the process for each tier instead of the proposed 45 days (or the current 60 days per tier). After careful consideration, the Department decided to allow 45 days to complete the process for each tier, as proposed. Some State agencies presently experience difficulty in meeting the current 60-day standard for each tier. Also, upon implementation of these new regulations, States will face the tremendous task of redetermining the eligibility or basis of issuance of every household and may temporarily encounter a substantial increase in fair hearing requests as a result of reductions or terminations of benefits. Consequently, at this time, the Department will not further reduce the time allowed for processing fair hearings.

Because of the negative criticisms about the two-tiered system, centering on local level hearings,[72] the Department will study these issues further to develop more information before introducing further changes. In response to criticisms concerning the potential for bias at local hearings, the Department added to the final regulations the requirement that the supervisor of the eligibility worker who took the contested action may not act as the hearing official in that case.

Timely action on hearings. Many commenters also addressed the proposed 60-day single tier standard in which State agencies have to conduct the State level hearing, arrive at a decision, and reflect that decision on the coupon allotment. Many State agencies complained that the standard was too short because the decision had to be reflected in the coupon allotment within the 60 days, which represents a shortening of current policy. Other commenters felt the standard was too long for households to wait for relief. The Department has revised the standard slightly to allow States the full 60 days for conducting the hearing, arriving at a decision and notifying the parties of the decision. An additional 10 days has been provided for the State agency to issue increased benefits resulting from the hearing decision. Although the Department would like to reduce the 60-day standard, during the transitional phase any reduction may be administratively infeasible for many States. However, as previously mentioned, the Department will further study State hearing procedures after the conversion period to gather more information on how to reduce the burdens on the State agencies and improve service to households.

Expedited hearings. The proposed regulations required expedited fair hearings for households appealing a denial under the expedited certification procedures. There were approximately 90 comments on this provision, most of which were critical. Two-thirds of the comments were from Federal, State, or local government agencies and were overwhelmingly negative and asserted that the procedures were inefficient, administratively infeasible, and unrealistic. Some commenters also noted that since an expedited hearing could take 3 weeks, households appealing a denial of expedited service might have been certified under normal processing rules anyway before the expedited hearing decision could be rendered. The requirement for expedited hearings is deleted. However, this issue will be further reviewed in the Department study previously discussed. The Department retains the requirement for expedited agency conferences for certain households to attempt a rapid resolution of household complaints.

Agency conferences. In response to commenters who recommended that agency conferences be available to all households, the final regulations require State agencies to develop a system for agency conferences for households appealing a denial of expedited service. The Department retained the 2-day requirement for agency conferences for households denied expedited certification procedures. The Department also added a requirement that State agencies expedite hearing requests from households, such as migrants, which plan to move from the project area before the hearing decision would normally be reached. This recommendation should improve service to transient households. These two requirements partially compensate for the deletion of the expedited hearings and provide timely service to certain needy households.

Consolidated hearings. The proposed regulations maintained current policy on consolidated hearings. Comments both for and against this provision were received. To insure that each household's privacy is not compromised, language was added to prevent consolidated hearings where individual issues of fact are disputed. Consolidated hearings are restricted to cases where related issues of State and/or Federal law, regulations, or policy are the only issues being raised.

Notification of right to request hearings. To insure that households are aware of their hearing rights, a sentence has been added to require States to remind households of their hearing

[70] The Department requires that each State Food Stamp Certification Manual be examined and approved by FNS.

[71] The House Report stressed the importance of the interview process and noted that public assistance recipients do not have a "perpetual entitlement" to food stamps, even if the public assistance might be perpetual, but instead are "subject to distinct entitlements marked off by certification periods * * *."

[72] This criticism concerns not only the increased time it takes to complete two tiers, instead of one, but also the alleged inadequacy and bias of some local hearing officials. The new comprehensive and periodic training provisions and the restrictions on who may serve as hearing officials may favorably impact on this alleged problem which the Department intends to study.

rights each time there is a disagreement with a State agency action.

Time period for requesting hearings.

the household then loses its appeal, a claim shall be established for the overissuance.

However, this issue, and the possibility of Federal review of State decisions,

Definition of fraud. Many persons commented that the definition of fraud be revised. One part of the defi-

individual be permanently disqualified. A State agency suggested that the individual be disqualified for the

household appeals a lower hearing decision. In fair hearings, the household must request a "de novo" hearing.

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rights each time there is a disagreement with a State agency action.

Time period for requesting hearings. The proposed regulations permitted households to appeal a State agency action for a period of 1 year after the action was taken. Sixty-eight State or local agencies commented that the period was too long. The main objections were that staff turnover, impaired recollection, and loss of evidence could make it difficult to recreate a reliable picture of the situation.

Most commenters recommended a uniform time period, of between 30 and 90 days, to insure a single national standard. The Department adopted 90 days as the period within which fair hearings may be requested. This standard conforms to the maximum period allowed by HEW for AFDC appeals. In addition, the regulations allow a household to dispute its current level of benefits by requesting a fair hearing any time within the current certification period. This provides households an opportunity to challenge current benefit determinations.

State agency responsibilities on hearing requests. The proposed regulations required the State agency to "help a household with its hearing request and with preparation of its case," upon request. It was noted that this language implied that the State agency was responsible for actually working with the household to build a case against the State. In addition to conflict-of-interest problems, it may be difficult for the State agency to effectively challenge a position it believes is correct. Consequently, the above-mentioned phrase was deleted and instead, the final language clarifies that upon receiving an oral hearing request the State agency shall complete the procedures necessary to start the hearing process.

The final regulations require that State agencies use bilingual staff or interpreters to provide verbal explanations of hearing procedures to non-English-speaking individuals who express an interest in appealing an agency action.

Continuation of benefits. The proposed regulations stated that households would receive continued benefits, prior to the hearing decision, only if requested on the hearing request. Many commenters suggested that the continuation of benefits should be automatic. The Department retained the provision to require that the fair hearing form contain a space for the household to indicate whether continued benefits are desired during the pendency of the hearing. However, the Department added a requirement that, if the household fails to indicate its preference, benefits shall be continued. As in the proposed regulations if the household then loses its appeal, a claim shall be established for the overissuance.

Notification of time and place of hearing. Commenters also suggested that a precise standard be mandated for advance written notice of a forthcoming hearing. To insure a uniform and exact standard, the Department adopted a minimum 10-day advance notice period. This standard should provide the household with adequate preparation time since the household initiates the fair hearing process and should be already aware of the basis for the challenge.

Hearing authority. In the proposed regulations all references to the term hearing authority were deleted and only the term hearing official was used. Commenters expressed concern that the State option to have a hearing authority (an individual or a board), which reviews all recommendations from hearing officials, had been removed. The Department did not intend to require States to revise their basic processes for deciding or reviewing hearing decisions. Consequently, the term hearing authority has been reinstated in these regulations and, where necessary, the language has been revised to acknowledge the review process.[73]

Attendance at hearing. The proposed regulations allowed the public to attend hearings, upon household consent. Commenters expressed concern that members of the public may disrupt the hearing procedures or overcrowd the hearing facilities. A provision has been added which allows the hearing official to limit the number of persons in attendance if it is determined that space limitations exist.

Hearing decisions. The proposed regulations gave households wishing to appeal a local decision the choice of either a State level review of the decision or a completely new State level hearing. Commenters expressed concern that the household might fail to indicate a preference or might choose the review process when it would prefer a new hearing. Consequently, the regulations now state that a household wishing to appeal a local decision will receive a completely new hearing, unless it specifically requests a State level review of the decision.

Many commenters responded negatively to the proposal that local agencies could appeal local hearing decisions since it would impose additional burdens on the household even though the local official decided in the household's favor. The final rules do not provide for local agency appeal. However, this issue, and the possibility of Federal review of State decisions, will be carefully considered as part of the study of the hearing process. Further rulemaking on this issue will likely be forthcoming.

Fraud Disqualification

General comments. Some State agencies expressed concern over the constitutionality of administrative fraud hearing procedures and cited State laws which require that fraud be determined only by courts. Notwithstanding State law, Congress has authority to provide an administrative procedure for disqualifying individuals from Federal benefit programs who have committed fraud so long as the constitutional requirements of due process are met.[74] The Department carefully considered those due process requirements in establishing the fraud hearing standards. In addition, the term "fraud" is strictly defined in the regulations to protect the individual and to assure that the administrative determination of fraud is applied consistently.

A few State agencies were concerned about the cost of conducting an administrative fraud hearing and suggested that the $35 limit, below which fraud hearings could not be conducted, be raised to $50 or that States be allowed to set their own limits subject to FNS approval. The final rules have remained unchanged to maintain consistency between the recipient claims waiver and the fraud hearing provisions. Each State agency must implement the administrative fraud disqualification procedures and must have a system established for conducting fraud hearings.

State agencies also asked whether fraud hearings would be reimbursed at the "not less than 75 percent" statutory funding rate. The Department believes that enhanced funding should be provided for fraud hearings. This provision will be included in the administrative cost regulations to be published at a later date.

Many State agencies felt that household repayment of fraudulent overissuance should be mandated. Under current procedures and the final regulations households are required to repay fraudulent overissuances. State agencies may file a civil court action to enforce repayment if the household does not voluntarily repay the fraudulent overissuance. However, since the Act provides that disqualification be imposed only after the administrative fraud hearing has determined that fraud occurred, it is not possible to use the threat of disqualification as a means of obtaining repayment.

[73] This confusion arose even though the preamble to the proposed regulations stated that: The Department proposes using the term "Hearing official" to describe what the current regulations refer to as both the hearing authority and the hearing official.

[74] The supremacy clause of the U.S. Constitution provides that Federal law may override State law.

Definition of fraud. Many persons commented that the definition of fraud be revised. One part of the definition which caused considerable concern was (b)(7), which defined fraud as any action done to "commit, or conspire to commit, any other fraudulent act to get food stamp benefits * * *." Many persons felt this language was circular and vague. The Department agrees and has deleted the language of (b)(7) from the definition. Moreover, use of the term "conspire" could have led to various interpretations based on State conspiracy laws and policies.

Several comments suggested that the individual must obtain benefits the person knows he or she is not entitled to receive before the individual's action can be defined as fraud. However, the proposed and final rules clearly define fraud as an intentional act. Therefore, the Department believes that the additional knowledge test is not appropriate.[75]

Other comments suggested that before the act can be defined as fraud, a net overissuance must result after offsetting any amounts to be restored against the amount obtained. The Department believes that a household's entitlement to restoration of lost benefits is irrelevant as to whether a fraudulent act occurred.

Since the use of coupons to buy ineligible items is defined as fraud, several State agencies were concerned that the Department would no longer retain its responsibility to monitor retailers. The Department plans to continue to monitor the activities of retailers. However, since the Department does not have the authority to disqualify household members who have knowingly bought ineligible items, the Department must refer cases involving households to the State agency for appropriate action. Language has been added which clarifies that fraud hearings shall not be conducted if the value of the ineligible items purchased was less than $35. The Department believes that conducting fraud hearings for minor violations would not be cost effective, especially since purchases of inexpensive ineligible food items could be inadvertent in many cases.

Time period for administrative disqualification. Several persons objected to the 3-month time limit for disqualifying individuals found guilty of fraud through an administrative fraud hearing. Several suggested a 2-year penalty, others suggested a 5-year penalty, while still others suggested that the individual be permanently disqualified. A State agency suggested that the individual be disqualified for the length of time it takes to offset the amount fraudulently obtained. Several persons also suggested that the entire household and not just the individual be disqualified. All of these suggestions were, however, rejected since the Act requires a 3-month disqualification penalty and requires that the individual who committed fraud be disqualified rather than the entire household.

Fraud hearing procedures. Most advocate groups opposed a dual fair and fraud hearing system as being needlessly complicated, providing an opportunity for abuse of client rights, and involving service agencies in the prosecution of persons accused of fraud. They suggested that the same hearing system be used for both fraud and nonfraud hearings.

Many of the fraud hearing procedures are basically the same as the fair hearing procedures. For example, those portions of the fair hearing regulations which specify the rights of households, the powers and duties of hearing officials and hearing authorities, and the criteria for selecting these officials, have been incorporated by reference into the procedures for conducting administrative fraud hearings (see § 273.16(d)(2)(ii)). Individuals suspected of fraud are afforded the same rights during the fraud hearing as households requesting fair hearings. In addition, State agencies may use the same officials to conduct both fraud and fair hearings. The Department expects most State agencies will simply expand the duties of fair hearing officials to include fraud hearings.

Where there are differences between the procedures for conducting fraud and fair hearings, these differences have primarily been adopted to afford more protection for the rights of the individual suspected of fraud. The consequences of a fraud determination are usually regarded as very serious; thus additional protections are provided as a matter of policy. For example, in cases where the State agency has initiated a fraud hearing, the Department believes the individual suspected of fraud should be provided 30 days advance notice rather than the 10-day advance notice required in fair hearings.

The requirement that certain fraud notices be mailed by certified mail-return receipt requested also affords an additional protection to the individual suspected of fraud in that the individual is relieved of the burden of proving to the State agency that the notice was not received, or if received, that it was not timely received. Also, in fraud hearings, a "de novo" hearing is automatically provided when the household appeals a lower hearing decision. In fair hearings, the household must request a "de novo" hearing.

Time limit for conducting fraud hearings. Several State agency comments stated that 60 days was not enough time for a State agency to reach a decision, since 30 days of that time must be used as an advance notice period. The Department agrees and has added 30 days to the time limit to compensate for the advance notice period. Since the 30-day advance notice period is not needed when the individual appeals the local fraud hearing decision to a State level hearing, the 60-day time limit has been retained for these cases. Only 10 of the 60 days are used as an advance notice period in those situations.

Comments were also received which asked that a time limit be established between the time the fraudulent act occurred and the time the State agency would be allowed to initiate a fraud hearing. One commenter suggested that a 12-month time limit be imposed. The Department has not imposed a time limit because of the importance of deterring and punishing fraud and because of the length of time it may take a State agency to uncover suspected fraud and conduct a thorough investigation. Moreover, the Department does not wish to encourage a State to file fraud actions to meet deadlines, if the State has not conducted a thorough investigation.

Fraud notices. Several State agencies objected to mailing certain fraud notices by certified mail-return receipt requested because of the expense of certified mail. However, delivery through certified mail offers protection for both the State agency and the individual suspected of fraud. The State agency will know whether or not the notice was received and, if received, the exact date the notice was received. Certified mail also increases the likelihood that the individual will receive actual notice of the fraud charges.

Several commenters suggested that the individual suspected of fraud be given *Miranda*[76] type warnings prior to the administrative fraud hearings, since statements or evidence presented by that individual could be used in subsequent court actions. While the *Miranda* decision does not cover those situations, the Department believes, as a matter of policy, that persons should be accorded the right to remain silent. The final rules provide that the hearing official will orally advise the person of that right. This warning should be carefully worded to minimize the possible chilling effect on the

[75] Moreover, that suggested language could be interpreted to mean the individual would have to know exactly how much excess food stamps it was fraudulently obtaining. Since the individual might not know the exact amount, even though the fraudulent act was intentional, the individual might raise that issue as a defense.

[76] *Miranda* v. *Arizona*, 384 U.S. 436 (1966); requires police officers to advise persons in custody of certain rights prior to police interrogation.

person's willingness to openly and thoroughly testify, which could operate to the disadvantage of the person.

Several persons suggested that the

fits in cases of underissuance which were the fault of the participating household on the grounds that participants may have difficulty understand-

quire that only disputed benefits be resolved through the fair hearing process. The rules for computing the amount to be restored were modified.

fraud claims. States were required to submit monthly consolidated checks to FNS equaling the claim repayments from households during that month.

To insure due process, the Department has redefined a fraud claim to eliminate the reference to State agency fraud investigators. As a result,

ence and expertise in these areas, the State agency is allowed to use its own discretion in taking collection action in these cases.

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person's willingness to openly and thoroughly testify, which could operate to the disadvantage of the person.

Several persons suggested that the Department provide specific criteria to guide the courts on the length of the disqualification penalty. Since the Department does not have the authority to mandate that the courts follow such guidelines, these guidelines would, in most cases, be meaningless. Moreover, the Department believes that most courts will determine the length of the disqualification period on a case-by-case basis, taking into account a multitude of factors, such as the severity of the acts and prior related convictions.

At least one person suggested that court imposed disqualification be reduced by the number of months the individual was disqualified as a result of an administrative fraud hearing. Although many courts may choose to do this, the Act allows courts to impose the maximum disqualification penalty even if the individual has already been disqualified for 3 months by an administrative fraud hearing.

Restoration of Lost Benefits

The Department proposed that lost benefits be restored whenever the loss was not caused by an intentional act or omission on the part of the household. The rules also stated that benefits shall not be restored if they were lost more than 12 months prior to the date the State agency is made aware (receives information or a notice) that coupons may have been underissued to a household. Only disputed benefits would have to be resolved through the fair hearing process. To aid in calculating the exact amount of lost benefits, the Department proposed a formula whereby the loss was considered to have extended until the first month the error was corrected, the first month the household was found ineligible or the first month the household reapplied. The burden of proof for verifying that there was a loss in each month was on the household. Finally, the proposal stated that households would receive not more than 100 percent of the maximum allotment, in addition to the allotment the household was normally eligible to receive, or as many months as necessary to compensate for the loss.

Approximately 1,600 individuals and groups commented on this provision. The large majority were critical of some part of the provision. Only 16 writers totally approved this section. These commenters generally approved of the new procedures, citing administrative ease, and supported restoration in cases of State agency error and lost benefits for those currently ineligible. Most of the negative comments objected to denying restoration of lost benefits in cases of underissuance which were the fault of the participating household on the grounds that participants may have difficulty understanding the regulations and might be unaware of the underissuances. The majority of other groups advised that State agencies should be required to assist the households in demonstrating eligibility during each month in question.

State and local agencies commented on a variety of aspects of this section. However, the most significant concern related to the method of restoring lost benefits. Forty-two State and local agencies recommended that for administrative convenience lost benefits be restored in a lump sum.

The Department has revised this section. Entitlement to restoration of benefits will be established when a loss of benefits was caused by an error on the part of the State agency or where this rulemaking specifically states that the household is entitled to restoration of lost benefits. Also, benefits will be restored in cases of erroneous fraud disqualification. This language emphasizes that benefits will be restored in all cases where State action caused the loss or where the rules require that credits for lost benefits be provided. However, benefits will not be restored if the household is otherwise at fault. Examples of errors for which benefits will not be restored are: A household does not report a change which will increase benefits, or the household fails to provide verification without good cause, or the household provides incorrect information which results in a loss of benefits. The Department contends that responsibility for these losses rightfully rests with households, which are regarded as having explicitly or implicitly consented to benefit determinations based on information which they supplied. State agencies should be entitled to rely on household assertions (or household failure to report changes) in determining benefit levels and not have to bear the additional administrative costs of processing household requests for lost benefits. Without this rule, State agencies might impose more strenuous verification, reporting, and proof burdens on households. Moreover, the rule acts as an additional incentive for households to comply with program requirements, and to accurately report information. State agencies are encouraged, however, to make every effort to help households understand verification requirements and to encourage accurate reporting of changes.

The final rules retain the 12-month time limit for establishing entitlement to lost benefits.[7] The rules also require that only disputed benefits be resolved through the fair hearing process. The rules for computing the amount to be restored were modified. Losses are calculated until the first month the error is corrected or the first month the household is found ineligible.

The paragraph dealing with documenting a loss was revised to emphasize that the household and State agency should cooperate in documenting a loss. Because of comments on restoring benefits to households in which the membership has changed, the final rules call for benefits going first to the household containing a majority of individuals who were household members at the time the loss occurred. In this manner, benefits which the entire household lost are provided to the greatest number of former members. A pro rata provision was considered overly complicated and time consuming and might involve attempts to locate several different former household members. If the State agency cannot locate this household, restored benefits will go to the person who was head of the household at the time the loss occurred.

The Department favored the installment method of restoration to avoid abuse by households which receive more benefits than they can reasonably use. However, State agencies argued that installment restoration of benefits is costly and inefficient. The final rules allow benefits to be restored in a lump sum. The rule allows households to request restoration in monthly installments if they choose to avoid situations where the household has more coupons than it can use in a reasonable time. The final rules also authorize restoration of benefits to currently ineligible households, which is consistent with the Act.

Claims Against Households

The proposal delegated claim settlement and compromise authority for claims against households to State agencies. In turn, the Department would monitor each State's overall activities in handling claims. State claim processing procedures were divided into fraud and nonfraud. States would not collect nonfraud claims that were caused by certain procedural errors. However, the Department did propose that households be liable for nonprocedural agency errors even if the households was not at fault. A 12-month time limit for establishing nonfraud claims was also proposed. The rules also contained procedures for processing fraud claims that were not limited to a 12-month time period, as well as criteria for suspending collection action for both fraud and nonfraud claims. States were required to submit monthly consolidated checks to FNS equaling the claim repayments from households during that month.

[7] As of Nov. 1, 1979, this 12-month limit also applies to all potential credits which arose under the current regulations (the Act of 1964).

Nonfraud claims. Over 500 comments were received regarding the handling of nonfraud claims. The greatest number of comments supported the proposed voluntary payment of nonfraud claims. One advocate commenter, however, felt that the proposed procedure of offsetting nonfraud claims against loss benefits negated the voluntary repayment concept and could even induce States to purposely underissue so that they can then offset. Also, several States and local offices were opposed to the $35 limit for establishing claims and wanted the minimum dollar amount to be set at a higher value.

The Department has revised the demand letter concerning collection of nonfraud claims by deleting the statement that repayment is voluntary, and inserting instead a statement that if the household falls behind in payments or is unable to pay the claim, this will not affect the household's eligibility or benefits. As commenters noted, the fact that eligibility will not be affected does not mean that repayment is voluntary. States may file civil actions to seek repayment. The final rules also continue to authorize offsetting of nonfraud claims against lost benefits. In offsetting against lost benefits, a household's current benefits are not reduced, only the past entitlement is affected. However, the Department will monitor State agencies to insure that States do not underissue benefits so that a claim can be offset. Also, to ease the administrative burden of processing and collecting small claims, the Department will investigate increasing the minimum dollar amount of claims for which State agencies must attempt collection. For the present, however, the current $35 limit will remain.

Fraud claims. The proposed procedures for handling fraud claims prompted over 1,200 comments. The possibility that State agency "fraud investigators" might determine if a claim should be classified as a fraud claim, generated severe criticism. Public and advocate commenters strongly opposed the proposal and urged that fraud determinations be established only by means of an administrative fraud hearing or court action. In addition, a number of State and local offices, as well as concerned citizens, expressed opposition to the continued participation of households who refuse to repay fraud claims. Some State and local agency commenters requested that States be given the authority to disqualify households for failure to repay fraud claims.

To insure due process, the Department has redefined a fraud claim to eliminate the reference to State agency fraud investigators. As a result, a fraud claim can be lodged only if a finding of fraud is made at a hearing or by a court of appropriate jurisdiction.

Collecting claims. Nearly 1,900 comments were received opposing the provision regarding the collection of claims. No commenters approved the provisions exactly as written. A majority of the commenters, primarily participants and interest groups, opposed the initiation of claims against households because of overissuance due to State agency error. Two solutions were offered. A number of commenters requested the provision concerning State agency responsibilities be deleted from the final regulations as a basis for establishing a claim. A greater proportion of the commenters agreed that better training of office staff would be the answer to the problem. The State and local agencies were most concerned with the collection of claims from households whose composition has changed. Since the head of the household will normally be the main, or only, wage earner, and since that household head enjoyed the benefits of the overissuance, the Department adopted the proposal that the household head be billed. This straightforward policy will avoid the additional costs and paperwork involved in locating, billing, and keeping records of contributions from each former household member.

The Department reviewed the issue of collecting claims caused by overissuances due to agency error. Despite the number of adverse comments, this policy remains in the final rules. While it is true that the household did not cause the overissuance, the benefit of such an error clearly accrues to the household. Since no entitlement for these benefits exists, a claim against the household must be filed. The Department's policy avoids the unjust enrichment of households, at public expense. Additionally, billing for these amounts may, in the future, encourage households to report when they are aware that they are being overissued benefits.

In response to comments about sending demand letters, the Department has revised regulatory language to allow State agencies to send demand letters at less than 30-day intervals. The Department has also deleted reference to pursuing collection action if: (1) A court's decision addresses restitution; (2) the amount of restitution ordered is less than the amount of the loss; (3) prosecution results in imprisonment; or (4) the State's statute of limitations has expired. Since the State agency may have more experience and expertise in these areas, the State agency is allowed to use its own discretion in taking collection action in these cases.

The final rules also clarify the difference between holding a claim in suspense and terminating collection action. Collection action can only be terminated after a claim is held in suspense for 3 years. The final rules cite four criteria for holding a claim in suspense: (1) The household is financially unable to pay the claim, (2) there is little likelihood that the State agency can collect or enforce collection of any significant sum from the household, (3) the household cannot be located, and (4) the cost of further collection action is likely to exceed the amount that can be recovered. Once collection action has been terminated, the normal FNS record retention rule applies and the State agency may still offset the claim against a household's entitlement to restoration of benefits.

Because of comments that State agencies have insufficient time to forward a consolidated claim warrant and a report on claims activities by the 15th of each calendar month, the Department has extended that submission deadline. The final rules state that a consolidated check and a report must be submitted no later than 30 days after each calendar month and a State agency cannot hold a claim payment more than 60 days. This new deadline takes into account processing delays which may result if claim payments and reports are first consolidated at the project area or local level.

60-Day Continuation of Certification

The Act of 1977 provides that certified households moving between project areas will remain certified for participation in the new project area for 60 days after the move. The proposed rules retained the current requirements governing the transfer of eligibility, except that they also require that when the household submits a transfer form in the new project area, it must report any changes in circumstances. The State agency is required to process these changes as described in §273.19.

Less than 20 comments were received on this section, mostly negative. Recommendations included deleting use of form FNS-286, since expedited service will handle the need for continued benefits and informing the household of the availability of transfer rights at every certification.

While expedited service may take precedence over the continuation of certification procedures, the Act requires a 60-day continuation of certification procedure. Households leaving a project area have the opportunity, however, to be processed under either

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procedure depending upon their financial circumstances. In addition, the Department has clarified the rule on households moving within a State. State agencies can use form FNS-286 or another procedure to continue service to certified households that move between project areas within a State. If another procedure is used, it must offer the same continuation rights that are contained in this section for households entitled to a form FNS-286 and must be approved by FNS.

ISSUANCE

Part 274, Issuance and Use of Food Coupons contains regulations governing the issuance of food coupons to households. Included in the rules are the basic responsibilities of State agencies to issue coupons to eligible households, the types of issuance systems that can be used, the responsibilities of coupon issuers, and the accountability requirements over coupon issuance and reconciliation. Many commenters briefly mentioned the issuance provisions, nearly all opposing some aspect of the proposed rules.

A number of comments were received relating to the proposed handling of ATP's issued after the 25th of the month. Some State and local agencies expressed concern that the reconciliation procedures would be expensive and would increase the difficulty of filing timely and accurate reports. For instance, commenters felt the regulations did not clearly indicate how to reconcile these cards. To clarify this point, the Department has changed the regulations to specify that ATP's are to be reconciled against the month of redemption of the ATP, not the month of issuance of the ATP.

State agencies noted that under the proposed regulations as many as three valid ATP cards could be transacted in a given month (the ATP card issued after the 25th of the prior month, the current ATP card and a supplemental ATP card). It was argued that proper reconciliation would require more elaborate computer systems or costly manual reconciliation processes. The final regulations allow States more flexibility in situations where certifications are completed late in the month. Rather than requiring that supplemental ATP's be issued after the 25th of the month, the rules allow States the option of issuing an ATP which will expire at the end of that month, provided the household is informed that if it is unable to negotiate the ATP prior to the expiration date, a valid replacement will be issued. As a further option, the State may issue an ATP after the 25th that is valid for only 20 days into the subsequent month, should this system be more compatible with the State's ATP processing system. Other sections of the regulations, by substantially modifying requirements proposed for the timeliness of State actions will further reduce the number of supplemental ATP's.

In addition, the regulations were modified to reserve submission of the reconciliation report. Since this report will establish State liabilities, the Department believes comment should be invited again on the reconciliation report when the proposed rules on State liabilities are published. These regulations do establish necessary system requirments so that States will be able to identify irregular ATP's.

Another comment of particular significance was offered by the Postal Service. The USPS pointed out that, under Postal Service rules, coupons cannot be sent by certified mail. The Postal Service suggested that first-class mail be used, and that States and local postal officials should work together to solve problems of nondelivery of allotments.

The Department has adopted the USPS suggestion, but is concerned about the cost of replacing all coupons lost in the mail. Several commenters stated that there is no definition of an "unacceptable" mail loss rate to trigger FNS's notification to a State that further mailings will be at the State's own risk. In fact, the Department's proposal did stipulate the level of mail losses which FNS would accept—certified mail was required whenever the replacement cost of coupons lost through the mail exceeded the cost of using certified mail. However, this standard can no longer be used since certified mail cannot be used to mail coupon allotments.

Numerous advocacy groups were concerned about mail issuance. They recommended that where coupons are lost in the mail, the household be contacted for advice on the best method for future deliveries. Others recommended that States offer all participants the option of mail issuance.

The regulations were amended to require States to follow up on each case of reported nondelivery to attempt to determine the cause and to effect appropriate corrective action. The Department did not amend the regulations to require mail issuance as an option to all participants because mail issuance is not a practical issuance method in many urban settings.

Other concerns voiced by many commenters related to State agency issuance responsibilities. They requested that the regulations specifically include tribal and urban Indian organizations in describing the types of entities that may be used to issue food stamps. Also, the Department was requested to define "adequate security" so that community-based groups could be delegated issuance responsibilities.

The final rules require that all issuance agents meet minimum security requirements in order to qualify. These rules, however, are not intended to eliminate community-based locations as issuing agents. The criteria for contracting are specified in part 277 (currently 275). Therefore, the Department deleted the phrase, "adequate security" in 274.1 as unnecessary.

Another amendment to the regulations was suggested by the Postal Service. In the proposed rulemaking, the Department's agreement with the Postal Service for coupon issuance was discussed. The Postal Service regarded the proposed rules' reference to the "model contract" as part of the agreement as misleading. The "model contract" is not actually a contract but functions as a Postal Service management guideline furnished to its regional offices. The Postal Service is entitled to modify the model itself without Department consent.

Likewise, State agencies are not bound by the terms of the "model contract" language. The Department wishes to stress that States are free to negotiate with the Postal Service regarding additional operating hours, weekend issuance and transaction fees or any other area not specifically prohibited by FNS regulations.

As noted earlier, ID cards are not required to have serial numbers, but must be treated as limited access forms. Likewise, ATP suspension for households which do not participate for 2 consecutive months has been dropped because of criticism that benefits should not be discontinued simply because ATP cards are not transacted. In those circumstances the household is still eligible and could have decided to not use or neglected to use the ATP card for a variety of reasons.

Some commenters misunderstood the requirements for emergency authorized representatives. Occasionally, neither the household nor the authorized representative named on the household's ID is able to pick up the coupons. The proposed and final regulations require State agencies to devise a means for households to designate, in writing, an emergency authorized representative to obtain coupons. In an HIR card system, the regulations require a written statement from a household member, also signed by the emergency authorized representative, to authorize the issuance of the allotment. In ATP systems, there must be signature spaces on the ID and/or ATP for the household to designate an emergency authorized representative. States may also use a separate written form as long as the household is not required to travel to the office in order to designate an emergency authorized representative. To obtain the allotment, the emergency representative must present the designation, the household's ID, and sign the ATP or HIR card. The State agency will compare the signature of the emergency representative on the issuance document with that on the designation and the household member's signature on the designation with that on the ID to assure no improper issuance takes place. Finally, many minor technical revisions were made to clarify the regulations.

REORGANIZATION OF THE REGULATIONS

The food stamp regulations have been extensively revised and restructured. When reviewing the reorganized material, please note that several new provisions are reserved since these provisions will be proposed at a later date. In addition, several provisions in the current regulations are expected to change when the second package of proposed rulemaking is published final. To show that these current provisions have not been deleted but will remain in force and effect until the second package is published as final rulemaking, these provisions in the current regulations are retained by reference but are not restated.

Certain sections of the Food Stamp Act are effective without publication of regulations. These sections include: 4(c) (notice and comment rulemaking requirements, advance copies of rules to the committees); 7(c) (coupon design); and 11(g) (injunctive relief against State agencies).

To help in relating the current regulations to the proposed regulation, the following table of redesignations has been compiled:

TABLE OF REDESIGNATIONS

Old	New
270.1(a)	270 [Reserved].
270.1(b)	271.1(a); 271.1(b).
270.2(a)	Deleted.
270.2(b)	Do.
270.2(c)	271.2.
270.2(d)	Deleted.
270.2(e)	271.2.
270.2(f)-(l)	Deleted.
270.2 (m) and (n)	271.2
270.2(o)	Deleted.
270.2(p)-(s)	271.2.
270.2(t)	Deleted.
270.2 (u) and (v)	271.2.
270.2 (w) and (x)	Deleted.
270.2(y)	271.2.
270.2 (z) and (aa)	Deleted.
270.2(bb)	271.2.
270.2 (cc) and (dd)	Deleted.
270.2(ee)	271.2.
270.2(ff)-(ll)	Deleted.
270.2 (mm), (oo), and (pp).	271.2.
270.2 (qq) and (rr)	Deleted.
270.2(ss)	271.2.
270.2(tt)	Deleted.
270.2 (uu) and (vv)	271.2.
270.2(ww)-(yy)	Deleted.
270.2(zz)	271.2.

TABLE OF REDESIGNATIONS—Continued

Old	New
270.3(a)	271.3(a).
270.3(b)	271.4(a).
270.3(c)	272.4(a)(2).
270.4(a)	271.5(a).
270.4(b)	271.5(b).
270.4(c)	271.5(c).
270.4(d)	273.16 (a) and (b); 271.5(b).
270.5(a)	271.3(b).
270.5(b)	271.6(b).
270.5(c)	Deleted.
271.1(a)*	281.1 [Reserved].
271.1(b)	272.1(a).
271.1(c)	272.1(b).
271.1(d)	272.7(a).
271.1(e)	273.2(f)(1)(iv) and 273.3.
271.1(f)	272.1(c).
271.1(g)	272.4(a)(1).
271.1(h)*	277 [Reserved].
271.1(i)*	272.2 [Reserved].
271.1(j)	271.4(a).
271.1(k)*	272.6(a)-(c) [Reserved].
271.1(l)	272.1(e).
271.1(m)	272.1(f) and 274.7.
271.1(n)(1)	273.13(a) (1) and (2).
271.1(n)(2)	273.13(b).
271.1(n)(3)	273.12(e)(1)(ii); (2)(ii).
271.1(n)(4)	273.15(k).
271.1(o)	273.15.
271.1(p)	273.17(l).
271.1(q)	273.17.
271.1(r)	272.1(d).
271.1(s)	272.1(g).
271.1(t)*	276 [Reserved].
271.2*	277 [Reserved].
271.3(a)(1)	273.1 (a) and (b).
271.3(a)(1) (i) and (ii)	273.2(d).
271.3(a)(1)(iii)	273.12.
271.3(a)(2)	274.10(b).
271.3(a)(3)	274.10(c).
271.3(a)(4)	274.10(d); 273.11(c); 273.1(f)(iv).
271.3(a)(5)	274.10(e).
271.3(b)	Deleted.
271.3(c)—Introductory paragraph.	273.8(a) and 273.9(a).
271.3(c)(1)(i)	273.9(b).
271.3(c)(1)(i)(a)	273.9(b)(1)(i).
271.3(c)(1)(i)(b)	273.9(b)(1)(ii); 273.9(c)(9); 273.11(a).
271.3(c)(1)(i)(c)	273.9(b)(1)(ii); 273.9(c)(9); 273.11(a).
271.3(c)(1)(i)(d)	273.9(b)(1)(ii); 273.9(c)(9); 273.11(b).
271.3(c)(1)(i)(e)	273.9(b)(2)(i).
271.3(c)(1)(i)(f)	273.9(b)(2)(i).
271.3(c)(1)(i)(g)	273.9(b)(2)(v).
271.3(c)(1)(i)(h)	273.9(c)(1)(i).
271.3(c)(1)(i)(i)	273.9(b)(2)(iv).
271.3(c)(1)(i)(j)	273.9(b)(2)(iv).
271.3(c)(1)(i)(k)	273.9(b)(2)(iii).
271.3(c)(1)(i)(l)	Deleted.
271.3(c)(1)(i)(m)	Do.
271.3(c)(1)(ii)(a)	273.9(c)(7).
271.3(c)(1)(ii)(b)	273.9(c)(10)(i).
271.3(c)(1)(ii)(c)	273.9(c)(1)(i).
271.3(c)(1)(ii)(d)	273.9(c)(2).
271.3(c)(1)(ii)(e)	273.9(c)(3).
271.3(c)(1)(ii)(f)	273.9(c)(4).
271.3(c)(1)(ii)(g)	273.9(c)(10)(iii).
271.3(c)(1)(ii)(h)	273.9(c)(10)(iv).
271.3(c)(1)(iii)(a)	273.9(d)(2).
271.3(c)(1)(iii)(b)	Deleted.
271.3(c)(1)(iii)(c)	Do.
271.3(c)(1)(iii)(d)	273.9(d)(3).
271.3(c)(1)(iii)(e)	Deleted.
271.3(c)(1)(iii)(f)	273.9(c)(3).
271.3(c)(1)(iii)(g)	Deleted.
271.3(c)(1)(iii)(h)	273.9(d)(4).
271.3(c)(2)(i)-(iv)	273.10(c).
271.3(c)(3)	273.9(a).
271.3(c)(4)(i)	273.8(b).
271.3(c)(4)(ii)	273.8(c).
271.3(c)(4)(iii)	273.8(e).
271.3(c)(4)(iv)	273.8(g).
271.3(d)	273.7.
271.3(e)	273.3.
271.3(f)	Deleted.
271.4(a)(1)	273.2(k).

TABLE OF REDESIGNATIONS—Continued

Old	New
271.4(a)(2)(i)	273.2 (a) and (b).
271.4(a)(2)(ii)	273.2(e).
271.4(a)(2)(iii)	273.2(f); 273.2(i)(4)(i).
271.4(a)(3)(i)	273.2(g); 273.10(g)(1); 273.2(h)(2).
271.4(a)(3)(ii)—Introductory paragraph.	273.14(a).
271.4(a)(3)(ii)(a)	273.14(b).
271.4(a)(3)(ii)(b)	273.14(e).
271.4(a)(3)(ii)(c)	273.14(c).
271.4(a)(3)(ii)(d)	273.14(d).
271.4(a)(3)(ii)(e)	273.14(f).
271.4(a)(4)	273.10(f).
271.4(a)(5)	273.19.
271.4(a)(6)	273.10(g)(3).
271.4(a)(7)*	272.3 [Reserved].
271.5	273.10(e).
271.6(a)	274.4(e).
271.6(b)	274.4(c).
271.6(c)	274.4 (a) and (b).
271.6(d)—Introductory paragraph.	274.1.
271.6(d)(1)	274.3.
271.6(d)(2)	Deleted.
271.6(d)(3)	Do.
271.6(d)(4)	Do.
271.6(d)(5)	274.2(d)(3).
271.6(e)	Deleted.
271.6(f)	274.8.
271.6(g)*	272.3 [Reserved].
271.6(h)	274.1(d).
271.6(i)	274.11(e).
271.7(a)-(d)*	276 [Reserved].
271.7(e)	273.16 and 273.18.
271.7(f)	273.18.
271.8*	272.2 [Reserved].
271.9(a)	274.10(a).
271.9(b)	274.10(f).
271.9(c)	274.10(g).
271.9(d)	274.10(h).
271.9(e)	273.16.
271.9(f)-(j)	274.11.
271.9(k)	Deleted.
271.10	273.6.
272	278.
273	279.
274*	280 [Reserved].
275*	277 [Reserved].

*The language in these paragraphs of the old regulations will remain in full force and effect.

SUBCHAPTER C—FOOD STAMP PROGRAM

Part
270 [Reserved]
271 General information and definitions.
272 Requirements for participating State agencies.
273 Certification of eligible households.
274 Issuance and use of food coupons.
275 Program monitoring systems [reserved].
276 State agency liabilities and Federal sanctions [reserved].
277 Payment of certain administrative costs of State agencies [reserved].
278 Participation of retail food stores, wholesale food concerns and banks.
279 Administrative and judicial review—food retailers and food wholesalers.
280 Emergency food assistance for victims of disasters [reserved].
281 Designation of Indian tribes as State agencies [reserved].
282 Demonstration, research, and evaluation projects.

PART 270 [RESERVED]

1. Part 270 is revised and redesignated as part 271. The new part 270 is re-

served. The new part 271 reads as follows:

PART 271—GENERAL INFORMATION

Subpart A—Definitions

Sec.
271.1 Definitions.

AUTHORITY: Sec. 16, 78 Stat. 703 (7 U.S.C. 2025).

Subpart A—Definitions

§ 271.1 Definitions.

(a) "Act" means the Food Stamp Act of 1977, as amended.

(b) "Administrative error" means any error in the certification or issuance process caused by the State agency, its employees, or its contractors.

(c) "Administrative expenses" means all costs incurred by the State agency in administering the food stamp program, except for the value of coupons issued, the value of allotments lost, and the value of losses caused by fraudulent practices.

(d) "Allotment" means the total value of coupons issued to a household for the purchase of food during a specified period.

(e) "Application" means the request, either oral or written, by a household to participate in the program.

(f) "Authorized representative" means a member of the household or other person designated by the household to act on its behalf in obtaining coupons.

(g) "Basic allowance for quarters" means the basic allowance for quarters paid to members of the armed forces.

(h) "Basic allowance for subsistence" means the basic allowance for subsistence paid to members of the armed forces.

(i) "Benefits" means the value of coupons issued to households.

(j) "Boarder" means an individual to whom a household furnishes lodging and meals for compensation.

(k) "Certification" means the determination made by the State agency that a household is eligible to participate in the program and the assignment of a household to a certification period.

(l) "Certification period" means the period of time for which households are certified eligible to participate in the program.

(m) "Coupon" means any coupon, stamp, or type of certificate issued pursuant to the Act.

(n) "Coupon issuer" means a bank, trust company, or other entity which is approved by FNS to issue coupons to retail food stores and wholesale food concerns.

(o) "Department" means the Department of Agriculture.

(p) "Disaster" means a natural disaster or catastrophe, such as a drought, flood, hurricane, earthquake, fire, or explosion, for which the President has declared that Federal assistance is necessary.

(q) "Drug addict or alcoholic" means any individual who is receiving treatment for drug addiction or alcoholism at a public or private nonprofit treatment center or facility.

(r) "Elderly person" means a person 60 years of age or older.

(s) "Emergency" means a natural disaster or civil disorder which causes severe damage to the food supply or severely disrupts the ordinary channels of food distribution.

(t) "Employment and training program" means a program established by the State agency under section 6(d)(4) of the Act.

(u) "Fair hearing" means the administrative proceeding established by the State agency under section 11(e)(10) of the Act.

(v) "FNS" means the Food and Nutrition Service of the Department.

(w) "Food" means (1) any food or food product for home consumption except alcoholic beverages, tobacco, and hot foods or hot food products ready for immediate consumption, and (2) seeds and plants which produce food for the household to eat.

(x) "Food stamp program" means the program established under the Act.

(y) "Food wholesaler" means a business establishment which sells food to retail food stores.

(z) "Group living arrangement" means a public or private nonprofit residential setting that serves no more than 16 residents and that has been approved by the appropriate agency or agencies under State law.

(aa) "Household" means (1) an individual living alone or (2) an individual living with others but customarily purchasing food and preparing meals separately from the others, or (3) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(bb) "Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons.

tive federally aided public assistance programs within the State and in those States where such assistance programs are administered by political subdivisions smaller than the State, within the political subdivision.

(cc) "Income" means all wages, salary, profit, interest, dividends, benefits, and other money received from any source by any member of the household, unless specifically excluded.

(dd) "Institution" means any establishment that provides meals, lodging, or both, to residents, whether or not it is operated for profit.

(ee) "Institution of social rehabilitation" means a public or private nonprofit establishment which has as its principal purpose the social rehabilitation of mentally or physically handicapped persons.

(ff) "Issuance" means the distribution of coupons to households.

(gg) "Issuance agent" means a bank, trust company, or other entity which is approved by FNS to issue coupons to households.

(hh) "Meal service" means a business establishment which prepares meals for sale to the general public.

(ii) "Military quarters allowance" means the value of any quarters furnished to members of the armed forces.

(jj) "Military subsistence allowance" means the value of any subsistence furnished to members of the armed forces.

(kk) "Nonprofit cooperative food purchasing venture" means an organization which is established in accordance with the provisions of § 271.3(c)(4)(iii).

(ll) "Nonprofit food buying group" means an organization which is established in accordance with the provisions of § 271.3(c)(4)(ii).

(mm) "Nonprofit meal delivery service" means a nonprofit establishment which delivers meals to the elderly, the handicapped, or the disabled.

(nn) "Nonprofit meal service" means a nonprofit establishment which prepares meals for the elderly, the handicapped, or the disabled.

(oo) "Nonprofit shelter for battered women and children" means a public or private nonprofit residential facility which serves battered women and children.

(pp) "Overissuance" means the amount by which the coupons issued to a household exceed the amount the household was entitled to receive.

(qq) "Program" means the food stamp program.

(rr) "Public assistance" means assistance in cash or in kind under a Federal, State, or local program designed to meet a need for food, clothing, shelter, or medical care on the basis of need.

(ss) "Reconciliation" means the process of comparing the number of ATP's received by a State agency with the number of ATP's transacted and the number of ATP's destroyed or otherwise accounted for.

(tt) "Retail food store" means an establishment or a house-to-house trade route which sells food for home consumption.

(uu) "Shelter for battered women and children" means a public or private residential facility which serves battered women and children.

(vv) "Shelter for the homeless" means a public or private nonprofit residential facility which serves the homeless.

(ww) "Shelter for narcotics addicts or alcoholics" means a public or private nonprofit residential facility which serves narcotics addicts or alcoholics.

(xx) "Spouse" means either of two individuals who would be married to each other if both were living together in the same place and are recognized as married under the laws of the State in which they live.

(yy) "State agency" means the agency of State government, including the local offices thereof, which has the responsibility for the administration of the food stamp program within the State.

(zz) "Supplemental Security Income (SSI) benefits" means the benefits paid to individuals by the Social Security Administration under title XVI of the Social Security Act.

(aaa) "Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and woman 20 through 54 years of age, a child 6 through 8 years of age, and a child 9 through 11 years of age, determined in accordance with the criteria in section 3(o)(4) of the Act.

(bbb) "Wages" means remuneration for employment.

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served. The new part 271 reads as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

Sec.
271.1 General purpose and scope.
271.2 Definitions.
271.3 Delegations to FNS for administration.
271.4 Delegations to States for administration.
271.5 Coupons as obligations of the United States, crimes, and offenses.
271.6 Complaint procedures.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027)

§ 271.1 General purpose and scope.

(a) *Purpose of the food stamp program.* The food stamp program is designed to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households. Section 2 of the Food Stamp Act of 1977 states, in part:

Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. Congress further finds that increased utilization of food in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation's agricultural abundance and will strengthen the Nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to obtain a more nutritious diet through normal channels of trade by increasing food purchasing power for all eligible households who apply for participation.

(b) *Scope of the regulations.* Part 271 contains general information, definitions, and other material applicable to all parts of this subchapter. Part 272 sets forth policies and procedures governing State agencies which participate in the program. Part 273 describes the eligibility criteria to be applied by State agencies and related processing requirements and standards. Part 274 provides requirements for the issuance of coupons to eligible households and establishes related issuance responsibilities. Part 275 sets forth guidelines for monitoring the food stamp program, analyzing the results and formulating corrective action. Part 276 establishes State agency liability and certain Federal sanctions. Part 277 outlines procedures for payment of administrative costs of State agencies. Part 278 delineates the terms and conditions for the participation of retail food stores, wholesale food concerns, meal services, and banks. Part 279 establishes the procedures for administrative and judicial reviews requested by food retailers, food wholesalers, and meal services. Part 280 explains procedures for issuing emergency coupon allotments to certain victims of disasters unable to purchase adequate amounts of food. Part 281 sets forth guidelines for designating Indian tribes as State agencies. Part 282 provides guidelines for initiation, selection, and operation of demonstration, research, and evaluation projects.

§ 271.2 Definitions.

"Allotment" means the total value of coupons a household is authorized to receive during each month or other time period.

"Application form" means: (1) The application form designed or approved by FNS, which is completed by a household member or authorized representative; or

(2) For households consisting solely of public assistance or general assistance recipients, it may also mean the application form used to apply for public assistance or general assistance, including attachments approved by FNS, which is completed by a household member or authorized representative.

"Authorization to participate card (ATP)" means a document which is issued by the State agency to a certified household to show the allotment the household is authorized to receive on presentation of such document.

"Bulk storage point" means an office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has assigned responsibility for, the security and storage of food coupons.

"Coupon issuer" means any office of the State agency or any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has assigned responsibility for, the issuance of coupons to households.

"Department" means the U.S. Department of Agriculture.

"Elderly person" means a person 60 years of age or older.

"Federal fiscal year" means a period of 12 calendar months beginning with each October 1 and ending with September 30 of the following calendar year. "FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Food Stamp Act" means the Food Stamp Act of 1977 (Pub. L. 95-113), including any subsequent amendments thereto.

"General assistance (GA)" means cash assistance which is financed by State or local funds.

"Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons.

"Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, U.S. Department of Justice.

"Institution of higher education" means any institution providing post-high school education, including but not limited to, colleges, universities, and vocational or technical schools at the post-high school level.

"Low-income household" means a household whose annual income does not exceed 125 percent of the Office of Management and Budget poverty guidelines.

"Medicaid" means medical assistance under title XIX of the Social Security Act, as amended.

"Overissuance" means the amount by which coupons issued to a household exceeds the amount it was eligible to receive.

"Program" means the food stamp program conducted under the Food Stamp Act and regulations.

"Project area" means the county or similar political subdivision designated by a State as the administrative unit for program operations. Upon prior FNS approval, a city, Indian reservation, welfare district, or any other entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area, or a State as a whole may be designated as a single project area.

"Public assistance (PA)" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, aid to families with dependent children (AFDC), including AFDC for children of unemployed fathers, aid to the blind, aid to the permanently and totally disabled and aid to aged, blind, or disabled.

"Regulations" means the provisions of this subchapter. Regulatory citations refer to provisions of this subchapter unless otherwise specified.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

"Spouse" refers to either of two individuals:

(1) Who would be defined as married to each other under applicable State law; or

(2) Who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople.

"State" means any one of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

"State agency" means the agency of the State government, including the local offices thereof, which has the responsibility for the administration of the federally aided public assistance programs within the State and in those States where such assistance programs are operated on a decentralized basis, it includes the counterpart local agencies which administer such assistance programs for the State agency.

"Supplemental security income (SSI)" means monthly cash payments made under the authority of title XVI of the Social Security Act, as amended, to the aged, blind, and disabled.

"Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and a woman 20 through 54, a child 6 through 8, and a child 9 through 11 years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall make household-size adjustments in the thrifty food plan taking into account economies of scale.

§ 271.3 Delegations to FNS for administration.

(a) *Delegation.* Within the Department, FNS acts on behalf of the Department in the administration of the Food Stamp Program with the exception of those functions, which may be delegated to other agencies within the Department. The right is reserved at any time to withdraw, modify, or amend any delegation of authority. When authority is delegated to FNS, the responsibilities may be carried out by the Administrator or by another official of FNS, or by State agencies with respect to claims against households, as designated.

(b) *Claims settlement.* FNS shall have the power to determine the amount of and to settle and adjust any claim arising under the provisions of the Act or this subchapter, and to compromise or deny all or part of any claim.

(c) *Demonstration authority.* FNS is authorized to undertake demonstration projects which test new methods designed to improve program administration and benefit delivery. FNS is authorized to initiate program research and evaluation efforts for the purposes of improving and assessing program administration and effectiveness. The procedure for initiating and conducting these projects is established in part 282.

§ 271.4 Delegations to State agencies for administration.

(a) *General delegation.* The State agency shall be responsible for the administration of the program within the State, including, but not limited to:

(1) Certification of applicant households;

(2) Issuance, control, and accountability of coupons;

(3) Outreach activities;

(4) Developing and maintaining complaint procedures;

(5) Developing, conducting, and evaluating training;

(6) Conducting performance reporting reviews;

(7) Keeping records necessary to determine whether the program is being conducted in compliance with these regulations; and

(8) Submitting accurate and timely financial and program reports.

(b) *Claims delegation.* FNS delegates to the State agency, subject to the standards in § 273.18, the authority to determine the amount of, and settle, adjust, compromise or deny all or part of any claim which results from fraudulent or nonfraudulent overissuances to participating households.

§ 271.5 Coupons as obligations of the United States, crimes and offenses.

(a) *Coupons as obligations.* Pursuant to section 15(d) of the Food Stamp Act, coupons are an obligation of the United States within the meaning of 18 United States Code (U.S.C.) 8. The provisions of title 18 of the United States Code, "Crimes and Criminal Procedure," relative to counterfeiting, misuse and alteration of obligations of the United States are applicable to coupons.

(b) *Penalties.* Any unauthorized issuance, use, transfer, acquisition, alteration, possession, or presentation of coupons or ATP's may subject any individual, partnership, corporation, or other legal entity to prosecution under sections 15 (b) and (c) of the Food Stamp Act or under any other applicable Federal, State or local law, regulation or ordinance. Sections 15 (b) and (c) of the Food Stamp Act read as follows:

(b) Whoever knowingly uses, transfers, acquires, alters, or possesses coupons or authorization cards in any manner not authorized by this Act or the regulations issued pursuant to this Act shall, if such coupons or authorization cards are of the value of $100 or more, be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or if such coupons or authorization cards are of a value of less than $100, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) Whoever presents, or causes to be presented, coupons for payments or redemption of the value of $100 or more, knowing the same to have been received, transferred, or used in any manner in violation of the provisions of this Act or the regulations issued pursuant to this Act shall be guilty of a felony and shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both, or, if such coupons are of a value of less than $100, shall be guilty of a misdemeanor and shall upon conviction thereof, be fined not more than $1,000 or imprisoned for not more than one year, or both.

(c) *Security for coupons and ATP's.* All individuals, partnerships, corporations, or other legal entities including State agencies and their delegatees (referred to in this paragraph as "persons") having custody, care and control of coupons and ATP's shall, at all times, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit coupons and ATP's and to avoid any unauthorized use transfer, acquisition, alteration or possession of coupons and ATP's. These persons shall safeguard coupons and ATP's from theft, embezzlement, loss, damage, or destruction.

(d) *Coupon issuers.* (1) Any coupon issuer or any officer, employee or agent, thereof convicted of failing to provide the monthly reports required in § 274.5 or convicted of violating part 274 shall be subject to a fine of not more than $1,000, or imprisoned for not more than 1 year, or both.

(2) Any coupon issuer or any officer, employee or agent, thereof convicted of knowingly providing false information in the reports required under § 274.5 shall be subject to a fine of not more than $10,000, or imprisoned not more than 5 years, or both.

§ 271.6 Complaint procedure.

(a) *State agency responsibility.* [Reserved]

(b) *Regional office responsibility.* (1) Persons or agencies desiring program information or wishing to file a complaint may contact the appropriate FNS Regional Office.

(i) For Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, the Virgin Islands of the United States, and West Virginia: Mid-Atlantic Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1 Vahlsing Center, Route 526, Robbinsville, N.J. 08691.

(ii) For Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1100 Spring Street NW., Room 200, Atlanta, Ga. 30309.

(iii) For Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 536 South Clark Street, Chicago, Ill. 60605.

(iv) For Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, U.S. Department of Agriculture, Food and Nutrition

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Service, 1100 Commerce Street, Suite 5-C-30, Dallas, Tex. 75242.

(v) For Alaska, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon and Washington: Western Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 550 Kearny Street, Room 400, San Francisco, Calif. 94108.

(vi) For Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 33 North Avenue, Burlington, Mass. 01803.

(vii) For Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 2420 West 26th Avenue, Suite 430-D, Denver, Colo. 80211.

(2) Complainants shall be advised of the appropriate State complaint handling and fair hearing procedures. Upon household request, other complaints shall be pursued by the Department rather than the State agency, unless the complaint is one upon which the complainant wishes to request a fair hearing.

2. Part 271 is extensively revised and the contents redesignated among the new parts 272 through 281. The following paragraphs of the former part 271 remain in force and effect but are redesignated: § 271.1(a) as § 281.1; § 271.1(h) as § 277.16; § 271.1(i) as § 272.2(a); § 271.1(k) as § 272.6(b), § 271.1(t) as § 276.1; § 271.2 as § 277.7; § 271.4(a)(7) as § 272.3(a); § 271.6(g) as § 272.3(b); § 271.7 (a)-(d) as §§ 276.2-276.5, respectively; and § 271.8 (a)-(f) as § 272.2 (b)-(g), respectively.

The new part 272 reads as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Sec.

272.1 General terms and conditions.
272.2 State plans of operation. [Reserved]
272.3 Operating guidelines. [Reserved]
272.4 Program administration and personnel requirements.
272.5 Locations and hours of certification and issuance service. [Reserved]
272.6 Outreach.
272.7 Nondiscrimination compliance.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 272.1 General terms and conditions.

(a) *Coupons as income.* The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any Federal, State, or local laws including, but not limited to, laws on taxation, welfare, and public assistance programs.

(b) *No aid reduction.* No participating State or political subdivision shall decrease any assistance otherwise provided an individual or individuals because of the receipt of a coupon allotment.

(c) *Disclosure.* (1) Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, or with other Federal or federally aided, means-tested assistance programs such as Title IV-A (AFDC), XIX (Medicaid), or XVI (SSI), or with general assistance programs that are subject to the joint processing requirements specified in § 273.2(j)(2).

(2) If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting in its behalf to review materials contained in its case file, the material and information contained in the case file shall be made available for inspection during normal business hours. However, the State agency may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

(d) *Information available to the public.* (1) Regulations, plans of operation, State manuals, and Federal procedures which affect the public shall be maintained in the State and local offices of the State agency as well as in FNS national and Regional Offices for examination by members of the public on regular workdays during regular office hours.

(2) Copies of regulations, plans of operation, State manuals, and Federal procedures may be obtained from FNS in accordance with part 295 of this chapter.

(e) *Records and reports.* Each State agency shall keep such records and submit such reports and other information as required by FNS.

(f) *Retention of records.* Each State agency shall retain all program records in an orderly fashion, for audit and review purposes, for a period of 3 years from the month of origin of each record. The State agency shall retain fiscal records and accountable documents for 3 years from the date of fiscal or administrative closure. Fiscal closure means that obligations for or against the Federal Government have been liquidated. Administrative closures means that the State agency has determined and documented that no further action to liquidate the obligation is appropriate. Fiscal records and accountable documents include, but are not limited to claims, documentation of lost benefits, and Form FNS-286, "Certification of Transfer of Household Benefits." Retention methods for ATP cards are provided in part 274.

(g) *Implementation.* The implementation schedule for any amendment to the regulations shall be specified in the amendment.

(1) *Amendment 132.* Program changes required by amendment 132 to the food stamp regulations shall be implemented as follows:

(i) State agencies shall eliminate the purchase requirement for all households on or before January 1, 1979. The State agency shall designate the month the purchase requirement is to be eliminated. If the month designated is other than January 1979, the State agency shall obtain prior approval of FNS. FNS shall approve the designation of months prior to January 1979, if the State agency demonstrates that an accounting procedure for the new issuance system will be in place. The submission dates for the forms FNS-250 and FNS-256, stipulated in § 274.8(a), shall be effective with the reports for the first month of issuance without a purchase requirement. For example, if EPR is implemented in January, the FNS-250 and FNS-256 for January would be due by March 17, 1979. The FNS-259 shall be submitted in accordance with § 274.8(a)(3) starting with the quarter beginning January 1979.

(ii) State agencies may implement all eligibility rules contained in part 273 and all issuance rules contained in part 274 at the same time the purchase requirement is eliminated, but in no case shall eligibility and issuance rules be implemented prior to elimination of the purchase requirement. State agencies may also implement portions of part 273 and part 274 separately after the purchase requirement is eliminated, provided that the eligibility rules setting the income standards, the income deductions and the household allotment calculation are implemented at the same time, and all rules are implemented no later than 3 months after the purchase requirement is eliminated. However, if a State agency implements EPR after December 1, 1978, it shall implement the certification and other issuance regulations for all new applications and recertifications no later than March 1, 1979.

(iii) State agencies shall have up to 4 months following the first day that applications are taken under the new rules, to convert the current caseload to the new program. Households coming due for recertification during this time will be converted to the new program at recertification. Remaining households shall be converted by a desk review during that 4-month

period. The new income definition, deductions, and allotment calculation shall be completed for all households which are converted through a desk review. To the extent that the case file and other information available to the State agency permit, other eligibility criteria, such as work registration, resources, tax dependency, and alien status, shall be considered during the desk review. Otherwise, nonincome eligibility factors shall be deferred until the household's scheduled recertification. In no event shall a household's certification period be extended as a result of the desk review. Until recertified or converted by a desk review, a household shall continue to receive the bonus portion of the allotment, calculated in accordance with the income, deduction, and basis of issuance provisons of the Food Stamp Act of 1964. During the case file conversion period, some households may be participating on the basis of the old program rules and some on the new rules. Claims against households and restoration of benefits shall not be assessed provided that whichever program rules are in use for a particular case are correctly applied during the conversion period. However, errors caused by miscalculations based on the old or new program rules which result in an entitlement to restoration of lost benefits or an overissuance shall be assessed in accordance with §§ 273.17 and 273.18 of these regulations. The procedures for calculating lost benefits or overissuances as specified in §§ 273.17 and 273.18 shall be applied to any case found to be in error after the implementation of these procedures, even though the action which caused the error may have occurred prior to the date of implementation.

(iv) State agencies shall implement § 273.17 on the restoration of lost benefits on or before March 1, 1979. State agencies are encouraged to implement restoration of lost benefits concurrent with the elimination of the purchase requirement, especially as they relate to households which are entitled to lost benefits but which have been unable to receive them because the households are currently ineligible. State agencies shall notify currently ineligible households of the availability of their lost benefits by using one of the following procedures:

(A) State agencies which can readily identify the ineligible households which are entitled to lost benefits shall notify these households and restore the lost benefits within 4 months of the date restoration of lost benefits is implemented.

(B) Other State agencies shall issue a one-time-only press release notifying ineligible households that benefits can be restored. The press release should advise households to contact the local food stamp office for more information.

(v) State agencies shall assume the authority to settle or adjust recipient claims delegated under § 271.4(b) on or before July 1, 1979.

(vi) State agencies without a currently approved utility standard required in § 273.9(d)(5) shall develop and implement an FNS approved utility standard on or before October 1, 1979. The State agency shall notify households certified at the time the utility standard is implemented of the availability of the standard and the conditions for its use in lieu of actual expenses. Households qualified to use the standard and which elect to do so shall have the standard applied as any other change in circumstances. Otherwise, actual utility expenses shall continue to be used for households qualified for the standard until their next recertification.

(vii) State agencies shall advise FNS of their determination of the need for bilingual services as required by § 272.4(c) on or before December 1, 1978. If the State agency cannot determine, based on available information sources, whether or not bilingual services are required in particular project areas, it shall so advise FNS on or before December 1, 1978. The State agency shall then develop procedures to record the number of non-English-speaking low-income households which make contact with its offices in those project areas as required by § 272.4(c)(6). These procedures shall be implemented on or before March 1, 1979, and shall continue for 6 months. The State agency shall submit to FNS its determination(s) of the need for bilingual services not later than 60 days following the end of the 6-month period. Bilingual outreach materials shall be available for distribution within 90 days of the State agency's determination that such materials are required. When the State agency determines that bilingual staff and certification materials are required, it shall also make a determination of whether volunteers or paid staff will be used. When volunteers are to be used, the State agency shall provide the materials and arrange for volunteers within 90 days. Paid staff and materials shall be provided within 180 days.

(viii) Prior to the certification of households under these regulations, State agencies shall implement staff training for the transition as required in § 272.4(e)(3), and training for outreach workers, receptionists, and others, as required in § 272.4(e)(1) (v) and (vi). Beginning with these training sessions for the transition, State agencies shall implement the requirements for public participation at training sessions, as specified in § 272.4(e)(1)(iv). State agencies shall designate a training coordinator and develop and implement the ongoing training program required by § 272.4(e) on or before July 1, 1979.

(ix) State agencies shall implement the transitional outreach requirements as specified in § 272.6(f). Most of these requirements shall begin 1 week prior to the elimination of the purchase requirement and shall continue for 6 months or until all households are converted to the new program, whichever is later. The outreach plan for the period of January through September 1979 shall be submitted for FNS approval on or before December 1, 1978.

(x) Elimination of the purchase requirement and the implementation of the basic financial and nonfinancial eligibility criteria and other coupon issuance criteria shall not be extended for any reason. FNS may grant extensions for other provisions contained in these rules, provided that the State agency presents compelling justification for a delay and establishes an acceptable alternative schedule in advance of the implementation deadline. In no event will FNS grant an extension in excess of 120 days from the specified implementation date. In those cases where extensions are granted, the relevant Department regulations under the Food Stamp Act of 1964 shall remain in effect until superseded by implementation of the new rules.

§ 272.2 State plan of operations. [Reserved]

§ 272.3 Operating guidelines. [Reserved]

§ 272.4 Program administration and personnel requirements.

(a) *Merit personnel.* (1) State agency personnel used in the certification process shall be employed in accordance with the current standards for a merit system of personnel administration or any standards later prescribed by the U.S. Civil Service Commission under section 208 of the Intergovernmental Personnel Act of 1970.

(2) State agency employees meeting the standards outlined in paragraph (a)(1) of this section shall perform the interviews required in § 273.2(e). Volunteers and other non-State agency employees shall not conduct certification interviews or certify food stamp applicants. Exceptions to the use of State merit system personnel in the interview and certification process are specified in § 273.2(k) for SSI households and part 280 for disaster victims. State agencies are encouraged to use volunteers in activities such as outreach, prescreening, assisting applicants in the application and certification process, and in securing needed verification. Individuals and organizations who are parties to a strike or

lockout, and their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant.

is required to use several languages, the notice may be printed in English and may contain statements in other languages summarizing the purpose of

zational structure which divides the responsibility for eligibility determinations and coupon issuance among certification, data management, and issu-

ited caseload the full-time services of a training coordinator are not necessary or that the State agency otherwise has

sonnel, it shall be in sufficient detail and frequency to insure that low-income households have access to ac-

(d) *Monitoring.* [Reserved]

(e) *Outreach plan.* The State agency shall submit the FNS for approval an

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lockout, and their facilities, may not be used in the certification process except as a source of verification for information supplied by the applicant. Only authorized employees of the State agency, coupon issuers, coupon bulk storage points, and Federal employees involved in administration of the program shall be permitted access to food coupons, ATP's, or other issuance documents.

(b) *Staffing standards.* The State agency shall employ sufficient staff to certify and issue benefits accurately to eligible households, and process fair hearing requests, within the timeliness standards set forth in these regulations. Outreach activities and other program functions shall be performed as specified in these regulations.

(c) *Bilingual requirements.* (1) Based on the estimated total number of low-income households in a project area which speak the same non-English language (a single-language minority), the State agency shall provide bilingual outreach and certification materials, and staff or interpreters as specified in paragraphs (c) (2) and (3) of this section. Single-language minority refers to households which speak the same non-English language and which do not contain adult(s) fluent in English as a second language.

(2) The State agency shall provide outreach materials in the appropriate language(s) as follows:

(i) In project areas with less than 2,000 low-income households, if approximately 100 or more of those households are of a single-language minority;

(ii) In project areas with 2,000 or more low-income households, if approximately 5 percent or more of those households are of a single-language minority; and

(iii) In project areas with a certification office that provides bilingual service as required in paragraph (c)(3) of this section.

(3) The State agency shall provide both certification materials in the appropriate language(s) and bilingual staff or interpreters as follows:

(i) In each individual certification office that provides service to approximately 100 single-language minority low-income households; and

(ii) In each project area with a total of less than 100 low-income households if a majority of those households are of a single-language minority.

(A) Certification materials shall include the food stamp application form, change report form and notices to households.

(B) If notices are required in only one language other than English, notices may be printed in English on one side and in the other language on the reverse side. If the certification office is required to use several languages, the notice may be printed in English and may contain statements in other languages summarizing the purpose of the notice and the telephone number to call for more information. For example, a notice of eligibility could in the appropriate language(s) state: "Your application for food stamps has been approved in the amount stated above. If you need more information telephone ————."

(4) In project areas with a seasonal influx of non-English-speaking households, the State agency shall provide bilingual materials and staff or interpreters, if during the seasonal influx the number of single-language minority low-income households which move into the area meets or exceeds the requirements in paragraphs (c) (2) and (3) of this section.

(5) The State agency shall insure that certification offices subject to the requirements of paragraph (c) (3) or (4) of this section provide sufficient bilingual staff or interpreters for the timely processing of non-english-speaking applicants.

(6) The State agency shall develop estimates of the number of low-income single-language minority households, both participating and not participating in the program, for each project area and certification office by using census data (including the Census Bureau's Current Population Report: Population Estimates and Projections, Series P-25, No. 627) and knowledge of project areas and areas serviced by certification offices. Local Bureau of Census offices, Community Services Administration offices, community action agencies, planning agencies, migrant service organizations, and school officials may be important sources of information in determining the need for bilingual service. If these information sources do not provide sufficient information for the State agency to determine if there is a need for bilingual staff or interpreters, each certification office shall, for a 6-month period, record the total number of single-language minority households that visit the office to make inquiries about the program, file a new application for benefits, or be recertified. Those certification offices that are contacted by a total of over 100 single-language minority households in the 6-month period shall be required to provide bilingual staff or interpreters. State agencies shall also combine the figures collected in each certification office to determine the need for bilingual outreach materials in each project area.

(d) *Internal Controls.* (1) *Requirements.* In order to safeguard certification and issuance records from unauthorized creation or tampering, the State agency shall establish an organizational structure which divides the responsibility for eligibility determinations and coupon issuance among certification, data management, and issuance units. The certification unit shall be responsible for the determination of household eligibility and the creation of records and documents to authorize the issuance of coupons to eligible households. The data management unit, in response to input from the certification unit, shall create and maintain the household issuance record (HIR) master file on cards, computer discs, tapes, or similar memory devices. The issuance unit shall provide certified households with the authorized allotments. In cases where personnel are periodically, or on a part-time basis, shifted from one unit to another, supervisory controls should be sufficient to assure that the unauthorized creation or modification of case records is not possible.

(2) *Exceptions.* With prior written FNS approval, a project area may combine unit responsibilities if the controls specified in paragraph (d)(1) of this section have been found to be administratively infeasible.

(i) To receive approval of combined operations, the State agency shall establish special review requirements which at a minimum include:

(A) Biweekly reconciliation and verification of transactions; and

(B) Semiannual comparison of HIR cards and case records as required by § 274.6(d) and, at least once every other month, second-party review of certification actions.

(ii) The State agency shall annually determine whether each combined operation continues to be justified and shall so advise FNS in writing.

(e) *Training.* The State agency shall institute a continuing training program for food stamp eligibility workers, hearing officials, peformance reporting system reviewers, and for outreach staff, including hotline operators and individuals involved in prescreening activities.

(1) *Minimum requirements.* (i) The State agency shall designate a full-time State food stamp training coordinator responsible for the conduct and evaluation of the food stamp training program, including the development of training materials, supervising the conduct of training sessions, insuring that appropriate personnel receive training and assuring compliance with the public participation standards specified in paragraph (e)(1)(iv) of this section. In addition, the State agency shall designate additional staff at either the State or local level to provide training to the appropriate personnel. FNS may provide a waiver from the requirement for a full-time position if the State agency can demonstrate that because of a limited caseload the full-time services of a training coordinator are not necessary or that the State agency otherwise has the capability of fulfilling the requirements of this section.

(ii) State agency training programs shall cover eligibility criteria, certification procedures, household rights and responsibilities including nondiscrimination rights, and other job-related responsibilities concerning the certification of households, for example, interviewing skills. The content of training programs shall be reviewed on a semi-annual basis in light of program deficiencies identified through the State agency's performance reporting system and modifications shall be made where warranted. Changes in policy or procedures stemming from court actions or revisions to legislation and regulations shall be promptly reflected in State training programs.

(iii) Employees assigned responsibility for the certification of households shall be provided with sufficient training prior to initially assuming their duties. As needed, formal training shall be provided periodically to all certification staff. The need shall be established by policy changes and program deficiencies identified by the performance reporting system. Inadequate performance by individual employees may also indicate the need for training.

(iv) The State agency shall allow public attendance at formal certification training sessions that are conducted on a statewide, citywide, or regional (multiproject area) basis. Public attendance at these training sessions shall be allowed for 5 percent of the total attendance at the session, or five training slots, whichever number is smaller except that public attendance need not be provided at sessions conducted for fewer than 20 persons. The State agency shall invite individuals from the State who represent recipients or organizations working on behalf of recipients, who are knowledgeable about program eligibility rules and certification requirements, and who are actively engaged in work or volunteer activity related to food stamp certification rules. The State agency shall not exclude arbitrarily individuals (who otherwise meet these criteria) due to disagreements between these individuals and the State agency concerning aspects of State agency operations. The State agency may limit the role of public participants to observation only.

(v) Training shall also be provided to State agency outreach workers, including hotline operators, and to receptionists and others who prescreen or provide other information services to applications or the public. Although this training need not be as comprehensive as that for certification personnel, it shall be in sufficient detail and frequency to insure that low-income households have access to accurate program information and that prescreening, when conducted, is accurate.

(vi) Training shall also be provided to volunteers and to the staff of other organizations and agencies that the State agency uses for outreach, prescreening, and providing program information. The training shall be in sufficient detail and frequency to insure that information provided to low-income households is accurate.

(vii) State agency hearing officials and performance reporting system reviewers, including quality control reviewers, shall be provided with sufficient training prior to initially assuming their duties. This training shall include a detailed and comprehensive study of the regulations and State agency hearing or performance reporting procedures, as appropriate. As needed, formal training also shall be provided periodically to hearing officials and reviewers. The need shall be established by policy changes, and program deficiencies indicated by the performance reporting system. Inadequate performance by an individual employee may also indicate the need for training.

(2) *FNS review.* (i) FNS will review and approve State agency procedures for training.

(ii) FNS will review the effectiveness of State agency training based on information obtained from the performance reporting system and other sources.

(3) *Training for the transition.* The State agency shall provide training on all the eligibility criteria and certification procedures, including the processing standards, to eligibility workers and supervisors before they begin to certify households under these regulations. The requirements for public participation in training sessions, as set forth in paragraph (e)(1)(iv) of this section, shall be implemented with these training sessions. The State agency shall also provide training to hearing officials and quality control reviewers prior to their assuming duties under these regulations. The State agency shall, during conversion to the new rules provide training promptly where program reviews indicate that training is needed to ensure the accurate implementation of these regulations.

§ 272.5 Locations and hours of certification and issuance service. [Reserved]

§ 272.6 Outreach.

(a) *General purpose.* [Reserved]

(b) *Minimum requirements.* [Reserved]

(c) *Staff.* [Reserved]

(d) *Monitoring.* [Reserved]

(e) *Outreach plan.* The State agency shall submit the FNS for approval an outreach plan for the period January through September 1979. At a minimum, the plan shall describe outreach efforts required by paragraph (f) of this section and efforts required by existing outreach regulations and FNS(FS) Instruction 732-6, Revision 1. In approving this plan, FNS may waive certain requirements of FNS(FS) Instruction 732-6, Revision 1, where they duplicate the transition requirements of paragraph (f) of this section.

(f) *Minimum requirements for the transition.* State agencies shall conduct the following special transition activities to inform low-income households about the program changes required by these regulations.

(1) *Printed information.* (i) *Notices.* Notices explaining the program changes shall be available at all food stamp certification offices and shall also be provided to each certified household on at least a one-time basis. State agencies may use two separate notices to describe elimination of the purchase requirement (EPR) and the financial eligibility requirements or the notices may be combined into one. However the notice or notices must clearly describe EPR and the new financial eligibility requirements and the timing of each. The notices may be mailed separately or with the ATP or may be otherwise given to each household. In addition, similar notices shall be provided to all recipients of public assistance. These notices shall be provided according to the same schedule as the notices to food stamp households and shall also be available at all public assistance offices. State agencies that currently provide program materials in languages other than English shall provide these notices in that language(s). Notices shall be mailed or made otherwise available at least 1 week prior to elimination of the purchase requirement or the implementation of the new eligibility requirements depending on whether combined or separate notices are used and shall continue to be available at least until the other printed materials required by paragraph (f)(1)(ii) of this section are distributed.

(ii) *Other printed materials.* State agencies shall also provide clearly written information, such as brochures or pamphlets, that describe basic financial and nonfinancial eligibility criteria, EPR, the application process and participant rights and responsibilities. This written information shall be distributed at food stamp certification offices, public assistance and general assistance offices and shall be made available to local social security offices, State employment ser-

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vices offices, and local offices that administer unemployment compensation programs. State agencies shall contact those offices to enlist their cooperation in distributing the written information.

These other printed materials shall be available at least 1 week prior to the implementation of the new eligibility criteria as described in part 273.

(2) *Other publicity efforts. Beginning at least 1 week prior to the elimination of the purchase requirement, State agencies shall publicize program changes through use of press releases issued in each project area and radio spots. State agencies are also encouraged to use TV spots to alert low-income households to these changes.*

(3) *Hotlines.* State agencies shall operate toll-free hotlines at the State level to provide information on program changes. Project areas may also operate hotlines. These hotlines shall be in operation at least 1 week prior to the elimination of the purchase requirement. Hotlines shall be staffed by employees or volunteers who are generally knowledgeable about food stamp requirements and procedures so that accurate information is provided and complaints are referred to the appropriate officials for resolution. Hotline operators shall provide interested callers with the telephone numbers and addresses of local food stamp offices and with information about the information and verification that should be presented at the certification interview. Hotline operators shall not make absolute statements about the caller's eligibility or ineligibility for benefits. Upon request, food stamp application forms shall be mailed to callers. State agencies shall operate an adequate number of telephone lines during normal business hours to ensure that callers have reasonable access to program information. At a minimum, State agencies shall operate one telephone line for caseloads of less than 100,000 participants, two lines for caseloads of between 100,000 and 500,000 participants, three lines for caseloads of between 500,000 and 1 million participants, and four lines for caseloads of over 1 million participants. State agencies may reduce the number of State level lines by substituting project area lines provided that the project area lines meet the minimum requirements contained in this subsection and there is at least one toll-free hotline at the State level. The hotlines may also be used to provide information about other programs administered by the State agency. The hotline number shall be posted in certification offices and included in the printed materials required in paragraph (f)(1)(ii) of this section. In addition, State agencies may publicize the hotline number through radio and TV. After 3 months of operation under these standards, State agencies which can demonstrate that the minimum number of lines required exceeds the need may request FNS approval to reduce the number of lines.

(4) *Volunteers.* State agencies shall notify groups and organizations identified in outreach plans, as well as other groups and organizations that can assist in contacting low-income households, of the availability of training and of printed materials on the new program requirements. For example, State agencies which expect an influx of migrant farmworkers during the transition period shall contact local farmworkers organizations. State agencies shall provide training and printed materials described in paragraph (f)(1) of this section to interested groups and organizations upon request. Efforts to enlist the assistance of these groups and organizations shall begin at least 1 week prior to the elimination of the purchase requirement. Training and the providing of printed materials shall be completed by 6 months thereafter.

§ 272.7 Nondiscrimination compliance.

(a) *Requirement.* State agencies shall not discriminate against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs. Discrimination in any aspect of program administration is prohibited by these regulations, the Food Stamp Act, the Age Discrimination Act of 1975 (Pub. L. 94-135), the Rehabilitation Act of 1973 (Pub. L. 93-112, sec. 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accord with 7 CFR Part 15.

(b) *Right to file a complaint.* Individuals who believe that they have been subject to discrimination as specified in paragraph (a) of this section may file a written complaint with the Secretary or the Administrator, FNS, Washington, D.C. 20250, and/or with the State agency, if the State agency has a system for processing discrimination complaints. The State agency shall explain both the FNS and, if applicable, the State agency complaint system to each individual who expresses an interest in filing a discrimination complaint and shall advise the individual of the right to file a complaint in either or both systems.

(c) *FNS complaint requirements.* (1) Complaints shall contain the following information to facilitate investigations:

(i) The name, address, and telephone number or other means of contacting the person alleging discrimination.

(ii) The location and name of the organization or office which is accused of discriminatory practices.

(iii) The nature of the incident or action or the aspect of program administration that led the person to allege discrimination.

(iv) The reason for the alleged discrimination (age, race, color, sex, handicap, religious creed, national origin, or political belief).

(v) The names, titles (if appropriate), and addresses of persons who may have knowledge of the alleged discriminatory acts.

(vi) The date or dates on which the alleged discriminatory actions occurred.

(2) If a complainant makes allegations verbally and is unable or is reluctant to put the allegations in writing, the FNS employee to whom the allegations are made shall document the complaint in writing. Every effort shall be made by the individual accepting the complaint to have the complainant provide the information specified in paragraph (c)(1) of this section.

(3) Complaints will be accepted by the Secretary or the Administrator, FNS, even if the information specified in paragraph (c)(1) of this section is not complete. However, investigations will be conducted only if information concerning paragraph (c)(1) (ii), (iii), (iv) of this section is provided.

(4) A complaint must be filed no later than 180 days from the date of the alleged discrimination. However, the time for filing may be extended by the Secretary.

(d) *State agency complaint requirements.* (1) The State agency may develop and use a State agency complaint system.

(2) The State agency shall submit to FNS a report on each discrimination complaint processed at the State level. The report shall contain as much information in paragraph (c)(1) of this section as is available to the State agency, the findings of the investigation, and, if appropriate, the corrective action planned or taken.

(e) *Reviews.* [Reserved]

(f) *Public notification.* The State agency shall: (1) Publicize the procedures described in paragraphs (b) and (c) of this section, and, if applicable, the State agency's complaint procedures; (2) insure that all offices involved in administering the program and that also serve the public display the nondiscrimination poster provided by FNS; and (3) insure that participants and other low-income households have access to information regarding nondiscrimination statutes and policies, complaint procedures, and the rights of participants, within 10 days of the date of a request.

(g) *Data collection.* The State agency shall obtain data on households by racial/ethnic category. The racial/ethnic categories are: American Indian or Alaskan Native, Asian or Pacific Islander, black (not of Hispanic origin), Hispanic, and white (not of Hispanic origin). The State agency may request applicants to identify voluntarily their race or ethnicity on the application form. The application form in these States shall clearly indicate that the information is voluntary, that it will not affect eligibility or the level of benefits, and that the reason for the information is to assure that program benefits are distributed without regard to race, color, or national origin. The State agency shall develop alternative means of providing the racial and ethnic data on households, such as by observation during the interview, when the information is not voluntarily provided by the household on the application form.

(h) *Reports.* As required by FNS, the State agency shall report the racial/ethnic data on participating households on forms provided by FNS.

3. Parts 272 and 273 are revised and redesignated as parts 278 and 279, respectively. The new part 273 reads as follows:

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Sec.

273.1 Household concept.
273.2 Application processing.
273.3 Residency.
273.4 Citizenship and alien status.
273.5 Tax dependency.
273.6 SSI cash-out States.
273.7 Work registration requirement.
273.8 Resource eligibility standards.
273.9 Income and deductions.
273.10 Determining household eligibility and benefit level.
273.11 Action on households with special circumstances.
273.12 Reporting changes.
273.13 Notice of adverse action.
273.14 Recertification.
273.15 Fair hearings.
273.16 Fraud disqualification.
273.17 Restoration of lost benefits.
273.18 Claims against households.
273.19 Sixty day continuation of certification.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 273.1 Household concept.

(a) *Household definition.* A household may be composed of any of the following individuals or groups of individuals, provided that such individuals or groups are not residents of an institution, except as otherwise specified in § 273.1(c), or residents of a commercial boarding house, and provided that separate household status shall not be granted to a spouse, as defined in § 271.2, of a member of the household, or to children under 18 years of age under the parental control of a member of the household:

(1) An individual living alone;

(2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;

(3) An individual who is a boarder, living with others and paying reasonable compensation to the others for meals for home consumption;

(4) A group of individuals living together for whom food is customarily purchased in common and for whom meals are prepared together for home consumption; or

(5) A group of individuals who are boarders, living with others and paying reasonable compensation to the others for meals for home consumption.

(b) *Nonhousehold members.* The following individuals residing with a household shall not be considered household members in determining the household's eligibility or allotment. Nonhousehold members who are otherwise eligible may participate in the Program as separate households.

(1) *Roomers.* Individuals to whom a household furnishes lodging, but not meals, for compensation.

(2) *Boarders.* Individuals to whom a household furnishes lodging and meals with the following restrictions:

(i) Boarder status shall not be granted to a spouse, as defined in § 271.2, of a member of the household, or to children under 18 years of age under the parental control of a member of the household.

(ii) Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals. An individual furnished both meals and lodging by the household, but paying compensation of less than a reasonable amount, will be considered a member of the household which provides the meals and lodging. When the boarder's payments for room are distinguishable from the payments for meals, only the amount paid for meals will be evaluated to determine if reasonable compensation is being paid for meals. The reasonable monthly payment for meals shall be paid in cash. In no event shall food stamps be paid for meals and be credited toward the monthly payment. A reasonable monthly payment shall be either of the following:

(A) Boarders whose board arrangement is for more than two meals per day shall pay an amount which equals or exceeds the thrifty food plan for the appropriate size of the boarder household, as specified in the appendix to § 273.10; or

(B) Boarders whose board arrangement is for two meals or less per day shall pay an amount which equals or exceeds two-thirds of the thrifty food plan for the appropriate size of the boarder household.

(3) *Live-in-attendants.* Individuals who reside with a household to provide medical, housekeeping, child care or other similar personal services.

(4) *Ineligible aliens.* Individuals who do not meet the citizenship or eligible alien status in § 273.4(a).

(5) *SSI recipients in "cash-out" States.* Recipients of SSI benefits who reside in a State designated by the Secretary of Health, Education, and Welfare to have specifically included the value of the coupon allotments in its State supplemental payments.

(6) *Student tax dependents.* Students who are or could be properly claimed as tax dependents for Federal income tax purposes by a member of a household which is not eligible to participate in the food stamp program, in accordance with § 273.5.

(7) *Disqualified individuals.* Individuals disqualified for fraud, as set forth in § 273.16, or college students disqualified for failure to meet the school year work registration requirements as set forth in § 273.7(b)(9)(i).

(8) *Others.* Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent, but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household.

(c) *Boarding house.* Residents of commercial boarding houses are not eligible for program benefits. For program purposes, a boarding house shall be defined as an establishment which is licensed as a commercial enterprise which offers meals and lodging for compensation. In project areas without licensing requirements, a boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intention of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise. The household of the proprietor of a boarding house may participate in the Program separate and apart from the residents of the boarding house, if that household meets all of the eligibility requirements for program participation.

(d) *Head of household.* State agencies may designate the head of house-

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hold or permit the household to do so. State agencies shall not use the head of household classification to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to make application for benefits.

(e) *Residents of institutions.* Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals as part of the institution's normal services and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the program, with the following two exceptions:

(1) Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 or section 236 of the National Housing Act.

(2) Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a facility or treatment center.

(f) *Authorized representatives.* (1) The head of the household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in one or all of the following capacities:

(i) *Making application for the program.* When the head of the household or the spouse cannot make application, another household member may apply or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. The State agency shall inform the household that the household will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in § 273.11(e)(6). Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only under the following conditions:

(A) The authorized representative has been designated in writing by the head of the household, or the spouse, or another responsible member of the household; and

(B) The authorized representative is an adult who is sufficiently aware of relevant household circumstances.

(ii) *Obtaining the coupons.* An authorized representative may be designated to obtain coupons. These designations shall be made at the time the application is completed and any authorized representative shall be named on the ID card. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make application and obtain coupons, the household should be encouraged to name an authorized representative for obtaining coupons in case of illness or other circumstances which might result in an inability to obtain coupons. The household may also designate an emergency authorized representative at a later date. An emergency authorized representative is someone who obtains coupons when neither a household member nor the authorized representative is able to obtain them because of unforeseen circumstances. State agencies shall provide for a system, which meets the requirements of § 274.2(e), to permit the designation, in writing, of an emergency authorized representative to obtain coupons with a particular ATP.

(iii) *Using the coupons.* The authorized representative may use coupons to purchase food for the household's consumption, with the full knowledge and consent of the household, provided the authorized representative has the household's ID card.

(2) *Drug addict/alcoholic treatment centers as authorized representatives.* Narcotics addicts or alcoholics who regularly participate in a drug or alcoholic treatment program on a resident basis may elect to participate in the food stamp program. The residents shall apply and be certified for program participation through the use of an authorized representative who shall be an employee of and designated by the private nonprofit organization or institution that is administering the treatment and rehabilitation program. The organization or institution shall apply on behalf of each addict or alcoholic and shall receive and spend the coupon allotment for food prepared by and/or served to the addict or alcoholic. The organization or institution shall also be responsible for complying with the requirements set forth in § 273.11(e).

(3) In the event the only adult living with a household is classified as a nonhousehold member as defined in paragraph (b) of this section, that individual may be the authorized representative for the minor household members.

(4) The following restrictions apply to authorized representatives:

(i) State agency employees who are involved in the certification and/or issuance processes and retailers that are authorized to accept food coupons may not act as authorized representatives without the specific written approval of the designated State agency official and only if that official determines that no one else is available to serve as an authorized representative.

(ii) Individuals disqualified for fraud shall not act as authorized representatives during the period of disqualification, unless the individual disqualified is the only adult member of the household able to act on its behalf and the State agency has determined that no one else is available to serve as an authorized representative. The State agency shall separately determine whether these individuals are needed to apply on behalf of the household, to obtain coupons, and to use the coupons for food for the household. For example, the household may have an authorized representative to obtain its coupons each month, but not be able to find anyone to purchase food regularly with the coupons. If the State agency also is unable to find anyone to serve as an authorized representative to purchase food regularly with the coupons, the disqualified member shall be allowed to do so.

(iii) The State agency shall insure that authorized representatives are properly designated. The name of the authorized representative shall be contained in the household's case file. Limits shall not be placed on the number of households an authorized representative may represent. In the event employers, such as those that employ migrant or seasonal farmworkers, are designated as authorized representatives or that a single authorized representative has access to a large number of ATP's or coupons, the State agency should exercise caution to assure that: The household has freely requested the assistance of the authorized representative; the household's circumstances are correctly represented and the household is receiving the correct amount of benefits; and that the authorized representative is properly using the coupons. State agencies which suspect authorized representatives of not properly using coupons should report the circumstances to FNS.

§ 273.2 **Application processing.**

(a) *General purpose.* The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency shall act promptly on all applications and provide food stamp benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. Expedited service shall be available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

(b) *Food stamp application form.* All State agencies shall use an application form designed by FNS. FNS may approve a deviation from that form to accommodate the use of a combined PA/food stamp application form, the requirements of a computer system, or other exigencies for which the State agency can submit adequate justification, provided the form is understandable to applicants and easy to complete. Each application form shall contain a description in understandable terms in prominent and boldface lettering of the civil and criminal provisions and penalties for violations of the Food Stamp Act.

(c) *Filing an application.* (1) *Household's right to file.* Households must file food stamp applications by submitting the forms to the food stamp office either in person, through an authorized representative or by mail. The length of time a State agency has to deliver benefits is calculated from the date the application is filed in the food stamp office designated by the State agency to accept the household's application. Each household has the right to file an application form on the same day it contacts the food stamp office during office hours. The household shall be advised that it does not have to be interviewed before filing the application and may file an incomplete application form as long as the form contains the applicant's name and address, and is signed by a responsible member of the household or the household's authorized representative. State agencies shall document the date the application was filed by recording on the application the date it was received by the food stamp office.

(2) *Contacting the food stamp office.* (i) State agencies shall encourage households to file an application form the same day the household or its representative contacts the food stamp office in person or by telephone and expresses interest in obtaining food stamp assistance. If a household contacting the food stamp office by telephone does not wish to come to the appropriate office to file the application that same day and instead prefers receiving an application through the mail, the State agency shall mail an application form to the household on the same day the telephone request is received. An application shall also be mailed on the same day a written request for food assistance is received.

(ii) If a household contacts the wrong certification office within a project area, either in person or by telephone, the certification office shall, in addition to meeting the requirements in paragraph (c)(2)(i) of this section, give the household the address and telephone number of the appropriate office. If the household has mailed its application to the wrong office within a project area, the certification office shall mail the application to the appropriate office on the same day.

(3) *Availability of the application form.* The State agency shall make application forms readily accessible to potentially eligible households and those groups and organizations involved in outreach efforts. The State agency shall also provide an application form to anyone who requests the form.

(4) *Notice of right to file.* The State agency shall post signs in the certification office which explain the application processing standards and the right to file an application on the day of initial contact. The State agency shall include similar information about same day filing in outreach materials and on the application form.

(5) *Withdrawing application.* The household may voluntarily withdraw its application at any time prior to the determination of eligibility. The State agency shall document in the case file the reason for withdrawal, if any was stated by the household, and that contact was made with the household to confirm the withdrawal. The household shall be advised of its right to reapply at any time subsequent to a withdrawal.

(d) *Household cooperation.* To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes, recertifications, or as part of a quality control review. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates.

(e) *Interviews.* (1) All applicant households, including those submitting applications by mail, shall have face-to-face interviews in a food stamp office or other certification site with a qualified eligibility worker prior to initial certification and all recertifications. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information. Households shall be advised of their rights and responsibilities during the interview, including the appropriate application processing standard and the households' responsibility to report changes. The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

(2) The office interview shall be waived if requested by any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because they are 65 years of age or older, or are mentally or physically handicapped. The office interview shall also be waived if requested by any household which is unable to appoint an authorized representative and lives in a location which is not served by a certification office as provided in § 272.5. The State agency shall waive the office interview on a case-by-case basis for any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because of transportation difficulties or similar hardships which the State agency determines warrants a waiver of the office interview. These hardship conditions include, but are not limited to: Illness, care of a household member, prolonged severe weather, or work hours which preclude in-office interview. The State agency shall determine if the transportation difficulty or hardship reported by a household warrants a waiver of the office interview and shall document in the case file why a request for a waiver was granted or denied.

(i) The State agency has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. Home visits shall be used only if the time of the visit is scheduled in advance with the household.

(ii) Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its

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benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification

combination of the following terms: Refugee, parolee, paroled, conditional entry or entrant, or asylum. An INS

the 30 days allowed to process the application expire, the State agency

United States (INS form I-179 or INS Form I-197) or U.S. passports. Participation in the AFDC program shall

supply requested information, or a parental response which indicates student ineligiblity, shall result in the

processing standard because the State agency failed to allow the household sufficient time, as defined in para-

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benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

(iii) Waiver of the face-to-face interview shall not affect the length of the household's certification period.

(3) The State agency shall schedule all interviews as promptly as possible to insure eligible households receive an opportunity to participate within 30 days after the application is filed. If a household fails to appear for the first interview, the State agency shall attempt to schedule another interview. The interview shall be rescheduled by the State agency without requiring the household to provide good cause for failing to appear. However, if the household does not appear for the rescheduled interview, the State agency need not initiate action to schedule any further interviews unless the household requests that another interview be scheduled.

(f) *Verification.* Verification is the use of third-party information or documentation to establish the accuracy of statements on the application.

(1) *Mandatory verification.* State agencies shall verify the following information prior to certification for households initially applying:

(i) *Gross nonexempt income.* Gross nonexempt income shall be verified for all households prior to certification. However, where all attempts to verify the income have been unsuccessful because the person or organization providing the income has failed to cooperate with the household and the State agency, and all other sources of verification are unavailable, the eligibility worker shall determine an amount to be used for certification purposes based on the best available information.

(ii) *Alien status.* (A) Based on the application, the State agency shall determine if members identified as aliens are eligible aliens, as defined in § 273.4(a) (2) through (6), by requiring that the household present verification for each alien member.

(B) Aliens in the categories specified in § 273.4(a) (2) and (3) shall present an Immigration and Naturalization Service (INS) form I-151 or I-551—"Alien Registration Receipt Card"; or the "Re-entry Permit," a passport booklet for lawful permanent residents aliens.

(C) Aliens in the categories specified in § 273.4(a) (4) through (6) shall present an INS form I-94—"Arrival-Departure Record." The State agency shall accept the INS form I-94 as verification of eligible alien status only if the form is annotated with section 203(a)(7), section 212(d)(5), or section 243(h) of the Immigration and Nationality Act; or if the form is annotated with one of the following terms or a combination of the following terms: Refugee, parolee, paroled, conditional entry or entrant, or asylum. An INS form I-94 annotated with the letters (A) through (L) shall be considered verification of ineligible alien status unless the alien can provide other documentation from INS which indicates that the alien is eligible. If the INS form I-94 does not bear any of the above annotations and the alien has no other verification of alien classification in his or her possession, the State agency shall advise the alien: That classification under section 203(a)(7), 212(d)(5), or 243(h) of the Immigration and Nationality Act shall result in eligible status; that the alien may be eligible if acceptable verification is obtained; and that the alien may contact INS or otherwise obtain the necessary verification, or if the alien wishes and signs a written consent, that the State agency will contact INS to obtain clarification of the alien's status.

(D) If an alien is unable to provide any INS document at all (not even an INS form I-94), then the State agency has no responsibility to offer to contact INS on the alien's behalf. The State agency's responsibility exists only when the alien has an INS document that does not clearly indicate eligible or ineligible alien status. In any event, the State agency shall not contact INS to obtain information about the alien's correct status without the alien's written consent.

(E) If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The State agency shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to section 101(a)(15), 101(a)(20), 203(a)(7), 212(d)(5), 243, or 249 of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act.

(F) While awaiting acceptable verification, the alien whose status is questionable shall be ineligible, but the eligibility of the remaining members (if any) shall be determined in accordance with the procedures in § 273.11(d). If the alien does not wish to contact INS or give permission for the State agency to contact INS, the household shall be given the option of withdrawing its application or participating without that member.

(iii) *Utility expenses.* The State agency shall verify a household's utility expenses if the household wishes to claim expenses in excess of the State agency's utility standard and the expense would actually result in a deduction. If the household's actual utility expenses cannot be verified before the 30 days allowed to process the application expire, the State agency shall use the standard utility allowance, provided the household is entitled to use the standard as specified in § 273.9(d). If the household wishes to claim expenses for an unoccupied home, the State agency shall verify the household's actual utility expenses for the unoccupied home in every case and shall not use the standard utility allowance.

(2) *Verification of questionable information.* With the exception of liquid resources and loans, State agencies shall verify all other factors of eligibility prior to certification only if they are questionable and affect a household's eligibility or benefit level. Procedures for verifying loans and liquid resources are described in paragraph (3) of this section. To be considered questionable, the information on the application must be inconsistent with statements made by the applicant, inconsistent with other information on the application or previous applications, or inconsistent with information received by the State agency. When determining if information is questionable, the State agency shall base the decision on each household's individual circumstances. A household's report of expenses which exceed its income may be grounds for a determination that further verification is required. However, this circumstance shall not, in and of itself, be grounds for a denial. The State agency shall instead explore with the household how it is managing its finances, whether the household receives excluded income or has resources, and how long the household has managed under these circumstances. Procedures described below shall apply when information concerning one of the following eligibility requirements is questionable:

(i) *Household composition.* If questionable, State agencies shall verify any factors affecting the composition of a household such as household size and boarder status. However, due to the difficulty in verifying whether or not a group of individuals customarily purchases and prepares meals together and, therefore, constitutes a household, State agencies shall generally accept the household's statement regarding food preparation and purchasing.

(ii) *Citizenship.* (A) When a household's statement that one or more of its members are U.S. citizens is questionable, the household shall be asked to provide acceptable verification. Acceptable forms of verification include birth certificates, religious records, voter registration cards, certificates of citizenship or naturalization provided by INS, such as identification cards for use of resident citizens in the

United States (INS form I-179 or INS Form I-197) or U.S. passports. Participation in the AFDC program shall also be considered acceptable verification if verification of citizenship was obtained for that household. If the above forms of verification cannot be obtained and the household can provide a reasonable explanation as to why verification is not available, the State agency shall accept a signed statement from someone who is a U.S. citizen which declares, under penalty of perjury, that the member in question is a U.S. citizen. The signed statement shall contain a warning of the penalties for helping someone commit fraud, such as: If you intentionally give false information to help this person get food stamps, you may be fined, imprisoned, or both.

(B) The member whose citizenship is in question shall be allowed to participate for 2 months pending verification of citizenship if the household is otherwise eligible and efforts are being made to obtain the necessary verification. If verification has not been obtained within 2 months, the member whose citizenship is in question shall be ineligible and that member's income and resources shall not be considered available to any remaining household members.

(iii) *Tax dependency.* The State agency shall verify the tax dependency status of students who are subject to the tax dependency rules described in § 273.5 and who do not know their tax dependency status or who provide questionable information. For example, the State agency may consider a student's statement concerning tax dependency questionable if the student claims not to be a tax dependent but receives enough financial support from the parents or guardians (such as the payment of tuition or rent) to indicate that the parents or guardians may be providing more than one-half of the student's support. The State agency shall verify the student's tax dependency status by mailing a simple form designed by FNS to the student's parent. The verification form will require the taxpayer to state whether the student is claimed or could be claimed as a tax dependent. If the student is or could be claimed as a tax dependent, the parent will be requested to indicate whether the parent's household is currently certified for food stamps. If the parent's household is not certified, the parent must provide household size and gross income figures so an eligibility determination can be made based on the FNS gross income tables, discussed in § 273.5(b). FNS may approve deviations from the tax dependency form under the same conditions deviations are granted for the application form, as specified in § 273.2(b). The parent's failure to supply requested information, or a parental response which indicates student ineligibility, shall result in the student being declared ineligible. Students shall have an opportunity to demonstrate that they should not be declared ineligible either through an informal appeal to the eligibility worker or through a fair hearing as provided in § 273.15.

(iv) *Deductible expenses.* Deductible expenses, except for utility costs which exceed the standard and utility costs for unoccupied homes, shall be verified only if questionable and if allowing the expense would actually result in a deduction. For example, rent, even if questionable, would not be verified if the household's child care expenses exceeded the limit on the combined dependent care/shelter deduction since the amount of the rent cannot alter the amount of the deduction.

(A) Household that wish to claim shelter costs for a home that is unoccupied because of employment or training away from the home, illness, or abandonment caused by a natural disaster or casualty loss must provide verification of actual utility costs if the costs would result in a deduction. These households are also responsible for providing verification of any other shelter costs of the unoccupied home if the cost is questionable and it would result in a deduction. The State agency is not required to assist households in obtaining verification of this expense if the verification would have to be obtained from a source outside of the project area.

(B) If a deductible expense must be verified and obtaining the verification may delay the household's certification, the State agency shall advise the household that the household's eligibility and benefit level may be determined without providing a deduction for the claimed but unverified expense. Shelter costs would be computed without including the questionable and unverified components. The standard utility allowance shall be used if the household is entitled to claim it and has not verified higher actual costs. If the expense cannot be verified within 30 days of the date of application, the State agency shall determine the household's eligibility and benefit level without providing a deduction for the unverified expense. If the household subsequently provides the missing verification, the State agency shall redetermine the household's benefits, and provide increased benefits, if any, in accordance with the timeliness standards in § 273.12 on reported changes. The household shall be entitled to the restoration of any benefits as a result of the disallowance of the expense only if the expense could not be verified within the 30-day processing standard because the State agency failed to allow the household sufficient time, as defined in paragraph (h)(1) of this section, to verify the expense. If the household would be ineligible unless the expense is allowed, the household's application shall be handled as provided in paragraph (h) of this section.

(3) *Liquid resources and loans.* The State agency may determine when to verify liquid resources and if moneys received by households are loans, provided that, at a minimum, these items shall be verified if questionable as specified in paragraph (2) of this section. When verifying that income is exempt as a loan, a legally binding agreement is not required. A simple statement signed by both parties which indicates that the payment is a loan and must be repaid shall be sufficient verification. However, if the household receives payments on a recurrent or regular basis from the same source but claims the payments are loans, the State agency may also require that the provider of the loan sign an affidavit which states that repayments are being made or that payments will be made in accordance with an established repayment schedule.

(4) *Sources of verification.* (i) *Documentary evidence.* State agencies shall use documentary evidence as the primary source of verification. Documentary evidence consists of a written confirmation of a household's circumstances. Examples of documentary evidence include wage stubs, rent receipts, and utility bills. Although documentary evidence shall be the primary source of verification, acceptable verification shall not be limited to any single type of document and may be obtained through the household or other source. Whenever documentary evidence cannot be obtained, State agencies shall use alternate sources of verification such as collateral contacts and home visits.

(ii) *Collateral contacts.* A collateral contact is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. The acceptability of a collateral contact shall not be restricted to a particular individual but may be anyone that can be expected to provide an accurate third-party verification of the household's statements. Examples of acceptable collateral contacts are employers, landlords, social service agencies, migrant service agencies, and neighbors of the household.

(iii) *Home visits.* Home visits shall be used as verification only if documentary evidence cannot be obtained, and the visit is scheduled in advance with the household.

(iv) *Discrepancies.* Where information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the dis-

Exchange (BENDEX). The amount of social security benefits reported on the application shall be used to compute the household's eligibility and

If the ATP or coupons are mailed, 2 days shall be allowed for delivery before determining if the household

agency must have informed the household of the need to register for work and given the household at least 10 days from the date of notification to

hold takes the required action within 60 days of the date the application was filed, the State agency shall reopen the case without requiring a new ap-

hold shall receive benefits retroactive to the month of application. However, if the initial delay was the household's fault, the household shall receive

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(iv) *Discrepancies.* Where information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.

(5) *Responsibility for obtaining verification.* (i) The household has primary responsibility for providing documentary evidence to support its income statements and to resolve any questionable information. Households may supply documentary evidence in person, through the mail, or through an authorized representative. The State agency shall accept any reasonable documentary evidence provided by the household and shall be primarily concerned with how adequately the verification proves the statements on the application. If it would be difficult or impossible for the household to obtain the documentary evidence in a timely manner, the State agency shall offer assistance to the household in obtaining the documentary evidence, except as otherwise stated in this section.

(ii) Whenever documentary evidence cannot be obtained, the State agency shall substitute a collateral contact or a home visit. The State agency shall rely on the household to provide the name of any collateral contact. The household may request assistance in designating a collateral contact. The State agency is not required to use a collateral contact designated by the household if the collateral contact cannot be expected to provide an accurate third-party verification. When the collateral contact designated by the household is unacceptable, the State agency shall ask the household to designate another collateral contact. The State agency is responsible for obtaining verification from acceptable collateral contacts.

(6) *Documentation.* Case files must be documented to support eligibility, ineligibility, and benefit level determinations. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. Where verification was required to resolve questionable information, the State agency shall document why the information was considered questionable and what documentation was used to resolve the questionable information. The State agency shall also document the reason why an alternate source of verification, such as a collateral contact or home visit, was needed, and the reason a collateral contact was rejected and an alternate requested.

(7) *BENDEX.* If documentary evidence of social security benefits is not readily available from the applicant, the State agency may verify the income through the Beneficiary Data Exchange (BENDEX). The amount of social security benefits reported on the application shall be used to compute the household's eligibility and benefit level pending receipt of verification from BENDEX. Any household member whose social security benefits will be verified through BENDEX must sign an information release statement which is valid during the certification period, prior to the State agency's submission of the request for verification.

(8) *State Data Exchange (SDX).* [Reserved]

(9) *Verification subsequent to initial certification.* (i) *Recertification.* At recertification, the State agency shall verify a change in income or a change in actual utility expenses claimed by a household if the source has changed or the amount has changed by more than $25 since the last time they were verified. State agencies may verify income or actual utility expenses claimed by households which are unchanged or have changed by $25 or less, provided verification is, at a minimum, required when information is questionable as defined in paragraph (f)(2) of this section. All other changes reported at the time of recertification shall be subject to the same verification procedures as apply at initial certification. Unchanged information, other than income and utility expenses, shall not be verified at recertification unless the information is questionable as defined in paragraph (f)(2) of this section.

(ii) *Changes.* Changes reported during the certification period shall be subject to the same verification procedures as apply at initial certification, except that the State agency is not required to verify income or actual utility expenses if the source has not changed and the amount has changed by $25 or less since the last time they were verified.

(g) *Normal processing standard.* (1) *Thirty-day processing.* The State agency shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but not later than 30 calendar days after the application was filed. An application is filed the day the appropriate food stamp office receives an application containing the applicant's name and address, which is signed by either a responsible member of the household or the household's authorized representative. Households entitled to expedited processing are specified in paragraph (i) of this section.

(2) *Opportunity to participate.* An opportunity to participate consists of providing households with an ATP or other authorization and having an issuance facility open and available for the household to obtain its allotment. If the ATP or coupons are mailed, 2 days shall be allowed for delivery before determining if the household has been provided an opportunity to participate. A household has not been provided an opportunity to participate within the 30-day standard if the ATP or allotment is mailed on the 29th or 30th day. Neither has an opportunity to participate been provided if the ATP is mailed on the 29th day but no issuance facility is open on the 30th day. The State agency must mail the ATP at least 2 days in advance of the 30th day and assure that the ATP can be transacted after it is received but before the 30-day standard expires.

(3) *Denying the application.* Households that are found to be ineligible shall be sent a notice of denial as soon as possible but not later than 30 days following the date the application was filed. If the household has failed to appear for two scheduled interviews and has made no subsequent contact with the State agency to express interest in pursuing the application, the State agency shall send the household a notice of denial on the 30th day following the date of application. The household must file a new application if it wishes to participate in the program. In cases where the State agency was able to conduct an interview and request all of the necessary verification on the same day the application was filed, and no subsequent requests for verification have been made, the State agency may also deny the application on the 30th day if the State agency provided assistance to the household in obtaining verification when required, as specified in paragraph (f)(5) of this section, but the household failed to provide the requested verification.

(h) *Delays in processing.* If the State agency does not determine a household's eligibility and provide an opportunity to participate within 30 days of the date the application was filed, the State agency shall take the following action:

(1) *Determining cause.* The State agency shall first determine the cause of the delay using the following criteria: (i) A delay shall be considered the fault of the household if the household has failed to complete the application process even though the State agency has taken all the action it is required to take to assist the household. The State agency must have taken the following actions before a delay can be considered the fault of the household:

(A) For households that have failed to complete the application form, the State agency must have offered, or attempted to offer, assistance in its completion.

(B) If one or more members of the household have failed to register for work, as required in § 273.7, the State

agency must have informed the household of the need to register for work and given the household at least 10 days from the date of notification to register these members.

(C) In cases where verification is incomplete, the State agency must have provided assistance when required, as specified in paragraph (f)(5) of this section, and allowed the household sufficient time to provide the missing verification. Sufficient time shall be at least 10 days from the date of the State agency's initial request for the particular verification that was missing.

(D) For households that have failed to appear for an interview, the State agency must have attempted to reschedule the initial interview within 30 days of the date the application was filed. However, if the household has failed to appear for the first interview and a subsequent interview is postponed at the household's request or cannot otherwise be rescheduled until after the 20th day but before the 30th day following the date the application was filed, the household must appear for the interview, bring verification, and register members for work by the 30th day; otherwise, the delay shall be the fault of the household. If the household has failed to appear for the first interview and a subsequent interview is postponed at the household's request until after the 30th day following the date the application was filed, the delay shall be the fault of the household. If the household has missed both scheduled interviews and requests another interview, any delay shall be the fault of the household.

(ii) Delays that are the fault of the State agency include, but are not limited to, those cases where the State agency failed to take the actions described in paragraphs (h)(1)(i) (A) through (D) of this section.

(2) *Delays caused by the household.* (i) If by the 30th day the State agency cannot take any further action on the application due to the fault of the household, the household shall lose its entitlement to benefits for the month of application. However, the State agency shall give the household an additional 30 days to take the required action, except that, if verification is lacking, the State agency has the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing.

(A) The State agency has the option of sending the household either a notice of denial or a notice of pending status on the 30th day. The option chosen may vary from one project area to another, provided the same procedures apply to all households within a project area. However, if a notice of denial is sent and the household takes the required action within 60 days of the date the application was filed, the State agency shall reopen the case without requiring a new application. No further action by the State agency is required after the notice of denial or pending status is sent if the household fails to take the required action within 60 days of the date the application was filed, or the State agency chooses the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing and the household fails to provide the necessary verification by this 30th day.

(B) State agencies may include in the notice a request that the household report all changes in circumstances since it filed its application. The information that must be contained on the notice of denial or pending status is explained in § 273.10(g)(1)(ii) and (iii).

(ii) If the household was at fault for the delay in the first 30-day period, but is found to be eligible during the second 30-day period, the State agency shall provide benefits only from the month following the month of application. The household is not entitled to benefits for the month of application when the delay was the fault of the household.

(3) *Delays caused by the State agency.* (i) Whenever a delay in the initial 30-day period is the fault of the State agency, the State agency shall take immediate corrective action. The State agency shall not deny the application if it caused the delay, but shall instead notify the household by the 30th day after the application was filed that its application is being held pending. The State agency shall also notify the household of any action it must take to complete the application process. If verification is lacking the State agency has the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing.

(ii) If the household is found to be eligible during the second 30-day period, the household shall be entitled to benefits retroactive to the month of application. If, however, the household is found to be ineligible, the State agency shall deny the application.

(4) *Delays beyond 60 days.* (i) If the State agency is at fault for not completing the application process by the end of the second 30-day period, and the case file is otherwise complete, the State agency shall continue to process the original application until an eligibility determination is reached. If the household is determined eligible, and the State agency was at fault for the delay in the initial 30 days, the household shall receive benefits retroactive to the month of application. However, if the initial delay was the household's fault, the household shall receive benefits retroactive only to the month following the month of application. The State agency may use the original application to determine the household's eligibility in the months following the 60-day period, or it may require the household to file a new application.

(ii) If the State agency is at fault for not completing the application process by the end of the second 30-day period, but the case file is not complete enough to reach an eligibility determination, the State agency may continue to process the original application, or deny the case and notify the household to file a new application. If the case is denied, the household shall also be advised of its possible entitlement to benefits lost as a result of State agency caused delays in accordance with § 273.17. If the State agency was also at fault for the delay in the initial 30 days, the amount of benefits lost would be calculated from the month of application. If, however, the household was at fault for the initial delay, the amount of benefits lost would be calculated from the month following the month of application.

(iii) If the household is at fault for not completing the application process by the end of the second 30-day period, the State agency shall deny the application and require the household to file a new application if it wishes to participate. If however, the State agency has chosen the option of holding the application pending only until 30 days following the date of the initial request for the particular verification that was missing, and verification is not received by that 30th day, the State agency may immediately close the application. A notice of denial need not be sent if the notice of pending status informed the household that it would have to file a new application if verification was not received within 30 days of the initial request. The household shall not be entitled to any lost benefits, even if the delay in the initial 30 days was the fault of the State agency.

(i) *Expedited service.* (1) *Entitlement to expedited service.* If otherwise eligible, the following households are entitled to expedited service:

(i) Households with zero net monthly income, as computed in § 273.10.

(ii) Households who are destitute as defined in § 273.10(e)(3).

(2) *Identifying households needing expedited service.* The State agency's application procedures shall be designed to identify households eligible for expedited service at the time the household requests assistance. For example, a receptionist, volunteer, or

other employee shall be responsible for screening applications as they are filed or as individuals come in to

service to households within the processing standards described in paragraph (i)(3)(i) and (ii) of this section,

hold that if verification results in changes in the household's eligibility or level of benefits, the State agency

clear, the State agency shall determine at the interview, or in other contact with the household, whether or

the time of the food stamp eligibility determination, the PA payments shall be handled as a change in circum-

the application. Since there may be delay involved in the transferring of applications from GA offices to food

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other employee shall be responsible for screening applications as they are filed or as individuals come in to apply.

(3) *Processing standards.* (i) *Zero net income and destitute households.* For households entitled to expedited service, except as specified in paragraphs (3)(ii) through (iii) of this section, the State agency shall mail the household's ATP or coupons no later than the close of business of the second working day following the date the application was filed.

The State agency may offer the household the option of having the ATP or coupons mailed by the second working day or of having the ATP or coupons available for the household or its authorized representative to pick up no later than the start of business of the third working day following the date the application was filed. In States that use an HIR issuance system described in § 274.2(f) and that do not provide any mail issuance, the State agency shall have the coupons available for the household or its representative to pick up no later than the start of business of the third working day following the date the application was filed.

(ii) *Drug addicts and alcoholics.* For residents of drug addiction or alcoholic treatment and rehabilitation centers who are entitled to expedited service, the State agency shall mail an ATP or coupons, or have the ATP or coupons available to be picked up no later than seven working days following the date the application was filed.

(iii) *Out-of-office interviews.* If a household is entitled to expedited service and is also entitled to a waiver of the office interview, the State agency shall conduct the interview (unless the household cannot be reached) by the first working day following the date the application was filed. If the application is not complete, and a telephone interview is conducted, the State agency shall, at a minimum, be required to complete the application for the household during the interview and mail the completed application the same day to the household for signature. The State agency shall act on the application for these households within the standards specified in paragraphs (i)(3)(i) and (ii) of this section, except that the processing standards shall be calculated from the date a completed and signed application is received rather than the date the application was filed.

(iv) *Late determinations.* If the prescreening required in paragraph (i)(2) of this section fails to identify a household as being entitled to expedited service and the State agency subsequently discovers that the household is entitled to expedited service, the State agency shall provide expedited service to households within the processing standards described in paragraph (i)(3)(i) and (ii) of this section, except that the processing standard shall be calculated from the date the State agency discovers the household is entitled to expedited service.

(4) *Special procedures for expediting service.* The State agency shall use the following procedures when expediting certification and issuance:

(i) To expedite the certification process, the State agency shall postpone the verification required by § 273.2(f). However, the household's identity and residency shall be verified through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence which the household may provide include, but are not limited to, a driver's license, work or school I.D., voter registration card, or birth certificate. The household's income statements shall be verified through a collateral contact or readily available documentary evidence whenever it can be done in sufficient time to meet the expedited processing standards. However, benefits shall not be delayed beyond the delivery standard described in paragraph (i)(3) of this section solely because income has not been verified.

(ii) Once the household has supplied the name of a collateral contact or has asked the State agency for assistance in locating a collateral contact, the State agency shall promptly contact the collateral contact or otherwise assist the household in obtaining the necessary verification.

(iii) Households that are certified on an expedited basis and have provided all necessary verification required in paragraph (f) of this section prior to certification shall be assigned a normal certification period. If verification was postponed, the State agency may certify these households for the month of application only or, at the State agency's option, may assign a normal certification period to those households whose circumstances would otherwise warrant a longer certification period. However, in either case, benefits will not be continued past the month of application if verification continues to be postponed.

(A) If certified only for the month of application, the household must reapply and complete the verification requirements which were postponed.

(B) If a certification period longer than one month is assigned, the State agency shall notify the household in writing that no further benefits be issued until the postponed verification is completed and that if the postponed verification is not completed within 30 days of the date of application, the household's application will be denied. The notice shall also advise the household that if verification results in changes in the household's eligibility or level of benefits, the State agency shall act on those changes without an advance notice of adverse action.

(iv) There is no limit to the number of times a household can be certified under expedited procedures, as long as prior to each expedited certification, the household either completes the verification requirements that were postponed at the last expedited certification or was certified under normal processing standards since the last expedited certification.

(v) Households requesting, but not entitled to, expedited service shall have their applications processed according to normal standards.

(j) *PA and GA households.* Households in which all members are applying for public assistance (PA) shall be allowed to apply for food stamp benefits at the same time they apply for PA benefits. These households' food stamp eligibility and benefit levels shall be based solely on food stamp eligibility criteria, and the households shall be certified in accordance with the notice, procedural and timeliness requirements of the food stamp regulations. Households in which all members are applying for State agency administered general assistance (GA) shall, at a minimum, be provided with applications for food stamp benefits and be referred to the appropriate food stamp office for an eligibility determination. Under certain circumstances, these households may be able to apply jointly for their GA and food stamp benefits.

(1) *PA households.* (i) The application for AFDC or other public assistance shall contain all the information necessary to determine a household's food stamp eligibility and level of benefits. Information relevant only to food stamp eligibility shall be contained in the PA form or shall be an attachment to it. The PA application shall have a place for the household to indicate if it does not wish to apply for food stamps. The application shall clearly indicate that the household is providing information for both programs, is subject to the criminal penalties of either program for false statements, and waives the notice of adverse action as specified in paragraph (j)(1)(v) of this section. The joint PA/food stamp application may also be used for all food stamp applicants, provided the application form is approved for all households by FNS.

(ii) PA applications, except those on which the household has indicated it does not want food stamps, shall be processed as food stamp applications in accordance with all timeliness standards and procedures specified in this section. If the household's intention to apply for food stamps is unclear, the State agency shall determine at the interview, or in other contact with the household, whether or not the household wants the PA application processed for food stamp purposes.

(iii) The State agency shall conduct a single interview at initial application for both public assistance and food stamp purposes. PA households shall not be required to see a different eligibility worker or otherwise be subjected to two interview requirements to obtain the benefits of both programs. Following the single interview, the application may be processed by separate workers to determine eligibility and benefit levels for food stamps and public assistance. A household's eligibility for food stamp out-of-office interview provisions in § 273.2(e)(2) does not relieve the household of any responsibility for a face-to-face interview to be certified for PA.

(iv) For households applying for both public assistance and food stamps, the verification procedures described in paragraphs (f)(1) through (f)(8) of this section shall be followed for those factors of eligibility which are needed solely for purposes of determining the household's eligibility for food stamps. For those factors of eligibility which are needed to determine both PA eligibility and food stamp eligibility, the State agency may use the PA verification rules. However, the State agency shall not delay the household's food stamp benefits if, at the end of 30 days following the date the application was filed, the State agency has sufficient verification to meet the verification requirements of paragraphs (f)(1) through (f)(8) of this section but does not have sufficient verification to meet the PA verification rules.

(v) As a result of differences in PA and food stamp application processing procedures and timeliness standards, the State agency may have to determine food stamp eligibility prior to determining the household's eligibility for PA payments. Action on the food stamp portion of the application shall not be delayed nor the application denied on the grounds that the PA determination has not been made. If the State agency can anticipate the amount and the date of receipt of the initial PA payment, but the payment will not be received until a subsequent month, the State agency shall vary the household's food stamp benefit level according to the anticipated receipt of the payment and notify the household. Portions of initial PA payments intended to retroactively cover a previous month shall be disregarded as lump sum payments under § 273.9(c)(8). If the amount or date of receipt of the initial PA payment cannot be reasonably anticipated at the time of the food stamp eligibility determination, the PA payments shall be handled as a change in circumstances. However, the State agency is not required to send a notice of adverse action if the receipt of the PA grant reduces or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced or terminated when the grant is received. Households whose PA applications are denied shall not be required to file new food stamp applications but shall have their food stamp eligibility determined or continued on the basis of the original applications filed jointly for PA and food stamp purposes and any other documented information obtained subsequent to the application which may have been used in the PA determination and which is relevant to food stamp eligibility or level of benefits.

(2) *GA households.* (i) State agencies shall use the joint application processing procedures in paragraph (j)(1) of this section for GA households when the following criteria are met:

(A) The State agency administers a GA program which uses formalized application procedures and eligibility criteria that test levels of income and resources; and,

(B) Administration of the GA program is integrated with the administration of the PA or food stamp programs, in that the same eligibility workers process applications for GA benefits and PA or food stamp benefits.

(ii) State agencies that have not integrated the administration of their GA program, but otherwise meet the criteria in paragraph (2)(i) of this section may, with FNS approval, jointly process GA and food stamp applications. If approved, State agencies shall adhere to the joint application processing procedures in paragraph (j)(1) of this section.

(iii) State agencies that have not integrated the administration of their GA program, and that do not elect or are not approved to use the joint application processing procedures, shall, at a minimum, advise all GA applicant households of their potential eligibility for food stamp benefits and provide these households with food stamp applications. In addition, State agencies shall allow households in which all members are applying for GA benefits to leave a signed food stamp application which contains, at a minimum, the household's name and address, at the GA office. The GA office shall forward these applications that same day to the appropriate food stamp office for processing. The procedural and timeliness requirements that apply to the application process shall begin when the food stamp office receives the application. Since there may be delay involved in the transferring of applications from GA offices to food stamp offices, households shall be advised that they may receive faster service if they take the application directly to the food stamp office.

(iv) In areas where GA programs are administered by local agencies or agencies such as the Department of the Interior's Bureau of Indian Affairs, the State agency shall endeavor to gain their cooperation in referring GA applicants to the food stamp program. Where possible, this referral should consist of informing the GA applicants of their potential eligibility for food stamp benefits, providing them with food stamp applications and directing them to the local food stamp office.

(3) *Households with some PA or GA recipients.* State agencies that use the joint application processing procedures in paragraphs (j)(1) and (j)(2) of this section may apply these procedures to a food stamp applicant household in which some, but not all, members are in the PA/GA filing unit. If the State agency decides not to use the joint application procedures for these households, the households shall file separate applications for PA/GA and food stamp benefits. This decision shall not be made on a case-by-case basis, but shall be applied uniformly to all households of this type in a project area.

(k) *SSI households.* [Reserved]

§ 273.3 Residency.

A household must be living in the project area in which it files an application for participation. No individual may participate as a member of more than one household, or in more than one project area, in any month. The State agency shall not impose any durational residency requirements. A fixed residence is not required; for example, migrant campsites satisfy the residency requirement. Nor shall residency require an intent to reside permanently in the State or project area. Persons in a project area solely for vacation purposes shall not be considered residents.

§ 273.4 Citizenship and alien status.

(a) *Citizens and eligible aliens.* State agencies shall prohibit participation in the program by any person who is not a resident of the United States and one of the following:

(1) A United States citizen.

(2) An alien lawfully admitted for permanent residence as an immigrant as defined in sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act.

(3) An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has

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continuously maintained residency in the United States since then, and is not ineligible for citizenship, but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act.

(4) An alien who qualified for conditional entry because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by a catastrophic natural calamity pursuant to section 203(a)(7) of the Immigration and Nationality Act.

(5) An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act. A majority of the Vietnamese and Cuban refugees were admitted under this statutory provision.

(6) An alien living within the United States to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion.

(b) *Ineligible aliens.* No aliens other than those described above shall be eligible to participate in the program as a member of any household. Among those excluded are alien visitors, tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

(c) *Income and resources.* The income and resources of an ineligible alien living with a household shall not be considered in determining eligibility or level of benefits of the household, as specified in § 273.11(d).

(d) *Awaiting verification.* If verification of eligible alien status as required by § 273.2(f) is not provided on a timely basis, the eligibility of the remaining household members shall be determined. The alien(s) whose status is unverified shall be considered a nonhousehold member(s), and the eligibility of the remaining household members determined in accordance with procedures in § 273.11(d). If verification of eligible alien status is subsequently received, the State agency shall act on the information as a reported change in household membership in accordance with timeliness standards in § 273.12.

§ 273.6 Tax dependency.

(a) *Tax dependent.* No individual who is a member of a household otherwise eligible to participate in the program shall be eligible to participate as a member of that or any other household if the individual:

(1) Has reached age 18;

(2) Is enrolled at least half time in an institution of higher education; and

(3) Is properly claimed or could be properly claimed for the current tax year as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household. "Child" and tax "dependent" are defined in § 151 and § 152 of the Internal Revenue Code (I.R.C.) of 1954, as amended.

(b) *Eligibility of taxpayer's household.* (1) Prior to determining the eligibility of students who are or could be properly claimed tax dependents, the eligibility of the taxpayer's household shall be determined. A proper claim of tax dependency exists when the taxpayer provides or will provide over half of the student's support for the current tax year. A proper claim also exists when the taxpayer is or will be treated as having provided over half of the student's support under Internal Revenue Service (IRS) rules for "children of divorced or separated parents" (§ 152(e) I.R.C.) or dependents supported by two or more taxpayers (§ 152(c) I.R.C.). "Support" is defined in § 151-152 of the I.R.C. FNS shall provide the IRS rules upon which food stamp eligibility determinations are made.

(2) The eligibility of the taxpayer's household shall be based on information provided by the student or the taxpayer. If the taxpayer's household is not currently certified for food stamps, its eligibility shall be determined by the household's size and monthly gross income. The allowable gross income limits shall be calculated by increasing the current net income eligibility limits in § 273.9(a) by the standard deduction in § 273.9(d), the maximum shelter deduction in § 273.9(d), and the 20 percent earned income deduction in § 273.9(d). Self-employed households shall have their gross income determined on an annual, rather than a monthly basis, minus the cost of doing business, but prior to deducting taxes. FNS shall provide gross income eligibility tables by household size.

(c) *Income and resources.* The income and resources of an ineligible tax dependent living with a household shall not be considered in determining the eligibility or level of benefits of the household, as specified in § 273.11(d).

(d) *Awaiting verification.* If verification of a student's tax dependent status or the eligibility of the taxpayer household has been requested under criteria in § 273.2(f) and the verification is not provided on a timely basis, the eligibility of the remaining household members shall be determined. The student whose tax dependency status is questioned and unverified shall be considered a nonhousehold member, and the eligibility of the remaining household members determined in accordance with procedures in § 273.11(d). If verification is subsequently received and establishes that the student is eligible because the student cannot be a properly claimed tax dependent, or because the taxpayer's household is eligible, the State agency shall act on the information as a reported change in household membership in accordance with the timeliness standards in § 273.12.

273.6 SSI cash-out States.

(a) *Ineligibility.* No individual who receives supplemental security income benefits and/or State supplementary payments as a resident of the States of Massachusetts or Wisconsin is eligible to receive food stamp benefits. The Secretary of Health, Education, and Welfare has determined that the SSI payments in these States have been specifically increased so as to include the value of the food stamp allotment.

(b) *Receipt of SSI benefits.* In Massachusetts and Wisconsin, an individual must actually receive, not merely have applied for, SSI benefits to be determined ineligible for the food stamp program. If the State agency provides payments at least equal to the level of SSI benefits to individuals who have applied for but are awaiting an SSI eligibility determination, receipt of these substitute payments will terminate the individual's eligibility for food stamp benefits. Once SSI benefits are received, the individual will remain ineligible for food stamp benefits, even during months in which receipt of the SSI benefits is interrupted, or suspended, until the individual is terminated from the SSI program.

(c) *Income and resources.* In Massachusetts and Wisconsin, the income and resources of the SSI recipient living in a household shall not be considered in determining eligibility or level of benefits of the household, as specified in § 273.11(d).

273.7 Work registration requirements.

(a) *Persons required to register.* The State agency shall determine which household members are required to register for employment. Each household member who is not exempt by paragraph (b) of this section shall register for employment at the time of application and once every 6 months after initial registration. Upon reaching a determination that a member is required to register, the State agency shall explain to the applicant both the work registration requirement and the consequences of failure to comply. The State agency shall provide work registration forms to the applicant for

each household member who is required to register for employment. Household members are registered when a completed work registration form is submitted to the State agency. The State agency shall forward work registration forms to the State employment service office having jurisdiction over the area where the registrant resides.

(b) *Exemptions from work registration.* The following persons are exempt from the work registration requirement:

(1) A person younger than 18 years of age or a person 60 years of age or older. If a child has its 18th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.

(2) A person physically or mentally unfit for employment. If a mental or physical disability is claimed and the disability is not evident to the State agency, verification may be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist.

(3) A household member subject to and participating in the work incentive program (WIN) under title IV of the Social Security Act.

(4) A parent or other household member who is responsible for the care of a dependent child under 12 or an incapacitated person. If the child has its 12th birthday within a certification period, the individual responsible for the care of the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(5) A parent or other caretaker of a child under 18 in a household where another able-bodied parent is registered for work, or is exempt as a result of employment. If the child has its 18th birthday within a certification period, the parent or caretaker must fulfill the work registration requirement as part of the next scheduled recertification process, unless the parent or caretaker qualifies for another exemption.

(6) A person who is in receipt of unemployment compensation. A person who has applied for, but has not yet begun to receive, unemployment compensation shall also be exempt if that person was required to register for work with the State employment service as part of the unemployment compensation application process.

(7) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(8) A person who is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings at least equal to the Federal minimum wage multiplied by 30 hours. For work registration purposes, a person residing in certain designated areas of Alaska, as specified in § 274.10(e), who subsistence hunts and/or fishes a minimum of 30 hours weekly shall be considered exempt as self-employed.

(9) A student enrolled at least half time in any recognized school, training program, or institution of higher education except that:

(i) During the regular school year, students enrolled at least half time in an institution of higher education must register for 20 hours of work per week by completing the work registration form provided by the State agency unless they are: (A) Employed for a minimum of 20 hours per week or participating in a federally financed work study program; (B) employed less than 20 hours per week but earning an amount at least equal to the Federal minimum wage multiplied by 20 hours; (C) the head of a household containing one or more other persons to whom the student supplies more than one-half of their total support; or (D) otherwise exempt from the work registration requirement, as specified in paragraphs (b) (1) through (8) of this section.

(ii) When any school, training program, high school, or institution of higher education recess or vacation will exceed 30 days, individuals otherwise exempt solely because of their student status shall register for full-time work by completing the work registration form provided by the State agency, and must comply with the requirements of paragraphs (d) and (e) of this section. When assigning certification periods, State agencies shall take into consideration that students are required to register for full-time work during the summer months unless they attend summer school at least half time.

(c) *Voluntary quit.* [Reserved]

(d) *Job search.* [Reserved]

(e) *Additional work requirements.* Work registrants shall also:

(1) Report for an interview upon the reasonable request of the appropriate state employment service office;

(2) Respond to a request from the State employment service office for supplemental information regarding employment status or availability for work;

(3) Report to an employer to whom referred by the State employment service office, if the potential employment meets the suitability requirements described in paragraph (i) of this section.

(4) Accept a bona fide offer of suitable employment, as defined in paragraph (i) of this section, to which referred by the State employment service office; and

(5) Continue suitable employment to which referred by the State employment service office. Household members shall continue such employment until it is no longer considered suitable in accordance with paragraph (i) of this section, until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirement as provided in paragraph (b) of this section.

(f) *Failure to comply.* (1) If the State agency determines that a household member, except any student as defined in paragraph (b)(9)(i) of this section, has refused or failed without good cause to comply with the requirements of this section, the household shall be ineligible to participate until the member complies with the requirements in paragraph (h) of this section, the member becomes exempt, or for 2 months, whichever is earlier. Within 10 days after the State employment service office provides notification of the failure to comply, the State agency shall determine if the household had good cause for failure to comply and if it did not, the State agency shall provide the household with a notice of adverse action, as specified in § 273.13, and shall begin the disqualification period with the first month following the expiration of the adverse notice period, unless a fair hearing is requested. Each household has a right to a fair hearing to contest a determination of nonexempt status or a denial, reduction, or termination of benefits due to failure to comply with the work registration requirements. If a fair hearing is scheduled, the State agency shall provide the State employment service sufficient advance notice to permit the attendance of an employment service office representative, if such attendance is necessary.

(2) Any student who the State agency determines has failed or refused without good cause to comply with the requirements of paragraphs (b)(9)(i) or (e) of this section to register for and accept 20 hours work per week during the regular school year shall be ineligible to participate as a member of any household. The disqualification shall apply to the individual student alone and not to the entire household. The disqualified student shall be ineligible until the student complies with the requirements in paragraph (h) of this section, the student becomes exempt, or 2 months, whichever is earlier.

(g) *Determining good cause.* In determining if good cause existed for

failure to comply with any registration requirement, the State agency shall consider the facts and circumstances,

State minimum wage; or (C) eighty percent (80%) of the Federal minimum wage if neither the Federal nor State minimum wage is applicable.

ing because of a strike or a lockout at his or her place of employment unless the strike has been enjoined under

assistance, general assistance, or supplemental security income.

(b) *Maximum allowable resources.*

own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an ex-

trust, and the income produced by that trust, shall be considered inaccessible to the household if:

failure to comply with any registration requirement, the State agency shall consider the facts and circumstances, including information submitted by the State employment service office, the household member involved and the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency or unavailability of transportation.

(h) *Ending disqualification.* Following the end of the 2-month disqualification period, a household or student may apply again to establish eligibility. Eligibility may be established or reestablished within a disqualification period if the household or student is otherwise eligible and the member or student becomes exempt from the work requirement or the member or student complies as follows:

(1) Refusal to register—registration by the household member or student.

(2) Refusal to report for an interview with the State employment service office—reporting for the required interview.

(3) Refusal to respond to a request from the State employment service office requiring supplemental information regarding employment status or availability for work—compliance with the State employment service office request.

(4) Refusal to report to an employer to whom referred by the State employment service office—reporting to this employer if work is still available or to another employer to whom referred.

(5) Refusal to accept a bona fide offer of suitable employment to which referred by the State employment service office—acceptance of this employment, of any other employment which yields earnings per week equivalent to the refused job, of any other employment of at least 30 hours per week, or of any employment of less than 30 hours per week with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(6) Refusal to continue suitable employment to which referred by the State employment service office—returning to this employment, or acceptance of any other employment which yields earnings per week equivalent to the refused job, or of any other employment of at least 30 hours per week or of less than 30 hours per week but with weekly earnings equal to the Federal minimum wage multiplied by 30 hours.

(i) *Suitable employment.* (1) Any employment shall be considered unsuitable if:

(i) The wage offered is less than the highest of: (A) The applicable Federal minimum wage; (B) the applicable State minimum wage; or (C) eighty percent (80%) of the Federal minimum wage if neither the Federal nor State minimum wage is applicable.

(ii) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified under paragraph (i)(1)(i) of this section.

(iii) The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization.

(iv) the work offered is at a site subject to a strike or lockout at the time of the offer unless the strike has been enjoined under § 208 of the Labor-Management Relations Act (29 U.S.C. 78) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under section 10 of the Railway Labor Act (45 U.S.C. 160).

(2) In addition, employment shall be considered suitable unless the household member involved can demonstrate or the State agency otherwise becomes aware that:

(i) The degree of risk to health and safety is unreasonable.

(ii) The member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(iii) The employment offered within the first 30 days of registration is not in the member's major field of experience.

(iv) The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment shall not be considered suitable if daily commuting time exceeds 2 hours per day, not including the transporting of a child to and from a child care facility. Nor shall employment be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the jobsite.

(v) The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs. For example, a Sabbatarian could refuse to work on the Sabbath.

(vi) For students, the employment is offered during the student's class hours or is more than 20 hours per week.

(j) *Participation of strikers.* Strikers shall be subject to the work registration requirement, unless exempted under paragraph (b) of this section. A household shall not be denied participation solely on the grounds that a member of the household is not working because of a strike or a lockout at his or her place of employment unless the strike has been enjoined under § 208 of the Labor-Management Relations Act (29 U.S.C. 178) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under section 10 of the Railway Labor Act (45 U.S.C. 160). A striker so enjoined who still refuses to return to work shall be deemed out of compliance with paragraph (e)(4) of this section, which requires the acceptance of suitable employment, unless the striker is exempted under paragraph (b) of this section.

(k) *Registration of PA and GA households.* (1) State agencies may request approval from FNS to substitute State procedures for work registration for PA households not subject to the WIN registration requirements, and for GA households. To receive approval, State agencies must demonstrate that:

(i) The PA or GA work registration procedures are at least equivalent to food stamp work registration requirements.

(ii) Registrants' activities are monitored so that appropriate sanctions as required by these regulations will be applied. However, State agencies which require additional work registration requirements of PA or GA household members shall not deny a household's food stamp benefits for the failure of a household member to comply with a State requirement that exceeds the requirements of these regulations. For example, if a State rule requires individuals to register for work through age 65, any individual 60 years of age or older who fails to comply shall not be denied food stamp benefits as a result of that failure.

(iii) All PA or GA household members which are not exempt under the regulations are either registered for work under the PA or GA work requirement procedures or are registered for work as provided in paragraph (a) of this section.

(2) Household members who are required to register for work under WIN or unemployment compensation and fail to comply with the work registration requirements of those programs shall not be denied food stamp benefits solely for this failure. These members lose their exemption under paragraph (b) of this section and must register for work if required to do so in paragraph (a) of this section.

§ 273.8 **Resource eligibility standards.**

(a) *Uniform standards.* The State agency shall apply the uniform national resource standards of eligibility to all applicant households, including those households in which members are recipients of federally aided public

assistance, general assistance, or supplemental security income.

(b) *Maximum allowable resources.* The maximum allowable resources, including both liquid and nonliquid assets, of all members of the household shall not exceed $1,750 for the household, except that, for households of two or more members including a member or members age 60 or over, such resources shall not exceed $3,000.

(c) *Definition of resources.* In determining the resources of a household, the following shall be included and documented by the State agency in sufficient detail to permit verification:

(1) Liquid resources, such as cash on hand, money in checking or savings accounts, savings certificates, stocks or bonds, lump sum payments as specified in § 273.9(c)(8); and

(2) Nonliquid resources, personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property, provided that these resources are not specifically excluded under paragraph (e) of this section. The value of nonexempt resources, except for licensed vehicles as specified in paragraph (h) of this section, shall be its equity value. The equity value is the fair market value less encumbrances.

(d) *Jointly owned resources.* Resources owned jointly by separate households shall be considered available in their entirety to each household, unless it can be demonstrated by the applicant household that such resources are inaccessible to that household. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion of the resource shall be counted toward the household's resource level. The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply.

(e) *Exclusions from resources.* In determining the resources of a household, only the following shall be excluded:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or inhabitability caused by casualty or natural disaster, if the household intends to return. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home, shall receive an exclusion for the value of the lot and, if it is partially completed, for the home.

(2) Household goods, personal effects, including one burial plot per household member and the cash value of life insurance policies and pension funds, including funds in pension plans with interest penalties for early withdrawals, such as a Keogh plan or an individual retirement account (IRA), as long as the funds remain in the pension plans.

(3) Licensed vehicles shall be excluded as specified in paragraph (h) of this section.

(4) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.

(5) Property, such as farm land and rental homes, or work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member, except that rental homes which are used by households for vacation purposes at some time during the year shall be counted as resources unless excluded by paragraph (4) of this section.

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value. The exclusion shall also apply to the value of the property sold under the installment contract, or held as security in exchange for a purchase price consistent with the fair market value of that property.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended; for example, payments made by the Department of Housing and Urban Development through the individual and family grant program or disaster loans or grants made by the Small Business Administration.

(8) Resources whose cash value is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. The State agency may verify that the property is for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker. Any funds in a trust or transferred to a trust, and the income produced by that trust, shall be considered inaccessible to the household if:

(i) The trust is under the control and management of an institution, corporation or organization (the trustee) which is not under the direction or ownership of any household member;

(ii) That trustee uses the funds solely to make investments on behalf of the trust or to pay the educational expenses of any person named by the household creating the trust;

(iii) The trust investments do not directly involve or assist any business or corporation under the control, direction or influence of a household member;

(iv) The trust arrangement will not likely cease during the certification period; and

(v) No household member has the power to revoke the trust arrangement or change the name of the student beneficiary during the certification period.

(9) Resources, such as those of students or self-employed persons, which have been prorated as income. The treatment of student income is explained in § 273.10(c) and the treatment of self-employment income is explained in § 273.11(a).

(10) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of Federal statute. The following is the current listing of resources excluded by Federal statute:

(i) Payments received under the Alaska Native Claims Settlement Act (Pub. L. 92-203, section 21(a)) or the Sac and Fox Indian claims agreement (Pub. L. 94-189);

(ii) Payments received by certain Indian tribal members under Pub. L. 94-114, section 6, regarding submarginal land held in trust by the United States;

(iii) Benefits received from the special supplemental food program for women, infants and children (WIC) (Pub. L. 92-443, section 9);

(iv) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. L. 91-646, section 216);

(v) Earned income tax credits received as a result of the Tax Reform Act of 1976 (Pub. L. 94-455, section 402), the Revenue Readjustment Act of 1975 (Pub. L. 94-164, section 2(d)) and payments received under section 102 of the Tax Reduction Act of 1975 (Pub. L. 94-12);

(vi) Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and

the youth employment and training programs under the Youth Employment and Demonstration Project Act of 1977 (Pub. L. 95-93), but not payments received under the Comprehensive Employment and Training Act (CETA) (Pub. L. 93-203, section 122(a)(5));

(vii) Payments received under the Older Americans Act Title V, Community Service Employment for Older Americans (Pub. L. 93-29, section 502(b)(1)(J));

(viii) Payments received under the Domestic Volunteer Service Act of 1973 (Pub. L. 93-113, section 404(d));

(ix) Payments received under the Foster Grandparent Program (Pub. L. 93-113, section 404(d));

(x) Payments received under the Senior Companion Program (Pub. L. 93-113, section 404(d));

(xi) Payments received under the Work Incentive Program (Pub. L. 93-203, section 122(a)(5));

(xii) Payments received under the Alcohol, Drug Abuse, and Mental Health Services Block Grant (Pub. L. 97-35, section 2355);

(xiii) Payments received under the Low-Income Home Energy Assistance Program (Pub. L. 97-35, section 2605(e)(2));

(xiv) Payments received under the Child Nutrition Act of 1966 (Pub. L. 89-642, section 11(a)(3)(B));

(xv) Payments received under the Child Care Food Program (Pub. L. 95-627, section 17(d)(2)(C));

(xvi) Payments received under the Nutrition Program for the Elderly (Pub. L. 95-627, section 311(a)(3)(B));

(xvii) Payments received under the Veterans Administration Unusually Liberal Educational Assistance Program (Pub. L. 96-342, section 156(a)(8)(A));

(xviii) Payments received under the Disaster Relief Act of 1974 (Pub. L. 93-288, section 312(c));

(xix) Payments received under the Disaster Relief Act Amendments of 1976 (Pub. L. 94-568, section 2(b)(2));

(xx) Payments received under the Emergency Food and Medical Services Act of 1977 (Pub. L. 95-113, section 1301(c));

(xxi) Payments received under the Alaska Native Claims Settlement Act (Pub. L. 92-203, section 21(a)); and

(xxii) Payments received under the Sac and Fox Indian claims agreement (Pub. L. 94-189).

(f) *Treatment of resources.* (1) Resources which would not otherwise affect eligibility for assistance under the Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), general assistance, or supplemental security income programs shall not be considered available to the household for food stamp purposes.

(2) Eligibility for the program will not be affected by the following transfers: (i) Resources which would not otherwise affect eligibility for assistance under the AFDC, SSI, general assistance, or supplemental security income programs, and (ii) resources transferred between household members.

(3) Resources which become available to the household after the date of application shall not be counted as available to the household, unless the member:

(1) Is disqualified from the program, in accordance with § 273.16 for fraud;

assistance payment shall be considered part of the assistance payment and not as additional compensation.

(ii) The gross income from a self-em-

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the youth employment and training programs under the Youth Employment and Demonstration Project Act of 1977 (Pub. L. 95-93), but not payments from the young adults conservation corps under that Act nor any payments under the Comprehensive Employment and Training Act (CETA) (Pub. L. 93-203).

(f) *Handling of excluded funds.* Excluded moneys that are kept in a separate account, and that are not commingled in an account with nonexcluded funds, shall retain their resource exclusion for an unlimited period of time. Those excluded moneys which are commingled in an account with nonexcluded funds shall retain their exemption for 6 months from the date they are commingled. After 6 months from the date of commingling, all funds in the commingled account shall be counted as a resource.

(g) *Fair market value of licensed vehicles.* The fair market value of licensed automobiles, trucks, and vans will be determined by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies. Publications listing the value of vehicles are usually referred to as "blue books." The State agency shall insure that the blue book used to determine the value of licensed vehicles has been updated within the last 6 months. The National Automobile Dealers Association's (NADA) Used Car Guide Book is a commonly available and frequently updated publication. The State agency shall assign the wholesale value to vehicles. If the term "wholesale value" is not used in a particular blue book, the State agency shall assign the listed value which is comparable to the wholesale value. The State agency shall not increase the basic value of a vehicle by adding the value of low mileage or other factors such as optional equipment. A household may indicate that for some reason, such as body damage or inoperability, a vehicle is in less than average condition. Any household which claims that the blue book value does not apply to its vehicle shall be given the opportunity to acquire verification of the true value from a reliable source. Also, households shall be asked to acquire verification of the value of licensed antique, custom made, or classic vehicles, if the State agency is unable to make an accurate appraisal. If a vehicle is especially equipped with apparatus for the handicapped, the apparatus shall not increase the value of the vehicle. The blue book value shall be assigned as if the vehicle were not so equipped. If a vehicle is no longer listed in the blue book, the household's estimate of the value of the vehicle shall be accepted, unless the State agency has reason to believe the estimate is incorrect. In that case, and if it appears that the vehicle's value will affect eligibility, the household shall obtain an appraisal or produce other evidence of its value, such as a tax assessment or a newspaper advertisement which indicates the amount for which like vehicles are being sold.

(h) *Handling of licensed vehicles.* The value of licensed vehicles shall be excluded or counted as a resource as follows:

(1) The entire value of any licensed vehicle shall be excluded if the vehicle is: (i) Used primarily (over 50 percent of the time the vehicle is used) for income producing purposes such as, but not limited to, a taxi, truck, or fishing boat; (ii) annually producing income consistent with its fair market value, even if used only on a seasonal basis; (iii) necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, for example, the vehicle of a traveling sales person or of a migrant farmworker following the work stream; (iv) necessary for subsistence hunting or fishing, or (v) used as the household's home and, therefore, excluded under paragraph (e)(1) of this section. This exclusion will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

(2) All licensed vehicles not excluded under paragraph (1) of this section shall individually be evaluated for fair market value and that portion of the value which exceeds $4,500 shall be attributed in full toward the household's resource level, regardless of any encumbrances on the vehicles. For example, a household owning an automobile with a fair market value of $5,500 shall have $1,000 applied toward its resource level. Any value in excess of $4,500 shall be attributed to the household's resource level, regardless of the amount of the household's investment in the vehicle, and regardless of whether or not the vehicle is used to transport household members to and from employment. Each vehicle shall be appraised individually. The fair market values of two or more vehicles shall not be added together to reach a total fair market value in excess of $4,500.

(3) Licensed vehicles shall also be evaluated for their equity value, except for: (i) Vehicles excluded in paragraph (1) of this section; (ii) one licensed vehicle per household, regardless of the use of the vehicle; and (iii) any other licensed vehicles used to transport household members to and from employment or to and from training or education which is preparatory to employment, or to seek employment in compliance with the job search criteria. A vehicle customarily used to commute to and from employment shall be covered by this equity exclusion during temporary periods of unemployment. The equity value of licensed vehicles not covered by this exclusion, and of unlicensed vehicles not excluded by paragraphs (e) (4) and (5) of this section, shall be attributed toward the household's resource level.

(4) in the event a licensed vehicle is assigned both a fair market value in excess of $4,500 and an equity value, only the greater of the two amounts shall be counted as a resource. For example, a second car which is not used by a household member to go to work will be evaluated for both fair market value and for equity value. If the fair market value is $5,000 and the equity value is $1,000 the household shall be credited with only the $1,000 equity value, and the $500 excess fair market value will not be counted.

(5) In summary, each licensed vehicle shall be handled as follows: First it will be evaluated to determine if it is exempt as an income producer or as a home. If not exempt, it will be evaluated to determine if its fair market value exceeds $4,500. If worth more than $4,500, the portion in excess of $4,500 for each vehicle will be counted as a resource. The vehicle will also be evaluated to see if it is equity exempt as the household's only vehicle or necessary for employment reasons. If not equity exempt, the equity value will be counted as a resource. If the vehicle has a countable market value of more than $4,500 and also has a countable equity value, only the greater of the two amounts shall be counted as a resource.

(i) *Transfer of resources.* (1) At the time of application, households shall be asked to provide information regarding any resources which any household member has transferred within the 3-month period immediately preceding the date of application. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamp benefits shall be disqualified from participation in the program for up to 1 year from the date of the discovery of the transfer. This disqualification period shall be applied if the resources are transferred knowingly in the 3-month period prior to application or if they are transferred knowingly after the household is determined eligible for benefits. An example of the latter would be assets which the household acquires after being certified and which are then transferred to prevent the household from exceeding the maximum resource limit.

(2) Eligibility for the program will not be affected by the following transfers: (i) Resources which would not otherwise affect eligibility, for example, resources consisting of excluded personnel property such as furniture or of money that, when added to other nonexempt household resources, totaled less at the time of the transfer than the allowable resource limits; (ii) resources which are sold or traded at, or near, fair market value; (iii) resources which are transferred between members of the same household; and (iv) resources which are transferred for reasons other than qualifying or attempting to qualify for food stamp benefits, for example, a parent placing funds into an educational trust fund described in paragraph (e)(9) of this section.

(3) In the event the State agency establishes that an applicant household knowingly transferred resources for the purpose of qualifying or attempting to qualify for food stamp benefits, the household shall be sent a notice of denial explaining the reason for and length of the disqualification. The period of disqualification shall begin in the month of application. If the household is participating at the time of the discovery of the transfer, a notice of adverse action explaining the reason for and length of the disqualification shall be sent. The period of disqualification shall be made effective with the first allotment to be issued after the notice of adverse action period has expired, unless the household has requested a fair hearing and continued benefits.

(4) The length of the disqualification period shall be based on the amount by which nonexempt transferred resources, when added to other countable resources, exceeds the allowable resource limits. For example, if a one-person household with $1,500 in a bank transferred ownership of a car worth $5,000, $250 of that transfer would be considered because the first $4,500 of the car's value was exempt and an additional $250 of the transferred asset would have been applied toward the $1,750 resource limit. The following chart will be used to determine the period of disqualification.

Amount in excess of the resource limit	Period of disqualification
$0 to 249.99	1 mo
250 to 999.99	3 mo.
1,000 to 2999.99	6 mo.
3,000 to 4,999.99	9 mo.
5,000 or more	12 mo.

(j) *Resources of nonhousehold members.* The resources of nonhousehold members, as provided in § 273 1(b), shall not be counted as available to the household, unless the member:

(1) Is disqualified from the program, in accordance with § 273.16 for fraud; or

(2) Is a student and is disqualified from the program, in accordance with § 273.7(e)(2), for failing to comply with the work registration requirement during the school year.

§ 273.9 **Income and deductions.**

(a) *Income eligibility standards.* Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.

(1) The income eligibility standards for the food stamp program shall be uniform for the contiguous 48 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam. The income eligibility standards are derived from the Office of Management and Budget (OMB) nonfarm income poverty guidelines for the 48 States and the District of Columbia. The income eligibility standards for Alaska and Hawaii are derived by applying scaling factors to the income eligibility standards for the 48 States and the District of Columbia, in accordance with OMB procedures.

(2) The OMB nonfarm income poverty guidelines are adjusted annually each July 1 by the change between the average Consumer Price Index (CPI) for the 50 States and the District of Columbia for the preceding calendar year and the CPI for March of the current year. The annual income poverty guidelines shall be divided by 12 to determine the monthly net income eligibility standards, rounding the results upward as necessary. For households greater than eight persons, the annual increase for each household size is divided by 12, and the results rounded upward if necessary.

(3) The income eligibility standards for the 48 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam; for Alaska; and for Hawaii are published as an appendix to this section.

(b) *Definition of income.* Household income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section.

(1) Earned income shall include:

(i) All wages and salaries of an employee. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered earned income to the extent that the payments actually substitute for wages or salaries. Special payments for work-related expenses in addition to the basic assistance payment shall be considered part of the assistance payment and not as additional compensation.

(ii) The gross income from a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the costs of doing business as provided in paragraph (c) of this section. Ownership of rental property shall be considered a self-employment enterprise; however, income derived from the rental property shall be considered earned income only if a member of the household is actively engaged in the management of the property at least an average of 20 hours a week. Payments from a roomer or boarder shall also be considered self-employment income.

(iii) Training allowances from vocational and rehabilitative programs recognized by Federal, State, or local governments, such as the work incentive program and programs authorized by the Comprehensive Employment and Training Act, to the extent they are not a reimbursement.

(2) Unearned income shall include, but not be limited to:

(i) Assistance payments from Federal or federally aided public assistance programs, such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need except as provided in paragraph (b)(1)(i) of this section.

(ii) Annuities; pensions; retirement, veteran's, or disability benefits; worker's or unemployment compensation; old-age, survivors, or social security benefits; strike benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least 20 hours a week.

(iii) Support or alimony payments made directly to the household from nonhousehold members.

(iv) Scholarships, educational grants, fellowships, deferred payment loans for education, veteran's educational benefits and the like in excess of amounts excluded under § 273.9(c).

(v) Payments from Government-sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16 or for failing to comply with the student work registration requirements in § 273.7(b)(9)(i) shall continue to be counted as income, less the pro rata share for the individual. Pro-

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cedures for calculating this pro rata share are described in § 273.11.

(4) Income shall not include the following:

to the landlord through the household.

(iii) Moneys that are legally obligated and otherwise payable to the

order or other legally binding agreement to go directly to the third party rather than to the household, and support payments not required by a court

(i) Reimbursements or flat allowances for job- or training-related expenses such as travel, per diem, uniforms, and transportation to and from

cluding, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, SSI, public assistance, railroad retirement bene-

standard deductions applicable in Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands are published as an appendix to this section.

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cedures for calculating this pro rata share are described in § 273.11.

(4) Income shall not include the following:

(i) Moneys withheld from an assistance payment, earned income, or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under paragraph (c) of this section.

(ii) Child support payments received by AFDC recipients which must be transferred to the agency administering title IV–D of the Social Security Act, as amended, to maintain AFDC eligibility.

(c) *Income exclusions.* Only the following items shall be excluded from household income and no other income shall be excluded:

(1) Any gain or benefit which is not in the form of money payable directly to the household, including nonmonetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden, and vendor payments. Money payments that are not payable directly to a household, but are paid to a third party for a household expense, are vendor payments and are excludable as follows:

(i) A payment made in money on behalf of a household shall be considered a vendor payment whenever a person or organization outside of the household uses its own funds to make a direct payment to either the household's creditors or a person or organization providing a service to the household. For example, if a relative or friend, who is not a household member, pays the household's rent directly to the landlord, the payment is considered a vendor payment and is not counted as income to the household. Similarly, rent or mortgage payments made to landlords or mortgagees by the Department of Housing and Urban Development (HUD), or by State or local housing authorities, are other examples of vendor payments, and are also excluded. Payments by a government agency to a child care institution to provide day care for a household member are also excluded as vendor payments.

(ii) Payments in money that are not made to a third party, but are made directly to the household, are counted as income and are not excluded as a vendor payment, except that rent or housing subsidies paid to a landlord by HUD or its agents under the experimental housing allowance program in Green Bay, Wis., or South Bend, Ind., shall considered a vendor payment regardless of whether the payment is made directly to the landlord or paid to the landlord through the household.

(iii) Moneys that are legally obligated and otherwise payable to the household, but which are diverted by the provider of the payment to a third party for a household expense, shall be counted as income and not exluded as a vendor payment. The distinction is whether the person or organization making the payment on behalf of a household is using funds that otherwise would have to be paid to the household. Such funds include wages earned by a household member and therefore owed to the household, a public assistance grant to which a household is legally entitled, and support or alimony payments in amounts which legally must be paid to a household member. If an employer, agency, or former spouse who owes these funds to a household diverts them instead to a third party to pay for a household expense, these payments shall still be counted as income to the household. However, if an employer, agency, former spouse, or other person makes payments for household expenses to a third party from funds that are not owed to the household, these payments shall be excluded as vendor payments. The distinction is illustrated by the following examples:

(A) Wages earned by a household member that are garnisheed or diverted by an employer, and paid to a third party for a household's expenses, such as rent, shall be considered as income. However, if the employer pays a household's rent directly to the landlord in addition to paying the household its regular wages, this rent payment shall be excluded as a vendor payment. In addition, if the employer provides housing to an employee, the value of the housing shall not be counted as income.

(B) All or part of a public assistance grant which would normally be provided in a money payment to the household, but which is diverted to third parties or to a protective payee for purposes such as managing a household's expenses, shall be considered income to the household. However, payments by the State agency that would not normally be provided in a money payment to the household, and that are over and above normal public assistance grants, shall be excluded as a vendor payment if they are made directly to a third party for a household expense. This rule applies even if the household has the option of receiving a direct cash payment.

(C) Money deducted or diverted from a court-ordered support or alimony payment (or other binding written support or alimony agreement) to a third party for a household expense shall be considered as income. However, payments specified by the court order or other legally binding agreement to go directly to the third party rather than to the household, and support payments not required by a court order or other legally binding agreement (including payments in excess of amount specified in a court order or written agreement) which are paid to a third party rather than the household shall be excluded as a vendor payment, even if the household agrees to the arrangement.

(2) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of $30 in a quarter.

(3) Educational loans on which payment is deferred, grants, scholarships, fellowships, veterans' educational benefits, and the like to the extent that they are used for tuition and mandatory school fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Mandatory fees are those charged to all students or those charged to all students within a certain curriculum. For example, uniforms, lab fees, or equipment charged to all students to enroll in a chemistry course would be excluded. However, transportation, supplies, and textbook expenses are not uniformly charged to all students and, therefore, would not be excluded as mandatory fees.

(4) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(5) Reimbursements for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household. Reimbursements for normal household living expenses such as rent or mortgage, personal clothing, of food eaten at home are a gain or benefit and, therefore, are not excluded. To be excluded, these payments must be provided specifically for an identified expense, other than normal living expenses, and used for the purpose intended. When a reimbursement, including a flat allowance, covers multiple expenses, each expense does not have to be separately identified as long as none of the reimbursement covers normal living expenses. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income. However, reimbursements shall not be considered to exceed actual expenses, unless the provider or the household indicates the amount is excessive. Examples of excludable reimbursements which are not considered to be a gain or benefit to the household are:

(i) Reimbursements or flat allowances for job- or training-related expenses such as travel, per diem, uniforms, and transportation to and from the job or training site. Reimbursements which are provided over and above the basic wages for these expenses are excluded; however, these expenses, if not reimbursed, are not otherwise deductible. Reimbursements for the travel expenses incurred by migrant workers are also excluded.

(ii) Reimbursements for out-of-pocket expenses of volunteers incurred in the course of their work.

(iii) Medical or dependent care reimbursements.

(iv) Reimbursements or allowances to students for specific education expenses, such as travel or books, but not allowances for normal living expenses, such as food, rent, or clothing. Portions of a general grant or scholarship must be specifically earmarked by the grantor for education expenses rather than for living expenses to be excludable as a reimbursement.

(v) Reimbursements received by households to pay for services provided by title XX of the Social Security Act.

(6) Moneys received and used for the care and maintenance of a third-party beneficiary who is not a household member. If the intended beneficiaries of a single payment are both household and nonhousehold members, any identifiable portion of the payment intended and used for the care and maintenance of the nonhousehold member shall be excluded. If the nonhousehold member's portion cannot be readily identified, the payment shall be evenly prorated among intended beneficiaries and the exclusion applied to the nonhousehold member's pro rata share or the amount actually used for the nonhousehold member's care and maintenance, whichever is less.

(7) The earned income (as defined in paragraph (b)(1) of this section) of children who are members of the household, who are students at least halftime, and who have not attained their 18th birthday. The exclusion shall continue to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment will resume following the break. If the child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be prorated equally among the working members and the child's pro rata share excluded. Individuals are considered children for purposes of this provision if they are under the parental control of another household member.

(8) Money received in the form of a nonrecurring lump-sum payment, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, SSI, public assistance, railroad retirement benefits, or other payments; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, in accordance with § 273.8(c) unless specifically excluded from consideration as a resource by other Federal laws.

(9) The cost of producing self-employment income. The procedures for computing the cost of producing self-employment income are described in § 273.11.

(10) Any income that is specifically excluded by any other Federal statute from consideration as income for the purpose of determining eligibility for the food stamp program. The following laws provide such an exclusion:

(i) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (Pub. L. 91-646, section 216).

(ii) Payments received under the Alaska Native Claims Settlement Act (Pub. L. 92-203, section 21(a));

(iii) Any payment to volunteers under title II (RSVP, foster grandparents, and others) and title III (SCORE and ACE) of the Domestic Volunteer Services Act of 1973 (Pub. L. 93-113), as amended. Payments under title I (VISTA) to volunteers shall be excluded for those individuals receiving food stamps or public assistance at the time they joined VISTA. Temporary interruptions in food stamp participation shall not alter the exclusion once an initial determination has been made.

(iv) Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Pub. L. 94-114, section 6).

(v) Payments from the crisis intervention program (CIP) administered by the Community Services Administration (CSA).

(vi) Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under the Youth Employment and Demonstration Project Act of 1977 (Pub. L. 95-93), but not payments from the Adults Conservation Corps under that Act nor any other payments under the Comprehensive Employment and Training Act.

(d) *Income deductions.* Deductions shall be allowed only for the following household expenses:

(1) *Standard deduction.* A standard deduction of $60 per household per month for the 48 contiguous States and the District of Columbia. The standard deductions applicable in Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands are published as an appendix to this section.

(2) *Earned income deduction.* Twenty percent of gross earned income as defined in paragraph (b)(1) of this section. Earnings excluded in paragraph (c) of this section shall not be included in gross earned income for purposes of computing the earned income deduction.

(3) *Dependent care.* Payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment. This deduction shall not exceed $80 in the 48 contiguous States and the District of Columbia, or an amount that is specified in the appendix to this section for Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands.

(4) *Shelter costs.* Monthly shelter costs in excess of 50 percent of the household's income after all other deductions in paragraphs (d) (1), (2), and (3) of this section have been allowed. The shelter deduction alone, or in combination with the dependent care deduction in paragraph (d)(3) of this section, shall not exceed $80 in the 48 contiguous States and the District of Columbia, or an amount that is specified in the appendix to this section for Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands. Shelter costs shall include only the following:

(i) Continuing charges for the shelter occupied by the household, including rent, mortgage, or other continuing charges leading to the ownership of the shelter such as loan repayments for the purchase of a mobile home, including interest on such payments.

(ii) Property taxes, State and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings.

(iii) The cost of heating and cooking fuel; cooling and electricity; water and sewerage; garbage and trash collection fees; the basic service fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.

(iv) The shelter costs for the home if temporarily not occupied by the household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss. For costs of a home vacated by the household to be included in the household's shelter costs, the household must intend to

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return to the home; the current occupants of the home, if any, must not be claiming the shelter costs for food stamp purposes; and the home must not be leased or rented during the absence of the household.

(v) Charges for the repair of the home which was substantially damaged or destroyed due to a natural disaster such as a fire or flood. Shelter costs shall not include charges for repair of the home that have been or will be reimbursed by private or public relief agencies, insurance companies, or from any other source.

(5) *Standard utility allowances.* (i) The State agency shall develop a method, subject to FNS approval, for establishing a standard utility allowance for use in calculating shelter costs of those households which incur certain utility costs separate and apart from their rent or mortgage payments. Households which do not incur any separate utility charges or which are billed separately for only telephone costs, water, sewerage, and garbage collection fees shall not be entitled to claim the standard utility allowance. The standard utility allowance may have a separate standard for each utility identified in paragraph (d)(4)(iii) of this section or it may be a single standard. If it is a single standard, the State shall include the cost of telephone service, water, sewerage, and garbage collection fees in the overall allowance, even though these utilities do not, by themselves, entitle the household to use the standard utility allowance. If a household is not entitled to the standard utility allowance, it may claim actual utility expenses for any utility which it does pay separately.

(ii) The State agency may develop a method, subject to FNS approval, for calculating a mandatory telephone allowance for use in conjunction with a single utility allowance or as the standard allowance for the telephone if the State has separate standards by utility. In States with a single utility allowance, the telephone allowance would apply to households which are not entitled to claim the overall standard, but which, nonetheless, incur separate telephone expenses. The State agency may mandate use of the telephone allowance even if actual costs are higher.

(iii) Except as provided in paragraph (d)(5)(ii) of this section, the household shall be advised that actual utility costs which exceed the standard shall be deducted if the household can verify these costs. Households shall be allowed to switch between the actual utility costs and the utility standard at least once during a certification period. The State agency may permit households to switch more than once during the certification period.

(iv) The State agency shall review the standard utility allowance and the telephone allowance, if any, at least annually and adjust these allowances as necessary to reflect changes in the cost of the utilities. State agencies may use data gathered through quality control sampling, surveys of utility company rates, or another method for establishing and updating the standards developed by the State and approved by FNS. The amount of the standard utility allowance shall vary seasonally unless the State agency can demonstrate that such variations are not warranted. In addition, the State agency may have other variations in its standard utility allowance or telephone allowance to reflect other differences, such as geographical variations.

(6) *Semiannual adjustment of standard deductions.* Effective July 1, 1978, the standard deductions shall be adjusted each January 1 and July 1 to the nearest $5. The adjustment shall reflect changes in the Consumer Price Index (CPI) for items other than food for the 6 months ending the preceding September 30 and March 31, respectively. The semiannual adjustment shall be based on the previous half year's unrounded number, and the result of the adjustment rounded to the nearest $5.

(7) *Annual adjustment of shelter deductions.* Effectlve July 1, 1978, the maximum limit on shelter and dependent care deductions shall be adjusted each July 1 to the nearest $5. The adjustment shall reflect changes in the shelter, fuel, and utilities components of the CPI for the 12-month period ending the preceding March 31. The annual adjustment shall be based on the previous year's unrounded numbers, and the result rounded to the nearest $5.

APPENDIX A.—*Net Monthly Income Eligibility Standards*

Household size	48 States, District of Columbia, Guam, Puerto Rico, and Virgin Islands	Alaska	Hawaii
1	$277	$348	$321
2	365	458	422
3	454	568	523
4	542	678	624
5	630	788	725
6	719	898	825
7	807	1,008	926
8	895	1,118	1,027
Each additional member	+89	+110	+101

APPENDIX B.—*Standard Deductions for the Outlying Areas*

Outlying area	Average total deductions	Ratio [1]	Ratio X, U.S. standard deduction ($60)	CPI adjustment [2]	Rounded standard deduction
Alaska	$136.42	1.77	$106.20	$109.08	$110
Hawaii	113.92	1.48	88.80	91.21	90
Guam	158.89	2.06	123.60	126.95	125
Puerto Rico	48.03	.62	37.20	38.21	40
Virgin Islands	67.91	.88	52.80	54.23	55

[1] Average total deductions of outlying area÷$77.13, the average total deductions for the 48 States and the District of Columbia.
[2] CPI adjustment for the period of September 1977 to March 1978 is 1.0271 pct.

APPENDIX C.—*Maximum Excess Shelter/Dependent Care Deductions for the Outlying Areas*

Outlying areas	Average shelter expense	Ratio [1]	Ratio X, U.S. shelter deduction ($75)	CPI adjustments [2]	Rounded shelter deduction
Alaska	$226.53	1.74	$130.50	$141.68	$140
Hawaii	188.67	1.45	108.75	118.07	120
Guam	158.90	1.22	91.50	99.34	100
Puerto Rico	46.83	.36	27.00	29.31	30
Virgin Islands	95.80	.74	55.50	60.26	60

[1] Average shelter expense of outlying area÷$130.13, the average shelter expense for the 48 States and the District of Columbia.
[2] CPI adjustment for the shelter, fuel, and utilities for the period of March 1977 to March 1978 is 1.0857 pct.

§273.10 Determining household eligibility and benefit levels.

(a) *Month of application.* (1) The eligibility and level of benefits for most households submitting an initial application shall be based on circumstances for the entire calendar month in which the household filed its application. However, State agencies may, with the prior approval of FNS, use a fiscal month if the State determines that it is more efficient and satisfies FNS that the accounting procedures fully comply with certification and issuance requirements contained in these regulations. A State agency may elect to use either a standard fiscal month for all households such as from the 15th of the calendar month to the 15th of the next calendar month, or a fiscal month that will vary for each household depending on the date an individual files an application for the program; for example, the period of application for a household applying on the 3d of a month shall be the 3d of that month to the 2d of the following month. A household's eligibility and benefit level shall be determined for the month of application by considering the household's circumstances for the entire month, calendar or fiscal, as defined by the State agency.

(2) Eligibility and the level of benefits for recertifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application for recertification is not received until after the current certification period has expired, the month of application shall be the month in which the application was filed, as for any initial application.

(3) Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household shall be entitled to benefits for the month of aplication even if the processing of its application results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. Even though denied for the month of application, the household does not have to reapply in subsequent month. The same application shall be used for the denial for the month of application and the determination of eligibility for subsequent months, within the timeliness standards in § 273.2

(4) As a result of anticipating changes, the household's allotment for the month of application may differ from its allotment in subsequent months. The State agency shall establish a certification period for the longest possible period over which changes in the household's circumstances can be reasonably anticipated. The household's allotment shall vary month to month within the certification period to reflect changes anticipated at the time of certification, unless the household elects the averaging techniques in paragraphs (c)(3) and (d)(3) of this section.

(b) *Determining resources.* The household's resources at the time the application is filed shall be used to determine the household's eligibility.

(c) *Determining income.* (1) *Anticipating income.* (i) For the purpose of determing the household's eligibility and level of benefits, the State agency shall take into account the income already received by the household during the certification period and any anticipated income the household and the State agency are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the State agency. For example, a household anticipating income from a new source, such as a new job or recently applied for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These moneys shall not be anticipated by the State agency unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known, that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average. Households shall be advised to report all changes in gross monthly income as required by § 273.12.

(ii) Income received during the past 30 days shall be used as an indicator of the income that is and will be available to the household during the certification period. However, the State agency shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the State agency and the household may use a longer period of past time if it will provide a more accurate indication of anticipated fluctuations in future income. Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The State agency shall exercise particular caution in using income from a past season as an indicator of income for the certification period. In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the State agency automatically attribute to the household the amounts of any past income. The State agency shall not use past income as an indicator of anticipated income when changes in income have occurred or can be anticipated during the certification period.

(2) *Income only in month received.* (i) Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the State agency shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15, use the State Agency's PA conversion standard, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lumpsum payments shall be counted as a resource starting in the month received and shall not be counted as income.

(ii) Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. However, wages held by the employer as a general practice, even if in violation of law, shall not be counted as income to the household, unless the household anticipates that it will ask for and receive an advance, or that it will receive income from wages that were previously held by the employer as a general practice and that were, therefore, not previously counted as income by the State agency. Advances on wages shall count as income in the month received only if reasonably anticipated as defined in paragraph (c)(1) of this section.

(iii) Households receiving State or Federal assistance payments, such as PA or GA benefits, SSI benefits or social security payments, on a recurring, monthly basis, shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be

received in one month and none in the next month.

(3) *Income averaging.* (i) Households, except destitute households,

(2) *Billed expenses.* Except as provided in paragraph (d)(3) of this section a deduction shall be allowed only in the month the expense is billed or

the total gross earned income by 80 percent).

(C) Add to net monthly earned income the total monthly unearned

income as calculated in paragraph (e)(1) of this section shall be compared to the monthly income eligibility

ary or in February. The test for whether or not this household's income is terminated is whether the

To the extent that these payments are excluded as reimbursements, receipt of travel advances will not affect the de-

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received in one month and none in the next month.

(3) *Income averaging.* (i) Households, except destitute households, and PA households subject to a monthly reporting requirement, may elect to have income averaged. Income shall not be averaged for a destitute household since averaging would result in assigning to the month of application income from future periods which is not available to the destitute household for its current food needs. To average income, the State agency shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income from the 2 known months may be averaged and projected over a certification period of longer than 2 months.

(ii) Households which, by contract or self-employment, derive their annual income in a perod of time shorter than 1 year shall have that income averaged over a 12-month period, provided the income from the contract is not received on an hourly or piecework basis. These households may include school employees, share croppers, farmers, and other self-employed households. However, these provisions do not apply to migrant or seasonal farmworkers. The procedures for averaging self-employed income are described in § 273.11.

(iii) Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it was provided.

(d) *Determining deductions.* Deductible expenses include only certain costs of dependent care and shelter as described in § 273.9.

(1) *Disallowed expenses.* (i) An expense covered by an excluded reimbursement or vendor payment shall not be deductible. For example, the portion of rent covered by excluded vendor payments shall not be calculated as part of the household's shelter cost.

(ii) Expenses shall only be deductible if the service is provided by someone outside of the household and the household makes a money payment for the service. For example, a dependent care deduction shall not be allowed if another household member provides the care, or compensation for the care is provided in the form of an inkind benefit, such as food.

(2) *Billed expenses.* Except as provided in paragraph (d)(3) of this section a deduction shall be allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. For example, rent which is due each month shall be included in the household's shelter costs, even if the household has not yet paid the expense. Amounts carried forward from past billing periods are not deductible, even if included with the most recent billing and actually paid by the household. In any event, a particular expense may only be deducted once.

(3) *Averaging expenses.* Households may elect to have fluctuating expenses averaged. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. For example, if a household receives a single bill in February which covers a 3-month supply of fuel oil, the bill may be averaged over February, March, and April. The household may elect to have one-time only expenses averaged over the entire certification period in which they are billed.

(4) *Anticipating expenses.* The State agency shall calculate a household's expenses based on the expenses the household expects to be billed for during the certification period. Anticipation of the expense shall be based on the most recent month's bills, unless the household is reasonably certain a change will occur. When the household is not claiming the utility standard, the State agency may anticipate changes during the certification period based on last year's bills from the same period updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certificaton period may be based on utility company estimates for the type of dwelling and utilities used by the household. The State agency shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period.

(e) *Calculating net income and benefit levels.*—(1) *Net monthly income.* (i) To determine a household's net monthly income, the State agency shall:

(A) Add the gross monthly income earned by all household members minus earned income exclusions, to determine the household's total gross earned income.

(B) Multiply the total gross earned income by 20 percent and subtract that amount to determine the net monthly earned income (or multiply the total gross earned income by 80 percent).

(C) Add to net monthly earned income the total monthly unearned income of all household members, minus income exclusions.

(D) Subtract the standard deduction.

(E) Subtract monthly dependent care expenses, if any, up to the maximum amount allowed for the area (see appendix to § 273.9). If dependent care costs equal or exceed the maximum amount allowed, the household's net monthly income has been determined. If not, the household's excess shelter expenses shall be computed, in accordance with subparagraph (F) of this section.

(F) Total the allowable shelter expenses to determine shelter costs. Subtract from total shelter costs 50 percent of the household's monthly income after all the above deductions have been subtracted. The remaining amount, if any, is the excess shelter cost. If there is no excess shelter cost, the net monthly income has been determined. If there is excess shelter cost, compute the shelter deduction according to subparagraph (G) of this section.

(G) Subtract the excess shelter cost (up to the maximum amount allowed for the area) from the household's monthly income after all other deductions. The maximum amount allowed for shelter is the maximum used in subparagraph (E) of this section, minus the amount of dependent care expenses, if any. The household's net monthly income has been determined.

(ii) In calculating net monthly income, the amounts shall be rounded down to whole dollar amounts by dropping all cents. Such rounding shall occur before and after each calculation, except for the computation of shelter costs. For example, any cents in gross weekly earnings shall be dropped prior to the application of the weekly conversion factor. Any cents resulting from that multiplication shall then be dropped prior to the computation of the 20-percent earned income deduction. The cents shall be dropped from this deduction prior to being subtracted from earned income. However, because these procedures could result in a significant decrease in the shelter expenses the household may be entitled to use in determining excess shelter cost, the individual costs used in paragraph (e)(1)(i)(F) of this section shall be computed using exact dollars and cents. The cents will be dropped from the total shelter costs prior to determining the shelter deduction for the household's net monthly income.

(2) *Eligibility and benefits.* (i) Except for households considered destitute in paragraph (e)(3) of this section, the household's net monthly

income as calculated in paragraph (e)(1) of this section shall be compared to the monthly income eligibility standards for the appropriate household size to determine eligibility for the month.

(ii) The household's monthly allotment shall be equal to the thrifty food plan for the household's size reduced by 30 percent of the household's net monthly income as calculated in paragraph (e)(1) of this section. After multiplying the net income by 30 percent, the result shall be rounded by dropping all cents prior to subtracting that amount from the thrifty food plan. All eligible one- and two-person households shall receive a minimum monthly allotment of $10.

(3) *Destitute households.* Certain households may have little or no income at the time of application and may be in need of immediate food assistance, even though they receive income at some other time during the month of application. The following procedures shall be used to determine when households in these circumstances may be considered destitute and, therefore, entitled to expedited service and special income calculation procedures:

(i) Households whose only income for the month of application was received prior to the date of application, and was from a terminated source, shall be considered destitute households and shall be provided expedited service. These households may have lost their sole source of income because of layoffs, a termination of general assistance or unemployment compensation benefits, or other comparable circumstances. These households also include migrant households which have received their last wages from a grower. These households shall be provided expedited service because they may be without income for some time, and may not be able to wait as long as 30 days for food assistance.

(A) If income is received on a monthly or more frequent basis, it shall be considered as coming from a terminated source if it will not be received again from the same source during the balance of the month of application or during the following month.

(B) If income is normally received less often than monthly, the nonreceipt of income from the same source in the balance of the month of application or in the following month is inappropriate to determine whether or not the income is terminated. For example, if income is received on a quarterly basis (e.g., on January 1, April 1, July 1, and October 1), and the household applies in mid-January, the income should not be considered as coming from a terminated source merely because no further payments will be received in the balance of January or in February. The test for whether or not this household's income is terminated is whether the income is anticipated to be received in April. Therefore, for households that normally receive income less often than monthly, the income shall be considered as coming from a terminated source if it will not be received in the month in which the next payment would normally be received.

(ii) Households whose only income for the month of application is from a new source shall be considered destitute and shall be provided expedited service if income of more than $25 from the new source will not be received by the 10th calendar day after the date of application. These households may expect to start receiving income from a new job or may have applied for, but have not yet begun to receive benefits from, public assistance, unemployment compensation, SSI, social security, or a similar program. These households may be totally without income for a number of weeks before the new income begins and, therefore, be unable to meet their current food needs.

(A) Income which is normally received on a monthly or more frequent basis shall be considered to be from a new source if income of more than $25 has not been received from that source within 30 days prior to the date the application was filed.

(B) If income is normally received less often than monthly, it shall be considered to be from a new source if income of more than $25 was not received within the last normal interval between payments. For example, if a household applies in early January and is expecting to be paid every 3 months, starting in late January, the income shall be considered to be from a new source if no income of more than $25 was received from the source during October or since that time.

(iii) Households may receive both income from a terminated source prior to the date of application, and income from a new source after the date of application, and still be considered destitute if they receive no other income in the month of application and income of more than $25 from the new source will not be received by the 10th day after the date of application.

(iv) Destitute households shall have their eligibility and level of benefits calculated for the month of application by considering only income which is received between the first of the month and the date of application. Any income from a new source that is anticipated after the day of application shall be disregarded.

(v) Some employers provide travel advances to cover the travel costs of new employees who must journey to the location of their new employment. To the extent that these payments are excluded as reimbursements, receipt of travel advances will not affect the determination of when a household is destitute. However, if the travel advance is really an advance on wages that will be subtracted from wages later earned by the employee, rather than a reimbursement, the wage advance shall count as income. Nevertheless, the receipt of a wage advance for the travel costs of a new employee shall not affect the determination of whether subsequent payments from the employer are from a new source of income, nor whether a household shall be considered destitute. For example, if a household applies on May 10, has received a $50 wage advance for travel from its new employer on May 1, but will not start receiving any other wages from the employer until May 30, the household shall be considered destitute. The May 30 payment shall be disregarded, but the wage advance received prior to the date of application shall be counted as income.

(vi) Households whose income must be averaged on an annual basis, or averaged over the period the income is intended to cover, as required by paragraphs (e)(3) (ii) and (iii) of this section, shall have the income averaged and assigned to the appropriate months of the certification period before determining whether a household is destitute. If the averaged income does not come from a new or terminated source and is assigned to the month of application, the household shall not be considered destitute. For example, a self-employed household whose total annual income is received in a few months in the year shall not be considered destitute simply because it does not receive payments in those other months. However, if the income which must be averaged is itself from a new or terminated source, the receipt of the income in the month of application may result in a destitute termination. For example, a student with no other income for the month of application anticipates receipt of a deferred educational loan at the end of the month. After appropriate exclusions, the balance of the loan is averaged over the period it is intended to cover, including the month of application. The student may be destitute and the portion of the loan for the month of application disregarded if it is from a new source and will not be received by the 10th day after the date of application.

(vii) A household member who changes jobs but continues to work for the same employer shall be considered as still receiving income from the same source. Similarly, a self-employed household member who secures contracts or other work from different customers shall still be considered as

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receiving income from the same source. A migrant farmworker's source of income shall be considered to be the grower for whom the migrant is working at a particular point in time, and not the crew chief. A migrant who travels with the same crew chief but moves from one grower to another shall be considered to have moved from a terminated income source to a new source.

(viii) The above procedures shall apply at initial application and at recertification, but only for the first month of each certification period. At recertification, income from a new source shall be disregarded in the first month of the new certification period if income of more than $25 will not be received from this new source by the 10th calendar day after the date of the household's normal issuance cycle.

(4) *Thrifty food plan.*—(i) *Level of the thrifty food plan.* The thrifty food plan shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The thrifty food plans for Alaska and Hawaii shall be the thrifty food plan for the 48 States adjusted by the price of food in Alaska and Hawaii. The thrifty food plans for Guam, Puerto Rico, and Virgin Islands shall be adjusted by the cost of food in those areas provided that the costs of these plans shall not exceed the cost of the thrifty food plan for the 50 States. The thrifty food plans in each area are provided in the appendix of this section.

(ii) *Semiannual adjustment.* The thrifty food plan shall be adjusted semiannually to reflect changes in the price of food. The semiannual adjustments shall be rounded to the nearest whole dollar (amounts of 50 cents shall be rounded upward to the next highest whole dollar). The semiannual adjustments shall occur each July 1 based on the change in the price of the thrifty food plan over a 6-month period ending the preceding March 31; and each January 1 based on the change in a 6-month period ending the preceding September 30.

(f) *Certification periods.* The State agency shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period, entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification as required by § 273.2(f). Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility.

(1) Certification periods shall conform to calendar months, except where FNS has approved the use of fiscal months. At initial application, the first month in the certification period shall generally be the month of application, even if the household's eligibility is not determined until a subsequent month. For example, if a household files an application in January and the application is not processed until February, a 6-month certification period would include January through June. Upon recertification, the certification period will begin with the month following the last month of the previous certification period.

(2) Households in which all members are contained in a single PA grant, or in a single GA grant where GA and food stamp applications are processed jointly in accordance with § 273.2(j), shall have their food stamp recertifications, to the extent possible, at the same time they are redetermined for PA/GA.

(i) Except as specified in paragraph (2)(ii) of this section, State agencies shall assign these households food stamp certification periods which expire the month following the households' PA/GA redetermination, provided the food stamp certification periods do not exceed 1 year. If a PA/GA household has not had its PA/GA redetermination by the end of the 11th month following its initial certification or last redetermination, the State agency shall send the household a notice of the expiration of its food stamp certification period and recertify the household in accordance with the provisions of § 273.14.

(ii) State agencies which have a mandatory monthly reporting system and, therefore, allow more than 1 year to elapse before redetermining their PA/GA cases, but which can predict with certainty in which month the PA/GA redetermination will take place, shall assign definite food stamp certification periods to PA/GA food stamp households that expire at the end of the month following the month in which the PA/GA redetermination is scheduled. If for any reason the PA/GA redetermination is not made by the end of the month for which it was scheduled, the State agency shall send the household a notice of the expiration of its food stamp certification period in accordance with § 273.14, and proceed to recertify the household for food stamps.

(3) Other households shall be assigned the longest certification periods possible based on the predictability of the household's circumstances. Households shall be certified for at least 3 months, except as follows:

(i) Households eligible for a certification period of 3 months or less shall, at the time of certification, have their certification periods increased by 1 month, if the certification process is completed after the 15th day of the month of application and the household's circumstances warrant the longer certification period. For example, if a household which is eligible for a 3-month certification period makes application in June and is not certified until late June or early July, the certification period would include June through September.

(ii) Households containing one or more persons subject to a lockout or on strike from their place of employment shall not be certified for periods of more than 1 month, if the household is certified before the 15th day of the month of application; otherwise, the maximum certification period shall be for 2 months. However, the State agency may inform the household that a longer certification period may be assigned if the household signs a waiver of notice of adverse action. The State agency must explain to the household what the waiver does and provide a choice between signing the separate waiver document specified in § 273.13(b)(8) and being assigned a 1- or 2-month certification period. The State agency shall maintain a system for identifying households containing strikers which have signed the waiver of notice of adverse action to reduce or terminate benefits when the household has begun receiving income from employment again after the lockout or strike has been settled.

(iii) Households shall be certified for 1 or 2 months, as appropriate, when the household cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status; for example, day laborers and migrant workers if income is uncertain and subject to large fluctuations during the work season due to the uncertainty of continuous employment or due to bad weather and other circumstances.

(4) Households shall be certified for up to 6 months if there is little likelihood of changes in income and household status; for example, households with a stable income record and for which major changes in income, deductions, or composition are not anticipated.

(5) Households consisting entirely of unemployable or elderly persons with very stable income shall be certified for up to 12 months provided other household circumstances are expected to remain stable; for example, social security recipients, SSI recipients and persons who receive pensions or disability payments.

(6) Households whose primary source of income is from self-employment (including self-employed farmers) or from regular farm employment with the same employer shall be certified for up to 12 months, provided

income can be readily predicted and household circumstances are not likely to change. Annual certification periods may be assigned to farmworkers who are provided their annual salaries on a scheduled monthly basis which does not change as the amount of work changes.

(g) *Certification notices to households.* (1) *Initial applications.* State agencies shall provide applicants with one of the following written notices as soon as a determination is made, but no later than 30 days after the date of the initial application:

(i) *Notice of eligibility.* (A) If an application is approved, the State agency shall provide the household with written notice of the amount of the allotment and the beginning and ending dates of the certification period. The household shall also be advised of variations in the benefit level based on changes anticipated at the time of certification. If the initial allotment contains benefits for both the month of application and the current month's benefits, the notice shall explain that the initial allotment includes more than 1 month's benefits, and shall indicate the monthly allotment amount for the remainder of the certification period. The notice shall also advise the household of its right to a fair hearing, the telephone number of the food stamp office, and, if possible, the name of the person to contact for additional information. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the services. The State agency may also include in the notice a reminder of the household's obligation to report changes in circumstance and of the need to reapply for continued participation at the end of the certification period. Other information which would be useful to the household may also be included.

(B) State agencies that do not assign definite certification periods to PA or GA households, as provided in paragraph (f)(2) of this section, will not be required to provide those households with an exact expiration date for the certification period. Instead, the notice shall state that the certification period will expire the month after the next review for the assistance grant or in 1 year.

(C) In cases where a household's application is approved on an expedited basis without verification, as provided in § 273.2(i), the notice shall explain that the household must provide the verification which was waived. If the State agency has elected to assign a longer certification period to some households certified on an expedited basis, the notice shall also explain the special conditions of the longer certification period, as specified in § 273.2(i), and the consequences of failure to provide the postponed verification.

(D) For households provided a notice of expiration at the time of certification, as required in § 273.14(b), the notice of eligibility may be combined with the notice of expiration or separate notices may be sent.

(ii) *Notice of denial.* If the application is denied, the State agency shall provide the household with written notice explaining the basis for the denial, the household's right to request a fair hearing, the telephone number of the food stamp office, and, if possible, the name of the person to contact for additional information. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service. In cases where the State agency has elected to use a notice of denial when a delay was caused by the household's failure to take action to complete the application process, as provided in § 273.2(h)(2), the notice of denial shall also explain: The action that the household must take to reactivate the application; that the case will be reopened without a new application if action is taken within 30 days of the date the notice of denial was mailed; and that the household must submit a new application if, at the end of the 30-day period, the household has not taken the needed action and wishes to participate in the program. If the State agency chooses the option specified in § 273.2(h)(2) of reopening the application in cases where verification is lacking only if household provides verification within 30 days of the date of the initial request for verification, the State agency shall include on the notice of denial the date by which the household must provide the missing verification.

(iii) *Notice of pending status.* If the application is to be held pending because some action by the State is necessary to complete the application process, as specified in § 273.(h)(2), or the State agency has elected to pend all cases regardless of the reason for delay, the State agency shall provide the household with a written notice which informs the household that its application has not been completed and is being processed. If some action by the household is also needed to complete the application process, the notice shall also explain what action the household must take and that its application will be denied if the household fails to take the required action within 60 days of the date the application was filed. If the State agency chooses the option specified in § 273.2(h)(2) and (3) of holding the application pending in cases where verification is lacking only until 30 days following the date verification was initially requested, the State agency shall include on the notice of pending status the date by which the household must provide the missing verification.

(2) *Applications for recertification.* The State agency shall provide households that have filed an application by the 15th of the last month of their certification period with either a notice of eligibility or a notice of denial by the end of the current certification period. The State agency shall provide households that have received a notice of expiration at the time of certification, and have timely reapplied, with either a notice of eligibility or a notice of denial not later than 30 days after the date of the household's initial opportunity to obtain its last allotment.

(3) *FNS-designed forms.* Each State agency shall use the notice of eligibility, denial, or pending status form designed by FNS. FNS may approve a deviation under the same conditions for granting deviations from the application form in § 273.2(b).

(4) *Identification (ID) cards.* (i) The State agency shall issue an ID card to each certified household as proof of program eligibility. The ID card may be serially numbered at the State agency's option. The ID card shall be issued in the name of the household member to whom the ATP is issued. That household member and any authorized representatives shall sign the ID card prior to using it.

(A) The State agency shall limit issuance of ID cards to the time of initial certification, with replacements made only in instances of loss, mutilation, destruction, or changes in persons authorized to obtain or use coupons.

(B) The State agency shall place an expiration date only on those ID's issued to households that have been certified for delivered meals for a temporary period.

(ii) ID cards delivered to households by mail shall not be mailed in the same envelope with an ATP or coupons.

(iii) If the household does not name an authorized representative, the State agency shall indicate on the ID card that no designation was made.

(iv) Specially marked ID cards shall be issued as follows:

(A) Any household eligible for and interested in using delivered meal services shall receive an ID card marked with the letter "M."

(B) Any household eligible for and interested in using communal dining facilities shall receive an ID card marked with the letters "CD" in those States or project areas where restaurants are authorized to accept food stamps. In areas where restaurants are

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not authorized to accept food stamps, the State or project area has the option of marking the ID with the letters "CD."

(C) Any household residing in a remote section of Alaska which has been determined by FNS to be an area in which food coupons may be used to purchase hunting and fishing equipment shall receive an ID card marked with the letters "HF."

(v) Upon household consent, the State agency may use photo ID's to facilitate identification of program participants, except that the State agency shall not deny or delay benefits because household members are unable or refuse to be photographed.

§ 273.11 Action on households with special circumstances.

(a) *Self-employment income.* The procedures for handling income received from boarders by a household that does not own and operate a commercial boardinghouse are described in paragraph (b) of this section. For all other households receiving self-employment income, including those households that own and operate a commercial boardinghouse, the State agency shall calculate the self-employment income as follows:

(1) *Annualizing self-employment income.* (i) Self-employment income which represents a household's annual income shall be annualized over a 12-month period even if the income is received within only a short period of time during that 12 months. For example, self-employment income received by farmers shall be averaged over a 12-month period, if the income is intended to support the farmer on an annual basis. This self-employment income shall be annualized even if the household receives income from other sources in addition to self-employment.

(ii) Self-employment income which is received on a monthly basis but which represents a household's annual support shall normally be averaged over a 12-month period. If, however, the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the State agency shall calculate the self-employment income based on anticipated earnings.

(iii) Self-employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year shall have their self-employment income averaged over the summer months rather than a 12-month period.

(iv) If a household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise shall be averaged over the period of time the business has been in operation, and the monthly amount projected for the coming year. However, if the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household may be certified for less than a year until the business has been in operation long enough to base a longer projection.

(2) *Determining monthly income from self-employment.* (i) For the period of time over which self-employment income is determined, the State agency shall add all gross self-employment income (including capital gains), exclude the cost of producing the self-employment income, and divide the self-employment income by the number of months over which the income will be averaged.

(ii) For those households whose self-employment income is not averaged but is instead calculated on an anticipated basis, the State agency shall add any capital gains the household anticipates it will receive in the next 12 months, starting with the date the application is filed, and divide this amount by 12. This amount shall be used in successive certification periods during the next 12 months, except that a new average monthly amount shall be calculated over this 12-month period if the anticipated amount of capital gains changes. The State agency shall then add the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtract the cost of producing the self-employment income. Except for depreciation, the cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income.

(iii) The monthly net self-employment income shall be added to any other earned income received by the household. The total monthly earned income, less the 20-percent earned income deduction, shall then be added to all monthly unearned income received by the household. The standard deduction, dependent care, and shelter costs shall be computed as for any other household and subtracted to determine the monthly net income of the household.

(3) *Capital gains.* The proceeds from the sale of capital goods or equipment shall be calculated in the same manner as a capital gain for Federal income tax purposes. Even if only 50 percent of the proceeds from the sale of capital goods or equipment is taxed for Federal income tax purposes, the State agency shall count the full amount of the capital gain as income for food stamp purposes.

(4) *Allowable costs of producing self-employment income.* (i) Allowable costs of producing self-employment income include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer, interest paid to purchase income-producing property, insurance premiums, and taxes paid on income-producing property.

(ii) Depreciation shall be allowed as a cost of producing self-employment income for equipment, machinery, or other capital investments necessary to the self-employment enterprise. The Federal or State income tax form for the most recent tax year shall be used for calculating depreciation on an annual basis. No depreciation shall be allowed on a capital asset unless it is documented by the appropriate State or Federal income tax form. Households which did not file a tax return or did not claim depreciation may still receive consideration for depreciation by filing a regular or amended tax form for that year and presenting a copy of that amended return to the State agency.

(iii) In determining net self-employment income, the following items shall not be allowable as a cost of doing business.

(A) Payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods;

(B) Net losses from previous periods; and

(C) Federal, State, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 20-percent earned income deduction specified in § 273.9(d)(2).

(5) *Assigning certification periods.* (i) Households that receive their annual support from self-employment and have no other source of income may be certified for up to 12 months. For those households that receive other sources of income or whose self-employment income is intended to cover a period of time that is less than a year, the State agency shall assign a certification period appropriate for the household's circumstances.

(ii) For those self-employed households that receive their annual income in a short period of time, the initial certification period shall be assigned to bring the household into the annual cycle. For example, the State agency may provide for recertification at the time the household normally

receives all or a majority of its annual income or the State agency may prefer to have the annual cycle coincide with the filing of the household's income tax.

(b) *Boarders.*—(1) *Household with boarders.* Persons paying a reasonable amount for room and board as specified in § 273.1(b) shall be excluded from the household when determining the household's eligibility and benefit level. The income of households owning and operating a commercial boardinghouse shall be handled as described in paragraph (a) of this section. For all other households, payments from the boarder shall be treated as self-employment income and the household's eligibility determined as follows:

(i) *Income from the boarder.* The income from boarders shall include all direct payments to the household for room and meals, including contributions to the household's shelter expenses. Shelter expenses paid directly by boarders to someone outside of the household shall not be counted as income to the household.

(ii) *Cost of doing business.* After determining the income received from the boarders, the State agency shall exclude that portion of the boarder payment which is a cost of doing business. The cost of doing business shall be equal to either of the following procedures provided that the amount allowed as a cost of doing business shall not exceed the payment the household receives from the boarder for lodging and meals:

(A) The cost of the thrifty food plan for a household size that is equal to the number of boarders; or

(B) The actual documented cost of providing room and meals, if the actual cost exceeds the appropriate thrifty food plan. If actual costs are used, only separate and identifiable costs of providing room and meals to boarders shall be excluded.

(iii) *Deductible expenses.* The net income from self-employment shall be added to other earned income and the 20-percent earned income deduction shall be applied to the total. Shelter costs the household actually incurs, even if the boarder contributes to the household for part of the household's shelter expenses, shall be computed to determine if the household will receive a shelter deduction. However, the shelter costs shall not include any shelter expenses paid directly by the boarder to a third party, such as to the landlord or utility company.

(2) *Boarders as households.* Boarders may be eligible as a food stamp household in their own right, as long as they are not residents of a commercial boardinghouse. When determining the eligibility and benefit level of a boarder, the State agency shall determine the boarder's shelter expenses by including any indentifiable shelter expenses paid by the boarder. If a single payment is made for both room and board, the amount of the payment which exceeds the thrifty food plan for the number of persons in the boarder's household shall be considered a shelter expense. The boarder receives no exclusion or deduction for the amount paid for board itself.

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud or for failure to meet the student work registration requirements during the school year. During the period of time a household member is disqualified, the eligibility and benefit level of any remaining household members shall be determined as follows:

(1) *Resources.* The resources of the disqualified member shall continue to count in their entirety to the remaining households members;

(2) *Income.* A pro rata share of the income of the disqualified member shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the disqualified member's income and dividing the income evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as income to the remaining household members.

(3) *Deductible expenses.* The 20-percent earned income deduction shall apply to the prorated income earned by the disqualified member which is attributed to the household. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the disqualified member shall be divided evenly among the household members, including the disqualified member. All but the disqualified member's share is counted as a deductible shelter expense for the remaining household members.

(4) *Eligibility and benefit level.* The disqualified member shall not be included when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's net monthly income with the income eligibility standards.

(5) *Reduction or termination of benefits within the certification period.* Whenever an individual is disqualified within the household's certification period, the State agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file and shall take the following action:

(i) *Student disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members is being disqualified for failure to meet the student work registration requirement, the State agency shall issue a notice of adverse action which informs the household that one of its members is being disqualified, the reason for the disqualification, and the eligibility and benefit level of the remaining members.

(ii) *Fraud disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members has been disqualified for fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of its disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(d) *Treatment of income and resources of other nonhousehold members.* For those nonhousehold members that have not been disqualified, such as ineligible aliens or SSI recipients in cash-out States, the income and resources of the nonhousehold member shall not be considered available to the household. Cash payments from the nonhousehold member to the household will be considered income under the normal income standards set in § 273.9(b). Vendor payments, as defined in § 273.9(c)(1), shall be excluded as income. If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expense and only to the household's pro rata share deducted.

(e) *Residents of drug/alcoholic treatment and rehabilitation programs.* (1) Narcotics addicts or alcoholics who regularly participate in FNS-authorized drug or alcoholic treatment and rehabilitation programs on a resident basis may voluntarily apply for the food stamp program. Resident addicts and alcoholics shall have their eligibility determined as a one-person household. The State agency shall certify residents of addict/alcoholic treatment centers by using the same provisions that apply to all other applicant households except that certification must be accomplished through an authorized representative as described in § 273.1(f)(2). The guidelines for issuing FNS authorizations to these treatment centers are set forth in § 278.1(e).

(2) Each treatment and rehabilitation center shall provide the State agency with a certified list of current-

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ly participating residents. The State agency shall require the list on either a monthly or semimonthly basis. In addition, the State agency shall conduct periodic random onsite visits to the center to assure the accuracy of the listings and that the State agency's records are consistent and up to date.

(3) The following provisions apply to residents of treatment centers:

(i) When expedited processing standards as described in § 273.2(i) are necessary, eligibility for the initial application shall be processed on an expedited basis, and the State agency shall complete verification and documentation requirements prior to issuance of a second coupon allotment;

(ii) When normal processing standards apply, the State agency shall complete the verification and documentation requirements prior to making an eligibility determination for the initial application;

(iii) The State agency shall process changes in household circumstances and recertifications by using the same standards that apply to all other food stamp households; and

(iv) Resident households shall be afforded the same rights to notices of adverse action, to fair hearings, and to entitlement to lost benefits as are all other food stamp households.

(4) The treatment center shall notify the State agency, as provided in § 273.12(a), of changes in the household's income or other household circumstances and of when the addict or alcoholic leaves the treatment center. The treatment center shall return a household's ATP or coupons received after the household has left the center.

(5) The treatment center shall provide resident addicts or alcoholics with their ID card and one-half of their monthly coupon allotment when the household leaves the treatment and rehabilitation program prior to the 16th day of the month. Once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative. The center shall, if possible, provide the household with a change report form to report to the State agency the individual's new address and other circumstances after leaving the center, and shall advise the household to return the form to the appropriate office of the State agency within 10 days.

(6) The organization or institution shall be responsible for any misrepresentation or fraud which it knowingly commits in the certification of center residents. As an authorized representative, the organization or institution must be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The organization or institution shall be strictly liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center.

(7) The organization or institution may be penalized or disqualified, as described in § 278.6, if it is determined administratively or judicially that coupons were misappropriated or used for purchases that did not contribute to a certified household's meals. The State agency shall promptly notify FNS when it has reason to believe that an organization or institution is misusing coupons in its possession. However, the State agency shall take no action prior to FNS action against the organization or institution. The State agency shall establish a claim for overissuances of food coupons held on behalf or resident clients as stipulated in paragraph (6) of this section if any overissuances are discovered during an investigation or hearing procedure for redemption violations. If FNS disqualifies an organization or institution as an authorized retail food store, the State agency shall suspend its authorized representative status for the same period.

(f) *Households requesting replacement allotments.*—(1) *Stolen or destroyed coupons.* A household may request a replacement for that portion of its allotment which it had received but was subsequently destroyed in a household disaster such as fire or flood, or was subsequently stolen. To qualify for a replacement, the household must sign a statement at the food stamp office attesting to the theft or destruction. If the coupons were stolen, the household must also report the theft to the local police and provide to the State agency a copy of the police report or sufficient information to permit the State agency to verify that the theft was reported to the police. State agencies shall provide households qualifying for a replacement with an opportunity to obtain the replacement allotment within 5 working days of the date the theft or destruction was reported to the State agency. The State agency shall not issue a replacement allotment to a household which reports that coupons were misplaced.

(2) *Improperly manufactured or mutilated coupons.* State agencies shall provide a replacement for coupons that were received by a household but were subsequently mutilated or subsequently found to be improperly manufactured. The amount to be replaced shall be equal to the value of the improperly manufactured or mutilated coupons. If the State agency cannot determine the value of a mutilated coupon after exhausting all available means of determining the value within the State, the State agency shall send the mutilated coupon to FNS for a determination. State agencies shall not replace coupons which are mutilated to such a degree that less than three-fifths of the coupon is presented by the household.

§ 273.12 Reporting changes.

(a) *Household responsibility to report.* (1) Certified households are required to report the following changes in circumstances:

(i) Changes in the sources of income or in the amount of gross monthly income of more than $25, except changes in the public assistance grant, or the general assistance grant in project areas where GA and food stamp cases are jointly processed in accord with § 273.2(j)(2). Since the State agency has prior knowledge of all changes in the public assistance grant and these general assistance grants, action shall be taken on the State agency information;

(ii) All changes in household composition, such as the addition or loss of a household member;

(iii) Changes in residence and the resulting change in shelter costs;

(iv) The acquisition of a licensed vehicle not fully excludable under § 273.8(e); and

(v) When cash on hand, stocks, bonds, and money in a bank account or savings institution reach or exceed a total of $1,750.

(2) Households shall report changes within 10 days of the date the change becomes known to the household. Optional procedures for reporting changes are contained in § 273.12(f) for households in States with FNS-approved forms for jointly reporting food stamp and public assistance changes and food stamp and general assistance changes.

(3) State agencies shall not impose any food stamp reporting requirements on households except as provided in paragraph (a)(1) of this section.

(b) *Report form.* (1) The State agency shall provide households with a form for reporting the changes required in paragraph (a) of this section and shall pay the postage for the household to mail in the report. All State agencies shall use the reporting form designed by FNS, unless FNS approves a deviation or approves a joint food stamp/public assistance reporting form or food stamp/general assistance reporting form. Deviations shall be granted under the same conditions deviations are granted for the application form, as specified in § 273.2(b). The reporting form shall, at a minimum, include the following:

(i) A space for the household to report whether the change shall continue beyond the report month;

(ii) The civil and criminal penalties for violations of the Act in understandable terms and in prominent and boldface lettering; and

(iii) A reminder to the household of its right to claim actual utility costs if its costs exceed the standard.

(2) The reporting form may also include the amount of gross income, itemized by household member, used to certify the household, and the source and frequency of the income.

(3) Changes reported over the telephone or in person by the household shall be acted on in the same manner as those reported on the change report form.

(4) A change report form shall be provided to newly certified households at the time of certification, at recertification if the household needs a new form; and a new form shall be sent to the household whenever a change report form is returned by the household. A change report may be provided to households more often at the State agency's option.

(c) *State agency action on changes.* The State agency shall take prompt action on all changes to determine if the change affects the household's eligibility or allotment. Even if there is no change in the allotment, the State agency shall document the reported change in the case file, provide another change report form to the household, and notify the household of the effect of the change, if any, on its benefits. The State agency shall also document the date a change is reported, which shall be the date the State agency receives a report form or is advised of the change over the telephone or by a personal visit. Restoration of lost benefits shall be provided to any household if the State agency fails to take action on a change which increases benefits within the time limits specified in paragraph (c)(1) of this section.

(1) *Increase in benefits.* (i) For changes which result in an increase in a household's benefits, other than changes described in (ii) below, the State agency shall make the change effective not later than the first allotment issued 10 days after the date the change was reported to the State agency. For example, a $30 decrease in income reported on the 15th of May would increase the household's June allotment. If the same decrease were reported on May 28, and the household's normal issuance cycle was on June 1, the household's allotment would have to be increased by July.

(ii) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of $50 or more in the household's gross monthly income, the State agency shall make the change effective not later than the first allotment issued 10 days after the date the change was reported. However, in no event shall these changes take effect any later than the month following the month in which the change is reported. Therefore, if the change is reported after the 20th of a month and it is too late for the State agency to adjust the following month's allotment, the State agency shall issue a supplementary ATP or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later. For example, a household reporting a $100 decrease in income at any time during May would have its June allotment increased. If the household reported the change after the 20th of May and it was too late for the State agency to adjust the ATP normally issued on June 1, the State agency would issue a supplementary ATP for the amount of the increase by June 10.

(iii) Verification which is required by § 273.2(f) must be obtained prior to the issuance of the second normal monthly allotment after the change is reported. If the household does not provide verification, the household's benefits will revert to the original benefit level. In cases where the State agency has determined that a household has refused to cooperate as defined in § 273.2(d), the State agency shall terminate the household's eligibility.

(2) *Decreases in benefits.* If the household's benefit level decreases or the household becomes ineligible as a result of the change, the State agency shall issue a notice of adverse action within 10 days of the date the change was reported. The decrease in the benefit level shall be made effective not later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested. Verification which is required by § 273.2(f) must be obtained prior to recertification.

(d) *Failure to report.* If the State agency discovers that the household failed to report a change as required by paragraph (a) of this section and, as a result, received benefits to which it was not entitled, the State agency shall file a claim against the household in accordance with § 273.18. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if the household's benefits are reduced. A household shall not be held liable for a claim because of a change in household circumstances which it is not required to report in accordance with § 273.12(a)(1). Individuals shall not be disqualified for failing to report a change, unless the individual is disqualified in accordance with the fraud disqualification procedures specified in § 273.16.

(e) *Mass changes.* Certain changes are initiated by the State or Federal government which may affect the entire caseload or significant portions of the caseload. These changes include annual adjustments to the net income eligibility standards and the shelter/dependent care deduction; semiannual adjustments to the thrifty food plan and standard deduction; annual and seasonal adjustments to the State's utility standard; periodic cost of living adjustments to social security, SSI, and other Federal benefits; periodic adjustments to AFDC or GA payments; and other changes in the eligibility criteria based on legislative or regulatory actions.

(1) *Federal adjustments to eligibility standards, allotments, and deductions. State adjustments to utility standards.* (i) These adjustments shall go into effect for all households at a specific point in time. Semiannual adjustments to the thrifty food plan and the standard deduction shall be effective for all issuances in January and July. Annual adjustments to the shelter/dependent care deduction and the eligibility standards shall be effective for all July issuances. State agencies may wish to consider timing the annual adjustments of their utility standards to coincide with the Federal shelter deduction adjustment.

(ii) Although a notice of adverse action is not required, State agencies may send an individual notice to households of these changes. State agencies shall publicize these mass changes through the news media; posters in certification offices, issuance locations, or other sites frequented by certified households; or general notices mailed to households. Households whose certification periods overlap a seasonal variation in the utility standard shall be advised at the time of initial certification of when the adjustment will occur and what the variation in the benefit level will be, if known.

(2) *Mass changes in public assistance.* (i) When the State agency makes an overall adjustment to public assistance payments, corresponding adjustments in households' food stamp benefits shall be handled as a mass change. When the State agency has at least 30 days' advance knowledge of the amount of the public assistance adjustment, the State agency shall recompute food stamp benefits

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to be effective in the same month as the public assistance change. If the State agency does not have sufficient notice, the food stamp change shall be under the new law, or that the new law is being misapplied or misinterpreted.

(f) *PA and GA households.* (1)

(D) State agencies shall act on all changes reported through the reporting system in accordance with the processing standards in paragraph (c) of

the PA notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it and adequate advance notice before the adverse action is taken.

(1) The notice of adverse action shall be considered timely if the advance time of certification that food stamp benefits would be reduced upon approval of the PA/GA grant.

(2) A household member is disquali-

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to be effective in the same month as the public assistance change. If the State agency does not have sufficient notice, the food stamp change shall be effective not later than the month following the month in which the public assistance change was made.

(ii) A notice of adverse action is not required when a household's food stamp benefits are reduced or terminated as a result of a mass change in the public assistance grant. However, State agencies shall send individual notices to households to inform them of the change. If a household requests a fair hearing, benefits shall be continued at the former level only if the issue being appealed is that food stamp eligibility or benefits were improperly computed.

(iii) State agencies which also administer a general assistance program shall handle mass adjustments to GA payments in the same manner as public assistance adjustments. However, where State agencies do not administer both programs, mass changes in GA payments will be handled according to procedures in paragraph (3) of this section.

(3) *Mass changes in Federal benefits.* State agencies which have the capability shall treat cost-of-living increases and other mass changes in Federal benefits, such as social security and SSI payments, as a mass change in accordance with the procedures in paragraph (2) of this section. A State agency is capable of treating these changes as a mass change if the State agency's computer system can identify by social security number individual household members receiving social security or SSI payments and the amount of these payments; and the computer system can extract the new income data from BENDEX and SDX for each recipient of social security or SSI payments. In States which do not have the capability, households are responsible for reporting changes in Federal benefits if required to do so by paragraph (a) of this section. If mass change procedures are not used, individual advance notices of adverse action shall be required according to § 273.13.

(4) *Mass changes resulting from implementation of the Food Stamp Act of 1977.* State agencies shall send an individual notice of adverse action to each household that receives a reduction or termination in benefits during its certification period due to these regulations. The notice of adverse action shall explain to the household that the change is the result of changes in Federal law and that although the household has the right to request a fair hearing, benefits will be continued pending the fair hearing only if the household believes its eligibility or benefit level was computed incorrectly under the new law, or that the new law is being misapplied or misinterpreted.

(f) *PA and GA households.* (1) Except as provided in paragraph (2) of this section, PA households have the same reporting requirements as any other food stamp household, and shall use the food stamp change report form, unless a similar form used in the PA program is approved by FNS for this purpose. PA households which report a change in circumstances to the PA worker shall be considered to have reported the change for food stamp purposes. All of the requirements pertaining to reporting changes for PA households shall be applied to GA households in project areas where GA and food stamp cases are processed jointly in accordance with the provisions of § 273.2(j)(2).

(2) (i) With FNS approval State agencies may use a joint change reporting form that can be used by households to report changes for both PA and food stamp purposes. The State may use the joint form for all food stamp households or limit its use to food stamp households receiving PA benefits. However, use of the joint forms designed for PA reporting systems described in paragraph (2)(ii) of this section shall be limited to food stamp households in which some or all members are receiving PA benefits. Whenever a joint change reporting form is used, the State agency shall insure that adjustments are made in a household's eligibility status or allotment only for those months in which the reported change is anticipated to remain in effect.

(ii) State agencies may, with prior FNS approval, combine the use of a joint PA/food stamp change reporting form with a PA reporting system that demands the regular submission of reports, such as a monthly reporting system. The State agency shall insure that the following requirements are met:

(A) Households shall not have their eligibility or allotment changed merely because they fail to submit one or more of the system's regular reports. If a household's PA benefits are terminated due to the household's failure to submit a report, the State agency shall follow the procedures in paragraph (5) of this section.

(B) Households shall be considered to have timely reported changes if they are complying with the reporting standards of the State agency's reporting system.

(C) State agencies shall not restrict households to reporting changes only through the reporting system. Households shall be allowed to report changes through the system, in person, or by telephone.

(D) State agencies shall act on all changes reported through the reporting system in accordance with the processing standards in paragraph (c) of this section. The State agency shall insure that adjustments are made in a household's eligibility or allotment only for those months in which the reported change is anticipated to remain in effect.

(3) Households shall be notified whenever their benefits are altered as a result of changes in the PA benefits or whenever the food stamp certification period is shortened to reflect changes in the household's circumstances. If the certification period is shortened, the household's certification period shall not end any earlier than the month following the month in which the State agency determines that the certification period should be shortened, allowing adequate time for the State agency to send a notice of expiration and for the household to timely reapply. If the PA benefits are terminated but the household is still eligible for food stamp benefits, members of the household shall be advised of food stamp work registration requirements, if applicable, as their WIN registration exemption no longer applies.

(4) Whenever a change results in the reduction or termination of a household's PA benefits within its food stamp certification period, and the State agency has sufficient information to determine how the change affects the household's food stamp eligibility and benefit level, the State agency shall take the following actions:

(i) If a change in household circumstances requires both a reduction or termination in the PA payment and a reduction or termination in food stamp benefits, the State agency shall issue a single notice of adverse action for both the PA and food stamp actions. If the household requests a fair hearing within the period provided by the notice of adverse action, the household's food stamp benefits shall be continued on the basis authorized immediately prior to sending the notice. If the fair hearing is requested for both programs' benefits, the hearing shall be conducted according to PA procedures and timeliness standards. However, the household must reapply for food stamp benefits if the food stamp certification period expires before the fair hearing process is completed. If the household does not appeal, the change shall be made effective in accordance with the procedures specified in paragraph (c) of this section.

(ii) If the household's food stamp benefits will be increased as a result of the reduction or termination of PA benefits, the State agency shall issue

the PA notice of adverse action, but shall not take any action to increase the household's food stamp benefits until the household decides whether it will appeal the adverse action. If the household decides to appeal and its PA benefits are continued, the household's food stamp benefits shall continue at the previous basis. If the household does not appeal, the State agency shall make the change effective in accordance with the procedures specified in paragraph (c) of this section, except that the time limits for the State agency to act on changes which increase a household's benefits shall be calculated from the date the PA notice of adverse action period expires.

(5) Whenever a change results in the termination of a household's PA benefits within its food stamp certification period, and the State agency does not have sufficient information to determine how the change affects the household's food stamp eligibility and benefit level (such as when an absent parent returns to a household, rendering the household categorically ineligible for public assistance, and the State agency does not have any information on the income of the new household member), the State agency shall not terminate the household's food stamp benefits but shall instead take the following action:

(i) Where a PA notice of adverse action has been sent, the State agency shall wait until the household's notice of adverse action period expires or until the household requests a fair hearing, whichever occurs first. If the household requests a fair hearing and its PA benefits are continued pending the appeal, the household's food stamp benefits shall be continued at the same basis.

(ii) If a PA notice of adverse action is not required, or the household decides not to request a fair hearing and continuation of its PA benefits, the State agency shall send the household a notice of expiration which informs the household that its certification period will expire at the end of the month following the month the notice of expiration is sent and that it must reapply if it wishes to continue to participate. The notice of expiration shall also explain to the household that its certification period is expiring because of changes in its circumstances which may affect its food stamp eligibility and benefit level.

§ 273.13 Notice of adverse action.

(a) *Use of notice.* Prior to any action to reduce or terminate a household's benefits within the certification period, the State agency shall, except as provided in paragraph (b) of this section, provide the household timely and adequate advance notice before the adverse action is taken.

(1) The notice of adverse action shall be considered timely if the advance notice period conforms to that period of time defined by the State agency as an adequate notice period for its public assistance caseload, provided that the period includes at least 10 days from the date the notice is mailed to the date upon which the action becomes effective. Also, if the adverse notice period ends on a weekend or holiday, and a request for a fair hearing and continuation of benefits is received the day after the weekend or holiday, the State agency shall consider the request timely received.

(2) All State agencies shall use a notice of adverse action form designed by FNS. FNS may approve deviations from that form under the same conditions deviations are granted for the application form, as specified in § 273.2(b). The notice of adverse action shall be considered adequate if it explains in easily understandable language: The proposed action; the reason for the proposed action; the household's right to request a fair hearing; the telephone number and, if possible, the name of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any overissuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. If there is an individual or organization available that provides free legal representation, the notice shall also advise the household of the availability of the service.

(b) *Exemptions from notice.* Individual notices of adverse action are not required when:

(1) The State initiates a mass change as described in § 273.12(e).

(2) The State agency determines, based on reliable information, that all members of a household have died.

(3) The State agency determines, based on reliable information, that the household has moved from the project area.

(4) The household has been receiving an increased allotment to restore lost benefits, the restoration is complete, and the household was previously notified in writing of when the increased allotment would terminate.

(5) The household's allotment varies from month to month within the certification period to take into account changes which were anticipated at the time of certification, and the household was so notified at the time of certification.

(6) The household jointly applied for PA/GA and food stamp benefits and has been receiving food stamp benefits pending the approval of the PA/GA grant and was notified at the time of certification that food stamp benefits would be reduced upon approval of the PA/GA grant.

(7) A household member is disqualified for fraud, in accordance with § 273.16, or the benefits of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by fraud disqualifications are explained in § 273.16.

(8) The household contains a member subject to a lockout or strike and signs a waiver of its right to notice of adverse action for purposes of receiving a longer certification period than is otherwise allowed for such households.

(9) The State agency has elected to assign a longer certification period to a household certified on an expedited basis and for whom verification was postponed, provided the household has received written notice that the receipt of benefits beyond the month of application is contingent on its providing the verification which was initially postponed and that the State agency may act on the verified information without further notice as provided in § 273.2(i)(4).

§ 273.14 Recertification.

(a) *Action on applications for recertification.* The State agency shall complete the application process and approve or deny timely applications for recertification prior to the end of the household's current certification period and shall provide eligible households with an opportunity to participate by the household's normal issuance cycle in the month following receipt of a timely application. The State agency shall not continue benefits to the household beyond the end of the certification period unless the household has been recertified. The joint processing requirements in § 273.2(j) for PA and GA households shall continue to apply to applications for recertification.

(b) *Notice of expiration.* (1) The State agency shall provide each household with a notice of the expiration of its certification just prior to or at the start of the last month of the household's certification period with the exception of PA and GA households whose applications were jointly processed for food stamps and PA or GA benefits in accordance with § 273.2(j). These PA and GA households need not receive notices of expiration if they are recertified for food stamps at the same time as their PA or GA redetermination, provided the redetermination occurs prior to the last month of their food stamp certification period as assigned in § 273.10(f)(2).

(2) Households that must receive a notice of expiration shall receive it not

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earlier than 15 days prior to, nor later than the first day of, the household's last month of certification. If it is impossible for the State agency to provide the notice of expiration by the first day of the last month of the household's certification period because the household is certified for 1 month or because the household was initially certified for 2 months during the month following the month of application, the notice of expiration shall be provided at the time of certification.

(3) The notice of expiration shall contain the date the current certification period ends: The date by which the household must file an application to receive uninterrupted benefits; the household's right to request an application and have the State agency accept an application as long as it is signed and contains a legible name and address; the address of the office where the application must be filed; the consequences of failure to comply with the notice of expiration; the household's right to file the application by mail or through an authorized representative; and the household's right to a fair hearing if the State agency refuses to accept as good cause the household's reasons for failure to comply with the notice of expiration. Each State agency shall use the notice of expiration designed by FNS unless FNS approves a deviation. Deviations shall be granted under the same conditions deviations from the application form are granted in § 273.2(b). The State agency is encouraged to include an application form with the notice of expiration and/or an appointment for an interview. Regardless of when the interview date is assigned, the household has timely applied if the application is received by the 15th day of the last month of certification.

(4) Households provided a notice of expiration at the time of certification, in accordance with paragraph (b)(2) of this section, shall have 15 days from the date the notice is received to file a timely application for recertification. All other households which submit identifiable applications by the 15th day of the last month of the certification period shall be considered to have made a timely application for recertification. To aid the State agency in determining if adequate time has been permitted, the State agency shall use the postmark on the notice of expiration, plus 2 days for mailing time. In cases of dispute, the household may demonstrate that the notice of expiration was not, in fact, received in a timely manner.

(c) *State action on timely reapplications.* The State agency shall act on timely reapplications to provide uninterrupted benefits to households determined eligible. The State agency shall not require households receiving notices of expiration to appear for an interview before the last month of their current certification periods. However, the State agency may schedule an interview prior to the last month of the certification period or prior to the date the application is timely filed, provided the household is not denied for failing or refusing to appear for the interview. The State agency shall schedule an interview on or after the date the application was timely filed if an interview has not been previously scheduled or the household has failed or refused to appear for any interviews scheduled prior to the date the application was timely filed. A household which fails without good cause to appear for an interview scheduled after the application is timely filed shall lose its right to uninterrupted benefits, but shall not be denied at that point unless it has refused to cooperate. State agencies shall take action on timely reapplications within the following time standards, even if, to meet these standards, the State agency must provide an opportunity to participate outside of the normal issuance system:

(1) Households that were provided a notice of expiration at the time of certification and have timely reapplied shall be notified of their eligibility or ineligibility and provided an opportunity to participate, if eligible, not later than 30 days after the date the household had an opportunity to obtain its last allotment.

(2) For those households that have filed an application by the 15th of the last month of their certification period, the State agency shall approve or deny the application and notify the household of its determination by the end of the current certification period. In addition, for households determined eligible, the State agency shall provide an opportunity to participate by the household's normal issuance cycle in the month following receipt of the timely reapplication even if the State agency must provide an opportunity to participate outside of the normal issuance system. Households which have timely reapplied, but due to State agency error are not determined eligible in sufficient time to provide for issuance in the household's normal issuance cycle for the following month, shall receive an immediate opportunity to participate upon being determined eligible, even if the State agency must provide an opportunity to participate outside of the normal issuance system.

(d) *State agency failure to act.* State agency failure to provide eligible households which filed a timely application for recertification with an opportunity to participate in accordance with the above provisions shall be considered an administrative error. These households shall be entitled to restoration of lost benefits if, as a result of such error, the household was unable to participate for the month following the expiration of the certification period.

(e) *Failure to submit a timely reapplication.* A household which fails without good cause to submit a timely application for recertification, or to appear for an interview scheduled after the household timely filed its application for recertification, shall lose its right to uninterrupted benefits. Households which refuse to cooperate in providing required information shall be denied. Any application not submitted in a timely manner shall be treated as an application for initial certification, except that for applications received within 30 days after the certification period expires, previously verified income or actual utility expenses need not be verified if the source has not changed and the amount has changed by $25 or less.

(f) *Good cause for failure to timely reapply.* If the State agency determines that the household's failure to make timely application, or to otherwise complete the certification process in a timely manner, was for good cause, the household shall be entitled to restoration of lost benefits, if as a result of its failure, the household was unable to participate in the month following the expiration of its certification period. The determination of good cause shall be made on a case by case basis, and shall include, but not be limited to, failure to receive timely notice of expiration or personal illness.

§ 273.15 Fair hearings.

(a) *Availability of hearings.* Each State agency shall provide a fair hearing to any household aggrieved by any action of the State agency which affects the participation of the household in the Program.

(b) *Hearing system.* Each State agency shall provide for either a fair hearing at the State level or for a hearing at the local level which permits the household to further appeal a local decision to a State level fair hearing. State agencies may adopt local level hearings in some project areas and maintain only State level hearings in other project areas.

(c) *Timely action on hearings.*—(1) *State level hearings.* Within 60 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, a decision is reached, and the household and local agency are notified of the decision. Decisions which result in an increase in household benefits shall be reflected in the coupon allotment within 10 days of the receipt of the hearing decision even if the State agency must

provide a supplementary ATP or otherwise provide the household with an opportunity to obtain the allotment outside of the normal issuance cycle. However, the State agency may take longer than 10 days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within 60 days from the household's request for the hearing. Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

(2) *Local level hearings.* Within 45 days of receipt of a request for a fair hearing, the State agency shall assure that the hearing is conducted, and that a decision is reached and reflected in the coupon allotment.

(3) *Appeals of local level decisions.* Within 45 days of receipt of any request for a State level review of a decision or for a new State level hearing, the State agency shall assure that the review or the new hearing is conducted, and that a decision is reached and reflected in the coupon allotment.

(4) *Household requests for postponement.* The household may request and is entitled to receive a postponement of the scheduled hearing. The postponement shall not exceed 30 days and the time limit for action on the decision may be extended for as many days as the hearing is postponed. For example, if a State level hearing is postponed by the household for 10 days, notification of the hearing decision will be required within 70 days from the date of the request for a hearing.

(d) *Agency conferences.* (1) The State agency shall offer agency conferences to households which wish to contest a denial of expedited service under the procedures in § 273.2(i). The State agency may also offer agency conferences to households adversely affected by an agency action. The State agency shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the fair hearing process. The agency conferences may be attended by the eligibility worker responsible for the agency action, and shall be attended by an eligibility supervisor and/or the agency director, and by the household and/or its representative. An agency conference may lead to an informal resolution of the dispute. However, a fair hearing must still be held unless the household makes a written withdrawal of its request for a hearing.

(2) An agency conference for households contesting a denial of expedited service shall be scheduled within 2 working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

(e) *Consolidated hearings.* State agencies may respond to a series of individual requests for hearings by conduction a single group hearing. State agencies may consolidate only cases where individual issues of fact are not disputed and where related issues of State and/or Federal law, regulation or policy are the sole issues being raised. In all group hearings, the regulations governing individual hearings must be followed. Each individual household shall be permitted to present its own case or have its case presented by a representative.

(f) *Notification of right to request hearing.* At the time of application, each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or a representative, such as a legal counsel, a relative, a friend or other spokesperson. In addition, at any time the household expresses to the State agency that it disagrees with a State agency action, it shall be reminded of the right to request a fair hearing. If there is an individual or organization available that provides free legal representation, the household shall also be informed of the availability of that service.

(g) *Time period for requesting hearing.* A household shall be allowed to request a hearing on any action by the State agency or loss of benefits which occurred in the prior 90 days. In addition, at any time within a certification period a household may request a fair hearing to dispute its current level of benefits.

(h) *Request for hearing.* A request for a hearing is defined as a clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or that an opportunity to present its case to a higher authority is desired. If it is unclear from the household's request what action it wishes to appeal, the State agency may request the household to clarify its grievance. The freedom to make a request for a hearing shall not be limited or interfered with in any way.

(i) *State agency responsibilities on hearing requests.* (1) Upon request, the State agency shall make available without charge the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. If the individual making the request speaks a language other than English and the State agency is required by § 272.4(c)(3) to provide bilingual staff or interpreters who speak the appropriate language, the State agency shall insure that the hearing procedures are verbally explained in that language. Upon request, the State agency shall also help a household with its hearing request. If a household makes an oral request for a hearing, the State agency shall complete the procedures necessary to start the hearing process. Households shall be advised of any legal services available that can provide representation at the hearing.

(2) The State agency shall expedite hearing requests from households, such as migrant farmworkers, that plan to move from the jurisdiction of the hearing official before the hearing decision would normally be reached. Hearing requests from these households shall be processed faster than others if necessary to enable them to receive a decision before they leave [redacted]rea.

The State agency shall publish clearly written uniform rules of procedure that conform to these regulations and shall make the rules available to any interested party. At a minimum, the uniform rules of procedure shall include the time limits for hearing requests as specified in paragraph (g) of this section, advance notification requirements as specified in paragraph (1) of this section, hearing timeliness standards as specified in paragraph (c) of this secton, and the rights and responsibilities of persons requesting a hearing as specified in paragraph (p) of this section.

(j) *Denial or dismissal of request for hearing.* The State agency shall not deny or dismiss a request for a hearing unless:

(1) The request is not received within the time period specified in paragraph (g) of this section;

(2) The request is withdrawn in writing by the household or its representative; or

(3) The household or its representative fails, without good cause, to appear at the scheduled hearing.

(k) *Continuation of benefits.* (1) If a household requests a fair hearing within the period provided by the notice of adverse action, as set forth in § 273.13, and its certification period has not expired, the household's participation in the program shall be continued on the basis authorized immediately prior to the notice of adverse action, unless the household specifically waives continuation of benefits. The form for requesting a fair hearing shall contain space for the household to indicate whether or not continued benefits are requested. If the form does not positively indicate that the household has waived continuation of benefits, the State agency shall assume that continuation of benefits is desired and the benefits shall be issued accordingly. If the State agency action is upheld by the hearing decision, a claim against the household shall be established for all overis-

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suances. If a hearing request is not made within the period provided by the notice of adverse action, benefits

(3) Include the State agency hearing procedures and any other information that would provide the household

requirements specified in paragraph (m) of this section.

(o) *Attendance at hearing.* The hear-

tute the exclusive record for a final decision by the hearing authority. This record shall be retained in accordance

hearing record to determine if the local decision was supported by substantial evidence. State level review

hearing shall be examined. If the number of reversed decisions is excessive, the State agency shall take cor-

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suances. If a hearing request is not made within the period provided by the notice of adverse action, benefits shall be reduced or terminated as provided in the notice. However, if the household establishes that its failure to make the request within the advance notice period was for good cause, the State agency shall reinstate the benefits to the prior basis. When benefits are reduced or terminated due to a mass change, participation on the prior basis shall be reinstated only if the issue being contested is that food stamp eligibility or benefits were improperly computed or that Federal law or regulation is being misapplied or misinterpreted by the State agency.

(2) Once continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the official hearing decision unless:

(i) The certification period expires. The household may reapply and may be determined eligible for a new certification period with a benefit amount as determined by the State agency;

(ii) The hearing official makes a preliminary determination, in writing and at the hearing, that the sole issue is one of Federal law or regulation and that the household's claim that the State agency improperly computed the benefits or misinterpreted or misapplied such law or regulation is invalid;

(iii) A change affecting the household's eligibility or basis of issuance occurs while the hearing decision is pending and the household fails to request a hearing after the subsequent notice of adverse action; or

(iv) A mass change affecting the household's eligibility br basis of issuance occurs while the hearing decision is pending.

(3) The State agency shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(l) *Notification of time and place of hearing.* The time, date, and place of the hearing shall be arranged so that the hearing is accessible to the household. At least 10 days prior to the hearing, advance written notice shall be provided to all parties involved to permit adequate preparation of the case. However, the household may request less advance notice to expedite the scheduling of the hearing. The notice shall:

(1) Advise the household or its representative of the name, address, and phone number of the person to notify in the event it is not possible for the household to attend the scheduled hearing.

(2) Specify that the State agency will dismiss the hearing request if the household or its representative fails to appear for the hearing without good cause.

(3) Include the State agency hearing procedures and any other information that would provide the household with an understanding of the proceedings and that would contribute to the effective presentation of the household's case.

(4) Explain that the household or representative may examine the case file prior to the hearing.

(m) *Hearing official.* Hearings shall be conducted by an impartial official(s) who: Does not have any personal stake or involvement in the case; was not directly involved in the initial determination of the action which is being contested; and was not the immediate supervisor of the eligibility worker who took the action. State level hearings shall be conducted by State level personnel and shall not be conducted by local level personnel.

(1) *Designation of hearing official.* The hearing official shall be:

(i) An employee of the State agency;

(ii) An individual under contract with the State agency;

(iii) An employee of another public agency designated by the State agency to conduct hearings;

(iv) A member or official of a statutory board or other legal entity designated by the State agency to conduct hearings; or

(v) An executive officer of the State agency, a panel of officials of the State agency or a person or persons expressly appointed to conduct State level hearings or to review State and/or local level hearing decisions.

(2) *Power and duties.* The hearing official shall:

(i) Administer oaths or affirmations if required by the State;

(ii) Insure that all relevant issues are considered;

(iii) Request, receive and make part of the record all evidence determined necessary to decide the issues being raised;

(iv) Regulate the conduct and course of the hearing consistent with due process to insure an orderly hearing;

(v) Order, where relevant and useful, an independent medical assessment or professional evaluation from a source mutually satisfactory to the household and the State agency;

(vi) Provide a hearing record and recommendation for final decision by the hearing authority; or, if the hearing official is the hearing authority, render a hearing decision in the name of the State agency, in accordance with paragraph (q) of this section, which will resolve the dispute.

(n) *Hearing authority.* The hearing authority shall be the person designated to render the final administrative decision in a hearing. The same person may act as both the hearing official and the hearing authority. The hearing authority shall be subject to the requirements specified in paragraph (m) of this section.

(o) *Attendance at hearing.* The hearing shall be attended by a representative of the State agency and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household so chooses. The hearing official shall have the authority to limit the number of persons in attendance at the hearing if space limitations exist.

(p) *Household rights during hearing.* The household may not be familiar with the rules of order and it may be necessary to make particular efforts to arrive at the facts of the case in a way that makes the household feel most at ease. The household or its representative must be given adequate opportunity to:

(1) Examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing. The contents of the case file including the application form and documents of verification used by the State agency to establish the household's ineligibility or eligibility and allotment shall be made available, provided that confidential information, such as the names of individuals who have disclosed information about the household without its knowledge or the nature or status of pending criminal prosecutions, is protected from release. If requested by the household or its representative, the State agency shall provide a free copy of the portions of the case file that are relevant to the hearing. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

(2) Present the case or have it presented by a legal counsel or other person.

(3) Bring witnesses.

(4) Advance arguments without undue interference.

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(q) *Hearing decisions.* (1) Decisions of the hearing authority shall comply with Federal law and regulations and shall be based on the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the hearing authority. This record shall be retained in accordance with § 272.1(f). This record shall also be available to the household or its representative at any reasonable time for copying and inspection.

(2) A decision by the hearing authority shall be binding on the State agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent Federal regulations. The decision shall become a part of the record.

(3) The household and the local agency shall each be notified in writing of: The decision; the reasons for the decision in accordance with paragraph (q)(2) of this section; the available appeal rights; and that the household's benefits will be issued or terminated as decided by the hearing authority. The notice shall also state that an appeal may result in a reversal of the decision. The following are additional notice requirements and the available appeal rights:

(i) After a State level hearing decision which upholds the State agency action, the household shall be notified of the right to pursue judicial review of the decision. In addition, in States which provide for rehearings of State level decisions, the household shall be notified of the right to pursue a rehearing.

(ii) After a local level hearing decision which upholds the State agency action, the household shall be notified of the right to request a completely new State agency level hearing, and that a reversal of the decision may result in the restoration of lost benefits to the household. In addition, the household shall be advised that if a new hearing would pose an inconvenience to the household, a State level review of the decision based on the hearing record may be requested instead of a new hearing. A clear description of the two appeal procedures must be included to enable the household to make an informed choice, if it wishes to appeal. If the household indicates that it wishes to appeal, but does not select the method, the State agency shall proceed with a new State level hearing.

(4) If the household wishes to appeal a local level hearing decision, the appeal request must be filed within 15 days of the mailing date of the hearing decision notice. Within 45 days of receipt of any request for a State level review of the decision or for a new State level hearing, the State agency shall assure that the review or the hearing is conducted, and that a decision is reached and reflected in the coupon allotment. If a new hearing will not be held, the State level hearing official will review the local level hearing record to determine if the local decision was supported by substantial evidence. State level review procedures shall provide for notifying the local agency and the household that each may file a summary of arguments which shall become a part of the record if timely received. Both parties shall be advised that failure to file a summary will not be considered in deciding the case and that the summary must be postmarked within 10 days of receipt of the notice.

(5) All State agency hearing records and decisions shall be available for public inspection and copying, subject to the disclosure safeguards provided in § 272.1(c), and provided identifying names and addresses of household members and other members of the public are kept confidential.

(r) *Implementation of local level hearing decision.* (1) In the event the local hearing decision upholds the State agency action, any benefits to the household which were continued pending the hearing shall be discontinued beginning with the next scheduled issuance, regardless of whether or not an appeal is filed. Collection action for any claims against the household for overissuances shall be postponed until the 15-day appeal request period has elapsed, or if an appeal is requested, until the State agency upholds the decision of the local hearing authority.

(2) In the event the local hearing authority decides in favor of the household, benefits to the household shall begin or be reinstated, as required by the decision, within the 45 day time limit allowed for local hearing procedures.

Any lost benefits due to the household shall be issued as soon as administratively feasible.

(s) *Implementation of final State agency decisions.* The State agency is responsible for insuring that all final hearing decisions are reflected in the household's coupon allotment within the time limits specified in paragraph (c) of this section.

(1) When the hearing authority determines that a household has been improperly denied program benefits or has been issued a lesser allotment than was due, lost benefits shall be provided to the household in accordance with § 273.17.

(2) When the hearing authority upholds the State agency's action, a claim against the household for any overissuances shall be prepared in accordance with § 273.18.

(t) *Review of appeals of local level decisions.* State agencies which adopt a local level hearing system shall establish a procedure for monitoring local level hearing decisions. The number of local level decisions overturned upon appeal to a State level hearing shall be examined. If the number of reversed decisions is excessive, the State agency shall take corrective action.

(u) *Departmental review of decisions contrary to Federal law and regulations.* [Reserved]

§ 273.16 Fraud disqualification.

(a) *Fraud disqualification penalties.* Individuals found to have committed fraud through an administrative fraud hearing shall be ineligible to participate in the program for 3 months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court. State agencies shall disqualify only the individual and not the entire household.

(b) *Definition of fraud.* For purposes of determining at an administrative fraud hearing whether or not fraud was committed, fraud shall consist of any action by an individual to knowingly, willfully and with deceitful intent:

(1) Make a false statement to the State agency, either orally or in writing, to obtain benefits to which the household is not entitled;

(2) Conceal information to obtain benefits to which the household is not entitled;

(3) Alter ATP's to obtain benefits to which the household is not entitled;

(4) Use coupons to buy expensive or conspicuous nonfood items such as alcohol or cartons of cigarettes;

(5) Use or possess improperly obtained coupons or ATPs; or

(6) Trade or sell coupons or ATP's.

(c) *Notification to applicant households.* The State agency shall inform the household in writing of the disqualification penalties for committing fraud each time it applies for program benefits. The penalties shall be written in clear, prominent, and boldface lettering on the application form.

(d) *Administrative disqualification.* Each State agency shall establish procedures for conducting fraud hearings which must conform with the procedures outlined in this section. An administrative fraud hearing shall be initiated by the State agency whenever the State agency has documented evidence to substantiate that a currently certified household member has committed one or more acts of fraud as defined in paragraph (b) of this section and the State agency believes the household member should be disqualified. Fraud hearings shall not be conducted if the amount the State agency suspects has been fraudulently obtained is less than $35 or if the value of the ineligible items that have been purchased with food stamps is under $35. The burden of proving fraud is on

the State agency. If the household member is not certified when the suspected fraud is discovered, the State

procedures available to any interested party.

(3) *Advance notice of hearing.* (i)

legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone

hearing official finds that the individual has committed fraud, the State agency shall determine the eligibility

number of fraudulent acts the hearing authority finds the individual has committed. If, however, the household

pending a State level hearing if the household is otherwise eligible. A list of the household member's rights as

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the State agency. If the household member is not certified when the suspected fraud is discovered, the State agency shall initiate the hearing when the household member becomes certified. The administrative fraud hearing may still be conducted regardless of whether other legal action is planned against the household member.

(1) *Consolidation of administrative fraud hearing with fair hearing.* The State agency may combine a fair hearing and an administrative fraud hearing into a single hearing if the factual issues arise out of the same, or related, circumstances and the household receives prior notice that the hearings will be combined. If the fraud hearing and fair hearing are combined, the State agency shall follow the time liness standards for conducting fraud hearings.

(2) *Fraud hearing procedures.* (i) The State agency may provide administrative fraud hearings only at the State level or it may provide a local hearing in some or all of its project areas with a right to appeal to a State level hearing. The one- or two-tiered approach adopted for fraud hearings may be the same as that adopted for fair hearings, although State agencies are not required to use the same approach. State agencies have the option of using the same hearing officials for fraud hearings and fair hearings or designating hearing officials to conduct only fraud hearings.

(ii) The provisions of § 273.15 (m), (n), (o), (p), and (q)(1) are also applicable for fraud hearings.

(iii) At the fraud hearing, the hearing official shall advise the household member or representative that they may refuse to answer questions during the hearing.

(iv) Within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. If the fraud hearing is conducted at the local level and the household decides to appeal its case to a State level hearing, the State agency shall conduct the State level hearing, arrive at a decision and initiate administrative action which will make the decision effective within 60 days of the date the household member appealed its case. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed.

(v) The State agency shall publish clearly written rules of procedure for fraud hearings, and shall make these procedures available to any interested party.

(3) *Advance notice of hearing.* (i) The State agency shall provide written notice to the household member suspected of fraud at least 30 days in advance of the date a fraud hearing initiated by the State agency has been scheduled. The notice shall be mailed certified Mail—Return Receipt Requested, and shall contain, at a minimum:

(A) The date, time, and place of the hearing;

(B) The charge(s) against the household member;

(C) A summary of the evidence, and how and where the evidence can be examined;

(D) A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;

(E) A warning that a determination of fraud will result in a 3-month disqualification;

(F) A listing of the household member's rights as contained in § 273.15(p);

(G) A statement that the hearing does not preclude the State or Federal Government from prosecuting the household member for fraud in a civil or criminal court action, or from collecting the overissuance;

(H) A statement that the individual can call the food stamp office to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone number of a lawyer referral service of the local bar association.

(ii) If the household member suspected of fraud is appealing a local level hearing to a State level hearing, the State agency shall provide a written notice to that household member at least 10 days in advance of the scheduled hearing. The 10-day advance notice must contain, at a minimum:

(A) The date, time, and place of the hearing;

(B) A statement that the State agency will dismiss the hearing request and the household member will be disqualified in accordance with the local hearing decision if the household or its representative fails to appear for the hearing without good cause;

(C) A statement that the hearing does not preclude civil or criminal prosecution, or from collecting the overissuance;

(D) A listing of the household member's rights as contained in § 273.15(p); and

(E) A statement that the individual can call the food stamp office to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the food stamp office shall provide, when called, the phone number of a lawyer referral service of the local bar association.

(iii) A copy of the State agency's published hearing procedures shall be attached to the 30-day and 10-day advance notices;

(iv) Each State agency shall use the advance notice designed by FNS unless FNS approves a deviation. Deviations shall be granted under the same conditions that deviations from the application form are granted in § 273.2(b).

(4) *Scheduling of hearing.* The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of fraud.

(i) If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member represented. Even though the household member is not represented, the hearing official is required to carefully consider the evidence and determine if fraud was committed based on clear and convincing evidence. If the house hold member is found to have committed fraud but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from receipt of the notice of the fraud decision to present reasons indicating a good casue for failure to appear. A hearing official must enter the good cause decision into the record.

(ii) If a local fraud hearing decision is appealed to a higher hearing level but the household member or its representative fails to appear for the hearing, the State agency shall dismiss the hearing request and notify the household member that it will be disqualified for 3 months in accordance with the local hearing decision unless the household member or its representative provides good cause for not appearing at the hearing within 10 days of receipt of the notice. If the hearing official determines that the household member or representative had good cause for not appearing, the State agency shall reschedule the hearing.

(5) *Participation while awaiting a hearing.* A pending fraud hearing shall not affect the individual's or the household's right to be certified and participate in the program. Since the State agency cannot disqualify a household member for fraud until the

hearing official finds that the individual has committed fraud, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the action for which the household member is suspected of fraud does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its notice of expiration, fails to reapply. The State agency shall also reduce or terminate the household's benefits if the State agency has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of fraud and the resulting fraud hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the State agency may have facts which substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report involved a fraudulent act.

(6) *Criteria for determining fraud.* The hearing authority shall base the determination of fraud on clear and convincing evidence which demonstrates that the household member knowingly, willfully and with deceitful intent committed fraud, as defined in paragraph (b) of this section.

(7) *Decision format.* The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent FNS regulation, and respond to reasoned arguments made by the household member or representative.

(8) *Appeal rights of the household member.* If the hearing authority rules that the household member has committed fraud, the household member may appeal the decision, as follows:

(i) *Appeal after local hearing.* (A) A household member found to have committed fraud by a local hearing authority has 15 days after the member receives the local hearing decision notice to appeal the decision to a State level hearing. State agencies shall mail the notice by Certified Mail—Return Receipt Requested. If a State level hearing is not requested within the 15-day period, the household member shall be disqualified for 3 months beginning with the first month after the 15-day period has expired. The 3-month period shall apply in all cases without regard to the amount of food stamps fraudulently obtained or the number of fraudulent acts the hearing authority finds the individual has committed. If, however, the household member requests a State level hearing within the 15-day period, the household member shall not be disqualified unless the State level hearing also finds the household member has committed fraud.

(B) If a State level hearing is requested, a new hearing shall be conducted in every case and a decision rendered within 60 days of the request. In a new hearing the prior decision shall not be taken into consideration.

(ii) *Appeal after State level hearing.* After a household member has been found to have committed fraud by a State level hearing official, the household member shall be disqualified for 3 months beginning with the first month was follows the date the household member has received the State level hearing notice. The disqualification period shall be 3 months, without regard to the amount of food stamps fraudulently obtained or the number of fraudulent acts the hearing finds the individual has committed. No further administrative appeal procedure exists after an adverse State level hearing. The determination of fraud made by a fraud hearing official cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to stay or other injunctive remedy.

(9) *Notification of hearing decision.* (i) If the hearing finds that the household member did not commit fraud, the State agency shall provide a written notice which informs the household member of the decision.

(ii) If the administrative fraud hearing finds that the household member committed fraud, the State agency shall mail a written notice to the household member prior to disqualification. The notice shall inform the household member of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in § 273.11. For State level decisions, the notice shall inform the household member of the date disqualification will take effect. For local level decisions, the notice shall inform the household member of the deadline for requesting a State level hearing, the date disqualification will take effect unless a State level hearing is requested and that benefits will be continued pending a State level hearing if the household is otherwise eligible. A list of the household member's rights as contained in § 273.15(p) and the State level hearing procedures shall be enclosed with the local fraud hearing decision notice.

(iii) Each State agency shall use the forms designed by FNS for notifying individuals that they have been found to have committed fraud at an administrative fraud hearing unless FNS approves a deviation. Deviations shall be granted under the same conditions deviations from the application form are granted in § 273.2(b).

(e) *Court imposed disqualifications.* (1) A court of appropriate jurisdiction, with either the State, a political subdivision of the State, or the United States as prosecutor or plaintiff, may order an individual disqualified from participation in the program for not less than 6 months and not more than 24 months if the court finds that individual guilty of civil or criminal fraud. Court ordered disqualifications may be imposed separate and apart from any action taken by the State agency to disqualify the individual through an administrative fraud hearing.

(2) State agencies are encouraged to refer for prosecution under State or local fraud statutes those individuals suspected of committing fraud, particularly if large amounts of food stamps are suspected of being fraudulently obtained or the individual is suspected of committing more than one fraudulent act. The State agency shall confer with its legal representative to determine the types of cases which will be accepted for possible prosecution. State agencies shall also encourge State and local prosecutors to recommend to the courts that a disqualification penalty as provided in section 6(b) of the Food Stamp Act be imposed in addition to any other civil or criminal fraud penalties.

(3) State agencies shall disqualify an individual found guilty of fraud by the courts only if the court orders disqualification and only for the length of time specified by the court. If disqualification is ordered but a date for initiating the disqualification period is not specified, the State agency shall initiate the disqualification period with the first month following the date the disqualification was ordered. A court ordered disqualification may run concurrently with the 3-month period of disqualification imposed as a result of an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

(f) *Reversed fraud disqualifications.* In cases where the determination of fraud is reversed by a court of appro-

priate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible.

request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost

In cases where there is no information in the household's case file to document that the household was actually

stallments if, for example, the household fears the excess coupons may be stolen, or that the amount to be re-

(5) The State agency failed to take prompt action on a change reported by the household.

household, the household failed to report a change in its household circumstances within 10 days of the date

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priate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible. The State agency shall restore any benefits that were lost as a result of the disqualification in accordance with the procedures specified in § 273.17(e).

§ 273.17 Restoration of lost benefits.

(a) *Entitlement.* (1) The State agency shall restore to the household benefits which were lost whenever the loss was caused by an error by the State agency, the regulations specifically state that the household is entitled to restoration of lost benefits, or a fraud disqualification was subsequently reversed as specified in paragraph (e) of this section. With the exception of benefits which are restored as a result of a reversal of a fraud disqualification penalty, benefits shall not be restored if lost more than 12 months prior to the most recent of the following:

(i) The month the State agency was notified by the household or by another person or agency in writing or orally of the possible loss to that specific household;

(ii) The month the State agency discovers in the normal course of business that a loss to a specific household has occurred; or

(iii) The date the household requested a fair hearing to contest the adverse action which resulted in the loss.

(2) Benefits shall be restored even if the household is currently ineligible.

(b) *Errors discovered by the State agency.* If the State agency determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, the State agency shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored if the benefits were lost more than 12 months prior to the month the loss was discovered by the State agency in the normal course of business, or were lost more than 12 months prior to the month the State agency was notified in writing or orally of a possible loss to a specific household. The State agency shall notify the household of its entitlement, the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

(c) *Disputed benefits.* (1) If the State agency determines that a household is entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the State agency or any other action taken by the State agency to restore lost benefits, the household may request a fair hearing within 90 days of the date the household is notified of its entitlement to restoration of lost benefits. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the State agency pending the results of the fair hearing. If the fair hearing decision is favorable to the household, the State agency shall restore the lost benefits in accordance with that decision.

(2) If a household believes it is entitled to restoration of lost benefits but the State agency, after reviewing the case file, does not agree, the household has 90 days from the date of the State agency determination to request a fair hearing. The State agency shall restore lost benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than 12 months prior to the date the State agency was initially informed of the household's possible entitlement to lost benefits shall not be restored.

(d) *Computing the amount to be restored.* After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 12-month time limits described in paragraphs (b) and (c) of this section, the State agency shall calculate the amount to be restored as follows:

(1) If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated. If the loss was caused by an incorrect delay, denial, or termination of benefits, the months affected by the loss shall be calculated as follows:

(i) If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.

(ii) If an eligible household's application was delayed, the months for which benefits may be lost shall be calculated in accordance with procedures in § 273.2(h).

(iii) If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.

(iv) After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.

(2) For each month affected by the loss, the State agency shall determine if the household was actually eligible. In cases where there is no information in the household's case file to document that the household was actually eligible, the State agency shall advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household shall be considered ineligible.

(3) For the months the household was eligible, the State agency shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.

(4) If a claim against a household is unpaid or held in suspense as provided in § 273.18, the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household. At the point in time when the household is certified and receives an initial allotment, the initial allotment shall not be reduced to offset claims, even if the initial allotment is paid retroactively.

(e) *Lost benefits to individuals disqualified for fraud.* Individuals disqualified for fraud are entitled to restoration of any benefits lost during the months they were disqualified only if the decision which resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the 3-month period it was disqualified based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the 3-month disqualification in a separate court action. For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Benefits shall be restored regardless of the length of time that has elapsed since the household member was disqualified.

(f) *Method of restoration.* Regardless of whether a household is currently eligible or ineligible, the State agency shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive. The State agency shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be stolen, or that the amount to be restored is more than it can use in a reasonable period of time.

(g) *Changes in household composition.* Whenever lost benefits are due a household and the household's membership has changed, the State agency shall restore the lost benefits to the household containing a majority of the individuals who were household members at the time the loss occurred. If the State agency cannot locate or determine the household which contains a majority of household members the State agency shall restore the lost benefits to the household containing the head of the household at the time the loss occurred.

(h) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for documenting a household's entitlement to restoration of lost benefits and for recording the balance of lost benefits that must be restored to the household. Each State agency shall at a minimum, document how the amount to be restored was calculated and the reason lost benefits must be restored. The accounting system shall be designed to readily identify those situations where a claim against a household can be used to offset the amount to be restored.

(i) *Losses of benefits that occurred prior to elimination of the purchase requirement.* Households assigned a purchase requirement that was too high or assigned an incorrect household size shall be entitled to restoration of lost benefits if the household received fewer bonus stamps as a result. The amount to be restored is equal to the difference between the bonus stamps the household received and the correct amount the household should have received. State agencies shall restore the lost benefits in accordance with the procedures outlined in this section.

§ 273.18 Claims against households.

(a) *Establishing claims against households.* Each State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive. Instances which may result in a claim include, but are not limited to, the following:

(1) The household failed to provide the State agency with correct or complete information.

(2) The household failed to report to the State agency changes in its household circumstances.

(3) The household altered its ATP.

(4) The household transacted both the original and its replacement ATP.

(5) The State agency failed to take prompt action on a change reported by the household.

(6) The State agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.

(7) The State agency incorrectly issued duplicate ATP's to a household which were subsequently transacted.

(8) The household was found to be ineligible or eligible for fewer benefits than it received pending a fair hearing decision.

(b) *Nonfraud claims.* Nonfraud claims are those claims established against households for overissuances which were not caused by fraud, such as, but not limited to, overissuances caused by administrative error on the part of the State agency or a misunderstanding or inadvertent error on the part of the household.

(1) *Criteria for establishing a nonfraud claim.* If less than 12 months has elapsed between the month a nonfraud overissuance occurred and the month the State agency discovered a specific case involving an overissuance, the State agency shall take action to establish a claim against the household that received the overissuance. A nonfraud claim shall not be established if an overissuance occurred as a direct result of the following errors:

(i) A State agency failed to insure that a household fulfilled the following procedural requirements:

(A) Signed the application form;

(B) Completed a current work registration form;

(C) Was certified in the correct project area;

(ii) A household continued to receive food stamp allotments after its certification period has expired without benefit of a reapplication determination, regardless of a subsequent determination of eligibility or ineligibility.

(iii) A household transacted an expired ATP, unless the household altered its ATP; or

(iv) A household did not receive food stamp benefits at a reduced level because its public assistance grant changed and the State agency failed to act.

(2) *Calculating the amount of the nonfraud claim.* (i) After excluding those months that are more than 12 months prior to the date the overissuance was discovered, the State agency shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance was in effect. In cases involving reported changes, the State agency shall determine the month the overissuance initially occurred as follows:

(A) If, due to a misunderstanding or inadvertent error on the part of the household, the household failed to report a change in its household circumstances within 10 days of the date the change became known to the household, the first month affected by the household's failure to report shall be the month after the month in which the change occurred.

(B) If the household timely reported a change, but the State agency did not timely act on the change, the first month affected by the State's failure to act shall be the first month the State agency should have made the change effective. Therefore, if a notice of adverse action was required but was not sent, the State agency shall assume that the maximum advance notice period as provided in § 273.13(a)(1) would have expired without the household requesting a fair hearing.

(ii) If the household received a larger allotment than it was entitled to receive, the State agency shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

(iii) After calculating the amount of the nonfraud claim, the State agency shall offset the amount of the claim against any amounts which have not yet been restored to the household in accordance with § 273.17. The State agency shall then initiate collection action for the remaining balance, if any.

(3) *Collecting nonfraud claims.* (i) State agencies shall initiate collection action on all nonfraud claims unless the claim is collected through offset or one of the following conditions apply:

(A) The total amount of the nonfraud claim is less than $35.

(B) The State agency has documentation which shows that the household cannot be located.

(ii) State agencies shall initiate collection action by sending the household a written demand letter, designed by FNS, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the State agency's determination. In addition, the demand letter for nonfraud claims must include a statement which specifies that, if a household falls behind in making payments or is unable to pay the claim, the household's eligibility or level of benefits will not be affected. FNS may grant deviations from the designed letter under conditions specified in § 273.2(b). If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined

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in paragraphs (e) and (f) of this section. If the household does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals such as 30 days, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified in paragraphs (b)(4) of this section, have been met.

(4) *Criteria for suspending collection of a nonfraud claim.* A claim shall be suspended if no collection action was initiated because of conditions specified in paragraph (3)(i) of this section. If collection action was initiated, and at least one demand letter has been sent, further collection action shall be suspended when:

(i) The household is financially unable to pay the claim;

(ii) There is little likelihood that the household will pay the claim;

(iii) The household cannot be located; or

(iv) The cost of further collection action is likely to exceed the amount that can be recovered.

(5) *Terminating collection action of a nonfraud claim.* A claim shall be determined uncollectible after it is held in suspense for 3 years. **A State agency may use an uncollectible claim to offset benefits in accordance with § 273.17.**

(c) *Fraud claim.* A claim shall be handled as a fraud claim only if an administrative fraud hearing or a court of appropriate jurisdiction has found a household member committed fraud as defined in § 273.16(b). Prior to the determination of fraud, the claim against the household shall be handled as a nonfraud claim.

(1) *Establishing a fraud claim.* For each month that a household member fraudulently participated, the State agency shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred, regardless of the length of time that elapsed until the determination of fraud was made. If the household member is determined to have committed fraud by knowingly, willfully and with deceitful intent failing to report a change in its households circumstances, the first month benefits were overissued shall be the month after the month in which the change occurred. Once the amount of the fraud claim is established, the State agency shall offset the claim against any amount of lost benefits that have not yet been restored to the household in accordance with § 273.17.

(2) *Collecting fraud claims.* (i) if a household member is found to have committed fraud at either an administrative fraud hearing or a court of appropriate jurisdiction, the State agency shall initiate collection action unless the household has repaid the overissuance as a result of nonfraud demand letters, the State agency has documentation which shows the household cannot be located or the legal representatives prosecuting a member of the household for fraud advise in writing that collection action will prejudice the case. In cases where a household member was found guilty of fraud by a court, the State agency shall request the matter of restitution be brought before the court.

(ii) Collection action shall be taken by sending the household a written demand letter, designed by FNS, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the State agency's determination of the amount of the claim. FNS may grant deviations from the designed demand letter under conditions specified in § 273.2(b). A written demand letter for a fraud claim shall be sent even if the household has previously received a nonfraud demand letter, because the time period covered by the claim is different for fraud and nonfraud claims. In addition to the written demand letter, a personal contact shall be made, if possible.

(iii) If the household agrees to pay the claim after the first demand letter, the State agency shall follow the procedures for collecting and submitting payments as prescribed in paragraphs (e) and (f) of this section. If the household does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals, such as 30 days, until the household agrees to pay the claim, or the criteria for suspending or terminating collection action as specified in paragraph (c)(3) of this section have been met.

(3) *Criteria for suspending collection action.* The State agency shall suspend collection action at any time it has documentation that the household cannot be located. If the State agency has sent at least one demand letter for claims under $100, at least two demand letters for fraud claims between $100 and $400, and at least three demand letters for fraud claims of more than $400, further collection shall be suspended when:

(i) The household is financially unable to pay the claim;

(ii) There is little likelihood that the State agency can collect or enforce collection of any significant sum from the household; or

(iii) The cost of further collection action is likely to exceed the amount that can be recovered.

(4) *Criteria for terminating collection action.* A claim shall be determined uncollectible after it is held in suspense for 3 years. A State agency may use an uncollectible claim to offset benefits in accordance with § 273.17.

(d) *Changes in household composition.* If a household's membership has changed since the overissuance occurred, the State agency shall initiate collection action against the head of the household. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred.

(e) *Methods of collecting payments.* (1) State agencies shall collect nonfraud and fraud claims in one of the following ways:

(i) *Lump sum.* State agencies shall collect payments from households in one lump sum if the household is financially able to pay the claim in one lump sum.

(ii) *Installments.* **If the household has insufficient liquid resources or is otherwise financially unable to pay the claim in one lump sum, payments** shall be accepted by the State agency in regular installments. If the full amount of the claim cannot be liquidated in 3 years without creating a financial hardship on the household, the State agency shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in 3 years. A State agency may use the full amount of the claim to offset benefits in accordance with § 273.17.

(2) State agencies may initiate civil court action to obtain payment of the claim. However, the State agency shall not deny, terminate or reduce a household's benefits for failure to repay a claim, to agree to a repayment schedule, or to make the agreed upon payments. Nor shall the State agency threaten the household with a denial, termination or reduction in benefits or otherwise infer that it has the power to do so.

(f) *Submission of payments.* (1) No later than 30 days after the end of each calendar month, each State agency shall submit to FNS a single check, draft or warrant which consolidates on a statewide basis all of the payments collected at the State and local level during the previous calendar month. State agencies shall not allow more than 60 days to elapse between the date a household makes a payment on a claim and the date the payment is submitted to FNS. Each State agency shall also submit a monthly report to FNS which details the State's activities relating to claims against households. This report is also due no later than 30 days after the end of each calendar month and shall be submitted even if the State agency has not collected any payments.

(2) In cases where FNS has billed a State agency for negligence, any amounts collected from households in payment of overissuances which were caused by the State's negligence will be credited by FNS. When submitting these payments, the State agency shall include a note in the remarks section of the monthly reporting form specified in paragraph (f)(1) of this section which shows the amount that should be credited against the State's bill.

(g) *Claims discharged through bankruptcy.* State agencies shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing food stamp claims. State agencies shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distributions of assets, to the same extent as FNS. Acting as FNS, State agencies shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in paragraph (f) of this section.

(h) *Accounting procedures.* Each State agency shall be responsible for maintaining an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

(1) Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.

(2) Identify those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household.

(3) Identify those households that have failed to make installment payment on their claims.

(4) Document how much money was collected in payment of a claim and how much was submitted to FNS.

§ 273.19 Sixty-day continuation of certification.

(a) *Eligibility criteria.* The State agency shall provide for continuation of the certification of any household for 2 months after the month the household moves from one project area to another within the State or between States if the household:

(1) Membership does not change;

(2) Continues to meet the definition of a household as provided in § 273.1(a);

(3) Was not certified under disaster eligibility standards as provided in part 280 or was not certified under expedited procedures in § 273.2(i) unless the verification that was initially postponed was subsequently completed; and

(4) Does not contain an SSI member when moving into the cash-out States of Massachusetts or Wisconsin.

(b) *Former project area.* The project area from which the household is moving shall prepare the form FNS-286, certification of transfer of household benefits. If the household has received its coupon allotment for the month in which the move takes place, the project area shall authorize the extension of certification for the 2 months subsequent to the move. The form FNS-286 is given to the household for delivery to the new project area office.

(c) *New project area.* (1) The project area to which the household moves shall accept the form FNS-286 and issue the allotment authorized by the form to households which report compliance with the criteria in paragraph (a) (1), (2), and (4) of this section. At the time the household provides the form to the new project area, the household shall report any changes in circumstances. The new project area will act on changes according to § 273.12, except in no event would the changes reported affect the initial issuance under the form FNS-286. However, the second issuance in the new project area, if any, shall reflect changes reported.

(2) If the household has participated in the former project area in the month of the move, and presents the form FNS-286 to the new project area that same month, it shall be accepted and acted on in time for the next month's issuance. The first issuance shall be based on the income reflected on the form FNS-286.

(3) If the household has not participated in the former project area in the month of the move and presents the transfer form to the new project area that same month, the household will be provided an opportunity to participate in that month. The first issuance shall be based on the income reflected on the transfer form.

(4) If the household anticipates zero net monthly income upon its arrival in the new project area, an exception shall be made to the use of the transfer form and recorded income figures. The household may reapply and receive expedited service.

(d) *Subsequent actions.* (1) Households participating on the basis of a form FNS-286 shall be entitled to all procedural rights of any other food stamp household, including notice of adverse action on reported changes, and notice of expiration prior to the expiration of the second month of issuance authorized by the form FNS-286.

(2) Households may elect to be certified in the new project area at any time during their participation under the form FNS-286.

(3) Households which move from the new project area during the 2 months covered by the form FNS-286 shall be issued:

(i) A form FNS-286 for the balance of the period covered by original form, and which reflects the changes reported at the time the form was accepted in the new project area;

(ii) A new form FNS-286 for an additional 2 months if the household was recertified in the new project area and otherwise qualifies for a transfer of certification as outlined in paragraph (a) of this section.

(e) *Continuing the certification of households moving within a State.* State agencies shall provide for the continuous service to certified households that meet the criteria in paragraph (a) of this section and that move from one political subdivision to another in States where the State has been designated a single project area. The State agency may use the form FNS-286 or may develop its own system for transferring records. The State agency may, with prior approval of FNS, substitute its own system of transferring records for households moving from one project area to another within the State. If a form FNS-286, is not used, households moving from one political subdivision to another within a project area or moving from one project area to another within the State shall have the same continuation rights as households entitled to a form FNS-286, as defined by this section.

(f) *Control of forms.* The State agency shall provide for the secure storage of form FNS-286, and shall maintain controls to prevent or detect unauthorized issuance, acquisition, acceptance, use, transfer, or alteration of this form.

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4. Parts 274 and 275 remain in force and effect but are redesignated as parts 280 and 277, respectively. The new part 274 reads as follows:

PART 274—ISSUANCE AND USE OF FOOD COUPONS

Sec.

274.1 State agency issuance responsibilities.

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Sec.
274.2 Issuance systems.
274.3 Issuance of coupons through the mail.
274.4 Distribution of coupons.
274.5 Responsibilities of coupon issuers and bulk storage points.
274.6 Reconciliation.
274.7 Issuance record retention and security.
274.8 State agency reporting and destruction of unusable coupons.
274.9 Close-out of a coupon issuer.
274.10 Use or redemption of coupons by eligible households.
274.11 Return of coupons.

AUTHORITY: 91 Stat. 958 (7 U.S.C. 2011-2027).

§ 274.1 State agency issuance responsibilities.

(a) *Basic issuance requirements.* Each State agency is responsible for the timely and accurate issuance of coupons to eligible households in accordance with these regulations. The State level agency shall establish an issuance and accountability system which will insure that (1) only certified households receive benefits; (2) coupons are accepted, stored, and protected after delivery to receiving points within the State; (3) program benefits are timely distributed in the correct amounts; and (4) coupon issuance and reconciliation activities are properly conducted and accurately reported to FNS.

(b) *Contracting or delegating issuance responsibilities.* The State agency may assign to other parties such as banks, savings and loan associations, the Postal Service, community action agencies, and migrant service agencies the responsibility for issuance and storage of coupons.

(1) Any assignment of issuance functions shall clearly delineate the responsibilities of both parties. The State agency remains responsible, regardless of any agreements to the contrary, for insuring that assigned duties are carried out in accordance with these regulations. In addition, the State agency is strictly liable to FNS for all losses of coupons, even if those losses are the result of the performance of issuance, security, or accountability duties by another party.

(2) All issuance contracts shall follow procurement standards set forth in part 277. The State agency shall contract only with responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement. In making its selection, the State agency shall consider contractor integrity, the record of past performance, financial, and technical resources, and the availability of other necessary resources. State agencies may permit subcontracting of assigned issuance responsibilities. However, the primary contractor shall remain responsible and liable to the State agency for insuring that the terms of the contract are carried out.

(3) The State agency shall not assign the issuance of coupons to any retail grocery store authorized to redeem coupons from participant households. This restriction may be waived if the State agency can demonstrate, to the satisfaction of FNS, that such an arrangement would be in the best interests of the program.

(4) FNS does not encourage assignment of issuance activities to any entity in the same interrelated corporate structure with an authorized retail food store. However, such entities may be coupon issuers if they are fiscally autonomous, physically separate and employ a different trade name from the retail food store. FNS does not encourage the assignment of issuance activities to firms located within the confines of retail food stores. However, the State agency may contract with a bank or credit union located in such facilities provided that it is financially independent of the retail grocer and is chartered under Federal or State law.

(5) The State agency may contract with the U.S. Postal Service for the issuance of food coupons. The Department and the Postal Service have signed an agreement which governs coupon issuance by the Postal Service. A State agency's contract with the Postal Service cannot exempt the State agency from the requirements that it comply with these regulations. However, State agencies may negotiate contracts for issuance with the Postal Service on all terms and conditions as long as such provisions do not conflict with these regulations.

(c) *State monitoring of coupon issuers.* (1) The State agency's accountability system shall include procedures for monitoring coupon issuers to assure that the day-to-day operations of all coupon issuers comply with these regulations, to identify and correct deficiencies and to report violations of the Act or regulations to FNS.

(2) The State agency shall conduct an onsite review of each coupon issuer and bulk storage point at least once every 3 years. All offices or units of a coupon issuer are subject to this review requirement. This review requirement may be fulfilled in part or in total by the performance reporting review system, part 275. The State agency shall base each review on the specific activities performed by each coupon issuer or bulk storage point. A physical inventory of coupons shall be taken at each location and that count compared with perpetual inventory records and the monthly reports of the coupon issuer or bulk storage point. This review may be conducted at the offices of subissuers or at each issuance office when a coupon issuer or bulk storage point operates more than one office. The State agency may delegate this review responsibility to another unit of the State government or contract with an outside firm with expertise in auditing and accounting. State agencies may use the results of reviews of coupon issuers by independent audit or accounting firms so long as the food coupon issuance operations of the coupon issuer are included in the review. Except in unusual circumstances, the Postal Inspection Service will conduct onsite reviews of post office issuance operations.

§ 274.2 Issuance systems.

The State agency shall arrange for the issuance of coupons to eligible households.

(a) *System classifications.* State agencies may issue food coupons through: (1) A household issuance record (HIR) card system in which the authorizing document is maintained at the issuance office, (2) an authorization to participate (ATP) system in which an authorizing document is distributed on a monthly basis to the household and surrendered to the coupon issuer when coupons are obtained, or (3) a direct coupon mailout system. In addition, the State agency may develop an automated issuance system, such as one using online issuance terminals, which cannot be readily categorized as either an HIR card or ATP system. Such alternative or modified systems shall meet the accountability requirements established in these regulations.

(b) *Advance planning documentation.* State agencies must comply with the procurement requirements of part 277 for the acquisition, design, development, or installation of automated data processing (ADP) equipment. With certain exceptions detailed in part 277, State agencies must receive prior approval for the design and acquisition of ADP systems through submission of advance planning documents (APD's).

(c) *Certification documentation.* The State agency shall use either a notice of change or an HIR card to document and transmit information on household eligibility or participation from the certification unit to the data management unit of the State agency.

(d) *HIR master file.* (1) The State agency shall establish an HIR master file which is a composite of the issuance records of all certified food stamp households. The State agency shall establish the HIR master file in a manner compatible with the system used for maintaining case records and divide the HIR master file into active and inactive HIR's. The HIR master file shall contain all the information

needed to identify certified households, issue ATP's, record the participation activity for each household and supply all information necessary to fulfill the reporting requirements of FNS.

(2) The HIR master file shall be kept current and accurate. HIR's will be updated, or terminated based upon notices of change and controls for expired certification periods.

(3) Before establishing an HIR for a participant household, the State agency shall check the HIR master file to insure that the household is not currently participating or disqualified. If the ATP is issued under the expedited service requirements of § 273.2(i), the State agency shall complete as much of the HIR master file check as possible prior to issuance of the ATP. Any uncompleted checks shall be completed after issuance of the ATP and appropriate corrective action shall be taken.

(e) *ATP issuance.* (1) ATP's issued by the State agency shall contain at a minimum: (i) Serial number; (ii) case name, address, and food stamp case number;

(iii) coupon allotment household; (iv) expiration date; (v) project area for which that ATP is issued; and (vi) space for the signature of the household member or the authorized representative.

(2) The State agency may stagger the issuance of ATP's to certified households through the 15th day of the month provided that each household's cycle shall be established so that it receives its ATP at the same time every month and it has an opportunity to obtain its coupons prior to the end of the month.

(3) The State agency shall clearly mark each ATP with an expiration date. The ATP shall be valid for the entire month of issuance unless an ATP has been issued after the 25th day of the month. For ATP's issued after the 25th of the month, the State agency must either:

(i) Issue an ATP which shall not expire for a period of not less than 20 calendar days or until the end of the following month; or

(ii) Issue an ATP valid only until the end of the month, but inform the household that a valid replacement ATP will be provided if the household is unable to transact the ATP before its expiration date.

(4) The State agency shall void all ATP's mutilated or otherwise rejected during the preparation process. The voided ATP's shall either be filed for audit purposes or destroyed, provided destruction is witnessed by at least two persons and the State agency maintains a list of all destroyed ATP's.

(5) The State agency shall mail the ATP to the household in a first class, nonforwarding envelope, except when the ATP is hand delivered under expedited service as specified in paragraph (g) of this section. The State agency may also use certified mail for ATP delivery, and may use alternative means for ATP delivery for households which report two consecutive losses of ATP's through the mail.

(6) The State agency shall exercise the following security and controls for ATP's returned as undeliverable by the Postal Service:

(i) Record the ATP serial number, household name, and case number in a control log.

(ii) Keep the returned ATP's in secure storage with access limited to authorized personnel while attempts are made to locate the household. State agencies may void ATP's returned as undeliverable so long as households which report nondelivery can be provided immediate replacement ATP's.

(7) The State agency shall develop a method by which a household may designate an emergency authorized representative to obtain the household's allotment with a particular ATP. At a minimum, the method developed by the State agency shall require a space for the signature of the emergency authorized representative, and a space for a household member already named on the ID card to sign designating and attesting to the signature of the emergency authorized representative. Spaces for the designation of an emergency authorized representative may be on the ATP or the ID card (front or back) or on a separate form; however, the household shall not be required to travel to a food stamp office to execute the designation. Control comparable to that of a normal issuance transaction is achieved by the comparison of the signature of the household member named on the ID card with that designating the emergency authorized representative, and the signature on the ATP at the issuance point with the emergency authorized representative's signature attested to by the household member. A separate written designation is needed each time an emergency authorized representative is used.

(8) Prior to coupon issuance, the cashier shall ask the person requesting food stamps for identification as the certified participant, authorized representative or emergency representative. This person shall present to the cashier both the food stamp ID card and ATP. The cashier shall examine the ATP for authenticity, alteration, and date of expiration. If the ATP is valid the person requesting food stamps shall sign the ATP in the presence of the cashier. The cashier shall compare the signature on the ATP with the signature on the ID card. In cases where an emergency representative obtains the coupons, the signature, and identification check shall be governed by local agency policy as provided in paragraph (e)(7) of this section. If the person requesting coupons has already signed the ATP, the person shall be required to sign a separate piece of paper for signature comparison. If the signatures agree, coupons shall be issued in accordance with paragraph (h) of this section.

(9) The State agency shall clearly differentiate between initial, supplemental, and replacement ATP issuances in its accountability system.

(10) The coupon issuer shall reconcile its issuance on a daily basis.

(11) The State agency shall provide for the issuance of coupon replacements due to improper manufacture or mutilation.

(i) The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.

(ii) If the State agency can determine the value of the improperly manufactured or mutilated coupons, the State agency shall replace the unusable coupons on a dollar-for-dollar exchange. After exchange, the State agency shall destroy the coupons in accordance with the procedures contained in § 274.8(b).

(iii) If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "canceled" across the face of the coupons and forwarding the coupons to FNS for a determination of the value by the U.S. Bureau of Engraving and Printing.

(f) *HIR card issuance system.* In an HIR card issuance system, the State agency shall divide the issuance responsibilities among a receptionist, cashier, and supervisor.

(1) The receptionist shall maintain a separate daily tally sheet in duplicate for each cashier in the issuance unit to record the individual daily issuance transactions.

(2) The issuance supervisor shall initiate and distribute daily, or as appropriate, a cashier's daily report for each cashier to account for coupons issued.

(3) The receptionist shall check the ID card of the person wishing to obtain coupons against the HIR card from the HIR master file. An emergency representative may be needed when none of the persons named on the ID is available to obtain the household's coupons. The household shall not be required to travel to the food stamp office to execute the designation but an emergency representative must present a signed written statement from the head of the house-

hold or spouse authorizing the issuance of food stamps for the certified household. The emergency representa-

determination of the value by the U.S. Bureau of Engraving and Printing.

(g) *Expedited service.* (1) The State

shall advise the Service if the original ATP is transacted.

(4) In an HIR card system, the State

perpetual coupon inventory control and mail issuance logs.

(3) The State agency shall establish controls which prevent a participant

(v) Prepare and have the participant sign an affidavit;

(vi) Issue replacement coupons to the household within 5 days after the

needs of coupon issuers. The State agency shall consider, among other things, in determining the reasonable inventory needs, the ease and feasibil-

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hold or spouse authorizing the issuance of food stamps for the certified household. The emergency representative must also sign the written statement from the household ID card to obtain the allotment. Control comparable to that of a normal issuance transaction is achieved by the comparison of the signature of the household member named on the ID card with that designating the emergency authorized representative, and the signature on the HIR at the issuance point with the emergency authorized representative's signature attested to by the household member. If satisfied with the identification, the receptionist shall select the daily tally sheet of the cashier from whom the household will receive the allotment, enter information about the transaction, and initial the HIR card before it goes to the cashier.

(4) Upon receipt of the HIR card from the receptionist, the cashier shall enter the amount of coupons issued and initial the HIR card. The cashier shall also obtain the participant's signature on the HIR card and compare the signature with that on the ID card. If the signatures agree, the cashier shall issue coupons in accordance with paragraph (h) of this section.

(5) The coupon issuer shall reconcile daily its issuances using the daily tally sheet and the cashier's daily report.

(6) The State agency may stagger the issuance of coupons to certified households through the 15th of the month.

(7) The State agency shall provide a household certified for program participation after the 25th of the month the opportunity to obtain its allotment for at least 20 calendar days or until the end of the following month.

(8) The State agency shall provide for the issuance of coupon replacements due to improper manufacture, or mutilation.

(i) The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.

(ii) If the State agency can determine the value of the improperly manufactured or mutiliated coupons, the State agency shall replace the unusable coupons on a dollar-for-dollar exchange. After the exchange, the State agency shall destroy the coupons in accordance with the procedures contained in § 274.8(b).

(iii) If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "canceled" across the face of the coupons and forward the coupons to FNS for a determination of the value by the U.S. Bureau of Engraving and Printing.

(g) *Expedited service.* (1) The State agency shall manually prepare and issue ATP's at the local level if necessary to provide an opportunity to participate to households certified on an expedited basis in accordance with § 273.2(i), to comply with the processing standards for initial and recertifications and for action on reported changes, and to replace lost or stolen ATP's or allotments. To minimize the possibility of misuse of manually prepared ATP's, the State agency shall:

(i) Divide responsibility for the issuance of the ATP between at least two persons to prevent a single individual from having complete control over both the documents which authorize the issuance of ATP's and the ATP's themselves.

(ii) Record, immediately, on the HIR master file, the serial number and other issuance information from the ATP.

(2) For initial certifications, the State agency shall prevent duplicate or unauthorized participation by checking its records prior to issuing the manual ATP to assure the household is not currently certified for that month or is not disqualified from participation.

(3) The State agency shall issue an emergency replacement ATP only if the original ATP is reported lost or stolen in the period for which it was intended.

(i) Prior to authorizing the issuance of a replacement ATP, the State agency shall determine if:

(A) The household is currently certified;

(B) Sufficient time has elapsed for delivery to have been completed. Sufficient time shall not exceed 5 days from the mailing date.

(C) The lost or stolen ATP was valid for the current month, including any ATP's issued after the 25th of the previous month.

(ii) The participant must sign an affidavit stating that the original ATP will be returned to the State agency if recovered by the household. The affidavit shall be filed in the case file.

(iii) After two consecutive reported mail losses by a household, the State agency shall consider other means to deliver ATP's to the household.

(iv) On at least a monthly basis, the State agency shall provide a list of all ATP's reported as lost or stolen from the mail to the appropriate Postal Inspection Service. The State agency should assist the Postal Inspection Service during the investigation and shall, upon request, supply the Service with a facsimile of the original and replacement ATP's and a copy of the nonreceipt affidavit. The State agency shall advise the Service if the original ATP is transacted.

(4) In an HIR card system, the State agency shall provide an opportunity to participate to households certified on an expedited basis in accordance with § 273.2(i), to comply with processing standards for initial and recertifications and for action on reported changes.

(h) *Issuance of coupons to households.* The State agency shall issue coupon books in accordance with a table for coupon book issuance provided by FNS. The table provides participants with an efficient and economical distribution of the available coupons and coupon book types and assists FNS in maintaining proper inventory levels. The State agency may deviate from the table if the specified coupon books are unavailable. Exceptions from the table are authorized for blind and visually handicapped participants who request that all coupons be of one denomination. The State agency shall issue the coupon books in consecutive serial number order whenever possible, starting with the lowest serial number in each coupon book denomination. The household member whose name appears on the ID card shall sign the coupon books.

§ 274.3 Issuance of coupons through the mail.

(a) *Types of mail issuance systems.* The State agency may issue some or all of the coupon allotments through the mail. State agencies shall determine whether to use a regular mail issuance system or a direct coupon mailing system. A regular mail issuance system is one which uses an authorization document as an intermediate step in mail issuance. A direct coupon mailing system is one which does not use an authorization document. The system, controls and forms designed by the State agency to operate a regular or direct coupon mail issuance system must be approved by FNS.

(b) *Mail issuance controls and records.* (1) The State agency shall establish and maintain a mail issuance log to record requests for mail issuance and the date and amount of coupons issued.

(2) All operations involving the maintenance of coupon inventory records, assembly of coupon allotments, envelope stuffing, and preparation of envelopes for mailing shall, if at all possible, be performed by at least two persons. If these functions are performed by one person, a second party review shall be made to verify coupon inventory, the reconciliation of the mail issuance log, and the number of mailings prepared. Offices using prestuffing methods must provide for dual accountability during the stuffing and addressing operations and maintain a perpetual coupon inventory control and mail issuance logs.

(3) The State agency shall establish controls which prevent a participant from obtaining coupons through both the mail and over-the-counter issuance systems.

(4) The State agency shall consult with appropriate postal officials concerning the schedule for mailing coupons, the approximate volume and value of the mailings, the type of envelopes to be used, and maintain liaison with postal officials to facilitate prompt, efficient, and safe delivery of coupon mailings to households.

(5) At least first-class mail shall be used in mailing coupon allotments. The coupons shall be mailed in sturdy nonforwarding envelopes or other nonforwarding mailing packages.

(6) To minimize mail theft exposure, direct mail issuances shall be staggered through the 10th day of the month, and may be staggered through the 15th day provided that each household will likely receive its coupons on the same date every month. The State agency shall insure that coupons are not mailed to concentrations of households with the same ZIP code on the same day. FNS may provide waivers to State agencies that present adequate documentation to indicate that thefts from the mail will not represent a significant problem.

(7) State agencies which rely exclusively on mail issuance shall insure that participants receive allotments on a timely basis and can receive expedited issuance in accordance with § 273.2(i) and § 274.2(g). State agencies must also provide timely replacement issuances either from the mailing center or local facilities. If the State agency cannot provide for expedited issuance through the mail issuance system, the State agency shall insure that it has an alternative issuance system to provide expedited service in accordance with § 273.2(i) and § 274.2(g).

(c) *Coupons lost in the mail.* (1) When a household reports the nondelivery of coupons issued through the mail, the State agency shall:

(i) Determine if the coupons were actually mailed;

(ii) Determine that sufficient time has elapsed for the coupons to have been received by the participant, but not more than 5 days;

(iii) Review the mail issuance log for the return of undelivered coupons;

(iv) Report all losses to the postal authorities. State agencies shall, in cooperation with the Postal Service, attempt to determine the cause of each nondelivery and effect appropriate corrective action. States shall also report to the postal authorities all patterns of losses in particular project areas or neighborhoods;

(v) Prepare and have the participant sign an affidavit;

(vi) Issue replacement coupons to the household within 5 days after the report of nondelivery has been received;

(vii) Record the report of nondelivery and the date of replacement on the mail issuance log; and

(viii) Take other action warranted by the reported nondelivery.

(2) After two consecutive reports of nondelivery concerning the same household, the State agency shall employ other issuance methods. These include:

(i) Using registered mail;

(ii) Arranging for the household to pick up its coupon allotment at a specified location; or

(iii) Moving the household from the mail issuance system to a regular over-the-counter system.

(3) If there is an increase in the loss of coupons issued through the mail, either in a particular area or throughout the mail issuance caseload, the State agency shall take corrective action to reduce the financial loss rate and improve service to participants. The State agency shall consult with appropriate postal officials to develop plans for corrective action to reduce mail losses or develop alternate means of delivery.

(4) Coupons are "in the mail" when deposited with the Postal Service. FNS will assume financial liability for all coupons lost in the mail if the coupons were issued in accordance with FNS policies and procedures.

(d) *Mail issuance reporting on the food coupon accountability report.* (1) All mail issuance activity, including the value of coupon mail issuance replacements, shall be reported on the form FNS-250, food coupon accountability report.

(2) Original allotments subsequently recovered by the issuance office during the current month shall be returned to inventory and noted on the mail issuance log. The replacement issuance for allotments received during the current month shall not be reported on the form FNS-250. The coupon issuer shall notify the post office of the return of coupon allotments previously reported as lost in the mail.

§ 274.4 Distribution of coupons.

(a) *Coupon inventory management.* The State agency shall establish a coupon inventory management system which insures that coupons are requisitioned and inventories are maintained in accordance with the requirements of these regulations.

(1) The State agency shall monitor the coupon inventories of the coupon issuers and bulk storage points to insure inventories are at proper levels and are not in excess of the reasonable needs of coupon issuers. The State agency shall consider, among other things, in determining the reasonable inventory needs, the ease and feasibility of resupplying such inventories from storage supplies within the State as well as from the manufacturer. The inventory levels at coupon issuers and bulk storage points should not exceed a 6-month supply, taking into account coupons on hand and on order.

(2) The State agency shall establish an accounting system for monitoring the inventory activities of coupon issuers. The State agency shall review the form FNS-250, from coupon issuers, and bulk storage points, to determine the propriety and reasonableness of the inventories. Forms FNS-261, advices of shipment, form FNS-300, advices of transfer, or an approved State agency form, and reports of returned mail issued coupons, reports of replacements of mail issued coupons, reports of improperly manufactured or mutilated coupons, reports of shortage or overage of food coupon books and physical inventory controls shall be used by the State agency to assure the accuracy of monthly reports and their compliance with required inventory levels and the accuracy and reasonableness of coupon orders.

(b) *Coupon controls.* The State agency shall establish control and security procedures to safeguard coupons, similar to those used to protect currency. The State agency and all persons or organizations acting on its behalf, shall take the necessary precautions to: (1) Safeguard coupons from theft, embezzlement, loss, damage, or destruction; (2) avoid unauthorized transfer, negotiation, or use of coupons; (3) avoid issuance and transfer of altered or counterfeit coupons; and (4) promptly report in writing to FNS any loss, theft, or embezzlement of coupons. The exact nature of security arrangements will depend on State agency evaluation of local coupon issuance and storage facilities. These arrangements must permit the timely issuance of coupons while affording a reasonable degree of coupon security.

(c) *State coupon requisitioning.* The State agency shall arrange for the ordering of coupons and the prompt verification and written acceptance of the contents of each coupon shipment. The State agency shall furnish FNS with appropriate delivery hours and the names of the persons authorized to sign delivery acknowledgments.

(d) *FNS review of requisitions.* FNS will assess the reasonableness and propriety of food stamp requisitions submitted by State agencies based on prior inventory changes and will notify the State agency of any adjustments made to requisitions.

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(e) *FNS shipment of coupons.* FNS will ship coupons, printed in such denominations as it may determine necessary, directly to State agency designated receiving points. FNS will promptly advise the State agency in writing when coupons are shipped to receiving points using form FNS-261. Coupons shall be considered delivered to the State agency when FNS or its carrier has a signed receipt.

(f) *Shipment of coupons by the State agency.* (1) Once coupons have been accepted by receiving points within the State, any further movement of the coupons between coupon issuers and bulk storage points within the State is at the risk of the State agency. To minimize the risk of loss, coupons are usually shipped by armored car, armored vehicle, armored tractor/trailer, air, or the Postal Service. Movement of coupons by any of these methods of transportation is normally appropriate because stringent security is applied and the risk of loss is usually borne by the carrier.

(2) In every instance when coupons are transported the person(s) transporting coupons shall:

(i) Acknowledge their receipt, in writing;

(ii) Accord the coupons much protection as is reasonable;

(iii) Advise issuance supervisors of the routes to be taken, the shipment departure time and the estimated arrival time.

(g) *Specimen coupons.* FNS will provide nonnegotiable specimen coupons to State agencies and firms upon written request for the purpose of educating and training employees on program operations.

(1) The State agency or firm shall store specimen coupons in secure storage with access limited to authorized personnel. The State agency or firm shall keep a perpetual record of specimen coupon inventory.

(2) Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall be destroyed by the State agency or firm. Such destruction shall be witnessed by two persons and noted on the perpetual inventory record maintained for specimen coupons.

§ 274.5 Responsibilities of coupon issuers and bulk storage points.

(a) *Receipt of coupons.* Coupon issuers and bulk storage points shall promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control, and storage of coupons.

(b) *Inventory levels.* Coupon issuers and bulk storage points shall maintain a proper level of coupon inventory not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. Such inventory levels should not exceed the 6-month supply provided for in § 274.4(a).

(c) *Monthly reporting.* Coupon issuers and bulk storage points shall report monthly to FNS, through the State agency, using form FNS-250. The State agency shall prescribe a report due date, taking into consideration the time needed to perform the functions required in § 274.8. These reports shall be signed by the coupon issuer or appropriate corporate official, certifying that the information is true and correct to the best of that person's knowledge and belief. Reports shall be submitted to FNS by the State agency by the 45th day following the end of the report month.

(d) *Supporting documentation.* Coupon issuers and bulk storage points shall submit to the State agency supporting documentation which will allow verification of the monthly report. At a minimum, such documentation shall include documents supporting coupon shipments, transfers, and issuances. In those States using an ATP issuance system, coupon issuers shall submit transacted ATP's batched according to each day's activity, in accordance with the schedule prescribed by the State agency but, in any case, not less often than monthly.

(e) *Improperly manufactured or mutilated coupons.* Coupon issuers and bulk storage points shall cancel improperly manufactured or mutilated coupons or coupon books by writing or stamping "canceled" across the face of the coupon(s) and coupon book(s). Depending upon State agency policy, the coupon issuer or bulk storage point shall forward the coupons with the appropriate documentation to the State agency, or hold the coupons in secure storage pending examination and destruction by the State agency at the coupon issuer or bulk storage point location.

§ 274.6 Reconciliation.

(a) *Verification of ATP issuance.* (1) In ATP issuance systems, the State agency shall verify the number of transacted ATP's received from the coupon issuers and the total value of authorized coupon issuances.

(2) ATP batches not reconciled shall be maintained intact by the State agency until the discrepancy is resolved with the coupon issuer.

(3) Following receipt and verification of the final batch of ATP's for the month, the State agency shall determine the total value of authorized issuances for each coupon issuer. Any expired or out-of-State ATP's shall be handled as coupon issuer errors and shall not be reported as authorized issuances on the reconciliation report required in § 274.8(a).

(b) *Reconciliation of ATP's with the HIR master file.* The State agency shall post and reconcile all transacted ATP's against the HIR master file. The reconciliation of ATP's shall be accomplished at the level in the State agency where the HIR was created from the notices of change. This posting and reconciliation shall, at a minimum, include for each ATP a comparison of the total coupon allotment. The State agency shall merge the records of the manually prepared initial, supplemental, and replacement ATP issuances with the HIR master file prior to posting and reconciling the transacted ATP's. Because ATP's issued after the 25th of the month may be redeemed in the following month and because supplemental ATP's may be issued during the month, the State agency shall establish a mechanism for the redemption and reconciliation of more than one valid ATP in 1 month. However, ATP's issued to replace ATP's reported lost or stolen shall be separately identifiable, as the transaction of both the original and replacement ATP represents a duplicate issuance which must be reported on a reconciliation report required in § 274.8(a).

(c) *Identification of unreconciled ATP's.* The State agency shall identify all transacted ATP's that are not reconciled with the HIR master file as expired, duplicate, altered, stolen, counterfeit, or out-of-State. Unreconciled ATP's shall be reported to FNS or a reconciliation report as required in § 274.8(a)(5). This identification shall be used to establish the liabilities of the State agency under part 276 and for determination of corrective or claims action.

(d) *HIR reconciliation to the case files.* In an HIR issuance system, the State agency shall conduct a semiannual comparison of the active and inactive HIR cards against the case files. At a minimum, 20 percent of both open and closed HIR cards shall be selected at random for the comparison. The State agency may limit selection of cases for review to those which were active during the previous 6 months. If the State agency discovers an HIR card during the review for which a case file cannot be located, the State agency shall conduct a total review of the active case files. The State agency shall immediately document and report any discrepancies discovered during the semiannual review to FNS.

§ 274.7 Issuance record retention and security.

(a) *Availability of issuance records.* The State agency shall maintain issuance records for a period of 3 years

from the month of origin. This period may be extended at the written request of FNS.

(1) Issuance records shall include, at a minimum: Notices of change, HIR cards, inventory records, transacted ATP's or similiar authorizing documents, forms FNS-250, and substantiating documents, cashier's daily reports, receptionist's daily tally sheets, and the HIR master file.

(2) In lieu of the records themselves, microfilm, microfiche, or computer tapes may be maintained, as long as they are easily retrievable for audit review purposes.

(b) *Control of issuance documents.* The State agency shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the State agency. The State agency shall use numbers, batching, inventory control logs, or similiar controls from the point of initial receipt through the issuance and reconciliation process. The State agency shall also insure the security and control of ATP's in transit from the manufacturer to the State agency.

(c) *Accountable documents.* HIR cards, ATP's, and forms FNS-286 shall be considered accountable documents. The State agency shall provide the following minimum security and control procedures for these documents:

(1) Preprinted serial numbers;

(2) Secure storage;

(3) Access limited to authorized personnel;

(4) Bulk inventory control records;

(5) Subsequent control records maintained through the point of issuance or use; and

(6) Periodic review and validation of inventory controls and records by parties not otherwise involved in maintaining control records.

(d) *Notice of change and ID card security.* For notices of change which initiate, update, or terminate the HIR and blank ID cards, the State agency shall at a minimum, provide secure storage and limit access to authorized personnel.

§ 274.8 State agency reporting and destruction of unusable coupons.

(a) *State agency reporting.* (1) The State agency shall report to FNS when a project area, reconciliation point, or coupon shipment receiving point is created, changed, or terminated at least 30 days prior to the effective date of the action. A reconciliation point is that point in the State agency where transacted ATP's are reconciled with the HIR master file. Although initial notification may be made by telephone, the State agency shall confirm the information in writing as soon as possible.

(2) The State agency shall review form FNS-250 received monthly from coupon issuers and bulk storage points for accuracy, completeness, and reasonableness. The State agency shall attest to the accuracy of these reports and submit them to FNS so that they will be received in FNS by the 45th day following the end of the report month.

(3) The State agency shall submit to FNS a Form FNS-259, Food Stamp Mail Issuance Report, for each project area using a mail issuance system. the State agency shall verify the issuance by a comparison with the issuance on the appropriate coupon issuer's form FNS-250. This report shall be submitted to FNS so that it will be received in FNS by the 45th day following the end of each quarter.

(4) FNS shall review each form FNS-250 submitted through the State agency for completeness, accuracy, and reasonableness and shall reconcile inventory with shipping records. FNS will review State agency verification of coupon issuer and bulk storage point monthly reports. FNS may supplement this review by unannounced spot checks of inventory levels and coupon security arrangements at selected coupon issuers and bulk storage points.

(5) [Reserved]

(6) The State agency shall submit to FNS Form FNS-256, Monthly Report of Participation and Coupon Issuance, for each project area. The State agency shall compile figures after the end of the issuance month based on HIR card data or transacted ATP's. These figures shall be detailed by project area and include all issuances supported by issuance documents including expired, altered, stolen, counterfeit, and duplicate issuances which occurred during the report month. This report shall be submitted to FNS so that it will be received in FNS by the 45th day following the report month.

(b) *Destruction of unusable coupons.* (1) The State agency shall either require coupon issuers and bulk storage points to send unusable coupons to the State agency for destruction or hold the unusable coupons in secure storage pending examination and destruction by the State agency at the coupon issuer or bulk storage point location. After verification of the reports from the coupon issuers and bulk storage points, the State agency shall destroy improperly manufactured or mutilated coupons or coupon books received from or stored at the location of the coupon issuers and bulk storage points, and unusable coupons or coupon books returned by households, provided that:

(i) It has been determined that the value of coupons does not exceed $200 per coupon issuer or bulk storage point for any month; and

(ii) The State agency has determined that the coupons were in fact improperly manufactured or mutilated.

(2) The State agency shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so they are not negotiable. Two State agency officials shall witness and certify the destruction and forward the Form FNS-136, Certificate of Destruction of Food Coupons, with the form FNS-250.

(3) If the value of the coupons to be destroyed exceeds $200 per coupon issuer, the State agency shall request FNS approval prior to any destruction of the coupons.

(4) If either the coupon issuer, the bulk storage point or the State agency cannot determine whether coupons or coupon books were in fact improperly manufactured or establish the value of the coupons involved, the State agency shall promptly forward a written statement of findings and the canceled coupon(s) or coupon book(s) to FNS for a determination.

§ 274.9 Closeout of a coupon issuer.

(a) *Definition of responsibilities.* Whenever the services of a coupon issuer or bulk storage point are terminated, the State agency shall perform the responsibilities described below. If a coupon issuer or bulk storage point has more than one functioning unit and one of these facilities is terminated, the coupon issuer or bulk storage point shall fulfill the responsibilities described in paragraphs (b) and (c) of this section. The coupon issuer or bulk storage point shall notify the State agency of the pending termination of any of its services prior to the actual termination. The State agency shall promptly notify FNS.

(b) *Closeout accountability.* The State agency shall perform a closeout audit of a coupon issuer or bulk storage point within 30 days of termination of the issuance or storage point. The State agency shall report the findings of the audit to FNS immediately upon its completion. If the audit determines that the final FNS-250 is incorrect, the State agency shall promptly provide a corrected report to FNS.

(c) *Transfer of coupon inventory.* (1) Prior to the transfer of coupon inventory to another coupon issuer or bulk storage point, the State agency shall perform an actual physical count of coupons on hand.

(2) The State agency shall transfer the inventory to another coupon issuer or bulk storage point preferably within the same project area. The transfer of coupons shall be properly reported and documented by both the

point being terminated and the point receiving the inventory.

(d) *Maintenance of participant service.* (1) At least 30 days before actual

(c) *Communal dining.* Eligible household members 60 years of age or over and their spouses, or those receiving SSI and their spouses, may use

(2) It shall contain the claimant's address.

(3) It shall be dated and signed.

(4) The unused coupons shall be at-

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point being terminated and the point receiving the inventory.

(d) *Maintenance of participant service.* (1) At least 30 days before actual termination of a coupon issuer, the State agency shall notify project area participants of the impending closure. Notification shall include identification of alternative issuance locations and available public transportation. The State agency shall post notices at the offices of the coupon issuer of the impending closure and may use mass media or ATP stuffers to advise participants about the expected closure of the issuance office.

(2) If closure of the issuer will affect a substantial portion of the caseload or a specific geographic area, the State agency shall take whatever action is necessary to maintain participant service without interruption.

(3) If a coupon issuer or bulk storage point is to be closed for noncompliance with contractual requirements and alternative issuance facilities or systems are not readily available, the State agency may continue to use the coupon issuer or bulk storage point for a limited time. In these situations, the State agency shall perform weekly onsite reconciliations of coupon issuance. **The State agency shall continue to actively seek other issuance or storage alternatives.**

§ 274.10 Use or redemption of coupons by eligible households.

(a) *Eligible food.* A household member should sign each coupon book issued to the household. The coupons may be used only by the household, or other persons the household selects, to purchase eligible food for the household, which includes, for certain households residing in certain designated areas of Alaska, the purchase of hunting and fishing equipment with coupons. Uncanceled and unendorsed coupons of $1 denomination, returned as change by authorized retail food stores, may be presented as payment for eligible food. All other detached coupons may be accepted only if accompanied by the coupon book which bears the same serial number as the detached coupons. It is the right of the household or the authorized representative to detach the coupons from the book.

(b) *Meals-on-wheels.* Eligible household members 60 years of age or over or members who are housebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses, may use coupons to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS.

(c) *Communal dining.* Eligible household members 60 years of age or over and their spouses, or those receiving SSI and their spouses, may use coupons issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FNS for that purpose.

(d) *Addict/alcoholics.* Members of eligible households who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program may use coupons to purchase food prepared for them during the course of such program by a private nonprofit organization or institution authorized by FNS.

(e) *Alaskan hunting/fishing equipment.* Eligible households residing in areas of Alaska determined by FNS as areas where access to retail food stores is difficult and who rely substantially on hunting and fishing for subsistence may use all or any part of the coupons issued to them to purchase hunting and fishing equipment such as nets, hooks, rods, harpoons, and knives, but excluding firearms, ammunition, and other explosives.

(f) *Use of ID cards.* Upon request, the household or the authorized representative shall present the household's ID card to the retail food store or meal service when exchanging food coupons for eligible food.

(g) *Prior payment prohibition.* Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are presented to authorized retail food stores or meal services. Neither shall coupons be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased from a nonprofit cooperative food purchasing venture.

(h) *Cash change.* When change in an amount less than $1 is required in a coupon transaction, the household shall receive the change in cash not to exceed 99 cents.

§ 274.11 Return of coupons.

(a) *Refund of purchase requirement.* In the event of voluntary termination of participation in the program by a household or death of the head of the household, properly issued coupons may be returned to FNS for a refund on the same ratio of cash to coupons as was applied by the State agency in the issuance of the coupons to the household.

(b) *Filing refund request.* A request for a refund shall be submitted to the State agency. The request for such a refund shall be made in accordance with the following requirements:

(1) It shall be in ink or typed.

(2) It shall contain the claimant's address.

(3) It shall be dated and signed.

(4) The unused coupons shall be attached. The State agency shall provide a copy of the refund request to the household as a receipt for the coupons.

(c) *FNS payments.* State agencies shall forward claims to FNS for payment. The claimant's request for a refund, a completed Form FNS-287, Request for Reimbursement or Notification of Return of Unused Food Coupons for Refund, and the unused coupons shall be forwarded to FNS by the State agency.

(d) *Limit on refunds.* Six months after elimination of the purchase requirement, no refunds shall be paid for coupons returned to FNS. Coupons will be accepted by FNS for accounting and disposition only. Households should be reminded that even if they are not currently eligible, properly issued coupons may be redeemed by them at any time in authorized retail stores.

(e) *Old serics coupon exchange.* Households which still have old series coupons shall be entitled to a dollar for dollar exchange of old series coupons for new series coupons. **When only a 50-cent coupon is offered for exchange or the coupons offered include an odd number of 50-cent coupons, a new series $1 coupon will be given for the odd 50-cent coupon. Households in possession of old series coupons shall submit the coupons and a request for exchange to the State agency. State agencies may make direct exchange to claimants or request FNS to make the exchange.**

PART 277 REDESIGNATED FROM PART 275.

PART 278 REDESIGNATED FROM PART 272.

PART 279 REDESIGNATED FROM PART 273.

PART 280 REDESIGNATED FROM PART 274.

NOTE.—The Food and Nutrition Service has determined that this document contains a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107 and certifies that an economic impact statement has been prepared.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: October 11, 1978.

CAROL TUCKER FOREMAN,
Acting Secretary.

[FR Doc. 78-29122 Filed 10-16-78; 8:45 am]

federal register

TUESDAY, OCTOBER 17, 1978
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF LABOR

YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS FOR INDIANS AND NATIVE AMERICANS

Final Implementation Rules

[4510-30-M]

Title 29—Labor

tion Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training

SUPERVISION AT WORKSITES

Section 335 of CETA requires that project applicants assure that there

(BIA), tribal-run agencies, or any other nonprofit agency selected by the prime sponsor.

This document has been prepared

Sec.
97.1211 In-school programs.
97.1212 Payments to participants.
97.1213 Maintenance of effort (section 353(b)).

Subpart L—Youth Community Conservation and Improvement Projects for Indian and Native American Youth

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[4510-30-M]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Indian and Native American Youth Programs Under the Comprehensive Employment and Training Act

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: These rules are for the purpose of implementing the youth community conservation and improvement projects and youth employment and training programs for Indians and native Americans under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). The purpose of these new programs is to employ and increase the future employability of young Indians and native Americans; to help coordinate and improve existing career development, employment, and training programs; and to test different approaches in solving the employment problems of Indian and native American youth.

DATE: Effective date: November 16, 1978.

ADDRESS: Send comments to Alexander S. MacNabb, Director, Division of Indian and Native American Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Alexander S. MacNabb at the above address or phone 202-376-6102.

SUPPLEMENTARY INFORMATION: The Department is publishing these regulations in final form because the programs are already underway and guidance is needed in their day-to-day administration. All eligible applicants have been given the opportunity to comment. Comments received were incorporated where appropriate. This finding constitutes a waiver of the Department's regulation 29 CFR 2.7. Nevertheless, comments may be submitted during the 30-day period following this publication date. The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth, including Indian and native American youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment, and training programs, and to test different approaches to solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) youth incentive entitlement pilot projects (YIEPP) designed to test the effect of a year-round structured work experience to encourage school completion; (3) youth community conservation and improvement projects (YCCIP) designed to provide jobs, employment experience, and work skills and habits for youth in community betterment projects; and (4) youth employment and training programs (YETP) structured to make available to youth a broad range of employment and training services designed to enable youth to make an orderly transition from school to career employment.

Section 702(a) of the Comprehensive Employment and Training Act (CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing two of the new youth programs, YETP and YCCIP, for Indian and native American youth.

Both programs are to be operated by Indian and native American prime sponsors under section 302(c)(1) of CETA and administered at the national level by the Employment and Training Administration, Office of National Programs, Division of Indian and Native American Programs.

REQUIREMENTS FOR YCCIP

ELIGIBILITY FOR PARTICIPATION

Section 332 of CETA requires that any unemployed youth age 16 to 19, inclusive, is eligible for YCCIP. Section 354 of CETA further requires that appropriate efforts be made to insure that participating youths shall be those who are experiencing severe difficulties in obtaining employment, including those who have demonstrated special needs, as determined by the Secretary.

SUPERVISION AT WORKSITES

Section 335 of CETA requires that project applicants assure that there are adequate numbers of supervisory personnel on the project. Because well-supervised activities are essential both for enhancing work habits and the development of skills, there must be at least the equivalent of one full-time supervisor for every 12 youths. It is recommended that prime sponsors hire as supervisors appropriate participants in their other CETA programs.

LIMITATIONS ON USE OF FUNDS

Under YCCIP no less than 75 percent of the funds may be used for participants' wages and fringe benefits. The remaining 25 percent may be divided at the prime sponsor's discretion between administration, supervision, services, training and the cost of materials, equipment, and supplies, except that in no case may more than 20 percent be spent on administrative costs. Materials, supplies, etc., acquired under any other CETA program may be used in this program.

PROHIBITION OF PUBLIC SERVICE EMPLOYMENT (PSE)

PSE components are prohibited in both YCCIP and YETP.

REQUIREMENTS FOR YETP

ELIGIBILITY FOR PARTICIPATION

Section 345(a) of CETA emphasized participation in YETP by individuals who are in families whose income does not exceed 85 percent of the lower living standard income level determined by the Bureau of Labor Statistics. However, the legislation and regulations permit the provision of employment-related services to youth from families above that income level.

Section 345(a) of CETA also allows that 10 percent of the funds available for YETP may be used for programs which include youth of all economic backgrounds in order to adequately test whether the disadvantaged benefit from participation in nontargeted programs.

LIMITATION ON USE OF FUNDS

Under YETP no more than 20 percent of the funds may be used for administration.

IN-SCHOOL COMPONENT

The regulations require that prime sponsors have an in-school component of their YETP, with written agreements with local education agencies (LEA's). However, no specific amount of funds must be allocated for this component. The local educational agencies (LEA's) that will participate in the YETP program can be State, county, Bureau of Indian Affairs (BIA), tribal-run agencies, or any other nonprofit agency selected by the prime sponsor.

This document has been prepared under the direction and control of Alexander S. MacNabb, Director, Division of Indian and Native American Programs.

Accordingly, title 29 of the Code of Federal Regulations is amended as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

§ 94.3 [Amended]

1. In § 94.3, Consolidated table of contents for Parts 94-99, the table of contents for Part 97, Subparts L and M, are added to read as follows:

Subpart L—Youth Community Conservation and Improvement Projects for Indian and Native American Youth

General

Sec.
97.1101 Scope and purpose.
97.1102 Definitions.
97.1103 Eligibility for and allocation of funds.
97.1104 Reallocation of funds.

Grant Planning, Application, and Modification Procedures

97.1105 Prime sponsor planning procedures and submission of applications.
97.1106 Project application content.
97.1107 Project application approval.
97.1108 Modifications.

Program Operations

97.1109 Eligibility for participation.
97.1110 Acceptable project activities.
97.1111 Participant benefits.
97.1112 Academic credit.
97.1113 Supervisory personnel.
97.1114 Materials, equipment, and supplies.
97.1115 Earnings disregard.
97.1116 Limitation on use of funds.
97.1117 Work limitation.

Subpart M—Youth Employment and Training Program for Indian and Native American Youth

General

97.1201 Scope and purpose.
97.1202 Definitions.
97.1203 Eligibility for and allocation of funds.
97.1204 Reallocation of funds.

Grant Planning Application, and Modification Procedures

97.1205 Prime sponsor planning process and submission of applications.
97.1206 Allowable costs.
97.1207 Project application content.
97.1208 Modification.

Program Operations

97.1209 Eligibility for participation.
97.1210 Allowable activities and services.
97.1211 In-school programs.
97.1212 Payments to participants.
97.1213 Maintenance of effort (section 353(b)).

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

2. Part 97 is amended by adding to its table of contents for Subparts L and M:

Subpart L—Youth Community Conservation and Improvement Projects for Indian and Native American Youth

GENERAL

Sec.
97.1101 Scope and purpose.
97.1102 Definitions.
97.1103 Eligibility for and allocation of funds.
97.1104 Reallocation of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.1105 Prime sponsor planning procedures and submission of applications.
97.1106 Project application content.
97.1107 Project application approval.
97.1108 Modifications.

PROGRAM OPERATIONS

97.1109 Eligibility for participation.
97.1110 Acceptable project activities.
97.1111 Participant benefits.
97.1112 Academic credit.
97.1113 Supervisory personnel.
97.1114 Materials, equipment, and supplies.
97.1115 Earnings disregard.
97.1116 Limitation on use of funds.
97.1117 Work limitation.

Subpart M—Youth Employment and Training Program for Indian and Native American Youth

GENERAL

97.1201 Scope and purpose.
97.1202 Definitions.
97.1203 Eligibility for and allocation of funds.
97.1204 Reallocation of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.1205 Prime sponsor planning process and submission of applications.
97.1206 Allowable costs.
97.1207 Project application content.
97.1208 Modification.

PROGRAM OPERATIONS

97.1209 Eligibility for participation.
97.1210 Allowable activities and services.
97.1211 In-school programs.
97.1212 Payments to participants.
97.1213 Maintenance of effort (section 353(b)).

3. Part 97 is amended by adding the text of subparts L and M to read as follows:

Subpart L—Youth Community Conservation and Improvement Projects for Indian and Native American Youth

AUTHORITY: Sec. 702(a) of the Comprehensive Employment and Training Act, as amended, 29 U.S.C. 801 et seq., unless otherwise noted.

GENERAL

§ 97.1101 Scope and purpose.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Indian and native American youth community conservation and improvement projects (YCCIP) under title III, part C, subpart 2, of the Act. The regulations in subpart B of this part also apply to Indian and native American YCCIP programs except to the extent noted in this subpart.

(b) To the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act in 29 CFR Parts 94 through 99, the requirements contained in this subpart shall apply.

(c) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well-supervised work in projects that produce tangible benefits to the community. It is extremely important to appoint competent supervisors who can instill good work habits in the youth. The program emphasizes the development and provision of jobs. Any training must be directly related to the development of specific skills needed for a job. The program must be flexible enough to accommodate in-school youth, and they should be encouraged to stay in school and graduate. Participants who have not graduated from high school should be encouraged to finish their education.

§ 97.1102 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in § 94.4 of this title and § 97.103. The following definitions are specific to this subpart:

(a) "Low-income housing" shall mean dwellings of individuals whose income is at or below 125 percent of the poverty level which are privately owned and owner occupied, privately owned by a nonprofit organization, or units of public housing. For weatherization or winterization projects funded and approved by the Federal Energy Administration or the Community Services Administration, "low-income housing" shall include privately owned rental housing.

(b) "YCCIP" shall mean the youth community conservation and improvements projects.

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(c) "Project" shall mean a prime sponsor's overall YCCIP program.

§ 97.1103 Eligibility for and allocation of funds.

(a) Only section 302(c)(1) prime sponsors who are funded under § 97.104 are eligible for YCCIP funds.

(b) *Allocation of funds.* (1) Two percent of the funds available for YCCIP projects shall be made available for eligible Indian and native American youth.

(2) Allocations shall be provided to section 302(c)(1) grantees selected for fiscal year 1978 based on the proportion of 16- to 19-year-old youth in the prime sponsor's population. In subsequent fiscal years funds shall be allocated on the basis of the relative number of unemployed persons within each prime sponsor's area as compared to all areas eligible for funds in this program.

§ 97.1104 Reallocation of funds.

The Director, DINAP, may reallocate any amount of any allocation made to a section 302(c)(1) grantee under subpart 2 of part C of title III of the Act in accordance with § 97.160.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.1105 Prime sponsor planning procedures and submission of applications.

(a) *Planning.* When planning their YCCIP program, prime sponsors must utilize the planning process described in § 97.1205 (a) and (b).

(b) *Submission of application.* Six copies of an application for a YCCIP program shall be submitted annually by a prime sponsor to the Director, DINAP who will inform them of the due date. Such dates may vary from year to year depending on when YCCIP funds are made available to the Department of Labor.

§ 97.1106 Project application content.

(a) Each application will have the following forms: Grant signature sheet; YCCIP narrative; YCCIP program planning summary; YCCIP budget information summary.

(b) Content of YCCIP narrative:

(1) The types of jobs;

(2) The need for the types of work to be performed;

(3) The full-time supervisor to youth ratio;

(4) Qualifications of supervisors;

(5) Benefits participants are expected to derive;

(6) Principal job titles, brief job descriptions, and hourly wages;

(7) Target groups to be served;

(8) Recruiting methods;

(9) Supportive services to be provided;

(10) The following costs:

(i) Participant wages and benefits;

(ii) Worksite supervisors wages and benefits;

(iii) Job-related training;

(iv) Materials, supplies, and equipment used by participants on the job;

(v) Supportive services for participants; and

(11) Assurances of compliance with the Act and the regulations of 29 CFR 97.1101-97.1117 and compliance with the hazardous occupations orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youth under 18 years of age.

§ 97.1107 Project application approval.

(a) To be approved a proposed project must:

(1) Provide benefits to the community;

(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;

(3) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and

(4) Describe quallfications of supervisors in terms of skills and experience.

(b) Prime sponsors must assure that the project will result in an increase in employment opportunities over those which would otherwise be available, and that:

(1) It will not result in the displacement of currently employed workers;

(2) It will not substitute jobs assisted under this subpart for existing federally assisted jobs;

(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) It will not employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;

(5) It will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) It will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and

(7) Job restructuring will not occur and new classifications will not be developed solely to negate established personnel procedures or to displace currently employed workers.

§ 97.1108 Modifications.

An approved program may be modified after consultation with and the approval of the Director, DINAP, notwithstanding the provisions of § 97.121.

PROGRAM OPERATIONS

§ 97.1109 Eligibility for participation.

(a) In order to participate, an individual must:

(1) Be an Indian or native American youth 16 through 19 years of age, inclusive, at the time of enrollment; and

(2) Be unemployed.

(b) If at the time of enrollment into any other program under the Act, a youth who is currently 16 through 19 years of age, was unemployed, that individual may be transferred into this program.

(c) Appropriate efforts shall be made to serve those youth who have severe difficulties in obtaining employment (section 354(a)).

(d) The citizenship and veterans provisions of §§ 95.32 (d) and (e)(1) of this title shall apply to YCCIP programs (section 332(c)).

§ 97.1110 Acceptable project activities.

(a) Projects shall insure that participants do constructive work in terms of individual and community benefits. Such employment may include, but is not limited to, the rehabilitation, construction, or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low-income housing as defined in § 97.1102; energy conservation including solar energy projects; and conservation maintenance, or restoration of natural resources of publicly held lands.

(b) Training provided must be directly related to a participant's job.

(c) Where in-school youth are served, they must be in a combination work and education program.

(d) Public service employment (PSE) projects are not permitted.

(e) Projects of such little value as picking up trash, debris, or weeds, etc. are prohibited.

§ 97.1111 Participant benefits.

(a) Participants shall be paid wages and allowances as described in § 97.1212(c) (section 352).

(b) Each participant shall be provided the benefits and working conditions as provided in § 97.136.

§ 97.1112 Academic credit.

Prime sponsors shall make appropriate efforts to encourage educational agencies to award academic credit for the competencies participants gain from their employment.

§ 97.1113 Supervisory personnel.

(a) Each project must have an adequate number of skilled supervisors. There must be at least the equivalent of one full-time supervisor to every 12 youth. Supervisors must have the skills needed to carry out the project and must be able to instruct participants in those skills.

(b) The hiring of supervisory personnel for projects shall not impede the promotional rights of existing employees.

§ 97.1114 Materials, equipment, and supplies.

Eligible applicants are encouraged to make use of resources from CETA, BIA, Community Services Administration and Federal Energy Administration to provide or supplement materials, equipment, supplies, etc.

§ 97.1115 Earnings disregard.

Earnings received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program.

§ 97.1116 Limitation on use of funds.

No less than 75 percent of the funds awarded to each prime sponsor may be used for participants' wages and fringe benefits. The remaining 25 percent may be divided at the prime sponsor's discretion between administration, supervision, services, training, and the cost of materials, equipment, and supplies, except that in no case may more than 20 percent be spent on administrative costs.

§ 97.1117 Work limitation.

No youth shall be employed for more than 12 months in work financed under this subpart, except as allowed in writing by the Director, DINAP (sec. 338).

Subpart M—Youth Employment and Training Programs for Indian and Native American Youth

AUTHORITY: Sec. 702 of the Comprehensive Employment and Training Act of 1973, as amended, 29 U.S.C. 801 et seq., unless otherwise noted.

§ 97.1201 Scope and purpose.

(a) This subpart contains the regulations for the Indian and Native American employment and training program (YETP) which is authorized by title III, part C, subpart 3 of the Act. These regulations also implement, with respect to YETP, the administrative provisions found in sections 341 through 347 of the Act. The regulations in subpart B of this part also apply to YETP programs except as indicated in this subpart. To the extent the regulations set forth in this subpart conflict with other regulations issued under the Act in 29 CFR parts 94 through 99, the regulations contained in this subpart shall prevail (sec. 357).

(b) The purpose of this program is to enhance the job prospects and career opportunities of Indian and Native American youth to enable them to secure unsubsidized employment in the private and public sectors of the economy. It is not the purpose of this program to provide make-work activities, but rather to provide youth with the opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program.

(c) In order to achieve the highest quality of program services, coordination with existing services for youth is essential. These services include: Activities funded under other parts of CETA; employment and educational services provided by local educational agencies; services offered by State Employment security agencies; programs funded through other sources such as community based organizations; and employment and educational activities of business, labor, and nonprofit institutions in the community.

§ 97.1202 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in §§ 94.4 of this title and 97.103. Special definitions applicable to terms found in this subpart are as follows:

(a) "Career employment experience" shall mean a program activity for in-school youth which is a combination of well supervised employment (either work experience or on-the-job training) supported under YETP and certain transition services including at a minimum career information, counseling, and guidance.

(b) "In-school program" shall mean a program which provides either or both career employment experience and transition services to in-school youth.

(c) "In-school youth" shall mean a youth who:

(1) Is currently enrolled full-time in and attending a secondary, trade, technical, vocational school, or community college; or is scheduled to attend full-time the next regularly scheduled quarter or semester of any of these schools; or

(2) Has not completed high school and is scheduled to attend a school program leading to a secondary school diploma or its equivalent (343(d)).

(d) "Local Educational Agency (LEA)" shall mean State, county, Bureau of Indian Affairs, tribal or reservation run agencies, or any other nonprofit agency selected by the prime sponsor.

(e) "Of this Title" shall mean "of Title 29 of the Code of Federal Regulations."

(f) "Transition services" shall mean services and activities which are designed to assist youth to make the transition from school to unsubsidized jobs. These services are set forth in § 97.1211(a)(1).

(g) "YETP" shall mean the youth employment and training program.

(h) "Project" shall mean a prime sponsor's overall YETP program.

§ 97.1203 Eligibility for and allocation of funds.

Eligibility for and allocation of funds shall be as described in § 97.1103.

§ 97.1204 Reallocation of funds.

Funds may be reallocated as described in § 97.1104.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.1205 Prime sponsor planning process and submission of applications.

(a) Prime sponsors must plan their youth programs taking into account their plans for youth in all of their CETA programs and in consultation with their regular CETA planning councils and the youth councils described in paragraph (b) of this section.

(b) *Youth council.* Each prime sponsor whose combined YCCIP and YETP allocations exceed $100,000 shall establish a youth council (sec. 346), as provided in paragraph (b)(2) of this section.

(1) In consultation with the planning council, the prime sponsor shall make appointments to a youth council which include individuals who are representative of the local educational agencies, the local vocational advisory council, postsecondary education institutions, business, unions, the State employment security agency, local governments and nongovernment agencies which are involved in serving youth, the local community, and the prime sponsor. In addition, youth council members shall include youth who are participants in, or eligible for YETP.

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or prime sponsors may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council must report to the planning council.

(3) The youth council shall at a minimum make recommendations to

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the planning council with respect to the planning and review of all program activities under title III, part C, of the act, and shall review the proposed agreements with local educational agencies under YETP.

(4) No member of the youth council shall cast a vote on any matter under deliberation by the youth council which has direct bearing on services to be provided by that member or any organization with which that member is associated.

(c) *Submission of application.* Six copies of an application for a YETP program shall be submitted annually by prime sponsors to the Director, DINAP, who will inform them of the due date. Such dates may vary from year to year depending on when YETP funds are made available to the Department of Labor.

§ 97.1206 Allowable costs.

Allowable costs are the same as those under § 97.161. Costs for administration are limited to 20 percent. The costs of instructional, construction, or other work material, equipment, and supplies must be paid for with administrative funds.

§ 97.1207 Project application content.

(a) Each application will have the following forms: YETP narrative, program planning summary, and budget information summary.

(b) The narrative section of the YETP proposal shall cover the following:

(1) Objectives of the program;

(2) Local priorities;

(3) Implementation planning;

(4) Program activities and services;

(5) Management and administration;

(6) Results and benefits expected from the program;

(7) How the program will:

(i) Develop long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) Enhance job prospects and career opportunities for youth; and

(iii) Enable participants to secure appropriate unsubsidized employment (sec. 341).

(8) That identified performance goals are reasonable and can be achieved;

(9) That a youth council has been established (if required) and has participated in the planning and review process for the youth plan;

(10) The in-school program to be operated pursuant to § 97.1211;

(11) Assurance of compliance with the Act and the regulations in this subpart; and compliance with the hazardous occupations orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 to 15.

§ 97.1208 Modifications.

An approved project may be modified after consultation with and the approval of the Director, DINAP, notwithstanding the provisions of § 97.121.

PROGRAM OPERATIONS

§ 97.1209 Eligibility for participation.

(a) A prime sponsor shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment.

(1) Is an Indian or Native American, and

(2) Is unemployed or underemployed as defined in § 94.4(fff) of this title or is an in-school youth as defined in § 97.1202; and

(3) Is 14 through 21 years of age; and

(4) Is a member of a family with total family income at or below 85 percent of the lower living standard income level, as defined in § 94.4 (nnn) of this title. Exclusions from total family income shall include those items listed as exclusions in § 94.4(xxx) of this title, income from tribal work experience and Indian general assistance, lease income derived from trust land, and per capita payments.

(b) For the purpose of participating in in-school career employment experience, the youth must need such participation in order to continue his or her education (sec. 346(c)).

(c) If, at the time of enrollment into any other program under the Act, an individual met the eligibility requirements of paragraph (a) of this section, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

(d) The citizenship and veterans provisions of §§ 95.32 (d) and (e)(1) of this title also apply to YETP.

(e) Youth need not meet the income criteria described in § 97.1209(a)(4) if they participate in a special component as described in § 97.1210(e) (sec. 345(a)(2)).

(f) Youth, who do not meet the income criteria defined in § 97.1209(a)(4), and who are not in special component described in § 97.1210(e) may be offered any employment related services but may not be offered on-the-job training, work experience, or training opportunities funded under YETP.

§ 97.1210 Allowable activities and services.

(a) Programs may include any type of employment and training activity authorized under title III, section 302 of the Act except public service employment.

(b) Each participant in on-the-job training, work experience, or career employment experience shall be assured of the general benefits and working conditions for program participants provided in § 97.136 of this title.

(c) No youth may enroll in full-time employment opportunity if the prime sponsor determines that there is evidence he or she dropped out of high school in order to participate (sec. 353(f)(2)). A written job description shall be developed and maintained for all work experience and OJT positions funded under this subpart to provide a basis for determining its comparability to existing jobs of other individuals similarly employed.

(d) The child labor standards specified in 29 CFR Part 570.31 et seq. shall apply to the employment of 14 or 15 year olds under YETP. The hazardous occupations orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR Part 570.50 et seq. shall apply to the employment of 16 to 17 year olds under YETP.

(e) A prime sponsor may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in § 97.1209(a)(4) in order to test the desirability of serving such a mix of youth.

§ 97.1211 In-school programs.

(a) *Activities and services.* An in-school program is required and shall be designed to provide either or both of the following two classifications of services (sec. 342):

(1) Transition services—(i) These services shall be designed to assist youth to move from school to unsubsidized jobs.

(ii) These services may include, but are not limited to:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional training, including development of basic and job skills;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsible to the objectives of this subpart, including assistance to employers in developing job ladders of new job opportunities for youths, in order to improve work relationships between employers and youths;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment for youth to the maximum extent feasible and referral to employability development programs;

(O) Assistance in overcoming sex stereotyping in job development and counseling; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of well-supervised employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, counseling, and guidance. Any work experience or on-the-job training must include these minimum services. Where work experience or on-the-job training is provided for in-school youth under agreements with local educational agencies, placement services must also be included.

(b) *Agreement with local educational agencies.* (1) Prime sponsors shall serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 343(d)(1) pursuant to written agreements between them and local educational agencies (LEA's).

(2) Agreements may be between the prime sponsor and one or more local educational agencies or a combination of LEA's represented by one LEA.

(3) Each agreement may be either financial or nonfinancial, whichever is determined most appropriate by the prime sponsor and the LEA(s), and shall:

(i) Provide a description of the activities and services to be provided to participants;

(ii) Detail the responsibility of each party to the agreement for providing the activities and services; and

(iii) Contain provisions to assure that service and/or funds received pursuant to the agreement will not supplant State, local, or Federal funds expended for the same purpose.

(4) Additional provisions are required in those agreements which provide for career employment experience opportunities. These include:

(i) Assurances that youth will be provided constructive work experience, which will improve their ability to make career decisions and provide them with basic work skills needed for regular employment;

(ii) Assurances that such agreements have been reviewed by the youth council;

(iii) Assurances that job information, counseling guidance, and placement services will be made available;

(iv) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the youths;

(v) Assurances that the prime sponsor will advise youth of the availability of other employment and training resources available in the local community; and

(vi) An assurance that career employment experience opportunities provided will be certified by a school-based counselor as being relevant to the career and educational program of the youth(s) (secs. 343(d)(2), 346(c)).

§ 97.1212 Payments to participants.

(a) Participants in training activities which are a combination of employment and training shall be paid in accordance with § 97.135.

(b) *Allowances.* Participants will be paid allowances in accordance with the criteria and process in § 97.134.

(c) *Wages.* Participants receiving wages shall be paid no less than the highest of:

(1) The minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is 14 or 15 years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938;

(2) The State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is 14 or 15 years old the wage provided in accordance with the applicable provision of the applicable State or local minimum wage law; or

(3) The prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that:

(A) Whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youth may be paid the rates specified in such agreement;

(B) Whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (c) (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within 30 days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

(C) Whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (c) (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within 30 days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

(D) In the case of projects to which the provisions of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts (2) and (3) of this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticable trade, and to prescribe the appropriate ratio of journeymen to such participating youths (sec. 352).

(d) Allowances and wages received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program (sec. 356).

§ 97.1213 Maintenance of effort (sec. 353(b)).

(a) The provisions of § 97.334 proscribing substitution of Federal funds for activities previously funded through other resources apply to all activities funded under this program (sec. 353 (b), (c), and (d)).

(b) The following provisions also apply to activities funded under this program:

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(1) They will not result in the displacement of currently employed workers;

(2) They will not substitute jobs assisted under this part for existing fed-

promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) They will not permit a job to be

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(1) They will not result in the displacement of currently employed workers;

(2) They will not substitute jobs assisted under this part for existing federally assisted jobs;

(3) They will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) They will not be used to employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YETP;

(5) They will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) They will not permit a job to be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and

(7) Job restructuring will not occur and new classifications will not be developed solely to negate established personnel procedures or to displace currently employed workers.

Signed this 10th day of October 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-29170 Filed 10-16-78; 8:45 am]

federal register

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PART IV

ENVIRONMENTAL PROTECTION AGENCY

FINANCIAL ASSISTANCE FOR RESOURCE RECOVERY PROJECT DEVELOPMENT UNDER THE PRESIDENT'S URBAN POLICY

Program Announcement and Request for Proposals

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

Division (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460, 202-755-9140.

SUMMARY OF COMMENTS: EPA

population density, in addition to (or instead of) their total population. Others sought a change or clarification of the definition used in the July

only those expenses incurred after award may be eligible for reimbursement or matching.

Some commentors felt that the strict requirement that two-thirds of

ing. These changes are consistent with EPA's draft Public Participation Guidelines and have been incorporated in section D.

of products; insuring that negotiated procurements are permitted under State and local laws; obtaining the most economically advantageous fi-

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 989-1]

FINANCIAL ASSISTANCE FOR RESOURCE RECOVERY PROJECT DEVELOPMENT UNDER THE PRESIDENT'S URBAN POLICY

Preamble

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Program announcement and request for proposals.

SUMMARY: The President's Urban Policy issued on March 27, 1978, directs the U.S. Environmental Protection Agency (EPA) to carry out a program of financial assistance to urban areas for solid waste resource recovery project planning and feasibility analysis.

This program is authorized under section 4008(a)(2) of the Resource Conservation and Recovery Act of 1976, referred to herein as "RCRA." A $15 million fiscal year 1979 appropriation to fund this program has been approved by Congress.

The purpose of this notice is to describe the program, the procedures by which interested parties may apply for funding, and to solicit proposals under these procedures.

Proposals shall be submitted as preapplications. Preapplications will be reviewed and evaluated against defined program requirements and criteria. The preapplication will be the primary basis for selection of applicants that will ultimately receive awards.

Following this selection, EPA will work closely with each selected applicant to assist them in developing their detailed scope of work and implementation schedule, the consultant services required, project review and reporting procedures, and their final budget. These items will form the basis of a formal application for funding. Following EPA approval and processing of the formal application, the award will be made.

DATES: Preapplications are due on December 15, 1978.

ADDRESSES: Those interested in submitting preapplications (proposals) should request a preapplication kit by writing or calling the following address: U.S. Environmental Protection Agency, Office of Solid Waste, Resource Recovery Division (WH-563), Washington, D.C. 20460, 202-755-9140. Attn.: Urban Policy Program.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen A. Lingle, Chief, Technology and Markets Branch, Office of Solid Waste, Resource Recovery Division (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460, 202-755-9140.

SUMMARY OF COMMENTS: EPA published a draft of this notice in the July 31, 1978 FEDERAL REGISTER in order to solicit public comment. A public meeting was conducted in Washington, D.C., on August 18, 1978, for the same purpose. This solicitation announcement reflects the comments received by mail and at the public meeting, to the extent EPA believes practicable and consistent with the intent of the program.

Approximately 200 people attended the public meeting, submitted written comments, or both. Many comments were received and all were considered in developing this final announcement. However, those representing the views of only one individual or group have generally not been summarized here.

(1) *Eligibility of planning agencies.* Commentors suggested that the planning process mandated by Section 4006 RCRA may not have been completed in certain States by the time applications for this program are required, and that EPA should not require applicants to certify designation under 4006 for this reason. Other commentors suggested that we broaden eligibility to include planning agencies as well as implementation agencies, and some suggested that the 4006 process be waived for purposes of this program, if only for a specificed length of time.

The program announcement as published here has, therefore, included planning agencies as eligible applicants, but only where the application is supported by the appropriate implementation agency. This is consistent with the intent of RCRA and of this program, since EPA financial support will be directed toward sponsors who have the jurisdictional authority and resources available to bring planned facilities and programs to fruition.

EPA remains committed to coordinated State and local solid waste planning, as mandated under Subtitle D of RCRA. The Agency, therefore, has retained the requirement that applicants be designated under 4006.

The concern expressed by commentors over the pace of 4006 designations requires a response. We have, therefore, stated that applicants under this program may submit evidence of interim designation where the State process has not been completed. This will enable the State to insure that such projects or programs as may be proposed to EPA are consistent with sound statewide planning, even where that planning is incomplete.

(2) *Definition of "urban".* Some commentors suggested that EPA define "urban" areas in terms of their population density, in addition to (or instead of) their total population. Others sought a change or clarification of the definition used in the July 31, 1978, FEDERAL REGISTER draft of this notice.

The definition of "urban" is intended to be a general guide, and not a strict parameter, of eligibility. Interested applicants with fewer than 50,000 people are not prohibited, and will be considered on their merit. Any EPA attempt to alter or supplant accepted Census Bureau definitions for purposes of this program would be, at best, confusing to the public. We have, therfore, left the July 31, 1978, definition unchanged.

(3) *Conflict of interest.* Considerable comment was submitted on the EPA position regarding follow-on work by consultants who have recommended that such work be done in the first place. The Office of Solid Waste has previously stated its concern over the potential for or appearance of, impropriety in such situations. With respect to work performed by EPA solid waste technical assistance contractors, EPA prohibits those contractors from participating in such follow-on work as may result from their recommendations.

EPA will provide guidance to successful applicants regarding handling of conflict of interest issues.

(4) *Schedule.* Several commentors suggested that the time between solicitation and award was excessive and should be compressed in order to make the funds available more quickly. Some commentors thought that the suggested 75 days for preparation of proposals was too short, while others felt that it was too long. Other commentors considered EPA's 60-90-day review and selection period to be excessive.

This announcement requires submittal of preapplication by December 15, 1978, which represents a response time of approximately 60 calendar days based on the estimated date of publication of this announcement. In addition, EPA will attempt to complete review and selection within 60 days. Considerable time has been spent to simplify the format and shorten the time for submission, selection, and award. However, it is important that the quality of the selection process not be compromised. The combined review by States, EPA Regional Offices, and EPA Headquarters does lengthen the process somewhat, but, in our opinion, is necessary and desirable.

(5) *Cost sharing.* Some commentors requested a clarification on whether expenditures prior to EPA award were eligible for reimbursement. EPA grant regulations do not allow reimbursement of such expenses. This program is governed by those regulations, and

only those expenses incurred after award may be eligible for reimbursement or matching.

Some commentors felt that the strict requirement that two-thirds of an applicant's matching share be other than "in-kind" contribution was overly restrictive, particularly during the first year of the program when municipal budget cycles might not be consistent with timing of this program announcement. EPA feels strongly that a cash contribution by an applicant is an important indicator of applicant commitment and that in most instances, provisions can be made within the budgetary process to provide such a commitment. This program announcement changes this cash matching *requirement* to a *recommendation*, but states that special consideration will be given to those applicants which provide such a cash match. Correspondingly, the "extent of an applicant's cash contribution to the project" is now included in the selection criteria.

(6) *Weighting of selection criteria.* Several commentors suggested slightly different criteria weighting, though overall the criteria and their weights were supported. The weights most frequently mentioned were those related to prior progress and urban economic distress. There was also comment that land disposal issues should be less heavily rated and prior progress weighting increased. The weights have, therefore, been altered slightly to decrease weighting of land disposal factors by 5 percentage points, and increasing prior progress by the same amount.

(7) *Nature of funding commitment by phase.* During the public meeting, it was suggested that EPA commit fiscal year 1979 funding to only one phase of a project and that later phases be funded from subsequent years' appropriations. EPA pointed out that subsequent funding was not guaranteed, and further that such an approach could result in loss of continuity due to timing of any subsequent funding. Nevertheless, pending review of all responses, EPA reserves the option of committing fiscal year 1979 funding to only one phase or to all phases of a project as circumstances dictate.

(8) *Management of the program.* Several commentors requested that the role of the States, EPA regional offices, and EPA headquarters be clarified, and that the relationship to the DOE program be clarified. Clarifications on these points have been included in this announcement under sections C and E.

(9) *Public participation.* Several commentors recommended a more strongly defined public participation requirement and suggested that such activities should be eligible for funding. These changes are consistent with EPA's draft Public Participation Guidelines and have been incorporated in section D.

FINANCIAL ASSISTANCE FOR RESOURCE RECOVERY PROJECT DEVELOPMENT UNDER THE PRESIDENT'S URBAN POLICY

Program Announcement

A. BACKGROUND AND PROGRAM RATIONALE

Solid waste disposal is a serious and growing problem for urban areas, commonly ranking as one of their most pressing concerns. At the same time, solid waste is also a growing resource of significant potential.

Existing landfills are reaching capacity in many cities, and new environmentally acceptable landfills are often difficult to site. Thus, many cities are eager to move to resource recovery to reduce their land disposal needs, and at the same time, provide a supplemental source of energy and materials to help satisfy municipal, industrial, or commercial needs. The move to resource recovery also serves to reduce the demand upon the Nation's energy and materials resources and the imports of these resources.

Furthermore, these new commercial activities can assist in reducing unemployed by providing jobs and new industrial opportunities. Source separation programs offer the added benefit of involving large numbers of citizens directly in a tangible effort to improve their environment.

Progress in implementing resource recovery across the Nation is being made, but at a pace so slow that it does not match the growth in waste generation. A major barrier to more rapid implementation is the fact that the procedures involved in implementing resource recovery are unique and complex. These procedures involve a series of technical, marketing, financial, legal, and organizational factors which must be brought together in a comprehensive, well-structured project planning and development process. Problems in many of these areas are often referred to as "institutional" constraints. Thus, despite the pressures of the solid waste problem, cities often fail to accomplish the preparatory steps for the implementation of resource recovery.

Examples of key tasks which, when not properly addressed, have delayed or prevented implementation of resource recovery facilities include: obtaining a long-term commitment for supply of waste to a plant; considering source separation as a part of the system in early planning; obtaining support of all interested parties, including the public; modifying laws or ordinances to permit signing of long-term contracts for waste supply or sale of products; insuring that negotiated procurements are permitted under State and local laws; obtaining the most economically advantageous financing; developing a well-structured request for proposals which will stimulate attractive, comparable bids, and; negotiating appropriate risk sharing arrangements for facility construction and operation. Similarly, implementation of source separation programs is impeded by lack of staff and expertise to develop markets, obtain public support, and design a cost effective system.

B. PROGRAM OBJECTIVE

The financial assistance program described in this document directly addresses these institutional factors. It is designed to help cities move effectively through the project planning and development process by providing financial assistance to address tasks such as those above. Funds under this program may be used to hire capable in-house project managers as well as a broad range of consulting services.

The Urban Policy financial assistance program is based on the premise that effective project planning and development will result in timely and successful implementation of facilities and/or source separation approaches without Federal funding of design, land, equipment or construction. Though the capital costs of larger resource recovery plants are substantial, experience has shown that debt financing is available through normal private financial channels for well-conceived projects.

These are projects having long-term waste supply and market commitments and utilizing technologies proven in commercial operation or backed by performance guarantees. For such projects, debt payment can be secured by the project revenues (tipping fees and product sales) without impacting the credit or borrowing power of the community. Private equity can also be a part of plant financing.

C. PROGRAM MANAGEMENT AND ADMINISTRATION

This program will be funded under Federal Catalog No. 66.451, Solid and Hazardous Waste Management Program Support Grants. However, the program as described in this announcement recognizes the need for close interaction and cooperation between EPA and the successful applicants. Based on the provisions of Public Law 95-224, the "Federal Grant and Cooperative Agreement Act of 1977," such financial assistance shall take the form of a "cooperative agreements." Most aspects of administration of cooperative agreements are the same as administration of grants. Co-

operative agreements differ from grants in that under cooperative agreements substantial involvement is anticipated between the recipient and EPA

be available from EPA. The objectives of the public participation requirements are:

(1) To insure that the public understands official programs and proposed

cal separation, including densification of solid fuels.

The purpose of referencing the above DOE program is to apprise po-

exceed 75 percent of total project costs.

In support of the objectives of this program to identify projects with high

proposed project, and (c) explains why an agency other than the implementing agency is requesting funding.

Accordingly, local and regional juris-

proposed codisposal project must be prepared and approved by the State and EPA in accordance with EPA construction grant regulations (40 CFR

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operative agreements differ from grants in that under cooperative agreements substantial involvement is anticipated between the recipient and EPA.

Management of the cooperative agreements will be carried out by EPA Regional Office staff, with assistance provided by EPA Headquarters staff as necessary. In addition, States will be invited to lend technical or financial support to those receiving assistance under this program.

The Resource Conservation and Recovery Panels provided under section 2003 of RCRA may be used selectively at the discretion of EPA to assist successful applicants with such activities as developing detailed workscopes or consultant task descriptions. However, any such assistance will not reduce the amount of assistance available for jurisdictions not receiving awards under this program. EPA will further support the program by providing guidance and information to successful applicants.

The procedure for review of proposals and selection of those to be funded will involve the States, EPA Regional Offices, and EPA Headquarters. States will approve proposals based on consistency with State plans. Any proposals which the State indicates as not consistent with such a plan will not be considered for funding by EPA. States will also be asked to provide comments on the proposals to the EPA Regional Offices and score them based on the established selection criteria.

EPA Regional Offices will review and rank the proposals for their respective regions, taking into consideration the State comments. EPA Headquarters staff will review all of the proposals on a national basis and will make final selections based on merit. Headquarters and regional reviews will be made independently, but any differences in ranking within a region will be reconciled with the Regional Office reviewers prior to final national selections. All reviewers will use the criteria established in this announcement as the basis for their selections.

No numerical or monetary project allocations by region or State will be made. However, it is anticipated that a wide geographic representation will result from the selections.

D. PUBLIC PARTICIPATION

The recipients of financial assistance under this program will be expected to meet the requirements of the "Regulations for Public Participation Under the Safe Drinking Water Act, The Resource Conservation and Recovery Act, and the Clean Water Act" (40 CFR Part 25), after such regulations are published in final form. Currently, promulgation is scheduled for December 1978, after which time copies will be available from EPA. The objectives of the public participation requirements are:

(1) To insure that the public understands official programs and proposed actions, and that government understands public concerns.

(2) To insure that no significant government decision on any activity covered under this part is made without consultation with interested and affected segments of the public.

(3) To insure that government action is responsive to public concerns to the maximum extent feasible, and to demonstrate that public concerns are evaluated and considered.

(4) To promote public support of environmental laws.

(5) To keep the public informed of significant issues and proposed project or program changes as they arise.

(6) To foster a spirit of openness and mutual cooperation among EPA, States, substate agencies and the public.

(7) To continuously strive to make public participation happen, by using all feasible means to furnish opportunities for participation and by stimulating and supporting participation.

The public participation tasks which should be included in a project workscope are described in the preapplication kit available to all those interested in requesting funding.

E. RELATIONSHIP WITH OTHER FEDERAL PROGRAMS

This assistance program will be coordinated with U.S. Department of Energy (DOE) programs in resource recovery from solid waste. DOE is authorized under Pub. L. 95-238 to support through loan guarantees, grants, contracts, cooperative agreements and price supports, the construction, startup, operation, and related expenses of demonstration facilities for recovery of energy from wastes. It is DOE's intent to support construction only be accepting risk through loan guarantees, cooperative agreements and price supports. However, funds have not been appropriated to provide loan guarantees.

Those whose planning under this EPA program may result in consideration of new and innovative technologies should be aware that demonstration assistance may be available in the future from DOE. Further, DOE intends to seek suitable communities for the demonstration of innovative technologies from those which apply under this program.

Technologies which DOE is potentially interested in demonstrating include thermal gasification or liquification of solid waste, new reactors for combustion systems, biological conversion systems, and innovative equipment or process designs for mechanical separation, including densification of solid fuels.

The purpose of referencing the above DOE program is to apprise potential applicants of its existence. It is not intended to encourage or give preference to implementation of new and innovative technologies under EPA's program. But neither is it EPA's objective to discourage such efforts.

F. PROGRAM DEFINITION AND PROJECT OBJECTIVES

On the basis of competitive solicitation, funding will be made available to selected urban areas for activities to determine the feasibility of resource recovery approaches, and for the follow-on project development steps necessary to implement such approaches. Conceptual design and preliminary engineering design is eligible for funding. Funding for final engineering design, construction, or acquisition of land and equipment is not eligible.

There are three primary objectives of his program: to accelerate national progress in resource recovery implementation; to provide environmentally sound alternatives to solid waste disposal, and to assist economically distressed urban areas pursuant to the President's Urban Policy.

In view of these objectives, a prime consideration in selection of cities for funding will be to choose those judged to have a high probability for successful implementation given sufficient project development funding. Cities which appear to have high potential for resource recovery but which do not find resource recovery implementation to be their best course of action will be able to make this determination early in the planning process, thereby avoiding additional and unnecessary cost.

It is the implementation (rather than the planning) of facilities which may be expected to impact the problems of economically troubled urban areas. Thus, communities must first score highly under the criterial for potential success before they may be considered for the financial assistance described in this announcement. Within this constraint, however, comparatively distressed areas will be given priority over candidates with less severe economic problems.

G. PROJECTED FUNDNG LEVELS

The President has indicated that he will consider an additional $15 million for the program in each of the fiscal years 1980 and 1981.

H. COST SHARING

Consistent with regulations already promulgated for grant programs under RCRA, the Federal share of project costs under this program will not

exceed 75 percent of total project costs.

In support of the objectives of this program to identify projects with high potential for implementation, a key element in the selection process will be the measure of an applicant's commitment to the project. For this reason, special consideration will be given to those applicants that can demonstrate that at least two-thirds of their matching share represents new cash commitments other than in-kind contributions. EPA's general grant regulations (40 CFR 30.135-15) define in-kind contribution as the value of a non-cash contribution provided by (a) the grantee, (b) other public agencies and institutions, and (c) private organizations and individuals. An in-kind contribution may consist of charges for real property and equipment, and the value of goods and services directly benefiting and specifically indentifiable to the grant program.

I. ELIGIBLE ORGANIZATIONS

As defined in section 4008(a)(2) of RCRA, the following governmental units are eligible to apply for assistance under this program: States, counties, municipalities, and intermunicipal agencies, and State and local public solid waste management authorities. Interstate agencies are also eligible for funding. However, eligibility will be further limited by the requirements of section 4006 of RCRA.

Section 4006(b) of RCRA establishes the requirements that ". . . the State, together with appropriated elected officials of general purpose units of local government, shall jointly (a) identify an agency to develop the State plan and identify one or more agencies to implement such plan, and (b) identify which solid waste functions will, under such State plan, be planned for and carried out by regional or local and State authorities."

Consistent with the requirements of the Act, EPA will make awards to those applicants jointly identified by the State and appropriate locally elected officials for plan implementation responsibilities in resource recovery.

The only other eligible applicants are:

(1) Where a State has not completed the implementation agency identification process, an agency receiving an interim designation for plan implementation by the governor (with the EPA Regional Administrator's concurrence), and

(2) An applicant (such as an agency designated under the 4006 process as having planning responsibility) that (a) receives written concurrence from a designated (or interim designated) implementation agency indicating that the proposed project has the full support and involvement of the implementing agency, (b) defines the role of the designated implementation agency in the proposed project, and (c) explains why an agency other than the implementing agency is requesting funding.

Accordingly, local and regional jurisdictions competing for an award in an area shall submit with their application a written agreement, understanding, or other evidence which certifies that resource recovery implementation responsibility has been jointly assigned to such jurisdictions in conformance with the guidelines established under section 4002(a) of the Act (40 CFR Part 655, "Identification of Regions and Agencies for Solid Waste Management").

It should be understood that implementing agencies applying under this program may, through appropriate agreements, transfer a portion of the funds to designated planning agencies for portions of the project. In general, close interaction between planning and implementing agencies is encouraged.

Within these definitions, EPA intends to consider as eligible for funding urban communities and jurisdictions of all sizes. The criteria described in a later section will be used to establish priorities for funding. It is anticipated that application of the criteria will result in the major portion of the funding being allocated to areas of at least 50,000 population. Furthermore, urban areas with severe economic problems and which also show high implementation potential will receive first consideration.

Section 4008(a)(2)(B) establishes additional requirements for grantees under this authority:

> An applicant for financial assistance under this paragraph must agree to comply with respect to the project or program assisted with the applicable requirments of section 4005 and Subtitle C of this Act and apply applicable solid waste management practices, methods, and levels of control consistent with any guidelines published pursuant to section 1008 of this Act. Assistance under this paragraph shall be available only for programs certified by the State to be consistent with any applicable State or areawide solid waste management plan or program.

J. PROGRAMS AND ACTIVITIES ELIGIBLE FOR SUPPORT

Planning and project development of energy and materials recovery plants and source separation programs are eligible for funding under this program. Eligibility is limited to projects which involve solid waste primarily from residential and commercial sources. Also, development of projects which involve codisposal of municipal solid waste and sewage sludge in evergy and materials recovery plants will be eligible. However, if Clean Water Act (Pub. L. 92-500) funding is desired or anticipated (for design or construction), a facility plan for the proposed codisposal project must be prepared and approved by the State and EPA in accordance with EPA construction grant regulations (40 CFR Part 35 Subpart E).

Projects directed primarily toward development of land disposal or hazardous waste management facilities, or waste collection or transfer operations are not eligible.

Where Federal funding through other assistance programs is desired or anticipated for final engineering design or construction, the proposed project must conform to EPA policy and procedure (40 FR 16814) regarding compliance with the National Environmental Policy Act of 1969 (NEPA). Such projects may include codisposal projects where Clean Water Act (Pub. L. 92-500) funding is desired or anticipated. In such instances, environmental assessments must be prepared and submitted to EPA so that EPA can conduct an environmental review to determine whether an environmental impact statement or a negative declaration should be issued. Since Federal assistance for design or construction is not expected for most of these projects, it is likely that most projects funded under this program will not be required to meet NEPA requirements.

EPA envisions the planning and development of resource recovery projects as an evolutionary and phased effort. Thus, eligible activities have been defined in phases. Any or all phases may be approved initially, depending on the progress of the individual community. Thus, EPA funding may begin with the second or third phase if the applicant has already successully completed those tasks defined in earlier phases. The selection criteria give preference to applicants who have made prior progress.

EPA may commit funds to an applicant for more than one phase, in essence reserving funds from the initial appropriation for use in later project phases, contingent on recipient progress. In such cases, follow-on awards will not be guaranteed but will be contingent on successful completion of earlier work and evidence that the project continues to have a high probability of success.

Alternatively, EPA may commit funding to only one project phase initially, with the intent of funding later phases (contingent on successful progress) from subsequent years' appropriations, if such appropriations are available. If a project is funded in this way, the recipient would not have to apply under later competitive solicitations but rather would be given priority consideration.

Applicants will be required to define their proposed project in terms of the elements of the phases described

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below. The elements listed should not be considered exhaustive, and additional elements may be eligible.

An applicant's proposed project phasing will not have to match those described below. For example, an applicant may define a project phase which incorporates most of the Phase I defined below as well as selected items from Phase II. However, the phases below are intended to serve as a guide, and requested phasing should be generally consistent with these definitions. Also, proposed phasing will be subject to EPA approval during the development of the final workscope.

Specific outputs of each project phase are defined below. These are the types of outputs on which progress will be judged. It is EPA's intent to provide more detailed guidance and examples to the selected applicants for some or all of the outputs during development of the detailed project workscope.

Activities are listed below in two parts. The first part deals with implementation of resource recovery plants; the second part deals with implementation of source separation programs.

ELIGIBLE ACTIVITIES AND OUTPUTS FOR RESOURCE RECOVERY PLANT IMPLEMENTATION

a. Phase I—Feasibility Analysis. This phase includes evaluation of the feasibility of resource conservation and recovery and the preliminary definition of one or more feasible alternatives. The purpose of this phase is to arrive at a basis for a go/no go decision on implementation and to begin preliminary development of a strategy for implementation.

PHASE I ACTIVITIES

Survey the waste stream (quantity and composition).
Review alternative technologies.
Survey markets and develop preliminary commitments.
Review compatibility with any existing or potential waste reduction programs.
Analyze source separation as a part of the overall recovery approach.
Identify alternative plant sites.
Develop general conceptual design of alternative system/market combinations.
Evaluate environmental issues and identify approach to assure compliance with environmental regulations.
Estimate project costs and benefits.
Assign a full-time project manager.
Formulate an advisory committee.
Begin public participation and education (in accordance with EPA Public Participation Guidelines as discussed in Part D of this announcement).
Ensure State agency support and involvement.

PHASE I OUTPUTS

Estimates of waste generation and composition based on weight measurements.
Analysis of waste collection responsibilities and controls.
Identification of specific markets available, including estimated price and quantity ranges and specifications.
Explanation of technologies considered and tentatively selected as alternatives to satisfy these markets.
Description of potential site(s).
Economic analysis of source separation techniques as a complement to a largescale system.
Economic analysis of proposed alternative(s): capital and operating costs, net tipping fees, etc.
Comparison of costs with land disposal alternatives.
Statement of preliminary go/no go decision by top elected officials with rationale for decision.
Clear statement of project objectives if decision is go.

b. Phase II—Procurement Planning. This phase would take the Phase I outputs and develop all essential elements (except final engineering design) leading to solicitation for system proposals or construction bids.

PHASE II ACTIVITIES

Establish a project management team.
Review qualifications of system vendors or designers.
Analyze procurement options (A&E, turnkey, full-service), and risk posture.
Determine system performance requirements.
Develop an environmental assessment when Federal funding is anticipated for final engineering design or construction (as with codisposal projects).
Review and select a financing alternative.
Select a site taking into account environmental impacts.
Carry out steps to secure waste supply.
Obtain market commitments (letters of intent).
Review procurement and contracting laws and other legal matters impacting the project.
Define permit and regulatory requirements.
Carry out advisory committee activities.
Continue public participation and education.
Ensure continued State agency support and involvement, including required legislation.

PHASE II OUTPUTS

Description of procurement approach.
Description of financing plan.
Description of how waste supply will be assured.
Firm letters of intent for purchase of products.
Description of legal authorities and actions to remove constraints.
Description of permit and regulatory requirements, and means of obtaining required permits.
Advisory committee project analysis. Summary of public participation activities and of public comments in response to the project.

c. Phase III—Procurement. This phase involves those steps required to solicit for system proposals or bids, review and select a successful bidder, and negotiate and sign final contracts.

PHASE III ACTIVITIES

Prepare appropriate RFP's or select A&E for design (depending on procurement strategy).
Evaluate bids or proposals.
Determine negotiation strategy.
Negotiate with preferred bidder (depending on procurement strategy).
Secure required permits.
Finalize contracts for systems, markets, and waste supply.
Secure financing.
Continue public participation and education.
Continue advisory committee activities.
Ensure continued State agency support and involvement.

PHASE III OUTPUTS

Well-conceived RFP.
Selected bidder.
Contracts for system procurement, product sales, or waste supply.
Secured-approved permits.
Marketable financing package.
If appropriate, a summary of continued advisory committee work.

ELIGIBLE ACTIVITIES AND OUTPUTS FOR DEVELOPMENT OF SOURCE SEPARATION PROGRAMS

a. Phase I—(Feasibility). This phase includes determination of the feasibility of resource conservation and recovery through source separation techniques. Eligible activities will result in a basis for a go/no go decision on implementation. Activities would include:
Survey markets.
Survey waste stream.
Analyze costs.
Assign a full-time project manager.
Formulate an advisory committee.
Conduct public participation activities (in accordance with EPA Public Participation Guidelines).
Identify alternative source separation strategies.
Determine need for amended or new ordinances or legislation necessary to operate the program.

Determine the need for and feasibility of interlocal agreements.
Insure State agency support and involvement.

PHASE I OUTPUTS

Feasibility analysis including: Market survey results; cost analyses; analyses of alternative source separation strategies; and public education requirements.
Recommendations for procurement of services and/or equipment.
Recommendations for interlocal agreements.
Recommendations for marketing arrangements and contracts.
Summary of public participation activities and discussion of public comments in response to the project.

b. Phase II (Implementation). This phase would be fundable after the decision to implement a source separation program was reached. Implementation activities would include:
Establish structure of collection, processing and storage system.
Develop and issue bid specifications for procurement of collection, processing and storage equipment and/or services.
Develop and issue bid specifications for sale of materials.
Evaluate bids for sale of materials and procurement of services and equipment.
Draft and enact appropriate ordinances and legislation.
Develop a public education program.
Conduct advisory committee activities.
Ensure continued State agency support and involvement.

PHASE II OUTPUTS

Contracts for supply of services and equipment.
Market contracts for recovered products.
Enacted ordinances and/or legislation.
A comprehensive campaign to educate and train the public to carry out their role in the source separation program.
Implementation of the collection, processing and storage system.
Summary of public participation activities and discussion of public comments in response to the project.

K. SOLICITATION PROCEDURE

Applicants will be selected for award under this program through a national competition described below.

Applicants will have until December 15, 1978, to develop and submit proposals according to the preapplication kit instructions. Kits are available by writing or calling:

Mr. Stephen A. Lingle,
Office of Solid Waste,
Resource Recovery Division (WH-563),
U.S. Environmental Protection Agency,
Washington, D.C. 20460; Telephone 202-755-9140.

Proposals will be reviewed and judged against criteria presented below. The criteria are qualitative factors by which the superior proposals will be selected.

Review and selection will involve State officials and EPA Regional Office and Headquarters staff. States will review proposals to certify consistency with State plans and score them based on the criteria. EPA Regional Offices will review and rank the proposals for their respective regions. EPA Headquarters, with assistance from Department of Energy staff, will review the proposals and make final selections with Regional Office concurrence. EPA anticipates that final selections will be made roughly 60 days after receipt of the proposals.

Following this selection, EPA will work closely with each selected applicant to assist them to develop a detailed scope of work and implementation schedule, to identify the appropriate types of consultant services required, to determine review and reporting procedures, and to develop a final budget. These items will form the basis of a formal application for funding. Following EPA approval and processing of the formal application, the award will be made. EPA anticipates that workscope development and formal application processing and award will require approximately 60 days.

One solicitation is planned each fiscal year. If responses to the annual solicitation do not provide sufficient numbers of proposals which are selected for award, then one or more additional solicitations will be made during that year.

L. CRITERIA FOR AWARD

The criteria below will be used to select the first year's recipients, and may be revised in fiscal year 1980 and 1981 announcements as experience dictates. These criteria have been designed to reflect the potential of an applicant for successful resource recovery implementation, given financial and technical assistance in project planning and development, as well as the extent of the applicant's urban economic problems. The selection criteria are as follows:

1. Potential and need for resource recovery to reduce land disposal requirements. (35 percent of total points.)

Availability of future land disposal sites.
Projected waste generation versus land availability.
Immediacy of need for land disposal alternatives.
Current and projected costs of land disposal, including transportation costs.

2. Project success factors. (35 percent of total points.)

Applicant's commitment

Extent of applicant's cash contribution to the project.
Approval and support of local elected officials.

Institutional factors

Mechanism for securing waste supply.
Existence of a strong implementing authority recognized by all project participants.
Approval and support of (1) local elected officials, (2) public and industry, and (3) States.
Local/regional cooperation, including consistency with any local and/or regional plans.
Firm market commitment and technical feasibility (when already selected).

Recovery and conservation impacts

Extent of energy and materials recovery.
Integration of mechanical recovery/conversion systems and source separation and resource conservation programs.

3. Potential for supporting the Urban Policy objectives. (15 percent of total points.)

A major objective of this initiative is to induce private investment and enhance job opportunities in economically "distressed" urban areas. The applicants should describe factors which they believe reflect the level of economic distress in the area to be served by the project. Factors which could be considered include:
Current levels and trends in employment.
Current level and trends in per capita income.
Urban population shifts and other changes in the tax base.

4. Amount of prior progress toward resource recovery. (15 percent of total points.)

Examples of eligible progress include, but are not limited to:
Completed feasibility study.
Appointed resource recovery project director.
Strong market or waste supply commitment.
Any of the project elements listed in the description of eligible activities can be credited under this criterion.

Dated: October 11, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-29221 Filed 10-16-78; 8:45 am]

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federal register

TUESDAY, OCTOBER 17, 1978
PART V

CONSUMER PRODUCT SAFETY COMMISSION

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REASONABLE AND REPRESENTATIVE TESTS AND GUARANTIES UNDER THE FLAMMABLE FABRICS ACT

Proposed Revision and Amendment of Flammable Fabrics Act Regulations

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[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1608, 1610, 1611]

REASONABLE AND REPRESENTATIVE TESTS AND GUARANTIES UNDER THE FLAMMABLE FABRICS ACT

Proposed Revision and Amendment of Flammable Fabrics Act Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rules.

SUMMARY: The Consumer Product Safety Commission proposes to revise and amend the Flammable Fabrics Act regulations concerning (1) guaranties issued by the sellers of products subject to the Act that the products conform to the applicable standard, (2) "reasonable and representative" tests to show the basis for guaranties of fabrics covered by the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611), and (3) general regulations applicable to all products subject to a standard issued under the Flammable Fabrics Act (16 CFR Part 1608). The purpose of the amendments is to update the regulations and to simplify and clarify them so they can be more easily understood, and so that compliance will be easier.

DATES: Written comments should be submitted on or before December 18, 1978.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Phyllis Buxbaum, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6626.

SUPPLEMENTAL INFORMATION:

Background

The Flammable Fabrics Act (FAA), which was originally enacted in 1953, amended in 1954, and revised and amended in 1967, authorizes the issuance of flammability standards and other regulations for clothing, interior furnishings, fabric, and related material to protect the public against the unreasonable risk of fire leading to injury, death, and property damage.

On May 14, 1973, all of the functions under the Flammable Fabrics Act (15 U.S.C. 1191-1204) were transferred to the Consumer Product Safety Commission by section 30 of the Consumer Product Safety Act (15 U.S.C. 2079). Previously, the Department of Commerce, the Federal Trade Commission, and the Department of Health, Education, and Welfare had responsibilities under the Flammable Fabrics Act.

Under section 30(e) of the Consumer Product Safety Act, all determinations, rules, and regulations in effect at the time of the transfer of functions to the Consumer Product Safety Commission continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by a court, or by operation of law. All rules and regulations now in effect under the Flammable Fabrics Act are published in Title 16 of the Code of Federal Regulations, Chapter II, Subchapter D.

On the basis of its experience in administering the Act, the Commission believes that the public and affected industries would benefit substantially if certain rules and regulations issued under the Act were revised, clarified and simplified.

One of the major reasons the changes are needed is that the regulations currently in effect are out of date. Many of the regulations were issued before the Flammable Fabrics Act was revised and amended in 1967. Prior to the 1967 amendments, only two flammability standards were in effect—the Standard for the Flammability of Clothing Textiles and the Standard for the Flammability of Vinly Plastic Film (Parts 1610 and 1611). By the 1967 amendments to the FFA, the Department of commerce (and later the Consumer Product Safety Commission) was given authority to issue flammability standards for interior furnishings as well as new or revised standards for wearing apparel. Since the 1967 amendments, five standards have been issued under the FFA.

In this revision, the Commission proposes to place in 16 CFR Part 1608 all FFA regulations presently codified in 16 CFR Parts 1608, 1610, and 1611 that are intended to apply to all flammability standards issued under the FFA. All regulations and interpretations relating to the Standard for the Flammability of Clothing Textiles will be codified in Part 1610 and all regulations and interpretations relating to the Standard for the Flammability of Vinyl Plastic Film will be codified in Part 1611. Accordingly, the Commission is proposing to amend the following Flammable Fabrics Act regulations, which now appear in Title 16 of the Code of Federal Regulations:

(a) General Rules and Regulations under the FFA (16 CFR Part 1608).

(b) The Standard for the Flammability of Clothing Textiles (16 CFR Part 1610, Subpart B).

(c) The Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611, Subpart B).

While some of the current regulations have been revised to reflect the 1967 amendments to the FFA, others do not reflect the changes resulting from the amendments. Since these regulations should apply to standards issued subsequent to 1967 (covering children's sleepwear, carpets, and mattresses) as well as to the original standards for general wearing apparel and vinyl plastic film, the regulations are being revised to reflect their applicability to the additional standards. Many of the proposed changes are purely editorial and intended to clarify but not alter the provisions of the regulations. Others, such as changing the test requirements for the purpose of issuing guaranties, are substantive.

The proposed regulations which apply only to general wearing apparel and vinyl plastic film (Parts 1610 and 1611) are being amended to clarify, simplify, and update the requirements relating to the testing of products for guaranty purposes under those two standards.

In general, the Commission believes that in certain respects the current regulations are unnecessarily complex and that some of the language is unclear. Therefore, the Commission is proposing to clarify and simplify the regulations. All of the revisions are explained below. Any reference to "current" or "present" rules in this preamble refers to the rules as presently codified.

Changes to General Rules and Regulations Under the Act

The Commission proposes to amend Part 1608, General Rules and Regulations under the Flammable Fabrics Act, as follows:

Proposed § 1608.1, corresponds to the present § 1608.0, with minor editorial changes.

Proposed § 1608.2 is a definition section which corresponds to the present § 1608.1. There are minor revisions for clarification purposes.

Proposed § 1608.3 corresponds to the present § 1608.5, with editorial revisions, and makes it clear that the exclusion of section 11(a) of the Act for common carriers, contract carriers, and freight forwarders does not apply when they sell or distribute products subject to the Act.

Proposed § 1608.4, which corresponds to the present § 1610.39 and exempts from coverage products shipped for processing to make them comply with applicable flammability standards, has been clarified and made applicable to all products subject to flammability standards rather than limited to products subject to the wearing apparel standards.

Proposed § 1608.12 describes the background and scope of the general requirements for all guaranties under section 8 of the Act that products conform to applicable flammability standards. It is a new section which has been inserted for clarification purposes and includes a statement which points out that guaranties are not mandatory, but that if they are furnished, they must be based on reasonable and representative tests performed by or for the guarantor or upon guaranties received and relied upon in good faith by the guarantor.

It also states that while a guaranty received in good faith may be used as a defense to criminal prosecution under section 7 of the Act, it is not a defense to other actions brought by the Commission such as an administrative proceeding under section 5 of the Act or an injunction or condemnation proceeding under section 6 of the Act. Also, there is a new position which states that a person who adversely affects the flammability of an item may not rely on a guaranty received as a defense to prosecution.

Proposed § 1608.12(b)(2) describes the types of guaranties authorized by the Act.

Proposed § 1608.13 sets out the general requirements which the Commission believes should apply to both separate and continuing guaranties and that are currently set out in §§ 1608.2 and 1608.3 (relating respectively to separate and continuing guaranties). In the current rules, many of these requirements are set out only in the section relating to separate guaranties or in the section relating to continuing guaranties. In proposed § 1608.13, all of the general requirements that apply to both separate and continuing guaranties under all of the standards issued under the Act have been consolidated.

Proposed § 1608.13(b) restates the requirement of the Act that guaranties must be based upon guaranties received and relied upon in good faith or upon reasonable and representative tests performed by or for the guarantor.

Proposed § 1608.13(c) requires that guaranties include the name, address, and signature of the guarantor.

Proposed § 1608.13(d) provides that unless the guaranty is furnished by a resident of the United States it is not a bar to prosecution. This should, however, be read with proposed § 1608.13(e) which is a proposed new rule and expressly provides that an importer can furnish a guaranty based on tests performed outside the United States if the importer maintains the required records that form the basis for the guaranty in the United States.

Proposed § 1608.13(f) provides that any person furnishing a guaranty who fails or refuses to keep the records of tests used as the basis of a guaranty, or the guaranties received and used as the basis of a guaranty, has furnished a false guaranty under section 8(b) of the Act. This section expands the present §§ 1610.38(e) and 1611.38(e) to make them applicable to all guaranties and not merely to those given under the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) or the Standard for the Flammability of Vinyl Plastic Film (16 CFR Part 1611).

Proposed § 1608.13(g) is a new section which provides that if a seller represents that a product complies with a flammability standard under the Act, such a representation will constitute a guaranty and must be based on reasonable and representative tests or guaranties received and relied upon in good faith.

Proposed § 1608.13(h) provides that the government shall not be represented as guarantying in any manner that a product conforms to a flammability standard. This section corresponds to the present § 1608.6.

Proposed § 1608.14 sets out the requirements for separate guaranties, covering a specific transaction between a seller and buyer.

Proposed § 1608.14(a) regarding separate guaranties is comparable to the present § 1608.2. It provides that a separate guaranty may be furnished as part of an invoice or similar document. This provision is currently in § 1608.2. The proposed section also contained an additional requirement that the address of the location of the records upon which the guaranty is based shall be given in the guaranty.

The single suggested form for separate guaranties set forth in proposed § 1608.14(b) has been simplified and clarified and is based on the two forms in the current § 1608.2.

The references in the current § 1608.2 to "class tests" for products subject to the Standard for the Flammability of Clothing Textiles (Part 1610), have been deleted because there are no specific criteria as to what constitutes a class in the current rules. The proposed rules regarding reasonable and representative tests, however, provide that each test is applicable to all products of the same composition (including fiber content), construction, finish, and weight because these are the features that most affect flammability.

Proposed § 1608.15 contains requirements which apply to continuing guaranties. Proposed § 1608.15(b) relates to continuing guaranties filed with the Commission and proposed § 1608.15(c) relates to continuing guaranties from a seller to a buyer. Generally, these sections correspond to present § 1608.3 with the following exceptions:

(1) For the reason given above, the references to class tests in present § 1608.3 have been deleted.

(2) Proposed § 1608.15(b)(3) contains a new requirement that where the person filing a continuing guaranty with the Commission is a business entity consisting of more than one operating unit, the guaranty must identify any operating unit that may issue a guaranty based on the guaranty filed by the prinicpal.

(3) Proposed § 1608.15(b)(4) also contains a new requirement that if a division, subsidiary, or other operating unit files a continuing guaranty with the Commission, the guaranty must disclose the identity of the principal.

Without these last two provisions, the Commission's records are inadequate, in that it may not be able to ascertain the identity of the firm that filed that guaranty and is responsible for maintaining the required records.

Proposed § 1608.15(b)(5) contains a new requirement that the address of the location of the records upon which the guaranty is based shall be given in the guaranty.

Proposed § 1608.15(b)(6) relates to the expiration of guaranties and contains a new provision for withdrawing continuing guaranties.

Proposed § 1608.15(b)(7) provides that a guarantor shall furnish written notice to the Commission when there is a change in the guarantor's legal status or principal place of business.

Proposed § 1608.15(b)(8) revises the statement on the invoice or similar document by which a guarantor gives notice that he or she has a continuing guaranty on file with the Commission by limiting the scope of the statement to the products described in the invoice or other document. This is intended to replace the statement provided in the current § 1608.3(c).

The prescribed forms for continuing guaranties are set forth in proposed subsections 1608.15(b)(10) and 1608.15(c)(6) and contain editorial changes from the currently required forms. The forms are no longer required to be notarized.

Proposed § 1608.15(c), which relates to a continuing guaranty from seller to buyer, contains provisions comparable to those in current § 1608.2, except that those subsections which relate to filing a continuing guaranty with the Commission are eliminated.

Proposed Changes to Rules and Policies for the Standard for the Flammability of Clothing Textiles

Subpart B of Part 1610 contains the rules and regulations which concern the Standard for the Flammability of Clothing Textiles (Part 1610, Subpart A). The Commission is proposing to make various revisions to these regulations. The current rules as presently

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codified in Part 1610 contain provisions applicable to products tested under the Standard for the Flammability of Vinyl Plastic Film (Part 1611, Subpart A) as well as the Standard for the Flammability of Clothing Textiles (Part 1610, Subpart A). Under the proposed revision of the rules, all rules and interpretations relating to the Standard for the Flammability of Clothing Textiles will be placed in Part 1610 and all rules and regulations relating to the Standard for the Flammability of Vinyl Plastic Film will be placed in Part 1611.

Several definitions in the proposed § 1610.31 have been amended so that they are applicable only to the clothing textile standard.

The definition of the term "Act" as used in proposed Subpart B of Part 1610 explains "Act" as used in Part 1610 refers to the Flammable Fabrics Act as it existed before it was amended and revised in 1967. (The text of this version of the Flammable Fabrics Act is set forth in 16 CFR Part 1609.) This is necessary because a "savings clause" in the 1967 revised Act continues the flammability standards previously in effect for the fabrics and articles of wearing apparel to which they are applicable, until they are superseded or modified. "Act as amended and revised" (§ 1608.31(b)) is defined as the Flammable Fabrics Act subsequent to the 1967 revision. The two definitions, referring to different versions of the Flammable Fabrics Act, are necessary because the original Act applies to certain situations under the Standard for the Flammability of Clothing Textiles, which is one of the standards issued under the original Act and continued in effect by the "savings clause."

Proposed § 1610.31(e) is revised to clearly explain that the term "rules and regulations" includes the rules established by the Federal Trade Commission when it administered the Act that continue in effect as well as subsequent rules or amendments issued by the Consumer Product Safety Commission.

The definition of "textile fabric" in the proposed § 1610.31(g) has been revised to clearly show that film and fabric with a nitrocellulose fiber, finish, or coating are not subject to Part 1610 but are covered by Part 1611.

In proposed § 1610.31(j), the definition of "raised surface textile fabric" has been revised to specifically indicate that this term includes fabrics having an appliqued, overstitched, tufted, or embroidered design or a loop, pile, or nap construction (such as chenille fabric) as well as a base fabric with multiple rows of lace, ruffles, or similar designs.

Proposed § 1610.31(l) contains a definition of "coated fabric." This definition does not appear in the current rules and regulations. "Coated fabric" as defined in this section does not include fabric with a nitrocellulose fiber, finish, or coating because such fabric is not covered by Part 1610. However, the definition of "coated fabric" which is in Part 1611 does include fabric with a nitrocellulose fiber, finish, or coating because such fabric is covered by the Standard for the Flammability of Vinyl Plastic Film in Part 1611.

Proposed § 1610.32 has minor editorial changes.

Proposed § 1610.33 has been revised so that it clearly describes the standard under which the various types of textile fabrics are required to be tested.

Proposed § 1610.34 describes the surface of wearing apparel that is required to be tested. It is intended to replace current § 1610.34, 1610.35(c), and 1610.36(e).

Proposed § 1610.35(a) relating to testing fabric which would not normally be dry cleaned or washed, and § 1610.35(b), regarding narrow fabric, are comparable to provisions in current § 1610.35(a) and (d) with minor editorial changes to make the regulations more easily understood.

Proposed § 1610.36 is based on current § 1610.36 and relates to particular types of products that are not required to be tested under the standard. Proposed § 1610.36(a) relates to fabric intended or sold for use as interlinings or other covered or unexposed parts of wearing apparel, and proposed § 1610.36(b) relates to fabrics intended for use in hats, gloves, or shoes. The current and proposed regulations concerning these products both specify that the products are not subject to the standard, provided the invoice or other document associated with the marketing of such products specifies their intended end use. However, the current provision requiring persons marketing such fabrics to keep detailed records regarding acquisition and disposition of such fabrics has been eliminated in the proposed regulations since such records do not seem to be necessary for the efficient enforcement of the Act.

Proposed § 1610.36(c) combines and clarifies the several rules and notes relating to handkerchiefs which are currently in § 1610.36(c) and the note following the current § 1610.36(e).

Proposed § 1610.36(d), which relates to ornamental veils and veilings, revises and redesignates as a rule the current "Note" at the beginning of Subpart B of Part 1610. The substance of the proposed rule was issued by the Federal Trade Commission as an interpretation of the phrase "covering for the neck, face, or shoulders" which appears in section 2(d) of the Act in connection with the exclusion of hats from the Act. As revised, the proposed rule provides that ornamental veiling is covered by the Act and subject to the standard if, when attached to a hat or comprising a hat, it extends more than 9 inches from the crown of the hat.

Proposed § 1610.37 sets forth what are "reasonable and representative tests" for the purpose of issuing guaranties under section 8 of the Act for products subject to the Standard for the Flammability of Clothing Textiles (Part 1610). Although the references to class tests, which are inadequately defined in the current rules, are eliminated, the proposed rules provide that the tests performed for guaranty purposes shall apply to all fabrics of the same composition (including fiber content), construction, finish, and weight.

Proposed § 1610.37(a) is intended to clarify the present requirement that tests necessary for guaranty purposes must be conducted on the fabric after final processing when the fabric is in the form or condition for use in wearing apparel.

Proposed § 1610.37(a)(4) is a new section which states that a test for guaranty purposes may not be relied upon for more than 3 years from the date the test is conducted. This change is made because of the possibility that over a period of years there may be gradual undetected changes in the processing of the fabric that could affect its flammability.

Proposed § 1610.37(b) defines the types of required tests for guaranty purposes which include (1) an "initial test" (currently § 1610.31(k)) with the new requirement that the initial test shall be performed upon the beginning of production, importation, or other receipt of the goods to which the guarantly applies, and (2) additional tests which are required at specified intervals for fabric of the same composition, construction, finish and weight. The frequency of the additional tests depends upon the type of fabric involved and the results of the initial test.

Proposed § 1610.37(c) describes the tests required for guaranty purposes on plain surface textile fabrics. This section uses the results of the initial test as a basis for determining how frequently fabric of the same composition must be tested. The provisions proposed in this section are changed substantially from the current rules in that (1) class tests as described in the current rules have been eliminated, (2) the proposed rules do not distinguish between fabrics weighing 2 ounces or less per square yard and those weighing more because the Commission believes that all fabric that ignites during the initial test should be tested at least once a year.

Under the proposed rules, the frequency of reasonable and representative tests for plain surface fabrics will depend upon the results of the initial test which is required for all fabrics of the some composition (including fiber content), construction, finish, and weight.

Specifically, proposed § 1610.37(c)(2) regarding plain surface fabrics provides that: (1) If on the initial test the flame spread time is 3.5 seconds or more, the fabric must be tested every 3 months. If 4 consecutive tests subsequent to the initial test show the average flame spread time to be 7 seconds or more, no additional testing is required for 3 years; (2) if any specimen ignites but the flame is extinguished before it reaches the stop cord, the fabric must be tested once each year; and (3) if none of the specimens ignite, the initial test performed every 3 years will be the only testing required.

The proposed rules regarding reasonable and representative tests for raised fiber surface fabrics are also based on the results of the initial test. Specifically, proposed § 1610.37(d) provides that: (1) If on the initial test the flame spread time is from 4 to 7 seconds inclusive, the fabric must be tested once a month; (2) if on the initial test the flame spread time is in excess of 7 seconds, the fabric must be tested once every 6 months; (3) if on the initial test there is a surface flash on any specimen but the base fabric does not ignite, the fabric must be tested at least once every 6 months; and (4) if none of the specimens exhibit a surface flash or base burn, an initial test every 3 years will be the only testing required.

Under the revised regulations, the testing for guaranty purposes is based exclusively on testing at specified time intervals, rather than a combination of time intervals and production intervals, since the Commission believes this is less cumbersome to the producer and affords comparable protection to the consumer.

Proposed § 1610.37(e), which is intended to replace current § 1610.37(f), simplifies the reasonable and representative tests for fabric and wearing apparel containing fabric not tested during production by making the testing requirements the same as that required for fabric during production.

Proposed § 1610.37(f) is a new section which provides that if a fabric fails the applicable flammability test, any guaranty of that fabric sold after the failing test, but before the defect is corrected, is a false guaranty under section 8(b) of the Act.

Proposed § 1610.37(g) concerns variations in test results and would replace present § 1610.37(h). It provides that if any test after the initial test shows the fabric to be more flammable than indicated by the initial test, the later test shall be used as the basis for determining the frequency of future testing.

Proposed § 1610.38 concerns the records required to be kept by guarantors. There are minor editorial changes throughout the section to make it applicable only to products tested in accordance with part 1610.

Proposed § 1610.38(a) contains a new provision requiring that the test records show the date and place where the test was performed and the signature of the person responsible for performing the test, as well as any additional information necessary to relate the tests to the product(s) guarantied.

Proposed § 1610.38(b), relating to the records required to be maintained by sellers who furnish guaranties based on guaranties received, amends the current provision in § 1610.38(c)(1) to require records sufficient to identify the source of the guarantied products, the basis for the guaranty, and the products guarantied. The current provision specifies only that the records show the identity of the guarantied products.

Proposed § 1610.38(c) provides that the records required to be maintained for guaranty purposes shall be maintained for so long as they are relied upon and for 3 years thereafter. The current requirement as set out in § 1610.38(d) requires only that the records be maintained for 3 years. Although under the proposed revised rules no test may be relied upon for more than 3 years, there are times when marketing practices will result in products being on the market more than 3 years after the initial guaranty test is performed.

The Commission does not currently propose to revise or amend the statements of interpretation and policy relating to the Standard for the Flammability of Clothing Textiles (16 CFR 1610, subpart A) which appear in subpart C of part 1610.

Proposed Changes to Rules and Policies for the Standard for the Flammability of Vinyl Plastic Film

Part 1611 concerns the Standard for the Flammability of Vinyl Plastic Film. Subpart A is the standard itself, which remains unchanged.

Subpart B of part 1611 consists of the rules relating to subpart A. The proposed changes in the rules are similar to the proposed changes of subpart B of part 1610 except that where appropriate, the rule in this part refers to the provisions in the Standard for the Flammability of Vinyl Plastic Film rather than the Standard for the Flammability of Clothing Textiles. Also, those provisions that are presently applicable only to the rules relating to the clothing textile standard are omitted from this part.

PART 1608—GENERAL RULES AND POLICIES UNDER THE FLAMMABLE FABRICS ACT

Subpart A—General Rules

Sec.

1608.1 Scope.
1608.2 Definitions.
1608.3 Exclusion for common carriers, contract carriers, and freight forwarders (section 11(a) of the Act).
1608.4 Shipments under section 11(c) of the Act.

Subpart A—General Rules Regarding Guaranties

1608.12 Scope and background.
1608.13 General requirements for guaranties.
1608.14 Separate guaranties.
1608.15 Continuing guaranties.

Authority: Sec. 5, 8, 67 Stat. 112, 114, as amended (15 U.S.C. 1194, 1197).

Subpart A—General Rules

§ 1608.1 Scope.

This part 1608 contains rules and regulations issued under the Flammable Fabrics Act that apply to all flammability standards that are in effect under the Act.

§ 1608.2 Definitions.

For the purposes of this part:

(a) "Act" means the Flammable Fabrics Act, as amended (15 U.S.C. 1191-1204).

(b) "Marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act, as amended.

(c) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and Possessions of the United States.

(d) "Rules" and "regulations" means (1) the rules and regulations issued by the Federal Trade Commission under section 5(c) of the Act before May 14, 1973 which are still in effect and (2) the rules and regulations issued under section 5(c) of the Act after May 13, 1973, by the Consumer Product Safety Commission.

(e) The definitions of terms in section 2 of the Act also apply to this Part.

§ 1608.3 Exclusion for common carriers, contract carriers, and freight forwarders (section 11(a) of the Act).

Section 11(a) of the Act provides that the Act shall not apply to "any common carrier, contract carrier, or freight forwarder in transporting a product, fabric, or related material shipped or delivered for shipment into commerce in the ordinary course of its business." The Commission interprets the terms "ordinary course of its busi-

ness" to exclude salvaging and lien-realizing operations. Accordingly, the exclusion in section 11(a) of the Act does not apply to carriers, contract carriers, or freight forwarders who distribute products that they have obtained by salvaging or lien-realizing operations.

§ 1608.4 Shipments under section 11(c) of the Act.

(a) *Purpose and applicability.* Section 11(c) of the Act provides that the Act does not apply to "any product, fabric, or related material shipped or delivered for shipment into commerce for the purpose of finishing or processing such product, fabric, or related material so that it conforms with applicable flammability standards." The purpose of section 11(c) is to permit items to be shipped in commerce so that they can be made to conform with the flammability standards in effect under the Act. Section 11(c) does not otherwise limit the force and effect of sections 3, 5, 6, 7, and 9 of the Act. In particular, section 11(c) does not authorize the sale of any item which does not meet an applicable flammability standard at the time of sale or offering for sale, even though the buyer intends or agrees to ship the product, fabric, or related material for treatment or processing to make it conform with the flammability standard.

(b) *Invoice statement required.* An invoice or other document relating to a shipment or delivery for shipment under section 11(c) of the Act shall state the purpose of the shipment.

(c) *Shipment must be to processor or finisher.* Section 11(c) of the Act applies only to items shipped or delivered for shipment directly to a person engaged in the business of processing or finishing products, fabrics, or related materials to improve their flammability resistance.

(d) *Records of 11(c) shipments.* Any person shipping or delivering products, fabric, or related material under section 11(c) of the Act must maintain records of:

(1) The name and address of the person to whom the product, fabric, or related material was shipped for flammability treatment.

(2) The date the flammability treatment was completed.

(3) The disposition of the treated product, fabric, or related materials.

(e) *Importation of products to be treated with a flame retardant.* The importation of products, fabric, or related materials may be considered to be a part of shipment or delivery for shipment into commerce for the purpose of bringing them into conformance with the applicable standard if:

(1) the importer maintains the records required by paragraph (d) of this section.

(2) The importer, at the time of importation, executes and furnishes to the U.S. Customs Service an affidavit stating:

These products, fabrics, or related materials do not meet the applicable flammability standards issued under the Flammable Fabrics Act. They will not be sold or used in their present condition but will first be processed or finished to make them conform with the applicable standard.

The undersigned also agrees to maintain the records required by 16 CFR 1608.7(d) showing where the items were shipped for treatment, when they were treated, and the disposition of the treated items.

(3) The importer, if requested to do so by the U.S. Customs Service, furnishes an adequate performance bond conditioned upon the complete discharge of the obligations set forth in subparagraphs (1) and (2) of this paragraph (e).

Subpart B—General Rules Regarding Guaranties

§ 1608.12 Scope and background.

(a) *Scope.* This subpart B of part 1608 applies to all guaranties issued under section 8 of the Flammable Fabrics Fabrics Act (15 U.S.C. 1197). Additional requirements for guaranties that products conform to particular flammability standards are found in the standards themselves and in the rules and regulations issued under each standard. These additional requirements concerning guaranties include the following:

(1) Standard for the Flammability of Clothing Textiles, 16 CFR 1610.37 and 1610.38.

(2) Standard for the Flammability of Vinyl Plastic Film, 16 CFR 1611.36 and 1611.37.

(3) Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X, 16 CFR 1615.4(g)(4)(iv), and 1615.31(f).

(4) Standard for the Flammability of Children's Sleepwear: Sizes 7 though 14, 16 CFR 1616.5(c)(4)(iv), 1616.31(e).

(5) Standard for the Surface Flammability of Carpets and Rugs, 16 CFR 1630.31.

(6) Standard for the Surface Flammability of Small Carpets and Rugs, 16 CFR 1631.31.

(7) Standard for the Flammability of Mattress (and Mattress Pads), 16 CFR 1632.31(f).

(b) *Background.* (1) Section 8(a) of the Act provides that no person is subject to prosecution under section 7 of the Act (15 U.S.C. 1196) for marketing or handling goods that fail to conform to flammability standards if that person relied in good faith upon a guaranty from the manufacturer or other person from whom the goods were obtained. Section 8(b) provides that it is unlawful to issue a false guaranty, and section 7 provides criminal penalties for willfully furnishing a false guaranty. While a guaranty received in good faith may be used as a defense against criminal prosecution under 7 of the Act, the guaranty is not a defense to other actions of the Consumer Product Safety Commission, such as administrative proceedings under section 5 of the Act or injuction and condemnation proceedings under section 6 of the Act. A guaranty received by a person is also not a defense when the person has adversely affected the flammability of the item by further processing. The Act does not require that manufacturers or sellers issue guaranties to their buyers, but anyone who chooses to issue a guaranty must base it on "reasonable and representative" tests, as prescribed by the Commission's regulations, or upon an applicable guaranty received and relied upon in good faith by the guarantor. Guarantors must comply with both this part and the regulations applicable to a particular standard.

(2) A guaranty issued under the Act must be in one of the following forms:

(i) A separate guaranty specifically designating the product, fabric, or related material covered by the guaranty.

(ii) A continuing guaranty given by the seller to the buyer and applicable to any product, fabric, or related material sold, or to be sold, to that buyer by the seller.

(iii) A continuing guaranty filed with the Commission's Directorate for Compliance and Enforcement and applicable to any product, fabric, or related material handled by the guarantor.

§ 1608.13 General requirements for guaranties.

(a) *General.* This section contains requirements for the basis and form of all guaranties issued under section 8 of the Flammable Fabrics Act and provides other general requirements for guaranties.

(b) *Guaranties must be based on reasonable and representative tests or upon guaranties received.* Guaranties must be based (1) upon a guaranty received and relied upon in good faith by the guarantor or (2) upon reasonable and representative tests performed by or for the guarantor.

(c) *Guarantor's name and address.* A guaranty under section 8 must be signed by, and contain the name and address of, the guarantor.

(d) *Guaranty must be furnished by United States resident.* Only a resident of the United States may furnish a guaranty under section 8 of the Act. A guaranty by a person who is not a resident of the United States is not a bar to prosecution under section 7 of the Act.

(e) *Tests of imported products.* A guaranty may be based upon tests performed outside the United States, *provided* all required records are maintained by the guarantor at his or her principal place of business in the United States.

(f) *Failure to maintain records of tests or guaranties received.* Any guarantor who fails or refuses to keep the required records used as a basis for the guaranty has furnished a false guaranty under section 8(b) of the Act.

(g) *Representation that product complies with standard.* Any person who represents on a label, invoice, or other document that a product, fabric, or related material complies with a flammability standard issued under the Act, but who fails to maintain records which establish that such representation is based on reasonable and representative tests as specified by the regulations or upon guaranties received shall have furnished a false guaranty under section 8(b) of the Act.

(h) *Government shall not be represented as guarantor.* No representation nor suggestion shall be made in advertising or otherwise that the Government, or any branch thereof, guarantees or represents that any item subject to the Act conforms to a flammability standard.

§ 1608.14 Separate guaranties.

(a) *General.* (1) This section provides requirements for the form of a separate guaranty. A separate guaranty is a guaranty from a seller to buyer that specifically designates the product, fabric, or related material guarantied. A separate guaranty must be in writing and may be either on the invoice or similar document relating to such item or in a separate document.

(2) The document containing a separate guaranty must also contain the date that the separate guaranty is issued, and the name and address of the guarantor, and the location of the records of the basis of the guaranty.

(b) *Form for separate guaranty.* The Commission suggests the following form for separate guaranties. This form is not required, but any separate guaranty must contain all the information prescribed in this section.

SEPARATE GUARANTY

Based upon a guaranty that I have received, or upon reasonable and representative tests performed by or for me in accordance with the applicable regulations and flammability standards in effect under the Flammable Fabrics Act, I guaranty that the items described in this document or the attached document(s) conform to the applicable flammability standards. Records of these tests or the guaranties used as a basis for this guaranty are on file at (address)———.

Date:———.

———————
Name of Guarantor

———————
Address

§ 1608.15 Continuing guaranties.

(a) *General.* This section provides for the form of a continuing guaranty. A continuing guaranty may be either:

(1) A guaranty given from seller to buyer applicable to any item sold or to be sold to the buyer by the seller.

(2) A guaranty filed with the Consumer Product Safety Commission applicable to any item handled by a guarantor.

(b) *Continuing guaranties filed with the Commission.* (1) Continuing guaranties filed with the Commission must be sent to Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207.

(2) A continuing guaranty filed with the Commission must be signed and must include the name and address of the guarantor.

(3) Where the person filing a continuing guaranty with the Commission is a business entity consisting of more than one operating unit, the guaranty must contain the name and address of each operating unit that will market products subject to the guaranty.

(4) Where the person filing a separate guaranty is a separate division, subsidiary, or other operating unit of a business organization, the guaranty shall disclose the name and address of both the principal business organization and the unit filing the guaranty.

(5) Any continuing guaranty filed with the Commission must specify the location of the records that are the basis of the guaranty.

(6) (i) Continuing guaranties expire at the earlier of the following:

(A) Three years from the date they are received by the Commission.

(B) When there is any change in the legal business status of the guarantor.

(C) When the guarantor notifies the Commission that the guaranty is withdrawn.

(ii) Any person whose continuing guaranty expires and who desires to renew it must file a new continuing guaranty with the Commission.

(7) Any person who has filed a continuing guaranty with the Commission shall promptly advise the Directorate for Compliance and Enforcement of the Commission in writing of any change in the legal status of the guarantor or any change in the address of the guarantor's principal place of business.

(8) Any person who has a continuing guaranty on file with the Commission may give notice of such fact by placing the following statement on the invoice or other document relating to the product, fabric, or related material guarantied:

A guaranty that the products described in this document comply with all applicable flammability standards issued under the Flammable Fabrics Act is on file with the Consumer Product Safety Commission.

(9) Any person who falsely represents that he or she has a continuing guaranty on file with the Commission, or who falsely represents that a continuing guaranty on file with the Commission covers any product, fabric, or related material, has furnished a false guaranty under section 8(b) of the Act.

(10) The following form must be used to file a continuing guaranty with the Commission. The Directorate for Compliance and Enforcement of the Commission will supply printed forms, upon request.

CONTINUING GUARANTY UNDER THE FLAMMABLE FABRICS ACT FOR FILING WITH THE CONSUMER PRODUCT SAFETY COMMISSION

The undersigned guarantor, a (corporation, partnership, individual, etc.) having (his, her, its) principal place of business in the United States at (street address——— City——— State——— zip———) hereby guarantees that with regard to all of the products, fabrics, or related materials hereafter marketed or handled by (guarantor) for which flammability standards are in effect under the Flammable Fabrics Act, as amended [except———], reasonable and representative tests as prescribed under the Flammable Fabrics Act have been performed and show that the products, fabrics, or related materials conform to the applicable flammability standards.

Records of the tests performed or guaranties received and relied upon as the basis for this guaranty are on file at (address———). Date:———

———————
(Signature of authorized representative of guarantor)

———————
(Title)

———————
(Name under which business of guarantor is conducted)

If corporation, place corporate seal here.

If partnership, list partners below.

———————

Name and address of principal if guarantor is division, subsidiary, or other operating unit of business organization:

———————

☐ Check here if other operating units market products covered by this guaranty, and attach supplemental sheet with name and address of each operating unit.

(c) *Continuing guaranties from seller to buyer.* (1) A continuing guaranty from seller to buyer must be dated and must contain the name and address of the guarantor.

(2) Where the person issuing the continuing guaranty to the buyer is a business entity consisting of more

———————
(Name under which business of guarantor is conducted)

If corporation, place corporate seal here.

(d) "Marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act as amended and revised in 1967.

types are starch finishes, resin finishes, or parchmentized finishes.

(l) "Coated fabric" means any textile fabric which is coated, filled, im-

ment, may be worn exposed shall be considered to be an uncovered or exposed part of the article of wearing apparel and must comply with the stand-

handkerchiefs are affixed to, incorporated in, or used or sold for use as trim or decoration or for any other use in articles of wearing apparel, the hand-

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(2) Where the person issuing the continuing guaranty to the buyer is a business entity consisting of more than one operating unit, the guaranty must contain the name and address of each operating unit that will market products subject to the guaranty to the buyer.

(3) Where the person making the continuing guaranty to the buyer is a separate division, subsidiary, or other operating unit of a business organization, the guaranty shall contain the name and address of both the principal business organization and the unit making the guaranty.

(4) Any continuing guaranty from seller to buyer must specify the location of the records that are the basis of the guaranty.

(5) Continuing guaranties from seller to buyer expire at the earlier of the following:

(i) Three years from the date of the guaranty.

(ii) When there is any change in the legal business status of the guarantor.

(iii) When the guarantor withdraws the guaranty.

(6) The following form must be used for a continuing guaranty from seller to buyer.

CONTINUING GUARANTY FROM SELLER TO BUYER UNDER THE FLAMMABLE FABRICS ACT

The undersigned guarantor (seller), a (corporation, partnership, individual) having (his, her, its) principal place of business in the United States at (street address——— City——— State——— zip———) state that (guarantor), being engaged in marketing or handling products, fabrics, or related materials subject to the Flammable Fabrics Act, hereby guarantees to the buyer,

———————————
(name of buyer)

———————————
(address of buyer)

that with regard to all of the products, fabrics, or related materials sold by the seller for which flammability standards under the Flammable Fabrics Act are in effect [except———], reasonable and representative tests as prescribed in the rules and regulations under the Flammable Fabrics Act have been performed and show that the products, fabrics, or related materials conform to all applicable flammability standards.

Records of the tests performed or guaranties received and relied upon as the basis for this guaranty are on file at

———————————
(Address)

Date: ———.

———————————
(Signature of authorized representative of guarantor)

———————————
(Title)

———————————
(Name under which business of guarantor is conducted)

If corporation, place corporate seal here.

If partnership, list partners below.

Name and address of principal if guarantor is division, subsidiary, or other operating unit of business organization:

———————————

☐ Check here if other operating units market products covered by this guaranty, and attach supplemental sheet with name and address of each operating unit.

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2. Subpart B of Part 1610 is revised to read as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Subpart B—Rules and Regulations

Sec.
1610.31 Definitions.
1610.32 General requirements.
1610.33 Test requirements for textile fabrics, film, and fabrics with nitro-cellulose fiber, finish, or coating.
1610.34 Surface of textile fabric or garment required to be tested.
1610.35 Procedures for testing special types of fabrics under the Standard.
1610.36 Application of the Standard to particular types of products.
1610.37 Reasonable and representative tests for guaranties.
1610.38 Recordkeeping by guarantors.

AUTHORITY: Secs. 5, 8, 67 Stat. 112, 114 as amended (15 U.S.C. 1194, 1197).

Subpart B—Rules and Regulations

§ 1610.31 Definitions.

For the purposes of this Part:

(a) "Act" means the Flammable Fabrics Act, as amended in 1954 (67 Stat. 111; 68 Stat. 770) but without any later amendments. Since the Flammable Fabrics Act as printed in the United States Code includes later amendments, the text of the Act as defined in this Part appears as Part 1609 of this Chapter. This definition is necessary because of a savings clause in the amended and revised Act (sec. 11, Pub. L. 90-189) which continues in effect the standards incorporated in the Act prior to its revision. The Act prior to its revision contains procedures, definitions, and other requirements which affect those standards.

(b) "Act as amended and revised" means the Flammable Fabrics Act amended and revised December 14, 1967 (81 Stat. 568, 15 U.S.C. 1191, et seq.).

(c) "Standard" means the Standard for the Flammability of Clothing Textiles (16 CFR 1610, Subpart A, originally CS 191-53).

(d) "Marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act as amended and revised in 1967.

(e) "Rules" and "regulations" mean (1) the rules and regulations issued by the Federal Trade Commission under section 5(c) of the Act, and the Act as amended and revised, before May 14, 1973, which are still in effect and (2) the rules and regulations issued after May 14, 1973 by the Consumer Product Safety Commission under section 5(c) of the Act as amended and revised.

(f) "Uncovered or exposed part" of an article of wearing apparel, as used in section 4(a) of the Act and these rules, means the part of an article of wearing apparel that might, during normal wear, be open to flame or other means of ignition. The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel.

(g) "Textile fabric" means any coated or uncoated material subject to the Act, except fabrics having a nitrocellulose fiber, finish, or coating and film, which is two inches or more in width and in a form or condition ready for use in wearing apparel. Fabric (including coated fabric) having a nitrocellulose fiber, finish, or coating and film is subject to the requirements of Part 1611.

(h) "Film" means any non-rigid, unsupported plastic, rubber, or other synthetic or natural film or sheeting of any thickness (including film or sheeting exceeding 10 mils in thickness) or any combination thereof, which is in a form or condition ready for use in wearing apparel. It includes transparent, translucent, and opaque materials and may be plain, embossed, molded, or otherwise surface treated.

(i) "Plain surface textile fabric" means any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft. The term includes those fabrics with fancy woven, knitted, or flock printed surfaces.

(j) "Raised surface textile fabric" means any textile fabric which has an intentionally raised fiber or yarn surface such as a pile, nap, or tuft. Textile fabrics having an appliqued, overstitched, tufted, or embroidered design or a loop, pile, or nap construction (such as chenille fabric), and base fabrics with multiple rows of lace, ruffles, or similar design, are considered raised surface textile fabrics for the purposes of this Part.

(k) "Finish" means a particular finish, but does not include such variables as changes in color, pattern, print, or design or minor variations in the amount or type of ingredients in the finish formulation. Examples of finish types are starch finishes, resin finishes, or parchmentized finishes.

(l) "Coated fabric" means any textile fabric which is coated, filled, impregnated, or laminated with a continuous film-forming polymeric composition (except fabric having a nitrocellulose fiber, finish, or coating). [Note: This definition differs from that of "coated fabric" in Part 1611, which includes fabric having a nitrocellulose fiber, finish, or coating.]

(m) the definitions in section 2 of the Act and section 2 of the Act as amended and revised, where appropriate, also apply to this Part.

§ 1610.32 General requirements.

No fabric or article of wearing apparel subject to the Standard shall be marketed or handled if, when tested according to the Standard, it exhibits rapid and intense burning as described in § 1610.3(a)(3).

§ 1610.33 Test requirements for testile fabrics, fabrics with a nitro-cellulose fiber, finish or coating, and film.

(a) *Uncoated textile fabrics.* All uncoated textile fabrics intended or sold for use in wearing apparel must meet the requirements of Part 1610 and section 4 of the Act as set forth in 16 CFR 1609.

(b) *Coated textile fabrics.* All coated textile fabrics (as defined in § 1610.31(1) of this Part) intended or sold for use in wearing apparel or contained in articles of wearing apparel must meet the requirements of either this Part 1610 or the requirements of Part 1611.

(c) *Film and fabrics with a nitro-cellulose fiber, finish, or coating.* All film, and all fabrics with a nitrocellulose fiber, finish, or coating, intended or sold for use in wearing apparel must meet the requirements of Part 1611.

§ 1610.34 Surface of textile fabric or garment required to be tested.

(a) *Uncovered or exposed surface.* In determining whether an article of wearing apparel meets the Standard, only the uncovered or exposed part of the wearing apparel, as defined in § 1610.31(f) is required to be tested.

(b) *Fabric with raised fiber surface.* A textile fabric with a raised fiber surface is only required to be tested on the surface intended to be exposed provided that when marketed or handled, the fabric is accompanied by an invoice or other document which clearly indicates that the untested portion of the fabric is to be used only in the covered or unexposed parts of articles of wearing apparel.

(c) *Sweatshirt-type garments.* The raised-fiber surface of an article of wearing apparel which is not intended to be exposed but which, because of the design or construction of the garment, may be worn exposed shall be considered to be an uncovered or exposed part of the article of wearing apparel and must comply with the standard. Examples of the types of products referred to in this paragraph are athletic shirts or so-called "sweatshirts" with a raised fiber inner side.

§ 1610.35 Procedures for testing special types of textile fabrics under the standard.

(a) *Fabric not customarily washed or dry cleaned.* Any textile fabric intended for use, or used, in an article of wearing apparel which, in its normal and customary use as wearing apparel, would not be dry cleaned or washed need not be dry cleaned or washed as prescribed in the Standard at § 1610.4 (d) and (e) when tested under the Standard. However, such fabric must be marked or labeled in a clear and legible manner with the statement "Fabric will be dangerously flammable if dry cleaned or washed" unless the fabric will meet the requirements of the Standard after dry cleaning or washing. An example of the type of fabric referred to in this paragraph is bridal illusion.

(b) *Fabric less than 6 inches wide.* A textile fabric which is less than 6 inches wide need only be tested under the Standard in a lengthwise direction.

§ 1610.36 Application of the standard to particular types of products.

(a) *Interlinings and other fabrics not intended to be exposed.* Fabrics intended and sold for use as interlinings, as defined in section 2(f) of the Act, or as other covered or unexposed parts of articles of wearing apparel are not subject to the Standard. Such fabric must, however, be accompanied by an invoice or other document, when marketed or handled, which clearly and specifically indicates that the fabric is intended to be used only as interlining or in covered or unexposed parts of articles of wearing apparel.

(b) *Fabric intended for use in hats, gloves, and footwear.* Fabric intended and sold for use in those hats, gloves, and footwear that are excluded from the definition of "articles of wearing apparel" in section 2(d) of the Act are not subject to the Standard. Such fabric must, however, be accompanied by an invoice or other document when marketed or handled, which clearly and specifically indicates the fabric is intended to be used only in hats, gloves, or footwear.

(c) *Handkerchiefs.* (1) Except as otherwise provided in this section, handkerchiefs that do not exceed a finished size of 24 inches on any side or which do not have an area of over 576 square inches are not "articles of wearing apparel" subject to the Act. However, if handkerchiefs are affixed to, incorporated in, or used or sold for use as trim or decoration or for any other use in articles of wearing apparel, the handkerchiefs constitute a "textile fabric" as that term is defined in § 1610.31(g) and thus are subject to the Standard.

(2) If, because of construction, design, color, type of fabric, or any other factor, a piece of cloth of a finished type is intended for use or likely to be used as a covering for any part of the head, neck, face, or shoulders, or as any other article of clothing, or incorporated in an article of wearing apparel, such product constitutes an article of wearing apparel as defined in the Act and is subject to the Standard, regardless of its size or of its designation as a handkerchief.

(d) *Ornamental millinery veils or veilings.* All ornamental millinery veils or veilings, when used as part of, in conjunction with, or as a hat, are considered a "covering for the neck, face, or shoulders" under section 2(d) of the Act and subject to the standard if such ornamental millinery veils or veilings extend more than nine (9) inches from the tip of the crown of the hat to which they are attached, or extend more than two (2) inches beyond the edge of the brim of the hat. Hats composed entirely of ornamental millinery veils or veilings are subject to the standard if the veils or veilings are nine (9) inches or more in width and extend more than nine (9) inches from the tip of the crown of the completed hat.

§ 1610.37 Reasonable and representative tests for guaranties.

(a) *General requirements.* (1) The tests specified in this section constitute reasonable and representative tests, as that term is used in section 8 of the Act, for textile fabrics subject to the Standard. Anyone who furnishes a guaranty that an item meets the Standard for the Flammability of Clothing Textiles and bases the guaranty on reasonable and representative tests must, at a minimum, follow the procedures in this section. Additional requirements for guaranties, and prescribed guaranty forms, are set out in Part 1608.

(2) All tests of textile fabric under this section must be conducted on finished fabric after final processing when the fabric is in the form or condition ready for use in wearing apparel. If the product, fabric, or related material covered by a guaranty is subject to further processing after testing, such as finishing dyeing, or other treatment which may affect its flammability, the guaranty is invalid.

(3) Tests of yarns before they are made into a textile fabric are not "reasonable and representative tests" of

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textile fabrics manufactured from such yarns.

(4) A test for guaranty purposes may not be relied upon for more than three (3) years from the date of the test.

(5) Any person furnishing a guaranty based on tests that do not at least meet the requirements of this section shall have furnished a false guaranty under the provisions of section 8(b) of the Act as amended and revised.

(6) The remainder of this section contains requirements for reasonable and representative tests for plain surface textile fabrics, raised fiber surface textile fabrics, and wearing apparel.

(b) *Types of tests.* (1) *Initial test.* The test procedures for each type of fabric and for wearing apparel all begin with an initial test. An initial test consists of two complete tests performed in accordance with the Standard on specimens taken from two separate pieces of textile fabric having the same composition (including fiber content), construction, finish, and weight. The initial test must be performed upon the beginning of production, importation, or other receipt of the products covered by the guaranty.

(2) *Additional tests.* After the initial test, additional tests may be required at stated intervals on fabric of the same composition (including fiber content), construction, finish, and weight during the period the fabric continues to be produced, imported, or otherwise received by the guarantor.

(c) *Reasonable and representative tests for plain surface textile fabrics.* Reasonable and representative tests for plain surface textile fabrics subject to the Standard shall be:

(1) An initial test

(2) Additional tests as follows:

(i) When the initial test of a plain surface fabric shows the fabric to have an average flame spread time of 3.5 seconds or more, an additional test must be performed at least once every 3 months thereafter. If four consecutive tests at intervals of at least 2 months (exclusive of the initial test) show the average flame spread time for such fabric to have been 7 seconds or more, no additional tests are required for 3 years from the last test. After 3 years, an initial test must again be performed.

(ii) When any specimen ignites during the initial test of a plain surface fabric, but the flame extinguishes before the stop cord is burned, an additional test must be performed at least once a year thereafter.

(iii) When none of the specimens ignite during the initial test of a plain surface fabric, the initial test may suffice for a period of 3 years. Every 3 years, another initial test must be performed.

(d) *Reasonable and representative tests for raised fiber surface fabrics.* Reasonable and representative tests for raised fiber surface textile fabrics subject to the Standard shall be:

(1) An initial test.

(2) Additional tests as follows:

(i) When the initial test of a raised fiber surface fabric shows an average flame spread time of 4 to 7 seconds inclusive (Class 2 as provided in § 1610.3(a)(2)(i)), additional tests must be performed at least once every month thereafter.

(ii) When the initial test of a raised fiber surface fabric shows an average flame spread time to be in excess of 7 seconds (Class 1 as provided in § 1610.3(a)(1)(i)), additional tests must be performed at least once every 6 months thereafter.

(iii) When there is a surface flash during the initial test of a raised fiber surface fabric, but the base fabric does not ignite or fuse on any of the specimens, additional tests must be performed at least once every 6 months thereafter.

(iv) When none of the specimens exhibit a surface flash or base burn or fusion during the initial test of a raised fiber surface fabric, the initial test shall suffice for a period of 3 years. Every 3 years, another initial test must be performed.

(e) *Reasonable and representative tests of fabric and wearing apparel containing fabric not tested during production.* For fabric not tested during production and for wearing apparel made of or containing fabric not tested during production in accordance with paragraphs (c) and (d) above, reasonable and representative tests shall be as follows:

(1) An initial test on the fabric or wearing apparel not previously tested.

(2) Additional tests at the frequency provided in paragraphs (c)(2) and (d)(2) of this section, as applicable.

(f) *Failing test results.* Any failing test of a textile fabric will be considered as a reasonable and representative test for that fabric, and any guaranty covering fabric that is marketed or handled by the guarantor after the failing test but before the failure is corrected is a false guaranty under section 8(b) of the Act.

(g) *Variation in test results.* If any test made after the initial test of a textile fabric indicates that the fabric has a more rapid burning time than indicated in the initial test, the fabric shall be tested thereafter as if the more rapid burning time had occurred during the initial test.

§ 1610.38 Recordkeeping by guarantors.

(a) *Guaranties based upon reasonable and representative tests.* Any person furnishing a guaranty on the basis of tests prescribed in § 1610.37 shall keep records of such tests which shall include the following information:

(1) A statement of the results of all tests, showing the style or range number, composition (including fiber content), construction, finish, and weight of the tested fabric.

(2) The date and place of each test performed and the name and signature of the individual conducting the test.

(3) The style, range number, or other identification and the composition (including fiber content), construction, finish and weight of each textile fabric covered by a guaranty or contained in articles of wearing apparel covered by a guaranty.

(4) Such additional information as is adequate to establish that the tests relied upon related to the product(s) guarantied.

(5) A sample swatch of the test fabric.

(b) *Guaranties based on guaranties received.* Any person furnishing a guaranty based on a guaranty received shall maintain a record of the guaranty relied upon and of the source(s) of the guarantied product. Such records must be adequate to relate the guaranties received and shall include the following:

(1) A copy of the guaranties received and used as a basis for the guaranty or documentation that a valid applicable guaranty on file with the Commission was used as a basic for the guaranty.

(2) An identification of fabric contained in articles of wearing apparel, where fabric guaranties are used as the basis for a guarantee of wearing apparel manufactured from such fabric.

(3) The name and address of any guarantor whose guaranty is used as a basis for furnishing the guaranty.

(4) Any limitations in the coverage of the guaranty relied upon (i.e., type of fabric, garment, or product, etc.).

(5) Any additional information necessary to establish that the tests relied upon relate to the product(s) guarantied.

(c) *Record retention.* The records referred to in this section shall be maintained for so long as such tests or guaranties are relied upon for guaranty purposes and for 3 years thereafter.

3. Subpart B of Part 1611 is revised to read as follows:

PART 1611—STANDARD FOR FLAMMABILITY OF VINYL PLASTIC FILM

Subpart B—Rules and Regulations

Sec.

1611.31 Definitions.
1611.32 General requirements.
1611.33 Test requirements for coated fabrics, film, and fabrics with a nitrocellulose fiber, finish, or coating.
1611.34 Uncovered or exposed surface required to be tested.
1611.35 Application of the Standard to particular types of products.
1611.36 Reasonable and representative tests for guaranties.
1611.37 Recordkeeping by guarantors.

AUTHORITY: Sec. 5, 8, 67 Stat. 112, 114, as amended (15 U.S.C. 1194, 1197).

* * * * *

Subpart B—Rules and Regulations

§ 1611.31 Definitions.

For the purposes of this Part:

(a) "Act" means the Flammable Fabrics Act, as amended in 1954 (67 Stat. 111; 68 Stat. 770) but without any later amendments. Since the Flammable Fabrics Act as printed in the United States Code includes later amendments, the text of the Act as defined in this Part appears as Part 1609 of this Chapter. This definition is necessary because of a savings clause in the amended and revised Act (section 11 of Pub. L. 90-189) which continues in affect the standards incorporated in the Act prior to its revision. The Act prior to its revision contains procedures, definitions, and other requirements which effect those standards.

(b) "Act as amended and revised" means the Flammable Fabrics Act as amended and revised December 14, 1967 (81 Stat. 568, 15 U.S.C. 1191, et seq.)

(c) "Standard" means the Standard for the Flammability of Vinyl Plastic Film (16 CFR 1611, Subpart A, originally CS 192-53).

(d) "Marketing or handling" means the transactions referred to in section 3 of the Flammable Fabrics Act as amended and revised in 1967.

(e) "Rules" and "regulations" means (1) the rules and regulations issued by the Federal Trade Commission under section 5(c) of the Act and the Act as amended and revised before May 14, 1973, which are still in effect, and (2) the rules and regulations issued after May 14, 1973, by the Consumer Product Safety Commission under section 5(c) of the Act as amended and revised.

(f) "Uncovered or exposed part" of an article of wearing apparel, as used in section 4(a) of the Act and these rules, means the part of an article of wearing apparel that might, during normal wear, be open to flame or other means of ignition. The outer surface of an undergarment is considered to be an uncovered or exposed part of an article of wearing apparel.

(g) "Film" means any nonrigid, unsupported plastic, rubber, or other synthetic or natural film or sheeting of any thickness (including film or sheeting exceeding 10 mils in thickness) or any combination thereof which is in a form or condition ready for use in wearing apparel. It includes transparent, translucent, and opaque material and may be plain, embossed, molded, or otherwise surface treated.

(h) "Coated fabric" means any material (1) which is coated, filled, impregnated, or laminated with a continuous film-forming polymeric composition (including material having a nitrocellulose fiber, finish, or coating), (2) which is 2 inches or more in width, and (3) which is in a form or condition ready for use in wearing apparel.

NOTE.—This definition differs from the definition of "coated textile fabric" in Part 1610, which excludes fabric with a nitrocellulose fiber, finish, or coating.

(i) The definitions in section 2 of the Act and section 2 of the Act as amended and revised, where appropriate, also apply to this Part.

§ 1611.32 General requirement.

No fabric or article of wearing apparel subject to the Standard shall be marketed or handled if, when tested according to the Standard, it does not meet the requirements of § 1611.3.

§ 1611.33 Test requirements for coated fabrics, film, and fabrics with nitrocellulose fiber, finish, or coating.

(a) *Coated fabrics.* All coated fabrics (except film and fabric with a nitrocellulose fiber, finish, or coating) must meet the requirements of either this Part 1611 or the requirements of Part 1610.

(b) *Film and fabrics with a nitrocellulose fiber, finish, or coating.* All film, and all fabric with a nitrocellulose fiber, finish, or coating, that is intended to be sold for use in wearing apparel or contained in articles of wearing apparel must meet the requirements of this Part 1611.

§ 1611.34 Uncovered or exposed surface required to be tested.

In determining whether an article of wearing apparel meets the Standard, only the uncovered or exposed part of the wearing apparel, as defined in § 1611.31(f) is required to be tested.

§ 1611.35 Application of the standard to particular types of products.

(a) *Interlinings and other fabrics not intended to be exposed.* Fabrics and film intended and sold for use as interlinings, as defined in section 2(f) of the Act, or as other covered or unexposed parts of articles of wearing apparel are not subject to the Standard. Such fabric or film must, however, be accompanied by an invoice or other document when marketed or handled which clearly and specifically indicates that the fabric or film is intended to be used only as interlining or in covered or unexposed parts of articles of wearing apparel.

(11) *Fabric intended for use in hats, gloves, and footwear.* Fabric and film intended and sold for use in those hats, gloves, and footwear that are excluded under the definition of "articles of wearing apparel" in section 2(d) of the Act are not subject to the Standard. Such fabric and film must, however, be accompained by an invoice or other document when marketed or handled which clearly and specifically indicates they are intended to be used only in hats, gloves, or footwear.

§ 1611.36 Reasonable and representative tests for guaranties.

(a) *General requirements.* (1) The tests specified in this section constitute reasonable and representative tests, as that term is used in section 8 of the Act, for film and coated fabric subject to the Standard. Anyone who guarantees that an item meets the Standard for the Flammability of Vinyl Plastic Film and bases the guaranty on reasonable and representative tests, must, at a minimum, follow the procedures in this section. Additional requirements for separate and continuing guaranties, and prescribed guaranty forms, are in Part 1608.

(2) All tests of film and coated fabric under this section must be conducted on finished film or fabric after final processing when the film or fabric is in the form or condition ready for use in wearing apparel. If the film or coated fabric covered by a guaranty is subject to further processing after testing, such as a finishing, dyeing, or other treatment which may affect its flammability, the guaranty is invalid.

(3) A test for guaranty purposes may not be relied upon for more then three (3) years from the date of the test.

(4) Any person furnishing a guaranty based on tests that do not, at a minimum, meet the requirements of this section has furnished a false guaranty under the provisions of section 8(b) of the Act as amended and revised.

(5) The remainder of this section contains requirements for reasonable and representative tests for film, fabrics, and wearing apparel subject to the Standard.

(b) *Types of tests.*—(1) *Initial test.* The test procedure for these types of fabrics and wearing apparel begins with an initial test. An initial test consists of two complete tests performed in accordance with the Standard on specimens taken from two separate runs of film or coated fabric having the same formula, finish, color, and thickness. The initial test must be performed upon the begining of production, importation, or other receipt of products covered by the guaranty.

(2) *Additional tests.* After the initial test, additional tests are required at

stated intervals on film or coated fabric having the same formula, finish, color, and thinkness during the period the film or coated fabric continues to be produced, imported, or otherwise received by the guarantor.

(c) *Reasonable and representative tests for film and coated fabrics.* Reasonable and representative tests for film and coated fabrics subject to the Standard shall be:

(1) An initial test

(2) Additional tests as follows:

(i) When the initial test of film or coated fabric shows an average flame spread time of 3.5 seconds or more, an additional test must be performed at least once every 3 months thereafter. If four consecutive tests at intervals of at least 2 months (exclusive of the initial test) show the average flame spread time for such film or coated fabric to have been 7 seconds or more, no additional tests are required for 3 years from the last test. After 3 years, an initial test must again be performed.

(ii) When any specimen ignites during the initial test of film or coated fabric, but the flame extinguishes before the stop cord is burned, an additional test must be performed at least once a year thereafter.

(iii) When none of the specimens ignite during the initial test of film or coated fabric, the initial test may suffice for a period of 3 years. Every 3 years, another initial test must be performed.

(d) *Reasonable and representative tests for raised fiber surface film or coated fabrics.* Reasonable and representative tests for raised fiber surface film or coated fabrics subject to the Standard shall be:

(1) An initial test on the film or coated fabric or wearing apparel not previously tested.

(2) Additional tests at the frequency provided in paragraphs (c)(2) and (d)(2) of this section, as applicable.

(e) *Reasonable and representative tests of film or coated fabric and wearing apparel containing film or coated fabric not tested during production.* For film or coated fabric not tested during production and for wearing apparel made of or containing film or coated fabric not tested during production in accordance with paragraphs (c) and (d) above, reasonable and representative tests shall be as follows:

(1) An initial test on the film or coated fabric or wearing apparel not previously tested.

(2) Additional tests at the frequency provided in paragraphs (c)(2) and (d)(2) of this section, as applicable.

(f) *Failing test results.* Any failing test of film or coated fabric will be considered as a reasonable and representative test for that film or coated fabric, and any guaranty covering film or coated fabric that is marketed or handled by the guarantor after the failing test but before the failure is corrected is a false guaranty under section 8(b) of the Act.

(g) *Variation in test results.* If any test made after the initial test of film or coated fabric indicates that the film or coated fabric has a more rapid burning rate than indicated in the initial test, the film or coated fabric shall be tested thereafter as if the subsequent more rapid burning rate had occurred during the initial test.

§ 1611.37 Recordkeeping by guarantors.

(a) *Guaranties based upon reasonable and representative tests.* Any person furnishing a guaranty on the basis of tests prescribed in § 1611.36 shall keep records of such tests which shall include the following information:

(1) A statement of the results of all tests, showing the style or range number, composition (including fiber content), construction, finish, and weight of the tested film or coated fabric.

(2) The date and place of each test performed and the name and signature of the individual conducting the test.

(3) The style, range number, or other identification and the composition (including fiber content), construction, finish and weight of each film or coated fabric covered by a guaranty or contained in articles of wearing apparel covered by a guaranty.

(4) Such additional information as is adequate to establish that the tests relied upon related to the product(s) guarantied.

(5) A sample swatch of the test film or coated fabric.

(b) *Guaranties based on guaranties received.* Any person furnishing a guaranty based on a guaranty received shall maintain a record of the guaranty relied upon and of the source(s) of the guarantied product. Such records must be adequate to relate the guaranties received and shall include the following:

(1) A copy of the guaranties received and used as a basis for the guaranty or documentation that a valid applicable guaranty on file with the Commission was used as a basic for the guaranty.

(2) An identification of film or coated fabric contained in articles of wearing apparel, where film or coated fabric guaranties are used as the basis for a guarantee of wearing apparel manufactured from such film or coated fabric.

(3) The name and address of any guarantor whose guaranty is used as a basis for furnishing the guaranty.

(4) Any limitations in the coverage of the guaranty relied upon (i.e., type of film or coated fabric, garment, or product, etc.).

(5) Any additional information necessary to establish that the tests relied upon relate to the product(s) guarantied.

(c) *Record retention.* The records referred to in this section shall be maintained for so long as such tests or guaranties are relied upon for guaranty purposes and for 3 years thereafter.

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stated intervals on film or coated fabric having the same formula, finish, color, and thinkness during the period the film or coated fabric continues to be produced, imported, or otherwise received by the guarantor.

(c) *Reasonable and representative tests for film and coated fabric.* Reasonable and representative tests for film or coated fabric subject to the Standard shall be:

(1) An initial test.

(2) Additional tests as follows:

(i) If none of the specimens in the initial test burn in excess of 1.2 inches per second, additional tests shall be performed at least once each year thereafter.

(ii) If one or more of the specimens in the initial test burns at the rate of 1.2 inches per second or more, but the average rate of burning does not exceed 1.2 inches per second, an additional test shall be performed at least once every 3 months thereafter.

(d) *Reasonable and representative tests of film or coated fabric and wearing apparel made of or containing film or coated fabric not tested during production.* For film or coated fabric not tested during production and for wearing apparel made of or containing film or coated fabric not tested during production in accordance with paragraph (c), reasonable and representative tests shall be as follows:

(1) An initial test.

(2) Additional tests at the frequency provided in paragraph (c)(2) of this section.

(e) *Failing test results.* Any failing test of a film or coated fabric under this section will be considered as a reasonable and representative test for that film or fabric, and any guaranty covering a film or coated fabric of the same formula that is marketed or handled by the guarantor after the failing test but before the failure is corrected is a false guaranty under section 8(b) of the Act.

(f) *Variation in test results.* If any test of a film or coated fabric made after the initial test indicates that the film or coated fabric has a more rapid burning rate than indicated in the initial test, the film or coated fabric shall be tested thereafter as if the subsequent test results for such film or fabric had occured during the initial test.

§ 1611.37 **Recordkeeping by guarantors.**

(a) *Guaranties based on reasonable and representative tests.* Any person furnishing a guaranty on the basis of test prescribed in § 1611.36 shall keep records of such tests which shall include the following information:

(1) A statement of the results of all tests, showing the style or range number, formula, finish, color, and thickness of the tested film or coated fabric.

(2) The date and place of each test performed and the name and signature of the individual conducting the tests.

(3) The style, range number, or other identification and the formula, finish, color, and thickness of the film or coated fabric covered by a guaranty or contained in articles of wearing apparel covered by a guaranty.

(4) Such additional information as is adequate to establish that the tests relied upon relate to the product(s) guarantied.

(5) A sample swatch of the tested film or coated fabric.

(b) *Guaranties based on guaranties received.* Any person furnishing a guaranty based on a guaranty received shall maintain a record of the guaranty relied upon and of the source(s) of the guarantied product. Such records must be adequate to relate the guarantied product to the guaranties received and shall include the following:

(1) A copy of the guaranties received and used as a basis for the guaranty, or documentation that a valid applicable guaranty on file with the Commission was used as a basis for the guaranty.

(2) An indentificiation of the film or coated fabrics contained in articles of wearing apparel where guaranties of the film or coated fabric are used as the basis for the guaranty of wearing apparel manufactured from such film or coated fabric.

(3) The name and address of any guarantor whose guaranty is used as a basis for furnishing the guaranty.

(4) Any limitations in the coverage of the guaranty relied upon (i.e., type of film, coated fabric, garment, or product, etc.).

(5) Such additional information as is necessary to establish that the tests relied upon relate to the product(s) guarantied.

(c) *Record retention.* The records referred to in this section shall be maintained for so long as such tests or guaranties are relied upon for guaranty purposes and for three years thereafter.

Effective date: The Commission proposes that these amendments shall become effective 60 days after the final regulation is published in the FEDERAL REGISTER.

Interested persons are invited to submit data, views, or arguments regarding any aspect of the proposal on or before December 18, 1978. Comments submitted after that date will be considered to the extent practicable.

Written submissions and any accompanying data or materials should be submitted preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief.

Any comments that are received and all other material which the Commission has that is relevant to this proposal may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. 20207.

Dated: October 12, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29269 Filed 10-16-78; 8:45 am]

federal register

TUESDAY, OCTOBER 17, 1978
PART VI

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

ANIMAL WELFARE

Proposed Revision of Transportation Standards Governing Certain Live Warmblooded Animals

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[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 3]

ANIMAL WELFARE

Proposed Revision of Standards for the Transportation and the Handling, Care, and Treatment in Connection Therewith of Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Certain Other Warmblooded Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes revisions of the transportation standards governing certain live warmblooded animals under the Animal Welfare Act published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31556-31571) and on May 16, 1978 (43 FR 21160-21167). The proposed revisions provide for (1) a change of the allowable minimum air temperature from 7.2° C (45° F) to 1.7° C (35° F) for dogs, cats, hamsters, rabbits, and certain other warmblooded animals when transported in commerce, (2) a change of the allowable maximum air temperature from 35° C (95° F) to 29.5° C (85° F) for all warmblooded animals under the Animal Welfare Act when transported in commerce, and (3) a new procedure for measuring the air temperature surrounding live animals being transported in commerce, which would replace the "ambient temperature" provisions of the present transportation standards. The new proposed ranges of allowable air temperatures for animals being transported in commerce take into consideration the differences between the air temperatures occurring inside animal shipping containers and the air temperatures surrounding such containers and the various factors affecting such differences. These proposed revisions of the transportation standards are the result of various petitions for reconsideration which were received by the Department and which made new facts and evidence available that appear to warrant such action.

DATE: Comments on or before: November 13, 1978.

ADDRESSES: Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782. Comments available for inspection at the above address during regular hours of business (8 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8271.

SUPPLEMENTARY INFORMATION: The Department's present transportation standards provide for a range of ambient air temperatures and temperatures surrounding animals which are allowed when live warmblooded animals are transported in commerce. Such temperatures are not to fall below 7.2° C (45° F) unless a certificate executed by a licensed veterinarian is furnished to carriers or intermediate handlers by USDA licensees or registrants and U.S. Government agencies or instrumentalities indicating that an animal presented for treansportation (with the exception of guinea pigs) is acclimated to air temperatures lower than 7.2° C (45° F). The Department received complaints from many individuals who experienced hardships during cold weather in trying to get shipments of animals transported by air carriers. Some airlines would not accept live animal shipments when the outside atmospheric temperature fell below 45° F. These individuals felt that their dogs and cats were not adversely affected by air temperatures down to 35° F and if acclimated by living outdoors could tolerate temperatures lower than 35° F. The Department is of the opinion that empirical information as well as a certain amount of scientific data, which has come to light, is sufficient to justify the provisions in this proposal setting a lower minimum air temperature which dogs, cats, hamsters, rabbits, and certain other warmblooded animals can tolerate without suffering inhumane treatment during commercial transportation. The Department therefore, proposes to amend §§ 3.11(c)(3), 3.16, 3.17(a)(3), 3.35(c)(3), 3.40, 3.41(a)(3), 3.60(c)(3), 3.65, 3.66(a)(3), 3.111(c)(3), 3.116, and 3.117(a)(3) to provide for a minimum allowable air temperature of 1.7° C (35° F) surrounding dogs, cats, hamsters, rabbits, and certain other warmblooded animals, with the exception of guinea pigs and nonhuman primates, when transported in commerce. Guinea pigs are excepted because they are not tolerant of low temperatures. Nonhuman primates are excepted because they are not generally tolerant of air temperatures lower than 45° F. This is particularly true in the case of the small New World nonhuman primates.

Present regulations require the measurement of "ambient temperature." This term is defined in § 1.1(jj) to mean the temperature surrounding the animal. Sections 3.18, 3.42, 3.67, 3.92, and 3.118 of the standards cite a minimum and maximum range of ambient temperatures within primary enclosures used to transport certain warmblooded animals. Representatives of the air transport industry have been highly critical of these particular standards because it is their feeling that they are required to insert a thermometer into the shipping container in order to measure the ambient temperature and it is their fear that possible injury to the contained animal may result.

The Department acknowledges the possibility of injury to animals when dry bulb type thermometers, especially those made of glass, are indiscriminately thrust into a shipping container and therefore, proposes to delete the sections cited above which are relative to "ambient temperature" and to establish a method whereby only the temperature surrounding the primary enclosure containing the animal must be measured. To ascertain compliance with requirements for the air temperature around certain live warmblooded animals when transported in commerce, it is proposed that the air temperature be measured and read outside the primary enclosure (shipping container) which contains the live animal, at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure or shipping container.

At the same time that the Department proposes to make the method of measuring the air temperature around warmblooded animals confined in a shipping container more practical, it also recognizes that there is a difference between the air temperature which immediately surrounds the animal within the confines of the shipping container and the temperature of the air surrounding the outside of such container. This conclusion is based on physiological data which shows that the temperature of warmblooded animals is largely independent of that of the environment. Through an elaborately developed heat-regulating system, warmblooded animals maintain a relatively constant body temperature regardless of the surrounding temperature. Because heat is being produced constantly in the body as a result of physiological oxidations, warmblooded animals make provision for insuring a constant loss of heat through the body surfaces and vaporization of water from the skin and respiratory passages. However, as the surrounding air approaches the animal body temperature, the animal will experience discomfort and, after a period

of time, death. On the other hand, as the environmental temperature falls, the first compensation against the cooling of the body is effected through a reduction of heat loss. If the surrounding temperature continues to fall, increased metabolism brought about by shivering and rapid muscle contraction results in increased heat production. It therefore becomes critical that the temperature which immediately surrounds and affects the confined animal is being measured or, if that is impractical, appropriate adjustment be made in the standards for allowable maximum and minimum temperatures surrounding the shipping container which would take into consideration temperature differences occurring inside and outside a shipping container.

Scientific data available to the Department indicates that as the temperature outside an animal shipping container rises, the differential between the temperature inside the shipping container and the temperature of the outside environment increases. On the other hand, as the temperature of the air outside a shipping container decreases, the difference between the outside surrounding temperature and the temperature inside the container narrows until there is only a negligible temperature difference, if any, as the temperature nears 1.7° C. (35° F.). It is recognized, however, that factors, such as quantity and distribution of ventilation openings, structural material and design of the animal enclosure, air flow and relative humidity, exposure to direct sunlight, rain, snow, or other environmental conditions, and the ratio of the volume of the animal contained to the volume of space provided by a shipping container, effect variances and the surrounding environment. Added to this are the anatomical and physiological differences of the many species of warmblooded animals and the varied individual response of each such species to temperature extremes. The effect of all of these interrelated factors has yet to be sufficiently evaluated relative to a warmblooded animal's physiological response to ambient air temperatures below 35° F. and above 95° F. Information which the Department has available indicates that when the air temperature, which surrounds an animal shipping container within 0.91 meters (3 feet) of such container, reaches 1.7° C. (35° F.), there is apparently a negligible difference in the air temperature surrounding the animal inside a shipping container which conforms to the Department's present standards for shipping containers (primary enclosures) used to transport certain warmblooded animals in commerce. However, when the air temperature, which surrounds the animal shipping container within 3 feet of such container, reaches 29.5° C. (85° F.), the air temperature surrounding the animal inside the shipping container will reach approximately 35° C. (95° F.). Based on this information, the Department proposes to delete §§ 3.18, 3.42, 3.67, 3.92, and 3.118 of the standards dealing with ambient temperature ranges within primary enclosures, and to propose that in animal holding areas of terminal facilities, carriers and intermediate handlers shall not allow the air temperature which is measured and read outside the animal primary enclosure and within 0.91 meters (3 feet) of the external walls of such enclosure, to fall below a minimum of 1.7° C. (35° F.) for dogs, cats, rabbits, hamsters, and certain other warmblooded animals, (with the exception of guinea pigs and nonhuman primates). Further, the Department proposes herein that carriers and intermediate handlers not allow the air temperatures, which shall be measured outside the animal shipping container in the manner already described, in animal holding areas of terminal facilities to exceed 29.5° C. (85° F.) for all warmblooded animals covered by the Act. This change also necessitates a proposed change in the standards for holding areas which require that auxiliary ventilation must be used when the temperature reaches 29.5° C. (85° F.). It is proposed herein that this temperature be changed to 23.9° C. (75° F.).

The sections which the Department proposes to delete also indicate that the allowable ambient temperatures cannot exceed the parameters of the allowable temperature range for a period of more than 45 minutes. The purpose of these standards was to assure that animals would be moved from terminal buildings to the primary conveyance and from the primary conveyance to the terminal buildings in an expeditious manner to minimize exposure to inclement weather, temperature extremes and other environmental hazards. With the proposed deletion of sections of the standards relative to ambient temperatures, it is apparent that certain requirements for expeditious handling of animals from terminal buildings to the primary conveyance and from the primary conveyance to the terminal buildings would be desirable to fill the void left by the deletion of the 45 minute requirements. Therefore, the Department proposes to amend those sections of the standards relative to "handling," i.e., §§ 3.17, 3.41, 3.66, 3.91, and 3.117, to provide for a mximum time of 45 minutes during which dogs, cats, guinea pigs, hamsters, rabbits, nonhuman primates, and certain other warmblooded animals may remain outside the terminal buildings or primary conveyance when air temperatures around such animals fall above or below the temperature ranges allowed for terminal facilities. An exception is provided for those animals accompanied by a certificate of acclimation to air temperatures lower than the minimum allowable temperature provided by the standards.

Accordingly, the standards (9 CFR 3.1 et seq.) would be amended in the following respects:

1. The Table of Contents cited in Part 3—Standards would be amended by deleting §§ 3.18, 3.42, 3.67, 3.92, and 3.118.

Sec.

• • • • •

§ 3.18 [Deleted]

• • • • •

§ 3.42 [Deleted]

• • • • •

§ 3.67 [Deleted]

• • • • •

§ 3.92 [Deleted]

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§ 3.118 [Deleted]

§ 3.11 [Amended]

2. Section 3.11(c) of the standards (9 CFR 3.11(c)) would be amended by deleting the section number 3.18 in the phrase, "• • • prescribed in §§ 3.16 and 3.18." and inserting the section number "3.17" in its place.

3. Section 3.11(c)(3) of the standards (9 CFR 3.11(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)." in the phrase, "• • • acclimated to air temperatures lower than 7.2° C. (45° F.).); • • •" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

4. Section 3.16 of the standards (9 CFR 3.16) would be amended to read as follows:

§ 3.16 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.7 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and

mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of win-

1.7° C. (35° F.) for a period of more than 45 minutes unless such dog or cat is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.11(c).

time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live guinea pig or hamster shall be measured and read outside the primary en-

amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)." in the phrase, "• • • acclimated to air temperatures lower then "7.2° C. (45°

rabbits from the direct rays of the sun and the air temperature around any such live rabbits, which shall be measured and read in the manner prescribed in § 3.65, shall not exceed 29.5°

animal holding area is 23.9° C. (75.° F.) or higher. The air temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor

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mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containng live dogs and cats when the air temperature within such animal holding area is 23.9° C. (75° F.) or higher. The air temperature around any live dog or cat in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time: *Provided, however,* That no live dog or cat shall be subjected to air temperatures around any such dog or cat in excess of 23.9° C. (75° F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live dog or cat shall be measured and read outside the primary enclosure which contains the live dog or cat at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.17 [Amended]

5. Section 3.17(a)(1) of the standards (9 CFR 3.17(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live dogs and cats from the direct rays of the sun and the air temperature around any such live dog or cat, which shall be measured and read in the manner prescribed in § 3.16, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

6. Section 3.17(a)(3) of the standards (9 CFR 3.17(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide prtoection for live dogs and cats when the outdoor air temperature falls below 10° C. (50° F.) and the air temperature around any such live dog or cat, which shall be measured and read in the manner prescribed in § 3.16, shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such dog or cat is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.11(c).

§ 3.18 [Deleted]

7. Section 3.18 of the standards (9 CFR 3.18) would be deleted.

§ 3.35 [Amended]

8. Section 3.35(c) of the standards (9 CFR 3.35(c)) would be amended by deleting the section number "3.42" in the phrase, "* * * prescribed in §§ 3.40 and 3.42." and inserting the section number "3.41." in its place.

9. Section 3.35(c)(3) of the standards (9 CFR 3.35(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)" in the phrase, "* * * acclimated to air temeratures lower than 7.2° C. (45° F.).); * * *" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

10. Section 3.40 of the standards (9 CFR 3.40) would be amended to read as follows:

§ 3.40 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.31 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live guinea pigs or hamsters shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live guinea pigs and hamsters when the air temperature within such animal holding area is 23.9° C. (75° F.) or higher. The air temperature around any live guinea pig in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. The air temperature around any live hamster in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live guinea pig or hamster shall be measured and read outside the primary enclosure which contains the live guinea pig or hamster at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.41 [Amended]

11. Section 3.41(a)(1) of the standards (9 CFR 3.41(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live guinea pigs and hamsters from the direct rays of the sun and the air temperature around any such live guinea pigs or hamsters which shall be measured and read in the manner prescribed in § 3.40, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

12. Section 3.41(a)(3) of the standards (9 CFR 3.41(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live guinea pigs and hamsters when the outdoor air temperature falls below 10° C. (50° F.). The air temperature around any such live guinea pig, which shall be measured and read in the manner prescribed in § 3.40 of this part, shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes. The air temperature around any such live hamster, which shall be measured and read in the manner prescribed in § 3.40 of the part, shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such hamster is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.35(c).

§ 3.42 [Deleted]

13. Section 3.42 of the standards (9 CFR 3.42) would be deleted.

§ 3.60 [Amended]

14. Section 3.60(c) of the standards (9 CFR 3.60(c)) would be amended by deleting the section number "3.67" in the phrase, "* * * prescribed in §§ 3.65 and 3.67" and inserting the section number "3.66." in its place.

15. Section 3.60(c)(3) of the standards (9 CFR 3.60(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)." in the phrase, "* * * acclimated to air temperatures lower then "7.2° C. (45° F.)."); * * *" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

16. Section 3.65 of the standards (9 CFR 3.65) would be amended to read as follows:

§ 3.65 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.56 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live rabbits shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live rabbits when the air temperature within such animal holding area is 23.9° C. (75° F.) or higher. The air temperature around any live rabbit in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live rabbit shall be measured and read outside the primary enclosure which contains the live rabbit at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.66 [Amended]

17. Section 3.66(a)(1) of the standards (9 CFR 3.66(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live rabbits from the direct rays of the sun and the air temperature around any such live rabbits, which shall be measured and read in the manner prescribed in § 3.65, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

18. Section 3.66(a)(3) of the standards (9 CFR 3.66(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) Shelter from cold weather. Transporting devices shall be covered to provide protection for live rabbits when the outdoor air temperature falls below 10° C. (15° F.) and the air temperature around any such live rabbit, which shall be measured and read in the manner prescribed in § 3.65, shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such rabbit is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.60(c).

§ 3.67 [Deleted]

19. Section 3.67 of the standards (9 CFR 3.67) would be deleted.

§ 3.85 [Amended]

20. Section 3.85(c) of the standards (9 CFR 3.85(c)) would be amended by deleting the section number "3.92" in the phrase, "* * * prescribed in §§ 3.90 and 3.92." and inserting the section number "3.91." in its place.

21. Section 3.90 of the standards (9 CFR 3.90) would be amended to read as follows:

§ 3.90 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.81 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live nonhuman primates shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live nonhuman primates when the air temperature within such animal holding area is 23.9° C. (75.° F.) or higher. The air temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time: *Provided, however,* that no live nonhuman primate shall be subjected to surrounding air temperatures which exceed 23.9° C. (75° F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live nonhuman primate shall be measured and read outside the primary enclosure which contains the live nonhuman primate at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.91 [Amended]

22. Section 3.91(a)(1) of the standards (9 CFR 3.91(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live nonhuman primates from the direct rays of the sun and the air temperature around any such live nonhuman primates which shall be measured and read in the manner prescribed in § 3.90, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

23. Section 3.91(a)(3) of the standards (9 CFR 3.91(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live nonhuman primates when the outdoor air temperature falls below 10° C. (50° F.) and the air temperature around any such live nonhuman primate, which shall be measured and read in the manner prescribed in § 3.90, shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless such nonhuman primate is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.85(c).

§ 3.92 [Deleted]

24. Section 3.92 of the standards (9 CFR 3.92) would be deleted.

§ 3.11 [Amended]

25. Section 3.111(c) of the standards (9 CFR 3.111(c)) would be amended by deleting the section number "3.118" in

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the phrase, "* * * prescribed in §§ 3.116 and 3.118." and inserting the section number "3.117." in its place.

26. Section 3.111(c)(3) of the standards (9 CFR 3.111(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)." in the phrase, "* * * acclimated to air temperatures lower then "7.2° C. (45° F.)."); * * *" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

27. Section 3.111(c) of the standards (9 CFR 3.111(c)) would be amended to read as follows:

§ 3.111 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.106 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live dogs and cats when the air temperature within such animal holding area is 23.9° C. (75° F.) or higher. The air temperature around any live dog or cat in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time: *Provided, however,* That no live dog or cat shall be subjected to air temperatures around any such dog or cat in excess of 23.9° C. (75° F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live dog or cat shall be measured and read outside the primary enclosure which contains the live dog or cat at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.112 [Amended]

28. Section 3.112(a)(1) of the standards (9 CFR 3.112(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live dogs and cats from the direct rays of the sun and the air temperature around any such live dog or cat, which shall be measured and read in the manner prescribed in § 3.106, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

29. Section 3.112(a)(3) of the standards (9 CFR 3.112(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide prtoection for live dogs and cats when the outdoor air temperature falls below 10° C. (50° F.) and the air temperature around any such live dog or cat, which shall be measured and read in the manner prescribed in § 3.106, shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such dog or cat is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.111(c).

§ 3.118 [Deleted]

30. Section 3.118 of the standards (9 CFR 3.118) would be deleted.

§ 3.135 [Amended]

31. Section 3.135(c) of the standards (9 CFR 3.135(c)) would be amended by deleting the section number "3.142" in the phrase, "* * * prescribed in §§ 3.140 and 3.142." and inserting the section number "3.141." in its place.

32. Section 3.135(c)(3) of the standards (9 CFR 3.135(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)" in the phrase, "* * * acclimated to air temeratures lower than 7.2° C. (45° F.).); * * *" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

33. Section 3.140 of the standards (9 CFR 3.140) would be amended to read as follows:

§ 3.140 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.131 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live guinea pigs or hamsters shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live guinea pigs and hamsters when the air temperature within such animal holding area is 23.9° C. (75° F.) or higher. The air temperature around any live guinea pig in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. The air temperature around any live hamster in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live guinea pig or hamster shall be measured and read outside the primary enclosure which contains the live guinea pig or hamster at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.141 [Amended]

34. Section 3.141(a)(1) of the standards (9 CFR 3.141(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live guinea pigs and hamsters from the direct rays of the sun and the air temperature around any such live guinea pigs or hamsters which shall be measured and read in the manner prescribed in § 3.140, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

35. Section 3.141(a)(3) of the standards (9 CFR 3.141(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live guinea pigs and hamsters when the outdoor air temperature falls below 10° C. (50° F.). The air temperature around any such live guinea pig, which shall be measured and read in the manner prescribed in § 3.140 of this part, shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes. The air temperature around any such live hamster, which shall be measured and read in the manner prescribed in § 3.140 of the part, shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such hamster is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.135(c).

§ 3.142 [Deleted]

36. Section 3.142 of the standards (9 CFR 3.142) would be deleted.

§ 3.160 [Amended]

37. Section 3.160(c) of the standards (9 CFR 3.160(c)) would be amended by deleting the section number "3.167" in the phrase, "* * * prescribed in §§ 3.165 and 3.167" and inserting the section number "3.166." in its place.

38. Section 3.160(c)(3) of the standards (9 CFR 3.160(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)." in the phrase, "* * * acclimated to air temperatures lower then "7.2° C. (45° F.)."); * * *" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

39. Section 3.165 of the standards (9 CFR 3.165) would be amended to read as follows:

§ 3.165 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.156 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live rabbits shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live rabbits when the air temperature within such animal holding area is 23.9° C. (75° F.) or higher. The air temperature around any live rabbit in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live rabbit shall be measured and read outside the primary enclosure which contains the live rabbit at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.166 [Amended]

40. Section 3.166(a)(1) of the standards (9 CFR 3.166(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live rabbits from the direct rays of the sun and the air temperature around any such live rabbits, which shall be measured and read in the manner prescribed in § 3.165, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

41. Section 3.166(a)(3) of the standards (9 CFR 3.166(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) Shelter from cold weather. Transporting devices shall be covered to provide protection for live rabbits when the outdoor air temperature falls below 10° C. (15° F.) and the air temperature around any such live rabbit, which shall be measured and read in the manner prescribed in § 3.165, shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such rabbit is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.160(c).

§ 3.167 [Deleted]

42. Section 3.167 of the standards (9 CFR 3.167) would be deleted.

§ 3.185 [Amended]

43. Section 3.185(c) of the standards (9 CFR 3.185(c)) would be amended by deleting the section number "3.192" in the phrase, "* * * prescribed in §§ 3.190 and 3.192." and inserting the section number "3.191." in its place.

44. Section 3.190 of the standards (9 CFR 3.190) would be amended to read as follows:

§ 3.190 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.181 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live nonhuman primates shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal holding area containing live nonhuman primates when the air temperature within such animal holding area is 23.9° C. (75.° F.) or higher. The air temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time: *Provided, however,* that no live nonhuman primate shall be subjected to surrounding air temperatures which exceed 23.9° C. (75° F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live nonhuman primate shall be measured and read outside the primary enclosure which contains the live nonhuman primate at a distance not to exceed 0.91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.191 [Amended]

45. Section 3.191(a)(1) of the standards (9 CFR 3.191(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live nonhuman primates from the direct rays of the sun and the air temperature around any such live nonhuman primates which shall be measured and read in the manner prescribed in § 3.190, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

46. Section 3.191(a)(3) of the standards (9 CFR 3.191(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live nonhuman primates when the outdoor air temperature falls below 10° C. (50° F.) and the air temperature around any such live nonhuman primate, which shall be measured and read in the manner prescribed in § 3.190, shall not fall below 7.2° C. (45° F.) for a period of more than 45 minutes unless such nonhuman primate is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.185(c).

§ 3.192 [Deleted]

47. Section 3.192 of the standards (9 CFR 3.192) would be deleted.

the phrase, "* * * prescribed in §§ 3.116 and 3.118." and inserting the section number "3.117." in its place.

26. Section 3.111(c)(3) of the standards (9 CFR 3.111(c)(3)) would be amended by deleting the Celsius and equivalent Fahrenheit temperature reading, "7.2° C. (45° F.)." in the phrase, "* * * acclimated to air temperatures lower than 7.2° C. (45° F.).");

* * *" and inserting the Celsius and equivalent Fahrenheit temperature reading, "1.7° C. (35° F.)." in its place.

27. Section 3.116 of the standards (9 CFR 3.116) would be amended to read as follows:

§ 3.116 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All animal holding areas of a terminal facility of any carrier or intermediate handler wherein live animal shipments are maintained shall be cleaned and sanitized in a manner prescribed in § 3.116 of the standards often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live animals shall be provided with fresh air by means of windows, doors, vents, or air conditioning and may be ventilated or air circulated by means of fans, blowers on an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers of air conditioning shall be used for any animal holding area containing live animals when the air temperature within such animal holding area is 23.9° C. (75 °F.) or higher. The air temperature around any live animal in any animal holding area shall not be allowed to fall below 1.7° C. (35° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time: *Provided, however,* That no live animal shall be subjected to surrounding air temperatures which exceed 23.9° C. (75° F.) for more than 4 hours at any time. To ascertain compliance with the provisions of this paragraph, the air temperature around any live animal shall be measured and read outside the primary enclosure which contains the live animal at a distance not to exceed .91 meters (3 feet) from any one of the external walls of the primary enclosure and on a level parallel to the bottom of such primary enclosure at a point which approximates half the distance between the top and bottom of such primary enclosure.

§ 3.117 [Amended]

28. Section 3.117(a)(1) of the standards (9 CFR 3.117(a)(1)) would be amended to read as follows:

* * * * *

(a) "* * * (1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live animals from the direct rays of the sun and the air temperature around any such live animal, which shall be measured and read in the manner prescribed in § 3.116, shall not exceed 29.5° C. (85° F.) for a period of more than 45 minutes."

29. Section 3.117(a)(3) of the standards (9 CFR 3.117(a)(3)) would be amended to read as follows:

* * * * *

(a) "* * * (3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live animals when the outdoor air temperature falls below 10° C. (50° F.) and the air temperature around any such live animal, which shall be measured and read in the manner prescribed in § 3.116 shall not fall below 1.7° C. (35° F.) for a period of more than 45 minutes unless such animal is accompanied by a certificate of acclimation to lower temperatures as prescribed in § 3.111(c).

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, Md, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

In order for these proposed amendments to be of maximum benefit, it is necessary that these proposals become effective as final rulemaking before the onset of the winter season. Therefore, it is hereby found that the customary comment period of 60 days be waived and that all comments must be received within 25 days of the date of publication of this proposal.

Done at Washington, D.C., this 13th day of October 1978.

NOTE.—The Department has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

However, an economic impact statement has been drafted and a copy of said draft statement may be obtained by writing to the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-29296 Filed 10-16-78; 8:45 am]

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November 13, 1978

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NASHVILLE, TENNESSEE WORKSHOP

HOW TO USE THE FEDERAL REGISTER

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register in cooperation with the Office of Urban and Federal Affairs, State of Tennessee.

WHAT: Free public workshop (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: November 13, 1978, at 9:00 a.m.

WHERE: University of Tennessee at Nashville, 10th and Charlotte, Room 358, Nashville, Tennessee.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Call 615-741-2570, or 615-741-2786.

federal register

Area Code 202 Phone 523-5240

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[Last Listing: Oct. 17, 1978]

H.R. 3813 ..... Pub. L. 95–457
"Department of Defense Appropriation Act, 1979." (Oct. 13, 1978; 92 Stat. 1231) Price: $1.10.

H.R. 1337 ..... Pub. L. 95–458
To amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions. (Oct. 14, 1978; 92 Stat. 1255). Price: $.70.

H.R. 13991 ..... Pub. L. 95–459
To provide for the United States to hold in trust for the Susanville Indian Rancheria of Lassen County, California, approximately one hundred and twenty acres of land. (Oct. 14, 1978; 92 Stat. 1262). Price: $.60.

S. 3384 ..... Pub. L. 95–460
Agricultural Foreign Investment Disclosure Act of 1978. (Oct. 14, 1978; 92 Stat. 1263). Price: $.70.

S. 2916 ..... Pub. L. 95–461
Drug Abuse Prevention and Treatment Amendments of 1978. (Oct. 14, 1978; 92 Stat. 1268). Price: $.60.

H.R. 13692 ..... Pub. L. 95–462
Granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia. (Oct. 14, 1978; 92 Stat. 1271). Price: $.70.

H.J. Res. 685 ..... Pub. L. 95–463
To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim, February 11, 1979, as "National Inventors' Day". (Oct. 14, 1976; 92 Stat. 1276). Price: $.60.

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rules and regulations

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 981—ALMONDS GROWN IN CALIFORNIA

Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule changes the procedure for inspecting inedible almonds to allow the inspection agency the same flexibility as it has on incoming receipts of unsorted almonds. The rule also removes the opportunity for handlers who do not blanch almonds or manufacture almond products, to waive part of their obligations to dispose of inedible almonds. Handlers who would qualify for such a waiver apparently have no need for the provision.

EFFECTIVE DATE: November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice was published in the September 5, 1978, FEDERAL REGISTER (43 FR 39393) to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441-981.474) by revising § 981.442. No comments were received.

The subpart is issued under the marketing agreement, as amended, and order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based on a recommendation of the Almond Board of California.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received by him, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of 2 percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, of feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

Section 981.442 specifies the procedures for implementing § 981.42. Section 981.442 currently provides that the quantity of inedible kernels in each variety in excess of 1½ percent of the kernel weight received, constitutes a handler's weight obligation to be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders.

Section 981.442(a)(5) details how each handler shall meet his disposition obligation. Among other requirements, it provides that the inspection agency or the Board shall sample each disposition of material in satisfaction of the obligation and determine the almond meat content at the time of loading for delivery to the accepted user, or at the user's destination. The Board now believes, however, that this provision is unnecessarily limiting in the case where handlers have mechanical sampling equipment. The inspection agency should be allowed the same flexibility on outgoing inspection of inedible material as it has with regard to incoming receipts of unsorted almonds. For incoming receipts, handlers with mechanical sampling equipment may be permitted to draw samples in a manner acceptable to the Board and the inspection service.

Therefore, the second sentence of § 981.442(a)(5) is changed to provide that for dispositions by handlers with mechanical sampling equipment, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination.

Section 981.442(a)(6) provides that any handler generating inedible kernels only in the form of pickouts after shelling, may petition the Board for a waiver of the difference between this obligation and his disposition obligation. This subparagraph details the circumstances when such a waiver may be granted by the Board. The Board, however, has found that handlers did not use this waiver provision in the 1977-78 crop year, and there is no need for it. Therefore, § 981.442(a)(6) is deleted, and subparagraph (7) is renumbered subparagraph (6).

After consideration of all relevant matter presented, including that in the notice, the recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as hereinafter set forth will tend to effectuate the declared policy of the act.

Accordingly, Subpart—Administrative Rules and Regulations is amended as follows:

1. Section 981.442(a)(5) is revised to read as follows:

§ 981.442 Quality control.

(a) • • •

• • • • • •

(5) *Meeting the disposition obligation.* Each handler shall meet his disposition obligation by delivering packer pickouts, kernels rejected in blanching, pieces of kernels, meal accumulated in manufacturing, or other material, to crushers, feed manufacturers, feeders, or dealers in nut wastes, on record with the Board as accepted users. For dispositions by handlers with mechanical sampling equipment, samples may be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under the supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The almond meat content of

each delivery shall be reported to the Board and the handler and credited to the handler's disposition obligation. Deliveries containing less than 10 percent almond meat content shall not be credited against the disposition obligation. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, But no later than July 31 of the succeeding crop year in which the obligation was incurred.

§ 981.442 [Amended]

2. Section 981.442(a)(6) is deleted and § 981.442(a)(7) renumbered § 981.442(a)(6).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 13, 1978, to become effective November 15, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-29427 Filed 10-17-78; 8:45 am]

[3410-02-M]

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Expenses of Filbert Control Board and Rate of Assessment for the 1978-79 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1978-79 fiscal year, to be collected from handlers to support activities of the Board which locally administers the Federal marketing order covering filberts grown in Oregon and Washington.

DATES: Effective August 1, 1978, through July 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings:* Pursuant to Marketing Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Board, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the Act.

§ 982.323 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Filbert Control Board during the 1978-79 fiscal year, will amount to $42,630.

(b) The rate of assessment for said crop year payable by each handler in accordance with § 982.61 is fixed at 0.20 cent per pound of filberts.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable filberts handled from the beginning of such year which began August 1, 1978. To enable the Board to meet fiscal obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Board. It is necessary to effectuate the declared purposes of the Act to make these provisions effective as specified.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 12, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-29429 Filed 10-17-78; 8:45 am]

[3410-02-M]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Quality Control; Temporary Changes in Minimum Grade Standards for Packed Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule temporarily relaxes grading requirements for packed raisins under the Federal marketing order for California raisins. Unseasonal rains and very poor drying conditions during the 1978 raisin harvest have severely damaged California's crop. Although the full extent of damage is still unknown, the crop is expected to be well below domestic, export, and carryover market needs. The grade changes were recommended by the Raisin Administrative Committee to: (1) Aid producers and handlers in the recovery of the maximum quantity of raisins acceptable for human consumption from the 1978 production; (2) limit as much as possible producers' crop losses due to the rain; and (3) make more raisins available to consumers and the trade than would otherwise be available. The Committee is the agency which administers the order's terms and provisions under USDA supervision.

EFFECTIVE DATES: For Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultanas, and Zante Currant raisins—October 18, 1978, until November 30, 1979. For Monukka raisins—December 1, 1978, until November 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The temporary grade changes made herein are pursuant to the marketing agreement, as amended, and order No. 989, as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to collectively as the "Act."

Pursuant to § 989.59(a) of the order, § 989.702 of Subpart—Quality Control (7 CFR 989.701-989.702; 43 FR 13493) prescribes minimum standards for packed Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultana, Zante Currant, and Monukka raisins. Section 989.59(b) provides that the Committee may recommend changes in the minimum grade standards for packed raisins of any varietal type. It further provides that the Secretary shall approve any such change if he finds, upon the basis of data submitted to him by the Committee or from other information available to him, that to do so would tend to effectuate the declared policy of the act.

When the first storm hit on Labor Day, most of the 1978 crop had just been picked and was on the ground drying on paper drying trays. At this stage, grapes are quite susceptible to rain damage. Poor drying conditions followed the rains and caused the quality of the raisin grapes to deteriorate quickly. The rain also adversely affected the maturity of the crop. The rain literally washed the sugar from the raisin grapes. It is expected that

the loss of sugar reduced the maturity of the 1978 crop.

Producers and handlers will be making special efforts to recondition the rain-damaged crop to recover the maximum quantity of raisins acceptable for human consumption. However, it is expected that the mechanical damage sustained by the raisins will be greater than normal due to additional washing and more intensive reconditioning procedures required to accomplish this objective.

The temporary changes in the minimum grade standards for packed raisins, hereinafter set forth, will end November 30, 1979, and aid in the industry's effort to make as much of the 1978 crop raisins available to consumers and the trade as possible.

After consideration of all relevant matter presented, the Committee's recommendation, and other available information, it is hereby found that the changes in the minimum grade standards for packed raisins, and contained in § 989.703 hereinafter set forth, would tend to effectuate the declared policy of the Act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective date for all but Monukka raisins until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The action temporarily lowers the minimum grade standards for certain packed raisins in order to permit and facilitate the recovery of raisins suitable for human consumption; (2) it is necessary that this action become effective promptly to allow handlers to maximize the quantity of raisins available for human consumption as fast as possible; (3) this action was discussed at an open Committee meeting, handlers are aware of it, and need no additional time to prepare for operation under the less restrictive requirements; and (4) grade requirements for packed Monukka raisins do not go into effect until December 1, 1978, and the effective date for the relaxation of requirements cannot be any earlier than that date.

Therefore, the temporary changes in the minimum grade standards for certain raisins are set forth in a new § 989.703 in Subpart—Quality Control (7 CFR Part 989.701-989.702; 43 FR 13493) which reads as follows:

§ 989.703 Changes in minimum grade standards for packed raisins for the period ending November 30, 1979.

Effective pursuant to § 989.59(b) and until November 30, 1979, the tolerance for moldy and damaged raisins for Natural (sun-dried) Seedless, Dipped Seedless, Golden Seedless, Muscats (including other raisins with seeds), Sultana, Zante Currant, and Monukka raisins shall be 5 percent and 15 percent, respectively, and the total tolerance for discolored, damaged, and moldy raisins shall be 20 percent. Also, the requirements for seedless raisins in U.S. Grade C that not less than 55 percent, by weight, of the raisins must be well-matured or reasonably well-matured, shall be suspended until December 1, 1979.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 13, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-29426 Filed 10-17-78; 8:45 am]

[3410-02-M]

PART 999—SPECIALTY CROPS—IMPORT REGULATION

Amendment of Raisin Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule temporarily relaxes grading requirements for imported Thompson Seedless, Muscat, and Currant raisins, and establishes grading requirements for imported Monukka raisins. The Agricultural Marketing Agreement Act of 1937, as amended, requires that raisin imports must meet equal or comparable grade requirements as domestic raisins regulated under the Federal marketing order. Under the marketing order for California raisins, temporary relaxations are being made in the grade requirements for Natural (sun-dried) Seedless, Muscat, Zante Currant, and Monukka raisins and similar relaxations must be made in the grade requirements for imported raisins. Grade requirements for imported Monukka raisins are necessary because such requirements are to go into effect December 1, 1978, for California Monukka raisins. Also, minor wording changes are made to recognize the transfer (June 27, 1977, 42 FR 32514) of raisin inspection activities from the Agricultural Marketing Service (formerly called Consumer and Marketing Service) to the Food Safety and Quality Service.

EFFECTIVE DATES: For Thompson Seedless, Muscat, and Currant raisins—October 18, 1978, until November 30, 1979; for Monukka raisins—December 1, 1978, until November 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The raisin import regulation is effective pursuant to the requirements of section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." Section 8e requires the Secretary of Agriculture to issue, after reasonable notice, grade requirements on imported raisins which are the same as, or comparable to, those imposed on domestic raisins under a Federal marketing agreement and order program. The marketing agreement, as amended, and order No. 989, as amended (7 CFR Part 989), regulates the handling of raisins produced from grapes grown in California (hereinafter collectively referred to as the "order").

Temporary relaxations are being made in the grade requirements for all varietal types of packed raisins under the order, including Natural (sun-dried) Seedless, Muscat, Zante Currant, and Monukka raisins. These relaxations relate to the tolerances for mold, damaged raisins, the total tolerances for discolored, damaged, and moldy raisins, and the maturity level for Seedless raisins. These relaxations will remain in effect until November 30, 1979. Therefore, similar relaxations must be made in the grade requirements for imported Thompson Seedless, Muscat, Currant, and Monukka raisins, and remain effective until November 30, 1979.

Heavy rains and poor drying conditions during the 1978 domestic raisin harvest seriously damaged the crop and supplies are expected to be below market needs. The temporary relaxations in the domestic and import grade requirements should make more raisins available to consumers and the trade.

The amendment, as hereinafter set forth, also contains changes necessary for the establishment of import grade requirements for Monukka raisins. Effective December 1, 1978, grade requirements are to be applied to California Monukka raisins under the order which are the same as those for Natural (sun-dried) Seedless raisins except that the allowance for moisture is 19 percent rather than 18 percent. Since imported Monukka raisins must be subject to the same or comparable requirements as those applied to California Monukka raisins, the relaxed grade requirements hereinafter set forth, will be effective December 1, 1978, to coincide with the effective date of the requirements to be applied under the order.

Also, two minor definition changes are made in the import regulation to recognize departmental action which transferred raisin inspection activities from the Agricultural Marketing Serv-

ice (formerly called Consumer and Marketing Service) to the Food Safety and Quality Service.

Based on the foregoing, and all

Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) • • •

(5) With respect to Monukka rai-

SUPPLEMENTARY INFORMATION: This program will benefit the producers affected. Since regular loans on 1978 crop rice are now being made, it

(b) To participate in the rice reserve program, a producer must request a rice reserve loan and enter into a rice

§ 1421.563 Applicability of the general regulations governing price support for the 1976 and subsequent crops.

(b) *Warehouse stored.* The quantity eligible for rice reserve loan shall be the quantity shown on the warehouse

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ice (formerly called Consumer and Marketing Service) to the Food Safety and Quality Service.

Based on the foregoing, and all other relevant information, it is hereby found that the amendment of the import grade requirements, hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure, and that good cause exists for not postponing the effective time of this action for all but Monukka raisins until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The requirements of section 8e of the Act make this action mandatory; (2) this action temporarily relaxes the quality requirements on raisins offered for importation and conforms with a simultaneous relaxation of the grade requirements on domestic raisins under this part and order No. 989, as amended (7 CFR Part 989); (3) compliance with this amendment will not require any special preparation by importers which cannot be completed by the effective date; (4) this action relaxes restrictions on the importation of raisins; and (5) the grade requirements for imported Monukka raisins do not go into effect until December 1, 1978, and the effective date for the relaxation of these requirements cannot be any earlier than that date.

§ 999.300 [Amended]

Therefore, § 999.300 is amended as follows:

1. Subparagraph (2) of § 999.300(a) is revised by inserting "Monukka Raisins," before "and Currant".

2. Section 999.300 is further amended by revising paragraphs (a) (5) and (6), by adding a new paragraph (a)(8), by revising paragraph (b)(5), and by adding a new paragraph (b)(6) to read as follows:

§ 999.300 Regulation governing importation of raisins.

(a) * * *

(5) "Fruit and Vegetable Quality Division" means the Fruit and Vegetable Quality Division of the Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250

(6) "USDA inspector" means an inspector of the Processed Products Branch, Fruit and Vegetable Quality Division, or any other duly authorized employee of the U.S. Department of Agriculture.

* * * * *

(8) "Fruit and Vegetable Division" means the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) * * *

(5) With respect to Monukka raisins—the requirements for Thompson Seedless raisins set forth in this paragraph, except that the allowance for moisture shall be 19 percent rather than 18 percent.

(6) Until November 30, 1979, with respect to Thompson Seedless, Muscat, Currant, and Monukka raisins, the tolerance for moldy and damaged raisins shall be 5 percent and 15 percent, respectively, and the total tolerance for discolored, damaged, and moldy raisins shall be 20 percent. Also, the requirement in U.S. grade C that not less than 55 percent of the raisins must be well-matured or reasonably well-matured shall not apply to Thompson Seedless and Monukka raisins.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 13, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 78-29428 Filed 10-17-78; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, Rice Reserve Program Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Regulations Governing the Rice Reserve Program for 1976 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the provisions under which producers may participate in the rice reserve program. This rule is needed in order to implement the rice reserve program through extended loans.

EFFECTIVE DATE: October 18, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3734 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Cecil G. Lower, ASCS, 202-447-7973.

SUPPLEMENTARY INFORMATION: This program will benefit the producers affected. Since regular loans on 1978 crop rice are now being made, it is essential that these regulations be effective as soon as possible in order to establish and carry out the rice reserve program. It is therefore, found and determined upon good cause that compliance with the notice of proposed rulemaking and public participation procedure would be impracticable and contrary to the public interest. Therefore, these regulations are being issued without compliance with such procedure. Accordingly, 7 CFR Part 1421 is amended by adding §§ 1421.558 through 1421.572 to read as follows:

Subpart—Regulations Governing the Rice Reserve Program for the 1976 and Subsequent Crops

Sec.
1421.558 General statement.
1421.559 Eligible commodities and length of loans.
1421.560 Limit on reserve quantity.
1421.561 Program availability.
1421.562 Eligibility requirements.
1421.563 Applicability of the general regulations governing price support for the 1976 and subsequent crops.
1421.564 Warehouse receipts.
1421.565 Quantity eligible for extended loans.
1421.566 Quality of farm stored rice.
1421.567 Storage rates.
1421.568 Storage payments.
1421.569 Interest rate.
1421.570 Commingling and replacement of rice.
1421.571 Release levels, redemption requirements, and early redemption charges.
1421.572 Maturity.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 401, and 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421, 1425).

§ 1421.558 General statement.

(a) The regulations in this subpart set forth the terms and conditions for the reserve program which provides for the extension of farm storage and warehouse storage loans (hereinafter called "rice reserve loan(s)") on rice described in § 1421.559. Farm storage rice reserve loans will be evidenced by notes and secured by security agreements, rice reserve agreements, and in certain cases, chattel mortgages, or financing statements. Warehouse storage rice reserve loans will be evidenced by notes, security agreements, and rice reserve agreements and secured by the pledge of warehouse receipts representing rice in approved warehouse storage. As used in the regulations in this subpart, "CCC" means the Commodity Credit Corporation and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) To participate in the rice reserve program, a producer must request a rice reserve loan and enter into a rice reserve agreement with the local county ASCS office. Such agreement shall be for a period of time specified in § 1421.559. Storage payments will be paid to the producer annually during the period of the rice reserve agreement for the time the commodity is eligible to earn storage payments. Producers may redeem their commodity under the rice reserve program without repaying earned storage when the national average market price reaches the release level, as determined pursuant to § 1421.571. All rice loans in the rice reserve will be called when the national average market price of such rice reaches the call level, as determined pursuant to § 1421.571.

§ 1421.559 Eligible commodities and length of loans.

(a) *Eligible commodities.* All eligible 1978 crop rice under regular loan is eligible for rice reserve loans in accordance with § 1421.560.

(b) *Length of reserve loans.* Rice reserve loans shall be for a period of 3 years.

§ 1421.560 Limit on reserve quantity.

The total amount of rice under rice reserve program shall not exceed 8.0 million hundredweight.

§ 1421.561 Program availability.

Producers with farm or warehouse stored 1978 rice under CCC loan (hereinafter called "regular loan(s)") may participate in the rice reserve program. A producer desiring to participate in the rice reserve program shall file a request to participate not later than the maturity date of the regular loan for the rice such producer wishes to place in the program. The producer shall request such rice reserve loan at the county ASCS office which disbursed the regular loan. An approved cooperative marketing association shall request a rice reserve loan at the county ASCS office which disbursed the regular loan or at its servicing agent bank which disbursed the regular loan.

§ 1421.562 Eligibility requirements.

(a) *Producer.* A producer shall be eligible to participate in this program if such producer has eligible rice under a regular loan or has eligible rice under a purchase agreement which is converted into a regular loan.

(b) *Limits.* Eligibility of producers to place rice into the rice reserve program will be on a first-come-first-served basis. After the limits established in § 1421.560 have been accomplished, the program will be closed to new applicants.

§ 1421.563 Applicability of the general regulations governing price support for the 1976 and subsequent crops.

Provisions of the General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto (hereinafter referred to as "General Regulations") which are not inconsistent with provisions of this subpart shall apply to rice reserve loans.

§ 1421.564 Warehouse receipts.

(a) *General.* Warehouse receipts representing rice on which producers desire reserve loans under this program must meet all of the requirements of this section and any other requirements contained in the regulations in this subpart, the general regulations, and the applicable commodity supplement.

(b) *Manner of issuance and endorsement.* Warehouse receipts must be issued in the name of the eligible producer or CCC. If issued in the name of the eligible producer, the receipts must be properly endorsed in blank so as to vest title in the holder. Receipts must be issued by an approved warehouse and may represent rice which is deemed to be stored commingled, modified commingled, or identity preserved. The receipts must be negotiable and must cover the eligible rice actually in storage in the warehouse of original deposit, except that warehouse receipts may be issued by another warehouse if the eligible rice was reconcentrated under a "Reconcentration Agreement and Trust Receipt" approved by CCC. All receipts must be registered or recorded with appropriate State or local officials when required by State law. Warehouse receipts must show that storage charges have been paid or otherwise provided for through the end of the first year of the rice reserve agreement.

(c) *Where a warehouseperson is also owner.* If the receipt is issued for rice which is owned by the warehouseperson, either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. In States where the pledge of warehouse receipts issued by warehousepersons on their own commodity is invalid, the warehouseperson may offer such commodity to CCC for loan only if such warehouse is licensed and operating under the U.S. Warehouse Act.

§ 1421.565 Quantity eligible for rice reserve loans.

(a) *Farm stored.* The quantity eligible for rice reserve loan shall be the measured quantity covered by the regular loan, as determined by the county committee.

(b) *Warehouse stored.* The quantity eligible for rice reserve loan shall be the quantity shown on the warehouse receipt or supplemental certificate, if applicable, which secured the regular loan.

§ 1421.566 Quality of farm stored rice.

Prior to approval of a rice reserve farm stored loan, the commodity will be inspected by a representative of the county agricultural stabilization and conservation (ASC) committee and a farm storage rice reserve agreement will not be approved by CCC unless it is determined on the basis of such inspection that the commodity is such that it can reasonably be expected to be stored with safety until maturity of the loan.

§ 1421.567 Storage rates.

Producers will be paid per annum storage payments at the initial rate of 85 cents per hundredweight for rice. Such rates may be changed from time to time by announcement in a separate notice published in the FEDERAL REGISTER but will not be less than 85 cents per hundredweight for rice. When storage is computed for less than 1 year, appropriate daily rates announced in the FEDERAL REGISTER will be used, which will not be less than 0.2329 cent per hundredweight for rice. Annual storage payments shall be adjusted and paid in accordance with provisions outlined in § 1421.568.

§ 1421.568 Storage payments.

(a) *Time.* Storage payments shall be paid annually in advance on the date the rice reserve agreement is approved and each anniversary date of the agreement thereafter if the market price on such date is below the release level. If the market price is equal to or exceeds the release level on the date the rice reserve agreement is approved or on the anniversary date, no storage payment will be made at that time. If CCC subsequently announces that the market price is again below the release level, a storage payment will be made for the balance of the year. Second or third year storage payments will not be made to producers having rice reserve warehouse loans until the producers furnish written evidence that at least the next year's storage payment has been paid or provided for. If the producer fails to provide such written evidence within a reasonable period of time, the county office shall call such loan, and if the loan is not repaid according to § 1421.571 or evidence that storage has been paid is not furnished within 10 days after such call, title to the commodity shall vest in CCC on the 11th day and the producer shall be considered to have voluntarily forfeited his commodity to

CCC and shall be subject to the voluntary forfeiture provisions of § 1421.571(b).

(b) Storage payments for farm stored rice reserve loans shall be based on the regular loan quantity except that such payments can be based on the quantity measured for a reserve loan when such measured quantity is more than the regular loan.

(c) *Storage credit.* Storage credit for less than 1 year will be computed on a daily basis.

(d) *Eligible storage credit.* Storage credit shall be allowed for the duration of the loan except that no storage credit shall be earned between the day following the second consecutive CCC announcement that the national average market price for the commodity is equal to or exceeds the release level and the date of a subsequent announcement by CCC that the market price is again below the release level. Such unearned storage will be subtracted from any future storage payments or will be collected when the loan is redeemed or forfeited to CCC.

(e) *Unearned storage.* No storage payment shall be earned if the producer: (1) Has made any false representation in the loan documents in obtaining the loan or in settlement of the loan, (2) makes an unauthorized disposition of the commodity with intent to defraud CCC, (3) abandons the commodity, or (4) negligently or otherwise impairs the commodity.

§ 1421.569 Interest.

Each rice reserve loan shall bear interest through the first year of the reserve agreement at the rate of 7 percent per annum or such lower rate as may be later announced in a separate notice(s) published in the FEDERAL REGISTER. Loans shall bear interest at such lower rates from the effective dates of such announcements. The loan shall not bear interest thereafter.

§ 1421.570 Commingling and replacement of rice.

(a) *Commingling.* In the case of farm storage, rice may, with prior written approval of the county ASC committee, be commingled with other eligible or ineligible rice from the same or any other crop year and of the same class if: (1) The county committee gives prior written approval of such commingling, and (2) the county ASCS office inspects and measures the rice prior to commingling at the producer's expense.

(b) *Replacement.* Rice may, with prior written approval of the county committee, be replaced with other rice of the same class produced by the borrower if: (1) The county committee gives prior written approval of such replacement, (2) the rice to be used for replacement is in storage on the farm, unless the county committee authorizes removal of the reserve rice to licensed storage before replacement according to § 1421.570(c), (3) the county committee inspects and measures the rice replacing the reserve rice at the producer's expense before removal of the reserve rice, and (4) the county committee determines that the rice to be used for replacement is of a quality equal to or better than the rice in storage in the rice reserve program. Removal of farm stored rice in the rice reserve program without prior written approval will be considered unauthorized removal.

(c) *Licensed storage.* The producer may be authorized to move the rice in the rice reserve program to licensed warehouse storage before replacement if: (1) Prior to the movement of rice, a written request to do so is filed in the county office, (2) approval of the county committee is granted in writing, (3) the county ASCS office inspects and measures the rice at the producer's expense prior to removal, and (4) within 30 days after approval is granted the rice is moved to licensed storage and an endorsed negotiable warehouse receipt is deposited in escrow with the county executive director. The producer shall agree to remain liable for all charges incident to the storage of the rice in the warehouse and the United States in no way shall be liable for such charges. Whenever the rice to replace the rice covered by the warehouse receipt held in escrow is in the farm storage and the county office has determined by inspection and measurement that there is sufficient quantity in storage and the loan value is equal to or more than the rice represented on the reserve agreement, the warehouse receipt shall be returned to the person who deposited it. Whenever a producer does not place rice in acceptable farm storage as provided herein prior to maturity of the rice reserve agreement, the producer's interest in the rice represented by the warehouse receipt, held in escrow by the county executive director, shall transfer to Commodity Credit Corporation.

§ 1421.571 Release levels, redemption, requirements, and early redemption charges.

(a) *General.* Rice under reserve loans shall not be eligible for redemption without the producer incurring liability for liquidated damages unless the national average market price as determined and announced by CCC is at least 140 percent of the current national average loan rate for rice (hereinafter called the release level). The national average market price for rice will be considered to have reached 140 percent of the national average loan rate when: (1) The average midmonth price received by farmers as reported by Economics, Statistics, and Cooperatives Service in Agricultural Prices was 140 percent or more of the national average loan rate for rice. Producers will be advised when the market reaches this level for rice and that their loans are eligible for redemption without an early redemption charge. Such determinations shall be made and announced by CCC and shall be applicable until a subsequent announcement is made. If a subsequent announcement shows that the market price is below the applicable release level, the commodity will revert to the original agreement and will not be eligible for redemption without an early redemption charge.

(b) *Redemption or voluntary forfeiture of commodity below release levels.* (1) Conditions other than emergency release. Except as provided in paragraph (b)(2) if a producer redeems the commodity prior to CCC announcing that the release level has been met, such producer will be required to repay as liquidated damages the higher of the loan principal, plus interest, plus all storage payments, plus interest or 140 percent of the producer's then current loan rate for rice. If a producer voluntarily forfeits the commodity prior to CCC announcing that the release level has been met, such producer shall be required to repay all storage, plus interest and, as liquidated damages, the difference between the amount which would otherwise be due on the loan if redeemed at such time and 140 percent of the producer's then current loan rate for rice.

(2) *Emergency release.* In case of warehouse loans, if it is determined by CCC that storage space is no longer available, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and may retain earned storage payments. In the case of farms storage loans, if it is determined by CCC that there is insect infestation which cannot be controlled, the commodity is subject to damage by flood or fire, or there is damage to the structure, the producer has lost control of the storage structure, or the commodity is going out of condition, the producer may repay the loan or forfeit the commodity to CCC without incurring liability for liquidated damages and retain earned storage payments.

(c) *Redemption of commodity when market price for rice is at least 160 percent for rice of national average loan rate.* When CCC determines that the market price for rice is at least 160 percent of the national average loan rate, the loan shall be called. Such call will be determined in the same manner as prescribed for release levels in § 1421.571(a). If the loan is not redeemed within 30 days after notification, CCC may take title to the commodity.

§ 1421.572 Maturity.

Rice reserve loans mature and are due and payable on the earlier of: (1) The last day of the 36th calendar month after the regular loan matured, or (2) the last day of the 36th month following the month in which the rice reserve agreement is approved.

Signed at Washington, D.C., on October 13, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-29424 Filed 10-17-78; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

Application Form for Materials License—Medical

AGENCY: Nuclear Regulatory Commission.

ACTION: Approval of reporting requirement by Comptroller General.

SUMMARY: On August 23, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of rulemaking, effective November 6, 1978, amending its regulation "Human Uses of Byproduct Material" to require use of a new form NRC-313M, "Application for Materials License—Medical".

The notice included the following note:

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting (recordkeeping) requirement of this rule becomes effective, unless advised to the contrary, accordingly reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2)).

Notice is hereby given that the reporting requirements set out in the rule have been approved by the U.S. General Accounting Office.

EFFECTIVE DATE: November 6, 1978. The reporting requirement set out in the notice of rulemaking amending 10 CFR part 35 which was published in the FEDERAL REGISTER on August 23, 1978 (43 FR 37421) has been approved by the U.S. General Accounting Office under No. B-180225 (R0057).

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7086.

Dated at Bethesda, Md., this 6th day of October 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-29337 Filed 10-17-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 989-4]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: Interim subagreement regulations concerning minimum standards for procurement under EPA grants were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to October 1, 1978 (43 FR 10342). This document changes the effective date pending revisions to attachment O (procurement standards) of OMB Circular A-102.

EFFECTIVE DATE: February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0850.

By this action, the effective date is changed as follows:

Effective date: These interim part 33 subagreement regulations shall become effective on February 1, 1979, and shall govern all procurement actions under grants awarded on or after that date. Procurement actions taken under grants awarded prior to February 1, 1979, are subject to these regulations if the grant (1) includes a special condition requiring compliance with 40 CFR Part 33, or (2) is a grant under section 208 of the clean water act.

Dated: October 5, 1978.

BILL DRAYTON,
Assistant Administrator for Planning and Management.

[FR Doc. 78-29225 Filed 10-17-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20735; RM-1974; RM-2655]

PART 73—RADIO BROADCAST SERVICES

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Noncommercial Educational FM Broadcast Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: The Commission published a Second Report and Order in this docket on September 6, 1978. Certain typographical errors in the Report and Order which made changes to the rules regarding noncommercial educational FM stations have caused some confusion about the intent of the regulation in § 73.561. This document corrects the typographical errors in the text of the Second Report and Order, FR Doc. 78-24941.

DATES: Effective on October 13, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Johnathan David, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of changes in the rules relating to noncommercial educational FM broadcast stations.

Released: October 12, 1978.

1. On June 7, 1978, the Commission adopted a Second Report and Order in docket No. 20735. This document, enacting a number of rule changes affecting noncommercial educational FM stations, was released by the Commission on September 1, 1978, and it was published in the FEDERAL REGISTER on September 6, 1978 (43 FR 39704).

2. Unfortunately, because of typographical errors in the Report and Order, confusion arose about the intent of the Commission in regard to the newly adopted § 73.561 of the

rules. Because of the error, there was an apparent conflict between the explanation of the rule in paragraph 49 and the text of the new rule itself. The rule is correct as published; it was

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE

ly operated by Madison Railway Co., Inc. * * *

* * * * * *

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

quired to register at the checking station and check out before leaving the refuge.

(3) *Parking.* Hunters may park cars

must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above-designated travel lanes.

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rules. Because of the error, there was an apparent conflict between the explanation of the rule in paragraph 49 and the text of the new rule itself. The rule is correct as published; it was only the description of the action taken which was incorrect. The purpose of this document is to supply the correct wording and to remove any confusion which may have occurred.

3. The discussion in paragraph 49 dealt with two matters: A minimum operating schedule requirement for noncommercial educational FM stations and a standard to govern time sharing by these stations. The first part of the paragraph, dealing with minimum operating schedule was correct, but the last 10 lines, dealing with time sharing were not correct. The paragraph should read:

With our decision to establish a minimum schedule and a higher schedule level that would avoid time sharing, a number of stations will need to make adjustments in their operations and others may wish to do so. The minimum schedule requirement will go into effect on January 1, 1979. This should provide adequate time to prepare for the minimum schedule obligations itself. Then, commencing with renewal applications due on or after January 1, 1980, time sharing may be proposed by other applicants for the channel unless the existing station operates at least 12 hours per day each day of the year. (In such case the station would be required to file with the Commission and keep on file at the station compilation of the hours broadcast.)

4. The published version appeared to suggest that a station could avoid time sharing by operating 12 hours per day on 6 rather than all 7 days of the week were required or that it could meet this requirement and still be off-the-air during vacation periods so long as the station operated additional hours to compensate for the vacation period. In fact, neither of these exceptions applies. The station needs to operate at least 12 hours per day on every day of the year. There is an exemption allowing school stations to observe official vacations, but this exemption applies to the 36-hour minimum operating requirement only, not to time sharing.

5. One other point needs clarification. In the discussion in paragraph 41, line 3, the text read "(40-watt)" when it should have read "(10-watt)" in referring to Class D stations.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29420 Filed 10-17-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 1 to Service Order No. 1338]

PART 1033—CAR SERVICE

Madison Railroad, Division of City of Madison Port Authority Authorized To Operate Over Tracks Formerly Operated by Madison Railway Co., Inc.

Decided: October 12, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (amendment No. 1 to service order No. 1338).

SUMMARY: The Madison Railway Co. Inc., has operated a line of railroad between Madison, Ind., and North Vernon, Ind., under an operation agreement with the State of Indiana. This operating agreement has been canceled, and the State has entered into an operating agreement with the Madison Railroad, Division of City of Madison Port Authority, to operate this line of railroad. Service order No. 1338 authorizes the Madison Railroad, Division of City of Madison Port Authority, to operate this line, pending disposition of its application to operate as the designated operator in order to provide uninterrupted rail service to shippers on this line. Service order No. 1338 is published in full in volume 43 of the FEDERAL REGISTER at page 42257. Amendment No. 1 extends this order until November 15, 1978.

DATES: Effective 11:59 p.m., October 15, 1978. Expires 11:59 p.m., November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: Upon further consideration of service order No. 1338 (43 FR 42257), and good cause appearing therefor:

It is ordered, Service order No. 1338 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

§ 1033.1338 Service order No. 1338.

(a) *Madison Railroad, Division of City of Madison Port Authority authorized to operate over tracks formerly operated by Madison Railway Co., Inc.* • • •

• • • • • •

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., October 15, 1978.

(49 U.S.C. 1(10-17).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Robert S. Turkington and Leonard J. Schloer.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29423 Filed 10-17-78; 8:48 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER 1—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Bear River Migratory Bird Refuge, Utah, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: Pheasants, November 4, 1978, through December 3, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, telephone 801-744-2488.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasants is permitted on the Bear River Migratory Bird Refuge, Utah, only on the area designated by signs as being open to hunting. This area, comprising 12,855 acres, are delineated "Area A" on maps available at the refuge headquarters, Brigham City, Utah, and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special regulations:

(1) *Roads.* No hunting is permitted from roadways or within 100 yards of any roadway.

(2) *Hunter check station.* Each hunter who enters "Area A" is required to register at the checking station and check out before leaving the refuge.

(3) *Parking.* Hunters may park cars only at designated areas within the refuge.

(4) *Routes of travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between units 1 and 2 and units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads.

Travel by boat is permitted from headquarters area boat ramps down canals between units 1 and 2 and units 2 and 3, and the main river channel into unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above-designated travel lanes.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 3, 1978.

RODNEY F. KREY,
Acting Refuge Manager.

[FR Doc. 78-29352 Filed 10-17-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Appendix E—Emergency Plans for Production and Utilization Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: The Nuclear Regulatory Commission is extending the public comment period on its proposed rule change to 10 CFR Part 50—Appendix E—Emergency Plans for Production and Utilization Facilities, for an additional 45 days. The proposal rule was published on August 23, 1978 (43 FR 37473). The comment period expired October 10, 1978.

DATE: New comment period expires November 24, 1978.

ADDRESSES: Written comments or suggestions concerning the proposed amendment should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-443-5981.

Dated at Washington, D.C., this 12th day of October 1978.

For the Nuclear Regulatory Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-29338 Filed 10-17-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212] [1]

[Docket No. ERA-R-78-16]

MANDATORY PETROLUEM PRICE REGULATIONS REFINERS

Resubmissions and Refiling of FEO-96, P110, and EIA-14 Forms

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposal to amend its petroleum price regulations concerning the reporting requirements of refiners. Under this proposed amendment, refiners generally would not be permitted to refile FEO-96 forms, FEA/DOE P110 forms, or DOE EIA-14 forms after 60 days from the date of the original filing, except (1) where expressly authorized by DOE regulation or order, or (2) where written permission to resubmit or refile is granted by DOE for good cause shown.

Among other things, the forms provide the data necessary for the DOE to assure compliance with DOE price regulations applicable to refiners. In some cases refiners have made changes which have limited the ability of the DOE to fulfill its audit and enforcement functions. The purpose of this rulemaking is to provide a reasonable period for updating forms which have been filed in a timely manner, and to insure, for the benefit of DOE and the industry, stabilized audit data which can be modified only pursuant to regulation or order or with DOE approval for good cause shown.

DATES: Written comments by December 18, 1978, 4:30 p.m.; Requests to speak by December 6, 1978, 4:30 p.m.; public hearing: December 14, 1978, 9:30 a.m.

ADDRESSES: All comments to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-16, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Frank Kelly (Media Relations), Department of Energy, Room 6308-E, 2000 M Street NW., Washington, D.C. 20461, 202-254-8690.

Carl Corrallo (Solicitor to the Special Counsel for Compliance), Department of Energy, Room 3407, 12th and Pennsylvania Avenue NW., Washington, D.C., 20461, 202-566-9834.

Doug McIver (Entitlements Program Office), Economic Regulatory Administration, Room 6128-I, 2000 M Street NW., Washington, D.C. 20461, 202-254-8660.

Clyde Dehoff (Office of Enforcement, Policy and Planning), Economic Regulatory Administration, Room 5114-G, 2000 M Street NW., Washington, D.C. 20461, 202-254-3144.

Lloyd Costley (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2314, 2000 M Street NW., Washington, D.C. 20461, 202-254-8034.

Alan Hechtkopf (Office of General Counsel), Department of Energy. Room 5146, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Proposed Amendments.
III. Comment Procedures.

I. BACKGROUND

Section 212.126(b) of the DOE Mandatory Petroleum Price Regulations requires that refiners "shall prepare and file with the FEO periodic reports in accordance with forms and instructions issued by the FEO. Each refiner shall submit its calculations under the formulas of § 212.83 in accordance with forms and instructions issued by FEO." (This requirement, effective January 14, 1974, was issued by the Federal Energy Office (39 FR 1924, January 15, 1974) to replace an identical requirement contained in the initial mandatory petroleum price regulations issued by the Cost of Living Council on August 17, 1973 (6 CFR 150.363(a)(2), 38 FR 22536, August 22, 1973).

Pursuant to this provision, the FEO issued a mandatory reporting form, the FEO-96, applicable to all U.S. "refiners" as that term in defined in 10 CFR 212.31. In January 1976, the FEO's successor agency, the Federal Energy Administration (FEA), issued a new form to replace the FEO-96, the P110-M-1 (P110). Effective July 1978, the EIA-14 form replaced the P110. Pursuant to the requirement in § 212.126 that refiners file "periodic reports," the instructions to both the FEO-96 and the P110 required that the form be filed monthly, and within 45 days after the last day of the month to which the data are applicable.

The primary purpose of the FEO-96, P110, and EIA-14 ("Refiner's Monthly Cost Allocation Report") is to assure compliance with and enforcement of § 212.83 of the DOE price regulations, which prescribes the method of allocating the increased costs that refiners may add to lawful May 15, 1973, selling prices when calculating current maximum selling prices of covered products. The FEO-96, P110, and EIA-14 also provide the data necessary for the DOE to fulfill its responsibility to monitor certain cost and price movements within the U.S. petroleum industry.

The FEO-96, P110, and EIA-14 all provide for amending an initial filing and resubmitting a revised report. (See, for example, EIA-14, "Part 1, Identification Data" item (7).) We recognize that these reports sometimes require the use of estimated data and that in dealing with such calculations some good faith errors are unavoidable. Current instructions and DOE guidelines are not explicit, however, as to the types of revisions, time for refiling, or number of resubmissions which may be made by refiners.

In some cases refiners have made changes which have limited the ability of the DOE to fulfill its audit and enforcement functions. Occasionally, after a refiner has filed the FEO-96 or P110 and an audit by the DOE indicates an overcharge by the firm in a given month for a specific covered product, the firm has filed an amended FEO-96 or P110, reallocating product and nonproduct costs from another product, in an attempt to justify the price which, at the time the covered product was sold, was in excess of the maximum lawful selling price based upon the data available to DOE at the time of the audit. The purpose of this rulemaking is to provide a reasonable period for updating forms which have been filed in a timely manner, and to insure, for the benefit of DOE and the industry, stabilized audit data which can be modified only pursuant to regulation or order or with DOE approval for good cause shown.

II. PROPOSED AMENDMENTS

We propose to amend § 212.126 to provide that firms are responsible for the exercise of due care and diligence in filing DOE forms and reports and that resubmissions or refilings will be routinely accepted by the DOE only within 60 days after the original filing. Two exceptions to this rule are proposed: (1) Where expressly authorized by DOE regulation or order; or (2) where DOE, for good cause shown, grants written authorization pursuant to an application by the firm for resubmission or refiling.

With respect to refilings pursuant to other DOE regulations or orders, it should be emphasized that the particular restrictions on the resubmission or refiling of these forms are not to be construed as a broad policy affecting other programs, such as the DOE entitlements program, which permit ongoing refiling procedures.

With respect to applications for permission to resubmit or refile, we propose to adopt a provision that a finding of good cause shall not be made routinely, and that the burden is on the applicant to demonstrate that the claimed errors or omissions in the initial report did not result from a failure to exercise due care or diligence.

Finally, the proposed amendment would provide that applications for permission to resubmit or refile reports be submitted in writing to the DOE Special Counsel for Compliance or the Office of Enforcement, as appropriate. Further, the disposition of such applications would contain a concise statement of the reasons why the application was granted or denied, and would be appealable as an order under subpart H of 10 CFR Part 205 (DOE procedural regulations).

The proposed amendments, if adopted, will be effective on the issuance date of this notice to preclude firms from using the period during which the amendments are under consideration to defeat their purpose.

III. COMMENT PROCEDURES

A. WRITTEN COMMENTS

You are invited to participate in this rulemaking by submitting views, data, or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this notice and should be identified on the outside with the docket number and the designation "Amendments to Petroleum Price Regulations Applicable to Refiners—Resubmissions and Refiling of FEO-96, P110, and EIA-14 forms." Fifteen copies should be submitted. All comments received by December 18, 1978, and all relevant information will be considered before final action is taken on the proposed amendment. All comments received will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

If you submit any information or data you believe to be confidential, it must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. PUBLIC HEARING

1. *Requesting opportunity for oral statement.* The times and places for the hearing are indicated in the "DATES" and "ADDRESSES" sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the first business day following the date therefor shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., December 8, 1978, and must submit 100 copies of your statement before 4:30 p.m., December 13, 1978. Statements for the public hearing should be sent to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-78-*16*, 2000 M Street MW., Washington, D.C. 20461.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebut-

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

tal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked of any person making a statement at the hearing may be submitted to the Office of Public Hearings Management at the above address before 4:30 p.m., December 13, 1978. You may also submit any questions, in writing, to the presiding officer at the time of the hearing. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcripts, will be retained and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., Between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcripts from the reporters.

Since the proposed regulation is not a regulation affecting the quality of the environment, the provisions of section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, have been determined to be inapplicable to this proposal.

We have determined that this proposal will not have a major impact as that term is defined in section VI of the proposed DOE Directive issued April 25, 1978, (43 FR 18634, May 1, 1978) to implement Executive Order 12044, and, therefore, no regulatory analysis pursuant to Executive Order 12044 is required.

Pursuant to the requirements of section 404 of the Department of Energy Organization Act (Pub. L. 95-91), upon issuance of this proposed rule, a copy of this notice will be referred to the Federal Energy Regulatory Commission for a determination, in its discretion, whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 402(a) (1), (b) and (c) (1) of that Act. The Commission will have until December 18, 1978, the date the public comment period closes, to make this determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385; Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below, effective October 11, 1978.

Issued in Washington, D.C., October 11, 1978.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration.

1. Section 212.126 is amended to add a new paragraph (d) to read as follows:

§ 212.126 Reports.

* * * * *

(d)(1) *Resubmissions and refiling of reports by refiners.* A refiner shall exercise due care and diligence in the preparation of cost allocation reports filed pursuant to this section. DOE will routinely accept resubmissions or refiling of such reports only within 60 days after the original filing or submission. Any entry contained in an otherwise timely report which purports to change or adjust retroactively an entry or allocation contained in a report previously filed or submitted shall be considered a refiling or resubmission for purposes of this paragraph and will not be given force or effect absent compliance with the provisions of this paragraph.

(2) *Exceptions.* Notwithstanding the provisions of subparagraph (c)(1) of this section, a refiner may resubmit or refile reports where expressly authorized by DOE regulation or order, or where DOE grants written permission to resubmit or refile for good cause shown.

(3) *Applications to resubmit or refile.* In any application for permission to resubmit or refile a report pursuant to subparagraph (c)(2), DOE will not make a finding of good cause routinely. Where it appears that such a finding may adversely affect the interest of the consuming public, a firm must demonstrate in its application, at a minimum, that the claimed errors or omissions in the report or reports which the firm seeks to replace or modify did not result from a failure to exercise due care and diligence. Firms must apply for permission pursuant to subparagraph (c)(2), in writing, to the DOE Office of Special Counsel for Compliance or Office of Enforcement, as appropriate. The appropriate DOE Office will dispose of each application in writing, with a concise statement of the reasons for granting or denying the application. The disposition of such an application shall be subject to appeal as an order under subpart H of part 205.

[FR Doc. 78-29407 Filed 10-17-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

[13 CFR Part 305]

PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Amendment of Grant Rate Policy for Public Works Projects Experiencing Underruns

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: These regulations amend 13 CFR 305.8 and 305.89(b) to allow an increase in grant rates, within the legal maximum, to qualified public works projects which have experienced underruns. EDA has discovered that because of its grant rate policy, as contained in these regulations, certain grantees were prevented from receiving the original dollar amount obligated to their projects. The intended effect of these amendments is to allow qualified underrun projects to receive their full obligation or funds.

DATE: Comments by November 17, 1978.

ADDRESS: Send comments to Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION ON THESE PROPOSED RULES CONTACT:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

SUPPLEMENTARY INFORMATION: 13 CFR 305.89(b) now provides that in the event the total cost of the project is less than the amount stated in the "Offer of Grant," the grant rate will be unchanged. This regulation can prevent underrun projects from receiving the full dollar amount obligated to them. The proposed amendment would give EDA discretion to increase the percentage of the Federal share of a project's cost, within the legal maximum, above the percentage originally provided for in the "Offer of Grant" if (1) the total cost of the project will be less than the amount stated in the "Offer of Grant," and (2) the percentage of the Federal share originally provided for in the "Offer of Grant" was less than that percentage allowed by law at the time the "Offer of Grant" was made. If these two circumstances coincide (an underrun and a grant rate less than the maximum allowed by law), EDA may increase the grant rate up to the maximum allowable at the time the project was approved.

13 CFR 305.8(b) is prefaced by a general statement that "* * * the percentage of the Federal share of a project's cost shall not exceed that percentage originally provided for in the grant agreement, * * *." This restriction applies only to projects receiving construction cost increase grants under the authority of section 107 of PWEDA, as implemented in § 305.8. However, the amendatory language EDA proposes for 13 CFR 305.89(b) would appear to create a conflict with this statement. Therefore, in order to avoid confusion, EDA proposes to revise the language of § 305.8 (b) and (c) to clarify the limited scope of application of this restriction on grant rate increases.

During the years 1972 to 1974, some EDA public works grant offers were written offering a stated sum of money (e.g., $100,000) not to exceed a certain percentage of total project cost (e.g., 40 percent), which percentage was below the maximum grant rate then allowable for the area in which the project was to be located. If the project costs ultimately fell below those estimated at the time of approval, 13 CFR 305.89(b) as it now reads would prevent the grantee from receiving the stated sum of Federal funds because the percentage that the stated sum represents would exceed the percentage of total project cost written into the grant agreement. Although total costs are less, this diminution of the Federal share can work hardships on grantees in meeting their project financing budgets.

The proposed change to 13 CFR 305.89(b) would give EDA discretion to ameliorate these hardships by increasing the percentage of the Federal share up to the maximum amount of such percentage allowable for the area at the time the project was approved. Of course, the stated maximum sum of money obligated (in our example $100,000) would still provide an upper limit on the amount of financial assistance provided to the project. As mentioned previously, 13 CFR 305.8 is also proposed to be amended to avoid confusion on the issue of increasing grant rates.

In accordance with the criteria contained in Department of Commerce Administrative Order 218-7, EDA has determined that these amendments are not significant regulations subject to the requirements of Executive Order 12044. However, in furtherance of the policies of that executive order, EDA is publishing these amendments as proposed rules and will accept written comments on them on or before November 17, 1978.

Accordingly, EDA proposes to amend 13 CFR Part 305 as follows:

1. By revising § 305.8 (b) and (c) to read as follows:

§ 305.8 Grants for construction cost increases.

* * * * *

(b) The Assistant Secretary may increase the amount of any grant made under the authority of title I of the Act to a project which meets all the following conditions:

(1) The project is being or will be constructed according to original designs and specifications;

(2) The project's total cost has increased because of increases in costs based on the original designs and specifications; and

(3) The project has incurred construction cost increases after the grant was made but prior to completion of the project.

(c) *Limitations on amount of grants.* (1) The amount of a grant made under paragraph (b) of this section may be equal to an amount based on the percentage increase in the costs referred to in paragraph (b)(2) of this section, as determined by the Assistant Secretary.

(2) A construction cost increase grant may not be in an amount which would cause the Federal share of the project's costs to exceed the percentage originally provided for in the grant agreement.

2. By revising § 305.89(b) to read as follows:

§ 305.89 Variance in cost of grant and loan projects.

* * * * *

(b) In the event the total cost of the project shall be less than the amount stated in the "Offer of Grant," the grant rate may be increased up to the maximum amount allowed by law at the time the grant was accepted.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).)

Dated: October 10, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-29317 Filed 10-17-78; 8:45 am]

[6820-27-M]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

[ADM 7900.2 CHGE]

[41 CFR Part 105-61]

PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Location of Records and Hours of Use; Fees for Reproduction Services

AGENCY: National Archives and Records Service (NARS), GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides information regarding the correct addresses or hours of operation for three National Archives and Records Service (NARS) facilities, and revises the fee schedule for reproduction services established by NARS. The revised fee schedule will be in effect during fiscal year 1979.

DATES: Written comments must be received on or before November 17, 1978.

ADDRESSES: Address comments to General Services Administration (NAA), Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:

Ross Buffington, Planning and Analysis Division, Office of the Executive Director, National Archives and Records Service, General Service Administration (NAA), Washington, D.C. 20408, 202-523-3214.

PART 105-61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Subpart 105-61.51—Location of Records and Hours of Use

1. Section 105-61.5101-6(a) is revised to read as follows:

§ 105-61.5101-6 Federal records centers.

(a) Defense Activities, Building 308, Mechanicsburg, Pa. 17055. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

2. Section 105-61.5101-7 (g) and (h) are revised to read

§ 105-61.5101-7 Federal archives and records centers.

* * * * *

(g) 4900 Hemphill Street, Fort Worth, Tex. Mailing address: Federal

Archives and Records Center, P.O. Box 6216, Fort Worth, Tex. 76115. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(d) The following special shipping fees are computed as a percentage of the fee for the item ordered:

Black and white:	
2 in by 2 in from existing negative	$1.60
Additional fee when negative must be made	3.70
Color:	
2 in by 2 in from existing negative	3.70
Additional fee when negative must be made	5.80
Film-to-tape sound transfer (per min; minimum order, $15.)	2.50

(b) Video recordings

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

later amended and redesignated as section 310 (42 U.S.C. 4576) by Pub. L. 94-371. Funds for such grants were first

Archives and Records Center, P.O. Box 6216, Fort Worth, Tex. 76115. Hours: 8 a.m. to 4:30 p.m., Monday through Friday.

(h) Building 48, Denver Federal Center, Denver, Colo. Mailing address: Federal Archives and Records Center, P.O. Box 25307, Denver, Colo. 80225. Hours: 7:30 a.m. to 4 p.m., Monday through Friday.

• • • • •

Subpart 105-61.52—Fees

1. Section 105-61.5201 (b) and (c) (3) and (4) are revised and (c)(8) is added to read as follows:

§ 105-61.5201 Applicability.

• • • • •

(b) The fee set forth in § 105-61.5206 also apply to reproductions of regional archives and records held by Federal records centers with the following exceptions:

(1) When regional archives or FRC records are microfilmed by a Federal records center microfilming unit, the fee schedule for those services as published in GSA Bulletins, B Series (Archives and Records) shall apply, except that 10 percent may be added in accordance with 44 U.S.C. 2307.

(2) When there is agreement between NARS and the agency that transferred the records, reproductions of agency records in FRC holdings may be charged for in accordance with that agency's fee schedule.

(c) • • • (3) Audiovisual materials sold by the Stock Film Library. Prices for these materials are available from the Stock Film Library, General Services Administration (NNVS), Washington, D.C. 20408.

(4) Census schedules (1790-1900). Reproduction of a census entry; i.e., a family unit or household (paper copies from microfilm)—$3.

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(8) Expedited orders processed on a "rush" basis are subject to a 40 percent surcharge. Rush service is not avialable for color still picture items.

2. Section 105-61.5205 (a), (d) and (e) are revised to read as follows:

§ 105-61.5205 Mail orders.

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(a) Except for those processes showing a higher minimum in § 105-61.5206, a minimum fee of $2 per order is charged for reproductions ordered by mail.

• • • • •

(d) The following special shipping fees are computed as a percentage of the fee for the item ordered:

Type of reproduction	Shipping fee: Foreign surface (percent)	Shipping fee: Foreign airmail (percent)
(1) Electrostat	5	10
(2) Photostat	10	30
(3) Diazo	10	20
(4) Copy negative	1	2
(5) Slides (2 by 2 in)	2	4
(6) Photographic prints (8 by 10 in or smaller)	4	6
(7) Photographic prints (larger than 8 by 10 in)	10	20
(8) Sound and video tapes	5	10
(9) Motion pictures	3	6
(10) Microfilm [1]	3	6

[1] Shipping fees for microfilm publications are included in the "Catalog of National Archives Microfilm Publications".

(e) The following fees for special postal service apply when the service is requested by the customer:

Insured mail	$1.10
Certified mail	.80
Return receipt	.45
Registered mail	3.00

3. Section 105-61.5206 is amended as follows:

§ 105-61.5206 Fee schedule.

(a) Authentication $2.00

(b) Still photography (minimum order, $4).

(1) *Copy negatives:*

	Black and white
4 in by 5 in	$3.70
8 in by 10 in	6.45
Aerial prints:	
10 in by 10 in or smaller (contact)	4.10
10 in by 10 in enlargement	4.10
14 in by 14 in	5.20
18 in by 18 in	7.55
20 in by 24 in	7.55
27 in by 28 in	14.25
40 in by 41 in	19.80
Photo-indexes (usually 20 in by 24 in)	7.55

(3) *Photographic prints (includes prints from microfilm):*

	Black and white	Color
4 in by 5 in (contact; A contact print is an exact copy of a negative which cannot be altered. The service is available only when there is a 4 in by 5 in negative on file	$1.85	
8 in by 10 in or smaller	4.85	$20.00
11 in by 14 in	5.35	30.00
16 in by 20 in	9.50	46.00
20 in by 24 in	12.90	59.30
22 in by 28 in	12.90	
24 in by 30 in	17.85	110.00
30 in by 40 in	17.85	155.00
Sepia, add	3.70	

(4) *Slides and transparencies:*

Black and white:	
2 in by 2 in from existing negative	$1.60
Additional fee when negative must be made	3.70
Color:	
2 in by 2 in	2.00
4 in by 5 in	16.85
8 in by 10 in	32.70

(5) *Photostat:*

Paper (up to 17 in by 23 in)	$4.30
Film (up to 17 in by 23 in)	6.60

(6) *Diazo (per foot)*—$.90.

(7) *Drymounting (per square foot)*—$1.35.

(8) *Red line facsimile (for public laws)*—$6.20.

(9) *105 mm microfilm prints:*

18 in by 24 in paper copy	$1.55

(c) Microfilm.

	16 mm rotary	16 mm planetary	35 mm planetary
(1) Negative (per frame; minimum order, $10.): Customer tabs documents for microfilming	0.06	0.10	0.10
NARS identifies documents for microfilming	0.06	0.15	0.15
(2) Positive (per foot; minimum, $6. per roll)		0.13	0.14
(3) Duplicate negative (per ft; minimum order, $6.)		0.16	0.17

(d) Microfiche duplication.

(Per fiche, minimum order, $2.)	.40

(e) Electrostatic copying.

(1) *Paper to paper (up to 8½ in by 14 in):* Customer tabs documents for copying	$.15
NARS identifies documents for copying	.20
(2) *Oversized electrostatic copies (per ft)*	.80
(3) *Microfilm to paper:* From negative (Copyflo, per ft; minimum order, $10.)	$1.35
From positive (per frame): When work is done by customer (up to 8-½ in by 14 in per frame)	.15
When work is done by NARS (minimum order, $2.): Nonconsecutive frames or first of consecutive frame, any size	.75
Consecutive or duplicate frames: Up to 8-½ in by 14 in	.25
11 in by 17 in	.35
18 in by 24 in	.45
High resolution-wet process (8-½ in by 11 in): When work is done by customer	.20
When work is done by NARS	.30

(f) Motion pictures (minimum order, $24).

	35 mm	16mm	16 mm from 35 mm
Per foot:			
Master positive	.25	.23	.35
Duplicate negative	.33	.29	.40
Projection print	.23	.22	.33
Work print	.21	.20	.29
Reversal		.29	.40
Sound tract	.23	.22	.33
Composite, add	.04	.04	.06

(g) Sound recordings.

Reel to reel (per min; minimum order, $5.)	.44
Cassette (per min; minimum order, $5.)	.38

Film-to-tape sound transfer (per min; minimum order, $15.)	2.50

(h) Video recordings.

Film to tape:	
10 mins	$33.80
20 mins	47.75
30 mins	58.00
40 mins	72.55
60 mins	91.40
Tape to tape:	
10 mins	32.20
20 mins	42.20
30 mins	49.70
40 mins	60.00
60 mins	72.80

(i) Machine-readable records.

Tape-to-tape copying (per reel)	$65.00
Tape-to-printout copying (computer processing time per hr; minimum order, $50.00)	150.00
Tape-to-printout extract (computer processing time per hr; minimum order, $250.00)	150.00
Tape-to-tape extract (per output reel) (Computer processing time per hr)	65.00 150.00
Card-to-card (per card; minimum order, $10.00)	.02
Tape-to-card (per card; minimum order, $10.00)	.02

(j) Technical services.

	Regular	Overtime
(1) Motion picture preparation (per hr)	21.40	26.15
(2) Photographer (per hr)	20.00	24.25
(3) Microfilm preparation (per hr) (per hr)	17.90	27.00
(4) Sound and video recordings (per hr)	28.00	34.00

(k) *Preservation of records.* In order to preserve certain records which are in poor physical condition, NARS may restrict customers to a choice of photostatic or microfilm copies instead of electrostatic copies.

(1) *Unlisted processes.* Fees for reproduction processes not listed in this section 105-61.5206 are computed upon request.

4. Section 105-61.5208 is revised as follows:

§ 105-61.5208 Effective date.

The fees in § 105-61.5206 are effective beginning November 13, 1978, and ending on September 30, 1979. Orders received after September 30, 1979, will be subject to the fees in effect at that time.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105-61.000-2.)

Dated: October 6, 1978.

JAMES E. O'NEILL,
Acting Archivist of the United States.

[FR Doc. 78-29316 Filed 10-17-78; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 54a]

UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

Special Grants for Implementation

AGENCY: Public Health Service, HEW.

ACTION: Proposed regulations.

SUMMARY: These proposed regulations would implement the provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended which authorizes a special grant program to assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act. The Uniform Alcoholism and Intoxication Treatment Act is legislation approved by the National Conference of Commissioners on Uniform State Laws and recommended for enactment in all States. The Uniform Act requires that alcoholism be viewed as an illness to be treated by community health and social service agencies and that public intoxication be approached as a public health problem rather than a crime.

DATE: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposed revision on or before December 18, 1978.

ADDRESS: Written comments should be addressed to Acting Director, National Institute on Alcohol Abuse and Alcoholism, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 16-105, 5600 Fishers Lane, Rockville, Md. 20857. Comments received will be available for inspection at this address from 8:30 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Susan Farrell, Legislative Assistant, National Institute on Alcohol Abuse and Alcoholism, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 16-C-10, Rockville, Md. 20857, phone 301-443-3887.

SUPPLEMENTARY INFORMATION: Special grants to assist States in implementing the Uniform Alcoholism and Intoxication Treatment Act were first authorized by section 304 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended by Pub. L. 93-282. This section was later amended and redesignated as section 310 (42 U.S.C. 4576) by Pub. L. 94-371. Funds for such grants were first appropriated in fiscal year 1975; 16 grants were awarded that year. By the end of fiscal year 1977, a total of 25 States had adopted the Uniform Act and were receiving grants.

A special grant, which for any fiscal year may not exceed the sum of $150,000 and an amount equal to 20 percent of the State's formula grant allotment under section 302 of the Act, may only be made for the State's costs in implementing the Uniform Act. No State may receive more than six special grants. Separate applications must be submitted for each of the 6 years of grant support. Applications must be submitted by the State agency designated under section 303 of the Act as the sole agency for administering or supervising the administration of the State plan.

Grants may be awarded to a State if the Secretary of Health, Education, and Welfare determines that: (a) The State and each of its political subdivisions have adopted laws, which will be in effect not later than the date of the grant award, repealing those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense such as loitering, vagrancy, or disturbing the peace; (b) the laws, policies, and practices of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the standards prescribed in section 10 of the Uniform Act; (c) the laws of the State respecting involuntary commitment of alcoholic persons are consistent with the provisions of section 14 of the Uniform Act which protect individual rights, except that States may establish time periods for the commitment phases which are shorter than those set forth in section 14 of the Uniform Act; (d) the application contains the assurances prescribed by the Secretary of Health, Education, and Welfare; and (e) the State and each of its political subdivisions are committed to the concept of care for alcohol abuse and alcoholism through community health and social service agencies.

In making this determination, the Secretary may consider: The extent to which the state has adopted provisions of the Uniform Act in addition to those provisions which the State must adopt in order to be eligible for a grant, and the extent to which the State and its political subdivisions have developed prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism.

Therefore, it is proposed to revise 42 CFR Part 54a in the manner set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.290.)

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PART 54a—UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

Special Grants for Implementation

Sec.
54a.301 Definitions.
54a.302 Purpose.
54a.303 Application; submission.
54a.304 Application; approval.
54a.305 Application; contents.
54a.306 Amount of grant.
54a.307 Payments.
54a.308 Maintenance of effort.
54a.309 Reports.
54a.310 Withholding.
54a.311 Nondiscrimination.
54a.312 Fiscal administration.
54a.313 Records.
54a.314 Audit.
54a.315 Termination.

AUTHORITY: Sec. 310 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended by Pub. L. 94-371 (42 U.S.C. 4576).

§ 54a.301 Definitions.

As used in this part:

(a) "Act" means the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended by Pub. L. 94-371.

(b) "Uniform Act" means the Uniform Alcoholism and Intoxication Treatment Act.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

(d) "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(e) "Fiscal year" means the Federal fiscal year.

(f) "Alcoholism" means a disease characterized by the habitual consumption of alcoholic beverages to the extent that the health of the consumer is substantially impaired or endangered or his social or economic functioning is substantially disrupted.

(g) "Alcoholic" means a person who has alcoholism.

(h) "Intoxication" means a condition in which a person's mental or physical functioning is substantially impaired as a result of the consumption of alcoholic beverages.

(i) "Intoxicated person" means a person who is in a state of intoxication.

(j) "Incapacitated person" means a person who is intoxicated and who, as a result of the consumption of alcoholic beverages, is in need of emergency medical attention to prevent substantial physical harm to himself or others.

(k) "Public intoxication" means intoxication which results in a person's appearing in a public place manifestly under the influence of alcoholic beverages to the degree that he may be incapacitated, endangered, or offensive.

(l) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be required by alcoholics and intoxicated persons.

(m) "Detoxification" means the process of treating an alcoholic or intoxicated person for the immediate effects of alcohol and withdrawal from alcohol.

(n) "Public health facility" means a public facility which provides treatment for alcoholics and intoxicated persons.

(o) "Public facility" means a facility which is operated by a State or local government.

(p) "Private facility" means a facility which is operated by a private person or organization.

(q) "Approved facility" means a facility which is approved by the State agency designated under section 303 of the Act as the sole agency for administering or supervising the administration of the State plan.

(r) "Approved program" means a program which is approved by the State agency designated under section 303 of the Act as the sole agency for administering or supervising the administration of the State plan.

(s) "Comprehensive plan" means the plan submitted by the State agency designated under section 303 of the Act as the sole agency for administering or supervising the administration of the State plan.

(t) "Fiscal year" means the Federal fiscal year.

§ 54a.302 Purpose.

The purpose of the grant program is to assist States which have adopted the basic provisions of the Uniform Act in implementing the Uniform Act.

§ 54a.303 Application; submission.

(a) Any State may apply for a grant by submitting an application to the Secretary.

(b) The application shall be submitted on such forms and in such manner as the Secretary prescribes.

§ 54a.304 Application; approval.

The Secretary may approve an application only if he determines that:

(a) The State has adopted laws which will be in effect not later than the date of the grant award, repealing those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense such as loitering, vagrancy, or disturbing the peace;

(b) The laws, policies, and practices of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the standards prescribed in section 10 of the Uniform Act;

(c) The laws of the State respecting involuntary commitment of alcoholic persons are consistent with the provisions of section 14 of the Uniform Act which protect individual rights, except that States may establish time periods for the commitment phases which are shorter than those set forth in section 14 of the Uniform Act;

(d) The application contains the assurances prescribed by the Secretary of Health, Education, and Welfare; and

(e) The State and each of its political subdivisions are committed to the concept of care for alcohol abuse and alcoholism through community health and social service agencies.

§ 54a.305 Application; contents.

(a) The application shall contain:

(1) A comprehensive plan for implementing the Uniform Act during the year for which the grant is requested;

(2) A statement of the amount of funds requested for implementing the Uniform Act during the year for which the grant is requested;

(3) Assurances that the State will provide for the implementation of the Uniform Act in accordance with the comprehensive plan;

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuing assessment of the need for, availability of, and accessibility to, treatment, rehabilitation, and other services provided and planned by all persons providing care.

§ 54a.306 Amount of grant.

(a) The amount of a grant to a State for any fiscal year may not exceed the sum of $150,000 and an amount equal to 20 percent of the State's formula grant allotment under section 302 of the Act.

(b) No State may receive more than six special grants.

(c) Separate applications must be submitted for each of the 6 years of grant support.

(d) Applications must be submitted by the State agency designated under section 303 of the Act as the sole agency for administering or supervising the administration of the State plan.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuing assessment of the need for, availability of, and accessibility to, treatment, rehabilitation, and other services provided and planned by all persons providing care.

§ 54a.307 Payments.

(a) Payments under a grant may be made in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(b) Payments under a grant may be made only for the Federal share of the cost of the project.

(c) The Federal share of the cost of a project is 100 percent.

§ 54a.308 Maintenance of effort.

(a) Except as provided in paragraph (b) of this section, a grant may be made only if the State agrees that the aggregate expenditures of the State and its political subdivisions for the purpose of implementing the Uniform Act will be at least equal to the aggregate expenditures for that purpose for the fiscal year preceding the fiscal year for which the grant is requested.

(b) The Secretary may waive the requirement of paragraph (a) of this section for a fiscal year if he determines that a reduction in expenditures is attributable to a nonrecurring expenditure or unusual circumstance.

§ 54a.309 Reports.

(a) The State shall submit to the Secretary such reports as he may require.

(b) The reports shall be submitted on such forms and in such manner as the Secretary prescribes.

§ 54a.310 Withholding.

(a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency designated under section 303 of the Act as the sole agency for administering or supervising the administration of the State plan, finds that:

(1) The State agency is not complying substantially with the provisions required by section 310 of the Act to be included in its application for a grant, or

(2) The State agency is not complying substantially with any regulation or condition applicable to the grant,

the Secretary shall notify the State agency that further payments will not be made to the State under the grant, or that further payments will not be made to the State for activities affected by the failure, until the Secretary is satisfied that there is no longer any failure to comply. Until he is so satisfied, he may make no further payments to the State under the grant, or may limit payments to activities not affected by the failure.

(b) Payments to a State under a grant may be withheld by the Secretary, in whole or in part, as necessary to offset any amount which has been paid to the State under the grant and which the Secretary determines was not expended by the State in accordance with the requirements of the grant.

(c) Payments to a State under a grant may be withheld by the Secretary, in whole or in part, as necessary to offset any amount which has been paid to the State under the grant and which the Secretary determines was not expended by the State in accordance with the requirements of the grant.

§ 54a.311 Nondiscrimination.

(a) No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving grant funds under this part because of race, color, religion, or national origin.

(b) Each program or activity receiving grant funds under this part shall take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, to persons who cannot adequately speak English.

§ 54a.312 Fiscal administration.

(a) The State shall provide for the fiscal administration of the grant in accordance with the requirements of this section.

(b) The State shall provide for the fiscal administration of the grant in accordance with the requirements of this section.

§ 54a.313 Records.

(a) The State shall keep such records as the Secretary prescribes, including records which fully disclose the amount and disposition by the State of the proceeds of the grant, the total cost of the project or undertaking in connection with which the grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The State shall keep such records as the Secretary prescribes, including records which fully disclose the amount and disposition by the State of the proceeds of the grant, the total cost of the project or undertaking in connection with which the grant is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

§ 54a.314 Audit.

(a) The Secretary may audit the expenditures of the State under the grant.

(b) The Secretary may audit the expenditures of the State under the grant.

§ 54a.315 Termination.

(a) The Secretary may terminate a grant to a State if he determines that the State has failed to comply substantially with the provisions required by section 310 of the Act to be included in its application for a grant, or with any regulation or condition applicable to the grant.

(b) The Secretary may terminate a grant to a State if he determines that the State has failed to comply substantially with the provisions required by section 310 of the Act to be included in its application for a grant, or with any regulation or condition applicable to the grant.

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

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(Catalog of Federal Domestic Assistance Program No. 13.290.)

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 3, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: October 10, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

It is proposed to revise 42 CFR Part 54a by adding the new subpart C set forth below.

Subpart C—Special Grants for Implementation of the Uniform Alcoholism and Intoxication Treatment Act

Sec.
54a.301 Applicability.
54a.302 Definitions.
54a.303 Application; submission.
54a.304 Application; content.
54a.305 Application; approval.
54a.306 Grant award and payment.
54a.307 Expenditures of grant funds.

AUTHORITY: Sec. 310, 90 Stat. 1035 (42 U.S.C. 4576).

Subpart C—Special Grants for Implementation of the Uniform Alcoholism and Intoxication Treatment Act

§ 54a.301 Applicability.

The regulations in this subpart apply only to special grants under section 310 of the Act (42 U.S.C. 4576) to assist States which have, as a minimum, adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint.

§ 54a.302 Definitions.

All terms not defined herein shall have the same meaning as given them in § 54a.102. As used in this subpart:

(a) "Uniform Act" means the uniform Alcoholism and Intoxication Treatment Act recommended for enactment in the states by the National Conference of Commissioners on Uniform State Laws.

(b) "Treatment" means any of the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to persons with alcohol abuse problems.

(c) "Individualized treatment plan" means a specifically tailored, continually updated written plan for meeting the continuum of treatment needs of each patient. The plan must include an updated record of all treatment provided and planned by all persons providing care.

§ 54a.303 Application; submission.

(a) A State seeking a grant under this subpart shall, for each year for which grant support is requested, submit a separate application to the Director of the National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Md. 20857, in the form and at the time prescribed by the Secretary.[1]

(b) The application shall be executed and submitted by the State agency designated under section 303 of the Act.

§ 54a.304 Application; content.

(a) *Initial application.* A State's initial application for grant support under this subpart must contain:

(1) Information sufficient to enable the Secretary to determine that the State and each of its political subdivisions are committed to the concept of care for alcohol abuse and alcoholism through community health and social service agencies and that the State and each of its political subdivisions will have in effect on the date of the requested grant award, laws which meet the requirements of section 310(b) of the Act. The information must include:

(i) A copy of each law of the State and of each law of its political subdivisions which repeal those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace;

(ii) A copy of each law of the State governing the acceptance of individuals into alcoholism and intoxication treatment programs;

(iii) A copy of the law of the State governing the involuntary commitment of alcoholcs;

(iv) A copy of all other laws of the State respecting the establishment and conduct of programs for the treatment of alcohol abuse and alcoholism;

(v) An opinion by an appropriate legal authority of the State, such as the attorney general or the general counsel of the State agency designated pursuant to section 303 of the Act, certifying the effective date of the State and local laws referred to in subdivisions (i), (ii), (iii), and (iv) of this subparagraph and certifying that those laws supersede any conflicting or potentially conflicting provisions of State and local laws; and

(vi) Other pertinent information as required by the Secretary.

[1] Applications and instructions may be obtained from the Director of the National Institute on Alcohol Abuse and Alcoholism, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857.

(2) A statement of the amount of funds requested for implementing the Uniform Act during the year for which grant support is requested.

(3) An assurance that the funds requested will be used for the implementation of the Uniform Act and a proposed plan and budget for the expenditure of the funds.

(4) An assurance that the grant funds will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would, in the absence of the grant, be made available for implementation of the Uniform Act, and will in no event supplant those State, local, and other non-Federal funds.

(b) *Subsequent applications.* An application for grant support for a second or subsequent year of grant support which is available under this subpart shall contain:

(1) Documentation of changes, if any, in the State and local laws and other information set forth in the State's initial application submitted pursuant to paragraph (a)(1) of this section; and

(2) The information and assurances required by paragraphs (a)(2), (a)(3), and (a)(4) of this section.

§ 54a.305 Application; approval.

The Secretary may approve an application under this subpart only if he determines that:

(a) The State and each of its political subdivisions have, in accordance with the purposes of sections 1 and 19 of the Uniform Act, enacted laws (which will be in effect not later than the date of the grant award) repealing those portions of their criminal statutes and ordinances under which drunkenness is the gravemen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace.

(b) The laws, policies, and practices of the State (which will be in effect not later than the date of the grant award) respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for that treatment (contained in section 10 of the Uniform Act) which require that:

(1) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have other appropriate treatment available for utilization.

(c) The laws of the State (which will be in effect not later than the date of the grant award) respecting involuntary commitment of alcoholic persons are consistent with the provisions of section 14 of the Uniform Act which protect individual rights. States may, however, establish shorter time periods, for the different commitment phases than those proposed in section 14 of the Uniform Act.

(d) The application of the State contains the assurances required by the regulations of this subpart and such additional assurances as the Secretary may prescribe, including evidence that all applicable requirements for review under title XV of the Public Health Service Act (42 U.S.C. 300k-1—300n-5) have been met.

(e) The State and each of its political subdivisions are committed to the concept of care for alcoholism and alcohol abuse through community health and social service agencies. In making this determination the Secretary may, among other factors, consider:

(1) The extent to which the State will have in effect not later than the date of the requested grant award laws which are substantially similar to the provisions of the Uniform Act other than those specific provisions set forth in paragraphs (a), (b), and (c) of this section; and

(2) The extent to which the State and its political subdivisions have developed prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism.

§ 54a.306 Grant award and payment.

(a) *Grant award.* (1) The Secretary may award grants to those States which in the judgment of the Secretary meet the requirements of section 310 of the Act and the regulations of this subpart, except that no State may receive more than six grants.

(2) An award to a State for any fiscal year may not exceed $150,000 plus an amount equal to 20 percent of the allotment of the State for that fiscal year under section 302 of the Act.

(3) All grant awards will be in writing and will set forth the amount of funds granted and the period for which the funds will be available for obligation by the State.

(4) The award of a grant to a State shall not commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award to the State under this subpart. For continuation support (i.e., support for a second or subsequent year of grant support which is available under this subpart) a State must, as prescribed by these regulations, make separate applications annually at such time and in such form as the Secretary may prescribe.

(b) *Additional conditions.* The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment those conditions are necessary to assure or protect advancement of the grant purposes, the interest of public health, or the conservation of grant funds.

§ 54a.307 Expenditures of grant funds.

(a) Funds awarded and paid under this subpart may be expended by the States only for the purpose of implementing the Uniform Act in accordance with section 310 of the Act, the regulations of this subpart, the terms and conditions of the award and the applicable cost principles prescribed by subpart Q of 45 CFR Part 74.

NOTE.—As provided in § 54a.106 all provisions of 45 CFR Part 74 are applicable to grants under this subpart.

(b) The allowability of particular items of cost will be determined under appendix C, subpart Q of 45 CFR: Part 74. Allowable costs include but are not limited to the costs of:

(1) Training the personnel necessary to implement the Uniform Act including:

(i) Hospital staff,

(ii) Police, and

(iii) Counselors;

(2) Coordination including:

(i) Reimbursement for transportation,

(ii) Establishment of emergency service patrols, and

(iii) Information and referral services;

(3) Prevention and education including:

(i) Seminars, and

(ii) Mass media programing;

(4) Treatment including:

(i) Establishment, expansion, or modification of treatment capacity, as needed,

(ii) Reimbursement for delivery of emergency care, and

(iii) Shelter; and

(5) Administering and operating the program for the implementation of the Uniform Act.

[FR Doc. 78-29339 Filed 10-17-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21504; RM-2929; RM-3065; RM-3066]

FM BROADCAST STATIONS IN MAYFIELD AND WICKLIFFE, KY., BLYTHEVILLE, ARK., AND HENDERSON, TENN.

Request for Supplemental Information

AGENCY: Federal Communications Commission.

ACTION: Request for Supplemental Information.

SUMMARY: FCC requests information concerning whether petitioners for the assignment of channel 240A to both Wickliffe, Ky., and Henderson, Tenn., intend to reimburse Station KHLS for the cost of a channel change necessary to effectuate the proposals. This action could bring a first FM radio station to both Wickliffe and Henderson. These proposals were filed in response to a notice of proposed rulemaking and order to show cause (43 FR 1515) proposing the assignment of channel 240A to Mayfield, Ky., with a substitution of channel 242 for channel 241 at Blytheville, Ark.

DATES: Comments must be filed on or before December 5, 1978, and reply comments must be filed on or before December 26, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Fred Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations in Mayfield and Wickliffe, Ky., Blytheville, Ark., and Henderson, Tenn. (Docket No. 21504 RM-2929; RM-3065; RM-3066). See 43 FR 11724.

Adopted: October 6, 1978.

Released: October 13, 1978.

By the Chief, Broadcast Bureau: 1. We have under consideration in this proceeding the comments filed in response to our notice of proposed rulemaking and order to show cause, 43 FR 1515, released December 23, 1977, which proposed a second FM assignment, channel 240A, to Mayfield, Ky., with a substitution of channel 242 for channel 241 at Blytheville, Ark. Comments were filed by Usher Broadcasting Co., Purchase Sound, Inc., Sud-

bury Services, Inc. and West Kentucky Broadcasting Co., Inc.

2. As a result of the notice, Usher Broadcasting Co. submitted a counter-proposal requesting the assignment of channel 240A to Wickliffe, Ky., as its first local service. Usher states that it will reimburse Station KHLS for the cost of the change necessary to effectuate the proposals. Usher's proposal could bring a first FM radio station to both Wickliffe and Henderson. Usher's proposal is mutually exclusive with the proposals set forth in the notice. Comments were filed by Purchase Sound, Inc., licensee of Station KHLS, Blytheville, Ark., which supports the Usher proposal. Sudbury Services, Inc. and West Kentucky Broadcasting Co., Inc. filed comments opposing the Usher proposal.

3. Usher's proposal would provide Wickliffe with its first local service, a preferential arrangement of allotments, and would provide Henderson with its second FM service. Usher has indicated that it will reimburse Station KHLS for the cost of the change necessary to effectuate the proposals. Usher's proposal could bring a first FM radio station to both Wickliffe and Henderson. Usher's proposal is mutually exclusive with the proposals set forth in the notice. Comments were filed by Purchase Sound, Inc., licensee of Station KHLS, Blytheville, Ark., which supports the Usher proposal. Sudbury Services, Inc. and West Kentucky Broadcasting Co., Inc. filed comments opposing the Usher proposal.

4. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn.

5. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn.

6. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn. Sudbury and West Kentucky argue that Usher's proposal is not in the public interest because it would not provide a first local service to Mayfield, Ky., and would not provide a first FM service to Henderson, Tenn.

7. In accordance with the provisions of § 1.415 of the Commission's Rules, interested parties may file comments on or before December 5, 1978, and reply comments on or before December 26, 1978. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

9. Authority for the adoption of the proposed amendments is contained in sections 4(i), 5(d)(1), 303, 307(b), and 309 of the Communications Act of 1934, as amended.

10. For the purpose of this notice, all interested persons are advised that it is the policy of the Commission that ex parte contacts are prohibited from the time the Commission adopts a notice of proposed rulemaking until the proceeding is terminated by the Commission's final action. This policy is set forth in § 1.1208 of the Commission's Rules.

11. It is ordered, That pursuant to the authority contained in sections 4(i), 5(d)(1), 303, 307(b), and 309 of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, that the Secretary shall cause to be published in the FEDERAL REGISTER a notice of proposed rulemaking in this proceeding.

12. It is further ordered, That the Secretary shall cause to be published in the FEDERAL REGISTER a notice of proposed rulemaking in this proceeding.

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100. It is further ordered, That the Secretary shall cause to be published in the FEDERAL REGISTER a notice of proposed rulemaking in this proceeding.

City	Channel No. Present	Proposed
Anadarko, Okla		279

so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission

bury Services, Inc. and West Kentucky Broadcasting Co., Inc.

2. As a result of the notice, Usher Broadcasting Co. submitted a counterproposal (RM-3065) requesting the assignment of channel 240A to Wickliffe, Ky., as its first FM alocation. A second counterproposal (RM-3066), filed by Purchase Sound, Inc., the original petitioner in this proceeding, requested the assignment of channel 240A to Henderson, Tenn. All three communities, however, cannot be assigned channel 240A. Allocation of that frequency can be made to Henderson and either to Mayfield or Wickliffe.

3. In order to assign channel 240A to any of the three communities in question, channel 242 must be substituted for channel 241 at Blytheville, Ark. Channel 241 is occupied by Station KHLS, licensed to Sudbury Services Inc. ("Sudbury"). Sudbury was ordered to show cause why its license should not be modified to specify operation on channel 242. In response, Sudbury objected to that substitution on various grounds.[1] If its frequency is modified, Sudbury is entitled to reimbursement from the ultimate licensee(s) of channel 240A at Mayfield, Wickliffe or Henderson, for all necessary and reasonable expenses incurred in the channel change. If more than one community receives a channel 240A allocation, the ultimate licensees will be obligated to share in the reimbursement cost.

4. Purchase Sound, Inc. ("Purchase"), recognized the requirement of reimbursement and has expressed its consent thereto if it obtained a construction permit for the proposed channel 240A allocation to Mayfield. However, Purchase in its Henderson proposal failed to state its intention to assume the financial cost involved in the channel change required for Station KHLS. Without such a statement an FM allocation cannot be made. In this regard, Usher Broadcasting Co. also should indicate, which it has not yet done, that it be willing to assume the financial costs, either in whole or in part, to reimburse Sudbury for the channel change.

5. Authority for the action contained herein appears in section 4(1), 5(d)(1), 303 (g) and (r) and 307 (b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules and regulations.

6. Interested parties may file comments on or before December 5, 1978, and reply comments on or before December 26, 1978. All submissions by parties to this proceeding or persons acting on behalf of such parties, shall be made in written comments, reply comments, or other appropriate pleadings.

7. In accordance with the provisions of sections 1.415 and 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29370 Filed 10-17-78; 8:45 am]

[1] The proposal is also opposed by West Kentucky Broadcasting Co., Inc., licensee of Stations WNGO(AM) and WXID(FM), Mayfield, Ky.

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-336; RM-3106]

FM BROADCAST STATIONS IN ANADARKO, OKLA., AND MEMPHIS, TEX.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of Class C FM Channel 279 to Anadarko, Okla., as a first assignment and the substitution of Channel 287 for Channel 279 in Memphis, Tex. Petitioner, Anadarko Broadcasting Co., states the proposed FM channel in Anadarko could be used to provide a first and second FM service to rural areas.

DATES: Comments must be received on or before December 5, 1978. Reply comments must be received on or before December 26, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations in Anadarko, Okla. and Memphis, Tex. (BC Docket No. 78-336, RM-3106).

Adopted: October 6, 1978.

Released: October 13, 1978.

By the Chief, Broadcast Bureau: 1. *Petitioner, proposal, comments:* (a) A *notice of proposed rulemaking* is hereby issued concerning the amendment of the FM Table of Assignments (section 73.202(b) of the Commission's Rules) with respect to Anadarko, Okla., and Memphis, Tex.

(b) A petition for rulemaking [1] was filed by Anadarko Broadcasting Co. ("petitioner"), licensee of daytime-only AM Station KRPT, Anadarko, Okla., proposing the assignment of FM Channel 279 to Anadarko and the substitution of Channel 287 for Channel 279 in Memphis, Tex.

(c) Petitioner states that Channel 279 is the only Class C channel available for assignment to Anadarko, provided it is deleted from Memphis, Tex. Its assignment to Anadarko would be in conformity with the minimum distance separation requirements provided the transmitter is located approximately 17.9 kilometers (11.1 miles) west-southwest of Anadarko.

2. *Community data.* (a) *Location.* Anadarko, seat of Caddo County, is located in southwest Oklahoma, approximately 100 kilometers (62 miles) southwest of Oklahoma City, Memphis, seat of Hall County, is located in the Texas panhandle, approximately 130 kilometers (80 miles) southeast of Amarillo, Tex.

(b) *Population.* Anadarko—6,682; Caddo County—28,931; Memphis—3,227; Hall County—6,015.[2]

(c) *Present aural service.* Local service to Anadarko is provided by daytime-only AM Station KRPT, licensed to petitioner. Local service to Memphis is provided by daytime-only AM Station KBGH.

3. *Economic considerations.* Petitioner states that according to the Association of South Central Oklahoma Government, the population of Caddo County will be 33,800 in 1980. We are told that the principal industries in the area include agriculture, oil and gas, and tourism. Petitioner notes that Caddo county ranks third in the State in crop and livestock production, the largest corps being peanuts and potatoes. It adds that the gross agricultural production in Caddo County amounted to $80 million in 1977. Petitioner claims that tourism is an important industry because Anadarko is the Indian capital of the Nation with several tourist attractions.

4. *Preclusion study.* Assignment of Channel 279 to Anadarko would cause preclusion on Channels 276A, 278, 279, and 280A. Twenty-six communities of greater than 1,000 population will sustain preclusion on one or more of these channels. Seventeen [3] of the twenty-six have no FM channel assignments and only 1 of these 17 (Shamrock, pop. 2,644) has an AM station. Petitioner should indicate in comments whether alternate FM channels are available for assignment to these communities.

5. A *Roanoke Rapids* study shows that the assignment of Channel 279 would provide a first FM service to 6,690 persons in a 57 square kilometer (22 square miles) area and a second FM service to 4,547 persons in a 196 square kilometer (75 square miles) area. It appears from petitioner's showing that no first or second nighttime aural service would be provided.

6. *Additional considerations.* Petitioner asserts that its AM station in Anadarko is the only broadcast facility in Caddo County and cannot operate with presunrise authority because of the need to protect Station KOA, Denver. It adds that the AM station must also use a directional antenna and as a result of these limitations it puts no signal into the northern part of the county at any time. Other parts of the county are served by the station only during daytime hours. Petitioner states that a Class C FM station would not only provide additional farm programing but would also serve the farming communities in the northern part of the county that cannot receive the AM station's directional signal.

7. Based on our examination of petitioner's proposal there appears to be a basis for considering an exception to our general policy of assigning Class C channels only to larger communities. Since the proposed assignment of an FM channel to the community could provide for an aural broadcast service to people residing in rural areas, and alternate Class C channels are available for substitution in Memphis, Tex., the Commission proposes to amend the FM Table of Assignments, § 73.206(b) of the Rules, with regard to the communities listed below, as follows:

City	Channel No. Present	Proposed
Anadarko, Okla		279
Memphis, Tex	279	287

8. The Commission's authority to institute rulemaking proceedings, showings required, cutoff procedures, and filing requirements are contained below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

9. Interested parties may file comments on or before December 5, 1978, and reply comments on or before December 26, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, It is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later that that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Roon at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-29371 Filed 10-17-78; 8:45 am]

[1] Public Notice of the petition was given on May 8, 1978, Report No. 1118.

[2] Population figures are taken from the 1970 U.S. Census.

[3] Oklahoma: Thomas (pop. 1,336), Shattuck (1,546), Wetumka (1,687), Sayre (2,712), Mangum (4,066), Erick (1,285), Hollis (3,150), Cordell (3,261); Texas: Canadian (2,292), Wheeler (1,116), McLean (1,183),

Footnotes continued on next page

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Shamrock (2,644), Silverton (1,026), Paducah (2,052), Crowell (1,399), Aspermont (1,198), Wellington (2,584).

notices

foreign air transportation of persons, property, and mail, as follows:

Between the coterminal points Antigua,

tors of LIAT are not British citizens. Nonetheless, despite substantial ownership and effective control of LIAT in

Ireland for British international air service. While the latter condition is sufficient to maintain a minimum

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

Agricultural Marketing Service

[P&S Docket No. 5251]

BILL RICE AND LOIS RICE, D.B.A. CLEBURNE COUNTY LIVESTOCK AUCTION SALE HEBER SPRINGS, ARK.

Petition To Vacate Order and Dismiss Proceedings

Notice is hereby given that on October 10, 1978, the respondent filed a petition requesting that the rate order issued May 6, 1977, as modified, be vacated and the proceeding dismissed.

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). The respondent is now operating under an order issued September 26, 1978.

The respondent believes that the economic conditions in the industry, the marketing structure in the trade territory and the policy of the Department of Agriculture no longer necessitate the need for regulatory control over its rates and charges.

Respondent's obligation to make certain refunds of rates collected subject to escrow under the May 6, 1977, order would not be affected by such a vacation, if granted.

All interested persons who desire to be heard in this matter shall notify the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before November 2, 1978.

Done at Washington, D.C., this 12th day of October 1978.

CHAS. B. JENNINGS,
Deputy Administrator, Packers and Stockyards, Agricultural, Marketing Service.

[FR Doc. 78-29327 Filed 10-17-78; 8:45 am]

[3410-02-M]

[P&S Docket No. 5249]

CENTRAL ARKANSAS SALES, INC., MORRILTON, ARK.

Petition To Vacate Order and Dismiss Proceedings

Notice is hereby given that on October 10, 1978, the respondent filed a petition requesting that the rate order issued May 6, 1977, as modified, be vacated and the proceeding dismissed.

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). The respondent is now operating under an order issued August 16, 1978.

The respondent believes that the economic conditions in the industry, the marketing structure in the trade territory and the policy of the Department of Agriculture no longer necessitate the need for regulatory control over its rates and charges.

Respondent's obligation to make certain refunds of rates collected subject to escrow under the May 6, 1977, order would not be affected by such a vacation, if granted.

All interested persons who desire to be heard in this matter shall notify the Hearing Cleark, U.S. Department of Agriculture, Washington, D.C. 20250, on or before November 2, 1978.

Done at Washington, D.C., this 12th day of October 1978.

CHAS. B. JENNINGS,
Deputy Administrator, Packers and Stockyards, Agriculatural Marketing Service.

[FR Doc. 78-29328 Filed 10-17-78; 8:45 am]

[3410-02-M]

[P&S Docket No. 5252]

TRAVIS MCGEE D.B.A. ATKINS LIVESTOCK AUCTION ATKINS, ARK.

Petition To Vacate Order and Dismiss Proceedings

Notice is hereby given that on October 10, 1978, the respondent filed a petition requesting that the rate order issued May 6, 1977, as modified, be vacated and the proceeding dismissed.

This is a rate proceeding under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.). The respondent is now operating under an order issued September 14, 1978.

The respondent believes that the economic conditions in the industry, the marketing structure in the trade territory and the policy of the Department of Agriculture no longer necessitate the need for regulatory control over his rates and charges.

Respondent's obligation to make certain refunds of rates collected subject to escrow under the May 6, 1977, order would not be affected by such a vacation, if granted.

All interested persons who desire to be heard in this matter shall notify the Hearing Cerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before November 2, 1978.

Done at Washington, D.C., this 12th day of October 1978.

CHAS B. JENNINGS,
Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.

[FR Doc. 78-29329 Filed 10-17-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 28366]

DENVER-SEATTLE-KETCHIKAN-JUNEAU-ANCHORAGE-FAIRBANKS INVESTIGATION

Reassignment of Proceedings

These proceedings have been reassigned from Administrative Law Judge Alexander N. Argerakis to Administrative Law Judge John J. Mathias. Future communications should be addressed to Judge Mathias.

Dated at Washington, D.C., October 12, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-29416 Filed 10-17-78; 8:45 am]

[6320-01-M]

[Docket 31024; Order 78-10-52]

LIAT (1974) LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of October 1978.

In the matter of application of Liat (1974) Ltd. for renewal and amendment of its foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

BACKGROUND

LIAT operates pursuant to order E-25175, approved May 22, 1967, which was renewed by order 73-5-84, May 15, 1973. The permit was originally issued to Leeward Islands Air Transport Services Ltd. and was transferred to LIAT (1974)—a corporation formed September 20, 1974. The permit transfer was approved by order 75-5-58, May 14, 1975. LIAT is authorized to engage in foreign air transportation of persons, property, and mail, as follows:

Between the coterminal points Antigua, Barbados, Montserrat, St. Kitts, Nevis, Anguilla, and British Virgin Islands; the intermediate points St. Maarten, Netherlands West Indies, St. Croix and St. Thomas, U.S. Virgin Islands, and San Juan, P.R.; and the terminal point Santo Domingo, Dominican Republic.

LIAT has filed an application for renewal of its foreign air carrier permit.[1] In addition to renewal of its current route authority, LIAT seeks an amended permit to operate:

Between the coterminal points Antigua and St. Kitts; the intermediate points St. Lucia and St. Maarten, Netherlands West Indies; and the terminal point Miami, Fla.

LIAT applied for the amended route authority as the designated carrier of the United Kingdom, pursuant to the authority granted British carriers for Caribbean Combination Air Service (U.K. Route 9) in the "Bermuda II" Agreement, effective July 23, 1977.

LIAT also seeks a waiver from the requirements of part 312 of the Board's regulations. LIAT points out that the requested route authorities are provided for in an air service agreement, and that the net environmental impact of its proposed new service to Miami would be de minimis.[2]

No answers to the application, the amendment, or petition have been filed.

OWNERSHIP AND CONTROL

LIAT is organized and exists under the laws of Antigua, which is a territory of the United Kingdom. It is owned and controlled by a consortium of governments in the general area of the West Indies. The capital stock of LIAT is jointly owned by the governments in the consortium—42.4 percent of LIAT's issued shares are owned by self-governing countries in association with the United Kingdom, while the other 57.6 percent is owned by formerly British, but now independent governments with no extraordinary ties to the United Kingdom. Each stockholder-government holds between 6 percent and 18 percent of LIAT's stock.[3] Most of the officers and directors of LIAT are not British citizens. Nonetheless, despite substantial ownership and effective control of LIAT in other than British nationals, we conclude that it would be in the public interest to renew and amend LIAT's permit. The Board's policy, which is relevant here, is to encourage less developed countries jointly to form and operate a multinational airline. furthermore, LIAT has been designated by the United Kingdom to provide the service pursuant to "Bermuda II," and, as a citizen of Antigua, LIAT falls within the regulatory jurisdiction of a territory of the United Kingdom.

FINANCIAL AND OPERATIONAL FITNESS

All of LIAT's shareholers are Caribbean governments. LIAT's major lender is the Caribbean Development Bank. LIAT was profitable in both 1976 and 1977. It owns five Hawker Siddeley aircraft (48-seat economy configuration) and five Britten Norman Islander aircraft (9 passenger seats). The Britten Norman Islander aircraft are leased to subsidiary companies, which provide no air service to or from U.S. points.[4] LIAT represents that it is considering the purchase of Boeing 707 or 727 aircraft for service on its proposed Miami route.

To our knowledge the carrier has never had any of its operating authority suspended, revoked, or canceled, nor has the airline committed any safety or tariff violations. LIAT has never been involved in any "major" accident causing death or injury to passengers.[5] LIAT states that it has never been unable to meet its current financial obligations, nor has it defaulted on any transportation commitment or been refused insurance or debt financing.

In its application, LIAT represents that it will accept the insurance conditions which the United States requires, including a signed counterpart of CAB Agreement 18900 and provision for at least $1 million third-party liability insurance. Also LIAT states that it will accept the standard safety condition which requires it to conform to the airworthiness and airmen competency requirements prescribed by the Government of the United Kingdom of Great Britian and Northern Ireland for British international air service. While the latter condition is sufficient to maintain a minimum standard of safety for foreign registered aircraft, it would be inadequate where a foreign air carrier leases United States registered aircraft.

The Chicago Convention places on the state of registry of an aircraft the obligation to insure that its registered aircraft are operated in compliance with minimum ICAO safety standards. Aircraft used for commercial operations (annex 6) are held to greater safety standards than aircraft operations for noncommercial operations (annex 2). If a foreign air carrier leases a U.S.-registered aircraft licensed for noncommercial operations and uses such aircraft in providing commercial air services under its permit, the United States would not be in compliance with its obligations under the Chicago Convention with respect to aircraft of its registry.[6] This situation occurs because the FAA safety requirements that apply to this aircraft are in conformity with ICAO annex 2 rather than ICAO annex 6 since it is not used for commercial operations by its registered owner. We have concluded, therefore, that an additional condition should be included in this permit, as well as all future permits of foreign air carriers, which will require that operations be conducted in accordance with the minimum safety requirements at least equivalent to annex 6 of the Chicago Convention for commercial operations.

CONCLUSIONS

LIAT's foreign air carrier permit was last renewed in order 73-5-84, adopted April 26, 1973. In his recommended decision in docket 29747 (served May 12, 1977), the administrative law judge found that LIAT was fit, willing and able; that LIAT's existing operations were in the public interest; and that a renewed permit should be issued to LIAT in the event the United States-United Kingdom Air Services Agreement was terminated.[7] LIAT states

[1] The application for permit renewal was filed on June 21, 1977; LIAT filed an amended application on May 23, 1978. On July 28, 1978, it filed a petition for an order of show cause.

[2] Considering the limited permit amendment proposed, we will grant the carrier's requested waiver from the requirements of pt. 312. LIAT does not plan to operate more than one daily round trip flight to the proposed new U.S. point, Miami. Less than 10 million gallons of fuel will be consumed. We tentatively conclude that the proposed amendment of LIAT's permit to include Miami would not be environmentally significant.

[3] Antigua holds 9.1 percent of LIAT's outstanding shares; Barbados 18.2 percent; Dominica 6.1 percent; Grenada 9.1 percent; Guyana 6.1 percent; Jamaica 6.1 percent; Montserrat 6.1 percent; St. Kitts/Nevis/Anguilla 6.1 percent; St. Lucia 9.1 percent; St. Vincent 6.1 percent; and Trinidad and Tobago 18.2 percent.

[4] The subsidiary companies are Inter Island Air Services Ltd. (based in Grenada) and Four Island Air Services Ltd. (based in Antigua).

[5] The airline was involved in two minor accidents in 1976 resulting in the serious injury to an employee of a contractor and in the death of an employee. Neither accident was caused by carrier negligence.

[6] It appears that in recent years leases of U.S.-registered aircraft by foreign air carriers has increased.

[7] The Board instituted the *Foreign Air Carrier Permit Investigation* (docket 29747) after United Kingdom denounced the 1946 Air Transport Services Agreement between it and the United States. The purpose of the proceeding was to determine in what manner the outstanding authority held by the U.K.-scheduled carriers should be renewed, terminated, modified, or conditioned in the event there was no new treaty, convention, or agreement between the two countries. Notwithstanding the imminent termination of the bilateral, the judge recommended that LIAT's, among others' permit be renewed for 5 years. In the Board's opinion and order, June 16, 1977, submitted to the President under section 801 of the Act, the Board deferred action on

Footnotes continued on next page

that there have been no changes affecting its ownership and control situation, or its fitness, willingness and ability to provide the proposed air services since the administrative law judge issued his recommended decision.

Given the recent findings of the administrative law judge in docket 29747 and the carrier's representations that there have been no changes in its operations, finances, safety, or ownership and control relationships since that time, there is no need do litigate the issues again in another oral evidentiary hearing. Show cause procedures are sufficient to give all interested parties an opportunity to object to our tentative finding that LIAT's foreign air carrier permit should be renewed and amended. Moreover, we find that LIAT's proposed amended permit is consistent with the provisions of the Air Services Agreement between the Governments of the United States and the United Kingdom ("Bermuda II") regarding U.K. Route 9—Caribbean Combination Air Service.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes that:

1. It is in the public interest to amend and renew the foreign air carrier permit issued to LIAT (1974) Ltd. in conformance with the provisions of the "Bermuda II" Agreement for a period of 5 years;

2. The public interest requires that the exercise of the privileges granted by the amended permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

3. LIAT (1974) Ltd. is fit, willing, and able properly to perform the foreign air transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

4. The public interest does not require an oral evidentiary hearing on the application;[8]

5. The amendment and renewal of LIAT (1974) Ltd.'s foreign air carrier permit would not constitute "a major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in subsection 313.4(a)(1) of the Board's regulations;[9]

6. The request of LIAT (1974) Ltd. for a waiver of part 312 of the Board's regulations, regarding the requirements for the filing of an environmental evaluation should be granted; and

7. Except to the extent granted, the application of LIAT (1974) Ltd. in docket 31024 be denied.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) issue an amended foreign air carrier permit to LIAT (1974) Ltd. in the specimen form attached, subject to the approval by the President pursuant to section 801 of the Act;

2. Any interested person having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than October 23, 1978, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings. Any interested person who wishes to answer these objections shall file such answers not later than November 2, 1978;

3. It timely and properly supported objections are filed, we will give futher consideration to the matters and issues raised by the objections before we take further action: *Provided*, That we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing;[10]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the approval of the President, shall issue an amended foreign air carrier permit to the applicant in the specimen form attached; and

5. We shall serve this order upon LIAT (1974) Ltd., the Ambassador of the United Kingdom of Great Britain and Northern Ireland in Washington, D.C., and the U.S. Departments of State and Transportation.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

PHYLLIS T. KAYLOR,
Secretary.

SPECIMEN PERMIT

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

LIAT (1974) Ltd. is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations of the Board, to engage in foreign air transportation of persons, property, and mail, as follows:

1. Between the coterminal points Antigua, Barbuda, Montserrat, St. Kitts, Nevis, Anguilla, and British Virgin Islands; the intermediate points St. Maarten, Netherlands West Indies, St. Croix and St. Thomas, U.S. Virgin Islands, and San Juan, P.R.; and the terminal point Santo Domingo, Dominican Republic.

2. Between the coterminal points Antigua and St. Kitts; the intermediate points St. Lucia, and St. Maarten, Netherlands West Indies; and the terminal point Miami, Fla.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by part 212 of the Board's economic regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the United Kingdom of Great Britain and Northern Ireland for British international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the United Kingdom of Great Britain and Northern Ireland shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liabili-

Footnotes continued from last page

the permit rights of LIAT, since it was unclear what limitations would be imposed by the United Kingdom on U.S.-scheduled carriers. A revised agreement (the "Bermuda II" Agreement) was executed on July 23, 1977. The Board's orders in this proceeding were vacated and the proceeding in docket 29747 terminated by order 78-4-15, Apr. 6, 1978.

[8] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed ten (10) days in which to respond from the date of service of this order. Answers to objections shall be filed not later than ten (10) days thereafter.

[9] Our tentative findings are based upon the fact that amendment of LIAT's permit will not result in a significant increase in civil aviation operations at U.S. points, nor will it result in the annual consumption of 10 million galions of fuel.

[10] Since provision is made for the filing of objections to this order, petitions for reconsideration will not entertained.

[11] All members concurred except Chairman Kahn who did not participate.

ty limitations of the Warsaw Convention and the Hague Protocol approved by Board order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1 million or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in Agreement CAB 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; however, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall be effective on ————, and shall continue in effect for a period of 5 years. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of the United Kingdom of Great Britain and Northern Ireland (or in the event of the elimination of any part of the authorized route, the authority granted shall terminate to the extent of such the elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdom of Great Britian and Northern Ireland in lieu of the holder; or (3) upon the termination or expiration of the Air Services Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland effective July 23, 1977 (Bermuda II) as amended: However, clause (3) of this paragraph shall not appiy if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject to any treaty, convention, or agreement to which the United States of America and the United Kingdom of Great Britain and Northern Ireland are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ————.

————,
Secretary.

[SEAL]

Issuance of this permit to the holder approved by the President of the United States on ———— in ————.

[FR Doc.78-29418 Filed 10-17-78; 8:45 am]

[6320-01-M]

[Docket 32948; Order 78-10-54]

OWEN SOUND AIR SERVICES, LTD.

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of October 1978.

Application of Owen Sound Air Services Ltd., for a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended.

By application filed June 30, 1978, Owen Sound Air Services, Ltd.(Owen Sound), requests a foreign air carrier permit to engage in charter foreign air transportation of persons and their accompanying baggage, and planeload charter foreign air transportation of property, between any point or points in Canada and any point or points in the United States, using "small aircraft," pursuant to the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.[1]

No answer to Owen Sound's application have been filed.

Fitness of the applicant. Owen sound was incorporated under the Business Corporations Act of the Province of Ontario, Canada, on July 26, 1973. The Canadian Air Transport Committee has issued Owen Sound license No. A.T.C. 501/74 (CF), a class 9-4 license which authorizes it to operate charter commercial air services within Canada and internationally from a base at Wiarton, Ontario, Canada. The licensee is restricted in its operations to the use of Groups A and B aircraft.[2] The Canadian Department of Transport, Civil Aviation Branch, has issued Owen Sound operating certificate No. 3415 which certifies that the carrier's aircraft are adequately equipped and it is able to conduct safe operations.

The applicant's balance sheet as of December 31, 1976, shows total assets of $537,995 of which $411,490 are current assets. The company shows current liabilities of $411,863 and total liabilities of $468,290 resulting in total share holders equity of $69,705. Owen Sound was profitable in both 1975 and 1976, with $8,728 in net income during 1975 and $11,673 during 1976. Owen Sound owes $18,000 to the Federal Business Development Bank, a Canadian corporation, which constitutes all of the company's total long-term liabilities.

The carrier lists the following aircraft as available for charters between Canada and the United States:

Type of aircraft	Number owned or leased	Passenger seating capacity	Maximum payload (pounds)
Lear 25	1	8	1,500
Cessna 310Q	1	5	1,700
Piper PA-34-200	1	5	1,400
Cessna 421	1	6	1,200

The applicant states that it has had no safety or tariff violations, nor has it ever had an accident; and that it has complied with all necessary conditions of insurance.

"Public interest" in award of the authority sought. The applicant relies on the Nonscheduled Air Service Agreement signed by the Governments of Canada and the United States of America on May 8, 1974, as the basis for the grant of the requested authority. By diplomatic note No. 348, dated July 20, 1978, the Government of Canada designated the applicant

[1] "Small aircraft" are defined by the Nonscheduled Air Service Agreement as aircraft which are not "large aircraft." "Large aircraft" are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 lbs, and (b) a maximum authorized takeoff weight on wheels greater 35,000 lbs.

[2] Under Canadian Air Transport Committee regulations, Group A consists of aircraft with a maximum authorized takeoff weight on wheels not greater than 4,300 lbs; Group B consists of aircraft with a maximum authorized takeoff weight on wheels over 4,300 lbs, but not greater than 7,000 lbs.

under the Agreement to perform charter services with small aircraft.

Ownership and control. The only stockholders, officers, directors, and

Accordingly, 1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and

PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS

OWEN SOUND AIR SERVICES LTD.

lation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform U.S.-

(6) The holder shall conform to the airworthiness and airman-competency requirements prescribed by the Government of Canada for Canadian international air serv-

of part of the charter foreign air transportation authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any

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under the Agreement to perform charter services with small aircraft.

Ownership and control. The only stockholders, officers, directors, and management personnel of the company are Norman B. Child and Casey J. Lanson. Mr. Child is president and holds 70 percent of all stock outstanding; Mr. Lanson is secretary and holds the other 30 percent. Both officers/shareholders are Canadian citizens.

The applicant states that neither it nor any of its officers or shareholders own, either directly or indirectly, any shares of common stock or other interest in any U.S. air carrier, any other Canadian air carrier or other foreign air carrier, or in any person whose principal business is the holding of stock in, or control of, any such entities.

In view of the foregoing and all of the facts of record, the Board tentatively finds and concludes that:

1. It is in the public interest to issue a foreign air carrier permit to Owen Sound Air Services, Ltd., authorizing it to engage in charter foreign air transportation with small aircraft of persons and their accompanying baggage and planeload charters of property between any point or points in Canada and any point or points in the United States;

2. Owen Sound Air Services, Ltd. is fit, willing, and able properly to perform the charter foreign air transportation described in the attached specimen permit and to conform to the provisions of the act and the rules, regulations, and requirements of the Board;

3. Owen Sound Air Services, Ltd. is substantically owned and effectively controlled by nationals of Canada;

4. The public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

5. The issuance of the attached specimen permit to Owen Sound Air Service, Ltd., will not constitute a "major regulatory action" under the Energy Policy and Conservation Act as defined in § 313.4(a)(1) of the Board's regulations; [3]

6. An oral evidentiary hearing is not required in the public interest; [4] and

7. Except to the extent granted, the application of Owen Sound Air Services, Ltd. in Docket 32948 should be denied.

Accordingly, 1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) issue a foreign air carrier permit to Owen Sound Air Services, Ltd., in the specimen form attached, subject to the approval of the President pursuant to section 801 of the act;

2. Any interested person objecting to the issuance of an order making final the tentative findings and conclusions stated here and issuing the attached specimen permit shall, no later than October 23, 1978, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an oral evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which he could not establish in written pleadings. Any interested person who wishes to answer these objections shall file such answers no later than November 2, 1978;

3. If timely and properly supported objections are filed, we will accord further consideration to the matters and issues raised by the objections before further action is taken by the Board; *Provided,* That the Board may enter an order in accordance with its tentative findings and conclusions if it determines that there are no factual issues present that warrant the holding of an oral evidentiary hearing; [5]

4. In the event no objections are filed, we will waive all further procedural steps and the Secretary shall enter an order which (1) shall make final the Board's tentative findings and conclusions, and issuing the attached specimen permit, shall file such objection within 10 days of the date of service of this order. Answers to objections shall be filed not later than 10 days thereafter.

5. We shall serve this order upon Owen Sound Air Services, Ltd., the Ambassador of Canada in Washington, D.C. and the U.S. Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board. [6]

PHYLLIS T. KAYLOR,
Secretary.

[3] This is not an action with environmental consequences. See § 312.2(a) of the Board's Procedural Regulations regarding Canadian permits for small aircraft charter operations.

[4] Any interested person objecting to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached specimen permit, shall file such objection within 10 days of the date of service of this order. Answers to objections shall be filed not later than 10 days thereafter.

[5] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[6] All Members concurred.

PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS

OWEN SOUND AIR SERVICES LTD.

Owen Sound Air Services is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958 and the Board's orders, rules, and regulations, to engage in charter foreign air transportation, as follows:

Charter flights with respect to persons and their accompanying baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may be, prescribed for carriage by small aircraft in Annex B(III)(B) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement: *Provided,* That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations. [1] The authority of the holder to perform U.S.-originating charters shall, in accordance with Annex B(III)(A) of the Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanying baggage, and property, on a time, mileage or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation, or supersession to that agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A(I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the movement of passengers independently of any group) to or from a point not in the United States or Canada: *Provided,* That the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform U.S.-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all U.S.-originating charter flights performed by the holder on or after May 8, 1974, exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided,* That the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation:

(i) flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds: and (ii) flights originating at a U.S. terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when the flights serve either (a) a Canadian terminal point on the route, or (b) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanying baggage moving on a Canadian-originating flight operating under a contract for roundtrip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey; *Provided,* That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman-competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

(8) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(9) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and The Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(10) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1 million or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts of liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(11) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

(12) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

This permit shall become effective on ———. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating the charter foreign air transportation authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation authorized, the authority granted shall terminate to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder, or (3) upon the termination or expiration of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974: *However,* clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject of any treaty, convention, or agreement to which the United States of America and Canada are or shall become parties.

The Civil Aeronautics Board has directed its Secretary to execute this permit and affix its seal on ————.

———,
Secretary.

[Seal]

Issuance of this permit to the holder approved by the President of the United States on ——— in ———.

[FR Doc. 78-29419 Filed 10-17-78; 8:45 am]

[1] Annex B(III)(B) presently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: single entity passenger, single entity property, pro rata common purpose, and inclusive tour (in some instances split passenger charters are authorized).

[6320-01-M]

UNITED STATES-BENELUX LOW-FARE PROCEEDING

Postponement of Hearing

Notice is hereby given that a hearing in the above-entitled proceeding assigned to be held on October 31, 1978, at 10 a.m. (43 FR 40544, Sept. 12, 1978) is hereby postponed to November 1, 1978, at 9:30 a.m. in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., October 12, 1978.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 78-29415 Filed 10-17-78; 8:45 am]

[3510-03-M]

DEPARTMENT OF COMMERCE

Maritime Administration

DETERMINATION OF OPERATING-DIFFERENTIAL SUBSIDY FOR WAGES OF OFFICERS AND CREWS AND SUBSISTENCE OF OFFICERS AND CREWS OF PASSENGER VESSELS

Amendments to the Manual of Procedures

By notice published in the FEDERAL REGISTER of November 1, 1977 (42 FR 57152) the Assistant Secretary of Commerce for Maritime Affairs (Assistant Secretary) and the Maritime Subsidy Board (Board) proposed revision of parts 1 and 2 of the Manual of General Procedures for Determining Operating-Differential Subsidy (Manual) for

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liner vessels. Comments were invited from interested parties.

Notice is hereby given that the Assistant Secretary and the Board after consideration of all comments submitted have approved a complete revision of part 1 (Wages of Officers and Crews) and part 2 (subsistence of Officers and Crews of Passenger Vessels) of the Manual for Liner vessels.

Copies of the Manual as now revised may be obtained from the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, D.C. 20230.

Dated: October 11, 1978.

By order of the Maritime Subsidy Board and Assistant Secretrary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-29413 Filed 10-17-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

UNIVERSITY OF CALIFORNIA

Receipt of Application for Permit

Notices is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name, Dr. Burney J. LeBouef and Charles Leo Ortiz. b. Address, Crown College Center for Coastal Marine Studies, University of California, Santa Cruz, Calif. 95064.

2. Type of permit: Scientific research.

3. Name and number of animals: California sea lion (*Zalophus californianus*), 210; Northern elephant seal (*Mirounga angustirostris*), 14,571; harbor seal (*Phoca vitulina*), 150; Steller sea lion (*Eumetopias jubata*), 90.

4. Type of activity: Marine mammals will be tagged, with rototags and weighed or marked with paint. Specimen materials may be taken and imported. Some marine mammals may be immobilized with drugs or fitted with diving recorders. Up to twenty beached stranded orphans may be euthanized.

5. Location of activity: Calfifornia and Mexico.

6. Period of activity: 3 years.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammals Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices: Assistant Administrator for Fisheries, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: October 13, 1978.

RICHARD B. ROE,
Acting Director,
Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-29343 Filed 10-16-78; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

CONSTRUCTION OF AN AMMUNITION PORT FACILITY AT OROTE POINT, GUAM, MARIANA ISLANDS

Public Hearings and Availability of the Draft Environmental Impact Statement (DEIS)

Notice is hereby given pursuant to the National Environmental Policy Act of 1969, Pub. L. 91-190 (42 U.S.C. 4321 et seq.), and the Council on Environmental Quality Guidelines, (40 CFR Part 1500); that two public hearings will be held for the purpose of providing the public with relevant information on the proposed action to construct an ammunition port facility at Orote Point, Guam, and to afford the public an opportunity to present their views on this matter. Hearings will be held on the following date, at the location and times specified.

NOVEMBER 9, 1978

Legislative Hall, Guam Legislature Building, Agana, Guam, Mariana Islands.

The afternoon session will begin at 1:30 p.m., and the evening session will begin at 7:30 p.m.

Public hearings are being held in the afternoon and in the evening in order that all persons, governmental agencies, organizations, and groups who so desire are afforded the opportunity to comment on the proposed action.

The hearings will be conducted by Captain William Chin, CEC, USN, and will include a presentation of the Navy's proposed ammunition port facility and the expected environmental impact.

The following procedures will be followed during the public hearings. For record purposes, all persons attending the hearings will be asked to provide their names upon entering the hearing. Individual speakers wishing to comment at the hearing will have four minutes each, and group spokespersons will have six minutes each to summarize and present their views. each speaker will identify himself and any organization he may be representing. One speaker may not relinquish time to another.

Individuals and organizations wishing to submit written statements to be included in the hearing record are encouraged to do so by November 1, 1978, or such statements may be presented to the Hearing Officer during the hearing. Pre-registration of speakers is desired, and should be made in person or writing. Speakers may also register at the attendance desk at the hearing. The name and title of the speaker for organizations should be included in the pre-registration.

Any organization desiring to make a formal presentation in excess of the foregoing time limits is requested to contact the hearing officer prior to November 1, 1978, so that appropriate arrangements may be made. The closing date for including additional written statements in the Navy hearing record is ten calendar days after the date of the hearings. Speaker pre-registration and submission of written statements should be addressed to:

Captain William Chin, CEC, USN, Hearing Officer, Ammunition Port Facility, c/o Code N4, Commander, U.S. Naval Forces, Marianas, FPO San Francisco 96630.

The proposed project will provide an ammunition port facility on the north shore of Orote Peninsula consisting of an ammunition wharf. Approximately 23 acres will be dredged to a depth of 45 feet and 6 acres of reef will be covered with fill to provide breakwater, seawalls, causeway, wharf and access road. The new access road will be constructed along the shoreline and hillside. This proposed port will be the only facility on guam which will be able to handle transocean explosive laden military and commercial cargo ships and not require a waiver of Department of Defense explosive safety criteria.

Anticipated environmental impacts resulting from the proposed project are documented in the 1977 Draft Environmental Impact Statement for the Ammunition Port Facility (DEIS) which is the subject of the hearings here announced. Copies of the DEIS have been widely distributed and are available to the public at the following locations:

Chief of Naval Information, The Pentagon Press Room, Washington, D.C. 20350.

Headquarters, Commander, Pacific Division, Naval Facilities Engineering Command, Makalapa, Pearl Harbor, Hawaii.

All public libraries on Guam.

University of Guam Library.

For further information concerning this notice, contact Captain William Chin, CEC, USN, Code N4, Commander, U.S. Naval Forces, Marianas, telephone number 349-5241.

Dated: October 10, 1978.

P. A. WILLE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-29289 Filed 10-17-78; 8:45 am]

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER78-625]

ALABAMA POWER CO.

Filing

OCTOBER 6, 1978.

Take notice that Alabama Power Co. (Alabama) on September 25, 1978, tendered for filing an agreement with the city of Dothan, intended as an initial rate schedule. Albama states that the filing is for the proposed Michelin substation delivery point of the city of Dothan. Alabama further states that the delivery point will be served at the company's applicable revision to rate schedule MUN-1 incorporated in FERC electric tariff, original volume No. 1 of Alabama as allowed to become effective, subject to refund, by Commission order in FERC docket ER78-77.

According to Alabama copies of the filing were served upon the city of Dothan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29354 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP76-15]

ALGONQUIN GAS TRANSMISSION CO.

Filing of Rate Adjustment for Rate Schedule SNG-1

OCTOBER 10, 1978.

Take notice that Algonquin Gas Transmission Co. ("Algonquin Gas") on September 15, 1978, tendered for filing 5th Revised Sheet No. 10-A, pursuant to its rate schedule SNG-1 purchased feedstock adjustment clause ("PFAC"), as contained in its FERC gas tariff.

Algonquin states that such 5th Revised Sheet No. 10-A, filed pursuant to section 10.6 of the rate schedule SNG-1 PFAC, provides for a negative unit amortizing adjustment of ($0.1388) on sales to regular buyers under rate schedule SNG-1 for the 1978-79 season proposed to be effective October 16, 1978, to amortize $2,428,622 of overcollections of feedstock costs related to regular buyers sales during the 1977-78 season.

Algonquin Gas also submitted an SNG cost of service report for the 12 months ended September 30, 1978, prepared, it states, in consonance with the settlement principles of Algonquin Gas' stipulation and agreement in docket Nos. RP73-112 et al., as approved by Commission order dated March 31, 1978. Such report has been filed to comply with Algonquin Gas' rate schedule SNG-1 purchased feedstock adjustment clause.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29372 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-337]

ALGONQUIN GAS TRANSMISSION CO.

Proposed Changes in FERC Gas Tariff

OCTOBER 10, 1978.

Take notice that Algonquin Gas Transmission Co. ("Algonquin Gas") on September 11, 1978, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, 3rd Revised Sheet No. 29-E.

Algonquin Gas states that it is issuing the above tariff sheet to reflect a change in its rates under rate schedule S-T to track changes in Texas Eastern Transmission Corp.'s ("Texas Eastern") rate schedule ISS under docket No. RP78-87. This tracking filing is made pursuant to the authorization of paragraph (A) of the Commission's order issued April 4, 1978, in docket No. CP77-337.

Algonquin Gas respectfully requests that the Commission waive any rules necessary to allow the above-listed tariff sheet to become effective October 1, 1978, to coincide with the proposed effective date of Texas Eastern's increased ISS rates.

The proposed effective date of the revised tariff sheet is October 1, 1978.

A copy of this filing is being served upon all affected parties and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29373 Filed 10-17-78; 8:45 am]

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[6740-02-M]

[Docket No. RP72-110]

the Commission and are available for public inspection.

KENNETH F. PLUMB,

with the Commission and are available for public inspection.

KENNETH F. PLUMB,

CAMERON, LA.

a. Where Columbia Gulf's 20-inch Southwest Louisiana line crosses Ten-

of Block 33 East Cameron area, offshore Louisiana.

CGC—EAST CAMERON BLOCK 33

EXXON—GARDEN CITY

b. At the tailgate of the Exxon Co., U.S.A. Garden City plant in T15-R10E, St. Mary Parish, La. Columbia

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[6740-02-M]

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

OCTOBER 10, 1978

Take notice that Algonquin Gas Transmission Co. ("Algonquin Gas") on September 22, 1978, tendered for filing Substitute 43rd Revised Sheet No. 10 and Alternate Substitute 43rd Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective for the single day of September 1, 1978.

Algonquin Gas states that the above tariff sheets are being filed pursuant to Algonquin Gas' purchased gas cost adjustment provision set forth in section 17 of the general terms and conditions of its FERC Gas Tariff, First Revised Volume No. 1. And that substitute Revised 43rd Revised Sheet No. 10 reflect the underlying purchased gas costs effective August 9, 1978, under Texas Eastern's tariff sheet Second Revised Forty-second Revised Sheet No. 14D. Texas Eastern states that its rates filed to be effective August 9, 1978, are in compliance with the Commission's opinion No. 21, issued August 9, 1978, in Texas Eastern's docket No. RP74-41.

Algonquin Gas further states that Alternate Substitute Revised 43rd Revised Sheet No. 10 is being filed in the event the Commission should reject Texas Eastern's rates proposed to be effective August 9, 1978, and reflects Algonquin Gas' underlying purchased gas costs proposed to be effective August 1, 1978, under Texas Eastern's tariff sheet Revised Forty-second Revised Sheet No. 14D.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29390 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-1]

COLORADO INTERSTATE GAS CO.

Proposed Changes In FERC Gas Tariff

OCTOBER 6, 1978.

Take notice that Colorado Interstate Gas Co. (CIG), on October 2, 1978, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, and Third Revised Volume No. 2. The proposed base rates would increase revenues from jurisdictional sales and service by approximately $8.9 million above the rates subject to refund in docket No. RP78-51, inclusive of the PGA adjustment proposed to be effective on October 1, 1978 (excluding the deferred purchase gas cost surcharge). The proposed increase is based on the 12-month period ended June 30, 1978, adjusted for known and measurable changes which will become effective within the 9 months subsequent to that date, as provided for in the Commission's regulations.

CIG states that the jurisdictional rates filed herewith are designed to enable CIG to recover increases in its jurisdictional cost of service attributable primarily to additional facilities and increased labor and other operating costs.

Also included in the filing are Third Revised Sheet Nos. 198 and 262 and Second Revised Sheet No. 341 reflecting the adjusted transportation rates contained in rate schedules X-60, X-66, and X-72.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29374 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-539]

COLUMBIA GULF TRANSMISSION CO., ETC.

Application

OCTOBER 12, 1978.

Take notice that on September 27, 1978, Columbia Gulf Transmission Co. (Columbia Gulf), 3805 West Alabama Avenue, Houston, Tex. 77027, Columbia Gas Transmission Corp. (Columbia Transmission), P.O. Box 1273, Charleston, W. Va. 25325, and Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, hereinafter collectively referred to as Applicants filed in Docket No. CP78-539 an application pursuant to section 7(c) of the Natural Gas Act, requesting authorization to exchange gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization for exchanges of gas among them in accordance with a letter agreement dated January 24, 1978, between the parties. Applicants state that the deliveries would be made on a gas-for-gas basis, and that imbalances would be eliminated within 60 days.

It is stated that the purpose of this exchange arrangement is to alleviate operating, supply or other problems which may arise from time to time on the pipeline system of one or the other of the Applicants, and that in order to achieve such purpose, it is further stated that, Applicants recognize that under certain circumstances it may be desirable to make substantial quantities of exchange gas available, one to the other, at mutually-agreeable points. Such exchanges would thus help to assure orderly maintenance or service and avoid curtailment or interruption of gas deliveries to the consuming public, it is said.

It is stated that the exchange would take place at a large number of existing points of interconnection of the three parties' pipeline facilities. These points are located in the States of Louisiana, Kentucky, West Virginia, Ohio, Pennsylvania, New York, New Jersey, and offshore Louisiana. It is stated that these points are as follows:

1. Existing points of interconnection of the parties' pipeline facilities.

CAMERON, LA.

a. Where Columbia Gulf's 20-inch Southwest Louisiana line crosses Tennessee's 2-26-inch Kinder-CAGC lines in section 10 T12s-R6W Cameron Parish, La.

MOREHEAD, KY.

b. At yard coordinates W4+26 and S12+24 in Tennessee's compressor station 110, where Columbia Gulf's 30-inch main line 200 crosses Tennessee's 30-inch discharge header, near Morehead, Rowan County, Ky.

ROGERS, LA.

c. At Tennessee's M.P. 830-1 and 7.16 where Columbia Gulf's 30-inch main line crosses Tennessee's 30-inch Kinder-Portland line 800-1 near Rogers, LaSalle Parish, La.

2. Existing points of interconnection of facilities in jointly owned projects.

BLUE WATER PROJECT

a. The jointly owned Columbia Gulf and Tennessee Blue Water project system beginning in section 82 T21S-R18E Terrebonne Parish, La., and extending to section 5 T10S-R1W Acadia Parish, La.

C-N-T PROJECT

b. The jointly owned Columbia Gulf-Natural Gas Pipeline Co. of America-Tennessee project beginning in Block 331 and ending in Block 241 of the Eugene Island Area, offshore Louisiana.

PROJECT 601

c. The jointly owned Columbia Gulf and Tennessee project 601 extending southwestward from Vermilion Block 245 to West Cameron Block 643, offshore Louisiana.

EAST CAMERON 42

d. The jointly owned Columbia Gulf and Tennessee project extending from East Cameron Block 33 to East Cameron Block 42, offshore Louisiana.

PROJECT ST-37

e. The jointly owned Columbia Gulf-Tennessee-Southern Natural South Timbalier 37 project extending northerly from South Timbalier Blocks 36 and 37, offshore Louisiana, to a point of interconnection with a Columbia Gulf pipeline near Golden Meadow, Lafourche Parish, La.

3. Existing points of interconnection where parties receive deliveries from the same producers and/or the same or adjoining fields.

MOBIL—EAST CAMERON BLOCK 33

a. Mobil Oil Co.'s (Mobil) production platform in the northeast one-fourth of Block 33 East Cameron area, offshore Louisiana.

CGC—EAST CAMERON BLOCK 33

b. Continental Oil Co. (Continental), Getty Oil Co., and Cities Service Oil Co. production platform located in the South one-half of Block 33, East Cameron area, offshore Louisiana.

4. Existing points of interconnection where parties receive deliveries from processing plants.

MOBIL—CAMERON MEADOWS

a. At the tailgate of Mobil's Cameron Meadows plant in T15S-R13W, Cameron Parish, La.

CONTINENTAL—EGAN

b. At the tailgate of Continental's Acadia plant in T9S-R1W Acadia Parish, La.

5. Existing points of interconnection where the parties receive deliveries from the pipeline facilities of another.

SEA ROBIN—ERATH

a. At the interconnection of the pipelines of Sea Robin Pipeline Co. and Columbia Gulf in the Erath Field area, Vermilion Parish, La.

TRUNKLINE—CENTERVILLE

b. At a point of interconnection of the pipeline facilities of Columbia Gulf and Trunkline Gas Co. near Centerville, La., in section 44, R10E-T15S, St. Mary Parish, La.

6. Existing points where one party and a third party, with which the other party or parties are authorized to exchange gas at such point, receive deliveries.

ATLANTIC RICHFIELD—BAYOU SALE

a. At the tailgate of the Atlantic Richfield Co. bayou sale plant in T16S-R9E, St. Mary Parish, La. Tennessee and Texas Gas Transmission Corp. (Texas Gas) receive gas at the bayou sale plant. Columbia Gulf can exchange gas with Tennessee via the facilities of Texas Gas pursuant to Columbia Gulf's currently effective gas tariff, volume 2, rate schedule X-16, as authorized in docket No. CP74-80.

EXXON—GARDEN CITY

b. At the tailgate of the Exxon Co., U.S.A. Garden City plant in T15-R10E, St. Mary Parish, La. Columbia Gulf and Trunkline Gas Co. (Trunkline) receive gas at the Garden City plant. Tennessee can exchange gas with Columbia Gulf via facilities of Trunkline pursuant to Tennessee's currently effective gas tariff, volume 2, rate schedule X-29, as authorized in docket No. CP70-122.

TEXACO—HENRY

c. At the tailgate of Texaco Inc.'s Henry plant in T13S-R4E, Vermilion Parish, La. Columbia Gulf and Trunkline receive gas at the Henry plant. Tennessee can exchange gas with Columbia Gulf via facilities of Trunkline pursuant to Tennessee's currently effective gas tariff, volume 2, rate schedule X-35, as authorized in docket No. CP72-111.

GULF—VENICE

d. At the Gulf Oil Corp. (Gulf) Venice plant and the Exxon Venice plant, both in T21S-R30E, Plaquemines Parish, La. Columbia Gulf receives gas from the Exxon Venice plant and Texas Eastern Transmission Corp. (Texas Eastern) receives gas from the Gulf Venice plant. These plants are connected by producer-owned piping. Tennessee can exchange gas with Columbia Gulf at Venice via Texas Eastern's facilities pursuant to Tennessee's currently effective gas tariff, volume 2, rate schedule X-40, as authorized in docket No. CP63-177.

7. Existing points of interconnection where Tennessee delivers to Columbia Transmission.

a. Kentucky: Richmond, North Means, Greenup, Kenova.

b. West Virginia: South Ceredo, North Ceredo, Charleston, Frame, Broad Run.

c. Ohio: Brinker, Dungannon, Cambridge, R-501.

d. Pennsylvania: Unionville, Koppel, Bradford Woods, Milford, Highland, New Castle.

8. Existing points of interconnection where Columbia Transmission and Tennessee deliver to the same customers.

Customer	Columbia Transmission's delivery point	Tennessee's delivery point
Delta Natural Gas Co.	Frenchburg.	Bera.
	Camargo.	Salt Lick.
	Owingsville.	Nicholasville.
	Sharpsburg.	Jeffersonville.
	Kingston-Terrell.	Farmers.
Central Hudson Gas & Electric Corp.	Tuxedo.	Cedar Hill.
Elizabethtown Gas Co.	Easton.	Sussex.
	New Village.	Vernon.
Orange & Rockland Utilities, Inc.	Port Jervis.	Tappan.
	Huguenot.	Pearl River.
	Middletown.	
	Warwick.	
	Greenwood Lake.	
	Tuxedo.	
	Sloatsburg.	

Customer	Columbia Transmission's delivery point	Tennessee's delivery point
Public Service Electric & Gas Co.	Phillipsburg.	Phillipsburg.
	Pohatcong.	Pohatcong.
	Bridgeville.	Bridgeville.
	Delaware Water Gap.	Delaware Water Gap.
	Columbia.	Columbia.
	Hainesport.	Hainesport.
	Mt. Holly.	Mt. Holly.
	Pemberton.	Pemberton.
	Lumberton.	Lumberton.
	Medford.	Medford.
	Tuckerton.	Tuckerton.
	Manahawkin.	Manahawkin.
	Barnegat.	Barnegat.
	Forked River.	Forked River.
	Lakewood.	Lakewood.
	Jackson.	Jackson.
	Freehold.	Freehold.
	Manalapan.	Manalapan.
	Englishtown.	Englishtown.
	Old Bridge.	Old Bridge.
	Sayreville.	Sayreville.
	Perth Amboy.	Perth Amboy.
	Woodbridge.	Woodbridge.
	Rahway.	Rahway.
	Elizabeth.	Elizabeth.
	Linden.	Linden.
	Kearny.	Kearny.
	Harrison.	Harrison.
	Jersey City.	Jersey City.
	Hoboken.	Hoboken.
	Secaucus.	Secaucus.
	Union City.	Union City.
	Weehawken.	Weehawken.
	Guttenberg.	Guttenberg.
	North Bergen.	North Bergen.
	Fairview.	Fairview.
	Cliffside Park.	Cliffside Park.
	Fort Lee.	Fort Lee.
	Edgewater.	Edgewater.
	Ridgefield.	Ridgefield.
	Little Ferry.	Little Ferry.
	Moonachie.	Moonachie.
	Carlstadt.	Carlstadt.
	Rutherford.	Rutherford.
	East Rutherford.	East Rutherford.
	Lyndhurst.	Lyndhurst.
	North Arlington.	North Arlington.
	Belleville.	Belleville.
	Nutley.	Nutley.
	Bloomfield.	Bloomfield.
	Glen Ridge.	Glen Ridge.
	Montclair.	Montclair.
	Newark.	Newark.
	Irvington.	Irvington.
	Maplewood.	Maplewood.
	South Orange.	South Orange.
	Millburn.	Millburn.
	Short Hills.	Short Hills.
	Springfield.	Springfield.
	Union.	Union.
	Hillside.	Hillside.
	Roselle.	Roselle.
	Roselle Park.	Roselle Park.
	Kenilworth.	Kenilworth.
	Cranford.	Cranford.
	Garwood.	Garwood.
	Clark.	Clark.
	Westfield.	Westfield.
	Scotch Plains.	Scotch Plains.
	Fanwood.	Fanwood.
	Plainfield.	Plainfield.
	North Plainfield.	North Plainfield.
	Dunellen.	Dunellen.
	Bound Brook.	Bound Brook.
	Middlesex.	Middlesex.
	Somerville.	Somerville.
	Bridgewater.	Bridgewater.
	Raritan.	Raritan.
	Hillsborough.	Hillsborough.
	Manville.	Manville.
	Millstone.	Millstone.
	Rocky Hill.	Rocky Hill.
	Kingston.	Kingston.
	Princeton.	Princeton.
	Lawrenceville.	Lawrenceville.
	Trenton.	Trenton.
	Ewing.	Ewing.
	Hamilton.	Hamilton.
	Mercerville.	Mercerville.
	Yardville.	Yardville.
	Bordentown.	Bordentown.
	Florence.	Florence.
	Burlington.	Burlington.
	Riverside.	Riverside.
	Delanco.	Delanco.
	Palmyra.	Palmyra.
	Riverton.	Riverton.
	Cinnaminson.	Cinnaminson.
	Delran.	Delran.
	Moorestown.	Moorestown.
	Mt. Laurel.	Mt. Laurel.
	Evesham.	Evesham.
	Marlton.	Marlton.
	Cherry Hill.	Cherry Hill.
	Haddonfield.	Haddonfield.
	Collingswood.	Collingswood.
	Westmont.	Westmont.
	Haddon Heights.	Haddon Heights.
	Lawnside.	Lawnside.
	Pennsauken.	Pennsauken.
	Merchantville.	Merchantville.
	Audubon.	Audubon.
	Oaklyn.	Oaklyn.
	Barrington.	Barrington.
	Gloucester City.	Gloucester City.
	Brooklawn.	Brooklawn.
	Bellmawr.	Bellmawr.
	Mt. Ephraim.	Mt. Ephraim.
	Haddon Township.	Haddon Township.
	Stratford.	Stratford.
	Lindenwold.	Lindenwold.
	Clementon.	Clementon.
	Gibbsboro.	Gibbsboro.
	Voorhees.	Voorhees.
	Berlin.	Berlin.
	Waterford.	Waterford.
	Winslow.	Winslow.
	Hammonton.	Hammonton.
	Folsom.	Folsom.
	Egg Harbor.	Egg Harbor.
	Pleasantville.	Pleasantville.
	Absecon.	Absecon.
	Atlantic City.	Atlantic City.
	Ventnor.	Ventnor.
	Margate.	Margate.
	Longport.	Longport.
	Somers Point.	Somers Point.
	Linwood.	Linwood.
	Northfield.	Northfield.
	Egg Harbor City.	Egg Harbor City.
	Mays Landing.	Mays Landing.
	Port Republic.	Port Republic.
	Smithville.	Smithville.
	Galloway.	Galloway.
	Pomona.	Pomona.
	Estell Manor.	Estell Manor.
	Corbin City.	Corbin City.
	Dorothy.	Dorothy.
	Richland.	Richland.
	Newfield.	Newfield.
	Port Norris.	Port Norris.
	Bridgeton.	Bridgeton.
	Fairton.	Fairton.
	Millville.	Millville.
	Vineland.	Vineland.
	Elmer.	Elmer.
	Salem.	Salem.
	Pennsville.	Pennsville.
	Penns Grove.	Penns Grove.
	Carneys Point.	Carneys Point.
	Deepwater.	Deepwater.
	Pedricktown.	Pedricktown.
	Swedesboro.	Swedesboro.
	Woodbury.	Woodbury.
	Glassboro.	Glassboro.
	Mantua.	Mantua.
	Pitman.	Pitman.
	Washington.	Washington.
	Turnersville.	Turnersville.
	Blackwood.	Blackwood.
	Gibbstown.	Gibbstown.
	Paulsboro.	Paulsboro.
	Woodbury Heights.	Woodbury Heights.
	Deptford.	Deptford.
	Westville.	Westville.
	Gloucester.	Gloucester.
	Clayton.	Clayton.
	Glassboro.	Glassboro.
	Franklinville.	Franklinville.
	Mullica Hill.	Mullica Hill.
	Harrisonville.	Harrisonville.
	Swedesboro.	Swedesboro.
	Woodbury.	Woodbury.
	Glassboro.	Glassboro.
	Mantua.	Mantua.
	Pitman.	Pitman.
	Washington.	Washington.
	Turnersville.	Turnersville.
	Blackwood.	Blackwood.
	Gibbstown.	Gibbstown.
	Paulsboro.	Paulsboro.
	Woodbury Heights.	Woodbury Heights.
	Deptford.	Deptford.
	Westville.	Westville.
	Gloucester.	Gloucester.
	Clayton.	Clayton.
	Glassboro.	Glassboro.
	Franklinville.	Franklinville.
	Mullica Hill.	Mullica Hill.
	Harrisonville.	Harrisonville.

for Consolidated LNG up to 150,000 dekatherms equivalent per day of regasified LNG for delivery to Supply

time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is

[6740-02-M]

[Docket No. RP72-157]

Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with

Customer	Columbia Transmission's delivery point	Tennessee's delivery point
Orange & Rockland Utilities, Inc.	Eckerson Lane.	
	Spring Valley.	
	West Nyack.	
Pennsylvania Gas & Water Co	Renovo.	Uniondale.
	Muncy.	Auburn.
	Old Lycoming.	
	Saylor Ave. (temp.).	
Pike Natural Gas Co.	Sabina.	Oak Hill.
T. W. Phillips Gas & Oil Co.	Moraine.	Pittsburgh terminal.
National Fuel Gas Supply Corp.	Ellwood City.	Oil City.
	Warren County.	Mercer.
	Cameron County.	Clark Mills.
		Pettis.
		Lamont.
		Coudersport.
		Cochranton.
		Townville.
		Sharon.
		Rose Lake.
New York State Electric & Gas Corp.	Owego.	Lockport.
	Catatonk.	
	Spencer.	

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission' rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29391 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-531]

COLUMBIA GAS TRANSMISSION CORP.

Application

OCTOBER 5, 1978.

Take notice that on September 20, 1978, Columbia Gas Transmission Corp. (Applicant), P.O. Box 1273, Charleston, W. Va. 25325, filed in Docket No. CP78-531 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Consolidated System LNG Co. (Consolidated LNG) and the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Columbia LNG Corp. and Consolidated LNG have filed a joint application with the Economic Regulatory Administration in Docket No. ERA-78-004-LNG for authorization pursuant to section 3 of the Natural Gas Act and sections 301 and 402 of the Department of Energy Organization Act to import from Iran 120,000,000 million Btu's of LNG annually, of which volume Consolidated LNG would import 50,000,000 million Btu's. On September 1, 1978, Consolidated LNG filed in Docket No. CP78-503 for a certificate of public convenience and necessity authorizing the transportation and sale of gas to its affiliate, Consolidated Gas Supply Corp. (Supply Corporation), it is said. Applicant states it has agreed to transport for Consolidated LNG up to 150,000 dekatherms equivalent per day of regasified LNG for delivery to Supply Corporation.

Applicant requests authorization herein to transport for an initial 20-year term up to 150,000 dekatherms per day for Consolidated LNG from an existing point of interconnection located in Loudoun County, Va., for delivery to Supply Corporation for Consolidated LNG's account, at an interconnection to be constructed near Supply Corporation's Cornwell Compressor Station located in Kanawha County, W. Va.

Applicant states it would charge a monthly capacity charge of $234,003 and a commodity charge of 0.14 cents per dekatherm on the volumes transported. In addition, Applicant would retain for company-use and unaccounted-for gas requirements volumes of gas equal to a percentage (currently 2.51%) of the volumes transported, it is said.

In order to facilitate the delivery of transported gas, Applicant requests authorization to construct and operate one measuring and regulating facility and interconnecting tap facilities in Kanawha County, W. Va. It is indicated that the cost of these facilities would be $538,000, including the Commission's filing fees, which cost would be financed from funds generated internally.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the

time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29355 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-581]

COLUMBUS & SOUTHERN OHIO ELECTRIC CO.

Filing

OCTOBER 10, 1978.

Take notice that Columbus & Southern Ohio Electric Co. on September 25, 1978, tendered for filing a wholesale rate contract between the Company and the city of Columbus.

The Company indicates that the contract was executed February 9, 1978, and that the rate schedule contained therein is identical to the rate schedule proposed by the Company in its July 29, 1977 filing in Docket ER77-529.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29375 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

OCTOBER 6, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on October 2, 1978 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 purusant to its PGA clause, for rates to be effective November 1, 1978.

Consolidated reflected rate changes from producer suppliers and a surcharge of 0.61¢ per dekatherm to recover amounts accumulated in the unrecovered purchased gas cost account and flow through supplier refunds.

Consolidated requests a waiver of any of the Commission's Rules and Regulations as may be deemed necessary by the Commission.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29376 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER77-546]

DAYTON POWER & LIGHT CO.

Compliance Filing

OCTOBER 10, 1978.

Take notice that Dayton Power & Light Co. on September 12, 1978, tendered for filing, pursuant to paragraph D of the Commission's Order issued January 18, 1978, in the above-noted docket, Second Revised Schedule A and Third Revised Schedule A to the Interchange Agreement with the city of Piqua, Ohio.

Any person desiring to be heard or to protest said filing should file a petition to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29377 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-623]

DETROIT EDISON CO.

Filing

OCTOBER 10, 1978.

Take notice that Detroit Edison Co. on September 8, 1978, tendered for filing an executed copy of the Electric Supply Agreement between the Company and the Michigan Municipal Cooperative Power Pool.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29378 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-1]

DETROIT EDISON CO.

Application

OCTOBER 12, 1978.

Take notice that on October 4, 1978, The Detroit Edison Co., a corporation organized under the laws of the State of Michigan and New York, with principal business offices in Detroit, Mich., filed an application pursuant to section 204 of the Federal Power Act, seeking authorization to issue up to

$350 million unsecured short-term notes and commercial paper, on or before December 31, 1979, and to

sidered by the Commission in determining the appropriate action to be taken, but will not serve to make prot-

the Commission and are available for public inspection.

KENNETH F. PLUMB,

participate as a party in any hearing therein must file a petition to intervene in accordance with the Commis-

ber 11, 1978 to Rate Schedule FPC No. 127 between KPL and the city of McPherson, Kansas, Board of Public

with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions

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$350 million unsecured short-term notes and commercial paper, on or before December 31, 1979, and to mature on or before December 31, 1979.

The short-term debt will be used to finance construction costs pending permanent financing.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before October 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). The applicant is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29392 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-65]

EAST TENNESSEE NATURAL GAS CO.

Report of Flow Through of Refunds

OCTOBER 6, 1978.

Take notice that on September 26, 1978, East Tennessee Natural Gas Co. (East Tennessee) tendered for filing a Report Of Flow Through Of Refunds made pursuant to section 23 of the General Terms and Conditions of Sixth Revised Volume No. 1 of its FERC Gas Tariff.

East Tennessee states that it received a credit on its July invoice from Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) representing an additional refund payable to East Tennessee pursuant to Tennessee's Settlement Agreement in Docket Nos. RP75-13, et al. approved by the Commission's letter order of May 1, 1978. East Tennessee states that section 23 of its currently effective FERC Gas Tariff requires that East Tennessee flow through the refund received from Tennessee within 45 days of receipt. East Tennessee further states that the refund report shows the amount of refund flowed through to each of its jurisdictional customers.

East Tennessee states that copies of the filing have been mailed to all its jurisdictional customers and affected State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-29356 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-116]

EL PASO NATURAL GAS CO.

Petition for Continued Rate Base Treatment of Alaskan Advance Payments

OCTOBER 6, 1978.

Take notice that on September 27, 1978, El Paso Natural Gas Co. ("El Paso") filed a petition for Continued Rate Base Treatment of Alaskan Advance Payments.

El Paso states that in FPC Opinion No. 673 the Commission allowed the subject advances in rate base for up to 5 years. According to the company the inability of El Paso to recoup its advances heretofore has been occasioned by the fact that the Alaskan natural gas pipeline project has not been completed. The estimated commencement of operations according to El Paso, is 1983. El Paso thus requests continued rate base treatment for the subject advances until 5 years beyond the date that the Alaskan natural gas transportation system becomes operable with respect to advances to Atlantic Richfield Corp. and Amoco Production Co. and until recoupment under an alternative contract provision can be completed with regard to an advance to Phillips Petroleum Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29357 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket Nos. AR70-1, CP69-23 and RP72-155]

EL PASO NATURAL GAS CO.

Payment of Refunds

OCTOBER 11, 1978.

Take notice that on October 4, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing a Report of Refunds Made on July 12, 1978, to certain of its customers whose contracts provide for sales rates based upon changes in the weighted average cost of clean, high pressure, pipeline quality gas. El Paso states that such refunds have been made in accordance with its Intended Disposition of Refunds filed with the Commission on May 4, 1978, and the Commission letter order dated June 27, 1978, approving such plan. El Paso also states that the aggregate refund amount was $21,672.32, inclusive of interest.

El Paso further states that in compliance with said Commission order, El Paso, on July 12, 1978, transmitted refund checks aggregating $17,560 to those customers entitled to a cash flow-through of refunds and whose services had previously been, but were no longer, subject to special FS rate schedules contained in El Paso's Original Volume No. 2A tariff and the remaining amount of $4,112.32 was credited to Account 191, in accordance with the applicable provisions of the currently effective Purchased Gas Cost Adjustment—Clean High Pressure Gas Provision contained in El Paso's Original Volume No. 2A tariff.

El Paso states that copies of the filing were served on all of El Paso's affected interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before October 30, 1978, file with, the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29379 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ES76-34]

IDAHO POWER CO.

Application

OCTOBER 6, 1978.

Take notice that on October 2, 1978, Idaho Power Co. (Applicant), a corporation organized under the laws of the State of Maine, and qualified to transact business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office in Boise, Idaho, filed an amendment to its Application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an Order authorizing an increase in the assumption of liability as guarantor from $35,000,000 to $44,750,000 of Interim Notes of American Falls Reservoir District, a political subdivision of the State of Idaho, such Interim Notes having maturities not to exceed 36 months.

The Interim Notes will be used by the District to finance certain costs to be incurred in connection with the reconstruction of the American Falls Dam and American Falls Storage Reservoir on the Snake River near American Falls, Idaho.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before October 20, 1978, filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accoredance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretry.

[FR Doc. 78-29358 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-626]

KANSAS POWER AND LIGHT CO.

Proposed Changes in Rates and Charges

OCTOBER 6, 1978.

Take notice that on September 25, 1978, the Kansas Power & Light Co. (KPL) tendered for filing a newly executed Addendum No. 2 dated September 11, 1978 to Rate Schedule FPC No. 127 between KPL and the city of McPherson, Kansas, Board of Public Utilities (McPherson). KPL states that Addendum No. 2 expressly modifies the price which McPherson agrees to pay KPL for base load capacity.

KPL proposes an effective date of September 11, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29359 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-4]

KANSAS POWER & LIGHT CO.

Proposed Changes in Rates

OCTOBER 12, 1978

Take notice that on October 2, 1978, the Kansas Power & Light Co. (Kansas) tendered for filing an amendment dated September 11, 1978, to that Certain Contract dated September 21, 1973, with Ark Valley Electric Cooperative Association, Inc. for wholesale service to that Cooperative. Kansas states that this is a supplement to a contract dated September 21, 1973 and designated KPL Rate Schedule FPC No. 148. Kansas states that this amendment will provide for a new delivery point for the Cooperative to be known as "Yoder No. 2".

Kansas proposes an effective date of September 11, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of the agreement have been mailed to Ark Valley Cooperative Association, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29393 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-3]

KANSAS POWER & LIGHT CO.

Proposed Changes in Rates

OCTOBER 12, 1978

Take notice that on October 2, 1978, the Kansas Power & Light Co. (Kansas) tendered for filing an amendment dated September 11, 1978, to that Certain Contract dated May 23, 1975, with the city of Sabetha, Kans. for wholesale service to the Municipality. Kansas states that this is a supplement to a contract dated May 23, 1975, and designated KPL Rate Schedule FPC No. 185. Kansas further states that this amendment will provide for (a) change in metering to include capability of recording the quantity of electric energy flowing in each direction, and (b) sale and delivery of electric power and energy to Company, by the city, upon terms and conditions set forth in city's rate schedule.

Kansas proposes an effective date of September 11, 1978 and requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations.

Copies of the agreement have been mailed to the city of Sabetha, Kans. and the State Corporation Commission of Kansas, according to Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file

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with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29394 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-97]

KENTUCKY WEST VIRGINIA GAS CO.

Report of Refunds

OCTOBER 6, 1978.

Take notice that on September 28, 1978, Kentucky West Virginia Gas Co. (Kentucky West) in compliance with the Commission's ordering paragraph (B) of its Order issued February 16, 1978, as modified June 21, 1978; June 30, 1978; and August 14, 1978, at Docket No. RP73-97, tendered for filing a Report of Refunds Made on August 29, 1978.

Kentucky West states the Report of Refunds Made encompasses its two pipeline customers for sales under Rate Schedule S-1: Equitable Gas Co. and Columbia Gas Transmission Corp. Of said refund totaling $5,862,614.39, Kentucky West has distributed to Equitable Gas Co. $4,038,434.53 plus additional accrued interest thereon to the date of distribution aggregating $665,325.03 for a total of $4,703,759.56 and has distributed to Columbia Gas Transmission Corp. $1,011,645.62 plus additional accrued interest thereon to the date of distribution aggregating $147,209.21 for a total of $1,158,854.83.

Kentucky West states that a copy of its filing has been served upon each party on the service list of Docket No. RP73-97.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29360 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CI78-1233]

LACLEDE GAS CO.

Application

OCTOBER 6, 1978.

Take notice that on September 22, 1978, Laclede Gas Co. (Applicant), 720 Olive Street, St. Louis, Mo. 63101, filed herein an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.70 of the Commission's General Policy and Interpretations for a limited-term certificate of public convenience and necessity authorizing the sale and deliery in interstate commerce of up to 20,000 Mcfd of natural gas to Panhandle Eastern Pipe Line Company (Panhandle) from the North Reydon Field, Roger Mills County, Oklahoma, and for a disclaimer of jurisdiction except as to the subject matter of this application, all as more fully set forth in the application which is on file with the commission and open to public inspection.

Applicant seeks a limited-term certificate with pregranted abandonment authority to sell gas to Panhandle at national ceiling rates for a minimum period of one (1) year, and from month-to-month thereafter up to a maximum of two (2) years, pending completion and certification of storage and transmission facilities which will enable Applicant to obtain delivery of such gas to its own distribution system in St. Louis.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity: If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29361 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. E-8615]

LOUISIANA POWER & LIGHT CO.

Notice Granting Extension of Time

OCTOBER 6, 1978.

On September 26, 1978, Louisiana Power & Light Co. filed for extension of time to make refunds in the above captioned proceeding pursuant to Commission Opinion No. 813 of July 21, 1977 and Opinion No. 813-A of June 5, 1978. The motion stated that the other parties in this case do not object to the granting of the extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 19, 1978, for Louisiana Power & Light to make refunds in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29362 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER76-848]

MONTANA POWER CO.

Compliance Filing

OCTOBER 10, 1978.

Take notice that on September 25, 1978, the Montana Power Co. tendered for filing in compliance with the Federal Power Commission's Order of May 6, 1977, a summary of sales made under the company's FPC electric tariff M-1 during August 1978, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29380 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-9]

MONTANA POWER CO.

Declaratory Order

OCTOBER 12, 1978.

The Montana Power Co. (Montana Power) engages in the generation, transmission, distribution and sale of electric energy and, according to statements in its recent application filed in Docket No. CP78-405, it also produces, purchases, transports and distributes natural gas within the state of Montana. By order of May 8, 1951, in *The Montana Power Co.*, Docket No. G-1627, 10 FPC 950, the Federal Power Commission (FPC) issued a declaratory order, in a noncontested proceeding, disclaiming jurisdiction over natural gas pipeline facilities which, at that time, Montana Power propsed to construct and operate from the Hart Mountain Field, Wyoming, to Billings, Montana, for the purpose of transporting gas for use as boiler fuel in its electric generating plant near Billings. At a hearing on June 27, 1975, in *Colorado Interstate Gas Company, et al.*, Docket No. CP73-340, et al., a policy witness for Montana Power, an intervenor in that proceeding, testified that during the year 1974 Montana Power transported approximately 502,769 Mcf of natural gas from Hart Mountain to Billings for use in its electric generating operation and that remaining recoverable reserves in the Hart Mountain Field at the end of 1974 aggregated between six million and eight million Mcf.

On September 10, 1975,[1] the Commission Staff, citing this testimony, filed a motion for an order directing Montana Power to show cause why its facilities used to transport natural gas from Hart Mountain to Billings are not subject to the Commission's jurisdiction under section 7(c) of the Natural Gas Act. On October 17, 1975, Montana Power filed an answer opposing the motion for an order to show cause citing the aforementioned FPC order disclaiming jurisdiction over the Montana Power facilities at issue.

[1]This motion was filed with the Federal Power Commission. By joint regulation of October 1, 1977, (10 CFR 1000.1), it was transferred to the Commission.

Subsequent to the FPC's 1951 order disclaiming jurisdiction over the Hart Mountain-to-Billings facilities, the FPC found similar facilities to be within its jurisdiction and asserted jurisdiction over such facilities, under sections 1(b) and 7(c) of the Natural Gas Act by Opinion No. 563 and order in *International Paper Co.*, 42 FPC 428 (1969), aff'd *International Paper Co., v. FPC*, 438 F.2d 1349 (2nd Cir. 1971), cert denied, 404 U.S. 827 (1971). In its opinion No. 563 asserting jurisdiction over *International Paper*, the FPC expressly overruled the case which served as precedent for *Montana Power* and implicitly overruled the line of cases to which *Montana Power* belonged where the FPC had disclaimed jurisdiction in circumstances similar to those in the *International Paper* case. *Id.*, 42 FPC AT 257. In affirming the FPC, the United States Court of Appeals for the Second Circuit agreed that the transportation of natural gas across the state lines for the transporter's own use was within the FPC's jurisdiction and subject to its supervision and control under Section 1(b) and 7(c) of the Natural Gas Act. Additionally, the court found that the overruling of the line of cases to which *Montana Power* belonged was appropriate. *Id.*, 438 F.2d at 1356. The court reasoned that the policy of *stare decisis* presented no bar to either the FPC's change, in *International Paper*. from its prior position, or to the FPC's overruling its orders in the line of prior cases, particularly were none of the cases had been contested or the orders subjected to judicial review. And the court noted that the limits of the FPC's jurisdiction under the Natural Gas Act had been remolded by the courts since the passage of the Natural Gas Act, making appropriate the overruling of prior cases disclaiming jurisdiction to conform to the modified statutory standards.

Inasmuch as the order disclaiming jurisdiction over Montana Power's Hart Mountain-to-Billings facilities has been overruled, we find it unnecessary to issue an order requiring Montana Power to show cause why such facilities are not subject to the Commission's jurisdiction. Accordingly, the Staff's motion will be denied and instead we will order Montana Power to apply for and obtain a certificate of public convenience and necessity under sections 7 (c) and (e) of the Natural Gas Act authorizing the transportation of natural gas from Hart Mountain, Wyoming, to Billings, Mont., as previously described, and the operation of the facilities used therefor.

The Commission finds: (1) Montana Power transports natural gas in interstate commerce between the states of Wyoming and Montana.

(2) The transportation of natural gas across state lines and the operation of facilities therefor by Montana Power are subject to the jurisdiction of the Commission under Section 1(b) and 7(c) of the Natural Gas Act.

(3) The motion of the Commission Staff for an order to show cause should be denied for the reasons as hereinbefore stated, and an order should be issued directing Montana Power to apply for and obtain a certificate of public convenience and necessity under sections 7 (c) and (e) of the Natural Gas Act to operate the facilities and engage in the operations as hereinbefore described.

The Commission orders: (A) The staff motion for an order to show cause is denied.

(B) Montana Power is ordered to apply for and obtain a certificate of public convenience and necessity under Section 7 (c) and (e) of the Natural Gas Act authorizing the transportation of natural gas from Wyoming to Montana, as hereinbefore described, and the operation of the facilities used therefor.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-29395 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-14]

MOUNTAIN FUEL RESOURCES, INC.

Filing Recalculated Account 191

OCTOBER 10, 1978.

Take notice that on October 3, 1978, Mountain Fuel Resources, Inc. (Mountain Fuel) filed with the Commission a recalculation of its Account No. 191 from the date of its acquisition of transmission facilities from Cascade Natural Gas Corporation in Docket No. CP76-111.

Mountain Fuel states that the problems with the account are the result of errors made in the calculation of the net accrual to Account 191 and the use of incorrect contra accounts.

Any person desiring to be heard to make any protest with reference to said filing should, on or before October 20, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to

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become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29381 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-631]

MONTAUP ELECTRIC CO.

Filing

OCTOBER 12, 1978.

Take notice that on September 29, 1978 Montaup Electric Co. (Montaup) tendered for filing a service agreement with the Taunton Municipal Lighting Plant (Taunton) pursuant to Montaup's FERC Electric tariff, Original Volume No. II. Montaup states that the Service agreement provides for transmission service to Taunton for Taunton's entitlement in Vermont Yankee Nuclear Power Corp. and covers the periods November 1, 1978 through November 30, 1978 and April 1, 1979, through November 30, 1979. Montaup requests an effective date of November 1, 1978.

According to Montaup copies of the filing have been served on Taunton and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29396 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. E-9181]

NANTAHALA POWER & LIGHT CO.

Revised Compliance Filing

OCTOBER 11, 1978.

Take notice that on September 29, 1978, Nantahala Power & Light Co., pursuant to § 1.12(c) of the Commission's Rules of Practice and Procedure, filed Nantahala's Response to Intervenor Motions to Reject Compliance Filing which includes revised documentation of the amounts which would have been collected pursuant to a fuel adjustment clause in Docket No. E-9181.

Nantahala indicates that this documentation is intended to supersede the documentation submitted to the Commission by Nantahala on August 18, 1978 in response to the Ordering Paragraph (B) of the Commission's Order Granting Rehearing, Modifying Prior Order, Determining Refunds, and Terminating Proceeding, issued July 20, 1978.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29382 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-1]

NEW BEDFORD GAS & EDISON LIGHT CO.

Filing

OCTOBER 12, 1978.

Take notice that on October 2, 1978 New Bedford Gas & Edison Light Co. (New Bedford) filed a rate schedule governing the sale by New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s Unit No. 2 (Unit).

New Bedford states that by the provisions of the tendered rate schedule, New Bedford proposes to sell to the Hingham Municipal Lighting Plant 0.3425 percent of the Net Capability of the Unit (as defined at Article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Hingham, according to New Bedford.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29397 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-622]

NORTHERN STATES POWER CO.

Letter Agreement

OCTOBER 6, 1978.

Take notice that Northern States Power Co. (Northern States), on September 22, 1978, tendered for filing a Letter Agreement, dated September 8, 1978, with the Department of Energy, United States of America.

Northern States indicates that the filed Letter Agreement extends certain provisions of Contracts No. 14-06-600-1556 and No. 14-06-600-1940 through December 31, 1978, or until a new interconnection contract is executed, whichever is earlier.

any person desiring to be heard or to protest such application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29363 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-473]

NORTHERN NATURAL GAS CO.

Petition To Amend

OCTOBER 12, 1978.

Take notice that on October 2, 1978, Northern Natural Gas Co. (Petitioner), 2223 Dodge Street, Omaha, Neb. 68102, filed in Docket No. CP77-473 a petition to amend the order of December 16, 1977, issued in the instant docket (57 FERC ——) pursuant to section 7(c) of the Natural Gas Act so as to authorize the transportation of the maximum of up to 600 Mcf of natural gas per day for Priority 2 uses by Libbey-Owens-Ford Company (LOF) at its Mason City, Iowa plant, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of December 16, 1977, Petitioner was authorized to transport up to 300 Mcf of natural gas per day owned by LOF, which gas would be used by LOF in the manufacturing of Thermopane insulating glass at its Mason City plant. It is further indicated that the subject order limited the average daily Priority 2 usage at the Mason City plant to 550 Mcf per day.

Petitioner states that based upon operating experiences involving two additional glass seal furnaces LOF transferred from its Toledo plant to Mason City, it believes that actual average daily Priority 2 usage at Mason City would be between 550 to 600 Mcf per day. Accordingly, Petitioner requests that the maximum limitation of 550 Mcf per day be increased to 600 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29398 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-5]

NORTHERN NATURAL GAS CO.

Application

OCTOBER 12, 1978.

Take notice that on October 4, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge St., Omaha, Nebr. 68102, filed in Docket No. CP79-5 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Applicant's Peoples Natural Gas Division (Peoples), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport natural gas for Peoples pursuant to a transportation agreement dated September 1, 1978, among Applicant, Peoples and Northern States Power Company (NSP). It is stated that NSP has agreed to store certain volumes of propane for Peoples and to convert Peoples' propane to propane-air. Such propane-air volumes would be produced by NSP at its peak shaving plants in St. Paul, Minn., and at the request of Peoples, Applicant would displace and transport natural gas volumes equivalent to the propane-air volumes NSP produces for Peoples' account, it is stated.

Pursuant to the instant agreement, Applicant proposes at the direction of NSP to displace and transport during the period November 16 through March 15 (winter season) volumes of propane-air up to 15,000 Mcf per day to certain designated Peoples' delivery points. Applicant indicates that total daily volumes designated for transportation by NSP would be made available to Applicant by NSP's injection of propane-air into its St. Paul distribution system and the concurrent reduction of authorized deliveries by Applicant to NSP at St. Paul, Minn. under Applicant's CD-1 Rate Schedule. It is asserted that such winter season volumes of gas transported hereunder for Peoples would be used to serve firm and small volumes customers. Applicant indicates that it would transport such volumes to Peoples' delivery points on Applicant's system as follows:

Delivery point	Maximum daily volume (Mcf per day)		
	1978-79	1979-80	1980-81
Rochester, Minn.	1,700	3,600	4,400
Dubuque, Iowa	1,200	2,400	3,000
Story City, Iowa	400	800	1,000
Ackley, Iowa	400	800	1,000
Spencer, Iowa	700	1,300	1,700
Council Bluffs, Iowa	1,600	3,100	3,900
Total	6,000	12,000	15,000

It is indicated that Peoples would pay Applicant for the maximum daily volume Applicant is obligated to transport an annual demand charge of:

1978-79	$17,016.91
1979-80	33,687.50
1980-81	42,446.78

It is further indicated that Peoples would also pay to Applicant for each Mcf transported by Applicant a transportation charge as follows:

	Transportation charge (per Mcf)
Rochester, Minn.	$0.019
Dubuque, Iowa	.056
Story City, Iowa	.017
Ackley, Iowa	.017
Spencer, Iowa	.067
Council Bluffs, Iowa	.003

Applicant states that it would retain 1.0 percent of the volume received from NSP for transportation to Dubuque, Iowa and 1.5 percent of the volume received for Spencer, Iowa as fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is

required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29399 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-532]

OZARK GAS TRANSMISSION SYSTEM

Application

OCTOBER 5, 1978.

Take notice that on September 21, 1978, Ozark Gas Transmission System (Applicant), 2700 Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP78-532 an application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and related facilities and, incident thereto, for authorization to provide a natural gas transportation service for Columbia Gas Transmission Corp. (Columbia Gas) and Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Columbia Gulf Transmission Co. (Columbia Gulf), an affiliate of Columbia Gas, and Tennessee Ozark Gas Co., a subsidiary of Tenneco Inc., have joined with Ozark Gas Pipeline Corp. and Oklahoma Natural Development Corp. (ONDC) to cause Applicant to be formed as a general partnership to accomplish the construction and subsequent operation of a pipeline system for the purpose of transporting natural gas reserves which are presently developed and which will be developed in the future from the Arkoma Basin in Oklahoma and Arkansas. It is further stated that both Columbia Gas and Tennessee have entered into agreements with Applicant to provide for the receipt and transportation of their gas supplies from the Arkoma Basin. Each of the agreements, Applicant states, provides for the redelivery of such gas supplies at the existing transmission system of Natural Gas Pipeline Co. of America (Natural), in White County, Ark., for the accounts of Columbia Gas and Tennessee. Utilizing existing transmission facilities of other interstate pipeline systems, the gas would ultimately be delivered to Columbia Gas and Tennessee via direct transmission, displacement or exchange pursuant to agreements to be executed for such purposes, it is asserted. The gas to be transported, it is stated, would be purchased by Columbia Gas and Tennessee from Texas Oil and Gas Corp. and Tenneco Oil Co. which will produce the gas.

Applicant states that the pipeline system proposed would comprise 265 miles of 20-inch O.D. pipeline extending in a generally easterly direction from Pittsburg County, Okla., to the proposed point of interconnection with the existing transmission system of Natural in White County, Ark. Applicant states that in addition to the mainline pipeline system, there would be approximately 180 miles of 4-inch to 10-inch O.D. laterals, metering stations, dehydrators and compressors located as required along the pipeline system. Applicant indicates that the estimated cost of the proposed pipeline facilities, including laterals, metering stations, dehydrators and compressors is $104,000,000. Applicant states that the proposed facilities would be financed with $31.2 million in equity contributions, contributed in equal shares by the partners, and the remaining $72.8 million through long-term debt.

The application indicates that the proposed pipeline facilities would have a capacity of 170,000 Mcf of gas per day with initially available gas of 119,000 Mcf per day, which it would make available to Columbia Gas and Tennessee in equal amounts except that ONDC may elect, within 2 years after the pipeline is placed in commercial operation, to utilize up to 25 percent of the capacity of the pipeline not then utilized by or committed to Columbia Gas or Tennessee. Applicant requests authorization to transport such volumes for Columbia Gas and Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provide for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29364 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-627]

PUBLIC SERVICE CO. OF COLORADO

Proposed Tariff Change

OCTOBER 6, 1978.

Take notice that Public Service Co. of Colorado (PSCo) on September 28, 1978, tendered for filing proposed changes in its FPC Electric Service Tariff. PSCo states that the proposed change in Supplement No. 1 (Supplement) to PSCo's Contract for Facilities, Interconnections and Transmission Service (Initial Agreement) with the United States Department of Energy Western Area Power Administration (WAPA) on file with the Commission under PSCo's FPC Rate Schedule No. 18.

PSCo further states that the Supplement provides for a revision in PSCo's termination at WAPA's Poncha Substation. The termination will be used for a 230-Kv line extending south rather than north as originally planned. PSCo indicates that the Supplement provides for PSCo to pay its share (one-third) of the actual cost of the completed design under the terms of the Initial Agreement and to pay the total cost to modify the Poncha Substation design to conform to current planning.

Copies of the filing were served upon all parties to the Agreement and affected state commissions, according to PSCo.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29365 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-628]

PUBLIC SERVICE COMPANY OF COLORADO

Proposed Tariff Change

OCTOBER 11, 1978.

Take notice that Public Service Co. of Colo. (PSCo) on September 28, 1978, tendered for filing proposed changes in its FPC Electric Service Tariff. PSCo states that the proposed change is a new Power Purchase Agreement (Agreement) with Intermountain Rural Electric Assn. (Intermountain). PSCo further states that the Agreement is basically a restatement of a prior agreement with Intermountain which is currently on file with the Commission under PSCo's FPC Rate Schedule No. 14.

PSCo indicates that the principal change is a revision in the determination of monthly billing demands for months in which Western Area Power Administration (WAPA) energy limitations are imposed on Intermountain and will result in a more accurate billing. PSCo further indicates that there is a change in service which basically provides for four additional delivery points in Intermountain. PSCo states that these new delivery points are (1) Tiny Town which is located at Intermountain's Tiny Town Substation site, (2) Buckely Road which is a temporary delivery point located at the point of connection of Intermountain's line to Company's Primary Distribution line at the intersection of Smoky Hill Road and Buckley Road, (3) Waterton which is a proposed delivery point located at Company's Waterton Substation, which when completed will replace Sedalia Delivery Point, and (40 Palmer Lake which is a proposed delivery point located at Intermountain's Palmer Lake Substation site. PSCo further states that said delivery points are necessary because of Intermountain's increased load requirements. PSCo indicates that the Bowles Avenue delivery point is eliminated. PSCo further indicates that the loss adjustment factor at the Strasburg delivery point was changed from 2.0 percent to 1.3 percent, which was determined to be a more accurate representation of actual losses.

Copies of the filing were served upon all parties to the Agreement and affected state commissions, according to PSCo.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENETH F. PLUMB,
Secretary.

[FR Doc. 78-29400 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Project No. 1025]

SAFE HARBOR WATER POWER CORP.

Application for New Major License

OCTOBER 6, 1978.

Take notice that on April 21, 1977, an application was filed under the Federal Power Act, 16 U.S.C. 791a-825r, by the Safe Harbor Water Power Corp. (Correspondence to: James L. Rintoul, Jr., Secretary and Treasurer, Safe Harbor Water Power Corp., RD.2, Conestoga, Lancaster County. Pa. 17516; James A. Biddison, Jr., Esquire, General Counsel, Baltimore Gas and Electric Co., 17th Floor, Gas and Electric Building, Baltimore, Md. 21203; and Edward M. Nagel, Esquire, Vice President, General Counsel and Secretary, Pennsylvania Power and Light Co., Two North Ninth Street, Allentown, Pa. 18101) for a new major license for the existing Safe Harbor Project No. 1025. The project is located on the Susquehanna River in York and Lancaster Counties, Pa.

The existing Safe Harbor Project consists of: (1) a concrete gravity type dam, 75 feet high and 4,869 feet long (including the powerhouse); (2) a reservoir (Lake Clarke), with a surface area of 7,360 acres at a normal water surface elevation of 272.2 feet above m.s.l. and usable storage capacity of 47,850 acre-feet; (3) a powerhouse, 638 feet long, 188 feet wide and 148.5 feet high, containing 7 main generating units and 2 service units with a total installed capacity of 230 MW; and (4) appurtenant facilities.

The Applicant intends to install five additional 37.5 MW units, utilizing existing bays in the powerhouse. The addition of the 5 units would increase the installed capacity by 187.5 MW, for a total capacity of 417.5 MW.

Applicant states that the expanded Safe Harbor Project will operate in essentially the same manner as the existing plant. The applicant proposes a second boat launching ramp, a floating dock, and facilities for recreational vehicles and campers.

The power and energy produced by the project will be sold to and utilized by the Baltimore Gas & Electric Co. and the Pennsylvania Power & Light Co., the two companies owning the Applicant.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 6, 1978. The Commission's address is: 825 N. Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29366 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP77-6, *et al.*]

SEA ROBIN PIPELINE CO., ET AL.

Filing of Pipeline Refund Reports and Refund Plans

OCTOBER 6, 1978.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be

ton, D.C. 20426, on or before October 25, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

cents [1] per Mcf at 14.65 psia, subject to tax reimbursement and Btu adjustment for gas delivered to Colorado In-

North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's

It is stated that Texas Eastern will charge the two customers its Rate Schedule TS-1 (Fourth Revised

ton, Tex. 77001, filed in Docket No. CP77-85[1] an amendment pursuant to section 7(c) of the Natural Gas Act to

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Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 25, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Docket No.	Company	Type filing
Sept. 8, 1978	RP77-6	Sea Robin Pipeline Co	Report
Sept. 11, 1978	RP75-13	Tennessee Natural Gas Lines	Do.
Do	RP71-6	Tennessee Gas Pipeline Co	DO.
Sept. 22, 1978	RP76-136	Transco	Do.
Sept. 25, 1978	RP73-114	Tennessee Gas Pipeline Co	Plan
Sept. 26, 1978	RP78-65	East Tennessee	Report
Sept. 28, 1978	RP73-97	Kentucky West Virginia Gas Co.	Do.

[FR Doc. 78-29353 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-93]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

OCTOBER 11, 1978.

Take notice that Southern Natural Gas Co. (Southern) on September 21, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 3. The proposed changes would increase revenues from a field sale to United Gas Pipe Line Co. under Southern's Rate Schedule F-10.

Southern states that this filing reflects rate increases in accordance with Article IV of the subject rate schedule up to the level allowed by § 2.56(a)(5) of the Commission's Statements of General Policy and Interpretations for gas sales from a well recompleted into a previously nonproductive reservoir. The increased rates reflected in the filing will increase annual revenues by $75,705. The proposed effective date is September 20, 1978.

Southern has requested waiver of the notice requirements to allow this tariff filing to become effective on September 20, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Any such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-29383 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-92]

SUN OIL CO.

Petition for Special Relief

OCTOBER 12, 1978.

Take notice that on September 7, 1978, Sun Oil Company (Petitioner), Two North Park East, Box 20, Dallas, Tex. 75221, filed a petition for special relief in Docket No. RI78-92 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner requests authorization to charge 50.60 cents per Mcf at 14.65 psia, subject to Btu adjustment for the C. J. Lake, Well No. 1. In order to insure continued production from the C. J. Lake, Well No. 1, Petitioner was required to pull the tubing and set a packer just above the Morrow Zone to isolate the casing leak in the Hoover Zone. Petitioner currently is entitled to collect a base rate of 24.5 cents per Mcf at 14.65 psia, subject to contract tax reimbursement provisions and Btu adjustment provisions for gas delivered to Michigan Wisconsin from the C. J. Lake, Well No. 1 under Gas Rate Schedule No. 86. Petitioner is also currently collecting a base rate of 29.3398 cents [1] per Mcf at 14.65 psia, subject to tax reimbursement and Btu adjustment for gas delivered to Colorado Interstate from the C. J. Lake, Well No. 1, pursuant to Gas Rate Schedule No. 338.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 3, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29401 Filed 10-17-78; 8:45 am]

[1] This rate was set in Opinion No. 749 as the national rate.

[6740-02-M]

[Docket No. RI78-91]

SUN OIL CO.

Petition for Special Relief

OCTOBER 12, 1978.

Take notice that on September 5, 1978, Sun Oil Co. (Petitioner), Two North Park East, Box 20, Dallas, Tex. 75221, filed a petition for special relief in docket No. RI78-91 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner requests authorization to charge $1.819 Mcf at 14.65 psia, subject to Btu adjustment for the sale of gas from its G. H. Brandt Well No. 5. To remedy the effect of declining pressure in said well and thus insure continued production, Petitioner proposes to install compression equipment. Petitioner is currently entitled to collect a base rate of 29.3398 cents per Mcf at 14.65 psia plus 2.3789 cents tax reimbursement and subject to Btu adjustment.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 3, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29402 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-542]

TEXAS EASTERN TRANSMISSION CORP.

Application

OCTOBER 11, 1978.

Take notice that on September 28, 1978, Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, Tex. 77001, filed an application, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Texas Eastern to construct necessary interconnection facilities and to transport natural gas for both Elizabethtown Gas Co. (Elizabethtown) and New Jersey Natural Gas Co. (New Jersey), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Elizabethtown and New Jersey are resale customers of Texas Eastern. It is further stated both companies own an equal interest in the No. 1 Carl Loewer Well located in Evangeline Parish, La., totaling 700 dekatherms equivalent of natural gas per day per company. Natural gas quantities, not to exceed 700 dekatherms per day for each participant, would be delivered to Texas Eastern at a point to be constructed on its 30-inch No. 14 line located in St. Landry Parish, La. between Texas Eastern and Natural Gas Gathering Co., an affiliate of Elizabethtown, it is said. Texas Eastern would then redeliver the stated quantities to the existing points of interconnections with Elizabethtown and New Jersey located in Middlesex County, N.J. It is stated that construction of the facilities as described above is estimated to cost approximately $53,350, and Elizabethtown and New Jersey would reimburse Texas Eastern for all construction costs, it is said.

It is stated that Texas Eastern will charge the two customers its Rate Schedule TS-1 (Fourth Revised Volume No. 1) amount as filed with the Commission and as the same may be hereafter revised or changed.

It is stated that the proposed transportation service is required in order to assist in offsetting curtailments which may be experienced by both customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29384 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-85]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Further Amendment

OCTOBER 11, 1978.

Take notice that on September 20, 1978, Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-85[1] an amendment pursuant to section 7(c) of the Natural Gas Act to the pending application therein for a certificate of public convenience and necessity authorizing the transportation of natural gas for Union Gas Co. (Union), all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

In its original application Transco seeks authorization to transport on an interruptible basis for Union volumes of gas which Union's president, John H. Ware 3d (Ware), has developed through participation in an exploration and drilling venture and which he would sell to Union. The transportation would take place from a point of delivery to Transco on its main line in Evangeline Parish, La., to existing points of delivery to Union in Pennsylvania, and is limited so as to preclude Union from receiving from Transco on any day a total quantity of purchase and transportation gas in excess of its authorized CD-3 entitlement, it is said. It is asserted that the additional facilities would be required to render the proposed service.

It is indicated that the transportation agreement dated October 1, 1976, herein specifies a maximum daily quantity of 185 Mcf which would be available for transportatoin from production of Ware in the East Blue Point field in Evageline Parish. It is asserted that additional development in the field has made available to Ware up to 750 Mcf per day and the parties have executed an agreement which would increase the maximum daily quantity for transportation to 750 Mcf.

Transco proposes to charge Union 24 cents per dekatherm equivalent of gas transported, and would retain 4.4 percent of the volumes for compressor fuel and line loss makeup.

Any person desiring to be heard or to make any protest with reference to said amendment should on or befor November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29385 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-30]

UNITED GAS PIPE LINE CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 11, 1978.

Take notice that United Gas Pipe Line Co. (United) on September 29, 1978, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1.

United states that the purpose of this filing is to reflect a decrease in the rate for gas purchased from Pennzoil Producing Co. and Pennzoil Co. (Pennzoil) pursuant to the Stipulation and Settlement Agreement dated December 29, 1977, in Docket No. RP75-30. The proposed decrease is based on Applicant's prior understanding that its operations would be nonjurisdictional, and can be placed in operation immediately.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29386 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-94]

UNITED GAS PIPE LINE CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 11, 1978.

Take notice that United Gas Pipe Line Co. (United) on September 29, 1978, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1.

United states that the purpose of this filing is to reflect a decrease in the rate for gas purchased from Union Indicates that said Agreements provide for revisions in certain rates under Interchange Agreement.

Union requests a proposed effective

ing to Availability of Gas (Gas Availability Agreement) entered into among United, Pennzoil Producing and Pennzoil Co. on January 2, 1976, pursuant to the Stipulation and Set-

FPC Gas Tariff, Original Volume No. 1.

Because this is a rate decrease, Western requests that the notice provision

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therein must file a petition to intervene in accordance with the Commission's rules. Persons having heretofore filed need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29389 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-7]

TRI-STATE GAS CO.

Application

OCTOBER 12, 1978.

Take notice that on October 4, 1978, Tri-State Gas Co. (Applicant), Rural Route, Hazelton, Ind. 47640, filed in Docket No. CP79-7 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and compression facilities and the transportation and sale of between 2,500 Mcf and 5,000 Mcf of natural gas per day to Citizens Resource Development Corp. (Citizens Resource), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in the event the Commission decides in Docket No. CP78-325 that it is not a gatherer of natural gas and is thus subject to the jurisdcition of the Commission, it proposes to construct and operate approximately 11 miles of 4-inch pipeline and 3 miles of 2-inch pipeline and related gas processing facilities to be used to transport between 2,500 Mcf and 5,000 Mcf of natural gas per day which it would sell to Citizens Resource for sale to and use by Citizens Gas & Coke Utility. Applicant further states that it would purchase casinghead gas presently being flared from operators in southern Knox and northern Gibson Counties, Ind., would transport such gas to its processing facilities in southern Knox County for processing and compressing and would sell the gas to Citizens Resource.

Applicant asserts that it would make no specific charges for its services to the producers or Citizens Resource but contemplates purchasing, processing and selling the gas to Citizens Resource at a predetermined contract price.

It is further asserted that Applicant would deliver the gas to Texas Gas Transmission Corp. (Texas Gas) which would deliver the gas to Citizens Resource at Citizens Resource's storage facilities in Greene County, Ind.

Applicant states that the total estimated cost of the pipeline system and processing facilities is $1,500,000. It is further stated that construction of the proposed facilities was undertaken, based on Applicant's prior understanding that its operations would be nonjurisdictional, and can be placed in operation immediately.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29403 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-624]

UNION ELECTRIC CO.

Proposed Revised Service Schedule

OCTOBER 6, 1978.

Take notice that on September 25, 1978, Union Electric Co. (Union) tendered for filing an Amendment and revised Schedule II to the Interchange Agreement dated February 2, 1968, between Union and Arkansas-Missouri Power Co.

Union indicates that said Agreements provide for revisions in certain rates under Interchange Agreement.

Union requests a proposed effective date of September 15, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29367 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP71-29, (Phase III) et al.]

UNITED GAS PIPELINE CO.

Compilation of Restricted Service List

OCTOBER 6, 1978.

The present service list in *United Gas Pipeline Company,* Docket No. RP71-29, et al, contains in excess of 250 parties. Since many parties are only interested in the Phase II portion of Docket No. RP71-29, et al, it would be inefficient to rquire service of Phase III pleadings on all parties on the present service list. A restricted service list for the Phase III proceeding will, therefore, be developed.

All parties desiring to receive documents in the Phase III proceeding shall file with the Secretary their name and mailing address on or before October 23, 1978. The Secretary will then compile a restricted service list for utilization in the Phase III proceeding and serve it on the parties in Phase III.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29368 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-30]

UNITED GAS PIPE LINE CO.

Certification of Settlement Agreement

OCTOBER 6, 1978.

Take notice that on October 14, 1977, Administrative Law Judge Lande certified a proposed settlement agreement to the Commission in Docket No. RP75-30. This agreement proposes to resolve all issues in the captioned docket except for the reserved issues of depreciation rates, rate of return, interest reimbursement costs, and gas costs. Due to administrative error this Notice of Certification of Settlement Agreement was not issued in a more timely fashion.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Comments will be entertained only on the merits of the settlement agreement and not on reserved issues. Initial comments will be filed with the Commission on or before November 1, 1978, and reply comments will be filed on or before November 22, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29386 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. CI78-1118]

UNITED GAS PIPE LINE CO.

Petition for Declaratory Order

OCTOBER 12, 1978.

Take notice that on August 21, 1978, United Gas Pipe Line Co. (United) filed in Docket No. CI78-1118 a petition pursuant to section 554 of the Administrative Procedure Act (5 USC 554(c)) and 18 CFR 1.7(c) requesting that the Commission issue a declaratory order clarifying the respective rights of United and Texas Eastern Transmission Company (Texas Eastern) to certain gas produced by Cavalla Energy Exploration Company (Cavalla).

United states that the gas in question is subject to the Agreement Relating to Availability of Gas (Gas Availability Agreement) entered into among United, Pennzoil Producing and Pennzoil Co. on January 2, 1976, pursuant to the Stipulation and Settlement Agreement approved by the Commission in *Investigation of Pennzoil Company—United Gas Pipeline Company Spinoff and Related Transactions et al., Docket Nos. RP74-87, et al.*[1] This gas was produced from two wells located on acreage farmed out to Cavalla by Pennzoil Producing Co. (Pennzoil Producing) in the Tatton Ranch Area, Refugio County, Tex. United states that this acreage was erroneously described in a 1974 contract between Belco Petroleum Corp. (Belco) and Texas Eastern and that Belco has recently filed in Docket No. CI75-137 to amend the prior Commission certification to exclude the acreage in question. United further states that Cavalla is selling the disputed gas to Texas Eastern without complying with the terms of the Gas Availability Agreement requiring United's consent.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 3, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure applicable in this proceeding (49 CFR Part 1000). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29404 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP72-41 (PGA78-2)]

WESTERN TRANSMISSION CORP.

Proposed Chonges

OCTOBER 6, 1978.

Take notice that Western Transmission Corp. (Western), on September 29, 1978, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet: Ninth Revised Sheet No. 3-A, superseding Eighth Revised Sheet No. 3-A.

Western states the proposed changes would decrease the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

Because this is a rate decrease, Western requests that the notice provision otherwise applicable be waived so as to permit the proposed rates to become effective October 1, 1978.

Copies of this filing have been served upon Colorado Interstate Gas Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29369 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP72-41 (PGA78-2)]

WESTERN TRANSMISSION CORP.

Proposed Chonges

OCTOBER 10, 1978.

Take notice that Western Transmission Corp. (Western), on September 28, 1978, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet: Eighth Revised Sheet No. 3-A, superseding Second Substitute Seventh Revised Sheet No. 3-A.

Western states that the proposed changes would increase the monthly charges for purchased gas to Colorado Interstate Gas Co., Western's sole jurisdictional customer, pursuant to the provisions of section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

Although this is a rate increase, Western requests that the notice provision otherwise applicable be waived so as to permit the proposed rates to become effective July 1, 1978, insofar as statements and payments will not be rendered and made before August 26, 1978.

Copies of this filing have been served upon Colorado Interstate Gas Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

[1] Pennzoil Producing, Texas Eastern and United were all parties to Docket No. RP74-87 and supported the settlement agreement. Cavalla was not a party to the proceeding.

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Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29388 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-55 and RP78-91]

WEST TEXAS GATHERING CO.

Revised Tariff Filing

OCTOBER 10, 1978.

Take notice that on September 11, 1978, West Texas Gathering Co. ("West Texas") filed with the Commission a supplement to its April 13, 1978 tariff filing in Docket No. RP78-55; a new docket number (RP78-91) has been assigned to this revised filing. West Texas states that it is filing a complete new set of materials to supplement the April filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretay.

[FR Doc. 78-29378 Filed 10-17-78; 8:45 am]

[6740-02]

[Docket No. ER78-512]

WISCONSIN ELECTRIC POWER CO.

Compliance Filing

OCTOBER 10, 1978.

Take notice that Wisconsin Electric Power Co. (WEP) On September 29, 1978, submitted what WEP describes as a compliance filing with ordering paragraph (B) of the Commission's suspension order issued August 31, 1978, in the above captioned proceeding. WEP states that this compliance filing contains reduced rates to all affected wholesale customers, including the Cities of New London and Shawano.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petiton to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29389 Filed 10-17-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-5]

WISCONSIN PUBLIC SERVICE CORP.

Filing

OCTOBER 12, 1978

Take notice that Wisconsin Public Service Corp. (WPSC) on October 2, 1978, tendered for filing letter agreements to the Partical Requirement Service Agreement with Consolidate Water Power Co. WPSC states that this agreement will revised the contract demand quantities for peak load, intermediate load, and base load in accordance with Exhibit 1 of the agreement, Paragraph 6, Requirements.

WPSC proposes an effective date of October 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Consolidated Water Power Co., according to WPSC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29405 Filed 10-17-78; 8:45 am]

[3128-01-M]

Office of Intergovernmental and Institutional Relations

CONSUMER AFFAIRS ADVISORY COMMITTEE

Change in Meeting Date

This notice is given to advise of a change in date of the meetings of the Consumer Affairs Advisory Committee and Subcommittees. The Subcmmittees will meet Thursday, November 2, 1978, from 9 a.m. to 5 p.m., in Rooms 8E069 and 8E083, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., and the Full Committee will meet Friday, November 3, 1978, from 9 a.m. to 5 p.m., in Room 8E069, Forrestal Building, rather than Monday, October 16, and Tuesday, October 17, 1978, as previously announced. A notice of meeting was published in the issue of September 28, 1978 (43 FR 44563 and 44564).

Issued at Washington, D.C., on October 13, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-29293 Filed 10-17-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 989-2; OPP-180172C]

MISSISSIPPI AUTHORITY FOR THE CONTROL OF FIRE ANTS

Proposed Emergency Exemptions for Use of Ferriamicide To Control Fire Ants in Eight States; Comment Period

AGENCY: Environmental Protection Agency, Office of Pesticide Programs (EPA, OPP).

ACTION: Proposed emergency exemption; additional comment period.

SUMMARY: EPA is providing the opportunity for additional public comment on applications for emergency exemptions to permit use of the pesticide Ferriamicide to control fire ants in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Texas.

DATE: Comments are due by November 15, 1978.

ADDRESS: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy A. Gardner, Product Manager 15 (PM-15), Registration Division (TS-767), Office of Pesticide Programs, EPA, Room 229, East Tower, 202-426-9426.

SUPPLEMENTARY INFORMATION: In a previous issue of the FEDERAL REGISTER, EPA has published a notice of opportunity for additional public comment on the application of the Mississippi Authority for the Control of Fire Ants (Mississippi Authority) for an exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 7 U.S.C. § 136, et seq. EPA is also providing for additional public notice and comment on the similar applications of the following eight States: Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Texas.

A separate public file, available from the person designated above as the Agency contact, will contain the documents relating to the applications for these States. The Agency will accept additional comments that were not submitted during the initial comment period designated on August 25, 1978 (43 FR 38084). Since additional information will be required from the eight States to support their applications, the comment period will continue through November 15, 1978, to insure public comment on all documents submitted.

The Agency will accept comments submitted after November 15, to the extent possible consistent with orderly decisionmaking.

Dated: October 12, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-29224 Filed 10-16-78; 8:45 am]

[6560-01-M]

[FRL 989-6]

SCIENCE ADVISORY BOARD HEALTH EFFECTS RESEARCH REVIEW GROUP

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a 2-day meeting of the Health Effects Research Review Group of the Science Advisory Board will be held on November 13 and 14, 1978. The location of this meeting will be Room 3906, 401 M Street SW., Washington, D.C. 20460. The meeting will start at 9 a.m. on November 13, 1978.

The Environmental Research Development and Demonstration Authorization Act of 1978, Pub. L. 95-155, requires a special report to be prepared by the Science Advisory Board. This will be a comprehensive report to the Administrator, the President, and the Congress, concerning (1) the health effects research authorized by this Act and other laws; (2) the procedures generally used in the conduct of such research; (3) the internal and external reporting of the results of such research; (4) the review procedures for such research and results; (5) the procedures by which such results are used in internal and external recommendations on policy, regulations and legislation; and (6) the findings and recommendations of the report to the House Committee on Science and Technology entitled "The Environmental Protection Agency's Research Program with primary emphasis on the Community Health and Environmental Surveillance System (CHESS): An Investigative Report."

The 2-day meeting will be used for discussions with specific Agency staff members, for review of the findings from site visits, and for discussions and draft report writing.

The 2-day meeting will be open to the public. Any member of the public wishing to attend should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. November 8, 1978. Please ask for Mrs. Shirley Smith. The telephone number is 202-755-0263.

Dated: October 10, 1978.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 78-29287 Filed 10-17-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

BROADCAST BUREAU ACTION

Correction to Transmittal Sheet No. 8 to Volume III

OCTOBER 5, 1978.

There are errors in Transmittal Sheet No. 8 to Volume III of the FCC rules and regulations, August 1976 Edition, issued by the Government Printing Office.

The text of § 73.35 on "Multiple Ownership" of AM broadcast stations was incorrectly deleted. The text should continue to read as set forth on page 2 of this Notice.

The following paragraph (d) was omitted from § 73.1510 on "Experimental authorizations:"

(d) The FCC may request a report of the research, experimentation and results at the conclusion of the experimental operation.

In the Alphabetical Index of Rules Titles—Part 73, listings of "Multiple ownership" and "Ownership, multiple" should read § 73.35 in Subpart A on AM broadcast stations, 73.240 in Subpart B on Commercial FM stations and § 73.636 in Subpart E on TV broadcast stations (instead of § 73.1100 in each Subpart).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

§ 73.35 Multiple ownership.

(a) No license for a standard broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls: one or more standard broadcast stations and the grant of such license will result in any overlap of the predicted or measured 1 mV/m groundwave contours of the existing and proposed stations, computed in accordance with § 73.183 or § 73.186; or one or more television broadcast stations and the grant of such license will result in the predicted or measured 2 mV/m groundwave contour of the proposed station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community of license of one of the television broadcast stations or will result in the Grade A contour(s) of the television broadcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the proposed station; or a daily newspaper and the grant of such license will result in the predicted or measured 2 mV/m contour, computed in accordance with § 73.183 or § 73.186, encompassing the entire community in which such newspaper is published.

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(b) No license for a standard broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other standard broadcast station if the grant of such license would result in a concentration of control of standard broadcasting in a manner inconsistent with the public interest, convenience, or necessity. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers, or directors to have a direct or indirect interest in, or be stockholders, officers, or directors of, more than seven standard broadcast stations, or of three broadcast stations in one or several services, where any two are within 100 miles of the third (measured city to city), if there is primary service contour overlap of any of the stations.

[§ *73.35(b) amended eff. 4-22-77; III(76)-2*]

(c) No renewal of license shall be granted for a term extending beyond January 1, 1980, to any party that as of January 1, 1975, directly or indirectly owns, operates or controls the only daily newspaper published in a community and also as of January 1, 1975, directly or indirectly owns, operates or controls the only commercial aural station or stations encompassing the entire community with a city-grade signal during daytime hours (predicted or measured signal for AM, predicted for FM). The provisions of this paragraph shall not require divestiture of any interest not in comformity with its provisions earlier than January 1, 1980. Divestiture is not required if there is a separately owned, operated or controlled television broadcast station licensed to serve the community.

NOTE 1.—The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

NOTE 2.—In applying the provisions of paragraphs (a) and (c) of this section, partial (as well as total) ownership interests in corporate broadcast licensees and corporate daily newspapers represented by ownership of voting stock of such corporations will be considered.

NOTE 3.—Except as provided in Notes 4 and 5 of this section, in applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, only those stockholders need be considered who are officers or directors or who directly or indirectly own 1 percent or more of the outstanding voting stock.

NOTE 4.—In applying the provisions of paragraphs (a), (b) and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, an investment company as defined in 15 U.S.C. section 80a-3 need be considered only if it directly or indirectly owns 5 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the investment company. *Provided, however,* That the investment company exercises no control over the management or policies of the corporation. Holdings by investment companies under common management shall be aggregated.

NOTE 5.—In applying the provisions of paragraphs (a), (b), and (c) of this section to the stockholders of a corporation which has more than 50 voting stockholders, a bank holding stock through its trust department in trust accounts or an insurance company need be considered only if such bank or insurance company directly or indirectly owns 5 percent or more of the outstanding voting stock or if officers or directors of the corporation are representatives of the bank or insurance company. *Provided, however,* That the bank or insurance company exercise no control over the management or policies of the corporation. Holdings by banks or insurance companies shall be aggregated if the banks or insurance companies have any right to determine how the stock will be voted.

NOTE 6.—In calculating the percentage of ownership of voting stock under the provisions of Notes 4 and 5, if an investment company, bank or insurance company, directly or indirectly owns voting stock in a company which in turn directly or indirectly owns 50 percent or more of the voting stock of a corporate broadcast licensee or corporate daily newspaper, the investment company, bank or insurance company shall be considered to own the same percentage of outstanding shares of the corporate broadcast station licensee or corporate daily newspaper as it owns of outstanding voting shares of the company standing between it and the licensee corporation or corporate daily newspaper. If the intermediate company owns less than 50 percent of the voting stock of a corporate broadcast station licensee or corporate daily newspaper, the holding of the investment company, bank or insurance company need not be considered under the 5-percent rule, but officers or directors of the licensee corporation or of the corporate daily newspaper who are representatives of the intermediate company shall be deemed to be representatives of the investment company, bank or insurance company if the investment company, bank or insurance company owns 5 percent or more of the intermediate company.

[§ *73.35 Notes 5 & 6 amended eff. 8-29-77; III (76)-4*]

NOTE 7.—In cases where record and beneficial ownership of voting stock of a corporate broadcast station licensee or corporate daily newspaper which has more than 50 voting stockholders are not identical, e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for the benefit of customers, trusts holding stock as record owners for the benefit of designated parties, and insurance companies holding stock, the party having the right to determine how the stock will be voted will be considered to own it for the purposes of these rules.

NOTE 8.—Paragraph (a) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities. Said paragraph will not apply to applications for increased power for Class IV stations; to applications for assignment of license or transfer of control filed in accordance with § 1.540(b) or § 1.541(b) of this chapter, or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled standard broadcast stations and if no new encompassment of communities proscribed in paragraph (a) of this section as to commonly owned, operated, or controlled standard broadcast stations and television broadcast stations or daily newspapers would result. Said paragraph will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of standard broadcast stations with each other no greater than already existing. (The resulting areas of overlap of contours of standard broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting overlap areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience, or necessity.) Paragraph (a) of this section will not apply to any application by a party who directly or indirectly owns, operates, or controls a UHF television broadcast station where grant of such application would result in the Grade A contour of the UHF station encompassing the entire community of license of a commonly owned, operated, or controlled standard broadcast station or would result in the entire community of license of such UHF station being encompassed by the 2 mV/m contour of such standard broadcast station. Such community encompassment cases will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Commonly owned, operated, or controlled broadcast stations, with overlapping contours or with community-encompassing contours prohibited by paragraph (a) of this section may not be assigned or transferred to a single person, group, or entity, except as provided above in this note. If a commonly owned, operated or controlled standard broadcast station and daily newspaper fall within the encompassing proscription of paragraph (a) of this section, the station may not be assigned to a single person, group or entity if the newspaper is being simultaneously sold to such single person, group or entity.

NOTE 9.—Paragraph (a) of this section will not be applied to cases involving television stations which are primarily "satellite" operations. Such cases will be considered on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Whether or not a particular television broadcast station which does not present a substantial amount of locally originated programming is primarily a "satellite" operation will be determined on the facts of the particular case. An authorized and operating "satellite" television station the Grade A contour of which completely encompasses the community of license of a commonly owned, operated, or controlled standard broadcast station, or the community of license of which is completely encompassed by the 2 mV/m contour of such standard broadcast station may subsequently become a "non-satellite" station with local studios and locally originated programming. However, such commonly owned, operated, or controlled standard and "non-satellite" television station may not be transferred or assigned to a single person, group, or entity except as provided in Note 8.

NOTE 10.—For the purposes of this section a daily newspaper is one which is published four or more days per week, which is in the English language, and which is circulated generally in the community of publication. A college newspaper is not considered as being circulated generally.

NOTE 11.—For the purposes of the three station regional concentration provision of this section, (a) an application raising a regional concentration of control issue which involves one or more UHF television stations will be treated on a case-by-case basis, consistent with the precedents of UHF determinations made under the one-to-a-market proscriptions of this section, and (b) standard and FM broadcast stations licensed to communities which are within 15 miles (city reference point to reference point) and/or within the same urbanized area (as mapped by the U.S. Bureau of the Census), will be considered as a combination and counted as one station.

[§ *73.35 Note 11 added eff. 1-16-78; III (76)-5*]

[FR Doc. 78-29218 Filed 10-17-78; 8:45 am]

[6712-01-M]

DEMAREE ENTERPRISES OF TEXAS, INC. ET AL.

FM Broadcast Application Ready and Available for Processing

Released: October 13, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: November 15, 1978.

FM broadcast application ready and available for processing pursuant to § 1.573(d) of the Commission's rules.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 16, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of McDougal Broadcasting, Inc. (File No. BPH-10652), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under Section 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to Section 1.584.

BPH-10889 New, Victoria, Tex., Demaree Enterprises of Texas, Inc., Req: 107.9 MHz, No. 300; 100 kW; 443 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29350 Filed 10-17-78; 8:45 am]

[6712-01-M]

SOUNDPRO, INC.

Adopted: October 6, 1978.

Released: October 11, 1978.

By the Chief, Broadcast Facilities Division.

Cutoff date: November 15, 1978.

AM and FM Broadcast applications ready and available for processing pursuant to §§ 1.571(c) and 1.573(d) of the Commission's rules.

Notice is hereby given that the AM and FM broadcast applications listed below will be considered as ready and available for processing on November 16, 1978. Since the listed applications were timely filed in response to cutoff Notice B92401, no other applications which involve conflicts with these applications may be filed. Rather the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BP-21,100 New, Nashua, N.H., Soundpro, Inc., Req: 900 Khz, 1 Kw; 251 feet.
BP-21,101 New, Nashua, N.H., Merrimack Valley Broadcasting, Inc., Req: 900 Khz, 1 Kw; 250 feet.
BP-21,102 New, Nashua, N.H., Sunrise Broadcasting Corp., Req: 900 Khz, 1 Kw; 386 feet.
BP-21,103 New, Nashua, N.H., Gateway Broadcasting Associates, Req: 900 Khz, 1 Kw; 250 feet.
BPH-10,923 New, Nashua, N.H., Soundpro, Inc., Req: 106.3 MHz, No. 292; 300 feet.
BPH-10,925 New, Nashua, N.H., Sunrise Broadcasting Corp., Req: 106.3 MHz, No. 292; 300 feet.
BPH-10,926 New, Nashua, N.H., Merrimack Valley Broadcasting, Inc., Req: 106.3 MHz, No. 292; 165 feet.
BPH-10,927 New, Nashua, N.H., Community Service Broadcasting of Nashua, Inc., Req: 106.3 MHz, No. 292; 163.15 feet.
BPH-10,928 New, Nashua, N.H., Gateway Broadcasting Associates, Req: 106.3 MHz, No. 292; 300 feet.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretry.

[FR Doc. 78-29351 Filed 10-17-78; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 256]

KANEB SERVICES, INC., AND SOUTHWESTERN GROUP FINANCIAL, INC.

Receipt of Application for Approval of the Acquisition of Southwestern Group Financial, Inc.

In the matter of Kaneb Services Inc., 5251 Westheimer, Houston, Tex. 77027 and Southwestern Group Financial, Inc., 333 Southwestern Boulevard, Sugar Land, Tex. 77478.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Kaneb Services, Inc., for approval, pursuant to Section 408(e) of the National Housing Act and Section 584.4 of the Regulations for Savings and Loan Holding Companies, of the acquisition of Southwestern Group Financial, Inc., a savings and loan holding company which controls United Savings Association of Texas, Houston, Texas. Said acquistion is proposed to be accomplished by the merger of Southwestern Group Financial, Inc., into SGF Acquisition Co., a wholly-owned subsidiary of Kaneb Services, Inc. Comments on the proposed acquisition should be submitted to the Director, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, Washington, D.C. 20552, by November 17, 1978.

Dated: October 13, 1978.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc. 78-29417 Filed 10-17-78; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, November 2, 1978; Thursday, November 9, 1978; and Thursday, November 30, 1978.

The meetings will convene at 10 a.m., will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to member-

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ship on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Civil Service Commission thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415, 202-632-9710.

JEROME H. ROSS,
Chairman Federal Prevailing Rate Advisory Committee.

OCTOBER 12, 1978.

[FR Doc. 78-29315 Filed 10-17-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

TRANSMITTAL RULES

Early Termination of Waiting Period of Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: The Tappan Co. is granted early termination of 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition by Smith Jones, Inc. of Tappan's air conditioning and heating division. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Tappan. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, 202-523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the FEDERAL REGISTER.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-29422 Filed 10-17-78; 8:45 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, on November 8, 1978, at the National Institutes of Health, Building 31, Conference Room 8, Bethesda, Md. The meeting will be open to the public from 9 to 10 a.m., to discuss administrative reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10 a.m. to 5 p.m. for the review, discussion, and evaluation of individual contract proposals. The proposals and the discussions could reveal trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals.

Further information concerning the meeting may be obtained from Dr. Robert J. Wineman, Associate Chief, Artificial Kidney/Chronic Uremia Program, National Institute of Arthritis, Metabolism, and Digestive Diseases, NIH, Building 31, Room 9A05, Bethesda, Md. 20014, 301-496-4881.

Mr. James N. Fordham, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md., 301-496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.849, National Institutes of Health.)

Dated: October 12, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR DOC 78-29309 Filed 10-17-78; 8:45 am]

[4110-08-M]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on November 28-29, 1978, from 8:30 a.m. to 5 p.m. on November 28, and from 8:30 a.m. to adjournment on November 29, in the board room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Md.

This meeting will be open to the public from 8:30 to 11 a.m. on November 28 for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 28 from 11 a.m. to 5 p.m., and from 8:30 a.m. to adjournment on November 29 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications.

Dr. Roger W, Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Md. 20014, telephone 301-496-4191, will provide summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health.)

Dated: October 12, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[4110-08-M]

MATERNAL AND CHILD HEALTH RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on November 29-30, 1978, in the Landow Building, Room A, first floor, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on November 29 from 9 a.m. to 10:30 a.m. to discuss items relative to the Committee's activities including announcements by the Acting Director, Center for Research for Mothers and Children, the Chiefs, Human Learning and Behavior, Pregnancy and Infancy, and Developmental Biology and Nutrition Branches and the Executive Secretary of the Committee. Concept clearance for contract programs of the Center for Research for Mothers and Children will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, United States Code, sections 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 29 from 10:30 a.m. to adjournment on November 30 for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Majorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., 301-496-1848, will provide a summary of the meeting and a roster of committee members. Dr. Jane Showacre, Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building, Room 7C16, National Institutes of Health, Bethesda, Md., 301-496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: October 11, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-29313 Filed 10-17-78; 8:45 am]

[4110-08-M]

NATIONAL HEART, LUNG, AND BLOOD ADVISORY COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, November 20-21, 1978, from 9 a.m. to 5 p.m. at the National Institutes of Health, Building 31, C Wing, Conference Room 10, Bethesda, Md.

This meeting will be open to the public on November 20 from 9 a.m. to 5 p.m. and on November 21 from 9 a.m. to approximately 3 p.m. for the discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on November 21 from approximately 3 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A-03, National Institutes of Health, Bethesda, Md. 20014, 301-496-4236, will provide summaries of the meeting and roster of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A-17, 301-496-7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health.)

Dated: October 12, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-29311 Filed 10-17-78; 8:45 am]

[4110-08-M]

POPULATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on November 14-15, 1978, in Conference Room "A" of the Landow Building at 7910 Woodmont Avenue in Bethesda, Md.

This meeting will be open to the public on November 14 from 9 to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title, 5, U.S. Code 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 14 from 10:30 a.m. to adjournment on November 15 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., 301-496-1848, will provide a summary of the meeting and roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National Institutes of Health, Bethesda, Md., 301-496-6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health.)

Dated: October 11, 1978.

SUZANNE H. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-29312 Filed 10-17-78; 8:45 am]

[4110-08-M]

VISION RESEARCH PROGRAM COMMITTEE

Subcommittee on Federal and State Insured Programs will be held in the Dynasty Room of Holiday Inn, 1850 North Fort Myer Drive, Arlington, Va.

The Assistant Secretary for Personnel Administration currently is responsible for Department policies, procedures, and programs covering: Equal

implementation of an effective departmental affirmative action plan; the prompt processing of EEO complaints; and the monitoring of employment of minorities and ac-

Secretary for Personnel Administration. Chapter AH-1 specifies the mission and functions of the Reviewing Authority.

G. Departmental Grant Appeals Board.

data system to meet the needs of affirmative action planning throughout the Department. Responds to out side requests for employment data, such as those related to

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[4110-08-M]

VISION RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, November 16, 1978, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on Thursday, November 16, from 8:30 to 10 a.m. for opening remarks and discussion of program guidelines. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10 a.m. on November 16 until adjourment on November 16 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A-25, telephone 301-496-5248 will furnish summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-06, telephone 301-496-5561 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health.)

Dated: October 11, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-29310 Filed 10-17-78; 8:45 am]

[4110-02-M]

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS SUBCOMMITTEE ON FEDERAL AND STATE INSURED PROGRAMS

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Financial Aid to Students Subcommittee on Federal and State Insured Programs will be held in the Dynasty Room of Holiday Inn, 1850 North Fort Myer Drive, Arlington, Va. on Thursday, November 2, 1978 and, if business is not concluded, the meeting will be reconvened on Firday, November 3, 1978.

The Advisory Council on Financial Aid to Students is established under section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The Committee shall advise the Commissioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

All meetings shall be open to the public. The agenda of the Subcommittee meeting on November 2 shall include discussion of the options to be recommended by the Council for reauthorization by the Congress of the Federal and State Guaranteed Loan Programs.

Records shall be kept of all Council proceedings and will be available for public inspection at the Council's Office, located in Room 3661, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed in Washington, D.C., on October 13, 1978.

WARREN T. TROUTMAN,
Office of Education Delegate.

[FR Doc. 78-29347 Filed 10-17-78; 8:45 am]

[4110-12-M]

Office of the Secretary

OFFICE OF THE ASSISTANT SECRETARY FOR PERSONNEL ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

This notice amends and supersedes in its entirely the interim organization of the Office of the Assistant Secretary for Personnel Administration as stated in Part A, Chapter AH, "Office of the Assistant Secretary for Personnel Administration," and published at 42 FR 32846, June 28, 1977. In addition, this notice specifies a reorganization of equal employment activities at the Department level. It supersedes the notice published at 38 FR 16927, June 27, 1973. Also, this notice prescribes a reorganization of personnel management organization at the Department level. It supersedes notices published at 38 FR 34753, December 18, 1973; 40 FR 11626, March 12, 1975; 41 FR 7979, February 23, 1976; 41 FR 27103, July 1, 1976; and 42 FR 18133, April 5, 1977.

The Assistant Secretary for Personnel Administration currently is responsible for Department policies, procedures, and programs covering: Equal employment opportunity, personnel management and operations, and committee management. In addition the office provides administrative support to the Reviewing Authority (Civil Rights) published at 37 FR 7357, April 13, 1972 and 38 FR 1072, January 8, 1973; and the Departmental Grant Appeals Board published at 43 FR 20561, May 12, 1978. The previously published notices for the Reviewing Authority and the Grant Appeals Board will remain in effect.

The goal of the reorganization is to establish a creative personnel system that provides vigorous leadership in the areas of recruitment, training and education, upward mobility, executive development, equal opportunity, employee relations, and employee compensation and benefits. The new chapter reads as follows.

SECTION AH.00 Mission. The Assistant Secretary for Personnel Administration (ASPER) is responsible for administering a responsive, service-oriented personnel system having as its principal objective the Department's missions and programs. The Assistant Secretary provides leadership and direction in the development of policies and procedures related to recruitment, motivation, utilization and training, and career development of departmental officials and employees, consistent with sound personnel management and administration, and with laws, rules, regulations and sound practices related to Federal equal employment opportunity programs.

SEC. AH.10 Organization. The Assistant Secretary for Personnel Administration reports directly to the Secretary and supervises the following offices:

Office of Equal Employment Opportunity.
Office of Personnel.
Office of Special Initiatives.
Executive Office.

The Assistant Secretary also provides administrative support for the Reviewing Authority (Civil Rights) and the Departmental Grant Appeals Board which are organizationaly assigned to his office.

SEC. AH.20 Functions. A. Immediate Office of the Assistant Secretary. Provides executive direction, leadership, and guidance to all ASPER components. Oversees the development and implementation of departmentwide policies and programs covering recruitment, training, and education, upward mobility, executive development, equal employment opportunity, employee relations, and employee compensation and benefits. The Assistant Secretary also serves as the Director for Equal Employment Opportunity for the Department.

B. Office of Equal Employment Opportunity. The office functions under the Deputy Assistant Secretary for EEO who reports directly to the Assistant Secretary and oversees the formulation, interpretation, and implementation of policies and procedures related to the Department's equal employment opportunity programs, activities, and goals. The Deputy Assistant Secretary provides leadership and is responsible for the

implementation of an effective departmental affirmative action plan; the prompt processing of EEO complaints; and the monitoring of employment of minorities and activities related to the status of women.

C. Office of Personnel. The office functions under a Deputy Assistant Secretary for Personnel who reports directly to the Assistant Secretary and is responsible for providing leadership and direction in the formulation and implementation of policies and programs to promote efficient and effective personnel management, training, and administration in the Department. Represents the Department on general personnel matters with the Civil Service Commission, the Congress, other Federal agencies, and the public and in coordination with the Office of the Assistant Secretary for Legislation, and the Congress, oversees the operation of the departmental payroll system.

D. Office of Special Initiatives. Identifies and develops programs within ASPER's functional scope for research and demonstration projects. Provides technical assistance and support services to special assistants assigned to ASPER, agency task forces, and special study groups that are formed to conduct special projects and policy research efforts. Serves as the Department incentive awards office: Formulates policy, develops and coordinates programs, insures activities are in accordance with prescribed regulations, and provides assistance to principal operating components and regional offices on activities related to the Department-wide incentive awards and employee suggestion programs. Acts as the departmental protocol office which has responsibility for the coordination and execution of all arrangements for Secretarial swearing-in ceremonies and other official functions over which the Secretary presides. Provides technical assistance to the Principal Operating Components and other HEW organizations on protocol matters, including providing guidance on funding and administrative support for such activities. Provides guidance on the control and disposal of gifts and decorations from foreign governments.

E. Executive Office. Provides leadership, technical assistance, and staff advice to insure efficient administrative support for the technical operations of the ASPER. Represents the Assistant Secretary in all budgetary and financial matters and is responsible for planning, development, and coordination of the budget; reviews and analyzes all budget requests, prepares operating budgets, and maintains a funds control system. Maintains position control data and oversees the implementation of decisions involving staffing; develops staffing requirements, coordinates recruitment efforts, reviews position descriptions and reviews and coordinates all personel action requests.

Participates in review and planning sessions, advises on the administrative and management implications on policy and program proposals, and participates in work plans, manpower utilization and program operation reviews.

Administers support activities, such as correspondence control, allocation of space, property management, and procurement; assesses organizational staffing and related needs, and develops and provides administrative data pertinent to the overall operation of the organization.

F. Reviewing Authority (Civil Rights). The Reviewing Authority is organizationally assigned to the Office of the Assistant Secretary for Personnel Administration. Chapter AH-1 specifies the mission and functions of the Reviewing Authority.

G. Departmental Grant Appeals Board. The Departmental Grant Appeals Board is organizationally assigned to the Office of the Assistant Secretary for Personnel Administration. Chapter AHF specifies the mission and functions of the GAB.

SEC. AH.30 Order of Sucession. During the absence or disability of the Assistant Secretary for Personnel Administration or in the event of a vacancy in that office, one of the two Deputy Assistant Secretaries will be designated to serve as the Acting Assistant Secretary for Personnel Administration. In the event of the designation of the Deputy Assistant Secretary for Personnel as the Acting Assistant Secretary, the Deputy Assistant Secretary for Equal Employment Opportunity will serve as the Director of Equal Employment Opportunity for the Department.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

Office of Equal Employment Opportunity

SEC. AHE.00 Mission. The Office of Equal Employment Opportunity has responsibility for planning, implementing, and monitoring a Department-wide equal employment opportunity program that assures that current and future employees receive equal consideration for employment and advancement. The office provides leadership, guidance, and assistance to the Department's agencies and regions in the conduct of EEO activities.

SEC. AHE.10 Organization. The Office of Equal employment Opportunity is headed by the Deputy Assistant Secretary for EEO who reports directly to the Assistant Secretary for Personnel Administration and supervises the following offices:

Office of Affirmative Action and Data Analysis.
Handicapped Employment Program.
Office of Complaints analysis and Monitoring.
Minorities Employment Program.
Federal Women's Program.

SEC. AHE.20 Functions. A. The Immediate Office of the Deputy Assistant Secretary for Equal Employment Opportunity provides leadership and guidance to all departmental components in the development and implementation of an effective equal employment opportunity program. In the absence of the Assistant Secretary for Personnel Administration the Deputy Assistant Secretary for EEO is delegated authority to act as the Director Equal Employment Opportunity for the Department.

B. The Office of Affirmative Action and Data Analysis is responsible for the overall management of the Department's affirmative action program for EEO. Recommends policies regarding affirmative action and the minority data system in keeping with Federal legislation and Civil Service Commission requirements; develops and issues guidelines regarding the affirmative action plan process and coverage; coordinates the development of and prepares the final draft of the Department-wide affirmative action plan; controls the development and dissemination of minority employment data in coodination with the HEW personnel data system. Establishes and maintains uniform minority data system to meet the needs of affirmative action planning throughout the Department. Responds to out side requests for employment data, such as those related to complaints interrogatories, GAO reviews, EEO task forces, etc. and requests for standard information and reports from individuals and community groups; reviews and recommends approval or rejection of affirmative action plans for the Office of the Secretary and the principal operating components. Reviews and makes recommendations to the Assistant Secretary for Personnel administration regarding the appropriateness of items submitted by OS and the POC's for the Secretary's major initiatives tracking system (MITS). Provides technical assistance and helps to organize and provide training on affirmative action matters to managers and EEO officials throughout the Department; provides leadership and assistance to POC and regional offices in resolving affirmative action problems; serves as liaison with outside agencies, community groups, and professional associations regarding EEO affirmative action activities in the Department (representing the Department on affirmative action matters).

C. The handicapped employment program provides Department-wide leadership and direction in the development of program policy, goals, and objectives for positive, comprehensive equal employment opportunity for handicapped individuals and disabled veterans in the Department's compliance with Pub. L. 93-112 and 93-508. Provides staff support to the under Secretary and the Assistant Secretary for Personnel Administration in connection with cochairmanship of the Interagency Committee on Handicapped employees. Responsible for the development and implementation of equal employment policies to assure that all reasonable accommodations are made for qualified handicapped individuals in hiring, placement, and advancement, including the elimination or avoidance of architectural, attitudinal, and communications barriers, and through program analysis to allow better evaluation and monitoring for goal accomplishment. Conducts studies and analyzes problem areas concerning handicapped employment and advancement in the Department and designs solutions for improvement. Develops and applicant file for handicapped employees, refers applicants to selective placement coordinators and managers for consideration, and coordinates a referral system among servicing personnel offices. Develops guidelines, criteria, and standards for projecting, measuring, and reporting equal opportunity for handicapped individuals in the Department. Serves as the focal point for liaison with CSC/EEOC, Veterans Administration, and the national headquarters of community organizations seeking to increase employment and advancement for handicapped individuals and disabled veterans. Provides technical direction, advice and assistance to staffs throughout the Department who are engaged in furthering the goals of equal employment opportunity for the handicapped.

D. The Office of Complaints Analysis and Monitoring is responsible for collection, control, and analysis of all data pertaining to the processing of discrimination complaints by POC's regions and the Office of Personnel Systems Integrity, and for the preparation and timely submission of reports required by pertinent CSC regulations. The office is also responsible for providing data

to the Office of Affirmative Action and Data Analysis derived from analysis of the discrimination process for use in Affirmative Action Planning. The office is the offi-

policies and implementation of programs addressing the needs of women. Develops guidelines, criteria, and standards for projecting, measuring and reporting equal op-

nent statutes, executives orders, or directives; and oversees the assembling and maintenance of records required by section 552 of title 5, United States Code.

gration into a single documented and approved personnel/payroll system; provides continuous in-depth research and analysis of personnel transactions to detect and

and above positions. Provides Department representation to the Civil Service Commission on all executive personnel actions.

Dated: October 11, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for

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to the Office of Affirmative Action and Data Analysis derived from analysis of the discrimination process for use in Affirmative Action Planning. The office is the official source of information concerning the status of all complaints in the Department, including complaints remanded by appellate authorities; advises the Deputy Assistant Secretary for EEO by (a) monitoring complaints of discrimination to detect indications of discriminatory patterns and practices, (b) reviewing complaint files for quality and identification of deficiencies on the part of counselors, investigators, EEO Officers and such other personnel as may be involved in the processing of discrimination complaints, (c) recommending to the Deputy Assistant Secretary for EEO changes in procedures which would insure equity and improve the efficiency of the complaints process; and (d) recommending to ASPER the assumption of jurisdiction of specific cases, when appropriate. The office assumes jurisdiction of complaints against officials having authority to issue final decisions, arranges for attempts at informal resolution and issues a proposed disposition. Prepares final decisions for ASPER in the above cited circumstances.

E. The minorities employment program provides Department-wide leadership and direction in the development of goals and objectives for positive, comprehensive equal employment opportunity for minorities at all grade levels and in all occupational series. The office is further responsible for the review, development, and implementation of equal employment policies to assure that minorities have the same opportunities for employment and advancement as nonminorities. Conducts studies and analyses of problem areas concerning the employment and advancement of minorities in the Department and designs solutions for improvement. Analyzes and researches aspects of different ethnic cultures affecting conditions of employment and recommends appropriate affirmative action to increase employment for underrepresented minority groups. Develops guidelines, criteria, and standards for projecting, measuring, and reporting equal opportunity for minorities in the Department. Establishes effective relationships with the various minority communities and serves as the focal point for liaison with community and professional organizations seeking to increase employment and advancement for minorities in the Department. Directs a staff engaged in furthering the goals of equal employment opportunity for all minority groups through analysis, identification of problem areas. evaluation of progress, and making recommendations for changes and improvements in program emphasis, policies and goals.

F. The federal women's program provides Department-wide leadership and direction in the development of goals and objectives for positive, comprehensive equal employment opportunity of women at all grade levels and in all occupational series. The office is further responsible for the development and implementation of equal employment policies to assure that minority and nonminority women have the same opportunities for employment and advancement as men. Initiates and conducts studies and analyses of problems areas concerning the emplyment and advancement of women in the Department and designs programs for improvement. Provides Department-wide technical assistance to POC's/PRO's on policies and implementation of programs addressing the needs of women. Develops guidelines, criteria, and standards for projecting, measuring and reporting equal opportunity of women in the Department. Serves as the focal point for liaison with community and professional organizations seeking to increase employment and advancement opportunities for women in the Department. Directs a staff engaged in furthering the goals of equal employment opportunity for women through analyses, identification of problem areas, evaluation of progress, and making recommendations for changes and improvements in program emphasis, policies, and goals.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

OFFICE OF THE SECRETARY

Office of Personnel

SEC. AHP.00 Mission. The Office of Personnel directs the development and impementation of broad program plans under which the Department's personnel and training functions are carried out. The office represents the Department in coordination with the Office of Legislation and the Congress in all personnel matters with the Civil Service Commission, Congress, other Federal agencies and the public. The office provides guidance and assistance to all personnel offices, staff directors, and managers in the Department. The office assures the effectiveness and integrity of the Department personnel system as it relates to all current and potential employees of the Department.

SEC. AHP.10 Organization. The Office of Personnel is headed by the Deputy Assistant Secretary for Personnel who reports directly to the Assistant Secretary for Personnel Administration and supervises the following components: Office of Personnel Policy and Communications, Employee Systems Center, Office of Employee Development, Office of Personnel Systems Integrity.

SEC. AHP.20 Functions. A. The Office of Personnel provides leadership and directs and manages the Department-wide personnel system and the Departmental payroll system.

B. The Office of Personnel Policy and Communications provides leadership in and coordinates the development, issuance, and interpretation of Department personnel policies, regulations and procedures. Plans for and manages special high-priority policy or program development tasks and projects. Develops and administers programs and provides technical advice and assistance to principal operating components in the areas of staffing, position management, classification, pay administration, employee relations, labor-mamagement relations. Coordinates the Department's committee management activities. Develops systems for communicating personnel policies and information.

1. Committee Management Staff: Coordinates Department activities concerned with the establishment, management, and continuation or termination of all HEW public advisory committees and the appointment of members thereto. Gives technical advice and assistance to principal operating component staff with respect to committee management activities, prepares annual reports for the Congress, the Office of Management and Budget, and others as required by pertinent statutes, executives orders, or directives; and oversees the assembling and maintenance of records required by section 552 of title 5, United States Code.

2. Division of Personnel Policy: Coordinates and gives direction to the development and issuance of personnel policies, regulations, and instructions throughout the Department. Manages the systems for communicating personnel policies and information about personnel matters. Provides technical advice and assistance on policy, legal, or regulatory matters. Develops and gives direction to employee relations programs, including employee benefits and services and programs for counseling employees regarding job-related problems. Formulates policies and regulations covering employee conduct, conflicts of interest, adverse actions and grievances, and implements established policy related to the Privacy Act and the Freedom of Information Act concerning personnel records. Coordinates the development and issuance of policies and requirements concerned with processing personnel and payroll actions.

3. Division of Position and Pay Management: Formulates and oversees the implementation of Department-wide policies, regulations, and procedures pertaining to position management, classification, and salary and wage administration programs. Serves as the central HEW reference point for inquiries, guidance, and interpretation on position management, classification, and pay matters, and acts as HEW liaison with the Civil Service Commission with respect to such matters.

4. Division of Staffing: Formulates and oversees the implementation of Department-wide regulations, policies, and procedures pertaining to employement, placement, appraisal, and retention programs. Serves as the central HEW point for inquiries and interpretation for the above-mentioned categories as well as a central source of employment infomation for candidates seeking employment in HEW. Maintains liaison with the Civil Service Commission and other departments and agencies.

5. Division of Labor-Management Relations: Formulates and oversees the implementation of Department-wide policies, regulations, and procedures pertaining to labor-management relations. Serves as the central HEW reference point for inquires, guidance, and interpretation on labor-management relations and acts as HEW liaison with the Civil Service Commission, the Federal Labor Relations Council, the Federal Service Impasses Panel, the Assistant Secretary of Labor for Labor-Management Relations, the Federal Mediation and Conciliation Service and labor unions and other employee organizations at the international and national level. Assists in the formulation of Department personnel and administrative policies, regulations, and procedures affecting working conditions of employees.

C. Employee Systems Center: Develops and manages a timely and accurate automated payroll system for the Department, including required Treasury and GAO records and reports for the civilian workforce of the Department and the PHS Commissioned Corps; operates the Department payroll accounting function, including all required records, reports, certifications, and general ledger data; develops and operates new and updated computer programs and systems to expand personnel and payroll process automation to further achieve integration into a single documented and approved personnel/payroll system; provides continuous in-depth research and analysis of personnel transactions to detect and evaluate trends in workforce composition, turnover, skills, and impact of special emphasis/employment programs, and developing policy or procedural recommendation for Departmental action; produces a full-range of timely and accurate personnel management information reports required by statute, regulation, and those necessary for managerial decisions and information within the Department.

D. Office of Employee Development is responsible for the Department's programs in career development and training and for the personnel management support programs for all positions at the supergrade (GS-16/18) and equivalent levels, the positions under the Executive Schedule, and Schedule C positions at GS-15 and below; develops Departmental policies and guides for program coordination and direction in the above areas and processing actions required to carry out the assigned responsibilities.

1. Immediate Office is responsible for scheduling work projects and coordination of employee development projects which the Assistant Secretary for Personnel Administration has assigned to the office. Provides services in scheduling and programming office support activities for the professional staff of the Office of Employee Development.

2. Educational Program Division is responsible for providing overview, guidance, and technical advisory services to all HEW organizations in employee education programs and career counseling for new arrivals to the Department; enters into formal arrangements with institutions of higher learning (colleges and universities) for HEW full-time permanent employees, special employees, and short-term employees for such programs as Stride, general education programs, the Worker-Trainee Opportunities Program, and cooperative education programs (e.g., Start, Access, Agency Co-ops, and Graduate Student Co-ops).

3. Career Development Division is responsible for providing overview, guidance, policy direction and technical advisory services to all HEW organizations in training programs and executive and functional development and training programs for employees from the sub-journeyman through the executive grades which encompass Federal and Departmental process orientation, management and supervisor development, subject matter/technical training in management occupations; (i.e., budget and finance, personnel procurement and grants management); and executive development programs involving employee training at institutions of higher learning or governmental schools and seminar centers.

4. Executive Search Division is responsible for conducting the search process involved in obtaining talent for the Department's "executive level" positions (i.e., supergrades, equivalents and statutory level positions, as well as Schedule C positions at GS-15 and below).

5. Executive Resources Management Division is responsible for a program of needs assessment for executive positions supported by a system of identifying and determining the priorities of such needs and the system for developing positions for HEW executives. Provides personnel operations for the Office of the Secretary for all GS-16 and above positions. Provides Department representation to the Civil Service Commission on all executive personnel actions.

E. Office of Personnel Systems Integrity (OPSI) provides leadership in assuring the integrity, effectiveness, and impartiality of HEW personnel systems. Serves as a focal point within the Office of the Assistant Secretary for Personnel Administration for functional management analyses and the formulation of plans for future initiatives. Establishes, implements, and directs programs for personnel management evaluation, EEO complaint investigation, grievance examining, personnel security, merit system protection, non-criminal standards-of-conduct investigations, and EEO counselor and investigator training. Establishes and manages field staff units supporting these systems.

1. Analysis and Development Staff develops and analyses a comprehensive base of functional management information in support of the evaluation and future planning activities of the ASPER; makes recommendations concerning prioritizing objectives and resources. Establishes and conducts thorough programs of training in EEO counseling, complaint investigation, and personnel management evaluation. Develops and administers a career program for personnel management staff throughout the Department.

2. Management and Field Liaison Staff provides centralized planning, analysis, and evaluation of OPSI production and management control systems; recommends changes, devises methods of problem avoidance, and assists in implementing recommendations made in these program areas. Provides internal management of resource planning and utilization. Coordinates the activities of Headquarters and field units.

3. Division of Personnel Systems Improvement manages and coordinates the personnel management evaluation program throughout the Department. Develops evaluation techniques; provides guidance to principal operating components and servicing personnel offices, and carries out evaluation activities. Conducts special studies relating to the effectiveness of personnel management programs. Coordinates evaluation activities with the Civil Service Commission.

4. Division of Personnel Investigations assesses allegations, conducts investigations, and makes recommendations for disposition in merit system and non-criminal standards-of-conduct cases. Establishes and maintains an internal employee security program.

5. Division of Employee Appeals impartially examines unresolved grievances submitted under the Department's formal grievance system. Conducts pre-decision hearings on adverse actions. Adjudicates grievance appeals.

6. Division of EEO Complaint Investigations receives and determines acceptance or rejection of EEO formal complaints. Assigns and conducts investigations. Prepares and provides investigation reports to appropriate HEW components.

7. Field Units conduct EEO formal complaint investigations within the respective geographical area. On an as-assigned basis, examines employee grievances, conducts pre-decision hearings on adverse actions, and conducts personnel investigations. Provides an informational contact point, for field employees, regarding OPSI managed systems.

Dated: October 11, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-29431 Filed 10-17-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[Docket No. 4668]

NATIONAL FLOOD INSURANCE PROGRAM

Communities With Flood-Prone Areas Subject to Section 202(A), Prohibition of Federal and Federally Related Assistance

AGENCY: Federal Insurance Administration, Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a list of communities that contain areas of special flood hazard potentially subject to the provisions of section 202(A) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) on July 1, 1975, or an appropriate later date, and to provide a convenient reference for interested persons, communities, Federal agencies and instrumentalities, and others involved in assuring compliance with that section. This list supersedes and updates the list published in the FEDERAL REGISTER at 43 FR 18268 and all prior lists.

DATES: Section 202(A) applies to the community as of 1 year after the initial date appearing in the last column on each page of this list.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Section 202(A) provides that effective July 1, 1975, Federal agencies are prohibited from providing financial assistance or making loans for acquisition or construction purposes in areas which (a) have been designated by the Secretary of Housing and Urban Development as special flood hazard areas for at least 1 year; and (b) are in communities which are not participating in the national flood insurance program (42 U.S.C. 4001-4128). Special Flood Hazard Areas are designated as Zones A or V on Federal Insurance Administration Flood Hazard Boundary Maps (FHBM's) or Flood Insurance Rate Maps (FIRM's) and may have a num-

bered suffix indicating the flood hazard zones, for example A1-99 to V1-30.

Each of the communities listed below received notice of its designation as flood-prone prior to April 1, 1978, and legal notice was furnished of such designation by publication under part 1915 of title 24 of the Code of Federal Regulations in the FEDERAL REGISTER. These communities have failed to provide the Federal Insurance Administrator with sufficient technical or scientific data to rebut their designation as flood prone nor have they as yet qualified for participation in the national flood insurance program. Thus, the sanctions of section 202(A) apply as of July 1, 1975, or 1 year after a community's identification, whichever is later, until the community participates in the program.

In order to continue Federal financial assistance of lending for insurable structures in its special flood hazard area, a community must apply for and be made eligible for participation in the program in accordance with 24 CFR (Parts 1909 to 1925). Communities on this list may be made eligible to participate in the program after the date of publication of this list. Such eligibility will be published periodically in the FEDERAL REGISTER under 24 CFR 1914.6 List of eligible communities. At that time the sanctions of section 202(A) will no longer apply to the communities listed below.

[4210-01-C]

* UNINCORPORATED AREAS ONLY

ALABAMA

COMMUNITY NUMBER	NAME
010095	AKRON, TOWN (HALE CO)
010229	ALLGOOD, TOWN (BLOUNT CO)
010306	ARDMORE, TOWN (LIMESTONE COUNTY)
010242	BABBIE, TOWN (COVINGTON CO)
010352	BEAR CREEK, TOWN OF (MARION CO.)
010043A	BELK, TOWN OF (FAYETTE CO.)
010257	BLACK, TOWN OF (GENEVA COU)
0102[illegible]	BLOUNT COUNTY
010092	BOLIGEE, CITY OF (GREENE CO.)
010296A	BON AIR, TOWN (TALLADEGA CO)
010055A	BRANTLEY, TOWN OF (CRENSHAW CO.)
010342	BRILLIANT, TOWN (MARION CO)
010347	BRUNDIDGE, TOWN (PIKE CO)
010119A	CARDIFF, TOWN OF (JEFFERSON CO.)
010240	CAROLINA, TOWN (COVINGTON CO)
010228	CLEVELAND, TOWN (BLOUNT CO)
010239A	COFFEE COUNTY *
010318	COLBERT COUNTY
010244	COVINGTON COUNTY *
010367	CROSSVILLE, TOWN OF (PIKE CO.)
010[illegible]A	DOUBLE SPRINGS, TOWN OF (WINSTON)
010[illegible]56A	DOZIER, TOWN OF (CRENSHAW CO.)
0102[illegible]1A	ETHELSVILLE, TOWN (PICKENS CO)
010[illegible]77	ETOWAH COUNTY
010027	FIVE POINTS, TOWN OF (CHAMBERS CO.)
010354	FLINT CITY, TOWN OF (MORGAN CO.)
010[illegible]07A	FOLEY, TOWN (BALDWIN CO)
010322	FRANKLIN COUNTY
010236	FRUITHURST, CITY (CLEBURNE CO)
010[illegible]38	FULTON, TOWN (CLARKE CO)
010355	FYFFE, TOWN OF (DEKALB CO.)
010295	GAINESVILLE, TOWN (SUMTER CO)
010053A	GANTT, TOWN OF (COVINGTON CO.)
010258	GENEVA COUNTY
010356A	GERALDINE, TOWN OF (DEKALB CO.)
010034	GILBERTOWN, TOWN (CHOCTAW CO)
010[illegible]57A	GLENWOOD, TOWN OF (CRENSHAW CO.)
010132	GURLEY, TOWN (MADISON CO)
010293	HARPERSVILLE, TOWN (SHELBY CO)
010294A	HELENA, TOWN (SHELBY CO)
010357	HENAGAR, TOWN OF (DEKALB CO.)
010305	HILLSBORO, TOWN (LAWRENCE CO.)

HAZARD AREA IDENTIFIED

JULY 18, 1975
JANUARY 24, 1975
DECEMBER 17, 1976
JANUARY 10, 1975
JUNE 18, 1976
SEPTEMBER 13, 1974
FEBRUARY 07, 1975
FEBRUARY 24, 1978
DECEMBER 13, 1974
MARCH 04, 1977
JUNE 28, 1974 AND
JUNE 04, 1976
JULY 15, 1977
OCTOBER 22, 1976
SEPTEMBER 20, 1974 AND
JANUARY 23, 1976
JANUARY 10, 1975
MARCH 05, 1976
JANUARY 17, 1975 AND
JANUARY 13, 1978
FEBRUARY 24, 1978
DECEMBER 13, 1974 AND
APRIL 21, 1978
OCTOBER 29, 1976
JANUARY 28, 1977
SEPTEMBER 2[illegible], 1974
FEBRUARY 25, 1977
FEBRUARY 17, 1978 AND
JULY 21, 1978
NOVEMBER 15, 1974
NOVEMBER 26, 1976
NOVEMBER 26, 1976
JANUARY 20, 1978
OCTOBER 15, 1976
JULY 18, 1975
JULY 02, 1976
OCTOBER 15, 1976
JUNE 07, 1974 AND
JANUARY 02, 1976
FEBRUARY 20, 1976
JANUARY 13, 1978
OCTOBER 15, 1976
SEPTEMBER 20, 1974
APRIL 16, 1976
APRIL 11, 1975
JANUARY 10, 1975 AND
FEBRUARY 13, 1976
MARCH 12, 1976
OCTOBER 01, 1976

* UNINCORPORATED AREAS ONLY

ALABAMA

COMMUNITY NUMBER	NAME
010338	KILLEN, TOWN (LAUDERDALE CO)
010324A	LAWRENCE COUNTY *
010235	LEESBURG, CITY (CHEROKEE COUNTY)
010338	LEXINGTON, TOWN OF (LAUDERDALE CO.)
010275	MARSHALL COUNTY
010359	MENTONE, TOWN OF (DEKALB CO.)
010207	MILLRY, TOWN (WASHINGTON, CITY)
010340A	MONTEVALLO, TOWN (SHELBY CO)
010175A	MORGAN COUNTY
010264	MORRIS, TOWN OF (JEFFERSON CO.)
010252	OHATCHEE, TOWN OF (CALHOUN CO)
010035	PENNINGTON, TOWN (CHOCTAW CO)
010245A	PETREY, TOWN (CRENSHAW COUNTY)
010333	PHIL CAMPBELL, TOWN (FRANKLIN CO)
010360	PISGAH, TOWN OF (JACKSON CO.)
010075	POLLARD, TOWN OF (ESCAMBIA CO)
010159	PROVIDENCE, TOWN OF (MARENGO CO.)
010152	RANDOLPH COUNTY *
010334	RED BAY, CITY (FRANKLIN CO)
010243	RED LEVEL, TOWN (COVINGTON CO)
010253	REECE CITY, CITY OF (ETOWAH CO)
010346	ROANOKE, CITY (RANDOLPH CO)
010339	ROGERSVILLE, TOWN (LAUDERDALE CO)
0103[illegible]2	SECTION, TOWN OF (JACKSON CO.)
010[illegible]91	SHELBY COUNTY *
010277	SNEAD, TOWN (BLOUNT CO)
010363A	SOMERVILLE, TOWN OF (MORGAN CO.)
010328A	SUMMERDALE, TOWN (BALDWIN CO)
010140A	SWEETWATER, TOWN (MARENGO CO)
010356	SYLVANIA, TOWN OF (DEKALB CO.)
010037A	TOXEY, TOWN (CHOCTAW CO)
010155	TRIANA, TOWN (MADISON CO)
010335	VINA, TOWN (FRANKLIN CO)
010282	VINCENT, TOWN (SHELBY CO)
010365	VINEMONT, TOWN OF (CULLMAN CO.)
010340	WATERLOO, TOWN (LAUDERDALE CO)
010346	WILMER, TOWN (MOBILE CO)
010304	WINSTON COUNTY

HAZARD AREA IDENTIFIED

JUNE 18, 1976
MAY 15, 1977
OCTOBER 15, 1976
OCTOBER 15, 1976
JANUARY 2[illegible], 1978
JULY 02, 1976
NOVEMBER 12, 1976
JANUARY 28, 1977
MARCH 11, 1977 AND
JULY 28, 1978
OCTOBER 0[illegible], 1976
JANUARY 31, 1975
MARCH 03, 1978
FEBRUARY 25, 1977
OCTOBER 29, 1976
MARCH 12, 1976
JANUARY 31, 1975
NOVEMBER 01, 1974
SEPTEMBER 13, 1974 AND
JANUARY 20, 1976
DECEMBER 19, 1976
JANUARY 1[illegible], 1975
FEBRUARY 21, 1975
JUNE 1[illegible], 1977
MARCH 1[illegible], 1976
JUNE 25, 1976
FEBRUARY 24, 1976
JUNE 27, 1975
JUNE 04, 1976
JANUARY 13, 1978
JULY 18, 1975 AND
DECEMBER 1[illegible], 1976
OCTOBER [illegible], 1976
FEBRUARY 15, 1977
JUNE 25, 1976
DECEMBER 16, 1977
APRIL 11, 1975
OCTOBER 01, 1976
DECEMBER 17, 1976
OCTOBER 08, 1976
FEBRUARY 17, 1976

TOTAL IN THE STATE 80

* UNINCORPORATED AREAS ONLY

ALASKA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
020101A	AKIAK, CITY (UNORGANIZED BORO)	MAY 16, 1977	
020116A	ANOLNIUT, CITY OF (UNORGANIZED BOROUGH)	JANUARY 31, 1978	
02A03?A	ALAKANUK, CITY (UNINCORPORATED BORO)	MAY 17, 1977	
020151	AMBLER, CITY (UNINCORPORATED BORO)	DECEMBER 24, 1976	
020140	BARRELL, CITY OF (UNORGANIZED BORO.)	DECEMBER 24, 1976	
02C0A7	GOLOVIN, CITY OF (UNORGANIZED BOROUGH)	JULY 16, 1976	
020114A	HOOPER BAY, CITY OF (UNORGANIZED BORO.)	JUNE 28, 1974	AND
		MARCH 19, 1977	
020352	AKKE, CITY OF (UNORGANIZED BORO.)	DECEMBER 17, 1976	
020354A	KOTLIK, CITY (UNINCORPORATED BORO)	MAY 10, 1977	
020[illegible]	KOTUK, CITY OF (UNORGANIZED BORO.)	DECEMBER 24, 197[illegible]	
020301A	PALMUSKA, (SUSITNA BORO.)	FEBRUARY 28, 1978	
020306A	NAPASKIAK, CITY OF (UNINC. BORO.)	MAY 16, 1977	
020.90	NIKOLAI, CITY OF (UNORGANIZED BORO.)	DECEMBER 24, 1976	
020376A	RUSSIAN MISSN, CITY (UNINCORPORATED BORO)	MAY 16, 1977	
020377A	SAINT MARY'S, CITY (UNINCORPORATED BORO)	MAY 16, 1977	
020[illegible]	SAVOONGA, CITY (UNINCORPORATED BORO)	MAY 16, 1977	
020343	SHAKTOOLIK, CITY (UNINCORPORATED BORO)	MARCH 04, 1977	
020[illegible]	STEBBINS, CITY OF (UNORGANIZED BORO.)	DECEMBER 24, 1976	
020[illegible]	TELLER, CITY OF (UNORGANIZED BORO.)	DECEMBER 17, 1976	
020[illegible]	TOGIAK, CITY (UNINCORPORATED BORO)	MAY 10, 1977	
020395	WALES, CITY OF (UNORGANIZED BOROUGH)	JULY 16, 1976	

TOTAL IN THE STATE 21

* UNINCORPORATED AREAS ONLY

ARIZONA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
040028A	GILA COUNTY *	NOVEMBER 01, 1974	AND
		APRIL 08, 1977	
040113A	GREENLEE COUNTY *	OCTOBER 25, 1977	

TOTAL IN THE STATE 2

* UNINCORPORATED AREAS ONLY

ARKANSAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
050377	ALEXANDER, TOWN OF (PULASKI & SALINE)	APRIL 18, 1975	
050378	ALICIA, TOWN (LAWRENCE CO.)	JULY 11, 1975	
05n379	ALLPORT, TOWN (LONOKE CO.)	OCTOBER 29, 1976	
050380	ALMYRA, TOWN (ARKANSAS CO.E)	AUGUST 15, 1975	
05C217A	ALPENA, TOWN OF (BOONE CO.)	AUGUST 30, 1974	AND
		OCTOBER 03, 1975	
050397	ALTUS, CITY (FRANKLIN CO.)	JULY 25, 1975	
050303	AMITY, CITY OF (CLARK CO)	FEBRUARY 21, 1975	
05n418A	ARKANSAS COUNTY	AUGUST 16, 1977	
050382	ASH FLAT, TOWN (SHARP CO.)	JUNE 27, 1975	
05C203A	ASHLEY COUNTY	NOVEMBER 15, 1977	
050123	AUBREY, TOWN OF (LEE CO.)	DECEMBER 06, 1974	
050385	BARLING, CITY OF (SEBASTIAN)	FEBRUARY 14, 1975	
050010A	BARTER COUNTY	MAY 17, 1977	
050419	BENTON COUNTY	OCTOBER 18, 1977	
050386	BETHEL HEIGHTS, TOWN (BENTON CO.)	APRIL 25, 1975	
05n415	BISCOE, TOWN OF (PRAIRIE CO.)	NOVEMBER 26, 1976	
050474	BODCAW, TOWN OF (NEVADA CO.)	NOVEMBER 19, 1976	
050392	BONANZA, TOWN (SEBASTIAN CO.)	AUGUST 15, 1975	
05C216A	BOONE COUNTY	JUNE 17, 1977	
050131	BRADFORD, CITY OF (WHITE CO)	FEBRUARY 21, 1975	
050393	BRANCH, CITY (FRANKLIN CO.)	MAY 02, 1975	
05n594	BULL SHOALS, CITY (MARION CO.)	APRIL 25, 1975	
05C224A	CARROLL COUNTY	JUNE 14, 1977	
050397	CAULKSVILLE, TOWN (LOGAN CO.)	JUNE 27, 1975	
050313	CAVE CITY, CITY (INDEP.-SHAR; COS)	JULY 18, 1975	
05C395	CAVE SPRINGS, CITY (BENTON CO.)	OCTOBER 29, 1976	
050402A	CHIDESTER, CITY (OUACHITA CO)	JULY 25, 1975	
050422	CLARK COUNTY	OCTOBER 25, 1977	
05n423A	CLAY COUNTY	AUGUST 16, 1977	
050424A	CLEBURNE COUNTY	JUNE 07, 1977	
050425A	COLUMBIA COUNTY	AUGUST 02, 1977	
050426A	CONWAY COUNTY	JUNE 10, 1977	
050402	COY, TOWN (LONOKE CO)	JUNE 25, 1976	
050427A	CRAIGHEAD COUNTY	NOVEMBER 15, 1977	
050428A	CRAWFORD COUNTY *	JUNE 17, 1977	
050429A	CRITTENDEN COUNTY	DECEMBER 06, 1977	
050061A	DALLAS COUNTY	JUNE 17, 1977	
050494	DAMASCUS, TOWN (FAULKNER + VAN BUREN COS.)	APRIL 18, 1975	
05032[illegible]	DIERKS, CITY OF (HOWARD)	FEBRUARY 14, 1975	
050437A	DREW COUNTY	OCTOBER 25, 1977	
050478	DYER, TOWN (CRAWFORD CO.)	JULY 11, 1975	
05021A	ELKINS, TOWN OF (WASHINGTON CO.)	DECEMBER 20, 1974	
050019A	EVERTON, TOWN OF (BOONE CO.)	AUGUST 30, 1974	AND
		APRIL 09, 1976	
050431A	FAULKNER COUNTY	JUNE 07, 1977	
050433A	FARLAND COUNTY	AUGUST 02, 1977	

* UNINCORPORATED AREAS ONLY

ARKANSAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
05C274A	GARNER, TOWN OF (WHITE CO.)	AUGUST 30, 1974	AND
		NOVEMBER 07, 1975	
05n434A	GRANT COUNTY	MAY 16, 1977	
05n435A	GREENE COUNTY	DECEMBER 13, 1977	
05C217A	GREENLANE, CITY OF (WASHINGTON CO.)	JUNE 28, 1974	AND
		OCTOBER 24, 1975	
05324E	GREERS FERRY, TOWN (CLEBURNE CO)	APRIL 23, 1976	
05C247	GRIFFITHVILLE, TOWN (WHITE CO)	SEPTEMBER 26, 1975	
05024EA	GUION, TOWN (IZARD CO)	APRIL 11, 1975	
05C246	GUM SPRINGS, TOWN (CLARK CO)	JUNE 27, 1975	
05024[illegible]	HARTMAN, TOWN (JOHNSON CO)	OCTOBER 29, 1976	
05043EA	HEMPSTEAD COUNTY	JUNE 03, 1977	
05022EA	HIGGINSON, TOWN OF (WHITE CO.)	AUGUST 16, 1974	AND
		JANUARY 09, 1976	
05043?A	HOT SPRINGS COUNTY	NOVEMBER 01, 1977	
05241EA	HOWARD COUNTY *	JUNE 17, 1977	
05M125A	IMBODEN, TOWN (LAWRENCE CO)	MAY 03, 1974	AND
		OCTOBER 10, 1975	
05n436A	IZARD COUNTY	JULY 12, 1977	
05044[illegible]	JOHNSON COUNTY	AUGUST 02, 1977	
05031?	KIBLER, TOWN (CRAWFORD CO)	JUNE 25, 1976	
05M[illegible]	KNOBVILLE, TOWN OF (JOHNSON CO)	FEBRUARY 24, 1975	
05n442A	LAWRENCE COUNTY	JUNE 03, 1977	
05[illegible]44A	LEE COUNTY	NOVEMBER 01, 1977	
05[illegible]45A	LINCOLN COUNTY	JUNE 28, 1977	
05n479A	LITTLE ELGER, TOWN OF	JUNE 21, 1977	
05C315	LOCKESBURG, TOWN (SEVIER CO)	APRIL 18, 1975	
05[illegible]47	LOGAN COUNTY	OCTOBER 18, 1977	
05044EA	LONOKE COUNTY	AUGUST 16, 1977	
050341	LONOKE, CITY (LONOKE CO)	MARCH 26, 1976	
05M262	LOUANN, TOWN (OUACHITA CO)	NOVEMBER 05, 1976	
05[illegible]49A	MADISON COUNTY	JUNE 14, 1977	
05[illegible]5C	MARION COUNTY	SEPTEMBER 06, 1977	
05M347	MARSHALL, CITY (SEARCY CO)	APRIL 25, 1975	
05M17[illegible]	MARVELL, CITY (PHILLIPS CO)	MARCH 12, 1976	
050343	MENEIL, CITY (COLUMBIA CO)	MAY 02, 1975	
05C348	MELBOURNE, CITY (IZARD CO)	APRIL 11, 1975	
05E256	MENIFEE, TOWN (CONWAY CO)	APRIL 25, 1975	
05M431A	MILLER COUNTY	JANUARY 16, 1978	
05n452	MISSISSIPPI COUNTY	OCTOBER 18, 1977	
05M069	MITCHELLVILLE, TOWN OF (DESHA CO.)	NOVEMBER 08, 1974	
05M154A	MONROE COUNTY	JUNE 21, 1977	
05M[illegible]	MOUNT PLEASANT, TOWN OF (IZARD CO.)	NOVEMBER 22, 1974	
05M352	MOUNTAIN VIEW, CITY (STONE CO)	JUNE 27, 1975	
050[illegible]5A	MOUNTAINBURG, TOWN OF (CRAWFORD CO.)	MAY 03, 1974	AND
		NOVEMBER 28, 1975	
050355A	MULBERRY, CITY (CRAWFORD CO)	NOVEMBER 26, 1976	
05C456A	NEVADA COUNTY	AUGUST 02, 1977	
05C268	NORVELL, TOWN (CRITTENDEN CO)	AUGUST 15, 1975	

* UNINCORPORATED AREAS ONLY

ARKANSAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
050227C	OSBEN, TOWN (LITTLE RIVER CO)	SEPTEMBER 19, 1975
050144	OUACHITA COUNTY	SEPTEMBER 13, 1977
050271	OXEAN, TOWN (RANDOLPH CO)	APRIL 18, 1975
050007A	PARAGOULD, CITY OF (ASHLEY CO.)	MARCH 29, 1974 AND OCTOBER 31, 1975
050275	PERLA, TOWN (HOT SPRINGS CO)	JUNE 25, 1976
050146A	PHILLIPS COUNTY	AUGUST 09, 1977
050353	PLAINVIEW, CITY (YELL CO)	APRIL 18, 1975
050354	PLUMERVILLE, CITY (CONWAY CO)	JUNE 27, 1975
500172A	POINSETT COUNTY	JUNE 07, 1977
050473	POLK COUNTY *	OCTOBER 18, 1977
050458A	POPE COUNTY *	DECEMBER 26, 1977
050459A	PRAIRIE COUNTY *	JUNE 03, 1977
050276	PRATTSVILLE, TOWN (GRANT CO)	APRIL 25, 1975
050176A	PULASKI COUNTY	OCTOBER 25, 1977
050282	QUITMAN, TOWN (CLEBURNE CO)	APRIL 09, 1976
050462A	RANDOLPH COUNTY *	AUGUST 09, 1977
050281	RAVENDEN SPGS, TOWN (RANDOLPH CO)	JULY 23, 1976
050472	RAVENDEN, TOWN OF (LAWRENCE CO.)	APRIL 02, 1976
050475	READER, TOWN OF (OUACHITA CO.)	JUNE 03, 1977
050340A	RISON, CITY OF (CLEVELAND CO.)	MARCH 08, 1974 AND OCTOBER 18, 1977
050475	ROSSTON, TOWN OF (NEVADA CO.)	FEBRUARY 18, 1977
050282	SCRANTON, TOWN (LOGAN CO)	APRIL 16, 1975
050452A	SEBASTIAN COUNTY *	MAY 31, 1977
050453A	SEVIER COUNTY *	DECEMBER 13, 1977
050457	SHARP COUNTY *	JUNE 21, 1977
050287	SHIRLEY, TOWN (VAN BUREN CO)	AUGUST 15, 1976
500184A	ST. FRANCIS COUNTY *	JUNE 22, 1977
050290	SULPHUR ROCK, TOWN (INDEPENDENCE CO)	APRIL 25, 1975
050202	THORNTON, TOWN (CALHOUN CO)	JULY 25, 1975
050291A	UNION COUNTY	DECEMBER 13, 1977
050290	VIOLA, TOWN (FULTON CO)	APRIL 09, 1976
050212C	WASHINGTON COUNTY	MAY 16, 1977 AND SEPTEMBER 26, 1978
050374	WHEATLEY, TOWN (ST. FRANCIS CO)	SEPTEMBER 19, 1975
050497A	WHITE COUNTY *	JUNE 07, 1977
050205	WICKES, TOWN (POLK CO)	JUNE 22, 1975
050290	WILTON, TOWN (LITTLE RIVER CO)	APRIL 11, 1975
500177A	WINCHESTER, TOWN OF (OREN CO.)	AUGUST 22, 1974 AND OCTOBER 15, 1975
050459A	YELL COUNTY *	NOVEMBER 15, 1977

TOTAL IN THE STATE 127

* UNINCORPORATED AREAS ONLY

CALIFORNIA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
060003	ALBANY, CITY (ALMEDA CO)	NOVEMBER 19, 1976
060035A	AMADOR COUNTY	JUNE 07, 1977
060271	BARSTOW, CITY (SAN BERNARDINO CO)	JANUARY 17, 1975
060017	BUTTE COUNTY *	SEPTEMBER 06, 1974 AND DECEMBER 27, 1977
060033A	CALAVERAS COUNTY *	NOVEMBER 29, 1977
060044C	CLOVIS, CITY OF (FRESNO CO.)	AUGUST 23, 1977 AND MAY 16, 1978
060249	COACHELLA, CITY OF (RIVERSIDE CO.)	SEPTEMBER 05, 1975
060474A	DAVIS, CITY (YOLO CO)	MAY 17, 1974
060043	DORRIS CITY *	NOVEMBER 28, 1977
060042C	EL DORADO COUNTY *	MAY 24, 1974
060445A	FERNDALE, CITY (HUMBOLDT CO.)	AUGUST 02, 1974 DECEMBER 20, 1974 AND
060063A	FORTUNA, CITY OF (HUMBOLDT CO.)	MARCH 26, 1976
060255A	INDIO, CITY OF (RIVERSIDE CO.)	JULY 19, 1977 MAY 31, 1974 AND
060448	JACKSON, CITY (AMADOR CO)	AUGUST 08, 1975
060092A	LASSEN COUNTY	JUNE 25, 1976
060361	LOYALTON, CITY (SIERRA CO)	FEBRUARY 28, 1978
060364A	MARIPOSA COUNTY *	JUNE 04, 1976
060451	MONTAGUE, TOWN (SISKIYOU CO)	NOVEMBER 29, 1977
060271A	NEVADA COUNTY *	MARCH 26, 1976
060228	ORANGE, CITY (ORANGE CO)	SEPTEMBER 26, 1977
060216A	PLACER COUNTY	MARCH 28, 1978
060455	PLYMOUTH, CITY (AMADOR CO)	JULY 12, 1977
060207A	SAN BENITO COUNTY	NOVEMBER 19, 1976
060435	SAND CITY, CITY (MONTEREY CO)	AUGUST 02, 1977
060456A	SELMA, CITY OF (FRESNO CO.)	DECEMBER 03, 1976
060358A	SHASTA COUNTY	MAY 24, 1974
060031	SOLANO COUNTY *	DECEMBER 13, 1977
060476	TRINIDAD, TOWN (HUMBOLDT CO)	FEBRUARY 14, 1975
060451A	TRINITY COUNTY *	MAY 14, 1976 DECEMBER 13, 1977

TOTAL IN THE STATE 20

* UNINCORPORATED AREAS ONLY

COLORADO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
080229	AGUILAR, TOWN OF (LAS ANIMAS CO.)	JULY 11, 1975
080148C	BOONE, TOWN OF (PUEBLO CO.)	SEPTEMBER 06, 1974 AND JANUARY 09, 1976
080215C	COAL CREEK TOWN (FREMONT CO)	SEPTEMBER 19, 1978
080040A	CUSTER COUNTY	AUGUST 15, 1975
080241A	DELTA COUNTY	JANUARY 24, 1978
080120A	DINOSAUR, TOWN OF (MOFFAT CO.)	MAY 12, 1977
080056A	ELIZABETH, TOWN OF (ELBERT CO.)	AUGUST 15, 1974 SEPTEMBER 06, 1974 AND FEBRUARY 06, 1976
080212	EMPIRE, TOWN OF (CLEAR CREEK CO.)	MAY 02, 1975
080073A	FRASER, TOWN OF (GRAND CO.)	SEPTEMBER 06, 1974
080111	FT. MORGAN, CITY (MORGAN CO)	OCTOBER 20, 1976
080075A	GILPIN COUNTY	JUNE 10, 1977
080117A	GRAND JUNCTION, CITY OF (MESA CO.)	FEBRUARY 01, 1974 AND JUNE 28, 1974
080214A	GRAND LAKE TOWN (GRAND CO)	AUGUST 15, 1975 AND SEPTEMBER 17, 1976
080215	GRAND VALLEY TOWN (GARFIELD CO)	AUGUST 13, 1976
080374A	HOT SULPHUR SPRINGS, TOWN OF (GRAND CO.)	NOVEMBER 22, 1974
080207A	ILIFF, TOWN OF (LOGAN CO.)	DECEMBER 27, 1974 AND SEPTEMBER 12, 1978
080257A	KIOWA, TOWN OF (ELBERT CO.)	SEPTEMBER 06, 1974 AND FEBRUARY 27, 1976
080033	KIT CARSON, TOWN OF (CHEYENNE CO.)	DECEMBER 13, 1974
080262	LAKE COUNTY *	OCTOBER 15, 1977
080105	LAS ANIMAS COUNTY *	SEPTEMBER 01, 1977
080193C	LOVELAND, CITY OF (LARIMER CO.)	MARCH 01, 1974 AND DECEMBER 17, 1976
080253A	MANASSA TOWN (CONEJOS CO)	AUGUST 09, 1975 AND JULY 16, 1976
080129	MORGAN COUNTY *	FEBRUARY 27, 1976
080250	NEW CASTLE TOWN (GARFIELD CO)	JULY 25, 1975
080127A	NUCLA, TOWN OF (MONTROSE CO.)	MAY 24, 1974 AND MARCH 26, 1976
080258A	ORCHARD CITY CITY (DELTA CO)	MAY 27, 1977
080175	OVID, TOWN OF (SEDGWICK CO.)	NOVEMBER 15, 1974
080198	PALISADE, TOWN (MESA CO)	AUGUST 13, 1976
080077A	PUEBLO, CITY OF (PUEBLO CO.)	AUGUST 24, 1973
080240	REDCLIFF TOWN (EAGLE CO)	SEPTEMBER 19, 1975
080221	ROCKVALE TOWN (FREMONT CO)	JUNE 27, 1975
080155A	RYE, TOWN (PUEBLO CO)	JULY 16, 1975 AND SEPTEMBER 20, 1978
080104	SAGAUCHE, TOWN (SAGAUCHE CO)	MAY 26, 1976
080223	SILT TOWN (GARFIELD CO)	JULY 25, 1975
080220	SILVER PLUME, TOWN OF (CLEAR CREEK CO.)	DECEMBER 13, 1974
080106A	STARKVILLE, TOWN OF (LAS ANIMAS CO.)	SEPTEMBER 06, 1974 AND JANUARY 23, 1976
080254	WINDSOR TOWN (WELD CO)	MARCH 26, 1976

* UNINCORPORATED AREAS ONLY

COLORADO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	TOTAL IN THE STATE	37

* UNINCORPORATED AREAS ONLY

CONNECTICUT

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
090115C	SALEM, TOWN OF (NEW LONDON CO)	FEBRUARY 21, 1975
	TOTAL IN THE STATE	1

* UNINCORPORATED AREAS ONLY

DELAWARE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	TOTAL IN THE STATE	0

* UNINCORPORATED AREAS ONLY

FLORIDA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
120419	BAKER COUNTY *	JANUARY 27, 1978
120416A	BROOKER, TOWN OF (BRADFORD CO.)	AUGUST 30, 1974
120246	BUNNELL, TOWN (FLAGLER CO)	JULY 11, 1975
120126A	CAMPBELLTON, CITY OF (JACKSON CO.)	SEPTEMBER 06, 1974 AND
		JANUARY 16, 1976
120316P	FREEPORT, CITY (WALTON CO)	OCTOBER 29, 1976
120536A	HACIENDA, VILLAGE OF (BROWARD CO.)	SEPTEMBER 06, 1974
120411	HAVANA, TOWN OF (GADSDEN CO.)	JULY 23, 1976
120573	HILLIARD, TOWN OF (NASSAU CO.)	DECEMBER 23, 1977
120556	LAKE WALES, CITY OF (POLK CO.)	OCTOBER 17, 1975
120575	MARINELAND, TOWN OF (FLAGLER CO.)	JULY 08, 1977
120575A	MCINTOSH, TOWN OF (MARION CO.)	MAY 27, 1977
120344	MICANOPY, TOWN OF (ALACHUA CO.)	APRIL 16, 1976
120565	MONTICELLO, CITY OF (JEFFERSON CO.)	JULY 23, 1976
120597P	PRINTERS HILL, TOWN OF (FLAGLER CO.)	AUGUST 05, 1977
120422	UNION COUNTY *	DECEMBER 02, 1977
120413	WEEKEWACHEE, CITY OF (HERNANDO CO.)	JULY 23, 1976
120579P	WINDERMERE, TOWN OF (ORANGE CO.)	APRIL 22, 1977

TOTAL IN THE STATE 17

* UNINCORPORATED AREAS ONLY

GEORGIA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
130195	ABBEVILLE, MUNICIPALITY OF (WILCOX CO)	FEBRUARY 17, 1978
130255A	ADAIRSVILLE, TOWN OF (BARTOW CO.)	JUNE 14, 1974 AND
		JANUARY 23, 1976
130354	AILEY, TOWN (MONTGOMERY CO.)	APRIL 04, 1975
130364A	ANDERSONVILLE, VILLAGE (SUMPTER CO.)	APRIL 29, 1977
130019	APPLING COUNTY	MARCH 12, 1976
130390	AVALON, TOWN (STEPHENS CO.)	APRIL 16, 1976 AND
		APRIL 16, 1976
130274 *	BAKER COUNTY *	MARCH 28, 1973 AND
		DECEMBER 26, 1975
130115	BARTOW, CITY (JEFFERSON CO)	AUGUST 22, 1975
130370A	BELLVILLE, CITY (EVANS CO.)	JULY 18, 1975
130179	BLAIRSVILLE, TOWN (UNION CO)	JUNE 11, 1976
130342	BOSTWICK, TOWN (MORGAN CO.)	APRIL 04, 1975
130343	BRASELTON, CITY OF (JACKSON CO.)	APRIL 18, 1975
130246	BRINSON, TOWN (COLQUITT CO.)	JULY 18, 1975
130281	BROOKS COUNTY	FEBRUARY 05, 1976
130364	BUCKHEAD, TOWN (MORGAN CO.)	JULY 11, 1975
130323	BUFORD, CITY (GWINNETT + HALL COS.)	APRIL 06, 1975
130257	CENTRALHATCHEE, TOWN OF (HEARD CO.)	JULY 28, 1977
130202	CHARLTON COUNTY	MAY 16, 1976
130276	CHATTOOGA COUNTY	MARCH 26, 1976
130177	CLEVELAND, CITY (WHITE CO.)	APRIL 11, 1975
130175A	COLQUITT, CITY (MILLER CO)	JULY 23, 1976 AND
		SEPTEMBER 24, 1976
130196	COOLIDGE, CITY (THOMAS CO)	APRIL 02, 1976
130361	COPPINTH, TOWN (HEARD + COWETA COS.)	JULY 08, 1977
130274	DAWSON COUNTY	JUNE 18, 1976
130355	DEARING, TOWN (MCDUFFIE CO.)	APRIL 04, 1975
130277	DEMOREST, TOWN (HABERSHAM CO.)	APRIL 04, 1975
130446P	DILLARD, TOWN OF (RABUN CO.)	JUNE 04, 1976
130395	DOUGLASVILLE, CITY (DOUGLAS CO.)	APRIL 25, 1975
130345	ETON, TOWN (MURRAY CO.)	NOVEMBER 25, 1977
130356	FORSYTH, CITY (MONROE CO.)	APRIL 11, 1975
130429	FORT OGLETHORPE, CITY OF (CATOOSA CO.)	APRIL 04, 1975
130313	FRANKLIN SPRINGS, CITY (FRANKLIN CO.)	APRIL 04, 1975
130379	GEORGETOWN, TOWN (QUITMAN CO.)	FEBRUARY 10, 1978
130022A	GIRARD, TOWN OF (BURKE CO.)	SEPTEMBER 06, 1974 AND
		JANUARY 23, 1976
130419	GLENNVILLE, CITY (WHEELER CO.)	APRIL 04, 1975
130096A	GRADY COUNTY	JUNE 17, 1977
130395	GRAYSON, TOWN (GWINNETT CO.)	JULY 11, 1975
130451	GUYTON, TOWN OF (EFFINGHAM CO.) (EFFINGHAM CO.)	JULY 01, 1977
130311A	HAGAN, CITY (EVANS CO.)	APRIL 18, 1975 AND
		JANUARY 23, 1976
130336	HARRIS COUNTY	APRIL 16, 1976 AND
		APRIL 16, 1976
130103	HEARD COUNTY	APRIL 09, 1976

* UNINCORPORATED AREAS ONLY

GEORGIA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
130102A	HELEN, CITY OF (WHITE CO.)	SEPTEMBER 06, 1974 AND
		OCTOBER 17, 1975
130385	HILLTONIA, TOWN (SCREVEN CO.)	APRIL 11, 1975
130221A	HIRAM, CITY OF (PAULDING CO.)	OCTOBER 18, 1974 AND
		JANUARY 23, 1976
130647P	HIWASSEE, TOWN OF (TOWNS CO.)	JUNE 11, 1976
130201	HOPELAND, TOWN (CHARLTON CO.)	APRIL 11, 1975
130271	HOMER, TOWN (BANKS COUNTY)	APRIL 18, 1975
130420	IVEY, TOWN (WILKINSON CO.)	DECEMBER 16, 1977
130345	JACKSON COUNTY	APRIL 23, 1976
130375	JASPER, CITY (PICKENS CO.)	APRIL 11, 1975
130412	JERSEY, TOWN (WALTON CO.)	JULY 23, 1976
130434	JONES COUNTY	MAY 27, 1977
130277	KINGSTON, CITY (BARTOW CO)	APRIL 18, 1975
130402	LAURENS COUNTY *	FEBRUARY 17, 1978
130409	LINWOOD, TOWN (WALKER CO.)	APRIL 04, 1975
130326	LOGANVILLE, CITY (GWINNETT + WALTON COS.)	APRIL 04, 1975
130461	LOUISVILLE, CITY (JEFFERSON CO.)	AUGUST 15, 1975
130354	LUMPKIN COUNTY	APRIL 02, 1976
130476	MADISON COUNTY *	MARCH 17, 1978
130224	MADISON, CITY OF (MORGAN CO)	FEBRUARY 21, 1975
130392A	MARTIN, TOWN (STEPHENS CO)	APRIL 04, 1975 AND
		MAY 28, 1976
130342	MCDONOUGH, CITY (HENRY CO.)	MARCH 11, 1977
130357	MCDUFFIE COUNTY *	APRIL 11, 1975
130421	MCINTYRE, TOWN (WILKINSON CO.)	MARCH 25, 1976
130024P	MIDVILLE, MUNICIPALITY OF (BURKE CO)	APRIL 11, 1975
		JULY 11, 1975 AND
130134A	MILLER COUNTY	JULY 21, 1978
130438	MITCHELL COUNTY *	JUNE 16, 1977
130376	MOLENA, CITY (PIKE CO.)	JULY 16, 1976
130116A	MONROE COUNTY	APRIL 11, 1975
130136	MONTGOMERY COUNTY	APRIL 01, 1977
130246	MOUNT ZION, TOWN (CARROLL CO.)	MARCH 19, 1976
130252A	MOUNTAIN CITY, TOWN (RABUN CO.)	JULY 01, 1977
		JANUARY 17, 1975 AND
130313A	MOUNTAIN PARK, CITY (FULTON + CHEROKEE COS.)	OCTOBER 22, 1976
130366	MURRAY COUNTY	JANUARY 23, 1978
130353	NAYLOR, TOWN (LOWNDES CO.)	MAY 16, 1976
130161A	NEWINGTON, TOWN OF (SCREVEN CO.)	APRIL 25, 1975
130369P	NORTH HIGH SHOALS, TOWN (OCONEE CO.)	SEPTEMBER 06, 1974
130269	OAK PARK, TOWN (EMANUEL CO.)	AUGUST 19, 1977
130189A	OGDEN, CITY (WAYNE CO)	JULY 18, 1975
		JANUARY 23, 1975 AND
130377	OGLETHORPE COUNTY	DECEMBER 19, 1975
130369	OXFORD, TOWN (NEWTON CO.)	MAY 26, 1976
130457	PATTERSON, TOWN OF (PIERCE CO.) (PIERCE CO.)	APRIL 11, 1975
130149P	PICKENS COUNTY	JUNE 17, 1977
		DECEMBER 31, 1976

* UNINCORPORATED AREAS ONLY

GEORGIA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
130151	PIERCE COUNTY *	AUGUST 15, 1976
130378	PULASKI COUNTY	JUNE 17, 1977
130284	PULASKI, TOWN (CANDLER, CO.)	APRIL 04, 1975
130327	REST HAVEN, TOWN (GWINNETT CO.)	FEBRUARY 05, 1976
130267	RIVERSIDE, TOWN (COLQUITT CO.)	JULY 18, 1975
130162A	ROCKY FORD, TOWN OF (SCREVEN CO.)	SEPTEMBER 06, 1974
130363	RUTLEDGE, TOWN (MORGAN CO.)	AUGUST 08, 1975
130439	SALE CITY, TOWN (MITCHELL CO.)	APRIL 04, 1975
130158A	SCOTLAND, CITY OF (TELFAIR + WHEELER COS.)	AUGUST 30, 1974
130301	SENOIA, CITY (COWETA CO.)	APRIL 04, 1975
130342	SHELLMAN, CITY (RANDOLPH CO.)	JUNE 11, 1976
130336	SHILOH, CITY (HARRIS CO.)	APRIL 04, 1975
130349	SMITHVILLE, CITY (LEE + SUMTER CO.)	MAY 27, 1977
130358A	SPALDING COUNTY *	MARCH 25, 1977
130398	STEWART COUNTY	MAY 14, 1976
130308	STILLMORE, TOWN (EMANUEL CO.)	APRIL 11, 1975
130260A	STONE MOUNTAIN, CITY OF (DEKALB CO.)	MAY 12, 1976
130390	SUNNY SIDE, VILLAGE (SPALDING COUNTY)	APRIL 11, 1975
130328	SUWANEE, CITY (GWINNETT CO.)	APRIL 04, 1975
130396	TALBOT COUNTY	MARCH 26, 1976
130154A	TALKING ROCK, TOWN (PICKENS CO)	JUNE 17, 1977
130382	TALLULAH FALLS, CITY OF (HABERSHAM & RABUN CES.)	APRIL 25, 1975
130288	TEMPLE, TOWN (CARROLL CO.)	APRIL 11, 1975
130407	TERRELL COUNTY *	JULY 16, 1976
130471	THOMAS COUNTY	FEBRUARY 03, 1976
130404	TIFT COUNTY	FEBRUARY 17, 1978
130381	TIGER, TOWN (RABUN CO.)	JULY 11, 1975
130173	TOOMBS COUNTY	MARCH 19, 1976
130422	TOOMSBORO, TOWN (WILKINSON CO.)	APRIL 04, 1975
130351	UVALDA, TOWN (MONTGOMERY CO.)	APRIL 25, 1975
130417	WALNUT GROVE, TOWN (WALTON CO.)	AUGUST 12, 1976
120192	WHEELER COUNTY	APRIL 30, 1976
130191	WHITE COUNTY	JUNE 11, 1976
130267	WINTERVILLE, CITY (CLARKE CO.)	APRIL 11, 1975
130436	WOODBURY, TOWN (MERIWEATHER CO.)	JUNE 27, 1975

TOTAL IN THE STATE 118

* UNINCORPORATED AREAS ONLY

IDAHO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED		
160042	ALBION, TOWN (CASSIA CO)	JANUARY	10,	1975
160207*	BOUNDARY COUNTY *	AUGUST	02,	1977
160315*	CHATCOLET, CITY OF (BENEWAH CO.)	SEPTEMBER*	13,	1974 AND
		FEBRUARY	27,	1976
160154	COUNCIL, CITY OF (ADAMS CO.)	MAY	03,	1976 AND
		DECEMBER	12,	1975
160162	CRAIGMONT, CITY (LEWIS CO)	JUNE	25,	1976
160197	FRANKLIN, CITY (FRANKLIN CO)	SEPTEMBER	05,	1975
160207*	FREMONT COUNTY	DECEMBER	06,	1977
160220*	GARDEN CITY, CITY OF (ADA CO.)	DECEMBER	17,	1973
160141	HAUSER, CITY OF (KOOTENAI CO.)	OCTOBER*	08,	1976
160228*	JEROME COUNTY *	OCTOBER*	25,	1977
160224*	LEADORE, CITY (LEMHI CO)	JUNE	03,	1977
160217*	MADISON COUNTY	JANUARY	31,	1978
160197*	MALTA, TOWN OF (CASSIA CO.)	DECEMBER	13,	1974 AND
		AUGUST	22,	1978
160175*	MCCAMMON CITY (OWNDER CO)	APRIL	23,	1976
160179	MENAN CITY (JEFFERSON CO)	APRIL	30,	1978
160101*	NEZ PERCE COUNTY	OCTOBER	25,	1977
160145*	PARLEY, TOWN OF (CASSIA CO.)	OCTOBER	18,	1974 AND
		NOVEMBER	19,	1976
160149	PLUMMER CITY (BENEWAH CO)	OCTOBER	29,	1976
160154	PONDERAY, CITY (BONNER CO)	AUGUST	13,	1976
160156	PRESTON CITY (FRANKLIN CO)	AUGUST	20,	1975
160161	ST. CHARLES, CITY (BEAR LAKE CO)	MARCH	19,	1976
160167	SUN VALLEY CITY (BONNEVILLE CO)	AUGUST	29,	1975 AND
		JUNE	14,	1977
160223	TETON COUNTY *	SEPTEMBER*	13,	1977
160231*	TWIN FALLS COUNTY *	JANUARY	31,	1978

TOTAL IN THE STATE 24

* UNINCORPORATED AREAS ONLY

ILLINOIS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED		
170055	ADELINE, VILLAGE (OGLE CO.)	JULY	11,	1975
170044	ALVIN, VILLAGE OF (VERMILION CO)	FEBRUARY	27,	1975
170485	ANCHOR, VILLAGE OF (MCLEAN CO.)	DECEMBER	06,	1974
170057*	ANNA, CITY OF (UNION CO.)	MARCH	29,	1974 AND
		APRIL	30,	1976
170233*	AUSTON, VILLAGE OF (CLINTON CO.)	MAY	26,	1977
170742*	AVON, VILLAGE OF (FULTON CO.)	OCTOBER	18,	1974 AND
		APRIL	30,	1976
170321*	BATAVIA, CITY OF (KANE CO.)	SEPTEMBER*	10,	1976
170464*	BATH, VILLAGE OF (MASON CO.)	DECEMBER	17,	1973
170845	BELGIUM, VILLAGE OF (VERMILION CO)	MARCH	28,	1975
170088*	BLUFFS, VILLAGE OF (SCOTT CO.)	JUNE	07,	1974 AND
		JANUARY	30,	1976
170920	BLUFORD, VILLAGE OF (JEFFERSON CO.)	JULY	22,	1977
170848	BRAIDWOOD, CITY (WILL CO)	APRIL	11,	1975
170688*	BROOKPORT, CITY OF (MASSAC CO.)	JUNE	07,	1974
170220	BROWNS, VILLAGE OF (EDWARDS CO.)	NOVEMBER	15,	1974
170747*	BRUSSELS, VILLAGE OF (CALHOUN CO.)	NOVEMBER	22,	1974 AND
		JULY	21,	1978
170746	BRYANT, VILLAGE OF (FULTON CO.)	DECEMBER	06,	1974
170854*	BUREAU JUNCTION, VILLAGE OF (BUREAU CO)	MARCH	28,	1975
170474*	BUSHNELL, CITY OF (MCDONOUGH CO.)	JUNE	07,	1974 AND
		APRIL	02,	1976
170785*	CAMARGO, VILLAGE OF (DOUGLAS CO.)	AUGUST	06,	1976
170491*	CARLOCK, VILLAGE (MCLEAN CO)	APRIL	25,	1974
170254*	CARROLLTON, CITY OF (GREEN CO.)	DECEMBER	06,	1976
		JUNE	07,	1974 AND
170842	CEDARVILLE, VILLAGE (STEPHENSON CO)	MARCH	05,	1976
170646*	CREVE COEUR, VILLAGE OF (TAZEWELL CO.)	APRIL	11,	1975
		MARCH	01,	1974 AND
170751*	DE SOTO, VILLAGE OF (JACKSON CO.)	APRIL	12,	1976
		APRIL	05,	1974 AND
170647	DEER CREEK, VILLAGE OF (TAZEWELL CO.)	APRIL	02,	1976
170658*	DONGOLA, VILLAGE OF (UNION CO.)	JUNE	28,	1974
		MARCH	26,	1974 AND
170875	DONELL, VILLAGE (JACKSON CO)	JULY	02,	1976
170875	EAST BROOKLYN, VILLAGE OF (CRAWFORD CO)	APRIL	18,	1975
170441*	EDWARDSVILLE, CITY OF (MADISON CO.)	MARCH	21,	1975
		APRIL	05,	1974 AND
170227	EFFINGHAM COUNTY *	JULY	02,	1976
170251*	ELDRED, VILLAGE OF (GREENE CO.)	DECEMBER	23,	1977
		DECEMBER	17,	1973 AND
170849	ELWOOD, VILLAGE OF (WILL CO)	JANUARY	16,	1976
170818	FARMER CITY, CITY OF (DE WITT CO)	FEBRUARY	21,	1975
176232	FAYETTE COUNTY	MARCH	21,	1975
170654	FITHIAN, VILLAGE OF (VERMILION CO.)	JANUARY	06,	1978
170827	FOREST CITY, VILLAGE OF (MASON CO)	AUGUST	11,	1975
170849	FRANKLIN COUNTY	MARCH	26,	1975
		JANUARY	13,	1978

* UNINCORPORATED AREAS ONLY

ILLINOIS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED		
170283*	GALVA, CITY OF (HENRY CO.)	JUNE	14,	1974
170949	GERMANTOWN, VILLAGE OF (CLINTON CO.)	MARCH	29,	1974 AND
		JULY	30,	1976
170234*	GIBSON CITY, CITY OF (FORD CO.)	MARCH	29,	1974 AND
		JANUARY	30,	1976
170685	GOLDEN GATE, VILLAGE (WAYNE CO)	JUNE	27,	1975
170252*	GREENFIELD, CITY OF (GREEN CO.)	FEBRUARY	22,	1974 AND
		JULY	30,	1976
170561	HAMLETSBURG, VILLAGE OF (POPE CO.)	JULY	30,	1976
176267*	HANCOCK COUNTY	JANUARY	24,	1975 AND
		FEBRUARY	20,	1976
170485*	HAVANA, CITY OF (MASON CO.)	APRIL	05,	1974 AND
		JANUARY	30,	1976
170366*	HAWTHORN WOODS, VILL (LAKE CO)	JULY	30,	1976 AND
		DECEMBER	03,	1976
17057-	HENNEPIN, VILLAGE (PUTNAM CO)	NOVEMBER	19,	1976
170456	HENRY, CITY (MARSHALL CO)	JULY	30,	1976
170407*	HEYWORTH, VILLAGE OF (MCLEAN CO.)	JUNE	14,	1974
170253*	HILLVIEW, VILLAGE OF (GREENE CO.)	DECEMBER*	06,	1974 AND
		JULY	30,	1976
170196*	HINCKLEY, VILLAGE OF (DEKALB CO.)	MARCH	05,	1974 AND
		JUNE	04,	1976
170305*	JEFFERSON COUNTY	MARCH	04,	1977
170315*	JERSEYVILLE, CITY OF (JERSEY CO.)	JUNE	27,	1974 AND
		JUNE	04,	1976
170757*	JOPPA, VILLAGE OF (MASSAC CO.)	NOVEMBER	23,	1973 AND
		APRIL	23,	1976
170870	JUNCTION CITY, VILLAGE OF (MARION CO)	MARCH	21,	1975
170837	KINDERHOOK, VILLAGE OF (PIKE CO)	MARCH	21,	1975
170700	LA PRAIRIE, TOWN OF (ADAMS CO.)	APRIL	25,	1975
170457*	LACON, CITY OF (MARSHALL CO.)	NOVEMBER	30,	1973 AND
		FEBRUARY	27,	1976
170373*	LAKE BLUFF (VILLAGE OF (LAKE CO.)	FEBRUARY	21,	1974 AND
		FEBRUARY	06,	1976
170456	LAROSE, VILLAGE OF (MARSHALL CO.)	OCTOBER	25,	1974
170342	LISBON, VILLAGE OF (KENDALL CO.)	NOVEMBER	01,	1974
176796*	LIVINGSTON, VILLAGE OF (MADISON CO.)	MARCH	22,	1974 AND
		JUNE	11,	1976
170917	LYNDON, VILLAGE OF (WHITESIDE CO.)	OCTOBER	08,	1976
176970	MACQUPIN COUNTY *	JANUARY	06,	1976
176705	MACYSTOWN, VILLAGE (MONROE CO.)	APRIL	02,	1976
170301*	MAKANDA, VILLAGE OF (JACKSON CO.)	AUGUST	23,	1974 AND
		DECEMBER	26,	1975
170187*	MALTA, VILLAGE OF (DEKALB CO.)	JUNE	07,	1974
170540*	MANSFIELD, VILLAGE (PIATT CO)	JANUARY	03,	1975 AND
		JUNE	09,	1978
170836	MAPLETON, VILLAGE OF (PEORIA CO)	MARCH	28,	1975
175764	MARIETTA, VILLAGE OF (MARIETTA CO)	JANUARY	31,	1975
170932	MARION COUNTY *	MARCH	24,	1978

* UNINCORPORATED AREAS ONLY

ILLINOIS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED		
170652*	MARQUETTE HEIGHTS, CITY OF (TAZEWELL CO.)	MARCH	08,	1974 AN
		MARCH	26,	1976
175041*	MARTINSVILLE, CITY OF (CLARK CO.)	NOVEMBER	25,	1975 AM
		MARCH	26,	1976
170654	MAUNIE, VILLAGE OF (WHITE CO.)	JANUARY	09,	1974
170395*	METTAWA, VILLAGE OF (LAKE CO.)	OCTOBER	18,	1974 AN
		JULY	23,	1976
170655*	MILL SHOALS, VILLAGE OF (WHITE CO.)	JULY	19,	1974 AN
		JULY	02,	1976
170003*	MORGAN COUNTY *	MAY	13,	1977
176767	MAUVOO, CITY (HANCOCK CO)	OCTOBER	10,	1975
170855	NEW BEDFORD, VILLAGE (BUREAU CO.)	JUNE	27,	1975
170555*	NEW CANTON, TOWN OF (PIKE CO.)	AUGUST	16,	1974
170769	NEWMAN, VILLAGE OF (DOUGLAS CO.)	NOVEMBER	29,	1974
176303*	NEWTON, CITY OF (JASPER CO.)	DECEMBER	17,	1973 AN
		MAY	28,	1976
170832	OAKFORD, VILLAGE OF (MENARD CO)	MARCH	21,	1975
170831	OAKWOOD HILLS, VILLAGE (MCHENRY CO.)	APRIL	18,	1975
170352*	ONEIDA, CITY OF (KNOX CO.)	JUNE	07,	1974
170641*	ORANGEVILLE, VILLAGE OF (STEPHENSON CO.)	AUGUST	11,	1975 A
		MARCH	26,	1976
171538	PERRY COUNTY *	DECEMBER	13,	1974 A
		MAY	28,	1976
170277*	PONTOOSUC, VILLAGE OF (HANCOCK CO.)	JANUARY	17,	1974 A
		MAY	28,	1976
176553	REYNOLDS, VILLAGE (ROCK ISLAND CO)	APRIL	18,	1975
170603*	RIVERTON, VILLAGE OF (SANGAMON CO.)	NOVEMBER	16,	1973 A
		MARCH	05,	1976
176805*	RUSSELLVILLE, VILLAGE OF (LAWRENCE CO.)	NOVEMBER	12,	1976
170059*	SCHUYLER COUNTY	JANUARY	03,	1975 A
		JULY	02,	1976
172295*	SCOTT COUNTY *	JANUARY	28,	1977
172593*	SHELBY COUNTY *	FEBRUARY	24,	1978
175595*	SILVIS, CITY OF (ROCK ISLAND CO.)	MAY	31,	1974 A
		MAY	21,	1976
170650*	SPARLAND, VILLAGE OF (MARSHALL CO.)	NOVEMBER	23,	1973 A
		MARCH	05,	1976
170813	STARK COUNTY	APRIL	02,	1976
176580	STEELEVILLE, VILLAGE (RANDOLPH CO)	JULY	30,	1976
170775	ST. DAVID, VILLAGE OF (FULTON CO.)	DECEMBER	06,	1974
170691*	ST. FRANCISVILLE, VILLAGE OF (LAWRENCE CO.)	MARCH	29,	1974
170824	ST. MARIE, VILLAGE OF (JASPER CO)	MARCH	21,	1975
170295*	TAMPS, VILLAGE OF (ALEXANDER CO.)	MAY	31,	1974
		JUNE	11,	1976
171778	THOMSON, VIL (CARROLL CO)	OCTOBER	17,	1975
170672*	TILTON, VILLAGE OF (VERMILION CO.)	JANUARY	14,	1977
173878	TOMPKA, TOWN OF (MASON CO)	MARCH	21,	1975
170550*	VALLEY CITY, VILLAGE OF (PIKE CO.)	DECEMBER	17,	1973
		MARCH	19,	1976

* UNINCORPORATED AREAS ONLY

ILLINOIS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
170455*	NAMAC, CITY OF (WASHINGTON, PARTS OF & CLINTON COS.)	JUNE	28, 1974
170865	WAYNE, VILLAGE (DUPAGE CO)	AUGUST	15, 1975
170355*	WILLIAMSFIELD, VILLAGE OF (KNOX CO.)	DECEMBER	05, 1976
170615	WYOMING, CITY (STARK CO)	MARCH	15, 1978
170240*	ZEIGLER, CITY (FRANKLIN CO)	FEBRUARY	25, 1977

TOTAL IN THE STATE 111

* UNINCORPORATED AREAS ONLY

INDIANA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
180031*	ALTON, TOWN OF (CRAWFORD CO.)	JANUARY	23, 1974 AN
		JULY	02, 1976
180305	AMBOY, TOWN OF (MIAMI CO.)	NOVEMBER	29, 1974
180378	ANDREWS, TOWN OF (HUNTINGTON CO.)	JUNE	07, 1974
180273*	BOONVILLE, CITY OF (WARRICK CO.)	DECEMBER	26, 1973 AN
		MAY	20, 1976
180 *7[illegible]	BROWNSBURG, TOWN OF (HENDRICKS CO.)	NOVEMBER	23, 1973 AN
		JUNE	18, 1976
180258*	CATLIN, TOWN OF (VERMILLION CO.)	MAY	31, 1974 AN
		MAY	21, 1976
180475	CLAY COUNTY *	NOVEMBER	25, 1977
180054	DUBOIS COUNTY *	DECEMBER	13, 1974 AN
		JUNE	16, 1977
180116	DUPONT, TOWN OF (JEFFERSON CO.)	NOVEMBER	29, 1974
180252*	FOUNTAIN CITY, CITY OF (WAY)	MAY	10, 1974 AN
		APRIL	16, 1976
180[illegible]	FOUNTAIN COUNTY	APRIL	15, 1977
180346	FRANCISO, TOWN OF (GIBSON CO)	NOVEMBER	04, 1977
180[illegible]	HAMILTON COUNTY *	MARCH	21, 1975
		DECEMBER	13, 1974 AN
180327*	HAZLETON, TOWN OF (GIBSON CO.)	DECEMBER	23, 1977
		NOVEMBER	25, 1973 AN
180[illegible]	HENRY COUNTY *	SEPTEMBER	24, 1976
180225*	INDIAN VILLAGE, TOWN OF (ST. JOSEPH CO.)	JANUARY	27, 1978
180[illegible]	JAY COUNTY *	OCTOBER	15, 1974
180[illegible]	JENNINGS COUNTY *	JANUARY	16, 1976
		DECEMBER	13, 1974 AN
180193*	JUDSON, TOWN OF (PARKE CO.)	AUGUST	19, 1977
		DECEMBER	17, 1973 AN
180[illegible]	KNIGHTSTOWN, TOWN OF (HENRY CO.)	JUNE	11, 1976
		NOVEMBER	30, 1973 AN
180172*	LADOGA, TOWN OF (MONTGOMERY CO.)	DECEMBER	26, 1975
		NOVEMBER	19, 1976
180125	LAGRANGE COUNTY	MAY	24, 1974 AN
180035*	LEAVENWORTH, TOWN OF (CRAWFORD CO.)	DECEMBER	26, 1975
180398	LITTLE YORK, TOWN OF (WASHINGTON CO)	JULY	01, 1977
180337*	MECCA, TOWN OF (PARKE CO.)	NOVEMBER	30, 1973
		MARCH	21, 1975
180413	MEROM, TOWN (SULLIVAN CO)	JANUARY	23, 1974 AN
180342	MILFORD, TOWN OF (KOSCIUSKO CO)	JUNE	18, 1976
180176	MORGAN COUNTY *	JUNE	17, 1977
		MARCH	21, 1975
180357*	NEWBERRY, TOWN OF (GREENE CO.)	DECEMBER	27, 1974 AN
180262	NEWPORT, TOWN OF (VERMILLION CO.)	JANUARY	26, 1978
		FEBRUARY	01, 1974
180253*	ORLAND, TOWN OF (STEUBEN CO.)	MAY	31, 1974 AN
		MAY	21, 1976
		MAY	31, 1974 AN
		APRIL	05, 1976

* UNINCORPORATED AREAS ONLY

INDIANA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
180149	PAOLI, TOWN OF (ORANGE CO.)	NOVEMBER	23, 1973 AND
		OCTOBER	31, 1975
180182	PARKE COUNTY *	DECEMBER	20, 1974 AND
		APRIL	14, 1978
180367*	PATOKA, TOWN (GIBSON CO.)	NOVEMBER	23, 1973 AND
		JULY	23, 1976
180383	PINES, TOWN OF (PORTER CO)	MARCH	21, 1975
180212	PUTNAM COUNTY	JANUARY	03, 1975 AND
		FEBRUARY	24, 1978
180[illegible]	ROANOKE, TOWN OF (HUNTINGTON CO.)	DECEMBER	20, 1973 AND
		JULY	23, 1976
180345*	SALAMONIA, TOWN OF (JAY CO.)	OCTOBER	22, 1976
180346*	SPRING LAKE PARK, TOWN OF (HANCOCK CO.)	FEBRUARY	01, 1976
180240	STARKE COUNTY	SEPTEMBER	02, 1977
180346*	SULPHUR SPRINGS, TOWN OF (HENRY CO.)	FEBRUARY	01, 1974 AND
		APRIL	09, 1976
180[illegible]*	TENNYSON, TOWN OF (WARRICK CO.)	FEBRUARY	01, 1974 AND
		JUNE	18, 1976
180[illegible]	UNION COUNTY	MARCH	04, 1977
180175*	WAYNETOWN, TOWN OF (MONTGOMERY CO.)	MAY	31, 1974 AND
		APRIL	09, 1976

TOTAL IN THE STATE 44

* UNINCORPORATED AREAS ONLY

IOWA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED	
190396	ACKLEY, CITY OF (HARDIN CO.)	JULY	16, 1976
190558	AFTON, CITY OF (UNION CO.)	SEPTEMBER	26, 1975
190525	AINSWORTH, CITY OF (WASHINGTON CO.)	SEPTEMBER	19, 1975
190542	ALBION, CITY OF (MARSHALL CO.)	APRIL	25, 1974
190138*	ALDEN, CITY OF (HARDIN CO.)	JUNE	21, 1974 AND
		DECEMBER	26, 1975
190387	ALEXANDER, CITY OF (FRANKLIN CO.)	MARCH	26, 1976
190003	ALLAMAKEE COUNTY	JUNE	03, 1977
190543	ALLERTON, CITY OF (WAYNE CO.)	SEPTEMBER	26, 1975
190544	ALLISON, CITY (BUTLER CO)	JULY	16, 1976
190464	ALTOONA, CITY (POLK CO)	SEPTEMBER	26, 1975
190335	APLINGTON, CITY OF (BUTLER CO.)	JUNE	25, 1976
190092*	ARION, CITY OF (CRAWFORD CO.)	SEPTEMBER	06, 1974 AND
		MAY	14, 1976
190217	ASHTON, CITY OF (OSCEOLA CO.)	JULY	11, 1975
190548	ATKINS, CITY (BENTON CO)	AUGUST	22, 1975
190697	AUBURN, CITY OF (SAC)	JULY	30, 1976
190546	AURELIA, CITY OF (CHEROKEE CO.)	APRIL	16, 1976 AND
		APRIL	16, 1976
190698	AURORA, CITY OF (BUCHANAN)	AUGUST	15, 1975
190699	AYRSHIRE, CITY OF (PALO ALTO)	AUGUST	13, 1976
190700	BAGLEY, CITY OF (GUTHRIE CO.)	AUGUST	13, 1976
190429	BALDWIN, CITY OF (JACKSON CO.)	JUNE	25, 1976
190528	BARNUM, CITY OF (WEBSTER CO.)	NOVEMBER	04, 1976
190551	BATAVIA, CITY (JEFFERSON CO)	SEPTEMBER	26, 1975
190422	BATTLE CREEK, CITY OF (IDA CO.)	SEPTEMBER	26, 1975
190552	BAXTER, CITY (JASPER CO)	SEPTEMBER	12, 1975
190452	BEACON, CITY OF (MAHASKA CO.)	SEPTEMBER	19, 1975
190422	BEAMAN, CITY OF (GRUNDY CO.)	AUGUST	22, 1975
190322	BEAVER, CITY OF (BOONE CO.)	OCTOBER	29, 1976
190303*	BELMOND, CITY OF (WRIGHT CO.)	MAY	05, 1974 AND
		AUGUST	22, 1975
190845*	BENTON COUNTY *	MAY	24, 1977
190478	BERTRAM, CITY OF (LINN CO.)	JULY	02, 1976
190325	BLAIRSTOWN, CITY OF (BENTON CO.)	SEPTEMBER	19, 1975
190517	BLOCKTON, CITY OF (TAYLOR CO.)	SEPTEMBER	26, 1975
190554	BLUE GRASS, CITY OF (SCOTT CO.)	AUGUST	13, 1976
190555	BOONE, CITY (BOONE CO)	SEPTEMBER	12, 1975
190708	BOXHOLM, CITY OF (BOONE)	MARCH	26, 1976
190556	BOYDEN, CITY OF (SIOUX CO.)	AUGUST	29, 1975
190426	BRADGATE, CITY OF (HUMBOLDT CO.)	JUNE	25, 1976
190328	BRANDON, CITY OF (BUCHANAN CO.)	OCTOBER	29, 1976
190847*	BREMER COUNTY *	MAY	10, 1977
190314	BRIDGEWATER, CITY OF (ADAIR CO.)	JUNE	18, 1976
190709	BRISTOW, CITY OF (BUTLER)	JULY	02, 1976
190558	BRITT, CITY (HANCOCK CO)	AUGUST	08, 1975
190476	BRUNSVILLE, CITY OF (PLYMOUTH CO.)	JULY	02, 1976
190848*	BUCHANAN COUNTY *	JUNE	07, 1977
190095	BUCK GROVE, CITY OF (CRAWFORD CO.)	NOVEMBER	29, 1974

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	IOWA NAME	HAZARD AREA IDENTIFIED
190849A	BUENA VISTA COUNTY *	NOVEMBER 15, 1977
190650A	BUTLER COUNTY *	SEPTEMBER 30, 1977
190277	CALLENDER, CITY OF (WEBSTER CO.)	NOVEMBER 08, 1974
190201	CARBON, CITY OF (ADAMS CO.)	JUNE 25, 1976
190462	CASTANA, CITY OF (MONONA CO.)	AUGUST 29, 1975
190052A	CEDAR COUNTY	JUNE 07, 1977
190413	CENTER JUNCTION, CITY OF (JONES CO.)	JUNE 25, 1976
190853A	CERRO GORDO COUNTY *	JUNE 07, 1977
190576A	CHATSWORTH, CITY OF (SIOUX CO.)	AUGUST 13, 1976 AND SEPTEMBER 19, 1976
190854A	CHEROKEE COUNTY *	MAY 08, 1977
190855A	CHICKASAW COUNTY *	MAY 24, 1977
190269	CHILLICOTHE, CITY OF (MAPELLO CO.)	NOVEMBER 08, 1974
190395	CHURDAN, CITY OF (GREENE CO.)	AUGUST 29, 1975
190714	CLARE, CITY OF (WEBSTER CO.)	OCTOBER 29, 1976
190336	CLARKSVILLE, CITY OF (BUTLER CO.)	SEPTEMBER 19, 1975
190857A	CLAY COUNTY *	JUNE 07, 1977
190201	CLEMONS, CITY OF (MARSHALL CO.)	NOVEMBER 15, 1976
190374	CLERMONT, CITY OF (FAYETTE CO.)	NOVEMBER 05, 1976
190859	COLO, CITY OF (STORY CO.)	MARCH 26, 1976
192727	COLUMBUS CITY, TOWN OF (LOUISA)	OCTOBER 29, 1976
190421	CONRAD, CITY OF (GRUNDY CO.)	APRIL 16, 1976
190516	CONWAY, CITY OF (TAYLOR CO.)	APRIL 30, 1976
190407	CORNITH, CITY OF (HANCOCK CO.)	JULY 02, 1976
190358	COULTER, CITY OF (FRANKLIN CO.)	OCTOBER 22, 1976
190722	CRAWFORDSVILLE, CITY OF (WASHINGTON CO.)	AUGUST 13, 1976
190510	CROMWELL, CITY OF (UNION CO.)	MAY 25, 1976
190724	CRYSTAL LAKE, CITY OF (HANCOCK CO.)	JUNE 25, 1976
190345	CUMBERLAND, CITY OF (CASS CO.)	NOVEMBER 19, 1976
190421	DAKOTA CITY, CITY OF (HUMBOLDT CO.)	OCTOBER 29, 1976
190862A	DALLAS COUNTY *	NOVEMBER 08, 1974
190176	DAVIS CITY, CITY OF (DECATUR CO.)	OCTOBER 25, 1977
190359	DAWSON, CITY OF (DALLAS CO.)	JULY 18, 1975
190555	DAYTON, CITY OF (WEBSTER CO.)	AUGUST 13, 1976
190558	DE WITT, CITY (CLINTON CO)	NOVEMBER 05, 1976
190332	DECORAH, CITY (WINNESHIEK CO)	OCTOBER 22, 1976
190490	DEEP RIVER, CITY OF (POWESHIEK CO.)	DECEMBER 17, 1976
190590	DELHI, CITY (DELAWARE CO)	SEPTEMBER 19, 1975
1401134	DES MOINES COUNTY	MARCH 19, 1976
190359	DESOTO, CITY OF (DALLAS CO.)	MAY 17, 1977
190354	DEXTER, CITY OF (DALLAS CO.)	SEPTEMBER 26, 1975 AND JULY 26, 1977
190561	DIAGONAL, CITY OF (RINGGOLD CO.)	NOVEMBER 05, 1976
190355	DICKENS, CITY OF (CLAY CO)	AUGUST 29, 1975
190864A	DICKINSON COUNTY *	SEPTEMBER 26, 1975
190728	DIXON, CITY (SCOTT)	MAY 10, 1977
190595	DONAHUE, CITY OF (SCOTT CO.)	SEPTEMBER 19, 1975
192440	DOON, CITY OF (LYON CO.)	MARCH 19, 1976
		SEPTEMBER 19, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	IOWA NAME	HAZARD AREA IDENTIFIED
190354	DOWS, CITY OF (WRIGHT CO.)	JUNE 21, 1974 AND DECEMBER 26, 1975
190577	EARLVILLE, CITY (DELAWARE CO)	MARCH 19, 1976
190574	EARLY, CITY (SAC CO)	OCTOBER 29, 1976 AND MAY 24, 1977
190574	ELDRIDGE, CITY (SCOTT CO)	AUGUST 29, 1975
190447	ELY, CITY OF (LINN CO.)	JULY 30, 1976
190777	FAIRMARVILLE, CITY OF (CALHOUN CO.)	MARCH 26, 1976
190868A	FAYETTE COUNTY *	AUGUST 16, 1977
190347	FENTON, CITY OF (KOSSUTH CO.)	SEPTEMBER 19, 1975
190477	FERGUSON, CITY OF (MARSHALL CO.)	SEPTEMBER 26, 1975
1901274	FLOYD COUNTY	JUNE 03, 1977
190372	FLOYD, CITY OF (FLOYD CO.)	MARCH 19, 1976
190473	FONDA, CITY OF (POCAHONTAS CO.)	JULY 30, 1976
190576	FONTANELLE, CITY (ADAIR CO)	JULY 18, 1975
192374	FRASER, CITY OF (BOONE CO.)	JULY 30, 1976
190127	FREDERIKA, CITY OF (BREMER CO.)	NOVEMBER 22, 1974
190376	FREDONIA, CITY OF (LOUISA CO.)	FEBRUARY 14, 1975
190577	GARNAVILLO, CITY (CLAYTON CO)	AUGUST 29, 1975
190591	GARNER, CITY (HANCOCK CO)	OCTOBER 26, 1976
190321	GARRISON, CITY OF (BENTON CO.)	AUGUST 26, 1975
190514	GOLDFIELD, CITY OF (WRIGHT CO.)	JUNE 25, 1976 AND SEPTEMBER 30, 1976
190414	GOWRIE, CITY OF (WEBSTER CO.)	JUNE 25, 1974 AND FEBRUARY 26, 1976
190515	GRAND JUNCTION, CITY OF (GREENE CO.)	JULY 30, 1976
190476	GRANT, CITY OF (MONTGOMERY CO.)	NOVEMBER 15, 1976
190778	GRANITE, CITY OF (TAYLOR CO.)	SEPTEMBER 19, 1975
192316	GRAY, CITY OF (AUDUBON CO.)	JULY 12, 1977
190775	GUELLER, CITY OF (DELAWARE CO.)	OCTOBER 29, 1976
191114	GREEN ISLAND, CITY OF (JACKSON CO.)	OCTOBER 25, 1974 AND APRIL 23, 1976
190864	GREENE COUNTY *	SEPTEMBER 19, 1976
190220	GRIPES, CITY OF (POLK CO.)	JUNE 14, 1977
190473	GRUNDY CENTER, CITY (GRUNDY CO)	MARCH 05, 1976
190497	GUERNSEY, CITY OF (POWESHIEK CO.)	JULY 02, 1976
190719	GUTHRIE COUNTY *	APRIL 30, 1976
190723	HANCOCK COUNTY *	AUGUST 23, 1977
190216	HANCOCK, CITY OF (POTTAWATTAMIE CO.)	SEPTEMBER 19, 1975
190273	HANLONTOWN, CITY OF (WORTH CO.)	AUGUST 30, 1974 AND DECEMBER 26, 1975
190316	HARPERS FERRY, CITY OF (ALLAMAKEE)	JUNE 26, 1978
190741	HARPER, CITY OF (KEOKUK)	OCTOBER 29, 1976
190585	HARTFORD, CITY (WARREN CO)	NOVEMBER 19, 1976
190455	HARVEY, CITY OF (MARION CO.)	MARCH 19, 1976
190274	HASTINGS, CITY OF (MILLS CO.)	SEPTEMBER 19, 1975
190494	HAVELOCK, CITY OF (POCAHONTAS CO.)	MARCH 19, 1976
190337	HAZELTON, CITY OF (BUCHANAN CO.)	MAY 28, 1976

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	IOWA NAME	HAZARD AREA IDENTIFIED
190592	HENDRICK, CITY OF (KEOKUK CO.)	MARCH 19, 1976
190404	HOLLAND, TOWN (GRUNDY CO)	JULY 02, 1976
190364	HOPKINTON, CITY OF (DELAWARE CO.)	OCTOBER 29, 1976
190411	HUBBARD, CITY OF (HARDIN CO.)	JULY 02, 1976
190596	HUMESTON, CITY OF (WAYNE CO.)	OCTOBER 29, 1976
190391	IMOGENE, CITY OF (FREMONT CO.)	OCTOBER 29, 1976
190378	IOWA COUNTY *	AUGUST 16, 1977
190511	IRETON, CITY OF (SIOUX CO.)	JANUARY 26, 1975
190879A	JACKSON COUNTY *	MAY 26, 1977
190533	JACKSON JCT., CITY OF (WINNESHIEK CO.)	JUNE 25, 1976
190744	JANAICA, CITY OF (GUTHRIE CO.)	AUGUST 13, 1976
190323A	JANESVILLE, CITY OF (BLACK HAWK CO. & BREWER COS.)	DECEMBER 20, 1973 AND JANUARY 16, 1976
190880A	JASPER COUNTY *	JUNE 03, 1977
190599	JESUP, CITY (BUCHANAN CO)	OCTOBER 29, 1976
190600	JEWELL, CITY (HAMILTON CO)	AUGUST 13, 1976
190882A	JOHNSON COUNTY *	NOVEMBER 29, 1977
190740	JOICE, CITY OF (WORTH CO.)	AUGUST 13, 1976
1909194	JONES COUNTY *	APRIL 22, 1977
190601	KALONA, CITY (WASHINGTON CO)	SEPTEMBER 26, 1975
190498	KANAWHA, CITY OF (HANCOCK CO.)	OCTOBER 29, 1976
190748	KELLEY, CITY OF (STORY CO.)	NOVEMBER 19, 1976
190746	KENSETT, CITY OF (WORTH CO.)	NOVEMBER 05, 1976
190883A	KEOKUK COUNTY *	AUGUST 23, 1977
190455	KEOTA, CITY OF (KEOKUK CO.)	SEPTEMBER 26, 1975
190756	KESWICK, CITY OF (KEOKUK CO.)	MAY 21, 1976
190602	KEYSTONE, CITY OF (BENTON CO.)	SEPTEMBER 19, 1975
190432	KINROSS, CITY OF (KEOKUK CO.)	AUGUST 13, 1976
190884A	KOSSUTH COUNTY *	JUNE 21, 1977
190433	LA MOTTE, CITY OF (JACKSON CO.)	SEPTEMBER 26, 1975
190429	LAMONI, CITY OF (IOWA CO.)	SEPTEMBER 19, 1975
190894	LAKE MILLS, CITY (WINNEBAGO CO)	MAY 21, 1976
190753	LAKOTA, CITY OF (KOSSUTH CO.)	MARCH 19, 1976
190331	LAMONT, CITY OF (BUCHANAN CO.)	SEPTEMBER 12, 1975
190076A	LANSING, CITY OF (ALLAMAKEE CO.)	NOVEMBER 22, 1977
190753	LARRABEE, CITY OF (CHEROKEE CO.)	JULY 02, 1976
190359	LATIMER, CITY OF (FRANKLIN CO.)	MARCH 26, 1976
190885	LAURENS, CITY OF (POCAHONTAS CO.)	JULY 30, 1976
190576	LEHIGH, CITY OF (WEBSTER CO.)	SEPTEMBER 19, 1975
190311	LEITTS, CITY OF (LOUISA CO.)	DECEMBER 27, 1974
190829A	LINN COUNTY	JUNE 03, 1977
190332A	LINN GROVE, CITY OF (BUENA VISTA CO.)	AUGUST 16, 1974 AND MARCH 05, 1976
190808	LIVERMORE, CITY OF (HUMBOLDT CO.)	OCTOBER 29, 1976
190810	LONE TREE, CITY (JOHNSON CO)	AUGUST 13, 1976
190784	LONG GROVE, CITY OF (SCOTT CO.)	MAY 14, 1976
190760	LOW MOOR, CITY OF (CLINTON CO.)	MARCH 19, 1976
190767	LUANA, CITY OF (CLAYTON)	APRIL 09, 1978
190768	LUVERNE, CITY OF (KOSSUTH & HUMBOLDT COS.)	SEPTEMBER 19, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	IOWA NAME	HAZARD AREA IDENTIFIED
190185	LYNNVILLE, CITY OF (JASPER CO.)	JANUARY 03, 1975
190888A	LYON COUNTY *	MAY 31, 1977
190772	MACEDONIA, CITY OF (POTTAWATTAMIE CO.)	DECEMBER 10, 1976
190887	MADISON COUNTY *	JANUARY 17, 1978
190773	MAGNOLIA, CITY OF (HARRISON CO.)	OCTOBER 29, 1976
190888A	MAHASKA COUNTY *	JUNE 07, 1977
190498	MALCOM, CITY OF (POWESHIEK CO.)	SEPTEMBER 26, 1975
190834	MANLY, CITY OF (WORTH CO.)	JULY 29, 1976
190383	MARBLE ROCK, CITY OF (FLOYD CO.)	JULY 30, 1976
190614	MARCUS, CITY OF (CHEROKEE CO.)	MARCH 19, 1976
190889	MARION COUNTY *	OCTOBER 18, 1977
190346	MARNE, CITY OF (CASS CO.)	OCTOBER 29, 1976
190824	MARSHALL COUNTY *	JUNE 03, 1977
190775	MARTELLE, CITY OF (JONES)	AUGUST 13, 1976
190524	MARTENSDALE, CITY OF (WARREN CO.)	APRIL 16, 1976 AND APRIL 16, 1976
190456	MARTSVILLE, CITY OF (MARION CO.)	JULY 02, 1976
190365	MASONVILLE, CITY OF (DELAWARE CO.)	AUGUST 13, 1976
190349	MASSENA, CITY OF (CASS CO.)	MAY 21, 1976
190515	MAURICE, CITY OF (SIOUX CO.)	MARCH 19, 1976
190455	MC INTIRE, CITY OF (MITCHELL CO.)	SEPTEMBER 26, 1975
190455	MELROSE, CITY OF (MONROE CO.)	JULY 02, 1976
190478	MERRILL, CITY OF (PLYMOUTH CO.)	JULY 02, 1976
190777	MESERVEY, CITY OF (CERRO GORDO)	OCTOBER 29, 1976
190775	MILES, CITY OF (JACKSON CO.)	NOVEMBER 15, 1976
190358	MILFORD, CITY OF (DICKINSON CO.)	JULY 16, 1976
190669	MILLS COUNTY *	OCTOBER 18, 1977
190522	MILTON, CITY OF (VAN BUREN CO.)	MARCH 15, 1976
190778	MINBURN, CITY OF (DALLAS CO.)	JULY 23, 1976
190791	MINDEN, CITY OF (POTTAWATTAMIE CO.)	OCTOBER 29, 1976
190160	MINGO, CITY OF (JASPER CO.)	SEPTEMBER 05, 1975
190892A	MITCHELL COUNTY *	JUNE 03, 1977
190459	MITCHELL, CITY OF (MITCHELL CO.)	NOVEMBER 05, 1976
190162A	MODALE, TOWN OF (HARRISON CO.)	OCTOBER 18, 1974
190151	MONMOUTH, CITY OF (JACKSON CO.)	JANUARY 17, 1975
190629	MONONA, CITY OF (CLAYTON CO.)	FEBRUARY 21, 1975
190752	MONTOUR, CITY OF (TAMA)	SEPTEMBER 05, 1975
190794	MOORLAND, CITY OF (WEBSTER CO.)	OCTOBER 29, 1976
190624	MOULTON, CITY (APPANOOSE CO)	JULY 16, 1976
190523	MT. STERLING, CITY OF (VAN BUREN CO.)	AUGUST 13, 1976
190493	NEOLA, CITY OF (POTTAWATTAMIE CO.)	SEPTEMBER 19, 1975
190603	NODAWAY, CITY OF (ADAMS CO.)	AUGUST 22, 1975
190384	NORA SPRINGS, CITY OF (FLOYD CO.)	SEPTEMBER 26, 1975
190982A	NORTH BUENAVISTA, CITY OF (CLAYTON CO.)	OCTOBER 18, 1974 AND MARCH 19, 1976
190629	NORTH ENGLISH, CITY (IOWA AND KEOKUK COS)	MARCH 19, 1976
190631	NORVALA, CITY OF (WARREN CO.)	AUGUST 26, 1976
190632	NORWAY, CITY OF (BENTON CO.)	SEPTEMBER 26, 1975
190634	OGDEN, CITY OF (BOONE CO.)	AUGUST 29, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	IOWA	HAZARD AREA IDENTIFIED
190788	OKOBOJI, CITY OF (DICKINSON CO.)		SEPTEMBER 16, 1975
190461	ORCHARD, CITY OF (MITCHELL CO.)		JULY 02, 1976
190359	ORLEANS, CITY OF (DICKINSON CO.)		DECEMBER 17, 1976
190636	OSAGE, CITY (MITCHELL CO)		DECEMBER 03, 1976
190617	OSCEOLA, CITY (CLARKE CO)		APRIL 23, 1976
190838	OSKALOOSA, CITY (MAHASKA CO)		JULY 23, 1976
190635	OSSIAN, CITY (WINNESHIEK CO)		NOVEMBER 19, 1976
190647	OTHO, CITY OF (WEBSTER CO.)		AUGUST 06, 1976
190204*	OTO, CITY OF (WOODBURY CO.)		SEPTEMBER 13, 1974 AND JANUARY 23, 1976
190172*	OXFORD, CITY OF (JOHNSON CO.)		MAY 17, 1974 AND FEBRUARY 06, 1976
190479	OYENS, CITY OF (PLYMOUTH CO.)		JULY 16, 1976
190703	PALMER, CITY OF (POCAHONTAS)		AUGUST 13, 1976
1588**	PALO ALTO COUNTY *		MAY 17, 1977
190510*	PANORAMA PARK, CITY OF (SCOTT CO.)		DECEMBER 13, 1976
190435	PANORA, CITY OF (GUTHRIE CO.)		AUGUST 06, 1976
190357	PARKERSBURG, CITY OF (BUTLER CO.)		JULY 02, 1976
190307	PATON, CITY OF (GREENE CO.)		SEPTEMBER 19, 1975
190451	PATTERSON, CITY OF (MADISON CO.)		OCTOBER 01, 1976
190637*	PELLA, CITY OF (MARION CO.)		JUNE 03, 1977
190357	PETERSON, CITY OF (CLAY CO.)		MARCH 26, 1976
190332	PILOT MOUND, CITY OF (BOONE CO.)		NOVEMBER 05, 1976
190151	PISGAH, CITY OF (HARRISON CO.)		DECEMBER 06, 1974
190327	PLAINFIELD, CITY OF (BREMER CO.)		NOVEMBER 05, 1976
1624**	PLEASANT HILL, CITY OF (POLK CO.)		FEBRUARY 04, 1977
190618	PLEASANTVILLE, CITY OF (MARION CO.)		MARCH 26, 1976
190099*	PLYMOUTH COUNTY *		OCTOBER 25, 1977
190151*	PLYMOUTH, CITY OF (CERRO GORDO CO.)		NOVEMBER 05, 1974 AND MAY 23, 1976
190486	POCAHONTAS, CITY (POCAHONTAS CO)		JULY 27, 1976
190341	POMEROY, CITY OF (CALHOUN CO.)		DECEMBER 17, 1976
190041	POSTVILLE, CITY (ALLAMAKEE CO)		NOVEMBER 05, 1976
1623**	POTTAWATTAMIE COUNTY		DECEMBER 06, 1977
190304	PRESCOTT, CITY OF (ADAMS CO.)		NOVEMBER 05, 1976
190491	PRESTON, CITY OF (JACKSON CO.)		SEPTEMBER 19, 1975
190643	PRIMGHAR, CITY OF (O'BRIEN CO.)		OCTOBER 29, 1976
190416	PROTIVIN, CITY OF (HOWARD CO.)		SEPTEMBER 12, 1975
190444	RADCLIFFE, CITY (HARDIN CO)		JUNE 25, 1976
190530	RAKE, CITY OF (WINNEBAGO CO.)		JUNE 25, 1976
190392	RANDOLPH, CITY OF (FREMONT CO.)		MARCH 19, 1976
190157*	REASNOR, CITY OF (JASPER CO.)		NOVEMBER 01, 1974
190640*	REINBECK, CITY OF (GRUNDY CO.)		DECEMBER 12, 1975 AND MAY 24, 1977
190475	REMSEN, CITY OF (PLYMOUTH CO.)		MARCH 19, 1976
190418	RICEVILLE, CITY OF (HOWARD CO.)		MARCH 19, 1976
190176	RICKETTS, CITY OF (CRAWFORD CO.)		NOVEMBER 22, 1974
190342	RINARD, CITY OF (CALHOUN CO.)		OCTOBER 20, 1976
190353	RINGSTED, CITY OF (EMMET CO.)		MARCH 19, 1976

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	IOWA	HAZARD AREA IDENTIFIED
190686	RIVERSIDE, CITY OF (WASHINGTON CO.)		AUGUST 13, 1976
190305	RIVERTON, CITY OF (FREMONT CO.)		AUGUST 13, 1976
190351*	ROCK FALLS, CITY OF (CERRO GORDO CO.)		JANUARY 14, 1977
190345	ROCKWELL CITY, CITY OF (CALHOUN CO.)		MARCH 26, 1976
190342	ROCKWELL, CITY OF (CERRO GORDO CO.)		MARCH 26, 1976
190513*	ROLAND, CITY OF (STORY CO.)		MARCH 25, 1977
190414	ROME, CITY OF (HENRY CO.)		JULY 09, 1976
190737	ROWAN, CITY OF (WRIGHT CO.)		NOVEMBER 05, 1976
190759	ROYAL, CITY OF (CLAY)		OCTOBER 29, 1976
190355	RUBY, CITY OF (FLOYD CO.)		APRIL 23, 1976
190837	RUNNELLS, CITY OF (POLK CO.)		SEPTEMBER 19, 1975
190652	RUTHVEN, CITY (PALO ALTO CO)		AUGUST 13, 1976
190422	RUTLAND, CITY OF (HUMBOLDT CO.)		NOVEMBER 05, 1976
190601	RYAN, CITY OF (DELAWARE CO.)		MARCH 26, 1976
190651*	SAMBORN, CITY (O)		SEPTEMBER 19, 1975 AND JULY 16, 1976
190531	SCARVILLE, CITY OF (WINNEBAGO CO.)		JULY 02, 1976
190652	SCHALLER, CITY OF (SAC CO.)		NOVEMBER 05, 1976
190653	SCHLESWIG, CITY OF (CRAWFORD CO.)		DECEMBER 10, 1976
190654	SCRANTON, CITY OF (GREENE CO.)		NOVEMBER 12, 1976
193469	SEARSBORO, CITY OF (POWESHIEK CO.)		OCTOBER 29, 1976
190531	SHANNON CITY, CITY OF (RINGGOLD & UNION CO5.)		AUGUST 13, 1976
190152*	SHEFFIELD, CITY OF (FRANKLIN CO.)		JUNE 22, 1974 AND JUNE 04, 1976
190655	SHELL ROCK, CITY OF (BUTLER CO.)		DECEMBER 17, 1976
190316	SHELLSBURG, CITY OF (BENTON CO.)		OCTOBER 29, 1976
190672	SHELTYILLE, CITY OF (JOHNSON CO.)		NOVEMBER 19, 1976
190760*	SIOUX COUNTY *		OCTOBER 25, 1977
190659	SLATER, CITY (STORY CO)		MARCH 26, 1976
190655	SOLDIER, CITY OF (WOODBURY CO.)		AUGUST 13, 1976
190472	SOLON, CITY OF (JOHNSON CO.)		AUGUST 13, 1976
190344	SOMERS, CITY OF (CALHOUN CO.)		OCTOBER 29, 1976
190285	SPILLVILLE, CITY OF (WINNESHIEK CO.)		OCTOBER 29, 1976
190444*	SPRINGVILLE, CITY OF (LINN CO.)		APRIL 01, 1977
190441	STACYVILLE, CITY OF (MITCHELL CO.)		MARCH 26, 1976
190807	STANHOPE, CITY OF (HAMILTON)		AUGUST 13, 1976
190335	STANLEY, CITY OF (BUCHANAN CO.)		JUNE 25, 1976
190564*	STANWOOD, CITY OF (CEDAR CO.)		AUGUST 09, 1974 AND MAY 17, 1976
190645	STATE CENTER, CITY OF (MARSHALL CO.)		AUGUST 13, 1976
190141	STEAMBOAT ROCK, CITY OF (HARDIN CO.)		JANUARY 03, 1975
190675	STOCKPORT, CITY OF (VAN BUREN)		MARCH 26, 1976
190446	STOCKTON, CITY OF (MUSCATINE CO.)		NOVEMBER 19, 1976
190662	STRAWBERRY POINT, TOWN (CLAYTON CO)		APRIL 16, 1976 AND APRIL 16, 1976
190643	STUART, CITY OF (ADAIR-GUTHRIE COS.)		MARCH 26, 1976
190612	ST. CHARLES, CITY OF (MADISON CO.)		DECEMBER 10, 1976
190875	SWALEDALE, CITY OF (CERRO GORDO)		AUGUST 13, 1976
190654	SWEA CITY, CITY OF (KOSSUTH CO.)		SEPTEMBER 19, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	IOWA	HAZARD AREA IDENTIFIED
190816	SWISHER, CITY OF (JOHNSON CO.)		AUGUST 13, 1976
190665	TABOR, CITY OF (FREMONT-MILLS COS.)		JULY 02, 1976
190666	THOMPSON, CITY OF (WINNEBAGO CO.)		SEPTEMBER 19, 1975
190813	THOR, TOWN OF (HUMBOLDT CO.)		SEPTEMBER 13, 1977
190173	TIFFIN, CITY OF (JOHNSON CO.)		NOVEMBER 22, 1974
190667	TOLEDO, CITY (TAMA CO)		SEPTEMBER 12, 1975
190816	TREYNOR, CITY OF (POTTAWATTAPIE CO.)		MARCH 26, 1976
190669	TRIPOLI, CITY (BREMER CO)		MARCH 26, 1976
190671*	UNIVERSITY PARK, TOWN (MAHASKA CO)		MARCH 16, 1976
190672	URBANA, CITY OF (BENTON CO.)		NOVEMBER 19, 1976
190454	UTE, CITY OF (MONONA CO.)		MARCH 19, 1976
190673	VAN HORNE, CITY (BENTON CO)		MARCH 26, 1976
190362	VAN METER, CITY OF (DALLAS CO.)		SEPTEMBER 26, 1975
190674	VENTURA, CITY OF (CERRO GORDO CO.)		NOVEMBER 05, 1976
190468	WILLISCA, CITY OF (MONTGOMERY CO.)		AUGUST 13, 1976
190819*	VINCENT, CITY OF (WEBSTER CO.)		JUNE 03, 1977
190359	WADENA, CITY OF (FAYETTE CO.)		AUGUST 13, 1976
190675	WALCOTT, CITY (MUSCATINE-SCOTT COS)		JULY 09, 1976
190826	WALFORD, CITY OF (BENTON CO.)		AUGUST 13, 1976
190445	WALKER, CITY OF (LINN CO.)		OCTOBER 29, 1976
190676	WALNUT, CITY OF (POTTAWATTAMIE CO.)		SEPTEMBER 19, 1975
190911*	WAPELLO COUNTY *		OCTOBER 25, 1977
190912*	WARREN COUNTY *		FEBRUARY 07, 1978
190317	WATERVILLE, CITY OF (ALLAMAKEE CO.)		APRIL 16, 1976 AND APRIL 16, 1976
190391	WAUCOMA, CITY OF (FAYETTE CO.)		JULY 27, 1976
190678	WAUKEE, CITY (DALLAS CO)		MARCH 26, 1976
190831*	WEBSTER COUNTY		AUGUST 02, 1977
190276	WELLMAN, CITY OF (WASHINGTON CO.)		APRIL 30, 1976
190685	WELLSBURG, CITY OF (GRUNDY CO.)		OCTOBER 06, 1976
190691	WESLEY, CITY OF (KOSSUTH CO.)		AUGUST 13, 1976
190824	WEST OKOBOJI, CITY OF (DICKINSON CO.)		OCTOBER 29, 1976
190482	WESTFIELD, CITY OF (PLYMOUTH CO.)		AUGUST 13, 1976
190823	WESTGATE, CITY OF (FAYETTE)		OCTOBER 29, 1976
190096*	WHEATLAND, CITY OF (CLINTON CO.)		JUNE 26, 1974 AND APRIL 02, 1976
190694*	WHITING, CITY (MONONA CO)		JUNE 07, 1977 JULY 02, 1976 AND SEPTEMBER 05, 1978
190686	WILTON, CITY OF (MUSCATINE CO.)		OCTOBER 22, 1976
190915*	WINNEBAGO COUNTY *		JULY 20, 1977
190695	WINTHROP, CITY (BUCHANAN CO)		JULY 16, 1976
190350	WIOTA, CITY OF (CASS CO.)		JUNE 25, 1976
190417	WODEN, CITY OF (HANCOCK CO.)		APRIL 30, 1976
190670	WOODBURN, CITY OF (CLARKE CO.)		DECEMBER 20, 1974
190279*	WOOLSTOCK, CITY OF (WRIGHT CO.)		JUNE 25, 1976 AND AUGUST 20, 1976
190474	YORKTOWN, CITY OF (PAGE CO.)		OCTOBER 28, 1976
190371	ZWINGLE, CITY OF (DUBUQUE CO.)		NOVEMBER 05, 1976

COMMUNITY NUMBER	NAME	IOWA	HAZARD AREA IDENTIFIED
	TOTAL IN THE STATE		301

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	KANSAS NAME	HAZARD AREA IDENTIFIED	
200588	ALLEN COUNTY *	MAY	26, 1977
200339	ALTA VISTA, CITY (WABAUNSEE CO.)	MARCH	19, 1976
200344	ALTON, CITY (OSBORNE CO.)	MARCH	19, 1976
200322	ALTOONA, CITY (WILSON CO.)	JULY	30, 1976
200598	ANDERSON COUNTY *	DECEMBER	13, 1977
200346	ARCADIA, CITY (CRAWFORD CO.)	AUGUST	15, 1975
200344	ARLINGTON, CITY (RENO CO.)	SEPTEMBER	26, 1975
200455	ARMA, CITY (CRAWFORD CO.)	MARCH	26, 1976
200598	ATCHISON COUNTY	MAY	31, 1977
200378	ATTICA, CITY (HARPER CO.)	MARCH	26, 1976 AND
200348	BARNES, CITY (WASHINGTON CO.)	AUGUST	20, 1976
200364	BARTON COUNTY	AUGUST	22, 1975
200359	BEATTIE, CITY (MARSHALL CO.)	AUGUST	02, 1977
200457	BENNINGTON, CITY (OTTAWA CO.)	AUGUST	29, 1975
200459	BIRD CITY, CITY (CHEYENNE CO.)	MARCH	26, 1976
200391	BISON, CITY OF (RUSH CO.)	JULY	30, 1976
200472	BLUE RAPIDS, CITY (MARSHALL CO.)	MARCH	26, 1976
200138	BLUFF CITY, CITY OF (HARPER CO.)	DECEMBER	27, 1974
200224	BOURBON COUNTY	OCTOBER	25, 1977
200302	BREWSTER, CITY OF (THOMAS CO.)	JULY	16, 1976 AND
200333	BRONSON, CITY OF (BOURBON CO.)	DECEMBER	24, 1976
200420	BROWN COUNTY	JULY	18, 1975
200385	BURDETT, CITY (PAWNEE CO)	MAY	17, 1977
200469	BURLINGAME, CITY OF (OSAGE CO.)	MARCH	26, 1976
200307	BURNS, CITY (MARION CO)	DECEMBER	24, 1976
200474	CALDWELL, CITY (SUMNER CO.)	MARCH	26, 1976
200475	CANTON, CITY (MCPHERSON CO.)	SEPTEMBER	19, 1975
200480	CHASE COUNTY	APRIL	23, 1976
200478	CHENEY, CITY (SEDGWICK CO.)	SEPTEMBER	13, 1977
200 449	CHEROKEE COUNTY	MARCH	26, 1976
200479	CHEROKEE, CITY (CRAWFORD CO.)	MAY	10, 1977
200481	CHETOPA, CITY (LABETTE CO.)	MARCH	26, 1976
200584	CLOUD COUNTY	SEPTEMBER	19, 1975
200628	COFFEY COUNTY	AUGUST	25, 1977
200096	COLONY, CITY OF (ANDERSON CO.)	AUGUST	23, 1977
200486	COTTONWOOD FALLS, CITY (CHASE CO.)	DECEMBER	20, 1974
200606	COURTLAND, CITY OF (REPUBLIC CO.)	MARCH	26, 1976
200634	COWLEY COUNTY	MAY	21, 1976
200493	DEARING, CITY (MONTGOMERY CO.)	JULY	19, 1977
200495	DORRANCE, CITY (RUSSELL CO.)	JULY	25, 1975
200495	DOUGLAS, CITY (BUTLER CO.)	AUGUST	13, 1976
200496	DOWNS, CITY (OSBORNE CO.)	JULY	18, 1975
200235	DUNLAP, CITY (MORRIS CO)	NOVEMBER	26, 1976
200498	DWIGHT, CITY (MORRIS CO.)	JANUARY	03, 1975
200491	EASTBOROUGH, CITY (SEDGWICK CO.)	SEPTEMBER	19, 1975
200498	ELK CITY, CITY OF (MONTGOMERY CO.)	SEPTEMBER	19, 1975
		OCTOBER	29, 1976

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	KANSAS NAME	HAZARD AREA IDENTIFIED	
200230	ELKHART, CITY OF (MORTON CO.)	MAY	24, 1974 AND
200094	ELLIS COUNTY	DECEMBER	05, 1975
200271	EMMETT, CITY OF (MIAMI CO.)	OCTOBER	18, 1977
200351	ENGLEWOOD, CITY (CLARK CO)	DECEMBER	20, 1974
200349	ENSIGN, CITY (GRAY CO.)	JULY	16, 1976
200492	ENTERPRISE, CITY (DICKINSON CO.)	MARCH	26, 1976
200414	ESPON, CITY (JEWELL CO.)	APRIL	23, 1976
200493	ESKRIDGE, CITY (WABAUNSEE CO.)	AUGUST	29, 1975
200328	FAIRVIEW, CITY OF (BROWN CO.)	AUGUST	22, 1975
200909	FINNEY COUNTY	NOVEMBER	08, 1974
200496	FLORENCE, CITY (MARION CO.)	FEBRUARY	28, 1978
200719	FORD COUNTY	AUGUST	06, 1976
200411	FORD, CITY (FORD CO.)	DECEMBER	06, 1977
200405	FOWLER, CITY (MEADE CO.)	MARCH	26, 1976
200565	FRANKLIN COUNTY	JULY	28, 1976
200476	FRONTENAC, CITY (CRAWFORD CO.)	AUGUST	10, 1977
200424	FULTON, CITY (BOURBON CO)	JULY	30, 1976
200412	GARFIELD, CITY (PAWNEE CO.)	JANUARY	10, 1975
200362	GATLORD, CITY OF (SMITH CO.)	JUNE	04, 1976
200579	GEARY COUNTY *	DECEMBER	27, 1974
200413	GENESEO, CITY (RICE CO.)	OCTOBER	18, 1977
200414	GELDA SPRINGS, CITY (COWLEY-SUMNER COS)	APRIL	23, 1976
200227	GLEN ELDER, CITY OF (MITCHELL CO.)	SEPTEMBER	12, 1975
200206	GODDARD, CITY OF (SEDGWICK CO.)	DECEMBER	27, 1974
200269	GOFF, CITY OF (NEMAHA CO.)	NOVEMBER	22, 1974
200206	GREELEY, CITY OF (ANDERSON CO.)	NOVEMBER	15, 1974 AND
200531	GREENBURG, CITY OF (KIOWA CO.)	DECEMBER	26, 1975
200416	GRENOLA, CITY (ELK CO.)	JULY	30, 1976
200044	GRIDLEY, CITY OF (COFFEY CO.)	SEPTEMBER	26, 1975
200355	HADDAM, CITY OF (WASHINGTON CO.)	NOVEMBER	22, 1974
200529	HAMLIN, CITY (BROWN CO)	DECEMBER	27, 1974
200421	HAPPONER, CITY (BARBER CO.)	SEPTEMBER	19, 1975
200422	HARTFORD, CITY (LYON CO.)	AUGUST	15, 1975
200595	HARVEY COUNTY *	SEPTEMBER	26, 1975
200352	HARVEYVILLE, CITY OF (WABAUNSEE CO.)	JANUARY	17, 1975
200504	HAVILAND, CITY (KIOWA CO)	AUGUST	22, 1975
200281	HIGHLAND, CITY OF (DONIPHAN CO.)	DECEMBER	27, 1974
200516	HOLYROOD, CITY (ELLSWORTH CO.)	SEPTEMBER	19, 1975
200424	HOPE, CITY (DICKINSON CO.)	AUGUST	08, 1975
200516	HORTON, CITY (SHERIDAN CO.)	SEPTEMBER	19, 1975
200226	HUMBOLDT, CITY OF (ALLEN CO.)	FEBRUARY	28, 1975
200118	INGALLS, CITY OF (GRAY CO.)	AUGUST	09, 1977
200819	JACKSON COUNTY *	SEPTEMBER	19, 1975
200426	JAMESTOWN, CITY (CLOUD CO.)	AUGUST	08, 1975
201474	JEFFERSON COUNTY	DECEMBER	27, 1974
200556	JOHNSON COUNTY	FEBRUARY	07, 1975
		DECEMBER	17, 1976
		AUGUST	09, 1977
		SEPTEMBER	19, 1975
		AUGUST	08, 1975
		DECEMBER	26, 1974
		FEBRUARY	07, 1975
		DECEMBER	17, 1976
		OCTOBER	25, 1977
		SEPTEMBER	26, 1975
		JULY	02, 1976
		DECEMBER	26, 1975
		SEPTEMBER	26, 1975 AND
		APRIL	23, 1976
		OCTOBER	29, 1976
		MAY	26, 1976
		JULY	02, 1976
		DECEMBER	24, 1974
		NOVEMBER	12, 1974
		DECEMBER	06, 1974
		MARCH	26, 1976
		NOVEMBER	22, 1974
		FEBRUARY	03, 1976 AND
		NOVEMBER	29, 1974
		SEPTEMBER	19, 1975
		JANUARY	17, 1975
		AUGUST	22, 1975
		DECEMBER	20, 1974
		SEPTEMBER	26, 1975 AND
		JUNE	18, 1976
		SEPTEMBER	13, 1977
		AUGUST	22, 1975
		SEPTEMBER	19, 1975
		SEPTEMBER	19, 1975
		FEBRUARY	06, 1976
		MARCH	26, 1976
		SEPTEMBER	19, 1975
		JANUARY	03, 1975
		MARCH	26, 1976
		JULY	02, 1976

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	KANSAS NAME	HAZARD AREA IDENTIFIED	
200588	KEARNY COUNTY *	JULY	12, 1977
200429	KECHI, CITY (SEDGWICK CO.)	APRIL	23, 1976
200512	KENSINGTON, CITY (SMITH CO.)	AUGUST	22, 1975
200307	KINCAID, CITY OF (ANDERSON CO.)	NOVEMBER	22, 1974
200589	KINGMAN COUNTY *	OCTOBER	18, 1977
200329	KISMET, CITY OF (SEWARD CO.)	NOVEMBER	22, 1974
200198	LA CYGNE, CITY OF (LINN CO.)	MARCH	15, 1976 AND
200598	LABETTE COUNTY *	DECEMBER	26, 1975
201038	LANE, CITY OF (FRANKLIN CO.)	OCTOBER	25, 1977
		DECEMBER	27, 1974 AND
200343	LEGENON, CITY OF (SMITH CO.)	SEPTEMBER	10, 1978
200065	LEBO, CITY OF (COFFEY CO.)	DECEMBER	20, 1974
200247	LEMORA, CITY (NORTON CO)	APRIL	23, 1976
200510	LEON, CITY (BUTLER CO.)	NOVEMBER	19, 1976
200517	LEOTI, CITY (WICHITA CO.)	MARCH	26, 1976
200668	LEROY, CITY OF (COFFEY CO.)	NOVEMBER	05, 1976
		DECEMBER	28, 1973 AND
200518	LEWIS, CITY (EDWARDS CO.)	OCTOBER	24, 1975
200396	LIEBENTHAL, CITY (RUSH CO)	MARCH	26, 1976
200631	LINN, CITY (WASHINGTON CO.)	JANUARY	03, 1975
200272	LOUISVILLE, CITY OF (POTTAWATOMIE CO.)	SEPTEMBER	05, 1975
200516	LUCAS, CITY (RUSSELL CO.)	DECEMBER	06, 1974
200433	LURAY, CITY (RUSSELL CO.)	JULY	02, 1976
200435	MACKSVILLE, CITY (STAFFORD CO.)	AUGUST	06, 1976
200582	MAIZE, CITY (SEDGWICK CO.)	OCTOBER	26, 1976
200436	MAPLE HILL, CITY (WABAUNSEE CO.)	NOVEMBER	05, 1976
200110	MARLAND, CITY OF (GRAHAM CO)	MARCH	11, 1977
200212	MARSHALL COUNTY	JUNE	28, 1977
200431	MCCRACKEN, CITY OF (RUSH CO.)	NOVEMBER	22, 1976
200437	MELVERN, CITY OF (OSAGE CO.)	JULY	30, 1976
200149	MERIDEN, CITY (JEFFERSON CO)	NOVEMBER	05, 1976
200222	MIAMI COUNTY	JUNE	07, 1977
200557	MILTONVALE, CITY (CLOUD CO.)	MAY	07, 1976
200535	MINNEAPOLIS, CITY (OTTAWA CO.)	AUGUST	06, 1976
200172	MISSION WOODS, CITY (JOHNSON CO)	OCTOBER	01, 1976
200595	MONTGOMERY COUNTY *	OCTOBER	18, 1977
200567	MORAN, CITY (ALLEN CO.)	MARCH	26, 1976
200455	MORGANVILLE, CITY OF (CLAY CO.)	DECEMBER	20, 1974
200432	MORRILL, CITY OF (BROWN CO.)	NOVEMBER	22, 1976
200356	MORROWVILLE, CITY OF (WASHINGTON CO.)	DECEMBER	06, 1974
200198	MOUND CITY, CITY OF (LINN CO.)	MARCH	01, 1976 AND
		NOVEMBER	29, 1975
200468	MULLINVILLE, CITY (KIOWA CO.)	APRIL	16, 1976
200144	MUSCOTAH, CITY OF (ATCHISON CO.)	AUGUST	20, 1975
		NOVEMBER	22, 1974 AND
200237	NEMAHA COUNTY	JULY	09, 1976
200588	NEOSHO COUNTY *	JULY	05, 1977
		NOVEMBER	01, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	KANSAS NAME	HAZARD AREA IDENTIFIED	
200356	NEOSHO FALLS, CITY OF (WOODSON CO)	JANUARY	31, 1975
200206	NEOSHO RAPIDS, CITY (LYON CO)	JANUARY	03, 1975
200562	NORTH NEWTON, CITY (HARVEY CO.)	NOVEMBER	05, 1976
200152	NORTONVILLE, CITY OF (JEFFERSON CO.)	MARCH	01, 1974 AND
		JUNE	18, 1976
200563	OAKLEY, CITY (LOGAN CO.)	JULY	02, 1976
200464	OLPE, CITY (LYON CO.)	SEPTEMBER	26, 1975
200544	OMAHA, CITY (POTTAWATOMIE CO.)	AUGUST	15, 1976
200252	OSAGE CITY, CITY OF (OSAGE CO)	MARCH	01, 1974 AND
		FEBRUARY	28, 1975
200601	OSAGE COUNTY *	AUGUST	09, 1977
200545	OSAWATOMIE, CITY (LABETTE CO.)	SEPTEMBER	19, 1975
200567	OXFORD, CITY (SUMNER CO.)	AUGUST	08, 1975
200357	PALMER, CITY OF (WASHINGTON CO.)	DECEMBER	26, 1974
200198	PARKER, CITY OF (LINN COU)	FEBRUARY	07, 1975
200440	PARTRIDGE, CITY (RENO CO.)	DECEMBER	17, 1976
200554	PAWNEE COUNTY *	OCTOBER	25, 1977
200467	PERU, CITY (CHAUTAUQUA CO.)	SEPTEMBER	26, 1975
200196	PLEASANTON, CITY (LINN CO)	JULY	02, 1976
201058	POMONA, CITY OF (FRANKLIN CO.)	FEBRUARY	08, 1974 AND
		DECEMBER	26, 1975
200442	POTWIN, CITY (BUTLER CO.)	SEPTEMBER	26, 1975
200202	PRESCOTT, CITY (LINN CO)	APRIL	23, 1976
200445	PRESTON, CITY (PRATT CO.)	OCTOBER	29, 1976
200190	PRINCETON, CITY (FRANKLIN CO.)	MAY	26, 1976
200551	PROTECTION, CITY OF (COMANCHE CO.)	JULY	02, 1976
200522	OLINTER, CITY (LOVE CO.)	DECEMBER	24, 1976
200457	RANSOM, CITY (NESS CO.)	NOVEMBER	12, 1976
200288	REPUBLIC, CITY OF (REPUBLIC CO.)	DECEMBER	06, 1974
200453	ROLLA, CITY (MORTON CO.)	MARCH	26, 1976
200312	RUSH CENTER, CITY OF (RUSH CO.)	NOVEMBER	22, 1974
200315	RUSSELL, CITY OF (RUSSELL CO.)	FEBRUARY	03, 1976 AND
		NOVEMBER	08, 1974
200455	SCAMMON, CITY (CHEROKEE CO.)	SEPTEMBER	19, 1975
200487	SCHOENCHEN, CITY (ELLIS CO)	JANUARY	17, 1975
200528	SEDAN, CITY (CHAUTAUQUA CO.)	AUGUST	22, 1975
200083	SEVERANCE, CITY OF (DONIPHAN CO.)	DECEMBER	20, 1974
200457	SEVERY, CITY (GREENWOOD CO.)	SEPTEMBER	26, 1975 AND
		JUNE	18, 1976
200606	SEWARD COUNTY *	SEPTEMBER	13, 1977
200458	SHARON, CITY (BARBER CO.)	AUGUST	22, 1975
200456	SOUTH HAVEN, CITY (SUMNER CO)	SEPTEMBER	19, 1975
200531	SPEARVILLE, CITY (FORD CO.)	SEPTEMBER	19, 1975
200178	SPRING HILL, CITY OF (JOHNSON CO.)	FEBRUARY	06, 1976
200512	STAFFORD, CITY (STAFFORD CO.)	MARCH	26, 1976
200524	ST. FRANCIS, CITY (CHEYENNE CO.E)	SEPTEMBER	19, 1975
200274	ST. GEORGE, CITY (POTTAWATOMIE CO)	JANUARY	03, 1975
200526	ST. PAUL, CITY (NEOSHO CO.)	SEPTEMBER	19, 1975
200656	SUMMERFIELD, CITY (MARSHALL CO.)	JULY	02, 1976

* UNINCORPORATED AREAS ONLY

KANSAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
200365	THAYER, CITY (NEOSHO CO)	JULY 02, 1976
200367	TORONTO, CITY (WOODSON CO)	SEPTEMBER 19, 1975
200368	TREECE, CITY (CHEROKEE CO)	MARCH 26, 1976
200370	TYRO, CITY (MONTGOMERY CO)	JULY 25, 1975
200551	ULYSSES, CITY (GRANT CO.)	NOVEMBER 05, 1976
200556	WATERVILLE, CITY (MARSHALL CO.)	AUGUST 20, 1975
200557	WEIR, CITY (CHEROKEE CO.)	SEPTEMBER 19, 1975
200558	WEST PLAINS, CITY (MEADE CO.)	JUNE 16, 1976
200277	WESTMORELAND, CITY OF (POTTAWATOMIE CO.)	MARCH 08, 1974 AND DECEMBER 26, 1975
200008	WESTPHALIA, CITY (ANDERSON CO)	DECEMBER 20, 1974
200056	WHITE CLOUD, CITY OF (DONIPHAN CO.)	DECEMBER 27, 1974
200559	WHITEWATER, CITY (BUTLER CO.)	SEPTEMBER 19, 1975
200146	WHITING, CITY OF (JACKSON CO.)	NOVEMBER 29, 1974
200677	WILSON COUNTY *	JUNE 07, 1977
200574	WOODSTON, CITY (ROOKS CO)	SEPTEMBER 26, 1975

TOTAL IN THE STATE 194

* UNINCORPORATED AREAS ONLY

KENTUCKY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
210267	ALLEN COUNTY	JUNE 24, 1977
210266	BALLARD COUNTY	APRIL 06, 1977
210336	BARREN COUNTY *	AUGUST 19, 197-
210[illegible]	BATH COUNTY	APRIL 01, 1977
210[illegible]	BERRY, TOWN OF (HARRISON CO.)	AUGUST 16, 1974 AND FEBRUARY 20, 1976
210[illegible]	BOONEVILLE, CITY OF (OWSLEY CO.)	FEBRUARY 01, 1974 AND FEBRUARY 27, 1976
210021	BRACKEN COUNTY	JUNE 10, 1977
210[illegible]	BRADFORDSVILLE, CITY OF (MARION CO.)	MAY 10, 1974 AND FEBRUARY 20, 1976
210[illegible]	BRECKINRIDGE COUNTY	OCTOBER 21, 1977
210[illegible]	BROOKHAVEN, CITY OF (ROCK CASTLE CO.)	MAY 17, 1974 AND FEBRUARY 27, 1976
210[illegible]	BROWNSVILLE, CITY (EDMONSON CO)	OCTOBER 08, 1976
210[illegible]	BULLITT COUNTY	MAY 26, 1977
210[illegible]	CALHOUN, TOWN OF (MCLEAN CO.)	FEBRUARY 01, 1974
210[illegible]	CALLOWAY COUNTY *	DECEMBER 22, 1977
210[illegible]	CARLISLE COUNTY *	OCTOBER 15, 1974 AND JULY 19, 1977
210[illegible]	CARROLL COUNTY	FEBRUARY 25, 1977
210[illegible]	CASEY COUNTY *	DECEMBER 13, 1974 AND JUNE 03, 1977
210[illegible]	CHRISTIAN COUNTY	JUNE 24, 1977
210[illegible]	CLAY COUNTY *	DECEMBER 27, 1974 AND JULY 15, 1977
210[illegible]	CLINTON COUNTY	JULY 15, 1977
210[illegible]	CLINTON, TOWN OF (HICKMAN CO.)	MAY 17, 1974 AND SEPTEMBER 24, 1976
210[illegible]	CRITTENDEN COUNTY	DECEMBER 23, 1977
210[illegible]	CUMBERLAND COUNTY	JANUARY 03, 1975 AND DECEMBER 16, 1977
210[illegible]	DEATER, CITY OF (CALLOWAY CO.)	OCTOBER 01, 1976
210[illegible]	FORT THOMAS, CITY OF (CAMPBELL CO.)	JANUARY 25, 1974 AND JUNE 29, 1976
210[illegible]	FOSTER, CITY (BRACKEN CO)	AUGUST 01, 1975 AND JUNE 03, 1977
210[illegible]	FULTON COUNTY *	DECEMBER 23, 1977
210[illegible]	GALLATIN CO.	SEPTEMBER 03, 1976
210[illegible]	GARRARD COUNTY *	OCTOBER 18, 1974 AND JUNE 03, 1977
210[illegible]	GILBERTSVILLE, CITY (MARSHALL CO.)	JULY 25, 1975
210[illegible]	GLENCOE, CITY OF (GALLATIN CO.)	FEBRUARY 01, 1974 AND JUNE 04, 1976
210[illegible]	GRAVES COUNTY	NOVEMBER 04, 1977
210[illegible]	GRAYSON COUNTY *	NOVEMBER 25, 1977
210[illegible]	HARDIN COUNTY *	OCTOBER 18, 1974 AND JULY 22, 1977

* UNINCORPORATED AREAS ONLY

KENTUCKY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
210303	HARDIN, CITY OF (MARSHALL CO.)	JUNE 14, 1974 AND AUGUST 13, 1976
210376	HARRISON COUNTY *	AUGUST 26, 1977
210257	HART COUNTY	JULY 08, 1977
210296	HENDERSON COUNTY	JUNE 24, 1977
210117	HENRY COUNTY *	OCTOBER 18, 1974 AND MAY 26, 1977
210336	HICKMAN COUNTY *	MARCH 03, 1978
210277	HICKMAN, CITY OF (FULTON CO)	JUNE 28, 1974 AND JUNE 04, 1976
210112	HOPKINS COUNTY *	OCTOBER 18, 1974 AND APRIL 23, 1976
210336	JOHNSON COUNTY *	NOVEMBER 11, 1977
210345	KNOTT COUNTY *	NOVEMBER 04, 1977
210134	LAUREL COUNTY *	DECEMBER 27, 1974 AND NOVEMBER 25, 1977
210355	LEITCHFIELD, TOWN OF (GRAYSON CO.)	MAY 10, 1974 AND SEPTEMBER 03, 1976
210324	LESLIE COUNTY *	JULY 29, 1977
210265	LETCHER COUNTY	SEPTEMBER 02, 1977
210325	LINCOLN COUNTY *	AUGUST 26, 1977
210341	LOGAN COUNTY *	SEPTEMBER 09, 1977
210342	MADISON COUNTY *	AUGUST 26, 1977
210153	MAGOFFIN COUNTY	AUGUST 26, 1977
210154	MARION COUNTY	JUNE 17, 1977
210252	MARSHALL COUNTY	MARCH 17, 1978
210[illegible]	MASON COUNTY	DECEMBER 31, 1976
210343	MCCREARY COUNTY *	NOVEMBER 25, 1977
210273	MCHENRY, TOWN OF (OHIO CO.)	OCTOBER 15, 1974
210153	MCLEAN COUNTY *	DECEMBER 20, 1974 AND MAY 26, 1977
210165	MEADE COUNTY	MAY 13, 1977
210375	MONTGOMERY COUNTY *	OCTOBER 21, 1977 AND SEPTEMBER 27, 1978
210293	MUHLENBERG COUNTY	MAY 13, 1977
210175	OHIO COUNTY	DECEMBER 02, 1977
210176	OWEN COUNTY *	OCTOBER 18, 1974 AND MAY 27, 1977
210296	OWSLEY COUNTY	JUNE 17, 1977
210297	PENDLETON COUNTY *	JULY 30, 1976
210197	PULASKI COUNTY	JULY 22, 1977
210292	ROBERTSON COUNTY	MARCH 23, 1977
210245	ROCKPORT, TOWN OF (OHIO CO.)	FEBRUARY 01, 1974
210205	RUSSELL COUNTY	JULY 15, 1977
210241	SADIEVILLE, CITY (SCOTT CO)	JANUARY 03, 1975
210209	SHELBY COUNTY *	OCTOBER 18, 1974 AND JULY 15, 1977
210[illegible]	SOUTH CARROLLTON, CITY (MUHLENBERG CO)	JULY 25, 1975
210276	SOUTHGATE, CITY (CAMPBELL CO)	AUGUST 01, 1975

* UNINCORPORATED AREAS ONLY

KENTUCKY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
210376	ST. CHARLES, TOWN OF (HOPKINS CO.)	AUGUST 13, 1976
210212	TAYLOR COUNTY *	OCTOBER 18, 1974 AND JUNE 03, 1977
210355	TRIGG COUNTY *	AUGUST 26, 1977
210316	TRIMBLE COUNTY	JANUARY 14, 1977
210218	UNIONTOWN, TOWN OF (UNION CO.)	MAY 17, 1974
210[illegible]	UNION, TOWN (BOONE CO)	AUGUST 01, 1975
210231	VERSAILLES, CITY (WOODFORD CO)	JULY 29, 1977
210[illegible]	VINE GROVE, CITY OF (HARDIN CO.)	MAY 17, 1974 AND MARCH 05, 1976
210346	WAYNE COUNTY *	JANUARY 06, 1978
210246	WHEAT CROFT, TOWN OF (WEBSTER CO.)	FEBRUARY 15, 1974 AND MARCH 05, 1976
210377	WINSTON PARK, TOWN OF (CRITTON CO.)	JANUARY 23, 1974

TOTAL IN THE STATE 84

* UNINCORPORATED AREAS ONLY

LOUISIANA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
220114A	ALBANY, VILLAGE OF (LIVINGSTON PARISH)	APRIL 12, 1974 AND
		OCTOBER 15, 1976
220231	ANGIE, VILLAGE (WASHINGTON PARISH)	JANUARY 03, 1975
220263	ASHLAND, TOWN (NATCHITOCHES PARISH)	AUGUST 15, 1976
220354	ATHENS, VILLAGE OF (CLAIBORNE PARISH)	FEBRUARY 21, 1975
220076A	BEAUREGARD PARISH	JANUARY 17, 1975 AND
		AUGUST 23, 1977
220316	BONITA VIL (MOREHOUSE CO)	AUGUST 22, 1975
220361	CADDO PARISH *	MARCH 07, 1978
220512	CHATHAM TOWN (JACKSON CO)	SEPTEMBER 19, 1975
220322	CLARKS VIL (CALDWELL CO)	AUGUST 15, 1975
220286	CONVERSE VIL (SABINE PARISH)	AUGUST 29, 1975
220322A	COTTON VALLEY TOWN (WEBSTER CO)	JANUARY 14, 1977
220362	DE SOTO PARISH *	JANUARY 10, 1978
220323A	DUBACH TOWN (LINCOLN CO)	APRIL 01, 1977
220324	ELIZABETH TOWN (ALLEN CO)	JULY 25, 1975
220295	EPPS VIL (WEST CARROLL CO)	JUNE 04, 1976
220294	EVERGREEN, VILLAGE OF (AVOYELLES PARISH)	SEPTEMBER 26, 1975
220326	FLORIEN VIL (SABINE PARISH)	JULY 25, 1975
220285	FOLSOM VIL (ST. TAMMANY CO)	JULY 18, 1975
220287	FOREST HILL VIL (RAPIDES CO)	NOVEMBER 12, 1976
220245	FOREST VIL (WEST CARROLL CO)	NOVEMBER 26, 1976
220117A	FRENCH SETTLEMENT, VILLAGE OF (LIVINGSTON PAR.)	OCTOBER 25, 1974 AND
		MARCH 12, 1976
220291	GOLDONNA VIL (NATCHITOCHES CO)	SEPTEMBER 19, 1975
220321	GRAMELING VIL (LINCOLN CO)	NOVEMBER 19, 1976
220291	GRAND CANE VIL (DE SOTO CO)	MAY 02, 1975
220329	GRAYSON VIL (CALDWELL CO)	AUGUST 13, 1976
220292	GREENWOOD TOWN (CADDO CO)	APRIL 23, 1976
220293	HEFLIN VIL (WEBSTER CO)	MARCH 26, 1976
220294	HESSMER, VILLAGE (AVOYELLES CO.)	NOVEMBER 19, 1976
220331	HODGE VIL (JACKSON CO)	JULY 11, 1975
220332	HORNBECK VIL (VERNON CO)	AUGUST 15, 1975
220354	JENA TOWN (LA SALLE CO)	DECEMBER 24, 1976
220335	JUNCTION CITY, CITY (CLAIBORNE-UNION CO)	JULY 18, 1975
220297	KEATCHIE TOWN (DE SOTO CO)	NOVEMBER 12, 1976
220298	KILBOURNE VIL (WEST CARROLL CO)	JUNE 11, 1976
220356A	LINCOLN PARISH *	NOVEMBER 29, 1977
220356A	LOGANSPORT TOWN (DE SOTO CO)	AUGUST 15, 1975 AND
		SEPTEMBER 05, 1978
220296A	MCNARY TOWN (RAPIDES CO)	APRIL 23, 1976 AND
		DECEMBER 17, 1976
220236	MONTGOMERY, TOWN (GRANT PARISH)	SEPTEMBER 19, 1975
220336	MOORINGSPORT TOWN (CADDO CO)	JUNE 25, 1976
220347	NEWELLAND, VILLAGE (VERNON PARISH)	APRIL 09, 1976
220371	NOBLE VIL (SABINE PARISH)	AUGUST 13, 1976
220341	NORTH HODGE VIL (JACKSON CO)	NOVEMBER 05, 1976
220312A	OBERLIN, CITY OF (ALLEN PARISH)	JUNE 21, 1974 AND
		NOVEMBER 14, 1975

* UNINCORPORATED AREAS ONLY

LOUISIANA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
220345	OLLA VIL (LA SALLE CO)	NOVEMBER 12, 1976
220244	PIONEER, VILLAGE (W. CARROLL PARISH)	JUNE 04, 1976
220344	PLEASANT HILLS,VILLAGE OF (SABINE PARISH)	MAY 06, 1976
220316	POWHATAN VIL (NATCHITOCHES CO)	OCTOBER 29, 1976
220317	REEVES VIL (ALLEN CO)	AUGUST 15, 1975
220369A	SABINE PARISH *	JANUARY 24, 1978
220296	SALINE VIL (OJENVILLE CO)	JUNE 25, 1976
220258	SIBLEY, VILLAGE OF (WEBSTER PARISH)	FEBRUARY 07, 1975
220317	SIRES, VILLAGE OF (WINN PARISH)	APRIL 25, 1975
220341	SIMPSON VIL (VERNON CO)	AUGUST 08, 1975
220259	SLAUGHTER, TOWN (E. FELICIANA PAR)	SEPTEMBER 19, 1975
220259	SUN, VILLAGE OF (ST. TAMMANY PARISH)	AUGUST 30, 1974 AND
		APRIL 16, 1976
220350	TULLOS TOWN (LA SALLE CO)	JUNE 11, 1976
220369A	TURKEY CREEK, VILLAGE OF (EVANGELINE PARISH)	AUGUST 30, 1974 AND
		OCTOBER 31, 1975
220359	UNION PARISH	SEPTEMBER 13, 1977
220234A	VARNADO, VILLAGE OF (WASHINGTON PARISH)	OCTOBER 25, 1974 AND
		APRIL 16, 1976
220226A	VERNON PARISH	JULY 26, 1977
220351	VIVIAN TOWN (CADDO CO)	MARCH 26, 1976
220267	WOODWORTH, VIL (RAPIDES PARISH)	MARCH 26, 1976

TOTAL IN THE STATE 62

* UNINCORPORATED AREAS ONLY

MAINE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
230083	ALNA, TOWN (LINCOLN CO)	JANUARY 03, 1975
230272	AMHERST, TOWN (HANCOCK CO)	JANUARY 24, 1975
230208	ARROWSIC, TOWN (SAGADAHOC CO)	JANUARY 17, 1975
230345A	AVON, TOWN (FRANKLIN CO)	JANUARY 14, 1977
230204A	BALDWIN, TOWN OF (CUMBERLAND)	FEBRUARY 14, 1975 AND
		DECEMBER 13, 1977
230252	BELMONT, TOWN (WALDO CO)	MARCH 14, 1975
230144A	BERWICK, TOWN OF (YORK CO.)	AUGUST 09, 1974 AND
		JULY 30, 1976
230119A	BOWDOINHAM, TOWN OF (SAGADAHOC CO.)	DECEMBER 03, 1976
230013	BOWDOIN, TOWN OF (SAGADAHOC CO.)	DECEMBER 17, 1976
230275	BROOKLIN, TOWN (HANCOCK CO)	DECEMBER 24, 1976
230374	BURLINGTON, TOWN OF (PENOBSCOT COU)	FEBRUARY 07, 1975
230375	CARMEL, TOWN OF (PENOBSCOT CO)	FEBRUARY 28, 1975
230376	CHARLESTON, TOWN OF (PENOBSCOT CO)	FEBRUARY 21, 1975
230437	CHARLOTTE, TOWN (WASHINGTON CO)	DECEMBER 17, 1976
230378	CLIFTON, TOWN OF (PENOBSCOT COU)	FEBRUARY 07, 1975
230307	COLUMBIA, TOWN OF (WASHINGTON)	FEBRUARY 14, 1975
230380	CORINTH, TOWN (PENOBSCOT CO)	FEBRUARY 21, 1975
230379	CRAWFORD, TOWN (WASHINGTON CO)	JANUARY 17, 1975
230148A	DAYTON, TOWN OF (YORK CO)	JUNE 28, 1974 AND
		JULY 30, 1976
230279	DEDHAM, TOWN (HANCOCK CO)	APRIL 16, 1975
230343	EAST MACHIAS, TOWN OF (WASHINGTON CO.)	FEBRUARY 11, 1977
230217E	EDGECOMB, TOWN (LINCOLN CO)	JANUARY 03, 1975 AND
		APRIL 23, 1976
230237	FAYETTE, TOWN OF (KENNEBEC CO.)	JULY 15, 1976
230166	GILEAD, TOWN OF (OXFORD COU)	NOVEMBER 26, 1976
230398	GREENFIELD, TOWN OF (PENOBSCOT CO)	FEBRUARY 07, 1975
230425	HERSEY, TOWN OF (AROOSTOOK CO.)	FEBRUARY 21, 1975
230315	JONESBORO, TOWN OF (WASHINGTON)	DECEMBER 20, 1974
230303	LAGRANGE, TOWN OF (PENOBSCOT CO.)	FEBRUARY 14, 1975
230412A	LEE VANTE, TOWN OF (PENOBSCOT CO.)	FEBRUARY 26, 1975
230103	LEBANON, TOWN OF (YORK COU)	APRIL 25, 1977
230428	LITTLETON, TOWN OF (AROOSTOOK CO.)	FEBRUARY 07, 1975
230395	LOWELL, TOWN OF (PENOBSCOT CO)	MARCH 21, 1975
230429	LUDLOW, TOWN OF (AROOSTOOK CO)	FEBRUARY 21, 1975
230296	MARIAVILLE, TOWN (HANCOCK CO)	FEBRUARY 21, 1975
230178A	MERCER, TOWN OF (SOMERSET CO.)	MARCH 14, 1975
		JANUARY 31, 1975 AND
230261A	MONTVILLE, TOWN OF (WALDO CO)	SEPTEMBER 24, 1976
		FEBRUARY 21, 1975 AND
230353	MOOSE RIVER, TOWN (SOMERSET CO)	FEBRUARY 16, 1977
230218A	NEWCASTLE, TOWN OF (LINCOLN CO.)	JANUARY 17, 1975
		FEBRUARY 21, 1975 AND
230318	NORTHFIELD, TOWN OF (WASHINGTON)	MAY 17, 1977
230187	ORRINGTON, TOWN OF (PENOBSCOT COU)	FEBRUARY 14, 1975
		FEBRUARY 07, 1975

* UNINCORPORATED AREAS ONLY

MAINE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
230296	OTIS, TOWN (HANCOCK CO)	APRIL 18, 1975 AND
		JULY 26, 1977
230412	PARKMAN, TOWN OF (PISCATAQUIS)	FEBRUARY 14, 1975
230142A	PEMBROKE, TOWN OF (WASHINGTON CO.)	OCTOBER 18, 1974 AND
		OCTOBER 29, 1976
230021	PERHAM, TOWN (AROOSTOOK CO)	APRIL 18, 1975
230346	PLYMOUTH, TOWN (PENOBSCOT CO)	APRIL 29, 1977
230234	PROSPECT, TOWN OF (WALDO)	FEBRUARY 14, 1975
230434	REED, TOWN (PISCATAQUIS CO)	DECEMBER 15, 1976
230415A	SHIRLEY, TOWN (PISCATAQUIS CO)	JANUARY 24, 1975 AND
		NOVEMBER 29, 1977
230	SPRINGFIELD, TOWN (PENOBSCOT CO.)	JANUARY 24, 1975
230373	STELBEN, TOWN OF (WASHINGTON CO)	FEBRUARY 21, 1975
230035	STOCKHOLM, TOWN (AROOSTOOK CO)	JANUARY 10, 1975
230269A	SURAT, TOWN (HANCOCK CO)	SEPTEMBER 06, 1977
230414	TALMADGE, TOWN OF (WASHINGTON CO.)	DECEMBER 17, 1976
230324	TOPSFIELD, TOWN (WASHINGTON CO)	MARCH 14, 1975
230249	WASSALBORUGH, TOWN OF (KENNEBEC COU)	FEBRUARY 07, 1975
230437	WEAZIE, TOWN (PENOBSCOT CO.)	JANUARY 03, 1975 AND
		JULY 30, 1976
230330	WLPONA, TOWN OF (HANCOCK CO.)	NOVEMBER 26, 1976
230249	WALES, TOWN OF (ANDROSCOGGIN CO)	FEBRUARY 21, 1975
230	WASHINGTON, TOWN OF (KNOX CO.)	SEPTEMBER 06, 1974 AND
		OCTOBER 22, 1976
230	WESTON, TOWN OF (AROOSTOOK CO)	FEBRUARY 21, 1975
230224	WISCASSET, TOWN (LINCOLN CO)	JANUARY 03, 1975 AND
		MAY 31, 1977
230	WHITEFIELD, TOWN OF (LINCOLN CO.)	JULY 26, 1974 AND
		FEBRUARY 18, 1977
230326	WHITNEYVILLE, TOWN (WASHINGTON CO)	JUNE 07, 1977
230436	WINN, TOWN (PENOBSCOT CO)	JANUARY 24, 1975
230224	WISCASSET, TOWN (LINCOLN CO.)	MAY 24, 1977

TOTAL IN THE STATE 65

* UNINCORPORATED AREAS ONLY

MARYLAND

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
240162A	BEER PARK, TOWN OF (GARRETT CO.)	NOVEMBER 06, 1976
240160	GALESTOWN, TOWN OF(DORCHESTER CO)	JULY 11, 1975
240115A	HARWOOD, TOWN OF (CAROLINE CO)	FEBRUARY 04, 1977
240162A	MIDDLETOWN, TOWN OF(FREDERICK CO)	JANUARY 14, 1977
240059A	QUEEN ANNE, TOWN OF (QUEEN ANNE)	AUGUST 09, 1974
240124A	SMITHBURG, TOWN OF(WASHINGTON CO)	JANUARY 14, 1977
240062A	WILLARDS, TOWN OF(WICOMICO CO.)	JANUARY 21, 1977

TOTAL IN THE STATE 7

* UNINCORPORATED AREAS ONLY

PASSACHUSETTS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
250048A	ACUSHNET, TOWN OF (BRISTOL CO.)	SEPTEMBER 06, 1974 AND
		OCTOBER 15, 1976
250176A	ASHBY, TOWN OF(MIDDLESEX CO)	APRIL 29, 1977
250134A	BLANDFORD, TOWN OF (HAMPDEN CO.)	JULY 26, 1974 AND
		APRIL 29, 1977
250135A	BRIMFIELD, TOWN OF (HAMPDEN CO.)	JULY 19, 1974 AND
		JANUARY 21, 1977
250136A	CHESTER, TOWN OF (HAMPDEN CO.)	JULY 19, 1974 AND
		NOVEMBER 29, 1976
250060	CHILMARK, TOWN OF (DUKES CO.)	DECEMBER 06, 1974
250191A	CUMBERLAND, TOWN OF (MIDDLESEX CO.)	NOVEMBER 29, 1974 AND
		JULY 16, 1976
250180A	EAST HAMPTON, TOWN OF (HAMPSHIRE CO.)	JUNE 21, 1974 AND
		JANUARY 14, 1977
250023	FLORIDA, TOWN OF(BERKSHIRE CO)	NOVEMBER 12, 1976
250195A	GARDNER, CITY OF (WORCESTER CO.)	SEPTEMBER 06, 1974 AND
		MARCH 12, 1976
250139A	GRANVILLE, TOWN OF (HAMPDEN CO.)	AUGUST 30, 1974 AND
		OCTOBER 22, 1976
250163E	HADLEY, TOWN OF (HAMPSHIRE CO.)	DECEMBER 20, 1974 AND
		OCTOBER 29, 1976
250094	HAMILTON, TOWN (ESSEX CO)	NOVEMBER 26, 1976
255212A	HOLBROOK, TOWN OF (NORFOLK CO.)	APRIL 29, 1977
250311A	HUBBARDSTON, TOWN OF (WORCESTER CO.)	SEPTEMBER 06, 1974 AND
		DECEMBER 24, 1976
250121	LEYDEN, TOWN OF (FRANKLIN CO.)	FEBRUARY 17, 1975
250143E	LONGMEADOW, TOWN OF (HAMPDEN CO.)	MARCH 11, 1977
250146	MONTGOMERY, TOWN OF (HAMPDEN CO.)	NOVEMBER 22, 1974
250032	NEW ASHFORD, TOWN OF (BERKSHIRE CO.)	NOVEMBER 22, 1974
250324A	OAKHAM, TOWN OF (WORCESTER CO.)	AUGUST 02, 1974 AND
		AUGUST 26, 1976
250125A	ORANGE, TOWN OF (FRANKLIN CO.)	MAY 27, 1977
250326A	PAXTON, TOWN OF (WORCESTER CO.)	JULY 26, 1974 AND
		JULY 19, 1976
250156A	PELHAM, TOWN OF (HAMPSHIRE CO.)	JUNE 28, 1974 AND
		DECEMBER 10, 1976
250036A	PERU, TOWN OF (BERKSHIRE CO.)	NOVEMBER 01, 1974 AND
		FEBRUARY 25, 1977
250166A	PLAINFIELD, TOWN OF (HAMPSHIRE CO.)	NOVEMBER 01, 1974 AND
		NOVEMBER 05, 1976
250126	ROWE, TOWN (FRANKLIN CO)	AUGUST 24, 1976
250170A	ROWLEY, TOWN OF (ESSEX CO.)	JULY 26, 1974 AND
		NOVEMBER 12, 1976
250127	SHUTESBURY, TOWN OF (FRANKLIN CO)	FEBRUARY 21, 1975
250151	TOLLAND, TOWN (HAMPDEN CO)	APRIL 04, 1975
250343	TYRINGHAM, TOWN OF (BERKSHIRE CO.)	NOVEMBER 29, 1974
250325	WARWICK, TOWN (FRANKLIN CO)	JANUARY 24, 1975
250344A	WASHINGTON, TOWN OF (BERKSHIRE CO.)	NOVEMBER 01, 1974 AND
		OCTOBER 08, 1976

* UNINCORPORATED AREAS ONLY

PASSACHUSETTS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
250131	WENDELL, TOWN (FRANKLIN CO)	JANUARY 17, 1975
250153F	WESTFIELD, CITY OF (HAMPDEN CO.)	JULY 26, 1974 AND
		FEBRUARY 18, 1977
250047	WINDSOR, TOWN OF (BERKSHIRE CO.)	NOVEMBER 22, 1974

TOTAL IN THE STATE 35

* UNINCORPORATED AREAS ONLY

MICHIGAN

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
260342A	AUTRAIN, TOWNSHIP (ALGER CO.)	MARCH 25, 1977
260217A	BANGOR, TOWNSHIP (VAN BUREN CO)	JANUARY 10, 1975 AND
		JANUARY 09, 1976
260599	BARAGA, VILLAGE (BARAGA CO)	OCTOBER 31, 1975
260385	BARK RIVER, TOWNSHIP (DELTA CO.)	NOVEMBER 19, 1976
260593	BARRYTON, VILLAGE (MECOSTA CO)	MAY 20, 1977
260376	BAT MILLS, TOWNSHIP (CHIPPEWA CO.)	JUNE 17, 1977
260357	BEAVER, TOWNSHIP (BAY CO.)	AUGUST 05, 1977
260621	BENONA, TOWNSHIP (OCEANA CO.)	OCTOBER 19, 1976
261924A	BERLIN, TOWNSHIP OF (ST. CLAIR CO.)	AUGUST 23, 1974 AND
		AUGUST 06, 1976
260465A	BIG PRAIRIE, TOWNSHIP (NEWAYGO CO.)	JANUARY 14, 1977
260027A	BLAINE, TOWNSHIP OF (DENISE CO.)	SEPTEMBER 20, 1974 AND
		JULY 09, 1976
260445	BOARDMAN, TOWNSHIP (KALAMAZOO CO.)	AUGUST 05, 1977
260375	BOYNE FALLS, VILLAGE (CHARLEVOIX CO.)	OCTOBER 27, 1976
260553	BREEDSVILLE, VILLAGE (VAN BUREN CO.)	SEPTEMBER 26, 1975
260390	BRIETUNG, TOWNSHIP (DICKINSON CO.)	MARCH 11, 1977
260575	BROCKWAY, TOWNSHIP (ST. CLAIR CO.)	OCTOBER 24, 1975
260335	BROOKLYN, VILLAGE (JACKSON CO.)	OCTOBER 08, 1976
260395	BRUCE, TOWNSHIP (CHIPPEWA CO.)	JUNE 03, 1977
260545	BUCHANAN, TOWNSHIP (BERRIEN CO)	OCTOBER 06, 1976
260[illegible]	BYRON, VILLAGE OF (SHIAWASSEE CO.)	SEPTEMBER 10, 1975
260[illegible]	CADO, VILLAGE (TUSCOLA CO)	OCTOBER 24, 1975
260[illegible]	CASCO, TOWNSHIP (ST. CLAIR CO.)	MARCH 04, 1977
260[illegible]	CASEVILLE, VILLAGE OF (HURON CO.) (HURON CO.)	AUGUST 15, 1977
260[illegible]	CENTREVILLE, VILLAGE (ST. JOSEPH CO.)	JULY 11, 1975
260[illegible]	CHELSEA, VILLAGE (WASHTENAW CO)	OCTOBER 03, 1975
260[illegible]	CHESANING, TOWNSHIP (SAGINAW CO.)	OCTOBER 08, 1976
260[illegible]	CHESANING, VILLAGE (SAGINAW CO)	MARCH 11, 1977
260[illegible]	CLARKSVILLE, TOWNSHIP (OCEANA CO.)	NOVEMBER 26, 1976
260[illegible]	CLAYTON, TOWNSHIP OF (GENESEE CO.)	NOVEMBER 11, 1977
260[illegible]	CLIFFORD, VILLAGE (LAPEER CO)	OCTOBER 24, 1975
260437A	CLINTON, VILLAGE (LENAWEE CO.)	APRIL 18, 1975 AND
		OCTOBER 01, 1976
260067	CLIO, CITY OF (GENESEE CO.)	AUGUST 05, 1977
261905A	CLYDE, TOWNSHIP OF (ST. CLAIR CO.)	JULY 26, 1974 AND
		JUNE 04, 1976
260433	COLUMBIAVILLE, VILLAGE (LAPEER CO.)	JULY 11, 1975
260531	COLUMBIA, TOWNSHIP (VAN BUREN CO.)	SEPTEMBER 05, 1975
260401	COOPERSVILLE, VILLAGE OF (OTTAWA CO.)	SEPTEMBER 26, 1975
260463	CROTON, TOWNSHIP (NEWAYGO CO.)	MARCH 17, 1978
260434	CUSTER, VILLAGE (MASON CO.)	SEPTEMBER 26, 1975
260604	DAVISON, TOWNSHIP OF (GENESEE CO.)	OCTOBER 21, 1977
260355	DEEP RIVER, TOWNSHIP (ARENAC CO.)	JUNE 24, 1977
260434A	DEERFIELD, TOWNSHIP (LAPEER CO.)	MAY 13, 1977
260591	DEXTER, VILLAGE OF (WASHTENAW CO.)	OCTOBER 17, 1975
260552	ELBERTA, VILLAGE (BENZIE CO)	SEPTEMBER 19, 1975
260[illegible]	ELKTON, VILLAGE OF (HURON COUNTY)	OCTOBER 03, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MICHIGAN NAME	HAZARD AREA IDENTIFIED	
260934	ELLSWORTH, VILLAGE (ANTRIM CO.)	APRIL	15, 1977
260449	ELY, TOWNSHIP (MARQUETTE CO.)	MAY	20, 1977
260387	ESCANABA, TOWNSHIP (DELTA CO.)	MARCH	25, 1977
260021	ESSEXVILLE, CITY OF (BAY CO.)	JUNE	07, 1974 AND
		DECEMBER	31, 1976
260327	EVART, CITY (OSCEOLA CO.)	APRIL	25, 1975 AND
		FEBRUARY	06, 1976
260530	EVERGREEN, TOWNSHIP (SANILAC CO.)	OCTOBER	22, 1976
260504	EXETER, TOWNSHIP (MONROE CO)	OCTOBER	05, 1977 AND
		JULY	30, 1976
260475	FIFE LAKE, TOWNSHIP (GRAND TRAVERSE CO.)	JANUARY	14, 1977
260476	FIFE LAKE, VILLAGE (GRAND TRAVERSE CO.)	JULY	11, 1975
260590	FLUSHING, TOWNSHIP (GENESEE CO.)	DECEMBER	10, 1976
260262	FORD RIVER, TWP. (DELTA CO)	DECEMBER	23, 1976
260373	FOREST, TOWNSHIP (EMEBOYGAN CO.)	MARCH	04, 1977
260455	FORSYTH, TOWNSHIP (MARQUETTE CO.)	MARCH	25, 1977
260570	GALESBURG, CITY (KALAMAZOO CO)	OCTOBER	24, 1975
260350	GILEAD, TOWNSHIP (BRANCH CO.)	NOVEMBER	26, 1976
260525	GILFORD, TOWNSHIP (TUSCOLA CO.)	SEPTEMBER	19, 1975
260455	GOURLEY, TOWNSHIP (MENOMINEE CO.)	OCTOBER	08, 1976
260426	GREEN OAK, TOWNSHIP (LIVINGSTON CO.)	MAY	27, 1977
260572	HARBOR BEACH, CITY OF (HURON COUNTY)	JANUARY	31, 1978
260456	HARRIS, TOWNSHIP (MENOMINEE CO.)	FEBRUARY	24, 1978
260532	HARTFORD, CITY (VAN BUREN CO.)	JULY	11, 1975
260347	HEATH, TOWNSHIP (ALLEGAN CO.)	AUGUST	22, 1975
260489	HERSEY, VILLAGE (OSCEOLA CO.)	JULY	11, 1975
260495	HESPERIA, VILLAGE (OCEANA CO.)	JULY	11, 1975
260137	HINTON, TOWNSHIP OF (ALCONA CO.)	SEPTEMBER	20, 1974 AND
		JULY	23, 1976
260442	HOLLAND, TOWNSHIP (MISSAUKEE CO.)	AUGUST	01, 1975
260474	HOLLY, TOWNSHIP (OAKLAND CO.)	JUNE	24, 1977
260477	HOLMES, TOWNSHIP (MENOMINEE CO.)	APRIL	01, 1977
260502	HOUGHTON, CITY OF (HOUGHTON CO.)	JUNE	10, 1977
260365	HOWARD, TOWNSHIP OF (CASS CO.)	MARCH	18, 1977
260418	HUBBARDSTON, VILLAGE (IONIA + CLINTON COS.)	SEPTEMBER	20, 1975
260493	HUDSONVILLE, CITY (OTTAWA CO.)	SEPTEMBER	05, 1975
260435	HURON, TOWNSHIP (HURON CO.)	NOVEMBER	05, 1976
260575	INDEPENDENCE, TOWNSHIP (OAKLAND CO.)	MAY	13, 1977
260520	INDIANFIELDS, TOWNSHIP (TUSCOLA CO.)	MARCH	04, 1977
260667	INGALLSTON, TOWNSHIP OF (MENOMINEE CO.)	FEBRUARY	17, 1978
260516	INWOOD, TOWNSHIP (SCHOOLCRAFT CO.)	FEBRUARY	24, 1978
260354	IRVING, TOWNSHIP (BARRY CO.)	APRIL	15, 1977
260133	ISHPEMING, CITY (MARQUETTE CO)	NOVEMBER	12, 1976
260478	JONESVILLE, VILLAGE (HILLSDALE CO.)	SEPTEMBER	26, 1975
260485	KAWKAWLIN, TOWNSHIP OF (BAY CO.)	DECEMBER	16, 1977
260594	KIMBALL, TOWNSHIP (ST. CLAIR CO)	SEPTEMBER	19, 1975
260463	LAKEVIEW, VILLAGE (MONTCALM CO.)	JULY	11, 1975 AND
		OCTOBER	01, 1976
260496	LAKE, TOWNSHIP OF (ROSCOMMON CO.)	NOVEMBER	26, 1976

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MICHIGAN NAME	HAZARD AREA IDENTIFIED	
260475	LAPEER, TOWNSHIP (LAPEER CO.)	APRIL	15, 1977
260533	LAWTON, VILLAGE (VAN BUREN CO.)	SEPTEMBER	26, 1975 AND
		JUNE	03, 1977
260344	LIMESTONE, TOWNSHIP (ALGER CO.)	NOVEMBER	26, 1976
260434	LINCOLN, TOWNSHIP OF (ARENAC CO.)	JUNE	14, 1974
260347	LINDEN, VILLAGE (GENESEE CO.)	SEPTEMBER	26, 1975
260344	LONDON, TOWNSHIP OF (MONROE CO.)	AUGUST	20, 1976
260353	LYONS, TOWNSHIP OF (BARAGA CO.)	FEBRUARY	24, 1978
260075	MACKINAW, VILLAGE OF (CHEBOYGAN CO.)	AUGUST	12, 1977
260348	MALLUS, TOWNSHIP (ALLEGAN CO.)	NOVEMBER	26, 1976
260471	MARATHON, TOWNSHIP OF (LAPEER CO.)	OCTOBER	24, 1975
260347	MARCELLUS, TOWNSHIP (CASS CO.)	NOVEMBER	26, 1976
260342	MARENGO, TOWNSHIP OF (CALHOUN COUNTY)	SEPTEMBER	19, 1975
260335	MARION, VILLAGE (OSCEOLA CO.)	APRIL	25, 1975
260697	MASONVILLE, TOWNSHIP OF (DELTA CO.)	JANUARY	20, 1978
260497	MCMILLAN, TOWNSHIP (CHIPPEWA CO.)	OCTOBER	03, 1975
260504	MECOSTA, VILLAGE OF (MECOSTA CO.)	OCTOBER	16, 1975
260512	MENDON, TOWNSHIP (ST. JOSEPH CO.)	MARCH	25, 1977
260492	MEYER, TOWNSHIP (MENOMINEE CO.)	JUNE	24, 1977
260359	MIDDLEVILLE, VILLAGE (BARRY CO.)	JULY	18, 1975
260445	MILLS, TOWNSHIP (OGEMAW CO.)	JULY	25, 1975
260350	MONITOR, TOWNSHIP (BAY CO.)	JULY	25, 1975 AND
		AUGUST	12, 1977
260537	MOORE, TOWNSHIP (SANILAC CO.)	MAY	27, 1977
260481	MORAN, TOWNSHIP (MACKINAC CO.)	MARCH	25, 1977
260349	NADEAU, TOWNSHIP (MENOMINEE CO.)	MARCH	25, 1977
260391	NEW HAVEN, TOWNSHIP (SHIAWASSEE CO.)	JULY	25, 1975
260	NEWAYGO, CITY (NEWAYGO CO.)	SEPTEMBER	12, 1975
260	NORTH BRANCH, VILLAGE (LAPEER CO.)	SEPTEMBER	12, 1975
260	NORTH PLAINS, TOWNSHIP (IONIA CO.)	JUNE	17, 1977
260424	NORVELL, TOWNSHIP (JACKSON CO.)	NOVEMBER	05, 1976
260	NORWAY, CITY (DICKINSON CO.)	JULY	11, 1975
260424	OAKLAND, TOWNSHIP (OAKLAND CO.)	APRIL	01, 1977
260512	OAKLEY, VILLAGE (SAGINAW CO.)	SEPTEMBER	26, 1975
260024	OMER, CITY OF (ARENAC CO.)	OCTOBER	20, 1977
260	ONEIDA TOWNSHIP (EATON CO)	JANUARY	14, 1977
260345	ONOTA, TOWNSHIP (ALGER CO)	JANUARY	14, 1977
260413	OSCEOLA, TOWNSHIP OF (HOUGHTON CO.)	SEPTEMBER	26, 1975
260360	OVID, TOWNSHIP (BRANCH CO.)	NOVEMBER	05, 1976
260	PELLSTON, TOWNSHIP (EMMET CO.)	MAY	20, 1977
260394	PINCKNEY, VILLAGE OF (LIVINGSTON CO.)	AUGUST	19, 1977
260554	PINE GROVE, TOWNSHIP (VAN BUREN CO.)	JULY	25, 1975
260365	PORTAGE, TOWNSHIP (CASS CO.)	MAY	27, 1977
260615	PORT AUSTIN, VILLAGE OF (HURON CO.)	JANUARY	30, 1976
260675	PORT HURON, TOWNSHIP OF (ST. CLAIR CO.)	OCTOBER	29, 1976
260442	POWELL, TOWNSHIP OF (MARQUETTE CO.)	FEBRUARY	24, 1978
260444	POWERS, VILLAGE (MENOMINEE CO.)	JULY	11, 1975
260466	PUTNAM, TOWNSHIP (LIVINGSTON CO.)	JULY	22, 1977
260446	RAVENNA, VILLAGE (MUSKEGON CO.)	SEPTEMBER	26, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MICHIGAN NAME	HAZARD AREA IDENTIFIED	
260610	READING, TOWNSHIP (HILLSDALE CO.)	OCTOBER	28, 1977
260382	REDDING, TOWNSHIP (CLARE CO.)	NOVEMBER	10, 1976
260402	RICHFIELD, TOWNSHIP (GENESEE CO.)	JULY	11, 1975
260346	ROCK RIVER, TOWNSHIP (ALGER CO.)	OCTOBER	22, 1976
260472	ROLLAND, TOWNSHIP (ISABELLA CO.)	MARCH	04, 1977
260497	ROSCOMMON, TOWNSHIP (ROSCOMMON CO.)	MARCH	18, 1977
260377	RUDYARD, TOWNSHIP (CHIPPEWA CO.)	OCTOBER	15, 1976
260522	RUSH, TOWNSHIP (SHIAWASEE CO.)	AUGUST	08, 1975
260537	SCIO, TOWNSHIP (WASHTENAW CO.)	NOVEMBER	26, 1976
260538	SHARON, TOWNSHIP (WASHTENAW CO.)	OCTOBER	15, 1976
260523	SHIAWASEE, TOWNSHIP (SHIAWASEE CO.)	OCTOBER	50, 1975
260462	SODUS, TOWNSHIP OF (BERRIEN CO.)	AUGUST	02, 1974 AND
		JUNE	25, 1976
260378	SOO, TOWNSHIP (CHIPPEWA CO.)	NOVEMBER	26, 1976
260469	SPALDING, TOWNSHIP (MENOMINEE CO.)	MARCH	11, 1977
260336	SPARTA, VILLAGE (KENT CO.)	OCTOBER	15, 1976
260557	STEVENSVILLE, VILLAGE (BERRIEN CO)	SEPTEMBER	26, 1975
260593	ST. CHARLES, VILLAGE (SAGINAW CO)	OCTOBER	08, 1976 AND
		NOVEMBER	19, 1976
260256	ST. CLAIR, TOWNSHIP OF (ST CLAIR CO.)	MAY	13, 1977
		SEPTEMBER	20, 1974 AND
		SEPTEMBER	24, 1976
260464	ST. IGNACE, TOWNSHIP (MACKINAC CO.)	JULY	29, 1977
260379	SUGAR ISLAND, TOWNSHIP (CHIPPEWA CO.)	JUNE	17, 1977
260	SUPERIOR, TOWNSHIP (CHIPPEWA CO.)	JUNE	17, 1977
260547	SUPERIOR, TOWNSHIP (WASHTENAW CO.)	JUNE	17, 1977
260494	TALLMADGE, TOWNSHIP (OTTAWA CO.)	JUNE	10, 1977
260483	THETFORD, TOWNSHIP OF (GENESEE CO.)	FEBRUARY	10, 1976
260519	THOMPSON, TOWNSHIP (SCHOOLCRAFT CO.)	DECEMBER	03, 1976
260504	TITTABAWASEE, TOWNSHIP (SAGINAW CO.)	AUGUST	15, 1975
260758	TORCH LAKE, TOWNSHIP OF (HOUGHTON CO.)	AUGUST	12, 1977
260351	TURNER, TOWNSHIP (ARENAC CO.)	JULY	18, 1975
260550	TURNER, VILLAGE (ARENAC CO)	MARCH	04, 1977
260577	TUSCOLA, TOWNSHIP (TUSCOLA CO.)	MARCH	04, 1977
260534	UBLY, VILLAGE OF (HURON CO.)	APRIL	11, 1975
260564	VAN BUREN, TOWNSHIP (WAYNE CO.)	APRIL	08, 1977
260524	VERNON, VILLAGE (SHIAWASEE CO.)	JULY	11, 1975
260508	WALES, TOWNSHIP (ST. CLAIR CO.)	AUGUST	08, 1975
260447	WASHINGTON, TOWNSHIP (MACOMB CO.)	NOVEMBER	05, 1976
260404	WATERSMEET, TOWNSHIP (GOGEBIC CO.)	MARCH	18, 1977
260499	WEESAW, TOWNSHIP OF (BERRIEN CO.)	JUNE	28, 1974 AND
		SEPTEMBER	05, 1976
260358	WELLS, TOWNSHIP (DELTA CO.)	JUNE	17, 1977
260476	WHITE CLOUD, CITY (NEWAYGO CO.)	APRIL	11, 1975
260479	WHITE LAKE, TOWNSHIP (OAKLAND CO.)	MAY	27, 1977
260417	WHITE OAK, TOWNSHIP (INGHAM CO.)	OCTOBER	19, 1975
260567	WILBER, TOWNSHIP (OSCEOLA CO)	NOVEMBER	26, 1976
260359	WILLIAMS, TOWNSHIP (BAY CO.)	JUNE	17, 1977
260495	WRIGHT, TOWNSHIP (OTTAWA CO.)	MAY	27, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MICHIGAN NAME	HAZARD AREA IDENTIFIED	
260329	YALE, CITY (ST. CLAIR CO.)	APRIL	11, 1975
260532	YATES, TOWNSHIP (CLARE CO.)	AUGUST	15, 1975
260541	YORK, TOWNSHIP (WASHTENAW CO.)	JULY	18, 1975
	TOTAL IN THE STATE	182	

* UNINCORPORATED AREAS ONLY

MINNESOTA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
270492	ALBRICH, CITY OF (WADENA COU)	FEBRUARY 07, 1975 AND SEPTEMBER 06, 1978
270691A	ARCO, CITY OF (LINCOLN CO.)	APRIL 15, 1977
270345A	ASLOV, CITY OF (PINE CO.)	OCTOBER 25, 1974 AND AUGUST 26, 1975
270417A	AURORA, CITY OF (ST. LOUIS CO.)	APRIL 05, 1974 AND JUNE 25, 1976
270512	AVOCA, CITY (MURRAY CO)	JANUARY 17, 1975
270556	BAUDETTE, CITY OF (LAKE OF THE WOODS CO.)	DECEMBER 27, 1974
270555A	BEJOU, CITY (MAHNOMEN CO)	JANUARY 03, 1975 AND MAY 16, 1976
270261	BISCAY, CITY OF (MCLEOD CO.)	NOVEMBER 15, 1974
270550	BLACKDUCK, CITY (BELTRAMI CO)	AUGUST 01, 1975
270293	BOWLUS, CITY OF (MORRISON CO.)	OCTOBER 25, 1974
270057A	BOY RIVER, CITY (CASS CO)	JUNE 10, 1977
270077A	BRANCH, CITY OF (CHISAGO CO.)	AUGUST 30, 1974 AND OCTOBER 01, 1976
270339	BREWSTER, CITY (NOBLES CO)	APRIL 25, 1975
270557	BROOK PARK, CITY OF (PINE CO.)	OCTOBER 25, 1974
270388E	BROOKS, CITY OF (RED LAKE CO.)	AUGUST 09, 1974
270262A	BROWNTON, CITY OF (MCLEOD CO.)	MAY 02, 1974
270274A	BUCKMAN, CITY OF (MORRISON CO.)	AUGUST 09, 1974
270241	CEDAR MILLS, CITY OF (MEEKER)	FEBRUARY 14, 1975
270312A	CHANDLER, CITY OF (MURRAY CO.)	AUGUST 09, 1974 AND NOVEMBER 21, 1975
270325	CHATFIELD, CITY (FILLMORE CO)	AUGUST 13, 1976
270355	CHICKAPAW BCH, CITY (CASS CO)	OCTOBER 25, 1974
270406A	CHOKIO, CITY OF (STEVENS CO.)	MAY 03, 1974
270604A	CLEAR LAKE, CITY (SHERBURNE CO.)	JANUARY 03, 1975 AND SEPTEMBER 12, 1975
270559	CLEARBROOK, CITY OF (CLEARWATER CO.)	NOVEMBER 01, 1974
270540	CLEVELAND, CITY OF (LESUEUR CO.)	DECEMBER 27, 1974
270383A	CLIMAX, CITY OF (POLK CO.)	SEPTEMBER 20, 1974 AND JUNE 11, 1976
270468A	CLONTARF, CITY OF (SWIFT CO.)	JULY 19, 1974
270551	COBDEN, CITY OF (BROWN CO.)	NOVEMBER 01, 1974
270552	COLOGNE, CITY OF (CARVER CO.)	NOVEMBER 04, 1974
270335A	COMFREY, CITY OF (BROWN CO.)	SEPTEMBER 20, 1974 AND DECEMBER 20, 1975
270025A	CORRELL, CITY (BIG STONE CO)	JANUARY 24, 1975 AND APRIL 15, 1977
270282A	COSMOS, CITY OF (MEEKER CO.)	MAY 17, 1974
270344A	COURTLAND, CITY OF (NICOLLET CO.)	JULY 19, 1974
270313A	CURRIE, CITY OF (MURRAY CO.)	AUGUST 02, 1974 AND JULY 16, 1976
270459A	DANVERS, CITY OF (SWIFT CO.)	AUGUST 09, 1974
270534A	DEER CREEK, CITY OF (OTTER TAIL CO.)	AUGUST 16, 1974 AND JUNE 04, 1976

* UNINCORPORATED AREAS ONLY

MINNESOTA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
270470A	DEGRAFF, CITY OF (SWIFT CO.)	AUGUST 09, 1974 AND SEPTEMBER 10, 1976
270512	DELHI, CITY OF (REDWOOD CO.)	OCTOBER 25, 1974
270346	DENHAM, CITY (PINE CO)	JANUARY 24, 1975
270586A	DOVER, CITY OF (OLMSTEAD CO.)	NOVEMBER 01, 1974 AND OCTOBER 17, 1975
270459A	EAST GULL LAKE, CITY OF (CASS CO.)	DECEMBER 20, 1974 AND OCTOBER 10, 1975
270118	EASTON, CITY (FARIBAULT CO)	JULY 30, 1976
270208A	EDEN VALLEY, CITY OF (STEARNS CO.)	MAY 03, 1974 AND AUGUST 13, 1976
270326A	ELLSWORTH, CITY OF (NOBLES CO.)	MAY 03, 1974
270295A	ELMDALE, CITY OF (MORRISON CO.)	AUGUST 09, 1974
270330A	ERHARD, CITY OF (OTTER TAIL CO.)	AUGUST 09, 1974
270422A	EVELETH, CITY OF (ST. LOUIS CO.)	JUNE 07, 1974 AND JULY 16, 1976
270329A	EYOTA, CITY OF (OLMSTEAD CO.)	APRIL 12, 1974
270276A	FAIRMONT, CITY OF (MARTIN CO.)	JUNE 07, 1974 AND DECEMBER 12, 1975
270026	FEDERAL DAM, CITY (CASS CO)	OCTOBER 28, 1976
270366A	FISHER, CITY OF (POLK CO.)	AUGUST 02, 1974
270693	FOREST LAKE, CITY OF (WASHINGTON CO.)	DECEMBER 16, 1977
270557C	FRAZEE, CITY OF (BECKER CO.)	NOVEMBER 15, 1974
270446A	FREEPORT, CITY OF (STEARNS CO.)	MAY 03, 1974 AND AUGUST 09, 1974
270571	FUNKLEY, CITY (BELTRAMI CO)	JULY 11, 1975
270296	GEMOLA, CITY OF (MORRISON COL)	FEBRUARY 07, 1975
270436A	GIBBON, CITY OF (SIBLEY CO.)	JUNE 21, 1974
270548A	GONVICK, CITY OF (CLEARWATER CO.)	AUGUST 23, 1974 AND JUNE 04, 1976
270142E	GOODHUE, CITY OF (GOODHUE CO.)	MAY 24, 1974 AND APRIL 23, 1976
270272A	GRANADA, CITY OF (MARTIN CO.)	AUGUST 02, 1974
270215A	GRASSTON, CITY (KANABEC CO)	DECEMBER 20, 1974
270447A	GREENWALD, CITY OF (STEARNS CO.)	AUGUST 23, 1974 AND JUNE 11, 1976
270081A	HACKENSACK, CITY OF (CASS CO.)	SEPTEMBER 20, 1974
270537A	HADLEY, CITY (MURRAY CO)	APRIL 11, 1975
270574	HANLEY FALLS, CITY (YELLOW MEDICINE CO)	JULY 11, 1975
270071A	HARRIS, CITY OF (CHISAGO CO.)	SEPTEMBER 26, 1974 AND OCTOBER 24, 1975
270355	HATFIELD, CITY OF (PIPESTONE CO)	JANUARY 31, 1975
270398	HECTOR, CITY OF (RENVILLE CO.)	AUGUST 27, 1976
270701A	HEIDELBERG, CITY OF (LE SUEUR CO.)	JULY 22, 1977
270358A	HENNING, CITY OF (OTTER TRAIL CO.)	MAY 03, 1974 AND OCTOBER 31, 1975
270002A	HILL CITY, CITY OF (AITKIN CO.)	NOVEMBER 06, 1974
270490A	HILLS, CITY OF (ROCA CO.)	APRIL 12, 1974
270578A	HOFFMAN, CITY OF (GRANT CO)	JANUARY 31, 1975

* UNINCORPORATED AREAS ONLY

MINNESOTA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
270448A	HOLDINGFORD, CITY OF (STEARNS CO.)	MAY 17, 1974
270356A	HOLLAND, CITY OF (PIPESTONE CO.)	AUGUST 30, 1974 AND DECEMBER 05, 1975
270471A	HOLLOWAY, CITY OF (SWIFT CO.)	SEPTEMBER 06, 1974
270357A	IMLEN, CITY OF (PIPESTONE CO.)	AUGUST 02, 1974 AND JULY 02, 1976
270255A	INTERNATIONAL FALLS, CITY OF (KOOCHICHING CO.)	JUNE 07, 1974 AND MARCH 26, 1976
270579	IONA, CITY OF (MURRAY CO.)	DECEMBER 27, 1974
270580	IRON JUNCTION, CITY OF (ST. LOUIS CO.)	OCTOBER 25, 1974
270098A	JENKINS, CITY OF (CROW WING CO.)	AUGUST 23, 1974 AND JULY 16, 1976
270655A	KELLOGG, CITY OF (WABASHA CO)	JANUARY 31, 1975 AND SEPTEMBER 26, 1978
270523	KENT, CITY (WILKIN CO)	AUGUST 01, 1975
270143A	KENYON, CITY OF (GOODHUE CO.)	MAY 24, 1974 AND JULY 16, 1976
270269A	LA PRAIRIE, CITY OF (ITASCA CO.)	AUGUST 23, 1974 AND OCTOBER 17, 1975
270092A	LAKE BENTON, CITY OF (LINCOLN CO.)	APRIL 11, 1977
270517A	MADELIA, CITY OF (WATONWAN CO.)	APRIL 12, 1974 AND MAY 28, 1976
270098	MAHTOMEDI, CITY OF (WASHINGTON CO.)	JUNE 24, 1977
270585A	MANTORVILLE, CITY OF (DODGE CO.)	JUNE 03, 1977
270667	MAPLE LAKE, CITY (WRIGHT CO.)	JANUARY 16, 1975
270243A	MARIETTA, CITY OF (LAC QUI PARLE CO.)	SEPTEMBER 06, 1974 AND JULY 09, 1976
270533A	MAYER, CITY OF (CARVER CO.)	NOVEMBER 23, 1973
270397	MAYNARD, CITY OF (CHIPPEWA CO.)	NOVEMBER 15, 1974
270487A	MAZEPPA, CITY OF (WABASHA CO.)	JULY 19, 1974
270598	MCINTOSH, CITY OF (POLK CO.)	NOVEMBER 06, 1974
270690C	MEDICINE LAKE, CITY OF (HENNEPIN CO.)	DECEMBER 17, 1976
270495E	MENAHGA, CITY OF (WADENA CO.)	APRIL 12, 1974 AND AUGUST 26, 1975
270190A	MENDOTA, CITY OF (DAKOTA CO.)	JANUARY 30, 1976
270367A	MENTOR, CITY OF (POLK CO.)	FEBRUARY 28, 1974 DECEMBER 27, 1974 AND JULY 02, 1976
270270A	MIDDLE RIVER, CITY OF (MARSHALL CO.)	JULY 19, 1974
270119A	MIESVILLE, CITY OF (DAKOTA CO.)	JULY 19, 1974 AND JANUARY 23, 1976
270589	MILAN, CITY (CHIPPEWA CO)	JULY 15, 1977
270488A	MILLVILLE, CITY OF (WABASHA CO.)	AUGUST 02, 1974 AND MARCH 26, 1976
270489	MINNEISKA, CITY OF (WABASHA CO.)	JULY 11, 1975
270122A	MINNESOTA LAKE, CITY OF (FARIBAULT CO.)	MAY 17, 1974
270453A	MORRISTOWN, CITY OF (RICE CO.)	MARCH 29, 1974 AND SEPTEMBER 12, 1975

* UNINCORPORATED AREAS ONLY

MINNESOTA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
270306A	MOTLEY, CITY OF (CASS & MORRISON COS.)	AUGUST 02, 1974 AND DECEMBER 16, 1975
270424A	MOUNTAIN IRON, VILLAGE OF (ST. LOUIS CO.)	SEPTEMBER 28, 1976 MAY 24, 1974 AND NOVEMBER 20, 1974
270451	NEW MUNICH, CITY OF (STEARNS CO.)	OCTOBER 25, 1974
270197A	NEW RICHLAND, CITY OF (WASECA CO.)	APRIL 12, 1974
270315A	NICOLLET, CITY OF (NICOLLET CO.)	APRIL 05, 1974
270597	NIELSVILLE, CITY OF (POLK CO.)	NOVEMBER 01, 1974
270591	NIMROD, CITY (WADENA CO)	APRIL 16, 1975
270592	NORCROSS, CITY OF (GRANT CO.)	DECEMBER 12, 1974
270677A	NORTH BRANCH, CITY OF (CHISAGO CO.)	MAY 16, 1974 AND APRIL 19, 1976
270512A	OAK PARK HEIGHTS, CITY OF (WASHINGTON CO.)	MARCH 22, 1974 AND APRIL 16, 1976
270594	ODIN, CITY OF (WATONWAN CO.)	DECEMBER 13, 1974
270598	OKABENA, CITY OF (JACKSON CO.)	DECEMBER 27, 1974
270648	ORR, CITY OF (ST. LOUIS CO.)	DECEMBER 13, 1974
270658	OSSEO, CITY (HENNEPIN CO.)	JANUARY 17, 1975
270694A	PALISADE, CITY OF (AITKIN CO.)	AUGUST 02, 1974 AND JUNE 11, 1976
270241A	PEASE, CITY OF (MILLE LACS CO.)	AUGUST 02, 1974 AND FEBRUARY 13, 1976
270653A	PILLAGER, CITY OF (CASS CO.)	JULY 19, 1974
270704	PINE COUNTY *	DECEMBER 27, 1977
270697A	PINE SPRINGS, CITY OF (WASHINGTON CO.)	JULY 22, 1977
270546	PLATO, CITY OF (MCLEOD CO.)	NOVEMBER 01, 1974
270219A	PLUMMER, CITY OF (KANABEC CO.)	AUGUST 16, 1974
270223A	PEGAL, CITY OF (WADENA CO.)	JANUARY 31, 1975 AND FEBRUARY 13, 1976
270585	REPER, CITY (CASS CO)	JULY 11, 1975
270505	REVERE, CITY (REDWOOD CO.)	APRIL 11, 1975
270597	RICE, CITY (RENTON CO)	JANUARY 17, 1975
270435A	RICHMOND, CITY OF (STEARNS CO.)	MARCH 29, 1974
270361	RICHVILLE, CITY OF (OTTER TAIL CO.)	OCTOBER 25, 1974
270021	RONNEBY, CITY (BENTON CO)	JULY 11, 1975
270455A	ROSCOE, CITY OF (STEARNS CO.)	AUGUST 02, 1974 AND JUNE 04, 1976
270508A	ROSE CREEK, CITY (MOWER CO)	JUNE 10, 1977
270533A	RUSH CITY, CITY OF (CHISAGO CO.)	MAY 17, 1974 AND MARCH 15, 1978
270695A	RUSHFORD VILLAGE, CITY OF (FILLMORE CO.)	AUGUST 27, 1976
270354A	RUTHTON, CITY OF (PIPESTONE CO.)	AUGUST 30, 1974
270354A	RUTLEDGE, CITY OF (PINE CO.)	AUGUST 04, 1974 AND AUGUST 23, 1976
270472A	SACRED HEART, CITY OF (RENVILLE CO.)	MAY 03, 1974
270340A	SCANLON, CITY OF (CARLTON CO.)	NOVEMBER 02, 1973 AND JULY 06, 1976
270602	SEAFORTH, CITY OF (REDWOOD CO.)	DECEMBER 13, 1974

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	MINNESOTA	
270496E	SEBEKA, CITY OF (WADENA CO.)	APRIL 12, 1976 AND
		JULY 11, 1975
		MAY 28, 1976
270842	SILVER LAKE, CITY (MCLEOD CO.)	JANUARY 24, 1975
270972	SPYLINE, CITY (BLUE EARTH CO)	JUNE 27, 1975
270258	SQUAW LAKE, CITY (ITASCA CO.)	AUGUST 01, 1975
270552	STURGEON LAKE, CITY OF (PINE CO.)	OCTOBER 25, 1974
270001	ST. ANTHONY, CITY OF (STEARNS CO.)	JULY 11, 1975
270339P	ST. CLAIR, CITY OF (BLUE EARTH CO.)	AUGUST 23, 1974
270457	ST. JOSEPH, CITY (STEARNS CO)	AUGUST 27, 1976
270458P	ST. STEPHEN, CITY OF (STEARNS CO.)	AUGUST 23, 1974
270066E	S. INTERNATIONAL FALLS, CTY (KOOCHICHING CO.)	JANUARY 17, 1975 AND
		SEPTEMBER 12, 1975
		JULY 30, 1976
270279	TACONITE, CITY (ITASCA CO.)	JULY 23, 1976
270260A	TAUNTON, CITY OF (LYON CO.)	JULY 19, 1974 AND
		NOVEMBER 14, 1975
270647A	THOMSON, CITY OF (CARLTON CO.)	AUGUST 02, 1974 AND
		JUNE 04, 1976
270005	TOWER, CITY OF (ST. LOUIS CO.)	DECEMBER 13, 1974 AND
		AUGUST 11, 1978
270341A	TRASKY, CITY OF (PIPESTONE CO.)	AUGUST 09, 1974 AND
		JULY 16, 1976
270006	TURTLE RIVER, CITY (BELTRAMI CO)	AUGUST 01, 1975
270376	UPSALA, CITY OF (MORRISON CO.)	OCTOBER 25, 1974
270267	VERNDALE, CITY OF (WADENA CO.)	OCTOBER 25, 1974
270636	VERNON CENTER, CITY (BLUE EARTH CO)	JANUARY 03, 1975
270009	VESTA, CITY (REDWOOD CO)	JANUARY 10, 1975
270155A	WACONIA, CITY OF (CARVER CO.)	JUNE 07, 1974 AND
		MARCH 19, 1976
270436	WALDORF, CITY OF (WASECA CO.)	AUGUST 09, 1974
270147A	WANAMINGO, CITY OF (GOODHUE CO.)	MAY 10, 1974 AND
		AUGUST 29, 1975
270217A	WARBA, CITY OF (ITASCA CO.)	SEPTEMBER 13, 1974 AND
		DECEMBER 26, 1975
270286A	WATKINS, CITY OF (MEEKER CO.)	APRIL 12, 1974 AND
		JULY 02, 1976
270066	WAVERLY, CITY (WRIGHT CO.)	JANUARY 17, 1975
270279A	WELCOME, CITY OF (MARTIN CO.)	MAY 16, 1974 AND
		JULY 16, 1976
270869P	WILLERNIE, CITY OF (WASHINGTON CO.)	MAY 27, 1977
270612	WILLIAMS, CITY OF (LAKE OF THE WOODS CO.)	NOVEMBER 29, 1974
270773	WILLMAR, CITY OF (KANDIYOHI CO.)	JULY 29, 1977
270613	WINGER, CITY OF (POLK CO)	JANUARY 31, 1975
270427P	WINTON, CITY OF (ST. LOUIS CO.)	AUGUST 02, 1974 AND
		JULY 02, 1976
270524A	WOLVERTON, CITY OF (WILKIN CO.)	AUGUST 09, 1974 AND
		DECEMBER 19, 1975
270615	WOOD LAKE, CITY (YELLOW MEDICINE CO)	JANUARY 17, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	MINNESOTA	
270046E	WRIGHT, CITY OF (CARLTON CO.)	SEPTEMBER 13, 1974
270211	ZEMPLE, CITY (ITASCA CO.)	JUNE 27, 1975
	TOTAL IN THE STATE	179

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	MISSISSIPPI	
280268E	AMITE COUNTY	FEBRUARY 24, 1978
280301A	ATTALA COUNTY *	JULY 29, 1977
280096	BASSFIELD, TOWN (JEFFERSON DAVIS CO)	JULY 30, 1976
280097	BAY SPRINGS, TOWN (JASPER CO)	AUGUST 01, 1975
280287	BELMONT, TOWN OF (TISHOMINGO CO.)	JULY 09, 1976
280150A	BRAXTON, VILLAGE OF (SIMPSON CO.)	JULY 19, 1974 AND
		JULY 16, 1976
280269	CHICKASAW COUNTY	JUNE 03, 1977
280240	CHUNKY, TOWN OF (NEWTON CO.)	DECEMBER 20, 1974
280220	CLARKE COUNTY *	NOVEMBER 29, 1974 AND
		NOVEMBER 11, 1977
280221	COPIAH COUNTY	AUGUST 26, 1977
280217	DERMA, TOWN (CALHOUN CO)	JULY 30, 1976
280017	DUNCAN, TOWN OF (BOLIVAR CO.)	NOVEMBER 05, 1976
280188	EDEN, VILLAGE OF (YAZOO CO.)	JULY 19, 1976
280270	FRANKLIN COUNTY	NOVEMBER 04, 1977
280117A	GATTMAN, VILLAGE OF (MONROE CO.)	JULY 19, 1974 AND
		AUGUST 15, 1976
280045A	GEORGETOWN, TOWN OF (COPIAH CO.)	AUGUST 02, 1976
280302	JASPER COUNTY *	FEBRUARY 24, 1978
280093	LAFAYETTE COUNTY *	DECEMBER 27, 1974 AND
		MARCH 17, 1976
280149A	LAKE, TOWN OF (SCOTT CO.)	JULY 19, 1974 AND
		JUNE 25, 1976
280304	LAMAR COUNTY *	DECEMBER 02, 1977
280272	LAWRENCE COUNTY	SEPTEMBER 16, 1977
280293A	LEAKE COUNTY *	MAY 26, 1977
280204	LENA, TOWN (LEAKE CO)	OCTOBER 25, 1974
280273	LINCOLN COUNTY	FEBRUARY 17, 1976
280297	MAGNOLIA, CITY OF (PIKE CO.)	NOVEMBER 25, 1977
280274	MARSHALL COUNTY	OCTOBER 28, 1977
280058	MCCOOL, VILLAGE OF (ATTALA CO)	JANUARY 31, 1975
280275	MONROE COUNTY	JANUARY 13, 1978
280225	MONTICELLO, TOWN OF (LAWRENCE CO.)	DECEMBER 27, 1974
280048	MT. OLIVE, TOWN (COVINGTON CO)	AUGUST 01, 1975
280276	NESHOBA COUNTY	NOVEMBER 04, 1977
280251	NEWTON COUNTY	SEPTEMBER 16, 1977
280305	NOXUBEE COUNTY *	DECEMBER 25, 1977
280277	OKTIBBEHA COUNTY *	FEBRUARY 17, 1978
280219A	PACHUTA, TOWN OF (CLARKE CO.)	NOVEMBER 08, 1974 AND
		SEPTEMBER 06, 1978
280129	PEARL RIVER COUNTY	NOVEMBER 25, 1977
280278A	PIKE COUNTY	JUNE 13, 1977
280279A	PRENTISS COUNTY	SEPTEMBER 16, 1977 AND
		JULY 21, 1978
280147A	PUCKETT, TOWN OF (RANKIN CO.)	AUGUST 23, 1974 AND
		JULY 02, 1976
280280A	SCOTT COUNTY	JUNE 17, 1977
280151	SEBASTOPOL, VILLAGE OF (SCOTT COU)	FEBRUARY 07, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	MISSISSIPPI	
280046	SEMINARY, VILLAGE OF (COVINGTON CO.)	AUGUST 01, 1975
280296A	SHERMAN, TOWN OF (PONTOTOC E UNION COS.)	JUNE 16, 1977
280034A	SHUBUTA, TOWN OF (CLARKE CO.)	JUNE 07, 1974 AND
		JUNE 25, 1976
280226	SILVER CREEK, TOWN OF (LAWRENCE CO.)	JULY 11, 1975
280281	SIMPSON COUNTY *	OCTOBER 21, 1977
280307	STONE COUNTY*	SEPTEMBER 09, 1977
280292	TIPPAH COUNTY	AUGUST 26, 1977
280263	TOCCOPOLA, TOWN OF (PONTOTOC CO.)	DECEMBER 13, 1974
280237A	UNION COUNTY *	DECEMBER 13, 1974 AND
		APRIL 02, 1977
280296A	WALNUT GROVE, TOWN OF (LEAKE CO)	JUNE 28, 1974 AND
		JULY 16, 1976
280307	WALTHALL COUNTY *	FEBRUARY 24, 1978
280258	WAYNE COUNTY *	DECEMBER 24, 1974 AND
		JANUARY 13, 1978
280286	WEBSTER COUNTY	FEBRUARY 24, 1978
280308	WINSTON COUNTY *	DECEMBER 02, 1977
	TOTAL IN THE STATE	55

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MISSOURI NAME	HAZARD AREA IDENTIFIED	
290761	AIRPORT DRIVE, VILLAGE OF (JASPER)	FEBRUARY 14, 1975	
290005A	AMAZONIA, TOWN OF (ANDREW CO.)	AUGUST 16, 1974	AND
		FEBRUARY 06, 1976	
29E217A	ANDERSON, CITY OF (MCDONALD CO.)	MAY 17, 1974	AND
		DECEMBER 26, 1975	
290287	ANNADA, VILLAGE OF (PIKE CO.)	FEBRUARY 07, 1975	
290291	APPLETON, CITY OF (ST. CLAIR CO.)	FEBRUARY 07, 1975	
290441	AUGUSTA, VILLAGE OF (ST. CHARLES CO.)	DECEMBER 06, 1974	
290707	BAKERSFIELD, VILLAGE (OZARK CO.)	APRIL 25, 1975	
290331	BELLERIVE, TOWN (ST. LOUIS CO.)	SEPTEMBER 10, 1976	
290753	BELLE, CITY OF (MARIES & OSAGE COS.)	OCTOBER 29, 1976	
290777A	BELLFLOWER, CITY (MONTGOMERY CO.)	MAY 17, 1977	
290756	BEWLER, CITY OF (MACON)	FEBRUARY 14, 1975	
290757	BILLINGS, CITY (CHRISTIAN CO.)	JUNE 27, 1975	
290400	BLACKBURN, TOWN (SALINE CO)	APRIL 23, 1976	
290206	BOLCKOW, TOWN (ANDREW CO)	APRIL 30, 1976	
290463	BOSWORTH, CITY (CARROLL CO)	JANUARY 17, 1975	
290274A	BRAGG CITY, CITY OF (PEMISCOT COU)	FEBRUARY 07, 1978	
290616	BRASHEAR, CITY OF (ADAIR)	FEBRUARY 14, 1975	
290755	BRAYMER, CITY (CALDWELL CO.)	APRIL 25, 1975	
290618	BRONAUGH, CITY (VERNON CO.)	JUNE 25, 1976	
290739	BUFFALO, CITY (DALLA CO.)	MAY 02, 1975	
290111	BUNCETON, CITY OF (COOPER CO.)	APRIL 25, 1975	
290622	CAINSVILLE, CITY (HARRISON CO.)	APRIL 25, 1975	
290855	CALEDONIA, VILLAGE OF (WASHINGTON CO.)	NOVEMBER 25, 1976	
290624	CAMDEN, CITY (RAY CO.)	MAY 28, 1976	
290124A	CAMPBELL, CITY OF (DUNKLIN CO.)	MARCH 29, 1974	AND
		JUNE 11, 1976	
290242	CANALOU, TOWN (NEW MADRID CO)	JUNE 11, 1976	
290022B	CASSVILLE, CITY OF (BARRY CO.)	AUGUST 16, 1974	AND
		NOVEMBER 26, 1975	
290249	CATRON, TOWN (NEW MADRID CO)	MAY 28, 1976	
290744A	CLARENCE, CITY (SHELBY CO.)	JUNE 03, 1977	
290631A	CLARKSDALE, CITY OF (DE KALB CO)	FEBRUARY 21, 1975	
290599	CLEARMONT, CITY (NODAWAY CO.)	JULY 18, 1975	
290601	COBALT CITY, VILLAGE (MADISON CO.)	MARCH 26, 1976	
290602	CONCEPTION JUNTION, CITY (NODAWAY CO.)	APRIL 25, 1975	
290196A	CONWAY, TOWN OF (LACLEDE CO.)	MAY 10, 1974	AND
		NOVEMBER 21, 1975	
290155	CORNING, TOWN OF (HOLT CO.)	FEBRUARY 06, 1976	
290665	COWGILL, TOWN (CALDWELL CO.)	APRIL 18, 1975	
290063A	CRAIGHTON, CITY (CASS CO)	MAY 13, 1977	
290610	CROSS TIMBERS, VILLAGE OF (HICKORY CO)	FEBRUARY 21, 1975	
290345A	CRYSTAL LAKE PK, TWN (ST. LOUIS CO)	MAY 13, 1977	
290856	CUBA, CITY OF (CRAWFORD CO.)	NOVEMBER 12, 1976	
290464	DALTON, VILLAGE OF (CHARITON CO.)	DECEMBER 13, 1974	
290612	DE KALB, VILLAGE (BUCHANAN CO.)	MARCH 26, 1976	
290747	DEEPWATER, CITY (HENRY CO.)	SEPTEMBER 26, 1975	
290055	DELTA, CITY OF (CAPE GIRARDEAU CO.)	DECEMBER 06, 1974	

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MISSOURI NAME	HAZARD AREA IDENTIFIED	
290613	DES ARC, VILLAGE (IRON CO.)	APRIL 18, 1975	
290658A	DEWITT, CITY OF (CARROLL CO.)	SEPTEMBER 06, 1974	AND
		APRIL 02, 1976	
290 726	DIXON, CITY (PULASKI CO.)	JUNE 04, 1976	
290736	DOWNING, CITY (SCHUYLER CO.)	JUNE 04, 1976	
290134A	DUENWEG, CITY OF (JASPER CO.)	MAY 03, 1974	AND
		OCTOBER 24, 1975	
290710	DUQUESNE, VILLAGE (JASPER CO.)	JUNE 18, 1976	
290296	ELMER, CITY OF (MACON CO.)	DECEMBER 06, 1974	
290595	ADLIA, VILLAGE (PIKE CO.)	MARCH 26, 1976	
290731	ESTHER, CITY OF (ST. FRANCOIS CO)	FEBRUARY 21, 1975	
290 593	FAIR GROVE, CITY (GREENE CO.)	JUNE 27, 1975	
290 626	FARLEY, TOWN (PLATTE CO)	JANUARY 24, 1975	
290733	FORSYTH, CITY OF (TANEY COU)	FEBRUARY 07, 1975	
290564	FRANKFORD, CITY (PIKE CO.)	JANUARY 07, 1977	
290627	FREMONT, VILLAGE OF (CARTER CO)	FEBRUARY 21, 1975	
290331A	GALENA, CITY OF (STONE CO.)	AUGUST 16, 1974	AND
		OCTOBER 31, 1975	
290737	GALLATIN, CITY OF (DAVIESS)	FEBRUARY 14, 1975	
290734	GERALD, CITY (FRANKLIN CO.)	JUNE 04, 1976	
290739	GOLDEN CITY, CITY OF (BARTON CO)	FEBRUARY 21, 1975	
290737	GRAIN VALLEY, CITY (JACKSON CO.)	JULY 16, 1976	
290 [illegible]	GRANDIN, CITY OF (CARTER CO.)	NOVEMBER 05, 1974	
290740	GREENTOP, CITY OF (SCHYLER CO)	FEBRUARY 21, 1975	
290 [illegible]	HERITAGE, CITY (HICKORY CO)	APRIL 25, 1975	
290 [illegible]	HILLSBORO, CITY (JEFFERSON C.)	OCTOBER 22, 1976	
290 [illegible]	HOLDEN, CITY (JOHNSON CO.)	APRIL 04, 1976	
290 [illegible]	HOLT, TOWN (CLAY CO)	JULY 02, 1976	
290 [illegible]	HOUSTON LAKE, VILLAGE (PLATTE CO)	JUNE 21, 1977	
290 [illegible]	HOUSTONIA, CITY (PETTIS CO)	SEPTEMBER 16, 1975	
290 [illegible]	HUMANSVILLE, CITY (POLK CO.)	JULY 11, 1975	AND
		FEBRUARY 16, 1977	
290 [illegible]	HUME, CITY OF (BATES CO)	FEBRUARY 21, 1975	
290 [illegible]	HUNNEWELL, CITY OF (SHELBY CO)	FEBRUARY 21, 1975	
290 [illegible]	HUNTLEIGH, TOWN (ST. LOUIS C.)	JUNE 25, 1976	
290 [illegible]	IRON GATES, VILLAGE (JASPER CO)	FEBRUARY 14, 1975	
290 [illegible]	IRONDALE, TOWN (WASHINGTON CO)	MAY 13, 1977	
290720	JAMESPORT, CITY OF (DAVIESS COU)	FEBRUARY 07, 1975	
290 [illegible]	JASPER, CITY OF (JASPER CO)	FEBRUARY 21, 1975	
290 [illegible]	KEARNEY, CITY OF (CLAY CO.)	MARCH 22, 1974	AND
		NOVEMBER 14, 1975	
290 [illegible]	KETTESVILLE, CITY (CHARITON CO.)	JULY 16, 1976	
290 [illegible]	KINGSVILLE, CITY (JOHNSON CO)	JUNE 25, 1976	
290724	KNOB NOSTER, CITY (JOHNSON C.)	JUNE 27, 1975	
290 [illegible]	LA BELLE, CITY OF (LEWIS)	FEBRUARY 14, 1975	
290 [illegible]	LA PALTA, CITY OF (MACON)	FEBRUARY 14, 1975	
290 [illegible]	LACLEDE, CITY (LINN CO)	JUNE 25, 1976	
290 [illegible]	LAKE CIARI, CITY (CAMDEN CO.)	JULY 26, 1977	
290 [illegible]	LAKE TAPAWINGO, CITY (JACKSON CO.)	NOVEMBER 19, 1976	

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MISSOURI NAME	HAZARD AREA IDENTIFIED	
290706	LINN, CITY (OSAGE CO.)	SEPTEMBER 10, 1976	
290115	LOCK SPRINGS, TOWN (DAVIESS CO)	FEBRUARY 25, 1977	
290642	LOCKWOOD, CITY (DADE CO.)	JUNE 24, 1976	
290853	LONE JACK, VILLAGE OF (JACKSON CO.)	OCTOBER 18, 1976	
290683	LOWRY CITY, CITY (ST. CLAIR CO.)	JUNE 25, 1975	
290424	LURAY, VILLAGE OF (CLARK CO.)	OCTOBER 18, 1974	AND
		OCTOBER 31, 1975	
290631A	LUTESVILLE, CITY OF (DOLLINGER CO.)	MAY 10, 1974	AND
		DECEMBER 10, 1975	
290585	MARGUARD, CITY (MADISON CO)	APRIL 18, 1975	
290444	MARTHASVILLE, VILLAGE OF (WARREN CO.)	SEPTEMBER 13, 1974	
290566	MEADVILLE, CITY (LINN CO)	APRIL 25, 1975	
290419A	MEMPHIS, CITY OF (SCOTLAND CO.)	MAY 24, 1977	
290271A	META, TOWN OF (OSAGE CO.)	SEPTEMBER 13, 1974	AND
		AUGUST 06, 1976	
290556	MIDDLETOWN, CITY (MONTGOMERY CO)	DECEMBER 13, 1974	
290409	MILL SPRING, VILLAGE OF (WAYNE CO.)	AUGUST 06, 1975	
290571	MINERAL POINT, VILLAGE (WASHINGTON CO)	JULY 09, 1976	
290689	MONTGOMERY CITY, CITY (MONTGOMERY CO.)	DECEMBER 27, 1974	
290277	MONTICELLO, VILLAGE OF (LEWIS CO.)	APRIL 16, 1975	
290690	MONTROSE, CITY (HENRY CO.)	JUNE 11, 1976	
290567	NAPOLEAN, CITY (LAFAYETTE CO)	OCTOBER 18, 1974	AND
290459	NELSON, CITY OF (SALINE CO.)	DECEMBER 26, 1975	
		JULY 25, 1975	
290549	NEW CAMBRIA, CITY (MACON CO)	NOVEMBER 05, 1976	
290602	NEW FLORENCE, CITY (MONTGOMERY CO.)	AUGUST 02, 1975	
290555	NEW HAMPTON, CITY (HARRISON CO)	JULY 30, 1976	
290551	NEWTOWN, CITY (SULLIVAN CO)	JUNE 28, 1974	AND
290078A	NIXA, CITY OF (CHRISTIAN CO)	JANUARY 16, 1976	
290559A	NORBORNE, CITY OF (CARROLL CO.)	APRIL 05, 1974	
290554A	OAK GROVE, VILLAGE (FRANKLIN CO)	JUNE 03, 1977	
290271	OSAGE BEACH, CITY (MILLER AND CAMDEN)	JULY 30, 1976	
290555	OSBORN, CITY (CLINTON CO)	JULY 18, 1975	
290672	OSCEOLA, CITY (ST. CLAIR CO.)	APRIL 02, 1976	
290556	OTTERVILLE, CITY (COOPER CO)	APRIL 25, 1975	
290532	PARKWAY, VILLAGE (FRANKLIN CO)	JULY 02, 1976	
290533	PASWELL, CITY (NODAWAY CO)	MAY 02, 1975	
290678	PERRY, CITY OF (CALLS COU)	FEBRUARY 14, 1975	

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	MISSOURI NAME	HAZARD AREA IDENTIFIED	
290535	PINEVILLE, CITY (MCDONALD CO)	APRIL 16, 1975	
290536	PLATTE WOODS, CITY (PLATTE CO)	NOVEMBER 12, 1976	
290537	PLEASANT HOPE, VILLAGE (POLK CO)	OCTOBER 29, 1976	
290080	POCAHONTAS, VILLAGE (CAPE GIRARDEAU CO.)	OCTOBER 29, 1976	
290541	PAVENWOOD, CITY (NODAWAY CO)	JUNE 27, 1975	
290542	RAYMONDVILLE, VILLAGE OF (TEXAS)	FEBRUARY 14, 1975	
29R243B	RHINELAND, TOWN (MONTGOMERY CO)	JANUARY 21, 1977	AND
		AUGUST 16, 1977	
290655	RICH HALL, CITY OF (BATES)	FEBRUARY 14, 1975	
290657	RICHMOND, CITY (RAY CO.)	OCTOBER 22, 1976	
290485	RITCHEY, TOWN (NEWTON CO)	JANUARY 31, 1975	
290438	ROCKAWAY BEACH, TOWN (TANEY CO)	JANUARY 10, 1975	
290518	ROCKVILLE, CITY OF (BATES CO)	FEBRUARY 21, 1975	
290C08	ROSENDALE, CITY OF (ANDREW)	FEBRUARY 14, 1975	
290864	SAVANNAH, CITY (ANDREW CO.)	NOVEMBER 05, 1976	
290521	SELIGMAN, CITY (BARRY CO)	APRIL 25, 1975	
290645	SHELBINA, CITY (SHELBY CO.)	APRIL 25, 1975	
290666	SHELBYVILLE, CITY (SHELBY CO.)	APRIL 18, 1975	
290522	SHELDON, CITY OF (VERNON CO)	JANUARY 31, 1975	
290523	SHERIDAN, CITY (WORTH CO)	JULY 02, 1976	
290177A	SIBLEY, VILLAGE OF (JACKSON CO.)	AUGUST 16, 1974	AND
		JANUARY 16, 1976	
290527E	SOUTH GORIN, CITY (SCOTLAND CO)	NOVEMBER 05, 1976	
290529	SPARTA, CITY (CHRISTIAN CO)	APRIL 02, 1976	
290531	SPICERAND, CITY OF (GRUNDY COU)	FEBRUARY 07, 1975	
29R160A	SPRINGFIELD, CITY OF (GREENE CO.)	OCTOBER 25, 1974	
290486	STELLA, CITY OF (NEWTON CO)	FEBRUARY 21, 1975	
290667	STOCKTON, CITY (CEDAR CO.)	JULY 02, 1976	
290533	STOTTS CITY, CITY (LAWRENCE CO)	OCTOBER 29, 1976	
290580	STRAFFORD, CITY (GREENE CO)	APRIL 25, 1976	
290C49	STURGEON, TOWN OF (BOONE CO.)	APRIL 23, 1976	
29C577	SUMMERSVILLE, CITY OF (SHANNON C TEXAS CO)	JANUARY 31, 1975	
290076	SUMNER, TOWN (CHARITON CO)	JANUARY 17, 1975	
290535	SUNNYVALE, CITY (NEWTON CO)	NOVEMBER 05, 1976	
290579	TARSNEY LAKES, VILLAGE (JACKSON CO)	OCTOBER 22, 1976	
290647	TIPTON, CITY (MONITEAU CO.)	JANUARY 17, 1975	
290641	TROY, CITY (LINCOLN CO.)	OCTOBER 29, 1976	
290511	TRUESDALE, VILLAGE (WARREN CO)	NOVEMBER 12, 1976	
290228A	TUSCUMBIA, VILLAGE OF (MILLER CO.)	OCTOBER 25, 1974	AND
		NOVEMBER 21, 1975	
290513A	UNITY, VILLAGE (JACKSON CO)	JUNE 03, 1977	
290514	URBANA, VILLAGE (DALLAS CO)	JUNE 27, 1975	
290857	VELDA VILLAGE HILLS, VILLAGE OF (ST. LOUIS CO.)	JULY 02, 1976	
290645	VERONA, CITY (LAWRENCE CO.)	OCTOBER 15, 1975	
290646	WIBURNUM, CITY OF (IRON CO)	FEBRUARY 21, 1975	
290653	WARDSVILLE, CITY (COLE CO.)	JULY 11, 1975	
290648	WARRENTON, CITY OF (WARREN COU)	FEBRUARY 07, 1975	
290024	WASHBURN, TOWN (BARRY CO)	JANUARY 16, 1975	
290644	WAVERLY, CITY OF (LAFAYETTE CO.)	JULY 11, 1975	

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	MISSOURI	
290652	WELLSVILLE, CITY (MONTGOMERY CO.)	JULY 30, 1976
290493	WENTWORTH, TOWN (NEWTON CO)	JANUARY 16, 1975
290615	WESTBORO, VILLAGE (ATCHISON CO.)	JULY 11, 1975
290396	WESTWOOD, TOWN (ST. LOUIS CO)	MAY 28, 1976
290636	WHEATON, CITY (BARRY CO.)	AUGUST 13, 1976
290637	WHEELING, CITY (LIVINGSTON CO.)	DECEMBER 24, 1976
290653	WILLARD, CITY (GREENE CO.)	NOVEMBER 05, 1976
290628	WILLIAMSVILLE, CITY OF (WAYNE CO.)	OCTOBER 18, 1974 AND MARCH 05, 1976
290639	WOODS HEIGHTS, VILLAGE (RAY CO.)	NOVEMBER 05, 1976
290654A	WRIGHT CITY, CITY OF (WARREN COU	FEBRUARY 07, 1975 AND NOVEMBER 14, 1975
290095A	WYACONDA, CITY OF (CLARK CO.)	OCTOBER 18, 1974 AND NOVEMBER 14, 1975
290133A	ZALMA, VILLAGE OF (BOLLINGER CO.)	OCTOBER 25, 1974 AND NOVEMBER 07, 1975

TOTAL IN THE STATE 189

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	MONTANA	
300086	BAINVILLE, TOWN (ROOSEVELT CO)	JANUARY 03, 1975
300090	BROCKTON, TOWN (ROOSEVELT CO)	JUNE 27, 1975
300091	CLYDE PARK, TOWN (PARK CO)	JANUARY 03, 1975
300106A	DEER LODGE COUNTY *	JUNE 07, 1977
300020	DENTON, TOWN OF (FERGUS CO.)	DECEMBER 27, 1974
300092	DUTTON, TOWN (TETON CO)	APRIL 25, 1975
300111	ERALAKA, TOWN OF (CARTER CO.)	JULY 16, 1976
300277A	FORSYTH, CITY OF (ROSEBUD CO.)	MARCH 08, 1974 AND JANUARY 16, 1976
300113A	FORT BENTON, CITY OF (CHOUTEAU CO.)	MAY 10, 1974 AND NOVEMBER 28, 1975
300151	GLACIER COUNTY *	DECEMBER 27, 1977
300121	GRASS RANGE, TOWN OF (FERGLS CO.)	DECEMBER 27, 1974
300095	HINGHAM, TOWN (HILL CO)	JULY 11, 1975
300154A	JEFFERSON COUNTY *	JANUARY 24, 1978
300100	JOLIET, TOWN OF (CARBON CO.)	DECEMBER 27, 1974
300116A	JORDAN, TOWN (GARFIELD CO)	JUNE 27, 1975 AND JANUARY 16, 1977
300096	KEVIN, TOWN (TOOLE CO)	JUNE 27, 1975
300131	LAVINA, TOWN (GOLDEN VALLEY CO)	JANUARY 24, 1975
300156	MINERAL COUNTY *	FEBRUARY 16, 1978
300119	POLSON, CITY (LAKE CO)	SEPTEMBER 26, 1975
300122	RONAN, CITY (LAKE CO)	APRIL 25, 1975
300140A	ROSEBUD COUNTY *	AUGUST 02, 1974 AND NOVEMBER 22, 1977
300172	SANDERS COUNTY	SEPTEMBER 26, 1978
300125	SHELBY, CITY (TOOLE CO)	DECEMBER 27, 1977
300126	SHERIDAN, TOWN (MADISON CO)	APRIL 02, 1976
300176A	SILVER BOW COUNTY *	SEPTEMBER 19, 1975
300127	SUNBURST, TOWN (TOOLE CO)	JUNE 17, 1977
300133	THOMPSON FALLS, TOWN OF (SANDERS COU	JANUARY 16, 1975
300147A	WHITE SULPHUR SPRINGS, CITY OF (MEAGER CO.)	FEBRUARY 07, 1975
300052	WINNETT, TOWN OF (PETROLEUM CO.)	MAY 24, 1974 AND JANUARY 16, 1976

TOTAL IN THE STATE 29

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	NEBRASKA	
310411	ADAMS COUNTY *	OCTOBER 18, 1977
310243	ALEXANDRIA, VILLAGE (THAYER CO.)	SEPTEMBER 12, 1975
310412	ANTELOPE COUNTY *	DECEMBER 27, 1977
310343A	ARAPAHOE, CITY (FURNAS CO.)	JULY 25, 1975 AND APRIL 01, 1977
310342	ARNOLD, VILLAGE (CUSTER CO.)	AUGUST 15, 1975
310206	ARTHUR, VILLAGE (ARTHUR CO)	JANUARY 16, 1975
310240	ASHTON, VILLAGE (SHERMAN CO.)	JULY 11, 1975
310345	ATKINSON, CITY (HOLT CO.)	NOVEMBER 05, 1976
310247A	AVOCA, VILLAGE (CASS CO.)	JULY 11, 1975
310249	BELGRADE, VILLAGE (NANCE CO.)	MAY 02, 1975
310024	BELLWOOD, VILLAGE OF (BUTLER CO.)	NOVEMBER 22, 1974
310257	BENEDICT, VILLAGE (YORK CO.)	APRIL 16, 1975
310206	BIG SPRINGS, VILLAGE OF (DEUEL CO.)	DECEMBER 20, 1974
310252	BLADEN, VILLAGE (WEBSTER CO.)	JULY 11, 1975
310351	BLOOMFIELD, CITY (KNOX CO.)	JULY 16, 1976
310416A	BOX BUTTE COUNTY *	AUGUST 23, 1977
310253	BRUNING, VILLAGE OF (THAYER CO)	JANUARY 31, 1975
310254	BRUNSWICK, VILLAGE (ANTELOPE CO.)	APRIL 02, 1976
310155	BURCHARD, VILLAGE OF (PAWNEE CO.)	NOVEMBER 08, 1974
310151	BURR, VILLAGE OF (OTOE CO.)	DECEMBER 06, 1974
310420A	BURT COUNTY *	NOVEMBER 22, 1977
310354	BURWELL, CITY (GARFIELD CO.)	APRIL 23, 1976
310255	BUSHNELL, VILLAGE (KIMBALL CO.)	MARCH 26, 1976
310345	CALLAWAY, VILLAGE (CUSTER CO.)	SEPTEMBER 19, 1975
310256	CAMPBELL, VILLAGE (FRANKLIN CO.)	AUGUST 22, 1975
310257	CARROLL, VILLAGE OF (WAYNE CO.)	JANUARY 31, 1975
310258	CEDAR RAPIDS, VILLAGE (BOONE CO.)	JANUARY 31, 1975
310357	CHADRON, CITY (DAWES CO.)	SEPTEMBER 24, 1976
310260	CHAPMAN, VILLAGE (MERRICK CO.)	MARCH 25, 1976
310261	CHESTER, VILLAGE (THAYER CO.)	AUGUST 26, 1976
310262	COOK, VILLAGE (CHERRY CO.)	MARCH 26, 1976
310123A	COOK, VILLAGE OF (JOHNSON CO.)	OCTOBER 18, 1974 AND NOVEMBER 28, 1975
310360	CREIGHTON, CITY (KNOX CO.)	NOVEMBER 12, 1976
310427A	CUMING COUNTY *	AUGUST 10, 1977
310406	CURTIS, CITY (FRONTIER CO)	APRIL 02, 1976
310428	CUSTER COUNTY *	MARCH 14, 1978
310267	DAVENPORT, VILLAGE (THAYER CO.)	JULY 11, 1975
310055	DAWSON COUNTY *	OCTOBER 18, 1977
310268	DAWSON, VILLAGE (RICHARDSON CO.)	JULY 11, 1975
310431A	DEUEL COUNTY *	NOVEMBER 01, 1977
310441	DEWEESE, VILLAGE OF (CLAY CO.)	NOVEMBER 18, 1976
310269	DILLER, VILLAGE (JEFFERSON CO.)	AUGUST 26, 1975
310270	DIX, VILLAGE (KIMBALL CO.)	SEPTEMBER 26, 1975
310271	DORCHESTER, VILLAGE (SALINE CO.)	MARCH 26, 1976
310272	DUNCAN, VILLAGE (PLATTE CO.)	FEBRUARY 16, 1977
310125A	ELK CREEK, VILLAGE OF (JOHNSON CO.)	NOVEMBER 01, 1974 AND NOVEMBER 21, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	NEBRASKA	
310345	ELWOOD, VILLAGE OF (GOSPER CO.)	SEPTEMBER 05, 1975
310276	EUSTIS, VILLAGE (FRONTIER CO.)	SEPTEMBER 19, 1975
310134A	EWING, VILLAGE OF (HOLT CO.)	MAY 03, 1974 AND MAY 16, 1975
310253A	FARNAM, VILLAGE OF (DAWSON CO.)	NOVEMBER 08, 1974 AND DECEMBER 05, 1975
310 444	FALLS CITY	AUGUST 04, 1976
310279	GILTNER, VILLAGE (HAMILTON CO)	APRIL 25, 1975
310373	GREELEY, VILLAGE (GREELEY CO.)	JULY 11, 1975
310375	GRETNA, CITY OF (SARPY CO.)	AUGUST 06, 1976
310284	GUIDE ROCK, VILLAGE (WEBSTER CO)	JULY 09, 1976
310285	HADLEY, VILLAGE (GUNEY CO.)	AUGUST 15, 1975
310292	HARDY, VILLAGE (NUCKOLLS CO.)	NOVEMBER 15, 1976
310213A	HAY SPRINGS, CITY OF (SHERIDAN CO.)	MARCH 22, 1974 AND NOVEMBER 07, 1975
310296	HILDRETH, VILLAGE (FRANKLIN CO.)	JULY 22, 1975
310247	HOLDREGE, VILLAGE (PHELPS CO.)	JULY 11, 1975
310298	HOLSTEIN, VILLAGE (ADAMS CO.)	JULY 16, 1975
310369A	HUMPHREY, VILLAGE (PLATTE CO.)	JULY 11, 1975 AND OCTOBER 20, 1977
310478	JEFFERSON COUNTY *	SEPTEMBER 20, 1978
310299	JUNIATA, VILLAGE (ADAMS CO.)	JUNE 27, 1977
310479	KEITH COUNTY *	JANUARY 17, 1975
310134A	LANCASTER COUNTY	NOVEMBER 15, 1977
310300	LAUREL, VILLAGE (CEDAR CO.)	FEBRUARY 28, 1978
310197	LEWELLEN, VILLAGE (GARDEN CO.)	NOVEMBER 05, 1976
310305	MADRID, VILLAGE OF (PERKINS CO.)	JANUARY 17, 1975
310372	MERNA, VILLAGE (CUSTER CO.)	DECEMBER 20, 1974
310307	MILLIGAN, VILLAGE (FILLMORE CO.)	MAY 02, 1975
310203	NAPONEE, VILLAGE (FRANKLIN CO)	JULY 09, 1976
310377A	NELIGH, CITY OF (ANTELOPE CO.)	AUGUST 15, 1975
310150	OAK, VILLAGE OF (NUCKOLLS CO.)	JANUARY 24, 1975
310203	OHIOWA, VILLAGE OF (FILLMORE CO.)	NOVEMBER 15, 1974
310064	ONEILL, VILLAGE OF (HOLT CO.)	NOVEMBER 08, 1974
310304	ORLEANS, CITY (HARLAN CO.)	NOVEMBER 29, 1974
310377	PALMER, VILLAGE (MERRICK CO.)	JULY 15, 1976
310465A	PHELPS COUNTY *	JUNE 27, 1975
310217	PILGER, VILLAGE OF (STANTON CO.)	AUGUST 30, 1977
310315	PLAINVIEW, CITY OF (PIERCE CO.)	DECEMBER 24, 1974
310467A	PLATTE COUNTY *	JULY 02, 1975
310317	POLK, VILLAGE (POLK CO.)	AUGUST 16, 1977
310135A	RAYMOND, VILLAGE OF (LANCASTER CO.)	JUNE 27, 1975
310469	RED WILLOW COUNTY *	OCTOBER 18, 1974 AND DECEMBER 12, 1975
310312	RISING CITY, VILLAGE (BUTLER CO.)	DECEMBER 27, 1977
310474	RIVERTON, VILLAGE (FRANKLIN CO)	JULY 11, 1975
310314A	RUSHVILLE, CITY OF (SHERIDAN CO.)	OCTOBER 24, 1975
		MAY 03, 1974 AND APRIL 02, 1976

* UNINCORPORATED AREAS ONLY

NEBRASKA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
310316	SCOTIA, VILLAGE (GREELEY CO.)	MAY 02, 1975
310473A	SCOTTS BLUFF COUNTY *	FEBRUARY 27, 1978
310474A	SEWARD COUNTY *	JUNE 17, 1977
310475A	SHERIDAN COUNTY *	NOVEMBER 22, 1977
310322	STAPLEHURST, VILLAGE (SEWARD CO.)	JANUARY 10, 1975
310323	STAPLETON, VILLAGE OF (LOGAN CO)	FEBRUARY 21, 1975
310171	STEINAUER, VILLAGE OF (PAWNEE CO.)	NOVEMBER 22, 1974
310324	STELLA, VILLAGE (RICHARDSON CO.)	JULY 11, 1975
310176	STOCKHAM, VILLAGE OF (HAMILTON CO.)	DECEMBER 06, 1974
310172	TABLE ROCK, VILLAGE OF (PAWNEE CO.)	NOVEMBER 01, 1974
310326	THEDFORD, VILLAGE (THOMAS CO.)	JULY 11, 1975
310332	VERDON, VILLAGE (RICHARDSON CO.)	SEPTEMBER 26, 1975
310404	WAKEFIELD, CITY (DIXON-WAYNE COS.)	AUGUST 29, 1975
310405	WAUSA, VILLAGE (KNOX CO.)	AUGUST 08, 1975
310486A	WAYNE COUNTY *	AUGUST 16, 1977
310333	WESTERN, VILLAGE (SALINE CO.)	NOVEMBER 19, 1976
310265A	WESTON, VILLAGE OF (SAUNDERS CO.)	OCTOBER 18, 1974 AND FEBRUARY 20, 1976
310335	WILSONVILLE, VILLAGE (FURNAS CO.)	DECEMBER 03, 1976
310336	WINSIDE, VILLAGE (WAYNE CO.)	JULY 18, 1975
310337	WYNOT, VILLAGE (CEDAR CO.)	APRIL 25, 1975
310486	YORK COUNTY *	NOVEMBER 01, 1977

TOTAL IN THE STATE 109

* UNINCORPORATED AREAS ONLY

NEVADA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
320237	CHURCHILL COUNTY *	DECEMBER 27, 1977
320229A	LYON COUNTY	JANUARY 31, 1978
320233A	STOREY COUNTY *	JANUARY 10, 1978
320012	WINNEMUCCA, CITY OF (HUMBOLDT CO)	APRIL 23, 1976

TOTAL IN THE STATE 4

* UNINCORPORATED AREAS ONLY

NEW HAMPSHIRE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
330152A	ACWORTH, TOWN OF (SULLIVAN CO.)	SEPTEMBER 13, 1974 AND FEBRUARY 18, 1977
330174	ALBANY, TOWN (CARROLL CO)	JANUARY 17, 1975
330174A	ALEXANDRIA, TOWN OF (GRAFTON CO)	FEBRUARY 21, 1975 AND APRIL 01, 1977
330175A	ATKINSON, TOWN (ROCKINGHAM CO)	JANUARY 03, 1975 AND NOVEMBER 29, 1977
330177	BARNSTEAD, TOWN (BELKNAP CO)	JANUARY 03, 1975
330181	BROOKLINE, TOWN (HILLSBOROUGH CO)	APRIL 04, 1975
330126A	CANDIA, TOWN OF (ROCKINGHAM CO)	FEBRUARY 21, 1975 AND NOVEMBER 19, 1976
330149A	CHATHAM, TOWN (CARROLL CO)	JANUARY 03, 1975 AND DECEMBER 17, 1976
330193A	CHESTERFIELD, TOWN (CHESHIRE CO)	DECEMBER 13, 1977
330192	CHESTER, TOWN OF (ROCKINGHAM CO)	FEBRUARY 21, 1975
330144	CLARKSVILLE, TOWN (COOS CO)	JANUARY 03, 1975
330111A	DANBURY, TOWN (MERRIMACK CO)	JUNE 14, 1977
330199	DANVILLE, TOWN (ROCKINGHAM CO)	JANUARY 17, 1975
330050	DORCHESTER, TOWN (GRAFTON CO)	MARCH 14, 1975
330251	DUMMER, TOWN (COOS CO)	JANUARY 17, 1975
330232	DUNBARTON, TOWN (MERRIMACK CO)	JANUARY 17, 1975
330064A	EATON, TOWN (CARROLL CO)	JANUARY 17, 1975 AND OCTOBER 03, 1976
330012	EFFINGHAM, TOWN (CARROLL CO.)	JANUARY 17, 1975
330214	ERROL, TOWN (COOS CO)	JANUARY 17, 1975
330227	FITZWILLIAM, TOWN (CHESHIRE CO)	NOVEMBER 26, 1976
330133	FREEDOM, TOWN OF (CARROLL CO.)	AUGUST 03, 1976 AND AUGUST 15, 1976
330131A	FREMONT, TOWN OF (ROCKINGHAM CO.)	AUGUST 29, 1974 AND OCTOBER 26, 1976
330248	GILMANTON, TOWN (BELKNAP CO.)	JANUARY 17, 1975
330254	GRAFTON, TOWN (GRAFTON CO)	JANUARY 17, 1975
330212	HARRISVILLE, TOWN (CHESHIRE CO)	JANUARY 24, 1975
330114B	HENNIKER, TOWN OF (MERRIMACK CO.)	MARCH 15, 1974 AND FEBRUARY 11, 1977
330216A	HENSINGTON, TOWN OF (ROCKINGHAM CO.)	SEPTEMBER 09, 1977
330217	KINGSTON, TOWN (ROCKINGHAM CO)	JANUARY 17, 1975
330042A	LANDAFF, TOWN OF (GRAFTON CO.)	DECEMBER 26, 1974 AND NOVEMBER 19, 1976
330159	LANGDON, TOWN (SULLIVAN CO)	JANUARY 03, 1975
330160	LEMPSTER, TOWN OF (SULLIVAN CO.)	JANUARY 31, 1975
330042A	LINCOLN, TOWN OF (GRAFTON CO)	FEBRUARY 21, 1975 AND MARCH 11, 1977
330117A	LOUDON, TOWN OF (MERRIMACK CO.)	AUGUST 02, 1974 AND MAY 31, 1977
330218A	LYNDEBOROUGH, TOWN OF (HILLSBOROUGH CO)	FEBRUARY 21, 1975 AND NOVEMBER 29, 1977
330219	MADBURY, TOWN (STRAFFORD CO)	JANUARY 17, 1975

* UNINCORPORATED AREAS ONLY

NEW HAMPSHIRE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
330220A	MADISON, TOWN (CARROLL CO)	JANUARY 17, 1975 AND NOVEMBER 29, 1977
330221	MASON, TOWN OF (HILLSBOROUGH CO)	FEBRUARY 21, 1975
330222A	MIDDLETON, TOWN OF (STRAFFORD CO.)	JANUARY 31, 1975 AND JANUARY 10, 1978
330035	MILAN, TOWN OF (COOS CO)	JUNE 26, 1974
330149A	MILTON, TOWN OF (STRAFFORD COU)	FEBRUARY 27, 1975 AND FEBRUARY 18, 1977
330158	MONROE, TOWN OF (GRAFTON CO.)	NOVEMBER 29, 1974
330015A	MOULTONBOROUGH, TOWN OF (CARROLL CO.)	FEBRUARY 11, 1977
330224	MOUNT VERNON, TOWN (HILLSBOROUGH CO)	JANUARY 17, 1975
330229	NEWINGTON, TOWN OF (ROCKINGHAM CO)	FEBRUARY 21, 1975
330069	ORANGE, TOWN (GRAFTON CO)	JANUARY 10, 1975
330180A	PITTSBURG, TOWN OF (COOS CO.)	JANUARY 31, 1975 AND JANUARY 07, 1977
330147	RANDOLPH, TOWN (COOS CO)	JANUARY 03, 1975
330198	RICHMOND, TOWN (CHESHIRE CO)	JANUARY 03, 1975 AND DECEMBER 27, 1977
330172	ROXBURY, TOWN OF (CHESIRE)	FEBRUARY 14, 1975
330173A	RUMNEY, TOWN OF (GRAFTON CO.)	MARCH 15, 1974 AND MARCH 11, 1977
330191	SANDOWN, TOWN (ROCKINGHAM CO)	JANUARY 03, 1975
330193	SOUTH HAMPTON, TOWN OF (ROCKINGHAM CO)	FEBRUARY 28, 1975
330142A	SPRINGFIELD, TOWN (SULLIVAN CO)	NOVEMBER 18, 1977
330194	STEWARTSTOWN, TOWN (COOS CO)	JANUARY 10, 1975
330195A	STODDARD, TOWN (CHESHIRE CO)	JANUARY 17, 1975 AND MAY 17, 1977
330177A	SURRY, TOWN (CHESHIRE CO)	JANUARY 31, 1975 AND SEPTEMBER 03, 1976
330172A	TROY, TOWN (CHESHIRE CO)	JANUARY 03, 1975 AND JULY 27, 1976
330145A	UNITY, TOWN OF (SULLIVAN CO.)	MAY 31, 1974 AND NOVEMBER 22, 1976
330166A	WARREN, TOWN OF (GRAFTON CO.)	SEPTEMBER 13, 1974 AND MARCH 11, 1977
330160E	WASHINGTON, TOWN OF (SULLIVAN CO.)	DECEMBER 27, 1974 AND AUGUST 27, 1976
330235A	WEARE, TOWN OF (HILLSBOROUGH)	JUNE 21, 1977 FEBRUARY 14, 1975 AND FEBRUARY 11, 1977
330026A	WHITEFIELD, TOWN OF (COOS CO.)	JULY 26, 1974 AND NOVEMBER 24, 1976
330126A	WILMOT, TOWN OF (MERRIMACK CO.)	AUGUST 16, 1974 AND NOVEMBER 19, 1976

TOTAL IN THE STATE 63

* UNINCORPORATED AREAS ONLY

NEW JERSEY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
340349	MENDHAM, BOROUGH OF (MORRIS CO.)	JANUARY 31, 1975
340558*	MINE HILL, TOWNSHIP OF	JANUARY 07, 1977
340549	NEWFIELD, BOROUGH OF (GLOUCESTER CO.)	JULY 01, 1977
340111*	PEMBERTON, BORO (BURLINGTON CO)	AUGUST 20, 1976 AND DECEMBER 10, 1976
340421*	PITTSGROVE, TWP (SALEM CO)	DECEMBER 03, 1976
340455	SANDYSTON, TWP (SUSSEX CO)	OCTOBER 29, 1977
34C212*	SOUTH HARRISON, TOWNSHIP OF (GLOUCESTER CO)	JUNE 28, 1974 AND JULY 02, 1976
340533	TABERNACLE, TOWNSHIP OF (BURLINGTON COU)	FEBRUARY 07, 1975
340544	TAVISTOCK, BOROUGH OF (CAMDEN CO.)	NOVEMBER 29, 1974
340479B	WINFIELD, TOWNSHIP OF (UNION CO.)	MARCH 28, 1974 AND OCTOBER 17, 1975

TOTAL IN THE STATE 10

* UNINCORPORATED AREAS ONLY

NEW MEXICO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
350C9B	CAPITAN, VILLAGE (LINCOLN CO)	JUNE 25, 1976
350217A	CARLSBAD,CITY OF (EDDY CO.)	MARCH 15, 1974 AND JANUARY 02, 1976
350115	CARRIZOZO, TOWN (LINCOLN CO)	AUGUST 20, 1975
350254	CHAPA, VILLAGE OF (RIO ARRIBA CO.)	AUGUST 10, 1976 AND DECEMBER 12, 1975
350119	CLOUDCROFT, VILLAGE (OTERO CO)	JUNE 27, 1975
350 [illegible]	COLUMBUS, VILLAGE OF (LUNA CO.)	DECEMBER 13, 1974
350256	CORONA, VILLAGE (LINCOLN CO)	JUNE 04, 1976
350104	CUBA, VILLAGE (SANDOVAL CO)	DECEMBER 31, 1976
350127A	CURRY COUNTY *	FEBRUARY 07, 1976
350[illegible]	DES MOINES, VILLAGE (UNION CO)	JULY 11, 1975
350112A	DEXTER, TOWN (CHAVES CO)	MAY 02, 1975 AND SEPTEMBER 17, 1976
350102A	ENCINO, VILLAGE (TORRANCE CO)	JULY 02, 1976 AND APRIL 15, 1977
350103	FLOYD, VILLAGE (ROOSEVELT CO)	APRIL 30, 1976
350127A	GRANT COUNTY	AUGUST 09, 1977
350122	LINCOLN COUNTY	MARCH 28, 1976
350114	LOVING, VILLAGE (EDDY CO)	AUGUST 26, 1975
350[illegible]67	MAGDALENA, VILLAGE OF (SOCORRO CO.)	AUGUST 02, 1974 AND FEBRUARY 02, 1976
350[illegible]	MAXWELL, VILLAGE (COLFAX CO)	SEPTEMBER 19, 1975
350[illegible]27	MOSQUERO, VILLAGE OF (HARDING CO.)	JULY 09, 1976
[illegible] 116	OJESTA, VILLAGE (TAOS CO)	JANUARY 17, 1975
350[illegible]5	ORT, VILLAGE (HARDING CO)	JULY 16, 1976
350[illegible]24	SAN MIGUEL COUNTY *	AUGUST 16, 1977
350[illegible]1	SAN YSIDRO, CITY OF (SANDOVAL CO.)	JULY 09, 1976
350[illegible]54	SANDOVAL COUNTY	NOVEMBER 26, 1977
350[illegible]2A	TATUM, TOWN OF (LEA CO.)	JUNE 21, 1974 AND JANUARY 16, 1976
350[illegible]7	VAUGHN, TOWN (GUADALUPE CO)	JULY 09, 1976
350[illegible]6	WAGON MOUND, VILLAGE (MORA CO)	APRIL 09, 1976
350[illegible]5	WILLARD, VILLAGE (TORRANCE CO)	SEPTEMBER 25, 1975

TOTAL IN THE STATE 28

* UNINCORPORATED AREAS ONLY

NEW YORK

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
361361	ALLEN, TOWN OF (ALLEGHANY CO.)	JANUARY 31, 1975
361379	ALTONA, TOWN (CLINTON CO)	JANUARY 03, 1975
36126C	AMBOY, TOWN OF (OSWEGO CO.)	NOVEMBER 15, 1974
361095	ANGELICA, TOWN OF (ALLEGANY CO.)	SEPTEMBER 10, 1976
361117A	ATHENS, TOWN OF (GREENE CO.)	AUGUST 13, 1976 AND JUNE 03, 1977
360318A	AVA, TOWN OF (ONEIDA CO.)	JUNE 28, 1974 AND SEPTEMBER 10, 1976
361054A	BALDWIN, TOWN OF (CHEMUNG CO.)	MAY 31, 1974
361302	BELLFORT, TOWN (FRANKLIN CO)	JANUARY 17, 1975
361342	BIRDSALL, TOWN (ALLEGANY CO)	JANUARY 03, 1975
361097A	BOLIVAR, TOWN (ALLEGANY CO)	OCTOBER 29, 1976
361415	BOYLSTON, TOWN (OSWEGO CO)	JANUARY 03, 1975
360521A	BRIDGEWATER, TOWN OF (ONEIDA CO.)	SEPTEMBER 06, 1974 AND JULY 16, 1976
361128A	BROADALBIN, TOWN OF (FULTON CO.)	SEPTEMBER 26, 1974 AND AUGUST 06, 1976
360134	PROCTOR, VILLAGE OF (CHAUTAUQUA CO.)	AUGUST 27, 1976
361467	PRUSHTON, VILLAGE OF (FRANKLIN CO.)	NOVEMBER 15, 1974
361394	BURKE, TOWN (FRANKLIN CO)	FEBRUARY 17, 1978
361098	BURNS, TOWN OF (ALLEGANY CO.)	NOVEMBER 08, 1974
361445	BUTLER, TOWN OF (WAYNE CO.)	NOVEMBER 20, 1974
361206	CAMERON, TOWN (STEUBEN CO)	JANUARY 10, 1975
360322C	CHAMPION, TOWN OF (JEFFERSON COU)	MAY 31, 1974 AND FEBRUARY 07, 1975
361314	CHATHAM, TOWN (COLUMBIA CO)	JUNE 10, 1977
361422	CLARE, TOWN (ST. LAWRENCE CO)	JANUARY 03, 1975
360524A	CLAYVILLE, VILLAGE OF (ONEIDA CO.)	MAY 24, 1974 AND JULY 10, 1976
361330	CLINTON, TOWN (CLINTON CO)	JANUARY 24, 1975
360042E	COLD SPRING, TOWN OF (CATTARAUGUS CO.)	JUNE 21, 1974 AND JUNE 25, 1976
360360A	CONSTABLEVILLE, VILLAGE OF (LEWIS CO.)	AUGUST 09, 1974 AND MAY 28, 1976
361441	COURTLAND, CITY OF (CORTLAND CO.)	FEBRUARY 16, 1975
361209	DANSVILLE, TOWN (STEUBEN CO)	JANUARY 24, 1975
360302A	DANUBE, TOWN OF (HERKIMER CO.)	APRIL 05, 1974 AND JUNE 18, 1976
360364A	DIANA, TOWN OF (LEWIS CO.)	SEPTEMBER 13, 1974 AND JUNE 11, 1976
361122A	DICKINSON, TOWN OF (FRANKLIN CO.)	NOVEMBER 08, 1974 AND JANUARY 09, 1976
360746	DIX, TOWN OF (SCHUYLER CO.)	SEPTEMBER 03, 1976
360956	DRESDEN, VILLAGE (YATES CO)	FEBRUARY 20, 1976 AND FEBRUARY 20, 1976
360442A	EAST ROCHESTER, VILL (MONROE CO)	JANUARY 14, 1977
361176A	EDWARDS, TOWN (ST. LAWRENCE CO)	JANUARY 24, 1975 AND FEBRUARY 06, 1976

* UNINCORPORATED AREAS ONLY

NEW YORK

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
361403A	EDWARDS, VILLAGE OF (ST. LAWRENCE CO.)	NOVEMBER 15, 1974 AND FEBRUARY 06, 1976
361502	ELLENBURG, TOWN (CLINTON CO)	MARCH 16, 1976
361374	ERIN, TOWN (CHEMUNG CO)	JANUARY 16, 1975
361307	FRANKLIN, TOWN (FRANKLIN CO)	JULY 18, 1975
361325	FREETOWN, TOWN (CORTLAND CO)	JANUARY 17, 1975
361127	FRIENDSHIP, TOWN (ALLEGANY CO)	JANUARY 03, 1975
361119	GENESEE, TOWN OF (ALLEGANY CO.)	DECEMBER 13, 1974
361452A	GENESEO, VILLAGE OF (LIVINGSTON CO.)	NOVEMBER 15, 1974 AND NOVEMBER 16, 1976
360587	GERMAN, TOWN OF (CHENANGO CO.)	JULY 29, 1977
361465	GILBERTSVILLE, VILLAGE (OTSEGO CO)	JULY 16, 1976
361179	GOUVERNEUR, TOWN (ST. LAWRENCE CO)	JANUARY 24, 1975
361214	GREENWOOD, TOWN (STEUBEN CO)	JANUARY 03, 1975
361221	HALCOTT, TOWN OF (GREEN CO.)	FEBRUARY 14, 1975
360651	HANNIBAL, TOWN (OSWEGO CO)	OCTOBER 01, 1976
361491E	HARRISVILLE, VILLAGE OF (LEWIS CO.)	NOVEMBER 15, 1974 AND MAY 28, 1976
361214	HARTFORD, TOWN OF (WASHINGTON CO.)	DECEMBER 27, 1974
361512A	HEAD OF THE HARBOR, VILLAGE OF (SUFFOLK CO.)	NOVEMBER 15, 1974 AND JULY 02, 1976
361179	HOPKINTON, TOWN OF (ST. LAWRENCE CO.)	NOVEMBER 15, 1974
361434	HOWARD, TOWN OF (STEUBEN CO.)	DECEMBER 27, 1974
360178A	HUMPHREY, TOWN OF (CATTARAUGUS CO.)	AUGUST 30, 1974 AND JULY 16, 1976
361 [illegible]	INDEPENDENCE, TOWN OF (ALLEGANY CO.)	SEPTEMBER 16, 1974 AND JUNE 11, 1976
361513A	INDIAN LAKE, TOWN (HAMILTON CO)	DECEMBER 13, 1976
361358A	ITALY, TOWN OF (YATES CO.)	JUNE 25, 1974 AND AUGUST 24, 1976
361212A	JASPER, TOWN OF (STEUBEN CO.)	NOVEMBER 01, 1974 AND JULY 02, 1976
361106	JEFFERSON, TOWN (SCHOHARIE CO)	AUGUST 12, 1977
361114	JEWETT, TOWN OF	DECEMBER 23, 1977
360675	JOHNSBURG, TOWN OF (WARREN CO.)	AUGUST 27, 1976 AND JULY 01, 1977
361131A	JOHNSTOWN, TOWN OF (FULTON CO.)	OCTOBER 25, 1974 AND MARCH 15, 1977
360266A	KEESEVILLE, VILLAGE OF (ESSEX CO.)	MAY 31, 1974 AND MAY 21, 1976
361231A	KINDERHOOK, TOWN OF (COLUMBIA CO.)	OCTOBER 22, 1976
361711	KNOX TOWNSHIP (ALBANY CO)	OCTOBER 22, 1976
361465	LEICESTER, VILLAGE (LIVINGSTON CO)	JANUARY 16, 1975
360 [illegible]	LEON, TOWN OF (CATTARAUGUS CO.)	MAY 31, 1974 AND JUNE 18, 1976
360388A	LEWIS, TOWN OF (LEWIS CO.)	JUNE 28, 1974 AND JULY 09, 1976
361152	LEWIS, TOWN OF (ESSEX CO.)	NOVEMBER 29, 1974
361457A	LIMA, VILLAGE (LIVINGSTON CO)	JANUARY 16, 1976

* UNINCORPORATED AREAS ONLY

NEW YORK

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
360309A	LITCHFIELD, TOWN OF (HERKIMER CO.)	MARCH 15, 1974 AND APRIL 09, 1976
361476	LONG LAKE, TOWN (HAMILTON CO)	JULY 25, 1975 AND MAY 19, 1978
360833A	LYNDON, TOWN OF (CATTARAUGUS CO.)	AUGUST 06, 1974
360371A	LYONSDALE, TOWN OF (LEWIS CO.)	AUGUST 16, 1974 AND JULY 16, 1976
360084A	MACHIAS, TOWN OF (CATTARAUGUS CO.)	OCTOBER 18, 1974 AND AUGUST 27, 1976
361153A	MINERVA, TOWN OF (ESSEX CO.)	DECEMBER 25, 1974 AND JULY 09, 1976
361125	MOIRA, TOWN OF (FRANKLIN CO.)	NOVEMBER 15, 1974
361488	MOORS, VILLAGE (CLINTON CO)	JANUARY 03, 1975
361389	MORIAH, TOWN OF (ESSEX CO.)	NOVEMBER 22, 1974
360700B	MORRISTOWN, TOWN OF (ST. LAWRENCE CO.)	SEPTEMBER 06, 1974 AND JULY 16, 1976
361019A	NELSONVILLE, VILLAGE (PUTNAM CO)	JULY 01, 1977
360295A	NEW BALTIMORE, TOWN (GREENE CO)	DECEMBER 16, 1977
361400A	NORTHAMPTON, TOWN OF (FULTON CO.)	DECEMBER 17, 1976
361408	OHIO, TOWN (HERKIMER CO)	JANUARY 31, 1975 AND AUGUST 06, 1976
361526A	ONEIDA CASTLE, VILLAGE (ONEIDA CO.)	JANUARY 03, 1975 *
361134A	OPPENHEIM, TOWN OF (FULTON CO.)	NOVEMBER 26, 1976
		NOVEMBER 05, 1974 AND JUNE 18, 1976
361263	PALERMO, TOWN OF (OSWEGO CO.)	FEBRUARY 07, 1975
360856	PALMYRA, VILLAGE (WAYNE CO)	JULY 29, 1977
361425	PARISHVILLE, TOWN (ST. LAWRENCE CO)	JANUARY 17, 1975
361426	PIERREFIELD, TOWN OF (ST. LAWRENCE CO.)	JANUARY 31, 1975
360375A	PINCKNEY, TOWN OF (LEWIS CO.)	SEPTEMBER 06, 1974
361356A	PROSPECT, VILLAGE OF (ONEIDA CO.)	NOVEMBER 15, 1974
361190A	PROVIDENCE, TOWN OF (SARATOGA CO.)	NOVEMBER 15, 1974 AND AUGUST 06, 1976
360791A	RATHBONE, TOWN OF (STEUBEN CO.)	AUGUST 02, 1974 AND SEPTEMBER 17, 1976
361346	RAVENA, VILLAGE (ALBANY CO)	OCTOBER 22, 1976
361548	RED CREEK, VILLAGE (WAYNE CO)	JANUARY 10, 1975
361366	RED HOUSE, TOWN OF (CATTARAUGUS CO)	FEBRUARY 28, 1975 AND DECEMBER 30, 1977
361265	REDFIELD, TOWN OF (OSWEGO CO.)	NOVEMBER 22, 1974
360541A	REMSEN, VILLAGE (ONEIDA CO)	MARCH 04, 1977
361406A	RENSSELAER FALLS, VILLAGE (ST. LAWRENCE CO)	JUNE 03, 1977
361467	RICHVILLE, VILLAGE (ST. LAWRENCE CO)	JANUARY 10, 1975
361186A	ROSSIE, TOWN OF (ST. LAWRENCE CO.)	NOVEMBER 01, 1974 AND MARCH 26, 1976
361121A	RUSSIA, TOWN OF (HERKIMER CO.)	NOVEMBER 01, 1974 AND JUNE 18, 1976
360098A	SALAMANCA, TOWN OF	JUNE 03, 1977

* UNINCORPORATED AREAS ONLY

NEW YORK

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
360317A	SALISBURY, TOWN OF (HERKIMER CO.)	JUNE 07, 1974 AND JULY 16, 1976
361229A	SAVANNAH, TOWN OF (WAYNE CO.)	DECEMBER 26, 1974 AND JUNE 25, 1976
361505	SAVANNAH, VILLAGE (WAYNE CO)	AUGUST 27, 1976
361056F	SCHAGHTICOKE, VILLAGE OF (RENSSELAER CO.)	JANUARY 23, 1976
361424A	SMITHVILLE, TOWN OF (CHENANGO CO)	JUNE 17, 1977
360107A	SOUTH VALLEY, TOWN OF (CATTARAUGUS CO.)	SEPTEMBER 06, 1974 AND SEPTEMBER 24, 1976
361264A	SPARTA, TOWN OF (LIVINGSTON CO.)	JUNE 10, 1977
		NOVEMBER 08, 1974 AND JUNE 11, 1976
360555A	STEUBEN, TOWN OF (ONEIDA CO.)	JUNE 26, 1974 AND JULY 09, 1976
360881A	STONY CREEK, TOWN OF (WARREN CO.)	DECEMBER 17, 1976
361136	STRATFORD, TOWN OF (FULTON CO.)	NOVEMBER 15, 1974
361157A	ST. ARMAND, TOWN OF (ESSEX CO.)	OCTOBER 25, 1974 AND JULY 02, 1976
367881	THURMAN, TOWN OF (WARREN CO.)	AUGUST 20, 1976
361213A	THURSTON, TOWN OF (STEUBEN CO.)	OCTOBER 25, 1974 AND AUGUST 13, 1976
361436	TROUPSBURG, TOWN OF (STEUBEN CO)	FEBRUARY 21, 1975
362733A	VICTORY, VILLAGE OF (SARATOGA CO.)	APRIL 03, 1974
361228E	WALWORTH, TOWN OF (WAYNE CO.)	DECEMBER 13, 1974 AND OCTOBER 17, 1975
360332	WELLS, TOWN OF (HAMILTON CO.)	MAY 26, 1976
361246	WESTFIELD, TOWN OF (WYOMING CO.)	NOVEMBER 29, 1974
361267A	WILLIAMSTOWN, TOWN OF (OSWEGO CO.)	DECEMBER 13, 1974
		NOVEMBER 01, 1974 AND JULY 02, 1976
361161	WILMINGTON, TOWN (ESSEX CO)	JANUARY 17, 1975
361401	WINDHAM, TOWN OF (GREEN CO.)	NOVEMBER 04, 1977

TOTAL IN THE STATE 126

* UNINCORPORATED AREAS ONLY

NORTH CAROLINA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
370[illegible]	ALLEGHANY COUNTY	JULY 01, 1977
370234	ANSON COUNTY	JULY 15, 1977
370354	AUTRYVILLE, TOWN (SAMPSON CO)	JULY 25, 1975
371152	BAKERSVILLE, TOWN (MITCHELL CO)	MAY 27, 1977
370288	BATH, TOWN (BEAUFORT CO)	JULY 02, 1977
370049	BATTLEBORO, TOWN (EDGECOMBE CO)	AUGUST 15, 1975
370187	BAYBORO, TOWN (PAMLICO CO)	JULY 30, 1976
370354	BOLIVIA, TOWN OF (BRUNSWICK CO.)	JUNE 16, 1977
370395	CALABASH, TOWN OF (BRUNSWICK CO.)	JUNE 17, 1977
370370	CASWELL COUNTY	FEBRUARY 03, 1976
370215A	CHINA GROVE, TOWN OF (ROWAN CO.)	JANUARY 09, 1974
370231	CRAMERTON, TOWN (GASTON CO)	JULY 11, 1975
370287	CROSSNORE, TOWN (AVERY CO)	AUGUST 05, 1977
370322	DALLAS, TOWN (GASTON CO)	JUNE 27, 1975
370323	DUPLIN COUNTY	FEBRUARY 24, 1978
370359	EAST LAURINBURG, TOWN (SCOTLAND CO)	JULY 11, 1975
370392	ELK PARK, TOWN OF (AVERY CO.)	JULY 02, 1976
370275A	ELKIN, TOWN OF (SURRY CO.)	JUNE 28, 1974 AND JUNE 11, 1976
370352A	FAITH, TOWN (ROWAN CO)	OCTOBER 17, 1975
370335A	FRANKLIN, TOWN OF (MACON CO.)	FEBRUARY 23, 1971
370276	GREENE COUNTY	DECEMBER 22, 1977
370326	HOOKERTON, TOWN (GREENE CO)	SEPTEMBER 26, 1975
370387	JUPITER, TOWN OF (BUNCOMBE CO.)	OCTOBER 29, 1976
370259	KENANSVILLE, TOWN OF (DUPLIN CO.)	JUNE 24, 1977
370158A	KERNERSVILLE, TOWN (FORSYTH CO)	MAY 27, 1977
370384	LAUREL PARK, TOWN OF (HENDERSON CO.)	JUNE 11, 1976
370313	LAWNDALE, TOWN (CLEVELAND CO)	JULY 11, 1975
370217A	LEGGETT, TOWN (EDGECOMBE CO)	JULY 01, 1977
370144	LENOIR COUNTY *	DECEMBER 27, 1974 AND JULY 21, 1978
370327	LOWELL, TOWN (GASTON CO)	AUGUST 15, 1975
370309	MACCLESFIELD, TOWN OF (EDGECOMBE CO.)	JANUARY 09, 1974 AND JUNE 11, 1976
370395	MARS HILL, TOWN OF (MADISON CO.)	JULY 02, 1976
370101A	MCADENVILLE, CITY OF (GASTON CO.)	JUNE 21, 1974 AND JULY 16, 1976
370396	MOCKSVILLE, TOWN (DAVIE CO)	JULY 11, 1975
370257E	NORTH WILKESBORO, CITY OF (WILKES CO.)	APRIL 12, 1974 AND AUGUST 13, 1976
370369	ORRUM, TOWN (ROBESON CO)	APRIL 25, 1975
370346	PERSON COUNTY	FEBRUARY 15, 1978
370337	PINE BLUFF, TOWN (MOORE CO)	JULY 11, 1975
370286	POLKTON, TOWN (ANSON CO)	FEBRUARY 10, 1978
370324	RANLO, TOWN (GASTON CO)	JUNE 27, 1975
370341	RICHLANDS, TOWN (ONSLOW CO)	JULY 11, 1975
370156A	ROBBINSVILLE, TOWN OF (GRAHAM CO.)	JUNE 14, 1974 AND AUGUST 27, 1976
370347	ROXBORO, CITY (PERSON CO)	JANUARY 13, 1978

* UNINCORPORATED AREAS ONLY

NORTH CAROLINA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
370355A	RUTH, TOWN (RUTHERFORD CO)	APRIL 01, 1977
370226	SAMPSON COUNTY *	DECEMBER 27, 1974 AND SEPTEMBER 22, 1978
370392	SEVEN SPRINGS, TOWN OF (WAYNE CO.)	JULY 11, 1977
370093A	SPEED, TOWN OF (EDGECOMBE CO.)	JANUARY 04, 1974 AND APRIL 12, 1976
370356A	SPINDALE, TOWN OF (RUTHERFORD CO.)	JUNE 27, 1975 AND DECEMBER 09, 1977
370371	STANTONSBURG, TOWN (WILSON CO)	OCTOBER 03, 1975
370362	STOKES COUNTY	MARCH 17, 1978
370075A	WANCHORO, TOWN OF (CRAVEN CO.)	MARCH 01, 1974 AND JULY 12, 1976
370364	WAGRAM, TOWN (SCOTLAND CO)	AUGUST 05, 1975
370254	WAYNE COUNTY *	DECEMBER 27, 1974 AND AUGUST 04, 1978
370281	WEBSTER, TOWN (JACKSON CO.)	FEBRUARY 17, 1978
370371	WILSON COUNTY	MARCH 1 , 1978
370345	WINFALL, TOWN (PERQUIMANS CO)	JULY 25, 1975
370365	WINGATE, TOWN (UNION CO)	OCTOBER 03, 1975
370177	WOODLAND, TOWN (NORTHAMPTON CO)	MARCH 17, 1978

TOTAL IN THE STATE 58

* UNINCORPORATED AREAS ONLY

NORTH DAKOTA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
380151	ABERCROMBIE, CITY (RICHLAND CO)	OCTOBER 29, 1976
380216	BOX BELLS, CITY OF (BURKE CO.)	FEBRUARY 07, 1975
380121	COURTENAY, CITY OF (STUTSMAN CO.)	DECEMBER 27, 1974
380036	DAWSON, CITY OF (KIDDER CO.)	DECEMBER 06, 1974
380142	DONNYBROOK, CITY (WARD CO)	OCTOBER 24, 1976
380222	DRAKE, CITY OF (MC HENRY CO)	FEBRUARY 21, 1975
380160	FLAXTON, CITY OF (BURKE COU)	FEBRUARY 07, 1975
380176	FORDVILLE, CITY (WALSH CO)	JUNE 04, 1976 AND SEPTEMBER 10, 1976
380171	FORTUNA, CITY (DIVIDE CO)	JULY 25, 1975
380173	GLADSTONE, CITY (STARK CO)	AUGUST 13, 1976
380174	GLENBURN, CITY OF (RENVILLE)	FEBRUARY 14, 1975 AND MARCH 28, 1978
380175	GOLDEN VALLEY, CITY (MERCER CO)	JUNE 27, 1975 AND JANUARY 17, 1978
380099	GREAT BEND, CITY OF (RICHLAND CO.)	JULY 30, 1976
380178	HANNAFORD, CITY (GRIGGS CO)	JANUARY 17, 1975
380179	HOOPLE, CITY (WALSH CO)	AUGUST 13, 1976 AND AUGUST 30, 1978
380184	LANSFORD, CITY OF (BOTTINEAU)	FEBRUARY 14, 1975
380237	LIDGERWOOD, CITY OF (RICHLAND)	FEBRUARY 14, 1975
380137	MANVEL, CITY (GRAND FORKS CO)	JANUARY 17, 1975
380	MARMASS, CITY OF (BOTTINEAU CO.)	NOVEMBER 22, 1974
380	MCCLUSKY, CITY (SHERIDAN CO)	NOVEMBER 05, 1976 AND JANUARY 17, 1978
380124	MEDINA, CITY OF (STUTSMAN CO.)	DECEMBER 26, 1974
380125	MONTPELIER, CITY OF (STUTSMAN CO.)	NOVEMBER 15, 1974
380242	NEW ENGLAND, CITY (HETTINGER CO)	JULY 16, 1976
380241	NEW ROCKFORD, CITY OF (EDDY CO.)	NOVEMBER 23, 1973 AND APRIL 16, 1976
380102	OSNABROCK, CITY OF (CAVALIER CO.)	FEBRUARY 21, 1975
380105	PLAZA, CITY (MOUNTRAIL CO)	AUGUST 13, 1976
380196	REYNOLDS, CITY OF (GRAND FORKS & TRAIL COS.)	OCTOBER 26, 1976
380240	RICHARDTON, CITY (STARK CO)	AUGUST 06, 1976
380316	STANLEY, CITY OF (MOUNTRAIL CO.)	JULY 19, 1977
380255	STANTON, CITY (MERCER CO)	APRIL 02, 1976
380256	THOMPSON, CITY OF (GRAND FORKS)	FEBRUARY 14, 1975
380216	TOWER CITY, CITY (BARNES CO.)	JANUARY 10, 1975
380034	WASHBURN, CITY OF (MCLEAN CO.)	MARCH 22, 1976 AND JANUARY 03, 1978
380074	WHITE EARTH, CITY OF (MOUNTRAIL CO.)	DECEMBER 20, 1974

TOTAL IN THE STATE- 34

* UNINCORPORATED AREAS ONLY

OHIO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
390066A	ARCANUM, VILLAGE (DARKE CO.)	JANUARY 13, 1978
390267A	ARLINGTON HEIGHTS, VILLAGE OF (HAMILTON CO.)	FEBRUARY 01, 1974 AND DECEMBER 05, 1975
390759	ASHLAND COUNTY	FEBRUARY 16, 1978
390740	ATHENS COUNTY	DECEMBER 29, 1977
390340A	AVON, CITY OF (LORAIN CO.)	APRIL 12, 1974 AND MARCH 28, 1975
390159A	BALTIMORE, VILLAGE OF (FAIRFIELD CO.)	JUNE 21, 1974 AND APRIL 16, 1976
390805	BELOIT, VILLAGE OF (MAHONING CO.)	AUGUST 26, 1977
390652A	BERLIN HEIGHTS, VILLAGE OF (ERIE CO.)	APRIL 05, 1974
390674	BETHESDA, VILLAGE OF (BELMONT COU)	FEBRUARY 07, 1975
390509A	BETTSVILLE, VILLAGE OF (SENECA CO.)	APRIL 12, 1974
390074	BLANCHESTER, VILLAGE OF (CLINTON CO.)	APRIL 25, 1974
390843	BOLIVAR, VILLAGE OF (TUSCARAWAS CO.)	OCTOBER 29, 1976
390728	BUCHTEL, VILLAGE OF (ATHENS COU)	FEBRUARY 07, 1975
390753	BURBANK, VILLAGE (WAYNE CO)	APRIL 18, 1975
390458A	BURGOON, VILLAGE OF (SANDUSKY CO.)	AUGUST 02, 1974 AND JULY 16, 1976
390237	BUTLER COUNTY	DECEMBER 23, 1977
390801	CAIRO, VILLAGE OF (ALLEN CO.) (ALLEN CO.)	JULY 15, 1977
390631A	CARDEN, VILLAGE OF (PREBLE CO.)	MAY 15, 1974 AND AUGUST 27, 1976
390763	CARROLL COUNTY *	NOVEMBER 04, 1977
390625	CASTINE, VILLAGE (DARKE CO.)	JULY 15, 1977
390527	CEDARVILLE, VIL (GREENE CO)	JANUARY 17, 1975
390678	CLIFTON, VILLAGE OF (GREENE CO.)	AUGUST 02, 1974
390764	CLINTON COUNTY	DECEMBER 04, 1977
390291A	COALTON, VILLAGE OF (JACKSON CO.)	FEBRUARY 01, 1974 AND MAY 21, 1976
390555	CORWIN, VILLAGE OF (WARREN CO.)	JULY 16, 1976
390611A	CRAWFORD COUNTY *	JANUARY 20, 1976 AND AUGUST 25, 1976
390575A	CRESTON, VILLAGE OF (WAYNE CO.)	FEBRUARY 01, 1974 AND MAY 28, 1976
390197	CROWN CITY, VILLAGE (GALLIA CO)	JANUARY 15, 1975
390712	DARBYVILLE, VILLAGE OF (PICKAWAY COU)	FEBRUARY 07, 1975
390262	DESHLER, VILLAGE (HENRY CO)	JULY 23, 1976
390656A	ELIDA, VILLAGE OF (ALLEN CO.)	MARCH 29, 1974
390314	FAIRPORT HARBOR, VILLAGE OF (LAKE CO.)	JULY 25, 1976
390764	FAYETTE COUNTY	DECEMBER 09, 1977
390788A	FAYETTEVILLE, VILLAGE (BROWN CO)	AUGUST 05, 1977
390426	FRAZEYSBURG, VIL. OF (MUSKINGUM CO.)	AUGUST 24, 1974
390804	FREEPORT, VILLAGE OF (HARRISON CO.)	OCTOBER 29, 1976
390182	FULTON COUNTY	JANUARY 20, 1978
390469A	GILBOA, VILLAGE OF (PUTNAM CO.)	AUGUST 29, 1974
390277A	GLENMONT, VIL. OF (HOLMES CO.)	OCTOBER 29, 1976
390614	GRAFTON, VILLAGE OF (LORAIN CO.)	DECEMBER 27, 1974

* UNINCORPORATED AREAS ONLY

OHIO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
390556E	HENDEN, VILLAGE OF (VINTON CO.)	FEBRUARY 01, 1974 AND MAY 07, 1976
390248A	HENLER, VILLAGE OF (HENRY CO.)	DECEMBER 24, 1976 APRIL 12, 1974 AND APRIL 15, 1977
390787	HANCOCK COUNTY	DECEMBER 30, 1977
390257A	HARDIN COUNTY	JANUARY 03, 1975 AND NOVEMBER 26, 1976
390749	HIGHLAN COUNTY	DECEMBER 16, 1977
390594B	HUNTING VALLEY, VILLAGE OF (CUYAHOGA CO.)	NOVEMBER 30, 1973 AND JUNE 04, 1976
390505A	JACKSON CENTER, VILLAGE OF (SHELBY CO.)	MAY 31, 1974 AND JULY 09, 1976
390246A	JENERA, VILLAGE OF (HANCOCK CO.)	AUGUST 09, 1974
390336	KNOX COUNTY *	JANUARY 31, 1975 AND NOVEMBER 11, 1977
390896	LA GRANGE, TOWN OF (LORAIN CO.)	DECEMBER 23, 1977
390833	LAFAYETTE, VILLAGE OF (ALLEN CO.) (ALLEN CO.)	JANUARY 26, 1978
390275A	LEESBURG, VILLAGE OF (HIGHLAND CO.)	APRIL 05, 1974
390352A	LEESVILLE, VILLAGE OF (CARROLL CO.)	SEPTEMBER 20, 1974
390340A	LORAIN COUNTY	JUNE 03, 1977
390661E	LUCAS, VILLAGE OF (RICHLAND CO.)	APRIL 05, 1974 AND SEPTEMBER 26, 1975
390748	MARBLEHEAD, VILLAGE (OTTAWA CO)	JUNE 24, 1977
390756	MARSEILLES, VILLAGE (WYANDOT CO)	APRIL 18, 1975
390776	MCARTHUR, VILLAGE (VINTON CO.)	APRIL 15, 1975
390254A	MCGUFFEY, VILLAGE OF (HARDIN CO.)	NOVEMBER 26, 1976
390766	MIFFLIN, VILLAGE OF (ASHLAND CO.) (ASHLAND CO.)	MAY 15, 1974
390689	MILLERSPORT, VILLAGE OF (FAIRFIELD COU)	JULY 05, 1977
390341A	MILLVILLE, VILLAGE OF (BUTLER CO.)	JANUARY 31, 1975
390396A	MONTEZUMA, VILLAGE OF (MERCER CO.)	JUNE 27, 1974 AND MAY 27, 1976
390593A	MONTPELIER, VILLAGE OF (WILLIAMS CO.)	AUGUST 07, 1974 MAY 28, 1976
390746A	MORAL, VILLAGE (MARION CO)	MAY 31, 1974 APRIL 18, 1975 AND AUGUST 27, 1976
390240A	MOUNT CORY, VILLAGE OF (HANCOCK CO.)	SEPTEMBER 20, 1974
390621A	MOUNT ORAB, VIL (BROWN CO)	JULY 25, 1975 AND MAY 07, 1976
390722A	NEVADA, VILLAGE OF (WYANDOT)	FEBRUARY 14, 1975 AND NOVEMBER 15, 1976
390253A	NORTH FAIRFIELD, VILLAGE OF (HURON CO.)	MARCH 15, 1974 AND APRIL 09, 1976
390287A	PLYMOUTH, VILLAGE OF (HURON CO.)	MAY 03, 1974 AND MAY 21, 1976
390452	PREBLE COUNTY	AUGUST 26, 1977
390455	PUTNAM COUNTY	AUGUST 12, 1977
390782A	RENDVILLE, VILLAGE OF (PERRY CO.) (PERRY CO.)	DECEMBER 22, 1977

* UNINCORPORATED AREAS ONLY

OHIO

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
390476	RICHLAND COUNTY	FEBRUARY 24, 1978
390724	RICHMOND, VILLAGE (JEFFERSON CO.)	AUGUST 22, 1975
390602	RIVERLEA, VILLAGE OF (FRANKLIN CO.)	JANUARY 31, 1975
390645A	ROGERS, VILLAGE OF (COLUMBIANA CO.)	MARCH 22, 1974
390627	SABINA, VIL (CLINTON CO)	JULY 25, 1975
390776	SARAHSVILLE, VILLAGE OF (NOBLE CO)	MARCH 28, 1975
390746	SARDINIA, VILLAGE (BROWN CO)	JANUARY 15, 1975
390554	SHERBY COUNTY *	DECEMBER 24, 1974 AND DECEMBER 23, 1977
390042	SOMERVILLE, VILLAGE (BUTLER CO)	JULY 25, 1975
390332	SOUTH MOUNT VERNON, VILLAGE OF (KNOX CO.)	JUNE 21, 1974
390445A	SOUTH SALEM, VILLAGE OF (ROSS CO.)	AUGUST 23, 1974
390546A	SUGAR CREEK, VILLAGE OF (TUSCARAWAS CO.)	MAY 31, 1974 AND JUNE 11, 1976
390632	SWANTON, VIL (FULTON CO)	JULY 25, 1975
390755	TONTOGANY, VILLAGE (WOOD CO)	APRIL 18, 1975
390716	UNIONVILLE CENTER, VILL (UNION CO.)	OCTOBER 15, 1976
390648A	VAN BUREN, VILLAGE OF (HANCOCK CO.)	MARCH 22, 1974
390475	VAUGHNSVILLE, TOWN OF (PUTNAM CO.)	NOVEMBER 15, 1974
390444A	VERONA, VILLAGE OF (PREBLE CO.)	OCTOBER 15, 1974 AND MAY 24, 1976
390755	VINTON, VILLAGE OF (GALLIA CO.)	DECEMBER 27, 1974
390849A	WAITE HILL, VILLAGE OF (LAKE CO.)	DECEMBER 17, 1973 AND JUNE 24, 1976
390	WASHINGTONVILLE, VILLAGE OF (COLUMBIANA & MAHONING)	NOVEMBER 05, 1975 AND JUNE 04, 1976
390239A	WELLSTON, CITY OF (JACKSON CO.)	FEBRUARY 15, 1974 AND JUNE 11, 1976
390838	WEST JEFFERSON, VIL (MADISON CO)	JULY 25, 1975
390772A	WILLIAMSBURG, VILLAGE OF (CLERMONT CO.)	MARCH 29, 1974
390574A	WOOSTER, CITY OF (WAYNE CO.)	OCTOBER 25, 1977
390747	WYANDOT COUNTY *	FEBRUARY 17, 1978
390796	YANKEE LAKE, VILLAGE OF (TRUMBULL CO.) (TRUMBULL CO.)	JULY 29, 1977
390345A	ZANESFIELD, VILLAGE OF (LOGAN CO.)	OCTOBER 18, 1974

TOTAL IN THE STATE 131

* UNINCORPORATED AREAS ONLY

OKLAHOMA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
400255	ACHILLE, TOWN (BRYAN CO.)	APRIL 02, 1976
400256	ADAIR, TOWN (MAYES CO.)	APRIL 02, 1976
400764	ADDINGTON, TOWN OF (JEFFERSON CO.)	OCTOBER 18, 1974 AND
		APRIL 16, 1976
400259	ASHER, TOWN (POTTAWATOMIE CO.)	JUNE 04, 1976
400261	BENNINGTON, TOWN OF (BRYAN CO.)	AUGUST 13, 1976
400263	BESSIE, TOWN (WASHITA CO.)	AUGUST 15, 1975
400340	BETHEL ACRES, TOWN (POTTAWATOMIE CO.)	DECEMBER 31, 1976
400347	BILLINGS, TOWN (NOBLE CO.)	AUGUST 13, 1976
400263	BRADLEY, TOWN (GRADY CO.)	AUGUST 13, 1976
400265	BRIDGEPORT, TOWN OF (CADDO CO.)	APRIL 01, 1977
400914	BRISTOW, CITY OF (CREEK CO)	JUNE 28, 1974 AND
		DECEMBER 20, 1975
400827	BRYAN COUNTY *	DECEMBER 06, 1977
400149	BURBANK, TOWN (OSAGE CO)	JANUARY 10, 1975
400266	BUTLER, TOWN (CUSTER CO.)	NOVEMBER 05, 1976
400479	CADDO COUNTY *	JANUARY 03, 1978
400279	CAMARGO, TOWN (DEWEY CO.)	SEPTEMBER 19, 1975
400273	CANEY, TOWN (ATOKA CO.)	APRIL 09, 1976
400355	CARMEN, TOWN (ALFALFA CO.)	SEPTEMBER 19, 1975
400417	CARTER COUNTY	JULY 05, 1977
400276	CARTER, TOWN (BECKHAM CO.)	APRIL 02, 1976
400279	CASTLE, TOWN (OKFUSKEE CO.)	MAY 07, 1976
401379	CHELSEA, CITY OF (ROGERS CO.)	DECEMBER 26, 1973 AND
		DECEMBER 12, 1975
400828	CHEROKEE COUNTY *	JANUARY 10, 1978
400255	COLCORD, TOWN (DELAWARE CO.)	NOVEMBER 19, 1976
400257	COLONY, TOWN OF (WASHITA COUNTY)	AUGUST 13, 1976
400356	COMMANCE, CITY (OTTAWA CO)	JUNE 04, 1976
400225	CORN, TOWN (WASHITA CO)	JANUARY 16, 1975
400122	COUNCIL HILL, TOWN OF (MUSKOGEE CO.)	DECEMBER 13, 1974
403428	COWLINGTON, TOWN (LE FLORE CO.)	MARCH 11, 1977
400247	COYLE, TOWN (LOGAN CO)	AUGUST 13, 1976
400242	CROMWELL, TOWN (SEMINOLE CO.)	AUGUST 13, 1976
400344	CYRIL, TOWN (CADDO CO.)	APRIL 02, 1976
400228	DACOMA, TOWN OF (WOODS CO.)	NOVEMBER 06, 1974 AND
		DECEMBER 12, 1975
400367	DELAWARE, TOWN (NOWATA CO.)	APRIL 04, 1976
400366	DICKSON, TOWN (CARTER CO.)	JULY 30, 1976
400372	ELDORADO, CITY (JACKSON CO.)	JULY 02, 1976
400377	FAIRLAND, TOWN (OTTAWA CO.)	APRIL 04, 1976
400376	FOREST PARK, TOWN (OKLAHOMA CO.)	NOVEMBER 17, 1976
400341	GEARY, CITY OF (BLAINE & CANADIAN COS.)	JULY 16, 1976
400312	GENE AUTRY, TOWN OF (CARTER CO.)	SEPTEMBER 17, 1976
403438	GOODWELL, TOWN (TEXAS CO.)	JUNE 25, 1976
400342	GREENFIELD, TOWN OF (BLAINE CO.)	JANUARY 14, 1977
400423	GUYMON, CITY (TEXAS CO)	FEBRUARY 11, 1977
400348	HELENA, TOWN (ALFALFA CO.)	JULY 18, 1976
400474	HUGHES COUNTY *	NOVEMBER 05, 1976
		MAY 26, 1976
		AUGUST 09, 1977

* UNINCORPORATED AREAS ONLY

OKLAHOMA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
400424	HYDRO, TOWN OF (CADDO CO.)	JULY 26, 1974 AND
		DECEMBER 05, 1975
400286	INDIANOLA, TOWN (PITTSBURG CO.)	APRIL 02, 1976
400077	JET, TOWN OF (ALFALFA CO.)	DECEMBER 06, 1974
400290	KANSAS, TOWN (DELAWARE CO.)	SEPTEMBER 26, 1975
402392	KEYES, TOWN (CIMARRON CO.)	AUGUST 13, 1976
400394	KINGSTON, TOWN (MARSHALL CO.)	APRIL 02, 1976
400188	KIOWA, TOWN OF (PITTSBURG CO.)	JUNE 25, 1976
400294	LAHOMA, TOWN (GARFIELD CO.)	DECEMBER 03, 1976
400295	LAMONT, TOWN (GRANT CO.)	APRIL 04, 1976
404464	LE FLORE COUNTY *	JANUARY 10, 1978
400296	LEHIGH, CITY (COAL CO.)	OCTOBER 26, 1976
400301	LIMA, TOWN OF (SEMINOLE CO.)	DECEMBER 10, 1976
400464	LOGAN COUNTY *	DECEMBER 27, 1974 AND
		AUGUST 02, 1977
400093	LOYAL, TOWN (KINGFISHER CO)	APRIL 25, 1975
400304	MANNFORD, TOWN (CREEK CO.)	NOVEMBER 12, 1976
400303	MANSVILLE, TOWN (JOHNSTON CO.)	SEPTEMBER 26, 1975
400470	MARIETTA, CITY (LOVE CO.)	OCTOBER 26, 1976
400305	MARLAND, TOWN (NOBLE CO.)	AUGUST 13, 1976
400306	MARSHALL, TOWN (LOGAN CO.)	AUGUST 13, 1976
400471	MAUD, CITY (POTTAWATOMIE CO.)	APRIL 02, 1976
400488	MAYES COUNTY	NOVEMBER 22, 1977
400308	MILBURN, TOWN (JOHNSTON CO.)	SEPTEMBER 26, 1975
400309	MILL CREEK, TOWN (JOHNSTON CO.)	AUGUST 11, 1976
400484	MINCO, TOWN (GRADY CO.)	JANUARY 28, 1977
400478	MOUNDS, TOWN (CREEK CO.)	JUNE 25, 1976
400310	MULHALL, TOWN (LOGAN CO.)	MAY 26, 1976
402481	MUSKOGEE COUNTY *	MARCH 14, 1978
400311	NASH, TOWN (GRANT CO.)	JULY 02, 1976
400312	NEW PRUE, TOWN (OSAGE CO.)	MAY 21, 1976
400474	NICUPA PARK, TOWN (OKLAHOMA CO.)	AUGUST 13, 1976
400478	NORTH MIAMI, TOWN (OTTAWA CO.)	APRIL 09, 1976
402313	OAKLAND, TOWN (MARSHALL CO.)	OCTOBER 29, 1976
400314	OAKS, TOWN (DELAWARE CO.)	AUGUST 25, 1975
400315	OCHELATA, TOWN (WASHINGTON CO.)	APRIL 09, 1976
402427	OILTON, CITY (CREEK CO.)	NOVEMBER 12, 1976
400492	OKMULGEE COUNTY *	FEBRUARY 07, 1978
400316	ORLANDO, TOWN (LOGAN CO.)	AUGUST 13, 1976
401564	OTTAWA COUNTY	MAY 20, 1977
400317	PAOLI, TOWN (GARVIN CO.)	NOVEMBER 05, 1976
401558	PEORIA, TOWN OF (OTTAWA CO.)	NOVEMBER 22, 1974
400431	PERKINS, TOWN (PAYNE CO.)	APRIL 04, 1976
400274	PIEDMONT, TOWN (CANADIAN CO)	JULY 16, 1977
402433	POND CREEK, CITY (GRANT CO.)	NOVEMBER 12, 1976
400495	POTOTOC COUNTY *	JANUARY 17, 1978
400436	QUAPAW, TOWN (OTTAWA CO.)	AUGUST 13, 1976
401644	RALSTON, TOWN (PAWNEE CO.)	AUGUST 13, 1976
400320	RAVIA, TOWN (JOHNSTON CO.)	AUGUST 13, 1976

* UNINCORPORATED AREAS ONLY

OKLAHOMA

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
400372	PETRON, TOWN (ROGER MILLS CO.)	NOVEMBER 12, 1976
403264	RIMLEY, TOWN (PAYNE CO.)	JUNE 24, 1977
402434	RYAN, CITY (JEFFERSON CO.)	NOVEMBER 05, 1976
401112	SALINA, (TOWN (MAYES CO)	JULY 02, 1976
402442	SENTINEL, CITY (WASHITA CO.)	NOVEMBER 12, 1976
402331	SHARON, TOWN (WOODWARD CO)	AUGUST 13, 1976
401414	SHATTUCK, TOWN OF (ELLIS CO.)	MAY 24, 1974 AND
		APRIL 30, 1976
400434	SPRINGER, TOWN OF (CARTER CO.)	DECEMBER 17, 1976
400419	TEMPLE, TOWN (COTTON CO.)	JULY 16, 1976
400332	TUPELO, CITY (COAL CO.)	SEPTEMBER 17, 1976
400443	TUTTLE, TOWN (GRADY CO.)	JUNE 25, 1976
403364	UNION CITY, TOWN (CANADIAN CO.)	JANUARY 14, 1977
400447	VELMA, CITY OF (STEPHENS CO.)	FEBRUARY 11, 1977
400335	VERA, TOWN (WASHINGTON CO.)	JULY 16, 1976
400445	VICI, TOWN (DEWEY CO.)	NOVEMBER 05, 1976
400337	WAPANUCKA, TOWN (JOHNSTON CO.)	MAY 28, 1976
401395	WASHINGTON, TOWN (MCCLAIN CO)	JULY 09, 1976
403384	WAUKOMIS, TOWN (GARFIELD CO.)	FEBRUARY 04, 1977
400451	WELCH, TOWN (CRAIG CO.)	JULY 16, 1976
400452	WELLSTON, TOWN (LINCOLN CO.)	APRIL 09, 1976
402396	WEST SILOAM SPRINGS, TOWN (DELAWARE CO.)	APRIL 09, 1976
400455	YALE, CITY (PAYNE CO.)	AUGUST 22, 1975
	TOTAL IN THE STATE	114

* UNINCORPORATED AREAS ONLY

OREGON

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
410243	DURHAM, CITY (WASHINGTON CO)	NOVEMBER 12, 1976
410247	HALFWAY, TOWN (BAKER CO)	SEPTEMBER 26, 1975 AND
		NOVEMBER 22, 1977
410274	MILLERSBURG, CITY OF (LINN CO.)	JANUARY 24, 1975
410274	PRESCOTT, CITY (COLUMBIA CO)	JANUARY 10, 1975
410233	SHERWOOD, TOWN (WASHINGTON CO)	AUGUST 13, 1976
410144	ST. PAUL, CITY OF (MARION CO.)	NOVEMBER 22, 1974
	TOTAL IN THE STATE	6

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	PENNSYLVANIA NAME	HAZARD AREA IDENTIFIED
422508	ADDISON, TOWNSHIP (SOMERSET CO.)	JANUARY [illegible], 1975
421867	ALEPPO, TOWNSHIP OF (GREENE CO.)	DECEMBER 27, 1974
422559	ALLEGHENY, TOWNSHIP (SOMERSET CO.)	JANUARY [illegible], 1975
422526	ALLEGHENY, TOWNSHIP (VENANGO CO.)	JANUARY 17, 1975
422343	ALLEGHENY, TOWNSHIP OF (BUTLER CO)	MARCH 28, 1974
421396	ARMENIA, TWP (BRADFORD CO)	JULY 15, 1977
422351	ASHLAND, TOWNSHIP (CLARION CO.)	JANUARY 10, 1975
421562A	ATHENS, TWP (CRAWFORD CO)	NOVEMBER 05, 1976
422297	ATWOOD, BOROUGH OF (ARMSTRONG CO.)	JANUARY 17, 1975
422435	BANKS, TOWNSHIP (INDIANA CO.)	JANUARY 17, 1975
422442	BARNETT, TOWNSHIP OF (JEFFERSON CO.)	DECEMBER 27, 1974
421043	BARRE, TOWNSHIP OF (HUNTINGDON CO.)	DECEMBER 06, 1974
422472	BASTRESS, TOWNSHIP OF (LYCOMING COU	FEBRUARY 07, 1975
422129A	BEALLSVILLE, BOROUGH OF (WASHINGTON CO.	DECEMBER 13, 1974 AND JULY 16, 1976
422544	BEAR LAKE, BOROUGH OF (WARREN CO.)	DECEMBER 27, 1974
421547A	BEAVER, TOWNSHIP OF (COLUMBIA CO.)	NOVEMBER 01, 1974 AND JULY 04, 1976
422441	BEAVER, TOWNSHIP (JEFFERSON CO.)	JANUARY 17, 1975
422362	BEAVEN, TOWNSHIP (CLARION CO.)	JANUARY 24, 1975
422472A	BEAVER, TOWNSHIP OF (SNYDER CO.)	NOVEMBER 01, 1974 AND JULY 3 , 1976
421659	BELFAST, TOWNSHIP OF (FULTON CO.)	DECEMBER 20, 1974
422125A	BELL, TOWNSHIP OF (WESTMORELAND CO.)	SEPTEMBER 13, 1974 AND SEPTEMBER 24, 1976
422612	BENEZETTE, TOWNSHIP OF (ELK COL)	FEBRUARY 27, 1975
421749	BENTON, TWP (LACKAWANNA CO)	JANUARY 10, 1975
421973	BINGHAM, TOWNSHIP OF (POTTER CO.)	NOVEMBER 29, 1974
420492	BIRMINGHAM, BOROUGH OF (HUNTINGDON CO.,	DECEMBER 06, 1974
421641A	BLAINE, TOWNSHIP OF (WASHINGTON CO.)	OCTOBER 18, 1974 AND AUGUST 06, 1976
421372	BLOOMFIELD, TOWNSHIP OF (BEDFORD CO.)	JANUARY 31, 1975
421515	BOGGS, TOWNSHIP OF (CLEARFIELD CO.)	NOVEMBER 15, 1974
421516	BRADFORD, TOWNSHIP OF (CLEARFIELD CO.)	DECEMBER 20, 1974
422241A	BRADY, TOWNSHIP OF (BUTLER CO.)	OCTOBER 25, 1974 AND SEPTEMBER 03, 1976
422511	BROTHERSVALLEY, TWP (SOMERSET CO.)	JANUARY 10, 1975
421006	BRUSH CREEK, TOWNSHIP OF (FULTON CO)	MARCH 28, 1975
421054A	BURLINGTON, TOWNSHIP OF (BRADFORD CO.)	SEPTEMBER 13, 1974 AND MAY [illegible]7, 1976
422364	CALLENSBURG, BOROUGH OF (CLARION CO.)	JANUARY 31, 1975
422178	CANAL, TOWNSHIP OF (VENANGO CO.)	DECEMBER 05, 1974
422251	CHAPMAN, BOROUGH OF (NORTHAMPTON CO.)	NOVEMBER 15, 1974
422545	CHERRY GROVE, TOWNSHIP OF (WARREN CO.)	DECEMBER 27, 1974
422604	CHEST, TOWNSHIP (CAMBRIA CO)	JANUARY 10, 1975
421519	CHEST, TOWNSHIP OF (CLEARFIELD CO.)	NOVEMBER 15, 1974
421974A	CLARA, TOWNSHIP OF (POTTER CO.)	OCTOBER 18, 1974 AND MAY 14, 1976
422343	CLAY, TOWNSHIP (BUTLER CO.)	JANUARY 17, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	PENNSYLVANIA NAME	HAZARD AREA IDENTIFIED
427077	CLIFFORD, TOWNSHIP OF (SUSQUEHANNA CO.)	DECEMBER 27, 1974
421755	CLIFTON, TWP (LACKAWANNA CO)	JANUARY 24, 1975
421838	COGAN HOUSE, TOWNSHIP (LYCOMING CO)	APRIL [illegible]4, 1975
422475	COLD SPRING, TOWNSHIP (LEBANON CO.)	APRIL [illegible]4, 1975
421524	COLERAIN, TWP (BEDFORD CO)	JANUARY [illegible]3, 1975
422346	CONCORD, TOWNSHIP (BUTLER CO.)	JANUARY 17, 1975
421715	CONEMAUGH, TOWNSHIP OF (INDIANA CO.)	DECEMBER [illegible]6, 1974
422476	CONEWAGO, TOWNSHIP OF (DAUPHINCO.)	DECEMBER 27, 1974
421347	CONNEAUT, TOWNSHIP OF (ERIE CO.)	DECEMBER 13, 1974
422387	CONNEAUT, TOWNSHIP (CRAWFORD CO.)	JANUARY 10, 1975
421545	CONYNGHAM, TWP (COLUMBIA CO)	JANUARY [illegible]3, 1975
422454A	CORAL, TOWNSHIP (CUMBERLAND CO.)	JANUARY 28, 1977
422180A	COSA, TOWNSHIP OF (WESTMORELAND CO.)	SEPTEMBER 26, 1974 AND NOVEMBER 19, 1976
422455	COVINGTON, TOWNSHIP (LACKAWANNA CO.)	JANUARY 10, 1975
421359	DARLINGTON, BOROUGH (BEAVER CO)	JANUARY 24, 1975
422478A	DEER CREEK, TWP (MERCER CO.)	JANUARY 16, 1975 AND JULY 16, 1976
421179A	DEERFIELD, TOWNSHIP OF (TIOGA CO.)	AUGUST 30, 1974 AND MAY 21, 1976
420087E	DELAWARE WATER GAP, BOROUGH OF (MONROE CO.)	JUNE 21, 1974 AND MAY 26, 1976
421144A	DERRY, TOWNSHIP OF (MIFFLIN CO.)	FEBRUARY 11, 1977
421944	DINGMAN, TOWNSHIP OF (PIKE)	DECEMBER 20, 1974
422147A	DONEGAL, TOWNSHIP OF (WESTMORELAND CO.)	FEBRUARY 14, 1975
421641A	DUDLEY, BOROUGH OF (HUNTINGDON CO.)	JUNE 21, 1974 AND JULY 22, 1976
422431	DUNKARD, TWP (GREENE CO.)	NOVEMBER [illegible]5, 1974 AND NOVEMBER 14, 1975
422527	EAGLES MERE, BOROUGH (SULLIVAN CO.)	JANUARY 10, 1975
422611	EAST CARROLL, TOWNSHIP OF (CAMBRIA)	JANUARY 24, 1975
422215	EAST HOPEWELL, TOWNSHIP OF (YORK CO.)	FEBRUARY 14, 1975
422134	EAST SIDE, BOROUGH OF (CARBON CO.)	DECEMBER 27, 1974
422376	EASTVALE, BOROUGH OF (BEAVER CO.)	JANUARY 31, 1975
421772A	EDEN, TOWNSHIP OF (LANCASTER CO.)	JANUARY 31, 1975
422546	ELDRED, TOWNSHIP (WAYNE CO.)	AUGUST 30, 1974 AND MAY [illegible]7, 1976
422445	ELDRED, TOWNSHIP (JEFFERSON CO.)	JANUARY 17, 1975
421762A	ELMHURST, TOWN OF (LACKAWANNA CO.)	JANUARY 17, 1975
422182A	FAIRFIELD, TOWNSHIP OF (WESTMORELAND CO.)	OCTOBER 18, 1974 AND APRIL 30, 1976
422 [illegible]	FAIRHOPE, TOWNSHIP OF (SOMERSET CO.)	SEPTEMBER 26, 1974 AND MAY 21, 1976
422315	FRANKFORT SPRINGS, BORO (BEAVER CO.)	NOVEMBER 15, 1974
422088	FRANKLIN, TOWNSHIP OF (CHESTER CO.)	JANUARY 17, 1975
422121	FREEHOLD, TWP (WARREN CO)	NOVEMBER 29, 1974
422412	FREEPORT, TWP (GREENE CO.)	JANUARY 24, 1975
422579A	FRIENDSVILLE, BORO (SUSQUEHANNA CO.)	JANUARY 03, 1975
		JUNE 17, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	PENNSYLVANIA NAME	HAZARD AREA IDENTIFIED
422537	GALLAGHER, TOWNSHIP OF (CLINTON CO)	FEBRUARY 21, 1975
422437	GLEN CAMPBELL, BORO (INDIANA CO.)	JANUARY 24, 1975
421747	GRANT, TOWNSHIP OF (INDIANA CO.)	JANUARY 31, 1975
421671A	GREENE, TWP (GREENE CO)	JANUARY 17, 1975 AND MAY 14, 1976
422456	GREENFIELD, TOWNSHIP (LACKAWANNA CO.)	JANUARY 10, 1975
421345	GREENFIELD, TOWNSHIP OF (ERIE CO.)	DECEMBER 06, 1974
422512	GREENVILLE, TOWNSHIP (SOMERSET CO.)	APRIL 04, 1975
422390	GREENWOOD, TOWNSHIP (CRAWFORD CO.)	JANUARY 17, 1975
421523	GREENWOOD, TOWNSHIP OF (CLEARFIELD CO.)	DECEMBER 20, 1974
421644	GREER, TWP (FOREST CO)	JANUARY 24, 1975
421223A	HANOVER, TOWNSHIP OF (BEAVER CO.)	SEPTEMBER 06, 1974 AND OCTOBER 04, 1976
422528	HARTLETON, BOROUGH OF (UNION CO.)	DECEMBER 27, 1974
421309	HERRICK, TWP (BRADFORD CO)	APRIL 04, 1975
422314	HOOVERSTOWN, BOROUGH OF (BEAVER CO.)	JANUARY 31, 1975
421690	HOPEWELL, CITY OF (HUNTINGDON CO.)	DECEMBER 06, 1974
421591	HOPEWELL, TOWNSHIP OF (CUMBERLAND CO.)	DECEMBER 27, 1974
421671A	HORTON, TOWNSHIP OF (ELK CO.)	SEPTEMBER 13, 1974 AND AUGUST 06, 1976
421535	HUSTON, TOWNSHIP OF (CLEARFIELD CO.)	DECEMBER 20, 1974
422534	IRWIN, TOWNSHIP OF (VENANGO CO.)	JANUARY 31, 1975
420592A	JACKSONVILLE, BOROUGH OF (INDIANA CO.)	DECEMBER 13, 1974 AND MAY 21, 1976
421552	JACKSON, TOWNSHIP OF (COLUMBIA CO.)	DECEMBER 13, 1974
421671A	JACKSON, TOWNSHIP OF (GREENE CO.)	DECEMBER 20, 1974 AND JUNE 04, 1976
421691	JACKSON, TOWNSHIP OF (HUNTINGDON CO.)	DECEMBER 13, 1974
421503	JACKSON, TOWNSHIP OF (DAUPHIN CO.)	JANUARY 31, 1975
422001	JACKSON, TOWNSHIP OF (LYCOMING CO)	MARCH 28, 1975
421689	JACKSON, TWP (MONROE CO)	JANUARY 03, 1975
422457	JEFFERSON, TOWNSHIP (LACKAWANNA CO.)	JANUARY 03, 1975
422593	JORDON, TOWNSHIP (CLEARFIELD CO)	JANUARY 17, 1975
421691	KEATING, TOWNSHIP OF (POTTER CO.)	NOVEMBER 22, 1974
421342	KING, TOWNSHIP OF (BEDFORD CO.)	JANUARY 31, 1975
421367	KITTANNING, TWP (ARMSTRONG CO)	DECEMBER 17, 1976
421731	KNOX, TOWNSHIP OF (JEFFERSON CO.)	DECEMBER 20, 1974
420736A	KULPMONT, BOROUGH OF (NORTHUMBERLAND CO.)	MAY 31, 1974 AND JUNE 04, 1976
422497	LAKE, TOWNSHIP OF (MERCER CO.)	JANUARY 31, 1975
422147	LAPORTE, BOROUGH OF (SULLIVAN CO.)	DECEMBER 20, 1974
422515	LARIMER, TOWNSHIP (SOMERSET CO.)	JANUARY 10, 1975
422135	LATHROP, TOWNSHIP OF (SUSQUEHANNA CO.)	NOVEMBER 29, 1974
421454	LAUSANNE, TWP (CARBON CO)	JANUARY 03, 1975
422534	LE RAYSVILLE, BORO (BRADFORD CO.)	JANUARY 24, 1975
422567	LEBANON, TWP (WAYNE CO.)	JANUARY 03, 1975
422[illegible]6	LEMON, TOWNSHIP OF (WYOMING CO.)	NOVEMBER 29, 1974
422425	LETTERKENNY, TOWNSHIP OF (FRANKLIN CO.)	DECEMBER 20, 1974

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	PENNSYLVANIA NAME	HAZARD AREA IDENTIFIED
422176A	LIGONIER, BOROUGH OF (WESTMORELAND CO.)	APRIL 12, 1974 AND MAY 14, 1976
422548	LIMESTONE, TOWNSHIP (LYCOMING CO)	JANUARY 24, 1975
421893	LINCOLN, TWP (HUNTINGDON CO)	JANUARY [illegible]3, 1975
421513	LOGANTON, BOROUGH OF (CLINTON CO.)	NOVEMBER 05, 1974
420390	LUMBER CITY, BOROUGH (CLEARFIELD CO)	FEBRUARY 14, 1975
421755	MADISON, TWP (LACKAWANNA CO)	JANUARY [illegible]3, 1975
421554	MAIN, TOWNSHIP OF (COLUMBIA CO)	FEBRUARY 28, 1975
420219A	MARION TWP (BUTLER CO)	JUNE 02, 1974 AND JULY 02, 1976
422670	MARLEYSBURG, BOROUGH (FAYETTE CO)	OCTOBER 15, 1976
421935	MCEWENSVILLE, BOROUGH OF (NORTHUMBERLAND CO.)	DECEMBER 27, 1974
421851	MCNAO, TOWNSHIP OF (MIFFLIN CO.)	NOVEMBER 22, 1974
422512	MERCER, TOWNSHIP (BUTLER CO.)	JANUARY 10, 1975
422514	MIDDLECREEK, TOWNSHIP (SOMERSET CO.)	JANUARY [illegible]3, 1975
422516	MILFORD, TOWNSHIP (SOMERSET CO.)	JANUARY [illegible]3, 1975
421671E	MILL CREEK, TOWNSHIP OF (MERCER CO.)	DECEMBER 24, 1974 AND JUNE 18, 1976
422536	MINERAL, TOWNSHIP OF (VENANGO CO.)	OCTOBER [illegible]1, 1976
421673	MONONGAHELA, TWP (GREENE CO)	JANUARY 31, 1975
421744	MONROE, TOWNSHIP (JUNIATA CO)	JULY 11, 1975
422426	MONTGOMERY, TOWNSHIP OF (FRANKLIN CO.)	JANUARY 10, 1975
421719	MONTGOMERY, TWP (INDIANA CO)	DECEMBER 17, 1974
421626	MORRIS, TOWNSHIP OF (HUNTINGDON CO.)	JANUARY [illegible]3, 1975
421847A	MUNCY, TOWNSHIP (LYCOMING CO)	NOVEMBER 22, 1974
422243	MUNSTER, TOWNSHIP OF (CAMBRIA CO.)	DECEMBER 27, 1974 AND JULY 30, 1976
420689A	NEW ALEXANDRIA, BOROUGH OF (WESTMORELAND CO.)	NOVEMBER 22, 1974
420799	NEW BALTIMORE, BOROUGH OF (SOMERSET CO.)	JUNE 26, 1974 AND OCTOBER 17, 1975
422312	NEW CASTLE, TOWNSHIP OF (SCHUYLKILL CO.)	NOVEMBER [illegible]8, 1974
422496	NEW LEBANON, BORO (MERCER CO.)	DECEMBER 27, 1974
422495	NEW WILMINGTON, TOWNSHIP OF (MERCER CO.)	JANUARY 24, 1975
421756	NEWTON, TWP (LACKAWANNA CO)	JANUARY 31, 1975
422233	NORTH BRANCH, TOWNSHIP OF (WYOMING CO.)	OCTOBER 25, 1976
422294	NORTH MORELAND, TOWNSHIP OF (WYOMING CO.)	NOVEMBER 29, 1974
421615A	OHIOPILE, BOROUGH OF (FAYETTE CO.)	NOVEMBER 15, 1974
421732	OLIVER, TOWNSHIP OF (JEFFERSON CO.)	JANUARY 31, 1975 AND MARCH 19, 1976
421491	ORWELL, TWP (BRADFORD CO)	DECEMBER 13, 1974
422582	OVERFIELD, TOWNSHIP OF (WYOMING CO.)	JANUARY 24, 1975
421[illegible]24	OVERTON, TOWNSHIP OF (BRADFORD CO.)	DECEMBER 27, 1974
421958	PALMYRA, TOWNSHIP OF (PIKE CO.)	AUGUST 30, 1974 AND AUGUST 06, 1976
421891	PARADISE, TWP (MONROE CO)	DECEMBER 13, 1974
421219A	PARKER, TOWNSHIP OF (BUTLER CO.)	APRIL 11, 1975
421457	PENN FOREST, TWP (CARBON CO)	SEPTEMBER 24, 1974 AND JULY 10, 1978
		AUGUST 12, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	COMMUNITY NAME	HAZARD AREA IDENTIFIED
	PENNSYLVANIA	
422309	SUMMERHILL, TOWNSHIP OF (CRAWFORD CO.)	JANUARY 31, 1975
422056	SUMMIT, TWP (SOMERSET CO)	JANUARY 03, 1975
421855A	TAYLOR, TOWNSHIP OF (CENTRE CO.)	DECEMBER 27, 1974 AND
		MAY 28, 1976
42[illegible]77	THORNBURG, BORO (ALLEGHENY CO)	NOVEMBER 12, 1976
422555	TRIUMPH, TWP (WARREN CO.)	JANUARY 17, 1975
422315	TROUTVILLE, BOROUGH OF (CLEARFIELD CO.)	DECEMBER 06, 1974
421898	TUNKHANNOCK, TOWNSHIP OF (MONROE CO.)	JANUARY 31, 1975
422544	UNIONDALE, BORO (SUSQUEHANNA CO.)	JANUARY 24, 1975
422647	UNION, TOWNSHIP OF (JEFFERSON CO.)	DECEMBER 27, 1974
421774	UNION, TOWNSHIP OF (HUNTINGDON CO)	DECEMBER 06, 1974
421352	UNION, TOWNSHIP OF (BEDFORD CO.)	JANUARY 03, 1975
421531A	UNION, TWP (CLEARFIELD CO)	JANUARY 17, 1975 AND
		OCTOBER 22, 1976
42111[illegible]A	UPPER BERN, TOWNSHIP OF (BERKS CO.)	SEPTEMBER 27, 1974 AND
		OCTOBER 01, 1976
422595	UPPER TURKEYFOOT, TOWNSHIP OF (SOMERSET CO.)	DECEMBER 27, 1974
421748	WANDLING, BOROUGH OF (CLARION)	FEBRUARY 14, 1975
421316	WALLACETON, BOROUGH OF (CLEARFIELD CO.)	NOVEMBER 08, 1974
422232	WARRINGTON, TOWNSHIP (YORK CO)	DECEMBER 27, 1974
422578	WASHINGTON, TOWNSHIP (CLARION CO.)	JANUARY 17, 1975
422468	WASHINGTON, TOWNSHIP OF (LAWRENCE COU)	FEBRUARY 07, 1975
422556	WASHINGTON, TOWNSHIP OF (SCHUYLKILL CO.)	OCTOBER 22, 1976
422017	WASHINGTON, TOWNSHIP OF (WYOMING CO.)	DECEMBER 06, 1974
421722	WASHINGTON, TWP (INDIANA CO)	DECEMBER 22, 1974
422227	WAYNE, TOWNSHIP OF (SCHUYLKILL CO.)	NOVEMBER 29, 1974
421676	WAYNE, TOWNSHIP OF (GREENE CO.)	DECEMBER 27, 1974
421595	WAYNE, TWP (DAUPHIN CO)	JANUARY 17, 1975
422526	WELLERSBURG, BOROUGH OF (SOMERSET CO.)	JANUARY 31, 1975
42094[illegible]A	WELLSVILLE, BORO (YORK CO)	APRIL 01, 1977
42175[illegible]A	WEST ABLINGTON, TOWNSHIP OF (LACKAWANNA CO.)	DECEMBER 27, 1974 AND
		JUNE 18, 1976
422567	WEST BEAVER, TWP (SNYDER CO.)	JANUARY 24, 1975
422[illegible]29	WEST BRUNSWICK, TWP (SCHUYLKILL CO)	JANUARY 10, 1975
422[illegible]78	WEST BUFFALO, TOWNSHIP OF (UNION CO.)	NOVEMBER 01, 1974
422555	WEST FINLEY, TOWNSHIP OF (WASHINGTON CO.)	DECEMBER 27, 1974
421562	WEST KEATING, TOWNSHIP OF (CLINTON CO.)	DECEMBER 06, 1974
421723	WEST MAHONING, TWP (INDIANA CO)	JANUARY 24, 1975
422[illegible]29	WEST PENN, TOWNSHIP OF (SCHUYLKILL CO.)	NOVEMBER 15, 1974
421[illegible]23A	WEST ROCKHILL, TOWNSHIP OF (BUCKS CO.)	SEPTEMBER 13, 1974
422[illegible]72	WEST SHENANGO, TOWNSHIP OF (CRAWFORD CO.)	JANUARY 17, 1975
421[illegible]41	WETMORE, TWP (MCKEAN CO)	JULY 25, 1975
421[illegible]73	WHITELEY, TOWNSHIP OF (GREENE CO.)	DECEMBER 27, 1974 AND
		APRIL 30, 1976
421355	WOODBURY, TOWNSHIP OF (BEDFORD CO.)	JANUARY 31, 1975
422613	WOODCOCK, BOROUGH OF (CRAWFORD CO.)	SEPTEMBER 13, 1974
422492	WORTH, TWP (MERCER CO.)	JANUARY 24, 1975

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	COMMUNITY NAME	HAZARD AREA IDENTIFIED
	PENNSYLVANIA	
	TOTAL IN THE STATE	242
	SOUTH CAROLINA	
450227	ABBEVILLE COUNTY *	FEBRUARY 10, 1978
450291	ALLENDALE COUNTY *	NOVEMBER 29, 1974 AND
		DECEMBER 02, 1977
450283	BAMBERG COUNTY *	NOVEMBER 29, 1974 AND
		AUGUST 26, 1977
450284	BARNWELL COUNTY *	DECEMBER 26, 1974 AND
		SEPTEMBER 02, 1977
450[illegible]29	BERKELEY COUNTY	SEPTEMBER 16, 1977
450[illegible]16	BETHUNE, TOWN (KERSHAW CO)	JULY 18, 1975
450[illegible]43A	BLENHEIM, TOWN (MARLBORO CO)	AUGUST 12, 1977
450[illegible]32	CAMERON, TOWN (CALHOUN CO)	JANUARY 03, 1975
450[illegible]24A	CROSS HILL, TOWN OF (LAURENS CO.)	SEPTEMBER 06, 1974 AND
		JUNE 18, 1976
450[illegible]0C	DARLINGTON COUNTY *	DECEMBER 27, 1974 AND
		JUNE 23, 1978
451[illegible]64	DILLON COUNTY	DECEMBER 09, 1977
450[illegible]65A	DILLON, TOWN OF (DILLON CO.)	MAY 17, 1974 AND
		JUNE 18, 1976
450[illegible]0C	DORCHESTER COUNTY	DECEMBER 23, 1977
450[illegible]29	EDGEFIELD COUNTY *	JANUARY 20, 1976
450[illegible]74A	EDGEFIELD, TOWN OF (EDGEFIELD CO.)	MAY 24, 1974 AND
		MARCH 05, 1976
450[illegible]22A	EHRHARDT, TOWN OF (BAMBERG CO.)	JULY 19, 1974 AND
		JUNE 18, 1976
450[illegible]1A	FAIRFAX, TOWN OF (ALLENDALE CO.)	MAY 31, 1974 AND
		APRIL 23, 1976
450[illegible]75	FAIRFIELD COUNTY	NOVEMBER 25, 1977
450[illegible]2C	GILBERT, TOWN OF (LEXINGTON CO.)	OCTOBER 25, 1974
450[illegible]1C	GRAY COURT, TOWN OF (LAURENS CO.)	DECEMBER 13, 1974
450[illegible]37A	HOLLYWOOD, TOWN OF (CHARLESTON CO.)	SEPTEMBER 06, 1974 AND
		APRIL 23, 1976
450[illegible]63	LAMAR, TOWN (DARLINGTON CO)	JULY 15, 1975
450[illegible]32	LAURENS COUNTY	NOVEMBER 25, 1977
450[illegible]26	LEE COUNTY	MARCH 03, 1978
450[illegible]25	LYNCHBURG, TOWN (LEE CO)	JULY 15, 1975
450[illegible]43	MARION COUNTY	JANUARY 06, 1978
450146	MARLBORO COUNTY	FEBRUARY 24, 1978
450225	MAYESVILLE, TOWN OF (SUMTER CO.)	MARCH 19, 1976
450[illegible]6A	OLANTA, TOWN OF (FLORENCE CO.)	MAY 24, 1974
450[illegible]81A	PAMPLICO, TOWN OF (FLORENCE CO.)	MAY 10, 1974
450[illegible]35A	PELION, TOWN OF (LEXINGTON CO.)	AUGUST 09, 1974 AND
		JUNE 04, 1976
450[illegible]1A	PELZER, TOWN (ANDERSON CO)	JUNE 18, 1976
450[illegible]2C	REEVESVILLE, TOWN OF (DORCHESTER CO.)	DECEMBER 27, 1974
450[illegible]65A	ROWESVILLE, TOWN OF (ORANGEBURG CO.)	SEPTEMBER 20, 1974
450[illegible]2C	SALEM, TOWN OF (OCONEE CO.)	NOVEMBER 08, 1974
450[illegible]2[illegible]	SALUDA COUNTY *	JANUARY 20, 1978
450[illegible]45A	SELLERS, TOWN OF (MARION CO.)	JUNE 07, 1974 AND
		JULY 23, 1976

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	SOUTH CAROLINA	
450155	SILVERSTREET, TOWN (NEWBERRY CO)	JANUARY 24, 1975
450[illegible]A	SMOAKS, TOWN OF (COLLETON CO.)	SEPTEMBER 06, 1974 AND
		JUNE 18, 1976
450[illegible]	ST. GEORGE, TOWN OF (DORCHESTER CO.)	JULY 23, 1976
450[illegible]	STARR, TOWN OF (ANDERSON CO.)	OCTOBER 25, 1974 AND
		AUGUST 11, 1978
	TOTAL IN THE STATE	41

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	SOUTH DAKOTA	
460153	ALEXANDRIA, CITY (HANSON CO)	JUNE 27, 1975
460096	ALPENA, TOWN OF (JERAULD CO.)	SEPTEMBER 26, 1975
460234	ARMOUR, CITY (DOUGLAS CO)	AUGUST 06, 1976
460098	AURORA, TOWN (BROOKINGS CO)	JUNE 27, 1975
460058	BALTIC, TOWN OF (MINNEHAHA CO.)	DECEMBER 06, 1974
460251A	BEADLE COUNTY *	JANUARY 10, 1978
460156	BIG STONE CITY (GRANT CO)	NOVEMBER 12, 1976
460099	BISON, TOWN (PERKINS CO)	NOVEMBER 05, 1976
460159	BRIDGEWATER, CITY (MCCOOK CO)	NOVEMBER 19, 1976
460253A	BROOKINGS COUNTY *	DECEMBER 26, 1977
467247	BUFFALO GAP, TOWN (CUSTER CO)	NOVEMBER 05, 1976
460037	BUFFALO, TOWN (HARDING CO)	NOVEMBER 05, 1976
450226A	BUTTE COUNTY	DECEMBER 26, 1977
460152	CANISTOTA, CITY (MCCOOK CO)	AUGUST 13, 1976
460102A	CANOVA, TOWN (MINER CO)	MAY 26, 1977
460163	CENTERVILLE, CITY (TURNER CO)	AUGUST 13, 1976
460257A	CHARLES MIX COUNTY *	JANUARY 10, 1978
460013	CLARK, TOWN (CLARK CO)	MARCH 12, 1976
460259	CLAY COUNTY *	OCTOBER 18, 1977
467250A	CODINGTON COUNTY *	JANUARY 24, 1978
460166	COLTON, CITY (MINNEHAHA CO)	AUGUST 13, 1976
460018A	COLUMBIA, CITY OF (BROWN CO.)	DECEMBER 20, 1974
460107	CRESBARD, TOWN (FAULK CO)	JULY 18, 1975
460072A	DAVISON COUNTY	MAY 20, 1977
467169	DUPREE, CITY OF (ZIEBACH CO.)	APRIL 25, 1975
460172A	EAGLE BUTTE, TOWN (DEWEY CO)	NOVEMBER 12, 1976 AND
		NOVEMBER 26, 1977
460026A	EDGEMONT, CITY OF (FALL RIVER CO.)	AUGUST 02, 1974 AND
		JANUARY 16, 1976
460173A	EUREKA, CITY (MCPHERSON CO)	JULY 16, 1976 AND
		AUGUST 22, 1978
460238A	FALL RIVER	NOVEMBER 01, 1977
460112	GARY, CITY OF (DEUEL CO.)	JUNE 27, 1975
460256A	GRANT COUNTY *	DECEMBER 27, 1977
460233A	HANSON COUNTY *	AUGUST 16, 1977
460182	HARTFORD, CITY (MINNEHAHA CO)	JULY 16, 1976
460115	HATTI, TOWN (HARLIN CO)	JUNE 27, 1975
460236A	HERMOSA, TOWN (CUSTER CO)	JANUARY 21, 1977
460181E	HERREID, CITY (CAMPBELL CO)	JULY 11, 1975
460271A	HUGHES COUNTY *	JANUARY 10, 1978
460119	HURLEY, CITY (TURNER CO)	JULY 16, 1976
460041A	HUTCHINSON COUNTY	JUNE 03, 1977 AND
		OCTOBER 18, 1977
460184E	IPSWICH, CITY (EDMUNDS CO)	NOVEMBER 05, 1976 AND
		FEBRUARY 16, 1978
		SEPTEMBER 16, 1976
460185	KADOKA, CITY (JACKSON CO)	JULY 16, 1976
460186	KIMBALL, CITY (BRULE CO)	AUGUST 05, 1975
460276A	LAKE COUNTY *	JUNE 27, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	SOUTH DAKOTA	
460196	LEAD, CITY OF (LAWRENCE COU)	FEBRUARY 27, 1975
460192A	LENNOX, CITY (LINCOLN CO)	SEPTEMBER 26, 1975
460126	LETCHER, TOWN (SANBORN CO)	NOVEMBER 12, 1976
460277A	LINCOLN COUNTY *	OCTOBER 25, 1977
460197A	MARION, CITY (TURNER CO)	JULY 02, 1976 AND
		SEPTEMBER 16, 1976
460195	MCINTOSH, CITY (CORSON CO)	SEPTEMBER 19, 1975
460[illegible]	MILBANK, CITY (GRANT CO)	AUGUST 13, 1976
460235	MURDO, CITY (JONES CO)	SEPTEMBER 19, 1975
460277	NEWELL, CITY (BUTTE CO)	JULY 16, 1975
460254A	NISLAND, TOWN (BUTTE CO)	FEBRUARY 04, 1977
460129	OACOMA, TOWN (LYMAN CO)	JANUARY 07, 1977
460211	PARKER, CITY (TURNER CO)	JUNE 27, 1975
460297A	PRESHO, CITY OF (LYMAN CO.)	JULY 19, 1977
460133	PURWANA, TOWN (BRULE CO)	SEPTEMBER 19, 1975
460214	SELBY, CITY (WALWORTH CO)	JULY 25, 1975
467147	SPENCER, CITY (MCCOOK CO)	NOVEMBER 12, 1976
460178	ST. FRANCIS, TOWN (TODD CO)	SEPTEMBER 19, 1975
460179	ST. LAWRENCE, TOWN (HAND CO)	JULY 18, 1975
460142	TABOR, TOWN (BON HOMME CO)	JUNE 25, 1976
460225	TIMBER LAKE, CITY (DEWEY CO)	NOVEMBER 12, 1976
460242	TURTON, TOWN OF (SPINK CO.)	DECEMBER 20, 1974
460224	WAGNER, CITY (CHARLES MIX CO.)	AUGUST 13, 1976
460[illegible]	WASTA, TOWN (PENNINGTON CO)	DECEMBER 24, 1976
460147	WESSINGTON, CITY (BEADLE CO.)	AUGUST 22, 1975
460[illegible]	WILLOW LAKE, TOWN (CLARK CO)	MAY 20, 1977 AND
		JULY 11, 1978
460[illegible]	WOLSEY, TOWN (BEADLE CO)	AUGUST 13, 1976
	TOTAL IN THE STATE	69

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	TENNESSEE	
470234	ADAIR, TOWN OF (MADISON COU)	FEBRUARY 07, 1975
470202	ADAMSVILLE, TOWN OF (MCNAIRY CO.)	MAY 28, 1976
470359	ADAMS, TOWN OF (ROBERTSON CO.)	NOVEMBER 15, 1974
470245A	ALAMO, TOWN (CROCKETT CO)	MARCH 11, 1977
470293	ARMORY, TOWN OF (GILES CO.)	DECEMBER 17, 1976
479262	ARLINGTON, TOWN (SHELBY CO)	JULY 25, 1975
479294	BAILEYTOWN, TOWN OF (GREENE CO.)	SEPTEMBER 03, 1976
470096	BEDFORD COUNTY	DECEMBER 23, 1977
473224	BELLS, TOWN OF (CROCKETT CO.)	JANUARY 10, 1975
470216	BENTON COUNTY	JANUARY 10, 1975 AND
		AUGUST 19, 1977
470128A	BETHEL SPRINGS, TOWN OF (MCNAIRY CO.)	JUNE 28, 1974 AND
		APRIL 02, 1976
470295	BIG SANDY, TOWN OF (BENTON CO.)	SEPTEMBER 24, 1976
470356	BLOUNT COUNTY *	AUGUST 26, 1977
470290	BLUFF CITY, TOWN OF (SULLIVAN CO.)	JULY 02, 1976
470351	BOLIVAR, CITY (HARDEMAN CO)	NOVEMBER 12, 1976
470357	BRADLEY COUNTY *	JULY 08, 1977
470244	BRUCETON, TOWN (CARROLL CO)	JULY 02, 1976
470297	BULLS GAP, TOWN OF (HAWKINS CO.)	MAY 28, 1976
470272	CARROLL COUNTY	NOVEMBER 04, 1977
470324	CARTER COUNTY	JULY 15, 1977 AND
		JULY 28, 1978
470295	CARTVILLE, TOWN OF (CAMPBELL CO.)	SEPTEMBER 03, 1976
473312A	CHAPEL HILL, TOWN OF (MARSHALL CO.)	JUNE 14, 1974
470295	CLIFTON, CITY (WAYNE CO)	SEPTEMBER 17, 1976
473225	COALMONT, TOWN (GRUNDY CO.)	SEPTEMBER 24, 1976
479355	COFFEE COUNTY *	AUGUST 05, 1977
473324	COLLINWOOD, CITY OF (WAYNE CO.)	JUNE 04, 1976
470325	CORNERSVILLE, TOWN OF (MARSHALL CO.)	SEPTEMBER 17, 1976
470337	CUMBERLAND COUNTY	SEPTEMBER 02, 1977
470326	CUMBERLAND GAP, TOWN OF (CLAIBORNE CO.)	MAY 28, 1976
470299	DANDRIDGE, TOWN OF (JEFFERSON CO.)	JUNE 11, 1976
470341	DECATUR COUNTY	AUGUST 05, 1977 AND
		JULY 14, 1978
470330	DECATURVILLE, TOWN OF (DECATUR CO.)	SEPTEMBER 24, 1976
470046	DICKSON COUNTY *	DECEMBER 06, 1974 AND
		DECEMBER 16, 1977
470335	DICKSON, CITY OF (DICKSON CO.)	JULY 09, 1976
479237	DOVER, TOWN (STEWART COUNTY)	DECEMBER 09, 1977
470240A	DRESDEN, TOWN (WEAKLEY CO)	DECEMBER 12, 1976
470166A	EAGLEVILLE, TOWN OF (RUTHERFORD CO.)	AUGUST 23, 1974 AND
		JULY 02, 1976
470064	ELKTON, CITY (GILES CO)	JUNE 04, 1976
470271A	ENGLEWOOD, CITY OF (MCMINN CO.)	MAY 17, 1974 AND
		JULY 02, 1976
470328	ENVILLE, TOWN (CHESTER CO)	OCTOBER 29, 1976
473391	ETHRIDGE, CITY OF (LAWRENCE CO.)	JULY 02, 1976
470242	FAIRVIEW, CITY (WILLIAMSON CO)	APRIL 11, 1975

* UNINCORPORATED AREAS ONLY

TENNESSEE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
470343	FENTRESS COUNTY *	DECEMBER 09, 1977
470120A	FINLEY, TOWN OF (MCNAIRY CO.)	SEPTEMBER 06, 1974
470302	FRIENDSVILLE, CITY OF (BLOUNT CO.)	JUNE 11, 1976
470221	GADSDEN, TOWN OF (CROCKETT CO.)	JANUARY 24, 1975
470359	GIBSON COUNTY *	FEBRUARY 03, 1978
470276	GIBSON, TOWN OF (GIBSON CO.)	JULY 18, 1975
470353	GILES COUNTY	FEBRUARY 24, 1978
470190A	GILT EDGE, CITY OF (TIPTON CO.)	SEPTEMBER 13, 1974 AND JULY 02, 1976
470048	GRAINGER COUNTY	JANUARY 06, 1978
470303	GREENBACK, CITY OF (LOUDON CO.)	SEPTEMBER 24, 1976
470345	GREENE COUNTY *	DECEMBER 02, 1977
470346	HAMBLEN COUNTY *	NOVEMBER 11, 1977
470276	HANCOCK COUNTY	AUGUST 19, 1977 AND JULY 14, 1978
470360	HARDEMAN COUNTY *	JANUARY 26, 1978
470255	HAWKINS COUNTY	OCTOBER 21, 1977
470227	HAYWOOD COUNTY	DECEMBER 30, 1977
470088	HENDERSON COUNTY *	DECEMBER 29, 1976 AND DECEMBER 23, 1977 JULY 14, 1978
470259A	HENNING, TOWN (LAUDERDALE CO)	JANUARY 03, 1975
470228	HENRY COUNTY	DECEMBER 30, 1977
470304	HOHENWALD, CITY OF (LEWIS CO.)	SEPTEMBER 24, 1976
470305	HOLLOW ROCK, CITY OF (CARROLL CO.)	JUNE 25, 1976
470288	HORNSBY, TOWN OF (HARDEMAN CO.)	MARCH 03, 1976
470347	HOUSTON COUNTY *	ALGUST 16, 1977
470229	HUMPHREYS COUNTY	AUGUST 26, 1977
470355A	HUNTLAND, TOWN OF (FRANKLIN CO.)	JANUARY 28, 1977
470101A	JACK CITY, CITY OF (LAWRENCE CO.)	JUNE 14, 1974 AND JUNE 25, 1976
470197	JEFFERSON COUNTY	SEPTEMBER 02, 1977 AND JULY 14, 1978
470226	JENTON, TOWN OF (GIBSON CO.)	DECEMBER 27, 1974
470249	KINGSTON SPRINGS, CITY OF (CHEATHAM CO.)	JULY 18, 1975
470354	LAWRENCE COUNTY *	NOVEMBER 25, 1977
470127A	LEWISBURG, CITY OF (MARSHALL CO.)	MARCH 01, 1974 AND AUGUST 06, 1976
470104	LINCOLN COUNTY	OCTOBER 28, 1977
470140A	LOBELVILLE, TOWN (PERRY CO)	JANUARY 13, 1978
470306	LORETTO, CITY OF (LAWRENCE CO.)	JULY 02, 1976
470249	LUTTRELL, CITY (UNION CO)	SEPTEMBER 03, 1976
470265A	LYNNVILLE, CITY OF (GILES CO.)	JUNE 14, 1974
470307	MADISONVILLE, TOWN OF (MONROE CO.)	DECEMBER 10, 1976
470389A	MAGGIE VALLEY, TOWN OF (HAYWOOD CO.)	JULY 06, 1977
470193	MASON, CITY (TIPTON CO)	OCTOBER 01, 1976
470123	MAURY COUNTY	DECEMBER 02, 1977
470358	MCEWEN, TOWN OF (HUMPHREYS CO.)	JULY 02, 1976
470126	MCMINN COUNTY	JULY 01, 1977

* UNINCORPORATED AREAS ONLY

TENNESSEE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
470127	MCNAIRY COUNTY	OCTOBER 29, 1977 AND MAY 12, 1978
470133	MEIGS COUNTY	DECEMBER 02, 1977
470339	MICHIE, CITY OF (MCNAIRY CO.)	OCTOBER 06, 1976
470132	MILLEDGEVILLE, TOWN (MCNAIRY CO)	JULY 02, 1976
470066	MINOR HILL, CITY (GILES CO)	JULY 02, 1976
470253	MONROE COUNTY *	JULY 03, 1977
470305	MONTEAGLE, TOWN OF (GRUNDY & MARION COS.)	JULY 02, 1976
470179	MORGAN COUNTY	JANUARY 17, 1975 AND SEPTEMBER 01, 1978
470311	MOSHEIM, TOWN OF (GREENE CO.)	SEPTEMBER 03, 1976
470312	NIOTA, CITY OF (MCMINN CO.)	MAY 28, 1976
470313	NORMANDY, TOWN OF (BEDFORD CO.)	JUNE 11, 1976
470314	ORME, TOWN OF (MARION CO.)	JULY 02, 1976
470352	OVERTON COUNTY *	JANUARY 13, 1978
470315	PARROTTSVILLE, TOWN OF (COCKE CO.)	JULY 02, 1976
470316	PARSONS, TOWN OF (DECATUR CO.)	JUNE 11, 1976
470317	PARYEAR, TOWN OF (HENRY CO.)	JUNE 11, 1976
470291	PEGRAM, TOWN OF (CHEATHAM CO.)	JULY 18, 1975
4756424	PIGEON FORGE, CITY OF (SEVIER CO.)	AUGUST 31, 1977
470349	PUTNAM COUNTY *	SEPTEMBER 13, 1974 AND OCTOBER 21, 1977
470331	RAMER, TOWN OF (MCNAIRY CO.)	NOVEMBER 25, 1974
470151	RHEA COUNTY	JULY 02, 1976
47M2774	RICHARD CITY, CITY OF (MARION CO.)	FEBRUARY 01, 1974 AND OCTOBER 15, 1976
470339A	RIDGESIDE, CITY OF (HAMILTON CO.)	FEBRUARY 25, 1977
470235	RIVES, CITY OF (OBION CO.) (OBION CO.)	JANUARY 07, 1975
470358	ROBERTSON COUNTY	JANUARY 06, 1978
47032L	ROCKFORD, TOWN OF (BLOUNT CO.)	SEPTEMBER 24, 1976
4702514	RUTHERFORD, TOWN OF (GIBSON CO.)	JUNE 07, 1974 AND JUNE 25, 1976
4702824	SALTILLO, TOWN OF (HARDIN CO.)	JUNE 14, 1974 AND AUGUST 06, 1976
470371	SARDIS, TOWN OF (HENDERSON CO.)	SEPTEMBER 24, 1976
470341	SCOTT COUNTY *	DECEMBER 23, 1977
470322	SCOTTS HILL, TOWN OF (COFFEE CO.)	JULY 02, 1976
470171	SEQUATCHIE COUNTY	OCTOBER 21, 1977
470236	SEVIER COUNTY	NOVEMBER 25, 1977
470239A	SPENCER, TOWN OF (VAN BUREN CO.)	MARCH 15, 1977
470328	STANTONVILLE, TOWN OF (MCNAIRY CO.)	JUNE 11, 1976
470258	STANTON, TOWN (HAYWOOD CO)	MARCH 12, 1976
47013*	STEWART COUNTY *	SEPTEMBER 13, 1974 AND FEBRUARY 24, 1978
470327	ST. JOSEPH, CITY OF (LAWRENCE CO.)	JUNE 25, 1976
470141	SULLIVAN COUNTY	DECEMBER 30, 1977
4702854	TELLICO PLAINS, CITY OF (MONROE CO.)	MARCH 05, 1974 AND AUGUST 13, 1976
470337	TENNESSEE RIDGE, CITY OF (HOLSTON CO.)	JUNE 25, 1976

* UNINCORPORATED AREAS ONLY

TENNESSEE

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
470291	TOWNSEND, CITY OF (BLOUNT CO.)	JUNE 18, 1976
4702*2A	TRACT CITY, CITY OF (GRUNDY CO.)	MAY 16, 1974 AND JULY 02, 1976
470243A	TREZEVANT, TOWN (CARROLL CO)	FEBRUARY 25, 1977
470329	TUSCULUM, CITY OF (GREENE CO.)	JULY 02, 1976
470215	UNICOI COUNTY	SEPTEMBER 16, 1977
47035*	VENDRE, TOWN OF (MONROE CO.)	DECEMBER 16, 1976
470363	WARREN COUNTY *	NOVEMBER 25, 1977
4702*9E	WARTRACE, TOWN OF (BEDFORD CO.)	JUNE 14, 1974 AND APRIL 23, 1976
470265	WASHINGTON COUNTY *	MARCH 25, 1977
470311	WATAUGA, CITY OF	MAY 28, 1976
470364	WEARLEY COUNTY *	DECEMBER 16, 1977
470365	WHITE COUNTY *	DECEMBER 02, 1977
47011BA	WHITWELL, CITY OF (MARION CO.)	FEBRUARY 15, 1974 AND AUGUST 13, 1976
470254	YORKVILLE, CITY (GIBSON CO)	JUNE 27, 1975

TOTAL IN THE STATE 139

* UNINCORPORATED AREAS ONLY

TEXAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
481089	ADDISON, TOWN (COLLIN AND DALLAS COS)	OCTOBER 29, 1976
480996C	ADRIAN, CITY (OLDHAM CO)	JULY 25, 1975
480894	AMHERST, CITY (LAMB CO)	JULY 11, 1975
4FE201A	ANDERSON COUNTY	JANUARY 24, 1978
480836	ANDREWS, CITY (ANDREWS CO)	AUGUST 27, 1976
4803074	ANGELINA COUNTY *	DECEMBER 27, 1974 AND JUNE 28, 1977
480982	ANNONA, TOWN (RED RIVER CO)	JUNE 11, 1976
481385	APPLERY, CITY (NACOGDOCHES CO)	AUGUST 06, 1976
480775	ARGYLE, CITY (DENTON CO)	AUGUST 20, 1975
480796	ASHERTON, CITY (DIMMIT CO)	JULY 02, 1976
481393	ASPERMONT, TOWN (STONEWALL CO)	AUGUST 13, 1976
480776	AUBREY, TOWN (DENTON CO)	JUNE 04, 1976
480983	AVERY, CITY OF (RED RIVER)	AUGUST 13, 1976
480731	AVINGER, TOWN (CASS CO)	AUGUST 06, 1976
4F0265A	BAILEYS PRAIRIE, TOWN OF (BRAZORIA CO.)	NOVEMBER 06, 1974
480876	BAILEY, TOWN (FANNIN CO)	NOVEMBER 05, 1976
4E9722	BAIRD, TOWN (CALLAHAN CO)	JUNE 11, 1976
4J3718	BANGS, TOWN (BROWN CO)	AUGUST 06, 1976
481247	BARDWELL, CITY (ELLIS CO)	JULY 16, 1976
4J3951	BARRY, CITY (NAVARRO CO)	JULY 16, 1976
480642	BARSTOW, TOWN (WARD CO)	JUNE 25, 1976
4801214	BEACH CITY, CITY (CHAMBERS CO)	MAY 21, 1977
480836	BELLS, TOWN (GRAYSON CO)	OCTOBER 29, 1976
481395	BELVILLE, CITY (AUSTIN CO)	NOVEMBER 19, 1975
480888	BENJAMIN, CITY (KNOX CO)	JUNE 27, 1975
481348	BLACKWELL, TOWN (COKE AND NOLAN COS)	AUGUST 15, 1975
480732	BLOOMBURG, TOWN (CASS CO)	NOVEMBER 05, 1976
480892	BLOSSOM, TOWN (LAMAR CO)	AUGUST 13, 1976
480856	BLUM, CITY OF (HILL CO.)	NOVEMBER 01, 1974
480984	BOGATA, TOWN (RED RIVER CO)	AUGUST 06, 1976
4F1165A	BRAZOS COUNTY *	OCTOBER 15, 1977
481096	BREMOND, CITY (ROBERTSON CO)	NOVEMBER 19, 1976
4HC398A	BRIAR OAKS, CITY OF (JOHNSON CO.)	MARCH 26, 1974 AND JUNE 18, 1976
480588	BRIAR, CITY OF (PARKER, TARRANT E WISE COS.)	JULY 27, 1976
480717A	BROWN COUNTY	JANUARY 24, 1978
480325	BROWNSBORO, CITY (HENDERSON CO)	DECEMBER 16, 1976
480877	BRYSON, CITY (JACK CO)	JULY 11, 1975
481138	BUFFALO GAP, TOWN (TAYLOR CO)	NOVEMBER 19, 1976
489904	BUFFALO, CITY (LEON CO)	AUGUST 20, 1976
4811594	BURLESON COUNTY *	JUNE 17, 1977
4C1209A	BURNET COUNTY *	NOVEMBER 22, 1977
480646	BURTON, CITY OF (WASHINGTON CO.)	DECEMBER 22, 1976
480490A	CACTUS, CITY OF (MOORE CO.)	JUNE 14, 1974 AND MARCH 26, 1976
4803644	CADDO MILLS, CITY OF (HUNT CO.)	JUNE 28, 1974 AND MARCH 12, 1976
481568	CAMBELLTON, TOWN (ATASCOSA CO)	JUNE 25, 1976

* UNINCORPORATED AREAS ONLY

TEXAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
480979	CAMP WOOD, CITY (REAL CO)	JULY 02, 1978
480715C	CASS COUNTY	JULY 05, 1977
480737A	CASTRO COUNTY	JUNE 03, 1977
481282A	CEDAR PARK, CITY OF	NOVEMBER 15, 1977
480365A	CELESTE, CITY OF (HUNT CO.)	JUNE 21, 1974 AND
		MAY 28, 1976
480905	CENTERVILLE, CITY (LEON CO)	AUGUST 13, 1976
480781	CHARLOTTE, CITY (ATASCOSA CO)	AUGUST 06, 1976
480739A	CHEROKEE COUNTY	DECEMBER 27, 1977
481167	CHESTER, TOWN (TYLER CO)	AUGUST 12, 1976
481353	CHICO, CITY (WISE CO)	AUGUST 13, 1976
481202	CHILLICOTHE, CITY OF (HARDEMAN CO.)	JULY 16, 1975
480702	CHRISTINE, CITY (ATASCOSA CO)	JULY 11, 1975
480535A	CLARKSVILLE, CITY OF (GREGG CO.)	NOVEMBER 07, 1975
481098	CLAUDE, CITY (ARMSTRONG CO)	AUGUST 12, 1976
481299	COAHOMA, TOWN OF (HOWARD CO.)	JUNE 04, 1976
480769A	COCKRELL HILL, CITY OF (DALLAS CO.)	DECEMBER 27, 1973 AND
		JUNE 11, 1976
480177 A	COLLIN COUNTY	DECEMBER 06, 1977
480144A	COLORADO COUNTY *	OCTOBER 25, 1974 AND
		APRIL 08, 1977
480485	COMBINE, CITY OF (DALLAS CO.)	JULY 02, 1976
480872	COPPELL, TOWN (HOPKINS CO)	AUGUST 06, 1976
480765	COOKE COUNTY	OCTOBER 15, 1977
480911	COOLIDGE, TOWN (LIMESTONE CO)	JUNE 11, 1976
480748P	CORYELL COUNTY	DECEMBER 20, 1977
480498	CRANDALL, CITY OF (KAUFMAN CO.)	MARCH 06, 1974 AND
		MAY 21, 1976
480571	CRANE, CITY OF (CRANE CO.)	JULY 18, 1976
480723	CROSS PLAINS, TOWN (CALLAHAN CO)	AUGUST 06, 1976
480871	CUMBY, CITY (HOPKINS CO)	AUGUST 06, 1976
481298A	CUTTN SHOOT, CITY OF (MONTGOMERY CO.)	JUNE 03, 1977
481191	DAISETTA, TOWN (LIBERTY CO)	JULY 02, 1976
480945	DETROIT, TOWN (RED RIVER CO)	DECEMBER 24, 1976
481171A	DEWITT COUNTY	AUGUST 16, 1977
480787	DICKENS, CITY (DICKENS CO)	AUGUST 06, 1976
482789A	DIMMIT COUNTY	JANUARY 24, 1978
480733	DOUGLASVILLE, TOWN (CASS CO)	AUGUST 13, 1976
480888A	EARLY, CITY OF (BROWN CO.)	MAY 17, 1974 AND
		JANUARY 31, 1976
480895	EARTH, CITY (LAMB CO)	MAY 02, 1975
480976	EAST TAWAKONI, TOWN (RAINS CO)	NOVEMBER 05, 1976
480793A	EASTLAND COUNTY	NOVEMBER 15, 1977
481165	EASTON, VILLAGE (GREGG AND RUSK COS)	JULY 18, 1975
480766A	ECTOR COUNTY	NOVEMBER 29, 1977
480879	ECTOR, TOWN (FANNIN CO)	JULY 11, 1975
480743	EDEN, VILLAGE (CONCHO CO)	MAY 02, 1975
480835A	EDGEWOOD, CITY OF (VAN ZANDT CO.)	JUNE 14, 1974 AND
		APRIL 02, 1976

* UNINCORPORATED AREAS ONLY

TEXAS

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
481146	EDOM, CITY (VAN ZANDT CO)	AUGUST 13, 1976
481000	ELDORADO, TOWN (SCHLEICHER CO)	AUGUST - 13, 1976
480859	ELECTRA, CITY OF (WICHITA CO.)	DECEMBER 03, 1976
480798A	ELLIS COUNTY	AUGUST 16, 1977
480716	ELMENDORF, CITY (BEXAR CO.)	JUNE 11, 1976
480977	EMORY, TOWN (RAINS CO)	AUGUST 06, 1976
480218A	ERATH COUNTY	DECEMBER 27, 1977
480277	ESTELLINE, CITY OF (HALL CO.)	NOVEMBER 08, 1974
480327	EUSTACE, CITY (HENDERSON CO)	JUNE 11, 1976
480823	FAIRFIELD, TOWN (FREESTONE CO)	AUGUST 13, 1976
480617A	FANNIN COUNTY	NOVEMBER 08, 1977
480544	FATE, CITY (ROCKWALL CO)	NOVEMBER 05, 1976
480815A	FAYETTE COUNTY	JANUARY 31, 1978
481147	FAYETTEVILLE, TOWN (FAYETTE CO)	AUGUST 06, 1976
481102	FLATONIA, TOWN (FAYETTE CO)	JULY 30, 1976
480817A	FLOYD COUNTY	MAY 17, 1977
480726A	FLOYDADA, CITY OF (FLOYD CO.)	MAY 31, 1974 AND
		JANUARY 09, 1976
480722A	FORT BEND COUNTY *	JULY 09, 1976 AND
		DECEMBER 20, 1977
480990	FRANKLIN, TOWN (ROBERTSON CO)	JULY 16, 1976
480822	FREESTONE COUNTY	JANUARY 03, 1978
482523A	FRIONA, CITY OF (PARMER CO.)	APRIL 12, 1976
480875	FRITCH, CITY OF (HUTCHINSON & MOORE COS.)	JULY 16, 1976
481041	FRUITVALE, CITY (VAN ZANDT CO)	JULY 16, 1976
480949	GARRISON, TOWN (NACOGDOCHES CO)	JULY 16, 1976
481148	GARY, TOWN (PANOLA CO)	NOVEMBER 19, 1976
480435A	GIDDINGS, CITY (LEE CO.)	JUNE 28, 1974 AND
		JANUARY 16, 1976
480574A	GLEN ROSE, CITY (SOMERVELL CO)	AUGUST 23, 1974 AND
		FEBRUARY 06, 1976
481265	GLENN HEIGHTS, CITY OF (DALLAS & ELLIS COS.)	NOVEMBER 16, 1976
480870	GODLEY, TOWN (JOHNSON CO)	AUGUST 22, 1975
480828	GOLIAD, CITY (GOLIAD CO)	JULY 16, 1976
481127	GOODRICH, CITY (POLK CO)	NOVEMBER 19, 1976
480963	GORDON, TOWN (PALO PINTO CO)	OCTOBER 22, 1976
480964	GRAFORD, TOWN (PALO PINTO CO.)	JULY 11, 1975
480357	GRANBURY, CITY (HOOD CO)	JULY 09, 1976
481048	GRANGER, CITY OF (WILLIAMSON COU)	FEBRUARY 07, 1975
480873	GRAPELAND, TOWN (HOUSTON CO)	NOVEMBER 19, 1976
480829A	GRAYSON COUNTY	DECEMBER 20, 1977
480269	GREGG COUNTY	JANUARY 03, 1978
480726	GROOM, TOWN (CARSON CO)	DECEMBER 03, 1976
481032	GROVETON, CITY (TRINITY CO)	NOVEMBER 05, 1976
481104	GRUVER, CITY (HANSFORD CO)	NOVEMBER 05, 1976
480328	GUN BARREL CITY, CITY OF (HENDERSON CO.)	NOVEMBER 08, 1974
480832	GUNTER, TOWN (GRAYSON CO)	JULY 11, 1975
481223	HALE COUNTY *	JANUARY 03, 1978
480848	HALLSVILLE, CITY (HARRISON CO)	APRIL 30, 1976

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
481091	HAPPY, CITY OF (RANDALL & SWISHER)	FEBRUARY 14, 1975
480847A	HARRISON COUNTY	SEPTEMBER 06, 1977
480738	HART, CITY (CASTRO CO)	JUNE 27, 1975
480900	HASLET, CITY OF (TARRANT CO.)	NOVEMBER 01, 1974
480895	HAWLEY, TOWN (JONES CO)	NOVEMBER 10, 1976
480321	HAYS COUNTY	MARCH 21, 1978
481246	HEMPSTEAD, TOWN (WALLER CO)	JULY 30, 1976
481176A	HENDERSON COUNTY	NOVEMBER 22, 1977
481150	HICKORY CREEK, TOWN (DENTON CO)	JULY 30, 1976
480843	HICO, TOWN (HAMILTON CO)	AUGUST 22, 1975
481190A	HILL COUNTRY VILLAGE, TOWN OF (BEXAR CO.)	AUGUST 23, 1977
480857A	HILL COUNTY	AUGUST 09, 1977
482352A	HOCKLEY COUNTY	OCTOBER 25, 1977
480699	HOLLIDAY, CITY (ARCHER CO)	APRIL 16, 1975
481277A	HOMER, TOWN OF (ANGELINA CO.)	JUNE 03, 1977
480356A	HOOD COUNTY	OCTOBER 18, 1977
480869A	HOPKINS COUNTY	DECEMBER 27, 1977
480872A	HOUSTON COUNTY	NOVEMBER 01, 1977
481227	HOWARD COUNTY *	DECEMBER 13, 1977
480833	HOWE, TOWN (GRAYSON CO)	OCTOBER 29, 1976
480859	HUBBARD, CITY (HILL CO)	OCTOBER 29, 1976
480734	HUGHES SPRINGS, TOWN (CASS CO)	AUGUST 27, 1976
481077	HUNTINGTON, CITY (ANGELINA CO)	JULY 30, 1976
480537A	HUTCHINSON COUNTY *	FEBRUARY 07, 1975 AND
		JANUARY 09, 1976
481296A	IMPACT, TOWN OF (TAYLOR CO.)	JUNE 13, 1977
481071	IOWA COLONY, TOWN (BRAZORIA CO)	JULY 02, 1976
480973	IRAAN, TOWN (PECOS CO)	JULY 30, 1976
481070	IREDELL, TOWN OF (BOSQUE CO.)	NOVEMBER 01, 1974
481097A	JASPER COUNTY	MAY 17, 1977
480996	JEWETT, TOWN (LEON CO)	DECEMBER 24, 1976
480879A	JOHNSON COUNTY	MAY 17, 1977
481756	JOSEPHINE, TOWN (COLLIN CO)	MAY 26, 1976
480882	JOSHUA, CITY (JOHNSON CO)	JUNE 27, 1975
480791	JOURDANTON, CITY (ATASCOSA CO)	AUGUST 13, 1976
481776A	JUSTIN, TOWN (DENTON CO)	JUNE 03, 1977
481175A	KARNES COUNTY	JUNE 07, 1977
481177	KEENE, CITY OF (JOHNSON CO.)	JUNE 04, 1976
480412	KEMP, CITY OF (KAUFMAN CO.)	APRIL 23, 1976
481236	KENEDY COUNTY *	JANUARY 17, 1978
480676A	KERMIT, CITY OF (WINKLER CO.)	MAY 24, 1974 AND
		JULY 23, 1976
481176A	KINNEY COUNTY	JANUARY 16, 1976
481860A	KNOX CITY, CITY (KNOX CO.)	AUGUST 15, 1975 AND
		JULY 23, 1976
481151	KOSSE, TOWN (LIMESTONE CO)	JUNE 11, 1976
480845	KOUNTZE, CITY (HARDIN CO.)	JUNE 25, 1976
481772	KRESS, CITY OF (SWISHER CO)	FEBRUARY 21, 1975

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
480475A	LACOSTE, CITY OF (MEDINA CO.)	JANUARY 09, 1974 AND
		FEBRUARY 27, 1976
480695	LAKE WORTH, CITY (TARRANT CO)	NOVEMBER 19, 1976
480278E	LAKEVIEW, TOWN OF (HALL CO.)	DECEMBER 06, 1974
480891A	LAMAR COUNTY	NOVEMBER 29, 1977
480899A	LAMPASAS COUNTY	NOVEMBER 01, 1977
481175	LAVACA COUNTY *	AUGUST 23, 1977
481215	LAWN, TOWN (TAYLOR CO)	JUNE 25, 1976
480986A	LEARET, CITY (REAL CO)	MAY 13, 1977
481142	LEARY, CITY (BOWIE CO)	NOVEMBER 26, 1976
480937	LEONA, TOWN (LEON CO)	NOVEMBER 19, 1976
480990A	LIMESTONE COUNTY	OCTOBER 25, 1977
480735	LINDEN, TOWN (CASS CO)	JULY 30, 1976
481075	LIPAN, VILLAGE (HOOD CO)	OCTOBER 29, 1976
481152	LITTLE ELM, TOWN (DENTON CO)	AUGUST 13, 1976
480975	LIVERPOOL, CITY (BRAZORIA CO)	NOVEMBER 26, 1976
481234A	LLANO COUNTY *	NOVEMBER 22, 1977
480781E	LOCKNEY, TOWN (FLOYD CO)	JULY 02, 1976
480944	LONE STAR, TOWN (MORRIS CO)	AUGUST 06, 1976
481109	LORAINE, TOWN OF (MITCHELL CO.)	JUNE 27, 1975
480928A	LOPENA, TOWN (MCLENNAN CO)	JUNE 21, 1977
480836	LOTT, CITY (FALLS CO)	JULY 09, 1976
480874	LOVELADY, CITY (HOUSTON CO)	OCTOBER 29, 1976
480935A	LUBBOCK COUNTY	NOVEMBER 26, 1977
480696	LUEDERS, CITY (JONES CO)	AUGUST 12, 1976
481111A	LUMBERTON, TOWN OF (HARDIN CO.)	NOVEMBER 22, 1976
481261A	MAGNOLIA, TOWN OF (MONTGOMERY CO.)	MAY 17, 1977
480661	MALONE, TOWN (HILL CO)	JULY 09, 1976
480736	MARIETTA, TOWN (CASS CO)	JUNE 25, 1976
480929	MART, CITY (MCLENNAN CO)	AUGUST 13, 1976
480940	MATADOR, TOWN (MOTLEY CO)	NOVEMBER 05, 1976
480777A	MAVERICK COUNTY	DECEMBER 27, 1977
480208	MAYPEARL, CITY OF (ELLIS CO.)	NOVEMBER 29, 1974
480546	MCLENDON-CHISHOLM, CITY (ROCKWALL CO.)	SEPTEMBER 26, 1975
481320	MEADOW, TOWN (TERRY CO)	AUGUST 22, 1975
480795	MEGARGEL, TOWN (ARCHER CO.)	AUGUST 22, 1975
480924	MELVIN, TOWN (MCCULLOCH CO)	OCTOBER 29, 1976
481010	MERKEL, CITY (TAYLOR CO)	MAY 02, 1975
480862	MERTENS, TOWN (HILL CO)	NOVEMBER 05, 1976
480376A	MERTZON, CITY OF (IRION CO.)	JULY 26, 1974 AND
		FEBRUARY 27, 1976
480801	MIDLOTHIAN, CITY (ELLIS CO)	JULY 09, 1976
480992	MILES, CITY (RUNNELS CO)	AUGUST 12, 1976
480879A	MINEOLA, CITY OF (WOOD CO.)	MAY 03, 1974 AND
		JUNE 04, 1976
480515	MINGUS, CITY (PALO PINTO CO)	MAY 02, 1975
480844	MONAHANS, CITY (WARD CO)	JUNE 11, 1976
481443	MONTGOMERY, CITY OF (MONTGOMERY CO.)	NOVEMBER 26, 1976
480910	MOODY, TOWN (MCLENNAN CO)	JULY 09, 1976

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
481127*	MORGAN, VILLAGE (BOSQUE CO)	NOVEMBER 12, 1976
480634*	MORRIS COUNTY	AUGUST 09, 1977
480133*	MOULTON, TOWN OF (LAVACA CO.)	APRIL 05, 1974 AND
		MARCH 05, 1976
480841*	MOUNT CALM, CITY (HILL CO)	NOVEMBER 05, 1976
480132*	MT BELVIEU, CITY (CHAMBERS CO)	DECEMBER 24, 1976
480747*	MUENSTER, CITY (COOKE CO)	JULY 25, 1975
481135*	MULLIN, TOWN (MILLS CO)	JUNE 11, 1976
480 37*	MUNCHISON, CITY (HENDERSON CO)	JUNE 11, 1976
481947*	NACOGDOCHES COUNTY	DECEMBER 27, 1977
480951*	NAVARRO COUNTY	DECEMBER 27, 1977
481497*	NEW HOME, TOWN (LYNN CO)	SEPTEMBER 05, 1975
481113*	NEW LONDON, CITY OF (RUSK CO.0)	NOVEMBER 05, 1976
481151*	NEW SUMMERFIELD, CITY (CHEROKEE CO)	NOVEMBER 19, 1976
481243*	NEW WAVERLY, TOWN (WALKER CO)	JUNE 25, 1976
481058*	NEWCASTLE, CITY (YOUNG CO)	DECEMBER 17, 1976
480501*	NEWTON, CITY OF (NEWTON CO.)	JUNE 07, 1974 AND
		JUNE 04, 1976
481397*	NOME, CITY OF (JEFFERSON CO.)	JULY 12, 1977
481156*	NORDHEIM, CITY (DE WITT CO)	JUNE 24, 1976
481352*	NORTH CLEVELAND, CITY (LIBERTY CO)	MAY 04, 1977
481131*	NORTHCREST, TOWN (MCLENNAN CO)	OCTOBER 29, 1976
480752*	NOVICE, CITY (COLEMAN CO)	JULY 02, 1976
480947*	OAKWOOD, TOWN OF (LEON CO.)	MAY 24, 1974 AND
		FEBRUARY 06, 1976
481274*	ODESSA, CITY OF (ECTOR CO.)	JUNE 28, 1974
480786*	OGLESBY, CITY (CORYELL CO)	NOVEMBER 12, 1976
480 89*	OLTON, CITY (LAMB CO)	OCTOBER 01, 1976
480455*	OMAHA, CITY OF (MORRIS CO.)	FEBRUARY 06, 1976
480947*	ONALASKA, TOWN (POLK CO)	NOVEMBER 26, 1976
480994*	OVERTON, CITY OF (RUSK AND SMITH COS.)	AUGUST 13, 1976
481152*	OZONA, CITY OF (CROCKETT CO.)	DECEMBER 07, 1973
480852*	PEARSALL, CITY (FRIO CO)	JULY 25, 1975
480971*	PECOS, CITY OF (REEVES CO.)	AUGUST 27, 1976
480744*	PENITAS, CITY (HIDALGO CO)	AUGUST 13, 1976
480744*	PERRYTON, CITY OF (OCHILTREE CO.)	AUGUST 13, 1976
480727*	PETTUS, CITY (BEE CO)	JUNE 25, 1976 AND
		MAY 24, 1977
480527*	PFLUGERVILLE, CITY (TRAVIS CO)	DECEMBER 27, 1977
480 89*	PHARR, CITY (HIDALGO CO)	AUGUST 13, 1976
480 89*	PILOT POINT, CITY (DENTON CO)	AUGUST 25, 1976
480 89*	PINEHURST, CITY (MONTGOMERY CO)	APRIL 29, 1977
480 89*	PITTSBURG, CITY OF (CAMP CO.)	NOVEMBER 05, 1976
		OCTOBER 22, 1976
480 89*	PLAINVIEW, CITY (HALE CO)	NOVEMBER 12, 1976
480 89*	PLANO, CITY OF (COLLIN CO.)	JULY 11, 1975
480 89*	PLEASANT VALLEY, CITY (WICHITA CO)	NOVEMBER 12, 1976
480 89*	POINT, CITY (RAINS CO)	DECEMBER 17, 1976 AND
		SEPTEMBER 26, 1978
		NOVEMBER 05, 1976

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
480526	POLK COUNTY	DECEMBER 13, 1977
481241*	POTTER COUNTY *	DECEMBER 08, 1977
481198	PRIMERA, TOWN (CAMERON CO)	AUGUST 13, 1976
481141*	PROSPER, TOWN OF (COLLIN CO.)	JUNE 21, 1974 AND
		JANUARY 31, 1976
480724	PUTNAM, TOWN (CALLAHAN CO)	AUGUST 13, 1976
480645*	PYOTE, CITY OF (WARD CO.)	AUGUST 15, 1974
481117	QUEEN CITY, TOWN (CASS CO)	APRIL 25, 1978
480715	QUITAQUE, CITY (BRISCOE CO)	OCTOBER 22, 1976
480975*	RAINS COUNTY	OCTOBER 06, 1977
480295*	RANGER, CITY OF (EASTLAND CO.)	MAY 17, 1974 AND
		APRIL 23, 1976
480675*	RANKIN, CITY OF (UPTON CO.)	MAY 10, 1974 AND
		MARCH 12, 1976
481256	RENO, CITY OF (LAMAR CO.)	AUGUST 13, 1976
480989	RENO, TOWN (PARKER CO)	NOVEMBER 05, 1976
481158	RETREAT, TOWN (NAVARRO CO)	JULY 11, 1975
480957	RICE, CITY (NAVARRO CO)	SEPTEMBER 26, 1975
480542*	RICHLAND SPRINGS, CITY OF (SAN SABA CO.)	NOVEMBER 08, 1974 AND
		MARCH 05, 1976
480953	RICHLAND, TOWN (NAVARRO CO)	JULY 25, 1975
481446	RIVERSIDE, TOWN (WALKER CO)	NOVEMBER 19, 1976
480785	ROANOKE, CITY (DENTON CO)	SEPTEMBER 05, 1975
480749	ROBERT LEE, CITY (COKE CO)	JUNE 27, 1975
480995*	ROBERTSON COUNTY	JUNE 03, 1977
480455	ROBINSON, CITY (MCLENNAN CO)	DECEMBER 10, 1976
480725*	ROBY, CITY OF (FISHER CO.)	MAY 17, 1974
481118	ROCKSPRINGS, TOWN (EDWARDS CO)	JULY 25, 1975
480543	ROCKWALL COUNTY	MAY 31, 1977
480577	ROMA-LOS SAENZ, CITY (STARR CO)	JUNE 04, 1976
481361*	ROSE CITY, CITY (ORANGE CO)	JULY 12, 1977
481119	ROSEBUD, CITY OF (FALLS CO.)	OCTOBER 29, 1976
480836	ROUND TOP, TOWN (FAYETTE CO)	OCTOBER 29, 1976
481197	RUNGE, TOWN (KARNES CO)	APRIL 25, 1975
480995*	RUSK COUNTY	DECEMBER 20, 1977
481039	SABINAL, CITY (UVALDE CO)	SEPTEMBER 26, 1975
481110	SADLER, TOWN (GRAYSON CO)	JULY 02, 1976
480553*	SAN JACINTO COUNTY	DECEMBER 20, 1977
480667*	SAN PERLITA, CITY OF (WILLACY CO.)	OCTOBER 25, 1974 AND
		JUNE 18, 1976
481245	SANCTUARY, TOWN OF (PARKER CO.)	JUNE 10, 1977
480876	SANFORD, TOWN (HUTCHINSON CO)	AUGUST 11, 1976
480811	SANSOM PARK VIL, CITY (TARRANT CO)	DECEMBER 10, 1976
480751	SANTA ANNA, TOWN (COLEMAN CO)	JUNE 27, 1975
481164	SANTA ROSA, CITY OF (CAMERON CO.)	MAY 17, 1974 AND
		APRIL 02, 1976
481134	SCHULENBURG, CITY (FAYETTE CO)	JUNE 25, 1976
481290*	SCOTLAND, CITY OF (ARCHER AND CLAY COS.)	JUNE 14, 1977
481169	SCOTTSVILLE, TOWN (HARRISON CO)	DECEMBER 17, 1976

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
480056*	SCURRY COUNTY	MAY 10, 1977
480332	SEVEN POINTS, CITY (HENDERSON CO)	NOVEMBER 05, 1976
481135*	SHADY SHORES, CITY (DENTON CO)	MARCH 18, 1977
480856	SHAMROCK, CITY (WHEELER CO)	OCTOBER 22, 1976
481116	SHINER, TOWN (LAVACA CO)	JUNE 11, 1976
481145	SMITH COUNTY	JANUARY 03, 1976
481067	SNYDER, TOWN (HOCKLEY CO)	AUGUST 13, 1976
480 9	SNOOK, CITY (BURLESON CO)	NOVEMBER 05, 1976
481246*	SOMERSET, CITY OF (BEXAR CO.)	AUGUST 06, 1977
481193	SOUTHMAYD, TOWN (GRAYSON CO)	SEPTEMBER 12, 1975
480628*	SPLENDORA, CITY OF (MONTGOMERY CO.)	AUGUST 30, 1974 AND
		MARCH 05, 1976
480897	SPRINGLAKE, TOWN (LAMB CO)	OCTOBER 22, 1976
480798	SPUR, CITY (DICKENS CO)	NOVEMBER 12, 1976
480965	STRAWN, CITY (PALO PINTO CO)	JULY 10, 1978
480225*	STREETMAN, TOWN (FREESTONE CO)	MAY 06, 1977
481 9	SWISHER COUNTY	DECEMBER 13, 1977
481024	TALCO, CITY (TITUS CO)	OCTOBER 22, 1976
480753	TALPA, TOWN (COLEMAN CO)	JULY 23, 1976
480945	TATUM, CITY (RUSK CO)	JULY 11, 1975
481144	TAYLOR COUNTY	NOVEMBER 29, 1977
481296	TENAHA, TOWN (SHELBY CO)	JULY 27, 1976
481 94	TERRY COUNTY	JUNE 14, 1977
480934	THORNDALE, TOWN (MILAM CO)	AUGUST 13, 1976
480946	THORNTONVILLE, CITY (WARD CO)	AUGUST 13, 1976
480994	THORNTON, TOWN (LIMESTONE CO)	NOVEMBER 05, 1976
481 27*	TITUS COUNTY	JUNE 03, 1977
480866	TOLAR, TOWN (HOOD CO)	JULY 16, 1975
480315	TOMBALL, CITY (HARRIS CO)	JANUARY 24, 1975
480814	TRENTON, TOWN (FANNIN CO)	AUGUST 15, 1975
48113	TRENT, TOWN (TAYLOR CO)	JULY 23, 1976
481197	TUSCOLA, TOWN (TAYLOR CO)	AUGUST 29, 1975
481198	TYE, CITY (TAYLOR CO)	JULY 11, 1975
481234	TYLER COUNTY	NOVEMBER 25, 1977
481 30*	UPSHUR COUNTY	MAY 31, 1977
480829*	UVALDE COUNTY	JANUARY 24, 1976
480126*	VAN ZANDT COUNTY	JANUARY 12, 1978
480713	WALNUT SPRINGS, CITY (BOSQUE CO)	OCTOBER 31, 1976
481249*	WARD COUNTY *	OCTOBER 25, 1977
480784*	WARREN CITY, CITY OF (GREGG AND UPSHUR COS.)	AUGUST 13, 1976
481195*	WASHINGTON COUNTY	MAY 24, 1977
480985*	WASKOM, CITY (HARRISON CO)	OCTOBER 29, 1976
481121*	WEIMAR, CITY (COLORADO CO)	APRIL 29, 1977
480855	WEINERT, CITY (HASKELL CO)	NOVEMBER 12, 1976
480741	WELLS, TOWN (CHEROKEE CO)	JULY 11, 1975
480938	WESTBROOK, CITY (MITCHELL CO)	NOVEMBER 12, 1976
481014	WESTLAKE, CITY (TARRANT CO)	DECEMBER 10, 1976
481758	WESTMINSTER, TOWN (COLLIN CO)	NOVEMBER 05, 1976

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COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
480652*	WHARTON COUNTY *	AUGUST 02, 1974 AND
		JUNE 20, 1978
480779	WHITE DEER, TOWN (CARSON CO)	JULY 02, 1976
480841	WHITE OAK, TOWN (GREGG CO)	AUGUST 02, 1975
480839	WHITEWRIGHT, TOWN (GRAYSON CO)	NOVEMBER 05, 1976
480979*	WILLIAMSON COUNTY	NOVEMBER 01, 1977
480942	WILLIS, CITY (MONTGOMERY CO)	JULY 02, 1976
480922	WILSON, TOWN (LYNN CO)	JULY 16, 1976
481725	WINFIELD, TOWN (TITUS CO)	NOVEMBER 12, 1976
480675*	WINK, CITY OF (WINKLER CO.)	JUNE 26, 1974 AND
		AUGUST 13, 1976
480573*	WINONA, CITY OF (SMITH CO.)	NOVEMBER 01, 1974 AND
		JANUARY 23, 1976
481051*	WISE COUNTY	JUNE 07, 1977
481355*	WOOD COUNTY	MAY 31, 1977
481186	WOODLAND HILLS, CITY (DALLAS CO)	OCTOBER 22, 1976
480987	WOODBRANCH, TOWN (REFUGIO CO)	JULY 02, 1976
481222	WOODSON, CITY (THROCKMORTON CO)	OCTOBER 22, 1976
481035	WOODVILLE, TOWN (TYLER CO)	JULY 02, 1976
480826	WORTHAM, TOWN (FREESTONE CO)	OCTOBER 29, 1976
481147	YANTIS, TOWN (WOOD CO)	JULY 09, 1976
480474*	YOAKUM, CITY OF (LAVACA CO.)	MAY 10, 1974 AND
		OCTOBER 15, 1976
480664*	YOUNG COUNTY	FEBRUARY 07, 1978
480647*	ZAPATA COUNTY *	AUGUST 02, 1974 AND
		FEBRUARY 21, 1978

TOTAL IN THE STATE 378

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	UTAH	
4[illegible]	ANTIMONY, TOWN (GARFIELD CO)	APRIL 02, 1976
4[illegible]	BEAR RIVER, CITY (BOX ELDER CO)	SEPTEMBER 05, 1975
4[illegible]	BEAVER, CITY OF (BEAVER CO.)	JUNE 11, 1974
4[illegible]	CLEVELAND, TOWN (EMERY CO)	JULY 12, 1977
4[illegible]	CORINNE, TOWN (CACHE CO)	APRIL 02, 1976
4[illegible]	DEWEYVILLE, (BOX ELDER CO.)	APRIL 22, 1977
4[illegible]	ELWOOD, TOWN (BOX ELDER CO)	JANUARY 24, 1975
4[illegible]	ENTERPRISE, CITY OF (WASHINGTON CO.)	AUGUST 16, 1974
4[illegible]	FIELDING, TOWN (BOX ELDER CO)	AUGUST 16, 1974
4[illegible]	FOUNTAIN GREEN, TOWN (SANPETE CO)	APRIL 02, 1976
4[illegible]	FRANCIS, TOWN (SUMMIT CO)	JULY 25, 1975
4[illegible]	GENOLA, TOWN OF (UTAH COU)	FEBRUARY 27, 1975
4[illegible]	GOSHEN, TOWN OF (UTAH COU)	FEBRUARY 27, 1975 AND APRIL 15, 1977
4[illegible]	HILLDALE, TOWN (WASHINGTON CO)	JUNE 04, 1976
4[illegible]	HUNTSVILLE, TOWN OF (WEBER CO.)	JUNE 21, 1974
4[illegible]	KANAB, CITY (KANE CO)	OCTOBER 25, 1976
4[illegible]	KINGSTON, TOWN (PIUTE CO)	FEBRUARY 04, 1977
4[illegible]	FOOSHAREM, TOWN (SEVIER CO)	DECEMBER 24, 1976
4[illegible]	LAKETOWN, TOWN (RICH CO)	NOVEMBER 12, 1976
4[illegible]	LINDON, CITY (UTAH CO)	JUNE 21, 1977
4[illegible]	LOA, TOWN OF (WAYNE CO.)	DECEMBER 27, 1974
4[illegible]	MAYFIELD, TOWN (SANPETE CO)	MAY 28, 1976
4[illegible]	MEADOW, TOWN (MILLARD CO)	JULY 22, 1976
4[illegible]	MILLVILLE, TOWN (CACHE CO)	OCTOBER 22, 1976
4[illegible]	MONA, TOWN (JUAB CO)	JUNE 21, 1977
4[illegible]	MONTICELLO, CITY (SAN JUAN CO)	DECEMBER 24, 1976
4[illegible]	MYTON, TOWN (DUCHESNE CO)	APRIL 02, 1976
4[illegible]	PARADISE, TOWN (CACHE CO)	NOVEMBER 15, 1976
4[illegible]	PLYMOUTH, TOWN (BOX ELDER CO)	AUGUST 22, 1975
4[illegible]	RANDOLPH, TOWN OF (RICH CO.)	AUGUST 16, 1974
4[illegible]	RUSH VALLEY, TOWN OF (TOOELE CO)	OCTOBER 25, 1977
4[illegible]	SPRINGDALE, TOWN (WASHINGTON CO)	MAY 15, 1977
4[illegible]	TOQUERVILLE, TOWN (WASHINGTON CO)	JUNE 25, 1976
4[illegible]	TORREY, TOWN (WAYNE CO)	NOVEMBER 12, 1976
4[illegible]	TREMONTON, CITY (BOX ELDER CO)	APRIL 23, 1976
4[illegible]	TRENTON, TOWN (CACHE CO)	JUNE 27, 1975
4[illegible]	VERNON, TOWN (TOOELE CO)	JUNE 04, 1976
4[illegible]	WALLSBURG, TOWN (WASATCH CO)	JULY 02, 1976
	TOTAL IN THE STATE	38

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	VERMONT	
5[illegible]	ATHENS, TOWN OF (WINDHAM CO.)	DECEMBER 06, 1974
5[illegible]	BELVIDERE, TOWN OF (LAMOILLE CO.)	DECEMBER 06, 1974
5[illegible]	BROWNINGTON, TOWN OF (ORLEANS CO.)	DECEMBER 13, 1974 AND NOVEMBER 05, 1976
5[illegible]	CABOT, VILLAGE OF (WASHINGTON CO.)	SEPTEMBER 06, 1974
5[illegible]	CHARLESTON, TOWN OF (ORLEANS CO.)	AUGUST 09, 1974 AND NOVEMBER 19, 1976
5[illegible]	DANVILLE, TOWN (CALEDONIA CO)	JANUARY 17, 1975
5[illegible]	DERBY CENTER, VILLAGE OF (ORLEANS CO)	MARCH 28, 1975
5[illegible]	EDEN, TOWN OF (LAMOILLE CO.)	DECEMBER 05, 1974
5[illegible]	ELMORE, TOWN (LAMOILLE CO)	APRIL 11, 1975
5[illegible]	ENOSBURG, TOWN OF (FRANKLIN CO.)	AUGUST 09, 1974
5[illegible]	ESSEX JCT., VILLAGE OF (CHITTENDEN CO.)	JUNE 28, 1974 AND JULY 17, 1976
5[illegible]	FERDINAND, TOWN OF (ESSEX CO.)	DECEMBER 13, 1974
5[illegible]	GLOVER, TOWN OF (ORLEANS CO.)	DECEMBER 20, 1974 AND JULY 12, 1977
5[illegible]	GRANBY, TOWN OF (ESSEX CO.)	DECEMBER 13, 1974
5[illegible]	GRANVILLE, TOWN OF (ADDISON CO.)	JANUARY 24, 1975
5[illegible]	HARDWICK, VILLAGE OF (CALEDONIA CO.)	DECEMBER 26, 1974 AND DECEMBER 24, 1976
5[illegible]	HARTLAND, TOWN (WINDSOR CO)	JULY 25, 1977
5[illegible]	HUBBARDTON, TOWN OF (RUTLAND CO.)	DECEMBER 24, 1976
5[illegible]	IRASBURG, TOWN OF (ORLEANS CO.)	DECEMBER 13, 1974 AND SEPTEMBER 15, 1976
5[illegible]	JAY, TOWN OF (ORLEANS CO.)	DECEMBER 27, 1974 AND OCTOBER 22, 1976
5[illegible]	KIRBY, TOWN OF (CALEDONIA CO.)	SEPTEMBER 13, 1974 AND NOVEMBER 05, 1976
5[illegible]	LUNENBURG, TOWN OF (ESSEX CO.)	DECEMBER 13, 1974 JUNE 25, 1974 AND FEBRUARY 16, 1977
5[illegible]	MARSTONS, TOWN OF (ESSEX CO.)	DECEMBER 13, 1974
5[illegible]	MANCHESTER, TOWN OF (BENNINGTON CO.)	AUGUST 22, 1974
5[illegible]	MARSHFIELD, VILLAGE (WASHINGTON CO.)	SEPTEMBER 27, 1974 AND SEPTEMBER 12, 1977
5[illegible]	MONKTON, TOWN (ADDISON CO)	JANUARY 24, 1975
5[illegible]	MORGAN, TOWN OF (ORLEANS CO.)	JANUARY 31, 1975
5[illegible]	MT. TABOR, TOWN (RUTLAND CO)	JANUARY 15, 1975
5[illegible]	N. WESTMINSTER, VILL (WINDHAM CO)	JANUARY 10, 1975
5[illegible]	NEW HAVEN, TOWN OF (ADDISON CO.)	OCTOBER 25, 1974
5[illegible]	NEWARK, TOWN (CALEDONIA CO.)	JANUARY 24, 1975 AND APRIL 22, 1977
5[illegible]	NEWBURY, VILLAGE (ORANGE CO)	NOVEMBER 26, 1976
5[illegible]	NEWFANE, VILLAGE (WINDHAM CO)	JANUARY 03, 1975
5[illegible]	NEWPORT, CITY (ORLEANS CO)	DECEMBER 13, 1977
5[illegible]	NEWPORT, TOWN OF (ORLEANS CO.)	NOVEMBER 21, 1974 AND DECEMBER 17, 1976 SEPTEMBER 16, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	VERMONT	
5[illegible]	NORTH BENNINGTON, VILLAGE OF (BENNINGTON CO)	FEBRUARY 21, 1975
5[illegible]	NORTON, TOWN OF (ESSEX CO)	MARCH 28, 1975
5[illegible]	PERU, TOWN (BENNINGTON CO)	JANUARY 10, 1975 AND OCTOBER 25, 1977
5[illegible]	SANDGATE, TOWN OF (BENNINGTON CO.)	JANUARY 31, 1975 AND NOVEMBER 26, 1977
5[illegible]	SEARSBURG, TOWN OF (BENNINGTON CO.)	NOVEMBER 15, 1974
5[illegible]	SHARON, TOWN (WINDSOR CO)	FEBRUARY 04, 1977
5[illegible]	SOMERSET, TOWN OF (WINDHAM CO.)	NOVEMBER 22, 1974
5[illegible]	STRATTON, TOWN OF (WINDHAM CO.)	JANUARY 31, 1975
5[illegible]	SUDBURY, TOWN (RUTLAND CO)	JANUARY 24, 1975
5[illegible]	SUTTON, TOWN OF (CALEDONIA CO.)	DECEMBER 13, 1974 AND SEPTEMBER 24, 1976
5[illegible]	TINMOUTH, TOWN OF (RUTLAND CO.)	DECEMBER 06, 1974
5[illegible]	TOWNSEND, VILLAGE OF (WINDHAM CO.)	NOVEMBER 29, 1974
5[illegible]	VERSHIRE, TOWN OF (ORANGE CO.)	JANUARY 17, 1975
5[illegible]	VICTORY, TOWN OF (ESSEX CO.)	DECEMBER 13, 1974
5[illegible]	WARREN, TOWN OF (WASHINGTON CO.)	JUNE 28, 1974 AND OCTOBER 29, 1976
5[illegible]	WASHINGTON, TOWN OF (ORANGE CO)	JUNE 28, 1974 AND FEBRUARY 26, 1976
5[illegible]	WATERVILLE, TOWN OF (LAMOILLE CO.)	DECEMBER 26, 1974 AND SEPTEMBER 17, 1976
5[illegible]	WELLS RIVER, VILLAGE OF (ORANGE CO.)	AUGUST 09, 1974
5[illegible]	WEST HAVEN, TOWN (RUTLAND CO)	JANUARY 03, 1975
5[illegible]	WESTFIELD, TOWN OF (ORLEANS CO.)	SEPTEMBER 06, 1974 AND DECEMBER 24, 1976
5[illegible]	WESTFORD, TOWN (CHITTENDEN CO)	JANUARY 03, 1975
5[illegible]	WESTMINSTER, VILLAGE OF (WINDHAM CO.)	DECEMBER 27, 1974
5[illegible]	WESTMORE, TOWN (ORLEANS CO)	JANUARY 03, 1975 AND OCTOBER 01, 1976
5[illegible]	WHEELOCK, TOWN OF (CALEDONIA CO.)	NOVEMBER 15, 1974
5[illegible]	WINDHAM, TOWN (WINDHAM CO)	SEPTEMBER 06, 1974
	TOTAL IN THE STATE	69

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	VIRGINIA	
5[illegible]	ALBERTA, TOWN OF (BRUNSWICK CO.)	FEBRUARY 25, 1977
5[illegible]	BELLE HAVEN, TOWN OF (ACCOMACK CO.)	NOVEMBER 01, 1974 AND SEPTEMBER 10, 1976
5[illegible]	BLOXOM, TOWN OF (ACCOMACK CO.)	FEBRUARY 11, 1977
5[illegible]	BOYDTON, TOWN OF (MECKLENBURG CO.)	FEBRUARY 11, 1977
5[illegible]	CHARLOTTE COURT HOUSE, TOWN OF (CHARLOTTE CO.)	FEBRUARY 04, 1977
5[illegible]	CHINCOTEAGUE, TOWN OF (ACCOMACK CO.)	MAY 31, 1974
5[illegible]	CLINTWOOD, TOWN (DICKENSON CO.)	MARCH 04, 1977
5[illegible]	CREWE, TOWN OF (NOTTOWAY CO.)	FEBRUARY 11, 1977
5[illegible]	FLOYD, TOWN OF (FLOYD CO.)	MARCH 25, 1977
5[illegible]	GORDONSVILLE, TOWN OF (ROGERS CO.)	FEBRUARY 25, 1977
5[illegible]	GOSHEN, TOWN OF (ROCKBRIDGE CO.)	SEPTEMBER 06, 1974 AND MAY 28, 1976
5[illegible]	HALLWOOD, TOWN OF (ACCOMACK CO.)	AUGUST 09, 1974 AND MAY 28, 1976
5[illegible]	HILLSBORO, TOWN (LOUDOUN CO)	APRIL 04, 1975 AND SEPTEMBER 17, 1976
5[illegible]	KELLER, TOWN OF (ACCOMACK CO.)	APRIL 01, 1977
5[illegible]	KEYSVILLE, TOWN OF (CHARLOTTE CO.)	FEBRUARY 18, 1977
5[illegible]	LEXINGTON, CITY OF (INDEP. CITY)	FEBRUARY 15, 1974 AND AUGUST 26, 1976
5[illegible]	LOVETTSVILLE, TOWN OF (LOUDOUN CO.)	APRIL 15, 1977
5[illegible]	NEWSOMS, TOWN OF (SOUTHAMPTON CO.)	FEBRUARY 04, 1977
5[illegible]	NICHOLSVILLE, TOWN OF (SCOTT CO.)	JULY 22, 1976
5[illegible]	PAINTER, TOWN OF (ACCOMACK CO.)	FEBRUARY 04, 1977
5[illegible]	PORT ROYAL, TOWN OF (CAROLINE CO.)	JULY 22, 1977
5[illegible]	POWHATAN COUNTY *	SEPTEMBER 13, 1974
5[illegible]	PRINCE EDWARD COUNTY *	JANUARY 17, 1975
5[illegible]	PULASKI, TOWN OF (PULASKI CO.)	AUGUST 02, 1974 AND APRIL 29, 1976
5[illegible]	RADFORD, CITY OF (INDEP. CITY)	JULY 16, 1976
5[illegible]	RICH CREEK, TOWN OF (GILES CO.)	NOVEMBER 05, 1976
5[illegible]	VICTORIA, TOWN OF (LUNENBURG CO.)	FEBRUARY 04, 1977
5[illegible]	WASHINGTON, TOWN OF (RAPPAHANNOCK CO.)	FEBRUARY 04, 1977
5[illegible]	WINDSOR, TOWN OF (ISLE OF WIGHT CO.)	APRIL 15, 1977
	TOTAL IN THE STATE	29

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	WASHINGTON	
530307A	ASOTIN COUNTY	SEPTEMBER 13, 1977
530274	BONNEY LAKE, TOWN (PIERCE CO)	OCTOBER 29, 1976
530178A	CRESTON, TOWN OF (LINCOLN CO.)	DECEMBER 26, 1974 AND APRIL 23, 1976
530253	EATONVILLE, TOWN (PIERCE CO)	OCTOBER 22, 1976
530246	ELMER CITY, TOWN (OKANOGAN CO)	AUGUST 22, 1975
530295	FARMINGTON,TOWN OF (WHITMAN CO.)	NOVEMBER 19, 1976
530153A	FRIDAY HARBOR, TOWN OF (SAN JUAN CO.)	NOVEMBER 29, 1974
530347A	GARFIELD COUNTY	NOVEMBER 15, 1977
530746A	GRANT COUNTY	NOVEMBER 22, 1977
530114	HARRINGTON, TOWN OF (LINCOLN CO.)	DECEMBER 13, 1974
530259	KALAMA, TOWN (COWLITZ CO)	JULY 11, 1975
530124E	LA CENTER, TOWN (CLARK CO)	NOVEMBER 12, 1976
530176	LATAH, TOWN OF (SPOKANE CO.)	DECEMBER 06, 1974
530257	MALDEN, TOWN (WHITMAN CO)	JULY 18, 1975
530252	MESA, TOWN (FRANKLIN CO)	NOVEMBER 19, 1976
530294	MILTON, TOWN (KING-PIERCE-SNOH.-CO)	DECEMBER 03, 1976
530256	N BONNEVILLE, TOWN (SKAMANIA CO)	NOVEMBER 19, 1976
530247	NORTHPORT, TOWN (STEVENS CO)	JULY 09, 1976
530256A	PRESCOTT, TOWN (WALLA WALLA CO)	JULY 18, 1975 AND MARCH 04, 1977
530112	REARDAN, TOWN (LINCOLN CO)	JANUARY 10, 1975
530242A	REPUBLIC, TOWN OF (FERRY CO.)	JUNE 07, 1974 AND JANUARY 16, 1976
530 49	ROCK ISLAND, TOWN (DOUGLAS CO)	JANUARY 24, 1975
530252A	ROY, TOWN (PIERCE CO)	JULY 18, 1975 AND JUNE 21, 1977
530[illegible]	RUSTON, TOWN (PIERCE CO)	DECEMBER 05, 1976
530164A	SAN JUAN COUNTY	JUNE 07, 1977
530145	SOUTH PRAIRIE, TOWN (PIERCE CO)	NOVEMBER 19, 1976
530264	SPRINGDALE, TOWN (STEVENS CO)	MAY 02, 1975
530[illegible]1	STARBUCK, CITY (COLUMBIA CO)	JANUARY 03, 1975
530265	TIETON, TOWN (YAKIMA CO)	JULY 11, 1975
530246A	WADE, TOWN (LEWIS CO)	SEPTEMBER 03, 1975
530395	WOODWAY, TOWN (SNOHOMISH CO)	SEPTEMBER 19, 1975
530269	YACOLT, TOWN (CLARK CO)	JULY 22, 1976
530[illegible]	YELM, TOWN (THURSTON CO)	OCTOBER 22, 1976
	TOTAL IN THE STATE	33

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	WEST VIRGINIA	
540173	RHODELL, TOWN (RALEIGH CO)	MAY 21, 1976
	TOTAL IN THE STATE	1

NOTICES

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	WISCONSIN	
550368A	BELL CENTER, VILLAGE OF (CRAWFORD CO.)	JANUARY 09, 1974
550493A	BIG FALLS, VILLAGE OF (WAUPACA CO.)	AUGUST 30, 1974
550147A	BLUE RIVER, VILLAGE (GRANT CO)	JANUARY 28, 1977
550148A	BOSCOBEL, CITY OF (GRANT CO.)	DECEMBER 17, 1973
550[illegible]18A	CABLE, VILLAGE OF (BAYFIELD CO.)	AUGUST 30, 1974 AND NOVEMBER 21, 1975
550[illegible]11A	CAMERON, VILLAGE OF (BARRON CO.)	DECEMBER 28, 1973 AND MAY 28, 1976
550[illegible]35A	CAZENOVIA, VILLAGE OF (RICHLAND CO.)	AUGUST 23, 1974 AND OCTOBER 24, 1975
550[illegible]31A	CONRATH, VILLAGE OF (RUSK CO.)	AUGUST 30, 1974 AND MARCH 19, 1976
550597	CRIVITZ, VILLAGE OF (MARINETTE CO.)	MARCH 17, 1978
550336A	DESOTO, VILLAGE (CRAWFORD CO)	JANUARY 09, 1974 AND MAY 14, 1976
550[illegible]4A	DOOR COUNTY *	DECEMBER 13, 1976
550[illegible]1A	EAGLE RIVER, CITY OF (VILAS CO.)	DECEMBER 28, 1973
550417A	ELAND, VILLAGE OF (SHAWANO CO.)	AUGUST 23, 1974 AND MARCH 19, 1976
550[illegible]4A	ELDERON, VILLAGE OF (MARATHON CO.)	JULY 19, 1974 AND JULY 30, 1976
550[illegible]39A	FAIRCHILD, VILLAGE OF (EAU CLAIRE CO.)	MAY 31, 1974 AND JUNE 24, 1976
550[illegible]03A	FENWOOD, VILLAGE OF (MARATHON CO.)	AUGUST 02, 1974 AND MAY 14, 1976
550[illegible]92	FONTANA ON GENEVA LAKE, VILLAGE OF (WALWORTH CO.)	DECEMBER 23, 1977
550[illegible]1	FORESTVILLE, VILLAGE OF (DOOR CO.)	NOVEMBER 30, 1973
550[illegible]67	FORTVILLE, VILLAGE OF (PICK CO.)	MAY 31, 1974
550[illegible]3A	FRANCIS CREEK, VILLAGE OF (MANITOWOC CO.)	MAY 17, 1974
550372	GLEN FLORA, VILLAGE OF (RUSK CO.)	NOVEMBER 08, 1974
550[illegible]2A	GRANTON, VILLAGE OF (CLARK CO.)	AUGUST 30, 1974
550[illegible]2A	HUSTLER, VILLAGE OF (JUNEAU CO.)	AUGUST 23, 1974 AND MAY 14, 1976
550[illegible]4A	INGRAM, VILLAGE OF (RUSK CO.)	SEPTEMBER 06, 1974
550[illegible]0	IRON RIDGE, VILLAGE (DODGE CO)	JULY 23, 1976
550[illegible]3A	IRONTON, VILLAGE OF (SAUK CO.)	AUGUST 16, 1974
550[illegible]23A	LAFAYETTE COUNTY *	DECEMBER 27, 1974
553[illegible]90A	LIME RIDGE, VILLAGE OF (SAUK CO.)	AUGUST 23, 1974 AND APRIL 23, 1976
550[illegible]2A	LOWELL, VILLAGE OF (DODGE CO.)	MAY 17, 1974
550[illegible]3A	LUDLIN, VILLAGE OF (TAYLOR CO.)	SEPTEMBER 24, 1974
550[illegible]7A	MARQUETTE, CITY OF (GREEN LAKE CO.)	DECEMBER 18, 1973
550[illegible]0A	MATTOON, VILLAGE OF (SHAWANO CO.)	AUGUST 23, 1974
550[illegible]3A	MELVINA, VILLAGE OF (MONROE CO.)	AUGUST 30, 1974 AND MAY 28, 1976
550[illegible]2A	MOUNT HOPE, VILLAGE OF (GRANT CO.)	AUGUST 30, 1974 AND MAY 14, 1976
550[illegible]8A	NASON, VILLAGE OF (BAYFIELD CO.)	AUGUST 26, 1977

* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	HAZARD AREA IDENTIFIED
	WISCONSIN	
550205A	NECEDAH, VILLAGE OF (JUNEAU CO.)	JANUARY 09, 1974 AND MAY 28, 1976
550360A	NEW AUBURN, CITY OF (CHIPPEWA CO.)	JULY 19, 1974 AND AUGUST 13, 1976
550355A	NORTH BAY, VILLAGE OF (RACINE CO.)	SEPTEMBER 06, 1974 AND SEPTEMBER 30, 1976
550[illegible]7A	OGDENSBURG, VILLAGE OF (WAUPACA CO.)	AUGUST 23, 1974 AND MAY 28, 1976
550[illegible]3A	OLIVER, VILLAGE OF (DOUGLAS CO.)	AUGUST 30, 1974 AND JUNE 28, 1976
550[illegible]7A	OOSTBURG, VILLAGE OF (SHEBOYGAN CO.)	JUNE 28, 1974 AND JUNE 04, 1976
550[illegible]5A	POTOSI, VILLAGE OF (GRANT CO.)	DECEMBER 28, 1973
550[illegible]1A	PRAIRIE DU SAC, VILLAGE OF (SAUK CO.)	DECEMBER 07, 1973
550508A	REDGRANITE, VILLAGE OF (WAUSHARA CO.)	MAY 17, 1974 AND MAY 28, 1976
550[illegible]97	SLINGER, VILLAGE OF (WASHINGTON CO.) (WASHINGTON CO.)	OCTOBER 23, 1977
550231A	SOUTH WAYNE, VILLAGE OF (LAFAYETTE CO.)	DECEMBER 07, 1973 AND MAY 28, 1976
550[illegible]95	STANTON, TOWN OF (ST. CROIX CO.)	NOVEMBER 15, 1974
550[illegible]7A	STAR PRAIRIE, VILLAGE OF (ST. CROIX CO.)	DECEMBER 28, 1973 AND MAY 24, 1976
550[illegible]5A	STURTEVANT, VILLAGE OF (RACINE CO.)	MAY 24, 1974
550573	SUN PRAIRIE, CITY OF (DANE)	NOVEMBER 04, 1977
550227	UNION CENTER, VILLAGE OF (JUNEAU CO.)	NOVEMBER 12, 1974
550257A	UNITY, CITY OF (MARATHON CO.)	SEPTEMBER 27, 1974
550[illegible]7A	VESPER, VILLAGE OF (WOOD CO.)	AUGUST 02, 1974 AND JUNE 04, 1976
550[illegible]56	WAUSHARA COUNTY *	JUNE 17, 1977
550378	WEYERHAUSER, VILLAGE (RUSK CO.)	NOVEMBER 12, 1976
550233	WHITE LAKE, VILLAGE (LANGLADE CO)	OCTOBER 01, 1976
550[illegible]7A	WILD ROSE, VILLAGE OF (WAUSHARA CO.)	MAY 31, 1974 AND JUNE 04, 1976
550[illegible]4	WILLIAMS BAY, VILLAGE OF (WALWORTH CO.)	OCTOBER 21, 1977
550[illegible]6A	WOODMAN, VILLAGE OF (GRANT CO.)	JANUARY 10, 1974 AND AUGUST 08, 1975
	TOTAL IN THE STATE	59

NOTICES

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* UNINCORPORATED AREAS ONLY

COMMUNITY NUMBER	NAME	STORING	MAJOR AREA IDENTIFIED
560283	AFTON, TOWN (LINCOLN CO)		JUNE 21, 1977
560013	ALBANY COUNTY		AUGUST 25, 1977
560014	BIG HORN COUNTY		DECEMBER 30, 1977
560219	Chugwater, TOWN OF (PLATTE CO.)		DECEMBER 13, 1974 AND NOVEMBER 26, 1976
560016	CONVERSE COUNTY *		FEBRUARY 21, 1975
560155	COWLEY, TOWN (BIG HORN CO)		SEPTEMBER 10, 1975
560164	CUDDIS, TOWN OF (FREMONT CO.)		JANUARY 23, 1976 AND AUGUST 27, 1976
560259	EAST THERMOPOLIS, TOWN OF (HOT SPRINGS CO.)		MARCH 26, 1976 AND NOVEMBER 26, 1976
560167	EDGERTON, TOWN (NATRONA CO)		FEBRUARY 26, 1976
560020	GLENDO, TOWN (PLATTE CO)		OCTOBER 15, 1976
560021	GOSHEN COUNTY		AUGUST 15, 1977
560172	GUERNSEY, TOWN (PLATTE CO)		JULY 15, 1977
560053	HANNA, TOWN (CARBON CO)		NOVEMBER 12, 1976
560176	HULETT, TOWN (CROOK CO)		AUGUST 22, 1975
560178	LARAMIE, TOWN (ALBANY CO)		DECEMBER 12, 1975
560179	LINGLE, TOWN (GOSHEN CO)		NOVEMBER 15, 1976
560182	MEDICINE BOW, TOWN (CARBON CO)		AUGUST 15, 1977
560183	MILLS, TOWN (NATRONA CO)		JUNE 25, 1976
560184	PLATTE COUNTY *		AUGUST 10, 1977
560191	RIVERTON, CITY OF (FREMONT CO.)		MARCH 26, 1976 AND AUGUST 26, 1976
560031	ROCK RIVER, CITY OF (ALBANY CO)		FEBRUARY 27, 1975
560192	SHOSHONI, TOWN (FREMONT CO)		AUGUST 15, 1975
560194	SUBLETTE COUNTY		NOVEMBER 15, 1977
560196	UPTON, TOWN (WESTON CO)		JUNE 25, 1976
560036	YODER, TOWN OF (GOSHEN CO.)		DECEMBER 26, 1974

TOTAL IN THE STATE 25

GRAND TOTAL 3,820

[4210-01-M]

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968); as amended (42 U.S.C. 4001-4128); and Secretary's delegation of Authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 6, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-29097 Filed 10-17-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 2545; CA 2545-A]

CALIFORNIA

Application

OCTOBER 11, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Pacific Gas & Electric Co. and Pacific Gas Transmission Co. of San Francisco, Calif., have filed applications for a right-of-way to construct a 36" pipeline for the purpose of transporting natural gas across the following described lands held in Federal ownership:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 34 N., R. 2 E.,
Secs. 24 and 25.
T. 35 N., R. 3 E.,
Sec. 21.
T. 36 N., R. 3 E.,
Secs. 11, 12, 14, 23, 26, 27, and 34.
T. 37 N., R. 3 E.,
Secs. 24, 25, and 36.
T. 38 N., R. 4 E.,
Secs. 4, 9, 17, and 20.
T. 39 N., R. 4 E.,
Secs. 4, 15, 22, 27, 28, and 33.
T. 40 N., R. 4 E.,
Secs. 7, 18, 19, 20 and 29.
T. 41 N., R. 4 E.,
Secs. 2, 10, 11, 15, 16, 21, 28, 29 and 32.
T. 42 N., R. 4 E.,
Secs. 25, 35, and 36.
T. 42 N., R. 5 E.,
Secs. 19 and 30.
T. 43 N., R. 5 E.,
Secs. 1, 12, 13, 23, 24, 26, and 34.
T. 43 N., R. 6 E.,
Sec. 6.
T. 44 N., R. 6 E.,
Secs. 5, 8, 17, 18, 19, 30, and 31.
T. 45 N., R. 6 E.,
Secs. 5, 8, 29, and 32.
T. 46 N., R. 6 E.,
Secs. 20, 29, and 32.
T. 28 N., R. 2 W.,
Secs. 8 and 20.

BOISE MERIDIAN, IDAHO

T. 60 N., R. 1 E.,
Sec. 7.
T. 63 N., R. 2 E.,
Secs. 1, 2, 12, 13, 14, and 26.
T. 64 N., R. 2 E.,
Secs. 14, 23, and 35.
T. 65 N., R. 2 E.,
Secs. 10, 14, 23 and 35.
T. 60 N., R. 1 W.,
Sec. 26.
T. 55 N., R. 2 W.,
Sec. 30.
T. 56 N., R. 2 W.,
Sec. 8.
T. 57 N., R. 2 W.,
Sec. 20.

WILLAMETTE MERIDIAN, OREGON

T. 4 N., R. 29 E.,
Sec. 31.
T. 5 N., R. 31 E.,
Secs. 5, 6, and 7.
T. 6 N., R. 31 E.,
Secs. 32 and 33.
T. 25 S., R. 8 E.,
Secs. 1, 12, 13, 14, 26, 34, and 35.
T. 26 S., R. 8 E.,
Secs. 3, 9, 10, 16, 20, 21, 29, and 32.
T. 27 S., R. 8 E.,
Secs. 5, 6, 7, 18, 19, 30, and 31.
T. 32 S., R. 8 E.,
Sec. 31.
T. 33 S., R. 8 E.,
Secs. 6, 7, 8, 16, 17, 21, 22, 26, 27, and 35.
T. 34 S., R. 8 E.,
Secs. 1, 2, and 12.
T. 23 S., R. 9 E.,
Secs. 24 and 25.
T. 24 S., R. 9 E.,
Secs. 3, 10, and 31.
T. 25 S., R. 9 E.,
Sec. 6.
T. 34 S., R. 9 E.,
Secs. 7, 17, 18, 20, 21, 28, and 34.
T. 35 S., R. 9 E.,
Secs. 2, 3, and 11.
T. 22 S., R. 11 E.,
Secs. 1, 12, 13, 23, 24, 26, 27, and 34.
T. 23 S., R. 10 E.,
Secs. 3, 4, 8, 9, 17, 18, and 19.
T. 36 S., R. 10 E.,
Secs. 28 and 33.
T. 19 S., R. 11 E.,
Secs. 24, 25, 26, and 35.
T. 20 S., R. 11 E.,
Secs. 2, 3, 9, 10, 16, 21, 28, 29, and 32.
T. 21 S., R. 11 E.,
Secs. 5, 8, 17, 18, 19, and 31.
T. 22 S., R. 11 E.,
Sec. 6.
T. 39 S., R. 11 E.,
Sec. 32.
T. 37 S., R. 11½ E.,
Sec. 4.
T. 18 S., R. 12 E.,
Secs. 11, 27, 33, and 34.
T. 19 S., R. 12 E.,
Secs. 4, 8, 9, 17, 18, and 19.
T. 15 S., R. 13 E.,
Secs. 13, 24, 25, and 35.
T. 16 S., R. 13 E.,
Secs. 2, 10, 11, 15, 22, 27, 28, and 33.
T. 17 S., R. 13 E.,
Secs. 4, 5, 8, and 18.
T. 10 S., R. 14 E.,
Secs. 13, 14, and 35.
T. 11 S., R. 14 E.,
Secs. 2, 11, 14, 22, 23, 26, 27, and 35.
T. 12 S., R. 14 E.,
Secs. 2, 11, 14, 22, 23, 27, and 34.
T. 13 S., R. 14 E.,
Secs. 3, 10, 15, 22, 27, and 34.
T. 14 S., R. 14 E.,
Sec. 32.
T. 15 S., R. 14 E.,
Secs. 6, 7, and 18.
T. 8 S., R. 15 E.,
Secs. 15, 22, and 27.
T. 10 S., R. 15 E.,
Sec. 6.
T. 4 S., R. 18 E.,
Secs. 25, 26, and 34.
T. 5 S., R. 19 E.,
Secs. 4, 5, and 6.

WILLAMETTE MERIDIAN, WASHINGTON

T. 7 S., R. 32 E.,
Sec. 20.

The proposed pipeline will transport natural gas from the International Boundary between Canada and the United States to California.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their names and addresses and send them to the undersigned at E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-29344 Filed 10-17-78; 8:45 am]

[4310-84-M]

CANON CITY GRAZING ADVISORY BOARD, COLORADO

Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Canon City District Grazing Advisory Board to be held at 10:30 a.m., Friday, November 17, 1978, at the Ramada Inn, Highway 50, at Dozier Avenue, Canon City, Colo.

The purpose of the meeting will be to review the ongoing planning being done on the Royal Gorge planning area, in preparation for the Royal Gorge grazing environmental statement and to initiate, conduct, and settle business pertaining to expenditure of range betterment funds.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first come, first served basis. Any member of the public may file with the Board, a written statement concerning matters to be discussed.

Persons wishing further information concerning the meeting may contact Melvin D. Clausen, District Manager, Bureau of Land Management, 3080

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East Main Street, Canon City, Colo. at 303-275-7494.

Minutes of the meeting will be made available for public inspection 30 days after the meeting.

Dated: October 10, 1978.

MELVIN D. CLAUSEN,
District Manager.

[FR Doc. 78-29346 Filed 10-17-78; 8:45 am]

[4310-84-M]

[NM 34765]

NEW MEXICO

Application

OCTOBER 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 8⅝-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 21 E½NE¼, SW¾NE¼, E½SW¼, SW¾SW¼ and NW¼SE¼; Sec. 28, W½NW¼ and NW¼SW¼.

This pipeline will convey natural gas across 1.686 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29345 Filed 10-18-78; 8:45 am]

[4310-84-M]

UTAH

Filing of Plats of Survey

1. Plats of survey of the lands described below will be officially filed in the Utah State Office, Salt Lake City, Utah effective at 10 a.m., on November 20, 1978:

SALT LAKE MERIDIAN

PLATS OF SURVEY APPROVED JULY 25, 1978:

T. 27 S., R. 17 E.,
Survey of a portion of the subdivisional lines, and a partial subdivision of secs. 14, and 15.
T. 28 S., R. 17 E.,
Survey of a portion of the subdivisional lines, and a partial subdivision of secs. 3, 4, 9, and 10.
T. 31 S., R. 17 E.,
Survey of a portion of the subdivisional lines, and a partial subdivision of sec. 22.

2. The above surveys were executed at the request of the National Park Service, under Group No. 485, as a portion of the boundary of the Canyonlands National Park.

3. Inquiries concerning the lands should be addressed to the Chief, Division of Management Services, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

ROGER E. ELKINS,
Acting Chief, Division of Management Services.

OCTOBER 6, 1978.

[FR Doc. 78-29290 Filed 10-17-78; 8:45 am]

[4310-84-M]

WORLAND DISTRICT GRAZING ADVIORY BOARD MEETING

Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act (Pub. L. 92-463), that a meeting of the Worland District Grazing Advisory Board will be held at 9 a.m., November 21, 1978, in the conference room of the BLM office in Worland, Wyo.

The agenda for this meeting includes; (1) discussion and recommendation for 1979 fiscal year range improvement projects, (2) opportunity for public comment, and (3) date and agenda for next meeting.

The meeting will be open to the public. Interested persons may make oral statements to the board, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1700 Robertson, Worland, Wyo. 82401, by 4:30 p.m., November 17, 1978.

Summary minutes of this meeting will be on file in the district office and available for public inspection (during regular business hours) within 30 days following the meeting.

JOHN A. KWIATKOWSKI,
District Manager.

[FR Doc. 78-29291 Filed 10-17-78; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT DES 78-44]

PROPOSED DEVELOPMENT OF COAL RESOURCES IN SOUTH CENTRAL WYOMING

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared an environmental statement on proposed development of coal resources in south central Wyoming, and has made copies of the document available for public review and comment. The draft statement analyzes environmental impacts that would result from development of three (3) site specific surface coal mines. The statement further analyzes the cumulative regional environmental impacts of proposed coal development and other regional development, and presents two additional regional coal development scenarios (low level and high level), for comparison with the most probable level (proposed actions).

Copies of the draft statement are available for inspection at the following locations (see attached list).

Single copies of the draft statement can be obtained from the Team Leader, Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo., 82001.

Written comments on the draft environmental statement will be accepted on or before November 29, 1978. They are to be addressed to Ed Coy, Team Leader, Bureau of Land Management, Southcentral Wyoming Coal Environmental Statement, P.O. Box 670, Rawlins, Wyo. 82301.

Oral and written comments will also be received at public hearings on November 14, 1978, at the National Guard Armory, 3d and Ryan, Rawlins, Wyo. Hearing sessions will begin at 1:30 and 7:30 p.m.

Oral testimony of 10 minutes duration will be accepted from each witness at the hearing, in lieu of written comments or in addition to any written comments submitted by such a witness. The 10 minute limitation will be strictly enforced by the presiding officer. Complete text of prepared speeches may be filed at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Speakers will be heard in their established order on the witness list. After the last listed witness has been heard, the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to represent the view points of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be received at the Rawlins District Office of the Bureau of Land Management at the above address prior to close of business on November 10, 1978. Requests should identify the organization represented, should be signed by the prospective witness, and should state the approximate time (afternoon or evening) for giving oral testimony. The cutoff date is necessary so that a witness list can be made available in the Rawlins District Office on the day before the public hearing.

Comments on the draft environmental statement, whether written or oral, will receive equal consideration in preparation of a final environmental statement.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

Buffalo Resource Area Office—BLM, P.O. Box 670, Buffalo, Wyo. 82834.
Casper District Office—BLM, 951 Union Blvd., Casper, Wyo. 82601.
Kemmerer Resource Area Office—BLM, P.O. Box 632, Diamondville, Wyo. 82116.
Lander Resource Area Office—BLM, P.O. Box 589 Lander Wyo. 82520.
Newcastle Resource Area Office—BLM, 214 W. Main Street, Newcastle, Wyo. 82701.
Albuquerque District Office—BLM, Attn: Bill Sharp, 3550 Pan American Freeway NE., P.O. Box 6770, Albuquerque, N. Mex. 87107.
Craig District Office—BLM, Attn: Terry Loyer, 455 Emerson Street P.O. Box 248, Craig, Colo. 81625.
Bureau of Land Management, Dennis Hoyem, P.O. Box 940, Miles City, Mont. 59301.
BLM State Office, University Club Bldg., 136 East South Temple, Salt Lake City, Utah 84111.
BLM State Office P.O. Box 30157, Billings, Mont. 59107.
Pinedale Resource Area Office—BLM, P.O. Box 768, Mollyneux Building, Pinedale, Wyo. 82941.
Rawlins District Office—BLM, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.
Rock Springs District Office—BLM, P.O. Box 1869, Highway 187N, Rock Springs, Wyo. 82901.
Worland District Office—BLM, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyo. 82401.
Bureau of Land Management, Attn: Wendell Beavers, Geologist Tuscaloosa Office, 1315 McFarland Blvd. East, Tuscaloosa, Ala. 35401.
Montrose District Office—BLM, Attn: Ed Scherick, Highway 550 South, P.O. Box 1269, Montrose, Colo. 81401.
Bureau of Land Management, Attn: Dick Traylor, Bldg. 50, Denver Federal Center, Denver, Colo. 80225.
Bureau of Land Management Library, Bldg. 50, Denver Federal Center, Denver, Colo. 80225.
BLM State Office, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202.
BLM State Office, P.O. Box 1449, Santa Fe, N. Mex. 87501.
Albany County Library, 405 Grand Avenue, Laramie, Wyo. 82070.
Carbon County Library, Courthouse, Rawlins, Wyo. 82301.
Laramie County Library, 2800 Central Avenue, Cheyenne, Wyo. 82001.
Rock Springs Public Library, 400 "C" Street, Rock Springs, Wyo. 82901.
Sweetwater County Library, 177 N. Center Street, Green River, Wyo. 82935.
Encampment Branch Library, Encampment, Wyo. 82325.
Saratoga Public Library, 104 West Elm, Saratoga, Wyo. 82331.
Western Wyoming Community College Library, Rock Springs, Wyo. 82901.
Coe Library, University of Wyoming, University Station, Box 3334, Laramie, Wyo. 82070.
Nora Van Burgh, Casper College Library, Casper, Wyo. 82601.
Mr. Jerome Frobom, Ms. Mary Sue Daramus, Wyoming State Library, Government Publications, Supreme Court & State Library Bldg., Cheyenne, Wyo. 82002.

[FR Doc 78-29335 Filed 10-17-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-35]

DONALD G. KLINESTIVER, M.D.

Revocation of Registration

On October 14, 1977, the Administrator of the Drug Enforcement Administration (DEA) issued to Donald G. Klinestiver, M.D. (Respondent), an Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AK2988674, for reason that on August 15, 1977, in the United States District Court for the Southern District of West Virginia, the Respondent was convicted as charged of violating Title 21, United States Code, section 841(a)(1), a felony relating to controlled substances.

The Respondent requested a hearing on the issues raised by the Order to Show Cause. On May 11, 1978, subsequent to the Respondent's release from a Federal penal institution, a hearing was held at Washington, D.C. The Honorable Francis L. Young, Administrative Law Judge, presided. The Respondent appeared at the hearing and was accompanied by counsel.

On August 25, 1978, pursuant to 21 CFR 1316.65, Judge Young certified to the Administrator the record of these proceedings, together with opinion and recommended ruling, findings of fact, conclusions of law and a recommended dicision.

Having reviewed the record of these proceedings in its entirety, the Administrator, pursuant to 21 CFR 1316.66, hereby publishes his final order in this matter based on the following findings of fact and conclusions of law.

The Administrator finds that on August 15, 1977, in the United States District Court for the Southern District of West Virginia, following his plea of nolo contendere to Count Thirteen of the Fifteen Count Indictment in Criminal No. 77-30006-01, the Respondent was convicted as charged of violating Title 21, United States Code, section 841(a)(1). The Administrator further finds that the Respondent has been convicted of a felony offense relating to controlled substances and concludes that there is a lawful basis for revocation of the Respondent's registration pursuant to 21 U.S.C. 824(a)(2). The Administrator hereby adopts and incorporates in their entirety, the recommended findings of fact and conclusions of law of the Administrative Law Judge.

The Administrative Law Judge concluded that the preponderance of the credible, probative, relevant and material evidence in this record shows that the Respondent's DEA registration should be revoked. The Administrative Law Judge, in discussing his recommended decision, stated that in his opinion, the "Respondent is not merely an ordinary citizen here accused of wrongdoing. He is a physician of whom high standards of professional conduct are expected with respect to the handling of drugs. He has chosen not to contest a charge of possessing a quantity of marihuana with intent to distribute it. This fact, together with (other reliable information in the record) shows that Respondent should not be trusted with the power to dispense controlled substances." The Administrator concurs.

Accordingly, pursuant to the authority vested in the Attorney General by section 304 of the Controlled Substances Act, 21 U.S.C. 824, and redelegated to the Administrator of the Drug Enforcement Administration in 28 CFR 0.100, the Administrator hereby orders that DEA Certificate of Registration AK2988674, previously issued to Donald G. Klinestiver, M.D., be, and it hereby is, revoked, effective immediately.

Dated: October 11, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-29342 Filed 10-18-78; 8:45 am.]

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[4410-09-M]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated August 9, 1978, and published in the FEDERAL REGISTER on August 17, 1978 (43 FR 36524), Collaborative Research, Inc., 1365 Main Street, Waltham, Mass. 02154, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of lysergic acid diethylamide (7315), a basic class of controlled substance listed in schedule I.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations section 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: October 10, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-29341 Filed 10-18-78; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

STATE PLANNING AGENCY GRANTS

Request for Public Comments

AGENCY: Law Enforcement Assistance Administration, Justice.

ACTION: Request for public comment.

PURPOSE: The Law Enforcement Assistance Administration (LEAA) is publishing the text of proposed change 4 to Guideline Manual M4100.1F, State Planning Agency Grants, in order to obtain comments on the proposed changes. Publication in the FEDERAL REGISTER is in response to the Department of Justice's draft report on implementation of Executive Order 12044 (43 FR 22922, May 26, 1978). All comments will be considered in the publication of the final guideline change. Copies of M4100.1F, as amended, may be obtained from LEAA.

SUMMARY: Change 4 modifies submission dates for fiscal year 1980 planning and block grant applications, amends the general grant conditions and assurances to insure compliance with Federal law regarding the use of electronic surveillance equipment, and clarifies assumption of cost policy requirements in respect to juvenile justice projects. Since fiscal year 1980 is both a transition year in the LEAA program and the final year of the 3-year plan approval cycle, proposed changes to M4100.1F have been kept to a minimum. Once the change is finalized, holders of M4100.1F, State Planning Agency Grants, will receive in accordance with normal LEAA procedures a copy of change 4 along with replacement pages for insertion in the manual.

EXPLANATION OF PROPOSED CHANGE: Change 4 to LEAA Guideline Manual M4100.1F, State Planning Agency Grants, makes the following revisions:

1. Chapter 1, paragraph 7, is modified to require the submission of fiscal year 1980 planning grant applications by May 31, 1979, and fiscal year 1980 block grant applications by July 31, 1979.

2. Chapter 3, paragraph 43, is modified to suggest the following timetable for phased submission of fiscal year 1980 comprehensive plan components where such submission is necessary:

Comprehensive plan component and submission date
(1) Crime analysis; (2) resources, manpower, organizations, capabilities, and systems; and (3) problem analysis, March 30, 1979.
(1) Goals and objectives; (2) criminal justice standards; and (3) priorities, May 30, 1979.
(1) Comprehensive multiyear action plan; (2) annual action plan; and (3) program descriptions, July 31, 1979.

3. Chapter 3, paragraph 63, is modified to require the submission by the State planning agency of a report on plan implementation by no later than August 31, 1979. Paragraph 63 is further modified to delete subsection 63a(2)(b) in its entirety. Information about continuation support for programs and projects previously funded with block grant moneys is no longer required as part of the State report on plan implementation, since it will be obtained by other means.

4. Appendix 4, "General Grant Conditions and Assurances," paragraph 3, is modified to add at the end of the paragraph the following: "The State further agrees that any application for funds, technical assistance, or training involving purchase or use of electronic surveillance equipment to monitor wire or oral communications or other action touching on the subject of electronic surveillance of such communications, will be reviewed to assure that the State has enacted enabling legislation pursuant to 18 U.S.C. § 2516(2) or meets the requirements of the special justification in appendix 5."

5. Appendix 5, "Explanation of General Grant Conditions and Assurances" is modified to add the following paragraph:

"Electronic surveillance. Under 18 U.S.C. § 2512, transactions involving devices "primarily useful for the purpose of the surreptitious interception of wire or oral communication," advertisement thereof, and advertising which promotes the use of any devices for such purposes are prohibited unless, in the case of a State officer, his conduct with regard to such a device falls within "the normal course of activities of • • • (the) State • • •" 18 U.S.C. § 2512(2)(b).

Normally, officers of a State which has no enabling statute under 18 U.S.C. § 2516(2) would have no occasion to use, possess, or otherwise deal with devices within the scope of 18 U.S.C. § 2512(1). Without such legislation only consensual use is permitted. No grants relating to such devices and their use will be authorized in States which do not have enabling legislation unless special justification, as explained below, is furnished. Accordingly, all applications that list the acquisition of equipment, with either Federal or matching funds, that may be utilized for electronic surveillance purposes, in a State that does not have any enabling legislation, must include as part of the budget narrative for such equipment the following information:

1. A complete description of each item of equipment to be obtained,

2. A statement of how each item of equipment will be used,

3. The legal citations and justifications for the purchase and intended use of each item of equipment,

4. A description of the controls to be established over access to, the use of and ultimate disposal of such equipment.

Each application must contain the following statement signed by the Project Director: "(Applicant) agrees not to purchase or use in the course of this project any electronic, mechanical, or other device for surveillance purposes in violation of 18 U.S.C. § 2511 and any applicable State statute related to wiretapping and surveillance."

The SPA will review all grant application to assure compliance "

6. Chapter 2, paragraph 15 is modified to clarify that States may continue juvenile justice and delinquency prevention projects funded under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for a period beyond the maximum length of time allowed under the assumption of costs policy. The State planning agency may extend a project for 1 year with possible extension for 1 additional year, based upon the following criteria:

a. The project has been evaluated, and the evaluation indicates that the project is effective and is being operated efficiently;

b. Discontinuation would have a negative impact on State or local juvenile-related activities; and

c. The project has demonstrated a good faith effort to obtain funding elsewhere and intends to continue such efforts over the period of the extension.

DATE: Comments are due on or before December 18, 1978.

ADDRESS: Send comments to James M. H. Gregg, Acting Administrator, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT:

Lynn Dixon, Office of Planning and Management, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3762.

FRANK A. DE LA FE,
Executive Assistant to the Assistant Administrator, Office of Planning and Management.

[FR Doc. 78-29292 Filed 10-17-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-45]

SARTORIUS GMBH

Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Sartorius GmbH, Gottingen, West Germany, an exclusive patent license in Canada, France, Great Britain, Japan, Spain, Switzerland and West Germany for the NASA owned invention covered by the foreign counterparts of U.S. Patent No. 4,061,561 for "Automatic Multiple-Sample Applicator and Electrophoresis Apparatus", issued to NASA on December 6, 1977. Copies of the above identified U.S. Patent can be purchased from the U.S. Patent and Trademark Office, Department of Commerce, Washington, D.C., 20231, for a $.50 a copy. Interested parties should submit written inqulries or comments on or before December 18, 1978, to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: October 12, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-29299 Filed 10-17-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

LITERATURE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held on November 3, 1978, from 9 a.m. to 5:15 p.m.; on November 4, 1978, from 9 a.m. to 5:15 p.m.; and on November 5, 1978, from 9 a.m. to 3:15 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on November 4, 1978, from 2 to 5:15 p.m., and on November 5, 1978, from 9 a.m. to 3:15 p.m. There will be an open discussion with members of the public and a discussion of guidelines.

The remaining sessions of this meeting on November 3, 1978, from 9 a.m. to 5:15 p.m.; on November 4, 1978, from 9 a.m. to 2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER, March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (b) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-29297 Filed 10-17-78; 8:45 am]

[7537-01-M]

MUSIC ADVISORY PANEL (JAZZ SECTION)

Meeting

Pursuant to section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Jazz section) to the National Council on the Arts which appeared in the FEDERAL REGISTER, Vol. 43, No. 189, p. 44574, Thursday, September 28, 1978, is amended as follows: The meeting will be held October 16, 1978, from 9 a.m. to 5:30 p.m.; October 17, 1978, from 9 a.m. to 5:30 p.m.; October 18, 1978, from 9 a.m. to 5:30 p.m.; and October 19, 1978, from 9 a.m. to 5:30 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506. A portion of this meeting will be open to the public on October 16, 1978, from 9 a.m. to 12:30 p.m. The topic of discussion will be policy and guidelines.

The remaining sessions of this meeting on October 16, 1978, from 12:30 to 5:30 p.m.; October 17, 1978, from 9 a.m. to 5:30 p.m.; October 18, 1978, from 9 a.m. to 5:30 p.m.; and October 19, 1978, from 9 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-29298 Filed 10-17-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 2-4, 1978, in Room 1046, 1717 H Street NW., Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, NOVEMBER 2, 1978

8:30 a.m.-9:30 a.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. The Committee will also review proposed items for discussion with the

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Nuclear Regulatory Commission (NRC) Commissioners.

9:30 a.m.-10:45 a.m.: Meeting with NRC Commissioners (Open)—The ACRS will meet with the NRC Commissioners to discuss matters relating to conduct of ACRS activities, generic matters related to light water reactor safety, and procedures for implementation of ACRS recommendations.

11 a.m.-12:30 p.m. and 1:30 p.m.-4 p.m.: Fast Flux Test Facility (Open)—The Committee will hear and discuss presentations by representatives of the NRC staff, the Department of Energy and their contractors regarding proposed operation of the Fast Flux Test Facility.

4 p.m.-6:30 p.m.: Executive Session (Open)—The Committee will hear and discuss reports of its Subcommittees on matters related to light water reactor safety including proposed replacement, repair and modification of PWR steam generators; consideration of system interractions at nuclear power plants including review of the Zion Station Units 1 and 2; and the proposed planning basis for development of radiological response plants (NUREG-0396).

FRIDAY, NOVEMBER 3, 1978

8:30 a.m.-10:30 a.m.: Meeting with NRC Staff (Open)—The Committee will hear and discuss reports on recent operating experience and licensing actions including review of pump house settlement at the North Anna Nuclear Station. The Committee will also hear and discuss a report of the Code Assessment Group regarding development of alternate ECCs evaluation models. The anticipated schedule for future Committee activities will also be discussed.

10:45 a.m.-1 p.m. and 2 p.m.-5:15 p.m.: Reactor Safety Research (Open)—The Committee will hear presentations from and hold discussions with representatives of the NRC staff regarding proposed safety research relating to nuclear plant risk assessment.

5:15 p.m.-7 p.m.: Executive Session (Open)—The Committee will discuss its proposed report to NRC regarding the Fast Flux Test Facility and its annual report to Congress regarding the NRC Safety Research Program.

SATURDAY, NOVEMBER 4, 1978

8:30 a.m.-2:30 p.m.: Executive Session (Open)—The Committee will complete its report to the NRC regarding proposed operation of the Fast Flux Test Facility, continue discussion of its annual report to Congress on the NRC Safety Research Program, and discuss its position regarding other matters considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 4, 1978, page 45926. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection as appropriate in the NRC's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202-634-3265), between 8:15 a.m. and 5 p.m. e.d.t.

Dated: October 13, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-29320 Filed 10-17-78; 8:45 am]

[7590-01-M]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Co. (AP&L or the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1 or the facility) located in Pope County, Ark. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications for ANO-1 to allow the handling of a 25 ton shielded shipping cask on one time basis to remove and ship irradiated B_4C test rods which are stored in the ANO-1 fuel storage pool.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's filing dated July 19, 1978, as supplemented September 25, 1978, (2) Amendment No. 36 to License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Ark. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 5th day of October 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-29323 Filed 10-17-78; 8:45 am]

[7590-01-M]

CARPENTER TECH. CORP. AND NISSHO-IWAI AMERICA

Applications for Licenses to Export/Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses during the period of September 17-23, 1978. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document room located at 1717 H Street NW., Washington, D.C.

Dated this 6th day of October 1978, at Bethesda, Md.

For the Nuclear Regulatory Commission.

JOSEPH D. LAFLEUR, JR.,
Deputy Director, Office of International Programs.

Name of applicant, date of application, date received, and application number	Material in kilograms or reactor type and power level	Enrichment	End-use	Country of destination
Carpenter Tech. Corp., Aug. 18, 1978, Aug. 28, 1978, XCOM0035.	Zircaloy tubes to be installed in Atucha, CNA reactor near Lima, Peru. Value: $2,000,000.			Argentine.
Nissho-Iwai America, Aug. 24, 1978, Aug. 31, 1978, XMAT0027.	6,001 kg deuterium		Heavy water as moderator in prototype reactor (FUGEN).	Japan.

[FR Doc. 78-29326 Filed 10-17-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329-OL, 50-330-OL]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Hearing on Issuance of Facility Operating License

On May 4, 1978 the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of an opportunity for a hearing with respect to the application for an operating license by the applicant, Consumers Power Co. 43 FR 19304. The license would authorize the applicant to possess, operate and use two light water nuclear power reactors, Units 1 and 2, at its Midland Plant in Midland County, Mich. Each unit would operate at a core power level of 2,452 megawatts thermal with a combined electric output of approximately 1,300 megawatts.

The notice provided that any person whose interest may be affected by the proceeding may file a petition for leave to intervene and request a hearing pursuant to 10 CFR 2.714 on or before June 5, 1978. By petition dated June 1, 1978, Mrs. Mary P. Sinclair requested a hearing and leave to intervene on behalf of the Saginaw Valley Nuclear Study Group (Saginaw). Frank J. Kelly, the Attorney General of the State of Michigan, filed a petition for leave to intervene dated June 2, 1978. An Atomic Safety and Licensing Board was designated to rule upon intervention petitions and requests for hearings.

By Memorandum and Order dated August 14, 1978 the Board designated to rule upon petitions ordered a hearing upon the application, granted the petition filed by Mrs. Sinclair to the extent that it represented her individual interests in the proceeding, denied the petition with respect to Saginaw, and granted the Attorney General the right to participate in the hearing pursuant to 10 CFR 2.715(c). Saginaw and the Attorney General were granted leave to file additional intervention papers. Also pending is an intervention petition dated September 8, 1978 filed by Mr. Wendall H. Marshall on behalf of Mapleton Intervenors.

An Atomic Safety and Licensing Board was designated to preside over the evidentiary hearings. The members of the Board are Dr. Frederick P. Cowan, Mr. Lester Kornblith, Jr., and Mr. Ivan W. Smith who will serve as chairman of the Board. Pursuant to the provisions of 10 CFR 2.751(a) the Board will conduct a special prehearing conference on November 15, 1978 beginning at 9:30 A.M. at the 75th District Court, Courtroom No. 2, Courthouse, Midland, Mich. 48640.

The parties to this proceeding, or their respective counsel are directed to attend. At the special prehearing conference the Board will consider all intervention petitions, discuss specific issues to be considered at the evidentiary hearing, and will consider a schedule for further actions in the proceeding.

The public is invited to attend the prehearing conference but space is limited. Depending upon space and time limitations the Board will try to afford an opportunity for members of the public who are not parties to the proceeding to make oral limited appearance statements at the prehearing conference. Additional opportunities for limited appearance statements will be afforded at subsequent evidentiary hearings. Any person may request permission to make a limited apearance pursuant to provisions of 10 CFR 2.715 of the Commission's "Rules of Practice." Persons desiring to make a limited appearance statement are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Written limited appearance statements may be mailed to the Secretary or presented to the Board at the special prehearing conference or at any subsequent sessions of the evidentiary hearing.

For further details see the application for the facility operating licenses dated August 29, 1977, and the applicant's Environmental Report dated March 1, 1978, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, Mich. 48640. As they become available, the following documents may be inspected at the above locations: (1) The Safety Evaluation Report prepared by the Office of Nuclear Reactor Regulations; (2) the Draft Environmental Statement; (3) the Final Environmental Statement; (4) the report of the Advisory Committee on Reactor Safeguards (ACRS) on the application for facility operating licenses; (5) the proposed facility operating licenses; (6) the technical specifications, which will be attached to the proposed facility operating licenses; and (7) the intervention petitions, related papers and the Board's memorandum and order dated August 14, 1978.

It is so ordered.

Dated at Bethesda, Md., this 12th day of October 1978.

For the Atomic Safety and Licensing Board, designated to rule on petitions for leave to intervene.

IVAN W. SMITH,
Chairman.

[FR Doc. 78-29336 Filed 10-17-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO., ET AL.

Issuance of Amendments to Facility Operating Licenses and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 47 and 47 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadephia Electric Co., Public Service Electric and Gas Co., Delmarva

Power and Light Co., and Atlantic City Electric Co., which revised Technical Specifications for operation of the Peach Bottom Atomic Power Sta-

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors

This amendment changes the Technical Specifications to permit operation of the facility in the sixth fuel cycle, following the first refueling,

ments for grants-in-aid to State and local governments." The revision would bring the grant payment policies of the Circular into line with the

ACTION: Public hearing on proposed revenue procedure.

SUMMARY: This document provides

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the

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Power and Light Co., and Atlantic City Electric Co., which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pa. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications which relate to: (1) The instrumentation that initiates or controls the core and containment cooling systems, (2) Administrative Controls, (3) addition of safety related snubbers, (4) certain revisions that would conform to the Staff's Standard Technical Specifications, and (5) various editorial changes to clarify the meaning or correct errors in the existing specifications.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated May 26 and September 5, 1978, (2) Amendments Nos. 47 and 47 to License DPR-44 and DPR-56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, Pa. 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 10th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29324 Filed 10-17-78; 8:45 am]

[7590-01-M]

[Docket No. 50-344SP]

PORTLAND GENERAL ELECTRIC CO., ET AL. (TROJAN NUCLEAR PLANT)

Evidentiary Hearing on Issue of Interim Operation, and Limited Appearances

OCTOBER 11, 1978.

Pursuant to a Notice of Evidentiary Hearing filed in this proceeding on August 1, 1978 and duly published in the FEDERAL REGISTER, as well as telegraphic notices of the new date of such hearing given to the parties and counsel on October 1, 1978, please take notice that an evidentiary hearing on Issue No. 1 ("(1) Whether Interim Operation Prior to the Modifications required by this Order should be permitted"), will be held on October 23-25, 1978 and October 30 through November 3, 1978 at 9 a.m., local time, at the State Capitol, Hearing Room A, Salem, Oreg. 97310.

Persons who have filed a request for permission to make a limited appearance and/or to make an oral or written statement in this proceeding, may make such limited appearances at 9 a.m., local time, on October 26 and 27, 1978 at the Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, Oreg. 97205.

It is so ordered.

Dated at Bethesda, Md., this 11th day of October 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-29321 Filed 10-17-78; 8:45 am]

[7590-01-M]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corp. which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vt. The amendment is effective as of its date of issuance.

This amendment changes the Technical Specifications to permit operation of the facility in the sixth fuel cycle, following the first refueling, during which 96 of the 368 fuel assemblies were replaced.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 21, 1978, as supplemented July 12, August 30, and September 20, 1978, (2) Amendment No. 47 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 10th day of October, 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29325 Filed 10-17-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

This notice offers interested parties an opportunity to comment on a proposed revision to OMB Circular No. A-102, "Uniform administrative requirements for grants-in-aid to State and local governments." The revision would bring the grant payment policies of the Circular into line with the cash management policies of the Department of the Treasury. The Treasury regulations provide that Federal cash made available to recipients of grants shall be timed to coincide with their cash needs.

Circular A-102 provides that recipients of grants may be paid on an advance basis or on a reimbursement basis. Where reimbursement is used, the Circular provides that it may be for actual cash disbursements, or for the cost of goods and services that have been received by the grantee but not yet paid for. Consequently, there have been instances where Federal payments to recipients included amounts that are withheld by the recipient from contractors to assure satisfactory completion of the contract. The time lapse from the point the recipient received payment and the contractor was paid in full has varied from thirty days to more than a year. This practice resulted in interest costs to the Federal Government that could have been avoided.

It is proposed that the following be added to paragraph 5, Attachment J., "Grant Payment Requirements":

"When the reimbursement method is used, recipients shall only be reimbursed for amounts that have actually been paid to contractors. They shall not be reimbursed for amounts that are to be withheld to assure satisfactory completion of the work. These reimbursements will be made when recipients make final payments to contractors, including amounts withheld."

The Office of Management and Budget has, as yet, made no decision with respect to the proposed revision. All interested parties are encouraged to make their views known. Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received on or before December 1, 1978.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-29288 Filed 10-17-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PRIVATE TAX-EXEMPT SCHOOLS

Public Hearing on Proposed Revenue Procedure

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed revenue procedure.

SUMMARY: This document provides notice of a public hearing on a proposed revenue procedure relating to private tax-exempt schools.

DATES: The public hearing will be held on December 5, 1978, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by November 20, 1978.

ADDRESS: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: E:EO, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

James E. Griffith, Exempt Organizations Division, Internal Revenue Service, Washington, D.C. 20224, 202-566-6181.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is a proposed revenue procedure that sets forth guidelines the Internal Revenue Service will apply in determining whether certain private schools have racially discriminatory policies as to students and therefore are not qualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954. The proposed revenue procedure was announced on August 21, 1978, in a News Release IR-2027, and also appeared in the FEDERAL REGISTER for Tuesday, August 22, 1978, at page 37296 (43 FR 37296).

The rules of section 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who want to speak at the hearing should submit written comments by October 23 and also send an outline of their oral comments and the time they wish to devote to each subject to the Service by November 20, 1978. Persons who have already submitted written comments and who wish to testify should submit an outline of their oral comments and the time they wish to devote to each subject by November 20, 1978. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Service and answer to these questions.

Because of controlled access restriction, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-29414 Filed 10-17-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 191]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 13569 (Sub.-41TA), filed August 10, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., INC., 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, P.O. Box 1409, 167 Fairfield

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Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fencing or poultry netting; fence gates, posts and fixtures; Wire, steel plain or barbed and materials and supplies* used in the manufacture thereof, between the plantsites of Robertson, Inc., located at: (1) Batavia, OH, and (2) Mount Sterling, OH, on the one hand, and on the other, points in the Chicago, IL Commercial Zone and points in the southern peninsula of MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robertson, Inc., 700 Kent Road, Batavia OH 45103. Send protests to: Interstate Commerce Commission 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 22509 (Sub.-7TA), filed August 10, 1978. Applicant: MISSOURI NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: E. Wayne Farmer, 900 Walnut Street, 3d Floor, Kansas City, MO 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends*, from Milwaukee, WI and its commercial zone, to Norfolk, NE; Omaha, NE, and Kansas City KS, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 51146 (Sub-618TA), filed July 27, 1978. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellulose insulation* from Dallas, TX to points in AR, LA, MS, and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Diversified Insulation, P.O. Box 188, Hamel, MN 55340 (Walter Carpenter). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 55896 (Sub-87TA), filed July 27, 1978. Applicant: R-W SERVICE SYSTEM, INC. (Michigan Corp.), 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty, 20226 Goddard Road, Taylor, MI 48180. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Leatherboard, blue chrome splits, partially tanned and having a moisture content of not less than 30 percent*, from the plantsites of Whitehall Leather Co., Whitehall, MI, and Eagle Ottawa Leather Co., Grand Haven, MI, to Milwaukee, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 day of operating authority. Supporting shipper: Eagle Ottawa Leather Co., 200 N. Beech Tree, Grand Haven, MI 49417 (Gerald McMaster, Traffic Manager). Whitehall Leather Co., 900 S. Lake St., Whitehall, MI 49461 (Kenneth Wackernagel, Purchasing Agent). Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI 48226.

MC 56082 (Sub-74TA), filed July 27, 1978. Applicant: DAVIS & RANDALL, INC., (NY CORP.), c/o White Inn Suite, 50 Main Street, Fredonia, NY 14063. Representative: Katherine Furness (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesome, retail and chain grocery and feed business houses, in containers being cereals, soft moist pet food and feed, animal*, from Dunkirk, NY to points in OH (Akron, Ashtabula, Canton, Cleveland, Maple Heights, Warrensville, Solon, Bedford, Brooklyn Valley View, Dennison, Massilon, Youngstown) and Pittsburgh and New Castle, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina, 3800 Middle Road, Dunkirk, NY 14048. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 69492 (Sub-66TA), filed August 10, 1978. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, KY 42031. Representative: Mr. Roland M. Lowel, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, *Class A and B explosives, and household goods as defined by the Commission*, between Hickman, KY and its commercial zone, on the one hand, and, on the other, points in AR, IL, KY, MO, and TN. Restricted to traffic having a prior or subsequent movement by water for 180 days. Supporting shipper: Hickman-Fulton County Riverport, Riverport Office, P.O. Box 6, Hickman, KY 42050. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 82492 (Sub-202TA), filed July 27, 1978., Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC. (a Michigan Corp.) 2109 Olmstead Road, P.O. Box 23853, Kalamazoo, MI 49003. Representative: William C. Harris (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from the facilities of Little Crow Foods at or near Warsaw, IN, to points in KY, TN, Scott City and Sikeston, MO, and points in their commercial zones, and those points in AR in the Memphis, TN, commercial zone, restricted to the transportation of traffic originating at the facilities of Little Crow Foods, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Little Crow Foods, Warsaw, IN 46580. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 94265 (Sub-278TA), filed August 4, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460, Windsor, VA 23487. Representative: John J. Capo, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides and commodities in bulk in tank vehicles, from the plantsite and storage facilities utilized by Peter Eckrich & Sons, Inc., in Allen Township, Hillsdale County, MI, to points in AL, GA, NC, SC, and TN. Restricted to the transportation of traffic originating at the above named origin facilities, for 180 days. Supporting shipper: Peter Eckrich & Sons, Inc., 455 Squires Road, Quincy, MI 49082. Send protest to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, 10-502 Federal Building, 400 North Eighth Street, Richmond, VA 23240.

MC 107960 (SUB-6TA), filed August 10, 1978. Applicant: SUMMERFORD TRUCK LINE, INC., P.O. Box 487, Ashford, AL 36312. Representative: Robert J. Corber, 1747 Pennsylvania Avenue NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer batch plants, parts, components and supplies* used in the manufacture and setting up to such plants, from Ashford, AL, and Dalias, TX, to points in AL, AR, GA, FL, LA, MS, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ferguson South, Inc., P.O. Box 387, Ashford, AL 36312. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, room 1616, 2121 building, Birmingham, AL 35203.

MC 108119 (Sub-92TA), filed July 27, 1978. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut buildings, knocked down, and parts, attachments, materials and supplies* when moving with precut buildings from Fletcher, NC, to points in the U.S. that are in and east of the States of MI, WI, IL, MO, KS, OK, and TX, for 180 days. Supporting shipper: Carolina Log Buildings, Inc., Howard Gap Road, P.O. Box 368, Fletcher, NC 28732. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Post Office, 110 South Fourth Street, Minneapolis, MN 55401.

MC 110191 (Sub-30TA), filed July 27, 1978. Applicant: TURNER'S EXPRESS, INC. (a Virginia corporation), 1300 Shelton Avenue, P.O. Box 1006, Norfolk, VA 23502. Representative: D. L. Turner (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., Inc., at or near Cliffwood, NJ, to Williamsburg, VA, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., Inc., Cliffwood, NJ 07721. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, room 10-502, Federal Building, 400 North Eighth Street, Richmond, VA 23240.

MC 110988 (Sub-371TA), filed July 27, 1978. Applicant; SCHNEIDER TANK LINES, INC. (a Wisconsin corporation), 4321 West College Avenue (Giltedge Building), Appleton, WI 54911. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal and soybean hulls*, in bulk, in hopper trucks, from the facilities of Cargill, Inc., at or near Chicago, IL to IL, IN, MI, and WI, for 180 days. Supporting shipper: Cargill, Inc., 122 and Torrence Avenue, Chicago, Il 60617 (Thomas J. Fourniea). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wiconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 113784 (Sub-69TA), filed July 27, 1978. Applicant: LAIDLAW TRANSPORT LTD, 65 Guise Street, Hamilton, On L8L 4M1. Representative: Douglas R. Gowland (same as above). Authority sought to operate as a *common Carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron and metal in dump type vehicles*, between ports of entry on the U.S.-Canadian boundary line, located on the Detroit and St. Clair Rivers and points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: I. WAXMAN & SONS LTD., P.O. Box 3460, Station C, Hamilton, On. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal building, 111 West Huron Street, Buffalo, NY 14202.

MC 114052 (Sub-2TA), filed July 27, 1978. Applicant: CATENCAMP TRANSFER & STORAGE, INC. (A Wisconsin Corporation), 218 East Richmond Street, Shawano, WI 54166. Representative: William C. Dineen, 710 North Plankinton Avenue. Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Shawano Paper Mills, Inc., at or near Shawano, WI, to Clinton, Des Plaines, Chicago, Addison and Fox River Grove, Il; Indianapolis and Mooresville, IN; Kalamazoo, Livonia, Detroit and Sparta, MI; Minneapolis and St. Paul, MN: St. Louis, MO; and Massilon, Cincinnati, Mt. Vernon, Cleveland, and Belpre, OH; and (2) *waste, scrap paper and pallets*, from points in (1) above, to the facilities of Shawano Paper Mills, Inc. at or near Shawano, WI, under continuing contract(s) with Shawano Paper Mills, Inc., for 180 days. Supporting shipper: Shawano Paper Mills, Inc. (R. B. Olson, vice president), P.O. Box 3629, Green Bay, WI 54303. Send protests to: Gail A. Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 619 U.S. Courthouse and Federal Building, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

MC 114552 (Sub-176TA), filed August 10, 1978. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials used in the installation of such commodities* (except commodities in bulk) from the facilities of Tamko Asphalt Products, Inc., at Tuscaloosa, AL to points in AL, FL, GA, IL, KY, IN, OH, NC, SC, TN, VA, and WV. (2) *Paper, felt, building, roofing or sheathing* from the facilities of Tamko Asphalt Products, Inc., at Knoxville TN to points in AL, FL, GA, IL, KY, IN, OH, NC, SC, TN, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tamko Asphalt Products, Inc., 601 North High Street, Joplin, MO 64801. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 115557 (Sub-16TA), filed August 10, 1978. Applicant: CHARLES A. McGAULEY, 308 Leasure Way, New Bethlehem, PA 16242. Representative: David M. O'Boyle, Attorney at Law, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precut log buildings, knocked down or in sections and materials and supplies* used in construction, installation and erection of precut log buildings. from Houlton, ME to points in the counties of Armstrong, Clarion, Clearfield, Elk, Indiana and Jefferson, PA, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. W. Fenstermaker, R.D. No. 1, Summerville, PA 15864. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 115826 (Sub-334TA), filed July 27, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088 Terminal Annex, Denver, CO 80217. Representative: Charles J. Kimball, Attorney, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, and materials, equipment, and supplies dealt in by restaurants*,

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from the facilities of Arthur Treacher's Fish & Chips, Inc., at Denver, CO, to points in SD, ID, UT, OR, WA, ND, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to day days of operating authority. Supporting Shipper: Arthur Treacher's Fish & Chips, Inc., 1328 Dublin Road, Columbus, OH 43215. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-335TA), filed July 27, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, 1960 31st Street, Denver, CO 80217. Representative: Charles J. Kimball, Attorney, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas* from Long Beach, CA, to points in IA, MN, ND, SD, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Del Monte Banana Co., 1201 Brickell Avenue, Miami, FL 33101. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 116063 (Sub-150TA), filed August 10, 1978. Applicant: WESTERN COMMERCIAL TRANSPORT, INC., 2929 West 5th Street, P.O. Box 270, Forth Worth, TX 76101. Representative: W. H. Cole, 2929 West 5th Street, P.O. Box 270, Forth Worth, TX 76101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats vegetable oils, and products and blends thereof*, in bulk, in tank vehicles, from the facilities of Humko Products, a division of Kraft, Inc., at Champaign, IL to Richmond, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Humko Products, Kraft, Inc., P.O. Box 398 (5050 Poplar Ave.), Memphis, TN 38101.

MC 117765 (Sub-244TA), filed August 7, 1978. Applicant: HAHN TRUCK LINE, INC., 1100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan, 100 South MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, in containers, from Wynnewood, OK to TX, for 180 days. Supporting Shipper: Kerr-McGee, Corp., P.O. Box 25861, Oklahoma City, OK 73125. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office & Court House Building, 215 Northwest 3d, Oklahoma City, OK 73102.

MC 118159 (Sub-279TA), filed August 10, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commerical Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers* from the facilities of Hoover Univeral at or near Lenexa, KS to points in AL, AR, AZ, CA, CO, FL, GA, ID, KS, LA, MS, NV, NE, NC, ND, OK, OR, SC, SD, TN, TX, UT, WA and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Hoover Universal, Beverage Bottle Division, Rute 2 Tri Port Road, Georgetown, KY 40324. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office & Court House Building, 215 Northwest 3d,0 Oklahoma, OK 73102

MC 119789 (Sub-509TA), filed August 10, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey, P.O. Box 226188, Dallas, TX 75266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and tools*, from the plantsite and warehouse facilities of Union Fork and Hoe Co., (1) at Columbus, OH to Atlanta, GA; Orlando, FL; Houston and Dallas, TX; Kansas City, MO; Des Moines, IA; Salt Lake City, UT; Los Angeles and San Francisco, CA; and Seattle, WA (2) at Frankfort, NY to Columbus, OH; Des Moines, IA; Salt Lake City, UT; and Los Angeles, CA, for 180 days. Supporting shipper: Union Fork & Hoe Co., 500 Dublin Ave., Columbus, OH 43215. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-510TA), filed August 10, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical equipment and parts* (except new household appliances) from the facilities of Sangamo-Weston, Inc., Division of Schlumberger in Rabun County, GA to Kansas City, KS, and points in AZ, AR, CA, CO, ID, IN, MN, MS, MO, NT, NE, NM, OK, OR, TX, UT, WA, WI, and WY. (2) *Materials and supplies*, except in bulk, used in the production and distribution of electrical equipment and parts (except new household appliances), from Kansas City, KS and points in AZ, AR, CA, CO, ID, IN, MN, MI, MO, MT, NE, NM, OK, OR, TX, UT, WA, WI, and WY to the facilities of Sangamo-Weston, Inc., Division of Schlumberger, in Rabun County, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sangamo-Weston, Inc., Division of Schlumberger, P.O. Box 75, West Union, SC 29696. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 121372 (Sub-4TA), filed August 10, 1978. Applicant: EXPRESS TRANSPORT CO., 1333 West Seventh Street, Cincinnati, OH 45203. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, (1) Between points in OH, on the one hand, and, on the other, points in KY on and north of U.S. Hwy 60; Kokomo and Seymore, IN, and points in IN on and east of U.S. Hwy 31. (2) Between Newport and Wilder KY, on the one hand, and, on the other, Kokomo and Seymour, IN, and those points in IN on and east of U.S. Hwy 31, for 180 days. Supporting shipper: There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations-I.C.C., 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 121626 (Sub-5TA), filed August 7, 1978. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Ann M. Pougiales—Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* transported in mechanically refrigerated trailers, from the facilities of Campbell Soup Co.—Swanson Division at Modesto, CA, to points in OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Campbell Soup Co.—

Swanson Division, P.O. Box 3051, Modesto, CA 95353. Send protests to: District Supervisor A. J. Rodriquez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 121664 (Sub-32TA), filed August 10, 1978. Applicant: HORNADY BROTHERS, TRUCK LINE, P.O. Box 846 Drewry Road, Monroeville, AL 36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel plates, sheets, and coils*, from facilities of Republic Steel Corp. located at or near Gadsden, AL to points in FL, GA, DY, LA, MS, AL, AR, TX, NC, SC, TN, VA, WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Republic Steel Corp., Alabama City Station, Gadsden, AL 35901. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 123615 (Sub-9TA), filed August 7, 1978. Applicant: TRANSPET, INC., 600 South Fourth Street, Harrison, NJ 07029. Representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor and floor covering conditioning machines and materials, supplies and equipment used or useful in the manufacture, servicing or operation thereof*, except commodities in bulk, between Bloomfield, Harrison and Jersey City, NJ, on the one hand, and, on the other, points in US except AK and HI, under a continuing contract or contracts with Hartz Mountain Corp. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hartz Mountain Corp., 700 South Fourth Street, Harrison, NJ 07029. Send protests to: Robert E. Johnston District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 126305 (Sub-95TA), filed August 10, 1978. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1, Box 18, Clayton, AL 36016. Representative: Dempsey Boyd, RFD 1, Box 18, Clayton, AL 36016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from Scotch Lumber Co., Fulton, AL; Scotch Plywood Co., Fulton, AL; and Harrigan Lumber Co., Monroeville, AL to States of AR, FL, GA, IL, IN, IA, KY, LA, MO, MN, MS, MO, NC, OH, SC, TN, TX, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Scotch Lumber Co., Scotch Plywood Co., Harrigan Lumber Co., P.O. Box 38, Fulton, AL 36446. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 133689 (Sub-213TA), filed August 10, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric ranges and microwave ovens and such commodities as are used in the manufacture*, sale and distribution of electric ranges and microwave ovens from the facilities of Litton Microwave Cooking Pro., Litton Systems, Inc., at Minneapolis, MN to points in AL, AR, CT, DE, FL, GA, IL, IA, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, for 180 days. Supporting shipper: Litton, Inc., 1405 Xenium Lane North, Minneapolis, MN 55441. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134035 (Sub-27TA), filed August 7, 1978. Applicant: DOUGLAS TRUCKING CO., P.O. Box 698, Hwy 75 South, Corsicana, TX 75110. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the facilities of Sewell Plastics, Inc., at or near Dallas, TX, Reserve, LA, Jackson MS and Collierville, TN to points in AL, AR, AZ, CO, FL, GA, IL, IN, KS, LA, MO, MS, NM, NC, OH, OK, SC, TN, TX, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sewell Plastics, Inc., 5111 Phillip Lee Dr., Atlanta, GA 30336. Send protests to: Opal M. Jones, Transportation Association, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 134405 (Sub-50TA), filed August 10, 1978. Applicant: BACON TRANSPORT CO., P.O. Box 1134, Ardomore, OK 73401. Representative: Wilburn L. Williamson, 280 Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from El Dorado, KS to Oklahoma City, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pester Refining Co., P.O. Box 751, El Dorado, KS 67042. Send protests to: Connie Stanley, Transportation Assistant, Room. 240 Old Post Office & Court House Building, 215 Northwest 3rd, Oklahoma City, OK 73102.

MC 134477 (Sub-263TA), filed August 10, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, P.O. Box 3496, St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Electric ranges and microwave ovens, and such commodities as are used in the manufacture*, Sale and distribution of electric ranges and microwave ovens from the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN to points in AL, AR, CT, DE, FL, TA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MA, MO, NH, NJ, NY, NC, OH, PA, TI, SC, TN, VT, VA, WV, WI, and DC, for 180 days. Supporting shipper: Litton, Inc., 1405 Xenium Lane North, Minneapolis, MN 55441. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 138076 (Sub-7TA), filed August 10, 1978. Applicant: HEAVY HAULING, INC., 1100 West Crand, Salina, KS 67219. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110-L, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reciprocal engines, reciprocal engine parts, turbine engines, turbine engine parts, castings, steel plates and shafting*, between the facilities of Exline, Inc., near Salina, KS, on the one hand, and, on the other, points in AZ, CA, ID, and MT, for 180 days. Applicant states it does not intend to tack or interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Exline, Inc., P.O. Box 1267, Salina, KS 67401. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Opertions, Interstate Commerce Commission, 256 Federal Bldg., and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 138225 (Sub-8TA), filed August 7, 1978. Applicant: HEDRICK ASSOCIATES, INC., RR No. 2, Box 10A2,

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Douglas Road, Far Hills, NJ 07931. Representative: Willian P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210.

ties of American Cast Iron Pipe Co. located at Birmingham, AL to points in MO, MI, IN, VA, WV, OH, ND, SD, KY, AL, PA, TX, NC, NJ, NM, MN, IL,

dustrial chemicals, from Decatur, IN; Newark, NJ; Panama City, FL; Philadelphia, PA; St. Louis, MO; Piscataway, NJ; Everett, MA; Syracuse,

(c) From points in WY to points in CO, KS, OK, TX, and NM. (2) *Wood pallets*, from Alamosa County, CO, to

pany, 224 Worcester Street, N. Grafton, MA 01536. Send protests to: Paul A. Roberts, District Supervisor, Inter-

routes, transporting: (1) *Building materials, wood products, and trusses*, except in bulk; (2) *materials, equip-*

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Douglas Road, Far Hills, NJ 07931. Representative: Willian P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier,* by motor vehicle, over iregular routes, transporting: *Marine engines,* from the facilities of Chrysler Corp., Marine Division, at or near Beaver Dam, SI, to the facilities of Trojan Boat Co. at or near Lancaster, PA, under a continuing contract or contracts with Trojan Yacht Co., for 180 days. Supporting shipper: Trojan Yacht Co., Greenfield Rd., P.O. Box 3571, Lancaster, PA. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, NJ 07102.

MC 138882 (Sub-78TA), filed August 10, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, plywood, particleboard, treated lumber and lumber mill products* from points in AL, GA, MS, LA, AR, NC & SC to points in IL, IN, OH, MI, KY, PA, NY, NJ, WV, VA, DE, TN, MD, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Steel City Lumber Co., 3100 Lorna Road, Birmingham, AL 35216.

MC 138882 (Sub-79TA), filed August 10, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Newsprint and groundwood paper,* from the facilities of Bowater Southern Paper Corp. at or near Calhoun, TN to points in MA, MO, NJ, OH, PA, WV, & Georgetown, DE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C. Rm. 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-135TA), filed August 10, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pipe, fittings, hydrants, valves and parts and accessories for the forenamed items* (except commodities in bulk) from the facilities of American Cast Iron Pipe Co. located at Birmingham, AL to points in MO, MI, IN, VA, WV, OH, ND, SD, KY, AL, PA, TX, NC, NJ, NM, MN, IL, KS, AR, WI, SC, OK, MA, MD, NH, GA, IA, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Cast Iron Pipe Co., P.O. Box 2727, Birmingham, AL 35202. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Rm. 1616, 2121 Building, Birmington, AL 35203.

MC 141124 (Sub-26TA), filed August 7, 1978. Applicant: EVANGELIST COMMERCIAL CORP., Greater Wilmington Airport Hanger 5, P.O. Box 1709, Wilmington, DE 19899. Representative: James W. Muldoon, 50 W. Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, processed, distributed or dealt in, by manufacturers or converters or paper and paper products,* except commodities in bulk, from Chillicothe, OH, to points in PA, MD, DE, NJ, NY, CT, MA, RI, NH, VT, ME, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Mead Corp., Mead World Headquarters, Courthouse Plaza Northeast Dayton, OH 45463. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Rm. 3238, Philadelphia, PA 19106.

MC 144083 (Sub-4TA), filed August 10, 1978. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Gusranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Crushed marble and ground limestone,* in bags, from Talladega County, AL to points in AR, FL, KS, LA, MO, MS, OK, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Marble Co., 2575 Cumberland Parkway, N.W., Atlanta, GA 30339, Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Rm. 212, 145 East Amite Building, Jackson, MS 39201.

MC 144622 (Sub-10TA), filed August 10, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn, P.O. Box 9343, Little Rock, AR 72209. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Industrial chemicals,* from Decatur, IN; Newark, NJ; Panama City, FL; Philadelphia, PA; St. Louis, MO; Piscataway, NJ; Everett, MA; Syracuse, NY; Baltimore, MD; Lake Charles, LA and Donaldsonville, LA, to Berkeley and Los Angeles, CA for 180 days. Supporting shipper: A. J. Lynch & Co., 4560 E. 50th Street, Los Angles, CA 90058. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 144881 (Sub-1TA), filed August 7, 1978. Applicant: OZARK MOUNTAIN SIGHTSEEING, INC., 123 East Main Street, Branson, MO 65616. Representative: Charles J. Fain, 333 Madison Street, Jefferson City, MO 65101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage; special operations included.* Over irregular routes beginning and ending in points in Taney and Stone Counties, MO, and extending to all points in Carroll County, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Branson/Lakes Area Chamber of Commerce, Branson, MO, Mountain Oak Lodge Best Western, Branson, MO. Send protests to: District Supervisor, John V. Barry, Rm 600, 911 Walnut Street, Kansas City, MO 64106.

MC 145066 (Sub-1TA), filed August 10, 1978. Applicant: CLIFFORD TJADEN d.b.a. TJADEN TRUCKING, South Hwy 81, Salem, SD 57058. Representative: Clifford Tjaden, South Hwy 81, Salem, SD 57058. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dairy farm equipment and parts.* Between Salem, SD; Springfield and St. Louis, MO; Madison and St. Atkinson, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Interstate Dairy Sales, Inc., Box 538, Salem, SD 57058, Donald Tjaden. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 455 Federal Building, Pierre, SD 57501.

MC 145091TA, filed August 7, 1978. Applicant: YOUNG CONTRACT CARRIER, INC. (a Colorado corporation), P.O. Box 954, 109 Road, Alamosa, CO 81101. Representative: Richard P. Kissinger, 50 South Steele, Suite 330, Denver, CO 80209. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Lumber,* (a) from points in CO to points in KS, OK, TX, and NM. (b) From points in NM to points in CO, KS, OK, and TX.

(c) From points in WY to points in CO, KS, OK, TX, and NM. (2) *Wood pallets,* from Alamosa County, CO, to points in Bernalillo County, NM. (3) *Building materials,* (a) from Lincoln, Carter and Caddo Counties, OK, to points in CO. (b) From Bernalillo county, NM to points in CO. (4) *Reinforcing bars,* from Border Steel Rolling Mills at or near El Paso, TX, to points CO. Note: The operations authorized above are to be conducted under a continuing contract or contracts with Young Wholesale Lumber & Supply, Inc., under a continuing contract or contracts with Young Wholesale Lumber & Supply, Inc., for 180 days. Supporting shipper: Young Wholesale Lumber & Supply, Inc., P.O. Box 954, 8609 south 109 Road, Alamosa, CO 81101. Send protest to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145100 (Sub-1TA), filed August 7, 1978. Applicant: ALBERT J. AND JIM L. WHITAKER d.b.a. WHITAKER'S WRECKER SERVICE, 816 NW., 6th Street, Oklahoma City, OK 73106. Representative: David A. Cherry, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wrecked and disabled trucks, tractors, and trailers, and replacements therefor,* between Oklahoma City, OK on the one hand, and, on the other, points in AL, AZ, AR, CO, GA, IL, IA, KS, KY, MN, MS, MO, NM, OK, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lee Way Motor Freight, Inc., 3401 NW., 63rd, Oklahoma City, OK 73116, Market Pre-Pak, 401 N. Vicki, Oklahoma City, OK 73117, Mistletoe Express Service, P.O. Box 25125, Oklahoma City, OK 73125. Send protests to: Connie Stanley, Transportation Assistant, Rm 240 Old Post Office & Court House Building, 215 NW., 3rd, Oklahoma City, OK 73102.

MC 145144 (Sub-1TA), filed August 7, 1978. Applicant: WALL TRUCKING, INC., 22 School Street, Shrewsbury, MA 01545. Representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Waste neutralized acid sludge and waste metal sludge* (except in tank vehicles) from Grafton and Worcester, MA to Waterbury, CT and Lewiston, NY, under a continuing contract or contracts with Wyman-Gordon Company, for 180 days. Supporting shipper: Wyman-Gordon company, 224 Worcester Street, N. Grafton, MA 01536. Send protests to: Paul A. Roberts, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 145152 (Sub-1TA), filed August 7, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals NOI, esters* (fatty acid of animal oils NOI), *esters* (fatty acid of vegetable oils NOI), *fatty alcohol NOI, inedible fatty alcohol, coconut oil, softeners textile NOI, cleaning and washing compounds NOI* (liquid), *lubricating oils NOI* (other than petroleum), *lubricating oils* (petroleum), *wax NOI and fireproofing compounds,* (except in bulk), from Mauldin, SC; Lock Haven, PA; Linden, NJ; and Santa Fe Springs, CA to points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Emery Industries, Inc., P.O. Box 628, Mauldin, SC 29662. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145153 (Sub-1TA), filed August 7, 1978. Applicant: DOUBLE DECKER BUS CO., P.O. Box 5390, Baltimore, MD 21209. Representative: Henry E. Seaton, 425 13th Street, NW., Washington, DC 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in round trip special and charter operations, restricted to English Style Double Decker Buses, beginning and ending in Baltimore, MD and its commercial zone and extending to Atlantic City, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 35 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 145181TA, filed August 7, 1978. Applicant: JESS GINGERY, 530 7th Street, Box 147, Berthoud, CO 80513. Representative: Charles J. Kimball., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Building materials, wood products, and trusses,* except in bulk; (2) *materials, equipment and supplies* used in the manufacture, distribution, and installation of the above commodities, except in bulk, from the facilities of Rigid Component Systems at or near Longmont, CO, to points in WY and Fall River County, SD, under a continuing contract with Rigid Component Systems, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rigid Component Systems, 15 3rd Avenue, Longmont, CO 80501. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 145205TA, filed August 7, 1978. Applicant: RECO TRANSPORTATION, INC., Route 1, Box 274, Black Mountain, NC 28711. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Synthetic fibers and synthetic yarns* from Enka and High Shoals, NC, Clemson, SC and Chattanooga and Lowland, TN to Dos Palos, Los Angeles, Merced and Porterville, CA and points in their commercial zones, under a continuing contract or contracts with American Enka Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Enka Co., Enka, NC 28728. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145520TA, filed August 7, 1978. Applicant: THOMAS MICHAEL HAWK, d.b.a. T & J PRODUCE, Route 9, Box 253, Shelby, NC 28150. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC 28204. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wood chipping machines* (wood chipping machines pulverize tree trunks, limbs and branches into small wood chips) from Shelby, NC to points within all states west of the Mississippi River, under a continuing contract or contracts with The Wood/Chuck Chipper Corp., for 180 days. Supporting shipper: The Wood/Chuck Chipper Corp., Drawer 400, Shelby, NC 28150. Send protest to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-29411 Filed 10-17-78; 8:45 am.]

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48098–48152

sunshine act meetings

WEDNESDAY, OCTOBER 18, 1978
PART II

V 43 / 202 / OCT 18 78

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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	Items
Equal Employment Opportunity Commission	1
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[6570-06-M]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 17, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Adjustment of filing deadlines for employment surveys EEO-2, 2e and 3 for calendar years 1977 and 1978, and revision of performance dates for processing contract for these surveys.

2. Proposed contract for processing 1978 State and local government employment survey, EEO-4.

3. Report on Commission operations by the Executive Director.

Closed to the public.

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued October 10, 1978.

[S-2090-78 Filed 10-16-78; 3:04 pm]

[6714-01-M]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETING

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meetings held at 10:30 a.m. on October 12, 1978, the Corporation's Board of Directors voted, on motion of Acting Chairman John G. Heimann, seconded by Director William M. Isaac (Appointive), to withdraw from consideration an application of the Estes Park Bank, Estes Park, Colo., for consent to relocate its main office from 101 West Elkhorn Avenue to 363 East Elkhorn Avenue, both locations within Estes Park, Colo. The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-2089-78 Filed 10-16-78; 11:15 am]

[7590-01-M]

3

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, October 12, 1978, and Thursday, October 19, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

THURSDAY, OCTOBER 12; 2 P.M.

1. Discussion and vote on issues remaining for Commission consideration in the Midland proceeding, (approximately ½ hour, closed—exemption 10), postponed from October 10, 1978.

2. Discussion of EDO testimony of July-August, 1977 (approximately 1½ hours, closed—exemption 6), postponed from October 10, 1978.

THURSDAY, OCTOBER 19; 9:30 A.M.

1. Report by NRC Women's Committee (approximately 1 hour, public meeting).

2. Affirmation items (approximately 10 minutes, public meeting): (a) Fuel cycle rulemaking, (b) OIA inquiry in St. Lucie, and (c) waiver or reduction of fees under the FOIA (tentative).

3. Discussion of personnel matter (approximately 1 hour, closed—exemption 6, tentative).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

OCTOBER 12, 1978.

[S-2088-78 Filed 10-16-78; 10:54 am]

federal register

WEDNESDAY, OCTOBER 18, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

ENVIRONMENTAL PROTECTION AGENCY

WOOD PRESERVATIVE PESTICIDES

Initiation of Schedule for Review

and

Notices of Rebuttable Presumption Against Registration of Certain Pesticides

[6560-01-M]

ENVIRONMENTAL PROTECTION

[6560-01-M]

[FRL 984-4; OPP-30000/28]

of this RPAR means that potential adverse effects associated with the use of coal tar, creosote, and coal tar neutral

Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit for consideration data

registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifical-

cluded that all registrations and applications for registration of pesticide products containing coal tar, creosote,

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 987-1; OPP-90077]

PESTICIDE PROGRAMS

Initiation of Schedule for Review of Wood Preservative Pesticides

The U.S. Environmental Protection Agency (EPA) has published today elsewhere in this part of the FEDERAL REGISTER, notices of rebuttable presumption against registration (RPAR) on inorganic arsenic, pentachlorophenol, and coal tar, creosote, and coal tar neutral oil. These chemicals comprise the most widely used industrial pesticide wood treatments available. Therefore, the wood treatment uses of these pesticides will be considered together in the risk-benefit part of the RPAR review process. In addition to providing data and information on each of the compounds RPAR'd, persons are invited to comment on the comparative risks and benefits of these three chemicals. This will assist the Agency in assessing tradeoffs. Other uses for these pesticides will be considered in individual risk/benefit analyses for each chemical. Please refer to the separate RPAR notices for information on submission of comments, rebuttals, and benefits data.

A tentative schedule has been established for completion of the RPAR review of the wood-treatment uses of inorganic arsenic, pentachlorophenol, coal tar and its derivatives:

Mid-January 1979—deadline for submission of rebuttals and comments (based on EPA's expectation that a 60-day extension to the comment period will be requested).

Second quarter, 1979—submission of benefits/exposure comments by USDA Benefit Assessment Team.

Third quarter, 1979—complete rebuttal review (if the rebuttals are successful for any of these chemicals, that chemical will be referred for registration or reregistration; if the rebuttals are not successful, EPA will continue its regulatory review).

First quarter, 1980—USDA/SAP review of EPA's proposed regulatory options.

Second quarter, 1980—Final regulatory decision on the wood-treatment uses of inorganic arsenic, pentachlorphenol, coal tar and its derivatives, as appropriate.

Dated: October 6, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.78-28933 Filed 10-17-78; 8:45 am]

[6560-01-M]

[FRL 984-4; OPP-30000/28]

PESTICIDE PROGRAMS

Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Coal Tar, Creosote, and Coal Tar Neutral Oil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA)

ACTION: Notice of rebuttable presumption.

SUMMARY: Coal tar, creosote, and coal tar neutral oil have been found to exceed certain risk criteria set forth in 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risks and benefits of these pesticide chemicals. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical. Today EPA is also publishing in the FEDERAL REGISTER notices of rebuttable presumption against registration (RPAR) on pentachlorophenol (PCP) and inorganic arsenicals. Since coal tar, creosote, and coal tar neutral oil, PCP, and inorganic arsenic comprise the most widely used of pesticide wood treatments available, the wood treatment uses of these pesticides will be considered together in the risk/benefit part of the RPAR review process. Other uses for these pesticides will be considered in individual risk/benefit analysis for each chemical.

DATE: Rebuttal evidence and other information must be received on or before December 4, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Herman J. Gibb, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), Office of Toxic Subtances, Room 447, East Tower, EPA, 202-755-5632.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing coal tar, creosote, and coal tar neutral oil.[1] Issuance of this RPAR means that potential adverse effects associated with the use of coal tar, creosote, and coal tar neutral oil have been identified and will be examined further to determine if they do exist and, if so, whether they are unreasonable. This process involves a public review of both the risks and the benefits associated with the use of these pesticide chemicals. The RPAR does not mean that the Agency has decided to cancel or suspend the registration of these chemicals or to take any other action with respect to them; EPA has not made a finding that use of any products containing these ingredients present an imminent hazard. Any pesticide subject to this RPAR may lawfully be sold, distributed, and used for all uses for which it is registered and labeled.

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency on coal tar and coal tar products and is also published with this notice.

I. REGULATORY PROVISIONS

A. *General.* Title 40, part 162.11 of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in section 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in section 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered, and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

All registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to section 6(a)(1) of FIFRA.

B. *Rebuttal criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a)(4)(i));

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(4)(ii)); or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" (40 CFR 162.11(a)(4)(iii)).

C. *Benefits information.* In addition to submitting evidence to rebut the presumption of risk, section 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted the benefit evidence[2] submitted by the registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, section 162.11(a)(5)(iii) provides that if the benefits appear to outweigh the risks, the Administrator may issue a notice of intent to hold a hearing purusant to section 6(b)(2) of FIFRA to determine whether the registration(s) should be canceled or application(s) denied. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

[2] Registrants or other interested persons who desire to submit benefits information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.
6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

II. PRESUMPTIONS

Registrations and applications for registration of pesticide products containing coal tar, creosote, and coal tar neutral oil meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to oncogenicity. Registrations and applications for registration of pesticide products containing creosote or coal tar-creosote mixtures meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to mutagenicity. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Coal Tar, Creosote, and Coal Tar Neutral Oil: Position Document 1," which follows. Copies of attachments to the Position Document which are not published with this notice are available for public inspection in the Special Pesticide Review Division. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document, as well as requests for access to these files, should be directed to Project Manager Herman J. Gibb, Special Pesticide Review Division (TS-791), EPA, Room 447, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-5632.

A. *Oncogenicity.* 40 CFR Section 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide "(i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure * * *."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that all registrations and applications for registration of pesticide products containing coal tar, creosote, or coal tar neutral oil exceed this risk criterion, and that a rebuttable presumption against new or continued registration of such products has arisen.

B. *Mutagenicity.* 40 CFR Section 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide "* * * induces mutagenic effects, as determined by multitest evidence."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that all registrations and applications for registration of pesticide products containing creosote or coal tar-creosote mixtures exceed this risk criterion, and that a rebuttable presumption against new or continued registration of such products has arisen.

III. ADDITIONAL GROUNDS FOR REVIEW

As discussed in detail in the attached Position Document, some data has associated creosote with human skin and eye irritation, livestock fatality, and fetotoxicity in test animals. The data and analyses available at this time with respect to this effect are not sufficient to warrant the issuance of a rebuttable presumption. The Agency specifically solicits further evidence bearing on these possible adverse effects. All comments and information received with respect to the potential adverse effects, including analysis thereof, may serve as a basis for a final decision on registering pesticides containing creosote.

REBUTTAL SUBMISSION PROCEDURES

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until December 4, 1978, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the FEDERAL REGISTER.

A registrant or applicant for registration may, if it desires, assert a business confidentiality claim covering part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as

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"trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906; Sept. 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will place the information in the public comment file where it will be available for public inspection.

If a registrant or applicant does assert a confidentiality claim for some, but not all, of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures set out above.

V. Duty To Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of products containing coal tar, creosote, or coal tar neutral oil has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. Public Comments and Inspection

During the time allowed for submission of rebuttual evidence, specific comments on the presumptions set forth in this notice and on the material contained in the Position Document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of coal tar, creosote, or coal tar neutral oil, its impurities metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of coal tar, cresoste, or coal tar neutral oil are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to section 162.11(a)(5).

All comments and information should be sent to the Office of Federal Register Section at the address given above, if possible in triplicate to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/28." Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR Section 162.11(a)(5)(ii).

All written comments and information filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m., during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since: (1) All of the information received may serve as a basis for final determination pursuant to section 162.11(a)(5), and (2) the Agency will not generally publish a summary of information received in the FEDERAL REGISTER at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the FEDERAL REGISTER, but rather handled by mail with affected parties. Ommissions will be corrected by notice in the FEDERAL REGISTER.

Dated: September 30, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

OCT 18 1978

[6560-01-C]

COAL TAR, CREOSOTE, AND COAL TAR NEUTRAL OIL

POSITION DOCUMENT 1

Coal Tar and Coal Tar Products Working Group
Herman Gibb, Project Manager
U.S. Environmental Protection Agency

I. Background

A. Chemical and Physical Characteristics

Coal tar is produced by the carbonization, also called coking, of coal. Creosote and neutral oils are products of coal tar. Although creosote and neutral oil may be distilled from sources other than coal, the terms "creosote" and neutral oil" in this document will refer to distillates of coal tar. Coal tar is described in the Condensed Chemical Dictionary (Hawley, 1977) as:

> A black, viscous liquid (or semi-solid), naphthalene-like odor; sharp burning taste; obtained by the destructive distillation of bituminous coal, as in coke ovens; 1 ton of coal yields 8.5 gallons of coal tar. Combustible. Specific gravity 1.1a-1.25 (60/60°F). Soluble in ether, benzene, carbon disulfide, chloroform; partially soluble in alcohol, acetone, methanol, and benzene; only slightly soluble in water.

Although it has other uses, the term creosote usually refers to that coal tar distillate which is used for wood preservation. Definitions of creosote vary, however.[1/]

1/ As a wood preservative, creosote is defined by the American Wood Preservers' Association (1976) as:

> A distillate derived from coal tar, as used in the wood preserving industry, creosote denotes a distillate of coal tar produced by the high temperature carbonization of bituminous coal. Creosote consists principally of liquid and solid aromatic hydrocarbons and contains coal tar acids and tar bases; it is heavier than water and has a continuous boiling range beginning at about 200°C.

(continued on page 2)

1/ (continued from page 1)

The Condensed Chemical Dictionary (Hawley, 1977) defines cresosote as:

> A yellowish to dark brown, oily liquid; clear at 38°C or higher; naphthalenic odor; frequently contains substantial amounts of naphthalene and anthracene; distilling range 200-400°C; flash point 165°F (closed cup); soluble in alcohol, benzene, and toluene; immiscible with water. Combustible.

Von Rumker et al. (1975) defined creosote as a distillate of coal tar distilling in the temperature range 271-362°C, heavy creosote as distilling in the range of 285-395°C, and light creosote as distilling in the range of 238-291°C. Ross (1948) identified creosote oil as a distillate of coal tar distilling in the temperature range of 230-270°C.

(2)

exist, though many are present only in trace amounts (NIOSH, 1977). Because the composition of coal tar and coal tar products is known to vary, they are usually assayed and specified by their physical characteristics (including water content, specific gravity impurities, and fractional distillation curve). Using these physical characteristics, specifications for creosote used to pressure-treat wood have been established by the American Wood Preservers' Association, the American Society for Testing and Materials, and the United States General Services Administration (Appendix A). The American Wood Preservers' Association has also established specifications for creosote-coal tar solutions (Appendix B). About 98% of the creosote used for wood preservation in the United States is applied by pressure-treating methods (American Wood Preserver's Institute, 1977). Pressure-treating forces creosote to penetrate deeply into the wood.

B. Registered Uses, Production, and Supply

1. Uses

The largest pesticidal coal tar and creosote use is as a wood preservative. Coal tar is also used as an insect repellent, an acaricide, and a crow repellent. Creosote's other pesticidal uses are as an herbicide, an insecticide, an acaricide, an arachnicide, a fungicide, a tree dressing, a disinfectant, and a horse repellent. Coal tar neutral oil is registered as a disinfectant, a larvicide, an insecticide, a wood preservative, an arachnicide, an acaricide, and a fungicide. Specific uses and sites are given in Table 1.

2. Production and Supply

Von Rumker et al. (1975) reported that in 1972, 1,150 million

TABLE 1

USES AND SITES FOR COAL TAR, CREOSOTE, AND COAL TAR NEUTRAL OIL (Continued, 1977)

Product	Use	Site
Coal Tar	Preservative	Wood
	Insect Repellent	Human Skin (Except Forehead)
	Acaricide	Dogs
	Crow Repellent	Seed Corn
Creosote	Preservative	Wood
	Insecticide (screwworm)	Horses and Mules
	Acaricide (mites)	Poultry Houses
	Arachnicide (ticks)	Poultry Houses
	Herbicide	Along Roads, Highways, and Fences; Lawns; Flower Beds
	Fungicide	Rope, Canvas, Tarpaulins, Tree Wounds
	Tree Dressing	Certain Insects, Worms, Moths and Borers
	Horse Repellent	Wood Stalls, Mangers, Gates, Fence Rails, Posts, Trees, Trailer Sides
	Disinfectant	Outhouses, Water Closets, Garbage Cans, Feeding and Watering Equipment
Coal Neutral Oil	Preservative	Wood
	Arachnicide (ticks)	Hog Houses; Sheep Barns; Dog Kennels; Horse Stables; Dogs.

TABLE 1
(continued)

USES AND SITES FOR COAL TAR, CREOSOTE, AND COAL TAR NEUTRAL OIL

Product	Use	Site
Coal Neutral Oil	Larvicide (mosquito)	Marshy Land; Stagnant Pools and Small Streams; Sewers; Drains; Small Non-fish Bearing Lakes and Ponds; Temporary Rain Pools; Rain Barrels; Clogged Gutters; Intermittently Flooded Areas; Tree Holes; Eaves; Canals and Ditches.
	Insecticide (srewworm)	Horses and Mules.
	Larvicide (gypsymoth)	Gypsy Moth Nests.
	Acaricide (mites)	Horses.
	Larvicide (fly)	Garbage Trucks.
	Insecticide (lice)	Horses; Dogs; Hog Houses; Sheep Barns; Dog Kennels; Horse Stables.
	Insecticide (fleas)	Hog Houses; Sheep Barns; Dog Kennels; Horse Stables; Dogs.
	Disinfectant	Soluble Cutting Oils for Machinery; Hog Houses; Sheep Barns; Dog Kennels; Horse Stables; Yards and Pens; Poultry Feeders; Waterers and Incubators; Boots; Animal Equipment and Utensils; Cellars; Sinks; Bed Pans; Washrooms; Garbage Cans and Pools; Homes; Factories; Offices; Schools; Public Buildings; Water Closets; Urinals; Spittoons; Sickroom Walls; Kitchens; Bathrooms; Lavatories; Woodwork and Floors; Wash Basins; Toilet Bowls and Seats; Livestock Trucks; Cotton Mills; Farrowing Equipment; Poultry and Meat Dressing Plants; Ships; Planes; Railroad Cars; Busses; Sick-room Thermometers; Dishes; Trays and Sputum Cups; Diaper Cans.
	Fungicide (ringworm)	Horses

pounds of creosote were used in the United States, of which 990 million pounds were domestically produced and 160 million pounds were imported. Of its total use, wood preservation accounted for 972 million pounds and fuel burning for about 178 million pounds. Fuller et al. (1977) reported that 96,266,000 gallons of creosote, approximately 843 million pounds, and 23,635,000 gallons of coal tar, approximately 238 million pounds, were used for wood preservation in 1975. Pesticide production data reported to the Environmental Protection Agency under Section 7 of FIFRA indicated that 34,847,384 pounds of coal tar, 366,339,110 pounds of creosote, and 2,019,951 pounds of coal tar neutral oil were formulated or blended for pesticidal use in 1975.

C. Fate in the Physical Environment

Little information is available in the literature regarding the environmental fate of coal tar and coal tar products used for purposes other than as wood preservatives. The following studies indicate that coal tar and creosote migrate to some extent from the treated wood into the surrounding environment. However, the impact of this migration is not known.

Leach and Wellnert (1976) reviewed the literature on the loss of creosote from impregnated wood and found that the loss was dependent on many variables; among these are the kind of coal used to produce the coal tar, the kind of coke oven (temperature, coking time, and gas collection system) from which the coal tar is made, the distillation facilities and operating parameters (feed rate, temperature, and blend of various tar distillate fractions), the treatment and handling by the wood preservers

(seasoning and incising of the wood; temperature, pressure, and time of treatment; and the after-treatment cooling period) and the situations under which the wood is used (surface of wood exposed, orientation of the creosoted wood with reference to the wood grain, and the exposure environment).

1. Vapor Loss

Stasse (1964) found that the creosote vapor loss was greater from seasoned poles than from green poles. Vapor loss is also related to the temperature distillate fractions of the creosote; the higher the temperature of the distillate fractions, the lower the vapor loss. Over a three-year period, low residue (residue, in this study, was defined as the portion of creosote distillate over 355°C) creosote was found to have a vapor loss of 27.5% and 15.2%, from the outer 2 inches of seasoned and green poles, respectively; high residue creosote was found to have a 10.3% and 4.4% vapor loss, respectively.

2. Loss in a Marine Environment

Bramhall and Cooper (1972) found that the creosote concentration in the treated zone of pilings of a 40-year-old wharf averaged 15 pounds per cubic foot (74% of the current minimum) in the outer 1.5 inches. Whether the substandard retention was due to the original treatment or to leaching could not be determined. Sweeney et al. (1958) found that creosote was lost from treated panels when wet due to the swelling of the wood fibers. Panels 5 x 1 1/2 x 1/8 inches were pressure-treated with creosote and exposed to flowing seawater at 25°C. Based on distillation analyses, approximately 30% of the creosote was lost in the first

month of exposure. By the twelfth month, approximately 40% of the creosote was lost. The rapid initial loss was attributed to the initial hydration of the wood fibers resulting in mechanical loss. It would be difficult to determine the loss of creosote from marine pilings based on the loss from small panels. This work, however, does indicate that coal tar-creosote may be lost from marine pilings by mechanical means, if not by true leaching.

Miller (1977) found that the ability of Douglas fir marine piles to retain creosote in cool estuarine waters was directly related to the density of the wood. Of the three piles studied, one had a detectable loss of about 0.31 pounds of creosote per linear foot of immersed pile during the first year, 0.05 pounds/year the second year, 0.06 pounds/year the third year, 0.22 pounds/year the fourth year, and an average of 0.15 pounds/year each year for the last 4 years of the 8-year study. Thus, in the first year a pile with 30 feet of its length in water would lose about 9.3 pounds of creosote, a daily loss of about 11.6 grams. The speed of the water flowing past the pilings was about 2 feet per second during flood tide and about 0.8 feet per second during ebb tide; upstream tide volume between the mean lowest and the mean highest daily tides was 900 million cubic feet of water. Miller concluded that because of the velocity and the volume of the water flowing past the pilings, the creosote lost from the pilings was greatly diluted. Hochman (1967) found that about 20% of the creosote initially impregnated into wood is expelled in the marine environment during the first year as a result of wood hydration. Stasse (1967) found a creosote displacement loss of 21.7% from wood panels

over a 6.5-year period in ocean water.

3. Loss in the Freshwater Environment

Nelso and Behr (1977) found that the greatest loss of creosote from round Southern Pine poles in fresh water occurred in the outer 0.5 inch zone where 48.1% of the creosote was depleted in 13 months. Overall losses for the 13-month period were 19.5%.

D. Fate in the Biological Environment

1. Microbial Degradation

Jean-Raymond and Bartha (1975) isolated six strains of bacteria from oil polluted estuarine water; all six grew on naphthalene, 2-methylnaphthalene, and 2-ethylnaphthalene. Phenanthrene and anthracene were metabolized by three of the six strains. Two of the six strains metabolized 1,5-dimethylnaphthalene and one strain metabolized 1-methylnaphthalene. Naphthalene, 2-methylnaphthalene, 2-ethylnaphthalene, 1-methylnaphthalene, and 1,5-dimethylnaphthalene have all been identified in creosote (National Research Council, 1945) (Lorenz and Ojovik, 1972).

Brisko and O'Neill (1966) found that the mixture of microorganisms present on creosoted pilings in the Port Hueneme, California Harbor had the ability to metabolize creosote, causing loss of creosote from the pilings. Two of the aromatic hydrocarbons present in creosote - naphthalene and phenanthrene - were metabolized to a significant extent. Pseudomonas creosotensis, which was isolated from the mixture of microorganisms, utilized a number of neutral creosote constituents as a source of energy; conversely, acidic and basic creosote constituents inhibited its growth.

Hepner (1977) found that creosote in a soil to sand mixture (1:2)

was decomposed by soil microorganisms. Fertilized soil plots were watered weekly for 22 weeks with the equivalent of one inch of rain per week. Analyses showed that the leachates degraded rapidly when creosote concentrations in the soil were 0.1% or lower. Higher concentrations of creosote can be degraded in the soil but at a much lower rate (Hepner, 1977).

Davies and Evans (1964) studied the metabolism of naphthalene by a Pseudomonas species. The ultimate metabolic products were salicylaldehyde and acetaldehyde.

2. Bioaccumulation

Dunn and Stich (1975) showed that mussels taken from creosoted pilings contained significantly more benzo[a]pyrene (B[a]P), a known carcinogen (IARC, 1976), than those growing on other surfaces. B[a]P has been identified as a constituent of creosote oil (Lijinsky et al., 1963). Mussels taken from the creosoted wood showed mean B[a]P levels of 49 ± 5.8 ug/kg, while mussels taken from the same body of water but remote from the pilings showed mean contamination levels of 2.1 ± 0.3 ug/kg. Samples of creosote-treated wood pilings (outer 4 mm) showed B[a]P levels averaging 570 ppm. Thin-layer chromatograms of piling extracts and of mussels growing on these pilings showed "similar fluorescent band patterns" and may indicate that the creosote migrated from the pilings into the mussels.

Dunn and Stich (1976) also measured the B[a]P content of mussels attached to and near a partially creosoted wharf. Creosoted pilings served as a bumper system around a concrete wharf, and a barricade of creosoted timbers was placed at one end of the wharf. Mussels taken from rocks underneath and near the wharf were contaminated with creosote, rang-

ing from 54 to 76 ug/kg wet tissue weight; while those growing directly on the creosoted barricade were contaminated with 215 ug/kg, and those on rocks 1 meter from the barricade with 171 ug/kg. The authors suggested that the levels of B[a]P in mussels in this area are much higher than those generally found near creosote structures and may reflect the age of the treated timber. The creosote material at the wharf was relatively new and retained a tarry residue on its surface; mussels near older, weathered pilings should have much lower levels of B[a]P.

3. Effect on Freshwater Organisms

White (1975), in a study at a fresh water lake, compared an untreated pile, two pentachlorophenol-treated piles, an ammoniacal copper arsenate-treated pile, and a creosote-treated pile. After one month, the greatest number of algae species was growing on the surface of the creosote-treated pile. After one year all piles, except the one treated with ammoniacal copper arsenate, had extensive algal encrustment, along with many amphipods, limpets, and waterlites entangled in the algal mats. Thus, creosoted piles did not affect the growth of attached freshwater organisms.

I. Regulatory History

Since 1966, various uses were cancelled and eliminated from the labels on coal tar and coal tar products. A summary of the cancelled uses follows:

February 1, 1966 - The U.S. Department of Agriculture (USDA) cancelled the registrations of all products containing creosote used for disinfecting potato bins and other equipment used in potato production.

February 1, 1969 - USDA canceled the registrations of creosote and coal tar neutral oil-coal tar acid combination products used on beef cattle, goats, poultry, sheep, and swine.

February 26, 1970 - USDA canceled the registrations of products containing coal tar neutral oil-coal tar acid combinations used on dairy barns and the registration of products containing creosote used on animal sleeping quarters, barns, hog pens, and sheep folds.

March 12, 1971 - EPA canceled the registrations of coal tar neutral oil-coal tar acid combination products used on poultry houses.

II. Summary of Scientific Evidence Relating to Rebuttable Presumption

A. Oncogenicity

40 CFR Section 162.11(a)(3)(ii)(A) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s)... induces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure..."

This discussion concerns only reports of the oncogenicity of coal tar, creosote, and coal tar neutral oil. Reports on the oncogenicity of soot, pitch, and petroleum, which have many constituents in common with coal tar, creosote, and coal tar neutral oil will not be discussed here.

In determining that the oncogenicity criterion was exceeded, the Working Group considered case reports of workers who were occupationally exposed to coal tar or creosote and who developed tumors, and reports of animal experiments in which mice, rats, or rabbits developed

tumors from either dermal or inhalation exposure to coal tar, creosote, or coal tar products. In addition, the Working Group considered conclusions by the Carcinogen Assessment Group (CAG) (CAG, 1977; CAG, 1978; McGaughy, 1978) that coal tar, creosote, and coal tar neutral oil are oncogenic.

Also, the Working Group is aware that a number of polycylic and heterocyclic aromatic hydrocarbons present in coal tar creosote and coal tar have been well established as carcinogens [International Agency for Research on Cancer (IARC), 1973; Freudenthal and Jones, 1976; Committee on Biologic Effects of Atmospheric Pollutants, 1972]. Specifically, IARC (1973) reported that the following constituents of coal tar or creosote were carcinogenic to animals by one or more routes of administration: benz[a]anthracene, benzo[b]fluoranthene, benzo[j]fluoranthene, benzo[a]-pyrene, benzo[e]pyrene, chrysense, dibenzo[a,h]anthrancene, dibenzo[a,h]-pyrene, dibenzo[a,i]pyrene, indeno[1,2,3-cd]pyrene, benz[c]acridine, dibenz[a,h]acridine, and dibenz[a,j]acridine.

There may be differences in the chemical composition of the coal tars and coal tar derivatives in pesticide products subject to this presumption and the coal tar substances discussed in this section. If a registrant seeks to rebut the presumption on the ground that identified oncogens are not constituents of a particular pesticide product, the registrant should include relevant data on pesticide composition in the rebuttal submission.

1. Summary Table of Coal Tar, Creosote, and Coal Tar Neutral Oil Studies

Because of the numerous studies and reports on the oncogenicity of coal tar, creosote, and coal tar neutral oil, a summary table has been prepared and precedes the discussions of the studies (Table 2).

TABLE 2

SUMMARY OF COAL TAR, CREOSOTE, AND COAL TAR NEUTRAL OIL STUDIES

COAL TAR

Human Case Reports

Authors	Year	Substance and Type of Exposure	Occupation of Exposed Individual	Type of Tumor Response
Shaugh	1935	Coal Tar on repair needle held between lips	Fishermen - Net loft workers	Epidermal carcinomas of the lower lip
Mauro	1951	Handling of Coal Tar Pitch	Tar distillery workers	Cancer of skin, scrotum, cheek, and lip
Rossmith	1953	Hot Coal Tar Vapors	Tar barrel filler	Spinocellular cancer in scar of cured erythematous lupus infection

COAL TAR

Animal Studies

Dermal Exposure

Authors	Year	Substance Tested	Animal & Strain	Type of Tumor Response
Yamagiwa & Ichikawa	1915	Coal tar	Rabbits (Strain Undefined)	Papillomas of the ear (site of application)
Tsuitsui	1918	Bituminous coal tar	Mice - English	Papillomas, carcinomas and spindle cell sarcoma
Kennaway	1925	Coal tar products of 456°C, 560°C, & 1,250°C distillation temperature.	Mice (Strain Undefined)	Skin tumors (higher rate of carcinogenesis at higher temperatures)

TABLE 2
(continued)

COAL TAR

Animal Studies
Dermal Exposure
(continued)

Authors	Year	Substance Tested	Animal & Strain	Type of Tumor Response
Watson & Mellanby	1930	Dermal Application of coal tar following dermal application of fats, oils, or tannic acid	Mice (Strain Undefined)	Increased tumor production
		Coal tar dermal application combined with addition of butter to diet	Mice (Strain Undefined)	Higher incidence of lung nodules
Bonser & Manch	1932	Scottish blast furnace tar; English crude tar	Mice (Strain Undefined)	Papillomas and squamous cell carcinomas of the skin
Gorski	1959	Coal tar	Mice (Bn Strain)	Skin tumors (some malignant)
Hueper & Payne	1960	Coal tar	Mice - Black (C57 Strain)	Skin carcinomas
Horton	1961	Coal tars, coal tar mixture, benzo[a]pyrene mixture	Mice (C3H Strain)	Skin tumors in 75% of each group of animals
		Coal tar distillates	Mice (C3H Strain)	Skin tumors
Deelman	1962	Coal Tar	Mice (Strain Undefined)	Skin carcinomas and papillomas
Shabad et al.	1971	Coal tar ointments	Mice (C57 CBA Hybrid Strain)	Skin tumors

TABLE 2
(continued)

COAL TAR

Animal Studies
Inhalation Exposure

Authors	Year	Substance Tested	Animal & Strain	Type of Tumor Response
Horton	1961	Coal tar fumes preceeded by inhalation of formaldehyde; coal tar fumes	Mice (C3H Strain)	Both groups developed proliferative alveolar neoplasia; one mouse (group unspecified) developed a squamous cell carcinoma
Horton et al.	1963	Coal tar aerosol; Coal tar aerosol & gaseous formaldehyde	Mice (C3H Strain)	Both groups developed squamous cell tumors of lung and lung adenomas
Tye & Stemmer	1967	Coal tar; coal tar & phenolic & non-phenolic fractions of coal tar; non-phenolic fractions of coal tar	Mice (C3H/HeJ Strain)	Adenomas & carcinomas of the lung
Kinkead; McConnell & Specht; MacEwen & Vernot	1972-1974	Aerosolized coal tar - light oil & solid fraction removed	Mice (ICR-CF1) Mice (JAX-CAF1) Weanling rats (Sprague-Dawley) Yearling rats (Sprague-Dawley) Hamsters (Syrian golden) Rabbits (New Zealand white)	Mice developed skin tumors due to aerosolized material deposited on skin; Tumor response was not reported for rabbits, hamsters, or rats
MacEwen & Vernot; MacEwen et al.	1976	Aerosolized Coal tar	Mice (ICR-CF1) Mice (JAX-CAF1) Rats (Sprague-Dawley) Rabbits (New Zealand albino) Monkeys (Macaca Mullata)	Mice - Alveolargenic carcinoma and skin tumors; Rats - Squamous cell carcinomas; No tumor response was reported for rabbits or monkeys.

TABLE 2
(continued)

CREOSOTE

Human Case Reports

Authors	Year	Substance and Type of Exposure	Occupation of Exposed Individual(s)	Type of Tumor Response
Mackenzie	1896	Handling of Creosote	Worker who dipped railway ties in creosote	Warty elevation on arms; Papillomatous swellings on scrotum
O'Donovan	1920	Handling of Creosote	Workers who creosoted timbers	Skin cancer
Cookson	1924	Handling of Creosote	Creosote factory worker	Squamous epitheliomata on hand; epithelliomatous deposits in liver, lungs, kidneys and heart walls
Henry	1947	Handling of Creosote	37 Men of Various occupations	Cutaneous epitheliomata
Benson	1956	Painting of Creosote	Shipyard worker	Malignant cutaneous tumors of the face

CREOSOTE

Animal Studies
Dermal Exposure

Authors	Year	Substance Tested	Animal & Strain	Type of Tumor Response
Sall & Shear	1940	Creosote & benzo[a]pyrene	Mice (Strain A)	Accelerated tumor formation
Knothouse	1950	Creosote oil	Mice (Albino; Undefined Strain)	Papillomas & carcinomas
Lijinsky et al.	1956	#1 creosote oil	Mice - Swiss	Papillomas & carcinomas

TABLE 2
(continued)

CREOSOTE

Animal Studies
Dermal Exposure
(continued)

Authors	Year	Substance Tested	Animal & Strain	Type of Tumor Response
Poel & Kammer	1957	Blended creosote oils;	Mice (C57L Strain)	Papillomas & carcinomas metastatic growths in lungs & lymph nodes
		Light creosote oil	Mice (C57L Strain)	Papillomas
Boutwell & Bosch	1958	Creosote (Carbasota)	Mice (Albino - random bred)	Papillomas & carcinomas
Roe et al.	1958	Creosote oil (Carbasota)	Mice (Strain Undefined)	Skin & lung tumors

COAL TAR NEUTRAL OIL

Animal Studies
Dermal Exposure

Authors	Year	Substance Tested	Animal & Strain	Type of Tumor Response
Cabot et al.	1940	Benzene solution of neutral oil & benzo[a]pyrene	Mice - albino "market" mice	Inhibitory effect of tumor response as compared to tumor response with benzo[a]pyrene (effect credited to skin damage)
Berenblum & Schoental	1947	5 Coal tar neutral oil fractions	Mice (Strain Undefined)	All fractions but two were oncogenic
			Rabbits (Strain Undefined)	All fractions but one were oncogenic
Horton	1961	Coal tar neutral oils (maleic anhydride extracts)	Mice (Strain Undefined)	Produced tumors in 34.1 and 32.1 weeks

2. Coal Tar

a. Case Reports of Skin Cancer of Workers

Numerous reports of workers who developed cancer subsequent to coal tar exposure have been reported in the literature. The following is a summary of three of these case studies.

(1) Shambaugh

Shambaugh (1935) described his investigations of the incidence of cancer among fishermen and net loft workers who used and repaired tarred nets. Coal tar was used on nets to prevent them from rotting, and tar was often inadvertently smeared on the arms and face through use of the nets. Shambaugh's interest was prompted by the case of a patient who had sought medical help because of a growth on his neck. The growth was subsequently found to be an epidermal carcinoma involving the lymph nodes and invading the submaxillary gland. Closer examination of the patient additionally revealed a small, puckered scar on the lip, which the patient described as a "fisherman's sore." The patient had been a fisherman for 6 years, and while mending his nets he had held the tar-smeared needle between his lips at the spot where the growth developed. He had smoked a pipe but normally held it on the opposite side of his mouth. This case led Shambaugh to interview fishermen in Boston, Gloucester, New Bedford, and Provincetown, Mass. Using records of cases of cancer of the lip treated at Collis P. Huntington Memorial Hospital in Boston in 1932 and 1933, four fishermen with lip cancer were identified. Each had used tarred nets and at least one held the repair needle in the mouth on the side where the cancer developed. Tobacco was not used by this fisherman, but the other

three smoked pipes. Two of the three cancers developed on the opposite side of the mouth from where the pipe was held.

Among net loft workers, three cancer cases were reported. All held the repair needle in the mouth, and at least one of these workers did not use tobacco. Two had died of lip cancer, while one was treated successfully with radium.

The exposure to tar through net repair needles in the eight cases ranged from 5-60 years. All were epidermoid carcinomas of the lower lip.

(2) Mauro

Workers in a tar distillery were examined by Mauro (1951). Of a crew of 32, 20 had significant exposure to tar (14 day laborers, 4 distillers, and 2 stokers). All except the two stokers had some type of skin disorder; four of these were cancers. A 61-year-old distiller developed cancer of the scrotum after a 30-year exposure. Treatment with surgery and radiation was unsuccessful, and the patient died. A 50-year-old distiller, employed for 25 years, developed cancer of the scrotum and forearm. He was also treated with surgery and radiation, but the outcome was not stated. A 64-year-old day laborer developed cancer of the cheek after a 30-year exposure and was cured with radiation. A 53-year-old day laborer developed lip cancer after 22 years of exposure. He was treated successfully with radiation. The author stated that the workers were exposed to both tar and pitch, and that the two substances produce essentially identical cancers.

(3) Rosmanith

Rosmanith (1953) described the case of a worker who developed

skin cancer in the scar of a cured erythematous lupus infection. The patient had been employed for 10 years filling barrels with tar; while bending over the opening of the barrel, hot tar vapors had come in contact with his face. No protective gear was used other than gloves. The condition began at the root of the nose as several small solid growths which grew and expanded. The tumor was identified as a spinocellular cancer. Radiation treatment was unsuccessful.

b. Animal Studies - Dermal and Inhalation Exposure

The following 15 animal studies are presented chronologically. In general, they show that tumors were produced following dermal and inhalation exposure to coal tar. The working group notes that interpretation of some of the early studies is limited by the absence of control data. However, later studies which include appropriate control groups generally confirm and reinforce the observations in the early studies.

(1) Yanagiwa and Ichikawa

Yanagiwa and Ichikawa (1918) painted tar on the inner and outer surface and in open wounds of rabbits' ears. Seventy-one to 100 days following painting, papillomas were observed in 71% (12 of 17) of pairs of ears that had been painted on the inner surface. Papillomas were seen after 64 days in 17% (1 of 6) of rabbits' ears painted on the outer surface. Eighty-eight percent (7 of 8) of the ears painted on the inner surface had papillomas in rabbits surviving longer than 80 days. Only one papilloma was found in rabbits where the painting had been done on the outer surface or in a cut wound. The authors observed one epider-

papilloma (site unspecified) that had the appearance of a carcinoma, but were unable to examine the tumor histologically. The authors felt that the inner surface of the ear was more susceptible to the development of papillomas than the outer surface of the ear because there were fewer hair follicles. The author did not report using any controls.

(2) Tsutsui Study

Tsutsui (1918) studied the tumor response from bituminous coal tar applied to the skin of "strong" English mice. The tar was applied every third or fourth day. A total of 259 mice in seven groups were used; however, only 67 mice survived for 100 days. Tumors were examined histologically and photographed.

Papillomas developed in 48% (32/67) of the mice that survived 100 days. Later some of the papillomas developed into carcinomas, which invaded adjacent tissue, and were found in 24% (16/67) of the mice. A spindle cell sarcoma was found in one mouse, and lung metastases, confirmed on histological examination, were present in two mice. The author did not report using any controls.

(3) Kennaway

A study of coal tar products of 450 C, 560 C, and 1,250 C distillation temperatures showed a higher rate of carcinogenesis at the higher temperature fractions (Kennaway, 1925). The tars were applied to the interscapular region of 100 mice twice a week. After 230 days, 50% (10/20) had skin tumors in the 1,250 C-tar group, 34% (10/29) had skin tumors in the 560 C-tar group, and 4% (2/49) had skin tumors in the 450 C-tar group. Most tumors were malignant in the 1,250 C and 560 C groups. Nearly half the ani-

mals in the 560°C and 1,250°C groups had died by day 173, and more died as the experiment continued. The author did not report using any controls.

(4) Watson and Mellanby

A study reported by Watson and Mellanby (1930) tested the carcinogenic effect on mice (undefined strain) of the combination of fats in the diet with dermal application of coal tar, of the combination of the dermal application of various fats, oils, or tannic acid prior to the dermal application of coal tar, and of the combination of pretreatment of skin with petroleum ether to remove some of the fatty substances with skin application of coal tar. Four groups of 70 mice were dermally pretreated twice each week with fats (extracted from either normal mouse tissue or from mouse tissue of mice who had died from tar-induced tumors), olive oil, or tannic acid (first applied in the experiment as a 10% solution and later in the experiment as a saturated solution). Coal tar was applied to the skin 30 minutes later. Control groups of the same size were treated only with coal tar. There were no controls in which healthy animals were used for comparison. The animals were treated for 120 days and were observed for a subsequent 240-day period except in the case of the olive oil group which was observed for 20 days subsequent to 90 days of application. Fats were added to the diet by the addition of butter to the food. The mice were fed a diet of one part powdered bread and one part Sussex ground oats made into a moist paste with water. This diet was fed daily and was supplemented once weekly with cod liver oil and marmite. Butter was added in amounts varying from 12.5-25% of the diet of the test mice. A control group consisted of mice to which no butter was

added to the diet but to which coal tar was dermally applied. There were no controls in which healthy animals were used for comparison. This experiment was done twice; once with 70 mice in both the test group and the controls and once with 90 mice in the test group and the controls.

Sixty male mice were treated with petroleum ether to remove at least some of the fatty substances in the skin. The petroleum ether (B.P. 60-80°C) was applied by means of a cotton-wool plug 30 minutes prior to the dermal tar application. This treatment was performed twice weekly for 120 days, and the mice were observed for an additional 330 days. A control group consisted of 60 male mice which were treated dermally with coal tar twice weekly for 120 days and then observed for 330 days. There were no controls in which healthy animals were used for comparison. An analysis of results of all the experiments is found in Table 3.

The application of tannic acid solution to the skin of mice prior to coal tar application did not affect incidence relative to the incidence produced by coal tar alone. The fat extracts or the olive oil, however, increased tumor incidence above the incidence produced by coal tar alone. Fat extracts from normal mice and from mice which had died from tar tumors increased tumor incidence to almost the same extent. Olive oil applied to the skin of mice prior to coal tar application resulted in a 72% lung tumor incidence among the skin tumor-bearing mice compared to 57% for controls (those treated with coal tar alone). The mice treated with fats or oils prior to tar treatment often developed tumors at several locations, which was not true of those treated with

TABLE 3

EFFECTS OF VARIOUS FATS AND OILS APPLIED DERMALLY OR IN THE DIET ON TUMOR INDUCTION BY COAL TAR (Watson and Mellanby, 1930)

Preconditioning	No. Tumors/ No. Animals	Percent of Tumor-Bearing Animals Developing Lung Tumors
I. Skin Treatments		
Experiment 1		
Tannic Acid	19/70 (27%)	47
Mouse Extract (Tumor-Bearing)	35/70 (50%)	63
Mouse Extract (Normal)	41/70 (59%)	59
Tar Only	18/70 (26%)	50
Experiment 2		
Olive Oil	29/70 (41%)	72
Tar Only	21/70 (30%)	57
II. Dietary Treatments		
Experiment 1		
Butter-fed	39/70 (56%)	60
No Butter	20/70 (29%)	37
Experiment 2		
Butter-fed	31/90 (34%)	55
No Butter	37/90 (41%)	41
III. Washing with Petroleum Ether		
Petroleum Ether (Wash)	19/60 (32%)	47
Tar Only	37/60 (62%)	61

tar alone. The addition of butter to the diet of two groups of mice led to a higher incidence of lung nodules in mice with tumors (60% vs. 37% and 55% vs. 41% in the two experiments), as compared to mice treated with tar with no dietary change. Butter-fed mice developed a greasy appearing coat. Mice washed with petroleum ether to remove some natural skin fats developed fewer skin tumors (32% vs. 62%), and fewer of those with skin tumors developed lung nodules than those mice treated with coal tar alone. The author concluded that addition of fats or oils to the skin or to the diet of mice prior to coal tar application caused more tar to be absorbed and thus increased tumor production. This conclusion was also supported by the reduction in tumor formation found when natural skin oil was partially removed by washing with petroleum ether.

(5) Bonser and Manch

Bonser and Manch (1932) studied the tumor response from application to mouse skin of three samples of Scottish blast-furnace tar, one sample of English crude tar, and an ether extract of the latter. The three samples of Scottish tar (I, II, and III) were made from coke-oven charges which contained in addition to the coal, 15-17%, 25%, and 10% coke, respectively; the English crude tar was made from a charge containing 75% coal and 25% coke. Sixty mice were used for testing each sample of tar. There was no control group. The hair was clipped away from a small area of skin in the region between the shoulder-blades. The tar was applied bi-weekly for the first 14 weeks, and thereafter once weekly because of marked ulceration of the skin of many mice. The study was continued for 56 weeks, by which time all the mice had died. Fifty-seven

tumors were grossly identified. Thirty-one of the total 57 tumors which had developed were confirmed histologically. Results appear in Table 4.

In mice treated with the three Scottish samples, the first tumors appeared at the 16th week. The Scottish I, II, and III tar samples produced a tumor incidence of 7/60 (12%), 10/60 (17%), and 8/60 (13%) respectively. The tumors were malignant in three mice. The first tumor appeared at the 21st week when an English crude tar was used. Eight mice (13%) treated with the English crude tar and 24 mice (40%) treated with an ether extract of the English crude tar developed tumors. Nine tumors in mice given the ether extract were malignant. At 30 weeks there were 25 survivors in the latter group of mice, and over 50% had tumors.

The tumors were papillomas or squamous cell carcinomas of the skin. The carcinomas invaded the muscle. One malignant tumor, seen after 47 weeks of application of ether extract of English tar, consisted of a mass of "mononuclear round cells" invading the adjacent muscle and fat and metastasizing to the lymph nodes.

In this study, blast-furnace tar obtained from a variety of sources induced benign and malignant tumors of the skin in mice. The carcinogenic properties were enhanced by extraction with ether.

(6) Gorski

Gorski (1959) investigated the carcinogenic properties of two coal tars (one produced from coal from the "Bobrek" mine and one produced from coal from the "Nowa Huta" mine), a soft pitch, a hard pitch, and an anthracene fraction. Thirty-two mice about 2.4 months old and of approximately equal sex distribution were in each test group. The authors do

See 19.

TABLE 4

INCIDENCE OF SKIN TUMORS IN MICE TREATED WITH BLAST FURNACE TARS
Carcinogen Assessment Group (CAG), 1978

Tar Sample	Number of Tumors per Number of Animals	Appearance of First Tumor (weeks)	Malignant Tumors
Scottish I	7/60 (12%)	16	0/60 (0%)
Scottish II	10/60 (17%)	16	2/60 (3%)
Scottish III	8/60 (13%)	16	1/60 (2%)
English Crude	8/60 (13%)	21	0/60 (0%)
Ether Extract of English Crude	24/60 (40%)	12	9/60 (15%)

not report using a control group. The mice were described as having a "low threshold for spontaneous growths." One drop of the test solution was applied to the skin near the backbone of the mice twice a week for 5 months, for a total of 44 applications per mouse. No data were provided on controls.

The test solutions were prepared by dissolving the materials in benzene (a 1:1 ratio). Pitch, being insoluble in benzene, was extracted using Soxhlet's apparatus, which provided a 1:5 solution in benzene.

Skin changes observed included peeling, swelling, and wart-like growths of differing shapes and sizes. Skin effects appeared earliest and with greatest intensity in the soft pitch group. Tumor results are reported in Table 5.

After 8 weeks, some mice had died in each group. Skin tumor observations were made at 4 months. Tar from the "Bobrek" mice produced an average of 0.6 tumors per mouse in 22 mice; 6 had malignant tumors. Eight of 26 surviving mice in the Nowa Huta mine tar group had malignancies, and there were, on the average, 0.2 tumors per animal. Twenty-one mice survived in the hard pitch group, with an average of one tumor per mouse; eight had malignant tumors. In the soft pitch group, 28 mice survived, with an average of 2.9 tumors each; 14 mice had malignant tumors. Of those to which an anthracene fraction was applied, 24 mice survived with an average of 0.3 tumors each; 4 mice had malignancies.

Mice with skin changes in all groups were debilitated and died by the end of the seven-month experiment. White hard growths ranging in size from that of a pinhead to that of a peppercorn were found by

TABLE 5

TUMOR PRODUCTION IN MICE DERMALLY EXPOSED TO "KOWA HUTA" COAL TAR, "BOBREK" COAL TAR, HARD PITCH, SOFT PITCH OR AN ANTHRACENE FRACTION
(Adapted from Gorski, 1959)

Product Tested	No. of Mice At Onset of Experiment	No. of Mice After Eight Weeks	Average No. of Tumors/Mouse (after 4 months)	No. of Malignant Tumors Proven Histologically 1/
Bobrek Tar	30	22	0.6	6/22 (27%)
Nowa Huta Tar	30	26	0.2	8/26 (31%)
Hard Pitch	30	21	1.0	8/21 (38%)
Soft Pitch	30	28	2.9	14/28 (50%)
Anthracene Fraction	30	24	0.3	4/24 (17%)

1/ The denominator is the number of mice in that group alive after eight weeks.

dissection of the skin tumors, particularly in the later stages of the experiments. Other changes included enlarged lymph nodes, growths in the lungs, flaccidity of the liver, pale hard growths on the kidneys, and degeneration of the liver and kidneys. Metastases to the lymph nodes were confirmed in mice from the soft and hard pitch groups.

The author concluded that all the products tested were carcinogenic, that soft pitch was the most carcinogenic, anthracene fraction the least carcinogenic, and the two tars and the hard pitch were in an "intermediate" group.

(7) Hueper and Payne

Hueper and Payne (1960) found that skin tumors were produced in mice following the application of coal tar. Coal tar, four petroleum road asphalts (Venezuelan, Mississippian, Oklahoman, and Californian), one petroleum roofing tar, and paraffin oil were applied to the napes of the necks of groups of 50 black C57 mice (25 of each sex) for two years. An untreated control group consisted of 200 mice. So that the materials could be applied as droplets, the coal tar and roofing asphalt were heated to make them liquid, and the road asphalts were diluted with a sufficient amount of acetone. The paraffin oil was painted on the skin. Postmortem examinations were performed on all mice, and histological examinations were made of all tissues which exhibited gross abnormalities. The results are found in Table 6.

Carcinomas of the skin were found in 22 of 50 (44%) and papillomas in one of 50 (2%) mice receiving dermal applications of coal tar, whereas control mice did not develop tumors of the skin.

TABLE 6

SKIN TUMORS IN MICE GIVEN DERMAL APPLICATIONS OF COAL TAR, PETROLEUM ROOFING TAR, PARRAFIN OIL, OR PETROLEUM ROAD ASPHALTS
Carcinogen Assessment Group (CAG), 1978

Treatment	Skin Carcinomas	Skin Papillomas	Total
Control	0/200 (0%)	0/200 (0%)	0/200 (0%)
Coal Tar	22/50 (44%)	1/50 (2%)	23/50 (46%)
Petroleum Roofing Tar	1/50 (2%)	0/50 (0%)	1/50 (2%)
Paraffin Oil	1/50 (2%)	1/50 (2%)	2/50 (4%)
Petroleum Road Asphalt			
Venezuelan	0/50 (0%)	0/50 (0%)	0/50 (0%)
Mississippian	1/50 (2%)	1/50 (2%)	2/50 (4%)
Oklahoman	0/50 (0%)	1/50 (2%)	1/50 (2%)
Californian	1/50 (2%)	0/50 (0%)	1/50 (2%)

Hueper and Payne also administered some of the substances via inhalation and intramuscular injection. Coal tar did not produce lung tumors in rats or guinea pigs inhaling such fumes for periods up to two years but did produce muscle sarcomas following intramuscular injection. The results of the intramuscular study are not discussed here because intramuscular injection is not a route of exposure included in the criteria of 40 CFR 162.11(a)(3)(ii)(A).

(8) Horton

In several experiments Horton (1961) tested a number of crude coal tars, coal tar distillates, and fractions of coal tar for skin tumor response in C3H mice. In the first part of the study, five coal tars (four from the coking of bituminous coal and one from the coking of lignite coal), a mixture of one of the bituminous coal tars in 50% benzene, and a benzo(a)pyrene mixture were tested. The authors did not report using a control group. No data were provided on the number of mice tested nor on the length of time the animals were treated; however, the time-to-tumor for each group was reported. The incidence of tumors was reported to be greater than 75% (only a percentage was reported) for each test group. Horton developed a numerical index designed to grade the various tars and tar fractions for relative carcinogenic potency. This index was referred to as the potency for a minimum concentration of material (PMC). A high PMC value is meant to indicate a greater carcinogenic potency. For tars D-1 and D-613 for which multiple doses were applied, a dose response was evident. The mean time-to-tumor (in weeks), the schedule of application, and the PMC values for each of the tars, the tar solu-

TABLE 7

MEAN TIME-TO-TUMOR AND PMC VALUES FOR FOUR BITUMINOUS TARS, ONE LIGNITE TAR, AND ONE SOLUTION OF BENZO[a]PYRENE
(Adapted from Horton, 1961)

Treatment	Schedule of Application (#/week - mg)	Mean Time-to-Tumor (weeks)	PMC
D-1 - bituminous tar	2-10	15.6*	0.27*
	2-50	12.6*	0.37*
	3-100	7.0*	0.63*
D-4 - bituminous tar	2-10	24.8	0.13
D-5 - bituminous tar	2-10	23.6	0.14
D-5A - 50% dilution by weight of D-5 tar	2-10	25.1	0.13
D-8 - bituminous tar	3-50	21.9	0.11
D-12 - lignite tar	3-50	17.1	0.16
D-613 - benzo(a)pyrene in 85% beta-methylnapthalene and 15% benzene solution	2-15	33.0*	0.08*
	2-50	30.6*	0.10*

* The multiple doses for Tars D-1 and D-613 demonstrated a mean time-to-tumor and a PMC dose responses.

tion, and the benzo[a]pyrene solution are reported in Table 7.

Two tars from the previous group (D-1 and D-8) were chosen to test the effect of skin washing with a detergent in water 5 or 60 minutes after tar application. Tars D-1 and D-8 had the highest (0.8) and lowest (0.1) benzene-insoluble content, respectively. Washing delayed tumor development, but the final tumor incidence was not significantly changed. The delay was greater in the animals washed 5 minutes after dermal application.

Horton also determined the relationship between the amount of benzo [a]pyrene in distillates of coal tar and the carcinogenic potency of those distillates. Tar D-1, a distillate oil of D-1 (the first 9-13.5% of the distillation), a proportionate reblend of nine distillate fractions of D-1, and two distillate fractions (a carbolic oil and a light creosote oil) of a coal tar (D-9) not previously used in the experiments were tested for B[a]P content and carcinogenic potency (PMC) to the skin of mice. With the exception of Tar D-1, all test materials were applied to mice (strain unspecified) in 10 mg doses. Tar D-1 was applied in 20 mg doses. The number of applications was described as "repeated," but neither the frequency nor the duration was specified. The PMC values and benzo[a]pyrene content of the test substances are reported in Table 8.

Comparison of the benzo[a]pyrene content with the carcinogenic potencies of various fractions showed that no tumors were produced by those fractions in which no benzo[a]pyrene could be detected, while the carcinogenic potency of the test materials that contained benzo[a]pyrene was correlated with their content by weight of this carcinogen. Despite this observation, the authors did caution that these results do not imply that benzo[a]pyrene is the only carcinogen in these substances.

TABLE 8

PMC VALUES AND BENZO[a]PYRENE CONTENT FOR TWO COAL TARS, SEVERAL DISTILLATES OF THOSE COAL TARS, AND A PROPORTIONATE REBLEND OF THE DISTILLATES FROM ONE OF THE TARS

Test Material	Doses (mg)	Content of Benzo[a]pyrene (%)	Relative Carcinogenic Potency (PMC)
Tar D-1	20	0.74	0.27
Distillate Oil of Tar D-1	10	0.01	0.01
Proportionate Reblend of the Nine Cuts of Tar D-1	10	0.08	0.11
Carbolic Oil of Tar D-9	10	0.00	0.00
Light Creosote Oil of Tar D-9	10	0.00	0.00

(9) Deelman

Deelman (1962) studied the effect of time between tar applications on tumor development. He found that papillomas developed after 16 applications regardless of the interval between applications (2 to 7 days). The number of carcinomas was small after 18 applications. In time, after the end of the applications, however, many of the papillomas became carcinomas.

When tar was applied to different size skin areas or fields, it was found that mice with the largest field (20 x 25 mm) had an average of one carcinoma and seven papillomas each. Eight mice, with a tarred field of 2.5 x 25 mm (The coal-tarred area for the eight mice combined is equal to the largest field tested or 20 x 25 mm field for one mouse.) had a total of 34 papillomas and three carcinomas among them. It was found that among the tar fields tested (20 x 25 mm, 10 x 25 mm and 2.5 x 25 mm), the smaller the tar field, the larger the number of tumors per unit area. This may be a result of the greater toxicity to the animals with the larger tar fields; the author observed that mortality, weight loss, and kidney damage increased as the size of the tar field increased. No untreated controls were used in the study.

(10) Shabad et al.

Shabad et al. (1971) applied three coal tar ointments [Loracorten tar ointment (USA), CIBA coal tar ointment (Switzerland), and coal tar ointment (USSR)] to C57 CBA hybrid mice two or three times each week for 10 or 12 months to test for tumor production. The authors did not report using any control groups. All of the mice died within 18 months or were sacrificed because of their poor condition. Eighteen of 19 (94.7%), 20 of 21 (95.2%), and 16 of 17 (94.1%) of the animals in USSR, CIBA, and Loracorten ointment groups, respectively, developed tumors. The benzo [a]pyrene content of the three ointments was 225, 5,020, and 5,190 ug/g, respectively. Shabad also tested the effect of two birchwood tar ointments, Vishnevsky and Tashkent, on groups of 20 and 24 C57CBA mice. None of the mice in the groups develped tumors after 18 months. The benzo[a] pyrene contents of the Vishnevsky and Tashkent tars were 0.0013 and 0.044 ug/g, respectively.

(11) Horton

Horton (1961) studied the lung tumor response in C3H mice after exposure to coal tar fumes. One group of mice inhaled formaldehyde-contaminated air intermittently for an unspecified amount of time, while a second group was kept in clean air. The former group developed squamous metaplasia as a result of their exposure to formaldehyde. Both groups were then exposed to coal tar fumes (0.33 mg/liter) for one hour/day, three days/week for 13 to 33 weeks. A majority of the mice (numbers were not reported) in both groups developed proliferative alveolar neoplasia, and one (the group was not reported) developed a squamous cell carcinoma. The two groups of mice showed no difference in neoplasia incidence. A third group of mice, exposed intermittently to formaldehyde alone for 64 weeks, showed no alveolar proliferation or carcinoma development.

(12) Horton et al.

Horton et al. (1963) examined C3H mice (a strain that was reported to have a low historical incidence of spontaneous pulmonary adenomas) for lung tumors following inhalation exposure to coal tar aerosol, gaseous for-

maldehyde, or gaseous formaldehyde followed by coal tar aerosol. In the first part of the experiment, groups of 60, 60, and 42 mice were exposed to concentrations of 0.5, 0.10, or 0.20 mg/liter, respectively, of gaseous formaldehyde for three 1-hour periods per week. The control group consisted of 59 untreated mice. After 35 weeks, none of the animals that were sectioned of those that died (118 of 221) during the 35-week period had developed lung tumors. The surviving animals were used to conduct further experiments with coal tar and formaldehyde. The surviving 33 mice from the control group in the first part of the experiment and the surviving 26 mice from the group in the first part of the experiment that had been exposed to 0.10 mg/l of gaseous formaldehyde were exposed to 0.30 mg/l of coal tar aerosol for three 2-hour periods per week for up to 36 weeks. The surviving 36 mice from the group that had been exposed to 0.05 mg/l of formaldehyde in the first part of the experiment were exposed to 0.15 mg/l of formaldehyde for three 1-hour periods each week for up to 35 weeks. There was also an untreated control group [1/] which was observed for 82 weeks.

The test animals were exposed to the test substances until death; the first death occurred 1 to 11 weeks after exposure and the longest time until death was 36 weeks. Serial sections of the trachea, large bronchi, and lung from the exposed animals and from the lungs of 30 unexposed mice were examined (Table 9).

1/ The initial size of the untreated group was not reported. At the termination of the experiment at 82 weeks, the group consisted of 30 mice.

TABLE 9

TUMORS OF THE LUNG IN MICE INHALING FORMALDEHYDE AND/OR AEROSOL OF COAL TAR
Carcinogen Assessment Group (CAG), 1978

Treatment	Squamous Cell Tumors	Adenomas	Total
(-)	0/30 (0%)	0/30 (0%)	0/30 (0%)
Coal Tar	6/33 (18%)	1/33 (3%)	7/33 (21%)
Formaldehyde and Coal Tar	1/26 (4%)	1/26 (4%)	2/26 (8%)
Formaldehyde	0/36 (0%)	0/36 (0%)	0/36 (0%)

Five mice inhaling coal tar aerosol and one mouse inhaling formaldehyde followed by coal tar developed squamous cell tumors in the periphery of the lung, involving 1/3 to 1/2 of the lobe. In two mice from the former group, several lobes were involved. A sixth mouse in the former group that died after 20 weeks of exposure had an invasive squamous cell carcinoma, which was described as "unquestionably a squamous cell carcinoma whereas those occurring in the other five animals probably represented an earlier stage of development at the time of death." One mouse in each group had adenoma of the lung. Tumors of the lung were not observed in mice breathing formaldehyde only or in untreated controls.

There were other changes produced in the tracheobronchial epithelium as the result of the inhalation of coal tar. The most striking was a necrotizing tracheobronchitis in the majority of mice; the incidence was not reported. In addition, squamous cell metaplasia extended into the smaller bronchi. Hyperplasia of the bronchial epithelium occurred frequently, sometimes with papillary infolding. The epithelium of untreated mice was normal showing neither metaplasia nor hyperplasia.

Epithelial changes in mice inhaling formaldehyde involved mostly the trachea; extension into the major bronchi was infrequent and did not occur at all in the smaller bronchi. In general, the inhalation of formaldehyde resulted in an acute tracheobronchitis ranging from slightly to severely necrotizing, or developing into a chronic type with proliferation of fibrous tissue. This was sometimes complicated by bronchopneumonia. In summary, mice inhaling coal tar aerosol developed squamous cell carcinomas of the lung, as well as hyperplastic and metaplastic epithelial changes.

(13) Tye and Stemmer

Tye and Stemmer (1967) separated two different coal tars into phenolic (P-tar) and nonphenolic (N-tar) fractions and exposed mice by inhalation to various blends of the coal tar fractions and to one of the original tars. The same coal tar (T-1) (Specific gravity 1.17, 4.5% tar acid, 0.7% benzo[a]pyrene and 6% Diels-Alder compounds) that was used in the experiments by Horton, Tye, and Stemmer (1963) and a second, somewhat different tar (T-2) (Specific gravity 1.24, 1.4% tar acid, 1.1% benzo[a]pyrene, and 2% Diels-Alder compounds), were the two tars from which the phenolic (P-tar) and nonphenolic (N-tar) fractions were separated.

Fifty male C3H/HeJ mice, three to five months old, were in each test group. The tests groups consisted of untreated, Tar-1, N-Tar-1, N-Tar-1 plus P-Tar-1, N-Tar-1 plus P-Tar-2, and N-Tar-2 plus P-Tar-1. Mice were exposed for two hours every three weeks. During the first eight weeks, the exposure was at a concentration of 0.20 mg/l, but this was reduced to 0.12 mg/l because so many mice died.

Three mice from each group were killed after four weeks, and five mice were killed after 31 weeks. Surviving mice were killed at the end of 55 weeks. Mortality from exposure was high in all groups of treated mice. At the end of the experiment, there were 31/50 (62%), 11/50 (22%), 11/50 (22%), 10/50 (20%), 21/50 (42%), and 21/50 (42%) mice alive in the control, Tar-1, N-Tar-1, N-Tar-1 plus P-Tar-1, N-Tar-1 plus P-Tar-2, and N-Tar-2 plus P-Tar-1 groups, respectively. Tumor response is recorded in Table 10.

The most prominent lesions were intrabronchial adenomas and ade-

TABLE 10

INCIDENCE OF LUNG TUMORS IN MICE INHALING AEROSOLS OF COAL TARS[1]
Carcinogen Assessment Group (CAG), 1978

Treatment	Metaplasia	Adenomas[2]	Adenocarcinomas	Adenomas & Carcinomas
(-)	0/32 (0%)	0/32 (0%)	0/32 (0%)	0/32 (0%)
Tar-1	5/13 (38%)	12/13 (92%)	3/13 (23%)	13/13 (100%)
N-Tar-1	2/20 (10%)	16/20 (80%)	0/20 (0%)	16/20 (80%)
N-Tar-1 + P-Tar-1	5/19 (26%)	14/19 (74%)	1/19 (5%)	15/19 (79%)
N-Tar-1 + P-Tar-2	7/25 (28%)	14/25 (56%)	1/25 (4%)	15/25 (60%)
N-Tar-2 + P-Tar-1	4/23 (17%)	14/23 (61%)	0/23 (0%)	14/23 (61%)

1/ Mice surviving for 46 weeks or longer.

2/ Includes intrabronchial and alveolar adenomas.

nocarcinomas, occurring anywhere in the bronchial tree. Multiple tumors were frequently seen. The intrabronchial adenomas were papillary. There also were alveloar adenomas which were peripheral. Tumors of the lung were diagnosed as adenocarcinomas only if there was invasion or if metastases were observed.

Adenomas and carcinomas of the lung were observed in 60% to 100% of the mice inhaling aerosols of coal tars, whereas tumors were not seen in any of the control mice. Incidences of squamous metaplasia varied from 10% to 38% in treated mice and were absent in control mice. "Alveolar epithelization" was also observed, but less often than squamous metaplasia. Areas of squamous and alveolar metaplasia were not considered as tumors, even when they occupied relatively large spaces.

(14) Kinkead, McConnell and Specht, and MacEwen and Vernot

MacEwen and Vernot (1972-1974), Kinkead (1973), and McConnell and Specht (1973) reported on a study in which mice, rats, hamsters, and rabbits were exposed to a coal tar aerosol from which the light oil and solid fraction was removed. Gross skin pathology for the mice was reported; any other tumor response in the mice and in the other animals was not reported.[1]

Groups of 64 female yearling and 64 weanling (32 of each sex) Sprague-Dawley rats, 50 male JAX-CAF1 mice, and 50 male ICR-CF1 mice were

1/ Per contractual agreement, Sasmore performed internal and skin histopathology for the study and reported his results (Sasmore, 1976), but because information in the Sasmore report is incomplete, no conclusions can be made about the report.

exposed continuously for 90 days (except for 15 minutes a day to allow for brief maintenance) to concentrations of 0.2, 2.0, and 10.0 mg/m^3 of coal tar aerosol. Eighty-two female yearling Sprague-Dawley rats, 82 weanling Sprague-Dawley rats (73 female and 9 male), 75 male JAX-CAF1 mice, 75 male ICR-CF1 mice, 100 male golden Syrian hamsters, and 24 New Zealand white rabbits were exposed continuously, as above, for the same 90-day period to a concentration of 20 mg/m^3. The control animals consisted of 41 female and 41 male Sprague-Dawley weanling rats, 82 female Sprague-Dawley yearling rats, 75 male JAX-CAF1 mice, 75 male ICR-CF1 mice, 24 female New Zealand white rabbits, and 100 male golden Syrian hamsters (MacEwen and Vernot, 1972). Many of the mice contracted a streptococcus infection and died before 93 days post exposure. Skin tumor response for the mice is found in Table 11.

Tumor responses of 20% (10 of 36), 30% (3 of 8), and 8% (2 of 25) were seen in the three highest dose groups of the ICR-CF1 mice; no tumors (0 of 62) were found in the controls. A tumor response of 37% (10 of 27) was found in the highest dose group in the JAX-CAF1 mice; no tumors (0 of 74) were found in the JAX-CAF1 controls. McConnell and Specht (1973) examined some of the skin tumors histologically and concluded that a whole spectrum of epithelial tumors, from squamous cell papilloma to keratoacanthoma, to "frankly aggressive" appearing squamous cell carcinoma are stimulated by the coal tar aerosol, although the majority of these tumors fall in the squamous cell carcinoma category. McConnell and Specht also found a time-to-tumor dose response for the coal tar aerosol. This dose response is shown in Table 12. As stated above, tumor response was not reported for the rats, hamsters, or rabbits.

TABLE 11

TUMOR RESPONSE IN MALE ICR-CF1 AND JAX-CAF1 MICE FOLLOWING EXPOSURE COAL TAR AEROSOL (Adapted from McConnell and Specht, 1973)

Dose (mg/m^3)	ICR-CF1[1]	JAX-CAF1[1]
20.0	10/36 (28%)[2]	10/27 (37%)[2]
10.0	3/8 (38%)[3]	0/12 (0%)[3]
2.0	2/25 (8%)[3]	0/47 (0%)[3]
0.2	0/2 (0%)[3]	0/47 (0%)[3]
0.0	0/62 (0%)[2]	0/74 (0%)[2]

1/ The numerator is the number of animals with tumors at 415 days post exposure. The denominator is the number of animals that were alive at 93 days post exposure.
2/ This dose group began with 75 animals.
3/ This dose group began with 50 animals.

TABLE 12

LATENT PERIOD OF FIRST TUMOR INDUCTION IN CTV-I EXPOSED ICR-CF1 MICE (McConnell and Specht, 1973)

Dose (mg/m^3)	Time of Tumor Appearance (Days)
20	< 93
10	128
2	142

(15) Lacwen and Vernot, and Lacwen et al.

Lacwen and Vernot (1975 and 1976) and Lacwen et al. (1976) reported on two studies of the tumor response of mice, rats, rabbits, and monkeys following exposure to coal tar aerosol. In the first study, 90 female Sprague-Dawley yearling rats, 90 Sprague-Dawley weanling rats (45 males and 45 females), 75 JAX-CAF1 male mice, 75 ICR-CF1 male mice, and 100 male golden Syrian hamsters were exposed continuously for 90 days (except for 15 minutes a day to allow for animal maintenance) to concentrations of 0.2, 2.0, and 10.0 mg/m^3 of coal tar aerosol. An equal number of each species were used for controls. The coal tar used to generate the aerosol in this study was:

> a composited mixture collected from multiple coking ovens around the greater Pittsburgh area. The coking ovens were of several different types and used different coal sources for their starting materials. The coke oven effluents were collected in air collection devices using a chilled water spray to condense the higher boiling distillate fractions. After settling and separation of the liquid phase, the various coal tar samples were blended together with a 10% by volume amount of the BTX (benzene; toluene; xylene) fraction of the coke oven distillate.

An aerosol particle size determination in the exposure chambers was performed, and it was found that a minimum of 97% of all droplets were in a respirable range of five microns or less in diameter. Only skin tumor response for the mice was reported (Table 13). Tumor response was not reported for the hamsters or rats.

In the second study 75 female and 100 male ICR-CF1 mice (described as tumor susceptible), 90 female JAX-CAF1 mice (described as tumor resistant hybrid strain), 45 male and 45 female CFL strain Sprague-Dawley weanling rats, 18 New Zealand albino rabbits, and 5 male and 9 female Macaca mulatta monkeys were exposed to 10 mg/m^3 of coal tar aerosol for 6 hours each day, five days per week for 18 months. The coal tar used to generate the aerosols in this study was the same as that of the first study. Aerosol particle size was determined monthly in the exposure chambers. A minimum of 99% of the total droplets in both chambers were 5 microns or less in diameter and were thus within a respirable size range for rodents.

Exposure to the coal tar at 10 mg/m^3 significantly reduced the body weight of rabbits and rats compared with the controls, whereas monkeys showed no significant change in body weight. Sixteen of 18 rabbits and six control mice died during the test period. These deaths were attributed to a chronic respiratory infection which caused debilitation and dehydration. At the conclusion of the exposure period, the test monkeys and the surviving test rabbits along with the unexposed controls were delivered to the NIOSH Laboratories in Cincinnati, Ohio, for long-term post-exposure observation, but the results were not reported in MacEwen et al. (1976). Discussion with MacEwen indicated that while the monkeys are still under observation, the number of surviving rabbits (2 of 18) was too few for statistical comparison, and those animals were sacrificed (Gibb, 1978a). No tumor response was found in the sacrificed rabbits (Gibb, 1978b).

Alveolargenic carcinomas were produced in 26 of 61 (43%) ICR-CF1 mice and in 27 of 50 (54%) JAX-CAF1 mice. The number of tumors in the ICR-CF1 and the JAX-CAF1 control mice were 3 of 68 (4%) and 8 of 48 (17%), respectively. The exposed and control groups did not differ in the incidence of other types of tumors including squamous cell carcinomas, lymphosarcomas, subcutaneous sarcomas, alveolargenic adenomas, bronchiogenic carcinomas, reticulum cell sarcomas, hemangiosarcomas, and hematopoietic tumors.

Skin tumors were produced in 5 of 75 (7%) of the ICR-CF1 mice and 2 of 50 (4%) of the JAX-CAF1 mice as compared to 3 of 75 (3%) and 1 of 50 (2%) in the ICR-CF1 and JAX-CAF1 controls, respectively. The criterion for counting a lesion as a skin tumor was a growth greater than 1 mm in diameter and in height. Each tumor was ultimately confirmed by histologic examination. MacEwen et al. compared the lack of skin tumor response in the second study to the tumor response of the 10 mg/m^3 dose group of the first study. As stated previously, the first study found a skin tumor incidence of 44 of 75 (59%) in the treated ICR-CF1 mice and 18 of 75 (24%) in the treated JAX-CAF1 mice as opposed to only three of 75 (4%) in the ICR-CF1 controls and 1 of 75 (1.3%) in the JAX-CAF1 controls, respectively. A calculation of total exposure time (MacEwen et al., 1976) revealed that the same amount of coal tar aerosol reached the skin of the mice in the second study as in the first study. MacEwen et al. suggested that the 18 months' intermittent exposure of the animals in their study allowed the animals enough time each day to permit normal cleaning of the fur.

The incidence of coal tar tumorigenesis in rats is reported in Table 14.

The incidence of squamous cell carcinomas in the lungs was (36/36) 100% in exposed males and (31/36) 82% in exposed females as opposed to 0 of 36 (0%) in male controls and 0 of 37 (0%) in female controls.

A dose-related tumor response was observed for both the ICR-CF1 and the JAX-CAF1 mice.

TABLE 13

SKIN TUMOR RESPONSE IN ICR-CF1 AND JAX-CAF1 MICE FOLLOWING EXPOSURE TO COAL TAR AEROSOL (MacEwen and Vernot, 1976)

Dose (mg/m^3)	Week of Observation 2/	Cumulative Number of Tumors 1/ ICR-CF1 Exposed	ICR-CF1 Control	JAX-CAF1 Exposed	JAX-CAF1 Control
10	100	44/75 (59%)	3/75 (4%)	18/75 (24%)	1/75 (1%)
2	103	14/75 (19%)	0/75 (0%)	3/75 (4%)	0/75 (0%)
0.2	101	1/75 (1%)	0/75 (0%)	1/75 (1%)	1/75 (1%)

1/ The numerator is the number of animals with tumors; the denominator is the number of animals exposed.

2/ Includes the 90-day exposure period.

TABLE 14

COAL TAR TUMORIGENESIS IN RATS
(MacEwen, 1976)
et al.

	Controls		Exposed	
	Males	Females	Males	Females
Number Examined Histologically[1]	30	37	38	38
Number of Rats with Tumors:				
Squamous Cell Carcinoma, Lung	0	0	38	31
Squaceous Cell Carcinoma	0	1	0	0
Intraabdominal Carcinoma	0	1	0	0
Mammary Fibroadenoma	0	1	0	3
Mammary Adenocarcinoma	0	1	0	0
Other Tumors	0	1	8	2
Overall Tumor Incidence (%)	0	13	100	82

1/ The original number of rats per group was 40. However, because of autolysis and/or cannibalization, a few animals were unsuited for histopathological examinations.

Many aromatic hydrocarbons such as those found in coal tar are known to fluoresce. Hide (skin and hair) tissue samples taken during the exposure period from the ICR-CF1 mice in the second experiment were extracted with toluene and analyzed for fluorescent content. Results are found in Table 15. Hide fluorescence during exposure correlated with the tumor response.

3. Creosote

Reports of workers who developed cancer subsequent to creosote exposure have been reported in the literature. The following is a chronological survey of these reports.

a. Case Reports of Skin Cancer in Workers

(1) Mackenzie

Mackenzie (1896) reported the case of a man employed for 30 years dipping railway ties in liquid creosote in an air-tight chamber. The worker stated that only his arms and hands came into contact with the dripping planks. In several places on his forearms, there were "skin elevations of a warty character about the size of split peas." On the right half of the patient's scrotum were several papillomatous swellings from the size of a pea to that of a nut, rather soft but covered with a horny crust and sore to the touch. The patient had picked several off, leaving a bleeding surface. The author suggested that the tumors were likely to become epitheliomatous.

(2) O'Donovan

O'Donovan (1910) lists three cases of skin cancer of men occupationally exposed to creosote; two of the men creosoted wood, and one pickled wood in creosote. O'Donovan detailed the case of one man who

TABLE 15

SUMMARY OF HIDE FLUORESCENCE ($\mu g/cm^2$) OF ICR-CF1 MICE DURING AND AFTER EXPOSURE TO COAL TAR AEROSOL

Dose (mg/m^3)	Days of Exposure 1	7	30	60	90	30 Days Post-Exposure	ICR-CF1 Mouse Skin Tumors at 100 Weeks
10.0	26.9	34.9	19.2	23.8	21.6	0	44/75 (59%)
2.0	2.4	9.3	7.6	4.4	9.9	0	14/75 (19%)
0.2	0.4	1.6	4.9	1.0	3.8	0	1/75 (1%)

had been creosoting timber for 40 years. Warts had appeared on his hands, legs, and behind his ears seven years prior to reporting his case. The warts had fallen off and left scars behind them. Eighteen months before the case was reported, a wart on the patient's scrotum had fallen off, leaving a small sore which never healed and steadily enlarged. Three months before admission to the hospital, the glands of the left groin enlarged; the patient steadily lost weight and grew weaker. On admission to the hospital, the case was considered inoperable.

(3) Cookson

Cookson (1924) reported on a worker employed for 33 years to carry creosoted wood. At least 15 years before the case was reported, a small swelling appeared on the back of the worker's right hand. The swelling would occasionally break open and then heal again. About 7 years later, the swelling increased substantially in size until the growth had to be removed. A portion was examined histologically prior to being excised and proved to be a squamous epithelioma. Following the patient's death several years later, an autopsy was performed, and small secondary epitheliomatous deposits were found in the liver, both lungs, and in both kidneys. There were also two secondary deposits in the heart walls. One in the left ventricular wall involving its whole thickness was the size of a walnut and was beginning to break down in the interior. The other was the size of a pea at the right border of the right ventricle.

(4) Henry

Henry (1947) reviewed 753 cases of cutaneous epithelioata reported to the British Medical Inspector of Factories from 1920 to 1945

and found 37 cases attributable to creosote exposure. Of these cases 14 occurred among workers treating timber, 9 among people handling creosote in storage, and 10 among people using creosote as a releasing agent for brick molds. One case of epithelioma was reported among workers using creosote for the manufacture of furnace crucibles, and one case among workers manufacturing creosote disinfectants. The author also reports two cases of cutaneous cancer not reported to the British Medical Inspector of Factories: a railway platelayer handling creosoted ties and an assistant chemist testing creosote for 16 months in a tar distillery laboratory.

(3) Lenson

Lenson (1956) described a shipyard worker who had worked with creosote for three years. Malignant cutaneous tumors of the face appeared 5 years after working with the creosote. The worker had been a painter for 41 years and had mixed his own paints, using lead and oils. Turpentine and white gasoline had been used as paint removers.

b. Animal Studies

The following 6 animal studies are presented chronologically. In general they show that tumors were produced following dermal exposure to creosote. As with coal tar, the Working Group notes that the interpretation of some of the early studies is limited by the absence of control data. However, later studies which include appropriate control groups generally confirm and reinforce the observations in the early studies.

(1) Sall and Shear

Sall and Shear (1940) reported on several experiments which tested

the potential of the basic fractions of creosote to accelerate tumor production by known carcinogens. Female Strain A mice obtained from the Roscoe B. Jackson Memorial Laboratory in Bar Harbor, Maine, were used in all the experiments which included administration by skin painting and subcutaneous injection. In the skin painting experiments a mixture of 1% basic creosote and either 0.02% or 0.05% benzo[a]pyrene was applied three times per week to the treated animals. Concentrations of benzo[a]pyrene, at 0.02% and 0.05% were used alone for two control groups; another control group was painted with 1% basic creosote alone. There were no control groups in which healthy animals were used for comparison. The results of the skin painting experiments indicated that the basic fraction of creosote accelerated the tumor formation when applied with either 0.02% or 0.05% benzo[a]pyrene concentration, although the basic creosote alone produced no tumors. The results of the intramuscular experiment are not discussed here because intramuscular injection is not a route of exposure included in the criteria of 40 CFR 162.11(a)(3)(ii)(A).

(2) Woodhouse

Woodhouse (1950) studied the carcinogenic activity of 16 petroleum fractions and extracts, anthracene oil, creosote oil, linseed oil, pine tar, and six spindle oils dermally applied to 50 groups of ten-week-old, albino mice (undefined strain). Each test substance was applied with glass rods to the intrascapular area twice weekly for 25 weeks. Males and females were tested in approximately equal numbers. The animals surviving 25 weeks in each test group were counted, and papillomas and carcinomas were identified. Of the creosote-treated animals, 19 survived 25 weeks; 19 tumors (10

papillomas and 9 carcinomas) were reported. This was the highest number of tumors in the 10 treatment groups tested. There was no control group.

(3) Lijinsky et al.

A study by Lijinsky et al. (1956) evaluated creosote and its basic fracton as possible tumor-promoting agents. The experiment failed to demonstrate that creosote acts as a strong promoter when administered to mice receiving a single painting of 7,12-dimethylbenz[a]anthrancene (DMBA), but it did demonstrate that creosote is independently carcinogenic.

The creosote used was a "#1 oil, dry point 240° C, collected as a distillation fraction from a Wilton still." The basic fraction was prepared by the procedure of Cabot et al. (1940). Treatments were given twice weekly for 70 weeks to four groups of 30 female Swiss mice. A single drop of the treatment solution was applied with a glass dropper to the intrascapular region of the skin, which was kept free of hair by clipping with scissors. A control group (Group 1) consisting of 50 mice was treated with the initiating agent, 7,12-dimethylbenz[a]anthrancene (DMBA) given as a 1% solution in mineral oil. Group 2 was painted with undiluted creosote. The three remaining groups received a single initial painting of 1% DMBA in mineral oil; one week later they were treated with undiluted creosote (Group 3), 10% creosote in acetone (Group 4), or a 2% basic fraction of creosote solution in acetone (Group 5). There were no control groups in which healthy animals were used for comparison.

The tumor incidence in the five groups is shown in Table 16. The survival rate of the control animals given DMBA alone was not given; whatever their number, none of them were reported to have developed tumors.

TABLE 16

SKIN TUMOR INCIDENCE IN MICE TREATED WITH CREOSOTE
Carcinogen Assessment Group (CAG), 1977

Group	Initial Painting	Twice Weekly Painting	Incidence of Tumor-Bearing Mice 1/	Nos. of Papillomas	Nos. of Carcinomas	Average Latent Period (weeks)
1	1% DMBA	None	0/50 (0%)	0	0	0
2	None	Creosote: undiluted	13/26 (50%)	7	16	50
3	1% DMBA	Creosote: undiluted	17/23 (74%)	6	26	39
4	1% DMBA	Creosote 10% in Acetone	11/29 (38%)	7	8	43
5	1% DMBA	Creosote: 2% Basic Fraction	0/12 (0%)	0	0	0

1/ In group 1 there were 50 animals initially. In groups 2, 3, and 4 the denominator is the number of survivors at time of appearance of first tumor. In group 5 there there were 12 survivors at 56 weeks.

In contrast, there was a high tumor rate for animals pre-treated with DMBA and then treated repetitively with either undiluted or 10% creosote. Some enhancement of the action of a single initiating dose of DMBA was noted when given with undiluted creosote (50% vs. 74%), although the difference was not significant. Dilution of the creosote to 10% in acetone diminished the tumor producing action of DMBA plus creosote, while the basic fraction did not prove to be oncogenic.

In a companion study (Lijinsky et al., 1956) the creosote was chemically analyzed for benzo[a]pyrene, but less than 100 mg of benzo[a]pyrene was found per liter of creosote, an amount the authors consider too small to account for the carcinogenic activity of creosote. They suggested that some of the carcinogenic activity may result from the presence of benz[a] anthracene which was found in a relatively large quantity (2.75 gm/liter).

The results of this study showed that undiluted creosote alone produced a carcinogenic effect which was slightly augmented by the initial DMBA treatment. When the creosote was diluted to 10% the promoting action was somewhat diminished in relation to the undiluted creosote. The basic fraction of creosote at a 2% strength was inactive. The authors reported that the carcinogenic potential of the undiluted creosote was comparable to results found with DMBA, a potent carcinogen, in a similar test conducted at the same laboratory.

(4) Poel and Kammer

Poel and Kammer (1957) tested two "creosote oils" for carcinogenic potential on male and female mice. In the introduction to their report, Poel and Kammer described the difference between the definitions of coal

tar fractions as they are classically defined and coal tar fractions as they are industrially used:

> The crude industrial fractions distilled from high-temperature coal tars are designated light oil, middle oil or napthalene crude cut, heavy creosote oil, anthracene oil and pitch (Table 17). A clear cut separation of tar into these distinctive fractions is usually not practiced on an industrial scale. In fact, such terms as creosote, heavy oil, and anthracene oil have been used synonymously, while certain industries to this day designate some pitches as "tars". Most of the marketed oil products are blends or smears, containing both creosote and anthracene oils plus varying amounts of the residual fractions from the middle-oil cut - the fraction shown in Table 17 to have a boiling range of 200 to 250°C.

The two "creosote oils" used in the study were described by Poel and Kammer as follows:

> Both are fractions from a high-temperature horizontal by-product-coke-oven tar. One is a crystal-free oil, marketed as a blend of creosote, anthracene oils, and the oil drained from the naphthalene recovery operation. This blend of oils has been described as non-toxic to humans and is used principally for the preservation of wood.... The second sample, considered a light creosote oil industrially [Table 17] is the residual oil drained from the naphthalene recovery operation.

The blended sample was tested in toluene at two dilution levels, 20% and 80%; the light creosote oil was tested at a 50% dilution in toluene. As a positive control, benzo[a]pyrene was tested in toluene at two dilution levels, 0.05% and 0.25%. Toluene was tested as a negative control.

The test animals were C57L mice, females, 10 to 12 weeks old and males 8 to 11 weeks old. The test solution was applied three times per week on the shaved back of each mouse for its lifespan or until persis-

TABLE 17

CRUDE COAL TAR DISTILLATES (POEL AND KAMMER, 1957)

Industrial Cut	Approximate Distillation Range (°C)	Fraction Recovered From Tar (%)	Principal Components of Fraction
Light Oil	200	5	Benzene, Toluene, Xylene, Solvent Naphtha
Middle Oil	200-250	17	Tar Acids, Tar Bases, Naphthalene, Light Creosote Oil (residue)
Creosote Oil (Heavy)	250-300	7	Methylated Naphthalenes, Acenaphthene
Anthracene Oil	300-350	9	Fluorene, Phenanthrene, Anthracene, Carbazole
Pitch	> 350	62	Pitch Oil, Carbon

tent papillomas developed at the application site. Results of the test are found in Table 18.

These results show a significant increase in tumor incidence after topical treatment with both concentrations of blended creosote as compared to the incidence produced by the toluene control. All mice exposed to both dilutions of the blended creosote oil developed papillomas, and 7 of the 8 in each dilution group developed carcinomas. Among the creosote-treated animals that developed carcinomas, 5 of 14 had metastatic growths in the lungs and/or the regional lymph nodes. The 50% solution of light creosote oil in toluene produced tumors in all 11 male C57L-mice tested, after exposure ranging from 22 to 41 weeks. It was not reported whether the tumors were malignant or not. The presence of benzo[a]pyrene was tested for in light creosote oil and in the anthracene fraction of the blended creosote oil (where it most likely would be found). Detectable levels were not observed, and the authors concluded that the tumor response seen was due, at least in part, to other agents.

In summary, dermal application of light and blended creosote oils from high-temperature-coke-oven-tars induced significant increases in skin tumors on mice. Most of the tumors from the blended oil were carcinomas.

(5) Boutwell and Bosch

In a study which evaluated the tumor initiating and promoting activity of several chemicals, including creosote, and the carcinogenic potential of creosote without the use of initiating or promoting agents, Boutwell and Bosch (1958) found that creosote was carcinogenic when ap-

TABLE 18

TUMOR INDUCTION IN C57L MICE TREATED WITH BLENDED CREOSOTE, LIGHT CREOSOTE, BENZO[a]PYRENE, AND TOLUENE 1/

Test Material	Conc. in Toluene(%)	No. Mice with Tumors	No. Mice with Epidermal Cancer	No. Mice with Metastasis
Creosote Blend	80	8/8 (100%) 2/	7/8 (88%) 3/	3
Creosote Blend	20	8/8 (100%) 2/	7/8 (88%) 3/	2
Light Creosote	50 5/	11/11 (100%) 4/		
Benzo[a]pyrene	0.25	8/8 (100%) 2/	8/8 (100%) 2/	2
Benzo[a]pyrene	0.05	8/9 (89%)	7/9 (78%)	1
Toluene Control	0.0	0/10 (0%)	0/10 (0%)	0

1/ Female C57L mice were used in all groups except light creosote which used males.

2/ Significantly higher than controls ($p = 2.3 \times 10^{-5}$).

3/ Significantly higher than controls ($p = 2.5 \times 10^{-4}$).

4/ Significantly higher than controls ($p = 2.8 \times 10^{-6}$).

5/ The light creosote oil was administered as one drop of 50% (in toluene) creosote oil along with one drop of toluene.

plied to mouse skin, and that it had the ability to initiate tumor formation when applied for a limited period prior to treatment with croton oil. The mice used in the test were 8-week old, random-bred female albino mice.

The creosote was tested at full strength as obtained from Barrett Chemical Company. The trade name of the oil is Carbasota. It is described as "fractions distilled from a high temperature coke-oven-tar in the boiling range of 200 to over 400°C." Croton oil and DMBA used in the study were dissolved in re-distilled benzene. Solutions were protected from exposure to light and evaporation.

The solutions were applied as a 25 ul drop to the shaved skin of the back. Mice were inspected for tumors weekly and papillomas larger than 1 mm in diameter were counted. The gross identification of both benign and malignant tumors was confirmed periodically by microscopic examination.

There were 30 female mice in each group. The group applications were as follows: (Group 1) one drop (25 ul) of undiluted creosote twice-weekly with no initial treatment; (Group 2) one application of 75 ug DMBA followed (one week later) with 25 ul of benzene twice-weekly; (Group 3) single applications of DMBA as in Group 2, followed after one week with twice-weekly applications of 25 ul undiluted creosote; (Group 4) same initial treatment as in Groups 2 and 3 but followed with twice-weekly applications of 25 ul of a 0.5% croton oil in benzene solution; (Group 5) croton oil alone with no pre-treatment; (Group 6) undiluted creosote twice-weekly for four weeks only with no secondary treatment; (Group 7) undiluted creosote twice-weekly for four weeks followed with croton oil

as in Groups 4 and 5. There were no controls in which healthy animals were used for comparison. The length of observation of each group was determined by the carcinogenic response (Table 19).

Papillomas and carcinomas developed in all groups given creosote except Group 6, where the duration of treatment may not have been long enough. Comparison of the results from Groups 6 and 7 show that creosote can act as an initiating agent prior to the application of croton oil. Pre-treatment with DMBA slightly reduces the induction time of tumors produced by repeated continuous creosote administration.

(6) Roe et al.

Roe et al. (1958) found that animals receiving dermal applications of creosote developed tumors of the skin and the lungs. The study consisted of two experiments. Two to three-month old mice were obtained from a commercial breeder for the first experiment. Prior to treating with creosote, the authors observed a total of 768 lung adenomas on the lobe surface of the lungs of 138 mice (an average of 5.8 adenomas per mouse) at 6-8 months of age. Since the commercial breeder had used creosoted wooden boxes to house the animals, it was determined that the lung adenomas were the result of housing the animals in these boxes. Some of these mice were allowed to breed in steel cages in the laboratory. The resulting progeny were found to have an average of only 0.5 adenomas per animal. Two groups of the fourth generation of the original mice were used in the first experiment. One group was bred in stainless steel cages and 24 of the resulting progeny (Group 1) were kept as untreated controls for eight months. Twenty-five progeny (Group 2) were treated twice-weekly

TABLE 19

SCHEDULE OF TREATMENTS AND TUMOR INCIDENCE IN MICE EXPOSED TO DMBA AND CREOSOTE

Group	Initial Treatment	Secondary Treatment (2x/wk)	Period of Treatment and Observation (wks)	Induction Time Carcinomas (wks)	Incidence of Carcinomas (%) 1/
1	None	Creosote	28	26	82 2/
2	75 ug DMBA	Benzene	56		
3	75 ug DMBA	Creosote	28	23	82 2/
4	75 ug DMBA	Croton Oil	54	36	80 3/
5	None	Croton Oil	44		
6	Creosote, 4 weeks, (2x/wk)	None	44		
7	Creosote, 4 weeks, (2x/wk)	Croton Oil	56	44	46 4/

1/ For groups 1,3,4, and 7, only percentages were reported; no carcinoma percentages were reported for Groups 2, 5, or 6.
2/ This incidence was recorded at 28 weeks.
3/ This incidence was recorded at 42 weeks.
4/ This incidence was recorded at 44 weeks.

on the backs with one drop (25 ul) of creosote oil (Carbasota) from the age of three weeks until six months and were observed for two months longer. The Carbasota was produced by the Barrett Chemical Company and was described as "a material in the boiling range of 200°C to over 400°C distilled from a high temperature coke-oven-tar." Progeny from the second group of the fourth generation mice were bred in wooden cages which were "thoroughly impregnated with creosote oil." They produced 29 young (Group 3). Group 3 mice were kept in the cages for the duration of the experiment and were treated for five months with one drop (25 ul) of creosote oil (Carbasota) applied twice-weekly after which they were kept for three months without treatment. After eight months Group 1 had an average of less than 0.5 adenomas per mouse. Group 2 had almost six per mouse and Group 3 almost 11 per mouse (Table 20, Experiment 1). Groups 2 and 3 together totaled 53 mice. Of this number, 5 bore skin tumors but no lung tumors; nine had lung tumors but no skin tumors; and 39 bore both skin and lung tumors. The incidence of skin and lung tumors in the controls was not given; therefore, a statistical analysis of the control versus the experimental groups is not possible. However, the total number of lung adenomas in Groups 2 and 3 was greatly increased over those of the controls (Group 1).

In the second experiment, random-bred albino mice were obtained from a supplier who used only metal cages for breeding. The control group (Group 1) of 50 animals consisted of two groups from a related study (Boutwell and Bosch, 1958), in which one group was treated initially with 75 ug of DMBA followed by a twice-weekly application of 25 ul of a 0.5% solution (w/v) of croton oil in benzene; and the other group

TABLE 20

THE EFFECTS OF CREOSOTE TREATMENT ON THE INCIDENCE OF LUNG ADENOMAS (Carcinogen Assessment Group, 1977)

Experiment	Group	Treatment	No. of Mice	Adenomas on Lung Surfaces	Adenomas per Mouse
1	1	None (control)	19	9	0.5
	2	One drop of creosote 2 times/week for 23 weeks	24	139	5.8
	3	One drop of creosote 2 times/week for 19 weeks in creosoted Cages	29	315	10.8
2	1	Initial treatment with 75 ug of DMBA followed by one drop of croton oil or benzene 2 times/week for approximately 55 weeeks (control)	50	15	0.3
	2	One drop of creosote 2 times/week for 4 weeks.	23	37	1.6

was treated initially with 75 ug of DMBA followed by a twice-weekly application of 25 ul of benzene. No untreated controls were used. The test group of 30 animals (Group 2) was treated twice-weekly for four weeks nine times) with one drop (25 ul) of creosote oil and thereafter kept under observation without further treatment. At 10 months 15 adenomas were seen in the 50 survivors of Group 1. On the other hand, the 23 survivors of Group 2 bore a total of 37 lung tumors (Table 20, Experiment 2). No skin tumors were reported for any of the mice in Experiment 2.

4. Coal Tar Neutral Oil

No human studies were found on coal tar neutral oil. The following three animal studies on coal tar neutral oil are presented chronologically.

(1) Cabot et al.

Cabot et al. (1940) painted albino "market" mice with benzene solutions of various creosote oil fractions together with benzo[a]pyrene. The fractions of creosote were prepared from a creosote oil obtained from a vertical-retort coal tar; 90% of the creosote oil distilled between 160°C and 300°C (Fraction 1). The basic constituents were first removed from creosote with aqueous hydrochloric acid (Fraction II); the phenols were removed with aqueous sodium hydroxide (Fraction III). The remaining neutral material (Fraction IV) was steam distilled, producing "neutral distillate" or neutral oil (Fraction V), and leaving the "neutral residue" (Fraction VI). The six fractions were dissolved in benzene containing either 0.2% or 0.05% benzo[a]pyrene. These solutions were painted on groups of 20 mice three times weekly for 20 weeks. Thereafter, the

solutions containing 0.2% benzo[a]pyrene were applied twice-weekly for six additional weeks. With the solutions containing 0.05% benzo[a]pyrene, the the painting was continued three times per week for an additional 18 weeks. When a papilloma appeared, painting was continued until the skin growth attained an average diameter of about 4 millimeters. Control groups were painted with benzene solutions containing either 0.2% or 0.05% benzo[a] pyrene. No untreated controls were used.

Skin tumors occurred sooner and with greater incidence in animals tested with the high benzpyrene concentration than with the low concentration treatments. Four of the fractions had lower rates of tumor formation than the rates produced by benzo[a]pyrene alone. These four fractions were the parent creosote mixture, the phenolic fraction, the concentrated neutral distillate, and the neutral residue. The authors attributed the inhibitory effect of all but the phenolic fraction to skin damage, but suggested further experiments on the inhibition mechanism of phenolic fractions. Of the two promoting fractions, only the basic fraction had an enhancing effect at both benzo[a]pyrene concentrations.

(2) Berenblum and Schoental

Berenblum and Schoental (1947) extracted a horizontal-retort gas tar[1/] with light petroleum, then removed basic and acidic constituents by shaking with dilute HCl followed by dilute NaOH. The remaining neutral

1/ Although gas tar is made from coal, it is somewhat different from bituminous coking operation coal tar which is used for pesticide production in the United States. The Working Group, however, decided that the physical and chemical characteristics of the two are similar enough to make the results of this study relevant.

fraction was chromatographed and five coal tar neutral oil fractions were separated:

I. All bands up to and including anthracene
II. After anthracene, before benzo[a]pyrene
III. Benzo[a]pyrene bands
IV. Fluorescence bands 391, 412, and 430 mu
V. Fluorescence bands at 385 mu, and residue

The fractions were tested dermally on groups of 10 mice and 5 rabbits, for periods of 17-26 weeks, and were applied once a week on mice and twice a week on rabbits. No untreated controls were used. Fraction II was oncogenic to rabbits (5/5), but not to mice (0/11), Fractions III and IV were oncogenic to both rabbits (5/5 and 4/5, respectively) and mice (7/10 and 3/10, respectively). Fraction V did not produce tumors in mice or rabbits. The results of Fraction I were not reported. None of the crystals obtained from any of the fractions were oncogenic to mice or rabbits, which suggested that the oncogenicity of the fraction remained in the mother liquor.

(3) Horton

As discussed earlier, Horton (1961) evaluated the carcinogenic potential of coal tar and several coal tar fractions including coal tar neutral oil. In separating the coal tar fractions, coal tar acid was extracted with a 9% aqueous solution of sodium hydroxide from filtered benzene solutions of two different coal tars. The raffinates from this sodium hydroxide extraction of the tars were mixed with celite, agitated with concentrated HCl, and then filtered. The tar bases remained on the celite as solid hydrochlorides. The tar fractions from which the acids

and bases had been removed were subjected to repeated contact with maleic anhydride in benzene solution at 60°C to extract the neutral anthracene-type of hydrocarbons (the neutral oils). The adducts formed with maleic anhydride were mixed with powdered soda-lime, and the neutral oil was regenerated by short path distillation at a dull red heat at atmospheric pressure. The remaining residue after extraction of the tar acids, the tar bases, and the neutral oil hydrocarbons was called the residual tar. The tar acids and the tar bases were dissolved in benzene at a concentration equivalent to their concentrations in the original coal tar. The maleic anhydride fraction (the neutral oil) was tested in a 1% solution of benzene. The residual crude tars were tested at 100% concentration; in addition, one of the crude tars was tested at a 50% concentration in benzene.

Ten-mg doses of the two coal tars and the diluted coal tar were dermally applied twice-weekly to mouse skin (the number and strain of mice tested was not stated), and 10-mg doses of the fractions and residual tars were applied three times per week. No untreated controls were used. The time of the tumor appearance was noted, and the relative carcinogenic potency of the different test substances was calculated on the basis of differences in time-to-tumor. This index was referred to as the potency for a minimum concentration of material (PMC). A high PMC value means a greater carcinogenic potency. Skin tumors appeared most quickly from the residual and crude tars: 24.8 and 23.6 weeks and 18.4 and 13.4 weeks from their respective residual tars. No tumors were reported from the acidic fractions of either tar. The basic fractions

of the two tars produced tumors in 48.6 and 40.6 weeks, respectively, and the coal tar neutral oils (maleic anhydride extracts) from the two tars produced tumors in 34.1 and 32.1 weeks. The PMC values indicated that the residual and crude tars were most carcinogenic, with calculated values of 0.14 and 0.22 for the residual tars and 0.13 and 0.14 for the crude tars. PMC values for the coal tar neutral oils were 0.05 and 0.06; the PMC values for the basic fractions were 0.03 and 0.04. Since no tumors were produced by the acidic fractions, PMC values were not calculated.

5. Conclusion

a. Coal Tar

Shambaugh (1935), Mauro (1951), and Rosmanith (1953) reported on fishermen and net loft workers, tar distillery workers, and a tar worker, respectively, who had been occupationally exposed to coal tar and who had developed skin cancer. In animal studies, dermal application of coal tar produced skin tumors with mice [Horton (1961), Shabad et al. (1971), Watson and Mellanby (1930), Tsuitsui (1918), Hueper and Payne (1960), Deelman (1962), Bonser and Manch (1932), Gorski (1959), and Kennaway (1925)], and rabbits [Yamagiwa and Ichikawa (1915)]. Inhalation exposure to coal tarr produced lung tumors in mice [Horton (1961), MacEwen et al. (1976), Horton et al. (1963), and Tye and Stemmer (1967)], and rats [MacEwen et al. (1976)]. Exposure of mice to coal tar aerosol also produced skin tumors (McConnel and Specht, 1973; and MacEwen et al. 1976).

Horton (1961) found a dose response for skin tumors in mice following dermal application of coal tar. McConnell and Specht (1973) and

MacEwen and Vernot (1976) found a dose response for skin tumors in ICR-CF1 mice following inhalation exposure to coal tar aerosol. Horton (1961) and McConnell and Specht (1973) also found that the time-to-tumor was dose-related.

The Working Group concludes that coal tar produced tumors in three species of animals: mice, rats, and rabbits; that tumor response and time-to-tumor in the Horton (1961), McConnell and Specht (1973), and MacEwen and Vernot (1976) studies were dose-related; and that workers occupationally exposed to coal tar developed tumors. The Working Group thus concludes that coal tar is an oncogen and that it exceeds the criteria of 40 CFR 162.11(a)(3)(ii)(A). Accordingly, the Agency is issuing a rebuttable presumption against all pesticides containing coal tar.

b. Creosote

Henry (1947), Lenson (1956), O'Donovan (1920), Cookson (1924), and Mackenzie (1898) described various kinds of workers who were occupationally exposed to creosote and developed skin tumors. Dermal application of creosote produced skin tumors in mice [Woodhouse (1950), Poel and Kammer (1957), Lijinsky et al. (1956), Boutwell and Bosch (1958), and Roe et al. (1958)]. Roe et al. (1958) also found that dermal application of creosote to mice produced lung tumors. Boutwell and Bosch (1958) found that creosote had the ability to initiate tumor formation when applied for a limited period prior to treatment with croton oil. Sall and Shear (1940) found that the number of skin tumors was increased by dermal treatment with creosote and benzo[a]pyrene over the number of tumors produced by benzo[a]pyrene or creosote alone. The Working Group con-

cludes that creosote produces tumors in mice; that creosote, when applied dermally, is a tumor-initiating agent when followed by dermal treatment with croton oil (Boutwell and Bosch, 1958); that creosote accelerates the tumor production caused by benzo[a]pyrene (Sall and Shear, 1940); and that workers occupationally exposed to creosote developed tumors. The Working Group concludes that creosote is an oncogen and exceeds the criteria of 40 CFR 162.11 (a)(3)(ii)(A). Accordingly, the Agency is issuing a rebuttable presumption against all pesticides containing coal tar.

c. Coal Tar Neutral Oil

Horton (1961) found that dermal application of coal tar neutral oil to mice produced skin tumors. Berenblum and Schoenthal (1947) found that several chromatographic fractions of coal tar neutral oil produced skin tumors when dermally applied to mice. Cabot et al. (1940) found that mixtures of coal tar neutral oil with benzo[a]pyrene decreased the number of tumors produced by benzo[a]pyrene alone, but suggested that this inhibiting effect was due to skin damage. The Working Group concludes that coal tar neutral oil produces tumors in mice, and that as an oncogen, it exceeds the criteria of 40 CFR 162.11(a)(3)(ii)(A). Accordingly, the Agency is issuing a rebuttable presumption against all pesticides containing coal tar neutral oil.

B. Mutagenicity

40 CFR 162.11(a)(3)(ii)(A) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s)... induces mutagenic effects, as determined by multitest evidence."

In determining that this criteria was exceeded, the Working Group considered reports by Simmon and Poole (1978) and Mitchell and Tajiri (1978) who examined a creosote mixture of American Wood Preservers' Association (AWPA) specification P-1 and a coal tar-creosote mixture of AWPA specification P-2, Class C. The AWPA specifications for P-1 and P-2, Class C, are found in Appendices A and B. P-1 creosote is used for foundation piles, fresh-water piles, telephone poles, utility poles, fence posts, and other land and fresh-water uses. Class C P-2 coal tar-creosote is used primarily for railroad ties (Gibb, 1978c). In vitro microbiological assays with four strains of Salmonella typhimurium, TA 1535, TA 1537, TA 98, and TA 100, and Escherichia coli WP2 (Simmon and Poole, 1978) and in vitro mammalian cell bioassays with L5178Y mouse lymphoma cells (Mitchell and Tajiri, 1978) were conducted on both of the coal tar-creosote mixtures.

1. Simmon and Poole

Simmon and Poole (1978) conducted in vitro microbiological mutagenic assays on P-1 and P-2 using Salmonella typhimurium and Escherichia coli strains. These microbiological assays were conducted both with and without metabolic activation. Metabolic activation was provided by use of an Arochlor 1254-stimulated rat liver homogenate. Metabolic activation provides metabolic steps that the bacteria either are incapable of conducting or do not carry out under the assay conditions.

The Salmonella strains used were all histidine auxotrophs. They included: Strains TA 1537 and TA98 which are sensitive to frameshift mutations, TA 1535 which is sensitive to base-pair substitutions, and TA 100 which is sensitive to base-pair substitutions and some frameshift mutations. The E. coli WP2 strain is a tryptophan auxotroph and is sensitive to base-

pair substitutions. The results of the mutagen tests on P1 and P2 are found in Table 21.

Except at the higher doses which were toxic, creosote P1 and coal tar-creosote P2, Class C, when metabolically activated, demonstrated a mutagenic dose-response and a doubling over the background level in the bacterial assay with Salmonella typhimurium strains TA 1537, TA 98, and TA 100. S. typhimurium strain TA 1535 and E. coli strain WP2 did not demonstrate a positive mutagenic response with metabolic activation. None of the strains demonstrated a positive response without activation. The fact that a mutagenic dose-response was found in the TA 1537, TA 98, and TA 100 S. typhimurium strains indicates that the mutagenic mode of action of the creosote and the creosote-coal tar mixture is by frameshift mutation.

2. Mitchell and Tajiri

Mitchell and Tajiri (1978) tested creosote of AWPA specification P1 and a coal tar-creosote mixture of AWPA specification P2, Class C, for mutagenic activity on an in vitro mamalian mutagenesis assay using L5178Y mouse lymphoma cells heterozygous at the thymidine kinase (TK) locus. The purpose of the test was to determine the effects of the P1 and P2 mixture on the forward mutation frequency of the TK locus, $TK^{+/-} \longrightarrow TK^{-/-}$, relative to the background level. Similar to the microbial assay described above, the mouse lymphoma study was conducted both with and without metabolic activation using an Arochlor 1254 stimulated rat liver homogenate mixture.

The mouse lymphoma cells were grown in suspension culture. The

TABLE 21

IN VITRO ASSAYS SALMONELLA TYPHIMURIUM AND ESCHERICHIA COLI
(Simmon and Poole, 1976)

Sample	Metabolic Activation	Amount of Sample Added Per Plate (ug)	Average Number of Revertants Per Plate				
			S. typhimurium				E. coli
			TA1535	TA1537	TA98	TA100	WP2
Negative Control	-		25	8	27	136	47
	+		17	8	41	154	44
Positive Control							
9-Aminoacridine	-	100		671			
2-Anthramine	+	2.5	179		1017	1211	
	+	10					542*
Creosote P1	-	5*	28	6	17	142	39
	-	10	32	6	28	132	39
	-	50	37	5	25	123	42
	-	100	34	7	18	137	34
	-	250*	29	4	16	75	36
	-	500	T	4	16	T	37
	-	1000*		T	10		26
	-	5000*			T		T
	+	5*	12	11	52	212	45
	+	10	20	14	60	215	49
	+	50	19	22	119	304	48
	+	100	17	30	125	330	46
	+	250*	26	52	149	441	47
	+	500	12	50	172	156	58
	+	1000*	T	31	214	T	44
	+	5000*		T	T		T

* Indicates the results of just one experiment. All other data are the average of two assays conducted on separate days.

T = Toxic

TABLE 21
(continued)

IN VITRO ASSAYS SALMONELLA TYPHIMURIUM AND ESCHERICHIA COLI
(Simmon and Poole, 1978)

Sample	Metabolic Activation	Amount of Sample Added Per Plate (ug)	Average Number of Revertants Per Plate S. typhimurium TA1535	TA1537	TA98	TA100	E. coli WP2
Coal tar-Creosote P2, Class C	-	5*	31	4	31	106	37
	-	10	22	6	23	128	35
	-	50	28	3	23	119	45
	-	100	28	7	17	122	40
	-	250	21	6	15	70	43
	-	500	21	3	15	55	40
	-	1000	11	4	14	T	27
	-	5000	T	T	T		T
	+	5*	10	11	43	185	55
	+	10	16	23	62	186	61
	+	50	19	26	95	293	62
	+	100	20	37	147	347	49
	+	250	16	41	183	65	72
	+	500	15	58	163	196	59
	+	1000	8	40	145	T	49
	+	5000	T	T	T		T

* Indicates the results of just one experiment. All other data are the average of two assays conducted on separate days.

T = Toxic

P1 and P2 mixtures were dissolved in dimethylsulfoxide (DMSO) and were added to the cell cultures in varying test concentrations. A solvent control using 1% DMSO and a positive control using either dimethylnitrosamine (DMN) (in the presence of metabolic activation) or ethyl methanesulfonate (EMS) (in the absence of metabolic activation) were also tested. The cells were plated (duplicates of each exposure concentration, the solvent control, and the positive control were run) on a selective medium containing trifluorothymidine. The mutated cells grew on the medium; the cells which had not mutated did not grow.

Mutation frequency was calculated as the ratio of the number of mutant cells to surviving cells at each concentration of test chemical. The mean mutation frequency of the negative control samples was subtracted from the mutation frequency of each treated sample to give induced mutation frequencies. A relative total growth was determined for the controls and for each test concentration. The relative total growth is an expression of cell growth in relation to the negative control and is expressed as a percentage (Tables 22 through 25).

Creosote P1 and coal tar-creosote P2 had similar but not identical effects on the forward mutation frequency at the TK locus of L5178Y cells both with and without induced metabolic activation. In the presence of the Arochlor 1254-induced metabolic activation, a dose related increase in mutation frequencies above the spontaneous frequency was established for both P1 and P2. For P1 without metabolic activation, the only concentration that yielded a mutation frequency significantly above the spontaneous frequency was 0.98×10^{-2}. However, the relative total

TABLE 22

MOUSE LYMPHOMA FORWARD MUTATION ASSAY OF CREOSOTE P1 IN THE ABSENCE OF INDUCED METABOLIC ACTIVATION (Mitchell and Tajiri, 1978)

Concentration (percent v:v)	Relative Total Growth (%)	Calculated Mutation 6 Frequency (x 10)	Induced Mutation 6 Frequency (x 10)
Solvent Control (1% DMSO)	108.4	40	—
	90.2	66	—
Positive Control (500 ug/ml EMS)	37.2	573	520
	52.1	663	610
0.980×10^{-2}	0.16	206	233
	0.03	422	417
0.686×10^{-2}	38.8	57	4
	40.3	82	29
0.480×10^{-2}	71.4	60	7
	55.3	55	2
0.336×10^{-2}	78.3	79	26
	76.9	77	24
0.235×10^{-2}	68.2	47	0
	—	—	—
0.165×10^{-2}	68.3	71	18
	79.6	75	22
0.115×10^{-2}	138.9	54	1
	94.1	62	9
0.081×10^{-2}	85.1	68	15
	71.9	56	3

TABLE 23

MOUSE LYMPHOMA FORWARD MUTATION ASSAY OF CREOSOTE P1 IN THE PRESENCE OF INDUCED METABOLIC ACTIVATION 1/ (Mitchell and Tajiri, 1978)

Concentration (percent v:v)	Relative Total Growth (%)	Calculated Mutation 6 Frequency (x 10)	Induced Mutation 6 Frequency (x 10)
Solvent Control (1% DMSO)	97.4	101	—
	102.6	94	—
Positive Control (100 ug/ml DMN)	6.3	445	347
	10.8	282	184
3.00×10^{-3}	0.8	459	361
	1.0	398	301
2.40×10^{-3}	3.9	318	221
	4.4	305	207
1.92×10^{-3}	9.9	213	115
	12.9	222	124
1.54×10^{-3}	23.0	167	70
	21.3	185	87
1.23×10^{-3}	36.7	180	82
	43.3	140	42
0.98×10^{-3}	42.8	169	71
	43.1	174	76
0.79×10^{-3}	62.7	151	53
	74.5	141	43
0.63×10^{-3}	84.3	120	23
	77.9	128	30

1/ Arochlor 1254-induced rat liver S-9, batch IR-11.

TABLE 24

MOUSE LYMPHOMA FORWARD MUTATION ASSAY OF COAL TAR-CREOSOTE P2 IN THE ABSENCE OF INDUCED METABOLIC ACTIVATION (Mitchell and Tajiri, 1978)

Concentration (percent v:v)	Relative Total Growth (%)	Calculated Mutation 6 Frequency (x 10⁻⁶)	Induced Mutation 6 Frequency (x 10⁻⁶)
Solvent Control (1% DMSO)	108.4 90.2	40 66	— —
Positive Control (500 ug/ml EMS)	37.2 52.1	573 663	233 417
0.980×10^{-2}	0.02 0.01	233 —	227 —
0.686×10^{-2}	41.6 32.9	143 176	90 123
0.480×10^{-2}	57.7 63.2	87 79	34 26
0.336×10^{-2}	75.9 70.7	— 65	— 12
0.235×10^{-2}	65.5 —	58 —	5 —
0.165×10^{-2}	— 60.3	— 93	— 40
0.115×10^{-2}	65.7 67.5	59 61	6 8
0.081×10^{-2}	55.4 66.8	74 52	21 0

(83)

TABLE 25

MOUSE LYMPHOMA FORWARD MUTATION ASSAY OF COAL TAR-CREOSOTE P2 IN THE PRESENCE OF [1] INDUCED METABOLIC ACTIVATION (Mitchell and Tajiri, 1978)

Concentration (percent v:v)	Relative Total Growth (%)	Calculated Mutation 6 Frequency (x 10⁻⁶)	Induced Mutation 6 Frequency (x 10⁻⁶)
Solvent Control (1% DMSO)	97.4 102.6	101 94	— —
Positive Control (100 ug/ml DMN)	6.3 10.6	445 282	347 184
3.00×10^{-3}	2.6 1.9	386 370	289 273
2.40×10^{-3}	7.0 5.8	269 338	172 240
1.92×10^{-3}	14.4 16.1	204 236	106 139
1.54×10^{-3}	35.0 36.7	134 190	37 92
1.23×10^{-3}	35.0 36.3	140 147	43 49
0.98×10^{-3}	50.7 56.9	177 152	80 55
0.79×10^{-3}	58.9 77.8	153 117	56 20
0.63×10^{-3}	73.7 75.9	123 121	26 23

1/ Arochlor 1254-induced rat liver S-9, Batch IR-11.

(84)

growth was below 1%. For coal tar-creosote P2 without metabolic activation, two concentrations, 0.98×10^{-2} % and 0.686×10^{-2} %, yielded a mutation frequency significantly above the spontaneous frequency. Again, the relative total growth value at 0.98×10^{-2} % was below 1% survival. At 0.686×10^{-2} % the relative total growth value was approximately 35%.

3. Conclusion

Simmon and Poole (1978) found that following metabolic activation by Arochlor 1254-stimulated rat liver homogenate both the creosote P1 and the coal tar-creosote P2, Class C, produced a mutagenic dose-response and a doubling above background mutation rate with Salmonella typhimurium strains TA 1537, TA 98, and TA 100. Mitchell and Tajiri (1978) found that, following metabolic activation by Arochlor 1254-stimulated rat liver homogenate, creosote P1 and coal tar-creosote P2, Class C, increased the number of forward mutations at the thymidine kinase locus of L5178Y mouse lymphoma cells in a dose-related manner. The Working Group concluded that P1 and P2, Class C, caused mutations in Salmonella typhimurium strains TA 1537, TA 98, and TA 100, and in L5178Y mouse lymphoma cells. The Working Group, therefore, concluded that P1 and P2 are mutagenic in a multitest system and exceed the criteria of 40 CFR 162.11(a)(3)(ii)(A). Accordingly, the Agency is issuing a rebuttable presumption against creosote and coal tar-creosote mixtures.

C. Exposure

Although 40 CFR 162.11(a)(3)(ii)(A) does not require that exposure be demonstrated in order to presume against a pesticide on the basis of oncogenicity or on the basis of mutagenicity in a multitest system, a discussion of exposure to coal tar, creosote, and coal tar neutral oil is included for comment by interested persons. The Working Group considered three areas of exposure to these substances - industrial wood treatment, food residue, and user exposure.

1. Industrial Wood Treatment

a. General

The most important minor method of application is thermal treatment in which wood is immersed in open troughs filled with hot creosote followed by introduction of relatively cold creosote. The Working Group is not aware of any information on exposure to creosote from thermal treatment. The application of over 90% of all coal tar-creosote mixtures for wood preservation is by pressure treatment (American Wood Preservers' Institute, 1977).

The pressure treatment system is a closed system, and there is no need for direct worker contact with the liquid creosote or coal tar prior to its impregnation into the wood. The material arrives by truck or rail and is pumped into a holding tank where it is weighed. If the material is a creosote/coal tar solution of particular trade specifications, the solution is premixed at the production facility so that no mixing or manual transfer operations are required at the treatment plant. The treatment itself involves pressurization in airtight chambers. No workers are likely to be exposed from the treatment cylinders during the actual treatment process, nor are workers other than treating room operators required to be in the immediate vicinity of the chambers at this time. The treatment operator is responsible for the metering and introduction of coal tar/creosote into the cylinders. This func-

(85)

(86)

tion is performed in a control house near the chambers. In older facilities leakage of coal tar and creosote from old pipes and fittings may result in relatively high inhalation exposure to the treatment operators. Treatment time varies but ranges from about six to seven hours for each change of material. Following treatment, a vacuum is generally applied to withdraw excess preservative. After the excess is withdrawn, the chamber door is cracked open by a doorman. While still under vacuum, prior to withdrawal of the tram cars holding the treated wood, the door remains cracked open for approximately 15 minutes. The greatest opportunity for inhalation exposure appears to occur during the mechanical withdrawal of the tram cars from the pressure chamber. The wood-laden tram cars are linked to an engine and withdrawn to a storage area where the wood remains until shipment to the buyer.

Coal tar and creosote drippage occurs along the rail tracks leading from the chamber. This drippage is collected in ditches alongside the tracks and is pumped to a collecting pond along with creosote that has dripped from the pressure chambers at the time the charge was removed. Dike systems are employed around wood treatment plants to prevent runoff of creosote from the plant area. In at least one case, however, creosote was found to migrate from a treatment plant into the ground water supply of a neighboring community. The plant has since been shut down (Mittelman, 1978).

Non-routine operations such as cleaning of the treatment chamber may occur several times yearly. Workers in such operations are provided with suitable respirators and protective clothing.

b. Inhalation Exposure

On February 24-25, 1976, representatives of the National Institute of Occupational Safety and Health (NIOSH) [U.S. Department of Health, Education, and Welfare (USDHEW), 1977] and of Koppers Company (Smith, 1977) performed two separate air monitoring surveys at a Koppers Company wood preservation plant in Little Rock, Arkansas. Air samples were collected using lapel sampling pumps and analyzed for polycylic particulate organic matter (PPOM) by the NIOSH gravimetric method (NIOSH, 1977). The results of the two studies are presented in Table 26 and Table 27. 1/

Koppers Company also performed an air monitoring survey in July, 1977 (Webb, 1977) at the same Little Rock, Arkansas plant sampled by Koppers

1/ The lapel air sampling pumps collected the PPOM on a silver membrane-glass fiber filter which was held in place by a cellulose pad. Following collection of the air sample, NIOSH (USDHEW, 1977) desorbed the filter and the cellulose pad with cyclohexane. By contrast, Koppers (Williams, 1977) (Table 27) desorbed the filters, but not the cellulose pads, with benzene. The cyclohexane solution, or the benzene solution in the case of the Koppers' analyses, was placed in a teflon cup and the benzene or the cyclohexane was evaporated by placing the cup in a vacuum oven for three hours at 40°C. The weight of the remaining material was the cyclohexane or benzene soluble material. The concentration of mg/m³ was determined by dividing the weight of the cyclohexane or benzene soluble material by the volume of air sampled. The results of the NIOSH analysis were generally higher than those of Koppers'. NIOSH, however, as stated above, desorbed the cellulose pad as well as the filter with cyclohexane, while Koppers desolved only the filter. Analysis of two blank cellulose pads for PPOM by NIOSH produced results of 115 and 120 ug/filter. No adjustment in the NIOSH report was made for the blank cellulose pads. To adjust for the blank samples, 117.5 ug/filter (the average of 115 and 120 ug/filter) was subtracted from the ug/filter reported for the NIOSH test samples by an EPA chemist for the purpose of presenting the table of results in this document. Where no results are reported for the "ug/filter" in Table 26, the ug/filter of the blank sample was higher than the test sample.

TABLE 26

RESULTS OF 1976 NIOSH MONITORING STUDY AT KOPPERS COMPANY WOOD TREATMENT PLANT IN LITTLE ROCK, ARKANSAS (U.S. Department of Health, Education, and Welfare, 1977)

Description (Date)	ug/filter	1/ Air Volume Sampled (m^3)	2/ Concentration In Air (mg/m^3)	3/ Code of Worker or Site
Treating Operator (2/24)	32.5	0.49	0.07	SH-6
Doorman (2/24)	-	0.53	-	SH-7
Treating Operator (2/25)	62.5	0.49	0.13	SH-11
Doorman (2/25)	-	0.51	-	SH-12
Locomotive Operator (2/24)	12.5	0.49	0.03	SH-8
Locomotive Operator (2/25)	52.5	0.56	0.09	SH-15
Locomotive Switchman (2/24)	-	0.73	-	SH-9
Locomotive Switchman (2/24)	-	0.57	-	SH-10
Locomotive Switchman (2/25)	137.5	0.50	0.28	SH-13
Locomotive Switchman (2/25)	42.5	0.50	0.08	SH-14
Treating Area 4/	52.5	0.44	0.12	SH-16

1/ This is the total amount measured on the filters minus the amount measured on the cellulose control blank.
2/ This is the concentration in the air of cyclohexane soluble polycylic particulate organic material.
3/ This code was given to each worker or site sampled. The same codes were used by Koppers Company in their sampling. See Table 27 for a comparison of the results.
4/ This is a staticnary area sample. The other samples were collected from label sampling pumps.

TABLE 27

RESULTS OF 1976 KOPPERS' MONITORING STUDY AT KOPPERS COMPANY WOOD TREATMENT PLANT IN LITTLE ROCK, ARKANSAS (Smith, 1977)

Description (Date)	1/ Concentration In Air (mg/m3)	Code of Worker or Site
Treating Operator (2/24)	0.10	SH-6
Locomotive Switchman (2/24)	0.07	SH-9
Locomotive Switchman (2/24)	0.07	SH-10
Locomotive Switchman (2/25)	0.07	SH-15

1/ This is the concentration in the air of benzene soluble polycyclic particulate organic material.

TABLE 28

RESULTS OF 1977 KOPPERS COMPANY MONITORING STUDY AT LITTLE ROCK, ARKANSAS (Webb, 1977) 1/

Description	Concentration In Air (mg/m^3) 2/
Doorman	0.02
Doorman	0.07 3/
Treating Operator	0.05
Treating Operator	0.01
Switchman	0.03
Switchman	0.02
Switchman	< 0.01
Locomotive Operator	0.05
Locomotive Operator	0.01
Boring Operation	0.04
Area Clean Up	0.02

1/ The weather conditions during the study were the following: temperature, 72-83°F; relative humidity, 74-91%; barometric pressure, 30.00 inches Hg; and winds from the north at 5 mph.
2/ This is the concentration in the air of benzene soluble material.
3/ This doorman's exposure may have been higher because of his recovering a tram inside the cylinder following a break of the tram tow cable.

Company and NIOSH in July 1976 and using the NIOSH gravimetric technique used in the first Koppers' study. The results of the 1977 study are reported in Table 28.

The 1976 and 1977 Koppers' studies found a range of < 0.01 to 0.10 mg/m^3 benzene soluble material concentration in the air around the Little Rock wood treatment plant. The 1976 NIOSH study found a range of 0.03 to 0.20 mg/m^3 cyclohexane soluble material in the air around the Little Rock plant. No correlation appears to be evident between the type of work performed (e.g. treating operator, locomotive switchman, doorman, etc.) and the amount of air exposure.

There are several limitations to the method of collection employed by NIOSH. As stated, the method of analysis used is a gravimetric method and measures only the benzene or cyclohexane soluble fraction of polycyclic particulate organic matter in air samples. Thus, vapor phase polynuclear aromatic (PNA) hydrocarbons would go uncollected. Also, the gravimetric method used has not been fully evaluated for precision or accuracy nor has the solvent system been properly assessed for extraction efficiency. Another limitation to this method of analysis is its nonspecificity, i.e., the organic material weighed may include innocuous as well as carcinogenic materials.

c. Dermal Exposure

Handling of the treated wood at a pressure treatment plant is performed either mechanically or with metal utensils so that direct dermal exposure is minimal. Some dermal exposure does occur, however, as evidenced by reports of skin sensitization and burns, conjunctivitis, and eye irritation of workers in pressure treatment plants (Goldstein, 1976).

2. Residues in Food

Creosote, coal tar, and coal tar neutral oil are not applied to food crops. Some evidence exists, however, that creosote or creosote-coal tar mixtures may leach out of marine pilings and contaminate marine life in the near vicinity and that this marine life may be eaten by humans or move through the food chain.

Dunn and Stich (1975, 1976a, 1976b) monitored mussel benzo[a]-pyrene contamination, and Zitko (1975) monitored various aquatic fauna for pyrene equivalents. Dunn and Stich (1975) found that mussels taken from a relatively pollution-free location contained higher benzo[a]-pyrene levels (49 ± 5.8 ppb) when near creosoted pilings than when distant from the pilings (2.1 ± 0.3 ppb). Analyses for the B[a]P was performed by thin layer chromatography (TLC) and fluorescent emission spectra. While TLC techniques have, for the most part, been superseded by high pressure liquid chromatography (HPLC) and gas chromatography (GC) methods offering greater separation from potential interferences and greater sensitivity, the data generated is valid and deserves greater investigation. Although it was not conclusively demonstrated that creosote was the source of the B[a]P contamination, it is not unlikely that creosote constituents may migrate from wood over time if only by purely mechanical means such as abrasion or swelling of the wood. The extent of this migration is unknown, but the data provided by Dunn and Stich (1975) must be considered in the absence of better-developed data.

The Working Group concluded that the extent of potential dietary exposure due to shellfish is unknown, but is likely to be small. A total of 3.73 g/day of fresh, frozen, and canned shellfish was consumed per capita in the United States in 1974 (USDA, 1974). If it is assumed that shellfish taken from sites near creosoted pilings contain approximately 50 ppb B[a]P (i.e. 50 ug/kg) (Dunn and Stich, 1975), then the maximum daily intake of B[a]P would be 50 ug/kg x 3.73 g = 0.19 ug/person/day B[a]P. This exposure would result only if all shellfish contained the B[a]P content detected by Dunn and Stich, an assumption without supporting data, and also assuming the data of Dunn and Stich is representative of all shellfish near creosoted pilings.

3. User Exposure

a. Use of Treated Wood

Schwartz (1942) reported that workers exposed to creosoted floors developed erythematous, papular, and vesicular eruptions on their ankles one to two weeks after beginning work. The Pesticide Episode Reporting System (PERS) (1976) reported a number of incidents in which workers handling creosote-treated wood suffered adverse effects from exposure to the creosote (Appendix C).

The Working Group concluded that exposure from the handling of treated wood by workers such as railroad workers, utility pole workers, and workers installing pilings deserved greater attention. When this work is done in the summer, workers would probably incur the greatest potential exposure because of the inconvenience and discomfort of wearing protective clothing during this time of year.

b. Manual Application of Coal Tar, Creosote, and Coal Tar Neutral Oil for Wood Preservation

Birdwood (1938) reported on the permanent damage to vision of two gardeners who had gotten creosote in their eyes while treating fences. Jonas (1943) reported that Navy construction workers developed skin and eye irritation as a result of exposure to creosote while applying the creosote during construction. The Pesticide Episode Reporting System (1976) reported a number of incidents in which workers applying creosote suffered adverse effects from exposure (Appendix D).

The Working Group concluded that applicators who manually apply creosote are exposed, but no information is available to quantify this exposure.

c. Application of Creosote as an Herbicide

The Pesticide Episode Reporting System reported two cases of burns to applicators applying creosote as an herbicide (Appendix E).

The Working Group concluded that exposure to creosote does result from its application as an herbicide. The Working Group, however, is not aware of any information that is available to quantify this exposure.

d. Other Uses

Coal tar neutral oil and creosote are active ingredients of two insecticides used on horse and mule wounds (2 registrations). Coal tar neutral oil and creosote are both active ingredients of disinfectants for water closets, outhouses, garbage cans, animal areas, institutional premises, and sickroom areas (approximately 57 registrations). Coal tar and coal tar neutral oil are active ingredients in pesticide dips and shampoos for dogs (approximately 7 registrations). Creosote is an active

ingredient of a pesticide registered for mite and tick control in poultry houses. Coal tar neutral oil is an active ingredient of a pesticide registered for use on hog houses, sheep barns, dog kennels, and horse stables (6 registrations).

Creosote is an active ingredient in registrations for horse repellent (1 registration), a tree and shrub dressing (3 registrations), and an herbicide (2 registrations). Coal tar is an active ingredient in a crow repellent for seed corn (1 registration) and a human insect repellent (1 registration). Coal tar neutral oil is an active ingredient of approximately 16 mosquito larvicide registrations and 2 gypsy moth larvicide registrations.

No information is available regarding the potential exposure during application for the above uses. The uses involving coal tar and its derivatives in animal dips, washes or shampoos and the use of coal tar as a human insect repellent appear most likely to result in direct human contact.

III. OTHER ADVERSE EFFECTS

A. General

The information in this section relates to other adverse effects of creosote. The Working Group has concluded that the presently available information does not require issuance of a rebuttable presumption against registration on these effects. The Agency does solicit information on these problems, however, and requests that studies be conducted where necessary.

B. Skin and Eye Irritation

The Working Group reviewed several reports indicating that creosote is a potent skin and eye irritant.

Birdwood (1938) reported on two gardeners who got creosote into their eyes while creosoting fences. The two patients both complained of blurred vision and upon examination were found to have maculae upon the cornea and keratitis of the cornea. Birdwood reported that for both patients the impairment of vision would be permanent.

As indicated previously, the Pesticide Episode Reporting System (1976) reported 33 cases of eye damage, burns, or dermatitis resulting from creosote exposure either from treated wood or by application during the period August 1968 to April 1976 (Appendices C,D, and E).

McMillan (1976) reported on the accident history of 50 of the approximately 175 pressure-treating plants in the United States and Canada which use creosote to treat wood. About 3,000 employees out of approximately 7,000 employed in the industry were surveyed. Of those surveyed, 230 were reported to be directly exposed to creosote and fifteen hundred employees were reported to be either directly or indirectly exposed. The report was vague on the period of time which the survey covered. One employer reported for a 6-year period (1969-1975), one employer reported for a 10-year period (1961-1971), and 5 employers' reports were termed "historical." The time period covered for the other 43 plants was not reported. Also vague in the report was the number of treatment plants which documented or did not document the accident history. Of those which were documented, 98 cases of chemical conjunctivitis and 19 cases of eye irritation were reported. At least one treatment plant reported that eye irritation was "occasional." Sixty cases of skin burns and two allergic reactions were reported. At least one plant reported that skin burns were "infrequent."

Pfitzer et al. (1965) found that the instillation of 0.1 milliliter of creosote into the eyes of rabbits caused the conjunctiva to become slightly erythematous. Examination of the exposed eyes 24 hours following exposure showed that slight redness of the conjunctiva persisted in two of the eyes tested and the remaining four exposed eyes were essentially free of irritation. All of the exposed eyes were free of any apparent effects after seven days. Pfitzer et al. (1965) also reported that the contact of creosote with the intact and abraded areas of the skin of the bellies of rabbits for a maximum period of 24 hours produced moderate erythema and moderate to severe edema. The skin reactions remained relatively unchanged 72 hours following exposure. After 14 days, the exposed areas revealed severe epidermal flaking.

Schwartz (1942) reported that workers exposed to creosote treated floors developed erythematous, papular, and vesicular eruptions on their uncovered ankles one to two weeks after beginning work.

Jonas (1943) treated 450 Navy construction workers (1/6 of the workers at a Navy camp) for creosote burns. He found that fair-skinned, light-haired workers were particularly affected by creosote burns and that the number of burns increased on sunny days. Seventy percent of the burns were mild, while 30% were more severe and characterized by intense burning, itching, and considerable subsequent pigmentation followed by

desquamation. Fifteen percent of the 450 patients had inflammation of the conjunctiva, with mild cases being characterized by hyperemnia of the mucus membranes and more severe forms by photophobia and a large amount of serous secretion. Three percent had injuries to the cornea varying from small abrasions to multiple large ones. One-third of these cases developed permanent corneal scars leaving hazy vision. These injuries were caused by flying chips of creosoted wood.

C. Toxicity to Livestock

The Working Group reviewed several reports indicating that creosote may have been responsible for toxic effects and death in some livestock.

1. Hanlon

Hanlon (1936) reported the loss of four steers and two cows from a lot of 94 head of cattle from what appeared to be creosote poisoning. The cattle were believed to have licked electric light poles which had recently been creosoted. Symptoms in affected animals consisted of extremely rapid respiration and evidence of burning over the mucosa of the mouth, tongue and lips, which were white and hardened. The pupils were contracted, the skin was cold, and the animals were in a comatose condition. Feces were black in color and the affected animals were apparently in agony. In the early stages they were reported to have evinced great thirst. A steer in extremis was killed, and an autopsy carried out immediately. Intense inflammation and congestion was evident in the whole gastrointestinal tract.

2. Lander

Lander (1926) (cited in Hanlon, 1936 and Harrison, 1959) reported

the death of stock that had access to freshly treated railway ties. He stated that water may dissolve sufficient cresols from creosote-treated sleeper ties to cause livestock poisoning.

3. Wanntorp

Wanntorp (1953) (cited in Harrison, 1959) described several cases in which calves and cows died or had to be slaughtered after licking creosoted wood or poles. He mentions also the possibility that losses of poultry following the treatment of fowl houses with carbolineum (a high boiling point tar oil) may have been due to poisoning by tar derivatives.

4. Luke

Luke (1954) reported the death of four pigs, the suspected cause of which was the ingestion of coal tar pitch from the floor of their pen. The floor was made of old railway ties leveled off with pitch. Prior to death, the appetite of the pigs was very poor and coughing was widespread. Postmorten examination of the pigs found marked enlargement of the liver and several other liver anomalies in all four cases. Also, the abdominal cavities contained varying quantities of bloodstained fluid, and there was an excess of straw colored fluid in the pleural cavities. A pyogenic pneumonia was found in two carcasses, and in one of these there was a well-marked pericarditis. The lungs were normal in two cases and in one of these a marked cystic condition of the kidneys was found. C. pyogenes was isolated from the pneumonic lungs but cultures from liver, spleen, and heart blood were uniformly negative. From their findings, the authors concluded that pneumonia was not the principal cause of death, but that the death resulted from the liver damage. To test this hypothesis, the pitch was fed to two

groups of healthy pigs. Group A was comprised of three healthy pigs, each about 60 pounds in weight, and Group B of two pigs, each about 40 pounds in weight. The pigs in Group B were not thriving quite as well as those in Group A. A quantity of pitch was ground up and a small quantity added daily to the food for both groups. Over a period of 28 days, Group A received a quantity of two pounds of pitch. The pigs in Group B received four ounces of pitch over a period of 12 days. In both groups the addition of the pitch affected appetite and the pigs tended to be constipated. At the end of feeding for both groups, the pigs were killed and examined. In all three cases from Group A the pigs showed an enlargement of the liver together with a degree of liver damage similar to those of the original cases. Extensive liver lesions and a marked excess of peritoneal fluid were found in the pigs of Group B. Histological examination of the affected liver tissue from both field and experimental animals showed similar changes, viz. a marked central necrosis of the lobules which in some cases had completly destroyed the normal liver cell.

5. Harrison

Harrison (1959) determined from his experimental data that a 30 kg sheep would have to ingest 300 g of wood or 120 g of creosote to receive an acutely fatal dose; a 100 kg calf would have to ingest 1,000 g of wood or 400 g of creosote for the dose to be acutely fatal. These acute lethal doses are not LD 50 values, however. A chronic fatal dose for sheep would be 37.5 g of wood or 15 g of creosote ingested per day over a 1 month period; a chronic fatal dose for calves would be 125 g or 50 g of creosote per day for at least 11 days. Harrison thought that

the only danger to stock would be through their access to the raw preserving fluid either near stacks of freshly impregnated timber or on freshly treated farm timber and nearby contaminated vegetation.

6. Olafson and Leutritz

Olafson and Leutritz (1958) applied creosote to the skin of calves over the jaw area to preclude licking off the material. About three days after application, the skin developed slight swelling and became harder than normal. Gray creases appeared. From 7 to 10 days later, a dry crusty thickening of the skin had occurred. Healing took place slowly and recovery was not complete in four weeks.

Olafson and Leutritz (1958) also studied calf response following oral administration of creosote. They reported that a 1,000-pound cow would have to ingest over 75 cc of creosote before appreciable harm would result, although the exact basis for this determination was not stated.

D. Fetotoxicity

The Working Group identified one livestock study, the results of which may pose a question as to the fetotoxicity of creosote.

Schipper (1961) found a creosote-related fetotoxic effect with pregnant sows; the platforms of the cages in which the sows were housed had had three brush applications of a commercial creosote wood preservative. The sows were confined in the cages 2 and 10 days before giving birth. Twenty-four of the forty-one pigs delivered by the four sows were dead at birth. Of the remaining offsprings, six pigs died on day 1, four pigs on day 2, and one pig on day 3. The surviving pigs had rough skin, were dehydrated, and had severe diarrhea; weight gains were hindered until they were 5 and 6 weeks old. A control group was not included in the study, and the author did not report the route nor the amount of exposure.

Appendix A

SPECIFICATIONS FOR COAL-TAR CREOSOTE (NEW MATERIAL) (Fuller, 1977)

SPECIFICATION NUMBER	P1-65[1]	P2-65[2]	D390-67[3]	TT-C-645b[4]		
				Class 1	Class 2	Class 3
Water (% by volume)	> 1.5	> 1.5	1.5 max	3.0 max	3.0 max	3.0 max
Matter insoluble in benzene (% by weight)	> 0.5	> 0.5	0.5 max	1.5 max	1.5 max	1.5 max
Specific gravity at 38° C compared to water at 15.5°C						
Original creosote	< 1.050	< 1.080	1.05 min	1.050 min	1.050 min	1.080 min
235-315°C fraction	< 1.027	< 1.030	1.027 min	1.027 min	1.027 min	1.030 min
315-355°C fraction	< 1.095	< 1.105	1.095 min	1.095 min	1.095 min	1.110 min
Residue above 355°C	—	< 1.160	—	—	—	1.160 min
Distillation						
To 210°C	> 2.0	> 2.0	2.0 max	2.0 max	2.0 max	2.0 max
To 235°C	>12.0	>12.0	12.0 max	12.0 max	12.0 max	12.0 max
To 270°C	<20.0;>40.0	20.0;>40.0	20.0-40.0	20-40	20-40	20-40
To 315°C	<45.0;>65.0	45.0;>65.0	45.0-65.0	40-65	40-65	45-65
To 355°C	<65.0;>82.0	65.0;>78.0	65.0-82.0	75-92	65-92	65-75
Service	Land, fresh water	Marine	Land, fresh water	Poles	General, land, fresh water	Marine

(1) For land and fresh water use. AWPA Std.
(2) For marine (coastal water) use. AWPA Std.
(3) For land and fresh water use. ASTM Std.
(4) GSA standards for creosote in use

Appendix B

AWPA SPECIFICATIONS OF CREOSOTE-COAL TAR SOLUTIONS (NEW MATERIAL)
(Fuller, 1977)

REFERENCE	GRADE A	AWPA P2-65 B	C	D	P12-65[1]
Composition					
Creosote	<80	<70	<60	<50	—
Coal Tar	—	—	—	—	—
Water (% by volume)	> 3.0	> 3.0	> 3.0	> 3.0	3.0
Benzene, insol. (% by weight)	> 2.0	> 3.0	> 3.5	> 4.0	1.0-3.0
Coke residue (% by weight)	> 5.0	> 7.0	> 9.0	>11.0	4.0-7.0
Specific Gravity (38/15.5)					
Whole oil	1.06-1.11	1.07-1.12	1.08-1.13	1.09-1.14	1.090
235-315°C fraction	1.025	1.025	1.025	1.025	1.030
315-355°C fraction	1.085	1.085	1.085	1.085	1.105
Residue	—	—	—	—	1.165
Distillation					
To 210°C	5	5	5	5	5.0
To 235°C	25	25	25	25	15.0
To 270°C	—	—	—	—	20-35
To 315°C	36	34	32	30	35-50
To 355°C	60	56	52	48	55-70
Residue	—	—	—	—	—

(1) For use in treatment of marine piles and timbers.
Source: Hartford (1978).

APPENDIX C (Cops & Fin. Cops Ctr)

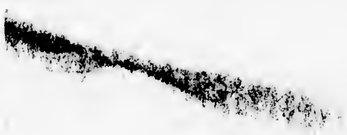
REPORT OF EPISODES OF EXPOSURE TO CREOSOTE FROM TREATED LUMBER 1/
(Adapted from PLRS, 1976)

Date of Episode	State	Causative Agent Verification 2/	Remarks 3/
2/25/73	CA	Probable	A dockworker developed a rash on his arms after contacting crates coated with creosote.
4/5/73	CA	Probable	A carpenter sustained chemical burns on his face, hands and arms while painting fence posts with creosote.
4/12/73	CA	Yes	A carpenter was handling timbers at a shipyard. Creosote splashed into his left eye, which developed redness and pain.
4/26/73	CA	Probable	A welder developed a rash on his hips, chest, thighs and trunk while working around treated railroad ties.
6/1/73	CA	Probable	A maintenance man developed an erythematous rash, first degree burns and chemical irritation while handling freshly treated poles.
6/29/73	CA	Probable	A wood worker developed first degree chemical burns when he rubbed the chemical on his face while working.
7/9/73	CA	Probable	An equipment operator for a county water agency was removing poles treated with creosote all day. His face and neck became red, swollen and sore.
8/9/73	CA	Probable	A lineman was holding treated utility poles with gloves when he wiped his face, thereby transferring creosote from the gloves to his face. Diagnosed as chemical burn.

APPENDIX C
(continued)

REPORT OF EPISODES OF EXPOSURE TO CREOSOTE FROM TREATED LUMBER 1/
(Adapted from PLRS, 1976)

Date of Episode	State	Causative Agent Verification 2/	Remarks 3/
9/20/73	CA	Probable	Laborer developed contact dermatitis on his buttocks while working with treated lumber.
1/75	CA	Yes	Laborer working with treated wood developed dermatitis on hands and arms.



1/ Records checked from 1967 through April, 1976.
2/ Verification indicates whether the pesticide associated with the episode was established as the causative agent which resulted in death, illness, etc. "Yes" indicates that substantial evidence exists linking the pesticide to the episode's effects; "Probable" indicates circumstantial evidence exists linking the pesticide to the episode's effects.
3/ In all cases 1 human received medical attention.

APPENDIX C (Cops & Fin. Cops Ctr)

REPORT OF EPISODES OF EXPOSURE TO CREOSOTE FROM TREATED LUMBER 1/
(Adapted from PLRS, 1976)

Date of Episode	State	Causative Agent Verification 2/	Remarks 3/
2/23/72	CA	Probable	A carpenter developed chemical conjunctivitis after getting creosote in his eye at work.
8/72	CA	Probable	A carpenter sustained burns of the face, arms and hands when he came into contact with creosote spray.
10/2/72	CA	Probable	A construction worker developed a rash on all extremities while working with creosote.
4/23/73	CA	Probable	A construction worker developed chemical burns of both forearms while carrying creosote-treated wood.
4/26/73	CA	Probable	A laborer at a lumber yard sustained first degree burns on both arms while moving creosote ties a ton.
6/6/73	CA	Probable	A laborer developed erythema of the face, neck and forearms when he inadvertently rubbed creosote on them.
6/11/73	CA	Probable	A carpenter splashed creosote into both eyes and developed chemical keratoconjunctivitis.
6/16/73	CA	Probable	A carpenter spilled creosote on arms and face and developed superficial irritation of arms and face.
6/27/73	CA	Probable	A student got creosote on forearms while painting posts and developed chemical burn.

APPENDIX E
(continued)

REPORT OF EPISODES OF EXPOSURE TO CREOSOTE FROM APPLICATION 1/
(Adapted from PLUS, 1976)

Date of Episode	State	Causative Agent Verification 2/	Remarks 3/
7/24/73	CA	Probable	A laborer developed first degree burns of the arms, face and hands after painting posts with creosote.
7/26/73	CA	Probable	A carpenter sustained first degree burns on his face, forearms and lower abdomen when he splashed the material on himself during an application operation.
7/31/73	CA	Probable	A laborer for a construction company sustained a chemical burn when the material was sprayed on his arms and face.
9/24/73	CA	Probable	A laborer got creosote in his face and eyes thereby sustaining a chemical burn.
8/24/74	MD	Yes	A woman was injured when the can from which she was pouring creosote onto the foundation of her house, slipped from her hand, splashing the chemical on her legs and into her eyes.
4/25/75	CA	N/A	A man was applying creosote to a ramp when he accidentally splashed it on his face. The effect of the accident was not reported.
5/25/75	CA	Probable	An employee was treating a wooden block. Material splashed onto him, resulting in contact dermatitis.

1/ Records checked from 1967 through April, 1976.
2/ Verification indicates whether the pesticide associated with the episode was established as the causative agent which resulted in death, illness, etc. "Yes" indicates that substantial evidence exists linking the pesticide to the episode's effects; "Probable" indicates circumstantial evidence exists linking the pesticide to the episode's effects.
3/ In all cases 1 human received medical attention.

APPENDIX E

REPORT EPISODES OF BURNS SUFFERED FROM THE APPLICATION OF CREOSOTE AS AN HERBICIDE (Adapted from PERS, 1976) 1/

Date of Episode	State	Causative Agent Verification 2/	Remarks 3/
4/21/73	CA	Probable	A pest control operator sustained chemical burns of the face while spraying weeds.
6/14/73	CA	Probable	A lumber company worker was spraying weeds. Wind blew the herbicide into his face and the worker sustained first degree burns.

1/ Records checked from 1967 through April, 1976.
2/ Verification indicates whether the pesticide associated with the episode was established as the causative agent which resulted in death, illness, etc. "Yes" indicates that substantial evidence exists linking the pesticide to the episode's effects; "Probable" indicates circumstantial evidence exists linking the pesticide to the episode's effects.
3/ In all cases 1 human received medical attention.

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**** PRODUCT SEARCH LISTING **** PAGE 1

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 000043	CABOT SAMUEL INC ONE UNION ST BOSTON MA 02108

********** PRODUCT NAME **********
**00003* CABOT'S CREOSOTE SHINGLE STAINS 345 SMOKE GRAY
**00004* CABOT'S CREOSOTE SHINGLE STAINS 247 DARK GRAY
**00005* CABOT'S CREOSOTE SHINGLE STAINS 238 DARK BUNGALOW BROWN
**00006* CABOT'S CREOSOTE SHINGLE STAINS 220 TILE RED
**00007* CABOT'S CREOSOTE SHINGLE STAINS 237 DARK BROWN
**00008* CABOT'S CREOSOTE SHINGLE STAINS 222 DARK BROWNISH RED
**00009* CABOT'S CREOSOTE SHINGLE STAINS 227 DARK RED
**00010* CABOT'S CREOSOTE SHINGLE STAINS 230 COLORLESS CREOSOTE
**00011* CABOT'S CREOSOTE SHINGLE STAINS 244 SILVER GRAY
**00012* CABOT'S CREOSOTE SHINGLE STAINS 270 DARK BLUE
**00013* CABOT'S CREOSOTE SHINGLE STAINS 239 SEAL BROWN
**00014* CABOT'S CREOSOTE SHINGLE STAINS 243 MEDIUM GRAY
**00015* CABOT'S CREOSOTE SHINGLE STAINS 258 SPRUCE GREEN
**00017* CABOT'S CREOSOTE STAINS MEDIUM MOSS GREEN 0255
**00018* CABOT'S CREOSOTE STAINS DARK MOSS GREEN 0252
**00019* CABOT'S CREOSOTE SHINGLE STAINS 260 BLACK
**00020* CABOT'S CREOSOTE SHINGLE STAINS 251 LIGHT MOSS GREEN
**00021* CABOT'S CREOSOTE SHINGLE STAINS 281 DARK WEATHERED BROWN
**00022* CABOT'S CREOSOTE SHINGLE STAINS 280 LIGHT WEATHERED BROWN
**00026* CABOT'S CREOSOTE STAINS 250 EUCALYPTUS GREEN

**** PRODUCT SEARCH LISTING **** PAGE 2

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000043

**00031* CABOT'S NO. 3600 CREOSOTE OIL

**00032* CABOT'S NO. 3770 CREOSOTE OIL

**00033* CABOT'S CREOSOTE STAINS 0233 RED CEDAR

**00035* CABOT'S WOOD PRESERVING CREOSOTE SHINGLE STAINS 231 PUMPKIN YELLOW

**00036* CABOT'S CREOSOTE STAINS 0246 SAGEBRUSH GRAY

**00037* CABOT'S CREOSOTE STAINS 0249 CHARCOAL

**00039* CABOT'S CALIFORNIA REDWOOD STAIN #325

**00057* CABOT S CREOSOTE STAINS 0211 WHITE

**00058* CABOT'S GYPSY MOTH CRESOTE #3900

**00070* CABOT"S C070 WHITE CREOSOTE PAINT

**00071* CABOT'S CONSERVO #3300

****

REGISTRANT *NAME AND ADDRESS*

* 000052 WEST CHEMICAL PROD INC
KATZ ALBERT MR 42-16 W ST
NEW YORK, NY 10001

********** PRODUCT NAME **********

**00023* WESCOI

**** PRODUCT SEARCH LISTING **** PAGE 3

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

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REGISTRANT *NAME AND ADDRESS*

* 000059 BURROUGHS WELLCOME COMPANY
BURROUGHS WELLCOME COMPANY
3030 CORNWALLIS ROAD
RESEARCH TRIANGLE PARK, NC 27709

********** PRODUCT NAME **********

**00005* COOPER FARM DISINFECTANT

****

REGISTRANT *NAME AND ADDRESS*

* 000061 KOPPERS COMPANY, INCORPORATED
GENERAL OFFICES-KOOPERS BLD
PITTSBURGH PA 15219

********** PRODUCT NAME **********

**00094* KOPPERS COAL TAR CREOSOTE

**00096* KOPPERS KOLINEUM

**00129* KOPPERS WOOD PRESERVATIVES SPECIAL OIL

**00130* KOPPERS WOOD PRESERVATIVES 50/50 CREOSOTE-COAL TAR SOLUTION

**00131* KOPPERS WOOD PRESERVATIVES 60/40 CREOSOTE-COAL TAR SOLUTION

**00132* KOPPERS WOOD PRESERVATIVES 80-20 CREOSOTE-COAL TAR SOLUTION

**00133* KOPPERS WOOD PRESERVATIVES 70/30 CREOSOTE-COAL TAR SOLUTION=

**** PRODUCT SEARCH LISTING **** PAGE 4

**** PRODUCT SEARCH LISTING **** PAGE 5

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 000134 HESS AND CLARK DIV OF RHODIA INC
ASHLAND OH 44805
ASHIAND, OH 44805

********** PRODUCT NAME **********

**00006* HESS & CIARK FARM & HOME DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 000218 ALLIED CHEMICAL CORPORATION
P.C. BOX 1058-R
MORRISTOWN NJ 07960

********** PRODUCT NAME **********

**00132* CREOSOTE OIL 24 CB

**00136* CREOSOTE COAL TAR SOIUTION

**00137* REFINED CREOSOTE OIL (TANK TRUCK, CAR AND SHIP)

**00150* BARRETT CREOSOTE OIL-24-CA

**00609* CREOSOTE OIL

**00612* CRUDE COAL TAR

REGISTRANT *NAME AND ADDRESS*

* 000299 MARTIN C J COMPANY
606 W MAIN PO BOX 1089
NACOGDOCHES TX 75961

********** PRODUCT NAME **********

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000299

**00156* MARTIN'S M & S CREOSOTE OIL

**00162* CREOSOTE DIP

REGISTRANT *NAME AND ADDRESS*

* 000346 RUSSELL I D COMPANY LABS
PO BOX 1
KANSAS CITY MO 64141

********** PRODUCT NAME **********

**00006* RUSSELL'S REVENGE LITTER SPRAY

REGISTRANT *NAME AND ADDRESS*

* 000363 COOPERS CREEK CHEMICAL CORP
RIVER ROAD
WEST CONSHOHOCKEN, PA 19428

********** PRODUCT NAME **********

**00007* THE C-4 BRAND ZIP PHENOLIC DISINFECTANT

**00014* THE C-4 BRAND BLACK CREOSOTE COAL TAR SOIUTION

**00015* THE C-4 BRAND COPPERSOTE CREOSOTE OIL

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**** PRODUCT SEARCH LISTING **** PAGE 6

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

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REGISTRANT *NAME AND ADDRESS*

* 000374 ELROY TURPENTINE COMPANY
BOX 688
SWAINSBORO GA 30401

**************** PRODUCT NAME ****************

**00007* ELROY CREOSOTE OIL (DARK)

****

REGISTRANT *NAME AND ADDRESS*

* 000419 CENOL COMPANY
DIV OF BURGESS VIBROCRAFTERS INC
P O BOX 177 ROUTE 45 & PETERSON RD
LIBERTYVILLE, IL 60048

**************** PRODUCT NAME ****************

**00121* CENOL PHENOLIC DISINFECTANT

****

REGISTRANT *NAME AND ADDRESS*

* 000421 VARLEY JAMES & SONS INC
1200 SWITZER AVE
ST LOUIS MO 63147

**************** PRODUCT NAME ****************

**00095* COAL TAR DISINFECTANT COEF. 6

**00096* COAL TAR DISINFECTANT AND STOCK DIP PHENOL COEF.7.5

**00099* COAL TAR DISINFECTANT PHENOL COAFFICIENT 5

**00100* COAL TAR DISINFECTANT PHENOL COEFFICIENT AT LEAST 10%

**00101* COAL TAR DISINFECTANT AND STOCK DIP

**** PRODUCT SEARCH LISTING **** PAGE 7

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000421

**00146* COAL TAR DISINFECTANT

**00149* MOSQUITO LARVAECIDE

**00399* CREOSOTE WOOD PRESERVING OIL

****

REGISTRANT *NAME AND ADDRESS*

* 000453 WOOD TREATING CHEMICALS DEPT
KOPPERS CO INC
DEPT. KOPPERS CO. 5137 SOUTHWEST AVE.
ST LOUIS MO 63110

**************** PRODUCT NAME ****************

**00089* POLE - TREAT PENETRATING PRESERVATIVE COATING

**00103* POLE-LIFE PRESERVATIVE PASTE T-E

**00158* C WOOD PRESERVATIVE AT-8242

**00171* POLE TREAT 15 PENETRATING PRESERVATIVE COATING

**00182* TRITOX PRESERVATIVE PASTE

**00259* POLE-LIFE PRESRVATIVE PASTE TF

****

REGISTRANT *NAME AND ADDRESS*

* 000458 STANDARD TAR PRODUCTS COMPANY
2456 W CORNELL ST
MILWAUKEE WI 53209

**************** PRODUCT NAME ****************

**00002* USOL CREOSOTE OIL

**00013* USOL CLEAR GRAIN NATURAL WOOD FINISH AND WOOD PRESERVATIVE

V 4

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000458

**00020* USOL CABIN OIL WITH PENTA

REGISTRANT *NAME AND ADDRESS*

* 000475 BOYLE-MIDWAY INC
S AVE & HALE ST
CRANFORD NJ 07016

********** PRODUCT NAME **********

**00018* SALEM WITCH BRAND CREOL DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 000491 SELIG CHEMICAL INDUSTRIES THE
DIV NATIONAL SERVICE INDS INC PO BOX 43106
ATLANTA GA 30336

********** PRODUCT NAME **********

**00013* STEROLIN DISINFECTANT COEFF. 6

**00026* PIRATOL DISINFECTANT

**00027* SELIG,S LARVAECIDE

REGISTRANT *NAME AND ADDRESS*

* 000528 AMSCO DIVISION UNION OIL COMPANY OF CALIFORNIA
825 SE THORNTON
MINNEAPOLIS MN 55414

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 9

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000528

**00029* AMSCO'S CREOSOTE WOOD PRESERVER

**00057* BARCOSOTE CREOSOTE PENTA WOOD PRESERVER

REGISTRANT *NAME AND ADDRESS*

* 000541 PURITAN CHEM COMPANY
PO BOX 93247 MARTECH STATION
ATLANTA GA 30318

********** PRODUCT NAME **********

**00045* PURI-LARV A MOSQUITO LARVICIDE

REGISTRANT *NAME AND ADDRESS*

* 000551 BAIRD & MCGUIRE INC
SOUTH ST
HOLBROOK MA 02343

********** PRODUCT NAME **********

**00006* COAL TAR DISINFECTANT DEODORANT-CLEANER

**00009* COAL TAR DISINFECTANT COEF. 5

**00011* COAL TAR DISINFECTANT COEF. 4

**00012* COAL TAR DISINFECTANT COEF. 3

**00013* COAL TAR DISINFECTANT COEF. 7

**00015* COAL TAR DISINFECTANT COEF. 8

**00016* COAL TAR DISINFECTANT COEF. 10

**00213* COAL TAR DISINFECTANT COEF. 6

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000559

**00001* BAIRD & MCGUIRE CREOSOTE WOOD PRESERVATIVE

**00002* BAIRD & MCGUIRE CREOSOTE PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000655 CHEMICAL SPECIALTIES INC
PO BOX 18300
CHARLOTTE NC 28218

********** PRODUCT NAME **********

**00001* CHEMSPEC CREOSOTE WOOD PRESERVATIVE

**00002* CHEMSPEC CREOSOTE PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000707 CHEMICAL SPECIALTIES MFG CORP
PO BOX 18300
CHARLOTTE NC 28218

********** PRODUCT NAME **********

**00001* CHEMSPEC CREOSOTE WOOD PRESERVATIVE

**00002* CHEMSPEC CREOSOTE PENTA WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 11

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000707

**00003* CHEMSPEC CREOSOTE PENTA WOOD PRESERVATIVE

**00004* CHEMSPEC CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000769 CHEMICAL SPECIALTIES MFG CORP
PO BOX 18300
CHARLOTTE NC 28218

********** PRODUCT NAME **********

**00003* CHEMSPEC CREOSOTE PENTA WOOD PRESERVATIVE

**00004* CHEMSPEC CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000770 CHEMICAL SPECIALTIES MFG CORP
PO BOX 18300
CHARLOTTE NC 28218

********** PRODUCT NAME **********

**00003* CHEMSPEC CREOSOTE PENTA WOOD PRESERVATIVE

**00004* CHEMSPEC CREOSOTE WOOD PRESERVATIVE

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**** PRODUCT SEARCH LISTING **** PAGE 10

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 000551

**00218* CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 000572 ROCKLAND CHEMICAL CO. INC.
P.O. BOX 809
CALDWELL, NJ 07006

********** PRODUCT NAME **********

**00096* ROCKLAND CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 000576 SUWANNEE DRUG COMPANY
PO BOX 128
NEWBERRY FL 32669

********** PRODUCT NAME **********

**00008* BARRY'S DERMA-SEAL SCREW WORM KILLER

REGISTRANT *NAME AND ADDRESS*

* 000603 CHEMTECH IND INC
3033 GLENFIELD, PO BOX 24440
DALIAS, TX 75224

********** PRODUCT NAME **********

**00016* DIXIE LARVACIDE

**** PRODUCT SEARCH LISTING **** PAGE 11

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 000619 HUGGINS JAMES & SON INC
239 MEDFORD ST
MALDEN MA 02148

********** PRODUCT NAME **********

**00008* (H) KOLTAROL DISINFECTANT PHENOL COEFFICIENT 2

**00012* KOLTAROL DISINFECTANT

**00025* DIAMOND E CREOSOTE PRESERVATIVE

**00030* S-P-F WOOD PRESERVER & INSECTICIDE

REGISTRANT *NAME AND ADDRESS*

* 000746 MFA OIL CO
P.O. BOX 519
COLUMBIA MO 65201

********** PRODUCT NAME **********

**00008* MFA GENERAL DISINFECTANT AND DEODORANT

REGISTRANT *NAME AND ADDRESS*

* 000912 FARMERS UNION CENTRAL EXCHANGE INC
POST OFFICE BOX "G"
ST PAUL MN 55164

********** PRODUCT NAME **********

**00028* CO-OP BARN & LIVESTOCK AREA DISINFECTANT

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 000928 CARBOLINEUM WOOD PRES COMPANY
ATTN LEYPOLDT F JR 6683 N 40TH ST
MILWAUKEE WI 53200

********** PRODUCT NAME **********

**00001* AVENARIUS CARBOLINEUM

REGISTRANT *NAME AND ADDRESS*

* 000931 KANSAS CITY VACCINE COMPANY
1611 GENESEE ST
KANSAS CITY MO 64102

********** PRODUCT NAME **********

**00008* FARMADE VET. PAINT

REGISTRANT *NAME AND ADDRESS*

* 000962 LOS ANGELES CHEMICAL COMPANY
4545 ARDINE ST
SOUTH GATE CA 90280

********** PRODUCT NAME **********

**00096* LACCO BRAND A.W.P.A. CREOSOTE

**** PRODUCT SEARCH LISTING **** PAGE 13

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 000984 WHITMOYER LAB INC
AFFILIATED LABORATORIES DIV.
1 GIBRALTAR PLAZA
HORSHAM, PA. 19044

********** PRODUCT NAME **********

**00041* BARKER'S DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 001019 LEGEAR DIVISION
2150 METRO BLVD.
MARYLAND HEIGHTS, MO. 63043

********** PRODUCT NAME **********

**00059* LEGEAR MULTI PURPOSE DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 001022 CHAPMAN CHEMICAL COMPANY
BOX 9158
MEMPHIS TN 38109

********** PRODUCT NAME **********

**00218* TIMPREG PAK

**00256* TIMPREG

**00379* TIMPREG E SPECIAL

**00408* CHAPMAN POL-NU 15-15 PENTA PRESERVATIVE GREASE WITH CREOSOTE ADDED

**00496* POL-NU 2C-20

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**** PRODUCT SEARCH LISTING **** PAGE 14

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 001127 BOURBON CO
BOX 466
LEXINGTON KY 40501

********** PRODUCT NAME **********

**00008* BOURBON DIP & DISINFECTANT COEF. 5

**00026* NO. 56 CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 001136 NU BRITE CHEMICAL COMPANY
10 FIRST ST
TAUNTON MA 02780

********** PRODUCT NAME **********

**00011* NU BRITE CREOSOTE PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* C01200 U.S. EAGLE, INC.
P.O. BOX 59031
DALLAS, TX 75229

********** PRODUCT NAME **********

**00006* EAGLE MOSQUITO LARVAECIDE

**** PRODUCT SEARCH LISTING **** PAGE 15

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 001266 WALTER INTERNATIONAL CORPORATION
PO BOX 6099
NEW ORLEANS LA 70114

********** PRODUCT NAME **********

**00025* MALCO JET 99 MOSQUITO LARVAECIDE

REGISTRANT *NAME AND ADDRESS*

* 001269 DEWITT CHEMICAL COMPANY
BOX 343
ATLANTA GA 30301

********** PRODUCT NAME **********

**00078* DEWITT GARBAGE TRUCK MAINTAINER

REGISTRANT *NAME AND ADDRESS*

* 001270 ZEP MANUF CORP
BOX 2015
ATLANTA GA 30301

********** PRODUCT NAME **********

**C0100* ZEP GARBAGE TRUCK MAINTAINER

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 001286 PARKE DAVIS & COMPANY
JOS CAMPAU AVE
DETROIT MI 48232

********** PRODUCT NAME **********

**00008* KRESO DIP NO. 1

REGISTRANT *NAME AND ADDRESS*

* 001381 LAND O'LAKES C/O IMPERIAL INC
PO BOX 423
SHENANDOAH IA 51601

********** PRODUCT NAME **********

**00074* FELCO 99 BUILDING DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 001386 UNIVERSAL COOPERATIVES INC
3001 METRO DR. SUITE 500
MINNEAPOLIS MN 55420

********** PRODUCT NAME **********

**00044* STOCK PREMISES DISINFECTANT

**** PRODUCT SEARCH LISTING **** PAGE 17

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 001421 DETTELBACH CHEMICALS CORP
ATTN WARD A R 4161 PEACHTREE RD NE
ATLANTA GA 30319

********** PRODUCT NAME **********

**00036* BLACK DISINFECTANT COEF. 5

**00043* MOSQUITO-LARVACIDE

REGISTRANT *NAME AND ADDRESS*

* 001456 REILLY TAR & CHEMICAL CORP.
11 SOUTH MERIDIAN ST.
INDIANAPOLIS, IND 46204

********** PRODUCT NAME **********

**00018* REILLY CREOSOTE OIL

**00019* 50/50 CREOSOTE COAL TAR SOLUTION

**00020* 60/40 CREOSOTE COAL TAR SOLUTION

**00021* 80/20 CREOSOTE COAL TAR SOLUTION

**00022* 70/30 CREOSOTE COAL TAR SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 001469 ANALAB LABORATORIES INC
285 WASHINGTON ST
SOMERVILLE MA 02143

********** PRODUCT NAME **********

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 001469

**00009* COAL TAR DISINFECTANT COEF. 2

REGISTRANT *NAME AND ADDRESS*

* 001616 WARREN-DOUGLAS CHEMICAL COMPANY INC
3002 F ST
OMAHA NE 68107

********** PRODUCT NAME **********

**00041* WARLASCO...NC 1 REFINED WOOD PRESERVING OIL

REGISTRANT *NAME AND ADDRESS*

* 001686 GEORGIA-CAROLINA OIL COMPANY
1405 6TH ST PO BOX 4304
MACON GA 31200

********** PRODUCT NAME **********

**00008* REFINED CREOSOTE OIL COAL TAR CREOSOTE 96 1/2%

REGISTRANT *NAME AND ADDRESS*

* 001691 CHEMICAL COMPOUNDING CORP
680 ELTON AVENUE
RIVERHEAD, NY 11901

********** PRODUCT NAME **********

**00004* SUPERTOX 10

**00006* SUPERTOX

**** PRODUCT SEARCH LISTING **** PAGE 19

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

**CONTINUE REGISTRANT 001691

**00007* SUPERTOX

**00018* SUPERSAN SUPERTOX 3

**00101* QUIST SUPERTOX COEF. 6

**00103* QUIST SUPERTOX COEF. 2

REGISTRANT *NAME AND ADDRESS*

* 001719 MOBILE PAINT MANUFACTURING COMPANY INC
BOX 717-THEODORE INDS. PARK HAMILTON RD
THEODORE AL 36582

********** PRODUCT NAME **********

**00019* CREOSOTE NON-CRYSTALIZING 74-3

REGISTRANT *NAME AND ADDRESS*

* 001769 NATIONAL CHEMSEARCH DIV
USACHEM INC
2727 CHEMSEARCH BLVD
IRVING TX 75060

********** PRODUCT NAME **********

**00009* NATIONAL MOSQUITO LARVAECIDE

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**** PRODUCT SEARCH LISTING **** PAGE 20

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 001783 TRIC CHEMICAL WORKS INC
341-347 SCHOLES ST
BROOKLYN NY 11200

********** PRODUCT NAME **********

**00009* AMAZON COAL TAR DISINFECTANT PHENOL COEF. 6

**00017* AMAZON COAL TAR DISINFECTANT COEF. 2

**00075* CREOSOTE OIL TECHNICAL WOOD PRESERVATIVE

**00076* AMAZON CREOSOTE OIL COMPOUND

REGISTRANT *NAME AND ADDRESS*

* 001786 USS CHEMICALS DIV US STEEL CORP
600 GRANT ST (RM. 2886)
PITTSBURGH, PA 15230

********** PRODUCT NAME **********

**00001* COAL TAR CREOSOTE OIL

**00002* 70-/30 CREOSOTE COAL TAR SOLUTION

**00003* 80/20 CREOSOTE COAL TAR SOLUTION

**00004* CRUDE COAL TAR

**00005* 60/40 CREOSOTE COAL TAR SOLUTION

**00006* 50/50 CREOSOTE COAL TAR SOLUTION

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 001926 NAVY BRAND MFG COMPANY
5111 SW AVE
ST LOUIS MO 63110

********** PRODUCT NAME **********

**00012* NAVY BRAND LM 120-LARVAECIDE

**00069* LM 120 LARVAECIDE

REGISTRANT *NAME AND ADDRESS*

* 001941 ELCO MANUFACTURING COMPANY
111 3RD ST SHARPSBURG
PITTSBURGH PA 15215

********** PRODUCT NAME **********

**00019* ELCO CREOSOTE WOOD PRESERVATIVE

**00031* ELCOCENE

**00038* ELCO CREOSOTE-OIL BLEND WOOD PRESERVATIVE

**00078* ELCRECI COAL DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 002072 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00005* 75-904D CONTINENTAL CREOSOTE OIL

**** PRODUCT SEARCH LISTING **** PAGE 22

REGISTRANT *NAME AND ADDRESS*

* 002073 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00004* 75-904C CONTINENTAL CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 002074 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00003* 75-904B CONTINENTAL CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 002075 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00002* 75-904A CONTINENTAL CREOSOTE OIL

**** PRODUCT SEARCH LISTING **** PAGE 23

REGISTRANT *NAME AND ADDRESS*

* 002076 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00001* 75-904 CONTINENTAL CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 002077 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00006* 75-904E CONTINENTAL CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 002078 CONTINENTAL PRODUCTS COMPANY
1150 EAST 222 ST
EUCLIDE OH 44117

********** PRODUCT NAME **********

**00007* 75-904F CONTINENTAL CREOSOTE OIL

**** PRODUCT SEARCH LISTING **** PAGE 22

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 002077 BERNUTH LEMBCKE COMPANY INC
THE FIRST STATE BANK BLDG.
SUITE 609
MIAMI, FL 33138

********** PRODUCT NAME **********

**00001* E-L COAL TAR CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 002155 SCHNEIDI.INC.
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00006* BLACK DISINFECTANT PHENOL COEF. 5

**00007* BLACK DISINFECTANT PHENOL COEF.3

**00008* BLACK DISINFECTANT PHENOL COEF. 2

REGISTRANT *NAME AND ADDRESS*

* 002192 RED SPOT PAINT & VARNISH COMPANY INC
110 MAIN ST
EVANSVILLE IN 47704

********** PRODUCT NAME **********

**00004* RED SPOT CREOSOTE OIL

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 002217 FBI-GORDON CORPORATION
300 SO 3RD ST
KANSAS CITY KS 66118

********** PRODUCT NAME **********

**00423* GORDON'S CREOSOTINE

REGISTRANT *NAME AND ADDRESS*

* 002270 HUGE COMPANY INC
7625 PAGE AVE
ST. LOUIS, MO 63133

********** PRODUCT NAME **********

**00168* EXCELCIDE MOSQUITO EGG AND LARVAE KILLER

REGISTRANT *NAME AND ADDRESS*

* 002279 SOUTHERN PROTECTIVE PROD CO
PO BOX 10915
ATLANTA GA 30310

********** PRODUCT NAME **********

**00004* SOUTHERN REFINED CRESOTE

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 002337 DEMERT & DOUGHERTY INC
AEROPAK DIVISION
333 SKOKIE BLVD
NORTHBROOK, IL 60062

********** PRODUCT NAME **********

**00002* DED TOXOLEUM CREOSOTE FOR DIPPING OR BRUSHING

**00065* D & D HIGHLY REFINED NO. 1 CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 002413 M & M CHEMICAL SALES CORP
1073 HANCOCK STREET
QUINCY, MA 02169

********** PRODUCT NAME **********

**00006* MEMCO BRAND CREOSOTE PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 002458 WESTERN TAR PROD CORP
BOX 605
TERRA HAUTE IN 47808

********** PRODUCT NAME **********

**00004* CREOSOTE COAL TAR SOLUTION 60/40

**00006* CREOSOTE COAL TAR SOLUTION 70/30

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 002652 MILLER PURCELL COMPANY
P O BOX 245
NEW LENOX IL 60451

********** PRODUCT NAME **********

**00006* MPC CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 002831 NAPASCO INTERNATIONAL, INC
PO DRAWER 1057
THIBODAUX, LA 70301

********** PRODUCT NAME **********

**00003* NAPASCO LARVA-KIL MOSQUITO LARVACIDE

REGISTRANT *NAME AND ADDRESS*

* 002836 ICCS & DILWORTH INC
BOX 25
BRISTOL PA 19007

********** PRODUCT NAME **********

**00002* SUPERIOR BRAND REFINED CREOSOTE OIL

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**** PRODUCT SEARCH LISTING **** PAGE 26

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 002841 PHOENIX OIL COMPANY
625 5TH ST
AUGUSTA GA 30901

********** PRODUCT NAME **********

**C0010* PHOENIX CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 002900 SHEPARDS CHEMICAL WORKS
P. O. BOX 473
WILMINGTON, NC 28401

********** PRODUCT NAME **********

**00006* SHEPARD'S CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 003008 CSMOSE WOOD PRES COMPANY OF AMERICAN INC
980 ELLICOTT ST
BUFFALO NY 14209

********** PRODUCT NAME **********

**00015* OSMOPLASTIC - B

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 003098 BAXTER J H & COMPANY
1700 S EL CAMINO REAL
SAN MATEO CA 94402

********** PRODUCT NAME **********

**00009* J. H. BAXTER COAL TAR CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 003486 AMERICAN TAR COMPANY
1700 N NORTHLAKE WAY
SEATTLE WA 98103

********** PRODUCT NAME **********

**00001* ATCO TAR AND CREOSOTE

**00003* ATCO REFINED COAL TAR FREE FROM WATER

**00004* ATCO COMMERCIAL CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 003635 OXFORD CHEMICALS
PO BOX 80202
ATLANTA GA 30341

********** PRODUCT NAME **********

**00033* SANPAX C.T. DISINFECTANT NO. 2

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 003742	WHITESIDES CO. INC. GEORGE W. 31ST & MICHIGAN DR LOUISVILLE KY 40202

********** PRODUCT NAME **********

**00001* CREOSOTE OIL

REGISTRANT	*NAME AND ADDRESS*
* 003770	ECONOMY PROD COMPANY BOX 237 MCSEERS, IA 51238

********** PRODUCT NAME **********

**00150* COAL TAR DISINFECTANT CODE 5 FOR LIVESTOCK PREMISES

REGISTRANT	*NAME AND ADDRESS*
* 003809	SOUTHWEST GREASE-OIL CO INC KANSAS CITY DIV BOX 1974 - 1400 SOUTH HARRISON OLATHE, KS 66061

********** PRODUCT NAME **********

**00002* FORTRESS CREOSOTE WOOD PRESERVING SOLUTION READY TO USE

**00004* CREOSOTE WOOD PRESERVER CW-090

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 003862	ABC COMPOUNDING COMPANY BOX 932 ATLANTA GA 30301

********** PRODUCT NAME **********

**00048* MOSQUITO LARVAECIDE

REGISTRANT	*NAME AND ADDRESS*
* 004243	GINN J R G COMPANY 1401 GRATIOT ST ST LOUIS MO 63103

********** PRODUCT NAME **********

**00005* GINN'S CREOSOTE PRESERVING OIL

REGISTRANT	*NAME AND ADDRESS*
* 004464	STAY & DAY PAINT MATERIALS COMPANY 363 S MISSION RD LOS ANGELES CA 90033

********** PRODUCT NAME **********

**00001* STADCO CREOSOTE

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 004627 DOUGLAS CHEMICAL CO
STAPLES MILL RD
RICHMOND, VA 23200

********** PRODUCT NAME **********

**00004* DOUGLAS CREOSOTE IN OIL

REGISTRANT *NAME AND ADDRESS*

* 004715 COLORADO INTERNATIONAL CORP
7800 MARBLE N.E.
ALBUQUERQUE, N.M. 87110

********** PRODUCT NAME **********

**00300* CREOSOTE 100 STANDARDIZED WOOD PRESERVING OIL

REGISTRANT *NAME AND ADDRESS*

* 004861 CLARKE & PROCTOR TURPENTINE COMPANY INC
BOX 194
FAYETTEVILLE NC 28304

********** PRODUCT NAME **********

**00002* C & P CREOSOTE OIL WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 31

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 005266 FORESTRY ENTERPRISES INC
CHAPMAN CHEMICAL COMPANY 416 BROOKS RD
MEMPHIS TN 38109

********** PRODUCT NAME **********

**00009* K-BAN PC-15 WOOD PRESERVATIVE GREASE

REGISTRANT *NAME AND ADDRESS*

* 005285 NICELIN CHEM CORP
9045 VINCENT
DETROIT MI 48211

********** PRODUCT NAME **********

**00012* MISTER TEINZIT CREOSOTED WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 005351 FULTON CHEMICAL COMPANY
P O DRAWER 160
SUMTER SC 29150

********** PRODUCT NAME **********

**00005* FUL-O-TAR CREOSOTE 41-0998

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 005620 BOATMAN BILL & COMPANY
308 SOUTH MAPLE STREET
PAINBRIDGE, OH 45612

********** PRODUCT NAME **********

**00004* B & B MANGE MAGIC FOR DOGS

REGISTRANT *NAME AND ADDRESS*

* 005831 GILSONITE INC
2946 NE COLUMBIA BLVD
PORTLAND OR 97211

********** PRODUCT NAME **********

**00005* BARTEL'S BEDY COAT SPECIFICATION CREOSOTE 450

**00007* BARTEL'S -EDY COAT COMMERCIAL CREOSOTE 451

REGISTRANT *NAME AND ADDRESS*

* 006035 VINELAND LABS INC
BOX 70
VINELAND NJ 08360

********** PRODUCT NAME **********

**00035* VINELAE CRESI-400 PHENOI COEFFICIENT-20 A.O.A.C. METHOD

**** PRODUCT SEARCH LISTING **** PAGE 33

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 006314 POLE TREATING CO.
BLAIR MILL ROAD
WILLOW GROVE, PA 19090

********** PRODUCT NAME **********

**00001* POLE-TOX WOOD PRESERVING COMPOUND

**00002* POLEX WOOD PRESERVING COMPOUND

REGISTRANT *NAME AND ADDRESS*

* 006354 NANKEE ALUMINUM PAINT CO INC
ENGINEER LANE
FARMINGDALE, NY 11735

********** PRODUCT NAME **********

**00003* NANKEE CREOSOTE WOOD PRESERVATIVE COMPOUND

REGISTRANT *NAME AND ADDRESS*

* 006[illegible] POLE [illegible]
3909 W WASHINGTON ST
DENVER CO 80216

********** PRODUCT NAME **********

**00003* POLE-AID NO. 3

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 006762
STEEN CHEM CORP
BOX 5070
MONROE LA 71201

********** PRODUCT NAME **********

**00018* MOSQUITO LARVACIDE CONCENTRATED

REGISTRANT *NAME AND ADDRESS*

* 006823
WYCKOFF COMPANY
560 WHITE HENRY STUART BLDG
SEATTLE, WA 98101

********** PRODUCT NAME **********

**00001* CREOSOTE-PETROLEUM SOLUTION

**00003* PURE COAL TAR CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 006830
OCTAGON PROCESS INC
596 RIVER RD
EDGEWATER NJ 07020

********** PRODUCT NAME **********

**00041* 6810-257-2482 CREOSOTE, TECHNICAL WOOD PRESERVATIVE

**00043* CREOSOTE, COAL TAR, TECHNICAL FEDERAL SPECIFICATION TT-C-645A

**00083* OCTAGON BRAND PHENOLIC DISINFECTANT

**** PRODUCT SEARCH LISTING **** PAGE 35

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 007109
ST LOUIS PAINT MANUFACTURING COMPANY
2500 OHIO AVE
ST LOUIS MO 63104

********** PRODUCT NAME **********

**00003* CHECKER BRAND CREOSOTE PRESERVING OIL

REGISTRANT *NAME AND ADDRESS*

* 007135
SUNNYSIDE PRODUCTS INC
553C N WOLCOTT AVE
CHICAGO IL 60640

********** PRODUCT NAME **********

**00004* SUNNYSIDE REFINED CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 007161
NATIONAL SOLVENT CORP
955 W SMITH RD
MEDINA OH 44256

********** PRODUCT NAME **********

**00002* NASCO CREOSOTE OIL

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 007234 FORSHAW CHEMICALS INC
650 STATE STREET PO BOX 6055
CHARLOTTE NC 28208

********** PRODUCT NAME **********

**00018* CREE PEN

REGISTRANT *NAME AND ADDRESS*

* 007342 WARNER-GRAHAM COMPANY
160 CHURCH LANE
COCKEYSVILLE MD 21030

********** PRODUCT NAME **********

**00001* GRACO PURE REFINED CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 007500 GIBSON-HOMANS COMPANY
2366 WOODHILL RD
CLEVELAND OH 44106

********** PRODUCT NAME **********

**00002* BLACK JACK CREOSOTE WOOD PRESERVER

**00004* BLACK JACK FORMULA 892 CREOSOTE WOOD PRESERVING COMPOUND

**00010* NORTHERN CREOSOTE WOOD PRESERVING COMPOUND

**** PRODUCT SEARCH LISTING **** PAGE 37

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 007832 BORDERLAND PROD INC.
BOX 366
BUFFALO NY 14240

********** PRODUCT NAME **********

**00001* STANLEY'S CROW REPELLENT

REGISTRANT *NAME AND ADDRESS*

* 007836 GARDNER ASPHALT PRODUCTS COMPANY
4001 E BROADWAY
TAMPA FL 33605

********** PRODUCT NAME **********

**00003* GARDNER OF FLORIDA CREOSOTE OIL GRADE NO. 1

REGISTRANT *NAME AND ADDRESS*

* 008081 DEWITT PRODUCTS COMPANY
5860 PLUMER AVE
DETROIT MI 48209

********** PRODUCT NAME **********

**00001* DEWITT'S CREOSOTED WOOD PRESERVATIVE

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 008259 SANIVAN LABS INC
1606 BURNT HILL RD
CHERRY HILL NJ 08034

********** PRODUCT NAME **********

**00003* SANIVAN'S CREOSOTE OIL COMPOUND

REGISTRANT *NAME AND ADDRESS*

* 008643 CROSBY FOREST PRODUCTS COMPANY
BOX 520
PICAYUNE MS 39466

********** PRODUCT NAME **********

**00006* CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 008898 WITCO CHEMICAL COMPANY INC
277 PARK AVE
NEW YORK NY 10017

********** PRODUCT NAME **********

**00011* COAL TAR CREOSOTE

**** PRODUCT SEARCH LISTING **** PAGE 39

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 009014 ZIMMERMAN E E COMPANY
HOFFMAN & KNOTT STS
N SIDE PITTSBURG PA 15222

********** PRODUCT NAME **********

**00001* E-Z CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 009027 GILMAN PAINT & VARNISH COMPANY
BOX 1257
CHATTANOOGA TN 37401

********** PRODUCT NAME **********

**00003* GILMAN CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 009639 WILLARD PRODUCTS
BOX 1249
REDWOOD CITY CA 94064

********** PRODUCT NAME **********

**00001* WILLARD QUALITY PRODUCTS CREOSOTE

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 009957 STERLING-CLARK-LURTON CORP
184 COMMERCIAL ST
MALDEN MA 02148

********** PRODUCT NAME **********

**00004* STERLING CREOSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 010054 GILBERT ROY W
669 SHADES CREST RD
BIRMINGHAM AL 35226

********** PRODUCT NAME **********

**00001* NUT-GCN NUT GRASS KILLER

REGISTRANT *NAME AND ADDRESS*

* 010100 MELROSE CHEMICAL CO INC
763-46TH AVENUE
OAKLAND CA 94601

********** PRODUCT NAME **********

**00002* FSN 6810-257-2482 CREOSOTE, TECHNICAL

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 010545 VANCO PRODUCTS INC
438 SPRINGFIELD PIKE
CINCINNATI OH 45317

********** PRODUCT NAME **********

**00001* DARK CREOSOTE OIL WOOD PRESERVATIVE NON-CRYSTALIZING

REGISTRANT *NAME AND ADDRESS*

* 010569 J & P PETROLEUM PRODUCTS INC
PO BOX 4206 STA A
DALLAS TX 75208

********** PRODUCT NAME **********

**00002* TEX-MASTIC NO. 1 CREOSOTE WOOD PRESERVATIVE CODE NO. 524

REGISTRANT *NAME AND ADDRESS*

* 010727 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

**** PRODUCT SEARCH LISTING **** PAGE 42

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 010729 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

REGISTRANT *NAME AND ADDRESS*

* 010730 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

REGISTRANT *NAME AND ADDRESS*

* 010731 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

**** PRODUCT SEARCH LISTING **** PAGE 43

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 010732 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

REGISTRANT *NAME AND ADDRESS*

* 010733 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

REGISTRANT *NAME AND ADDRESS*

* 010734 MONSEY PRODUCTS COMPANY
COLESTREAM RD
FREEHOLD PA 19442

********** PRODUCT NAME **********

**00001* MONSEY L-11 CREOSOTE WOOD PRESERVING COMPOUND

**00002* GUARDSEAL WOOD PRESERVING COMPOUND (DARK)

**** PRODUCT SEARCH LISTING **** PAGE 42

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING CCAITAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 010771 ADAMS ENGINEERING INC
P. C. BCX 3
STACY MN 55079

********** PRODUCT NAME **********

**00002* PATOX POLE TBEATING BANDAGE I

**00003* PATOX POLE TBEATING BANDAGE TYPE III

REGISTRANT *NAME AND ADDRESS*

* 011092 MARVIN CORP THE
1641 BLUFF RD
MONTEBELLO CA 90640

********** PRODUCT NAME **********

**00001* MARVIN WCOD PRESERVATIVE CRECSCTE NC. 11C

REGISTRANT *NAME AND ADDRESS*

* 011291 PARKS CORPORATION
PC BOX 5
SOMERSET MA 02726

********** PRODUCT NAME **********

**00002* CREOSCTE PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 43

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING CCAITAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 011554 COLUMBIA PAINT CORPORATION
P.O. BOX 2888
HUNTINGTON WV 25728

********** PRODUCT NAME **********

**00001* CPC COLUMBIA CREOSOTE OIL WOOD PRESERVATIVE BLACK

**00002* CPC COLUMBIA AWPA NO. 1 CREOSOTE OIL DARK AMBER

REGISTRANT *NAME AND ADDRESS*

* 011614 TRI STATE SUPPLY INC
BOX 9505
DENVER CO 80209

********** PRODUCT NAME **********

**00001* COLORADO CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 011668 T & R CHEMICALS, INC.
700 CEKUM ROAD
CLINT, TX 79836

********** PRODUCT NAME **********

**00001* T & R CREOSOTE WOOD PRESERVING SOLUTION

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**** PRODUCT SEARCH LISTING **** PAGE 44

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 011690 AMERICAN SEAL MANUFACTURING COMPANY INC
669 RIVER ST
TROY NY 12180

********** PRODUCT NAME **********

**00001* NO-D-K CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 013895 AMERICAN CREOSOTE WORKS INC
PO BOX 4008
NEW ORLEANS LA 70118

********** PRODUCT NAME **********

**00001* CREOSOTE OIL

REGISTRANT *NAME AND ADDRESS*

* 014820 VAN'S INSECT REPELLANT COMPANY
BOX 152
WATERSMEET, MI 49969

********** PRODUCT NAME **********

**00001* VAN'S SHIELD INSECT REPELLENT

**** PRODUCT SEARCH LISTING **** PAGE 45

07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COAL TAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 031969 PENFIELD INDUSTRIES, INC.
165 OLD CLYDE ROAD
CANTON NC 28716

********** PRODUCT NAME **********

**00003* SOUTHERN PINE CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 033834 ECOLOGICAL AND SPECIALIST PROD., INC.
11-5 AVE
PATTERSON, NJ 07514

********** PRODUCT NAME **********

**00001* ACTION CREOSOTE WOOD PRESERVATIVE

**00002* CRESOTE OIL COMPOUND

REGISTRANT *NAME AND ADDRESS*

* 034276 CENTURY INDUSTRIES CORP
RD #1
NEW WATERFORD, OH 44445

********** PRODUCT NAME **********

**00002* CREOSOTE WOOD PRESERVER

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07/14/78 FEDERALLY REGISTERED PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 034882 ROBERTS PROPRIETORIES INC
41 EAST 57TH STREET
NEW YORK, NY 10022

********** PRODUCT NAME **********

**00002* VETERNARY V.C.P.

REGISTRANT *NAME AND ADDRESS*

* 035666 M. J. DALY CO., INC.
38 ELM STREET
LUDLOW, KY 41016

********** PRODUCT NAME **********

**00001* DARK CRECSOTE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 038350 THE WOOLFOAM CORPORATION
1 WEST 37TH STREET
NEW YORK, NY 10018

********** PRODUCT NAME **********

**00001* CREOLIN GENERAL PURPOSE DISINFECTANT

**** PRODUCT SEARCH LISTING **** PAGE 1

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 000422 BLUE BALL CHEMICAL COMPANY
914 HOFFNER AVENUE
ORLANDO FL 32809

********** PRODUCT NAME **********

**05380* BILLS DIP FOR DOGS & HORSES

**05382* BLUE BALL MANGE & ITCH TREATMENT

**05385* OUR PET MANGE TREATMENT

REGISTRANT *NAME AND ADDRESS*

* 001969 PARSONS CHEMICAL
BOX 146
GRAND LEDGE MI 48837

********** PRODUCT NAME **********

**03301* PARSONS SEED SAVER CROW REPELLENT

REGISTRANT *NAME AND ADDRESS*

* 002439 APPERTON CHEMICAL COMPANY
PO BOX 2555 2903 STRICKLAND ST
JACKSONVILLE FL

********** PRODUCT NAME **********

**04368* DARK CRECSOTE

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**** PRODUCT SEARCH LISTING **** PAGE 2

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 003286 FERI STAFFEL CO.
P.O. BOX 2380
SAN ANTONIO TX 78298

********** PRODUCT NAME **********

**08063* STAFFEL'S TREE DRESSING

REGISTRANT *NAME AND ADDRESS*

* 003509 SAFE WAY FARM PRODUCTS COMPANY
2515 E FIFTH ST
AUSTIN TX 78702

********** PRODUCT NAME **********

**05495* CRESO-DIP

REGISTRANT *NAME AND ADDRESS*

* 006853 BES TEX INSECTICIDES
713 S. OAKES PO BOX 664
SAN ANGELO TX 76901

********** PRODUCT NAME **********

**07347* BES-TEX CRESO-DIP

**** PRODUCT SEARCH LISTING **** PAGE 3

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT *NAME AND ADDRESS*

* 007109 ST LOUIS PAINT MANUFACTURING COMPANY
2500 OHIO AVE
ST LOUIS MO 63104

********** PRODUCT NAME **********

**06805* SHURWAY CREOSOTE OIL PAINT

REGISTRANT *NAME AND ADDRESS*

* 009369 JOHNSON DL
RT 9 BOX 268
PENSACOLA FL 32503

********** PRODUCT NAME **********

**09377* JOHNSON'S MANGE MAGIC

REGISTRANT *NAME AND ADDRESS*

* 010727 MONSEY PRODUCTS COMPANY
COLESTREAM RD
KIMBERTON PA 19442

********** PRODUCT NAME **********

**09017* MONSEY L11 CREOSOTE WOOD PRESERVING COMPOUND

**09019* GUARDSEAL WOOD PRESERVATIVE COMPOUND (DARK)

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07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

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**** PRODUCT SEARCH LISTING **** PAGE 4

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 010827	INDUSTRIAL SOLVENTS PO BOX 312 SAN MARCOS TX 78666

********** PRODUCT NAME **********

**03417* IND-SOL 80

REGISTRANT	*NAME AND ADDRESS*
* 014961	REX CHEMICAL 2300 NW 23RD ST MIAMI FL 33142

********** PRODUCT NAME **********

**04419* CREOLINA

REGISTRANT	*NAME AND ADDRESS*
* 022058	SHARP CHEMICAL COMPANY 5921 PLAINVIEW HOUSTON TX 77017

********** PRODUCT NAME **********

**07470* COAL TAR DISINFECTANT

**** PRODUCT SEARCH LISTING **** PAGE 5

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 033840	WILLIAMSON PAINT MFG CO INC P O BOX 6066 CHARLESTON, WV 25302

********** PRODUCT NAME **********

**10473* "ROT NOT" CREOSOTE WOOD PRESERVER

**10474* "ROT NOT" RAW CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 034800	M G CHEMICAL 222 21ST STREET HIALEAH, FL 33010

********** PRODUCT NAME **********

**05386* CRESOL,BLACK DISINFECTANT

REGISTRANT	*NAME AND ADDRESS*
* 036698	BIG BEE CHEMICAL AND SUPPLY CO. ROUTE 4 OLD CONYERS ROAD STOCKBRIDGE, GA 30281

********** PRODUCT NAME **********

**08204* MOSQUITO LARVAECIDE

**** PRODUCT SEARCH LISTING **** PAGE 6

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 039206	ROBERTS CHEMICAL CO PO BOX 1 ROBERTS, ID 83444

********** PRODUCT NAME **********

**10475* CREOSOTE

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[6560-01-M]

[FRL 984-3; OPP-30000/29]

Issuance of this RPAR means that potential adverse effects associated with the use of inorganic arsenic have been identified and will be examined further to determine if they do exist

cogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402).

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**** PRODUCT SEARCH LISTING **** PAGE 6

07/14/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING COALTAR, CREOSOTE.

REGISTRANT	*NAME AND ADDRESS*
* 037805	CONCORDIA FARMERS CO. OPERATIVE COMPANY CONCORDIA, MO 64020

********** PRODUCT NAME **********

**08372* CREOSOTE OIL WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037865	GRAHN MFG. CO., INC. 7605 E. 17TH STREET KANSAS CITY, MO 64126

********** PRODUCT NAME **********

**08154* GRAHNS COAL TAR CREOSOTE

REGISTRANT	*NAME AND ADDRESS*
* 037919	ROBERTS-JUDSON LUMBER COMPANY 301 EAST 4TH STREET SALEM, MO 65560

********** PRODUCT NAME **********

**09423* TOLOLEUM-CREOSOTE

[FR Doc 78-28934 Filed 10-17-78, 8:45 am]

[6560-01-M]

[FRL 984-3; OPP-30000/20]

PESTICIDE PROGRAMS

Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Inorganic Arsenic

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of rebuttable presumption.

SUMMARY: Inorganic arsenic has been found to exceed certain risk criteria set forth in 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risks and benefits of this pesticide chemical. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical. Today EPA is also publishing in the FEDERAL REGISTER notices of rebuttable presumption against registration (RPAR) on pentachlorophenol (PCP) and coal tar, creosote, and coal tar neutral oil. Since inorganic arsenic, PCP, and coal tar and its derivatives comprise the most widely used of pesticide wood treatments available, the wood treatment uses of these pesticides will be considered together in the risk/benefit part of the RPAR review process. Other uses for these pesticides will be considered in individual risk/benefit analyses for each chemical.

DATE: Rebuttal evidence and other information must be received on or before December 4, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room, 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

William Waugh or Anita Schmidt, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), Room 447, East Tower, EPA, 202-755-5755.

SUPPLEMENATARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing inorganic arsenic.[1]

Issuance of this RPAR means that potential adverse effects associated with the use of inorganic arsenic have been identified and will be examined further to determine if they do exist and, if so, whether they are unreasonable. This process involves a public review of both the risks and the benefits associated with the uses of the pesticide. The RPAR does not mean that the Agency has decided to cancel or suspend the registration of this pesticide or to take any other action with respect to it; EPA has not made a finding that use of any products containing this ingredient presents an imminent hazard. Any pesticide subject to this RPAR may lawfully be sold, distributed, and used for all uses for which it is registered and labeled.

I. REGULATORY PROVISIONS

A. *General.* Title 40, part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in section 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to sumbit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in section 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environmnet.

All registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to section 6(a)(1) of FIFRA.

B. *Rebuttal criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on the directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" [40 CFR 162.11(a)(4)(i)];

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" [40 CFR 162.11(a)(4)(ii)]; or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" [40 CFR 162.11(a)(4)(iii)].

C. *Benefits information.* In addition to submitting evidence to rebut the presumption of risk, section 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence[2] submitted by the

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared by the Agency on inorganic arsenic and is also published with this notice.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the minor uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the major uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide

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registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifical-

Risk and Economic Impact Assessment of Suspected Carcinogens [May 25, 1976; 41 Fr 21402] states that "a substance will be considered a presump-

ments and information received with respect to the potential adverse effects, includig analysis thereof, may serve as a basis for a final decision on

V. DUTY TO SUBMIT INFORMATION ON ADVERSE EFFECTS

Registrants are required by law to

from the use of inorganic arsenic are requested to be submitted. All comments and information received, as well as any other relevant information

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registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, section 162.11(a)(5)(iii) provides that if the benefits appear to outweigh the risks, the Administrator may issue a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registration(s) should be cancelled or application(s) denied. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

II. Presumptions

Registrations and applications for registration of pesticide products containing inorganic arsenic meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to oncogenic effects (human epidemiology studies), mutagenic effects, and reproductive or fetotoxic effects in mammalian test species. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Inorganic Arsenic: Position Document 1," which follows. Copies of attachments to the position document which are not published with this notice are available for public inspection in the office of the Special Pesticide Review Division. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the position document, as well as requests for access to these files, should be directed to Project Managers William Waugh or Anita Schmidt, Special Pesticide Review Division (TS-791), EPA, Room 447, East Tower, 401 M Street SW., Washington, D.C. 20460. 202-755-5755.

A. *Oncogenicity.* 40 CFR Section 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide "(i)nduces oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure * * *." As a further clarification of the provision, the preamble to the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens [May 25, 1976; 41 Fr 21402] states that "a substance will be considered a presumptive cancer risk when it causes a statistically significant excess incidence of benign or maliganant tumors in humans or animals."

On the basis of scientific studies and information summarized in the position document, the Agency has concluded that all registrations and applications for registration of pesticide products containing inorganic arsenic exceed this risk criterion, and that a rebuttable presumption against new or continued registration of such products has arisen.

B. *Mutagenicity.* 40 CFR Section 162.11(a)(3)(ii)(A) provide that a rebuttable presumption shall arise if a pesticide "* * * induces mutagenic effects, as determined by multitest evidence."

On the basis of scientific studies and information summarized in the position document, the Agency has concluded that all registrations and applications for registration of pesticide products containing inorganic arsenic exceed this risk criterion, and that a rebuttable presumption against new or continued registration of such products has arisen.

C. *Other chronic or delayed toxic effects.* 40 CFR Section 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *."

On the basis of scientific studies and information summarized in the position document, the Agency has concluded that all registrations and applications for registration of pesticide products containing inorganic arsenic exceed this risk criterion for reproductive or fetotoxic effects and that a rebuttable presumption against new or continued registration of such products has arisen.

Additional Grounds for Review

As discussed in detail in the attached position document, some data has associated inorganic arsenic with delayed neurotoxicity and population reduction in nontarget aquatic and mammalian species. The data and analyses available at this time with respect to these effects are not sufficient to warrant the issuance of a rebuttable presumption. The Agency specifically solicits further evidence bearing on these possible adverse effects. All comments and information received with respect to the potential adverse effects, includig analysis thereof, may serve as a basis for a final decision on registering pesticides containing inorganic arsenic.

IV. Rebuttal Submission Procedures

All registrants and applicants for registation listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent of until December 4, 1978, to submit evidence in rebuttal of the presumption. However, the Adminstrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

A registrant or applicant for registration, may, if it desires, assert a business confidentiality claim covering part or all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 36906; September 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will place the information in the public comment file where it will be available for public inspection.

If a registrant of applicant does assert a confidentiality claim for some but not all, of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures set out above.

Footnotes continued from last page

treatment with any available substitute products.

5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.

6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

V. Duty To Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIFRA and 40 CFR 162.8(d). If any registrant of inorganic arsenic products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verified accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. Public Comments and Inspection

During the time allowed for submission of rebuttal evidence, specific comments on the presumptions set forth in this notice and on the material contained in the position document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of inorganic arsenic, its impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of inorganic arsenic are requested to be submitted. All comments and information received, as well as any other relevant information and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to section 162.11(a)(5).

All comments and information should be sent to the office of the Federal Register Section at the address given above, if possible in triplicate to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/29." Comments received after the specified time SSF period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR Section 162.11(a)(5)(ii).

All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information recieved may serve as a basis for final determination pursuant to section 162.11(a)(5) and (2) the Agency will not generally publish a summary of information recieved in the Federal Register at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the Federal Register, but rather handled by mail with affected parties. Omissions will be corrected by notice in the Federal Register.

Dated: September 30, 1978.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

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[6560-01-C]

INORGANIC ARSENICALS

Position Document 1

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Project Managers

INORGANIC ARSENICALS (Arsenic Acid, Arsenic Pentoxide, Arsenic Trioxide, Sodium Arsenate, Ammonium Arsenite, Sodium Pyroarsenate, Lead Arsenate (Standard and Basic), Calcium Arsenate, Sodium Arsenite, and Copper Acetoarsenite): POSITION DOCUMENT 1

SUMMARY

Arsenic is an ubiquitous element that occurs naturally in soil, water, microorganisms, plants, animals, and humans. This document focuses on those pesticides containing inorganic arsenic (ammonium arsenite, arsenic acid, arsenic pentoxide, arsenic trioxide, calcium arsenate, copper acetoarsenite, lead arsenate, sodium arsenite, sodium arsenate, and sodium pyroarsenate). These pesticides are in the form of either arsenite or arsenate, both of which are found in nature.

Inorganic arsenicals were among the first chemical insecticides used, and they are still being used today as insecticides, herbicides, wood preservatives, and as a maturing agent for grapefruit. Tolerance levels for residues of inorganic arsenic pesticides have been set by EPA for various foods such as fruit, vegetables, and meats. Arsenic also occurs in food and feed as a natural constitutent.

Absorption of inorganic arsenic (from natural and pesticide sources) by plants from soil, water, and air is influenced by several factors. Aquatic animals ingest or absorb arsenic directly from the surrounding water; terrestrial animals are exposed primarily by ingestion of contaminated feed. Exposure to humans, primarily from pesticides and smelters, is by ingestion, inhalation, and absorption through the skin. In mammals, arsenite and arsenate are differentially absorbed through various body tissues (i.e., skin, lungs, digestive tract).

Arsenic is distributed in plant tissues primarily in the roots and vegetative tissues; fruits usually have the lowest levels of arsenic. Arsenic distribution in animals is influenced by several factors such as the form of arsenic, species of animal, and route of exposure (oral, dermal, inhalation). In mammals, including humans, inorganic arsenic is distributed primarily in the liver, lungs, kidney, and spleen. There are also high levels of arsenic bound in hair and nail tissue. Since arsenic is a natural environmental contaminant, it is always present in human and animal tissues. The normal adult human body contains an estimated 15 to 20 mg of arsenic.

The biochemical mechanisms of toxic action for arsenate and arsenite differ: arsenate blocks the formation

of high energy compounds needed for cellular metabolism, and arsenite binds to proteins and inhibits the activity of several important enzymes. Arsenic does not normally build up beyond trace levels in mammalian tissues because a dynamic equilibrium is apparently reached between normal intake and excretion. Arsenite and arsenate are excreted at different rates: arsenate is generally excreted quickly from the body by the kidney, while arsenite is slowly excreted as it is released from tissue proteins to which it is bound.

Inorganic arsenic can be converted from one form to another by the metabolic activity of plant and animal cells. This is called biotransformation. In humans the conversion of arsenite to arsenate is favored, but animal studies have shown that arsenate can also be converted to arsenite. Both forms can also be converted to organic arsenic compounds such as methylarsenates. In soil, sediments of rivers and lakes, and water, transformation of arsenic (primarily to volatile organic forms) is mediated by microorganisms under both aerobic (oxygen present) and anaerobic (no oxygen present) conditions.

Although there are several sources of inorganic arsenic (i.e., natural weathering of arsenic-containing rock, smelters, volcanic debris, and pesticides), residues from pesticides are a major source of arsenic pollution of soil, water, and air, and are the most widely distributed in the environment. Adsorption (adhesion) of arsenic to soil particles is dependent on several factors, and the adsorbed arsenic is fixed in the soil and is slightly soluble. The soluble unfixed arsenic is subject to leaching. Arsenic is naturally removed from the soil by volatilization (from biotransformation), leaching, wind-born dust, run-off, and plant uptake. Residues in soil from pesticide use are concentrated in the surface layers, and leaching usually occurs at a rate approximately equal to the addition of more pesticide. However, in some cases (i.e., apple orchards in Washington state), the extensive use of inorganic arsenicals has exceeded the leaching rate and rendered the soil very toxic to plants.

The content of arsenic is higher in sea water than in fresh water, except for fresh water near natural deposits of arsenic, areas of volcanic activity, or near pollution sources such as pesticide run-off. There is an equilibrium between arsenite and arsenate in sea water. In the upper oxidizing layers of the ocean, arsenic is primarily in the arsenate form; in the lower areas where reduction occurs, it is most often in the arsenite form. Arsenic is removed from solution by volatilization (from biotransformation) and adsorption by sediments.

Arsenic in air results primarily from human activities (i.e., smelting metals, ginning cotton, applying pesticides) and to a lesser extent from volcanic and bacterial action. Arsenic moves in air adsorbed to particulate matter and returns to soil by direct fallout and precipitation.

Arsenic apparently does not biomagnify: inorganic arsenic residues from pesticide use are not transferred from lower to higher organisms in the food chain, and therefore a greater concentration of arsenic does not occur in higher organisms than is present in lower forms. However, arsenic does bioaccumulate: residues can build-up in certain species. Due to the higher concentration of arsenic in salt water, marine organisms (plant and animal) tend to accumulate arsenic to a greater extent than freshwater forms. Lower food chain forms (plankton) usually have the highest arsenic residues.

The oncogenic, mutagenic, and teratogenic effects of inorganic arsenical pesticides are described in studies presented in this document. These effects are due to the action of the arsenate or arsenite portion of the parent compound rather than the compound as a whole (i.e., lead arsenate, sodium arsenite).

Therefore, if any arsenite form of arsenic produces a given effect, it is assumed that all arsenites are capable of producing the effect. The same is assumed for arsenates. There is also interconversion of the two forms in the body (arsenate reduced to arsenite, arsenite oxidized to arsenate). In mammals, conversion of arsenite to arsenate in the body is well documented. There is also evidence that arsenate can convert to arsenite in vivo, but this is less well-documented.

Arsenic is unique as a suspect carcinogen because an animal testing system has not yet been found that produces a carcinogenic response in rodents. There are numerous human epidemiology studies, however, which describe oncogenic effects from long-term exposure to arsenite and arsenate. These include the chronic use of potassium arsenite (Fowler's solution) for medical treatment of psoriasis and other conditions, chronic exposure to high levels of arsenic (form unknown) in drinking water, chronic exposure to arsenic trioxide (arsenite) in smelters and pesticide manufacturing plants, and chronic exposure to arsenate and arsenite in pesticide manufacturing plants and to insecticides in vineyards. The Agency concludes that sufficient epidemiological data exists to show that both forms of arsenic act as oncogens in humans and therefore recommends that an RPAR be issued against each inorganic arsenical pesticide.

There are many different tests that show arsenate and arsenite are mutagens (produce heritable genetic change) in bacterial cells, cultured human cells, and in rodents. The effects seen are point mutations (bacterial cells), inhibition of a DNA repair system and of DNA synthesis (cultured human epidermal cells), dominant-lethal effects (mice), chromosome effects such as sister chromatid exchange (cultured human lymphocytes), and translocations, aneuploidy, and chromatid breakage (cultured human leukocytes and lymphocytes). EPA concludes that sufficient data exist to show that both forms of arsenic produce mutagenic effects and therefore recommends that an RPAR be issued against each inorganic arsenical pesticide.

There are numerous studies that show arsenate and arsenite are teratogens (produce birth defects). In these studies, pregnant mice, rats, and hamsters were given arsenic either orally or by injection. Both forms of arsenic produced external body, soft tissue, and skeletal malformations, but arsenite produced these defects at lower doses than arsenate. EPA concludes that there is sufficient evidence that both forms of arsenic display teratogenic effects. Based on the level of exposure of each arsenical pesticide to a 60-kg woman (see Section III), EPA further concludes that an ample margin of safety does not exist for any use of the inorganic arsenicals and recommends that an RPAR be issued against these pesticides.

I. BACKGROUND

A. Chemical/Physical Characteristics

Arsenic occurs in both organic and inorganic forms. Organic arsenic differs from inorganic in that organic forms usually contain carbon (EPA 1976a).

The chemistry of arsenic is complex because arsenic can have multiple valence states. Each valence state of arsenic exhibits distinctly different chemical properties. Arsenic acid, arsenic pentoxide, calcium arsenate, lead arsenate, sodium arsenate, and sodium pyroarsenate are pentavalent arsenicals; ammonium arsenite, arsenic trioxide, copper acetoarsenite, and sodium arsenite are trivalent arsenicals. Knowledge of the conditions that promote interconversions between valence states, particularly those that promote the prevalence of trivalent arsenic, is important in evaluating the environmental effects of arsenic (Oak Ridge 1976).

(1) Pentavalent Arsenicals

(a) Arsenic Acid

Arsenic acid, an inorganic arsenical desiccant and herbicide, is the common name for orthoarsenic acid. The chemical formula is H_3AsO_4; the molecular weight is 151.1; and the density is 2.0 to 2.5 (Meister 1977). It exists as

white, translucent crystals at 20°C. The melting point is 35.5°C, and the boiling point is 160°C in the anhydrous state. The solubility of arsenic acid in water is 167 g/liter (Oak Ridge 1976).

(b) Arsenic Pentoxide

Arsenic pentoxide is an inorganic arsenical wood preservative, and an intermediate in the production of metal arsenates. The chemical formula is As_2O_5; the molecular weight is 229.8; and the density is 4.3. It exists as a white, amorphous solid. Arsenic pentoxide decomposes at 315°C and is very soluble in water, 1500 g/liter (Oak Ridge 1976).

(c) Sodium Arsenate

Sodium arsenate is an inorganic arsenical wood preservative and insecticide. The chemical formula is Na_2HAsO_4; the molecular weight is 129.9, and the density is 1.9. It exists as a grey-white powder and is very soluble in water (Oak Ridge 1976).

(d) Sodium Pyroarsenate

Sodium pyroarsenate is an inorganic arsenical wood preservative. The chemical formula is $Na_4As_2O_7$; the molecular weight is 353.79, and the density is 2.2. It exists as white crystals and decomposes at 1,000°C. The melting point is 850°C. It is very soluble in water (Weast 1977).

(e) Lead Arsenate (Standard and Basic)

Lead arsenate, an inorganic arsenical insecticide, is manufactured from arsenic acid, which in turn is made from arsenic trioxide (EPA 1976b). There are two forms of lead arsenate, standard and basic. Standard (or acid) lead arsenate is the common name for acid orthoarsenate ($PbHAsO_4$). Basic lead arsenate is the common name for basic orthoarsenate ($Pb_4(PbOH)(AsO_4)_3$, which exists as a white crystal at 20°C. The molecular weight is 899.4, and the density is 7.8. Its melting point is 1,042°C, and it is very slightly soluble in water (Oak Ridge 1976). Lead arsenate is not decomposed as readily as other arsenicals and is less likely to be phytotoxic (Meister 1977). (See Section 1.1 for a discussion of the chronic effects of lead.)

(f) Calcium Arsenate

Calcium arsenate is an inorganic arsenical insecticide and herbicide, which, like lead arsenate, is formulated from arsenic acid (EPA 1976b). The chemical formula is $Ca_3(AsO_4)_2$. Its molecular weight is 398.1, and its density is 3.6. Its solubility in water is 0.13 g/liter (Oak Ridge 1976). Calcium arsenate is somewhat unstable. Although it contains no more water-soluble arsenic than lead

arsenate when freshly manufactured, the action of carbonic acid and dilute alkaline solutions decomposes calcium arsenate, liberating the water soluble form. As a result, it must be used with quantities of lime to avoid injury to some plants (Meister 1977).

(2) Trivalent Arsenicals

(a) Ammonium Arsenite

Ammonium arsenite (also ammonium metaarsenite) is an inorganic arsenical wood preservative. The chemical formula is NH_4AsO_2; its molecular weight is 125, and the density is 1.3. It forms colorless, hygroscopic rhombic prisms. It is very soluble in cold water and decomposes in hot water (Weast 1977).

(b) Arsenic Trioxide

Arsenic trioxide, an inorganic arsenical rodenticide, is the common name for arsenious (or arsenous) oxide; refined arsenic trioxide is known as white arsenic. The chemical formula is As_2O_3 [also As_4O_6]; the molecular weight is 197.8, and the density is 3.7. Arsenic trioxide exists as an amorphous white powder or vitreous solid with a boiling point of 465°C. It sublimes at 193°C, and its solubility in water is 20.6 g/liter (Oak Ridge 1976).

(c) Sodium Arsenite

Sodium arsenite is an inorganic arsenical herbicide and insecticide (Meister 1977). The chemical formula is $NaAsO_2$. Its molecular weight is 129.9, and its density is 1.9. It exists as a grey-white powder and is very soluble in water (Oak Ridge 1976). Sodium arsenite is the reaction product of arsenic trioxide plus sodium hydroxide.

(d) Copper Acetoarsenite (Paris Green)

Paris green is the common name for copper acetoarsenite, which is formulated from arsenic trioxide (EPA 1976b). The chemical formula is $Cu(C_2H_3O_2)\cdot 3Cu(AsO_2)_2$, and the molecular weight is 568.1. The compound exists as an emerald green powder. It is insoluble in cold water and alcohol, and soluble in acid and NH_4OH (Weast 1977). Although copper acetoarsenite contains the salt of an organic acid, it behaves chemically as an inorganic arsenical (Letter 1976).

F. Formulation and Class

Lead arsenate is an insecticide and is available in dusts, wettable powders, fertilizer mixtures, and baits. Calcium arsenate is an insecticide and herbicide; it is available in dusts, wettable powders, baits, high water suspensions, and granules. Sodium arsenite

is a herbicide and insecticide; it is available in aqueous solutions at strengths of 4, 6, 8, and 9 1/2 pounds/gal. Paris green is an insecticide and is available in 5% granules. Arsenic acid is a cotton desiccant and herbicide, available as a 75% water miscible solution. Ammonium arsenite is a wood preservative and is available as a 7.7% pressurized formulation with other ingredients. (Pressurized formulations are manufactured for use in pressurized wood-treatment systems.) Arsenic trioxide is used as a rodenticide and is available as a bait formulation. Arsenic pentoxide and arsenic trioxide are used as wood preservatives and antifouling paints and are available as 1.5 and 37.0% pressurized formulations with other ingredients. Sodium pyroarsenate is a wood preservative and is available as a 6.2% pressurized formulation with other ingredients. Sodium arsenate is an insecticide and wood preservative and is available as a 43% dust, a 2% solution, and 14 to 43.5% pressurized formulations with other ingredients, and 0.7 to 3% baits (Meister 1977; EPA 1975).

C. Registered Uses and Production

Several inorganic arsenicals have long been used as pesticides. Copper acetoarsenite was used against the potato beetle in the Rocky Mountain region as early as 1865. Lead arsenate was introduced as an insecticide against the gypsy moth in Massachusetts in 1892. Sodium arsenite was used both as an insecticide and as a weed killer (HEW 1969).

Table 1 shows the number of companies holding Federal registrations for the various inorganic arsenicals or who have state registrations for such pesticides, and filed timely applications for federal registration pursuant to 40 CFR 162.17.[1/]

Table 1.

Registration	Product	Companies	Products
Federal	Standard Lead Arsenate	23	53
State	Standard Lead Arsenate	5	6
Federal	Basic Lead Arsenate	3	3
State	Basic Lead Arsenate	1	1
Federal	Copper Acetoarsenite	7	11
State	Copper Acetoarsenite	1	1
Federal	Calcium Arsenate	17	32
State	Calcium Arsenate	2	3
Federal	Sodium Arsenite	58	75
State	Sodium Arsenite	9	10
Federal	Ammonium Arsenite	2	2
Federal	Arsenic Trioxide	19	24
State	Arsenic Trioxide	3	5
Federal	Sodium Arsenate	15	20
State	Sodium Arsenate	2	2
Federal	Arsenic Acid	9	18
Federal	Arsenic Pentoxide	6	14
State	Arsenic Pentoxide	2	2
Federal	Sodium Pyroarsenate	1	1

1/ Prior to the enactment of the 1972 amendments to FIFRA, federal registration was required only to ship or distribute a pesticide in interstate commerce. The 1972 amendments to FIFRA extended the federal registration requirement to products in intrastate commerce. In implementing the 1972 amendments, EPA permitted persons with valid state registrations to continue to sell and distribute their products, provided that timely application for federal registration was filed, and that other requirements set out in 40 CFR 162.17 were satisfied.

A total of 283 inorganic arsenic products are registered under Federal and state regulations. A registrant who has registrations for more than one type of arsenic (or who holds both Federal and state registrations for one or more types of arsenic) would be listed more than once.

Approximately 69% of all arsenic and its inorganic compounds produced in the U.S. is used for insecticides and herbicides. Over half of this amount is used by the cotton production industry as herbicides and desiccants for the preparation of cotton prior to machine picking. Another 7% of the total production is used as wood preservatives (OSHA 1977).

Most domestic arsenic production is in the form of arsenic trioxide which is derived from collected flue dusts from copper smelting. Since 1959, the entire U.S. production of arsenic trioxide has been at the Tacoma, Washington plant of the American Smelting and Refining Company (EPA 1976b). Arsenic trioxide is used to manufacture approximately 97% of other arsenic end-products (OSHA 1977). Since there is a single manufacturer for this material, recent production figures cannot be released. Section 7(c) of FIFRA requires manufacturers and formulators to submit to the U.S. Environmental Protection Agency (EPA) information on the production, sales, and distribution of their pesticide products. This information is confidential and may be released only in accordance with the procedures outlined in Section 7(d) and 10 of FIFRA. A confidential memorandum summarizing this information has been sent to the Deputy Assistant Administrator for Pesticide Programs (Memo 1978a). Production figures are available, however, through 1968. For the ten-year period 1958 through 1968, production of arsenic trioxide averaged 4,745 metric tons/year.[2/] The lowest production figure was 2,340 metric tons/year in 1959, and the highest was 7,000 metric tons/year in 1965 (EPA 1976b).

From 1965 through 1972, the average consumption of lead arsenate as an insecticide on crops and for other uses was 3,500 metric tons/year, or 1,100 metric tons/year in equivalent arsenic trioxide; for calcium arsenate, the figures were 900 and 450 metric tons/year, respectively; and for copper acetoarsenite, they were 7,300 and 4,000 metric tons/year, respectively (EPA 1976b).

Use of arsenic acid as a desiccant on cotton has increased steadily since the late 1960s, from 965 metric tons/year in 1968 to 4,400 metric tons/year in 1974 (EPA 1976b).

2/ A metric ton equals 1,000 kilograms or 2,204.62 pounds.

The "National Study of Agricultural, Governmental and Industrial Uses of Pesticides" (Memo 1977c), conducted by EPA's Human Effects Monitoring Branch, provided data on the patterns of use of the following inorganic arsenicals for 1974: for calcium arsenate, 1,840 pounds active ingredient (AI) were used in agriculture on fruit and nuts, 44b pounds AI in government (use by Federal, state, and local governments), and 33 pounds AI in industry (use by pest control operators, utility companies, etc.); for copper acetoarsenite, 18,998 pounds AI were used in government, and 50 pounds AI in industry; for lead arsenate, 53,627 pounds AI were used in industry, 2,106 pounds AI in government, and a total of 333,788 pounds AI in agriculture (333,329 pounds on fruit and nuts, and 459 pounds on ornamentals and miscellaneous); for sodium arsenite, 20,287 pounds AI were used in government, 237,820 pounds AI in industry, and a total of 86,660 pounds AI in agriculture (57,344 pounds on fruit and nuts, and 29,316 pounds on ornamentals and miscellaneous).

The National Soils Monitoring Program (Memo 1977a), conducted by EPA's Ecological Monitoring Branch, has collected data on the application of inorganic arsenicals to various representative cropland sampling sites through 1974. The data indicated a limited use (<1%) of inorganic arsenicals (Table 2). Among the crops to which these inorganic arsenicals were applied were grapes, apples, oranges, peaches, potatoes, dewberries, and cotton.

Table 2.

Compound	Fiscal Year	Sites Sampled	% Sampled	Avg Total Application (pounds/acre)
Calcium Arsenate	1970	1/1,346	0.07	9.8
Sodium Arsenite	1969	4/1,684	0.24	5.25
	1974	1/1,165	0.1	16.5
Lead Arsenate	1969	1/1,684	0.06	3.8
	1970	1/1,346	0.07	6.4
	1972	3/1,473	0.2	7.07
	1973	1/1,402	0.1	4
	1974	1/1,165	0.1	7.68
Arsenic Pentoxide	1972	2/1,473	0.14	0.5

D. Tolerances

Copper acetoarsenite, ammonium arsenite, sodium pyroarsenate, arsenic pentoxide, and arsenic trioxide have no agricultural uses.

(1) Arsenic Acid

A tolerance for residues of orthoarsenic acid (arsenic acid) is listed in 40 CFR 180.180 as follows: 4 ppm (as combined AS_2O_3) in or on the raw agricultural commodity cottonseed.

(2) Calcium Arsenate

A tolerance for total residues of calcium arsenate is listed in 40 CFR 180.192 as follows: 3.5 parts per million (ppm) of combined As_2O_3 in or on asparagus, beans, blackberries, blueberries (huckleberries), boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, collards, corn, cucumbers, dewberries, eggplants, kale, kohlrabi, loganberries, melons, peppers, pumpkins, raspberries, rutabagas (with or without tops) or rutabaga tops, spinach, squash, strawberries, summer squash, tomatoes, turnips (with or without tops) or turnip greens, and youngberries.

(3) Lead Arsenate

Tolerances for total residues of lead arsenate are listed in 40 CFR 180.194 as follow: 7 ppm of combined lead in or on apples, apricots, asparagus, avocados, blackberries, blueberries (huckleberries), boysenberries, celery, cherries, cranberries, currants, dewberries, eggplants, gooseberries, grapes, loganberries, mangoes, nectarines, peaches, pears, peppers, plums (fresh prunes), quinces, raspberries, strawberries, tomatoes, and youngberries; and 1 ppm of combined lead in or on citrus fruits.

(4) Sodium Arsenate

A tolerance for residues of sodium arsenate (combined As_2O_3) is listed in 40 CFR 180.196 as follows: 3.5 ppm in or on grapes.

(5) Sodium Arsenite

Tolerances for residues of sodium arsenite (expressed as As_2O_3) resulting from dermal application to animals under the supervision of the U.S. Department of Agriculture (USDA) are listed in 40 CFR 180.335 as follow: 2.7 ppm in kidney and liver of cattle and horses; and 0.7 ppm in the meat, fat, and meat byproducts (except kidney and liver) of cattle and horses.

USDA will issue a certificate to the owner of the animals showing the composition of the pesticide formulation and dates of treatment, and also specifying a minimum preslaughter interval of 14 days. In addition, 40 CFR 180.319 lists an interim tolerance for sodium arsenite of 0.05 ppm on grapes.

E. Fate in the Biological Environment

(1) Absorption

(a) Microorganisms

Microorganisms take up arsenates and arsenites via the phosphate transport system. Both arsenate and phosphate have an affinity for the transport system of yeast. Rothstein (1963) showed arsenate was taken up rapidly by bakers' yeast cells, but uptake then decreased and stopped within 40 minutes. Although arsenate and phosphate competed for the same transport system, phosphate was taken up twice as fast. Button and Dunker (1971) found that marine yeast accumulated

arsenate and phosphate through the same active transport system. Arsenate inhibited phosphate transport, and phosphate competitively reduced arsenate uptake.

Arsenic transport into bacterial cells (Escherichia coli) also involves the phosphate transport system. Bennett and Malamy (1970) found that a wild type of E. coli took up labeled arsenate in the absence of inorganic phosphate. If phosphate was then added, there was a rapid efflux of previously accumulated arsenate.

(b) Plants

Plants can absorb arsenical compounds from soil, water, and air through stomates, the cuticle (slow action), and cell membranes of roots, shoots, and coleoptiles. Exposure of plants to arsenic is from polluted air, pesticide-contaminated soil and water, and from naturally occurring deposits. Arsenic uptake is influenced by factors such as plant species, arsenical form, soil type, organic matter content, and ions present in soil (P, Ca, Al, Fe, Se, S). [See also Section I.E.(4)].

Sachs and Michael (1971) studied absorption of inorganic arsenic (sodium arsenite, sodium arsenate) and of organic arsenic (cacodylic acid, monosodium methane arsonate) by bean roots (Phaseolus vulgaris). When foliarly applied,

organic forms were translocated through the plant, while the inorganics were not. Both inorganic forms were more rapidly absorbed by bean roots than were the organics.

Soils have widely differing characteristics such as pH, oxide content, organic matter, and texture that affect the level of water-soluble arsenic in the soil (Walsh and Keeney 1975) [see also Section I.F.(1)(a)]. Woolson et al. (1971b) reported that the chemical form and solubility of the soil arsenic have more impact on plant growth than the total arsenic content of the soil. Translocation of arsenic is more extensive in warmer temperatures for most plant species.

The uptake of arsenic by plants (Table 3) is influenced by the soil elements and the plant species (Oak Ridge 1976). There is also competition between arsenic and phosphorous [see Section I.F.(1)(a)]. Rumburg et al. (1960) found that increasing the concentration of phosphorous in a nutrient solution decreased the amount of arsenate taken up by Clinton oats (Avena sativa). Jacobs and Keeney (1970) reported that phosphorus levels had little effect on uptake of arsenic by corn (Zea mays) grown in Waupun silt loam (80 ppm arsenic).

Table 3. Effects of Other Elements on Uptake of Arsenic by Plants

Plant	Other element	Effect of other ion on arsenic concentration	Reference
Clinton oats (Avena sativa)	Phosphorus	Decrease	Rumburg et al. (1960)
Corn (Zea mays)	Phosphorus	Increase in sand, little effect in silt loam	Jacobs and Keeney (1970)
Tobacco (Hicks variety)	Phosphorus	Increase	Small and McCants (1962)
Corn (Zea mays)	Calcium	Decrease	Woolson (1972)
Barley	Calcium	Little or no effect	Vandecaveye et al. (1936)
Plants (in general)	Aluminum	Decrease	Walsh and Keeney (1975)
Barley	Iron	Decrease	Vandecaveye et al. (1936)
Potatoes	Iron	Decrease	Steevens et al. (1972b)
Tobacco (Hicks variety)	Iron	Decrease	Small and McCants (1962)
Grasses, sunflower	Selenium	No correlation	Olson et al. (1940)
Rice	Sulfur	Decrease	Epps and Sturgis (1939)

(c) Animals

Insects, aquatic organisms, birds, and mammals generally take in arsenic by ingestion.

The manner of arsenic uptake by marine organisms is unknown (Penrose 1974). Fish feeding on arsenic-containing organisms probably obtain some arsenic by ingestion. Arsenic may be absorbed by crustaceans and by fish through the gills, as are other metals in the aquatic environment. Inorganic arsenic may be taken in with food and metabolized to water-soluble and lipid-soluble organoarsenical compounds (Schuth et al. 1974). Inorganic arsenic in water may be directly absorbed by fish.

Arsenic has been found in fish and aquatic invertebrates in both fresh and salt water [see Section I.E.(4)]. Aquatic organisms bioaccumulate arsenic but do not biomagnify it (Woolson 1975). They apparently are able to eliminate arsenic at approximately the same rate as it is ingested. In some cases, however, arsenic is found at higher concentrations in organisms than in the surrounding water. Gilderhus (1966) exposed bluegills to various concentrations of sodium arsenite. Arsenic residues were found in all tissues analyzed. Arsenic levels in fish increased during the exposure period and were higher in fish than in the water at the end of exposure.

Arsenic uptake by wild birds is primarily through ingestion of feed contaminated with residues of arsenical pesticides (Oak Ridge 1976).

Almost all arsenic uptake by mammals is through ingestion. Wildlife can take in arsenic by feeding in areas that have been contaminated with arsenical herbicides. Arsenic can also be absorbed through skin abrasions in sheep, cattle, and horses (Case 1974). Studies in mammals indicate that absorption of inorganic arsenic through the gastrointestinal tract can result in alteration of the chemical form (i.e., by methylation) before it reaches the general circulatory system and other organs.

(d) Humans

Arsenic can enter the body by ingestion, inhalation, and absorption through the skin. Several factors affect absorption, such as water solubility, lipid-solubility, type of arsenical, and area of absorption. Skin absorption is also dependent on the lipid-solubility of the compound. Lipid-insoluble arsenic salts are capable of combining with fatty acids in the skin to form lipid-soluble metal oleates which the skin is capable of absorbing (Rothman 1954). Oehme (1972) reported that inorganic arsenic is absorbed significantly through intact skin. Trivalent arsenicals are generally absorbed through the skin more readily than the pentavalent forms. Pentavalent inorganic arsenicals are better absorbed than trivalent forms in the digestive tract, probably because they react less with the intestinal contents and mucosa (Harvey 1975).

(2) Distribution

(a) Plants

Plant roots usually have the highest content of arsenic; vegetative growth has an intermediate level; and edible seeds of fruits contain the lowest levels (Walsh and Keeney 1975).

Machlis (1941) grew Sudan grass (Sorghum vulgare, var. sudanense) and bush bean (Phaseolus vulgaris var. humilis) in the greenhouse for varying lengths of time in nutrient solutions containing various concentrations of sodium arsenite. Leaves contained the highest arsenic concentrations, stem tissues contained an intermediate amount, and reproductive structures contained the least amount of arsenic. Concentrations many times greater than those of the leaves or nodes were observed in Sudan grass roots after they were placed in arsenic-containing nutrient solutions for one week (1 to 18 ppm arsenic in solution resulted in 338 to 1,461 ppm arsenic in roots). Sudan grass was more arsenic-resistant than the sensitive bean species.

Watanabe et al. (1971) reported that low levels (<0.10 ppm) of arsenic were detected in fruit from eggplant grown in soil treated with 20 ml of arsenious acid (equivalent to 20 mg of arsenic per plant). Roots and leaves showed the highest arsenic concentrations (1.35 and 0.85 ppm, respectively) when 12.0 ppm arsenic was found in the upper layer of the soil.

Geisman et al. (1969) determined the concentration of arsenic in tomato plants grown under greenhouse conditions in soils that had been treated for at least two years with a sodium arsenite solution. Plants were grown on treated and drift portions of the plot and untreated controls were grown in a separate area. Table 4 shows that the highest arsenic concentrations were found in the roots and the lowest concentrations were found in the fruit.

Table 4. Average Arsenic Concentrations Found in Treated and Untreated Soil and Plant Samples (dry weight basis)

Treatment	Average Arsenic Concentration (ppm)[a/] Soil	Roots	Stems and Leaves	Fruit
Untreated	<0.2	<0.2	<0.2	<0.2
Drift	331.0	400.0	187.0	<0.2
Treated	654.0	1707.0	334.0	1.4

a/ Data from Geisman et al. (1969).

Experiments with the lowbush blueberry (Vaccinium angustifolium) grown in commercial and virgin soils revealed a correlation between soil arsenic and arsenic in plant tissue (Anastasia and Kender 1973). Arsenic trioxide solutions of various concentrations were used to irrigate the soil. Analysis of arsenic content of leaves, stems, and roots indicted that roots absorb and translocate arsenic into the aerial organs (see Table 5). The greatest arsenic concentration was found in roots; stem concentration was slightly higher than leaf concentration. Tissue arsenic concentration increased as soil arsenic increased.

Table 5. Arsenic Accumulation in Leaves, Stems, and Roots of Lowbush Blueberry Plants Grown at Five Arsenic Levels in the Greenhouse for 17 weeks[a/]

Total soil arsenic (ppm)	Arsenic content (ppm) Leaves	Stems	Roots
7.7 (control)	0.78	0.27	2.40
17.1	3.55	3.95	50.02
43.8	6.74	7.58	93.72
89.5	8.14	11.64	121.28
84.5	14.97	13.33	164.22
LSD (0.05)[b/]	5.05	6.03	43.53

a/ Mean of three clones; data from Anastasia and Kender (1973).
b/ Test for significance of mean differences.

(b) Humans and Animals

According to Webb (1966), four major factors influence distribution of arsenic in animals: type of arsenical, animal species, route of administration, and time after administration.

With the exception of the rat, inorganic arsenic injected into mammals tends to concentrate in the solid tissues more than in the blood. Generally, the highest concentrations are in the liver, kidney, spleen, and lung. Trivalent arsenic will bind to sulfhydryl groups in animal tissue and slowly be released, while pentavalent forms are rapidly eliminated via the feces and urine. High concentrations of arsenic are found in hair and nails because it reacts with the sulfhydryl groups in the keratin (Harvey 1975).

Arsenic is a normal environmental contaminant and is always present in human tissues (Rentoul and Smith 1973). The total arsenic content of a normal adult body is estimated to be 14 to 21 mg (Harvey 1975).

In a study by Mealey et al. (1959), eleven patients dying of intracranial disease were given radioactively labeled trivalent arsenic intravenously. In a post-mortem examination, organs and tissues were analyzed for activity. The liver, kidneys, and spleen were the primary sites of arsenic accumulation.

In guinea pigs, rabbits, apes, and humans, radioactively labeled potassium arsenite was injected subcutaneously and was distributed primarily in skeletal muscles (Hunter et al. 1942).

Ducoff et al. (1948) studied the distribution of arsenic residues in various species of mammals, including humans, with radioactively labeled sodium arsenite (^{74}As). Eight Sprague-Dawley male rats were injected intravenously with 47 microcuries (uCi) each and were sacrificed in pairs at 6, 24, 48, and 96 hours. The authors noted the high concentration of arsenic in the blood, fairly high arsenic content of lung and spleen, the large individual variation, and the lack of any great tendency for a decline in the arsenic content of most tissues. The distribution of arsenic residues in four rabbits showed that concentrations of arsenic in blood at any time interval were never as great as in most solid tissues, that all tissues showed a distinct reduction in arsenic content over time, and that liver, kidney, and lungs contained the highest concentrations of arsenic.

The same authors also studied arsenic distribution in mice and humans. In a study on mice, 19 males of the A strain, 11 bearing lymphomas that had been transplanted three weeks previously, were injected intraperitoneally with 0.8 uCi radio-labeled sodium arsenite each. Arsenic concentration was determined in tissue samples of kidney, liver, lung, spleen, muscle, and tumor (when these were present). The ratio of arsenic concentration in kidney, liver, and

spleen of healthy inbred mice was found to be fairly constant for a given time after administration. Using this ratio as a criterion, it was found that arsenic distribution in tissues was altered unpredictably by the presence of transplanted tumors.

In the residue study on humans, a moribund 65-year-old female with carcinoma of the parotid (salivary gland) was given 500 microcuries (uCi) of ^{76}As (equivalent to 4 mg arsenic) 20 hours before death. The tissue distribution (in uCi/g) at time of death was as follows: liver, 46.4; kidney, 29.5; spleen, 16.1; parotid tumor, 15.6; heart, 14.6; heart, 14.6; jejunum, 14.3; vertebral marrow, 14.2; mesenteric lymph node, 12.8; stomach, 11.7; pancreas, 11.6; muscle (quadriceps), [illegible]; ileum, 11.1; lung, 10.8; femoral marrow, 10.8; adrenal, 8.5; ovary, 8.3; thyroid, 7.6; skin, 6.7; brain, 2.5; and femoral cortical bone, 2.4.

In livers of fish from the Great Lakes, Lucas et al. (1970) found concentrations of arsenic ranging from 5.6 to 80 ppb. The arsenic was primarily in the fat fraction of the liver and other organs. Fish generally contain lower arsenic levels than other aquatic organisms (Lunde 1970).

(3) Excretion and Degradation in Animals

Webb (1966) has noted that arsenicals are excreted at different rates, depending on the valence state. The pentavalent arsenicals are usually excreted rapidly by the

kidney since they do not bind readily to tissues, whereas the trivalent arsenicals become rapidly bound and are excreted only as fast as they are released.

Mealey et al. (1959) suggested that arsenite administered intravenously into humans is excreted in three phases. More than 99% of a radio-labeled dose of sodium arsenite was excreted within 15 hours after administration. Labeled arsenic was excreted at a low, constant rate over the next 155 hours, and the remainder was removed at an even lower rate. Chemical tests of the urine indicate that the labeled arsenite is recovered as a mixture of arsenite and arsenate, the latter predominating.

Winkler (1962) showed that rats fed either sodium arsenite or sodium arsenate excreted primarily pentavalent arsenic, indicating in vivo oxidation of arsenite.

Harvey (1975) states that trivalent arsenic is slowly excreted in the urine and that this is the basis for its cumulative toxic action. Arsenate forms are rapidly excreted in humans and therefore little arsenic accumulates.

Coulson et al. (1935) studied the excretion of shrimp-arsenic (an organo-arsenical found in shrimp) in comparison to that of inorganic arsenic trioxide

(trivalent arsenical) in rats and humans. The "normal" level of arsenic excretion was determined for rats. Two groups of rats given a stock (no arsenic) diet excreted an average of 0.0059 and 0.0065 mg arsenic, respectively, in the urine (80%) and feces (20%). Rats in the first group were then fed a diet containing shrimp-arsenic for one day. Within four days, 74.6% of the arsenic had been recovered, and arsenic excretion fell to normal levels. The second group, however, which consumed a diet containing arsenic trioxide, eliminated only 19.1% of the ingested dose before arsenic excretion fell to normal levels; 80% was retained in the body. The experiment was repeated one week later with the first group of rats receiving the inorganic arsenic and the second receiving the organic shrimp-arsenic; the results were the same.

The same authors conducted a similar experiment on two humans. When the two subjects were given shrimp-arsenic in their diet, the rate of elimination was about the same as in the rat. When inorganic arsenic (As_2O_3) was added to the diet, it was excreted more slowly than the shrimp arsenic had been but was eliminated more completely than in rats.

Peoples (1964) studied the rate of urinary excretion of arsenic acid, a pentavalent arsenical, in cattle. Two animals received daily doses of 11.6 mg arsenic acid in the feed supplement for seven weeks;

two received 58.2 mg, and two received 291.0 mg. After seven weeks, the two low-dose animals had excreted 7% and 86% of the total arsenic ingested; the two mid-dose animals had excreted 79 and 58%; and the two high-dose animals had excreted 51 and 98%. The author suggested that the high levels of excreted arsenic indicated there is little arsenic storage in cattle tissue. The author indicated that preliminary studies showed that the tissue-bound arsenic was entirely pentavalent with no evidence of reduction to the trivalent form.

Lakso and Peoples (1975) fed sodium arsenate and sodium arsenite to cows and dogs for five consecutive days. Regardless of the arsenic form ingested, both animals excreted approximately equal amounts of methylated and inorganic arsenic. Crecelius (1977b) observed similar results when studying changes in the chemical speciation of arsenic following ingestion by man (see Section I.J).

Ginsburg (1955) reported that arsenate, given intravenously to dogs, was reabsorbed by the proximal renal tubule and reexcreted as arsenite (see Section I.J).

Ducoff et al. (1948) studied the excretion of radio-labeled sodium arsenite (a trivalent arsenical) in rats, rabbits, and humans. Five male Sprague-Dawley rats were each injected with 47 microcuries (uCi) of radio-labeled sodium arsenite (^{74}As), four rabbits were each injected with 235 uCi, and 2 human subjects were injected with 3.0 and 2.7 millicuries, respectively. The results showed

that, during comparable time intervals, arsenic excretion took place more slowly in the rats (<10% during the first 48 hours) than in rabbits (about 70%) or humans (about 30 to 45%). The authors also noted that the arsenic content of rats rapidly reached equilibrium. For all species, less than 10% of the excreted arsenic was found in the feces.

Fairhall and Neal (1938) studied the excretion of lead arsenate, a pentavalent arsenical, in two human subjects. After a preliminary period of three days on a controlled diet, both subjects received 10 mg of lead arsenate daily for ten days. Arsenic residues in urine and feces were measured for 23 days starting with the first day of exposure. The results showed that the arsenic was eliminated only through the kidneys. (Total arsenic residues in feces were only a few hundredths of a milligram.) About 96.4% of the arsenic was excreted in urine in the first subject, and about 77.5% in the second. The authors interpreted the immediate excretion of most of the ingested arsenic as evidence that lead arsenate dissociates in the gastrointestinal tract, even though its solubility in water is low.

Webster (1941) studied the excretion of lead arsenate in nine adult male orchardists who customarily ate unwashed apples treated with lead arsenate. During the 10-to-12-day experimental period, the subjects ate their usual number of treated apples (average, three apples) from separately provided lots. Analyses of samples of fruit eaten by the men showed a potential arsenic intake of 1 to 20 mg of lead

and 0.34 to 6.8 mg of arsenic per person per day. A portion of each day's urine and the total daily feces were analyzed for arsenic residues. The average arsenic residues for all nine persons over the experimental period was 0.019 mg in urine and 2.66 mg in feces. The total fecal arsenic was about 15% greater than the total urinary arsenic. The author compared this result with that obtained by Fairhall and Neal (1938) and suggested that the different results were caused either by differences between the chemical and physical properties of weathered spray residue and pure lead arsenate, or by differences in excretion of arsenic by persons having chronic exposure and those having acute exposure.

(4) Bioaccumulation and Biomagnification

The terms bioaccumulation and biomagnification are not treated consistently in scientific literature and are sometimes used interchangeably. For purposes of this document, however, bioaccumulation means the accumulation or concentration of pesticide residues in individual organisms or in individual species. Biomagnification, on the other hand, means the transference of pesticide residues from lower to higher organisms in the food chain, resulting in greater (magnified) concentrations of pesticide residues in higher organisms than were present in the lower forms.

Arsenic does not appear to biomagnify through the food chain (Oak Ridge 1976).

Arsenic does not continuously accumulate in mammalian tissues because it apparently reaches dynamic equilibrium

between intake and excretion (Frost 1967). Variations in the excretion rates of the different arsenicals by mammals are believed to be the basis for the varying toxicities (Frost 1967). The average human body burden of arsenic in normal adults is 14 to 21 mg (Harvey 1975); this arsenic is stored primarily in the liver, kidney, wall of the gastrointestinal tract, spleen, and lung, while smaller amounts are found in the muscle and nervous tissue. High levels of arsenic are also found in human hair and nails due to the high sulfhydryl content of keratin.

Since arsenic occurs naturally in aquatic systems, many aquatic organisms tend to bioaccumulate it. Due to the higher concentration of arsenic in salt water, marine organisms (plant and animal) tend to accumulate arsenic to a greater extent than freshwater forms (Woolson 1975). The highest rates of arsenic accumulation are found in aquatic plants (Woolson 1975). The lower aquatic organisms usually have the highest arsenic residues. Sohacki (1968) found plankton to be an effective accumulator of arsenic. Schuth et al. (1974) showed that there was greater arsenic accumulation by aquatic organisms such as algae and duckweed (lower level of food chain) than in fish and crayfish (upper level of food chain). In a review of the literature, Schroeder and Balassa (1966) reported that levels of arsenic are much higher in marine plants and animals than in terrestrial forms.

Ullmann et al. (1961) studied arsenic bioaccumulation by fish in Findley and Chautauqua Lakes in New York, which

were treated annually since 1956 with sodium arsenite for weed control. Detectable quantities of arsenic were found in the fillets (including skin) of all fish from Findley Lake, ranging from 0.27 to 0.47 ug/g. Seven of eight fish contained arsenic in the viscera (including bone and scales), ranging from 0.10 to 0.78 ug/g. No significant differences occurred between fish taken before or after spraying in either of the treated lakes. The fish from Chautauqua Lake contained less arsenic than those from Findley. Nine of 20 fish contained arsenic in the fillets ranging from 0.10 to 0.28 ug/g. Seven contained arsenic in the viscera ranging from 0.10 to 0.29 ug/g. These values were only slightly higher than those obtained in the ten control fish from untreated (control) Cassadaga Lake. Six of these contained from 0.10 to 0.12 ug/g in the viscera, and five contained from 0.10 to 0.14 ug/g in the fillets.

Terrestrial plants can bioaccumulate arsenic [see Section I.E.(2)(a)]. Since most plants are sensitive to arsenic, there is a reduction in growth before a high level of arsenic can occur (Walsh and Keeney 1975). [See also Sections I.E.(2)(a) and (6)].

Plants growing near a copper smelter were found to contain increased arsenic levels as a result of soil contamination with arsenic (Crecelius et al. 1974). Porter and Peterson (1975) measured the arsenic content of plants grown in contaminated soils (i.e., mine tips, and areas of smelter

waste). The foliage of several species contained 460 to 6,640 ppm, while plants in areas away from the smelter contained 0.28 to 0.33 ppm of arsenic.

Biotransformation

In soil, sediment, and water, transformation is usually mediated by microorganisms. Various fungi and bacteria, under aerobic and anaerobic conditions, can metabolize arsenate and arsenite to volatile arsenicals, usually to di- or trimethyl arsine (Braman 1975; Walsh and Keeney 1975). The trivalent form of arsenic does not persist for long periods in well-aerated soils with significant biological activity (Walsh and Keeney 1975).

Limnetic and marine unicellular algae were able to synthesize fat- and water-soluble arseno-organic compounds from inorganic arsenic ions added to growth media (Lunde 1973b). A greater quantity of lipid-soluble organic compounds were synthesized in cultures with arsenate compared to those with arsenite.

Lunde (1969; 1972; 1973a; and 1973b) has demonstrated that arsenic is present in algae, fish, benthic organisms, and phyto- and zooplankton as water-soluble and lipid-soluble arseno-organic compounds. Studies indicate that arsenate is not a major form of arsenic in aquatic organisms (Woolson 1975).

Several studies of arsenic transformation in humans and animals have been done (see Sections I.E.(3) and I.J). Since the valence state of arsenic largely determines its toxicity, knowledge of the conversion *in vivo* is important. Most authors generally agree that trivalent arsenic is oxidized in tissues and excreted (at least in urine) in a pentavalent form; the reverse transformation, reduction of pentavalent arsenic, is not the favored reaction (see Section I.J).

(6) Other Biological Aspects

(a) Beneficial Effects in Mammals

Arsenic in small amounts may be essential and beneficial to cell metabolism. Attempts to confirm this have been hindered by the ubiquity of arsenic, which makes it difficult to obtain arsenic-free diets.

Muth et al. (1971) found that the addition of 1 ppm of sodium arsenate to selenium-deficient food reduced the incidence of myopathy in lambs. However, attempts have failed to show beneficial effects of arsenic in other selenium-deficiency diseases.

Nielsen et al. (1975) found symptoms of arsenic deficiency in rats fed a diet containing only 30 ppb of arsenic. Male rats had rough haircoats, a low rate of growth, splenomegaly, decreased hematocrit, and increased

osmotic fragility of red blood cells. Anke et al. (1976) found similar deficiencies in goats and laboratory pigs fed diets containing less than 50 ppb of arsenic. Compared to the control animals that received food supplemented with 350 ppb of arsenic, the experimental animals had impaired reproductive performance, decreased fetal weights, and increased neonatal mortality.

(b) Phytotoxicity

For many years, inorganic arsenicals have been used as pesticides, herbicides, and plant defoliants. As a result, plant growth has been reduced in some areas previously used for orchards and cotton fields (Walsh and Keeney 1975).

An example of severe phytotoxicity due to arsenic accumulation in the soil occurs in old orchard fields which are recycled for other crop uses (Bishop and Chisholm 1962; Vandecaveye et al. 1936). Some orchards have received over 1,000 kg/ha of arsenic while only 10 kg/ha were used as a defoliant in potato fields (Walsh and Keeney 1975).

Symptoms of arsenic phytotoxicity may vary with the plant variety, type of arsenical, method of application, and environmental conditions (Woolson et al. 1971b) [see also Section I.E.(1)(b) and I.F.(1)(a)]. Young tissue is generally more susceptible to injury than older tissue. Trivalent forms are more toxic than pentavalent forms and can bind with sulfhydryl groups, thus interfering with many enzymatic reactions. Arsenites usually produce rapid contact injury to membranes, which results in rapid water loss. Arsenates cause more subtle symptoms (chlorosis, but not loss of turgor), uncouple oxidative phosphorylation, and

stimulate respiration. They may react in the place of phosphates in many reactions (Ashton and Crafts 1973).

Reduced plant growth in corn (Zea mays) was associated with high concentrations of available arsenic in the soil (Woolson et al. 1971b). The authors indicated that the phytotoxicity of arsenic was influenced more by chemical form than by amount. Water-soluble arsenic was more toxic than water-insoluble arsenic. Reduced phytotoxicity occurred in soils containing arsenic and high levels of reactive aluminum versus soils containing arsenic and low levels of reactive aluminum.

Other studies have shown that arsenic can retard plant growth and transpiration (Kerr 1941; Morris and Swingle 1927; and Woolson 1973).

Table 6 gives the toxic levels of soluble arsenic for various crops.

Table 6. Toxic Levels of Soluble Arsenic to Various Crops and Vegetables

Plant	Toxic level Soluble As (ppm)	Reference
cowpeas	1	Albert and Arndt (1931)
barley	2	Vandecaveye (1943)
snap beans	2.5[a/]	Jacobs et al. (1970)
peas	2.5	Jacobs et al. (1970)
	9[a/]	Bishop and Chisholm (1962)
alfalfa	3.4-9.5	Vandecaveye et al. (1936)
soybeans	3-12	Deuel and Swoboda (1972)
rice	7	Epps and Sturgis (1939)
cotton	8-28	Deuel and Swoboda (1972)
beans	9	Bishop and Chisholm (1962)
corn	20[a/]	Jacobs et al. (1970)
potatoes	37[a/]	Jacobs et al. (1970)
green beans	10-50	Woolson (1973)
lima Beans	10-50[a/]	Woolson (1973)
spinach	10-50[a/]	Woolson (1973)
tomatoes	50[a/]	Woolson (1973)
radish	40-100[a/]	Woolson (1973)
lowbush blueberry	84.5	Anastasia and Kender (1973)
cabbage	100[a/]	Woolson (1973)

a/ Level which produces 50 percent yield reduction.

(c) Beneficial Effects in Plants

Although arsenic is not an essential plant nutrient, relatively high arsenic concentrations in soil may have beneficial effects on plant growth (Walsh and Keeney 1975). Stewart and Smith (1922) found that a concentration of 25 ppm in soil enhanced the growth of peas, radishes, wheat, and potatoes. However, beans showed a steady decrease in growth as the arsenic content increased. MacPhee et al. (1960) reported increased turnip yields in soil with a total arsenic content of 126 ppm. The increase in yield was attributed to control of the turnip root maggot. There was a decrease in the yield of other crops such as peas and beans.

There have been beneficial effects on several crops in fields treated with high concentrations of calcium arsenate. Decreased yields for vetch, oats, and barley were first noted in soil with total arsenic concentrations of 94, 188, and 283 ppm, respectively [calcium arsenate applied at 500, 1,000, and 1,500 pounds/acre] (Cooper et al. 1931). When calcium arsenate was applied below these levels, the treated soil had a higher yield than the untreated soils. In another study, corn, sorghum, soybeans, and cotton showed yield increases from applications of 188 ppm [1,000 pounds/acre] (Cooper et al. 1932).

Woolson et al. (1971a) postulated that the stimulation of growth in plants by small amounts of arsenic may be similar to that of other pesticides (e.g., 2,4-D) at sublethal dose levels.

F. Fate in the Physical Environment

(1) Distribution

(a) Soil

Arsenic occurs as a natural constituent in almost all soils. The earth's crust has an estimated background arsenic concentration of 6 ppm [range of 0.1 to 40 ppm] (Bowen 1966). Although there are several sources of inorganic arsenic (i.e., natural weathering of arsenic-containing rock, smelters, volcanic debris, and pesticides), residues from pesticides are a major source of arsenic pollution (Woolson 1976). They are also the major source of arsenic emitted to the environment, but the use of these products is now declining for various reasons (Sullivan 1969). Thirty-two percent (32%) of the total emissions in the U.S. of arsenic are from pesticide use (Duncan et al. 1973).

Williams and Whetstone (1940) sampled soils which had not been contaminated with arsenical pesticides. All samples contained from 0.3 to 38 ppm of arsenic (30% contained less than 5 ppm; 50%, 5 to 10 ppm; and 20%, greater than 10 ppm). Jones and Hatch (1945) compared four plots of soil, arsenic-treated and untreated, after 20 to 25 years of pesticide spraying. The arsenic content was 20 to 30 times the original level. Woolson et al. (1971a) surveyed soils in the U.S. with a history of arsenic treatment. The overall average residue level was 165 ppm, while in control soils it was 13 ppm.

Walsh and Keeney (1975) summarized the arsenic levels for treated and untreated soils in parts of North America. Untreated soils had an arsenic range from undetectable to 80 ppm, while treated soils ranged from 1 to 2,553 ppm (see Table 7).

Table 7. Comparison of Arsenic Levels in Arsenic-treated and Uncontaminated Soils in North America

Sampling site	Total arsenic content (ppm) Uncontaminated soil	Treated soil[a/]	Crop
Colorado	1.3-2.3	13-69	Orchard
Flordia	8	18-28	Potato
Idaho	0-10	138-204	Orchard
Indiana	2-4	56-250	Orchard
Maine	9	10-40	Blueberry
Maryland	19-41	21-238	Orchard
New Jersey	10	92-270	Orchard
New York	3-12	90-625	Orchard
North Carolina	4	1-5	Tobacco
Nova Scotia	0-7.9	10-124	Orchard
Ontario	1.1-8.6	10-121	Orchard
Oregon	2.9-14	17-439	Orchard
	3-32	4-103	Orchard
Washington	6-13	106-830	Orchard
	8-80	106-2553	Orchard
	4-13	48	Orchard
Wisconsin	2.2	26	Potato

a/ These are results from soils that had been repeatedly treated with an arsenic pesticide or defoliant. Soils treated experimentally are not included. Data from Walsh and Keeney (1975).

Greaves (1934) studied soils from 50 orchards and found that levels of arsenic varied from 26.4 to 1,353.3 kg/ha-m (7.2 to 367.2 pounds/acre-ft). Bishop and Chisholm (1962) compared surface soil from 25 orchards to soil from control (untreated) soils and found arsenic accumulation due to the use of pesticides. In Canada, Miles (1968) studied soil from four apple orchards. The arsenic level ranged from 10.2 to 107 ppm between the trees, and from 15.6 to 121 ppm under trees. Soil from untreated vegetable fields generally had under 10 ppm of arsenic.

Arsenic from smelter emissions can contaminate the surrounding soil. Crecelius et al. (1974) reported surface soil contamination of up to 380 ppm within a 16-mile distance from a smelter stack, with suspected contamination as far as 112 miles away. Ratsch (1974) reported arsenic

concentrations of 7.3 to 457 ppm within a 6-mile radius of a copper smelter.

Soil adsorption of arsenicals is dependent on soil pH, texture, iron and aluminum oxide content, phosphorous level, and the organic matter content (Woolson 1976). Arsenic that is adsorbed to soil or sediment is fixed as slightly soluble compounds (Woolson 1976). There is an equilibrium between the arsenic in solution and that fixed in the soil or sediment (Woolson 1976). Soluble arsenic is subject both to leaching, especially in sandy soil where there is little potential for forming adsorption complexes, and to removal by surface run-off to ground waters, lakes, and rivers.

Unlike heavy metals, there is decreased adsorption of arsenates in soils with high pH (Misra and Tiwari 1963). Depending on soil texture, soils adsorb arsenate in the following decreasing order: clay, clay loam, silt, loam, loam sand. Arsenic, like many heavy metals, is persistent in soils with a high concentration of hydrous oxides, especially those of iron and aluminum found in laterite, bauxite, and silicate soils. Arsenic is decreasingly reactive with Fe > Al > Ca > Mg, to form increasingly soluble salts (EPA 1976c). If levels of reactive Fe, Al, and exchangeable Ca are low, arsenic is more likely to leach (Woolson et al. 1971a). Because of chemical similarities, arsenate ions can compete with phosphate ions for adsorption to soil minerals. Fixed arsenate can be readily replaced in the presence of phosphate ions (Woolson 1972). Increasing calcium levels will decrease arsenate retention in soil.

Precipitation can affect the persistence of arsenic in soil. Over a period of years, arsenic will leach from

soil with adequate rainfall. With limited rainfall, however, arsenic can accumulate in soils where leaching occurs more slowly due to high iron and aluminum oxide content.

Arsenic in the soil can be removed naturally by volatilization (from biotransformation), leaching, wind-born dust, run-off, plant uptake, and crop removal.

(b) Water

Small quantities of arsenic occur in virtually all natural waters. Ground waters usually contain more arsenic than surface waters. Naturally occurring arsenic in sea water averages 0.003 ppm while rivers average about 0.0004 ppm (Bowen 1966). Elevated arsenic levels in water are usually the result of pollution. The average content of arsenic in fresh water (about 1.5 to 2 ug/liter) is below the recommended drinking water standards for the United States (Woolson 1975). Water near natural deposits of arsenic or areas of volcanic activity tend to have higher levels of arsenic.

Although there is disagreement among scientists as to the oxidation state of arsenic in sea water, it is agreed that there is an equilibrium between arsenate and arsenite forms (Woolson 1975). There are indications that, in the oxidizing layers of the ocean, arsenic is in the pentavalent state, while at lower depths it is reduced to the trivalent state (Woolson 1975). This equilibrium may also exist in stratified lakes.

The strong association of arsenic with clays high in iron and aluminum oxides is an important means of transferring arsenic to streams, lakes, and sediments [see Section I.F.(1)(a)]. Arsenic can enter natural waters by

run-off and leaching from arsenic-treated soils. The hydrous metal oxides in the sediments can adsorb the arsenic, removing it from solution, thereby preventing build-up of high concentrations (Woolson 1976). Sediments in polluted rivers have been found to contain up to 220 ppm of arsenic (Oak Ridge 1976).

Arsenic can be removed from solution by volatilization (as alkyl arsines), adsorption by clays and detritus, and coprecipitation with metal ions (Ferguson and Gavis 1972).

(c) Air

Arsenic in the atmosphere is primarily the result of human activities and, to a lesser extent, volcanic and bacterial action. There is generally low atmospheric arsenic except near local pollution sources such as metal smelters, cotton gins, and areas of pesticide application. The air of most U.S. cities contains a small amount of arsenic, while air in rural areas has a relatively low concentration of arsenic (Sullivan 1969).

Arsenic moves in air adsorbed to particulate matter, and it is returned to the soil by direct fallout or by precipitation (Woolson 1976). It has been hypothesized that volatile arsenicals released to the atmosphere are oxidized in the presence of light and returned to the soil via dry fall (as particulate matter) or in precipitation (Woolson and Kearney 1973).

(2) Degradation and Transformation

In nature, most arsenicals are converted to arsenate (pentavalent) which is the stable oxidation state in oxygenated environments. Arsenite (trivalent) is the dominant form in anaerobic conditions (i.e., flooded soils, submerged

sediment layers). Arsenate may be reduced to arsenite under conditions of low pH (Misra and Tiwari 1963). Arsenite will not persist for long periods in well-aerated soils with significant biological activity. Oxidation also occurs in alkaline soils or those containing ferric and aluminum oxides (Misra and Tiwari 1963).

In air, arsenic is transformed by abiotic oxidation (Lee et al. 1977). In the soil and water, transformation is usually mediated by organisms (Sandberg and Allen 1975). Trivalent forms (arsenite) can be oxidized to the pentavalent (arsenate) both abiotically and biotically. Pentavalent forms can be reduced anaerobically. Methylation occurs anaerobically and aerobically by many microbial species (Cox 1975).

In sea water, there is an equilibrium between arsenate and arsenite with the pentavalent form predominating (Woolson 1975). In the aerobic (oxidizing) layers of the ocean, the reduced forms of arsenic will be oxidized to arsenate. At lower ocean depths where oxidation is not as great, chemical or microbial reduction may occur (Robison 1975).

Both arsenates and arsenites can precipitate with ferric hydro-oxides in water (Woolson 1975). Ferric arsenates and arsenites can then accumulate in ocean sediments where solubilization as arsines, stabilization as sulfides, or reduction to arsenic metal can occur. Turbulence and convection can transport arsenates to lower oxygen-depleted depths where they may be reduced to arsenites or AsS_2 (Woolson 1975).

G. Residues

(1) Soil

Residual arsenic tends to be concentrated in the surface layers of the soil (Jones and Hatton 1945; Vandecaveye et al. 1950). With annual treatments of sodium arsenite, arsenic was reported to have accumulated to the extent that leaching equaled the addition of arsenic (Tammes and de Lint 1969).

EPA's National Soils Monitoring Program (Memo 1977a, 1977b) has limited data on noncropland (i.e., nonurban and nonagricultural) soil sampling for arsenic residues for fiscal year (FY) 1971 and 1972. In FY 1971, a total of 198 noncropland soil samples were analyzed from 11 states; 195 samples showed arsenic residues. In eight of the states, 100% of the sites showed arsenic residues, and in the other three 94.1, 96.7, and 97.3% of the sites showed arsenic residues. The lowest arithmetic mean for arsenic residues from any one state was 1.47 ppm, and the highest was 6.43 ppm. The lowest residue level in any one state was 0.33 ppm, and the highest was 39.07 ppm.

In FY 1972, a total of 254 noncropland soil samples were analyzed from 15 states and geographic regions; 242 samples showed arsenic residues. In 12 of the states, 100% of the sites showed arsenic residues, and in the other six 75.0 to 94.7% of the sites showed arsenic residues. The lowest arithmetic mean for arsenic residues from any one state was 1.68 ppm, and the highest was 16.06 ppm. The lowest residue level in any one state was 0.41 ppm, and the highest was 36.05 ppm.

As part of this program, soil samples were analyzed for elemental arsenic (As) in selected urban areas from 1971 through 1976, and in agricultural soil from FY 1969 through 1972. Analysis of urban samples is not yet complete for

cities sampled in 1976 and for several in 1975. For the 24 cities on which analysis has been completed, however, 20 showed arsenic residues in 100% of the samples analyzed; the other four had arsenic residues in 92.3 to 98.9% of the samples analyzed. The lowest arithmetic mean for arsenic residues from any one city was 1.84 ppm, and the highest was 25.28 ppm.[3/] Agricultural soil samples were taken from the National Soils Monitoring Program sites. Arsenic analyses were discontinued in FY 1973. Because arsenic is a naturally-occurring element in soils, arsenic was detected in about 99% of the samples, and the arithmetic mean remained fairly constant during the period of sampling.

Carey et al. (1976) studied 14 U.S. cities of various sizes for pesticide residues in soil during the summer and fall of 1970. Sample sites (231 m^2) were randomly selected in each city. Arsenic residues were found in 97% of the samples analyzed. Geometric mean values for arsenic ranged from 0.5658 ppm in Cheyenne, Wyo., to 8.5081 ppm in Philadelphia, Pa.

In 1970, Steevens et al. (1972a) studied arsenic residues in soil from Wisconsin potato fields in which sodium arsenite had been extensively used as a defoliant from 1958 to 1968. Composite soil samples of 10 randomly selected cores from the plow layer were taken from 18 potato fields in the three principal potato-growing areas of Wisconsin. The authors noted that the level of naturally occurring arsenic in soil ranged from 2 to 10 ppm. This study showed arsenic soil levels of <10 ppm at seven sites and from 10.0 to 25.7 ppm at 11 sites. The authors concluded that past usage of sodium arsenite in these fields had not resulted in arsenic levels which would be detrimental to crops.

3/ The highest average arsenic level was in Tacoma, Washington, site of a copper smelter which, based on the high ambient arsenic levels observed, has been described as "one of the most important individual sources of arsenic with emissions of 310 tons/year" (EPA 1976b). These residues seem clearly to be of industrial, rather than agricultural, origin.

(2) Water

A report on drinking water and health by the National Academy of Sciences (NAS 1977a) noted that the maximum no-observed-effect level for arsenic in water is <100 ug/liter. The report called the current mandatory U.S. drinking water limit of 50 ug arsenic/liter "only a meager margin of safety," since intake from 2 liters/day of water containing 20 ug arsenic/liter is slightly greater than 10% of the median total intake of arsenic. The current World Health Organization and U.S.S.R. limits for arsenic in drinking water are 50 ug/liter.

(3) Air

Arsenic residues in air result from smelting of metals; burning of coal, vegetation treated with arsenicals, and agricultural wastes; ginning of cotton; and use of arsenical pesticides.

The use of arsenical pesticides constitutes a major source of air pollution. From 1937 to 1940, Neal et al. (1941) studied the amount of arsenic and lead in the air from the use of lead arsenate in orchards. The arsenic concentration was highest when pesticide containers were burned (16,670 ug/m^3), followed by mixing the pesticide (1,850 ug/m^3), picking the fruit (880 ug/m^3), spraying the pesticide (140 ug/m^3), and thinning the fruit (80 ug/m^3).

Arsenic in dusts and gases from cotton gins is another source of arsenic air pollution. The pesticides are used for weed control and for cotton desiccants. From 46 to 91 miles downwind of a cotton gin in Texas, arsenic concentrations in the air varied from 600 to 141,000 ng/m^3 (HEW 1967).

(4) Fish

Mackenthun (1960) studied the long-term effects of sodium arsenite used as an aquatic herbicide in Wisconsin. One lake with an area of 2,501 acres had received the equivalent of 87 pounds of As_2O_3 per acre, during the period 1950 to 1960, along the shoreline. Arsenic content in fish from this and an untreated lake was determined. One largemouth bass from the treated lake showed no arsenic residues. A largemouth bass, a black crappie, and a bullhead showed <0.05 ug/g As_2O_3 in flesh and 0.1 ug/g in skin and scales. One 7-inch bluegill had 0.064 ug/g in flesh and 0.27 ug/g in flesh and 0.127 ug/g in skin and scales. Fish from the untreated lake showed no arsenic residues.

Lucas et al. (1970) conducted a study on concentrations of trace elements, including arsenic, in fishes from three Great Lakes (Michigan, Superior, and Erie) during 1968 and 1969. Species used for whole-body analyses were alewives (Alosa pseudoharengus), spottail shiners (Notropis hudsonius), and trout-perch (Percopsis omiscomaycus). Since alewives were small, about 20 were combined for each sample; spottail shiners and trout-perch were analyzed individually.

Alewives from Lake Michigan contained 23 ppb arsenic (based on a single determination); spottail shiners from Lake Michigan contained 3 ppb (based on a single determination); and trout-perch from Lake Michigan contained an average of 43 ± 12 ppb. Spottail shiners from Lake Erie contained 3.5 ± 3.0 ppb arsenic/g of tissue, and trout-perch from Lake Superior contained 7 ± 2 ppb. The authors noted that arsenic concentrations in trout-perch from Lake Michigan appeared to be significantly higher than in those from Lake Superior.

The authors also determined the arsenic concentration in livers of 10 species of fish. Lake herring (Coregonus artedii) from Lake Superior contained an average of 69 ± 30 ppb arsenic/g of tissue; lake whitefish (C. clupeaformis) from Lake Superior contained 6.4 ± 0.7 ppb; bloater (C. hoyi) from Lake Superior contained 63 ± 17 ppb; round whitefish (Prosopium cylindraceum) contained 5.6 ± 3.4 ppb; and lake trout (Salvelinus namaycush) contained 80 ± 10 ppb. Fish from Lake Erie which contained arsenic concentrations included goldfish (Carassius auratus), 0.3 ± 0.2 ppb; white bass (Roccus chrysops), 0.8 ± 0.4 ppb; and walleye (Stizostedion v. vitreum), 0.8 ± 0.5 ppb.

Walsh et al. (1977) conducted a study of arsenic and heavy metal residues in fish from 1971 to 1973 from 100 monitoring stations throughout the 50 states and Puerto Rico. The detection limit for arsenic was 0.05 mg/kg. The authors noted that only selected samples were analyzed in 1973 and that these figures should be used cautiously as trend data. The results showed that arsenic was present

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and

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in more than 90% of the samples. Arsenic levels ranged up to 3.40 mg/kg in 1971, 1.70 mg/kg in 1972, and 1.24 mg/kg in 1973. Fish from the Great Lakes had high residues more frequently than fish from other stations.

(5) Birds

Martin and Nickerson (1973) conducted a nationwide study of arsenic and heavy metal residues in starlings (Sturnus vulgaris), which were collected in 1971 at 50 sites throughout the continental United States. The authors noted that arsenic residues were low (<0.04 ppm). Only one sample from Michigan showed a higher arsenic content (0.21 ppm). Eight samples showed no detectable arsenic resiudes.

White et al. (1977) conducted a similar study in starlings, which were collected in 1973 at 51 sites throughout the continental United States. The authors noted that residue levels were generally low; arsenic residues ranged from <0.05 to 1.40 ppm. The average level for all 51 sites was 0.160 ppm. The authors also stated that there had been a significant increase in arsenic residues in starlings since 1971. Arsenic residues were 88% higher in 1973. Twenty-eight of 1973 samples (55%) contained residues of 0.10 ppm or greater.

Blus et al. (1977) studied residues of organochlorine pesticides and 10 heavy metals in livers and eggs of brown pelicans (Pelecanus occidentalis), a rare and endangered species, from 1969 through 1973. Pelican colonies in Florida (1969 to 1970) and South Carolina (1971 to 1972) were sampled. Arsenic residues in eggs from South Carolina were three times higher than those from Florida. Arsenic residues in eggs from South Carolina and Florida, respectively, ranged from 0.076 to 0.85 ug/g and 0.07 to 0.18 ug/g fresh wet weight.

Livers of four brown pelicans, shot in 1970, were checked for arsenic residues. Livers of an adult female and an immature male, both shot in Florida, contained 0.63 and 0.89 ug of arsenic/g fresh wet weight, respectively. Livers of a 6-week-old female and an adult male, both shot in South Carolina, contained 0.36 and 0.29 ug/g, respectively.

Livers of four brown pelicans, found dead in 1972 and 1973, were also checked for arsenic residues, with the following results: 0.47 ug arsenic/g fresh wet weight in an adult female found in Florida in 1972; 0.23 ug/g in an adult female found in Georgia in 1972; 0.54 in an immature male found in Florida in 1973; and 1.02 ug/g in an 8-week-old female found in South Carolina in 1973.

The authors noted that each egg and tissue sample of brown pelicans that was analyzed contained residues of ten heavy metals, but that the significance of these residues to the pelicans was undetermined.

Lynch (1973) studied the occurrence of selected toxic metals, including arsenic, in pheasants (Phasianus colchicus) in Ohio. Twenty-six samples of pheasant breast muscle were analyzed for arsenic with a detection limit of 0.001 ppm. Sixteen samples contained detectable arsenic residues. The highest amount found was 0.172 ppm. The author indicated that, although lead arsenate was recommended for use in apple orchards in 1973, only 1% of Ohio orchards were treated with it. The author did not state whether arsenic residues in pheasants resulted from natural background levels or from agricultural or industrial pollution.

(6) Mammalian Wildlife

Lynch (1973) studied the occurrence of selected toxic metals in cottontail rabbits (Sylvilagus floridanus), squirrels (Squirus carolinensis and S. niger), and white-tailed deer (Odocoileus virginianus) in Ohio. The detection limit for arsenic residues was 0.001 ppm. Eleven samples of deer leg muscles were analyzed; six contained detectable arsenic residues. The highest amount found was 0.217 ppm.

Three samples of rabbit femur were analyzed, but none contained detectable arsenic residues. Twenty-two samples of rabbit leg muscle were also anlyzed; four contained detectable arsenic residues. The highest amount found was 0.020 ppm. A single sample of squirrel brain contained 0.055 ppm arsenic. Of four samples of squirrel femur analyzed, one contained arsenic at 0.017 ppm. A single sample of squirrel liver contained 0.035 ppm arsenic. Twenty-three samples of squirrel leg muscle were analyzed; 13 contained detectable arsenic residues. The highest amount found was 0.035 ppm.

(7) Food and Feed

The following studies indicate that inorganic arsenic residues (as As_2O_3) in various foods are generally below the established tolerance levels. Arsenic occurs in food and feed as either a natural constituent or as a residue from pesticides or smelter pollution.

Generally, the only foods which are high in arsenic are seafoods. Schroeder and Balassa (1966) sampled food and

beverages available in grocery stores and found that fish and other seafoods had the highest levels (mean of 4.64 ppm) while fruits had the lowest content (mean of 0.042 ppm).

Chapman (1926) reported mean values of up to 80 ppm of arsenic in mussels, oysters, and scallops, while mixed fresh water fish contained 0.65 ppm.

Bradicich et al. (1969) studied arsenic residues in samples of various food commodities in Texas in 1963 from areas where arsenical defoliation had been practiced. The study was continued in 1964, 1965, and 1966 for cottonseed products. A majority of the samples for 1963 (77 out of 107) showed arsenic residues; the average residue levels ranged from 0.01 to 0.90 ppm, and the maximum residue levels ranged from 0.01 to 3.72 ppm. Over 95% of the cottonseed oil and cottonseed meal samples showed residues significantly higher than the other commodities.

Of the 159 cottonseed-product samples tested from 1963 through 1966, 143 were positive, but only three were above the established tolerance level of 4 ppm for As_2O_3 (see Section I.D). The average residue level for all hull samples was 1.2 ppm, for all meal samples 1.4 ppm, and for oil samples (the main product of human consumption) 0.4 ppm.

In 1970 Steevens et al. (1972a) studied arsenic levels in flesh and peelings of potato tubers grown in Wisconsin potato fields on which sodium arsenite had been extensively used as a defoliant from 1958 to 1968. (The use of sodium arsenite as a potato vine defoliant was cancelled in 1969.) The arsenic concentration in potato peelings ranged from 0.2 to 2.3 ppm and in potato flesh ranged from a trace to 0.6 ppm. The arsenic (As) tolerance limit at that time was 2.6 ppm.

Crecelius (1977a) analyzed 19 samples (plus one duplicate of each of two samples) of domestic table wines from several types of arsenic (arsenite, arsenate, methylarsonic acid [MAA], and dimethylarsinic acid [DMAA]). Arsenite concentration in these samples ranged from < 1 to 420 ppb, and arsenate from < 1 to 110 ppb. Both MAA and DMAA levels were below the detection limit of 1 ppb in these samples. The United States does not have an arsenic standard for wine, although a maximum value of 20 ppb was once recommended. Great Britain's maximum tolerable arsenic level in wine is 100 ppb, and several other countries (not identified by the author) have a limit of 200 ppb. The maximum arsenic level for drinking water in the United States is 50 ppb. The proposed 20 ppb U.S. Standard for wine was exceeded by 15 of the 19 samples for arsenite and 14 samples for arsenate; the 50 ppb U.S. water standard was exceeded by 12 samples for arsenite and two samples for arsenate; the 100 ppb British

Standard for wine was exceeded by ten samples for arsenite and one sample for arsenate; the 200 ppb standard from "other countries" for wine was exceeded by five samples for arsenite. The author did not investigate agricultural practices in the vineyards. The author described the arsenic levels in some samples as "surprisingly high" and suggested they were due to use of arsenicals in the production of grapes. The tolerance level for lead arsenate on grapes is 7 ppm and for sodium arsenate is 3.5 ppm. There is an interim tolerance of 0.5 ppm for use of sodium arsenite on grapes.

The Food and Drug Administration (FDA) conducts periodic Market Basket Surveys of pesticide residues in total diet samples of ready-to-eat food. The samples are representative of a two-week intake for males 16 to 19 years old from moderate income families. Composite samples of food commodity groups are analyzed for arsenic as As_2O_3. The analytical method does not distinguish between naturally occurring arsenic and arsenic residues from industrial or agricultural sources. The following studies reported on arsenic residues found in FDA's Market Basket Survey.

Cummings (1966) reported that arsenic residues in samples from Baltimore, Maryland, analyzed in May 1964,

ranged from 0.10 to 4.7 ppm. Food commodity groups in which arsenic residues were found were meat, fish, and poultry; grain and cereal products; potatoes; legume vegetables; root vegetables; and fruit.

Duggan et al. (1966) reported on pesticide residues in diet samples collected bimonthly from June 1964 through April 1965 from retail food stores in Boston, Massachusetts; Kansas City, Missouri; and Los Angeles, California. Arsenic (As_2O_3) was found in six of the 216 composite samples assayed, at levels ranging from 0.1 to 4.7 ppm. Arsenic was present in one of the 18 meat, fish, and poultry samples at 0.12 ppm; in one of the 18 grain and cereal samples at 0.10 ppm; in one of the 18 potato samples at 4.7 ppm; in one of the 18 legume vegetable samples at 0.11 ppm; in one of the 18 root vegetable samples at 0.10 ppm; and in one of the 18 fruit samples at 0.18 ppm.

Duggan and Weatherwax (1967) reported on the average daily intake of all pesticide residues in or on the total diet samples collected in 25 cities from June 1964 through April 1966. The results showed that the daily intake of arsenic residues (As_2O_3), expressed in milligrams per day, for samples collected from June 1964 through April 1965, were trace (>0.001 mg) for meat, fish, and poultry samples; 0.002 for grains and cereals; 0.063 for potatoes; 0.001 for legume vegetables; 0.001 for root vegetables; and 0.002 for fruits.

Results for samples collected from June 1965 through April 1966 were 0.003 for meat, fish, and poultry; 0.001 for grain and cereals; trace for root vegetables; 0.001 for garden fruits; and 0.001 for sugars and adjuncts. The authors noted that whereas the average 16-to-19-year-old male consumes about 8.8 pounds of food and drink daily, the average individual in the general population consumes only about 4.8 pounds daily.

Duggan et al. (1967) reported on pesticide residues in total diet samples collected from June 1965 through April 1966. Arsenic residues, ranging from 0.1 to 0.5 ppm (As_2O_3), were found in 5 of 28 composites of meat, fish, and poultry; in one of 28 composites of grain and cereals at 0.1 ppm; in one of 28 composites of root vegetables at 0.1 ppm; in one composite of garden fruits at 0.1 ppm; and in one of 28 composites of sugars and adjuncts at 0.1 ppm.

Martin and Duggan (1968) reported on 360 total diet samples, from 30 markets in 29 cities for June 1966 through April 1967. Arsenic (As_2O_3) was found in 33 diet samples; residue levels ranged from 0.1 to 0.4 ppm. Eight samples showed arsenic residues below the analytical sensitivity level.

H. Pesticide Episode Reports System (PERS)

EPA's Pesticide Program maintains a Pesticide Episode Reports System (PERS) which collects reports of pesticide exposure affecting humans, domestic animals, livestock, and wildlife (EPA 1977). According to those records, there were 308 episodes from 1966 through April 1977 involving various inorganic arsenicals.

There were 25 episodes involving use of arsenic trioxide alone as a rodenticide or insecticide. All of these involved humans. For 15 of these 25 episodes, which include seven fatalities, there was substantial evidence that arsenic trioxide was directly involved; and for eight episodes, there was insufficient evidence to either prove or disprove involvement of arsenic trioxide.

There were 17 episodes involving use of arsenic trioxide as an herbicide. Seven of these involved other active ingredients, including arsenic acid, lead arsenate, arsenous oxide, heptachlor, and sodium chlorate. Six of these 17 episodes involved livestock, five involved crop contamination, three involved humans, and one each involved a bee kill and water contamination. For seven of these episodes which include one fatality, there was substantial evidence that arsenic trioxide was directly involved; for

five episodes, there was insufficient evidence; and for one episode, there was evidence which proved that arsenic trioxide was not responsible.

There were 128 episodes involving use of sodium arsenate and/or arsenite as an insecticide and wood preservative. One of these episodes involved other active ingredients. One of these episodes involved a dog, one involved livestock, and the other 126 episodes involved humans, mostly children. For 14 of these 128 episodes which include two fatalities, there was substantial evidence that sodium arsenate/arsenite was directly involved; for 16 episodes which include one fatality, there was circumstantial evidence; and for 98 episodes which include one fatality, there was insufficient evidence to either prove or disprove involvement of sodium arsenate/arsenite.

There were 50 episodes involving use of sodium arsenite as an herbicide. In three of these episodes other forms of arsenic were also involved. One each of the 49 episodes involved a stand of trees and a dog; 20 involved livestock; and 28 involved humans. For 34 of these episodes which include twenty fatalities, there was substantial evidence that sodium arsenite was directly involved; for five episodes, there was circumstantial evidence; for 10 episodes which include one fatality, there was insufficient evidence; and for one episode, there was evidence which proved that sodium arsenite was not responsible.

There were 33 episodes involving use of lead arsenate as an insecticide. Boric acid was involved in two of these episodes, of which 31 involved humans, one involved livestock, and one involved contamination of well water. For five of these 33 episodes, there was substantial evidence that lead arsenate was directly involved; and for 28 episodes, there was insufficient evidence to either prove or disprove involvement of lead arsenate. There were no fatalities in any of the episodes involving humans.

There were 16 episodes involving use of calcium arsenate as an insecticide or herbicide. Five of these involved calcium arsenate alone, and eleven also involved other active ingredients (mostly metaldehyde). Twelve of these episodes involved humans, two involved livestock, and one each involved a dog and well water contamination. For three of these 13 episodes, there was substantial evidence that calcium arsenate was directly involved; for four episodes, there was circumstantial evidence; for eight episodes which include one fatality, there was evidence which proved that calcium arsenate was not responsible.

There were three episodes involving use of copper acetoarsenite as an insecticide, all of which involved humans.[4/] For one episode, there was substantial evidence

4/ In one episode, other active ingredients (MSMA, diazinon, and malathion) were also involved.

that copper acetoarsenite was directly involved; and for two episodes, there was insufficient evidence to either prove or disprove involvement of copper acetoarsenite. No fatalities were reported.

In addition, 36 episodes involving various inorganic arsenicals were reported which were not use-related. These episodes involved suicides and homicides, fires, and transportation accidents.

1. Lead Arsenate - Chronic Effects Due to Lead

Although lead arsenate contains a lead moiety, the chronic effects seen in vintners and others who use the compound do not correspond to chronic lead effects. Rather the effects are typical of those seen with other inorganic arsenicals (see Section IV. B). In the human body, inorganic lead has damaging effects on the hematological, neurological, and renal systems (Nordberg 1976). The Agency will conduct a separate evaluation of possible adverse effects due to lead in the future.

Lead interrupts many steps in the pathway of heme synthesis and formation of hemaglobin, both part of the blood-forming process. Lead also shortens the life span of erythrocytes. Lead affects both the central and peripheral nervous systems. Encephalopathy is a major effect on the central nervous system and

usually results from a more intensive and prolonged exposure to lead than that inducing hematological effects. The acute form may be fatal. Peripheral nervous system disorders due to chronic lead exposure are characterized by selective involvement of motor neurons with little sensory involvement. Lead effects on the renal system, such as nephritis, are seen primarily in adults with heavy occupational exposure. The long-term effect on the kidneys is nonspecific nephropathy.

Teratogenic and reproductive effects of lead in humans have not been studied extensively. There are reports of steriltiy, stillbirths, and miscarriages in women industrially exposed.

J. Arsenate and Arsenite: Interconversion

Studies discussed in this portion of the position document indicate arsenate (in either the organic or inorganic form) to be the predominant form of arsenic in mammals. When inorganic arsenite is administered the majority of the arsenic is converted (oxidized) to the less acutely toxic pentavalent form. Information on the conversion of the less acutely toxic pentavalent arsenicals (arsenates) to the more acutely toxic trivalent form (arsenites) is of importance in evaluating the environmental and health effects of the inorganic arsenic compounds used as pesticides.

Based on studies presented in this section and on an analysis by EPA's Carcinogen Assessment Group (EPA 1978) the Agency concludes that although oxidation of trivalent arsenic (arsenite) to the pentavalent form (arsenate) is the favored reaction, pentavalent arsenic (arsenate) can be reduced in vivo to the trivalent form (arsenite). This conclusion is supported by: 1) in vivo experiments in mammals, 2) qualitative similarities in toxic effects of arsenite and arsenate, and 3) data showing an equilibrium ratio between arsenate and arsenite. For additional information dealing with metabolism see Sections I.E(1)(c), (d), and I.E.(5).

(1) Metabolism - In Vivo Interconversion

The following studies show that inorganic arsenite (trivalent) is oxidized in vivo to arsenate (pentavalent) and/or that inorganic arsenate is reduced in vivo to arsenite.

Mealey et al. (1959) demonstrated that conversion takes place within human body tissues. Radioactive inorganic arsenite was administered intravenously to five humans; the amounts of arsenite and arsenate in the urine were monitored over time. During the first four days, the percentage of

arsenite to arsenate in the urine leveled off at about 75% arsenate. Results indicated that oxidation of arsenite to arsenate took place within body tissues.

Winkler (1962) had findings similar to Mealey et al. (1959) after identifying and estimating arsenic residues in livers of rats ingesting arsenicals. Rats were fed sodium arsenite and sodium arsenate at 125 and 250 ppm of arsenic. The animals were killed after 90 days, and their livers were analyzed. The results showed that trivalent inorganic arsenic was largely changed to the pentavalent form in the rat. Pentavalent arsenic, however, was not reduced to the trivalent form.

Lakso and Peoples (1975) observed essentially similar levels of methylated arsenic and inorganic arsenic (individual species not measured) after feeding experiments with cows and dogs in which both sodium arsenate and potassium arsenite were administered. The authors suggested that the short delay in increased methylated arsenic excretion after arsenite feeding is indicative of the oxidation of arsenite to arsenate prior to methylation.

Crecelius (1977b) studied changes in the chemical speciation of arsenic following ingestion by man. The

subject of this study was one 30-year-old male whose diet was controlled to minimize the intake of arsenic from any other food or drink before and during the experiment.

In the experiment, 450 ml of wine, containing 50 ug trivalent and 13 ug pentavalent arsenic, was ingested. The major form of arsenic excreted in the urine after 61 hours was dimethylarsinic acid (DMAA), a pentavalent arsenical, which accounted for about 50% of the total 63 ug of arsenic ingested. Trivalent and pentavalent arsenic each accounted for 8%, and methylarsonic acid (MAA), another pentavalent arsenical, for 14%. The author concluded that, when trivalent arsenic is ingested, a small portion is excreted unchanged as arsenite, but that the majority is oxidized and methylated in the body and excreted as DMAA and MAA (pentavalent arsenic).

Conversion of the trivalent to the pentavalent form of arsenic has often been described in the literature (Oak Ridge 1976; EPA 1976b; AWPI 1977).

Although the *in vivo* oxidation of trivalent arsenic to pentavalent arsenic is the favored reaction, the possibility of reduction *in vivo* of pentavalent arsenic to the trivalent form has been suggested by several investigations.

Thuret (1939) reported that *in vitro* experiments showed reduction of pentavalent arsenic, in contact with

liver pulp, to the trivalent form after six hours. Lanz et al. (1950), in a study on rats using radio-labeled sodium arsenate, reported that 10 to 15% of the inorganic arsenic recovered from the urine was in the trivalent form.

Ginsburg and Lotspeich (1963) and Ginsburg (1965) observed that arsenates are reduced to arsenites under certain conditions. These studies are of particular concern to the Agency in that they report reduction *in vivo*.

Ginsburg and Lotspeich (1963), in a study on the interrelation of arsenate and phosphate transport in the dog kidney, reported *in vivo* reduction of arsenate to arsenite during intravenous infusion of a solution containing pentavalent arsenic and 1.5% trivalent arsenic. About 5.5% of the plasma arsenic and 14% of the urinary arsenic was in the trivalent state during the first three periods of the experiment. The authors also noted a net secretion of trivalent arsenic in the urine because of intracellular reduction by renal tissue.

In further investigations, Ginsburg (1965) demonstrated that some infused arsenate is reabsorbed by the dog kidney and reduced to arsenite. A representative experiment measured the kidney clearance of arsenate and arsenite during the intravenous infusion

of a solution containing arsenate (98.6%) and only 1.4% arsenite. If both valence forms are treated similarly by the kidney (i.e., no conversion), the relative proportions of pentavalent and trivalent arsenic in the urine should be the same as in the plasma. After 35 minutes of infusion, however, 5.6% of the plasma arsenic and 14% of the urine arsenic was trivalent. Based on comparisons with *in vitro* experiments, this higher level of arsenite *in vivo* was not accounted for by simple filtration by the kidney or by a greater reduction of arsenate in the urine than in the plasma. In 15 control experiments the ratio of the percent of arsenite in urine to the percent of arsenite in plasma ranged from 1.9 to 4.2 (mean 2.8). After infusion of arsenate, there was a net renal tubular reabsorption of arsenate (26% of the filtered arsenate) and a net secretion of arsenite occurred. The rate of arsenite secretion was directly proportional to the rate of arsenate reabsorption. There was also a greater concentration of arsenite in renal venous plasma than in renal arterial plasma.

In another experiment where a solution of arsenite (91.6%) containing 8.4% arsenate was infused into the dog, arsenate appeared in the plasma and urine

at levels greater than 8.4%, indicating *in vivo* oxidation. There was a net reabsorption of trivalent and, to a lesser extent, of pentavalent arsenic. There was no net secretion into the urine of arsenite during this infusion which indicates that arsenite is probably not actively transported in the kidney. When arsenate was then added to the infusion solution in the second phase of the experiment, the additional arsenate was available for reabsorption. Consequently, the former net reabsorption of arsenite changed to a net secretion of arsenite, indicating a conversion of arsenate to arsenite.

After experimentally examining several hypothetical explanations for the increased presence of arsenite in the urine and plasma, the author concluded that arsenite is secreted into urine and blood from an intracellular site (tubular cells) in the kidney, where some of the arsenate reabsorbed from the glomerular filtrate is intracellularly reduced to arsenite. This process is dependent on a concentration gradient for arsenite from cell to urine which is established by the intracellular reduction of the arsenate reabsorbed from the glomerular filtrate. Ginsburg noted that this gradient for arsenite from cell to urine and blood was established only when the arsenic infusion contained large amounts

of arsenate relative to arsenite. He also noted that it is not known whether the arsenic retained in the kidney cells is in the form of arsenate or arsenite.

Peoples (1964), however, failed to show in vivo -duction of arsenate to arsenite. In this study arsenic acid (a pentavalent arsenical) was fed to lactating Holstein cows at levels of 0 to 1.25 mg/kg daily for eight weeks. The results showed no significant variation in weekly milk samples at any feeding level from controls, although small amounts of arsenic acid were detected. The arsenic found in the livers of two cows fed arsenic acid was entirely in the pentavalent state. The author concluded that the small amounts of tissue-bound arsenic were entirely in the pentavalent form and that there was no evidence that it was partly reduced to the trivalent form.

The Occupational Safety and Health Administration [OSHA (1978)], has concluded "that the presently available evidence indicates that there is little or no conversion of pentavalent to trivalent arsenic in

the body." In reaching this conclusion OSHA relied heavily on testimony by Dr. Peoples (1975) during hearings held by OSHA on inorganic arsenic. Dr. Peoples concluded that the Ginsburg findings "could not be relied on because the analytical method was not accurate in the range of the reported sample size."

In an effort to answer the question of the realiability of the studies by Ginsburg and Lotspeich (1963) and Ginsburg (1965), EPA submitted these studies for outside review. In validation reports for the Agency on both Ginsburg papers, Lombardini (1978b; 1978c) concludes that Ginsburg's observation of in vivo reduction of arsenate to arsenite were supported by the data given. In addition, Lombardini (1978a) evaluated the paper by Crawford and Storey (1944) which described the analytical method used by Ginsburg. Lombardini stated that the method was "somewhat of a classical technique...still in use in 1978." He added, "This procedure has been time-tested and is valid."

Although the issue is not free from doubt, the Agency concludes that sufficient scientific information is available to support the conclusion that

pentavalent arsenic can be converted to trivalent arsenic in the body. In questions such as this one on the frontiers of scientific knowledge, decision-making must to a large extent rest on policy judgments. In view of the scientific information available and the serious health issues at stake, the Agency has made the judgment that it is in the public interest to bring forward through the RPAR process its tentative conclusion that pentavalent arsenic converts to trivalent arsenic in vivo. The RPAR process is intended to be an information-gathering process which will provide the broadest base possible for final regulatory decision-making.

(2) Toxicity - Qualitative Similarities and Quantitative Differences

The similarity of the toxic effects of trivalent and pentavalent arsenicals may provide additional support for the proposition that there is in vivo interconversion of arsenate to arsenite. The following studies describe some of the qualitative similarities and the quantitative differences in the effects of arsenate and arsenite.

The acute toxicity (via intraperitioneal injections) of sodium arsenite to rats is about 3.6 times that of sodium arsenate (Franke and Moxon 1936).

In a teratology study of random-bred albino Swiss-Webster mice, Hood (1972) administered sodium arsenite via single intraperitoneal injections on days 7 to 12 of gestation at dose levels of 10 and 12 mg/kg. He observed the same spectrum of abnormalities which he had seen with a 4.5 times higher sodium arsenate treatment of 45 mg/kg (Hood and Bishop 1972). The incidence of defects was slightly higher with the 45 mg/kg arsenate. Although the author admits that the similarity of abnormalities does not prove the mechanism of action is identical for the two forms of arsenic, he does state that the experiment tends to support the theory that there is interconversion of arsenate to arsenite, which is the more acutely toxic form.

A 2-year feeding study was performed by Byron et al. (1967) on Osborne-Mendel rats and beagle dogs using sodium arsenite and sodium arsenate. For the rat experiment, the sodium arsenite dose levels ranged from 0 to

250 ppm; and for sodium arsenate they ranged from 0 to 400 ppm. The most significant effect from treatment with each arsenical was a marked enlargement of the common bile duct, which was accompanied by a 10-fold thickening of the endothelium. Both agents produced the same effect; the incidence and severity of the enlargement was slightly higher in the highest two arsenate dose groups than the highest two arsenite groups. Dogs treated with arsenate or arsenite experienced weight loss and high mortality, but displayed no histological features remarkably different from controls. The degree of mortality and weight loss was equivalent in the highest and second highest dose groups. In rats and dogs, both forms of arsenic produced the same qualitative toxic effects; the trivalent arsenite was about twice as potent as the pentavalent arsenate.

Savchuck et al. (1960) investigated the differential toxicity (expressed as growth inhibition) of arsenite and arsenate in cultured HeLa cells. Both arsenate and arsenite were found to inhibit the growth of cultured

human liver cells. The levels of arsenic necessary to inhibit growth by 50% were 2.0 ppm of sodium arsenate (pentavalent arsenic) and 0.13 ppm of sodium arsenite (trivalent arsenic). Arsenite, therefore, is approximately 15 times more toxic than arsenate in this in vitro system. Growth inhibition is a definable toxicological end point as is acute toxicity, teratogenicity, and weight loss. Therefore, this study is of value in evaluating similarity of toxic effects.

The studies discussed above demonstrate that both forms of arsenic produce the same qualitative toxic effects, and that the trivalent arsenite is about twice as potent as the pentavalent species. These studies lend support to findings primarily by Ginsburg (1965) and Ginsburg and Lotspeich (1963) that pentavalent arsenic is converted to the trivalent form in vivo.

(3) Equilibrium

Under anaerobic conditions, there is in vitro evidence of an equilbrium between arsenate and arsenite that favors arsenite. The following study by Crecelius (1977a), using wine fermentation (anaerobic process) indicates a four-to-one ratio of arsenite to arsenate regardless of whether arsenite or arsenate were added to a grape juice/yeast mixture. This study demonstrates

that living systems (i.e., yeast) do not affect the valence state of arsenic in an indiscriminant manner. Under a given set of physical and biological conditions the relative proportion of arsenite and arsenate will reach an equilibrium ratio. The arsenic is never all in the form of arsenate nor all in the form of arsenite. If an equilibrium between arsenate and arsenite is attained under anaerobic conditions (i.e., fermentation), it would be logical to assume that under aerobic conditions (the predominant condition in mammals) an equilibrium ratio would also exist. The concept of an equilibrium between arsenate and arsenite suggests that a certain amount of arsenite will be formed whenever a living system is exposed to arsenate. The studies by Ginsburg lend support to this theory.

Crecelius (1977a) studied the metabolic interconversion of inorganic arsenite and arsenate by yeast in the fermentation of grape juice [see Section I.G.(9)]. Trivalent arsenic (arsenite), pentavalent arsenic (arsenate), MAA, and DMAA were added to four equal samples of concord grape juice with wine yeast. The amounts of the four kinds of arsenic were determined after two weeks when the fermentation had stopped. The results showed that the fermentation process reduced approximately 60% of the initial pentavalent arsenic

to the trivalent form, but did not methylate the trivalent arsenic and did not demethylate the MAA. The author also found that, of the arsenic in the final solutions, the final ratio of arsenite to arsenate concentration was about four to one. These results indicate that pentavalent or trivalent arsenic is changed in the fermentation process to yield the same equilibrium ratio, a 4 to 1 ratio of arsenite to arsenate (EPA 1978), regardless of the starting material. Creceluis also found in a survey of 19 domestic table wines, that the arsenite to arsenate ratio averaged about four to one.

It is likely that arsenate will be favored in aerobic conditions that might exist in intact animals. Arsenite

will be favored in anaerobic systems such as wine fermentation. Ferguson and Gavis (1972) have suggested that oxidation and reduction may occur in aerobic and anaerobic natural waters, respectively.

II. REGULATORY HISTORY

Inorganic arsenicals have been the subject of numerous Federal regulatory actions since they were originally registered as pesticides. These actions have been initiated by both the U.S. Department of Agriculture and EPA.

Pesticide Registration (PR) Notice 67-2 issued on August 1, 1967, called attention to "numerous accidents involving children and domestic animals" caused by products containing sodium arsenite and arsenic trioxide. Such products labeled for home use were required to contain no more than 2.0% sodium arsenite nor more than 1.5% arsenic trioxide. In addition, labels of commercial products containing these two compounds were required to warn against storage in or around the home and against allowing domestic animals to graze on treated areas (USDA 1967).

PR Notice 68-3 issued January 10, 1968, classified use of calcium arsenate on droppings under caged layers in poultry houses as a non-food use, and allowed its registration for this use to continue in the absence of finite tolerances (USDA 1968a).

PR Notice 68-8 issued April 24, 1968, classified use of calcium arsenate on tree fruits and use of paris green as a special mosquito larvicide as non-food uses, and allowed registrations for these uses to continue in the absence of finite tolerances (USDA 1968b).

PR Notice 68-19 issued November 29, 1968, required labeling statements for certain economic poisons to protect honeybees and other pollinating insects (USDA 1968c). Arsenical pesticides were listed as "highly toxic" to bees, and labels of such products intended for foliage treatment on agricultural crops, mosquito abatement treatments, and foliage treatment on forest or shade trees were required to bear the warning, "This product is highly toxic to bees exposed to direct treatment or residue on crops."

PR Notice 71-7 issued May 7, 1971, announced that EPA was undertaking an active internal review of arsenicals and other pesticides to determine if any of the presently registered products presented questions of safety substantial enough to initiate the administrative process of cancellation (EPA 1971a).

A series of PR Notices (USDA 1968d; 1968e; 1968f; 1969a; 1969b; 1969c; and 1970a; and EPA 1971b) were issued over several years, extending certain "no residue" and "zero tolerance" registrations of various inorganic arsenicals, based on pending petitions for finite tolerances. Such extensions were granted for use of sodium arsenite on grapes, potatoes, aquatic weeds, beef cattle, goats, and sheep; and for use of lead arsenate on almonds, cabbage, lettuce, potatoes, spinach, turnips, and walnuts.

Another series of PR Notices (USDA 1968g; 1969d; and 1970b; and EPA 1972) were issued to cancel registrations of certain inorganic arsenicals for use on food in the absence of finite tolerances or exemptions. Such cancellations were

issued for the use of arsenic trioxide, calcium arsenate, lead arsenate, copper acetoarsenite, sodium arsenate, and sodium arsenite on livestock and numerous food and feed crops.

III. EXPOSURE ANALYSIS

In subsequent portions of this document the Working Group will discuss the potential adverse effects of inorganic arsenicals. The Agency's decision whether to permit the registration or continued registration of these pesticides will be based, to a large extent, upon anticipated human exposure resulting from their use.

This preliminary exposure analysis discusses representative exposure situations as a basis for comment by interested parties. Before the Agency makes any regulatory decision concerning inorganic arsenical pesticides, a complete risk and benefit analysis will be performed, and the benefits of use of these pesticides will be weighed against their potential risks.

The Working Group emphasizes that a safe level for carcinogenic or mutagenic substances has never been established. Therefore, any level of a carcinogenic or mutagenic substance may cause an adverse effect and the Agency does not consider exposure when determining whether to issue an RPAR based on carcinogenic or mutagenic

effects. Exposure is considered, however, when determining whether or not to issue an RPAR based on other chronic effects such as teratogenicity (birth defects). This analysis will address estimated exposure from arsenical pesticides to applicators and the general public.

Arsenical pesticides differ from synthetic organic pesticides in that arsenic is a natural element and does not degrade to less toxic constituents; therefore, the arsenic added to the environment through pesticide application will either remain as residues in the soil where applied, or be removed from the site by plant uptake, erosion, or volatilization. Since arsenic undergoes biological and chemical transformations, the arsenic from pesticides becomes indistinguishable from that occurring naturally.

The Working Group will examine representative exposure situations for each inorganic arsenic compound (see Table 8).

Table 8. Representative Exposure Situations

Agricultural Exposure (including Home and Garden)
1. Applicator exposure resulting from the use of arsenical pesticides on food crops, weeds, etc.; and
2. Exposure resulting from the consumption of food or feed crops treated with arsenical pesticides;
Exposure Resulting From the Treatment of Wood With Arsenical Wood Preservatives and Subsequent Use of Treated Wood
1. Large-scale industrial situations;
2. Intermittent application to wood during on site construction;
3. Exposure from the handling, sawing, and use of treated wood products; and
4. Exposure to individuals living or working in dwellings containing arsenic-treated wood.

When there is the potential for teratogenic effects, the Working Group must determine whether an ample margin of safety exists between the level of arsenic which produces teratogenic effects and the level to which humans can reasonably be anticipated to be exposed. Teratogenic effects occur only when the woman is exposed to the chemical during pregnancy. For this reason the Working Group will base its calculations on a 60-kg female applicator of child-bearing age.

A. Agricultural Exposure (Including Home and Garden)

The following inorganic arsenical pesticides are registered with the Environmental Protection Agency: arsenic acid, ammonium arsenite, arsenic trioxide, arsenic pentoxide, calcium arsenate, copper acetoarsenite, lead arsenate, sodium arsenite, sodium arsenate, and sodium pyroarsenate. Each of these pesticides, with the exception of sodium pyroarsenate, ammonium arsenite, and arsenic pentoxide, have agricultural or home uses. The Working Group will evaluate the oral, dermal, and inhalation exposure to those arsenical pesticides registered for agricultural or home use. Sodium pyroarsenate, ammonium arsenite, and arsenic pentoxide are used in the preservation of wood and will be discussed in subsequent portions of this report.

Because of the lack of data concerning exposure, the Working Group will make the following assumptions:

1. For analysis of oral exposure, the Working Group assumes that arsenic residues will be present at currently authorized tolerance levels. The Working Group realizes that residues found in or on raw agricultural commodities are typically lower than tolerance levels; however, because residues could lawfully be present at tolerance levels it is prudent to assume tolerance levels for regulatory pruposes. The arsenic contribution of each food will be calculated based on the average daily intake of the commodity as reported by Lehman (1962). Iwataki and Horiuchi (1959) sampled feces, urine, and blood of a normal (Japanese) population for arsenic. More than half of the arsenic detected (form not indicated) was found in the blood and urine. It is assumed, therefore, that 75% of all arsenic ingested will be absorbed;

2. For analysis of dermal exposure, it is assumed that the applicator will be contaminated with up to one pint of liquid (diluted for application per label instructions) and up to 10 grams of dust (in the case of dust formulations). It is further assumed that 10% of all arsenic in contact with the skin will be absorbed. Oehme (1972) states that inorganic arsenic is absorbed significantly through the intact skin; and

3. For analysis of inhalation exposure, it is assumed the applicator's breathing rate is 1.8 m^3/hr (active rate) and that all material inhaled will be absorbed. The Working Group also assumes that the applicator would spray for approximately seven hours per day.

(1) Sodium Arsenite

The Working Group has selected a product for analysis which contains 42.5% sodium arsenite as formulated (equivalent to 1.05 kg arsenic/gal). When diluted according to label directions, the solution contains 3.28 grams of arsenic per pint.

(a) Oral Exposure

In order to calculate the theoretical quantity of arsenic in the average diet, the Working Group will use the following formula, A x B x C x D / E in which:

A = the theoretical average daily intake of sodium arsenite in mg/kg, expressed as As_2O_3;

B = 1.5 kg, the average daily food intake (Lehman 1962);

C = 0.76, a correction factor for conversion from milligrams of the arsenic compound (As_2O_3) to total arsenic (the molecular weight of arsenic divided by the molecular weight of the compound);

D = 0.75% absorption factor; and

E = 60 kg. (Exposure is normally expressed in terms of milligrams of chemical per kilogram of body weight. Because teratogenic effects are of concern with inorganic arsenic all calculations of exposure will be based on exposure to a 60-kg woman.)

Therefore, for oral exposure to sodium arsenite (see Table 9), A x B x C x D / E = 0.051 mg/kg X 1.5 kg X 0.76 X 0.75 / 60 kg = 0.0007 mg/kg arsenic.

Table 9. Arsenic in Daily Diet Resulting From the Use of Sodium Arsenite

Food Item	Food Factor (percent of total diet)	Tolerance (mg/kg) [40 CFR 180.335]	Contribution to daily intake (mg/kg[a])
Beef[b]	4.60	0.7	0.0322
Horse[b]	data not available	0.7	---
Edible Offals[c]	0.69	2.7	0.01863
Grapes	0.32	0.05	0.00016
Total	5.61		0.05099 mg/kg

a/ Expressed as As_2O_3.
b/ Meat, fat, and meat by-products.
c/ Liver and kidney.

(b) Dermal Exposure

Assuming a one-pint exposure during mixing, handling, and application, an applicator would receive 3.28 grams X 0.1 (absorption) = 0.328 gm, or 328 mg; 328 mg / 60 kg = 5.47 mg arsenic/kg of body weight from dermal exposure to sodium arsenite.

(c) Inhalation Exposure

Using an estimate of 100 ug/m^3 [based on the concentration of arsenic in sodium arsenite and on extrapolation of data from Pinto et al. (1976)] for the concentration of metallic arsenic and the assumptions stated above, the inhalation exposure for a 7-hour day would be approximately 100 ug/m^3 X 1.8 m^3/hr X 7 hrs = 1,260 ug or 1.260 mg arsenic; 1.260 mg / 60 kg = 0.021 mg arsenic/kg of body weight from inhalation exposure to sodium arsenite.

Total theoretical exposure from sodium arsenite equals:

0.0007 mg/kg (through food)
5.47 mg/kg (due to dermal exposure)
0.021 mg/kg (due to inhalation exposure)
5.5 mg/kg

(2) Arsenic Acid

The Working Group has selected a representative arsenic acid product for analysis which contains 17.5% arsenic acid as formulated (equivalent to 1.5 pounds arsenic per gal). When diluted according to label directions, the solution contains 1.625 grams of arsenic per pint.

Table 10. Arsenic in Daily Diet Resulting From the Use of Arsenic Acid

Food Item	Food Factor (percent of total diet)	Tolerance (mg/kg) [40 CFR 180.180]	Contribution to daily intake (mg/kg[a])
cottonseed	0.6[b]	4	0.0316
Total	0.6		0.0316 mg/kg

a/ Expressed As_2O_3.
b/ Cottonseed is used in edible oils, margarine, etc. This food factor is an estimate and is not found in Lehman (1962).

(a) Oral Exposure

The theoretical quantity of arsenic in the daily diet due to arsenic acid (see Table 10) equals A x B x C x D / E (see oral exposure analysis for sodium arsenite), or 0.0316 mg/kg X 1.5 kg X 0.76 X 0.75 / 60 kg = 0.0005 mg/kg arsenic.

(b) Dermal Exposure

Assuming a one-pint exposure, an applicator would receive 1.625 grams x 0.1 (absorption) = 0.1625 gm, or 162.5 mg; 162.5 mg / 60 kg = 2.7 mg arsenic/kg of body weight from dermal exposure to arsenic acid.

(c) Inhalation Exposure

Using the estimate of 100 ug/m^3 [based on extrapolation of data from Pinto et al. (1976)] for the concentration of arsenic and the assumptions stated above, the inhalation exposure for a 7-hour day would be 100 ug/m^3 X 1.8 m^3/hr X 7 hr = 1260 ug, or 1.260 mg arsenic; 1.260 mg / 60 kg = 0.021 mg/kg arsenic from inhalation exposure to arsenic acid.

Total theoretical exposure from arsenic acid equals:

0.0005 mg/kg (through food)
2.7 mg/kg (dermal exposure)
0.021 mg/kg (inhalation exposure)
2.72 mg/kg

In addition to the exposure situations discussed above, the Working Group is also interested in arsenic exposure resulting from ginning of cotton treated with arsenic acid (as a desiccant). As a representative exposure situation, the Working Group will assess exposure to individuals living or working close to a cotton gin processing cotton treated with arsenic acid. Suta (1978) provided data showing the estimated arsenic in air concentrations at various distances from cotton gins. Arsenic concentrations were estimated to range from 0.003 ug/m^3 to 29 ug/m^3 for

various cotton gins at various distances. Assuming all arsenic in air to be respirable and the concentration to be 29 ug/m^3, inhalation exposure for a 60-kg woman would be: 1.0 m^3/hr (breathing rate of a resting person) X 29 ug/m^3 (concentration of arsenic in air) / 60 kg = 0.48 ug/kg per hour. Assuming exposure to continue 24 hours per day, exposure would be 11.60 ug/kg, or 0.0116 mg/kg per day. These exposure estimates are for individuals living near cotton gins. Exposure to workers inside the gin would be significantly higher.

(3) Sodium Arsenate

(a) Oral Exposure

Although sodium arsenate has established tolerance levels for use on grapes, no sodium arsenate products are registered for such use; therefore, arsenic residues will not be present due to the use of sodium arsenate.

(b) Dermal Exposure

The Working Group has selected a representative sodium arsenate product containing 3% sodium arsenate as formulated (1.3% as arsenic) which is used in combination with sugar as an ant bait. Dermal exposure to the ant bait would generally be low; however, the directions call for saturating cotton with the 1.3% arsenic solution. In this case, the applicator could

reasonably be expected to contact the wet cotton and be dermally exposed to as much as 30 gm (2 tablespoons) of solution. By calculation this would be 30 gm X 0.013 (% arsenic) = 0.39 gm, or 390 mg of arsenic metal. If 10% is absorbed by a 60-kg woman then the theoretical dermal dose would be: 390 mg X 0.10 = 39 mg; 39 mg / 60 kg = 0.65 mg/kg arsenic from dermal exposure to sodium arsenate.

(c) Inhalation Exposure

Since the product discussed above is used as a very dilute liquid, not a spray, inhalation exposure to sodium arsenate would not be significant.

Total theoretical exposure to sodium arsenate, therefore, would be 0.65 mg/kg (resulting from dermal exposure).

(4) Copper Acetoarsenite

The Working Group has selected a representative copper acetoarsenite (paris green) product which is used as a mosquito larvicide and contains 3.56% arsenic as the metal. The product is ready to use and does not require dilution. If applied aerially, minimal exposure to the applicator is expected. If applied by hand duster, dermal and inhalation exposure may result.

(a) Oral Exposure

Copper acetoarsenite has no registered food uses.

(b) Dermal Exposure

Wolfe et al. (1967) investigated dermal and inhalation exposure resulting from the use of insecticide dusts. Applicators using a power duster to apply 4% malathion dust to beans were exposed to 23 mg/hr dermally and 0.73 mg/hr by inhalation. Assuming the conditions and the equipment were similar, exposure from the use of copper acetoarsenite dust (containing 3.56% arsenic as the metal) can be calculated by incorporating a factor to correct for the difference between the concentration of pesticide in Wolfe's study (4%) and the arsenic concentration in copper acetoarsenite:

$$\text{Correction Factor } \frac{3.56\% \text{ (concentration of arsenic)}}{4\% \text{ (concentration of malathion)}} = 0.89.$$

Therefore, dermal exposure would be equal to:

23 mg/hr x 0.89 (correction factor) x 7-hours (length of work day) x 0.1 (absorption) / 60 kg = 0.24 mg/kg.

(c) Inhalation Exposure

Using Wolfe's information as discussed above, the inhalation exposure for a 7-hour work day is estimated to be:

0.73 mg/hr x 0.89 (correction factor) x 7 hours / 60 kg = 0.08 mg/kg.

Total theoretical exposure for copper acetoarsenite equals:

0.24 mg/kg (due to dermal exposure)
0.08 mg/kg (due to inhalation exposure)
0.32 mg/kg

(5) Calcium Arsenate

For the dermal and inhalation exposure analyses, the Working Group has selected a dust representative product containing 5% calcium arsenate (equivalent to 22.73 gm calcium arsenate per pound).

(a) Oral Exposure

Table 11. Arsenic in Daily Diet Resulting From the Use of Calcium Arsenate

Food Item	Food Factor (percent of total diet)	Tolerance (mg/kg) [40 CFR 180.192]	Contribution to daily intake (mg/kg[a/])
Asparagus	0.23	3.5	0.0081
Beans	1.24	3.5	0.0434
Berries[b/]	0.06	3.5	0.0021
Blackberries[c/]	0.03	3.5	0.0011
Broccoli	0.19	3.5	0.0067
Brussels Sprouts	0.16	3.5	0.0056
Cabbage[d/]	0.49	3.5	0.0172
Carrots	0.55	3.5	0.0193
Cauliflower	0.43	3.5	0.0151
Celery	0.76	3.5	0.0256
Corn	1.19	3.5	0.0417
Cucumbers	0.73	3.5	0.0256
Egg plant	0.32	3.5	0.0112
Kale[e/]	0.14	3.5	0.0049
Melons	1.98	3.5	0.0693
Peppers	0.25	3.5	0.0088
Raspberries[c/]	0.04	3.5	0.0014
Rutabagas	data not available		
Spinach	0.29	3.5	0.0102
Squash[f/]	0.19	3.5	0.0067
Tomatoes	3.34	3.5	0.1169
Turnips	data not available		
Total	12.16		0.4409

a/ Expressed as As_2O_3.
b/ Includes blueberries, boysenberries, and huckleberries.
c/ Includes dewberries, loganberries, and youngberries.
d/ Includes kohlrabi.
e/ Includes pumpkins.

The theoretical quantity of arsenic in the daily diet (see Table 11) due to calcium arsenate equals A X B X C X D / E (see the oral exposure analysis for sodium arsenite) = 0.4409 mg/kg X 1.5 kg X 0.76 X 0.75 / 60 kg = 0.006 mg/kg.

(b) Dermal Exposure

Using Wolfe's observations as discussed in Section III. (4)(C) (Copper Acetoarsenite), dermal exposure would be equal to 23 mg/hr X 1.2 (correction factor for calcium arsenate) x 0.1 (absorption) X 7 hours X 0.38 (percentage of arsenic in calcium arsenate) / 60 kg = 0.12 mg/kg.

(c) Inhalation Exposure

Using Wolfe's information concerning inhalation, exposure would equal 0.73 mg/hr X 1.2 (correction factor) X 7 hours X 0.38 (percent arsenic) / 60 = 0.04 mg/kg.

Total theoretical exposure from calcium arsenate equals:

0.006 mg/kg (through food)
0.12 mg/kg (through dermal exposure)
0.04 mg/kg (due to inhalation exposure)
0.17 mg/kg

(6) Arsenic Trioxide: Oral, Dermal, and Inhalation Exposure

The Working Group has selected a representative arsenic trioxide product which contains 1.5% As_2O_3 and is used for control of mice, ants, and roaches. This bait is used full strength for rodents and diluted with meal for insects. The actual metallic arsenic concentration is 1.136%.

Due to the nature of the product, it is doubtful that oral or inhalation exposure would be significant. Carelessness and ordinary transfer problems could result in a dermal exposure of 2 tablespoons of solution on the hands. Two tablespoons contains approximately 30 gm of formulated product. Dermal exposure would then equal: 30 gms X 0.10 (10% absorption) X 0.0136 (% arsenic) = 0.0408 gm, or 40.8 mg arsenic; 40.8 mg / 60 kg = 0.68 mg/kg arsenic from dermal exposure to arsenic trioxide.

(7) Lead Arsenate

The Working Group has selected a representative lead arsenate product which contains 80% lead arsenate as formulated (equivalent to 0.03 pounds of lead arsenate/gallon) and when diluted according to label directions will contain 0.375 grams arsenic per pint.

Table 12. Arsenic in Daily Diet Resulting From the Use of Lead Arsenate

Food Item	Food Factor (percent of total diet)	Tolerance (mg/kg) [40 CFR 180.194]	Contribution to daily intake (mg/kg[a/])
Apples	1.81	7[b/]	0.1267
Apricots	0.12	7	0.0084
Asparagus	0.23	7	0.0161
Avocados	0.03	7	0.0021
Berries[c/]	0.06	7	0.0042
Blackberries[d/]	0.03	7	0.0021
Celery	0.76	7	0.0532
Cherries	0.17	7	0.0119
Cranberries	0.10	7	0.007
Currants[e/]	0.12	7	0.0084
Eggplant	0.32	7	0.0224
Grapes	0.32	7	0.0224
Mangoes	data not available		
Nectarines	0.06	7	0.0042
Peaches	1.03	7	0.0721
Pears	0.32	7	0.0224
Peppers	0.25	7	0.0175
Plums (fresh)	0.23	7	0.0161
Quinces	data not available		
Raspberries[d/]	0.04	7	0.0028
Strawberries	0.19	7	0.0133
Tomatoes	3.34	7	0.2338
Citrus Fruits	4.00	7	0.04
total	13.53	7[f/]	0.7071

a/ Expressed as combined lead.
b/ Equivalent to 3.5 ppm As_2O_3.
c/ Includes huckleberries, boysenberries, and blueberries.
d/ Includes dewberries, loganberries, and youngberries.
e/ Includes gooseberries.
f/ Equivalent to 0.5 ppm As_2O_3.

(a) Oral Exposure

The theoretical quantity of arsenic in the daily diet due to lead arsenate (see Table 12) equals A X B X C X D / E (see oral exposure analysis for sodium arsenite) = 0.354 mg/kg (equivalent to 0.707 combined lead) X 1.5 kg X 0.76 X 0.75 / 60 = 0.005 mg/kg arsenic.

(b) Dermal Exposure

Assuming a one-pint exposure, an applicator would receive 0.375 gm X 0.1 (10% absorption) = 0.0375 gm, or 37.5 mg; 37.5 mg / 60 kg = 0.63 mg/kg arsenic from dermal exposure to lead arsenate.

(c) Inhalation Exposure

Using the estimate of 100 ug/m^3 [based on extrapolation of data from Pinto et al. (1976)] for the concentration of arsenic, and the assumptions stated above, the inhalation exposure could be 100 ug/m^3 X 1.8 m^3/hr X 7 hr = 1,260 ug, or 1.260 mg arsenic; 1.260 mg / 60 kg = 0.021 mg/kg arsenic from inhalation exposure to lead arsenate.

Total theoretical exposure from lead arsenate equals:

0.006 mg/kg (through food)
0.63 mg/kg (dermal exposure)
0.021 mg/kg (inhalation exposure)
0.66 mg/kg

b. Exposure From Treatment of Wood With Arsenical Wood Preservatives and Subsequent Use of Such Products

Arsenical salts are used to protect a variety of wood products against various pests. Arsenic treated wood is used in the construction of homes, in utility poles, fence posts, marine piers, pilings, etc. The majority of wood is treated in closed cylinders under pressure, although there are instances where the preservatives are painted on wood or wood is soaked in solutions containing arsenic.

There are three basic arsenical wood preservatives of commercial importance. These are Chromated Copper Arsenate (CCA), Ammonical Copper Arsenate (ACA), and Fluor Chrome Arsenate Phenol (FCAP). These three wood preservatives are various mixtures made, in part, from either ammonium arsenite, arsenic trioxide (both trivalent arsenicals), arsenic acid, arsenic pentoxide, sodium arsenate, or sodium pyroarsenate (all pentavalent arsenicals). During the formulation process all trivalent arsenic is oxidized to pentavalent arsenic (AWPI 1977).

In the past, arsenical wood preservatives have been referred to under many different names. The various names and relationships of chemical constituants are cross-referenced in Table 13. The percentages listed indicate

the relative proportion of active ingredients in the formulated products. The percentages listed are on the oxide (solids) basis. Table 14 lists typical arsenical formulations available.

Table 13.[a/]

Type	Chromium as CrO_3	Copper as CuO	Arsenic as As_2O_3	Common Name
CHROMATED COPPER ARSENATE (CCA, Cr-Cu-As, CKA)				
A	65.5%	18.1%	16.4%	CCA-A CCA-Type I Ascu Greensalt-K Erdalith
B	35.3%	19.6%	45.1%	CCB-B CCA-Type II Boliden Salt K-33 Lahontuho K-33
C	47.5%	18.5%	34.0%	CCA-C Tenalith C Celcure AP Chrom- Ar-Cu Tancas C Wolman CCA K-33-C

Copper as CuO	Arsenic as As_2O_3	Ammonia NH_3	Common Name
AMMONICAL COPPER ARSENATE (ACA, Chemonite)			
49.8%	50.2%	weight of NH_3 1.5-2.0 times weight of CuO	CCA Chemonite

Fluoride as F	Chromium as CrO_3	Arsenic As_2O_3	Dinitrophenol of Sodium Pentachlorophenate	Common Name
FLUOR CHROME ARSENATE PHENOL				
22%	37%	25%	16%	FCAP Tanalith U CFA Osmosalts

a/ AWPI (1977)

Table 14. Representative Formulations of Pesticide Products Used in the Pressure Treatment of Wood

CCA-Type A		**CCA-Type B**	
Potassium Dichromate	53%	Arsenic Pentoxide*	34%
Copper Sulfate	32%	Copper Oxide	14.5%
Arsenic Pentoxide*	10%	Chromic Acid	25.6%
Inerts	5%	Inerts	25%
*(Arsenic as the metal	5.64%)	*(Arsenic as the metal	22.17%)
CCA-Type C			
Arsenic Pentoxide*	26.9%		
Sodium Dichromate	42.6%		
Copper Sulfate	25.5%		
Inert	5.9%		
*(Arsenic as the metal	14.09%)		
Ammonical Copper Arsenate (ACA)+			
Arsenic Trioxide*	37%		
Copper Metallic	36%		
*(Arsenic as the metal	28.12%)		
Fluor Chrome Arsenate Phenol			
Sodium Chromate		34.2%	
Sodium Floride		27.5%	
Disodium Arsenate*		23.8%	
Sodium Pentachlorophenate		7.8%	
Sodium Salts of other chlorophenol & related compounds		1.7%	
Inert		5.0%	
*(Arsenic as the metal		9.59%)	

+This is not sold as a formulated product. These chemicals are used to produce an intermediate which is diluted on site to prepare the dilute treating solution. There are no formulated products for ACA preservatives intended for industrial use.

The following is an example of activities associated with industrial wood treatment situations although individual treatment facilities may vary their procedure. In the industrial situation arsenical formulations (concentrates)

are delivered as dusts, liquid concentrates, or pastes. The concentrates are dumped or otherwise metered and mixed with water to form dilute treating solutions of 0.75 to 6.0%, depending on the intended end-use of the treated wood.

Lumber to be treated is stickered (stacked so as to provide spaces for fluid circulation) onto a tram either by machine or hand. The loaded tram is moved (e.g., by rail) into the treatment cylinder. The cylinder door is closed and air in the cylinder evacuated. The cylinder is then filled with treating solution from storage tanks. Pressure is applied to achieve maximum impregnation, a process which may require up to eight hours. The cylinder is emptied by air pressure upon completion of the treatment cycle.

Following removal of the treating solution, the cylinder door is unbolted and pulled open manually. The charged lumber is pulled from the cylinder on its tram to a concrete pad where drippings are collected for reuse. The treated product is removed from the tram by forklift truck for air drying in the yard or kiln. The treated lumber is unstickered by laborers who also stamp on the trademark and stack the lumber for shipment.

Exposure from treatment of wood or its subsequent use can be divided as follows: large scale industrial situations; intermittent application to wood during on-site construction;

exposure from handling, sawing, fabrication, etc., of treated wood products; and exposure to individuals living or working in dwellings containing arsenic-treated wood.

(1) Large Scale Industrial Situations

The regulation of industrial situations to insure worker safety is normally the responsibility of the Occupational Safety and Health Administration. However, Section 4(b)(1) of the Occupational Safety and Health Act (29 U.S.C. S653(b) (1)) provides that "[n]othing in this Act shall apply to working conditions of employees with respect to which other Federal Agencies...exercise statutory authority to prescribe or embrace standards or restrictions affecting occupational safety or health." Since the industrial treatment of wood with arsenic preservatives involves the application of a pesticide, EPA has assumed regulatory responsibility under FIFRA. EPA regulation of arsenic in this use pattern has the effect of pre-empting OSHA. Exposure to inorganic arsenic in the industrial setting could arise through the inhalation and/or dermal routes.

(a) Inhalation Exposure

Several studies have been conducted to determine the amount of arsenic in air in or around treatment plants during the treatment and handling of treated wood (Table 15). Most of this data was presented by Dr. Robert Arsenault during OSHA public hearings in April 1975 on the proposed exposure standard for inorganic arsenic. Dr. Arsenault noted that "a large amount of the data was obtained during damp winter conditions so that the numbers (concentration of arsenic in air) shown are conservative estimates. In dry summer weather, the airborne arsenic from handling lumber, such as in air seasoning yards and during unstickering, would be much higher" (Arsenault 1975).

Table 15. Arsenic in Air During Treatment and Handling of Wood[a/]

Chemical	Activity	Arsenic Concentration in Air (mg/m^3)	Comment
ACA	changing retort charge	0.012	
ACA	boring of treated wood to assay for arsenic	0.001	
ACA	mixing treatment charges, moving barrels containing arsenic to door of mixer, dump chemical, scrape chute	0.020 0.025	light rain
ACA	hand stickering of treated wood	0.006 0.004 0.004	light rain
ACA	loading treated poles on flat car	0	
ACA	wiring and strapping treated lumber on flat car	0.007 0.002	
ACA	loading and stickering of treated poles in kiln driers	0 0.002	light rain
ACA	machine stickering of treated plywood	0.003 0.0034 0.002	
ACA	hand unstickering of treated lumber	0.020 0.007 0.055	
ACA	unloading of kiln drier; moving material from kiln to shed	0.001 0.005 0.007	
ACA	five feet down wind from stack of air drying poles	0.002 0.003 0.004	
CCA	exhaust of drying kiln fully charged with treated lumber	0.0042	sample was taken at the exhaust of kiln by inserting probe directly into the gas stream as it was exhausted

a/ Data from Arsenault (1975).

Table 15 (continued)

Chemical	Activity	Arsenic Concentration in Air (mg/m^3)	Comment
CCA	surface area of a bundle of treated lumber just out of the retort	0.0014	
CCA	treating wood	0.008	
CCA	stacking dry treated lumber	0.002	
CCA-B	treated lumber stored outside	0.001	
CCA-B	mixing/treating area	0.001	no mixing underway no forced ventilation
CCA-B	changing the charge of treatment tank	0.03	
CCA-C	mixing preservative	0.05	concentrate mixed in open tanks
CCA-C	in lumber yard of treatment plant	0.01	
CCA-C	stacking dry treated plywood	0.01	
CCA-C	stacking dry treated plywood	0.22	
CCA-C	handling treated lumber in lumber yard	0.0018	
CCA-C	stickering and unstickering of treated wood	0.007	
CCA-C	locomotive operator and helper moving treated wood from treatment site site	0.0001	
CCA-C	taking test sample (boring) of treated wood at treatment site	0.0001	

Table 15 (continued)

Chemical	Activity	Arsenic Concentration in Air (mg/m^3)	Comment
CCA-C	treater loading wood	0.0001	
CCA-C	mixing preservative from dry powder concentrate	0.77 (8 hour TWA for 2 mixes 0.016)	one or two mixes/ day; each mix takes 8.8 to 9 min, operator handles dry wood the remainder of the day, operator used respirator, gloves, and apron

The highest arsenic-in-air values (0.77 mg/m^3) were detected when workers mixed preservatives from dry preservative concentrates. This activity, however, does not continue for extended periods of time. As noted by the author, one or two mixes are prepared each working day with each mixing operation lasting 8.8 to 9.0 minutes. The 8-hour time-weighted average (TWA) for this activity would be approximately 0.016 mg/m^3.

The next highest arsenic-in-air value (0.22 mg/m^3) was detected when workers stacked dry, treated plywood. In order to calculate the theoretical inhalation exposure resulting from this activity, the Working Group assumes that the workers' breathing rate is 1.8 m^3/hr; that all inhaled arsenic will be respirable; that all arsenic reaching the lung will be absorbed; and that the worker will spend the entire working day (8 hours) in the contaminated areas.

Therefore, 0.22 mg/m^3 X 1.8 m^3/hr (breathing rate) = 0.396 mg arsenic/hr; 0.396 mg/hr X 8 hours per day = 3.168 mg arsenic inhaled per day. If we assume the worker to be a 60-kg woman, then exposure would be 3.168 mg / 60 kg = 0.05 mg/kg per day.

The Pacific Biomedical Research Center, University of Hawaii (PBRC Undated), conducted urine analysis studies of workers involved in the industrial application of arsenical (CCA) preservatives. The purpose of the study was to estimate arsenic exposure by monitoring arsenic concentration in urine. The study population was divided into two groups "reference" and "exposed." The reference group corresponded to workers employed in the wood treating industry whose contact with CCA preservatives was "incidental or ambiguous such as clerks, salesman, chemists, plant superintendents, etc." The author concluded there was not a significant difference in residue levels between the "exposed" and "reference" groups. The author did not, however, compare the arsenic concentration of the "reference" group to that of the local population not associated with the preservative (Letter 1978). Mean arsenic values of individuals in the study were as follows: "Exposed" (42 individuals), 0.074 ppm; "Reference" (12 individuals), 0.070 ppm.

The author indicated there may have been an incidental exposure to arsenic by the "reference group." The author also indicated that the plant was almost entirely in the open (Letter 1978).

(b) Dermal Exposure

Little data is available with which to assess potential dermal exposure to arsenic in the industrial situation. If we assume, however, that the actual treatment of wood occurs in closed cylinders under pressure and that there is no exposure to the worker during treatment, then dermal exposure will be limited either to handling preservative concentrates and dilute treating solutions, or to handling wet treated wood after treatment. The following analysis assesses the potential dermal exposure resulting from the use of dust and liquid concentrate formulations.

(i) Handling Preservative Concentrates and Dilute Treating Solutions

a. Dust Formulations

Fluor Chrome Arsenate Phenol (FCAP) preservative formulations are shipped as dusts. The Working Group assumes that workers involved in dumping dust concentrates to prepare dilute treating solutions will each be contaminated with up to 10 grams of dust concentrate. Representative FCAP formulations contain 9.59% arsenic as the metal. The Working Group assumes that 10% of all dust coming in contact with the worker will be absorbed. Therefore, 10 gm (exposure) X 0.0959 (% concentration of arsenic as metallic) = 0.959 gm, or 959 mg; 959 mg X 0.1 (% absorbed) = 95.9 mg. If we assume the worker to be a 60-kg woman, exposure would be 95.9 mg / 60 kg = 1.6 mg/kg arsenic exposure to FCAP concentrate wood preservatives.

b. Liquid Formulations

CCA preservatives are often shipped as liquid concentrates. The Working Group assumes workers involved in preparing dilute CCA solutions could be contaminated with up to 20 ml of liquid concentrate (enough to wet both hands). Representative CCA formulations contain 27.17% arsenic as metallic. The Working Group assumes 10% of all arsenic coming in contact with the worker will be absorbed. Therefore, 20 ml (20 gms) X 0.27 (% arsenic as metallic) = 5.4 gm arsenic reaching the body; 5.4 X 0.1 (% absorption) = 0.54 gm, or 540 mg. If we assume the worker to be a 60-kg woman, exposure would be 540 mg / 60 kg = 9.0 mg/kg arsenic resulting from exposure to CCA concentrate wood preservatives.

Klemmer et al. (1975) studied the amount of arsenic in house dust of persons employed in the wood preserving industry and persons living in homes containing arsenic treated wood. One member of the study group was actually

involved with handling CCA formulated products (Memo 1978b). This home did not contain treated wood and yet contained 1,080 ppm arsenic in house dust, while homes whose residents did not work with arsenic and did not contain treated wood showed levels of 1.1 to 9.1 ppm arsenic in dust. The Working Group assumes the 1,080 ppm arsenic in dust resulted from occupational exposure to CCA wood preservatives and documents the significant nature of worker exposure to arsenic resulting from industrial use of arsenical wood preservatives.

(ii) Handling Wet Treated Wood After Treatment

The Working Group assumes workers in plants using arsenic in the treatment of wood will handle wet, treated wood without gloves or specialized clothing (Memo 1978b) and that the concentration of arsenic on the surface of the wood will be that of the treating solution. If gloves are worn, however, it is assumed these gloves would be made of cloth, would become saturated with treating solution, and would provide no protection against dermal exposure. Treating solutions vary from 0.75 to 6% active ingredient depending on the intended end use of the treated wood (AWPI 1977). Table 14 lists representative preservative formulations. Assuming that the treating solution used will contain 6% active ingredient, the amount of arsenic as metallic in representative dilute treating solutions will be 1.33% for CCA, 1.69% for ACA, and 0.57% for FCAP.

Assuming that the treated wood removed from the treatment cylinders will be dripping wet, that the worker will be contaminated with up to 20 ml (enough to wet both hands) of dilute treating solution, and that 10% of this arsenic-contaminated solution will be absorbed, and using the figure of 1.69% metallic arsenic in dilute Ammonical Copper Arsenate preservatives as an example, the dermal exposure resulting from handling wet treated wood will be as follows: 20 ml (20 gm) X 0.017 (% arsenic as metallic) = 0.34 gm, or 340 mg arsenic reaching the body; 340 mg X 0.1 (% absorption) = 34 mg. If we assume the worker to be a 60-kg woman, the dermal exposure will be 33.8 mg / 60 kg = 0.57 mg/kg resulting from exposure to wet treated wood.

(2) Intermittent Application to Wood During On-Site Construction

Two wood preservative products (containing 7.7% ammonium arsenite, equivalent to 3.26% arsenic) are available for use during the construction of structures built with pressure-treated wood. The products are intended for use on freshly cut ends of previously treated lumber. The directions instruct the applicator (i.e., carpenter) to apply several coats of preservative with a brush or rag mop and to wash

off the solution to avoid staining the hands. Because these products are applied as a viscous liquid, and not as a spray, inhalation exposure to ammonium arsenite would be minimal.

Assuming 20 ml (enough to wet both hands) of solution will reach the skin and or clothing and that 10% will be absorbed before the skin is washed, the applicator could receive 20 ml (20 gm) X 0.033 (% concentration of arsenic) X 0.1 (% absorption) = 0.066 gm, or 66 mg arsenic.

Assuming the applicator to be a 60-kg woman, the applicator would receive 66 mg / 60 kg = 1.1 mg/kg arsenic from dermal exposure to ammonium arsenite.

(3) Exposure from Handling, Sawing, Fabrication, etc., of Treated Wood Products

Exposure to inorganic arsenic under these conditons would arise through the inhalation and/or dermal routes.

(a) Inhalation Exposure

Several studies have been conducted to determine the amount of arsenic in air during cutting and building operations involving treated wood. Table 16 indicates the results from these studies.

The highest value recorded was 0.7 mg/m^3 during the cutting of ACA-treated plywood using a router. The author commented that these results were obtained after only 5 minutes of cutting. In order to conduct this analysis the following assumptions are made:

1. The worker will be involved in sawing related activities for 8 hours a day;
2. The air will not become saturated with arsenic particles in only 5 minutes. The arsenic in air level will be at least double the five minute value, or 1.4 mg/m^3, if this activity continued throughout the working day;
3. The workers breathing rate will be 1.8 m^3/hr;
4. 25% of the arsenic containing dust will be respirable;
5. All arsenic reaching the lung will be absorbed;
6. All of the non-respirable arsenic (not absorbed through lung tissue but present in respiratory system) containing dust will enter the gastro-intestinal tract;
7. Of the 75% non-respirable dust, 75% will be absorbed through the GI tract; and
8. The worker will spend the entire working day in the contaminated area.

Table 16. Arsenic Concentrations in Air During Cutting and Building Operations[a]

Chemical	Activity	Arsenic Concentration in Air mg/m^3)	Comments
ACA	sawing treated wood indoors (10" table saw)	0.24 0.048 0.042 0.062	results obtained during the rainy season and would be much higher in drier months
ACA	shaving the ends of treated poles	0.019 0.123 0.249	
ACA	cutting treated plywood with a router, plywood treated with 0.6 pcf	0.07-0.70	after cutting 5 min
ACA	cutting plywood with skill saw, plywood treated with 0.6 pcf	0.36	after cutting through feet of board (author notes the respirable fraction was 5.3%, or 0.019 mg/M^3)
ACA	handling and hammering treated wood	0.01-0.033 (TWA) 0.01-0.024)	author notes that these values include some cutting opperations
CCA-B	sawing treated studs	0.038	no forced ventilation in building
CCA-B	Construction of foundation panels using treated wood (assembly area)	0.012	no forced ventilation in building
CCA-B	during assembly of treated wood foundations	0.012	no forced ventilation in building
CCA-C	cutting plywood containing 0.6 pcf using a 6" fine-toothed plywood finish blade	0.071 0.097 0.015	this blade produces less dust per cut than a general purpose blade; data collected indoors, no external ventilation

a/ Data from Arsenault (1975).

Therefore 1.4 mg/m^3 X 1.8 m^3/hr (breathing rate) = 2.52 mg/hr; 2.52 mg/hr X 8 hours/day = 20.16 mg/day; 20.16 mg X 0.25 (% respirable) = 5.04 mg reaching lungs; 20.16 mg X 0.75 (% non-respirable) = 15.12 mg/day to GI tract; 15.12 mg X 0.75 (75% GI absorption) = 11.34 mg absorbed through GI tract. Total theoretical arsenic exposure would be:

5.04 (absorbed through lung)
11.34 (absorbed through GI tract)
16.38 mg/day total arsenic exposure per day.

If we assume the worker to be a 60-kg woman, exposure would be 16.38 mg / 60 kg = 0.27 mg/kg.

(b) Dermal Exposure

In order to determine the amount of arsenic which can enter the system, it is first necessary to determine how much arsenic is available on the surface of the treated wood. Several studies are available showing the amount of arsenic removed when dry, treated wood is wiped with a sponge, wet human hand, dry human hand, etc. Table 17 summarizes that data available on arsenic content of wood dust, splinters, etc. It is also desirable to determine the amount of arsenic which can be leached from wood when exposed to damp or flooded conditions. Table 18 summarizes the available data showing the amount of inorganic arsenic

which can be leached from treated wood. If the treated wood, e.g. as used in houses, is subjected to water from rain, flooding, etc., this additional arsenic would then be available and of importance when considering dermal exposure.

A representative exposure situation would be that resulting from the construction of homes using arsenic-treated wood. A typical activity would be the carrying, positioning, and nailing of treated plywood in the construction of floors of domestic dwellings. For purposes of this analysis the following assumptions are made:

1. The worker will work with four by eight foot sheets (32 sq ft) of arsenic-treated plywood;
2. The treated wood will be positioned and nailed at the rate of 7 sheets per hour;
3. The worker will work with the treated wood for 8 hours per day;
4. The worker will come in contact with 15% of the surface of the wood; and
5. The worker's hands will become damp with perspiration and could remove up to 0.529 mg/ft^2 arsenic (Dreher 1974).

Therefore, the worker will handle 224 sq ft of wood per hour and 1,792 sq ft during the course of an 8-hour day. If the worker's skin comes in contact with 15% of the wood, then the worker would contact 15% X 1,792 sq ft, or 268.8 sq ft of arsenic-treated wood per day. As shown by Dreher (1974) [see Table 17], a damp human hand can remove up to 0.529 mg arsenic per square foot of wood. If the worker contacts 268.8 sq ft, a total of 142.2 mg arsenic will come in contact with the skin per day. If the worker is wearing short pants and kneels on the wood during construction exposure would be higher. Assuming 10% absorption, 14.22 mg of arsenic will enter the body. If we assume the worker to be a 60-kg woman, exposure would then be calculated as 14.22 mg / 60 kg = 0.24 mg/kg resulting from contact with arsenic-treated wood. Fahlstrom et al. (1967) studied the leaching rate of CCA-treated wood samples. The authors found that treated wood leached with distilled water liberated 10.5% of its arsenic in two days. It is possible that dermal exposure to treated wood as discussed above would be significantly higher if treated wood was subjected to rain prior to or during construction.

Table 17. Arsenic Content of Dust, Splinters, Deposites, etc., from the Surface of Plywood Pressure-treated with Chromated Copper Arsenate (CCA) Wood Preservatives

Dwelling or Sample Number	Procedure Used to Assay for Arsenic- or Description of Sample	Amount of Arsenic Removed	Comment	Reference
A[a/]	Splinters	310 ppm >4,540 ppm 2,450 ppm	taken from treated wood in homes	NCMA (1976)
A	Wood Scraping	>190 ppm	"	"
A	Greenish salt-like Formation on Wood	3,050 ppm	"	"
B[a/]	Splinter	>460 ppm >420 ppm >340 ppm >440 ppm	"	"
B	White Deposit	>460 ppm	"	"
B	Dust Around knot Hole	>210	"	"
1	Splinter	12,000 ppm	"	Sleater and Berger (1977)
2	Splinter	15,000 ppm	"	"
4	Splinter	10,000 ppm	"	"
7[a/]	Splinter	10,000 ppm	"	"
8[a/]	Splinter	10,000 ppm	"	"

a/ Homes A and 7 are the same; Homes B and 8 are the same.
> Exceeded the limit of detection.

Table 17 (Continued)

Dwelling or Sample Number	Procedure Used to Assay for Arsenic or Description of Sample	Amount of Arsenic Removed (mg/sq ft)	Comment	Reference
-	Wood wiped with dry tissue	0.078-0.22	Dry wood	Dreher (1974)
-	Wood wiped with damp sponge	0.109-0.53		"
-	"	0.236-0.252	Wood soaked in quiescent water for 24 hours, air dried and wiped	"
-	Dry wood wiped with a dry human hand	0.0075-0.252	Wood - 2 wks old	"
-	"	0.005-0.0085	Wood - 2 yrs old	"
-	Dry wood wiped with a damp human hand	0.115-0.278	Wood - 2 wks old	"
-		0.255-0.529	Wood - 2 yrs old	"
-	Wood wiped with a dry human hand	0.0005-0.00095	Wood - 2 wks old Wood hosed down prior to wipe	"
-	"	0.005-0.015	Wood - 2 yrs old Wood hosed down prior to wipe	"

Table 17 (Continued)

Dwelling or Sample Number	Procedure Used to Assay for Arsenic or Description of Sample	Amount of Arsenic Removed (mg/sq ft)	Comment	Reference
-	Wood wiped with damp human hand	0.071-0.082	2-wk-old wood hosed down prior to wipe	Dreher (1974)
-		0.097-0.185	2-yr-old wood hosed down prior to wipe	"
7	Wood wiped with dry tissue	0.004	Taken from treated wood in home	Sleater & Berger (1977)
8	"	0.005	"	"
9	"	0.002	"	"
10	"	0.009	"	"
11	"	0.128	Taken from treated wood in home; whitish deposit where reinforcing rod meets wall	"

Table 18. The Amount of Arsenic Leached From Treated Wood

Type Preservative	Size of Wood Sample	Leaching Material	Duration of Test	Amount Leached	Comments	Reference
CCA (FDN)	3x5x5/8"	deionized water	1 day	5.3 ppm (0.12 mg/in)	0.6 pcf	Memo (1973)
			3 days	10 ppm (0.33 mg/in)		"
			7 days	13.3 ppm (0.30 mg/in)		
			28 days	45.5 ppm (1.03 mg/in)		
CCA (LP22)	3x5x5/8"	deionized water	1 day	3.0 ppm (1.03 mg/in)	0.4 pcf	Memo (1973)
			3 days	6.6 ppm (0.15 mg/in)		
			7 days	9.66 ppm (0.22 mg/in)		
			28 days	23.3 ppm (0.53 mg/in)		
Control	3x5x5/8"	deionized water	1 day	0.016 ppm (0.0004 mg/in)	control	Memo (1973)
			28 days	0.023 (0.0005 mg/in)		
CCA	1.5x5x0.125"	distilled water	2 days	0.4%	1.37 pcf	Fahlstrom et al. (1967)
			14 days	0.5%		
			2 days	3.1 %	1.22 pcf	
			14 days	8.2%		

Table 18 (Continued)

Type Preservative	Size of Wood Sample	Leaching Material	Duration of Test	Amount Leached	Comments	Reference
CCA	1.5x5x0.125"	distilled water	2 days	10.5%	0.796 pcf	Fahlstrom et al. (1967)
			14 days	20.75%		
			2 days	19.65%	1.29 pcf	
			14 days	35.%		
FCAP	2x1x0.5"	distilled water	3/8 hr	0.8%	0.124 pcf	McCarthy and Wilson (1957)
			22 7/8 hr	4.5%		
			3.95 days	10.0%		
			127.94 days	35.4%		
ACA	2x1x0.5"	distilled water	3/8 hr	6.5%	0.555 pcf	McCarthy and Wilson (1957)
			22 7/8 hr	18.8%		
			3.95 days	29.3		
			127.94 days	55.2%		
CCA	2x1x0.5"	distilled water	3/8 hr	0.0%	0.124 pcf	McCarthy and Wilson (1957)
			22 7/8 hr	0.1%		
			3.95 days	0.1%		
			127.94 days	2.8%		
CCA	60x75x100 cm	tap water	10 minutes scrubbed with brush - from round surface	0.07-0.39 mg/sq ft	0.94 pcf (approx)	Johanson and Dale (1973)
			10 minutes scrubbed with brush - from intact end area	1.15-2.44 mg/sq ft		

(4) Exposure to Individuals Living and/or Working in Dwellings Containing Arsenic-Treated Wood

Exposure to inorganic arsenic resulting from living or working in dwellings containing arsenic-treated wood occurs through the inhalation and dermal routes.

(a) Inhalation Exposure

Two studies [NCMA (1976) and Sleater and Berger (1977)] are available which discuss the amount of arsenic in air of dwellings containing arsenic-treated wood. Table 19 summarizes the results from these studies.

The NCMA (1976) study was conducted by an independent testing laboratory (Froehling & Robertson, Inc.) for the National Concrete Masonry Association. In this test the air of two homes was sampled using a high volume air sampler fitted with an 8 x 10 inch fiberglass filters. A volume of 4,860 cubic feet of air was passed through the filters at each location. The tests were conducted during normal living activities at each location. Residents were in and out, cleaning, cooking, etc. Chemical analysis of the samples was conducted using the silver diethyldithiocarbamate method.

The Sleater and Berger (1977) study was conducted by the National Bureau of Standards (NBS). In this study the

air of eight homes were sampled for arsenic content. The samples were collected using high volume air samplers fitted with fiberglass or paper filters of approximately 0.3 micron porosity. Between 200 and 2,000 cubic meter of air per site was sampled deperding upon accessibility. Chemical analysis of the samples was conducted using the silver diethyldithiocarbamate method.

Both homes monitored by Froehling & Robertson (NCMA 1976) were also monitored by NBS (Sleater and Berger 1977), with markedly different results. Froehling & Robertson (NCMA 1976) monitored the houses on May 27, 1976, and recorded arsenic in air values of 0.6 to 3.6 mg/m^3. NBS monitored the houses in mid-December and mid-March of 1976 and recorded arsenic in air values of 0.002 to 0.031 ug/m^3.

In its report NBS commented concerning the markedly varying results of the NBS versus Froehling & Robertson. Of the differences in findings the authors note, "The disparity between the arsenic in air levels reported [refering to the NBS figures] cannot be explained at this time. It is clear the NBS has not confirmed the findings reported by NCMA, but neither has NBS refuted these findings." The authors note that a thorough cleaning of the residence prior to their visit could explain the lower levels of arsenic found by NBS. The results in Table 19 represent data from only seven

homes containing arsenic-treated wood. A survey of more treated homes could reveal much higher or lower levels of arsenic in air.

In order to calculate the theoretical arsenic exposure through inhalation, the following assumptions are made:

1. breathing rate to be 1.0 m^3/hr (resting mode) or 1.8 m^3/hr (active mode);
2. 100% of all arsenic in air will be respirable. A figure of 25% respirable was used when calculating inhalation exposure resulting from the cutting of arsenic-treated wood as discussed earlier. When cutting wood the fine particles of wood containing arsenic would become airborne but would probably not be completely respirable. In the case of a domestic dwelling, however, arsenic-containing dust would be of much smaller particle size and could therefore be respirable;
3. 100% of all respirable arsenic will be absorbed.
4. The resident of the dwelling will be present for 16-24 hours per day. It should be noted that, in the case of teratogenicity, the period of time during which the developing fetus is at risk may be

relatively short. Hood and Pike (1972), Hood et al. (1977; undated), etc., have demonstrated that arsenic exposure on one or two critical days of organogenesis will result in malformations. While it would be unreasonable to assume that a woman of child bearing age would remain in the arsenic treated home for 24 hours, day in and day out, it is not unreasonable to assume the woman to be present for any one continuous 24 hours period. If the developing fetus were to undergo a critical phase of organogenesis while the mother was present in a house containing arsenic-contaminated air it is not unreasonable to assume this exposure to continue for up to 24 hours.

Using the figure of 3.6 ug/m^3 (NCMA dwelling A) as a worst case situation and assuming the woman to be present in the house for 24 hours and that 16 of the 24 hours will be in the active mode (respiratory rate of 1.8 m^3/hr) and 8 hours in the resting mode (1.0 m^3/hr) exposure would be:

1.8 m^3/hr (active breathing rate) x 16 hours = 28.8, plus 1.0 m^3/hr (resting rate) x 8 hours = 36.8m^3/hr; 36.8 m^3/hr x 3.6 ug/m^3 (arsenic content in air) = 132.5 ug/24 hours or 0.132 mg/24 hours.

Assuming the resident to be a 60-kg woman, the resident would be exposed to 0.133 mg/60 kg = 0.002 mg/kg/day as a result of breathing arsenic-contaminated air.

Using the figure of 0.002 ug/m^3 (Sleater and Berger dwelling 8) as a best case situation and assuming the woman to be present in the house for 16 hours and that 8 hours of the 16 will be in the active mode (respiratory rate of 1.8 m^3/hr) and 8 hours in the resting mode (1.0 m^3/hr), exposure would be 7 x 10^{-7} mg/kg/day (trace).

Table 19. Arsenic in air of building constructed with wood pressure-treated with arsenical wood preservatives

Dwelling Number	Arsenic in Air (ug/m^3)	Comments	Reference
1	0.012	Treated wood exposed	Sleater and Berger (1977)
1	0.031	Treated wood covered	
2	0.016	Treated wood exposed	
2	--	Treated wood covered	
3	0.011-0.007	Masonry Constructed Foundation	
7	0.013	Treated Wood Exposed	
7	0.002	Treated Wood Covered	
8	0.019	Treated Wood Exposed	
8	0.002	Treated Wood Covered	
9	0.002	Treated Wood Exposed	
9	0.003	Treated Wood Covered	
10	0.005	Treated Wood Covered	
10	--	Treated Wood Covered	
11	0.003	Treated Wood Exposed	
11	0.003	Treated Wood Covered	
1-11	0.002	Average arsenic content of outside air	
A*	3.6	No Comment	NCMA (1976)
B*	0.6	No Comment	

a/ In some cases both NBS and NCMA examined the same dwellings; home A and 7 are the same dwelling, as are B and 8.

Table 20. Arsenic in dust of homes containing arsenic-treated wood

Dwelling Number	Arsenic Content of dust (ppm)	Comment	Reference
1	211	Exposed Plywood	Sleater and Berger (1977)
1	2	Covered Plywood	
3	28-27	Masonry Construction	
4	53	Covered Plywood	
6	1267	Exposed Plywood	
6	7	Covered Plywood	
7	123-354	Exposed Plywood	
8	61-69	Exposed Plywood	
9	138	Exposed Plywood	
0	18	Covered Plywood	
11	10	Exposed Plywood	
A	18 32 >440	No Comment	NCMA (1976)
B	>210 1640	No Comment	
-	11 21 13 17 23	From vacuum cleaner sweepings	Klemmer et al. (1975)

(b) Dermal Exposure

Dermal exposure could arise from direct contact with treated wood, or contact with arsenic-containing dust produced from or by treated wood.

(i) Direct Contact with Treated Wood

Tables 17 and 18 summarize relevant data concerning the amount of arsenic available in splinters, on the surface of treated wood, and the amount of arsenic which can be leached by water. The highest rates are listed in Table 21.

Table 21.

Source	Amount of arsenic	Comment	Reference
Greenish salt-like formation on wood	3,050 ppm	taken from treated wood in a home	NCMA (1976)
Splinter	14,000	"	Sleeter and Berger (1977)
Wood wiped by damp human hand	0.029 mg/ft^2	wood 2 yrs old	Dreher (1974)
Treated CCA wood soaked in deionized water	146.3 mg/ft^2	wood soaked for 28 days	Memo (1974)
"	43.2 mg/ft^2	wood soaked for 7 days	"

The Agency assumes that, based on the above data, a homeowner coming into contact with treated wood after flooding would experience the greatest potential exposure. It is conceivable that a home basement could be subjected to flooding for long periods of time. When pressure-treated wood, such as CCA-treated wood, is used in the construction of foundations, a polyethylene film is installed between the soil and the treated wood foundation. The American Wood Preservers Institute (AWPI 1976) says of this polyethylene film, "It should be understood that the polyethylene film serves as a water deflector and is not intended as a water proof membrane. The film will direct ground water downward and away from the wall to the drainage area below. Design of the AWWF (all weather wood foundation) anticipates that the plywood wall may become wet in some cases...."

For purposes of analyzing potential arsenic exposure resulting from the flooding of home basements constructed of arsenic-treated wood, the following assumptions are made:

1. The basement will be continuously flooded for 7 days;
2. The basement will be 30 feet long, 30 feet wide, and 8 feet high and will be flooded to a depth of 4 feet. This will result in a total of 480 sq. ft. exposed to flood waters;
3. When the flood water recedes 75% of the leached arsenic will be deposited onto the walls or floor;
4. The homeowner will clean the basement after the flood and will require not more than one day to complete the task;
5. 10% of the residual arsenic will come into contact with the skin; and
6. 10% of all arsenic coming into contact with the skin will be absorbed.

Therefore, 480 sq ft (amount of wood subjected to leaching) X 43.2 mg/ft^2 (amount of arsenic leached per sq ft [Memo 1973]) = 20,736 mg leached from wood; 20,736 mg X 0.75 (% of leached arsenic deposited on to walls or floor = 15,552 mg arsenic; 15,552 mg X 0.1 (% coming in contact with the skin) = 1,555 mg arsenic; 1,555 mg X 0.1 (% absorption) = 155 mg arsenic absorbed. Assuming the person at risk to be a 60-kg woman, exposure would be 155 mg / 60 kg = 2.59

mg/kg resulting from exposure to arsenic-treated wood after flooding.

If flooding were to continue for 28 days exposure would be 8.8 mg/kg.

(ii) Contact with Arsenic-Containing Dust Produced from or by Treated Wood

Table 20 summarizes the relevant data concerning the amount of arsenic available in the dust of homes containing arsenic-treated wood. The Working Group assumes that the homeowner can be dermally exposed with up to 10 grams of dust during the sweeping of arsenic-laden dust, that this dust will contain 1,640 ppm arsenic (Table 20), and that 10% of all arsenic will be absorbed. Therefore, 10 gm of dust X 1.64 mg arsenic/gm of dust (equivalent to 1,640 ppm) = 16.4 mg arsenic coming in contact with the skin. Assuming 10% is absorbed, the homeowner will assimilate 1.64 mg of arsenic. If the resident is a 60-kg woman, the dosage of arsenic would 1.64 mg / 60 kg = 0.03 mg/kg due to dust from arsenic-treated wood.

Total theoretical dermal exposure will be the sum of direct contact with treated wood and contact with dust containing arsenic produced from or by treated wood:

3.45 mg/kg (from flooded basements)
0.03 (contact with dust)
3.48 mg/kg total theoretical dermal exposure.

C. Summary

Table 22 summarizes the available information concerning exposure of a 60-kg woman to arsenic resulting from the use of inorganic arsenical pesticides. The only registered use for sodium pyroarsenate, ammonium arsenite, and arsenic pentoxide is for wood preservation situations; the levels of exposure to these forms of inorganic arsenic are listed under this category. Inorganic arsenical wood preservatives are commonly sold in three formulations (ACA, CCA, and FCAP). Exposure estimates for inorganic arsenical wood preservatives, as detailed in Table 22, were not calculated for each formulation/use situation; however, exposure estimates would be comparable for each use situation.

Human exposure as discussed in this document refers only to exposure resulting from the use of inorganic arsenical pesticides. Other sources of exposure to inorganic arsenic (i.e. smelters, coal-burning plants, volcanic debris) which contribute to the total exposure of the human population have not been discussed. This total exposure to inorganic arsenic would be higher than the exposure from pesticide use alone.

Table 22. Summary of the Total Theoretical Exposure To Inorganic Arsenic Resulting From the Use of Inorganic Arsenical Pesticides

Chemical or Use Situation	Total Theoretical Exposure (for a 60-kg Woman in mg/kg)
Agricultural Situations	
Sodium Arsenite	5.5
Arsenic Acid	2.72
Sodium Arsenate	0.65
Copper Acetoarsenite	0.32
Calcium Arsenate	0.17
Arsenic Trioxide	0.68
Lead Arsenate	0.66
Wood Preservative Situations (Sodium Pyroarsenate (Arsenic Trioxide, Arsenic Pentoxide, Sodium Arsenate, Arsenic Acid, and Ammonium Arsenite)	
Large Industrial Situations	
Inhalation Exposure	0.05
Dermal Exposure	0.57 - 9.0
Intermittent Application to Wood During On-Site Construction	
Dermal Exposure to Ammonium Arsenite	1.1
Exposure From Handling, Sawing, Fabricating, etc, of Treated Wood Products	
Inhalation Exposure	0.27
Dermal Exposure	0.24
Exposure To Individuals Living or Working In Dwellings Containing Arsenic-Treated Wood	
Inhalation Exposure	$7X10^{-7}$ - 0.002
Dermal Exposure	0.03 - 2.59

IV. SUMMARY OF SCIENTIFIC EVIDENCE TO SUPPORT REBUTTABLE PRESUMPTION.

A. Relation Between Arsenate and Arsenite

The inorganic arsenical pesticides discussed previously all have the element arsenic in common. Studies in the following sections describe oncogenic, mutagenic, teratogenic, and other adverse effects of inorganic arsenic salts and/or their metabolites. The Working Group contends that the effect(s) observed are typically due to arsenic from the arsenate or arsenite ions released upon dissociation of the salt in various aqueous systems. The Agency notes that inorganic arsenic salts (i.e. sodium arsenate, sodium arsenite) will, to a greater or lesser extent, dissociate.

40 CFR 162.11(a)(3) provides that "A rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) meet or exceed any of the...criteria for risk." The term "degradation product" is defined by 40 CFR 162.3(l) to mean "a substance resulting from the transformation of a pesticide by physico-chemical, or biochemical means," and the term "metabolite" is defined by 40 CFR 162.3(w) to mean "any substance produced in or by living organisms by biological processes and derived from a pesticide." The liberated arsenate and

arsenite ions of the inorganic arsenicals discussed in this document can be considered ingredients of the arsenical pesticides or are encompassed by the 40 CFR definitions of "degradation product" and/or "metabolite."

For purposes of issuing an RPAR, the Agency has made the following determinations:

1. If any form of trivalent inorganic arsenic (arsenite) produces any given chronic effect, it must be assumed that all forms of trivalent inorganic arsenic are capable of producing similar effects, because they all dissociate to the common arsenite ion. This rationale will also prevail for pentavalent inorganic arsenicals (arsenates). The Agency has determined that when a rebuttable presumption is issued for any one pesticide containing arsenate or arsenite, an RPAR will be issued for all pesticides containing arsenate or arsenite, respectively;

2. In addition, as discussed in Section I.J, there is strong evidence that trivalent forms of inorganic arsenic will be oxidized to a pentavalent state in humans, other animals, and the environment. The pentavalent forms of arsenic would be considered degradation products or metabolites (biologically mediated) of trivalent arsenic (arsenites) and, therefore, the trivalent form of arsenic will be subject to regulation based on information from studies on its pentavalent metabolites. The Agency assumes, therefore, that the effects observed in tests using trivalent

arsenites may be due to arsenite, arsenate, or both. The EPA has determined that when an RPAR is issued for any one pesticide containing arsenic in the pentavalent form (arsenate), an RPAR will be issued for all arsenical pesticides containing arsenite, as well as for those containing arsenate; and

3. As discussed in Section I.J, there is also evidence that pentavalent arsenic (arsenate) can be converted to trivalent arsenic in vivo. Under these conditions, arsenite would be a metabolite of arsenate and therefore arsenate will be subject to regulation based on information from studies on its trivalent metabolites. The Agency has determined that when an RPAR is issued for any one pesticide containing arsenic in the trivalent form (arsenite), an RPAR will be issued for all arsenical pesticides containing arsenate, as well as for those containing arsenite.

B. Chronic Toxicity

The following adverse effects of inorganic arsenic have been found to exceed the criteria for issuance of a rebuttable presumption.

(1) Oncogenic Effects

40 CFR Section 162.11(a)(3)(ii)(A) provides that a rebuttable presumption shall arise if a pesticide's

ingredient(s) "(i)nduce(s) oncogenic effects in experimental mammalian species or in man as a result of oral, inhalation, or dermal exposure...." Section 162.3(bb) defines the term oncogenic as "the property of a substance or a mixture of substances to produce benign or malignant tumor formation in living animals." Epidemiological studies, in conjunction with confirmatory animal tests, provide the best evidence that an agent is a human carcinogen. Albert et al. (1977) noted that "of the chemical agents that are generally accepted to have produced human cancer, all but one [arsenic], produced a carcinogenic response in rats and/or mice...in the same organ as in humans when tested by the appropriate route of exposure." Since arsenic is unique in this respect (Frost 1967; NAS 1977b), the Agency has relied primarily on human epidemiology studies in its assessment of the oncogenicity of inorganic arsenicals.

The information and background data included in the following portion of the position document have been taken from the EPA Carcinogen Assessment Group's Preliminary Report on Inorganic Arsenic (EPA 1978). Studies discussed in this report show that both the trivalent (arsenite) and pentavalent (arsenate) forms of inorganic arsenic act as oncogenic agents. For this reason the

Agency concludes that, without exception, a rebuttable presumption against registration exists for all inorganic arsenical pesticides based on the oncogenic effects criteria. The various forms of inorganic arsenic are enumerated in Section I.A.

Both the National Academy of Science (NAS 1977b) and the Occupational Safety and Health Administration (OSHA 1978) have conducted extensive reviews of the literature concerning the oncogenicity of arsenic. The reader is referred to the NAS and OSHA publications for additional epidemiological studies concerning the oncogenicity of arsenic.

Chronic exposure of humans to inorganic trivalent arsenic from drinking water, medicinal preparations, pesticides, non-ferrous metal smelters, and a gold mine operation has resulted in abnormal pigmentation, keratosis, and skin cancer as well as cancer of the lung and liver in some cases. Chronic exposure of pesticide-manufacturing workers and orchard workers using lead arsenate has resulted in excess incidences of lung cancer. Although concurrent exposure to other chemicals may have contributed to the observed incidence of cancer, the weight of evidence suggests that chronic exposure to either trivalent or pentavalent arsenic can induce cancer. This conclusion is supported by toxicological and mutagenesis studies [see Sections I.J and IV.B.(2)] which show that the two forms of arsenic have similar effects, although trivalent arsenic is more potent than the pentavalent form.

A large body of literature shows that chronic arsenic exposure results in symptoms of abnormal skin pigmentation, keratosis, circulatory disorders leading to gangrene, squamous cell carcinomas, and basal cell epitheliomas of the skin as well as bronchial carcinoma and liver vascular sarcomas (angiosarcomas). These various symptoms result from several exposure situations, summarized below; the valence state of the arsenic compound involved and concomitant exposure to other agents are also considered.

(a) Medical Exposure

Comprehensive reviews by Neubauer (1947), the National Academy of Sciences (NAS 1977b), and Stellman and Kabat (1978) document the occurrence of skin cancer and its early symptoms in patients treated for psoriasis and other conditions with potassium arsenite (Fowler's solution) in the United States before 1950. Since pentavalent arsenic salts are generally not effective therapeutic agents, little information is available concerning their chronic effects from this usage pattern. The evidence indicates that continued administration of potassium arsenite causes circulatory disturbances of the skin, hyperpigmentation, keratosis, skin cancer and, rarely, liver (hepatic) angiosarcoma. Neubauer (1947) found that, in 143 patients with medical skin cancer who had been treated with trivalent arsenic, the latent time between first administration of therapy and the onset of superficial epithelioma ranged between 3 and 40 years, with an average of 18 years. The epitheliomas typically developed on patches of keratotic areas of skin, sometimes after the

keratosis had been present for several years; but they also developed on healthy areas of the skin and on patches of psoriasis.

(b) Drinking Water Exposure

Chronic arsenical poisoning, including skin cancer and a gangrenous condition of the hands and feet called Blackfoot's disease, has occurred in several communities exposed to arsenic in drinking water. The best-documented instance of such arsenical poisoning is in Taiwan (Yeh et al. 1968; Yeh 1963; Yeh 1973; Tseng et al. 1968; Tseng 1977). In a house-to-house survey of 40,421 people in 37 villages along the southwest coast of Taiwan, Tseng et al. (1968) found that the prevalence of skin cancer, hyperpigmentation, and keratosis each correlated with the arsenic content of the water. The highest range of concentrations was greater than 0.6 ppm, and the lowest range was less than 0.29 ppm. From a general survey of these inhabitants, the prevalence rate for arsenical skin cancer was 10.6 per 1,000 residents in 1965. The skin cancer rate for well water containing >0.60 ppm was 21.4 per 1,000 people, while at <0.29 ppm it was 2.6.

The sources of drinking water for these areas were deep artesian wells, used from 1910/20 until 1966, when a tap water supply was installed. The concentrations of arsenic in the water ranged from 0.01 to 1.82 ppm (median range was 0.4 ± 0.6 ppm). The chemical form of arsenic in the water was not determined, but it may have been either trivalent (because the well-water is probably anaerobic) or

a methylated arsine (because the authors observed a combustible gas [perhaps methane] bubbling from the water storage tanks). Attempts to measure the arsenate to arsenite ratio of the water have been confined to measurements in a United States laboratory of a sample shipped from Taiwan with no special precautions to preserve the speciation occurring at the collection point (Irgolic 1978). The arsenate to arsenite ratio in two samples was 10 to 1 and 7 to 1, with a total arsenic concentration of approximately 0.6 ppm. Since the native water is likely to be anaerobic and since oxidation probably took place to some degree in transit to the analysis laboratory, the ratio in the natural water is probably less than 10 but cannot be assessed at this time. Therefore, from the best available information, people in that region of Taiwan could have been exposed to both trivalent and pentavalent arsenic compounds.

Assessing the Taiwan situation is more complex than simply identifying the two oxidation states of arsenic, as reported recently by Lu et al. (1975, 1977a, 1977b). These workers have observed non-arsenical fluorescent compounds in water samples from the areas where Blackfoot disease is endemic and have identified one of the fluorescent components as an alkaline hydrolysate of ergotamine, lysergic acid, or a related compound (Lu et al. 1977b). They have also shown that one of the fluorescent components produced abnormalities in developing chick embryos (Lu et al. 1977a). It is not known whether ergotamine was the compound that produced these abnormalities.

Two other areas of high levels of arsenic in drinking water are the Cordoba province of Argentina (Bergoglio 1964) and the town of Reichenstein in Selesia (Neubauer 1947). The former is a large farming area with natural geologic deposits of arsenic-containing rock, and the latter is adjacent to a former gold mine with arsenic-containing ores. Skin cancer and other disorders were observed in a large number of people in the areas of Cordoba with high levels of arsenic in the water. The arsenic contamination of ground water in Reichenstein is believed to be responsible for the widespread symptoms in the local population of melanosis and keratotic warts on hands and fingers, perforation of the nasal septum, mouth ulcers, gastrointestinal tract disorders, and skin cancer. The chemical form of arsenic in the drinking water was not stated in these reports.

(c) Exposure in Smelters

Ore containing non-ferrous metals (copper, zinc, and lead) also has high concentrations of arsenic that must be removed in order to produce quality metals. At the smelters producing these metals, arsenic dust is found in the air largely in the form of arsenic trioxide [As_2O_3] (NAS 1977b) or perhaps arsenic sulfides [As_2S_2 or As_2S_3] (Smith et al. 1976). But, as emphasized by Arsenault (1977), the workers are concurrently exposed to sulfur dioxide (Lee and Fraumeni 1969), as well as to sulfates and sulfites (Smith et al. 1976). Occupational

studies of smelter workers have been reported in the United States by Pinto and Bennett (1963), Lee and Fraumeni (1969), Milham and Strong (1974), and Pinto et al. (1977), and in Japan by Kuratsune et al. (1974) and Tokudome and Kuratsune (1976). Excess rates of lung cancer among the employees with the highest exposure to arsenic have been found consistently in these studies, although the early Pinto and Bennett study (1963) did not show a significant difference between exposed and control groups. The consistency of these findings in different smelter environments leaves little doubt that arsenic trioxide is at least a major contributor to the incidence of lung cancer in heavily exposed workers. Lee and Fraumeni (1969) have shown that lung cancer rates are also correlated with sulfur dioxide exposure, but there were no populations which had exclusive exposure to either of the agents. Lung cancer mortality among patients in a southern Rhodesian gold mining district has been studied by Osburn (1969). He found that of 37 people who died over 15 years, 13 also had hyperkeratosis characteristic of chronic arsenical poisoning. All but one patient had known exposure to dust containing arsenic from the mines.

(d) Exposure to Inorganic Arsenical Pesticides

Both trivalent and pentavalent arsenic are used in pesticide products. Reports of skin, lung, and liver

cancer in people exposed during the manufacture and use of these compounds have been published. In manufacturing plants an excess of respiratory cancer was reported by Ott et al. (1974), Ott (1976), and Hill and Faning (1948). The use of inorganic arsenical pesticides has been associated with cancer of several organs in German and French vintner workers by Roth (1956, 1957a, 1957b, 1957c, 1958), Denk et al. (1969), Thiers et al. (1967), Braun (1958), von Pein (1943), Galey et al. (1963), and Petres and Hagedorn (1975).

(i) Exposure in Pesticide Manufacturing Plants

A study of factory workers in the Dow Chemical Company's pesticide manufacturing plant (Ott et al. 1974) showed excess rates of respiratory and lymphatic cancer. The authors found that the rate of respiratory cancer correlated with the inorganic arsenic exposure level. Although there was minor exposure in a building where the arsenic trioxide starting material was loaded into the equipment, the workers were predominantly exposed through bagging to finished calcium and lead arsenate products. Production of arsenic compounds over the entire 37 years of operation was estimated to be 59% lead arsenate, 34% calcium arsenate, 5% copper acetoarsenite, and 2% magnesium arsenate.

These effects can therefore be ascribed to pentavalent, rather than to trivalent arsenic. Exposure to powdered sulfur and dry lime sulfur also occurred (Ott et al. 1974).

In a British factory manufacturing a sodium arsenite sheep dip compound, Hill and Faning (1948) observed a high rate of lung and skin cancer among workers directly handling the compound.

(ii) Exposure via Use of Pesticides

Inorganic arsenic pesticides were used on grapes in France and Germany between the early 1920s and 1942. Roth (1957b) reported the occurrence of chronic arsenical poisoning, including sequelae of skin and lung cancer, in French and German vintners. (These same sequelae of skin and lung cancer have also been observed in patients medicinally treated with inorganic arsenic.) In addition, a rare form of liver cancer, hemangio-endothelioma, was observed in the vintners. The most complete description of the cases is in a series of papers by Roth concerning the Mosel River Valley wine-growing area, but chronic arsenical poisoning also occurred in the upper Baden Valley, where it was called the "Kaiserstuhl Sickness" (Petres and Hagedorn 1975), and in the Rhine, Pfalz, and Wachau regions in Germany and the Beaujolais region in France (Galey et al. 1963; Thiers et al. 1967).

As Roth (1958) points out, not all wine-growing regions in Germany used inorganic arsenical insecticides because the particularly voracious insect that was susceptible to arsenic poisoning was not present everywhere. This insect is Cochylis (or Clysia) ambiguella, also known as the hay worm and sour worm (Thiers et al. 1967; Stellwaag 1928). It has two generations per growing season. The first caterpillars appear in June when the hay is harvested, and the second generation appears in late summer. A detailed description of these insects is given by van Emden (1936).

A dust of calcium arsenate, applied every two weeks in early summer, was particularly effective against hay and sour worms (Stellwaag 1928). This mixture contained calcium and As_2O_5 (pentavalent arsenic) with an arsenic concentration of 10 to 15%, and was called Sturm's Dusting Material by some (Frohn 1938). This technique was not popular for long because of the extremely acute reaction of the vintners to the dust, but it was used in cases of severe infestation. Another arsenic preparation, applied as a spray, was a mixture of copper acetoarsenite (or paris green), also known by the trade names of "Selesia Green" and "Urania Green," which is a copper-lime solution (Stellwaag 1936). The copper-lime solution alone controls the common fungus

Peronspora, and the combination spray (including paris green) is effective against both the fungus and the hay and sour worms. The vintners were therefore exposed to both trivalent arsenic, as copper acetoarsenite, and pentavalent arsenic, as calcium arsenate, during the growing season.

A second, and perhaps major source of vintner exposure to inorganic arsenic was by drinking the "house wine," prepared from the second pressing of grape skins. Stellwaag (1928) states that, during the fermentation process, a large fraction of the arsenic was removed from the liquid by transformation into arsenic sulfide, which was subsequently absorbed by the yeast. The form of arsenic should, therefore, appear in the "house drink," which was consumed in quantities of 1 to 3 liters per day during the warm season. Graceffius (1977a) has shown that, during the fermenting of grape juice, the final ratio of trivalent to pentavalent arsenic was about 4 to 1 regardless of whether the starting material was all trivalent or all pentavalent, and that the fermenting process tends to convert arsenic of both valences predominantly to the trivalent form.

In summary, the inorganic arsenic responsible for the chronic poisoning and cancer in the vintners was a complicated mixture of pentavalent and trivalent compounds, perhaps combined with sulfur.

The Wenatchee Valley in central Washington is another site where arsenical pesticides have been used for many years in the form of lead arsenate in apple orchards. Nelson et al. (1973) found no excess rate of lung cancer in orchardists, but the National Institutes of Occupational Safety and Health (NIOSH 1975) recently re-examined the mortality statistics in the state of Washington and found a statistically significant increase of respiratory cancer.

An epidemiological study of carpenters in Hawaii, who were exposed to pentavalent arsenic wood preservatives for an unknown period of time, was published by Budy and Rashad (1976). The rate of respiratory cancer among carpenters who died between 1970 and 1973, as compared to matched non-carpenter control groups, was not significantly different than the corresponding rate for those who died between 1948 and 1951. In the earlier years, about 5% of the wood was treated with arsenic, whereas in the early 1970s about 50% of the wood was so treated. Uncertainty about the degree and duration of exposure makes this study difficult to interpret.

(e) Summary of Human Exposure Studies

Chronic exposure of humans to sufficiently high doses of arsenic in several situations has produced abnormal

pigmentation, keratosis, and skin cancer as well as cancer of lungs, liver, and perhaps other sites. The adverse effects resulting from this exposure have been consistently the same as those produced by medicinal use of potassium arsenite; and, with two exceptions, the exposures have all involved trivalent arsenic. Therefore, it is extremely likely that trivalent arsenic is a human oncogen. Two situations of arsenic exposure, in which the predominant form of arsenic is pentavalent, have produced lung cancer; these are the Dow pesticides manufacturing plant and the lead arsenate exposures in Wenatchee, Washington. Although it is difficult to rule out other chemicals as the causative agents, these two situations furnish ample cause for concern that pentavalent arsenic may also be oncogenic.

(f) In Vitro Studies Suggestive of Oncogenic Potential

Although in vivo animal studies have not yet confirmed inorganic arsenic to be oncogenic, several positive in vitro cell transformation studies have been published. For certain cell lines, in vitro transformation from primary (normal, diploid) cells to cancerous ones is a good indicator of the carcinogenic potential of a compound. The best validated test systems are the Syrian hamster embryo cell system of Dr. R. Pienta (NCI) and the Chinese hamster ovary cell system used by Dr. DiPaolo (NCI).

These are short-term testing systems for oncogenicity and produce few, if any, false positives.

Casto et al. (1976) showed that sodium arsenite induced the transformation of Syrian hamster fetal cells that were seeded to form colonies. Arsenite also enhanced the frequency of simian adenovirus (SA7) transformed foci. Spontaneous transformations were not observed in the controls. The increase in SA7 transformation frequency was not due to selective toxicity, since there was a 2- to 3-fold increase in treated cultures in the number of foci per plate.

Casto (Letter 1977a) elaborated on this work (described above) with data that supported the conclusion of in vitro transformation of these hamster embryo cells by sodium arsenite. At a concentration of 1.2 ug/ml, transformation was enhanced 2.4 times over the background level (significant at 5% level). The responses were dose-related.

Casto et al. (1977) assayed Syrian hamster embryo cells for enhancement of viral transformation by an inorganic salt of arsenic (sodium arsenite). Hamster cells were exposed to arsenic either 18 hours before or 5 hours after the addition of simian adenovirus (SA7). Survival was determined by cloning methods, and viral transformation

was detected by focus assay. There was a significant increase in the relative transformation frequency and in the absolute number of SA7 foci per plate. This indicates the increase was not due to selective toxicity. Enhancement occurred at concentrations that did not affect cloning efficiency.

Moore (1976) used Fischer rat embryo cells infected with Rauscher leukemia virus and a cloned cell line of mouse BALB/3T# to assay for in vitro cell transformation by arsenic trioxide. A positive control (3-methylcholanthrene) was used. The results for the rat and mouse cell systems were negative. The Fischer rat embyro system is not validated.

(g) Conclusion

EPA concludes that sufficient epidemiological data exists to show that both trivalent inorganic arsenic (arsenite) and pentavalent inorganic arsenic (arsenate) act as oncogenic agents in humans. This position is in agreement with that of the Occupational Safety and Health Administration (OSHA 1978) who conclude "(t)hat there is virtually no dispute as to the carcinogenicity of trivalent arsenic," and that, on the basis of the available evidence, "pentavalent arsenic should be regulated as a human carcinogen." Section I.J presents strong evidence of the ability of inorganic arsenic to interconvert in vivo (arsenite to arsenate and arsenate to arsenite). As discussed in Section I.J, this interconversion makes

trivalent arsenic a metabolite of pentavalent arsenic and pentavalent arsenic a metabolite of trivalent arsenic.

Therefore, in the case of pentavalent inorganic arsenic, the Agency stresses that the RPAR is being issued for two reasons: 1) that pentavalent arsenic is an oncogen and 2) that pentavalent arsenic is reduced in vivo to trivalent arsenic, which also acts as an oncogen. The Agency concludes that either characteristic of pentavalent arsenic is sufficient criterion for the issuance of an RPAR.

The basis for issuance of an RPAR for trivalent inorganic arsenic is similar: 1) that trivalent arsenic is an oncogen and 2) that trivalent arsenic is oxidized in vivo to pentavalent arsenic, which also acts as an oncogen.

(2) Mutagenic Effects

40 CFR Section 162.11(a)(3)(ii)(A) provides that "A rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) ...induces mutagenic effects, as determined by multi-test evidence."

Studies discussed in this report (and summarized in Table 23) show that both trivalent (arsenite) and pentavalent (arsenate) forms of inorganic arsenic can act as mutagenic agents. The EPA concludes that these studies represent multi-test evidence and that, without exception,

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Table 23. Summary of Studies of Inorganic Arsenic Mutagenicity.

Study	Author(s)	Chemical(s)	Cell Type	Effects
1. Point Mutation	Ficsor and Lo Piccolo 1972	sodium arsenate	E. coli	No reversions induced
	Moore 1976	arsenic trioxide	S. typhimurium	Negative Ames' test (without metabolic activation)
	Nishioka 1975	sodium arsenite	E. coli	Positive mutagen (induced tryptophan reversions).
	Casto (Letter 1977a)	sodium arsenite	hamster lung cells	Positive mutagen - increased the frequency of mutation in 8-azaguanine treated cells.
2. Chromosomal Effects In vitro Cytogenetics	Oppenheim and Fishbein 1965	potassium arsenite	human peripheral leukocytes	Chromosome gaps, breaks, translocations, dicentrics, ring forms were found. Cell division was supressed and there was an increased number of broken metaphase plates.
	Paton and Allison 1972	sodium arsenite	human diploid fibroblasts	Chromatid breakage
		sodium arsenite sodium arsenate	human diploid fibroblasts and leukocytes	Chromatid breakage > Effect higher with sodium arsenite Chromatid breakage > Effect higher with sodium arsenite
In vivo Cytogenetics	Petres et al. 1970, 1977	unspecified	human lymphocytes (from psoriasis patients and wine-growers)	Aneuploidy, chromatid breaks, acentric fragments, and dicentric chromosomes occurred more frequently in cells from persons exposed to arsenic than in the controls.
Dominant Lethal Effects	Sram and Bencko 1974	sodium arsenite	ICR-SP mice	An acute oral dose (250 mg/kg) given to the male produced negative results. Chronic application over 4 generations of males at 10 mg/liter of drinking water gave positive results (increase in overall dominant and preimplantation lethality). A subtoxic dose (100 mg/liter) gave no change in frequency of dominant lethality or male fertility.
3. DNA Damage	Burgdorf et al. 1977	potassium arsenite	human lymphocytes	There was a higher rate of sister chromatid exchange in lymphocytes from patients who had used Fowler's solution compared to lymphocytes from unexposed controls.
4. DNA Repair (microbial)	Rossman et al. 1975, 1977	sodium arsenite	E. coli (uv-exposed)	There was decreased mutation frequency of irradiated cells that were excision-repair deficient. There was decreased survival rate of uv-exposed cells (wild type, excision-repair deficient). No effect was found on strain deficient in post - replication repair.
	Nishioka 1975	sodium arsenate sodium arsenite	Bacillus subtilis	Both chemicals were positive mutagens. The effect was stronger with sodium arsenite.
(mammalian)	Jung et al. 1969	sodium arsenate	human epidermal cells (exposed to xenon lamp)	DNA dark repair activity decreased in presence of sodium arsenate.
	Jung and Trachsel 1970	sodium arsenate	human epidermal cells (exposed to xenon lamp)	DNA synthesis (reduced mitotic index) and DNA dark repair were both inhibited in presence of sodium arsenate.
5. Metabolic and Cellular Toxicity Effects (in vivo)	Skipper et al. 1951	potassium arsenite	mice	There was reduced incorporation of ^{14}C-formate (precursor of mouse DNA-purines) into nucleic acid purines.
	Sawada and Rabhun 1969	sodium arsenite	annelid worm eggs	There was inhibition of the formation of the mitotic apparatus (before fertilization).
(in vitro)	Tsuda 1974	sodium arsenate	mouse fibroblasts	The indices for prophase, metaphase, and mitosis increased, but decreased for telophase.
	Petres and Hundeiker 1968	sodium arsenate	human peripheral lymphocytes	The number of mitoses was reduced to 1/5 the expected number. Chromosome pulverization occurred consistently.
	Petres and Berger 1972	sodium arsenate	same	At high concentrations, the mitotic index decreased. There were metaphase plate pulverizations at low doses. There was inhibition of ^{3}H-thymidine incorporation into DNA.
	Petres et al. 1974	sodium arsenate	same	There was inhibition of ^{3}H-thymidine and ^{14}C-thymidine incorporation into DNA at lower doses than inhibition of ^{3}H-uridine and ^{14}C-uridine into RNA.
	Petres et al. 1975	sodium arsenate	same	After one hour of exposure, there was increasing inhibition of ^{14}C-thymidine incorporation into DNA.
	Baron et al. 1975	sodium arsenate	same	There was inhibition of ^{14}C-TTP into DNA and ^{14}C-UTP RNA. There was also inhibition of incorporation of labeled alanine and leucine into cellular proteins.

arsenic and then placed in plain medium. The cells were later fixed and stained and surviving colonies were counted.

The frequency of mutation was expressed as the number of 8-azaguanine resistant colonies per 10^6 surviving cells. The spontaneous mutation frequency of this cell line was less than 1 mutant per 10^6 surviving cells. Without sodium arsenite, there were 0.45 8-azaguanine resistant colonies per $5x10^5$ cells (mutation frequency of 0.9 colonies per 10^6 surviving cells). At 5 ug/ml of sodium arsenite, there were 9.6 resistant colonies per $5x10^5$ cells (mutation frequency of 65.0 mutant colonies per 10^6 surviving cells).

Ficsor and Lo Piccolo (1972) tested an ant poison, containing 3% sodium arsenate, for mutagenicity by bacteria-plate assay. The compound (dosage not given) was tested for its ability to revert two E. coli lac⁻ amber mutants (NG 422, YA 482) to the lactose-fermenting phenotype, and to revert a cys⁻ (cysB12) and two leu⁻ (AP517, 5bU504) auxotrophs to prototrophy. All five strains had a low frequency of spontaneous reversions, and each was reversible by the positive control (known mutagen) N-methyl-N'-nitro-N-nitrosoguanidine. The results were negative.

a rebuttable presumption against registration exists for all inorganic arsenical pesticides based on the mutagenic effects criterion. The various forms of inorganic arsenic are enumerated in Section I.A.

(a) Studies Relevant to Rebuttable Presumption

(i) Point Mutation Studies

Nishioka (1975) examined the mutagenic effect of sodium arsenite on strains of E. coli by reversion studies. The E. coli strains used were WP_2 (trp⁻, uvrA⁺, recA⁻); WP_2 uvrA (trp⁻, uvrA⁻, recA⁺); and CM_{571} (trp⁻, uvrA⁺, recA⁻). These strains were exposed to sodium arsenite concentrations ranging from 1.6×10^{-4} to 8.0×10^{-4} M. Reversions were induced in all but the CM_{571} strain of E. coli.

Casto (Letter 1977a) demonstrated that sodium arsenite was a point mutagen. Chinese hamster lung diploid cells (Cricetulus griseus, DON line) were grown in THAG medium. Sodium arsenite was added to the culture for 18 hours and then removed by adding fresh plain medium. After a 48-hour expression time, 10 ug/ml of 8-azaguanine was added. The culture medium was replaced with fresh medium containing 8-azaguanine every 48 hours for 20 to 25 days of incubation. For mutation assays the cells were fixed and stained. The cells for survival assays were grown in medium with the

Moore (1976) used the Ames' test, without metabolic activation, to test the mutagenicity of arsenic trioxide on 5 (or 4) strains of S. typhimurium. Positive controls (4-nitroquinoline-N-oxide and N-methyl-N'-nitrosoquanidine) were used. The results were negative for arsenic trioxide.

(ii) Bacterial DNA Repair

Nishioka (1975) examined the mutagenic effect of sodium arsenate and sodium arsenite on strains of Bacillus subtilis by rec-assay. For the assay, a 0.05 ml aliquot of either arsenic compound (at a concentration of 0.05 M) was dropped on filter paper which was placed on plates containing B. subtilis strains H_{17} (rec^+, arg^-, trp^-) or M_{45} (rec^-, arg^-, trp^-). Sodium arsenate was a positive mutagen, but its effect was less distinct than the effect with sodium arsenite.

(iii) Chromosomal Aberration Studies

1. In Vitro Cytogenetics

Oppenheim and Fishbein (1965) cultured human peripheral leukocytes stimulated with phytohemagglutinin (stimulates mitotic activity) for 72 hours in 0.5, 1.0, 3.3, and 10.0 uM potassium arsenite solutions (arsenic trioxide in dilute potassium bicarbonate). An additional culture was treated for 48 hours in a solution of 1.0 uM concentration. At a

concentration of 1 uM, potassium arsenite induced chromosomal damage, such as chromosome gaps and breaks, translocations, dicentrics, and ring forms. Potassium arsenite also supressed cell division, increased the number of broken metaphase plates, and increased cell damage at the higher concentrations. These effects increased from the 48-hour to the 72-hour treatment, with the exception of cell division which was suppressed more at 48 hours.

Paton and Allison (1972) investigated the effects of subtoxic doses of sodium arsenite and sodium arsenate on cultured human diploid fibroblasts and leukocytes. In chromosomal studies, leucocyte cultures were treated for 48 hours with 2.9×10^{-9} to 1.8×10^{-8} M solutions of sodium arsenite or 5.8×10^{-9} M sodium arsenate. Of the metaphase plates examined, 60% (sodium arsenite) and 5% (sodium arsenate) of the cells had chromatid breakage. In fibroblast cultures treated for the last 24 hours of culture with 2.9×10^{-9} to 5.8×10^{-8} M sodium arsenite, 20% of the metaphase plates showed chromatid breakage. These values were significantly higher ($p = 0.01$) than the control values for leukocytes (2%) and for fibroblasts (3%).

To study long-term effects, cultured fibroblasts and leukocytes were treated for several weeks with subtoxic doses of these arsenic salts. The cells were often over-contracted but otherwise did not differ from the

control cells. In short-term exposure (24 to 48 hours) of fibroblast and leukocyte cultures to sodium arsenite and sodium arsenate, there was significantly more chromatid breakage than in the control cultures. The breaks were often located close to the end of a chromosome. The incidence of chromatid exchange was higher in leukocytes than in fibroblasts.

2. In Vivo Cytogenetics

Petres et al. (1970; 1977) did chromosomal analyses of lymphocytes from a group of patients previously exposed to arsenic and from a control group with no previous exposure to arsenic. Since the 1977 study appears to include many of the same persons in the first study, only the latter paper will be discussed. The control group consisted of 14 psoriasis patients and 17 healthy patients, both without a history of exposure to arsenic. The test group included 14 psoriasis patients medically treated with arsenic and 17 vineyard workers who had used arsenical pesticides. In some cases the last exposure to arsenic occurred more than 30 years previously. The control group averaged 14 years younger than the exposed patients. The male/female sex ratio was near unity in the control group but was approximately 6/1 for the exposed group. All patients who had been exposed to arsenic had palmar and plantar hyperkeratosis and some history of cutaneous carcinomas.

Several observations were made on cultured lymphocytes:

1. Chromatid breaks, acentric fragments, and dicentric chromosomes occurred more frequently in cells from persons exposed to arsenic (76/1121=0.07) than in control cells (3/1247=0.002) ($p<0.001$). Two dicentric chromosome-containing cells were found in treated persons; none were noted in controls. No information was given as to the distribution of the aberrant cells among the subjects;

2. Aneuploidy occurred significantly more frequently in cells from treated subjects than in cells from controls (26.7 and 7.1% of the treated and control cells, respectively). It is not known if the aberrant cells were distributed randomly among subjects. The high frequency of aneuploid cells in exposed persons is difficult to interpret, because essentially all aberrant cells were hypodiploid; cells with hyperdiploid chromosome numbers were not found; and

3. The incorporation of radioactively-labeled thymidine and uridine into DNA and RNA decreased in a dose-response fashion in cultures of lymphocytes, from control persons, treated with exogenous sodium arsenate (0.05 to 100 ug/ml). The effect of arsenate on nucleotide transport into cells and on thymidine/uridine phosphorylation to nucleotides for incorporation into nucleic acids was not assessed.

3. Dominant Lethal Effects

Using sodium arsenite, Sram and Bencko (1974) performed a dominant lethal test with ICR-SPF mice using both acute and chronic multi-generation dosing regimens, and tested for synergistic effects with TEPA, a positive control mutagen. To determine if sodium arsenite can induce dominant lethal mutations, a toxic dose of 250 mg/kg was applied perorally (acute test). The results were negative.

In a second study of chronic application over four generations, weaned male mice were given either 10 or 100 mg of arsenic per liter of drinking water ad libitum over an 8-week period. Based on consumption of water, the actual intake of arsenic was 1.6 mg/kg per day (10 mg/liter)

and 9 to 10 mg/kg per day (100 mg/liter). During each of the eight weeks, several male mice (P_1) were mated, and the next three generations came from these matings. In males given 10 mg/liter, the overall dominant lethality and preimplantation lethality increased in the second and third weeks of mating. In other weeks there was no difference from the controls. The males exposed to 100 mg/liter (subtoxic) showed no change in the frequency of dominant lethal mutations or male fertility.

A third study of synergistic effects with TEPA (reference chemical mutagen) was done. A single intraperitoneal dose of 1 mg of TEPA per kg was given to males of the F_3 generation that were given either 10 or 100 mg/liter of sodium arsenite. For treatment with TEPA and 10 mg/liter of arsenic, there was no increase in the number of mutagenic effects over that seen with 1 mg of TEPA. At 100 mg/liter of sodium arsenite and TEPA, there was an increase in the overall dominant and preimplantation lethality which increased significantly in the second week.

(iv) DNA Damage

Burgdorf et al. (1977) found an elevated sister chromatid exchange rate (SCE) in lymphocytes from six patients who had used Fowler's solution (containing potassium arsenite) compared to lymphocytes from 44 unexposed controls. The lymphocytes were cultured in total darkness with phytohemagglutinin, penicillin-streptomycin, and bromodeoxy uridine and treated with colchicine for three hours. The cells were fixed and stained for SCE. Centromeric exchanges were differentially included in the total SCE counts.

The arsenic-exposed patients had a mean of 14.00 SCE/mitosis with a range of 4 to 30 (standard deviation, 3.12). The controls had a mean of 5.8 SCE/mitosis with a range of 1 to 23 (standard deviation, 2.27). There was no difference in chromosomal breakage between the two groups.

(v) DNA Repair Studies

Rossman et al. (1975) irradiated strains of E. coli, differing only in repair markers, with UV light and exposed the cells to various concentrations of sodium arsenite. Culture samples were irradiated in petri dishes with a 15 W germicidal lamp at a distance of 50 cm. After exposure, serial dilutions were made and plated onto nutrient agar containing the following concentrations of sodium arsenite: 10^{-5}, 10^{-4}, 10^{-3}, and 10^{-2} M.

The wild type (WP2) and excision-repair deficient strains WP6 and WWP2 (polA$^-$ and uvrA$^-$, respectively) showed decreased survival in the presence of 0.1 mM of sodium arsenite. The magnitude of the effect increased with increasing UV doses. There was no apparent effect on survival of the unirradiated cultures of WP2, but there was a loss of colony-forming ability at a concentration of 5 mM. Sodium arsenite had no effect on the survival of WP10 cells (recA$^-$, deficient in post-replication repair) at any dose. The survival of WP5 cells (lex$^-$) was increased significantly (statistical significance not given) by sodium arsenite, and the effect decreased with increasing UV doses. The authors postulated that arsenite inhibits a recA$^-$ dependent step in DNA repair. For increased survival of the lex$^-$ mutant, WP5, it is suggested that in the absence of the lex$^+$ gene, the arsenite-sensitive recA-dependent function is deleterious.

Rossman et al. (1977), based on the findings in their first paper, attempt to support their hypothesis that arsenicals inhibit some aspect of DNA repair, specifically that sodium arsenite affects post-replication repair.

Strains of E. coli differing only in repair markers were irradiated with UV light and then plated onto medium containing 0.1 mM sodium arsenite. The strains used were:

WP2 (wild type for repair); WP6 and WWP2, both excision-repair deficient; WP10, deficient in post-replication repair; and WP5. Compared to control cultures, sodium arsenite decreased the survival rate of UV-exposed cells of strains WP2, WWP2, and WP6. There was no effect on survival of strain WP10, and survival increased in strain WP5. Sodium arsenite also had no effect on cultures that were not irradiated.

The excision-repair deficient strain WWP2 is more subject to mutation than the wild type WP2. The mutation frequency for this strain was measured after exposure to UV light, by scoring for trp^+ revertants. Cultures were exposed to UV light and plated with 1 mM sodium arsenite. Controls at each UV dose level were plated onto plain nutrient agar. Sodium arsenite decreased the absolute mutation frequency and the number of mutations per survivor at all UV exposures. At higher UV levels, survival of the cells dropped below 1%.

Based on their data, the authors speculated that sodium arsenite inhibits post-replication repair of DNA by inhibiting a recA-dependent function such as SOS repair. This DNA repair pathway is inducible in damaged cells (i.e., by UV exposure), repressed in undamaged cells, and is error-prone. After UV exposure, sodium arsenite decreased mutagenesis in strains WP2, WWP2, and WP6 containing the $recA^+$ and lex^+ genes (upon which mutagenesis depends).

The effect of sodium arsenite (inhibition of post-replication repair) on the survival of UV-irradiated strains of E. coli increased with increasing irradiation. The authors believe this supports their hypothesis that post-replication repair is inhibited by sodium arsenite. This becomes more important at higher UV doses due to saturation of the excision repair capacity.

When Jung et al. (1969) exposed human epidermal cells to sodium arsenate, there was a temporary reduction in enzymatic dark repair activity of DNA. Dark repair is the non-light dependent cell repair mechanism consisting of several enzymatic steps by which single-strand DNA lesions can be recognized, excised, and repaired.

Skin grafts from human male subjects were incubated for either one or four hours in medium containing either 10^{-5} or 10^{-6} M sodium arsenate. The cultures were then irradiated with an unfiltered xenon lamp and incubated with ^{3}H-methyl thymidine for four hours. In the stratum basale, stratum spinosum, and stratum granulosum, the thymidine labeling was visible in many nuclei as "light marking", which is regarded as repair marking and is dependent on the intensity of irradiation. A statistical evaluation showed that repair activity fell significantly ($p<0.05$) as a

result of incubation with sodium arsenate. There was no statistically confirmed difference between the incubation periods of one and four hours or between arsenic concentrations of 10^{-5} and 10^{-6} M.

Jung and Trachsel (1970) showed that sodium arsenate inhibited DNA synthesis and DNA dark repair in human epidermal cells. The cells were cultured in medium containing 10^{-5} or 10^{-6} M sodium arsenate for one or four hours. The cultures were then radiated with an unfiltered xenon lamp. Radio-labeled thymidine was added to the cells which were then incubated for four hours. The cells were fixed, stained, and autoradiographed. The number of premitotic "marked" cells per 1,000 cells was calculated and used as the mitotic index.

Cells from various stages of the incubation process were examined: control cells, cells irradiated only, cells incubated with sodium arsenate (1 hour), and cells irradiated and cultured with sodium arsenate. Radiation and arsenic alone reduced the mitotic index, but this effect was significantly greater with simultaneous exposure ($\alpha = 0.01$).

To measure the effectiveness of the dark repair system, the number of silver grains per cell surface was measured for 200 epidermal cells (measure of thymidine incorporation into DNA). There was a statistically significant ($\alpha = 0.05$) reduction in dark repair due to

sodium arsenate. There was no difference between a 1- or 4-hour incubation time or between 10^{-5} and 10^{-6} M concentrations of arsenate.

The Agency concludes that there is multi-test evidence for the mutagenicity of inorganic arsenates and arsenites. Based on Nishioka (1975), there is evidence that both arsenate and arsenite compounds are positive point mutagens. In studies by Jung et al. (1969) and Rossman et al. (1977), inorganic arsenate and arsenite inhibited DNA repair mechanisms. Both in vitro and in vivo studies show that arsenite and arsenate induced chromosomal aberrations in various cultured human cells and in lymphocytes taken from psoriasis patients and vintners.

The Agency concludes, therefore, that sufficient data exist on the mutagenicity of both trivalent inorganic arsenic (arsenite) and pentavalent inorganic arsenic (arsenate). Section I.J presents strong evidence of the ability of inorganic arsenic to interconvert in vivo (arsenite to arsenate, and arsenate to arsenite). As discussed in Section III.A, this interconversion makes trivalent arsenic a metabolite of pentavalent arsenic, and pentavalent arsenic a metabolite of trivalent arsenic.

Therefore, in the case of pentavalent inorganic arsenic, the Agency stresses that the RPAR is being issued for two reasons: 1) that pentavalent arsenic is a mutagen

and 2) that pentavalent arsenic is reduced *in vivo* to trivalent arsenic, which also acts as a mutagen. The EPA concludes that either characteristic is a sufficient criterion for the issuance of an RPAR.

The basis for issuance of an RPAR for trivalent inorganic arsenic is similar: 1) that trivalent arsenic is a mutagen and 2) that trivalent arsenic is oxidized *in vivo* to pentavalent arsenic, which also acts as a mutagen.

(b) Studies on Which Further Information is Sought: Metabolic and Cellular Toxicity Effects

This section addresses effects of inorganic arsenicals on genetic material and processes that are probably due to metabolic and cellular toxicity, but for which insufficient evidence exists to initiate a rebuttable presumption. The Agency requests registrants or other interested persons, having information on these effects, to submit such data to the Agency. The following studies indicate that inorganic arsenicals affect the mitotic process and induce chromosomal pulverization as well as inhibition of the incorporation of important precursors into DNA and RNA.

Skipper et al. (1951) injected CFW strain mice intraperitoneally with an 18.0 mg/kg dose of potassium arsenite. This was immediately followed by an injection of ^{14}C-sodium formate. The control mice received only the injection

of labeled sodium formate. After six hours, all groups of mice were sacrificed. Potassium arsenite markedly reduced the incorporation of ^{14}C-formate into nucleic acid purines. In the rat, formate carbon is a required precursor of the bases in deoxyribonucleic acid (guanine, adenine, and thymidine) and of ribonucleic acid (guanine and adenine).

Sawada and Rebhun (1969) studied the effects of sodium arsenite on eggs of the annelid worm Pectinaria gouldi which develop the first mitotic apparatus (MA) after they are shed into sea water. The MA will remain at metaphase for several hours until the egg is fertilized. Prior to the formation of the MA, eggs were immersed in solutions of sodium arsenite in sea water (concentration not specified). This completely inhibited the formation of the MA in annelid worm eggs. If development of the MA was allowed to occur, the minimum concentration for its dispersion was 5×10^{-3} M This dispersion was irreversible.

Petres and Hundeiker (1968) cultured phytohemagglutinin-stimulated human lymphocytes of peripheral blood from nonarsenic-exposed donors for 72 hours. At either 24 or 48 hours before terminating the cultures, sodium arsenate was added at the concentrations of 10^{-6} and 5×10^{-6} g/ml of culture media. Control cultures were prepared without sodium arsenate. Compared to the controls, the

number of mitoses in the cells treated with sodium arsenate was reduced to approximately one fifth (1/5) the expected number. Chromosome pulverization occurred consistently in cultures incubated for 24 or 48 hours with sodium arsenate.

Petres and Berger (1972) studied the potential cytotoxic and mutagenic effects of sodium arsenate tested *in vitro* on cultured human lymphocyte cells of peripheral venous blood from non-arsenic-exposed donors. The cells were cultured for 72 hours in a medium containing phytohemagglutinin. Forty-eight hours before termination of the cultures, sodium arsenate was added at the following concentrations: 3×10^{-5}, 1×10^{-5}, 5×10^{-6}, 2×10^{-6}, 1×10^{-6}, 5×10^{-7}, 1×10^{-7}, and 5×10^{-8} g/ml of culture medium. Control cultures were grown without sodium arsenate. ^{3}H-thymidine was also added to both test and control cultures. The mitotic index decreased considerably only with the higher sodium arsenate solutions. Serious nuclear division disorders and metaphase plate pulverization occurred at low doses. At the concentrations of 1×10^{-7} and 2×10^{-6} g/ml, there were 36.3% and 80 to 100% pulverizations, respectively. The ^{3}H-thymidine labeling index was significantly reduced at the mid-level doses compared to the control values. This reduction in the index indicates inhibition of ^{3}H-thymidine incorporation into DNA.

Petres et al. (1974) added sodium arsenate to cultures of phytohemagglutinin-stimulated human lymphocytes of peripheral venous blood from non-arsenic-exposed donors. The incorporation of radioactively labeled thymidine and uridine into DNA and RNA was measured by scintillation counting and autoradiography. Sodium arsenate was added 24 hours before termination of the 72-hour incubation period at the following concentrations (ug per ml of medium): 0.05, 0.1, 0.5 (thymidine only), 1.0, 2.0 (thymidine only), 5.0, 10.0, 30.0, 50.0, and 100.0. Control cultures were simultaneously prepared without sodium arsenate. Six hours before termination of the cultures, either H-^{3}thymidine or H-^{3} uridine was added to one set of the cultures.

For scintillation counting, cultures were prepared with sodium arsenate concentrations of 0.05, 0.1, 10.0, 30.0, 50.0, and 100.0 ug of sodium arsenate per ml of culture medium. Controls without sodium arsenate were also prepared. Eighteen hours before termination of the 72-hour culture period, either ^{14}C-thymidine or ^{14}C-uridine was added to a culture.

The marker index obtained using autoradiography indicated that inhibition of ^{3}H-thymidine incorporation into DNA began at low concentrations of sodium arsenate (i.e., 0.1 ug/ml). This inhibition increased with increasing

Table 24. Summary of Studies on Inorganic Arsenic Teratogenicity in Animals.

Authors	Chemical(s)	Test Animal	Treatment: Dosage Level, Duration, and Route	Dosage (mg/kg)	Effects
Fronko et al. 1936	Sodium arsenite	chicken embryo	not specified	0.01 - 1.0 ppm single dose(1)	There were only ectopic abnormalities (unspecified) and these occurred at the lowest dosage. There were no abnormalities at 1.0 ppm.

concentrations, and at 100 ug/ml there was 97% inhibition compared to controls. Inhibition of ^{3}H-uridine incorporation into DNA began at concentrations of sodium arsenate greater than 10 ug/ml. At 100 ug/ml there was 50% inhibition compared to controls.

Using scintillation counting, inhibition of ^{14}C-thymidine incorporation into DNA was detected at 1.0 ug/ml and increased with higher concentrations. Inhibition of ^{14}C-uridine incorporation into RNA was detected at concentrations greater than 10.0 ug/ml.

Petres et al. (1975) cultured phytohemagglutinin-stimulated human lymphoctes of peripheral blood from non-arsenic-exposed donors for 72 hours. From 1 to 18 hours before termination of the cultures, either 10, 30, or 50 ug of sodium arsenate was added per ml of culture medium. Parallel control cultures were prepared without sodium arsenate. Later ^{14}C-thymidine was added to each culture. In human lymphocyte cultures exposed to various levels of sodium arsenate for one hour, there was a 17% increase in the incorporation of ^{14}C-thymidine into DNA. As the exposure time increased, there was a general decrease in the incorporation rate. After 18 hours of incubation with 10 ug of sodium arsenate, the incorporation rate was inhibited up to 35%. At the higher concentrations, there was 65 to 70% inhibition.

Baron et al. (1975) exposed phytohemagglutinin-stimulated human lymphoctes to various concentrations of sodium arsenate, ranging from 0.05 to 100 ug/ml of culture medium, for 24 hours. Radioactively labeled triphosphates and amino acids were also added to the cultures. The incorporation of ^{14}C-thymidine into DNA was inhibited at a lower dose than the incorporation of ^{14}C-uridine into RNA. This confirmed the previous study by Petres et al. (1974). The incorporation of ^{14}C-TTP into DNA was inhibited to the same extent as ^{14}C-thymidine. ^{14}C-UTP incorporation into RNA was similar to that of ^{14}C-uridine only at levels below 1.0 ug of sodium arsenate per ml of culture medium. At higher doses, the incorporation of ^{14}C-UTP was inhibited less than that of ^{14}C-uridine.

The inhibition of incorporation of ^{14}C-ATP with increasing sodium arsenate doses was parallel to the incorporation of ^{14}C-UTP and ^{14}C-TTP up to a concentration of 10 ug/ml. Above this concentration, the incorporation of labeled ^{14}ATP into nucleic acids was greater than ^{14}C-TTP and less than ^{14}C-UTP.

A decrease in the incorporation of ^{14}C-alanine and ^{14}C-leucine into cellular protein was not found below a sodium arsenate concentration of 10 ug/ml. Even at the higher doses, there was less inhibition of incorporation than that of the labeled triphosphates and nucleosides.

Fronko et al. 1936	Sodium arsenite	chicken embryo	injection not specified	0.01 - 1.0 ppm single dose(1)	There were only ectopic abnormalities (unspecified) and these occurred at the lowest dosage. There were no abnormalities at 1.0 ppm.

Tsuda (1974) exposed L strain mouse fibroblast cells to three concentrations of sodium arsenate (0.5×10^{-4} M, 10^{-4} M, and 0.33×10^{-3} M) from 1 to 48 hours. The effects on each phase of mitosis were determined by changes in the mitotic index (# mitoses per 100 cells). As the concentration of sodium arsenate increased, the indices for prophase, metaphase, and mitosis increased compared to the control values. The telophase index decreased, while the index for anaphase remained in the control range of values. Complete recovery of cells exposed to sodium arsenate for one hour appeared to be delayed for approximately six hours. There was also no apparent increase in the mitotic index over the control index.

(3) Reproductive and Fetotoxic Effects in Mammalian and Avian Species

40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety." This section reflects concern that chronic exposure to chemicals may result, among other things, in injury to the reproductive system and/or the fetus and provides that a rebuttable presumption shall arise if chronic chemical exposure in test animals produces such results.

Studies discussed in this report (and summarized in Table 24) show that both trivalent (arsenite) and pentavalent (arsenate) forms of inorganic arsenic can act as teratogenic agents. The Agency concludes that, without exception, a rebuttable presumption against registration exists for all inorganic arsenical pesticides based on the teratogenic effects criteria. This decision takes into account anticipated exposure to inorganic arsenical pesticides as discussed in Section III.

Beaudoin (1974) gave single intraperitoneal injections of sodium arsenate in distilled water to pregnant Wistar rats on one of days 7 through 12 of gestation. The dosage level of sodium arsenate ranged from 20 to 50 mg/kg of body weight. The embryolethal and teratogenic effects of sodium arsenate were dose-dependent and peaked on days 9 and 10 of treatment. Resorption of fetuses was day- and dose-dependent. The percentage of resorbed fetuses was the highest at 40 mg/kg and peaked for treatment on day 9. Fetal weights for days 8, 9, and 11 of treatment were significantly less ($p < 0.01$) than the controls.

The frequency of malformed fetuses markedly increased when the dosage went from 20 to 30 mg/kg. Little additional fetal malformations occurred with 40 mg/kg. The greatest degree of fetal abnormality occurred on day 9 of gestation. A dose of 50 mg/kg of sodium arsenate was lethal to embryos for all days (7 through 12) of treatment. Teratogenic effects were not observed in fetuses treated with 20 or 30

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Table 24. Summary of Studies on Inorganic Arsenic Teratogenicity in Animals.

Authors	Chemical(s)	Test Animal	Treatment: Gestation Day(s) Treated / Day(s) Sacrificed		Dosage (mg/kg)	Effects
Beaudoin 1974	Sodium arsenate	Wistar rat	ip	7 - 12 / 20	20 - 50 single dose	Fetal resorption and malformation were dose-dependent and peaked on treatment days 9 and 10. 50 mg/kg was lethal to all embryos. There were no teratogenic effects on days 7 and 11 and few on day 12. Malformations: eye defects, exencephaly, renal agenesis, rib and vertebral defects.
Burk and Beaudoin 1977	Sodium arsenate	Wistar rat	ip	9 - 11 / 20	30 - 50 single dose	Fetal resorption and malformation were greatest on day 9. Renal agenesis occurred mainly from treatment on day 10. Skeletal defects occurred mainly from treatment on days 9 and 10. Fetal weights declined significantly with treatment. Malformations: exencephaly, eye defects, facial clefts, agnathie, hydrocephalua, encephalomeningocele, diaphragmatic hernia.
			ip	10 / 11 - 16	45 single dose	Renal agenesis resulted mainly from growth retardation of the masonephric duct.
Ferm and Carpenter 1968	Sodium arsenate	golden hamster	iv	8 / 12 - 14	5,20,40 single dose	No malformations at 5 mg/kg. All fetuses killed in utero at 40 mg/kg. At 20 mg/kg, there were exencephalic lesions, bulging eyes, and protruding tongue and mandibles.
Holmberg and Ferm 1969	Sodium arsenate	golden hamster	iv	8 / 13	20 single dose	There was fetal resorption and malformation: exencephaly, encephalocele, cleft palate and lip, anophthalmia, ear malformations.
Ferm et al. 1971	Sodium arsenate	golden hamster	iv	8 / 15	15,17.5, 20,25 single dose	Embryo resorption and malformation were dose-dependent. Malformations: exencephaly, rib defects, genitourinary defects, anencephaly, cleft lip and palate, anophthalmia, adrenal agenesis, prognathia. Genital abnormalities were greatest in females, and cleft lip, palate, and rib abnormalities were seen primarily in males.
Hood 1972	Sodium arsenite	albino Swiss-Webster mouse (CD-1 strain)	ip (in utero)	7 - 12 / 18	10,12 single dose	There was a high degree of resorption and reduced fetal weights that were day and dose-dependent. Malformations were highest on days 8 to 10: exencephaly, micrognathia, open eye, defective tail, skeletal defects.
Hood and Bishop 1972	Sodium arsenate	albino Swiss-Webster mouse (CD-1 strain)	ip	6 - 12 / 18	25,45 single dose	At 25 mg/kg, there was no significant difference from the controls. At 45 mg/kg, there was increased resorption, especially from days 11 and 12. Fetal weights were reduced especially from days 7 and 9. Fetal malformations were highest on days 7 to 11: exencephaly, shortened jaw, protruding tongue, anophthalmia exophthalmos, open eye, umbilical hernia, tail defects, hydrocephalus, and skeletal defects.
Hood and Pike 1977	Sodium arsenate	albino Swiss-Webster mouse (CD-1 strain)	ip	9 / 18	40 single dose	There was a significant increase in fetal mortality, resorptions, and malformations. There was a decrease in fetal weights due to treatment.
Hood et al. 1977	Sodium arsenate	albino Swiss-Webster mouse (CD-1 strain)	ip	9 - 10 / 18	40	There was less effect on fetal mortality, weight, and malformation in orally treated mice than in those injected.
			oral (p.o.)		120 single dose	
Hood et al. (undated)	Sodium arsenate	albino Swiss-Webster mouse (CD-1 strain)	ip	7 - 15 / 18	40 single dose	There was a significant decrease of fetal weights from treatment on days 7 or 10. There was a significant increase in fetal resportion and death. (Prenatal mortality was higher than in the orally treated mice.) Treatment on days 9 or 10 resulted in increased malformations such as exencephaly, shortened jaw, open eyes, kinked tail, and skeletal defects.
			oral (p.o.)	7 - 15 / 18	120 single dose	There was a significant reduction of fetal weights from treatment on days 10, 11, or 15. The number of dead or resorbed fetuses increased significantly from day 11 treatment. Oral treatment did not increase significantly the incidence of gross malformation, but a trend was evident. Malformations: oligodactyly, micromelia, kinked tail. Skeletal defects increased significantly only from treatment on day 9 (same as with ip treatment).
Matsumoto et al. 1974	Sodium arsenite	mouse (ICR strain)	oral (p.o.)	9 - 11 / 18	10, 20 40 daily dose	There were 5.7% (10 mg/kg), 0% (20 mg/kg), and 4.2% (40 mg/kg) fetal malformations compared to 0% for controls (no statistical values given). Malformations were bent tail, cleft palate, open eyelid, and bone deformities (40 mg/kg). There was reduced fetal growth and ossification of cervical vertebrae and leg/tail bones.
			ip	6 - 11 / 18	5,10, 20 daily dose	There were 3.5% (5 mg/kg) and 1.3% (10 mg/kg) fetal malformations compared to 1.2% for controls (no statistical values given). Malformations were open eyelid, bent tail, club foot, and kidney deformity (10 mg/kg). As in oral treatment there was reduced growth and ossification.

Frenke et al. 1936	Sodium arsenite	chicken embryo	injection	not specified	0.01 - 1.0 ppm single dose(1)	There were only ectopic abnormalities (unspecified) and these occurred at the lowest dosage. There were no abnormalities at 1.0 ppm.
Ridgway and Karnofsky 1952	Potassium arsenite, Arsenic pentoxide, Sodium arsenate	Leghorn chicken embryos	injection	4, 8 18	0.2 mg/egg single dose(2)	Embryos injected on the fourth day with sodium arsenate were stunted with mild micromelia and abdominal edema. There were no effects with potassium arsenite and arsenic pentoxide. There were no effects in the eight-day old embryos.
Puzanove and Daskocil 1976	Pentavelent arsenic	Leghorn chicken embryos	injection	2 - 4 varied	3ug/egg single dose(3)	Embryos treated day 2 of incubation were normally differentiated. Of embryos (19) surviving day 3 treatment, 21% had abnormalities (deformed beak, lumbar lordosis, body distortion, wrinkled brain vesicles, incomplete body walls). Thirteen (13) embryos survived day 4 treatment; 32.5% had abnormalities such as impaired mesonephros, kyphosis of body, hyperlordosis and small amnion. Compression of embryos in deformed amnion may have caused defects.
Schroeder and Mitchner 1971	Soluble arsenite salt	Charles River mouse	oral (drinking water)	through 3 generations	5 ppm ad libitum(4)	Arsenic increased the ratio of males to females and reduced the litter size.
Kimmel and Fowler (letter 1977b)	Sodium arsenate Sodium arsenite	rat	oral (drinking water)	1 - 21 21	30,90 ppm ad libitum(5)	No adverse effects.
James et al. 1966	Potassium arsenate	Yearling ewe	oral (capsule)	treated for 18, 45, 140 and 147 days	0.5 - 0.75	All lambs were normal. One lamb born to a ewe given 0.75 mg/kg (later reduced to 0.5 mg/kg due to toxicity) was very small.
Morris et al. 1938	Arsenic trioxide	Osborne - Mendel rat	oral (food)	treated from 4 wk. old to 1 yr.	27, 215 mg in diet(6)	There were no significant differences in fertility and fecundity between the experimental and control groups. This was also true of the F_1 generation when treated similarly.
Kojima 1974	Arsenic trioxide	Wistar rat	oral (food)	treated prior to and during gestation	10, 50, 100 ppm in diet(7)	No significant difference in the number of litters between treated and control rats.

1. Total As: 0.01 - 1.0 mg/kg (Franke et al. 1936).
2. Total As: 4 mg/kg (Romanoff and Romanoff 1949).
3. Total As: 0.06 mg/kg (Romanoff and Romanoff 1949).
4. Daily dose for adult females 0.56 - 2.0 mg/kg (Letter 1978).
5. Total As: 2.25-3.75 mg/kg; 6.75-11.25 mg/kg (Letter 1977b).
6. 9.2 mg/kg/day; 79 mg/kg/day (Morris et al. 1938).
7. Total As: 15.4 mg/kg; 77.1 mg/kg; 154.3 mg/kg (Kojima 1974).

mg/kg on days 7 and 11. On day 12 there were some skeletal defects. Fetal malformations included eye defects, exencephaly, renal agenesis, and rib and vertebral defects. Atlas ossification centers were absent or rudimentary in 63% of the fetuses from dams treated on day 9 of gestation.

Burk and Beaudoin (1977) found that there was a high incidence of malformations (including renal agenesis) and resorptions, both of which were dose-dependent and related to the time of treatment, in embryos from Wistar rats which had been injected intraperitoneally with sodium arsenate.

In a preliminary study, pregnant rats were given a single intraperitoneal injection of aqueous sodium arsenate (30 to 50 mg/kg of body weight) on one of days 9 through 11 of gestation. The rats were sacrificed on day 20. The number of fetal resorptions and malformed survivors (soft tissue and skeletal defects) increased with increasing concentrations of sodium arsenate for each day. The percentages of both were greatest on day 9 and decreased thereafter. Malformations that occurred primarily on day 9 of gestation were exencephaly, eye defects, and facial clefts. There were also cases of agnathia, hydrocephalus, gastroschisis, encephalomeningocele, and diaphragmatic hernia. Day-10 treatment resulted primarily in urogenital system defects. Skeletal malformations occurred primarily on days 9 and 10. Fetal weights declined as the concentration of sodium arsenate increased.

In the second experiment to study renal agenesis, the pregnant rats were injected with 45 mg/kg on day 10 of gestation. This was the most effective dose for production of renal agenesis, with minimal embryonic death. The rats were sacrificed on days 11 through 16. The first abnormal fetuses (from day-12 treatment) showed growth retardation of the mesonephric duct. For treatment days 13 through 16, retardation of the duct eventually prevented formation of the ureteric bud and resulted in renal agenesis. In some cases the mesonephric duct failed to connect with the cloaca, and there was degeneration of the metanephric blastema. Gonadal agenesis was not observed in any of the embryos from treated rats, but in some cases there was incomplete descent of the testes.

Ferm and Carpenter (1968) intravenously injected either 5, 20, or 40 mg/kg of sodium arsenate in distilled water into the lingual vein of pregnant golden hamsters (Cricetus auratus) on the eighth day of gestation. Control animals received only distilled water. The hamsters were sacrificed on days 12 through 14. All embryos died in utero at 40 mg/kg of sodium arsenate. Exencephalic lesions were induced at 20 mg/kg of body weight, and no malformations occurred with 5 mg/kg. The exencephalic lesions were markedly consistent and specific, and often within a litter a majority of the survivors showed strikingly similar defects. Other effects included bulging eyeballs and protruding tongue and mandibles. Histological examination of the placental membranes showed no abnormalities.

Holmberg and Ferm (1969) injected a sublethal dose (20 mg/kg) of sodium arsenate into the lingual vein of pregnant golden hamsters (Cricetus auratus) on the eighth day of gestation. After sacrifice on the thirteenth day, the embryos exhibited several types of malformations, and the most prominent of these in all litters was exencephaly. Other abnormalities included encephalocele, cleft palate and lip, unilateral and bilateral microanophthalmia, and ear malformations. Sodium arsenate induced a total of 49% malformed embryos and 35% resorbed embryos.

Ferm et al. (1971) injected sodium arsenate intravenously into pregnant golden hamsters (Cricetus auratus) at three different times on the eighth day of gestation. The three groups were treated with sodium arsenate at 9 AM, 3 PM, and 9 PM (6-hour intervals) at the following doses (mg/kg): 15, 17.5, 20, and 25 (9 PM only). Control hamsters were injected intravenously with similar volumes of demineralized water. The females were sacrificed on the morning of the 15th day of gestation.

Within each of the three periods of treatment, the rate of embryo resorption and malformation increased with increasing doses of sodium arsenate. A comparison of the three groups showed that the resorption rate decreased the later the time of treatment on the eighth day of gestation.

The rate of malformation did not follow a similar pattern except at 15 mg/kg sodium arsenate. Malformations were slightly more frequent in the 9 PM group at the higher doses. A marked increased in rib malformations accounted for this high malformation rate in the 9 PM period. The overall malformation rate remained constant for all three periods of treatment. Fetal malformations that occurred most frequently included exencephaly, rib malformations, genito-urinary abnormalities, and anencephaly. Other effects seen less frequently were cleft lip and palate, anophthalmia, adrenal agenesis, and prognathic embryos. Cleft lip and palate and rib abnormalities were significantly more frequent in males, and genital abnormalities occurred more frequently in female embryos. The sex ratio for the total malformation rate was close to 1.0.

Hood (1972) gave pregnant albino Swiss-Webster mice single intraperitoneal injections of either 10 or 12 mg of sodium arsenite in distilled water per kg of body weight on one of days 7 through 12 of gestation. Controls were injected with an equivalent volume of distilled water. All mice were sacrificed on the 18th day of gestation. Treatment of the pregnant mice with sodium arsenite resulted in a significant ($p < 0.05$) increase in fetal deaths for all

days 7 through 12 at both dosage levels studied. Most deaths apparently occurred shortly after treatment as determined by the degree of resorption. There was a significant ($p < 0.05$) decrease in fetal weights that was day- and dose-dependent. The higher doses tended to induce a greater effect. The period of greatest susceptibility to teratogenic effects was gestation days 8 through 10. On these days there was a significant ($p < 0.05$) difference from the control value. The most common malformations were exencephaly, micrognathia, open eye, and bent, short, or missing tails. The major skeletal defects were fusion of the ribs and fused or missing vertebral ossification centers. These malformations were found only in fetuses from the groups treated on days 8 through 10 (rib defects) and on days 9 to 10 (vertebral anomalies).

Hood and Bishop (1972) gave single intraperitoneal injections of 25 or 45 mg of sodium arsenate per kg of body weight to pregnant albino Swiss-Webster mice on one of days 6 to 12 of gestation. Controls received an equivalent dose of distilled water. The mice were sacrificed on the eighteenth day of gestation.

In females injected with 25 mg/kg of sodium arsenate, the rates of fetal resorption and malformation were not significantly different from those found in the controls.

Intraperitoneal injections of 45 mg/kg, particularly on treatment days 11 and 12, consistently resulted in significantly increased fetal resorption. Treatment on days 6 through 11 resulted in decreased fetal weights compared to controls ($p < 0.05$). Reduction in fetal weights was the most severe on treatment days 7 and 9. Sodium arsenate induced several fetal malformations that were somewhat day-dependent. Among these were exencephaly, shortened jaw, protruding tongue, anophthalmia, exophthalmos, open eye, umbilical hernia, shortened tail, twisted tail, hydrocephalus, fusion of ribs, forking of ribs, and fusion of vertebrae. The percentage of grossly malformed fetuses, resulting from treatment on the sixth day of gestation, was very low compared to that for days 7 to 11. Treatment on day 12 resulted in the resorption of most fetuses, but those that survived were morphologically normal.

Hood and Pike (1972) found that intraperitoneal injections of sodium arsenate in Swiss-Webster mice on the ninth day of gestation resulted in a significant increase in fetal mortality and malformation and decrease in fetal weight.

Treatment of pregnant mice consisted of single intraperitoneal injections of 40 mg of sodium arsenate in distilled water per kg of body weight. Control mice were injected with water or were not treated at all. All females were sacrificed on the eighteenth day of gestation. The fetuses from treated females had a high rate of resorption and death, gross malformations and skeletal defects, and had greatly reduced fetal weights compared to the fetuses of the controls.

Preliminary work in mice by Hood et al. (1977) showed that the intraperitoneal administration of sodium arsenate had a greater adverse effect on prenatal mortality, fetal weights, and morphological development than oral administration. On gestation days 9 and 10, pregnant albino Swiss-Webster mice (CD-1 strain) were treated with sodium arsenate in distilled water either intraperitoneally (40 mg/kg of body weight) or orally (120 mg/kg). Controls were treated with distilled water. The animals were sacrificed on gestation day 18. The maternal death rate was similar for both treatments, indicating similar levels of toxicity to the females. A dose of 120 mg/kg of sodium arsenate orally administered was required to obtain adverse prenatal developmental effects. There was a much lower level of fetal malformation in the orally treated mice than in those injected intraperitoneally. The intraperitoneal treatment resulted in decreased fetal weights, compared to the controls.

This effect was seen in the oral treatment only when given on day 10 of gestation.

Hood et al. (Undated) administered sodium arsenate orally to pregnant albino mice (CD-1 strain) on one of gestation days 7 through 15. Sodium arsenate was also administered intraperitoneally to other pregnant mice as a positive control. Preliminary studies with oral doses of 40, 50, 60, 80, and 100 mg/kg of sodium arsenate showed no significant differences in effects from the negative controls (water only). Sodium arsenate was then either orally (120 mg/kg) or intraperitoneally (40 mg/kg) administered to pregnant mice on the same series of days.

Compared to the negative controls, dead and resorbed fetuses from orally treated mice increased significantly only on day 11 ($p \leq 0.01$). In the positive control group, however, treatment on days 7, 8, 9, and 11 ($p \leq 0.05$) and 10, 13, 14, and 15 ($p \leq 0.01$) resulted in a significant increase in the number of dead and resorbed fetuses compared to the negative controls. The positive controls (ip) also had a higher prenatal mortality than the groups treated orally on days 7, 11, or 13 ($p \leq 0.01$) and 14 ($p \leq 0.05$).

The incidence of gross malformations from oral treatment did not increase significantly over the negative control values, although the results were suggestive of such an effect. However, intraperitoneal treatment

on days 9 ($p \leq 0.01$) and 10 ($p \leq 0.05$) resulted in an increase in malformations over the negative control values. The gross malformations that occurred most frequently with oral treatment were oligodactyly, micromelia, and kinked tail. Those associated with ip treatment were shortened jaw, exencephaly, open eyes, and kinked tail.

Skeletal malformations resulted from either oral or intraperitoneal treatment on day 9 and were significantly increased ($p \leq 0.05$) over the negative control values. Fewer defective fetuses were seen in litters from treatment on other days. The most common defect was fused ribs with some cases of fused vertebrae. There was no significant incidence of visceral defects.

Compared to the negative controls (water only), oral treatment resulted in significantly lower fetal weights on treatment days 10 and 11 ($p \leq 0.01$) and 15 ($p \leq 0.05$). Fetuses from females that received sodium arsenate by injection on days 7 or 10 ($p \leq 0.05$) or 9 ($p \leq 0.01$) weighed significantly less than those from females receiving only water.

Matsumoto et al. (1974) studied the effect of sodium arsenite on fetuses of pregnant ICR mice that were given the compound orally or intraperitoneally. One group of mice was given 10 or 20 mg of sodium arsenite/kg (body weight) intraperitoneally (ip) once a day on days 6, 7, and 8

after conception. Another group received 5 or 10 mg/kg (ip) once a day on days 9, 10, and 11 after conception. A third group was given 10, 20, or 40 mg/kg orally once a day on days 9, 10, and 11 after conception.

The percentage of malformed fetuses from ip-treated pregnant females was 3.5% (5 mg/kg) and 1.3% (10 mg/kg) compared to 1.2% for the controls (no statistical values given). The percentage of resorbed or dead fetuses was 7.3% (controls), 12.1% (5 mg/kg), and 45.8% (10 mg/kg). In the group of orally treated mice, the percentage of malformed fetuses was 5.7% (10 mg/kg), 0% (20 mg/kg), and 4.2% (40 mg/kg) compared to 0% for the controls (no statistical values given). The percent of resorbed or dead fetuses was 9.8% (controls), 4.5% (10 mg/kg), 5.5% (20 mg/kg), and 30.4% (40 mg/kg).

The malformations observed with oral treatment were bent tail, cleft palate, open eyelid, and bone deformities (40 mg/kg only). Malformations from ip treatment were open eyelid, bent tail, club foot, and kidney deformity (10 mg/kg only). From both ip and oral treatment there was reduced fetal growth and reduced ossification of cervical vertebrae and leg and tail bones.

Franke et al. (1936) tested the effect of sodium arsenite on the development of chick embryos. Sodium arsenite was injected into the eggs at the following concentrations: 0.01, 0.05, and 0.10 ppm. There were no

dead chicks in the group that received 0.01 ppm, but 6.7% had abnormalities of ectopic form (unspecified by the authors). At 0.05 ppm, 14.3% of the embryos were dead, and 14.3% of the survivors were abnormal. In the group that received 0.1 ppm of sodium arsenite, 83.3% of the embryos were dead. However, there were no abnormalities in the surviving chicks.

Ridgway and Karnofsky (1952) injected four- and eight-day-old white Leghorn chicken eggs with potassium arsenite, arsenic pentoxide, and sodium arsenate. When examined on the eighteenth day of incubation, 50% of the chicken embryos, injected via the yolk sac on the fourth day with 0.2 mg/egg of sodium arsenate, were stunted and showed mild micromelia and abdominal edema. This did not occur in the embryos injected on the eighth day. Potassium arsenite and arsenic pentoxide did not produce these effects.

Puzanova and Doskocil (1969) studied the effects of a pentavalent arsenical on white Leghorn chicken embryos. The embryos were given a single dose of 3 ug of arsenic subgerminally or intraaminally on either day 2, 3, or 4 of incubation. The embryos were collected at various times, then fixed and stained.

All embryos from day 2 treatment (collected on 8th day) survived the arsenic application and were normally differentiated.

Of those treated on day 3, 5 died and 19 survived. The dead embryos (collected 12 to 24 hours after treatment) showed abnormalities in the circulatory system (dilatation of vessels, extended heart, hemorrhaging in head and body) and in the brain vesicles (wrinkling). Of the surviving embryos (collected between incubation days 4 and 9), one had a deformed beak, and three had lordosis of the spinal lumbar region. Lordosis indicates a disturbance of amnion development resulting in compression of the embryo in the amnial pouch. There was also some wrinkling of the brain vesicles, body distortion, and inadequate formation of body walls. The other 15 embryos were differeniated normally but were smaller than the control embryos.

From day 4 exposure, 19 embryos died and 13 survived. The dead embryos were collected 12 to 72 hours after treatment. Twelve (12) had circulatory disorders (renostasis, heart dilatation, hemorrhaging), and others showed hyperlordosis, body distortion, wrinkled brain vesicles, and small amnion. Of the 13 survivors, 9 were normal, and 4 showed abnormalities such as impaired mesonephros, kyphosis of the body, hyperlordosis with scoliosis, and small, tight amnion.

In a study by Schroeder and Mitchener (1971), Charles River CD strain mice were bred in special facilities to avoid contamination from trace elements. At the time of weaning, five pairs of mice were selected randomly, fed special food, and given doubly deionized forest spring water. Drinking water containing 5 ppm of a soluble salt of arsenite (form not specified by author) was continuously available to the mice. The control mice received plain deionized water. The mice were allowed to breed at will for six months. Arsenite at this dose level did not affect the rate of growth or long-term survival and did not cause early mortality. In three successive generations of mice, arsenite given via drinking water resulted primarily in an increased ratio of males to females and in a reduction of the litter size.

The following studies showed no teratogenic effects in laboratory animals exposed to various inorganic arsenicals.

Kimmel and Fowler (Letter 1977b) gave pregnant rats either sodium arsenate or sodium arsenite in their drinking water (ad libitum) from gestation day 1 through 21 at exposure levels of either 30 or 90 ppm. There were no adverse effects on fetal weights, number of fetuses per litter, or number of malformations.

James et al. (1966) fed four pregnant yearling ewes potassium arsenate via gelatin capsule. The first ewe received 0.75 mg/kg daily from the first day of gestation.

However, after 18 days, the animal developed toxicosis, and the treatment was discontinued. A second ewe received 0.50 mg/kg daily for the first 45 days of gestation. The remaining two ewes were given 0.50 mg/kg of the salt for the entire gestation period (140 and 147 days respectively). The first ewe gave birth to "a full-term but hairy lamb" that weighed only 1.6 kg. The three other ewes produced normal lambs. Analysis of bone and soft tissue samples indicated that arsenate did not accumulate in detectable amounts in ewes fed arsenic throughout gestation or in lambs from ewes on the reduced treatments.

Morris et al. (1938) fed Osborne-Mendel rats and their offspring a diet containing either 26.8 or 215 mg of arsenic trioxide (approximately 9.2 and 79 mg/kg per day. respectively). The animals were fed the special diets ad libitum from four weeks of age to approximately one year of age.

The rats (P_1) were divided into two groups, one for each dose level. Each group contained 36 rats: 18 controls (9 of each sex) and 18 experimental rats (9 of each sex). The control animals received a diet that was adequate for growth and reproduction. The experimental groups were fed the same diet with the addition of arsenic trioxide. Both

groups of rats were mated at ages of 90 to 110 days as follows: control female x control male, control female x experimental male, experimental female x control male, experimental female x experimental male. Pairs of rats were placed in cages and given the control diet during the mating period, with the exception of experimental females with experimental males. Males were removed from the cages after females showed a positive smear for sperm.

The second generation (F_1) of rats was taken from the second litter of the P_1 females. These animals were given the same diet as their respective parent of the same sex. The mating patterns used for the P_1 groups were also used for the F_1 groups. Only one litter was obtained from this generation. The same patterns of mating were used again for the F_2 group.

No differences in fertility or fecundity were observed between the various experimental groups of both generations (P_1 and F_1) and the control groups. The average weights of P_1 females and their offspring showed no significant differences from the controls.

Kojima (1974) raised groups of male and female albino Wistar rats (P_1) and their offspring (F_1) on a diet containing arsenic (unspecified form, but measured as As_2O_3).

Different groups received various doses of arsenic (10, 50, and 100 ppm), and for each dose level there were five test groups of rats. Group I rats and their offspring received the control diet. Group II received the control diet; and after delactation, the young received the arsenic diet. Group III rats were fed the experimental diet, but the young were given the control food. Group IV rats received the experimental diet, but after delactation the offspring were given the control food. Group V rats and their offspring were fed only the arsenic diet.

The actual amount of arsenic ingested was determined by total food consumption. The P_1 rats each consumed an average of 270 g of food. The arsenic levels consumed by P_1 rats in Groups III, IV, and V were 2.7, 13.5, and 27 mg (10, 50, and 100 ppm respectively). Prior to delactation, F_1 rats of Groups IV and V ingested 0.5, 2.5, and 5 mg (10, 50, and 100 ppm respectively). After delactation, F_1 rats of Groups II and V ingested 10, 50, and 100 mg (10, 50, and 100 ppm respectively).

There were no differences in the number of litters between P_1 rats fed experimental diets containing arsenic and the control group of rats. The young of females raised on the diet containing 100 ppm of arsenic showed no effects in histopathological tests, breaking strength of bones, and Ca and P content of bones and teeth.

Pregnant mice, orally treated with 120 mg/kg of sodium arsenate (Hood et al. 1977; Undated) or 10 mg/kg sodium arsenite (Matsumoto et al. 1974), gave birth to young exhibiting both gross malformations and skeletal defects. Mice given sodium arsenite at 5 ppm in drinking water showed a reduction in litter size over three generations.

Based on these studies and the discussions in Section IV.A, the Agency concludes that there is sufficient evidence for the teratogenic effects of both trivalent inorganic arsenic (arsenite) and pentavalent inorganic arsenic (arsenate). Also there is evidence for the reproductive effects of trivalent inorganic arsenic.

In order to determine whether a rebuttable presumption should be issued on each inogranic arsenical based on these effects pursuant to Section 162.11(a)(3)(ii)(B), the Agency must determine whether an ample margin of safety exists between the levels of arsenate and arsenite which produce these effects and the levels to which humans can reasonably be anticipated to be exposed.

The levels of arsenate and arsenite which produce teratogenic effects discussed in this section of the position document are tabulated in Table 24. Of particular interest are the studies by Hood et al. (1977; Undated) and Matsumoto et al. (1974) in which arsenite or arsenate were administered orally to mice.

In the study by Matsumoto et al. (1974), arsenite was administered orally at dosages as low as 10 mg/kg. At this dosage several malformations (teratogenic effects) were observed including bent tail, cleft palate, and open eyelid. In addition to these effects the author observed reduced fetal growth, and reduced ossification of cervical vertebrae and leg and tail bones. The author did not determine a dosage level (NEL) at which teratogenic effects were not observed.

In the study by Hood et al. (1977; Undated), arsenate was administered orally to mice at 120 mg/kg. This dosage produced skeletal malformations such as fused ribs and some cases of fuses vertebrae. A dosage of 100 mg/kg (NEL) did not produce significant differences from controls.

In order to determine whether an ample margin of safety exists for each inorganic arsenical, the Agency must determine how much of each a 60-kg woman would be exposed to through oral, dermal, and/or inhalation exposure. These determinations were made in the Exposure Analysis (see Section III), and the results are duplicated here (Table 25).

For purposes of this analysis the margin of safety will be defined as the level (dosage in mg/kg) which produced

no observable effect (NOEL) divided by the anticipated exposure:

$$\text{Margin of Safety} = \frac{\text{NOEL}}{\text{Exposure}}$$

In case of inorganic arsenate the NOEL is 100 mg/kg (Hood Undated). For inorganic arsenite, however, all dosages tested produced teratogenic effects (Matsumoto et al. 1974). Therefore, because the NOEL has not been established for inorganic arsenite the lowest effect level [10 mg/kg (Matsumoto et al. 1974)] will be used in the calculation of the margin of safety for inorganic arsenite. It should be noted that if the NOEL for arsenite is found to be only slightly less than 10 mg/kg, this could represent a significant decrease in the corresponding margin of safety. The margin of safety for each use situation discussed in the exposure analysis has been calculated and can be found in table 25.

Table 25. Summary of the Total Theoretical Exposure To Inorganic Arsenic Resulting From the Use of Inorganic Arsenical Pesticides

Chemical or Use Situation	Total Theoretical Exposure (for a 60-kg Woman in mg/kg)	Margin of Safety
Agricultural Situations		
Sodium Arsenite (trivalent)	5.5	1.8
Arsenic Acid (pentavalent)	2.72	37
Sodium Arsenate (pentavalent)	0.65	154
Copper Acetoarsenite (trivalent)	0.32	31
Calcium Arsenate (pentavalent)	0.17	588
Arsenic Trioxide (trivalent)	0.68	15
Lead Arsenate (pentavalent)	0.66	152
Wood Preservative Situations (Sodium Pyroarsenate (Arsenic Trioxide*, Arsenic Pentoxide, Sodium Arsenate, Arsenic Acid, and Ammonium Arsenite*)		
Large Industrial Situations		
Inhalation Exposure	0.05	2000
Dermal Exposure	0.57 - 9.0	11 - 175
Intermittent Application to Wood During On-Site Construction		
Dermal Exposure to Ammonium Arsenite	1.1	91
Exposure From Handling, Sawing, Fabricating, etc, of Treated Wood Products		
Inhalation Exposure	0.27	370
Dermal Exposure	0.24	417
Exposure To Individuals Living or Working In Dwellings Containing Arsenic-Treated Wood		
Inhalation Exposure	$7X10^{-7}$ - 0.002	$5X10^{4}$ - $1.4X10^{8}$
Dermal Exposure	0.03 - 2.59	39 - 3333

* During the formulation of wood preservatives, all trivalent arsenic is oxidized to pentavalent arsenic; therefore, the NOEL for arsenate (100 mg/kg) was used in calculating the margin of safety for all wood preservatives.

It is generally recognized that humans vary in their susceptibility to a toxicant and that humans may, for a variety of reasons, be more sensitive than laboratory animals. Therefore, the Agency concludes that an ample margin of safety does not exist for any use of the inorganic arsenicals and recommends that a rebuttable presumption be issued against the following: ammonium arsenite, arsenic acid, arsenic pentoxide, arsenic trioxide, calcium arsenate, copper acetoarsenite, lead arsenate (basic and standard), sodium arsenate, sodium arsenite, and sodium pyroarsenate.

V. OTHER RELEVANT ADVERSE EFFECTS

This section addresses certain criteria for determination of unreasonable adverse effects which arsenic may produce, but for which insufficient evidence exists to initiate a rebuttable presumption. The Agency requests registrants or other interested persons, having information on these or any other possible adverse effects of inorganic arsenic, to submit such data to the Agency.

A. Delayed Neurotoxicity

Landau et al. (1977) did a pilot study of male workers in a copper smelter using ores high in arsenic (previously studied by Milham and Strong, and Pinto and McGill). Three groups of men were studied. The first group were workers from an area of high arsenic exposure who had 200 ug/liter of arsenic in urine samples for at least the last five years. The second group were workers from a low arsenic exposure area, and the third group consisted of workers from an aluminum plant (no arsenic exposure) and from non-industrial settings.

The men received a clinical and a neurological examination and completed a personal questionnaire. Samples of their blood, urine, hair, and nails were taken. The neurological examination consisted of sensory and/or motor nerve conduction studies on three nerves: the right ulnar (sensory and motor), the right common peroneal (motor), and the right sural (sensory). Both conduction and amplitude were measured for each nerve using standard techniques with surface electrodes.

Urinary arsenic levels corresponded well with worker exposure to arsenic. Nail and hair analyses also clearly distinguished the test groups. Blood arsenic was determined not to be a useful measurement of arsenic exposure.

Exposure to other metals was also investigated. Copper in the blood and urine did not differentiate the groups, while copper levels in the hair did. Cadmium, nickel, and zinc levels in nail tissue were highest in both of the smelter worker groups. Lead values in urine, blood, nails, and hair were generally highest in the smelter workers.

Neurological findings were based on a clinical examination for neuropathies and an objective electrical measurement. From a preliminary analysis, a dose-response relationship was not clearly evident. There was a weak association between the clinical and the objective electrical measurements of the neurological status of each man. A multivariate analysis was used to further study the association of neurological abnormalities from exposure to arsenic and other metals. There was a relationship between lower ulnar sensory amplitude, lower peroneal conduction velocity, and lower peroneal amplitude at the ankle and knee with higher levels of arsenic in urine, hair, and nails.

After further analysis, the authors concluded that there is a statistically significant relationship between arsenic levels (exposure) in body tissues and reduced neurological response. The clinical examination showed that a higher percentage of the smelter workers had some form of neuropathy compared to the control group. This was after diabetes, trauma, cigarette and alcohol use, use of drugs, and other relevant factors were taken into account. The authors also discussed the various sources of error in the study such as individual day-to-day variability, proximity of workers' homes to the smelter stack, and the effect of age on the neurological responses tested.

Mizuta et al. (1956) reported on 220 patients of all ages who had been poisoned by contaminated soy sauce, with an average estimated ingestation of roughly 3 mg of arsenic (probably calcium arsenate) daily for two to three weeks. In this group, 85% had facial edema and anorexia; fewer than 10% had exanthemata, desquamation, and hyperpigmentation; and about 20% had peripheral neuropathy. Although the majority of the patients' livers were enlarged, relatively few abnormalities were found in liver-function tests; the histopathologic description of five liver biopsies did not reveal severe degenerative changes. There were no findings suggestive of congestive failure, but

electrocardiograms were abnormal in 16 of 20 patients. The patients' symptoms tended to diminish after five or six days, despite continued intake of arsenic, and neurologic symptoms became prominent as much as two weeks after arsenic ingestion was discontinued, at which time urinary arsenic content remained high. Hair was found to contain arsenic at 2.8 to 13.0 ppm near the root, compared with 0.4 to 2.8 ppm in hair near the root from control patients.

Ohira and Aoyama (1973) organized an epidemiological study on babies that drank arsenic-tainted milk in 1955 in Japan. The number of victims was 12,159, of whom 131 died. The disaster was caused by an arsenic-contaminated milk stabilizer.

A survey was made of 214 people of whom 74 were given medical examinations. A questionnaire collected in 1955 was reresiewed. Comparative studies were done on the victims and their brothers and sisters, and on handicapped children in institutions (born from 1953 to 1955) who drank arsenic-tainted milk, those who drank a noncontaminated powdered milk, and those who were fed only maternal milk. Another study was done on children (born between 1954 and 1955) in a district where good records had been kept of their physical growth and mental development through school. They were divided into the same groups as the above study. Examinations were made of 124 patients in another district.

The exposed group had a statistically significant higher rate of the following problems compared to the two control groups. There was apparently no distinct difference between these groups in their prenatal and postnatal development before ingestion of the contaminated milk. The victims had a lower intelligence quotient than their brothers and sisters. Among mentally retarded children in one district, the victim group had a higher rate of severe retardation (IQ below 50) than children who had not consumed the arsenic-tainted milk. The victims showed growth retardation from the age of one year to school age compared to the other groups. There was a higher prevalence of myopia; abnormal EEG findings; higher DMF rate (number of decayed, missing, or filled teeth); and abnormal X-ray findings in facial shape. Although not statistically significant, there was a higher rate of the following problems: mortality, abnormal ophthalmoscopic findings, growth retardation during the school years, retardation of skeletal growth (including finger size), higher peridontal disease rate, narrow vision range, and abnormal X-ray findings in teeth. The authors concluded that the victims were still suffering from many physical and mental disorders after 17 years.

B. Hazard to Wildlife

(1) Population Reductions in Nontarget Aquatic Organisms

40 CFR Section 162.11(a)(3)(ii)(C) provides that a "rebuttable presumption shall arise if a pesticide's [use]...[c]an reasonably be anticipated to result in significant local, regional, or national population reductions in nontarget organisms...."

Menhinick (1962) listed the following possible adverse effects which may result from introduction of pesticides into various ecosystems: a decrease in the number of species and/or genera, a decrease in number and species of large organisms, a compensating increase in numbers of tolerant species, and a shift in trophic structure in favor of lower trophic levels.

When sodium arsenite was registered for use as an aquatic herbicide, it was recommended that arsenic content in treated fresh water not exceed 0.05 ppm (Goudey 1946); a limit of 10 mg/liter [ppm] of arsenic contamination has been recommended for estuarine waters (Lincer 1975).

Except for use of copper acetoarsenite in mosquito control programs, there are no inorganic arsenicals registered for aquatic uses. Indirect sources of arsenic contamination of fresh and marine/estuarine waters, which may adversely affect aquatic organisms, include drift and runoff from agricultural application of inorganic arsenicals, as well as use of wood (for pilings and docks) treated with inorganic arsenical wood preservatives.

(a) Phytoplankton, Zooplankton, and Invertebrates

Reduction in populations of plankton and aquatic invertebrates can have indirect adverse effects on higher organisms by reducing numbers of oxygen-producing algae and through depletion of food sources (Ball and Hooper 1966).

Surber and Meehan (1931) conducted experiments which showed that 2.0 ppm arsenious oxide [arsenic trioxide] equivalent in a commercial sodium arsenite formulation would not kill important fish food organisms. The most sensitive species were chironomid larvae, mayfly nymphs, and fresh water shrimp; these species showed relatively high mortality rates on exposure to 2.5 to 4 ppm As_2O_3. Other studies, however, have shown that use of sodium arsenite can reduce numbers of fish food

organisms. Lawrence (1958) performed studies which showed that two applications to experimental ponds of 4 ppm As_2O_3 as sodium arsenite one month apart reduced the number of bottom invertebrates an average of 34% as compared to control ponds; two applications of 8 ppm As_2O_3 one month apart reduced bottom invertebrates an average of 45% as compared to controls. An application of 4 ppm As_2O_3 one year later to the ponds which had received two applications of 4 ppm resulted in an average increase of 33% in bottom organisms; application of 4 ppm to ponds which had received two applications of 8 ppm, however, resulted in an average decrease of 20% in bottom organisms. The authors also noted that an application of 4 ppm As_2O_3 as sodium arsenite to experimental ponds had killed all the microcrustacae and greatly reduced the population of rotifers.

Cowell (1965) studied the effects of sodium arsenite on plankton populations in farm ponds. At concentrations of 4 ppm during two successive years, sodium arsenite significantly decreased zooplankton populations from at least one sampling depth in three of four treated ponds during the first year; during the second year, sodium arsenite at 4 ppm significantly reduced zooplankton populations, especially rotifers.

Ball and Hooper (1966) studied the effects of ^{74}As-labelled sodium arsenite on pond ecology. A pond with 1/3 acre surface area and a depth of 2 meters was treated with 8 ppm sodium arsenite. Results of the pond study showed that the treatment destroyed a major portion of the phytoplankton. In addition, the number and volume of bottom invertebrates was reduced; reduction ranged from 57% for dragonflies to 100% for mayflies. The authors concluded that sodium arsenite "persists in the ecosystem at low concentration levels and that it has an adverse effect upon many components of the system. Sodium arsenite kills many organisms important to the economy of the pond and modifies the primary producers to such an extent that production is seriously affected."

Gilderhus (1966) also studied the effects of sodium arsenite, at sublethal concentrations, on bottom invertebrates and plankton (Table 26). Nine concrete ponds, with surface measurements of 0.01 acre, were treated with varying concentrations of sodium arsenite over a 16-week period. Table 26 shows the results of the these treatments on bottom organisms and microorganisms.

Table 26. Effects of Arsenic Treatments on Populations of Invertebrates and Microorganisms

Pool	Total Sodium Arsenite Applied (ppm)	Avg. # Bottom[a/] Organisms per sq ft	Avg. # Micro-[b/] organisms per liter
1	4.0	24.7	3,707
2	1.2	99.0	2,328
3	0.4	68.1	3,194
4	4.8	27.9	417
5	1.6	73.4	2,643
6	0.0	58.9	1,211
7	19.2	6.3	178
8	6.4	21.3	1,754
9	0.64	64.1	1,847

a/ Ten families were represented: Oligochaeta, Nematomorpha, Ephemeroptera, Odonata, Coleoptera, Hemiptera, Chaoborinae, Tendipedidae, Ceratopogonidae, and Tabanidae.
b/ Populations counted were rotifers, Cladocera, copepods (adults and nauplii), and microcrustaceans.

Gilderhus (1966) noted that the average numbers of bottom invertebrates in pools at the four highest treatment levels were less than one-half the average found in the other treated pools and control. With regard to plankton, the two pools with the highest treatment levels had substantially reduced average numbers of microorganisms, particularly rotifers. The author also stated that total numbers of microcrustaceans, which are valuable fish foods, appeared greatly reduced in all pools which received totals of 4 ppm or more.

(b) Fish

The PERS report (EPA 1977) on inorganic arsenic (see Section I.H) lists one episode involving an unspecified arsenical in a fish kill in 1973. An unknown number of fish in a pond near a soybean field were killed. The pond had apparently been contaminated by waste cans and containers of pesticides, including linuron, alachlor, trifluralin, and paraquat. The arsenic content of the water was 73 ppm. There was insufficient evidence either to prove or disprove involvement of arsenic.

Table 27 shows the acute toxicities of sodium arsenite and arsenate to various aquatic species. Other studies indicate possible adverse effects of inorganic arsenic to aquatic organisms at levels below acute toxicity concentrations.

Table 27. Acute Toxicity of Sodium Arsenite and Arsenate to Fresh Water and Marine/Estuarine Species (in ppm)

Sodium Arsenite	24-hr	48-hr	96-hr	Reference
Daphnia sp.		9.1		Mackenthun 1960
Water flea (Daphnia pulex)		1.8		Cope 1966
Stonefly nymph (Pteronarcys californicus)		80		Cope 1966
Water flea (Simocephalus serrulatus)		1.4		Cope 1966
Channel catfish fingerlings	47.9	25.9	25.9	Clemens & Sneed 1959
Channel catfish-juvenile (Ictalurus punctatus)		56.9	31.2	Cardwell et al. 1976
Rainbow trout		60		Crosby & Tucker 1966
Rainbow trout (Salmo gairdneri)		36.5		Cope 1966
Bluegill (Lepomis macrochirus)		44		Cope 1966
Bluegill		44		Crosby & Tucker 1966
Bluegill-juvenile (Lepomis macrochirus)			72	Cardwell et al. 1976
Brook trout (Salvelinus fontinalis)	53.9	27.8	25.8[a]	Cardwell et al. 1976
Fathead minnows-juvenile (Pimephales promelas)	36.2	31.3	27	Cardwell et al. 1976
Goldfish-juvenile (Carassius auratus)	89.6	54.6	44.9	Cardwell et al. 1976
Flagfish fry (Jordanella floridae)	69.8[b]		48.5[a]	Cardwell et al. 1976
Minnow (Notropsis hudsonius)	45	29	72[c]	Boschetti & McLoughlin 1957
Tadpole (Adelotus brevis)	152	119	96	Johnson 1976
Tadpole (Limnodynastes peroni)	108	92	60	Johnson 1976
Tadpole (Bufo marinus)	195	150	123	Johnson 1976
Juvenile bay scallops (Argopecten irradians)				
Oyster embryos (Crassostrea virginica)	6.50	4.40 7.50	3.49	Nelson et al. 1976 Calabrese et al. 1973
Sodium Arsenate				
Green sunfish (Lepomis cyanellus)	175	150		Sorensen 1976a
Daphnia sp.		20		Mackenthun 1960
Goldfish (Carassius auratus)		32		Weir & Hine 1970

a/ 93-hr LC-50.
b/ 29-hr LC-50.
c/ 72-hr TL-50.

A study by Wiebe (1930) concluded that fingerling stages of four species of game fishes and three species of forage fishes exposed to concentrations of sodium arsenite ranging from 2 to 7 ppm for varying periods of time did not show any harmful effects. Species used in the study were largemouth black bass (Micropterus salmoides), smallmouth black bass (M. dolomieu), white crappie (Pomoxis annularis), bluegill (Lepomis incisor), golden shiner (Notemigonus crysoleucas), goldfish (Carassius auratus), and bullhead (Ameiurus nebulosus).

Since copper acetoarsenite is insoluble in water, it is generally regarded as nontoxic to fish. Bishop (1940) reported on the effects of copper acetoarsenite for mosquito control in Wheeler Reservoir in Tennessee, applied at about one pound per acre. The author noted that treatments showed no deleterious effect upon vegetation; there was no evidence of a "catastrophic destruction" of aquatic organisms important as fish food; and soil samples showed accumulation of arsenical residues in variable amounts in the bottom of reservoirs.

In another study on copper acetoarsenite, McCormick (1940) attempted to determine the amount of arsenic exposure to fish from mosquito-control dusting. Fish used in

the study were mosquitofish (Gambusia patruelis), catfish (Ameiurus melas), killifish (Fundulus dispar), and silversides (Labidesthes sicculus). Fish were treated with 2 to 6 grams of pure or mixture paris green. Out of 15 series of tests, two were discarded because of procedural errors. Of the remaining 13 series of tests, eight were listed as showing positive results for arsenic residues, and five were negative. Of these, however, two series which showed positive results were rejected because the fish had not been adequately washed, and particles of copper acetoarsenite in the water could have adhered to their skin; one negative result was also rejected because tests were run only on very small, individual fish. Amounts of arsenic found ranged from trace to 0.1 mg. The author noted that Gambusia were able to withstand total dosages of 18 and 20 grams of copper acetoarsenite (56 to 60 ppm arsenic trioxide).

Grindley (1946) studied the effects of sodium arsenite and sodium arsenate on minnows (Phoxinus phoxinus). Toxicity to fish was determined by when they had permanently overturned (i.e., lost equilibrium). At a concentration 47.5 ppm sodium arsenite, it took an average of 19 hours before fish had overturned; at 17.8 ppm, it took an average of 36 hours.

At 234 ppm sodium arsenate, it took an average of 15.85 hours before fish had overturned; at 610 ppm, it took an average of 9.05 hours. None of the fish exposed to sodium arsenite or sodium arsenate recovered after removal to fresh water. The author also noted that "smaller concentrations [of arsenic] acting over long periods in a river would [probably] damage a fishery, either by their continued action on the fish themselves or by their toxic action on other aquatic organisms which serve as the food of the fish."

Gilderhus (1966) studied some effects of sublethal concentrations of sodium arsenite on adult and immature bluegills (Lepomis macrochirus). Chronic toxicity to fish was based on survival, growth, hematocrit measurements, ratio of gonad weight to body weight, and pathological changes in tissues. Nine concrete pools were treated with varying concentrations of sodium arsenite over a 16-week period.

Neither hematocrit measurements nor gonad-to-body weight ratios could be related to arsenic concentration.

Survival, however, was definitely affected. In immature bluegills, survival decreased as the amount of arsenic treatment increased. Only 18% of immature fish

survived after 16 weeks in a pool receiving a total treatment of 19.2 ppm sodium arsenite, compared to 90% survival in the control pool. Survival of immature fish in pools receiving totals of 1.2, 4.0, and 4.8 ppm sodium arsenite was also reduced compared to controls (54, 52, and 45%, respectively). Survival of adult bluegill was 31% in the pool receiving 19.2 ppm, compared to 60% in controls. Survival of adults in all other treated pools ranged from 50 to 62%.

Growth (length and weight gain) for immature bluegill declined as sodium arsenite concentrations increased. Adult bluegills remained about the same length during the experiment, but adults at the four highest concentrations gained less weight, on average, by four to six grams (25 to 37% of their weight at the experiment's start). Control fish, however, did not have a higher final weight than fish from some treated pools. The author could not account for this but speculated that light arsenic treatment enhanced conditions for growth.

Only adult fish from the control pool and fish from pools which received weekly treatments were examined histopathologically. Exposed fish had more hemorrhagic globes on the gills than controls. Among other symptoms noted in some exposed fish, and not seen in control fish, were fat infiltration of the liver, vacuolation of the

cytoplasm of hepatic cells, foci of necrosis, and a massive extravasation of erythrocytes, which lifted the lining of the ventricle of the heart, along with interventricular fibrin and necrotic cells. In addition, in ovaries of fish from heavily treated pools, 20 to 50% of the oogonia and primary and secondary oocytes appeared as encapsulated cells. Mature ova appeared normal, but ovaries contained fewer packed cells than normal organs.

The author noted that applications of 4.0 ppm or more of sodium arsenite in one year inhibited growth of both adult and immature bluegills, and adversely affected survival of immatures. Among adults, residues of about 5.0 ppm in flesh were associated with severe loss of weight and high mortality; growth was slowed slightly with residues in flesh between 1 and 3 ppm.

Weir and Hine (1970) studied impairment of conditioned behavior of goldfish (Carassius auratus) by various metals, including sodium arsenate. Goldfish conditioned to avoid electric shocks were exposed to sublethal amounts of sodium arsenate for 24 and 48 hours. The authors found that the lowest arsenic concentration which significantly impaired conditioned behavior was 0.1 ppm, or 1/320 of the LC-50 and 1/15 of the LC-1. The authors noted that deleterious

effects [i.e., impairment of conditioned behavior] were demonstrated below the arsenic levels currently accepted as safe.

Sorensen (1976b) studied thermal effects on accumulation of arsenic in green sunfish (Lepomis cyanellus). Nine groups of 20 fish each were acclimated in aquaria at 10°C [=50°F], 20°C [-68°F], and 30°C [=86°F] (three groups for each temperature level). One group at each temperature was then exposed to 0, 30, and 60 ppm sodium arsenate for five weeks. Every third day, the fish were placed in fresh test solutions. At weekly intervals for five weeks, two live fish were collected at random from each of the nine treatments. Liver, right muscle fillet, and guts (without contents) were analyzed for arsenic content. (For results of these analyses, see Table 28.)

Sorensen reported that the LT-50 (times for 50% mortality), at the same arsenic concentration, increased as temperature increased. At 60 ppm arsenic, the LT-50 at 10°C was 678 hours, at 20°C 210 hours, and at 30°C 124 hours. At 30 ppm arsenic, the LT-50 values at 20 and 30°C were 527 and 209 hours, respectively. The author concluded that arsenic uptake in liver, gut, and muscle increased with increasing temperature, arsenic concentration, and length of exposure.

Table 28 . Tissue uptake of arsenic (ug/mg wet weight)[a/] by the green sunfish

Degree C and arsenic concentration in ppm	Liver Uptake Weeks 1st	2nd	3rd	4th	5th
10°C; 0 ppm	0.03	0.03	0.03	0.03	0.03
10°C; 30 ppm	0.03	0.06	0.12	0.12	0.21
10°C; 60 ppm	0.03	0.09	0.135	0.15	0.24
20°C; 0 ppm	0.03	0.03	0.03	0.03	0.03
20°C; 30 ppm	0.15	0.225	0.574	1.033	0.743
20°C; 60 ppm	<0.364	0.424	----[b/]	----[b/]	----[b/]
30°C; 0 ppm	0.03	0.03	0.03	0.03	0.03
30°C; 30 ppm	<0.364	0.334	----[b/]	----[b/]	----[b/]
30°C; 60 ppm	0.545	1.393	----[b/]	----[b/]	----[b/]
	Gut Uptake				
10°C; 0 ppm	ND	ND	0.01	0.02	0.01
10°C; 30 ppm	0.03	0.05	0.1	0.141	0.159
10°C; 60 ppm	0.06	0.05	0.133	0.126	0.159
20°C; 0 ppm	ND	ND	0.005	0.005	0.01
20°C; 30 ppm	0.01	0.61	0.221	0.247	0.221
20°C; 60 ppm	0.65	0.226	----[b/]	----[b/]	----[b/]
30°C; 0 ppm	ND	ND	ND	ND	ND
30°C; 30 ppm	<0.126	0.035	----[b/]	----[b/]	----[b/]
30°C; 60 ppm	0.75	0.242	----[b/]	----[b/]	----[b/]
	Muscle Uptake				
10°C; 30 ppm	ND	NM	NM	ND	0.029
10°C; 60 ppm	0.028	0.047	0.013	NM.	0.41
20°C; 30 ppm	0.023	0.02	0.025	0.037	0.039
20°C; 60 ppm	0.017	0.015	0.015	----[b/]	----[b/]
30°C; 30 ppm	0.02	0.053	----[b/]	----[b/]	----[b/]
30°C; 60 ppm	0.032	0.04	----[b/]	----[b/]	----[b/]

a/ Values derived from author's graphs and may not be exact.
b/ No fish remained alive at these concentrations for these time periods.
ND = Not detected; NM = Not measured.

The Agency points out that, particularly for aquatic food organisms (phytoplankton, zooplankton, and invertebrates), arsenic produced the adverse effects listed by Menhinick (1962), even at sublethal concentrations. The Agency also notes the possibility of long-term adverse effects on larger aquatic organisms from sublethal arsenic concentrations. The Agency is concerned that indirect contaminations of water from use of arsenical pesticides could have long-term adverse effects on aquatic organisms through reduction in numbers of food organism and oxygen-producing algae (Lawrence 1958; Cowell 1965; Ball and Hooper 1966; and Gilderhus 1966) and through adverse effects on survival ability of larger aquatic organisms (Gilderhus 1966; Weir and Hine 1970).

(2) Population Reductions in Nontarget Mammalian Wildlife

Swiggart et al. (1972) reported on eleven dead deer (8 females, 3 males) that were found in a 600 acre area of Tennessee, which recently had been treated with an arsenical herbicide containing 39.6% arsenic acid. The product was applied aerially to agricultural land for control of Johnson grass at the rate of five gallons of mixture per acre (prepared in the ratio of 1 gallon of herbicide to 9 gallons of water). This particular use of the pesticide violated the USDA registration of the product.

Qualitative and quantitative analyses by laboratories showed a high level of arsenic in deer tissue specimens and in samples of water, soil, and vegetation from the area.

Boyce and Verme (1954) studied the effect of sodium arsenite, used as a tree debarking agent, on wildlife mortality in both commercially treated plots and controlled study areas. In several debarking test plots set up by lumber companies in Michigan, a number of deer, porcupines, and snowshoe hares were found dead. Analyses of the digestive organs indicated arsenic as the cause of death. Several controlled experiments were done on confined deer exposed to trees girdled and treated with sodium arsenite. In some studies, deer remained healthy and apparently did not lick the treated trees. In similar studies, some deer died from arsenic poisoning as shown by tissue analyses.

In a mineral preference test, two groups of adult and yearling does were exposed to trees treated with sodium, potassium, and ammonium arsenite, as well as sodium chloride. Sodium arsenite was only slightly more preferred than the other compounds, including sodium chloride. In another study, potassium arsenite was used instead of the sodium salt to determine if one form is more attractive to deer. No deer were found dead. Penned deer were exposed to sugar cubes dyed various colors to determine if the red dye added to commercial sodium arsenite

formulations was attractive to deer. Deer showed only a slight preference for the red cubes.

From toxicity tests on confined deer, it was determined that only small amounts of arsenite were required to produce mortality. Death usually occurred within a relatively short time after ingestion. In one test, a yearling doe died 12 hours after ingesting a total of 4 cc of arsenite (potassium and sodium salts) in food pellets. Ingestion of foliage from treated trees caused no observable ill effects.

The animals apparently did not obtain the sodium arsenite from the girdled area of the trees but came in contact with the spillage at the base of the trees.

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* Copies of specific references will be provided on request. There will be a charge to cover duplication costs for such requests. A copy of the Position Document and all references are available for public inspection in the Office of Special Pesticide Reviews (WH-566), Office of Pesticide Programs, Environmental Protection Agency, East Tower, Room 447, 401 M Street S.W., Washington, D.C. 20460.

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* C00004	BONIDE CHEMICAL CO. INC. 2 WURZ AVE. YORKVILLE NY 13495

********** PRODUCT NAME **********

**00109* BONIDE SODIUM ARSENITE GRASS & WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 000005	EMPIRE INTERNATIONAL P.O. BOX 29805 ATLANTA, GA 30359

********** PRODUCT NAME **********

**00031* EM 1400 (SODIUM ARSENITE SOLUTION) NON-SELECTIVE WEED & BRUSH KILLER

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00004* JONES ANT KILLER (NEW SQUEEZE CAN ANT KILLER)

**** PRODUCT SEARCH LISTING **** PAGE 2

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

**00032* EM 1400 (SODIUM ARSENITE SOLUTION) NON-SELECTIVE WEED & BRUSH KILLER

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00005* JONES ANT KILLER (SQUEEZE CAN ANT KILLER)

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00006* JONES ANT KILLER (SQUEEZE CAN ANT KILLER)

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00007* JONES ANT KILLER (SQUEEZE CAN ANT KILLER)

**** PRODUCT SEARCH LISTING **** PAGE 3

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00008* JONES ANT KILLER (SQUEEZE CAN ANT KILLER)

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00009* JONES ANT KILLER (SQUEEZE CAN ANT KILLER)

REGISTRANT	*NAME AND ADDRESS*
* 000029	JONES PRODUCT COMPANY BOX 204 MIDDLETON, WI 53562

********** PRODUCT NAME **********

**00010* JONES ANT KILLER (SQUEEZE CAN ANT KILLER)

**** PRODUCT SEARCH LISTING **** PAGE 2

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000030 SWEENEY W R MFR INC
340 S MAIN ST
SALISBURY MO 65281

********** PRODUCT NAME **********

**00001* SWEENEY'S ANT-GO

REGISTRANT *NAME AND ADDRESS*

* 000055 FATSCO
251 N FAIR AVE
BENTON HARBOR MI 49022

********** PRODUCT NAME **********

**00001* FATSCO ANT POISON FOR SWEET EATING ANTS

REGISTRANT *NAME AND ADDRESS*

* 000061 KOPPERS COMPANY, INCORPORATED
GENERAL OFFICES-KOOPERS BLD
PITTSBURGH PA 15219

********** PRODUCT NAME **********

**00110* WOLMAN SALTS FCAP, WOOD PRESERVATIVE

**00111* KOPPERS WOLMAN WOOD PRESERVATIVE SOLUTION

**00124* KOPPERS WOLMAN SALTS FMP

**00127* WOLMAN SALTS CCA TYPE A

**00128* WOLMANAC CONCENTRATE 50% (INDUSTRIAL USE)

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

**CONTINUE REGISTRANT 000061

**00134* KOPPERS MINASAL MINE TIMBER PRESERVATIVE

**00139* WOLMAN SALTS CCA-TYPE B

**00140* WOOD PRESERVATIVE CCA-TYPE C

**00141* WOLMANAC CONCENTRATE 70% FOR INDUSTRIAL USE ONLY

**00170* ALLIED CHEMICAL CCA TYPE B WOOD PRESERVATIVE

**00171* ALLIED CHEMICAL ARSENIC ACID 75%

REGISTRANT *NAME AND ADDRESS*

* 000106 BRULIN & COMPANY INC
PO BOX 270-B
INDIANAPOLIS IN 46206

********** PRODUCT NAME **********

**00001* BRULIN'S NON-SELECTIVE WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000148 THOMPSON-HAYWARD CHEMICAL COMPANY
POX 2383
KANSAS CITY KS 66110

********** PRODUCT NAME **********

**00674* DE PESTER DESICCANT-A

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 000149 SENCRET CHEMICAL COMPANY
631 LEFFINGWELL AVE
ST LOUIS MO 63122

**************** PRODUCT NAME ****************

**00002* TERRO ANT KILLER

**00004* TERRO CALIFORNIA ANT KILLER

****

REGISTRANT *NAME AND ADDRESS*

* 000192 DEXOL INDUSTRIES
1450 W 228TH ST
TORRANCE CA 90501

**************** PRODUCT NAME ****************

**0009[illegible]* DEXOL WEEDSOL NON SELECTIVE WEED KILLER

****

REGISTRANT *NAME AND ADDRESS*

* 000218 ALLIED CHEMICAL CORPORATION
P.O. BOX 1058-R
MORRISTOWN NJ 07960

**************** PRODUCT NAME ****************

**00445* ARCADIAN KILMAG

**00661* ALLIED CHEMICAL SODIUM ARSENATE

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

**************** PRODUCT NAME ****************

**00023* ORTHO BUG-GETA PELLETS

**00061* SODITE GRAPE SPRAY

**00074* METAG AGRICULTURAL BAIT (PELLETS)

**00087* ORTHO BASIC LEAD ARSENATE (RECD. 119)

**00111* ORTHO BUG-GETA MEAL

**00289* ORTHO ARSENICAL WEED KILLER

**00561* METAG-XX AGRICULTURAL BAIT(PELLETS)

**02207* (ORTHO) CHEVRON ARSENIC ACID

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REGISTRANT *NAME AND ADDRESS*

* 000255 AMERICAN FLUORIDE CORP
17 HUNTINGTON PLACE
NEW ROCHELLE NY 10801

**************** PRODUCT NAME ****************

**00025* AFC ARSENIOUS OXIDE

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**** PRODUCT SEARCH LISTING **** PAGE 6

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV.
2000 MARKET STREET
PHILADELPHIA, PA. 19103

**************** PRODUCT NAME ****************

**00046* NIAGARA BASIC POWDERED ARSENATE OF LEAD

**00153* NIAGARA NEW CUCURBIT DUST

**00825* NIAGARA 7-20 DUST FUNGICIDE-INSECTICIDE

**01874* NIAGARA BLUEBERRY MAGGOT DUST

****

REGISTRANT *NAME AND ADDRESS*

* 000295 COMMERCIAL CHEMICAL COMPANY
P O BOX 7275
MEMPHIS, TN 38107

**************** PRODUCT NAME ****************

**00005* DELTA BRAND ARSENIC ACID

**00006* DELTA BRAND ARSENIC ACID F/BERMUDA INNS,F/CONTROL OF DALLIS & CRAB

****

REGISTRANT *NAME AND ADDRESS*

* 000305 BADGER PHARMACAL INC.
P.O. BOX 171
CEDARBURG WI. 53012

**************** PRODUCT NAME ****************

**00006* ANT EXIT

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 000328 GETEM MANUFACTURING CO., INC.
1261 W. 42ND STREET
NORFOLK, VA. 23508

**************** PRODUCT NAME ****************

**00002* GETEM ANT POISON

****

REGISTRANT *NAME AND ADDRESS*

* 000359 RHODIA INC. AGRICULTURAL DIVISION
P.O. BOX 125
MONMOUTH JUNCTION, NJ 08852

**************** PRODUCT NAME ****************

**00001* ATLAS "A" A SODIUM ARSENITE SOLUTION

**00228* ATLAS "A6" SODIUM ARSENITE SOLUTION

**00360* CHIP-CAL GRANULAR

**00536* CHIPMAN BETA A PELLET

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REGISTRANT *NAME AND ADDRESS*

* 000363 COOPERS CREEK CHEMICAL CORP
RIVER ROAD
WEST CONSHOHOCKEN, PA 19428

**************** PRODUCT NAME ****************

**00001* MAIN LINE WEED KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000390 PETTIT PAINT COMPANY INC
36 FINE ST
PORPUGH OF ROCKAWAY NJ 07866

********** PRODUCT NAME **********

**00011* PETTIT TROPICOP THE SUPREME PLASTIC COPPER PAINT 1342 GREEN

**00038* PETTIT MARINE PAINT ANTI-FOULING 1330 ALGACIDE GREEN

REGISTRANT *NAME AND ADDRESS*

* C00402 HILL MANUFACTURING COMPANY
1500 JONESBORO RD SE
ATLANTA GA 30315

********** PRODUCT NAME **********

**00053* HILL'S NO. 572 HERBICIDE CONCENTRATE WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000419 CENCL COMPANY
DIV OF PURGESS VIEBOCHARTERS INC
P O BOX 177 ROUTE 45 & PETERSON RD
LIBERTYVILLE, IL 60048

********** PRODUCT NAME **********

**00004* 7-11 ANT POISON

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000421 VARIEY JAMES & SONS INC
1200 SWITZER AVE
ST LOUIS MO 63147

********** PRODUCT NAME **********

**00368* VARCO FOUR PLUS FIFTY NON-SELECTIVE CONCENTRATE

**00398* VARCO SIX PLUS SIXTY NON SELECTIVE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 000422 BLUE RAIL CHEMICAL COMPANY
914 HOFFNER AVENUE
ORLANDO FL 32809

********** PRODUCT NAME **********

**00017* MOL-EX

REGISTRANT *NAME AND ADDRESS*

* 000446 GOOL JAMES COMPANY
2107-15 E SUSQUEHANNA AVE
PHILADELPHIA PA 19125

********** PRODUCT NAME **********

**00001* WEEDEX SODIUM METARSENITE 41%

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000475 BOYLE-MIDWAY INC
S AVE & HALE ST
CRANFORD NJ 07016

********** PRODUCT NAME **********

**00007* ANTROL ANT KILLER

**00013* ANTROL ANT SYRUP

REGISTRANT *NAME AND ADDRESS*

* 000476 STAUFFER CHEMICAL COMPANY LABELING & REGISTRATION
DEPT 1200 SOUTH 47TH ST
RICHMOND, CA 94804

********** PRODUCT NAME **********

**01092* CAL-META SNAIL PELLETS

**01551* CALCIUM ARSENATE-METALDEHYDE 5-3 PELLETS

REGISTRANT *NAME AND ADDRESS*

* 000477 GRO ALL INC
DIV OF CENTRAL CHEM CORP
P. O. BOX 918
HAGERSTOWN, MD 21740

********** PRODUCT NAME **********

**00073* FARMRITE COP-CAL VEGETABLE DUST

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000483 PACIFIC SUPPLY CORP
PO BOX 3588
PORTLAND OR 97208

********** PRODUCT NAME **********

**00113* PACIFIC COOPERATIVES SLUG PELLETS

REGISTRANT *NAME AND ADDRESS*

* 000491 SELIG CHEMICAL INDUSTRIES THE
DIV NATIONAL SERVICE INDS INC PO BOX 43106
ATLANTA GA 30336

********** PRODUCT NAME **********

**00003* SELIG'S WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000498 CHASE PRODUCTS COMPANY
19TH ST & GARDNER BLVD
BROADVIEW IL 60155

********** PRODUCT NAME **********

**00001* CHASES'S ANT KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000505 COWLEY S L & SONS MFG INC
BOX 454
HUGO OK 74743

**** PRODUCT NAME ****

**00001* COWLEY'S 'ORIGINAL' RAT AND MOUSE POISON

REGISTRANT *NAME AND ADDRESS*

* 000551 BAIRD & MCGUIRE INC
SOUTH STREET
HOLBROOK,MA 02343

**** PRODUCT NAME ****

**00001* WEED KILLER NO. 50

**00088* WEED KILLER NO. 50A

**00208* SODIUM ARSENITE "8"

**00214* SODIUM ARSENITE 4

REGISTRANT *NAME AND ADDRESS*

* 000604 HAMMOND PAINT & CHEM COMPANY INC
BOX 292
WESTWOOD MA 02090

**** PRODUCT NAME ****

**00017* HAMMOND'S WEED KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 000677 DIAMOND SHAMROCK CORP. AGRICULTURAL CHEM. DIVISION
A UNIT OF DIAMOND SHAMROCK CORP 1100 SUPERIOR AVE
CLEVELAND OH 44114

**** PRODUCT NAME ****

**00242* SWEDISH REFINED WHITE ARSENIC POWDER

REGISTRANT *NAME AND ADDRESS*

* 000690 PERK PRODUCTS CO
1336 LEWIS ST
NASHVILLE,TN 37210

**** PRODUCT NAME ****

**00029* PERKERSON'S POLE-END

REGISTRANT *NAME AND ADDRESS*

* 000728 SOUTHLAND PEARSON & CO
PO BOX 7151
MOBILE,AL 36607

**** PRODUCT NAME ****

**00023* PEARSON'S KWIK-KILL BAIT

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 000769	NCOIFOLK CHEMICAL WCRKS INC PO BOX 538 FT VALLEY GA 31030

********** PRODUCT NAME **********	
**00014*	SECURITY BRAND CALCIUM ARSENATE
**00149*	SECURITY BRAND TOMATO DUST
**00287*	40% SCIUTICN SODIUM ARSENITE
**00374*	SECURITY FLAG
**00443*	SECURITY CALNATE

REGISTRANT	*NAME AND ADDRESS*
* 000779	FAESY & BESTHOFF INC 143 RIVER RD EDGEWATER NJ 07020

********** PRODUCT NAME **********	
**00002*	WEED KILLER (SODIUM ARSENITE SCIUTICN)

REGISTRANT	*NAME AND ADDRESS*
* 000839	BELI CHEMICAL COMPANY BOX 10007 DALLAS TX 75207

********** PRODUCT NAME **********	
**00059*	BELCO NON-SELECTIVE WEED KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 000842	ROBINS G S COMPANY 126 CHOUTEAU AVE ST LOUIS MO 63102

********** PRODUCT NAME **********	
**00113*	SODIUM ARSENITE 6-LB. SOLUTICN

REGISTRANT	*NAME AND ADDRESS*
* 000962	LOS ANGELES CHEMICAL COMPANY 4545 ABLINE ST SOUTH GATE CA 90280

********** PRODUCT NAME **********	
**00093*	LACCO BRAND CALCIUM ARSENATE
**00300*	LACCO BASIC LEAD ARSENATE
**00340*	LACCO WHITE ARSENIC
**00344*	LACCO PARIS GREEN
**00349*	LAGGO SODIUM ARSENITE SOLUTICN NO. 6

REGISTRANT	*NAME AND ADDRESS*
* 001022	CHAPMAN CHEMICAL COMPANY BOX 9158 MEMPHIS TN 38109

********** PRODUCT NAME **********	
**00109*	WARSITE 40

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

**CONTINUE REGISTRANT 001022

**00414* CHAPMAN MARSITE 60

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REGISTRANT *NAME AND ADDRESS*

* 001057 C B DOLGE COMPANY
11 PERRY LANE WEST
WESTPORT, CT 06880

********** PRODUCT NAME **********

**00020* DOLGE SUPER STRENGTH WEED KILLER

****

REGISTRANT *NAME AND ADDRESS*

* 001266 MALTER INTERNATIONAL CORPORATION
PO BOX 6099
NEW ORLEANS LA 70114

********** PRODUCT NAME **********

**00043* MWK NON-SELECTIVE WEED KILLER FOR CONT OF WEEDS, GRASS AND OTHER VEG

****

REGISTRANT *NAME AND ADDRESS*

* 001269 DEWITT CHEMICAL COMPANY
ECX 343
ATLANTA GA 30301

********** PRODUCT NAME **********

**00022* DE WITT FORMULA NO 102 WEED KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 001270 ZEP MANUF CORP
ECX 2015
ATLANTA GA 30301

********** PRODUCT NAME **********

**00042* ZEP R-59 WEED KILLER

****

REGISTRANT *NAME AND ADDRESS*

* 001325 WEII CHEMICAL COMPANY
219 SCOTT STREET
MEMPHIS, TN 38112

********** PRODUCT NAME **********

**CC060* DE WEED CONCENTRATED KILLER OF WEEDS

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REGISTRANT *NAME AND ADDRESS*

* 001386 UNIVERSAL COOPERATIVES INC
3001 METRO DR. SUITE 500
MINNEAPOLIS MN 55420

********** PRODUCT NAME **********

**00136* UNICO SODIUM ARSENITE WEED KILLER SOLUTION

**00447* UNICO SNAIL AND SLUG BAIT

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 001271 ZEP MANUF CORP
ECX 2015
ATLANTA GA 30301

********** PRODUCT NAME **********

**00041* ZEP R-58 WEED KILLER

****

REGISTRANT *NAME AND ADDRESS*

* 001386 UNIVERSAL COOPERATIVES INC
3001 METRO DR. SUITE 500
MINNEAPOLIS MN 55420

********** PRODUCT NAME **********

**00135* UNICO SODIUM ARSENITE WEED KILLER CONCENTRATE

**00446* UNICO SNAIL AND SLUG BAIT

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

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REGISTRANT *NAME AND ADDRESS*

* 001387 UNIVERSAL COOPERATIVES INC
3001 METRO DR. SUITE 500
MINNEAPOLIS MN 55420

********** PRODUCT NAME **********

**00137* UNICO SODIUM ARSENITE WEED KILLER SOLUTION

**00448* UNICO SNAIL AND SLUG BAIT

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 001421 DETTELBACH CHEMICALS CORP
ATTN WARD A R 4181 PEACHTREE RD NE
ATLANTA GA 30319

********** PRODUCT NAME **********

**00074* WEED - X

REGISTRANT *NAME AND ADDRESS*

* 001439 BLUE SPRUCE COMPANY
1390 VALLEY ROAD
STIRLING, NJ 07980

********** PRODUCT NAME **********

**00189* ARSENIC TRIOXIDE (TECHNICAL)

**00234* CHEM SEN 56

REGISTRANT *NAME AND ADDRESS*

* 001624 US BORAX & CHEMICAL CORP
3075 WILSHIRE BLVD.
LOS ANGELES, CA. 60010

********** PRODUCT NAME **********

**00055* HERBICIDOX WEED KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 001663 GRANT LAB. DIV.
LEISURE ENTERPRISE INC.
6020 ADELINE ST.
OAKLAND CA 94608

********** PRODUCT NAME **********

**00015* GRANT'S ANT CONTROL (ANT STAKES)

REGISTRANT *NAME AND ADDRESS*

* 001685 STATE CHEMICAL MFG CO THE
3100 HAMILTON AVE
CLEVELAND, OHIO 44114

********** PRODUCT NAME **********

**00026* FORMULA-444 WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 001691 CHEMICAL COMPOUNDING CORP
680 ELTON AVENUE
RIVERHEAD, NY 11901

********** PRODUCT NAME **********

**00016* QUIST WEED KILLER

**00085* INSECTICIDE SODIUM ARSENITE CONCENTRA E

**** PRODUCT SEARCH LISTING **** PAGE 20

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 001677 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

REGISTRANT *NAME AND ADDRESS*

* 001678 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

REGISTRANT *NAME AND ADDRESS*

* 001679 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

REGISTRANT *NAME AND ADDRESS*

* 001680 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

**** PRODUCT SEARCH LISTING **** PAGE 21

REGISTRANT *NAME AND ADDRESS*

* 001681 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

REGISTRANT *NAME AND ADDRESS*

* 001682 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

REGISTRANT *NAME AND ADDRESS*

* 001683 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

REGISTRANT *NAME AND ADDRESS*

* 001684 ROCKLAND CHEMICAL CO INC
PO BOX 1
NEW CITY, NY 10956

********** PRODUCT NAME **********

**00001* ROCKLAND ANT KILLER

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**** PRODUCT SEARCH LISTING **** PAGE 20

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 001769 NATIONAL CHEMSEARCH DIV
USACHEM INC
2727 CHEMSEARCH BLVD
IRVING TX 75060

********** PRODUCT NAME **********

**00037* F-40 WEED KILLER

**00070* DEEP KILL WEED KILLER

**00121* NATIONAL CHEMSEARCH DK-80 WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 001926 NAVY BRAND MFG COMPANY
5111 SW AVE
ST LOUIS MO 63110

********** PRODUCT NAME **********

**00030* WK-90 CONCENTRATED NON SELECTIVE WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 002155 SCHNEIDT.INC.
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00026* ARSENICAL WEED KILLER

**** PRODUCT SEARCH LISTING **** PAGE 21

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 002169 PATTERSON CHEMICAL COMPANY INC
1400 UNION AVE
KANSAS CITY, MO 64101

********** PRODUCT NAME **********

**00027* PATTERSON'S SODIUM ARSENITE SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 002217 REI-GORDON CORPORATION
300 SO 3RD ST
KANSAS CITY KS 66118

********** PRODUCT NAME **********

**00454* SLUG KILLER

REGISTRANT *NAME AND ADDRESS*

* 002227 SINGLETARY COMPANY INC
143 S WASHINGTON ST
ROCKY MOUNT NC 27801

********** PRODUCT NAME **********

**00001* SINGLETARY'S PEST CONTROL

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* CC227C HUGE COMPANY INC
7625 PAGE AVE
ST. LOUIS, MO 63133

********** PRODUCT NAME **********

**CC684* EXCELCIDE TW-40

REGISTRANT *NAME AND ADDRESS*

* 002341 MCWHIN COMPANY
2727 ST LOUIS AVE
FORT WORTH TX 76112

********** PRODUCT NAME **********

**C0003* KILLANT

REGISTRANT *NAME AND ADDRESS*

* 002342 KERR-MCGEE CHEMICAL CORP
MGR PKG & LABELING
KERR-MCGEE CENTER
OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

**00502* PASCO PARIS GREEN AEROGRAN-5

**00525* PASCO PARIS GREEN GRANULAR 7 1/2

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 002443 ATLANTA CHEMICAL COMPANY INC
PO BOX 237
JAMESTOWN NC 27282

********** PRODUCT NAME **********

**00001* ATLA-ANTI-ANI

REGISTRANT *NAME AND ADDRESS*

* 002568 JOTUN-BALTIMORE COPPER PAINT CO.
SCM CORPORATION 501 KEY HIGHWAY
BALTIMORE MD 21230

********** PRODUCT NAME **********

**00007* SEAPROOF X-254 EVERTOX GREEN COPPER ANTI-FOULING

**00037* SEAPROOF PAINT X-255 EVERTOX BLUE COPPER ANTI-FOULING

REGISTRANT *NAME AND ADDRESS*

* 002831 NAPASCO INTERNATIONAL, INC
PO DRAWER 1057
THIBODAUX, LA 70301

********** PRODUCT NAME **********

**00004* NAPASCO SA-40 WEED KILLER

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**** PRODUCT SEARCH LISTING **** PAGE 24

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 003008 OSMOSE WOOD PRES COMPANY OF AMERICAN INC
980 ELLICOTT ST
BUFFALO NY 14209

********** PRODUCT NAME **********

**00007* OSMOSALTS

**00016* OSMOSE K-33 WOOD PRESERVATIVE

**00017* COPPERCHROME WOOD PRESERVATIVE

**00021* OSMOSE SPECIAL K-33 PRESERVATIVE

**00029* SODIUM ARSENATE

**00034* OSMOSE K-33(72%)WOOD PRESERVATIVE

**00035* OSMOSE K-33 (40%) WOOD PRESERVATIVE

**00036* OSMOSE K-33-C (50%) WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 003040 EDCO CHEM COMPANY INC
POX 5877 1048 KEY RD
COLUMBIA SC 29250

********** PRODUCT NAME **********

**00038* EDCO SODIUM ARSENITE SOLUTION 15%

**00039* EDCO SODIUM ARSENTIE SOLUTION 40 (COLCRET)

**** PRODUCT SEARCH LISTING **** PAGE 25

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 003098 BAXTER J H & COMPANY
1700 S EL CAMINO REAL
SAN MATEO CA 94402

********** PRODUCT NAME **********

**00015* J. H. BAXTER & CO. CHEMONITE BASE MIX

REGISTRANT *NAME AND ADDRESS*

* 003231 COBRA WOOD TREATMENT CORPORATION
275 MADISON AVENUE
NEW YORK NY 10016

********** PRODUCT NAME **********

**00001* COBRA SALTS

REGISTRANT *NAME AND ADDRESS*

* 003234 PAX CO
580 W 13TH ST SOUTH
SALT LAKE CITY UT 84115

********** PRODUCT NAME **********

**00003* PAX 400 3 YEAR CRABGRASS CONTROL

**** PRODUCT SEARCH LISTING **** PAGE 26

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 003240 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00004* PENNWALT SODIUM ARSENITE

REGISTRANT *NAME AND ADDRESS*

* 003241 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00005* PENNWALT SODIUM ARSENATE

REGISTRANT *NAME AND ADDRESS*

* 003242 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00006* PENNWALT ARSENIC ACID

REGISTRANT *NAME AND ADDRESS*

* 003243 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00007* PENNWALT ARSENIC TRIOXIDE

**** PRODUCT SEARCH LISTING **** PAGE 27

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 003244 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00008* PENNWALT ARSENIC PENTOXIDE

REGISTRANT *NAME AND ADDRESS*

* 003245 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00009* PENNWALT ARSENIC ACID 75%

REGISTRANT *NAME AND ADDRESS*

* 003246 PENNWALT CORP
900 1ST AVE
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00010* PENNWALT ARSENIC ACID 80%

**** PRODUCT SEARCH LISTING **** PAGE 26

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 003324 GENERAL PEST SERVICE CO
2015 PONTIUS AVE
LOS ANGELES, CA 90025

********** PRODUCT NAME **********

**00003* ANT JEX REDWOOD ANT STAKES

REGISTRANT *NAME AND ADDRESS*

* 003840 AMERICAN FIRESTOPPING CORPORATION
825 THIRD AVENUE
NEW YORK NY 10022

********** PRODUCT NAME **********

**00002* REFINED WHITE ARSENIC ARSENIC TRIOXIDE (TECHNICAL)

**00005* REFINED WHITE ARSENIC ARSENIC TRIOXIDE (TECHNICAL) MINIMUM 94% AS203

REGISTRANT *NAME AND ADDRESS*

* 003862 AEC COMPOUNDING COMPANY
BOX 932
ATLANTA GA 30301

********** PRODUCT NAME **********

**00043* 40% SODIUM ARSENITE SOLUTION

**** PRODUCT SEARCH LISTING **** PAGE 27

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 004012 CHEMISTRY HALL LABORATORIES INC
BOX 1448
BRADENTON FL 33505

********** PRODUCT NAME **********

**00005* GRASS AND WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 00445C CHEMEX CHEMICALS & COATINGS CO INC
P O BOX 5072 2822 N 35TH ST
TAMPA, FL 33605

********** PRODUCT NAME **********

**00006* XD-542 NON SELECTIVE WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 004581 PENNWALT CORP AGCHEM DIV.
PENNWALT TECHNOLOGICAL CENTER
P.O. BOX C
KING OF PRUSSIA, PA 19406

********** PRODUCT NAME **********

**CC102* PENITE-8 SODIUM ARSENITE SOLUTION

**00205* PENITE 35

**00229* PENITE - 6

**00231* DESICCANT L-10

**00259* ARSENIC TRIOXIDE

**** PRODUCT SEARCH LISTING **** PAGE 28

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 004581 PENNWALT CORP AGCHEM DIV.
PENNWALT TECHNOLOGICAL CENTER
P.O. BOX C
KING OF PRUSSIA, PA 19406

********** PRODUCT NAME **********

**00259* ARSENIC TRIOXIDE

REGISTRANT *NAME AND ADDRESS*

* 004581 PENNWALT CORP AGCHEM DIV.
PENNWALT TECHNOLOGICAL CENTER
P.O. BOX C
KING OF PRUSSIA, PA 19406

********** PRODUCT NAME **********

**00102* PENITE-8 SODIUM ARSENITE SOLUTION

**00205* PENITE 35

**00229* PENITE - 6

**00231* DESICCANT L-10

**** PRODUCT SEARCH LISTING **** PAGE 29

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**** PRODUCT SEARCH LISTING **** PAGE 28

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INCEG. ARSENICALS

**CONTINUE REGISTRANT C04581

**00268* SCORCH

REGISTRANT *NAME AND ADDRESS*

* 004715 CCLORADC INTERNATICNAI CCRF
7800 MARBLE N.E.
ALEUQUERQUE, N.M. 87110

********** PRODUCT NAME **********

**00122* BEST 4 SERVIS BRAND SUPER 10 ARSENIC ACII CCTICN DESICCANT

REGISTRANT *NAME AND ADDRESS*

* 004931 GCOI-LIFE CHEMICALS INC
ECX 687
EFFINGHAM IL 62401

********** PRODUCT NAME **********

**00033* SODIUM ARSENITE 42.5% SCIUTICN

REGISTRANT *NAME AND ADDRESS*

* 004972 PROTEXALL CHEM INC
5576 S. RIDGEWOOD (HARBCR CARS)
DAYTONA BEACH, FI 32019

********** PRODUCT NAME **********

**00008* PROTEXALI "ANT-KIL"

**** PRODUCT SEARCH LISTING **** PAGE 29

08/C2/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INCEG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 005535 ADIRES INC J & I
182-12 93RD AVE
JAMAICA NY 11423

********** PRODUCT NAME **********

**00035* GRO-WELL PRE-VENT

REGISTRANT *NAME AND ADDRESS*

* 005664 CANTOL INC
2211 N AMERICAN STREET
PHILADELPHIA, PA 19133

********** PRODUCT NAME **********

**00001* SURE WEEI KILLER

REGISTRANT *NAME AND ADDRESS*

* 006294 CCMET MANUFACTURING COMPANY
1381 DALON DRIVE N E
ATLANTA GA 30306

********** PRODUCT NAME **********

**00022* CMC WEED KILLER(SODIUM ARSENITE)WEED-X

**** PRODUCT SEARCH LISTING **** PAGE 30

**** PRODUCT SEARCH LISTING **** PAGE 31

**** PRODUCT SEARCH LISTING **** PAGE 30

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 006720	SOUTHERN MILL CREEK PRODUCTS COMPANY INC BOX 1096 TAMPA FL 33601

****

PRODUCT NAME

**00031* SMCP PARIS GREEN GRANULAR-7 1/2

**00070* SMCP SLUG AND SNAIL BAIT PELLETS

**00150* SMCP SODIUM ARSENITE "4" SOLUTION

00181* ********

REGISTRANT	*NAME AND ADDRESS*
* 006762	STERN CHEM CORP BOX 5070 MONROE LA 71201

PRODUCT NAME

**00029* S.C. WEED KILLER TYPE "E"

REGISTRANT	*NAME AND ADDRESS*
* 006837	WILBAR INC BOX 3111 CHARLOTTE NC 28203

PRODUCT NAME

**00022* WII-KILL ARSENICAL WEED KILLER

**C0030* SURE-KILL

**** PRODUCT SEARCH LISTING **** PAGE 31

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 007001	OCCIDENTAL CHEMICAL CO P O BOX 198 LATHROP, CA 95330

PRODUCT NAME

**00141* BEST SNAIL & SLUG PELLETS DOUBLE 5

REGISTRANT	*NAME AND ADDRESS*
* 007273	CHEVRON CHEMICAL INCORPORATED 4995 NORTH MAIN STREET ROCKFORD IL 61101

PRODUCT NAME

**00061* FLORATOX 40 TREE KILLER AND CONTACT WEED KILLER

**00072* FLORA-TOX 60 TREE KILLER AND CONTACT WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* C07401	VOLUNTARY PURCHASING GROUP INC PO BOX 460 BONHAM TX 75418

PRODUCT NAME

**00005* FERTI-LOME WEED & WILD GRASS KILLER

**00184* POLY BRAND DESICCANT

**00186* FERTI LOME DAL GRAS

**0C195* HI-YIELD H-10 CONTAINING T-49

**** PRODUCT SEARCH LISTING **** PAGE 32

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 007545	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00008* WILBUR-ELLIS ARSENICAL WEED KILLER

**00009* WILBUR-ELLIS ARSENICAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007547	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00010* WILBUR-ELLIS ARSENICAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007548	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00011* WILBUR-ELLIS ARSENICAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007549	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00012* WILBUR-ELLIS ARSENICAL WEED KILLER

**** PRODUCT SEARCH LISTING **** PAGE 33

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 007550	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00013* WILBUR-ELLIS ARSENICAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007551	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00014* WILBUR-ELLIS ARSENICAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007552	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00015* WILBUR-ELLIS ARSENICAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007553	WILBUR-ELLIS COMPANY P O BOX 1286 FRESNO CA 93715

PRODUCT NAME

**00016* WILBUR-ELLIS ARSENICAL WEED KILLER

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08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

**CONTINUE REGISTRANT 007401

**00200* HI-YIELD SINERGIZED H-10

**00202* REFINED WHITE ARSENIC

**00204* HI-YIELD GENERAL WEED KILLER

**00205* HI-YIELD DECIMEX SURFACTANT

****

REGISTRANT *NAME AND ADDRESS*

* 007992 T N T CHEMICALS INC
7301 NW 77TH ST
MIAMI FL 33166

********** PRODUCT NAME **********

**00005* TRULY NOLEN TREATMENT TNT ANT FREE

****

REGISTRANT *NAME AND ADDRESS*

* 008047 PCLI CHEM INC
P. O. BOX 10026
NEW ORLEANS, LA 70121

********** PRODUCT NAME **********

**00009* POLY WEED KILLER

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

****

REGISTRANT *NAME AND ADDRESS*

* 008333 TACC CORPORATION
BOX 2909
SPARTANBURG SC 29302

********** PRODUCT NAME **********

**00001* BOLIDEN-CCA

**00002* TACO CCA CONC 40%

****

REGISTRANT *NAME AND ADDRESS*

* 009777 AMETALCO INC
530 5TH AVE
NEW YORK NY 10036

********** PRODUCT NAME **********

**00001* ARSENIC TRIOXIDE

****

REGISTRANT *NAME AND ADDRESS*

* C09791 YUKON SERVICE COMPANY
30 EAST 42ND STREET
NEW YORK NY 10017

********** PRODUCT NAME **********

**00004* 6840-281-2030 INSECT. SOD.ARSENITE CONC FED. SPECIF. O-I-579

**** PRODUCT SEARCH LISTING **** PAGE 34

08/C2/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 009881 CHILTON PAINT COMPANY
109-09 15 AVE
COLLEGE POINT NY 11356

********** PRODUCT NAME **********

**C0001* CHILTON SUPER DRIPLESS #8 BOTTOM PAINT

**00002* CHILTON DRIPLESS BOTTOM PAINT RED

**00003* CHILTON METALLIC COPPER PAINT ORIGINAL FORMULA NO. 888 RED

**C0004* CHILTON METALLIC COPPER PAINT NEW DRIPLESS BLUE

REGISTRANT *NAME AND ADDRESS*

* 010193 SHEEP CHEMICAL & SUPPLY COMPANY
2827 RIVERVIEW BLVD
BRADENTON FL 33505

********** PRODUCT NAME **********

**00001* NO-GRC LIQUID CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* C10204 MARKO CHEM INC
429 ALEXANDER AVE.
SPARTANBURG SC 29302

********** PRODUCT NAME **********

**00011* MARKO KILL-RC ARSENICAL WEED KILLER

**** PRODUCT SEARCH LISTING **** PAGE 35

08/C2/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT *NAME AND ADDRESS*

* 010465 MINERAL RESEARCH & DEVELOPMENT CORP
BOX 9111
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**C0010* CCA TYPE C WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011656 WESTERN FARM SERVICE INC SHELL CHEM COMPANY
1025 CONNECTICUT AVE-STE 200
WASH DC 20036

********** PRODUCT NAME **********

**C0022* COASTOX META CAL 3=5 PELLETS

REGISTRANT *NAME AND ADDRESS*

* 015135 UNITED MINERAL & CHEMICAL CORP
129 HUDSON ST
NEW YORK NY 10013

********** PRODUCT NAME **********

**00001* SODIUM ARSENATE (IMPORT)

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**** PRODUCT SEARCH LISTING **** PAGE 36

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

****

REGISTRANT *NAME AND ADDRESS*

* C20004 TAYLOR CHEMICAL & SUPPLY COMPANY
PO BOX 7937 1911 LOCKWOOD WAY
ORLANDO FL 32804

********** PRODUCT NAME **********

**00003* TRACO ARSENIC ACID

****

REGISTRANT *NAME AND ADDRESS*

* 022058 SHARP CHEMICAL COMPANY
5921 PLAINVIEW
HOUSTON TX 77017

********** PRODUCT NAME **********

**00002* SHARP SODIUM ARSENATE SOLUTION 40 PERCENT

****

REGISTRANT *NAME AND ADDRESS*

* 035896 CP CHEMICALS, INC.
ARECA STREET
SEWAREN, NJ 07077

********** PRODUCT NAME **********

**00002* WOOD-LAST CONC. WOOD PRESERV. AQ.50% SOL.CCA-TYPE A

**** PRODUCT SEARCH LISTING **** PAGE 37

08/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING INORG. ARSENICALS

****

REGISTRANT *NAME AND ADDRESS*

* 040655 BBS DISTRIBUTORS INC.
1816 CORTEZ RD WEST APT. 102A
BRADENTON FL. 33507

********** PRODUCT NAME **********

**00001* TEX ANT ANT KILL

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**** PRODUCT SEARCH LISTING **** PAGE 1

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

****

REGISTRANT *NAME AND ADDRESS*

* 000004 BONIDE CHEMICAL CO. INC.
2 WURZ AVE.
YORKVILLE NY 13495

********** PRODUCT NAME **********

**03823* BONIDE MOLETOX POISON PEANUTS

****

REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

********** PRODUCT NAME **********

**04254* ORTHO STANDARD LEAD ARSENATE

****

REGISTRANT *NAME AND ADDRESS*

* 000422 BLUE BALL CHEMICAL COMPANY
914 HOFFNER AVENUE
ORLANDO FL 32809

********** PRODUCT NAME **********

**05374* BLUE BALL ANT KILLER

**05375* MOL-EX

**05379* BLUE BALL RAT KILLER

**** PRODUCT SEARCH LISTING **** PAGE 2

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

****

REGISTRANT *NAME AND ADDRESS*

* CC0850 BONIED CHEMS CORP
689 S MAIN ST
LIMA OH 45801

********** PRODUCT NAME **********

**10203* KILL-ALL CONCENTRATED WEED & GRASS KILLER

****

REGISTRANT *NAME AND ADDRESS*

* CC0962 LOS ANGELES CHEMICAL COMPANY
4545 ARLINE ST
SOUTH GATE CA 90280

********** PRODUCT NAME **********

**10173* SODIUM ARSENITE SOLUTION NO.4

****

REGISTRANT *NAME AND ADDRESS*

* CC5905 HELENA CHEMICAL CO
CLARK TOWER, 5100 POPLAR AVE, SUITE 2904
MEMPHIS TN 38137

********** PRODUCT NAME **********

**C3080* CALCIUM ARSENATE

**07878* CALCIUM ARSENATE

**** PRODUCT SEARCH LISTING **** PAGE 3

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 005967	MOYER CHEMICAL COMPANY BOX 945 SAN JOSE CA 95108

********** PRODUCT NAME **********

**05152* SODIUM ARSENITE NO. 4-L

REGISTRANT	*NAME AND ADDRESS*
* 010193	SHERF CHEMICAL & SUPPLY COMPANY 2827 RIVERVIEW BLVD BRADENTON FL 33505

********** PRODUCT NAME **********

**09447* NO-GRC LIQUID CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 010827	INDUSTRIAL SOLVENTS PO BOX 312 SAN MARCOS TX 78666

********** PRODUCT NAME **********

**04073* IND-SOL 40

**** PRODUCT SEARCH LISTING **** PAGE 4

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 011134	PEST CONTROL CHEMICALS INC 5852 S WESTERN AVE LOS ANGELES CA 90047

********** PRODUCT NAME **********

**06022* PESTCO K-A-L TERM DUST

REGISTRANT	*NAME AND ADDRESS*
* 011151	ROBINSON LAB INC 355 BRANNAN ST SAN FRANCISCO CA 94107

********** PRODUCT NAME **********

**03820* MATTES ANT PASTE

REGISTRANT	*NAME AND ADDRESS*
* 013437	DU COR CHEMICAL CORP. P.O. BOX 13298 ORLANDO, FL 32809

********** PRODUCT NAME **********

**04074* PERMANENT WEED KILLER CONCENTRATE

**04075* DU COR FORMULA 71 WEED KILLER CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 5

**** PRODUCT SEARCH LISTING **** PAGE 6

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 018599	BARKER LABORATORIES 1200 S BROAD AVE NEW ORLEANS LA 70125

********** PRODUCT NAME **********

**10168* KILROY WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 035053	HONOLULU WOOD TREATING CO 2290 ALAHAE PLACE HONOLULU, HI 96819

********** PRODUCT NAME **********

**05213* WOLMAN WOOD PRESERVATIVE SOLUTION

**05242* WOLMANAC II SOLUTION

REGISTRANT	*NAME AND ADDRESS*
* 036019	OSMOSE PACIFIC, INC 2819 PUKOLOA STREET HONOLULU, HI 96819

********** PRODUCT NAME **********

**0349O* OSMOSE SPECIAL K-33 PRESERVATIVE

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* 036688	BIG BEE CHEMICAL AND SUPPLY CO. ROUTE 4 OLD CONYERS ROAD STOCKBRIDGE, GA 30281

********** PRODUCT NAME **********

**08218* 40% SODIUM ARSENITE SOLUTION

REGISTRANT	*NAME AND ADDRESS*
* 037347	UNI-CHEM CORP. OF FLORIDA BOX 6336 - 2801 N.W. 55TH CT. FT. LAUDERDALE, FL 33310

********** PRODUCT NAME **********

**C4050* WEED-X

REGISTRANT	*NAME AND ADDRESS*
* 037843	UNIVERSITY OF HAWAII-CO-OP EXTENSION SERV-ENTOMOLOGY BRANCH HONOLULU, HI 96822

********** PRODUCT NAME **********

**08562* PARIS GREEN

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**** PRODUCT SEARCH LISTING **** PAGE 7

08/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING INORG. ARSENICALS

REGISTRANT	*NAME AND ADDRESS*
* C38524	RICHARD LUDWIG 6720 EAST VALLEY VISTA LANE PARADISE VALLEY, AZ 85253

********** PRODUCT NAME **********

**10224* K-9 ANT POISON

[FR Doc. 78-28935 Filed 10-17-78; 8:45 am]

[6560-01-M]

[FRL 984-2; OPP-30000/30]

PESTICIDE PROGRAMS

Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Pentachlorophenol

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of rebuttable presumption.

SUMMARY: Pentachlorophenol and its derivatives (henceforth referred to as PCP) have been found to exceed certain risk criteria set forth in 40 CFR 162.11. This notice requests registrants and other interested persons to submit rebuttals and other information on the presumption and to submit any other data on the risk and benefits of this pesticide chemical. This notice is the first of several which will give public notification of the Agency's progress in reviewing this chemical. Today EPA is also publishing in the FEDERAL REGISTER notices of rebuttable presumption against registration (RPAR) on Inorganic arsenic and coal tar, creosote, and coal tar neutral oil. inorganic arsenic, PCP, and coal tar and derivatives comprise the most widely used of pesticide wood treatments available. Therfore, the wood treatment uses of these pesticides will be considered together in the risk/benefit part of the RPAR review process. Other uses for these pesticides will be considered in individual risk/benefit analyses for each chemical.

DATE: Rebuttal evidence and other information must be received on or before December 4, 1978.

ADDRESS MATERIAL TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Daniel P. Cirelli, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), Room 447, East Tower, EPA, 202-755-2972.

SUPPLEMENTARY INFORMATION: The Deputy Assistant Administrator, Office of Pesticide Programs, EPA, has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing pentachlorophenol.[1]

Issuance of this RPAR means that potential adverse effects associated with the use of pentachlorophenol have been identified and will be examined further to determine if they do exist and, if so, whether they are unreasonable. This process involves a public review of both the risks and the benefits associated with the uses of the pesticide. The RPAR does not mean that the Agency has decided to cancel or to take any other action with respect to it; EPA has not made a finding that use of any products containing this ingredient presents an imminent hazard. Any pesticide subject to this RPAR may lawfully be sold, distributed, and used for all uses for which it is registered and labeled.

I. REGULATORY PROVISIONS

A. *General.* Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in section 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in section 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only after the risks and benefits of a pesticide are carefully considered and it is determined that the pesticide may generally cause unreasonable adverse effects to the environment.

All registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the presumptions listed in part II of this notice and, in the case of oncogenicity, to submit information which relates to the assessment of oncogenic risks as set forth in the Agency's Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens (May 25, 1976; 41 FR 21402). Registrants and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to section 6(a)(1) of FIFRA.

B. *Rebuttal criteria.* Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the acute toxicity or lack of emergency treatment criteria, "that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of nontarget organisms is not likely to result in any significant acute adverse effects" (40 CFR 162.11(a)(4)(i));

(2) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" [40 CFR 162.11(a)(4)(ii)]; or

(3) In either case, that "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" [40 CFR 162.11(a)(4)(iii)].

C. *Benefits information.* In addition to submitting evidence to rebut the presumption of risk, section 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence[2] submitted by the

[1] A position document, containing an appendix of references, background information, and other material pertinent to the issuance of this notice, has been prepared and is also published with this notice.

[2] Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.

2. Identification of the minor uses of the pesticide, including estimated quantities used by category such as lawn and garden uses and household uses.

3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.

4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.

Footnotes continued on next page

registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifical-

tion document, the Agency has concluded that registrations and applications for registration of pesticide prod-

If a registrant or applicant does assert a confidentiality claim for some but not all, of the information submit-

and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pur-

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registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, section 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh the risks," the Administrator may issue a notice of intent to hold a hearing pursuant to section 6(b)(2) of FIFRA to determine whether the registration(s) should be canceled or application(s) denied. Alternatively, if the "benefits do not appear to outweigh the risks, the Adminstrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

II. Presumptions

Registrations and applications for registration of pesticide products containing pentachlorophenol meet or exceed the 40 CFR 162.11(a)(3) risk criteria relating to teratogenic and/or fetotoxic effects in mammalian test species. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Pentachlorophenol: Position Document 1," which follows. Copies of attachments to the position document which are not published with this notice are available for public inspection in the office of the Special Pesticide Review Division. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the position document, as well as requests for access to these files, should be directed to Project Manager Daniel Cirelli, Special Pesticide Review Division (TS-791), EPA, Room 447, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-2972.

A. *Chronic or delayed toxic effects.* 40 CFR Section 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "(p)roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety * * *."

On the basis of scientific studies and information summarized in the position document, the Agency has concluded that registrations and applications for registration of pesticide products containing pentachlorophenol exceed this risk criterion for teratogenicity and fetotoxicity and that a rebuttable presumption against new or continued registration of such products has arisen.

III. Additional Grounds for Review

As discussed in detail in the attached position document, some data has associated pentachlorophenol with mutagenic effects in test organisms. The data and analyses available at this time with respect to this effect are not sufficient to warrant the issuance of a rebuttable presumption. The Agency specifically solicits further evidence bearing on these possible adverse effects. All comments and information received with respect to the potential adverse effects, including analysis thereof, may serve as a basis for a final decision on registering pesticide containing pentachlorophenol.

IV. Rebuttal Submission Procedures

All registrants and applicants for registration listed below are being notified by certified mail of the rebuttable presumption existing against registration and continued registration of their products.

The registrants and applicants for registration shall have 45 days from the date this notice is sent or until December 4, 1978, to submit evidence in rebuttal of the presumption. However, the Administrator may, for good cause shown, grant an additional 60 days during which such evidence may be submitted. Notice of such an extension, if granted, will appear in the Federal Register.

A registrant or applicant for registration may, if it desires, assert a business confidentiality claim covering part of all of the information submitted in rebuttal. The registrant or applicant may assert the claim by placing on or attaching to the information a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential protions of otherwise nonconfidential documents should be clearly marked.

If a confidentiality claim is asserted, the information covered by the claim will be disclosed by EPA only to the extent and by means of the procedures set forth in 40 CFR Part 2, Subpart B (41 FR 3690; September 1, 1976). If no confidentiality claim accompanies the information at the time it is received by EPA, EPA will place the information in the public comment file where it will be available for public inspection.

If a registrant or applicant does assert a confidentiality claim for some but not all, of the information submitted to EPA in rebuttal, the registrant or applicant should furnish two copies of the information to EPA. The first copy should contain all of the information submitted in rebuttal with information claimed as confidential clearly identified. The second copy should be identical to the first except that all information claimed as confidential should be deleted. The second copy will be placed in the public comment file. The first copy will be treated in accordance with the procedures set out above.

V. Duty To Submit Information on Adverse Effects

Registrants are required by law to submit to EPA any additional information regarding any adverse effects on man or the environment which comes to a registrant's attention at any time, pursuant to section 6(a)(2) of FIRFRA and 40 CFR 162.8(d). If any registrant of pentacholorophenol products has any published or unpublished information, studies, reports, analyses, or reanalyses regarding any adverse effects in animal species or humans, residues, and claimed or verifed accidents to humans, domestic animals, or wildlife, which have not been previously submitted to EPA, the material must be submitted immediately. When responding to this notice, each registrant shall submit a written certification to the Agency that all information regarding any adverse effects known to the registrant has been submitted. In addition, the registrants should notify EPA of any studies currently in progress, including the purpose of the study, the protocol, the approximate completion date, and a summary of all results observed to date.

VI. Public Comments and Inspection

During the time allowed for submission of rebuttal evidence, specific comments on the presumptions set forth in this notice and on the material contained in the position document are solicited from the public. In particular, any documented episodes of adverse effects to humans, domestic animals, or wildlife, and information as to any laboratory studies in progress or completed are requested to be submitted to EPA as soon as possible. Specifically, information on the fate and effects of pentachlorophenol, its impurities, metabolites, and degradation products on flora and fauna, particularly animals with metabolism similar to man, is solicited. Similarly, any studies or comments on the benefits from the use of pentachlorophenol are requested to be submitted. All comments and information received, as well as any other relevant information

Footnotes continued from last page

5. Assessment of regulation impact upon user productivity (e.g., yield per acre and/or total output) from using available substitute pesticides or from using no other pesticides.

6. If the impacts upon either user costs or productivity are significant, a qualitative assessment of the regulation's impact on production of major agricultural commodities and retail food prices of such commodities.

and analysis thereof, which come to the attention of the Agency may serve as a basis for final determination pursuant to § 162.11(a)(5).

All comments and information should be sent to the office of the Federal Register Section at the address given above, it possible in triplicate to facilitate the work of the Agency and others interested in inspecting them. The comments and information should bear the identifying notation "OPP-30000/30." Comments received after the specified time period will be considered only to the extent feasible, consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii).

All written comments and information filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days. Interested persons are encouraged to take advantage of the opportunity to inspect Agency files during normal working hours since (1) all of the information received may serve as a basis for final determination pursuant to § 162.11(a)(5) and (2) the Agency will not generally publish a summary of information received in the Federal Register at the close of the rebuttal period.

Your cooperation is solicited in identifying any errors or omissions which may have been made in the following computer listings. Corrections to the listings may not necessarily be published in the Federal Register, but rather handled by mail with affected parties. Omissions will be corrected by notice in the Federal Register.

Dated: September 30, 1978.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

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[6560-01-C]

PENTACHLOROPHENOL

POSITION DOCUMENT 1

Daniel P. Cirelli, Project Manager
U.S. Environmental Protection Agency

I. Background

A. Chemistry

1. General

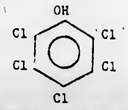
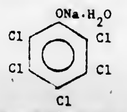
Pentachlorophenol (PCP or PENTA)[1/] is a buff-colored crystal which is produced in the United States by chlorination of molten phenol in the presence of a catalyst. Derivatives of PCP which are registered for use as pesticides are the sodium and potassium salts (Na-PCP and K-PCP, respectively), and the lauric acid ester (L-PCP). The structures and physical properties of PCP and Na-PCP are given in Figure I. K-PCP is produced as in situ formulations by dissolving PCP in potassium hydroxide solutions. The physical and chemical properties of pure K-PCP are not available from standard chemical references or from EPA files. L-PCP is produced by esterification of PCP with mixtures of alkyl carboxylic acids, the most predominant of which is lauric acid. Technically pure L-PCP is a brown oil having a specific gravity of 1.2b at room temperature. It is soluble in non-polar solvents, oils, fats, waxes and plasticizers, and insoluble in water and alcohols.

Industrial production of PCP is a two-stage process. In the first stage, isomers of tri- and tetrachlorophenols are formed when the reaction temperature is about 105°C. In the second stage, the temperature is progressively increased to 130°C to keep the reaction mixture molten, and the tri- and tetrachlorophenols are further chlorinated to form PCP. This reaction is not quantitative; tetrachlorophenols persist during the reaction and are carried with PCP during subsequent processing. The result is that

1/ PCP will be used as an abbreviation for pentachlorophenol in this document.

Figure I

Physical properties of pentachlorophenol and sodium pentachlorophenate

Structural Formula		
Name	Pentachlorophenol	Sodium Pentachlorophenate
Formula	C_6Cl_5OH	$C_6Cl_5ONa \cdot H_2O$
Molecular Weight	266.4	306.3
Description	Buff-colored crystal	Buff-colored crystal
Specific Gravity	1.9	2.0
Density	1.987	-
Vapor Pressure	0.00015 (25°C)	-
Solubility, g/100 g, 25°C		
Water	< 0.01	33
Acetone	50	35
Benzene	15	-
Diaetone Alcohol	190	45
Ethanol (95%)	120	65
Methanol	180	25
Isopropanol	85	30
Ethylene glycol	11	40

technical grade PCP contains from 4 to 12% tetrachlorophenols. These tetrachlorophenols are listed on the product labels as active ingredients. One of the three possible tetrachlorophenol isomers, 2,3,4,6-tetrachlorophenol, was registered by the Dow Chemical Company as Dowicide 6, a fungicide; this chemical is no longer produced as a separate product. It is, however, listed as an active ingredient in some PCP products.

The elevated temperatures required for the second stage of PCP production favor condensation of the tri- and tetrachlorophenols to form hexa-, hepta-, and octa-chlorodibenzo-p-dioxins (dioxins) and various chlorinated dibenzofurans (furans). These impurities are also carried forward with PCP and will be discussed in greater detail in Section I.C.

2. Environmental Residues

The amount of PCP produced in the United States, approximately 50,000,000 pounds/year, and its widespread use as a pesticide strongly indicate its potential as an environmental pollutant. Possible sources of PCP in the environment are: runoff from manufacturing or wood preserving processes, leaching or vaporization from preserved wood, and from its use as a termiticide and herbicide. Although there is evidence that PCP could be found in the environment, the ambient monitoring programs for air, water, and soils do not routinely test for PCP.

a. Air

The vapor pressure of PCP, 0.00017 torr at 20°C and 0.0031 torr at 50°C, suggests that it can volatilize from treated surfaces (torr: pressure required to support 1 mm of mercury at 0°C). Gebefugi et al. (1976) measured PCP vapors in a closed test area in which wall paneling was covered according to label instructions with a wood-protecting agent containing PCP. Air samples were taken every day for 9 days at 25°C, and then for 6 days at 28°C. Samples were taken in the morning, and the sampling period was not specified. Gas chromatographic measurements showed PCP measurements ranging from 1 microgram/cubic meter (ug/m^3) on the first day to 160 ug/m^3 on the fourth day. There were wide fluctuations in PCP concentrations during the course of the experiment. In a separate experiment, an increase in the amount of water vapor in the test area decreased the PCP levels in the air.

Bevenue et al. (1972) measured PCP in rain water in Hawaii [2-284 parts per trillion (ppt)], in snow samples taken from Mauna Kai Summit (14 ppt), and in lake water fed by this snow (10 ppt). The authors did not determine whether this airborne PCP was in gaseous form or adsorbed on dust particles. Because of the heavy use of PCP in Hawaii to protect wooden surfaces against termites, both physical forms are likely to occur in the air.

There is indirect evidence that PCP vapors can be toxic. An article that appeared in California Health in 1970 (Anon. "Pentachlorophenol Poisoning in the Home") described the effects on the inhabitants of painting interior wood paneling with PCP-containing paint. House plants within the

home died in 3 or 4 days. Over a 3-month period, the housewife became progressively weaker while losing 20 pounds. She recovered after hospitalization. Her condition was diagnosed as PCP poisoning by a California State Department toxicologist.

Ferguson in 1959 showed that PCP vapors were toxic to conifer seedlings grown in greenhouses on wood flats whose sideboards had been treated with PCP. Leaching of PCP into the soils of the flats was not implicated since transfer of these soils to untreated flats supported normal seedling growth. He observed toxic effects, to a lesser extent, on seedlings in untreated flats, which he attributed to air movement from treated to the untreated flats. PCP has been found in the blood and urine of workers in wood-preserving factories; in one report this was attributed, in part, to respiratory exposure (Casarett et al., 1969).

The American Conference of Government Industrial Hygienists has established a PCP Threshold Limit Value-Time Weighted Average of 0.5 mg/m^3 for a normal 8-hour workday or 40-hour workweek, and a Threshold Limit Value-Short Term Exposure Limit of 1.5 mg/m^3 for a 15-minute period.

b. Water

PCP can be released into water as an effluent from manufacturing or wood-preserving plants, by leaching from treated wood exposed to rain, and by runoff from its uses as a herbicide, fungicide, and molluscicide. In spite of its wide production and variety of uses, PCP is not routinely monitored by the National Water Monitoring Program, which measures contaminants in rivers and streams in the United States. This program reported fifteen measurements of PCP along the California Aqueduct between 1974 and 1976. There was no sampling previous to 1974. Values reported from five sites along the Aqueduct ranged from 0.01 to 16.0 ug/liter PCP in whole water samples.

Buhler et al. (1973) measured PCP in sewage treatment plant effluent collected simultaneously from three Oregon cities. He reported PCP levels between 1 and 4 parts per billion (ppb). The same workers found PCP concentrations between 0.10 and 0.70 ppb in water sampled from the Willamette River, and 0.6 ppb in drinking water from a water treatment plant. In unpublished data, the EPA Drinking Water Program has found PCP in the water of 86 of the 108 cities sampled; the mean concentration of the positives was 0.07 ug/liter. The median concentration for all cities was 0.051 ug/liter (Kutz, 1977).

In 1976 Fountaine et al. analysed samples from a stream which originated in an area containing several manufacturing plants, including a wood-preserving installation. The highest measurement of PCP, 5,450 parts per million (ppm), was in surface oil slicks; water samples ranged from 0.082 to 10.5 ppm. The authors noted that these PCP levels are not necessarily due to discharge from the wood-preserving factory outlet into the stream. The factory had been in business for 20 years. Gross spillage of PCP occurred in the factory area, particularly in the early years of operation, and this PCP seeped into the ground. There is, therefore, the possibility that the PCP levels in the stream were due to runoff from PCP-contaminated soil, rather than direct discharge from

the factory. Measurements of PCP in the factory discharge were not reported.

c. Soils

Because the National Soils Monitoring Program does not routinely analyze soil samples for PCP, ambient levels in soils are not available.

In a series of papers, Choi and Aomine (1972, 1974a, 1974b) studied the adsorption properties of PCP on various soil types and under a variety of environmental conditions in the laboratory. They found that PCP was adsorbed to some extent on all soil types. Soil acidity was a major factor in determining the amount of PCP adsorbed; strongly acidic soils (pH 5) adsorbed more than less acid soils (pH 6). There was less adsorption by weakly acidic or neutral soils. However, increased organic matter or temperature or both increased PCP adsorption at the pH-values tested. In a series of experiments using different soil types and ion concentrations, the authors demonstrated competition between inorganic ions and PCP for adsorption sites on soil colloids. They concluded from their experiments that PCP is adsorbed on soil through ion exchange reactions as well as molecular adsorption due to van der Waals forces.

The fate of PCP in soils has been extensively studied. The primary factor in the degradation of PCP in soils is microbiological activity; other contributing factors include soil type, moisture content, and temperature. Kuwatsuka and Igarashi (1975) demonstrated a positive correlation between the proportion of organic matter and the degradation rate of PCP in soils, observing that soils devoid of organic matter did not degrade PCP. Ide et al. (1972) found that PCP did not degrade in sterilized soil samples; Young and Carroll (1951) showed that PCP decays most rapidly in soil containing a large proportion of organic matter and at temperatures which are optimal for microbiological activity. Kuwatsuka and Igarashi (1975) compared the PCP degrading characteristics of upland (i.e., aerated) soil with flooded (i.e., rice paddy) soil. They found that soil microorganisms degraded PCP most rapidly when they were maintained in the environment to which they are adapted, e.g. flooding upland soil and aerating flooded soil decreased the rate of PCP decay. Using a gas chromatograph with an electron-capture detector the authors identified tri- and tetrachlorophenols as degradation products of PCP and indicated that, at least as a first step, PCP degrades by dechlorination. Ide et al. (1972) found tri- and tetrachloroanisoles as PCP degradation products. This indicated that methylation is also involved in the degradation process.

The persistence of PCP in soils ranges between 21 days and 5 years, depending primarily on the microbial population. Watanebe (1973) reported complete degradation in paddy soil in 21 days. Hetrick (1952) claimed that PCP persisted for over 5 years in an unspecified soil type.

d. Plants and Animals

i. Plants

There are no data available on PCP residues in higher plants resulting from its use as a pesticide.

ii. Animals

In 1974 Vermeer et al. reported the death of wildlife caused by application of Na-PCP to a rice field in Surinam, South America. The Na-PCP was applied at the rate of 4 kg/hectare to control water snails which damaged young rice plants. PCP residues were measured in snails (36.8 mean wet-weight ppm), frogs (8.1 mean wet-weight ppm), fishes (31.2, 41.6 and 59.4 mean wet-weight ppm for three species), and snail kites, a bird which feeds on water snails. The dead kites showed mean PCP residues of 11.25 ± 1.11 ppm in brain tissue, 45.56 ± 2.18 ppm in liver, and 20.34 ± 1.25 ppm in the kidneys, all on a wet weight of tissue basis. These PCP levels were 53, 74, and 166 times greater, respectively, than those in kites collected from an untreated marsh. The investigators attributed the death of the kites from the treated field to their feeding on water snails containing PCP. In addition, when other bird species which frequented the treated fields were examined, PCP was detected at levels ranging from 0.04 to 0.24 wet-weight ppm in the liver and 0.08 to 0.49 wet-weight ppm in the brain.

Early in 1977 PCP was detected in the blood of dairy cattle and calves on eight Michigan farms. These herds all showed signs of sickness and had high calf mortality rates. The levels of PCP found in one herd ranged from 270 to 570 ppb. This herd was housed in a total-confinement barn which had been constructed, in part, of PCP-treated wood. In another herd the dioxins found in PCP were detected in fat and liver tissue in the parts per billion and parts per trillion ranges,

respectively. As a result of this incident, the Animal and Plant Health Inspection Service of the Department of Agriculture (USDA) instituted a nationwide survey of beef fat and liver for the presence of the hexa- and octachlorodioxins found in PCP. In the first group of 238 beef samples collected in seventeen States, 70 (29.4%) showed positive levels using low resolution mass spectrometry. Of these 70 samples, 4 had been confirmed using high resolution mass spectrometry. Detection levels were in fractional nanograms/gram for both hexa- and octa-chlorodibenzo-p-dioxins. The determination of the signficance of these residues awaits the completion of the survey and its subsequent statistical and methodological analysis.

e. Humans

PCP appears to be ubiquitous in human urine. In 1970 Cranmer and Freal found PCP in urine at concentrations ranging from 2 to 11 ppb in the general population. In 1967 Bevenue et al. found PCP in the urine of 130 Hawaiians occupationally exposed to PCP at levels ranging from 0.03 to 35.7 mg/liter. In the same study, PCP was found in the urine of all but one of 117 unexposed subjects; these values varied from 0 to 0.44 mg/liter. In a recent study, preliminary data from a joint U.S. Public Health Service - EPA effort disclosed that 86% of the urine samples taken from subjects within the continental United States showed positive PCP values averaging 6.3 ppb, with a maximum observed value of 193 ppb. The limit of detection was 5 ppb (Kutz et al., 1978).

Arsenault (1976) reported the mean blood serum level of PCP in twenty-one workers in pressure treatment plants to be 1.05 ppm; there

were about 0.1 ppm in the controls (unspecified). Data for the general population are not available. In another study Shafick (1973) reported PCP levels ranging from 12 to 52 ppb in the adipose tissue of eighteen subjects who were not occupationally exposed to PCP. Dougherty and Piotrowska (1976) detected PCP in seminal fluid from seven sexually active men. Levels detected averaged 50 ppb (range: 20-70 ppb).

The sources and exposure routes of PCP residues in human tissues have not been conclusively established. Possible routes are inhalation of vaporized PCP and ingestion of PCP in water and food. In addition, PCP forms as a metabolic product of hexachlorobenzene (HCB). Lui and Sweeney (1975) fed rats 0.25% HCB, which amounted to about 50 to 100 mg HCB daily. Analysis of urine by gas-liquid chromatography showed a level of 12.5 ug/ml PCP in a daily urine output of about 15 ml. The analyses were confirmed by gas-liquid chromatography/mass spectrometry.

The Food and Drug Administration Market Basket Survey has estimated the amount of pesticides in foodstuffs since 1965. The estimates are based on the average daily intake of an 18-year-old male, whose food consumption is the highest of any age group of either sex. The most recent data from this survey (Johnson and Manske, 1977) are available from food samples collected from August 1974 to July 1975. PCP was assayed in twelve food commodities collected in twenty cities in the United States, so that there were twenty measurements for each commodity. The results are summarized in Table 1.

TABLE 1. Pentachlorophenol in food commodities [1/]

Commodity	Average, ppm [2/]	Positive Composites	Range, ppm
Dairy Products	0.0005	1	0.01
Meat, Fish, and Poultry	-	0	-
Grain and Cereal Products	0.001	2	0.01-0.013
Potatoes	-	0	-
Leafy Vegetables	T [3/]	1	T
Legume Vegetables	-	0	-
Root Vegetables	0.001	2	0.010
Garden Fruits	T	1	T
Fruits	T	1	0.011
Oils, Fats, and Shortening	-	0	-
Sugars and Adjuncts	0.006	5	0.01-0.04
Beverages	-	0	-

1/ Data from Johnson and Manske (1977).
2/ Averages based on twenty composite samples; trace residues were not included in calculating the average.
3/ T = trace.

These low levels of PCP in food are a constant means of exposure to humans. However, the connection between this route of exposure and the presence of PCP in blood, urine, and adipose tissue is not clear.

B. Metabolism

1. Plants

As described earlier, microorganisms are capable of degrading PCP in soils. Certain bacterial strains have been isolated which are capable of growing on media containing PCP (Morton et al., 1969) and of using PCP as the sole source of carbon (Chu and Kirsch, 1972). The metabolic mechanisms of bacterial action on PCP are, however, unknown. Certain species of fungi, some of which are present in wood, have been found to tolerate PCP. Several of these fungi depleted PCP in treated wood blocks, but lost their ability to cause wood decay (Duncan and Deverall, 1964). As is the case with bacteria, metabolic pathways of PCP degradation by fungi have not been identified. There are no data available on the metabolism of PCP by higher plants.

2. Animals

There have been two studies on PCP metabolism in aquatic animals. Each of these papers demonstrated the same metabolic pathway. In 1970 Kobayashi et al. repurted that the short-necked clam (Tapes phillippinarium) converts PCP to pentachlorophenyl sulfate in sea water. The level of PCP in the shellfish reached a plateau after about 24 hours of exposure. After 50 hours, 80% of the PCP had been converted to the sulfate conjugate. The same detoxification mechanism was demonstrated by Akitake and Kobayashi

(1975) in goldfish cultured in fresh water containing PCP. Whether this detoxification mechanism is common to other aquatic animals is not known.

Mammals are known to excrete PCP in unchanged form after exposure by various routes. In 1974 Ahlborg et al. administered ^{14}C-PCP orally and intraperitoneally to rats and mice (10 to 25 mg/kg). Approximately 40% was excreted as PCP in the urine. ^{14}C-tetrachlorohydroquinone was also detected at levels equal to 5% of the excreted radioactivity in rats, and 24% of the activity in mice. The authors also found PCP and tetrachlorohydroquinone in the urine of workers occupationally exposed to PCP. Larsen et al. (1972) orally administered ^{14}C-PCP to rats, and found that 50% of the radioactivity was excreted in the urine in 24 hours, 68% was excreted in 10 days; between 9.2 and 13.2% was excreted in the feces. Tissue analyses 40 hours after exposure showed small amounts of ^{14}C activity in the adrenal glands, blood, brain, fat, heart, kidneys, liver, lungs, muscles, ovaries, spleen, stomach and intestine, and testes. Highest levels were found in liver (0.23% of administered radioactivity), kidney (0.18%), and blood (0.15%). In blood, 90% of the radioactivity detected was in the serum.

Larsen et al. (1972) postulated a two-component urinary excretion pattern that has a 10-hour half-life for the first 2 days, followed by a 102-day half-life. In 1969 Casarett et al. measured PCP concentrations in the urine of two subjects after respiratory exposure and determined that after 24 hours, the half-life is approximately 10 hours. They found a blood-to-urine PCP ratio of between 1.5 and 2.5 in occupationally ex-

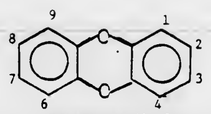
posed individuals. At about 10 ppm, PCP in blood plasma reached a plateau while urine levels continued to increase. They postulated that PCP binds to plasma protein, and is subsequently distributed to the tissues. The work of Larsen et al. (1972) seems to confirm this.

Tashiro et al. (1970) demonstrated an additional metabolic pathway for PCP. They collected and analysed the urine of three rabbits fed 10 g of unlabeled PCP over 30 days. They identified a sugar conjugate of PCP, pentachlorophenyl-beta-glucuronide, in the urine which led them to propose a three-way excretory pathway for PCP in mammals: unchanged PCP; the oxidation product "chloranil", which is actually tetrachloroquinone, and the conjugate PCP-beta-glucuronide.

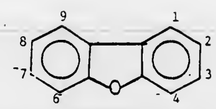
C. Pentachlorophenol Contaminants

As stated previously, commercial production of PCP results in the formation of dioxin and furan contaminants. Figure 2 shows the structural formula of the basic molecules. Substitution of chlorine atoms at one or more of the numbered positions results in the chlorinated dibenzo-p-dioxin (dioxin) and chlorinated dibenzofuran (furan) chemical families. There are 75 members of the dioxin family and 135 furans. Members of these families differ not only in the number of chlorine atoms on the molecule, but also in the positioning of these atoms (isomerism). Thus the dioxin that has six chlorine atoms on its molecule has ten possible isomers.

The dioxins which are found in PCP are the hexa- (HCDD), hepta- (HeCDD), and octa-chlorodibenzo-p-dioxins (OCDD); the furans found are



Dibenzo-p-dioxin



Dibenzofuran

FIGURE 2. Structure of dioxin and furan

the tetra-, penta-, hexa-, hepta-, and octa-dibenzofurans (Buser and Bosshardt, 1976). The amount of these chemicals in PCP varies with each industrial batch produced, even when produced by the same manufacturer. Analytical methods for measuring individual isomers require sophisticated and expensive analytical instrumentation, and standards for the isomers are not generally available. Until recently, both the dioxins and furans in PCP have been measured as isomeric groups. Table 2 shows the composition of typical commercial PCP.

The physical, chemical, and toxicological properties of individual dioxins and furans are, with one exception, relatively unknown. The exception is 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), which has been shown to be one of the most toxic compounds known. TCDD is not found in PCP at a limit of detection less than 0.05 ppm (Johnson et al., 1973). However, the dioxins in PCP have been shown by Johnson et al.

TABLE 2. Composition of commercial pentachlorophenol [1/]

Component	Dowicide 7	Dowicide EC-7 [2/]
Pentachlorophenol	88.4%	89.8%
Tetrachlorophenol	4.4%	10.2%
Trichlorophenol	< 0.1%	< 0.1%
Chlorinated Phenoxyphenols	< 6.2%	-
Hexa-dioxins	4 ppm	1.0 ppm
Hepta-dioxins	125 ppm	6.5 ppm
Octa-dioxin	2500 ppm	15.0 ppm
Hexa-furans	30 ppm	< 1 ppm
Hepta-furans	80 ppm	1.8 ppm
Octa-furan	80 ppm	< 1 ppm

1/ Data from Dow Chemical Company.
2/ Total greater than 100% because numbers are rounded off.

(1973) to cause chloracne in rabbits and edema in chicks. The only data available comparing the toxic effects of individual dioxin isomers were reported by McConnel et al. (1977), and these are shown in Table 3. These data indicate that the hexa- and hepta-dioxin isomers tested were less toxic than TCDD in mice and guinea pigs; however, they would be classified as Category I poisons (oral LD-50 less than 50 mg/kg).

TABLE 3. Single oral LD-50-30 of dioxin isomers [1/]

Isomer	LD-50-30, ug/kg	
	Guinea Pigs	Mice
1,2,3,4,7,8-HCDD	72.5	825
1,2,3,6,7,8-HCDD	70-100 [2/]	1250
1,2,3,7,8,9-HCDD	60-100 [2/]	1440
1,2,3,4,6,7,8-HeCDD	7180	-
TCDD [3/]	2	283.7

1/ Data from McConnell et al. (1977).
2/ Estimated range represents variability among replicates.
3/ TCDD values are shown for comparative purposes.

Firestone (1977) detected PCP, individual hexa- and hepta-dioxin isomers, and octa-dioxin in samples of commercial gelatin procurred from supermarkets and in bulk. Gelatin is produced from pork skins and cattle

(1974)

bones and hides, which may be preserved with PCP during processing both in this country and abroad. According to Firestone, the annual consumption of gelatin in the United States is 57 million pounds of domestic production and 13 million pounds of imports.

Highest levels of PCP and total dioxins were found in bulk gelatin that was imported from Mexico and produced by a single company. Three measurements of this gelatin averaged 6.4 ppm of PCP, and six measurements averaged 26.8 ppb of total dioxins. In contrast, bulk domestic porkskin gelatin had no PCP and 0.1 ppb of total dioxins (octadioxins) in one of two sample measurements. Three consumer packages of unflavored gelatin purchased in a supermarket showed 0.2, 0.8, and 3.6 ppb of total dioxins.

D. Registered Uses and Production

Pentachlorophenol and its derivatives are among the most versatile pesticides now in use in the United States. This versatility is due first to their efficacy against a wide variety of pests (bacteria, yeast, slime molds, algae, fungi, plants, insects, snails), and second to their solubility in both organic solvents and water. Thus, PCP can be applied to a wide spectrum of materials. In various concentrations, solvents, and formulations, pentachlorophenols are registered for use on beans (for replanting purposes only), wood, leather, burlap, masonry, cordage, paints, petroleum, pulp and paper mill systems, weeds on seed crops (preharvest desiccant), secondary oil recovery injection waters, and commercial and industrial water cooling towers and evaporation condensers (Na-PCP).

Approximately 50,000,000 pounds of PCP is produced annually in the United States. The major use of PCP in the United States is as a wood preservative. This use consumes approximately 80% of all PCP produced. About 11% of the PCP produced is formulated as Na-PCP and used in the production of pressed and insulation board, and in cooling towers. Approximately 6% is used in pulp and paper mills to control the growth of slime-forming bacteria and fungi in paper production; 3% is used for farm treatment of fence posts, home protection against termites, and as a herbicide and pre-harvest desiccant.

The number of Federally-registered products containing PCP and the number of registrants is given in Table 4. In addition, there are 75 State-registered products formulated by 60 registrants.

TABLE 4. Federal registration of pentachlorophenol [1/]

	No. Products	No. Registrants
PCP	578	240
Na-PCP	196	88
K-PCP	5	4
L-PCP	6	2

1/ Data from computerized Registration Division files.

E. Regulatory History

Technical PCP was registered for use as a wood preservative in 194d by Dow Chemical Company and Monsanto Agricultural Products Company. Subsequently, registrations were granted for a wide variety of uses, including agricultural uses such as pre- or postharvest weed treatment and preharvest dessication of seed crops. Until 1970, regulatory actions against PCP were confined to these kinds of uaes. For example, in the "USDA Summary of Registered Agricultural Pesticide Uses" issued on August 31, 1968, PCP was registered as a weed killer on alfalfa, cotton, pineapples, and sugarcane. These registrations were cancelled by Pesticide Regulation (PR) Notices 69-4 (February 1, 1969) and 70-4 (February 26, 1970) when the concept of zero tolerance was abandoned by the Department of Agriculture. Currently, PCP is registered for agricultural use only as a seed treatment for nonfood uses on beans, alfalfa, clover, lespedeza, and vetch.

On September 28, 1970, USDA published PR Notice 70-22. Although PCP was not mentioned by name, the Notice stated "Appropriate regulatory action will be taken under the provisions of the Act (FIFRA) if these chlorodioxins are found in any economic poison." The notice was directed toward the presence of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) in the herbicides 2,4,5-trichlorophenoxyacetic acid and silvex; PCP and its chlorodioxins were not mentioned. The Dow Chemical Company, however, interpreted the Notice to apply to PCP and took action to reduce chlorodioxin levels in its technical PCP.

At the time the Notice was issued, methodologies for the analysis of dioxins in PCP were not totally reliable. Therefore, there was disagreement within the industry on the actual levels of dioxins in their products. There were no toxicological studies on PCP dioxins, and toxic effects were inferred from chloracne and chick edema effects of commercial PCP. These same effects are caused by TCDD. In the absence of such evidence, regulatory action on dioxin levels in PCP was not possible. This situation continued until 1974, when research involving purified PCP (i.e., relatively free of dioxins), in contrast to commercial PCP, began to appear in the literature.

II. Summary of Scientific Evidence Relating to Rebuttable Presumption Criteria

A. Reproductive and Fetotoxic Effects in Mammalian Species

40 CFR 162.11(a)(3)(ii)(B) provides that "a rebuttable presumption shall arise if a pesticide's ingredient(s)... Produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety." This section reflects concern that chronic exposure to chemicals may result in injury to the reproductive system and/or the fetus and provides that a rebuttable presumption shall arise if chronic chemical exposure in test animals produces such results, and if human exposure to the chemicals exceed an ample margin of safety.

In the studies summarized below, fetotoxic and teratogenic effects have been reported in rats exposed to purified and commercial grade PCP. These same effects were observed in rats exposed to a mixture of two unspecified isomers of HCDD. Specifically, exposure to PCP and these HCDD isomers resulted in statistically significant increases in the incidence of skeletal and soft tissue anomalies, growth-retarded fetuses and of embryonic resorption in the litters of treated dams.

1. Fetotoxicity

a. Studies with PCP

Schwetz et al. (1974) studied the effects of purified and commercial grade PCP on rat embryonal and fetal development. The compositions of the two types of PCP are given in Table 5. Dosages of 5, 15, 30, and 50 mg/kg/day of both PCP types were administered by gavage on gestation days 6 through 15 inclusive. Their results, shown in Table 6, may be summarized as follows: both purified and commercial PCP caused statistically significant increases in fetal resorptions at the two higher doses, as well as among litters exposed to 15 mg/kg/day of commercial PCP. Specifically, the resorption rate ranged from 27.2% (64/235) to 100% (229/229) in the two highest (commercial and purified) dose groups, compared to 4.2% (15/358) in the control group. At 30 and 50 mg/kg/day, purified PCP had a more pronounced effect than commercial PCP. For example, at 50 mg/kg/day, purified PCP caused 100% fetal resorbtion, while commercial

TABLE 5. Composition of pentachlorophenol materials used by Schwetz et al. (1974)

	Commercial Grade	Purified
Identification	Lot No. MM06210-9822A	Ref. No. 27-91-1
Phenolics, %[1]		
Pentachlorophenol	88.4	98+
Tetrachlorophenol	4.4	0.27
Trichlorophenol	< 0.1	0.05
Higher Chlorinated Phenoxyphenols	6.2	0.5
Nonphenolics, ppm[2]		
Dibenzo-p-dioxins		
2,3,7,8-tetrachlorodibenzo-p-dioxin	< 0.05	< 0.05
Hexachlorodibenzo-p-dioxin	4	< 0.5
Heptachlorodibenzo-p-dioxin	125	< 0.5
Octachlorodibenzo-p-dioxin	2500	< 1.0
Dibenzofurans		
Hexachlorodibenzofuran	30	< 0.5
Heptachlorodibenzofuran	80	< 0.5
Octachlorodibenzofuran	80	< 0.5

1/ Determined by gas-liquid chromatography.
2/ Determined by use of an LKB 9000 gas chromatograph-mass spectrometer.

TABLE 6. Effect of pentachlorophenol on the incidence of fetal resorptions and on the sex ratio of survivors [1/]

Test Material and Dose, mg/kg/day	Resorptions: Among Fetuses %	Among Fetuses No.	Among Litters %	Among Litters No.	Sex Ratio M	Sex Ratio F
Vehicle Control [2/]	4.2	15/358	30.3	10/33	50	50
Pentachlorophenol [3/]						
Commercial						
5.8 [4/]	7.1	15/212	55.6	10/18	50	50
15 [6/]	8.8	17/194 [5/]	64.7	11/17 [5/]	52	48
34.7 [6/]	27.2	64/235 [5/]	94.7	18/19 [5/]	60	40
50	58.1	108/186 [5/]	93.3	14/15 [5/]	79	21 [5/]
Purified						
5	4.2	8/189	46.7	7/15	48	52
15	5.9	13/221	38.9	7/18	50	50
30	97.5	233/239 [5/]	100.0	20/20 [5/]	83	17 [5/]
50	100.0	229/229 [5/]	100.0	19/19 [5/]	-	-

1/ Adapted from Schwetz et al. (1974)
2/ 2.0 ml/kg body weight corn oil per day.
3/ Dosages administered in 2.0 ml corn oil/kg body weight.
4/ Equivalent to 5.0 mg/kg/day purified PCP.
5/ Indicates values significantly different from control values by the binomial expansion test, $p < 0.05$.
6/ Equivalent to 30.0 mg/kg/day purified PCP.

PCP caused 58% resorption. At 30 (purified) and 50 (commercial) mg/kg/day, there were statistically significant differences in the sex ratio of surviving fetuses; males were heavily predominant. Schwetz et al. found that administration of PCP during early organogenesis (days 8 through 11 of gestation) had more pronounced effects on fetal resorption than did its administration during late organogenesis (days 12 through 15) (Table 7).

The no-effect dose for fetal resorptions was 5.8 commercial grade PCP/kg/day and 15 mg purified PCP/kg/day. Measurements were also taken on fetal body weight and crown-rump length, both of which decreased with the increase in dosage. The no-effect dose for these parameters was 15 mg commercial grade or purified PCP/kg/day.

Larsen et al. (1975) fed 60 mg ^{14}C-PCP/kg body weight to pregnant Charles River CD strain rats on day 15 of gestation. They detected negligible amounts of ^{14}C-PCP in the placentas and fetuses up to 32 hours after dosage. This indicated that the amount of PCP that passes through the placental barrier on day 15 is negligible. In a separate experiment that used unlabeled PCP and was reported in the same paper, single oral doses of 60 mg/kg administered to separate groups of animals on days 8, 9, 10, 11, 12, or 13 of gestation had no statistically significant effect on the rate of resorption of the test animals as compared to controls. However, statistically significant reductions in fetal weight were reported in days 9 and 10.

TABLE 7. Effect of administration of pentachlorophenol during early or late organogenesis on the incidence of fetal resorptions and on the sex ratio of offspring [1/]

Test Material and Dose, mg/kg/day	Resorptions: Among Fetuses %	Among Fetuses No.	Among Litters %	Among Litters No.	Sex Ratio M	Sex Ratio F
DAYS 8-11 OF GESTATION						
Vehicle Control	7.6	13/172	53.3	8/15	53	47
Pentachlorophenol						
Commercial 34.7 [2/]	45.3	105/232 [3/]	94.7	18/19 [3/]	55	45
Purified 30.0	91.1	163/179 [3/]	100.0	16/16 [3/]	62	38
DAYS 12-15 OF GESTATION						
Vehicle Control	4.2	11/259	40.9	9/22	46	54
Pentachlorophenol						
Commercial 34.7 [2/]	6.1	13/213	58.8	10/17	52	48
Purified 30.0	4.5	11/244	45.0	9/20	49	51

1/ Adapted from Schwetz et al. (1974).
2/ Equivalent to 30.0 mg/kg/day purified PCP.
3/ Values significantly different from control values by the binomial expansion test, $p < 0.05$.

Hinkle (1973) reported on the fetotoxic effects of PCP in the Golden Syrian hamster. After doses of 1.25, 2.5, 5, 10, and 20 mg/kg were administered by gavage on days 6 through 10 of gestation, he reported no differences between control and test animals in these parameters: maternal body weight, fetal weight, litter size, and number of resorptions. Increased toxicity was noted at the two highest doses, but these increases were "minimal in number." The author stated that PCP was found in detectable amounts (unspecified) in the untreated animals as well as in their diet.

Fahrig (1978), in a study to be described in more detail in Section III. B., observed decreases in litter size after injection of 50 and 100 mgms PCP/kg body weight into the peritoneal cavity of pregnant mice at day ten of gestation. Control mice, on the average, produced 6.4 fetuses/dam. Litter size was reduced at the 50 mg/kg dose to 3.67 fetuses/dam, and to 3.92 fetuses/dam at the 100 mg/kg dose. PCP was administered in a 10% solution of dimethylformamide; a vehicle control was not reported. Litter size calculations included dams that had no litters.

The Schwetz et al. study cited earlier establishes that ingestion of PCP by pregnant rats during organogenesis produces lethal and toxic effects such as fetal resorption and reduced body size. Comparable effects were not observed when larger but single doses were administered to rats during organogenesis (Larsen, 1975), nor when single doses were administered to hamsters (Hinkle, 1973).

Table 8. Effect of treatment with chlorinated dibenzo-p-dioxin on maternal and fetal body measurements and the incidence of fetal resorption[1/]

Test Compound[2/]	No. litters	Maternal weight gain, g[3/] Days 6-13	Days 13-21	Days 6-21	Fetal body weight, g[4/]	Fetal crown-rump length, mm[4/]	Fetal Resorption, %[4/] Population[5/]	Litter[6/]
Control	30	36 ± 2	101 ± 6	137 ± 8	5.68 ± 0.05	44.5 ± 0.1	7(22/337)	47(14/30)
Hexachlorodibenzo-p-dioxin (4)								
0.1 ug/kg/day	19	28 ± 2	102 ± 5	130 ± 5	5.73 ± 0.04	43.8 ± 0.1	5(10/217)	47(9/19)
1 ug/kg/day	19	27 ± 3	99 ± 5	126 ± 6	5.93 ± 0.16	45.7 ± 0.5	9(20/218)	74(14/19)
10 ug/kg/day	18	22 ± 3[7/]	97 ± 5	119 ± 6[7/]	5.12 ± 0.05[7/]	42.6 ± 0.2[7/]	25(57/229)[7/]	94(17/18)[7/]
100 ug/kg/day	19	6 ± 2[7/]	13 ± 7[7/]	19 ± 9[7/]	3.65 ± 0.28[7/]	35.2 ± 0.7[7/]	85(194/227)[7/]	100(19/19)[7/]
Octachlorodibenzo-p-dioxin (5)								
100 mg/kg/day	12	32 ± 2	100 ± 8	131 ± 7	5.73 ± 0.09	43.6 ± 0.4	8(11/131)	42(5/12)
500 mg/kg/day	17	35 ± 3	115 ± 4	150 ± 5	5.69 ± 0.05	44.5 ± 0.2	5(9/199)	41(7/17)

1/ Adapted from Schwetz et al. (1973).
2/ Hexachlorodibenzo-p-dioxin sample: purity = >99%; two unspecified isomers in ratio of 89:11. All samples administered on days 6-15 of gestation as a corn oil:acetone (9:1) solution. Octachlorodibenzo-p-dioxin samples: purity = 98.86%.
3/ Mean ± standard error for various gestation times.
4/ Mean of litter means ± standard error.
5/ % (number resorptions/number implantations).
6/ % (number litters with at least one resorption/number litters).
7/ Significantly different from control by an analysis of variance and Tukey's test or the 2 x 2 contingency table (resorptions), $p < 0.05$.

b. Studies with Dioxins

Schwetz et al. (1973) administered purified hexachloro-p-dibenzo-dioxins (HCDD) (two unspecified isomers) and octachloro-p-dioxin (OCDD) by gavage to pregnant Sprague-Dawley rats on days 6 through 15 of gestation. Doses were 0.1, 1, 10, or 100 ug/kg/day HCDD and 100 or 500 mg/kg/day OCDD.

The results of these studies are shown in Table 8. For HCDD, there were statistically significant increases over controls in fetal resorptions at the 10 and 100 mg/kg/day doses, as well as decreases in fetal body weight and fetal crown-rump length. In contrast, OCDD at both dose levels (100 and 500 mg/kg/day) produced no fetal resorptions or other effects except for an increase in the incidence of subcutaneous edema at the high dose level.

The HCDD used in this experiment was reported by the authors to have a purity in excess of 99%, and to consist of two isomers in the ratio 89:11. The presence of HCDD in PCP and the low HCDD doses producing fetotoxic effects in pregnant rats strongly suggests that exposure to HCDD via exposure to PCP can cause chronic effects as defined in 40 CFR 162.11(a)(3)(ii)(B).

2. Teratology

a. Studies with PCP

Schwetz et al. (1974a) also investigated the teratogenic effects of PCP on rats. In this study they observed fetal anomalies produced by oral administration (gavage) of 5.8, 15, 34.7, and 50 mg/kg/day of commercial grade PCP, and 5, 15, and 30 mg/kg/day of purified PCP. In one experiment, they administered these amounts of PCP during days 6 through

TABLE 9. Effect of pentachlorophenol on the incidence of fetal anomalies

	Vehicle Control	Pentachlorophenol (mg/kg/day) Commercial Grade 5.8	15	34.7	50	Purified Grade 5	15	30
SOFT TISSUE ANOMALIES No. of Litters	33	18	16	19	13	15	18	2
		Percent of Litters Affected						
Subcutaneous Edema	18	11	50[2/]	84[2/]	62[2/]	0	78[2/]	100[2/]
Dilated Ureters	0	0	0	21[2/]	0	0	0	0
SKELETAL ANOMALIES No. of Litters	31	18	16	19	12	15	18	2
		Percent of Litters Affected						
Skull (delayed ossification)	19	39	31	37	8	60[2/]	72[2/]	0
Lumbar Spurs	13	28	88[2/]	37[2/]	83[2/]	20	78[2/]	0
Ribs (supernumerary, lumbar, or fused)	0	0	0	95[2/]	83[2/]	0	33[2/]	100[2/]
Vertebrae (supernumerary, abnormal shape, delayed ossification, missing or unfused centers of ossification)	19	0	19	95[2/]	100[2/]	13	78[2/]	100[2/]
Sternebrae (supernumerary, delayed or unfused centers of ossification, fused or staggered)	16	11	13	89[2/]	83[2/]	33	39[2/]	100[2/]

1/ Administered po in corn oil on days 6-15 of gestation. The doses of 5.8 and 34.7 mg commercial grade PCP/kg/day are equivalent to 5 and 30 mg/kg/day purified PCP, respectively.
2/ Incidence significantly different from control (binomial expansion test, $p < 0.05$).

Modified from Schwetz et al. (1974)

TABLE 10. Effect of administration of pentachlorophenol during early or late organogenesis on the incidence of fetal anomalies

Anomalies	Days 8-11 of Gestation: Vehicle Control	Pentachlorophenol[1/] Commercial 34.7 mg/kg/day	Purified 30 mg/kg/day	Days 12-15 of Gestation: Vehicle Control	Pentachlorophenol[1/] Commercial 34.7 mg/kg/day	Purified 30 mg/kg/day
SOFT TISSUE ANOMALIES No. of Litters	15	17	4	22	17	20
	Percent of Litters Affected					
Subcutaneous edema	7	82[2/]	100[2/]	59	35	95[2/]
SKELETAL ANOMALIES No. of Litters	15	18	6	22	17	20
	Percent of Litters Affected					
Skull (delayed ossification)	33	33	17	36	41	70[2/]
Ribs (supernumerary or fused)	0	100[2/]	100[2/]	0	0	0
Vertebrae (supernumerary, abnormal shape, delayed ossification, fused, missing or unfused centers of ossificstion)	27	100[2/]	100[2/]	9	0	1
Sternebrae (delayed or unfused centers of ossification, fused or staggered)	47	94[2/]	100[2/]	50	82[2/]	85[2/]

1/ Administered po in corn oil during early or late organogenesis. The dose of 34.7 mg/kg/day commercial grade PCP is equivalent to 30 mg/kg/day purified PCP.
2/ Incidence significantly different from control (binomial expansion test, $p < 0.05$).

Adapted from Schwetz et al. (1974)

V 4 3 2 2 0 2 2

Table 11 summarizes the results of treatment with HCDD.

3. Exposure Analysis

In order to determine whether a presumption should be issued based on reproductive and fetotoxic effects, pursuant to Section 162.11(a)(3)(ii)(B), the Agency must determine whether or not an ample margin of safety exists between the levels of PCP which produce reproductive and fetotoxic effects, and the level(s) to which the population at risk (women of child-bearing age) can reasonably be anticipated to be exposed.

This section presents estimates of dietary, inhalation and dermal exposure to PCP and HCDD on a "worst case" basis. These estimates are based on the exposure of a pregnant woman in the home and at work at major PCP and Na-PCP use work sites, i.e., wood preserving plants, cooling towers, tanneries, and construction sites. This approach to PCP exposure analysis is taken because of the fetotoxic and teratogenic effects of PCP described in Section II.A.1 and II.A.2 and because of the continued movement of women into all areas of the labor force. Estimates are computed on the basis of 60 kg pregnant woman, 100% absorption via dietary and inhalation exposure, and 10% adsorption via dermal contact for both PCP and Na-PCP. There is no data available on dermal absorption of PCP by pregnant women; the 10% estimate is based on the penetration value of 7-15% of several chlorinated hydrocarbons, reported by Maibach and Feldman (1974). A normal breathing rate is defined as 1.8 m^3/hour at work, and 1.0 m^3/hour in the home.

Inhalation of water vapor containing Na-PCP is an exposure route for workers in industrial cooling towers, paper pulp mills and tanneries. Appendix I shows the calculations used to derive estimates of PCP in water vapors at these sites.

15 of gestation; statistically significant increases in skeletal defects of the ribs, sternebrae and vertebrae were observed in both treatment groups (Table 9). In a second experiment, they gave 30.0 (purified) and 34.7 (commercial grade) mg/kg/day PCP on days 8 through 11 of gestation to one group of animals, and on days 12 through 15 to a second group; statistically significant increases in abnormal sternebrae and skulls were observed in animals treated with purified PCP and abnormal sternebrae in animals treated with commercial PCP (Table 10).

These results establish that the higher doses of PCP produce fetal anomalies in the rat. At the 30 mg/kg/day dose the effects of purified PCP were more pronounced than those of the equivalent of commercial grade PCP.

b. Studies with Dioxins

In the 1973 paper cited above, Schwetz et al. reported teratogenic effects from the dioxins found in PCP. They administered doses of 0.1, 1, 10, and 100 ug HCDD/kg/day to pregnant Sprague-Dawley rats on days 6 through 15 of gestation. They found statistically significant increases over the controls in all of the teratogenic parameters observed at 100 ug/kg. For example, cleft palate was observed in 47% (8/17) of the fetuses exposed to HCDD, compared to none (0/156) in the controls; 12% (2/17) of the treated fetuses had dilated renal pelvis compared to 0.6% (1/156) in the controls; and 31% (5/16) of the treated fetuses had abnormal vertebrae compared to 6% (9/158) in the controls. Subcutaneous edema was observed at all doses except 0.1 ug/kg/day, which was considered the no-effect dose. In contrast, OCDD did not cause teratogenicity at 100 mg/kg/day; doses of 500 mg/kg/day caused subcutaneous edema, but no other effects.

Exposure to HCDD is developed using the same bases as for PCP. In addition these assumptions are made: that the HCDD content of most technical PCP and Na-PCP in the market place is 4 ppm (Table 2) and that assimilation of HCDD is identical to that of PCP and Na-PCP. Using these assumptions, exposure to HCDD is equal to the exposure to PCP times the factor 4×10^{-6} (4 ppm).

a. Dietary Exposure

Although PCP has no registered uses on any food commodity, PCP residues have been measured in foodstuffs (Table 1), and therefore there is exposure to PCP in the diet. Using the data in Table 1 and the average daily intake of the commodities which have been found to contain PCP, it is possible to obtain an estimate of PCP exposure from foodstuffs. Table 12 displays these results, computed for average and maximum PCP intake per day. For a 60 kg pregnant woman, the intake would be:

0.0015 mg/day/60 = 0.025 ug/kg/day average,

or 0.0181 mg/kg/day/60 = 0.302 ug/kg/day maximum.

For HCDD, intake would be:

0.1×10^{-6} ug/kg/day average, or 1.21×10^{-6} ug/kg/day maximum.

b. Dermal Exposure

i. Homeowners

PCP is sold in retail stores for treatment of wood to prevent rot and decay in boats, masonry, fences, and other sites. Common directions call for two coats of 5% PCP in mineral oil or a 3 to 30 minute soak. Assuming that a 60 kg applicator spills enough of the solution to cover one hand (10 ml or about 10 grams), the exposure would be:

(10 gm x 0.05 x 0.1)/60 = 0.833 mg/kg/day.

For HCDD, exposure would be 3.33×10^{-6} mg/kg/day.

TABLE 11. Effect of treatment with hexachlorodibenzo-p-dioxin on the incidence of fetal anomalies [1]

		Incidence of Anomalies After Treatment on Days 6-15 of Gestation				
		Control	0.1 ug/kg/day	1 ug/kg/day	10 ug/kg/day	100 ug/kg/day
SOFT TISSUE ANOMALIES						
Cleft Palate	P [2]	0 (0/156)	1 (1/104)	0 (0/99)	0 (0/86)	47 (8/17) [4]
	L [3]	0 (0/28)	5 (1/19)	0 (0/19)	0 (0/18)	73 (8/11) [4]
Dilated Renal Pelvis	P	0.6 (1/156)	0 (0/104)	2 (2/99)	6 (5/86) [4]	12 (2/17) [4]
	L	4 (1/28)	0 (0/19)	5 (1/19)	17 (3/18)	18 (2/11)
Subcutaneous Edema	P	5 (8/156)	6 (6/104)	55 (54/99) [4]	100 (86/86) [4]	100 (17/17) [4]
	L	21 (6/28)	32 (6/19)	100 (19/19) [4]	100 (18/18) [4]	100 (11/11) [4]
SKELETAL ANOMALIES						
Split Vertebral Centra	P	6 (9/158)	2 (2/103)	1 (1/99)	7 (6/86)	31 (5/16) [4]
	L	19 (5/27)	5 (1/19)	6 (1/18)	29 (5/17)	56 (5/9) [4]
Split Sternebrae	P	0.6 (1/158)	1 (1/103)	2 (2/99)	2 (2/86)	31 (5/16) [4]
	L	4 (1/27)	5 (1/19)	11 (2/18)	12 (2/17)	56 (5/9) [4]
Delayed Ossification of Sternebrae	P	11 (18/158)	28 (29/103)	12 (12/99)	34 (29/86)	56 (9/16) [4]
	L	44 (12/27)	74 (14/19)	50 (9/18)	71 (12/17)	56 (5/9)

1/ Adapted from Schwetz et al. (1973).
2/ Incidence among fetal population: % (number of affected fetuses/number fetuses examined).
3/ Incidence among litters: % (number of affected litters/number litters examined).
4/ Significantly different from control by 2 x 2 contingency table, $p < 0.05$.

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Table 12. Estimated Average and Maximum Daily Intake of PCP in the Diet

Commodity	Average Intake kg/day [1]	Average PCP Residue mg/kg [2]	Maximum PCP Residue mg/kg	Average PCP Intake mg/day	Maximum PCP Intake mg/day
Dairy Products	0.477	0.0005	0.01	0.0002	0.0048
Grains and Cereals	0.181	0.001	0.013	0.0002	0.0024
Root vegetables	0.261	0.001	0.010	0.0003	0.0026
Fruits	0.261	Trace	0.011	-	0.0029
Sugars and Adjuncts	0.135	0.006	0.04	0.0008	0.0054
Totals				0.0015	0.0181

1 From Agricultural Handbook No. 62, August 1961, p. 42

2 From Table 1 (Johnson and Manske, 1977)

ii. Construction Workers

PCP-treated wood is used to construct platforms, fences, porches, and other structures. It is estimated that 6 months after treatment, PCP will be present on the wood surface at about 0.5 mg/ square foot (Koppers Chemical Company, 1978). Dermal exposure occurs if workers handle wood without wearing gloves. Assuming that the worker actually handles wood 40 times during an 8-hour period, and that the area of the hands averages 0.25 sq. ft., then exposure would be:

(40 x 0.5 mg/sq.ft. x 0.25 sq.ft./operation x 0.1)/60 = 8.3 ug/kg/day.

For HCDD, exposure would be 33.2×10^{-6} ug/kg/day.

iii. Cooling Tower Workers

Na-PCP is used to control the growth of algae, bacteria and fungi in water cooling systems. Formulations typically contain 80% Na-PCP, and are added to the system at concentrations of 60 ppm for initial cleaning, then reduced to 30 ppm to maintain control. A worker could be exposed dermally to 100 ml of cooling water containing 80% x 60 ppm formulation, or 48 ppm (48 mg/liter), of Na-PCP. (Shamaiengar, 1978). Exposure would then be:

(48 mg/l x 0.1 liter x 0.1)/60 kg = 0.008 mg/kg/day.

During routine maintenance, this would drop to 0.004 mg Na-PCP/kg/day. For HCDD, exposure would be 0.032×10^{-6} mg/kg/day for initial cleaning, and 0.016×10^{-6} mg/kg/day during routine maintenance.

iv. Paper/Pulp Mill Workers

To control slime, algae and bacteria, Na-PCP is added to the paper-pulp slurry during the manufacturing process. A typical product contains 45% active ingredients of which 25% is Na-PCP. The concentration of the product used is 450 ppm, of which 113 ppm (113 mg/l) is Na-PCP.

During the process, samples of pulp slurry are taken periodically. If a worker takes samples hourly (8 times/day) and wets one hand with 10 ml of the slurry (International Paper Company, 1978), the exposure would be:

(8 x 0.01 liter x 113 mg/l x 0.1)/60 kg =

0.015 mg PCP/kg/day

For HCDD, exposure would be 0.060×10^{-6} mg/kg/day.

v. Tannery Workers

A typical product used to control growth of slime and fungi contains 12.9% PCP. With a use concentration of 1:4,000, the solution would contain 1 gm/4,000 gm water or 250 ppm of product. If a worker were exposed during normal operations, she could dermally receive about 1400 ml of solution daily on her exposed arms and neck (Shamaiengar, 1978). Exposure here would be:

(1.4 liter x 250 mg/l x 0.129 x 0.1)/60 kg =

0.075 mg Na-PCP/kg/day

For HCDD, exposure would be 0.3×10^{-6} mg/kg/day.

vi. Workers in Pressure-Treatment Plants

Although data is not available on dermal exposure at these sites, it can be assumed that this exposure is at least equal to exposure at construction sites. Freshly treated wood can be expected to contain more PCP on its surface than wood used at construction sites, the latter having been subjected to weathering, i.e., leaching, vaporization, etc., in the interval between pressure treatment at the plant and use at construction sites. Therefore, dermal exposure at pressure treatment plants is taken to be at least the same as that at construction sites.

c. Inhalation Exposure

i. In the Home

The only data available on the vaporization of PCP from treated wood in an enclosed area is provided by Gebefugl et al. (1976). They found as much as 160 ug PCP/m^3 in the air of a test area treated, according to the label instructions, with paint containing PCP. The concentration of PCP in the paint was not reported.

Using 160 ug PCP/m^3 as a worst case, and assuming that a 60 kg pregnant woman resides in her home an average of 20 hours per day breathing at a rate of 1.0 m^3/hr, the exposure would be (160 ug PCP/m^3 x 1.0 m^3/hr x 20 hr)/60 = 53.3 ug PCP per day.

For HCDD, exposure would be 213.3×10^{-6} ug/kg/day.

ii. Pressure-Treatment Plants and Construction Sites

In February, 1976, the Center for Disease Control, National Institute for Occupational Safety and Health, conducted an environmental survey of a pressure treatment wood preserving plant in Little Rock, Arkansas. This survey included air sampling for PCP at various sites in the plant area. Table 13 shows the results of the analyses of these samples.

The highest value reported, 8 ug/m^3, was in an area where about twice each month 200-250 fifty (50) pound bags of solid PCP were manually opened and dissolved in heated fuel oil. Assuming that, as a worst case, this level of airborne PCP is continuously present throughout the plant,

TABLE 14. Estimates of Human Exposure to PCP and HCDD [1]

Table 13.[1/] Pentachlorophenol Concentrations in Air at a Preasure Treatment Plant.
Koppers Company, Incorporated
North Little Rock, Arkansas
February 24, 1976

Sample No.	Operation	Sampling Period (min)	*Type of Sample	**Concentrations (mg/M^3)
A1	Hand Mix Oper.	112	GA	0.004
A3	Hand Mix Oper.	112	GA	0.004
A5	Sampling Man		EQUIPMENT FAILURE - VOID	
A6	Asst. Treater	442	P	0.001
A7	Laborer	445	P	0.001
A8	Laborer	438	P	0.006
A9	Treating Oper.	437	P	0.001
A10	Locomotive Oper.	339	P	<0.001
A2/12	Hand Mixer	110	P	0.008
A4/14	Hand Mix Oper.	112	GA	0.003

American Conference on Governmental Industrial Hygienists, Threshold Limit Value Committee 0.5

* GA - General Area; P - Personal

** mg/M^3 = milligrams of substance per cubic meter of air sampled

1/ Source: Health Hazard Evaluation Determination Report No1. 75-117-371, DHEW, Center for Disease Control, National Institute for Occupational Safety and Health, Cincinnati, Ohio. March, 1977.

the daily exposure of a 60 kg worker at a moderate breathing rate ($1.8\ m^3/hr$) would be:

$$(8\ ug/m^3 \times 1.8\ m^3/hr \times 8\ hours)/60 = 1.92\ ug/kg/day.$$

For HCDD, exposure would be 7.68×10^{-6} ug/kg/day.

In the absence of data on PCP concentrations in the air at construction sites, these values for PCP and HCDD are taken as worst case estimates at these sites.

iii. Cooling Towers

Some persons working near cooling towers can be exposed by inhalation of vapors and drift containing Na- PCP. The relative amounts of Na-PCP and water evaporating from the cooling water is a function of their molecular weights and vapor pressures, and is estimated to be 0.02 ug PCP/m^3 (Appendix 1). Exposure therefore would be:

$$(0.02\ ug/m^3 \times 1.8\ m^3/hr \times 8\ hr)/60 = 0.004\ ug\ Na\text{-}PCP/kg/day.$$

For HCDD, exposure would be 0.016×10^{-6} ug Na-PCP/kg/day.

Drift is the entrained water carried from the tower by the exhaust air. In an average cooling tower, approximately 1% of the cooling fluid is lost to drift. For a properly functioning cooling tower, the ratio of water to air weight should be unity in order to insure maximum heat exchange. At an average cooling rate of 300 gallons/minute, this weight of water is equivalent to the weight of 880 m^3 of air. The drift (3 gallons or 11.355 liters), distributed in this volume of air, gives an Na-PCP concentration of:

$$(11.355\ l \times 48\ mg/l)/880\ m^3 = 0.6\ mg\ Na\text{-}PCP/m^3.$$

Exposure would then be:

$$(0.6\ mg/m^3 \times 1.8\ m^3/hr \times 8\ hrs)/60 = 0.15\ mg\ Na\text{-}PCP/kg/day$$

For HCDD, exposure would be 0.60×10^{-6} mg/kg/day.

iv. Paper/Pulp Mills

Inhalation exposure is based on a concentration of 0.047 ug Na-PCP/m^3 (see Appendix 1), which computes to:

$$(0.047\ ug/m^3 \times 1.8\ m^3/hr \times 8\ hrs)/60 = 0.01\ ug\ Na\text{-}PCP/kg/day.$$

For HCDD, exposure would be 0.04×10^{-6} ug/kg/day.

v. Tanneries

Inhalation exposure is based on a concentration of 0.013 ug/m^3 (see Appendix 1) so that exposure is:

$$(0.013\ ug/m^3 \times 1.8\ m^3/hr \times 8\ hrs)/60\ kg = 0.003\ ug\ Na\text{-}PCP/kg/day$$

For HCDD, exposure would be 0.012×10^{-6} ug/kg/day.

4. Conclusions

Table 14 summarizes the exposure estimates for PCP and HCDD developed in Section II.A.3. Table 15 gives the ratios of the no effect dose level to total exposure to PCP and HCDD of the major use sites.

The foregoing discussion establishes that PCP and possibly its HCDD contaminants cause teratogenic and fetotoxic effects in test animals. The adverse effects observed among the injured fetuses include distorted sex ratios, increased incidences of resorbed embryos, skeletal anomalies and subcutaneous edema. The no-effect levels are 5.8 mg/kg/day for PCP and 1 ug/kg/day for HCDD. In addition, PCP contains other dioxin contaminants which have not been fully characterized toxicologically, and which vary quantitatively from batch to batch.

TABLE 14. Estimates of Human Exposure to PCP and HCDD[1/]

Site	PCP ug/kg/day				HCDD $ug \times 10^{-6}$/kg/day			
	Dietary	Dermal	Inhalation	Total	Dietary	Dermal	Inhalation	Total
Home	0.025 av	833	53.3	886.32	0.1 av	3330	213.3	3543.40
	0.302 max			886.60	1.21 max			3544.51
Construction Sites	0.025 av	8.33	1.92	10.28	0.1 av	33.2	7.68	40.98
	0.302 max			10.55	1.21 max			42.09
Cooling Towers	0.025 av	8 [2/]	0.004	158.03 [5/]	0.1 av	32 [2/]	0.016	632.02 [5/]
	0.302 max	4 [3/]	150 [4/]	154.31 [5/]	1.21 max	16 [3/]	600 [4/]	617.23 [5/]
Paper Pulp Mills	0.025 av	15	0.01	15.04	0.1 av	60	0.04	60.14
	0.302 max			15.31	1.21 max			61.25
Tanneries	0.025 av	75	0.003	75.03	0.1 av	300	0.012	300.11
	0.302 max			75.31	1.21 max			301.22
Pressure Treatment Plants	0.025 av	8.33	1.92	10.28	0.1 av	33.2	7.68	40.98
	0.302 max			10.55	1.21 max			42.09

1/ Based on a 60 kg pregnant woman
2/ Initial Treatment
3/ Routine Treatment
4/ Cooling Tower Drift
5/ Inhalation of cooling tower drift + PCP vapors + dermal and dietary exposure

Data available to the Agency indicate that the physical and chemical properties of PCP, and its commercial uses and distributions lead to substantial human and environmental exposure to this pesticide. In this regard, several factors are significant:

- Current PCP production approximates 50,000,000 pounds per year and production is expected to increase to 80,000,000 pounds per year in the near future (Josephson, 1977). If PCP is equally distributed among the total U.S. population, assuming 60 kg body weight for each individual exposed, the theoretical exposure potential for each person in the general population is 5 mg/kg/day.

- Although PCP is registered mainly for non-agricultural uses, the chemical is widely distributed in the environment and in human tissues. It is present in the blood and urine of persons not known to be exposed to the pesticide. It has been found in the drinking water of 80% of 108 cities sampled, in rainwater in Hawaii, and at low levels in food commodities such as sugars, root vegetables, and grain and cereal products (Table 1).

- PCP is registered for home and industrial uses. As a result, homeowners, workers using PCP in leather, wood, and paper processing plants, and others using products containing PCP are exposed to the chemical. The Agency estimates that use exposure levels range from approximately 0.9 mg/kg/day for home uses to less than 0.01 mg/kg/day at construction sites (Table 14).

- Homes, tanneries, wood pressure treatment plants, paper pulp mills, and cooling towers are major use sites presenting significant exposure potential, particularly since PCP has been shown to be absorbed through the skin. These uses may involve dermal as well as inhalation contact with the pesticide. Further, since 80% of the annual PCP production is used for wood preservatives, substantial numbers of people who spray, dip, and pressure-treat wood at plants may be exposed to the pesticide. In addition, workers using PCP-treated wood at construction sites can be exposed.

The Agency's pre-RPAR review of pesticide exposure is based on data about the chemical under review, other pesticides, general assumptions, and other relevant information. The Agency recognizes that the exposure data available is sketchy and incomplete. The Agency supplemented this data with reasonable worst case assumptions, which by

Table 15. Ratio of No Effect Dose [1] to Total Exposure Estimates [2] for PCP and HCDD

Site	PCP	HCDD
Home	6.55	282
Construction Sites	557	24073
Cooling Towers	37.2	1602
Paper Pulp Mills	382	16477
Tanneries	77.2	3327
Pressure Treatment Plants	557	24073

1) No Effect Doses are 5.8 mg/ug/day for PCP and 1 ug/kg/day for HCDD.

2) Averages of Total Exposures from Table 14.

their nature are conservative. Nevertheless, uncertainty remains as to the validity of the preliminary exposure estimates derived from the data and the assumptions. Therefore, in determining whether an adequate margin of safety exists, the Agency considers it prudent public policy to utilize greater safety factors for PCP than it would in situations where it had greater confidence in the underlying exposure data and assumptions.

40 CFR 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide produces any "chronic or delayed toxic effect in test animals at any dosage up to a level. . . which is substantially higher than that to which humans can reasonably be anticipated to be

exposed, taking into account ample margins of safety . . . ." PCP produces teratogenic and fetotoxic effects in test animals, and workers using PCP in connection with tannery, home, pressure treatment, paper pulp processing, cooling tower and all other uses may be exposed to PCP, with levels at major use sites ranging from 0.01 to 0.9 mg/kg/day. The Agency has concluded that the difference between these human exposure levels and the no-effect level in test animals may not constitute an ample margin of safety. Accordingly, the Agency has concluded that all PCP registrations exceed this risk criterion.

The Agency invites registrants to provide data and information to confirm, refine, or rebut the information upon which the exposure estimates are based. The Agency will use the new data to determine whether or not the presumption has been rebutted and in assessing the risks which PCP uses may present to health and the environment.

III. Studies Relating to Possible Adverse Effects

This section describes studies on PCP which do not meet the criteria outlined in 40 CFR Section 162.11. It is intended to provide information on other toxic effects of PCP, including those resulting from misuse. With the exception of the discussion of oncogenicity and mutagenicity, the studies presented were chosen as examples of these effects; other reports are available in the scientific literature.

A. Oncogenic Effects in Test Animals

In 1969, Innes et al. administered PCP (Dowicide 7) by gavage to mice at doses of 46.4 mg/kg on days 7-28 of age and at 130 ppm (17 mg/kg/day) in the diet for the following 17 months. They reported that this regime caused no significant increase in tumor incidence in test animals as compared to the control animals. In 1976 Schwetz et al. in an

unpublished study submitted to EPA, reported that dietary regimes of Dowicide EC-7 at 1, 3, 10, and 30 mg/kg/day for 22 and 24 months for male and female rats, respectively, did not increase tumor incidence over control animals. The composition of the PCP products used in these studies was similar to those shown in Table 2.

Boutwell and Boach (1959) tested a series of phenolic chemicals for their ability to induce skin tumors in mice. In these experiments a simple application of 0.3% dimethylbenzanthracene (DMBA) in benzene was first applied to shaved back skin as an initiator. Subsequently, 20% PCP, the promoter, was applied in benzene to the back skin of each test animal twice weekly for 15 weeks. In this short-term study the investigators reported a survival rate of 82.9% (29/35) in the test animals and a rate of 75% (15/20) in control animals treated with benzene only after the initial exposure to DMBA. The average number of papillomas per survivor in the test group was 0.04, slightly less than the 0.07 observed in the controls; the percent of survivors with papillomas was 4.0% as compared to 7% in the control group.

These papers have been reviewed by the EPA Carcinogen Assessment Group and were found to be negative with respect to oncogenic effects of PCP (Albert, 1978).

B. Mutagenic Effects

Fahrig (1974) induced mitotic gene conversion at the ade 8 and trp 5 loci of Saccharomyces cerevisiae. Using a concentration of 0.19 millimoles (50 ppm) PCP in 1% dimethyl sulfoxide for 6 hours, he found 6.62 ade 2 convertants per 10^5 survivors

TABLE 16. Induction of forward mutation, intragenic and intergenic recombination in S. cerevisiae MP-1 in vitro with pentachlorophenol at a treatment time of [1]

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TABLE 16. Induction of forward mutation, intragenic and intergenic recombination in S. cerevisiae MP-1 in vitro with pentachlorophenol at a treatment time of 3.5 hours [1/]

Genetic Alteration	Experiment # of Experiments	Concentration (mg/l)	Survival [2/]	Experiment Colonies [3/] of Genetically Altered Cells Per Survivor	Control # of Experiments	Control Colonies [3/] of Genetically Altered Cells Per Survivor	Significance
Mutation	4	400	59 ± 8 (10813)	2.00 ± 0.22 (216)	4	0.61 ± 0.07 (113)	< 0.001
Intergen. Rec.				0.47 ± 0.14 (50)		0.49 ± 0.08 (91)	> 0.8
Intragen. Rec.				5.64 ± 0.45 (609)		2.93 ± 0.10 (542)	< 0.001

1. Adapted from Fahrig et al. (1977)
2. Control Survival = 100%
3. Mutants, Convertants (Intragenic Recombination)/10^7 survivors, Recombinants (Intergenic Recombination)/10^2 survivors

The numbers in parenthesis give the actual numbers of colonies counted.

(control: 0.45 per 10^5 survivors) and 4.31 trp 5 convertants per 10^5 survivors (control: 0.36 per 10^5 survivors). Fahrig did not report on the statistical reliability of these data.

In a later report, Fahrig (1978) studied the mutagenic properties of certain chlorophenols, including PCP, in yeast and mice ("mammalian spot test"). He used S. cerevisiae MP-1, a diploid multipurpose strain for screening intergenic recombination (mitotic crossing over), intragenic recombination (mitotic gene conversion) and forward mutation. He incubated cell suspensions at 25 C with 400 mg/liter PCP for 3.5 hours. He spread aliquots of the suspensions, approximately $3x10^7$ cells, on solid nutrient-deficient (intragenic recombinants and mutants) or complete (intergenic recombinants) media and incubated at 25 C for 4 and 8 days respectively. Fahrig reported statistically significant ($p<0.001$) increases is foward mutation and mitotic gene conversion. Table 16 contains the results of this experiment.

In the mammalian spot test, he mated females of inbred C57BL/6JHan strain mice to males of rotation bred T-stock. The progeny of this combination are susceptible to color spots in the adult coat if a mutagenic agent is injected into the peritoneal cavity of the dam during the tenth day of fetal development. The incidence of color spots in untreated mice bred as described was 0.1%. A dosage of 50 mg/kg PCP to pregnant mice produced color spots in 0.6% of the progeny; a dosage with 100 mg/kg resulted in a 1.3% incidence of spots. Fahrig did not give the statistical significance of these data.

A geneticist and statistician assigned to EPA have reviewed the Fahrig et al. paper (1978). In the opinion of the geneticist, this study does not provide evidence of the mutagenicity of PCP. This opinion was based on the fact that the experiment has certain shortcomings. Among these are absence of information on the controls as well as on maternal toxicity (Mauer, 1978). Only two animals were affected at each dose level; the EPA statistician has found that this response is not statistically significant at the 0.05 level (Rosai, 1978) using the chi-square test.

For these reasons, the reviewers did not consider the mammalian spot test to be sufficient evidence of mutagenicity, and the criteria of multitest evidence of 40 CFR Section 162.11 (a)(3)(ii)(A) are not met.

It should be noted that mutagenicity tests on PCP were negative with the Ames test (Andersen et al. 1972), the host-mediated assay (Buselmaier et al. 1973), and the sex-linked recessive lethal test on Drosophila (Vogel and Chandler, 1974).

C. Chloracne

Chloracne ("chlorine acne") is a human skin disorder characterized by distention of hair follicles by horny cutaneous tissue, and by a decrease or absence of the sebaceous glands in the area of infection. This condition has been observed in workers in PCP manufacturing plants and wood preserving operations (Baader and Bauer, 1951). Chloracne can arise in these workers weeks or months after exposure, and at first was thought to be due to PCP itself. However, using the rabbit ear test, Jones et al. showed in 1962 that the acnegenic agent in the herbicide 2,4,5-T was its contaminant TCDD. Further study of the acnegenic effects of pure and commercial grade PCP identified its dioxin contaminants as the causative agent (Johnson et al., 1973).

D. Hepatic Effects

Goldstein et al. (1976) fed pure and technical grade PCP to female Sherman rats for 8 months at dosages of 20, 100, and 500 ppm. Technical PCP produced hepatic porphyria at 100 and 500 ppm, and all doses caused increased hepatic aryl hydrocarbon hydroxylase activity, glucuronyl transferase activity, liver weight, cytochrome P-450, and microsomal heme. N-demethylase activity was not affected. In contrast, pure PCP had no significant effect on these parameters, except for increasing glucuronyl transferase at 500 ppm. Both PCP types decreased the rate of body weight gain at 500 ppm. The technical PCP used contained 8 ppm hexa-, 520 ppm hepta-, and 1380 ppm octachlorodibenzodioxin. Pure PCP contained less than 0.1 ppm each of these contaminants.

Kimbrough and Linder (1975) fed 1000 ppm "relatively pure" PCP and technical PCP to male rats for 3 months. All of the animals were reported to have statistically significant enlargement of the liver when compared to the controls. Histological examination of the liver using the light microscope showed that the rats fed technical PCP had foamy cytoplasm or pronounced vacuolation of the hepatocytes, inclusions, single hepatocellular necrosis, interstitial fibrosis, and a brown pigment in macrophages and Kupffer cells.

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TABLE 17. Toxicity of pentachlorophenol to mammals [1/]

Examination with the electron microscope showed an increase in smooth endoplasmic reticulum, many lipid vacuoles, and atypical mitochondria. Livers of rats fed the relatively pure PCP showed enlarged hepatocytes, and many cells contained inclusions in their cytoplasm. Electron microscope studies showed a slight increase in smooth endoplasmic reticulum, atypical mitochondria, and some lipid vacuoles. Livers of control rats were normal. Kimbrough and Linder did not report the amount of dioxin contaminants in the pure and technical PCP which was used in the study.

In 1976, Schwetz et al. observed discoloration of the liver in female rats fed 10 or 30 mg/kg/day PCP. Histological examination revealed pigmented material in the hepatocytes surrounding the central veins with smaller amounts present in the reticuloendothelial cells. Hepatocytes in the centrilobular region also contained pigmented material but were not necrotic. The PCP used in this study was representative of Dow's product and contained approximately 30 ppm total dioxins.

E. Toxicity to Humans

There are reports of deaths caused by industrial or accidental exposure to PCP. In most cases exposure occurred by dermal contact, either to PCP in solution or to materials treated with PCP. Bergner et al. (1965) described five cases of PCP intoxication in Winnipeg in 1963. The one fatality involved a worker in a wood treating plant who, using his bare hands, dipped wood into a vat containing a solution of 4.1% PCP in petroleum solvent. A similar incident had previously been reported in 1952 in France by Truhaut et al. In this case two workers were immersing wooden planks in a 3% aqueous solution of a mixture of 80% Na-PCP and 20% sodium tetrachlorophenate. The workers plunged their hands and forearms into the liquid bath to remove the planks. After 6 days of this work, both men became ill and ultimately died. In all three cases, the initial symptoms of intoxication were profuse sweating and elevated temperatures.

These same symptoms were observed in an incident involving nine neonates in a nursery for newborn infants in St. Louis. Robson et al. (1969) reported these and other symptoms in these infants, two of whom died. Other symptoms reported were increased pulse rate (> 150/minute), hepatomegaly, and respiratory distress. Of the seven survivors, six received exchange blood transfusions, and one received only supportive therapy. Exposure was proven to be via percutaneous absorption of Na-PCP which had been mistakenly used to launder the infants' diapers and bed linens.

In a followup paper, Armstrong et al. (1969) measured PCP levels in samples of these diapers and linens, in autopsy tissues, and in the serum of a surviving infant. They detected the following PCP residues: six diapers, 2.64 to 17.20 mg/100 g; two shirts, 7.38 and 7.90 mg/100 g; two shirt backs, 22.40 and 195 mg/100 g; two crib pads, 4.89 and 178.70 mg/100 g; one mattress pad, 14 mg/100 g; one pillow case, 6.25 mg/100 g; and two musline, 1.15 and 2.80 mg/100 g. In autopsy tissues, PCP measurements were: kidney, 2.8 mg/100 g; adrenal, 2.7 mg/100 g; heart and blood vessel, 2.1 mg/100 g; fat, 3.4 mg/100 g; and connective tissue, 2.7 mg/100 g. An infant who survived through exchange transfusion, had PCP levels of 11.8 mg/100 ml before, 6.5 mg/100 ml during, and 0.2 mg/ml after the transfusion.

F. Toxicity to Animals

Toxicological data on PCP are complicated by the presence of varying quantities of tetrachlorophenols, dioxins, and furans in the technical material. Table 17 summarizes the available toxicity data for PCP on various mammalian species.

There are reports of fatalities to farm animals following exposure to PCP. Spencer, in 1957, described the deaths of two Hereford cows within 24 hours after drinking a 5% solution of PCP in kerosene. Blevins (1965) reported on the death of a litter of ten pigs kept in a farrowing house whose floor had been overly treated with PCP dissolved in used crankcase oil. They theorized that the pigs were triply exposed by direct adsorption through the skin, from the milk of the gilt, and through inhalation of PCP "aerosol." The gilt recovered when it was moved outside the farrowing house.

Adelman et al. (1976) established the LC-50's for Na-PCP as 0.21 mg/liter for fathead minnows, and 0.22 mg/liter for goldfish. Holmberg et al. (1972) found that the eel (Anguilla anguilla L) did not survive 5 days of exposure to 0.1 ppm Na-PCP in fresh water. Hanes et al. (1968) found that the LC-50 for coho salmon (Onchorynchus kisutch) is 0.15 mg/liter of K-PCP.

The Public Health Service of DHEW has reports on numerous fish kills from 1964 to 1970 that were caused by effluents from wood treatment plant washing into fresh water. Since 1970, the Pesticide Episode Review System (PERS) has recorded only four incidents involving fish kills. This indicates either that wood preserving practices with effluents have become more stringent, or that incidents are not being reported to PERS.

TABLE 17. Toxicity of pentachlorophenol to mammals [1/]

Organism (Sex, Strain)	Route of Administration	Dose or Concentration	Reference
Wistar Rats	Oral (0.5% in Stanoflex fuel oil)	27.3 mg/kg	Deichmann et al. (1942)
	Subcutaneous (2% in water)	66.3 mg/kg	Deichmann et al. (1942)
Albino Rats (M)	Oral (1% in olive oil)	77.9 mg/kg	Deichmann et al. (1942)
	Oral (2% in water)	210.6 mg/kg	Deichmann et al. (1942)
	Intraperitoneal	56 mg/kg	Furquharson et al. (1942)
Albino Sprague-Dawley Rats (M,F)	Intraperitoneal 8°C	620 mg/kg (LD-100)	Keplinger et al. (1969)
	Intraperitoneal 26°C	420 mg/kg (LD-100)	Keplinger et al. (1969)
	Intraperitoneal 36°C	120 mg/kg (LD-100)	Keplinger et al. (1969)
Albino Wistar Rats (F)	Percutaneous (dermal) 40% w/v in glycerol formaldehyde	149 mg/kg	Noakes and Sanderson (1969)
Sherman Rats (M,F)	Oral (in peanut oil)	146 mg/kg	Gaines (1969)
(F)	Oral " "	175 mg/kg	Gaines (1969)
(M)	Dermal "	320 mg/kg	Gaines (1969)
(F)	Dermal "	330 mg/kg	Gaines (1969)

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G. Effects of Tetrachlorophenol

As stated previously, the presence of tetrachlorophenols in all PCP products raises the possibility that adverse effects of PCP could be attributed to these compounds. The toxicological properties of tetrachlorophenols have not been studied extensively. The "Registry of Toxic Effects of Chemical Substances," published by the National Institute of Occupational Safety and Health, DHEW, lists the oral LD_{50} for the rat as 140 mg/kg, both for tetrachlorophenol (presumably mixed isomers) and for 2,3,4,6-tetrachlorophenol.

Schwetz et al. (1974a) evaluated the effects of purified and commercial grade tetrachlorophenol on rat embryonal and fetal development. They fed pregnant Sprague-Dawley rats 10 and 30 mg/kg/day on days 6-15 inclusive of gestation. These doses had no effect on resorptions, fetal body weight, or fetal crown-rump length. At 30 mg/kg/day, there were statistically significant increases in delayed ossification of the skull bones for both tetrachlorophenol types. Schwetz et al. observed subcutaneous edema at 10 mg/kg/day with both compounds, but not with the 30 mg/kg/day doses. Since this effect was not dose-related, the authors speculate that it may have been due to chance.

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TABLE 17. Toxicity of pentachlorophenol to mammals[1/] (Continued)

Organism (Sex, Strain)	Route of Administration	Dose or Concentration	Reference
Sprague-Dawley Rats (M)	Inhalation 80 ml/min	11.7 mg/kg	Hoben et al (1976)
White Mice	Intraperitoneal	29 mg/kg	Pleskova and Bencze (1959)
	Subcutaneous	63 mg/kg	Pleskova and Bencze (1959)
	Oral	130 mg/kg	Pleskova and Bencze (1959)
	Percutaneous	261 mg/kg	Pleskova and Bencze (1959)
Rabbits	Cutaneous	512.5 mg/kg (LD-100)	McGavack et al. (1941)
	Subcutaneous	275.0 mg/kg (LD-100)	McGavack et al. (1941)
	Intraperitoneal	135.5 mg/kg (LD-100)	McGavack et al. (1941)
	Oral	550.0 mg/kg (LD-100)	McGavack et al. (1941)
Sheep	Oral (5% PCP in sawdust)	120 mg/kg (LD-100)	Harrison (1959)
Calves	Oral (5% PCP in sawdust)	140 mg/kg (LD-100)	Harrison (1959)

1/ All values represent the LD_{50} unless otherwise noted.

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Appendix 1

Na-PCP Content in Water Vapor

Na-PCP is registered for use as a slimicide in cooling towers, paper pulp mills and tanneries. In these uses, Na-PCP is normally found in water at concentrations of 48, 113 and 32 mg/liter respectively. The humidity in the work areas at these sites can approach 100%, due to vaporization from the large volumes of water required. Na-PCP can also vaporize from solution, and the amounts of Na-PCP in the vapor can be estimated. In the following calculations, it is assumed that the Na-PCP/water solution is an ideal binary system. The following constants will be required:

At 100% humidity and 20°C,

weight of water vapor = 17.3 gms/m^3

vapor pressure of water = 17.54 mm

Vapor pressure of Na-PCP (assuming same volatility as PCP) = 4.7×10^{-4} mm

Molecular weight of water = 18

Molecular weight of Na-PCP = 289

In 1 liter of solution, at 48 mg/l Na-PCP, there are approximately .048/289 = 1.7×10^{-4} moles Na-PCP and 1000 gms/18 = 55.5 moles water. According to Raoult's Law, the partial pressure (p°) of each component in a binary system equals the mole fraction M_f (moles of component/total moles present) multiplied by the vapor pressure of the component (VP_c):

$p° = M_f \times VP_c$

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Then:

$p°\ Na\text{-}PCP = (1.7 \times 10^{-4}/55.5)(4.7 \times 10^{-4}) = 1.4 \times 10^{-9}$ mm

$p°\ Water = (55.5/55.5)(17.54) = 17.54$ mm

The mole fraction of Na-PCP vapor in the air can be calculated using the formula:

$$\text{mole fraction Na-PCP} = \frac{p°\ \text{Na-PCP}}{p°\ \text{Water} + p°\ \text{Na-PCP}}$$

$$= \frac{1.4 \times 10^{-9}}{17.54 + 1.4 \times 10^{-9}}$$

$$\text{or } \frac{\text{moles Na-PCP in vapor}}{\text{moles water in vapor}} = 8 \times 10^{-11}$$

The moles of water on the vapor is

$$\frac{17.3\ gms/m^3}{18} = 0.96 \text{ moles water}/m^3$$

Therefore

moles Na-PCP = 0.96 moles water/m^3 X 8×10^{-11}

= 7.7×10^{-11} moles/m^3

and

Grams Na-PCP = 7.7×10^{-11} moles/m^3 X 298

= 0.02×10^{-3} ug/m

These same calculations apply for vapors in pulp mills and tanneries, and using the concentrations of Na-PCP specified earlier, these calculate to:

Pulp mills: Na-PCP = 0.047 ug/m^3

Tanneries: Na-PCP = 0.013 ug/m^3

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**** PRODUCT SEARCH LISTING **** PAGE 1

[6560-01-C]

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000004 BONIDE CHEMICAL CO INC
2 WURZ AVE.
YORKVILLE NY 13495

********** PRODUCT NAME **********

**00188* BONIDE PENTIDE TECHNICAL PENTACHIOROPHENCL 5 % WCOD PRES TERMITE R

REGISTRANT *NAME AND ADDRESS*

* 000005 EMPIRE INTERNATIONAL
P.O. BOX 29805
ATLANTA, GA 3 359

********** PRODUCT NAME **********

**00034* EM 0615

REGISTRANT *NAME AND ADDRESS*

* 000043 CABOT SAMUEL INC
ONE UNION ST
BOSTON MA 021 8

********** PRODUCT NAME **********

**00027* CABOTS PENTA WOOD SEAL NO. 3110

**00028* CABOTS BAR DK 3000 CLEAR WOOD PRESERVATIVE

**00071* CABOT'S CONSERVO #3300

**** PRODUCT SEARCH LISTING **** PAGE 2

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000061 KOPPERS COMPANY, INCORPORATED
GENERAL OFFICES KOOPERS BLD
PITTSBURGH PA 15219

********** PRODUCT NAME **********

**00124* KOPPERS WOLMAN SALTS FMP

**00125* KOPPERS WOOD PECKER REPELLENT

**00126* KOPPERS WOODPECKER HOLE FILLER

**00159* BROLITE Z SPAR S 121 ROT INHIBITIVE SEALER GREEN

REGISTRANT *NAME AND ADDRESS*

* 000100 CIBA GEIGY CORP
AGRICULTURAL DIV
P.O. BOX 11422
GREENSBORO, NC 27409

********** PRODUCT NAME **********

**00505* PRAMITOL DP CONCENTRATE NO. 3

**00506* PRAMITOL DP CONCENTRATE NO 2

**00507* PRAMITOL DP CONCENTRATE NO 1

**00520* ON TRACK WE 1 HERB/WD CNTR ON B.R RGTS/WY INDUST SITES

**00578* CONQUER PLUS LIQUID VEGETATION KILLER

**00582* CONQUER LIQUID VEGETATION KILLER

**** PRODUCT SEARCH LISTING **** PAGE 3

**** PRODUCT SEARCH LISTING **** PAGE 4

*** PRODUCT SEARCH LISTING **** PAGE 3

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000148 THOMPSON HAYWARD CHEMICAL COMPANY
BOX 2383
KANSAS CITY KS 66110

********** PRODUCT NAME **********

**00186* DE PESTER PERMAGARD CONC NO. 10

**00425* T H PENTA KIL CONCENTRATE

**00809* DE PESTER PENTA MR 5% PENTA

**00921* SPRA GARD WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000168 WASATCH CHEMICAL DIVISION ENTRADA IND INC
P O BOX 6219
SALT LAKE CITY UT 84106

********** PRODUCT NAME **********

**00022* WASCO DURACIDE CONCENTRATE

**00024* WASCO PAINT OVER DURACIDE

**00031* MORGRO LIQUID WEED & GRASS KILLER

REGISTRANT *NAME AND ADDRESS*

* 000179 BOGIE R H COMPANY
BOX 588
ALEXANDRIA VA 22300

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 4

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 000179

**00061* BO RID BROMOIL PD 2 5 LIQUID WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000237 MUSHROOM SPLY COMPANY
TOUGHKENAMON PA 19374

********** PRODUCT NAME **********

**00008* MSCO FUNGICIDE 'VX'

REGISTRANT *NAME AND ADDRESS*

* 000239 CHEVRON CHEMICAL COMPANY
ORTHO DIVISION 940 HENSLEY WAY
RICHMOND CA 94801

********** PRODUCT NAME **********

**01869* TRIOX LIQUID VEGETATION KILLER

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV
2000 MARKET STREET
PHILADELPHIA, PA 19103

********** PRODUCT NAME **********

**02530* NIAGARA PENTAPHENATE 79 DORMANT FUNGICIDE

**02544* NIAGARA PENTA CONCENTRATE 40

**** PRODUCT SEARCH LISTING **** PAGE 5

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000279 FMC CORP.
AGRICULTURAL CHEM DIV
2000 MARKET STREET
PHILADELPHIA, PA 19103

********** PRODUCT NAME **********

**02544* NIAGARA PENTA CONCENTRATE 40

REGISTRANT *NAME AND ADDRESS*

* 000432 BIOLOGICAL CHEMICALS INC
P O BOX 1
KING OF PRUSSIA PA 19406

********** PRODUCT NAME **********

**00001* BIOCHEM PENTA WOOD PRESERVATIVE

**00002* BIOCHEM PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000464 BARDEN CORP
P O BOX 1
HUNTINGTON IN 46750

********** PRODUCT NAME **********

**00001* BARDEN PENTA WOOD PRESERVATIVE

**00002* BARDEN PENTA WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 6

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000499 ARCO CHEMICAL COMPANY
3801 WEST CHESTER PIKE
NEWTOWN SQUARE PA 19073

********** PRODUCT NAME **********

**00001* ARCO PENTA WOOD PRESERVATIVE

**00002* ARCO PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000538 CHEMICAL SPECIALTIES INC
P O BOX 1
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00001* CSI PENTA WOOD PRESERVATIVE

**00002* CSI PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000569 CHEMICAL SPECIALTIES INC
P O BOX 1
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00001* CSI PENTA WOOD PRESERVATIVE

**00002* CSI PENTA WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 5

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000334 HYSAN CORPORATION
919 W 38TH ST
CHICAGO IL 60609

********** PRODUCT NAME **********

**00245* SUPER NO GROW WEED KILLER

**00247* GREEN KILL HERBICIDE

**00419* GUTTS COMPLETE VEGETATION KILLER

REGISTRANT *NAME AND ADDRESS*

* 000337 LESTER LABS INC
2370 LAWRENCE ST EAST POINT BRANCH
ATLANTA GA 30344

********** PRODUCT NAME **********

**00021* PENTACHLOR

**00036* LESTER ALGAECIDE B

**00037* LESTER WATERENE

**00059* LESTER ALGAECIDE C

REGISTRANT *NAME AND ADDRESS*

* 000341 ZEHRING CHEMICAL COMPANY
2201 NW 20TH AVE
PORTLAND OR 97209

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 6

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 000341

**00037* ZEHRUNG PENTASEAL

**00038* ZEHRUNG PENTGARD WOOD PRESERVATIVE 10 1 CONCENTRATE

**00039* ZEHRUNG PENTASEAL 3 TO 1 CONCENTRATE

**00040* ZEHRING PAINTABLE PENTAGARD WOOD PRESERVATIVE READY TO USE

REGISTRANT *NAME AND ADDRESS*

* 000358 NOTT MANUFACTURING COMPANY INC
PLEASANT VALLEY NY 12569

********** PRODUCT NAME **********

**00117* WEED NOT SPRAY

REGISTRANT *NAME AND ADDRESS*

* 00363 COOPERS CREEK CHEMICAL CORP
RIVER ROAD
WEST CONSHOHOCKEN, PA 19428

********** PRODUCT NAME **********

**00045* 4 C BRAND DECAYS NOT CLEAR WOOD PENTA PRESERVER

*** PRODUCT SEARCH LISTING *** PAGE 7

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 000341

**00041* ZEHRING PENTAGARD WOOD PRESERVATIVE READY TO USE

**00042* ZEHRING PENTAGARD WOOD PRESERVATIVE 10 1 CONCENTRATE

**00043* ZEHRING PENTAGARD WOOD PRESERVATIVE 3 TO 1 CONCENTRATE

**00044* ZEHRING PENTAGARD WOOD PRESERVATIVE 5 TO 1 CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 000400 ZEP MANUFACTURING CO
1310 SEABOARD INDUSTRIAL BLVD
ATLANTA GA 30318

********** PRODUCT NAME **********

**00001* ZEP PENTA WOOD PRESERVATIVE

**00002* ZEP PENTA WOOD PRESERVATIVE 10 1 CONCENTRATE

**00003* ZEP PENTA WOOD PRESERVATIVE 3 TO 1 CONCENTRATE

**00004* ZEP PENTA WOOD PRESERVATIVE 5 TO 1 CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 000432 ZOECON CORP
975 PAGE MILL RD
PALO ALTO CA 94304

********** PRODUCT NAME **********

**00001* ZOECON PENTA WOOD PRESERVATIVE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 000432

**00002* ZOECON PENTA WOOD PRESERVATIVE 10 1 CONCENTRATE

**00003* ZOECON PENTA WOOD PRESERVATIVE 3 TO 1 CONCENTRATE

**00004* ZOECON PENTA WOOD PRESERVATIVE 5 TO 1 CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 000433 ZOECON CORP
975 PAGE MILL RD
PALO ALTO CA 94304

********** PRODUCT NAME **********

**00001* ZOECON PENTA WOOD PRESERVATIVE

**00002* ZOECON PENTA WOOD PRESERVATIVE 10 1 CONCENTRATE

**00003* ZOECON PENTA WOOD PRESERVATIVE 3 TO 1 CONCENTRATE

**00004* ZOECON PENTA WOOD PRESERVATIVE 5 TO 1 CONCENTRATE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000374 ELROY TURPENTINE COMPANY
BOX 688
SWAINSBORO GA 30401

********** PRODUCT NAME **********

**00006* PERMATEX PRESERVATIVE FOR WOOD

REGISTRANT *NAME AND ADDRESS*

* 000402 HILL MANUFACTURING COMPANY
1500 JONESBORO RD SE
ATLANTA GA 30315

********** PRODUCT NAME **********

**00098* HILCO X WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000413 BARTELS & SHORES CHEMICAL COMPANY
1400 02 ST LOUIS AVE
KANSAS CITY, MO 6411 1

********** PRODUCT NAME **********

**00057* PIONEER BRAND PENTA 5

**00 63* PIONEER BRAND PENTA 4

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000449 TECHE CORPORATION
C/O REGULATORY AFFAIRS DEPT, FARMLAND IND , INC
P. O. BOX 7305
KANSAS CITY, MO 64116

********** PRODUCT NAME **********

**00091* JACK FROST WOOD PRESERVATIVE

**00231* WOODBURY PENTA 1 1 WOOD PRESERVATIVE

**00416* SURE DEATH BRAND PCP 1

REGISTRANT *NAME AND ADDRESS*

* 000453 WOOD TREATING CHEMICALS DEPT
KOPPERS CO INC
DEPT. KOPPERS CO. 5137 SOUTHWEST AVE.
ST LOUIS MO 6311

********** PRODUCT NAME **********

**00008* TIMBER TOX WI PERS. # 40 CONCNETRATE PENTCNTRI.

**00 174 TIMBERTOX D5 READY TO USE

**00 38* B WOOD PRESERVATIVE SPEC AT 7104

**00041* WOODTOX WATER REPELLENT & PENTA WOOD PRESERVATIVE

**00066* PENTA WOOD PRESERVATIVE READY TO USE

**00 72* WOOD TREATING SUPER NOXTANE

**00073* READY TO USE WOOD TOX 152 WATER REPELLENT WOOD PRESERVATIVE BROWN

**00074* WOODTREAT AA PENETRATING PENTA COATING

**00083* PRESSTREAT

**00 89* POLE TREAT PENETRATING PRESERVATIVE COATING

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CCNTINUE REGISTRANT 000453

**00013* POLE LIFE PRESERVATIVE PASTE T E
**00140* WDTOX # 1 9 R RDY TO USE WTR REPELLENT & WD PRESRTVE
**00150* LUMBRELLA 15 YELLOW
**00158* C WOOD PRESERVATIVE AT 8242
**00171* POLE TREAT 15 PENETRATING PRESERVATIVE COATING
**00174* PENTA STAIN 506 REDWOOD
**00175* PENTA STAIN 501 AZTEC BLUE
**00176* PENTA STAIN 502 DRK WALNUT
**00177* PENTA STAIN 503 SUN DANCE YELLOW
**00178* PENTA STAIN 505 PRAIRIE GREEN
**00179* PENTA STAIN 507 CAPE COD RED
**00180* PENTA STAIN 504 TEAL GREEN
**00181* PENTA STAIN 508 DRIFTWOOD
**00182* TRITOX PRESERVATIVE PASTE
**00190* POLE AID NO. 3
**00196* WOODTOX PRE PRIME CONCENTRATE
**00202* WOODTOX PRE PRIME
**00214* COMPOSITION A WOOD PRESERVATIVE WATER REPELLENT
**00215* NO. 140 CONCENTRATE WOODTOX WATER REPELLENT AND WOOD PRESERVATIV
**00216* NO. 140 READY TO USE WOODTOX WATER REPELLENT AND WOOD PRESERVATIVE
**00219* PENTA WOOD PRESERVATIVE 1 10 CONCENTRATE
**00222* KOPPERS WOOD PRESERVATIVE SURFACE SEMING COMPOUND
**00229* LIQUID NCXTANE 120
**00240* LIQUID NCXTANE SS

**** PRODUCT SEARCH LISTING **** PAGE 10

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CCNTINUE REGISTRANT 000453

**00245* SUPER DIPRITE WOOD PRESERVATIVE
**00251* WOOD PRESERVATIVE SURFACE SEALING COMPOUND
**00254* LIQUID NCXTANE 1 WOOD FUNGICIDE
**00255* LUMBRELLA 23 WATER REPELLENT PROTECTIVE COATING
**00256* NO. 509 AMBER PENTA STAIN
**00258* LUBRELLA 9 RED BROWN WATER REPELLENT WOOD PRESERVATIVE
**00259* POLE LIFE PRESRVATIVE PASTE TF
**00261* LIQUID NCXTANE 551 WOOD FUNGICIDE
**00262* WOODTOX S CONCENTRATE
**00264* KOPPER'S TIMBERTOX 7 1/2% WOOD PRESERVATIVE
**00265* PRESSTREAT T WOOD PRESERVATIVE
**00266* PENTA STAIN BASE CONCENTRATE
**00267* WOODTOX 140 T CONCENTRATE
**00268* TIMBERTOX 20NW WOOD PRESERVATIVE
**00269* WOODTOX PRE PRIME T CONCENTRATE
**00270* WOODTOX PRE PRIMET
**00271* WOODTOX 140 T

****

REGISTRANT *NAME AND ADDRESS*

* 000456 CHEMICAL FORMULATORS INC
2045 PEACHTREE RD.N.E.
ATLANTA, GEORGIA 30309

********** PRODUCT NAME **********

**00072* CHEMFORM ANTI STAIN

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*** PRODUCT SEARCH LISTING *** PAGE 11

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000458 STANDARD TAR PRODUCTS COMPANY
2456 W CORNELL ST
MILWAUKEE WI 53209

********** PRODUCT NAME **********

**00013* USOL CLEAR GRAIN NATURAL WOOD FINISH AND WOOD PRESERVATIVE

**00015* USOL PENTA WOOD PRESERVER

**00016* USOL PENTA TEN TO ONE CONCENTRATE

**00018* REDWOOD PENTA WATER REPELLENT WOOD PRESERVATIVE

**00019* USOL CLEAR PENTA WATER REPELLENT WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000464 DOW CHEMICAL U S A
PO BOX 1706
MIDLAND MI 48640

********** PRODUCT NAME **********

**00125* DOWICIDE G

**00380* DOW DOWICIDE G ST BEADS SODIUM PENTACHLOROPHENATE TECHNICAL

**00388* DOWICIDE 7 PRILLED PENTACHLOROPHENOL TECHNICAL

**00431* DOWICIDE EC 7

**** PRODUCT SEARCH LISTING **** PAGE 12

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000486 PERCLIN COMPANY, INC
112 W 37TH ST
CHICAGO IL 6[illegible]9

********** PRODUCT NAME **********

**00003* PEROLIN ALGAE PREVENTIVE #905 BRIQUETTES

REGISTRANT *NAME AND ADDRESS*

* 000491 SELIG CHEMICAL INDUSTRIES THE
DIV NATIONAL SERVICE INDS INC PO BOX 43106
ATLANTA GA 30336

********** PRODUCT NAME **********

**00198* SELIG'S MISTER ZERO

REGISTRANT *NAME AND ADDRESS*

* 000522 CHEVRON RESEARCH CO.,
A STANDARD OIL CO OF CA. SUBS
575 MARKET STREET
SAN FRANCISCO, CA 941[illegible]5

********** PRODUCT NAME **********

**00029* CHEVRON WOOD PRESERVATIVE (RF)

*** PRODUCT SEARCH LISTING *** PAGE 13

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000524 CHEVRON RESEARCH CO.,
A STANDARD OIL CO OF CA. SUBS
575 MARKET STREET
SAN FRANCISCO, CA 941[illegible]5

********** PRODUCT NAME **********

**00030* CHEVRON WOOD PRESERVATIVE (RF)

REGISTRANT *NAME AND ADDRESS*

* 000538 CHEMICAL SPECIALTIES INC
PO BOX 1287
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00031* CSI WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000539 CHEMICAL SPECIALTIES INC
PO BOX 1287
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00032* CSI WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 14

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000542 CHEMICAL SPECIALTIES INC
PO BOX 1287
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00033* CSI WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000543 CHEMICAL SPECIALTIES INC
PO BOX 1287
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00034* CSI WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 000544 CHEMICAL SPECIALTIES INC
PO BOX 1287
CHARLOTTE NC 28201

********** PRODUCT NAME **********

**00035* CSI WOOD PRESERVATIVE

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*** PRODUCT SEARCH LISTING *** PAGE 13

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000524 MONSANTO COMPANY
AGRICULTURAL PRODUCTS
800 N. LINDBERGH BLVD.
ST LOUIS, MO 63166

********** PRODUCT NAME **********

**00005* MONSANTO PENTA

**00023* SANTOBRITE TECHNICAL SODIUM PENTACHLOROPHENATE NEUTRAL BRIQUETTES

**00055* SANTOBRITE S

**00142* SANTOBRITE NUMBER 2 FINES

**00305* SANTOBRITE PELLETS

REGISTRANT *NAME AND ADDRESS*

* 000527 MIDIAND LABS
210 220 JONES ST
DUBUQUE IA 52003

********** PRODUCT NAME **********

**00074* NIX WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 000528 AMSCO DIVISION UNION OIL COMPANY OF CALIFCRIA
825 SE THORNTON
MINNEAPOLIS MN 55414

********** PRODUCT NAME **********

**00051* PENTA SEAL CONCENTRATE 1 5

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 000528

**00052* AMSCO'S PENTAL SEAL READY TO USE WATER REPELLENT WOOD PRESERVER

**00055* AMSCOS PENTA TREAT READY TO USE WOOD PRESERVER

**00056* PENTA TREAT 1 10 CONCENTRATE WOOD PRESERVER

**00057* BARCOSOTE CREOSOTE PENTA WOOD PRESERVER

REGISTRANT *NAME AND ADDRESS*

* 00 538 SCOTT O M & SONS COMPANY
MARYSVILLE OH 43040

********** PRODUCT NAME **********

**00130* TURF BUILDER PLUS MOSS CONTROL

REGISTRANT *NAME AND ADDRESS*

* 000539 SEARS ROEBUCK & COMPANY
SEARS TOWER DEPT. 766/68TH FLOOR
CHICAGO IL 6 684

********** PRODUCT NAME **********

**00285* SEARS PENTA WOOD PRESERVER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 000541	PURITAN CHEM COMPANY PO BOX 93247 MARTECH STATION ATLANTA GA 30318

********** PRODUCT NAME **********

**00193* PURITAN #3820 TOTAL WEED KILLER

**00194* PURITAN 3925 TOTAL WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 000548	RILEY BROS INC 860 WASHINGTON BURLINGTON IA 52601

********** PRODUCT NAME **********

**00022* RILEY BROS 5% PENTA PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 000550	VAN WATERS & ROGERS DIV OF UNIVAR 2256 JUNCTION AVENUE SAN JOSE, CA 95131

********** PRODUCT NAME **********

**00029* DOWICIDE #7

**00060* GUARDSMAN PENTA WATER REPELLENT WOOD PRESERVATIVE SOLUTION 3:1 CONC

**00092* VW & R STAIN CONTROL

**00101* GUARDSMAN PENTA CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 16

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 00055

**00119* NAMCO PENTACHLOROPHENOL SOLUTION

**00126* MACLEAN'S 40% PENTA

REGISTRANT	*NAME AND ADDRESS*
* 000551	BAIRD & MCGUIRE INC SOUTH STREET HOLBROOK,MA 02343

********** PRODUCT NAME **********

**00097* PENTA TOX DP

**00102* PENTASOTE 5% SOLUTION OF PENTACHLOROPHENOL

**00103* PENTASOTE CONCENTRATE

**00104* PENTA TOX DP CONCENTRATE

**00151* PCP 10% EMULSIFIABLE CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000557	SWIFT AGRICULTURAL CHEMICAL CORP 111 WEST JACKSON BOULEVARD CHICAGO, IL 60604

********** PRODUCT NAME **********

**01702* VIGORO WEED & GRASS KILLER

*** PRODUCT SEARCH LISTING *** PAGE 17

REGISTRANT	*NAME AND ADDRESS*
* 000569	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA, PA 19105

********** PRODUCT NAME **********

**00107* PENTACHLOROPHENOL 5% SOLUTION

**00108* PENTACHLOROPHENOL 40% CONCENTRATE

**00109* PENTACHLOROPHENOL 5% SOLUTION

REGISTRANT	*NAME AND ADDRESS*
* 000572	CHEMICAL SPECIALTIES INC 1000 PARKWOOD CIRCLE ATLANTA, GA 30339

********** PRODUCT NAME **********

**00110* CSI PENTA 5% SOLUTION

**00111* CSI PENTA 40% CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000573	CHEMICAL SPECIALTIES MFG CORP 1000 PARKWOOD CIRCLE ATLANTA, GA 30339

********** PRODUCT NAME **********

**00112* CSMC PENTA 5% SOLUTION

**00113* CSMC PENTA 40% CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 18

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 00573

**00114* CSMC PENTA 5% SOLUTION

**00115* CSMC PENTA 40% CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000576	CHEMICAL SPECIALTIES INC 1000 PARKWOOD CIRCLE ATLANTA, GA 30339

********** PRODUCT NAME **********

**00116* CSI PENTA 5% SOLUTION

**00117* CSI PENTA 40% CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000577	CHEMICAL SPECIALTIES MFG CORP 1000 PARKWOOD CIRCLE ATLANTA, GA 30339

********** PRODUCT NAME **********

**00118* CSMC PENTA 5% SOLUTION

**00119* CSMC PENTA 40% CONCENTRATE

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*** PRODUCT SEARCH LISTING *** PAGE 17

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 000572	ROCKLAND CHEMICAL CO. INC. P O BOX 809 CALDWELL, NJ 07006

********** PRODUCT NAME **********	
**00092*	ROCKLAND "PENTA PENN"
**00100*	ROCKLAND PENTA CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000602	RALSTON PURINA COMPANY CHECKERBOARD SQUARE ST LOUIS MO 63188

********** PRODUCT NAME **********	
**00040*	PURINA INSECT OIL CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 000654	FEDERAL CHEMICAL COMPANY INC SUITE K 1, ATKINSON SQUARE 5820 WEST 85TH ST. SUITE 101 INDIANAPOLIS, IN 46278

********** PRODUCT NAME **********	
**00080*	ARAB WATER REPELLENT PAINTABLE READY TO USE. WCCI PRESERVATIVE CLEA
**00083*	ARAB STAIN 1 COAT DOES 3 JOBS

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 000713	ATLAS MANUFACTURING COMPANY PO BOX 4350 DALLAS TX 75208

********** PRODUCT NAME **********	
**00007*	ATLAS 602 VEGOCIL
**00010*	ATLAS 603 DED VEG

REGISTRANT	*NAME AND ADDRESS*
* 00769	WOOLFOLK CHEMICAL WORKS INC PO BOX 938 FT VALLEY GA 31030

********** PRODUCT NAME **********	
**00107*	ANTIROT 1.X CONCENTRATE
**00435*	SECURITY 7% PENTA HERBICIDE FOR NON CROPLAND USE ONLY

REGISTRANT	*NAME AND ADDRESS*
* 00882	LILLY CEAS H COMPANY MILLER RD DIV 7737 N.E KILLINGSWORTH PORTLAND, OR 97218

********** PRODUCT NAME **********	
**00062*	MILLER'S PENTA CONCENTRATE 1 TO 1 (A PENTACHLOROPHENOL WOOD PRESER

**** PRODUCT SEARCH LISTING **** PAGE 19

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000891 HERCULES INC AGRICULTURAL CHEMICAL
SYNTHETIC DEPT
WILMINGTON DE 19899
WILMINGTON DE 19899

********** PRODUCT NAME **********

**00128* HERCULES MICROBIOLOGICAL COMPCUND MB 1 8

REGISTRANT *NAME AND ADDRESS*

* 000892 PIONEER MFG COMPANY
3053 E 87TH ST
CLEVELAND OH 44104

********** PRODUCT NAME **********

**00030* K O WEED KILLER WITH DRIFT CONTROL

REGISTRANT *NAME AND ADDRESS*

* 000912 FARMERS UNION CENTRAL EXCHANGE INC
POST OFFICE BOX 'G'
ST PAUL MN 55164

********** PRODUCT NAME **********

**00088* PACIFIC COOPERATIVES WOOD PRESERVATIVE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 000962 LOS ANGELES CHEMICAL COMPANY
4545 ARDINE ST
SOUTH GATE CA 90280

********** PRODUCT NAME **********

**00232* LACCO PENTA CONCENTRATE

**00343* LACCO PENTA WEED KILLER

**00361* LACCO PENTA READY

REGISTRANT *NAME AND ADDRESS*

* 001020 OAKITE PRODUCTS INC
50 VALLEY RD
BERKELEY HEIGHTS NJ 07922

********** PRODUCT NAME **********

**00006* OAKITE 55M

REGISTRANT *NAME AND ADDRESS*

* 001022 CHAPMAN CHEMICAL COMPANY
BOX 9158
MEMPHIS TN 38109

********** PRODUCT NAME **********

**00004* CHAPMAN PENTA GENERAL WOOD KILLER

**00008* PERMATOX 10 5

**00015* CHAPMAN PENTA PRESERVATIVE CONCENTRATE 1 TO 10

*** PRODUCT SEARCH LISTING **** PAGE 21

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001038 CHEMICAL SPECIALTIES INC
1000 CHERRY RD
MEMPHIS TN 38117

********** PRODUCT NAME **********

**00001* CSI PENTA CONCENTRATE

**00002* CSI PENTA READY TO USE

**00003* CSI PENTA WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 001039 CHEMICAL SPECIALTIES INC
1000 CHERRY RD
MEMPHIS TN 38117

********** PRODUCT NAME **********

**00001* CSI PENTA CONCENTRATE

**00002* CSI PENTA READY TO USE

**00003* CSI PENTA WEED KILLER

**** PRODUCT SEARCH LISTING **** PAGE 22

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001040 CHEMICAL SPECIALTIES INC
1000 CHERRY RD
MEMPHIS TN 38117

********** PRODUCT NAME **********

**00001* CSI PENTA CONCENTRATE

**00002* CSI PENTA READY TO USE

**00003* CSI PENTA WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 001041 CHEMICAL SPECIALTIES INC
1000 CHERRY RD
MEMPHIS TN 38117

********** PRODUCT NAME **********

**00001* CSI PENTA CONCENTRATE

**00002* CSI PENTA READY TO USE

**00003* CSI PENTA WEED KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 001022

**00016* CHAPMAN PENTA READY TO USE WOOD PRESERVATIVE & SOIL POISON
**00046* POL NU PENTA PRESERVATIVE GREASE
**00068* CHAPMAN PENTA WR CONCENTRATE 1 TO 5 WOOD PRESERVATIVE
**00120* PENTA PLUS 40
**00218* TIMPREG PAK
**00230* PERMATOX 10 S PLUS BAZIDE
**00241* POL NU PAK
**00256* TIMPREG
**00356* PENTA WR READY TO USE
**00368* TIMPREG E POL NU TYPE WOOD PRESERVATIVE GREASE
**00379* TIMPREG E SPECIAL
**00393* TIMPREG E PAK
**00408* CHAPMAN POL NU 15 15 PENTA PRESERVATIVE GREASE WITH CREOSOTE ADDED
**00438* PERMATOX 7 (PRILLED) PENTACHLOROPHENOL, TECHNICAL
**00446* CHAPMAN SURFACE SEALER WOOD PRESERV READY TO USE MIL S 13518B TYPE
**00447* CHAPMAN PERMATOX 7 (OILED)
**00464* CHAPMAN WEED A WAY
**00469* POL KAP GREASE
**00472* WEED A WAY CONCENTRATE
**00474* NAPCLOR G
**00475* BUCHANAN SPECIAL BLEND STAIN CONTROL
**00477* AMBRITE T
**00479* P 110
**00480* P 160

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 001022

**00481* P 180
**00482* PQ 10
**00496* POL NU 20 20

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REGISTRANT *NAME AND ADDRESS*

* 001043 VESTAL LABORATORIES DIV OF CHEMED CORP
4963 MANCHESTER AVE
ST LOUIS MO 63110

********** PRODUCT NAME **********

**00015* ANTI BACTERIAL VESCO LITE
**00040* TY LON 27 BACTERIOSTAT & ALGAECIDE

****

REGISTRANT *NAME AND ADDRESS*

* 001066 CRE O TOX CHEMICAL PRODUCTS COMPANY
BOX 12598
MEMPHIS TN 38112

********** PRODUCT NAME **********

**00064* CRE O TOX A10 WOOD PRESERVING CONCENTRATE

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**** PRODUCT SEARCH LISTING **** PAGE 24

*** PRODUCT SEARCH LISTING **** PAGE 23

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001127 BOURBON CO
BOX 466
LEXINGTON KY 40501

********** PRODUCT NAME **********

**00019* BOURBON WOOD PRESERVATIVE READY TO USE

REGISTRANT *NAME AND ADDRESS*

* 001187 VIRGINIA CHEM INC
3340 W NORFOLK RD
PORTSMOUTH VA 23703

********** PRODUCT NAME **********

**00066* VIRGINIA ALGAE CIDE NO. 2

**00085* VIRCHEM 513 MICROORGANISM CONTROL CHEMICAL

REGISTRANT *NAME AND ADDRESS*

* 001203 ROBERTS CONSOLIDATED INDUSTRIES, INC.
SUBSIDARY OF CHAMPION INTERNATIONAL CORP.
2305 SUPERIOR AVENUE
KALAMAZOO, MI 49003

********** PRODUCT NAME **********

**00019* FOREMOST 4950 CONCENTRATE

**00050* FOREMOST 4955 ES WEED ZAPPER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001221 BARTLETT CHEMICALS INC
BOX 50730
NEW ORLEANS LA 70115

********** PRODUCT NAME **********

**00024* BARTLETT LIONATOX WOOD PRESERVATIVE PENTACHLOROPHENOL BASE

REGISTRANT *NAME AND ADDRESS*

* 001266 MALTER INTERNATIONAL CORPORATION
PO BOX 6099
NEW ORLEANS LA 70114

********** PRODUCT NAME **********

**00052* WEED GC 20 2 1

REGISTRANT *NAME AND ADDRESS*

* 001285 CHEMISEAL COMPANY
353 NO WESTERN AVE
CHICAGO, IL 60612

********** PRODUCT NAME **********

**00005* CHEMISEAL NO.100 TOXIC WOOD PRESERVATIVE & WATER REPELLENT

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

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REGISTRANT *NAME AND ADDRESS*

* 001307 MAGNOLIA CHEMICAL CO INC
2646 RODNEY LANE
DALLAS TX 75220

**************** PRODUCT NAME ****************

**00120* MAGNOLIA SUPER KILL

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REGISTRANT *NAME AND ADDRESS*

* 001353 VACCINOL CHEM CO INC
C/O MORTON PHARMACEUTICALS
1625 NORTH HIGHLAND
MEMPHIS TN 38108

**************** PRODUCT NAME ****************

**00001* VACCINOL 'PENTA" PRESERVATIVE READY TO USE WOOD PRESERVATIVE

**00002* VACCINOL 'PENTA' PRESERVATIVE 1 TO 10 CONC WOOD PRESERVATIVE

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REGISTRANT *NAME AND ADDRESS*

* 001386 UNIVERSAL COOPERATIVES INC
3001 METRO DR. SUITE 500
MINNEAPOLIS MN 5542?

**************** PRODUCT NAME ****************

**00030* PENTA CONCENTRATE

**00117* UNICO WOOD SAVER

**00524* UNICO KLEEN WALK WEED KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

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REGISTRANT *NAME AND ADDRESS*

* 001409 ROBERTS CONSOLIDATED INDS INC
SUBS. CHAMPION INTERN. CORP.
2305 SUPERIOR AVE
KALAMAZOO, MI 49003

**************** PRODUCT NAME ****************

**00002* WOODLIFE

**00007* U.S. PLYWOOD PENTACHLOROPHENOL CONCENTRATE CLEAR

**00010* U.S. PLYWOOD PENTACHLOROPHENOL READY TO USE

**00012* WOODLIFE CLEAR CONCENTRATE

**00014* WOODLIFE,, CLEAR READY TO USE

**00015* U. S. PLYWOOD WOODLIFE CLEAR W/PENTA. CONC. CLEAR 4 1

**00021* WRP 146 WATER REPELLENT PRESERVATIVE FOR WOOD READY TO USE CLEAR

**00026* LIFEPRIME REDWOOD CONCENTRATE

**00027* WOODLIFE READY TO USE, BLACK

**00028* LIFEPRIME REDWOOD READY TO USE

**00030* WOODLIFE MILLTREAT TYPE E

**00034* WOODLIFE MILLTREAT TYPE EC

**00038* WOODLIFE EC WATER REPELLENT PRESERVATIVE FOR WOOD

**00047* WOODLIFE MILLTREAT TYPE FD

**00048* WOODLIFE MILLTREAT TYPE E EC CONCENTRATE

**00049* WOODLIFE MILLTREAT TYPE E CONCENTRATE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001421 DETTELBACH CHEMICALS CORP
ATTN WARD A R 4181 PEACHTREE RD NE
ATLANTA GA 30319

********** PRODUCT NAME **********

**00053* PENTA FIVE

**00160* GLOBE SOIL STERILANT

**00161* KEM K O 6 WEED KILLER

**00180* STERI KILL SOIL STERILANT

REGISTRANT *NAME AND ADDRESS*

* 001439 BLUE SPRUCE COMPANY
1390 VALLEY ROAD
STIRLING, NJ 07980

********** PRODUCT NAME **********

**00024* CHEM TOL 40% SOLUTION W/W (A 10 TO 1 PONTA CONCENTRATE)

**00054* CHEM TOL 5% SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 001476 GILCREATH CHEMICAL COMPANY
701 16TH ST
SAN FRANCISCO CA 94107

********** PRODUCT NAME **********

**00006* KENITE '5'

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 001476

**00011* KENITE '11' A 10 1 CONCENTRATED WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 001553 MOMAR INC
PO BOX 19567 STATION N
ATLANTA GA 30325

********** PRODUCT NAME **********

**00070* MOMAR NO MOW WEED AND GRASS KILLER

REGISTRANT *NAME AND ADDRESS*

* 001616 WARREN DOUGLAS CHEMICAL COMPANY INC
3002 F ST
OMAHA NE 68107

********** PRODUCT NAME **********

00005* WARLASCO*5% PENTACHLOROPHENCL WOOD PRESERVATIVE

**00068* WARLASCO PENTACHLOROPHENOL 10 TO 1 CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 001624 US BORAX & CHEMICAL CORP
3075 WILSHIRE BLVD
LOS ANGELES, CA. 60010

********** PRODUCT NAME **********

**00049* PENTAMUL WEED KILLER

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**** PRODUCT SEARCH LISTING **** PAGE 30

**** PRODUCT SEARCH LISTING **** PAGE 29

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 001624

**00081* PENTAMUL HD WEED KILLER

**00082* PENTAMUL*LHD WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 001645	KNOX CHEMICAL CO 7625 PAGE BLVD ST. LOUIS, MO. 63133

********** PRODUCT NAME **********

**00023* KNOX GENERAL WEED KILLER OIL SOLUTION

REGISTRANT	*NAME AND ADDRESS*
* 001678	DYALL PRODUCTS 35E. BLECKE AVE ADDISON IL 60101

********** PRODUCT NAME **********

**00002* NO 125 WTS TOXIC CERASEAL

REGISTRANT	*NAME AND ADDRESS*
* 001685	STATE CHEMICAL MFG CO THE 3100 HAMILTON AVE CLEVELAND, OHIO 44114

********** PRODUCT NAME **********

**00043* FORMULA 190 NON SELECTIVE WEED AND BRUSH KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 001685

**00059* FORMULA 267 PARCH NON SELECTIVE HERBICIDE

**00073* FORMULA 267 B PARCH NON SELECTIVE WEED KILLER

**00074* STATEBRAND FORMULA 267 A PARCH NON SELECTIVE HERBICIDE

**00076* FORMULA 190 A NON SELECTIVE WEED AND BRUSH KILLER

REGISTRANT	*NAME AND ADDRESS*
* 001706	NALCO CHEMICALS COMPANY REGULATORY AFFAIRS CONSULTANT 2901 BUTTERFIELD ROAD OAK BROOK, IL 60521

********** PRODUCT NAME **********

**00006* NALCO 21 S

**00007* NALCO NO. 21 M

**00015* NALCO H 170 HERBICIDE

**00027* NALCO 201

**00037* NALKIL WEED KILLER 250 LIQUID

**00038* NALKIL WEED KILLER 400 LIQUID

**00054* NALCO 401 MICROORGANISM CONTROL CHEMICAL

**00057* NALCO 424 MICROORGANISM CONTROL CHEMICAL

**00061* NALCO HERBICIDE H 178D

**00079* NALKIL WEED KILLER 250 CONCENTRATE

**00080* NALKIL WEED KILLER 400 CONCENTRATE

**00082* NALKIL WEED KILLER 251 CONCENTRATE

**00086* NALKIL WEED KILLER 401 CONCENTRATE

**00089* NALKIL 2701 LIQUID WITH ENDRIFT WEED KILLER

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**CONTINUE REGISTRANT 001736

**00094* NALKIL 2703 LIQUID WITH ENDRIFT WEED KILLER

**00096* NALKIL 2702 LIQUID WITH ENDRIFT WEED KILLER

**00097* NALCO 428 BALL BRIQUETTE MICROORGANISM CONTROL CHEMICAL

**00104* NALKIL 2727 LIQUID WITH ENDRIFT WEED KILLER

**00105* NALKIL 2728 LIQUID WITH ENDRIFT WEED KILLER

**00106* NALKIL 400 CONCENTRATE WITH ENDRIFT WEED KILLER

**00107* NALKIL 2726 LIQUID WITH ENDRIFT WEED KILLER

**00119* NAKIL 250 CONC W/ENDRIFT WEED KILLER

**00120* NALKIL 251 CONC W/ENDRIFT WEED KILLER

**00121* NALKIL 401 CONC W/ENDRIFT WEED KILLER

**00127* NALKIL 2703 WITH ENDRIFT SPRAY WEED KILLER

**00130* NALKIL 600 LIQUID WITH ENDRIFT WEED KILLER

**00131* NALKIL 250 LIQUID WITH ENDRIFT WEED KILLER

**00132* NALKIL 251 LIQUID WITH ENDRIFT WEED KILLER

**00133* NALKIL 601 LIQUID WITH ENDRIFT WEED KILLER

**00134* NALKIL 400 LIQUID WITH ENDRIFT WEED KILLER

**00135* NALKIL 401 LIQUID ENDRIFT WEED KILLER

**00136* NALCO H-170 E HERBICIDE

REGISTRANT *NAME AND ADDRESS*

* 001736 AMERICAN CYANAMID COMPANY CONSUMER PRODUCT DIV
ATT MEDICAL DIRECTOR 859 BERDAN AVE
WAYNE NJ 07470

********** PRODUCT NAME **********

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 001738

**00014* CYTOX 431 INDUSTRIAL BIOCIDE

REGISTRANT *NAME AND ADDRESS*

* 001748 YORK CHEMICAL COMPANY
195 ATLANTIC AVE
GARDEN CITY PARK NY 11044

********** PRODUCT NAME **********

**00092* CERTOX P 40 WOOD PRESERVER

**00094* CERTOX P 5 WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 001757 DREW CHEMICAL CORPORATION
ONE DREW CHEMICAL PLAZA
BOONTON, NEW JERSEY 07005

********** PRODUCT NAME **********

**00009* BIOSPERSE

**00025* BIOCIDE 207

**00042* DREWSPERSE 780 (FOR INDUSTRIAL USE ONLY)

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001762 ASSCC CHEMISTS INC
4401 SE JOHNSON CK BLVD
PORTLAND OR 97206

********** PRODUCT NAME **********

**00004* OREGON BRAND FUNGICIDE K 72

REGISTRANT *NAME AND ADDRESS*

* 001769 NATIONAL CHEMSEARCH DIV
USACHEM INC
2727 CHEMSEARCH BLVD
IRVING TX 75060

********** PRODUCT NAME **********

**00112* CHEM AQUA 400

**00115* WT 11 WATER TREATMENT

**00180* NATIONAL CHEMSEARCH FENOCIL WEED KILLER KILLS ALL VEGETATION

**00186* NATIONAL CHEMSEARCH CHEM AQUA 800 A COOLING TOWER ALGAECIDE

**00188* NATIONAL CHEMSEARCH ACTI CIL WEED KILLER

**00196* NATIONAL CHEMSEARCH PENTA CIL LOW DRIFT WEED KILLER

**00217* NATIONAL CHEMSEARCH BRIM FAST ACTING RESIDUAL WEED AND GRASS KILLER

**00221* NATIONAL CHEMSEARCH FS 90 WEED KILLER KILLS ALL VEGETATION

**00249* NATIONAL CHEMSEARCH HK 7 WEED KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001783 TRIC CHEMICAL WORKS INC
341 347 SCHOLES ST
BROCKLYN NY 11200

********** PRODUCT NAME **********

**00058* TRIC WOOD PRESERVATIVE, WATER REPELLENT (PENTACHLOROPHENOL)

REGISTRANT *NAME AND ADDRESS*

* 001786 USS CHEMICALS DIV US STEEL CORP
600 GRANT ST (RM 2888)
PITTSBURGH, PA 15230

********** PRODUCT NAME **********

**00007* USS PENTACHLORPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001842 TRIANGLE CHEMICAL COMPANY
BOX 4528
MACON GA 31208

********** PRODUCT NAME **********

**00033* TRIANGLE 5% PENTACHLOROPHENOL WOOD PRESERVATIVE

**00034* TRIANGLE PENTACHLOROPHENOL 10:1 CONC WOOD PRESERV

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001864 CENTRAL PETROLEUM COMPANY
548 STANDARD BLDG
CLEVELAND OH 44113

********** PRODUCT NAME **********

**00007* COLUMBIA PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 001898 CROWN TAR & CHEMICAL WORKS INC
900 WEWATTA ST
DENVER CO 80200

********** PRODUCT NAME **********

**00003* PENTACHLOROPHENOL 5% SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 001926 NAVY BRAND MFG COMPANY
5111 SW AVE
ST LOUIS MO 63110

********** PRODUCT NAME **********

**00039* QUICK VEGETATION KILLER & SOIL STERILANT

*** PRODUCT SEARCH LISTING *** PAGE 36

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 001927 TERMINIX DIV OF COCK IND INC
PO BOX 16902
MEMPHIS TN 38116

********** PRODUCT NAME **********

**00058* NO VEX WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 001941 ELCO MANUFACTURING COMPANY
111 3RD ST SHARPSBURG
PITTSBURGH PA 15215

********** PRODUCT NAME **********

**00070* ELCO LUMBER LAST #10

REGISTRANT *NAME AND ADDRESS*

* 002155 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00051* D WEED O FORMULA #4

**00052* D WEED O FORMULA #5

**00053* D WEED O FORMULA NO 6 NON SELECTIVE WEED KILLER WITH SURE AIM TO R

**00081* MOLLI BAGS

*** PRODUCT SEARCH LISTING **** PAGE 37

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 002156 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00050* D WEED O FORMULA #3

REGISTRANT *NAME AND ADDRESS*

* 002157 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00049* D WEED O FORMULA #2

REGISTRANT *NAME AND ADDRESS*

* 002158 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00048* D WEED O FORMULA #1

**** PRODUCT SEARCH LISTING **** PAGE 38

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 002159 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00047* D WEED O FORMULA #7

REGISTRANT *NAME AND ADDRESS*

* 002160 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00046* D WEED O FORMULA #6

REGISTRANT *NAME AND ADDRESS*

* 002161 SCHNEIDI INC
1429 FAIRMONT AVE N W
ATLANTA GA 30318

********** PRODUCT NAME **********

**00045* D WEED O FORMULA #8

*** PRODUCT SEARCH LISTING **** PAGE 37

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 002169 PATTERSON CHEMICAL COMPANY INC
1400 UNION AVE
KANSAS CITY, MO 64101

********** PRODUCT NAME **********

**00033* PATTERSONS PENTACHLOROPHENCL CONCENTRATE 1 TO 10

**00035* PATTERSON'S PENTACHLOROPHENCL PRESERVATIVE READY TO USE

REGISTRANT *NAME AND ADDRESS*

* 002217 PBI GORDON CORPORATION
300 SO 3RD ST
KANSAS CITY KS 66118

********** PRODUCT NAME **********

**00215* PENTA 5.

**00216* PENTA 40

**00369* GRASS N WEED VEGETATION KILLER

**00419* TERMI TOX

**00431* TERMI TOX CONCENTRATE

**00538* PERMA KILL PLUS WEED KILLER

**00552* IMPROVED PERMA KILL NO DRIFT WEED KILLER

**** PRODUCT SEARCH LISTING **** PAGE 38

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 002230 WARSAW CHEMICAL COMPANY INC
P O BOX 658 ARGONNE RD
WARSAW IN 46580

********** PRODUCT NAME **********

**00044* BARE WEED AND GRASS KILLER

REGISTRANT *NAME AND ADDRESS*

* 002271 HUGE COMPANY INC
7625 PAGE AVE
ST LOUIS, MO 63133

********** PRODUCT NAME **********

**00170* LIQUID WEED KILLER & SEMI SOIL STERILANT NO. 5

REGISTRANT *NAME AND ADDRESS*

* 002279 SOUTHERN PROTECTIVE PROD CO
PO BOX 10915
ATLANTA GA 30310

********** PRODUCT NAME **********

**00007* SOUTHERN CLEAR WOOD PRESERVATIVE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 002337	DEMERT & DOUGHERTY INC AEROPAK DIVISION 333 SKOKIE BLVD NORTHBROOK, IL 60062

********** PRODUCT NAME **********

**00007* D & D BLOXROT O

**00012* D & D WATER REPELLENT PENTA

**00034* D & D CEDARIZER

**00035* D & D PENTA PRIMER AND SEALER

**00040* D & D CONCENTRATE 1 10 BLOXROT C PENTA WOOD PRESERVATIVE

**00059* REDWOODIZER

**00063* DEMERT ALL WEATHER REDWOODIZER

REGISTRANT	*NAME AND ADDRESS*
* 002342	KERR MCGEE CHEMICAL CORP MGR PKG & LABELING KERR MCGEE CENTER OKLAHOMA CITY OK 73102

********** PRODUCT NAME **********

**00368* PASCO LIQUID FLAME (PROD. NO. 873)

*** PRODUCT SEARCH LISTING *** PAGE 40

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 002413	M & M CHEMICAL SALES CORP 1073 HANCOCK STREET QUINCY, MA 02169

********** PRODUCT NAME **********

**00005* REDWOOD PENTA STAIN PIGMENTED REDWOOD FINISH

**00009* PENTA 5 WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 002439	APPERTON CHEMICAL COMPANY PO BOX 2555 2903 STRICKLAND ST JACKSONVILLE FL

********** PRODUCT NAME **********

**00002* PENTA CUBE

REGISTRANT	*NAME AND ADDRESS*
* 002568	JOTIN BALTIMORE COPPER PAINT CO. SCM CORPORATION 501 KEY HIGHWAY BALTIMORE MD 21230

********** PRODUCT NAME **********

**00004* BALTOCOP PENTA CLEAR WOOD PRESERVATIVE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 002619	NL INDUSTRIES INC BOX 512 SAN FRANCISCO CA 94101

********** PRODUCT NAME **********

**00009* DUTCH BOY WOOD PRESERVATIVE 7C 90 CLEAR

REGISTRANT	*NAME AND ADDRESS*
* 002652	MILLER PURCELL COMPANY P O BOX 245 NEW LENOX IL 60451

********** PRODUCT NAME **********

**00004* MPC CLEARTOX WOOD PRESERVATIVE

**00005* MPC STAINTOX

REGISTRANT	*NAME AND ADDRESS*
* 002666	CORNELL CHEMICAL & EQUIPMENT CO. INC. 3500 WASHINGTON BLVD. BALTIMORE MD 21227

********** PRODUCT NAME **********

**00018* CORNELL PENTA GARD 40

**00070* CORNELL PENTA GARD 5

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 002829	VENTRON CORP CHEMICAL DIV CONGRESS ST BEVERLY, MA 01915

********** PRODUCT NAME **********

**00094* DUROTEX 7665

**00095* DUROTEX 7674

**00101* DUROTEX 7665A

**00106* MYSTOX LFL 4E

**00107* VENTRON

REGISTRANT	*NAME AND ADDRESS*
* 002831	NAPASCO INTERNATIONAL, INC PO DRAWER 1057 THIBODAUX, LA 70301

********** PRODUCT NAME **********

**00011* NAPASCO WEED A WAY NON SELECTIVE WEED AND BRUSH KILLER CONCENTRATE

**00012* WEED A WAY NON SELECTIVE WEED & BRUSH KILLER CONCENTRATE

**00013* NAPASCO "006" WEED KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 002900 SHEPARDS CHEMICAL WORKS
P. O. BOX 473
WILMINGTON, NC 28401

********** PRODUCT NAME **********

**00002* SHEPARD S PENTA WOOD PRESERVATIVE CLEAR

REGISTRANT *NAME AND ADDRESS*

* 002935 WILBUR ELLIS CO
P. O. BOX 1286
FRESNO, CA 93715

********** PRODUCT NAME **********

**00133* RED TOP WOOD PRESERVATIVE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 003008 OSMOSE WOOD PRES COMPANY OF AMERICAN INC
980 ELLICOTT ST
BUFFALO NY 14209

********** PRODUCT NAME **********

**00001* 1 TO 4 CONCENTRATE PENTOX WOOD PRESERVER PENTACHLOROPHENOL SOLUTION

**00004* OSMOSE WOOD PRESERVING COMPOUND OSMOPLASTIC

**00013* OSMOPLASTIC F

**00014* OSMOBAND WOOD PRESERVATIVE BANDAGE

**00015* OSMOPLASTIC B

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 003008

**00019* POLE TOPPER FLUID

**00025* PCP 1 10 CONCENTRATE WOOD PRESERVATIVE

**00028* OSMOSE 24 12 WOOD PRESERVATIVE SOLUTION

**00030* PCP 10% ETU SOLUTION

**00037* OSMOPENTA WOOD PRESERVING COMPOUND

REGISTRANT *NAME AND ADDRESS*

* 003070 SOUTHWESTERN PETROLEUM COMPANY
PO BOX 789
FT WORTH TX 76101

********** PRODUCT NAME **********

**00003* SWEPCO WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 003073 WOOLSEY MARINE INDUSTRIES INC
100 SAW MILL RD.
DANBURY, CT 06810

********** PRODUCT NAME **********

**00058* DOLFINITE 3905 TX FUNGICIDAL BEDDING COMPOUND

**00059* DOLFINITE 3951 TX FUNGICIDAL DOUBLE PLANKING COMPOUND

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 003090	SANITIZED INC 605 3RD AVE NEW YORK NY 10016

********** PRODUCT NAME **********

**00027*	SANITIZED SPI
**00030*	SANITIZED SP FOR FEATHERS
**00064*	SANITIZED GT FOR MATTRESS TICKING
**00079*	DURAFRESH SP
**00133*	SANITIZED PP
**00138*	SANITIZED HJO
**00199*	SANITIZED BRAND CFB BACTERIOSTAT
**00205*	SANITIZED BRAND CFC BACTERIOSTAT

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 003098	BAXTER J H & COMPANY 1700 S EL CAMINO REAL SAN MATEO CA 94402

********** PRODUCT NAME **********

**00011*	J. H. BAXTER PENTACHLOROPHENOL SOLUTION

REGISTRANT	*NAME AND ADDRESS*
* 003142	FORMAN FORD PAINTS INC 1200 MENDELSSOHN AVE MINNEAPOLIS MN 55427

********** PRODUCT NAME **********

**00003*	ARM R BRAND *** SEAL TOX (PREPARED)

REGISTRANT	*NAME AND ADDRESS*
* 003215	TEXAS REFINERY CORP 830 850 N MAIN ST FT WORTH TX 76101

********** PRODUCT NAME **********

**00001*	NEVARCT WOOD PRESERVER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 003286	FERI STAFFEL CO. P O BOX 2382 SAN ANTONIO TX 78298

********** PRODUCT NAME **********

**00029* STAFFELS RIDALL

REGISTRANT	*NAME AND ADDRESS*
* 003339	PARKE HILL CHEMICAL CORP 29 BERTEL AVE MT VERNON NY 10550

********** PRODUCT NAME **********

**00016* ALGAE BAN 'X'

**00018* AIR CON TABLETS

REGISTRANT	*NAME AND ADDRESS*
* 003350	ARKANSAS COMPANY INC ATTN A A COCK BOX 21 NEWARK NJ 07102

********** PRODUCT NAME **********

**00008* ARKO MOLD PREVENTOR

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 003486	AMERICAN TAR COMPANY 1700 N NORTHLAKE WAY SEATTLE WA 98103

********** PRODUCT NAME **********

**00008* ATCO 1405 PENTA WOOD PRESERVATIVE

**00009* 1412 ATCO PENTA PRESERV A SEAL

**00010* ATCO 1417 PENTA TEN TO ONE CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 003509	SAFE WAY FARM PRODUCTS COMPANY 2519 E FIFTH ST AUSTIN TX 78702

********** PRODUCT NAME **********

**00115* SAFE WAY BRAND 1[illegible] 1 PENTACHLOROPHENOL WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 003618	INDUSTRIAL COLLOIDS & CHEMICALS INC PO BOX 1946 KNOXVILLE, TN 37901

********** PRODUCT NAME **********

**00002* INDUSTRIAL ER PENTACHLOROPHENOL SOL WOOD PRES 12 1[illegible] 1 CONCENT

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 003658 THE DOLPHIN PAINT & CHEMICAL COMPANY
922 LOCUST STREET
TOLEDO OH 43613

********** PRODUCT NAME **********

**00019* DOLFINITE 1481TX COMPOUND THINNER (FOR FUNGICIDAL COMPOUNDS)

**00026* DOLFINITE 3431 TX FUNG DOUBLE PLANKING COMP(MIL S 19653A TYPE 11,

**00027* DOLFINITE 3435 TX FUNG BED COMP MIL SPEC NO MIL S 19653A TYPE I

REGISTRANT *NAME AND ADDRESS*

* 003682 SMITH E W CHEM COMPANY
15020 E PROCTOR AVE
CITY OF INDUSTRY CA 91746

********** PRODUCT NAME **********

**00001* EMS COOLING TOWER& CONDENSER TREATMENT #315

**00019* EMS ALGAECIDE 316

**00020* EMS COOLING TOWER & CONDENSER TREATMENT #313 (CONCENTRATE)

**00024* EMS ALGAECIDE PELLETS 'S'

**00026* EMS COOLING TOWER & CONDENSER TREATMENT #320 B CONCENTRATE

**00029* EMS ALGAECIDE 319

**00032* EMS ALGAECIDE 316

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 003809 SOUTHWEST GREASE OIL CO INC
KANSAS CITY DIV
BOX 1974 1400 SOUTH HARRISON
CLATHE, KS 66061

********** PRODUCT NAME **********

**00001* NO. 67011 PENTA WOOD PRESERVATIVE

**00007* PENTA CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 003837 LUBAR COMPANY
1708 CAMPBELL
KANSAS CITY MO 64108

********** PRODUCT NAME **********

**00024* BROMA WEED KILLER

**00028* 900 WEED KILLER

**00036* PRIME HERBICIDE

**00040* 501 L

REGISTRANT *NAME AND ADDRESS*

* 003862 ABC COMPOUNDING COMPANY
BOX 932
ATLANTA GA 30301

********** PRODUCT NAME **********

**00012* 1 TO 1 PENTA CHLOROPHENOL

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 003862 ABC COMPOUNDING COMPANY
BOX 932
ATLANTA GA 30301

********** PRODUCT NAME **********

**00013* 1 TO 1 PENTA CHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 003868 ACME CHEMICAL COMPANY
1101 EAST HUNTER STREET
SOUTH BEND IN 46624

********** PRODUCT NAME **********

**00001* ACME PENTA WOOD PRESERVATIVE

**00002* ACME PENTA CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 003869 ACME CHEMICAL COMPANY
1101 EAST HUNTER STREET
SOUTH BEND IN 46624

********** PRODUCT NAME **********

**00001* ACME PENTA WOOD PRESERVATIVE

**00002* ACME PENTA CONCENTRATE

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 003870 ACME CHEMICAL COMPANY
1101 EAST HUNTER STREET
SOUTH BEND IN 46624

********** PRODUCT NAME **********

**00001* ACME PENTA WOOD PRESERVATIVE

**00002* ACME PENTA CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 003871 ACME CHEMICAL COMPANY
1101 EAST HUNTER STREET
SOUTH BEND IN 46624

********** PRODUCT NAME **********

**00001* ACME PENTA WOOD PRESERVATIVE

**00002* ACME PENTA CONCENTRATE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 003862

**00013* PENTA CHLOROPHENOL SOLUTION

**00026* WEED KILLER CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 003876	BETZ LABORATORIES, INC 4636 SOMERTON ROAD TREVOSE, PA 19047

********** PRODUCT NAME **********

**00005* BETZ ALGICIDE WX P

**00012* BETZ ALGICIDE TX P

**00015* BETZ SLIME TROL SLIME CONTROL AGENT

**00024* BETZ SLIMICIDE FORMULA 9 (SLIME CONTROL AGENT)

**00027* BETZ SLIME TROL RX 17

**00030* BETZ FUNGICIDE F 14

**00041* BETZ SLIME TROL RX 26

**00060* BETZ SLIME TROL DP 324

**00065* BETZ SLIMICIDE B 7P (PELLETS)

**00066* BETZ SLIME TROL DP 339

**00067* BETZ FUNGICIDE FUNGUS CONTROL AGENT DE 316

**00079* BETZ FUNGICIDE F 16 FUNGUS CONTROL AGENT

**00097* SLIME TROL RX 25

**00105* SLIME TROL DP 578

**00116* BETZ SLIME TROL RX 12A

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 003931	ANDERSON CHEMICAL COMPANY 1840 WATERVILLE RD PO BOX 4507 MACON GA 31208

********** PRODUCT NAME **********

**00002* ANCO ALGAECIDE

REGISTRANT	*NAME AND ADDRESS*
* 004000	SOUTHERN CHEMICAL PRODUCTS COMPANY PO BOX 205 MACON GA 31202

********** PRODUCT NAME **********

**00057* PENTA 5 WEED KILLER

**00061* CLEAN KILL SEASON LONG NON SELECTIVE WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 004029	CIL SPECIALTIES & REFINING COMPANY 18 BRIDGE ST BROOKLYN NY 11201

********** PRODUCT NAME **********

**00031* OSR NON SELECTIVE WEED KILLER WITH NO DRIFT

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 004091 BARR W M & CO
P O BOX 1879
MEMPHIS, TN 38101

********** PRODUCT NAME **********

**00003* DEEP TREAT PENTA WOOD PRESERV CONC 1 10 GENERAL PURPOSE

**00004* SEAL TREAT PENTA WOOD PRESERVATIVE

**00005* DEEP TREAT PENTA WOOD PRESERVATIVE READY TO USE

REGISTRANT *NAME AND ADDRESS*

* 004154 STEEBINS & ROBERTS INC
BOX 791
LITTLE ROCK AR 72203

********** PRODUCT NAME **********

**00001* PENTA TREET GENERAL PURPOSE WOOD PRESERVATIVE

**00002* PENTA CHEX WOOD PRESERVATIVE

**00004* PENTA CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 004243 GINN J R & COMPANY
1401 GRATIOT ST
ST LOUIS MO 63103

********** PRODUCT NAME **********

**00002* GINCO PRODUCTS READY TO APPLY WATER REPELLENT PENTA

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**CONTINUE REGISTRANT 004243

**00003* GINCO NO. 10 PENTA CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 004297 RELIANCE BROOKS INC
3302 E 87TH STREET
CLEVELAND OH 44127

********** PRODUCT NAME **********

**00015* H C TREATMENT NO 475 C FOR SLIME & ALGAE CONTROL

**00016* H C TREAT NO 475 P FOR SLIME & ALGAE CONTROL

REGISTRANT *NAME AND ADDRESS*

* 004313 CARROLL COMPANY THE
MFG BY THECARROLL CO. 2900 W. KINGSLEY RD.
GARLAND TX 75040

********** PRODUCT NAME **********

**00047* WEED GO WITH DRIFT CONTROL

REGISTRANT *NAME AND ADDRESS*

* 004389 PACIFIC CHEMICAL DIV PACE NATIONAL CORP
500 7TH AVE S
KIRKLAND WA 98033

********** PRODUCT NAME **********

**00027* MICROCIDE L 36 ALGAECIDE AND BACTERICIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 004389

**00034* PACE PENTA

**00069* POLE TOP FLUID

**00072* N 135 ALGAECIDE

REGISTRANT	*NAME AND ADDRESS*
* 004499	FLOYD PINE PROD COMPANY BOX 25 ANDALUSIA AL 36420

********** PRODUCT NAME **********

**00003* PENTA PINE WOOD PRESERVER

REGISTRANT	*NAME AND ADDRESS*
* 004643	DEARBORN CHEMICAL DIV WR GRACE & COMPANY 320 GENESSEE ST LAKE JURICH IL 60047

********** PRODUCT NAME **********

**00005* DEARCIDE 711

**00012* DEARCIDE 712

**00013* A 101 BRIQUETTE ALGAECIDE AND BACTERIOSTAT

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 004664	MCCLOSKEY VARNISH COMPANY 7600 STATE RD PHILADELPHIA PA 19136

********** PRODUCT NAME **********

**00006* MCCLOSKEY ROTT FYTER

**00007* MCCLOSKEY ROTT FYTER CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 004715	COLORADO INTERNATIONAL CORP 7800 MARBLE N E ALBUQUERQUE, N.M. 87110

********** PRODUCT NAME **********

**00099* BEST 4 SERVIS BRAND PENTA 40

**00138* BEST 4 SERVIS BRAND PENTA KII CONCENTRATE

**00154* BEST 4 SERVIS BRAND PENTA 5

REGISTRANT	*NAME AND ADDRESS*
* 004887	STEPHENSON CHEM COMPANY INC BOX 87188 COLLEGE PARK GA 30337

********** PRODUCT NAME **********

**00013* PENTA 10:1,40% PENTACHLORO PHENOL CONCENTRATE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 004931 GOOD LIFE CHEMICALS INC
BOX 687
EFFINGHAM IL 62401

********** PRODUCT NAME **********

**00031* GOOD LIFE PENTA TREET WOOD PRESERVATIVE

**00034* NEW: PENTA CONCENTRATE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 004990 JET AER CORPORATION
100 SIXTH AVE
PATERSON NJ 07524

********** PRODUCT NAME **********

**00015* HEDDY WEEDS OUT

REGISTRANT *NAME AND ADDRESS*

* 005011 CARREL CHEMICAL CORPORATION
BOX 406
WESTFIELD IN 46074

********** PRODUCT NAME **********

**00141* KEM KIL

**** PRODUCT SEARCH LISTING **** PAGE 58

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005135 WATER SERVICES DIV UNIVERSAL OIL PRODUCTS COMPANY
700 SOUTH FLOWER ST
BURBANK CA 91502

********** PRODUCT NAME **********

**00010* M 60 ALGAECIDE

**00012* CHEMICATOR REFILL TUBE A 8

**00018* UOP M 90 ALGAECIDE

REGISTRANT *NAME AND ADDRESS*

* 005185 BIO LABS INC
627 E COLLEGE AVE PO BOX 1489
DECATUR GA 30031

********** PRODUCT NAME **********

**00032* BIO GUARD 120/140

REGISTRANT *NAME AND ADDRESS*

* 005197 KEM MFG CORP
KEM INTERNATIONAL BLDG
TUCKER GA. 30084

********** PRODUCT NAME **********

**00032* NORKEM 60

**00047* NORKEM 600 C

**** PRODUCT SEARCH LISTING **** PAGE 59

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005198 KEM MFG CORP
KEM INTERNATIONAL BLDG
TUCKER GA. 30084

********** PRODUCT NAME **********

**00032* NORKEM 60

**00047* NORKEM 600 C

REGISTRANT *NAME AND ADDRESS*

* 005219 MOBILE CHEMICAL CO
PO BOX 1115
FINDLAY OH 45840

********** PRODUCT NAME **********

**00032* MOBILE CHEMICAL PENTA 60

**00047* MOBILE CHEMICAL PENTA 600 C

**** PRODUCT SEARCH LISTING **** PAGE 60

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005239 MONSANTO CHEMICAL CO
800 N LINDBERGH BLVD
ST LOUIS MO 63166

********** PRODUCT NAME **********

**00032* SANTOBRITE 60

**00047* SANTOBRITE 600 C

REGISTRANT *NAME AND ADDRESS*

* 005282 NATIONAL CHEMICAL CO
PO BOX 1115
FINDLAY OH 45840

********** PRODUCT NAME **********

**00032* NATIONAL CHEMICAL PENTA 60

**00047* NATIONAL CHEMICAL PENTA 600 C

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**** PRODUCT SEARCH LISTING **** PAGE 59

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005211 REICHHOLD CHEMICALS INC
2340 TAYLOR WAY
TACOMA WA 9842 1

********** PRODUCT NAME **********

**00011* RCI 49 162 PENTACHLOROPHENOL (TECHNICAL GRADE)

**00013* RCI CHLOROPHEN 49 405, 5% PENTACHLOROPHENOL SOLUTION

**00017* CHLOROPHEN 49 400

**00020* CHLOROPHEN 49 402

**00021* RCI 49 409 42% TECHNICAL GRADE PENTACHLOROPHENOL CONCENTRATE

**00022* RCI CHLOROPHEN 49 410

**00023* RCI CHLOROPHEN 49 412

**00024* RCI CHLOROPHEN 49 411

**00025* 49 164 SODIUM PENTACHLOROPHENATE 21% AQUEOUS SOLUTION, TECHNICAL GR

**00026* 49 169 2:1 PENTACHLOROPHENOL TETRACHLOROPHENOL (SHOTTED, TECHNICAL)

**00027* RCI 49 161 COMMERCIAL GRADE PENTACHLOROPHENOL (LUMP)

**00028* RCI 49 413 SODIUM TETRA/PENTA CHLOROPHENATE SOLUTION

**00032* RCI 49 165 SODIUM PENTACHLOROPHENATE

REGISTRANT *NAME AND ADDRESS*

* 005266 FORESTRY ENTERPRISES INC
CHAPMAN CHEMICAL COMPANY 416 BROCKS RD
MEMPHIS TN 38109

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 60

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 005266

**00009* K BAN PC 15 WOOD PRESERVATIVE GREASE

REGISTRANT *NAME AND ADDRESS*

* 005285 MICHLIN CHEM CORP
9045 VINCENT
DETROIT MI 48211

********** PRODUCT NAME **********

**00015* MR THINZIT PENTA WOOD PRESERVATIVE

**00031* MISTER THINZIT PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 005351 FULTON CHEMICAL COMPANY
P O DRAWER 160
SUMTER SC 29150

********** PRODUCT NAME **********

**00006* 41 40 2 PENTA WOOD PRESERVATIVE O

**00007* 41 4000 PENTA WOOD PRESERVATIVE R

**00008* 41 4004 PENTA CONCENTRATE C 10

V 4 3 / 2 0 2 0 C 1 8 7 8

*** PRODUCT SEARCH LISTING *** PAGE 61

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005382 VULCAN MATERIAL COMPANY CHEMICAL DIV
P O BOX 7689
BIRMINGHAM AL 35223

********** PRODUCT NAME **********

**00016* NEW: FRONTIER GLAZD PENTA

**00036* VULCAN PREMIUM FOUR POUND PENTA (PCP 2) CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 005427 WRIGHT CHEMICAL CORP
1319 W WABANSIA AVE
CHICAGO IL 60622

********** PRODUCT NAME **********

**00014* WRICO ALG

**00022* ALCORIN T

**00025* WRICO DAR

**00026* ALCORIN T Y

**00027* WRICO DAS

**00029* WRICO LFR

**00030* WRICO RLC

**00033* WRICO DBR

**00039* WRICO RTR

**00045* WRICO PTE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005576 REGAL SUPPLY & CHEMICAL COMPANY
BOX 1955
EL PASO TX 79950

********** PRODUCT NAME **********

**00031* ENDWEED

**00032* STRILATE

REGISTRANT *NAME AND ADDRESS*

* 005602 HUB STATES CORPORATION
2302 NORTH ILLINOIS STREET
INDIANAPOLIS IN 46202

********** PRODUCT NAME **********

**00025* PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 005640 HANSEN KINNEY COMPANY
BOX 1203
GREAT FALLS MT 59401

********** PRODUCT NAME **********

**00001* PENTA CHLOROPHENOL WOOD PRESERVATIVE READY TO USE

**00002* PENTA CHLOROPHENOL WOOD PRESERVATIVE CONCENTRATE 1 TO 10

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005736 DUBOIS RESEARCH LABORATORIES
DUBOIS CHEM DIV CHEMED CORP 3630 E KEMPER ROAD
SHARONVILLE OH 45241

********** PRODUCT NAME **********

**00032* DUIN 24 NON SELECTIVE WEED AND GRASS KILLER

**00033* DUIN 70

**00053* GAX 15 MICROBIOCIDE

REGISTRANT *NAME AND ADDRESS*

* 005831 GILSONITE INC
2946 NE COLUMBIA BLVD
PORTLAND OR 97211

********** PRODUCT NAME **********

**00002* BARTEL'S REDY COAT PENTALENE WOOD PRESERVATIVE NO 454

**00003* BARTEL'S REDY COAT COPPER WOOD PRESERVATIVE #456

**00004* BARTEL'S REDY COAT PENTA CONCENTRATE NO. 453

**00008* BARTEL'S REDY COAT PENTA WOOD PRESERVATIVE 455

REGISTRANT *NAME AND ADDRESS*

* 005839 BRUIER M A & SON
52ND & GRAYS AVE
PHILA PA 19143

********** PRODUCT NAME **********

**** PRODUCT SEARCH LISTING **** PAGE 64

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 005839

**00002* M A B NU LASTIC WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 006125 BIXON CHEMICAL CORP
50 19 97TH PLACE
CORONA NY 11368

********** PRODUCT NAME **********

**00018* WEED KILLER WITH DRIFT CONTROL

**00019* WEED KILLER B WITH DRIFT CONTROL

**00023* WEED KILLER C WITH DRIFT CONTROL

REGISTRANT *NAME AND ADDRESS*

* 006173 CONSOLIDATED PAINT & VARNISH CORPORATION
EAST OHIO BUILDING
CLEVELAND OH 44114

********** PRODUCT NAME **********

**00003* GOODYEAR PENTA WOOD PRESERVER

**00004* HIGHEST QUALITY GOODYEAR BLACK WOOD PRESERVER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 006190 SANICO
13143 SATICOY ST
N HOLLYWOOD CA 91605

********** PRODUCT NAME **********

**00018* IDEAL CONCENTRATED WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 006202 PIONEER BLDG SPECIALTIES
1125 SE DIVISION ST
PORTLAND OR 97202

********** PRODUCT NAME **********

**00002* PIONEER BRAND 5% PENTA WOOD PRESERVING COMPOUND W/WATER REP

**00003* PIONEER BRAND PENTA PRESERVATIVE CONCENTRATE 1TO10

**00005* PIONEER BRAND COPPER NAPHTHENATE

REGISTRANT *NAME AND ADDRESS*

* 006314 POLE TREATING CO
BLAIR MILL ROAD
WILLOW GROVE, PA 19090

********** PRODUCT NAME **********

**00001* POLE TOX WOOD PRESERVING COMPOUND

**00002* POLEX WOOD PRESERVING COMPOUND

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 006354 NANKEE ALUMINUM PAINT CO INC
ENGINEER LANE
FARMINGDALE, NY 11735

********** PRODUCT NAME **********

**00004* NANKEE PENTA TREAT WATER REPELLENT WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 006381 GARMAN COMPANY INC
1252 GROVER ROAD
ST LOUIS MO 63125

********** PRODUCT NAME **********

**00005* VAPCO SLIME X

REGISTRANT *NAME AND ADDRESS*

* 006482 TEXAS FARM PRODUCTS COMPANY
PO BOX 9
NACOGDOCHES TX 75961

********** PRODUCT NAME **********

**00004* PENTA CON 1 TO 10 CONCENTRATE WOOD PRESERVATIVE AND SOIL POISON

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*** PRODUCT SEARCH LISTING *** PAGE 67

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 00652?	HAMELET & HAYES COMPANY COLONIAL ROAD SALEM MA 0197?

********** PRODUCT NAME **********	
**00003*	KITO H
**00006*	KITO G
**00007*	STEROZOL N GERMICIDE
**00008*	STEROZOL S GERMICIDE
**00009*	STEROZOL T PRESERVATIVE
**00010*	STEROZOL U PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 006621	EAGLE CHEMICAL COMPANY 2819 W LAKE ST CHICAGO IL 60612

********** PRODUCT NAME **********	
**00056*	MINUS 24 WEED AND BRUSH CONTROL
**00057*	WEED KILLER #6
**00058*	LIQUID WEED KILLER #1

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 006651	SONFORD PRODUCTS CORPORATION PO BOX 5570 JACKSON MS 39208

********** PRODUCT NAME **********	
**00001*	STA BRITE
**00002*	STA RITE 14
**00003*	STA RITE WATER REPELLENT PRESERVATIVE FOR WOOD
**00013*	PENTA CARE READY TO USE PENTA WOOD PRESERVATIVE MULTI PURPOSE
**00015*	SONTOX S
**00017*	SP 35
**00020*	SP 60
**00028*	STA BRITE LIQUID

REGISTRANT	*NAME AND ADDRESS*
* 006720	SOUTHERN MILL CREEK PRODUCTS COMPANY INC BOX 1096 TAMPA FL 33601

********** PRODUCT NAME **********	
**00232*	SMCP WEEDOX G/R 250 NON SELECTIVE HERBICIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 006732 WEILER INSPEC SERV INV J H
5909 N WASHINGTON ST
DENVER CO 80216

********** PRODUCT NAME **********

**00003* POLE AID NO 3

REGISTRANT *NAME AND ADDRESS*

* 006735 TIDE PRODUCTS INC
ATTN AW MARSH BOX 1027
EDINBURG TX 78539

********** PRODUCT NAME **********

**00138* TIDE PENTA A 10 TO 1 CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 006762 STERN CHEM CORP
BOX 5070
MONROE LA 71201

********** PRODUCT NAME **********

**00017* WEEDEX 10 NON SELECTIVE FAST ACTING WEED & BRUSH KILLER

**00027* PRESERVIT A

**00028* PRESERVIT B A READY TO USE WOOD PRESERV & SOIL POISON TERMITES

**** PRODUCT SEARCH LISTING **** PAGE 70

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 006811 RESEARCH PRODUCTS COMPANY
2423 MERRELL RD
DALLAS TX 75229

********** PRODUCT NAME **********

**00029* REPCO KILL LIQUID WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 006823 WYCKOFF COMPANY
560 WHITE HENRY STUART BLDG
SEATTLE, WA 98101

********** PRODUCT NAME **********

**00002* PENTACHLOROPHENOL SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 006837 WILMAR INC
BOX 3111
CHARLOTTE NC 28203

********** PRODUCT NAME **********

**00056* WII KIL

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 006962	MADISON BIONICS 11250 W ADDISON ST FRANKLIN PARK IL 60131

********** PRODUCT NAME **********

**00020* SEAR 21 PLUS

**00031* QUELONCL

REGISTRANT	*NAME AND ADDRESS*
* 006993	GERMAINS INC 4820 E 50TH ST LOS ANGELES CA 90058

********** PRODUCT NAME **********

**00013* GERMAIN'S NON SELECTIVE WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007109	ST LOUIS PAINT MANUFACTURING COMPANY 2500 OHIO AVE ST LOUIS MO 63104

********** PRODUCT NAME **********

**00004* CHEKR BRAND 5% WOOD PRESERVATIVE READY TO USE

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 007122	AR CHEMICAL CORP 1514 ELEVENTH ST PORTSMOUTH OH 45662

********** PRODUCT NAME **********

**00073* GUARDIAN PENTACHLOROPHENOL 5

**00100* GUARDIAN PENTACHLOROPHENOL 40% PRODUCT NO. 6540

REGISTRANT	*NAME AND ADDRESS*
* 007135	SUNNYSIDE PRODUCTS INC 5530 N WOLCOTT AVE CHICAGO IL 60640

********** PRODUCT NAME **********

**00001* SUNNYSIDE READY TO USE PENTA PRESERVATIVE

**00002* PENTA WOOD PRESERVATIVE (WATER REPELLENT)

REGISTRANT	*NAME AND ADDRESS*
* 007161	NATIONAL SOLVENT CORP 955 W SMITH RD MEDINA OH 44256

********** PRODUCT NAME **********

**00018* NASCO WATER REPELLENT AND PENTA WOOD PRESERVATIVE

V 4 3 / 2 0 2 0 C 1 8 7 8

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 007234 FORSHAW CHEMICALS INC
650 STATE STREET PO BOX 6055
CHARLOTTE NC 28208

********** PRODUCT NAME **********

**00001* NO MO STANE

**00007* PENWAR

**00009* LUMBERITE

**00011* PENTACON 40

**00015* NO MO STANE IV

**00016* PENWAR 1 5 WOOD PRESERVATIVE CONCENTRATE

**00018* CREE PEN

**00026* PRE CARE WOOD PRESERVATIVE

**00032* NO MO STANE LIQUID

**00045* FORKIL LIQUID WEED KILLER(CONTAINING DRIFT CONTROL ADDITIVES)

**00057* FORPEN 5

**00060* PENTACON 5

**00061* PENTACON 7

**00062* PENTACON 10

**00072* LUMBERITE RONDETS

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 007273 CROWN CHEMICAL INCORPORATED
4995 NORTH MAIN STREET
ROCKFORD IL 61101

********** PRODUCT NAME **********

**00081* BRUSH OFF LIQUID WEED KILLER

**00115* WOODTREAT TC PENETRATING PENTA COATING WITH HEPTACHLOR

**00138* CROWN WOODTREAT GEL PENETRATING PENTA COATING

REGISTRANT *NAME AND ADDRESS*

* 007298 BACTOSAN INCORPORATED
605 3RD AVE
NEW YORK NY 10016

********** PRODUCT NAME **********

**00001* DURA FRESH SP FOR FEATHERS

REGISTRANT *NAME AND ADDRESS*

* 007299 BRENCO CORPORATION
704 NORTH FIRST STREET
ST LOUIS, MO 63102

********** PRODUCT NAME **********

**00005* BRENCO #540 ALGAECIDE

**00013* BENCO #565 LIQUID ALGAECIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 007361	PRESERVATIVE PAINT COMPANY 5400 5410 AIRPORT WAY SEATTLE WA 98108

********** PRODUCT NAME **********

**00001* PENTA WOOD PRESERVATIVE AND SEALER

REGISTRANT	*NAME AND ADDRESS*
* 007424	JASCO CHEMICAL CORP P.O. BOX J 1710 VILIA ST. MOUNTAIN VIEW CA 94042

********** PRODUCT NAME **********

**00002* JASCO PENTA 5

**00003* JASCO PENTA 40

REGISTRANT	*NAME AND ADDRESS*
* 007500	GIBSON HOMANS COMPANY 2366 WOODHILL RD CLEVELAND OH 44106

********** PRODUCT NAME **********

**00001* BLACK JACK 5% PENTA WATER REPELLANT WOOD PRESERVING COMPOUND

**00003* BLACK JACK COPPER NAPTHENATE(W/PENTACHLOROPHENOL) WOOD PRESERV COM

**00007* NORTHERN BRAND COPPER NAPHTHENATE

**00008* NORTHERN PENTA CONCENTRATE 1 TO 10

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 007500

**00009* NORTHERN PENTA WOOD PRESERVER

**00012* BLACK JACK MULTI PURPOSE HERBICIDE WEED KILLER

**00014* BLACK JACK X MULTI PURPOSE HERBICIDE WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 007547	WESTERN CHEM. CO. 1345 TANEY NO KANSAS CITY MO 64116

********** PRODUCT NAME **********

**00002* WESTERN ALGAECIDE DRY

**00005* WESTERN ALGAECIDE C CONCENTRATED LIQUID

**00006* WESTERN ALGAECIDE REGULAR LIQUID

**00007* WESTERN ALGAE & SLIME CONTROL D

**00008* WESTERN ALGAE & SLIME CONTROL R REGULAR LIQUID

REGISTRANT	*NAME AND ADDRESS*
* 007572	BLUE WHITE CHEMICAL COMPANY 88 WELDON PKWY/PROGRESS WEST ST LOUIS, MO 63043

********** PRODUCT NAME **********

**00009* BLUE WHITE GROUND STERILANT #2 CONTACT WEED KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 007621 CONROE CREOSOTING COMPANY
PO BOX 9
CONROE TX 77301

********** PRODUCT NAME **********

**00001* PENTA WOOD PRESERVATIVE READY TO USE

REGISTRANT *NAME AND ADDRESS*

* 007701 CHEMICAL SPECIALTIES INC
149 WEST TRIGG AVENUE
MEMPHIS TN 38106

********** PRODUCT NAME **********

**00030* PENTA WOOD PRESERVATIVE

**00057* PENTA GENERAL WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 007714 CARTER MARY INDUSTRIES INC
PO BOX 23387
TAMPA FL 33622

********** PRODUCT NAME **********

**00003* MARY CARTER'S REDWOOD STAIN AND WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 78

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 007779 HOUGHTON E F & CO
MADISON & VAN BUREN AVENUES
NORRISTOWN PA 19401

********** PRODUCT NAME **********

**00008* SLIMEX NC 15

REGISTRANT *NAME AND ADDRESS*

* 007909 ATLANTIC CHEMICAL & EQUIPMENT COMPANY
BOX 19697
ATLANTA GA 30300

********** PRODUCT NAME **********

**00001* ACE ALGAECIDE BRIQUETTES IN AUTOMATIC FEEDER CAN

**00003* ACE ALGAECIDE LIQUID NO. 2

**00004* ACE ALGAECIDE

REGISTRANT *NAME AND ADDRESS*

* 008047 POLY CHEM INC
P. O. BOX 10026
NEW ORLEANS, LA 70121

********** PRODUCT NAME **********

**00018* WEED KILLER NO. 46 FOR GENERAL WEED CONTROL

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 008123 MILLER FRANK & SONS INC
13831 SO EMERALD AVE
CHICAGO IL 60627

********** PRODUCT NAME **********

**00023* NON SELECTIVE VEGETATION KILLER (LVK 33)

**00025* LIQUID VEGETATION KILLER

**00028* COMPLETE VEGETATION KILLER

**00029* WEED KILLER AND SEMI SOIL STERILANT

**00069* NON SELECTIVE HERBICIDE

**00070* TOTAL VEGETATION KILLER

REGISTRANT *NAME AND ADDRESS*

* 008133 CHAMPION CHEMICAL INC
RES & DEV
BOX 45509
HOUSTON, TX 77045

********** PRODUCT NAME **********

**00018* BACTRON KM 4 MICROBIOCIDE

REGISTRANT *NAME AND ADDRESS*

* 008145 BURGESS FOBES PAINT CO
BOX 106
PORTLAND ME 04104

********** PRODUCT NAME **********

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 008145

**00001* CU PRE SERV 4192 CLEAR PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 008222 LING FUANG INDUSTRIES, INC
LING FUANG, IND
P.O. BOX 1207
GARDNERVILLE, NV 89410

********** PRODUCT NAME **********

**00020* TOXIC GRASS AND WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 008390 ATLAS CHEMICAL CO
4801 NW 77TH AVE
MIAMI FL 33144

********** PRODUCT NAME **********

**00003* NO. 105 WOOD CARE CONCENTRATE WATER REPELLENT WOOD PRESERVATIVE

**00004* NO 103 WOOD CARE CONCENTRATE WATER REPELLENT WOOD PRESERVATIVE

**00005* WOODCARE WOOD PRESERVATIVE WITH PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 008486 EASTERN CHEMICAL SERVICE
368 BROAD ST
NEW LONDON CT 06320

********** PRODUCT NAME **********

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 008486

**00002* EASTERN CHEMICAL SERVICE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 008513 HARRIS PAINT COMPANY
BOX 1381
TAMPA FL 33601

********** PRODUCT NAME **********

**00007* MIL DU WASH

REGISTRANT *NAME AND ADDRESS*

* 008540 GARRATT CALLAHAN COMPANY
111 ROLLINS RD
MILLBRAE CA 94031

********** PRODUCT NAME **********

**00001* GARRATT CALLAHAN FORMULA NO. 30

REGISTRANT *NAME AND ADDRESS*

* 008551 PRO SPECIALTIES, INC
7754 W. HARWOOD AVENUE
MILWAUKEE, WI 53213

********** PRODUCT NAME **********

**00010* DEL KILL WEED KILLER 400 LIQUID

**00017* RAPID KILL LIQUID WEED KILLER

**** PRODUCT SEARCH LISTING **** PAGE 82

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 008550

**00032* LEVEL IT

REGISTRANT *NAME AND ADDRESS*

* 008590 AGWAY INC
FERTILIZER CHEMICAL DIVISION
BOX 4933
SYRACUSE NY 13221

********** PRODUCT NAME **********

**00029* AGWAY PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 008591 MOGUL CORPORATION THE
P C BOX 29
CHAGRIN FALLS, OH 44022

********** PRODUCT NAME **********

**00004* MOGUL AG 420

**00005* MOGUL A 423

**00006* MOGUL A 421

**00007* MOGUL A 422

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 008637 MITCO INC
1611 STELL AVE SW
GRAND RAPIDS MI 49502

********** PRODUCT NAME **********

**00004* MITCO CC 30 AIGICIDE

REGISTRANT *NAME AND ADDRESS*

* 008643 CROSBY FOREST PRODUCTS COMPANY
BOX 520
PICAYUNE MS 39466

********** PRODUCT NAME **********

**00003* PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 008689 AMBROID COMPANY INC
612 MONTELLO ST
BROCKTON MA 02401

********** PRODUCT NAME **********

**00002* PENTA SAN "20"

**** PRODUCT SEARCH LISTING **** PAGE 84

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 008728 PRECISION CHEMICALS INC
PO BOX 19793 STATION N
ATLANTA GA 31325

********** PRODUCT NAME **********

**00001* ALGAECIDE BRIQUETTES IN AUTOMATIC FEEDER CAN

**00002* ALGAECIDE BRIQUETTES KILLS ALGAE

**00003* ALGAECIDE LIQUID 205

**00004* PRECISION ALGAECIDE LIQUID CI-208

REGISTRANT *NAME AND ADDRESS*

* 008790 REPUBLIC POWDERED METALS INC
2628 PEARL RD
MEDINA OH 44256

********** PRODUCT NAME **********

**00001* STOP ROT WOOD PRESERVATIVE & SOIL POISON FOR TERMITES

REGISTRANT *NAME AND ADDRESS*

* 008815 EMPIRE VARNISH COMPANY
9818 MEECH AVE
CLEVELAND OH 44105

********** PRODUCT NAME **********

**00001* CLEAR WOOD PRESERVER

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**** PRODUCT SEARCH LISTING **** PAGE 85

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 008823 HABCO INC
10501 WAYZATA BLVD. SUITE 101
HOPKINS, MN 55343

********** PRODUCT NAME **********

**00021* HABCO 444 (LIQUID WEED KILLER)

**00023* HABCO 444 CONCENTRATE LIQUID WEED KILLER

**00035* HABCO 233 LIQUID WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 009027 GILMAN PAINT & VARNISH COMPANY
BOX 1257
CHATTANOOGA TN 37401

********** PRODUCT NAME **********

**00001* GILMAN 10 1 PENTOX WOOD PRESERVATIVE

**00002* GILMAN PENTOX WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 009205 AGRO CHEM INC
7855 D GROSSE POINT ROAD
SKOKIE, IL 60076

********** PRODUCT NAME **********

**00012* KILL & PREVENT #301 NON SELECTIVE VEGETATION KILLER & SEMI SOIL STE

**00022* AGRO CHEM BARE EARTH NO. 303

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 009205

**00023* AGRO CHEM BARE EARTH CONCENTRATE NO. 3 4

REGISTRANT *NAME AND ADDRESS*

* 009251 UNITED LABORATORIES INC
155 S RT 53
ADDISON IL 60101

********** PRODUCT NAME **********

**00015* UL 85 WEED AND BRUSH KILLER

**00022* UL 285 WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 009284 WATERLOX CHEMICAL & COATING CORP
9808 MEECH AVE
CLEVELAND OH 44105

********** PRODUCT NAME **********

**00001* WATERLOX RED WOOD PRESERVER

**00002* WATERLOX WOOD STAIN PRESERVER FOR ALL WOOD SURFACES CHESTNUT BROWN

**00003* WATERLOX WOOD STAIN PRESERVER FOR ALL WOOD SURFACES TEAKWOOD GRA.

**00004* WATERLOX WOOD STAIN PRESERVER FOR ALL WOOD SURFACES PERSIMMON BROWN

**00005* WATERLOX WOOD STAIN PRESERVER FOR ALL WOOD SURFACES WILLOW GREEN

**00006* WATERLOX WOOD STAIN PRESERVER FOR ALL WOOD SURFACES STAIN WHITE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 009313	ROSE CHEMICAL RPCD INC PO BOX 23375 545 STIMMEL RD COLUMBUS OH 43223

********** PRODUCT NAME **********

**00015* VOID

REGISTRANT	*NAME AND ADDRESS*
* 009319	CUSTOM CHEMICALS, INC 476 HESTER STREET SAN LEANDRO, CA 94577

********** PRODUCT NAME **********

**00034* CUSTOM WEEDICIDE

REGISTRANT	*NAME AND ADDRESS*
* 009367	IHECCHEM LABS BOX 15367 TAMPA FL 33614

********** PRODUCT NAME **********

**00013* SK 368 WEED KILLER READY TO USE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* C09403	ALKEN MURRAY CORP 111 5TH AVE NEW YORK NY 10003

********** PRODUCT NAME **********

**00001* ALKEN FUNGUS TREATMENT V 2

**00002* ALKEN FUNGUS TREATMENT #1

REGISTRANT	*NAME AND ADDRESS*
* 009420	WATER CHEMISIS INC 1275 S BOYLE AVE LOS ANGELES CA 90023

********** PRODUCT NAME **********

**00002* ALGICIDE 101

REGISTRANT	*NAME AND ADDRESS*
* 009461	CELANESE COATINGS & SPECIALTIES CO REGULATORY SERV P O BOX 99038 JEFFERSONTOWN, KY 40299

********** PRODUCT NAME **********

**00089* DEVOE MARINE SUPER TROPICAL ANTI FOULING SHIP BOTTOM PAINT MD 3835

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REGISTRANT	*NAME AND ADDRESS*
* 009470	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00001* KATHON 930 BIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00001* KATHON 886 BIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00002* KATHON 893 BIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00003* KATHON 886 MW BIOCIDE

**** PRODUCT SEARCH LISTING **** PAGE 90

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00004* KATHON 930 BIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00005* KATHON 893 BIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00006* KATHON 886 MW BIOCIDE

REGISTRANT	*NAME AND ADDRESS*
* 009471	ROHM AND HAAS CO INDEPENDENCE MALL WEST PHILADELPHIA PA 19105

********** PRODUCT NAME **********

**00007* KATHON 886 MW BIOCIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 009519 SAVOGRAN COMPANY
259 LENOX ST
NORWOOD MA 02062

********** PRODUCT NAME **********

**00001* WOODIE PENTA

REGISTRANT *NAME AND ADDRESS*

* 009573 HARCOR CHEMICAL & ENGR CORP
100 WEST MONROE ST SUITE 706
CHICAGO, IL 60603

********** PRODUCT NAME **********

**00001* HARCO CT 85 POWDER

**00002* HARCO CT 86 BEADS

REGISTRANT *NAME AND ADDRESS*

* 009578 CWC INDUSTRIES, INC
2750 GRAND AVE
CLEVELAND OH 44104

********** PRODUCT NAME **********

**00001* ALGAECIDE FORMULA CW 7

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 009594 INTERCONTINENTAL CHEMICAL CORP
BOX 15318
SACRAMENTO CA 95813

********** PRODUCT NAME **********

**00010* ICC W 66

**00011* ICC W 68

REGISTRANT *NAME AND ADDRESS*

* 009639 WILLARD PRODUCTS
BOX 1249
REDWOOD CITY CA 94064

********** PRODUCT NAME **********

**00006* PENTA TREAT 10 TO 1 CONCENTRATE

**00007* PENTA TOX

**00014* PENTA TREAT 300

REGISTRANT *NAME AND ADDRESS*

* 009678 SCHWARTZ CHEMICAL COMPANY INC
1041 SEMINOLE BLVD
CASSELBERRY FL 32707

********** PRODUCT NAME **********

**00002* STA KLEEN X RAY FUNGISTATIC SOLUTION

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* C09702 ALLSTATE
BOX 3040
EUCLID OH 44117

********** PRODUCT NAME **********

**00001* ALLSTATE AC PH

REGISTRANT *NAME AND ADDRESS*

* C09708 PABCO PAINT CORP
5850 SHELLMOUNT ST
EMERYVILLE CA 94608

********** PRODUCT NAME **********

**00002* PABCO DECORATOR PRESERV WOOD CLEAR 1075

REGISTRANT *NAME AND ADDRESS*

* 009743 SKASOL INC
40 CLEVELAND ST
SAN FRANCISCO CA 94103

********** PRODUCT NAME **********

**00001* SKASOL BIOCIDE NO 2

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 009754 GRO LYFE
DIV. OF SUNGRO CHEMICALS, INC.
810 E 18TH STREET
LOS ANGELES, CA 90021

********** PRODUCT NAME **********

**00004* WEED GO NON SELECT WEED AND GRASS KILLER

REGISTRANT *NAME AND ADDRESS*

* C09803 CNEF II, INCORPORATED
875 INDUSTRIAL WAY
SPARKS, NEVADA 89431

********** PRODUCT NAME **********

**00005* MUNICHEM MUNI KILL

**00018* MUNICHEM POSITIVE WEED CONTROL LIQUID WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 009861 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00002* AQUA TECH TSC 902 ALGAECIDE BRIQUETTES

**** PRODUCT SEARCH LISTING **** PAGE 93

REGISTRANT *NAME AND ADDRESS*

* 009870 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00001* AQUA TECH TSC 901 ALGAECIDE BRIQUETTES

REGISTRANT *NAME AND ADDRESS*

* 009878 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00001* AQUA TECH TSC 903 ALGAECIDE BRIQUETTES

REGISTRANT *NAME AND ADDRESS*

* 009880 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00001* AQUA TECH TSC 904 ALGAECIDE BRIQUETTES

**** PRODUCT SEARCH LISTING **** PAGE 94

REGISTRANT *NAME AND ADDRESS*

* 009881 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00001* AQUA TECH TSC 905 ALGAECIDE BRIQUETTES

REGISTRANT *NAME AND ADDRESS*

* 009882 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00001* AQUA TECH TSC 906 ALGAECIDE BRIQUETTES

REGISTRANT *NAME AND ADDRESS*

* 009883 TECHNICAL SPECIALTIES CORPORATION
114 S COLUMBIA DR
DECATUR GA 30030

********** PRODUCT NAME **********

**00001* AQUA TECH TSC 907 ALGAECIDE BRIQUETTES

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 009931 HANCO MANUFACTURING COMPANY
PO BOX 4476
MEMPHIS TN 38104

********** PRODUCT NAME **********

**00024* HANOEIGHT

**00025* 88C WEED SPRAY

**00030* FORESTAL WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 009957 STERLING CLARK LURTON CORP
184 COMMERCIAL ST
MALDEN MA 02148

********** PRODUCT NAME **********

**00001* STERLING PENTA DIP REDWOOD STAIN & PRESERVATIVE

**00003* STERLING PENTA DIP CLEAR NON STAINING WOOD PRESERVATICE

REGISTRANT *NAME AND ADDRESS*

* 009964 HANLINE BROS INC
1400 WARNER ST
BALTIMORE MD 21230

********** PRODUCT NAME **********

**00001* H&H PRODUCTS PENTALIFE WOOD PRESERVATIVE CLEAR

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 010088 ATHEA LABORATORIES INC
4180 N FIRST ST
MILWAUKEE WI 53212

********** PRODUCT NAME **********

**00002* NON SELECTIVE LIQUID WEED KILLED

**00027* LWK 98 LIQUID WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 010119 JACKSON OIL PRODUCTS COMPANY
PO BOX 5686
JACKSON MS 39208

********** PRODUCT NAME **********

**00001* PENTA TREET READY TO USE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011133 NATIONAL CHEMICAL
DIV OF SELIG CHEM IND. 840 SELIG DR SW
ATLANTA GA 30336

********** PRODUCT NAME **********

**00002* ZEOLITE ALGAE BRIQUETTES FOR AIR CONDITICNING COOLING TOWERS

**00009* ZEOLITE NP 171 L ALGAECIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 010145	BLUMBERG COMPANY INC PO BOX 566 PEABODY MA 01960

********** PRODUCT NAME **********

**00002* VITA SAN 75

REGISTRANT	*NAME AND ADDRESS*
* 010148	NATIONWIDE CHEMICAL COMPANY INC 56 N 1ST STREET BROCKLYN NY 11211

********** PRODUCT NAME **********

**00008* COMPLETE VEGETATION KILLER

**00009* SUPER VEGETATION KILLER

REGISTRANT	*NAME AND ADDRESS*
* 01155	GLOBE CHEMICALS INC 45 BURBANK DR TOLEDO OH 43607

********** PRODUCT NAME **********

**00003* COMPLETE VEGETATION KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 01169	WALBICK COMPANY 9237 9TH AVE NW SEATTLE WA 98107

********** PRODUCT NAME **********

**00001* KL 59 PENTA VAR SEALER

REGISTRANT	*NAME AND ADDRESS*
* 01238	ZIMMITE CORPORATION 810 SHARON DRIVE WESTLAKE OH 44145

********** PRODUCT NAME **********

**00001* CHEMTROL NO. 7 MICROORGANISM CONTROL CHEMICAL

REGISTRANT	*NAME AND ADDRESS*
* 01292	VENUS LABORATORIES, INC 855 LIVELY BLVD WOOD DALE, IL 60191

********** PRODUCT NAME **********

**00007* STA PUT 1200 WEED KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 010383 WECO CHEMICAL COMPANY INC
BOX 123
GLEN ELLYN IL 60137

********** PRODUCT NAME **********

**00001* WECO WEED KILLER 1-4

REGISTRANT *NAME AND ADDRESS*

* 010413 SONFORD CHEMICAL COMPANY
8433 KATY FREEWAY
HOUSTON, TX 77024

********** PRODUCT NAME **********

**00001* SONFORD PENTA 5 READY TO USE SURE TREAT WOOD PROTECTOR

**00002* SONFORD PENTA 10:1 SURE TREAT WOOD PROTECTOR

**00003* SONFORD WOOD TREAT TECHNICAL PENTA CRYSTALS

**00004* PRIL-TOX TECHNICAL PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 010445 WATER MGMT DIV CALGON CORP
ATTN LEO HANEY CALGON CENTER BOX 1346
PITTSBURGH PA 15230

********** PRODUCT NAME **********

**00005* H 607 MICROBIOCIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 010485 UNITED CHEMICAL CORPORATION OF NEW MEXICO
PO BOX 1499
HOBBS NM 88240

********** PRODUCT NAME **********

**00017* ALPHA 542

**00018* ALPHA 541

**00019* ALPHA 540

REGISTRANT *NAME AND ADDRESS*

* 01599 RICE CHEMICAL COMPANY INC
2718 HAWKEYE DR
SIOUX CITY IA 51105

********** PRODUCT NAME **********

**00001* ALGAETRET=100

REGISTRANT *NAME AND ADDRESS*

* 01771 ADAMS ENGINEERING INC
P. O. BOX 3
STACY MN 55079

********** PRODUCT NAME **********

**00002* PATOX POLE TREATING BANDAGE I

**00003* PATOX POLE TREATING BANDAGE TYPE III

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 010840 FARWELL OZMUN KIRK COMPANY
GILT EDGE PAINT MFG DIV 106 W FILMORE
ST PAUL MN 55107

********** PRODUCT NAME **********

**00001* GILT EDGE INTERIOR EXTERIOR WOOD SEALER

REGISTRANT *NAME AND ADDRESS*

* 010856 EVANS PRODUCTS CO
PAINT DIV
P.O. BOX 4098
ROANOKE VA 24015

********** PRODUCT NAME **********

**00001* GROSSMAN'S PENTALIFE WOOD PRESERVATIVE EXTERICR CLEAR 47000

REGISTRANT *NAME AND ADDRESS*

* 011864 GAMLEN CHEMICAL COMPANY
4 MIDLAND AVE
E PATERSON NJ 07407

********** PRODUCT NAME **********

**00009* GAMACIDE 1831

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 010867 WATER SERVICES INC
P O BOX 10126
KNOXVILLE TN 37919

********** PRODUCT NAME **********

**00007* BAF KCN

**00008* BAF CIDE P

REGISTRANT *NAME AND ADDRESS*

* 011880 MARCH CHEM COMPANY INC
1464 SIERRA VISTA DR
BATON ROUGE LA 70815

********** PRODUCT NAME **********

**00001* MARCIDE 15

REGISTRANT *NAME AND ADDRESS*

* 010932 AQUA SERV ENGINEERS INC
2431 E 56TH ST
LOS ANGELES CA 90058

********** PRODUCT NAME **********

**00001* A 101 ALGAECIDE BRIQUETTES

**00003* A 103 LIQUID ALGAECIDE

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011291 PARKS CORPORATION
PO BOX 5
SOMERSET MA 02726

********** PRODUCT NAME **********

**00001* PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011482 BITTER LAKE CHEMICAL COMPANY
PO BOX 7528
SEATTLE WA 98133

********** PRODUCT NAME **********

**00001* VEGETOX BITTER LAKE ALL VEGETATION KILLER

REGISTRANT *NAME AND ADDRESS*

* 011511 SHAICO CHEMICAL CORPORATION
2421 LEXINGTON AVENUE
TOLEDO OH 43606

********** PRODUCT NAME **********

**00001* SHALCO COMPLETE VEGETATION KILLER

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011528 ARMSTRONG CHEMICAL COMPANY
PO BOX 669
HUGO OK 74743

********** PRODUCT NAME **********

**00001* STERI KIL

REGISTRANT *NAME AND ADDRESS*

* 011547 SHARE CORPORATION
7821 N. FAULKNER RD P.O. BOX 23053
MILWAUKEE, WI. 53223

********** PRODUCT NAME **********

**00001* VEGETATION CONTROL WITH 2,4 D WITH DRIFT CONTROL ADDITIVES

**00002* VEGETATION CONTROL WITHOUT 2,4 D WITH DRIFT CONTROL ADDITIVES

**00015* WOOD PRESERVER

**00030* VEGETATION & SPOT WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 011576 IND WATER CHEMICAL DIV OF CONSOL FOODS
314 SPEARS AVE
CHATTANOOGA TN 37405

********** PRODUCT NAME **********

**00002* ALGACIDE L

**00003* ALGACIDE B

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011617 INDUSTRIAL WATER MGMT CORP
910 OXFORD CT
PALATINE IL 60067

********** PRODUCT NAME **********

**00004* A 1[illegible] ALGAECIDE

REGISTRANT *NAME AND ADDRESS*

* 011655 SAMPSON PAINT MANUFACTURING COMPANY INC
BOX 4273
RICHMOND VA 23224

********** PRODUCT NAME **********

**00002* SAMPSON PENTA WOOD TREAT

REGISTRANT *NAME AND ADDRESS*

* 011668 T & R CHEMICALS, INC.
700 CEKUM ROAD
CLINT, TX 79836

********** PRODUCT NAME **********

**00002* T&R BRAND PENTA

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011682 SIMPLOT JR COMPANY MINERALS & CHEM DIV
BOX 810
MOUNTAIN HOME ID 83647

********** PRODUCT NAME **********

**00004* SIM CHEM PENTA 10.1 CONCENTRATE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011690 AMERICAN SEAL MANUFACTURING COMPANY INC
669 RIVER ST
TROY NY 12180

********** PRODUCT NAME **********

**00002* PENTA PLUS CLEAR WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011694 DYMON, INC
3401 KANSAS AVENUE
KANSAS CITY, KS 66106

********** PRODUCT NAME **********

**00010* BKL SPRAY

**00018* BROMENOL 3 LIQUID WEED KILLER

**00043* BROMENOL 5

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 011712	KOR CHEM INC 1355 ELLISWORTH IND DRIVE N W ATLANTA, GA 30318

********** PRODUCT NAME **********

**00007* RUSTROL FORM 219B ALGAE BAGS

REGISTRANT	*NAME AND ADDRESS*
* 011743	GUARDIAN IPCO INC 1315 2ND AVE NORTH BIRMINGHAM AL 35211

********** PRODUCT NAME **********

**00001* VULCAN #81 ALGAECIDE

**00002* VULCAN #85 ALGAECIDE

REGISTRANT	*NAME AND ADDRESS*
* 012016	ANDERSON STOLZ CORP 1727 33 WALNUT ST KANSAS CITY MO 64108

********** PRODUCT NAME **********

**00011* SOL VET 302

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 013680	OZARK CHEMICAL COMPANY PO BOX 1348 LITTLE ROCK AR 72203

********** PRODUCT NAME **********

**00002* PEAK #475 A NON SELECTIVE WEED AND BRUSH KILLER

REGISTRANT	*NAME AND ADDRESS*
* 013900	DELTA WATER LABORATORIES 4206 QUIRT AVENUE LUBBOCK TX 79404

********** PRODUCT NAME **********

**00003* DELTA K 160

**00004* DELTA K 151

REGISTRANT	*NAME AND ADDRESS*
* 014807	MARVELITE INC 3020 NIEMAN AVE BALTIMORE MD 21230

********** PRODUCT NAME **********

**00001* SCOTLUX PENTALIFE WOOD PRESERVATIVE CLEAR

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 14886	PARKER ENGINEERED CHEMICALS INC 3613 CLEARVIEW PARKWAY NORTH PARK ATLANTA GA 30340

********** PRODUCT NAME **********

**00004* P 22 ALGAE CONTROL TABLETS

REGISTRANT	*NAME AND ADDRESS*
* 015146	CHEMWOOD CORPORATION P.O. BOX 9158 MEMPHIS, TN 38109

********** PRODUCT NAME **********

**00001* CHEMTOX 10

**00002* CHEMTOX I

**00003* CHEMTOX S

**00005* POL GREASE

**00006* BUCHANAN SPECIAL BLEND

**00007* CHEMTOX PWR

**00008* CHEMTOX P WP CONCENTRATE

**00009* CHEMTOX P WR CONCENTRATE

**00010* CHEMTOX 7

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 015300	CHEMICAL TREATMENT COMPANY 500 LICKING HOLE RD HANOVER IND AIR PARK ASHLAND VA 23005

********** PRODUCT NAME **********

**00004* CHEMICAL TREATMENT CL 208

**00005* CHEMICAL TREATMENT CL 205

REGISTRANT	*NAME AND ADDRESS*
* 017664	BARCID DIVISION N L INDUSTRIES INC 2404 S W FREEWAY HOUSTON TX 77006

********** PRODUCT NAME **********

**00002* BAROCHEM B 460

REGISTRANT	*NAME AND ADDRESS*
* 017866	INDUSTRIAL MAINTENANCE CORP. 3520 TRYCLAN DR CHARLOTTE NC 28210

********** PRODUCT NAME **********

**00002* A 171 ALGAECIDE

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**** PRODUCT SEARCH LISTING **** PAGE 109

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 018960 BASCO PRODUCTS COMPANY
P O BOX 142 HGHWY 49 SO
CLARKSDALE MS 38614

********** PRODUCT NAME **********

**00002* EVERGARD 500 PRIDE O MISS

**00003* BRUSH KILLER & GENERAL WEED KILLER CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 020375 NUTMEG CHEMICAL COMPANY
125 MARKET ST
NEW HAVEN CT 06513

********** PRODUCT NAME **********

**00011* NUTMEG NC 150

REGISTRANT *NAME AND ADDRESS*

* 023553 CATCHANCE LTD
94 BRIDGE RD E
WELWYN GARDEN CITY AL7 1JW UNITED KINGDOM

********** PRODUCT NAME **********

**00001* MYSTOX LEL 100%

**** PRODUCT SEARCH LISTING **** PAGE 110

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 025014 ENTERPRISE PAINT COMPANY
1191 SOUTH WHEELING ROAD
WHEELING, IL 60090

********** PRODUCT NAME **********

**00001* ENTERPRISE WOOD PRESERV WATER REPEL PENTA PROTECT WOOD 2 26

REGISTRANT *NAME AND ADDRESS*

* 026884 BONCO MANUFACTURING CORP
PO BOX 521
JEFFERSON GA 30549

********** PRODUCT NAME **********

**00003* BONCO ALGAECIDE BRIQUETTES

REGISTRANT *NAME AND ADDRESS*

* 030940 QUANTEX CORPORATION THE
BOX 9158 MALLORY STATION
MEMPHIS, TN 38109

********** PRODUCT NAME **********

**00001* QUANCIDE 3 FUNGIDE CONCENTRATE

**00002* QUANCIDE 2 FUNGICIDE CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 111

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 030941 QUANTEX CORPORATION THE
BOX 9158 MALLORY STATION
MEMPHIS, TN 38109

********** PRODUCT NAME **********

**00001* QUANCIDE 3 FUNGIDE CONCENTRATE

**00002* QUANCIDE 2 FUNGICIDE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 030942 QUANTEX CORPORATION THE
BOX 9158 MALLORY STATION
MEMPHIS, TN 38109

********** PRODUCT NAME **********

**00001* QUANCIDE 3 FUNGIDE CONCENTRATE

**00002* QUANCIDE 2 FUNGICIDE CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 112

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 030943 QUANTEX CORPORATION THE
BOX 9158 MALLORY STATION
MEMPHIS, TN 38109

********** PRODUCT NAME **********

**00001* QUANCIDE 3 FUNGIDE CONCENTRATE

**00002* QUANCIDE 2 FUNGICIDE CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 030944 QUANTEX CORPORATION THE
BOX 9158 MALLORY STATION
MEMPHIS, TN 38109

********** PRODUCT NAME **********

**00001* QUANCIDE 3 FUNGIDE CONCENTRATE

**00002* QUANCIDE 2 FUNGICIDE CONCENTRATE

**** PRODUCT SEARCH LISTING **** PAGE 111

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 031948 BIONOMICAL CHEM & SERVICE INC
1003 PINEVILLE RD
CHATTANOOGA TN 3740[illegible]5

********** PRODUCT NAME **********

**00014* P 801 GENERAL WEED KILLER CONCENTRATE

**00017* PB 101 READY TO USE LIQUID WEED KILLER

REGISTRANT *NAME AND ADDRESS*

* 031969 BENFIELD INDUSTRIES, INC.
104 RICHLAND ST PO BOX 97
HAZELWOOD, NC 28738

********** PRODUCT NAME **********

**00002* SOUTHERN PINE WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 032235 NORCHEM COMPANY
PO BOX 2772
EUGENE OR 9740[illegible]2

********** PRODUCT NAME **********

**00001* END GROW VEGETATION CONTROL WITH DRIFT CONTROL ADDITIVE

**** PRODUCT SEARCH LISTING **** PAGE 112

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 032273 BEHR PROCESS CORPORATION
1600 W ALTON ST
SANTA ANA CA 92702

********** PRODUCT NAME **********

**00001* BEHR WOOD PRESERVATIVE NC 91

REGISTRANT *NAME AND ADDRESS*

* 032447 WOODHILL CHEMICAL SALES CORP
PO BOX 7183
CLEVELAND OH 45750

********** PRODUCT NAME **********

**00001* DURO WOODHILL WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 033283 BRANCHEMCO INC
8286 WESTERN WAY CIRCLE
JACKSONVILLE FL 32216

********** PRODUCT NAME **********

**00001* BRANCHEMCO 313

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 033355 SOUTHEASTERN LABORATORIES INC
117 WEST AVE
AYDEN, NC 28513

********** PRODUCT NAME **********

**00003* H 1 ALGAECIDE

REGISTRANT *NAME AND ADDRESS*

* 033404 STAT ENTERPRISES
1865 NEW HWY
FARMINGDALE, NY 11725

********** PRODUCT NAME **********

**00005* BULLS EYE LIQUID WEED KILLER WITH DRIFT CONTROL

REGISTRANT *NAME AND ADDRESS*

* 033567 PRO SERVE INC
P. O. BOX 161059 (400 EAST BROOKS RD)
MEMPHIS, TN 38116

********** PRODUCT NAME **********

**00001* STAA CLEAR WR

**00002* STAA CLEAN RTU FORMULA

**00003* STA CLEAR CONCENTRATE 1 10

**00004* STA CLEAR 10 S

**00005* STAA CLEAR WR 1 5

10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 033576 OLIN WATER SERVICES
OLIN CORPORATION
120 LONG RIDGE RD
STAMFORD, CT 06904

********** PRODUCT NAME **********

**00001* S 531 B

**00009* S 533P

**00016* OLIN LIQUID ALGICIDE #C

**00017* OLIN ALGICIDE #3

**00021* MEMPO ALGICIDE #1

**00025* OLIN ALGICIDE 23

REGISTRANT *NAME AND ADDRESS*

* 034276 CENTURY INDUSTRIES CORP
RD #1
NEW WATERFORD, OH 44445

********** PRODUCT NAME **********

**00001* 5% PENTA WOOD PRESERVER

REGISTRANT *NAME AND ADDRESS*

* 034358 SIMONSEN CHEMICAL COMPANY
P O DRAWER C
CABOOL, MO 65689

********** PRODUCT NAME **********

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

**CONTINUE REGISTRANT 034358

**00001* PENTA WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 034858 ALLADIN LABORATORIES INC
30 S OCEAN AVE BOX 569
FREEPORT, NY 11520

********** PRODUCT NAME **********

**00004* ALLADIN ALGICIDE PELLETS

**00006* ALLADIN ALGAE AND FUNGUS TREATMENT (FORMULA'G')

REGISTRANT *NAME AND ADDRESS*

* 036423 * **********

********** PRODUCT NAME **********

**00001* WOOD VAC

REGISTRANT *NAME AND ADDRESS*

* 036641 TRIANGLE PAINT CO., INC.
2222 THIRD STREET
BERKELEY, CA 94710

********** PRODUCT NAME **********

**00001* WOOD TREATMENT #174 CLEAR

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10/02/78 FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 037648 SOUTHERN IND. SOLES CORP.
WATER GUARD DIV
607 PARK AVE.
WILSON, N C 27893

********** PRODUCT NAME **********

**00004* BB 90

REGISTRANT *NAME AND ADDRESS*

* 039492 DEVOE & RAYNOLDS CO
DIV OF GROW CHEMICAL CORP
4000 DUPONT CIRCLE
LOUISVILLE, KY 40207

********** PRODUCT NAME **********

**00013* DEVOE ANTIFOULING MD 3263

**00021* DEVOE ANTIFOULING SHIP BOTTOM PAINT MD 3556

REGISTRANT *NAME AND ADDRESS*

* 039511 VERTAC, INC
STE. 3200 CLARK TOWER
5100 POPLAR AVE.
MEMPHIS, TN 38137

********** PRODUCT NAME **********

**00001* TECHNICAL PENTACHLOROPHENOL

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10/02/78   FEDERALLY REGISTERED PRODUCTS CONTAINING PENTACHLOROPHENOL

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REGISTRANT   *NAME AND ADDRESS*

* 039752   * **********

**************** PRODUCT NAME ****************

**000[illegible]3* ELCO ALLCUT LIQUID WEED KILLER

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10/02/78   APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

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REGISTRANT   *NAME AND ADDRESS*

* 000909   COOKE LABORATORY PRODUCTS
4759 S DURFEE AVE
PICO RIVERA CA 90660

**************** PRODUCT NAME ****************

**04708* COOKE QUICK ACTION WEED KILLER

****

REGISTRANT   *NAME AND ADDRESS*

* 001022   CHAPMAN CHEMICAL COMPANY
BOX 9158
MEMPHIS TN 38109

**************** PRODUCT NAME ****************

**05401* TIMPREG I

****

REGISTRANT   *NAME AND ADDRESS*

* 002339   BAYER PRODUCTS LTD
KINGSWAY
LONDON, ENGLAND 00000

**************** PRODUCT NAME ****************

**09318* PENTA CURE

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**** PRODUCT SEARCH LISTING **** PAGE 2

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

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REGISTRANT *NAME AND ADDRESS*

* 002439 APPERTON CHEMICAL COMPANY
PO BOX 2555 29[illegible]3 STRICKLAND ST
JACKSONVILLE FL

**************** PRODUCT NAME ****************

**[illegible]5661* PENTA CURE

**09315* EX STAIN

****

REGISTRANT *NAME AND ADDRESS*

* [illegible]2553 EUHI CHEMICAL COMPANY
6[illegible]1 A BROOKHAVEN DR
ORLANDO, FL 32803

**************** PRODUCT NAME ****************

**[illegible]4913* D & B PENTACHLOROPHENOL WOOD PRESERVATIVE

****

REGISTRANT *NAME AND ADDRESS*

* 003286 FERD STAFFEL CO.
P O BOX 238[illegible]
SAN ANTONIO TX 78298

**************** PRODUCT NAME ****************

**08[illegible]44* STAFFEL'S TERMI PHENE FOR GROUND AND WOOD TREATMENT

**08061* STAFFEL'S RIDALL BARE GROUND WEED AND GRASS KILLER

**** PRODUCT SEARCH LISTING **** PAGE 3

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

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REGISTRANT *NAME AND ADDRESS*

* [illegible]3579 BREWER CHEMICAL CORPORATION
P O BOX 48
HONOLULU, HI 9681[illegible]

**************** PRODUCT NAME ****************

**03282* ULTRAMAR WR PENTA

**[illegible]3284* NO 14[illegible] CONCENTRATE WOODTOX

****

REGISTRANT *NAME AND ADDRESS*

* 004652 CROWN CHEMICAL COMPANY
1416 N DIXIE HWY
HOLLYWOOD FL 33[illegible]2[illegible]

**************** PRODUCT NAME ****************

**09479* PENTA WEED KILLER

****

REGISTRANT *NAME AND ADDRESS*

* [illegible]4981 REDWOOD CHEMICAL INC
1215 JACKSON ST
HOUSTON, TX 77[illegible]45

**************** PRODUCT NAME ****************

**04941* PENTA PLUS 40 WOOD PRESERVATIVE

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005302 LAWTON BROTHERS
2305 N ORANGE AVE
ORLANDO FL 32800

********** PRODUCT NAME **********

**05462* LAWOTN BROS 3 D WEED,VINE&BRUSH KILLER NON SELECTIVE WITH

REGISTRANT *NAME AND ADDRESS*

* 005660 FLORASTREP CO
2810 OMEGA PLACE
ROSLYN PA

********** PRODUCT NAME **********

**09154* PENTA REGULAR

REGISTRANT *NAME AND ADDRESS*

* 005666 MAR VON CHEM COMPANY
CONGRESS PKWY
ATHENS TN 37303

********** PRODUCT NAME **********

**09157* PENTA WATER REPELLANT

**09158* MAR VCN CONCENTRATE PENTA 1 10

**** PRODUCT SEARCH LISTING **** PAGE 5

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 005967 MOYER CHEMICAL COMPANY
BOX 945
SAN JOSE CA 95108

********** PRODUCT NAME **********

**05146* PENTA 40

REGISTRANT *NAME AND ADDRESS*

* 006020 MOM CHEMICAL CO INC
2401 NORTH GREGG
MIAMI, FL 72701

********** PRODUCT NAME **********

**03375* INSTINCT TOTAL VEGETATION KILLER AND SOIL STERILANT

REGISTRANT *NAME AND ADDRESS*

* 006512 ADMIRALTY MFG COMPANY
PO BOX 631
SAN ANSELMO CA 94960

********** PRODUCT NAME **********

**10142* PENTAWOOD #77

**10143* PERMAWOOD #99

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

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*** PRODUCT SEARCH LISTING **** PAGE 6

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 006720 SOUTHERN MILL CREEK PRODUCTS COMPANY INC
P0X 1096
TAMPA FL 33601

********** PRODUCT NAME **********

**03358* SMCP "10 TO 1" PENTA

REGISTRANT *NAME AND ADDRESS*

* 006973 SOILSERV INC
PO BOX 1817
SALINAS CA 93901

********** PRODUCT NAME **********

**03573* SOILSERV PENTA 2

REGISTRANT *NAME AND ADDRESS*

* 007109 ST LOUIS PAINT MANUFACTURING COMPANY
2500 OHIO AVE
ST LOUIS MO 63104

********** PRODUCT NAME **********

**06806* MASTER SERVICE EXTERIOR WOOD STAIN WITH PENTZ

**06807* PANDA EXTERIOR WOOD STAIN WITH PENTZ

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 007358 DEL ROY PRODUCTS
823 LAGRANGE ST
TOLEDO OH 43609

********** PRODUCT NAME **********

**09841* RID MITE

REGISTRANT *NAME AND ADDRESS*

* 007478 CHEM PAK COMPANY
P.O.BOX 430757
SO MIAMI FLA 33143

********** PRODUCT NAME **********

**07981* TREET WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 007587 DRAKE CHEMICAL COMPANY
WEST RIVER ROAD
PERRYSBURG OH 43551

********** PRODUCT NAME **********

**09121* DRAKE PENTA WEED KILLER

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 008127	AGGIE CHEMICAL INDUSTRY PO BOX 8335 SAN ANTONIO TX 78208

********** PRODUCT NAME **********

**05576* LAWN EDGER

REGISTRANT	*NAME AND ADDRESS*
* 008278	METRO BIOLOGICAL LAB 8241 GAY ST CYPRESS CA 90639

********** PRODUCT NAME **********

**10215* METRO(TESTED) SOILIZER NEW WEED KILLER

REGISTRANT	*NAME AND ADDRESS*
* 009319	CUSTOM CHEMICALS, INC 476 HESTER STREET SAN LEANDRO, CA 94577

********** PRODUCT NAME **********

**04538* PENTASOL

**04539* PENTASOL 10 1

**04546* CUSTOM WEEDICIDE

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 009420	WATER CHEMISTS INC 1275 S BOYLE AVE LOS ANGELES CA 90023

********** PRODUCT NAME **********

**07183* ALGICIDE 1 1L

REGISTRANT	*NAME AND ADDRESS*
* 009782	WOODBURY CHEMICAL COMPANY PO BOX 4319 PRINCETON FL 33030

********** PRODUCT NAME **********

**03648* PENTA 10 1WOCD PRESERVATIVE

**03650* PENTONE

REGISTRANT	*NAME AND ADDRESS*
* 01395	BARCO CHEMICAL DIVISION INC 1480 N W 24TH COURT OPA LOCHA, FL 33054

********** PRODUCT NAME **********

**04951* NON TOX NO 2

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* ^1 569	J & E PETROLEUM PRODUCTS INC PO BOX 4206 STA A DALIAS TX 752^8

********** PRODUCT NAME **********

**04404* TEX MASTIC PENTA WOOD PRESERVATIVE CODE NO. 510

REGISTRANT	*NAME AND ADDRESS*
* 01^727	MONSEY PRODUCTS COMPANY COLDSTREAM RD KIMBERTON PA 19442

********** PRODUCT NAME **********

**09018* MONSEY & GUARDSEAL PENTACHLOROPHENOL WOOD PRESERVATIVE

**^9^2^* GUARDSEAL PENTA CONCENTRATE

REGISTRANT	*NAME AND ADDRESS*
* 010827	INDUSTRIAL SOLVENTS PO BOX 312 SAN MARCOS TX 78666

********** PRODUCT NAME **********

**03429* PENTOCIL

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10/^2/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 010919	ACTEEN PEST CONTROL SERVICES 1^11 HEINZ AVE BERKELEY CA 94710

********** PRODUCT NAME **********

**^5618* ACTEEN STOPS W D O

REGISTRANT	*NAME AND ADDRESS*
* 011093	MASTER NURSERYMEN'S ASSN C/O LEO DUPUICH 3620 1/2 MT DIABLO BLVD LAFAYETTE CA 94549

********** PRODUCT NAME **********

**07134* 49'ER GOLD STRIKE WEED KILLER 2,4 D PLUS DANVEL D

REGISTRANT	*NAME AND ADDRESS*
* 011112	NOX WEED INC 6842 E LIVE OAK ST BELL GARDENS CA 902^2

********** PRODUCT NAME **********

**09639* NOXCIDE VEGETATION KILLER

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011134 PEST CONTROL CHEMICALS INC
5852 S WESTERN AVE
LOS ANGELES CA 90047

********** PRODUCT NAME **********

**06018* PESTCO PENTACHLOROPHENOL SOLUTION

REGISTRANT *NAME AND ADDRESS*

* 011157 ROSE EXT COMPANY
626 POTRERO AVE
SAN FRANCISCO CA 94110

********** PRODUCT NAME **********

**05671* ROSE'S WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011214 TARGET CHEMICAL COMPANY
1771 STUDEBAKER RD
CERRITOS CA 90701

********** PRODUCT NAME **********

**08132* PENTA 5 WOOD PRESERVATIVE

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011335 SCHULTE PAINT & LACQUER MANUFACTURING COMPANY
645 E HOLLY AVE
ST LOUIS MO 63147

********** PRODUCT NAME **********

**06170* SCHULTE WATER REPELLENT PENTA A NON STAININ WOOD PRESERVATEIVE

**09468* SCHULTE WATER REPELLANT PENTA-A NON STAINING WOOD PRESERVATIVE

REGISTRANT *NAME AND ADDRESS*

* 011464 GASERO INC
PO BOX 2454
HONOLULU HI 96804

********** PRODUCT NAME **********

**07443* WEEDKILLER OSA #15 (OIL TYPE)

**07448* WEEDKILLER OSA #5 (OIL TYPE)

REGISTRANT *NAME AND ADDRESS*

* 011589 PAN AMERICAN CHEMICAL COMPANY
BOX 6186
MIAMI FL 33123

********** PRODUCT NAME **********

**07396* TERMITEICIDE

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 011656 WESTERN FARM SERVICE INC SHELL CHEM COMPANY
1025 CONNECTICUT AVE STE 200
WASH DC 20036

**************** PRODUCT NAME ****************

**05759* DORMANT 79 SPRAY

REGISTRANT *NAME AND ADDRESS*

* 011853 BISCAYNE CHEMICAL LABORATORIES
PO BOX 307, BISCAYNE ANNEX
MIAMI FL 33152

**************** PRODUCT NAME ****************

**10356* PENETRATING SOLUTION OF PENTACHLOROPHENOL

**10357* 40% SOLUTION OF PENTACHLOROPHENOL CONCENTRATE

REGISTRANT *NAME AND ADDRESS*

* 012661 GATOR CHEMICAL INC
1161 BASKIN ROAD
LARGO, FL 33540

**************** PRODUCT NAME ****************

**14518* GATOR PENTACHLOROPHENOL

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* 013437 DU COR CHEMICAL CORP
P O BOX 13298
ORLANDO, FL 32809

**************** PRODUCT NAME ****************

**03533* DU COR WEED STOP

REGISTRANT *NAME AND ADDRESS*

* 014107 M CHEM INC
NEW ORLEANS LA 7 123

**************** PRODUCT NAME ****************

**09351* M CHEM 1010 WEED CONTROL

REGISTRANT *NAME AND ADDRESS*

* 021275 SPAULDING INC
1921 5TH AVE S
ST PETERSBURG FL 33733

**************** PRODUCT NAME ****************

**05543* X CEL KWIK KIL

V4

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REGISTRANT *NAME AND ADDRESS*

* 034164 AMERICAN REFINING & MFG. CO
P O BOX 332
MIAMI, FL 33147

********** PRODUCT NAME **********

**^9258* PYNOL DISINFECTANT

REGISTRANT *NAME AND ADDRESS*

* 035031 CATC CHEMICAL COMPANY
1726 MARY STR
HONOLULU, HI 96819

********** PRODUCT NAME **********

**^5397* KLENZ TERMITE KILLER

REGISTRANT *NAME AND ADDRESS*

* 035034 DIVERSEY HAWAII LTD
98^115 KANEHAMEHA HIGHWAY
AIEA, HI 96701

********** PRODUCT NAME **********

**^6810* PENTA COAT WOOD PRESERVATIVE

**06812* TERMITOX TERMITE SOLUTION

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT *NAME AND ADDRESS*

* ^35^37 CHEMI-PURE PRODUCTS LTD
1210 ARTESIAN STREET
HONOLULU, HI 96814

********** PRODUCT NAME **********

**04485* X TERM O

REGISTRANT *NAME AND ADDRESS*

* ^35^52 GARDEN EXCHANGE LTD
63 KILAUEA AVENUE
HILO, HI 9672.

********** PRODUCT NAME **********

**05464* GX WEEDKILLER

**^5467* GX PENTA WB R T U COLORLESS

REGISTRANT *NAME AND ADDRESS*

* 035053 HONOLULU WOOD TREATING CO
2290 ALAHAE PLACE
HONOLULU, HI 96819

********** PRODUCT NAME **********

**05202* TERMACIDE

**^5213* WOLMAN WOOD PRESERVATIVE SOLUTION

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REGISTRANT	*NAME AND ADDRESS*
* 035069	HAWAII PLANING MILL 380 KANEELEHUA AVENUE HILO, HI 96720

********** PRODUCT NAME **********

**03148* PENTA WR

REGISTRANT	*NAME AND ADDRESS*
* 035217	HILO FARMERS EXCHANGE, LTD. 318 KINOOLE STREET HILO, HI 96720

********** PRODUCT NAME **********

**03716* F X WEEDKILLER

REGISTRANT	*NAME AND ADDRESS*
* 035279	D P I QUALITY PAINTS, INC 532 SOUTH MISSOURI CLEARWATER, FL 33515

********** PRODUCT NAME **********

**09276* NOX RCT WOOD PRESERVATIVE (PENTA) 116

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REGISTRANT	*NAME AND ADDRESS*
* 035519	ECONOCHEMA CORPORATION 2719 S.E. EVERETT RD CAMAS, WA 98607

********** PRODUCT NAME **********

**10587* PACIFIC WOOD PRESERVATIVE 10 TO 1 PENTA CONCENTRATE

**10588* ATCO 1410 PENTA TEN TO ONE CONCENTRATE

**10589* 1405 PENTA WOOD PRESERVATIVE

**10590* PENTA CONCENTRATE

**10591* ECONOCHEMA PENTA 5505 PENTA WOOD PRESERVATIVE

**10592* ECONO PENT A SEAL PENTA

**10593* 5510 ECONO CON PENTA TEN TO ONE CONCENTRATE

**10594* ATCO 1412 PENTA PRESERV A SEAL

REGISTRANT	*NAME AND ADDRESS*
* 035880	KLINGERS PAINT COMPANY, INC 5555 HARNISHCHEEGER RD., S W CEDAR RAPIDS, IA 52404

********** PRODUCT NAME **********

**06347* WOOD PRESERVATIVE CONTAINING PENTACHLOROPHENOL

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 036230	FOX HARDWARE 19 E CENTER STREET MADISONVILLE, KY 42431

********** PRODUCT NAME **********

**06093* RED DEVIL READY TO USE BULLETT WOOD TREATMENT

REGISTRANT	*NAME AND ADDRESS*
* 036392	CHARGAR CORPORATION 1011 DIXWELL AVENUE HAMDEN, CT 06514

********** PRODUCT NAME **********

**10093* FLOROK WOOD PRESERVATIVE PENTA

REGISTRANT	*NAME AND ADDRESS*
* 036688	BIG BEE CHEMICAL AND SUPPLY CO ROUTE 4 OLD CONYERS ROAD STOCKBRIDGE, GA 30281

********** PRODUCT NAME **********

**08199* WEED KILIER

**** PRODUCT SEARCH LISTING **** PAGE 21

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 036715	PENTA POST & TREATING CO. TUTTLE ROUTE BLISS, ID 83314

********** PRODUCT NAME **********

**03518* RAVENSCROFTS PENTA CONCENTRATE

**03519* RAVNSCROFTS PENTA READY TO USE

REGISTRANT	*NAME AND ADDRESS*
* 037347	UNI CHEM CORP OF FLORIDA BOX 6336 2801 N.W 55TH CT FT. LAUDERDALE, FL 33310

********** PRODUCT NAME **********

**03125* UNI CHEM WEED KILLER AND SEMI-SOIL STERILANT

REGISTRANT	*NAME AND ADDRESS*
* 037797	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08382* PENTA WOOD PRESERVATIVE

**** PRODUCT SEARCH LISTING **** PAGE 22

10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 037798	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08383* PENTA WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037799	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08384* PENTA WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037800	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08385* PENTA WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037801	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08386* PENTA WOOD PRESERVATIVE

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REGISTRANT	*NAME AND ADDRESS*
* 037802	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08387* PENTA WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037803	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08388* PENTA WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037804	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08389* PENTA WOOD PRESERVATIVE

REGISTRANT	*NAME AND ADDRESS*
* 037805	BROI DUGAN COMPANY 2145 SCHUETZ RD ST. LOUIS, MO. 63141

********** PRODUCT NAME **********

**08390* PENTA WOOD PRESERVATIVE

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10/02/78 APPLICANTS FOR REGISTRATION OF PRODUCTS CONTAINING PENTACHLOROPHENOL

REGISTRANT	*NAME AND ADDRESS*
* 037804	CHEM SERV, INC 2931 W FAIRMONT PHOENIX, AZ 850 17

********** PRODUCT NAME **********

**08403* CHEM SERV 440

REGISTRANT	*NAME AND ADDRESS*
* 037919	ROBERTS JUDSON LUMBER COMPANY 301 EAST 4TH STREET SALEM, MO 6556

********** PRODUCT NAME **********

**09424* BLOXROT C

REGISTRANT	*NAME AND ADDRESS*
* 038099	SCHAEFER CHEMICAL INC BOX 1008 TORRANCE, CA 905 5

********** PRODUCT NAME **********

**09415* SCHAEFER CHEMICAL NO. 31 ALGAECIDE

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REGISTRANT	*NAME AND ADDRESS*
* 038415	NOX CRETE CHEMICALS, INC. BOX 3764 OMAHA, NB 68103

********** PRODUCT NAME **********

**10071* PENTATOX WATER REPELLENT WOOD PRESERVATIVE

[FR Doc. 78-28936 Filed 10-17-78; 8:45 am]

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

CODE OF FEDERAL REGULATIONS

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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_____	Title 26—Internal Revenue Part 1 (§§ 1.501 to 1.640)	4.75	_____
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		Total Order	$_____

[*A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)*]

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federal register

THURSDAY, OCTOBER 19, 1978

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HOW TO USE THE FEDERAL REGISTER WORKSHOPS

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshops (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

ALBANY, NEW YORK

WHEN: October 27 and 28, 1978, at 1:00 p.m.
WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.
RESERVATIONS: Call Elizabeth Closson, 518–474–5943.

DALLAS, TEXAS

WHEN: October 30, 1978, at 9:30 a.m.
WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.
RESERVATIONS: Call Federal Information Center, 214–749–2131.

FORT WORTH, TEXAS

WHEN: October 31, 1978, at 9:30 a.m.
WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.
RESERVATIONS: Call Federal Information Center, 817–334–3624.

AUSTIN, TEXAS

WHEN: November 2, 1978, at 2 p.m.
WHERE: Room 100B, Regan Office Building, 15th & Congress Sts., Austin, Texas.
RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512–475–6725.

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: October 18, 1978]

S. 415 ..... Pub. L. 95–464
To amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn. (Oct. 17, 1978; 92 Stat. 1278) Price: $.60

H.R. 12932 ..... Pub. L. 95–465
Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes. (Oct. 17, 1978; 92 Stat. 1279) Price: $1.20

S.J. Res. 16 ..... Pub. L. 95–466
To restore posthumously full rights of citizenship to Jefferson F. Davis. (Oct. 17, 1978; 92 Stat. 1304) Price: $.60

S. 2704 ..... Pub. L. 95–467
Water Research and Development Act of 1978. (Oct. 17, 1978; 92 Stat. 1305) Price: $.90

S. 2801 ..... Pub. L. 95–468
To designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building". (Oct. 17, 1978; 92 Stat. 1318) Price: $.60

H.R. 8394 ..... Pub. L. 95–469
To provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes. (Oct. 17, 1978; 92 Stat. 1319) Price: $.60

S. 2376 ..... Pub. L. 95–470
To authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations. (Oct. 17, 1978; 92 Stat. 1323) Price: $.60

S. 1215 ..... Pub. L. 95–471
Tribally Controlled Community College Assistance Act of 1978. (Oct. 17, 1978; 92 Stat. 1325) Price: $.70

H.R. 8811 ..... Pub. L. 95–472
To amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court. (Oct. 17, 1978; 92 Stat. 1332) Price: $.70

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

COMMUNITIES ELIGIBLE FOR ASSISTANCE

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulation listing communities eligible for assistance. This action is being taken because an official census shows that the community of Rutland City, Vt., is a rural area of 10,000-20,000 population. The intended effect of this action is to designate this community as eligible for FmHA Rural Housing assistance.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Wesley L. Harris, Director, Single Family Housing Loan Division, telephone 202-447-4295.

SUPPLEMENTARY INFORMATION: Exhibit G to subpart A, part 1822, chapter XVIII, title 7, of the Code of Federal Regulations is amended. An official census has been taken which shows the community of Rutland City, Vt., to have a population of 19,293 and is not part of or associated with an urban area. It is, therefore, an eligible area for Farmers Home Administration assistance as determined by the Secretary of Agriculture. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since publishing for comment would delay this area from becoming eligible for the financing it needs and would thus be contrary to the public interest.

Accordingly, exhibit G is amended to add an eligible area as follows:

Exhibit G [Amended]

Addition: The following place is added to exhibit G, paragraph II as an eligible area:

Vermont: After "Montpelier-Barre" add "Rutland City."

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 4, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-29506 Filed 10-18-78; 8:45 am]

[3410-07-M]

SUBCHAPTER D—GUARANTEED LOANS

[FmHA Instruction 449.1]

PART 1845—FmHA EMERGENCY LIVESTOCK LINE OF CREDIT GUARANTEES

AMENDMENT

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning loan guarantees. The intended effect of this action is to make clear that the loan guarantees issued under this regulation are "unconditional." This action is taken as a result of advice from the Comptroller of the Currency.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William Krause, 202-447-7600.

SUPPLEMENTARY INFORMATION: Section 1845.13(c) of part 1845 of chapter XVIII, title 7, Code of Federal Regulations is amended. The purposes of the amendment are to explain the full faith and credit provisions of the loan guarantee by defining the phrases "Use of loan funds for unauthorized purposes," and "unauthorized purpose" and also to state that claims arising within 90 days of the date of the loan guarantee will not be excluded from its coverage in spite of what the loan guarantee form itself said. The Comptroller of the Currency advised FmHA that the full faith and credit provisions of the contract of guarantee did not meet requirements of 12 U.S.C. 84(10) which exempts from the lending limit requirements imposed on national banks' loans that are guaranteed unconditionally by the Federal Government. It is the opinion of the Comptroller General that the proposed revisions to the full faith and credit sections of the regulations will make the guarantee "unconditional," as the word is used in 12 U.S.C. 84(10).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking, since the amendment makes clear that FmHA's loan guarantee is unconditional and thereby benefits the lending institutions which participated in this FmHA guaranteed loan program. Therefore, public participation is unnecessary.

Accordingly, § 1845.13(c) is amended to read as follows:

§ 1845.13 EL line of credit limitations and special provisions.

* * * * *

(c) *Guarantee coverage (full faith and credit).* The contract of guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender has actual knowledge at the time it became such lender or which lender participates in or condones. The contract of guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time

at which FmHA acquires knowledge of the foregoing. As used in this paragraph and in any contract of guarantee (including any now outstanding) in

Immigration and Naturalization on or before December 18, 1978.

ADDRESSES: Please submit written representations, in duplicate, to the

ralization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8373.

[7590-01-M]

Title 10—Energy

mission staff in October 1977 published NUREG-0302 Rev. 1, "Remarks Presented (Questions/Answers) Discussed at the Public Regional Meet-

turer/distributor on the basis of the manufacturer's published specifications. At a defined stage of procurement, when the item is "dedicated" to

at which FmHA acquires knowledge of the foregoing. As used in this paragraph and in any contract of guarantee (including any now outstanding) in which the phrase appears, "use of loan funds for unauthorized purposes" refers to the situation in which the lender in fact agrees with the borrower that loan funds are to be so used and the phrase "unauthorized purpose" means any purpose not listed by the lender in the completed application as approved by FmHA. FmHA will not implement the provision contained in Form FmHA 449-27, "Contract of Guarantee" (7-17-75) which states: "This contract shall not cover any claims that may arise within 90 days of the date hereof."

* * * * *

(Sec. 10, Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 10, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-29505 Filed 10-18-78; 8:45 am]

[4410-10-M]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 108—ASYLUM

PART 236—EXCLUSION OF ALIENS

Asylum: Filing of Application in Exclusion Proceedings

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Stay of final rule and request for comments.

SUMMARY: The purpose of this order is to stay the final rules published at 43 FR 40801-03 on September 13, 1978, to allow for public participation in this rulemaking proceeding. The Service requests comments based on the text of the rules published at 43 FR 40801-03. Full consideration will be given to all relevant representations received and the Service will reconsider the rules following an analysis of those representations.

DATES: Final rules stayed pending receipt and analysis of relevant public comments. Interested persons are requested to submit relevant data, views, and arguments concerning these stayed rules to the Commissioner of Immigration and Naturalization on or before December 18, 1978.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 I Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., telephone 202-376-8373.

Dated: October 16, 1978.

LEONEL J. CASTILLO,
Commissioner of
Immigration and Naturalization.

[FR Doc. 78-29513 Filed 10-18-78; 8:45 am]

[4410-10-M]

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Cost of Maintenance of Aliens in Service Custody

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service. Present Service regulations provide that an alien confined in an institution or hospital shall not be accepted into physical custody by the Service until an order of deportation has been made and the Service is ready to deport the alien. It has come to Service attention that there have been instances in which this provision has been misinterpreted to apply to aliens in penal institutions. The regulation was actually intended to insure that the Service did not take custody of mentally ill or physically disabled aliens prior to obtaining an order of deportation since to do so might incur Service liability for medical costs indefinitely. Therefore, in order to make it clear that this regulation does not pertain to aliens confined in penal institutions, the first sentence will be amended to provide that an alien confined because of physical or mental disability in an institution or hospital shall not be accepted into physical custody by the Service until an order of deportation has been entered and the Service is ready to deport the alien.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: For the reasons set forth in the above summary, chapter I of title 8 of the Code of Federal Regulations is hereby revised as set forth below.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL

Section 242.3(b) is hereby revised as set forth below:

§ 242.3 Confined aliens, incompetents, and minors.

* * * * *

(b) *Service custody; cost of maintenance.* An alien confined because of physical or mental disability in an institution or hospital shall not be accepted into physical custody by the Service until an order of deportation has been entered and the Service is ready to deport the alien. When such an alien is an inmate of a public or private institution at the time of the commencement of the deportation proceedings, expenses for the maintenance of the alien shall not be incurred by the Government until he is taken into physical custody by the Service.

(Sec. 103; 8 U.S.C. 1103; interpret or apply sec. 242 (8 U.S.C. 1252).)

This amendment is published pursuant to section 552 of title 5 of the United States Code as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment contained in this order is editorial in nature, published for the purpose of clarifying the existing regulation.

Dated: October 16, 1978.

LEONEL J. CASTILLO,
Commissioner of
Immigration and Naturalization.

[FR Doc. 78-29512 Filed 10-18-78; 8:45 am]

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

Amendments Regarding Basic Component

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to limit the types of items that are within the scope of its rule for reporting defects and noncompliance. This action is believed necessary since the currently effective rule is being applied by organizations within its scope to an extent not contemplated and is causing problems relating to the supplying of equipment. The amendments provide that items that are available in general commerce and which have no unique requirements imposed for nuclear application will not be within the scope of the revised rule for reporting defects and noncompliance. These amendments will alleviate the above problem.

DATE: These amendments will be effective on October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. W. E. Campbell, Jr., Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-5913.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Nuclear Regulatory Commission (hereinafter the "Commission") has decided to amend 10 CFR Part 21, "Reporting of Defects and Noncompliance." Specifically, the Commission has decided to impose limits on the types of items that are used in facilities or activities licensed pursuant to part 30, 40, 50, 70, or 71 that are within the scope of 10 CFR Part 21.

On March 3, 1975, 10 CFR Part 21 was published as a proposed rule (40 FR 8832). On June 6, 1977, 10 CFR Part 21 was published as an effective rule (42 FR 28891) with some portions of the rule to be effective on July 6, 1977, and the remaining portions to be effective on January 6, 1978. On July 7, 1977, a FEDERAL REGISTER notice (42 FR 34886) changed the initial effective date to August 10, 1977, vice July 6, 1977. To facilitate implementation of 10 CFR Part 21 a series of public regional meetings were held in July 1977 and based on these meetings the Commission staff in October 1977 published NUREG-0302 Rev. 1, "Remarks Presented (Questions/Answers) Discussed at the Public Regional Meetings To Discuss Regulations (10 CFR Part 21) for Reporting Defects and Noncompliance." NUREG-0302 Rev. 1 contains staff guidance relating to the implementation and enforcement of 10 CFR Part 21 and is available through the National Technical Information Service, Springfield, Va. 22161. In the preamble to the effective rule, the Commission stated that it intended "to examine closely the implementation of 10 CFR Part 21 with a view to making any clarifying or other changes that may be warranted in the light of experience."

Part 21 defines a "basic component" subject to the reporting and other requirements of the rule. In response to inquiries during and subsequent to the public regional meetings relating to "off-the-shelf" or "catalog" items, the staff provided guidance that such items may be within the scope of 10 CFR Part 21 depending on the circumstances at the time of procurement. This guidance has been construed by numerous organizations to mean that the requirements of 10 CFR Part 21 apply to manufacturers and distributors who are involved to any extent in supplying basic components, or parts of basic components, of a facility or activity including supplying base material or functional assemblies to the manufacturer of the "basic component." This meaning has led to the imposition of 10 CFR Part 21 at a procurement stage where there are no design or specification requirements that are unique to application of the item at a nuclear facility or activity, e.g., relays.

The use of this meaning of basic component has not improved the quality of such items and, therefore, has not enhanced safety. Instead it is causing cost increases and inability to obtain needed supplies. To the extent that the purchaser is unable to obtain a needed item from the most qualified supplier and must turn to other less qualified suppliers, defining basic component to include such an item may to some extent detract from safety. To relieve the conditions that are resulting from the above interpretation and to mitigate this potential reduction of safety part 21 is being amended to remove from the scope of 10 CFR Part 21, during specific stages of procurement, those items of a commercial grade, e.g., bearings, relays, and bar stock that are (1) not subject to design or specification requirements unique to facilities or activities licensed by the Commission, (2) used in applications other than facilities or activities licensed by the Commission, and (3) able to be ordered from the manufacturer/distributor on the basis of the manufacturer's published specifications. At a defined stage of procurement, when the item is "dedicated" to a "basic component" (see 10 CFR 21.3(c-1)) the item will become subject to the requirements of 10 CFR Part 21.

Prior to these amendments 10 CFR Part 21 included within its scope direct inspections of licensees and suppliers as provided under section 206 of the Energy Reorganization Act of 1974. The revised rule will narrow the scope of the NRC inspection authority based on 10 CFR Part 21. However, NRC will retain the authority to inspect suppliers of commercial grade items provided by subsection 206(d) where reasonably necessary to aid in the identification by the Commission of defects and noncompliance reportable by licensees and suppliers of basic components as provided in 10 CFR Part 21.

Procurement documents that were issued in accordance with 10 CFR 21.31 after August 10, 1977, and invoked 10 CFR Part 21 may be amended to delete reference to 10 CFR Part 21 if the item being procured complies with the definition of a "commercial grade item" (see 10 CFR 21.3(a-1)).

The amended rule will clarify the applicability of 10 CFR Part 21 and thereby allow for precise application of the rule to those items that are subject to design or specification requirements unique to facilities or activities licensed pursuant to part 30, 40, 50, 60, or 71 of 10 CFR Chapter I.

Since the amendments are intended, in part, to respond to a number of requests for exemptions from 10 CFR Part 21 which may be necessary to insure the continued availability of components for the nuclear industry and since the amendments narrow the scope of the regulation thereby relieving a restriction on persons subject to it, but without any significant adverse safety consequences, the Commission has found that good cause exists for omitting notice of proposed rulemaking and public procedure thereon as unnecessary. Accordingly, the amendments are to be effective October 19, 1978.

Public comments on these amendments and on other portions of 10 CFR Part 21 are invited in order to evaluate the need for any further clarifying or other changes to 10 CFR Part 21. Comments that are received prior to December 18, 1978, will be particularly useful in evaluating the need for and content of additional amendments.

1. The final sentence of § 21.2 is amended to read as follows:

§ 21.2 Scope.

* * * Nothing in these regulations should be deemed to preclude either

an individual or a manufacturer/supplier of a commercial grade item (see § 21.3(a-1)) not subject to the regulations in this part from reporting to the

[6714-01-M]

Title 12—Banks and Banking

Board of Directors for its consideration and upon receipt of such request the Board of Review shall forward the application to the Board of Directors

could be an ignition source to flammable fluids or vapors which could be present in the vicinity of the resistor.

cordance with AMD-BA Service Bulletin F10-0162, dated December 6, 1977, and Rev. 1, dated March 20, 1978, or equivalent approved by the Chief, Aircraft Certification

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an individual or a manufacturer/supplier of a commercial grade item (see § 21.3(a-1)) not subject to the regulations in this part from reporting to the Commission a known or suspected defect or failure to comply and, as authorized by law, the identity of anyone so reporting will be withheld from disclosure.[1]

2. A new sentence is added to the end of § 21.3(a) to read as follows:

§ 21.3 [Amended]

(a) * * * A commercial grade item is not a part of a basic component until after dedication (see § 21.3(c-1)).

* * * * *

3. New paragraphs (a-1) and (c-1) are added to § 21.3 to read as follows:

* * * * *

(a-1) "Commercial grade item" means an item that is (1) not subject to design or specification requirements that are unique to facilities or activities licensed pursuant to part 30, 40, 50, 70, or 71 of this chapter and (2) used in applications other than facilities or activities licensed pursuant to part 30, 40, 50, 70, or 71 of this chapter and (3) to be ordered from the manufacturer/supplier on the basis of specifications set forth in the manufacturer's published product description (for example a catalog).

* * * * *

(c-1) "Dedication" of a commercial grade item occurs after receipt when that item is designated for use as a basic component.

* * * * *

4. A new sentence is added to the end of § 21.7.

§ 21.7 Exemptions.

* * * Suppliers of commercial grade items are exempt from the provisions of this part to the extent that they supply commercial grade items.

(Sec. 161, Pub. L. 83-703, 68 Stat 948; sec. 234, Pub. L. 91-161, 83 Stat. 444; sec. 206, Pub. L. 93-438, 88 Stat 1246 (42 U.S.C. 2201, 2282, 5846).)

Dated at Washington, D.C., this 13th day of October 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-29494 Filed 10-18-78; 8:45 am]

[6714-01-M]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

Amendments to Delegations of Authority Respecting Section 19 Applications

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to provide a faster method of processing requests for employment with insured banks. No person is allowed to serve as a director, officer, or employee of an insured bank if he or she has been convicted of a crime involving dishonesty or breach of trust unless FDIC gives its approval. At present, all requests for employment are processed through the FDIC's regional and Washington offices, and are ultimately acted on by FDIC's Board of Directors. Where employment does not constitute a significant threat to the safety and soundness of the bank, the request may be handled faster by the Board of Review (a standing committee of the FDIC) or the Director of FDIC's Division of Bank Supervision and the Regional Director of the Region in which the employer is located.

EFFECTIVE DATE: This amendment is effective November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Karl J. Seif, Senior Attorney, Federal Deposit Insurance Corporation, Room 4105-F, 550 17th Street NW., Washington, D.C. 20429, 202-389-4422.

SUPPLEMENTARY INFORMATION: Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1819) provides that no person may serve as a director, officer, or employee of an insured bank who has been convicted of a crime involving dishonesty or breach of trust without the written consent of FDIC. Normally consent has been granted by the FDIC's Board of Directors upon application by an insured bank desiring to employ or continue to employ such an individual. In order to expedite the handling of section 19 applications, FDIC's Board of Directors is delegating to the Board of Review, as the case may be, or to the Director, Division of Bank Supervision, or where confirmed in writing by the Director, Division of Bank Supervision, to the Regional Director of the Region in which the applicant bank is located, the authority to approve section 19 applications. The scope of the delegation goes to applications by all insured banks, since the statute (Section 19 of the Federal Deposit Insurance Act) applies to all insured banks and is not limited to nonmembers. Section 303.11 has been amended to reflect this.

In adopting this amendment to FDIC's regulations, FDIC's Board of Directors did not follow the requirements of section 553(b) of Title 5 of the United States Code and §§ 302.1 and 302.2 of FDIC's regulations with respect to notice and public participation because the amendment relates solely to rules of agency organization, procedure, and practice, and because the Board of Directors found that notice and opportunity for public comment thereon would be unnecessary and would serve no useful public purpose. 12 CFR 303.11 is amended by adding the following paragraph:

§ 303.11 Delegation of authority to act on certain applications.

* * * * *

(e) *Applications filed pursuant to section 19 of the Federal Deposit Insurance Act.* (1) The Board of Directors of the Federal Deposit Insurance Corporation has delegated to the Corporation's Board of Review the authority on behalf of the Board of Directors to approve applications filed by insured banks with the Corporation pursuant to section 19 of the Federal Deposit Insurance Act seeking the consent of the Corporation for the employment of any director, officer, or employee who has been convicted or is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. Such authority to approve includes any director, and any officer or employee who has authority to participate or may hereafter participate in policymaking functions of such insured bank, or has direct or indirect control of 5 percent or more of the voting rights of any class of voting stock of such insured bank: *Provided,* That the insured bank's primary supervisory authority interposes no objection to such application. This authority shall extend to the approval but not to the denial of such applications. The delegation of authority to the Board of Review to approve applications under this subparagraph and § 303.11(e)(2) does not preclude the Board of Directors from acting on any application upon which the Board of Review may not wish to act. Any voting member of the Board of Review attending the meeting at which an application is considered may request that the application be referred to the Board of Directors for its consideration and upon receipt of such request the Board of Review shall forward the application to the Board of Directors together with its recommendation as to the disposition of such application.

(2) The Board of Directors has delegated to the Director of the Corporation's Division of Bank Supervision, and where confirmed in writing by the Director of the Division of Bank Supervision, to the Regional Director of the Region in which the applicant bank is located, the authority on behalf of the Board of Directors to approve requests for employment filed by insured banks pursuant to section 19 of the Federal Deposit Insurance Act for all other employees and nonpolicymaking officers: *Provided,* That the applicant bank's primary supervisory authority offers no objection to such application. This authority shall extend to the approval but not to the denial of such applications. The delegation of authority to the Regional Director to approve applications under this subparagraph does not preclude the Director of the Division of Bank Supervision or the Board of Review from acting on any application which the Regional Director may not wish to approve, or upon which the Regional Director may not wish to act.

By order of the Board of Directors, dated October 1978

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-29485 Filed 10-18-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17938; Amdt. 39-3321]

PART 39—AIRWORTHINESS DIRECTIVES

Avions Marcel Dassault-Breguet Aviation Falcon 10 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modification of the freon air-conditioning system electrical starting circuit on certain Avions Marcel Dassault-Breguet Aviation Falcon 10 airplanes. The AD is needed to prevent overheating of the freon system compressor motor starting resistor. An overheated starting resistor could be an ignition source to flammable fluids or vapors which could be present in the vicinity of the resistor.

DATES: Effective November 20, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Falcon Jet Corp., 90 Moonachie Avenue, Moonachie, N.J. 07074. A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring modification of the freon air-conditioning system electrical starting circuit on certain Avions Marcel Dassault-Brequet Aviation Falcon 10 airplanes was published in the FEDERAL REGISTER at 43 FR 24849 on June 8, 1978. The proposal was prompted by reports of a significant number of Falcon 10 freon system compressor motor starting resistors overheating and failing in service due to the demanding duty cycle of the compressor motor under certain conditions. The freon system starting resistor is located in the airplane aft accessory compartment and under an overheat condition could provide an ignition source to flammable fluid or vapors in the event of a flammable fluid line or fitting leak.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

AVIONS MARCEL DASSAULT-BREGUET AVIATION (AMD-BA). Applies to Falcon 10 airplanes, certificated in all categories, serial Nos. 1 through 111, except serial Nos. 22, 33, and 35.

Compliance is required within the next 200 hours time in service after the effective date of this AD, unless already accomplished.

To reduce the possibility of a fire caused by the freon air-conditioning compressor motor starting resistor overheating, modify the compressor motor starting circuit in accordance with AMD-BA Service Bulletin F10-0162, dated December 6, 1977, and Rev. 1, dated March 20, 1978, or equivalent approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region.

This amendment becomes effective November 20, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Washington, D.C., on October 11, 1978

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-29333 Filed 10-18-78; 8:45 am]

[4910-13-M]

[Docket No. 78-NW-20-AD; Amdt. 39-3317]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Helicopter Models 204B, 205A, 205A-1, and 212 Modified per Chadwick STC SH149WE or SH17NW

AGENCY: Federal Aviation Administration (DOT).

ACTION: Final rule.

SUMMARY: On September 18, 1978, an airmail letter Airworthiness Directive (AD) was issued and made effective upon receipt to all known operators of Bell Helicopter models 204B, 205A, 205A-1, and 212, which had been modified per Chadwick, Inc., STC SH149WE or SH17NW, when used in external-load cargo operations. The AD required additional operating restrictions until the load cell link assembly is replaced with an FAA-approved part. This action was prompted by low cycle fatigue failure of the link of a modified helicopter which occurred while slinging a steel tower, resulting in detachment of the tower from the helicopter. AD action was taken to preclude injury or damage to persons or property on the surface. This condition still exists and the AD is hereby published in the FEDERAL REGISTER to make it effective as to all persons

DATES: The effective date is October 12, 1978, except for recipients of the airmail letter dated September 18, 1978, which contained this amendment. Compliance is required before conducting further flight in external load operations over congested or densely populated areas.

FOR FURTHER INFORMATION CONTACT:

James R. Haynes, Engineering and Manufacturing Branch, FAA North-

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim

SUPPLEMENTARY INFORMATION: This amendment supersedes amendment 39-3222, 43 FR 22341, AD 78-11-04, which currently requires inspec-

(3) In the left engine aft nacelle compartment, inspect the fuel inlet line to the boost pump at the propeller governor control cable for evidence of chafing.

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FOR FURTHER INFORMATION CONTACT:

James R. Haynes, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: The load cell link assembly which failed had been in use approximately 200 hours. Failure appears to have been the result of low cycle fatigue having initiated from possible sharp edges occurring during manufacture of the oil hole for the thin lug. New, higher strength parts with potentially superior fatigue life are being developed by Chadwick, Inc. Parts will be available from Chadwick, Inc., after approval has been granted through revision to the supplemental type design data of STC's SH149WE and SH17NW.

Since this condition is likely to exist in other Bell Helicopter models 204B, 205A, 205A-1, and 212, modified by Chadwick, Inc., STC's SH149WE or SH17NW, the AD has been issued and is now published in the FEDERAL REGISTER, requiring restricted operation until the original load cell link assembly is replaced with a different, FAA-approved part.

Since a situation existed that required immediate adoption of this regulation, it is found that notice and public procedure thereon were impracticable and good cause existed at the time of issuance, and still exists, for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive: Bell: Applies to all Bell Helicopter models 204B, 205A, 205A-1, and 212 modified by Chadwick, Inc., STC's SH149WE or SH17NW.

Prior to further flight involving external-load operations over congested or densely populated areas, replace Chadwick, Inc., load cell link assembly P/N 47-40200-19 with parts approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Northwest Region. This amendment is effective October 12, 1978, and was effective earlier for all recipients of the airmail letter dated September 18, 1978, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1973).

Issued in Seattle, Wash., on October 6, 1978.

C. B. WALK, Jr.,
Director,
Northwest Region.

[FR Doc. 78-29226 Filed 10-18-78; 8:45 am]

[4910-13-M]

[Docket No. 78-SO-33; Amendment 39-3316]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA-34-200T Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) applicable to Piper Aircraft Corp. model PA-34-200T airplanes. This amendment requires inspection and replacement, as necessary, of certain fuel lines. It also requires installation, if necessary, of clamps in the left nacelle and installation of protective sleeves in the right nacelle, on certain Piper model PA-34-200T series airplanes. The AD is needed to prevent chafing between control cables and fuel lines which could result in fuel leakage. The change is necessary based on additional field reports.

DATES: Effective date: October 26, 1978. Compliance schedule—as prescribed in the body of AD.

ADDRESSES: Copies of Piper Service Bulletin 596A may be obtained from Piper Aircraft Corp., 820 East Bald Eagle Street, Lockhaven, Pa. 17745. A copy of Service Bulletin 596A is contained in the Rules Docket, Room 264, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga.

FOR FURTHER INFORMATION CONTACT:

Gil Carter, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, 3400 Whipple Street, East Point, Ga. 30344, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION: This amendment supersedes amendment 39-3222, 43 FR 22341, AD 78-11-04, which currently requires inspection and corrective action for a fuel line and control cable interference in the right nacelle on Piper model PA-34-200T airplanes. After issuing amendment 39-3222, the FAA has determined, based on service experience, that a fuel line and control cable in the left nacelle may be chafing. It is necessary that the fuel line and control cable in the left nacelle also be inspected and replaced or secured as necessary. Therefore, the FAA is superseding amendment 39-3222 by adding an additional inspection and requiring corrective action as necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PIPER AIRCRAFT CORP. Applies to model PA-34-200T, serial Nos. 34-7570001 through 34-7870207, certificated in all categories.

Compliance is required within the next 10 hours' time in service after the effective date of this AD unless already accomplished.

To prevent a fuel leak, accomplish the following:

(a) On serial Nos. 34-7570001 through 34-7870194, accomplish the following:

(1) Remove the right and left engine nacelle aft hatch assemblies.

(2) In the right engine aft nacelle compartment, inspect the fuel inlet line to the boost pump at the mixture control cable for evidence of chafing.

(i) If chafing is evident, replace the fuel line with the approved fuel line, Piper part No. 95153-145. Install protective sleeves, Piper part Nos. 63882-73 and 63882-83, or equivalent fuel resistant flexible sleeves on the fuel inlet line and the mixture control cable. Secure the sleeves in place with tie raps, Piper part No. 488-702 or equivalent fuel resistant devices (see fig. No. 1). Leak check the fuel line using normal maintenance procedures.

(ii) If no chafing is evident, remove existing clamps or Koroseal tie (if installed) and install protective sleeves, Piper part Nos. 63882-73 and 63882-83, or equivalent fuel resistant flexible sleeves on the fuel inlet line and the mixture control cable. Secure the sleeves in place with tie raps, Piper part No. 488-702, or equivalent fuel resistant devices (see fig. No. 1).

(3) In the left engine aft nacelle compartment, inspect the fuel inlet line to the boost pump at the propeller governor control cable for evidence of chafing.

(i) If chafing is evident, replace the fuel line with the approved fuel line, Piper part No. 95153-144. Secure the fuel line to the control cable as shown in figure No. 2. Leak check the fuel line using normal maintenance procedures.

(ii) If no chafing is evident, unless already accomplished, secure the fuel line to the control cable as shown in figure No. 2.

(4) Replace the right and left engine nacelle aft hatch assemblies and make appropriate maintenance record entry.

(b) On serial Nos. 34-7870195 through 34-7870207, accomplish the following:

(1) Remove the right engine nacelle aft hatch assembly.

(2) Inspect the fuel inlet line to the boost pump at the mixture control cable for evidence of chafing.

(i) If chafing is evident, replace the fuel line with the approved fuel line, Piper part No. 95153-145. Install protective sleeves, Piper part Nos. 63882-73 and 63882-83, or equivalent fuel resistant flexible sleeves on the fuel inlet line and the mixture control cable. Secure the sleeves in place with tie raps, Piper part No. 488-702 or equivalent fuel resistant devices (see fig. No. 1). Leak check the fuel line using normal maintenance procedures.

(ii) If no chafing is evident, remove existing clamps or Koroseal tie (if installed) and install protective sleeves, Piper part Nos. 63882-73 and 63882-83, or equivalent fuel resistant flexible sleeves on the fuel inlet line and the mixture control cable. Secure the sleeves in place with tie raps, Piper part No. 488-702, or equivalent fuel resistant devices (see fig. No. 1).

(3) Replace the right nacelle aft hatch assembly and make appropriate maintenance record entry.

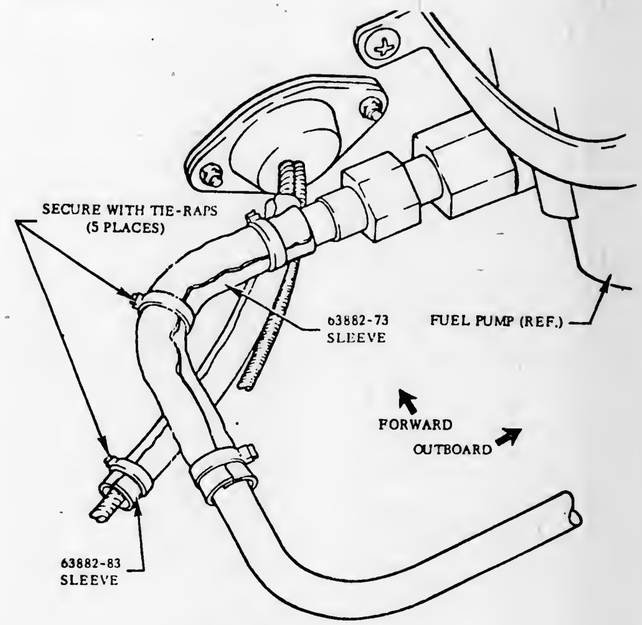

FIGURE 1.—*Right engine nacelle.*

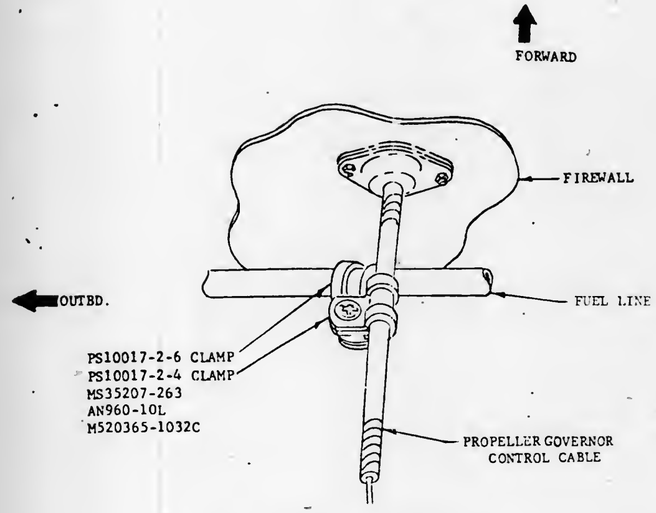

FIGURE 2.—*Left engine nacelle.*

(c) An alternate method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe

the last flight of each day in which the helicopter is operated.

(d) The repetitive inspections required by paragraph (c) of this AD may be discontin-

Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Philip Billard Airport, Topeka, Kans., control zone. This con-

effect of the action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Grayson County Airport.

V 4 3 / 2 0 3 0 C 1 9 7 8

(c) An alternate method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

(Piper Service Bulletin 596A, dated Sept. 11, 1978, pertains to this same subject.)

This supersedes amendment 39-3222, 43 FR 22341, AD 78-11-04.

This amendment becomes effective October 26, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c), and 14 CFR 11.89).)

Issued in East Point, Ga., on October 4, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-29216 Filed 10-18-78; 8:45 am]

[4910-13-M]

[Docket No. 17932; Amdt. 39-3319]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale Model SA 330 Puma Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and replacement or modification, as appropriate, of the yaw control lever bellcrank on certain Societe Nationale Industrielle Aerospatiale (SNIAS) model SA 330 Puma helicopters. The AD is needed to prevent cracking of the bellcrank which could result in the loss of control of the helicopter.

DATE: Effective—November 20, 1978. Compliance schedule—as prescribed in body of AD. The applicable service bulletins may be obtained from: Societe Nationale Industrielle Aerospatiale, Division Helicopters, Service Technique Apres-Vente, Boite Postale 13, 13722 Marignane, France. Copies of the service bulletins are contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring inspections and replacement or modification, as appropriate, of yaw control lever bellcrank on certain SNIAS model SA 330 Puma helicopters was published in the FEDERAL REGISTER at 43 FR 24847, on June 8, 1978. The proposal was prompted by the FAA's determination that the support bellcrank, P/N 330A.77.4011.01, of SNIAS model SA 330 Puma helicopters have been susceptible to cracking in the area of attachment to the yaw control lever. If uncorrected, such cracking could result in failure of the bellcrank and loss of yaw control.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by adding the following new airworthiness directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (SNIAS). Applies to model SA 330 Puma helicopters, S/N 1504 and below, certificated in all categories, having yaw control bellcranks P/N 330A.77.4011.01 that have been modified in accordance with SNIAS modification AMS 07.10.226 but not modified in accordance with AMS 07.11.890.

Compliance is required as indicated, unless already accomplished.

To prevent possible failure of the yaw control bellcrank, P/N 330A.77.4011.01, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD, or prior to the accumulation of 1,200 hours total time in service, whichever occurs later, inspect the tubular section of the yaw control bellcrank P/N 330A.77.4011.01, for cracks in accordance with Puma SA 330 Service Bulletin No. 05.50, dated March 22, 1977, or an FAA-approved equivalent.

(b) If during any inspection required by this AD a cracked bellcrank is found, replace the bellcrank with a serviceable part of the same part number.

(c) After the initial inspection required by paragraph (a) of this AD, continue to inspect all yaw control bellcranks, and all replacements that have accumulated 1,200 or more hours total time in service, in accordance with paragraph (a) of this AD after the last flight of each day in which the helicopter is operated.

(d) The repetitive inspections required by paragraph (c) of this AD may be discontinued upon the incorporation of a serviceable bellcrank, P/N 330A.77.4011.01, that has been modified in accordance with Puma SA 330 Service Bulletin No. 67.10, dated March 22, 1977, or an FAA-approved equivalent.

NOTE.—The modification covered in Service Bulletin No. 67.10 corresponds to Puma modification AMS 07.11.890.

This amendment becomes effective November 20, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).)

Issued in Washington, D.C., on October 6, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-29214 Filed 10-18-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-CE-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW POINT ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Alteration of Control Zone and Transition Area at Topeka, Kans.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this amendment is to alter the control zone and 700-foot transition area at Topeka, Kans., by changing the name from Forbes Air Force Base to Forbes Field Airport and to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Forbes Field Airport, Topeka, Kans., utilizing an existing nondirectional radio beacon (NDB) navigational aid.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F, § 71.171 of the Federal Aviation regulations (14 CFR 71.171) and Subpart G, § 71.181 of the Federal Aviation regulations (14 CFR 71.181) is to alter the control zone and 700-foot transition area at Topeka, Kans. The city of Topeka, Kans., has assumed operation and control of Forbes Air Force Base and has changed the name of the airport to Forbes Field Airport. To enhance airport usage by providing additional instrument approach capability to the Forbes Field Airport, the city of Topeka, Kans., has requested a new instrument approach procedure utilizing the existing Richland NDB. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the control zone and transition area at Topeka, Kans., at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to insure segregation of aircraft using the new approach procedure under instrument flight rules (IFR) and other air craft operating under visual flights rules (VFR).

DISCUSSION OF COMMENTS

On pages 30571 and 30572 of the FEDERAL REGISTER dated July 17, 1978, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend §§ 71.171 and 71.181 of part 71 of the Federal Aviation regulations so as to alter the control zone and transition area at Topeka, Kans. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 of the Federal Aviation regulations (14 CFR 71.171) as republished on January 3, 1978 (43 FR 355), is amended effective 0901 G.m.t. December 28, 1978, by altering the following control zone:

FORBES FIELD

Within a 5-mile radius of Forbes Field Airport (latitude 38°57'06"N, longitude 95°39'45"W) within 2.5 miles each side of the Forbes Field LOM 317° bearing extending from the 5-mile radius zone to 6 miles northwest of the airport, and within 2 miles each side of the Forbes Field ILS localizer SE course extending from the 5-mile radius zone to 1 mile SE of the LOM, excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Philip Billard Airport, Topeka, Kans., control zone. This control zone will be effective as established by a Notice to Airmen or published in the Airman's Information Manual.

Additionally, Subpart G, § 71.181, of the Federal Aviation regulations (14 CFR 71.181) as republished on January 3, 1978, (43 FR 440), is amended effective 0901 G.m.t. December 28, 1978, by altering the following transition area:

TOPEKA, KANS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Philip Billard Airport, Topeka, Kans. (Latitude 39°04'09"N, longitude 95°37'18"W) within 2 miles each side of the Topeka VORTAC 039° radial extending from the 7-mile radius area to 8 miles northeast of the VORTAC, within 5 miles southwest and 8 miles northeast of the Philip Billard Airport ILS localizer northwest course extending from 3 miles southeast to 12 miles northwest of the Billard LOM, within an 8.5-mile radius of Forbes Field Airport, Topeka, Kans. (latitude 38°57'06"N, longitude 95°39'45"W) within 4 miles each side of the Forbes Field LOM 317° bearing extending from the 8.5-mile radius area to 15 miles northwest of the airport, and within 3.5 miles each side of the Forbes Field ILS localizer southeast course extending from the 8.5-mile radius area to 8 miles southeast of the Forbes Field LOM.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 Federal Aviation regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on October 6, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-29332 Filed 10-18-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-ASW-34]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Sherman, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Sherman, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Grayson County Airport. The circumstance which created the need for the action is that higher performance aircraft are utilizing the airport requiring additional controlled airspace for their protection.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 3, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 34158) stating that the Federal Aviation Administration proposed to alter the Sherman, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Sherman, Tex., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument procedures established for the Grayson County Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, 71.181 (43 FR 440), the Sherman, Tex., transition area is amended as follows:

That airspace extending from 700 feet above the surface within a 6-mile radius of Sherman Municipal Airport (latitude 33°37'30" N., longitude 96°35'00" W.) and within an 8.5-mile radius of Grayson County Airport (latitude 33°42'55" N., longitude 96°40'25" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as imple-

1978; respondents having been served by mail with the said opinion and order on July 19, 1978; respondents having petitioned for reconsideration of said opinion and order on August

EFFECTIVE DATE: October 19, 1978.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., October 12, 1978

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NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on October 4, 1978.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc. 78-29215 Filed 10-18-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[D. 9057-0]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

USLIFE Credit Corp. et al.

AGENCY: Federal Trade Commission.

ACTION: Modification of order to cease and desist.

SUMMARY: This order, granting and denying in part respondents' petition for reconsideration, modifies the final order issued on May 23, 1978, 43 FR 34124, by deleting from the first line of paragraph 2 the word "Failing," and inserting the word "Failing" as the first word of subpargraph (a) of paragraph 2.

DATES: Decision issued May 23, 1978; modifying order issued September 14, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/P, Albert H. Kramer, Washington, D.C., 202-523-3727.

SUPPLEMENTARY INFORMATION: In the matter of USLIFE Credit Corp., a corporation, and USLIFE Corp., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, appears at 43 FR 34124, and remains unchanged.

(Sec. 6, 38 State. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147 (15 U.S.C. 45, 1601, et seq.).)

The order modifying order to cease and desist, is as follows:

ORDER GRANTING IN PART, AND DENYING IN PART, RESPONDENTS' PETITION FOR RECONSIDERATION

An opinion and final order in this matter having been issued on May 23, 1978; respondents having been served by mail with the said opinion and order on July 19, 1978; respondents having petitioned for reconsideration of said opinion and order on August 10, 1978; and the Commission, for the reasons stated in the accompanying opinion, having determined to grant in part, and deny in part, respondents' petition for reconsideration;

It is ordered, That the final order to cease and desist be, and hereby is, modified as follows:

From the first line of paragraph 2 of the order, delete the word "Failing."

In subparagraph (a) of paragraph 2 of the order, insert as the first word thereof the word "Failing."

By the Commission, Commissioner Pitofsky not participating.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-29462 Filed 10-18-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-517]

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Fair Market Rents for New Construction and Substantial Rehabilitation

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Notice was given on March 31, 1978, at 43 FR 13758 that HUD was proposing to amend title 24 of the Code of Federal Regulations by incorporating in part 888, subpart A, a revised schedule A, "Fair Market Rents for New Construction and Substantial Rehabilitation (including Housing Finance and Development Agencies Program)" for all market areas. The final rule was published on June 13, 1978, at 43 FR 25604. The final rule stated that comments received in response to the March 31, 1978 publication, received after April 14, 1978, would be carefully considered and additional amendments would be published at a later date if appropriate. The additions and amendments set forth below respond to comments received since April 14, 1978.

EFFECTIVE DATE: October 19, 1978.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-7603. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-472-4810. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This final rule adds fair market rents (FMR's) for three- and four-bedroom units in elevator buildings of five or more stories for the Boston, Mass., market area; adds FMR's for zero-, one-, and two-bedroom units in elevator buildings of two through four stories for the Augusta, Bangor, Brunswick, Calais, Lewiston, Portland, and Waterville, Maine, market areas; adds FMR's for three- and four-bedroom units in elevator buildings of two through four stories and five or more stories for the Newark, Asbury Park, North Bergen, and Freehold, N.J., market areas; amends the FMR's for zero-, one-, and two-bedroom units in elevator buildings of five or more stories for the Philadelphia, Pa., market areas; amends the FMR's for one- and two-bedroom units in elevator buildings of five or more stories for the Washington, D.C., market area; amends the fair market rents for the Greensboro, Asheville, Charlotte, Durham, Greenville, Raleigh, Winston-Salem, Fayetteville, and Wilmington, N.C., market areas; amends the zero-, one-, and two-bedroom FMR's for elevator buildings of two through four stories and five or more stories for the Benton Harbor, Mich., market area; amends the fair market rents for the Fayetteville, Little Rock, Texarkana, Fort Smith, and Jonesboro, Ark., market areas; and adds fair market rents for the Pendleton, Oreg., market area.

The complete schedule for each affected market area is set forth so all rents for that area may be found in one place.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the address set forth above.

Accordingly schedule A of part 888 is amended as set forth below:

[1] Copies of the modifying order with opinion filed with the original document.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., October 12, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—Federal Housing Commissioner.

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These fair market rents have been trended ahead 2 years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The fair market rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed two bedrooms, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for noncongregate units, and (3) single room occupancy dwelling units are those for zero-bedroom units of the same type.

[4210-01-C]

AREA/INSURING OFFICE BOSTON, MASS. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BOSTON	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	382	447	567	627
	WALKUP	295	372	404	434	500
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	316	396	467	619	680

AREA/INSURING OFFICE BANGOR, ME. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
AUGUSTA BANGOR BRUNSWICK CALAIS	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	318	350	427	---	---
	5 + Sty	353	389	474	---	---
LEWISTON PORTLAND WATERVILLE	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	318	350	427	---	---
	5 + Sty	353	389	474	---	---

AREA/INSURING OFFICE PHILADELPHIA, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PHILADELPHIA	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	336	418	460	506
	WALKUP	258	307	385	445	483
	ELEVATOR-2-4 Sty	280	340	405	---	---
	5 + Sty	335	395	467	---	---

AREA OFFICE NEWARK, N. J. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEWARK	DETACHED	---	---	595	694	732
	SEMI-DETACHED/ROW	366	402	491	580	632
	WALKUP	348	378	464	550	598
	ELEVATOR-2-4 Sty	398	430	557	627	692
	5 + Sty	437	476	606	687	747
ASBURY PARK	DETACHED	---	427	536	647	660
	SEMI-DETACHED/ROW	346	385	465	552	611
	WALKUP	319	359	437	522	579
	ELEVATOR-2-4 Sty	359	411	516	592	668
	5 + Sty	398	457	565	652	723
NORTH BERGEN	DETACHED	---	---	600	705	738
	SEMI-DETACHED/ROW	---	429	545	622	676
	WALKUP	352	395	509	595	636
	ELEVATOR-2-4 Sty	405	460	616	683	740
	5 + Sty	444	506	665	743	795
FREEHOLD	DETACHED	---	427	564	675	688
	SEMI-DETACHED/ROW	346	385	493	580	639
	WALKUP	319	359	465	550	607
	ELEVATOR-2-4 Sty	359	411	542	627	703
	5 + Sty	398	457	591	687	758

AREA/INSURING OFFICE WASHINGTON, D.C. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WASHINGTON, D.C.	DETACHED	---	---	---	593	663
	SEMI-DETACHED/ROW	---	395	469	511	578
	WALKUP	274	360	434	502	556
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	312	398	534	---	---

AREA/INSURING OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GREENSBORO	DETACHED	---	---	335	402	455
	SEMI-DETACHED/ROW	237	268	305	373	431
	WALKUP	237	268	305	373	431
	ELEVATOR-2-4 Sty	259	289	326	---	---
	5 + Sty	278	316	361	---	---
ASHEVILLE	DETACHED	---	---	310	389	446
	SEMI-DETACHED/ROW	226	262	299	368	425
	WALKUP	226	262	299	368	425
	ELEVATOR-2-4 Sty	248	284	320	---	---
	5 + Sty	278	316	361	---	---
CHARLOTTE	DETACHED	---	---	324	382	435
	SEMI-DETACHED/ROW	226	257	294	357	410
	WALKUP	226	257	294	357	410
	ELEVATOR-2-4 Sty	248	278	315	---	---
	5 + Sty	279	316	361	---	---
DURHAM	DETACHED	---	---	308	370	426
	SEMI-DETACHED/ROW	220	251	294	352	404
	WALKUP	220	251	294	352	404
	ELEVATOR-2-4 Sty	242	273	315	---	---
	5 + Sty	278	316	361	---	---
GREENVILLE	DETACHED	---	---	305	357	410
	SEMI-DETACHED/ROW	220	251	289	341	394
	WALKUP	220	251	289	341	394
	ELEVATOR-2-4 Sty	242	273	310	---	---
	5 + Sty	280	316	361	---	---
RALEIGH	DETACHED	---	---	337	417	468
	SEMI-DETACHED/ROW	242	273	310	378	436
	WALKUP	242	273	310	378	436
	ELEVATOR-2-4 Sty	264	294	331	---	---
	5 + Sty	278	316	361	---	---

AREA/INSURING OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WINSTON-SALEM	DETACHED	---	---	315	384	438
	SEMI-DETACHED/ROW	231	268	305	368	420
	WALKUP	231	268	305	368	420
	ELEVATOR-2-4 Sty	253	289	326	---	---
	5 + Sty	278	316	361	---	---
FAYETTEVILLE	DETACHED	---	---	314	371	423
	SEMI-DETACHED/ROW	226	257	299	347	399
	WALKUP	226	257	299	347	399
	ELEVATOR-2-4 Sty	248	278	320	---	---
	5 + Sty	284	316	361	---	---
WILMINGTON-	DETACHED	---	---	328	392	445
	SEMI-DETACHED/ROW	226	251	294	352	410
	WALKUP	226	251	294	352	410
	ELEVATOR-2-4 Sty	248	273	315	---	---
	5 + Sty	283	316	361	---	---

AREA/INSURING OFFICE GRAND RAPIDS, MICH. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BENTON HARBOR	DETACHED	---	---	376	430	465
	SEMI-DETACHED/ROW	---	299	330	430	465
	WALKUP	226	260	287	347	---
	ELEVATOR-2-4 Sty	268	305	333	---	---
	5 + Sty	286	325	358	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

[7630-01-M]

Title 36—Parks, Forests, and Public Property

Subpart A—General Provisions

§ 905.735-101 Principles and purpose.

The proposed part sets forth general standards of conduct for all employees of the Corporation, and specifies conduct which is considered unacceptable

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AREA/INSURING OFFICE PORTLAND, ORE. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PENDLETON	DETACHED	---	---	300	346	386
	SEMI-DETACHED/ROW	---	231	294	334	366
	WALKUP	185	220	277	322	355
	ELEVATOR-2-4 Sty	228	276	338	---	---
	5 + Sty	253	307	376	---	---

AREA/INSURING OFFICE LITTLE ROCK, ARKANSAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FAYETTEVILLE	DETACHED	---	---	304	363	439
	SEMI-DETACHED/ROW	200	245	287	350	410
	WALKUP	200	245	287	350	394
	ELEVATOR-2-4 Sty	238	290	340	---	---
	5 + Sty	297	349	422	---	---
LITTLE ROCK	DETACHED	---	---	310	369	444
	SEMI-DETACHED/ROW	204	250	292	348	419
	WALKUP	204	250	287	346	396
	ELEVATOR-2-4 Sty	242	296	340	---	---
	5 + Sty	308	373	429	---	---
TEXARKANA	DETACHED	---	---	303	363	437
	SEMI-DETACHED/ROW	195	238	288	342	413
	WALKUP	195	238	279	339	384
	ELEVATOR-2-4 Sty	232	281	331	---	---
	5 + Sty	305	371	422	---	---
FORT SMITH	DETACHED	---	---	280	334	403
	SEMI-DETACHED/ROW	180	226	271	321	386
	WALKUP	173	226	268	313	367
	ELEVATOR-2-4 Sty	206	267	318	---	---
	5 + Sty	278	343	399	---	---
JONESBORO	DETACHED	---	---	296	352	425
	SEMI-DETACHED/ROW	188	236	286	336	404
	WALKUP	184	236	286	335	391
	ELEVATOR-2-4 Sty	219	279	339	---	---
	5 + Sty	281	348	404	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

[FR Doc. 78-29504 Filed 10-18-78; 8:45 am]

[7630-01-M]

Title 36—Parks, Forests, and Public Property

CHAPTER IX—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PART 905—STANDARDS OF CONDUCT

Interim Rule; Request for Comments

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Interim rule; request for comments.

SUMMARY: The Pennsylvania Avenue Development Corporation is proposing to formally adopt Standards of Conduct governing the conduct of its employees and special government employees. The Corporation has now entered the implementation phase of its development program for Pennsylvania Avenue in Washington, D.C. This phase will bring mounting pressures to bear upon the staff of the Corporation as development proceeds. Therefore, the need to formalize internal agency policy on standards of conduct is of the utmost importance. While giving formal notice to the public of the Corporation's policy on conflicts of interest, it also provides the staff of the Corporation with clear guidelines to which they can refer when necessary.

DATES: Effective date: October 19, 1978. Comment date: Comments must be received on or before November 17, 1978.

ADDRESS: Send comments to Peter T. Meszoly, General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Suite 1148, Washington, D.C. 20004, 202-566-1078.

FOR FURTHER INFORMATION CONTACT:

David W. Briggs, Attorney, Office of the General Counsel, 202-566-1078.

SUPPLEMENTARY INFORMATION: The proposed standards of conduct implement Executive Order 11222 and Title 5, Code of Federal Regulations, Part 735, Regulations Concerning Employee Responsibilities and Conduct as promulgated by the U.S. Civil Service Commission. The standards apply to both regular Government employees of the Corporation and its special Government employees, including part-time consultants and members of the Corporation's Board of Directors.

The proposed part sets forth general standards of conduct for all employees of the Corporation, and specifies conduct which is considered unacceptable, covering such areas as gifts, outside employment, and disclosures of confidential information relating to development projects. An ethics counselor is designated under the part and the role of the counselor as an advisor to the Corporation on ethics is defined. Reporting requirements applicable to certain Corporation staff is set forth.

Although these standards of conduct are published as interim rules, comments are requested. Following review of any submitted comments and final approval of these standards by the U.S. Civil Service Commission, the standards, as revised, will be published as final rulemaking.

36 CFR, Chapter IX, is amended by adding a new Part 905—Standards of Conduct to read as follows:

Subpart A—General Provisions

Sec.
905.735-101 Principles and purpose.
905.735-102 Adoption of regulations.
905.735-103 Definitions.
905.735-104 Applicability.
905.735-105 Designation of counselor.
905.735-106 Notification to employees and special Government employees.
905.735-107 Review of statements of employment and financial interests.
905.735-108 Remedial and disciplinary action.

Subpart B—Conduct and Responsibilities of Employees

905.735-201 General standards of conduct.
905.735-202 Gifts, entertainment, and favors.
905.735-203 Outside employment and other activity.
905.735-204 Disclosure of information.
905.735-205 Purchase of Government-owned property.

Subpart C—Conduct and Responsibilities of Special Government Employees

905.735-301 General standards of conduct.

Subpart D—Special Standards Applicable to Certain Board Members

905.735-401 Standards.
905.735-402 Advice and determination.

Subpart E—Statements of Employment and Financial Interests

905.735-501 Form and content of statements.
905.735-502 Statements of employment and financial interests by employees.
905.735-503 Statements of employment and financial interests by special Government employees.
905.735-504 Procedures for obtaining statements.
905.735-505 Confidentiality of statements.

AUTHORITY: E.O. 11222, 3 CFR, 1964-1965 Comp., p. 306; 5 CFR 735; section 6(5), Pub. L. 92-578, 86 Stat. 1270 (40 U.S.C. 875).

Subpart A—General Provisions

§ 905.735-101 Principles and purpose.

In order to assure that the business of the Pennsylvania Avenue Development Corporation is conducted effectively, objectively, and without improper influence or appearance thereof, all employees and special Government employees must observe unquestionable standards of integrity and conduct. Employees and special Government employees shall not engage in criminal, infamous, dishonest, immoral, or disgraceful conduct or other conduct prejudicial to the Government. All employees and special Government employees must avoid conflicts of private interest with their public duties and responsibilities. They must consider the propriety of any action in relation to general ethical standards of the highest order, so that public confidence in the integrity of the Government will not be impaired. Certain standards are set by law. Others are set by regulation and by policy. This part incorporates by reference applicable general standards of conduct and prescribes additional necessary elements. Taken together, this part constitutes the Corporation's regulations on this subject. Failure to observe any of the regulations in this part is cause for remedial action.

§ 905.735-102 Adoption of regulations.

Under the authority of 5 CFR 735.104(f), the Corporation hereby adopts the following sections of the Civil Service Commission regulations on "Employee Responsibilities and Conduct" found in Part 735 of Title 5, Code of Federal Regulations: § 735.202(a), (d), (e), (f) through 735.210; 735.302; 735.303(a); 735.304; 735.305(a); 735.306; 735.404 through 735.411; and, 735.412(b) and (d). These sections are incorporated by reference in this part and are modified and supplemented as set forth herein.

§ 905.735-103 Definitions.

As used in this part:

(a) "Board Member" means any member of the Board of Directors of the Pennsylvania Avenue Development Corporation, appointed or serving under section 3, Pub. L. 92-578, 86 Stat. 1267 (40 U.S.C. 872).

(b) "Chairman" means the Chairman of the Board of Directors and President of the Corporation.

(c) "Conflict" means the subordination of public responsibilities to private interests, and includes the appearance of such subordination.

(d) "Consultant" means an individual who serves as an advisor to an officer or division of the Corporation, as distinguished from an officer or employee who carries out the agency's duties and responsibilities. He gives

his views or opinions on problems or questions presented him by the Corporation, but he neither performs nor supervises performance of operating

legislative branches of the United States or the District of Columbia.

§ 905.735-104 Applicability.

§ 905.735-108 Remedial and disciplinary action.

(a) In addition to any penalties pre-

§ 905.735-202 Gifts, entertainment, and favors.

Pursuant to paragraph (b) of 5 CFR

§ 905.735-204 Disclosure of information.

(a) Every employee who is involved in the development, maintenance or

or more fields of history, architecture, city planning, retailing, real estate, construction or government." As a

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his views or opinions on problems or questions presented him by the Corporation, but he neither performs nor supervises performance of operating functions. Ordinarily, he is expert in the field in which he advises, but he need not be a specialist. His expertness may lie in his possession of a high order of board administrative, professional, or technical experience indicating that his ability and knowledge make his advice distinctively valuable to the agency. (Chapter 304, Federal Personnel Manual).

(e) "Corporation" means the Pennsylvania Avenue Development Corporation, created by the Pennsylvania Avenue Development Corporation Act of 1972, Pub. L. 92-578, 86 Stat. 1266 (40 U.S.C. 871).

(f) "Employee" means an officer or employee of the Corporation, but does not include a special Government employee as defined herein. The term includes those Board Members who are officers or employees of the executive or legislative branches of the United States or of the District of Columbia, but does not include elected officials.

(g) "Executive Order" means Executive Order 11222 of May 8, 1965.

(h) "Expert" means a person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field. His knowledge and mastery of the principles, practices, problems, methods, and techniques of his field of activity, or of a specialized area in the field, are clearly superior to those usually possessed by ordinarily competent individuals in that activity. His attainment is such that he usually is regarded as an authority or as a practitioner of unusual competence and skill by other persons in the profession, occupation, or activity. (Chapter 304, Federal Personnel Manual.)

(i) "Head of the agency" means the Chairman.

(j) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other institution or organization.

(k) "Special Government Employee" means an officer or employee of the Corporation who is retained, designated, appointed or employed to perform, with or without compensation, for not more than 130 days during any period of 365 consecutive days, temporary duties either on a full time or intermittent basis (18 U.S.C. 202(a)). The term includes those Board Members who are appointed from private life and required to file a statement of financial interests with the Chairman of the Civil Service Commission pursuant to Part IV of the Executive Order, or who are determined to be special government employees of the executive or legislative branches of the United States or the District of Columbia.

§ 905.735–104 Applicability.

This part applies to each employee and to each special Government employee of the Corporation as defined herein and supplements the Executive Order and Part 735 of Title 5, Code of Federal Regulations, promulgated by the Civil Service Commission on employee responsibilities and conduct.

§ 905.735–105 Designation of counselor.

In accordance with 5 CFR 735.105(a), the General Counsel of the Corporation is designated to be Ethics Counselor and shall serve as the Corporation's liaison with the Civil Service Commission for matters covered in this part.

§ 905.735–106 Notification to employees and special Government employees.

(a) At the time these regulations are published, or amended, and not less often than once annually thereafter, the Corporation shall furnish each employee and special Government employees with a copy of the regulations. The Administrative Officer shall insure that each newly hired employee and special Government employee is given a copy of these regulations prior to or at the time of entry on duty.

(b) All employees and special Government employees will be advised by the Corporation of the availability of counseling regarding the provisions of this part.

§ 905.735–107 Review of statements of employment and financial interests.

The Ethics Counselor of the Corporation shall review each statement of employment and financial interests submitted under §§ 905.735–402 or 905.735–403, except his own and those statements of special Government employees who file with the Chairman of the Civil Service Commission. When review discloses a conflict between the interests of an employee or special Government employee of the Corporation and the performance of his services for the Corporation, the Ethics Counselor shall bring the conflict to the attention of the employee or special Government employee, grant the individual an opportunity to explain the conflict, and attempt to resolve it. If the conflict cannot be resolved, the Ethics Counselor shall forward a written report on the conflict to the Chairman, recommending appropriate action. The Chairman shall review the report, solicit an explanation from the individual, and seek resolution of the conflict.

§ 905.735–108 Remedial and disciplinary action.

(a) In addition to any penalties prescribed by law, the Chairman, after review and consideration of any explanation given by an employee or special Government employee concerning a conflict of interest, may institute appropriate remedial action to resolve or otherwise eliminate the conflict. Appropriate remedial action may include, but is not limited to:

(1) Divestment by the employee or the special Government employee of the conflicting interest;

(2) Disqualification of the individual from a particular assignment;

(3) Changes in the assigned duties of the individual; or,

(4) Disciplinary action.

(b) Where the situation warrants some form of disciplinary action, the Chairman may choose from a wide range including a warning or reprimand, suspension, reduction in grade or pay, or termination of employment. The disciplinary action selected should reflect the character and degree of the offense which demands such action and should be reasonable in light of that offense.

(c) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with applicable laws, Executive Orders, and regulations.

Subpart B—Conduct and Responsibilities of Employees

§ 905.735–201 General standards of conduct.

(a) All employees shall conduct themselves on the job so as to efficiently discharge the work of the Corporation. Courtesy, consideration, and promptness are to be observed in dealing with the public, Congress, and other governmental agencies.

(b) All employees shall conduct themselves off the job so as not to reflect adversely upon the Corporation or the Federal service.

(c) Employee conduct shall exemplify the highest standards of integrity. Employees shall avoid any action, whether or not specifically prohibited by this part, which might result in, or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 905.735–202 Gifts, entertainment, and favors.

Pursuant to paragraph (b) of 5 CFR 735.202, the following exceptions to the restriction of paragraph (a) of that section are authorized. Employees may:

(a) Accept gifts and other things of value under circumstances which arise from an obvious family or personal relationship(s) (such as between the parents, children, or spouse of the employee and the employee), when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(b) Accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon, dinner, or other meeting, or on an inspection tour where an employee may properly be in attendance;

(c) Accept loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home purchase;

(d) Accept unsolicited advertising or promotional materials, such as pens, pencils, note pads, calendars and other items of nominal intrinsic value;

(e) Participating without payment in privately funded activities in the Washington metropolitan area if: (1) An invitation is addressed to the Chairman or Executive Director of the Corporation and approved by either of them; (2) no provision for individual payment is readily available; and (3) the activities are limited to ceremonies of interest to both the local community and the Corporation (such as ground breakings or openings), or are sponsored or encouraged by the Federal or District Government as a matter of policy; and,

(f) Participate in widely attended lunches, dinners, and similar gatherings sponsored by industrial, commercial, technical and professional associations, or groups, for discussion of matters of interest both to the Corporation and the public. Participation by an employee at the host's expense is appropriate if the host is an association or group and not an individual.

§ 905.735–203 Outside employment and other activity.

As provided in 5 CFR 735.203, an employee of the Corporation may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of his Government employment. An employee who proposes to engage in outside employment shall report that fact in writing to his supervisor prior to undertaking such employment.

§ 905.735–204 Disclosure of information.

(a) Every employee who is involved in the development, maintenance or use of Corporation records containing information about individuals shall familiarize himself with the requirements and penalties of the Privacy Act of 1974 (5 U.S.C. 552a) and Corporation regulations (36 CFR Part 903) promulgated thereunder concerning the utilization of and access to such records.

(b) Every employee is directed to cooperate to the fullest extent possible in discharging the requirement of the Freedom of Information Act (5 U.S.C. 522) and Corporation regulations promulgated thereunder (36 CFR Part 902). Every effort should be made to furnish service with reasonable promptness to persons who seek access to Corporation records and information.

§ 905.735–205 Purchase of Government-owned property.

Employees of the Corporation and members of their immediate families may purchase Government-owned personal property when it is offered for sale by the General Services Administration or any Federal agency other than the Corporation (41 CFR 101–45.302).

Subpart C—Conduct and Responsibilities of Special Government Employees

§ 905.735.301 General standards of conduct.

(a) Special Government employees of the Corporation shall adhere to applicable regulations adopted under § 904.735–102, except 5 CFR 735.203(b). In addition, the standards of conduct set forth in §§ 905.735–201, 204, and 205 shall apply to special Government employees.

(b) Special Government employees of the Corporation may teach, lecture, or write consistent with the provisions of 5 CFR 735.203(c).

(c) Pursuant to 5 CFR 735.305(b), the provisions concerning gifts, entertainment, and favors set forth in § 905.735–202 are hereby made applicable to special Government employees.

Subpart D—Special Standards Applicable to Certain Board Members

§ 905.735–401 Standards.

Section 3(c)(8) of the Pennsylvania Avenue Development Corporation Act of 1972, Pub. L. 92-578, 86 Stat. 1267 (40 U.S.C. 872(c)(8)) specifies that the eight members appointed to the Board by the President from private life, at least four of whom shall be residents of the District of Columbia, "shall have knowledge and experience in one or more fields of history, architecture, city planning, retailing, real estate, construction or government." As a result of these prerequisites for appointment of a private member to the Board of Directors, conflicts could arise for these Board Members as the Corporation proceeds with various development activities. Accordingly, Board Members should perform their responsibilities for the operation and management of the Corporation consistent with these regulations, and other applicable Federal laws and regulations, and consistent with the highest level of fiduciary responsibility.

§ 905.735–402 Advice and determination.

The Corporation's Ethics Counselor is readily available for consultation when a Board Member seeks advice as to the appropriateness of his actions in light of this part, the Executive Order, or Title 18, United States Code, Chapter 11. A board Member has an affirmative duty to advise the Ethics Counselor of any potential conflict of interest which may arise with the individual's participation in any particular matter before the Corporation. If advised to do so, the Board Member should submit to the Chairman for determination the question of whether or not the conflict will disqualify the Board Member from participating in the action to be taken by the Corporation. Under the authority delegated to the Chairman pursuant to 18 U.S.C. 208(b), the Chairman may find that the Board Member need not be disqualified from participating in the particular matter, if: (a) The Board Member makes a full disclosure of the financial interest; and (b) the Chairman furnishes him with a written determination in advance of the action that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the Board Member. Requests for similar determinations for conflicts posed by the financial interests of the Chairman himself shall be submitted to the Chairman of the Civil Service Commission.

Subpart E—Statements of Employment and Financial Interests

§ 905.735–501 Form and content of statements.

Statements of employment and financial interests required to be submitted under this subpart by employees and special Government employees shall contain the information required in the formats prescribed by the Civil Service Commission in the Federal Personnel Manual.

§ 905.735–502 Statements of employment and financial interests by employees.

(a) Employees of the Corporation in the following named positions shall prepare and submit statements of employment and financial interests:

(1) Executive Director;

(2) Assistant Director/legal—General Counsel;

(3) Assistant Director/finance;

(4) Development Director;

(5) Secretary of the Corporation/administrative officer;

(6) Construction manager;

(7) Senior architect/planner;

(8) Chief, real estate operations;

(9) Any contracting officer of the Corporation; and,

(10) Any employee classified as a GS–13 or above whose duties and responsibilities are such that the ethics counselor determines a statement should be filed.

(b) Each statement of employment and financial interests required by this section, except that of the General Counsel, shall be submitted to the Ethics Counselor, Office of the General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Washington, D.C. 20004. The General Counsel, as Ethics Counselor, shall submit his statement directly to the Chairman for review.

(c) An employee who believes that his position has been improperly included in this section as one requiring the submission of a statement of employment and financial interests may obtain a review of this determination upon a written request to the Chairman.

§ 905.735–503 Statements of employment and financial interests by special Government employees.

All special Government employees shall submit a statement of employment and financial interest prior to beginning employment or service with the Corporation. Each statement shall be submitted to the Ethics Counselor, Office of the General Counsel, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Washington, D.C. 20004, except that the statements of Board Members appointed from private life shall be filed with the U.S. Civil Service Commission.

§ 905.735–504 Procedures for obtaining statements.

(a) Upon the adopting of the regulations of this part, the ethics counselor shall deliver to the incumbent of each position named in § 905.735–402 and to each special Government employee, two copies of the appropriate form for filing a statement of employment and financial interests. An enclosure with the forms shall advise that:

(1) The original of the completed form must be returned in a sealed envelope, marked "Personal—In Confidence," to the ethics counselor within the time specified by the ethics counselor;

(2) The services of the ethics counselor are available to advise and assist in preparation of the statement;

(3) Any additions or deletions to the information furnished must be reported in a supplementary statement at the end of the calendar quarter in which the change occurs; or in the case of a special Government employee, at the time the change occurs; and

(4) No later than June 30 of each year, all special Government employees and employees required to file under § 905.735–402(a) shall file an annual supplementary statement to update the information previously filed.

(b) The administrative officer shall be responsible for assuring that a completed statement of employment and financial interests is obtained from each special Government employee prior to the beginning of employment or service with the Corporation. The administrative officer shall promptly forward the statements to the ethics counselor for review.

§ 905.735–505 Confidentiality of statements.

The ethics counselor shall hold in confidence each statement of employment and financial interests, and each supplementary statement within his control. Access to or disclosure of information contained in these statements shall not be allowed, except as the Commission or the Ethics Counselor determine for good cause shown, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), and the regulations and pertinent notices of systems of records prepared by the Civil Service Commission and the Corporation in accordance with that Act.

Issued in Washington, D.C., October 11, 1978.

E. R. QUESADA,
Chairman of the Board of Directors.

[FR Doc. 78-29473 Filed 10-18-78; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Third-Class Bulk Rate Pieces Bearing Attachments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends postal regulations to allow mailers under certain conditions to attach sales flyers or other such materials to the front cover page or back cover page of mailing pieces such as books and catalogs that are mailed at the bulk third-class postage rates. Prior to this rule change, mailers were not permitted to attach materials to books and catalogs mailed at bulk rates, since such materials tend, among other things, to jam mail processing machinery and create hazardous conditions on the workroom floor of post offices. To avoid these problems, the regulation specifies that attachments be secured so as not to interfere with processing or delivery, and folded or multipage attachments be secured to prevent opening during handling. In addition, the mailing piece and the attachment must be mailed at bulk rates and the higher rate must be paid if the mailing piece and the attachment are subject to different bulk rates. Pieces bearing attachments must be larger than 6 x 11 inches, i.e., too large to be distributed in a regular letter case, and the mailing must be presorted to carrier routes. Also, each piece in the mailing must bear the same attachment.

EFFECTIVE DATE: November 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Ernest Collins at 202–245–4749.

SUPPLEMENTARY INFORMATION: On July 17, 1978, the Postal Service published for comment in the FEDERAL REGISTER proposed changes to part 134 of the Postal Service Manual as described above (43 FR 30579). Interested persons were invited to submit written comments concerning the proposed changes by August 16, 1978.

Written comments were received from six individuals and organizations. Several commenters opposed the proposal because of the required presorting to carrier route. One commenter generally favored the proposal, except that he questioned the need for requiring presorting of the pieces by carrier routes. He said that there does not appear to be any relationship between presorting and attachment of flyers or other materials. We believe there is a clear relationship between presorted pieces bearing attachments and nonpresorted ones. The less handling that is required by the Postal Service as a result of presorting, the less chance there is of attachments being torn loose from the mail piece and being lost or destroyed and of other mail being damaged.

The commenter also said that if presorting to carrier route were required his firm would probably not be able to attach materials to its third-class bulk rate mailings because of the excess burden presorting would place on its operations. Therefore, he suggested that presorting to carrier route should be coupled with a rate discount proposal. The Postal Service recognizes that the carrier route presort proposal may require more work of mailers, but they should also receive the benefit of undamaged mail pieces through less handling. As to the commenter's rate proposal, the Postal Service has filed a request with the Postal Rate Commission for a recommended decision on establishing a third-class carrier route presort subclass. See 43 FR 41440. If that subclass is established as requested, qualifying mail will be charged a rate that is 1.5 cents per piece less than nonqualifying bulk third-class regular rate matter.

One commenter opposed the proposed rule believing (1) it would cause more articles to be sorted manually because flyers would add more weight, (2) it would increase the volume of mail being sent to dead parcel offices, (3) it would cause handling problems and hazardous conditions, and (4) it would increase postage for the average letter-mailing citizen because extra processing will be required for such pieces.

The commenter's first point about attachments causing manual sortation because of the overall increased weight of the mail piece is not well taken. In the first place, pieces bearing attachments must be presorted to carrier routes. Accordingly, sortation by postal employees should be reduced. As to the increased weight question, the weight of each piece includes any attachment. Accordingly, so long as the mail piece (with the attachment) is within the prescribed weight range it qualifies for the bulk rate.

As to the point that attaching a flyer to a bulk third-class book or catalog will increase the volume of mail being sent to dead parcel offices, the commenter is mistaken. Attachments are not separately addressed. If they become detached from the mail piece, they will be disposed of as waste. They will not be sent to dead parcel branches. See 159.412b of the Postal Service Manual.

The commenter is also mistaken in believing this rule will cause handling problems and increased costs to the Postal Service. The rule specifically requires securing of attachments to avoid handling problems and presorting to carrier route to reduce handlings which will also reduce costs.

One commenter opposed the proposal on the ground that it would permit mailers to circumvent paying the per piece postage for the attachments, which he said could not be justified, considering the present financial status of the Postal Service.

Attachments will not get a free ride. They will be weighed along with the mailing piece and be charged postage as appropriate. If the attachment is subject to a different rate from the mailing piece, both the attachment and the mailing piece must pay the higher bulk rate. As previously noted, the Postal Service is on record with the Postal Rate Commission that presorting to carrier route, which is a requirement in this rule change, will save handling costs for the Postal Service.

One commenter wrote that the proposal to charge the higher rate for the attachment and principal mailing piece "if the mailing piece and the attachment are subject to different rates" may be inconsistent with current requirements for other types of combined mailings in part 139 of the Postal Service Manual. There is no inconsistency. Part 139 of the Postal Service Manual deals with mixed classes. This rule deals only with third-class matter mailed at bulk rates.

The same commenter suggested that, in view of the fact that the attachment may generate no extra handling costs to the Postal Service, it may be inappropriate to charge the higher rate for the entire piece, i.e., the circular pound rate of 41 cents for the piece with the attachment versus the lower 36 cents pound rate for books and catalogs. The commenter recommended that the combined postage be computed at each applicable rate. If the Postal Service accepted the commenter's recommendation, we would have to charge (using the commenter's example) the minimum per piece rate of 8.4 cents for the attachment and 36 cents for the book or catalog, for a total of 44.4 cents for the entire piece. Under the rule adopted here, the rate for the book or catalog, including the attachment, will be 41 cents, since that rate covers the entire piece weighing up to but not including 16 ounces. Furthermore, the policy of charging the higher of two rates included in a mailing is well established where appropriate postage is not paid on each enclosure. Compare 139.331 of the Postal Service Manual.

One commenter suggested clarifying the proposed rule by referring specifically to "envelopes" as one of the authorized attachments for bulk rate books and catalogs. The Postal Service sees no reason specifically to list all the possible third-class attachments that mailers may decide to use. So long as the conditions in .47a–e of the rule are met, any attachment will qualify.

We also made some minor, technical, or clarifying changes to the regulation.

In view of the considerations discussed above, the Postal Service hereby adopts, as amended, the following revision of the Postal Service Manual:

PART 134—THIRD-CLASS

1. In 134.4 add new .47 to read as follows:

134.4 *Preparation—Payment of postage.*

* * * * *

.47 Pieces bearing third-class attachments. The front cover page or the back cover page of a mailing piece may bear an attachment provided the following conditions are complied with:

a. The material must qualify for and be mailed at bulk rates. If the mailing piece and the attachment are subject to different rates, the higher bulk rate shall be paid for both.

b. Pieces bearing attachments must be larger than 6 x 11 inches (too large to be distributed in a regular letter case).

c. The mailing must be presorted to carrier routes.

d. Attachments must be secured so as not to interfere with processing or delivery. Folded or multipage attachments must be secured to prevent opening during handling.

e. Each piece in the mailing must bear the same attachment.

2. In 134.7, revise the first sentence of .71 to read as follows:

134.7 *Enclosures.*

.71 Books and catalogs mailed at bulk rates provided by 134.121. Except as provided in section 134.47, external attachments are not permitted. * * *

A post office services (domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically.

These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-29457 Filed 10-18-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 984]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Wyoming Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves revisions to the Wyoming State Implementation Plan submitted on May 9, 1978 by the Administrator, Air Quality

effect under State law and Federal approval imposes no new burdens.

(Sec. 110 of the Clean Air Act, as amended

SUPPLEMENTARY INFORMATION:

BACKGROUND

3. Section III: Legal authority (narrative),

4. Section IV: Ambient air quality standards and air pollution control

approval of the portions of appendix E (regulations) relating to complex sources has been correctly cited in the

[4310-10-M]

Title 41—Public Contracts and Property Management

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SUMMARY: This action approves revisions to the Wyoming State Implementation Plan submitted on May 9, 1978 by the Administrator, Air Quality Division of the Wyoming Department of Environmental Quality. The revisions include a provision for continuous emission monitoring of solid fossil fuel fired steam generators as required by EPA regulations and some minor amendments and corrections to other portions of the State regulations. The continuous emission monitoring provision will assist the State in enforcing emission limitations while the minor amendments and corrections will further clarify existing regulations.

EFFECTIVE DATES: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Leo Stander, Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colo. 80295 at 303-837-3711.

SUPPLEMENTARY INFORMATION: On October 6, 1975 (40 FR 46247) EPA required that States include legally enforceable procedures for certain existing sources to continuously monitor emissions for compliance with emission standards. This revision requires continuous opacity monitoring by all solid fossil fuel fired steam generators with heat inputs in excess of 250 million Btu per hour.

Other revisions in the Wyoming regulations include minor changes in definitions, the referral to the FEDERAL REGISTER for methods of ambient air monitoring measurements and analyses, changes in open burning requirements, the adoption of exemptions to permit requirements for small fuel burning equipment and gasoline storage tanks at retail establishments, procedural changes to the permit system and source testing requirements and a correction of an equation in the new source performance standards section. EPA proposed to approve the Wyoming SIP revision on July 19, 1978 (43 FR 31044) and requested public comment. No comments were received.

Requirements for public hearings and plan revisions (40 CFR 51.4 and 51.6) have been met by the State's revision.

The Administrator finds that the Wyoming SIP revisions meet the substantive and procedural requirements of section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the Wyoming SIP revisions as set forth in this rulemaking.

This rulemaking will be effective October 19, 1978. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the regulations are already in effect under State law and Federal approval imposes no new burdens.

(Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410); Sec. 301 as amended (42 U.S.C. 7601).)

Dated: October 10, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Subpart ZZ—Wyoming

1. In § 52.2620, paragraph (c)(10) is added as follows:

§ 52.2620 Identification of plan.

* * * * * *

(c) * * *

(10) Requirements for continuous capacity monitoring by all fossil fuel fired steam generators with heat inputs in excess of 250 million Btu per hour and other miscellaneous revisions to the State regulations as submitted by the Air Quality Division (AQD) on May 9, 1978.

[FR Doc. 78-29433 Filed 10-18-78; 8:45 am]

[6560-01-M]

[FRL 985-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Guam Statutes and Nonregulatory Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: It is the purpose of this notice to promulgate final approval of certain portions of the statutory and nonregulatory revisions to the Guam air quality implementation plan submitted to EPA by the Governor on August 14, 1973. This notice also announces that no action is taken on other portions of the revisions to the Guam plan. The intended effect of this action is to update and to correct certain deficiencies in the Guam implementation plan.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Director, Air and Hazardous Materials Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Morris I. Goldberg, telephone 415-556-2463.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 25, 1972, the Governor officially submitted to EPA the document entitled "Implementation Plan For Compliance with Ambient Air Quality Standards for the Territory of Guam."

On May 31, 1972 (37 FR 10904) the Administrator, EPA, approved the Guam implementation plan in its entirety.

On August 14, 1973, the Governor officially submitted to EPA a plan revision which contained revisions to all portions of the January 25, 1972, plan.

On January 9, 1974 (39 FR 1454) the Administrator, EPA, solicited public comments on the entire August 14, 1973, plan revision in a FEDERAL REGISTER notice of proposed rulemaking.

On February 25, 1974 (39 FR 7285) the Administrator, EPA, approved or disapproved implementation plans for all States as they related to the review of indirect sources. In so doing the August 14, 1973, Guam plan revision was inadvertently approved in all respects. The intent was to approve only those portions of the Guam plan revision which pertained to complex sources.

On March 2, 1976 (41 FR 8968) the Administrator, EPA, revised the portion of the Code of Federal Regulations (CFR) which lists all approved and disapproved portions of the Guam implementation plan (40 CFR 52.2670). The intent was only to restructure that section of the CFR. Thus, the inadvertent approval of the entire Guam plan revision was repeated in the FEDERAL REGISTER.

DISCUSSION OF ACTION

Under section 110 of the Clean Air Act, as amended, the Administrator, EPA, is required to approve or disapprove all revisions to implementation plans. This final rulemaking addresses only the statutory and certain nonregulatory plan revision items. The entire plan revision has been evaluated by EPA to determine conformance with the requirements of 40 CFR Part 51 and the Act. The Guam regulatory and control strategy portions of the revision submitted on August 14, 1973, will be the subject of a separate FEDERAL REGISTER notice. Public comments were solicited on the entire plan revision on January 9, 1974, and none were received.

APPROVAL

Approval is being promulgated by EPA for the portions of the subject plan revision as follows:

1. Section I: Public hearing,
2. Section II: Introduction,

3. Section III: Legal authority (narrative),
4. Section IV: Ambient air quality standards and air pollution control regulations (narrative),
5. Section V: Emission inventory,
6. Section VI: Air quality data,
7. Section X: Air quality surveillance network (narrative),
8. Section XI: Source surveillance system (narrative),
9. Section XIII: Compliance schedule,
10. Section XV: Resources,
11. Section XVI: Intergovernmental cooperation (narrative),
12. Appendix A: Notice and minutes of public hearing,
13. Appendix C: Pub. L. 11-191 (enacted on Dec. 7, 1972),
14. Appendix F: Summary of air quality data,
15. Appendix G: Steam powerplant parameters,
16. Appendix H: Diffusion model computer printout,
17. Appendix J: Minutes and letters of public hearing on compliance schedules, and
18. Appendix K: Emissions inventory data.

DEFERRAL

No action is being taken at this time by EPA on the portions of the subject plan revision as follows:

1. Section VII: Classification of region,
2. Section XII: Emergency episode system,
3. Section XIV: Review of new sources and modifications, and
4. Appendix I: Plan for prevention of emergency episodes.

NO ACTION

No action is being taken by EPA on portions of the subject plan revision as follows:

1. Appendix B: Guam Air Pollution Control Act (as amended on May 8, 1972), because this Act was superseded by appendix C,
2. Appendix D: Legislative bill 937, because there is no indication that the bill was enacted into law, and
3. Section IX: Complex sources, because final action was taken on this section on February 25, 1974.

CLARIFICATION OF PREVIOUS EPA APPROVALS

As noted in the subsection of this notice entitled Background, the portions of the subject plan revision relating to complex sources were approved on February 25, 1974, but were incorrectly cited in the applicable CFR section. The Identification of plan section of the CFR applicable to Guam (40 CFR 52.2670) is being amended to reflect the previous approval of section IX of the plan revision. The previous approval of the portions of appendix E (regulations) relating to complex sources has been correctly cited in the CFR through a separate FEDERAL REGISTER notice.

(Secs. 110, 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601(a).)

Dated: October 10, 1978.

DOUGLAS COSTLE,
Administrator.

Subpart AAA of part 52 of chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart AAA—Guam

1. In § 52.2670, paragraph (c) is amended by an addition to the end of subparagraph (1), as follows:

§ 52.2670 Identification of plan.

* * * * * *

(c) * * *

(1) * * *

Section I—Public hearing.

Section II—Introduction.

Section III—Legal authority (narrative).

Section IV—Ambient air quality standards and air pollution control regulations (narrative).

Section V—Emissions inventory.

Section VI—Air quality data.

Section IX—Complex sources (narrative).

Section X—Air quality surveillance network (narrative).

Section XI—Source surveillance system (narrative).

Section XIII—Compliance schedule.

Section XV—Resources.

Section XVI—Intergovernmental cooperation (narrative).

Appendix A—Notice and minutes of public hearing.

Appendix C—Pub. L. 11-191 (enacted on Dec. 7, 1972).

Appendix F—Summary of air quality data.

Appendix G—Steam powerplant parameters.

Appendix H—Diffusion model computer printout.

Appendix J—Minutes and letters of public hearing on compliance schedules.

Appendix K—Emissions inventory data.

[FR Doc. 78-29434 Filed 10-18-78; 8:45 am]

[4310-10-M]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Architect-Engineer Services

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule makes changes to the Interior Procurement Regulations concerning redelegations of authority to establish evaluation boards and related functions pertaining to architect-engineer services.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, 202-343-5914.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Redelegations of contracting authority previously have been made by the Secretary to the heads of procuring activities. That system was revised by the Secretary under order No. 3005 dated July 8, 1977. Redelegations of authority were made to the Assistant Secretaries, who redelegated certain authorities to the heads of procuring activities. The amendment to subpart 14-4.10 recognizes the redelegations of contracting authority under Secretary's order No. 3005.

PRIMARY AUTHOR

The primary author of this rule is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-5914.

WAIVER

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments contained herein are entirely administrative in nature and public participation would be meaningless. Therefore, the public rulemaking process is waived in this instance in accordance with 5 U.S.C. 553.

IMPACT

NOTE.—The Department of the Interior has determined that this document does not contain a major rule requiring preparation of an Inflation Impact Statement under Executive Order 11821 or OMB Circular A-107.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR

[4310-10-M]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

any bureau/office subunits or activities are not authorized.

(3) Decals will be elastomeric pig-

2. The land is within the boundaries of the Tule Lake National Wildlife Refuge established by PLO No. 4791

phrases and paragraphs within sections, and general punctuation errors. This amendment will reflect the ap-

In § 173.33 paragraph (d)(5) has been deleted since it is no longer applicable and section references have been cor-

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Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR Chapter 14 is amended as stated below.

Dated: October 10, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Subpart 14–4.10—Architect-Engineer Services

1. Sections 14–4.1004–1, 14–4.1004–4 and § 14–4.1005.1 are revised to read as follows:

§ 14–4.1004–1 Establishment of architect-engineer evaluation boards.

(a) The provisions of § 1–4.1004–1(a) of this title are supplemented to provide that heads of procuring activities who have been redelegated contracting authority by the Secretary or an Assistant Secretary will be responsible for establishing evaluation boards. This responsibility may be reassigned in writing to any subordinate possessing contracting authority and staff capability to appropriately handle such responsibility.

(b) The use of private practitioners on evaluation boards shall require the advance written approval of the Assistant Secretary—Policy, Budget and Administration.

§ 14–4.1004–4 Action by agency head or his authorized representative.

The head of each procuring activity, as the responsible official to whom authority is redelegated, is authorized to perform the functions prescribed by § 1–4.1004–4 of this title.

* * * * *

§ 14–4.1005–1 Negotiation procedures.

The designated contracting officers of the Department functioning under redelegations of contracting authority from the Secretary, an Assistant Secretary, and the heads of procuring activities are authorized to perform the functions described in § 1–4.1005–1 of this title and to negotiate contracts for architect-engineer services.

[FR Doc. 78-29459 Filed 10-18-78; 8:45 am]

[4310–10–M]

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114–38—MOTOR EQUIPMENT MANAGEMENT

Official Legend and Agency Identification

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulation.

SUMMARY: This regulation requires specific identification of all Government-owned, or leased motor vehicles and allows for use of official bureau/office decals on GSA or Interior owned motor vehicles.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone 202-343-3185.

SUPPLEMENTARY INFORMATION: Because this amendment relates only to internal Departmental procedures, the proposed rulemaking procedures are inapplicable. The primary author of this document is Gerald A. Dempsey, Personal Property Management Officer, Office of Administrative and Management Policy, telephone number 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Department of the Interior.

OCTOBER 10, 1978.

Pursuant to the Authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), subpart 114-38.4 is changed to read as follows:

Subpart 114–38.4—Official Legend and Agency Identification

§ 114–38.402 Agency Identification.

(a) Department of the Interior and bureau or office identification shall be displayed on motor vehicles, trailers and motorcycles in conformance with 41 CFR 101–38.4 and 101–38.4903. Official bureau/office decals may be displayed on GSA or Interior owned motor vehicles, subject to the following limitations.

(1) Only the official "Seal" of the bureau/office will be installed.

(2) Decals containing slogans, advertising messages or identification of any bureau/office subunits or activities are not authorized.

(3) Decals will be elastomeric pigmented film-type and will be installed only under the official identification legend.

(4) The cost of installation and removal or vehicle restoration as may be required, will be at the expense of the appropriate bureau/office.

(5) The use of decals will not exclude a motor vehicle from any vehicle rotation program.

(b) Requests for deviation from this regulation shall be submitted to the Director, Office of Administrative and Management Policy (PM).

[FR Doc. 78-29458 Filed 10-18-78; 8:45 am]

[4310–84–M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5649]

[CA-3156]

CALIFORNIA

Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management (Interior).

ACTION: Final.

SUMMARY: This order will revoke a Bureau of Reclamation withdrawal order which withdrew a .33 acre tract of public land for the Klamath Reclamation Project in California. The tract of public land remains withdrawn by Public Land Order No. 4791 of April 2, 1970, for the Tule Lake National Wildlife Refuge.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751 (43 U.S.C. 1714), it is ordered as follows:

1. The order of the Bureau of Reclamation dated May 28, 1926, concurred in by the Bureau of Land Management on May 28, 1926, withdrawing lands for the Klamath Project, is hereby revoked so far as it affects the following described land:

MOUNT DIABLO MERIDIAN

T. 47 N., R. 3 E.,
Sec. 12, lot 5.

Containing .33 of an acre in Siskiyou County.

2. The land is within the boundaries of the Tule Lake National Wildlife Refuge established by PLO No. 4791 dated April 2, 1970, and shall continue to be segregated from disposition under the public land laws, including the mining laws.

GUY R. MARTIN,
Assistant Secretary of the Interior.

OCTOBER 12, 1978.

[FR Doc. 78-29460 Filed 10-18-78; 8:45 am]

[4910–60–M]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-56; Amdt. Nos. 106-2, 107-5, 171-42, 172-46, 173-121, 174-32, 175-6, 177-43, 178-51]

HAZARDOUS MATERIALS REGULATIONS

Miscellaneous Amendments

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is to change or delete certain incorrect references, to correct certain spelling and editorial errors, and to make minor regulatory changes which will not impose any restrictions on persons affected by these regulations.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 2100 Second Street SW., Washington, D.C. 20590, 202-426-2075.

SUPPLEMENTARY INFORMATION: Since the consolidation of the Hazardous Materials Regulations into title 49 of the Code of Federal Regulations (CFR) which was accomplished under three separate publications of docket HM-103/112 (41 FR 15972, April 15, 1976; 41 FR 40614, September 20, 1976; 41 FR 57018, December 30, 1976), numerous discrepancies have surfaced that continue to appear in the printing of title 49. These discrepancies include mispelled words, incorrect references, inadvertent omissions of phrases and paragraphs within sections, and general punctuation errors. This amendment will reflect the appropriate changes, provide clarification to certain misinterpreted portions of the regulations, and incorporate insignificant regulatory revisions which will not impose any undue burdens upon any person. In addition, important corrections have been incorporated in parts 106 and 107 regarding the recent rulemaking published under docket HM-165 (43 FR 43305, September 25, 1978) relating to the recent reorganization within the Department of Transportation which created the Research and Special Programs Administration.

Except as noted and explained, these amendments do not impose additional requirements. Public notice has not been provided and this amendment is effective without delay. The MTB has determined that the environmental and economic impact associated with these amendments is minimal. Primary drafters of this document are A. Louise Mills, Dockets Section, Office of Program Support and Douglas A. Crockett, Standards Division, Office of Hazardous Materials Regulation.

The following is a brief commentary on the changes for each part in this document.

PART 106

Changes show the correct titles for the Associate Directors of the identified offices in § 106.3 and in Appendix A to this part.

PART 107

Incorporation of an acronym for the various offices in § 107.3 for ease of identification.

Changes show the correct references to the appropriate offices and official titles in numerous sections in this part under items 4, 5, 6, 7, 8, and 9.

Editorial corrections made in § 107.373.

PART 171

Changes in this part include corrections to an improper office reference, a mispelled word, an improper title of an official, and an improper reference to a segment of the regulations.

PART 172

Change made to show the correct office reference in certain sections in this part.

PART 173

Changes correct the references to the appropriate offices and official titles in various sections in this part under items 16, 17, and 17a.

In § 173.32 incorrect section references have been deleted.

In § 173.33 paragraph (d)(5) has been deleted since it is no longer applicable and section references have been corrected.

In § 173.53 a section reference and the Bureau of Explosives address have been corrected.

In § 173.69 section references have been corrected.

In § 173.93 appropriate section references have been added.

In § 173.119 an unnecessary phrase has been deleted, a correction to a placarding reference has been made, and the clarification and correction of a section on viscous flammable liquids has been completed.

In § 173.122 an obsolete reference to rail express has been deleted and an authorization for air transportation has been made.

In § 173.123 appropriate section references have been added.

In § 173.124 an appropriate section reference has been added and clarification of a filing requirement has been made.

In § 173.134 paragraph (b) has been deleted since rail express service is no longer in existence.

In § 173.153 provisions have been incorporated to accommodate the packaging of liquid oxidizers. These provisions have not been published in a notice of proposed rulemaking but are necessary to provide a liquid measurement for liquid oxidizers in limited quantities.

In § 173.168 a paragraph reference has been deleted since it is not applicable.

In § 173.192 the term "picrate of ammonium" has been deleted since it is not referenced in § 172.101 as a proper shipping name.

In § 173.206 paragraph (d)(1) has been reinserted since it was inadvertently omitted in the printing of Title 49, revised as of December 31, 1976.

In § 173.214 specific part and section references have been corrected.

In § 173.220 the phrase "to Subpart F of Part 172 of this subchapter" has been inserted because it was inadvertently omitted in the printing of Title 49, revised as of December 31, 1976.

In § 173.232 the word "pounds" has been inserted in certain paragraphs because it was inadvertently omitted in the printing of Title 49, revised as of December 31, 1976.

In § 173.245 reference to a specification packaging has been corrected.

In § 173.249 a section reference has been corrected.

In § 173.249a a section reference has been corrected.

In § 173.257 a section reference has been corrected.

In § 173.268 a paragraph has been deleted for clarification purposes. This provision has not been published in a notice of proposed rulemaking since it

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is not considered restrictive. The provision is a redundant authorization for the use of packagings, based on nitric acid concentration levels, already prescribed in other paragraphs of this section.

In § 173.286 a section reference has been corrected.

In § 173.304 the service pressure reference has been deleted to permit the use of a 4BW cylinder with a lower marked service pressure consistent with the regulations for the hazardous material involved.

In § 173.314, a section reference in paragraph (c), Note 7 has been corrected.

In § 173.315 a section reference has been corrected.

In § 173.333 the phrase "must be equipped with gas-tight valve protection caps which" has been inserted because it was inadvertently omitted in the printing of Title 49, revised as of December 31, 1976.

In § 173.364 a paragraph reference has been clarified.

In § 173.386 specific references to various CFR's related to biological products have been corrected.

In §§ 173.393a and 173.393b section references have been corrected.

PART 174

In § 174.104 the inappropriate word "foreign" has been replaced by "freight".

In §§ 174.201, 174.204, and 174.304 improper reference to a segment of the regulations has been corrected.

In § 174.700 the restriction to flat car use has been eliminated since it was not originally intended to restrict use to a certain type of rail car. Paragraphs (e) (1) and (2) have been corrected from the printing of Title 49, revised as of December 31, 1976. This provision has not been published in a notice of proposed rulemaking since it is not considered a restriction.

PART 175

In §§ 175.45, 175.700 and 175.710 changes show the correct office reference. Also, in § 175.710 section references to the radioactive labels have been corrected.

PART 177

In § 177.821 and § 177.822 a section reference has been corrected.

In § 177.824 the term "special permit" has been corrected to "exemption."

In § 177.834 section references have been corrected.

In § 177.835 reference to a particular segment of the regulations has been added.

In § 177.838 incorrect section references have been deleted.

In § 177.870 section references have been corrected.

PART 178

Changes correct the references to the appropriate offices and official titles in various sections in this part in items 58, 59, and 61.

The obsolete ASTM standard has been replaced by the current standard in various sections in this part in item 60. This provision has not been published in a notice of proposed rulemaking since it is not restrictive.

In § 178.68-12 a section reference has been clarified.

In § 178.196-7 the word "wide" has been inserted following the symbol designation for inches for clarification purposes.

In § 178.205-7 paragraph (b)(1) the letter "F." has been added following the numerical temperatures to indicate a fahrenheit degree measurement. Also, in § 178.205-19 paragraph (a) the obsolete reference to "ICC" has been corrected.

In § 178.209-16 paragraph (a)(2) has been corrected to refer to "end to end" pressure since it was inadvertently changed in the printing of Title 49, revised as of December 31, 1976.

In § 178.224-2 paragraph (d) has been reinserted, minus a reference to the Bureau of Explosives, since it formerly was paragraph (e) under this section and was inadvertently omitted in the printing of Title 49, revised as of January 1, 1967.

In § 178.245-7 paragraph (a) has been amended to reflect identification of the manufacturer.

In § 178.337 section references involving § 173.33 have been corrected to show the applicable paragraphs. Also, in § 178.337-17 a section reference has been corrected.

In § 178.340-8 a section reference has been corrected.

In consideration of the foregoing, Parts 106, 107, 171, 172, 173, 174, 175, 177, and 178 of Title 49 Code of Federal Regulations are amended as follows:

PART 106—RULEMAKING PROCEDURES

1. In § 106.3 paragraphs (a) and (b) are revised; paragraph (c) is deleted as follows:

§ 106.3 Delegations.

• • • • • •

(a) Associate Director for Hazardous Materials Regulation.

(b) Associate Director for Pipeline safety Regulation.

(c) [Deleted]

(2) In Appendix A to Part 106 the introductory texts of paragraphs (a) and (b) are revised, and paragraph (c) is entirely deleted, to read as follows:

APPENDIX A

• • • • • •

(a) The Associate Director for Hazardous Materials Regulation is authorized to conduct all rulemaking proceedings, other than those concerning compliance, enforcement, and preemption matters, except the issuance of final rules and the grant or denial of petitions for reconsideration, under:

• • • • • •

(b) The Associate Director for Pipeline Safety Regulation is authorized to conduct all rulemaking proceedings, other than those concerning compliance and enforcement matters, except the issuance of final rules and the grant or denial of petitions for reconsideration, under:

• • • • • •

(c) [Deleted]

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

3. Section 107.3 is amended by changing the following two definitions to read as follows:

§ 107.3 Definitions.

• • • • • •

"OHMR (HMR)" means the Office of Hazardous Materials Regulation.

"OOE (OE)" means the Office of Operations and Enforcement.

• • • • • •

4. The words "Associate Director, OHMR" are changed to read "Associate Director for HMR" each time they appear in the following sections:

107.103 (a) and (c), 107.107, 107.109 (a), (b), (c), (d), and (e), 107.111 (a), (c), and (d), 107.113(c), 107.115 (a), (b), and (c), 107.117(a), and 107.123(b).

5. The words "Associate Director of OHMR or OOE" or "Associate Director, OHMR" are changed to read "Associate Director for HMR or OE" each time they appear in the following sections:

107.119 (b), (c), and (d), and 107.121.

6. The words "Associate Director of OOE" are changed to read "Associate Director for OE" each time they appear in the following sections:

107.201(d), 107.207 (a) and (b), 107.209 (a), (b), and (c), 107.219 (a), (b), and (c), 107.311 (e) and (f), 107.313 (a) and (b), 107.315(a), 107.347(c), 107.351(d), 107.353 (a), (b), and (c), and 107.355(a).

§§ 107.221 and 107.319 [Amended]

7. The words "Associate Director of OHMO" are changed to read "Associate Director for OE" each time they appear in §§ 107.221 (a), (b), and (c) and 107.319 (a), (c) and (d).

§ 107.221 [Amended]

8. In § 107.221 paragraph (d) the letters "OHMO" are changed to read "OOE" each time they appear in the paragraph.

§ 107.313 [Amended]

9. In § 107.313 paragraph (b)(1) is amended by changing the words "Associate Director of" to read "Associate Director's".

10. § 107.373 is revised to read as follows:

§ 107.373 Referral for prosecution.

If an inspector or an employee of the OHMR or the OOE becomes aware of a possible willful violation of the act, this chapter or subchapter C of this chapter for which the OOE exercises enforcement responsibility, he shall report it to the Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. If appropriate, the Chief Counsel refers the report to the Department of Justice for criminal prosecution of the offender.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§§ 171.4, 171.5, 171.7, 171.10, 171.14 [Amended]

11. In paragraph (a) of §§ 171.4, 171.5, 171.7, 171.10 and 171.14 the word "chapter" is changed to read "subchapter."

12. In § 171.7 paragraph (b) is revised to read as follows:

§ 171.7 Matter incorporated by reference.

• • • • • •

(b) All incorporated matter is available for inspection in the Dockets Branch, Room 6500 of the Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

• • • • • •

§ 171.8 [Amended]

13. In § 171.8 in the definition of "Viscous liquid," the last word "Corp." is changed to read "Cup."

14. In § 171.16 paragraph (b) is revised to read as follows:

§ 171.16 Detailed hazardous materials incident reports.

• • • • • •

(b) Each carrier making a report under this section shall send that report to the Associate Director for Hazardous Materials Regulation, Department of Transportation, Washington, D.C. 20590.

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

15. The words "Office of Hazardous Materials Operations" are changed to read "Office of Hazardous Materials Regulation" in § 172.100 (c) (the introductory text) and (d). The same change is made in § 172.407 (d)(1) and (d)(3).

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

16. The words "Director, OHMO" are changed to read "Associate Director for OE" each time they appear in the following sections:

173.300a (c), (d), (e), (g), (h), (i), 173.300b (c), (d), (e), (f), (g), 173.300c Introductory text of (a) and (b).

17. The words "Office of Hazardous Materials Operations" or "Office of Hazardous Materials" are changed to read "Office of Hazardous Materials Regulation" each time they appear in the following sections:

173.22a(b), 173.86(a)(2), 173.393b(a)(1).

17a. The words "Office of Hazardous Materials Operations" are changed to read "Office of Operations and Enforcement" each time they appear in the following sections:

173.300a(b)(1) and (e), 173.300b(b)(1).

§ 173.32 [Amended]

18. In § 173.32 paragraph (e)(1)(ii), reference to "178.246, 178.247" is deleted from within the parenthesis.

§ 173.33 [Amended]

19. In § 173.33 paragraph (d)(5) is deleted, and "(e)" is replaced by "(d)" wherever it appears in paragraphs "(d)(1), (12), (15), (15) (i) and (k).

§ 173.53 [Amended]

20. In § 173.53 paragraph (f) the reference "§ 173.51(d)" is changed to read "§ 173.51(a)(3)"; in paragraph (h)(1) Note 4, the address of the Bureau of Explosives is changed to read "1920 L Street, N.W., Washington, D.C. 20036."

§ 173.69 [Amended]

21. In § 173.69 paragraph (a) Note 1, the section reference is changed to read "§§ 173.389 through 173.398."

§ 173.93 [Amended]

22. In § 173.93 paragraph (d)(4) the section reference within the parenthesis is changed to read "(§§ 179.200, 179.201 of this subchapter)."

23. In § 173.119 paragraph (b)(1) is amended by deleting "and also the following." and adding a period following the word "specification." Paragraph (h) is amended by changing the word "Dangerous" to read "Flammable." Pargraph (j) is revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

• • • • • •

(j) *Viscous flammable liquids.* Flammable liquids which are viscous as defined in § 171.8 of this subchapter must be shipped in specification packagings as prescribed in paragraph (k) or (l) of this section.

• • • • • •

§ 173.122 [Amended]

24. In § 173.122 the introductory text of paragraph (b) is amended by changing "rail express" to read "cargo-only aircraft" in the third line.

§ 173.123 [Amended]

25. In § 173.123 paragraph (a)(5) is amended by adding "179.200, 179.201" following "179.101" within the parenthesis.

§ 173.24 [Amended]

26. In § 173.124 paragraph (a)(4) is amended by adding "(§ 178.92 of this subchapter)" following "Spec. 5P;" paragraph (a)(5) is amended by changing the third sentence to read, "Outage of each tank must be sufficient to prevent the tank from becoming liquid full at 105° F."

§ 173.134 [Amended]

27. In § 173.134 paragraph (b) is deleted.

28. In § 173.153 paragraph (b)(1) is revised to read as follows:

§ 173.153 Limited quantities of flammable solids, oxidizers and organic peroxides.

• • • • • •

(b) • • •

(1) Oxidizers in inside containers having a rated capacity of not over one pint for liquids or a net weight of not over one pound for solids, in strong outside packagings not exceeding 25 pounds net weight each.

• • • • • •

§ 173.168 [Amended]

29. In § 173.168 paragraph (a)(1) is amended by deleting "(5)" in the second line.

(2) • • • In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and to Part

44. In § 173.333 paragraph (a)(2) is revised to read as follows:

§ 173.333 Phosgene or diphosgene.

50. In § 174.700 the introductory text of paragraph (e) is amended by deleting the word "Only" at the beginning of the paragraph and capitalizing "A";

§ 177.838 [Amended]

56. In § 177.838 paragraph (f), the last sentence which is within the parenthesis is deleted.

§ 178.68-12 [Amended]

62. In § 178.68-12 paragraph (a) the reference "173.124(a)" is changed to

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§ 173.168 [Amended]

29. In § 173.168 paragraph (a)(1) is amended by deleting "(5)" in the second line.

30. § 173.192 is revised to read as follows:

§ 173.192 Ammonium picrate, picric acid, trinitrobenzoic acid, and urea nitrate, wet.

Ammonium picrate, picrate acid, trinitrobenzoic acid, and urea nitrate, wet with not loss than 10 percent water, in quantity not exceeding 16 ounces in one outside package, may be shipped as drugs, medicines, or chemicals, when in glass bottles securely stoppered, each bottle inclosed in a strong fiber carton properly cushioned in the outside shipping case. No restrictions other than packing prescribed by this section are required when these materials are offered for transportation.

31. In § 173.206 paragraph (d)(1) is added to read as follows:

§ 173.206 Sodium or potassium, metallic; sodium amide; sodium potassium alloys; sodium aluminum hydride; lithium metal; lithium silicon; lithium ferro silicon; lithium hydride; lithium borohydride; lithium aluminum hydride; lithium acetylide-ethylene diamine complex; aluminum hydride; cesium metal; rubidium metal; ziroconium hydride, powdered.

• • • • •

(d) • • •

(1) In inside hermetically sealed metal cartridges not exceeding 18 grams net weight each, packed in strong outside packagings with net weight of lithium or rubidium metal not exceeding one pound; which outside packaging may be further overpacked in strong wooden boxes or fiber drums provided total net weight of lithium or rubidium metal in one outside box or drum does not exceed one pound.

• • • • •

§ 173.214 [Amended]

32. In § 173.214 paragraph (e) is amended by changing the reference in the last sentence to read "Parts 100-189 of this subchapter and Part 397 of this Title."

33. In § 173.220 the last sentence of paragraph (a)(2) is revised to read as follows:

§ 173.220 Magnesium or zirconium scrap consisting of borings, clippings, shavings, sheets, turnings, or scalpings, and magnesium metallic (other than scrap), powdered, pellets, turnings, or ribbon.

(a) • • •

(2) • • • In addition, shipments are not subject to Subpart F of Part 172 of this subchapter, to Part 174 of this subchapter except § 174.24 and to Part 177 of this subchapter except § 177.817.

• • • • •

§ 173.232 [Amended]

34. In § 173.232 paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) are amended by adding the word "pounds" after the numerical figure.

§ 173.245 [Amended]

35. In § 173.245 paragraph (a)(22) is amended by changing "specification 22" in the fourth line to read "specification 2U."

§ 173.249a [Amended]

36. In § 173.249 paragraph (a)(10) reference "173.401(c)" is changed to read "172.312 of this subchapter."

§ 173.249 [Amended]

37. In § 173.249a paragraphs (a) and (b) are amended by changing the section reference "§ 172.5" to read "§ 172.101 of this subchapter."

§ 173.257 [Amended]

38. In § 173.257 paragraph (a)(14) is amended by changing the section reference "§ 173.401(c)" to "§ 172.312 of this subchapter."

§ 173.268 [Amended]

39. In § 173.268 paragraph (b)(5) is deleted.

40. In § 173.286 paragraph (b)(1) is amended by changing the section reference "§ 172.5(a)" to read "§ 172.101 of this subchapter."

§ 173.304 [Amended]

41. In § 173.304 paragraph (d)(3)(i) is amended by changing "4BW240" in the second line to read "4BW."

§ 173.314 [Amended]

42. In § 173.314 paragraph (c) Note 7 following the table is amended by changing the reference "§ 174.560" to read "§ 174.204."

43. In § 173.315 paragraph (1)(7)(i) is revised to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

• • • • •

(l) • • •

(7) • • •

(i) The ammonia received was certified as containing 0.2 percent water as prescribed in §§ 172.203(h)(l)(i) and 177.817(a) of this subchapter; and

• • • • •

44. In § 173.333 paragraph (a)(2) is revised to read as follows:

§ 173.333 Phosgene or diphosgene.

(a) • • •

(2) specification 106A500X (§§ 179.300, 179.301 of this subchapter) tanks. Authorized only for phosgene. Each tank must be equipped with gastight valve protection caps which must be approved by the Bureau of Explosives. Tanks must not be equipped with safety devices of any type. Outage must be sufficient to prevent tanks from becoming liquid full at 130° F (55° C). (See §§ 174.200 and 177.834(m) of this subchapter for special requirements for rail and highway shipments.)

• • • • •

§ 173.364 [Amended]

45. In § 173.364 the introductory text paragraph (a) is amended by changing "paragraph (3)" in the second line to read "paragraph (a)(3)."

46. In § 173.386 paragraph (a)(3) is revised to read as follows:

§ 173.386 Etiologic agents; definition and scope.

(a) • • •

(3) A "biological product" means a material prepared and manufactured in accordance with the provision of 9 CFR Part 102 (licensed veterinary biological products), 21 CFR Part 601 (Licensing), 21CFR § 312.1 (Conditions for exemption of new drugs for investigational use), 9 CFR Part 103 (Biological products for experimental treatment of animals), or 21 CFR § 312.9 (New drugs for investigational use in laboratory research animals or in vitro tests), and which in accordance with these provisions, may be shipped in interstate commerce.

• • • • •

§§ 173.393a, 173.393b [Amended]

46. In §§ 173.393a and 173.393b paragraph (a)(6) is amended by changing the reference "§173.427(a)(5)(v)" to read "§ 172.203(d)(1)(vi) of this subchapter" in each section.

PART 174—CARRIAGE BY RAIL

§ 174.104 [Amended]

47. In § 174.104 paragraph (f), the sixth line of the Car Certificate is amended by changing the word "foreign" to read "freight."

§§ 174.201, 174.204 [Amended]

48. In §§ 174.201(b), 174.204(a), and (a)(2), and § 174.304 the words "of this subchapter" are added following the section reference(s) within the parenthesis in each section.

50. In § 174.700 the introductory text of paragraph (e) is amended by deleting the word "Only" at the beginning of the paragraph and capitalizing "A"; paragraphs (e)(1) and (e)(2) are revised to read as follows:

§ 174.700 Special handling requirements for radioactive materials.

• • • • •

(e) • • •

(1) Radioactive materials in containers weighing 5,000 pounds or more;

(2) Strong wooden boxes with inside containers of solid radioactive material, securely braced and cushioned; or

• • • • •

PART 175—CARRIAGE BY AIRCRAFT

§§ 175.45, 175.700, 175.710 [Amended]

50. In §§ 175.45(c), 175.700(c) and 175.710(a)(3), the words "Office of Hazardous Materials Operations" are changed to read "Office of Hazardous Materials Regulation."

51. In § 175.710 paragraph (a)(2) the section references "§§ 172.437, 172.438, and 172.439" are changed to read "§§ 172.436, 172.438, and 172.440."

PART 177—CARRIAGE BY PUBLIC HIGHWAY

§§ 177.821, 177.822 [Amended]

52. In §§ 177.821(c) and 177.822(a) reference "§ 172.5" is changed to read "§ 172.101."

§ 177.824 [Amended]

53. In § 177.824 paragraphs (a)(2) and (c)(4) the words "special permit" are changed to read "exemption" each time they appear.

54. In § 177.834 paragraph (m)(4) is revised to read as follows:

§ 177.834 General requirements.

• • • • •

(m) • • •

(4) Compliance with §§ 174.200 and 174.204 of this subchapter for combination rail freight, highway shipments and for trailer-on-flat-car service is required.

• • • • •

§ 177.835 [Amended]

55. In § 177.835 paragraph (m) the words "of this subchapter" are added following the section references within the parenthesis.

§ 177.838 [Amended]

56. In § 177.838 paragraph (f), the last sentence which is within the parenthesis is deleted.

§ 177.870 [Amended]

57. in § 177.870 paragraph (d) is amended by changing the reference "§ 172.5" to read "§ 172.101"; in paragraph (g) the reference "§ 173.416" is changed to read "§§ 172.436, 172.438, and 172.440."

PART 178—SHIPPING CONTAINER SPECIFICATIONS

58. The words "Director, OHMO" are changed to read "Associate Director for OE" each time they appear in the following sections:

178.36-3	178.51-3
178.37-3	178.52-3
178.38-3	178.54-3
178.39-3	178.55-3
178.40-3	178.56-3
178.42-3	178.57-3
178.43-3	178.58-3
178.44-3	178.59-3
178.45-3	178.60-3
178.47-3	178.61-3
178.48-3	178.65-3(a), (b), (c)
178.49-3	178.68-3
178.50-3	

§ 178.53-3 [Amended]

59. In § 178.53-3 the words "Director, Office of Hazardous Materials Operations (OHMO)" and "Director, OHMO" are changed to read "Associate Director for OE."

60. In the following sections, the Standard "E8-57T" is changed to read "E8-78" each time it appears in the following sections:

178.36-16	178.51-15
178.37-16	178.52-16
178.38-16	178.53-15
178.39-16	178.54-15
178.40-16	178.55-16
178.41-16	178.56-15
178.43-16	178.57-15
178.44-16	178.58-16
178.45-14	178.59.-14
178.48-16	178.60-16
178.49-16	178.61-15
178.50-16	178.68-15

§ 78.65-14 [Amended]

61. In § 178.65-14 paragraph (d) the words "Office of Hazardous Materials" is changed to read "Office of Operations and Enforcement, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590."

§ 178.68-12 [Amended]

62. In § 178.68-12 paragraph (a) the reference "173.124(a)" is changed to read "173.124(a)(2)."

§ 178.196-7 [Amended]

63. In § 178.196-7 paragraph (a) Note 1, the word "wide" is added following the number and symbol "2½"".

§ 178.205-7 [Amended]

64. In § 178.205-7 paragraph (b)(1) the letter "F." is added following both 180° and 200°; in § 178.205-19 paragraph (a) is amended by changing "ICC" to read "DOT."

65. In § 178.209-16 paragraph (a)(2) is revised to read as follows:

§ 178.209 Specification 12H; fiberboard boxes.

• • • • • •

§ 178.209-16 Completed container.

(a) • • •

(2) Three loaded samples to be tested. Each must withstand end to end pressure of at least 500 pounds without deflection of over 1½ inches.

• • • • • •

66. In § 178.224-2 paragraph (d) is added to read as follows:

§ 178.224 Specification 21C; fiber drum.

• • • • • •

§ 178.224-2 Type tests.

• • • • • •

(d) The tests described above must be made by any company starting production, for each plant location of manufacture, on samples taken as random of each type and diameter of container and must be repeated every 4 months or less during production. Samples last tested must be retained until further tests are made. The tests and procedure described may be conducted at one central laboratory when testing facilities are not available at all plants.

§ 178.245-7 [Amended]

67. In § 178.245-7 paragraph (a) is amended by changing the words "manufactured for" to read "manufactured by" each time they appear in the form.

§ 178.337 [Amended]

68. In § 178.337 references to § 173.33 are amended to read as follows:

	Now reads	Change to
178.337-1(e)	173.33(j)	173.33(l).
178.337-2(c)	173.33(h)(1)	173.33(g)(1).
178.337-8(b)	173.33(g)(9)	173.33(f)(9).
	173.33(l) (4) and (5)	173.33(h) (4) and (5).
178.337-9(b)(1)	173.33(g) (1) and (3)	173.33(f) (1) and (3).
178.337-9(b)(2)	173.33(g)	173.33(f).
178.337-11(a)(2)	173.33(l)	173.33(h).
178.337-11(a)(3)	173.33(l)(4)	173.33(h)(4).

	Now reads	Change to
178.337-11(b)	173.33(i)(3)	173.33(h)(3).
178.337-14(b)	173.33(g)(7)	173.33(f)(7).
178.337-15	173.33(g) (6) and (10)	173.33(f) (8) and (10).

§ 178.337-17 [Amended]

69. In § 178.337-17 paragraph (b) is amended by changing the reference "§ 177.823" to read "§ 172.328 of this subchapter."

§ 178.340-8 [Amended]

70. In § 178.340-8 paragraph (b) the reference "§ 293.86" is changed to read "§ 393.86."

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e).)

NOTE.—The Materials Transportation Bureau has determined that these amendments will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582).

Issued in Washington, D.C., on October 12, 1978.

L. D. SANTMAN,
Acting Director, Materials Transportation Bureau.

[FR Doc. 78-29330 Filed 10-18-78; 8:45 am]

[4910-14-M]

SUBTITLE A—OFFICE OF THE SECRETARY

[CGD 78-024A]

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Administrative Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment corrects the listing of locations of Coast Guard document inspection facilities where records are available to reflect the designation of "administrative law judges" rather than "hearing examiners." This designation has recently been changed, and this amendment brings the listing up-to-date.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Comdr. Charles H. King, Jr., Office of Merchant Marine Safety (G-MMI-2/82), Room 8205, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2215.

SUPPLEMENTARY INFORMATION: Since this is a matter relating to agency management, under 5 U.S.C. 553(a)(2) notice and public procedure are unnecessary. Under 5 U.S.C. 553(d)(3), this amendment may be made effective in less than 30 days after publication in the FEDERAL REGISTER since it is an administrative correction. This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, Mar. 8, 1978). A final evaluation has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Comdr. Charles H. King, Jr., Project Manager, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

Accordingly, appendix B of part 7 of title 49 of the Code of Federal Regulations is amended as follows:

By revising paragraph 3(b) to read as follows:

APPENDIX B—U.S. COAST GUARD

* * * * *

3. * * *

(b) Opinions and orders of administrative law judges are available at the document inspection facility of the Office of the Commandant and the district in which the administrative law judge is located.

* * * * *

(5 U.S.C. 552 as amended by Pub. L. 93-502, 88 Stat. 1565; 49 CFR 7.1(d).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: October 10, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-29532 Filed 10-18-78; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-16; Notice 24]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule and interpretation of court decision.

SUMMARY: The U.S. Court of Appeals decision in *PACCAR* v. *National Highway Traffic Safety Administration and Department of Transportation* invalidated aspects of Standard No. 121, *Air Brake Systems.* This notice advises interested persons of the agency's interpretation of the *PACCAR* holdings, to guide continuing compliance with the standard. This notice also amends the standard as specified by the court to provide for "due care" certification.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Tad Herlihy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-9511.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. Requirements are established for the service, emergency, and parking brake systems of these vehicles. Truck braking systems are a particularly critical safety system, due to large variations between the unloaded and loaded weight conditions and the generally higher weight of trucks compared to other vehicles on the highway. Major requirements of the standard are that vehicles stop in specified distances and that the wheels not lock uncontrollably during these stops. The "no lockup" requirement insures that skidding due to wheel lockup and loss of lateral stability is minimized.

In January 1975 a truck manufacturer petitioned for judicial review of the standard's promulgation in accordance with § 105 of the National Traffic and Motor Vehicle Safety Act (the Vehicle Safety Act) (15 U.S.C. 1394) under which the standard was issued. Petitioner PACCAR was subsequently joined by a trade association of truck users and a trade association representing the small manufacturers that complete trucks by mounting a body or specialized equipment on incomplete truck chassis. The three cases were consolidated for argument in the Ninth Circuit U.S. Court of Appeals.

The court's decision was issued in April 1978 (573 F. 2d 632, 9th Cir. 1978, Cert. denied Oct. 2, 1978), and the mandate making it effective was entered October 11, 1978. Certain aspects of the standard were invalidated, and the purpose of this notice is to set forth the agency's interpretation of the court's specified holdings to guide continuing compliance with the standard. One of the court's three holdings, that concerning test procedures and conditions, has already been responded to by the agency (43 FR 39390; September 5, 1978).

INVALIDATION OF CERTAIN STOPPING DISTANCES

While expressing support for requirements that "decreas[e] the disparity of stopping distances between ordinary automobiles and heavier vehicles" and maintain "vehicle stability and directional control," the court was concerned about the safety of "heavier axles" in combination with the antilock systems used generally to provide "no lockup" performance. The court was concerned that a malfunctioning antilock system would allow wheel lockup of more aggressive front axle brakes more often or sooner than had been the case with weaker brakes, resulting in loss of steering control. The court's emphasis on the combination of aggressive front axle brakes and antilock is clear in the opinion:

> As new components—strong front axles, new brake linings, and mini-computers to control wheel lock and skid—were mass-produced, and subsequently *put together in a unique combination,* grave problems developed (emphasis supplied) 573 F. 2d at 641.

In referring to "heavier axles," the court was describing the brake retardation levels supplied by manufacturers to obtain the 258-foot (and subsequent 277-foot) 6-mph stopping distances specified by the standard prior to February 26, 1976. The 60-mph stopping distances were extended to 293 feet on that date (41 FR 8783; Mar. 1, 1976) and have resulted in significant reduction in retardation force levels. The court did not take this change into account, because the record filed with the court and the July 1976 oral argument contained no information about the performance of the vehicles built after February 26 to conform to the 293-foot distance. The agency received no petitions for reconsideration of the brake force levels established by the March 1976 notice.

The court held, with regard to stopping distances:

> * * * those parts of the Standard requiring heavier axles and the antilock device should be suspended. The evidence indicates that this can be accomplished if we hold, as we do, that the stopping distance requirements from 60 mph are invalid * * *. We hold only that more probative and convincing data evidencing the reliability and safety of vehicles that are equipped with antilock and in use must be available before the agency can enforce a standard requiring its installation. 573 F. 2d at 643.

These two statements of the holding differ from one another, the first specifying both "heavier axles" and "the antilock device" for invalidation, while the second only specifies antilock. The text of the opinion (located at footnote 26) indicates that the court actually equates "stopping distance" with "the antilock requirement." The agency concludes that the court intended to invalidate "the stopping distance requirements from 60 mph" only insofar as a combination of high retardation force levels and a malfunctioning antilock would cause stability problems beyond those in vehicles built before the standard's effective date. At the same time the court was clear that the "no lockup" requirements were invalidated for both trucks and trailers.

It is therefore the agency's view that the "no lockup" portions of S5.3.1 and S5.3.2 insofar as they apply to trucks and trailers are invalid, along with the related stopping distances of 293 feet for service brake capability and 613 for emergency brake capability (720 for truck-tractors in the unloaded condition) established for 60-mph loaded and unloaded stopping tests under S5.3.1 and S5.7 for trucks. For those trucks with a speed attainable in 2 miles of less than 60 mph, the agency believes that the "top speed" stopping distance specified by S5.3.1.1 for both service brake and emergency brake stopping tests are invalid.

The agency does not believe that any requirements of standard No. 121 are invalidated for buses because of the court's statement in footnote 1 that "[t]he part of the standard that regulates air-braked buses is not at issue here." It is clear that the court was aware of the experience of buses built to conform to the standard, as evidenced by the court's reliance on statements by bus operators (footnote 43) and discussion of the rulemaking history for buses (text following footnote 25). The court's explicit removal of bus requirements from its consideration seems a clear intent to limit the ambit of its decision to trucks and trailers.

The agency concludes that only the actual stopping distances from 60 mph (or top speed) are invalidated and not other requirements that bear on performance of the vehicle. This understanding of the court decision fulfills the court holding cited above, while it does not disturb braking characteristics which do not present potential adverse handling characteristics. Thus, the stopping test sequence in which the truck or trailer must remain within a 12-foot lane from 60 mph (or top speed) is not invalid, while the requirement to stop within a specified distance is invalid.

The dynamometer requirements of S5.4 for trucks and trailers also were not affected by the court's holding. It does appear that the requirement for 90 p.s.i. air pressure in the trailer control line during the stop constitutes a portion of the "no lockup" requirement and is therefore invalidated by the court. Collateral requirements such as air reservior volume that may be indirectly based on "no lockup" performance are not affected by the court decision.

A secondary reason to conclude that the testing from 60 mph remains in the test sequence is that manufacturers must continue to certify compliance with 20-mph stops and a parking brake test following certain 60-mph stops. The 60-mph stops affect the brake linings and could affect results of other portions of the testing if they are dropped from the test sequence.

With regard to the invalidated portions of the standard, the agency expects to publish a FEDERAL REGISTER notice shortly that sets forth its plans.

"DUE CARE" CERTIFICATION

The court expressed concern about the certification responsibilities of the "final stage" manufacturers that mount the body or specialized equipment on mass-produced truck chassis built by other manufacturers. Section 114 of the Vehicle Safety Act (15 U.S.C. 1403) specifies that the manufacturer or distributor of a motor vehicle shall certify that its product conforms to all applicable Federal motor vehicle safety standards. The agency has issued regulations that divide the responsibility for certification of "multistage" vehicles among the "incomplete vehicle manufacturers" of the chassis, any "intermediate stage" manufacturer involved, and the "final stage" manufacturer that completes the vehicle (49 CFR Parts 567, 568).

Standard No. 121 sets forth performance requirements that air-braked vehicles must conform to, and further sets forth the testing conditions under which the performance must be met (par. S6, *Conditions*). The requirements include a specification that certain stopping and wheel control capabilities be available under certain conditions, including stops from 60 mph and 20 mph in the unloaded and loaded conditions. The standard does

not require that manufacturers subject their vehicles to these stops. It is accepted that the smaller final-stage manufacturers may not in all cases be able to certify that their vehicles comply with standard No. 121. What is required by the court's holding, in the agency's view, is the modification of standard No. 121 itself to state that a

[4310-55-M]

Title 50—Wildlife and Fisheries

restricted areas are available at the Refuge headquarters. Both restricted areas will be conspicuously posted with signs which read "Warning Man-

ly known as "Haulover Canal" and "Hanger AF Turnbasin and Channel". The restricted zone in each location is approximately 10,000 feet in length.

FOR FURTHER INFORMATION CONTACT:

Robert G. Johnson, Refuge Man-

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not require that manufacturers subject their vehicles to these stops. It is accepted that the smaller final-stage manufacturers may not in all cases have the resources and capabilities to conduct such testing. The agency has regularly stated that a manufacturer may meet its statutory certification requirements either through demonstration of the specified stops or by any other chosen means that fulfills the related statutory requirement that a manufacturer must exercise "due care" in certification (15 U.S.C. 1397(b)(2)). The agency has not stated to any final-stage manufacturer what its "due care" responsibility might consist of, in recognition of the reality that "due care" is essentially a judicial concept that is determined on a case-by-case basis in light of the factual situation facing the particular manufacturer at the time of certification. Because the engineering and financial resources available to a particular manufacturer are not fixed, what constitutes "due care" would vary among manufacturers, and even vary from day-to-day for the same manufacturer, making such a statement by the agency impracticable.

The court was sympathetic to the situation of the smaller final-stage manufacturer in holding that:

> • • • Since NHTSA has admitted that road testing is beyond the practical and financial reach of the final stage manufacturers, it must propose some alternative method for those manufacturers which, if followed, it will recognize as fulfilling the due care requirement. 573 F2d at 645.

Fortunately, an alternative to road testing does exist that would constitute "due care" in certification by any final-stage manufacturer that adopted it, whatever its resources and engineering expertise. Parts 567 and 568 obligate the incomplete vehicle manufacturer to provide a basis for complete certification (the "incomplete vehicle document") with each vehicle, which can be used for certification as long as the final-stage manufacturer does not violate an "envelope" of conditions listed in the document as the reasonable limits to which the incomplete vehicle manufacturer has already tested. A final-stage manufacturer can avoid any road testing simply by a "passthrough" of this incomplete vehicle document. Of course, it would be a logical impossibility for the agency to specify what constitutes "due care" for the infinite number of configurations that exceed the "envelope" of conditions in advance of the manufacturer's decision to do so.

The problem, as noted by the court, is that the final-stage manufacturer only had assurances from the agency in the past that conformity to the incomplete vehicle document would constitute the exercise of due care in complying with standard No. 121. What is required by the court's holding, in the agency's view, is the modification of standard No. 121 itself to state that a certification of compliance based on adherence to the incomplete vehicle document would constitute the exercise of due care. This is accomplished by this notice.

It is recognized that trailers and buses other than school buses are typically manufactured in one stage and this alternative method is unavailable to these vehicles. However, the court's holding discusses only the obligations of final-stage manufacturers that, by definition, only exist in the case of multistage manufacture.

In accordance with Department of Transportation policy for the analysis of regulatory actions, it is found that the amendment concerning due care does not constitute a significant regulation that requires regulatory analysis. Evaluation of the change indicates that it will have no economic effects other than a potential reduction of certification costs for some final-stage manufacturers.

Findings. Because the amendment constitutes an alternative method of compliance and creates additional requirements for no person, it is found for good cause shown that notice and opportunity for comment are unnecessary and that an effective date sooner than 30 days from the date of publication is in the public interest. The court's holding with regard to "no lockup" and stopping distances take effect independently of administrative action by the agency.

In consideration of the foregoing, paragraph S6 of standard No. 121 (49 CFR 571.121) is amended by the addition of a sentence at the end of the text to read as follows:

"Compliance of vehicles manufactured in two or more stages may, at the option of the final-stage manufacturer, be demonstrated to comply with this standard by adherence to the instructions of the incomplete vehicle manufacturer and any intermediate-stage manufacturer provided with the vehicle in accordance with § 568.4(a)(7)(ii) and § 568.5 of Title 49, Code of Federal Regulations."

The program official and lawyer principally responsible for the development of this document are Duane Perrin and Tad Herlihy, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on October 13, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-29421 Filed 10-13-78; 4:43 pm]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 26—PUBLIC ENTRY AND USE

Merritt Island National Wildlife Refuge, Fla.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule establishes regulations to restrict boat speeds in two locations within the boundaries of Merritt Island National Wildlife Refuge to protect the endangered West Indian Manatee (*Trichechus manatus*). Research has shown that boat-related accidents are responsible for 34 percent of the manatee mortalities where cause of death could be determined. These regulations will protect manatees in heavily traveled boat channels.

EFFECTIVE DATES: Effective November 20, 1978 through December 31, 1979.

ADDRESS: Send comments to: Donald J. Hankla, Area Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Fla. 32207, telephone 904-791-2267.

FOR FURTHER INFORMATION CONTACT:

Stephen R. Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Fla. 32780, telephone 305-867-4820.

SUPPLEMENTARY INFORMATION: The primary author of this document is Stephen R. Vehrs.

BACKGROUND

Most of the waters within Merritt Island National Wildlife Refuge have been designated as critical habitat for the endangered West Indian Manatee. Research by the U.S. Fish and Wildlife Service has shown that boat-related accidents are responsible for 34 percent of those manatee mortalities where cause of death could be determined. Therefore, to reduce manatee mortality from collision with boats or boat propellers, boat speed will be regulated to "Minimum Wake/Slow-Speed" on Merritt Island National Wildlife Refuge in two separate locations where there is a high probability of boat-manatee collision. These two areas are locally known as "Haulover Canal" and "Hangar AF Turnbasin and Channel." The restricted zone in each location is approximately 10,000 feet in length. Maps delineating the restricted areas are available at the Refuge headquarters. Both restricted areas will be conspicuously posted with signs which read "Warning Manatee Area" "Minimum Wake/Slow-Speed". Boating shall otherwise be in accordance with all applicable State and Federal regulations.

The provisions for these special regulations supplement the regulations which cover boating on National Wildlife Refuge areas which are set forth in Title 50, Code of Federal Regulations, § 27.32. Part 27 of 50 CFR provides that U.S. Coast Guard Regulations, Titles 33 and 46 CFR are also applicable on navigable waters.

SUMMARY OF PUBLIC COMMENT AND SERVICE RESPONSES

On June 27, 1978 (FR Doc. 78-17956) proposed special regulations were published restricting boat speeds on Merritt Island National Wildlife Refuge. Comments were received from two agencies and four individuals. All comments supported the proposed regulations. Two individuals suggested more restrictive regulations.

The National Fish and Wildlife Laboratory suggested using the common name West Indian Manatee instead of Florida Manatee. The laboratory also suggested changing the mortality statistics to reflect more recent figures. Both of these changes are implemented in this final rule.

The Marine Mammal Commission quoted the more accurate mortality statistics and suggested adding a definition for Minimum Wake/Slow-Speed. These changes have also been made.

As provided by 50 CFR 26.34 the Service hereby issues the following special regulations:

§ 26.34 Special regulations concerning public access, use, and recreation for individual national wildlife refuges.

FLORIDA

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Boat speed is limited to "Minimum Wake/Slow-Speed" in two areas locally known as "Haulover Canal" and "Hanger AF Turnbasin and Channel". The restricted zone in each location is approximately 10,000 feet in length. These areas will be posted with signs which read, "Warning Manatee Area". "Minimum Wake/Slow-Speed". In addition all boating is subject to the regulations in 50 CFR 27.32.

For the purposes of this regulation the term "Minimum Wake/Slow-Speed" is defined as that speed which permits good steerage but produces little or no wake. Boats that are "planing" are not at slow speed. A boat that is not planing, but is "squatting" is not making a minimum wake. A boat that has slowed enough to level out is making "minimum wake".

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal which would require the preparation of an economic impact statement under executive order 11949 and OMB Circular A-107.

Dated: October 6, 1978.

DONALD J. HANKLA,
Area Manager.

[FR Doc. 78-29464 Filed 10-18-78; 8:45 am]

[4310-55-M]

PART 32—HUNTING

Opening of Shiawassee National Wildlife Refuge, Saginaw, Mich., to Archery Deer Hunting

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of archery deer hunting of Shiawassee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 1, 1978, to December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert G. Johnson, Refuge Manager, 6975 Mower Road, Saginaw, Mich. 48601, telephone 517-777-5930.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game, for individual wildlife refuge areas.

Hunting of deer with bow and arrow is permitted on the entire refuge area from 6 a.m. to 7 p.m. e.s.t. each day from December 1, 1978, through December 31, 1978, only.

Hunting shall be in accordance with all State regulations covering the hunting of deer, subject to the following conditions:

(1) All bow and arrow hunters must possess a valid Federal permit. These permits must be carried by the hunter whenever on refuge lands.

(2) Applications for Federal permits must be received at the refuge office on or before October 31, 1978.

(3) All hunters must exhibit their hunting license, Federal permit, deer tag, game, and vehicle contents to Federal and State officers upon request.

(4) Bow hunters are prohibited from constructing or using any permanent blind, platform or scaffold.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in title 50, Code of Federal Regulations, part 32, and are effective through December 31, 1978. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a minor proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

ROBERT G. JOHNSON,
Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Mich.

OCTOBER 9, 1978.

[FR Doc. 78-29463 Filed 10-18-78; 8:45 am]

proposed rules

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

§ 913.8 Producer.

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market

§ 913.15 Establishment and membership.

(a) There is hereby established an Interior Grapefruit Marketing Committee consisting of at least 6 but not

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 913]

[Docket No. AO-353-A2]

GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

Decision of Proposed Further Amendment of the Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the Federal marketing agreement and order for fresh grapefruit grown in the Interior District in Florida. Growers of such fruit will vote in a referendum to determine if they favor the proposed changes in the order. The proposed amendment would: (1) Make provision for selecting an administrative committee separate from order 905 (7 CFR Part 905), and provide for a public member on such committee; (2) change the definition of the standard unit of measure; and (3) provide for including offshore export shipments in the computation of handlers' prorate bases.

DATE: The representative period for purposes of the referendum herein ordered is August 1, 1977, through July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing, issued March 30, 1978; published April 5, 1978 (43 FR 14319); notice of recommended decision, issued August 1, 1978; published August 4, 1978 (43 FR 34483).

PRELIMINARY STATEMENT

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and order No. 913, as amended (7 CFR Part 913), (hereinafter referred to collectively as the "order") regulating the handling of grapefruit grown in the Interior District in Florida. The hearing was held, pursuant ot the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Lakeland, Fla., on April 20, 1978, pursuant to notice thereof issued on March 30, 1978.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Adminstrator, Marketing Program Operations, on August 1, 1978, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exception was filed.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision set forth in the FEDERAL REGISTER (FR Doc. 78-21775; 43 FR 34483) are hereby approved and adopted as the material issues, findings and conclusions, rulings, and general findings of this decision as if set forth in full herein, subject to correction of inadvertent, grammatical or obvious errors.

Marketing Agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as further amended, regulating the handling of grapefruit grown in the Interior District in Florida", and "Order amending the order, as amended, regulating the handling of grapefruit grown in the Interior District in Florida", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of grapefruit grown in the Interior District in Florida is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1977, through July 31, 1978.

The agents of the Secretary to conduct such referendum are hereby designated to be William C. Knope and John R. Toth, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 9, Lakeland, Fla. 33802, and Malvin E. McGaha, Chief, Fruit Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Signed at Washington, D.C. on: October 13, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

Order[1] amending the order, as amended, regulating the handling of grapefruit grown in the Interior District in Florida.

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and order No. 913, as amended (7 CFR Part 913), regulating the handling of grapefruit grown in the Interior District in Florida.

Upon the basis of the record it is found that:

[1]This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of grapefruit grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of grapefruit shall be in conformity to an in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Deputy Administrator on August 1, 1978, and published in the FEDERAL REGISTER on August 4, 1978, shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

1. Section 913.6 is revised to read:

§ 913.6 Handle or ship.

"Handle" or "ship" means to sell or transport grapefruit, or in any other way to place grapefruit in the current of commerce between the regulation area and any point outside thereof.

2. Section 913.7 is revised to read:

§ 913.7 Carton or standard packed carton.

"Carton or standard packed carton" means a unit of measure equivalent to four-fifths (⅘) of a U.S. bushel of grapefruit, whether in bulk or in any container.

3. Sections 913.8 through 913.11 are redesignated as §§ 913.9 through 913.12 and new § 913.8 is inserted reading as follows:

§ 913.8 Producer.

"Producer" is synonymous with "grower" and means any person who is engaged in the production for market of grapefruit in the Interior District and who has a proprietary interest in the grapefruit so produced.

§§ 913.9 through 913.12 [Redesignated from §§ 913.8 through 913.11]

4. Section 913.20 is redesignated as § 913.15 and the following two new sections are inserted:

§ 913.13 Grower districts.

(a) "Grower District 1" shall include the Counties of Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, and Lake.

(b) "Grower District 2" shall include the Counties of Osceola, Orange, Seminole, Alachua, Putnam, St. Johns, Flagler, Marion, Levy, Duval, Nassau, Baker, Union, Bradford, Columbia, Clay, Gilchrist, and Suwannee, and County Commissioner's Districts 1, 2, and 3 of Volusia County, and that part of the Counties of Indian River and Brevard which is included in the Interior District.

(c) "Grower District 3" shall include the Counties of Manatee, Sarasota, Hardee, Highlands, Okeechobee, Glades, De Soto, Charlottee, Lee, Hendry, Collier, Monroe, Dade, Broward, and the parts of the Counties of Palm Beach and Martin which are included in the Interior District.

(d) "Grower District 4" shall include the County of Polk.

§ 913.14 Redistricting.

(a) The committee may, with the approval of the Secretary, redefine the grower districts into which the Interior District is divided or reapportion or otherwise change the grower membership of grower districts, or both: *Provided,* That the membership shall consist of at least six but not more than seven grower members, and any such change shall be based, so far as practicable, upon the respective averages for the immediately preceding five fiscal periods of (1) the volume of grapefruit shipped from each grower district; (2) the total number of acres of grapefruit in each such district; and (3) the volume of grapefruit produced in each such district.

(b) The committee shall consider such redistricting and reapportionment during the 1980-81 fiscal period, and only in each fifth fiscal period thereafter, and each such redistricting or reapportionment shall be announced on or before March 1 of the then current fiscal period.

5. Redesignated § 913.15 is revised to read as follows:

§ 913.15 Establishment and membership.

(a) There is hereby established an Interior Grapefruit Marketing Committee consisting of at least 6 but not more than 7 grower members, and 6 shipper members. Grower members shall be persons who are not shippers or employees of shippers. Shipper members shall be shippers or employees of shippers. The committee may be increased by one non-industry member nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry member.

(b) Each member shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate.

6. Insert the following new sections:

§ 913.16 Term of office.

The term of office of members and alternate members shall begin on the first day of August and continue for 1 year and until their successors are selected and have qualified. The consecutive terms of members shall be limited to three terms. The consecutive terms of office of alternate members shall not be so limited. Members, their alternates, and their respective successors shall be nominated and selected by the Secretary as provided in § 913.17.

§ 913.17 Nominations.

(a) *Grower members.* (1) The committee shall give public notice of a meeting of producers in each grower district to be held not later than July 10 of each year, for the purpose of making nominations for grower members and alternate grower members. The committee, with the approval of the Secretary, shall prescribe uniform rules to govern such meetings and the balloting thereat. The chairman of each meeting shall publicly announce at such meeting the names of the persons nominated, and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes so cast, the names of the persons nominated, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July.

(2) Each nominee shall be a producer in the grower district from which he is nominated. In voting for nominees, each producer shall be entitled to cast one vote for each nominee in each of the districts in which he or she is a producer. At least two of the nominees for member and their alternates shall be affiliated with a bona fide cooperative marketing organization, and at least two member nomi-

nees and their alternates shall not be so affiliated.

(b) *Shipper members.* (1) The committee shall give public notice of a

(c) *Successor shipper members.* From the nominations made pursuant to § 913.17(b) or from other qualified persons, the Secretary shall select mem-

period is of the total quantity of fruit so shipped by all handlers during the same fiscal period: *Provided,* That if the computation of the prorate bases

tion, shall be submitted promptly to the Secretary.

§ 913.42 Issuance of volume regulation.

tion. The prorate base for each such handler shall be computed by adding together the handler's shipments of grapefruit to destinations outside the

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

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nees and their alternates shall not be so affiliated.

(b) *Shipper members.* (1) The committee shall give public notice of a meeting for bona fide cooperative marketing organizations which are handlers, and a meeting for other handlers who are not so affiliated, to be held not later than July 10 of each year, for the purpose of making nominations for shipper members and their alternates. The committee, with the approval of the Secretary, shall prescribe uniform rules to govern each such meeting and balloting thereat. The chairman of each such meeting shall publicly announce at the meeting the names of the persons nominated and the chairman and secretary of each such meeting shall transmit to the Secretary their certification as to the number of votes cast, the weight by volume of those shipments voted, and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 20th day of July.

(2) Nominations of at least two members and their alternates shall be made by bona fide cooperative marketing organizations which are handlers. Nominations of at least two members and their alternates shall be made by handlers who are not so affiliated. In voting for nominees, each handler or his or her authorized representative shall be entitled to cast one vote, which shall be weighted by the volume of fruit shipped by such handler during the then current fiscal period.

§ 913.18 Selection.

(a) The initial members of the committee and their respective alternates shall be the members and alternates of the Citrus Administrative Committee under Order No. 905 (7 CFR Part 905) who are representing the Interior District and who are serving on the effective date of this amendment. Each member and alternate shall serve until a successor has been selected and qualified.

(b) *Successor grower members.* From the nominations made pursuant to § 913.17(a) or from other qualified persons, the Secretary shall select one member and one alternate member each to represent Grower Districts 2 and 3, two members and two alternates to represent Grower District 1, three members and three alternates to represent Grower District 4, or such other number of members and alternate members from each district as may be prescribed pursuant to § 913.14. At least two such members and their alternates shall be affiliated with bona fide cooperative marketing organizations, and at least two such members and their alternates shall not be so affiliated.

(c) *Successor shipper members.* From the nominations made pursuant to § 913.17(b) or from other qualified persons, the Secretary shall select members and alternates of the committee. At least two members and their alternates shall represent bona fide cooperative marketing organizations which are handlers, and at least two members and their alternates shall represent handlers who are not so affiliated.

§ 913.19 Failure to nominate.

In the event nominations for a member or alternate member of the committee are not made pursuant to the provisions of § 913.17, the Secretary may select such member or alternate member without regard to nominations.

§ 913.20 Acceptance of membership.

Any person selected by the Secretary as a member or alternate member of the committee shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

§ 913.20 [Redesignated as § 913.15]

7. Section 913.21 is revised to read:

§ 913.21 Inability of members to serve.

(a) An alternate for a member of the committee shall act in the place and stead of such member (1) in his or her absence, or (2) in the event of his or her removal, resignation, disqualification, or death, and until a successor for his or her unexpired term has been selected.

(b) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an alternate member of the committee, a successor for the unexpired term of such person shall be selected by the Secretary. Such selection may be made without regard to the provisions of this part as to nominations.

8. Section 913.31 is revised to read:

§ 913.31 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by such committee for its maintenance and functioning during each fiscal period. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period: *Provided,* That if the computation of the prorate bases of handlers includes all fruit handled as specified pursuant to § 913.43(e), each handler's pro rata share shall be the proportion his or her total shipments bear to the total shipments of all handlers. The Secretary shall fix the rate of assessment per standard packed carton of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) At any time during or after the fiscal period, the Secretary may increase the rate of assessment so that the sum of money collected pursuant to the provisions of this section shall be adequate to cover the said expenses. Such increase shall be applicable to all fruit shipped to the applicable destinations during the given fiscal period. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

9. Sections 913.41 and 913.42 are revised to read:

§ 913.41 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during the next succeeding week: *Provided,* That volume regulations shall not be recommended after such regulations have been effective for an aggregate of 14 weeks during any fiscal period.

(b) In making its recommendation, the committee shall give due consideration to the following factors:

(1) Market prices for grapefruit;

(2) Supply, maturity, and conditions of grapefruit in the production area;

(3) Market prices and supplies of citrus fruits from competitive producing areas, and supplies of other competitive fruits;

(4) Trend and level in consumer income; and

(5) Other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 913.42, has fixed the quantity of grapefruit which may be so handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reason for such recommendation, shall be submitted promptly to the Secretary.

§ 913.42 Issuance of volume regulation.

Whenever the Secretary finds, from information submitted by the committee, or from other available information, that to limit the quantity of grapefruit which may be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That such regulations during each fiscal period shall not in the aggregate limit the volume of grapefruit shipments for more than 14 weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of grapefruit is in excess of the parity price of grapefruit specified therefor in the act. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

10. Section 913.43 is revised to read:

§ 913.43 Prorate bases.

(a) Each person who desires to handle grapefruit shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this section and § 913.44.

(b) Such application shall be substantiated in such manner and shall be supported by such information as the committee may require.

(c) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction.

(d) Each week during the marketing season when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of this section. The prorate base for each such handler shall be computed by adding together the handler's shipments of grapefruit to destinations outside the regulation area in the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico in the current season and his shipments to such destinations in the immediately preceding seasons, if any, within the representative period, in which he shipped grapefruit and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and 51 weeks for each of such immediately preceding seasons within the representative period in which the handler so shipped grapefruit. For purposes of this section "representative period" means the three preceding seasons together with the current season; the term "season" means the 51 week period beginning with the first full week in August of any year; and the term "current season" means the period beginning with the first full week in August of the current fiscal period through the fourth full week preceding the week of regulation: *Provided,* That when official shipping records are available to the committee the term "current season" shall extend through the third full week preceding the week of regulation.

(e) If the committee determines that it is desirable and appropriate to include in the computation of prorate bases of handlers all grapefruit handled during the representative period by each handler applicant, it may, upon the approval of the Secretary, include all such fruit in such computation.

§ 913.12 [Redesignated from § 913.11 and Amended]

11. Section 913.11 *Interior district or district* (herein redesignated as § 913.12 *Interior district or district*) contains two erroneous references to "Township 18"; such references are corrected to read "Township 15".

§ 913.45 [Amended]

12. In § 913.45 *Overshipment* the references to "500 boxes" and "1,000 boxes", respectively, are changed to "1,000 cartons" and "2,000 cartons", respectively.

[FR Doc. 78-29507 Filed 10-18-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 21, 23, and 135]

[Docket No. 18315; Notice 78-14]

AIRWORTHINESS STANDARDS: RECIPROCATING AND TURBOPROPELLER POWERED MULTIENGINE AIRPLANES

Increase in Approved Takeoff Weights and Passenger Seating Capacities

Correction

In FR Doc. 78-27489 appearing at page 46734 in the issue for Tuesday, October 10, 1978, on page 46820, in the third column, the sentence immediately above the signature should read: "Issued in Washington, D.C., on September 26, 1978.".

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-CE-26]

TRANSITION AREA, FAIRBURY, NEBR.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Fairbury, Nebr., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Fairbury Municipal Airport, Fairbury, Nebr., which is based on a non-directional radio beacon (NDB) navigational aid installed on the airport.

DATES: Comments must be received on or before November 22, 1978.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408. The official docket may be examined at the Office of the Regional Counsel Central Region, Federal Aviation Administration, room 1558, 601 East 12th Street, Kansas City, Mo. An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

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SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before Nov. 22, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106 or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for furtner NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Fairbury, Nebr. To enhance airport usage by providing instrument approach capability to the Fairbury Municipal Airport, the City of Fairbury, Nebr., has installed an NDB on the airport. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails the designation of a transition area at Fairbury, Nebr., at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). Accordingly, the Federal Aviation Administration proposes to amend Subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), by adding the following new transition area:

FAIRBURY, NEBR.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Fairbury Municipal Airport (latitude 40°10'59" N, longitude 97°90'54" W). Within 3 miles each side of the 173° course, extending 3 miles north from the 5-mile radius; within 2 miles each side of the 192° course extending 3 miles north, from the 5-mile radius.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo., on October 6, 1978.

JOHN E. SHAW,
Acting Director, Central Region.

[FR Doc. 78-29334 Filed 10-18-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 419]

GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES

Proposed Amendment of Trade Regulation Rule To Modify Hiatus Provision

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed amendment of trade regulation rule.

SUMMARY: The Commission is proposing to amend the existing trade regulation rule for games of chance for the food retailing and gasoline industries by modifying paragraph (f) commonly known as the "Hiatus Provision." This provision currently requires that no new game can be promoted or used without a break in time between the new game and the game previously used in the same establishment equal to the duration of the game previously used.

The Commission's proposed modification will limit the length of the hiatus to thirty (30) days or the duration of the previous game, whichever is less.

This notice sets out the procedures to be followed, the text of the proposed rule, a list of general questions and issues upon which the Commission particularly desires comment and testimony, an invitation for written comments, and instructions for prospective witnesses and other interested persons who desire to testify or otherwise participate in the proceedings.

DATES: Notification of interest on or before November 15, 1978. Written comments and available exhibits on or before November 30, 1978. Prepared statements on or before December 15, 1978. Public hearings commence January 3, 1979, in Washington, D.C.

ADDRESSES: Send comments to the Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114. Public hearing: The public hearing will commence at 9 a.m. in Room 332 of the Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. Persons desiring to present oral views at the hearing should advise Mr. Dennis Hynes, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Noble Jones, Consumer Protection Specialist, Federal Trade Commission, Suite 500, the Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114, 216-522-5207.

SUPPLEMENTARY INFORMATION: The Commission is proposing to modify the "hiatus provision" (16 CFR 419.1(f)) requirement of the Trade regulation rule on games of chance for food retailing and gasoline industries. The primary reason for modifying this provision is the lack of support for the underlying rationale of the provision as it currently operates. In addition, the Commission has granted petitions for an exemption from the "Hiatus Provision" and is persuaded at this time to consider an amendment to the rule.

SECTION A. PROPOSED AMENDMENT OF TRADE REGULATION RULE

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., the provisions of part I, subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7, et seq., and section 553 of subchapter II, chapter 5, title 5 of the United States Code (Administrative Procedure) has initiated a proceeding for the amendment of the Trade regulation rule for games of chance in the food retailing and gasoline industries. The Commission has determined, pursuant to 16 CFR 1.20, to follow the procedures set forth in this notice for this proceeding.

Accordingly, the Commission has proposed the following amendment to 16 CFR 419 by replacing old § 419.1(f) with new § 419.1(f) as follows:

§ 419.1 The Rule.

• • • • •

(f) Promote or use any new game without a break in time between the new game and any game previously employed in the same establishment equivalent to the duration of the game previously employed, or 30 days, whichever is less.

SECTION B. REASONS FOR AMENDMENT OF THE RULE

Section 419.1(f) of the Trade regulation rule for games of chance in the food retailing and gasoline industries prohibits the promotion or use of any new game without a break in time between the new game and any game previously employed in the same establishment equal to the duration of the previously employed game. During the course of the hearings on the rule, there was very little evidence dealing directly with problems addressed by the "Hiatus provision." Nevertheless, at he time of the promulgation of the rule in October 1969, the Commission was of the opinion that a potential for confusion and deception existed in the consecutive use of games by a retail establishment, with no interval between the games. The Commission stated:

> With games running on the heels of each other, participants could easily become confused as to the prize structure, odds, and redemption right of the game then in progress.[1]

In August of 1972, the Commission, in response to a request from a member of the games-producing industry, issued an interpretation of the "Hiatus provision." At that time the Commission ruled that repetition of the same game as previously employed would not be inconsistent with § 419.1(f) of the rule. Further, the Commission was convinced that:

> Repetition of the identical game without an interval would not confuse the participants as to the prize structure, odds, and redemption rights.[2]

In July of 1976, the Federal Trade Commission received from Fox Grocery Co. ("Fox") a petition for a one-time exemption from § 419.1(f) of the Commission's Trade regulation rule for games of chance in the food retailing and gasoline industries (16 CFR 419.1).[3] The petition requested that the Commission grant a waiver of the "hiatus provision" in order to enable a group of independently-owned food stores to enter into a game promotion simultaneously.

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[1] Statement of basis and purpose of trade regulation rule for games of chance in the food retailing and gasoline industries, 34 FR 13310 (1969).

[2] Federal Trade Commission News Release, August 1, 1972 (copy attached).

[3] A copy of the petition can be obtained from Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

The Commission concluded that more than a 30 day hiatus period between games was not required to eliminate confusion and deception in the consecutive use of games by Fox or its participating establishments under the circumstances.[4] The Commission has granted a similar petition to FNK Enterprises.[5] Most recently, the Commission has granted a temporary blanket exemption to the operation of paragraph (f) to all marketers and users of supermarket games pending the outcome of this proceeding.

SECTION C. INVITATION TO COMMENT ON AMENDMENT OF THE TRADE REGULATION RULE

All interested parties are hereby notified that they may submit to the Federal Trade Commission, Cleveland Regional Office, Suite 500, The Mall Building, 118 St. Clair Avenue, Cleveland, Ohio 44114, written data, views, or arguments on any issues of fact, law or policy, which may have some bearing on the proposed modification of 16 CFR 419.1(f).

The Commission requests that persons commenting on this subject address the following issue:

> Should the proposed amendment be changed in any way? Specifically, should the hiatus period be eliminated?

In all comments, the Commission particularly welcomes empirical evidence.

Written comments will be accepted until November 30, 1978. To assure prompt consideration of all comments, it should be identified as "Games of Chance Amendment Comment" and, when feasible and not burdensome, submitted in five copies.

SECTION D. PUBLIC HEARINGS

Public hearings will be held commencing on January 3, 1979, at 9 a.m. in Room 332 of the Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. Persons desiring to present their views orally at the hearings should so advise Dennis Hynes, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than November 15, 1978.

SECTION E. INSTRUCTIONS TO WITNESSES

1. Advance notice. If you wish to testify at the hearings, you must notify the presiding officer of your desire to appear and file with him your complete, word-for-word statement no later than December 15, 1978. This advance notice is required so that other interested persons can determine the need for examination and have an opportunity to prepare. Any examination which is permitted will be conducted with regard to the written testimony, which will be entered into the record exactly as submitted. Consequently, it will not be necessary for you to repeat this statement at the hearing. You may simply appear to answer questions with regard to your written statement or you may deliver a short summary of the most important aspects of that statement within time limits to be set by the presiding officer. As a general rule, such oral summaries should not exceed 10 minutes.

2. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the period for submission of written comments so they can be studied by other interested persons. Such documents that may be unavailable to you during this period must be filed as soon as possible thereafter and not later than the deadline for filing prepared statements. Mark each of the documents with your name, and number them in sequence, e.g., Jones exhibit 1. The presiding officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

3. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement a curriculum vita, biographical sketch, résumé or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

4. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits in compliance with paragraph 2, above, the following:

(a) A complete report of the survey of other research study and the information and documents listed in (b) through (e) if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons

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[4] 41 FR 48516 (1976).

[5] 43 FR 25336 (1978).

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who refused to participate in the survey.

(c) Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the presiding officer. The presiding officer will then be in a position to permit their use by other interested persons or their counsel.

5. *Identification, number of copies, and inspection.* To assure prompt consideration, all materials filed by prospective witnesses pursuant to the instructions contained in paragraphs 1-4, above, should be identified as "games of chance statement" ("and exhibits," if appropriate), and submitted in five copies when feasible and not burdensome.

Copies of all materials filed by witnesses will be made available for examination in Room 130, Public Reference Room, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C.

6. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearances and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearing so they can decide whether to examine or cross-examine your file rebuttals. If you do not comply with all of the requirements, the presiding officer has the power to refuse to let you testify.

7. *General procedures.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be placed under oath unless the presiding officer so requires. You are also not required to respond to any question outside the area of your written statement, although, if such questions are permitted, you may respond if you feel you are prepared and have something to contribute. The presiding officer will assure that all questioning is conducted in a fair and reasonable manner and will allocate time according to the number of parties participating, the legitimate needs of each group for full and true disclosure, and the number and nature of the factual issues discussed. The presiding officer further has the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires.

The deadlines established by this notice will not be extended and hearing dates will not be postponed unless hardship to participants can be demonstrated.

SECTION F. NOTIFICATION OF INTEREST

Interested persons who wish to avail themselves of the opportunity to question witnessed must, by October 31, 1978, notify the presiding officer of their position with respect to the porposed rule and each individual provision thereof. This notification must be in sufficient detail to enable the presiding officer to identify groups with the same of similar interests respecting the proposed rule and the presiding officer may require the submission of additional information from any applicant whose notification is inadequate. Failure to file an adequate notification in sufficient detail may result in the applicant not being considered for purposes of direct and cross-examination.

Before the hearing commence, the presiding officer will identify groups with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of conducting direct or cross-examination and, if unable to make this selection, the presiding officer may select a representative of each such group. The presiding officer will notify all interested persons of the identity of the group representatives at the earliest practicable time.

SECTION G. POSTHEARING PROCEDURES

Interested persons will be afforded 30 days after the close of the hearings to file rebuttal submissions. Rebuttal presentations shall be permitted only if the presiding officier determines that the presentation of rebuttal submissions is required for a full and true disclosure with respect to any disputed issue of fact that is material and necessary to resolve. Rebuttal submissions must be based only upon identified, properly cited matters already in the record. The presiding officer will reject all submissions which are essentially additional written comment in contrast to rebuttal. The 30-day rebuttal period is intended to include the time consumed in securing a complete transcript.

SECTION H. RULEMAKING RECORD

In view of the substantial rulemaking records that have been established in prior trade regulation rulemaking proceedings (and the consequent difficulty in reviewing such records), the Commission urges all interested persons to consider the relevance of any material before placing it on the rulemaking record. While the Commission encourages comments on its proposed rule, the submission of material that is not generally probative of the issues posed by the proposed rule merely overburdens the rulemaking record and decreases its usefulness, both to those reviewing the record and to interested persons using it during the course of the proceeding. The Commission's rulemaking staff has received similar instructions. Material that the staff has obtained during the course of its investigation prior to the initiation of the rulemaking proceeding that is not placed in the rulemaking record will be made available to the public, to the extent that it is considered to be nonexempt from disclosure under the Freedom of Information Act, 5 U.S.C. Section 552.

SECTION I. COMPENSATION FOR REPRESENTATION IN RULEMAKING PROCEEDINGS

Pursuant to section 18(h) of the FTC Act, funds may be available for reimbursement of public participation costs incurred in this proceeding to those who satisfy the requirements of section 1.17 of the Commission's rules. For further information, contact Bonnie Naradzay, Special Assistant for Public Participation, Office of the General Counsel, Federal Trade Colmmission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580, 202—523-3520.

Issued: October 10, 1978.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-29487 Filed 10-18-78; 8:45 am]

[1505-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9107]

HARNISCHFEGER CORP., ET AL.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 78-27873 appearing at page 45593 in the issue for Tuesday, October 3, 1978, in the third column of page 45594, under paragraph IV, the last two lines should have read ". . . change which may affect compliance obligations arising out of this order."

[7040-01-M]

SUSQUEHANNA RIVER BASIN COMMISSION

[18 CFR Part 801]

FREEDOM OF INFORMATION

Proposed General Policies

AGENCY: Susquehanna River Basin Commission.

ACTION: Proposed rule and opportunity for written comment.

SUMMARY: The Susquehanna River Basin Commission proposes to amend its regulations by adding freedom of information policy provisions. Under the proposed amendment, records and materials of the Commission, other than those specifically exempted by the regulation, may be inspected and copied by members of the public, and a procedure is established governing the method of making requests, the charging of fees, the denial of access to records, and appeals from denial of access to records. The regulation is intended to assure the public availability of Commission records, consistent with the Susquehanna River Basin compact and the policies of the signatory parties.

DATE: Written comments must be submitted no later than Friday, November 10, 1978.

ADDRESSES: Written comments should be sent to the Office of the Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102.

FOR FURTHER INFORMATION CONTACT:

Robert J. Bielo, Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102, 717-238-0422.

Written comments are invited and may be submitted to the address given above no later than the date given above. The Commission does not anticipate holding a public hearing on the proposed policy.

Dated: October 11, 1978.

ROBERT J. BIELO,
Executive Director.

It is proposed to amend 18 CFR Part 801 by adding new §§ 801.21–801.25 and centerhead to read as follows:

FREEDOM OF INFORMATION POLICY

Sec.
801.21 Purpose and scope.
801.22 Responsible officials.
801.23 Procedure for requests.
801.24 Schedule of fees.
801.25 Denial of access to records and appeals.

AUTHORITY: Secs. 3:1, 3.5(1), and 15.2, Pub. L. 91-575 (84 Stat. 1509 et seq.)

FREEDOM OF INFORMATION POLICY

§ 801.21 Purpose and scope.

(a) This policy is to assure the public availability of Commission records, consistent with the Susquehanna River Basin compact and the policies of the signatory parties thereto. It does not apply to publications and materials prepared for routine distribution to the public.

(b) Records and materials other than those exempted herein may be inspected and copied according to the procedure described in § 801.23. This policy does not apply to matters which are:

(1) Related solely to the internal personnel rules and practices;

(2) Specifically exempted from disclosure by statute;

(3) Trade secrets and commercial or financial information obtained from a person and priviledged or confidential;

(4) Interagency or intraagency memorandums or letters which would not be available by law to a party other than a private party or an agency in litigation with the Commission;

(5) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(6) Investigatory records compiled for law enforcement purposes but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, or (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the indentity of a confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or safety of law enforcement personnel;

(7) Geological and geophysical information and data, including maps, concerning wells; and

(8) Records and data which would impair present or imminent contract awards.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

§ 801.22 Responsible officials.

(a) The Executive Director is responsible for insuring appropriate agency response to public requests for access to records.

(b) The Chief Administrative Officer shall insure that personnel:

(1) Assist the requester in identifying requested records, if necessary.

(2) Upon locating the records, take one of the following actions:

(i) Make records available for inspection; or

(ii) Deny access to the records in whole or in part and explain in writing the reasons therefor.

(3) Upon request for copies of records:

(i) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 801.24; or

(ii) Permit the requester to copy those records.

(4) Upon request, certify that a record is a true copy.

(c) The designation of the Chief Administrative Officer shall not be construed to prohibit employees who have in the past been authorized to make records or information available to the public from continuing to do so.

§ 801.23 Procedure for requests.

(a) A member of the public who requests records or materials from the Commission must provide a reasonable description of the records or materials sought so that such records or materials may be located without undue search or inquiry. A written request may be required, but oral requests may be accepted when records are readily available.

(b) Requests which reasonably describe the records or materials sought should be directed to the Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102.

(c) A response shall be given promptly regarding any request reasonably describing the record or records sought. If the requester is not provided or denied access to the record sought within a reasonable period of time, a written acknowledgment of the request shall be furnished the requester along with a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of written acknowledgment of a request, the request may be construed as a denial of access that may be appealed.

(d) Records or materials will be available for inspection and copying in person during normal business hours.

(e) Requests for records which originate in other matters which

within 7 business days following the next Commission meeting.

[FR Doc. 78-29533 Filed 10-18-78; 8:45 am]

[4910-22-M]

Proposed Exemption From the Requirement of a Tolerance for an Inert Ingredient in Pesticide Formulations

AGENCY: Office of Pesticide Pro-

Inert ingredient	Firm	Bases for approval
1,3-Benzisothiazolin-3-one	ICI United States, Inc., Wilmington, Del. 19897.	90-d dog and rat studies. Little likelihood of conversion to saccharin under the proposed use and 0.1 pct

mission sought to determine the interest in, and the need for, stereophonic broadcasting by AM stations through a notice of inquiry. A list of questions

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(d) Records or materials will be available for inspection and copying in person during normal business hours.

(e) Requests for records which originate in or concern matters which originate in another department or agency may be forwarded to the department or agency primarily concerned and the requester so notified.

§ 801.24 Schedule of fees.

(a) Fees will be charged in the case of requests which are determined by the Chief Administrative Officer to involve a burden on staff or facilities significantly in excess of that normally accepted by the Commission in handling routine requests for information.

(b) In all instances where the Chief Administrative Officer determines that a request for information can be considered as primarily benefiting the general public, such request shall be met either without cost wherever practicable or at a reduced cost to the requester. Any such reduction shall be determined by the Chief Administrative Officer on the basis of the balance between the benefit to the general public and the cost to the Commission.

(c) The Commission reserves the right to limit the number of copies of any document that will be provided to any one person.

§ 801.25 Denial of access to records and appeals.

(a) Denial of access to records shall be in writing stating the reason therefore and advising the requester of the right to appeal as provided in (c) below.

(b) If requested records are not provided promptly, such failure shall also be deemed a denial of access.

(c) Appeals shall be submitted in writing to the Executive Director within a reasonable time after denial identifying:

(1) The date of the appeal;

(2) The date of the request for records;

(3) The records to which the requester was denied access;

(4) Whether the denial of access was in writing or due to failure to provide records promptly; and

(5) The name and return address of the requester.

(d) Appeals for denial of access to records shall be evaluated by the Executive Director and General Counsel.

(e) An appeal decision shall be transmitted to the requester in writing within 7 business days following the next Commission meeting.

[FR Doc. 78-29533 Filed 10-18-78; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 625]

[FHWA Docket No. 78-10, Notice 2]

DESIGN STANDARDS FOR HIGHWAYS

Extension of Comment Period

AGENCY: Federal Highway Administration, DOT.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for comments on the proposed rulemaking published August 23, 1978 (43 FR 37556), requesting views by October 23, 1978, on establishing geometric design standards for resurfacing, restoration, and rehabilitation (R-R-R) projects. The comment period is extended in order to provide interested parties additional time to analyze the proposal and prepare comments for submission.

DATE: Comments will be received until January 4, 1979.

ADDRESS: FHWA Docket No. 78-10, Notice 2, Room 4205, HCC-10, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Seppo I. Sillan, Highway Design Division, Office of Engineering, 202-426-0321; or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0790, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday.

Issued on October 16, 1978.

JOHN S. HASSELL, Jr.,
Deputy Administrator.

[FR Doc. 78-29534 Filed 10-18-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 990-5; OPP-300017]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Exemption From the Requirement of a Tolerance for an Inert Ingredient in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that the inert ingredient 1,3-benzisothiazolin-3-one in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by ICI United States. This regulation would permit the use of the exempted inert ingredient in pesticide products.

DATE: Comments must be received on or before November 20, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. David Ritter, Toxicology Branch, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, EPA, 202-426-2680.

SUPPLEMENTARY INFORMATION: At the request of ICI United States, Inc., Wilmington, Del. 19897, the Administrator is proposing to amend 40 CFR 180 by exempting from tolerance requirements the inert ingredient 1,2-benzisothiazolin-3-one in pesticide formulations of *O,O*-diethyl *O*-(2-diethylamino-6-methyl-4-pyrimidinyl) phosphorothioate when applied to the raw agricultural commodity melons at no more than 0.1 percent of the formulation.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c) and includes, but is not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Firm	Bases for approval
1,3-Benzisothiazolin-3-one.....	ICI United States, Inc., Wilmington, Del. 19897.	90-d dog and rat studies. Little likelihood of conversion to saccharin under the proposed use and 0.1 pct limit.

This amendment to 40 CFR part 180 pertains to a specific inert ingredient for which there is a prescribed use pattern. This inert cannot be used in any other manner except as specified in the regulation and as determined in a specific product registered by the Agency in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) et seq.).

Based on the above information, available information on the chemistry of this substance, and a review of its use, it has been found that, when used in accordance with good agricultural practice, this substance is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains the ingredient listed herein may request, on or before November 20, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E1935/P90." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m., Monday through Friday.

Dated: October 12, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

It is proposed that part 180, subpart D, be amended by adding the new section 180.1044 to read as follows:

§ 180.1044 1,3-Benzisothiazolin-3-one; exemption from the requirement of a tolerance.

1,3-Benzisothiazolin-3-one is exempt from the requirement of a tolerance when used as a preservative-stabilizer in formulations of *O,O*-diethyl *O*-(2-diethylamino-6-methyl-4-pyrimidinyl) phosphorothioate when applied to the raw agricultural commodity melons at no more than 0.1 percent of the formulation.

[FR Doc. 78-29435 Filed 10-18-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21313; RM-2646; RM-2717; RM-3038; RM-3039; RM-3040; FCC 78-638]

AM STEREOPHONIC BROADCASTING

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: Federal Communications Commission proposes rules for AM stereo broadcasting. Public interest in AM stereo prompts Commission to consider adoption of standards for service.

DATES: Comments must be received on or before December 29, 1978, and reply comments must be received on or before January 31, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Gordon W. Godfrey, Broadcast Bureau, 202-632-9660.

Greg DePriest, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 14, 1978.

Released: October 19, 1978.

In the matter of AM stereophonic broadcasting, docket Nos. 21313, RM-2646, RM-3039, RM-2717, RM-3040, and RM-3038.[1]

1. On June 22, 1977, the Commission adopted a notice of inquiry in this proceeding. It was released in response to petitions for rulemaking filed by Kahn Communications, Inc. (RM-2717), and the Association for AM Stereo, Inc. (RM-2646). These petitions sought changes in the rules to permit the transmission of stereophonic programing by AM broadcast stations. Rather than propose specific rule changes as requested by these petitions, the Commission sought to determine the interest in, and the need for, stereophonic broadcasting by AM stations through a notice of inquiry. A list of questions attached to the inquiry solicited information on the economic, operational, and technical aspects of AM stereo broadcasting. It was hoped that responses to these questions would indicate if the service were practical and if a notice of proposed rulemaking should be issued.

2. In response to the notice, a substantial record has been developed. Comments were filed by over 90 parties, including members of the public, AM broadcast station licensees, broadcast networks, equipment manufacturers, trade organizations, and the Department of Commerce. A list of those filing comments is attached as appendix A below. Two parties, Belar Electronics Laboratory, Inc. and Harris Corp., submitted additional information after the deadline for reply comments. The Commission is accepting these filings despite their lateness and making them a part of the public record. They offer technical observations and data previously unavailable.

3. Four parties submitted complete technical descriptions of systems for AM stereophonic transmissions and each petitioned the Commission to adopt its particular system. The four were Harris Corp. ("Harris") (RM-3040), Belar Electronics Laboratory, Inc. ("Belar"), Motorola, Inc. ("Motorola") (RM-3039), and Maghavox Consumer Electronics Co. ("Magnavox") (RM-3038). In addition to these, comments were submitted regarding the system proposed by Kahn Communications, Inc. ("Hahn/Hazeltine"), one of the two original petitioners.[1a] Partial descriptions of three other systems were submitted by William A. Hayes, Dorchester Laboratories, and Joe Rice. While these latter three systems were alleged to be capable of AM stereo transmission, test data and adequate technical descriptions were not submitted. This prevented serious analysis of them and comparison with the other systems. For this reason they are not discussed further in this document and will not be given further consideration.

4. In addition to the information filed by system proponents, the National AM Stereophonic Radio Committee (NAMSRC) submitted its

[1] See 43 FR 5571, Feb. 9, 1978.

[1a] Hazeltine Corp. acquired exclusive licensing rights under the patents and patent applications of Leonard B. Kahn covering the independent sideband AM stereo system in September of 1977. Hazeltine has licensed Kahn Communications, Inc., to manufacture and sell broadcast transmission equipment using the Kahn AM stereo transmission method. Because of this arrangement, the Commission will henceforth refer to the Kahn AM stereo system as the Kahn/Hazeltine system.

report on tests and analyses of the systems proposed by Magnavox, Motorola, and Belar. The NAMSRC was jointly sponsored by the Electronic In-

Harris: The Harris system amplitude modulates two carriers separated in phase by 30°. The left channel modulates one carrier and the right channel modulates the other.

modified only where typographical or other obvious errors have been detected. Harris failed to submit proposed

drawback has been overcome. In a late-filed submission, Belar states that modification of its system's preempha-

when pairs of tones were transmitted in each channel. These test results and their significance should also be ad-

meeting any but a reduced stereo separation requirement with any of the systems under consideration. An anal-

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report on tests and analyses of the systems proposed by Magnavox, Motorola, and Belar. The NAMSRC was jointly sponsored by the Electronic Industries Association, the National Radio Broadcasters Association, National Association of Broadcasters, and the Institute of Electrical and Electronics Engineers.

5. Responses to the notice of inquiry express the view that FM stereophonic radio service is inadequate in automobiles and at fairly long distances from broadcast stations. It is further noted that many small communities have only AM stations and thus are lacking local stereophonic radio service. Regarding the possible impact of AM stereo on the continuing development of FM broadcasting, it is reported that in many markets FM stations have already surpassed AM stations in audience and revenue. Many AM licensees claim that AM stereo is needed to keep their stations competitive. Additionally, it is claimed that the stereo performance of FM broadcasts in automobiles is poor due primarily to fading and multipath which should not be a problem with AM stereo.

6. While a few claims were submitted that AM stereophonic broadcasting could become a high fidelity medium, it was generally conceded that the FM broadcasting service has inherent advantages in signal-to-noise ratio and noise rejection. It was felt that while FM would remain the high fidelity medium of choice in most urban homes, many areas without FM stereophonic radio service could receive stereophonic programing for the first time.

7. Each of the AM stereo systems proposed to the Commission is basically similar in that the radio frequency carrier is angle modulated with the difference information of the left and right channels (L−R). The RF carrier containing this information is then amplitude modulated to convey the sum information of the left and right channels (L+R). Theoretically, the structure of the stereo signal is such that monophonic receivers will demodulate the L+R information contained in the envelope of the radiated (angle modulated) carrier in a normal manner. The L−Rstereo information contained in the carrier should be transparent to the monophonic receiver, having no effect on its operation.

8. A brief description of each of the five AM stereo systems follows:

Belar: The Belar system frequency modulates the RF carrier with a preemphasized (100 μsec) L−R signal. A maximum frequency deviation of 1250 Hz is specified. The L+R signal amplitude modulates the carrier in the normal fashion. The Belar system is called an "AM-FM" system.[2]

Harris: The Harris system amplitude modulates two carriers separated in phase by 30°. The left channel modulates one carrier and the right channel modulates the other. The two signals are linearly added to produce a resultant signal. This system is known as a "modified quadrature" type.

Kahn/Hazeltine: The Kahn/Hazeltine system phase modulates the RF carrier with the L−R signal in such a manner that amplitude modulation of the carrier with the L+R signal yields left channel stereo information primarily on the lower sideband and right channel stereo information on the upper sideband. The Kahn/Hazeltine system is known as an "independent sideband" system.

Magnavox: The Magnavox system uses the L−R signal to phase modulate the RF carrier and the L+R signal to amplitude modulate the phase modulated RF carrier. This type of system is known as an "AM-PM" system.

Motorola: The Motorola system amplitude modulates two RF carriers separated in phase by 90°. The L+R signal modulates one and the L−R signal modulates the other. The two signals are then added together, processed by a clipping circuit, and amplitude modulated by the L+R signal. Motorola calls this system a "compatible quadrature" system.

9. The Commission has examined the submissions of all parties filing comments and has concluded that rules should be proposed for the transmission of AM stereo. We are persuaded a great interest in this service exists on the part of broadcasters, and manufacturers of both transmitting and receiving equipment. The body of information developed is sufficient to warrant further investigation of the technical means of providing this service. This should not imply, however, that the Commission is totally committed to adopting standards for AM stereo transmission. Despite the technical submissions, doubts remain concerning the overall compatibility of an AM stereo signal with the present allocation structure and emission requirements. Resolution of these matters to the Commission's satisfaction is necessary before any standards are to be adopted.

10. The purpose of this notice of proposed rulemaking is to propose standards for the transmission of AM stereo by considering the five systems submitted. Comments are requested on the alternative rule amendments (contained in app. B) that are necessary for one of the five systems to be adopted. These comments should address the technical merits of each of the systems with particular emphasis on mathematical and engineering analysis, test data, and the dictates of practical engineering experience. With the exception of the Harris Corp. and rule amendments contained in the appendix are primarily those submitted by the proponents. These have been modified only where typographical or other obvious errors have been detected. Harris failed to submit proposed rule changes and those for its system have been developed by the Commission.

11. Further evaluation of the proposed systems by the Commission will place particular emphasis on the ability of the stereo signal to exist within the present allocation framework, meet present emission requirements, and furnish a compatible signal to existing monophonic receivers. It is the Commission's belief that AM stereo should provide a service of as high a quality as possible while minimizing degradation of the present AM service. Proponents are alerted that at the same time it is appropriate that we consider the performance of these systems under modified AM operational constraints (as discussed in paragraph 22).

12. The remainder of this notice identifies Commission concerns that should be addressed by interested parties, particularly each of the five proponents whose systems are being considered.

13. Of these five, the Commission wishes to express its overall concern with certain characteristics of the Harris and Belar systems. Specifically, filings indicate that the stereo service area of a representative AM station employing the Harris system would encompass only 40 percent of the monophonic service area. The reduced stereo service area appears to be an inherent characteristic of the Harris system which could not be overcome through subsequent advances in technology. We question the desirability of adopting standards for an AM stereo system which offers only a restricted stereo service. (The other systems under consideration do not impose as severe a reduction in the stereo service area versus monophonic service area.)

14. In addition, the Commission notes that the stereo separation achieved by the Harris system during the over-the-air testing was minimal for many portions of the audio spectrum. Our analysis indicates this may also be an inherent characteristic of reduced quadrature systems. Comments are requested on these characteristics of the Harris system in addition to the more specific areas outlined below.

15. Concerning the Belar proposal, we note that the system tested by the NAMSRC caused a considerable reduction in the cochannel protection level associated with monophonic transmissions. Such a reduction violates one of the Commission's guidelines for considering the various proposals, i.e., that the stereo signal must exist within the present allocation framework. However, it appears that this

[2] In late-filed comments Belar suggests that the deviation and preemphasis of this system be changed. See discussion of recommended changes in par. 15.

drawback has been overcome. In a late-filed submission, Belar states that modification of its system's preemphasis time constant and low frequency deviation yield improved performance in this area.[3] The Commission acknowledges these claims. Nonetheless, data should be submitted to verify the improvement in the protection ratio. Other areas in which the change in system parameters affects the results of the tests conducted by the NAMSRC should be discussed. Additional data should be submitted to indicate what new performance is achieved.

16. One of the tests conducted by the NAMSRC sought to determine the effect stereo transmissions would have on protection now afforded AM monophonic stations under the Commission's rules. These tests indicate that the second adjacent channels appear to receive less protection with the AM stereo systems proposed by Magnavox, Motorola, and Belar than with monophonic transmissions. No comparable data is available for the Kahn/Hazeltine system (through similar characteristics are expected) or the Harris system (which is not expected to exhibit this characteristic). It has been alleged that normal transmitter distortion products will mask the higher order emissions of the stereo transmitter in the second adjacent channel though no data is submitted to support this conclusion. Comments concerning the decreased second adjacent channel protection ratios, their significance, and the practical effects of such a decrease are solicited from all parties.[4] Data is also requested concerning the protection ratios that may be expected for two AM stations when each is transmitting in stereo for both cochannel and adjacent channel situations. The same signal strength contours used in the NAMSRC stereo-to-monophonic station tests should be used. Protection ratio test data for the Kahn/Hazeltine and Harris systems should be submitted which will permit comparison with that for the Magnavox, Motorola, and Belar systems. Both the stereo-to-monophonic and stereo-to-stereo cases should be covered. In addition to the reduction in the second adjacent channel protection ratio, both cochannel and first and third adjacent channels received less protection in the NAMSRC tests when pairs of tones were transmitted in each channel. These test results and their significance should also be addressed. Again, comparable test data should be submitted for the Kahn/Hazeltine and Harris systems.

17. The receiver compatibility tests conducted by the NAMSRC and by Hazeltine on the Kahn system are a matter of concern to the Commission. (No comparable data was submitted for the Harris system.) None of the tests were conducted at modulation levels above 85 percent though most broadcasters consistently utilize higher levels. The Commission further notes that (excluding L-only and R-only testing) the compatibility tests were conducted with transmitters being either angle modulated, or amplitude modulated, but not both at the same time. The Commission's confidence regarding the ultimate compatibility of these systems with existing monophonic receivers would be greatly increased if tests were conducted with simultaneous amplitude and angle modulation of the test carrier at levels greater than 85 percent. The Commission also desires more information concerning the possibility of increased distortion in band-limited monophonic receivers as a result of AM stereo transmissions.

18. In filings, all proponents except Harris cite stereo separation figures that should be proposed for their individual systems. Motorola suggests 20 dB separation over the audio frequency range from 50 Hz to 7500 Hz. Magnavox and Belar suggest 26 dB separation in the audio frequency range from 100 Hz to 5 kHz. Kahn suggests a minimum separation of 20 dB from 100 Hz to 5 kHz. Significantly, however, the NAMSRC report indicates that none of the systems it tested met the suggested requirements (when measured at the transmitter) during over-the-air tests conducted at WGMS and WTOP. Data submitted by Hazeltine for the Kahn system indicates that it also fails to meet the separation specified by Kahn. (Harris system test data shows that it fails to achieve the minimum separation proposed by the other proponents over the frequency range from 100 Hz to 5 kHz.) Comments concerning this anomaly are requested. These comments should also address the minimum separation that is desirable for AM stereo and that which may reasonably be obtained by AM station licensees. We note that the systems tested by the NAMSRC displayed different stereo separations at WGMS and at WTOP. Comments are requested on this performance inconsistency. The Commission is concerned that the nonuniform transmitter response to these proponents' stereo exciter equipment indicates AM station licensees may experience difficulty in meeting any but a reduced stereo separation requirement with any of the systems under consideration. An analysis of the theoretical maximum separation possible for each of the five systems would also be useful.

19. The notice of inquiry stated that one of the Commission's concerns was the compatibility of AM stereophonic transmissions with existing international radio regulations and other agreements to which the United States is a party. For example, we note that the five AM stereo systems under consideration use emissions which are specifically not covered in the United States-Mexican agreement on AM broadcasting. Nor are they contained in the North American Regional Brodcasting Agreement. This concern is raised again to point out that even if rules are adopted to permit AM stereo broadcasting, satisfactory agreements would have to be reached before stereo operation could begin.

20. In citing international concerns that could affect AM stereo broadcasting in the United States, the notice also contained a discussion of the change in the channel spacing for medium frequency stations located in regions 1 and 3. The separation between adjacent channels for AM stations operating in these regions will be 9 kHz effective November 1978. While there are no plans for such a changeover in region 2, the notice requested information on the effect such a switch would have on AM stereo transmissions whose standards were adopted under a wider spacing. The somewhat common reply was that special consideration would not be required for stereo broadcasting as opposed to monophonic broadcasting. The operation of the encoding and decoding devices would remain independent of the carrier frequency. A number of parties pointed out that AM stereo receivers produced to operate with assignments separated by 10 kHz would, however, suffer degraded performance under the narrower spacing. This would occur primarily because of increased adjacent channel interference. "Whistle" filters based upon 10 kHz channel separation would not function effectively. Worse, digitally tuned receivers with designs based upon the 10 kHz channel spacing would simply not be usable.

21. At this time, the Commission is not aware of a proposal to reduce the channel spacing in region 2. Nevertheless there is the possibility that such a proposal might be made at the 1979 World Administrative Radio Conference. Therefore system proponents and other commenting parties should seriously analyze the impact its adoption would have on the systems under consideration. In addition, the Commission notes that should a serious

[3] The preemphasis time constant has been modified from 100 μsec to 400 μsec. The low-frequency deviation has been changed from 1250 Hz to 312.5 Hz.

[4] The second and third adjacent channel strength contours specified in § 73.37(a) were not created to afford protection to the service areas of the two AM stations involved. Nonetheless, by their existence they do afford a level of protection that could change should AM stereo transmissions be permitted.

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proposal to narrow the spacing be advanced in the immediate future, it could affect the timing of a decision in this proceeding. We do not believe it is in the public interest to finalize AM

ing the reception of stereo skywave signals in both the monophonic and stereophonic reception modes are solicited from all proponents.

24. Information was also requested

cy tones under provision of § 73.67(c). These tones are permitted to allow transmitter meter readings to be relayed to the remote control point. The effect of the stereo indicating tones of

of such parties must be made in written comments, reply comments, or other appropriate pleadings.

33. In accordance with § 1.419 of the

Matsushita Communications Industrial Co.
Matsushita Electric Industrial Co., Ltd.
Maurice, Claude.
McKay Dymek Co.

§ 73.14 Technical definitions.

• • • • •

(j) *AM* modulator stage. "*AM* modu-

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proposal to narrow the spacing be advanced in the immediate future, it could affect the timing of a decision in this proceeding. We do not believe it is in the public interest to finalize AM stereo standards based upon 10 kHz channel spacing if a change to 9 kHz spacing is contemplated. Our reasoning is that a delay would spare licensees additional equipment modifications and consumers would avoid investing in AM stereo receivers which could be rendered obsolete. Further comments and analysis are requested on this topic.

22. At some future time, the Commission may find that the public interest would be served by reducing the allowable bandwidth for standard broadcast transmissions from the present ±15 kHz to something less. This may be necessary as an adjunct to reduced channel spacing, or simply as a means of reducing adjacent channel interference with the present channel spacing. The commission considers it extremely important that the option to reduce bandwidth not be foreclosed by the adoption of AM stereo standards. Therefore, analysis and test data are necessary to assure the Commission that such a reduction will not be precluded by the presence of the higher order sidebands inherent in angle modulation. Comments should also address the quality of stereo reproduction possible if bandwidths were limited to ±5 kHz, ±7.5 kHz, or ±10 kHz. We note that the NAMSRC tests indicated out-of-band emissions in excess of those permitted by the Commission's rules occur under certain stereophonic conditions. It appears that the probability of this happening may be eliminated by imposing a requirement that the maximum frequency response of the L−R channel be limited. Comments on the desirability of requiring this as opposed to simply relying on the present requirements of § 73.40 are requested. We also note that the Kahn/Hazeltine system used a 5 kHz low pass filter in its L−R channel and request information on its necessity and purpose.

23. The notice requested information on the effect stereo operation would have on skywave reception by listeners who depend upon skywave service, and on the reception possible in the fading zone between groundwave and skywave propagation areas. Little information was received in response to this question. The NAMSRC did conduct some skywave propagation listening observations using the WBT transmitter in Charlotte, N.C., and a receiving site in Bethesda, Md. For this one observation there appeared to be no degradation to monophonic reception of the skywave signal due to the presence of the stereo information. Additional data and information concerning the reception of stereo skywave signals in both the monophonic and stereophonic reception modes are solicited from all proponents.

24. Information was also requested in the notice on the effect directional antennas would have on an AM stereo signal. This concern was raised due to the number of AM stations operating with directional arrays. It was thought that the AM station antenna system would limit the audio response of the station's transmission. Tests conducted by the NAMSRC, however, seemed to indicate that high "Q" antenna systems will have little effect on the tranmitted signal. This area is one in which the Commission still has lingering doubts and additional comments and data are requested. Of particular concern is the effect the stereo signal will have, if any, on protection afforded by the nulls of the antenna pattern.

25. The notice requested estimates of the expected price differential between AM stereo and AM monophonic receivers. Most of the price difference is due to the need for an additional audio channel and loudspeaker. These costs vary widely depending on the level of audio quality desired. Motorola estimates that redesigning an AM monophonic receiver to an AM stereo unit would result in a price increase between 25 and 70 percent over that of the monophonic receiver. Redesigning AM mono-FM stereo receivers to AM stereo-FM stereo operation would not involve the addition of another audio channel or loudspeaker. Estimates for the price increases involved in this conversion were estimated by Motorola and Harris to range from less than 10 percent to approximately 35 percent. These estimates are based upon the necessary decoder circuitry being produced on a single integrated circuit chip. National Semiconductor Corp. estimated the cost of these IC chips produced in high volume would add approximately $2 to the manufacturing cost of a stereo receiver for the Magnavox system and approximately $4 to the manufacturing cost for the Motorola system. They did not furnish cost figures for the Harris, Belar, and Kahn/Hazeltine receiver chips. Comments from the general public are requested on the estimates given. The Commission is interested in the potential number of consumers likely to purchase AM stereo receivers assuming a cost differential for all proponents' receivers along the lines estimated above. Additionally, we are interested in any more recent cost estimates for the proponents' decoding circuitry as determined by either the proponents or integrated circuit manufacturers.

26. AM stations operating transmitters by remote control may amplitude modulate the carrier with low frequency tones under provision of § 73.67(c). These tones are permitted to allow transmitter meter readings to be relayed to the remote control point. The effect of the stereo indicating tones of the Motorola, Magnavox, and Harris systems on the ability of AM licensees to use this low frequency tone capability should be addressed.

27. The Commission encourages further over-the-air testing of the five systems, especially during normal station operating hours. We are prepared to issue temporary authorizations to permit this. It is our hope that the proponents will use the time between issuance of this notice and the closing date for comments to obtain and submit additional data from over-the-air operation of the systems.

28. Further, as was of concern during the FM stereophonic proceeding (docket No. 13506), here also the Commission requests that the proponents whose systems are included in this notice submit information concerning the identity of persons or organizations applying for, or holding patents on AM stereophonic broadcast transmission and reception systems and apparatus. And, in addition, we are requesting information with respect to the arrangements that will be employed for the licensing of patents for competitive distribution and use of such systems and apparatus.

29. Finally, the Commission wishes to call attention to the increased demand for studio-to-transmitter link (STL) microwave channels that adoption of AM stereo standards may be expected to produce. Because the present STL allocation is quite crowded in many areas of the country, it cannot satisfy present demands for service. These demands are expected to increase should AM stereo transmissions be approved. The possibility of making additional spectrum available to meet these requests is slight. Therefore, licensees of remotely controlled AM stations seeking to transmit in stereo may find it necessary to use transmission lines leased from a common carrier to relay their signals from the studio to the transmitter site. We feel they should be aware of this.

30. Accordingly, it is proposed to amend part 73 of the Commission's rules and regulations as set forth in appendix B.

31. Authority for the actions taken herein is contained in sections 4(i), and 303 (g) and (r) of the Communication's Act of 1934, as amended.

32. Pursuant to procedures set out in § 1.4, 1.415, and 1.419 of the Commission's rules and regulations, interested parties may file comments on or before December 29, 1978, and reply comments on or before January 31, 1979. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

33. In accordance with § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying docket No. 21313.

34. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
William J. Tricarico,
Secretary.

APPENDIX A

The following parties submitted comments in this proceeding:

Albrecht, Al.
American Broadcasting Co., Inc.
Association for AM Stereo, Inc.
Association for Broadcast Engineering Standards, Inc.
Baker, Ruth.
Baxter, Paul.
Belar Electronics Laboratory, Inc.
Bock, Richard.
Boonton Electronics.
Brooks, Norman.
Clear Channel Broadcasting Service.
Continental Electronics Manufacturing Co.
Crawford Broadcasting Co.
Crisman Audiovision.
Department of Commerce.
Dorchester Laboratory.
Doubleday Broadcasting Co., Inc.
DuPage County Broadcasting, Inc.
Electronics Industries Association.
Ellis, Ron.
Ford Aerospace & Communications Corp.
General Motors Corp.
Harris Corp.
Hayes, William A.
Hazeltine, Inc.
Hester, Robert G.
Hewlett-Packard Co.
Joint Broadcast Licensees.
Kahn Communications, Inc.
Keller, Robert G.
Kenwood Electronics, Inc.
KARN.
KBIM.
KDRS.
KDWN.
KEX.
KOQT.
KPLS.
KRSY.
KWIL.
KPOW.
KRBC, KEND, KENM.
KVNU.
KYME.
Lee, Paul H.
Lenamon, Jerry.
Lyon Radio Stations.
Magnavox Consumer Electronics Co.
Matshushita Communications Industrial Co.
Matshushita Electric Industrial Co., Ltd.
Maurice, Claude.
McKay Dymek Co.
McMartin Industries, Inc.
Mitchel, Henry.
Mount Wilson FM Broadcasters, Inc.
Motorola, Inc.
Moura, Brian A.
Moyer, Steven K.
Mullier, Don.
National AM Stereophonic Radio Committee.
National Association of Broadcasters.
National Broadcasting Co., Inc.
National Radio Broadcasters Association.
National Semiconductor Corp.
Orban, Robert A.
Pioneer Electronics Corp.
Rackley, Ronald D.
Rice, Joe.
Rudko, Jay.
Sansui Electronic Co., Ltd.
Scherer, Paul.
Steckel, David J.
Steel, Andrus & Associates.
Strahar, John M., Jr.
Sugimoto, Hank.
Swanson Broadcasting.
Time & Frequency Technology, Inc.
Westinghouse Broadcasting Co., Inc.
Woods Communications.
WAUG.
WELK, Inc.
WFBR.
WFSO.
WFWR.
WGN Continental Broadcasting Co.
WILS.
WINU.
WPWC.
WRFC.
WSRF.
WTHE.
WWCA.
WWCH.
Zenith Radio Corp.

APPENDIX B

It is proposed to amend part 73 of the Commission's rules and regulations as follows:

NOTE.—Italic material denotes additions to existing rules.

I. The following rule changes are necessary for all five proposed AM stereo systems.

1. It is proposed to amend § 73.3 to read as follows:

§ 73.3 AM broadcast channel.

The term "AM broadcast channel" means the band of frequencies occupied by the carrier and the *upper and lower sidebands* of a broadcast signal with the carrier frequency at the center. Channels shall be designated by their assigned carrier frequencies. The 107 carrier frequencies assigned to standard broadcast stations shall begin at 540 kHz and be in successive steps of 10 kHz.

2. It is proposed to amend § 73.14 to read as follows:

§ 73.14 Technical definitions.

• • • • •

(j) *AM* modulator stage. *"AM* modulator stage" means the last amplifier stage of the modulating wave which *amplitude* modulates a radiofrequency stage.

(k) *AM* modulated stage. *"AM* modulated stage" means the radiofrequency stage to which the modulator is coupled and in which the *carrier wave* is modulated in accordance with the system of *amplitude* modulation and the characteristics of the modulating wave.

• • • • •

(u) *Stereophonic broadcasting.*

Crosstalk. An undesired signal occurring in one channel caused by an electrical signal in another channel.

Left (or right) signal. The electrical output of a microphone or combination of microphones placed so as to convey the intensity, time, and location of sounds originating predominantly to the listener's left (or right) of the center of the performing area.

Left (or right) stereophonic channel. The left (or right) signal as electrically reproduced in reception of AM stereophonic broadcasts.

Stereophonic separation. the ratio of the electrical signal caused in the right (or left) stereophonic channel to the electrical signal caused in the left (or right) stereophonic channel by the transmission of only a right (or left) signal.

AM stereophonic broadcast. The transmission of a stereophonic program by a single AM broadcast station utilizing the main channel and a stereophonic channel.

Main channel. The band of frequencies from 50 to 7500 Hertz which amplitude modulates the carrier.

Stereophonic channel. The band of frequencies from 50 to 7500 Hertz containing the stereophonic information which modulates the radiofrequency channel.

3. It is proposed to amend *73.40 to read as follows:*

§ 73.40 Transmitter; design, construction, and safety of life requirements.

(a) • • •

(2) The equipment is capable of satisfactory operation at the authorized operating power or the proposed operating power with *amplitude* modulation of at least 85 to 95 percent with no more distortion than given in subparagraph (3) of this paragraph.

• • • • • •

(6) The carrier hum and extraneous noise level, unweighted r.s.s. (exclusive of microphone and studio noises) over

the frequency band 30 to 20,000 Hz is at least 45 dB below the level of a 400 Hz sinusoidal tone, producing 100 percent *amplitude* modulation of the car-

(5) The requirements of subparagraphs (3) and (4) of this paragraph contemplate the use of sinusoidal test signals.

II. The following rule changes are proposed for the Magnavox system:

1. It is proposed to amend § 73.14 to read as follows:

4. It is proposed to add a new § 73.62 to read as follows:

§ 73.62 Stereophonic transmission standards.

III. The following rule changes are proposed for the Motorola system:

1. It is proposed to amend § 73.14 to read as follows:

ting characteristics of the equipment from the microphone terminals (including microphone amplifier unless microphone frequency correction is in-

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the frequency band 30 to 20,000 Hz is at least 45 dB below the level of a 400 Hz sinusoidal tone, producing 100 percent *amplitude* modulation of the carrier.

• • • • • •

4. It is proposed to amend § 73.47 to read as follows:

§ 73.47 Equipment performance measurements.

(a) • • •

(6) Each licensee engaging in stereophonic broadcasting must also make equipment performance measurements utilizing left only and right only input signals to yield the following information:

(i) The same information required by subparagraphs (1), (2), and (4) of this paragraph.

(ii) Data and curves showing audio frequency stereophonic separation for fundamental frequencies of 50, 100, 400, 1000, 5000, and 7500 Hz for 25, 50, and 85 percent amplitude modulation of the carrier.

• • • • • •

5. It is proposed to amend § 73.50 to read as follows:

§ 73.50 Requirements for approval of modulation monitors.

• • • • • •

(d) The specifications that a modulation monitor must meet before it will be type approved for monitoring stereophonic operation are as follows:

(1) A means for measuring the amplitude modulation percentage of the carrier produced by the main channel signal. For this purpose the instrument must comply with the provisions of paragraph (b) of this section.

(2) A means for measuring the modulation percentage of the carrier produced by the stereophonic channel signal. For this purpose the instrument must comply with the provisions of paragraph (b) of this section.

(3) A means for measuring individually the amplitudes of the left and the right stereophonic channels with a capability of reading stereophonic channel separation of at least 32 dB with an accuracy of ±3 dB.

(4) A means for accurately indicating crosstalk from the main channel into the stereophonic channel, and from the stereophonic channel into the main channel. For this purpose the monitor must have:

(i) A provision for indicating a crosstalk ratio of at least 50 dB.

(ii) A characteristic not exceeding 42 dB of internal crosstalk for any single main channel signal or for any single stereophonic channel signal that modulates the carrier 85 percent.

(5) The requirements of subparagraphs (3) and (4) of this paragraph contemplate the use of sinusoidal test signals.

(6) The stereophonic channel modulation display may be a part of the main channel modulation display. However, if switching of functions is utilized, the peak preset indicator or main channel modulation must be independent of this switching and afford a continuous display of the main channel modulation.

6. It is proposed to amend § 73.55 to read as follows:

§ 73.55 Modulation.

(a) The percentage of *amplitude* modulation shall be maintained at as high a level as is consistent with good quality of transmission and good broadcast service. In no case shall it exceed 100 percent on negative peaks of frequent recurrence, or 125 percent on positive peaks at any time. Generally, modulation should not be less than 85 percent on peaks of frequent recurrence, but where such action may be required to avoid objectionable loudness, the degree of modulation may be reduced to whatever level is necessary for this purpose, even though, under such circumstances, the level may be substantially less than that which produces peaks of frequent recurrence at a level of 85 percent.

7. It is proposed to amend § 73.56 to read as follows:

§ 73.56 Modulation monitors.

(a) Each station shall have installed either at the transmitter site, the extension meter location, or at the remote control point from which the transmitter is controlled, a properly operating modulation monitor of a type approved by the Commission. Except for stations that are operating with an automatic transmission system (ATS), the monitor shall be in continuous operation with the modulation level meter indications available to the operator on duty in charge of the transmitter. *Each station, engaged in stereophonic operation as contemplated by § 73.61, must have in operation a modulation monitor of a type approved by the Commission for monitoring stereophonic operation.*

• • • • • •

8. It is proposed to add a new § 73.61 to read as follows:

§ 73.61 Stereophonic broadcasting.

An AM broadcast station may, without further authority from the FCC, transmit stereophonic programs upon installation of type accepted stereophonic transmitting equipment and a type approved stereophonic modulation monitor.

II. The following rule changes are proposed for the Magnavox system:

1. It is proposed to amend § 73.14 to read as follows:

§ 73.14 Technical definitions.

• • • • • •

(u) Stereophonic broadcasting.

Nominal (carrier) phase. The angular time variation of the carrier without modulation, expressed as (20f±20) radians.

Phase modulation. A system of modulation where the instantaneous phase of the radio frequency carrier varies from nominal phase in proportion to the instantaneous amplitude of the modulating signal. The instantaneous amplitude of a phase-modulated radio frequency carrier is independent of the modulating signal frequency and amplitude.

Phase deviation. The change in phase of the emitted wave from a nominal phase.

Percentage modulation (phase). The radio of the actual phase deviation expressed in percentage to the phase deviation defined as 100 percent modulation. A phase deviation of ±1 radian peak is defined as 100 percent phase modulation.

Stereophonic identification signal. A sub-audio signal transmitted at a nominal frequency of 5 Hz which identifies the broadcast signal as being stereophonic in nature. Such a signal may, but need not, be sinusoidal.

2. It is proposed to amend § 73.55 to read as follows:

§ 73.55 Modulation.

(a) • • •

(b) *Each station transmitting in stereo must comply with the following requirements:*

(1) In no case shall amplitude modulation exceed 95 percent on negative peaks of frequent recurrence.

(2) The sub-audio signal will be such as to generate a maximum peak frequency deviation of 18 Hz and a minimum peak frequency deviation of 15 Hz. The modulating signal may be sinusoidal (or a rectangular wave) with a period of 200 milliseconds ±20 milliseconds.

(3) AM and PM modulation percentage must be equal.

• • • • • •

3. It is proposed to amend § 73.59 to read as follows:

§ 73.59 Frequency tolerance.

The operating frequency of each station shall be maintained within 20 Hz of the assigned frequency *including the deviations created by the sub-audio frequency modulated signal for those stations transmitting in stereo.*

4. It is proposed to add a new § 73.62 to read as follows:

§ 73.62 Stereophonic transmission standards.

(a) The modulating signal for the main channel shall consist of the sum of the left and right signals.

(b) The modulating signal for the stereophonic channel shall be equal to the difference of the left and right signals (L−R).

(c) The transmitter must comply with the requirements of Section 73.40(a)(2), including 95 percent phase modulation.

(d) The transmitter must comply with the requirements of Section 73.40(a)(3), both for phase and amplitude modulation modes of broadcast.

(e) The transmitter must comply with the requirements of Section 73.40(a)(4), both for phase and amplitude modulation modes of broadcast.

(f) The stereophonic channel modulated hum and extraneous noise, unweighted r.s.s. over the frequency band 30 to 20,000 Hz shall be at least 45 dB below 1 radian phase deviation. The residual frequency modulation noise, unweighted r.s.s. over the band 1 to 30 Hz shall be less than 2 Hz.

(g) At 85 percent amplitude modulation with a 400 Hz modulating signal, the phase modulation shall not exceed 2 percent. At 85 percent phase modulation with a 400 Hz modulating signal, the amplitude modulation shall not exceed 2 percent.

(h) The transmitter shall be capable of generating a frequency modulated signal of ±20 Hz deviation. This system shall accept modulating signals from d.c. to 20 Hz and shall attenuate frequencies above 20 Hz at a rate approaching 12 dB per octave.

(i) At the instant when only a left signal is applied and the modulating voltage is increasing, the main channel modulation envelope shall increase and the stereophonic channel modulation shall phase advance relative to nominal phase.

(j) The AM and PM broadcast signal components shall be transmitted so that the time delay between related amplitude and phase modulation components is less than 5 microseconds.

(k) The transmitter shall contain a device to limit the percentage of negative amplitude modulation so as not to exceed 95 percent on negative peaks of frequent recurrence.

(l) The stereophonic separation between left and right channels shall be better than 26 dB at audio modulating frequencies between 100 and 5000 Hz up to 85 percent both AM and PM modulation.

• • • • • •

III. The following rule changes are proposed for the Motorola system:

1. It is proposed to amend § 73.14 to read as follows:

§ 73.14 Technical definitions.

• • • • • •

(u) Stereophonic broadcasting.

Percentage modulation (phase). Phase modulation is defined with signals applied to left and right inputs in phase opposition (no amplitude modulation).

In a positive direction:

$$M_p = 1.27\,(+\theta_{cmax}) \times 100$$

In a negative direction:

$$M_p = 1.27\,(-\theta_{cmax}) \times 100$$

where:

M_p = phase modulation level in percent

$+\theta_{cmax}$ = peak positive phase modulation level

$-\theta_{cmax}$ = peak negative phase modulation level

and where:

$$\phi_c \text{ is defined as } \tan^{-1}\left[\frac{m(L(t)-R(t))}{1+m(L(t)+R(t))}\right]$$

• • • • • •

2. It is proposed to amend § 73.40 to read as follows:

§ 73.40 Transmitter: Design, construction, and safety of life requirements.

(a) • • •

(3) • • •

(i) When stereophonic transmission is used, the distoration defined in paragraph (3) must be measured in each channel separately.

The distoration measurements for the right channel are to be made with a signal in the right channel only and measured at the right output terminal of the monitor. The distortion measurements for the left channel are to be made with a signal in the left channel only. The distoration measurement for 95 percent modulation is omitted on the left and right only modulation conditions. The signal is then applied to both left and right channels and the distortion is measured at the monitor L+R output terminal.

(ii) When measuring the output at the monitor terminals under the conditions of left and right only input signal, the output when measured on the unused channel of the monitor shall be 20 dB below the channel being measured, or should have a value as defined in subparagraph 6 of this Section, whichever is greater.

(4) The audio frequency transmitting characteristics of the equipment from the microphone terminals (including microphone amplifier unless microphone frequency correction is included, in which event proper allowance shall be made accordingly) to the antenna output does not depart more than 2 decibels (dB) from that at 1000 cycles between 100 and 5000 Hz. *When sterophonic transmission is used the indicated values apply to each channel separately.*

(5) • • •

(6) The carrier hum and extraneous noise level, unweighted r.s.s. (exclusive of microphone and studio noises) over the frequency band 30 to 20000 Hz is at least 45 dB below the level of a 400 Hz sinusoidal tone producing 100 percent amplitude modulation of the carrier. *The values of hum and noise when measured for stereophonic transmission are measured in each channel separately.*

• • • • • •

3. It is proposed to add a new § 73.62 to read as follows:

§ 73.62 Stereophonic transmission standards.

(a) The modulating signal for the main channel shall consist of the sum of the left and right signals.

(b) The stereophonic information is transmitted by varying the phase of the carrier in accordance with the following relationship:

$$\phi_c = \tan^{-1}\left[\frac{m(L(t)-R(t))}{1+m(L(t)+R(t))}\right]$$

where:

$L(t)$ = audio signal left channel

$R(t)$ = audio signal right channel

m = modulation factor

and

$m(L(t)+R(t))=1$ for 100 percent amplitude modulation

$m(L(t)-R(t))=$ for 100 percent phase modulation

(c) θ_{max} occurs on negative peaks of left or right signals only and should have a maximum value of 1.46 radians (83.66°) when $L(t)=0.9$, $R(t)=0$ or $R(t)=0.9$, $L(t)=0$.

(d) The composite signal contains a pilot tone for indicating the presence of a stereophonic transmission. The 25

Hz tone modulates the carrier phase ±0.04 radians peak (±2.29°). The tone modulates the carrier phase according to the relation:

$$\phi_c = \tan^{-1}\left[(0.04 \pm 0.01)\sin 50\pi t\right]$$

(b) For stations transmitting in stereo:

(1) The AM and FM modulation percentage must be equal.

including 95 percent frequency modulation.

(k) The transmitter must comply amplitude as 26.8 percent envelope modulation.

2. It is proposed to amend § 73.40 to

mission are measured in each channel separately.

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Hz tone modulates the carrier phase ±0.04 radians peak (±2.29°). The tone modulates the carrier phase according to the relation:

$$\theta_{pilot} = \tan^{-1}\left[\frac{(0.04 \pm 0.01)\sin 50\pi t}{1 + L(t) + R(t)}\right]$$

where θ is the angular deviation from the pilot unmodulated carrier phase, produced by the tone.

(1) The tone shall produce 0.04±0.01 radian of phase deviation when the carrier unmodulated.

(2) The frequency of the tone shall be 25 Hz.

(3) The tone frequency shall have a tolerance of 1% (±½%).

(e) The radiated signal is given as:

$$E_c = A_c(1+m(L(t)+R(t)))\cos\left[w_c t + \tan^{-1}\left[\frac{m(L(t)-R(t))}{1+m(L(t)+R(t))}\right]\right]$$

• • • • •

IV. The following rule changes are proposed for the Kahn/Hazeltine system:

It is proposed to add a new § 73.62 to read as follows:

§ 73.62 Stereophonic transmission standards.

(a) The modulating signal for the main channel shall consist of the sum of the left and right signals.

(b) An AM stereophonic broadcast signal shall consist of a carrier frequency component and upper and lower sidebands. The lower sideband channel transmits left hand stereo information and the upper sideband shall transmit the right hand stereo information.

(c) The stereophonic wave shall equal or better the following standards:

(1) When L=R, a conventional monophonic AM wave shall be produced.

(2) The AM stereo wave shall be fully compatible in terms of distortion and frequency response with conventional, monophonic AM receivers.

(3) The AM stereo wave's monophonic characteristic specification shall be identical with the AM broadcast standards contained in Section 73.40.

(4) When either the L or R signals are absent and the remaining signal is fully modulated:

(i) the phase modulation component should have a peak phase deviation of 31° ± 3°with approximately 4° representing the second harmonic of the audio signal, and the envelope modulation should have a peak modulation of 50 percent ± 1 percent, and

(ii) The ratio of energy between the two sidebands shall equal or exceed 100 to 1 in power (20 dB) for modulation frequencies from 100 to 5000 Hz and shall exceed 400 to 1 in power (26 dB) for 250 to 3000 Hz and 1000 to 1 in power (30 dB) at 1000 Hz.

• • • • •

V. The following rule changes are proposed for the Belar system:

1. It is proposed to amend § 73.14 to read as follows:

§ 73.14 Technical definitions.

• • • • •

(u) Stereophonic broadcasting.

Center frequency. The term "center frequency" means:

(1) The average frequency of the emitted wave when modulated by sinusoidal signal.

(2) The frequency of the emitted wave without modulation.

Frequency modulation. A system of modulation where the instantaneous radio frequency varies in proportion to the instantaneous amplitude of the modulating signal (amplitude of modulating signal to be measured after preemphasis) and the instantaneous radio frequency is independent of the frequency of the modulating signal.

Frequency swing. The instantaneous departure of the frequency of the emitted wave from the center frequency resulting from modulation.

Percentage modulation. The ratio of the actual frequency swing to the frequency swing defined as 100 percent modulation, expressed in percentage. For AM stereophonic broadcast stations, a frequency swing of ◊312.5 Hz is defined as 100 percent modulation.

2. It is proposed to amend § 73.55 to read as follows:

§ 73.55 Modulation.

(a) • • •

(b) For stations transmitting in stereo:

(1) The AM and FM modulation percentage must be equal.

(2) The percentage of amplitude modulation shall not exceed 95 percent on negative peaks of frequent recurrence.

3. It is proposed to amend § 73.59 to read as follows:

§ 73.59 Frequency tolerance.

The operating *center* frequency of each station shall be maintained within 20 Hz of the assigned frequency.

4. It is proposed to add a new § 73.62 to read as follows:

§ 73.62 Stereophonic transmission standards.

(a) The modulating signal for the main channel shall consist of the sum of the left and right signals.

(b) The modulating signal for the stereophonic channel shall be equal to the difference of the left and right signals (L−R).

(c) The stereophonic channel shall be pre-emphasized according to a 400-microsecond time constant.

(d) Amplitude modulation of the carrier shall be used for the main channel.

(e) Frequency modulation of the carrier shall be used for the stereophonic channel.

(f) At the instant when only a positive left signal is applied, the main channel modulation envelope shall increase (positive modulation) and the stereophonic channel modulation shall cause the carrier frequency to increase.

(g) The AM and FM broadcast signal components shall be transmitted so that the time delay between related amplitude and frequency modulated components is less than 2.5 microseconds.

(h) The transmitter shall contain a device to limit the percentage of negative amplitude modulation so as not to exceed 95 percent on negative peaks of frequent recurrence.

(i) The stereophonic separation between left and right stereophonic channels shall be at least 26 dB at audio modulating frequencies between 100 and 5,000 Hz up to 85 percent modulation.

(j) The transmitter must comply with the requirements of § 73.40(a)(2) including 95 percent frequency modulation.

(k) The transmitter must comply with the requirements of § 73.40(a)(3) for both the frequency and amplitude modulation modes of the transmitter.

(l) The transmitter must comply with the requirements of § 73.40(a)(4) for both the frequency and amplitude modulation modes of the transmitter.

(m) (1) The transmitter must comply with the requirements of § 73.40(a)(6).

(2) In addition, the stereophonic channel modulated hum and extraneous noise, unweighted r.s.s. over the frequency band 30 to 20,000 Hz shall be at least 45 dB below 100 percent FM modulation (312.5 Hz peak deviation or 5.21 radians phase deviation at 60 Hz).

(n) At 85 percent amplitude modulation with a 400 Hz modulating signal, the equivalent frequency modulation shall not exceed 2 percent. At 85 percent frequency modulation with a 400 Hz modulating signal, the amplitude modulation shall not exceed 2 percent.

VI. The following rule changes are proposed for the Harris system:

1. It is proposed to amend § 73.14 to read as follows:

§ 73.14 Technical definitions.

• • • • •

(u) Stereophonic broadcasting.

Phase modulation. A system of modulation where the instantaneous phase of the radio frequency carrier varies from nominal phase in proportion to the instantaneous amplitude of the modulating signal. The instantaneous amplitude of a phase-modulated radio frequency carrier is independent of the modulating signal frequency and amplitude.

Stereophonic identification signal. A subaudio signal transmitted at a nominal frequency of 25 Hz at 9 percent phase modulation. This tone identifies the broadcast signal as being stereophonic in nature.

Phase deviation. The change in phase of the transmitted wave from a nominal phase.

Nominal (carrier) phase. The angular time variation of the carrier without modulation, expressed as (2π f $\pm$ 2π) radians.

Percentage modulation (phase). The ratio of the actual phase deviation expressed in percentage to the phase deviation defined as 100 percent modulation. A phase deviation of 100 percent is defined as giving the same sideband amplitude as 26.8 percent envelope modulation.

2. It is proposed to amend § 73.40 to read as follows:

§ 73.40 Transmitter; design, construction, and safety of life requirements.

• • • • •

(a) • • •

(3) The total audio frequency distortion from microphone terminals, including microphone amplifier, to antenna output does not exceed 5 percent harmonics (voltage measurements of arithmetical sum or r.s.s.) when modulated from 0 to 84 percent, and not over 7.5 percent harmonics (voltage measurements of arithmetical sum or r.s.s.) when modulating 85 percent to 95 percent (distortion shall be measured with modulating frequencies of 50, 100, 400, 1000, 5000, and 7500 Hertz (Hz) up to the 10th harmonic or 16,000 Hz, or any intermediate frequency that readings on these frequencies indicate is desirable). *When stereophonic transmission is used, the distortion must be measured in each channel separately. The distortion measurements for the right channel are to be made with a signal in the right channel only and measured at the right output terminal of the monitor. The distortion measurements for the left channel are to be made with a signal in the left channel only. The distortion measurement for 95 percent modulation is omitted on the left and right only modulation conditions. The signal is then applied to both left and right channels and the distortion is measured at the monitor L+R output terminal.*

(4) The audio frequency transmitting characteristics of the equipment from the microphone terminals (including microphone amplifier unless microphone frequency correction is included, in which event proper allowance shall be made accordingly) to the antenna output does not depart more than 2 decibels (dB) from that at 1000 cycles between 100 and 5000 Hz. *When stereophonic transmission is used the indicated values apply to each channel separately.*

(5) • • •

(6) The carrier hum and extraneous noise level, unweighted r.s.s. (exclusive of microphone and studio noises) over the frequency band 30 to 20,000 Hz is at least 45 dB below the level of a 400 Hz sinusoidal tone producing 100 percent amplitude modulation of the carrier. *The values of hum and noise when measured for stereophonic transmission are measured in each channel separately.*

• • • • •

3. It is proposed to add a new § 73.62 to read as follows:

§ 73.62 Stereophonic transmission standards.

(a) The main channel information is transmitted by varying the amplitude of the carrier in accordance with the following relationship:

$$V_c(t) = [[1 + (L(t) + R(t))\cos\theta]^2 + [(L(t) - R(t))\sin\theta]^2]^{1/2}$$

where $\theta = 15°$.

(b) The stereophonic channel information is transmitted by varying the phase of the carrier in accordance with the following relationship:

$$\phi_c(t) = \tan^{-1}\left[\frac{(L(t)-R(t))\sin\theta}{1+(L(t)+R(t))\cos\theta}\right]$$

where $\theta = 15°$.

(c) The stereophonic separation between left and right channels shall be a minimum of 20 dB at audio modulating frequencies between 100 Hz and 5000 Hz up to 85 percent modulation.

(d) The amplitude and phase modulation signal components shall be transmitted so that the time delay between related amplitude and phase modulation components is less than 5 microseconds.

(e) The composite signal contains a pilot tone for indicating the presence of a stereophonic transmission. The 25 Hz tone phase modulates the L−R channel at 9 percent modulation.

[FR Doc. 78-29560 Filed 10-18-78; 8:45 am]

[6712-01-M]

[47 CFR Part 76]

[CT Docket No. 78-233; FCC 78-544]

NETWORK NONDUPLICATION RULES

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking in CT docket No. 78-233.

SUMMARY: The Federal Communications Commission proposes to amend its regulations to eliminate network nonduplication protection for programs of less than 30 minutes duration. The protection is afforded to

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local television broadcast stations carried on a cable television system and showing network programs which are being broadcast simultaneously by a more "distant" television station. The amendment would relieve an undue burden imposed on cable operators who must engage in program switching to "block out" the distant signal for the duration of the duplicate network programing.

DATES: Comments must be received on or before December 18, 1978, and reply comments on or before January 17, 1979.

ADDRESS: Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jim Ewalt, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION:

Adopted: July 27, 1978.

Released: October 11, 1978.

By the Commission: Commissioners Lee, Washburn, and White concurring in the result.

In the matter of amendment of part 76 of the Commission's rules and regulations concerning the network nonduplication rules, CT docket No. 78-233.

1. The Commission's rules [1] provide that "local television broadcast stations carried on a cable television system, are entitled to receive nonduplication protection against network programs broadcast simultaneously by a more "distant" television station. Nonduplication protection is afforded to broadcast stations in order to prevent fragmentation of their audiences by distant stations imported by the cable system and not otherwise available to the viewers within the market. Operators of cable television systems therefore, upon proper notification from a local broadcaster, are obligated to provide the requested protection by "blacking-out" the distant signal for the duration of the duplicate network programing. The Commission believes this obligation fails to serve its intended purpose and becomes unduly burdensome when applied so as to require cable operators to engage in program switching more than every half-hour and therefore should be eliminated in its application to programs of short duration. For this reason notice of proposed rulemaking is hereby given in this matter.[2]

2. We believe elimination of network nonduplication protection for programs of short duration would not impact adversely a station's local audience share and would eliminate an undue burden currently imposed on cable operators. Network programing falling within the exemption appears to be minimal, and that which does is most often of considerably shorter duration than 30 minutes.[3] Additionally, much of this programing would not be affected because it is surrounded by enough other network programing so that the total programing sequence exceeds 30 minutes. Loss of audience during these infrequent, short periods would be minimal. From the cable operator's standpoint, we note that affording protection for these shorter intervals imposes an additional burden. The operator must purchase and install switching equipment capable of being programed for less than the standard 30-minute intervals, or provide for manual switching by system personnel. His alternative, to afford protection throughout the entire 30-minute time period, would deprive subscribers of the other, nonduplicated programing broadcast during the 30-minute period.

3. We wish, in proposing this action, to make it clear that it is not our intention to exempt cable operators from compliance when a particular half-hour is occupied by more than one network program such as a 25-minute program and a 5-minute "news-break" or when the program is 28 minutes long with 2 minutes of associated advertising. Comment is requested on the following two possible formulations of the rules:

A. § 76.95 *Exceptions.*

(e) Nothwithstanding the requirements of §§ 76.92 and 76.94, a community unit need not delete reception of any program which, from the beginning to the end of the network-fed material, is of less than (alternatively, 10, 15, or 20) minutes duration.

B. § 76.95 *Exceptions.*

(e) Nothwithstanding the requirements of §§ 76.92 and 76.94, a community unit need not delete reception of any programing sequence which, including programing, associated network and local commercials, and other nonprogram material, lasts less than 30 minutes.

In addition to comments on the specific rules involved, it would also be useful to have information relating to the frequency with which nonduplication problems of this type occur including an identification of particular cable operators who have encountered the problem, the cost and difficulty of complying with nonduplication protection requests of this type, and the impact failure to provide such protection would have on local broadcasters. If it appears that this is an isolated problem, parties may wish to comment on whether ad hoc relief granted in particular circumstances would be a desirable alternative to a change in the rules. Finally, comments are requested on the rationale for this change in the rules, which is that the cost of providing nonduplication protection for these short programs is unduly expensive and complicated when compared to the benefits the rule provides.

Authority for the rulemaking proposed herein is contained in sections 1, 2, 3, 4 (i) and (j), 301, 303, 307, 308, 309, and 403 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on or before December 18, 1978, and reply comments on or before January 17, 1979. In reaching a decision on this matter, we may take into account any other relevant information before us, in addition to the comments invited by this notice.

In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Participants filing the required copies who also wish each Commissioner to have a personal copy of the comments may file an additional six copies. Members of the general public who wish to express their interest by participating informally in the rulemaking proceeding may do so by submitting one copy of the comments, without regard to form, provided only that the docket number is specified in the heading. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29482 Filed 10-18-78; 8:45 am]

[1] Secs. 76.92 and 76.94.

[2] In *TelePrompTer of Florida, Inc.*, FCC 78-250, FCC 2d (1978), we denied a petition for special relief, and ordered the cable operator to afford protection for a network program of only 5 minutes duration. Of course, that was not the proper forum for us to amend our rules and therefore, we have instituted sua sponte, this proceeding.

[3] The networks currently schedule 9 regular programs of short duration (ABC, 4; CBS, 4; NBC, 1). The subject matter of all of the programs is news, with the exception of ABC Minute Magazine and School House Rock. Of course, for many of these programs there is a longer but nevertheless shorter than 30-minute program which occupies the rest of the half-hour involved, such as Love of Life which precedes the CBS Midday News.

[4910-59-M]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 570]

[Docket No. 73-9; Notice 13]

VEHICLE IN USE INSPECTION STANDARDS

Notice of Docket Entry

AGENCY: National Highway Traffic Safety Administration.

ACTION: Rulemaking status report.

SUMMARY: This notice advises the public of the entry in the docket of a report concerning the use of spacers in the suspension systems of motor vehicles.

ADDRESS: Copies of the report are available from: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

William Ostapenko, Office of State Vehicle Programs, Traffic Safety Programs, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-1597, or Frederic Schwartz, Jr., Office of Chief Counsel, National Highway Traffic Safety Administration, Washington, D.C. 20590, 202-426-1834.

SUPPLEMENTARY INFORMATION: On September 23, 1976, the National Highway Traffic Safety Administration (NHTSA) issued a Notice of Proposed Rulemaking which proposed permitting the use of two resilient spacers per spring in the suspension system of vehicles with a GVWR of 10,000 pounds or less (Docket No. 73-9; Notice 11, 41 FR 43191, September 30, 1976. The proposal was in response to a petition from JAMCO International, Inc.

In response to this proposal, a number of comments were received. None, however, addressed themselves to whether the use of spacers presented a potential degradation of safety. For this reason, the NHTSA contracted for research to be carried out on the effects of spring sag on vehicle handling and braking. The final report of the contractor has been placed in the docket. So that public comment on the report may be received, the NHTSA will not take final rulemaking action until after November 1, 1978.

The principal author of this notice is Frederic Schwartz, Jr., of the Office of Chief Counsel.

Issued on October 13, 1978.

CHARLES F. LIVINGSTON,
Acting Associate Administrator, Traffic Safety Programs.

[FR Doc. 78-29615 Filed 10-18-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 226]

CRITICAL HABITAT OF ENDANGERED AND THREATENED FISH AND WILDLIFE

Proposed Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles

AGENCY: National Marine Fisheries Service.

ACTION: Proposed designation of Critical Habitat; correction.

SUMMARY: In FR Doc. 78-28018 appearing at page 45905 in the issue for Wednesday, October 4, 1978, in the third column of page 45906, lines two and three of the first paragraph now reading "perature and possible shell passively at the surface." Should have read "perature and become highly susceptible to predation or may die while drifting passively at the surface. Lastly, turtles captured during the surveys exhibited shell damage that may have been caused by contact with trawl doors or collisions with vessels."

ADDRESS: Assistant Administrator for Fisheries,. National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 White- haven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, 202-634-7287.

Dated: October 13, 1978.

JACK W. GEHRINGER,
Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 78-29556 Filed 10-18-78; 8:45 am]

[1505-01-M]

[50 CFR Part 226]

CRITICAL HABITAT OF ENDANGERED AND THREATENED FISH AND WILDLIFE

Proposed Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles

Correction

In FR Doc. 78-27979 appearing at page 45905 in the issue for Wednesday, October 4, 1978, make the following corrections:

(1) In the heading on page 45905, the word "Porposed" should read "Proposed".

(2) On page 45096, in the first column, in the fourth line from the top, "gulf" should be capitalized to read "Gulf".

(3) On page 45906, in the middle column, in the first and second lines, the word "undistributed" should be "undisturbed".

(4) On page 45906, in the third column, the the last paragraph, in the 10th line, the word "draown" should read "drawn".

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Official Designation of the Lewiston Grain Inspection Service, Lewiston, Idaho, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Lewiston Grain Inspection Service, Lewiston, Idaho, as an official agency to perform grain inspection services under the authority of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.). This notice also proposes a geographic area within which that agency will operate, and announces a name change for that agency as a result of their incorporation.

DATE: Comments by November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250, 202-447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 et seq., hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to sections 7 and 7A of the Act, the Administrator of the Federal Grain Inspection Service (FGIS), has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services (7 U.S.C. 79 and 79a). Such designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

The Lewiston Grain Inspection Service, an existing official agency, made application to be officially designated under the Act, as amended, to perform official inspection functions, not including official weighing.

This is to announce that the FGIS conducted the required investigation of the Lewiston Grain Inspection Service which included an onsite review of the inspection point and a determination of the nature of any proscribed conflicts of interest that might have existed. The investigation showed that the inspection functions of that agency were in compliance with the Act and that no conflict of interest situations existed.

As a result, the Lewiston Grain Inspection Service was deemed eligible for designation to perform official inspection functions (other than appeal inspection), not including official weighing. A documnt designating the Lewiston Grain Inspection Service as an official agency was signed on July 24, 1978. Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on an interim basis pending final determination in this matter is: The State of Idaho north of the counties of Adams, Valley, and Lemhi.

Interested persons may obtain a map of the proposed geographic area from the Compliance Division, Delegation and Designation Branch.

NOTE: Section 7(f)(2) of the Act (7 U.S.C. 79(f)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The specified service point of this agency is Lewiston, Idaho, located within the proposed geographic area. The designation document provides for the inclusion of additional service points which may be established in the future, within the agency's geographic area.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

Notice is also given that the Lewiston Grain Inspection Service has changed its name, effective September 1, to the Lewiston Grain Inspection Service, Incorporated. This name change was made because the owners of that agency formed a corporation. This change in name does not involve a change in management or ownership.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street SW., Room 2405, Auditors Building, Washington, D.C. 20250. All materials should be mailed to the Director not later than November 20, 1978. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments and so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made with respect to this matter.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Done in Washington, D.C., on October 13, 1978.

DAVID C. MANGUM,
Acting Administrator.

[FR Doc. 78-29508 Filed 10-18-78; 8:45 am]

[3410-11-M]

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

Amendment to the Inventory List

Notice is hereby given of amendment to the inventory of roadless and undeveloped areas within the National Forests and Grasslands. The inventory as published in the FEDERAL REGISTER Friday, November 18, 1977, pages 59690-59715, was amended Tuesday, February 14, 1978, pages 6291-6292, Thursday, June 8, 1978, pages 24876-24881, and Tuesday, October 3, 1978, pages 45754-45755.

The inventory is subject to adjustments from time to time as corrected data become available, as areas are modified or areas are added or deleted

from the list. This amendment contains two changes to delete private land from an inventoried area, the size of one area is increased to include additional acreage found to meet inventory criteria, and six changes reflect a recalculation of acreage.

The amendments are listed by State and National Forest in the same order as the original list. Acreages shown are gross acres.

States: Alabama—
National Forests in Alabama: Change 8212, Big Bay, to 2,886 acres (reflects reduction of 311 acres to exclude private land).
State: Montana—
Flathead National Forest: Change 1485, Bear-Marshl-Scapegt-Swan, to 245,179 acres.
Helena National Forest: Change 1616, Camas Creek, to 40,800 acres; change 1617, Mount Baldy, to 16,800 acres; change 1618, Grassy Mountain, to 5,600 acres (reflects recalculation of acreage).
Lewis and Clark National Forest: Change 1485, Bear-Marshl-Scapegt-Swan, to 329,600 acres (corrects acreage for contiguous portion of the administration endorsed Great Bear Wilderness).
State: North Carolina—
National Forests in North Carolina: Change 8203, Birkhead Mountains, to 5,759 acres (reflects reduction of 1,051 acres to exclude private land).
State: New Mexico—
Cibola National Forest: Change 3013, Apache Kid, to 131,810 acres (adds 14,180 acres which have been found to meet inventory criteria).
State: Utah—
Manti LaSal National Forest: Change 4436, Park-Woodenshoe Canyon, to 48,400 acres (reflects recalculation of acreage).

Dated: October 12, 1978.

THOMAS C. NELSON,
Acting Chief.

[FR Doc. 78-29500 Filed 10-18-78; 8:45 am]

[3410-11-M]

ROGUE NATIONAL WILD AND SCENIC RIVER

In accordance with Pub. L. 90-542, enclosed are the boundary descriptions for the portion of the Rogue Wild and Scenic River administered by the Forest Service.

The Rogue Wild and Scenic River is jointly administered by the Bureau of Land Management, U.S. Department of the Interior and the Forest Service, U.S. Department of Agriculture. The boundary description of the portion of the Rogue administered by the Bureau of Land Management appeared in the July 7, 1972, FEDERAL REGISTER.

THOMAS C. NELSON,
Acting Chief.

OCTOBER 12, 1978.

Enclosure.

DESCRIPTION OF ROGUE RIVER NATIONAL WILD AND SCENIC RIVER

The Rogue River National Wild and Scenic River shall include all the parcels of land described below: (Willamette Meridian).

T. 33 S., R. 10 W.,
Sec. 9, lots 5 and 6, and E½SW¼SW¼;
Sec. 16, lots 1, 2, 3, 4, 5, 6, 7, and 8, and NW¼NE¼, E½NW¼NW¼; SW¼NW¼NW¼; W½SW¼ NE¼; NE¼NE¼SW¼; W½NE¼SW¼;
Sec. 17, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, and W½NW¼NE¼; S½NE¼NW¼; S½NW¼NW¼; SE¼NW¼; W½SW¼ NE¼; SE¼SW¼NE¼; SW¼SE¼NE¼; E½SE¼NE¼; NW¼SE¼;
Sec. 18, lots 3, 4, 5, 6, 7, 8, 11, 13, 14, 15, 16, 17, 18, 19, and 20, and E½NW¼SW¼; E½W½NW¼SW¼; S½NE¼NE¼; S½ NW¼NE¼; S½NE¼NW¼; S½SE¼;
Sec. 19, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, and NE¼SE¼NE¼; SW¼NE¼; NW¼ SE¼; W½SW¼SE¼; NE¼SW¼SE¼;
Sec. 20, lots 1, 2, 3, 4 and N½SW¼NW¼; N½SE¼NW¼; N½SW¼NE¼; NW¼SE¼ NE¼;
Sec. 21, lot 4;
Sec. 30, lots 1 and 2, and NE¼NE¼NW¼; W½NE¼NW¼.
T. 33 S., R. 11 W.,
Sec. 24, SE¼SE¼SE¼;
Sec. 25, lots 1, 2, 3, 4, 5, and 6, and E½NW¼NE¼; SW¼NW¼NE¼; S½NE¼ NW¼; NW¼SE¼NW¼; E½SE¼NW¼; NW¼SE¼SE¼; E½SE¼SE¼;
Sec. 34, lots 1 and 2, and S½NE¼SE¼; S½NW¼SE¼;
Sec. 35, lots 1, 2, 3, 4, 5, and 6, and NE¼NE¼; E½NW¼NE¼; SW¼SW¼ NE¼; E½SW¼NE¼; SE¼NE¼; E½NE¼ SW¼; SW¼NE¼SW¼; S½NW¼SW¼;
Sec. 36, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, and S½NE¼NE¼; S½NW¼NE¼; S½ NE¼NW¼; W½NW¼.
T. 34 S., R. 10½ W.,
Sec. 6, lot 3.
T. 34 S., R. 11 W.,
Sec. 1, lots 1, 2, 3, and 4;
Sec. 2, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and N½SE¼NE¼; NW¼NW¼SE¼; N½NE¼ SW¼; W½SW¼SW¼;
Sec. 3, lots 5, 6, 7, 8, 9, and 10, and SW¼SE¼NE¼; E½SE¼NE¼; NW¼ SE¼; SE¼NE¼SW¼; SW¼SW¼SW¼; E½ SW¼SW¼;
Sec. 4, S½SE¼SE¼;
Sec. 7, E½NE¼SE¼; E½SE¼SE¼;
Sec. 8, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and S½NE¼SE¼;
Sec. 9, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, 10, and 11, and NW¼NE¼; SE¼NE¼NW¼; E½SW¼NW¼; N½NE¼SE¼; NW¼SW¼SE¼;
Sec. 10, lots 1, 3, 4, and 5, and NW¼NE¼NE¼; NE¼NW¼NE¼; W½ NW¼NE¼; NW¼SE¼NW¼; E½SW¼NW¼;
Sec. 16, lot 1 and W½NE¼NW¼;
Sec. 17, lots 1, 2, 3, 4, 5, 6, and 7, and NE¼NW¼; W½SE¼NW¼; W½SW¼ SW¼;
Sec. 18, lots 5, 6, and 7, and E½NE¼NE¼; E½SE¼NE¼; SE¼SW¼SE¼;
Sec. 19, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, and NW¼SW¼SE¼;
Sec. 30, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10;
Sec. 31, lota 1, 3, 4, 5, 6, 7, 8, 11, 12, 13, and 14, and W½SW¼NE¼; W½NW¼SE¼; W½SW¼SE¼.
T. 35 S., R. 11 W.,
Sec. 5, lot 7;
Sec. 6, lots 2, 3, 4, 5, 6, 7, 8, 9, and 10, and SW¼SE¼NE¼;
Sec. 7, lots 1, 2, 3, 4, 5, 6, 7, 9, and 10, and W½SE¼NE¼; NE¼SE¼;
Sec. 8, lot 1;
Sec. 18, lots 1, 2, 3, 10, 11, and 14, and NW¼NW¼NE¼.
T. 35 S., R. 12 W.,
Sec. 10, lots 1, 2, 3, 4, 5, 6, 7, and 16, and NW¼SE¼;
Sec. 11, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, and 19, and N½SW¼SE¼;
Sec. 12, lots 1, 2, 3, 4, 5, 6, and 7, and SW¼NE¼SE¼; S½NW¼SE¼; SE¼NE¼ SW¼;
Sec. 13, lots 1, 2, 3, 4, 5, and 6;
Sec. 14, E½NE¼NE¼; NW¼NE¼NE¼; N½NE¼NW¼; N½NW¼NW¼;
Sec. 15, lots 1, 2, and 3, and N½NE¼NE¼; N½NW¼NE¼; NE¼NW¼; NW¼SE¼ NW¼; NW¼NW¼SW¼;
Sec. 16, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and SE¼NW¼NE¼; SE½SE¼NW¼; NE¼ SE¼; SE¼NW¼SW¼; W½SE¼SE¼;
Sec. 20, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and SW¼SW¼NE¼; E½SW¼NE¼; E½NE¼ SW¼; SW¼NE¼SW¼; SW¼SW¼SW¼; E½SW¼SW¼; W½SE¼SE¼; NE¼ SE¼SE¼;
Sec. 21, lots 1, 2, 3, 4, 6, and 10, and SE¼NW¼;
Sec. 29, lots 1, 2, and 3, and NW¼NE¼; W½SE¼NW¼; NE¼SE¼NW¼; N½SW¼ NE¼; NW¼SW¼; NW¼SW¼SW¼;
Sec. 30, lots 5, 6, 7, 8, 9, 10, and 11, and E½NE¼NE¼; SW¼NE¼NE¼; S½NE¼ SW¼; SE¼SW¼;
Sec. 31, lots 1, 2, 3, 4, 5, 6, and 7, and W½SW¼NE¼; NE¼SW¼NE¼; NW¼ NE¼SW¼.
T. 35 S., R. 13 W.,
Sec. 31, lots 4, 5, 6, and 7, and N½SW¼SE¼; N½SE¼SE¼; and that portion of lot 3 east of the Lobster Creek Road; and that portion of lot 8 east of a line running due south from the intersection of the centerline of the Lobster Creek Bridge with the south end of the bridge; and that portion of the N½SE¼SW¼ east of a line running due south from the intersection of the centerline of the Lobster Creek Bridge with the south end of the bridge;
Sec. 32, lots 1, 2, 3, 4, 5, 6, 7, 8, and 9, and N½SW¼SW¼; N½SE¼SW¼; N½SW¼ SE¼;
Sec. 33, lots 1, 2, 3, 4, 5, 6, 7, and 8, and S½SW¼NW¼;
Sec. 34, lots 1, 2, 3, 4, 5, 6, and 7, and SE¼SE¼NW¼; S½SW¼NE¼; W½NE¼ SE¼;
Sec. 35, S½SW¼SW¼;
Sec. 36, lots 1, 2, 3, 4, and 5, and E½NE¼NE¼; SW¼NE¼NE¼; E½NE¼ SW¼; E½SE¼SW¼; N½SE¼SE¼.
T. 36 S., R. 13 W.,
Sec. 1, lots 1, 2, 4, 5, 6, 7, and 8, and NW¼SE¼; NE¼SW¼;
Sec. 2, lots 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, and 14;
Sec. 3, lots 1, 2, 3, 16, and 17.

[FR Doc. 78-29501 Filed 10-18-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

404(a) of the Federal Aviation Act of 1958.[5] We have reaffirmed these findings in subsequent orders.[6] Because

In the matter of Caribbean Area Service Investigation (Docket 30697); Applications of Puerto Rico Airlines

Airlines, Docket 31146; American Airlines, Docket 31152; Trans Carib Air (formerly Caribbean International Airlines), Docket 31153; Western Air

(Docket 31140), North Central Airlines (Docket 31144), Evergreen International Airlines (Docket 31146), American Airlines (Docket 31152), Trans

filed a new transatlantic fare package for effect November 1, 1978.[1]

Pan American proposes to increase first-class fares by 2 to 7 percent,

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[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 33617; Order 78-10-60]

AMERICAN AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of October, 1978.

On September 1, 1978, American Airlines, Inc. (American), filed fare increases for effect October 16, 1978, in most of its United States-Caribbean/Bermuda markets. First-class and economy-class fares would be increased 5 percent and round-trip Super Saver fares between interior U.S. points and Bermuda would be increased $6. Individual and group inclusive-tour fares would not increase nor would excursion fares between Aruba/Curacao and Baltimore, New York, Philadelphia and Washington.

In support of the filing, American says that even with the proposed increases its operations would produce a rate of return far below permitted levels.[1] It argues that its forecast of 1979 costs is reasonable; the proposed fares are related to experienced and contracted cost increases only; and since the forecast is premised on continued high load factors,[2] the increases are fully justified.

The Board concludes that the proposed increases in first-class fares between the United States and Barbados, Fort de France, and Pointe a Pitre may be unlawful and should be investigated.[3] We find that the proposed increases in these first-class fares would result in increased excess-baggage charges from points where weight-based baggage systems apply. The Board explored the merits of a weight-based baggage system in our formal investigation in Docket 24869.[4] We concluded that space, not weight, is the principal factor determining the cost of baggage services; weight may not be the sole determinant of the amount of baggage a passenger may carry without additional charge; and excess-baggage charges assessed at the rate of one percent of the one-way first-class fare per kilogram are unjust and unreasonable, in violation of section 404(a) of the Federal Aviation Act of 1958.[5] We have reaffirmed these findings in subsequent orders.[6] Because use of the weight system subjects passengers to unjustified baggage allowance restrictions and exorbitant excess-baggage charges tied to first-class fares, we will not permit increases in these fares.[7]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 403, 801 and 1002(j), thereof,

1. We institute and investigation to determine whether the fares and provisions set forth in Appendix A, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend the tariff provisions specified in Appendix A[8] and their use is deferred from October 16, 1978, to and including October 16, 1979, unless otherwise ordered by the Board, and no changes shall be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President[9] and it shall become effective on October 16, 1978.

4. We will file copies of this aforesaid tariffs and serve it on American Airlines, Inc.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29551 Filed 10-18-78; 8:45 am]

[1505-01-M]

[Order 78-10-53; Dockets 30697, et al.]

CARIBBEAN AREA SERVICE INVESTIGATION, ET AL.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of October 1978.

In the matter of Caribbean Area Service Investigation (Docket 30697); Applications of Puerto Rico Airlines Corp. (Docket 29702); Conner Air Lines, Inc. (Docket 31120); National Airlines, Inc. (Docket 31136); Southern Airways, Inc. (Docket 31137); Eastern Air LInes, Inc. (Docket 31140); North Central Airlines, Inc. (Docket 31144); Evergreen International Airlines (Docket 31146); American Airlines, Inc. (Docket 31152); Trans Carib Air, Inc. (Docket 31153); Western Air Lines, Inc. (Docket 32438); Braniff Airways, Inc. (Docket 32448); Air Florida, Inc. (Docket 32450); Southeast Airlines, Inc. (Docket 32453); Ozark Air Lines, Inc. (Docket 32467); J. N. Lillard d.b.a. Trans-Continent Airlines (Docket 32779).

By Order 77-4-28, April 6, 1977, the Board instituted this proceeding and requested comments on its scope. After receiving comments from numerous carriers and civic parties, the Board issued Order 78-3-112, March 23, 1978; it defined the scope of the *Caribbean Area Service Investigation* to include the issue of the need for additional air transportatiop "between any point or points in the United States and any point or points in the Caribbean area (footnote omitted) and between or among any points in the Caribbean area * * *."[1] That order also granted various petitions for intervention and outstanding motions to consolidate applications which conformed to the scope of the proceeding as there defined. The Board set 20 days for the filing of any additional applications and motions to consolidate.

In response to the scoping order, applications and/or amendments to applications, together with motions to consolidate were filed by Puerto Rico Airlines, Docket 29702; Conner Air Lines, Docket 31120; National Airlines, Docket 31136; Southern Airways, Docket 31137; Eastern Air Lines, Docket 31140; North Central Airlines, Docket 31144; Evergreen International Airlines, Docket 31146; American Airlines, Docket 31152; Trans Carib Air (formerly Caribbean International Airlines), Docket 31153; Western Air Lines, Docket 32438; Braniff Airways, Docket 32448; Air Florida, Docket 32450, Southeast Airlines, Docket 32453; Ozark Air Lines, Docket 32467; J. N. Lillard d.b.a. Trans-Continent Airlines, Docket 32779.[2] With the exception of Trans-Continent's application, we will consolidate all these applications into Docket 30697.[3]

In addition to these route applications, Air Florida filed an "amended application", asking for Board approval of certain control and interlocking relationships.[4] Air Florida is, in effect, asking us to place a new issue in this case. We will consolidate the application. Consideration of these issues will not unduly burden or delay the proceeding, since the evidentiary presentation required will virtually duplicate that relating to the fitness issue.

Finally, petitions for leave to intervene have been filed by the St. Louis Airport Authority-City of St. Louis, the St. Louis Regional Commerce and Growth Association, the City of Atlanta, Atlanta Chamber of Commerce, the Norfolk Port and Industrial Authority, the Port Authority of New York and New Jersey, the Cayman Islands Hotel Association, Ltd., and the Cayman Islands Chamber of Commerce. We find that these petitioners have sufficient economic interest in the proceeding to justify their participation as parties and will grant their petitions.

Accordingly, the Board: 1. Amends ordering paragraph 3 of Order 73-3-112 to include the following issue:

(c) Does the grant of any application give rise to any control or interlocking relationships which are prohibited by section 408 or 409 of the act in the absence of Board approval? If so, does the public interest warrant approval or exemption of such relationships subject to any necessary terms, conditions and limitations?

2. Consolidates into Docket 30697 the applications, and/or amended applications of Puerto Rico Airlines (Docket 29702), Conner Air Lines (Docket 31120), National Airlines (Docket 31136), Southern Airways (Docket 31137), Eastern Air Lines (Docket 31140), North Central Airlines (Docket 31144), Evergreen International Airlines (Docket 31146), American Airlines (Docket 31152), Trans Carib Air (Docket 31153), Western Air Lines (Docket 32438), Braniff Airways (Docket 32448), Air Florida (Docket 32450), Southeast Airlines (Docket 32453), and Ozark Air Lines (Docket 32467), to the extent that they conform to the scope of that proceeding;[5]

3. Grants the motion of Trans-Continent Airlines for dismissal of its application in Docket 32779;

4. Grants the motions for leave to file late of Trans-Continent Airlines, Southeast Airlines, Ozark Air Lines, and Conner Air Lines;

5. Grants the petitions for leave to intervene filed by St. Louis Airport Authority-City of St. Louis, St. Louis Regional Commerce and Growth Association, City of Atlanta, Atlanta Chamber of Commerce, Norfolk Port and Industrial Authority, Port Authority of New York and New Jersey, Cayman Islands Hotel Association, Ltd., and Cayman Islands Chamber of Commerce;

6. Denies all petitions, motions, applications, and requests, except to the extent granted.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[6]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29545 Filed 10-18-78; 8:45 am]

[6320-01-M]

[Order 78-10-61; Docket 33622]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Transatlantic Fare Increases; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1978.

On August 17 and 18, 1978, British Airways (BA) and Pan American World Airways, Inc. (Pan American), proposed revised basic-season transatlantic fares for effectiveness November 1, 1978. Aerlinte Eireann Teoranta (Irish) and Transportes Aereos Portugueses (TAP) filed similar tariff revisions on September 1, and 5 days later British Calendonian Airways (BCAL) requested special tariff permission to file its new winter-season fares on short notice, for effectiveness October 31, 1978. On September 14, the Swiss Air Transport Co., Ltd. (Swissair), also filed a new transatlantic fare package for effect November 1, 1978.[1]

Pan American proposes to increase first-class fares by 2 to 7 percent, normal economy by 5 percent, 22/45-day excursion, APEX, GIT, and affinity/incentive group fares by as much as 10 percent, super-APEX by about 6 percent, and budget and standby by 5 to 13 percent, with standby taking larger increases than budget; 14/21-day excursion fares would remain at current winter-season levels, and youth fares would be canceled. The proposal would also restrict budget and standby fares to round trip travel (they are now available both one way and round trip) but permit standby fares to be converted to budget, and vice versa, provided reservations for the budget fare are still open.[2]

BA's proposal would leave first-class fares unchanged, but increase normal economy by 5 percent and discount fares by 9 to 13 percent, with budget and standby taking larger increases than APEX. The 14/21-day and 22/45-day excursion fares would be combined into a single 14/45-day excursion priced at the level of the 22/45-day fare—in effect, a 14-percent price reduction for travelers using the present 14/21-day. The new excursion fare would allow one stopover in each direction, at a charge of $30. BA also plans to reduce its super-APEX fares slightly, cancel its U.S.-U.K. youth and 14/21-day GIT, and eliminate weekend surcharges for excursion, 7/8-day GIT, and affinity/incentive group fares.

Both Irish and TAP propose a 5-percent increase in their basic-season normal economy charges. Irish also plans to raise first-class by 5 percent, excursion fares by 5 to 20 percent, and GIT by 10 percent. TAP's proposal includes a 25-percent increase in first-class fares, a 10-percent increase in excursion, and 8- to 26-percent increases in APEX.[3] Swissair proposes 5-percent increases in first-class and normal economy, and 5- to 10-percent increases in excursion, group, and youth fares.

BCAL proposes to increase first-class by 3 percent, normal economy ("executive full facilities") by 6.5 percent, and APEX, bottom dollar, and other discount fares by 2 to 26 percent; cancel its executive-class fares; estab-

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[1] American forecasts returns on investment of 3.2 percent and 8.4 percent under existing and proposed fares, respectively, for calendar year 1979.

[2] American's forecast costs assume an average load factor of 63.9 percent. For the 12 months ended June 30, 1978, American experienced an average load factor of 64.6 percent in its mainland United States-Caribbean operations.

[3] American has demonstrated a need for additional revenue so the other fares will be permitted to take effect.

[4] *Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation* case, Order 76-3-81, Mar. 12, 1976.

[5] In Order 76-3-81, we found the carriers' baggage costs more closely approximate seven-tenths of one percent of the one-way economy fare per kilogram.

[6] See, for example, Orders 78-4-80, Apr. 14, 1978, 78-1-68, Jan. 17, 1978, 77-4-97, Apr. 20, 1977, 77-3-36, Mar. 7, 1977, and 76-5-26, May 10, 1976.

[7] See, for example, Orders 78-7-112, July 21, 1978, 78-2-106, Feb. 23, 1978, 78-8-25, July 25, 1978, and 76-10-108, Oct. 15, 1976.

[8] Appendix A was filed as a part of the original document.

[9] We submitted this order to the President on October 5, 1978.

[10] All members concurred

[1] The Caribbean area was defined to include 32 destinations, including Puerto Rico and the U.S. Virgin Islands. The Boston/New York/Philadelphia/Washington/Baltimore-Puerto Rico/Virgin Islands markets are also at issue in Docket 32293, and we generally do not institute proceedings that consider markets that are already at issue in pending cases. We did so here, however, in order to respond quickly to a pressing need for improved service in the Northeast Points-Puerto Rico/Virgin Islands markets and, at the same time, provide all interested airlines with a fair opportunity to prosecute applications for new or improved Caribbean authority. As it turns out, one carrier (Puerto Rico Airlines) was unable to meet the expedited procedural schedule established in Docket 32293 and has requested that we consolidate its application for New York-Puerto Rico authority into this case. We will grant its request.

[2] Southeast's and Ozark's amended applications and motions and Conner's motion were all filed late, accompanied by motions for leave to file late. We will grant these motions.

[3] By a letter filed August 16, 1978, Trans-Continent requested dismissal of its application in Docket 32779.

[4] Air Florida's pleading was late and was not accompanied by either a motion for leave to file late or a motion to consolidate. We emphasize to all interested persons that pleadings must be filed in accord with Board regulations, and all late filings must be supported by good cause.

[5] We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of this proceeding.

[6] All Members concurred except for Member Cohen who did not participate.

[1] Revisions to Air Tariffs Corp., Agent, CAB No. 71.

[2] Appendix A presents a comparison of current and proposed winter-season fares for selected U.S.-Europe markets. Appendixes A through B-3 were filed as a part of the original document.

[3] The large increases in first-class and APEX fares represent reversions to the previous IATA levels, with increases, compared to the lower local fares TAP now has in effect. TAP also proposes a new $30 weekend surcharge on its APEX fares.

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lish a new 14/45-day excursion, priced $20 higher than its current 22/45-day but below the 14/21-day level, with a separate $30 stopover charge; and cancel the present 14/21-day and 22/45-day fares, as well as the incentive group, youth, 7/8-day winter GIT, and regular GIT. Finally, the carrier plans to offer a special one-way "introductory offer fare" between Houston and London, at $99 eastbound and £50 westbound, to introduce its new B-747 service; this would be effective for only 1 week, from October 31 through November 6, 1978.

In support of its proposal, Pan American states that in conjunction with a dramatic upsurge in North Atlantic traffic—particularly low-fare traffic—it has experienced a deterioration in overall passenger yield, an increase in operating costs, and a decline in its rate of return on investment;[4] its need for increased revenue is so acute that all fare categories must contribute, as its marketing judgment considers feasible; the present proposal is designed to retain the low fares which have proved so popular and generative, and at the same time narrow the gap between normal and promotional fares by increasing normal, where possible, less than the promotional; more than 30 percent of its U.S.-Europe traffic is expected to travel on APEX, standby, or budget fares in the forecast year; if normal fares were held unchanged, much greater increases in promotional fares would be required;[5] such precipitous increases would end the traffic growth in this vast and very price-sensitive segment and cause a major disruption of the market; the wide use of normal economy fares (forecast at 24 percent of total U.S.-Europe traffic) is evidence that they are properly matching demand with the costs and value of the service provided; with a 50-percent load factor for normal economy traffic, its forecast normal economy yield under the proposed fares will not be sufficient to provide a 12-percent return element; the Board has not approved an increase in normal winter economy fares since November 1, 1974;[6] the proposed increases are expected to produce only a modest revenue gain, far short of the carrier's full revenue need, and the forecast rate of return under the proposed fares (3.37 percent) is "grossly inadequate" even when measured against the Board's "low" historical guideline of 12 percent; but the proposal will nevertheless provide much needed revenue improvement, and benefit passengers by preserving low-fare alternatives in the transatlantic fare structure.

British Airways also submitted justification of its proposal, and specifically defends the proposed 5-percent increase in normal economy fares. Citing the "disastrous" rise in the inflation rate since 1975, BA argues that normal economy fares have remained at present levels for more than three years, while operating costs for the industry have risen substantially; the 5-percent increase is an attempt to compensate, at least in part, for this "slowly worsening cost experience"; and the increase is further justified on quality-of-service grounds, since BA plans to introduce its three-class service on transatlantic flights on October 29, with new "club class" service which will greatly benefit normal economy fare passengers.[7]

We find that the proposed increases in normal economy fares may be unlawful and should be suspended pending investigation. We will take no action on the proposed increases in first-class and promotional fares.

In a long series of carrier agreements, normal transatlantic economy fares have been set at levels high enough not only to cover the cost of basic, point-to-point transportation, but to protect generally high-cost carriers, provide liberal stopover allowances, and incorporate a 20-percent mileage circuity. Although we have held the line on increases, normal economy fares continue to exceed the costs of providing direct, point-to-point transportation, and passengers who require on-demand service must pay a single premium fare, priced to cover extra services which many passengers neither need nor use. A more competitive industry might base normal economy fares on the cost of basic, point-to-point service, with separate, unbundled charges for stopovers and circuitous routings. The proposals now before us include no move toward a more competitive, innovative pricing strategy for normal economy fares; they would merely retain the present structure, with a 5-percent increase in price. We have no desire to deny the carriers the opportunity to recover their costs and a reasonable return, but we are reluctant to allow revenue improvement at the expense of passengers who already pay an unwarranted premium for basic, on-demand service.[8] Pan American's contention that the wide use of normal economy fares indicates that they are properly matching demand with the cost and value of the service provided is specious: passengers who require on-demand service have no alternative, since the restrictions attached to excursion and discount fares effectively bar many nondiscretionary passengers from using anything but the normal economy service.

We believe there should be a greater reliance on market forces to determine not only the quality and quantity but the price of air services; in principle, government intervention should be required only to prevent predation, unjust discrimination, or abuse of monopoly power. This policy has contributed to significant new price competition in the lower range of the North Atlantic fare structure, to the clear benefit of the more price-elastic segment of the market. Price competition in normal economy service, however, is still very limited. In this range, the structure remains essentially oligopolistic, with little or no realistic threat of new entry into the market for on-demand scheduled service and little or no incentive for incumbent carriers to compete on the basis of price.

We expressed these conclusions in detail in Order 78-9-38, August 23, 1978, dealing with a similar North Atlantic fare proposal by Trans World Airlines, Inc. (TWA). We said there that under these market conditions it would be be naive to hope that competition would operate to prevent or temper increases in normal economy fares; if approved, the increases would likely be adopted by most other carriers and the normal economy passenger would continue to be excluded from the benefits of an improving competitive regime. We noted our responsibili-

[4] Pan American reports a return on investment (ROI) of 10.11 percent in its North Atlantic operations for the year ended March 31, 1978, and forecasts ROI's of 3.37 and 2.47 percent, with and without the proposed fare increases, for the year ending March 31, 1979.

[5] Pan American forecasts $7.6 million in incremental revenue from the proposed fare increases, of which $4.5 million would be produced by the increases in normal economy fares.

[6] On November 1, 1978, however, the three-season fare structure (winter, shoulder, peak) was changed to two seasons (basic, peak), and the higher shoulder fares became the new basic-season levels.

[7] BA's "club class" service will provide normal economy-fare passengers with seating in a separate forward section of the aircraft, free drinks, free in-flight entertainment, improved meal service, and a high level of seat access on last-minute reservations; travelers using the various promotional fares will be seated in a separate "discount class" section. Pan American has proposed a similar "clipper class" for normal economy fare passengers, with similar in-flight amenities, separate seating, and separate check-in facilities when airport space and staffing permit. Both carriers' proposals were filed on August 15, for effectiveness October 29, 1978. Pan American, however, does not contend that the proposed increase in normal economy fares is justified on the basis of the improved quality of that service.

[8] This does not mean we conclude that no revenue improvement is warranted. With the full increases proposed, Pan American forecasts an ROI of 3.37 percent, compared to a return of 10.11 percent in the historical period; much of the decline is due to increased costs. The increases in normal economy fares which we are disapproving would account for approximately 60 percent of the total revenue gain projected by the carrier.

ty, in this transition period, to intervene in the fare-setting process when market forces are as yet too weak to do the job, and we reluctantly concluded that TWA's proposd increases in normal economy fares must be suspended. For the same reasons, we are now compelled to suspend the increases in normal economy fares proposed by Pan American, BA, BCAL, Irish, Swissair, and TAP. Again, we view this intervention as a temporary measure, to be abandoned as quickly as possible once the natural forces of competition develop.

We will not disapprove the increases sought in first-class and discount fares. We have historically permitted the carriers discretion in pricing first-class services, and the other increases are at the lower end of the fare structure, where the forces of price competition appear to be working. Indeed, both BA and BCAL have incorporated a welcome innovation in their winter-season fare proposals: consolidation of their 14/21-day and 22/45-day excursion fares into a single, 14/45-day fare, priced at or near the lower 22/45-day level, with a separate stopover charge. The new fares will not only provide passengers with some relief from the confining minimum/maximum-stay restrictions on the present excursion fares, but permit a sizable price reduction for travelers who would have used the 14/21-day fare and allow passengers to purchase point-to-point excursion fares without paying a hidden stopover charge.

The various adjustments the carriers have proposed in the relative levels of budget, standby, and APEX fares represent precisely the sort of active managerial pricing strategies which a competitive market fosters. In general, the proposed fare cancellations also reflect a productive exercise of managerial discretion, removing little-used fares and simplifying the overall structure.[9] We see no reason to intervene in such decisions, given the competitive forces at work in the market.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 102, 204(a), 403, 801, and 1002(j) thereof,

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendix B hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, we shall take appropriate action to prevent the use of such provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we shall suspend the tariff provisions specified in the attached Appendix B-1 and defer their use from October 31, 1978, to and including October 30, 1979, suspend the tariff provisions specified in the attached Appendix B-2 and defer their use from November 1, 1978, to and including October 31, 1979, and suspend the tariff provisions specified in Appendix B-3 and defer their use from December 5, 1978, to and including December 4, 1979, unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [10] and it shall become effective on October 31, 1978;

4. We shall file a copy of this order in the aforesaid tariff, and serve copies upon Pan American World Airways, Inc.; Aerlinte Eireann Teoranta; British Airways Board carrying on business under the firm name and style of British Airways; British Caledonian Airways, Ltd; Swissair, Swiss Air Transport Co., Ltd.; and Transportes Aereos Portugueses, S.A.R.L.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29550 Filed 10-18-78; 8:45 am]

[9] We are troubled, however, by BCAL's proposed cancellation of its executive-class fare, one of the very few partially unbundled transatlantic economy fares now available. The cancellation would leave BCAL's passengers no alternative to the full normal ("executive full facilities") fare for unrestricted, on-demand service. Certainly, the carriers should have maximum flexibility in experimenting with new fares in this transition; we recognize that cancellations are part of the process of change. We urge the carriers, however, to continue to develop innovative pricing strategies, with particular attention to the merits of unbundled fares, and not simply to return to the old fare structure if a particular experiment proves unsuccessful.

[10] This order was submitted to the President on October 6, 1978.

[11] All members concurred.

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

DEPARTMENT OF COMMERCE—NATIONAL BUREAU OF STANDARDS, BOULDER, COLO.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00258. Applicant: Department of Commerce, National Bureau of Standards, 325 South Broadway, Boulder, Colo. 80303. Article: Model A7 Automatically Balanced Precision Resistance Bridge and accessories. Manufacturer: Automatic systems Lab., United Kingdom. Intended use of Article: The article is intended to be used for the investigation of thermodynamic properties of pure fluid and fluid mixtures. The bridge will automatically balance itself to provide very accurate temperature readings of a platinum resistance thermometer thermally attached to the cell of a pressure-volume-temperature apparatus. The readings will be used as input to a computerized data taking system and will also allow the computer to very accurately stabilize and control the temperature of the sample cells.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of making rapid accurate (±0.04 percent pressure-volume-temperature measurements. The National Bureau of Standards advises in its memorandum dated September 7, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29447 Filed 10-18-78; 8:45 am]

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[3510-25-M]

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00283. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Calorimetric Experimental Furnace and Accessories. Manufacturer: International Flame Research Foundation, The Netherlands. Intended use of article: The article is intended to be used to form the basis of a comprehensive Combustion Research Facility which will be used to evaluate the combustion techniques and conditions required for the successful utilization of alternate fuels such as coal, coal derived liquids, shale oil, and synthetic fuels in large industrial fuel burning plant. The Department of Chemical Engineering Graduate and Undergraduate programs in Fuel Engineering and Principles of Combustion will involve laboratory and experimental courses which make use of the Combustion Research Facility.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (November 3, 1976). Reasons; This application is a resubmission of Docket No. 78-00045 which was denied without prejudice to resubmission on April 13, 1978, for informational deficiencies. The foreign article provides a variable swirl generator with interchangeable burner heads for different fuels (fully calibrated for swirl number and pressure drop), individual water-cooled calorimetric furnace sections with variable heat sink capability, center line access parts for insertion of sampling probes into the flame with integral sample probe traversing gear, unique sampling and measurement probes for in-flame measurements, and an afterburner system for incineration of unburned carbonoceous species to prevent emission into the atmosphere. The National Bureau of Standards (NBS) advises in its memorandum dated August 28, 1978, that (1) all the capabilities of the foreign article described above are pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29448 Filed 10-18-78; 8:45 am]

[3510-25-M]

NORTHEASTERN OHIO UNIVERSITIES COLLEGE OF MEDICINE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00115. Applicant: Northeastern Ohio Universities College of Medicine, 4209 State Route 44, Rootstown, Ohio 44272. Article: NMR Spectrometer, Model WP-80 and Accessories. Manufacturer: Bruker, West Germany. Intended use of article: The article is intended to be used for studies of: (a) the molecular interactions between phospholipid bilayer membranes and proteins, (b) the effect of heat on phospholipid bilayer membranes, and (c) the interaction of bile acids, drugs, anesthetics, and carcinogens with phospholipid bilayer membranes. The interactions of model phospholipid membranes with added protein, drug, etc., will be determined by measuring the changes in molecular ordering of the fatty acid chains and the polar head groups, that occurs on incorporation of proteins into, or addition of drug, anesthetic, etc., to the membrane. The extent of molecular ordering of the fatty acid chains of polar head groups in an aqueous multibilayer dispersion of phospholipids is determined by measuring the C-^{2}H quadrupole splitting multibilayer dispersions prepared from selectively ^{2}H-labelled phospholipids. The changes in the quadrupole splittings on interactions with proteins, drugs, carcinogens, etc., will be measured for a variety of positions in the phospholipid in order to give a complete description of the order profile for the molecule.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 29, 1976). Reasons: This application is a resubmission of Docket No. 77-00217, which was denied without prejudice to resubmission on September 14, 1977, for informational deficiencies. The foreign article provides a spectral width of 50 kilohertz. The Department of Health, Education, and Welfare advises in its memorandum dated August 13, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29449 Filed 10-18-78; 8:45 am]

[3510-25-M]

NORTHWESTERN UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-02239. Applicant: Northwestern University, 2299 Sheridan Road, Evanston, Ill. 60201. Article: Tycoon Micro-Electrode Puller, Model EH-12 20V with auto timer and volt slider. Manufacturer: Takahashi Seiki Kogyo Co., Ltd., Japan. Intended use of article: The article is intended to be used to produce very long shanked, slender electrodes with extremely fine tip diameter (less than 0.1 μm). Intracellular potentials are recorded from the hair cells of the mammalian cochlea during research to gain understanding of the functional properties of the receptor cells of the ear.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of producing electrodes with tip diameters of 0.1 micron. The Department of Health, Education, and Welfare advises in its memorandum dated August 24, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29450 Filed 10-18-78; 8:45 am]

[3510-25-M]

PACIFIC NORTHWEST LABORATORIES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00279. Applicant: Pacific Northwest Laboratories, Department of Energy, P.O. Box 999, Richland, Wash. 99352. Article: COSPEC Model IVB including Single Gas IVB High Sensitivity Correlation Spectrometer with accessories. Manufacturer: Barringer Research, Canada. Intended use of article: The article is intended to be used for the study of sulfur dioxide and nitrogen dioxide emissions from power plants or any other source. Dispersion and conversion from gas to particular tracking flume over long distances will be investigated.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to remotely measure in real time the total quantity of either sulfur dioxide or nitrogen dioxide. The article is a unique instrument with no other commercial counterpart. Further, its capabilities cannot be met by options to other instruments. The National Bureau of Standards (NBS) advises in its memorandum dated September 19, 1978, (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29451 Filed 10-18-78; 8:45 am]

[3510-25-M]

REGENTS OF THE UNIVERSITY OF CALIFORNIA, ET AL.

Applications For Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with repect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 8, 1978.

Regulations (15 CFR 301.9) issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00442. Applicant: The Regents of the University of California, Department of Pathology, UCSF Medical Center-595HSW, San Francisco, Calif. 94143. Article: ASID-4D Ultra High Resolution Scanning System for JEOL 100CX EM and accessories. Manufacturer: JEOL LTD., Japan. Intended use of article: The article is an accessory to an existing electron microscope manufactured by the same manufacturer which is being used for diagnosis of many renal, hepatic, and lymphoproliferative disease, for identification of certain poorly differentiated neoplastic cells of origin, and for identification of viral particles, and certain environmental elements in lungs and livers of the affected patients. Experiments to be conducted will include identification of ultrastructural components of cells and/or morphological correlation to metallic elements. The article will also be used as an instructional tool for graduate students in the Department of Pathology and also for house staff (residents). Application received by Commissioner of Customs: September 27, 1978.

Docket No. 78-00443. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, Calif. 94550. Article: 2 Stage static-mixers centrifugal-seperators with feed units and control systems, MEAB Model SISAK 2. Manu-

facturer: MEAB Metallextraktion AB, Sweden Intended use of article: The article is intended to be used for studies of the radioactive decay of short-

of the reaction-zone thickness in chemical explosives measured using laser interferometry with very fast detectors to measure the initial velocity

stitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 78-00301. Applicant: Tufts University, Dept. of Purchasing

ten recommendations to the Council for the first draft Fishery Management Plan for Shallow-Water Reef

trial innovation and to identify options that can be taken by the Federal Government to encourage industrial

ceeding year's levels, such amounts to be deducted from the affected category limits in the succeeding year. Pur-

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facturer: MEAB Metallextraktion AB, Sweden Intended use of article: The article is intended to be used for studies of the radioactive decay of short-lived (half lives of 10 sec. and less) fission products. Experiments to be conducted will consist of irradiation of U_{235} followed by a chemical purification to give one element. The isotope of interest is then observed by beta, gamma, and nutron spectroscopy. The elements of interest are those which give poor yield on mass separator instruments. Objectives pursued in the course of these experiments are: (a) accurate measurement of half lives and absolute decay energies to help the Nuclear Regulatory Commission to establish standards for loss of core coolant in nuclear reactors. Application received by Commissioner of Customs: September 27, 1978.

Docket No. 78-00444. Applicant: Emory University Clinic, 1365 Clifton Road, Atlanta, Ga. 30322. Article: Diathermy Unit (434 MHz). Manufacturer: ERBE Electro, West Germany. Intended use of article: The article is intended to be used to investigate the feasibility of the treatment of cancer by means of heat produced by 434 MHz radio waves. Tumor response will be evaluated by a physician during and after the heat therapy. Application received by Commissioner of Customs: September 27, 1978.

Docket No. 78-00445. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, Calif. 94550. Article: Electronic Intensifying Streak/Framing Camera System, Model 790/520/ELC and accessories. Manufacturer: John Hadland Photographic Instrumentation Ltd., United Kingdom. Intended use of article: The article is intended to be used to study shock-induced free surface motion and high-speed intensified flash X-ray diagnostics. Experiments to be conducted will include measurement of the thermodynamic properties of various materials under shock conditions, and measurements of the velocity-time history of material-air interfaces. Application received by Commissioner of Customs: September 27, 1978.

Docket No. 78-00446. Applicant: University of California—Lawrence Livermore Laboratory, P.O. Box 5012, Livermore, Calif. 94550. Article: Thomson-CSF Model TSN 660 4 gigahertz oscilloscope and accessories. Manufacturer: Thomson CSF, France. Intended use of article: The article is intended to be used for the study of very high-speed shock-wave physics. Some of the experiments to be conducted are: (1) shock wave risetime experiments were fundamental viscosity measurements of metals under very high pressure can be measured and (2) fundamental physical measurements of the reaction-zone thickness in chemical explosives measured using laser interferometry with very fast detectors to measure the initial velocity of metal plant in contact with the explosive to be studied. Application received by Commissioner of Customs: September 27, 1978.

Docket No. 78-00447. Applicant: University of Oklahoma, Purchasing Office, 660 Parrington Oval, Room 321, Norman, Okla. 73019. Article: Micromass 602 Double Collector Mass Spectrometer and accessories. Manufacturer: VG Micromass, United Kingdom. Intended use of article: The article is intended to be used for measuring the isotopic composition of biogenic carbonate cements, lipid material, and dissolved carbon gases in sediments. It allows examination and measurement of the carbon-13 to carbon-12 ratios of these various materials in order to determine their origins and fates. Sediment samples will be collected from the Gulf of Mexico and Enewetak Island as opportunities arise to be processed for analysis. Specific compounds of interest will be extracted or separated for inlet into the mass spectrometer and subsequent analysis. The objectives of these studies include an attempt to establish the origins and fates of these specific components of natural organic matter, and moreover, to assess the petroleum source rock potential of various sediments and rocks. The article will also be used for educational purposes in a Isotope Geochemistry course to expose advanced students to the tremendous research potential of stable isotope mass spectrometry. Application received by Commissioner of Customs: September 27, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29453 filed 10-18-78; 8:45 am]

[3510-25-M]

TUFTS UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 78-00301. Applicant: Tufts University, Dept. of Purchasing, Medford, Mass. 02155. Article: Gas Analysis Instrument; Experimental. Manufacturer: Rheinmetall, West Germany. Intended use of article: The article is intended to be used in the development of a continuous surface chromatographic instrument that will separate mixtures of gases of vapors for the purposes of purification or identification.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to perform continuous surface chromatography. The National Bureau of Standards (NBS) advises in its memorandum dated September 6, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-29452 Filed 10-18-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL

Shallow-Water Reef Fishes

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee and the Advisory Panel of the Caribbean Fishery Management Council, established by section 302g(2) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet jointly to examine alternatives and provide written recommendations to the Council for the first draft Fishery Management Plan for Shallow-Water Reef Fishes.

DATES: The meeting will convene at 9 a.m. on Thursday, November 2, 1978, and adjourn at approximately 3 p.m. This meeting is opened to the public.

ADDRESS: The meeting will take place at the Council's office located at Suite 1108, Banco de Ponce Building, Hato Rey, P.R.

FOR FURTHER INFORMATION CONTACT:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, P.R. 00918, telephone 809-753-4926.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: October 16, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-29496 Filed 10-18-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF KOREA

Adjusting Import Restraint Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products

OCTOBER 16, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for flexibility and carryforward in Categories 333/334/335, 340, 347/348, 433/434, 438, 440, 443, 444, 445/446, 447, 633/634/635, 638/639, 640, 641, 643, 645/646, and 647 during the agreement year which began on January 1, 1978. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408)).

SUMMARY: Paragraphs 8 and 9 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea provide, respectively, for percentage increases in certain specific category ceilings during an agreement year and for the borrowing of yardage from the succeeding year's levels, such amounts to be deducted from the affected category limits in the succeeding year. Pursuant to the foregoing paragraphs of the bilateral agreement, the import restraint levels established for Categories 333/334/335, 340, 347/348, 433/434, 438, 440, 443, 444, 445/446, 447, 633/634/635, 638/639, 640, 641, 643, 645/646, and 647 are being increased for the 12-month period which began on January 1, 1978 and extends through December 31, 1978.

EFFECTIVE DATE: October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On December 30, 1977, a letter dated December 27, 1977, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (42 FR 65246), which established inmport restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the 12-month period which began on January 1, 1978 and extends through December 31, 1978.

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement to adjust the levels of restraint previously established for Categories 333/334/335, 340, 347/348, 433/434, 438, 440, 443, 444, 445/446, 447, 633/634/635, 638/639, 640, 641, 643, 645/646, and 647 to the designated amounts.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretay for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

OCTOBER 16, 1978

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On December 27, 1977, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the 12-month period beginning on January 1, 1978 and extending through December 31, 1978 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chair-

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man further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to paragraphs 8 and 9 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 16, 1978, to amend the 12-month levels of restraint established for the cotton, wool and man-made fiber textile products in the following categories to the indicated amounts:

Category and Amended 12-Month Level of Restraint[2]

333/334/335—87,388 dozen of which not more than 49,724 dozen shall be in Category 333/334 and not more than 50,773 dozen shall be in Category 335.
340—154,248 dozen.
347/348—229,943 dozen of which not more than 162,373 dozen shall be in Cat. 347 and not more than 125,056 dozen shall be in Cat. 348.
433/434—18,169 dozen of which not more than 13,211 dozen shall be in Cat. 433 and not more than 6,775 dozen shall be in Cat. 434.
438—48,981 dozen.
440—220,299 dozen.
443—29,949 dozen.
444—4,252 dozen.
445/446—54,877 dozen.
447—87, 721 dozen.
633/634/635—1,357,978 dozen of which not more than 173,575 dozen shall be in Cat. 633; not more than 799,593 dozen shall be in Cat. 634; and not more than 588,508 dozen shall be in Cat. 635.
638/639—5,458,354 dozen.
640 [3]—4,405,465 dozen.
640 [4]—1,630,069 dozen.
641—1,014,273 dozen.
643—61,128 dozen.
645/646—3,209,054 dozen.
647—981,072 dozen.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-29536 Filed 10-18-78; 8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of Dec. 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, which provide, in part, that (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arragements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1977.

[3] In Category 640, only T.S.U.S.A. numbers 380.0455 and 380.8435.

[4] In Category 640, all T.S.U.S.A. numbers except those listed in footnote 3.

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 78-8]

SERVICE DROP WIRES

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of Petition.

SUMMARY: The Commission denies a petition requesting it to establish a consumer product safety rule for service drop wires that would require all electrical service drop wires to residential homes to be electrically insulated, require the insulation to meet specified criteria, and require utility companies to replace existing wire which has exceeded a safe age or failed a periodic safety inspection. The Commission denies the petition because it has insufficient data to conclude that a mandatory safety standard is necessary.

FOR FURTHER INFORMATION CONTACT:

Irwin L. Greif, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (DPSA) (15 U.S.C, 2059) provides that any interested person may petition the Consumer Product Safety Commission (CPSC) to begin a proceeding to issue, amend, or revoke a consumer product safety standard or ban. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

On November 10, 1977, the Office of the Secretary received a petition (CP 78-8) from Mr. G. Judson Scott, requesting the Commission to issue a rule requiring that all electrical service drop wires to residential homes be electrically insulated; that the insulation have a specific rated maximum safe use life under normal conditions of use and environment; and that utility companies be required to replace existing wiring which has exceeded a safe age or has failed a periodic safety inspection. The petition alleged that hazards associated with service drop wires include electrical shock or electrocution due to persons contacting the service drop wire and residential fires caused by faulty service drop wires. All of the evidence presented by the petition concerned the electric shock hazard and consideration of the petition was limited to that alleged hazard.

SUMMARY OF INJURY DATA

In analyzing this petition, the Commission considered injury information submitted by the petitioner, its own investigation of injury data, economic and engineering data and applicable voluntary standards.

Although the Commission's data retrieval systems do not have specific product catagories for injuries involving service drop wires, the Commission searched those product codes considered likely to be involved in accidental contact with service drop wires. This investigation revealed 14 incidents, 11 of which were reported in newspaper clippings, 1 reported in the Commission's death certificate file begun in 1973, and 2 indepth investigations conducted since January 1976. The details of the 14 incidents indicate that persons made contact with service drop wires while painting their house, putting up antennas, or making house repairs. The 14 reported incidents involved 16 victims, 9 of whom were electrocuted, 4 hospitalized, 2 treated and released, and 1 injured without report of treatment.

The Commission's investigation into this matter reveals that the majority of single unit residential buildings constructed in the last 15 years (and older buildings for which service drop wires have been replaced) appear to use insulated wire known as triplex, or underground service wiring. Estimates place the safe use life of triplex wiring under normal conditions at approximately 30 years. The majority of the 30-40 million homes in existence constructed more than 15 years ago reportedly use pre-triplex insulated wire. The number of homes with uninsulated service drop wire is estimated to be relatively small and confined primarily to rural areas. A factor encouraging use of triplex wire today is that when the material and installation costs are combined, this wire is less expensive than uninsulated wire. Since the wire is installed by professionals and not do-it-yourself consumers, it appears unlikely that uninsulated wire would be used.

CONCLUSION

Based on the foregoing injury and economic data, the Commission notes that it appears that most service drop wire used today above ground is made of insulated wire known as triplex. The Commission is unable to determine whether there are any injuries of the type described in the petition associated with this (triplex) wire. The Commission, therefore, concludes that the available information is insufficient to determine that service drop wires generally used today present an unreasonable risk of injury to consumers and denies the petition. In this regard, it should be noted that any Commission action to establish a standard for service drop wires would apply only to products manufactured after the effective date of the standard, 15 U.S.C. 2058. Thus, the Commission could not as requested in the petition require utility companies to replace existing wire as part of a mandatory standard issued under the CPSA. In reaching its decision, the Commission has considered the relative priority of the risk of injury associated with service drop wires and the Commission's resources available for rulemaking for all consumer products.

Copies of the petition and the staff's briefing package to the Commission on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Dated: October 13, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29498 Filed 10-18-78; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on November 8-9, 1978, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. on both days. All sessions will be closed to the public.

The entire agenda will be devoted to discussions of sensitive strategic problems and programmatic planning and a review of intelligence developments. The agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, United States Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, Va. 22209, telephone 202-694-3191.

Dated: October 16, 1978.

P. B. WALKER,
Captain, JAFC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-29491 Filed 10-18-78; 8:45 am]

[6360-01-M]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLANS

Public Hearing

Notice is hereby given by the Delaware River Basin Commission that it will hold a public hearing on Wednesday, October 25, 1978, commencing at 2:30 p.m. The hearing will be a part of the Commission's regular October business meeting which is open to the public. Both the hearing and the meeting will be held in the Laurel Ballroom of the Pocono Hershey Resort near White Haven, Pa. (intersection of Interstate Route 80 and the Northeast Extension of the Pennsylvania Turnpike.) The hearing will be held on two subjects as follows:

Current Expense Budget. A proposed current expense budget for the fiscal year beginning July 1, 1979 in the aggregate amount of $1,750,400, and a capital budget for the same period in the amount of $27,000. The following amounts would be apportioned among the signatory parties, along with the additional appropriations by the Commission, to balance the current expense budget: Delaware $124,200; New Jersey $346,600; New York $273,000; Pennsylvania $381,100; and the Federal government $467,500. Copies of summaries of the current expense and capital budget are available from the Commission on request.

II. *Project Review Applications.* Applications for approval of the following projects are pending before the Commission as amendments to the Comprehensive Plan and/or as project approvals pursuant to Section 3.8 of the Compact:

1. *Dublin Water Company (D-76-63 CP).* A well water supply project to augment public water supplies in the company's service area in Upper Dublin township, Montgomery County, Pa. The application is for approval to withdraw 600,000 gallons per day from Well No. 5 and to increase the total average withdrawal from all sources to 1.2 million gallons per day. Adjudicatory hearings on this application have been held by the Commission and a report of the Hearing Officer filed on June 2, 1978. The application and the recommendations of the Hearing Officer will be considered by the Commission.

2. *Pequest Sewer Co. (D-78-24).* Expansion of the company's existing sewage treatment plant in Allamuchy Township, Warren County, N.J. Present capacity will be increased from the present 0.3 million gallons per day to between 600,000 gallons per day and 1.2 million gallons per day. About 95 percent of BOD will be removed prior to discharge of treated effluent to the Pequest River.

3. *Perduc, Inc. (D-78-5).* An industrial waste treatment facility at the poultry processing plant recently acquired from Swift & Co. in Georgetown, Sussex County, Del. Approximately 98 percent of BOD will be removed from a wastewater flow of 860,000 gallons per day. Treated effluent will discharge to Bloomington Ditch, a tributary of the Broadkill River.

4. *Public Service Electric & Gas Co. (D-78-57).* An industrial waste treatment project to the Company's Mercer Generating Station, Hamilton Township, Mercer County, N.J. The applicant proposes to construct facilities to treat boiler blowdown, demineralizer regenerant, boiler cleaning and other waste streams. Treated effluent will discharge to the Delaware River.

5. *Public Service Electric & Gas Co. (D-78-58).* An industrial waste treatment project to the Company's Burlington Plant, Burlington Township, N.J. The applicant proposes to construct facilities to treat boiler blowdown, demineralizer regenerant, boiler cleaning and other waste streams. Treated effluent will discharge to the Delaware River.

6. *Metropolitan Edison Co. (D-78-16).* A well water supply project to augment water supply to the Company's Portland Generating Station in Upper Mount Bethel Township, Northampton County, Pa. The new facility is designed to yield 140,000 gallons per day.

Documents relating to the above-listed applications may be examined at the Commission offices. For further information contact Mr. David B. Everett at the Commission.

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Persons wishing to testify on the current expense budget or any of the applications listed above are requested to notify the Secretary to the Commission prior to the hearing.

OCTOBER 11, 1978.

W. BRINTON WHITALL,
Secretary.

[FR Doc. 78-29515 Filed 10-18-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

CONDUCT OF EMPLOYEES

Waiver Pursuant to Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91)

Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of section 602(a) of the Act to "supervisory employees" (as defined in section 601(a) of the Act) of the Department of Energy who has financial interests in "energy concerns" (as defined in section 601(b) of the Act), where exceptional hardship would result.

It has been established to my satisfaction that a time-limited waiver of the requirements of section 602(a) of the Act for the individual "supervisory employee" of the Department of Energy whose name is listed below is justified and I so find. This waiver shall expire on January 31, 1979.

Name and Energy Concern

Holsey G. Handyside—Bendix Corp., General Electric Co., Exxon Corp., Mobil Corp., Phillips Petroleum Co., Schlumberger Ltd., Standard Oil Co. of Ohio, and Texas Commerce Bankshares, Inc.

Mr. Handyside's official duties as Deputy Assistant Secretary for International Programs will require little if any involvement on his part in particular matters that could have a direct and predictable impact on any of the listed energy concerns; for the most part his responsibilities will be of a policymaking nature and will relate to the areas of nuclear energy, solar energy, and renewable resources. Nevertheless, he will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on any of the listed energy concerns, unless his supervisor and the counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him.

Dated: October 10, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-29455 Filed 10-18-78; 8:45 am]

[3128-01-M]

INDUSTRIAL ENERGY CONSERVATION

Workshops

The Department of Energy (DOE) hereby gives notice that it will hold a number of workshops on the industrial energy conservation program established by Part D (42 U.S.C. 6341-6346) of Title III of the Energy Policy and Conservation Act (EPCA). The workshops will be held at the following locations and times:

Washington, D.C., November 6 and 7, 1978, 8:30 a.m., Sheraton National Motor Hotel, Arlington, Va.
Atlanta, Ga., December 14 and 15, 1978, 8:30 a.m., Sheraton Biltmore Hotel.
Houston, Tex., January 4 and 5, 1979, 8:30 a.m., Sheraton Houston Hotel.
Chicago, Ill., January 25 and 26, 1979, 8:30 a.m., Sheraton Plaza Hotel.
New York, N.Y., February 12 and 13, 1979, 8:30 a.m., New York Sheraton Hotel.
San Francisco, Calif., February 22 and 23, 1979, 8:30 a.m., Sheraton Palace Hotel.

The purpose of the workshops is to improve the monitoring by DOE of industry's efforts in improving energy efficiency through energy conservation and consumption reports filed with DOE. To this end it is desirable that the workshops include participants from the various industrial organizations—both corporations and trade associations—currently reporting energy conservation and consumption information to DOE under the program because of their experience with DOE's current reporting requirements.

Each workshop will begin with a review of the current reporting effort and suggested topics for discussion in working groups. To encourage full discussion of each industry's particular concerns, the participants will be divided into working groups to present views concerning current reporting problems and improvements which might be made in future reporting efforts.

The views and information presented in each of these working groups will be recorded by its moderator who will present them in the plenary session at which there will be both panel and open floor discussion. The working group format is not intended to elicit consensus opinions from working groups but rather to be a forum where group members may make their views known to DOE and the other participants.

All workshops are open to the public. Anyone interested in obtaining an agenda and further information and/or participating should contact O. Cleveland Laird, Jr., DOE, 666 11th Street NW., Room 735, Washington, D.C. 20001, 202-724-3456 at least 10 days prior to the workshop. Any interested person may file written statements with the workshop director before or at the close of any workshop, and may make oral statements during the time set aside at the conclusion of each workshop.

Minutes of the workshops will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., October 13, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-29454 Filed 10-18-78; 8:45 am]

[3128-01-M]

PROPOSED NEW SOURCE PERFORMANCE STANDARDS

Public Meeting

A public meeting will be convened on October 24, 1978, commencing at 10 a.m. to discuss the issues related to EPA's proposed New Source Performance Standards to be promulgated under the Clean Air Act Amendments of 1977 (43 FR 42154, Sept. 19, 1978). The purpose of the meeting is to furnish the Department of Energy with the views of all interested parties to assist it in formulating its comments on the EPA rulemaking.

In order to focus the issues at the public meeting, workshops consisting of persons with related interests will convene on October 23, 1978, from 9 a.m. to 4 p.m. The public is invited to observe the proceedings. The meetings will be held in the Washington Hilton Hotel in Washington, D.C.

For additional information, all interested individuals are encouraged to contact Janet Cool, Division of Environmental Liaison, on 202-376-4449.

Issued in Washington, D.C. on October 16, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78- 29499 Filed 10-18-78; 8:45 am]

[3128-01-M]

DRAFT REPORT TO THE PRESIDENT BY THE INTERAGENCY REVIEW GROUP ON NUCLEAR WASTE MANAGEMENT

Availability

Notice is hereby given that the draft report to the President by the Interagency Review Group on Nuclear Waste Management will be available for public comment beginning October 19, 1978.

The Interagency Review Group (IRG) was established by President Carter on March 15, 1978, to develop recommendations for establishing an administration policy on long-term management of the Nation's nuclear waste. This includes waste from commercial nuclear power operations, and existing low-level, transuranic, and high-level defense waste.

The following organizations are members of the Interagency Review Group: Department of Energy (chair), Department of State, Department of Interior, Department of Transportation, Department of Commerce, Council on Environmental Quality, Environmental Protection Agency, National Aeronautics and Space Administration, Office of Managment and Budget, Office of Domestic Affairs and Policy, National Security Council, Arms Control and Disarmament Agency, Office of Science and Technology Policy and the Nuclear Regulatory Commission. The NRC participated in the activities of the IRG as a nonvoting member.

As part of the public participation process, the IRG held a series of small meetings in Washington with groups interested in nuclear waste management. Following these, public meetings were held in July and August in San Francisco, Denver, and Boston. Input from these meetings was used in preparing the Draft Report.

All interested agencies, organizations, or persons desiring to submit comments on the Draft Report are invited to do so. Copies are available for public inspection at the DOE public document room, located in the Library, Room 1223, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545. Copies are also available at the DOE Regional Offices in: Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Atlanta, Ga.; Chicago, Ill.; Dallas, Tex.; Kansas City, Mo.; Denver, Colo.; San Francisco, Calif.; and Seattle, Wash.

Requests for copies of the report and written comments may be sent to:

Interagency Review Group on Nuclear Waste Management, Department of Energy, 20 Massachusetts Avenue, NW., Room 8137, Washington, D.C. 20545, telephone 202-376-4036.

Comments will be received for a period of 30 days. Following that, the report will be revised as appropriate and submitted to the President.

Dated at Washinton, D.C., this 17th day of October 1978.

For the Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-29607 Filed 10-18-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration

COLORADO UTE ELECTRIC ASSOCIATION, INC., ET AL.

Prohibition Order

Docket No.	Owner/lessee and operator	Powerplant No.	Generating station	Location
DCU-164	Colorado Ute Electric Association, Inc. Southern Colorado Power Division, Central Telephone & Utilities Corp.	1	W. N. Clark	Canon City, Colo.
DCU-165	do	2	do	Do.

Pursuant to section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and Chapter II, Title 10 of the Code of Federal Regulations (CFR), Parts 303 and 305 [10 CFR Parts 303 and 305 (1976), as amended, 42 FR 23132 (1977)], the Department of Energy (DOE) hereby orders that the above listed powerplants shall be prohibited from burning natural gas or petroleum products as their primary energy source. Such prohibition shall become effective on the date stated in a Notice of Effectiveness to be served on the powerplants, pursuant to 10 CFR 303.10(b), 303.37(b) and 305.7, subsequent to issuance of this Prohibition Order.

Section 2 of ESECA requires that DOE make certain findings prior to issuing a Prohibition Order. On May 12, 1978, DOE published a notice of "Intention to Issue Prohibition Orders to Certain Powerplants" (43 FR 20534) that contained DOE's proposed conclusions with respect to those findings and the rationale therefor that DOE proposed to make with respect to the powerplants listed above. That notice invited interested persons to make written or oral presentation of data, views and arguments regarding the proposed findings and other matters. A public hearing was held in Colorado Springs, Colo., on May 31, 1978, for the purpose of receiving the oral presentation of data, views, and arguments. In addition, DOE provided an opportunity subsequent to the public hearing for supplemental written comments.

Based on a consideration of the data, views, and arguments received by DOE at the public hearing as well as supplemental data, views, and arguments received during the public comment period and an analysis of other information submitted to or otherwise available to DOE, DOE hereby finds with respect to the above listed powerplants that:

1. On June 22, 1974, each powerplant had the capability and necessary plant equipment to burn coal;

2. The burning of coal by each powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA;

3. Coal and coal transportation facilities will be available during the period this Prohibition Order will be in effect; and

4. The prohibition of each powerplant from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service by such powerplant.

Stated below is the rationale for each finding ESECA requires DOE to make prior to issuing a Prohibition Order, and an evaluation of the significant, material issues raised by interested persons in their oral or written presentations of data, views and arguments. Such presentations were made in response to the notice of "Intention to Issue Prohibition Orders to Certain Powerplants" published in the FEDERAL REGISTER on May 12, 1978 (43 FR 20534). Where such presentations were adopted by DOE and resulted in changes in DOE's calculations these

are reflected in the specific finding. After an evaluation of the data, views and arguments presented by interested persons, DOE concludes that no issues or facts were presented that

natural gas and Boiler 2 was 73 percent coal and 27 percent natural gas.

B. Based Upon information provided by SCPD-CTUC at the hearing, con-

(b) Annual operating and maintenance costs

At the hearing SCPD-CTUC testified that the annual operating and

savings, the total annual cost of operating W. N. Clark 1 and 2 after conversion is estimated to be reduced by

Orders currently under consideration, if any. Therefore, the net annual revenue requirements of SCPD-CTUC

III. COAL AND TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THIS POWERPLANT DURING THE PERIOD UN-

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are reflected in the specific finding. After an evaluation of the data, views and arguments presented by interested persons, DOE concludes that no issues or facts were presented that render DOE unable to make the findings and therefore it must proceed with the issuance of the instant order.

Southern Colorado Power Division, Central Telephone & Utilities Corporation shall be referred to as the "utility" and as "SCPD-CTUC".

At the public hearing, SCPD-CTUC stated that W. N. Clark Unit No. 1 is owned by the Colorado-Ute Electric Association, Inc., and that it is leased and operated by Southern Colorado Power Division.

Attention is directed to the ESECA regulation (10 CFR, 303.2 Definitions) which defines a "Powerplant" to mean "a fossil-fuel fired steam electric generating unit that produces electric power for purposes of sale or exchange and includes any person who owns, leases, operates or controls any such unit." DOE, as a part of the ESECA Prohibition Order process, served a copy of the Notice of Intention to Issue a Prohibition Order to Southern Colorado Power Division in accordance with the definition of the "powerplant" that would be affected by the proposed order.

It should be noted that DOE has taken into account the information provided by SCPD-CTUC and this Prohibition Order identifies the owner, as well as the lessee and operator.

I. Capability and Necessary Plant Equipment to Burn Coal

DOE finds that on June 22, 1974, Powerplants Nos. 1 and 2 at W. N. Clark Generating Station (W. N. Clark 1 and 2) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Power Commission (now the Federal Energy Regulatory Commission) by SCPD-CTUC and a site visit performed by DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, a boiler that was capable of burning coal.

The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplants may not have been burning coal as their primary energy source.

The 1977 annual fuel consumption information reported by SCPD-CTUC was used to calculate the heat input of W. N. Clark Boiler 1 and 2. Boiler 1 was 61 percent coal and 39 percent natural gas and Boiler 2 was 73 percent coal and 27 percent natural gas.

B. Based Upon information provided by SCPD-CTUC at the hearing, contacts with the U.S. Environmental Protection Agency and the Colorado Department of Health, Water Division, it has been determined that the upgrading of the ash handling, waste water treatment and solid waste disposal systems, as stated in Section I.B. of the Notice of Intention, will not be required for W. N. Clark 1 and 2 to burn coal 100 percent of the time.

C. DOE finds that on June 22, 1974, W. N. Clark 1 and 2 had all other significant plant equipment and facilities associated with the burning of coal.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that W. N. Clark 1 and 2 have the capability and necessary plant equipment to burn coal as stated above.

II. The Burning of Coal in Leiu of Natural Gas or Petroleum Products is Practicable and Consistent With the Purposes of ESECA.

DOE finds that the burning of coal at W. N. Clark 1 and 2 in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that W. N. Clark 1 and 2 will be operated at an 82.0 percent capacity factor, (this represents a weighted average of each powerplant's projected capacity factor), have an average remaining useful life of 20 years (as of the date of this Prohibition Order and after the estimated date of conversion), and on the facts and interpretations stated below:

A. The Burning of Coal is Practicable

1. *Costs associated with the burning of coal.—(a) Capital investment costs.* Based upon information provided by SCPD-CTUC at the public hearing, contracts with the environmental Protection Agency and the Colorado Department of health, Water division, it has been determined that the capital investment costs of $650,000 (paragraph I.B. above) that would have been required for the acquisition and refurbishment of equipment and facilities as stated in Section II.A.1.a. of the Notice of Intention, have been excluded.

DOE has not included capital investment costs for air pollution control equipment of approximately $2,800,000 as suggested by SCPD-CTUC at the public hearing since these costs represent commitments made by the utility prior to the issuance of DOE's Order, and are not commitments made as a result of this Order.

(b) Annual operating and maintenance costs

At the hearing SCPD-CTUC testified that the annual operating and maintenance cost increase should be $126,600 (a 1977 cost equivalent based upon 100 percent natural gas burning). An evaluation of the $126,600 amount indicates that the utility has included all costs rather than those increases which would result from this Prohibition Order.

DOE's $37,000 amount represents an estimate of the incremental operating and maintenance cost increase caused by the switching from burning the present mixture of natural gas and coal to the burning of 100 percent coal at West Northwest Clark 1 and 2.

DOE has considered SCPD-CTUC's cost data but finds that its estimate of $37,000 should stand.

(c) *Fuel costs*

(i) Based on information supplied by the SCPD-CTUC at the public hearing, the price of natural gas available to W. N. Clark 1 and 2 is approximately $1.042 per Mcf. This represents $1.056 per million Btu's of natural gas, assuming 987,000 Btu's per Mcf.

(ii) Based on information supplied by the utility at the public hearing, the price of coal available to W. N. Clark 1 and 2 is approximately $0.67 per million Btu's. This represents $13.70 per ton of delivered coal, assuming 20.4 million Btu's per ton.

(iii) DOE estimates that the burning of coal in lieu of natural gas by these powerplants will result in the reduction of approximately $0.386 per million Btu's or $479,000 per year in fuel costs.

(iv) DOE finds that W. N. Clark 1 and 2 can burn coal as their primary energy source with a decrease in fuel costs as a result of this Prohibition Order.

(d) Total annual costs associated with conversion. As a result of this Prohibition Order to convert W. N Clark 1 and 2, there will be an estimated annual increase in operating and maintenance costs incurred, exclusive of fuel costs, of approximately $37,000 assuming coal is used to replace natural gas burned.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provided the basis for deciding whether the conversion of W. N. Clark 1 and 2 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of the conversion, the utility will incur additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $37,000 (see paragraph A.1.b.), but will experience an annual fuel cost savings of approximately $479,000 (see paragraph A.1.c.). Considering the fuel cost savings, the total annual cost of operating W. N. Clark 1 and 2 after conversion is estimated to be reduced by $442,000.

Since all increased costs of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at W. N. Clark 1 and 2.

The burning of 100% coal as the primary energy source at W. N. Clark 1 and 2 will result in an estimated annual equivalent savings of 1,256,000 Mcf of natural gas (or approximately 229,000 barrels of oil) that otherwise would be used in providing steam for electric power generation.

DOE finds that, (1) the increased annual operating and maintenace cost at the powerplants is offset by the current fuel cost differential between natural gas and coal burning at W. N. Clark 1 and 2, (2) the potential future increases in the fuel cost differential will favor coal and burning coal will result in even greater savings and (3) such action will be in the national interest.

3. Financial capabilities of SCPD-CTUC. DOE finds that compliance with a Prohibition Order to W. N. Clark 1 and 2 will be economically feasible. DOE's analysis took into consideration SCPD-CTUC's 1977 construction budget of $5.8 million, the 1977 total capitalization of $1.0 billion, and average remaining useful life of 20 years after conversion of W. N. Clark 1 and 2.

Total annual costs associated with conversion. The total estimated annual increase in costs associated with the burning of coal, as opposed to natural gas, attributable to compliance with this Prohibition Order would be $37,000. This also represents the total estimated annual incremental increase in revenue requirements of SCPD-CTUC. (DOE also took into consideration revenue requirements of SCPD-CTUC resulting from compliance with all outstanding Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all other Prohibition or Construction Orders, if any, issued to date under section 2(a) and (c) of ESECA to SCPD-CTUC powerplants.) This estimate of $37,000 in revenue requirements is based on an analysis described in an Ultrasystems Inc. report entitled "Computer Methodology For Coal Conversion Cost Reasonableness Determination," August 1976 (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $37,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $479,000 attributable to compliance with this Prohibition Order and all other Prohibition Orders currently under consideration, if any. Therefore, the net annual revenue requirements of SCPD-CTUC should decrease by approximately $442,000.

DOE does not consider the effect of these added annual costs associated with conversion an unreasonable burden given the financial capabilities of the utility to assume such costs.

4. Consumer impact. The potential initial impact of a Prohibition Order to W. N. Clark 1 and 2 is a net decrease in revenues required from SCPD-CTUC consumers of approximately $.0006 per kilowatt hour of electricity sold by SCPD-CTUC. This estimate is based on DOE's analysis of the Ultrasystems Computer Model results.

The actual amount of the decrease will depend on the methods which SCPD-CTUC selects to finance the increased costs associated with burning coal as a primary energy source at W. N. Clark 1 and 2, the extent to which the cost decrease is spread among SCPD-CTUC customers, the regulations or policies of the regulatory agencies with jurisdiction over SCPD-CTUC regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. Consistency with the purposes of ESECA. Because the issuance of a Prohibition Order to W. N. Clark 1 and 2 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE concludes that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels.

On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended, and other applicable environmental protection requirements, DOE concludes that issuance of this Prohibition Order to W. N. Clark 1 and 2 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA as stated above.

III. Coal and Transportation Facilities Will Be Available to This Powerplant During the Period Until December 31, 1984.

A. Coal Availability

1. National coal reserves. United States coal reserves are more than sufficient to supply national needs for the foreseeable future. United States Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 438 billion tons. (*Demonstrated Coal Reserve Base of the United States on January 1, 1976*, Bureau of Mines (August 1977) (hereafter "BOM Survey")). Mining experience in the United States has indicated that, on a national basis at least one-half of the coal, 219 billion tons, in the reserve base may be technically and economically recoverable. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. National coal production and demand. A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year	Production potential (million tons)
1978	745
1979	781
1980	818
1981	858
1982	899
1983	942
1984	987

The figures shown above are derived from *Projections of Energy Supply and Demand and Their Impacts, Energy Information Administration*, dated April 1978 (hereafter "Energy Supply and Demand Report"). The coal production forecast was derived from analytic procedures utilizing historical coal consumption patterns, in addition to derived demand under a forecast economic and energy case. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to W. N. Clark 1 and 2 prior to the issuance of a Notice of Effectiveness.

b. *National demand including ESECA Prohibition Order demand.* The estimated national demand, including any increased demand resulting from DOE actions under the au-

thority of section 2(a) of ESECA, is as follows (Energy Supply and Demand Report):

[In thousand tons]

Year	Potential Annual

2. *Route of coal shipment.* The primary route for coal delivery to W. N. Clark 1 and 2 originates in BOM Dis-

ble to these powerplants during the period until December 31, 1984 as stated above.

IV. *The prohibition of the burning of* L. 95-95, *supra;* or (b) the date marking termination of the period of time that DOE determines is required by

fectiveness, shall be filed within 30 days of such service of such notice. Application for modification or rescis-

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thority of section 2(a) of ESECA, is as follows (Energy Supply and Demand Report):

Year	Demand (millions of tons)
1978	720
1979	758
1980	798
1981	841
1982	885
1983	932
1984	982

These demand projections were conservatively developed and include not only the actions already taken under ESECA but also all anticipated ESECA actions that may be taken in the future.

c. *National ESECA Prohibition Order demand.* DOE has estimated potential demand for coal resulting from this Prohibition Order, from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all other outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA to be as follows:

Year	Demand (million tons)
1978	9.6
1979	14.0
1980	20.4
1981	22.7
1982	29.5
1983	29.9
1984	29.9

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984.)

3. *Characteristic coal, production and demand—a. Characteristic coal requirements for these powerplants.* Based on updated information provided by SCPD-CTUC at the public hearing, DOE concludes that dry-bottom boilers, of the type used at W. N. Clark 1 and 2, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb, 10,221, approx.
Moisture, 15.0 percent, max.
Ash, 20.0 percent, max.
Volatile, 15.0 percent, min.
Ash softening temp., 2200 (°F), max.
Sulfur, 0.70 percent, max.

b. *Characteristic coal demand from these powerplants.* The potential average annual demand for coal, of the type described above, which would result from this Prohibition order is estimated to be as follows:

[In thousand tons]

Year	Potential Annual demand
1979-84	61

c. *Characteristic coal available to these powerplants.* SCPD-CTUC presently purchases characteristic coal in the "spot market" from Bureau of Mines (BOM) District 17, in Fremont and Las Animas Counties, Colo. Based on information provided by the Denver Geological Survey, Fremont and Las Animas Counties have demonstrated reserves of 646 million short tons of coal. The Bureau of Mines Information Circular, 1975, entitled *The Reserve Base of U.S. Coals by Sulfur Content*, states that recoverable reserves by underground mining methods are generally estimated to be 50 percent of demonstrated reserves. Consequently, the estimated recoverable reserves pertinent here are 323 million short tons of coal. SCPD-CTUC has advised DOE that there are sufficient quantities of characteristic coal to meet the above-stated incremental annual demand at Twin Pines, GEC and Delanga Mines through 1984. DOE, therefore, finds that coal of the type that is burned at W. N. Clark 1 and 2 is available through 1984.

4. *State or local laws.* DOE has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* DOE finds that coal of the characteristics required will be available to W. N. Clark 1 and 2 through 1984. Furthermore, on the basis of the Bureau of Mines Survey and the Energy Supply and Demand Report, DOE expects that national coal production potential will exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand represented by this Prohibition Order, from all outstanding NOI's to issue Prohibition Orders and from all other outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA.

B. *Coal transportation.*—1. *Location of powerplant and coal supply.* The primary and alternate source of coal supply for W. N. Clark 1 and 2 at Canon City, Colo., is from BOM District 17, Fremont and Las Animas Counties, Colo. SCPD-CTUC presently purchases coal in the "spot market" from coal mines in Fremont County, about 10 miles from the plant, and from another supplier in Las Animas County, approximately 110 miles distant.

2. *Route of coal shipment.* The primary route for coal delivery to W. N. Clark 1 and 2 originates in BOM District 17. Within BOM District 17 coal is presently being delivered from Fremont County, Colo. in the Florence coal field by truck, but the Denver and Rio Grande Western Railroad (D&RGW) is available to serve the plant.

3. *Originating trunk carrier.* SCPD-CTUC has advised DOE that within BOM District 17 there are several probable originating-destination truck carriers for transporting coal to W. N. Clark 1 and 2. These trucking companies include the following: (A) Ben Moschetti Trucking Co., which presently transports coal to W. N. Clark 1 and 2 from Twin Pines Mine in Fremont County, 6 days each week, 24 ton-load capacity per truck; (b) Corley Trucking Co., which also transports coal to W. N. Clark 1 and 2 from GEC Mineral Mines in Fremont County, 6 days each week, 30-ton load capacity per truck; and (C) Cal Garis Trucking Co., which now transports coal to W. N. Clark 1 and 2 from Delanga Mine in Las Animas county, 6 days each week, 20-30 ton-load capacity per truck. In addition, the Carestia Trucking Co. and the Berta Trucking Co. have indicated interest in transporting coal to the W. N. Clark powerplant if given the opportunity. Both would provide an added capacity availability of approximately 28 coal trucks. The above-mentioned trucking companies are able and willing to provide adequate transportation of coal to W. N. Clark 1 and 2 through December 31, 1984. DOE has not found nor has it been informed of any apparent constraints in transporting coal to W. N. Clark 1 and 2.

Whenever truck transportation of coal is not available, rail transportation, offered by D&RGW, is available to W. N. Clark 1 and 2 as an alternate mode.

DOE has not found nor has it been informed of any apparent constraints to carrying coal for any alternate carriers should they be used.

4. *Powerplant facilities.* W. N. Clark 1 and 2 presently have coal unloading facilities which are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to W. N. Clark 1 and 2.

5. *Conclusion.* Coal transportation facilities will be available for the period that this Prohibition Order is expected to be in effect since no significant constraints to coal delivery to W. N. Clark 1 and 2 presently exist.

DOE has not received any written or oral presentation of data, views or arguments contesting the accuracy of DOE's finding that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984 as stated above.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplant.* Based on an analysis of the information submitted to DOE by SCPD-CTUC, DOE finds that the issuance of a Prohibition Order to W. N. Clark 1 and 2 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order. SCPD-CTUC has indicated that W. N. Clark 1 and 2 were designed to burn natural gas and coal and are currently burning coal. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by W. N. Clark 1 and 2 as a result of this Prohibition Order.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the prohibition of the burning of natural gas or petroleum products as the powerplant's primary energy source will not impair the reliability of service in the area served by the affected powerplants as stated above.

The prohibition of the burning of natural gas or petroleum products as the primary energy source by W. N. Clark 1 and 2 shall not become effective, (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified DOE, as required by 2(b) of ESECA, that the particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended, (CAA), 42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95, 112, or (b) if no such notification is given by EPA, the date that the Administrator of EPA certifies is the earliest date that a particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, *supra;* Pub. L. 95-95, *supra;* and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The date stated in the Notice of Effectiveness shall be either (a) the date EPA determines in accordance with section 113(d) of the CAA, *supra;* Pub. L. 95-95, *supra;* or (b) the date marking termination of the period of time that DOE determines is required by the affected powerplants to acquire or refurbish equipment or facilities necessary to comply with the CAA, *supra;* Pub. L. 95-95, *supra,* whichever date is later.

In addition to the date on which the prohibition shall become effective, included with the Notice of Effectiveness, if appropriate, shall be a schedule of interim steps that should be taken by a stated date ("compliance schedule") to insure that the affected powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source by the date stated in such notice. The compliance schedule may require actions by the powerplant at any time subsequent to service of the Notice of Effectiveness.

This Prohibition Order does not constitute a final agency action and is not effective prior to service of the Notice of Effectiveness. In accordance with 10 CFR 303.38, any person aggrieved by this Order may file an appeal with DOE's Office of Hearings and Appeals, in accordance with 10 CFR Part 303 Subpart H, but such appeal cannot be filed prior to service by DOE of the Notice of Effectiveness and, if filed, shall be filed within 30 days after the service of such notice. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of this Prohibition Order in accordance with the provisions of 10 CFR Part 303 Subpart J. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances, which may occur during the interval between issuance of this Order and service of the Notice of Effectiveness, shall be filed within 30 days of such service of such notice. Application for modification or rescission based on significantly changed circumstances occurring after the service of such notice may be filed at any time.

If an application for a modification or rescission of this Prohibition Order is made in accordance with Subpart J of Part 303, any appeal of this Order under 10 CFR Part 303 Subpart H, shall be suspended until 30 days after an order has been issued in accordance with Subpart J or until 30 days from the date on which such application for modification or rescission may be treated as having been denied in all respects.

If made effective this Prohibition Order will be effective against any persons that, as of the date stated in the Notice of Effectiveness of this Order own, lease, operate or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

Any terms utilized in this Prohibition Order have the same meaning as such terms have in 10 CFR Parts 303 and 305.

Any questions regarding this Prohibition Order should be directed to Mr. Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202-254-5436.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.) as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by Pub. L. 95-70; Department of Energy Organization Act (42 U.S.C. 7101 et seq.); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., October 14, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-29503 Filed 10-18-78; 8:45 am]

[3128-01-M]

CITY OF COLORADO SPRINGS DEPT. OF PUBLIC UTILITIES

Prohibition Order

Docket No.	Owner	Powerplant No.	Generating station	Location
DCU-166	City of Colorado Springs, Department of Public Utilities.	5	Martin Drake	Colorado Springs, Colo.
DCU-167	do	6	do	Do.
DCU-168	do	7	do	Do.

Pursuant to section 2 (a) and (b) of the Energy Supply and Environmental

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Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and Chapter II, Title 10 of the Code of Federal Regulations (CFR), Parts 303 and 305, (10 CFR Parts 303 and 305 (1976), as amended, 42 FR 23132 (1977)), the Department of Energy (DOE) hereby orders that the above listed powerplants shall be prohibited from burning natural gas or petroleum products as their primary energy source. Such prohibition shall become effective on the date stated in a Notice of Effectiveness to be served on the powerplants, pursuant to 10 CFR 303.10(b), 303.37(b) and 305.7, subsequent to issuance of this Prohibition Order.

Section 2 of ESECA requires that DOE make certain findings prior to issuing a Prohibition Order. On May 12, 1978, DOE published a notice of "Intention to Issue Prohibition Orders to Certain Powerplants" (43 FR 20534) that contained DOE's proposed conclusions with respect to those findings and the rationale therefor that DOE proposed to make with respect to the powerplants listed above. That notice invited interested persons to make written or oral presentation of data, views and arguments regarding the proposed findings and other matters. A public hearing was held in Colorado Springs, Colo. on May 31, 1978, for the purpose of receiving the oral presentation of data, views and arguments. In addition, DOE provided an opportunity subsequent to the public hearing for supplemental written comments.

Based on a consideration of the data, views and arguments received by DOE at the public hearing as well as supplemental data, views and arguments received during the public comment period and an analysis of other information submitted to or otherwise available to DOE, DOE hereby finds with respect to the above listed powerplants that:

1. On June 22, 1974, each powerplant had the capability and necessary plant equipment to burn coal;

2. The burning of coal by each powerplant, in lieu of petroleum products or natural gas, is practicable and consistent with the purposes of ESECA;

3. Coal and coal transportation facilities will be available during the period this Prohibition Order will be in effect; and

4. The prohibition of each powerplant from burning natural gas or petroleum products as its primary energy source will not impair the reliability of service by such powerplant.

Stated below is the rationale for each finding ESECA requires DOE to make prior to issuing a Prohibition Order, and an evaluation of the significant, material issues raised by interested persons in their oral or written presentations, of data, views and arguments. Such presentations were made in response to the notice of "Intention to Issue Prohibition Orders to Certain Powerplants" published in the FEDERAL REGISTER on May 12, 1978 (43 FR 20534). Where such presentations were adopted by DOE and resulted in changes in DOE's calculations these are reflected in the specific findings. After an evluation of the data, views and arguments presented by interested persons, DOE concludes that no issues or facts were presented that render DOE unable to make the findings and therefore it must proceed with the issuance of the instant order.

City of Colordao Springs, Department of Public Utilities shall be referred to as the "Utility" and as "CCS-DPU".

I. *Capability and necessary plant equipment to burn coal.* DOE finds that, on June 22, 1974, Powerplants Number 5, 6, and 7 at Martin Drake Generating Station (Martin Drake 5, 6, and 7) had, or thereafter acquired or were designed with the capability and necessary plant equipment to burn coal. This finding is based on the facts and interpretations stated below:

A. Based on information supplied to the Federal Power Commission (now Federal Energy Regulatory Commission) by CCS-DPU and a site visit performed by DOE representatives, it has been determined that each powerplant had in place, on June 22, 1974, boilers that were capable of burning coal. The boilers has been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that, on June 22, 1974, the powerplants may not have been burning coal as their primary energy source.

The 1977 annual fuel consumption information provided by CCS-DPU at the public hearing was used to calculate the heat input of Martin Drake biolers 5, 6, and 7. Boiler 5 was 97.6 percent coal and 2.4 percent natural gas, Boiler 6 was 84.5 percent coal and 15.5 natural gas and Boiler 7 was 90.4 percent coal and 9.6 percent natural gas.

Based on information provided by CCS—DPU, the historical pattern of natural gas usage at Martin Drake Generating Station has tended to decrease over the past few years, but the relative share of the total natural gas consumed by individual powerplants has fluctuated. Even though Martin Drake 5 and 7 burned relatively small quantities of natural gas in 1977, issuance of a Prohibition Order to Martin Drake 5, 6, and 7 appears necessary to preclude potential increased use of natural gas by the powerplants which are not issued an order. In proposing to issue a Prohibition Order to Martin Drake 5, 6, and 7, DOE has considered and evaluated the effect of issuing an order to some of the individual powerplants and not to others and concluded that the purposes of ESECA are best accomplished by the issuance of this Order.

B. Based on information CCS-DPU provided to DOE during the abovementioned site visit and other information available to DOE, it has been determined that Martin Drake 5, 6, and 7 would not have to upgrade an ash handling system, a waste-water treatment system and a solid waste disposal system in order to burn coal 100 percent of the time.

C. DOE finds that, on June 22, 1974, Martin Drake 5, 6, and 7 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, absence of the facilities listed in paragraph B, above, does not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that Martin Drake 5, 6, and 7 have the capability and necessary plant equipment to burn coal as stated above.

II. *The burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA.* DOE finds that the burning of coal at Martin Drake 5, 6, and 7 in lieu of natural gas or petroleum products is praticable and consistent with the pruposes of ESECA. This finding is based upon the presumption that Martin Drake 5, 6, and 7 will be operated at a 60.3 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 32 years (as of the date of this Prohibition Order), are expected to have at least 31 years of remaining useful life after conversion of the powerplants, and on the facts and interpretations stated below:

A. *The burning of coal is practicable*—1. *Costs associated with burning coal*—a. *Capital investment costs.* Based upon information provided by CCS-DPU at the public hearing, it has been determined that the capital investment costs of $3,406,000 for the acquistion and refurbishment of equipment and facilities, as stated in section II.A.1.a. of the Notice of Intention, should be excluded.

b. *Annual operating and maintenance costs.* DOE has considered the statements made by CCS-DPU at the public hearing but concludes that there are approximately $127,000 increase in annual operating and maintenance costs associated with the

burning of 100 percent coal at Martin Drake 5, 6, and 7.

c. *Fuel costs.* (i) Based on information supplied by the utility, the price of natural gas available to Martin Drake 5, 6, and 7 is approximately $1.49 per million Btu's. This represents $1.47 per Mcf of natural gas, assuming 984,000 Btu's per Mcf.

(ii) Based on information supplied by the Federal Energy Regulatory Commission and from other sources available to DOE, the price of coal available to Martin Drake 5, 6, and 7 is approximately $0.99 per million Btu's. This represents $20.27 per ton of coal, assuming 20.5 million Btu's per ton.

(iii) DOE estimates that the burning of 100 percent coal by these powerplants will result in an overall reduction of approximately $0.51 per million Btu's, or $787,000 per year in fuel costs.

(iv) Based on information supplied by CCS-DPU, DOE has determined that Martin Drake 5, 6, and 7 are presently burning coal. DOE, therefore, finds that Martin Drake 5, 6, and 7 can continue to burn coal as their primary energy source with a decrease in fuel costs as a result of the Prohibition Order.

d. *Total annual costs associated with conversion.* As a result of this Prohibition Order to Martin Drake 5, 6, and 7, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately $137,000.

2. *Reasonableness of costs of conversion.* The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Martin Drake 5, 6, and 7 is reasonable.

As a result of conversion, the utility will incur additional annual operating and maintenance costs, exclusive of fuel costs, of approximately $137,000 (see paragraph A.1.b.), but will experience an annual fuel cost savings of approximately $787,000 (see paragraph A.1.c.). Considering the fuel cost savings, the total annual cost of operating Martin Drake 5, 6, and 7 after conversion is estimated to be reduced by $650,000.

Since the increased cost of conversion will be offset by the decrease in fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Martin Drake 5, 6, and 7.

The burning of 100 percent coal at Martin Drake 5, 6, and 7 will result in an estimated annual equivalent savings of 1,584,000 Mcf of natural gas (or approximately 260,000 barrels of oil equivalent) that otherwise would be used in providing steam for electric power generation.

DOE finds that, since the increased annual operating and maintenance costs at Martin Drake 5, 6, and 7 are offset by the current fuel cost differential between natural gas and coal burning at these powerplants and because of potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. *Financial capabilities of CCS-DPU.* DOE finds that compliance with a Prohibition Order to Martin Drake 5, 6, and 7 will be economically feasible. DOE's analysis took into consideration CCS-DPU's 1978 construction budget of $52.5 million, the total capitalization of the utility of $334 million and the 31 years remaining useful life after conversion of Martin Drake 5, 6, and 7.

Total annual costs associated with conversion. The total estimated annual increase in costs associated with the burning of coal, as opposed to natural gas, attributable to compliance with this Prohibition Order would be $137,000. This also represents the total estimated annual incremental increase in revenue requirements of CCS-DPU. (DOE also took into consideration revenue requirements of CCS-DPU resulting from compliance with all Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all other Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to CCS-DPU powerplants.) This estimate of $137,000 in revenue requirements is based on an analysis described in an Ultrasystems Inc. report entitled "Computer Methodology for Coal Conversion Cost Reasonableness Determination," August 1976 (hereafter "Ultrasystems Computer Model").

The total estimated annual increase in costs of $137,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately $787,000 attributable to compliance with this Prohibition Order and all other Prohibition Orders currently under consideration, if any. Therefore, the net annual revenue requirements of CCS-DPU should decrease by approximately $650,000.

DOE does not consider the effect of these added annual costs associated with conversion an unreasonable burden given the financial capabilities of the utility to assume such costs.

4. *Consumer impact.* The potential initial impact of a Prohibition Order to Martin Drake 5, 6, and 7 is a net decrease in revenues required from CCS-DPU consumers of approximately $0.0005 per kilowatt hour of electricity sold by CCS-DPU. This estimate is based on DOE's analysis of the Ultrasystems Computer Model results.

B. *Consistency with the purposes of ESECA.* Because the issuance of a Prohibition Order to Martin Drake 5, 6, and 7 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE concludes that this action will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of a Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act, as amended, and other applicable environmental protection requirements, DOE concludes that issuance of a Prohibition Order to Martin Drake 5, 6, and 7 will be consistent with the purposes of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

DOE has not received any written or oral presentation of data, views, or arguments that would negate DOE's finding that the burning of coal in lieu of natural gas or petroleum products is practicable and consistent with the purposes of ESECA as stated above.

III. *Coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.*—A. *Coal availability.*—1. *National coal reserves.* United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 438 billion tons. ("Demonstrated Coal Reserve Base of the United States on January 1, 1976," Bureau of Mines (August 1977) (hereafter "BOM Survey")). Mining experience in the United States has indicated that, on a national basis at least one-half of the coal, 219 billion tons, in the reserve base may be technically and economically recoverable. To determine when certan quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. *National coal production and demand.* A comparison of estimated national coal production and national coal demand shows that there should be sufficient production of coal to meet the total national demand through 1984.

a. *National coal production.* It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year	Production potential (million tons)
1978	745
1979	781

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through

ESECA. In addition, CCS-DPU indicates that it can purchase coal for Martin Drake 5, 6, and 7 in the "spot market."

to Martin Drake 5, 6, and 7 presently exist.

DOE has not received any written or oral presentation of data, views or ar-

Drake 5, 6, and 7 shall not become effective (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified the

filed pursuant to Subpart H of Part 303 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

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Year	Production potential (million tons)
1978	745
1979	781
1980	818
1981	858
1982	899
1983	942
1984	987

The figures shown above are derived from "Projections of Energy Supply and Demand and Their Impacts, Energy Information Administration," dated April 1978 (hereafter "Energy Supply and Demand Report"). The coal production forecast was derived from analytic procedures utilizing historic coal consumption patterns, in addition to derived demand under a forecast economic and energy case. DOE intends to fully update, for purposes of being current, its coal availability finding pertinent to Martin Drake 5, 6, and 7 prior to the issuance of a Notice of Effectiveness.

b. *National demand including ESECA Prohibition Order demand.* The estimated national demand, including any increased demand resulting from DOE actions under the authority of section 2(a) of ESECA, is as follows (Energy Supply and Demand Report):

Year	Demand (millions of tons)
1978	720
1979	758
1980	798
1981	841
1982	885
1983	932
1984	982

These demand projections were conservatively developed and include not only the actions already taken under ESECA but also all anticipated ESECA actions that may be taken in the future.

c. *National ESECA prohibition order demand.* DOE has estimated potential demand for coal resulting from this Prohibition Order, from all outstanding Notices of Intention to issue Prohibition Orders currently under consideration and from all other outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA to be as follows:

Year	Demand (million tons)
1978	9.6
1979	14.0
1980	20.4
1981	22.7
1982	26.5
1983	29.9
1984	29.9

(The above estimated demand figures include projections for Prohibition Orders issued on June 30, 1975 which are currently effective through December 31, 1978 and are subject to extension through December 31, 1984.)

3. *Characteristic coal, production and demand.*—a. *Characteristic coal requirements for these powerplants.* Based on updated information provided by CCS-DPU at the public hearing, DOE concludes that wet-bottom boilers, of the type used at Martin Drake 5, 6, and 7 will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

BTU's/lb (approximate)	10,270
Moisture (maximum percent)	15.0
Ash (maximum percent)	20.0
Volatile (maximum percent)	15.0
Ash softening temp. (maximum °F)	2,200
Sulfur (maximum percent)	0.56

b. *Characteristic coal demand from these powerplants.* The potential average annual demand for coal, of the type described above, which would result from this Prohibition Order is estimated to be as follows:

POTENTIAL ANNUAL DEMAND

Year	Thousand tons
1979–1984	76

c. *Characteristic coal available to these powerplants.* DOE has found that CCS-DPU has received three long-term contracts from Pittsburg-Midway Coal Co., Colowyo Coal Co., and Empire Energy Coal Co. for supplies to Martin Drake 5, 6, and 7 of characteristic coal through 1984.

4. *State and local laws.* DOE has found no State or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* On the basis of CCS-DPU's present coal contract commitments, DOE finds that coal of the characteristics required will be available to Martin Drake 5, 6, and 7 through 1984. Furthermore, on the basis of the "BOM Survey," the Coal Mine Expansion Study (May 1976), the Availability Study as revised November 10, 1977 and the FEA 1976 National Energy Outlook, DOE expects that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this Prohibition Order, from all outstanding NOI's to issue Prohibition Orders, and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. In addition, CCS-DPU indicates that it can purchase coal for Martin Drake 5, 6, and 7 in the "spot market."

B. *Coal transportation.*—1. *Location of powerplants and coal supply.* Based on information provided by CCS-DPU, coal for Martin Drake 5, 6, and 7 will be supplied and transported from Colowyo Coal Co. and Empire Energy Corp., which are located in Moffat County, Colo., and from Pittsburg-Midway, which is located in Routt County, Colo. to Martin Drake 5, 6, and 7 at Colorado Springs, Colo.

2. *Route of coal shipment.* Based on information provided to DOE by CCS-DPU, the primary route for coal delivery for Martin Drake 5, 6, and 7 would originate on the Craig Branch of the Denver & Rio Grande Western Railroad (D&RGWRR) and later would switch into the Drake Plant so that all coal movements would be completed on the D&RGWRR.

3. *Originating trunk carrier.* D&RGWRR, the expected carrier of coal for Martin Drake 5, 6, and 7, has indicated that it is able and willing to acquire any needed capacity involved in shipment to Martin Drake 5, 6, and 7.

Based on an FEA study, Utility analysis of Coal Transportation Availability, November 1976, DOE has concluded that for all potential Prohibition Order condidates studied, there will be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticiapated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under section 2(a) of ESECA.

D&RGWRR has indicated that the rail facilities at Moffat County and Routt County, Colo. are readily available to CCS-DPU and that the D&RGWRR has adequate handling and loading facilities to service the required coal volumes.

DOE has not found nor has it been informed of any apparent constraints to transporting coal.

4. *Powerplant facilities.* Martin Drake 5, 6, and 7 presently have coal unloading facilites which CCS-DPU has advised DOE are adequate to handle the projected coal demand. There are no apparent obstacles to the handling and delivery of coal to Martin Drake 5, 6, and 7.

5. *Conclusion.* On the basis of the information discussed above, DOE finds that coal transportation facilities will be available for the period that this Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Martin Drake 5, 6, and 7 presently exist.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that coal and coal transportation facilities will be available to these powerplants during the period until December 31, 1984.

IV. *The prohibition of the burning of natural gas or petroleum products as their primary energy source will not impair the reliability of service in the area served by the affected powerplants.* At the public hearing CCA-DPU stated that reliability of service would be measurably and detrimentally affected if the prohibition order was issued without granting flexibility to allow for loss of pulverizers at capacity loads or loss of emission control equipment at capacity loads. CCS-DPU was concerned that the power pools that they participate in may not be able to provide the reserve capacity needed in the case of emergency failure of pulverizers or emission control equipment. CCS-DPU proposed that the Martin Drake's Prohibition Order contain provisions allowing the utility to switch to natural gas firing under certain predetermined situations.

DOE interprets this voicing of concern as constituting a request for anticipatory relief, on the face of the Orders, from the potential effects of the Orders prior to their being made effective by issuance of a Notice of Effectiveness (NOE).

Should a problem arise after receipt of an NOE, DOE is prepared to respond and work with the utility in a timely manner.

Based on an analysis of the information submitted to DOE by CCS-DPU, DOE finds that the issuance of a Prohibition Order to Martin Drake 5, 6, and 7 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order.

CCS-DPU has indicated that Martin Drake 5, 6, and 7 were designed to burn natural gas and coal and are currently burning coal. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by Martin Drake 5, 6, and 7 as a result of this Prohibition Order.

DOE has not received any written or oral presentation of data, views or arguments that would negate DOE's finding that the prohibition of the burning of natural gas or petroleum products as the powerplants' primary energy source will not impair the reliability of service in the area served by the affected powerplants.

The prohibition of the burning of natural gas or petroleum products as the primary energy source by Martin Drake 5, 6, and 7 shall not become effective (1) until either (a) the Administrator of the Environmental Protection Agency (EPA) has notified the DOE, as required by 2(b) of ESECA, that a particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a delayed compliance order pursuant to the provisions of the Clean Air Act, as amended (CAA), 42 U.S.C. 7413 (d)(5) and the Act of August 7, 1977, Pub. L. 95-95, section 112, or (b) if no such notification is given by EPA, the date that the Administrator of EPA certifies is the earliest date that the particular powerplant will be able to burn coal and to comply with all applicable air pollution requirements, CAA, supra; Pub. L. 95-95, supra; and (2) until DOE has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7.

The date stated in the Notice of Effectiveness shall be either (a) the date EPA determines in accordance with section 113(d) of the CAA, supra; Pub. L. 95-95, supra, or (b) the date marking termination of the period of time that DOE determines is required by the affected powerplants to acquire or refurbish equipment or facilities necessary for coal burning by the affected powerplants other than equipment or facilities necessary to comply with the CAA, supra; Pub. L. 95-95, supra, whichever date is later.

In addition to the date on which the prohibition shall become effective, included with the Notice of Effectiveness, if appropriate, shall be a schedule of interim steps that should be taken by a stated date ("compliance schedule") to insure that the affected powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source by the date stated in such notice. The compliance schedule may require actions by the powerplant at any time subsequent to service of the Notice of Effectiveness.

This Prohibition Order does not constitute a final agency action and is not effective prior to service of the Notice of Effectiveness. In accordance with 10 CFR 303.38, any person aggrieved by this Order may file an appeal with DOE's Office of Hearings and Appeals, in accordance with 10 CFR Part 303 Subpart H, but such appeal cannot be filed prior to service by DOE of the Notice of Effectiveness and, if filed, shall be filed within 30 days after the service of such notice. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303 and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for a modification or rescission of this Prohibition Order in accordance with the provisions of 10 CFR Part 303 Subpart J. An application for modification or rescission of a Prohibition Order based on significantly changed circumstances, which may occur during the interval between issuance of this Order and service of the Notice of Effectiveness, shall be filed within 30 days of such service of such notice. Application for modification or rescission based on significantly changed circumstances occurring after the service of such notice may be filed at any time.

If an application for a modification or rescission of this Prohibition Order is made in accordance with Subpart J of Part 303, any appeal of this Order under 10 CFR Part 303 Subpart H, shall be suspended until 30 days after an order has been issued in accordance with Subpart J or until 30 days from the date on which such application for modification or rescission may be treated as having been denied in all respects.

If made effective this Prohibition Order will be effective against any persons that, as of the date stated in the Notice of Effectiveness of this Order, own, lease, operate or control the above listed powerplants and against any successors-in-interest or assignees of such persons.

Any terms utilized in this Prohibition Order have the same meaning as such terms have in 10 CFR Parts 303 and 305.

Any questions regarding this Prohibition Order should be directed to Mr. Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202-254-3910.

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by Pub. L. 95-70; Department of Energy Organization Act (40 U.S.C. 7101 et seq.); E.O. 11790 (39 FR 23185); E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., October 14, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-29456 Filed 10-18-78; 8:45 am]

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[3128-01-M]

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

ISSUANCE OF DECISIONS AND ORDERS

Week of July 24 Through July 28, 1978

Notice is hereby given that during the week of July 24 through July 28, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Baltimore Gas & Electric Co., Baltimore, Md., DEA-0072, Naphtha

Baltimore Gas & Electric Co. (B.G. & E.) filed an Appeal from a Decision and Order which the Economic Regulatory Administration of the DOE issued to the firm on November 8, 1977. In that Order, the Economic Regulatory Administration waived the use limitation set forth in 10 CFR 211.29(e), and thereby allowed B.G. & E. to use up to a total of 200,000 barrels of naphtha as SNG feedstock for the purpose of completing testing and startup at the firm's Sollers Point SNG manufacturing plant. This allocation was effective for the 3 month period ending on December 31, 1977. In addition, the Economic Regulatory Administration denied B.G. & E.'s request for a temporary assignment of a base period use and suppliers of an additional 700,000 barrels of naphtha which B.G. & E. sought to use as SNG feedstock for the commercial operation of the Sollers Point facility during the 1977-78 winter heating season. In considering the B.G. & E. Appeal, the DOE rejected the firm's contention that certain provisions of the November 8 Order were unclear. The DOE determined that in the November 8 Order the Economic Regulatory Administration had left no doubt that B.G. & E. could use the high contaminant naphtha that it held in inventory as SNG feedstock for the Sollers Point facility. The DOE also determined that the Economic Regulatory Administration had clearly indicated in the November 8 Order that because B.G. & E.'s inventory of naphtha was adequate for its purposes, an assignment of new suppliers of naphtha was unnecessary. Furthermore, the DOE found that B.G. & E. had failed to advance any evidence or legal argument in support of its contention that it was arbitrary for the Economic Regulatory Administration to have determined that the preparation of an environmental impact statement was a prerequisite to the temporary assignment of SNG feedstock to the firm's Sollers Point facility. The DOE further found that B.G. & E. had not demonstrated that the ERA's determination to review the firm's request for assignment of SNG feedstock in accordance with recent amendments to 10 CFR 211.29 was a tactic chosen for purposes of delay or had injured it in any way. The DOE accordingly concluded that B.G. & E. had not established that the November 8 Order was in any way erroneous and the B.G. & E. Appeal was denied.

Keener Oil Co., Tulsa, Okla., FEA-1387, Crude Oil

The Keener Oil Co. appealed from a Remedial Order which the Deputy Regional Administrator of FEA Region VI issued to the firm on June 10, 1977. In the Remedial Order, the Regional Office concluded that Keener had sold crude oil from three properties at prices which exceeded the maximum levels permitted under FEA Regulations. With respect to the Schenck lease, the Remedial Order found that the overcharges resulted from Keener's use of an incorrect May 15, 1973 posted price. The Remedial Order also found that Keener had incorrectly treated its Ellen lease as a "new" property with no base production control level (BPCL). The Remedial Order determined that production at the Ellen lease was instead subject to the BPCL of a larger property out of which the Ellen lease was formed. Finally, the Remedial Order determined that in November 1973 Keener erroneously calculated the BPCL for the Harjo lease by reference to the amount of crude oil "produced" rather than to the amount "produced and sold." On Appeal, Keener contended that the May 15, 1973 posted price which it used with respect to the Schenck lease was correct. The DOE rejected this contention on the grounds that Keener had not presented any evidence of a "publicly circulated written offer" which shows that the price it used was the highest posted price in effect on May 15, 1973 in Harper County, Kans. where the Schenck lease is located. With respect to the Ellen property, Keener claimed that it acquired the right to produce crude oil from the lease as a result of the subdivision of a larger tract by assignment in June 1973 and that the Ellen lease was therefore a separate and distinct different operation from the original tract. The DOE found, however, that under the provisions of FEA Ruling 1975-15, a post-1972 subdivision of property does not establish a new property for the purposes of measuring the BPCL and determining whether any new or released crude oil has been produced. Finally, Keener claimed that the error which it made in calculating the BPCL for the Harjo property during November 1973 also occurred in other months at the Harjo lease and on sixteen other crude oil producing properties as well. Keener contended that in these other instances the error produced undercharges which it should be permitted to offset against the overcharges which occurred on the Harjo lease in November 1973. In view of the fact that these undercharges may entirely offset the overcharges, the DOE concluded that the Remedial Order should be remanded to Region VI for a determination as to whether such an offset should be permitted. Accordingly, the Remedial Order was remanded with respect to this issue and Keener's Appeal was denied in all other respects.

Miranda Fuel Oil Co., Inc., New York, N.Y. DRA-0088, No. 2 and No. 4 oil

Miranda Fuel Oil Co., Inc. (Miranda) appealed from a Remedial Order which DOE Region II issued to the firm on December 9, 1977. The Remedial Order concluded that Miranda had sold No. 2 oil and No. 4 oil to six large volume purchasers at unlawful prices. In considering Miranda's Appeal, the DOE found that Miranda had acquired two of these customers after May 15, 1973 and that, contrary to Miranda's assertion, Miranda was not permitted to create new classes of purchaser for these customers but was required to place them in existing classes. The DOE also found that neither of the two new customers constituted a "new market" within the meaning of 10 CFR 212.111. The DOE further found that the Remedial Order's determination of Miranda's May 15, 1973 selling prices was consistent with 10 CFR 212.93 and DOE Ruling 1977-5 and was therefore correct. The DOE also rejected Miranda's argument that since the firm delivered product directly from its suppliers to customers of Universal Coal Co., Inc. (Universal) Miranda rather than Universal should have been treated as the retailer with respect to those customers. The DOE found in this regard that Miranda had not shown that it was the relevant "retailer" as that term is defined at 10 CFR 212.31 and that the Remedial Order had properly treated Miranda as a reseller of covered products to Universal. Finally, the DOE concluded that the fact that the Regional Office's preliminary audit findings differed somewhat from the formal charges contained in the Notice of Probable Violation and the Remedial Order which were subsequently issued to Miranda does not indicate that the Remedial Order is defective. Accordingly, the Miranda Appeal was denied.

REQUESTS FOR EXCEPTION

Natrogas, Inc., Minneapolis, Minn., DXE-1355 propane

Natrogas, Inc. (Natrogas) requested an extension of the exception relief which the DOE had previously granted to the firm from the provisions of 10 CFR 211.9. *Natrogas, Inc.*, 1 DOE Par. 80,141 (December 6, 1977); *Natrogas, Inc.*, 1 DOE Par. 82,524 (January 10, 1978); *Natrogas, Inc.*, 1 DOE Par. 82,560 (April 13, 1978). The extension request, if granted, would result in the issuance of an Order assigning Natrogas a supplier of propane whose wholesale price is less than the price currently charged by the firm's base period suppliers of that product. In considering the request, the DOE determined that the price which Natrogas' base period suppliers were currently charging for propane was within the range of prices which Natrogas' competitors pay for that product in the firm's market area. The DOE therefore concluded that any financial difficulties which Natrogas might be experiencing were not directly caused by the application of the DOE regulatory provisions to the firm and accordingly denied Natrogas' exception request.

Navajo Refining Co., Artesia, N.Mex., DXE-1048 Crude Oil

Navajo Refining Co. (Navajo) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Domestic Crude Oil Entitlements Program) which, if granted, would relieve the firm of its obligation to purchase entitlements for the months of June through November 1978 to account for its crude oil receipts and runs to stills during the months of April through September 1978. In support of its Application, Navajo submitted projected financial and operating material for its current fiscal year ending December 31, 1978. Based on the Navajo submission, the DOE determined

that Navajo would incur an obligation to purchase entitlements during its current fiscal year which would prevent it from achieving either its historical profit margin or historical return on invested capital (ROIC) The DOE concluded therefore that exception relief was warranted under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975), and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976). In determining the amount of exception relief which should be granted Navajo under the *Delta-Beacon* criteria, the DOE found that Navajo's projections indicated that even if the firm were relieved of its entire entitlement purchase obligation for the current fiscal year it would still not attain either its historical profit margin or ROIC. Accordingly, in a Proposed Decision and Order issued to the firm on June 22, 1978, the DOE tentatively granted Navajo an exception which relieved it of any obligation to purchase entitlements during the 6 month period June through November 1978. *See* 41 FR 26394 (May 18, 1976). Since no objection to the proposed determination was filed within the time period specified in the DOE regulations, the Decision and Order was issued to Navajo in final form on July 28, 1978. The Decision noted that subsequent reviews will be conducted of the exception relief which Navajo was granted and that the firm will be required to purchase entitlements if a determination is made that it received excessive benefits.

Peninsular Gas Co., Omaha, Nebr., DXE-0514 Propane

Peninsular Gas Co. (Peninsular) filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations. The exception request, if granted, would extend the exception relief previously granted to the firm and would permit it to increase its base period use of propane. *Peninsular Gas Co.*, 1 DOE Par. 81,039 (December 16, 1977). In considering the exception application, the DOE found that Peninsular continue to experience a dramatic increase in its propane requirements since the base period so that a gross disparity existed between the firm's current propane requirements for peak shaving and its use of propane during the 1972-73 base year. In addition, the DOE found that unless exception relief were granted permitting Peninsular to increase its use of propane for peak shaving the firm's customers could experience a curtailment of their natural gas services. Under these circumstances, the DOE determined that exception relief was appropriate and therefore adjusted Peninsular's base period volumes of propane for each calendar quarter ending December 31 and March 31.

R. W. Tyson Producing Co., Inc., Jackson, Miss., DXE-1069, Crude Oil

R. W. Tyson Producing Co., Inc. (Tyson) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of the exception relief previously granted to Tyson and would permit the firm to continue to sell 100 percent of the crude oil produced for the benefit of the working interest owners of the Stevens No. 4 and No. 5 wells located in Perry County, Miss., at upper tier ceiling prices. *R. W. Tyson Producing Co., Inc.*, 1 DOE Par. 82,542 (February 27, 1978). In considering the exception application, the DOE determined that the working interest owners had continued to incur increased operating expenses at the two wells and that, in the absence of continued exception relief, they would lack an economic incentive to produce crude oil from the wells. The DOE also found that even if the working interest owners were permitted to sell their entire share of the crude oil at upper tier ceiling prices they would still lack a sufficient incentive to continue to operate the two wells. In view of this situation and on the basis of the operating data that Tyson submitted for the most recently completed 6-month period, the DOE determined that Tyson should be permitted to sell at market prices 100 percent of the crude oil produced from the two wells for the benefit of the working interest owners.

Reading & Bates Oil & Gas Co., Tulsa, Okla., DXE-1316, Crude Oil

Reading & Bates Oil & Gas Co. (Reading & Bates) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the exception relief previously granted to Reading & Bates and would permit the firm to continue to sell at upper tier ceiling prices a portion of the crude oil produced from the No. 2 well on the Dempsey-Mantooth lease located in McClain County, Okla. In considering the exception request, the DOE found that Reading & Bates was continuing to incur increased operating expenses in connection with the operation of the No 2A well and that in the absence of exception relief, the firm would lack an economic incentive to continue to produce crude oil from the well. On the basis of the operating data which Reading & Bates submitted for the preceding 6 months, the DOE permitted the working interest owners to sell at upper tier ceiling prices 25.73 percent of the crude oil produced from the No. 2 well for their benefit.

Suburban Propane Gas Corp., Dallas, Tex., DEE-0321, Natural Gas Liquids; Natural Gas Liquid Products

The Suburban Propane Gas Corp. (Suburban) filed an Application for Exception which, if granted, would permit Suburban to increase its maximum allowable prices for natural gas liquids and natural gas liquid products to reflect certain nonproduct cost increases which it incurred at its Martha Berry natural gas processing plant. In a Proposed Decision and Order issued to Suburban on February 27, 1978, the DOE tentatively determined that exception relief should be granted. In a Statement of Objections which it filed, Suburban objected to the determination in the Proposed Decision that it is a refiner of crude oil under the Mandatory Petroleum Price Regulations and therefore must determine the maximum lawful selling prices for products refined at its natural gas processing plants pursuant to Subpart E of those regulations. In rejecting the firm's position on this issue, the DOE found that Plateau, Inc., a wholly owned subsidiary of Suburban, is a refiner of crude oil and that Suburban, through its ownership of Plateau, controls the operations of Plateau. The DOE therefore concluded that for purposes of implementing the exception relief which is approved for the firm, Suburban is a refiner of crude oil. Consequently, Suburban was permitted to reflect certain nonproduct cost increases which it incurred at its Martha Berry natural gas processing plant in the total nonproduct costs available for recovery through the prices the firm charges for general refinery products.

Young Refining Corp., Douglasville, Ga., DXE-0084, Crude Oil

The Young Refining Corp. (Young) filed an Application for Exception from the Old Oil Entitlements Program (10 CFR 211.67). The exception request, if granted, would relieve the firm of any obligation to purchase entitlements for the period October 1977 through March 1978.

On December 20, 1977, the DOE issued a Proposed Decision and Order in which it tentatively determined that Young had substantially changed its business practices after receiving entitlement exception relief under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975). According to the Proposed Decision, Young's course of conduct adversely affected the public interest and significantly frustrated the attainment of the objectives of the Entitlements Program. In order to prevent Young from taking further unwarranted advantage of its exception relief, a ceiling was placed on the amount of prospective relief to be granted to Young The ceiling was equivalent to the level of relief that would have been granted had the firm's crude oil receipts and runs to stills been the same as in 1975 (the 1975 limitation). The DOE consequently proposed to grant exception relief in the amount of $272,134 per month for the October 1977 through March 1978 period. *Young Refining Corp.*, Proposed Decision and Order, Case No. DXE-0084 (December 20, 1977).

In its Statement of Objections to the Proposed Decision, Young contended that the DOE could not depart from the *Delta* standard without first complying with statutory rulemaking provisions. Young also maintained that the DOE could not lawfully apply the 1975 limitation to a period of time which preceded the issuance of the Proposed Decision and Order. In considering Young's contentions, the DOE noted that similar contentions were considered at length in *Lunday-Thagard Oil Co.*, 2 DOE Par.——— (June 20, 1978). For the reasons discussed in *Lunday-Thagard*, the DOE rejeted Young's contention that the DOE failed to follow appropriate procedures in departing from the *Delta* standard. On the basis of that holding and its finding that Young had abused the exception it had received in the past, the DOE concluded that the 1975 limitation should be applied.

The DOE further concluded however that equitable considerations warranted some modification in the Proposed Decision and Order since the application of the 1975 limitation to Young for the final 3 months of 1977 would cause the firm to experience a serious financial hardship which would threaten its continued economic viability. In view of that finding, the DOE concluded that some additional exception relief should be granted. Accordingly, the DOE granted Young exception relief amounting to $6,006,385.02 for the period October 1977 through March 1978.

PETITION FOR SPECIAL REDRESS

Richard E. Snyder, Rehoboth, Del., DSG-0020, Motor Gasoline

Richard E. Snyder (Snyder) filed a Petition for Special Redress which, if granted,

would have resulted in the issuance of an Order rescinding a subpeona that DOE Region III issued to Snyder on May 24, 1978. In his Petition, Snyder contended that

Mountain States Energy Corp., Englewood, Colo., DEE-1423

Copies of the full text of these Decisions and Orders are available in the Public

property. The firm contended that the definition of the term "property" employed by the FEA was arbitrary and capricious in its failure to accord to separate reservoirs rec-

Beacon Oil Co., Hanford, Calif., DXE-1031, Crude Oil.

Beacon Oil Co. (Beacon) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program)

culating exception relief set forth in *Great Southern Oil and Gas Co., Inc.*, 3 FEA Par. 83,124 (March 9, 1976). Gulf also contended that the "input method" failed to take into consideration all of the firm's legitimate op-

Mountain West Aviation, Aspen, Colo., DEE-0489, aviation fuels

Mountain West Aviation (Mountain West) filed an Application for Exception from the provisions of 10 CFR 212.93. The exception

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would have resulted in the issuance of an Order rescinding a subpoena that DOE Region III issued to Snyder on May 24, 1978. In his Petition, Snyder contended that the subpoena should be quashed on the grounds that the subpoena was not personally served upon him; that it did not provide him with sufficient time in which to retain counsel and locate records which were requested by the subpoena; that a number of the records requested by the subpoena no longer existed; and that he was not sufficiently informed of the subpoena's purpose. In considering Snyder's Petition, the DOE found that the subpoena had been delivered at Snyder's residence to a "person of suitable age and discretion" and that this constituted valid service under the provisions of § 205.8(d). The DOE also found that since Snyder knew of the subpoena's requirements 7 days before the appearance date specified in the subpoena, he had had sufficient time in which to retain counsel and locate the records. In addition, the DOE found that Snyder's allegation that certain records did not exist did not excuse his refusal to appear with the records which were available. Finally, the DOE held that the subpoena's citation of the DOE's regulatory authority to initiate investigations and ascertain compliance with DOE Regulations and its specific reference to Snyder's motor gasoline operations at the Red Baron Gas Station were sufficient to inform Snyder of the nature of the DOE investigation. Accordingly, the Snyder Petition for Special Redress was denied.

REQUEST FOR STAY

Whitco, Inc., Dallas, Tex., DES-0091, Motor Gasoline

Whitco, Inc. (Whitco) filed an Application for Stay of the provisions of 10 CFR 211.25 (the supplier substitute rule). If the Whitco request were approved, the Sun Oil Co. (Sun) would be required to continue furnishing Whitco with its base period use of motor gasoline directly, rather than through Amtel, Inc., Sun's designated substitute supplier, pending a determination with respect to Whitco's Application for Exception from Section 211.25. In considering Whitco's Application for Stay, the DOE concluded that in view of the fact that the DOE on a number of previous occasions had granted Whitco the type of exception relief which it was requesting, it was very likely that the firm would prevail on the merits of its current Application for Exception. Furthermore, the DOE concluded that Whitco would incur a more immediate serious hardship and gross inequity than any other firm involved in the proceeding if the supplier substitution rule were not stayed pending a final determination with regard to its pending exception request. Accordingly, the Whitco Application for Stay was granted.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Capitol Oil Co., Alexandria, Va., DRA-0148.

The following submission was dismissed on the grounds that the request is now moot.

Mountain States Energy Corp., Englewood, Colo., DEE-1423

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

October 12, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-29439 Filed 10-18-78; 8:45 am]

[3128-01]

ISSUANCE OF DECISIONS AND ORDERS

Week of July 31 through August 4, 1978

Notice is hereby given that during the week of July 31 through August 4, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEAL

Klotzman, Melvin & Pendleton, Jess d.b.a. Victoria Equipment, & Supply Co., Victoria, Tex., FRA-1425, Crude Oil

Melvin Klotzman & Pendleton d.b.a. Victoria Equipment & Supply Co. (Victoria) appealed a Remedial Order that was issued by the Enforcement Division of Region VI. In the Remedial Order the Regional Office found that Victoria had improperly classified the Keeran Ranch "D" Lease as a stripper well property and had consequently overcharged the purchaser of the crude oil produced on the property. In its Appeal, Victoria contended that various provisions of the stripper well lease exemption contained in § 210.32 of the DOE Regulations were arbitrary and capricious and in excess of the agency's statutory authority. In considering the Appeal, the DOE observed that § 210.32 which established the qualifying period for the stripper exemption as "the preceding calendar year" was identical to section 4(e)(2)(A) of the Emergency Petroleum Act of 1973 (EPAA), which authorized of the exemption. It was therefore determined that the regulatory provision was within the scope of the agency's statutory authority. The DOE further held Congress did not intend that retroactive effect be given to section 121 of the Energy Conservation and Production Act, which Amended the qualifying period specified in the EPAA. In addition the DOE held that Ruling 1975-12 did not constitute a retroactive rulemaking.

Victoria also argued that in qualifying for the stripper well lease exemption it should have been permitted to treat production from each separate and distinct reservoir on the Lease as production from a separate property. The firm contended that the definition of the term "property" employed by the FEA was arbitrary and capricious in its failure to accord to separate reservoirs recognition as properties. The DOE found, however, that valid policy reasons existed for the property definition adopted by the FEA, and it also observed that the same definition was apparently contemplated by the Congress in drafting the EPAA. Finally, the DOE concluded that the subsequent decision of the FEA to amend the property definition without making the amendment retroactive was reasonable. The Victoria Appeal was therefore denied.

REQUESTS FOR EXCEPTION

Bayou State Oil Corp., Shreveport, La. FEE-4264, Refined Petroleum Products

Bayou State Oil Corp. (Bayou State) filed an Application for Exception which, if granted, would permit the firm to calculate its maximum allowable prices for refined petroleum products by allocating the increased costs of crude oil which it incurred during the period March 1975 through August 1976 on the basis of its actual refined product sales volumes, excluding the volumes of gasoline blended and sold by its affiliate, Ida Gasoline Co., Inc. (Ida). On November 22, 1977 the DOE issued a Proposed Decision and Order which tentatively determined that the exception should be denied. The DOE noted in the Proposed Decision that the Mandatory Petroleum Price Regulations have always required refiners to consolidate all of their operations for purposes of determining their maximum allowable prices. The DOE found that Bayou State was not entitled to retroactive exception relief on the basis of its contentions that it was unaware of this firmwide requirement and that its failure to treat Bayou State and Ida as a single firm resulted form a good faith interpretation of the regulations. The DOE further found that Bayou State was not entitled to an exception on the basis of standards established in prior cases where firms were granted exception relief permitting them to exclude products purchased for resale in allocating their crude oil costs. The DOE also found that the mere fact that Bayou State was required to allocate some of its increased costs of crude oil to a product which it did not refine from crude oil did not distinguish the firm from many other refiners and did not constitute a gross inequity. Finally, the DOE determined that in the event Bayou State were required to refund the overcharges involved the firm would not experience such a severe financial hardship as to threaten its viability or preclude it from continuing its essential operations. Bayou State filed a Statement of Objections to the Proposed Decision and Order on December 23, 1977. In considering the Statement of Objections, the DOE found that Bayou State's alleged good faith did not form a basis for relief and that Bayou State did not meet the standards for relief established in previous cases. The DOE also found that the Proposed Decision correctly considered all petroleum-related activities of the Bayou State firm in assessing the impact of any potential refund obligation. Accordingly, a final Decision and Order was issued which denied the Bayou State Application for Exception.

Beacon Oil Co., Hanford, Calif., DXE-1031, Crude Oil.

Beacon Oil Co. (Beacon) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would relieve the firm of its obligation to purchase entitlements for the months of June through November 1978 to account for its crude oil receipts and runs to stills during the months of April through September 1978. In support of its Application, Beacon submitted projected financial and operating material for its current fiscal year ending December 31, 1978. Based on the Beacon submission, the DOE determined that Beacon would incur an obligation to purchase entitlements during its current fiscal year which would prevent it from achieving either its historical profit margin or historical return on invested capital (ROIC). The DOE concluded therefore that exception relief was warranted under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976). In determining the amount of exception relief which should be granted, the DOE found that Beacon's projections indicated that even if the firm were relieved of its entire entitlement purchase obligation for the current fiscal year it would still not attain either its historical profit margin or ROIC. Accordingly, in a Proposed Decision and Order issued to the firm on June 22, 1978, the DOE tentatively granted Beacon an exception which relieved it of any obligation to purchase entitlements during the six month period June through November 1978. Since no objection to the proposed determination was filed within the time period specified in the DOE regulations, the Decision and Order was issued to Beacon in final form. The Decision notes that reviews will be conducted of the entitlements exception relief which Beacon was granted and the firm will be required to purchase entitlements if a determination is made that it received excessive benefits.

Gulf Oil Corp., Tulsa, Okla., DXE-0251, Crude Oil

The Gulf Oil Corp. (Gulf) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the exception relief previously granted to the firm and would permit Gulf to sell the crude oil produced from the Northwest Graylin "D" Sand Unit (the Graylin Unit) at upper tier ceiling prices. *See Gulf Oil Corp.*, 6 FEA Par. 83,028 (July 8, 1977); *aff'd*, 1 DOE Par. 80,217 (March 14, 1978). On January 23, 1978 a Proposed Decision and Order was issued to Gulf in which the DOE tentatatively concluded that Gulf should be permitted to sell at upper tier ceiling prices 67.66 percent of the crude oil produced from the Graylin Unit for the benefit of the working interest owners for a six month period of time. On March 10, 1978 Gulf filed a Statement of Objections to the Proposed Decision. In both the previous exception decision and the January 23, 1978 Proposed determination, the DOE utilized an "input method" to calculate the firm's current level of administrative overhead cost for purposes of determining the firm's actual level of total increased operating costs since May 15, 1973. Gulf objected to the DOE's use of the "input method," and claimed that there was no legal basis for this deviation from the methodology for calculating exception relief set forth in *Great Southern Oil and Gas Co., Inc.*, 3 FEA Par. 83,124 (March 9, 1976). Gulf also contended that the "input method" failed to take into consideration all of the firm's legitimate operating expenses. After reviewing Gulf's contentions, the DOE agreed with the firm's assertion that the "input method" does not provide an accurate measure of a crude oil producer's actual operating costs. However, the DOE also determined that it would not be appropriate to permit Gulf to include all of its reported administrative overhead expenses since a portion of the firm's higher-level administrative costs are not allocated to the other working interest owners and have no bearing on the working interest owners' present incentive to continue their production activities at the Graylin Unit. Consequently, the DOE determined that only those administrative overhead expenses which are borne by all of the working interest owners of the Graylin Unit should be included by the DOE for purposes of calculating exception relief under the *Great Southern* line of cases. Accordingly, the DOE recalculated the allowable level of exception relief for the Graylin Unit by excluding those administrative overhead expenses which were borne solely by Gulf. The DOE determined that Gulf should be permitted to sell at upper tier ceiling prices 63.04 percent of the crude oil produced from the Graylin Unit for the benefit of the working interest owners during the period January 1, 1978 through June 30, 1978.

Maguire Oil Co., Dallas, Tex., FEE-4464, Crude Oil

On February 8, 1978, the Maguire Oil Co. (Maguire) filed a Statement of Objections to a Proposed Decision and Order which was issued to it on December 16, 1977. In the Proposed Decision, the DOE tentatively determined that the firm should be granted a prospective exception from the provisions of 10 CFR 212.73 to permit the working interest owners of the Chandler Lease to sell a portion of the crude oil produced for their benefit at upper tier ceiling prices. However, the Proposed Decision denied Maguire's request that the exception be made retroactive to January 1, 1975. In its Statement of Objections, Maguire contended that it had demonstrated compelling reasons why a retroactive exception should be granted. The DOE noted that this contention was apparently based on Maguire's position that it had demonstrated a reasonable basis for the crude oil pricing practices which the firm followed during the period January 1, 1976 through September 30, 1976. In rejecting this argument, the DOE determined that the reasonableness of Maguire's pricing during this period had been fully considered in a related Appeal from a Remedial Order which Maguire had previously filed. *Maguire Oil Co.*, 1 DOE Par. 80,184 (January 20, 1978). In view of the fact that the DOE had already issued a final determination with respect to the reasonableness of Maguire's prior pricing practices, the DOE determined that no purpose would be served by further consideration of this issue. Maguire also contended that the level of prospective exception relief afforded by the Proposed Decision was insufficient to provide the working interest owners of the Chandler Lease, with an economic incentive to continue their production activities.

Mountain West Aviation, Aspen, Colo., DEE-0489, aviation fuels

Mountain West Aviation (Mountain West) filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Mountain West to increase its selling prices for aviation fuels by 5.8 cents per gallon. In considering this request the DOE determined that Mountain West is presently incurring nonproduct costs which substantially exceed the four cents per gallon which fixed base operators are permitted to reflect in their selling prices for aviation fuels. The DOE also found that Mountain West's present operating financial condition would be seriously affected if it were required to absorb these non-product costs on a continuing basis. Therefore, based upon previous DOE decisions involving similar factual circumstances, the DOE concluded that exception relief was warranted to permit Mountain West to increase its selling prices for aviation fuels by 5.8 cents per gallon.

Southland Oil Co./VGS Corp., Jackson, Miss., DXE-1071, crude oil

Southland Oil Co./VGS Corp. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would relieve the firm of its obligation to purchase entitlements for the months of June through November 1978 to account for its crude oil receipts and runs to stills during the months of April through September 1978. In support of its Application, Southland submitted projected financial and operating material for its current fiscal year ending December 31, 1978. Based on the Southland submission, the DOE determined that Southland would incur an obligation to purchase entitlements during its current fiscal year which would prevent it from achieving either its historical profit margin or historical return on invested capital (ROIC). The DOE concluded therefore that exception relief was warranted under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976). Accordingly, on June 22, 1978, the DOE issued a Proposed Decision and Order to Southland which expressed the preliminary determination that Southland should be granted an exception relieving it of a portion of its obligation to purchase entitlements during the six month period June through November 1978. Since no objection to the proposed determination was filed within the time period specified in the DOE regulations, the Decision and Order was issued to Southland in final form. The Decision notes that reviews will be conducted of the entitlements exception relief which Southland was granted and the firm will be required to purchase entitlements if a determination is made that it received excessive benefits.

Terry Oil Co., Commerce Calif., DEE-0901, crude oil

Terry Oil Co. (Terry) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil which it would produce from the East Los Angeles Field at prices in excess of the ceiling price level. In considering the exception request, the DOE determined that a considerable capital investment would be necessary to restore the East Los Angeles Field to full production. The DOE further

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determined that the production and operating expense estimates submitted by the firm indicated that the required capital investment would be uneconomic if the crude oil produced from the property had to be sold at the applicable ceiling prices. In addition, the DOE determined that a substantial quantity of crude oil would not be recovered if Terry did not undertake the capital investment program. On the basis of these findings the DOE determined that exception relief should be granted to Terry which would provide the firm with a sufficient economic incentive to undertake the capital investment program. Accordingly, Terry was permitted to sell during the economic life of the project a sufficient portion of the crude oil to be produced as a result of the investment at prices in excess of the ceiling price levels in order to permit the working interest to attain a 15-percent return on their investment at the East Los Angeles Field.

V & J Service, Coal Valley, Ill., DRC-0004, motor gasoline

V & J Service filed an Application for Exception from the provisions of 10 CFR 211.12 which, if granted, would substantially increase the firm's base period use of motor gasoline. In considering the firm's application, the DOE determined that V & J had failed to satisfy the criteria for approving an exception request for an increase in base period use. The DOE found that V & J had been able to secure supplies of surplus product which are sufficient to satisfy the needs of the Coal Valley community. On the basis of these considerations, the DOE determined that V & J's exception request should be denied.

Wilson-Owens Production Co., Longview, Tex., DEE-1025, crude oil

The Wilson-Owens Production Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit it to sell the crude oil produced from W. T. Blackwell Unit lease, located in Wood County, Tex., at upper tier ceiling prices. In considering the exception request, the DOE found that Wilson-Owens' operating costs had increased to the point where the firm no longer had an economic incentive to continue production of crude oil from the Blackwell lease if the crude oil was to be sold at lower tier ceiling prices. The DOE also determined that if Wilson-Owens abandoned its operation at the Blackwell lease, a substantial quantity of crude oil would not be recovered. The DOE therefore concluded that the Wilson-Owens Application should be granted and the working interest owners should be permitted to recover their unrecovered increased operating expenses at the Blackwell lease. On the basis of the criteria applied in previous decisions under similar circumstances, Wilson-Owens was permitted to sell at upper tier ceiling prices 44.30 percent of the crude oil produced from the Blackwell lease for the benefit of the working interest owners.

REQUEST FOR STAY

United Petroleum, Inc., Tampa, Fla., DES-0090, refined petroleum products

United Petroleum, Inc. filed an application for stay in which it requested that an enforcement proceeding involving the firm be held in abeyance pending a final determination on a request for information which the firm filed with the DOE pursuant to the Freedom of Information Act, 5 U.S.C. 552. In support of its application, United claimed that the information which it requested is indispensible in preparing a complete statement of objections to a proposed remedial order which was issued to the firm in the enforcement proceeding. In considering the stay request, the DOE observed that the disclosure provisions of the Freedom of Information Act are not a substitute for discovery, and enforcement proceedings generally will not be stayed pending disclosure of information pursuant to the FOIA if other administrative procedures are available by which a firm may obtain relevant and material evidence. The DOE found that procedures providing for discovery are available to the firm in the context of the enforcement proceeding and that the firm has not availed itself of those procedures. The United stay request was therefore denied.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Quest Oil Co., Denver, Colo., DEE-0074

The following submission was dismissed after a determination made by the DOE that the relief requested was no longer necessary.

Charles W. Austin, Billings, Mont., DRA-0062

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

OCTOBER 12, 1978.

[FR Doc. 78-29440 Filed 10-18-78; 8:45 am]

[3128-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of August 7 Through August 11, 1978

Notice is hereby given that during the week of August 7 through August 11, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEAL

Harvey W. Jones and Associates, Natchez, Miss., DRA-0081, Crude Oil

Harvey W. Jones and Associates filed an Appeal from a Remedial Order issued to it by DOE Region IV on November 29, 1977. The Remedial Order found that Jones had improperly classified five properties as stripper well leases and had sold the crude oil produced from them at prices which exceeded the maximum permissible selling prices. In its Appeal, Jones contended that Region IV had erroneously determined the downtime of the five properties and, as a result, had miscalculated their average daily production. In considering the Appeal, the DOE determined that a factual issue existed as to how much normal downtime show should be attributed to the wells. The DOE further determined that *Tenneco Oil Co.*, 1 DOE Par. 82,512 (November 15, 1977), and *Bonray Oil Co.*, 6 FEA Par. 80,521 (July 26, 1977), did not preclude consideration of documentation regarding downtime which Jones had presented for the first time on Appeal, since the notices of Probable Violation which preceded the Remedial Order had not adequately notified Jones of the basis for the alleged violation. Consequently, the DOE remanded the Remedial Order to DOE Region IV for consideration of the additional material and further findings of fact.

REMEDIAL ORDER

Pawnee Petroleum Co., Seminole, Okla. DRO-0018, Crude Oil

Pawnee Petroleum Co., objected to a Proposed Remedial Order which DOE Region VI issued to the firm on March 14, 1978. In the Proposed Remedial Order, Region VI found that Pawnee had improperly classified four leases as stripper well properties and had sold the crude oil produced from them at prices which were in excess of the maximum permissible selling prices. Region VI also found that Pawnee had sold crude oil produced from seven leases at prices above the applicable ceiling prices set forth in 6 CFR 150.354 and 10 CFR 212.73. In its Statement of Objections, Pawnee contended that Ruling 1975-12 was improperly issued by the FEA and should not be used to calculate the average daily production of the firm's properties. In considering Pawnee's objections, the DOE noted that it had previously rejected contentions that Ruling 1975-12 was defective. *Ruthven, Inc.*, 1 DOE Par. 80,243 (April 19, 1978); *Pioneer Operations Company, Inc.*, 1 DOE Par. 80,230 (March 24, 1978). In those cases, the DOE found that the distinction contained in Ruling 1975-12 between wells that produce crude oil from independent formations through multiple tubing strings and wells that produce through a single tubing string was not arbitrary and capricious. The DOE also found that Ruling 1975-12 was interpretative and could therefore be applied retroactively. The DOE further determined that Region VI had correctly found that Pawnee improperly included as part of its May 15, 1973, posted price a premium which the firm's purchaser paid to secure a long-term supply contract. On the basis of these findings, the DOE rejected Pawnee's objections and issued the March 14 Proposed Remedial Order as a final Remedial Order.

REQUESTS FOR EXCEPTION

Crystal Oil Co., Shreveport, La. FPI-0128, Oil Imports

Crystal Oil Co., filed an Application for Exception which, if granted, would increase the amount of crude and unfinished oils which the firm is permitted to import on a license fee-exempt base under the provisions of 10 CFR, Part 213. In its Application, Crystal maintained that the DOE Office of Oil Imports had improperly excluded the licenses attributable to the operation of the Adobe refinery located in La Blanca, Tex., in calculating Crystal's fee-exempt authority for the 1977 allocation period. In considering Crystal's exception request, the DOE found that the Office of Regulatory Programs had determined that Crystal owned, operated and controlled the Adobe refinery for purposes of the Entitlements Program. The DOE concluded that Crystal would experience a gross inequity if it were not also considered the refiner of the Adobe facility for the purposes of the Oil Imports Program. The Application for Exception was accordingly granted.

Mohawk Petroleum Corp., Inc., Los Angeles, Calif., DXE-1030, Crude Oil

Mohawk Petroleum Corp., Inc., filed an Application for Exception from the provisions of 10 CFR 211.67 (the Entitlements Program) which, if granted, would relieve the firm of its obligations to purchase entitlements for the period June through November 1978. In considering the Mohawk request, the DOE determined that in the absence of exception relief the firm would incur entitlement obligations during its current fiscal year which would prevent it from achieving either its historical profit margin or historical return on invested capital. The DOE concluded that exception relief was therefore warranted under the criteria set forth in *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1978), and *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975). The Application for Exception was accordingly granted.

Monsanto Co., Houston, Tex., DXE-1329, Crude Oil

Monsanto Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in the extension of exception relief previously approved and would permit Monsanto to continue to sell certain quantities of the crude oil produced from the Hendrick "A" property, located in the Hendrick Field in Winkler County, Tex., at upper tier ceiling prices. In considering the Monsanto exception request, the DOE found that operating costs per barrel at the property continued to exceed the applicable lower tier ceiling price and that continued exception relief was therefore necessary to provide the firm with an adequate economic incentive to maintain production operations. In accordance with the methodology established in previous Decisions, the DOE permitted Monsanto to sell 60.66 percent of the crude oil produced from the property at upper tier ceiling prices for a 6-month period.

O'Meara Brothers, New Orleans, La., DXE-1116, DXE-1117, Crude Oil

O'Meara Brothers filed two Applications for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would result in the extension of exception relief previously approved and would permit O'Meara to continue to sell a portion of the crude oil produced from the Vinton and Louisiana State Leases at upper tier ceiling prices. *O'Meara Brothers*, 1 DOE Par. 81,089 (January 24, 1978). In considering the exception request for the Vinton Lease, the DOE found that as a result of a substantial reduction in repair and workover expenses for the property, O'Meara would be able to operate the lease on a profitable basis even if the crude oil is sold at the applicable lower tier price. Accordingly, the DOE determined that exception relief should not be extended for the Vinton Lease. With respect to the Louisiana State Lease, the DOE found that the level of operating costs had continued to increase and that, in the absence of exception relief, O'Meara would have no economic incentive to maintain crude oil production from the property. In view of this determination and on the basis of the operating data which the firm submitted for the two most recently completed fiscal quarters, O'Meara was permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Louisiana State Lease for the benefit of the working interest owners for a 6-month period.

Pennzoil Producing Co., Houston, Tex., DEE-0086, Crude Oil

Pennzoil Producing Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Woodruff Sand Unit located in the Tinsley Field, Yazoo County, Miss., at market prices. In considering Pennzoil's Application, the DOE determined that the costs of producing crude oil from the Woodruff Sand Unit had increased significantly since 1973 and that those costs per barrel now exceed the prices which Pennzoil is permitted to charge. Consequently, the DOE determined that Pennzoil does not have an economic incentive to continue production from the Unit. The DOE also found that if the Unit were abandoned, a significant quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of these findings and in accordance with the methodology established in previous Decisions, the DOE permitted Pennzoil to sell 100 percent of the crude oil produced from the Woodruff Sand Unit for the benefit of the working interest owners at market prices not to exceed $14.09 per barrel through the end of the calendar year.

REQUEST FOR MODIFICATION OR RESCISSION

Damson Oil Corp., Los Angeles, Calif., DMR-0029, Crude Oil

Damson Oil Corp. filed an Application for Modification of a Decision and Order which the DOE issued to the firm on July 5, 1978. *Damson Oil Corp.*, 1 DOE Par. ----- (July 5, 1978). In that Decision, the DOE granted Damson exception relief from the provisions of 10 CFR 212.73 for the period September 1, 1977, through August 31, 1978. In its Application, Damson indicated that the period of relief was inconsistent with a previous Decision and Order granting similar relief for the period March 1 through August 31, 1978. *Damson Oil Corp.*, 1 DOE Par. 81,101 (April 7, 1978). In order to alleviate the overlap in relief periods, the DOE concluded that the July 5 Decision should be modified to grant exception relief for the period September 1, 1977, through February 28, 1978.

REQUESTS FOR STAY

DeMartin Truck Lines, Inc., Bakersfield, Calif., DRS-0198, Propane, Butane

DeMartin Truck Lines, Inc. requested that a Revised Remedial Order which was issued to the firm by the Office of Enforcement on June 29, 1978 be stayed pending determination of an Appeal from the Order and an Application of Exception which the firm file. The Stay was also requested pending resolution of an action filed in the United States District Court for the Eastern District of California. In the Revised Remedial Order, the DOE found that DeMartin had charged prices for propane and butane which exceeded the maximum permissible prices and directed the firm to make appropriate refunds. In considering the stay request, the DOE referred to a Decision in *Rickelson Oil and Gas Co.*, 6 FEA Par. 85,029 (August 24, 1977), in which the FEA held that a Remedial Order will generally be stayed pending the determination of an Appeal unless it appears that the public interest requires immediate compliance. Since the record in the present case did not indicate that the public interest required immediately compliance, the DOE granted a stay pending consideration of the firm's Appeal and Application for Exception. However, the DOE rejected DeMartin's request that the stay be granted pending judicial review.

Mid-America Refining Co., Inc., Washington, D.C., DES-1421, Crude Oil

Mid-America Refining Co., Inc., requested that its obligations under the provisions of 10 CFR 211.67 (the Entitlements Program) be stayed during the month of July 1978, pending a determination on an Application for Exception which the firm filed. In considering the request, the DOE found that Mid-America had recently altered its operations in order to become a purchaser of entitlements. The DOE determined that since Mid-America's obligation to purchase entitlements in July 1978 was directly attributable to the firm's own discretionary actions, stay relief was not warranted. Accordingly, Mid-America's Application for Stay was denied.

Piedmont Natural Gas Co., Spartanburg, S.C. DES-0093, DST-0093, Propane

Piedmont Natural Gas Co. filed an Application for Stay and an Application for Temporary Stay, which, if granted, would permit Piedmont to acquire and use surplus supplies of domestic propane for the purpose of stabilizing the BTU value of natural gas distributed in South Carolina after August 31, 1978. The stays were sought pending the final determination of a petition for similar relief which Piedmont had filed with the DOE Economic Regulatory Administration (ERA). In considering the stay requests, the DOE found that there was no basis to conclude that ERA would be unable to render a final determination with respect to Piedmont's petition prior to September 1, 1978. In this regard, the DOE noted that if a favorable determination were issued by September, Piedmont could use its inventory supplies of propane for BTU stabilization and, as a result, the firm would not immediately have to purchase additional volumes of propane. The DOE also found that the Piedmont stay submissions had failed to adequately address whether the need for expeditious action resulted from the firm's delay in filing its petition

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and whether it could utilize alternative methods of BTU stabilization prior to the issuance of a decision by ERA. On the basis of these considerations, the stay applications were denied.

SUPPLEMENTAL ORDERS

Quincy Oil, Inc., Quincy, Mass.; Taunton Municipal Lighting Plant, Taunton, Mass., DEX-0102, Fuel Oil

On May 24, 1978, the Taunton Municipal Lighting Plant filed a Statement of Objections to a Proposed Decision and Order that the DOE issued to Quincy Oil, Inc. on March 17, 1978. In the Proposed Decision and Order, the DOE determined that Quincy's Application for Exception from the pricing regulations should be granted in part. In its objection to that determination, Taunton requested that it be given an opportunity to examine certain confidential information submitted by Quincy in connection with its Application for Exception. The parties subsequently agreed to the disclosure of the information under a Protective Order and Joint Agreement for Discovery, subject to the approval of the DOE. Under the terms of the Protective Order, Taunton may not use the information that it receives except in connection with the pending administrative proceedings and any subsequent judicial review. In reviewing the agreement reached by the parties, the DOE noted that discovery would facilitate its consideration of the exception proceedings. The DOE therefore concluded that the Protective Order and Joint Agreement for Discovery should be approved. The DOE pointed out that the Protective Order was an order within the meaning of Section 5(a)(3) of the Emergency Petroleum Allocation Act of 1973, as amended, and that a violation would give rise to potential civil and criminal penalties. In addition, the DOE determined that it could impose other sanctions on any party that violates the terms of the Protective Order, including the dismissal of its submission.

Young Refining Corp., Douglasville, Ga., DEX-0099, crude oil

On July 24, 1978, the DOE issued a Decision and Order to Young Refining Corp. *Young Refining Corp.*, 1 DOE Par. — (July 24, 1978). In that Decision, the DOE granted exception relief which relieved Young of entitlement purchase obligations in the amount of $6,006,385 for the period October 1977 through March 1978. As a result of a calculation error, Young's outstanding entitlement purchase obligations for the relief period were understated in Appendix A of the Decision. Accordingly, the DOE modified the July 24 Decision to reflect the corrected figures.

MOTION FOR EVIDENTIARY HEARING

Deltona Corp., Miami, Fla., DEH-0023, LP Gas

The Deltona Corp. filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Decision and Order which was issued to the firm by DOE Region IV on May 18, 1978. In the Proposed Decision and Order, Region IV determined that Deltona's request for exception relief to increase its sales prices for liquified petroleum gas should be denied. In its Motion, Deltona stated that it could support its claim that it was experiencing a gross inequity and serious hardship only through the testimony of corporate officers and outside consultants. In addition, the firm stated that the testimony of those witnesses was necessary to show that the firm was prevented from raising its prices due to a general price freeze in effect after May 15, 1973. In considering Deltona's Motion, the DOE found that the firm had failed to set forth the specific facts it intended to establish through the proposed witnesses' testimony. Furthermore, the DOE determined that technical financial material is generally best presented through written submissions rather than oral testimony. Finally, the DOE concluded that Deltona had failed to demonstrate the relevance of the post-May 15, 1973, price freeze to the issues in its exception request. Accordingly, the Motion for Evidentiary Hearing was denied.

MOTION FOR DISCOVERY

Consumers Power Co., Marysville, Mich., DED-0180, Natural Gas Liquids

Consumer Power Co. filed a Motion for Discovery in connection with an Appeal of an Assignment Order which was issued to it by the DOE Economic Regulatory Administration (ERA). In its Motion, Consumers requested that ERA be directed to respond to four interrogatories. In considering Consumers' request, the DOE noted that the DOE procedural regulations do not provide for discovery in a proceeding that does not involve an enforcement action. The DOE observed, however, that it is within its inherent discretion to permit discovery when appropriate. The DOE determined that the information sought by Consumers was relevant and material to issues raised in its appeal. The DOE also found that ERA staff members could obtain the requested information more easily than Consumers and that discovery would not unduly delay the appeal proceeding. Accordingly, the Motion for Discovery was granted.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Hearings and Appeals of the Department of Energy has issued decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases.

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Adobe Oil & Gas Corp	DXE-1149	Adobe Sale Ranch	Martin, Tex	$0.01229
Allied Chemical Corp	DXE-1150	Perkins	Coke, Tex	.01793
Arkansas Louisiana Gas Co	DXE-1312	Hamilton	Columbia, Ark	.0347
Atlantic Richfield Co	DXE-1174	Adair	Gaines, Tex	.0261
	DXE-1175	Camrick	Beaver, Okla	.0101
	DXE-1176	Chesterville	Colorado, Tex	.0452
	DXE-1177	Crossett	Crane and Upton, Tex	.0282
	DXE-1178	Elmwood	Beaver, Okla	.0060
	DXE-1179	Elk Basin	Park, Wyo	.0203
	DXE-1180	Empire Abo	Eddy, N. Mex	.0220
	DXE-1181	Gillette	Campbell, Wyo	.0324
	DXE-1182	Hull	Liberty, Tex	.0568
	DXE-1183	Kermit	Winkler, Tex	.0195
	DXE-1184	Know-Bromide	Grady, Okla	.0393
	DXE-1185	Lapeyrouse	Terrebonne Parish, La	.0201
	DXE-1186	Ojai Timber	Ventura, Calif	.4149
	DXE-1187	Riverton Dome	Freemont, Wyo	.3573
	DXE-1188	Silsbee	Hardin, Tex	.1286
	DXE-1189	South Coles Levee	Kern, Calif	.0188
	DXE-1190	Taft	San Patricio, Tex	.0442
	DXE-1191	West Lake	Nolan, Tex	.0482
	DXE-1192	West Seminole	Gaines, Tex	.0258
	DXE-1193	Worland	Washakie, Wyo	.0330
Belridge Oil Co	DXE-1273	Kern County	Kern, Calif	.1122
Breckenridge Gasoline Co	DXE-1286	Ellasville	Stephens, Tex	.1450
	DXE-1287	Lodi	Cass, Tex	.1796
Champlin Petroleum Co	DXE-1263	Gulf Plains	Nueces, Tex	.0775
	DXE-1264	Mayfield	Kleberg, Tex	.1760
	DXE-1265	Peoria	Arapahoe, Colo	.0356
Cities Service Co	DXE-1194	Adair	Terry, Tex	.0292
	DXE-1195	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1196	Citronelle	Mobile, Ala	.0729

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS—Continued

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
	DXE-1197	Garrett	Kay, Okla	.0707
	DXE-1198	Kimball	Kimball, Nebr	.0640
	DXE-1199	May	Kleberg, Tex	.1437
	DXE-1200	Midway	Kingman, Kans	.0497
	DXE-1201	Moncrief	Franklin, Tex	.0735
	DXE-1266	Myrtle Springs	Van Zandt, Tex	.1636
	DXE-1267	Panola	Panola, Tex	.0374
	DXE-1268	Red Fish Bay	San Patricio, Tex	.0175
	DXE-1269	Rio Grande	Starr, Tex	.0550
	DXE-1270	Robstown	Nueces, Tex	.0382
	DXE-1271	St. Amelia	St. James Parish, La	.1563
	DXE-1272	West World	Crockett, Tex	.0552
Coastal States Gas Corp	DXE-1202	Albany	Shackelford, Tex	.0540
	DXE-1203	Corpus Christi	Nueces, Tex	.0173
	DXE-1204	Freer	Webb, Tex	.0159
	DXE-1205	Mission	Hidalgo, Tex	.0251
	DXE-1206	San Antonio	Elmdorf and Bexar, Tex	.0056
Continental Oil Co	DXE 1151	Elk Basin	Park, Wyo	.0825
	DXE-1152	Hennessey	Kingfisher, Okla	.0147
	DXE-1153	Kettleman Hills	Kings, Calif	.0253
	DXE-1154	Medford	Grant, Okla	.0631
	DXE-1155	Nueces River	Live Oak, Tex	.0169
	DXE-1156	O. W. Ward	Hidalgo, Tex	.0501
	DXE-1157	Ramsey	Reeves, Tex	.0933
	DXE-1158	Thomas	Dewey, Okla	.0427
Dougherly Group	DXE-1119	Normanna	Bee, Tex	.0425
Sanford P. Fagadau	DXE-1120	Bluegrove	Clay, Tex	.15059
	DXE-1121	Maryetta	Jack, Tex	.05279
Florida Gas Co	DXE-1122	Brooker	Bradford, Fla	.0372
				.0485
General Crude Oil Co	DXE-1301	Dayton	Liberty, Tex	.0360
	DXE-1302	Silsbee	Hardin, Tex	.1411
Getty Oil Co	DXE-1207	Bay Springs	Jasper, Miss	.0297
	DXE-1208	Bayou Sale	St. Mary Parish, La	.0278
	DXE-1209	Buena Vista	Kern, Calif	.0267
	DXE-1210	Cameron	Cameron Parish, La	.0771
	DXE-1211	Cymric	Kern, Calif	.0442
	DXE-1212	Kermit	Winkler, Tex	(1)
	DXE-1213	Kettleman Hills	Kings, Calif	.0275
	DXE-1214	Marlow	Stephens, Okla	.1975
	DXE-1215	New Hope	Franklin, Tex	.0209
	DXE-1216	Normanna	Bee, Tex	.0522
	DXE-1217	Old Ocean	Brazoria, Tex	.0234
	DXE-1218	Placios	Matagorda, Tex	.0701
	DXE-1219	South Pecan Lake	Cameron Parish, La	.0174
	DXE-1220	Ventura	Ventura, Calif	.0263
	DXE-1221	West Bernard	Wharton, Tex	.0752
Gulf Oil Corp	DXE-1159	Azalea	Midland, Tex	.0467
	DXE-1160	Milfay	Creek, Okla	.0823
	DXE-1161	Sand Hills	Crane, Tex	.0536
Kansas-Nebraska Natural Gas Co., Inc	DXE-1082	Yenter	Logan, Colo	.0524
Kerr-McGee Corp	DXE-1108	Milfay	Creek, Okla	.1538
L. C. Kung; Charles F. Chien; T. P. Wang; and A. B. Rothwell	DXE-1342	R. M. Stephens	Clairborne Parish, La	.0785
Locust Ridge Processing Co	DXE-1277	Locust Ridge	Tensas Parish, La	.06855
Marathon Oil Co	DXE-1123	Camrick	Beaver, Okla	.0366
	DXE-1124	Cotton Valley	Webster Parish, La	.0198
	DXE-1125	Heyser	Calhoun, Tex	.3135
	DXE-1127	Indian Basin	Eddy, N. Mex	.0071
	DXE-1127	Markham	Matagorda, Tex	.0283
	DXE-1128	Scipio	Hillsdale, Mich	.0439
	DXE-1129	South Coles Levee	Kern, Calif	.0631
	DXE-1130	Stephens	Clayborne Parish, La	.0300
Matrix Land Co	DXE-1274	Mobeetie	Wheeler, Tex	.05557
McCulloch Gas Processing Corp	DXE-1087	Fairview	Richland, Mont	.0712
	DXE-1088	Hilight	Campbell, Wyo	.0394
	DXE-1089	Jamison Prong	....do	.0415
	DXE-1090	Tule Creek	Roosevelt, Mont	.1518
	DXE-1091	Well Draw	Converse, Wyo	.2538
Michigan Hydrocarbons, Inc	DXE-0855	Gaylord	Otsego, Mich	.0722
Mobil Oil Corp	DXE-1222	Union-Adena	Morgan, Colo	.0850
	DXE-1223	Bryans Mill	Cass, Tex	.0257
	DXE-1224	Cotton Valley	Webster Parish, La	.0376
	DXE-1225	Dewey County Complex	Dewey, Okla	.0073
	DXE-1226	Greeley	Kern, Calif	.1832
	DXE-1227	Hagist	Duval, Tex	.0246
	DXE-1228	Heyser	Victoria, Tex	.1123
	DXE-1229	Gulf-Knox	Grady, Okla	.0191
	DXE-1230	Old Ocean	Brazoria, Tex	.0119
	DXE-1231	Postle Hough	Texas, Okla	.0264
	DXE-1232	Putnam Oswego	Dewey, Okla	.0380
	DXE-1233	R. M. Stephens	Claiborne Parish, La	.0537
	DXE-1234	Shell Selling	Dewey, Okla	.0074
	DXE-1235	Vanderbilt	Jackson, Tex	.1006
	DXE-1236	Wilcox	La Vaca, Tex	.0128
Ozona Gas Processing Plant	DXE-1237	Ozona	Crockett, Tex	.0139
Palo Pinto Oil & Gas Co	DXE-1324	Markley	Jack, Tex	.10771

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS—Continued

Company	Case No.	Plant	Location	Amount of price increase (per gallon)
Phillips Petroleum Co	DXE-1275	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1276	Citronelle	Mobile, Ala	.0729
Pioneer Corp	DXE-1278	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1279	Citronelle	Mobile, Ala	.0729
Placid Oil Co	DXE-1280	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1281	Citronelle	Mobile, Ala	.0729
Shell Oil Co	DXE-1282	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1283	Citronelle	Mobile, Ala	.0729
Sun Oil Co	DXE-1284	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1285	Citronelle	Mobile, Ala	.0729
Superior Oil Co	DXE-1288	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1289	Citronelle	Mobile, Ala	.0729
Texaco Inc	DXE-1290	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1291	Citronelle	Mobile, Ala	.0729
Texas Gas Transmission Corp	DXE-1292	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1293	Citronelle	Mobile, Ala	.0729
Texas Oil & Gas Corp	DXE-1294	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1295	Citronelle	Mobile, Ala	.0729
Union Oil Co of California	DXE-1296	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1297	Citronelle	Mobile, Ala	.0729
Union Texas Petroleum	DXE-1298	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1299	Citronelle	Mobile, Ala	.0729
Warren Petroleum Co	DXE-1300	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1303	Citronelle	Mobile, Ala	.0729
Wilcox Oil Co	DXE-1304	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1305	Citronelle	Mobile, Ala	.0729
Wilcox Oil & Gas Co	DXE-1306	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1307	Citronelle	Mobile, Ala	.0729
Wilcox Oil & Gas Co	DXE-1308	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1309	Citronelle	Mobile, Ala	.0729
Wilcox Oil & Gas Co	DXE-1310	Bluitt	Roosevelt, N. Mex	.0764
	DXE-1311	Citronelle	Mobile, Ala	.0729

(1) Gulf Oil Corp. has requested that the Office of Hearings and Appeals not issue a decision in this case at this time.

DISMISSALS

The following submission was dismissed following a statement by the applicant that the relief requested was no longer needed:

summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of

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REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS—Continued

Company	Case No	Plant	Location	Amount of price increase (per gallon)
The Permian Corp	DXE-1131	Possum Kingdom	Stephens, Tex	.03669
	DXE-1168	Todd Ranch	Crockett, Tex	.02599
Phillips Petroleum Co	DXE-1162	Cimarron	Woodward, Okla	.0955
	DXE-1163	Goldsmith	Ector, Tex	.0096
	DXE-1164	Lusk	Lea, N. Mex	.0203
	DXE-1165	Sooner No. 1	Major, Okla	.0383
Placid Oil Co	DXE-1278	Black Lake	Natchitoches Parish, La	.0110
	DXE-1279	Lake Washington	Terrebonne Parish, La	.0322
	DXE-1280	Lapeyrouse	Plaquemine Parish, La	.0212
	DXE-1281	Lirette	Terrebonne Parish, La	.0055
	DXE-1282	Patterson	St. Mary Parish, La	.0159
	DXE-1283	Prentice	Terry, Tex	.0178
	DXE-1284	Pronix	St. Mary Parish, La	.0198
	DXE-1285	Ysclosky	St. Bernard Parish, La	.0080
Shell Oil Co	DXE-1092	Calumet	St. Mary Parish, La	.0215
	DXE-1093	Conley	Hardeman, Tex	.0413
	DXE-1094	Elmwood	Beaver, Okla	.0870
	DXE-1095	Goodwater	Clark, Miss	.2619
	DXE-1096	Houston Central	Colorado, Tex	.0072
	DXE-1097	Indian Basin	Eddy, N. Mex	.0073
	DXE-1098	Iowa Tet	Calcasieu Parish, La	.0608
	DXE-1099	Lake Washington	Plaquemines Parish, La	.0172
	DXE-1100	Molino	Santa Barbara, Calif	.1283
	DXE-1101	Seeligson	Jim Wells, Tex	.0194
	DXE-1102	Tippett, Crossett	Crockett, Tex	.0268
	DXE-1103	Yates	Pecos, Tex	(1)
Southern Natural Resources, Inc	DXE-1132	Lapeyrouse	Terrebonne Parish, La	.0303
	DXE-1133	Patterson	do	.0218
	DXE-1134	Sea Robin	do	.0226
Standard Oil Co (Indiana)	DXE-1135	Empire Abo	Eddy, N. Mex	.0330
	DXE-1136	Lake Boeuf	LaFourche Parish, La	.0114
	DXE-1137	Prentice	Yoakum, Tex	.0390
	DXE-1138	Ropes	Harkley, Tex	.0423
	DXE-1139	South Jennings	Jefferson Davis Parish, La	.0285
	DXE-1140	South Thornwell	Cameron Parish, La	.0327
	DXE-1141	White Flat	Nolan, Tex	.0399
	DXE-1323	Kalkaska	Kalkaska, Mich	(1)
	DXE-1364	South Fullerton	Andrews, Tex	.00566
Sun Co., Inc	DXE-1295	Carney	Lincoln, Okla	.0449
	DXE-1296	Markham	Matagorda, Tex	.0225
	DXE-1297	Steedman	Pontotoc, Okla	.0530
	DXE-1313	Burnell	Goliad, Tex	.0171
	DXE-1314	Fullerton	Andrews, Tex	(1)
	DXE-1315	Mayfield	Kleberg, Tex	.1511
	DXE-1325	Dragon Trail	Rio Blanco, Colo	(1)
	DXE-1326	Fairway	Henderson, Tex	.0058
	DXE-1327	Maurice	Lafayette Parish, La	.0347
	DXE-1328	Van	Van Zandt, Tex	.0197
	DXE-1341	Okarche	Kingfisher, Okla	.2795
	DXE-1366	Concho	Concho, Tex	.0519
	DXE-1367	Jameson	Coke, Tex	.0100
The Superior Oil Co	DXE-1330	Cymric	Kern, Calif	.0745
	DXE-1331	Kettleman Hills	Kings, Calif	.0478
	DXE-1332	Levelland	Cochran and Hockley, Tex	.0126
	DXE-1334	TXL	Ector, Tex	.0115
	DXE-1335	West Seminole	Gaines, Tex	.0372
Texaco, Inc	DXE-1238	Apache	Caddo, Okla	.0178
	DXE-1239	Blessing	Matagorda, Tex	.0453
	DXE-1240	Coalinga Nose	Fresno, Calif	.0123
	DXE-1241	Delhi	Richland Parish, La	.0080
	DXE-1242	Elmwood	Beaver, Okla	.0172
	DXE-1243	Headlee Cycling	Ector, Tex	(1)
	DXE-1244	Headlee Gas	do	.0371
	DXE-1245	Houma	Terrebonne Parish, La	.0161
	DXE-1246	Humble	Harris, Tex	.0237
	DXE-1247	Lamesa	Dawson, Tex	.0372
	DXE-1248	Lockridge	Ward, Tex	.0435
	DXE-1249	Maurice	Vermilion Parish, La	.0098
	DXE-1250	Mermentau	Acadia Parish, La	.0302
	DXE-1251	North Cowden	Ector, Tex	.0168
	DXE-1252	Old Ocean	Brazoria, Tex	.0316
	DXE-1253	Ozona	Crockett, Tex	.0129
	DXE-1254	Pampa	Gray, Tex	.0147
	DXE-1255	Pledger	Brazoria, Tex	.0094
	DXE-1256	Toca	St. Bernard Parish, La	(1)
	DXE-1257	Wilcox	Lavaca, Tex	.0121
Trend Exploration Ltd	DXE-1258	Buck Peak	Moffat, Colo	.0194
Union Oil Co. of California	DXE-1142	Adena	Morgan, Colo	.0406
	DXE-1143	Dominquez	Los Angeles, Calif	.0865
Upham Oil & Gas Co	DXE-1109	Chico	Wise, Tex	.0436
Vickers Energy Corp	DXE-1260	Mayfield	Kleberg, Tex	.1371
	DXE-1261	Patterson	St. Mary Parish, La	.0118
	DXE-1262	Putnam Oswego	Dewey, Okla	.0167

(1) Denied.

DISMISSALS

The following submission was dismissed following a statement by the applicant that the relief requested was no longer needed:

Bethel Park Gas & Wash, Inc., Bethel Park, Pa., DEE-0970

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

W. E. Allford, Inc., McAlester, Okla., DEE-0937

The following Motions for Evidentiary Hearing were dismissed on the grounds that the applicants had failed to demonstrate why the issues could not be presented by a common counsel:

Gibbs Oil Co., DRH-0016

Mid-Valley Petroleum Corp., DRH-0017

Supreme Petroleum Co. of New Jersey, Washington, D.C., DRH-0021

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

Dated: October 12, 1978.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

[FR Doc. 78-29441 Filed 10-18-78; 8:45 am]

[3128-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of August 14 Through August 18, 1978

Notice is hereby given that during the week of August 14 through August 18, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Kirkwood Oil & Gas Co., Casper, Wyo., FRA-1458, Crude Oil

Kirkwood Oil & Gas Co. appealed from a Remedial Order which was issued to it by FEA Region VIII on July 29, 1977. In the Remedial Order, the FEA found that as a result of improperly classifying certain leases as stripper well properties, Kirkwood sold crude oil at unlawful price levels during the period December 1973 through April 1976. Kirkwood was therefore directed to refund the overcharges which it received plus interest to its customers. In its appeal, Kirkwood contended that the FEA had exceeded its authority under the Emergency Petroleum Allocation Act of 1973 (EPAA) by promulgating regulations and rulings which require a crude oil producer to exclude periods of production downtime in calculating average daily production from a property for purposes of determining whether that property qualifies for the stripper well exemption. In addition, Kirkwood contended that the FEA did not have the authority to require interest payments on the overcharges specified in the Remedial Order. In considering the appeal, the DOE rejected these contentions on the basis of the holdings reached in *Read and Stevens, Inc.*, 6 FEA Par. 80,526 (July 25, 1977). Kirkwood also alleged that the Remedial Order erred in calculating the historical downtime for two of the properties involved. With respect to this argument, the DOE noted that the crude oil production data submitted by Kirkwood itself failed to demonstrate that the historical downtime calculated in the Remedial Order was incorrect. However, the DOE determined that the Remedial Order did not contain sufficient findings of fact to establish a rational basis for the conclusion that Kirkwood had failed to recoup the crude oil production lost as a result of downtime at two of the properties. Since a finding that the lost production had in fact been recouped could lead to the con-

clusion that those properties qualified as stripper wells, the Remedial Order was remanded to DOE Region VIII for further findings of fact. The Appeal was therefore Order pending a final determination by the Temporary Emergency Court of Appeals in *Phillips Petroleum Company, et al.* v. *Department of Energy*. Accordingly, the Tenafter the preliminary determination had been issued, the agency's Economic Regulatory Administration (ERA)

likely to rise above its base period use. The DOE therefore issued a Proposed Decision and Order in which it was tentatively determined that GTE-Sylvania's Application for the Western exception request, the DOE concluded that the firm's inability to obtain domestic product is primarily the result of the operation of the free market and not Staley may incure in complying with the Special Report Order resulted from the firm's own failure to comply with DOE recordkeeping requirements. The DOE also

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clusion that those properties qualified as stripper wells, the Remedial Order was remanded to DOE Region VIII for further findings of fact. The Appeal was therefore denied in part and granted in part.

Natural Resources Defense Council, Palo Alto, Calif., DFA-0199, Freedom of Information

The Natural Resources Defense Council (NRDC) appealed from a denial by the DOE Acting Director, Office of NEPA Affairs of a Request for Information submitted under the Freedom of Information Act. In its request, NRDC sought the disclosure of documents relating to the draft of an Environmental Impact Statement prepared by the Bonneville Power Administration entitled "The Role of the Bonneville Power Administration in the Pacific Northwest Power Supply system, Including Its Participation in the Hydro-Thermal Power Program." The Acting Director identified three documents which were responsive to NRDC's request, but he declined to release them on the grounds that the documents were exempt from mandatory public disclosure under section 552(b)(5) of the act. In considering the NRDC appeal, the DOE determined that one of the identified documents had already been released to the public, and should therefore be released to NRDC. The DOE determined that the remaining two documents were properly withheld under exemption (b)(5) because they are recommendatory in nature and consist of opinions of governmental officials which are part of the process by which governmental decisions and policies are formulated. The NRDC appeal was therefore granted in part.

Tenneco Oil Co., Houston, Tex., DRA-0156, Motor Gasoline

Tenneco Oil Co. filed an appeal from a Revised Remedial Order which the DOE Office of Special Counsel issued to it on February 15, 1978. In the Revised Remedial Order, the Office of Special Counsel found that as a result of improperly calculating its May 1973 cost and quantity of purchased gasoline, Tenneco had sold motor gasoline at prices which exceeded the firm's maximum allowable selling prices during 6 months of the period from June 1974 through January 1976. In its appeal, Tenneco claimed that it should have been permitted to reallocate to gasoline certain unrecouped product costs attributable to other covered products. In rejecting this contention, the DOE noted that in a previous decision issued to Tenneco it had held that the type of retroactive reallocation of increased costs which the firm proposed has never been permitted by the pricing regulations. *Tenneco Oil Company*, 1 DOE Par. 81,072 (November 15, 1977). Tenneco also contended that the overcharges alleged in the Revised Remedial Order should be modified to permit the recovery of nonproduct costs before product costs. In considering this aspect of the Tenneco appeal, the DOE concluded that the firm had raised its contention in an untimely manner, since it had not argued that it should be permitted to use a reverse sequential recovery method in any prior proceeding before the DOE. The DOE further concluded that a reverse sequential recovery method was clearly prohibited by the pricing regulations. The DOE did conclude, however, that the Office of Special Counsel should consider refraining from enforcing a portion of the Revised Remedial Order pending a final determination by the Temporary Emergency Court of Appeals in *Phillips Petroleum Company, et al. v. Department of Energy*. Accordingly, the Tenneco appeal was denied.

Victory Oil Co., Long Beach, Calif., DRA-0065, Crude Oil

Victory Oil Co. filed an appeal from a Remedial Order which DOE Region IX issued to it on November 15, 1977. In the Remedial Order, Region IX found that during the period September 1, 1973 through August 30, 1975 Victory had sold crude oil at new oil prices despite the fact that the firm had accrued a cumulative deficiency. Region IX also found that Victory had unlawfully received bonuses on sales of crude oil over and above the applicable ceiling prices. In order to remedy these violations, Victory was directed to refund the overcharges to Union Oil Co., the ultimate purchaser of the crude oil, in its appeal, Victory contended that it had not incurred a cumulative deficiency at the property in question. In considering this argument, the DOE noted that during the course of the appeal proceeding the Office of Enforcement had agreed with Victory's position on this issue. That portion of the Remedial Order was therefore rescinded. Victory also argued that its contract with the Independent Oil Producers' Agency (IOPA) established its highest posted price on May 15, 1973. The DOE noted that it had rejected an identical argument in *Berry Holding Company and Independent Oil Producers' Agency*, 1 DOE Par. ——— (June 14, 1978). In that case, the DOE held that premiums collected from Union by IOPA and returned to its members, including Victory, did not constitute part of the posted price. The DOE also rejected Victory's assertion that the premiums paid by Union were for services rendered by IOPA. The DOE further determined that the Remedial Order was not defective for its failure to classify IOPA as either a broker or a reseller, since the classification was irrelevant and Victory was directed to refund only those portions of the premiums which Victory actually received from IOPA. Finally, the DOE concluded that Region IX did not err in assessing interest on Victory's overcharges. The Victory appeal was accordingly denied, except that the Remedial Order was remanded to Region IX for a minor adjustment in the calculation of overcharges.

REQUESTS FOR EXCEPTION

Dorchester Gas Corp. and American Petrofina, Inc., Mount Pleasant, Tex., FEE-4369, Crude Oil and Refined Petroleum Products

On October 17, 1977, the DOE issued a proposed decision and order to Dorchester Gas Corp. and American Petrofina, Inc. (Fina) in which DOE proposed to grant exception relief to facilitate Dorchester's acquisition of a Fina refinery in Mount Pleasant, Tex. As a condition of receiving relief, the DOE proposed to limit the entitlements which Dorchester may earn under 10 CFR 211.67(e) (the small refiner bias) to the benefits which Fina would have earned if it did not sell the facility. Dorchester and Fina objected to that limitation. In considering their contentions, the DOE observed that after the preliminary determination had been issued, the agency's Economic Regulatory Administration (ERA) had indicated it was reassessing the propriety of the small refiner bias. In view of this ongoing reassessment, the DOE determined as a matter of policy that, in the absence of a finding of a clear abuse of the entitlements program, the exception relief approved in refinery acquisition cases would not be conditioned upon the apportionment of the small refiner bias that existed prior to the refinery sale. Accordingly, the DOE issued a decision and order which finalized the proposed determination in all other respects.

Edgington Oil Co., Inc., Los Angeles, Calif., DXE-1047, Crude Oil

Edgington Co., Inc., filed an application for exception from the provisions of 10 CFR 211.67 (the entitlements program) which, if granted, would relieve the firm of its obligation to purchase entitlements for the months of June through November 1978 to account for its crude oil receipts and runs to stills during the months of April through September 1978. In support of its application, Edgington submitted projected financial and operating material for its current fiscal year ending December 31, 1978. Based on the Edgington submission, the DOE determined that Edgington would incur an obligation to purchase entitlements during its current fiscal year which would prevent it from achieving either its historical profit margin or historical return on invested capital (ROIC). The DOE concluded therefore that exception relief was warranted under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83, 275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976). Since no objection to the proposed determination was filed with the time period specified in the DOE regulations, the decision and order was issued to Edgington in final form on August 16, 1978. The decision notes that subsequent reviews will be conducted of the entitlements exception relief which Edgington was granted and the firm will be required to purchase entitlements if a subsequent determination is made that it received excessive exception relief benefits.

GTE-Sylvania Inc., Hillsboro, N.H. DEE-0530, Propane

GTE-Sylvania, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211. In its submission, GTE-Sylvania requested an increase in its base period use of propane at its Hillsboro, N.H., incandescent lamp manufacturing plant. The firm contended that its Hillsboro plant required additional supplies of propane beyond its base period levels due to a shutdown of a similar plant located in Kearny, N.J., in June 1975 and the subsequent transfer of those manufacturing operations to the Hillsboro plant. In considering this claim, the DOE found that a mere consolidation of plant operations does not constitute an appropriate ground for granting exception relief to a firm. The DOE found that GTE-Sylvania has not demonstrated that it is experiencing an increased demand for propane, and that the data which the firm submitted with its Application indicates that its consumption of propane is not likely to rise above its base period use. The DOE therefore issued a Proposed Decision and Order in which it was tentatively determined that GTE-Sylvania's Application for Exception should be denied. Since GTE-Sylvania failed to file a Notice of Objection to the proposed determination within the required time period, the DOE issued the Decision and Order denying the firm's Application.

Hanover Management Co., Dallas, Tex. DEE-0496, Crude Oil

Hanover Management Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would have permitted the firm to sell the crude oil produced from the Dolly Cain No. 1 well in the Coyle Field in Payne County, Okla. at upper tier ceiling prices. In considering the exception request, the DOE found that Hanover's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Dolly Cain No. 1 well if the crude oil were subject to the lower tier ceiling price rule. The DOE also determined that if Hanover abandoned its operations at the well, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous Decisions, the DOE determined that Hanover should be permitted to sell at upper tier ceiling prices 13.45 percent of the crude oil produced from the Dolly Cain No. 1 well for the benefit of the working interest.

P & M Petroleum Management, Denver, Colo., DXE-0616, Crude Oil

P & M Petroleum Management filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit P & M to continue to sell a portion of the crude oil produced from the Track Lease in the Tule Creek South Field in Roosevelt County, Mont., at upper tier ceiling prices. In considering the exception request, the DOE found that P & M had continued to incur increased operating costs in connection with the Track Lease and that, in the absence of continued exception relief, P & M would lack an economic incentive to produce crude oil from the property. On the basis of the financial data which P & M had provided for the most recent 6 month period, the DOE granted exception relief which permitted P & M to sell at upper tier prices 34.67 percent of the crude oil produced from the Track Lease for the benefit of the working interest owners.

Western Petroleum Co., Minneapolis, Minn. FEE-4775, No. 1 Heating Oil; No. 2 Heating Oil

Western Petroleum Co. filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm requested that it be permitted to earn entitlements on the volumes of No. 1 and No. 2 heating oil which it obtains from gulf coast terminals and markets in the upper Midwest. In support of its exception request, Western maintained that it is currently unable to obtain adequate supplies of domestic heating oil to meet its needs and that it is unable to profitably market heating oil obtained from foreign sources. Western contended that the difficulties which it is experiencing are directly attributable to certain benefits which its principal competitors receive through the Entitlements Program. In considering the Western exception request, the DOE concluded that the firm's inability to obtain domestic product is primarily the result of the operation of the free market and not due to the operation of any DOE regulatory program. The DOE also concluded that Western would in all likelihood be unable to market imported heating oil at a profit in the absence of the price controls on domestic crude oil and the Entitlements Program. In view of Western's failure to demonstrate that the particular difficulties which it is experiencing are attributable to any DOE Program, the Western exception request was denied.

PETITIONS FOR SPECIAL REDRESS

George Dietrich, Chicago, Ill., DES-0083, DSG-0022, Propane and Butane

George Dietrich filed a Petition for Special Redress which, if granted, would have resulted in the issuance of an order quashing or modifying a subpena that DOE region V issued to him on May 4, 1978. Dietrich also requested a stay of the subpena pending a final determination on his Petition. In considering the Dietrich Petition, the DOE noted that § 205.8(h)(4), which sets forth the criteria governing review of Petitions of this type, provides that a preliminary review of the Petition will be made in order to determine whether a reasonable probability exists that the petitioner will be able to satisfy the criteria for relief. If the Office of Hearings and Appeals determines that a Petition might satisfy those criteria, the Petition will be considered on the merits. On the other hand, if the determination is made that the Petition fails to meet this threshold standard, the Petition will be dismissed. See 41 FR 55322 (Dec. 20, 1976). The DOE reviewed the contentions which Dietrich advanced in his Petition and concluded that he had failed to demonstrate that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. The Dietrich Petition was therefore dismissed and his Application for Stay was denied.

Joe K. Staley Oil Co., Greenacres, Wash., DSG-0017, DES-0094, Reporting Requirements

Joe K. Staley Oil Co. filed a Petition for Special Redress which, if granted, would have resulted in the rescission of a Special Report Order issued to the firm by DOE region X on November 30, 1978. Staley also requested a stay of the provisions of the Special Order pending a final determination on its Petition. In considering the Staley Petition, the DOE noted that § 210.91(d), which establishes the criteria to be applied in the review of petitions of this type, provides that a petition be considered on its merits only upon a showing that immediate review is warranted to correct substantial legal errors, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative descretion. Upon review of the Staley Petition, the DOE concluded that Staley failed to demonstrate that immediate review is warranted under the terms of § 210.91(d). In its Petition, Staley argued that the issuance of the Special Report Order violated section 13(h) of the Federal Energy Administration Act because it imposed undue hardship on a small marketer. The DOE found that whatever hardship Staley may incure in complying with the Special Report Order resulted from the firm's own failure to comply with DOE recordkeeping requirements. The DOE also rejected Staley's claims that the issuance of the Special Report Order was prohibited by the due process clause of the fifth amendment, the State of Washington's statute of limitations, or Federal law. Accordingly, the Staley Petition was dismissed and its Application for Stay was denied.

LaSalle National Bank, Chicago, Ill., DSG-0025, DES-0092, Third Party Subpena

LaSalle National Bank filed a Petition for Special Redress which, if granted, would result in the issuance of an order quashing or modifying a subpena that DOE region V issued to the bank on May 1, 1978. LaSalle also requested a stay of the provisions of the subpena pending a final determination on its Petition. In its Petition, LaSalle noted that the underlying DOE investigation concerned one of its depositors, not the bank itself, and its contended that the standard of relevance which is applied to subpenas seeking the examination of a third party's records should be stricter than in the ordinary situation. The DOE rejected this argument, noting that LaSalle was not a truly independent third party, since it was banker to and custodian of certain financial records of a partner of a firm being lawfully investigated. Nevertheless, the DOE found that the subpena satisfied the standard of relevance proffered by LaSalle because the necessary nexus exists between its records and the firm under investigation. The banking records of the wife of an individual under investigation were also found to be sufficiently relevant to justify a subpena of her bank records. The DOE concluded that the bank had failed to demonstrate a reasonable probability that exceptional circumstances existed which warranted an immediate review on the merits, and its Petition for Special Redress was therefore dismissed.

REQUEST FOR STAY

A. Johnson & Co., Inc., New York, N.Y., DES-0087, Residual Fuel Oil

A. Johnson & Co., Inc. (Johnson) requested that certain provisions of the Mandatory Petroleum Allocation and Price Regulations be stayed during the pendency of an Application for Exception which the firm had filed. Johnson requested a stay of the provisions of 10 CFR 211.67(d)(4), the "reverse entitlements" provisions of the Old Oil Entitlements Program, which are designed to mitigate potentially severe competitive imbalances in the East Coast residual fuel oil market. The stay request, if granted, would have permitted Johnson to earn additional entitlements on its sale of residual fuel oil. In support of its stay request, Johnson stated that on June 15, 1978 the DOE had proposed to amend § 211.67 to eliminate the reverse entitlements regulation. Under the circumstances, the DOE determined that Johnson's request should be treated as a request for interim exception relief pending the final adoption of the proposed amendments. The DOE determined that stays granting interim exception relief pending the finalization of proposed amendments to the DOE regulations will be approved only if, in addition to fulfilling the usual requirements for a stay, an applicant makes a strong showing that (i) there is a substantial likelihood that the regulatory amendment

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in question will be adopted substantially as proposed, and (ii) the interim exception relief, if granted, would have an effect which is clearly consistent with the proposed amendment. The DOE determined that Johnson had failed to show that the

[3128-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of August 21 Through August 25, 1978

signed to protect from public disclosure. Accordingly, the Texaco Appeal was denied.

Texas American Oil Corp., Midland, Tex., DRA-0083, Crude Oil

The Texas American Oil Corp. (TAO)

mitted to sell natural gas liquids and natural gas liquid products produced at the Tyrone gas plant, located in Texas County, Okla., at prices in excess of the maximum levels permitted under the provisions of Subpart K of the DOE regulations. In sup-

lease was subject to automatic termination upon the termination of the fuel supply agreement between Texaco and National.

In considering National's Appeal, the DOE determined that the fuel sale and

in an efficient manner. The DOE therefore concluded that the DOE Regulations were causing Monsanto to experience a gross inequity. In granting exception relief, the DOE permitted Monsanto to reinstate the practice of offering crude oil producers a

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in question will be adopted substantially as proposed, and (ii) the interim exception relief, if granted, would have an effect which is clearly consistent with the proposed amendment. The DOE determined that Johnson had failed to show that the relief, if granted, would have had an effect which was clearly within the scope of intention of the June 15 proposed amendments and had also failed to satisfy the usual requirements for a stay.

MOTION FOR EVIDENTIARY HEARING

No. 2 (Home) Heating Oil, Washington, D.C., DEH-0022, No. 2 Heating Oil

On August 10, 1978, the Office of Hearings and Appeals of the Department of Energy issued a Proposed Decision and Order relating to an evidentiary hearing which that Office intended to hold beginning August 21, 1978. The evidentiary hearing is being held to consider the need for further regulatory action with regard to No. 2 (home) heating oil. In the Proposed Decision, the Office of Hearings and Appeals established a preliminary outline of the issues which it envisioned would be considered during the course of the evidentiary hearing. Following the issuance of the Proposed Decision, the Office of Hearings and Appeals solicited the views of the parties to the proceeding, and after considering their views, issued a Decision and Order setting forth the Statement of Issues to be considered at the evidentiary hearing.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Bernbeck Oil Co., Lakis, Kans., DEE-0930

Robert E. Park, Casper, Wyo., DRH-0046

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE Procedural Regulations:

Lynnhaven Water Way Marina, Virginia Beach, Va., DEE-1307

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published looseleaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

OCTOBER 12, 1978.

[FR Doc. 78-29442 Filed 10-18-78; 8:45 am]

[3128-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of August 21 Through August 25, 1978

Notice is hereby given that during the week of August 21 through August 25, 1978, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEALS

Atlantic Richfield Co., Los Angeles, Calif., FRA-1456, Motor Gasoline

The Atlantic Richfield Co. (Arco) filed an Appeal from a Remedial Order which was issued to the firm by Region IX of the Federal Energy Administration on August 1, 1977. In the Remedial Order, FEA Region IX determined that Arco had improperly classified Arconol (a component of Arco's motor gasoline) as a covered product under the provisions of 10 CFR 212.31. The Regional Office found that Arconol is tertiary butyl alcohol and that tertiary butyl alcohol is not within the regulatory definition of a covered product. According to the Remedial Order, Arco's erroneous classification of Arconol resulted in Arco's improperly reflecting $22,475,575 in the prices it may lawfully charge for motor gasoline. In its Appeal, Arco maintained that the Remedial Order was erroneous as a matter of fact in finding that Arconol is tertiary butyl alcohol. However, Arco also maintained that even if Arconol is tertiary butyl alcohol, Arconol should nevertheless be considered to be a covered product as a matter of law. After considering the evidence presented in the Arco Appeal with respect to the chemical composition, physical characteristics and end uses of Arconol and tertiary butyl alcohol, the DOE concluded that Arconol is in fact a grade of tertiary butyl alcohol. However, the DOE further found that by virtue of Arconol's derivation from crude oil (a covered product), its chemical properties and its use as a blending agent in motor gasoline, another covered product, Arconol is a covered product under the Emergency Petroleum Allocation Act. The DOE therefore granted Arco's Appeal and rescinded the Remedial Order.

National Airlines, Inc., Miami, Fla., FIA-1383, Aviation Fuel

National Airlines, Inc. appealed from an Interpretation which the Acting General Counsel of the Federal Energy Administration issued to it on May 28, 1977. In that Interpretation, the Acting General Counsel held that Part 212 of the Mandatory Petroleum Price Regulations did not prohibit Texaco, Inc. (Texaco) from raising its rental fees for fuel trucks leased to National. Under the facts presented in the Interpretation, Texaco supplied aviation fuel to National at the Norfolk Municipal Airport (Norfolk). In addition, Texaco leased its fuel trucks to National for the express purpose of transferring the aviation fuel from storage into National's planes. The fuel truck lease was subject to automatic termination upon the termination of the fuel supply agreement between Texaco and National.

In considering National's Appeal, the DOE determined that the fuel sale and truck lease arrangements between Texaco and National did not constitute a prohibited "tie-in" arrangement since Texaco did not require National to lease fuel trucks as a condition of being supplied with product at Norfolk. The DOE further determined that the truck leasing arrangements between the two firms did not fall within the penumbral area of non-selling activities which may be regulated by the DOE in order to prevent the circumvention of the agency's price regulations. In this regard, the DOE found that since National continued to have practical alternative means of securing into-plane services at Norfolk, Texaco was unable to exercise leverage over National in an effort to circumvent the price regulations. In addition, the DOE noted that the fact that Texaco may have offered truck leasing terms to National which were economically superior to any other option available to National did not necessarily indicate that the fuel truck lease was a part of the fuel sales agreement between the firms. The DOE also noted that the truck lease and fuel sales agreements were unambiguous and there was no evidence from these written instruments that the delivery of aviation fuel was an integral part of the sales agreement. Accordingly, the National Appeal was denied.

Texaco, Inc., Washington, D.C., DFA-0200, Freedom of Information

Texaco, Inc. appealed from a partial denial by the DOE Information Access Officer of a request for information submitted by the firm under the Freedom of Information Act (the Act). In its initial request, Texaco sought copies of documents pertaining to DOE's clarifications and revisions of the "property" definition contained in 10 CFR 212.72 of the DOE price regulations. The DOE Information Access Officer withheld portions of five documents on the ground that they contained confidential proprietary information which was exempt from disclosure under Exemption 4 of the Act, 5 U.S.C. 552(b)(4). The DOE Information Access Officer also withheld 28 documents from disclosure on the ground that they were intra-agency memoranda which were exempt from disclosure under Exemption 5 of the Act, 5 U.S.C. 552(b)(5). In its Appeal, Texaco sought the release of only one document which had been withheld under the provisions of Exemption 4. With respect to this document, the DOE found that the Information Access Officer had never determined that the withheld portions of the document were exempt from disclosure. The DOE therefore remanded the portion of the Information Access Officer's Order which related to that document with instructions to make a determination as to its releasability. The DOE also found that all of the documents which were withheld under Exemption 5 contained the opinions and recommendations of DOE personnel, primarily attorneys, regarding the propriety of undertaking a proposed agency action, *e.g.*, the issuance to a firm of a notice of probable violation of the pricing regulations. As a result of this finding, the DOE determined that the documents were predecisional in nature and contained the type of information which Exemption 5 was designed to protect from public disclosure. Accordingly, the Texaco Appeal was denied.

Texas American Oil Corp., Midland, Tex., DRA-0083, Crude Oil

The Texas American Oil Corp. (TAO) filed an Appeal from a Remedial Order which the Acting Director of Enforcement of DOE Region VI issued to the firm on November 14, 1977. In the Remedial Order, the DOE Regional Office found that TAO had improperly treated two well groupings on its Todd Federal 26 Lease as if they were two separate "properties," and had, in turn, incorrectly classified crude petroleum produced from the lease as "new" or "released" crude oil. According to the Remedial Order, the crude oil that TAO had misclassified was sold at prices which were in excess of those permitted by the Mandatory Petroleum Price Regulations. In considering the TAO Appeal, the DOE determined that neither the fact that TAO had historically and consistently treated the two well groupings on the Todd Federal 26 Lease as two separate "properties," nor the fact that it had done so in order to account for production from the two well groupings to different working interest owners, demonstrated that the lease consisted of more than one "property" as that term was defined in the applicable crude oil price regulations. The DOE also found that contrary to an argument advanced by TAO, it was not arbitrary or capricious for the Remedial Order to have found that TAO's circumstances did not qualify the two well groupings for separate property treatment under the provisions of Rulings 1977-1 and 1977-2. The DOE therefore concluded that the November 14, 1977 Remedial Order was neither erroneous in fact or law nor arbitrary and capricious. Accordingly, the TAO Appeal was denied.

REQUESTS FOR EXCEPTION

Goose Creek Oil Co., Marion County, Ill., DEE-0318, Crude Oil

The Goose Creek Oil Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. In its application, Goose Creek stated that it had attempted to comply with the certification requirements of 10 CFR 212.131 by mailing a lease certification to the purchaser of the firm's crude oil, indicating that Goose Creek's Robinson No. 4 lease had produced "new" crude oil during the month of June, 1977. However, the purchaser later informed Goose Creek that it never received the certification. Since the deadline for filing the certification had passed, Goose Creek requested an exception in order to permit the firm to receive the difference between "new" and "old" oil prices for the crude oil which the firm produced and sold during the month of June, 1977. In considering the exception application, the DOE determined that Goose Creek had made a convincing showing that it had acted promptly and reasonably to comply with the certification requirements of Section 212.131, and that the strict application of the certification provisions in this case would result in a gross inequity to the firm. Accordingly, the exception application was granted.

MAPCO, Inc., Tulsa, Okla., DEE-0532, Natural Gas Liquids

MAPCO, Inc. filed an Application for Exception in which it requested that it be permitted to sell natural gas liquids and natural gas liquid products produced at the Tyrone gas plant, located in Texas County, Okla., at prices in excess of the maximum levels permitted under the provisions of Subpart K of the DOE regulations. In support of its Application, MAPCO stated that it wished to invest a substantial sum of money in a replacement unit at the Tyrone plant. The material submitted by MAPCO indicated that the installation of this unit would significantly increase the operating efficiency of the plant, reduce operating expenses, and eliminate a safety hazard which exists at the plant. In considering the MAPCO exception request, the DOE observed that it has previously granted exception relief in a number of cases where that relief was necessary to provide a firm with an economic incentive to undertake a capital investment. Since the material submitted by MAPCO demonstrated that it would have no economic incentive to undertake the investment in the absence of exception relief, the DOE concluded that an exception should be granted to the firm. In accordance with the precedent established in previous cases involving capital investments, the DOE approved a level of exception relief which would permit MAPCO to realize a 15 percent rate of return on its investment. However, the DOE determined that the cost of the investment should be distributed among all of the products produced at the Tyrone plant. The DOE therefore required MAPCO to file a Petition for Special Relief with the Federal Energy Regulatory Commission (FERC) requesting higher prices for the natural gas produced from the Tyrone gas plant. The DOE also stated that the relief granted to MAPCO would be adjusted if FERC permits MAPCO to increase its prices for natural gas.

Monsanto Co., St. Louis, Mo., FEE-4397, Crude Oil; Unfinished Oils

The Monsanto Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). Monsanto operates a petrochemical manufacturing complex located in Chocolate Bayou, Tex., which was originally designed to use lease condensate as a feedstock. In its Application, Monsanto observed that it has been unable to obtain sufficient supplies of lease condensate for use in the Chocolate Bayou facility and that as a result, it has been required to use unfinished oils as a substitute. According to Monsanto, the petrochemical plant cannot be operated at full capacity nor can it produce the range of products which it was originally designed to produce unless it uses lease condensate. Monsanto claims that its inability to obtain lease condensate is a gross inequity which is attributable to the DOE regulations. In considering the Monsanto exception request, the DOE observed that, prior to the promulgation of crude oil price controls, Monsanto offered a premium above posted prices in order to provide producers with an economic incentive to segregate lease condensate from other crude oil and natural gas supplies and to sell that condensate to Monsanto. However, the DOE noted that under the price regulations Monsanto is currently unable to offer such a premium to a producer which is already receiving ceiling prices, and the DOE found that this situation has to some extent prevented Monsanto from obtaining lease condensate which is necessary to operate the Chocolate Bayou facility in an efficient manner. The DOE therefore concluded that the DOE Regulations were causing Monsanto to experience a gross inequity. In granting exception relief, the DOE permitted Monsanto to reinstate the practice of offering crude oil producers a premium above the applicable ceiling prices.

R. W. Tyson Producing Co., Inc., Jackson Miss., FEE-4440, Crude Oil

The R. W. Tyson Producing Co., Inc. filed an Application for Exception in which it requested that it be permitted to sell at market price levels the crude oil produced as a result of four investments it has proposed for the three Stevens leases, located in Perry County, Miss. In considering the Tyson request, the DOE observed that the data furnished by the firm indicated that it would have no economic incentive to undertake the investments in the absence of exception relief from the ceiling price regulations. The DOE also noted that the approval of exception relief would result in the production of a substantial amount of crude oil which would otherwise not be produced. In accordance with the precedent established in a number of previous Decisions, the DOE determined that exception relief should be approved which would permit Tyson to realize a 15 percent rate of return on its investments. However, the data submitted by Tyson indicated that this result would not be achieved even if the firm sold all of the crude oil produced as a result of its investment at market price levels. The DOE therefore permitted Tyson to sell all of that crude oil at exempt prices for a period of twenty years in order to remove any impediment which the crude oil price regulations might otherwise impose to the attainment of a 15 percent rate of return on Tyson's proposed investment.

PETITIONS FOR SPECIAL REDRESS

Fine Petroluem Co., Inc., Norfork, Va., DES-0076, DSG-0021, Petroleum Products

Fine Petroleum Company, Inc. filed a Petition for Special Redress which, if granted, would have resulted in the issuance of an order quashing a subpena that DOE Region III issued to the firm on March 6, 1978. Fine also requested a stay of the provisions of the subpena pending a final determination on its Petition. In considering the Fine Petition, the DOE noted that § 205.8(h)(4) of the DOE Regulations sets forth criteria governing the review by the Office of Hearings and Appeals of a Petition in which a firm seeks to quash or modify a subpena. That section provides that a preliminary review will be made in order to determine whether a reasonable probability exists that the petitioner will be able to satisfy the criteria for relief. If the Office of Hearings and Appeals determines that a Petition might satisfy those criteria, the Petition will be considered on its merits. On the other hand, if the determination is made that the Petition fails to meet this threshold standard, the Petition will be dismissed. See 41 FR 5532 (December 20, 1976). The DOE reviewed the contentions which Fine advanced in its Petition and concluded that Fine had failed to demonstrate that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. Fine's Petition was therefore dismissed and its Application for Stay was denied.

Office of Special Counsel for Compliance, Department of Energy, Washington, D.C., DSG-0028, Crude Oil

The Office of the Special Counsel for Compliance (OSC) of the Department of Energy filed a Petition for Special Redress

Western had failed to demonstrate that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. Western's Petition was therefore dis-

ment purchase obligations of Lakton should be stayed to the extend specified in the Proposed Decision, pending the issuance of a final Decision and Order in this proceeding.

a. The 1978 amendments to Sections 27 and 28 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended;

State Governments on funding of State certification and training programs;

f. 1978 FIFRA amendments affect-

portunity to respond to your letter requesting that the Federal Communications Commission and other independent regulatory agencies volun-

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Office of Special Counsel for Compliance, Department of Energy, Washington, D.C., DSG-0028, Crude Oil

The Office of the Special Counsel for Compliance (OSC) of the Department of Energy filed a Petition for Special Redress. The Petition pertains to a Proposed Consent Order that the OSC entered into with the Gulf Oil Corp. on July 26, 1978. Under the terms of the Proposed Consent Order, Gulf is required to remit $42,240,000 to the United States to settle a compliance proceeding instituted against it by the DOE regarding Gulf's calculation of costs incurred in crude oil transactions with affiliated entities during the period August 1973 through January 1976. In its Petition, the OSC requested the Office of Hearings and Appeals (OHA) to establish an ad hoc administrative procedure for adjudicating claims by Gulf customers for a portion of the refund. The OHA found, upon considering the OSC request, that sufficient authority existed for the establishment of the type of procedure requested. The OHA further found that such a procedure was necessary and appropriate in this case to the accomplishment of certain of the objectives contained in the Emergency Petroleum Allocation Act of 1973, the Federal Energy Administration Act of 1974 and the Department of Energy Organization Act. Accordingly, a claims procedure was adopted on an interim basis.

Under the provisions of the procedures which were established, claims for refunds will be evaluated by the OHA or, in the case of routine claims, by an administrator appointed and supervised by the OHA. To establish a claim, a person must persuasively demonstrate that he was injured as a result of the alleged pricing practices upon which the Consent Order was based and he must describe, with a reasonable degree of certainty, the nature and extent of the injury. The following presumptions were also adopted to facilitate the resolution of claims: (i) The entire amount remitted by Gulf represents costs that it applied evenly on a volumetric basis to all refined petroleum products which it produced during the August 1973 through January 1976 period, and those costs were proportionately reflected in the prices that Gulf charged for those products during that period; (ii) if Gulf had determined its prices in accordance with applicable regulations, resellers during this period would have passed through to their own customers 60 percent of the benefits of any price reduction that occurred; and (iii) all Gulf products passed through two levels of distribution before being purchased by a consumer.

Western Crude Oil, Inc., Denver, Colo., DSG-0023, DES-0084, Petroleum Products

Western Crude Oil, Inc. filed a Petition for Special Redress which, if granted, would have resulted in the issuance of an order quashing or modifying two subpenas that DOE Region VIII issued to the firm on February 28 and March 8, 1978. Western also requested a stay of the provisions of the subpenas pending a final determination on its Petition. In considering the Western Petition, the DOE noted that §205.8(h)(4) of the DOE Regulations sets forth criteria governing the review by the Office of Hearings and Appeals of a Petition in which a firm seeks to quash or modify a subpena. In accordance with those criteria, the DOE reviewed the contentions which Western advanced in its Petition and concluded that Western had failed to demonstrate that an immediate review was warranted to correct substantial errors of law, to prevent substantial injury to legal rights, or to cure a gross abuse of administrative discretion. Western's Petition was therefore dismissed and its Application for Stay was denied.

REQUEST FOR STAY

Mid-America Refining Co., Inc., Washington, D.C., DES-0097, Crude Oil.

Mid-America filed an Application for Stay in which the firm requested that the DOE reconsider a Decision and Order which it issued on August 7, 1978 denying a prior Application for Safety which Mid-Admerica had filed. In both Applications, Mid-America requested that the DOE stay the firm's obligation to purchase $241,282 in entitlements for its crude oil receipts and runs to stills during the month of May, 1978. As an initial matter, the DOE found that since no new issues had been raised by Mid-America in its request for reconsideration, the DOE could issue a summary denial on the basis of the August 7 Decision and Order. However, the DOE exercised its discretion and afforded the firm a *de novo* review of the previous stay application.

In considering Mid-America's request, the DOE found that the firm's entitlement purchase obligation for the month of May was the result of certain paper exchange transactions through which volumes of crude oil which the firm had previously certified as stripper well crude oil were certified as "old" crude oil. The DOE also found that on the basis of the data submitted by Mid-America in connection with the previous stay request, it appeared that the economic benefit to it of purchasing less expensive "old" crude oil had exceeded the entitlement purchase obligations which that "old" crude oil had generated. Under these circumstances, the DOE concluded that the Entitlements Program is not causing the firm to experience an irreparable injury which warrants the approval of stay relief. Moreover, the DOE concluded that since the firm had entered into the exchange agreement voluntarily, the firm could hardly complain that the responsibility for any consequent financial injury lay with the Entitlements Program. On the basis of these considerations, Mid-America's Application for Stay was denied.

SUPPLEMENTAL ORDER

Laketon Asphalt Refining, Inc., Evansville, Ind., DEX-0103, Crude Oil

On August 21, 1978, the DOE issued a Decision and Order to Laketon Asphalt Refining, Inc. which stayed the firm's obligation to purchase entitlements to the extent specified in a Proposed Decision and Order which was issued to Laketon on that same date. In granting the Stay, the DOE stated that as a result of new exceptions procedures which had been adopted effective September 14, 1977, the Proposed Decision and Order would not be finalized for at least 10 days after service of the Proposed Decision and Order. During the period between the issuance of the Order in proposed form and the issuance of the Order in final form, Entitlements Notices would be issued which would not take into consideration the relief proposed for Laketon. Therefore, the DOE determined that during the period August 1, 1978 through January 31, 1979, the entitlement purchase obligations of Laketon should be stayed to the extend specified in the Proposed Decision, pending the issuance of a final Decision and Order in this proceeding.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Herrington L.P. Gas Co., Olive Branch, Miss., DRH-0013, DRO-0013.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461. Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

OCTOBER 12, 1978.

[FR Doc. 78-29443 Filed 10-18-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 930-4; OPP-00078]

STATE FIFRA ISSUES RESEARCH AND EVALUATION GROUP (SFIREG)

Working Committees on Enforcement; Registration and Classification; Certification; and Training; Open Meeting

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of open meetings.

SUMMARY: The first meeting of the working committees of the State FIFRA Issues Research and Evaluation Group on Enforcement, Registration and Classification, Certification, and Training will be held. This notice gives information on the date, location, agenda, and contact person for each meeting.

DATES: Refer to respective Working Committees shown below.

SUPPLEMENTARY INFORMATION:

1. *Working Committee on Enforcement (WC/E).*

The Working Committee on Enforcement will meet on Monday and Tuesday, October 30 and 31, 1978, at the Bourbon Orleans Ramada, New Orleans, La., telephone: 504-523-5252. The meeting will begin each day at 8:30 a.m. The meeting will be concerned with the following topics:

a. The 1978 amendments to Sections 27 and 28 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended;

b. State-EPA cooperative enforcement grant criteria;

c. Requirements of States under cooperative enforcement agreements;

d. State-Federal enforcement referral procedures; and

e. Other enforcement matters which may arise.

This meeting will be open to the public. For further information, contact Mr. William Buffaloe, North Carolina Department of Agriculture, Raleigh, N.C., telephone: 919-733-3556.

2. *Working Committee on Registration and Classification (WR/RC).*

The Working Committee on Registration and Classification will meet on Wednesday and Thursday, November 8 and 9, 1978, at the Downtowner Inn, New Orleans, La., telephone: 504-524-7611. The meeting will begin each day at 8:30 a.m. The meeting will be concerned with the following topics:

a. 1978 FIFRA amendments affecting registration and classification;

b. Development of new Section 24(c) special local need criteria;

c. Section 5(f) and (g) draft final regulations governing State experimental use permits;

d. Classification regulations governing lists of restricted use compounds;

e. EPA planning for conditional registration; and

f. Other items suggested by the WC/RC.

This meeting will be open to the public. For further information, contact Mr. George Hutton, Office of the State Chemist, Purdue University, West Lafayette, Ind., telephone: 317-749-2391.

3. *Working Committee on Certification (WC/C) and Working Committee on Training (WC/T). The Working Committee on Certification and the Working Committee on Training will hold a joint meeting on Tuesday and Wednesday, November 14 and 15, 1978, at the Downtowner Inn, New Orleans, La., telephone: 504-524-7611. The meeting will begin each day at 8:30 a.m. The meeting will be concerned with the following topics:*

a. Pesticide applicator training options;

b. Recordkeeping by State lead agencies for certification;

c. Recertification requirements;

d. EPA guidance on recertification;

e. EPA guidance on Federal funding of State training and certification programs. Included in this subject are a review of the results of the State Lead Agency questionnaire on funding of certification programs and a review of the recent study of the Council of State Governments on funding of State certification and training programs;

f. 1978 FIFRA amendments affecting certification and training; and

g. Other certification and training matters which may arise.

This meeting will be open to the public. For further information, contact Mr. Ron Johnson, Maryland Department of Agriculture, Annapolis, Md., telephone: 301-269-2325, or Ms. Lois French, EPA Office of Pesticide Programs, Washington, D.C., telephone: 202-755-0356.

Dated: October 13, 1978.

JAMES M. CONLON,
Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-29432 Filed 10-18-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

IMPROVING GOVERNMENT REGULATIONS

Report to the President

AGENCY: Federal Communications Commission.

ACTION: Letter to President Carter concerning Executive Order 12044 (improving government regulations).

SUMMARY: The following letter was sent by Chairman Charles D. Ferris of the Federal Communications Commission to the President in response to Executive Order 12044 (improving Government regulations). The letter outlines the steps taken at the FCC to improve its regulatory proceses and opportunities for public participation in its proceedings. Chairman Ferris expects to continue efforts to improve the FCC's regulatory processes. Public comments are welcome on the procedures outlined in the following letter.

FOR FURTHER INFORMATION CONTACT:

Erika Ziebarth Jones, FCC Consumer Assistance Office, 1919 M Street NW., Washington, D.C. 20554, 202-632-7000.

ADDRESS: Send comments to: Secretary, FCC, 1919 M Street NW., Washington, D.C. 20554.

WILLIAM J. TRICARICO,
Secretary.

[Editorial note: The following is a copy of the letter discussed in the "Summary" above.]

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C.

The PRESIDENT,
Washington, D.C.

DEAR MR. PRESIDENT: I welcome the opportunity to respond to your letter requesting that the Federal Communications Commission and other independent regulatory agencies voluntarily implement procedural and substantive reforms in our informal rulemaking processes. Executive branch agencies and departments are required to implement such reforms by Executive Order 12044 (improving Government regulations). The goals of this order are to:

Open up new opportunities for public participation in the regulatory process, require regulations to be clearer and more understandable, and assure more effective oversight of the development of agency regulations.

This Commission does support those goals and is committed to a continuing and critical review of our rulemaking procedures. I have personally stated that I favor a policy of zero-based regulation. We should take a fundamental look at the reasons behind the rules we have. I believe in stimulating the marketplace forces of competition instead of adding rules to achieve policy goals where that is possible. Any examination of our rulemaking procedures must be accomplished in the broader context of an examination of our total regulatory structure.

I believe the Commission can be proud of its efforts to date which demonstrate its commitment to the principles of better regulatory management and greater public participation. I also believe, however, that we should continue to examine our rulemaking functions under the broad goals articulated by your Executive order.

To that end, our staff has made a thorough examination of the FCC's informal rulemaking functions from the perspectives of the three principal areas of the Executive order: regulatory management, regulatory language, and public participation. This has led us, as we state at greater length below, to adopt several new approaches to our rulemaking activities. In summary, we will:

—increase our efforts to encourage public participation in our rulemakings;

—create a semiannual agenda for our significant rulemaking proceedings;

—have periodic meetings of our senior staff to discuss and coordinate upcoming significant rulemakings;

—where possible, make certain that regulatory analysis precedes proposed rulemaking that could have major economic effects; and

—under the guidance of Commissioner Tyrone Brown, establish an agencywide task force to examine every FCC rule and paperwork requirement to see if our rules and re-

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quirements are meeting their stated purpose.

REGULATORY MANAGEMENT

The Executive order calls on Executive branch agencies to "review and revise their procedures for developing regulations to be consistent with the policies of this order".

Some of the specific suggestions pertaining to regulatory management listed in the Executive order are:

1. SEMIANNUAL AGENDA OF REGULATIONS

The Executive order requires executive branch agencies to publish "at least semiannually an agenda of significant regulations under development or review". The purpose of the semiannual agenda is (1) to give the public "early warning" of impending regulatory actions and (2) to assist agencies in planning their regulatory programs efficiently. We also prepare an annual report of "Major Matters Before the Commission"; and we have started a management reporting system to determine internally the status of all pending rulemaking petitions.

I have decided to create a public semiannual agenda for significant informal rulemaking matters, in addition to continuing to prepare and publish our annual "Major Matters" report. Preparation of a semiannual agenda will, I agree, result in more rational regulatory planning and allow greater public involvement in agency rulemaking proceedings. I have asked our Office of Executive Director, Office of Plans and Policy, and Office of General Counsel to be jointly responsible for preparation of our agenda.

2. AGENCY HEAD OVERSIGHT

The Executive order states that:

> Before an agency proceeds to develop significant new regulations, the agency head shall have reviewed the issues to be considered, the alternative approaches to be explored, a tentative plan for obtaining public comment, and target dates for completion of steps in the development of the regulation.

The structure of the FCC (and, indeed, most independent regulatory agencies) is such that the "agency head," that is, the full Commission, always votes to launch inquiries or issue proposals before the staff "proceeds to develop * * * [the final] new regulations." The inquiry notice or proposal, which is a public document, includes a discussion of the issues to be considered and a discussion of the mechanisms for obtaining public comment, and, in the case of the proposal, the text of the proposed change.

Even prior to the consideration by the Commission of inquiry notices or proposals, almost all significant rulemakings that are being worked on by the staff are known to the Commissioners. Frequently, the area is being investigated for rulemaking because of specific expressions of concern by the Commission.

I believe, however, that better coordination may be necessary between Bureaus and Offices of the Commission concerning work in progress within separate divisions of the agency. We are presently using a procedure by which senior staff members representing the various organizational units in the Commission meet periodically in a Bureau Chiefs' meeting with me to discuss, among other subjects, areas of significant rulemaking that are at the seminal stage. I may ask the staff considering a specific area for study to prepare for the group a brief memorandum covering a statement of the problem, possible alternative approaches, a tentative schedule for completion, and a name and telephone number of a person familiar with the project. Because this document would be preliminary in nature, it is not contemplated that it would be released to the public at this early stage. Other FCC units would use this document to enable them to express in a more systemative manner any views or interest they might have.

In addition to overseeing preparation of the semiannual agenda, our Office of General Counsel will be the principal coordinating point for all rulemaking actions among the various FCC Bureaus and Offices. Our Office of Plans and Policy is also charged with reviewing all work in progress at the Commission to determine its impact on long-range Commission policy.

The Executive order suggests that, when the Commission approves the issuance of an inquiry notice or proposal, it also consider "alternative approaches to be explored." The FCC's Safety and Special Radio Services Bureau has begun to prepare its significant presentations ("Agenda Items") for the Commission in a format which offers the alternative solutions to the problem, including discussions of the advantages and disadvantages of each. The Commissioners, then, with the benefit of the staff's discussion of the alternatives, can direct the staff to proceed in a particular direction.

I intend to encourage other Bureaus and Offices to explore the benefits of including additional discussions of alternative solutions to rulemaking proposals, where this is appropriate.

3. APPROVAL OF SIGNIFICANT REGULATIONS

In addition to the procedures for managing the process through which rules are proposed, the Executive order requires certain affirmative determinations to be made by executive branch agencies before adoption of a new rule.

Specifically, the order requires a review to determine that:

(1) the proposed regulation is needed;

(2) the direct and indirect effects of the regulation have been adequately considered;

(3) alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) public comments have been considered and an adequate response has been prepared;

(5) the regulation is written in plain English and is understandable to those who must comply with it;

(6) an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the regulation;

(7) the name, address, and telephone number of a knowledgeable agency official is included in the publication; and

(8) a plan for evaluating the regulation after its issuance has been developed.

In large measure, the steps the Executive order recommends for approval of significant regulations are already required by FCC procedures or are part of any competently prepared rulemaking document. I recognize, however, that the Executive order requires a more systematic attempt to insure that each of the eight factors listed above is considered before any significant rule is adopted. I have asked the staff to use the eight factors above as an internal FCC checklist to assist both drafters and reviewers in a significant rulemaking. I believe, for example, that, in some cases, it may be useful to announce plans at the time of adoption of some significant rules to evaluate their effects after issuance. I have also directed that each item proposing or announcing a new reporting or recordkeeping burden specifically mention the new burden and discuss it for the Commission's review.

I also believe that the "name, address, and telephone number of a knowledgeable agency official" should be a part of each regulatory publication. I have directed the staff to begin including this information in the text of the inquiry, proposal, and final rule. Also, we will include this information in *Actions Alert*, the FCC's weekly summary of major pending rulemaking proposals, and in *Feedback*, FCC publication that gives an in-depth, plain language explanation of certain significant rulemaking proposals.

4. REGULATORY ANALYSIS

The Executive order proposes that a regulatory analysis of the economic consequences of rulemakings would be made available at the time rules are being proposed for public comment. The order also contemplates that the analysis would be open to public comment. The criteria for determining when regulatory analysis would be necessary are: (1) when the annual cost of compliance if $100 million or more, or (2) when the regulation will result in a "major increase in costs or prices for individual industries, levels of government or geographic regions."

These criteria reflect a legitimate concern that regulatory analysis precede proposed rulemaking that could have major economic effects. We do make preliminary estimates of the economic effects of various proposals as part of our rulemaking process. Indeed, we are required to do so to meet the public interest standard under which we adopt regulations.

We have started an effort to upgrade the status of economic analysis performed at the Commision and to increase the number of economists at the FCC, particularly in our Office of Plans and Policy. With the general guidance of this Office, the various FCC Bureaus and Offices are also improving their ability to perform economic analyses. Indeed, the new chief of the Common Carrier Bureau at the FCC is an economist.

5. REVIEW OF EXISTING REGULATIONS

The FCC is continually reviewing its regulations and procedures informally, as the Commission, the staff, or the public suggests changes which should be made. The Commission's Broadcast Bureau now has a full-time staff reexamining broadcast rules applicable to radio stations with a view towards eliminating or clarifying those regulations. The Safety and Special Radio Services Bureau has completed such a review of its CB regulations, and the Cable Bureau is nearing completion of a similar effort on its certification rules. Our Common Carrier Bureau recently announced an improved license application processing procedure, which will foster more efficient application processing and recordkeeping.

As resources permit, we will undertake reviews of the remainder of the Commission's rules and procedures on a systematic basis. In the coming months, we will be examining several areas of regulations to see if the rules are meeting their stated purposes. Included in this review will be the radio opertor licensing program and our radio/TV commercial logging rules. This review will be coordinated by an agencywide task force which will examine every FCC rule and every FCC paperwork requirement on a Bureau-by-Bureau basis. This task force will recommend changes where appropriate, and will also make regular reports to the Commission of the team's progress.

To coordinate these and other efforts, I have appointed Commissioner Tyrone Brown to head the Commission's regulations review process.

PUBLIC PARTICIPATION

The Executive order requires that "Agencies shall give the public an early and meaningful opportunity to participate in the development of agency regulations."

The Commission takes a variety of approaches beyond the minimum requirements of the Administrative Procedure Act to invite and encourage public participation in rulemaking. In addition to those procedures, we also have tried to keep the public informed of the significant rulemakings that are in progress. We publish a weekly summary of our pending significant rulemakings, *Actions Alert*, which is sent to a large number of individuals, organizations, and publications likely to be interested in, or affected by, Commission actions. *Actions Alert* is directed to, and written for, a much broader public than would readily have access to the FEDERAL REGISTER. On particularly important items, the Commission publishes special *Feedback* editions, which explain in plain language the details of the rulemaking items. The *Feedback* editions are particularly designed to invite public comment.

We have increased our use of Notices of Inquiry (which other agencies call Advance NPRM's) in selected matters to provide additional time for public participaton prior to issuance of a Notice of Proposed Rulemaking. The Inquiry focuses public attention on the subject and allows the presentation of information or comments at an early stage of the Commision's concern with the subject of the Inquiry.

As I mentioned previously, I have directed the staff to include in *Actions Alert*, *Feedback*, Notices of Inquiry, Notices of Proposed Rulemaking, and final rules the name, address, and telephone number of a staff person who can provide detailed information on the subject matter.

One of the Commission's primary concerns in greater public participation in rulemakings is that the participation be of greatest help to the Commission. In line with this concern, the Commission recently opened an inquiry to explore the possibility of providing reimbursement for representatives of affected segments of the public who wish to participate in FCC rulemaking proceedings, could provide us with needed viewpoints and data different from that of the affected industry economic interests, and who, without reimbursement of their costs of bringing their experiences and data to our attention, could otherwise not be of greatest assistance to us.

Informal questionnaires or polls might elicit information from the concerned public that would provide us with information useful in evaluating the need for regulation or the direction it should take. From simple questions in letters directed to members of the public, such as Citizens Band licensees, cable television operators, or members of the academic community, we might secure information that is specifically needed by the staff in its preparation for rulemaking.

We are also experimenting with a number of techniques to improve the opportunities for public participation in FCC rulemakings. Two years ago, we established a Consumer Assistance Office which is charged, among other things, with helping the Commission attract meaningful public participation in its rulemakings. This office prepares *Feedback*, discussed previously, which gives plain language discussions of significant pending rulemakings. This office recently installed a teletypewriter (TTY) for communicating with the deaf and hard-of-hearing. The TTY can receive comments in FCC rulemakings at any time—24 hours each day. The Consumer Assistance Office is exploring other methods of improving our services to handicapped persons, with the intention of increasing their participation in FCC rulemakings.

To aid individuals who wish to participate in FCC rulemakings, we accept, as informal comments, responses filed with a single copy. We have reduced to a minimum (six) the number of copies to be filed as formal comments in rulemaking proceedings.

When the staff has needed more information prior to considering rulemaking, or when the Commission has wanted to insure broader participation, we have employed a number of ad hoc solutions. We have held oral arguments on many issues, encouraging representatives of the affected economic interests and various segments of the general public to participate. In the areas of children's television, UHF television improvement, and the matter of charitable contributions and institutional advertising by common carriers, we have hosted (or are planning to host) panel discussions. We make an effort to insure that a wide range of views is represented on each panel.

On an issue requiring special attention, we may establish a task force to focus Commission efforts in that area. Two examples of this approach are the Task Force on Adjudicatory Reregulation and the Task Force on Minority Ownership.

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We recently released a rewritten, updated comprehensive policy statement on the laws and rules of political broadcasting. This booklet is used extensively by candidates and campaign staff. We redrafted the booklet in clear English, and we set it up in a format which we believe will be useful to the readers of the booklet. We are also revising a publication entitled "The Public and Broadcasting," which explains to the public the Commission's broadcast rules and procedures. This booklet is being completely revised to include substantive policy changes and to redraft the language into "plain English."

One project, currently under development by our Office of Plans and Policy, is an "Academic Outreach" program, through which we hope to encourage participation in FCC rulemakings (and other policy formation projects) by members of the academic community. This project will include several aspects. We hope to become a depository for communications-related academic research projects, which we will index and keep in our library. We have established an "Academic Exchange Program," in which the FCC staff and members of the academic profession would exchange positions for a semester or a year. We plan to expand our student work-study program; especially to include graduate level students. Finally, we expect to improve our mechanisms by which we inform the academic community of our research needs. Such an "Academic Outreach" would, I believe, contribute substantially to the quality of our regulatory and policymaking functions.

REGULATORY LANGUAGE

As a relative newcomer to the Commission, I agree that many of the FCC's rules are hard to understand. But, I am also aware that the subject matter of our rules often requires specialized knowledge that the general public would not have. In some instances, the licensed individual, such as a broadcaster, may not personally have the specialized knowledge. The answer is not, in all cases, to try to rewrite the rules in "plain English" for the licensee. The Commission requires the broadcast licensee to have available a licensed engineer to assure compliance with the rules. It is essential, however, that the engineer be able to understand the rule without an attorney's help. In other words, the technical rules must be written in "plain Engineering English."

In the case of the Citizens Band Radio Service, where compliance must depend on an understanding of the rules by the licensee, we have rewritten the rules in "plain English." When you issued this Executive order, you cited these rules as the example of clear language for other agencies to follow.

As we mentioned previously, we recently released a completely rewritten Primer on Political Broadcasting, which employs a simpler vocabulary and format than its predecessor edition.

I remain committed to improving the management of FCC rulemakings and to increasing citizen participation in FCC decisions. I have enclosed with this letter a number of releases and bulletins which will illustrate a few of our regulatory reform public participation efforts to date. To insure that we continue these efforts, I have established an informal staff group to carry on a broad-based review of our regulatory processes. This group will make recommendations to me of further improvements which we might make in our rulemaking functions.

Again, I appreciate this opportunity to discuss the FCC's regulatory processes.

Sincerely,

CHARLES D. FERRIS,
Chairman.

[FR Doc. 78-29425 Filed 10-18-78; 8:45 am]

[6712-01-M]

AM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: October 12, 1978.

Released: October 18, 1978.

Cutoff date: December 5, 1978.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on December 6, 1978, the AM applications listed in the attached Appendix below will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 5, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. by the close of business on December 5, 1978. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.571(c) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending AM applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

BMP-14,219 KQKI, Bayou Vista, La., Teche Broadcasting Corp., Has: 1170 kHz, 250 W, day, Req: 1170 kHz, 500 W, day.

BMP-14,620 WARE, Ware, Mass., Central Broadcasting Corp., Has: 1250 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 1250 kHz, 2.5 kW, 5 kW-LS, DA-2, U.

BMP-14,624 WAMB, Donelson, Tenn., Great Southern Broadcasting Co., Inc., Has: 1170 kHz, 5 kW (1kW-Ch), day, Req: 1170 kHz, 25 kW (1 kW-Ch), DA, day.

BP-20,017 (New), Rice Lake, Wis., Red Cedar Broadcasters, Inc., Req: 1090 kHz, 1kW, day.

BP-20,276 KASY, Auburn, Wash., Auburn Broadcasters, Inc., Has: 1220 kHz, 250 W, day, Req: 1220 kHz, 2.5 kW, DA, day.

BP-20,403 WTID, Newport News, Va., Bay Cities Communications Corp., Has: 1270 kHz, 1 kW, day, Req: 1270 kHz, 1 kW, DA-N, U.

BP-20,428 KNIX, Tempe, Ariz., Buck Owens Broadcasting, Inc., Has: 1580 kHz, 50 kW, day, Req: 1580 kHz, 10 kW, 50 kW-LS, DA-N, U.

BP-20,441 WADS, Ansonia, Conn., A.D.S. Broadcasting Corp., Inc., Has: 690 kHz, 500 W, DA, day, Req: kHz, 1 kW, DA, day.

BP-20,446 WFAG, Farmville, N.C., Farmville Broadcasting Co., Has: 1250 kHz, 500 W, day, Req: 1250 kHz, 2.5 kW, 5 KW-LS, DA-2, U.

BP-20,476 WWBR, Windber, Pa., WWBR, Inc., Has: 1350 kHz, 1 kW, day, Req: 1350 kHz, 2.5 kW, day.

BP-20,520 WCAP, Lowell, Mass., Northeast Radio, Inc., Has: 980 kHz, 1 kW, day, Req: 980 kHz, 5 kW, DA-2, U.

BP-20,524 WVAB, Virginia Beach, Va., Sea Broadcasting Corp., Has: 1550 kHz, 5 kW, day, Req: 1550 kHz, 2.5 kW, 5 kW-LS, DA-N, U.

BP-20,531 KXEX, Fresno, Calif., Atlas Broadcasting Co., Has: 1550 kHz, 500 W, day, Req: 1550 kHz, 5 kW, DA, day.

BP-20,536 KMLO, Vista, Calif., North County Broadcasting Co., Inc., Has: 1000 kHz, 1 kW, DA, day, Req: 1000 kHz, 1 kW, 5 kW-LS, DA-2, U.

BP-20,537 KBRF, Fergus Falls, Minn., Empire Broadcasting Stations, Inc., Has: 1250 kHz, 1 kW, DA-N, U, Req: 1250 kHz, 1 kW, 5 kW-LS, DA-2, U.

BP-20,557 WMCP, Columbia, Tenn., Maury County Boosters Corp., Has: 1280 kHz, 1kW, day, Req: 1280 kHz, 500 W, 5 kW-LS, DA-2, U.

BP-20,563 WGNU, Granite City, Ill., Norman Broadcasting Co., Has: 920 kHz, 500 W, DA, day, Req: 920 kHz, 500 W, DA-2, U.

BP-20,565 KCFI, Cedar Falls, Iowa, Jim Mudd Broadcasting, Inc., Has: 1250 kHz, 500 W, DA, day, Req: 1250 kHz, 500 W, DA-2, U.

BP-20,568 KRZY, Albuquerque, N. Mex., Burroughs Broadcasting Co., Has: 1450 kHz, 250 W, 1 kW-LS, U, Req: 1090 kHz, 2.5 kW, 50 kW-LS, DA-2, U.

BP-20,573 WSMD, La Plata, Md., Crystal Broadcasting Co., Has: 1560 kHz, 1 kW (250 W-CH), day, Req: 1560 kHz, 25 kW, DA, day.

BP-20,588 (New), Bremerton, Wash., Ki-Pen-Bro Corp., Req: 1330 kHz, 5 kW, day.

BP-20,599 (New), Dallas, Ga., Paulding Productions, Inc., Req: 1500 kHz, 1 kW, DA, day.

BP-20,675 WRKL, New City, N.Y., Rockland Broadcasters, Has: 910 kHz, 1 kW, DA, day, Req: 910 kHz, 1 kW, DA-2, U.

BP-20,703 WCTN, Potomac, Md., Seven Locks Broadcasting Co., Has: 950 kHz, 1 kW, DA, day (Potomac-Cabin John, Md.), Req: 950 kHz, 2.5 kW, 5 kW-LS, DA-2, U (Potomac, Md.).

BP-20,705 WFRB, Frostburg, Md., Western Maryland Broadcasting Co., Inc., Has: 560 kHz, 1 kW, day, Req: 560 kHz, 5 kW, day.

BP-20,706 (New), Carrville, Ala., Hughey Broadcasting Co., Inc., Req: 1130 kHz, 1 kW, day.

BP-20,710 KGAS, Carthage, Tex., Radio Station KGAS, Has: 1590 kHz, 1 kW, day, Req: 1590 kHz, 2.5 kW, day.

BP-20,711 (New), Sheridan, Ark., Cliff A. Packer, Req: 1540 kHz, 250 W, day.

BP-20,712 (New), Elkhorn City, Ky., Mountain Interstate Broadcasting Co., Inc., Req: 1460 kHz, 1 kW, day.

BP-20,713 KCUB, Tucson, Ariz., Rex Broadcasting Co., Has: 1290 kHz, U, Req: 1290 kHz, 1 kW, 5 kW-LS, DA-D, U.

BP-20,729 WGRO, Lake City, Fla., WGRO Radio, Inc., Has: 960 kHz, 500 W, day, Req: 960 kHz, 1 kW, 500 W-LS, DA-N, U.

BP-20,731 (New), Valdez, Alaska, Northern Television, Inc., Req: 770 kHz, 500 W, 1 kW-LS, U.

BP-20,732 KSRB, Hardy, Ark., Glenwood Vance, Has: 1570 kHz, 250 W, day, Req: 1570 kHz, 1 kW, day.

BP-20,733 (New), Pewaukee, Wisc., S.K.R., Inc., Req: 1370 kHz, 1 kW, DA, day.

BP-20,734 KSUB, Cedar City, Utah, Southern Utah Broadcasting Co., Has: 590 kHz, 1 kW, DA-N, U, Req: 590 kHz, 1 kW, 5 kW-LS, DA-N, U.

BP-20,735 WCKM, Hawesville, Ky., Hancock County Broadcasters, Has: 1140 kHz, 500 W, day, Req: 1140 kHz, 2.5 kW, day.

BP-20,736 (New), Vernon, Conn., Tolland County Broadcasting, Inc., Req: 1170 kHz, 1 kW, DA, day.

BP-20,7738 WAZA, Bainbridge, Ga., Sowega Broadcasting, Inc., Has: 1360 kHz, 1 kW, day, Req: 1360 kHz, 1kW, 5 kW-LS, DA-N, U.

BP-20,739 WYVE, Wytheville, Va., WYVE Radio, Inc., Has: 1280 kHz, 1 kW, day, Req: 1280 kHz, 2.5 kW, day.

BP-20,7741 KFYV, Arroyo Grande, Calif., KFYV Radio, Has: 1280 kHz, 1 kW, DA-N, U, Req: 1280 kHz, 2.5 kW, 5 kW-LS, DA-2, U.

BP-20,742 WDIC, Clinchco, Va., Dickenson County Broadcasting Corp., Has: 1430 kHz, 1 kW, day, Req: 1430 kHz, 5 kW, day.

BP-20,746 KROE, Sheridan, Wyo., Sheridan Communications Corp., Has: 930 kHz, 1 kW, day, Req: 930 kHz, 5 kW, day.

BP-20,749 KYET, Payette, Idaho, Blue Mountain Broadcasting Co., Has: 1450 kHz, 250 W, U, Req: 1450 kHz, 250 W, 1 kW-LS, U.

BP-20,750) WTMP, Temple Terrace, Fla., Gulf South Communications, Ltd., Has: 1150 kHz, 5 kW, DA, Day (Tampa), Req: 1150 kHz, 2.5 kW, 5 kW-LS, Da-2, U (Temple Terrace).

BP-20,751 WLUZ, Bayamon, P.R., Lucas T. Muniz, Has: 1600 kHz, 1 kW, DA-1, U, Req: 1600 kHz, 5 kW, DA-2, U.

BP-20,771 (New), Rederiksted, V.I., Joseph Bahr, Req: 1540 kHz, 250 W, day.

BP-20,773 (New), Alvin, Tex., Ellison Broadcasting Co., Req: 1110 kHz, 500 W, DA, day.

BP-20,774 (New), Renton, Wash., Radio Renton, Req: 1420 kHz, 500 W, DA, day.

BP-20,776 (New), Spring City, Tenn., RAAD of Spring City, Req: 970 kHz, 500 W, day.

BP-20,777 KRSP, South Salt Lake, Utah, Holiday Broadcasting Co., Has: 1060 kHz, 10 kW, day (Salt Lake City), Req: 1060 kHz, 1 kW, 10 kW-LS, DA-N, U (South Salt Lake).

BP-20,778 KFRB, Fairbanks, Alaska, Northern Television, Inc., Has: 900 kHz, 10 kW, U, Req: 820 kHz, 1 kW, 10 kW-LS, U.

BP-20,779 (New), Hilo, Hawaii, Communico Tropics Corp., Req: 670 kHz, 10 kW, U.

BP-20,789 WELV, Ellenville, N.Y., Catskill Broadcasting Corp., Has: 1370 kHz, 500 W, day, Req: 1370 kHz, 5 kW, day.

BP-20,790 WJKM, Hartsville, Tenn., Hartsville Broadcasting Co., Has: 1090 kHz, 250 W, day, Req: 1090 kHz, 1 kW, day.

BP-20,791 (New), Nelsonville, Ohio, Allied Communications, Inc., Req: 1130 kHz, 250 W, day.

BP-20,803 (New), Granbury, Tex. Granbury Radio Co., Req: 1420 kHz, 500 W, 5 kW-LS, DA-2, U.

BP-20,819 WWCC, Breman, Ga., Carroll-Haralson Radio, Inc., Has: 1440 kHz, 1 kW, day, Req: 1440 kHz, 2.5 kW, day.

BP-20,823 KTHS, Berryville, Ark., Earldun Broadcasting, Inc., Has: 1480 kHz, 1 kW, day, Req: 1480 kHz, 5 kW, day.

BP-20,829 KRAD, East Grand Forks, Minn., KRAD, Inc., Has: 1590 kHz, 1 kW, DA-N, U, Req: 1590 kHz, 1 kW, 5 kW-LS, DA-2, U.

BP-20,831 (New), Conyers, Ga., Communications Investment, Inc., Req: 1050 kHz, 250 W, day.

BP-20,833 (New), Dora, Ala., Mid-Way Radio, Req: 1010 kHz, 500 W, day.

BP-20,834 (New), Chubbuck, Idaho, Good Times, Inc., Req: 1490 kHz, 250 W, 1 kW-LS, U.

BP-20,838 (New), Saloma, Ky., Q Communications Corp., Req: 910 kHz, 500 W, DA, day.

BP-20,839 (New), Pearl, Miss., Mid South Media, Inc., Req: 1190 kHz, 1 kW, day.

BP-20,864 WAAY, Huntsville, Ala., Smith Broadcasting, Inc., Has: 1550 kHz, 500 W, 5 kW-LS, DA-N, U, Req: 1550 kHz, 500 W, 50 kW-LS, DA-2, U.

BP-20,865 (New), Kihei, Maui, Hawaii, Harry M. Engel, Req: 1110 kHz, 5 kW, U.

BP-20,869 WSKE, Everett, Pa., Radio Everett, Inc., Has: 1050 kHz, 250 W, day, Req: 1050 kHz, 1 kW, DA, day.

BP-20,871 KTCH, Wayne, Nebr., Theodore S. Storck, Has: 1590 kHz, 500 W, day, Req: 1590 kHz, 2.5 kW, DA, day.

BP-20,872 (New), Aguada, P.R., Aurio Matos, Req: 1410 kHz, 500 W, DA-1, U.

BP-20,878 KYMO, East Prairie, Mo., Usher Broadcasting Co., Has: 1080 kHz, 250 W, day, Req: 1080 kHz, 500 W, day.

BP-20,879 WIFF, Auburn, Ind., C.P. Broadcasters, Inc., Has: 1570 kHz, 500 W, DA, day, Req: 1570 kHz, 1 kW, DA, day.

BP-20,881 (New), Plentywood, Mont., Stallard Broadcasting, Inc., Req: 1070 kHz, 5 kW, day.

BP-20,882 (New), Vail, Colo., Mountain Wireless, Ltd., Req: 1360 kHz, 5 kW, day.

BP-20,883 (New), Jersey Shore, Pa., Tladaghton Broadcasting Co., Req: 1600 kHz, 1 kW, day.

BP-20,927 WYMC, Mayfield, Ky., Purchase Sound, Inc., Has: 1430 kHz, 1 kW, DA-1, U, Req: 1430 kHz, 1 kW, DA-N, U.

BP-20,964 WVAP, Burnettown, S.C., Midland Valley Investment Co., Inc., Has: 1510 kHz, 500 W (250 W-CH), day, Req: 1510 kHz, 1 kW (250 W-CH), day.

BP-21,014 KWEL, Midland, Tex., KWEL, Inc., Has: 1070 kHz, 1 kW, day, Req: 1070 kHz, 2.5 kW, day.

BP-21,016 (New), Laurel, Mont., Rimrock Broadcasting, Req: 1490 kHz, 250 W, 1 kW-LS, U.

BP-21,018 WABA, Aquadilla, P.R., Aquadilla Radio and TV Corp., Inc., Has: 850 kHz, 500 W, U, Req: 850 kHz, 5 kW, DA-1, U.

BP-21,020 WAZE, Dunedin, Fla., Radio Clearwater, Inc., Has: 860 kHz, 500 W, DA, day (Clearwater), Req: 860 kHz, 1 kW, Da-2, U (Dunedin).

BP-21,022 KNUI, Kahului, Hawaii, Broadcasting Consulting Services, Inc., Has: 1310 kHz, 5 kW, U, Req: 900 kHz, 5 kW, U.

BP-21,025 WWBC, Cocoa, Fla., Astro Enterprises, Inc., Has: 1510 kHz, 250 W, day, Req: 1510 kHz, 1 kW, day.

BP-21,026 (New), Martin, Ky., Guaranty Broadcasting Co., Req: 1440 kHz, 2.5 kW, DA, day.

BP-21,030 KHYT, South Tucson, Ariz., Golden State Broadcasting Corp., Has: 1330 kHz, 500 W, Day (Tucson), Req: 1330 kHz, 5 kW, 500 W-LS, DA-N, U (South Tucson).

BP-21,032 (New), Greybull, Wyo., KMMZ Broadcasters, Req: 1140 kHz, 5 kW, day.

BP-21,034 WKGX, Lenoir, N.C., Furniture City Broadcasters, Inc., Has: 1080 kHz, 1 kW, day, Req: 1080 kHz, 5 kW (2.5 kW-CH), day.

BP-21,035 KIIS, Los Angeles, Calif., Eleven Fifty Corp., Has: 1150 kHz, 1 kW, 5 kW-LS, U, Req: 1150 kHz, 5 kW, DA-N, U.

BP-21,039 (New), Rogers, Ark., KERM, Inc., Req: 790 kHz, 500 W, day.

BP-21,040 WEPA, Europa, Miss., Tri County Broadcasting Co., Inc., Has: 710 kHz, 500 W, day, Req: 710 kHz, 2.5 kW, day.

BP-21,043 KSFO, San Francisco, Calif., Golden West Broadcasters, Inc., Has: 560 kHz, 1 kW, 5 kW-LS, U, Req: 560 kHz, 5 kW, DA-N, U.

BP-21,044 WGSR, Millen, Ga., Jenkins Broadcasting System, Inc., Has: 1570 kHz, 250 W, day, Req: 1570 kHz, 1 kW, day.

BP-21,045 (New), Hallettsville, Tex., Ritchy Communications Corp., Req: 1520 kHz, 250 W, day.

BP-21,069 (New) Somerset, Pa., NorLin Broadcasters, Inc., Req: 1330 kHz, 1 kW, DA, day.

BP-21,073 (New), Zumbrota, Minn., John I. Hanton and Carol A. Hanton, Req: 740 kHz, 250 W, day.

BP-21,074 WFWR, New Haven, Ind., Fort Wayne Radio, Inc., Has: 1090 kHz, 1 kW, DA, day (Fort Wayne, Ind.), Req: 1090 kHz, 500 W, 1 kW-LS, DA-2, U (New Haven, Ind.).

BP-21,077 KMJC, El Cajon, Calif., Lee Bartell & Associates, Has: 910 kHz, 1 kW, DA-2, U, Req: 910 kHz, 2.5 kW, 5 kW-LS, DA-2, U.

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BP-21,078 (New), Coalinga, Calif., McVay Communications, Inc., Req: 1470 kHz, 500 W, Day.

BP-21,089 WBUK, Portage, Mich., Radio Michigan, Ltd., Has: 1560 kHz, 1 kW, DA, day, Req: 1560 kHz, 2.5 kW, DA, day.

BP-21,090 WSPF, Hickory, N.C., Piedmont Broadcasting Co., Inc., Has: 1000 kHz, 1 kW, day, Req: 1000 kHz, 5 kW (1 kW-CH), day.

BP-21,093 WJJQ, Tomahawk, Wis., WYYS, Inc., Has: 810 kHz, 1 kW, day, Req: 810 kHz, 10 kW, DA, day.

BP-21,095 (New), Homer, Alaska, Kachemack Bay Broadcasters, Inc., Req: 1250 kHz, 5 kW, U.

BP-21,099 WDSJ, Deadwood, S.Dak., Heart of the Black Hills Stations, Has: 980 kHz, 1 kW, DA-N, U, Req: 980 kHz, 1 kW, 5 kW-LS, DA-N, U.

BP-21,109 WKNG, Tallapossa, Ga., Twin County Broadcasting Co., Has: 1060 kHz, 2.5 kW, day, Req: 1060 kHz, 5 kW, day.

BP-21,112 (New), Fairview, Tenn., B.L.P., Inc., Req: 850 kHz, 500 W, day.

BP-21,113 (New), Buena Vista, Va., Rockbridge Communications, Inc., Req: 1270 kHz, 1 kW, day.

BP-21,114 KHX, Ft. Collins, Colo., WREN Broadcasting Co., Has: 600 kHz, 1 kW, DA, day, Req: 600 kHz, 5 kW, DA, day.

BP-21,129 (New), Fraser, Colo., Grand Radio, Inc., Req: 1250 W, DA-2, U.

BP-21,132 WBUT, Butler, Pa., WBUT, Inc., Has: 1050 kHz, 250 W, day, Req: 1050 kHz, 500 W, day.

BP-21,134 (New), Yanceyville, N.C., WMC Broadcasters, Inc., Req: 1540 kHz, 250 W, day.

BP-21,136 (New), Beloit, Kans., KRZJ Broadcasters, Req: 1190 kHz, 2.5 kW, DA, day.

BP-21,137 (New), Yellville, Ark., Adams Broadcasting Co., Req: 1530 kHz, 500 W, day.

BP-21,149 WSRO, Marlboro, Mass., WSRO, Inc., Has: 1470 kHz, 1 kW, DA, day, Req: 1470 kHz, 5 KW, 1 kW-LS, DA-2, U.

BP-21,150 (New), Anamosa, Iowa, Louise E. Hamlin, Req: 1290 kHz, 500 W, DA, day.

BP-21,153 KBTN, Neosho, Mo., KBTN, Inc., Has: 1420 kHz, 500 W, day, Req: 1420 kHz, 500 W, DA-N, U.

BP-21,154 (New), Marshall, Mich., G.R.G. Associates, Inc., Req: 680 kHz, 250 W, DA-2, U.

BP-21,155 WJGA, McDonough, Ga., Tarkenton Broadcasting Corp., Has: 1540 kHz, 1 kW, day (Jackson, Ga.), Req: 1540 kHz, 2.5 kW, day (McDonough, Ga.).

BP-21,156 WBOX, Bogalusa, La., Mosley-Smith Broadcasting, Inc., Has: 920 kHz, 1 kW, day, Req: 920 kHz, 1 kW, DA-N, U.

BP-21,157 KFWJ, Lake Havasu City, Ariz., Shoblom Broadcasting, Inc., Has: 980 kHz, 500 W, day, Req: 980 kHz, 1 kW, day.

BP-21,158 WPNH, Plymouth, N. H., Pemigewasset Broadcasters, Inc., Has: 1300 kHz, 1 kW, day, Req: 1300 kHz, 5 kW, day.

BP-21,159 KAGC, Bryan, Tex., Brazos Metro, Inc., Has: 1510 kHz, 250 W, day, Req: 1510 kHz, 500 W, day.

BP-21,189 WHOY, Salinas, P.R., Island Broadcasting Corp., Has: 1210 kHz, 1 kW, DA-N, U, Req: 1210 kHz, 1 kW, 5 kW-LS, DA-2, U.

BP-21,190 KQWB, West Fargo, N. Dak., Midwest Radio Co., Has: 1550 kHz, 5 kW, DA-N, U, Req: 1550 kHz, 5 kW, 10 kW-LS, DA-N, U.

BP-21,195 KBEX, Centerville, Utah, Harold S. Schwartz & Associates, Inc., Has: 1600 kHz, 1 kW, day, Req: 1600 kHz, 5 kW, day.

BP-21,200 WTIM, Taylorville, Ill., Delta Media, Inc., Has: 1410 kHz, 1 kW, DA, day, Req: 1410 kHz, 1 kW, DA-2, U.

BP-21,204 WYNE, Kimberly, Wis., Ned Hughes Broadcasting, Inc., Has: 1150 kHz, 1 kW, DA, day, Req: 1150 kHz, 5 kW, DA-2, U.

BP-21,221 KXEW, South Tucson, Ariz., R F C Partners, Has: 1600 kHz, 1 kW, day (Tucson), Req: 1600 kHz, 1 kW, DA-N, U (South Tucson).

BP-21,222 WKND, Windsor, Conn., KND Corp., Has: 1450 kHz, 500 W, DA, day, Req: 620 kHz, 1 kW, 500 W-LS, DA-2, U.

BP-21,247 WXRL, Lancaster, N.Y., Donie Broadcasting, Inc., Has: 1300 kHz, 1 kW, DA, day, Req: 1300 kHz, 2.5 kW, 1 kW-LS, DA-2, U.

BP-21,248 (New), Pineville, La., Blac, Inc., Req: 680 kHz, 250 W, day.

BP-21,249 WTUG, Tuscaloosa, Ala., Radio South, Inc., Has: 790 kHz, 1 kW, day, Req: 790 kHz, 2.5 kW, day.

BP-21,252 WJMQ, Norfolk, Mass., Norfolk County Broadcasting Co., Inc., Has: 1170 kHz, 500 W, DA, day, Req: 1170 kHz, 1 kW, DA, day.

BP-21,253 WRTH, Wood River, Ill., King Radio Broadcasting Co., Has: 590 kHz, 1kW, 500 W-LS, DA-2, U, Req: 590 kHz, 1kW, DA-2, U.

BP-21,254 KrKS, Denver, Colo. KLIR, Inc., Has: 990 kHz, 1 kW, day, Req: 990 kHz, 5 kW, day.

BP-21,256 WJLK, Asbury Park, N.J., Press Broadcasting Co., Has: 1310 kHz, 250 W, 1 kW-LS, DA-D, U, Req: 1310 kHz, 1 kW, 2.5 kW-LS, DA-2, U.

BP-21,257 WKSK, West Jefferson, N.C., Childress Broadcasting of West Jefferson, Has: 580 kHz, 500 W, day, Req: 580 kHz, 1 kW, day.

BP-21,258 WNRK, Newark, Del., Radio Newark, Inc., Has: 1260 kHz, 500 W, DA, day, Req: 1260 kHz, 1 kW, DA, day.

BP-21,259 WHYT, Nobelsville, Ind., Mid-Indiana Broadcasters Corp., Has: 1110 kHz, 500 W, DA, day, Req: 1110 kHz, 1 kW, DA, day.

BP-21,821 (New), Amory, Miss., Brady and Jones Associates, Req: 1520 kHz, 500 W, day.

BP-780714AL WLNC, Laurinburg, N.C., George W. Phillips, t/as Laurinburg, Broadcasting Co., Has: 1300 kHz, 500 W, day, Req: 1300 kHz, 5 kW, 500 W-LS, DA-N, U.

BP-780718AA (New), Hyden, Ky., Ayers Shortt Sales, Inc., Req: 1600 kHz, 500 W, day.

BP-780828AI KCNW, Fairway, Kans., Kansas Broadcasting, Inc., Has: 1380 kHz, 500 W, 5 kW-LS, DA-2, U, Req: 1380 kHz, 1kW, 5 kW-LS, DA-2, U.

[FR Doc. 78-29545 Filed 10-18-78; 8:45 am]

[6712-01-M]

[BC Docket Nos. 78-299—78-301; File Nos. BPH-10,046, etc.; BC FCC 78-651]

CHARLOTTESVILLE BROADCASTING ASSOCIATES, INC., ET AL.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: September 14, 1978.

Released: October 3, 1978.

In re applications of Charlottesville Broadcasting Associates, Inc., Charlottesville, Va., BC Docket No. 78-299, File No. BPH-10,046, Requests: 92.7 MHz, Channel No. 224: 412 W (H & V): 810 feet; Rev. C. H. Brown and John M. Brown, Sr., d.b.a. Brown Broadcasting Co., Charlottesville, Va., BC Docket No. 78-300, File No. BPH-10,118, Requests: 92.7 MHz, Channel No. 224: 225 W (H & V); 1070 feet; WUVA, Inc., Charlottesville, Va., BC Docket No. 78-301, File No. BPH-10,371, Requests: 92.7 MHz, Channel No. 224; 220 W (H & V); 900 feet; for construction permits.

1. The Commission, has before it for consideration: (i) The above-captioned mutually exclusive applications of Charlottesville Broadcasting Associates, Inc. ("CBA"), Rev. C. H. Brown and John M. Brown, Sr. d.b.a. Brown Broadcasting Co., ("Brown"), and WUVA, Inc., ("WUVA"); (ii) a petition, filed by WUVA, requesting waiver of § 1.573(b) of the Commission rules; and (ii) pleadings in opposition and reply thereto.[1]

2. Before considering the merits of Brown's petitions and WUVA's waiver request, a brief discussion of its corporate structure will be helpful. WUVA is organized under the laws of the Commonwealth of Virginia and is a nonprofit, non-stock membership corporation. Its articles of incorporation restrict membership to students in good academic standing at the University of Virginia who are staff members at radio station WUVA. The applicant's board of directors is composed of five students selected from the membership to serve for 1 year terms and six alumni appointed to serve for 7 years. Any of these directors may be removed by the student membership. Because the membership is present during most of the academic year and can be convened easily to deal with fundamental aspects of station operation, WUVA considers itself controlled by its members rather than by its board of directors. Hence, the applicant concedes, a change of 50% or more in its student membership would constitute a transfer of control under the terms of § 1.573(b) of the rules,[2] requiring the Commission to assign its application a new file number and thereby eliminate it from comparative consideration.[3] Acknowledging that such a change has in fact occurred since its application was filed,[4] WUVA seeks a waiver of § 1.573(b).

3. In proposing the present § 573(b), the Commission expressed its opinion that "[s]ignificant changes in ownership may be indicative of changes in the type and quality of service to be provided * * *" Notice of Proposed Rulemaking in Docket No. 20205, 49 FCC 2d 399, 402 (1974). The particular circumstances of this situation, however, indicate that such is not the case here. Of particular significance in this regard is the fact that WUVA has a long tradition of service and commitment to the Charlottesville Community, having been a carrier-current facility for more than 30 years and having been carried also on a local cable system.[5] Thus, the Commission's desire that "the public should ultimately be able to look for service to the same individuals who filed the application * * *," 49 FCC 2d at 402, will not be violated by a waiver, as the public in Charlottesville can reasonably look to a familiar and on-going institution rather than to specific individuals for service. Moreover, to the extent that the Commission's concerns in adopting § 1.573(b) focused upon the typical corporate or partnership arrangement, a strict application of the section to WUVA's unusual corporate structure seems to us both unnecessary and inappropriate. Accordingly, we will grant the waiver request and allow WUVA to retain its present file number.

4. To meet estimated costs of $47,205 for construction and operation, Brown plans to rely entirely upon a bank loan. However, since the applicant has not submitted any document which would indicate the willingness of a financial institution to lend it funds, it must be considered financially unqualified. Accordingly, an appropriate issue will be specified.

5. Finally, data submitted by the applicants indicates that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparision, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

6. Because of the recent allocation of Channel 224 in Mechanicsville, Va., 40 RR 2d 1481 (1977), CBA's application fails to meet the spacing requirements of § 73.207 of the rules. Since the other two applicants in this proceeding comply with the Commission's spacing requirements, we must order CBA to amend its application to specify a site which complies with § 73.207.

7. Except as indicated above, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Brown Broadcasting Co. the source and availability of funds to construct the proposed station and to operate for 3 months without reliance on revenues, and in light thereof, whether the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Order.

10. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

11. *It is further ordered*, That the Petitions filed by Brown Broadcasting Co. are denied.

12. *It is further ordered*, That the request for waiver of § 1.573(b) filed by WUVA, Inc. is granted.

13. *It is further ordered*, That the application of Charlottesville Broadcasting Associates, Inc., shall be retained for a period of thirty (30) days to permit appropriate amendment and that action on the applications of WUVA, Inc., and Rev. C. H. Brown and John M. Brown, Sr., d.b.a. Brown Broadcasting Co., shall be withheld during this period.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29547 Filed 10-18-78; 8:45 am]

[1] Also before the Commission are the following related pleadings: (a) A petition to remove WUVA's application, filed by Brown; (b) an opposition, filed by WUVA; and (c) a reply, filed by Brown. We have considered these pleadings with the waiver request. More recently, on August 16, 1978, Brown submitted a third petition seeking removal of WUVA's application. As the petitions filed by Brown raised the same questions as those raised by WUVA's waiver request, we are considering all of these pleadings together.

[2] Section 1.573(b) provides: "A new file number will be assigned to an application for a new station * * * when it is amended so as to result in an assignment or transfer of control * * * which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314, 315 * * *."

[3] Under § 1.591(b), the Commission will not consider any application, if amended so as to require a new file number, as being mutually exclusive or in conflict with another application on which a cut-off date has been established. Thus, the effect of applying Section 1.573(b) would be to deny WUVA comparative consideration in the Charlottesville hearing.

[4] In this regard, WUVA states that an unusually large number of students were elected to membership after its application was filed.

[5] WUVA instituted the rulemaking which assigned channel 224 to Charlottesville.

[6712-01-M]

[BC Docket Nos. 78-297, 78-298; File Nos. BPH-9741, BPH-9916; FCC 78-646]

NUANCE CORP. AND MIDCOM CORP.

Designating Applications for Consolidated Hearing on Stated Issues; Memorandum Opinion and Order

Adopted: September 14, 1978.

Released: September 29, 1978.

In re applications of Nuance Corporation, Columbia, S.C., Req. 103.1 MHz, Channel 276A 3kW (H&V), 300 Feet, BC Docket No. 78-297, File No. BPH-9741; Midcom Corporation, Columbia, S.C., Req. 103.1 MHz, Channel 276A 3 kW (H&V), 300 Feet. BC Docket No. 78-298, File No. BPH-9916; for construction permits.

1. The Commission has before it for consideration: (i) The above-captioned mutually exclusive applications filed by Nuance Corporation (Nuance) and Midcom Corporation (Midcom), as amended; (ii) a Further Motion to Dismiss or for Inclusion of Issue, filed by Nuance; (iii) responsive pleadings.

2. In an earlier Memorandum Opinion and Order, we rejected Nuance's challenge to the acceptability of Midcom's application. *Midcom Corporation*, 63 FCC 2d 257, 39 RR 2d 943

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(1977).[1] In its motion to dismiss, Nuance asserts that the subsequent decision of the United States Court of Appeals for the District of Columbia Circuit in *Black Broadcasting Coalition of Richmond* v. *FCC*, 181 U.S. App. D.C. 182, 556 F.2d 59 (1977), mandates reversal of the earlier ruling. More specifically, Nuance asserts that where subjective bad faith is shown in the preparation and tender of an application, a post-objection curative amendment is not permissible. Nuance submits that Midcom's original specification of a short-spaced site and unsupported waiver request, coupled with an amendment to a non-short-spaced site in response to the motion to dismiss, constitutes "subjective bad faith." Therefore, Nuance urges that the amendment either be dismissed or an appropriate hearing issue be specified against Midcom.

3. The Commission disagrees with Nuance that BBCR and the facts warrant the relief requested. Nuance has presented nothing to support its allegation of bad faith other than speculation and surmise. And, unlike BBCR, there are no underlying facts which lend credence to the allegation of bad faith. It has long been Commission policy not to waive our minimum mileage separation requirments where at least one of several mutually exclusive applicants specifies a non-short-spaced site. It has, however, also been Commission policy to afford an applicant in Midcom's position, after dismissal for a short-spaced site, the opportunity to seek reconsideration and to amend to specify a non-short-spaced site. Accordingly, the Further Motion to Dismiss will be denied.

4. Midcom proposes independent programming, while Nuance proposes to duplicate the programming of its commonly owned AM station, WOIC, Columbia, S.C., during 14 percent of its broadcast time. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication which could offset its inherent inefficiency. *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 114 (1967).

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

6. *Accordingly, it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine which of the proposals would, on a comparative basis, better serve the public interest.

(2) To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

7. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. *It is further ordered,* That the applicants herein, shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually, or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

9. *It is further ordered,* That the Further Motion to Dismiss or For Inclusion of Issue filed by Nuance Corporation, Is Denied.

FEDERAL COMMUNICATION COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29548 Filed 10-18-78; 8:45 am]

[1] As originally filed, Midcom proposed a site that was short-spaced to Station WZZW, Augusta, Ga., in violation of the minimum mileage separation specified in § 73.207 of the rules. Nuance, which had specified a non-short-spaced site, asserted that the application should be dismissed as patently defective. In response to this challenge, Midcom amended its application to specify a non-short-spaced site. Nuance moved to strike the amendment on the ground that since the application was unacceptable as filed and not amended prior to cut-off, it could not now be amended. We rejected Nuance's challenges citing *James River Broadcasting Co.* v. *FCC*, 130 U.S. App. D.C. 210, 399 F.2d 581 (1968) and *Earl Lamar Clark*, 36 RR 2d 1666 (1976).

[6712-01-M]

TUCSON FM BROADCASTING CORP.

Preparation of Draft Environmental Impact Statement

Adopted October 10, 1978.

Released: October 12, 1978.

Pursuant to § 1.1313(b)(2) of the Commission's rules, notice is hereby given that a draft environmental impact statement will be prepared concerning the application of Tucson FM Broadcasting Corp. (BPH-10,347) for a new 100 kW FM station on Channel 298 (107.5 MHz) in Tucson, Ariz. The antenna and transmitter would be located on Trails End Peak in the Tucson Mountains 5 miles west of Tucson, Ariz. at the following coordinates:

32°14'55" North
111°6'58" West

The applicant proposes a tower 200 feet above ground, with center of radiation 150 feet above ground and 2,000 feet above average terrain.

Interested parties may obtain a copy of the statement by submitting a written request, prior to October 31, 1978, to:

Broadcast Facilities Division, Room 302, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

Copies will also be sent to those who have already expressed an interest in the environmental consequences of the proposal.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29544 Filed 10-18-78; 8:45 am]

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

ADVISORY COMMITTEE ON STATE AND FEDERAL REGULATION OF BANKS

Meeting

The Federal Deposit Insurance Corporation Advisory Committee on State and Federal Regulation of Banks will meet on Thursday, November 2, 1978, at 10:30 a.m., in the 6th floor Board Room of the Federal Deposit Insurance Corporation Building, 550 17th Street NW., Washington, D.C.

This Committee was established to advise the director, in charge of a major study of state and federal bank regulation, on the content and direction of the study, and to review sections of the study as they are completed. The Committee consists of ten members broadly representative of groups which are impacted by banking and the regulation of banks. Notice of the establishment of this committee was published in the FEDERAL REGISTER on December 15, 1977, (Vol. 42, No. 241, page 63219).

The agenda for this meeting is: (1) Progress report; (2) Discussion, comments, and suggestions concerning study projects.

This meeting will be open to the public, with approximately 30 seats available for the public on an unreserved basis. Questions, comments, or statements to the committee may be submitted in writing prior to the opening of the meeting.

Copies of the minutes of the meeting will be available upon written request 30 days after the meeting.

Inquiries may be directed to Dr. Leonard Lapidus, Special Assistant to the Chairman, Federal Deposit Insurance Corp., 550 17th Street NW., Washington, D.C. 20429; telephone 202-389-4213.

Dated: October 12, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
EDWIN C. HOULDSWORTH,
Advisory Committee, Management Officer.

[FR Doc. 78-29488 Filed 10-18-78; 8:45 am]

[6715-01-M]

FEDERAL HOME LOAN BANK BOARD

[No. AC-50]

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF OKEECHOBEE COUNTY, OKEECHOBEE, FLA.

Post Approval Amendment of Conversion; Application Final Action

OCTOBER 16, 1978.

Notice is hereby given that on October 11, 1978, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corp., by Resolution No. 78-542 approved the amendment to the application of First Federal Savings and Loan Association of Okeechobee County, Okeechobee, Fla., for permission to convert from a Federally-chartered mutual association to a Florida-chartered stock association. The converted association will be known as the First Savings and Loan Association of Okeechobee County. The application to convert was approved on May 12, 1978, by Resolution No. 78-296. Copies of the application and the amendment are available for inspection at the Office of the Secretary of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street NW., Atlanta, Ga.,30303.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-29538 Filed 10-18-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-38]

BALTIC SHIPPING CO.

Rates on Buses in the U.S. Gulf Coast/North Europe Trade; Order To Show Cause

The Baltic Shipping Co. (Baltic) is a common carrier in the foreign commerce of the United States providing liner service between U.S. Gulf of Mexico ports and Continental European ports in the Bordeaux/Hamburg range. Baltic is a state corporation of the Union of Soviet Socialist Republics.

Pursuant to section 21 of the Shipping Act, 1916, the Commission issued an Order to Baltic to furnish certain specified information concerning the transportation of approximately 25 buses from Bremerhaven, Germany, to Houston, Tex., aboard Baltic's vessel, *Magnitogorsk*, in February-March, 1978. The Order was issued on April 17, 1978. As indicated in that Order, the Commission has reason to believe that Baltic may be in violation of section 18(b) of the Shipping Act, 1916, by charging or receiving less compensation for the transportation for the buses than the rates or charges which were specified in its tariffs on file with the Commission and in effect at the time of the shipment.[1] The Commission has determined that the information requested of Baltic is necessary to establish whether such violation exists and whether further action should be taken pursuant to section 18 of the Shipping Act.

On May 15, 1978, the Commission granted Baltic an enlargement of time, extending the date for compliance with its section 21 Order to May 30, 1978. On May 30, 1978, Baltic filed bills of lading responsive to paragraphs (A)(4) and (B) of the Commission's section 21 Order. Baltic has not, however, adequately responded to paragraphs (A)(1) through (A)(3), and (A)(5) of the Commission's Order.

Paragraph (A)(1) of the Order calls for copies of all memoranda of discussions, understandings, agreements, or arrangements between Baltic and any of its agents concerning the solicitation, obtaining, or transport of the buses in question.[2] This information is necessary if the Commission is to determine the existence and nature of any undercharges by Baltic in connection with its transportation of 25 buses from Bremerhaven, Germany, to Houston, Tex. Baltic's instructions to its agents in Germany, and its understanding with those agents concerning the manner in which the carriage of the buses in question would be solicited, contracted for, and carried out are clearly relevant to the Commission's inquiry. The information sought is peculiarly within Baltic's knowledge, and is not available to the Commission except through Baltic.

Paragraph (A)(2) of the Commission's section 21 Order calls for a detailed description of all negotiations which took place concerning the transportation of the buses in question and the freight charges to be applied thereto by Baltic. The content of these negotiations would shed much light upon the existence of undercharges and upon whether such undercharges, if any, were accidental. This is a matter clearly relevant to the Commission's inquiry which is available to it only through Baltic.

Paragraph (A)(3) of the Commission's Order calls for copies of all memoranda, minutes, contracts, or other writings describing, transcribing, summarizing, or resulting from the negotiations described in paragraph (A)(2). The information sought in paragraph (A)(3) would serve to corroborate and give detail and substance to Baltic's response to paragraph (A)(2). For the reasons described above, the information sought in paragraph (A)(3) also is necessary to the Commission in its investigation. The

[1] Subsequent to the Commission's initiation of this investigation, Baltic filed an application for permission to waive collection of a portion of the freight charges applicable to the buses in question, as well as to two later bus shipments. The application was filed pursuant to section 18(b)(3) of the Shipping Act, and in accordance with 502.92 of the Commission's Rules (46 CFR 502.92). In its application, Baltic acknowledges that the lower rate it seeks to apply to the buses was not filed with the Commission until August 3, 1978, but it alleges that its failure to file the rate prior to shipment was "due to clerical error". The Administrative Law Judge in that case has scheduled the next prehearing conference for December 4, 1978.

During the course of the section 18(b)(3) proceedings, Baltic has expressed its desire to maintain the separation between the Commission's prior section 21 investigation and its section 18(b)(3) application. Baltic argues that: "[a]lthough the section 21 inquiry concerns the same shipments involved herein, its scope and aim are different The section 21 inquiry was commenced 'to determine whether Baltic [was] * * * in violation of the Act' and whether further proceedings or investigations should be undertaken * * *. The Commission's section 21 inquiry is, therefore, essentially an enforcement action. Separate enforcement considerations of the Commission are not relevant, though, in an 18(b)(3) waiver application." The Commission finds itself in agreement with Baltic's position, at least to the extent that it is unwilling to defer its section 21 investigation pending the outcome of the section 18(b)(3) proceeding initiated by Baltic.

[2] Information concerning Baltic's arrangements with its representatives in Germany, and particularly with Panalpina Welttransport G.M.B.H., would be among that which is sought in this paragraph.

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documents sought in paragraph (A)(3) are not currently available to the Commission, and can be obtained by it only through Baltic.

Paragraph (A)(5) of the Commission's Order calls for information concerning Baltic's payment of brokerage or other compensation to its agents or others in connection with the solicitation, negotiation, or carrying out of the bus shipments in question. Specifically, the paragraph seeks the amount of brokerage or other compensation paid, and the name and address of the person(s) receiving payment. This information is necessary to determine whether rebates or other payments were given by Baltic in connection with its transport of the buses, in violation of section 18(b)(3) of the Shipping Act, and this information also ties in with the information sought in paragraph (A)(1) concerning Baltic's arrangement with its agents. The information sought in paragraph (A)(5) of the Commission's Order is essential to a thorough investigation of Baltic's possible violation of section 18(b) of the Shipping Act, 1916. The information sought is not available to the Commission except through Baltic.

Baltic's response to paragraphs (A)(1), (A)(2), (A)(3), and (A)(5), is the same: "There are no such documents under the care, custody, or control of Baltic in the United States." [3]

This response is inadequate; the Commission's inquiry was not and is not limited to documents within the United States. The Commission's Order called for information concerning activities occurring outside the United States, but effecting the foreign commerce of the United States. It is likely that the information sought is located outside the United States, and that it is within the knowledge, custody, and control of the Baltic Shipping Co. Baltic gives no explanation for limiting its response to documents within the United States. It is clear that the Commission's investigatory powers under the Shipping Act are not limited to documents within the United States. [4] Such a limitation would be irreconcilable with the Commission's statutory duty to prevent activities harmful to the *foreign* commerce of the United States.

Baltic has not complied with paragraphs (A)(1) through (A)(3) and (A)(5) of the Commission's section 21 Order, and the Commission rejects as inadequate such explanation as Baltic has seen fit to offer for this failure. It appears, therefore, that the Baltic Shipping Co. is in violation of the Commission's Order of April 17, 1978, to produce information in accordance with section 21 of the Shipping Act, 1916.

To date, Baltic has not expressly raised the possible affirmative defenses of foreign law, but the defense may be tacit in Baltic's limitation of its response to information located within the United States. Therefore, before finding that Baltic is in violation of section 21 and considering appropriate sanctions, the Commission wishes to consider any affirmative defense of foreign law that may be available to Baltic. To give adequate consideration to this possible affirmative defense, the Commission must have further information from Baltic. Specifically, the Commission must know: (1) What foreign laws, if any, apply to the gathering or release by Baltic of the information sought in the Commission's section 21 Order; (2) what information is effected by those laws; (3) the effect of violating the foreign law; and (4) the nature and extent of any efforts by Baltic to obtain a waiver of any applicable foreign laws.

Therefore, it is ordered, That pursuant to section 21 of the Shipping Act, 1916, and in accordance with 502.66 of the Commission's Rules (46 CFR 502.66), the Baltic Shipping Co. is ordered to show cause why it should not be found to be in violation of section 21 of the Shipping Act, 1916, by reason of its failure fully to comply with the Commission's Order of April 17, 1978, concerning rates on buses in the U.S. Gulf Coast/North Europe Trade issued pursuant thereto;

It is further ordered, That this proceeding is limited to the submission of affidavits of fact and memoranda of law solely on the issue of the applicability and effect of foreign law upon the information sought by the Commission's Order of April 17, 1978. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove those facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed no later than November 27, 1978.

It is further ordered, That pursuant to 502.66 of the Commission's Rules (46 CFR 502.66), Baltic Shipping Co. is required to answer this Show Cause Order by providing all information available to it concerning:

(1) The existence and terms of any applicable foreign law or regulation which purports to prohibit the gathering or release of information by Baltic Shipping Co. in response to the Commission's Order of April 17, 1978;

(2) The nature, description, and location of information or documents covered by the Commission's Order of April 17, 1978, the gathering or release of which the foreign law purports to prohibit, or which Baltic Co. has not yet released for any other reasons;

(3) The penalties provided by the foreign law in the event it is violated; and

(4) The nature and extent of any efforts by Baltic Shipping Co. to obtain a waiver of any applicable foreign law purporting to prohibit the gathering or release of information by Baltic Shipping Co. in response to the Commission's Order of April 17, 1978;

It is further ordered, That notice of this Show Cause Order be published in the FEDERAL REGISTER and that a copy thereof be served upon the Baltic Shipping Co.; and

It is further ordered, That the Baltic Shipping Co. shall file the information described in the third ordering paragraph hereof, together with any additional matters it may wish to submit in accordance with the second ordering paragraph hereof, no later than October 27, 1978, with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies;

It is further ordered, That the Commission's Bureau of Hearing Counsel be made a party to this proceeding. Reply affidavits and a memorandum of law shall be filed by the Bureau of Hearing Counsel no later than November 6, 1978, with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies; and

It is further ordered, That a rebuttal memorandum and affidavits repending to the memorandum and affidavits filed by the Bureau of Hearing Counsel shall be filed by Baltic Shipping Co. no later than November 16, 1978, with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29444 Filed 10-18-78; 8:45 am]

[3] Baltic also objects to the Commission's demand for information under paragraph (A)(2) of the Order, "on the ground that this demand is beyond the authority vested in the Commission under section 21 of the Shipping Act for the reasons set forth in Baltic's Petition for Reconsideration filed with the Commission on May 17, 1978, in the section 21 proceedings entitled 'Baltic Shipping Company Rates and Practices in the U.S. Gulf Coast/North Europe Trade', which Petition is incorporated herein by reference." Baltic has also added to its Petition by filing a "Reply of Baltic Shipping Company in Support of its Legal Objections", dated July 12, 1978, and made applicable to the Commission's section 21 inquiry into its rates on buses. For the reasons stated in the Commission's Order to Show Cause served October 5, 1978, and incorporated by reference herein, the Commission rejects the arguments raised by Baltic. Baltic's basic argument is that the Commission can only reach existing business records under section 21 of the Shipping Act, 1916, and cannot inquire into events not presently memorialized in such records. Baltic's narrow interpretation of section 21 is inconsistent with its full scope as implemented by the Commission and interpreted by the courts. *See Isbrandtsen-Moller Co. v. United States,* 300 U.S. 139 (1937), *Kerr Steamship Co. v. United States,* 284 F. 2d 61 (2d Cir. 1960), *appeal dismissed as moot,* 369 U.S. 422 (1962), and *Montship Lines, Ltd. v. Federal Maritime Board,* 295 F. 2d 147 (D.C. Cir. 1961); *Cf. Alcoa Steamship Co. v. Federal Maritime Commission,* 348 F. 2d 756 (D.C. Cir. 1965), involving the Commission's power to *inspect* corporate records.

[4] *Federal Maritime Commission v. DeSmedt,* 366 F. 2d 464 (2d Cir. 1966), *Cert. den.,* 385 U.S. 974 (1966).

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of November 1978:

ALCOHOL RESEARCH REVIEW COMMITTEE

November 1-3; 9 a.m.
Linden Room, Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Md. 20014.
Open—November 1; 9 to 10 a.m.
Closed—Otherwise.
Contact: Dr. James C. Tecgarden, Room 16C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4223.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute for Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9 to 10 a.m., November 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

November 2-4; 9 a.m.
Holiday Inn—Georgetown, 2505 Wisconsin Avenue NW., Washington, D.C. 20007.
Open—November 2, 9-9:30 a.m.
Closed—Otherwise.
Contact: Ms. Marilyn Andersen, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3936.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., November 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

PRECLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

November 3-4; 9 a.m.
Suite G-131, Wardman Towers, Sheraton-Park Hotel, 2660 Woodley Road NW., Washington, D.C. 20008.
Open—November 3; 9 to 10 a.m.
Closed—Otherwise.
Contact: Dr. Dorothy Karp, Room 9-97, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3454.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to preclinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

November 9-10, 9 a.m.
Quorum Room, Sheraton-Silver Spring, 8227 Colesville Road, Silver Spring, Md. 20910.
Open—November 9; 9 to 9:30 a.m.
Closed—Otherwise.
Contact: Ms. Vi Kemp, Room 10-104, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4843
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 9:30 a.m., November 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

DEVELOPMENTAL PROBLEMS RESEARCH REVIEW COMMITTEE

November 9-10; 9 a.m.
Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Md. 20015.
Open—November 9; 9 to 10 a.m.
Closed—Otherwise.
Contact: Ms. Diana Souder, Room 10-104, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3566.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 10 a.m., November 9, the meeting will be open for discussion of administrative announcements, and program developments. Otherwise the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

November 9-11; 9 a.m.
Board Room, Holiday Inn—Georgetown, 2505 Wisconsin Avenue NW., Washington, D.C. 20007.
Open—November 9; 9 to 11 a.m.
Closed—Otherwise.
Contact: Ms. Edna M. Hardy Hill, Room 7-103, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2868.
Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9 to 11 a.m., November 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. appendix I).

NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

November 16-17; 9 a.m.
Room 705, Holiday Inn—Georgetown, 2505 Wisconsin Avenue NW., Washington, D.C. 20007.
Open—November 16; 9 to 10 a.m.
Closed—Otherwise.

Contact: Ms. Jean Pierce, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3942.
Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas

Agenda: From 9 to 10 a.m., November 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be perfrming initial review of

[4110-88-M]

CLINICAL PROJECTS RESEARCH REVIEW COMMITTEE

Meeting

SUMMARY: This Notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and In-

cant accrediting agencies and associations which meet criteria established under (5) above;

Develop and recommend to the Commissioner of Education criteria and procedures

ports. Agencies with petitions and reports pending before the Committee are:

American Association of Bible Colleges,

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Contact: Ms. Jean Pierce, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3942.

Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to neuropsychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 to 10 a.m., November 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. appendix I).

MENTAL HEALTH SMALL GRANT COMMITTEE

November 16-18; 1 p.m.

Board Room and Chef's Corner, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008.

Open—November 16; 1 to 2 p.m.

Closed—Otherwise.

Contact: Ms. Mary E. Enyart, Room 10C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4337.

Purpose: The committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda: From 1 to 2 p.m., November 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. appendix I).

CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

November 17-18; 9 a.m.

Parliament B Room, Holiday Inn—Georgetown, 2505 Wisconsin Avenue NW., Washington, D.C. 20007.

Open—November 17; 9 to 10 a.m.

Closed—Otherwise.

Contact: Ms. Eileen Nugent, Room 10C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3367.

Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 to 10 a.m., November 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be perfrming initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. appendix I).

CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

November 20-21; 9 a.m.

Georgetown Holiday Inn, 2101 Wisconsin Avenue NW., Washington, D.C. 20007.

Open—November 20; 9 to 10 a.m.

Closed—Otherwise.

Contact: Ms. Jane Gascoyne, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3568.

Purpose: The committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 to 10 a.m., November 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of grant applications for Federal assistance, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meetings and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 301-443-4573. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Barry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306.

Dated: October 13, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-29474 Filed 10-18-78; 8:45 am]

[4110-88-M]

CLINICAL PROJECTS RESEARCH REVIEW COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of November 1978:

Clinical Projects Research Review Committee, November 27-29; 9 a.m., Holiday Inn, 2505 Wisconsin Avenue NW., Washington, D.C. 20007. Open—November 27; 9 to 10 a.m. Closed—Otherwise. Contact: Ms. Harriet German, Room 10C-05, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3367.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9 to 10 a.m., November 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug, Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, HIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone: AC 301-443-4573.

Dated: October 13, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-29475 Filed 10-18-78; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND ELIGIBILITY

Public Meeting

AGENCY: Department of Health, Education, and Welfare Office of Education.

ACTION: Notice.

SUMMARY: This Notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C Appendix i, 10(a)(2)). This document is intended to notify the general public of its opportunity to attend and to participate.

DATES: November 1, 1978, 9 a.m. to 5:30 p.m., local time; and November 2, 1978, 9 a.m. to 5 p.m. Requests for oral presentations before the Committee must be received on or before October 25, 1978. All written material which a party wishes to file may be submitted at any time and will be considered by the Advisory Committee.

ADDRESS: Sheraton Silver Spring Hotel, 8727 Colesville Road, Silver Spring, Md.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB-3, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9873.

The Advisory Committee on Accreditation and Institution Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code).

The Committee is directed to:

1. Review all current and future policies relating to the responisbility of the Commissioner for the recognition and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures;

2. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and listing of State agenices wishing to be designated as reliable authority as to the quality of public postsecondary vocational education, and of nurse education, and recommend desirable changes in criteria and procedures;

3. Review and advise the Commissioner of Education in the formation of all current and future policy relating to the matter of institutional eligibility;

4. Review the provisions of current legislation affecting Office of Education responsibility in the area of accreditation and institutional eligibility and suggest needed changes to the Commissioner of Education;

5. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition and designation of accrediting agencies and associations in accordance with legislative provisions, Presidential directives, or interagency agreements;

6. Review and recommend to the Commissioner of education for designation as nationally recognized accrediting agencies and associations of reliable authority all applicant accrediting agencies and associations which meet criteria established under (5) above;

Develop and recommend to the Commissioner of Education criteria and procedures for the recognition, designation and listing of State agencies in accordance with statutory provisions, Executive Orders, or interagency agreements;

8. Review and recommend to the Commissioner of Education for designation as State agencies of reliable authority as to the quality of public postsecondary vocational education, and of nurse education, all applicant State agencies which meet criteria established under (7) above;

9. Develop, under the authority of the Vocational Education Act of 1963, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of private vocational training institution which have no alternative route by which to establish eligibility for Federal funding programs;

10. Develop, under the authority of the Higher Education Act of 1965, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of institutions of higher education, for which there is no recognized accrediting agency or association, in order to establish eligibility for participation in the student loan programs authorized by Title IV-B thereof;

11. Maintain a continuous review of Office of Education administrative practice, procedures and judgments relating to accreditation and institutional eligibility and advise the Commissioner of needed changes;

12. Keep within its purview the accreditation and approval process as it develops in all levels of education;

13. Advise the Commissioner of Education concerning the relations of the Office with accrediting agencies or associations, or other approval bodies as the Commissioner may request;

14. Advise the Commissioner of Education, pursuant to the Bureau of the Budget (Office of Management and Budget) policy dated December 23, 1954, regarding the award of degree-granting status to Federal agencies and institutions;

15. Not later than March 31 of each year, make an annual report of its activities, findings and recommendations.

The meeting on November 1 and 2, 1978, will be open to the public. The meeting will be held at the Sheraton Silver Spring Hotel, Silver Spring, Md. From 9 a.m. to 4 p.m. on November 1, the Committee will review proposed revisions to the Criteria for Recognition of National Accrediting Bodies, and will discuss issues related to the recommendations in the proposed GAO report on the Office of Education's institutional eligibility system. From 4 p.m. to 5:30 p.m., November 1, the Committee will review petitions and reports from agencies seeking initial or continued designation as nationally recognized accrediting agencies and associations. From 9 a.m. to 11 a.m., November 2, the Committee will meet with the U.S. Commissioner of Education. From 11 a.m. to 5 p.m., November 2, the Committee will conclude its reviews of petitions and reports. Agencies with petitions and reports pending before the Committee are:

American Association of Bible Colleges, Commission on Accrediting

American Bar Association, Council of the Section of Legal Education and Admissions to the Bar

American Dental Association, Commission on Accreditation of Dental and Dental Auxiliary Programs

American Dietetic Association, Committee on Evaluation of Dietetic Education

American Podiatry Association, Council on Podiatry Education

Foundation for Interior Design Education Research, Committee on Accreditation

National Association of Trade and Technical Schools, Accrediting Commission

The Advisory Committee also will review a request from the Brookhaven College, Farmer's Branch, Tex., for a determination of satisfactory assurance that it will meet the accrediting standards of a nationally recognized accrediting agency within a reasonable period of time.

Requests for oral presentations before the Committee should be submitted in writing to the Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB-3, 400 Maryland Avenue SW., Washington, D.C. 20202. Requests should include the names of all persons seeking an appearance, the party or parties which they represent, and the purpose for which the presentation is requested. Requests must be received by the Division of Eligibility and Agency Evaluation on or before October 25, 1978. Time constraints may limit oral presentations. However, all additional written material that a party wishes to file will be considered by the Advisory Committee.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation.

Signed at Washington, D.C., on October 16, 1978.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc. 78-29557 Filed 10-18-78; 8:45 am]

[4110-83-M]

Health Resources Administration

DENTAL TEAM PRACTICE

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration announces that applications for fiscal year 1979 Grants for Dental Team Practice are now being accepted under the authority of section 783 of the Public Health Service Act.

Section 783(a)(3) authorizes the Secretary to make grants to meet the costs of projects to plan, develop, and operate or maintain programs to train

To be considered for fiscal year 1979 funding, completed applications must be postmarked no later than November 13, 1978, and sent to the Grants

122.204 of the governing regulations provides that the Secretary will determine the populations of such areas based upon the latest available esti-

tion of lands in connection with Boulder Gulch recreation area at Lake Isabella in Kern County, Calif., was published as FR Doc. 73-23836 on page

[4310-84-M]

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE; PUBLIC PARTICIPA-

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of

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Section 783(a)(3) authorizes the Secretary to make grants to meet the costs of projects to plan, develop, and operate or maintain programs to train dental students in the organization and management of multiple auxiliary dental team practice.

Any public or nonprofit private school of dentistry or other public or nonprofit private entity located in a State is eligible to apply.

Support for projects under this program may be approved for an initial project period of up to 2 years. Additional support of up to 3 years may be obtained by submission of a competing extension application which must present evidence of satisfactory program development and operation as observed during the program evaluations which are conducted annually by regional office and/or central office staff.

Grantee institutions should consider Dental Team Practice grant support as capacity building in nature and should plan eventually to assume the expense of the program's operation. If Federal funds are desired to support the project beyond a total of 5 years, a competing extension application for 3 additional years of support may be submitted. Support for these last 3 years may not exceed a maximum of two-thirds, one-half, and one-third, respectively, of that received during the fifth year. Further, the institution must provide assurance that during this period the program will be operated on at least the same level as during the fifth year; i.e., assurance must be given that there will be no reduction in the number of students trained and that program quality will be maintained.

A funding order will be followed in making grant awards in fiscal year 1979. Approved applications will be funded in the following order: (1) continuation applications, (2) competing extension applications for the second to fifth years, (3) competing extension applications for the sixth to eighth years, (4) supplemental applications for the second to fifth years, and (5) new applications for the first to second years.

Based on the proposed appropriation for the Dental Team Practice program and projected requirements for continuation grants, it is anticipated that grants will be awarded only for the first two categories of the funding order.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Md. 20782. Phone: 301-436-6564.

To be considered for fiscal year 1979 funding, completed applications must be postmarked no later than November 13, 1978, and sent to the Grants Management Officer at the above address.

Should additional program information be required, please contact:

Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Hyattsville, Md. 20782. Phone: 301-436-6514.

Dated: October 2, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-29517 Filed 10-18-78; 8:45 am]

[4110-83-M]

HEALTH SYSTEMS AGENCY APPLICATION

Information

Pursuant to section 1515 of the Public Health Service Act notice is hereby given that application materials are now available in DHEW Regional Office IX for entities interested in applying for designation as the health systems agency (HSA) for California Health Service Area 11. This health systems agency will be responsible for health planning for the health service area and for the promotion of the development of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency.

The conditionally designated HSA which previously served the health service area was not performing its functions in a manner satisfactory to the Secretary. Consequently, the Secretary decided not to renew the agency's designation agreement. Therefore, we are seeking applications for a new agency.

Entities interested in applying for designation must file a letter of intent to apply for such designation with DHEW Regional Office IX by December 15, 1978, and an application by April 1, 1979.

Application materials and further information may be obtained from the Regional Health Administrator, DHEW Regional Office IX, 50 United Nations Plaza, San Francisco, Calif. 94102, 415-556-8709.

Once the health systems agency is designated it will be entitled to receive a planning grant under section 1516 of the act. The amount of the planning grant will be determined in accordance with a formula set forth in the regulations governing this program (42 CFR Part 122, Subpart C), and will be based, in part, upon a determination by the Secretary of the population of the health service area. Section 122.204 of the governing regulations provides that the Secretary will determine the populations of such areas based upon the latest available estimate from the Department of Commerce and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations.

Dated: October 11, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-29516 Filed 10-18-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF INTERIOR

Bureau of Land Management

ALASKA

Application for Pipeline Right-of-Way AA-12483

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the State of Alaska, Department of Fish and Game filed an application for a right-of-way to construct a 2-inch pipeline for the purpose of transporting natural gas across the following described Federal lands.

SEWARD MERIDIAN, ALASKA

T. 13 N., R. 3 W.,
Sec. 9, NW¼SW¼.

The pipeline will transport natural gas from the main line to hatchery building and residences at the Elmendorf Hatchery.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Anchorage District Office, 4700 East 72d Street, Anchorage, Alaska 99502.

CURTIS V. MCVEE,
State Director.

[FR Doc. 78-29465 Filed 10-18-78; 8:45 am]

[4310-84-M]

[CA-734]

CALIFORNIA

Termination of Proposed Withdrawal and Reservation of Land

OCTOBER 13, 1978.

Notice of a Corps of Engineers', U.S. Department of the Army, application CA-734 for withdrawal and reservation of lands in connection with Boulder Gulch recreation area at Lake Isabella in Kern County, Calif., was published as FR Doc. 73-23836 on page 30893 of the issue of November 8, 1973, and republished as FR Doc. 77-21690 of the issue on pages 38436 and 38437 of the issue of July 28, 1977. The applicant has canceled its application for the following described land:

MOUNT DIABLO MERIDIAN

T. 26 S., R. 33 E.,
Sec. 20, All that portion of the NW¼SE¼ lying southeasterly of the relocated California State Highway No. 57.

The area described aggregates 20.07 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m. on November 27, 1978, will be relieved of the segregative effect of the above-mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-29511 Filed 10-18-78; 8:45 am]

[4310-84-M]

[SAC 065037]

CALIFORNIA

Termination of Proposed Withdrawal and Reservation of Land

OCTOBER 11, 1978.

Notice of Bureau of Reclamation, U.S. Department of the Interior, Application SAC 065037, for withdrawal and reservation of land for reclamation purposes was published as FR Doc. 61-3369 on page 3207 of the issue of April 14, 1961 and republished as FR Doc. 77-22466 on page 39480 of the issue of August 4, 1977. The applicant has withdrawn its application in its entirety. The lands involved are described as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 32 N., R. 5 W.,
Sec. 20, Lot 15.
T. 32 N., R. 6 W.,
Sec. 18, SE¼NW¼, NE¼SW¼.

The described area aggregates 84.61 acres.

Therefore, pursuant to the regulation contained in 43 CFR 2091, such lands, at 10 a.m. on November 27, 1978, will be relieved of the segregative effect of the above-mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-29518 Filed 10-18-78; 8:45 am]

[4310-84-M]

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE; PUBLIC PARTICIPATION SUBCOMMITTEE

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and 94-579 that the Public Participation Subcommittee of the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet November 21, 1978, in Riverside, Calif. The subcommittee will discuss with consultants to the Bureau of Land Management the methods to be used to summarize public input received during fiscal years 1977 and 1978 with respect to the California Desert Plan.

The meeting will be held in the Conference Room of the Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, Calif. 92507, beginning at 7 p.m., Tuesday, November 21, 1978. All meetings of the subcommittee are open to the public and attendance is invited. Statements will be accepted from the public relating to the subject under discussion. Persons who wish to present statements, or who want additional information should contact Chairperson Genny Smith, Public Participation Subcommittee, California Desert Conservation Area Advisory Committee, c/o Director, Desert Planning Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, Calif. 92506.

ED HASTEN,
State Director.

[FR Doc. 78-29519 Filed 10-18-78; 8:45 am]

[4310-84-M]

[NM 34761 and 34875]

NEW MEXICO

Applications

OCTOBER 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (987 Stat. 576), Phillips Petroleum Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28E.,
Sec. 9, NE¼SE¼;
Sec. 10, NE¼NE¼, S½N½ and NW¼SW¼;
Sec. 11, N½NW¼.
T. 18 S., R. 30 E.,
Sec. 27, W½SE¼.

These pipelines will convey natural gas across 1.993 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29529 Filed 10-18-78; 8:45 am]

[4310-84-M]

[NM 34729 and 34732]

NEW MEXICO

Applications

OCTOBER 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 27 E.,
Sec. 35, SE¼NE¼ and E½SE¼.
T. 20 S., R. 27 E.,
Sec. 2, lot 1.
T. 18 S., R. 31 E.,
Sec. 27, NW¼SW¼;
Sec. 28, NE¼SE¼.

These pipelines will convey natural gas across 1.032 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29521 Filed 10-18-78; 8:45 am]

[4310-84-M]

[NM 34724, 34730, 34735, and 34775]

NEW MEXICO

Applications

OCTOBER 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for four 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 N., R. 11 W.,
Sec. 9, SW¼NE¼, SE¼NW¼ of sec. 9, T. 24 N., R. 111 W., in Sweetwater County, Wyo.

These pipelines will convey natural gas across 1.032 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29522 Filed 10-18-78; 8:45 am]

[4310-84-M]

[NM 34729 and 34732]

NEW MEXICO

Applications

OCTOBER 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 27 E.,
Sec. 35, SE¼NE¼ and E½SE¼.
T. 20 S., R. 27 E.,
Sec. 2, lot 1.
T. 18 S., R. 31 E.,
Sec. 27, NW¼SW¼;
Sec. 28, NE¼SE¼.

These pipelines will convey natural gas across 1.032 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29523 Filed 10-18-78; 8:45 am]

ect, Colorado, to address the construction of the Fountain Valley Conduit.

The supplement concerns a change in alinement of the proposed water supply conduit which will furnish mu-

Chapter 37: Photographic and cinematographic goods.

Chapter 85: Electrical machinery and equipment; parts thereof.

WRITTEN SUBMISSIONS: Parties

for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in

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[4310-84-M]

[NM 34724, 34730, 34735, and 34775]

NEW MEXICO

Applications

OCTOBER 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for four 4½-inch natural gas pipeline and related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T 28 N., R. 7 W.,
Sec. 30, SW¼NE¼ and SE¼NW¼.
T. 29 N., R. 7 W.,
Sec. 29, NW¼NE¼;
Sec. 33, N½SW¼.
T. 31 N., R. 11 W.,
Sec. 23, E½NW¼.

These pipelines will convey natural gas across 0.597 mile of public lands in Rio Arriba County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29522 Filed 10-18-78; 8:45 am]

[4310-84-M]

[Wyoming 65075]

WYOMING

Application

OCTOBER 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a road to provide access to its proposed Trunk B Compressor Station affecting the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 24 N., R. 111 W.,
Sec. 8, S½N½;
Sec. 9, SW¼NE¼ and S½NW¼.

The proposed road is located in secs. 8 and 9, and will provide access to Northwest Pipeline Corp. proposed Trunk B Compressor Station for their Lincoln Road Gathering System located in SW¼NE¼, SE¼NW¼ of sec. 9, T. 24 N., R. 111 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29523 Filed 10-18-78; 8:45 am]

[4310-84-M]

[Wyoming 65076]

WYOMING

Application

OCTOBER 12, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a road to provide access to its proposed Shute Creek Compressor Station affecting the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 113 W.,
Sec. 5, S½SW¼ and SW¼SE¼;
Sec. 6, SE¼SW¼ and S½SE¼.

The proposed road is located in secs. 5 and 6, and will provide access to Northwest Pipeline Corp.'s proposed Shute Creek Compressor Station serving their Shute Creek Gathering System located in the SE¼SW¼ sec. 6, T. 22 N., R. 113 W., in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29524 Filed 10-18-78; 8:45 am]

[4310-84-M]

[Wyoming 65331]

WYOMING

Application

OCTOBER 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4½" o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 93 W.,
Sec. 26, SE¼SW¼ and S½SE¼.

The proposed pipeline will transport natural gas produced from the CIGE 1-26-19-93 Well located in the SE¼SW¼ sec. 26, to a point of connection with Colorado Interstate Gas Co.'s existing pipeline located in the SE¼SE¼ of sec. 26, T. 19 N., R. 93 W., in Carbon County, Wyo.

The purpose of this notice is to inform the public that the bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29525 Filed 10-18-78; 8:45 am]

[4310-09-M]

Office of the Secretary

[INT FES 78-29]

FOUNTAIN VALLEY CONDUIT OF THE FRYINGPAN-ARKANSAS PROJECT, COLORADO

Availability of a Supplement to the Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a supplement to the final environmental statement for the authorized Fryingpan-Arkansas Project, Colorado, to address the construction of the Fountain Valley Conduit.

The supplement concerns a change in alinement of the proposed water supply conduit which will furnish municipal and industrial water supplies to the cities of Colorado Springs, Security, Fountain, and Widefield, Colo. We will not make a decision on this feature of the project until the 30-day wait period has elapsed.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, (telephone 202-343-4991.
Office of the Regional Director, Bureau of Reclamation, Lower Missouri Region, Building 20, Room E2421, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3779.
Fryingpan-Arkansas Project Office, Bureau of Reclamation, 219 West 5th Street, Room 222W, Pueblo, Colo. 81002, telephone 303-544-5277.

Single copies of the supplement statement may be obtained on request to the Commissioner of Reclamation or the Regional Director.

Dated: October 16, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant, Secretary of the Interior.

[FR Doc. 78-29502 Filed 10-18-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[332-73]

DRAFT CHAPTERS OF THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM

Release for Public Comment of U.S. Administration Draft Comments

AGENCY: U.S. International Trade Commission.

ACTION: Release for public comment, pursuant to Commission investigation No. 332-73, under the authority of section 332(g) of the Tariff Act of 1930, as amended, of drafts of, and draft U.S. comments on, the following chapters of the Harmonized Commodity Description and Coding System.

Chapter 31: Fertilisers.
Chapter 32: Tanning and dyeing extracts; tannins and their derivatives; dyes, colours, paints and varnishes; putty, fillers and stoppings; inks.
Chapter 35: Albuminoidal substances; glues.
Chapter 36: Explosives, pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations.[1]

[1]Chapter 36 is believed to be acceptable as drafted by the Technical Team, and thus comments are not thought to be necessary.

Chapter 37: Photographic and cinematographic goods.
Chapter 85: Electrical machinery and equipment; parts thereof.

WRITTEN SUBMISSIONS: Parties wishing to submit written comments should do so by November 3, 1978.

HEARING: Parties desiring the Commission to hold a hearing on these draft chapters of the Harmonized Code should contact the Secretary of the Commission by October 20, 1978, and show good cause for holding a hearing.

COPIES OF DOCUMENTS: Copies of the draft chapters and draft U.S. comments thereon which are the subject of this notice are available for public inspection at the offices of the Commission, 701 E Street NW., Washington, D.C. 20436, or at 6 World Trade Center, New York, N.Y. 10048. The Commission will also send copies to interested parties who notify the Commission of their interest with respect to any particular chapter or group of chapters.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Nomenclature, Valuation, and Related Activities, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone: 202-523-0370.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to obtain the comments and views of interested parties with respect to the above mentioned draft chapters of the Harmonized Commodity Description and Coding System, and of the draft U.S. comments thereon.

This notice is being issued pursuant to Commission investigation No. 332-73, instituted on January 31, 1975 (40 FR 6329), under section 332(g) of the Tariff Act of 1930. The investigation was initiated in accordance with section 608(c) of the Trade Act of 1974, which provides, in part, that the Commission shall institute an investigation which would provide the basis for—

(2) full and immediate participation by the United States International Trade Commission in the United States contribution to technical work of the Harmonized Systems [sic] Committee under the Customs Cooperation Council to assure the recognition of the needs of the United States business community in the development of a Harmonized Code reflecting sound principles of commodity identification and specification and modern producing methods and trading practices • • •.

The Harmonized Commodity Description and Coding System (Harmonized Code) is being developed by the Customs Cooperation Council (CCC), an 80-member international organization with headquarters in Brussels, as an international commodity classification system which will be adaptable for modernized customs tariff nomenclature purposes and for recording, handling, and reporting of transactions in international trade. The Harmonized Code will be based on, and in many respects will be an extension of, the Customs Cooperation Council Nomenclature (CCCN), formerly known as the Brussels Tariff Nomenclature (BTN).

Currently, the Technical Team working under the auspices of the CCC prepares drafts of the various chapters of the Harmonized Code for consideration by the Harmonized System Committee, which was established in order to develop the code. These drafts are forwarded to the members and observers of the Committee for their review and submission of written comments. The Committee meets three times a year to consider these drafts and the written comments and presentations of the various delegations. The review of a particular chapter or group of chapters may extend to more than one meeting.

In 1971, the Department of the Treasury established an Interagency Advisory Committee on Customs Cooperation Council Matters in order to provide a basis for interested Federal agencies to participate with respect to CCC matters. In order to establish and develop U.S. programs and policies with respect to the Harmonized Code, the interagency committee has instituted procedures which take into account the provisions of section 608(c) of the Trade Act of 1974, which call for the Commission to contribute to the U.S. technical input to the Harmonized System Committee. Under these procedures the Commission is preparing technical comments and proposals on the various chapters of the Harmonized Code for consideration by the interagency committee in the determination of U.S. positions with respect to the Harmonized Code. In making proposals, the Commission is seeking and taking into consideration the views of trade and industry and other interested parties and of interested Government agencies.

The draft U.S. comments on the chapters of the Harmonized Code released for public comment today relate specifically to the Technical Team drafts of these chapters and should be read in conjunction therewith.

In its public notices of May 4, 1976 (41 FR 18716 of May 6, 1976), August 9, 1976 (41 FR 34370 of August 13, 1976), December 20, 1976 (41 FR 55948 of December 23, 1976), September 1, 1977 (42 FR 44852 of September 7, 1977), and February 7, 1978 (43 FR 5902 of February 10, 1978), the Commission identified those chapters which have been considered thus far by the Harmonized System Commit-

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tee, and the chapters for which a Technical Team draft has been released. Since those notices were issued the Commission has received the following draft chapters prepared by the Technical Team:

Chapter 37: Photographic and cinematographic goods.
Chapter 38: Miscellaneous chemical products.
Chapter 40: Semi-manufactures and articles of plastic materials or rubber.
Chapter 50: Silk.
Chapter 51: Wool, fine or coarse animal hair; horsehair yarn and woven fabric.
Chapter 52: Cotton.
Chapter 53: Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn.
Chapter 54: Man-made filaments.
Chapter 55: Man-made staple fibres (discontinuous).
Chapter 56: Wadding, felt and nonwovens; special yarn; twine, cordage, ropes, and cables and articles thereof.
Chapter 57: Textile floor coverings.
Chapter 58: Knitted or crocheted fabrics; pile and chenille fabrics; tufted textile fabrics; woven fabrics of metallised yarn; gauze; tulle and other net fabrics; lace, embroidery; tapestries; narrow woven fabrics; trimmings.
Chapter 59: Impregnated or coated textile fabrics; elastic textile fabrics; textile articles of a kind suitable for industrial use.
Chapter 60: Articles of apparel and clothing accessories, knitted or crocheted.
Chapter 61: Articles of apparel and clothing, not knitted or crocheted.
Chapter 62: Other made up textile articles.
Chapter 99: Works of art, collectors' pieces, and antiques.

Copies of these chapters are also available for inspection as specified above; the Commission will send copies of these chapters to interested parties upon request.

Issued: October 16, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-29558 Filed 10-18-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-58]

BERNARD L. LANGSTON III

Revocation of Registration

On November 18, 1977, the Administrator of the Drug Enforcement Administration (DEA) issued to Bernard L. Langston III, M.D. (Respondent) an Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration, AL7140724, for reason that on October 25, 1977, in the United States District Court for the District of South Carolina, in Docket No. Cr. 77-187, the Respondent was convicted of nine counts of unlawfully, knowingly and intentionally attempting to distribute Schedule II controlled substances, by means of prescriptions, in violation of Title 21, United States Code, sections 841(a)(1) and 846, felony offenses relating to controlled substances. Simultaneously, the Administrator suspended the Respondent's registration pending a final determination of these proceedings. Service of the Order to Show Cause and notice of suspension was effected on December 13, 1977.

The Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause and this matter was placed on the docket of the Honorable Francis L. Young, Administrative Law Judge.

During the pendency of prehearing proceedings before the Administrative Law Judge, counsel for the Respondent and for the Government jointly filed a stipulation and motion for continuance wherein, in view of the fact that the Respondent was in custody and would be imprisoned for at least the foreseeable future and in consideration of the fact that the State of South Carolina had commenced administrative proceedings with respect to the Respondent's medical licensure, it was requested that these proceedings be continued until the State had concluded its proceedings.

On July 12, 1978, the State Board of Medical Examiners for South Carolina, the State in which the Respondent was registered under the Controlled Substances Act, indefinitely suspended the Respondents license to practice medicine.

Thereafter, counsel for the Government filed with the Administrative Law Judge a motion requesting that the aforementioned Order to Show Cause be amended to include as a reason for the relief sought therein the indefinite suspension of the Respondent's medical license. The Government also requested that the stay of these proceedings be terminated and that the Government be granted the relief sought in the Order to Show Cause, as amended. By letter dated August 3, 1978, counsel for the Respondent conceded that the State Board action constituted a sufficient basis for the revocation of the Respondent's DEA registration.

On August 14, 1978, the Administrative Law Judge certified the record of these proceedings to the Administrator along with a recommendation that the Respondent's registration be revoked. The Administrator, pursuant to 21 CFR 1316.66, hereby publishes his Final Order in this matter based on the following findings of fact and conclusions of law.

The Administrator finds that prior to July 12, 1978, the Respondent was registered, pursuant to 21 U.S.C. 823(f), to dispense, prescribe and administer controlled substances as a practitioner licensed and authorized to handle such controlled substances under the laws of the State of South Carolina. The Administrator further finds that on July 12, 1978, the Respondent's license to practice medicine was indefinitely suspended by the South Carolina State Board of Medical Examiners and that his authorization to handle controlled substances as a practitioner was thereby terminated. The Administrator concludes, as a matter of law, that the Respondent is no longer authorized to handle controlled substances in the course of professional practice in the State in which he was heretofore registered under Federal law.

State authorization to handle controlled substances is a prerequisite to the issuance and retention of a Federal controlled substances registration (21 U.S.C. 823(f) and 824(a)(3)). See the Administrator's final order in the matter of *John W. Whitenight, D.O.*, Docket No. 77-30, 43 FR 28259, and prior cases cited therein. For this reason, it is the Administrator's decision that the Respondent's registration must be revoked.

Accordingly, pursuant to the authority vested in the Attorney General, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that DEA Certificate of Registration AL7140724, previously issued to Bernard L. Langston, III, M.D., be, and it hereby is, revoked, effective immediately.

Dated: October 13, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-29529 Filed 10-18-78; 8:45 am]

[4410-09-M]

[Docket No. 78-7]

JACK F. OSTERGAARD

Denial of Registration

On March 27, 1978, the Administrator of the Drug Enforcement Administration (DEA) issued an Order to show Cause to Jack F. Ostergaard, M.D. (Respondent), giving the Respondent an opportunity to show cause why his application for registration dated August 8, 1977, should not be denied, for reason that on May 30, 1974, he pled nolo contendere to one count of unlawfully obtaining a controlled substance in violation of section 11371 of the California Health and Safety Code, a drug related felony.

In response to the March 27, 1978, Order to Show Cause, the Respondent requested a hearing on the issue of the "validity of the nolo contendere plea".

Subsequently, additional independent grounds for denial of Respondent's application became clearly evident to the Government, i.e., that Respondent was registered in California and Pennsylvania to practice medicine which included authorization to dispense controlled substances, and that there occurred revocation by California and Pennsylvania of Respondent's physician's certificate, and medical license, respectively. Citing these bases, the Administrator of DEA issued to Respondent a second Order to Show Cause on July 3, 1978, and Government counsel motioned the Administrative Law Judge presiding that the hearing which Respondent requested and which the Administrative Law Judge set down for July 11, 1978, in Washington, D.C., be continued until August 15, 1978. The Administrative Law Judge granted this motion on July 5, 1978.

As to the July 3, 1978, Order to Show Cause, the Respondent filed no response.

On August 14, 1978, the Government filed a motion for termination of proceedings, asserting that the Respondent was clearly without the requisite State authorizations to dispense controlled substances, and thus could not, under the Controlled Substances Act, obtain a DEA registration as a practitioner, and therefore, the final question of whether Respondent's pending application for registration should be denied is answered as a matter of law.

On August 15, 1978, the Administrative Law Judge presiding issued an Order terminating all proceedings pending in the instant matter, and recommended that the Administrator issue his final order without a hearing, at least as to the matters regarding and raised by the July 3, 1978, Order to Show Cause.

Therefore, upon review and consideration of the Memorandum and Order issued August 15, 1978, by the Administrative Law Judge presiding, and of the record in this case, and recognizing: 1. That in the instant administrative proceeding, the Government has served on the Respondent a motion to terminate these proceedings based upon the orders of the State of California and Commonwealth of Pennsylvania revoking Respondent's State licenses to practice medicine and consequent authorizations to dispense controlled substances; 2. that the Respondent has been given ample opportunity to oppose or make other response to the Government's motion, but that the Respondent has failed to do so; 3. that the record in this matter indicates that there is no genuine issue as to any material fact with respect to Respondent's entitlement to a DEA registration as a practitioner pursuant to 21 U.S.C. 823(f), because the record reveals that he is not authorized to dispense controlled substances under the laws of the States of California and Pennsylvania, in which, heretofore, he practiced medicine; 4. that there is a lawful basis for denying Respondent's pending application; and, 5. that since the Respondent is no longer licensed to practice medicine in California or Pennsylvania, his pending DEA application must be denied.

For reason that the Respondent is no longer licensed to practice medicine, nor is he authorized to dispense controlled substances, in the State of California or Pennsylvania in which he heretofore practiced and was registered with the Drug Enforcement Administration, it is the decision of the Administrator that the Respondent's pending application for registration be denied.

Therefore, pursuant to the authority vested in the Attorney General by sections 823 and 824 of Title 21, U.S.C., and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator orders that the pending application for registration of Jack F. Ostergaard, M.D., be, and it hereby is, denied, effective immediately.

Dated: October 13, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-29531 Filed 10-18-78; 8:45 am]

[4410-09-M]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated August 21, 1978, and published in the FEDERAL REGISTER on August 28, 1978 (43 FR 38474), Fher Corporation, Ltd., Carretera 132, KM 25.3, P.O. Box 7468, Ponce, P.R. 00731, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of phenmetraz- ine (1630), a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 13, 1978.

PETER B. BENSINGER,
Administrator, Drug
Enforcement Administration.

[FR Doc. 78-29530 Filed 10-18-78; 8:45 am]

[4410-18-M]

Law Enforcement Assistance Administration

ADMINISTRATIVE APPEAL OF THE ILLINOIS DEPARTMENT OF CORRECTIONS HEARING ON REFUNDING FOR THE COMPUTERIZED EDUCATION FOR ADULT INMATES

Notice is hereby given that the Administrative Appeal of the Illinois Department of Corrections on the denial of LEAA Refunding for the "Computerized Education for Adult Inmates" (PLATO) Program will be heard on October 25, 1978, commencing at 9:30 a.m. It is likely that the hearing will continue on October 26. The location of the hearing will be the Dirksen Building/Federal Courthouse Building, 219 South Dearborn Street, Room 1669, Chicago, Ill. The hearing will be presided over by Administrative Law Judge Paul N. Pfeiffer of the Consumer Product Safety Commission and will be open to the public.

For further information call Jay A. Brozost, Office of General Counsel, LEAA at 202-376-3691.

CHARLES A. LAUER,
Deputy General Counsel.

[FR Doc. 78-29528 Filed 10-18-78; 8:45 a m.]

[4410-18-M]

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Program Plan for Fiscal Year 1979

INTRODUCTION

The National Institute of Law Enforcement and Criminal Justice was created in 1968 as the research branch of the Law Enforcement Assistance Administration. Congress gave the Institute this broad mandate: "to encourage research and development to improve and strengthen law enforcement and criminal justice."

In fulfilling the mandate, the Institute identifies research needs, sets research objectives and priorities, develops and sponsors research and development projects, and applies research findings in the development of action programs to improve criminal justice. For the most part, projects are conducted by independent grantees and contractors, although the Institute also has a staff research program.

The Institute's mission encompasses both basic and applied research into all aspects of crime prevention and control and the administration of criminal justice. Although the Institute supports some research relating to juvenile delinquency, the primary responsibility for such work rests with

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LEAA's National Institute for Juvenile Justice and Delinquency Prevention. Given the scope of its mandate, Institute research projects necessarily involve many disciplines—the behavioral, social, biological, and physical sciences, the law, operations research, and systems analysis.

In addition to research and development, the Institute administers several other programs that fulfill legislatively assigned objectives:

- Evaluation of criminal justice programs;
- Design and field-testing of model programs based on promising research findings and advanced criminal justice practices;
- Training workshops for criminal justice practitioners in research and evaluation findings, and efforts to assist the research community through fellowships and special seminars;
- Operations of an international clearinghouse for criminal justice information, the National Criminal Justice Reference Service;
- Support for a science and technology program that tests and develops standards for equipment used by criminal justice agencies.

Organization

The Institute's organizational structure reflects its wide ranging responsibilities as the research arm of a mission agency. The work of the Institute is carried out through four major offices:

The *Office of Research Programs* administers the Institute's basic, applied, and developmental research activities primarily through external grants and contracts, but also through limited in-house research projects. The Office includes the following divisions: Police, Adjudicaton, Corrections, Community Crime Prevention, and the Center for the Study of Crime Correlates and Criminal Behavior.

The *Office of Research and Evaluation Methods* administers methodological research and development activities. Most projects are conducted by grantees and contractors, but limited in-house research also may be carried out. Activities focus on research and evaluation measurement problems and systemwide research and evaluation problems in criminal justice.

The *Office of Program Evaluation* sponsors evaluations of selected programs primarily through an external grant/contract program, although it, too, maintains a small internal capability. Among the functions of the office are evaluation of selected LEAA-sponsored national programs and of State and local criminal justice initiatives.

The *Office of Development, Testing, and Dissemination* assures that Institute research and evaluation findings are disseminated and applied. The Office identifies and develops program models; designs and sponsors field tests; supports training workshops and information sharing; provides reference, dissemination, and information services; and tests and develops standards for major items of equipment used by criminal justice agencies.

The *Office of the Director* oversees the entire Institute program. Institutewide planning, analysis, and management functions are handled by a special unit created to foster a coordinated approach that builds on the results of past Institute research.

In developing its research objectives and setting priorities for both long-range and immediate research needs, the Institute relies on the counsel of its Advisory Committee of distinguished researchers and practitioners. (See inside front cover of this booklet for a list of Advisory Committee members.) The Committee meets three times a year with the Institute staff to review program and project plans in light of current needs and issues and to assist in formulating long-range goals.

Long-Range Research Agenda

In concert with the Advisory Committee, in 1977 the Institute developed a long-term research agenda, covering major issues to be addressed over the next 5 years.

In developing the agenda, the Institute was guided by the following:

- The Congressional mandate;
- The priorities set by the Attorney General and the LEAA Administator;
- The judgments of the Institute's professional staff and the results of past research;
- The recommendations of the Institute's Advisory Committee and other experts in the field;
- The responses to a survey of criminal justice researchers;
- The suggestions for research contained in the comprehensive State criminal justice and law enforcement plans.

During the planning process, the Institute staff examined the results of past research to discern fruitful areas for further inquiry. It carefully considered recommendations by knowledgeable groups such as the National Academy of Sciences.

From this process came a list of 10 broad topics, reflecting both basic and applied research needs:

- Correlates of crime and determinants of criminal behavior;
- Violent crime and the violent offender;
- Community crime prevention;
- Career criminals and habitual offenders;
- Utilization and deployment of police resources;
- Pretrial process: consistency, fairness, and delay reduction;
- Sentencing;
- Rehabilitation;
- Deterrence;
- Performance standards and measures for criminal justice.

As part of the Institute's planning process, the research priorities are periodically reviewed and refined in consultation with the Advisory Committee. In addition, the Institute annually surveys members of the research community; criminal justice practitioners; Federal, State, and local officials; and public interest groups to get their views on research proposed in the priority areas, as well as on other Institute activities planned for the forthcoming fiscal year.

The Fiscal Year 1979 Program Plan

This booklet outlines both the long-range priorities of the Institute and the general areas of research and program activity proposed for fiscal year 1979. It is published as a general guide only. Detailed specifications, funding, deadlines, and application and review procedures for specific programs are set forth in program solicitations issued periodically throughout the fiscal year.

To insure wide dissemination of information about funding opportunities, all Institute program solicitations are announced in the Federal Register. Each Federal Register notice contains either the full text or a brief description of the official program announcement and the name of the Institute staff member to contact for additional information. Researchers interested in applying for Institute funds are urged to watch for these notices. (The Federal Register is available on a subscription basis for $5 a month or $50 a year from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402).

The Institute also disseminates information on funding opportunities through its "Research Bulletin," published from time to time throughout the year. (To receive copies of the Bulletin, please write: Research Bulletin, National Criminal Justice Reference Service, Box 6000, Rockville, Md. 20850).

Requests for proposals for competitive contracts are published in the Commerce Business Daily.

The Institute is authorized to enter into grants, cooperative agreements, and contracts with public agencies, institutions of higher education, private organizations, and individuals; as well as interagency agreements with other Federal agencies. The particular funding mechanism used for each project

depends upon the nature of the work to be performed. However, LEAA policy stipulates that profitmaking organizations are not eligible for Institute grants.

Solicited Research Program

Application and review procedures. Each program solicitation spells out the specific application and review procedures to be followed, and specifies the deadline. Generally, Institute solicitations call for submission of concept papers or preliminary proposals. The length may vary depending upon the topic, but concept papers usually should not exceed 20 pages. The paper should summarize the proposed study, including objectives, methodology, milestones and anticicated products, and the preliminary budget, and indicate the applicant's competence to perform the work proposed.

Based on a careful review of the concept papers, selected applicants are invited to submit full or final proposals. Requests for full proposals do not represent a commitment by the National Institute or LEAA to support a project. Final decisions on grant awards are made by the LEAA Administrator.

For projects in which the research objectives and issues are particularly well defined, the Institute may waive the concept paper stage and solicit full proposals.

Peer review process. The Institute uses the peer review process to insure fair and knowledgeable evaluation of papers and proposals. For each solicitation, the Institute obtains written reviews from in-house reviewers and at least two—and often three—outside experts drawn from the criminal justice and academic communities, research organizations, and private industry. Usually, reviews are obtained at the concept paper stage and again at the proposal stage.

Proposals are evaluated according to the criteria specified in the program solicitation. The specific method may vary from formal numerical rankings based on weighted criteria to narrative responses only or a combination of both.

In making decisions on grant awards, the Institute is guided by the recommendations of the review panel and by the following considerations:

- Compatibility with the Institute's legislative mandate.
- Relationship to the Institute's plan and priorities and to priorities set by the Attorney General and the LEAA Administration.
- Originality, adequacy, and economy of the research design and methods.
- Experience and competence of the principal investigator and staff.
- Probability of acquiring important new knowledge that advances the understanding of or the ability to solve critical problems relating to crime and the administration of justice.

Unsolicited Research Program

To insure that creative approaches to criminal justice research issues are not overlooked, the Institute also sponsors an Unsolicited Research Program. In fiscal year 1979, there will be two funding cycles for unsolicited research, each announced through a formal solicitation. The deadlines are December 31, 1978, and June 30, 1979. Approximately $750,000 has been budgeted for unsolicited research in fiscal year 1979, half to be awarded in each funding cycle. Grants normally range from $10,000 to $150,000 for research projects of up to two years' duration.

The kinds of research eligible for funding through the Unsolicited Research Program are:

- Small, individual research projects for which there are few alternative funding mechanisms;
- Research emphasizing innovative approaches to criminal justice;
- Basic or theoretical research on interdisplinary subject areas relevant to criminal justice;
- Research not currently identified as priority or innovative approaches in priority areas for the Institute;
- Exploratory studies in criminal justice areas in which there has been little previous work.

Concept papers for the unsolicited research program are reviewed by Institute staff and at least two criminal justice specialists from outside the agency. In the first cycle of fiscal year 1978 funding, five panels were established: Police (including forensics), courts, corrections, correlates of crime, and community crime prevention. The panels reviewed a total of 200 concept papers and recommended that 16 applicant be asked to submit full proposals. Of the 16, 8 were ultimately recommended for funding by the Institute.

In the second cycle, 306 concept papers were reviewed by seven panels—in the five areas listed above, plus evaluation/methodology and forensics. The review is still in process.

For additional information on the Unsolicited Research Program, write to the Director, Office of Research Programs, National Institute of Law Enforcement and Criminal Justice, LEAA, Washington, D.C. 20531.

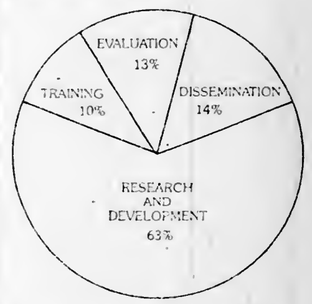
Fiscal Year 1979 Budget, Priorities, and Programs

The Institute's budget for fiscal year 1979 is $25 million.* Those funds will support research and development, as well as the Institute's legislatively mandated programs in evaluation and program development, testing, and dissemination. An additional $2.2 million will be available for training programs administered by the Institute.

*Although Institute funds are appropriated annually, the Institute is not required to obligate these funds in the same fiscal year. Thus, some carryover funds also may be awarded in fiscal year 1979.

Fiscal Year 1979 NILECJ Budget

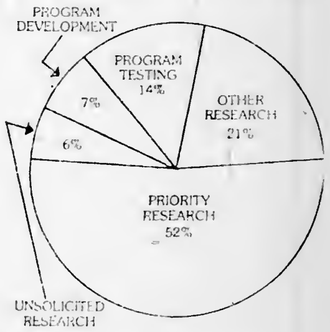
Current plans call for these funds to be allocated as follows:



For fiscal year 1979, approximately $9 million has been tentatively allocated for research in the 10 priority areas. This does not preclude major efforts in other areas, and the Institute continues to fund research in the traditional areas of police, courts, corrections, and community crime prevention. Among the major Institute efforts now underway are studies of white-collar crime, including employee theft, fraud against government benefit programs, consumer fraud, public corruption and corporate illegalities; police management; alternatives to adjudication; and probation and parole.

Research and Development

Research and development funds are apportioned approximately as follows:



By functional area, priority and other research funds are planned as follows:

Priority and Other Research

	Percent
Enforcement	15
Adjudication	15
Corrections	14
Community crime prevention	14
Correlates and determinates	25
Methodology development	17
Total	100

Funds for priority research are apportioned as follows:

Priority Research

the Research Agreements). Three of these long-term research programs—on the habitual offender, unemployment and crime, and community reac-

Institute research on drugs and crime, a legislative mandate, is emphasizing a collaborative approach with other Federal agencies. Present efforts

combined with drugs and crime for a broader inquiry of these two correlates of crime.

- Complementing research on the

Behavior Office of Research Programs.

Violent Crime and the Violent Offender

agencies as well as groups involved in legitimate protests.

The Institute also will sponsor a national workshop on collective disor-

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Funds for priority research are apportioned as follows:

PRIORITY RESEARCH

	Percent
Community crime prevention	9
Utilization and deployment of police resources	12
Pretrial process: Delay reduction and consistency	18
Sentencing	4
Rehabilitation	11
Violence	10
Correlates	22
Career criminal	4
Deterrence	4
Performance measures	6
Total	100

The fiscal year 1979 research and program activities for each Institute office are described in the following pages. Each of the 10 priority topics is briefly summarized, including a recap of efforts to date in each area and work proposed for fiscal year 1979. For information on the status of specific programs and projects, please write to the Director of the relevant Office. The mailing address is: National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, Washington, D.C. 20531.

OFFICE OF RESEARCH PROGRAMS

Focusing upon the Institute's long-range research priorities and LEAA's applied program development needs, the Office of Research Programs sponsors a balance of both basic and applied research directed toward building a body of knowledge about key criminal justice issues. Within each priority area, the emphasis is on cumulating knowledge, including systematic efforts to synthesize and summarize findings.

The Office of Research Programs administers research projects in 8 of the Institute's 10 long-range research priorities. Summaries of each of these topics follow. They describe the problem area, suggest the approach to be taken in Institute research programs, and outline specific projects proposed for fiscal year 1979 funding.

PRIORITY RESEARCH.—CORRELATES OF CRIME AND DETERMINANTS OF CRIMINAL BEHAVIOR

This priority program involves multidisciplinary, long-term, and basic research into criminal behavior. Research in this area builds on earlier Institute work as well as fundamental research now being carried out under the Research Agreements Program. (See page 20 for a fuller description of the Research Agreements). Three of these long-term research programs—on the habitual offender, unemployment and crime, and community reactions to crime—are yielding data on correlates and determinants of crime. Also included in this priority is work underway on drugs and crime, much of it carried out in collaboration with the National Institute on Drug Abuse.

CURRENT EFFORTS

In shaping the research program on correlates and determinants, the Institute has been guided by recommendations that emerged from a colloquium it sponsored in March 1978. The meeting assembled experts from a cross section of the disciplines involved in behavioral research. Among the topics reviewed were early deprivation, environmental influences, school dropout, psychobiological factor, psychopathy, and the role of alcohol and drugs in criminal behavior. The group strongly endorsed studies with a multidisciplinary, longitudinal approach.

Work continued in 1978 on articulating a detailed agenda for research into the correlates of crime and the factors that influence criminal behavior. Future projects in this area will emphasize historical and longitudinal studies, comparative research, and work in the sociological and biological sciences.

A project launched in fiscal year 1978 will exploit the particularly rich data bank developed by the perinatal study begun in 1959 by the National Institutes of Mental Health. The data includes socioeconomic, medical, developmental, and psychological statistics on 50,000 children now in the 13- to 19-year age bracket. The Institute's pilot study will review the mass of data collected and computerized in Philadelphia, which covers more than 9,900 boys and girls, to determine what part of the sample has become delinquent. New data wil be assembled and analyzed on such characteristics as violent behavior, drug and alcohol abuse, psychopathy, and learning disabilities. If the pilot study proves fruitful, the cohort of delinquents could be followed through early adulthood to reveal new insights into the development of criminal careers.

Another project will survey past and present longitudinal surveys carried out in the United States. By reviewing these existing efforts, it may be possible to uncover data that would lend itself to secondary analysis as well as to learn from the experience of others in carrying out such long-term studies.

Institute research on drugs and crime, a legislative mandate, is emphasizing a collaborative approach with other Federal agencies. Present efforts include a study in Harlem that is observing the Economic Behavior of Non-Addict Career Criminals (with the National Institute on Drug Abuse), a Washington State study of Drug and Alcohol Use Among Inmates of Correctional Facilities (with the National Institute of Corrections), and an analysis of Drug-Crime Relationships Within the PROMIS/NTA Data Bases in Washington, D.C. (with the National Institute on Drug Abuse).

Under another grant, the Institute is developing a long-term agenda for research on drugs and crime. The results of this project will influence fiscal year 1980 funding of projects in this area.

In the planning stage are similar collaborative efforts for research on alcohol and crime. As with the work in drugs and crime, the emphasis is on pulling together available information on alcohol use, which is known to be a correlate in much criminal activity, isolating the gaps in our knowledge—such as the precise relationships between alcohol use and specific crimes—and devising preliminary research designs for the most promising areas of inquiry.

Research on the subject of minorities and crime is also being supported. A state-of-the-art review of the topic is underway, and a program solicitation has been issued for a project that will examine the minorities/crime relationship from the social, economic, and political perspectives of minority communities themselves.

Similarly, inquiry into the topic of women and crime has begun with an effort to assemble a comprehensive data base on female crime and arrests, convictions, incarcerations, etc. This project will gather together existing statistical information, and where possible, fill in the gaps by collecting new data.

FISCAL YEAR 1979 PLANS

The following topics are planned for research for fiscal year 1979:

- Exploratory research on drugs and crime is now in progrss and will point to directions for future inquiry. Based on the agenda, a group of interrelated projects might be formulated for funding.
- Explorations of alcohol and crime also are in the initial stages. the topic might serve as a single focus of inquiry in a Research Agreement, or perhaps combined with drugs and crime for a broader inquiry of these two correlates of crime.
- Complementing research on the relationship between specific types of communities and neighborhoods and crime, a new effort may be launched to study the family unit and how it contributes to or inhibits the potential for criminality. This study would concentrate not only on the "traditional family" but would examine the alternative relationships now prevalent to determine impact of the family on crime.
- A study of the psychopathic personality, which remains a pervasive concept in criminology, will attempt to clarify the major issues and sum up the existing information on them.
- Research into early deprivation will attempt to provide more definitive information on the precise impact of early deprivation. While many studies have suggested that emotional and physical deprivation in infancy and childhood have a bearing on delinquent behavior, the relationship has never been conclusively established.
- A multidisciplinary exploration of the avoidance learning deficiency is planned to gain a greater understanding of the social and biological orgins of this characteristic.
- A longitudinal study of disruptive behaivor in school will attempt to differentiate among various kinds of hyperactivity and impulsive behavior and the learning disabilities involved and to determine the relationship of these problems to delinquency. the study would follow a sample into young adulthood to determine if a particular behavioral profile is associated with the career criminal or with certain categories of crime.
- If a significant relationship between the early developmental data and criminal behaviror is found, further research could examine the issue of labeling varsus the need for helping children with demonstratred, serious problems. The study would also consider whether a criminal justice agency can or should sponsor early intervention projects.
- The legal and management issues inherent in the conduct of long-term studies involving investigators from various disciplines will be analyzed. Examples of the kinds of questions to be explored are: How can continuity of funding be assured? How can privacy be safeguarded? What guidelines are needed for behaviroal research on individuals in prisons? What are the implications of these questions for research management?

For information on research in this priority, please contact Dr. Richard Barnes, Director, Center for the Study of Crime Correlates and of Criminal Behavior Office of Research Programs.

VIOLENT CRIME AND THE VIOLENT OFFENDER

Institute research in this priority program is divided into these major categories:

- *Individual crimes of violence:* Causes, correlates, incidence, and trends; strategies for prevention and control; characteristics and treatment of the violent offender (including such aspects as drug and alcohol abuse).
- *Collective violence:* Causes, correlates, incidence, trends, and methods for preventing and controlling such disorders.
- *Weapons and violent crime:* weapons availability, use, relationship to violent crime, and implications for regulation and control.

CURRENT EFFORTS

Priority for new research starts in fiscal year 1978 was given to collective violence and to weapons and violent crime. As a prelude to developing specific research projects in these two categories, the Institute held working meetings with knowledgeable specialists to sort out the complex issues involved and discuss general directions for future inquiry. In the category of individual violent crimes, projects completed last year added to the body of knowledge about such specific crimes as rape and arson.

Individual crimes of violence. A major, 2-year study of rape has been completed, producing guidelines to improve the criminal justice system's response to this crime. The violent crime of robbery will be among the major crimes explored in depth as part of a recently funded project to investigate the environmental correlates of crime and crime prevention.

Arson, a growing national concern, also has been the subject of previous research. A report describing the dimensions of the crime and the difficulties of investigating arson was published last year. A planning effort currently underway is reviewing the literature on arson and identifying gaps in information on the crime and unresolved research issues. From this an agenda for future arson research will be developed.

Collective violence. Based on the recommendations that emerged from several workshops convened on this topic, the Institute has solicited proposals for a project that will design a detailed agenda for research on nonterrorist collective disorders. The project will include an extensive analysis of the literature. To collect primary data on the nature of disorders and their control, researchers will interview staffs of law enforcement and regulatory agencies as well as groups involved in legitimate protests.

The Institute also will sponsor a national workshop on collective disorders, bringing together researchers and law enforcement personnel with the aim of producing preliminary guidelines for disorder control.

Weapons and violent crime. Before launching new efforts in this category, too, the Institute drew upon the insights of the research and practitioner communities. Based in part on suggestions from a workshop of experts, a planning project was solicited, which will review the literature, compile existing data to develop a knowledge base, design a research agenda, and initiate procedures for collecting certain basic data from police and court records. This effort will be coordinated with another Institute-funded study of firearms now being carried out by the Department of Justice, which emphasizes the legislative aspects of the problem.

FISCAL YEAR 1979 PLANS

The plans for fiscal year 1979 funding are the following:

- Research on the nature and patterns of homicide will develop a typology of various kinds of homicide. The research will study different types of offenders and victims and the community and the criminal justice system reaction to each. It will explore the relationship of homicide to other crimes and acts of violence and analyze the implications for preventing specific kinds of homicide.
- The methods of the criminal justice system uses to deal with the crime of robbery will be examined.
- A study of terrorism will emphasize the problems of State and local law enforcement in confronting local terrorist hostage situations in the United States.
- Analysis of arson prevention and control will clarify some of the key issues relating to particular forms of arson, identify the major determinants of the crime, and isolate the factors that promote or inhibit effective prevention. Among the candidates for this research are studies of building ownership and insurance patterns that might offer a method for anticipating arson targets, the psychology of arson, and fires of unknown origin.
- Basic research will be conducted on the origins of violent and aggressive behavior, the influence of drugs and alcohol, and the characteristics of the violent offender. This long-term effort is slated for funding under the research agreements program described on page 20. For information on research in this priority, please contact Lois Mock, Community Crime Prevention Division, Office of Research Programs.

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COMMUNITY CRIME PREVENTION

Research in community crime prevention focuses on two areas: Crime and the environment, and citizen and community action relevant to crime prevention.

CURRENT EFFORTS

Crime and the environment. Institute research has probed the relationship between the physical and design features of particular environmental settings and the citizen's fear of and vulnerability to crime. Initial studies in public housing suggested that physical design had an effect on both the rate of victimization and the public's perception of security. Further, the research hypothesized that certain types of physical design may prompt individuals to adopt a proprietary attitute toward their surroundings and exercise social control in their environment. Subsequent research has included demonstrations conducted in school, commercial, and residential settings to integrate urban design, community organization, and criminal justice tactics into a cohesive crime prevention strategy for each site. Evaluation of these efforts was nearing completion in fiscal year 1978.

To assess the growing body of knowledge on crime and the environment, the Institute has solicited proposals for a study to synthesize the results of the research to date and evaluate the soundness of the methodologies employed.

Related programs launched in fiscal year 1978 included a study of the relationship of environmental features of informal social control. This project will refine the earlier "defensible space" hypotheses to pin down those social and environmental variables that influence citizen surveillance, crime reporting, mutual aid, and other forms of "public-minded" behavior.

Th relationship between crime and neighborhood decline is also the subject of a fiscal year 1978 program solicitation. This new project will look at various indicators that appear to signal changes in a neighborhood and gauge the effect of crime prevention activities on neighborhood cohesion and well-being.

Research was also initiated this year to examine how offenders, citizens, and police perceive and respond to specific features of the environment. Expanding on past efforts, this project will attempt to identify those features that make buildings, streets, and neighborhoods likely or unlikely settings for such crimes as robbery, assault, larceny, purse-snatch, and rape. This study will include commercial and residential areas.

Citizen involvement in crime prevention and control activities. Research findings indicate that citizen actions can impede crime, enhance security, and promote justice. Such individual behavior as making one's home secure and reporting crimes promptly has been identified as important to crime prevention and control. The cooperation of victims and witnesses with police and courts has been found to be crucial to successful investigation and prosecution of crime. Collective forms of citizen action—citizen patrols and block watch projects, for example—also can be useful in increasing security and reducing fear of crime.

One of the major Institute programs relating to this subject is a research agreement with Northwestern University that supports long-range, fundamental research on community crime prevention. This 5-year endeavor is studying specific urban neighborhoods to discern how and why certain neighborhoods and organizations adopt particular crime prevention strategies. The researchers are also studying the relationship between police service and various forms of collective citizen action and the connection between an individual's reaction to crime and his/her participation in neighborhood programs. (For a fuller description of the research agreements program, please see page 20.)

Other current Institute research will focus on the mechanics of citizen involvement—how people can be recruited and how their involvement can be maintained in crime prevention efforts. Another study will examine how the mass media influence citizen awareness about crime and/or prompt people to take appropriate crime prevention actions.

FISCAL YEAR 1979 PLANS

The topics planned for fiscal year 1979 funding are the following:

- How an individual's responses to crime (including crime prevention activities) are influenced by social characteristics, past experience with crime, knowledge about crime and the criminal justice system, and perception of the citizen's proper crime-control role vis-a-vis official criminal justice roles will be studied. Since these are likely to differ for different types of crime, the research will analyze such disparate crime categories as violent crime, white-collar crime, victimless crime, and misdemeanors.
- Hypotheses about the interaction of social and economic variables, crime prevention activities, and reduced fear of crime will be examined in more detail. Building on current exploratory studies of incentives and disincentives for crime prevention behavior and the influence of social and interpersonal networks on citizen action, this research will gauge the extent to which a "sense of community" promotes crime prevention activities in various urban settings.
- "Safe and secure" neighborhoods will be analyzed. Earlier studies have shown that certain neighborhoods have unexpectedly low crime rates and the data suggest that environmental factors may help to account for these differences. This project will attempt to uncover the reasons behind the success of certain neighborhoods in maintaining safety and security. It will consider how a number of physical and urban design characteristics may influence the resident's reaction and response to crime and to the neighborhood in general. Among the factors that will be examined are access control, natural boundaries, enclave patterns, land use, transportation, and other public services and facilities.

Other tentative research issues:

- Relationship between urban environment and crime patterns, with attention to the factors that most influence mutual aid and bystander intervention among strangers;
- Impact of land use and transportation planning decisions on intrametropolitan crime patterns;
- The organizational dynamics which enhance positive citizen action, including issues of sponsorship and procedures used to mobilize and maintain citizen involvement.

For information, please contact Dr. Fred Heinzelmann, Director, Community Crime Prevention Division, Office of Research Programs.

CAREER CRIMINALS AND HABITUAL OFFENDERS

Research in the career criminal priority program area is based on the assumption—now buttressed by research findings—that a small fraction of all offenders is responsible for a disproportionately large amount of crime. The framework for career criminal research remains basically twofold: First, a continuing basic inquiry into the nature, identification, classification, and characteristics of the career criminal population; and, second, a better understanding of the variety of ways in which the criminal justice system deals with these offenders.

While the problem of the career criminal has been of interest to the Institute and LEAA for some time, the major inquiry into the classification and characteristics of the habitual offender was launched in 1975 when the Institute began a 5-year research agreement with the Rand Corp.

CURRENT EFFORTS

Preliminary findings from Rand studies of the career criminal cover a broad spectrum of issues including patterns of criminal activity, offense rates, motivation for crime, contacts with the criminal justice system, and potential effects of incapacitation on crime rates. For example, by studying detailed criminal histories of a sample of 625 defendants, researchers were able to estimate the incapacitation effect likely to result from mandatory sentencing approaches along with the potential impact on prison population. Analysis of the data consistently indicates that significant reduction in crime from incapacitation effects alone would require very large increases in prison population. In addition, the Rand study is also examining the characteristics of career criminals and highly active offenders. A survey of California inmates is providing a rich source of information about these issues. A report of the findings will be available in the fall of 1978.

One of the early recommendations emerging from the career criminal research is that greater efforts be made to identify the "intensive offender early in his career. One source of information is the criminal record of juvenile offenders. The adult criminal justice system often lacks information on the unlawful activity of young adults, making it difficult to distinguish those with serious criminal backgrounds from delinquents whose offenses are not so grave. A fiscal year 1978 project will study the role of juvenile records in adult criminal proceedings, examining the various practices relating to the withholding of such information as well as the practical effects of such policies.

FISCAL YEAR 1979 PLANS

The Rand Research Agreement runs through 1980.

Research issues outlined for the program include the following:

- The existing data base will be expanded by replicating the inmate survey in three or four other States. The new surveys would incorporate improvements in the original methodology, which called for self-reported data. When the surveys are repeated, respondents will be assured confidentiality but actual names will be requested so that data can be cross-checked against available records.
- Additional research is planned on the criminal justice system's treatment of the career criminal, with special emphasis on correctional practices.
- Continued inquiry will be made into the patterns of criminal activity.
- Various aspects of the habitual offenders' behavior will be studied, including offense rates, motivations, attitudes toward crime, social stability and drug use, and contents with the criminal justice system.

For more information, please contact Dr. Richard Barnes, Center for the Study of Crime Correlates and Criminal Behavior, Office of Research Programs.

UTILIZATION AND DEPLOYMENT OF POLICE RESOURCES

Research in this priority program focuses on police services for the public and the support and management frameworks necessary for effective delivery of those services. The goal is to create a more rational, effective delivery system, not merely to improve current approaches within existing organizational arrangements.

Earlier research on police—including studies of response time and of preventive patrol conducted in the Kansas City Police Department and a national study of criminal investigation practices carried out by Rand—has pointed up the need for a radical restructuring of the entire police services delivery system. Further, the growing body of police research demonstrates a receptivity to experimentation that offers the opportunity for significant changes in law enforcement.

CURRENT EFFORTS

In planning for fiscal year 1978 research activities, the Institute held extensive discussions with noted scholars and practitioners of law enforcement, as well as joint planning sessions with the Police Foundation. Building on earlier research, the Institute continues to focus on three themes: the nature of current police operations, overall objectives of police operations, and alternative approaches for providing field services. Among the studies initiated during the past fiscal year were the following:

Nature of current police operations. The Institute solicited proposals for a project to assess the general applicability of research findings that showed significant citizen delays in reporting crimes to police. The Kansas City Response Time Study, the first effort to isolate the citizen reporting interval in the response time continuum, found that citizens often fail to report crimes promptly, and the delays tend to diminish the impact of rapid police response. The new research will look at how long citizens in other cities take to report crimes, and the variables affecting voluntary citizen actions that impinge upon reporting crime will be analyzed in more detail. Another project is reviewing the research on police operations that has already been conducted. The study will pull together what is known on various issues and disclose the gaps that could be filled through further research and experimentation.

Overall objectives of police operations. In an attempt to sort out and understand the overall objectives of police operations, the Institute in 1977 funded a reconceptualization of the police function. The analysts are looking at what police are expected to do, what they actually do, how their activities are perceived by citizens, and what the primary determinants of police behavior are. Other studies slated for funding late in fiscal year 1978 are an examination of how police administrators make decisions in operational situations and an exploration of the interaction between citizens and police and how these relations affect policy-setting.

Alternative approaches for providing field services. Three research efforts were initiated under this heading in the past fiscal year. One project builds on the findings of the Kansas City Response Time Study by exploring alternative methods for handling various types of calls for police service. A second project will develop a system for making resource allocation calculations of an minicomputer rather than the larger automatic data processing equipment now typically required for operational planning. A third effort will explore the extent to which police agencies are using modern management concepts and techniques in their day-to-day operations.

FISCAL YEAR 1979 PLANS

Funding plans for fiscal year 1979 include the following:

- *Replication of the Kansas City preventive patrol experiment* that will modify the original research design based on criticisms and suggestions made of the earlier work. Using the improved design, the experiment will be recreated in a jurisdiction to assess the soundness of the earlier findings about the effectiveness of random preventive patrol.
- *Exploration of the advantages and disadvantages of crime-focused police operations.* Scholars and commissions often have recommended that police agencies focus as exclusively as possible on crime-related activities. This project will test the feasibility of creating a crime-focused police unit in one or more selected cities. The research will specify how the functions of a department would have to be reshaped, and the implications of the new structure for municipal government services. Among the police functions to be addressed are preventive patrol, directed patrol, differential response strategy, and criminal investigation. If the crime-focused approach appears feasible, a continuation effort might be funded to evaluate the actual operating experience in one city.
- *Study of how information is acquired and used by police investigators.* This research will parallel studies of the investigative process to be carried out by researchers in England, Australia, Canada, and Holland. Build-

ing upon earlier research, the study will look at the range of information sources tapped by police: informants, modus operandi analyses, and crime

Consistency. Plea bargaining is considered by many to be a major reason for inconsistency in case processing. It is also criticized on other grounds such

What are the behavioral expectations? Who gains administrative decision-making power in what types of court

SENTENCING

Research under this priority remains focused on three sets of basic questions: (1) What degree of determinacy

minimums. The population forecasts will be refined in a second phase of the work now underway.

In Maine, researchers are measuring

and prison capacity requirements under a variety of sentencing scenarios is also providing useful data on the po-

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ing upon earlier research, the study will look at the range of information sources tapped by police: informants, modus operandi analyses, and crime scene analysis, for example.

● *Defining directed patrol.* As deficiencies in traditional patrol tactics have become evident through research, a number of departments have moved toward a more directed approach to patrol, with tighter management control over the patrol officer's duties and time. To date, however, there has been little systematic treatment of the concept in the literature. Hence, this project will attempt to formulate an operational definition and description of a directed patrol. The approach used will be an assessment of directed patrol operations in several cities.

For information on research in this priority, please contact David Farmer, Director, Police Division, Office of Research Programs.

PRETRIAL PROCESS: CONSISTENCY, FAIRNESS, AND DELAY REDUCTION

The topics emphasized in the pretrial process priority area are consistency, fairness, and delay reduction. A wealth of case-processing information from courts and prosecution agencies has recently been made available through computerized data bases. This mass of data has permitted cross-jurisdictional analysis of the pretrial process providing indicators relevant to both delay and consistency. With the availability of these new research-generated data bases, it has been possible to identify specific problem areas where further investigation is warranted and to generate hypotheses which may account for variations revealed.

Delay reduction. A major court delay reduction project supported by LEAA's Office of Criminal Justice Programs found that delay was a widespread but not universal problem in large jurisdictions. But the project was unable to relate variations in delay to the formal characteristics of the court—number of staff, existence of particular procedures, and/or financing available. Hence, the most recent work undertaken by the Institute has tried to explore new hypotheses that would explain delay. These studies focus on the incentives and accountability systems under which a judge or a court operates. One study is examining the local environment in which a court operates to see how such variables as community interest in the courts, media publicity, and the political climate affect judicial incentives to reduce delay. A separate activity will evaluate the local implementation of innovative approaches to reduce delay developed under the Court Delay action program.

Consistency. Plea bargaining is considered by many to be a major reason for inconsistency in case processing. It is also criticized on other grounds such as excluding the victim from participating in the disposition of the case. To provide the national data that has been lacking, the Institute is examining plea-bargaining practices as they operate throughout the country. Another project is experimenting with a pretrial hearing procedure involving the judge, defendant, victim, and arresting officer. While both of these studies are exploring mechanisms designed to make plea negotiations more structured and not totally dependant on the individual judgments of the attorneys involved, other research has just begun to develop mechanisms capable of measuring the degree of consistency in case processing within an office. Development of a tool for identifying and measuring policy within a prosecutor's office and for determining how consistently that policy is administered is also underway. An onsite analysis in a number of cities will search for explanations of the routinely high dismissal rates for felony arrests and, if possible, identify ways to reduce them.

FISCAL YEAR 1979 PLANS

The following research is proposed for the coming fiscal year:

● *An analysis of court policies, practices and behavior that affect efficiency and fairness.* The project will entail a systematic examination of key sets of variables that have been advanced as affecting case-processing and decisionmaking. The variables include such factors as the goals and incentives governing court personnel, the pressures exerted by their sponsoring organizations, and the influence relationships that develop as the workflow is processed. Analysis of these variables could help to build a valid theoretical framework for judicial administration and might yield incentives that could enable the courts to manipulate certain variables to achieve greater efficiency and fairness.

● A continuation project that is looking at prosecutorial decisionmaking to determine whether different policies produce different case outcomes.

● A study of the role norms of key court personnel. The work of court administration is generally performed by judges, court administrators, and court clerks. There are a number of questions that might be answered through research and thus suggest ways to improve performance and enhance the courts' ability to process cases efficiently and fairly. Among the research questions to be probed in this project are: How are functions delineated among court personnel? What results? What are the behavioral expectations? Who gains administrative decisionmaking power in what types of court structures and for what reasons? What incentive structures exist for different groups of court workers?

● Assessment of alternative organizational designs for defense and prosecution services. Since the Supreme Court's decision in *Argersinger* v. *Hamlin*, nearly half the States have legislated statewide public defenders services. Some States have organized their defense services under a State defender director, others on a regional basis. In half the States, provision of counsel is a matter for local jurisdictions to decide. Prosecutorial systems likewise may be organized statewide (although this is not common), regionally, or most frequently, locally. Despite numerous claims, no empirical data exist to prove that one organizational arrangement is more effective than another. This study will assess whether organizational structure makes a difference to effectiveness or efficiency of prosecutorial and defender delivery systems. Are there differences in the scope of services available, the degree of autonomy, professionalism of the office, quality and uniformity of services, provision of training, etc. under different organizational structures?

● Comparison of the negotiated and adversarial resolution of criminal cases. This project would examine negotiated and adversarial processing and analyze the way characteristics of each method affect the overall results and contribute to or detract from an appropriate outcome. It would also look at the existing range of processing styles available from the most freewheeling bargaining to the most formal adversarial process and attempt to develop new approaches to resolving cases that combine the best aspects of both the negotiated and the adversarial process.

● Court unification: An examination of empirical consequences of court unification. The major research question to be addressed in this study is whether a unified court system results in a more efficient and equitable legal system than a nonunified system. It will be necessary to develop specific measurable goals for those elements of unification that are to be studied and appropriate performance criteria to determine whether those goals have been met. It is anticipated that such dimensions as court consolidation, centralized administration, centralized rulemaking, unitary budgeting, and State financing will be assessed.

For more information on research in this priority, please contact Cheryl Martorana, Director, Adjudication Division, Office of Research Programs.

SENTENCING

Research under this priority remains focused on three sets of basic questions: (1) What degree of determinacy governs each sentencing approach? How does that degree of determinacy conceptually and operationally realize the purpose(s) for which each sentencing approach was devised? (2) Who does and who should do the sentencing? (3) What is the impact of these approaches on the policies and operations of police, courts, and corrections on community perceptions of attitudes, and on offenders?

Each question provides a context for conducting conceptual, basic, and evaluation research. The first two suggest descriptive studies of structure, implementation processes, and procedures. They also suggest studies of the intended versus the actual consequences of these approaches. The third question suggests impact studies of the effects of various sentencing measures on all segments of the criminal justice system.

CURRENT EFFORTS

Within the framework outlined above, research to date has focused on sentencing guidelines and on determinate sentencing. One study is examining the effects of sentencing guidelines in three jurisdictions currently using the guidelines approach, and a field test of multicounty sentencing guidelines will begin in at least two States next year. Workshops on developing sentencing guidelines have been conducted for judges throughout the country and an evaluation of statewide sentencing guidelines will commence this year. Evaluators will attempt to determine if the implementation of the guidelines improves the processing of offenders through the courts, lessens sentencing disparity, influences the offenders' perception of fairness, and affects the length of incarceration. Candidate States include Alaska, Minnesota, Michigan, and New Jersey.

To help clarify some of the issues involved in determinate sentencing, the Institute in June 1977 sponsored a workshop for judges, legislators, correctional administrators, and researchers. The proceedings were published* earlier this year, and provide a detailed discussion of the salient issues.

The Institute also completed a preliminary assement of existing and future needs in correctional facilities based on a national survey. As part of the project, researchers projected possible increases or decreases in prison populations that might result from various changes in sentencing policies, such as the shift toward mandatory minimums. The population forecasts will be refined in a second phase of the work now underway.

In Maine, researchers are measuring the impact of changes in the State's criminal code on the courts and corrections system. In particular, the effects of the abolition of parole and the adoption of determinate sentencing on type of disposition and sentence length are being assessed.

During fiscal year 1978, the Institute began a sentencing initiative that will explore the ramifications of determinate sentencing for the management and operations of the courts and the correctional system. Specific areas of inquiry include the effects of determinate sentencing on court caseloads and backlogs, prosecutorial discretion and plea bargaining, judicial discretions, sentencing practices, institutional programs in corrections, the use of good time, the parole function, the use of community alternatives, and the monetary costs of shifting to a determinate sentencing approach.

FISCAL YEAR 1979 PLANS

Research plans for 1979 include:

● *The feasibility of comparing sentencing approaches.* This research will delineate the conceptual and measurement issues involved in making empirical comparisons of different sentencing approaches. If comparisons of sentencing guidelines with determinate sentencing approaches seem warranted, a preliminary research design would be developed.

For more information on research in this priority, please contact Cheryl Martorana, Director, Adjudication Division, Office of Research Programs.

REHABILITATION

Increasingly, the goal of rehabilitating offenders has been challenged on both empirical and philosophical grounds. Research relating to rehabilitation then focuses on the need to expand knowledge in the following three areas: (1) The nature and effects of recent shifts in corrections purpose and philosophy; (2) the environments in which rehabilitative services are provided; and (3) the effectiveness of rehabilitative programs for both the offender and the community.

CURRENT EFFORTS

In examining the impact and future implications of change, the Institute has focused on actual and proposed changes in criminal codes and evolving case law. Advances are expected through a study of the impact of determinate sentencing in Maine and an assessment of alternative approaches to more determinate sentences enacted by several other States. A study forecasting future inmate populations and prison capacity requirements under a variety of sentencing scenarios is also providing useful data on the potential effects of change. These studies will contribute to future investigation of such concepts as the relationship between equity and individualized treatment and the development of techniques to reduce disparity in the decisions to release an offender into the community.

In the area of rehabilitative environments, past Institute research has looked at how rehabilitative services are delivered in overcrowded facilities. The findings suggest that intake rates are far more crucial to population pressures than either length of stay or exist rates, and that policy determinations significantly affect these intake rates. Other studies will examine such phenomena as the effect of different prison environments on inmates' physiology, and the prevalence and structure of inmate organizations.

The third area of inquiry has sought to develop a base of knowledge about the efficacy of various rehabilitative programs. One of the obstacles to assessing results has been the lack of accurate methods of measuring subsequent behavior. Researchers at the University of Illinois are examining a variety of methods which can be applied uniformly to measure rehabilitative outcome based on subsequent contact with the criminal justice system. Other work includes a major assessment of available evaluative studies, a national study of rehabilitation by a National Academy of Sciences panel, and syntheses of published research on probation and parole.

FISCAL YEAR 1979 PLANS

These research projects are proposed for fiscal year 1979:

● *Reanalysis of the effectiveness of correctional programs.* This project will reanalyze the rich data base developed under previous Institute research. It will assess what types of correctional programs appear to be most effective for various types of offenders.

● *Parole/probation revocations for technical violations.* The Uniform Parole Reports indicate that more paroles are revoked for technical violations than for new crimes. This study would explore the relationship between rehabilitation goals and revocation for technical violations. Specific issues to be examined include the nature of parole/probation rules and the relevance to rehabilitation, the exercise of discretion by supervising officers, administrative mechanisms for controling supervisory discretion, and the criteria employed in making revocation (or continuation) decisions.

The final report of the National Academy of Sciences Panel on Re-

* Determinate Sentencing: Reform or Regression? Washington, D.C.: U.S. GPO, 1978.

search in Rehabilitative Techniques will be completed in the fall of 1978. The Institute plans to follow up on the research recommendations out-

to eliminate batch-to-batch variations of intisera.

● *Serology standards.* Institute-sponsored research has recently devel-

for effective interaction between the forensic and criminal justice systems which would be evaluated in a continuation grant.

sions in accepting the transfer. The research should yield information on the decisionmaking process and the relationship between correctional and

tion and control and the administration of justice. Applicants are required to submit concept papers by November 15 each year.

terrence and Criminal Justice Performance Standards and Measures.

PRIORITY RESEARCH DETERRENCE

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search in Rehabilitative Techniques will be completed in the fall of 1978. The Institute plans to follow up on the research recommendations outlined in the report. Specific topics to be investigated will be determined after the report has been published.

For more information on research in this priority, please contact John Spevacek, Director, Corrections Division, Office of Research Programs.

OTHER RESEARCH

In addition to work outlined above under the priority topics, the divisions of the Office of Research Programs will conduct a variety of other research projects. Among those proposed for fiscal year 1979 are the following:

POLICE DIVISION

● *Admissible evidence.* This project will attempt to isolate the types of evidence most helpful in solving crimes and obtaining convictions and identify methods for insuring that such evidence is properly collected and preserved. The study will complement current research into the characteristics of police officers whose large numbers of arrests result in convictions.

● *Excessive/deadly use of force by police.* This exploratory research will delve into a major concern of both police and the public—use of excessive or deadly force. The project will assess the incidence of excessive or deadly force and citizen complaints against police and review divergent opinions held by different segments of society. Collecting and analyzing data from selected cities, researchers will make an initial attempt to describe the dimensions of the problem and possible ways to alleviate it.

● *Synthesis of police management research.* This study will evaluate the large number of projects undertaken that bear on police administration. A synthesis of the findings will be produced, which will help to identify directions for future inquiry and promising action programs.

FORENSICS ANALYSIS

The Police Division also administers research in the forensic sciences. These are among the projects proposed for fiscal year 1979:

● *Antisera for blood stain analysis.* Forensic serologists generally agree that the available antisera for bloodstain analysis are of poor quality. The aim of this research is to develop more reliable antisera. This study will include surveying and evaluating commercially available antisera for specificity. In addition, research may be necessary to purify antigens prior to the preparation of antisera. A manual will be developed to teach laboratory examiners quality control procedures to eliminate batch-to-batch variations of antisera.

● *Serology standards.* Institute-sponsored research has recently developed a new system that will greatly improve the bloodstain analysis capability of the Nation's crime laboratories. Under this project, the techniques will be taught to more than 100 selected serologists throughout the country. After the training, each student will be tested with 30 blind samples to insure accuracy in phenotyping bloodstains.

● *Forensic analysis of hair.* Hair is probably one of the most common and perhaps overlooked items of physical evidence found at a crime scene. At present, however, no technique exists that would allow a crime laboratory examiner to state that a given hair sample came from one individual to the exclusion of all others.

Institute-sponsored research in this area has produced an electrophoretic technique that will determine specie identification of animal hair with almost 100 percent certainty. In fiscal year 1979, the method will be made available to the Nation's crime laboratories.

Another project is using electrophoretic techniques to examine the protein composition of the hair. This method makes it possible to identify hairs from an individual in 10 percent of the population only.

In fiscal year 1979, research on human hair will continue, using newly developed immunological techniques that greatly increase the probability of accurately linking hair samples to individuals. The basis for this individualization has to do with the large number of proteins present in the hair and their variation and composition. The separation and eventual identification of these specific proteins will lead to the identification of the hair sample.

● *Forensic analysis certification program.* This continuation project is establishing nationwide standards for the performance of forensic science professionals. Boards have been established for forensic toxicology, forensic odontology, forensic psychiatry, forensic anthropology, and forensic document examination, which test and implement certification programs in their respective disciplines. Work will continue on the design and test of standards for criminalistics for eventual implementation by an official certification board.

● *Management policies for forensics.* This study would take a comprehensive look at the entire forensics function including crime laboratories, medical examiners, toxicology, document examination, forensic toxicology, forensic psychiatry, and forensic odontology. The aim is to develop a model for effective interaction between the forensic and criminal justice systems which would be evaluated in a continuation grant.

ADJUDICATION DIVISION

● *Conflict resolution procedures in criminal cases.* This research would examine the kinds of disputes least amenable to formal adjudication. After weighing such issues as access to justice, ability to resolve disputes, and costs, the project will set criteria for deciding which disputes should be referred to alternative forums and which should remain within the formal court system. The study also will assess the compatibility of alternative forums of justice with traditional legal principles and the function of the judiciary.

COMMUNITY CRIME PREVENTION DIVISION

In addition to funding research in the priority areas of community crime prevention and violent crime, this division also sponsors studies of crimes that have a significant impact on the community and its resources, such as white-collar crime.

The following projects are planned:

● *Employee theft.* Earlier research has produced data on the patterns and characteristics of employee theft and the factors that influence its prevention and control in two large cities. The continuation project will gauge to what extent the findings can be generalized to other areas. The research will look not only at security measures but also at business policies and practices that may relate to employee theft.

● *Fraud and abuse in Government benefit programs.* This continuation effort will focus on a group of priority issues relating to existing and emerging patterns of fraud and abuse in Government benefit programs. The emphasis is on issues that have implications for policymaking and program management.

● New initiatives in white-collar crime. The Institute plans to award one or two grants to stimulate research in areas of white-collar crime not yet explored. Among the possible topics are a historical perspective of social values and white-collar crime, public awareness of and response to the problem, the role of professional organizations in controlling white-collar crime, and cross-cultural studies of white-collar criminals.

CORRECTIONS DIVISION

● *Correctional/mental health transfer decisions.* This study will examine the use of mental health facilities for offenders. It will look at the volume of transfers between prisons and hospitals, the reasons for the transfers, and the degree to which mental health facilities concur with correctional decisions in accepting the transfer. The research should yield information on the decisionmaking process and the relationship between correctional and mental health facilities, as well as indications of how well the treatment needs of mentally ill offenders are being met.

CENTER FOR THE STUDY OF CRIME CORRELATES AND CRIMINAL BEHAVIOR

This new division was established in 1978 as an expression of the Institute's growing commitment to basic research. The Center supports basic inquiries into crime and criminal behavior and addresses fundamental issues that cut across the functional lines of the criminal justice systems. Emphasis is given to long-range projects that are integrated and sequenced to foster steady cumulation of knowledge in a given area. Much of the Center's work is carried out under the priority program, *Correlates and Determinates of Criminal Behavior*, described earlier.

RESEARCH AGREEMENTS PROGRAM

The foundation of the Center's effort is the Research Agreements Program, which the Institute began in 1975. Research agreements are long-term and typically awarded to universities or research organizations capable of pursuing fundamental research in crime and criminal behavior, and the criminal justice system's response. Each grant supports a number of interrelated projects in an agreed upon area of basic research, some of the projects initiated by the Institute and others by the researchers.

Research Agreements are now supporting studies in five areas: the habitual offender, white-collar crime, econometric studies of criminal justice problems, unemployment and crime, and community reactions to crime.

In fiscal year 1979, the Center plans to fund another Research Agreement on:

● *Violent and aggressive behavior.* This multidisciplinary study will synthesize what is known about violent and aggressive behavior and attempt to expand our knowledge about which of the social, psychological, biological, and environmental factors play a significant part in stimulating such behavior.

VISITING FELLOWSHIP PROGRAM

The Center also administers the Visiting Fellowship Program, which is open to highly qualified criminal justice professionals and scholars. Fellowship recipients come to Washington, D.C., to work on research of their own design. Project periods range from 3 months to 2 years. In selecting fellowship recipients, the Institute looks for creative, independent research on the major issues involved in crime prevention and control and the administration of justice. Applicants are required to submit concept papers by November 15 each year.

For information about the Center's programs, please write to Dr. Richard Barnes, Director, Center for the Study of Crime Correlates and Criminal Behavior, Office of Research Programs, at the address listed at the end of this section.

GRADUATE RESEARCH FELLOWSHIPS

Fiscal year 1979 Institute funds will be used for a limited number of fellowships awarded to doctoral candidates through sponsoring universities. The fellowships support students engaged in the writing of a doctoral dissertation in the area of criminal justice. Applicants must have completed all degree requirements except for defense of the dissertation prior to awarding of the grant. The maximum amount of any fellowship is $10,000. Concept papers are reviewed by Institute staff, as well as the staff of LEAA's Office of Criminal Justice Training and Education and by panels of academicians knowledgeable about research needs in the field of criminal justice. For more detailed information on the Graduate Research Fellowship Program, please contact the Office of Criminal Justice Education and Training, Law Enforcement Assistance Administration, Washington, D.C. 20531.

Additional information on any of the foregoing priorities or programs may also be obtained by writing:

Robert Burkhart, Director, Office of Research Programs, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, Washington, D.C. 20531.

OFFICE OF RESEARCH AND EVALUATION METHODS

The Office of Research and Evaluation Methods supports projects that explore the methodological and measurement problems facing criminal justice researchers and evaluators. The research usually entails the development or adaption of advanced analytical techniques to problems in crime analysis and control. Emphasis is placed on those measurement and methodological issues that recur in a wide variety of criminal justice settings, so that approaches developed can be extended to systemwide research and evaluation.

Most of the research supported by the Office is performed under grants or contracts, but the Office also maintains a small internal research program and advises other Institute and LEAA offices about methodology and measurement.

This Office administers two of the Institute's long-range priorities—Deterrence and Criminal Justice Performance Standards and Measures.

PRIORITY RESEARCH DETERRENCE

General deterrence is one of the most fundamental and controversial concepts underlying the design of crime control policy. It is based on the idea that the risk of suffering undesired consequences for a contemplated criminal act has a crime-suppressive effect on the potential offender.

Which sanctioning policies offer the best promise of deterrence has long been the subject of public debate. By 1975, general deterrence had also generated controversy within the scientific community as seemingly contradictory findings were reported in the literature.

To clarify the issues involved, the National Institute commissioned the National Academy of Sciences to make a detailed technical inquiry into the analytic merits and shortcomings of research on deterrence and incapacitation.

In its report, the NAS Panel concluded that it "could not yet assert that the evidence warrants an affirmative conclusion regarding deterrence." But the Panel noted that its "reluctance to draw a stronger conclusion does not imply that deterrence does not exist, since the evidence certainly favors a proposition supporting deterrence more than • • • one asserting that deterrence is absent." The major challenge for future research, the Panel said, is to "estimate the magnitude of the effects of different sanctions on various crime types, an issue on which one of the evidence available thus far provides very useful guidance."

CURRENT EFFORTS

In fiscal year 1978, the National Institute announced a research program on the "Theory of General Deterrance," based in part on problems uncovered in the NAS study. As this report was being prepared, the 47 concept papers submitted were undergoing peer review, with selection of proposals for funding anticipated in the fall of 1978

The projects to be funded will fall under two broad headings:

Modeling advances. In constructing models of how sanctions affect human behavior, researchers inevitably make a nost of tacit, often complex assumptions, particularly in drawing conclusions about whether a particular sanction caused a reduction in crime. Projects in this area will examine how inferences of a deterrence effect are drawn from analysis and how objectivity might be enhanced.

Quasi-experiments. The deterrence hypothesis assumes that a credible and significant change in sanctioning

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level would result in a change in crime rates in the opposite direction. (The more severe the penalty, the lower the crime rate, and vice versa.) The validity of this theory can be tested in "quasi-experimental" settings such as a well advertised change in penalties or a police crackdown on certain classes of offenders. Projects in this category will investigate the effects of what happens in real-life situations when criminal justice sanctioning policy is changed.

FISCAL YEAR 1979 PLANS

Two perennial problems confronting researchers studying general deterrence are the confounding effects of incapacitation and the lack of information on the careers and crime rates of different types of offenders. Research reported in the literature suggests that this is an opportune time to expand the number of scholars working on these lines of inquiry.

In fiscal year 1979, the Institute plans to continue to work toward development of a scientifically sound basis for estimating the crime control effects of incapacitation. As with any crime control strategy, quantitative measures of effects cannot be observed directly. Rather they must derive from plausible models of what would have happened if certain actions had not been taken. In the case of incapacitation, crime reduction estimates must be calculated on the basis of the number of crimes likely to have been committed if the population in question had not been incarcerated.

To expand our understanding of the variety of criminal careers and how each evolves, the Institute in fiscal year 1979 will support research on the *Modeling of Criminal Histories. Specific projects might include such approaches as:*

- Development of offender history typologies and empirical estimates of crime commission rates for well defined classes of offender:
- Incorporation of specific deterrence or rehabilitation effects into model structures;
- Inquiry into possible changes in the behavior of young offenders when they leave the juvenile justice system and enter the adult criminal justice system.

PERFORMANCE STANDARDS AND MEASURES

Research in this priority is concerned with the development and validation of performance measures based on an overall theory or set of theories about the purposes of the criminal justice system and its components. The program emphasizes cumulative knowledge building over an 8- to 10-year period.

The first phase of the long-range effort has been aimed at developing definitions of the issues and problems in performance measures and identifying future research needs. Supplementing this basic strategy is a smaller program with limited funds that studies operational performance measurement systems or the practitioner's state-of-the-art.

CURRENT EFFORTS

Conceptualization of performance measurement issues. During fiscal year 1978, funds were awarded to create a consortium of five research institutions whose task is to develop a coherent conceptualization of performance in the criminal justice system and its subsystems. They will attempt to elucidate the many-faceted, and sometimes conflicting nature of the measures used to assess the performance of specific parts of the system. For example, a police performance measurement system that unduly rewards sheer number of arrests affects the performance of the prosecutor's office which must deal with the large number of cases police turn over to them.

By breaking down the generic "performance" into separate aspects, by exploring the influences of organizational style on these aspects, and by providing a cohesive measurement context, the consortium should produce a platform for further empirical research.

Operational performance measurement systems. The Institute's primary interest here is to sort out the kinds of performance information gathered, how it is used, and the factors influencing its acceptance by practitioners. This relatively new area for research has been largely limited to stimulating and observing innovative processes at the State and local levels. One grant was awarded to the New Jersey State Planning Agency to contine the evaluation efforts it has incorporated into the block-grant awards decision process, which might serve as a possible model for developing standardized performance measures for LEAA discretionary programs. Other projects under consideration include a study of the implementation of performance measures in State correctional institutions and the implementation of a systemwide resource allocation planning process by a Regional Planning Unit.

FISCAL YEAR 1979 PLANS

The consortium grants solicited in fiscal year 1978 will continue into fiscal year 1980 so additional funding of empirical studies directly related to their eventual findings will be limited in fiscal year 1979. However, basic and applied research in other aspects of performance measurement will be encouraged.

Research planned includes:

- A study of the non-crime-related social services delivered by the criminal justice system, including an analysis of the areas where it overlaps with other social service delivery systems in the community;
- A study of how resources are distributed within and across the total criminal justice system to determine whether significant increases in efficiency could be achieved through reallocations;
- Initial development of system performance indicators to create criminal justice counterparts to indicators of economic progress; and
- Comparative analyses of juvenile and adult systems with emphasis on treatment philosophies, offender flows, deterrence and youth crime, and the attitudes of young adult-offenders after they have left the juvenile system.

OTHER RESEARCH

METHODOLOGY RESEARCH

The Office of Research and Evaluation Methods also sponsors a modest program of support for a range of studies of high technical merit aimed at research, development, and testing of methodological innovations of potential significance to criminal justice.

A fiscal year 1978 program solicitation received more than 200 concept papers, 12 of which have been selected for funding late in 1978. Some are investigating the validity of crucial assumptions that underlie certain commonly used elements of criminal justice evaluation designs. Some explore sophisticated techniques that have demonstrated their utility in other social research and evaluation to determine their applicability to criminal justice research. Finally, some of the projects seek a theoretical breakthrough of critical measurement and methodological issues.

FISCAL YEAR 1979 PLANS

Two areas are likely to be given priority in methodology research:

- Efficient and valid techniques for estimating the long-range effects of criminal justice initiatives and programs.
- Investigations aimed at achieving increased utility of "official" data in the design and conduct of criminal justice research and evaluation.

In addition to the foregoing, the Office will manage a project stemming from the National Academy of Sciences Panel on Research in Rehabilitative Techniques. The effort will examine successful treatment programs used in fields such as education and mental health and assess the feasibility of transferring the approaches to a correctional setting.

For information about any of the above research write:

Dr. Richard Linster, Director, Office of Research and Evaluation Methods, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, Washington, D.C. 20531.

OFFICE OF PROGRAM EVALUATION

The Office of Program Evaluation designs, funds, and administers evaluation of national-level LEAA programs, innovative and experimental projects and programs at the State and local level, selected criminal justice techniques and procedures, and significant State and local legislative or administrative reforms. The Office is responsible for the National Evaluation Program, evaluations of LEAA demonstration programs, and field tests sponsored by the National Institute, as well as other evaluation priorities. It also supports the development of evaluation guides and handbooks for State and local evaluations.

The major objectives of the Office are to assess the efficiency and effectiveness of LEAA-funded projects and programs and to evaluate the impact of other State and local community and criminal justice initiatives.

NATIONAL EVALUATION PROGRAM

Created as a tool for evaluating the LEAA block grant programs, the National Evaluation Program has sponsored a series of phased evaluations in 34 topic areas. Each topic area has been defined to include ongoing criminal justice projects with similar objectives and strategies, such as employment services for ex-offenders, street lighting projects, and coeducational correctional institutions.

The initial step in the process has been a "Phase I" study that identifies the key issues, assesses what is currently known about them, and outlines approaches or methodological needs for more intensive national or local evaluation. Phase I studies are not meant to be definitive evaluations; rather they analyze what is presently known and what is still uncertain. Each Phase I study results in an assessment of the project type based on available data, documentation, and limited pretesting of possible designs for more intensive Phase II evaluation.

Among the Phase I assessments currently underway are the LEAA Victim/Witness Assistance Program, Police Training Programs, Correctional Data System Projects, and Shoplifting/Employee Theft Programs. A new Phase II Program will undertake a controlled experiment to compare the effectiveness of different probation techniques used by a single jurisdiction. This multiyear assessment should produce new knowledge on levels of supervision and on the utility of different treatments for different types of offenders.

FISCAL YEAR 1979 PLANS

The Institute proposes to shift the emphasis of the studies to specific functions performed by criminal justice agencies, with special attention to those involving relationships among agencies and those involving the entire criminal justice system. These functions are tentatively planned to be assessed in the coming fiscal year:

- *Liaison offices.* The focal point for this study would be the police and their liaison activities, which include (a) police/prosecutor's offices in the courts, (b) police/community relations, (c) police-based social service workers, (d) police legal advisers. This topic area will investigate linkages within the criminal justice system in particular and should primarily involve formally established offices or officers.
- *Family counseling.* Family counseling is performed by probation officers and police and is increasingly being applied by central intake units of correctional facilities. This function is found across the criminal justice system, performed in the community and by police, courts, and correctional personnel and may involve both formal and informal programs/projects.
- *Screening and evaluation for mental health services.* This function is performed by police and court personnel in particular. This Phase I study would investigate the linkages between the criminal justice system and mental health/drug treatment service delivery. Investigation would involve all components of the criminal justice system as well as the community and other government offices.

PROGRAM EVALUATION

LEAA supports many national level programs designed to demonstrate the effectiveness of various concepts and methods to reduce crime and improve criminal justice. The Office of Program Evaluation funds evaluations of a select number of these programs each year.

The Office currently is sponsoring an evaluation of the LEAA Community Anti-Crime Program which supports community organizations operating independently of State and local governments and agencies. The evaluation uses a major decision theoretic technique, the Multi-Attribute Utility Theory.

The success of this decision theory approach resulted in its application in the evaluation of another major community initiative launched by LEAA in 1978, the Comprehensive Urban Crime Prevention Program. This program focuses on the coordinated efforts of various agencies and community groups. Another 1978 evaluation is assessing LEAA's Integrated Criminal Apprehension Program.

In addition to these demonstration program evaluations, the Office is completing the national evaluation of the LEAA Career Criminal Program and the Standards and Goals Program, and will continue to support an evaluation of the antifencing programs known as Sting.

FISCAL YEAR 1979 PLANS

The Office will fund national evaluations of three or four LEAA demonstration programs. They will be chosen from among the following:

- *Major criminal conspiracies.* This new LEAA program involves Federal, State, and local law enforcement officials in the identification and prosecution of major criminal conspiracies. The program consists of three distinct but interrelated functions: analysis of financial and intelligence data to determine the nature and scope of a major criminal conspiracy, followup investigations to obtain and analyze specific data, and prosecution based on results obtained from the data.
- *Court delay reduction.* This program supports efforts at the State level to analyze alternatives to the present organization, management, and structure of court systems that promise improved delivery of services. The program also assists in implementing the improvements.
- *Jail overcrowding and pretrial detainees.* The objective of the program is to reduce jail overcrowding in selected jurisdictions, particularly where it stems from large pretrial populations. This program concentrates LEAA's past research and training efforts related to jails into a cohesive package that can be utilized by jurisdictions facing a "jail crisis."
- *Statistical analysis centers.* The centers coordinate the analysis of information produced from Comprehensive Data Systems programs in the States. Producing both analytic and descriptive reports on the operations of the State criminal justice system, the Center can provide important input into policy decisions.
- *Field test evaluations.* The Office also conducts evaluations of experimental programs that are designed and conducted on a test basis by the Institute's Office of Development, Testing, and Dissemination. For fiscal year 1979, these tests are candidates for evaluation: (For descriptions of each, please see page 29).
- *Multi-County sentencing guidelines.*
- *Neighborhood action to reduce residential burglary.*

- *Commercial security.*

In addition, the Office of Program Evaluation is evaluating the field test

- Selecting response strategies—additional research if more knowledge is needed, or * * *.

In fiscal year 1979, the Institute will produce program models from among the following topics:

- *Commercial security.* This effort will test the effectiveness of police programs that assist businesses in

A brochure describing the program and forms for recommending projects are available from the Model Program

Four to five workshop series are conducted nationwide each year on subjects with national implications.

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● *Commercial security.*

In addition, the Office of Program Evaluation is evaluating the field test of the Neighborhood Justice Center Program begun last year to experiment with the use of dispute resolution techniques to divert certain types of criminal and civil cases from the courts. The Office will assess other tests launched in 1978: Managing Patrol Operations, Pre-Release Centers, and Improved Correctional Field Services.

OTHER EVALUATIONS

The Office is funding an assessment of a special Industrial Security Program initiated by the Chicago Planning Commission of the city of Chicago, designed to aid in the development of the city's evaluation capability.

The Office also is launching an assessment of governmental responses to crime during the period 1968–1978. This historical assessment will trace the criminal justice, social, and economic responses to the problem of rising crime following World War II. The study will examine 10 cities and their suburbs across the country, and will reassess such major LEAA efforts as the Impact Cities Program and the Environmental Design Program.

For information about any of the above activities of the Office of Program Evaluation, write to:

Director, Office of Program Evaluation, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, Washington, D.C. 20531.

OFFICE OF DEVELOPMENT, TESTING AND DISSEMINATION

The Office of Development, Testing, and Dissemination administers the Institute's research utilization program. It reviews research results to identify findings of potential significance to practitioners, policymakers, and other researchers, and shapes the information into forms most suitable to effect transfer to the appropriate audience.

A key function of the Office is to design, develop, and test action programs through an applied research process. Drawing on Institute research findings and selected innovative practices of demonstrated merit, the Office designs model programs and field tests them in a variety of settings. When results warrant further development, the Office then develops a refined model suitable for wider demonstration by LEAA.

These functions are part of an agencywide program development process, which is designed to insure systematic development of programs based on knowledge. The process involves the following steps:

● Identifying problem areas manifest through research;

● Selecting response strategies—additional research if more knowledge is needed, or • • •.

● Development of a model program based on the best available research and practical experience;

● Designing a field test of the model program;

● Implementing and evaluating the field test, and incorporating the results in • • •

● A refined model program, called a validated program design;

● Wider demonstration of the validated design and, if successful;

● Marketing by LEAA nationwide.

The three divisions of ODTD carry out specific steps in this process, principally in the early phases of problem identification, program development, and testing.

MODEL PROGRAM DEVELOPMENT DIVISION

This unit is responsible for the research utilization program, studies of the process of change in criminal justice agencies, and the Exemplary Projects Program.

The research utilization program was expanded in 1978 to increase program development and dissemination options available to the Institute. In fiscal year 1979, this effort will:

● *Review completed research, recommend research utilization strategies, and prepare specialized materials for selected target audiences.* Examples of the products would include articles, pamphlets, manuals, and state-of-the-art papers for particular audiences—for example, policy and legislative option papers on criminal justice issues for use by Governors, State legislature, or local executives and legislative bodies.

● *Develop program models* which synthesize research data, empirical experienced, and expert opinion, present detailed analyses of a series of programmatic options in the topic area, and discuss the advantages and limitations of each approach.

● *Design field tests for implementation* in a variety of settings. The division chairs teams made up of Institute staff, researchers, and practitioners which develop the program design based on findings from related research studies and documented, successful practice. The design specifies the essential elements of the model, the objectives of the program, operations, and management, selection criteria for test sites, and evaluation measures and methods.

● *Develop validated program designs.* Based on the evaluation results of the field test, the original design is modified to eliminate those features which produced unintended or undesired effects and to highlight those that demonstrated their effectiveness.

In fiscal year 1979, the Institute will produce program models from among the following topics:

● *Methods for analyzing community security problems.* This manual would assist community crime prevention planning efforts by developing methodologies for conducting an integrated analysis of crime problems, major community concerns, and community resources.

● *Police crime prevention programs.* The report would focus on organizational, operational, and management procedures to bolster the effectiveness and responsiveness of police crime prevention activities. Methods for enhancing the involvement of citizens and community groups will be emphasized.

● *Consumer fraud intervention.* The document would identify promising intervention strategies to detect and prosecute consumer fraud.

● *Pretrial release criteria and standards.* This synthesis of guidelines and evaluative research would examine operational procedures and prediction of risk techniques for pretrial release programs including bail, ROR, and supervised release programs.

● *State victim compensation programs.* The handbook would offer practical guidelines for establishing and operating statewide victim compensation programs, emphasizing the use of LEAA victimization survey data to identify the scope and nature of victim needs.

● *Employment services for ex-offenders.* The report would compile information on programs that provide training, job development, and job placement services for parolees and probationers.

● *Police services for the elderly.* The manual would provide information on police and community programs designed to reduce fear of crime among the elderly and minimize the difficulties encountered by the police in delivering services to older people.

The Division also develops program designs based on the findings of Institute research and the best available practical experience. The carefully crafted designs are then tested in a limited number of sites to evaluate their effectiveness in different settings, identify the need for further research, and determine their suitability for LEAA marketing.

Among the candidates for field test design in fiscal year 1979 are:

● *Neighborhood action to reduce residential burglary.* This test will experiment with a number of specific approaches identified through research that promise to reduce vulnerability to burglary. These include such efforts as Block Watch, property-marking, and citizen crime reporting.

● *Commercial security.* This effort will test the effectiveness of police programs that assist businesses in strengthening security on their premises.

After a program has been implemented and evaluated, the results are incorporated into a validated program design. Validated designs are nearing completion for the following programs: Prosecution of Career Criminals, Neighborhood Team Policing, and Local Criminal Justice Planning. Now in preparation are validated designs for Managing Criminal Investigations, Juror Usage and Management, and Community Response to Rape.

While the research utilization program focuses on expanding the use of existing dissemination and program development techniques, a new effort will seek knowledge that can lead to new and improved research utilization strategies. Proposals have been solicited for an exploration of how change occures—how knowledge is diffused and adopted in the form of programs and how those innovations can be made permanent.

The division also is responsible for the exemplary projects program, a systematic effort to tap the best experience of the criminal justice community nationwide. Outstanding projects operated by State, local, or private agencies are identified, and information on them is disseminated throughout the country.

To be considered exemplary, a project must have demonstrated consistent success in reducing crime or achieving a measurable criminal justice improvement for at least one year. Other selection criteria include cost effectiveness, avialability of evaluation data, suitability for transfer, and willingness of the sponsoring agency or community to provide information to other communities. LEAA funding is not a prerequisite.

Candidate projects are prescreened by Institute staff and the most promising programs submitted to a contractor for onsite validation. The validation reports are reviewed by a board of LEAA and State Planning Agency representatives which selects the best projects for Exemplary status.

All Exemplary Projects are widely publicized. Brochures and detailed instructional manuals are prepared on each project and distributed to agencies and communities throughout the nation so they can consider adopting the approach in their localities. The manuals spell out the planning, operation, budget, and staffing necessary and explain evaluation procedures, so that communities adopting the program can gauge their own success or shortcomings. To date, 29 Exemplary Projects have been selected from more than 515 candidates.

A brochure describing the program and forms for recommending projects are available from the Model Program Development Division. The deadline for submitting project recommendations for the next round of screening will be early in 1979. The exact date will be announced through the National Criminal Justice Reference Service.

TRAINING AND TESTING DIVISION

The division has two key responsibilities: Field tests of Institute-designed experiments and national training in advanced concepts for criminal justice executives.

The Field Test Program functions both as part of the Institute's research and development process and in support of LEAA action program development. Each year, two to four program designs based on the findings of Institute programs are tested in a limited number of sites. The Training and Testing Division funds, conducts, and monitors the tests, assessing and selecting sites on the basis of criteria established in the test design. Institute funding normally supports an 18- to 24-month test in three to five communities for each program.

The Division also provides special training seminars, on-site consultation, and conferences for key staff of all test sites.

In fiscal year 1979, the Division will conduct a test of Multi-County Sentencing Guidelines. This study will examine the effects of judicial guidelines on sentencing consistency and equity in two or more counties of two States.

Other candidates for fiscal year 1979 field tests, described under the Model Program Development Division, are Neighborhood Burglary Prevention Programs and Commercial Security Surveys.

The executive training program presents regional workshops for senior criminal justice officials and special national workshops and seminars for selected researchers and practitioners. It also provides specialized training to support Institute field tests.

Executive workshops are held throughout the country on selected new programs resulting from outstanding research and evaluation findings, Exemplary Projects, and Program Models. Senior officials of State and local agencies participate in workshops conducted by national experts on the particular topic—wherever possible by those who originate the concepts. A complete training curriculum and resource materials are given to officials who plan to adopt the program in their own communities. Limited follow-on training also is available to help participants sponsor additional training sessions for their own or their client organizations.

Four to five workshop series are conducted nationwide each year on subjects with national implications. Topics are selected annually based on a survey of State Planning Agencies, major regional planning units, LEAA central offices, and National Institute staff.

Last year workshops were held on Managing Patrol Operations, Developing Sentencing Guidelines, Victim/Witness Services, and health Care in correctional Institutions. More than 2,200 officials attended the workshops, and another 2,000 practitioners were reached through follow-on training.

The following workshops are scheduled to be held in fiscal year 1979:

● Improved probation strategies. A number of questions have been raised about the role and effectiveness of probation as it currently exists. This workshop will train probation executives in innovative techniques for delivering services more efficiently, with an emphasis on effective management techniques.

● Community crime prevention. Hundreds of programs that involve citizens in crime prevention now exist throughout the country. Although research and evaluation suggests that they have the potential for making a significant contribution to crime control, many projects are plagued by problems in planning, management, operating methods, and mobilizing and maintaining community involvement. The workshop series will train law enforcement executives, urban administrators, and citizens in approaches designed to overcome the most common deficiencies.

● Maintaining municipal integrity. The aim of this workshop is to heighten the awareness among police executives and other government officials of their primary responsibility for ensuring integrity in government. The topics to be covered include the extent of municipal corruption, the common problems faced by most jurisdictions, and research-based strategies for more effective prevention and control of corruption.

● Operating a defender office. This workshop will explore the basic problem involved in providing legal representation to the indigent: How best to organize and manage the delivery of defense services. The sessions will cover various structures and will emphasize techniques for evaluating a public defender's office from both the administrative and client perspectives.

In fiscal year 1979, four of the following topics will be developed and presented as workshops:

● Police/community services to the elderly. This workshop would examine the problems of crime and the elderly from four dimensions: Victimization, fear, elderly dissatisfaction with police

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services, and difficulties encountered by the police in delivering services. It would train participants in implementing police and community programs to alleviate these problems.

● Drug law enforcement. The workshop would be based on results of research conducted in six cities to determine effective strategies for managing police narcotics units.

● Prosecutor career criminal programs. Training would be based on the validated program design which will provide detailed guidelines on project operations in prosecutor offices of varied size. The design is based on assessment of 8 of the 26 career criminal demonstration programs funded by LEAA.

● Court management. Four program models will be integrated into a training program for court administrative personnel. The training will cover the theoretical framework of trial court management, establishing operational goals and objectives, developing an improvement program, managing change, and budgeting.

● Parole decisionmaking. Based on research that produced guidelines for making decisions about who should be released from prison, this training would be directed at State parole board members and State legislators responsible for the oversight of paroling authorities. The training would also review alternatives to parole now being advanced by some scholars and practitioners. The purpose of the training would be to provide a sound basis for decisionmaking on the questions of who gets released and when.

● *Presentence reports.* Based on a Program Model, this workshop would train participants to develop more useful presentence reports designed to meet specific needs of a jurisdiction. Multilevel reports of varying degrees of detail may be needed to meet the requirements of specific judges in specific cases.

Special national workshops bring key researchers and practitioners together to discuss particularly significant research findings and other critical criminal justice issues. Special national workshops in the coming fiscal year will be selected from the following candidates:

● *Mental health in jails.* Jointly sponsored by NILECJ, NIMH, and NIC, this workshop will explore the status of mental health services in American jails, examine the legal and Constitutional issues, review implementation of the standards recommended by the National Advisory Commission on Criminal Justice Standards, recap the literature and research on psychological behavioral pathology in jails, examine prevention models for mental health services in jails, and assess the extent and status of research on mental health services for and problems of jailed offenders.

● *Second evaluation workshop.* An update on current best work in criminal justice evaluation will be presented in 15 panels to researchers and evaluators. Evaluation methodology and problems would be discussed with SPA and RPU evaluation managers as the target participants.

● *Collective disorders.* A panel of up to 25 law enforcement and emergency preparedness executives will examine present and anticipated issues relating to collective disorders and terrorism, determine the needs for prevention and management of such incidents, and recommend programs for updating response capabilities in the criminal justice system. A secondary function would be to identify research and data development needs in this area.

● *Governors' workshop.* A national workshop or a series of regional presentations are tentatively planned to acquaint Governors with criminal justice issues and the roles of research and LEAA in supporting State decisionmaking in this area.

● *State planning agency workshop.* With the combined sponsorship of NILECJ and the National Conference of State Criminal Justice Planning Adminstrators, this workshop would address the primary issues affected by SPA programs and supported by the research community. In addition to SPA administrators, RPU directors, State budget officers, and executive staffers from Governors' offices would be invited.

● *Community crime prevention.* The purpose of this workshop would be to review completed and ongoing research in this area as well as major questions that merit further research attention. Special consideration would be given to social science findings and experiences relevant to crime prevention. Problems and issues dealing with the planning, design, and conduct of research and evaluation in crime prevention would also be addressed. The workshop would draw upon Institute research results and work in progress.

● *Criminal careers.* The workshop would address benefits of identifying career criminals and analyze selective treatment potential, based upon a better understanding of how career criminals differ from the general offender population in such characteristics as frequency and scope of activities, success in avoiding arrest or incarceration, motivations and receptivity to correctional treatment.

● *Update 1979.* The third in a series of annual sessions for local elected officials, the workshop would present panel discussions of significant research efforts with implications for cities and counties.

● *Prison overcrowding.* The workshop would provide data and projections for all States on the issue of prison populations and related needs in manpower and physical resources. Other factors such as services, unionism, and management may be considered. The primary audience would be State legislatures.

● *Retrenchment planning.* Elected officials, budget officers, planners, and criminal justice officials would be presented with systematic approaches to reduce costs through utilization of more effective management procedures and more efficient criminal justice practices and manpower allocation.

The HOST program gives officials seriously interested in implementing a new program the opportunity to spend up to two weeks working with administrators of selected "host" Exemplary Projects. The Institute pays travel and living expenses for the visitor. The first-hand, on-location experience provides the chance to study the project operation in detail and prepares the visitor to transfer all or part of it to his own community. Response to the program is encouraging: 13 communities have made major modifications or established new procedures as an outgrowth of Host visits, and another 36 communities have initiated some changes based on what they learned through onsite observation of outstanding projects.

The program will support approximately 50 visitors to 15 host agencies in fiscal year 1979. Visitors are nominated by State Planning Agencies and professional organizations.

REFERENCE AND DISSEMINATION DIVISION

This Division supervises the operation of the National Criminal Justice Reference Service, maintains the LEAA library, and manages the publication program of the National Institute.

The National Criminal Justice Reference Service, an international clearinghouse, is the Federal information resource center for criminal justice researchers and practitioners. Through a wide range of distribution and notification services, the Reference Service informs more than 40,000 subscribers of the latest research and operating experience in criminal justice. Its computerized data base can provide quick response to individual queries on criminal justice topics. A limited number of single copies of National Institute, LEAA, and other selected publications are provided free to subscribers.

Selected foreign documents are provided in English translation.

For further information and registration details, write:

National Criminal Justice Reference Service, Box 6000, Rockville, MD. 20850.

The division also maintains the LEAA Library whose special collection serves as a resource for LEAA staff and the public.

In addition to publishing and distributing all Institute research and program documents, the Institute's publication program produces specialized information products including brochures, journal articles, the Program Plan, the Annual Report, the Research Bulletin, the Research Briefs (in the LEAA Newsletter), and a new monograph series entitled Criminal Justice Perspectives. In fiscal year 1979, the Institute will publish the first annual review of criminal justice research.

Because equipment is a major budget item for law enforcement agencies, the Office also supports testing of particularly significant equipment items and dissemination of the results. The Equipment Technology Center, operated by the International Association of Chiefs of Police with Institute support, supervises the testing process and publishes performance reports to help law enforcement agencies make sound purchasing decisions.

A corollary effort is the ongoing Law Enforcement Standards Laboratory (LESL) established at the National Bureau of Standards. It serves as the Institute's scientific laboratory in researching and developing performance standards for selected items of law enforcement and criminal justice equipment. The standards support the work of the Equipment Technology Center and also are published and disseminated directly to criminal justice purchasing agents.

For additional information on the Office of Development, Testing, and Dissemination programs and services described above, contact:

Paul Cascarano, Director, Office of Development Testing and Dissemination, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, Washington, D.C. 20531.

BLAIR G. EWING,
Acting Director, National Institute of Law Enforcement and Criminal Justice.

[FR Doc. 78-29348 Filed 10-18-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-284]

IDAHO STATE UNIVERSITY

Proposed Issuance of Amendment to Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility License No. R-110, issued to Idaho State University (the licensee), for operation of the AGN-201 Research Reactor located on the licensee's campus in Pocatello, Idaho.

The amendment would authorize an increase in the reactor's licensed maximum power level from 100 milliwatts (thermal) to 5 watts (thermal), in accordance with the licensee's application for amendment dated August 10, 1978.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 20, 1978, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend his petition, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 800-325-6000 (in Missouri 800-342-6700). The Western Union operator should be given Datagram Identification No. 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Idaho AGN-201); and (publication date and page number of this FEDERAL REGISTER notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing

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of the factors specified in 10 CFR 2.714(a)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for

warded the following "Class II, Priority Action" recommendations to:

State of North Carolina—

Safety Board issued the following Class II recommendations to:

Halliburton Services—

or any of its components, independent of crew observation. (R-78-56)

RESPONSES TO SAFETY

place outside of restricted/warning areas or positive control area. The tie-in FSS will then transmit an all circuit message to all FSS's within 200 nmi of

ings of "Beacon" have been included in the Glossary and have appeared in Handbooks 7110.65, Change 4, and 7110.10D, dated January 1977, and in

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of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 10, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 10th day of October 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-29322 Filed 10-18-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-42]

ACCIDENT REPORTS; RESPONSES TO SAFETY RECOMMENDATIONS

Availability

The National Transportation Safety Board has concluded its investigations of three major accidents which occurred earlier this year—a truck collision in North Carolina, the sinking of the M/V HALLIBURTON in the Mississippi River Delta, and a train derailment in South Carolina. Copies of the narrative reports on these accidents were released last week and are now available to the public.

HIGHWAY ACCIDENT REPORT

A Kohler Company tractor-semitrailer, carrying a 43,000-lb. cargo of feldspar, was southbound last January 25 on North Carolina Route 226. As the truck descended a steep winding grade near Marion, braking capability was lost because the brakes were out of adjustment. The operator steered the truck into the northbound lanes at a blind curve and struck a northbound pickup truck headon. A passenger in the pickup truck was killed; both drivers and a second passenger in the pickup were injured. (Report No. NTSB-HAR-78-6)

The Safety Board determined that the probable cause of this accident was: (1) The loss of truck braking capability because the brakes were out of adjustment and (2) the southbound truckdriver's poor judgment in steering into the northbound lanes at a blind curve and into the path of the pickup truck. Contributing to the cause of the accident was an inadequate, preventive maintenance program by the carrier.

As a result of its investigation, the Safety Board on September 29 forwarded the following "Class II, Priority Action" recommendations to:

State of North Carolina—

Upgrade State guardrail installations at this location to conform with current American Association of State Highway and Transportation Officials (AASHTO) and Federal Highway Administration (FHWA) design and performance standards. (H-78-67)

Maintain edge line markings at this location by clearing debris from the pavement surface as recommended by Highway Safety Manual Standard No. 12, Chapter 4. (H-78-68)

Federal Highway Adminstration—

Review North Carolina's barrier rail installation practices to assure that guardrails are upgraded when roadway resurfacing alters their relative height to the extent that they no longer conform to the AASHTO standards. (H-78-69)

Ryder Truck Rental, Inc.—

Amend its maintenance program relative to brake adjustment by requiring an adjustment at least at each preventive maintenance inspection. (H-78-70)

Also as a result of this truck collision, the Safety Board reiterates its safety recommendation H-78-48, issued to the National Highway Traffic Safety Administration on June 3:

Develop a Federal Motor Vehicle Safety Standard stating a performance requirement for all newly manufactured commercial vehicles to have equipment that would insure brakes being in proper adjustment at all times.

MARINE ACCIDENT REPORT

The industrial vessel M/V HALLIBURTON 207 exploded last February 4 while attempting to plug an offshore oil well in the Garden Island Bay section of the Mississippi River Delta. Investigation showed that the explosion raised the forward section of the vessel's main deck approximately 4 feet, distorted internal bulkheads and strength members, and breached the hull. The vessel flooded slowly and sank. The explosion killed one person and injured two others. (Report No. NTSB-MAR-78-8)

The Safety Board determined that the probable cause of this accident was the entry of natural gas from an offshore oil well into the vessel's interior through a failed piping joint, and the subsequent ignition of the gas by the arcing of the contacts of an electric motor controller. Contributing factor was the lack of a device in the vessel's piping system to prevent flowback from the well, the interior location of the piping, and the lack of emergency procedures to insure that valves at the wellhead were closed at the first indication of difficulty.

On September 28, as a result of its investigation of this accident, the Safety Board issued the following Class II recommendations to:

Halliburton Services—

Alter the cement discharge piping of all Halliburton Services cementing vessels by installing a device at the outlet end of the piping to prevent flow from the well back into the vessel, and by providing a means to release entrapped pressure downstream of the device. (M-78-70)

Establish instructions requiring the hydrostatic testing of both the cement discharge lines and the mixing discharge lines before servicing petroleum wells. (M-78-71)

Establish instructions requiring Halliburton Services employees who supervise petroleum well servicing operations to formulate contingency plans with the person in charge of the well, before commencing service operations. Such plans should include, but not be limited to, the manning of key valves. (M-78-72)

Texaco, Inc.—

Establish instructions requiring Texaco, Inc., employees who supervise petroleum well drilling or production operations to formulate contingency plans with the person in charge of personnel who are contracted to service the well, before commencing service operations. Such plans should include, but not be limited to, the manning of key valves. (M-78-73)

RAILROAD ACCIDENT REPORT

Last February 24, 19 cars and a locomotive unit of Auto-Train No. 4 derailed on Seaboard Coast Line Railroad trackage at Florence, S.C. Twenty-four of the 503 passengers were injured, and the total accident damage was estimated to be nearly $775,000. (Report No. NTSB-RAR-78-6)

The Safety Board determined that the probable cause of the accident was a locomotive unit axle fracture that originated in an undetected void that developed during the manufacture of the axle. Contributing to the cause of the accident was the lack of a system for detecting an axle failure independent of crewmembers' inspection.

Investigation of this accident prompted the Safety Board on September 27 to issue the following Class II recommendations to:

Association of American Railroads—

Amend the procedures for testing and inspecting used locomotive unit axles before they are remounted to insure that internal defects can be detected. (R-78-53)

Federal Railroad Administration—

Revise 49 CFR 230.213, Axles, to establish specifications for the manufacturing and testing of locomotive axles to insure the discovery of internal defects before they are placed in service. (R-78-54)

Revise 49 CFR 230.213, Axles, to establish procedures and methods to test in-service locomotive axles to insure the detection of internal defects so they may be removed from service. (R-78-55)

Develop a method that will automatically detect the failure of a locomotive unit truck

or any of its components, independent of crew observation. (R-78-56)

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-74-97, A-75-11 through 13, A-75-35 through 38, and A-76-96.—Federal Aviation Administration's letter of September 21 updates information in response to Safety Board Recommendations which were issued following investigation of several midair collisions of civilian and military aircraft.

Recommendation A-74-97 (issued in connection with the October 11, 1974, midair collision between a New Jersey Air National Guard F-106 and a civil aircraft, N6876P near Saxis, Va.) called for FAA to take positive action to assure that low-level military intercept training operations are confined to designated restricted airspace. FAA reports that on July 1, 1975, the following paragraph was added to FAA Handbook 7610.4C:

Interceptor training operations shall be conducted in either air traffic control (ATC) assigned airspace or within currently designated restricted/warning areas during existing published hours of operation. To the extent feasible, first preference shall be given to the use of restricted/warning areas. While conducting intercepter training within ATC assigned airspace, the aircraft shall be under radar surveillance at all times by the appropriate military facility.

Recommendations A-75-11 through 13 were issued as a result of investigation of the midair collision between an Aero Commander 6T and an F-111A on November 12, 1974. The recommendations called for reviewing locations of all military aerial refueling tracks and verifying their accuracy as described in the Airman's Information Manual (AIM), including in the AIM a diagram of the aerial refueling tracks, and broadcasting appropriate alerting information periodically on the VOR voice frequency when operations are being conducted within military aerial refueling tracks.

In response, FAA states that a review of the locations of all military aerial refueling tracks to assure their accuracy was completed on June 24, 1975. Aerial refueling tracks, established outside of positive control airspace, are depicted in the AIM. The format, in graphic form, is derived from the route description as published in the Department of Defense (DOD) Flip military training routes (copy attached to FAA's response). Also on July 1, 1975, FAA inserted a new paragraph in Handbook 7610.4C requiring air route traffic control centers to notify the appropriate tie-in flight service station (FSS) at least 2 hours in advance when an established aerial refueling track will be activated if all or part of the activity will take place outside of restricted/warning areas or positive control area. The tie-in FSS will then transmit an all circuit message to all FSS's within 200 nmi of the track centerline. FAA says that this information is then provided to pilots upon request during inflight/preflight briefings. (Exception—mandatory briefing item in Southern Region.)

Recommendations A-75/35 through 38 resulted from investigation of the midair collision between a Cessna-150H and a USAF T-29D at Newport News, Va., on January 9, 1975. These recommendations asked FAA to establish a Group II traffic control area (TCA) to encompass designated airports in the Tidewater, Va., area, or, should this prove impractical, to coordinate and establish a terminal radar service area (TRSA), similar to the one in Sacramento, Calif., which will encompass the Tidewater area (A-75-35); extend the approach gates to runway 7-25 at Langley Air Force Base to a distance of 12 miles (A-75-36); determine which other military areas require either a terminal control area or terminal radar service area and establish them (A-75-37); and initiate action to enable DOD to establish and maintain Group I type terminal control area around military facilities (A-75-38).

FAA's September 21 response reports that the expension of the Norfolk TRSA is being implemented in two phases. On December 5, 1975, the TRSA was expanded to include Langley AFB, providing for additional control zone protection. Equipment needed to further expand the TRSA to include both Patrick Henry International Airport and Felker Army Airfield was included in the fiscal year 1978 budget. On completion of the Norfolk Tower modifications, the TRSA will be expanded to include the remaining airports.

Commenting on A-75-37, FAA says that a DOD letter of September 15, 1975, stated that DOD accepted FAA's conclusion that stage III service offers a practicable alternative to TCA's; as a result, they plan to implement Stage III service at selected military airfields. Concerning A-75-38, FAA reports that during the past 3 years FAA/DOD established TRSA's at selected military locations in Texas, Florida, Mississippi, North Carolina, and South Carolina.

Recommendation A-76-96, issued following investigation of the emergency landing near Garrett County Airport, Oakland, Md., March 12, 1976, after a Cessna 172's engine failed because of fuel exhaustion, asked that FAA include all of the various meanings of the word "Beacon" in a revision to the Pilot/Controller Glossary. FAA reports that the various meanings of "Beacon" have been included in the Glossary and have appeared in Handbooks 7110.65, Change 4, and 7110.10D, dated January 1977, and in the AIM, effective February 1977 (copy provided).

A-78-42.—Supplementary its response of September 11 (see 43 FR 46090, October 5, 1978), FAA on October 4 provided additional information recently developed concerning the 65 accidents cited by the Safety Board in its recommendation letter issued last July 5. The Safety Board cited as caustive factors in these accidents the improper loading of the aircraft, the failure to arrange for a proper lease agreement, the failure to maintain the aircraft in accordance with 14 CFR 91.217(a), the lack of evidence that the copilot met the provisions of 14 CFR 91.213 or 14 CFR 61.55, and the fact that no qualified flight engineer was on board.

FAA's October 4 letter reports that an indepth analysis of the accident reports reveals that 14 or 21.5 percent of the 65 accidents could be attributed to improper maintenance. This review disclosed that 17 of the accidents were in these categories: (1) Six accidents involved air carriers operating under FAR 121; (2) three were FAA airplanes maintained under FAR 121; (3) two involved small airplanes which are not required to comply with 14 CFR 91, Subpart D; (4) one involved a military type airplane operated by CIA, which was not required to comply with FAR but did display an "N" number; and (5) five occurred in foreign countries, now being investigated by foreign authorities, but there is no conclusive information to indicate that maintenance was a cause or factor.

FAA states that its review further indicates that maintenance was a related or causal factor in 14 of the remaining 48 accidents, and, of the 98 fatalities cited by the Safety Board, FAA finds that 3 ocurred in a maintenance-associated accident. FAA again expresses the opinion that the intent of the recommendation will be satisfied with the completion of the Airworthiness and Operational Review Programs, the 14 CFR Part 91 regulatory project, and the agency's surveillance program as stated in FAA Order 1800.12D, Flight Standards Program Guidelines.

A-78-66.—FAA's letter of October 2 is in response to the Safety Board's recommendation issued following investigation of the crash of a McDonnell Douglas DC-3 shortly after takeoff last July 9 from the Richmond (Ind.) Airport. The recommendation asked FAA to issue an immediate Airworthiness Directive requiring an inspection of the DC-3/C-47 elevator "up" cables for interference where they pass through the bulkhead at fu-

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selage station 63 and to correct before their next flight those aircraft found to have cables which can interfere with the bulkhead.

FAA reports that Airworthiness Directive No. 78-18-02 (copy provided) effective September 6, was issued on August 24. This AD requires inspection of the right and left elevator "up" and cable fittings for possible interference with the bulkhead frame and channel at fuselage station F. S. 63 on the DE-3 and F. S. 24 on the Super DC-3 within the next 25 hours time in service after the effective date.

Highway

H-78-43 and 44.—Letter of October 4 from the Federal Highway Administration addresses recommendations issued following investigation of the accident last May 12 near Marion, N.C., involving a partially loaded flatbed truck which was towing a flatbed utility semitrailer fully loaded with a loader-backhoe tractor when it accelerated out of control while descending a curved, steep, long grade. Recommendation H-78-43 called on FHWA to investigate and report on the feasibility of a specially funded program to construct truck escape ramps, and recommendation H-78-44 asked FHWA to expedite the establishment of a design policy concerning long steep grades and escape ramps.

In response, FHWA states that it does not consider it advisable to recommend a specially funded Federal program to provide escape routes for out-of-control vehicles along already constructed grades for inclusion in Federal-aid highway legislation. However, FHWA is preparing a Notice emphasizing the need for countermeasures, and is encouraging each State to assess grade problems and to take appropriate action. Such action may consist of construction of emergency escape ramps for which Federal funds are currently available from the regular highway construction apportionments.

FHWA also reports that it has offered technical assistance to the American Association of State Highway and Transportation Officials which is rewriting its current policies on geometric design of highways. The revised policy will have a section on the design and location of emergency escape ramps. Since the final publication of the revised policy is still 2 or 3 years away, FHWA says that a Technical Advisory providing interim guidelines for the design of emergency escape ramps is being prepared for issue this year.

FHWA notes that a report, "Emergency Escape Ramps for Runaway Heavy Vehicles," was recently completed. Part of the work associated with this report was the development of a slide/tape presentation. The report and the presentation package, currently being reviewed by FHWA staff, emphasizes the runaway problem and offers practical solutions, i.e., various types of escape ramps that have proven to be effective. This package is planned for distribution in early 1979.

A currently active research study, "Evaluation of Techniques to Counteract Runaway Truck Accidents on Downgrades," is investigating existing and new countermeasures, FHWA states. Such countermeasures consist of signing, brake test centers at the top of a grade, or grade severity ratings. The feasibility of developing a single number grade severity rating which, with other information, allows a driver to judge the relative severity of any grade, familiar or unfamiliar to him, and choose a proper gear for descent, has been shown by a recent study. Another new study would develop design criteria for use by highway officials in determining which, if any, corrective or preventive measures to take where a steep downgrade may be a hazard. Parameters to be considered will include road geometry, traffic volume, truck traffic volume, accident history, and the cost of implementation, operation, and maintenance of specific remedial techniques. Findings of that study will be included in any future design policies, FHWA states.

H-78-53 and 54.—Letter of September 29 from the National Highway Traffic Safety Administration responds to recommendations issued as a result of investigation of the July 21, 1977, accident near Chantilly, Va., involving a dump truck loaded with 17 tons of stone which, after violating a red traffic signal at an intersection, struck an automobile, killing four persons. The recommendations asked NHTSA to actively encourage and aid the States to conform to the Model Classified Licensing System developed by the American Association of Motor Vehicle Administrators (AAMVA), and to conduct research to establish the relationship between crash exposure rates, types of trucks, and ages of truck drivers.

NHTSA agrees with the first recommendation, H-78-53, and has contracted with AAMVA to develop the Model Classified Driver Licensing System as recommended; a copy of the model guidelines is provided with NHTSA's response. These guidelines are being distributed to all licensing jurisdictions and will serve as the foundation for joint NHTSA/AAMVA encouragement to the States to design their licensing systems in a similar manner. Additionally, AAMVA has offered to provide staff guidance and assistance to the States upon request, to assist them in converting to classified licensing.

Concerning recommendation H-78-54, NHTSA says it is trying to approach data on truck crashes through an ongoing study by the Highway Safety Research Center (HSRC), University of North Carolina entitled "Requirements Analysis for Heavy Vehicle Driver Licensing." NHTSA expects this study will provide a base for further research. Previous studies by Ms. Patricia Waller, HSRC, and Ms. Susan Baker, The Johns Hopkins University, have provided NHTSA with only partial data which is expected to be expanded under the current study.

NOTE.—The above notice summarizes Safety Board documents recently released and recommendation response letters received. Single copies of accident reports are available without charge as long as supplies last. Copies of the Board's recommendation letters in their entirety and letters in response to recommendations may be obtained free of charge.

All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 16, 1978.

[FR Doc. 78-29526 Filed 10-18-78; 8:45 am]

[3195-01-M]

OFFICE OF ADMINISTRATION EXECUTIVE OFFICE OF THE PRESIDENT

ADVISORY COMMITTEE ON FINANCIAL REPORTING FOR THE EXECUTIVE OFFICE OF THE PRESIDENT

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1976)) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, it has been determined that the establishment of the Advisory Committee on Financial Reporting for the Executive Office of the President is in the public interest in connection with the performance of duties imposed on the Executive Office of the President by law.

The Committee will advise the Director, through the Director for Financial Management on current financial reporting standards and how they relate to the financial management of the Executive Office of the President.

The Committee will consist of 10 members, with representation from both the public and private sector.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter has been filed under the act with appropriate congressional committees.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee on Financial Reporting for the Executive Office of the President. Comments should be addressed to Director for Financial Management, Office of Administration, Executive Office of the President, Washington, D.C. 20500, telephone, 202-456-6640.

Dated: September 27, 1978.

RICHARD M. HARDIN,
Director,
Office of Administration.

[FR Doc. 78-29514 Filed 10-18-78; 8:45 am]

[1505-01-M]

OVERSEAS PRIVATE INVESTMENT CORPORATION

[Redelegation of Authority No. A-78-19]

AUTHORITY OF OFFICERS

Redelegation of Authority

Correction

In FR Doc. 78-28520 appearing at page 46612 in the issue for Tuesday, October 10, 1978, in the middle column of page 46613, under paragraph (4)(a), change the portion of the text from lines 7 through 11 to read as follows: "* * * the Corporation is duly authorized to act as agent in the name and on behalf of any association, corporation or other entity, in the name and on behalf of such association, corporation or other entity any such contract of insurance or reinsurance, provided that * * *."

[7715-01-M]

POSTAL RATE COMMISSION

[Order No. 216; Docket No. MC78-3]

ELECTRONIC MAIL PROPOSAL, 1978

Order Granting Petitions for Intervention, Allowing Participation, Designating Presiding Officer and Officer of the Commission, Fixing Date for a Prehearing Conference, and Establishing Procedures

OCTOBER 12, 1978.

The U.S. Postal Service, on September 8, 1978, filed with the Postal Rate Commission a request for a recommended decision on establishing an electronic computer originated mail (ECOM) subclass. The Commission issued a notice to that effect on September 13, 1978. The notice was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 41441). The notice announced the docketing of the Postal Service's request as MC78-3 and directed persons who wished to participate in Docket No. MC78-3 to file, on or before September 29, 1978, petitions for leave to intervene or requests for leave to be heard as a limited participator. The notice also invited persons who wished to express their views, but did not wish to become a party or a limited participator, to file comments (39 CFR 3001.19-.20). Additionally, the notice pointed out that the Postal Service requested waiver of certain filing requirements of the rules of procedure of the Commission (39 CFR 3001.21-.22, .61-.66). We are directing that responses to this motion be filed within 10 days. See ordering paragraph (G), infra.

I. INTERVENTION

Fourteen persons have petitioned to intervene in Docket No. MC78-3 and twelve persons have requested to be heard as limited participators. These persons are listed in Attachment A. In order to advise these persons of their status at the earliest possible date and to establish an initial service list for this docket, we have decided to rule on the petitions at this time, subject to reconsideration on the basis of any answers which may be filed.

The persons listed in Attachment A either are users of the mails or have otherwise demonstrated an interest in Docket No. MC78-3. Accordingly, the requests for participation will be granted, subject to reconsideration as noted above.

Pursuant to section 65 of the rules of practice (39 CFR 3001.65) the Service will be required to serve copies of its Request and its prepared direct evidence upon the persons identified in Attachment A and upon the Officer of the Commission. Where service upon more than one representative has been requested in the petition to intervene or request to be heard as a limited participator, the Service will be required to serve only the first two named representatives in the petition. See sections 12 (c) and (d) of the rules of practice (39 CFR 3001.12(c)-(d)).

II. APPOINTMENT OF PRESIDING OFFICER AND DATE OF INITIAL PREHEARING CONFERENCE

In furtherance of the Commission's desire for expeditious consideration and pursuant to section 30(b) of the Commission's rules of practice (39 CFR 3001.30(b)), the Commission will conduct all prehearing conferences and hearings en banc. Clyde S. DuPont, Chairman, will be the presiding officer in such proceedings (39 CFR 3001.5(e), 3001.23). An initial prehearing conference will be held on November 2, 1978 and, therefore, on such further dates as may be designated by the presiding officer. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

III. APPOINTMENT OF THE OFFICER OF THE COMMISSION

The Officer of the Commission (OOC) designated to represent the general public (*see* 39 U.S.C. 3624(a)) in this proceeding will be Stephen L. Sharfman.[1] During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any such personnel will participate in or advise as to any Commission decision in the case. *See* 39 CFR 3001.8. The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by section 10(c) of the rules of practices (39 CFR 3001.10(c)).

IV. PROCEDURES FOR EXPEDITION

To the degree consistency with procedural fairness permits, it is our intention to expedite the proceedings in Docket No. MC78-3.[2] Accordingly, we are issuing a proposed schedule of procedural stages (including dates for the first three stages) which all participants should review and be prepared to comment upon at the initial prehearing conference. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy.

[1] Mr. Sharfman is the Commission's Acting Assistant General Counsel (Litigation).

[2] The Postal Reorganization Act requires us to consider request for changes in the classification schedule "promptly" and to conduct proceedings "with utmost expedition consistent with procedural fairness" (39 U.S.C. 3624). While the statute does not specify a particular time frame for classification cases, we are inclined to adopt the 10-month schedule to which we must adhere in rate cases (*see* 39 U.S.C. 3624(c)) as a general guideline. Of course, some cases can, and will, be completed in considerably less time, and we recognize that others which involve particularly complex or novel issues may require somewhat lengthier proceedings.

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V. PREHEARING CONFERENCE STATEMENTS

In preparation for the initial prehearing conference, each participant should serve a document captioned "Prehearing Conference Statement" on or before October 20, 1978, containing the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.) In view of the novel competition issues which may arise in this proceeding, the parties should also set forth, with specificity, any competition or antitrust considerations which it is believed ought to be addressed. Legal principles, decided cases or statutory references relating to competition considerations relevant to this case should also be included. (In view of the novelty of the competition or antitrust considerations, a party will not be foreclosed from subsequently refining its definition of those issues.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. Any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.

The Commission orders. (A) Each of the petitioners identified in attachment A to this order is hereby permitted to intervene or to become a limited participator in this proceeding, subject to the provisions of paragraph (B), below.

(B) The participation of the intervenors and limited participators permitted by paragraph (A), above, is subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and requests to become limited participators: *And provided, further,* That the admission of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) The Postal Service shall serve copies of its request and its prepared direct evidence upon representatives of petitioners permitted to intervene and the representatives of the limited participators. For purposes of such service, where service upon more than one representative has been requested in the petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(D) the Commission will sit en banc, with Clyde S. DuPont, Chairman, as presiding officer, in the above-captioned proceeding.

(E) A prehearing conference in this proceeding will be held on November 2, 1978, commencing at 9:30 a.m. in the Postal Rate Commission hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268. The conference will be held for the purposes specified in section 24 of the Commission's rules of practice (39 CFR 3001.24) and in this order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in Docket No. MC-78-3. The conference proceedings shall be recorded by an official reporter except where otherwise directed by the presiding officer.

(F) Stephen L. Sharfman is hereby designated as the Officer of the Commission to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

(G) The participants have 10 days from the date of this order in which to file answers to the service's request for a waiver of compliance with certain rules of practice.

By the Commission.

CYRIL J. PITTACK,
Acting Secretary.

PERSONS FILING PETITIONS TO INTERVENE

American Bankers Association.
American Business Press, Inc.
American Cable and Radio Corp.
Association of American Publishers, Inc.
Computer and Business Equipment Manufacturers Association.
Council of Public Utility Mailers.
Direct Mail/Marketing Association, Inc.
Graphnet Systems, Inc.
Magazine Publishers Association, Inc.
Mail Order Association of America.
National Association of Greeting Card Publishers.
J. C. Penney Co., Inc.
TDX Telecommunications, Inc.
Xerox Corp.

PERSONS FILING REQUESTS TO BECOME LIMITED PARTICIPATORS

American Newspaper Publishers Association.
American Retail Federation.
DHL Communications, Inc.
Envelope Manufacturers Association.
Federal Communications Commission.
GTE Service Corp.
U.S. Department of Justice.
MCI Telecommunications Corp.
National Industrial Traffic League.
National Telecommunications and Information Administration.
United Parcel Service.
Dr. George M. Wattles.

TENTATIVE HEARING SCHEDULE FOR PROCEEDINGS—DOCKET MC78-3

Month, Date, Year, and Procedural Stage

November 2, 1978—Prehearing Conference.
December 15, 1978—Completion of all discovery directed to the Postal Service.
January 30, 1979—Filing of the case-in-chief of each participant (including that of OOC).
Beginning of hearings, i.e., cross-examination of the Postal Service's case-in-chief.
Completion of evidentiary hearings as to the Service's case-in-chief.
Completion of all discovery directed to the intervenors.
Beginning of evidentiary hearings as to the case-in-chief of each participant.
Completion of the evidentiary hearings as to the case-in-chief of each participant.
Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)
Beginning of evidentiary hearings on rebuttal evidence.
Close of evidentiary record.
Initial briefs filed.
Reply briefs filed.
Oral argument (if requested).

[FR Doc. 78-29468 Filed 10-18-78; 8:45 am]

[7715-01-M]

[Order No. 214; Docket No. MC78-1]

PARCEL POST PROPOSAL, 1978

Order Granting Petitions for Intervention, Allowing Participation, Designating Presiding Officer and Officer of the Commission, Fixing Date for a Prehearing Conference, and Establishing Procedures

OCTOBER 12, 1978.

The United States Postal Service filed with the Postal Rate Commission on September 8, 1978, a request for a recommended decision on a restructuring of parcel post. The Commission issued a notice to that effect on September 13, 1978. The notice was published in the FEDERAL REGISTER on September 18, 1978 (43 FR 41441-42), the notice announced the docketing of the Postal Service's request as MC78-1 and directed persons who wished to participate in Docket No. MC78-1 to file, on or before September 29, 1978, petitions for leave to intervene or requests to be heard as a limited participator. The notice also invited persons who wished to express their views, but did not wish to become a party or limited participator, to file comments (39 CFR 3001.19-.20).

I. INTERVENTION

Ten persons have petitioned to intervene in Docket No. MC78-1, and four persons have requsted to be heard as limited participators. These persons are listed in Attachment A. In order to advise these persons of their status at the earliest possible date and to establish an initial service list for this docket, we have decided to rule on the petitions at this time, subject to reconsideration on the basis of any answers which may be filed.

The persons listed in Attachment A either are users of the mails or have otherwise demonstrated an intrest in Docket No. MC78-1. Accordingly, the requests for participation will be granted, subject to reconsideration as noted above.

Pursuant to section 65 of the Rules of practice (39 CFR 3001.65) the Service will be required to serve copies of its Request and its prepared direct evidence upon the persons identified in Attachment A and upon the Officer of the Commission. Where service upon more than one representative has been requested in the petition to intervene or request to be heard as a limited participator, the Service will be required to serve only the first two named representatives in the petition. See sections 12(c) and (d) of the rules of practice (39 CFR 3001.12(c)-(d)).

II. APPOINTMENT OF PRESIDING OFFICER AND DATE OF INITIAL PREHEARING CONFERENCE

In furtherance of the Commission's desire for expeditious consideration and pursuant to section 30(b) of the Commission's rules of practice (39 CFR 3001.30(b)), the Commission will conduct all prehearing conferences and hearings en banc.

Clyde S. DuPont, Chairman, will be the presiding officer in such proceedings (39 CFR 3001.5(e), 3001.23). An initial prehearing conference will be held on October 31, 1978, at 9:30 a.m. and, thereafter, on such further dates as may be designated by the presiding officer. Conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, Suite 500, 2000 L Street NW., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

III. APPOINTMENT OF THE OFFICER OF THE COMMISSION

The Officer of the Commission (OOC) designated to represent the general public (see 39 U.S.C. 3624(a)) in this proceeding will be Stephen L. Sharfman.[1] During this proceding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any personnel will participate in nor advise as to any Commission decision in the case. See 39 CFR 3001.8. The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by section 10(c) of the rules of practice (39 CFR 3001.10(c)).

IV. PROCEDURES FOR EXPEDITION

To the degree consistency with procedural fairness permits, it is our intention to expedite the proceedings in this docket.[2] Accordingly, we are issuing a proposed schedule of procedural stages (including dates for the first three stages) which all participants should review and be prepared to comment upon at the initial prehearing conference. See Attachment B. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy.

V. PREHEARING CONFERENCE STATEMENTS

In preparation for the initial prehearing conference, each participant should serve a document captioned "Prehearing Conference Statement" on or before October 20, 1978, containing the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. any other matter the participant believes should be pursued at the prehearing conference.

Prior to the initial prehearing conference, all participants are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.

The commission orders: (A) Each of the petitioners identified in Attachment A to this Order is hereby permitted to intervene or to become a limited participator in this proceeding, subject to the provisions of paragraph (B), below.

(B) The participation of the intervenors and limited participators permitted by paragraph (A), above, is subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and requests to become limited participators: *And provided, further,* that the admission of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) The Postal Service shall serve copies of its Request and its prepared direct evidence upon representatives of petitioners permitted to intervene and the representatives of the limited participators. For purposes of such service, where service upon more than one representative has been requested in the petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(D) The Commission will sit en banc, with Clyde S. DuPont, Chairman, as presiding officer, in the above-captioned proceeding.

(E) A prehearing conference in this proceeding will be held on October 31, 1978, commencing at 9:30 a.m. in the Postal Rate commission hearing room, suite 500, 2000 L Street, NW., Washington, D.C. 20268. The conference will be held for the purposes specified in section 24 of the Commission's rules of practice (39 CFR section 3001.24)

[1] Mr. Sharfman is the Commission's Acting Assistant General counsel (Litigation).

[2] The Postal Reorganization Act requires us to consider requests for changes in the classification schedule "promptly" and to conduct proceedings "with utmost expedition consistent with procedural fairness" (39 U.S.C. 3624). While the statute does not specify a particular time frame for classification cases, we are inclined to adopt the 10-month schedule to which we must adhere in rate cases (see 39 U.S.C. 3624(c)) as a general guideline. Of course, some cases can, and will, be completed in considerably less time, and we recognize that others which involve particularly complex or novel issues may require somewhat lengthier proceedings.

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and in this Order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in Docket No. MC78-1. The conference proceedings shall be recorded by an official reporter except where otherwise directed by the presiding officer.

(F) Stephen L. Sharfman is hereby designated as the Officer of the Commission to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

By the Commission.

CYRIL J. PITTACK,
Acting Secretary.

ATTACHMENT A

PERSONS FILING PETITIONS TO INTERVENE

American Business Press, Inc.
Association of American Publishers.
Direct Mail Marketing Association.
Growers & Shippers League of Florida and Florida Gift Fruit Shippers Association.
Magazine Publishers Association, Inc.
Mail Order Association of America.
National Association of Greeting Card Publishers.
Parcel Shippers Association.
J.C. Penney Company, Inc.
United Parcel Service.

PERSONS FILING REQUESTS TO BECOME LIMITED PARTICIPATORS

American Retail Federation.
Associated Third Class Mail User.
National Industrial Traffic League.
George M. Wattles.

ATTACHMENT B

TENTATIVE HEARING SCHEDULE FOR PROCEEDINGS—DOCKET MC 78-1

October 31, 1978

Prehearing Conference.

December 11, 1978

Completion of all discovery directed to the Postal Service.

January 15, 1979

Filing of the case-in-chief of each participant (including that of OOC).
Beginning of hearings, i.e., cross-examination of the Postal Service's case-in-chief.
Completion of evidentiary hearings as to the Service's case-in-chief.
Completion of all discovery directed to the intervenors.
Beginning of evidentiary hearings as to the case-in-chief of each participant.
Completion of the evidentiary hearings as to the case-in-chief of each participant.
Rebuttal evidence of the Postal Service and each participant. (No discovery to be permitted on this rebuttal evidence; only oral cross-examination.)
Beginning of evidentiary hearings on rebuttal evidence.
Close of evidentiary record.
Initial briefs filed.
Reply briefs filed.
Oral argument (if requested).

[FR Doc. 78-29466 Filed 10-18-78; 8:45 am]

[7715-01-M]

[Order No. 215; Docket No. MC 78-2]

THIRD-CLASS DISCOUNT PROPOSAL, 1978

Order Granting Petitions for Intervention, Allowing Participation, Designating Presiding Officer and Officer of the Commission, Fixing Date for a Prehearing Conference, and Establishing Procedures

OCTOBER 12, 1978.

The U.S. Postal Service filed with the Postal Rate Commission, on September 8, 1978, a request for a recommended decision on establishing a third-class carrier route presort subclass. The Commission issued a notice to that effect on September 13, 1978. The notice was published in the FEDERAL REGISTER on September 18, 1978 (43 FR 41440-41). The notice announced the docketing of the Postal Service's request as MC78-2 and directed persons who wished to participate in Docket No. MC78-2 to file, on or before September 29, 1978, petitions for leave to intervene or requests for leave to be heard as a limited participator. The notice also invited persons who wished to express their views, but did not wish to become a party or limited participator, to file comments (39 CFR 3001.19-.20).

I. INTERVENTION

Ten persons have petitioned to intervene in Docket No. MC78-2 and five persons have requested to be heard as limited participators. These persons are listed in Attachment A. In order to advise these persons of their status at the earliest possible date and to establish an initial service list for this docket, we have decided to rule on the petitions at this time, subject to reconsideration on the basis of any answers which may be filed.

The persons listed in Attachment A either are users of the mails or have otherwise demonstrated an interest in Docket No. MC78-2. Accordingly, the requests for participation will be granted, subject to reconsideration as noted above.

Pursuant to section 65 of the rules of practice (39 CFR 3001.65) the Service will be required to serve copies of its Request and its prepared direct evidence upon the persons identified in Attachment A and upon the Officer of the Commission. Where service upon more than one representative has been requested in the petition to intervene or request to be heard as a limited participator, the Service will be required to serve only the first two named representatives in the petition. See sections 12(c) and (d) of the rules of practice (39 CFR 3001.12 (c)-(d)).

II. APPOINTMENT OF PRESIDING OFFICER AND DATE OF INITIAL PREHEARING CONFERENCE

In furtherance of the Commission's desire for expeditious consideration and pursuant to section 30(b) of the Commission's rules of practice (39 CFR 3001.30(b)), the Commission will conduct all prehearing conferences and hearings en banc.

Clyde S. DuPont, Chairman, will be the presiding officer in such proceedings (39 CFR 3001.5(e), 3001.23). An initial prehearing conference will be held on October 26, 1978, at 2 p.m. and, thereafter, on such further dates as may be designated by the presiding officer. Subsequent conferences and hearings will commence each day at 9:30 a.m. at the Postal Rate Commission's hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20268, and shall be on the record and a transcript made except where the presiding officer determines otherwise.

III. APPOINTMENT OF THE OFFICER OF THE COMMISSION

The Officer of the Commission (OOC) designated to represent the general public (see 39 U.S.C. 3624(a)) in this proceeding will be Stephen L. Sharfman.[1] During this proceeding, the OOC will direct the activities of Commission personnel assigned to assist him, and neither he nor any such personnel will participate in nor advise as to any Commission decision in the case. See 39 CFR 3001.8. The OOC will supply for the record, at the appropriate time, the names of all Commission personnel assigned to assist him in this case. In this proceeding the OOC shall be separately served three copies of all filings in addition to, and simultaneously with, service on the Commission of the 25 copies required by section 10(c) of the rules of practice (39 CFR 3001.10(c)).

IV. PROCEDURES FOR EXPEDITION

To the degree consistent with procedural fairness permits, it is our intention to expedite the proceedings in this docket.[2] Accordingly, we are issuing a proposed schedule of procedural stages (including dates for the first three stages) which all participants should review and be prepared to comment upon at the initial prehearing conference. See Attachment B. We also alert the parties that our intention to expedite this proceeding applies with equal force to the briefing stage following the close of the record. Parties should therefore be prepared to adhere to a briefing schedule consonant with this policy.

Footnotes continued on next page

[1] Mr. Sharfman is the Commission's Acting Assistant General Counsel (Litigation).

[2] The Postal Reorganization Act requires us to consider requests for changes in the classification schedule "promptly" and to conduct proceedings "with utmost expedition consistent with procedural fairness" (39 U.S.C. 3624). While the statute does not specify a particular time frame for classification cases, we are inclined to adopt the 10-month schedule to which we must adhere in rate cases (see 39 U.S.C. 3624(c)) as a general guideline. Of course, some cases can, and will, be completed in considerably less time, and we recognize that others which involve particularly complex or novel issues may require somewhat lengthier proceedings.

V. PREHEARING CONFERENCE STATEMENTS

In preparation for the initial prehearing conference, each participant should serve a document captioned "Prehearing Conference Statement" on or before October 20, 1978, containing the following:

1. A suggested list which states with particularity the issues the party believes should be addressed in this case. (Asterisks, denoting those issues on which the party intends to present evidence, should precede the stated issue.)

2. A statement of the participant's tentative position on each of the proposed issues.

3. A brief statement describing for each issue the evidence, if any, the participant proposes to introduce.

4. A legal memorandum, where appropriate, in support of the issues proposed, the positions taken, the evidence to be presented and other legal matters which should be considered.

5. Any other matter the participant believes should be pursued at the prehearing conference. Prior to the initial prehearing conference, all participants are encouraged informally and promptly to inform the Postal Service of desired preliminary clarification in the Service's presentation which each participant believes necessary in order to expedite this proceeding.

The Commission orders: (A) Each of the petitioners identified in attachment A to this order is hereby permitted to intervene or to become a limited participator in this proceeding, subject to the provisions of paragraph (B), below.

(B) The participation of the intervenors and limited participators permitted by paragraph (A), above, is subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and requests to become limited participators: *And provided, further,* That the admission of such intervenors and limited participators shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) The Postal Service shall serve copies of its request and its prepared direct evidence upon representatives of petitioners permitted to intervene and the representatives of the limited participators. For purposes of such service, where service upon more than one representative has been requested in the petition to intervene or in a request for leave to be heard as a limited participator, including those petitions and requests filed jointly and severally by two or more persons, only the first two named representatives in the petition need be served.

(D) The Commission will sit en banc, with Clyde S. DuPont, Chairman, as presiding officer, in the above-captioned proceeding.

(E) A prehearing conference in this proceeding will be held on October 26, 1978, commencing at 2 p.m. in the Postal Rate Commission hearing room, suite 500, 2000 L Street NW., Washington, D.C. 20263. The conference will be held for the purposes specified in section 24 of the Commission's rules of practice (39 CFR 3001.24) and in this order, and to afford all participants in the proceeding an opportunity to be heard with respect to the procedures to be followed in expeditiously determining the issues to be resolved in docket No. MC78-2. The conference proceedings shall be recorded by an official reporter except where otherwise directed by the presiding officer.

(F) Stephen L. Sharfman is hereby designated as the Officer of the Commission to represent the general public in this proceeding. Service of documents on the Commission shall not constitute service on the OOC, who shall separately be served three copies of all documents.

By the Commission.

CYRIL J. PITTACK,
Acting Secretary.

PERSONS FILING PETITIONS TO INTERVENE

The National Easter Seal Society For Crippled Children and Adults, et al.
The Council of Public Utility Mailers.
The Association of American Publishers.
Mail Order Association of America.
American Business Press, Inc. (ABP).
Associated Third Class Mail Users
Magazine Publishers Association, Inc.
Mail Advertising Service Association (International), Inc.
National Association of Greeting Card Publishers.
J. C. Penney Co., Inc.
Direct Mail/Marketing Association, Inc. (DMMA).

PERSONS FILING REQUESTS TO BECOME LIMITED PARTICIPATORS

The National Industrial Traffic League.
American Newspaper Publishers Association and National Newspaper Association.
Warshawsky & Co.
American Retail Federation.
United Parcel Service.

ATTACHMENT B

TENTATIVE HEARING SCHEDULE FOR PROCEEDINGS—DOCKET MC78-2

Month/date/year	Procedural stage
Oct. 26, 1978	Prehearing conference.
Nov. 30, 1978	Completion of all discovery directed to the Postal Service.
Jan. 4, 1979	Filing of the case-in-chief of each participant (including that of OOC).
	Beginning of hearings, i.e., cross-examination of the Postal Service's case-in-chief
	Completion of evidentiary hearings as to the Service's case-in-chief.
	Completion of all discovery directed to the intervenors
	Beginning of evidentiary hearings as to the case-in-chief of each participant
	Completion of the evidentiary hearings as to the case-in-chief of each participant.
	Rebuttal evidence of the Postal Service and each participant (No discovery to be permitted on this rebuttal evidence, only oral cross-examination.)
	Beginning of evidentiary hearings on rebuttal evidence.
	Close of evidentiary record
	Initial briefs filed
	Reply briefs filed.
	Oral argument (if requested)

[FR Doc. 78-29467 Filed 10-18-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-5269]

COMINVEST OF HARTFORD, INC.

Filing of Application for Transfer of Control

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to 13 CFR 107.701 (1978) for the transfer of control of Cominvest of Hartford, Inc. (licensee), a small business investment company licensed by the Small Business Administration on March 8, 1973, and operating under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Licensee, a Connecticut Corporation with its principal place of business located at 18 Asylum Street, Hartford, Conn. 06103, is presently owned by the following stockholders:

V 43/203 OCT 1978

Name	Voting Shares	Percent of Ownership
Antonio J. Sota, 74 Nilan St., Hartford, Conn. 06106	15	12.6
Glenda L. Reed, 57 Sharon St., Hartford, Conn. 06112	15	12.6
Thomas D. Harris, 135 Canterbury St., Hartford, Conn. 06112	15	12.6
Robert E. Stevens, Keighley Pond Road, Cobalt, Conn. 06104	15	12.6
Society for Savings, 31 Pratt St., Hartford, Conn. 06103	59	49.6
Society for Savings, 31 Pratt St., Hartford, Conn. 06103	600	60
Aetna Life and Casualty, 151 Farmington Ave., Hartford, Conn. 06156	200	20
Travelers Insurance Co., One Tower Square, Hartford, Conn. 06115	160	16
Connecticut Mutual Life Insurance Co., 140 Garden St., Hartford, Conn. 06105	40	4

Under a Plan of Exchange, the licensee's Certificate of Incorporation will be amended to eliminate the present classes of voting Common Stock, par value $1.00 per share, and nonvoting Common Stock, par value $500.00 per share, and to provide for a single class of voting Common Stock, par value $500.00 per share.

Each share of the licensee's currently issued and outstanding voting Common Stock, par value $1.00 per share (the "Old Voting Common"), shall be converted into and exchanged for a fractional interest right (Right) entitling the holder to one five-hundredths (1/500) share of newly created voting Common Stock, par value $500.00 per share (the "New Common").

Each share of the licensee's currently issued and outstanding non-voting Common Stock, par value $500.00 per share (the "Old Non-Voting Common"), shall be converted into and exchanged for one share of New Common.

Upon consummation of the Plan of Exchange, the owners of the former "Old Non-Voting Common" will own 100 percent (for the most part) of the licensee's outstanding stock.

There is no change of management of the licensee being considered at this time.

Notice is further given that any person may submit written comments on the proposed transfer of control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, not later than November 3, 1978.

A similar notice shall be published by the licensee in a newspaper of general circulation in Hartford, Conn.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 29, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29554 Filed 10-18-78; 8:45 am]

[8025-01-M]

REGION II ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of New York City, N.Y., will hold a public meeting at 2 p.m. on Friday, October 29, 1978, in Room 29-118, 26 Federal Plaza, New York City 10007, to discuss such business as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Woodie G. Williams, District Director, U.S. Small Business Administration, 26 Federal Plaza, New York City 10007, 212-264-1318.

Dated: September 28, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-29555 Filed 10-18-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1521; Amdt. No. 2]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see FR 40583) and Amendment No. 1 (see FR 43593) are amended by adding the following counties:

County, Natural Disaster(s), and Dates

Bowie: Drought—March 1, 1978 to August 14, 1978.
Cameron: Rain and High Winds—July 30, 1978.
Dallam: Drought—June 10, 1978 to August 14, 1978.
Reagan: Drought—May 1, 1977 to July 24, 1978.

And adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on March 6, 1979, and for economic injury until the close of business on June 6, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 27, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-29552 Filed 10-18-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1457; Amdt. No. 10]

TEXAS

Declaration of Disaster Loan Area

The above-numbered Declaration (see 43 FR 16584), Amendment No. 1 (see 43 FR 20070), Amendment No. 2 (see 43 FR 24641), Amendment No. 3 (see 43 FR 26511), Amendment No. 4 (see 43 FR 29265), Amendment No. 5 (see 43 FR 30634), Amendment No. 6 (see 43 FR 33984), Amendment No. 7 (see 43 FR 35777), Amendment No. 8 (see 43 FR 37294), and Amendment No. 9 (see FR 40583) are amended by extending the filing date for physical damage until the close of business on November 13, 1978, and for economic injury until the close of business on January 11, 1979.

Dated: October 12, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-29553 Filed 10-18-78; 8:45 am]

[4701-06-M]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 633]

CERTAIN FOREIGN PASSPORTS

Validity

Under the provisions of section 212(a)(26) of the Immigration and Nationality Act, a nonimmigrant alien who makes application for a visa or for admission into the United States is required to be in possesion of a passport which is valid for a minimum period of 6 months from the date of expiration of the initial period of his admission into the United States or his contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period. By reason of the foregoing requirement, certain foreign governments have entered into agreements with the Government of the United States whereby their passports are recognized as valid for the return of the bearer to the country of the foreign-issuing authority for a period of 6 months beyond the expiration date specified in the passport. These agreements have the effect of extending the validity period of the foreign passport an additional 6 months notwithstanding the expiration date indicated in the passport. Notice is hereby given that the following foreign governments have concluded such an agreement with the Government of the United States:

Algeria
Australia
Austria (Reisepass only)
Bahamas, The
Bangladesh (travel permit and passport)
Belgium
Bolivia
Brazil
Cambodia (Khmer Republic)
Canada
Chile
Columbia
Cuba
Cyprus
Denmark
Dominican Republic
Ecuador
Egypt
El Salvadorq
Ethiopia
Finland
France
Germany (FRG) (reisepass and kinderausweiss)

[4701-06-M]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 633]

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Algeria
Australia
Austria (Reisepass only)
Bahamas, The
Bangladesh (travel permit and passport)
Belgium
Bolivia
Brazil
Cambodia (Khmer Republic)
Canada
Chile
Columbia
Cuba
Cyprus
Denmark
Dominican Republic
Ecuador
Egypt
El Salvadorq
Ethiopia
Finland
France
Germany (FRG) (reisepass and kinderausweiss)
Greece
Guatemala
Guinea
Guyana
Honduras
Iceland
India
Iran
Ireland
Israel
Italy
Ivory Coast
Jamaica
Japan
Korea
Laos
Lebanon
Libya
Liechtenstein
Luxembourg
Madagascar (Malagasy Republic)
Mauritius
Mexico
Monaco
Netherlands
Nicaragua (diplomatic and official passports only)
Nigeria
Norway
Pakistan
Panama
Paraguay
Peru
Philippines
Portugal
Qatar
Soviet Union (U.S.S.R.) (seaman only)
Spain
Sri Lanka (Ceylon)
Sudan
Sweden
Switzerland
Syria
Thailand
Togo
Trinidad and Tobago
Tunisia
United Kingdom
Uruguay
Venezuela
Yugoslavia

Public Notice 375 of January 10, 1973 issued at 38 FR 1224 and amendments thereto are hereby superseded.

Dated: October 4, 1978.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 78-29470 Filed 10-18-78; 8:45 am]

[4701-06-M]

[Public Notice 634]

CERTAIN NONIMMIGRANT VISAS

Validity

Notice is hereby given that consular officers are authorized to issue, in their discretion, nonimmigrant visas under section 101(a)(15)(B) of the Immigration and Nationality Act (temporary visitors for business or pleasure) valid for an indefinite period of time to otherwise eligible nationals of the following countries, inclusive of British subjects resident in the Bahamas and Netherlands nationals resident in Surinam, which offer reciprocal or more liberal treatment to nationals of the United States who are in similar class. This order will be amended from time to time to include other countries which accord similar privileges to United States citizens.

Argentina
Austria
Bahamas
Barbados
Belize
Belgium
Botswana
Central African Empire
Chile
Cyprus
Denmark
Fiji
Finland
France
Germany, Federal Republic of
Greece
Iceland
Ireland
Israel
Italy
Jamaica
Lesotho
Liechtenstein
Luxembourg
Malawi
Maldives, Republic of
Malta
Monaco
Morocco
Netherlands
Netherlands Antilles
New Zealand
Norway
Paraguay
Portugal
Saint Pierre and Miquelon
San Marino
Singapore
Spain
Surinam
Sweden
Switzerland
Trinidad and Tobago
Tunisia
Turkey
United Kingdom
Uruguay

Public Notice 376 of January 10, 1973, issued at 38 FR 1224 and any amendments thereto are hereby superseded.

Dated: October 4, 1978.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 78-29469 Filed 10-18-78; 8:45 am]

V 4 3 / 2 0 3 0 C 1 9 7 8

[4710-07-M]

[Public Notice CM-8/118]

STUDY GROUP 5 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 7, 1978, from 9:30 a.m. until 12:30 p.m. in Room 1107, Radio Building, Department of Commerce, Boulder Laboratories, Boulder, Colo.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting is to review decisions of the CCIR XIVth Plenary Assembly, and determine work programs and action assignments in preparation for the next international meeting of Study Group 5.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Buffcutt, State Department, Washington, D.C. 20520, telephone 202-632-2592.

Dated: October 12, 1978.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc. 78-29471 Filed 10-18-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-138]

CHEMICAL TRANSPORTATION ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Breakbulk/Container Facilities to be held on November 15, 1978, beginning at 9 a.m., Room 6332, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. The agenda for this meeting is as follows:

1. To introduce Captain Donald W. Gates of the National Cargo Bureau as new Subcommittee Chairman.
2. To discuss the status of proposed waterfront facility regulations under the authority of the Ports and Waterways Safety Act of 1972 and other statutes.
3. To discuss the most effective means for this Subcommittee to provide input to the breakbulk and container facilities portions of the regulations being developed.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the neeting, Lt. (jg) D. G. Dickman, c/o Commandant (G-WLE—1/73), U.S. Coast Guard, Washington, D.C. 20590, 202-426-1927. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on October 31, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard,
Acting Chief, Officer of Marine Environment and Systems.

[FR Doc. 78-29490 Filed 10-18-78; 8:45 am]

[4910-14]

[CGD 78-136]

VAPOR CONTROL SEMINAR

The Clean Air Act of 1970 charged the Environmental Protection Agency (EPA) with publishing regulations for a national primary air quality standard and a national secondary air quality standard for each air pollutant for which quality criteria were established. Section 110 of the Clean Air Act requires each State to adopt and submit to EPA's Administrator, a plan which sets forth a control strategy to attain the established air quality standard.

The State of Texas proposed such a plan, the Texas Air Pollution Implementation Plan, but it was rejected by EPA. On July 3, 1973, the Administrator of EPA proposed an alternate control strategy which was based upon the reduction of reactive organic compound (hydrocarbon) emissions. One of the regulations contained in this control strategy required the recovery of vapors normally emitted during the loading or unloading of gasoline and other volatile hydrocarbons from ships and barges in the Houston-Galveston Intrastate Air Quality Control Region.

The U.S. Coast Guard, under the Ports and Waterways Safety Act (33 U.S.C. 1221-1227; 46 U.S.C. 391a), is responsible for the safety of vessels and U.S. ports from the inherent hazards associated with the handling of petroleum products. The use of vapor control systems, such as vapor recovery, vapor return to shore, etc., could pose serious hazards. The Coast Guard must insure that tank vessels and ports are adequately protected from fires, explosions, and other hazards that may be generated via the use of these systems.

Toward achieving this goal, the Coast Guard funded a number of research and development studies directed at a better understanding of the principles of how flames and detonations propagate in pipelines and how they may be arrested. These studies, commenced approximately 3 years ago, are presently continuing.

To disseminate the results of these studies as they relate to vapor control systems, and to discuss additional hazards posed by the use of vapor control systems, the Coast Cuard intends to hold a Vapor Control Seminar on December 6, 1978, beginning at 9 a.m., room 8236, Nassif Building, 400 7th Street SW., Washington, D.C. 20590. The topics to be discussed include:

1. Background of Vapor Control Systems and the Level of Involvement of the Coast Guard.
2. Toxicological Effects of Vapor Emissions on Humans.
3. The Environmental Protection Agency's Role in Controlling Ambient Air Quality.
4. Coast Guard R. & D. Efforts (present and future) Relating to Vapor Control Systems.
5. Technical Assessment of Vapor Control Technology.

The seminar will include papers by Coast Guard and EPA representatives followed by an open discussion period. The emphasis of the seminar will be on the engineering and technical aspects associated with the safe design and use of vapor control systems.

Attendance is open to the interested public. For additional information, contact:

Dr. Anthony L. Rowek, Commandant (G-MHM-1/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-1217.

For scheduling and for providng adequate seating, those wishing to attend the seminar should notify the above office no late than December 1, 1978.

Issued in Washington, D.C., on October 11, 1978.

HENRY H. BELL,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Marine Safety.

[FR Doc. 78-29489 Filed 10-18-78; 8:45 am]

[4910-22-M]

Federal Highway Administration

NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES

Solicitation of Public Views

The National Advisory Committee on Uniform Traffic Control Devices reviews currently approved standards, guides and warrants for traffic control devices including traffic signs, markings and signals as contained in the Manual on Uniform Traffic Control Devices. The Committee recommends revisions of such standards and guides, proposes new ones to meet new developments and improvements and provides advice to the Federal Highway Administrator to the end that the Manual shall be at all times and as far as practicable a complete and up-to-date presentation of best practices.

Notice is hereby given of the major topics currently scheduled for consideration by the respective Technical Subcommittees at the semiannual meeting of the Committee in January and public input solicited.

A. *Highway Traffic Signs.* Task Forces have been appointed to review and make recommendations on the following subjects:

1. The Location of Turn Prohibition signs and the Placement of One-Way Signs at Signalized Intersections.
2. Standards and Guidelines for Specific Service and Recreational and Cultural Interest Signs.
3. Determination of the Most Advantageous Placement of Warning Signs.
4. Signing for Official Agencies Monitoring CB Channel 9.
5. Use of a Symbol Warning Sign on Roadways Parallel to a Railroad.
6. A Standing Task Force on Symbols is studying and developing additional symbol signs as alternates to standard word messages.
7. Experimentation has been approved to determine the effectiveness of:

a. The Star of Life Symbol to direct motorists to emergency medical services.

b. A symbolic No Right Turn on Red sign.

c. The use of the word Traveler or Tourist on guide signs.

B. *Highway Traffic Signals.* 1. Consideration is being given to the elimination of the flashing Walk pedestrian signal indication.

2. Use of an audible signal for blind pedestrians at signalized intersections.

3. Warrants for use of traffic control signals. Under study for potential revisions to existing warrants in the MUTCD.

4. Handbook material to be developed to supplement current standards concerning application and maintenance.

5. Current Task Forces and their subject areas are:

a. Signal Indications, Sequences and Phasing.

Preparation of a matrix table for acceptable and unacceptable signal sequences.

b. Pedestrian Signal Indication.

Alternatives to full pedestrian signalization at school crossings.

c. Signal Design Considerations.

Preparation of traffic signal design configuration revisions based on completed NCHRP research studies.

d. Traffic Signal Warrants.

Preparation of recommendations for new or revised signal warrants including peak hour conditions, left turns, bicycles and other special crossing conditions.

e. Part IV—Handbook.

Preparation of material to update and rewrite the signal portion of the Traffic Control Devices Handbook.

C. *Markings.* 1. Optional use of roadside delineators on tangent sections of highways.

A recommendation has been made to permit the optional use of roadside, post-mounted delineators where raised pavement markers are in place to adequately define the alinement of the roadway for drivers under all weather conditions. A required spacing of these raised pavement markers is under study as a subsequent revision to the recommended standards.

2. Standards for the use and spacing of all raised pavement markers are to be developed for recommendation.

3. Current practices are being solicited for evaluation of improved marking patterns for freeway lane drop application supplemented by overhead and/or shoulder mounted signing.

D. *Traffic Control for Construction and Maintenance Areas.* Preparation of a Handbook to supplement Part VI of the MUTCD is underway. The objective of this effort is to develop an operating handbook of best current practice on design, installation, and maintenance of traffic control for construction and maintenance operations including utility operations to supplement the standards in the MUTCD.

Comments, suggestions or technical input related to the above subjects may be sent to R. E. Conner, Executive Director, National Advisory Committee on Uniform Traffic Control Devices, Office of Traffic Operations, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

All material received will be transmitted to the appropriate subcommittee or task force for consideration prior to their next public meeting scheduled for January 10-12, 1979. A notice of the time and place of this meeting will be published in the FEDERAL REGISTER at least 15 days in advance.

Issued on October 12, 1978.

J. J. CROWLEY,
Director,
Office of Traffic Operations.

[FR Doc. 78-29472 Filed 10-18-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

CERTAIN FRESH WINTER VEGETABLES FROM MEXICO

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumpting Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether certain fresh winter vegetables from Mexico are being, or are likely to be, sold at less than fair value within the meaning of the Antidumpting Act of 1921, as amended. Sales at less than fair value generally occur when the prices of merchandise sold for exportation to the United States are less than the prices in the home market or to countries other than the United States, or less than the constructed value.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Ready, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 12, 1978, a petition in proper form was received pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of the Southwest Florida Winter Vegetable Growers Association, the Palm Beach-Broward Farmers Committee for Legislative Action, Inc., and the South Florida Tomato and Vegetable Growers, Inc., alleging that certain fresh winter vegetables from Mexico are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C 160 et seq.).

For purposes of this notice, the term "certain fresh winter vegetables" means cucumbers, eggplant, peppers, squash, and tomatoes (except cherry tomatoes), all of the foregoing fresh,

the product of Mexico, provided for in §§ 135.90 through 135.92, 136.20 through 136.22, 137.10, 137.50, and 137.60 through 137.63, respectively, of

Florida growers in recent years. Taking this factor into consideration, however, does not create a substantial doubt that domestic industry is being,

tidumping investigation with respect to motorcycles produced and sold by Yamaha, and to report certain changes in the margins by which sales

compared was considered to be minimal in relation to the total volume of exports. In addition, formal assurances have been received from that producer

gation with respect to motorcycles produced and sold by Yamaha Motor Co., Ltd., and to reflect the change in computing home market price and the

or before November 20, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule

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the product of Mexico, provided for in §§ 135.90 through 135.92, 136.20 through 136.22, 137.10, 137.50, and 137.60 through 137.63, respectively, of the Tariff Schedules of the United States, and meeting the U.S. Department of Agriculture minimum standards for grades as set out in 7 CFR 51.2220 through 51.2239, 51.2190 through 51.2207, 51.3270 through 51.3296, 51.4030 through 51.4062, and 51.1855 through 51.1877, respectively. It is noted that this investigation concerns fresh vegetables shipped during the winter vegetable season and for this reason is limited to shipments of the subject merchandise made during the period November 1, in any year to the last day of the following April inclusive.

The petitioners allege margins of dumping which, based on a comparison of sales for export to the United States with the prices of this merchandise for sale to Canada or the constructed value of the products in Mexico, range up to 624 percent. Petitioners allege that sales in the home market of such or similar merchandise are insufficient in relation to that exported to the United States during the relevant time period, in total quantity, to constitute a viable home market. Therefore, price information was submitted on sales to a third country (Canada), which indicates that significant sales occurred to Canada at prices less than the cost of production as reflected by information submitted by the Petitioners. To the extent that sales to Canada appear to have occurred at prices less than the cost of producing the merchandise, the constructed value was used as the basis of comparison.

Based on the above, information will be requested from Mexican growers exporting this merchandise to the United States on those sales, and on sales in the home market and to third countries, and the cost of producing the merchandise.

The Southern Florida growers produce virtually all of the domestically-grown fresh winter vegetables and for this reason are considered to represent the domestic fresh winter vegetable industry for purposes of this investigation.

All five of the vegetables in question are considered to be the production of a single industry since individual growers often produce more than one of the vegetables and since production of all five vegetables within the same general area of Southern Flordia is essential to establish a marketing area that can service buyers who often require mixed lots of vegetables rather than a straight lot of any single vegetable.

Unfavorable weather has been a factor in the injury sustained by the Florida growers in recent years. Taking this factor into consideration, however, does not create a substantial doubt that domestic industry is being, or is likely to be, injured by large shipments of Mexican produce often selling at prices substantially below their constructed value.

There is evidence on record concerning injury to or likelihood of injury to an industry in the United States. Petitioners' share of the market for these vegetables has declined considerably over the past three growing seasons with a concomitant increase in imports of these products from Mexico, both in absolute terms and as a share of domestic consumption. In the 1977/78 growing season, petitioners' f.o.b. Florida prices, frequently already depressed in relation to their prices in the prior growing season, were often undercut by Mexican prices f.o.b. Nogales, Ariz. Further, it appears that elimination of the alleged margins of dumping would result in a restoration of the competitiveness of prices of the petitioners.

During the three growing seasons from 1974 through 1977, the petitioners' return on sales revenue declined significantly.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

OCTOBER 12, 1978.

[FR Doc. 78-29509 Filed 10-18-78; 8:45 am]

[4810-22-M]

MOTORCYCLES FROM JAPAN

Modification of Determination of Sales at Less Than Fair Value and Exclusion From Investigation and Discontinuance of Investigation

AGENCY: U.S. Treasury Department.

ACTION: Modification of Determination of Sales at Less Than Fair Value and Exclusion from Investigation, and Discontinuance of Investigation.

SUMMARY: This notice is to advise the public that the determination of sales at less than fair value under the Antidumping Act, 1921, as amended, concerning motorcycles from Japan is being amended to discontinue the antidumping investigation with respect to motorcycles produced and sold by Yamaha, and to report certain changes in the margins by which sales of Honda and Kawasaki are at less than fair value. Honda and Kawasaki will, therefore, remain subject to the Determination of Sales at Less Than Fair Value; Suzuki remains excluded from the investigation.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard Rimlinger, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: A "Determination of Sales at Less Than Fair Value and Exclusion from Investigation" with respect to motorcycles from Japan was published in the FEDERAL REGISTER of August 8, 1978 (43 FR 35140-2). In that notice it was determined that motorcycles from Japan, with the exception of those produced and sold by Suzuki Motor Co., Ltd., are being sold at less than fair value within the meaning of section 201(a) of the Antidumping Act of 1921 as amended (19 U.S.C. 160(a)).

Subsequent to the publication of this notice, information was received indicating that recalculations of certain prices used for fair value comparisons were appropriate. The following amendments to the original Determination reflect the changes resulting from those recalculations.

Subheading (d) in the "Statement of Reasons" of that notice is hereby amended to indicate that an adjustment has been made to home market prices for credit costs attributable to differences in payment terms between United States and Japanese home market sales. The items subject to such adjustments, indicated under this subheading remain unchanged.

Subheading (f) in the "Statement of Reasons" is hereby amended to indicate the following revisions: Comparisons have been made on approximately 89 percent of the total sales of the subject merchandise to the United States by all manufacturers investigated for the period under investigation. Margins were found on approximately 18.2 percent of the sales ranging from 0.3 to 54.2 percent resulting in a weighted average margin of 2.08 percent on all sales compared. Weighted average margins found with respect to the companies under investigation, computed over all sales compared, were as follows: Honda, 2.6 percent; Kawasaki, 6.9 percent; Suzuki, 0.15 percent; and Yamaha 0.82 percent.

In the case of Yamaha, the weighted average margin on that firm's sales compared was considered to be minimal in relation to the total volume of exports. In addition, formal assurances have been received from that producer that it would make no future sales at less than fair value within the meaning of the Act.

In view of the significant change in the value of the yen since June 1977, the end of our reference period for investigation purposes, it was determined that information on Yamaha sales during a later period should be requested and scrutinized in order to determine whether Yamaha had revised current prices so as to eliminate all less than fair value sales. Accordingly, information was requested from Yamaha on all motorcycles sold to unrelated U.S. buyers during the period May–July 1978 and appropriate home market sales for comparison purposes. This information has been received, verified, analyzed, and indicates that during the three-month period sales by Yamaha were made at prices which were less than fair value by an amount considered minimal.

This information then was analyzed to determine whether margins resulted solely from exchange rate fluctuations. Section 153.52(b) of the Customs Regulations (19 CFR 153.52(b)) provides:

> For purposes of fair value investigations, manufacturers, exporters, and importers concerned will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where prices under consideration are affected by temporary exchange rate fluctuations, no differences between the prices being compared resulting solely from such exchange rate fluctuations will be taken into account in fair value investigations.

For each of the three quarters reviewed, Customs analyzed home market sales by applying the Federal Reserve exchange rate for the quarter preceding the one under examination. The one quarter lag was used because § 153.52(b) allows foreign sellers a "reasonable period" in which to adjust prices. This analysis resulted in a determination that the differences between the prices being compared resulted solely from such exchange rate fluctuations. It has therefore been determined to discontinue the antidumping investigation with respect to Yamaha Motor Co., Ltd., in accordance with section 153.38, customs Regulations (19 CFR 153.38). The order issued April 26, 1978, (42 FR 17900-02) to withhold appraisement on the subject merchandise from Japan is hereby terminated with respect to Yamaha effective upon publication of this notice.

Accordingly, the notice of "Determination of Sales at Less Than Fair Value and Exclusion from Investigation" referred to above is modified to discontinue the antidumping investigation with respect to motorcycles produced and sold by Yamaha Motor Co., Ltd., and to reflect the change in computing home market price and the statistical changes resulting from recalculations of the prices used for fair value comparisons.

The United States International Trade Commission is being advised of this modification.

This notice is published pursuant to § 153.42, Customs Regulations (19 CFR 153.42).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

OCTOBER 13, 1978.

[FR Doc. 78-29510 Filed 10-18-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

PROGRAM EVALUATIONS OF CHAPLAIN SERVICE AND CANTEEN SERVICE

Availability of Summary Reports

Notice is hereby given that the program evaluations of the veterans Administration's Chaplain Service and Veterans Canteen Service have been completed.

Single copies of the Chaplain Service and Veterans Canteen Service evaluations are available free. Printing of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying which program evaluation is desired, to Mr. Errol D. Clark, Director, Program Evaluation and Appraisal Service, Veterans Administration (074), 810 Vermont Avenue NW., Washington, D.C. 20420.

Dated: October 10, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-29527 Filed 10-18-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 38]

DECISION—NOTICE

Decided: October 10, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, on or before November 20, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and thing relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirments of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provided, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform

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the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

It is ordered: In the absence of legally sufficient protests, filed on or before November 20, 1978 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,
Acting Secretary.

MC 1395 (Sub-10F), filed August 23, 1978. Applicant: ALVAN MOTOR FREIGHT, INC., 3600 Alvan Road, Kalamazoo, MI 49001. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Evart and Grand Rapids, MI, from Evart over U.S. Hwy 10 to junction U.S. Hwy 131, then over U.S. Hwy 131 to Grand Rapids, and return over the same route, serving no intermediate points. (Hearing site: Chicago, IL, or Washington, DC.)

MC 11207 (Sub-442F), filed August 17, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicles, transporting: *Steel piling, pile-driving equipment, and machinery* (except commodities which because of size or weight require the use of special equipment), from Charleston, SC, Savannah, GA Miami, FL, and Wilmington, NC, to points in AL, FL, MS, and TN. (Hearing site: Jacksonville, FL or Birmingham, AL.)

MC 19105 (Sub-51F), filed August 28, 1978. Applicant: FORBES TRANSFER CO., INC., P.O. Box 3544, Wilson, NC 27893. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicles, transporting: *Malt beverages*, in containers, from Williamsburg, VA, to points in NC in and east of Granville, Durham, Chatham, Lee, Harnett, Cumberland, and Robeson Counties, NC. (Hearing site: Raleigh, NC or Washington, DC.)

MC 19157 (Sub-53F), filed August 16, 1978. Applicant: McCORMACK'S HIGHWAY TRANSPORTATION, INC., Rural Delivery 3, Box 4, Campbell Road, Schenectady, NY 12306. Representative: Paul Montarello (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *Such commodities* as are dealt in by tire stores (except commodities in bulk, and those which because of size or weight require the use of special equipment), between Gadsden, AL Tyler, TX, and Indiana, PA, on the one hand, and, on the other, those points in and east of ND, SD, NE, KS, OK, and TX. Condition: In view of the findings in MC 19157 (Sub-22), et al., of which official notice is taken, the issuance of the authority in this proceeding will be held in abeyance during the consideration of applicant's fitness in MC 19157 (Sub-41). (Hearing site: San Francisco, CA or Washington, DC.)

MC 24784 (Sub-14F), filed August 8, 1978. Applicant: BARRY, INC., 463 South Water Street, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Building materials and insulation materials (except iron and steel articles and commodities in bulk)*, from the facilities of Gibson-Homans Co. and G.A.F. Corp., at Kansas City, MO, to Denver, CO, restricted to the transportation of traffic originating at the named origin facilities and destined to the named destination. (Hearing site: Kansas City, MO.)

MC 25869 (Sub-144F), filed September 8, 1978. Applicant: NOLTE BROS. TRUCK LINE, INC., an Iowa corporation, P.O. Box 7184, Omaha, NE 68107. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture, furniture parts*, and *equipment, materials, and supplies* used in the manufacture and distribution of furniture and furniture parts, (a) between Denver, CO, on the one hand, and, on the other, points in AZ, CA, GA, IL, IN, KS, KY, MA, MN, MO, NC, SC, TN, TX, VA, WA, and WI, and (b) from Denver, CO, to points in MT, NE, NM, SD, and WY, and (2) *furniture parts, drapery fabric, hardware, and equipment, materials, and suppliers* used in the manufacture of furniture and furniture parts, between Denver, CO, on the one hand, and, on the other, Elkhart and Mishawaka, IN, Port Clinton, OH, and Middleton and Stoughton, WI. (Hearing site: Denver, CO.)

MC 29886 (Sub-350F), filed July 26, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranes and materials, equipment, and supplies* used in connection with cranes, between points in the United States (except AK and HI). (Hearing site: New York, NY, or Chicago, IL.)

MC 29886 (Sub-351F), filed July 31, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers, turbines, turbine condensers*, and (2) *parts* for the commodities named in (1) above, from Batavia, NY, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, D.C.)

MC 30618 (Sub-14F), filed August 22, 1978. Applicant: HENRY V. RABOUIN, Richmond Road, P.O. Box 204, Pittsfield, MA 01201. Representative: Sherwood Guernsey II, Aaronson, Fuster & Denmark, 57 Wendell Avenue, Pittsfield, MA 01201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc tailings*, in bulk, from West Windsor, Ludlow, and Gassetts, VT, to points in NJ, those in PA south and east of a line beginning at the NJ-PA State line and extending along Interstate Hwy 76 to its junction with U.S. Hwy 15, then along U.S. Hwy 15 to the PA-MD State line, those in NY south of Interstate Hwy 84, and those in CT west of Interstate Hwy 91. (Hearing site: Springfield or Boston, MA.)

MC 30844 (Sub-621F), filed August 7, 1978. Applicant: KROBLIN REFRIGERATED EXPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, and *articles distributed* by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, 766 (except hides and commodities in bulk), from the facilities of Wisconsin Beef Industries, Inc., at Eau Claire, WI, to points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Paul, MN.)

MC 31389 (Sub-256F), filed August 31, 1978. Applicant: McLEAN TRUCKING CO., a corporation, 617 Waughtown Street, Winston-Salem, NC 27107. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Neese Industries, Inc., at or near Livingston, LA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or Baton Rouge, LA.)

MC 31389 (Sub-257F), filed August 31, 1978. Applicant: McLEAN TRUCKING CO., a corporation, 617 Waughtown Street, Winston-Salem, NC 27107. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the facilities of Union Carbide Corp., at or near Alloy, WV, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: New York, NY, or Washington, DC.)

MC 31389 (Sub-258F), filed August 31, 1978. Applicant: McLEAN TRUCKING CO., a corporation, 617 Waughtown Street, Winston-Salem, NC 27107. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of American Biltrite, Inc., at or near Paragould, AR, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Boston, MA, or Washington, DC.)

MC 40898 (Sub-21F), filed August 28, 1978. Applicant: S & W MOTOR LINES, INC., P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 South Eugene Street, P.O. Box 180, Greensboro, NC 27402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Clarion PA, to Eden, Greensboro, and Clemmons, NC. (Hearing site: Greensboro, NC.)

MC 41098 (Sub-44F), filed September 11, 1978. Applicant: GLOBAL VAN LINES, INC., a Texas corporation, One Global Way, Anaheim, CA 98203. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New office furniture*, from the facilities of Lehigh-Leopold Division of Litton Industries, at Burlington, IA, to points in CT, DE, MD, MA, NJ, NY, PA, RI, DC, and those points in OH on and east of Interstate Hwy 71. (Hearing site: Los Angeles, CA).

NOTE.—(1) The person or persons who it appears may be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (2) Dual operations may be involved.

MC 42261 (Sub-138F), filed August 10, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum*, in bulk, in tank vehicles, from the facilities of Rolfite Co., at or near Elizabeth, NJ, to points in AL, AR, LA, MS, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: New York, NY, or Newark, NJ.)

MC 47171 (Sub-110F), filed July 23, 1978. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, SC 29608. Representative: Harris G. Andrews (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Ypsilanti, MI, as an offroute point in connection with carrier's presently authorized regular route operations, restricted to the transportation of traffic originating at Fort Wayne, IN. (Hearing site: Fort Wayne or Indianapolis, IN.)

MC 61231 (Sub-128F), filed August 10, 1978. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard*, from Albuquerque, NM, to points in NE, SD, and WY; and (2) *construction materials, lumber, lumber products, wood products, iron and steel articles*, and *lands*- pion International Corp., at or near Pocomoke City, MD, to points in OH and WV; and (2) *lumber and lumber products*, from the facilities of Pitt

MC 85718 (Sub-9F), filed August 25, 1978. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, P.O. Box 126, Seward, NE 68434. Rep-

over the same route, serving no intermediate points as an alternate route for operating convenience only, (4) between Orlando and Miami, FL, from

burgh, NY 12550. Representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NY 10048. To operate as a *common carrier*, by motor

PA, Camden and Trenton, NJ, and points in Bergen, Essex, Monmouth, Middlesex, Morris, Passaic, Somerset, and Union Counties, NJ, points in Nassau, Suffolk, Westchester, Rockland, Queens, Kings, Bronx, Richmond, and New York Counties, NY, and points in Fairfield County, CT, (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 48958 (Sub-159F), filed September 5, 1978. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., a Nebraska Corporation, 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 9050, Amarillo, TX 79189. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, hides, commodities in bulk, and those requiring special equipment), (1) serving Fort Wayne, IN, as an off-route point in connection with carrier's presently authorized regular-route operations between Chicago, IL, and Toledo and Fremont, OH; and (2) between Fort Wayne, IN, and Toledo, OH: From Fort Wayne over U.S. Hwy 24 to Toledo, and return over the same route, serving no intermediate points except the junction of U.S. Hwy 6 and U.S. Hwy 24 for purpose of joinder only with carrier's presently authorized regular-route operations between Chicago, IL, and Toledo, OH, in certificate No. MC 48958 (Sub-126). (Hearing site: Washington, DC, or Denver, CO.)

MC 57239 (Sub-41F), filed September 7, 1978. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Representative: Roland Rice, 501 Perpetual Building, 1111 E Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Ypsilanti, MI, as an offroute point in connection with carrier's presently authorized regular route operations, restricted to the transportation of traffic originating at Fort Wayne, IN. (Hearing site: Fort Wayne or Indianapolis, IN.)

MC 61231 (Sub-128F), filed August 10, 1978. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard*, from Albuquer-

taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6

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que, NM, to points in NE, SD, and WY; and (2) *construction materials, lumber, lumber products, wood products, iron and steel articles,* and *landscaping materials,* between Rapid City, SD, and Gillette, WY, on the one hand, and, on the other, points in AZ, AR, CO, ID,, IL, IN, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, TX, WA, WI, and WY. (Hearing site: Rapid City, SD, or Denver, CO.)

MC 61592 (Sub-424F), filed July 27, 1978. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Panels,* and *supplies and accessories* used in the installation of panels, from Dallas, TX, to points in the United States (except AK and HI). (Hearing site: Salt Lake City, UT.)

MC 69371 (Sub-10F), filed July 26, 1978. Applicant: NORMAN TRANSPORTATION LINES, INC., 6201 Lee Road, Maple Heights, OH 44137. Representative: John H. Baker, 435 Delaware Avenue, Buffalo, NY 14202. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by grocery and food business houses, and (2) *equipment, materials, and supplies* used in the conduct of grocery and food business houses, (a) between points in Lucas, Ottawa, Sandusky, Erie, Huron, Richland, Lorain, Ashland, Cuyahoga, Medina, Wayne, Lake, Geauga, Portage, Summit, Stark, Tuscarawas, Ashtabula, Trumbull, Mahoning, Columbiana, Jefferson, Carroll, and Harrison Counties, OH, Erie, Crawford, Warren, McKean, Mercer, Venango, Forest, Lawrence, Butler, Clarion, Armstrong, Allegheny, Westmoreland, Beaver, and Washington Counties, PA, Niagara, Erie, Chautauqua, Cattaraugus, Allegany, Steuben, Livingston, and Chemung Counties, NY, Brooke, Marshall, Ohio, Hancock, Harrison, Marion, Wood, Wetzel, Tyler, Doddridge, Upshur, Ritchie, and Pleasants Counties, WV, and (b) Between Altoona, PA, on the one hand, and, on the other, those points named in (a) above, under continuing contract(s) in (1) and (2) above with the Great Atlantic & Pacific Tea Co., Inc., of Montvale, NJ. (Hearing site: Buffalo, NY.)

MC 69397 (Sub-48F), filed July 21, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plywood,* from the facilities of Champion International Corp., at or near Pocomoke City, MD, to points in OH and WV; and (2) *lumber and lumber products,* from the facilities of Pitt Lumber Co., at or near Saluda, VA, to points in NJ and NY. (Hearing site: Washington, DC.)

MC 69397 (Sub-49F), filed August 21, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and lumber products,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 71459 (Sub-71F), filed September 5, 1978. Applicant: O.N.C. FREIGHT SYSTEMS, a Nevada corporation, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Kirk Wm. Horton, P.O. Box 10061, Palo Alto, CA 94303. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those moving in vehicles equipped with mechanical refrigeration), (1) between Yuma and Phoenix, AZ, from Yuma over Interstate Hwy 8 to junction U.S. Hwy 80 at or near Gila Bend, AZ, then over U.S. Hwy 80 to Phoenix, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, and (2) between junction Interstate Hwy 8 and U.S. Hwy 80 and Tucson, AZ, from junction Interstate Hwy 8 and U.S. Hwy 80, at or near Gila Bend, AZ, over Interstate Hwy 8 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Tucson, and return over the same route, serving no intermediate points, as alternate route for operating convenience only. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 83539 (Sub-507F), filed September 5, 1978. Applicant: C & H TRANSPORTATION CO., INC., P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Precut log homes,* and *materials and supplies* used in the erection of precut log homes, from the facilities of Beaver Log Homes, at or near Claremore, OK, to points in the United States (except AK, HI, and OK). (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 85718 (Sub-9F), filed August 25, 1978. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Automotive cranes* (except self-propelled), *automotive parts and accessories, handtools, electric tools, and pneumatic tools* (except commodities in bulk and those which because of size or weight require the use of special equipment) from the facilities of Walker Manufacturing Co., at Seward, NE, to Boise, Idaho Falls, Pocatello, and Twin Falls, ID, and points in OR, restricted to the transportation of traffic originating at the named origin facilities, and (2) *the commodities* named in (1) above, and materials, equipment, and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk and those which because of size or weight require the use of special equipment), form Boise, Idaho Falls, Pocatello, and Twin Falls, ID, and points in OR, to the facilities of the Walker Manufacturing Co., at Seward, NE, restricted to the transportation of traffic destined to the named destination facilities. (Hearing site: Omaha, NE.)

MC 96925 (Sub-9F), filed August 3, 1978. Applicant: CROWN MOTOR LINES, INC., 2225 Broadway Avenue, Jacksonville, FL 32203. Representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Melbourne and Florida City, FL, over U.S. Hwy 1, serving all intermediate points; (2) between Tampa and Miami, FL, from Tampa, over FL Hwy 60 to junction U.S. Hwy 27, at or near Lake Wales, FL, then over U.S. Hwy 27 to Miami, and return over the same route, serving all intermediate points, serving those points in FL on and south of a line beginning at Clearwater, FL, and extending along FL Hwy 60 to its junction with Interstate Hwy 4, then along Interstate Hwy 4 to its junction with FL Hwy 50, then along FL Hwy 50 to its junction with FL Hwy 405, then along FL Hwy 405 to its junction with FL Hwy 402, then along FL Hwy 402 to the Atlantic Ocean (except Monroe County), as off-route points in connection with routes (1) and (2) above; (3) between Melbourne and Miami, FL, from Melbourne over Interstate Hwy 95 to junction with Florida Turnpike, then over Florida Turnpike to Miami, and return

over the same route, serving no intermediate points as an alternate route for operating convenience only, (4) between Orlando and Miami, FL, from Orlando over Interstate Hwy 4 to junction with Florida Turnpike then over Florida Turnpike to Miami, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Jacksonville, FL.)

MC 97699 (Sub-49F), filed September 1, 1978. Applicant: BARBER TRANSPORTATION CO., a corporation, P.O. Box 1970, Rapid City, SD 57709. Representative: Leslie R. Kehl, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Sioux City, IA, and Sioux Falls, SD over Interstate Hwy 29, serving no intermediate points. (Hearing site: Sioux City IA, or Sioux Falls, SD.)

MC 98952 (Sub-55F), filed August 4, 1978. Applicant: GENERAL TRANSFER CO., a Delaware corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, IL. 62701. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, Division of Mars, Inc., at Cleveland, TN, to points in IL, IN, IA, KY, MI, MO, and WI, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Springfield or Chicago, IL.)

MC 100666 (Sub-408F), filed August 3, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from the facilities of Wheeling-Pittsburgh Steel Corp., at or near (a) Canfield, Yorkville, Martins Ferry, Steubenville, and Mingo Junction, OH, (b) Allenport and Monessen, PA, and (c) Beech Bottom, Benwood, and Wheeling, WV, to points in AL, AR, GA, LA, MS, OK, TN, and TX. (Hearing site: Dallas, TX.)

MC 103490 (Sub-74F), filed August 22, 1978. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, NY 10048. To operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: *Liquid condensed fish solubles,* In bulk, in tank vehicles, from Gloucester, MA, to the ports of entry on the international boundary line between the United States and Canada located in NY, restricted to the transportation of traffic destined to Clarkson, ON, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its appropriate complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: New York, NY.)

NOTE.—(1) The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from Points in Canada, published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which are imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (2) Dual operations are involved.

MC 105566 (Sub-178F), filed August 1, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier,* by motor vehicle, transporting: (1) *Agricultural chemicals* (except commodities in bulk), and (2) *applicators,* for agricultural chemicals, from points in Alameda, Contra Costa, and Solano Counties, CA, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC.)

MC 106398 (Sub-826F), filed August 25, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pipe and pipe fittings,* and (2) *accessories for pipe,* from the facilities of Central Pipe & Foundry, at or near Holt, AL, to those points in the United States in and east of MT, WY, CO, and AZ. (Hearing site: Birmingham, AL.)

NOTE.—In view of the findings in MC 106398 Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 106644 (Sub-264F), filed August 8, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, GA 30301. Representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pipe, pipefittings, pipe valves, and castings,* and (2) *materials and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from the facilities of McWane Cast Iron Pipe Co., at Birmingham, AL, to points in CT, DE, ME, MI, NH, ND, SD, VT, WV, and DC. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 108119 (Sub-96F), filed September 8, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010 St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Self-propelled fuel distribution vehicles,* from Minneapolis, MN, to points in the United States (except AK and HI). (Hearing site: Minneapolis, MN.)

MC 108380 (Sub-95F), filed June 16, 1978. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, Newcastle, WY 82701. Representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, CO 80203. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (A) *Petroleum and petroleum products,* in bulk, in tank vehicles, (1) between points in WY; (2) from points in WY, to Pocatello, ID, Salt Lake City, UT, and Cowdrey, CO, points in NE, SD, ND, and those in MT on and east of a line beginning at the WY-MT State line, and extending along Interstate Hwy 90 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 89, at or near Chateau, MT, and then along U.S. Hwy 89 to the international boundary line between the United states and Canada; (3) from points in MT on and east of a line beginning at the WY-MT State line and extending along Interstate Hwy 90 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 289, at or near Chateau, MT, and then along U.S. Hwy 289 to the international boundary line between the United

States and Canada, to points in NE, ND, SD, WY, Pocatello, ID, Salt Lake City, UT, and Crowdrey CO, and points in that part of CO on and east

(Hearing site: Lexington, KY, or Washington, DC.)

MC 108449 (Sub-410F), filed August 28, 1978. Applicant: INDIANHEAD

NV, NM, ND, OH, OK, OR, SD, TN, UT, WA, WI, and WY. (Hearing site: New York, NY, or Newark, NJ.)

MC 111201 (Sub-33F), filed August

ing: *Confectionery* and *cough drops,* from Reading, PA, to points in OH, KY, IN, IL, IA, KS, MN, MO, NE, TN, TX, and WI. (Hearing site: Washing-

ities as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), between points in the United States

vehicle, over irregular routes, transporting: *Pulpboard, pulpboard products,* and *woodpulp,* from the facilities of Gulf States Paper Corp., at or near

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States and Canada, to points in NE, ND, SD, WY, Pocatello, ID, Salt Lake City, UT, and Crowdrey CO, and points in that part of CO on and east of a line beginning at the WY-CO state line and extending along Interstate Hwy 25 to Denver, CO, then along U.S. Hwy 285 to the CO-NM State line; (4) from Mandan, ND, to points in CO, SD, WY, and those in NE in and west of Sheridan, Garden, and Deuel Counties, points in Sheridan, Daniels, Roosevelt, McCone, Valley, Richland, Dawson, Prairie, Fallon, Custer, Powder River, Wibaux, and Carter Counties, MT, Pocatello, ID, and Salt Lake City, UT; (5) from points in Pennington County, SD, to points in CO, ND, NE, WY, MT, Pocatello, ID, and Salt Lake city, UT; (6) from points in Custer and Fall rivers Counties, SD, to points in WY; (7) from points in Butte County, SD, to points in CO, MT, NE, ND, SD, and WY; (8) from Chadron and Scottsbluff, NE, to points in SD, ND, MT, WY, Pocatello, ID, and Salt Lake City, UT and (B) *dry petroleum-based urea, and petroleum-based urea solutions,* (1) from points in MT on and east of a line beginning at the international boundary line between the United States and Canada and extending along MT Hwy 241 to junction U.S. Hwy 2, then along U.S. Hwy 2 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction MT Hwy 19, then along MT Hwy 19 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction U.S. Hwy 310, and then along U.S. Hwy 310 to the MT-WY State line, to points in AZ, CO, ID, KS, MT, NE, NM, ND, OK, SD, TX, UT, and WY; (2) from Mandan, ND, and points in Pennington and Butte Counties, SD, to points in AZ, CO, ID, KS, MT, NE, NM, ND, OK, SD, TX, UT, and WY; and (3) from Scottsbluff and Chadron, NE, to points in AZ, CO, ID, KS, MT, NE, NM, ND, OK, SD, TX, UT, and WY. (Hearing site: Denver, CO, or Cheyenne, WY.)

MC 108341 (Sub-110F), filed August 9, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 9409, Charlotte, NC 28208. Representative: Jack F. Counts (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and heat equalizers,* (2) *air, gas, and liquid conditioning and moving machinery and equipment,* and (3) *parts and attachments* for use in the installation or operation of the commodities in (1) and (2) above, from the facilities of Trane Co., in Fayette County, KY, to points in CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC. (Hearing site: Lexington, KY, or Washington, DC.)

MC 108449 (Sub-410F), filed August 28, 1978. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: Adolph J. Bieberstein, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials,* in bulk, from the facilities of Land O' Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 108937 (Sub-50F), filed August 17, 1978. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess (same address as applicant). To operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Albert Lea, MN, and Milwaukee, WI: From Albert Lea over Interstate Hwy 90 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Milwaukee, and return over the same routes, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: St. Paul, MN, or Washington, DC.)

MC 109124 (Sub-49F), filed August 8, 1978. Applicant: SENTLE TRUCKING, CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Refractories, materials, and supplies* used in the manufacture of refractories, *magnesite, magnesite products, lime, limestone, and limestone products,* from the facilities of Basic, Inc., at or near Maple Grove, OH, to points in TN, NC, SC, AL, FL, TX, VA, GA, and MO; and (2) *magnesite and magnesite products,* from Port St. Joe, FL, to points in OH, PA, IN, and IL. (Hearing site: Columbus, OH.)

MC 110525 (Sub-1260F), filed August 28, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid chemicals,* in bulk, in tank vehicles, from Wyandotte, MI, to points in AL, AR, AZ, CA, CO, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN, UT, WA, WI, and WY. (Hearing site: New York, NY, or Newark, NJ.)

MC 111201 (Sub-33F), filed August 9, 1978. Applicant: J. N. ZELLNER & SON TRANSFER CO., A corporation, P.O. Box 91247, East Point, Ga 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345, To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Fruit juice* (except in bulk), from Miami, FL, to Atlanta, GA. (Hearing site: Atlanta, GA.)

MC 112617 (Sub-405F), filed August 16, 1978. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals* (except petrochemicals), in bulk, in tank vehicles, from the facilities of W. R. Grace & Co., at or near Owensboro, KY, to South Action, MA, and points in Kings County, NY, (Hearing site: Louisville, KY, or Washington, DC.)

MC 112801 (Sub-207F), filed August 4, 1978. Applicant: TRANSPORT SERVICE CO., a corporation, Two Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wax* and *materials and supplies* used in the manufacure of wax, in bulk, in tank vehicles, between Oshkosh, WI, on the one hand, and, on the other, points in the United States (except AK, HI, and WI). (Hearing site: Chicago, IL.)

MC 113651 (Sub-282F), filed August 8, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery houses, from the facilities of Southern States Distribution, Inc., at or near Memphis, TN, to points in AL, AR, MS, LA, FL, TN, those in KY on and west of U.S. Hwy 31E, and those in MO on and south of Interstate Hwy 44. (Hearing site: Memphis, TN.)

MC 113651 (Sub-283F), filed August 7, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery* and *cough drops,* from Reading, PA, to points in OH, KY, IN, IL, IA, KS, MN, MO, NE, TN, TX, and WI. (Hearing site: Washington, DC.)

MC 114457 (Sub-422F), filed August 15, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pet food,* from the facilities of Star Kist Foods, Inc., at (a) Perham, MN, and (b) Muscatine, IA, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of pet food, from points in the United States (except AK and HI), to the facilities of Star Kist Foods, Inc., at (a) Perham, MN, and (b) Muscatine, IA. (Hearing site: St. Paul, MN, or Fargo, ND.)

MC 114457 (Sub-423F), filed August 14, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plumbing goods,* (2) *bathroom vanities and accessories for bathroom vanities,* and (3) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, between Phoenix, AZ, Redlands, CA, Union Point and Monroe, GA, Rensselaer and Crawfordsville, IN, Leominster, MA, Ottumwa, IA, Salem, OH, New Castle, PA, Hondo and Corsicana, TX, and Milwaukee, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA, or Des Moines, IA.)

MC 114457 (Sub-424F), filed August 16, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Tires and tire accessories,* from Atlanta, GA, Houston, TX, Denver, CO, Montebello, CA, and Portland, OR, to points in the United States (except AK and HI). (Hearing site: Denver, CO, or St. Paul, MN.)

MC 114457 (Sub-425F), filed August 14, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by manufacturers and distributors of containers* (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 116915 (Sub-69F), filed August 17, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., a Kentucky corporation, 1830 South Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum articles* (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Revere Copper & Brass, Inc., at or near Scottsboro, AL, on the one hand, and, on the other, points in WI, IA, MO, IL, IN, MI, OH, PA, NY, KY, TN, WV, VA, SC, NC, NJ, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Revere Copper & Brass, Inc., at or near Scottsboro, AL. (Hearing site: Birmingham, AL, or Nashville, TN.)

MC 116915 (Sub-70F), filed August 28, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* and *equipment, materials, and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), between the facilities of Laclede Steel Co., at or near Alton, IL, on the one hand, and, on the other, points in AL and GA. (Hearing site: St. Louis, MO, or Lousiville, KY.)

MC 116915 (Sub-71F), filed August 28, 1978. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 South Plate Street, Kokomo, IN 46901. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from the facilities of Parker Steel Co., at or near Andrews, SC, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Columbia, SC, or Atlanta, GA.)

MC 118159 (Sub-290F), filed September 11, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., A Louisiana corporation, P.O. Box 51366 Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pulpboard, pulpboard products,* and *woodpulp,* from the facilities of Gulf States Paper Corp., at or near Demopolis and Maplesville, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL.)

MC 118866 (Sub-12F), filed August 2, 1978. Applicant: PAUL L. ZAMBERLAN & SONS, INC., P.O. Box 15, Lewis Run, PA 16738. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Carbon steel pipe,* from Camden, NJ, and Baltimore, MD, to Bradford, PA. (Hearing site: Pittsburgh, PA.)

MC 119399 (Sub-80F), filed September 11, 1978. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, Joplin, MO 64801. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dairy products* and *synthetic cheese,* from points in MN and WI, to points in Barry, Greene, Jasper, Lawrence, and Newton Counties, MO. (Hearing site: Kansas City, MO.)

MC 119654 (Sub-57F), filed August 4, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Containers, container accessories, and materials, equipment, and supplies,* used in the manufacture or distribution of containers and container accessories, (except commodities in bulk), between points in IL, IN, OH, MI, MO, KY, WI, and those in that part of PA on and west of a line beginning at the NY-PA State line and extending along U.S. Hwy 219 to junction U.S. Hwy 119, then along U.S. Hwy 119 to the PA-MD State line. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119789 (Sub-508F), filed August 9, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery houses, from the facilities of Southern States Distribution, Inc., at or near Memphis, TN, to points in AL, AR, FL, LA, MS, TN, those in KY on and west of U.S. Hwy 31E, and those in MO on and south of U.S. Hwy 66 (Hearing site: Memphis, TN.)

MC 123685 (Sub-22F), filed August 28, 1978. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, OH 44646. Representative: *Liquid zinc chloride,* in bulk, in tank vehicles, from Decatur, AL, to Brunswick, GA. (Hearing site: Savannah, (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations are at issue in this

1825, Round Rock, TX 78664. Representative: W. S. Levens (same address as applicant). To operate as a *common* INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pharmaceuticals and*

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MC 123685 (Sub-22F), filed August 28, 1978. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, OH 44646. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned food products*, and *materials, equipment, and supplies* used in the manufacture of canned food products, between the facilities of Campbell Soup Co., at or near Napoleon, OH, on the one hand, and, on the other, points in KY, NY, PA, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 124078 (Sub-857F), filed September 11, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay*, from Milwaukee, WI, to points in IL, IN, IA, and the upper Peninsula of MI. (Hearing site: Milwaukee, WI.)

MC 124078 (Sub-858F), filed September 13, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *vegetable oil and vegetable oil products*, from Macon, GA, to points in CT, DE, FL, MD, MA, NE, NJ, NY, NC, RI, PA, SC, VA, and WV. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-859F), filed September 14, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone slurry*, in bulk, in tank vehicles, form points in Pickens, County, GA, to points in AL, AR, KY, MS, NC, and TN; and (2) *limestone*, in bulk, in tank vehicles, (a) from points in Pickens County, GA, to points in IL, IN, MI, OH, SC, and VA, and (b) from Gantts Quarry, AL, Talladega County, to points in FL. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-860F), filed September 15, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid zinc chloride*, in bulk, in tank vehicles, from Decatur, AL, to Brunswick, GA. (Hearing site: Savannah, GA.)

MC 124078 (Sub-861F), filed September 15, 1978. Applicant: SCHWERMAN TRUCKING CO., A Corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay*, (2) *foundry sand*, and (3) *foundry sand additives and foundry sand ingredients*, from Waterloo, IA, to points in CO, IL, IN, KS, LA, MI, MN, MO, NE, ND, OH, OK, SD, TX, and WI. (Hearing site: Chicago, IL.)

MC 124211 (Sub-336F), filed August 8, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, DTS, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or dealt in by manufacturers and distributors of hardware and plumbing supplies (except commodities in bulk, in tank vehicles), between points in Cobb, De Kalb, and Fulton Counties, GA, and Somerset County, PA, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, ID, IA, KS, LA, MN, MS, MT, NC, ND, NE, NM, NV, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, and WY. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124211 (Sub-337F), filed August 8, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, DTS, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal articles* (except commodities in bulk, in dump vehicles), from St. Louis, MO, to El Paso, TX, and those points in the United States in and west of MT, WY, NE, CO, and NM (except AK and HI). (Hearing site: St. Louis, MO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124211 (Sub-338F), filed August 8, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, DTS, Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand* and *silica products* (except commodities in bulk, in dump and tank vehicles), from points in New London County, CT, to points in IL, IN, KY, MD, MI, MN, MO, NY, OH, PA, VA, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124658 (Sub-12F), filed August 25, 1978. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Charles C. Flower, 303 East "D" Street, Suite 2, Yakima WA 98901. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint*, from Seattle, WA, to Eureaka and Redding, CA, Moscow, ID, Billings, Bozeman, Butte, Glasgow, Great Falls, Havre, Helena, Livingston, Miles City, and Missoula, MT, Ashland, Coos Bay, Eugene, Grants Pass, Medford, Pendleton, and Roseburg, OR, Logan, Ogden, Provo, and Salt Lake City, UT, Bremerton and Centralia, WA, and Casper, WY, restricted (1) to the transportation of traffic having a prior movement by water, and (2) to service performed under continuing contracts with (1) Powell River-Alberni Sales Corp., of Seattle, WA, and (2) Crofton Paper Co., Inc., of Menlo Park, CA. (Hearing site: Yakima, WA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124711 (Sub-61F), filed August 10, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of Chevron Chemical Co., near Friend, KS, to points in CO, NE, OK, TX, and WY. (Hearing site: Dallas, TX, or Washington, DC.)

MC 124839 (Sub-34F), filed September 11, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe and pipefittings* (except iron and steel articles), from Green Cove Springs, FL, to points in AL, GA, KY, LA, MS, NC, SC, TN, and VA; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, from the destinations named in (1) above, to Green Cove Springs, FL, all of the service in (1) and (2) to be performed under continuing contract(s) with Johns-Manville Sales Corp., of Denver, CO. (Hearing site: Washington, DC.)

MC 128868 (Sub-5F), filed September 11, 1978. Applicant: TEXAS CONSTRUCTION SERVICE CO. OF AUSTIN, a corporation, 15000 FM 1825, Round Rock, TX 78664. Representative: W. S. Levens (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement, gypsum, and lime*, between points in TX. (Hearing site: San Antonio, TX.)

MC 129387 (Sub-75F), filed August 14, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Doug W. Sinclair (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *clothing*, and (2) *materials, equipment*, and *supplies* used in the manufacture of clothing, from points in AL, GA, NC, NJ, NY, PA, RI, SC, and VA, to the facilities of Munsingwear, Inc., at (a) Minneapolis, MN, and (b) Paris, TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Minneapolis, MN.)

MC 133655 (Sub-120F), filed August 28, 1978. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *such commodities* as are dealt in by manufacturers and distributors of medical, hospital, and surgical supplies, (b) *dry goods and fiber*, and (c) *industrial tapes, pipe covering tapes, pipeline coatings, and rust preventatives;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (a), (b), and (c) above, between Franklin, KY, Griswoldville and Walpole, MA, and Windham, CT, on the one hand, and, on the other, points in AL, AR, CA, KS, LA, MS, MO, NE, NM, OK, and TX. (Hearing Site: Chicago, IL.)

MC 133689 (Sub-222F), filed September 11, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *crude clay, ground clay*, and *floor sweeping compounds* (except commodities in bulk), from the facilities of Oil-Dri Corp. of America, at or near Ripley, MS, to points in AR, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: St. Paul, MN.)

MC 133841 (Sub-6F), filed July 21, 1978. Applicant: DAN BARCLAY, INC., P.O. Box 426, 362 Main Street, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *water pollution control equipment and air pollution control equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and installation of the commodities named in (1) above (except commodities in bulk), between the facilities of Belco Pollution Control Corp., at Fairfield, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 134599 (Sub-165F), filed September 7, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware corporation, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *crated office furniture*, and *parts* for office furniture, from the facilities of Steelcase, Inc., at or near Tustin, CA, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, WV, and WI, under continuing contract with Steelcase, Inc., of Grands Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136408 (Sub-41F), filed September 12, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *pharmaceuticals, animal feed supplements, chemicals, and laminated plastic sheets*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between points in NJ, NY, MA, and OH, under continuing contract with the American Cyanamid Co., of Wayne, NJ, and the Formica Corp., of Cincinnati, OH. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136408 (Sub-42F), filed September 12, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pharmaceuticals and animal feed*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), from the facilities of the American Cyanamid Co., at Pearl River, NY, to points in CA, IL, IA, KS, MN, MO, OK, OR, TX, and WI, under continuing contract(s) with the American Cyanamid Co., of Wayne, NJ. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136738 (Sub-1F), filed August 25, 1978. Applicant: DEAKAL CARTING CORP., 292 Marlin Street, Dix Hills, NY 11746. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Record jackets*, and (2) *paper and paper products* used in the manufacture of record jackets, (a) from Farmingdale, NY, to Oak Ridge, Memphis, and Nashville, TN, (b) from Oak Ridge, TN, to Indianapolis, IN, and (c) from Canton, NC, to Farmingdale, NY, under continuing contract(s) in (1) and (2) above with Shoreco International, Inc., Shorewood Packing, Inc., and Shorewood Litho, Inc., all of Farmingdale, N.Y. (Hearing site: New York, NY, or Washington, DC.)

MC 136888 (Sub-14F), filed August 25, 1978. Applicant: NORMAN & SON, INC., P.O. Box 853, South Houston, TX 77587. Representative: Timothy Mashburn, P.O. Box 2207, 1806 Rio Grande, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron, metals, and alloys*, (except scrap metals), in dump vehicles, (1) between points in TX, on the one hand, and, on the other, those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), and (2) between points in TX, on the one hand, and, on the other, points in IL, IN, OH, PA, KY, GA, FL, NC, SC, VA, WV, MD, and MI. (Hearing site: Houston or Dallas, TX.)

MC 138144 (Sub-32F), filed July 26, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: William D. Brejcha, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials*, and (2) *materials and supplies* used in the installation of building materials (except commodities in bulk), between the facilities of Bird & Son, Inc., at Chicago, IL, on the one hand, and, on the other, points in KS, IA, MN, MO, NE, ND,

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SD, and WI. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in the proceeding.

MC 138225 (Sub-9F), filed August 28, 1978. Applicant: HEDRICK ASSOCIATES, INC., RR No. 2, Box 10A2, Douglas Road, Far Hills, NJ 07931. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marine engines*, from the facilities of Chrysler Corp., Marine Division, at or near Beaver Dam, WI, to the facilities of Trojan Yacht Co., at or near Lancaster, PA, under continuing contract(s) with Trojan Yacht Co., of Lancaster, PA. (Hearing site: Washington, DC.)

MC 138304 (Sub-15F), filed July 14, 1978. Applicant: NATIONAL PACKERS EXPRESS, INC., an Illinois corporation, 3445 Patterson Plank Road, North Bergen, NJ 07047. Representative: Craig B. Sherman, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, FL 33154. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-edible grain flour, edible flour, dry beverage preparations, breadcrumbs, non-medicated syrup, and bread cubes*, and (2) *materials* used in the manufacture of the commodities in (1) above, from points in Queens County, NY, to points in KY, OH, IN, PA, MI, and WV. (Hearing site: New York, NY, or Washington, DC.).

MC 138469 (Sub-80F), filed September 6, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75254, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Nutritional food supplements*, from Norman, OK, to points in the United Staters (except AK and HI), and (2) *materials* used in the manufacture of the commodities in (1) above, from points in the United States (except AK and HI), to Norman, OK. (Hearing site: San Francisco, CA.)

MC 138505 (Sub-7F), filed August 28, 1978. Applicant: METROPOLITAN CONTRACT SERVICES, INC., 9225 Katy Freeway, Suite 110, Houston, TX 77024. Representative: John H. Lewis, The 1650 Grant Street Building, Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, between Denver, CO, and Billings, MT, under continuing contract(s) with The Denver Dry Goods, Inc., of Denver, CO. (Hearing site: Denver, CO.)

MC 138741 (Sub-49F), filed August 9, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, Esquire, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Treated lumber products* (except commodities in bulk), from the facilities of Jennison-Wright Corp., at Granite City, IL, to points in IN, IA, and KY. (Hearing site: Chicago, IL.)

MC 139495 (Sub-382F), filed August 28, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gas appliances, and electrical appliances*, and (2) *materials, supplies, and equipment* used in the manufacture, distribution, and repair of the commodities in (1) above, from the facilities of Whirlpool Corporation, at Evansville, IN, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, D.C.)

MC 139638 (Sub-6F), filed September 5, 1978. Applicant: N. L. MONTGOMERY, INC., P.O. Box 626, Rocky Mount, VA 24151. Representative: W. T. Jones (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Belmont, Franklin, Geauga, Guernsey, Holmes, Jackson, Ross, Washington, and Wayne Counties, OH, to points in NC, VA, and WV. (Hearing site: Rocky Mount or Roanoke, VA.)

MC 139906 (Sub-15F), filed July 31, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except in bulk), and (2) *materials, supplies, and equipment* used in the manufacture of plastic articles (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from the facilities of J. W. Carroll & Sons, at or near Carson, CA, to points in the United States (except AK, AZ, ID, MT, ND, NM, NV, OR, SD, UT, WA, WY and HI). (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations are at issue in this proceeding.

MC 140241 (Sub-18F), filed August 9, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precut log buildings*, knocked down, between Claremore, OK, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), from points in the United States (except AK and HI), to Claremore, OK, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Kansas City, MO.)

MC 140241 (Sub-19F), filed August 9, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, and (2) *grain handling equipment*, from Hutchinson, KS, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 140241 (Sub-21F), filed August 10, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products* from Ola and Waldo, AR, to points in KS, LA, MO, NE, NM, OK, TX, and SD. (Hearing site: Kansas City, MO.)

MC 140389 (Sub-35F), filed August 14, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsen, AL 35902. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), from Seattle, WA, to Sparks, NV and points in CA, restricted to the transportation of traffic having a prior movement by water, and (2) *the commodities* named in (1) above from the origin in (1) above to the destinations in (1) above, not having a prior movement by water in mixed loads with traffic having a prior movement by water. (Hearing site: Seattle, WA.)

MC 140615 (Sub-28F), filed August 28, 1978. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible cheese byproducts* (except in bulk), from Hainesport and Pennsauken, NJ, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA.)

MC 140615 (Sub-29F), filed August 28, 1978. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, plastic products, and liquid latex*, (except commodities in bulk, in tank vehicles), from Monaca, PA, to points in MN, SD, and WI. (Hearing site: Philadephia, PA.)

MC 140665 (Sub-34F), filed August 7, 1978. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal coatins, plastic coatings, and glass coatings, porcelain, paint, color additives, chemicals, plastics, ceramics, insulating materials, glass products, refractories, fiberglass, furnance and kiln supplies, and highway marking equipment and supplies* (except commodities in bulk), and (2) *materials and supplies* used in the maufacture of the commodities in (1) above, (except commodities in bulk), from Orrville, Crooksville, Toledo, East Liverpool, Sebring, Walton Hills, and Cuyahoga Heights, OH, Odgensburg, Dresden, Buffalo, and East Rochester, NY, Pittsburgh, PA, chicago and Bartlett, IL, Plymouth, IN, Nashville, TN, and Toccoa, GA, to points in AR, LA, OK, and TX. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 140986 (Sub-8F), filed July 31, 1978. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the construction of tennis courts (except commodities in bulk), from Charmian, PA , and Charlottesville, VA, to points in the United States (except AK, CT, DE, HI, KY, MA, MD, NH, NJ, NY, OH, PA, RI, TN, and VT), under continuing contract(s) with (1) Har-Tru Corp., of Hagerstown, MD, and (2) Robert Lee Co., Inc., of Charlottesville, VA. (Hearing site: Washington, DC.)

MC 141034 (Sub-6F), filed August 8, 1978. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, MA 01607. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages* (except in bulk), and (2) *materials and supplies* used in the production of malt beverages (except commodities in bulk), between Merrimack, NH, on the one hand, and, on the other, Boston, MA, and Newark, NJ, under continuing contract(s) with Anheuser-Busch, Inc., of St. Louis, MO. (Hearing site: Merrimack, NH, or Boston, MA.)

MC 142559 (Sub-43F), filed September 5, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles and plastic materials*, (except commodities in bulk), and (2) *equipment, materials and supplies*, (except commodities in bulk), used in the manufacture and distribution of the commodities in (1) above, between points in the United States (except AK and HI). (Hearing site: Columbus, OH or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142686 (Sub-9F), filed August 7, 1978. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Road, Santa Fe Springs, CA 90670. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass roving*, from Aiken and Anderson, NC, to Santa Monica, CA, under continuing contract(s) with Ornyte Fiberglass, a division of Berdon, Inc., of Santa Monica, CA. (Hearing site: Los Angeles, CA.)

MC 143059 (Sub-25F), filed September 5, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, pipe fittings, and pipe couplings* from Oakland, CA and Turner, OR, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture of the commodities in (1) above, from the destinations named in (1) above, to Oakland, CA and Turner, OR. (Hearing site: San Francisco, CA, or Washington, DC.)

MC 143179 (Sub-6F), filed August 11, 1978. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers, plastic container lids, and plastic foam products*, from Omaha, NE, to points in AR, CO, IL, IA, MI, MN, MO, and WI, under continuing contract(s) with Airlite Plastics Co., of Omaha, NE. (Hearing site: Omaha, NE.)

MC 143256 (Sub-1F), filed July 11, 1978. Applicant: L-O-N, INC., 945 North East Broadway, Minneapolis, MN 55411. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture, furniture parts, and accessories for furniture* and (2) *materials, equipment, and supplies* used in the manufacture of furniture, (except commodities in bulk, in tank vehicles), (a) from Minneapolis and Cokato, MN, to points in CO, ID, IN, KS, KY, MO, MT, OH, TN, UT, and WY, and (b) from points in CO, GA, ID, IN, KS, KY, MA, MO, MT, NC, OH, SC, UT, and WY, to Minneapolis and Cokato, MN, under continuing contract(s) with (1) The Land-O-Nod Co., of Minneapolis, MN, and (2) Richwell Furniture Co., of Cokato, MN. (Hearing site: Minneapolis, MN.)

MC 143267 (Sub-30F), filed August 11, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Peter A. Greene, 900 17th Street, NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and plastic pipe fittings*, and (2) *materials, supplies, and equipment used in the manufacture and installation of the commodities in (1) above, (except commodities in bulk, in tank vehicles)*, between Valley View and Middlefield, OH and Bristol, IN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Cleveland, OH.)

MC 143436 (Sub-13F), filed August 7, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, In 46224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except commodities in bulk), in vehi-

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cles equipped with mechanical refrigeration, from the facilities of Fred's Frozen Foods, Inc., at or near Noblesville, IN, to points in IL, KY, MI, and OH. (Hearing site: Indianapolis, IN.)

MC 143648 (Sub-7F), filed August 28, 1978. Applicant: CORALVILLE TRANSPORT, INC., R.R. No. 1, Lamont, IA 50650. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA, or St. Paul, MN.)

MC 143687 (Sub-5F), filed August 11, 1978. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cushioned envelopes, and plastic articles* (except commodities in bulk), from Hyannis, MA, to points in the United States (except AK, HI, and MA), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from the above-named destinations, to the above-named origin, under continuing contract(s) with Sentinel Foam Products, Inc., of Hyannis, MA. (Hearing site: Boston, MA.)

MC 144041 (Sub-18F), filed August 11, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemical products*, in containers, from the facilities of Gumout Division, Pennzoil Co., at or near East Butler, PA, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Washington, DC, or Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 144117 (Sub-15F), filed August 14, 1978. Applicant: T.L.C. LINES, INC., 97 Produce Row, St. Louis, MO 63102. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bags and plastic*, from the facilities of B-Bar-B, Inc., at or near New Albany, IN, to points in CA, FL, GA, NV, OR, TX, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site:: Louisville, KY, or Chicago, IL.)

MC 144117 (Sub-16F), filed August 14, 1978. Applicant: T.L.C. LINES, INC., 97 Produce Row, St. Louis, MO 63102. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper labels, foil labels, foil wrappers, and wrapping paper*, from the facilities of Lustour, Inc., at Murphysboro, IL, to points in CA, CO, OR, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 144239 (Sub-2F), filed September 8, 1978. Applicant: J.L.T. CORP., 233 Green Village Road, Green Village, NJ 07935. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, in vehicles equipped with mechanical refrigeration, (1) from New Wilmington, PA, to points in IL, IN, MD, MI, MN, NJ, NY, OH, and WI, and (2) from Hayfield, MN, to points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC, under continuing contract(s) in (1) and (2) above with Valley Lea Dairies, Inc., of South Bend, IN. (Hearing site: New York, NY.)

MC 144256 (Sub-1F), filed July 19, 1978. Applicant: ARIZONA EXPRESS INC., 2131 West Roosevelt, Phoenix, AZ 85009. Representative: C. J. Boddington (same as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Phoenix and Lukeville, AZ, from Phoenix over U.S. Hwy 80 to junction AZ Hwy 85, then over AZ Hwy 85 to Lukeville, and return over the same route, serving all intermediate points on AZ Hwy 85 between junction AZ Hwy 85 and Interstate Hwy 8, including Gila Bend, (2) between Tucson and Why, AZ, over AZ Hwy 86, serving all intermediate points on AZ Hwy 86 west of junction AZ Hwy 86, AZ Hwy 286, and serving all points in the Papago Indian Reservation as off-route points in connection with carrier's otherwise regular-route operations. (Hearing site: Phoenix or Ajo, AZ.)

MC 144855 (Sub-1F), filed August 28, 1978. Applicant: TRANS CONTINENTAL CARRIERS, INC., 169 East Liberty Avenue, Anaheim, CA 92803. Representative: Patricia M. Schnegg, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bags, from Chester, VT, to Canton, OH. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144918 (Sub-1F), filed September 11, 1978. Applicant: J. P. JENKS, INC., RD No. 3, P.O. Box 585, Geneva, OH 44041. Representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 930, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel articles*, between the facilities of Midwest Materials, Inc., at Perry, OH, on the one hand, and, on the other, points in CT, DE, IL, IN, IA, KY, MD, MA, MI, MN, NH, NJ, NY, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at or destined to the above named facilities of Midwest Materials, Inc. (Hearing site: Cleveland, OH.)

NOTE.—Dual operations are involved in this proceeding.

MC 144969 (Sub-1F), filed August 29, 1978. Applicant: WHEATON CARTAGE CO., a corporation, Millville, NJ 08332. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Synthetic plastics, adhesives, sealants, cements, chemicals, rubber compounds, soldering flux, coatings*, and *lubricants*, and (b) *materials, equipment, and supplies* used in the application of the commodities in (1)(a) above, from Cambridge, MA, to points in the United States (except AK and HI); (2) *cleaning compounds*, from Cambridge, MA, to points in the United States (except AK, CT, DE, HI, MD, NJ, NY, PA, and RI); (3)(a) *synthetic plastics, adhesives, sealants, cements, chemicals, gas absorbing compounds, rubber compounds, soldering flux, coatings, and lubricants*, and (b) *materials, equipment, and supplies* used in the application of the commodities in (3)(a), from Woodbury, NJ and Atlanta, GA, to points in the United States (except AK and HI); (4)(a) *synthetic plastics, adhesives, sealants, cements, chemicals, gas absorbing compounds, rubber compounds, soldering flux, coatings, lubricants, air entraining agents, cement clinker or grinding compounds, concrete or masonary plasticizers and water reducing compounds, tall oil, and lignin liquors*, and (b) *materials, equipment and supplies* used in the application of the commodities in (4)(a), from Chicago, IL, to points in the United States (except AK and HI); (5) *synthetic plastics, synthetic latex, battery insulating partitions*, and *pulpboard*, from Owensboro, KY, to points in the United States (except AK and HI); (6) *cleaning compounds, chemicals*, and *fertilizer compounds*, from Nashua, NH, to points in the United States (except AK, CT, DE, HI, MD, NJ, NY, PA, and RI); (7) *synthetic plastics, synthetic latex, battery insulating partitions*, and *cleaning compounds*, from Acton, MA, to points in the United States (except AK, CT, DE, HI, MD, NJ, NY, PA, and RI); and (8) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) through (7) above, from points in the United States (except AK and HI), to Cambridge, MA, Woodbury, NJ, Atlanta, GA, Chicago, IL, Owensboro, KY, Nashua, NH, Acton, MA, and San Leandro, CA, restricted in (1) through (8) above, against the transportation of commodities in bulk, in tank vehicles, and those which by reason of size and weight require the use of special equipment. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 144984 (Sub-1F), filed August 8, 1978. Applicant: LAHOMA TRANSPORT, INC., an Oklahoma corporation, 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith, II (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, (1) from Ada and Muskogee, OK, to points in AR, KS, LA, MO, and TX, and (2) between points in AR, KS, LA, MO, OK, and TX, restricted in part (2) to the transportation of traffic having an immediately prior movement by rail. (Hearing site: Denver, CO, or Oklahoma City, OK.)

MC 145098 (Sub-2F), filed September 11, 1978. Applicant: CASPER'S CARTAGE, INC., 3837 West 127th Street, Alsip, IL 60658. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indian- apolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sand, crushed stone, and gravel*, between those points in IN on and north of Interstate Hwy 70, on the one hand, and, on the other, points in Cook, Will, Du Page, and Kankakee Counties, IL; (2) *slag*, from points in Lake and Porter Counties, IN, to points in Cook, Will, Du Page, and Kankakee Counties, IL; and (3) *cement*, from the facilities of Louisville Portland Cement Company, at or near Logansport, IN, to points in Cook, Du Page, Will, and Kankakee Counties, IL. (Hearing site: Chicago, IL.)

MC 145200F, filed August 7, 1978. Applicant: AUTOMOTIVE FUEL CORP. OF DELAWARE, a Delaware Corporation, P.O. Box 162, Hazelcrest, IL 60429. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, and (2) *such commodities as are dealt in or used by automobile service stations*, between points in IL, WI, IN, MI, PA, MD, VA, OH, KY, IA, MN, and MO, under continuing contract(s) with Cheker Oil Company, of East Hazelcrest, IL. (Hearing site: Chicago, IL.)

MC 145349F, filed September 6, 1978. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Road, Nashville, TN 37210. Representative: John M. Nader, Route 3 Box 4, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New trucks and new truck chassis*, (1) in initial movements, in driveaway service, (a) from Buffalo, NY, Hayward, CA, and Allentown, PA, to points in AL, FL, GA, IN, KY, LA, MO, NC, OH, SC, TN, TX, and VA, (b) from Chino, CA, Seattle, WA, Indianapolis, IN, and Portland, OR, to Nashville and Knoxville, TN, and (2) in driveaway service, from Nashville and Knoxville, TN, to those points in the United States in and east of WI, IL, MO, AR, and LA. (Hearing site: Lexington or Louisville, KY.)

CONDITION.—The prior or coincidental cancellation, at carrier's written request, of its authority under MC 140245.

MC 145358F, filed August 31, 1978. Applicant: L. M. ROACH, d.b.a. D & L TRUCKING CO., P.O. Box 1741, 145 Sampson Road, Wilmington, NC 28401. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, between points in NC, SC, and VA. (Hearing site: Wilmington, NC.)

NOTE.—Dual operations are involved in this proceeding.

MC 145261F, filed July 26, 1978. Applicant: LONNIE FLOYD SURRETT, d.b.a. OXFORD TAXI CO., 507 Maine Street, Oxford, AL 36203. Representative: Charles L. Parks, P.O. Box 1709, Anniston, AL 36201. To operate as a *common carrier*, by motor vehicle, transporting: *Passengers and their baggage* in the same vehicle with passengers, between the Anniston-Oxford Airport, located in Calhoun County, AL, and the William B. Hartsfield Atlanta International Airport, at Atlanta, GA: From the Anniston-Oxford Airport, over AL Hwy 21 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 85, then over Interstate Hwy 85 to the William B. Hartsfield Atlanta International Airport, and return over the same route, serving no intermediate points restricted to the transportation (1) of passengers having a prior or subsequent movement by air, and (2) of not more than 5 passengers in any one vehicle, not including children under 10 years of age who do not occupy a seat, and the driver. (Hearing site: Birmingham, AL, or Atlanta, GA.)

[FR Doc. 78-29408 Filed 10-18-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

OCTOBER 4, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Eliminaton Rules* (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 30, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 14702 (Sub-E1) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of October 8, 1974, and republished, as corrected, this issue. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: James M. Holland, (same as above). *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 MCC 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in PA on and east of a line beginning at the PA-NY

State line, and extending along U.S. Hwy 219 to junction U.S. Hwy 322, then along U.S. Hwy 322 to junction

MC 88368 (Sub-E31) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and republished as corrected this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephlin, (same as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 MCC 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in PA on and east of a line beginning at the PA-NY State line, and extending along U.S. Hwy 219 to junction U.S. Hwy 322, then along U.S. Hwy 322 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 85, then over Interstate Hwy 85 to the William B. Hartsfield Atlanta International Airport, and return over the same route, serving no intermediate points restricted to the transportation (1) of passengers having a prior or subsequent movement by air, and (2) of not more than 5 passengers in any one vehicle, not including children under 10 years of age who do not occupy a seat, and the driver. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 88368 (Sub-E31) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and republished as corrected this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephlin, (same as above). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 MCC 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in PA on and east of a line beginning at the PA-NY State line, and extending along U.S. Hwy 219 to junction U.S. Hwy 322, then along U.S. Hwy 322 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 85, then over Interstate Hwy 85 to the William B. Hartsfield Atlanta International Airport, and return over the same route, serving no intermediate points restricted to the transportation (1) of passengers having a prior or subsequent movement by air, and (2) of not more than 5 passengers in any one vehicle, not including children under 10 years of age who do not occupy a seat, and the driver. (Hearing site: Birmingham, AL, or Atlanta, GA.)

rected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO

MC 88368 (Sub-E40) (correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of September

to Harlan, IA and points within 15 miles thereof; (39) from points in WY to points in LA; (40) from points in

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State line, and extending along U.S. Hwy 219 to junction U.S. Hwy 322, then along U.S. Hwy 322 to junction U.S. Hwy 350, then along U.S. Hwy 350 to junction U.S. Hwy 220, then along U.S. Hwy 220 to the PA-MD State line, points in MD, NJ, DC, and points in that part of NY east of a line extending from the shore of Lake Ontario along NY Hwy 18 to Rochester, then along U.S. Hwy 15 to Lakeville, then along AL U.S. Hwy 20 to Leicester, then along NY Hwy 36 to Mount Morris, then along NY Hwy 408 to junction NY Hwy 16 near Hinsdale, then along NY Hwy 16 to Olean, and then along NY Hwy 16-A to the NY-PA State line, on the one hand, and, on the other, points in OH north and west of a line beginning at the Ohio River and extending along U.S. Hwy 22 to junction I Hwy 77, then along I Hwy 77 to junction OH Hwy 78, then along OH Hwy 78 to junction OH Hwy 13, then along OH Hwy 13 to junction U.S. Hwy 33, then along U.S. Hwy 33 to the Ohio River. (Gateways eliminated: Warren, OH or Blaine, OH.)

NOTE.—The purpose of this republication is to clarify the correct E-number (1) instead of E-number (7).

MC 14702 (Sub-E7), (Correction) filed May 15, 1974, published June 14, 1974 in the FEDERAL REGISTER and republished this issue. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: James M. Holland (same as above). *Iron, steel, manufactured iron and steel articles, motors machinery, and machinery parts* (except commodities requiring special equipment and commodities in bulk), between points in PA on and west of U.S. Hwy 219 (except points in Greene and Washington Counties), on the one hand, and, on the other, points in IN, points in IL in the Chicago, IL, commercial zone as defined by the Commission, and points in MI on and south of MI Hwy 46. (Gateway eliminated: Warren, OH.) The purpose of this correction is to clarify the filings E1 and E7.

MC 88368 (Sub-E30) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1974, and republished again on July 19, 1978, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC. 20036. *Household goods,* as defined by the Commission, (61) from points in OK to points in NH. (Gateways eliminated: Arkansas City, KS, Clinton, IL, Steubenville, OH, Philadelphia, IL, Lawrence, MA.)

NOTE.—The purpose of this partial correction is to add part (61) previously omitted.

MC 88368 (Sub-E31) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and partially republished as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC. 20036. *Household goods,* as defined by the Commission, (16) from points in WA to points in AL; (17) from points in WA to points in AR; (18) from points in WA to points in AZ within 25 miles of Chander, AZ, including Chandler; (19) from points in WA to points in CT; (20) from points in WA to points in DE; (21) from points in WA to points in FL; (22) from points in WA to points in GA; (23) from points in WA to points in IL; (24) from points in WA to points in IN; (24) from points in WA to points in KS; (26) from points in WA to points in KY; (27) from points in WA to points in LA; (28) from points in WA to points in ME; (29) from points in WA to points in MA; (30) from points in WA to points in MS; (31) from points in WA to points in MO; (32) from points in WA to points in NH; (33) from points in WA to points in NJ; (34) from points in WA to points in NC; (35) from points in WA to points in OH; (36) from points in WA to points in PA; (37) from points in WA to points in RI; (38) from points in WA to points in TN; (39) from points in WA to points in DC; (Gateways eliminated: (16) Sterling, CO, Hays, KS, Tupelo, MS, or Sterling, CO, Hays, KS, Corinth, MS, Florence, AL; (17) Sterling, CO, Newton, KS; (18) Earp, CA, Parke, CA; (19) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; (20) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; (21) Sterling, CO, Hays, KS, Tupelo, MS, Birmingham, AL, Valdosta, GA; (22) Sterling, CO, Hays, KS, Corinth, MS, Florence, AL; (23) Laramie, WY, Sidney, NE, Shelby, IA; (24) Sterling, CO, Newton, KS, or Laramie, WY, Sidney, NE, Shelby, IA; (25) Denver, CO; (26) Laramie, WY, Sidney, NE, Shelby, IA, Bloomington, IL, Indianapolis, IN; (27) Sterling, CO, Newton, KS, Oklahoma City, OK, Jacksonville, TX; (28) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; Boston, MA; (29) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; (30) Sterling, CO, Hays, KS; (31) Sterling, CO; (32) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA, Clinton, MA; (33) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; (34) Sterling, CO, Hays, KS, Corinth, MS, Florence, AL; (35) Sterling, CO, Newton, KS, Clinton, IL; (36) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH; (37) Sterling, CO, Newton, KS, Steubenville, OH, Philadelphia, PA, S. Attleboro, MA; (38) Sterling, CO, Newton, KS; and (39) Sterling, CO, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA.

NOTE.—The purpose of this partial republication is to add the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E32) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (8) from points in WV to points in AL; (9) from points in WV to points in Del Norte, Siskiyou, and Modoc Counties, CA; (10) from points in WV to points in FL; (11) from points in WV to points in GA; (12) from points in WV to points in IA; (13) from points in WV to points in LA; (14) from points in WV to points in MS; (15) from points in WV to points in NM; (16)(A) from points in WV to those points in TX on, east and north of a line beginning at the International Boundary line between U.S. and Mexico, and extending along U.S. Hwy 80 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction TX Hwy 349, then along TX Hwy 349 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the TX-NM State line; (B) from points in WV to points in Cherokee County, TX; (17) from points in WV to points in WY. (Gateways eliminated: (8) Bledsoe, KY; (9) Steubenville, OH, Clinton, IL, Newton, KS, Sterling, CO, Dalesport, WA; (10) Lynch, KY, Folkston, GA or Albany, GA; (11) Cumberland, KY; (12) Steubenville, OH, Clinton, IL; (13) Bledsoe, KY, Birmingham, AL; (14) Bledsoe, KY, Huntsville, AL; (15) Harlan, KY, Florence, AL, Pontotoc, MS, El Reno, OK; (16)(A) Harlan, KY, Florence, AL, Corinth, MS, Holland, MO, Lawton, OK; (B) Harlan, KY, Florence, AL, Pontotoc, MS; (17) Emerson, OH, Clinton, IL, Goessel, KS, Sidney, NE.

NOTE.—The purpose of this partial republication is to publish the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E33)(Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES,. INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (20) from points in VA to points in AR; (21) from points in VA to Harlan, IA and points within 15 miles thereof; (22) from points in VA to points in KS; (23) from points in VA TO POINTS IN LA; (24) from points in VA to points in MS; (25) from points in VA to points in NM. (Gateways eliminated: (20) Harlan, KY; (21) Bloomington, IL, Harlan, KY; (22) Harlan, KY, Florence, AL, Corinth, MS; (23) Bledsoe, KY, Birmingham, AL; (24) Bledsoe, KY, Huntsville, AL; (25) Harlan, KY, Florence, AL, Fort Smith, AR, El Reno, OK.

NOTE.—The purpose of this partial republication is to correct the territorial description, adding the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E39) (correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of September 4, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (23) from points in NE to points in AL; (24) from points in NE to points in FL; (25) from points in NE to points in GA; (26) from points in NE to points in MS; (27) from those points in NE on and west of U.S. Hwy 83 to points in OH; (28) from points in NE to those points in TX on and east of a line beginning at the OK-TX State line, and extending along U.S. Hwy 283 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the International Boundary line between United States and Canada. (Gateways eliminated: (23) Cape Girardeau, MO, Corinth, MS, Florence, AL Newton, KS; (24) St. Joseph, MO, Corinth, MS, Florence, AL, Newton, KS, Columbus, MS, Tuscaloosa, AL, Valdosta, GA; (25) Poplar Bluff, MO, Corinth, MS, Tuscumbia, AL, St. Joseph, MO, Peabody, KS, Valley Center, KS, Houston, MS, Union Springs, AL, Phil Campbell, AL; (26) Lawrence, KS, Newton, KS; (27) Newton, KS, Clinton, IL; (28) Newton, KS, Arkansas City, KS.

NOTE.—The purpose of this partial republication is to correct the territorial description adding the sections above, previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E40) (correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of September 26, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (19) from points in OH to points in CO; (20) from points in OH to points in FL; (21) from points in OH to points in GA; (22) from points in OH to points in IA; (23) from points in OH to points in KS; (24) from points in OH to points in NM; (25) from points in OH to points in OK; (26) from points in OH to points in WA. (Gateways eliminated: (19) Clinton, IL, Newton, KS; (20) Lynch, KY, Folkston, GA, or Harlan, KY, Albany, GA; (21) Bledsoe, KY, or Cumberland, KY; (22) Bloomington, IL; (23) Clinton, IL; (24) Clinton, IL, Arkansas City, KS, El Reno, OK; (25) Clinton, IL, Arkansas City, KS; (26) Clinton, IL, Newton, KS, Sterling, CO.

NOTE.—The purpose of this partial republication is to add the above sections previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E41) (correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of September 4, 1975, and July 19, 1978, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Attorney, Suite 600, 1250 Connecticut Avenue NW. *Household goods,* as defined by the Commission, (5) from points in NC to points in ID. (Gateways eliminated: Florence, AL, Corinth, MS, Cape Girardeau, MO, Sterling, CO, Monida, MT.)

NOTE.—The purpose of this partial republication is to correct typographical error. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E45) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of September 4, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES. INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (32) from points in WY to points in AL; (33) from points in WY to points in AR; (34) from points in WY to those points in Del Norte, Siskiyou, and Humboldt Counties, CA; (35) from points in WY to points in DE; (36) from points in WY to points in FL; (37) from points in WY to points in GA; (38) from points in WY to Harlan, IA and points within 15 miles thereof; (39) from points in WY to points in LA; (40) from points in WY to points in MS; (41) from points in WY to points in MO; (42) from points in WY to points in NC; (43) from points in WY to points in RI; (44) from points in WY to points in TN; (45) from points in WY to those points in TX within 200 miles of Detroit, TX and on and east of a line beginning near Olin, TX and extending along U.S. Hwy 281 to San Antonio, TX, then along U.S. Hwy 81 to the International Boundary line between the United States and Mexico. (Gateways eliminated: (32) Sidney, NE, Newton, KS, Tupelo, MS; (33) Sidney, NE, Newton, KS; (34) Maryhill, WA; (35) Sidney, NE, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA; (36) Sidney, NE, Newton, KS, Tupelo, MS, Birmingham, AL, Valdosta, GA, or Corinth, MS, or Florence, AL; (37) Sidney, NE, Newton, KS, Corinth, MS, Florence, AL; (38) Sidney, NE; (39) Sidney, NE, Newton, KS, Arkansas City, KS, Jacksonville, TX; (40) Sidney, NE, Newton, KS; (41) Sidney, NE, Newton, KS; (42) Sidney, NE, Newton, KS; (43) Sidney, NE, Newton, KS, Clinton, IL, Steubenville, OH, Philadelphia, PA, S. Attleboro, MA; (44) Sidney, NE, Newton, KS; (45) Sidney, NE, Newton, KS, Arkansas City, KS, or Oklahoma City, KS, or Oklahoma City, OK.

NOTE.—The purpose of this partial republication is to publish the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 88368 (Sub-E47) (Correction), filed May 15, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and partially republished, as corrected, this issue. Applicant: CARTWRIGHT VAN LINES, INC., 1109 Cartwright Avenue, Grandview, MO 64030. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. *Household goods,* as defined by the Commission, (8) from points in RI to points on and north of Sonoma, Napa, Yolo, Sutter, Yuba, and Placer Counties, CA; (9) from points in RI to points in CO; (10) from points in RI to points in ID; (11) from points in RI to points in IL within 100 miles of Danville, IL, including Danville; (12) from points in RI to Harlan, IA, and points within 15 miles thereof; (13) from points in RI to points in KS; (14) from points in RI to points in Harlan County, KY; (15) from points in RI to points in LA; (16) from points in RI to points in MS; (17) from points in RI to points in MO; (18) from points in RI to points in NM; (19) from points in RI to points in Jefferson County, OH; (20) from points in RI to points in OK; (21) from points in RI to points in OR;

(22) from points in RI to points in Philadelphia, PA. (Gateways eliminated: (8) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Suite 501, Washington, DC 20036. Parts (I) and (II)—Tredell County should read Iredell County. (III)(A)—Morre County should read as Moore County and U.S. Hwy 85 should read tending along U.S. Hwy 59 to junction U.S. Hwy 77 at Victoria, then along U.S. Hwy 77 to junction I Hwy 10, then east along I Hwy 10 to Houston,

MC 116073 (Sub-E81), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, Moorhead, MN 56560. Representative: John C. Barrett, (same as above). Transporting *buildings,* from points in NY to points in WY. (Gateway eliminated: Litchfield, MN.)

rail or by air, from points in NY to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E409), filed June 18, with (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subse-

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(22) from points in RI to points in Philadelphia, PA. (Gateways eliminated: (8) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Goessel, KS, Sterling, KS, Maryhill, WA; (9) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS; (10) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sterling, CO, Monida, MT, or S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sidney, NE, Casper, WY, Butte, MT; (11) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Chenoa, IL; (12) Central Falls, MA, Philadelphia, PA, Steubenville, OH, Bloomington, IL; (13) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL; (14) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, (15) Central Falls, MA, Philadelphia, PA, Steubenville, OH, Bledsoe, KY, Birmingham, AL; (16) Marlboro, MA, Philadelphia, PA, Steubenville, OH, Bledsoe, KY, Huntsville, AL; (17) Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL; (18) Lawrence, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Arkansas City, KS, El Reno, OK; (19) S. Attleboro, MA, Philadelphia, PA; (20) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Arkansas City, AR; (21) S. Attleboro, MA, Philadelphia, PA, Steubenville, OH, Clinton, IL, Newton, KS, Sterling, CO, Maryhill, WA; (22) S. Attleboro, MA.

NOTE.—The purpose of this partial republication is to publish the above sections, previously omitted. The remainder of this letter-notice remains as previously published.

MC 107403 (Sub-E639) (correction), filed July 18, 1974, published in the FEDERAL REGISTER issue of August 29, 1974, and republished, as corrected, this issue. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: John Nelson (same as above). *Liquid resins*, in bulk, in tank vehicles, from Hopewell, VA, to points in TX on and west of a line beginning at the OK-TX State line, and extending along U.S. Hwy 281 to junction Interstate Hwy 35, then along Interstate Hwy 35 to junction TX Hwy 57, then along TX Hwy 57 to the United States-Mexican International Boundary line. (Gateways eliminated: Cumberland, MD, Newark, OH, and Valparaiso, IN.)

NOTE.—The purpose of this republication is to correct the territoral description.

MC 115093 (Sub-E3) (correction), filed June 8, 1978, published in the FEDERAL REGISTER issue of July 7, 1978, and republished, as corrected, this issue. Applicant: MERCURY MOTOR EXPRESS, INC., P.O. Box 23406, Tampa, FL 33622. Representative: William H. Shawn, 1730 M Street NW., Suite 501, Washington, DC 20036. Parts (I) and (II)—Tredell County should read Iredell County. (III)(A)—Morre County should read as Moore County and U.S. Hwy 65 should read as U.S. Hwy 64. (B) NC Hwy 70 should read as TN Hwy 70. Part (IV)(A)—Montour, NC, should read as Moncure, NC. (B) Grudny County should read as Grundy County and IN-AL State line should read TN-AL State line. Part (V)(A)—Tredell County should read as Iredell County. (B) NC Hwy 107 should read TN Hwy 107 and NC Hwy 61 should read TN Hwy 61. Part (VII)(B)—Blesdose County should read Bledsoe County. Part (VIII)(A)—Bladen County should read Sampson County and Tredell County should read Iredell County. Part (IX)(A)—David County should read Davie County and Tredell County should read Iredell County. Part (XI)(A)—• • • then along the Randolph-Davidson County line to U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 52, then along U.S. Hwy 52 to the Forsyth-Davidson County line • • •. Part (XVI)(A)—TN Hwy 66 should read NC Hwy 66 and TN Hwy 268 should read NC Hwy 268.

NOTE.—This republication corrects several discrepancies. The remainder of this letter remains as previously published.

MC 115826 (Sub-E78), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza, and pizza pie ingredients*, from points in CO beginning at the CO-WY State line, and extending along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along U.S. Hwy 36 to Boulder, then along CO Hwy 93 to Golden, then along CO Hwy 26 to junction Jefferson County Road 145, then along Jefferson County Road 145 to junction CO Hwy 74, then along CO Hwy 74 to junction CO Hwy 8, then along CO Hwy 8 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 121, then along CO Hwy 121 to junction CO Hwy 75, then along CO Hwy 75 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Pueblo, then along U.S. Hwy 87 to junction Interstate Hwy 225, then along Interstate Hwy 225 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction Interstate Hwy 270 then along Interstate Hwy 270 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the CO-WY State line, to those points in TX on and east and south of a line beginning at the TX-Mexico International Boundary line at Laredo, TX, and extending along U.S. Hwy 59 to junction U.S. Hwy 77 at Victoria, then along U.S. Hwy 77 to junction I Hwy 10, then east along I Hwy 10 to Houston, TX, then along U.S. Hwy 75 to Huntsville, then along TX Hwy 19 to junction TX Hwy 94, then along TX Hwy 94 to Lufkin, then along U.S. Hwy 59 to junction U.S. Hwy 79, then along U.S. Hwy 79 to the TX-LA State line, and Lone Star and Texarkana, TX. (Gateway eliminated: Denver, CO.)

MC 116073 (Sub-E59), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Trailers* designed to be drawn by passenger automobiles, in secondary movements, and *buildings*, in sections mounted on wheeled undercarriages, from Potcatello, Idaho Falls, Twin Falls, Boise, Garden City, Nampa, Kellogg, Lewiston, Moscow, Couer d'Alene, Smetterville, ID. (Gateway eliminated: points in NV.)

MC 116073 (Sub-E60), filed March 30, 1978. Applicant: BARETT MOBILE HOME TRANSPORT, INC., Box 919, Moorhead, MN 56560. Represenatative: John C. Barrett, president (same as above). *Trailers* designed to be drawn by passenger automobiles, in secondary movements, and buildings, in sections, mounted on wheeled undercarriages, from Denver, Lakewood, Greeley, Pueblo, Alamosa, and Fort Collins, CO to those points in TX on and south of a line beginning at the NM-TX State line, and extending along TX Hwy 128 to junction TX Hwy 115, then along TX Hwy 115 to junction TX Hwy 176, then along TX Hwy 176 to junction Interstate Hwy 20, then along Interstate Hwy 20 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction Interstate Hwy 10, then along Interstate Hwy 10 to the TX-LA State line. (Gateway eliminated: Carlsbad, NM.)

MC 116073 (Sub-E77), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, Moorhead, MN 56560. Representative: Johm C. Barrett, president (same as above). *Trailers* designed to be drawn by passenger automobiles, in secondary movements, and buildings, in sections, mounted on wheeled undercarriages, (A) from Cady, WY to those points in TX on and south of U.S. Hwy 82; (B) from Laramie, WY to those points in TX on and south of a line beginning at the NM-TX State line, and extending along U.S. Hwy 277 to junction U.S. Hwy 84, then east along U.S. Hwy 84 to the TX-LA State line. (Gateways eliminated: points in CO and NM.)

MC 116073 (Sub-E81), filed March 30, 1978. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Box 919, Moorhead, MN 56560. Representative: John C. Barrett (same as above). *Trailers* designed to be drawn by passenger automobiles, in secondary movements, from those points in MT on and west of Valley, Garfield, Rosebud, and Powder River Counties, to those points in NE on and west of U.S. Hwy 77. (Gateways eliminated: Cody and Laramie, WY.)

MC 123407 (Sub-E406), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WY (except points in Crook, Weston, Sheridan, Campbell, and Johnson Counties), to points in the Upper Peninsula of MI on and east of Interstate Hwy 75. (Gateway eliminated: facilities of Montgomery Ward Paint Factory at Chicago Heights, IL).

MC 123407 (Sub-E407), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in ME, NH, VT, MA, CT and RI, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E408), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in NY to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E409), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in NJ to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E410), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in DE to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E411), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, In 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in MD on and east of U.S. Hwy 220, to points in WY. (Gateways eliminated: Litchfield, MN.)

MC 123407 (Sub-E412), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Newport News and Norfolk, VA, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E413), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 463830. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Charleston, SC, to points in WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E414), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Savannah, GA, to points in WY (except points in Carbon, Albany, Platte, Goshen and Laramie Counties, WY). (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E415), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings*, complete, knocked down, or in sections, including all component parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Pensacola, FL, to points in Park, Teton, Fremont, Hot Springs, Washakie, Big Horn, Sheridan, Johnson, Natrona, Campbell, Crook and Weston Counties, WY. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E416), filed June 18, 1978. Applicant: SAWYER TRANS-

PORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Conduit and pipe*

MC 123407 (Sub-E420), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383.

(except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an

having an immediately prior or subsequent movement by water, or water-rail or by air, from points in AZ, CA, ID, NV, OR, UT, WA, and WY, to

Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materi-*

modities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediate-

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PORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Conduit and pipe* (other than iron and steel), and *attachments, parts and fittings* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from the facilities of Orangeburg Manufacturing Co. at Rootstown Township, Portage County, OH, to points in WA, OR, ID, and WY. (Gateway eliminated: points in IL.)

MC 123407 (Sub-E417), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Conduit and pipe* (other than iron and steel) and *attachments, parts and fittings* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from the facilities of Orangeburg Manufacturing Co. at Rootstown Township, Portage County, OH, to Mobile, AL; Greenville, Vicksburg, Natchez, Gulfport, and Pascagoula, MS. (Gateway eliminated: points in IL.)

MC 123407 (Sub-E418), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Conduit and pipe* (other than iron and steel), and *attachments, parts, and fittings* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from the facilities of Orangeburg Manufacturing Co. at Rootstown Township, Portage County, OH, to points in CA, NV, UT, CO, KS, and MO. (Gateway eliminated: points in IL.)

MC 123407 (Sub-E419), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Conduit and pipe* (other than iron and steel), and *attachments, parts, and fittings* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from the facilities of Orangeburg Manufacturing Co. at Rootstown Township, Portage County, OH, to points in AZ, NM, OK, AR, LA, and TX. (Gateway eliminated: IL.)

MC 123407 (Sub-E420), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles,* as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in ME, NH, and VT to points in MS. (Gateway eliminated: Bartonville, IL.)

MC 123407 (Sub-E421), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles,* as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in WA, WY, OR, points in CA in and north of Santa Cruz, Santa Clara, Stanislaus, Mariposa, and Mono Counties, points in NV (except points in Esmeralda, Nye, Lincoln, and Clark Counties), points in UT in and north of Washington, Iron, Beaver, Sevier, Sanpete, Carbon, and Uintah Counties, and points in Sedgwick, Logan, Weld, Larimer, Routt, and Moffatt Counties, CO, to points in TN. (Gateway eliminated: Bartonville, IL.)

MC 123407 (Sub-E422), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles,* as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in ME, NH, VT, MA, RI, CT, NY, points in NJ in and north of Middlesex, Somerset, and Hunterdon Counties; and points in PA in and north of North Hampton, Carbon, Luzerne, Sullivan, Bradford, Tioga, Potter, McKearn, Warren, and Erie Counties, to points in TN on and west of U.S. Hwy 51. (Gateway eliminated: Bartonville, IL.)

MC 123407 (Sub-E423), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles,* as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates." 61 MCC 209 (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in Box Elder, Cache, Rich, and Weber Counties, UT; points in WY in and west of Crook, Weston, Campbell, Johnson, Natrona, Fremont, Sublette, Lincoln, and Uinta Counties, to points in MS. (Gateway eliminated: Bartonville, IL.)

MC 123407 (Sub-E424), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles,* as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates." 61 MCC 209 (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in WA; OR; ID; points in CA in and north of Lassen, Lumar, Butte, Glenn, Mendocino Counties; points in Washoe, Humbolt, Elko Counties, NV, to points in MS. (Gateway eliminated: Bartonville, IL.)

MC 123407 (Sub-E425), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles,* as described in Appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in MI; points in Lake, Porter, LaPorte, St. Joseph, and Elkhart Counties, IN, points in ME, NH, VT, MA, RI, CT, NY, points in NJ in and north of Middlesex, Somerset, and Hunterdon Counties; and points in PA in and north of North Hampton, Carbon, Luzerne, Sullivan, Bradford, Tioga, Potter, McKearn, Warren, and Erie Counties, to points in TN on and west of U.S. Hwy 51. (Gateway eliminated: Bartonville, IL.)

MC 123407 (Sub-E426), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Prefabricated buildings,* complete, knocked down, or in sections, including all componcnt parts, equipment, and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers,

having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in AZ, CA, ID, NV, OR, UT, WA, and WY, to points in MI. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E427), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, AZ, UT, ID, NV, and WY, to points in IN. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E428), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NM and points in KS in and west of Barber, Kingman, Sedgwick, McPherson, Dickinson, Geary, Riley, and Washington Counties, to points in IN on and north and east of a line beginning at the IN-IL State line, and extending along Interstate Hwy 74 to junction U.S. Hwy 136, then along U.S. Hwy 136 to junction U.S. Hwy 31 at Indianapolis, then north along U.S. Hwy 31 to the junction IN Hwy 7, then along IN Hwy 7 to the IN-KY State line. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E429), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement be water, or by water-rail, or by air, from points in FL in and east of Leon and Wakulba Counties to points in IN on and west of a line beginning at the MI-IN State line, and extending along U.S. Hwy 31 to Rochester, to junction IN Hwy 25, then along IN Hwy 25 to junction IN Hwy 26, then along IN Hwy 26 to the IN-IL State line. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E430), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds, and glue;* and (4) *advertising material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MO, CO, and KS, to points in the Upper Peninsula of MI (except Gogebic, Ontonagon, Houghton, Iron, and Keweenaw Counties, MI). (Gateway elininated: facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E431), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds and glue;* and (4) *advertising materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NM and OK, to points in the upper peninsula of MI (except points in Gogebic County). (Gateway eliminated: facilities of Montgomery Ward Paint Factory at Chicago Heights, IL.)

MC 123407 (Sub-E432), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Decorating or preservative materials, supplies and equipment;* (2) *paint, painting materials, supplies and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds and glue;* and (4) *advertising materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in TX, to points in the upper peninsula of MI. (Gateway eliminated: facilities of Montgomery Ward paint factory at Chicago Heights, IL.)

MC 123407 (Sub-E433), filed June 18, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Animal feeds, poultry feeds, animal feed ingredients and poultry feed ingredients,* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in AR in and west of Boone, Newton, Pope, Yell, Montgomery, Pike, Hempstead, and Miller Counties; points in CA, CO, ID, KS; points in LA in and west of Clairborne, Bienville, Red River, Natchitoches, Vernon, Allen, Jefferson, Davis and Cameron Counties; points in MO in and west of Mercer, Grundy, Livingston, Carroll, Saline, Pettis, Benton, Hickory, Pope, Greene, Christian and Taney Counties; and points in NV, NM, OK, OR, TX, UT, WA and WY, to points in the upper peninsula of MI.

MC 123407 (Sub-E434), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition boards, and parts, materials, and accessories* incidental to the installation thereof (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of National Gypsum Co. at Mobile, AL, to points in WA, OR, ID, NV, CA, UT, WY, CO, KS, points in Ottawa, Craig, Nowato, Washington, Kay, Grant, Alfalfo, Wood, Beaver, Texas and Cimarron Counties, OK, points in Union, Colfax, Taos, and San Juan Counties, NM, points in Coconino, Yavapar and Mohave Counties, AZ, points in and north of Mississippi, Scott, Stoddard, Butler, Custer, Shannon, Texas, Douglas, Christian, Lawrence and New Town Counties, MO. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E435), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Prefabricated buildings,* complete, knocked down, or in sections, including all component parts, equipment and materials incidental to the erection and completion of such buildings, when shipped therewith (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Newport News and Norfolk, VA, to points in CO on and west of a line beginning at Julesburg, then along Interstate Hwy 80 to junction Interstate Hwy 25, then along Interstate Hwy 25 to junction U.S. Hwy 24 at Colorado Springs, then along U.S. Hwy 24 to junction U.S. Hwy 285,

to the CO-NM State line. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E436), filed July 25, 1978. Applicant: SAWYER TRANS-

MC 123407 (Sub-E439), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383.

MC 123407 (Sub-E442), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383.

tainers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in KS, OK, and points in

chinery parts which do not require special handling or the use of special

equipment and supplies which do not require special handling or the use of

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to the CO-NM State line. (Gateway eliminated: Litchfield, MN.)

MC 123407 (Sub-E436), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Lumber and flooring* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of Birmingham Forest Products, Inc., at Cordova, AL, to points in WA, OR, ID, WY, UT, NV, CA, AZ, NM (except points in Otero, Eddy and Lea Counties) CO, points in OK in and west of Jackson, Kiowa, Washita, Curtis, Dewey, Major, Garfield, Noble, and Kay Counties, and points in MO (except Dunklin, Pemir and New Madrid Counties). (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E437), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation of composition board (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Natchez, MS, to points in ME, NH, VT, MA, RI, CT, NY, NJ, WV, DE, MD; points in VA in and north of Craig, Botetour, Rockbridge, Amherst, Nebron, Albemarle, Fluvanna, Goochland, Henrico, New Kent, King and Queen, and Middlesex Counties. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E438), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation of composition board (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Natchez, MS, to points in WA, OR, ID, WY, points in CA in and north of Sonoma, Lahe, Yolbo, Sacramento, and El Dorado Counties; points in NV on and north of U.S. Hwy 50; points in UT in and north of Juab, Utah, Ducherne and Daggett Counties, and points in Logan, Sedgwick, Weld, Larimer, Jackson, and Moffat Counties, CO. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E439), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation of composition board (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Henry County, TN, to points in WA, OR, CA, ID, NV, UT, AZ, WY, CO, NM, OK, TX, WV, PA, NY, MD, DE, NJ, CT, MA, VT, RI, NH, ME; points in the kentucky counties of Greenup, Carter, Boyd, Elliott, Lawrence, Johson, and Martin; points in the Virginia counties in and north and east of Augusta, Rockbridge, Albemarle, Flievanna, Goochland, Henrico, Chestefield, Dinwiddle, Sussex, and South Hampton. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E440), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass, glass glazing units, and glass doors and fittings* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Toledo, OH, to points in WA, OR, CA, ID, NV, UT, and AZ, restricted to shipments originating at the facilities of Libbey-Owens-Ford Co. (Gateway eliminated: Joliet, IL.)

MC 123407 (Sub-E441), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from the facilities of National Gypsum Co. at Mobile, AL, to points in PA in and north of Greene, Fayette, Somerset, Breezewood, Blair, Centre, Mifflin, Snyder, Northumberland, Schuylkill, Lehigh, Montgomery, Philadelphia, and Bucks Counties; points in NJ in Gloucester, Camden, Ocean, Mercer, Hunterdon, and Warren Counties; points in NY in and north and west of Sullivan, Ulster, and Dutchen Counties; points in CT, MA, RI, VT, NH, and ME. (Gateway eliminated: points in IL (except Chicago and its commercial zone).)

MC 123407 (Sub-E442), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from the facilities of National Gypsum Co. at Mobile, AL, to points in KY on and north and west of a line beginning at the KY-TN State line, and extending along U.S. Hwy 41 to junction U.S. Hwy 62, then along U.S. Hwy 62 to the KY-OH State line; points in WV on and north of a line beginning at the KY-WV State line, and extending along I Hwy 64 to Charleston, then along WV Hwy 4 to junction I Hwy 79, then along I Hwy 79 to the PA-WV State line. (Gateway eliminated: points in IL (except Chicago and its commercial zone).)

MC 123407 (Sub-E443), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Roofing and roofing materials* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OK and TX, to points in IN in and north of Warren, Fountain, Montgomery, Boone, Hamilton, Madison, Henry, and Randolph Counties. (Gateway eliminated: Wilmington, IL.)

MC 123407 (Sub-E444), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials, supplies and equipment* used in the manufacture of composition board (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, NV, ID, UT, AZ, WY, CO, and NM, to Alpena, MI. (Gateway eliminated: Minneapolis, MN.)

MC 123407 (Sub-E445), filed July 25, 1978. Applicant: Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials, supplies and equipment* used in the manufacture of composition board (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KS, OK, and points in MO on and west of U.S. Hwy 71, to Alpena, MI. (Gateway eliminated: MN.)

MC 123407 (Sub-E446), filed July 25, 1978. Applicant: Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Alpena, MI, to points in KS, OK, and points in MO on and west of U.S. Hwy 71. (Gateway eliminated: MN.)

MC 123407 (Sub-E447), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from Alpena, Mi, to points in WA, OR, CA, NV, ID, UT, AZ, WY, CO, and NM. (Gateway eliminated: MN.)

MC 123407 (Sub-E550), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in TX on and west of a line beginning at Galvestion extending along U.S. Hwy 75 to junction I Hwy 610, then along I Hwy 610 to junction U.S. Hwy 290, then along U.S. Hwy 290 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction U.S. Hwy 281, then along U.S. Hwy 281 to the TX-Ok State line, to points in the Upper Peninsual of MI. (Gateway eliminated: Hearings, NE.)

MC 125433 (Sub-E11), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Machinery and machinery parts* (except commodiites in bulk) which by reason of size or weight, require special handling or the use of special equipment and machinery and machinery parts which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading, as machinery and machinery parts, which by reason of size or weight require special handling or the use of special equipment, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E12), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Mining equipment and supplies* (except commodities in bulk) which by reason of size or weight require special handling or the use of special equipment, and mining equipment and supplies, which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading, as mining equipment and supplies which by reason of size or weight require special handling or the use of special equipment, between points in CA on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E13), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Machinery* (except commodities in bulk) which is embraced within the commodity description of self-propelled articles, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO. (gateway eliminated: UT.)

MC 125433 (Sub-E14), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Mining equipment* (except commodities in bulk) which is a self-propelled article, weighing 15,000 pounds or more, transported on trailers, and related machinery, tools, parts, and supplies moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E15), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction equipment and supplies* (except commodities in bulk) which by reason of size or weight, require special handling or the use of special equipment and construction equipment and supplies which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading, as construction equipment and supplies, which by reason of size or weight require special handling or the use of special equipment, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E16), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction equipment* (except commodities in bulk) which is a self-propelled article, weighing 15,000 pounds or more transported on trailers, and related machinery, tools, parts, and supplies moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO (Gateway eliminated: UT.)

MC 125433 (Sub-E17), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe and pipe fittings* (except iron and steel commodities in bulk) which are also construction materials, equipment or supplies, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E18), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe and pipe fittings* (except iron and steel commodities in bulk) which are also mining materials, equipment or supplies, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E19), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E21), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles as* described in Appendix V in *Descriptions in Motor Carrier Certificates*, 61, MCC 209 and 766, when shipped as mining and construction materials, equipment, and supplies (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E26), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Machinery* (except commodities in bulk) which is embraced within the commodity description of self-propelled articles, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E27), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Mining equipment* (except commodities in bulk) which is a self-propelled article, weighing 15,000 pounds or more, transported on trailers, and related machinery, tools, parts, and supplies moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E28), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction equipment* (except commodities in bulk) which is a self-propelled article, weighing 15,000 pounds or more transported on trailers, and related machinery, tools, parts, and supplies moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO (Gateway eliminated: UT.)

MC 125433 (Sub-E29), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe and pipe fittings* (except iron and steel commodities in bulk) which are also construction materials, equipment or supplies, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E30), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe and pipe fittings* (except iron and steel commodities in bulk) which are also mining materials, equipment or supplies, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E31), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E32), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles as* described in Appendix V in *Descriptions in Motor Carrier Certificates*, 61, MCC 209 and 766, when shipped as mining and construction materials, equipment, and supplies (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E33), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Construction materials, equipment and supplies* (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E34), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Machinery* (except commodities in bulk) which is embraced within the commodity description of self-propelled articles, weighing 15,000 pounds or more, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E35), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Mining equipment* (except commodities in bulk) which is a self-propelled article, weighing 15,000 pounds or more, transported on trailers, and related machinery, tools, parts, and supplies moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E36), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction equipment* (except commodities in bulk) which is a self-propelled article, weighing 15,000 pounds or more transported on trailers, and related machinery, tools, parts, and supplies moving in connection therewith, between points in CA, on the one hand, and, on the other, points in CO (Gateway eliminated: UT.)

MC 125433 (Sub-E37), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe and pipe fittings* (except iron and steel commodities in bulk) which are also construction materials, equipment or supplies, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E38), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe and pipe fittings* (except iron and steel commodities in bulk) which are also mining materials, equipment or supplies, between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E39), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E40), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles as* described in Appendix V in *Descriptions in Motor Carrier Certificates*, 61, MCC 209 and 766, when shipped as mining and construction materials, equipment, and supplies (except commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. Restriction: The operations authorized above shall not be severable, by sale or otherwise, from carrier's corresponding

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ities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E22), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles*, as described in *Descriptions in Motor Carrier Certificates*, Appendix V, 61 MCC 766 (except mining and construction materials, equipment, and supplies, and commodities in bulk), between points in CA, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E23), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Paper articles* (except commodities in bulk), which by reason of size or weight require special handling or the use of special equipment, and *paper articles* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as paper articles which require special handling or equipment, from the facilities of Fibreboard Corp., at Antioch, San Jose, and Stockton, CA, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E24), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Paper articles* which are also construction materials (except commodities in bulk), from the facilities of Fibreboard Corp., at Antioch, San Jose, and Stockton, CA, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E25), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Commodities* which by reason of size or weight, require special handling or the use of special equipment, and *commodities* (except commodities in bulk, motor vehicles, motor vehicle cabs and bodies, class A and B explosives and boats), which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment, between points in OR, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E26), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Self-propelled articles*, each weighing 15,000 pounds or more (except motor vehicles as defined in sec. 203(a)(13) of the ICA, vehicles moving in driveaway service, and boats), and related machinery, tools, parts, and supplies moving in connection therewith between points in OR, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E27), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in appendix V to the Commission's report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except commodities in bulk), between points in OR, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E30), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in appendix V to the Commission's report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except commodities in bulk), between points in WA, on the one hand, and, on the other, points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E31), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Commodities* (except commodities in bulk) which by reason of size or weight, require special handling or machinery, boilers, storage tanks, and parts therefor; structural steel, and contractors' outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment between points in ID, on the one hand, and, on the other, points in CO. Restriction: This authority granted next above to the extent it authorizes the transportation of explosives shall be limited in point of time, to a period expiring December 22, 1981. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E32), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Self-propelled articles*, each weighing 15,000 pounds or more, and related *machinery, tools, parts, and supplies* moving in connection therewith (except commodities in bulk) between points in ID, on the one hand, and, on the other, points in CO. Restriction: The operations authorized above are subject to the following conditions: Said operations are restricted to commodities which are transported on trailers. Said operations shall not be severable by sale or otherwise. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E33), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Iron and steel articles*, as described in appendix V to the Commission's report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), between points in ID, on the one hand, and, on the other, points in CO. Restriction: The operations authorized above shall not be severable, by sale or otherwise, from the carrier's corresponding authority to transport commodities, the transportation of which because of size or weight, requires the use of special equipment. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E34), filed August 18, 1978. Applicant: F-T TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Pipe* (except commodities in bulk, and iron and steel) between points in ID, on the one hand, and, on the other, points in CO. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E35), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Construction materials* (except commodities in bulk) which are also building materials between points in ID, on the one hand, and, on the other, points in CO. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E36), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Construction materials* (except commodities in bulk) which are machinery, boilers, storage tanks, and parts therefor, structural steel and contractors' outfits and supplies, requiring special equipment or rigging between points in ID, on the one hand, and, on the other, points in CO. Restriction: This authority to the extent it authorizes the transportation of explosives shall expire December 22, 1981. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E37), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Special-purpose trailers* designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service) which by reason of size or weight, require special handling, or the use of special equipment, and special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which do not require special handling, or the use of special equipment when moving in the same shipment on the same bill of lading as special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which by reason of size or weight, require special handling or the use of special equipment, between points in ID, on the one hand, and, on the other, points in CO. Restriction: The operations authorized herein are restricted against the transportation of traffic moving between points in Boise, Pocatello, Blackfoot, and Idaho Falls, ID, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E38), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Commodities* which by reason of size or weight, require special handling or the use of special equipment and machinery, boilers, storage tanks, and parts therefor, structural steel, and contractors outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment between points in AZ (except points in Cochise County), on the one hand, and, on the other, points in CO. Restriction: This authority to the extent it authorizes the transportation of explosives shall expire December 22, 1981. (Gateway eliminated: UT.)

MC 125433 (Sub-E39), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (except commodities in bulk), between points in AZ (except points in Cochise County), on the one hand, and, on the other, points in CO. Restriction: The operations authorized above are subject to the following conditions: Said operations are restricted to commodities which are transported on trailers. Said operations shall not be severable by sale or otherwise. (Gateway eliminated: UT.)

MC 125433 (Sub-E40), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in Appendix V to the Commission's report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), between points in AZ (except points in Cochise County, AZ) on the one hand, and, on the other, points in CO. Restriction: The operations authorized above shall not be severable, by sale or otherwise, from carrier's corresponding authority to transport commodities, the transportation of which because of size or weight, requires the use of special equipment. (Gateway eliminated: UT.)

MC 125433 (Sub-E41), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe* (except iron and steel and commodities in bulk), between points in AZ (except Cochise County), on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E42), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* when also building materials (except commodities in bulk), between points in AZ (except Cochise County), on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E43), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* which are machinery, boilers, storage tanks, and parts therefor, structural steel and contractors outfits and supplies requiring special equipment or rigging (except commodities in bulk), between points in AZ (except Cochise County), on the one hand, and, on the other, points in CO. Restriction: This authority to the extent it authorized the transportation of explosives shall expire December 22, 1981. (Gateway eliminated: UT.)

MC 125433 (Sub-E44), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Special-purpose trailers* designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which by reason of size or weight, require special handling, or the use of special equipment, and special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away serv-

ice), which do not require special handling, when moving in the same shipment on the same bill of lading as special-purpose trailers designed for use

sion's report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk, between points in NY (except points in

dling, or the use of special equipment, and special-purpose trailers designed for use in connection with the maintenance and repair of electric power

CO Hwy 135 to junction CO Hwy 133, then north along CO Hwy 133 to junction CO Hwy 82, then north along CO Hwy 82 to junction U.S. Hwy 6, then

160 to junction CO Hwy 149, then north along CO Hwy 149 to junction CO Hwy 135, then north along CO Hwy 135 to junction CO Hwy 133,

Between points in that part of CO, on, north and east of a line beginning at the UT-CO State line and U.S. Hwy 40, then north and east along U.S.

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ice), which do not require special handling, when moving in the same shipment on the same bill of lading as special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which by reason of size or weight, require special handling or the use of special equipment, between points in AZ (except points in Cochise County), on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E45), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Commodities* (except commodities in bulk), which by reason of size or weight, require special handling or machinery, boilers, storage tanks, and parts therefor, structural steel, and contractors' outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment between points in NV (except points in Mineral County), on the one hand, and, on the other, points in CO. Restriction: This authority to the extent it authorizes the transportation of explosives shall expire December 22, 1981. (Gateway eliminated: UT.)

MC 125433 (Sub-E46), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Self-propelled articles,* each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (except commodities in bulk), between points in NV (except points in Nye, Esmeralda, and Mineral Counties, NV), on the one hand, and, on the other, points in CO. Restriction: The operations authorized above are subject to the following conditions: Said operations are restricted to commodities which are transported on trailers. Said operations shall not be severable by sale or otherwise. (Gateway eliminated: UT.)

MC 125433 (Sub-E47), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in appendix V to the Commission's report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except commodities in bulk, between points in NV (except points in Mineral County, NV), on the one hand, and, on the other, points in CO. Restriction: The operations authorized above shall not be severable, by sale or otherwise, from carrier's corresponding authority to transport commodities, the transportation of which because of size or weight, requires the use of special equipment. (Gateway eliminated: UT.)

MC 125433 (Sub-E48), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Pipe* (except iron and steel and commodities in bulk), between points in NV (except Mineral County, NV), on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E49), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* when also building materials (except commodities in bulk), between points in that part of NV east of a line extending north and south through McDermitt, NV, including Winnemucca, NV, on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E50), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials* which are machinery, boilers, storage tanks, and parts therefor, structural steel and contractors' outfits and supplies, requiring special equipment or rigging (except commodities in bulk), between points in NV (except Mineral County, NV), on the one hand, and, on the other, points in CO. Restriction: This authority to the extent it authorizes the transportation of explosives shall expire December 22, 1981. (Gateway eliminated: UT.)

MC 125433 (Sub-E51), filed August 18, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake city, UT 84104. Representative: John B. Anderson (same as above). *Special-purpose trailers* designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which by reason of size or weight, require special handling, or the use of special equipment, and special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which by reason of size or weight, require special handling or the use of special equipment, between points in NV (except points in Mineral County), on the one hand, and, on the other, points in CO. (Gateway eliminated: UT.)

MC 125433 (Sub-E52), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Iron and steel articles* as described in Appendix V to the Commission's report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), (1) between points in that part of CO on, north and east of a line beginning at the UT-CO State line and U.S. Hwy 40, then north and east along U.S. Hwy 40 to junction U.S. Hwy 34, then north and east on U.S. Hwy 34 to junction CO Hwy 59, then south along CO Hwy 59 to junction CO Hwy 96, then east along CO Hwy 96 to junction CO Hwy 196, then south along CO Hwy 196 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to the CO-OK State line, on the one hand, and, on the other, points in that part of NM on and north of a line beginning at the NM-AZ State line and NM Hwy 504, then east along NM Hwy 504 to junction U.S. Hwy 550, then north along U.S. Hwy 550 to the NM-CO State line; (2) between points in CO, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and NM Hwy 504 to junction U.S. Hwy 666, then south and west along U.S. Hwy 666 to the NM-AZ State line; and (3) between points in that part of CO on, west and north of a line beginning at the CO-NM State line and U.S. Hwy 84, then north along U.S. Hwy 84 to junction U.S. Hwy 160, then north along U.S. Hwy 160 to junction CO Hwy 149, then north along CO Hwy 149 to junction CO Hwy 135, then north along CO Hwy 135 to junction CO Hwy 133, then north along CO Hwy 133 to junction CO Hwy 82, then north along CO Hwy 82 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to junction I Hwy 70, then east along I Hwy 70 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the CO-NE State line, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and U.S. Hwy 666, then east along U.S. Hwy 666 to junction NM Hwy 32, then south along NM Hwy 32 to junction NM Hwy 12, then south along NM Hwy 12 to junction U.S. Hwy 180, then south along U.S. 180 to junction NM Hwy 90, then south along NM Hwy 90 to junction I Hwy 10, then south along I Hwy 10 to junction NM Hwy 338, then south along NM Hwy 338 to junction NM Hwy 9, then west along NM Hwy 9 to the NM-AZ State line. Restriction: The operations authorized above shall not be severable, by sale or otherwise, from carrier's corresponding authority to transport commodities, the transportation of which because of size or weight requires the use of special equipment. (Gateway eliminated: UT.)

MC 125433 (Sub-E53), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as above). *Self-propelled articles,* each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (except commodities in bulk), (1) Between points in that part of CO on, north and east of a line beginning at the UT-CO State line and U.S. Hwy 40, then north and east along U.S. Hwy 40 to junction U.S. Hwy 34, then north and east along U.S. Hwy 34 to junction CO Hwy 59, then south along CO Hwy 59 to junction CO Hwy 96, then east along CO Hwy 96 to junction CO Hwy 196, then south along CO Hwy 196 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to the CO-OK State line, on the one hand, and, on the other, points in that part of NM on the north of a line beginning at the NM-AZ State line and NM Hwy 504, the east along NM Hwy 504 to junction U.S. Hwy 550, then north along U.S. Hwy 550 to the NM-CO State line; (2) between points in CO, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and NM Hwy 504, then east along NM Hwy 504 to junction U.S. Hwy 666, then south and west along U.S. Hwy 666 to the NM-AZ State line; (3) between points in that part of CO on, west and north of a line beginning at the CO-AZ State line and Hwy 84, then north along U.S. Hwy 84 to junction U.S. Hwy 160, then north along U.S. Hwy 160 to junction CO Hwy 149, then north along CO Hwy 149 to junction CO Hwy 135, then north along CO Hwy 135 to junction CO Hwy 133, then north along CO Hwy 133 to junction CO Hwy 82, then north along CO Hwy 82 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to junction I Hwy 70, then east along I Hwy 70 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the CO-NE State line, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and U.S. Hwy 666, then east along U.S. Hwy 666 to junction NM Hwy 32, then south along NM Hwy 32 to junction NM Hwy 12, then south along NM Hwy 12 to junction U.S. Hwy 180, then south along U.S. 180 to junction NM Hwy 90, then south along NM Hwy 90 to junction I Hwy 10, then south along I Hwy 10 to junction NM Hwy 338, then south along NM Hwy 338 to junction NM Hwy 9, then west along NM Hwy 9 to NM—AZ State line. Restriction: The operations authorized above are subject to the following conditions: Said operations are restricted to commodities which are transported on trailers. Said operations shall not be severable by sale or otherwise. (Gateway eliminated: UT.)

MC 125433 (Sub-E54), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Special-purpose trailers* designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling, or the use of special equipment, and special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which do not require special handling, or the use of special equipment when moving in the same shipment on the same bill of lading as special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and those designed for use incidental to construction and mining projects (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which by reason of size or weight, require special handling or the use of special equipment: (1) Between points in that part of CO, on, north and east of a line beginning at the UT-CO State line and U.S. Hwy 40, then north and east along U.S. Hwy 40 to junction U.S. Hwy 34, then north and east along U.S. Hwy 34 to junction CO Hwy 59, then south along CO Hwy 59 to junction CO Hwy 96, then east along CO Hwy 96 to junction CO Hwy 196, then south along CO Hwy 196 to junction U.S. Hwy 287, then south along U.S. Hwy 287 to the CO-OK State line, on the one hand, and, on the other, points in that part of NM on and north of a line beginning at the NM-AZ State line and NM Hwy 504, then east along NM Hwy 504 to junction U.S. Hwy 550, then north along U.S. Hwy 550 to junction NM-CO State line; (2) between points in CO, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and NM Hwy 504, then east along NM Hwy 504 to junction U.S. Hwy 666, then south and west of U.S. Hwy 666 to the NM-AZ State line; (3) between points in that part of CO on, west and north of a line beginning at the CO-NM State line and U.S. Hwy 84, then north along U.S. Hwy 84 to junction U.S. Hwy 160, then north along U.S. Hwy 160 to junction CO Hwy 149, then north along CO Hwy 149 to junction CO Hwy 135, then north along CO Hwy 135 to junction CO Hwy 133, then north along CO Hwy 133 to junction CO Hwy 82, then north along CO Hwy 82 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to junction I Hwy 70, then east along I Hwy 70 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the CO-NE State line, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and U.S. Hwy 666, then east along U.S. Hwy 666 to junction NM Hwy 32, then south along NM Hwy 32 to junction NM Hwy 12, then south along NM Hwy 12 to junction U.S. Hwy 180, then south along U.S. Hwy 180 to junction NM Hwy 90, then south along NM Hwy 90 to junction I U.S. Hwy 10, then south along I Hwy 10 to junction NM Hwy 338, then south along NM Hwy 338 to junction NM Hwy 9, then west along NM Hwy 9 to NM—AZ State line. Restriction: The operations authorized above are subject to the following conditions: Said operations are restricted to commodities which are transported on trailers. Said operations shall not be severable by sale or otherwise. (Gateway eliminated: UT.)

MC 125433 (Sub-E55), filed September 5, 1978. Applicant: F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Commodities,* The transportation of which, because of their size or weight require the use of special equipment and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight re-

quire special equipment (except commodities in bulk), (1) between points in that part of CO on, north and east

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATE-

Newport, TN, and then along U.S. Hwy 25 through Del Rio, TN, to the TN-NC State line; and points in WV on and south of a line beginning at the

1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH

of a line beginning at the WV-VA State line extending southeast along U.S. Hwy 250 to junction U.S. Hwy 360 at Richmond, then east along U.S.

line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along

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quire special equipment (except commodities in bulk), (1) between points in that part of CO on, north and east of a line beginning at the UT-CO State line and U.S. Hwy 40, then north and east of U.S. Hwy 40 to junction U.S. Hwy 34, then north and east along U.S. Hwy 34 to junction CO Hwy 59, then south along CO Hwy 59 to junction CO Hwy 96, then east along CO Hwy 96 to junction CO Hwy 196, then south along CO Hwy 196 to junction to U.S. Hwy 287, then south along U.S. Hwy 287 to junction CO-OK State line, on the one hand, and, on the other, points in that part of NM on and north of a line beginning at the NM-AZ State line and NM Hwy 504, then east along NM Hwy 504 to the NM-CO State line; (2) between points in CO, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line; and NM Hwy 504, then east along NM Hwy 504 to junction U.S. Hwy 666, then south and west along U.S. Hwy 666 to the NM-AZ State line; and (3) between points in that part of CO on, west and north of a line beginning at the CO-NM State line and U.S. Hwy 84, then north along U.S. Hwy 84 to junction U.S. Hwy 160, then north along U.S. Hwy 160 to junction CO Hwy 149, then north along CO Hwy 149 to junction CO Hwy 135, then north along CO Hwy 135 to junction CO Hwy 133, then north along CO Hwy 133 to junction CO Hwy 82, then north along CO Hwy 82 to junction U.S. Hwy 6, then east along U.S. Hwy 6 to junction Hwy 70, then east along Interstate Hwy 70 to junction U.S. Hwy 36, then east along U.S. Hwy 36 to the CO-NE State line, on the one hand, and, on the other, points in NM on and west of a line beginning at the NM-AZ State line and U.S. Hwy 666, then east along U.S. Hwy 666 to junction NM Hwy 32, then south along NM Hwy 32 to junction NM Hwy 12, then south along NM Hwy 12 to junction U.S. Hwy 180, then south along U.S. Hwy 180 to junction NM Hwy 90, then south along NM Hwy 90 to junction Hwy 10, then south along Hwy 10 to junction NM Hwy 338, then south along NM Hwy 338 to junction NM Hwy 9, then west along NM Hwy 9 to the NM-AZ State line. (Gateway eliminated: UT.)

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-29410 Filed 10-18-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

October 11, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 30, 1978. A copy must also be served upon applicant or its representatives. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 68860 (Sub-E1) (correction), filed April 21, 1974, published in the Federal Register issue of June 13, 1974, corrected in the Federal Register issue of April 19, 1978, and partially republished, as corrected, this issue. Applicant: RUSSELL TRANSFER, INC., P.O. Box 2278, Roanoke, VA 24009. Representative: L. G. Gregory, Jr., (same as above). (2) *Angles, bars, bases, beams, bridge steel, channels, forms* (structural), *joists, piling, pipe* (cast iron, plate or sheet), *pipe fittings, plates* (structural) *rivets, rods, sheets, slabs, wire rope, and accessories* for beams and joists, from points in SC, and Lynchburg, Norfolk, Richmond, Danville, Bristol, Narrows, and Grundy, VA, Winston-Salem, Greensboro, Durham, Canton, Asheville, Charlotte, and Raleigh, NC, Washington, DC, Baltimore, MD, Wilmington, DE, Philadelphia, PA, Newark and Swedesboro, NJ, and Charleston, Bluefield, and Huntington, WV, to points in NC on and west of a line beginning at the VA-NC State line, and extending along U.S. Hwy 15, then along U.S. Hwy 15 to the NC-SC State line; points in TN on and east of a line beginning at the KY-TN State line, and extending along U.S. Hwy 25W to Knoxville, TN, and on and north of a line beginning at Knoxville, TN, and extending along U.S. Hwy 25W to Newport, TN, and then along U.S. Hwy 25 through Del Rio, TN, to the TN-NC State line; and points in WV on and south of a line beginning at the OH-WV State line, and extending along U.S. Hwy 33, then along U.S. Hwy 33 to the WV-VA State line. (Gateways eliminated: Roanoke, Lynchburg, and Glenvar, VA.)

Note.—The purpose of this partial republication is to correctly describe the commodities and territories in part (2). The remainder of this letter-notice remains as previously published.

MC 107515 (Sub-E674), filed December 20, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 33050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers, I-3390, Peachtree Road NE., Atlanta, GA 30326. (1) *Meats, meat products, and meat byproducts* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and canned goods), from Houston, TX, to points in ME, VT, NH, and MD. (2) *Meats, meat products, meat by-products, and articles distributed by meat packinghouses which are foodstuffs*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk, in tank vehicles) from Dalhart, TX, to points in MD, DE, NJ, CT, RI, ME, NH, VT, MA, DC, and points in NY on and east of a line beginning at the NY-PA State line, and extending along U.S. Hwy 11 to junction NY Hwy 12, then along NY Hwy 12 to junction NY Hwy 8, then along NY Hwy 8 to junction NY Hwy 30, then along NY Hwy 30 to junction NY Hwy 3, then along NY Hwy 3 to junction Interstate Hwy 87, then along Interstate Hwy 87 to the international boundary line between the United States and Canada near Champlain, NY, restricted in part (2) against the transportation of canned citrus products to points in MD, DE, NJ, CT, RI, MA, DC, and that part of NY on and south of NY Hwy 7. (3) *Meats, meat products, and meat byproducts*, as described in appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except in bulk), from Burris, TX, to points in AL on and east of a line beginning at the AL-FL State line, and extending along U.S. Hwy 231 to junction U.S. Hwy 29, then along U.S. Hwy 29 to junction U.S. Hwy 431, then along U.S. Hwy 431 to junction Interstate Hwy 59, then along Interstate Hwy 59 to the AL-GA State line. (Gateway eliminated: Doraville, GA.)

MC 112304 (Sub-E422) (correction), filed May 1, 1978, published in the Federal Register issue of August 23, 1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing, and wire in coils*, from all points in VA on and north of a line beginning at Interstate Hwy 64 at the WV-VA State line, then east along Interstate Hwy 64 to junction Interstate Hwy 81, then north along Interstate Hwy 81 to junction Interstate Hwy 64, then east along Interstate Hwy 64 to junction U.S. Hwy 360, then east along U.S. Hwy 360 to the Chesapeake Bay, to all points in TX. "Limitation: The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980." (Gateways eliminated: Daviess County, KY and Clarksburg, WV, and points within 50 miles of Clarksburg.)

Note.—The purpose of this republication is to correct I Hwy 65 to read as I Hwy 64.

MC 112304 (Sub-E480) (Correction), filed May 1, 1978, published in the Federal Register issue of August 9, 1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils*, between points in Butler County, PA, on the one hand, and, on the other, points in VA on and south of a line beginning at the WV-VA State line extending southeast along U.S. Hwy 250 to junction U.S. Hwy 360 at Richmond, then east along U.S. Hwy 360 to the Chesapeake Bay. *"Limitation:* The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980." (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

Note:—The purpose of this republication is to clarify the territorial description.

MC 112304 (Sub-E481) (Correction), filed May 1, 1978, published in the Federal Register issue of August 9, 1978, and republished, as corrected, this issue. Applicant: ACE DORAN HAULING & RIGGING CO, 1601 Blue Rock Street, Cincinnati, OH 45223. Representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Structural steel, and iron and steel angles, bars, channels, conduit, lath, piling, pipe, posts, rails, rods, roofing, tubing and wire in coils*, between points in Fayette County, PA, on the one hand, and, on the other, points in VA on and south of a line beginning at the WV-VA State line extending southeast along U.S. Hwy 250 to junction U.S. Hwy 360 at Richmond, then east along U.S. Hwy 360 to the Chesapeake Bay. *"Limitation:* The certificate in MC 112304 Sub-65 shall be of no further force and effect after August 9, 1980." (Gateway eliminated: Clarksburg, WV and 50 miles within Clarksburg, WV.)

Note:—The purpose of this republication is to clarify the territorial description.

MC 113651 (Sub-E36), filed February 4, 1977. Applicant: INDIANA REFRIGERATED LINES, INC., 2404 North Broadway, Muncie, IN 47303. Representative: H. Barney Firestone, 327 South LaSalle Street, Chicago, IL 60604. *Meats, meat products, and meat by-products*, as described in section A of Appendix I of the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsite of Armour & Co., near Worthington, MN to points in NJ, PA, DE, and points in that part of WV, on and west of U.S. Hwy 219 and New York, NY, and its commercial zone. Restriction: The authority granted herein is restricted as follows: (1) It is limited to shipments originating at the plantsite of Armour & Co., at Worthington, NM; (2) it is restricted against tacking at point of origin. (Gateway eliminated: Louisville, KY.)

MC 115826 (Sub-E62), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Malt beverages*, from points in CO on and east and north of a line beginning at the CO-WY State line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction CO Hwy 119, then along CO Hwy 119 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the western boundary of Jefferson County, CO, then along the western and southern boundaries of Jefferson County, and the southern boundary of Douglas County, to junction CO Hwy 67, then along CO Hwy 67 to Woodland Park, CO, then along U.S. Hwy 24 to the CO-KS State line, to points in AZ on and west of a line beginning at the UT-AZ State line, and extending along U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the AZ-NM State line. (Gateway eliminated: Golden, CO.)

MC 115826 (Sub-E63), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Frozen fruits and vegetables*, from those points in CO beginning at the CO-WY State line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction CO Hwy 7, then along CO Hwy 7 to junction CO Hwy 72, then along CO Hwy 72 to junction CO Hwy 119, then along CO Hwy 119 to the western boundary of Jefferson County, then along the western boundary of Jefferson County to the southern boundary of Clear Creek County, then along an imaginary line across Jefferson County to the southern boundary of Arapahoe County, then along the southern boundary of Arapahoe County to junction I Hwy 25, then along I Hwy 25 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction CO Hwy 71, then along CO Hwy 71 to junction I Hwy 76, then along I Hwy 76 to the CO-NE State line, to Phoenix, AZ; Albuquerque, NM; and El Paso, TX. (Gateway eliminated: Loveland, CO.)

MC 115826 (Sub-E64), filed December 15, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Frozen fruits and vegetables*, from points in CO on and east and north of a line beginning at the CO-WY State line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction CO Hwy 7, then along CO Hwy 7 to junction CO Hwy 72, then along CO Hwy 72 to junction CO Hwy 119, then along CO Hwy 119 to the western boundary of Jefferson County, then along the western boundary of Jefferson County to the southern boundary of Clear Creek County, then along an imaginary line across Jefferson County to the southern boundary of Arapahoe County, then along the southern boundary of Arapahoe County to junction I Hwy 25, then along I Hwy 25 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction I Hwy 70, then along I Hwy 70 to the CO-KS State line, to Phoenix, AZ. (Gateway eliminated: Loveland, CO.)

MC 123407 (Sub-E533), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above.) *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OR, WA, ID, and WY to points in MO,

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AR, LA, KY, TN, MS, AL, FL, GA, SC, NC, VA, WV, IL, IN, OH, PA, MD, DE, NJ, NY, MA, CT, RI, VT, NH, ME, and points in the Lower Peninsula of MI. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E540), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above.) *Iron and steel articles* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from new Castle, IN, to points in WA, OR, CA, ID, NV, WY, UT, CO, AZ, and NM. (Gateway eliminated: WI.)

MC 123407 (Sub-E542), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above.) *Lumber and lumber products* (except commodities in bulk and commodities requiring speical equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Dollar Bay, MI, to points in WA, OR, ID, CA, NV, UT, WY, and AZ. (Gateway eliminated: Ashland, WI.)

MC 123407 (Sub-E544), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above.) *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in AZ and CO, to points in OH, MI, and PA and those points in IN on and north of Interstate Hwy 70. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E545), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in TX on and west of a line beginning at Eagle Pass extending along U.S. Hwy 277 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the TX-OK State line, to points in OH on and north of a line beginning at the IN-OH State line, and extending along U.S. Hwy 30 to junction Interstate Hwy 71, then along Interstate Hwy 71 to junction Interstate Hwy 76, then along Interstate Hwy 76 to junction Interstate Hwy 80, then along Interstate Hwy 80 to the OH-PA State line. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E546), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in TX on and west of a line beginning at Eagle Pass and extending along U.S. Hwy 277 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the TX-OK State line, to Gary and Burns Harbor, IN. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E547), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in ID to points in MI (except Keweenaw and Houghton Counties), IN, OH, PA, KY, TN, MS, and AL. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E548), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Composition board and materials and accessories* used in the installation thereof (except commodities in bulk and commodities requiring special equipment), in containers or trailers, having an immediately prior or subsequent movement by water, or water-rail or by air, from points in OR to points in MI, IN, OH, PA, KY, TN, MS, AL, and Baton Rouge and New Orleans, LA. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E551), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Bagdad, PA, to points in WA, OR, CA, ID, NV, WY, UT, CO, AZ, and those points in NM on and north of U.S. Hwy 60. (Gateway eliminated: Beloit, WI.)

MC 123407 (Sub-E552), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from West Leechburg, PA, to points in WA, OR, CA, ID, NV, WY, UT, CO, AZ, and those points in NM on and north of U.S. Hwy 60. (Gateway eliminated: Beloit, WI.)

MC 123407 (Sub-E553), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Iron and steel articles* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Coatesville, PA, to points in WA, OR, CA, ID, NV, WY, UT, CO, AZ, KS, those points in NM on and north of U.S. Hwy 60, and those points in OK on and west of U.S. Hwy 75 and Indian Nation Turnpike. (Gateway eliminated: Beloit, WI.)

MC 123407 (Sub-E554), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Roofing, building, and paving materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Brookville, IN, to points OR, CA, ID, NV, UT, AZ, WA, WY, CO, NM, OK, TX, AR, LA, and MS. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E555), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in KS on and west of a line beginning a the OK-KS State line extending along U.S. Hwy 77 to junction Interstate Hwy 35, then along Interstate Hwy 35

to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 75, then along U.S. Hwy 75 to the KS-NE State line, to points in CT, NH, VT, ME and points in MA (except Barnstable County). (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E556), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailer, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KS on and west of U.S. Hwy 77 to points in NY and points in MI on and north of a line beginning at Ludington extending along U.S. Hwy 10 to Bay City, then along the Saginaw River to Saginaw Bay. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E557), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CO and AZ to points in MO, KY, IN, PA, MD, WV, VA, NC, SC, DE, NJ, NY, CT, RI, MA, VT, NH, ME, TN, points in the lower peninsula of MI, and points in OH on and east of Interstate Hwy 24. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E558), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NM to points in IN, MI, OH, WV, MD, DE, DC, PA, NJ, NY, CT, RI, MA, VT, NH, ME, points in MO on and north of Interstate Hwy 70, and points in VA on and north of U.S. Hwy 60. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E573), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in CA and NV on and south of Interstate Hwy 80 and points in UT to points in IN, OH, TN, SC, NC, VA, WV, PA, RI, NJ, DE, NY, MA, ME, MD, VT, NH, points in the lower peninsula of MI, points in MS and AL on and north of U.S. Hwy 78, and points in GA on and north of a line beginning at the AL-GA State line extending along U.S. Hwy 78 to Atlanta, then along Interstate Hwy 75 to Macon, then along U.S. Hwy 23 to Brunswick, GA. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E575), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk, lumber, chemicals, and commodities which because of their size or weight require the use of special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OR and ID, to points in WV, VA, NC and KY. (Gateway eliminated: Warren, IL and Brookville, IN.)

MC 123407 (Sub-E576), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass and glass glazing units* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from Fredericktown, Marion, Crestline, Shelby, and Mount Vernon, OH, to points in WA, OR, ID, CA, NV, UT, and AZ, restricted to shipments which originate at the sites of the plants and warehouses of PPG Industries, Inc., at the above-named origin points. (Gateway eliminated: Keokuk, IA.)

MC 123407 (Sub-E577), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CA on and north of Interstate Hwy 80, to points in MS. (Gateway eliminated: Facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E578), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MI, to points in MS. (Gateway eliminated: Facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E579), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Lumber and forest products, pressure treated poles, pressure treated posts, and pressure treated lumber* (except wood chips, commodities in bulk, and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in ID, NV, UT, WY, points in CO in and west of Jackson, Grand, Summit, Lake, Chaffee, Saquache, Rio Grande, and Archuleta Counties; AZ, points in and west of Navajo, Gila, Pinal, Maricopa, and Yuma Counties, to points in MI. (Gateway eliminated: Rapid City, SD (Pennington County).)

MC 123407 (Sub-E581), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, plywood and building material and materials, accessories and supplies* used in the installation of composition board, plywood, and building materials (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, CA, ID, NV, UT, WY, CO, AZ, NM, TX, OK, and KS, to points in the Upper Peninsula of MI. (Gateway eliminated: Lakeville, MN.)

MC 123407 (Sub-E583), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass and glass glazing units* (except commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water or by water-rail, or by air, from Henryetta, OK, to points in WA, OR, ID, points in CA on and north of Interstate Hwy 80 and CA Hwy 128, points in NV on and north of Interstate Hwy 80, and points in UT on and

north of Interstate Hwy 80. (Gateway eliminated: Hot Springs, SD.)

MC 123407 (Sub-E585), filed July 25, 1978. Applicant: SAWYER TRANS-

prior or subsequent movement by water, or by water-rail, or by air, from points in MI, PA, NY, VT, NH, ME, MA, CT, RI, IN, and points in OH on

resentative: Richard L. Loftus (same as above). (1) *Wallboard, pulpboard, hardboard, insulation and insulation materials*, (2) *accessories and materi-*

or subsequent movement by water, or by water-rail or by air, from points in Erie, Warren, McKeon, Potter, Tioga, Bradford, and Susquehanna Counties,

by water, or by water-rail or by air, from points in the Upper Peninsula of MI to points in KS (except Doniphan, Atchison, Leavenworth, Jefferson,

Casey, Pulaski, Laurel, Clay, Leslie, and Harlow Counties: points in IN on, west, and south of IN Hwy 7 from Madison to junction Hwy 65, then

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north of Interstate Hwy 80. (Gateway eliminated: Hot Springs, SD.)

MC 123407 (Sub-E585), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Lofus (same as above). *Composition board, plywood and building material and materials, accessories and supplies* used in the installation of composition board, plywood and building materials (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, OR, ID, CA, NV, WY, UT, CO, and NM to points in the Lower Peninsual of MI. (Gateway eliminated: Lakeville, MN.)

MC 123407 (Sub-E586), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Lofus (same as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in IN in and north of Fountain, Montgomery, Clinton, Howard, Grant, Wells, and Adams Counties, to points in MS. (Gateway eliminated: Facilities of Certain Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E587), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Buliding materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water or by water-rail or by air, from points in OH in and north of Van Wert, Putnan, Hancock, Seveca, Sandusky, and Erie Counties, to points in MS. (Gateway eliminated: Facilities of Certain Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E590), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Windows, doors, building woodwork, and materials and accessories*, used in the installation thereof (except commodities in bulk and commodities requiring special equipment or special handling), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MI, PA, NY, VT, NH, ME, MA, CT, RI, IN, and points in OH on and north of Interstate Hwy 80, to points in KS, OK, and points in MO in and west of Scotland, Adair, Linn, Livingston, Carroll, Ray, and Jackson Counties. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E593), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in GA, points in TN on and east of Interstate Hwy 24, and points in FL in and east of Leon and Jefferson Counties, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, UT, CO, AZ, KS, MO (except Dunklin, New Madrid, and Pemiscot Counties); NM (except Lea, Eddy, Otero, and Dona Ana Counties), and points in OK on and north of Interstate Hwy 40 and in and west of Canadian, Grady, Comanchee, and Cotton Counties. (Gateway eliminated: Cairo, IL.)

MC 123407 (Sub-E596), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk, lumber, chemicals, and commodities which because of their size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CA and NV south of Interstate Hwy 80, to points in WV, VA and points in NC on and east of U.S. Hwy 220. (Gateway eliminated: Warren, IL and Brookville, IN.)

MC 123407 (Sub-E598), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk, lumber, chemicals, and commodities which because of their size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WV, VA, and NC. (Gateway eliminated: Warren, IL and Brookville, IN.)

MC 123407 (Sub-E600), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). (1) *Wallboard, pulpboard, hardboard, insulation and insulation materials*, (2) *accessories and materials* used in the insulation of the products described in (1) above, and (3) *padding and cushion materials and mulch*, (except lumber, commodities in bulk, and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in MS, TN, AL, NC, SC, GA, FL, and points in AR on and east of U.S. Hwy 65 and points in LA on and east of the Mississippi River. (Gateway eliminated: Cloquet, MN.)

MC 123407 (Sub-E601), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above.) (1) *Decorating or preservative materials, supplies, and equipment;* (2) *paint, painting materials, supplies, and equipment;* (3) *engine coolant, lubricating oil, cleaning compounds* which are used in the manufacture or distribution of windows, doors, building woodwork, and materials and accessories used in the installation thereof (except commodities in bulk, commodities requiring special equipment, and automobiles, trucks, and buses), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MD and DE, to points in WA, OR, CA, ID, NV, UT, WY, CO, and AZ. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E602), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above.) *Flat glass, glass glazing units, and glass doors and fittings* (except commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MD and DE, to points in WA, OR, CA, ID, NV, UT, WY, CO, and AZ on and north of Interstate Hwy 70 and Interstate Hwy 76 and points in AZ on and north of U.S. Hwy 60 and U.S. Hwy 66. (Gateway eliminated: Dubuque IA.)

MC 123407 (Sub-E603), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above.) *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment) in containers or in trailers having an immediately prior

or subsequent movement by water, or by water-rail or by air, from points in Erie, Warren, McKeon, Potter, Tioga, Bradford, and Susquehanna Counties, PA, to points in MS. (Gateway eliminated: facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E604), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above.) *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment) in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in WA, OR, CA, NV, ID, WY, UT, and CO, to points in TN. (Gateway eliminated: facilities of Certain-Teed Products Corp. at East St. Louis, IL.)

MC 123407 (Sub-E605), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board* (except lumber and commodities which because of their size or weight require the use of special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in SC, GA, and FL. (Gateway eliminated: Warren, IL, Brookville, IN, and facilities of Abitibi Corp. at Roaring River, NC.)

MC 123407 (Sub-E606), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite char fireplace logs, lighter fluid, and barbeque grill base material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in MI on and north of MI Hwy 72. (Gateway eliminated: Facilities of Husky Briquetting, Inc., at Isanti, MN.)

MC 123407 (Sub-E607), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite char fireplace logs, lighter fluid, and barbeque grill base material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in the Upper Peninsula of MI to points in KS (except Doniphan, Atchison, Leavenworth, Jefferson, Jackson, Nemaha, and Brown Counties). (Gateway eliminated: Facilities of Husky Briquetting Inc. at Isanti, MN.)

MC 123407 (Sub-E608), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment) in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in NY in, north, and west of Broome, Chenango, Otsego, Schokarie, Albany, and Rensselaer Counties, to points in MS. (Gateway eliminated: facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E609), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in TX on and west of a line beginning at the International Boundary line between the United States and Mexico, near Del Rio, and extending along U.S. Hwy 277, then along U.S. Hwy 277 to junction U.S. Hwy 83, then along U.S. Hwy 83 to the TX-OK State line, to points in PA. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E610), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Floor tile* (except commodities in bulk, those commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CA (except Modoc, Lassew, Plumas, Shasta, Siskiyou, and Del Norte Counties); points in NV on and south of U.S. Hwy 50; points in AZ, NM, TX, OK, AR, LA, TN, MS, AL, FL, GA, SC, points in NC on, west, and south of U.S. Hwy 421 from Wilmington to NC-TN State line; points in Lee, Scott, Wise, and Dickerson Counties, VA; points in KY in, west, and south of Trimble, Oldham, Shelby, Anderson, Mercer, Boyle, Casey, Pulaski, Laurel, Clay, Leslie, and Harlow Counties: points in IN on, west, and south of IN Hwy 7 from Madison to junction Hwy 65, then along Hwy 65 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IN-IL State line; points in, south, and east of Lewis, Shelby, Randolph, Howard, Cooper, Pettis, Benton, St. Clair, Cedar, Barton, Jasper, Newton, and McDonald Counties, MO, to points in the Upper Peninsula of MI. (Gateway eliminated: Kankakee, IL.)

MC 123407 (Sub-E611), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Flat glass and building materials* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between Philadelphia, PA, on the one hand, and, on the other, points in WA, OR, ID, CA, NV, UT, WY, CO, AZ, NM, KS, points in MO on and north of U.S. Hwy 24, points in OK on and west of U.S. Hwy 75; and points in TX on and west of Hwy 35. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E612), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Composition board, materials and accessories* used in the installation of composition board, and ceiling tile (except lumber, commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in NM to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, DC, WV, and VA. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E613), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building, roofing and insulating materials, and materials and accessories used in the installation thereof* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Florence, KY, to points in WA, OR, ID, CA, NV, UT, AZ, NM, CO, WY, KS, points in OK in, north, and west of Love, Carter, Murray, Pontotoc, Hughes, Pittsburg, McIntosh, Muskogee, Cherokee, and Delaware Counties, and points in TX in and west of Cameron,

Willacy, Kenedy, Brooks, Jim Wells, Live Oak, Atascora, Bexar, Comal, Hays, Travis, Williamson, Bell, McLennon, Hill, Ellis, Dallas, Denton, and

ing special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or waterrail, or by air, from

water, or by water-rail, or by air, from points in OR and ID, to points in SC, NC, GA, points in TN on and east of Interstate Hwy 65, and points in FL,

trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KY, NC, and SC to points in WY, CO

concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified

Counties, NY). By the instant petition, petitioner seeks to modify that portion of the territorial description which

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Willacy, Kenedy, Brooks, Jim Wells, Live Oak, Atascora, Bexar, Comal, Hays, Travis, Williamson, Bell, McLennon, Hill, Ellis, Dallas, Denton, and Grayson Counties. (Gateway eliminated: Keokuk, IA.)

MC 123407 (Sub-E614), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass and building materials* (except commodities in bulk, and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, between Cleveland, OH, on the one hand, and, on the other, points in WA, OR, ID, CA, NV, UT, WY, CO, AZ, NM, OK, KS, points in TX on and west of U.S. Hwy 75; and points in MO on and north and west of U.S. Hwy 24. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E615), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Flat glass and building materials* (except commodities in bulk, and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water or by water-rail or by air, between Toledo, OH, on the one hand, and, on the other, points in WA, OR, ID, CA, NV, UT, WY, CO, AZ, NM, KS (except Crawford and Cherokee Counties); points in MO on and west of I Hwy 35; points in OK on and west of U.S. Hwy 75. (Gateway eliminated: Warren, IL.)

MC 123407 (Sub-E616), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment) in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in WV, VA, NC, KY, and those points in TN on and east of U.S. Hwy 45. (Gateways eliminated: Warren, IL and Brookfield, IN.)

MC 123407 (Sub-E617), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richrd L. Loftus (same address as above). *Lumber and forest products, pressure treated poles, pressure treated post, and pressure treated lumber* (except wood chips, commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or waterrail, or by air, from points in ID, NV, those points in Rich, Morgan, Salt Lake, Weber, Cache, Box Elder, Tooele, Summit, Wasatch, Utah, Juab, Millard, Beaver, Iron, and Washington Counties, UT, those points in and west of Niobrara, Converse, Natrona, and Sweetwater Counties, WY, to points in IN. (Gateway eliminated: Rapid City, SD.)

MC 123407 (Sub-E618), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Mineral wool, mineral wool products, insulating materials, and insulated air duct* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KS, to points in MI, NY, PA, VT, NH, ME, MA, RI, NJ, DE, CT, and MD. Restriction: The authority granted herein is restricted to the transportation of shipments originating at the plantsite and warehouse facilities of CSG group of the Certain-Teed Products Corp. located at or near Kansas City, KS. (Gateway eliminated; Beloit, WI.)

MC 123407 (Sub-E619), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water or by water-rail, or by air, from points in MI, NY, VT, NH, ME, MA, CT, RI, NJ, PA, points in IN and OH on and north of U.S. Hwy 30, to points in TN on and west of U.S. Hwy 51. (Gateway eliminated: Facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E630), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as address above). (1) *Wallboard, pulpboard, hardboard, insulation, and insulation materials,* (2) *accessories and materials* used in the installation of the products described in (1) above, and (3) *padding and cushion materials and mulch* (except lumber, commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OR and ID, to points in SC, NC, GA, points in TN on and east of Interstate Hwy 65, and points in FL (except Escambia and Santa Rosa Counties). (Gateway eliminated; Cloquet, MN.)

MC 123407 (Sub-E632), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Windows, doors, building woodwork, and materials and accessories* used in the installation thereof (except commodities in bulk and commodities because of size or commodities requiring special equipment or special handling), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OR and UT, to points in MI, IN, OH, PA, NY, VT, NH, ME, MA, CT, RI, NJ, DE, MD, DC, WV, VA, NC, SC, points in TN on and east of Interstate Hwy 65, points in KY on and east of Interstate Hwy 65. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E645), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WV, MD, and DE to points in CO, WY, and NM (except Estacado, Lea, Eddy, Chaves, Llano, and Roosevelt Counties). Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in "Mercer Extension—Oilfield Commodities," 74 MCC 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E654), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same address as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KY, NC, and SC to points in WY, CO and those points in NM on and north and west of a line beginning at the CO-NM State line, and extending along Interstate Hwy 25, then along Interstate Hwy 25 to Albuquerque, then west along interstate Hwy 40 to the NM-AZ State line. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in "Mercer Extension—Oilfield Commodities," 74 MCC 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, (d) the injection or removal of commodities into or from holes or wells from Hastings, NE to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, and TX. (Gateway eliminated: Hastings, NE.)

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29412 Filed 10-18-78; 8:45 am]

[7035-01-M]

[Volume No. 119]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

OCTOBER 11, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1F, M2F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission on or before November 20, 1978. Such protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 86690 (M1F) (Notice of Filing of Petition to Modify Permit), filed August 28, 1978. Petitioner: BOND TRANSFER CO., INC., 1615 Cuba Street, Baltimore, MD 21230. Representative: S. Harrison Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. Petitioner holds motor contract carrier permit in MC 86690, issued March 31, 1972, authorizing transportation over irregular routes, as pertinent, of such *commodities* as are dealt in by wholesale, retail and chain gorcery and food business houses, and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between points and portions of PA, WV, MD, DE, VA, and DC, restricted to transportation performed under individual contracts or agreements, with persons (as defined in section 203(a) of the Interstate Commerce Act) who operate retail stores, the business of which is the selling of food. By the instant petition, petitioner seeks to modify that portion of the restriction which reads "to operate retail stores, the business of which is the selling of food" so that that portion of the restriction shall read "who are engaged in the business of the sale of food."

MC 119090 (M1F) (Notice of Filing of Petition To Modify Territorial Description), filed Jun 23, 1978. Petitioner: THRUWAY FREIGHT LINES, INC., P.O. Box 56, Elmwood Park, NJ 07407. Representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 119090 April 18, 1967, but only holds a portion of that authority pursuant to MC-F-11369. MC 119090 presently authorizes transportation, over irregular routes as pertinent, of *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) between points in Bergen, Passaic, Essex, Hudson, and Union Counties, NJ, on the one hand, and, on the other, Philadelphia, PA, and points in that part of NY on the west bank of the Hudson River, and points east of the Hudson River and south of a line beginning at Glens Falls, NY, and extending east through Porter, NY, to the NY-VT State line (except points in Kings, Queens, Richmond, Bronx, New York, and Nassau and Suffolk Counties, NY). By the instant petition, petitioner seeks to modify that portion of the territorial description which reads "on the west bank" to "on and west of the west bank" of the Hudson River.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 61231 (Sub-111) (Republication), filed November 8, 1977, published in the FEDERAL REGISTER issue of December 29, 1977, and republished this issue. Applicant: ACE LINES, INC., 4143 East 43rd Street, Des Moines, IA 50317. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. A Decision of the Commission, Review Board No. 3, decided September 1, 1978, and served September 26, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *used irrigation systems and parts and accessories* for use with used irrigation systems, between points in AZ, AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI, and WY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the removal of the restriction.

MC 73165 (Sub-421) (republication), filed November 23, 1977, published in the FEDERAL REGISTER issue of January 19, 1978, and republished this issue.

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Birmingham, AL 35202. Representative: R. Cameron Rollins (same address as applicant). A Decision of the Commission, by the Initial Decision of Administrative Law Judge Jerry F. Laughlin, served August 2, 1978, becomes effective September 21, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Iron and steel articles*, from Savannah, GA, to points in AL, GA, NC, SC, TN, MS, KY, and VA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 129191 (Sub—No. 8) (republication), filed December 19, 1977, published in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: RICHARD T. PLATTNER, d.b.a. JANS MOTOR SERVICE, 4640 West 120th Street, Alsip, IL 60658. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. A Decision of the Commission, Review Board No. 1, decided September 15, 1978, and served September 21, 1978, finds that the present and future convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Building and roofing materials, and materials and supplies* used in the distribution or installation of building and roofing materials (except in bulk), from the facilities of the Flintkote Co., at or near Chicago Heights, IL, to points in WI, IA, MO, MI, KY, OH and those points in IN south of Vermillion, Fountain, Montgomery, Boone, Hamilton, Madison, Delaware, and Randolph Counties, IN, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description and to indicate the addition of Vermillion County, IN, as a destination point.

MC 141033 (Sub-4) (partial republication), filed July 29, 1975, published in the FEDERAL REGISTER issue of August 28, 1975, and republished this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. A Decision of the Commission, Division 2, decided June 28, 1978, and served July 20, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in part (IV)(B) of appendix C, in the transportation of: *Buffing, polishing, cleaning, scouring, and washing compounds, solvents, starch, bleach, lubricating oil, carbon, gum, and sludge removing compounds, disinfectants, softeners, sizing, and janitorial supplies*, (1) from the facilities of Peterson-Puritan, Inc., at Berkeley, RI, Danville, IL, and Santa Fe Springs, CA, to Birmingham, Al, Denver, CO, Jacksonville, FL, Baltimore, MD, Minneapolis, MN, Kansas City, MO, Dallas, TX, Richmond, VA, Seattle, WA, and Milwaukee, WI, and the facilities of Texize Chemicals Division of Morton-Norwich Products, Inc., at Piscataway NJ, Greenville and Mauldin, SC, and Palestine, TX; (2) from the facilities of Peterson-Puritan, Inc., at Berkeley, RI, to Los Angeles and San Francisco, CA, and Chicago, IL, and the facilities of Texize Chemicals Division of Morton-Norwich Products, Inc., at Kankakee, IL; (3) from the facilities of Peterson-Puritan, Inc., at Danville, IL, to Los Angeles and San Francisco, CA, and Saylesville, RI; and (4) from the facilities of Peterson-Puritan, Inc., at Santa Fe Springs, CA, to Chicago, IL, Saylesville, RI, and the facilities of Texize Chemicals Division of Morton-Norwich Products, at Kankakee, IL, restricted in (B) against the transportation of commodities in bulk, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority in part (IV)(B) of appendix C above.

MC 142807 (republication), filed January 4, 1977, published in the FEDERAL REGISTER issue of March 24, 1977, and republished this issue. Applicant: NICHOLAS MARINO AND ANGELINA MARINO, d.b.a. FARRAGUT TRAVEL SERVICE, 1717 Farragut Avenue, Bristol, PA 19007. Representative: Angelina Marino (same address as applicant). A Decision of the Commission, Division 1, decided September 18, 1978, and served September 26, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, in nonscheduled door-to-door service limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, and not including children under 10 years of age who do not occupy a seat or seats, between Bristol Township and Bristol, PA, on the one hand, and, on the other, Atlantic City, NJ; Newark Airport at Newark, NJ; and John F. Kennedy International Airport, at New York, NY, that applicant is fit, willing, and able properly to perform such services and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 144178 (Sub-1) (REPUBLICATION), filed January 10, 1978, published in the FEDERAL REGISTER issue of February 24, 1978, and republished this issue. Applicant: CIRCLE CARTAGE CORP., 70 Sherman Avenue, Jersey City, NJ 07307. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, Review Board No. 3, decided September 1, 1978, and served September 22, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Cellular and expanded plastic sheet*, from Piscataway, NJ, to points in OH, IL, IN, MN, WI, PA, MI, KY, NY, MD, DE, and DC; and (2) *materials, supplies, and equipment* used in the manufacture of cellular and expanded plastic sheet, from points in the above-named destination territory, to Piscataway, NJ, under a continuing contract or contracts with Paramount Industries, Inc., of Piscataway, NJ, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to

seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rule of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, a part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no signifiant effect on the quality of the human environment resulting from approval of its application.

MC 114533 (Sub-371F), filed April 4, 1978. Applicant: BANKERS DISPATCH CORP., 1106 West 35th Street, Chicago, IL 60609. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed color film and prints, complimentary replacement film, accounting and audit media, business records, commercial papers and documents, microfilm, microfiche, data processing papers, eyeglasses, frames, lenses, advertising literature, graphic art material, human blood, human blood derivatives, human tissue, restorative dentistry products, laboratory specimens used in pathological testing, flowers, florist materials and supplies, fire, safety, and rescue equipment, and aircraft parts and supplies*, between points in KS and MO, on the one hand, and, on the other, points in OK. (Hearing site: Kansas City, MO.)

MC 119493 (Sub-198F), filed April 14, 1978, and previously published in the FEDERAL REGISTER issue of August 10, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel, P.O. Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *clay products*, from Mounds, IL, to points in AL, AR, GA, IA, IN, KS, KY, LA, FL, MI, MN, MO, MS, NE, NY, NJ, NC, SC, OH, OK, TN, TX, WV, WI, and (2) *Materials and supplies* used in the manufacture, processing and distribution thereof from named destinations, to Mounds, IL. (Hearing site: St. Louis, MO, or Little Rock, AR.)

NOTE.—This republication is to reflect applicant's request for authority.

MC 144582F, filed April 3, 1978, and previously published in the FEDERAL REGISTER issue of August 10, 1978, and September 15, 1978. Applicant: HOH RIVER CEDAR PRODUCTS, INC., P.O. Box 127, Beaver, WA 98305. Representative: Bart Irwin, 112 South Lincoln, Port Angeles, WA 98362. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Lumber and forest products*, (1) from points in Clallam and Jefferson Counties, WA, to Port Angeles, WA; and (2) from points in Clallam, Jefferson, and Grays Harbor Counties, WA, to Hoquiam, WA. (Hearing site: Port Angeles or Seattle, WA.)

NOTE.—The purpose of this republication is to indicate Port Angeles, WA, as a destination point in part (1) above.

MC 144696 (Sub-3F), filed April 10, 1978, and previously published in the FEDERAL REGISTER issue of July 20, 1978. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom Street, Zeeland, MI 49464. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs and poultry requiring refrigeration*, from the Borculo, MI, plantsite and storage facilities of Bil-Mar Foods, Inc., to points in AL, AZ, CA, FL, GA, IL, IN, IA, KS. KY, MN, MO, NE, NM, NY, NC, OH, OK, PA, SC, TN, TX, WV, and WI, with the right of return of damaged or rejected merchandise; and (2) *materials and supplies* of Bil-Mar Foods, Inc., from points in AL, AZ, CA, FL, GA, IL, IN, IA, KS, KY, MN, MO, NE, NM, NY, NC, OH, OK, PA, SC, TN, TX, WV, and WI, to the plant site and storage facilities of Bil-Mar Foods, Inc., at Borculo, MI, restricted to transportation performed under a continuing contract or contracts with Bil-Mar Foods, Inc., of Borculo, MI. (Hearing site: Grand Rapids or Lansing, MI.)

NOTE.—This republication is to indicate applicant's name change from Meeuwsen Produce & Grain, Inc., to Meeuwsen Produce, Inc., and the docket number as MC 144696 (Sub-3F), in lieu of MC 143664 (Sub-2F).

MC 144760 F, filed May 15, 1978, published in the FEDERAL REGISTER issue of July 13 and August 31, 1978 and republished, as corrected this issue. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Radioactive waste*, in shipper-owned containers permanently mounted on shipper-owned trailers, from the Zion Nuclear Plant, at Zion, IL; Dresden Nuclear Station, at Morris, IL; Quad Cities Nuclear Station, at Cordova, IL; Duane-Arnold Energy Center, at Palo, IA; and Donald C. Cook Nuclear Station, at Bridgman, MI, to Barnwell, SC; Beatty, NV; and Richland, WA; and (2) *radioactive shipping containers*, from Barnwell, SC, to the origin points named in (1) above, under a continuing contract with Hittman Nuclear and Development Corp., of Columbia, MD.(Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—This republication is to correctly state authority.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commis-

sion's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest

transportation of camping trailers and travel trailers (otherwise authorized), from the facilities of Airstream, Inc., no transportation for compensation on return except as otherwise authorized. KSS Transportation Corp., MC Salmanson & Co., of New York, NY. (2) *New furniture*, except upholstered furniture, as described in appendix II

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sion's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13695F. Authority sought for purchase by WILLIAM B. MEYER, INC., 60 Long Beach Boulevard, Stratford, CT, 06497, of the operating rights of BOLLIGER, INC., d.b.a. SABINI'S MOVING & STORAGE CO., Stamford, CT, 06902, and for acquisition by LLOYD H. MEYER, 156 Hilltop Circle, Nichols, CT, 06661, of control of such rights through the transaction. Attorney: Sidney L. Goldstein, 109 Church Street, New Haven CT, 06510. Operating rights sought to be purchased: *Household goods as defined by the Commission* as a *common carrier* over irregular routes between Stamford CT and points within 15 miles thereof, on the one hand, and, on the other, points in MA, NJ, NY, PA and RI. Vendee is authorized to operate as a *common carrier* in CT, NH, VT, MA, RI, NY, NJ, PA, DE, MD, OH, DC and VA. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC 108194 (Sub-14F) is a directly related matter.

MC-F-13738F. Authority sought for purchase by FOX & GINN, INC., 207 Perry Road, Bangor, ME 04401, of the operating rights of HARTFORD DESPATCH & WAREHOUSE CO., INC., 225 Prospect Street, East Hartford, CT 06108, and for acquisition by David W. Fox, 207 Perry Road, Bangor, ME 04401, Shirley E. Ginn, 207 Perry Road, Bangor, ME 04401 and Robert E. Ginn, 80 Concord Street, North Reading, MA 01864, of control of such rights through the purchase. Attorneys: Kenneth B. Williams, 84 State Street, Boston, MA 02109 (For Transferee) *and* Francis P. Barrett, 60 Adams Street, Milton, MA 02187 (For Transferor). Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier*, over regular routes, between Boston, MA and Bridgeport, CT serving all intermediate points and off-route points within 30 miles of Boston, Springfield and Worcester, MA and Bridgeport, Hartford and New Haven, CT; between Boston, MA and Hartford, CT, serving all intermediate points and off-route points within 30 miles of Boston, Springfield and Worcester, MA, and Bridgeport, Hartford and New Haven, CT. Irregular routes: *General commodities*, with exceptions, between points in CT and MA on the one hand, and, on the other, points in MA, NJ, NY, PA and RI. Between points within 30 miles of Boston, Springfield, and Worcester, MA, and Bridgeport, Hartford, and New Haven, CT, including the points named, on the one hand, and, on the other, Bennington and Brattleboro, VT, Albany, Kingston, Middleton, Newburgh, Peekskill, Poughkeepsie, Schenectady, Troy, West Point and New York, NY, Jersey City and Newark, NJ, and points in Putnam and Westchester Counties, NY. Transferee is authorized to operate as a *common carrier* in ME, NH and MA. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 28536 (Sub-17F) is a directly related matter.

MC-F-13739F. Authority sought for control by SEIGLE'S EXPRESS, INC., Foot of Pennsylvania Avenue, South Kearney, NJ 07032 of RILEY'S MOTOR EXPRESS, INC., Foot of Pennsylvania Avenue, South Kearney, NJ 07032 and merger of the two carriers and for acquisition by Richard Riley of control through the transaction. Attorney, William W. Becker, Suite 950, 1819 H Street NW., Washington, DC 20006. Operating rights sought to be transferred: *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and antique automobiles and used classic cars in secondary movements in truckaway service) between points in Suffolk County, NY, on the one hand, and, on the other, points in Nassau County, NY, points in the New York, NY Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone) those points in NJ and all of any NJ municipality any part of which is within 5 miles of New York, NY, and points in Passaic, Bergen, Hudson, Essex, Union, Morris, and Somerset Counties, NJ; and Business records and printed matter between Clinton, NJ and points in Suffolk County, NY. Vendee is authorized to operate as a *common carrier* in the States of NY, NJ, and CT. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC 54200 (Sub-7F) is a directly related matter.

MC-F-13741F. Authority sought for purchase by THRASHER TRUCKING CO., P.O. Box 116, Monahans, TX 79756, of a portion of the operating rights of J. J. Willis Trucking Co., P.O. Box 5328, Dallas, TX 75222, and for acquisition of control of such rights by J. W. Thrasher, Sr., P.O. Box 116, Monahans, TX 79756, through the purchase. Attorneys: Mike Cotten, P.O. Box 1148, Austin, TX 78767 (vendee), and James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224 (vendor). Operating rights sought to be transferred: Oilfield commodities as described in Mercer-Ext., Oilfield Commodities, 74 MCC 459, as a *common carrier*, over irregular routes, from, to, and/or betwen points in TX, LA, AR, OK, KS, NM, CO, and WY; *earth drilling commodities*, over irregular routes, from, to, and/or betwen points in TX, LA, OK, KS, and NM; commodities, which, because of size or weight, require the use of special equipment, over irregular routes, from, to, and/or between points in TX, NM, OK, and CO; *self-propelled articles*, each weighing 15,000 pounds or more, over irregular routes, from, to, and/or between points in TX and NM; *iron and steel articles*, over irregular routes, from Corpus Christi, Galveston, and Houston, TX, to points in NM and TX and from the facilities of C.F. & I. Steel Corp. at or near Pueblo, CO, to points in OK and TX. Vendee is authorized to operate as a common carrier in AZ, NM, TX, OK, KS, and Kansas City, MO. Application has not been filed for temporary authority under section 210a(b).

NOTE.—This application is directly related to a finance proceeding docketed MC-F-13558.

MC-F-13746F. Authority sought to reacquire control by BEATRICE FOODS CO., 120 South LaSalle Street, Chicage, IL 60603, of Haul-Away, Inc. of 419 West Pike Street, Jackson Center, OH 45334; James J. Gallery, Inc. of 555 Pleasant Street, Watertown, MA 02172; and KSS Transportation Corp. of P.O. Box 3052, North Brunswick, NJ 08902, through the transfer of stock from a voting trust. Attorney: Daniel C. Sullivan, 10 South LaSalle Street Chicago, IL 60603. Operating rights to be controlled: Haul-Away, Inc., MC 129049: (1) *Travel trailers* and *camping trailers*, in initial movements, in truckaway service, from Cerritos, CA, to points in AZ, CO, ID, KS, MO, MT, NB, NV, NM, OK, OR, SD, TX, UT, WA, and WY; and from Jackson Center (Shelby County), OH, to points in the United States, including AK, but excluding HI; and *travel trailers* and *camping trailers*, in secondary movements, in truckaway service, from the respective destination points described herein to their respective origin specified herein. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Airstream, Inc. (2) *Accessories, equipment, materials, parts, and supplies* used in, by, or incidental to camping trailers and travel trailers, when moving in conjunction with the transportation of camping trailers and travel trailers (otherwise authorized), from the facilities of Airstream, Inc., at Cerritos, CA, to points in AZ, CO, ID, KS, MO, MT, NB, NV, NM, OK, OR, SD, TX, UT, WA, and WY, with no transportation for compensation on return except as otherwise authorized. From the facilities of Airstream, Inc., at Jackson Center, Shelby County, OH, to points in the United States (including AK but excluding HI), with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Airstream, Inc., Division of Beatrice Foods, Inc., of Sidney, OH. (3) *Travel trailers and camping trailers*, in initial movements, in truckaway service, and *accessories, equipment, materials, parts, and supplies* incidental to camping trailers and travel trailers, in mixed loads with camping trailers and travel trailers, from Versailles, OH, to points in the United States (including AK but excluding HI); and *travel trailers and camping trailers*, in secondary movements, in truckaway service, from points in the United States (including AK and excluding HI), to Versailles, OH. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Airstream, Division of Beatrice Foods Co., of Sidney, OH. James J. Gallery, Inc., MC 112694: (1) *Frozen foods*, and *foodstuffs*, moving under refrigeration, not included in frozens foods, between Boston, MA, on the one hand, and, on the other, Springfield, MA; Providence, RI; Portland, ME; Hampton and Manchester, NH; points on Cape Cod, and points in NH and MA within the territory bounded by a line beginning at Boston, MA, and extending along the Atlantic coast to Hampton Beach, NH, then in a westerly direction through Hampton, NH, to Manchester, NH, then in a southwesterly direction through New Boston and Petersboro, NH, to East Jeffrey, NH, then south through Winchendon, MA, to East Templeton, MA, then in a southeasterly direction to East Princeton, MA, then south through Holden, Worcester, Auburn, North Oxford, and Oxford, MA, to Webster, MA, then east through Douglas, MA, to Mansfield, MA, then in a southeasterly direction through Stoughton, MA, to New Bedford, MA, and then along the Atlantic coast to Boston, MA, including the points named. (2) *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Watertown, MA, to Portsmouth, Dover, Rochester, Somersworth, and Keene, NH; York, North Berwick, Wells, Sanford, Biddeford, Saco, and Westbrook, ME, with no transportation for compensation on return except as otherwise authorized. KSS Transportation Corp., MC 135873: (1) *Envelopes, advertising materials, circulars, paper bags, rolled paper stock* for printing, newsprint, periodical inserts, and business forms, from Metuchen and North Brunswick, NJ, to points in the United States (except AK and HI), under a continuing contract or contracts with Webcraft Packing, Inc.; Filmcraft Packaging, Inc.; and Publication Insert Corp. (2) (a) *Inks and adhesives* (except commodities in bulk), from Linden and Newark, NJ, to points in the United States (except AK and HI), (b) *equipment, materials, and supplies* used in the manufacture and sale of envelopes, advertising materials, circulars, paper bags, rolled paper stock, newsprints, periodical inserts, business forms, inks and adhesives (except commodities in bulk), from points in the United States (except AK and HI), to Metuchen, New Brunswick, Newark, and Linden, NJ, under continuing contract with Beatrice Foods Co. (3) To transport such commodities as are dealt in by manufactures or distributors of printed matter, paper, and paper products (except commodities in bulk), between Metuchen, North Brunswick, Newark, and Linden, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract or contracts with Beatrice Foods Co., of Chicago, IL. Common control of these carriers was previously authorized in MC-F-12588. The reacquisition of control will result in common control of other motor carriers. Beatrice Foods Co. is a noncarrier in control of Tropicana Transportation Corp. and Solar Rest, Inc. Tropicana Transportation Corp. is a contract carrier conducting operations in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, DC, AZ, CA, and the States between AZ and FL as States of traversal. The application also seeks approval to continue in control of Solar Rest, Inc. and to substitute Solar Rest, Inc. (new), a successor to Solar Rest, Inc. (old). Solar Rest, Inc. is a contract carrier under the following authority: (1) *New furniture*, except upholstered furniture, as described in appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, crated, uncrated, or otherwise packaged or unpackaged, from Union City, PA, to points in AL, AR, CT, DE, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized above is limited to a transportation service to be performed under a continuing contract, or contracts, with Salmanson & Co., of New York, NY. (2) *New furniture*, except upholstered furniture, as described in appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, uncrated, crated, or otherwise packaged or unpackaged, from Trenton, NJ, to points in CT, DE, MD, MA, NJ, NY, NC, PA, RI, VA, and DC, with no transportation for compensation on return except as otherwise authorized.

MC-F-13751F. Authority sought for purchase by EYRE'S BUS SERVICE, INC., 15910 Union Chapel Road, Woodbine, MD, of a portion of the operating rights of Safeway Trails, Inc., 1200 Eye Street NW, Washington, DC 20005. Attorney: Bruce E. Mitchell, Esq., Serby & Mitchell, P.C. Fifth Floor, Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. Operating rights sought to be purchased: *Passengers and their baggage, and express mail and newspapers, in the same vehicle with passengers, as a common carrier, over regular routes*, (a) between junction U.S. Hwy 29 and MD Hwy 198 at Burtonsville, MD, and Baltimore, MD, serving all intermediate points; (b) between junction U.S. Hwy 29 and MD Hwy 196 at or near Stewart Lane, Montgomery County, MD, and junction U.S. Hwy 29 and MD Hwy 198 at or near Burtonsville, MD, serving all intermediate points; (c) between junction U.S. Hwy 29 and Maryland Hwy 650 and junctions U.S. Hwy 29 and Interstate Hwy 495; (d) between Washington, DC, and Burtonsville, MD, serving all intermediate points, with restrictions. Vendee is authorized to operate pursuant to certificate MC 116212 and permit MC 134929 in the States of MD and WV. Application has been filed for temporary authority under section 210a(b). (Hearing site: Washington, DC.)

NOTE.—MC 116212 (Sub-11f) is a directly related matter.

MC-F-13754F. Applicant: UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. Authority sought for purchase by Universal Cartage, Inc., 640 West Ireland Road, South Bend, IN, of the operating rights of Overland Freight Lines, Inc., Six Points Road, Indianapolis, IN. Operating rights sought to be purchased in MC 76629 and subs thereto, involving the transportation of: (a) *Paper and paper products* between Lafayette, IN, and points in OH serving the intermediate point of Indianapolis, IN; from Lafayette over U.S. Hwy 52 to Indianapolis, IN, then over U.S. Hwy 40 to the IN-OH State line, and then over irregular routes to points in that part of OH south and west of a line beginning at the OH-IN State line and extending along U.S. 40 to junc-

tion OH Hwy 440 (formerly portion of U.S. Hwy 40), then along OH Hwy 440 to Springfield, OH, then along U.S. Hwy 68 to the Ohio River, including

cial equipment and commodities in bulk), from points in the destination States named in (1) above, to the plantsite of Inland Container Corp. at

site and storage facilities of Occidental Chemical Co., at Lathrop, CA. Transferee holds authorities to operate as a common carrier between CA and AZ,

filed for temporary authority under section 210a(b).

NOTE.—MC 59206 (Sub-23F), is a directly

tween the facilities of Ocean Spray Cranberries, Inc., in the Borough of Bordentown, NJ, and the facilities of

of Interstate Hwy 90, then over Interstate Hwy 90 to U.S. Hwy 83, then over U.S. Hwy 83 to junction U.S. Hwy

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tion OH Hwy 440 (formerly portion of U.S. Hwy 40), then along OH Hwy 440 to Springfield, OH, then along U.S. Hwy 68 to the Ohio River, including points in OH on the indicated portions of the highways specified, and return over irregular routes to the OH-IN State line, and then over the specified route to Lafayette; between Crawfordsville, IN, and points in OH, serving the intermediate point of Indianapolis, IN; from Crawfordsville over U.S. Hwy 136 to Indianapolis, IN, then over U.S. Hwy 40 to the IN-OH State line, and then over irregular routes to points in that part of OH south and west of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction OH Hwy 440 (formerly portion of U.S. Hwy 40), then along OH Hwy 440 to Springfield, OH, then along U.S. Hwy 68 to the Ohio River, including points in OH on the indicated portions of the highways specified, and return over irregular routes to the OH-IN State line, and then over the specified route to Crawfordsville. Knocked down paper cartons and parts thereof from Indianapolis, IN, to points in OH, that part of MI on and south of MI Hwy 21, that part of IL on and north of U.S. Hwy 50, and Louisville, Covington, Owensboro, and Maysville, KY; and rejected or damaged shipments of the above-described commodities from points in OH, that part of MI on and south of MI Hwy 21, that part of IL on and north of U.S. Hwy 50 and Louisville, Covington, Owensboro, and Maysville, KY, to Indianapolis, IN. Knocked down paper cartons, in straight or mixed truckloads of 15,000 pounds or more, from Indianapolis, IN, to points in that part of IL south of U.S. Hwy 50; and rejected shipments of the commodity described next above, from points in that part of IL south of U.S. Hwy 50 to Indianapolis, IN; (b) *corrugated boxes and corrugated paper,* from the plantsite of the Weston Paper & Manufacturing Co., located at or near Fort Wayne, IN, to points in KY (except Louisville and points in its commercial zone as defined by the Commission); IL (except Chicago and points in its commercial zone as defined by the Commission); points in that part of OH on and east of U.S. Hwy 23 (except Columbus, Cleveland, Toledo, Akron, Canton, Mansfield, and Springfield). (c) *Paper and paper products and commodities* produced or distributed by manufacturers and converters of paper and paper products, from the plantsite of Inland Container Corp. located at Crawfordsville, IN, to points in IL, KY, MI, MO, and OH; and materials and supplies used in the manufacture and distribution of the commodities described in (1) above (except commodities which because of size or weight require the use of special equipment and commodities in bulk), from points in the destination States named in (1) above, to the plantsite of Inland Container Corp. at Crawfordsville, IN, restricted to the transportation of traffic originating at points in the destination States named in (1) above, and destined to the plantsite of Inland Container Corp. located at Crawfordsville, IN. (d) *Paper and paper products* between the facilities of Inland Container Corp. located at or near Cayuga, IN, on the one hand, and, on the other, points in IL, KY, MO, and OH, restricted to the transportation of traffic originating at or destined to Cayuga, IN. (e) *Metal beverage containers* from AC Leasing Warehouse at Sharonville, OH, and the facilities of the National Can Corp. at Obetz, OH, to the facilities of C. Helleman Brewing Co., of Indiana, Inc. at Evansville, IN, with no transportation for compensation on return except as otherwise authorized. (f) *Paper and paper products* (1) from the facilities of the Weston Paper & Manufacturing Co., at Terre Haute, IN, to points in KY; (2) from the facilities of the Weston Paper & Manufacturing Co. at Lexington, KY, to points in IN; (3) from the facilities of Inland Container Corp. at Evansville, IN, to points in KY; and (4) from the facilities of Inland Container Corp. at Louisville, KY, to points in IN restricted to traffic originating at the named origins and destined to points in the named destination States. (g) *Waste paper* for reuse or recycling, between points in IN, on the one hand, and, on the other, points in IL, KY, MI, MO, and OH. Transferee is authorized to operate in the States of IN, IL, KY, MI, and OH. Transferee's commonly controlled companies, C & C Cartage, Inc. and Whiteford Transport, Inc. are authorized to operate in all States except AK, HI, WA, OR, CA, NV, ID, MT, WY, UT, AZ, and NM.

MC-F-13758F. Authority sought for purchase by CARDINAL FREIGHTWAYS LTD., 811 South 59th Avenue, Phoenix, AZ 85043, of the operating rights of M. Nolden, trustee in bankruptcy of Osborne Highway Express. Attorney: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. Representative: David P. Christianson of Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. Operating rights sought to be purchased: *Agricultural chemicals and fertilizers* (except in bulk), as a *common carrier,* over irregular routes, from the plantsite and storage facilities of Occidental Chemical Co., at Lathrop, CA, to points in AZ; and *Chemicals and supplies* used in the manufacture and sale of agricultural chemicals and fertilizers (except in bulk), from points in AZ, to the plantsite and storage facilities of Occidental Chemical Co., at Lathrop, CA. Transferee holds authorities to operate as a common carrier between CA and AZ. Application has not been filed for temporary authority under section 210a(b).

MC-F-13759F. Authority sought for purchase by HOLLAND MOTOR EXPRESS, INC., 750 East 40th Street, Holland, MI 49423, of a portion of the operating rights and property of National Transit Corp., 4401 Stecker, P.O. Box 610, Dearborn, MI 48121, and for acquisition by Charles Cooper, Robert Cooper, and Gerald Cooper, all also of 450 East 40th Street, Holland, MI 49423, of control of such rights and property through the purchase. Attorney: Daniel C. Sullivan, Esq., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Attorney: Charles F. Rodgers, Esq., Bowes, Millner, Rodgers, Liberstein & Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transferor operates as a *common carrier,* over regular and irregular routes, in the transportation of: *General commodities and other specified commodities,* between points in IN, MI, and OH, pursuant to certificates contained in MC 6945 and sub numbers thereto. The operating rights sought to be transferred in this instance authorize the transportation of *general commodities,* with, exceptions, over regular routes between Cincinnati, Columbus, and Toledo, OH; Indianapolis, IN, and Detroit, MI, with service at numerous intermediate points. Also involved are rights authorizing the transportation of *general commodities,* with exceptions, over irregular routes, between Thomas, Hopewell, Madison, Walnut, and Richland Townships; Perry and Fairfield Counties, and Columbus and Alexandria, OH, on the one hand, and, on the other, points in OH on and south of U.S. Hwy 30 (except Bucyrus and Canton, OH). The foregoing summary is offered as sufficient public notice of the nature and scope of the operating rights being transferred. It is not intended to be and should not be deemed a complete description of said operating rights. Transferee operates as a common carrier over regular and irregular routes in the transportation of general commodities, with exceptions, and specified commodities, between points on IL, IN, IA, KY, MI, and OH, pursuant to authority contained in Docket No. MC 59206 and sub numbers thereto. Approval of this application will not result in dual operations or duplicating authority. Approval may result in a split of a route between Wapakoneta, OH, and Indianapolis, IN, and will result in a split of a route between Bay City and Detroit, MI, at Pontiac, MI, with transferor retaining the portion between Pontiac and Bay City. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 59206 (Sub-23F), is a directly related matter.

MC-F-13764F. Authority sought for purchase by GENERAL CARTAGE CO., INC., West Route 30, Rock Falls, IL 61071, of the operating rights and property of Motor Freight Service, Inc., P.O. Box 742, Moline, IL 61265, and for acquisition by Charles D. Hoover, also of West Route 30, Rock Falls, IL 61071, of control of such rights and property through the purchase. Attorney: Bernard J. Kompare, Esq., 10 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be purchased: (1) *Agricultural implements and parts, machinery and parts, advertising matter, and implement dealer supplies,* as a *common carrier* over irregular routes, between Rock Falls, East Moline, Rock Island, and Canton, IL, on the one hand, and, on the other, Davenport and Bettendorf, IA. (2)(a) *Wheels, rims, hubs, and spindles,* as a *common carrier* over irregular routes, from Walcott, IA, to Rock Falls, East Moline, Rock Island, and Canton, IL; and (b) *materials and supplies,* used in the manufacture and distribution of the commodities in (a) above, from Rock Falls, East Moline, Rock Island, and Canton, IL, to Walcott, IA; restricted in (a) and (b) above to the transportation of traffic originating at or destined to the facilities of French & Hecht Division, Kelsey Hayes Co., at or near Walcott, IA. Transferee is authorized to operate as a contract carrier in IL, IN, IA, KS, KY, MI, MN, MO, NB, ND, OH, SD, and WI. Approval of this application will not result in duplicating authority. Approval will result in dual operations. Application has been filed for temporary authority under section 210a(b).

MC-F-13765F. Authority sought for purchase by STOKLEY TRANSPORTATION CORP., P.O. Box 159, Glassboro, NJ 08028, of a portion of the operating rights of Fleetwood Transportation Corp., P.O. Box 155, Dunmore, PA 18512, and for acquisition by John N. Stokley, Jr. and William H. Stokley, also of P.O. Box 159, Glassboro, NJ 08028, of control of such rights through the purchase. Attorney: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Operating rights sought to be purchased: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), as a contract carrier over irregular routes from Fleetwood, PA, to points in PA, NY, NJ, MD, DE, and DC; from Fleetwood, PA, to points in VA and WV, from points in PA, NY, NJ, MD, DE, VA, WV, and DC to Fleetwood, PA; between the facilities of Ocean Spray Cranberries, Inc., in the Borough of Bordentown, NJ, and the facilities of Agfoods, Inc., in the Township of Florence, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, WV, and DC. Said operations are restricted against the transportation of glass from points in that part of PA on and west of U.S. Hwy 219 to Bordentown, NJ. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Agfoods, Inc. Common control and dual operations may be involved. Stokley Transportation Corp. holds no authority from this Commission. However, applicant's principals are the sole officers, directors and stockholders of Marsh Express, Inc., a common carrier authorized to operate in the States of PA and NJ. Application has been filed for temporary authority under section 210a(b).

MC-F-13766F. Authority sought to purchase by TFS, Inc., Box 126, Rural Route 2, Grand Island, NE 68801, of a portion of the operating rights of Payne Motor Lines, Inc., P.O. Box 1937, Elko, NV 89801, and for acquisition by Robert Wenzl, Box 126, Rural Route 2, Grand Island, NE 68801, of control of such rights through the transaction. Attorneys: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501, and Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Operating rights, as a *common carrier,* over irregular routes, sought to be transferred: (1) *Frozen inedible meat,* from Salt Lake City and Odgen, UT, and Boise, Idaho Falls, and Twin Falls, ID, to points in CA, OR, WA, CO, KS, MO, NE, IA, AZ, WI, MI, IL, OH, and IN; (2) *Animal and poultry feed* (except liquid), from Ogden, UT, to points in CA, OR, WA, CO, KS, MO, NE, IA, AZ, MN, WI, ND, SD, MI, IL, OH, and IN; and (3) *Animal and poultry feed and frozed inedible meat* (except liquid commodities and commodities in bulk, in tank or hopper-tye vehicles), (a) from points in CA south of San Mateo, Santa Clara, Merced, Madera, and Mono Counties (except points in San Bernardino, Riverside, Imperial, and San Diego Counties), to points in CO on, north and east of a line beginning at the KS-CO State line extending along Interstate Hwy 70 to junction U.S. Hwy 24, then along U.S. Hwy 24 to Colorado Springs, CO, then along Interstate Hwy 25 to junction CO Hwy 14, then along CO Hwy 14 to U.S. Hwy 287 to the CO-WY State line; (b) from Seattle, WA, to points in NE and those points in SD located on and east and south of U.S. Hwy 14 beginning at the MN-SD State line to junction of U.S. Hwy 83 near Pierre, then over U.S. Hwy 83 to the junction of Interstate Hwy 90, then over Interstate Hwy 90 to U.S. Hwy 83, then over U.S. Hwy 83 to junction U.S. Hwy 18, then over U.S. Hwy 18 to U.S. Hwy 83, then over U.S. Hwy 83 to the NE-SD State line; (c) from Seattle, WA, to points in CO, KS, MO, IA, AZ, MI, IL, OH, and IN; (d) from points in CA north of San Benito, Fresno, Monterey, and Inyo Counties to points in CO; (e) from Seattle, WA, to points in MN on, south and east of a line beginning at the WI-MN State line extending along U.S. Hwy 61 to junction MN Hwy 60, then along MN Hwy 60 to the MN-IA State line, and to points in MI (except the Upper Peninsula) and points in WI on and south of U.S. Hwy 10; (f) from Kansas City and St. Joseph, MO, to points in CA, WA, and OR; (g) from Denver, CO, to points in CA on and north extending along U.S. Hwy 66 to San Bernardino, then along CA Hwy 91 to junction CA Hwy 55, then along CA Hwy 55 to Newport Beach, CA, and points in WA and OR; (h) from points in CA located on and south of CA Hwy 126, beginning at Ventura, CA, to the intersection of Interstate Hwy 5, then over Interstate Hwy 5 to junction CA Hwy 15, then along CA Hwy 15 to Palmdale, then east over unnumbered Hwy to Interstate Hwy 15, then over Interstate Hwy 15 to the NV-CA State line to those points in WA located on and east of U.S. Hwy 395 (except Franklin County, WA); (i) from points in CA to points in OH, IN, IL, MI, SD, ND, WI, MN, IA, and NE; and (j) from points in CA on and north of a line extending along U.S. Hwy 66 to San Bernardino, then along CA Hwy 91 to junction CA Hwy 55, then along CA Hwy 55 to Newport Beach to points in MO (except McDonald, Barry, Stone, and Taney Counties), and points in KS (except Stanton, Morton, Grant, Stevens, Haskell, Ford, Meade, Clark, Comanche, Barber, Harper, Sumner, Kiowa, Pratt, Kingman, Cowley, Sedgwick, Chataqua, and Elk Counties). TFS, Inc., holds authority as a contract carrier conducting operations between various points in the United States for the account of Oxford Cheese Corp., Ag Service, Inc., Morgen Manufacturing Co., Bonsail Pool Co., and Endicott Clay Products Co. Application has been filed for temporary authority under section 210a(b).

MC-F-13767F. Authority sought for purchase by ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301, of a portion of the operating rights of Farris Truck Line, a corporation, P.O. Box 224, Faucett, MO 64448, and for acquisition by Vincent Elliott, P.O. Box 1, Vinita, OK 74301, of control of such rights, through the transaction. Applicants' attorney: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. Op-

erating rights sought to be transferred: *Dry fertilizer and dry fertilizer materials, in bulk or in bags, and pesticides and herbicides in containers and supplies* in the opposite direction. Approval of the transaction will result in splitting of vendor's operating authority. Permit MC-109501 under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under sec-

NOTE.—The purpose of this application is to convert irregular route authority to regular route authority and is directly related to a finance proceeding docketed MC-F-13681

Passaic, Bergen, Hudson, Essex, Union, Morris and Somerset Counties, NJ; and (2) *Business records* and *printed matter* between Clinton, NJ,

nati, and return over the same route. (Hearing site: Chicago, IL.)

NOTE.—This application is directly related

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erating rights sought to be transferred: *Dry fertilizer and dry fertilizer materials, in bulk or in bags, and pesticides and herbicides in containers* from the plant site of W. R. Grace & Co., at or near Atlas, MO, to points in IL (except points in the St. Louis, MO-East St. Louis, IL Commercial Zone as defined by the Commission), KY, TN, and TX (except points in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties), with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with W. R. Grace & Co. The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right; and Dry urea, from the facilities of Atlas Chemical Industries at or near Atlas, MO to points in AR, CO, IL, IA, KS, NE, and OK, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with W. R. Grace & Co. Vendee is authorized to operate as a *common carrier* in the States of MO, OK, KS, AR, TX, LA, TN, MS, NE, IL, IA, CO, MN, SD, WI, GA, NM, and IN. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-59117 (Sub-60F) is a directly related matter.

No. MC-F-13768F. Authority sought for purchase by FASTWAY TRANSPORTATION, INC., 151D Morristown Road, Matawan, NJ 07747, of a portion of the operating rights of Calhoun Trucking Corp., 319 Jacet Road, Kearny, NJ 07032, and for acquisition by Edmund E. Hunt, also of Matawan, NJ, of control of the right through the purchase. Applicant's attorney: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Operating rights sought to be purchased: As a *contract carrier* by motor vehicle, over irregular routes, *iron and steel mill products and aluminum products*, from Lyndhurst, NJ, to points in CT, NY and PA; *air conditioner sub assemblies and parts* from Newark, NJ, to Maspeth, NY; *boilers, radiators, furnaces, and air-conditioning units and parts* between Newark and Garwood, NJ, on the one hand, and, on the other, points in CT, NY and PA; *household appliances, furnaces, air cleaners, conditioners, waters, humidifiers, dehumidifiers*, from Edison, NJ, to points in CT, NY, PA, RI, MA, MD, DE, VA, DC, NC, SC, GA, FL, AL, TN, KY, and MI and *materials and supplies* in the opposite direction. Approval of the transaction will result in splitting of vendor's operating authority. Permit MC-109501 (Sub-13) to be purchased by Louis J. Kennedy Trucking Co. and section 5 application previously filed. No duplicating authority. Dual operations involved as vendee holds common carrier authority in MC-36918 in NY and NY. Application has been filed for temporary authority under section 210a(b).

MC-F-13769F. Authority sought by CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, to purchase a portion of the operating rights of Sundance Freight Lines, Inc., 821 E. Pasadena Avenue, Phoenix, AZ 85011, and for acquisition by Consolidated Freightways, Inc., 601 California Street, San Francisco, CA 94108, of control of such rights through purchase. Vendee's attorney: Eugene T. Lilpfert, Suite 1000, 1660 L Street NW., Washington, D.C. 20036; Vendor's attorney: William S. Richards, 48 Post Office Place, P.O. Box 2465, Salt Lake City, UT 84110. Operating rights to be purchased: *General commodities* with the usual exceptions, over regular routes (1) between Deming, NM and Rodeo, NM, over U.S. Hwy 80, serving all intermediate points; (2) between El Paso, TX and Deming, NM, over U.S. Hwy 80, serving the intermediate points of Aleka and Cambray, NM, and the off-route points of the Corrilitos Ranch, The Johnson Ranch, The Jernigan Ranch, The Birchfield Ranch and Wemple, NM; (3) between San Antonio, TX and El Paso, TX over U.S. Hwy 87 to Comfort, TX, thence over TX Hwy 27 to junction U.S. Hwy 290, thence U.S. Hwy 290 to junction U.S. Hwy 80, thence U.S. Hwy 80 to El Paso, serving all intermediate points and the off-route points of Royalty, Crane, and Iraan, TX; and (4) between Road Forks, NM and Tucson, AZ over Interstate 10, serving all intermediate points except Benson, AZ. Vendee has agreed to except a restriction against service at intermediate points between El Paso and Tucson outside the El Paso and Tucson Commercial Zones except as required for tacking purposes. Vendee is authorized to operate as a common carrier in all States except Hawaii pursuant to certificates issued in docket No. MC 42487 and sub numbers. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation resulting from approval of its application.

MC 1977 (Sub-29F), filed September 25, 1978. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods, commodities in bulk, and commodities, which because of size or weight, require special handling or the use of special equipment): (1) Between Salt Lake City, UT, and Idaho Falls, ID, serving the intermediate points of Blackfoot, ID, Pocatello, ID, and all intermediate points between Salt Lake City and Brigham City, UT, including Brigham City; from Salt Lake City over Interstate Hwy 15 to Idaho Falls and return; (2) between Salt Lake City, UT, and Boise, ID, serving all intermediate points between Salt Lake City and Brigham City, including Brigham City; from Salt Lake City over Intersate Hwy 15 to Junction Interstte Hwy 80 north, then over Intersate Hwy 80 north to Boise and return; (3) between Boise, ID, and Pocatello, ID, serving no intermediate points and serving Pocatello for joinder only; from Pocatello over Interstate Hwy 15 west to Junction Interstate Hwy 80 north, then over Interstate Hwy 80 north to Boise and return; (4) serving points within a 50-mile radius of Salt Lake City, UT (excluding points on Interstate Hwy 15 between Salt Lake City and Brigham City, UT, including Brigham City) as off-route points in connection with the carrier's authorized routes to and from Salt Lake City.

NOTE.—The purpose of this application is to convert irregular route authority to regular route authority and is directly related to a finance proceeding docketed MC-F-13681 which was previously published in a previous section of the FR issue of August 17, 1978. (Hearing sites: Salt Lake City, UT, Pocatello and Boise, ID.)

MC 28536 (Sub-17F), filed September 15, 1978. Applicant: FOX & GINN, INC., 207 Perry Road, Bangor, ME 04401. Representative: Kenneth B. Williams, 84 State Street, Boston, MA 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, new furniture, uncrated, commodities in bulk, and commodities requiring special equipment): Between, points in MA, RI and CT, on the one hand, and, on the other, Bennington and Brattleboro, VT, Albany, Kingston, Middleton, Newburgh, Peekskill, Poughkeepsie, Schenectady, Troy, West Point, and New York, NY, Jersey City and Newark, NJ, and points in Putnam and Westchester Counties, NY. (Hearing site: Boston, MA or Hartford, CT.)

NOTE.—The purpose of this application is to eliminate the gateways at points within 30 miles of Boston, Springfield, and Worcester, MA and Bridgeport, Hartford, and New Haven, CT, including the points named and to seek permission to join or tack the above with applicant's presently held irregular route authority, and is directly related to MC-F-13738F, Fox & Ginn, Inc. Purchase: Hartford Despatch & Warehouse Co., Inc., published in a previous section of this FR issue.

MC 54200 (Sub-7F), filed September 14, 1978. Applicant: SEIGLE'S EXPRESS, INC., Foot of Pennsylvania Avenue, South Kearney, NJ 07032. Representative: William W. Becker, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and antique automobiles and used classic cars in secondary movements in truckaway service): between points in Suffolk County, NJ, on the one hand, and, on the other, points in Nassau County, NY, points in the New York, NY, Commercial Zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), those points in NJ and all of any municipality any part of which is within 5 miles of New York, NY, and points in Passaic, Bergen, Hudson, Essex, Union, Morris and Somerset Counties, NJ; and (2) *Business records* and *printed matter*: between Clinton, NJ and points in Suffolk County, NY. (Hearing site: New York, NY, or Washington, DC.)

NOTE.—This application is filed as a directly related application to finance proceeding docketed MC-F-13739F published in a previous section of this FR issue. The purpose of this application is to eliminate the gateway of New York, NY Commercial Zone.

MC 59117 (Sub-60F), filed October 4, 1978. Applicant: ELLIOTT TRUCK LINE, INC., Box 1 Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Dry fertilizer, dry fertilizer materials, in bulk or in bags, pesticides and herbicides in containers and dry urea, from Atlas, MO to points in IL (except points in the St. Louis, MO-East St. Louis, IL Commercial Zone as defined by the Commission), KY, TN, and TX (Except points in Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties), AR, CO, IA, KS, NE, and OK. (Hearing site: Kansas City, MO, or Tulsa, OK.)

NOTE.—The purpose of this application is to convert a contract carrier permit to a certificate of public convenience and necessity. This matter is directly related to a finance proceeding docketed MC-F-13767F, published in a previous section of this FEDERAL REGISTER issue.

MC 59206 (Sub-23F) filed September 29, 1978. Applicant: HOLLAND MOTOR EXPRESS, INC., 750 East 40th Street., Holland, MI 49423. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Fort Wayne, IN and Cincinnati, OH, serving the junction of U.S. Hwy 27 and IN Hwy 67, the junction of U.S. Hwy 27 and U.S. Hwy 40, and the junction of U.S. Hwy 27 and Interstate Hwy 70 as intermediate points for joinder only, from Fort Wayne over U.S. Hwy 27 to Cincinnati, and return over the same route. Between Fort Wayne, IN and Cincinnati, OH, serving the junction of U.S. Hwy 127 and OH Hwy 29 and the junction of U.S. Hwy 127 and U.S. Hwy 40, and the junction of U.S. Hwy 127 and Interstate Hwy 70 as intermediate points for joinder only. From Fort Wayne over U.S. Hwy 33 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Cincinnati, and return over the same route. (Hearing site: Chicago, IL.)

NOTE.—This application is directly related to MC-F-13759F, Holland Motor Express, Inc., purchase (portion), National Transit Corp., published in a previous section of this FEDERAL REGISTER issue. The purpose of this application is to convert an alternate route and a deviation route to service routes in order to allow joinder at the indicated intermediate points.

MC 108194 (Sub-14F), filed October 3, 1978. Applicant: WILLIAM B. MEYER, INC., 60 Long Beach Boulevard, Stratford, CT 06497. Representative: Sidney L. Goldstein, 109 Church Street, New Haven, CT 06510. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points within 15 miles of Stamford, CT, on the one hand, and, on the other, points in NH, VT, DE, DC, MD, OH, and VA. (Hearing Site: New Haven, CT, or Hartford, CT)

NOTE.—The purpose of this application is to enable applicant to tack at common points created by the 15 mileage radii within Bridgeport, CT, and the 15 mileage radii within Stamford, CT. This matter is directly related to a finance proceeding docketed MC-F-13695F published in a previous section of this FEDERAL REGISTER issue.

MC 116212 (Sub-11F), filed October 4, 1978. Applicant: EYRE'S BUS SERVICE, INC., 15810 Union Chapel Road, Woodbine, MD 21797. Representative: Bruce E. Mitchell, Fifth floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as *common carrier*, by motor vehicle, over regular routes, transporting passengers and their baggage and express, in the same vehicle with passengers, between Washington, DC and the junction of U.S. Hwy 29 and Interstate Hwy 495 at or near Four Corners, MD, serving the intermediate point of Silver Spring, MD. From Washington over Colesville Road to junction of U.S. Hwy 29 thence over U.S. Hwy 29 to junction Interstate 495 and return over the same route.

Restriction: The authority requested herein is restricted against (1) originating traffic in the District of Columbia destined to Four Corners and points south thereof, and (2) originating traffic from points between Four Corners and the MD-DC line destined to the District of Columbia. (Hearing site: Washington, DC.)

NOTE.—The purpose of this application is to enable applicant to connect regular route authority at Four Corners, MD in service to and from Baltimore, MD. This matter is directly related to a section 5 finance proceeding docketed MC-F-13751F and published in a previous section of this FEDERAL REGISTER issue.

MC 145483F filed September 29, 1978. Applicant: GENOVA TRANS-

PORT, INC., 484 Clayton Road, Williamstown, NJ 07934. Representive: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to Inc., Di Lullo & Son and Violet Packing Co., at Williamstown, Glassboro, and Gloucester, NJ, to points in NY, PA, CT, MA, VA, RI, MD, DE, NC, and Restriction: The authority sought herein is restricted to the transportation of shipments originating at the named origins and destined to the

99501, and should not be directed to the Interstate Commerce Commission.

trucks; classes A and B explosives and classes, A, C, and D poisons as defined under explosives and other dangerous

serving all points in said counties, and return over the same route, serving the junction of I-40 and TN Hwy 22

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PORT, INC., 484 Clayton Road, Williamstown, NJ 07934. Representive: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Canned goods*, from the facilities of Violet Packing Co., at Williamstown, NJ, to Hartford, New Haven, and Stamford, CT, Boston, MA, Providence, RI, New York, Buffalo, Albany, Schenectady, Rochester, and Canandaigua, NY, Philadelphia, Wilkes-Barre, and Scranton, PA, Baltimore, MD and Washington, DC, (2) *Containers, ends, caps, and covers*, from Fruitland, MD, to the plantsite and facilities of Violet Packing Co., at Williamstown, NJ, (3) *Metal containers, ends, caps and covers*, from Winchester, VA, to the facilities of Violet Packing Co., at Williamstown, NJ, (4) *Empty containers*, from Baltimore, MD, to the facilities of Violet Packing Co., at Williamstown, NJ, (5) *Canned goods*, from the facilities of Violet Packing Co., at Williamstown, NJ, to Norfolk and Richmond, VA, and Charlotte, NC, (6) *Metal containers, ends, caps* and *covers*, from Winchester, VA, to the facilities of National Fruit Co., Inc. and Ron Son Mushroom Products Co., Inc., at Glassboro, NJ, (7) *Canned apple products*, from the facilities of National Fruit Co., Inc. at Glassboro, NJ, to New York, Buffalo, Albany, Schenectady, Rochester and Canandaigua, NY, Philadelphia, Wilkes-Barre, and Scranton, PA, Baltimore, MD, Hartford, New Haven, and Stamford, CT, Boston, MA, Providence, RI, Norfolk and Richmond, VA, Charlotte, NC, and Washington, DC, (8) *Empty containers, ends, caps and covers*, from Baltimore, MD, to the facilities of National Fruit Co., Inc. at Glassboro, NJ, (9) *Containers and container ends, caps* and *covers*, from Fruitland, MD, to the facilities of National Fruit Co., Inc., Ron Son Mushroom Products Co., Inc., Di Lullo & Son and Violet Packing Co., at Glassboro and Gloucester, NJ, (10) *Canned goods*, from the facilities of National Fruit Co., Inc., Ron Son Mushroom Products Co., Inc., Di Lullo & Son and Violet Packing Co., at Williamstown, Glassboro, and Gloucester, NJ, to points in NY, PA, CT, MA, VA, RI, MD, DE, NC, and DC, (11) *Commodities*, the transportation of which is otherwise exempt from economic regulations when tranported in the same vehicle, at the same time with containers, and container ends, caps and covers and canned goods, (a) from Fruitland, MD, to the facilities of National Fruit Co., Inc., Ron Son Mushrooms Products Co., Inc., Di Lullo & Son and Violet Packing Co., at Glassboro and Gloucester, NJ, (b) from the facilities of National Fruit Co., Inc., Ron Son Mushroom Products Co., Inc., Di Lullo & Son and Violet Packing Co., at Williamstown, Glassboro, and Gloucester, NJ, to points in NY, PA, CT, MA, VA, RI, MD, DE, NC, and DC, (12) *Containers and container ends, caps and covers*, from Philadelphia and Morrisville (Bucks County), PA, to the facilities of National Fruit Co., Inc. and Ron Son Mushroom Products, Inc., Glassboro, NJ, (13) *Containers and container ends, caps and covers*, (a) from Philadelphia, and Morrisville (Bucks County), PA, to the facilities of Violet Packing Co., at Williamstown, NJ, (b) from Baltimore, MD, to the facilities of Di Lullo & Son, at Gloucester, NJ, (14) *Foodstuffs*, in vehicles equipped with mechanical refrigeration, (a) from the facilities of Joseph L. Scalafani, Inc., at New York, NY to Williamstown, NJ, Baltimore, MD, Washington, DC, and Philadelphia, PA, (b) from the facilities of Joseph L. Scalafani, Inc., at Williamstown, NJ, to Baltimore, MD, Washington, DC, and Philadelphia, PA, (15) *Plastic articles* (except in bulk), from the facilities of Crown Zellerbach Corp., Glassboro, NJ, to points in MA, CT, RI, PA, NY, NJ, MD, DE, VA, NC, SC, GA, FL, and DC, (16) *Containers, container ends, caps and covers*, from Lemoyne, PA, and Cambridge and Hurlock, MD, to the facilities of National Fruit Co., Inc. and Ron Son Mushroom Products, Inc., at Glassboro, NJ, and the facilities of Violet Packing Co., at Williamstown, NJ, (17) *Frozen foods*, from the facilities of Mrs. Paul's Kitchens, Inc., at Philadelphia, PA, to points in NJ, NY, CT, MA, and RI, (18) *Food products* (except in bulk), (a) Between the facilities of Buitoni Foods Corp., at South Hackensack, NJ, on the one hand, and, on the other, New York, NY, and Points in Nassau, Suffolk, Westchester, Orange, and Rockland Counties, NY, and points in Fairfield, Hartford, and New Haven Counties, CT, (b) from piers in New York Harbor, NY, to points in NJ, points in Nassau, Suffolk, Westchester, Orange, and Rockland Counties, NY, and points in Fairfield, Hartford, and New Haven Counties, CT, and (19) (a) *Canned goods and materials, equipment and supplies* used in the manufacture and sale of a canned goods (except commodities in bulk); and (b) agricultural commodities, the transportation of which is otherwise exempt from economic regulation pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicles and at the same time as the commodities in (a) above, between the facilities of Ron Son Mushroom Products Co., at Glassboro, NJ, and the facilities of Violet Packing Co., at Williamstown, NJ, on the one hand, and, on the other, points in OH and ME. Restriction: The authority sought herein is restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

NOTE.—The purpose of this application is to convert applicant's contract carrier permits to a certificate of public convenience and necessity. This matter is directly related to a finance proceeding docketed MC-F-13760F, published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 78-344-MP/E filed: August 3, 1978. Applicant: TRANSPORTATION SERVICES, INC., d.b.a. American Sightseeing of Alaska, 1135 West 8th Avenue, Suite 3, Anchorage, AK 99502. Representative: Andrew E. Hoge, 3201 "C" Street, Suite 706, Anchorage, AK 99503. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Inter-urban, sightseeing and tour services* as defined by the Alaska Transportation Commission, between Fairbanks and Prudhoe Bay, via Alaska State Hwy 2 and the unnumbered North Slope Haul Road, including services from and to all points and places along that route within thirty (30) miles laterally along each side of these hwys and at each terminus, and to and including Manley Hot Springs. Authority is also sought to tack and join these routes with all authority presently held by applicant. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Alaska Transportation Commission, 1000 McKay Building, 338 Denali Street, Anchorage, AK

99501, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 780710-CCT filed: August 29, 1978. Applicant: ALL SOUTHERN TRUCKING, INC., 1909 East Hemlock Avenue, Tampa, FL. Representative: Richard H. Wilson, 2316 First Florida Tower, Tampa, FL 33602. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *Rough lumber, semi-finished lumber and finished lumber, millwork, doors, hardboard, sheeting materials and products, plywood, and fabricated lumber products*, to, from and between all points and places within the State of Florida and Applicant seeks duplicating authority from the Interstate Commerce Commission to the same extent to which authority is granted by the Florida Public Service Commission. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, Fletcher Building, 101 East Gaines Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

Nebraska Docket No. M-12610 supplement No. 1, filed: September 13, 1978. Applicant: SYRACUSE TRANSFER, INC., 320 Swanson Drive, Syracuse, NE. Representative: Lavern R. Holdeman, Box 81849, Lincoln, NE. Certificate of Public Convenience and Necessity sought to operate a freight service, over irregular routes, as follows: Transportation of: *General commodities* (excepting those requiring special equipment), from points within a 25-mile radius of Syracuse, NE, (except points in Otoe County), to and from Omaha, occasionally to and from York,Grand Island and points generally within a 175-mile radius of Syracuse, NE. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Nebraska Public Service Commission, 301 Centennial Mall South, P.O. Box 94927, Lincoln, NE 68509, and should be not directed to the Interstate Commerce Commission.

South Carolina Docket No. 78-278-T (Amendment) filed June 1, 1978. Applicant: GREENWOOD MOTOR LINES, INC., Montague Avenue, P.O. Drawer 336, Greenwood, SC. Representative: William B. Patrick, Jr., P.O. drawer 1207, Greenwood, SC. Certificate of Public Convenience and Necessity sought to operate as freight service, as follows: Transportation of: *General commodities* (except any commodities or products in bulk tank trucks; classes A and B explosives and classes, A, C, and D poisons as defined under explosives and other dangerous articles in American Trucking Assn., Inc., Agent, Tariff No. 10, MF-ICC No. 11, PSCSC No. 11, supplements thereto or reissues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, Household Goods Tariff, Motor Freight Tariff No. 8-C, SCPSC-MF No. 79, supplements thereto or reissues thereof): between points and places in Bamberg, Barnwell and Orangeburg counties, and between points and places in these counties and points and places in South Carolina.

NOTE.—The purpose of this publication is to amend the commodity description to include Bamberg County, Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Box 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket MC 2668 (Sub-7), filed August 24, 1978. Applicant: HOHENWALD TRUCK LINES, INC., Columbia Highway, Hohenwald, TN 38462. Representative: A. O. Buck, 618 United American Bank Building, Nashville, TN 37219. Certificate of public convenience and necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except household goods, classes A and B explosives, commodities in bulk and those requiring special equipment); Route 1—between Franklin, TN and Buffalo, TN; from Franklin over TN Hwy 96 to its junction with Interstate Hwy I-40, then over Interstate Hwy I-40 to Buffalo, and return over the same route; Route 2—between Franklin, TN and Hohenwald, TN; from Franklin over U.S. Hwy 31 to its junction with TN Hwy 99, then over TN Hwy 99 to Hohenwald, and return over the same route; Said Routes 1 and 2 to be used as alternate routes for operating convenience only, and to be used in conjunction with all of applicant's existing authority. Intrastate, interstate and foreign commerce authority sought. Hearing: November 21, 1978, at 1:30 p.m., C-1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission. (4) amend Route (1) of carrier's Certificate No. 3436, so as to read as follows: "From Nashville, TN, via I-40 to junction with TN Hwy 22, then via TN Hwy 22 to the Weakley County Line, then over any and all highways and roads in Weakley and Obion Counties, serving all points in said counties, and return over the same route, serving the junction of I-40 and TN Hwy 22 for purposes of joinder only. All of the foregoing routes to be used in conjunction with each other and in conjunction with all of carrier's other authority. Restriction: Restricted against tacking the foregoing authority with any of carrier's other authority for the purpose of providing a through service between Nashville and Memphis, TN and points in their respective commercial zones. Intrastate, interstate and foreign commerce authority sought. Hearing: December 11, 1978, at 9:30 a.m., C1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219.

NOTE.—Applicant presently operates in interstate commerce pursuant to Certificates of Registration issued in MC 121699.

Tennessee Docket MC 5317 (Sub-2), filed: August 23, 1978. Applicant: VOLUNTEER EXPRESS, INC., 1220 Faydur Court, Nashville, TN 37211. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Certificate of public convenience and necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except classes A and B explosives, household goods, commodities in bulk, and articles requiring special equipment): (1) from Jackson, TN via U.S. Hwy 45 to junction with U.S. Hwy 45W, thence via U.S. Hwy 45W to the Obion County line, thence via any and all highways and roads in Obion and Weakley Counties, TN, serving all points in said counties (but serving no intermediate points between Jackson and the said Obion County line), and return over the same route. (2) Amend Route (2) of carrier's Certificate No. 3436-A, so as to read as follows: "From Memphis, TN via I-40 to junction with U.S. Hwy 45 at Jackson, TN, thence via U.S. Hwy 45 to its junction with U.S. Hwy 45E to the Weakley County line, thence via any and all highways and roads in Weakley and Obion Counties, serving all points in said counties, and serving Jackson as an intermediate point." (3) From Jackson, TN via I-40 to junction of I-40 and TN Hwy 22, and return over the same route, serving said junction of I-40 and TN Hwy 22 for purposes of joinder only.

Tennessee Docket MC 6105 (Sub-1), filed: August 24, 1978. Applicant: SOUTHEASTERN WAREHOUSING & DISTRIBUTION CORP., P.O. Box 5456 EKS, Johnson City, TN 37601. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37601. Certificate of public conven-

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ience and necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General*

[7035-01-M]

[Finance Docket No. 28867]

No. 4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or

the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A pro-

cles and trailers and wrecked or disabled farm implements and farm machinery, by use of wrecker equipment

follows: Anhydrous ammonia, in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near Garner, IA,

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ience and necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Bristol, TN and Bulls Gap, TN; from Bristol, TN over U.S. Hwy 11E to Bulls Gap, TN, and return over same route, serving all intermediate points; (2) between Kingsport, TN and Erwin, TN; from Kingsport, TN over U.S. Hwy 23 to Erwin, TN and return over same route, serving all intermediate points; (3) between Johnson City, TN and Mountain City, TN; from Johnson City, TN over TN Hwy 67 to Mountain City, TN and return over same route serving all intermediate points; (4) in connection with routes 1, 2, and 3 above, serving all other points in Carter, Greene, Hawkins, Johnson, Sullivan, Unicoi, and Washington Counties, TN, as off-route points. Intrastate, interstate, and foreign commerce authority sought. Hearing: October 24, 1978, at 9 a.m., in Johnson City, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29409 Filed 10-18-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 13, 1978.

This application for long- and short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA 43612, Southwestern Freight Bureau, Agent's No. B-767, rates on cement and related articles, from Joppa, Ill., to Southwestern Territory, in Supp. 120 to its Tariff 325-B, ICC 5156, to become effective November 6, 1978. Grounds for relief—market competition, modified short-line distance formula, and grouping.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29541 Filed 10-18-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28867]

ILLINOIS TERMINAL RAILROAD CO.—TRACKAGE RIGHTS—OVER ILLINOIS CENTRAL GULF RAILROAD CO. BETWEEN MOUNT PULASKI, LOGAN COUNTY, AND KENNEY, DE WITT COUNTY, ILL.

Illinois Terminal Railroad Co., Post Office Box 7282, 710 North 12th Boulevard, St. Louis, Mo. 63177, represented by Steven J. Anthony, attorney for Illinois Terminal Railroad Co., Post Office Box 7282, St. Louis, Mo. 63177, hereby give notice that on the 29th day of September 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for a decision approving and authorizing the acquisition of trackage rights by Illinois Terminal over main line track of Illinois Central Gulf Railroad Co. between Mount Pulaski and Kenney, Ill., a total distance of 12.37 miles.

Under the trackage rights requested, the Illinois Terminal will not serve any station on the line of the Illinois Central Gulf (ICG) nor would Illinois Terminal have the right to pick up or set out along the line. The proposed transaction will not adversely affect shippers, receivers, or employees of this carrier. The transaction will extend the trackage rights which Illinois Terminal now operates over ICG from Springfield, Ill., to Mount Pulaski, Ill., by an additional 12.37 miles to Kenney, Ill., where Illinois Terminal owns a line of track. These trackage rights will enable the carrier to effect a more efficient operation to the Peoria Gateway and Decatur, Ill., which areas Illinois Terminal is presently unable to efficiently serve.

Applicant has filed a related application docketed AB-84 (Sub-No. 1F) for certificates of convenience and necessity and authorization to abandon operation over that portion of the ICG-trackage which was covered under trackage agreement dated October 27, 1960, authorized by the Commission in Finance Docket No. 21363 which extends from Mount Pulaski to Lincoln, Ill., all in Logan County, Ill., a distance of 11.04 miles and for authority to abandon and remove that portion of Applicant's tracks which extend from Lincoln, Logan County, Ill., northwardly to Allentown, Tazewell County, Ill., a distance of 27.58 miles.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation (Finance Docket No. 28867) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position—e.g., party protestant or party in support—regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29543 Filed 10-18-78; 8:45 am]

[7035-01-M]

[Notice No. 118]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after

the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Finance Docket No. 28875, filed September 1, 1978. Transferee: SWIFT INTERNATIONAL, INC., 4100 14th Way NE., St. Petersburg, FL 33702. Transferor: Swift International Forwarders, a division of Microtron Industries, Inc., 618 North Beltline Road, Irving, TX 75061. Representatives: Robert J. Gallagher, attorney at law, Suite 1200, 1000 Connecticut Avenue NW., Washington, DC 20036. W. Newton Barnes, Esq., Barnes & Dishman, Mockingbird Towers East, Suite 1000, 1341 West Mockingbird Lane, Dallas, TX 75247. Authority sought for purchase by transferee of the operating rights set forth in Permit and Order No. FF-402, issued December 5, 1972, to Swift Home-Way, Inc., Irving, TX, and acquired by transferor pursuant to approval and consummation of the transfer proceeding in Finance Docket No. 28129, as follows: Freight forwarder of used household goods and unaccompanied baggage, between points in the United States (including HI but excluding AK, ND, and SD). Transferee presently holds no authority from this Commission.

MC-FC-77738, filed July 3, 1978. Transferee: ROBERT A. SHIPP and JAMES A. SHIPP, d.b.a. RO-JA Enterprises, 2210 Winterhaven Drive, Winterhaven, CA 92283. Transferor: Raymond W. Bell, d.b.a. Bell's Towing Service, 2149 Winterhaven Drive, Winterhaven, CA 92283. Representative: Waldo W. Israel, 213 South Second Avenue, P.O. Box 649, Yuma, AZ 85364. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate MC 125484 (Sub-1), issued July 2, 1965, as follows: Wrecked or disabled vehicles and trailers and wrecked or disabled farm implements and farm machinery, by use of wrecker equipment only, between points in Imperial County, CA, on the one hand, and, on the other points in Yuma County, AZ, subject to certain restrictions. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(a)(b).

MC-FC-77814, filed August 14, 1978. Transferee: W. V. TINKLEPAUGH & SON, INC., 25 West Main Street, Hancock, NY 13783. Transferor: Charles P. Faigle, Inc., P.O. Box 806, Hancock, NY 13733. Representatives: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Permit No. MC 123630, issued July 23, 1968, as follows: rough and finished lumber, wood pallets, from Hancock, NY, to points in 11 States and DC, lumber and wooden pallets, from Hancock, NY, and Emporium, PA, to specified VA counties and wooden pallets, from Hancock, NY, and Emporium, PA, to points in NC and SC, under contract with Robert Mallery Lumber Co., Inc. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77827, filed August 29, 1978. Transferee: HOWARD DULLUM, Gardner, ND 54036. Transferor: Fillipi Truck Lines, Inc., Warren, MN 57662. Representative: Alan Foss, Esq., 502 First National Bank Building, Fargo, ND 58102. Authority sought for purchase by transferee of operating rights of transferor as set forth in certificate MC 27368 (Subs 8, 9, and 11), issued October 13, 1964, November 21, 1966, and October 25, 1965, respectively, as follows: fertilizer, in bags, from Crookston, Moorhead, and Shakopee, MN, to points in ND; from Pine Bend and Minneapolis, MN, to points in Walsh and Pembina Counties, ND; and fertilizer and fertilizer ingredients from Winona, MN, to points in ND. Transferee holds authority in MC 134604 (Sub-2). Temporary authority under section 210a(b) was granted September 8, 1978.

MC-FC-77843, filed September 1, 1978. Transferee: LES MATHRE TRUCKING, INC., 417 Eighth Street, Story City, IA 50248. Transferor: Freddie Ahrenstorff, d.b.a. Ahrenstorff Transfer, Lake Park, IA 51347. Representative: Larry D. Knox, Esq., or Richard D. Howe, Esq., 600 Hubbell Building, Des Moines, IA 50309. Authority sought for purchase by transferee of operating rights of transferor as set forth in certificate MC 20729 (Sub-6) issued November 16, 1966, as follows: Anhydrous ammonia, in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near Garner, IA, to points in MN, NE, ND, SD, and WI. Transferee presently holds authority in MC 139379, and (Subs 1, and 2), issued August 2, 1974, December 16, 1977, and December 16, 1977, respectively. Application for temporary authority under section 210a(b) has not been filed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29542 Filed 10-18-78; 8:45 am]

[7035-01-M]

[Notice No. 194]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 11, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 409 (Sub-67TA), filed September 6, 1978. Applicant: SCHROETLIN TANK LINE, INC., Box 511, Saunders Avenue and Hwy 6, Sutton, NE 68979. Representative: Steven K. Kuhlmann,

P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from Omaha, NE, to points in IA, KS, MO, and SD. Applicant has also filed a temporary authority application.

MC 2202 (Sub-185TA), filed September 6, 1978. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., Akron, OH 44309. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from South Connellsville and Youngwood, PA, to Suffolk, VA and Edenton, NC, for 180 days. Applicant has also filed a temporary authority application.

MC 2202 (Sub-186TA), filed September 6, 1978. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., Akron, OH 44309. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from Vent Corp. at or near Redwood City, CA, to points in the United States in and east of MI, IN, KY, TN, and AL, for 180 days. Applicant has also filed a temporary authority application.

and Worner Street, Jeffersonville, IN. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 114552 (Sub-177TA), filed September 6, 1978. Applicant: SENN TRUCKING COMPANY, 111 West Huron Street, Buffalo, NY 14202.

MC 114552 (Sub-177TA), filed September 6, 1978. Applicant: SENN TRUCKING COMPANY, 111 West Huron Street, Buffalo, NY 14202. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from Vent Corp. at or near Redwood City, CA, to points in the United States in and east of MI, IN, KY, TN, and AL, for 180 days. Applicant has also filed a temporary authority application.

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P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the storage facilities of Gulf Central Pipeline, located at or near Aurora, NE, to points in KS and CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116. Send protests to: Max Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, Lincoln, NE 68508.

MC 50307 (Sub-99TA), filed September 6, 1978. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, NY 10001. Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, between New York, NY on the one hand, and, on the other, St. Clairsville, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Montgomery Ward & Co., Inc., 303 Fashion Avenue, New York, NY 10001. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 51146 (Sub-637TA), filed September 8, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet food* from Kansas City, KS to points in IL, IN, IA, MD, MI, MN, OH, PA, VA, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Perk Dog Food Co., 1580 North Northwest Highway, Park Ridge, IL 60068 (Lenny Golz). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 61825 (Sub-83TA), filed September 8, 1978. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, Traffic Manager, Roy Stone Transfer Corp., P.O. Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories*, from South Connellsville and Youngwood, PA, to Suffolk, VA and Edenton, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Anchor Hocking Corp., Lancaster, OH 43130. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 94265 (Sub-279TA), filed September 8, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, crude or other than crude, and ground, floor sweeping compound and absorbents*, except in bulk, from the plantsite and storage facilities utilized by Oil-Dri Corp. at or near Ochlocknee, GA, to points in DE, KS, IL, IN, IA, MD, MI, MN, MO, NE, OH, VA, WV, and WI; for 180 days. Supporting shipper: Oil-Dri Corp. of America, 520 North Michigan Avenue, Chicago, IL. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, 10-502 Federal Building, 400 North Eighth Street, Richmond, VA 23240.

MC 105269 (Sub-69TA), filed September 8, 1978. Applicant: GRAFF TRUCKING CO., INC., P.O. Box 986, 2110 Lake Street, Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper mill products* from Brownstown, IN to Livingston, AL and return loads from Livingston, AL, Birmingham, AL and Nashville, TN to Brownstown, IN (hearing sites: Lansing, MI or Chicago, IL), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kieffer Paper Mills, Inc., 1220 West Spring Street, Brownstown, IN 47220. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Room 225, Federal Building, Lansing, MI 48933.

MC 107012 (Sub-281TA) filed September 6, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, 5001 U.S. Hwy. 30 West, Fort Wayne, IN 46801. Representative: Gerald A. Burns, P.O. Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated gas venting systems and chimneys and parts and accessories*, from the facilities of Dura-Vent Corp. at or near Redwood City, CA, to points in the United States in and east of MI, IN, KY, TN, and AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dura-Vent Corp., 2525 El Camino Real, Redwood City, CA 94064. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 109397 (Sub-426TA), filed September 8, 1978. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foamed plastic carpet cushion* from North Carolina Foam Industries at Mt. Airy, NC to points in and east of MN, IA, LA, MO, and AR for 180 days. Applicant has also filed a corresponding permanent application. Supporting shipper: Sponge Cushion, Inc., 908 Armstrong Street, Morris, IL 60450. Send protests to: John V. Barry, District Supervisor, 600 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 109689 (Sub-337TA), filed September 8, 1978. Applicant: W. S. HATCH CO., 643 South, 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Suite 400, 10 West Broadway Building, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and lime products*, in bulk, from Caselton, NV, to The Delamar Mine near Silver City ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sierra Chemical Co., 1490 East 2nd Street, Reno, NV 89502 (Stanley K. Kinder, President). Send protests to: District Supervisor L. D. Helfer Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 12617 (Sub-407TA), filed September 8, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, KY 40221. Representative: Charles R. Dunford, Vice President, Traffic, P.O. Box 21395, 1292 Fern Valley Road Louisville, KY 40221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica Sand*, in bulk, from Ottawa, IL, to Jeffersonville, IN, for 180 days. Supporting shipper: Mr. H. R. Schroeder, Traffic Manager, Colgate Palmolive Co., State

and Worner Street, Jeffersonville, IN. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission 426 Post Office Building, Louisville, KY 40202.

MC 113106 (Sub-59TA), filed September 6, 1978. Applicant: THE BLUE DIAMOND CO., 4401 East Fairmont Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, Esq., 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass Containers*, from Cliffwood, NJ, to Baltimore, MD and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. 10 days ETA granted at R-24, eff. 8/29/78. Supporting shipper: B. Stein, Director of Transportation, Midland Glass Co., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 113276 (Sub-7TA), filed September 8, 1978. Applicant: ROMANO BROS. TRUCKING, INC., 11 Meadow Street, Rutland, VT 05701. Representative: John F. O'Donnell, Barrett and Barrett, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Ground limestone* (except limestone slurry) in bulk, in tank or hopper type vehicles, from Florence and New Haven Junction, VT to Ashtabula, OH for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thompson-Weinman and Co., 134 Evergreen Place, East Orange, NJ 07018. Send protests to: David A. Demers, TA, Interstate Commerce Commission, 87 State Street, P.O. Box 548, Montpelier, VT 05602.

MC 113784 (Sub-71TA), filed September 8, 1978. Applicant: LAIDLAW TRANSPORT LTD., 65 Guise Street, Hamilton, ON L8L 4M1. Representative: Douglas R. Gowland, 65 Guise Street, Hamilton, ON L8L 4M1. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ilemenite ore* in dump type vehicles, between ports of entry on the United States-Canada boundary line located on the Detroit and St. Clair Rivers and Ann Arbor, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nuclear Shielding Supplies & Service of Canada Ltd., 2545 Delorimier Avenue, Longueuil, PQ J4K 3P8. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 114552 (Sub-177TA), filed September 8, 1978. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as *common carrier* by motor vehicle, over irregular routes, transporting: *iron and steel articles*, from the facilites of National Steel Corp. at Steubenville, OH and Weirton, WV, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, and VA, for 180 days. Supporting shipper: Weirton Steel Division of National Steel Corp., Three Springs Road, Weirton, WV 26062. Send protests to: Eugene E. Strotheld, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 115654 (Sub-108TA), filed September 6, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products*, from the facilities of Rath Packing Co. at or near Indianapolis, IN to points in AL, MS, and TN for 180 days. Supporting shipper: Rath Packing Company, Waterloo, IA. Send protests to District Supervisor Joe J. Tate, Room A422, Federal Building, 801 Broadway, Nashville, TN 37203.

MC 115904 (Sub-121TA), filed August 25, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. Authority sought to operate in Interstate or Foreign Commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bags, from the port of entry on the international boundry line between the United States and Canada located at Sweetgrass, MT, to points in AZ, CA, CO, ID, MT, NM, UT, and WY for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cascade Imperial Mills, 1205 Richards Street, Vancouver, BC, Canada V68 4H7. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 115904 (Sub-123TA), filed September 6, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring and materials and supplies* used in the installation thereof, from Memphis and Nashville, TN, to Boise, ID, for 180 days. Supporting shippers: Bruce Hardwood Floors, 4255 LBJ Freeway, Dallas, TX 75234; Chandler Corp., P.O. Box 2840, Boise, ID 83701. Send protests to: Barney L. Hardin, District Supervisor, 1471 Shoreline Drive., Suite 110, Boise ID 83706.

MC 115904 (Sub-124TA), filed September 6, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from Wichita KS, to points in WY, CO, ID, UT, MT, SD, for 180 days. Applicant has also filed an undenying ETA seeking up to 90 days of operating authority. Supporting shippers: Ace Wallboard, Ltd., 1710 West Broadway, Idaho Falls, ID 83401; United Drywall, Inc., 5400 West 3500 South, Salt Lake City, UT 84129. Send protests to: Barney L. Hardin, District Supervisor, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 119380 (Sub-5TA), filed September 6, 1978. Applicant: RICHARD LEAF, DALE RATLIFF, OLIVER RATLIFF, AND DAMON BARRITT, d.b.a. RATLIFF BROS. AND CO. Representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought for 180 days to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles, from points in Fulton County, IL, to points in Clinton, Des Moines, Lee, Louisa, Muscatine, and Scott Counties, IA, for 180 days. Supporting shipper: Midland Coal Co., Division of Asarco Inc., Ronald N. Boesen, Vice President-Sales, P.O. Box 2502X, Galesburg, IL 61401. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 119955 (Sub-6TA), filed September 5, 1978. Applicant: RUDOLPH LABRANCHE, P.O. Box 23, 94 North Main Street, West Franklin, NH 02325. Representative: Paul R. Rugo, 24th Floor, 28 State Street, Boston, MA 02109. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Valves, valve components, tools, jigs, and equipment used in the manufacture of valves; rough castings, casting*

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sand and machine parts; correspondence, orders, payroll records, and blueprints in interplant messenger service, between Lawrence, MA; Portsmouth and Franklin, NH; Detroit, Livonia and Adrian, MI; Chicago, IL; Kinsman, OH; Spindale and Charlotte, NC; and, Atlanta, GA, under a continuing contract with Watts Regulator Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Watts Regulator Co., P.O. Box 628, Lawrence, MA 01842. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301.

MC 120427 (Sub-22TA), filed September 6, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, 2128 E. Highway 30, Grand Island, NE 68801. Representative: John K. Walker, P.O. Box 488, 2128 E. Highway 30, Grand Island, NE 68801. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Grain storage, drying and handling equipment, Iron and steel articles, K.D. buildings, and items used in the manufacture and production of grain storage, drying, and handlling equipment,* between Grand Island, NE, on the one hand, and on the other, points in the United States (except AK and HI), for 180 days. Supporting shipper: L. W. Ellingson, Office Manager, Haile Construction Co. P.O. Box 1064, Grand Island, NE 68801. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln NE 68508.

MC 123329 (Sub-38TA), filed September 8, 1978. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, AB T2P 2P9, Canada. Representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 59401. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Liquid oxygen, liquid nitrogen and liquid argon in shipper-owned trailers,* between Union City, CA on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada, located at or near Sumas, Blaine and Oroville, WA. Restricted to traffic originating at or destined to points in British Columbia and Alberta, for 180 days. Supporting shipper: Canadian Liquid Air Ltd., 6017-103A Street, Edmonton, AB, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 124078 (Sub-855TA), filed September 6, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Cement,* in bags, from Petoskey, MI to Ankeny and West Des Moines, IA for 180 days. Supporting shipper: Penn-Dixie Industries, Cement Division, Dave Williams, P.O. Box 152, Nazareth, PA 18064. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-856TA), filed September 6, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Cement,* in bags, from Demopolis, AL to Tahlequah, OK for 180 days. Supporting shipper: Ace Ready Mix Company, Inc., Ernest W. Giddens, Route 5 Box 313, Tahlequah, OK 74464. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-863TA), filed September 8, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Clay and clay slurry,* in bulk, in tank vehicles from Warren County, GA to points in AL, FL, ME, MI, NY, NC, OH, PA, SC, and WI for 180 days. Supporting shipper: J. M. Huber Corporation, Paul W. Moyse, Thornall Street, Edison, NJ 08817. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-864TA), filed September 8, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Cement,* in bulk from Demopolis, AL to points in TX and OK (except Tahlequah, OK) for 180 days. Supporting shipper: Citadel Cement Corp., C. T. Anglin, 2700 Cumberland Parkway, Atlanta, GA 30339. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124221 (Sub-65TA), filed September 6, 1978. Applicant: HOWARD BAER, P.O. Box 27, Rt. 98 W., Morton, IL 61550. Representative: Robert L. Loser, 1009 Chamber Office Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Bakery products* in vehicles equipped with mechanical refrigeration, from points in SC to Roanoke, VA. Restriction: (1) Said operations are restricted to the transportation of shipments originating at or destined to the facilities of the Kroger Co. (2) Limited to transportation service to be performed under a continuing contract or contracts with the Kroger Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Ave., Springfield, IL 62701.

MC 126118 (Sub-93TA), filed September 6, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transportating: *Malt beverages,* in containers from Fort Wayne, IN, and New Orleans, LA, and their commercial zones to points in NC and TN, for 180 days. Note: Common control may be involved. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately six statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-102TA), filed September 6, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie, P.O. Box 81228, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* in containers from Louisville, KY, and its commercial zone to points, in GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Laite, President, Bill Laite Distributing Co., 1998 Waterville Rd., Macon, GA 31206.

MC 127096 (Sub-9TA), filed September 6, 1978. HENNES TRUCKING CO., 338 South 17th Street, Milwaukee, WI 53233. Representative: Beery & Spulock Co., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* in bulk, from the facilities of Lone Star Industries at or near Roanoke, VA to points in OH and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Cement Corp., 3059 East Mound Street, Columbia, OH 43209. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operation, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, WI 53202.

MC 129387 (Sub-76TA), filed September 8, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are manufactured and distributed by manufacturers of sporting goods and recreational equipment* (except commodities in bulk), from the facilities of Frabill Manufacturing Co., located at or near Milwaukee, WI to points in AL, AR, CA, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NC, ND, NH, NJ, NY, NV, OH, OK, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, and VT; and (2) *Materials, equipment, and supplies* used in the manufacture of sporting goods and recreational equipment (except in bulk), from Seattle, WA; Chicago, IL; and Detroit, MI to the facilities of Frabill Manufacturing Co. located at or near Milwaukee, WI, for 180 days. Supporting shipper: Frabill Manufacturing Co., 5211 South 3rd Street, Milwaukee, WI 53207. Send protests to: James L. Hammond, District Supervisor, Interstate Commerce Commission, room 455, Federal Building, Pierre, SD 57501.

MC 129387 (Sub-79TA), filed September 8, 1978. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Welders, parts, accessories, and supplies,* from the facilities of Hobart Brothers Co., at or near Troy, OH to points in AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OR, SD, UT, WA, and WY, for 180 days. Supporting shipper: Hobart Brothers Co., 600 West Main Street, Troy, OH 45373. Send protests to: James L. Hammond, District Supervisor, Interstate Commerce Commission, room 455, Federal Building, Pierre, SD 57501.

MC 129414 (Sub-6TA), filed September 6, 1978. Applicant: BELL & MOONEY, INC., P.O. Box 925, Gillette, WY 82716. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Asphalt and residual fuel oil,* in bulk, in tank vehicles, (1) between points in CO and WY; and (2) from points in CO and WY to points in NE on and west of U:S. Hwy 183 and points in SD on and west of U.S. Hwys 183 and 83, for 180 days. Supporting shipper(s): There are approximately 18 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul A. Naughton, Transportation Specialist, Interstate Commerce Commission, 111 South Wolcott, 105 Federal Building and Post Office, Casper, WY 82601.

MC 129537 (Sub-26TA), filed September 8, 1978. REEVES TRANSPORTATION CO., Route 5, Dews Pond Road, Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 North Morgan Street, Tampa, FL 33602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic materials, and articles* used in the manufacture or distribution thereof from all points in the States of TX and LA on the one hand, to all points in the States of AL, GA, TN, KY, NC, SC, and FL on the other hand, for 180 days. Supporting shipper: Shenandoah Plastics Corp., P.O. Box 2488, Rome, GA 30161. Send protests to: Transportation Assistant Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 300, Atlanta, GA 30309.

MC 135797 (Sub-145TA), filed September 6, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, U.S. Hwy 71, Lowell, AR 72745. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Animal food,* from the facilities of Kal Kan Foods, Inc. at Sherbourne, NY to points in the United States in and east of IW, IL, KY, TN, and MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th St., Vernon, CA 90058. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 138875 (Sub-106TA), filed September 8, 1978. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83704. Representative: F. L. Sigloh, 11900 Franklin Rd., Boise, ID 83705. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Frozen foods* (except in bulk) from the facilities utilized by Ore-Ida Foods, Inc. located at or near Greenville, MI to points in AL, FL, GA, KY, LA, NC, SC, TN, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, District Supervisor, 1471 Shoreline Dr., Suite 110, Boise, ID 83706.

MC 139495 (Sub-384TA), filed September 5, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Petroleum and petroleum products,* in packages, from the facilities of Texaco, Inc. in Jefferson County, TX to points in MO, KS, OK, IL, OH, MI, IA, WI, KY, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, 110 North Market, Wichita, KS 67202.

MC 141532 (Sub-34TA), filed September 6, 1978. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, WA 98002. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Draft gear or rigging for railroad cars or locomotives,* from Fort Worth,

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TX, to Portland, OR, for 180 days. No underlying application for ETA has been filed. Supporting shipper: FMC Corp. (Marine and Rail Equipment Division), P.O. Box 3616, Portland, OR 97208. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., Seattle, WA 98174.

MC 141684 (Sub-3TA), filed September 6, 1978. Applicant: COMMAND CARGO CORP., 7950 East Baltimore St., Baltimore, MD 21224. Representative: James E. Savitz, Esq., 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities*, (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require special equipment, commercial papers, documents and written instruments as are used in the business of banks and banking institutions, and stocks, bonds, securities and negotiable instruments), between Fairfax County and Alexandria, VA, on the one hand, and, on the other, points in VA, MD, DE, and DC. Restrictions: (1) Restricted against the transportation of articles weighting in the aggregate more than three hundred and fifty pounds (350) from one consignor at one location to one consignee at one location, in any given day. (2) Restricted against the transportation of tissue cultures and biological products to or from points in Howard, Frederick, or Montgomery Counties, MD, and DC, and against the transportation of live laboratory animals, for 180 days. Supporting shippers: Richard W. Pawlak, Director of Transportation, Spiegels, Regency Towers Oak Brook, IL 60521; John C. Jackson, Director, Traffic and Distribution, Encyclopedia Britannica, 425 Michigan Avenue, Chicago, IL 60611; Thomas Slover, Traffic Manager, Alden's Inc., 500 W. Roosevelt Ave., Chicago, IL 60607. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 141764 (Sub-11TA) filed September 6 1978. Applicant: BLACKHAWK ENTERPRISES, 3149 Depot Road, Hayward, CA 94544. Representative: William D. Taylor—Handler, Baker & Greene, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Film and sheeting*, other than cellulose, in boxes or crates, or in wrapped bundles, rolls or packages, and related chemicals when moving with the above commodities, in temperature control equipment; and paper cores and tubes, between Holyoke, MA, Greer and Hartsville, SC, and Hopewell, VA, on the one hand, and Sunnyvale, CA, on the other, under a continuing contract or contracts with Xidex Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Xidex Corp., 305 Soquel Way, Sunnyvale, CA 94086. Send protests to: District Supervisor A. J. Rodreguez, 211 Main St., Suite 500, San Francisco, CA 94105.

MC 143236 (Sub-21TA) filed September 5, 1978. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, South Kearny, NJ 07032. Representative: Jay Schiffres, 1001 Connecticut Avenue, Suite 625, Washington, D.C. 20036. Authority sought to operate as a *common carrier* over irregular routes transporting *filter press machines*, set up, partially assembled, and parts and accessories for these machines, between the facility of Hoesch Standard Filter Division at or near Wharton, NJ on the one hand, and, on the other, points in PA, OH, MI, IL, MS, MO, OK, MN, TX, FL and CA. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hoesch Standard Filter Division, Richard Mine Road, Wharton, NJ 07885. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Washington, DC 20423.

MC 143787 (Sub-6TA) filed August 14, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Paul, MN and Milwaukee, WI to Worland, WY under a continuing contract or contracts with Teton Distributors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teton Distributors, Inc., 821 Pulliam Ave., Worland, WY 82401. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, 105 Federal Building and U.S. Courthouse, 111 South Wolcott, Casper, WY 82601.

MC 144122 (Sub-26TA) filed September 8, 1978. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, Esq., 1815 Front Street, Scotch Plains, NJ 07076. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, from Texaco facilities in Jefferson County, TX, to points in IN, IL, and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texaco Inc., 1111 Rusk, Houston, TX 77052. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 144297 (Sub-2TA) filed August 25, 1978. Applicant: DURGIN TRUCKING, INC., 1803 Eagle Creek Boulevard, Shakopee, MN 55379. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, in dump vehicles, from Fort Dodge, IA to Shakopee, MN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., Box 69 Valley Industrial Road, Shakopee, MN 55379. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 144829 (Sub-1TA) filed September 6, 1978. Applicant: MUCHMORE TRUCKING, LTD., 1661 SW "N" Street, Grants Pass, OR 97526. Representative: Jerry R. Woods, Attorney at law, Suite 1440, 200 Market Building, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, in vehicles equipped with mechanical refrigeration, from the facilities of Rogue Gold Dairy, Inc., at Grants Pass, OR to points CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rogue Gold Dairy, Inc., 234 SW Fifth Street, Grants Pass, OR 97526. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, ICC, 114 Pioneer Courthouse, 555 SW. Yamhill Street, Portland, OR 97204.

MC 145263 (Sub-1TA) filed September 6, 1978. Applicant: Ken Ames d.b.a. A-WAY TRUCK SERVICE, P.O. Box 1372, Hollister, CA 95023. Representative: Raymond A. Greene, Jr. of Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers, truck campers and motor homes*, from the plantsite of Shelton Industries at or near Hollister, CA, to Seattle and Spokane, WA, Portland, Salem and Eugene OR, Pocatello, ID, Denver and Grand Junction, CO, Salt Lake City, UT, Reno, NV and Phoenix, AZ, under a continuing contract or contracts with Shelton Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shelton Industries, 301 Fallon Road, Hollister, CA 95023. Send protests to: District Supervisor Michael M. Butler, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC-145326TA filed September 6, 1978. Applicant: GEORGE RICHARDS TRANSPORT LTD., Box 100 King Street, Arkona, Ontario, Canada MOM1BA. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk in dump vehicles from Goodells, MI to the Port of Entry on the International Boundary between the United States and Canada on the St. Clair River. Restricted to shipments destined to points in Canada, under a continuing contract or contracts with Pillsbury Canada Ltd. of London, Ontario, for 180 days. Supporting shipper: Pillsbury Canada Ltd., 383 Richmond Street, Suite 1204, London, Ontario, Canada N6A 3C4. Send protests to: District Supervisor T. S. Quinn, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI.

MC-145327TA filed September 6, 1978. Applicant: IMPERIAL GROWERS, INC., 2510 Rib Mountain Drive, Wausau, WI 54401. Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Knocked down pre-engineered buildings and components and parts thereof* from Hannibal, MO and Tallapoosa, GA, to job sites in Portage, Wood, Clark, Marathon, Langlade, Lincoln, Oneida, Forest Price, Taylor, Eau Claire, Chippewa, Dunn, St. Croix, Barron, Rusk, Pepin, Waupaca and Vilas Counties, WI. Restriction: Restricted to contracts with Consolidated Building Service, Inc, under a continuing contract or contracts with Consolidated Building Service, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Consclidated Building Service, Inc., P.O. Box 752, 8916 N. Mountain Road, Wausau, WI 54401. Send protests to: Interstate Commerce Commission, Ronald A. Morken, District Supervisor, 212 E. Washington Avenue, Room 317, Madison, WI 53703.

MC 145335TA filed September 6, 1978. Applicant: RIVER ENTERPRISES, P.O. Box 458, South Roxana, IL 62087. Representative: Robert T. Lawley, 300 Reisch Building, 4 West Old State Capitol Plaza, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction, road construction, mining and contractors machinery* between points in IL, IN, KY and MO for the account of Bramco Inc. and its subsidiary companies: Brandeis Machinery and Supply Corp., Missouri-Illinois Tractor and Equipment Co. of IN and Rental Equipment Service Co., under a continuing contract or contracts with Bramco, Inc., P.O. Box 10158, St. Louis, MO. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol, Springfield, IL 62701.

MC 145336TA filed September 6, 1978. Applicant: R. G. H. TRANSPORTATION, INC., 6000 Gum Springs Road, P.O. Box 7072, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paneling*, from Jacksonville, FL to points in KS, MO and TX, under a continuing contract or contract with D. G. Shelter Products, Inc. For 180 days. Supporting shipper: D. G. Shelter Products, Inc., P.O. Box 666, Newton, KS 67114. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, TX 75242.

MC 145391TA filed September 8, 1978. Applicant: CUOMO & SON CARTAGE CO., 429 Talcott, Lemont, IL 60439. Representatives: Philip A. Lee, 120 West Madison, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slit-Steel-Coils*, from Milwaukee, WI to LaSalee and Aurora, IL, under a continuing contract or contracts with National Metalware, Inc., for 180 days. Supporting shipper: National Metalware, Inc., Robert Holland, Sales, 900 N. Russell Avenue, Aurora, IL 60506. Send protests to: Lois M. Stahl Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, room 1386, Chicago, IL 60604.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc 78-29539 Filed 10-18-78; 8:45 am]

[7035-01]

[Notice No. 193]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 11, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 11207 (Sub-447TA), filed August 30, 1978. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles* (except commodities in bulk and those which because of size or weight require the use of special equipment) from Alabama City, AL to points in TX, for 180 days. Supporting shipper: Republic Steel Corp., Alabama City Station, Gadsden, AL 35901. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, AL 35203.

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MC 13569 (Sub-42TA), filed September 7, 1978. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, INC., 1200 South State Street, Girard, OH 44420. Representative: John P. Tynan, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the plantsites of the Jones & Laughlin Steel Corp., an LTV Company, located at Cleveland, Louisville, Warren, and Youngstown, OH, to points in the State of IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jones & Laughlin Steel, an LTV Co., 3341 Jennings Road, Cleveland, OH 44109. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 14215 (Sub-17TA) filed August 25, 1978. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, OH 43212. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Zinc and zinc dross*, except in dump vehicles, between the facilities of Weirton Steel Corporation at or near Weirton, WV, on the one hand, and, on the other, the facilities of Interamerican Zinc, Inc. at or near Adrian, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Interamerican Zinc, Inc., 1415 E. Michigan Street, Adrian, MI 49221. Send protests to: J. A. Niggemyer, District Supervisor, I.C.C., 416 Old Post Office Building, Wheeling, WV 26003.

MC 31389 (Sub-261TA) filed September 7, 1978. Applicant: McLEAN TRUCKING CO., 617 Waughtown Street, P.O. Box 213, Winston-Salem, NC 27107. Representative: David F. Eshelman (same as above). Authority sought to operate as a *common carrier* by motor vehicle, over regular routes, transporting: *Railroad underground mining and industrial equipment*, serving the facilities of the Nolan Co., located at or near Bowerston, OH, as an off-route point, in conjunction with applicant's regular route operations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Nolan Co., P.O. Box 201, Bowerston, OH 44695. Send protests to: District Supervisor Terrell Price, 300 Briar Creek Road, room CC516, Mart Office Building, Charlotte, NC 28205.

MC 51146 (Sub-638TA) filed August 31, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298. Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Malt beverages* from Detroit, MI to the facilities of Kay Distributing at or near Green Bay WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Kay Distributing Co., 601 Harvey, Green Bay, WI 54302 (Thomas Kolocheski). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 E. Wisconsin Avenue, room 619, Milwaukee, WI 53202.

MC 60014 (Sub-88TA) filed August 30, 1978. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, attorney-at-law, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron steel scrap*, from the plantsite of Dayton Products, Inc., at or near Dayton, TN, to the plantsite of Nicroloy Co. at or near Heidelberg, PA, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dayton Products, Inc., 1616 North Broadway, Dayton, TN Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 95084 (Sub-127TA), filed September 7, 1978. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in appendix V to the report in Descriptions in motor carrier certificates 61 MCC 209, from the facilities of Northwestern Steel & Wire Co., at or near Sterling, IL to points in AR, CO, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, PA, SD, TN, WV, WI and WY, for 180 days. Supporting shipper: Northwestern Steel & Wire Co., P.O. Box 618, Sterling, IL 61081. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moints, IA 50309.

MC 106373 (Sub-37TA), filed August 31, 1978. Applicant: THE SERVICE TRANSPORT CO., 114½ East Main Street, Ravenna, OH 44310. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from Steubenville, OH and Weirton, WV, and points in their commercial zones, to points in NC, SC, GA, and FL; and (2) *Materials, equipment and supplies* used in the manufacture or distribution of iron and steel articles, and iron and steel articles, from points in NC, SC, GA, and FL, to Steubenville, OH and Weirton, WV, and points in their commercial zones, for 180 days. Supporting shipper: Weirton Steel Division of National Steel Corp., Three Springs Road, Weirton, WV, 26062. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199. (Hearing site: Akron, OH or Washington, DC.)

NOTE: Applicant intends to tack at Steubenville, OH or Weirton, WV to provide a through service between points in MI, OH, PA, NY, NJ, WV, and MD, pursuant to its regular route authority, transporting the commodities set forth above. Common control may be involved.

MC 106398 (Sub-824TA), filed August 15, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull, Traffic Manager, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bars* from the facilities of North Star Steel Co., at Wilton, IA to all points in AL, AZ, AR, FL, GA, LA, MS, NM, NC, OK, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: North Star Steel Co., Box 495, Wilton, IA 52778. Send protests to: Connie Stanley, Transporting Assistant, Room 240, Old Post Office and Court House Building, 215 Northwest Third Street, Oklahoma City, OK 73102.

MC 106603 (Sub-182TA), filed August 25, 1978. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, MI 49508. Representative: Edwin M. Snyder, Sullivan, Leavitt & Bileti, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *gypsum and gypsum products and materials and supplies* used in the distribution and installation thereof: (A) From the facilities of Georgia-Pacific Corp., located at or near Wilmington, DE, to points in MI, and (B) from the facilities of Georgia-Pacific Corp., located at or near Buchanan, NY and

Croton-on-Hudson, NY, to points in MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., Gypsum Products Division, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: C. R. Fleming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building Lansing, MI 48933.

MC 107403 (Sub-1113TA), filed August 25, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., 10 West Baltimore Ave., Lansdowne, PA 19050. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Condensed fish solubles*, in bulk, in tank vehicles, from Gloucester, MA to Clarkson, Ontario, Canada between the United States and Canada boundary line, port of entry at Niagara Falls, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, room 3238, Philadelphia, PA 19106.

MC 108119 (Sub-95TA), filed September 1, 1978. Applicant: E. L. MURPHY TRUCKING CO., P.O. Box 43010, 3303 Sibley Memorial Highway, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Fencing material, iron or steel*, and (2) *material, supplies and equipment* used in the manufacture of fencing material, iron or steel (except commodities in bulk), between the facilities of Hurricane Steel Industries Co. at or near LaGrange, TX, on the one hand, and, on the other, points in the United States (except AK and HI) for 180 days. Supporting shipper: Hurricane Steel Industries Co., P.O. Box 19128, Houston, TX 77024. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

NOTE.—Common control may be involved.

MC 108651 (Sub-21TA), filed September 7, 1978. Applicant: ROY B. MOORE INC., 233 Wilcox Drive, P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore, Roy B. Moore Inc. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* from Lincolnton, NC to points in TN on and east of U.S. Hwy 27, for 180 days. Supporting shipper: National Fruit Product Co., Inc., P.O. Box 609, Winchester, VA 22601. Send protests to: Joe Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37221.

MC 110563 (Sub-214TA), filed August 25, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Victor J. Tambascia (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Jams, jellies and preserves;* and fruit juices (other than frozen), from New Hyde Park, NY to Lawrence, KS for 180 days. Supporting shipper: Fruit Crest, Inc., 250 Fulton Ave., New Hyde Park, NY 11040. Send protests to: Mr. Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

MC 111812 (Sub-585TA), filed August 9, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: David Peterson, P.O. Box 1233, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh horse meat* from Redmond, OR to Boston, MA; New York City, NY and its Commercial Zone and Plainfield, CT for 180 days. Supporting shipper: Orio Meat Co., 1607 Southwest Railroad, Redmond, OR 97756. Send protests to Mr. James L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 455 Federal Building, Pierre, SD 57501.

MC 112223 (Sub-114TA) filed August 31, 1978. Applicant: QUICKIE TRANSPORT CO., 1700 New Brighton Boulevard, Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. Temporary authority for 180 days sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials, in bulk*, from the facilities of Land O' Lakes Agricultural Services Division at or near Mason City, IA, to points in the States of MN, WI, ND, SD, and NB, for 180 days. Supporting shipper: Land O' Lakes Agricultural Services Division, 2827—8th Avenue South, Fort Dodge, IA 50501. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 113434 (Sub-107TA) filed August 31, 1978. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Avenue, P.O. Box 511, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought: to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) (1) From Holland, MI to points in PA on and west of US 220 and those in NY on and west of I-81, and (2) From Pittsburgh, PA to MI, IL, IN, KY, that part of OH on and south of I-70 and on and west of I-77; and that part of WV on and south of US 50, not including Clarksburg, for 180 days. Supporting shipper: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Clarence R. Flemming, District Supervisor, 225 Federal Building, 325 West Allegan Street, Lansing, MI 48933.

MC 113666 (Sub-137TA) filed September 7, 1978. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients*, in bulk, in tank vehicles, from plant site of American Cyanimid Co. at South River, (Marion County), MO to plant site of American Cyanamid Co. at Willow Island, (Pleasants County) WV, for 180 days. Supporting shipper: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 115311 (Sub-301TA) filed August 15, 1978. Applicant: J & M Transportation Co., Inc., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated paper* from Cleveland (Bradley County), TN to points in AL and GA, for 180 days. Supporting shipper: Westavco Container Division, P.O. Box 196, Cleveland, TN 37311. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

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MC 116048 (Sub-24TA) filed August 21, 1978. Applicant: James Elwood Quinn, Inc., P.O. Box 236, Beulaville, NC 28518. Representative: Kim G. Meyer, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, GA 30301. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen concentrate, canned and chilled juice products and fruit sections and salads* from FL to the ports of entry between the United States and Canada located in NY, VT, ME, and NH, for 180 days. Supporting shipper: Citrus Central, Inc., P.O. Box 17774, Orlando, FL 32860. H. P. Hood, Inc., 427 San Christopher Drive, Dunedin, FL 33528. Lykes Pasco Packing Co., P.O. Box 97, Dade City, FL 33525. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 116770 (Sub-4TA), filed August 25, 1978. Applicant: ACTIVE CARTAGE LTD., 1065 Martin Grove Road, Rexdale, Ontario, Canada M9W 4W6. Representative: Robert D. Gunderman, Esq., Suite 710, Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bridge girders*, the transportation of which because of size or weight require the use of special equipment, and related parts and assemblies, from ports of entry on the International Boundary line between the United States and Canada on the Niagara River to points within a 15 mile radius of the intersection of Interstate 90 and Route 15 at Exit 46, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Canron Limited (Eastern Structural Division), 100 Disco Road, Rexdale, Ontario, Canada. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 118959 (Sub-177TA), filed August 25, 1978. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63706. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, except in bulk, (1) from Weeks Island, LA to AR, FL and GA (2) from Grand Saline, TX to AL, AR, FL, GA, LA and MS (3) from Rittman, OH to AL, FL, FA, KY, IL, IN, MS, NC, SC, TN, VA and WV, for 180 days. Supporting shipper(s): Morton Salt, 110 North Wacker Dr., Chicago, IL 60606. Send protests to: District Supervisor P. E. Binder, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 119654 (Sub-59TA), filed August 25, 1978. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th Street, Marion, IN 46952. Representative: Norman R. Garvin, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Temporary authority sought to operate as a *common carrier, over irregular routes, transporting: Such commodities* as are dealt in or used by producers and distributors of paper and plastic products (except commodities in bulk and commodities which because of size or weight require special handling or special equipment). From Chicago, IL and Louisville, KY, to MI. Supporting shipper: Continental Plastics Industries, Bondware Division, 800 East Northwest Highway, Palatine, IL 60067. Send protests to: Mr. J. H. Gray, District Supervisor, Interstate Commerce Commission, 343 West Wayne Street, Fort Wayne, IN 46802. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. For 180 days.

MC 119765 (Sub-58TA), filed August 25, 1978. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, and packinghouse products* from Omaha, NE to points in WI, for 180 days. Applicant has filed underlying ETA's for 30+2 and 25 days of operating authority. Supporting shipper: Northern States, Inc., 3435 Gomez, Omaha, NE. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 119789 (Sub-514TA), filed August 30, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in mechanically refrigerated equipment, from Austin, Spring Valley and San Antonio, TX to AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): T-Y Corp., P.O. Box 549, Hammond, LA 70404. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 121060 (Sub-72TA), filed: August 25, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials*, (except in bulk), from the facilities of The Celotex Corp. located at or near Texarkana, AR, to points in AL, AR, FL, GA, KS, LA, MS, MO, NM, OK, and TX. (2) *Materials and supplies* used in the manufacture of and/or the distribution of commodities named in (1) above, (except commodities in bulk), from the destination States named in (1) above, to the facilities of The Celotex Corp. located at or near Texarkana, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, 2121 8th Avenue, North, 2121 Building, Room 1616, Birmingham, AL 35203.

MC 123263 (Sub-11TA), filed August 31, 1978. Applicant: Floyd Wangerin and Lorraine C. Wangerin, d.b.a. WANGERIN TRUCKING CO., Rural Route No. 2, Stephenson, MI 49887. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients* from the facilities of Bullard Feed Co. in Chicago, IL to Barron, Madison, Janesville, and Fond du Lac, WI, Minnneapolis-St. Paul, MN and Lansing, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bullard Feed Co., 250 West 87th Street, Chicago, IL 60620. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 123685 (Sub-23TA), filed August 25, 1978. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, OH 44646. Representative: James W. Muldoon, MULDOON, PEMBERTON & FERRIS, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned food products and materials, equipment and supplies* used in the manufacture of canned food products between the plantsite of the Campbell Soup Co. at or near Napoleon, OH, on the one hand, and, on the other, points in KY, NY, PA and WV for 180 days. Supporting shipper(s): Campbell Soup Co., Napoleon, OH 43545. Send protests to: Frank Calvary, District Supervisor, 255 Federal Building, 85 Marconi Boulevard, Columbus, OH 43215.

MC 124078 (Sub-865TA), filed September 7, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground fire clay*, in bulk, in tank vehicles, from Mexico, MO to Bessemer, AL, for 180 days. Supporting shipper(s): A. P. Green Refractories Co., Green Boulevard, Mexico, MO 65265. (William J. Hartell) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-866TA), filed September 7, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Petoskey, MI to Lakeville, MN, for 180 days. Supporting shipper(s): Penn-Dixie Industries, Cement Division, Box 152, Nazareth, PA 18064. (David L. Williams). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124489 (Sub-11TA), filed August 21, 1978. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Temporary authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used and dealt in by manufacturers of snack foods (except commodities in bulk) (a) between points in IA and OH; (b) between points in IA and OH on the one hand, and, on the other, points in IL, IN, MI, and WI. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Jays Foods Inc. of Chicago, IL, for 180 days. Supporting shipper: Jays Food, Inc., Silas A. Marttila, Executive Vice President-Marketing, 825 East 99th Street, Chicago, IL 60628. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133494 (Sub-17TA), filed August 30, 1978. Applicant: E. W. BELCHER TRUCKING, INC., 201 Dallas Drive, Denton, TX 76201. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate, feed grade*, in bulk from North Little Rock, AR to points in OK, TX, KS, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Borden Chemical, 180 East Broad Street, Columbus, OH 43215. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 134286 (Sub-75TA), filed August 31, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Representative: Charles M. Williams, Kimball, Williams, & Wolfe, P.C., 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203, 303-839-5856. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film, plastic articles and corrugated boxes* (except in bulk), and materials, equipment, and supplies used in the manufacture and distribution of the above commodities (except commodities in bulk), in vehicles equipped with mechanical refrigeration devices, from the plantsites and storage facilities of Resinite Department, Borden Chemical, Division of Borden, Inc., at or near Griffin, GA, to points in FL, SC, NC, AL, TN, MS, LA, AR, MO, IA, WI, MN, NE, KS, OK, TX, NM, CO, KY, IL, IN, MI, and points in OH on and west of U.S. Highway 23; and to North Bergen, NJ; Gloucester City, NJ; Cockeysville, MD; Cleveland, OH; Carson, CA; North Andover, MA; Oakland, CA; and Kent, WA; and points in their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. T. "Tom" Willcox, Resinite Department, Borden Chemical Division of Borden, Inc., 1 Clark Street, North Andover, MA 08145. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 Number 14th Street, Omaha, NE 68102.

MC 138026 (Sub-18TA), filed September 7, 1978. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, 8060 East Florence Avenue, Downey, CA 90341. Representative: Elizabeth I. Abreu, Knapp, Stevens, Grossman & Marsh, 707 Wilshire Boulevard, 1800, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid nitrogen*, from Plaquemine, LA and New Orleans, LA to Santa Rosa County, FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Big Three Industries, Inc., 3535 West 12th Street, Houston, TX 77008. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 139273 (Sub-4TA), filed August 25, 1978. Applicant: KINGS COUNTY TRUCK LINES, P.O. Box 1016, Tulare, CA 93274. Representative: Manuel Espinola, P.O. Box 1016, Tulare, CA 93274. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice Cream, Sherbert, Water Ice, Frozen Yogurt, Ice Cream Topping and Advertising Materials;* from the facilities of Baskin-Robbins, Inc. at or near Burbank, CA to the facilities of Baskin-Robbins. Inc. at or near Anaconda, Billings, Bozeman, Butte, Great Falls, Helena, Kalispell and Missoula, MT, under a continuing contract or contracts with Baskin-Robbins, Inc. of Burbank, CA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Baskin-Robbins, Inc., 1119 South Victory Boulevard, Burbank, CA 91502. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 139850 (Sub-17TA), filed August 30, 1978. Applicant: FOUR STAR TRANSPORTATION, INC., P.O. Box 66, Underwood, IA 51576. Representative: Randall K. Trively (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and packinghouse products*, from the plantsite and storage facilities of Palamera Beef Corp. at Omaha, NE to Wichita, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: David A. Kousgaard, Traffic Consultant, Palamera Beef Corp., 25th & Z Street, Omaha NE 68107.

MC 140006 (Sub-1TA), filed August 15, 1978. Applicant: John W. George d.b.a. Hepner's Trucking Co., 1810 East Washington Avenue, Vineland, NJ 08360. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering*

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and materials and supplies used in the installation and manufacturing thereof, except in bulk, between Vineland, NJ and Philadelphia, PA, on the one hand, and, on the other, Atlanta, Dalton, and Rome, CA, and Chattanooga, TN, for 180 days. Supporting shipper: Spaceway Carpets, Inc., P.O. Box 1464, Dalton, GA 30720, Vineland Interiors, Brewster & Wheat Roads, Vineland, NJ 08360, Shadeen Cpt. Mills, Rt. 41, Calhoun, GA, Waldman & Sons, 1945 North Howard Street, Philadelphia, PA 19122, S & S Mills, Inc. 1406 Riverbend Rd., Dalton, GA., and Aspen Wholesale Carpets, Inc., 7025 Colonial Hwy, Pennsauken, NJ 08110. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 142368 (Sub-13TA), filed August 21, 1978. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, City of Industry, CA 91744. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum windows and patio doors* from Fresno, CA, to points in AZ and those points in NV on and south of U.S. Hwy 6, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Merzon Industries, Inc., 4385 West Shaw Avenue, P.O. Box 5277, Fresno, CA 93705. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 142559 (Sub-49TA), filed August 30, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John A. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic flakes, plastic granules, plastic powder and plastic articles* (except commodities in bulk), from points in and east of ND, SD, NE, KS, OK and TX to the facilities of General Polymers of Michigan, Inc., at Dearborn, and Warren, MI, for 180 days. Supporting shipper: General Polymers of Michigan, Inc., 1080 Naughton, Troy, MI 48084. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143183 (Sub-3TA) filed August 30, 1978. Applicant: L. M. ROACH d.b.a. D & L TRUCKING CO., P.O. Box 1741, (145 Sampson Road), Wilmington, NC 28401. Representative: Ralph McDonald, Attorney, 336 Fayetteville Street Mall, P.O. Box 2246, Raleigh, NC 27602. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bags, and in bulk between points in NC, SC and VA, for 180 days. Supporting shipper: W.R. Grace & Co., P.O. Box 368, Wilmington, NC 28401. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 143218 (Sub-1TA) filed August 24, 1978. Applicant: DONALD SANTISI TRUCKING CO., 1024 North Main Street, Niles, OH 44446. Representative: Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Books, magazines, periodicals, and advertising matter*, except commodities in bulk, from Canton, OH to points in TX, NM, AZ, CO, UT, WA, OR, CA, and MN, under a continuing contract or contracts with Danner Press Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Danner Press Corp., 1250 Camden, SW, Canton, OH. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143380 (Sub-1TA) filed August 30, 1978. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G Leasing, 6331 Melody Lane, 1720, Dallas, TX 75231. Representative: Paul D. Angenend, Robinson, Felts, Meyers, Starnes & Latting, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Vinyl floor covering*, from Trenton, NJ and Marcus Hook, PA to Houston and Irving, TX, under a continuing contract or contracts with L.D. Brinkman & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L.D. Brinkman & Co., 520 North Wildwood Road, Irving, TX 75061. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 143775 (Sub-14TA) filed August 15, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: O. Paul Yates (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Dog food and cat food, canned or dry (in bags), from Vernon, CA., and its commercial zone, to points in AZ*, for 180 days. Applicant holds contract carrier authority at MC 143610; therefore, dual operations may be involved. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 N First Avenue, Phonex, AZ 85025.

MC 143775 (Sub-18TA) filed August 7, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Toilet preparations, beauty and health products and equipment, personal electric appliances and accessories and parts therefor*, on vehicles equipped with mechanical refrigeration, from La Mirada, CA and its commercial zone, to Portland, OR and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clairol, Inc., 1 Blachley Road, Stamford, CT 06902. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 143873 (Sub-2TA), filed August 25, 1978. Applicant: TITAN TRANSFER, INC., 4302 South 30th Street, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-product, and articles distributed by meat packinghouses*, as described in Section A, B, and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Swift & Co.'s facilities at Des Moines, Iowa to Omaha, NE, for 180 days. Applicant has filed underlying ETA's for 30 + 2 and 25 days of operating authority. Supporting shipper: Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 145109 (Sub-1TA), filed August 30, 1978. Applicant: BOWLING GREEN BEVERAGE CO., INC., P.O. Box 3390, Bowling Green, KY 42101. Representative: Louis J. Amato, Attorney, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brush blocks, wood flour, in bags, folding director chairs, tables, stools, and lounges*, from Bowling Green, KY to Atlanta, GA, Chicago, IL, Detroit, MI, Milwaukee, WI, Evansville and Ft. Wayne, IN, Chattanooga and Memphis, TN, St. Paul, MN, Cincinnati and Columbus, OH, and San Antonio, TX, for 180 days. Supporting shipper: Barry V. Locke, Locke Enterprises, Inc., P.O. Box 237, Bowling Green, KY 42101. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 145220 (Sub-1TA), filed August 25, 1978. Applicant: IREDELL MILK TRANSPORTATION, INC., Rt. 3, Box 368, Mooresville, NC 28115. Representative: George W. Clapp, Registered Practitioner, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fruit juices and fruit juice concentrates*, in bulk, in tank vehicles, (a) between Asheville, NC and points in its commercial zone on the one hand and on the other Fremont, MI and Bedford, VA and (b) between the facilities of Seneca-Lincoln Foods at or near Mountain Home, NC on the one hand and on the other the facilities of Seneca-Lincoln Foods at or near Lawrence, MA, Dundee and Highland, NY; and (2) *Raw apple juice* in bulk in tank vehicles from the facilities of Carolina Apple Processors Cooperative, Inc. at or near Hendersonville, NC to Fleetwood and Orrtanna, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carolina Apple Processors Cooperative, Inc., P.O. Box 1126, Hendersonville, NC 28739. Gerber Products Co., P.O. Box 2689, Asheville, NC 28802. Seneca-Lincoln Foods, Div. of S. S. Pierce Co., 74 Seneca St., Dundee, NY 14837. Send protests to: Interstate Commerce Commission, District Supervisor Terrell Price, 800 Briar Creek Road, Mart Office Building, Room CC516, Charlotte, NC 28205.

MC 145220 (Sub-2TA), filed August 25, 1978. Applicant: IREDELL MILK TRANSPORTATION, INC., Rt. 3, Box 368, Mooresville, NC 28115. Representative: George W. Clapp, Registered Practitioner, P.O. Box 836, Taylors, SC 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude peanut oil*, in bulk, in tank vehicles, from Hershey, PA to New Orleans and St. Rose, LA for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gold Kist, Inc., P.O. Box 2210, Atlanta, GA 30301. Send protests to: Interstate Commerce Commission, District Supervisor Terrell Price, 800 Briar Creek Road, Mart Office Building, Room CC516, Charlotte, NC 28205.

MC 145267 (Sub-2TA), filed September 7, 1978. Applicant: CAMPBELL TRANSPORT, INC., P.O. Box 386, Vineland, NJ 08360. Representative: L. Agnew Myers, Jr., Attorney at Law, 407 Walker Building, 734 15th Street, NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal alloys; aluminum and aluminum articles; barrels, drums, pails, tubs or containers; cement and mortar brick or shapes; castings or forgings; chemicals; buffing or polishing compounds; graphite crucibles; furnace electrodes; fluorspar; fly ash; powdered or scrap iron; metals; ores; pallets, platforms or skids; and slag pots*, (1) from the facilities of Shieldalloy Corp., at or near Newfield, NJ, to points in the States of AL, IL, IN, IA, KY, LA, MD, MI, MO, NY, NC, OH, PA, TN, TX, and WV, (2) from Birmingham, AL, Chicago, IL, St. Louis, MO, Atlanta, GA, Freeport, TX, and Texas City, TX, to the facilities of Shieldalloy Corp., at or near Newfield, NJ, under a continuing contract or contracts with Shieldalloy Corp., for 180 days. Supporting shipper: Shieldalloy Corp., West Boulevard, Newfield, NJ 08344. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 145275TA, filed August 25, 1978. Applicant: JERALD HEDRICK d.b.a. Hedrick & Son Trucking, RR No. 1, Warren, IN 46792. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal and poultry feeds, dry animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides, pesticides, livestock and poultry feeders and equipment and advertising matter and premiums related to such commodities*, except the transportation of liquid commodities in bulk from the plant site and warehouse facilities of Moorman Manufacturing Co., at or near Bluffton, IN, to points in the States of VA, AL, DE, FL, GA, KY, MD, WI, NY, TN, WV, IL, MI, MS, OH, PA, SC and NC; and (2) *Materials, equipment and supplies* used in the manufacture, sale and distribution of the above-named commodities, except the transportation of liquid commodities in bulk from the above-named destination States to the plant site or warehouse facilities of Moorman Manufacturing Co., at or near Bluffton, IN, under a continuing contract or contracts with Moorman Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Moorman Manufacturing Co., 1000 North 30th Street, Quincy, IL 62301. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 242 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 145324 TA, filed August 30, 1978. Applicant: LIBERTY TRANSPORT, INC., 1212 Tierra Luna, Walnut, CA 90096. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, vinyls, and upholstery materials, and related supplies and accessories*, from points in MA, OH, IN, LA, NC, TN, KY, GA and IL to points in Phoenix, AZ, Sacramento and Los Angeles Counties, CA, for 180 days. Supporting shipper: Lindsey & Hall, 1036 S. Hope Street, Los Angeles, CA 90015. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 145355 (Sub-1TA), filed September 7, 1978. Applicant: JOHN MURRAY'S MOTOR TOURS, INC., 111 South Washington Street, Wilkes-Barre, PA 18702. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in motor vehicles having no more than a carrying capacity of nine persons, between points in Luzerne, Lackawanna, and Monroe Counties, PA, on the one hand, and, on the other, NJ, NY, MD, CT, FL, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately (13) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, PA 18503.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-29540 Filed 10-18-78; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[3410-05-M]

1

COMMODITY CREDIT CORPORATION.

MEETING RESCHEDULED FOR OCTOBER 26, 1978, 3 p.m.

"FEDERAL REGISTER" CITATIONS OF PREVIOUS ANNOUNCEMENTS: Vol. 43, No. 185, September 22, 1978, page 43083, and Vol. 43, No. 190, September 29, 1978, page 44964.

PLACE: Room 218-A, Administration Building, U.S. Department of Agriculture.

STATUS: Open except for agenda item 9 which will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on September 8, 1978.
2. Docket UCP 2a re 1979-crop wheat loan, purchase, payments, set-aside, and land diversion program.
3. Docket FCZ 247, Revision 1, Amendment 1 re Policy on Commodity Credit Corporation interest rates on commodity loans, grain reserve loans, farm storage, and drying equipment loans and certain price support purchase transactions.
4. Secretary's determination of Pub. L. 480 availability.
5. Resolution UCX 310a re Commodities available for sale to voluntary relief organizations during fiscal year 1979.
6. Docket CX 308a, Amendment 1 re Assurance arrangements required by CCC under its noncommercial risk assurance program.
7. Docket RCZ 252b, Amendment 1 re Operating provisions for extending farm stored and warehouse stored loan programs for the 1976 and subsequent crops, and Docket TCP 33a, Amendment 1 re 1978-crop rice loan, purchase and payment program.
8. Docket TCO 309 re Research project—testing 1978 crop of tobacco to determine the level of Maleic Hydrazide residue on cured leaves.
9. Docket UNP 307 re Purchase and distribution of agricultural commodities and other foods for domestic distribution with FNS and section 32 funds, fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cheery, Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-2095-78 Filed 10-17-78; 11:32 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 24, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Regulation 1.35(g),
Proliferation of Interest-Rate Futures Contract,
Amendment to Commission Regulation 1.31 dealing with recordkeeping, and
Interim amendment to the definition of "proprietary account."

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2101-78 Filed 10-17-78; 3:35 pm]

[6712-01-M]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 19, 1978.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Petition for reconsideration filed April 1, 1977, on behalf of KGME Radio, Inc., licensee of AM station KGMB, Honolulu, Hawaii.
General—2—Applications for review of staff ruling partially granting the Freedom of Information Act request jointly filed by Classical Radio for Connecticut, Inc. and the WTIC-FM Listeners' Guild.
General—3—Inquiry into commercial television network practices.
General—4—Measurement techniques of television reciever noise figures.
General—5—GAO report (The Role of Field Operations in the Federal Communications Commission Regulation).
Safety and Special Radio Services—1—Amendment of part 81 of the rules to delete the provisions which provide for the use of telegraphy by limited coast stations.
Safety and Special Radio Services—2—Termination of Docket 20092.
Safety and Special Radio Services—3—Report and Order, adopting the rules proposed in NPRM SS Docket No. 78-28, concerning the frequencies allocated in the Business Radio Service for use by operators of central station commercial protection facilities.
Safety and Special Radio Services—4—Conflict between rule section 97.79(d) and text of the Notice of Proposed Rulemaking in Docket 20112.
Safety and Special Radio Services—5—Amendment of the General Mobile Radio Service and Amateur Radio Services rules to establish procedures to minimize potential interference to radio astronomy operations.
Common Carrier—1—Proposed rulemaking to amend section 61.38 of the Commission's rules.
Common Carrier—2—A.T. & T. revisions to Tariff No. 260 establishing rates for leased voice-grade channels (Transmittal No. 13048) and Hawaiian Telephone Co. revisions to Tariffs Nos. 4 and 11 establishing rates for leased voice-grade channels (Transmittal No. 467).
Common Carrier—3—A.T. & T. and Bell System Operating Companies revisions to the A.T. & T. long lines department and Bell System Operating Companies interim OCC Tariffs to reflect a new expanded offering of telegraph grade facilities.
Common Carrier—4—Applications for consent to assignment and consent to transfer of control of radio authorizations in various services from American Television and Communications Corp. to Time Television and Communications, Inc., and applications by TTC for section 214 authority to acquire and operate channels of communication being provided by ATC through domestic satellite receive-only Earth stations.
Cable Television—1—Petition for declaratory ruling (CSR-1271) filed by Micro-Cable Communications Corp.
Cable Television—2—Joint petition for reconsideration of Arlington Telecommunications Corp. d.b.a. Artec, Arlington County, Va.
Cable Television—3—Petition for reconsideration filed by People's Cable Co., operator of a proposed cable television system serving the town of Henrietta, N.Y.
Cable Television—4—Applications for consent to the transfer of control of two cable television relay service stations licensed to Wolverine Cablevision, Inc., from American Television and Communications Corp. to the Industrial National Bank of Rhode Island as trustee under a Voting Trust Agreement.
Renewal—1—Renewal of licenses of four FM stations proposing nonentertainment programing (news, public affairs, and all other programing exclusive of entertainment and sports).
Renewal—2—Petition to deny application of Westinghouse Broadcasting Co., Inc., for renewal of license for station KPIX, San Francisco, Calif. filed by Community Coalition for Media change.
Renewal—3—Petition to deny application of Pacific FM, Inc., and San Francisco Wireless Talking Machine Co., Inc., for renewal of licenses of stations KIOI(FM) and KIQI, San Francisco, Calif., filed by Community Coalition for Media Change.
Renewal—4—Petition to deny the broadcast renewal application of McClatchy Newspapers, licensee of station KOVR(TV), filed by San Joaquin Communications Corp.
Renewal—5—Petition filed by the St. Louis Broadcast Coalition seeking reconsideration of Commission Orders in Newhouse Broadcasting Corp.
Renewal—6—Renewal application of Communico Oceanic Corp. for stations KPOI and KHSS(FM), Honolulu, Hawaii.
Complaints and Compliance—1—Request for a declaratory ruling concerning the meaning of the phrase "program or any part thereof" in section 325(a) of the act.
Complaints and Compliance—2—Violations by station WTRP, La Grange, Ga., of representations, made to the Commission in its application for license renewal, regarding the maximum amount of commercial time to be broadcast in hour.
Complaints and Compliance—3—Application for review, filed July 19, 1978, of the Broadcast Bureau's ruling of June 27, 1978, denying a complaint filed by Horace Rowley, III, against WWL-TV, New Orleans, La.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 13, 1978.

[S-2091-78 Filed 10-17-78; 10:44 am]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10:30 a.m., Monday, October 16, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special emergency closed Commission meeting for October 16 canceled and rescheduled.

The Federal Communications Commission has canceled the emergency closed meeting previously scheduled for Monday, October 16, 1978, starting at 10:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C. (Public Notice 8277). The item has been rescheduled for October 18, 1978.

The following items are scheduled for a special closed Commission meeting on Wednesday, October 18, 1978, starting 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C., as previously announced in Public Notices 8278 and 8337.

Agenda, Item No., and Subject

General—1—Briefing on preparation of WARC '79, including status of consultations with foreign countries.
General—2—The decision in *Central Florida Enterprises, Inc.* v. *FCC* (D.C. Circuit No. 76 1742).
General—3—Internal personnel matter.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Dated: October 16, 1978.

[S-2099-78 Filed 10-17-78; 3:35 pm]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 19, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted.

Agenda, Item No., and Subject

Common Carrier—4—Applications for consent to assignment and consent to transfer of control of radio authorizations in various services from American Television and Communications Corp. to Time Television and Communications, Inc. and applications by TTC for section 214 authority to acquire and operate channels of communication being provided by ATC through domestic satellite receive-only Earth stations.
Cable Television—4—Applications for consent to the transfer of control of two cable television relay service stations licensed to Wolverine Cablevision, Inc., from American Television and Communications Corp. to the Industrial National Bank of Rhode Island as trustee under a Voting Trust Agreement.

The above items will be rescheduled for consideration at a special open meeting, October 25, 1978.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 16, 1978.

[S-2100-78 Filed 10-17-78; 3:35 pm]

[6740-02-M]

6

OCTOBER 16, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10:30 a.m., October 19, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing of the Commission in public session on the general contents of the recently passed National Energy Act (NEA) and the Commission's responsibilities under the various sections of the NEA. The Commission will not consider any proposed implementing regulations at this briefing.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

The following members of the Commission voted that agency business requires the holding of an open meeting on less than the 1 week's notice required by the Government in the Sunshine Act:

Chairman Curtis
Commissioner Smith
Commissioner Sheldon
Commissioner Holden
Commissioner Hall

KENNETH F. PLUMB,
Secretary.

[S-2093-78 Filed 10-17-78; 10:44 am]

[6740-02-M]

7

OCTOBER 17, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 9 a.m. to 12 noon, November 6, 1978.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing of the Commission in public session on the generic issue of rate of return allowed on common

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equity. At this session, staff will discuss the relative merits of various methodologies used in Federal and State commission determinations of rate of return and the legal criteria established by statute and case law under which the Commission makes those determinations.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2094-78 Filed 10-17-78; 10:44 am]

[6740-02-M]

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 47649, published October 16, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 18, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CI-4. G-10083, et al., Texaco Inc.

KENNETH F. PLUMB, *Secretary.*

[S-2096-78 Filed 10-17-78; 1:34 pm]

[7020-02-M]

9

[USITC SE-78-52]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 24, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints: (a) Pump dispensers and thermally insulated liquid containers (Docket No. 537).
5. Motorcycles from Japan (Inv. AA1921-187)—Briefing.
6. Bolts, nuts, and large screws (Inv. TA-201-37)—Briefing.
8. Status report on the EEO program.
9. Any items left over from previous agenda.

Portions closed to the public:

7. Status report on Investigation 332-101 (MTN), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2097-78 Filed 10-17-78; 1:34 pm]

[7020-02-M]

10

[USITC SE-78-53]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, October 26, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Motorcycles from Japan (Inv. AA1921-187)—Vote on injury.
2. Bolts, nuts, and large screws (Inv. TA-201-37)—Vote on injury.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2098-78 Filed 10-17-78; 1:34 pm]

[7550-01-M]

11

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, November 1, 1978.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of October 1978.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone 202-523-5920.

Date of notice: October 16, 1978.

[S-2102-78 Filed 10-17-78; 3:35 pm]

[4910-58-M]

12

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, October 26, 1978 [NM-78-37].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first two items on the agenda will be open to the public; the last item will be closed under exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Midair collision involving a Falcon Jet, N121GW, and a Cessna 150M, N6423K, Memphis, Tenn., May 18, 1978, and recommendations associated with this and other midair collisions.
2. *Special Study*—"'Human Error' in Air Carrier Accidents and Incidents."
3. *Opinion and Order*—Administrator versus Neville, Dkt. SE-3756; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-2092-78 Filed 10-17-78; 10:44 am]

federal register

THURSDAY, OCTOBER 19, 1978
PART II

DEPARTMENT OF DEFENSE

Department of the Army

■

PRIVACY ACT OF 1974

Amendments to Systems of Records

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[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

Amendment of Record Systems

AGENCY: Department of the Army, DOD.

ACTION: Notice of amendments to record systems.

SUMMARY: The Army proposes to amend 43 systems of records. Following specific changes to the systems being amended, the systems are published in their entirety.

DATES: These systems shall be amended as proposed without further notice on November, 1978, unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to The Adjutant General, Department of the Army, ATTN: DAAG-AMR-R, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314; telephone: 202-693-0973.

SUPPLEMENTARY INFROMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a, Pub. L. 93-579, have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.
FR Doc. 78-23953 (42 FR 38070), August 25, 1978.
FR Doc. 78-25562 (42 FR 40272), September 11, 1978.
FR Doc. 78-26372 (42 FR 42026), September 19, 1978.
FR Doc. 78-42374 (42 FR 25819), September 20, 1978.
FR Doc. 78-26699 (42 FR 43059), September 22, 1978.
FR Doc. 78-26996 (42 FR 43539), September 26, 1978.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the act which requires submission of a new or altered system report.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services. Department of Defense.

OCTOBER 11, 1978.

AMENDMENTS

AAFES0207.02

System name: 207.02 AAFES Customer Comments, Complaints, and Direct Line Files (42 FR 50498), September 28, 1977.
Changes:
Authority for maintenance of the system: After "Title 10", delete entry and substitute: "U.S.C., Section 3012."
Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Delete entry and substitute: "All records are retrieved, retained, stored, and disposed of by authorization of the Director, Command and Public Relations Division."
Retention and disposal: Delete entry and substitute: "Command and Public Relations Division-Regulation 1300-10b: Cutoff at close of fiscal year. Destroyed after 3 years."
System manager(s) and address: Delete entry and substitute: "Director, Command and Public Relations Division, HQ AAFES, Dallas, TX 75222."
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: CP, Dallas, TX 75222. Telephone: Area Code 214-330-3865."
Record access procedures: Change address in first paragraph to: "HQ AAFES, ATTN: CP, DALLAS, TX 75222."

AAFES0401.04

System name: 401.04 Official Personnel Folders (OPF) (42 FR 50400) September 28, 1977.
Changes:
Categories of individuals covered by the system: Delete first paragraph and substitute: "OPF: All United States (US) citizen (to include permanent-resident alien and non-immegrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment."
Categories of records in the system: Substitute "OPF" for "Official Personnel Folder"; "SSN" for "social security number"; "CMF" for- "Career Management Folder"; and "CPF" for "Convenience Personnel Folder".
Routine uses of records maintained in the system including categories of users and the purposes of such uses: Substitute "OPF" for "Official Personnel Folder".
System manager(s) and address: Delete entry and substitue: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222."
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214-330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222."

AAFES0401.05

System name: Employee Service Record Card Files (42 FR 50400) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitue: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222."
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE Dallas, TX 75222. Telephone: Area Code 214-330-2761".
Record access procedures; Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222."

AAFES0401.11

System name: 401.11 Personnel Records Maintained at Supervisory Level (42 FR 50401) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214-330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0403.01

System name: 403.01 Application for Employment Files (42 FR 50401) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0403.04

System name: 403.04 College Recruitment Files (42 FR 50401) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214-330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0403.05

System name: 403.05 Employee Examination Records (42 FR 50402) September 28, 1977.
Changes:
System manager(s) and address: Change address to read: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0403.08

System name: 403.08 Reference and Pre-Employment Credit Files (42 FR 50402) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0404.01

System name: 404.01 Incentive Awards Case Files (42 FR 50403) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0404.03

System name: 404.03 Award Control Files (42 FR 50403) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0404.04

System name: 404.04 Award Ceremony Files (42 FR 50404) September 28, 1977.
Changes:
System manager(s) and address: Change entry to read: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0405.07

System name: 405.07 Retirement Assistance Files (42 FR 50405) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0405.15

System name: 405.15 Retirement Extention Files (42 FR 50406) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0408.05

System name: 408.05 Individual Trainee Files (42 FR 50406) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0408.06

System name: 408.06 Trainee Card Index (42 FR 50406) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0408.14

System name: 408.14 Tuition Assistance Case Files (42 FR 50407) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0408.15

System name: 408.15 Correspondence Course Files (42 FR 50407) September 28, 1977.
Changes:
Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Safeguards: Change "None." to: "Stored in locked cabinets."
System manager(s) and address: Change entry to read: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0409.01

System name: 409.11 AAFES Accident Report (42 FR 50407) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Safety and Security Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: SS, Dallas, TX 75222. Telephone: Area Code 214/330-2721".
Record access procedures: Change address to read: "HQ AAFES, ATTN: SS, Dallas, TX 75222".

AAFES0501.04

System name: 501.04 Universal Annual Photograph Files (42 FR 50409) September 28, 1977.

AAFES0703.05

System name: 703.05 Personnel Action/Discrepancy Notice Files (42 FR 50415) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0703.13

System name: 703.13 Levy and Garnishment Files (42 FR 50417) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

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AAFES0501.04

System name: 501.04 Universal Annual Photograph Files (42 FR 50409) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0505.02

System name: 505.02 IO Biographical Files (42 FR 50409) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Command and Public Relations Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: CP, Dallas, TX 75222. Telephone: Area Code 214/330-3865".
Record access procedures: Change address to: "HQ AAFES, ATTN: CP, Dallas, TX 75222".

AAFES0702.01

System name: 702.01 Paid Disbursement Files (42 FR 50411) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: Comptroller Division, CM-G, Dallas, TX 75222. Telephone: Area Code 214/330-2631".
Access record procedures: Change address to: "HQ AAFES, ATTN: CM-G, Dallas, TX 75222".

AAFES0702.22

System name: 702.22 Check-Cashing Privilege Suspense Files (42 FR 50412) September 28, 1977.
Changes:
System manager(s) and address: Change address to: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0702.23

System name: 702.23 Check-Cashing Privilege Files (42 FR 50412) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0702.34

System name: 702.34 Accounts Receivable Files (42 FR 50413) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0702.43

System name: 702.43 Travel Advance Register Files (42 FR 50413) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0702.44

System name: 702.44 Travel Advance-Trial Balance Files (42 FR 50413) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.01

System name: 703.01 AAFES TIME SHEETS (42 FR 50414) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.02

System name: 703.02 Payroll Allotment Files (42 FR 50414) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.03

System name: 703.03 United States Savings Bond Register Files (42 FR 50414) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.05

System name: 703.05 Personnel Action/Discrepancy Notice Files (42 FR 50415) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761"
Record access procedures: Change address to read: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0703.07

System name: 703.07 Payroll Register Files (42 FR 50415) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.09

System name: 703.09 Employer's Copy of Income Tax Withheld (42 FR 50415) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.10

System name: 703.10 Employer's Quarterly Federaly Tax Return Files (42 FR 50416) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.11

System name: 703.11 Wage and Separation Information Report Files (42 FR 50416) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.12

System name: 703.12 Payroll Adjustment Files (42 FR 50416) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.13

System name: 703.13 Levy and Garnishment Files (42 FR 50417) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0703.14

System name: 703.14 Payroll Report Files (42 FR 50417) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0704.07

System name: 704.07 Fidelity Bond Files (42 FR 50418) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personel Division, HQ AAFES, Dallas, TX 75222".

AAFES0803.01

System name: 803.01 AAFES Incident Record (42 FR 50422) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Safety and Security Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: SS, Dallas, TX 75222. Telephone: Area Code 214/330-2721".
Record access procedures: Change address to: "HQ AAFES, ATTN: SS, Dallas, TX 75222".

AAFES0903.06a

System name: 903.06a Systems Magnet Tape Files (42 FR 50422) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0903.06c

System name: 903.06c Systems Magnetic Tape Files (42 FR 50423) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, Tx 75222. Telephone: Area Code 214/330-3871".
Record access procedures: Change address to: "HQ AAFES, ATTN: PE, Dallas, TX 75222."

AAFES0903.06e

System name: Personal Profile (42 FR 50421) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnel Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HA AAFES, ATTN: PE, Dallas, Tx 75222. Telephone: Area Code 214/330-2761".
Record access procedures: Change address to: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES0903.06f

System name: 903.06 Personnel Management Information System (42 FR 50424) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Director, Personnal Division, HQ AAFES, Dallas, TX 75222".
Notification procedure: Delete entry and substitute: "Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222; Telephone: Area Code 214/330-2761".
Record access procedures: Change address to: "HQ AAFES, ATTN: PE, Dallas, TX 75222".

AAFES1204.07

System name: 1204.07 Customers' Merchandise Returned for Repair or Replacement (42 Fr 50426) September 28, 1977.
Changes:
System manager(s) and address: Delete entry and substitute: "Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222".

AAFES0207.02

System name:

207.02 AAFES Customer Comments, Complaints, and Direct Line Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Command and Public Relations Division; also oversea system headquarters, regional headquarters, area exchanges and individual exchanges, within the worldwide system.

Categories of individuals covered by the system:

Customer inquiries, complaints, and comments on all phases of AAFES operations; also, customer opinion survey information.

Categories of records in the system:

File contains: Customer address, telephone numbers, information pertaining to nature of inquiry, research information, and AAFES response to the customer.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To aid the exchange management in determining the needs of the customers and deciding a course of action, if deemed necessary in settling any complaint to the customer's satisfaction.

Information regarding the customer's inquiry may be exchanged between AAFES HQs and field elements for the purpose of expediting customer satisfaction, corrective action and response.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Command and Public Relations Division.

Storage:

Paper records in file folders stored in metal cabinets.

Retrievability:

Customer correspondence is logged by name and cross-referenced, then filed in metal containers by number and by exchange.

Safeguards:

Folders maintained in metal filing cabinets. Buildings employ security guards.

Retention and disposal:

Command and Public Relations Division Regulation 1300-01b: Cutoff at close of fiscal year. Destroyed after 3 years.

System manager(s) and address:

Director, Command and Public Relations Division, HQ AAFES, DALLAS, TX 75222.

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Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: CP, Dallas, TX 75222. Telephone: Area Code 214/330-3865.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CP, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, current address and telephone number, and the case (control) number that appears with the office symbol on all correspondence received from this office.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1200-75/1200-76, Personnel Action.

Systems exempt from certain provisions of the act:

None.

AAFES0401.01

System name:

401.04 Official Personnel Folders (OPF)

System location:

Primary: OPF-Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; HQ AAFES-Alaska; all regional offices; and post and base area exchanges within the AAFES system.

Decentralized: Career Management Folder (CMF)-Personnel Division, HQ AAFES, Dallas, TX 75222.

Convenience Personnel Folder (CPF)-HQ AAFES, Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; HQ AAFES-Alaska; all regional offices; all post and base exchanges and satellites within the AAFES system.

Categories of records in the system:

OPF: All United States (US) citizen (to include permanent-resident alien and non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

CMF: All US citizen (to include permanent-resident alien and non-immigrant alien) employees with category of regular full-time and temporary full-time who are at the managerial level.

CPF: All US citizen (to include permanent-resident alien and non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

OPF: Name, social security number (SSN); employment history; education; job and pay data; performance reviews; letters of commendation, reprimand; training certificates; salary and benefit information to include allowances and insurance data; travel orders and general correspondence; other personal data such as security clearance, loyalty, non-affiliation, etc.

CMF: Name, SSN; employment history; education; job and pay data; performance reviews; letters of commendation, reprimand; training certificates; travel orders and general correspondence; personal data to include health, security clearance, military separation, etc.

CPF: Name, SSN, training certificates, employment history; job and pay data; performance reviews; letters of commendation, reprimand, travel orders and general correspondence.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

OPF: Servicing Personnel Offices to provide hard-copy documentation on employee's current job and pay data, past job history, career progression, etc.

CMF: Personnel Division to obtain information on current and past employment for the purposes of job assignments, promotions, and career progression.

CPF: Maintained by non-servicing personnel offices for ready reference of employee's current and past employment history, job and pay data, etc.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee name.

Safeguards:

Folders maintained in locked filing cabinets.

Retention and disposal:

OPF: Placed in active file upon separation. Hold 1 year then forward to National Personnel Records Center (NPRC) (Civilian), 111 Winnebago Street, St. Louis, MO 63118. Inactive OPF may be retired to NPRC 3 months after separation by AAFES elements when the volume of inactive OPFs create a storage problem.

CMF: Cutoff at close of fiscal year in which employee is separated. Destroyed after 3 years.

CPF: Transferred with OPF to gaining location upon transfer Cutoff at close of fiscal year employee is separated. Destroy after 1 year.

System manager(s) and address:

Director, Personnel Division, HQ, AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE. Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing intitial determinations may be obtained from the SYSMANAGER.

Record source categories:

OPF: Application for Employment; Application for Fidelity Bond; College Transcripts; Personnel Actions; Performance Reviews and/or Personnel Evauluation Reports; Letters of Commendation, Reprimand; Training Certificates; Travel Orders; Employee Insurance Data; Housing Allowance; Certificate of Clearance; Loyalty Affidavit; Certificate of Non-Affiliation; and Bonds.

CMF: Application for Employment; College Transcripts; Personnel Actions; Personnel Evaluation Reports; Letters of Commendation, Reprimand; Training Certificates; Travel Orders; Certificate of Clearance; and other related papers.

CPF: Personnel Actions; Training Certificates; Performance Reviews and/or Personnel Evaluation Reports; Letters of Commendation, Reprimand; Travel Orders; and other related papers.

Systems exempt from certain provisions of the act:

None.

AAFES0401.05

System name:

401.05 Employee Service Record Card Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; HQ AAFES-Alaska; all regional offices; and all post and base exchanges and satellites within the AAFES system.

Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien and non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the stystem:

Official summary of employment history to include name; social security number (SSN); date of birth; home address and telephone number; emergency contact; passport data; identification card data; dependent data; foreign languages to include degree of proficiency; clerical skills; education to include schools attended, degree achieved; AAFES education/training courses; performance reviews to include data and type; service award data; employment record to include date, job data, pay data, and separation data.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To have as ready reference to official summary of employment history, chronology of personal and service data for employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in kardex or file boxes.

Retrievability:

Alphabetical by employee name.

Alphabetical within activity and branch.

Safeguards:

Maintained in locked cabinet.

Retention and disposal:

Cutoff at close of fiscal year in which employee is separated or transferred. Retain 5 additional years in current files area and retire. Destroy 15 years after cutoff. Exception: Forward files to employees of discontinued installations to National Personnel Records Center (Civilian).

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: TE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Personnel Actions: Performance Reviews and/or Personnel Evaluation Reports; application form; training certificates; and service award certificates.

Systems exempt from certain provisions of the act:

None.

AAFES0401.11

System name:

401.11 Personnel Records Maintained at Supervisory Level.

System location:

All supervisory personnel within the Army and Air Force Exchange Service (AAFES) for subordinate employees.

Categories of individuals covered by the system:

All U.S. citizen (including permanent-resident alien and nonimmigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

Name; social security number (SSN); job data; performance review data to include date and rating; counseling interview record; training record to include courses, type, and completion date; job description; and standards of conduct review.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Ready reference for supervisor of pertinent data on subordinate employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper file maintained in file folder.

Retrievability:

Alphabetical by employee's name.

Safeguards:

Maintained in locked filing cabinet or supervisor's desk.

Retention and disposal:

Destroy upon separation, retirement, or non-local transfer of employee.

System manager(s) and address:

Director, Personnel Division, Headquarters (HQ) AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address, and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Supervisor's Record of Employee, Employee Interview Record Card

Retention and disposal:

Active applications: Destroy after 2 years, except that on request they

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

AAFES0403.05

System name:

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE,

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

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Record source categories:

Supervisor's Record of Employee, Employee Interview Record Card (Counseling), Job Description, Employee Training Record, and comparable papers.

Systems exempt from certain provisions of the act:

None.

AFFES0403.01

System name:

403.01 Application for Employment Files.

System location:

Executive and Managerial: Personnel Division, Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Non-Managerial: HQ AAFES, Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; AAFES-Alaska; all regional offices; and post and base exchanges and satellites within the AAFES system.

Categories of individuals covered by the system:

Individuals outside of AAFES applying for positions within the AAFES.

Categories of records in system:

Active applications: Application for Employment, resume, applicant referrals, interview form, previous employers' references, and related papers.

Inactive applications: Application for Employment, resume, letter of rejection, and related papers.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: Filling of vacancies at the managerial level for which outside recruitment is necessary.

Servicing Personnel Office: Filling of vacancies of non-managerial level that require outside recruitment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records filed in file folders.

Retrievability:

Active applications: Alphabetical within position category.

Inactive applications: Aphabetical by individual name.

Safeguards:

Maintained in locked cabinets.

Retention and disposal:

Active applications: Destroy after 2 years, except that on request they may be returned to individuals.

Inactive applications: Cutoff monthly. Destroy after 3 months.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Applicant; previous employers.

Systems exempt from certain provisions of the act:

None.

AAFES403.04

System name:

403.04 College Recruitment Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Personnel Division, Career Management Branch, Recruitment and Executive Development Section, Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) who have been interviewed at a college or university for employment with the AAFES.

Categories of records in the system:

File contains copies of correspondence with school, school recruiting trip report, and report of campus visit.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To maintain information on school placement functions and curriculums, available on-campus interviewing dates, and other information relevant to students' interest in AAFES employment.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Locked containers.

Retrievability:

Alphabetical by school name. Each request for information evaluated as to need before release.

Safeguards:

Stored in locked containers.

Retention and disposal:

Cutoff at close of fiscal year. Destroy after 3 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the name of the school and date visited and the name of the student/applicant interviewed.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information obtained directly from school in correspondence form.

Systems exempt from certain provisions of the act:

None.

AAFES0403.05

System name:

403.05 Employee Examination Records.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All managerial and regular full-time hourly-paid employees who have been considered for promotion to managerial level.

Categories of records in the system:

File contains test scores and normative date on those persons who have taken the AAFES test battery which consists of (a) SET tests, (b) Thurstone Test of Mental Alertness, (c) Wesman Personnel Classification Test, (d) Thurston Tempermanent Schedule, and (e) Personagraph (Allston B. Hobby Associates).

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used as research data and a predictor of success in given situations during job considerations. Test battery is read only by a professional psychologist with a minimum of a MA in Psychology.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Locked containers.

Retrievability:

Alphabetical by employee name. Each request for data evaluated as to need before release.

Safeguards:

Stored in locked containers.

Retention and disposal:

Permanent; cutoff at close of fiscal year.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Individual tests taken by employee.

Systems exempt from certain provisions of the act:

None.

AAFES0403.08

System name:

403.08 Reference and Pre-Employment Credit Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) who have interviewed for a management or management trainee position with the AAFES.

Categories of records in the system:

File contains correspondence and other documents regarding employment suitability. Includes letters to and replies from previous employers, personal reference checks, security and/or other preemployment investigations and clearances deemed appropriate to the position, and evidence that the applicant is in satisfactory physical condition.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Assure that an individual, after having been selected for appointment but prior to official appointment, has cleared for employment suitability.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetical by employee's name.

Safeguards:

Maintained in locked filing cabinet.

Retention and disposal:

Cutoff at close of fiscal year. Destroy after 1 year for satisfactory reference and credit checks. Destroy after 3 years for adverse reference and/or derogatory credit checks.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, DALLAS, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contestants and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information obtained from employee's previous employer(s) and from personal references provided AAFES by the employee.

Systems exempt from certain provisions of the act:

None.

AAFES0404.01

System name:

404.01 Incentive Awards Case Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizen (to include

Neither instructions nor provisions for personal visits are provided at this time.

Retention and disposal:

Cutoff at close of fiscal year in which case is closed; destroyed after 2

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Categories of individuals covered by the system:

All United States citizen (to include

of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions

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Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains name, social security number (SSN), grade/step, position title, organization, award nominated for, accomplishments, requirements of the position occupied during period covered in award nomination, and staff comments/concurrence/non-concurrence.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To accomplish staff comments and recommendations to support justification for award nominations in order to present findings to AAFES Incentive Awards Committee for recommendation of honorary award to Commander, AAFES.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper files stored in filing cabinets.

Retrievability:

Alphabetical by employee name.

Safeguards:

Files maintained in locked filing cabinets.

Retention and disposal:

Cutoff at close of fiscal year in which case is closed; destroyed after 2 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX. 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1900-19, Awards Nomination Form, submitted by employee's supervisor; AAFES Form 1900-22, Evaluation of Honorary Award Nomination.

Systems exempt from certain provisions of the act:

None.

AAFES0404.03

System name:

404.03 Award Control Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

United States (US) citizen, national and permanent resident alien employees; local national and third-country national AAFES employees providing there is no conflict with local treaties, host-country agreements or command directives.

Categories of records in the system:

Managerial and nonmanagerial employees (Hourly Pay Plan/Universal Annual); name, social security number (SSN), grade/step, organizational, and award for which nominated.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the systems, including categories of users and the purposes of such uses:

Personnel Division: To control award nominations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Three four-drawer and one five-drawer file cabinets.

Retrievability:

By name.

Safeguards:

Files maintained in locked filing cabinets.

Retention and disposal:

Cutoff at close of fiscal year in which case is closed; destroyed after 2 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1900-19, Award Nomination Form, submitted by employee's supervisor.

Systems exempt from certain provisions of the act:

None.

AAFES0404.04

System name:

404.04 Award Ceremony Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Personnel Branch, Dallas, TX 75222; and Command and Public Relations Division and Office of the Commander.

Categories of Individuals covered by the system:

HQ AAFES employees who have been recipients of military awards, AAFES service, and other awards.

Categories of records in the system:

Managerial and nonmanagerial employees (Hourly Pay Plan/Universal Annual): name, grade, position title, organization, award for which nominated, accomplishments, and requirements of the position occupied during period covered in award nomination.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Background on recipients of awards to be read at an awards ceremony held by the Commander, AAFES or his designated representative.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Stored in file folders in one four-drawer file cabinet.

Retrievability:

By name.

Safeguards:

Files maintained in filing cabinets.

Retention and disposal:

Cutoff at close of fiscal year. Destroyed after 3 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is obtained from employee on AAFES Form 1100-22 and from employee's Official Personnel Folder.

Systems exempt from certain provisions of the act:

None.

AAFES0405.07

System name:

405.07 Retirement Assistance Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien, non-immigrant alien) emloyees with category of regular full-time, regular part-time, temporary part-time, temporary full-time, and intermittent employment.

Categories of records in the system:

File contains social security number (SSN), name, exchange location, date of birth, date of hire, leave accrual date, retirement participation date, service award base date, citizenship, martial status, sex, security clearance, current military status, prior AAFES service, job and pay data, type of insurance coverage, deductions, mobility status, date in grade, and step.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

To accomplish authority to employ a retired member of the armed forces during the 180 days immediately following retirement.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Contains inquiries and the replies to questions submitted in writing by employees concerning their own retirement situations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Five-drawer metal file cabinet.

Retrievability:

Alphabetical by employee's name.

Safeguards:

File cabinets are locked when not in use.

Retention and disposal:

Cutoff at close of fiscal year. Destroy after 1 year.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number: if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personnel visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is furnished by Servicing Personnel Office.

Systems exempt from certain provisions of the act:

None.

AAFES0405.15

System name:

405.15 Retirement Extension Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas TX 75222.

Categories of individuals covered by the system:

All United States citizen employees who have applied for deferred retirement.

Categories of records in the system:

File contains social security number (SSN), name, exchange location, date of birth, service award base date, citizenship, martial status, sex, security clearance, current military status, prior AAFES service, job and pay data, type of insurance coverage, deductions, mobility status, date in grade, and step.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

To accomplish authority to employ a retired member of the armed forces during the 180 days immediately following retirement.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to approve and control requests for extension of normal retirement date.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Five-drawer metal file cabinet.

Retrievability:

Alphabetical by employee's name.

Safeguards:

File cabinets are locked when not in use.

Retention and disposal:

Cutoff at close of fiscal year in which case is closed; destroyed after 2 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX. 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1900-19, Awards Nomination Form, submitted by employee's supervisor; AAFES Form 1900-22, Evaluation of Honorary Award Nomination.

Systems exempt from certain provisions of the act:

None.

AAFES0404.03

System name:

404.03 Award Control Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

United States (US) citizen, national and permanent resident alien employees; local national and third-country national AAFES employees providing there is no conflict with local treaties, host-country agreements or command directives.

Categories of records in the system:

Managerial and nonmanagerial employees (Hourly Pay Plan/Universal Annual); name, social security number (SSN), grade/step, organizational, and award for which nominated.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the systems, including categories of users and the purposes of such uses:

Personnel Division: To control award nominations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Three four-drawer and one five-drawer file cabinets.

Retrievability:

By name.

Safeguards:

Files maintained in locked filing cabinets.

Retention and disposal:

Cutoff at close of fiscal year in which case is closed; destroyed after 2 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1900-19, Award Nomination Form, submitted by employee's supervisor.

Systems exempt from certain provisions of the act:

None.

AAFES0404.04

System name:

404.04 Award Ceremony Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Personnel Branch, Dallas, TX 75222; and Command and Public Relations Division and Office of the Commander.

Categories of Individuals covered by the system:

HQ AAFES employees who have been recipients of military awards, AAFES service, and other awards.

Categories of records in the system:

Managerial and nonmanagerial employees (Hourly Pay Plan/Universal Annual): name, grade, position title, organization, award for which nominated, accomplishments, and requirements of the position occupied during period covered in award nomination.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Background on recipients of awards to be read at an awards ceremony held by the Commander, AAFES or his designated representative.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Stored in file folders in one four-drawer file cabinet.

Retrievability:

By name.

Safeguards:

Files maintained in filing cabinets.

Retention and disposal:

Cutoff at close of fiscal year. Destroyed after 3 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is obtained from employee on AAFES Form 1100-22 and from employee's Official Personnel Folder.

Systems exempt from certain provisions of the act:

None.

AAFES0405.07

System name:

405.07 Retirement Assistance Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien, non-immigrant alien) emloyees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains social security number (SSN), name, exchange location, date of birth, date of hire, leave accrual date, retirement participation date, service award base date, citizenship, martial status, sex, security clearance, current military status, prior AAFES service, job and pay data, type of insurance coverage, deductions, mobility status, date in grade, and step.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

To accomplish authority to employ a retired member of the armed forces during the 180 days immediately following retirement.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Contains inquiries and the replies to questions submitted in writing by employees concerning their own retirement situations.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Five-drawer metal file cabinet.

Retrievability:

Alphabetical by employee's name.

Safeguards:

File cabinets are locked when not in use.

Retention and disposal:

Cutoff at close of fiscal year. Destroy after 1 year.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number: if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personnel visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is furnished by Servicing Personnel Office.

Systems exempt from certain provisions of the act:

None.

AAFES0405.15

System name:

405.15 Retirement Extension Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas TX 75222.

Categories of individuals covered by the system:

All United States citizen employees who have applied for deferred retirement.

Categories of records in the system:

File contains social security number (SSN), name, exchange location, date of birth, service award base date, citizenship, martial status, sex, security clearance, current military status, prior AAFES service, job and pay data, type of insurance coverage, deductions, mobility status, date in grade, and step.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

To accomplish authority to employ a retired member of the armed forces during the 180 days immediately following retirement.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to approve and control requests for extension of normal retirement date.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Five-drawer metal file cabinet.

Retrievability:

Alphabetical by employee's name.

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Safeguards:

File cabinets are locked when not in use.

Retention and disposal:

Cutoff at close of fiscal year. Destroyed after 1 year.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation and last employing location in addition to the above.

Neither instructions nor provisions for personnel visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Systems exempt from certain provisions of the act:

None.

AAFES0408.05

System name:

408.05 Individual Trainee Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) who have been selected for a college trainee or management development trainee position.

Categories of records in the system:

Copy of employment application forms; copy of trainee appointment personnel action; copy of trainee appointment letter; copy of completion of college/university baccalaureate degree requirements; if Hourly Pay Plan (HPP), letter of nomination to college trainee or management development trainee program; if HPP, and participating in AAFES Upward Mobility Program, copy of Employee Qualification Record and Employee Career Appraisal Form; copy of statement of Mobility; if HPP, copy of supervisor's record of employee and copy of last three performance reviews.

Authority for maintenance of the system:

Title 10 U.S.C., Seciton 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To obtain information on current and past employment, education, training history, mobility preference, and personal data for the purpose of assignment to a college trainee or a management development trainee position.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Locked container.

Retrievability:

Alphabetical by employee's name. Each file is retrieved, retained, stored, and disposed of by authorization of the Director, Personnel Division.

Safeguards:

Stored in locked container.

Retention and disposal:

Cutoff at close of fiscal year following the completion of training. Destroy after 5 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written request for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determination may be obtained from the SYSMANAGER.

Record source categories:

Information is based on initial written data provided by the applicant and AAFES to assist in the employment selection process.

Systems exempt from certain provisions of the act:

None.

AAFES0408.06

System name:

408.06 Trainee Card Index.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individual covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) selected for college trainee or management development trainee positions.

Categories of records in the system:

Card contains trainee category, name, social security number (SSN), date of hire, date of birth, training location, marital status, position and grade of which assigned, and date and location of assignment.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To obtain ready reference regarding summary information, trainee employment status, and pertinent data for trainee employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Locked cabinet.

Retrievability:

Alphabetical by employee name.

Safeguards:

Stored in locked cabinet.

Retention and disposal:

Cutoff at close of fiscal year in which individual's trainee program is completed. Destroy after 1 year.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX

75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in additon to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is obtained from employee's Career Management Folder.

Systems exempt from certain provisions of the act:

None.

AAFES0408.14

System name:

408.14 Tuition Assistance Case Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent resident, resident aliens) who are regular full-time employees.

Categories of records in the system:

Managerial and nonmanagerial employees: Applicaiton for Tuition Assistance, approval letters, letters of congratulations, copies of Request for Disbursement, transcripts, curricula, grade reports, and course receipts.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To maintain information on participants in the tuition assistance program of AAFES in order to properly administer the program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Filing cabinets

Retrievability:

Alphabetical by employee's name.

Safeguards:

Stored in locked containers.

Retention and disposal:

Cutoff at close of fiscal year in which course is complete or 2 years after date of last action, is completion is unknown. Destroy after 2 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notificaiton procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1850-3, Application for Tuition Assistance.

System exempt from certain provisions of the act:

None.

AAFES0408.15

System name:

408.15 Correspondence Course Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

Managerial and nonmanagerial employees who are enrolled in AAFES correspondence courses and US Army correspondent courses: Application for enrollement, notice of enrollment, notice of completion, and certificate of completion.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To maintain information on participants in the correspondence course program of the AAFES in order to properly administer the program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

File cabinets.

Retrievability:

Alphabetical by employee's name.

Safeguards:

Stored in locked cabinets.

Retention and disposal:

Cutoff at close of fiscal year in which course is completed, or 2 years after date of last action, if completion date is unknown. Destroy after 2 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dalles, TX 75222.

Notification procedures:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telphone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Neither instructions nor provisions for personal visits are provided at this time.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and

appealing initial determinations may be obtained from the SYSMANAGER.

Retrievability:

Filed by location of incident and

Categories of records in the system:

File contains photographs of UA em-

Record source categories:

Photographs taken of UA employees

Retrievability:

Alphabetically by employee's name.

Categories of individuals covered by the system:

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appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1850-43, Management Development Program Course/Correspondence Course Enrollment Application; DA Form 145.

Systems exempt from certain provisions of the act:

None.

AAFES0409.01

System name:

409.01 AAFES Accident Report

System location:

Primary system will be at the Exchange reporting the accident/incident, at the Safety and Security Office at Exchange Region/Regional Exchange, and the Overseas Exchange Systems (OES) having jurisdiction over the reporting exchange.

Categories of individuals covered by the system:

Any individual injured in Army and Air Force Exchange Service (AAFES) controlled property/equipment/facility or involved in accidents or mishaps resulting in reportable damage to AAFES property or facilities; or who is injured or becomes ill when those injuries or illnesses are covered by the Williams-Steiger Occupational Safety and Health Act of 1970.

Categories of records in the system:

AAFES Accident Report/Supplementary Record of Federal Occupational Injuries and Illnesses/physicians' reports.

Authority for maintenance of the system:

Executive Order 11807.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Files are maintained at Headquarters (HQ) AAFES/HQ OES/Exchange Regions/Regional Exchanges/Area Exchanges/Exchanges as a primary record of accidents, incidents, mishaps, fires, or illnesses to be used in correcting deficiencies in safety field; in initiating insurance and workman's compensation claims; and in satisfying statistical reporting requirement to higher echelons of AAFES and the Department of Labor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed by location of incident and code identifier.

Safeguards:

Buildings have security guards. Files kept in file cabinets. Records available to those with a need-to-know.

Retention and disposal:

Retained by reporting exchange for 5 years and by Safety and Security Offices for 2 years, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

System manager(s) and address:

Director, Safety and Security Division, HQ AAFES, Dallas, TX 75222

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: SS, Dallas, TX 75222. Telephone: Area Code 214/330-2721.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: SS, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, correct address, social security number, status, telephone number, job title, and date/place/time of the incident.

For personal visits, the individual should be able to provide acceptable identification.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations may be obtained from HQ AAFES, ATTN: SS, Dallas, TX 75222.

Record source categories:

Data obtained from medical institutions/police/investigating officials/bureau of motor vehicles/State and local governments/witnesses and victims.

Systems exempt from certain provisions of the act:

None.

AAFES0501.04

System name:

501.04 Universal Annual Photograph Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All Universal Annual (UA) Salary Plan employees worldwide.

Categories of records in the system:

File contains photographs of UA employees with their name and date of photograph.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used for publicity purposes when photograph is needed for publication.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Personnel Division.

Storage:

File cabinet.

Retrievability:

Alphabetically by employee's name.

Safeguards:

Maintained in locked file cabinet. Available only to personnel having specific authorization to retrieve photographs.

Retention and disposal:

Maintained in active status for duration of UA's employment. Maintained in inactive status for 3 years after separation, after which time it is destroyed.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Photographs taken of UA employees at duty stations.

Systems exempt from certain provisions of the act:

None.

AAFES0505.02

System Name:

505.02IO Biographical Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Command and Public Relations division; AAFES-Europe-CP; and AAFES-Pacific-CP.

Categories of individuals covered by the system:

Military and Universal Annual personnel assigned to HQ AAFES, continental United States Exchange Regions, and overseas headquarters.

Categories of records in the system:

File contains: Individual's name; current position title; home address to include street, city, State, zip code/Army Post Office; date of birth; place of birth; marital status; maiden name of spouse, place of birth; name and ages of children; education to include high school and/or college attended, degree; military history, rank, date and type of discharge; reserve status, awards and decorations; membership in fraternal and civic organizations; prior employment; AAFES assignments, AAFES training, awards or honors; special interests or hobbies, name of hometown newspaper, and individual 5 x 7/8 x 10 photograph.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routines uses of records maintained in the system, including categories of users and the purposes of such uses:

Command and Public Relations Division, Information Service Branch: To prepare news and feature articles about employees for employee newspaper, trade media and/or hometown newspaper.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Command and Public Relations Division.

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee's name.

Safeguards:

Buildings employ security guards. Records maintained in areas accessible only to authorized personnel.

Retention and disposal:

Records are retained in active file for as long as individual is employed. Destroyed upon termination of employment.

System manager(s) and address:

Director, Command and Public relations Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: CP, Dallas, TX 75222. Telephone: Area Code 214-330-3865.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CP, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1200-75/1200-76, Personnel Action.

Systems exempt from certain provisions of the act:

None.

AAFES0702.01

System name:

702.01 Paid Disbursement Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions, Area Exchanges; Overseas: HQ AAFES-Alaska, HQ AAFES-Europe, HQ AAFES-Pacific, and Exchange Regions.

Categories of individuals covered by the system:

All U.S. Citizen Universal Annual Salary Plan employees and foreign national employees who are required to travel.

Categories of records in the system:

File contains alphanumeric: Employee's social security number (SSN)/payroll number, employee's name, and payments made to or on behalf of employee for travel/transfer expenses.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

HQ AAFES Comptroller Division, General Accounting Branch, utilizes file to control payments to employees and furnish necessary information to both employee and Internal Revenue Service for income tax purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed by authorization of AAFES Comptroller.

Storage:

Copies of checks and supporting documents such as travel orders, travel vouchers, invoices, etc.

Retrievability:

By SSN/payroll number, employee's name or check number.

Safeguards:

Documents maintained in file folders in metal container such as standard file cabinets. Retrievability request must be written and requires signature of section chief or unit supervisor.

Retention and disposal:

Cutoff at close of fiscal year; destroyed after 6 years.

System manager(s) and address:

Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller Division, CM-G Dallas, TX 75222. Telephone: Area Code 214-330-2631.

Record access procedures:

Request from individuals should be addressed to: HQ AAFES, ATTN: CM-G, Dallas, TX 75222.

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Written request should contain full name of individual, SSN/payroll number, and location of employment.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Travel orders, travel vouchers, records of expenses incurred, and copies of checks issued for reimbursement.

Systems exempt from certain provisions of the act:

AAFES0702.22

System name:

702.22 Check-Cashing Privilege Suspense Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions and Main Stores at Exchanges; Overseas: HQ AAFES-Alaska, HQ AAFES-Europe, HQ AAFES-Pacific, Exchange Regions and Main Stores.

Categories of individuals covered by the system:

Exchange customers: Military, dependents, retirees, and exchange employees.

Categories of records in the system:

File contains alphanumeric: Customer name and social security number (SSN), amounts of checks not paid by bank, and category (military, dependent, retiree, etc.) of customer.

Authority for maintenance of the system:

Title 10, U.S.C. Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Printout of listing distributed to applicable locations where mechanical device is not available. Mechanical device, where used, will indicate eligibility to cash a check by displaying a colored light. Printout or mechanical device used to control customer eligibility to cash checks.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are established, maintained and/or deleted by authorization of AAFES Comptroller.

Storage:

Computer disks and computer printouts.

Retrievability:

By SSN.

Safeguards:

Computer printouts usually covered by pressboard binders and are located in offices accessible only by personnel authorized to cash checks.

Computer disks maintained by Computer Processing Branch, Data Systems Division. Retrievability by persons authorized to cash checks.

Retention and disposal:

Destroyed when superseded.

System manager(s) and address:

Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information is restricted to personnel authorized to cash checks and is presented only to person who presents a checks for encashment.

Record access procedures:

Information is assessed at time a check is presented for encashment.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Checks that were cashed and not paid by the bank.

Systems exempt from certain provisions of the act:

None.

AAFES0702.23

System name:

702.23 Check-Cashing privilege Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions, Area Exchanges, and Installation Exchanges; Overseas: HQ AAFES-Alaska, HQ AAFES-Europe, HQ AAFES-Pacific, and Exchange Regions.

Categories of individuals covered by the system:

Exchange customers: military, dependents, retirees, and exchange service employees.

Categories of records in the system:

File contains alphanumeric: customer name and social security number (SSN), indebtedness amount, and collection efforts documentation.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

HQ AAFES Comptroller Division, General Accounting Branch, utilizes file to collect checks that were not paid by the bank.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed by authorization of AAFES Comptroller.

Storage:

Records are stored in metal filing cabinets; access is restricted to employees who have a need-to-know.

Retrievability:

By SSN and customer name.

Safeguards:

Documents maintained in file folders and stored in metal containers such as standard file cabinets. Retrievability is authorized by unit chief.

Retention and disposal:

Cutoff at time case is closed and destroyed after 3 years.

System manager(s) and address:

Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller Division, CM-G, Dallas, TX 75222. Telephone: Area Code 214-330-2631.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-G, Dallas, TX 75222.

Written requests should contain full name of individual and SSN.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Checks cashed by customers and not paid by the bank.

Systems exempt from certain provisions of the act:

None.

AAFES0702.34

System name:

702.34 Accounts Receivable Files.

System location:

Headquarters (HQ), Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES/Europe; HQ AAFES-Alaska; continental United States and oversea exchange regions, area exchanges, and post and base exchanges and satellites within the AAFES system.

Categories of individuals covered by the system:

All AAFES customers to include military, retirees, civilians, and civilian dependents.

Categories of records in the system:

File contains charge or credit vouchers, oil company credit card tickets, cash receipts documents, purchase orders, receiving reports, and correspondence with the customer.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used to establish exchange receivables from customers for purchases under a deferred payment plan, book store catalog sales, mail order payment shortages, and rejected oil company credit cards/tickets. Provides documentation to monitor amounts due to take necessary collection actions. Provides support for monthly detailed listings of open items which are prepared to support ledger balances.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alpabetically by last name of customer.

Safeguards:

Records are maintained in areas accessible only to authorized personnel. Paper documents are maintained in steel storage cabinets.

Retention and disposal:

Records are retained in current files until close of fiscal year in which receivable is cleared. At year end, files are stored and subsequently destroyed after 6 years.

System manager(s) and address:

Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller Division, General Accounting Branch, Dallas, TX 75222. Telephone: Area Code 214-330-2631.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-G, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, current address and telephone number, AAFES activity at which the receivable was established, and date of transaction.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is collected directly from the customer either in writing or verbally. Additional data may be obtained from correspondence between AAFES and vendors.

Systems exempt from certain provisions of the act:

None.

AAFES0702.43

System name:

702.43 Travel Advance Register Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Comptroller Division, Dallas, TX 75222.

Categories of individuals covered by the system:

Universal Annual Salary Plan employees who are required to travel either for frequent intermittent periods or sustained periods of time.

Categories of records in the system:

File contains alphanumeric: employee's name, area of assignment, and dollar amount advanced.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

HQ AAFES Comptroller Division, General Accounting Branch, utilizes file to monitor travel advances paid out.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed by authorization of AAFES Comptroller.

Storage:

Records are stored in locked metal filing cabinets; access is restricted to employees who have a need-to-know.

Retrievability:

By employee's name.

Safeguards:

Documents maintained in file folders in combination locked file cabinet. Retrievability authorized by unit supervisor.

Retention and disposal:

Cutoff after advance has been repaid. Destroy after 1 year.

System manager(s) and address:

Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller Division, CM-G, Dallas, TX 75222. Telephone: Area Code 214-330-2631.

Record access procedures:

Requests from individuals should be addressed to: HQ AFFES, ATTN: CM-G, Dallas, TX 75222.

Written requests should contain full name of individual.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Checks issued to employees for permanent travel advance.

Systems exempt from certain provisions of the act:

None.

AAFES0702.44

System name:

702.44 Travel Advance—Trail Balance Files.

System location:

Headquarters (HQ), Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions and Area Exchanges; Overseas:

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HQ AAFES-Pacific, HQ AAFES-Europe, HQ AAFES-Alaska, and Exchange Regions.

Categories of individuals covered by the system:

Universal Annual Salary Plan employees who have been issued travel advances.

Categories of records in the system:

File contains alphanumeric: employee name and dollar amount advanced.

Authority for maintenance of the system:

Title 10 U.S.C. Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

HQ AAFES Comptroller Division, General Accounting Branch, utilizes file to control travel advances issued.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed by authorization of AAFES Comptroller.

Storage:

Records are stored in metal filing cabinets; access is restricted to employees who have a need-to-know.

Retrievability:

By employee's name and location where advance was issued.

Safeguards:

Documents maintained in file folders in standard file cabinets. Retrievability authorized by section supervisor.

Retention and disposal:

Cutoff at close of fiscal year. Destroy after 1 year.

System manager(s) and address:

Chief, General Accounting Branch, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller Division, CM-G, Dallas, TX 75222. Telephone: Area Code 214-330-2931.

Record access procedures:

Request from individual should be addressed to: HQ AAFES, ATTN: CM-G, Dallas, TX 75222.

Written requests should contain full name and area of assignment.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Trial balances prepared by exchange elements.

Systems exempt from certain provisions of the act:

None.

AAFES0703.01

System name:

702.01 AAFES Time Sheets.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States (CONUS): AAFES Exchange Regions, Area Exchanges, post and base exchanges including satellites; Overseas: HQ AAFES-Europe, HQ AAFES-Pacific, and HQ AAFES-Alaska.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alphanumeric: Facility number, employee's name, social security number (SSN), category, leave balance, and shift identification number. Printout is combination Time Sheet and Time and Attendance (TA) Register for CONUS exchanges and TA Register only for overseas exchanges.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Printout distributed to all exchanges biweekly two pay periods in advance for recording hours worked, leave hours, and other data essential to payroll processing. CONUS exchanges record payroll data from TA Register to Optical Character Recognition (OCR) Time Sheet and submit to HQ AAFES for OCR Reader. Oversea exchanges key punch data from TA Register and submit via wire transmission to HQ AAFES.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer tape and printouts resulting from source input. OCR paper source documents stored by exchange number in steel file cabinets in HQ AAFES CM-M.

Retrievability:

Source documents by payroll period, exchange number, SSN or name.

Safeguards:

Buildings employ security guards. Records are maintained in areas accessible only to authorized personnel on a need-to-know basis.

Retention and disposal:

Maintained 3 months in Payroll Branch. Transferred to AAFES Records Warehouse. Destroyed after 2 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214-330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

TA Registers.

Systems exempt from certain provisions of the act:

None.

AAFES0703.02

System name:

703.02 Payroll Allotment Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AFFES), Comptroller Division, Dallas, TX 75222.

Categories of individuals covered by the system:

All regular full-time employees of HQ AAFES and all Universal Annual employees worldwide.

Categories of records in the system:

File contains alphanumeric: Employee's social security number (SSN) or pseudo number, employee's name, exchange number, amount of allotment, and allottee's name and address.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Used as source document to update employee's payroll master records and name and address file for mechanical preparation of checks payable to allottee.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer printouts and paper documents in file folders.

Retrievability:

Usually by name within exchange.

Safeguards:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel on a need-to-know basis.

Retention and disposal:

Replaced when superseded by new or revised document or deleted upon employee termination. Pulled documents destroyed after 1 year.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214-330-3870.

Record access procedures:

Requests from individuals should be addressed to HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Employee completes and submits document through Servicing Personnel Office.

Systems exempt from certain provisions of the act:

None.

AAFES0703.03

System name:

703.03 United States Savings Bond Register Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions, Area Exchanges, and post and base exchanges including satellites; Overseas: HQ AAFES-Europe, HQ AAFES-Pacific, and HQ AAFES-Alaska.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, nonimmigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

Computer printout showing employee's name, social security number (SSN), exchange number, maturity value, cost of bond, current deduction, refund, old balance, new balance, and serial number of bond purchased.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Printout of listing by exchange distributed to each applicable Servicing Personnel Office biweekly with purchased bonds. HQ AAFES Comptroller Division, Payroll Branch, utilizes printout to control employee's bond balance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer tape, printout, and microfiche.

Retrievability:

Usually by SSN or pseudo number within Exchange Number.

Safeguards:

Buildings employ security guards. Records are maintained in areas accessible to authorized personnel on a need-to-know basis.

Retention and disposal:

HQ AAFES Payroll Branch: Destroy after 4 years. Other offices: Destroy after 1 year.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214-330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Bond application form completed by employee.

Systems exempt from certain provisions of the act:

None.

AAFES0703.05

System name:

703.05 Personnel Action/Discrepancy Notice Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222 and applicable Servicing Personnel Offices within the AAFES worldwide system.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien) employees with category of regular full-time, reg-

ular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alphanumeric: Employee's social security number (SSN) or

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date

Retrievability:

By employee's last name.

Safeguards:

Retention and disposal:

Personnel Division: Destroyed upon verification of error correction.

Categories of records in the system:

These files consist of Treasury Department Form 941, other comparable forms, computer printouts, magnetic

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ular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains: Social security number (SSN); name; exchange location; home address to include street, city/State/county, zip code/Army Post Office; date of birth; date of hire; leave accrual date; retirement participation date; service award base date; citizenship; marital status; prior military status; prior AAFES service, sponsor affiliation where the employee is a dependent of a U.S. Government/military member; job code and job title; mobility status; employment category; pay plan wage schedule number; grade/step; base hourly rate; scheduled work week; scheduled shift; commission rate/override where applicable; Federal tax exemptions; State tax code and exemptions; type of insurance coverage and deduction amount; deductions to include janitorial fee, union dues, employees' association, and Combined Federal Campaign; and overseas allowances where applicable to include cost of living allowance, post differential, quarters allowance, and separate maintenance allowance.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To correct errors in keypunch Personnel Actions which are identified through machine edits.

Comptroller Division: To maintain hard copy documentation of the employee's current and past personnel records for pay purposes.

Servicing Personnel Offices: To document corrections to the personnel actions in the employee's Official Personnel Folder (OPF).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Personnel Division.

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by employee's name.

Safeguards:

Folders maintained in locked filing cabinets.

Retention and disposal:

Personnel Division: Destroyed upon verification of error correction.

Comptroller Division: Cutoff at close of fiscal year in which employee is terminated. Destroyed after 4 years.

Servicing Personnel Office: Destroyed after posting correction to the employee's OPF.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214-330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1200-75/1200-76, Personnel Action.

Systems exempt from certain provisions of the act:

None.

AAFES0703.07

System name:

703.07 Payroll Register Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions, Area Exchanges, post and base exchanges including satellites; Overseas: HQ AAFES-Europe, HQ AAFES-Pacific, and HQ AAFES-Alaska.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, nonimmigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alphanumeric: Employee's social security number (SSN) or psuedo number, employee's name, current payroll data, quarter-to-date and year-to-date wages and/or deductions, leave balances, and control information.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Printout of listing by exchange distributed to each applicable Servicing Personnel Office biweekly. HQ AAFES Comptroller Division, Payroll Branch, utilizes microfiche of subject report. Printout serves to control employee's current pay status and year-to-date data in order to reply to valid inquiries to individual employee's payroll data.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer tape and computer printout.

Retrievability:

Usually by SSN or psuedo number within exchange number.

Safeguards:

Tape file maintained at Data Systems Division, Computer Processing Branch—Computer Processing Tape Library. Retrievability requests must be written and need the signature of the Comptroller.

Retention and disposal:

Tape file: 1 year.

Computer Printout: Permanent, cutoff at close of fiscal year and maintained for 2 years, then retired to National Personnel Records Center.

Other offices: Cutoff at close of fiscal year. Destroy after 1 year.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214/330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above information.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Personnel Action, Time Sheet, other related documents, and calculated results from current payroll.

Systems exempt from certain provisions of the act:

None.

AAFES0703.09

System name:

703.09 Employer's Copy of Income Tax Withheld

System location: Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Comptroller Division, Payroll Branch, Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, nonimmigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alphanumeric: Employee's name; address; social security number (SSN); exchange number; Federal, social security, State or local information; and other information required.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Printout in replica of wage and tax statement Form W-2 on microfiche. File is utilized to reply to valid inquiries and to replace lost W-2 Forms for employees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer tape and microfiche printout.

Retrievability:

By employee's last name.

Safeguards:

Tape file maintained at Data Systems Division, Comptroller Processing Branch, Tape Library. Retrievability requests should be written and requires authority of Comptroller.

Retention and disposal:

Destroy microfiche after 5 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214/330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

At end of year from mechanically stored payroll data (Payroll Master File).

Systems exempt from certain provisions of the act:

None.

AAFE0S703.10

System name:

703.10 Employer's Quarterly Federal Tax Return Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Comptroller Division, Payroll Branch, Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

These files consist of Treasury Department Form 941, other comparable forms, computer printouts, magnetic tape, and related documents showing reports of Federal and State tax withheld from employees and the banking and payment thereof.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For reconciliation of payment of taxes withheld from employees and employer's share.

To provide Internal Revenue Service (IRS) with magnetic tape representing wages covered by Social Security.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer tape and microfilm received from IRS and computer printouts.

Retrievability:

By social security number (SSN).

Safeguards:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel on a need-to-know basis.

Retention and disposal:

Destroy after 5 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214/330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests or information should contain the full name of the individual, SSN, current address, and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Data stored in payroll master file.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Pay-

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Categories of individuals covered by the system:

All United States citizens (to include

Contesting record procedures:

The agency's rules for access to records and for contesting contents and

Retrievability:

Usually by SSNS within Exchange.

Record source categories:

Data stored in payroll master file.

Systems exempt from certain provisions of the act:

None.

AAFES0703.11

System name:

703.11 Wage and Separation Information Report Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Comptroller Division, Payroll Branch, Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alpha-numeric: Employee's social security number (SSN), employee's name, last employment facility, reason for separation, and wage data as requested.

Authority for maintenance of the system.

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To furnish data requested by State Employment Service.

Polices and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Documents maintained alphabetically in file folders.

Retrievability:

By employee's name.

Safeguards:

Building employees security guards. Records are maintained in areas accessible only to authorized personnel on a need-to-know basis.

Retention and disposal:

Destroy after 4 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214/330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written request for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Document received from State Employment Service. Data retrieved from computer printouts, microfilm, and personnel actions.

Systems exempt from certain provisons of the act:

None.

AAFES0703.12

System name:

703.12 Payroll Adjustment Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Comptroller Division, Payroll Branch, Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alpha-numeric: Facility number, employee's number, social security number (SSN), hours, and dollar amount by type to be paid to or withheld from employee.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To adjust employee's pay due to retroactive increases/decreases or over/under withholding deductions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

By exchange number within pay period ending date. Copy maintained in Servicing Personnel Office and copy furnished to employee.

Retrievability:

By Exchange; by employee's name.

Safeguards:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel on a need-to-know basis.

Retention and disposal:

Destroy after 4 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214-330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written request for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Documents completed by Servicing Personnel Offices of HQ AAFES, Comptroller Division, Payroll Branch.

Systems exempt from certain provisions of the act:

None.

AAFES0703.13

System name:

703.13 Levy and Garnishment Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Comptroller Division, Payroll Branch, Dallas TX 75222.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alphanumeric: Employee's name, social security number (SSN), and tax assessment data. File is applicable only to Internal Revenue Service (IRS) Notice of Levy.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To comply with IRS requirements regarding the Notice of Levy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Paper documents maintained in file folders.

Retrievability:

Filed alphabetically by employee's name.

Safeguards:

Building employs security guards. Records are maintained in areas accessible only to authorized personnel on a need-to-know basis.

Retention and disposal:

Destroy after 4 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214-330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Notice of Levy received from IRS.

Systems exempt from certain provisions of the act:

None.

AAFES0703.14

System name:

703.14 Payroll Report Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; in continental United States: AAFES Exchange Regions, Area Exchanges, post and base exchanges including satellites; Overseas: HQ AAFES-Europe, HQ AAFES-Pacific and HQ AAFES-Alaska.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

File contains alphanumeric: Facility number, employee's name, social security number (SSN) or pseudo number, employee category, pay plan, current wages and deductions, quarter-to-date wages, year-to-date wages and deductions, hours worked, and leave hours accrued and taken.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Computer printouts distributed biweekly to Exchanges to facilitate adjustment to employee's pay, if applicable, and to identify payments to employee unions, associations, Federal campaigns, allotments, and to facilitate payment of Federal and State taxes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Computer magnetic tape, computer printouts, and microfiche.

Retrievability:

Usually by SSNS within Exchange.

Safeguards:

Tape file maintained at Data Systems Division, Computer Processing Branch—Computer Processing Tape Library. Retrievability request must be written and requires approval of the Comptroller.

Retention and disposal:

Destroy after 4 years.

System manager(s) and address:

Chief, Payroll Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: Comptroller, Payroll Branch, Dallas, TX 75222. Telephone: Area Code 214-330-3870.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-M, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of separation and last location in addition to the above.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Payroll master file.

Systems exempt from certain provisions of the act:

None.

AAFES0704.07

System name:

704.07 Fidelity Bond Files.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; In continental United States: AAFES Exchange Regions, Area Exchanges; Overseas: HQ AAFES-Europe, HQ AAFES-Pacific, HQ AAFES-Alaska and Exchange Regions.

Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time temporary full-time employment.

Categories of records in the system:

File contains fidelity bond applications, transmittal letter to insurance company, and related correspondence.

Systems exempt from certain provisions of the act:

None.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: SS, Dallas, TX 75222. Telephone: Area Code 214/330-

and shift; commission rate where applicable to commission pay plan employees; Federal exemptions; State ex-

Employee: To provide a permanent record of his personal master file as updated.

Record source categories:

Categories of records in the system:

File contains fidelity bond applications, transmittal letter to insurance company, and related correspondence.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012

Routine uses of records maintined in the system, including categories of users and the purposes of such uses:

Exchange activities listed in System Location. Uses to assure that all individuals submitted a fidelity bond application. The originals are submitted to the bonding company for review and retention.

Policy and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records in AAFES are retrieved, retained, stored, and disposed of by authorization of the Comptroller.

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name of employee.

Safeguards:

Records are maintained in area accessible only to authorized personnel.

Retention and disposal:

Cutoff as close of fiscal year in which bond becomes inactive. Destroy after 3 years.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification precedure:

Information may be obtained from: HQ AAFES, ATTN: Personnel Division, Dallas, TX 75222. Telephone: Area Code 214-330-2621.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, social security number, current address, and telephone.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Fidelity bond applications completed by the employee; correspondence relating thereto.

Systems exempt from certain provisions of the act:

None.

AAFES0803.01

System name:

803.01 AAFES Incident Record

System location:

Primary System: Safety and Security Office, Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Decentralized Segments: Safety and Security Offices in Overseas Exchange System Regions.

Categories of individuals covered by the system:

Any individual suspected to be involved in criminal activities/fires/accidents at AAFES activities or involving AAFES property who are identified in criminal reports of investigation furnished AAFES by military and civilian investigating agencies.

Categories of records in the system:

AAFES Incident Record.

Authority for maintenance of the system:

Title 44 U.S.C., Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To identify in a single AAFES record system, criminal reports prepared by investigating and law enforcement agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records stored in card index filing cabinets.

Retrievability:

Filed alphabetically by last name of individual and by identifier code.

Safeguards:

Buildings have security guards. Files kept in locked file cabinets. Records available only to those with a need-to-know.

Retention and disposal:

Records are retained until corresponding investigative files are destroyed or until the records are no longer needed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

System manager(s) and address:

Director, Safety and Security Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: SS, Dallas, TX 75222. Telephone: Area Code 214/330-2721.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: SS, Dallas, TX 75222.

Written requests for information should contain the full name of the individual; correct address; telephone number; status; job title; social security number; and time, date, and place incident occurred.

For personal visits, the individual should be able to provide acceptable identification.

Contesting record procedures:

The agency's rules for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source category:

AAFES Incident Reports and Criminal Investigative Reports.

Systems exempt from certain provisions of the act:

None.

AAFES0903.06a

System name:

903.06a Systems Magnetic Tape Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien, non-immigrant alien) employees with categories of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

Files contain information on (a) nonmanagerial employees: social security number (SSN); name; Exchange location; home address to include street, city, state/country, zip code/Army Post Office (APO); date of birth; date of hire, leave accrual date; retirement participation date; service award base date; citizenship; marital status; sex; security clearance and type; current and/or prior military status; prior AAFES service and type; sponsor affiliation where the employee is a dependent of a U.S. government/military member; job code and title; employment category; pay plan; wage schedule, number, grade, and step; base hourly rate; scheduled work week

and shift; commission rate where applicable to commission pay plan employees; Federal exemptions; State exemptions; type of insurance coverage; deductions to include janitorial fee, union dues, employees' association, Combined Federal Campaign, and Panamanian hospital and life insurance supplement; and (b) managerial employees: All of the above as well as mobility statue; place of birth; date in grade and step; assignment/health restrictions; date of last Excecutive Management Program (EMP) physical examination; passport issuance date; number of dependents to accompany upon reassignment; dates and number of months' active military service; date assigned to an overseas area; date returned to the continental United States (CONUS); foreign languages to include degree of proficiency; education to include high school, name of college, major, minor, type of degree, date completed, non-graduate semester/quarter hours completed, whether or not currently enrolled in college, and whether or not seeking a degree; professional licenses; professional/technical field of study to include date completed; assignment preference locations (overseas and with CONUS); career area interests outside current field; dependents to include name, date of birth, relationship, country of citizenship, health restrictions, and emergency contact to include name and address; whether or not employee is home-owner; training courses to include date, title, type (AAFES, management development, correspondence, professional/technical); EMP member and date status attained; and Personnel Evaluation Report (PER) to include period covered, total score, overall evaluation, promotion potential, career area, and recommended outside career area.

Authority for maintenance of the system:

Title 10, U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To accomplish statistical anaylsis of the work force for the purposes of projecting trends in such areas as personnel costs, organizational configurations, strength requirements, etc. For managerial employees: to obtain information on current and past employment for the purposes of job assignment, promotions, and career progression.

Comptroller Division: To provide updated data on pay and deductions necessary to compute bi-weekly payrolls.

Servicing Personnel Offices: To provide hard-copy documentation on employee's current pay and job data, career progression, cost analysis, etc.

Employee: To provide a permanent record of his personal master file as updated.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Personnel Division.

Storage:

Disk file and computer printout.

Retrievability:

Usually by SSN; however, capability exists to retrieve by any data item listed under Record-Category.

Safeguards:

Disk files maintained in locked room. Retrievability requests must be written and approved by Director, Personnel Division.

Retention and disposal:

Disk file: Retained for 18 months after separation and destroyed, with the exception of employees terminated under disciplinary action (ineligible for rehire), retired employees, and all Universal Annual Salary Plan employees whose file remains a permanent record.

Personnel Management Information System: back-up tapes retained for 90 days, computer printouts of purged files maintained for 1 year.

System manager(s) and address:

Director, Personnel Division, HQ AFFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214-330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Personnel Action; PER and Personal Profile Questionnaires for managerial personnel only; bonds.

Systems exempt from certain provisions of the act:

None.

AAFES0903.06c

System name:

903.06 Systems Magnetic Tape Files

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222.

Categories of individuals covered by the system:

All United States citizen (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

Managerial and nonmanagerial employees: social security number (SSN); name, job title; course number and name, date enrolled, enrollment action/status, and transaction data.

Authority for maintenance of the system:

Title 10, U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To provide updated data on employees worldwide who are enrolled in Management Development Program (MDP) courses as to status of participation, drop-out, or completion.

Servicing Personnel Offices: To provide updated data on employees under jurisdiction of particular servicing personnel offices, who are enrolled in MPD courses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Personnel Division.

Storage:

Disk file and computer printout.

Retrievability:

By SSN.

Safeguards:

Disk files maintained in locked room. Retrievability requests must be approved by Director, Personnel Division.

Retention and disposal:

Disk file is retained for 90 days after processing cycle is completed.

ly stored, and a variety of computer printouts related to the personnel management function of AAFES. The

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

maintained or for related personnel management or manpower studies.

Employee: To provide a permanent

75222. Telephone: Area Code 214/330-2761.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

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Retention and disposal:

Disk file is retained for 90 days after processing cycle is completed.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-3871.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN; PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

AAFES Form 1850-33, Study Course-Notice of Status.

Systems exempt from certain provisions of the act:

None.

AAFES0903.06f

System name:

903.06f Personnel Management Information System (PMIS)

System location:

Disk files and computer tapes are maintained at Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222. System maintenance and output products are maintained by Servicing Personnel Offices of the AAFES.

Categories of individuals covered by the system:

All United States citizens (to include permanent-resident alien, non-immigrant alien) employees with category of regular full-time, regular part-time, temporary full-time, temporary part-time, and intermittent employment.

Categories of records in the system:

The system consists of those documents necessary to maintain the centralized AAFES personnel data base, that information which is mechanically stored, and a variety of computer printouts related to the personnel management function of AAFES. The system contains the following information: (a) non-managerial employees: social security number (SSN); name; Exchange location; home address to include street, city, state/county, zip code/Army Post Office (APO); date of birth; date of hire; leave accrual date; retirement participation date; service award base date; citizenship; marital status; sex/security clearance and type; current and prior military status; prior AAFES service and type; sponsor affiliation where the employee is a dependent of a U.S. Government/military member; job code and title; employment category; pay plan; wage schedule number; grade/step; base hourly rate; scheduled work week and shift; commission rate where applicable to commission pay plan employees; Federal and State exemptions; type of insurance coverage; deductions to include janitorial fee, union dues, employees' association, Combined Federal Campaign, Panamanian hospital and life insurance supplement; disability identification; minority code; city tax code and deduction; (b) managerial employees: all of the above as well as mobility status; place of birth, date in grade and step; assignment/health restrictions; date of last Executive Management Program (EMP) physical examination; passport issuance date; number of dependents to accompany upon reassignment; dates of military service; number of months' active military service; date assigned to an overseas area; date returned to the continental United States (CONUS); foreign languages to include degree of proficiency; education to include high school, name of college, major, minor type of degree, date completed, nongraduate semester/quarters hours completed, whether or not currently enrolled in college and seeking a degree; professional licenses; professional/technical field of study to include date completed; assignment preference location (overseas and within CONUS); career area interests outside current field; dependents to include name, date of birth, relationship, country of citizenship, and health restrictionc; emergency contact to include name and address; whether or not employee is home-owner; training courses to include date, title, type (AAFES, management development, correspondence, professional/technical); EMP member and date status attained; and Personnel Evaluation Report to include period covered, total score, overall evaluation, promotion potential, career area, and recommended outside career area.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel Division: To produce statistical reports (without individual identification) for various echelons of AAFES management for use in projecting trends and evaluating results in such areas as personnel costs, oreganizational configurations, strength requirements, etc., or evaluating programs not directly related to personnel management function; to obtain information on individual's current and past employment for the purposes of job assignments, promotions, and career progression; to identify and correct errors in employees' computerized data files; and to provide summary reports (with or without personal identification) in support of the function for which the records are maintained or for related personnel management or manpower studies.

Comptroller Division: To provide updated data on pay and deductions necessary to computer bi-weekly payrolls and/or to determine the validity of individual claims related to pay adjustments.

Audits and Inspection Division: To produce summary reports (with or without personal identification) in support of auditing the conduct of personnel programs within various AAFES elements.

Office of the Commander: To provide summary statistics (without individual identification) to evaluate AAFES Equal Employment Opportunity (EEO) programs and to report to the Civil Service Commission; and to produce summary listings or information (with or without individual identification) necessary to the investigation of EEO complaints or grievances.

Servicing Personnel Offices: To provide hard-copy documentation on employee's current pay and job data, career progression, cost analysis, etc.; to produce statistical reports (without individual identification) for various echelons of AAFES management for use in projecting trends and evaluating results in such areas as personnel costs, organizational configurations, strength requirements, etc., or evaluating programs not directly related to personnel management functions; to obtain information on individual's current and past employment for the purpose of job assignments, promotions, and career progression; to identify and correct errors in employees' computerized data files; and to provide summary reports (with or without personal identification) in support of the function for which the records are maintained or for related personnel management or manpower studies.

Employee: To provide a permanent record of his/her personal master file as updated.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

All records are retrieved, retained, stored, and disposed of by authorization of the Director, Personnel Division.

Storage:

Records are maintained on disk file, computer tapes, computer printouts, and in file folders.

Retrievability:

Computer records are indexed by SSN but may be retrieved by any data item listed under Record Category. Computer printouts are normally indexed by SSN within employment location but may be sorted chronologically and/or on the basis of any data item listed under Record Category.

Safeguards:

Disk files and tapes are located in restricted areas accessible only to authorized personnel who are properly screened, cleared, and trained. Retrievability requests must be written and under the signature of the Director, Personnel Division; manual records and computer printouts which contain individual identification are maintained in locked file drawers or storage cabinets and are available only to individuals having a need-to-know.

Retention and disposal:

Disk file retained for 18 months after separation and destroyed, with the exception of employees terminated under disciplinary action (ineligible for rehire), retired employees, and all Universal Annual Salary Plan employees whose file remains a permanent record. PMIS back-up tapes retained for 90 days. Computer printouts are maintained as follows: system edit reports are destroyed upon verification that identified errors have been corrected; printouts produced in connection with management functions (as described in routine uses) are maintained for periods varying from 2 to 10 years, and source documents and computer printouts which are included as part of the employee's official personnel folder are permanent.

System manager(s) and address:

Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information may be obtained from: HQ AAFES, ATTN: PE, Dallas, TX 75222. Telephone: Area Code 214/330-2761.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: PE, Dallas, TX 75222.

Written requests for information should contain the full name of the individual, SSN, current address and telephone number; if terminated, date of birth, date of separation, and last employing location in addition to the above.

Visits are limited to HQ AAFES, Director, Personnel Division, HQ AAFES, Dallas, TX 75222.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Employee, employee's supervisor, Servicing Personnel Office representatives, and other AAFES management officials.

Systems exempt from certain provisions of the act:

None.

AAFES1204.07

System name:

1204 Customers' Merchandise Returned for Repair or Replacement.

System location:

Headquarters (HQ) Army and Air Force Exchange Service (AAFES), Dallas, TX 75222; HQ AAFES-Pacific; HQ AAFES-Europe; HQ AAFES-Alaska; all continental United States and oversea exchange regions, area exchanges, and post and base exchanges and satellites within the AAFES system.

Categories of individuals covered by the system:

All AAFES Customers to include, military, retirees, civilians, and civilian dependents.

Categories of records in the system:

File contains charge or credit vouchers, shipping and receiving documents, warranty docuements, correspondence between AAFES and customers, and correspondence between AAFES and vendors.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

To document receipt from customers of merchandise which is subsequently returned to vendors for repair or replacement. Used for follow-up actions with vendor and provides details of vendor's actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing or records in the system:

Storage:

Paper records in file folders.

Retrievability:

Alphabetically by last name of customer.

Safeguards:

Records are maintained in areas accessible only to authorized personnel. Paper documents are maintained in steel storage cabinets.

Retention and disposal:

Records are retained in current files until close of fiscal year in which transaction is completed. At year end, files are stored and subsequently destroyed after 2 years.

System manager(s) and address:

Chief, General Accounting Branch, Comptroller, HQ AAFES, Dallas, TX 75222.

Notification procedure:

Information should be obtained from HQ AAFES, ATTN: Comptroller Division, General Accounting Branch, Dallas, TX 75222. Telephone; Area Code 214/330-2631.

Record access procedures:

Requests from individuals should be addressed to: HQ AAFES, ATTN: CM-C, Dallas TX 75222.

Written requests for information should contain the full name of the customer, current address and telephone number; AAFES activity to which the merchandise was returned, and date of return.

Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is collected directly from the customer in writing or verbally. Additional data may be obtained from correspondence between AAFES and vendors.

Systems exempt from certain provisions of the act:

None.

[FR Doc. 78-29211 Filed 10-18-78; 8:45 am]

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THURSDAY, OCTOBER 19, 1978
PART III

DEPARTMENT OF ENERGY

STANDARDS OF CONDUCT FOR EMPLOYEES

Proposed Rules

[3128-01-M]

DEPARTMENT OF ENERGY

Commission (5 CFR Part 735). These regulations, when effective, will supersede conduct of employee regulations for the Energy Research and Develop-

on customary terms for usual activities such as home mortgage loans; gifts, entertainment, or favors where it is clear the motivating factor is a person-

spective employment with any entity may not participate personally and substantially as a Government em-

rated into these regulations when they are established. Requests for determinations as to whether any particular

quirements. Appendix I of these regulations will contain a list of exempted positions for the Department; posi-

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[3128-01-M]

DEPARTMENT OF ENERGY

[10 CFR Parts 207, 735, and 1010]

CONDUCT OF EMPLOYEES

Proposed Standards

AGENCY: Department of Energy.

ACTION: Proposed regulations.

SUMMARY: These regulations prescribe standards of conduct for all employees of the Department of Energy except employees of the Federal Energy Regulatory Commission (FERC). The Department of Energy (DOE) intends these regulation to incorporate those prohibitions, restrictions, and requirements, statutory and otherwise, designed to assure the ethical conduct of employees. All DOE employees except employees of the Federal Energy Regulatory Commission (FERC) are subject to these regulations, which are intended to supersede other regulations applicable to employees prior to their commencement of DOE service. FERC employees are subject to only those provisions implementing the requirements of sections 601 through 608 of the Department of Energy Organization Act (Pub. L. 95-91). Those provisions are specifically listed and identified in the regulations.

DATE: Comments must be received on or before December 18, 1978.

ADDRESS: Send comments to: Department of Energy, Box TS, 2000 M Street, Room 2313, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ralph D. Goldenberg, Acting Assistant General Counsel for Standards of Conduct, 301-353-5285.

SUPPLEMENTARY INFORMATION:

I. Background

These regulation prescribe standards of conduct for all employees of the Department of Energy except employees of the Federal Energy Regulatory Commission (FERC). Only those provisions specifically designated are applied to employees of FERC. Incorporated in these regulations are the requirements of sections 601 through 608 of the Department of Energy Organization Act (Pub. L. 95-91), section 522 of the Energy Policy and Conservation Act (Pub. L. 94-163), section 308 of the Energy Research and Development Administration Appropriation Authorization Act (Pub. L. 95-39), and section 201(f) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87). These regulations also reflect requirements of 18 U.S.C. 201-209, Executive Order 11222 and applicable regulations of the Civil Service Commission (5 CFR Part 735). These regulations, when effective, will supersede conduct of employee regulations for the Energy Research and Development Administration (10 CFR Part 735), and the Federal Energy Administration (10 CFR Part 203). These regulations are divided into six subparts, as discussed below.

II. Discussion

SUBPART A—"GENERAL"

This general introductory subpart of the regulations provides an explanation of the scope and applicability of the regulations, the duties and responsibilities of DOE employees, reviewing officials, the Director of Personnel, and the General Counsels of the Department and the Federal Energy Regulatory Commission (FERC). Definitions of terms used in the regulations are also contained in Subpart A.

SUBPART B—"STANDARDS OF CONDUCT"

Subpart B contains the bulk of those provisions which guide DOE employees in their day-to-day activities. The restrictions contained in those provisions include the following:

All employees are cautioned to avoid any action which might result in, or create the appearance of, using public office for private gain, giving preferential treatement to any person, impeding Government efficiency or economy, making a Government decision outside official channels, or affecting adversely the confidence of the public in the integrity of the Government.

A supervisory employee may not engage in outside employment without first obtaining approval of the employee's reviewing official and the Counselor; any other employee must provide advance notice to his or her reviewing official.

Honoraria or fees may be accepted only for activities approved by the employee's reviewing official and the Counselor. No DOE employee shall receive compensation for any consultation, lecture, writing, etc., devoted substantially to DOE activities, drawn substantially from DOE information not publicly available, or sponsored by an interested party.

A DOE employee shall not solicit or accept, directly or indirectly, anything of monetary value (including complimentary meals and beverages) from an "interested party". An interested party is a person or entity that is, or seeks to become, engaged in financial transactions with DOE, that conducts activities regulated by DOE, or that may be substantially affected by the DOE employee's performance or nonperformance of assigned duties. Exceptions to this general rule include items available impersonally to the general public such as exhibits at fairs; loans on customary terms for usual activities such as home mortgage loans; gifts, entertainment, or favors where it is clear the motivating factor is a personal relationship rather than the business interests of the persons concerned; food and refreshments of insubstantial value and local transportation when alternative arrangements cannot be made; exchanges of entertainment and social amenities with representatives of foreign governments in accordance with diplomatic custom; and transportation, lodging, and subsistence paid by a foreign government or an international organization pursuant to treaty or U.S. statute. The Department is currently developing regulations which will implement the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, as amended by Pub. L. 95-105, section 15 (August 15, 1977).

DOE employees are governed by the provisions of the Hatch Act which generally prohibit Federal employees from taking an active part in political management or political campaigns or using official authority or influence to interfere with an election or affect its results.

Employees shall not misuse Government property; engage in discrimination; misuse official information obtained through or in connection with the employee's Government employment; participate in any gambling activity while on Government property; fail to pay just financial obligations; misuse funds entrusted to the employee by fellow employees; or endorse in an official capacity the proprietary products or processes of manufacturers or other commercial firms.

SUBPART C—"RESTRICTIONS ON FINANCIAL, EMPLOYMENT, AND SIMILAR INTERESTS"

This subpart contains more specific restrictions with which employees must comply in order to avoid having or appearing to have a conflict between an employee's financial, employment and similar interests and the employee's Government duties and responsibilities.

Unless specifically permitted, no employee may participate personally and substantially in any particular matter in which, to the employee's knowledge, the employee or the employee's spouse or minor child has a financial interest. Financial interests in mutual funds or regulated investment companies that have widely diversified portfolios, and similarly constituted entities are exempted from this restriction. An employee having a financial interest in a particular matter that is within the scope of the employee's official duties shall disclose in writing that interest to the Counselor and the employee's reviewing official. An employee negotiating or arranging prospective employment with any entity may not participate personally and substantially as a Government employee in a particular matter when the employee knows that entity has a financial interest in the matter.

If a DOE employee terminates employment with the Government, that employee may never act as agent or attorney for anyone other than the United States in a particular matter involving a particular party or parties in which the United States is involved or has an interest if the former employee participated in the matter personally and substantially while employed by the Government. If the particular matter was merely within the boundaries of the former employee's official responsibilities during any part of the last year of the employee's Government service, the former employee is prohibited from appearing personally before any court or agency of the Government on behalf of anyone other than the United States with respect to that matter for 1 year after termination of the employee's official responsibility for that matter.

In addition to the above restrictions, the Department of Energy Organization Act prohibits "supervisory employees" of the Department from holding interests in energy concerns. "Supervisory employee" is defined as any employee at specified senior grade or pay levels or certain organizational levels. The term also includes employees performing certain specified functions and other employees designated by the Secretary who exercise sufficient decisionmaking or regulatory authority to warrant application of this prohibition; these employees will be identified as the Department's organizational structure solidifies. Appendix II of these regulations will contain a listing of the names or positions of supervisory employees and will be amended as circumstances warrant. The DOE Organization Act defines "energy concern" as any person having an interest in property from which certain energy resources are commercially obtained, or any person significantly engaged in any of a variety of business activities such as developing, producing, refining, distributing or selling minerals for use as an energy source; or producing, generating, transmitting, distributing, or selling electric power. A nonexclusive list of energy concerns will be published periodically to assist employees in identifying prohibited and/or reportable interests. The initial list of energy concerns was published in March 1978. The absence of a particular entity on the list shall not stay the application of any prohibition or restriction of these regulations. DOE is refining the criteria for identification of energy concerns. Such criteria will be incorporated into these regulations when they are established. Requests for determinations as to whether any particular entity is an energy concern should be submitted to the General Counsel of DOE.

In addition, supervisory employees employed by energy concerns prior to commencing service in the DOE are prohibited for 1 year after commencing DOE service from participating in any Department proceeding in which the employee while employed by an energy concern participated substantially or personally or for which the employee had direct responsibility, within 5 years of joining the Department. The supervisory employee is similarly prohibited from participating in Department proceedings involving an energy concern for 1 year after terminating employment with that energy concern other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns. These regulations define Department proceeding to include a judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest, in which the Department is directly involved.

Finally, supervisory employees are generally prohibited for 1 year after ceasing DOE employment from knowingly, with respect to a particular matter pending before the Department, making any communication to the DOE with intent to influence a DOE action, or making any appearance or attendance before DOE. An appearance or attendance is defined as the former employee's personal presence before a DOE employee conducting official DOE business, with direct or indirect contact between the former employee and the DOE employee relating to such official business. In person or other responses to requests from DOE officials for information relating to the former employee's duties in the Department are not encompassed by this definition.

All employees performing functions under the Surface Mining Control and Reclamation Act of 1977 are prohibited from having a financial interest in surface or underground coal mining operations. Appendix IV of these regulations will contain a list, by position, of employees performing such functions. This list is currently being compiled.

SUBPART D—"REPORTS"

Certain DOE employees will be required to file reports with their reviewing officials or the Counselor, as appropriate. Generally, all employees must file reports of financial interests unless they occupy positions specifically exempted from the disclosure requirements. Appendix I of these regulations will contain a list of exempted positions for the Department; positions may be exempted for FERC in the future.

Certain reports are required by law to be made publicly available. Lists of persons requesting access to an employee's reports will be made available to that employee.

It is intended that the report required by § 1010.403 of these regulations satisfy the reporting requirements of section 603 of Pub. L. 95-91 (42 U.S.C. 7213), section 522 of Pub. L. 94-163 (42 U.S.C. 6392) and section 308 of Pub. L. 95-39 (42 U.S.C. 5816a).

SUBPART E—"PROCEDURES AND SANCTIONS"

Subpart E explains the procedures employees should follow in seeking counseling or interpretation concerning these regulations. The Counselor will be responsible for counseling and providing interpretation. This subpart also includes procedures for seeking waivers from the restrictions or prohibitions in these regulations.

Finally, the penalties for noncompliance with these regulations are explained in Subpart E. The penalties range from administrative sanctions to civil and criminal penalties. For example, administrative sanctions may be imposed against reviewing officials for failure to perform review functions properly.

SUBPART F—"SPECIAL GOVERNMENT EMPLOYEES"

This subpart deals only with special Government employees and supplements provisions in the other subparts. Special Government employees are those employees retained or employed with or without compensation for 130 days or less during any 365 consecutive days.

III. Revocations.

These regulations when effective will supersede conduct of employee regulations for the Energy Research and Development Administration (10 CFR Part 735), and the Federal Energy Administration (10 CFR Part 203).

IV. Comments

To the extent that section 501 of the DOE Organization Act (42 U.S.C. 7191) is applicable to these regulations, it has been determined that no substantial issue of fact or law exists and that these regulations are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore these regulations are being promulgated in accordance with section 553 of Title 5, United States Code. These reg-

ulations relate to Department management and personnel and therefore could be made final without notice and comment, period (5 U.S.C. 553(b)(A)). However, DOE has decided to publish these regulations as proposed regulations in order to receive comments from the public.

Subpart D—Reports

1010.401 General.
1010.402 Availability of reports.
1010.403 Statements of employment and fi-

In addition to the foregoing, these regulations implement other statutes cited elsewhere herein.

(c) These regulations, among other

tration, or Western Area Power Administration.

(c) "Appearance or attendance" means, for the purposes of section 605

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, pro-

whom reports are submitted as set forth in § 1010.407(h). The functions of a reviewing official may not be re-

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ulations relate to Department management and personnel and therefore could be made final without notice and comment period (5 U.S.C. 553(a)(2)). However, written comments are solicited and a 60-day comment period is provided. Comments must be received by 4:30 p.m. e.d.t., December 18, 1978 at the address indicated in the "Address" section of this preamble. Seven copies of the comments should be submitted.

(Department of Energy Organization Act, sections 601-608, 42 U.S.C. 7211-7218; Energy Policy and Conservation Act, section 522, 42 U.S.C. 6392; Energy Research and Development Administration Appropriation Authorization Act, section 308, 42 U.S.C. 5816a; and 5 CFR Part 735.)

Issued in Washington, D.C., October 11, 1978.

LYNN R. COLEMAN,
General Counsel.

It is proposed to amend 10 CFR Ch. X by adding Part 1010 to read as follows:[1]

PART 1010—CONDUCT OF EMPLOYEES

Subpart A—General

Sec.
1010.101 Purpose and scope.
1010.102 Applicability.
1010.103 Definitions (applicable to FERC).
1010.104 Responsibilities and authorities.
1010.105 Counseling and interpretations.

Subpart B—Standards of Conduct

1010.201 General.
1010.202 Additional statutory provisions.
1010.203 Salary of an employee payable only by the United States.
1010.204 Outside employment and other outside activity.
1010.205 Gifts, entertainment, and favors.
1010.206 Political activity.
1010.207 Use of Government property.
1010.208 Nondiscrimination.
1010.209 Misuse of information.
1010.210 Indebtedness.
1010.211 Gambling, betting, and lotteries.
1010.212 Handling of funds entrusted by fellow employees.
1010.213 Endorsements.
1010.214 Use of credentials.
1010.215 Assignees pursuant to the Intergovernmental Personnel Act and the President's Executive Interchange Program.
1010.216 Guidelines for Economic Regulatory Administration Employees in Conduct of Audits.

Subpart C—Restrictions on Financial, Employment and Similar Interests

1010.301 General.
1010.302 Restrictions concerning private financial interests.
1010.303 Postemployment restrictions.
1010.304 Participation prohibitions.
1010.305 Exceptions and waivers.

[1]These regulations when effective will supersede conduct of employee regulations for Energy Research and Development Administration (10 CFR Part 735) and the Federal Energy Administration (10 CFR Part 203).

Subpart D—Reports

1010.401 General.
1010.402 Availability of reports.
1010.403 Statements of employment and financial interests, and interests in energy concerns.
1010.404 Statement of interests in coal mining operations.
1010.405 Prior employment report—supervisory employees.
1010.406 Postemployment report—supervisory employees.
1010.407 Filing of forms DOE-459, DOE-460, and DOE-461.

Subpart E—Procedures and Sanctions

1010.501 Waivers.
1010.502 Sanctions.
1010.503 Appeals and grievances.
1010.504 Cancellation of contracts.

Subpart F—Special Government Employees

1010.601 Use of Government employment.
1010.602 Use of inside information.
1010.603 Coercion.
1010.604 Gifts, entertainment, and favors.
1010.605 Other provisions.

Appendix I [Reserved]
Appendix II [Reserved]
Appendix III A Form DOE-459.
Appendix III B Form DOE-460.
Appendix III C Form DOE-461.
Appendix IV [Reserved]

AUTHORITY: Pub. L. 95-91, section 644, 91 Stat. 599 (42 U.S.C. 7254); Pub. L. 95-91, Title VI, Part A, 91 Stat. 591-596 (42 U.S.C. 7211-7218); Pub. L. 94-163, section 522, 89 Stat. 961 (42 U.S.C. 6392); Pub. L. 95-39, section 308 (42 U.S.C. 5816a).

Subpart A—General

§ 1010.101 Purpose and scope.

(a) In order to assure that the business of the Department of Energy (DOE) is conducted effectively, objectively and without improper influence or the appearance thereof, all employees must be persons of high integrity and observe unquestionable standards of behavior. An employee shall not engage in criminal, infamous, dishonest, immoral, or disgraceful conduct or other conduct prejudicial to the Government. An employee shall avoid conflicts of private interests with public duties and responsibilities. Also, the employee must not do indirectly what would be improper to do directly. The propriety of any activity shall be considered in relation to general ethical standards of the highest order.

(b) These regulations are intended to implement the foregoing concepts. They are issued in compliance with Executive Order 11222, 5 CFR Part 735, and the following statutes:

(1) 18 U.S.C. 201-209.

(2) Pub. L. 95-91, sections 601-608 (42 U.S.C. 7211-7218).

(3) Pub. L. 94-163, section 522 (42 U.S.C. 6392).

(4) Pub. L. 95-39, section 308 (42 U.S.C. 5816a).

(5) Pub. L. 95-87, section 201(f) (30 U.S.C. 1211(f)).

(6) 30 U.S.C. 6.

In addition to the foregoing, these regulations implement other statutes cited elsewhere herein.

(c) These regulations, among other things, reflect prohibitions and requirements imposed by the criminal and civil laws of the United States. These regulations do not purport to reflect or enumerate all restrictions or requirements imposed by statutes, Executive Orders, regulations or otherwise upon Federal employees and former Federal employees. The omission of a restatement of or a reference to any such restriction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement, as the case may be, continues to be applicable to employees in accordance with its own terms.

(d) It is expected that the provisions of these regulations will be observed and administered in a manner which is consistent with both their spirit and their letter.

§ 1010.102 Applicability.

(a) Except where specifically provided otherwise, these regulations apply to all officers, employees, and special Government employees of DOE, excluding officers, employees, or special Government employees of the Federal Energy Regulatory Commission (FERC).

(b) Those provisions hereinafter that are applicable to officers, employees, and special Government employees of FERC in addition to DOE employees are designated by "(Applicable to FERC)" and include: §§ 1010.103, 1010.104(g), 1010.215(a), 1010.302(b), 1010.303(b), 1010.303(c), 1010.304(b), 1010.304(c), 1010.305(d), 1010.401, 1010.402, 1010.403(b), 1010.403(c), 1010.403(d), 1010.405, 1010.406, 1010.407, 1010.501(a)(1), 1010.501(a)(2), 1010.501(a)(4), 1010.501(c), 1010.501(d), 1010.501(e), 1010.502(b), 1010.502(c), 1010.502(d), 1010.502(e), 1010.503, 1010.605(b), Appendix I, Appendix II, Appendix IIIA, Appendix IIIB, and Appendix IIIC.

(c) Special Government employees should also see Subpart F of these regulations.

§ 1010.103 Definitions (Applicable to FERC).

(a) "Secretary" means the Secretary of Energy as provided by the Department of Energy Organization Act, section 201, Pub. L. 95-91 (42 U.S.C. 7131), or his delegate.

(b) "Administrator" means any of the heads of the Energy Information Administration, Economic Regulatory Administration, Bonneville Power Administration, Southeastern Power Administration, Southwestern Power Administration, Alaska Power Administration, or Western Area Power Administration.

(c) "Appearance or attendance" means, for the purposes of section 605 of Pub. L. 95-91 (42 U.S.C. 7215), a former employee's personal presence before a DOE employee conducting official DOE business involving direct or indirect contact between the former employee and the DOE employee relating to such official business. In person, or other responses to requests from DOE officials for information relating to the former employee's duties in the Department are not encompassed by this definition.

(d) "Commission" or "FERC" means the Federal Energy Regulatory Commission established by Title IV of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7171-7177).

(e) "Counselor" means the General Counsel of the Department or the General Counsel of the Commission or Deputy Counselors designated by either of the General Counsels, as appropriate.

(f) "DOE" or "Department" means the Department of Energy established by the Department of Energy Organization Act, section 201, Pub. L. 95-91 (42 U.S.C. 7131).

(g) "Department proceeding" means any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant award, fund transfer, claim, controversy, charge, accusation, or arrest, in which the Department is directly involved.

(h) "Dependent" means dependent as defined in section 152 of the Internal Revenue Code of 1954, as amended.

(i) "Employee" means a DOE officer or employee (including, except where otherwise indicated, a special Government employee), or a member of the Uniformed Services (other than enlisted members) or an employee of another Government agency assigned or detailed to DOE.

(j) "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE; or

(2) Any other person:

(i) Holding an interest in property from which coal, natural gas, crude oil, nuclear material, or a renewable resource is commercially produced or obtained;

(ii) Significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) Significantly engaged, whether or not for profit, in conducting research, development, or demonstration related to an activity described in paragraph (2)(i) or (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) with financial assistance under any act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) For the purposes of reports required by Pub. L. 94-163 and Pub. L. 95-39, "energy concern" includes "energy businesses" and "energy properties" as those terms are used in those acts.

(4) "Energy concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted entities; or utility cooperatives in which ownership is required for services.

(k) "Interested party" means any person, firm, corporation, or other entity, or representative thereof, which:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with DOE;

(2) Conducts operations or activities that are regulated by DOE; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the DOE employee concerned.

(l) "Known financial interest" means any pecuniary interest of an employee, of which such employee has or should have knowledge.

(m) "Organization" means a university; foundation; nonprofit research entity or similar nonprofit organization; or State, county or municipality or subdivision thereof; as well as a business organization.

(n) "Participate" means, for the purposes of section 606 of Pub. L. 95-91 (42 U.S.C. 7216), involvement by an employee in a Department proceeding through decision, approval, disapproval, recommendation, the rendering of advice, or investigation.

(o) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(p) "Represent" means, but is not limited to, acting as an agent or attorney.

(q) "Reviewing official" means, for each employee, the individual to whom reports are submitted as set forth in § 1010.407(h). The functions of a reviewing official may not be redelegated.

(r) "Special Government employee" means an officer or employee retained, designated, appointed, or employed with or without compensation for 130 days or fewer during any 365 consecutive days, to perform temporary duties either on a full-time or part-time or intermittent basis. The term includes experts and consultants, but does not include enlisted members of the Uniformed Services.

(s) "Supervisory employee" means:

(1) An individual holding a position in the Department at GS-16, GS-17, or GS-18 of the General Schedule or at level I, II, III, IV, or V of the Executive Schedule, or who is in a position at a comparable or higher level on any other Federal pay scale, or who holds a position pursuant to subsection (b) or (d) of section 621 of the DOE Organization Act (including an employee in the Energy Executive Service) or who is an expert or consultant employed pursuant to section 3109 of title 5, United States Code, for more than ninety days in any calendar year and receives compensation at an annual rate equal to or in excess of the minimum rate prescribed for individuals at GS-16 of the General Schedule;

(2) The director and deputy director of any State, regional, district, local, or other field office;

(3) An employee or officer who has primary responsibility for the award, review, modification, or termination of any grant, contract, award, or fund transfer within the authority of the Secretary; including:

(i) Contracting officers;

(ii) Grant officers;

(iii) Awarding officers (financial assistance awards);

(iv) Any other employees with authority or warrants to commit the Department to a transfer of appropriated funds to a non-Federal entity;

(v) Source selection officials; and

(4) Any other employee or officer who, in the judgment of the Secretary, exercises sufficient decisionmaking or regulatory authority so that the provisions of title VI of the DOE Organization Act should apply to such individual (See Appendix II).

(t) "Uniformed Services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Services (37 U.S.C. 101(3)).

(u) "Waiver" means any action by the Secretary or the Commission, where appropriate, to exempt or exclude an individual from particular restrictions, prohibitions or requirements of these regulations, including but not limited to actions under sec-

tions 602(c), 605(a)(3), and 606(c) of the DOE Organization Act, and 18 U.S.C. 205, 207, and 208.

any investigation, and report to the Counselor on any action taken.

(c) The Director of Administration shall:

(3) Maintain liaison with the General Counsel of DOE to maximize consistency in application of these regulations.

(c) The prohibitions against the disclosure of confidential information (18 U.S.C. 1905).

(v) The prohibition relating to the denial of the right to petition Congress (5 U.S.C. 7102).

employment. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensa-

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tions 602(c), 605(a)(3), and 606(c) of the DOE Organization Act, and 18 U.S.C. 205, 207, and 208.

§ 1010.104 Responsibilities and authorities.

(a) Employees shall:

(1) Read and comply with the statutes and the rules, standards of conduct, and other regulations referred to herein. Each employee shall receive a copy of these regulations and acknowledge, in writing, such receipt prior to assuming duties in the DOE;

(2) Conduct themselves in such a manner as to create and maintain respect for DOE and the Federal Government and avoid situations which require or appear to require a balancing of private interests or obligations against official duties;

(3) Be mindful of the high standards of integrity expected of them in all their activities, personal and official;

(4) Not give or appear to give favored treatment or competitive advantage to any member of the public, including former employees of DOE;

(5) Recognize that violation of any of the instructions or statutes referred to in these regulations may subject them to disciplinary action in addition to the penalty prescribed by law for such violation (see Subpart E); and

(6) Discuss with the reviewing official, or the Counselor, as appropriate, any problem arising out of these regulations.

(b) Reviewing officials shall:

(1) Assure that required reports are promptly filed by employees in each Office;

(2) Personally review all reports submitted to them, make determinations as appropriate, and forward all reports to the Counselor. Failure to fulfill these responsibilities may result in sanctions imposed in accordance with Subpart E of this part;

(3) Notify employees at the time of entrance on duty and periodically thereafter of the availability of counseling services and how and where these services are available;

(4) Bring the provisions of these regulations to the attention of each employee at such times as circumstances warrant;

(5) Bring to the attention of contractors dealing with their offices those provisions of these regulations (such as "Future employment"; "Gifts, entertainment, and favors"; "Cancellation of contracts"; and others) which may affect the actions of contractors and their employees in dealing with DOE employees; and

(6) Report to the Counselor and the Inspector General all alleged or actual misconduct of DOE employees; in consultation with the Counselor, take action where appropriate as a result of any investigation, and report to the Counselor on any action taken.

(c) The Director of Administration shall:

(1) Provide a copy of these regulations and any subsequent revision to each employee;

(2) Be responsible for transmitting notice to employees of applicable reporting requirements; and

(3) Distribute to reviewing officials those annual report forms required in Subpart D of this part no later than May 1 of each year.

(d) The Director of Personnel shall:

(1) Distribute to prospective employees and former supervisory employees those forms required to be submitted pursuant to Subpart D of this part; and

(2) Distribute copies of these regulations to all prospective employees at the time an offer of employment with the DOE is made or prior to the making of such offer, if possible.

(e) The Deputy Secretary shall assume those responsibilities placed upon the Deputy Secretary by Subpart E of this part.

(f) The General Counsel of DOE shall:

(1) Serve as the Counselor for DOE employees other than employees performing functions within the jurisdiction of FERC;

(2) Serve as DOE's designee to the Civil Service Commission on matters covered by these regulations;

(3) Designate Deputy Counselors;

(4) Have available for review by employees copies of pertinent laws, Executive orders, DOE regulations, and Civil Service Commission regulations relating to ethical standards and other conduct;

(5) Bring the provisions of these regulations to the attention of all employees annually, and at such other times as circumstances warrant;

(6) Coordinate couseling services, and assure that counseling and interpretations on questions of conflicts of interest and other matters covered by these regulations are available to employees and reviewing officials;

(7) Be responsible for the review and referral of alleged violations of these regulations to the Department of Justice or the Inspector General of DOE, as appropriate; and

(8) Maintain liaison with the General Counsel of FERC to maximize consistency in application of these regulations.

(g) The General Counsel of FERC shall: (Applicable to FERC)

(1) Serve as Counselor for employees performing functions within the jurisdiction of FERC;

(2) Perform for FERC those duties described in paragraphs (f)(3) through (f)(7) of this section; and

(3) Maintain liaison with the General Counsel of DOE to maximize consistency in application of these regulations.

(h) The Inspector General shall investigate alleged violations of these regulations.

§ 1010.105 Counseling and interpretations.

(a) Each employee's reviewing official shall be available to discuss with employees any questions or requests under these regulations.

(b) The Counselor shall be available to render advice or interpretations of these regulations to reviewing officials or to individual employees.

Subpart B—Standards of Conduct

§ 1010.201 General.

(a) All employees shall conduct themselves on the job in such a manner that the work of DOE is efficiently accomplished and courtesy, consideration and promptness are observed in dealings with the public and other governmental agencies.

(b) All employees shall conduct themselves off the job in such a manner as not to reflect adversely upon DOE or the Federal service.

(c) In all circumstances, employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee should avoid any action, whether or not specifically prohibited by these regulations, which might result in, or create the appearance or:

(1) Using public office for private gain;;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 1010.202 Additional statutory provisions.

Attention of employees is directed to the following statutory provisions:

(a) The prohibitions contained in the following sections of the Atomic Energy Act of 1954, as amended: Sections 224, 225 and 226, relating to communication, receipt, and tampering with Restricted Data involving potential injury to the United States or portential advantage to a foreign nation; and section 227 relating to unauthorized disclosure of Restricted Data (42 U.S.C. 2274 through 2277).

(b) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783).

(c) The prohibitions against the disclosure of confidential information (18 U.S.C. 1905).

(d) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(e) The prohibition against proscribed political activities in subchapter III of chapter 73 of Title 5, United States Code, and 18 U.S.C. 602, 603, 607 and 608.

(f) The prohibition against acceptance or solicitation to obtain appointive public office (18 U.S.C. 211).

(g) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(h) The provisions relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(i) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(j) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(k) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(l) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(m) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(n) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(o) The prohibition against embezzlement of Government money or property (18 U.S.C. 641).

(p) The prohibition against failing to account for public money (18 U.S.C. 643).

(q) The prohibition against an employee's private use of public money (18 U.S.C. 653).

(r) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(s) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(t) The prohibition against making false entries in official records with intent to defraud or making false reports concerning moneys and securities with such intent (18 U.S.C. 2073).

(u) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219). The criminal penalties of this section do not apply in any case in which the Secretary sends to the Attorney General a certification that the employment of the agent as a special Government employee is in the national interest.

(v) The prohibition relating to the denial of the right to petition Congress (5 U.S.C. 7102).

(w) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

(x) The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

(y) The prohibition against arbitrary and capricious withholding of agency records reguested under the Freedom of Information Act (5 U.S.C. 552).

(z) The prohibition against knowing disclosure of information the disclosure of which is prohibited; the prohibition against willfully maintaining a system of records without appropriate notice provisions; and the prohibition against knowingly and willfully requesting or obtaining any record concerning an individual under false pretenses (5 U.S.C. 552a).

(aa) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service".

(bb) Prohibition against acceptance of an honorarium of more than $2,000 or honoraria totalling more than $25,000 in any calendar year (2 U.S.C. 441i).

§ 1010.203 Salary of an employee payable only by the United States.

(a) No employee, other than a special Government employee or an employee serving without compensation, shall receive any salary, or any contribution to or supplementation of salary, as compensation for services as a Federal employee, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (18 U.S.C. 209).

(b) Nothing in this section shall be deemed to prohibit an employee from continuing to participate in a bona fide pension, retirement, group life, health, of accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer, which does not cause a conflict of interest, appearance of conflict or potential conflict, nor from accepting contributions, awards, or other expenses under section 4111 ("Acceptance of contributions, awards and other payments") of Title 5, United States Code.

§ 1010.204 Outside employment and other outside activity.

(a) Employees shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of their Government employment. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest;

(2) Outside employment which tends to impair the employees' mental or physical capacity to perform assigned Government duties and responsibilities in an acceptable manner;

(3) Outside employment which conflicts or gives the substantial appearance with the employee's duties or the mission of the DOE; and

(4) Outside work or activity that takes the employees' time or attention during the employees' official work hours. Examples of the type of work or activity that often can require the employee's time or attention during the employee's official work hours, and which would be prohibited under such circumstances, include:

(i) Lawyers conducting private practice;

(ii) Auditors doing income tax forms for fellow employees or private persons;

(iii) Real estate agents handling home or land buying/selling activities.

(b) An employee who intends to engage in outside employment shall inform the employee's reviewing official and the Counselor in advance of undertaking such activity. In addition, supervisory employees shall obtain advance approval of the employee's reviewing official and the Counselor. A record of each approval under this paragraph shall be filed in the employee's official personnel folder. In addition, a record of each approval shall be retained in the Office of the General Counsel.

(c) Within the limitations imposed by this section, employees are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of the employee's Government employment, except when that information has been made available to the general public or will be made available on rquest, or when the Secretary gives written authorization for the use of non-public information on the basis that the use is in the public interest. In addition, DOE employees, including Presidential appointees, shall not receive compensation or anything of monetary value (such as an honorarium) for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of DOE, or which draws substantially on official

data of ideas which have not become part of the body of public information, or where the sponsor is an interested and industry. Therefore, except as provided in paragraph (b) of this section, DOE employees shall not solicit

informal business meeting at the place of business of an interested party to accept a lunch provided by the inter-

§ 1010.206 Political activity.

(a) All employees in the Executive Branch of the Federal Government

ities and the conditions under which the exceptions are granted may be obtained from the personnel office or

mation obtained through or in connection with the employee's Government employment which has not been made

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data of ideas which have not become part of the body of public information, or where the sponsor is an interested party.

(d) Though not necessarily outside employment, an employee may accept a fee or other compensation for a private activity which is not prohibited by law or these regulations, after providing notice or receiving advance approval pursuant to paragraph (b) of this section. The amounts of honoraria are limited by 2 U.S.C. 441i.

(e) Except as allowed for training or to attend meetings under section 4111 ("Acceptance of contributions, awards and other payments") of Title 5, United States Code, and Executive Order 10800 ("Implementing the Government Employees Training Act"), no employee shall accept a fee from an outside source on account of a public appearance, a speech, or lecture, if the public appearance or the preparation or delivery of the speech or lecture was a part of the official duties of the employee; if the public appearance, speech, or lecture was made during official working hours; or if travel for the purpose of the public appearance, speech, or lecture was made at Government expense. In addition, no employee shall accept a fee for the preparation, publication, or review of an article, story, or book if it was prepared during official working hours and/or was a part of the official duties of the employee.

(f) An employee shall not engage in outside employment with a State or local government, except in accordance with applicable regulations of the Civil Service Commission.

(g) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law or § 1010.206 of these regulations.

(2) Participation in the affairs of or acceptance of an award for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization.

(h) This section does not apply to special Government employees, who are subject to the provisions of Subpart F of this part.

§ 1010.205 Gifts, entertainment, and favors.

(a) Acceptance of gifts, entertainment, or favors, no matter how innocently tendered and received, from those who have or seek business with DOE may be a source of embarrassment to DOE and the employee involved, may affect the objective judgment of the recipient and may impair public confidence in the integrity of the business relations between DOE and industry. Therefore, except as provided in paragraph (b) of this section, DOE employees shall not solicit or accept any gift, entertainment, or favor (including complimentary meals and beverages), either directly or indirectly from any interested party. For the purpose of this section, gifts, entertainment, and favors include any tangible item, intangible benefits, discounts, tickets, passes, transportation, and accommodations or hospitality given or extended to or on behalf of the recipient. This prohibition, of course, does not preclude an employee from such actions as purchasing his or her own ticket to a function sponsored by an interested party, or sitting at the same table with a representative of an interested party so long as the employee pays for his or her own meal.

(b) The following are generally exceptions to the rule set forth in paragraph (a) of this section; however, employees are cautioned to avoid any situation (even if it might be viewed as one of the stated exceptions) which might raise questions of appearance of conflict of interest or reflect discredit upon the Department.

(1) Trophies, entertainment, prizes, or awards given for public service or achievement, or given in contests which are clearly open to the public generally or which are officially approved by the Secretary for DOE employee participation.

(2) Things available impersonally to the general public or classes of the general public, such as a free exhibition at a fair.

(3) Participation in civic and community activities by DOE employees when the relationship with the interested party can reasonably be characterized as remote; for example, participation in a little league or Combined Federal Campaign luncheon which is subsidized by an interested party.

(4) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.

(5) Acceptance of gifts, entertainment, or favors where there is an obvious family or personal relationship between the employee and the other party, where the circumstances make it clear that it is that relationship rather than the business of the persons concerned which is the motivating factor for the gift, entertainment, or favor.

(6) Acceptance of food and refreshment of insubstantial value or acceptance of local transportation, while on official business when no provision for individual payment can be made and alternative arrangements are clearly impracticable. This exception would allow a DOE employee attending an informal business meeting at the place of business of an interested party to accept a lunch provided by the interested party where arrangements for the DOE employee to pay for the lunch are clearly impracticable. Also local transportation may be provided where alternative arrangements are impracticable, such as transportation to and from an offshore drilling rig on official business, or contractor-provided transportation from an airport to a remote site for business purposes.

(7) Exchange of food, refreshments, and social amenities with representatives of foreign governments or international organizations, where such exchanges are in accordance with diplomatic custom and are clearly incident to the conduct of official business.

(8) Acceptance of transportation, lodging, or subsistence from foreign governments or international organizations where the offer of such services is pursuant to the performance of functions under a treaty or United States Statute.

(9) Acceptance of transportation, lodging, or subsistence, in kind, from an entity providing training pursuant to a contract with a Federal Department or Agency, by a DOE employee serving as an instructor or lecturer at such training.

(10) Acceptance of gifts from foreign governments in accordance with 5 U.S.C. 7342, as amended by Pub. L. 95-105, § 515 (August 15, 1977). Any such gift or thing which cannot appropriately be refused will be brought to the attention of the Counselor for advice concerning appropriate disposition.

(11) Instances in which the interests of the government are served by participation of a DOE employee in widely attended luncheons, dinners, and similar gatherings sponsored by consumer, environmental, industrial, technical, trade, professional, or other associations for the discussion of matters of mutual interest. Participation in such events is permitted only when the host is the association and not a private company and only when approved by the employee's reviewing official as being a part of or related to his official duties. Acceptance of gratuities, food or refreshments from a private company in connection with such association's activities is forbidden.

(12) Situations not specifically covered by paragraphs (b)(1)-(11) of this section but in which, in the judgment of the individual concerned, the Government's interest will be served by participation by DOE employees in activities at the expense of an interested party and of which the Counselor has granted prior approval.

§ 1010.206 Political activity.

(a) All employees in the Executive Branch of the Federal Government are subject to basic political activity restrictions in subchapter III of Chapter 73 of Title 5, U.S.C. (commonly known as the Hatch Act) and Civil Service Rule IV (5 CFR Part 4). Employees are individually responsible for refraining from prohibited political activity. Ignorance of a prohibition does not excuse a violation. This section summarizes provisions of law and regulation concerning political activity of employees.

(b) Employees on leave, on leave without pay, or on furlough or terminal leave, even though the employee's resignations have been accepted, are subject to the restrictions. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restriction during the period covered by the lump-sum payment or thereafter: *Provided*, That the employee does not return to Federal employment during that period. An employee is not permitted to take leave of absence to work with a political candidate, committee, or organization or become a candidate for office with the understanding that the employee will resign his position if nominated or elected.

(c) An employee is accountable for political activity by another person acting as the employee's agent or under the employee's direction or control if the employee is thus accomplishing indirectly what may not lawfully be done directly and openly.

(d) Section 7324 of title 5, U.S.C., provides that employees have the right to vote as they please and the right to express their opinions on political subjects and candidates. Generally, however, they are prohibited from taking an active part in political management or political campaigns or using official authority or influence to interfere with an election or affect its results. The following are exemptions from the restrictions of the statute:

(1) Employees may engage in political activity in connection with any question not specifically identified with any National or State political party. They also may engage in political activity in connection with an election if none of the candidates represent a party any of whose candidates for Presidential elector received votes at the last preceding election at which Presidential electors were selected.

(2) An exception relates to political campaigns in communities adjacent to the District of Columbia or in communities the majority of whose voters are employees of the Federal Government. Communities in which the exception applies are specifically designated by the Civil Service Commission. Information regarding the localities and the conditions under which the exceptions are granted may be obtained from the personnel office or the Counselor.

(3) Employees who work on an irregular or occasional basis are exempt on those days during which they are at no time in active duty status.

(4) The Secretary as well as other officials appointed by the President by and with the advice and consent of the Senate, who determine policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws are exempt from the prohibitions concerning active participation in political management and political campaigns.

(e) There are restrictions other than those imposed by subchapter III of chapter 73 of title 5, U.S.C. (the Hatch Act), and CSC Rule IV which relate to:

(1) Political contributions and assessments;

(2) Circulars of solicitation;

(3) Solicitation in Federal buildings;

(4) Solicitation by letter;

(5) Payment by one employee to another;

(6) Discrimination because of political contributions;

(7) Purchase and sale of public office;

(8) Political recommendations and discrimination; and

(9) Other criminal offenses set forth in 18 U.S.C., chapter 29.

Further information concerning these restrictions may be obtained from the Counselor.

§ 1010.207 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to the employee.

§ 1010.208 Nondiscrimination.

An employee shall not be discriminated against because of race, color, religion, national origin, sex, age, politics, marital status, or on the basis of a physical handicap with respect to any position the duties of which may be efficiently performed by a person with a physical handicap. This prohibition applies to both employment and utilization of DOE employees.

§ 1010.209 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in paragraph (c) of § 1010.204, directly or indirectly use, or allow the use of, official information obtained through or in connection with the employee's Government employment which has not been made available to the general public.

(b) An employee of DOE shall not improperly divulge or disclose any trade secrets, processes, financial data, or other business information which is submitted to or filed with DOE on a confidential basis and which falls within the purview of 18 U.S.C. 1905.

(c) In addition to the prohibitions specified in paragraphs (a) and (b) of this section employees are subject to the prohibition imposed by section 68a of the Atomic Energy Act of 1954, 42 U.S.C. 2098(a), "Public and Acquired Lands":

> No individual, corporation, partnership, or association, which had any part, directly or indirectly, in the development of the atomic energy program, may benefit by any location, entry, or settlement upon the public domain made after such individual, corporation, partnership, or association took part in such project, if such individual, corporation, partnership, or association by reason of having had such part in the development of the atomic energy program, acquired confidential official information as to the existence of deposits of uranium, thorium, or other materials in the specific lands upon which such location, entry, or settlement is made and subsequent to August 30, 1954, made such location, entry, or settlement, or caused the same to be made for his, or its, or their benefit.

§ 1010.210 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as a Federal, State, or local tax. For the purpose of this section, "in a proper and timely manner" means in a manner which DOE determines does not, under the circumstances, reflect adversely on the Government. Also, for the purpose of this section, a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court, or one imposed by law such as Federal, State, or local taxes; any other debt contested in good faith by an employee is not subject to this section. In the event of dispute between an employee and an alleged creditor, this section does not require DOE to determine the validity or amount of the disputed debt.

§ 1010.211 Gambling, betting, and lotteries.

(a) An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(b) This section does not preclude activities:

(1) Necessitated by an employee's law enforcement duties; or

(2) Under section 3 of Executive Order 10927 (on Conduct of Fund concern, unless the Secretary grants an appropriate waiver pursuant to § 1010.501.

(b) Individuals assigned pursuant to the employee's Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of,

(i) Financial interests in mutual funds or regulated investment companies the portfolios of which are widely diversified, and similarly constituted determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the

§ 1010.304 Participation prohibitions.

(a) *All employees (18 U.S.C. 203 and 205).* No employee except in the

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(1) Necessitated by an employee's law enforcement duties; or

(2) Under section 3 of Executive Order 10927 (on Conduct of Fund Raising Activities) and similar Department-approved activities.

§ 1010.212 Handling of funds entrusted by fellow employees.

No employee shall receive, retain, or disburse funds entrusted to the employee by fellow employees (e.g., credit union deposits or donations to charitable organizations) except with the utmost care in the safeguarding of such funds and the maintenance of full and complete records with regard to the receipt, custody, and disbursement of such funds. Such records shall be made available to appropriate authorities upon proper request.

§ 1010.213 Endorsements.

(a) Employees are prohibited from endorsing, or appearing to endorse, in an official capacity the proprietary products of processes of manufacturers or the services of commercial firms for advertising, publicity, or sales purposes. Use of materials, products, or services by the Department does not constitute official endorsement.

(b) Employees are prohibited from engaging in outside employment or other outside activity which identifies DOE or any employee in an official capacity with any organization commercializing products relating to work conducted by DOE or with any commercial advertising matter, or work performed under such circumstances as to give the impression that it is an official act of DOE or represents an official point of view.

§ 1010.214 Use of credentials.

Credentials and other Department of Energy identification devices are for use only in establishing identity or authority in connection with official business. Such credentials and identification devices or an employee's official position, status, or designation are not to be used by employees to exert influence or obtain—either directly or indirectly—privileges or rewards for themselves or others.

§ 1010.215 Assignees pursuant to the Intergovernmental Personnel Act and the President's Executive Interchange Program.

(a) (Applicable to FERC) The DOE may utilize individuals assigned under the Intergovernmental Personnel Act and the President's Executive Interchange Program. However, no individual will be invited by the DOE to participate in such programs if such individual would be a supervisory employee in the DOE and the business, government or institution by whom such individual is employed is an energy concern, unless the Secretary grants an appropriate waiver pursuant to § 1010.501.

(b) Individuals assigned pursuant to the Intergovernmental Personnel Act and the President's Executive Interchange Program shall be considered employees for the purposes of these regulations.

(c) Reviewing officials proposing to utilize an individual under the Intergovernmental Personnel Act or the President's Executive Interchange Program shall, prior to commencing negotiations with such individual, or the individual's current employer, submit to the Counselor, the individual's name, proposed position, salary, and current employer. The Counselor shall then determine whether it is appropriate to utilize such individual.

§ 1010.216 Guidelines for Economic Regulatory Administration employees in conduct of audits.

(a) When an employee of the Economic Regulatory Administration receives an assignment involving a person acting as either principal, or agent, with whom the employee has had a prior social or business association or any relationship which might impair or give the appearance of impairing the employee's impartiality or independence, the employee will discuss with his supervisor the possible need to have the assignment transferred to another employee.

(b) During the execution of the assignment, an employee should not enter into a social or business association with any person who is a principal or agent of the firm being audited, or into any relationship which might impair, or give the appearance of impairing his impartiality or independence. Should such a relationship develop, the employee will discuss with his supervisor the possible need to have the assignment transferred to another employee.

Subpart C—Restrictions on Financial, Employment and Similar Interests

§ 1010.301 General.

(a) The maintenance of public confidence in the Government clearly demands that a DOE employee take no action which would constitute the use of official position to advance personal or private interests.

(b) All employees must read carefully this subpart to ascertain those restrictions applicable only to certain classes of DOE employees. Any question concerning the class in which an individual belongs should be directed to the reviewing official concerned.

(c) An employee shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with the employee's Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through Government employment.

§ 1010.302 Restrictions concerning private financial interests.

(a) *All employees (18 U.S.C. 208).* Unless authorized to do so as provided hereafter in this section, no employee shall participate personally and substantially as a Government employee in a particular matter in which the employee knowingly has a financial interest.

(1) For purposes of this section—

(i) An employee "participates" in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise.

(ii) A "particular matter" is a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other such matter.

(iii) A "financial interest" is the interest of the employee or the employee's spouse, minor child, partner, organization in which the employee is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the employee is negotiating or has any arrangement concerning prospective employment. An employee shall be deemed to be negotiating for prospective employment upon an expression of interest in response to a solicitation for future employment by either the employee or the person or organization.

(2) Administrative waiver: The employee's reviewing official may waive the restrictions of paragraph (a) of this section in a particular matter for an individual if the employee's reviewing official determines in writing that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of the individual. See Subpart E, § 1010.501(b) for procedures applicable to this waiver. Where it appears that the conflict of interest would arise in other matters in which the employee would be involved in the performance of normal duties, remedial action shall be taken.

(3) Waiver by rule or regulation. The Secretary may by rule or regulation waive the restrictions of paragraph (a) of this section for classes of financial interest which the Secretary determines are too remote or too inconsequential to affect the integrity of an employee's services. (See § 1010.501.) The restrictions on the following financial interests are waived pursuant to this paragraph:

(i) Financial interests in mutual funds or regulated investment companies the portfolios of which are widely diversified, and similarly constituted entities.

(ii) [Reserved]

(b) *Supervisory employees (42 U.S.C. 7212).* (Applicable to FERC) In addition to the above restrictions, no supervisory employee shall knowingly receive compensation from, or hold any official relation with, any energy concern, or own stocks or bonds of any energy concern, or have any pecuniary interest therein.

(1) All supervisory employees shall comply with the provisions of paragraph (b) of this section prior to assuming their duties in the DOE.

(2) Waivers of the restrictions of paragraph (b) may be requested in accordance with § 1010.501.

(c) *Employees holding positions listed in Appendix IV (30 U.S.C. 1211(f)).* No employee holding a position listed in Appendix IV shall have a direct or indirect financial interest in underground or surface coal mining operations. Such covered employees shall comply with the provisions of this paragraph prior to assuming their duties in DOE.

(d) Notwithstanding the reporting requirements of Subpart D of this part, any employee who has a financial interest (other than a financial interest waived under paragraph (a)(3) of this section) in a particular matter which is within the scope of the employee's official duties shall make a full disclosure of that interest in writing to both the employee's reviewing official and the Counselor at such time as the employee acquires the financial interest or begins participating in the particular matter.

§ 1010.303 Postemployment restrictions.

(a) *All employees (18 U.S.C. 207).* After Government employment has ceased, no former employee may:

(1) Knowingly act as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has an interest and in which the former employee participated personally and substantially for the Government through decision, approval, disapproval, recommendation, rendering of advice, investigation, or otherwise; and

(2) Appear personally before any Government court, department or agency as agent or attorney for anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has an interest and which was within the boundaries of the former employee's official responsibilities during the last year of that employee's Government service, for a period of one year after termination of the employee's official responsibility for that matter.

(b) *Supervisory employees (42 U.S.C. 7215).* (Applicable to FERC) In addition to the above, for one year after employment with DOE ceases, except as provided in paragraph (b)(2) of this section, no supervisory employee shall knowingly make any appearance or attendance (see § 1010.103(c)) before the Department, or make any written or oral communication to, with the intent to influence the action of, the Department, if such appearance or communication relates to any particular matter which is pending before the DOE.

(1) The prohibition in paragraph (b) of this section prohibits most forms of contact with DOE of a business nature by a former supervisory employee, other than written or oral contact to request information, for one year after employment with DOE ceases. The prohibition does not prevent a former supervisory employee from responding to requests from DOE officials for information relating to the former employee's duties in the Department.

(2) The prohibition in paragraph (b) of this section shall not apply to:

(i) Any appearance, attendance or communication by a former supervisory employee who is employed by and acting on behalf of, the United States; or

(ii) Any appearance of communication by the individual where such appearance or communication is made in response to a subpoena, or concerns any matter of an exclusively personal and individual nature such as pension benefits.

(c) Scientific and technological waiver. (Applicable to FERC) The Secretary or the Commission may waive the provisions of this section for a former DOE employee in connection with a particular matter in a scientific or technological field, if the Secretary or the Commission, as appropriate, determines that the national interest would be served by such waiver because the former employee possesses outstanding scientific or technological qualifications. (See § 1010.501.)

(d) A limited exception from the restrictions contained in paragraph (a) of this section is available, pursuant to the Indian Self-Determination Act (25 U.S.C. 450i(f)), to former employees who are employed by Indian tribes.

§ 1010.304 Participation prohibitions.

(a) *All employees (18 U.S.C. 203 and 205).* No employee except in the proper discharge of official duties shall represent anyone before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another.

(1) A special Government employee is subject to this restriction only if it is a matter in which that employee participated personally and substantially for the Government.

(2) Notwithstanding paragraph (a)(1) of this section, no special Government employees who has served more than 60 days during the preceding 365 days may represent anyone else in a matter pending before DOE.

(3) Waivers from the prohibitions of this paragraph are permitted in accordance with § 1010.501.

(b) *Supervisory employees (42 U.S.C. 7216).* (Applicable to FERC.) No supervisory employee shall knowingly participate:

(1) For a period of one year after terminating any employment with any energy concern, in any Department proceeding in which the supervisory employee's former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns; or

(2) For a period of one year after commencing service in the DOE, in any Department proceeding for which, within the previous 5 years, the supervisory employee had direct responsibility, or in which the supervisory employee participated substantially or personally, while in the employment of any energy concern.

(c) (Applicable to FERC.) The Secretary may waive the restrictions of paragraph (b) of this section in accordance with § 1010.501.

(d) A limited exception from the restrictions contained in paragraph (a) of this section is available, pursuant to the Indian Self-Determination Act (25 U.S.C. 450i(f)), to employees who are assigned to Indian tribes.

§ 1010.305 Exceptions and waivers.

(a) Nothing in this subpart shall be deemed to prohibit employees, if it is not otherwise inconsistent with the faithful performance of their duties, from representing without compensation any person in a disciplinary, loyalty, or other Federal personnel administrative proceeding involving such person.

(b) Provided that an employee obtains prior approval, or provides advance notification in accordance with the provisions of § 1010.204 regarding outside employment, nothing in these

regulations shall be deemed to prohibit employees from representing, with or without compensation, their par-

§ 1010.402 Availability of reports (Applicable to FERC).

(a) Reports under the provisions of

(4) Shall satisfy the requirements of section 522 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-

(1) Those entities which the supervisory employee believes to be energy concerns shall be listed in part A of the report.

(2) The individual amends such

the DOE (including Form DOE-459); and

(3) Form DOE-461 shall be filed with the Conuselor not later than May 15 of the first and second calendar

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regulations shall be deemed to prohibit employees from representing, with or without compensation, their parents, spouse, child, or any person for whom, or for any estate for which, they are serving as guardian, executor, administrator, trustee, or other personal fiduciary, *except* in those matters in which they have participated personally and substantially as Government employees, or which are the subject of their official responsibilities.

(c) Nothing in these regulations shall be deemed to prohibit employees from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(d) (Applicable to FERC.) Nothing in this subpart shall prevent employees from requesting a waiver pursuant to Subpart E.

Subpart D—Reports

§ 1010.401 General (Applicable to FERC).

(a) The Director of Personnel shall provide appropriate forms to new employees prior to their assumption of duties in the Department, and to a DOE employee assigned new duties prior to the employee's assumption of such new duties. The Director of Administration shall provide Form DOE-459 to DOE employees annually prior to May 1.

(b) Forms DOE-459 and DOE-460 shall be filed no later than the times stated in §§ 1010.403, and 1010.405 with the employee's reviewing official who shall make a determination regarding financial interests therein revealed. The reviewing official shall complete this review and forward each form with the relevant determination to the Counselor within 15 days of receipt of the form.

(c) The Counselor shall review Form DOE-461 pursuant to § 1010.406 and other forms and determinations following receipt from the reviewing officials.

(1) The Counselor or the reviewing official in coordination with the Counselor may require divestiture of certain financial interests pursuant to § 1010.302. Any required divestiture action shall be taken within the time required by the Counselor or reviewing official and confirmed in writing.

(2) A required divestiture action may be appealed pursuant to § 1010.503, or a waiver may be requested pursuant to § 1010.501 within 30 days of receipt of such advice.

(d) An employee may request from the Counselor an extension(s) of time for filing Form DOE-459. The Counselor may grant such extensions for periods up to a total of 90 days.

(e) Persons aggrieved by application of this subpart may proceed in accordance with § 1010.503.

§ 1010.402 Availability of reports (Applicable to FERC).

(a) Reports under the provisions of §§ 1010.403(b), 1010.405(a)(1) and 1010.406(a)(1) will be made available to the public. Reports under the provisions of §§ 1010.403(c), 1010.405(a)(2) and 1010.406(a)(2) will be held in confidence.

(b) Reports required by law to be publicly available shall be made available at a location specified by the Counselor within 30 days after receipt of the reports by the reviewing official, or in the case of Form DOE-461, within 30 days after receipt by the Counselor.

(c) Written requests for copies of publicly available reports should be addressed to:

The General Counsel, Department of Energy, or Federal Energy Regulatory Commission (as appropriate), Washington, D.C. 20545 (20426 for FERC).

(1) Persons requesting copies of reports may be required to pay a reasonable fee which may be necessary to recover the cost of reproduction and mailing of such reports.

(d) Publicly available reports will be retained by the Counselor for six years.

(e) A file of the waivers granted pursuant to § 1010.501, shall be available from the Counselor for inspection and copying during regular working hours.

(f) A record of persons requesting access to any particular employee's reports shall be maintained by the Counselor and shall be available to that employee.

§ 1010.403 Statements of employment and financial interests and interests in energy concerns.

(a) The requirements of this section are applicable to all employees, except as specifically excluded in Appendix I.

(b) Form DOE-459, Part A. (Applicable to FERC) This report of interests in energy concerns:

(1) Shall be publicly available;

(2) Shall include information as requested in the sample form in Appendix III A;

(3) Shall be completed by employees within 30 days of commencement of service in the Department and on every May 15 thereafter. *Notwithstanding the allowable 30 day period, prospective supervisory employees and prospective special Government employees and their appointing officials are urged to assure the filing of such reports and their appropriate review by the Counselor to identify and avoid potential violations of section 602 of the DOE Organization Act (§ 1010.302(b) of these regulations) prior to commencement of the prospective employees; functions;* and

(4) Shall satisfy the requirements of section 522 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, section 601 *et seq.* of the DOE Organization Act, Pub. L. 95-91, and section 308 of Pub. L. 95-39.

(c) Form DOE-459, Part B. (Applicable to FERC) This confidential statement of employment and financial interests:

(1) Shall be held in confidence;

(2) Shall include that information requested on the sample form in Appendix III A; and

(3) Shall be filed by employees within 30 days of commencement of service in the DOE and on each May 15 thereafter. *Notwithstanding the allowable 30 day period, prospective supervisory employees and prospective special Government employees and their appointing officials are urged to assure the filing of such reports and their appropriate review by the Counselor to identify and avoid potential violations of 18 U.S.C. 208 (§ 1010.302(a) of these regulations) prior to commencement of the prospective employee's functions.*

(d) (Applicable to FERC) Employees required to file Form DOE-459 who cease to be DOE employees during any calendar year shall file the report within 30 days of the date of termination concerning that portion of such year beginning on January 1 and ending on the date employment terminates.

(e) Special Government employees shall keep the Form DOE-459 current throughout their employment with the Department by submission of supplementary statements, as needed, in addition to the annual report.

§ 1010.404 Interests in coal mining operations.

(a) All employees occupying positions listed in Appendix IV as involving functions under the Surface Mining Control and Reclamation Act (Pub. L. 95-87) must so indicate on Part C of Form DOE-459.

(b) Each employee occupying a position listed in Appendix IV must certify in Part C of Form DOE-459 that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically identified and described.

§ 1010.405 Prior employment report—supervisory employees—(Applicable to FERC).

(a) Each supervisory employee shall file Form DOE-460 identifying any entity which paid that employee compensation in excess of $2,500 in the calendar year in which he is reporting or in any of the five preceeding calendar years.

(1) Those entities which the supervisory employee believes to be energy concerns shall be listed in part A of the report.

(2) Other entities shall be listed in part B.

(b) Such report shall include information as requested on the sample form in Appendix III B.

(c) Such report need not include:

(1) Any information considered confidential as a result of a privileged relationship, recognized by law, between such supervisory employee and any person; or

(2) Any information with respect to any person for whom services were provided by any firm or association of which such supervisory employee was a member, partner, or employee unless such supervisory employee was directly involved in the provision of such services.

(d) Part A of the report listing energy concerns shall be available to the public.

(e) Such report shall be filed within 60 days of becoming a supervisory employee in the DOE. *Notwithstanding the allowable 60 day period, prospective supervisory employees and their appointing officials are urged to assure the filing of such reports and their appropriate review by the Counselor to identify and avoid potential violations of section 606 of the DOE Organization Act (§ 1010.304 of these regulations) prior to commencement of supervisory employee functions.*

§ 1010.406 Postemployment report—supervisory employees (Applicable to FERC).

(a) Each former supervisory employee shall file with the Counselor a report, Form DOE-461, describing any employment with any entity during the period to which such report relates, including any employment as a consultant, agent, attorney, or otherwise.

(1) Those entities which the former supervisory employee believes are energy concerns shall be listed in part A of the report.

(2) The other entities shall be listed in part B.

(b) Such report shall include that information requested on the sample form in Apendix III C.

(c) Part A of this report listing energy concerns shall be available to the public.

(d) This requirement shall not apply to an individual who, at the time employment with DOE ceases, has any contract, promise, or other agreement with respect to future employment with an energy concern: *Provided:*

(1) The individual describes such agreement in any publicly available report filed within 30 days after the individual ceases to be an employee of the DOE (including Form DOE-459); and

(2) The individual amends such report by May 15 of either of the next 2 years during which the individual has accepted any other employment.

(e) Reports under paragraph (a) of this section shall be filed in the first and second calendar years (no later than May 15 of each such year) following the first full year in which the reporting individual ceased to be an officer or employee of the DOE.

§ 1010.407 Filing of forms DOE-459, DOE-460, and DOE-461 (Applicable to FERC).

(a) Form DOE-459:

(1) Form DOE-459 shall be submitted by all employees whose positions are not listed in Appendix I.

(2) Form DOE-459 shall be submitted in accordance with § 1010.403.

(b)(1) Reviewing officials shall, as of April 15 of each year, review the positions under their jurisdiction and determine, in accordance with Appendix I, the positions which require the submission of reports from their incumbents. The affected employees shall be notified of that fact and shall be furnished with two copies of the report form by their reviewing officials. By copy of the notification (or a list of the names, grades and positions of employees required to file reports), the Counselor shall be informed by the reviewing officials of those employees required to submit forms. Each employee notified of the filing requirement shall submit the completed forms to his or her reviewing official by May 15.

(2) Whenever a new position is established, the reviewing official shall determine whether the position calls for the submission of a form in accordance with Appendix I. If it is determined that a report is a requirement, the individual to be assigned to that position shall be notified (with copy to the Counselor) of the requirement (see § 1010.403 for filing procedures).

(c) Notwithstanding the filing of the annual reports required by these regulations, each employee shall at all times avoid acquiring a financial interest that could result in a violation of the conflicts of interest provision of these regulations.

(d) Form DOE-460 (Report on prior employment).

(1) Form DOE-460 shall be submitted in accordance with § 1010.405.

(2) Form DOE-460 shall be submitted by all supervisory employees.

(e) Form DOE-461 (Postemployment report).

(1) Form DOE-461 shall be submitted in accordance with §1010.406.

(2) Form DOE-461 shall be submitted by all former supervisory employees.

(3) Form DOE-461 shall be filed with the Conuselor not later than May 15 of the first and second calendar years following the first full year such former employee ceased to be an employee of the DOE.

(f) Upon completion of processing, copies of reports shall be filed in the office of the Counselor.

(g) The reports required of employees by this subpart are in addition to, not in substitution for or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a report by an employee or the absence of any requirement that an employee submit such a report does not permit the employee or any other person to participate in a matter in which the employee's or the other person's participation is prohibited by law, order, or regulation.

(h) To whom reports are to be submitted. Submission of required reports shall be to the reviewing official as indicated below:

(1) To the Civil Service Commission Ethics Counselor (CSC Forms) and to the appropriate Counselor (Forms DOE-459, 460, and 461):

(i) The Secretary.

(ii) The Commissioners of FERC.

(2) To the Secretary:

(i) Members of the Secretary's immediate staff.

(ii) The Deputy Secretary.

(iii) The Under Secretary.

(iv) Special Government employees reporting directly to the Secretary.

(3) To the Deputy Secretary:

(i) Members of the Deputy Secretary's immediate staff.

(ii) Special Government employees reporting directly to the Deputy Secretary.

(iii) Heads of DOE organizational components who report directly to the Deputy Secretary.

(iv) Level 2 personnel (Assistant Secretary, Administrator EIA, Administrator ERA, Inspector General, Director ER, Director AD, Controller, General Counsel, Director PR, or equivalent) except those who report directly to the Under Secretary.

(4) To the Under Secretary:

(i) Members of the Under Secretary's immediate staff.

(ii) Special Government employees reporting directly to the Under Secretary.

(iii) Heads of DOE organizational components who report directly to the Under Secretary.

(5) To the Chairman of the Commission:

(i) Members of the Chairman's immediate staff.

(ii) Special Government employees reporting directly to the Chairman.

(iii) Heads of FERC organizational components who report directly to the Commission.

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(6) To appropriate level 2 supervisor (Assistant Secretary, Administrator EIA, Administrator ERA, Inspector General, Director ER, Director AD,

permitted to appear, attend, or communicate with the DOE, in connection with a particular matter in a scientific or technological field; and

(1) Violations of 18 U.S.C. 203, 205, or 208 (§§ 1010.302 or 1010.304 of these regulations) may result in a fine of $10,000 or imprisonment for 2 years.

(2) An employee shall be deemed to have known of or knowingly held an interest in an energy concern if such

§ 1010.602 Use of inside information.

(a) Special Government employees shall not use inside information ob-

Appendix III A

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(6) To appropriate level 2 supervisor (Assistant Secretary, Administrator EIA, Administrator ERA, Inspector General, Director ER, Director AD, Controller, General Counsel, Director PR, or equivalent):

(i) Members of the level 2 supervisor's immediate staff.

(ii) Special Government employees reporting directly to the level 2 supervisor.

(iii) Level 3 personnel (Office Directors or equivalent) under the jurisdiction of such level 2 supervisor.

(7) To appropriate level 3 supervisor (Office Director or equivalent):

(i) Members of the level 3 supervisor's immediate staff.

(ii) Special Government employees reporting directly to the level 3 supervisor.

(iii) Level 4 personnel (Division Director or equivalent) under the jurisdiction of such level 3 supervisor.

(8) To appropriate level 4 supervisor (Division Director or equivalent):

All other employees or special Government employees required by these regulations to submit a report.

(9) In special situations, the Counselor may arrange for submission of reports to other than the employee's reviewing official.

Subpart E—Procedures and Sanctions.

§ 1010.501 Waivers.

(a) (Paragraphs (a)(1), (a)(2) and (a)(4) are Applicable to FERC.) Waivers may be granted of the requirements and restrictions in:

(1) § 1010.302(b) (prohibited interests for supervisory employees) if the Secretary finds that application of the restrictions would work an exceptional hardship on the supervisory employee or that the prohibited interest is a pension, insurance, or other similarly vested interest;

(2) Section 1010.304(b) (participation prohibitions for supervisory employees) if the Secretary finds that application of the restrictions would work an exceptional hardship on the supervisory employee or would be contrary to the national interest;

(3) Section 1010.302(a) (participation restrictions in particular matters for all employees) if the Secretary by rule or regulation finds that a particular interest is too remote or too inconsequential to be one which can be expected to cause a conflict of interest for any employee who may hold that interest; (see also § 1010.501(b))

(4) Section 1010.303 (a) and (b) (post- employment restrictions for all former employees and former supervisory employees, respectively) if the Secretary or the Commission, as the case may be, finds that the national interest would be served if a former employee with outstanding scientific or technological qualifications were permitted to appear, attend, or communicate with the DOE, in connection with a particular matter in a scientific or technological field; and

(5) Section 1010.304(a) (1) and (2) (participation prohibitions for special Government employees) if the Secretary finds that the national interest would be served if a special Government employee were permitted to represent another person in the performance of work under a grant, or a contract with or for the benefit of, the United States.

(b) The employee's reviewing official in consultation with the Counselor may waive the provisions of § 1010.302(a) if he finds that the individual employee's financial interest is not so substantial as to be likely to affect the integrity of the services which the Government may expect of that employee.

(c) (Applicable to FERC.) An employee requesting a waiver under paragraph (a) or (b) of this section shall submit a written request for waiver to the employee's reviewing official. The request shall explain the employee's duties, the nature of the conflict of interest, potential conflict of interest, or appearance of conflict of interest, the effect on the employee of the restriction or prohibition for which the employee seeks the waiver, and the reasons why the waiver should be granted.

(1) In the case of requests under paragraph (a) of this section, the reviewing official shall review the request and forward the request with the reviewing official's recommended action to the Counselor. The Counselor will review the request and the reviewing official's recommendation and, where appropriate, forward a waiver statement to the Secretary or Commission, as appropriate, for approval and signature.

(2) In the case of requests under paragraph (b) of this section, the employee's reviewing official, in consultation with the Counselor, shall review and determine in writing whether to grant the request.

(d) (Applicable to FERC.) Waivers under paragraphs (a)(1), (a)(3), or (a)(4) of this section shall be published in the FEDERAL REGISTER.

(e) (Applicable to FERC.) Waivers under paragraph (a)(2) of this section shall be filed with any record of the Department proceeding as to which the waiver, for purposes of participation, is granted.

(f) Waivers under paragraphs (a)(5) of (b) of this section shall be filed in the employee's conflicts of interest file maintained by the Counselor.

§ 1010.502 Sanctions.

(a) General criminal sanctions.

(1) Violations of 18 U.S.C. 203, 205, or 208 (§§ 1010.302 or 1010.304 of these regulations) may result in a fine of $10,000 or imprisonment for 2 years, or both.

(2) Violations of 18 U.S.C. 207 or 209 (§§ 1010.203, or 1010.303 of these regulations) may result in a fine of $5,000 or imprisonment for 1 year, or both.

(b) (Applicable to FERC.) Criminal and civil sanctions under the DOE Organization Act.

(1) Any individual who is subject to, and knowingly violates, section 603 of the DOE Organization Act (§1010.403(b) of these regulations) shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(2) Any individual who violates any of sections 602 through 606 of the DOE Organization Act (§§ 1010.302(b), 1010.303(b), 1010.304(b), 1010.403, 1010.405, or § 1010.406 of these regulations) shall be subject to a civil penalty, assessed by the Secretary in accordance with applicable law or by any district court of the United States, not to exceed $10,000 for each violation.

(3) Notwithstanding any penalty imposed under paragraph (b)(1) of this section, any violation of section 605(a) of the DOE Organization Act (§ 1010.303(b) of these regulations) shall be taken into consideration in deciding the outcome of any Department proceeding in connection with which the prohibited appearance, attendance, communication, or submission was made.

(c) (Applicable to FERC.) All alleged violations of these regulations shall be referred to the Counselor and the Inspector General. The Counselor shall review the allegations and determine whether the matter should be referred to the Department of Justice for investigation, or is appropriate for investigation by the Inspector General.

(d) (Applicable to FERC.) General administrative sanctions.

(1) The Secretary or the Commission may impose administrative sanctions for violations of these regulations to the fullest extent provided by law and DOE regulations.

(2) Such administrative sanctions may be imposed for violations which include, but are not limited to:

(i) Late submission by employees of required reports, and

(ii) Failure by reviewing officials to perform counseling or review functions.

(e) (Applicable to FERC)

(1) An individual shall be deemed to have known of or knowingly committed a described act or to have known of or knowingly held a described status or position if the employee knew or should have known of such act, interest, status, or position.

(2) An employee shall be deemed to have known of or knowingly held an interest in an energy concern if such interest is sold or otherwise transferred to the employee's spouse or dependent while such employee is, or within 6 months prior to the date on which such employee becomes, an employee of DOE.

(3) Placing of an interest under a trust by an individual shall not satisfy the requirement of § 1010.302(b) of these regulations unless none of the interests placed under such trust by such individual consists of known financial interests in any energy concern. Further information concerning blind trusts may be obtained from the Counselor.

§ 1010.503 Appeals and grievances (Applicable to FERC).

(a) An employee may request review by the Counselor of an action or decision by a reviewing official, under these regulations, which adversely affects that employee. Any action or decision by the Counselor pursuant to these regulations may be appealed in writing to the Deputy Secretary, or the Chairman of FERC or his delegate, as appropriate.

(b) The DOE grievance procedure shall be available for review of the following actions and decisions:

(1) Failure to include an employee's position on the list of employees exempt from reporting requirements (Appendix I);

(2) Inclusion of an employee on the list of employees identified as supervisory employees (Appendix II);

(3) Inclusion of employees on the list of employees covered under the Surface Mining Control and Reclamation Act of 1977 (Appendix IV); and

(4) Inclusion of a person or organization on the list of energy concerns.

§ 1010.504 Cancellation of contracts.

The Secretary reserves the right to declare void, in accordance with law, any Department award, contract, decision or other Department action or proceeding in connection with which provisions of statutes or DOE regulations are violated.

Subpart F—Special Government Employees

§ 1010.601 Use of Government employment.

Special Government employees shall not use Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for themselves or other persons, particularly those with whom they have family, business, or financial ties.

§ 1010.602 Use of inside information.

(a) Special Government employees shall not use inside information obtained as a result of Government employment for private gain for themselves or other persons either by direct action on their part or by counsel, recommendation or suggestion to other persons, particularly ones with whom they have family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(b) A special Government employee may teach, lecture, or write in a manner not inconsistent with § 1010.204(c).

§ 1010.603 Coercion.

Special Government employees shall not use their Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to themselves or other persons; particularly those with whom they have family, business or financial ties.

§ 1010.604 Gifts, entertainment, and favors.

(a) Except as provided in paragraph (b) of this section, special Government employees, while so employed or in connection with their employment, shall not receive or solicit from a person having business with the DOE anything of value as a gift, gratuity, loan, entertainment, or favor for themselves or other persons, particularly one with whom they have family, business, or financial ties.

(b) The exception listed in § 1010.205(b) shall be applicable to special Government employees.

§ 1010.605 Other provisions.

(a) In addition to the reqirements of this subpart, special Government employees shall be responsible for knowing the restrictions contained in Subparts B, C, and D of this part.

(b) (Applicable to FERC) Any special Government employee who is compensated at an annual rate equal to or greater than a GS-16 of the General Schedule, and who serves for more than 90 days in a calendar year, is considered to be a supervisory employee under these regulations and is subject to the restrictions contained in §§ 1010.302(b), 1010.303(b), and 1010.304(b).

APPENDIX III A

CAUTION

PRIVACY ACT DOCUMENT

REPORT OF FINANCIAL INTERESTS; PRIVACY ACT INFORMATION STATEMENT

(A) This request for information is authorized by Executive Order 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees;" Civil Service Regulations, 5 CFR Part 735 (See also Federal Personnel Manual, Chapter 735); Pub. L. 95-91, 42 U.S.C. 7213, and DOE Regulations, 10 CFR Part 1010. The submission of information is required for all DOE employees other than those occupying positions exempted under 10 CFR 1010.403(a).

(B) The information is intended to help identify financial and employment interests of the employee or the employee's spouse, minor child, or dependent(s) which create conflicts of interest or the appearance thereof in the context of the employee's duties and responsibilities.

(C) The uses which may be made of the requested information consist of review by the employee's reviewing official and the Counselor to assist in determining whether the employment and financial interests conflict or appear to conflict with the performance of official duties; counseling the employee in avoiding conflicts; and assignment of duties. The information may also be used by authorized representatives of the Department of Justice, Civil Service Commission, and the Comptroller General in the course of the performance of their law enforcement and administrative responsibilities. Part A of this form shall be available to the public in accordance with section 607 of Pub. L. 95-91, 42 U.S.C. 7217 and 10 CFR 1010.402. Part B is not subject to public disclosure (but see paragraph 8 of General Instructions below).

(D) Failure to provide all of the requested information may result in disciplinary action or denial of employment. (10 CFR 1010.502)

GENERAL INSTRUCTIONS

1. This form consists of Parts A, B, C, and D. All DOE employees except those occupying positions listed in Appendix I of 10 CFR Part 1010 shall complete Parts A, B, and C of this form and submit it to their respective reviewing officials. If additional pages are necessary, attach them hereto and identify them by reference to the appropriate Part(s) of the statement. The employee's name should be indicated on each page of this form, including any additional pages attached. Reviewing officials shall complete paragraph 1. of Part D of the form and forward the form to the Counselor.

2. This report is made on a calendar year basis and is to include interests held at any time during the reporting period even if no longer held at the time the report is made. New employees shall report for the current year through the date of the report; all others shall report for the immediately previous calendar year ending December 31.

3. The interest, if any, of a spouse, minor child or dependent (as dependent is defined by section 152 of the Internal Revenue Code of 1954) shall be reported in this statement and marked with an "X" to the left of the block where that interest is reported.

4. It is your responsibility to provide all requested information. In the event you are not permitted access to any of the required

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information, such as holdings placed in certain forms of trust, but that information is known to another person, you should request that other person to submit the information on your behalf and should report such request in your statement. The information submitted on your behalf should be submitted to your reviewing official. Also report in your statement requests made to other persons to furnish required information directly to you when responses to the requests have not been received.

5. "Energy concern" means:

(1) Any person listed on the energy Concern List published by DOE, or

(2) any other person

(i) holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation of transmission of energy from such minerals or from wastes of renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or;

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) significantly engaged, whether or not for profit, in conducting such research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary of the Department.

(3) For the purposes of reports required by Pub. L. 94-163 and Pub. L. 95-39, "energy concern" includes "energy businesses" and "energy properties" as those terms are used in those Acts.

(4) "Energy Concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted entities; or utility cooperatives in which ownership is required for services.

6. Notwithstanding the filing of this report, each employee shall at all times avoid acquiring a financial interest that could result, of taking an action that would result, in a violation of the conflicts of interest provisions of 10 C.F.R. Part 1010.

7. Energy concern clients of a firm or association for which a new supervisory employee was directly involved in the provision of services (as a member, partner or employee of the firm or association) need not be disclosed in this report so long as such disclosure is made on Form DOE-460.

8. Part A of this report is subject to public disclosure pursuant to section 607 of Pub. L. 95-91 (42 U.S.C. 7217) and is designed for use by employees to disclose interests in "energy concerns" required by section 603 of Pub. L. 95-91 (42 U.S.C. 7213). Part B is not subject to public disclosure; it is designed to implement the disclosure requirements of Executive Order 11222 ands Civil Service Commission implementing regulations (5 C.F.R. Part 735). In addition, it is designed for the purpose of assuring against inadvertent failure to disclose interests in a person or entity which, pursuant to Pub. L. 95-91, is determined by the Secretary to be an energy concern. Employees may be asked to supply additional information regarding interests reported in Part B when the Counselor believes such interests may be interests in energy concerns. Such additional information will remain confidential unless and until the entity in which the interest is held is determined by the Secretary to be an energy concern.

Form DOE-459 DEPARTMENT OF ENERGY

PART A -- STATEMENT OF INTERESTS IN ENERGY CONCERNS
(See Attached Sheet for General Instructions)

NAME (Last, first, initial)

I. EMPLOYMENT AND FINANCIAL INTERESTS

(1) List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational institutions, or other entities that are or you believe to be energy concerns --

(a) with which you, your spouse, minor child, or dependent(s) are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or

(b) in which you, your spouse, minor child, or dependent(s) have any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or

(c) in which you, your spouse, minor child or dependent(s) have any financial interest through ownership of stocks, stock options, bonds, securities, or other arrangements, including trusts.

(2) If none, write NONE.

(3) Do not abbreviate names of organizations.

NAME, KIND OF ORGANIZATION (e.g., corporation, partnership, nonprofit organization, etc.) AND NATURE OF ITS ACTIVITY	ADDRESS (or the exchange in which the securities are traded)	(1) NATURE OF FINANCIAL INTERESTS, e.g., stock, prior business income, etc. and (2) total value of and compensation from interest	POSITION IN ORGANIZATION (e.g., employee, officer, owner, etc.)

(PUBLIC)

NAME

PART A - Cont.

II. CREDITORS

List the names of your creditors that are, or you believe to be, energy concerns other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS (e.g., Personal Loan, Note, Security)

III. INTERESTS IN REAL PROPERTY

List your interest in real property or rights in lands from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained. If none, write NONE.

NATURE OF INTEREST e.g., ownership, mortgage, lien, investment trust, etc.	TYPE OF PROPERTY, e.g., residence hotel, apartment, farm, undeveloped land, oil and gas rights, other mineral interests, etc.	ADDRESS (if rural, give RFD, or county & state

(PUBLIC)

NAME

PART B -- STATEMENT OF FINANCIAL INTERESTS
(Information reported in Part A need not be repeated)

1. EMPLOYMENT AND FINANCIAL INTERESTS

(1) List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational or other institutions --

(a) with which you, your spouse, minor child or dependent are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant or with which you are negotiating or have any arrangement concerning prospective employment; or

(b) in which you, your spouse, minor child, or dependent have any continuing financial interest, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional associations; or

(c) in which you, your spouse, minor child or dependent have any financial interest through ownership of stocks, stock options, bonds, securities, or other arrangements, including trusts.

(2) The information to be listed does not include any information relating to your, your spouse's, your minor child's, or your dependent's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for the purposes of this report and should be included.

(3) The information to be listed in this part does not require a showing of the amount of financial interest, indebtedness, or the value of real property.

(4) If none, write NONE.

(5) Do not abbreviate names of organizations.

NAME

PART B -- 1. EMPLOYMENT AND FINANCIAL INTERESTS -- Continued

	NAME, KIND OF ORGANIZATION (e.g., corporation partnership, non-profit organization etc.) AND NATURE OF ACTIVITY	ADDRESS (or the exchange in which the securities are traded)	NATURE OF FINANCIAL INTEREST (e.g., stock, prior business income, etc.)	POSITION IN ORGANIZATION (e.g., employee, officer, owner, etc.)

(NOT AVAILABLE FOR PUBLIC REVIEW)

NAME

PART B - Cont.

II. CREDITORS

List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

	NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS (e.g., Personal Loan, Note, Security)

III. INTERESTS IN REAL PROPERTY

List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write NONE.

	NATURE OF INTEREST, (e.g., ownership mortgage, lien, investment trust, etc.)	TYPE OF PROPERTY, (e.g., residence hotel, apartment, farm, undeveloped land, oil and gas rights, other mineral interests, etc.)	ADDRESS (if rural, give RFD, or county & state)

(NOT AVAILABLE FOR PUBLIC REVIEW)

DEPARTMENT OF ENERGY

PART C

1. NAME (Last, First, Initial)

2. HOME ADDRESS (Street, City, State, Zip Code)

3. TELEPHONE

Home:

Business:

4. TITLE OF POSITION (or prospective position in DOE):

5. DATE OF APPOINTMENT IN PRESENT POSITION (or expected date of appointment):

6. OFFICE AND/OR DIVISION (or prospective office and/or division):

7. PLEASE INDICATE ONE OF THE FOLLOWING:

( ) Regular Employee
( ) EES
( ) Special Government Employee
( ) IGPA (Intergovernmental Personnel Act)
( ) PTA (Professional Term Appointment)
( ) President's Executive Interchange Program
( ) Other (Specify)

8. PRESENT GRADE OR LEVEL OF PAY (or expected Grade or level of pay):

9. DESCRIPTION OF SERVICES YOU ARE OR WILL BE PERFORMING:

10. Are you performing functions under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, and is your position listed in Appendix IV of 10 C.F.R. Part 1010?

( ) Yes

( ) No

11. If the answer to question #10 is yes, please identify which, if any, of the listed financial interests represents an interest in an underground or surface coal mining operation: (If none, write NONE)

(NOT AVAILABLE FOR PUBLIC REVIEW)

NAME

FOR USE BY DOE

PART D -- DETERMINATIONS:

Instructions to reviewing official:

CAUTION: Administrative sanctions may be imposed against you for failure to perform review functions properly. (See 10 C.F.R. 1010.502(d).) Your review functions may not be redelegated. (See 10 C.F.R. 1010.103(q).) DO NOT REPRODUCE OR RETAIN COPIES OF THIS FORM. Upon completion of your review, forward this form to the Counselor in a sealed envelope marked "TO BE OPENED BY ADDRESSEE ONLY - CONFIDENTIAL STATEMENT OF FINANCIAL INTERESTS".

Under applicable law and DOE regulations:

- No employee is to participate in any particular matter of any type the outcome of which could have a direct and predictable effect upon a business entity, including nonprofit organization or educational institution, by which he is employed or with which he is negotiating for or has any arrangement concerning prospective employment, or to which he renders consultant services, or in which he has a financial interest not exempted under 10 C.F.R. 1010.302.

1. Reviewing official: I have reviewed this report in the context of the applicable law stated above and in relation to the employee's duties and responsibilities, and I find:

( ) no conflict or apparent conflict of interest.
( ) the following interests pose potential conflict of interest situations:

The following steps have been taken to effect resolution of the potential conflict situations referred to above:

(NOT AVAILABLE FOR PUBLIC REVIEW)

NAME

PART C - Cont.

12. INFORMATION REQUESTED OF OTHER PERSONS

If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, etc., please indicate the name and address of such persons, the date upon which you requested that the information be supplied, and the nature of subject matter involved. If none, write NONE.

NAME AND ADDRESS	DATE OF REQUEST	NATURE OF SUBJECT MATTER

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief. I understand falsification of statements on this form is punishable in accordance with law (18 U.S.C. 1001).

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

Form DOE-460
Revised 8/78

APPENDIX III B

C A U T I O N

PRIVACY ACT DOCUMENT

REPORT ON PRIOR EMPLOYMENT

PRIVACY ACT INFORMATION STATEMENT

(A) This request for information from DOE "supervisory employees" is authorized by Pub. L. 95-91, section 604 (42 U.S.C. 7214).

(B) The information will be used to help identify prior employment interests of the employee which create conflicts of interest or the appearance thereof in the context of the employee's duties and responsibilities.

(C) The uses which may be made of the requested information consist of review by the cognizant reviewing official and the Counselor to assist in determining whether the individual's prior employment interests conflict or appear to conflict with the performance of official duties; counseling those individuals in avoiding conflicts; and assignment of duties. The information may also be used by authorized representatives of the Department of Justice, Civil Service Commission, and the Comptroller General in the course of the performance of their law enforcement and administrative responsibilities. Part A of this form shall be available to the public in accordance with section 607 of Pub. L. 95-91, 42 U.S.C. 7217, and 10 C.F.R. 1010.402. Part B is not subject to public disclosure (but see paragraph 4 of General Instructions below).

(D) Failure to provide the information requested on Part A may result in assessment of a civil penalty of up to $10,000 (section 608, Pub. L. 95-91, 42 U.S.C. 7218).

GENERAL INSTRUCTIONS

1. This form consists of Parts A, B, C, and D. All "supervisory employees" (as defined in section 601(a), Pub. L. 95-91, 42 U.S.C. 7211(a)) shall complete Parts A, B, and C of this form and submit the form to their respective reviewing officials. If additional pages are necessary, they should be attached hereto and identified by reference to the appropriate Part(s) of the statement. Reviewing officials shall complete paragraph 1 of Part D of the form and forward the form to the Counselor.

2. This one-time report is required to be submitted by all supervisory employees within 60 days of becoming a supervisory employee in the DOE. Each entity which paid the employee compensation in excess of $2,500 in the year in which the employee is reporting or in any of the five preceeding calendar years shall be disclosed.

NAME

PART D - Cont.

( ) the following questions require resolution:

Signature _____ Date _____

2. Counselor (or deputy counselor): I have reviewed the statement of the employee and the reviewing official's findings above and find:

( ) no evidence of conflict or apparent conflict of interest.
( ) the following interests pose potential conflict of interest:

The following steps have been taken to effect resolution of the potential conflict situations referred to above:

( ) the following questions require resolution:

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

3. "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE, or

(2) Any person:

(i) holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(ii), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) significantly engaged, whether or not for profit, in conducting such research, development, or demonstration related to an activity described in paragraphs (b) or (b)(i), (b)(ii), or (b)(iii) with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) "Energy Concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted entities; or utility cooperatives in which ownership is required for services.

4. Part A of this report is subject to public disclosure pursuant to section 607 of Pub. L. 95-91 (42 U.S.C. 7217) and is designed for use by "supervisory employees" required to disclose certain prior employment information by section 604 of Pub. L. 95-91 (42 U.S.C. 7214). Part B is not subject to public disclosure; it is designed solely for the purpose of assuring against inadvertent failure to disclose prior employment with a person or entity which, pursuant to the Act, is determined by the Secretary to be an energy concern. Employees may be asked to supply additional information regarding employment listed in Part B when the Counselor believes such employment may be energy concern employment. Such additional information will remain confidential unless and until the employer is determined by the Secretary to be an energy concern.

REPORT ON PRIOR EMPLOYMENT

1. NAME (last, first, initial)

PART A

I. Identify all energy concerns from which you received compensation in excess of $2,500 in this calendar year or in any of the five preceeding calendar years. If none, write NONE. You need not include any information which is considered confidential as a result of a privileged relationship, recognized by law, between you and any person; nor need you report any information with respect to any person for whom services were provided by any firm or association of which you were a member, partner, or employee unless you were directly involved in the provision of such services.

NAME OF ENERGY CONCERN AND NATURE OF ITS BUSINESS OR ACTIVITY	ADDRESS	PERIOD OF TIME COMPENSATION RECEIVED	POSITION HELD OR OTHER RELATIONSHIP WITH ORGANIZATION	DUTIES PERFORMED OR SERVICES RENDERED

(PUBLIC)

NAME

PART B

Identify all sources (other than those listed in Part A) from which you received compensation in excess of $2,500 in this calendar year or in any of the five preceeding calendar years. If none, write NONE. You need not include any information which is considered confidential as a result of a privileged relationship, recognized by law, between you and any person; you need not report any information with respect to any person for whom services were provided by any firm or association of which you were a member, partner, or employee unless you were directly involved in the provision of such services.

NAME OF PERSON OR OTHER ENTITY	ADDRESS	NATURE OF BUSINESS OR ACTIVITY OF ENTITY AND DATE OF ASSOCIATION

(NOT AVAILABLE FOR PUBLIC REVIEW)

PART C

1. NAME (last, First, Initial)

2. HOME ADDRESS (Street, City, State, Zip Code)

3. TELEPHONE

Home:

Business:

4. TITLE OF POSITION (or prospective position in DOE):

5. DATE OF APPOINTMENT IN PRESENT POSITION (or expected date of appointment):

6. OFFICE AND/OR DIVISION (or prospective office and/or division):

7. PLEASE INDICATE ONE OF THE FOLLOWING:

( ) Regular Employee
( ) EES
( ) Special Government Employee
( ) IGPA (Intergovernmental Personnel Act)
( ) PTA (Professional Term Appointment)
( ) President's Executive Interchange Program
( ) Other (Specify)

8. PRESENT GRADE OR LEVEL OF PAY (or expected grade or level of pay):

9. DESCRIPTION OF SERVICES YOU ARE OR WILL BE PERFORMING:

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief. I understand falsification of statements on this form is punishable in accordance with law (18 U.S.C. 1001).

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

NAME

FOR USE BY DOE

PART D -- DETERMINATIONS:

Instructions to reviewing official:

CAUTION: Administrative sanctions may be imposed against you for failure to perform review functions properly. (See 10 C.F.R. 1010.502(d).) Your review functions may not be redelegated. (See 10 C.F.R. 1010.103(q).) You are required to review Part A of this form and indicate the results of your review below. DO NOT REPRODUCE OR RETAIN COPIES OF PART B OF THIS FORM. Following completion of your review, forward this form to the Counselor in a sealed envelope marked "TO BE OPENED BY ADDRESSEE ONLY."

Under applicable law and DOE regulations:

- For a period of one year after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

- For a period of one year after commencing service in the Department, no supervisory employee shall knowingly participate in any Department proceeding for which, within the previous five years, he had direct responsibility or in which he participated substantially or personally while in the employment of any energy concern. (Section 606, Pub. L. 95-91, 42 U.S.C. 7216).

1. Reviewing official: I have reviewed Part A of this form in relation to the employee's duties and responsibilities and find:

( ) no conflict or apparent conflict of interest.
( ) the following pose potential conflict of interest situations:

The following steps have been taken to effect resolution of the potential conflict situations referred to above:

(NOT AVAILABLE FOR PUBLIC REVIEW)

NAME

PART D - Cont.

( ) The following questions require resolution:

Signature _____ Date _____

2. Counselor (or deputy counselor); I have reviewed the statement of the employee and the reviewing official's findings above and find:

( ) no evidence of conflict of interest.
( ) the following pose potential conflict of interest situations.

The following steps have been taken to effect resolution of the potential conflict situations referred to above:

( ) The following questions require resolution:

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

APPENDIX III C
CAUTION

PRIVACY ACT DOCUMENT

REPORT OF EMPLOYMENT - FORMER SUPERVISORY EMPLOYEES

PRIVACY ACT INFORMATION STATEMENT

(A) This request for information from former DOE "supervisory employees" is authorized by Pub. L. 95-91, section 605, 42 U.S.C. 7215; and DOE Regulations, 10 C.F.R. Part 1010.

(B) The information is intended to notify the DOE of positions with energy concerns held by former supervisory employees.

(C) The uses which may be made of the requested information consist of review by the Counselor to assist in determining whether the individual's employment interests conflict or appear to conflict with former duties; and for counseling those individuals in avoiding conflict of interest violations. The information may also be used by authorized representatives of the Department of Justice, Civil Service Commission, and the Comptroller General in the course of the performance of their law enforcement and administrative responsibilities. Part A of this form shall be made available to the public in accordance with section 607 of Pub. L. 95-91, 42 U.S.C. 7217 and 10 C.F.R. 1010.402. Part B is not subject to public disclosure (but see paragraph 3 of General Instructions below).

(D) Failure to provide all of the requested information may result in assessment of a civil penalty of up to $10,000 (section 608, Pub. L. 95-91, 42 U.S.C. 7218).

GENERAL INSTRUCTIONS

1. All former supervisory employees (see 10 C.F.R. Part 1010, Appendix II) shall complete this form. Submit this report to the Counselor. If additional pages are necessary, attach them hereto and identify them by reference to the appropriate Part(s) of the statement.

2. "Energy concern" means:

(1) Any person listed on the Energy Concern List published by DOE; or

(2) Any other person:

(i) holding an interest in property from which coal, natural gas, crude oil, nuclear material or a renewable resource is commercially produced or obtained;

(ii) significantly engaged in the business of:

(A) Developing, extracting, producing, refining, transporting by pipeline, converting into synthetic fuel, distributing, or selling minerals for use as an energy source, or in the generation or transmission of energy from such minerals or from wastes or renewable resources;

(B) Producing, generating, transmitting, distributing, or selling electric power;

(C) Development, production, processing, sale, or distribution of nuclear materials, facilities, or technology; or

(D) Conducting research, development, or demonstration related to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C); or

(iii) Any person or entity significantly engaged, whether or not for profit, in conducting such research, development, or demonstration relating to an activity described in paragraphs (2)(i), (2)(ii)(A), (2)(ii)(B) or (2)(ii)(C) with financial assistance under any Act the functions of which are vested in or delegated or transferred to the Secretary or the Department.

(3) "Energy Concern" does not include religious organizations; mutual funds or regulated investment companies the portfolios of which are widely diversified, or similarly constituted entities; or utility cooperatives in which ownership is required for services.

3. Part A of this report is subject to public disclosure pursuant to section 607 of Pub. L. 95-91 (42 U.S.C. 7217) and is designed for use by former "supervisory employees" of the Department of Energy required to disclose certain employment information by section 605 of Pub. L. 95-91 (42 U.S.C. 7215). Part B is not subject to public disclosure; it is designed solely for the purpose of assuring against inadvertent failure to disclose employment with a person or entity which, pursuant to the Act, is determined by the Secretary to be an energy concern. This report must be filed with the Counselor not later than May 15 of the first and second calendar years following the first full year in which the supervisory employee ceased to be an officer or employee of the Department. This report requirement does not apply to any former supervisory employee who, at the time such employment with the Department ceases, has any contract, promise, or other agreement with respect to future employment with any energy concern if (A) the former supervisory employee describes such agreement in any report filed within thirty days after the individual ceases to be an employee of the Department, and (B) the former supervisory employee amends the report by May 15 of either of the next two years during which he has accepted employment with another energy concern.

1. NAME (last, first, initial)

2. TITLE OR FORMER POSITION

3. DATE DOE EMPLOYMENT CEASED

4. ADDRESS

5. DATE OF REPORT:

PART A

I. Describe any employment with any energy concern since your DOE employment ceased, including any employment as a consultant, agent, attorney, or otherwise.

NAME OF ENERGY CONCERN	ADDRESS	POSITION HELD	DATES OF EMPLOYMENT	BRIEF DESCRIPTION OF DUTIES PERFORMED OR SERVICES RENDERED

(PUBLIC)

NAME

PART B

I. Describe any employment not reported in Part A since your DOE employment ceased, including any employment as a consultant, agent, attorney, or otherwise.

NAME OF EMPLOYER	ADDRESS	POSITION HELD	DATES OF EMPLOYMENT	BRIEF DESCRIPTION OF DUTIES PERFORMED OR SERVICES RENDERED

I certify that the statements I have made in Part A and Part B of this report are true, complete, and correct to the best of my knowledge and belief. I understand that falsification of statements on this form is punishable in accordance with law and that failure to provide all information requested may result in assessment of a civil penalty of up to $10,000 (18 U.S.C. 1001).

Signature _____ Date _____

(NOT AVAILABLE FOR PUBLIC REVIEW)

[FR Doc. 78-29265 Filed 10-18-78; 8:45 am]

federal register

THURSDAY, OCTOBER 19, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Requirements for Self-Dialysis Units and Self-Dialysis Services

V 43 1203 OCT 19 78

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Conditions for Coverage—Suppliers of ESRD Services; Requirements for Self-Dialysis Units and Self-Dialysis Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule with comment period.

SUMMARY: These amendments change the existing requirements for end-stage renal disease (ESRD) facilities by adding requirements that specifically apply to self-dialysis units and self-dialysis services. The changes are being made to implement the Medicare End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95-292 of June 13, 1978). Other minor changes are for internal consistency and to delete outdated content. The intent of these amendments is to encourage and facilitate greater use of self-dialysis.

DATES: These regulations are effective on October 1, 1978. However, consideration will be given to written comments or suggestions received by December 18, 1978, with a view to revision of the regulations, if necessary.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, P.O. Box 2382, Washington, D.C. 20013. In commenting, please refer to HSQ-58-RC. Comments will be available for public inspection beginning approximately 2 weeks after publication, in room 5229 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Janet Harryman, Director, Division of Hospital Services, Office of Standards and Certification, Health Care Financing Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-9712.

SUPPLEMENTARY INFORMATION: The ESRD program was created by section 2991 of the Social Security Amendments of 1972 (Pub. L. 92-603) and became effective July 1, 1973. In order to be approved to receive reimbursement under the program, facilities furnishing renal dialysis and transplantation were required to meet criteria set out in interim regulations. (38 FR 17210; June 29, 1973.) The interim regulations were replaced on September 1, 1976, by the Conditions for Coverage of Suppliers of End-Stage Renal Disease Services (41 FR 22507; June 3, 1976), subpart U of medicare regulations (42 CFR Part 405). These conditions, which ESRD facilities must meet to be certified to receive medicare reimbursement, assure that the facilities are appropriately utilized, meet health, safety, and quality standards, and participate in renal disease networks.

On June 13, 1978, the Medicare End-Stage Renal Disease program Amendments of 1978 (Pub. L. 95-292) were enacted. The amendments were intended to encourage the use of lower cost treatment modalities, specifically self-dialysis and transplantation, for the maximum number of patients who are medically, socially, and psychologically suitable for such treatment. Recognizing that many patients are unable to dialyze at home, Congress included a provision to encourage the use of self-dialysis stations in dialysis facilities. Under the new law, the Secretary is authorized to define what constitutes self-dialysis outside the home setting and to identify the institutional settings in which it can appropriately be performed.

Subpart U is being amended to implement Pub. L. 95-292. The amendments define "self-dialysis services" and "self-dialysis unit" and include conditions which facilities must meet to be certified as self-dialysis units. These amendments are the second of a series of regulations to be promulgated to implement the ESRD Amendments of 1978. The first regulation dealt with individuals' entitlement to ESRD benefits; subsequent regulations will cover reimbursement and ESRD network organizations.

SUMMARY OF CHANGES

The following discussion is numbered to correspond to the numbered amendments to the regulation.

1. Subpart U became effective on September 1, 1976, and replaced interim regulations (38 FR 17210; June 29, 1973) which had been in effect since July 1, 1973. To facilitate the orderly transition, subpart U provided for the interim regulations to remain in effect until September 1, 1977. Provisions referring to this transition period (§ 405.2100 (c) and (d)) are now obsolete and are being deleted.

2. Section 405.2101 is being revised to reflect the congressionally stated purposes of Pub. L. 95-292. These include encouraging, to the maximum feasible extent, medically appropriate use of self-dialysis and transplantation. In developing and implementing regulations for the ESRD program, we will stress the goal of maximizing use of self-dialysis and transplantation.

3. These regulations define self-dialysis unit, staff-assisted dialysis, and self-dialysis, and revise the definition of self-dialysis training.

Readers should note that the definition of a self-dialysis unit specifies that it must be a part of an approved renal transplantation center, renal dialysis center, or renal dialysis facility that also performs transplantation or furnishes a dialysis service other than self-dialysis or home dialysis. Thus, we will not approve facilities furnishing only self-dialysis. At this time, we think there are some important policy issues to be resolved concerning a facility furnishing only self-dialysis. If such a facility were required to meet all the health and safety requirements of subpart U, we doubt that it would be an efficient way of furnishing self-dialysis. If the unit were not required to meet such requirements, questions might be raised about the health and safety of patients. For these reasons, we believe the issue warranted an opportunity for public comment, which we have not been able to provide because of the statutory mandate to implement Pub. L. 95-292, by October 1. We specifically ask for comments on this issue and, based on such comments, will decide whether to certify facilities that furnish only self-dialysis.

Editorial changes have also been made in several of the existing definitions.

4. Provisions in the existing regulations dealing with minimal utilization rates are being reorganized and revised for clarity. Minimal utilization rates are now discussed in separate sections under the headings of types and duration of classification, reporting requirements, method of calculating rates, and the specific standards. (§§ 405.2122, 405.2123, 405.2124, and 405.2130.)

5. The requirements for reporting utilization rates have been clarified and expanded. Section 405.2123 now requires each dialysis facility to report on how each station is used and to report the number of dialyses performed on each station. For dialyses performed after October 1, 1978, the report must separately identify each type of service: Staff-assisted dialysis, self-dialysis, and self-dialysis and home dialysis training. Separate identification is necessary for determining that the facility meets the MUR and other certification requirements, for establishing costs and for analyzing

the cost-effectiveness of the self-dialysis unit.

6. Section 226(g) of the Act previously required that all ESRD facilities be subject to the minimum utilization requirements (MUR). The purpose is to prevent proliferation of unnecessary facilities and contribute to the statutory goal of providing all needed ESRD services in as efficient and economical a manner as possible. The ESRD Amendments of 1978 extend MUR to self-dialysis units and self-dialysis training programs. See section 1881(b) of the Act.

The present regulations establish MUR's for renal transplantation and for different classes of dialysis facilities (see 42 CFR 405.2130). These MUR's were derived from data obtained from existing dialysis facilities. However, utilization data on existing self-dialysis units is limited because there are so few units at the present time. Therefore, at this time, we are not establishing separate MUR's for self-dialysis units.

Dialysis facilities and centers will remain subject to existing MUR's and may add the utilization of self-dialysis to the utilization of staff-assisted dialysis for purposes of determining whether they have met MUR requirements.

Self-dialysis training programs will be considered to have achieved minimum utilization if they successfully train six self-dialysis patients per station per year. We have retained the provision, formerly in § 405.2123, that dialysis stations used for self-dialysis training at this level need not be included in calculating a facility's utilization rate. However, if a facility does not achieve this minimum utilization of training stations, it must include the stations and the dialyses performed on them in calculating the facility MUR.

We solicit comments and suggestions on establishing separate MUR's for self-dialysis units. In addition, we will review the results achieved under this regulation and will seek the information specified in § 405.2121 with a view toward establishing MUR's for self-dialysis units. Section 405.2121 lists information from ESRD Network Councils and other sources regarding utilization rates, the geographic distribution of patients and facilities, quality of care, and efficiency. Any change in this regulation will be published as a notice of proposed rulemaking (NPRM).

7. Pub. L. 95-292 specifies that network organizations shall establish network goals with respect to the placement of patients in self-dialysis settings and undergoing or preparing for transplantation. Section 405.2134 of the current regulation provides the specific requirements of the membership agreement between each facility in the network and the Network Coordinating Councils. This amendment requires an ESRD facility to fulfill its roles in meeting the network goals. In addition, some obsolete material in § 405.2134 has been deleted.

8. The requirements on admission criteria of an ESRD facility are being amended to make access to a self-dialysis unit available only to patients for whom the facility maintains a patient care plan.

This provision will not permit a transient patient who is a self-dialysis patient to dialyze himself at some other self-dialysis unit. We believe this provision is necessary to protect the health and safety of the transient patient who may be unfamiliar with the type of machines in use at other facilities or with differing emergency procedures. Transient patients may, of course, be dialyzed at any staff-assisted dialysis facility which undertakes to furnish them dialysis.

9. Each dialysis facility or center is presently required to maintain a patient care plan for each patient undergoing dialysis and to review these plans at least monthly (see § 405.2137.)

These amendments provide for a monthly review of the patient care plan only for patients whose medical condition has not become stabilized. For patients whose medical condition is stabilized, review is required only every 6 months. In our view, requiring monthly review for patients who have stabilized is an unnecessary and costly burden.

In addition this amendment requires that a facility or center which supervises home dialysis patients maintain a patient care plan for each of the home dialysis patients.

10. We are changing the medical records requirement (§ 405.2139) to assure that self-dialysis patients, whether dialyzing in a self-dialysis unit or at home, have a medical record maintained in a central place where all medical information about the patient is consolidated. The medical record must be kept current even if the entries in the record are completed by the patient in the absence of professional staff.

11. We are amending § 405.2140(c) to require that written patient care policies specify the procedures for prevention of contamination which are carried out by facility personnel and those which are carried out by self-dialysis patients.

Under the new requirements in § 405.2140(d)(5), both patients and facility personnel must be trained to handle medical and nonmedical emergencies.

12. Present requirements for self-dialysis and home dialysis training provide that teaching materials be available to patients during training. We have amended § 405.2161 to require that teaching materials are available to all trainees. This change is consistent with the definition of self-dialysis and home dialysis training, which includes the training of other individuals to assist patients.

We are also amending the list of responsibilities borne by the director of a facility to include periodic assessment of each home care patient's performance of dialysis.

13. Pub. L. 95-292 requires that there be patient/staff ratios which are appropriate to self-dialysis. Section 405.2162(b) has been revised to require that the patient/staff ratio be appropriate to the level of dialysis being given and meet the needs of the patients. We have not set a specific ratio at this time, because there appears to be no consensus on what is the proper ratio for self-dialysis. However, we welcome comments and will review facilities in order to identify those factors which determine appropriate patient/staff ratios for different levels of dialysis care. In addition, § 405.2162(b) has been revised to require at least one currently licensed health professional on duty whenever patients are undergoing dialysis.

14. The minimal service requirements for a dialysis facility or center have been revised to include requirements for the provision of staff-assisted dialysis service and self-dialysis service, if it is offered.

WAIVER OF PROPOSED RULEMAKING

Pub. L. 95-292 provides that medicare payments for the renal disease services specified in that statute shall be available beginning on October 1, 1978. Because of the short period between the enactment (June 13, 1978) and the effective date of the statute, we have not been able to go through the normal process for NPRM and public participation. We have attempted, however, in the limited time available to consult as widely as possible with persons and agencies whom we knew would be interested in this regulation.

Moreover, we have made only those amendments that are essential if benefits are to be made available promptly. We plan to publish a more comprehensive NPRM in the future, which will review the present regulations and cover policy issues that did not have to be resolved under the time constraints for this regulation. We welcome comments on this regulation and suggestions for subsequent amendments.

42 CFR Part 405 is amended as set forth below:

1. Section 405.2100 is amended by deleting paragraphs (c) and (d).

V 43 / 203 OCT 1978

§ 405.2100 Scope of subpart.

• • • • •

2. Section 405.2101 is amended by adding a new paragraph (d).

§ 405.2101 Objectives of the end-stage renal disease (ESRD) program.

The objectives of the end-stage renal disease program are:

(a) To assist beneficiaries who have been diagnosed as having end-stage renal disease (ESRD) to receive the care they need:

(b) To encourage proper distribution and effective utilization of ESRD treatment resources while maintaining or improving the quality of care;

(c) To provide the flexibility necessary for the efficient delivery of appropriate care by physicians and facilities; and

(d) To encourage self-dialysis or transplantation for the maximum practical number of patients who are medically, socially, and psychologically suitable candidates for such treatment.

3. Section 405.2102 is revised to read as follows:

§ 405.2102 Definitions.

As used in this subpart, the following definitions apply:

(a) *Agreement.* A written document executed between an ESRD facility and another facility in which the other facility agrees to assume responsibility for furnishing specified services to patients and for obtaining reimbursement for those services.

(b) *Arrangement.* A written document executed between an ESRD facility and another facility in which the other facility agrees to furnish specified services to patients but the ESRD facility retains responsibility for those services and for obtaining reimbursement for them.

(c) *Dialysis.* A process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane. The two types of dialysis that are currently in common use are hemodialysis and peritoneal dialysis.

(d) *End-Stage Renal Disease (ESRD).* That stage of renal impairment that appears irreversible and permanent, and requires a regular course of dialysis or kidney transplantation to maintain life.

(e) *ESRD facility.* A facility which is approved to furnish at least one specific ESRD service (see § 405.2102(f)). Such facilities are:

(1) *Renal Transplantation Center.* A hospital unit which is approved to furnish directly transplantation and other medical and surgical specialty services required for the care of the ESRD transplant patients, including inpatient dialysis furnished directly or under arrangement. A Renal Transplantation Center may also be a Renal Dialysis Center.

(2) *Renal dialysis center.* A hospital unit which is approved to furnish the full spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of ESRD dialysis patients (including inpatient dialysis furnished directly or under arrangement). A hospital need not provide renal transplantation to qualify as a renal dialysis center.

(3) *Renal dialysis facility.* A unit which is approved to furnish dialysis service(s) directly to ESRD patients.

(4) *Self-dialysis unit.* A unit that is part of an approved renal transplantation center, renal dialysis center, or renal dialysis facility, and furnishes self-dialysis services.

(f) *ESRD service.* The type of care or services furnished to an ESRD patient. Such types of care are:

(1) *Transplantation service.* A process by which (a) a kidney is excised from a live or cadaveric donor, (b) that kidney is implanted in an ESRD patient, and (c) supportive care is furnished to the living donor and to the recipient following implantation.

(2) *Dialysis service:*

(i) *Inpatient dialysis.* Dialysis which, because of medical necessity, is furnished to an ESRD patient on a temporary inpatient basis in a hospital;

(ii) *Outpatient dialysis.* Dialysis furnished on an outpatient basis at a renal dialysis center or facility. Outpatient dialysis includes:

(A) *Staff-assisted dialysis.* Dialysis performed by the staff of the center or facility.

(B) *Self-dialysis.* Dialysis performed, with little or no professional assistance, by an ESRD patient who has completed an appropriate course of training.

(iii) *Home dialysis.* Dialysis performed by an appropriately trained patient at home.

(3) *Self-dialysis and home dialysis training.* A program that trains ESRD patients to perform self-dialysis or home dialysis with little or no professional assistance, and trains other individuals to assist patients in performing self-dialysis or home dialysis.

• • • • •

(r) *Qualified personnel.* Personnel that meet the requirements specified in this paragraph. (1) Chief executive officer. A person who:

(i) Holds at least a baccalaureate degree or its equivalent and has at least 1 year of experience in an ESRD unit; or

(ii) Is a registered nurse or physician director as defined in this paragraph (r); or

(iii) As of September 1, 1976, has demonstrated capability by acting for at least 2 years as a chief executive officer in a dialysis unit or transplantation program.

(2) *Dietitian.* A person who: (i) Is eligible for registration by the American Dietetic Association under its requirements in effect on June 3, 1976, and has at least 1 year of experience in clinical nutrition; or

(ii) Has a baccalaureate or advanced degree with major studies in food and nutrition or dietetics, and has at least 1 year of experience in clinical nutrition.

(3) *Medical record practitioner.* A person who:

(i) Has graduated from a program for Medical Record Administrators accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association, and is eligible for certification as a Registered Record Administrator (RRA) by the American Medical Record Association under its requirements in effect on June 3, 1976.

(ii) Has graduated from a program for Medical Record Technicians approved jointly by the Council on Medical Education of the American Medical Association and the American Medical Record Association, and is eligible for certification as an Accredited Record Technician (ART) by the American Medical Record Association under its requirements in effect June 3, 1976, or

(iii) Has successfully completed and received a satisfactory grade in the American Medical Record Association's Correspondence Course for Medical Record Personnel approved by the Accrediting Commission of the National Home Study Council, and is eligible for certification as an Accredited Record Technician by the American Medical Record Association under its requirements in effect June 3, 1976.

(4) *Nurse responsible for nursing service.* A person who is licensed as a registered nurse by the State in which practicing, and (i) has at least 12 months of experience in clinical nursing, and an additional 6 months of experience in nursing care of the patient with permanent kidney failure or undergoing kidney transplantation, including training in and experience with the dialysis process; or

(ii) Has 18 months of experience in nursing care of the patient on maintenance dialysis, or in nursing care of the patient with a kidney transplant, including training in and experience with the dialysis process.

(iii) If the nurse responsible for nursing service is in charge of self-care dialysis training, at least 3 months of the total required ESRD experience is in training patients in self-care.

(5) *Physician-director.* A physician who:

(i) Is board eligible or board certified in internal medicine or pediatrics by a professional board, and has had at least 12 months of experience or training in the care of patients at ESRD facilities; or

(ii) During the 5-year period prior to September 1, 1976, served for at least 12 months as director of a dialysis or transplantation program.

(iii) In those areas where a physician who meets the definition in subdivision (i) or (ii) of this subparagraph is not available to direct a participating dialysis facility, another physician may direct the facility, subject to the approval of the Secretary.

(6) *Social worker.* A person who is licensed, if applicable, by the State in which practicing, and

(i) Has completed a course of study with specialization in clinical practice at, and holds a masters degree from, a graduate school of social work accredited by the Council on Social Work Education; or

(ii) Has served for at least 2 years as a social worker, 1 year of which was in a dialysis unit or transplantation program prior to September 1, 1976, and has established a consultative relationship with a social worker who qualifies under subparagraph (6)(i) of this paragraph.

(7) *Transplantation surgeon.* A person who:

(i) Is board eligible or board certified in general surgery or urology by a professional board; and

(ii) Has at least 12 months training or experience in the performance of renal transplantation and the care of patients with renal transplants.

4. Section 405.2122 is amended to read as follows:

§ 405.2122 Types and duration of classification according to utilization rates.

An ESRD facility that meets all the other conditions for coverage of ESRD services will be classified according to its utilization rate(s) as follows: unconditional status, conditional status, exception status, or not eligible for reimbursement for that ESRD service. Such classification will be based on previously reported utilization data (see § 405.2124, except as specified in paragraph (a) of this section), and will be effective until notification of subsequent classification occurs. (See § 405.2123 for reporting requirements; § 405.2124, for method of calculating rates; § 405.2130 for specific standards.)

(a) *Initial classification.* (1) An ESRD facility that has not previously participated in the ESRD program will be granted conditional status if it submits a written plan, detailing how it will achieve the utilization rates for conditional status by the end of the first calendar year of its operation under the ESRD program, and the rates required for unconditional status during its third calendar year of operation.

(2) The ESRD facility's performance will be evaluated at the end of the first calendar year to ascertain whether it is properly implementing the plan.

(b) *Exception status.* (1) A renal dialysis center or a renal dialysis facility that does not meet the minimal utilization rate for unconditional or conditional status may be approved by the Secretary for a time limited exception status if:

(i) It meets all other conditions for coverage under this subpart;

(ii) It is unable to meet the minimal utilization rate because it lacks a sufficient number of patients and is located in an area without a sufficient population base to support a center or facility which would meet the rate; and

(iii) Its absence would adversely affect the achievement of ESRD program objectives.

(2) A hospital that furnishes renal transplantation services primarily to pediatric patients and is approved as a renal dialysis center under this subpart, but does not meet the utilization standards prescribed in § 405.2130(a), may be approved by the Secretary for a time limited exception status if:

(i) It meets all other conditions for coverage as a renal transplantation center;

(ii) The surgery is performed under the direct supervision of a qualified transplantation surgeon (§ 405.2102 (r)(7)) who is also performing renal transplantation surgery at an approved renal transplantation center that is primarily oriented to adult nephrology;

(iii) It has an agreement, with the other hospital serviced by the surgeon, for sharing limited resources that are needed for kidney transplantation; and

(iv) There are pediatric patients who need the surgery and who cannot obtain it from any other hospital located within a reasonable distance.

5. Section 405.2123 is revised to read as follows:

§ 405.2123 Reporting of utilization rates for classification.

Each facility must submit to HCFA an annual report on its utilization rates.

(a) Each hospital furnishing renal transplantation service must report both the number of transplants performed during the most recent year of operation and the number performed during each of the preceding 2 calendar years.

(b) Each hospital or nonhospital facility furnishing dialysis service must report the number of dialysis stations it had operating and the total number of dialyses performed during both the most recent year of operation and each of the preceding 2 calendar years. For dialyses performed on or after October 1, 1978, the report must separately identify, by type of ESRD service, the total number of dialyses performed at each station.

6. Section 405.2130 is amended by adding paragraph (d).

§ 405.2130 Condition: Minimal utilization rates.

The ESRD facility meets the applicable minimal utilization rate(s) indicated below for unconditional or conditional status, unless granted exception status in accordance with § 405.2122(b).

• • • • •

(d) Self-dialysis training stations which were utilized to successfully train at least six self-dialysis patients per station per calendar year and the dialyses performed on these stations may be excluded from the calculation of utilization rates.

7. Section 405.2134 is revised to read as follows:

§ 405.2134 Condition: Membership in a network.

The ESRD facility has a membership agreement with the network coordinating council and is providing acceptable representation on the council.

(a) *Standard: Membership agreement.* The membership agreement is signed by an authorized individual on behalf of the facility, and:

(1) Provides that the facility will participate in council activities and medical evaluation studies;

(2) Commits the facility to pursue network goals, including the placement of patients in self-dialysis and the encouragement of renal transplantation; and

(3) Includes the facility's plans for attaining the network goals.

(b) *Standard: Representation.* The facility appoints at least one representative to the Council and more than one representative, when necessary, for proper administration of the network's general program functions (see § 405.2111).

(c) *Standard: Goals and plans.* The facility fulfills its role for attaining the network goals and carrying out the network plans.

8. Section 405.2136 is amended by revising paragraph (b)(3), by revising paragraphs (f)(1) (ii) and (xi), and by revising paragraph (f)(2) as follows:

§ 405.2136 Condition: Governing body and management.

• • • • •

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(b) *Standard: Operational objectives.* • • •

(3) Admission criteria that insure equitable access to services are adopted by the facility and are readily available to the public. Access to the self-dialysis unit is available only to patients for whom the facility maintains patient care plans (see § 405.2137).

• • • • • •

(f) *Standard: Patient care policies.* • • •

(1) The patient care policies cover the following:

• • • • • •

(ii) Admission and discharge policies (in relation to both in-facility care and home care).

• • • • • •

(xi) The provision of home dialysis support services, if offered (see § 405.2163(e)).

(2) The physician-director of the facility is designated in writing to be responsible for the execution of patient care policies. If the responsibility for day-to-day execution of patient care policies has been delegated by a physican director to (or, in the case of a self-dialysis unit, to another licensed health practitioner) a registered nurse, the physican-director provides medical guidance in such matters.

9. Section 405.2137 is amended by revising paragraphs (b), (b)(4), (b)(5) and adding a new paragraph (b)(6) to read as follows:

§ 405.2137 Condition: Patient long-term program and patient care plan.

• • • • • •

(b) *Standard: Patient care plan.* There is a written patient care plan for each patient of an ESRD facility (including home dialysis patients under the supervision of the ESRD facility; see § 405.2163(e)) based upon the nature of the patient's illness, the treatment prescribed, and an assessment of the patient's needs.

(1) The patient care plan is personalized for the individual, reflects the psychological, social, and functional needs of the patient, and indicates the ESRD and other care required as well as the individualized modifications in approach necessary to achieve the long-term and short-term goals.

(2) The plan is developed by a professional team consisting of at least the physician responsible for the patient's ESRD care, a qualified nurse responsible for nursing services, a qualified social worker, and a qualified dietitian.

(3) The patient, parent, or legal guardian, as appropriate, is invoved in the development of the care plan, and due consideration is given to his preferences.

(4) The care plan for patients whose medical condition has not become stabilized is reviewed at least monthly by the professional patient care team described in paragraph (b)(2) of this section. For patients whose condition has become stabilized, the care plan is reviewed every 6 months. The care plan is revised as necessary to insure that it provides for the patients ongoing needs.

(5) If the patient is transferred to another facility, the care plan is sent with the patient or within 1 working day.

(6) For a home-dialysis patient whose care is under the supervision of the ESRD facility, the care plan provides for periodic monitoring of the patient's home adaptation, including provisions for visits to the home by qualified facility personnel to the extent appropriate. (See § 405.2163(e).)

10. Sections 405.2139 and 405.2139(d) are revised to read as follows:

§ 405.2139 Condition: medical records.

The ESRD facility maintains complete medical records on all patients (including self-dialysis patients within the self-dialysis unit and home dialysis patients whose care is under the supervision of the facility) in accordance with accepted professional standards and practices. A member of the facility's staff is designated to serve as supervisor of medical records services, and insures that all records are properly documented, completed, and preserved. The medical records are completely and accurately documented, readily available, and systematically organized to facilitate the compilation and retrieval of information.

• • • • • •

(d) *Standard: Completion of medical records and centralization of clinical information.* Current medical records and those of discharged patients are completed promptly. All clinical information pertaining to a patient is kept in the patient's medical record. Provision is made for collecting and including in the medical record medical information generated by self-dialysis patients. Entries concerning the daily dialysis process may either be completed by staff, or be completed by trained self-dialysis patients, trained home dialysis patients or trained assistants and countersigned by staff.

11. Section 405.2140 is amended by revising paragraphs (b)(2) and (b)(3), by revising paragraph (c), and by adding a new paragraph (d)(5) as follows:

§ 405.2140 Condition: Physical environment.

• • • • • •

(b) *Standard: Favorable environment for patients.* • • •

(2) Treatment areas are designed and equipped to provide adequate and safe dialysis therapy, as well as privacy and comfort for patients. The space for treating each patient is sufficient to accommodate medically needed emergency equipment and staff and to insure that such equipment and staff can reach the patient in an emergency. There is sufficient space in units for safe storage of self-dialysis supplies.

(3) There is a nursing/monitoring station from which adequate surveillance of patients receiving dialysis services can be made.

• • • • • •

(c) *Standard: Contamination prevention.* The facility employs appropriate techniques to prevent cross-contamination between the unit and adjacent hospital or public areas including, but not limited to, food service areas, laundry, disposal of solid waste and blood-contaminated equipment, and disposal of contaminants into sewage systems. Waste storage and disposal are carried out in accordance with applicable local laws and accepted public health procedures. The written patient care policies (see § 405.2136(f)(1)) specify the functions that are carried out by facility personnel and by self-dialysis patients with respect to contamination prevention.

(d) *Standard: Emergency preparedness.* • • •

(5) Patients are trained to handle medical and nonmedical emergencies. Patients must be fully informed regarding what to do, where to go, and whom to contact if a medical or nonmedical emergency occurs.

12. Section 405.2161(b) is amended by revising paragraphs (3) and (5) as follows:

§ 405.2161 Condition—Director of a renal dialysis facility or renal dialysis center.

• • • • • •

(b) *Standard: Responsibilities.* • • •

(3) Assuring adequate monitoring of the patient and the dialysis process, including, for self-dialysis patients, assuring periodic assessment of patient performance of dialysis tasks.

• • • • • •

(5) When self-dialysis training or home dialysis training is offered, assuring that patient teaching materials are available for the use of all trainees during training and at times other than during the dialysis procedure.

13. Section 405.2162 is amended by revising paragraph (b) as follows:

§ 405.2162 Condition: Staff of a renal dialysis facility or renal dialysis center.

• • • • • •

(b) *Standard: Onduty personnel.* Whenever patients are undergoing dialysis: (1) One currently licensed health professional (e.g., physician, registered nurse, or licensed practical nurse) experienced in rendering ESRD care is on duty to oversee ESRD patient care; (2) an adequate number of personnel are present so that the patient/staff ratio is appropriate to the level of dialysis care being given and meets the needs of patients; and (3) an adequate number of personnel are readily available to meet medical and nonmedical needs.

14. Section 405.2163 is amended by redesignating paragraphs (a) through (e) to be (b) through (f), by adding a new paragraph (a), and by revising paragraph (e) as follows:

§ 405.2163 Condition: Minimal service requirements for a renal dialysis facility or renal dialysis center.

The facility must provide dialysis services, as well as adequate laboratory, social, and dietetic services to meet the needs of the ESRD patient.

(a) Standard: *Outpatient dialysis services.*—(1) *Staff-assisted dialysis services.* The facility must provide all necessary institutional dialysis services and staff required in performing the dialysis.

(2) *Self-dialysis services.* If the facility offers self-dialysis services, it must provide all medically necessary supplies and equipment and any other service specified in the facility's patient care policies.

(b) *Standard: Laboratory services.* The dialysis facility makes available laboratory services (other than the specialty of tissue pathology and histocompatibility testing), to meet the needs of the ESRD patient. Laboratory services are performed either by a medicare-approved hospital or by a qualified medicare-approved independent laboratory, except that hematocrit and clotting time, which the facility uses to monitor its patients' fluids incident to each dialysis treatment, may be performed by the dialysis facility's staff, who are qualified by education and experience to perform such duties, under the direction of a physician.

(c) *Standard: Social services.* Social services are provided to patients and their families and are directed at supporting and maximizing the social functioning and adjustment of the patient. Social services are furnished by a qualified social worker (§ 405.2102(r)(6)) who has an employment or contractual relationship with the facility. The qualified social worker is responsible for conducting psychosocial evaluations, participating in team review of patient progress and recommending changes in treatment based on the patient's current psychosocial needs, providing casework and groupwork services to patients and their families in dealing with the special problems associated with ESRD, and identifying community social agencies and other resources and assisting patients and families to utilize them.

(d) *Standard: Dietetic services.* Each patient is evaluated as to his nutritional needs by the attending physician and by a qualified dietitian. (§ 405.2102(r)(2)) who has an employment or contractual relationship with the facility. The dietitian, in consultation with the attending physician, is responsible for assessing the nutritional and dietetic needs of each patient, recommending therapeutic diets, counseling patients and their families on prescribed diets, and monitoring adherence and response to diets.

(e) *Standard: Self-dialysis support services.* The renal dialysis facility or center furnishing self-dialysis training upon completion of the patient's training, furnishes (either directly, under agreement or under arrangement with another ESRD facility) the following services:

(1) Surveillance of the patient's home adaptation, including provisions for visits to the home or the facility;

(2) Consultation for the patient with a qualified social worker and a qualified dietitian;

(3) A recordkeeping system which assures continuity of care;

(4) Installation and maintenance of equipment;

(5) Testing and appropriate treatment of the water; and

(6) Ordering of supplies on an ongoing basis.

(f) *Standard: Participation in recipient registry.* The dialysis facility or center participates in a patient registry program for patients who are awaiting cadaveric donor transplantation.

(Secs. 226, 1102, 1871, 1881 of the Social Security Act (42 U.S.C. 426, 1302, 1395hh, 1395rr).)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: September 21, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: October 11, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-29438 Filed 10-18-78; 8:45 am]

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THURSDAY, OCTOBER 19, 1978
PART V

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federal register

THURSDAY, OCTOBER 19, 1978
PART V

FEDERAL HOME LOAN BANK BOARD

CONVERSIONS OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INSURED INSTITUTIONS FROM MUTUAL TO STOCK FORM

Proposed Rules

V 43/203 OC 19 78

[6720–01–M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563b]

[No. 78-541]

INSURANCE OF ACCOUNTS

Conversion from Mutual to Stock Form

OCTOBER 11, 1978.

AGENCY: Federal Home Loan Bank Board and Federal Savings and Loan Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Savings and Loan Insurance Corporation's present regulations governing conversions of FSLIC insured institutions from mutual to stock form of ownership provide for the sale of conversion stock by means of a subscription offering to eligible account holders, other association members, and officers, directors and employees. All unsubscribed-for shares may be sold in a public offering, if such offering is practicable, otherwise in a private distribution. The proposed amendments would continue to provide for the sale of conversion stock by means of a subscription offering but would generally increase the rights of eligible account holders and other association members and limit purchases by officers and directors. In addition, the proposed amendments would provide for the sale of all unsubscribed-for shares in a public offering either in a direct offering through an underwriter or in a direct community marketing by the association. The purpose of these proposed changes is to promote wider participation by account holders and the public at large and to prescribe the degree of concentration of stock held by officers and directors.

DATES: Comments must be received by November 20, 1978.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Douglas P. Faucette, Associate General Counsel, Federal Home Loan Bank Board, 202-377-6410, at the above address.

SUPPLEMENTAL INFORMATION: The Federal Home Loan Bank Board by Resolution No. 74-144, dated February 28, 1974, (39 FR 9142), adopted the present conversion regulations, which became effective April 8, 1974. Amendments to the regulations authorized the Bank Board to issue Federal stock charters, eliminated discounts on the sales price of stock and the preliminary and final Bank Board approval concept, revised the allocation of stock subscription rights, and added § 563b.9 which prohibits certain offers to acquire securities both prior to and 3 years subsequent to a conversion.

The Bank Board staff has analyzed over 102 conversion applications; 35 have been approved of which 31 conversions have been completed.

In several conversions some small institutions which were unable to sell stock through a public underwriter because of their size, also experienced poor account holder participation. Since the current regulations require that all conversion stock be sold, management, in these instances, was required to purchase all unsold shares.

The Bank Board believes this is an unacceptable result, not only because of the burden this requirement places on management, but because of the degree of concentration of ownership which sometimes results.

In order to broaden participation by accountholders and reduce the degree of concentration by officers and directors the Bank Board proposes to amend § 563b.3(c) to require plans of conversion to contain:

(1) A provision giving each supplemental eligible account holder, immediately following subscriptions by eligible account holders, a right to purchase the greater of 200 shares, one-tenth of 1 percent of the total offering of stock, or 15 times the product obtained by multiplying the total number of shares to be sold by the fraction which his qualifying deposits represents when compared to all qualifying deposits on the supplemental eligiblity record date.

(2) A provision increasing the subscription rights distribution to eligible account holders to the greater of 200 shares, one-tenth of 1 percent of the total offering, or 15 times the account holders' pro rata share of the offering.

(3) A provision giving a right to purchase 200 shares to account holders and borrowers entitled to vote at the meeting called to consider the conversion, but who are not eligible or supplemental eligible account holders.

(4) A provision limiting purchases by a person and his associates to 5 percent of the total offering of shares.

(5) A provision limiting purchases by officers and directors of the institution and their associates to 25 percent of the total offering.

In addition, the following optional provisions have been added or amended:

(1) A provision requiring any shares not sold in the subscription offering to be sold in a public offering through an underwriter or directly by the institution in a direct community marketing.

(2) A provision permitting eligible account holders, supplemental eligible account holders and members to receive additional rights to purchase up to 1 percent of the total offering.

In order to improve the trading market in a converted institutions' stock after a conversion and to further insure arms length transactions by management, the Bank Board proposes to amend § 563b.3(c) to require that plans of conversion contain:

(1) A provision requiring a converted institution to, (a) register the stock pursuant to the Securities Exchange Act of 1934; (b) use its best efforts to encourage and assist a market maker to establish and maintain a market for the stock issued in the conversion; and (c) use its best efforts to list the shares issued in connection with the conversion on a national or regional exchange or the NASDAQ quotation system.

(2) A provision restricting resale of stock purchased by officers and directors for a period of 3 years.

(3) A provision requiring, for a period of 3 years, officers and directors to purchase stock in the institution only from a broker or dealer registered with the Securities and Exchange Commission. The only exception to this would be a negotiated transaction for more than 1 percent of the outstanding stock.

The Bank Board also proposes to amend § 563b.3 (c) and (d) by adding two requirements to plans of conversion, one being that the expenses involved in a conversion be reasonable and the other, that the number of shares reserved for a stock option plan that is adopted at the meeting called to consider the conversion cannot exceed 10 percent of the stock sold pursuant to the conversion. These two requirements have been Bank Board policy in all applications for conversion considered to date.

In addition, the Bank Board proposes to revise the current 10-year restriction on the payment of cash dividend of two-thirds of current income to one-half of current income.

Current § 563b.9(d) prohibits, without Corporation approval, an announcement of an offer to acquire more than 10 percent of any equity security of a converted institution. The Bank Board proposes to amend this paragraph to prohibit, without Corporation approval, acquisition of beneficial ownership of more than 10 percent of any classs of equity security of a converted institution for 3 years, whether or not an offer is made.

Section 563b.2 *Definitions* would be revised by deleting the unneeded definition of "intitlement shares", by amending the definition of the term "subscription offering", and by adding definitions of the terms, "Broker", "Market-Maker", "Supplemental eligibility record date", and "Supplemental eligible accountholder".

The Bank Board proposes to amend Form AC by requiring the disclosure of officers' and directors' account balances on the eligibility record date and the 2 years preceding such date if the balance is at least $5.000 on the eligibility record date and has increased by at least 25 percent during the 2-year period preceding that date.

Form PS would be revised by requiring a detailed analysis by management of the financial statements contained in the proxy statement.

In addition, conforming changes are made to the forms (AC, PS and OC) used in connection with Part 563b. Accordingly, the Bank Board proposes to amend 12 CFR Part 563b and accompanying forms to read as follows:

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

Sec.

563b.1 Scope of part.
563b.2 Definitions.
563b.3 General principles for conversions.
563b.4 Notice of filing; public statements; confidentiality.
563b.5 Solicitation of proxies; proxy statement.
563b.6 Vote by members.
563b.7 Pricing and sale of securities.
563b.8 Procedural requirements.
563b.9 Acquisitions of securities of converted associations.

AUTHORITY: Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

§ 563b.1 Scope of part.

(a) *General.* Except as the Corporation may otherwise determine, the provisions of this part shall exclusively govern the conversion of mutual insured institutions to capital stock insured institutions. No such mutual insured institution shall convert to the capital stock form of organization without the prior written approval of the Corporation pursuant to the provisions of this part, except as the Corporation may otherwise provide in supervisory cases.

(b) *Provisions of prescribed forms.* Any provision in a form prescribed under this part and covering the same subject matter as any provision of this part shall have the same force and effect as if it were a provision of this part except as it relates to information not deemed material.

(c) *Conflicts with State law.* (1) In the event an applicant finds that compliance with any provision of this part would be in conflict with applicable State law, the applicant may file with the Corporation a written request for waiver of compliance with such provision. Such request may be incorporated in the application for conversion; otherwise, the applicant shall file four copies of such request.

(2) In making any such request, the applicant shall:

(i) Specify the provision or provisions of this part with respect to which the applicant desires waiver;

(ii) Furnish an opinion of counsel demonstrating that applicable State law is in conflict with the specified provision or provisions of this part; and

(iii) Demonstrate that the requested waiver would not result in any effects that would be inequitable or detrimental to the applicant, its account holders or other insured institutions or be contrary to the public interest.

§ 563b.2 Definitions.

(a) As used in this part and in the forms under this part, the following definitions apply, unless the context otherwise requires:

(1) *Affiliate.* An "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) *Amount.* The term "amount," when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) *Applicant.* An "applicant" is an insured institution which has applied to convert pursuant to this part.

(4) *Associate.* The term "associate," when used to indicate a relationship with any person, means (i) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which such person is an officer or partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (ii) any trust or other estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (iii) any relative or spouse of such person, or any relative of such spouse, who has the same home as such person or who is a director or officer of the applicant or any of its parents or subsidiaries.

(5) *Association members.* The term "association members" refers to persons who, pursuant to the charter or bylaws of the applicant, are eligible to vote at the applicant's meeting at which conversion will be voted upon.

(6) *Board.* The term "Board" refers to the Federal Home Loan Bank Board.

(7) *Broker.* The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(8) *Capital stock.* The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, or any similar certificate evidencing nonwithdrawable capital.

(9) *Charter.* The term "charter" includes articles of incorporation, articles of association, or any similar instrument, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

(10) *Control.* The term "control" (including the terms "controlling," "controlled by," and "under common with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(11) *Corporation.* The term "Corporation" refers to the Federal Savings and Loan Insurance Corporation.

(12) *Dealer.* The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(13) *Director.* The term "director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

(14) *Eligibility record date.* The term "eligibility record date" means the record date for determining eligible account holders of a converting institution.

(15) *Eligible account holder.* The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with § 563b.3(e).

(16) *Employee.* The term "employee" does not include a director or officer.

(17) *Equity security.* The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such security; or any such warrant or right.

(18) *Insured institution.* The term "insured institution", has the same meaning as in section 561.1 of this subchapter.

(19) *Market maker.* The term "market maker" means a dealer who, with respect to a particular security, (i) regularly publishes a bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (ii) furnishes bona fide competitive bid and offer quotations on re-

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quest; and (iii) is ready, willing, and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.

(29) *Security.* The term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-

(35) *Supplemental eligible account holder.* The term "supplemental eligible account holder" means any person holding a qualifying deposit, except

(2) The Board has determined that a method of conversion which provides a so-called "windfall" distribution to the account holders of a converting mutual insured institution would

(2) The conversion would result in any reduction of the Federal insurance reserve or would cause the applicant to fail to meet any net worth requirement of § 563.13 of this sub-

approval, a supplemental eligibility record date be determined whereby each supplemental eligible account holder of the converting insured institution, shall receive without payment,

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quest; and (iii) is ready, willing, and able to effect transactions in reasonable quantities at his quoted prices with other brokers or dealers.

(20) *Material.* The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant, or matters as to which an average prudent association member ought reasonably to be informed in voting upon the plan of conversion of the applicant.

(21) *Member.* The term "member" means any person qualifying as a member of an insured institution pursuant to its charter or bylaws.

(22) *Offer.* The term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

(23) *Officer.* The term "officer" means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

(24) *Person.* The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

(25) *Proxy.* The term "proxy" includes every form of authorization by which a person is, or may be deemed to be, designated to act for an association member in the exercise of his voting rights in the affairs of an insured institution. Such an authorization may take the form of failure to dissent or object.

(26) *Purchase.* The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

(27) *Sale.* The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but such terms do not include an exchange of securities in connection with a merger or acquisition approved by the Board or the Corporation.

(28) *Savings account.* The term "savings account" has the same meaning as in section 561.11 of this subchapter and includes certificates of deposit.

(29) *Security.* The term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing.

(30) *Solicitation; solicit.* The terms "solicitation" and "solicit" refer to (i) any request for a proxy whether or not accompanied by or included in a form of proxy; (ii) any request to execute, not execute, or revoke a proxy; or (iii) the furnishing of a form of proxy or other communication to association members under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to the furnishing of a form of proxy to an association member upon the unsolicited request of such association member, the performance of acts required by § 563b.5(f), or to the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(31) *Subscription offering.* The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (i) Eligible account holders as required by § 563b.3(c)(2); (ii) supplemental eligible account holders as required by § 563b.3(c)(4); (iii) members entitled to vote at the meeting called to consider the conversion as required by § 563b.3(c)(5); (iv) directors, officers, and employees, as permitted by § 563b.3(d)(1); and (v) eligible account holders, supplemental eligible account holders, and voting members as permitted by § 563b.3-(d)(2).

(32) *Subsidiary.* A "subsidiary" of a specified person is an affiliate controlled by such person, directly or indirectly, through one or more intermediaries.

(33) *Supervisory agent.* The term "supervisory agent" means (i) the president of the bank of the Federal home loan bank district in which the applicant has its principal office, or (ii) any other person who is specifically designated as an agent by the Corporation to act in its behalf in the administration of this part.

(34) *Supplemental eligibility record date.* The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting institution required by § 563b.3(c)(3). The date shall be the last day of the calendar quarter preceding Board approval of the application for conversion.

(35) *Supplemental eligible account holder.* The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors, and their associates, as of the supplemental eligibility record date.

(36) *Underwriter.* The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which he is the underwriter.

(b) Terms defined in other parts of this subchapter, when used in this part, shall have the meanings given in such definitions, to the extent such definitions are not inconsistent with the definitions contained in this part, unless the context otherwise requires.

§ 563b.3 General principles for conversions.

(a) *Findings of Federal Home Loan Bank Board.* (1) The regulations contained in this part are promulgated to provide rules by which mutual insured institutions may convert to the stock form of organization on an equitable basis. In determining the equity of conversion standards and procedures, the Board, both directly and as operating head of the Corporation, finds that it is necessary to consider the effects of various standards and procedures that might be adopted, not only on an individual applicant but also on the entire system of insured institutions. Indeed, the Board believes that it has a public responsibility also to consider the effects on financial institutions which are not thrift institutions and on thrift institutions which are not subject to the Board's regulatory jurisdiction. If a particular method of conversion would unacceptably threaten the financial stability of such institutions, or a substantial portion of them, the Board cannot consider such method of conversion to be on an equitable basis. Further, if a particular method of conversion would tend to force individual mutual insured institutions to convert to the stock form irrespective of whether such institutions or the communities they serve would be benefited thereby, the Board cannot consider such a method of conversion to be on an equitable basis.

(2) The Board has determined that a method of conversion which provides a so-called "windfall" distribution to the account holders of a converting mutual insured institution would create strong incentives for significant shifts of savings funds among insured institutions and other financial institutions and that such shifts of savings funds would unacceptably threaten the financial stability of such institutions. The Board has also determined that a method of conversion which provides a so-called "windfall" distribution would tend to force individual mutual insured institutions to convert to the stock form irrespective of whether such institutions or the communities they serve would be benefited thereby. The Board therefore finds that no method of conversion can be considered equitable unless such "windfall" distribution is virtually eliminated. The Board further finds that such "windfall" distribution is not virtually eliminated by methods of conversion under which the control of such distribution is intended to be effected by systems of averaging or weighting deposits, by restricting transferability of the capital stock of converted insured institutions, by placing such stock in escrow or trust, by delayed distribution of such stock or its equivalent in cash by placing such stock in escrow or trust, by delayed distribution of such stock or its equivalent in cash, or by segregating the net worth accounts of converted insured institutions and proportionally allocating the future income of such institutions to such accounts, or by any of the foregoing methods taken in combination. The Board also finds that, in order for conversion regulations to be effective against the undesirable results of such "windfall" distributions, the basic provisions of such regulations must operate with substantial uniformity with respect to mutual insured institutions on a national scale.

(3) The regulations contained in this part, while providing the account holder with rights to a share in the equity of the converting mutual insured institution in the event of a subsequent complete liquidation, are designed virtually to eliminate the "windfall" aspect of conversion and the resulting disruptive effect on the economy. Accordingly, the Board finds that these regulations provide a means by which mutual insured institutions may convert to stock form on an equitable basis.

(b) *General requirements.* No application for conversion shall be approved by the Corporation if:

(1) The plan of conversion adopted by the applicant's board of directors is not in accordance with the provisions of this part;

(2) The conversion would result in any reduction of the Federal insurance reserve or would cause the applicant to fail to meet any net worth requirement of § 563.13 of this subchapter;

(3) The conversion may result in a taxable reorganization of the applicant under the Internal Revenue Code of 1954, as amended; or

(4) The converted institution would not have its accounts insured by the Corporation.

(c) *Required provisions in plan of conversion.* The plan of conversion shall:

(1) Provide that the converting insured institution shall issue and sell its capital stock at a total price equal to the estimated pro forma market value of such stock in the converted insured institution, based on an independent valuation, as provided in § 563b.7.

(2) Provide that each eligible account holder shall receive without payment, nontransferable subscription rights to purchase capital stock in an amount equal to the greater of 200 shares, one-tenth of 1 percent of the total offering of shares or 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the eligible account holder and the denominator is the total amount of qualifying deposits of all eligible account holders in the converting insured institution. If the allotment made in this paragraph (c)(2) results in an oversubscription, shares shall be allocated among subscribing eligible account holders so as to permit each such account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation equal to 100 shares. Any shares not so allocated shall be allocated among the subscribing eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits as may be provided in the plan of conversion.

(3) Nontransferable subscription rights to purchase capital stock received by officers and directors and their associates of the converting insured institution based on their increased deposits in the converting association in the 1-year period preceding the eligibility record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to paragraph (c)(2) of this section.

(4) Provide that, in plans involving an eligibility record date that is more than 15 months prior to the date of the latest amendment to the application for conversion filed prior to Board approval, a supplemental eligibility record date be determined whereby each supplemental eligible account holder of the converting insured institution, shall receive without payment, nontransferable subscription rights to purchase supplemental shares in an amount equal to the greater of 200 shares, one-tenth of 1 percent of the total offering of shares or 15 times the product (rounded down to the next whole number) obtained by multiplying the total number of shares of capital stock to be issued by a fraction of which the numerator is the amount of the qualifying deposit of the supplemental eligible account holder and the denominator is the total amount of the qualifying deposits of all supplemental eligible account holder in the converting insured institution on the supplemental eligibility record date.

(i) Subscription rights received pursuant to this paragraph (c)(4) shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to paragraph (c)(2).

(ii) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with paragraph (c)(2) of this section shall be applied in partial satisfaction of the subscription rights to be destributed pursuant to this paragraph (c)(4).

(iii) In the event of an oversubscription for supplemental shares pursuant to this paragraph (c)(4), shares shall be allocated among the subscribing supplemental eligible account holders as follows:

(A) Shares shall be allocated among subscribing supplemental eligible account holders so as to permit each such supplemental account holder, to the extent possible, to purchase a number of shares sufficient to make his total allocation (including the number of shares, if any, allocated in accordance with paragraph (c)(2) of this section) equal to 100 shares.

(B) Any shares not allocated in accordance with paragraph (c)(4)(iii)(A) of this section shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits as may be provided in the plan of conversion.

(5) Provide that association voting members who are not either eligible account holders or supplemental eligible account holders shall receive, without payment, nontransferable subscription rights to purchase 200 shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders and supplemental eligible account holders provided for under paragraphs (c) (2) and (4) of this section. In the event of an oversubscription for

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shares under the provisions of this paragraph (c)(5), the shares available shall be allocated among the subscribing voting members on such equitable basis as may be provided in the plan of conversion.

(6) Provide that the number of shares which any person together with any associate or group of persons acting in concert may subscribe for or purchase in the conversion shall not exceed 5 percent of the total offering of shares. For purposes of this paragraph (c)(6) the members of the converting insured institution's board of directors shall not be deemed to be associates or a group acting in concert solely as a result of their board membership.

(7) Provide that the number of shares which officers and directors of the converting insured institution and their associates may purchase in the conversion shall not exceed 25 percent of the total offering of shares.

(8) Provide that no officer, or director or their associates, shall purchase without the prior written approval of the Corporation the capital stock of the converted insured institution except from a broker or dealer registered with the Securities and Exchange Commission for a period of 3 years following the conversion. This provision shall not apply to negotiated transactions as defined by § 563.8-1(d)(3)(i) involving more than 1 percent of the outstanding capital stock of the converted insured institution.

(9) Provide that the sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determining in accordance with § 563b.7; and specify the underwriting and/or other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.

(10) Provide that each savings account holder of the converting insured institution shall receive, without payment, a withdrawable savings account or accounts in the converted insured institution equal in withdrawable amount to the withdrawal value of such account holder's savings account or accounts in the converting insured institution.

(11) Provide for the establishment and maintenance of a liquidation account for the benefit of eligible account holders and supplemental eligible account holders in the event of a subsequent complete liquidation of the converted insured institution, in accordance with the provisions of paragraph (f) of this section.

(12) Provide for an eligibility record date, which shall be not less than 90 days prior to the date of adoption of the plan by the converting insured institution's board of directors.

(13) Provide that the holders of the capital stock of the converted insured institution shall have exclusive voting rights, unless in the case of a State-chartered converted insured institution State law requires savings account holders and/or borrowers of the converted insured institution to have voting rights, in which case the charter of the converted insured institution shall (i) limit such voting rights to the minimum required by State law, and (ii) provide for the management of the converted insured institution to solicit proxies from such savings account holders and/or borrowers in the same manner as it solicits proxies from its shareholders.

(14) Provide that the plan of conversion adopted by the applicant's board of directors may be substantively amended by such board of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from members to vote on the plan and at any time thereafter with the concurrence of the Corporation; and that the conversion may be terminated by such board of directors at any time prior to the meeting of members called to consider the plan of conversion and at any time thereafter with the concurrence of the Corporation.

(15) Provide that all shares of capital stock purchased by directors and officers on original issue in the conversion either directly from the insured institution (by subscription or otherwise) or from an underwriter of such shares, shall be subject to the restriction that such shares shall not be sold for a period of not less than 3 years following the date of purchase, except in the event of death of the director or officer.

(16) Provide that, in connection with shares of capital stock subject to restriction on sale for a period of time:

(i) Each certificate for such stock shall bear a legend giving appropriate notice of such restriction;

(ii) Appropriate instructions shall be issued to the transfer agent for the converted insured institution's capital stock with respect to applicable restrictions on transfer of any such restricted stock; and

(iii) Any shares issued as a stock dividend, stock split, or otherwise with respect to any such restricted stock shall be subject to the same restriction as may apply to such restricted stock.

(17) Provide that the converting insured institution shall:

(i) Promptly following the conversion register the securities issued in connection therewith pursuant to the Securities Exchange Act of 1934 and undertake not to deregister such securities for a period of 3 years thereafter;

(ii) Use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

(iii) Use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the NASDAQ quotation system.

(18) Provide that the expenses incurred in the conversion shall be reasonable.

(19) Contain no provision which the Corporation shall determine to be inequitable or detrimental to the applicant, its savings account holders or other insured institutions or to be contrary to the public interest.

(d) *Optional provisions in plan of conversion.* The plan of conversion may provide any or all of the following:

(1) That directors, officers, and employees of the converting insured institution, as part of the subscription offering, shall be entitled to purchase shares of capital stock, to the extent that shares are available after satisfying the subscriptions of eligible account holders, supplemental eligible account holders and members provided for under paragraphs (c) (2), (4), and (5) of this section, subject to the following conditions:

(i) The total number of shares which may be purchased under this subdivision (i) shall not exceed 25 percent of the total number of shares to be issued in the case of a converting insured institution with total assets of less than $50 million or 15 percent in the case of a converting insured institution with total assets of $500 million or more; in the case of a converting insured institution with total assets of $50 million or more but less than $500 million, the percentage shall be no more than a correspondingly appropriate number of shares based on total asset size (for example, 20 percent in the case of a converting insured institution with total assets of approximately $275 million); and

(ii) The shares shall be allocated among directors, officers, and employees on an equitable basis such as by giving weight to period of service, compensation and position, subject to a reasonable limitation on the amount of shares which may be purchased by any person associate thereof, or group of affiliated persons or group of persons otherwise acting in concert.

(2) That each eligible account holder, supplemental subscription offering, shall also receive, without payment, nontransferable subscription rights to purchase up to 1 percent of the total offering of shares of capital stock, to the extent that such shares are available after satisfying the subscriptions provided for under paragraphs (c) (2), (4), and (5) of this section, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription for such additional shares, the shares available shall be allocated among the subscribing eligible account holders, supplemental eligible account holders and voting members on such equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion. Where possible such subscriptions shall be allocated in such a manner that total purchases by eligible account holders, supplemental eligible account holders, and voting members shall be rounded to the nearest 100 shares.

(3) That any shares of the converting insured institution not sold in the subscription offering shall either be sold in a public offering through an underwriter or directly by the converting insured institution in a direct community marketing, subject to the applicant demonstrating to the Corporation the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. Such conditions shall include, but not be limited to:

(i) A condition limiting purchases by each officer and director or their associates in this phase of the offering to one tenth of one percent of the total offering of shares;

(ii) A condition limiting purchases by persons and their associates in this phase of the offering to 2 percent of the share to be sold in the total offering or any lesser percent included in the plan of conversion pursuant to paragraph (d)(5) of this section; and

(iii) A condition that any direct community offering by the converting institution shall give a preference to natural persons residing in the counties in which the institution has an office.

(4) That any significant residue of shares of the converting insured institution not sold in the subscription offering or in a public offering referred to in paragraph (d)(3) may be sold in such other manner as provided in the plan with Board approval.

(5) That the number of shares which an eligible account holder or supplemental eligible account holder may subscribe for under paragraph (c)(4) of this section may be made subject to a limit of not less than one percent of the total offering of shares for each eligible account holder or supplemental eligible account holder, or eligible account holder and supplemental eligible account holder having the same taxpayer identification number, or group of eligible account holder and supplemental eligible account holder affiliated with each other of otherwise acting in concert.

(6) That any person exercising subscription rights to purchase capital stock shall be required to purchase a minimum of up to 25 shares to the extent such shares are available (but the aggregate price for any minimum share purchase shall not exceed $500).

(7) That a stock option plan may be adopted at the meeting at which the plan of conversion is voted upon by the members of the converting insured institution. The number of shares reserved for such stock option plans should be limited to 10 percent of the number of shares sold in the conversion.

(8) That the converted insured institution shall issue and sell, in lieu of shares of its capital stock, units of securities consisting of capital stock and long-term warrants or other equity securities, in which event any reference in the provisions of this part to capital stock shall apply to such units of equity securities unless the context otherwise requires.

(9) that the Corporation may approve such other equitable provisions as are necessary to avert imminent injury to the converting insured institution.

(e) *Determination of amount of qualifying deposit; predecessor and successor accounts.* (1) Unless otherwise provided in the plan of conversion, for the purposes of this section, the amount of the qualifying deposit of an eligible account holder or supplemental eligible account holder shall be the total of the deposit balances in the eligible account holder's or supplemental eligible account holder's savings accounts in the converting insured institution as of the close of business on the eligibility record data or supplemental eligibility record date. However, the plan of conversion may provide that any savings accounts with total deposit balanced of less than $50 (or any lesser amount) shall not constitute a qualifying deposit.

(2) As used in this section, the term "savings account" includes a predecessor or successor account of a given savings account which is held only in the same right and capacity and on the same terms and conditions as the given savings account. However, the plan of conversion may provide for lesser requirements for consideration as a predecessor or successor account.

(f) *Liquidation account.* (1) Each converted insured institution shall, at the time of conversion, establish a liquidation account in an amount equal to the amount of net worth of the converting insured institution as of the latest practicable date prior to conversion. For the purposes of this paragraph, the insured institution shall use the net worth figure no later than that set forth in its latest statement of financial condition contained in the final offering circular. The function of the liquidation account is to establish a priority on liquidation and, except as provided in paragraph (g)(2) of this section, the existence of the liquidation account shall not operate to restrict the use or application of any of the net worth accounts of the converted insured institution.

(2) The liquidation account shall be maintained by the converted insured institution for the benefit of eligible account holders and supplemental eligible account holders who maintain their savings accounts in such institution. Each such eligible account holder and supplemental eligible account holder shall, with respect to each savings account held, have a related inchoate interest in a portion of the liquidation account balance ("subaccount").

(3) In the event of a complete liquidation of the converted insured institution (and only in such event), each eligible account holder and supplemental eligible account holder shall be entitled to receive a liquidation distribution from the liquidation account, in the amount of the then current adjusted subaccount balances for savings accounts then held, before any liquidation distribution may be made with respect to capital stock. No merger, consolidation, purchase or bulk assets with assumption of savings accounts and other liabilities, or similar transaction, in which the converted institution is not the surviving institution, is considered to be a complete liquidation for this purpose. In such transactions, the liquidation account shall be assumed by the surviving insured institution.

(4) The initial subaccount balance for a savings account held by an eligible account holder and/or supplemental eligible account holder shall be determined by multiplying the opening balance in the liquidation account by a fraction of which the numerator is the amount of qualifying deposits of such account holder on the eligibility record date and/or the supplemental eligibility record date and the denominator is the total amount of qualifying deposits of all eligible account holders and supplemental eligible account holders in the converting insured institution on such dates. Such initial subaccount balance shall not be increased, and it shall be subject to downward adjustment as provided in paragraph (f)(5) of this section.

(5) If the deposit balance in any savings account of an eligible account holder at the close of business on any annual closing date subsequent to the eligibility record date is less than the lesser of (i) the deposit balance in such savings account at the close of business on any other annual closing date subsequent to the eligibility record

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date or (ii) the amount of the qualifying deposit in such savings account, the subaccount balance for such savings account shall be adjusted by re-

(i) *Acquisition of converted insured institutions*—(1) *General.* The Board finds that the new capital to be received by converted insured institu-

lated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis, more than 15 percent of its consolidat-

press release are not required to be filed with the Corporation, but may be submitted for comment to the Office of General Counsel. Copies of the de-

receive nontransferable subscription rights to purchase capital stock of the applicant:

(x) A brief statement as to the

version is properly executed and is not materially incomplete, the Corporation will advise the applicant, in writ-

ing, to publish notices of the filing of

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date or (ii) the amount of the qualifying deposit in such savings account, the subaccount balance for such savings account shall be adjusted by reducing such subaccount balance in an amount proportionate to the reduction in such deposit balance. In the event of such a downward adjustment, the subaccount balance shall not be subsequently increased, notwithstanding any increase in the deposit balance of the related savings account. If any such savings account is closed, the related subaccount balance shall be reduced to zero.

(g) *Restrictions on repurchase of stock and payment of dividends.* Any approval of a conversion by the corporation under this part shall be subject to the following conditions:

(1) No converted insured institution shall for a period of 10 years repurchase any of its capital stock from any person except in the case of a repurchase, on a pro rata basis pursuant to an offer, approved by the corporation, made to all shareholders of such institution and except for the repurchase of qualifying shares of a director.

(2) No converted insured institution shall declare or pay a cash dividend on, or repurchase any of, its capital stock if the effect thereof would cause the net worth of the converted insured institution to be reduced below (i) the amount required for the liquidation account or (ii) the net worth requirements contained in § 563.13(b) of this subchapter.

(3) Without the prior approval of the Corporation, no converted insured institution shall, for a period of 10 years after the date of its conversion, declare or pay a cash dividend on, or repurchase any of, its capital stock in an amount in excess of one half of the greater of:

(i) The institution's net income (as defined in § 563c.12 of this subchapter) for the current fiscal year; or

(ii) The average of the institution's net income (as so defined) for the current fiscal year and not more than two of the immediately preceding fiscal years.

(h) *Manipulative and deceptive devices.* In the offer, sale or purchase of securities issued incident to its conversion, no insured institution, or any director, officer, attorney agent or employee thereof, shall (1) employ any device, scheme, or artifice to defraud, or (2) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or (3) engage in any act, transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser or seller.

(i) *Acquisition of converted insured institutions*—(1) *General.* The Board finds that the new capital to be received by converted insured institutions upon the sale of capital stock will cause such insured institutions, during an initial period following conversion, to be specially vulnerable to attempts by other companies to acquire control of such insured institutions. The Board further finds that acquisition of control of such insured institutions by companies significantly engaged in unrelated business activities is inconsistent with the provision of economical home financing by such insured institutions. Accordingly, the provisions of this paragraph are designed to prevent such acquisitions of newly converted insured institutions for a limited period of time following conversion sufficient to reduce or eliminate their special vulnerability and the adverse impact on the provision of economical home financing.

(2) *Required agreement.* No conversion shall be approved by the Corporation unless the plan of conversion provides that the converted insured institution shall enter into an agreement with the Corporation, in form satisfactory to the Corporation, which shall provide that for a period of 3 years following the conversion any company significantly engaged in an unrelated business activity, either directly or through an affiliate thereof, shall not be permitted, regardless of the form of the transaction, to acquire control of the converted insured institution.

(3) *Optional charter provision.* To the extent permitted by applicable Federal or State law, a plan of conversion may provide for a provision in the charter of the converted insured institution containing, in substance, the restriction set forth in paragraph (i)(2) of this section. There may also be included a restriction providing that such charter provision may be amended only by a vote of up to 75 percent of the votes eligible to be cast at a regular or special meeting of shareholders of the converted insured institution. If the converted insured institution elects to adopt the foregoing optional charter provision, the Corporation will impose, as a condition to its approval of the conversion, a requirement that the converted institution fully enfore such charter provision.

(4) *Definitions.* As used in this paragraph:

(i) The term "affiliate" means any person or company which controls, is controlled by, or is under common control with, a specified company.

(ii) The term "control" shall have the meaning given to it by section 408(a)(2) of the National Housing Act, as amended.

(iii) A company shall be deemed to be "significantly engaged" in an unrelated business activity if its unrelated business activities would represent, on either an actual or a pro forma basis, more than 15 percent of its consolidated net worth at the close of its preceding fiscal year or of its consolidated net earnings for such fiscal year.

(iv) The term "unrelated business activity" means any business activity not authorized for a multiple savings and loan holding company under section 408(c)(2) of the National Housing Act, as amended, or under regulations adopted pursuant thereto.

§ 563b.4 Notice of filing; public statements; confidentiality.

(a) *Information prior to approval of plan of conversion.* (1) An insured institution which is considering converting pursuant to this part and its directors, officers and employees shall keep such consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached the Corporation may require remedial measures including:

(i) A public statement by the institution that its board of directors is currently considering converting pursuant to this part;

(ii) Providing for an eligibility record date which shall be as of such a date prior to the adoption of the plan by the converting insured institution's board of directors as to assure the equitability of the conversion;

(iii) Limitation of the subscription rights of any person violating or aiding the violation of this section to an amount deemed appropriate by the Corporation; and

(iv) Any other actions the Corporation may deem appropriate and necessary to assure the fairness and equitability of the conversion.

(2) If it should become essential as a result of rumors prior to the adoption of a plan of conversion by the applicant's board of directors, a public statement limited to that purpose may be made by the applicant.

(3) Promptly after the adoption of a plan of conversion by not less than two-third of its board of directors, the insured institution shall:

(i) Notify its members of such action by publishing a statement in a newspaper having general circulation in each community in which an office of the insured institution is located and/or by mailing a letter to each of its members; and

(ii) Have copies of the adopted plan of conversion available for inspection by its members at each office of the insured institution. The insured institution may also issue a press release with respect to such action. Copies of the proposed statement, letter and press release are not required to be filed with the Corporation, but may be submitted for comment to the Office of General Counsel. Copies of the definitive statement, letter and press release shall be filed with the Corporation as part of the application for conversion.

(4) The statement, letter and press release, unless otherwise authorized by the Corporation shall contain only (but need not contain all of) the following:

(i) A statement that the board of directors has adopted a proposed plan to convert the insured institution from a Federal (or State, as the case may be) mutual institution to a Federal (or State, as the case may be) capital stock insured institution;

(ii) A statement that the proposed plan of conversion must be approved by at least a majority of the votes eligible to be cast either in person or by proxy by association members at a meeting at which the plan will be submitted for their approval;

(iii) A statement that existing proxies held with respect to voting rights in the insured institution will not be voted regarding the conversion, and that new proxies will be solicited for voting on the proposed plan of conversion;

(iv) A statement that a proxy statement setting forth more detailed information with respect to the proposed plan of conversion will be sent to association members prior to the meeting of members;

(v) A statement that the proposed plan of conversion is subject to approval by the Federal Home Loan Bank Board and by the appropriate State regulatory authority or authorities (naming such an authority or authorities) before such plan can become effective and that members of the applicant will have an opportunity to file written comments including objections and materials supporting such objections to the Board.

(vi) A statement that the proposed plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

(vii) A statement that there is no assurance that the approval of the Federal Home Loan Bank Board or the approval of any appropriate State authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

(viii) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;

(ix) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant:

(x) A brief statement as to the extent to which voting members will participate in the conversion;

(xi) A brief description of the proposed plan of conversion;

(xii) A par value (if any) and approximate number of shares of capital stock to be issued and sold under the proposed plan of conversion;

(xiii) A brief statement as to the extent to which directors, officers and employees will participate in the conversion;

(xiv) A statement that savings account holders will continue to hold accounts in the converted insured institution indentical as to dollar amount, rate of return and general terms, and that their accounts will continue to be insured by the Federal Savings and Loan Insurance Corporation;

(xv) A statement that the insured institution will continue to be a member of the Federal Home Loan Bank System;

(xvi) A statement that borrowers' loans will be unaffected by conversion, and that the amount, rate, maturity, security and other conditions will remain contractually fixed as they existed prior to conversion;

(xvii) A statement that the normal business of the insured institution in accepting savings and making loans will continue without interruption; that the converted insured institution will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;

(xviii) A statement that the proposed plan of conversion may be substantively amended by the board of directors as a result of comments from the regulatory authorities or otherwise prior to the meeting, and that the proposed plan may also be terminated by the board of directors; and

(xix) A statement that questions of members will be answered in the proxy material to be sent after the regulatory approvals of the proposed plan of conversion have been obtained and that any questions at this time may be answered by telephoning or writing to the insured institution.

(4) Such statement, letter and press release shall not in any manner solicit proxies, include financial statements, or describe the benefits of conversion or the value of the capital stock of the insured institution upon conversion. In replying to inquiries, the insured institution should limit its answers to the matters listed in paragraph (a)(3) of this section.

(b) *Notice of filing.* (1) Upon determination that an application for conversion is properly executed and is not materially incomplete, the Corporation will advise the applicant, in writing, to publish notices of the filing of such application. Promptly after receipt of such advice, the applicant shall furnish a written notice of such filing to each eligible account holder and member and also publish a notice of such filing in a newspaper printed in the English language and having general circulation in each community in which an office of the applicant is located, as follows:

NOTICE OF FILING OF AN APPLICATION FOR CONVERSION TO CONVERT TO A STOCK SAVINGS & LOAN ASSOCIATION

Notice is hereby given that, pursuant to part 563b of the rules and regulations for Insurance of Accounts

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(Fill in name of applicant) has filed an application with the Federal Savings and Loan Insurance Corporation for approval to convert to the (State chartered or Federally-chartered) ———— stock form of organization. Copies of the application have been delivered to the Securities Division, Office of General Counsel of said Corporation, 1700 G Street NW., Washington, D.C. 20552, and to the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of —— (Street address) ————, (City) ————, (State) ——, (Zip Code) ——.

Written comments, including objections to the plan of conversion and materials supporting such objections, from any member of the applicant will be considered by the Corporation if filed within 20 business days after the date of this publication. Three copies of such comments should be sent to the aforementioned Office of the Secretary with one copy to said Office of the Supervisory Agent. The proposed plan of conversion and any comments thereon will be available for inspection by any member of the applicant at said Office of the Secretary and at said Office of the Supervisory Agent. A copy of the plan may also be inspected at each office of the applicant.

If a significant number of the applicant's members speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of such notice shall also be published in such newspaper.

(2) Promptly after publication of the notices prescribed in paragraph (b)(1) of this section, the applicant shall file four copies thereof with the Corporation. The applicant shall also file four copies of an affidavit of publication from each newspaper publisher.

(c) *Confidential information.* Should the applicant desire to submit any information it deems to be of a confidential nature regarding the answer to any item or a part of any exhibit included in any application under this part, such information pertaining to such item or exhibit shall be separately bound and labeled "confidential", and a statement shall be sub-

mitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference thereto need be made in the application. Such information will be kept confidential to the extent permitted by § 552 of this chapter.

(d) *Amendments.* Any amendment to the application or to the plan of conversion shall be filed with the Corporation and, unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy statement, the use of which has been approved by the Corporation, a written statement containing the information specified by the Corporation, shall be furnished to each person solicited by the applicant or by any person on behalf of the applicant with respect to the plan of conversion.

(e) *Solicitation of proxies.* Any solicitation of proxies, whether by the applicant or by any person on behalf of the applicant, shall be made only by means of a proxy statement, which shall be filed with the Corporation at least 5 business days prior to the date on which the Corporation

plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at

has passed upon the merits of or approved any proposal contained therein. No representation contrary to the foregoing shall be made by any

law requires a higher percentage for a State-charted converting insured institution, in which case the higher percentage shall be used. Voting may be

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mitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference thereto need be made in that portion of the application which the applicant deems not to be confidential. Applications under this part shall be made available for inspection by the public, except for portions which are bound and labeled "confidential" and which the Corporation determines to withhold from public availability under 5 U.S.C. 552 and part 505 of this chapter. The Corporation will withhold the public availability of preliminary copies of proxy soliciting materials without the necessity of their being bound and labeled as "confidential". The applicant will be advised of any decision by the Corporation to make public information designated as "confidential" by the applicant. Even though sections of the application are considered "confidential" as far as public inspection thereof is concerned, to the extent it deems necessary the Corporation may comment on such confidential submissions in any public statement in connection with its decision on the application without prior notice to the applicant.

§ 563b.5 Solicitation of proxies; proxy statement.

(a) *Solicitations to which rules apply.* This section applies to every solicitation of a proxy from an association member of an insured institution for the meeting at which a conversion plan will be voted upon, except the following:

(1) Any solicitation made otherwise than on behalf of the management of the insured institution where the total number of persons solicited is not more than 50;

(2) Any solicitation through the medium of a newspaper advertisement which informs association members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy, or any other soliciting material and does no more than (i) name the insured institution, (ii) state the reason for the advertisement, (iii) identify the proposal or proposals to be acted upon by association members, and (iv) urge the member to vote at the meeting.

(b) *Use of proxy soliciting material to be authorized.* No proxy soliciting material required to be filed with the Corporation prior to use shall be furnished to association members or otherwise released for distribution until the use of such material has been authorized in writing by the Corporation.

(c) *Information to be furnished association members.* No solicitation subject to this section shall be made unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy statement the use of which has been authorized by the Corporation.

(d) *Requirements as to proxy.* (1) The form of proxy (i) shall indicate in bold face type whether the proxy is solicited on behalf of the management, (ii) shall provide specifically designated blank spaces for dating and signing the proxy, (iii) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, (iv) shall be clearly labeled "Revocable Proxy" in bold face type (at least as large as 18 point), (v) shall describe any charter or State law requirement restricting or conditioning voting by proxy, (vi) shall contain an acknowledgement by the person giving the proxy that he has received a proxy statement prior to signing the form of proxy, (vii) shall contain the date, time and place of meeting, if practicable, and (viii) shall provide by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter referred to therein as intended to be acted upon, and (ix) shall indicate in bold face type how the proxy shall be voted on each such matter to which no choice is so specified.

(2) No proxy subject to this section shall confer authority to vote at any meeting other than the meeting (or any adjournment thereof) to vote on conversion. A proxy may be deemed to confer authority to vote with respect to matters incident to the conduct of such meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion.

(3) The proxy statement or form of proxy shall provide that the votes represented by the proxy will be voted; that, where the person solicited specified by means of a ballot provided pursuant to paragraph (d)(1)(viii) of this section a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specifications so made; and that if no choice is so specified, the votes will be cast as indicated in bold face type on the form of proxy.

(e) *Material required to be filed.* (1) Applicants shall file 10 preliminary copies of such proxy materials, as are required by the form for applying for approval to convert under this part.

(2) Ten preliminary copies of any additional soliciting material subject to this section including soliciting material in the form of press releases, and radio or television scripts, to be used or furnished to association members subsequent to furnishing the proxy statement, shall be filed with the Corporation at least 5 business days prior to the date on which the Corporation is requested to authorize the use of such material. Speeches may, but need not be, filed with the Corporation prior to use.

(3) Twenty-five copies of the proxy statement and 10 copies of the form of proxy and all other soliciting material, in the form in which such material is funished to association members, shall be filed with or mailed for filing to the Corporation not later than the date such material is first sent or given to association members. All materials filed pursuant to this subparagraph (3) shall be accompanied by a statement of the date on which copies of such materials are to be released to association members.

(4) If the solicitation is to be made in whole or in part by personal solicitation, 10 preliminary copies of all written instructions or other material which discusses or reviews, or comments upon the merits of, any matter to be acted upon and which is to be furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Corporation at least 5 business days prior to the date on which the Corporation is requested to authorize the use of such material.

(5) All preliminary copies of material filed pursuant to paragraph (e) (1), (2), and (4) of this section shall be clearly marked on the cover page "preliminary Copy." Such preliminary copies shall be for the information of the Corporation only and shall not be deemed available for public inspection except that such material may be disclosed to any department or agency of the U.S. Government or appropriate State government and the Corporation may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the Corporation.

(6) Unless requested by the Corporation, copies of replies to inquiries from members of the insured institution and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this paragraph (e).

(7) Where any proxy statement, form of proxy, or other material filed pursuant to this paragraph (e) is amended or revised, four of the required copies of such amended or revised material filed with the Corporation shall be marked to indicate clearly and precisely the changes effected therein subsequent to the last prior filing.

(f) *Mailing communications for association members.* If the management of the applicant has adopted a

plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at the meeting to vote on the plan of conversion by any association member who will defray the reasonable expenses to be incurred by the applicant in the performance of the act or acts requested.

(1) The applicant shall mail or otherwise furnish to such association member the following information as promptly as practicable after the receipt of such request:

(i) A statement of the approximate number of associationm members who have been or are to be solicited on behalf of the management, or any group of such holders which the association member shall designate.

(ii) An estimate of the cost of mailing a specified proxy statement, form of proxy, or other communication to such association members.

(2) Copies of any proxy statement, form of proxy, or other communication furnished by the association member and as approved by the Corporation shall be mailed by the applicant to such of the association members specified in paragraph (f)(1)(i) of this section as the association member shall designate.

(3) Any such material which is furnished by the association member shall be mailed with reasonable promtness by the applicant after receipt of the material to be mailed, envelopes or other containers therefor and postage or payment for postage.

(4) Neither the management nor the applicant shall be responsible for such proxy statement, form of proxy, or other communication.

(g) *False or misleading statements.* (1) No solicitation of a proxy by the applicant, its management, or any other person for the meeting to vote on conversion shall be made by means of any proxy statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for such meeting which has become false or misleading.

(2) The fact that a proxy statement, form of proxy, or other soliciting material has been filed with or examined by the Corporation and authorized for use shall not be deemed a finding by the Corporation that such material is accurate or complete or not false or misleading, or that the Corporation has passed upon the merits of or approved any proposal contained therein. No representation contrary to the foregoing shall be made by any person.

(3) If a solicitation by management violates any provision of this section, the Corporation may require remedial measures including:

(i) Correction of any such violation by means of a retraction and new solicitation;

(ii) Rescheduling of the meeting for a vote on the conversion; and

(iii) Any other actions the Corporation may deem appropriate in the circumstances in order to insure a fair vote.

(h) *Prohibition of certain solicitations.* No person soliciting a proxy from an association member for the meeting to vote on conversion shall solicit:

(1) Any undated or postdated proxy; or

(2) Any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the association members; or

(3) Any proxy which is not revocable at will by the association member giving it; or

(4) Any proxy which is part of any other document or instrument (such as an account card).

§ 563b.6 Vote by members.

(a) *Vote at special meeting.* Following Corporation approval of an application for conversion, the plan of conversion shall be submitted to a special meeting of members, unless in the case of a State-chartered converting insured institution State law requires that the plan be considered at an annual meeting of members.

(b) *Determining members eligible to vote.* The record date for determining those members eligible to vote at the meeting called to consider a plan of conversion shall be not more than 50 nor less than 20 days prior to the date of such meeting, unless State law requires a different voting record date.

(c) *Notice to members.* Notice of the meeting to consider a plan of conversion shall be given by means of the proxy statement authorized for use by the Corporation which notice shall be given not more than 45 nor less than 20 days prior to the date of the meeting to each association member, each eligible account holder and supplemental eligible account holder, postage prepaid, at his last address as shown on the books of the applicant unless State law requires a different notice period.

(d) *Required vote.* The plan shall be approved by a vote of at least a majority of the total outstanding votes of the association members, unless State law requires a higher percentage for a State-charted converting insured institution, in which case the higher percentage shall be used. Voting may be in person or by proxy.

563b.7 Pricing and sale of securities.

(a) *General.* No offer to sell securities of an applicant pursuant to a plan of conversion may be made prior to approval by the Corporation of the application for conversion and until the proxy statement has been authorized for use by the Corporation. No sale of such securities in the subscription offering may be made except by means of the final offering circular for the subscription offering. No sale of unsubscribed securities may be made except by means of the offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may commence during the subscription offering upon the declaration of effectiveness of the offering circular proposed for such community offering. The provisions of this paragraph shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

(b) *Distribution of offering materials.* Any preliminary offering circular for the subscription offering or direct community marketing which has been filed with the Corporation, may be distributed to eligible accountholders or supplemental eligible accountholders not entitled to vote on the plan of conversion and to others in connection with the subscription offering at the same time as or after the proxy statement is mailed to association members pursuant to § 563b.6(c). Any preliminary offering circular for the public offering or direct community marketing of unsubscribed securities, which has been filed with the Corporation, may also be distributed in connection with such offering at the same time as or after such proxy statement is mailed to association members pursuant to § 563b.6(c). No final offering circular shall be distributed until such offering circular has been declared effective by the Corporation.

(c) *Estimated price information in proxy statements and preliminary offering circulars.* With respect to the capital stock of the applicant to be sold under the plan of conversion, the proxy statement and any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of such price range should normally be no more than 15 percent above the average of the minimum and maximum of such price range and the minimum should normally be no more than 15 percent below such aver-

age. The maximum price used in the price range should normally be no more than $50 per share and the minimum no less than $5 per share.

propriate comparability of such existing stock associations in terms of such factors as size, market area, competitive conditions, profit history, and ex-

(i) Indicate the maximum number of shares that may be purchased pursuant to the subscription offering.

(ii) Indicate the period of time

during the subscription period by withdrawal from a certificate account without the assessment of such penalties or causing the rate of return on the remaining balance in such account to be paid at less than the rate appli-

(2) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion an opinion of counsel to the effect that

(e) *Number of copies; place of filing; binding; signatures.* (1) Whenever a requirement is made under this part for the filing of four copies of any document with the Corporation, one copy

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age. The maximum price used in the price range should normally be no more than $50 per share and the minimum no less than $5 per share.

(d) *Prohibited representations.* The Corporation will review the price information required under paragraph (c) of this section in determining whether to give approval to the applications for conversion. No representations may be made in any manner that such price information has been approved by the Corporation or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the Federal Home Loan Bank Board or the Corporation or that the Board or the Corporation has passed upon the accuracy or adequacy of any offering circular covering such shares.

(e) *Underwriting expenses.* Underwriting commissions shall not exceed an amount or percentage per share acceptable to the Corporation. No underwriting commissions shall be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering where the public offering is so small that reasonable underwriting commissions thereon would not be sufficient to cover total accountable expenses. The term "underwriting commissions" includes underwriting discounts.

(f) *Pricing materials.* (1) In considering the pricing information required under paragraph (c) of this section, the Corporation will apply the following guidelines:

(i) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the Corporation;

(ii) The materials shall contain data which are sufficient to support the conclusions reached therein;

(iii) The materials shall contain a complete and detailed description of the appraisal methodology employed; and

(iv) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted insured institution, the materials must indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock associations, the materials must demonstrate the appropriate comparability of the form and substance of such outstanding capital stock and the appropriate comparability of such existing stock associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(2) In addition to the information required in subparagraph (1) of this paragraph, the applicant shall submit information demonstrating to the satisfaction of the Corporation the independence and expertise of any person preparing materials under this paragraph. However, a person will not be considered as lacking independence for the reason that such person will participate in effecting a sale of capital stock under the plan of conversion or will receive a fee from the applicant for services rendered in connection with such appraisal.

(g) *Order forms for purchase of capital stock.* (1) Promptly after the Corporation has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), voting members and others persons who may subscribe for such shares under the plan of conversion.

(2) Each order form shall be accompanied or preceded by the final offering circular for the subscription offering and a set of detailed instructions explaining how to properly complete such order forms.

(3) The maximum subscription price stated on each order form shall be the amount to be paid when the order form is returned. The maximum subscription price and the actual subscription price shall be within the subscription price range stated in the Board's approval and the offering circular. If either the maximum subscription price or the actual subscription price is not within such subscription price range, the applicant must obtain an amendment to the Board's approval. If appropriate, the Board will condition its amended approval by requiring a resolicitation of proxies and/or order forms. If the actual public offering price is less than the maximum subscription price stated on the order form, the actual subscription price shall be correspondingly reduced and the difference shall be refunded to those who have paid the maximum subcription price.

(4) Each order form shall be prepared so as to indicate to the person receiving it, in as simple, clear, and intelligible a manner as possible, the actions which are required or available to him with respect to the form and the capital stock offered for purchase thereby. Specifically, each order form shall:

(i) Indicate the maximum number of shares that may be purchased pursuant to the subscription offering.

(ii) Indicate the period of time within which the subscription rights must be exercised, which period of time shall not be less than 20 days following the date of the mailing of the order form;

(iii) State the maximum subscription price share of capital stock;

(iv) Indicate any requirements as to the minimum number of shares of capital stock which may be purchased;

(v) Provide a specifically designated blank space or spaces for indicating the number of shares of capital stock which the eligible account holder or other person wishes to purchase;

(vi) Indicate that payment may be made by cash if delivered in person or by check or by withdrawal from an account holder's passbook savings account or certificate of deposit without penalty. If payment is to be made by such withdrawal, a box to check should be provided;

(vii) Provide specifically designated blank spaces for dating signing the order form;

(viii) Contain an acknowledgment by the account holder or other person signing the order form that he has received the final offering circular for the subscription offering prior to so signing; and

(ix) Indicate the consequences of failing to properly complete and return the order form, including a statement that the subscription rights are nontransferable and will become void at the end of the subscription period. The order form may, and the set of instructions shall, indicate the place or places to which the order forms are to be returned and when the applicant will consider order forms received, such as by date and time of actual receipt in the applicant's offices or by date and time of postmark.

(5) The order form may provide that it may not be modified without the applicant's consent after its receipt by the applicant. If payment is to be made by withdrawal from a passbook savings account or certificate of deposit, the applicant may, but need not, cause such withdrawal to be made upon receipt of the order form. If such withdrawal is made at any time prior to the closing date of the public offering, the applicant shall pay interest to the account holder on the account withdrawn as if such amount had remained in the account from which it was withdrawn until such closing date.

(h) *Withdrawal from certificate accounts.* Notwithstanding any regulatory provision regarding penalties for early withdrawal from certificate accounts and minimum qualifying balances for such accounts, the applicant may allow payment for capital stock

during the subscription period by withdrawal from a certificate account without the assessment of such penalties or causing the rate of return on the remaining balance in such account to be paid at less than the rate applicable to such account prior to such withdrawal, except that such certificate account may not be renewed at a certificate rate unless a minimum qualifying balance is restored at the time of such renewal.

(i) *Period for completion of sale.* The sale of all shares of capital stock of the converting insured institution to be made under the plan of conversion, including any sale in a public offering or direct community marketing, shall be completed as promptly as possible and within 45 calendar days after the last day of the subscription period, unless extended by the Corporation.

§ 563b.8 Procedural requirements.

(a) *Filing an application for conversion.* An applicant that desires to convert in accordance with this part shall file 10 copies of an application for approval in the form prescribed by the Corporation.

(b) *Return of improperly executed or materially incomplete filings.* Any application for approval that is improperly executed, or that does not contain copies of (1) a plan of conversion, (2) a preliminary proxy statement with signed financial statements, and (3) a preliminary form of proxy, shall not be accepted for filing and shall be retured to the applicant. Any application for approval containing a materially incomplete plan of conversion, proxy statement, or form of proxy may be returned by the Corporation to the applicant.

(c) *Addition filing requirements.* An applicant whose plan of conversion has been approved by the Corporation shall fulfill the following requirements.

(1) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion a certified copy of each resolution adopted at such meeting relating to the plan of conversion, together with the following information:

(i) The total number of votes elegible to be cast;

(ii) The total number of votes represented in person or by proxy at the meeting;

(iii) The total number of votes cast in favor of and against each such matter; and

(iv) The percentage of votes necessary to approve each such matter.

The compilation of the votes cast at the meeting may the prepared for the insured institution, by an independent public accountant or by an independent transfer agent.

(2) The applicant shall file with the Corporation promptly after the meeting of association members called to consider the plan of conversion an opinion of counsel to the effect that (i) the meeting of members was duly held in accordance with all requirements of applicable State and Federal law regulation; and (ii) all requirements of State law applicable to the conversion have been complied with.

(3) The offering circulars for the subscription offering and for the public offering or direct community marketing shall be prepared in compliance with this part and form OC. The applicant shall file with the Corporation 10 copies of each preliminary offering circular and 25 copies of each final offering circular.

(d) *Termination or amendment of charter.* (1) Upon approval of a plan of conversion by the members of a State-chartered insured institution or a Federal association which is converting to a State-chartered stock insured institution, the charter of such insured institution shall terminate effective upon the issuance to it of a stock charter under the laws of the State in which the home office of the applicant is located. If such converting insured institution is a Federal association, its Federal charter shall promptly be surrendered to the Board for cancellation. An insured institution converting to a State-chartered stock insued institution shall promptly file with the Corporation a copy of the stock charter issued to it. The certificate of insurance of such insured institution shall promptly be surrendered to the Corporation for amendment or cancellation, and the Corporation shall promptly issue an amended or new certificate of insurance to the converted insured institution.

(2) A Federal association converting to a Federal stock association shall apply to amend its charter and bylaws to read in the form of a charter and bylaws for a charter S association. The effective date of such amendment shall be stated in the Board's resolution approving the conversion.

(3) The corporate existence of a Federal mutual association converting to a Federal stock association shall not terminate but the converted association shall be deemed to be a continuation of the entity of the association so converted. In the case of a Federal or a State-chartered mutual institution converting to a State-chartered stock insured institution, unless State law otherwise prescribes, the corporate existence of the converting insured institution shall similarly not terminate and the converted insured institution shall be deemed to be a continuation of the entity of the insured institution so converted.

(e) *Number of copies; place of filing; binding; signatures.* (1) Whenever a requirement is made under this part for the filing of four copies of any document with the Corporation, one copy shall be filed with the supervisory agent and the remaining copies with the Securities Division, Office of the General Counsel of the Board. Whenever a requirement is made under this part for the filing of 10 or more copies of any document with the Corporation, three copies shall be filed with the supervisory agent and the remaining copies with the Securities Division, Office of the General Counsel of the Board. Whenever a requirement is made under this part that a document to be filed be manually signed, one manually signed copy shall be filed with the supervisory agent and another with such Securities Division, Office of the General Counsel. Other copies shall be conformed. Each of the copies filed under this part shall be bound, in one or more parts, without stiff covers. The binding shall be made on the side or stitching margin in such manner as to leave the reading matter legible.

(2) At least two copies of every application and every amendment thereto filed shall be manually signed by (i) a duly authorized representative of the applicant on its behalf, (ii) its principal executive officer, (iii) its principal financial officer, (iv) its principal accounting officer, and (v) at least two-thirds of its directors.

(3) If any name is signed to an application or any amendment thereto pursuant to a power of attorney, four copies of such power of attorney, including two manually signed, shall be filed with the application.

(4) (i) Except as provided in paragraph (e)(4)(ii) of this section, the filing of any application or amendment thereto under this part shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether or not such director has signed the application or any amendment thereto) severally that (A) he has read such application or amendment, (B) in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that such application or amendment complies to the best of his knowledge and belief with the applicable requirements of this part and forms prescribed hereunder, and (C) each such person holds such informed opinion.

(ii) The representations specified in paragraph (e)(4)(i) of this section shall

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not be deemed to have been made by any director of the applicant who did not sign the application or any amendment thereto, if, and only to the extent that, such director files with the Corporation within 10 business days after the filing of such application or amendment a statement describing those portions of such filing as to which he does not so represent.

(f) *Requirements as to paper and printing.* (1) Applications shall be filed on good quality, unglazed, white paper approximately 8½ by 13 or 8½ by 11 inches in size, insofar as practicable. However, tables, charts, maps, and financial statements may be on larger paper if folded to such sizes, and the plan of conversion, proxy statement, and offering circular may be on smaller paper if the applicant so desires.

(2) Applications and, insofar as practicable, all papers and documents filed as a part thereof, shall be printed, lithographed, mimeographed, or typewritten. However, applications or any portion thereof may be prepared by any similar process which, in the opinion of the Corporation, produces copies suitable for a permanent record. Irrespective of the process used, all copies of any such material shall be clear, easily readable, and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies.

(g) *Method of preparation.* Every application shall furnish information in item-and-answer form in response to the items of the appropriate form, and shall include the captions of the form, but omit the text of all items and instructions. Every proxy statement and offering circular shall present information as provided in paragraph (n) of this section in response to the items of the appropriate form in lieu of furnishing the information in item-and-answer form, and shall omit the captions and text of all items and instructions. Every application shall include a cross-reference sheet showing the location in the proxy statement and offering circular of the response to the items of the appropriate form. If any such item is inapplicable, or the answer thereto is in the negative and is omitted, a statement to that effect shall be made in the cross reference sheet.

(h) *Interpretation of requirements.* (1) Unless the context indicates otherwise, the forms require information only as to the applicant.

(2) Whenever words relate to the future, they have reference solely to present intention.

(3) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of such positions or offices.

(i) *Additional information.* In addition to the information expressly required to be included in any application under this part, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

(j) *Information unknown or not reasonably available.* Information required need be given only insofar as it is known or reasonably available to the applicant. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

(1) The applicant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

(k) *Incorporation of certain information by reference.* (1) Where an item in an application calls for information not required to be included in the proxy statement or offering circular, matter contained in any part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to such item. No information may be incorporated by reference in a proxy statement or offering circular, unless the document containing such information is attached thereto or is summarized or outlined as provided in paragraph (l) of this section. However, an offering circular may incorporate by reference the information contained in a proxy statement previously delivered, without need of summary or outline.

(2) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

(l) *Summaries or outlines of documents.* Where a summary or outline of the provisions of any document is required, only a brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be qualified in its entirety by such reference.

(m) *Legibility of materials.* The body of all printed plans of conversion, proxy statements, and offering circulars, including all notes to financial statements and other tabular data included therein, shall be in roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in roman type at least as large and as legible as 8-point modern type. All such type shall be leaded at least 2 points.

(n) *Presentation of information.* (1) The information required in a proxy statement or offering circular need not follow the order of the items or other requirements in the appropriate form. Such information shall not, however, be set forth in such fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where an item requires information to be given in tabular form it shall be given in substantially the tabular form specified in the item.

(2) All information contained in a plan of conversion, proxy statement or offering circular shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth thereunder. Except as to financial statements and other tabular data, all information set forth in any form under this part shall be divided into reasonably short paragraphs or sections.

(3) Every proxy statement and offering circular shall include in the forepart thereof a reasonably detailed table of contents showing the subject matter of its various sections or subdivisions and the page number on which each such section or subdivision begins.

(4) All information required to be included in a proxy statement or offering circular shall be clearly understandable without the necessity of referring to the particular form or to the regulations under this part. Except as to financial statements and information required in tabular form, the information set forth in a proxy statement or offering circular may be expressed in condensed or summarized form.

(5) Financial statements are to be set forth in comparative form, and shall include the notes thereto and the

accountants' certificate or certificates. Section 563c.1 of this subchapter governs the certification, form and content of such financial statements, including the basis of consolidation.

(o) *Application of amendments to regulations and forms.* (1) The form and contents of any filing made under the provisions of this part need conform only to the applicable regulations and forms then in effect, and contain the information, including financial statements specified therein, required at the time the filing is made, notwithstanding subsequent amendments to such regulations, except as otherwise provided in any such amendment or in paragraph (o)(2) of this section.

(2) Whenever the Corporation prohibits by order or otherwise the use of any filing under this part, the form and contents of any filing used thereafter shall conform to the requirements of such order and the applicable regulations and forms in efffect at the time such prohibition ceases to be effective.

(3) Applications for conversion filed pursuant to this part shall conform to the regulations and forms of this part as revised by the Corporation effective June 9, 1975.

(p) *Consents of experts.* (1) If any accountant, attorney, investment banker, appraiser, or other persons whose professions give authority to a statement made in any application under this part is named as having prepared, reviewed, passed upon, or certified any part thereof, or any report or valuation for use in connection therewith, the written consent of such person shall be filed with the application. If any portion of a report of an expert is quoted or summarized as such in any filing under this part, the written consent of the expert shall expressly state that the expert consents to such quotation or summarization.

(2) All written consents filed pursuant to this paragraph (p) shall be dated and signed manually. A list of such consents shall be filed with the application. Where the consent of the expert is contained in his report, a reference shall be made in the list to the report containing such consent.

(q) *Consents of persons about to become directors.* If any person who has not signed an application is named in the proxy statement or offering circular as about to become a director, the written consent of such person shall be filed with the appropriate form.

(r) *Date of filing.* The date on which any documents are actually received by the Office of the Secretary of the Board shall be the date of filing thereof.

(s) *Amendments.* All amendments to any application under this part shall be filed under cover of an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall conform to all pertinent regulations applicable to the type of application which they amend.

(t) *Prefiling conferences with applicants.* (1) The staff of the Board and the supervisory agent will be available for conference with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held for the purpose of discussing generally the problems confronting an applicant in effecting conversion or to resolve specific problems of an unusual nature.

(2) Prefiling review of an application may be refused by the staff of the Board and the supervisory agent if such review would delay the examination and processing of material which has already been filed or would favor certain applicants at the expense of others. In any conference under this paragraph (t), the staff of the Board and the supervisory agent will not undertake to prepare material for filing but will limit itself to indicating the kind of information required, leaving the actual drafting to the applicant and its representatives.

(u) *Review of Board action.* Any person aggrieved by a final action of the Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this part may obtain review of such action by filing in the court of appeals of the United States for the circuit in which the principal office of residence of such person is located, or in the U.S. Court of Appeals for the District of Columbia Circuit, a written petition praying that the final action of the Board or Corporation be modified, terminated, or set aside. Such petition must be filed within 30 days after publication of notice of such final action in the FEDERAL REGISTER, or 30 days after the mailing by the applicant of the notice to members as provided for in § 563b.6(c), whichever is later. The further procedure for review is as follows: A copy of the petition is forthwith transmitted to the Board or the Corporation by the clerk of the court and thereupon the Board or the Corporation files in the court the record in the proceeding, as provided in section 2112 of Title 28 of the United States Code. Upon the filing of the petition, the court has jurisdiction, which upon the filing of the record is exclusive, to affirm, modify, terminate, or set aside in whole or in part, the final action of the Board or the Corporation. Review of such proceedings is had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court is final, except that they are subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28 of the United States Code.

(v) *Postconversion reports.* The applicant shall file such postconversion reports concerning its conversion as the Corporation may require.

§ 563b.9 Acquisitions of securities of converted associations.

(a) *Definitions.* (1) For the purpose of this section, the term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value.

(2) For the purpose of this section, the term "person" means an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, and any unincorporated organization or similar company.

(3) Without limitation on the generality of its meaning, the term "security" includes nontransferable subscription rights issued pursuant to a plan of conversion.

(b) *Prohibited transfers.* Prior to completion of a conversion, no person shall transfer or enter into any agreement or understanding to transfer, the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another.

(c) *Prohibition of offers during conversion.* Prior to completion of a conversion, no person shall make any offer, or announcement of an offer or intent to make an offer, for any security of a converting association issued or to be issued in connection with such conversion.

(d) *Prohibition on offers to acquire and acquisitions of stock for 3 years following conversion.* No person for a period of 3 years following the date of the completion of the conversion shall offer to acquire or acquire the beneficial ownership of more than 10 percent of any class of an equity security of an association converted in accordance with the provisions of this part, without the prior written approval of the Federal Savings and Loan Insurance Corporation.

(e) *Exceptions.* (1) Paragraphs (b) and (c) shall not apply to a transfer, agreement or understanding to transfer, offer, or announcement of an offer or intent to make an offer which (i) pertains only to securities to be purchased pursuant to § 563b.3(d) (3) or (4); and (ii) has prior written approval of the Corporation.

(2) Paragraphs (c) and (d) of this section shall not apply to any offer with a view toward public resale made exclusively to the association or underwriters or selling group acting on its behalf.

(3) Unless made applicable by the Corporation by prior advice in writing, the prohibition contained in paragraph (d) of this section shall not

Date of application: ———————

GENERAL INSTRUCTIONS

A. Rule as to Use of Form AC

Item 2. *Plan of conversion.* Furnish the complete formal written plan adopted by the board of directors for conversion of the applicant to the stock form of organization.

2. If the applicant has any category of expense exceeding $10,000 which is not specified in this item, such expense shall be itemized rather than including it under the cate-

the making of markets or the listing on exchanges of the stock of the converted insured institution. Documents, contracts, and agreements which are furnished in proposed

(c) If applicable, furnish the statement required by the instruction to item 5(e) of form PS regarding events which occurred within the last 10 years to directors of the

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(3) Unless made applicable by the Corporation by prior advice in writing, the prohibition contained in paragraph (d) of this section shall not apply to any offer or announcement of an offer which if consummated would result in acquisition by a person, together with all other acquisitions by such person of the same class of securities during the preceding 12-month period, of not more than 1 percent of the same class of securities.

(f) *Criteria for denial.* The Corporation shall not approve an application involving an offer for, an announcement thereof or an acquisition of any security of a converted association submitted under paragraph (d) of this section if it finds that such offer frustrates the purposes of the foregoing provisions of this part 563b, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the association, is not consistent with economical home financing, or is otherwise violative of law or regulation.

(g) *Penalty for willful violations.* For willful violation or assistance of any such violation of any provision of this section, any person who (1) has any connection with the management of a converting or converted association, including any director, officer, employee, attorney, or agent, or (2) controls more than 10 percent of the outstanding shares of any class of equity security or voting rights thereto of a converting or converted association, shall be subject to a civil penalty of not more than $500 (which penalty shall be cumulative to any other remedies) for each day that such violation continues, which penalty the Corporation may recover by suit or otherwise for its own use. The Corporation in its discretion may, at any time before collection of such penalty (whether before or after the bringing of any action or other legal proceedings, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process thereof), compromise or remit in whole or in part any such penalty.

FORM AC

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1700 G STREET NW., WASHINGTON, D.C. 20552.

Application for Conversion

_____

(Exact name of applicant as specified in charter)

_____

(Street address of applicant)

_____

(City, State, and ZIP code)

Date of application: _____

GENERAL INSTRUCTIONS

A. Rule as to Use of Form AC

Form AC shall be used by any insured institution seeking Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation approval of conversion from the mutual to the stock form of organization pursuant to part 563b of the rules and regulations for insurance of accounts.

B. Application of Rules and Regulations

Attention is directed to insurance regulation § 563b.8. That section contains general requirements regarding preparation and filing of this form. The definitions in insurance regulation § 563b.2 also should be noted.

Item 1. *Form of application.* Set forth an application for approval of the plan of conversion in the following form with the names and titles of the officers and directors signing the application indicated below their signatures:

The undersigned hereby makes application for approval to convert into a stock association, and submits herewith a statement of its proposed plan of conversion and other information and exhibits as required by part 563b of the rules and regulations for insurance of accounts of the Federal Savings and Loan Insurance Corporation.

In submitting this application the applicant understands and agrees that, if further examinations or appraisals, or both, are required by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, they will be conducted by, or as approved by, the Board or the Corporation at the expense of the applicant; and applicant will pay the costs thereof as computed by the Board or the Corporation.

This application has been approved by at least two-thirds of the board of directors of the applicant. In accordance with § 563b.8(e)(4) of the rules and regulations for insurance of accounts, by the filing of this application, the applicant by its duly authorized representative, the undersigned officers and each member of the applicant's board of directors severally represent, except to the extent otherwise provided in said section, (1) that each such person has read this application; (2) that in the opinion of each such person, he has made such examination and investigation as is necessary to enable him to express an informed opinion that this application complies to the best of his knowledge an belief with the applicable requirements of part 563b of the rules and regulations for insurance of accounts and forms thereunder; and (3) that each such person holds such informed opinion.

Applicant: _____

By: _____

(Duly authorized representative)

Attest:

(Principal Executive Officer) _____

(Principal Financial Officer) _____

(Principal Accounting Officer) _____

(Director)* _____

(Director)* _____

(Director)* _____

(Director)* _____

(Director)* _____

*Signatures of at least two-thirds of the Board of Directors.

Item 2. *Plan of conversion.* Furnish the complete formal written plan adopted by the board of directors for conversion of the applicant to the stock form of organization. The terms of the plan submitted pursuant to this item will be a basis for the Corporation's approval and the plan as approved will be distributed as an attachment to the proxy statement and the offering circular.

Item 3. *Proxy statement and offering circular.* Furnish preliminary copies of the proxy statement and offering circular. The proxy statement and offering circular should be prepared in accordance with forms PS and OC, respectively.

Item 4. *Form of proxy.* Furnish preliminary copies of the form of proxy to be distributed to association members by the management.

Item 5. *Sequence and timing of the plan.* Set forth the expected chronolgoical order of the events connected with the plan of conversion beginning with the filing of this application through completion of the sale of all the capital stock under the plan. Indicate the expected timing of any requisite approvals by State authorities. Indicate the proposed timing of all aspects of the subscription offering. If there will be an underwritten public or direct community marketing of the applicant's securities as part of the plan of conversion, indicate the proposed timing of all aspects of such offering.

Item 6. *Record dates.* If the applicant's plan of conversion contains an eligibility record date substantially earlier than 90 days prior to the date of adoption of the plan of conversion by the board of directors, state the reason for the selection of such earlier date.

Indicate the circumstances that will require the use of a supplemental eligibility record date.

Item 7. *Savings account balances of personnel.* For each director and officer of the applicant whose total account balances, including the balances of each associate of the foregoing persons, were more than $5,000 as of the eligibility record date and which balances had increased by more than 25 percent during the 2 year period prior to that date, set forth in tabular form his total account balances as of (a) the eligibility record date and (b) each of the eight earnings distribution dates of the applicant immediately preceding such date.

Item 8. *Expenses incident to the conversion.* Provide in substantially the tabular form indicated below the estimated expense of the conversion to the applicant.

Legal	
Postage and mailing	
Printing	
Escrow or agent fees	
Underwriting fees	
Appraisal fees	
Transfer agent fees	
Auditing and accounting	
Proxy solicitation fees	
Advertising	
Other expenses	
Total	$

Instructions. 1. The applicant may exclude costs represented by salaries and wages of regular employees and officers, if a statement to that effect is made.

The cost of solicitation by specially engaged employees or paid solicitors under paragraph (b) of Item 3 of Form PS shall be stated under "Proxy Solicitation Fees" in this Item.

2. If the applicant has any category of expense exceeding $10,000 which is not specified in this item, such expense shall be itemized rather than including it under the category "Other Expenses."

3. If the solicitation is conducted other than by management of the applicant, the information required in this item shall be provided with respect to the cost of such solicitation.

Item 9. *Indemnification.* State the general effect of any charter provisions, bylaw, contract, arrangement, statute, or regulation to be in effect during or after the conversion under which any underwriter, appraiser, lawyer, accountant or expert, or director or officer of the applicant will be insured or indemnified in any manner against any liability which he may incur in his capacity as such.

Item 10. *Federally chartered stock associations—charter S association.* State whether the converting Federal association is applying to amend its charter and bylaws to read in the form of the charter and bylaws of a charter S association.

EXHIBITS

The following exhibits shall be attached to this form.

Exhibit 1.—*Resolution of board of directors.* Set forth a certified copy or copies of a resolution or resolutions of the board of directors (1) adopting the plan of conversion filed with this application; (2) authorizing the filing of this application; and (3) applying for continued insurance of accounts by the Federal Savings and Loan Insurance Corporation and continued membership in the appropriate Federal home loan bank. The action adopting the plan of conversion and authorizing the filing of this application must be approved by two-thirds of the board of directors.

Exhibit 2.—*Copies of documents, contracts, and agreements.* Furnish the following documents, contracts, and agreements: (a) Proposed certificates for capital stock and any other securities to be issued; (b) proposed order forms with respect to the subscription rights; (c) proposed charter and bylaws of the applicant to take effect upon conversion including, if applicable, the optional charter provision provided for in § 563b.3(i)(3); (d) any proposed stock option plan and form of stock option agreement; (e) any proposed management employment contracts; (f) any contract described in response to item 6(e) of form PS; (g) contracts or agreements with paid solicitors described in response to item 3(b) of form PS; (h) any material loan agreements relating to borrowings by the applicant other than from a Federal home loan bank and other than subordinated debt securities approved by the Corporation; (i) any appraisal agreement or proposed agreement, underwriting contracts or agreements among underwriters; (j) the agreement with the Corporation required by § 563b.3(i)(2); (k) any charter amendment filed for the purpose of converting a Federal mutual association to a Federal stock association; (l) any proposed contracts or agreements among members of a group regarding the purchase of unsubscribed shares pursuant to § 563b.3(d)(4); (m) any required undertakings or affidavits by officers or directors purchasing shares in the conversion that they are acting independently; (n) any documents referred to in the answer to item 9; (o) any trustee agreements or indentures; and (p) any agreements for the making of markets or the listing on exchanges of the stock of the converted insured institution. Documents, contracts, and agreements which are furnished in proposed form under this exhibit shall be furnished in final form immediately after the meeting of association members to consider the plan of conversion, except for documents which by their nature cannot be practically expected until a later time required by subdivisions (l) and (l) in which case they shall be furnished in substantially final form.

Exhibit 3.—*Opinion of counsel.* Furnish an opinion of counsel for the applicant regarding each of the following matters: (a) The legal sufficiency of the applicant's proposed certificates and order forms for capital stock and any other securities; (b) State law requirements applicable to the plan of conversion including citations to applicable State law and whether such requirements will be fulfilled by the plan; (c) the legal sufficiency of the applicant's bylaws; (d) the type and extent of each class of voting rights in the applicant after conversion, including any requirement of State law that savings account holders or borrowers have voting rights in the converted insured institution; (e) the legality and Federal income tax effect to the applicant of any proposed stock option plan described in response to item 12 of form PS; and (f) a certification that the proposed charter S and bylaws conform to part 552 of this subchapter or if not a statement to that effect. Matters listed in subdivisions (b), (c), and (d) of this exhibit only apply to an applicant which is converting to a State-chartered stock association.

Exhibit 4.—*Federal and State tax opinions and rulings.* (a) Furnish an opinion of the applicant's tax adviser or an Internal Revenue ruling as to the Federal income tax consequences of the plan of conversion to the applicant and to the various account holders who receive nontransferable subscription rights to purchase capital stock.

Instruction. The Corporation recommends that each applicant obtain a ruling from the Internal Revenue Service regarding the Federal income tax consequences of the plan of conversion. The Corporation may require that such a ruling be obtained if the applicant's plan of conversion is not substantially similar to plans of conversion which have received favorable rulings. The Corporation may also require that such a ruling be obtained if the applicant's plan of conversion contains novel provisions or there is otherwise a question as to the Federal income tax consequences of the plan.

(b) Furnish an opinion of the applicant's tax adviser or, if applicable, a ruling from the appropriate State taxing authority as to any tax consequences of the plan of conversion under the laws of the State in which the applicant will be chartered upon conversion. Such opinion should relate to the applicant and to eligible account holders.

Exhibit 5.—*Appraisal materials.* Furnish the materials required by § 563b.7 regarding appraisal of the applicant.

Exhibit 6.—*Notice to members.* Furnish the notices to the applicant's members required by § 563b.4 (a) and (b).

Exhibit 7.—*Other materials.* (a) If information required by an appropriate form is not given for the reasons specified in § 563b.8(j), furnish the statement required for each such omission by § 563b.8(j)(2).

(b) Furnish all consents required to be filed by § 563b.8 (p) and (q).

(c) If applicable, furnish the statement required by the instruction to item 5(e) of form PS regarding events which occurred within the last 10 years to directors of the applicant.

(d) If information required by item 15(h) of form PS relating to historical financial information is omitted, furnish the statement required by item 15(h)(1) of form PS.

(e) Furnish any powers of attorney employed pursuant to § 563b.8(e)(3).

(f) Furnish the cross-reference sheet referred to in § 563b.8(g).

(g) If the applicant wishes to request a waiver of compliance in accordance with § 563b.1(c), furnish the materials required by § 563b.1(c)(2).

FORM PS

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1700 G STREET NW., WASHINGTON, D.C. 20552

Proxy Statement

_____

(Exact name of applicant as specified in charter)

_____

(Street address of applicant)

_____

(City, State, and ZIP code)

PROXY STATEMENT FORM

INDEX TO ITEMS

Item
1. Notice of meeting.
2. Revocability of proxy.
3. Persons making solicitation.
4. Voting rights and vote required for approval.
5. Directors and executive officers.
6. Remuneration and other transactions with management and others.
7. Business of the applicant.
8. Description of the applicant's plan of conversion.
9. Description of capital stock.
10. Capitalization.
11. Use of new capital.
12. Stock option plans.
13. New charter, bylaws, or other documents.
14. Other matters.
15. Financial statements.
16. Consents of experts and reports.
17. Attachments.

[FORM PS]

INFORMATION REQUIRED IN CONVERSION PROXY STATEMENT

Notes: 1. Except as otherwise specifically provided, where any item calls for information for a specified period in regard to directors, officers, or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which such person did not hold any such position

or relationship provided a statement to that effect is made.

2. The proxy statement shall include such information which the General Counsel or

positions and offices held with the applicant by each such person.

Instruction. The term "executive officer" means the president, vice president, secre-

(a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the applicant and its subsidiaries during the

which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported in (a)

nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the appli-

amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale of assets by or to the

or relationship provided a statement to that effect is made.

2. The proxy statement shall include such information which the General Counsel or Director of the Securities Division of the Office of General Counsel by interpretative release or otherwise have deemed necessary to comply with items of this form PS.

Item 1. Notice of meeting. The cover page of the proxy statement shall give notice of the meeting of the association members called by the board of directors to act upon the conversion. The cover page shall include the date, time, and place of the meeting, a brief description of each matter to be acted upon at the meeting, the date of record for association members entitled to vote at the meeting, the date of the statement, and the full address, ZIP code, and telephone number of the applicant.

Item 2. Revocability of proxy. State that the person giving the proxy has the power to revoke it before the proxy is exercised at the meeting. If the right of revocation is subject to compliance with any formal procedure, briefly describe such procedure. Briefly describe any charter, by law, or applicable Federal or State law requirements otherwise restricting voting by proxy. State that the proxy is solicited for that meeting, and any adjournment thereof, and will not be used for any other meeting. (See also § 563b.5(d)(3).)

Item 3. Persons making the solicitation. (a) State whether the solicitation is made by the management of the applicant. Give the name of any director of the applicant who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.

(b) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and identify the parties.

(c) If the solicitation is made otherwise than by the management of the applicant, so state and give the names of the persons by whom and on whose behalf it is made. Any such solicitation normally need not respond to items 5 through 17, but must include such information as to make such solicitations comply with § 563b.5(g)(1).

Item 4. Voting rights and vote required for approval. (a) Describe briefly the voting rights of each class of association members. State the approximate total number of votes entitled to be cast at the meeting, and the approximate number of votes to which each class is entitled.

(b) As part of the description give the date of record for association members entitled to vote at the meeting.

(c) As to each matter which will be submitted to a vote of association members, state the vote required for its approval.

Item 5. Directors and executive officers. (a) List the names and ages of all directors of the applicant, indicate all positions and offices held with the applicant by each such person, state his term of office as director and the period during which he has served as such, and briefly describe any arrangement or understanding between him and any other person pursuant to which he was selected as a director.

(b) List the names and ages of all executive officers of the applicant and indicate all positions and offices held with the applicant by each such person.

Instruction. The term "executive officer" means the president, vice president, secretary, treasurer, controller, principal accounting officer, any officer in charge of a principal lending or savings function, and any other officer or person who performs similar policymaking functions for the applicant.

(c) State the nature of any family relationship between any director or executive officer and any other director or executive officer.

Instruction. The term "family relationship" means any relationship, by blood, marriage or adoption, not more remote than first cousin.

(d) Give a brief account of the business experience during the past 5 years of each director and each executive officer, including his principal occupations and employments during that period and the name and principal business of any corporation or other organization in which such occupations and employments were carried on.

(e) Describe any of the following events which occurred during the past 10 years and which are material to an evaluation of the ability and integrity of any director of the applicant:

(1) A petition under the Bankruptcy Act of any State insolvency law was filed by or against, or a receiver, fiscal agent, or similar officer was appointed by a court for the business or property of, such person, or any partnership in which he was a general partner at or within 2 years before the time of such filing, or any corporation or business association of which he was an executive officer at or within 2 years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is the subject of a criminal proceeding which is presently pending (excluding proceedings for traffic violations and other minor offenses); or

(3) Such person was the subject of any order, judgment, or decree of any court of competent jurisdiction permanently or temporarily enjoining him from acting as an investment adviser, underwriter, broker, or dealer in securities, or as an affiliated person, director, or employee of any investment company, bank, or insurance company, or removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of an insured institution, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security, or was the subject of any order of a Federal or State authority barring or suspending, for more than 60 days, the right of such person to be engaged in any such activity, which order has not been reversed or suspended.

Instruction. If any event specified in paragraph (e) has occurred but information in regard thereto is omitted on the ground that it is not material, the applicant shall furnish, as supplemental information and not as a part of the statement the reasons for the omission of information in regard thereto.

(f) State whether control of the applicant has been exercised through the use of proxies and the nature of such control.

Item 6. Remuneration and other transactions with management and others. (See the note at the beginning of this form.)

(a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the applicant and its subsidiaries during the applicant's last fiscal year to the following persons for services in all capacities:

(1) Each director of the applicant whose aggregate direct remuneration exceeded $40,000, and each of the three highest paid officers of the applicant whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(2) All directors and officers of the applicant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration

Instructions. (1) The information is to be given on an accural basis if practicable. The tables required by this paragraph (a) and paragraph (b) below may be combined if the applicant so desires.

(2) Do not include remuneration paid to a partnership to which any director or officer was a partner, but see paragraph (e) below.

(b) Furnish the following information in substantially the tabular form indicated as to all annuity, pension, or retirement benefits proposed to be paid to the following persons in the event of retirement at their normal retirement dates pursuant to any existing plan provided or contributed to by the applicant or any ot ifs subsidiaries:

(1) Each director or officer named in answer to paragraph (a)(1), naming each such person.

(2) All directors and officers of the applicant who are eligible for such benefits, as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group	(B) Amount set aside or accrued during applicant's last fiscal year	(C) Estimated annual benefits upon retirement

Instructions. (1) The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal document.

(2) Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan whch provides for fixed benefits in the event of retirement at a specified number of years of service. In such case, columns (A) and (C) need not be answered with respect to directors and officers as a group.

(3) The information called for by column (C) may be given in the form of a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

(4) In the case of any plan (other than those specified in instruction (2) where the amount set aside each year depends upon the amount of earnings of the applicant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated benefits upon retirement, there shall be set forth, in lieu of the information called for by column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in

which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported in (a) or (b) of this Item) proposed to be made in the future, directly or indirectly, by the applicant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a)(1), naming each such person, and (ii) all directors and officers of the applicant as a group without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If, it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments shall be stated, together with an explanation of the basis for future payments.

(d) State as to each of the following persons who was indebted to the applicant or its subsidiaries at any time during the last three years, (i) the largest aggregate amount of indebtedness outstanding at any time during such period; (ii) the nature of the indebtedness and of the transaction in which it was incurred, (iii) the amount thereof outstanding as of the latest practicable date, and (iv) the annual percentage rate paid or charged thereon (as computed under 12 CFR Part 226):

(1) Each director or officer of the applicant; and

(2) Each associate of any such director or officer.

Instructions. (1) Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

(2) This paragraph does not apply to amounts due a person for ordinary travel and expense advances and similar transactions.

(3) If the loans to such persons (a) are secured by a first lien on a single-family dwelling owned and occupied by a director of officer of the applicant at the time of making the loan and such loan at such time did not exceed the amount then specified in section 5(c) of the Home Owners' Loan Act of 1933, as amended, with respect to single-family dwellings if applicable or (b) are fully secured by a savings account, and if the lender is the applicant, such disclosure may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

(4) Computation of the annual percentage rate under paragraph (d)(iv) is to be done as though 12 CFR Part 226 was applicable to the transaction.

(e) Describe briefly any transactions during or since the applicant's last 3 fiscal years or any presently proposed transactions, to which the applicant or any of its subsidiaries or any borrower from the applicant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant.

Instructions. 1. No information need be given in response to this Item 6(e) as to any remuneration or other transaction reported in response to Item 6 (a), (b), (c), or (d), or as to any transaction with respect to which information may be omitted pursuant to instructions relating to such Items.

2. No information need be given in answer to this Item 6(e) as to any transaction where—

(a) The transaction involves services as a bank depository of funds, transfer agent, registrar, or similar services;

(b) The amount involved in the transaction or a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $40,000, or $5,000 in the case of transactions giving rise to expenses of the type indicated in item 8 of form AC; or

(c) The interest of the specified person arises solely from the ownership of savings accounts of the applicant and the specified person receives no extra or special benefit not shared on a pro rata basis by all savings account holders as a class.

3. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the applicant or its subsidiaries or with any borrower from the applicant or any of its subsidiaries may have an indirect interest in such transaction by reason or such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this item (e) where—

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) and (2) above, in the aggregate, or less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in subparagraphs (1) and (2) above had an interest of less than 10 percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the applicant or any of its subsidiaries and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. In describing any transaction involving the purchase or sale of assets by or to the applicant, state the cost of the assets to the purchaser and, if acquired by the seller within 2 years prior to the transaction, the cost thereof to the seller.

6. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering paragraph (e) of this item. There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item.

(f) Describe briefly any transactions during or since the applicant's last 3 fiscal years or any presently proposed transactions, to which any pension, retirement or similar plan provide by the applicant or any of its subsidiaries, was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the applicant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the applicant;

(2) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any subsidiary of the applicant; or

(3) The applicant or any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4, and 5 to item 6(e) shall apply to this item 6(f).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this item 6(f) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to this paragraph (f) with respect to—

(a) Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) Payment of remuneration for services not in excess of 5 per cent of the aggregate remuneration received by the specified person during the applicant's last fiscal year from the applicant and its subsidiaries; or

(c) Any interest of the applicant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

Item 7. Business of the applicant. (a) *Organization.* State the year in which the applicant was organized and whether its present charter was issued by the State or Federal Government. Describe briefly any previous conversion of the applicant.

(b) *Selected statement of financial condition and other items.* As the end of each of the periods covered by the statements of operations required by item 15(b)(1) and as of the date of the latest statement of financial condition required by item 15(a), set forth in tabular form the amounts of the following items: (1) Total assets, (2) real estate loans outstanding, (3) savings accounts, (4) advances from the Federal home loan bank, (5) other borrowed money, if material, (6) net worth and (7) number of offices indicating any which are less than full service. The applicant may use other substantially simi-

lar captions, and may include other items such as number of real estate loans outstanding and number of savings accounts.

Instructions. 1. For the classification required by subparagraph (3)(i), loans originated shall be separated into real estate

form loan origination fees charged to borrowers expressed as a percentage of the total amount of loans originated and net

(2) Describe briefly applicable liquidity requirements under section 5A of the Federal Home Loan Bank Act, as amended, the reg-

ing, the date instituted, the principal parties thereto, a description of the factual basis alleged to underly the proceeding, the relief

§ 563b.3(d)(8); (3) any optional provisions included in the plan of conversion pursuant to § 563b.3(d) for the purchase of shares of

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lar captions, and may include other items such as number of real estate loans outstanding and number of savings accounts.

(c) *Mergers and acquisitions.* Indicate in tabular form, any mergers, bulk purchase of assets and similar acquisitions which have occurred in the periods covered by statements of operations required by item 15(b). With respect to each such acquisition, give names of the association involved, its location, its total assets immediately prior to such acquisition, the number of offices acquired, the method of accounting for such acquisition, and any excess of cost over the net assets acquired (goodwill) included in the latest statement of financial condition. The information provided in this section should be referenced to any appropriate notes to the financial statements required by item 15.

(d) *Lending activities:* (1) Describe briefly applicable Federal and State restrictions on the lending activities of the applicant including applicable laws affecting mortgage loan interest rates. Describe the applicant's general policy concerning loan to value ratios. Describe briefly the applicant's customary methods of obtaining loan originations such as the use of loan consultants and approval of security properties and use of a loan committee, if any. Describe briefly the applicant's policies as to requiring title insurance and fire and casualty insurance on security properties.

(2) As of the end of the periods covered by the statements of operations required by item 15(b)(1) and as of the date of the latest statement of financial condition required by item 15(a), set forth in tabular form the amount and percentage of the loan portfolio of the applicant (i) by type of loan and (ii) by type of security.

Instructions. 1. For the classification required by subparagraph (2)(i), separate types of loans into real estate loans and loans for other purposes. Also, separate real estate loans into conventional loans and FHA-VA loans, and conventional loans shall be separated into loans for construction, loans on existing property and loans refinanced.

2. for the classification required by subparagraph (2)(ii), type of security shall be separated into residential and other types. Residential loans shall be separated into single-family dwellings, two-to-four family dwellings, and other dwelling units. Also, indicate any material classification of other loans such as mobile home loans, home improvement loans, home equipping loans, passbook loans, commercial or industrial loans, and undeveloped land loans.

(3) For each of the periods covered by the statements of operations required by item 15(b), set forth in tabular form the amount for each period of (i) loans originated, (ii) loans purchased, (iii) loans sold, and (iv) total net loan activity. Also describe briefly the applicant's total activity as of the date of the latest statement of financial condition required by item 15(a), and briefly indicate the applicant's general future intentions with repect to activities in secondary mortgage markets including transactions with the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or mortgage bankers. If significant, indicate loan service fee income as a percentage of gross income for the year ended as of the latest statement of financial condition required by item 15(a).

Instructions. 1. For the classification required by subparagraph (3)(i), loans originated shall be separated into real estate loans, loans for other purposes, and total loans originated. Real estate loans shall be further separated into conventional loans and FHA-VA loans, and conventional loans shall be separated into loans for construction, loans on existing property, and loans refinanced.

2. For the classification required by subparagraph (3)(ii), loans purchased shall be separated into real estate loans, loans for other purposes, and total loans purchased. Real estate loans shall be further separated into conventional loans and FHA-VA loans.

3. For the classification required by subparagraph (3)(iii), loans sold shall be separated into whole loans, participation loans, and total loans sold.

4. For the classification required by subparagraph (3)(iv), total net loan activity shall be equal to total loans originated plus total loans purchased minus total loans sold.

(4) As to the lending area of the applicant, describe briefly (i) the lending area restrictions applicable to the applicant, (ii) the areas in which the applicant normally lends, and (iii) any material loan concentration areas of the applicant. Such descriptions may include a map illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.

(5) Describe briefly the general long term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings and loan associations. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time such loans are outstanding.

(6) As of the end of each of the periods covered by the statements of operations required by item 15(b)(1) and as of the date of the latest statement of financial condition required by item 15(a), set forth in tabular from, excluding origination fees, discounts and premiums on real estate loans originated, the following: (i) weighted average of return on loans originated and purchased during each period, (ii) weighted average rate of return on loans held at the end of each period, (iii) weighted average interest cost of savings at the end of each period, (iv) weighted average interest cost of Federal home loan bank advances and other borrowings during the period, (v) total weighted average interest cost of savings and borrowings for the period (the total of (iii) and (iv)), and (vi) the gross margin ((ii) minus (v)).

Instruction. As an example of the calculation of the weighted average rate, the following method should be used to calculate the weighted average interest rate on savings:

1. Determine the percentage of total savings represented by each type of savings instrument.

2. Multiply these percentages by the contractual interest rate the applicant is committed to pay on such instruments.

3. The resulting percentages are then totalled, giving the weighted rate.

(7) As of the end of each of the periods covered by the statements of operations required by item 15(b)(1) and as of the date of the latest statement of financial condition required by item 15(a), set forth in tabular form loan origination fees charged to borrowers expressed as a percentage of the total amount of loans originated and net income. In addition, fee income, broken down into its various components including but not limited to GNMA commitment fees, serving fees, loan commitment fees, should all be expressed as a percentage of both gross and net income.

(8) Describe briefly the applicant's method of loan origination fee and discount amortization and the total of such balances deferred by the applicant as of the date of the latest statement of financial condition required by item 15(a). Describe briefly the normally volatile nature of loan fee income.

(9) Describe briefly the regulatory classifications of scheduled items and the applicant's customary procedures regarding delinquent loans. As of the end of each of the periods covered by the statements of operations required by item 15(b)(1) and as of the date of the latest statement of financial condition required by item 15(a), set forth in tabular form the amounts and categories (slow loans, real estate owned, loans to facilitate, and others) of scheduled items and the ratio of such scheduled items to specified assets and to total assets. Where real estate owned is a significant portion of scheduled items, include a brief description of the major properties included therein and a statement as to the applicant's probable loss, if any, upon disposition of such properties.

(e) *Savings activities.* (1) As of the date of the latest statement of financial condition required by item 15(a), set forth in tabular form the amounts and percentages of savings accounts by categories of interest rate. As to certificates of deposit, indicate the term and minimum balances required for each. As of the date of the latest statement of financial condition required by item 15(a), set forth in tabular form the amounts of such certificates maturing by quarter during the 3 years following such date and the total maturing thereafter, the percentage of such amounts to total savings.

(2) Describe the applicant's methods of computing and paying interest for both passbook savings accounts and certificates of deposit. State that the maximum rate of interest which the applicant may pay is established by the Board. State that in the event of liquidation of the applicant after conversion, savings account holders will be entitled to full payment of their accounts prior to payment to shareholders. Also, indicate the percentage of total savings accounts which are from out-of-State sources, if such total is significant.

(f) *Insurance of accounts.* (1) Describe briefly insurance of accounts and the general regulatory authority of the Corporation.

(2) Describe briefly the Federal insurance reserve requirements, the results of failure to meet those requirements, and the applicant's Federal insurance reserve account position in relation to those requirements. Also describe the annual insurance premium payment and prepayment requirements.

(g) *Federal Home Loan Bank System.* (1) Describe briefly the Federal Home Loan Bank System and state that the applicant is a member. Such description shall include: (i) Limitations on borrowings, (ii) recent loan policies of the applicant's Federal home loan bank and current interest rates, and (iii) Federal home loan bank stock purchase requirements and the applicant's position with respect to those requirements.

(2) Describe briefly applicable liquidity requirements under section 5A of the Federal Home Loan Bank Act, as amended, the regulations thereunder, and State law. State the applicant's position with respect to those requirements.

(h) *State Savings and Loan Association Law.* If the applicant is converting to a State-chartered stock association, describe briefly applicable provisions of State law which have a material effect on the business of the applicant.

(i) *Federal State taxation.* Describe briefly the Federal income tax laws applicable to the applicant incuding: (1) Permissible bad debt reserves, (2) the applicant's position with respect to the maximum bad debt reserve limitations as of the date of the latest statement of financial condition required under item 15(a), (3) future increases in the effective income tax rate, (4) the date through which the applicant's Federal income tax returns have been audited by the Internal Revenue Service, and (5) the tax effect to the applicant of the payment of cash dividends on capital stock of the applicant after conversion. Also describe briefly the State taxation of the applicant.

(j) *Competition.* Describe the material sources of competition for savings and loan associations generally and indicate to the extent practicable the applicant's position in its principal lending and savings markets.

Instruction. In answering item 7(j) give to the extent known the association savings and mortgage product market shares by county in its geographic market. Also indicate its rank and any material changes or trends in its competitive standing.

(k) *Office and other material properties.* (1) Furnish the location of the applicant's home office and each existing and approved branch office and other office facilities (such as mobile or satellite offices). State the total net book value of all such offices as of the date of the latest statement of financial condition required by item 15(a). If any such office is leased, state the expiration dates of such leases.

(2) Describe briefly undeveloped land owned by the applicant, including location, net book value, and prospective use and holding period. If the applicant or a subsidiary owns or leases electronic date processing equipment principally for its own use, describe briefly such equipment indicating net book value if owned or the principal lease terms if leased.

(l) *Employees.* State the number of persons employed fulltime by the applicant including executive officers listed under item 5. State whether employees are represented by a collective bargaining group and whether the applicant's relations with its employees is satisfactory. Summarize briefly any loans, profit sharing, retirement, medical, hospitalization or other remuneration plans provided for employees not already included pursuant to item 6.

(m) *Service corporations.* Describe briefly the applicant's investment in any subsidiary and the major lines of business (including any joint ventures) of the subsidiary which are material to its operations.

(n) *Pending legal proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the applicant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underly the proceeding, the relief sought and counsel's opinion as to the merits of the applicant's position in each such matter. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

(o) *Additional information.* The Corporation may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of any of the information required by this Item or the furnishing in substitution therefor of appropriate information of comparable character. The Corporation may also require the furnishing of other information in addition to, or in substitution for, the information required by this Item in any case where such information is necessary or appropriate for an adequate description of the applicant's business done or intended to be done.

Item 8. Description of the plan of conversion. (a) A statement to the following effect shall be inserted in the proxy statement immediately preceding the information required by this Item: The Federal Home Loan Bank Board has given approval to the plan of conversion, subject to its approval by association members and the satisfaction of certain other conditions. However, such Board approval does not consititue a recommendation or endorsement of the plan by the Board.

(b) The proxy statement shall contain a description of the plan of conversion. Such description shall contain the information required by paragraphs (c) through (j) of this item and such additional information as may be necessary to accurately describe the material provisions of the plan.

(c) Briefly describe the effects of conversion from a mutual institution to a stock institution including the following information: (1) State that savings accounts of the applicant will not be affected by the conversion with respect to such matters as balances in the accounts and the extent of insurance of savings accounts by the Corporation; (2) state whether savings and borrowing members of the applicant will continue to have voting rights in the applicant after conversion, and describe any voting rights they will have; (3) state the present liquidation rights of account holders and describe the liquidation account to be established and maintained by the applicant, including the conditions under which such account will be paid, the interest of eligible account holders and supplemental eligible account holders in such account and the formula by which such account will be adjusted; (4) state that the rights and obligations of borrowers from the applicant will not be changed in any manner; (5) state that capital stock to be sold by the applicant will not be insured by the Corporation; (6) state that none of the assets of the applicant will be distributed in order to effect the conversion other than to pay expenses incident thereto; and (7) state briefly the reason why management is recommending the conversion, including any advantages to the community served by the applicant.

(d) With respect to the subscription offering, furnish the following information: (1) The formula to be used for determining the subscription rights of account holders to purchase shares pursuant to § 563b.3(c) (2), (4), and (5); (2) any minimum share purchase requirements pursuant to § 563b.3(d)(8); (3) any optional provisions included in the plan of conversion pursuant to § 563b.3(d) for the purchase of shares of capital stock including the purchase priorities, any limitation on total purchases, the total number of shares which may be purchased, and the formula for their allocation; (4) the allocation formulas to be used in the event that there is an oversubscription of shares at any time during the sale of stock under the plan of conversion; and (5) the use and timing of the order forms with respect to the subscription offering.

(e)(1) Set forth on a per share basis the estimated public offering price range of the shares of capital stock to be sold pursuant to the plan of conversion; (2) state that the public offering price will be the pro forma market value of such shares based on an independent valuation; (3) state that all of the shares are required to be sold; and (4) describe briefly the results of the appraisal of the association made by an independent appraiser for the purpose of determining the estimated price range.

(f) Discuss (1) the earnings per share on a pro forma basis of the capital stock to be sold as of the end of the most recent period covered by the statements of operation required by item 15(b)(1); and (2) the book value per share on a pro forma basis as of the date of the latest statement of financial condition required by item 15(a).

Instruction. Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock, and then after giving effect to such proceeds with all assumptions used clearly stated.

(g) With respect to the subscription offering, state the proposed commencement and expiration dates of the subscription period and describe any provisions in the plan of conversion related to the timing of the subscription offering or extension of the subscription period. Also, state (1) that a maximum subscription price will be set forth in the offering circular used for the subscription offering; (2) that the actual subscription price will be the public offering price; (3) that the actual subscription price will not exceed the maximum subscription price shown on the order form; and (4) that any difference between the maximum and actual subscription prices will be refunded.

(h) Furnish the following information: (1) State that the converted insured institution will enter into an agreement with the Corporation in accordance with § 563b.3(l) and briefly describe the material terms of such agreement; (2) describe to the extent practicable the applicant's present intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future; (3) describe briefly the tax effect of the conversion both to the applicant and to the various classes of account holders receiving nontransferrable subscription rights to purchase capital stock in the conversion, and (4) state that the plan of conversion is attached as an exhibit to the proxy statement and should be consulted for further information.

(i)(1) State whether the plan of conversion provides for the capital stock not purchased in the subscription offering to be offered to the public through underwriters or directly by the converting institution. If such is the case, provide the information to the extent known required by item 6 of form OC and indicate the estimated timing

of the proposed offering. (2) State whether the plan of conversion provides for the purchase by any person or group of any insignificant residue of shares remaining at the

stock outstanding, voting as a class, so state and explain briefly.

(3) Outline briefly any restrictions on the repurchase or redemption of, and payment

lending projects, loan portfolio diversification, increased liquidity investments, repayment of debt, additional branch offices and other facilities, service corporation invest-

of operations and statements of stockholders' equity required to be included in the proxy statement. Section 563c.1 governs the certification, form, and content of such financial statements including the basis of

5. Material and unusual charges or gains, including credits or charges associated with discontinuation of operations;

6. Material changes in assumptions underlying deferred costs and/or income and the

equity of the applicant (1) for each of the 5 fiscal years preceding the date of the statement of financial condition as of the close of the applicant's latest fiscal year filed under paragraph (a) and (2) for the period

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of the proposed offering. (2) State whether the plan of conversion provides for the purchase by any person or group of any insignificant residue of shares remaining at the conclusion of the subscription offering or the public offering.

(j) Furnish the following information in tabular form regarding proposed purchases of capital stock involving directors and officers of the applicant:

(1) State the total number of shares proposed to be purchased by all officers, directors and their associates as a group without naming them.

(2) As to each officer and director named in item 6(a)(1), name him, state his position, and the number of shares proposed to be purchased by him.

(3) As to any officer, director or their associate who proposes to purchase 1 percent or more of the total number of shares of capital stock of the applicant to be outstanding, name him, state his position, and the number of shares proposed to be purchased by him.

(4) With respect to the information required by (1), (2) and (3) above, indicate separately the number of shares proposed to be purchased in each offering category.

Item 9. Description of capital stock. (a) Furnish the following information concerning the capital stock of the applicant to be sold upon conversion:

(1) Outline briefly (i) dividend rights and restrictions; (ii) voting rights; (iii) liquidation rights; (iv) pre-emptive rights; (v) liability to further calls or to assessment by the applicant; and (vi) other material provisions.

(2) If the rights of holders of such capital stock may be modified otherwise than by a vote of a majority or more of the capital stock outstanding, voting as a class, so state and explain briefly.

(3) Outline briefly any restrictions on the repurchase or redemption of, and payment of dividends on, capital stock, or any part thereof, by the applicant.

Instructions. 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the capital stock will be materially limited or qualified by the rights of savings account holders or borrowers, include such information regarding such limitation of qualification as will enable investors to understand the rights evidenced by the capital stock.

(b) An undertaking should be included in the proxy statement that the applicant where practical will use its best efforts to encourage and assist a professional market maker in establishing and maintaining a market for the capital stock of the applicant.

(c) Outline briefly the trading market that is expected to exist for the capital stock following the conversion including the estimated number of market members and stockholders, and the anticipated success of the applicant in listing the stock.

Instructions. Any discussion of the listing of the applicant's stock should include the basic requirement that must be met for such listing.

Item 10. Capitalization. Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant:

	(A)	(B)	(C)
	Capitalization as of latest statement of condition date	Adjustments as a result of conversion	Pro-forma capitalization after giving effect to the conversion
1. Savings accounts	$	$	$
2. FHL bank advances			
3. Subordinated debt securities			
4. Other borrowings			
5. Capital stock			
6. Paid in capital			
7. Undivided profits			
8. Federal Insurance Reserve			
9. Other reserves			
10. Total			

Instructions. 1. With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, and the number of shares to be sold as part of the conversion.

2. With respect to the funds to be received by the applicant from the sale of its capital stock, indicate in the table the estimated total amount of funds to be obtained and in a footnote state the price per share used in making such estimate. Such total amount and price per share shall be clearly identified as being estimates.

Item 11. *Use of new capital.* State the principal purposes for which the net proceeds to the applicant from the capital stock to be sold are intended to be invested or otherwise used, and the approximate amount intended for each such purpose.

Instruction. Details of proposed investments are not to be given. There need be furnished, for example, only a brief statement of any investment or other activity of the applicant which will be affected materially by availability of the proceeds. Examples of such activities may include expanded secondary market activities, larger scale lending projects, loan portfolio diversification, increased liquidity investments, repayment of debt, additional branch offices and other facilities, service corporation investments, and acquisitions.

Item 12. *Stock option plan.* If action is to be taken with respect to the granting to officers and employees of any stock options to purchase capital stock of the applicant to take effect after conversion, furnish the following information:

(a) State (1) the title and number of shares to be called for by such options; (2) the prices, expiration dates and other material conditions upon which the options may be exercised; (3) the consideration to be received by the applicant for the granting of the options and (4) the Federal income tax consequences of the issuance and exercise of such options to the recipient and to the applicant.

(b) State separately the amount of options to be received by the following persons, naming each such person: (1) Each director or officer named in answer to items 6(a); (2) each associate of such directors or officers; and (3) each other person who is to receive 5 percent or more of such options to be received by all directors and officers of the applicant as a group, without naming them.

(c) Furnish such information, in addition to that required by item 6, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit-sharing, pension, retirement, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past 5 years, for (i) each director or officer named in answer to item 6(a) who may participate in the stock option plan to be acted upon; (ii) all directors and officers of the applicant as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

Instructions. The term "plan" as used in paragraph (c) of this Item means any plan as defined in instruction 1 to item 6(b).

State whether the adoption of any stock option or purchase plan is contemplated following the completion of the conversion. If so, indicate the material terms of the proposed plan.

Item 13. *New charter, bylaws or other documents.* Describe briefly any material differences between the provisions of existing charter, bylaws and any similar documents of the applicant and those which will take effect after conversion, including, if applicable, the optional charter provision provided for in § 563b.3(i)(3).

Instruction. This Item requires only a brief summary of the provisions which are pertinent from both an investment standpoint and a voting standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions verbatim; only a succinct resume is required.

Item 14. *Other matters.* State that the applicant will register its capital stock under section 12(g) of the Securities Exchange Act of 1934, as amended, and that it will not deregister such stock for a period of 3 years. It should be noted that upon registration the proxy rules, insider trading reporting and restrictions, annual and periodic reporting and other requirements of that Act will be applicable.

Item 15. Financial statements. Notes: 1. The following instructions specify the statements of financial condition, the statement

of operations and statements of stockholders' equity required to be included in the proxy statement. Section 563c.1 governs the certification, form, and content of such financial statements including the basis of consolidation.

2. If the applicant has previously used an audit period in connection with its certified financial statements which does not coincide with its fiscal year, such audit period may be used in place of any fiscal year requirement provided it covers a full 12 months' operations and is used consistently.

3. To enable investors to understand and evaluate material periodic changes in the various items of the statement of operations a separately captioned section (entitled "Management's Discussion and Analysis of the Statement of Operation") immediately following such statement of operation should include a statement explaining: (1) Material changes from period to period in the amounts of the items of revenues and expenses, and (2) changes in accounting principles or practices or in the method of their application that have a material effect on net income as reported. The purpose of this statement is to provide investors with management's analysis of the financial data included in the statement of operation through a discussion of the causes of material changes in the items of the statement of operation and of disclosure of the dollar amount of each such change and the effect of each such change on the reported results for the applicable periods. This discussion is necessary to enable investors to compare periodic results of operations and to assess the source and probability of recurrence of earning (losses). The analysis should include a discussion of material facts, whether favorable or unfavorable, which, in the opinion of management, may make historical operation or earnings as reported in the statement of operations not indicative of current or future operations or earnings.

(a) In general, the discussion of material periodic changes should be limited to: (1) The latest interim period presented and the comparable interim period in the immediately preceding fiscal year; (2) the most recent fiscal year presented and the fiscal year immediately preceeding it; and (3) the second most recent fiscal year presented and the fiscal year immediately preceding it. There may be circumstances, however, under which an explanation of revenue or expense item changes between two or more of the earlier periods of the 5-year summary may be material to an understanding of the summary. Further, to better explain revenue and expense items changes for interim periods it may be necessary to give an analysis of changes between consecutive fiscal quarters.

(b) While it is not feasible to specify all subjects which should be covered in the discussion and analysis of the statement of operation, the following are examples which applicants should consider in making disclosure:

1. Material changes in the revenues generated by types of operation;

2. Material changes in the line items contained in the statement of operations;

3. Material changes in advertising, promotion, or other discretionary costs;

4. The acquisition or disposition of a material asset other than in the ordinary course of business;

5. Material and unusual charges or gains, including credits or charges associated with discontinuation of operations;

6. Material changes in assumptions underlying deferred costs and/or income and the plan for amortization of such costs or income;

7. Material changes in the associations categorized or nonproductive, slow loans, or scheduled items;

8. Material changes of any kind in the statements of condition and/or operations of a subsidiary; and

9. Material concentration of loans made to one or more borrowers.

(c) The textual analysis should be presented in a manner that will best communicate the significant elements necessary to a clear understanding by the investor of the financial results. Favorable as well as unfavorable trends and changes should be discussed. Tables and charts may be used where appropriate. A mechanistic approach to this analysis which uses boiler plate or mere notation of percentage change by classification or line item should be avoided.

(d) A discussion of a change in an item of revenue or expense generally is required when an item required to be set forth in the statement of operations or disclosed pursuant to § 563c.7 (a) through (v) increased or decreased by more than 10 percent as compared to the prior period (but only if such prior period is presented), and increased or decreased by more than 2 percent of the average net income or loss for the most recent 3 years presented. In calculating average net income, loss years should be excluded. If losses were incurred in each of the most recent years, the average loss shall be used for purposes of this test. Should the applicant be of the opinion that an explanation of a change is not necessary to an understanding of the statement of operations even though the change meets the foregoing standards, the applicant shall furnish the Corporation, as supplemental information, a written statement of the reasons for the ommission.

(e) Notwithstanding the fact that a change in an item of revenue or expense does not meet the standards set forth in paragraph (d) it should be discussed if the applicant believes an explanation of such a change is necessary to an understanding of the statement of operations.

(f) When the text of the proxy statement or offering circular contains a discussion of factors indicating a material change in operating results, whether favorable or unfavorable subsequent to the latest period included in the statement of operations, the management discussion and analysis should call attention to the change and refer to the place in the proxy statement or offering circular where it is discussed.

(g) *Statements of financial condition of the applicant.* (1) Furnish certified statements of financial condition as of the close of the applicant's latest fiscal year and as of the close of the preceding fiscal year. (2) If the latest statement furnished under (1) is in excess of 120 days from the date of filing of the application for conversion, or any amendment thereto, furnish an additional statement of financial condition as of a date within 120 days of such filing. This additional statement need not be certified

(h) *Statements of operations and statement of stockholders' equity.* Furnish in comparative columnar form statements of operations and statements of stockholders' equity of the applicant (1) for each of the 5 fiscal years preceding the date of the statement of financial condition as of the close of the applicant's latest fiscal year filed under paragraph (a) and (2) for the period, if any, between the close of the latest of such fiscal years and the date of the statement of financial condition filed under paragraph (a). Furnish a statement of operations for the period comparable to (b)(2) in the immediately preceding fiscal year. Statements for the 3 latest fiscal years under (b)(1) shall be certified.

Instructions. 1. Reflect information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanaton set forth elsewhere in the proxy statement. Include comparable data for any additional fiscal years necessary to keep the statements from being misleading. The statements shall reflect the retroactive adjustment of any material items affecting the comparability of the results.

2. In connection with capital stock sold pursuant to the plan of conversion, the statements shall reflect earnings that would have been applicable to such outstanding stock.

(c) *Statements of changes in financial position.* Furnish certified statements of changes in financial position (1) for each of the 3 fiscal years preceding the date of the latest statement of financial condition filed under paragraph (a) and (2) furnish a statement for the period if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed under paragraph (a). This additional statement need not be certified.

(d) *Ommission of applicant's statements in certain cases.* Notwithstanding paragraphs (a), (b), and (c), the individual financial statements of the applicant may be omitted if (1) the conditions specified in either of the following paragraphs are met, and (2) the Corporation is advised as to the reasons for such ommission.

(1) The applicant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally held subsidiaries; or

(2) The applicant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85 percent or more of the total assets shown by the consolidated statement of financial condition filed and the applicant's total gross revenues for the period for which its statements of operations would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85 percent or more of the total gross revenue shown by the consolidated statements of operations filed.

(e) (1) *Consolidated statements.* Furnish consolidated statements for the same periods and as of the same dates as would be required for the applicant. These statements shall be certified as would be required for the applicant's statements. (Paragraphs (a), (b), and (c) above.)

(2) *Unconsolidated subsidiaries and other persons.* Subject to § 563c.1(q)(2) regarding group statements of unconsolidated subsidiaries, there shall be set forth for each majority-owned subsidiary of the applicant not consolidated the financial statements which would be required if the subsidiary were itself an applicant. Insofar as practicable, these financial statements shall be as of the

same dates or for the same periods as those of the applicant.

(3) *Fifty-percent-owned persons and other persons.* If the applicant owns directly or indirectly approximately 50 percent of the

(2) *Acquisition of other businesses.* (i) There shall be set forth for any business directly or indirectly acquired by the applicant after the date of the statement of financial condition set forth pursuant to

books current values, reproduction cost or any values other than original cost.

(iii) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect

(Street address of applicant)

Item 3. *Statement required in offering circulars.* There shall be set forth on the outside cover page of every offering circular the following statement in capital letters

	Price to public	Underwriting	Proceeds to applicant

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same dates or for the same periods as those of the applicant.

(3) *Fifty-percent-owned persons and other persons.* If the applicant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned directly or indirectly by another single interest, or if the applicant takes up the equity in undistributed earnings of any other unconsolidated person, there shall be set forth for each such person the financial statements which would be required if it were an applicant, subject to §563c.1(q)(2) regarding group statements. The statements set forth for each person shall identify the other single interest, or other interests in any person operated jointly.

(4) *Omission of statements required by paragraphs (2) and (3).* Not withstanding paragraphs (2) and (3), there may be omitted from the proxy statements all financial statement of any one or more unconsolidated subsidiaries or 50-percent-owned persons or other persons: (i) If all such subsidiaries and 50 percent-owned and other persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary; or (2) if the income from the subsidiary reported by the applicant does not exceed 10 percent of the consolidated net income for the latest fiscal year for which income statements are filed.

(f) *Special provisions*—(1) *Succession to other business.* (i) If during the period for which its statements of operations are required, the applicant has by merger, consolidation, or otherwise succeeded to one or more businesses, the additions, eliminations, and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the statements of financial condition set forth. In addition, statements of operations for each constituent business, or combined statements if appropriate, shall be set forth for such period prior to the succession as may be necessary when added to the time, if any, for which statements of operations after the succession are set forth to cover the equivalent of the period specified in paragraphs (a), (b), and (c) above.

(ii) If the applicant by merger, consolidation, or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined, if appropriate, which would be required by these instructions. In addition, there shall be set forth a statement of financial condition of the applicant giving effect to the plan of succession. These statements of financial condition shall be set forth in such form, preferably columnar, as will show in related manner the statements of financial condition of the constituent business, the changes to be effected in the succession and the statement of financial condition of the applicant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(iii) This subparagraph (1) shall not apply with respect to the applicant's succession to the business of any totally-held subsidiary, or to the acquistion of one or more businesses by purchase if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(2) *Acquisition of other businesses.* (i) There shall be set forth for any business directly or indirectly acquired by the applicant after the date of the statement of financial condition set forth pursuant to paragraph (a) and for any business to be directly or indirectly acquired by the applicant, the financial statements which would be required if such business were an applicant.

(ii) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control.

(iii) No financial statements need be set forth pursuant to this subparagraph (2), however, for any business acquired or to be acquired from a totally held subsidiary. In addition, the statements of any one or more businesses may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not consititute a significant subsidiary.

(g) *Filing of other statements in certain cases.* The Corporation may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Corporation may also require the inclusion of other statement in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of account holders and others.

(h) *Historical financial information.*—(1) *Applicability of paragraph (h).* The information required by this paragraph (h) shall be included in the proxy statement if in the opinion of the applicant it is material to the understanding of its financial condition. If the applicant determines to omit the information required by this paragraph, it shall file with its application for conversion a statement briefly explaining such omission.

(2) *Scope of paragraph (h).* The information required by paragraph (h) shall be furnished for the 7-year period preceding the period for which statements of operations are set forth, as to the accounts of each person whose statement of financial condition is set forth. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Paragraph (h) does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to account holders and others.

(3) *Revaluation of property.* (i) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state (*a*) in what year or years such revaluations were made; (*b*) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (*c*) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(ii) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluation made for the purpose of entering on the books current values, reproduction cost or any values other than original cost.

(iii) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

(4) *Other changes in surplus.* If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration of payment of dividends, state (i) the year or years in which such increase or decreases were made; (ii) the nature and amounts thereof; and (iii) the accounts affected, including all material related entries. Paragraph (3)(iii) shall also apply here.

(5) *Predecessors.* The information shall be furnished, to the extent it is material, as to any predecessor of the applicant from the beginning of the period to that date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

(6) *Omission of certain information.* (i) No information need be furnished as to any subsidiary, whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the applicant or of the predecessor for which information is required above.

(ii) No information need be furnished to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(iii) Only the information specified in paragraph (3) need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession thereto by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

Item 16. Consents of experts and reports. (a) The proxy statement shall briefly describe all consents of experts filed pursuant to section 563b.8(p).

(b) The statement shall contain a report of the independent public accountants who have certified the financial statements and other matters in the statement.

Instruction. The instruction to item 13 shall apply to paragraph (a) of this item.

Item 17. Attachments. There shall be attached to the proxy statement distributed to association members and others a copy of the applicant's plan of conversion as approved by the Corporation. There may also be attached to such statement a copy of any stock option plan described under item 12.

FORM OC

[Facing Sheet]

FEDERAL HOME LOAN BANK BOARD, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, 1700 G STREET NW., WASHINGTON, D.C. 20552

Offering Circular

(Exact name of applicant as specified in charter)

(Street address of applicant)

(City, State, and ZIP code)

OFFERING CIRCULAR FORM

Item 1. *Information required by and use of form OC.* The offering circular shall be dated as of the date of its issuance. The offering circular shall contain substantially the same information required to be included in the proxy statement of the applicant distributed to association members to vote upon the plan of conversion. Information of the type required to be included in the proxy statement may be omitted from the offering circular only to the extent that it is clearly inapplicable. The offering circular may be in "wrap around" form with the proxy statement attached.

Instruction 1. The term "offering circular" refers to both the offering circular for the subscription offering and the offering circular for the public offering through an underwriter or the direct community marketing by the converting insured institution of the unsubscribed shares, unless otherwise indicated.

2. The offering circular shall include such information which the General Counsel or Director of the Securities Division of the Office of General Counsel, by interpretive release or otherwise, has deemed necessary to comply with this form OC.

3. An offering circular for the subscription offering in "wraparound" form distributed to association members and other persons who have previously been furnished a copy of the proxy statement need not contain the proxy statement as an attachment provided such offering circular states that a copy of the proxy statement has previously been furnished to such persons and that an additional copy thereof will be furnished promptly upon request to the applicant (with the telephone number and mailing address of the applicant stated).

Item 2. *Additional current information required.* The final offering circular for the subscription offering, the preliminary offering circular for the public offering or the direct community marketing used during the subscription period and the final offering circular for the public offering or the direct community marketing shall as of their respective dates of issuance include the following additional current information to the extent that such information is not already included in the proxy statement:

(a) Information with respect to the vote of association members upon the plan of conversion and any other proposals considered at the meeting of members;

(b) Information with respect to any recent material developments in the business or affairs of the applicant;

(c) Information with respect to the trading market that is expected to exist for the capital stock following the conversion.

(d) Any other information necessary to make such offering circular current, including full financial statements of the applicant within 6 months prior to the date of issuance of such offering circular.

Item 3. *Statement required in offering circulars.* There shall be set forth on the outside cover page of every offering circular the following statement in capital letters printed in boldface roman type at least as large as 10-point modern type and at least two points leaded.

These shares have not been approved or disapproved by the Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation nor has such Board or Corporation passed upon the accuracy or adequacy of this offering circular. Any representation to the contrary is unlawful.

Item 4. *Preliminary offering circular.* The outside front cover page of any preliminary offering circular shall bear, in red ink, the caption "Preliminary Offering Circular," the date of its issuance, and the following statement printed in type as large as that used generally in the body of such offering circular.

"This offering circular has been filed with the Federal Savings and Loan Insurance Corporation, but has not been authorized for use in final form. Information contained herein is subject to completion or amendment. The shares covered hereby may not be sold nor offers to buy be accepted prior to the time the offering circular is declared effective by the Federal Savings and Loan Insurance Corporation. This offering circular shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these shares in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State."

Item 5. *Information with respect to subscription offering.* The offering circular used for the subscription offering shall describe all material terms of the subscription offering to the extent that such description is not already in the proxy statement. Such terms include the expiration date, any subscription agent, method of exercising subscription rights, payment for shares, delivery of stock certificates for shares purchased, maximum subscription price, possible reduction of subscription price, relationship of subscription price to public offering price, requirement that all unsubscribed shares be sold, and any other material conditions of the subscription offering.

Item 6. *Information with respect to public offering or direct community marketing.* The offering circular for the subscription offering and the offering circular for the public offering or direct community marketing shall both describe the material terms of the plan or plans of distribution for all unsubscribed shares of capital stock not purchased by account holders or others pursuant to the subscription offering to the extent such description is not already in the proxy statement, including the following:

(a) If the shares are to be offered through underwriters, the outside front cover page of both offering circulars shall give the information called for by this paragraph. In the case of the offering circular for a public offering, such information shall be given in substantially the tabular form set forth below. In the case of the offering circular for the subscription offering, and the direct community marketing, such information may be given in narrative form. If the information is not known at the time of the subscription offering, so state and estimate.

	Price to public	Underwriting [1]	Proceeds to applicant
Per share	$	$	$
Total	$	$	$

[1] Underwriting discounts and commissions

(b) The outside front cover page of the offering circular for the public offering or direct community marketing shall briefly summarize the results of the subscription offering including the number of shares sold to eligible account holders supplemental eligible account holders, voting members and others, the price at which the shares were sold, and the number of unsubscribed shares. Such offering circular may omit the description of the subscription offering required by item 5.

(c) If the unsubscribed shares are to be offered through underwriters, the offering circular for the public offerings shall state the names of the principal underwriters and the respective amount underwritten by each. The names of the principal underwriters other than the managing underwriters and the respective amounts to be underwritten may be omitted from the offering circular for the subscription offering. Both offering circulars shall identify each principal underwriter having a material relationship to the applicant and state the nature of the relationship. Both underwriting circulars shall state briefly the nature of the underwriters' obligation to take the unsubscribed shares.

(d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. Such information may be omitted from the offering circular for the subscription offering.

(e) If the unsubscribed shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. Such information may be omitted from the offering circular for the subscription offering.

Instructions. 1. Commissions include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings made with or for the benefit of any persons in which any underwriter or dealer is interested, in connection with the sale of the shares.

2. Only commissions paid by the applicant in cash are to be included in the table. Any other consideration to the underwriters shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.

3. All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the shares if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such shares as they may sell to the public. Conditions precedent to the underwriters' taking the shares, including customary "market outs," need not be described. If a "best efforts" arrangement is used, describe any standby commitments for shares not sold.

(f) If the unsubscribed shares are to be sold by the converting insured institution by direct community marketing, indicate the timing of the offering, the geographical area wherein the offering will be made, the

THURSDAY, OCTOBER 19, 1978
PART VI

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(f) If the unsubscribed shares are to be sold by the converting insured institution by direct community marketing, indicate the timing of the offering, the geographical area wherein the offering will be made, the method to be employed to market the shares including the frequency and nature of communications or contacts with potential purchases, any preferences that will be given any such geographical area or class of potential purchasers and the limitations on purchases by potential purchaser.

(Sec. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730; sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 78-29349 Filed 10-18-78; 8:45 am]

federal register

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PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF TRANSPORTATION

Coast Guard

MARINE CASUALTIES AND CASUALTY REPORTING REQUIREMENTS

Proposed Rules

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for

[4910-14-M]

[46 CFR Parts 4, 35, 78, 97, 167, 185, 196]

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are Capt. Alfred

In addition to changes to the reporting requirements, it is proposed that the definition of a marine casualty be

fire protection system, or any failure of primary lifesaving equipment.

(e) A serious threat to life, property,

V 4 3 1 2 0 3 0 OCT 19 78

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 146 and 150]

[CGD 76-170A]

MARINE CASUALTIES

Proposed Rules

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the casualty or accident report regulations for artificial islands and fixed structures on the Outer Continental Shelf and deepwater ports to include reports concerning diving casualties. In this issue of the FEDERAL REGISTER, at page 48724 (third column), the Coast Guard is proposing to amend the definition of marine casualty in 46 CFR 4.03-1 to include diving casualties. The proposals in this document are necessary in order to make a diving casualty reportable under all Coast Guard casualty reporting regulations.

DATE: Comments should be submitted to Commandant (G-CMC/81) (CGD 76-170A), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Capt. Alfred E. Hampton, Office of Merchant Marine Safety (G-MMI/83), Room 8305, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1455.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 76-170A), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A draft evaluation of the proposal has been prepared, and has been included in the public docket.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are Capt. Alfred E. Hampton, Project Manager, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that chapter I of title 33 of the Code of Federal Regulations be amended as follows:

PART 146—OPERATIONS

1. By adding a new § 146.01-20(a)(6) to read as follows:

§ 146.01-20 Casualty or accident report.

(a) * * *

(6) Loss of life or injury causing any person to require hospitalization for more than 24 hours, or to be incapacitated for a period in excess of 72 hours, as a result of diving using underwater breathing apparatus.

* * * * *

PART 150—OPERATIONS

2. By adding a new § 150.711(a)(6) to read as follows:

§ 150.711 Casualty or accident.

(a) * * *

(6) Loss of life or injury causing any person to require hospitalization for more than 24 hours, or to be incapacitated for a period in excess of 72 hours, as a result of diving using underwater breathing apparatus.

* * * * *

(Pub. L. 93-627, sec. 10, 88 Stat. 2137 (33 U.S.C. 1509); sec. 4(e)(1), 67 Stat. 462 (43 U.S.C. 1333(e)(1)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b) and (s)).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: October 12, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR. Doc. 78-29483 Filed 10-18-78; 8:45 am]

[4910-14-M]

[46 CFR Parts 4, 35, 78, 97, 167, 185, 196]

[CGD 76-170]

CASUALTY REPORTING REQUIREMENTS

Proposed Rules

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend certain criteria in the casualty reporting regulations. Some of the present criteria are unrealistic and inadequate from a monetary viewpoint, and other are unclear as to the type of incident that must be reported. The proposed regulations should make the criteria more realistic in relation to today's economics, and increase the value of the reports as a basic tool in the marine safety program.

DATE: Comments must be received on or before December 4, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 76-170), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Massif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Capt. Alfred E. Hampton, Office of Merchant Marine Safety (G-MMI/83), Room 8305, Department of Transportation, Massif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1455.

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 76-170), identify the specific section of the proposal to which each comment applies, and include sufficient detail to indicate the basis on which each comment is made. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are Capt. Alfred E. Hampton, Project Manager, Office of Merchant Marine Safety, and Edward J. Gill, Jr., Project Attorney, Office of The Chief Counsel.

DISCUSSION OF THE PROPOSAL

The monetary damage criterion in the casualty reporting regulations has become unrealistic for reporting/investigation purposes due to the increase, through the years, in the cost of ship repair. Also, because of inflation, many insignificant incidents are now reportable.

It is necessary to improve the criteria relating to the number and types of significant casualties reported in order to increase the usefulness of the Coast Guard's data bank.

It is therefore proposed that the criteria for reporting be changed in order to more clearly indicate the type of incidents required to be reported. For example, the criterion governing equipment failures is being clarified so that significant equipment failures, which are not currently reportable, will be brought to the attention of the Coast Guard so that corrective action may be taken.

The proposed grounding criterion will eliminate the reporting of groundings that are done intentionally while making up tows, or otherwise dealing with tows, providing damage meeting the other criteria does not occur.

The reporting criteria for different classes of vessels will be amended as well as the general vessel reporting requirements. The affected sections are set out below.

It is proposed that the grounding criterion be included as a reportable casualty for small passenger vessels under 100 gross tons. The existing grounding criterion is not presently included for these vessels. All vessels, regardless of inspection status or size, should have the same casualty reporting criteria.

In addition to changes to the reporting requirements, it is proposed that the definition of a marine casualty be changed to include diving casualties. These would be reported under the loss of life/injury criteria.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A draft evaluation of the proposal has been prepared, and has been included in the public docket.

In consideration of the foregoing, it is proposed that chapter I of title 46 of the Code of Federal Regulations be amended as follows:

1. By adding a new § 4.03-1(c) to read as follows:

§ 4.03-1 Marine casualty or accident.

* * * * *

(c) A marine casualty or accident also includes occurrences of loss of life or injury to any of a vessel's crew, passengers, or industrial personnel while diving with underwater breathing apparatus.

2. By revising § 4.05-1 to read as follows:

§ 4.05-1 Notice of marine casualty.

The owner, agent, master, or person in charge of a vessel involved in a marine casualty shall give notice, as soon as possible, to the nearest marine inspection office of the Coast Guard whenever the casualty involves any of the following:

(a) Actual physical damage to property in excess of $5,000.

(b) An intentional grounding that results in damage to the vessel, and all accidental groundings.

(c) Loss of main propulsion or primary steering, or the loss of an associated component or control system, the failure of which directly affects the maneuvering capabilities of the vessel.

(d) An occurrence affecting the seaworthiness or efficiency of a vessel such as fire, flooding, failure of a fixed fire protection system, or any failure of primary lifesaving equipment.

(e) A serious threat to life, property, or the environment because of the involvement of hazardous materials. This includes failure of hazardous cargo containers, and hazardous cargo transfer equipment.

(f) Loss of life.

(g) Injury causing any person to require hospitalization for more than 24 hours, or to be incapacitated for more than 72 hours, except injury to harbor workers not resulting in death and not resulting from any of the criteria in paragraphs (a) through (e) of this section.

§§ 35.15-1, 78.07-1, 97.07-1, 167.65-65, 196.07-1 [Amended]

§ 185.15-1 [Revised]

3. The following sections in title 46 will be revised to read the same as the proposed revision of § 4.05-1:

§ 35.15-1(a) (Tank Vessels).

§ 78.07-1(a) (Passenger Vessels).

§ 97.07-1(a) (Cargo and Miscellaneous Vessels).

§ 167.65-65(a) (Nautical School Ships).

§ 185.15-1 (Small Passenger Vessels Under 100 Gross Tons).

§ 196.07-1(a) (Oceanographic Research Vessels).

(Sec. 10, 18 Stat. 128 (33 U.S.C. 361); R.S. 4450, as amended (46 U.S.C. 239); R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); sec. 17, 54 Stat. 166 (46 U.S.C. 526p); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)) 49 CFR 1.46(b),)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: October 12, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc. 78-29484 Filed 10-18-78; 8:45 am]

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Federal Register

THURSDAY, OCTOBER 19, 1978
PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Test Procedures for Water Heaters

[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY

FEA proposed test procedures for water heaters by notice issued April 21, 1977 (42 FR 21576, Apr. 27, 1977), and a public hearing on the proposed test procedures was held on June 13,

B. DISCUSSION OF COMMENTS

One written comment was received from an engineering consulting firm, which contended that despite the proposed changes, the DOE test proce-

part divided by the average daily energy consumption as determined according to section 4.5.3 of appendix E of this subpart, the resulting quotient then being rounded off to

V 4 3 1 2 0 3 0 C 1 9 7 8

[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Test Procedures for Water Heaters

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy hereby amends its test procedures for water heaters as they relate to determining the energy factor for water heaters. These test procedures are a part of the consumer product energy efficiency program established pursuant to the Energy Policy and Conservation Act, which requires that standard methods of testing be prescribed for covered consumer products.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, Office of Conservation and Solar Applications, Room 2248, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4815.

Jim Merna, Media Relations, Federal Building, Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9833.

William J. Dennison, Office of the General Counsel, Federal Building, Room 7148, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, pursuant to section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for consumer products was established by FEA pursuant to title III, part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). Section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing be prescribed for covered consumer products.

[1] Editorial Note.—It is contemplated that ch. II will be renamed at a future date to reflect the fact that it contains regulations administered by the Department of Energy, including regulations administered by the Office of Conservation and Solar Applications.

FEA proposed test procedures for water heaters by notice issued April 21, 1977 (42 FR 21576, Apr. 27, 1977), and a public hearing on the proposed test procedures was held on June 13, 1977. Final test procedures for water heaters were prescribed by FEA on September 27, 1977 (42 FR 54110, Oct. 4, 1977).

A subsequent review of the final test procedures for water heaters revealed an error in the derivation of the energy factor. The energy factor is intended to be a measure of efficiency equal to the ratio of the useful output of a water heater to the energy input of the water heater, i.e., the total energy consumed to provide the useful output. The useful output of a water heater is the energy content of the water actually delivered by the water heater on a daily basis. The energy input to a water heater is the total energy consumed by the water heater on a daily basis. In the promulgated test procedures, the useful output of a water heater (the numerator of the energy factor ratio) was erroneously expressed as a water heater's "daily water heating energy consumption." This term, which is correctly utilized in other parts of the test procedures, includes both the energy content of the water actually delivered by the water heater on a daily basis (the useful output) and any additional energy which is dissipated as a result of any inefficiency in the heat transfer process, and which does not contribute to the useful output. The result was that the water heater efficiency was overstated since part of the term in the numerator of the energy factor was not attributable to useful output.

Today's amendment specifies that the useful output (the numerator of the energy factor) shall be the "daily hot water energy consumption," a term defined by new section 4.6 of appendix E to include only the energy content of the water actually delivered by the water heater on a daily basis.

By notice issued March 27, 1978 (43 FR 13888, Apr. 3, 1978), DOE proposed to amend § 430.22(e)(2) and appendix E to subpart B of part 430. The intent of the proposed amendments was to specify the proper method of determining the energy factor for water heaters. Pending a resolution of this matter, DOE suspended the provisions of the final water heater test procedures dealing with the determination of the energy factor, by notice issued March 29, 1978 (FR 13865, Apr. 3, 1978). A public hearing on the proposed amendment was scheduled for May 16, 1978, but no requests for the presentation of oral statements were received.

B. Discussion of Comments

One written comment was received from an engineering consulting firm, which contended that despite the proposed changes, the DOE test procedures would still substantially overstate the energy consumption of water heaters. In support of this contention, the commenter referred to data previously submitted to DOE. This issue was reviewed at the time the notice prescribing final test procedures for water heaters (42 FR 54110, Oct. 4, 1977) was promulgated.

Based on available data, FEA determined that the test procedures did not overstate the energy consumption of water heaters. In connection with today's amendment, DOE has again reviewed this issue and finds no basis for changing the original FEA determination.

C. Regulations Prescribed

The effect of today's rulemaking is to amend the test procedures for water heaters by substituting in 10 CFR 430.22 a new paragraph (e)(2) for determination of the energy factor for water heaters and by adding to appendix E a new section 4.6 for calculation of the daily hot water energy consumption of water heaters.

DOE's suspension of 10 CFR 430.22(e)(2) (43 FR 13865, Apr. 3, 1978), terminates when today's amendments become effective.

As part of today's rulemaking DOE is also changing the name of 10 CFR Part 430 to "Energy Conservation Program for Consumer Products." DOE believes that this change will eliminate any possible confusion regarding the contents of 10 CFR Part 430.

In accordance with the proposed DOE plan for implementing Executive Order 12044, "Improving Government Regulations," DOE has determined that this final rule to amend the test procedures for water heaters is not a significant regulation.

In consideration of the foregoing, part 430 of chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective November 20, 1978.

Issued in Washington, D.C., October 13, 1978.

William P. Davis,
Deputy Director of Administration.

1. Section 430.22 is amended by revising paragraph (e)(2) to read as follows:

(e) • • •

(2) The energy factor for water heaters shall be—

(i) For a gas or oil water heater, the quotient of the daily hot water energy consumption determined according to section 4.6 of appendix E of this subpart divided by the average daily energy consumption as determined according to section 4.5.3 of appendix E of this subpart, the resulting quotient then being rounded off to the nearest 0.01; and

(ii) For an electric water heater, the quotient of the daily hot water energy consumption determined according to section 4.6 of appendix E of this subpart divided by the product of the average daily energy consumption as determined according to section 4.5.4 of appendix E of this subpart times 3,412 Btu per kilowatt-hour, the resulting quotient then being rounded off to the nearest 0.01.

2. Appendix E to subpart B of part 430 is amended by adding a new section 4.6, to read as follows:

4.6 *Daily hot water energy consumption.* Calculate the daily hot water energy consumption, C_e, the energy content of the nominal daily hot water usage, expressed in Btu per day and defined as:

$$C_e = k \times U \times \Delta T_3,$$

Where:

k is as defined in section 4.1.1; and
ΔT_3 and U are as defined in section 4.3

3. The name of part 430 is changed to "Energy Conservation Program For Consumer Products," as set forth above.

[FR Doc. 78-29535 Filed 10-18-78; 8:45 am]

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highlights

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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To revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation". (Oct. 17, 1978; 92 Stat. 1337). Price: $2.50.
S. 682 ..... Pub. L. 95-474
Port and Tanker Safety Act of 1978. (Oct. 17, 1978; 92 Stat. 1471). Price: $1.10.
H.R. 6503 ..... Pub. L. 95-475
To amend the Intercoastal Shipping Act, 1933, and for other purposes. (Oct. 18, 1978; 92 Stat. 1494). Price: $.60.
H.R. 12028 ..... Pub. L. 95-476
Veterans' Housing Benefits Act of 1978. (Oct. 18, 1978; 92 Stat. 1497). Price: $.80.
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H.R. 12255 ..... Pub. L. 95-478
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce, Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of a position in the Department of Commerce from Special Assistant to the Director to Special Advisor to the Director to reflect more appropriately the duties of the position, (2) changes the title of a position at the Department of Energy from Staff Assistant to the Deputy Associate Administrator for Congressional and Intergovernmental Affairs/Director, Office of Congressional Affairs at FEA to Staff Assistant, Congressional Affairs, to the Director, Office of Congressional Affairs at DOE. This position formerly existed at the Federal Energy Administration and was subsequently transferred to the Department of Energy on September 30, 1977. And (3) excepts under schedule C a position at the Department of Energy because it is confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3314(v)(1) and 213.3331(m)(6) are amended and 213.3331(t)(2) is added as set out below:

§ 213.3314 Department of Commerce.

• • • • • •

(v) *Bureau of the Census.* (1) One Special Advisor to the Director.

• • • • • •

§ 213.3331 Department of Energy.

• • • • • •

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* • • •

(6) Three Staff Assistants, Congressional Affairs.

• • • • • •

(t) *Southwestern Power Administration.* • • •

(2) One Deputy Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioner.

[FR Doc. 78-29593 Filed 10-19-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense, National Foundation on the Arts and the Humanities, Department of Transportation, U.S. Metric Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Defense, National Foundation on the Arts and the Humanities, Department of Transportation, and the U.S. Metric Board because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: August 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3306(b)(2), 213.3394(i)(7) and 213.3383 are added and 213.3382(q) is amended as set out below:

§ 213.3306 Department of Defense.

• • • • • •

(b) *Court of Military Appeals.* • • •

(2) One Personal and Confidential Assistant to a Judge.

• • • • • •

§ 213.3382 National Foundation on the Arts and the Humanities.

• • • • • •

(q) One Secretary and one Staff Assistant to the Deputy Chairman, National Endowment for the Humanities.

• • • • • •

§ 213.3394 Department of Transportation.

• • • • • •

(i) *National Highway Traffic Safety Administration.*

(7) One Chief of Consumer Participation.

• • • • • •

§ 213.3383 U.S. Metric Board.

(a) One Special Assistant to the Executive Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29594 Filed 10-19-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense, Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Defense and Department of Transportation because they are confidential in nature. Appointments may be made to the positions without examination by the Civil Service Commission.

EFFECTIVE DATE: September 23, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(28) and 213.3394(a)(16) are added as set out below:

[3410-05-M]

Title 7—Agriculture

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required

§ 722.561 National marketing quota referendum for the 1979 crop of ELS cotton.

The national marketing quota refer-

in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE

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Accordingly, 5 CFR 213.3306(a)(28) and 213.3394(a)(16) are added as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* • • •

(28) One Special Assistant to the Assistant Secretary for Program Analysis and Evaluation.

• • • • •

§ 213.3391 Department of Transportation.

(a) *Office of the Secretary.* • • •

(16) One Labor Advisor to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29595 Filed 10-19-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

International Communication Agency

AGENCY: Civil Service Commission.

ACTION: Amendment of final rule.

SUMMARY: The United States Information Agency has changed its title to International Communication Agency. This is to amend the headnotes of the Schedules A, B, and C authorities to conform with the change.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, the headnotes of 5 CFR 213.3128, 213.3228, and 213.3328 are amended as follows:

§ 213.3128 International Communication Agency.

• • • • •

§ 213.3228 International Communication Agency.

• • • • •

§ 213.3338 International Communication Agency.

• • • • •

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29596 Filed 10-19-78; 8:45 am]

[3410-05-M]

Title 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1979 Crop of Extra-Long Staple Cotton: Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to (1) determine and proclaim a national marketing quota and national acreage allotment for the 1979 crop of extra-long staple cotton (referred to as "ELS" cotton), (2) apportion the national acreage allotment to States; and (3) establish the period for holding the national marketing quota referendum in order to find whether farmers are in favor of or opposed to the announced marketing quota for ELS cotton. The need for this rule is to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended (referred to as the "Act"). The latest available statistics of the Federal Government have been used in making determinations under this rule.

EFFECTIVE DATE: October 16, 1978.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), 202-447-7873.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the Federal Register on August 8, 1978 (43 FR 35053) in accordance with 5 U.S.C. 553. Two comments were received. Both recommended that the national acreage allotment be established at 120,000 acres. After considering the comments received, it was determined the national marketing quota for the 1979 crop of ELS cotton should be 137,000 bales and that the national acreage allotment for such crop should be 114, 965 acres.

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required by statute to be made not later than October 15, 1978. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR §§ 722.558 to 722.561 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1979 crop of ELS cotton. The material previously appearing in these sections under centerhead "1978 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the crop to which it was applicable.

Accordingly, 7 CFR §§ 722.558 through 722.561 are amended to read as follows:

§ 722.558 National marketing quota for the 1979 crop of ELS cotton.

The marketing quota for the 1979 crop of ELS cotton is hereby proclaimed to be an amount of 137,000 standard bales determined in accordance with section 347(b) of the Act. The quota is based on the following data:

(1) Estimated domestic consumption, 1979-80	65,000
(2) Estimated exports, 1979-80	+30,000
(3) Adjustment to assure adequate stocks	+52,000
(4) Estimated imports, 1979-80	−10,000
Total	137,000

§ 722.559 National acreage allotment for the 1979 crop of ELS cotton.

It is hereby determined and proclaimed that a national acreage allotment shall be in effect for the 1979 crop of ELS cotton. The amount of such national allotment is 114,965 acres calculated by multiplying the national quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield of 572 pounds per planted acre of ELS cotton for the four calendar years 1974, 1975, 1976, and 1977.

§ 722.560 Apportionment of national acreage allotment to the States.

The national acreage allotment of 000,000 acres is apportioned to the States in accordance with section 344(b) of the Act as follows:

State:	*State allotment*
Arizona	49,714
California	552
Florida	142
Georgia	150
New Mexico	23,282
Texas	41,125

§ 722.561 National marketing quota referendum for the 1979 crop of ELS cotton.

The national marketing quota referendum for the 1979 crop of ELS cotton shall be held during the referendum period December 4 to 8, 1978, inclusive, by mail ballot in accordance with part 717 of this chapter (33 FR 18345, 34 FR 12940, 36 FR 12730, 38 FR 12891).

(Secs. 301, 343, 344, 347, 375; 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended; 7 U.S.C. 1301, 1343, 1344, 1347, 1375.)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does contain a major proposal requiring preparation of an impact statement. The impact statement is available from Charles V. Cunningham, ASCS, 202-447-7873.

Signed at Washington, D.C., on October 16, 1978.

BOB BERGLAND,
Secretary

[FR Doc. 78-29546 Filed 10-20-78; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 169]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 22-28, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Adminstrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 17, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.469 Lemon Regulation 169.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 22, 1978, through October 28, 1978, is established at 225,116 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: October 18, 1978.

JOHN J. GARDNER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29808 Filed 10-19-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2929]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Interco Incorporated, et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a St. Louis, Mo. manufacturer and distributor of footwear, wearing apparel, and accessories and its subsidiaries to cease suggesting resale prices for their products; maintaining price fixing agreements; compelling price adherence and exlusive dealings through coercion; and penalizing recalcitrant dealers. The firms are also required to reinstate terminated resellers; and maintain relevant records for a 5-year period.

DATES: Complaint and order issued September 26, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007. 212-264-1207, or, Paul R. Peterson, Director, 4R, Cleveland Regional Office, Federal Trade Commission, 1339 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199. 216-522-4207.

SUPPLEMENTARY INFORMATION: On Friday, July 21, 1978, there was published in the FEDERAL REGISTER, 43 FR 31345, a proposed consent agreement with analysis in the matter of Interco Inc., a corporation, Londontown Corp., a corporation, and Queen Casuals, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Sub-

[1] Copies of the complaint, and the decision and order filed with the original document.

part—Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.358 Distributors. Subpart—Combining or Conspiring:

[6740-02-M]

Title 18—Conservation of Power and Water Resources

ALLEGATIONS OF PETITIONERS

Petitioners contend that the Commission did not comply with the mandatory requirements of the Adminis-

collect their contract rate without any refund obligation until such time as a final order was issued by the Commission. Subsequently, the 6-month provision was extended to 9 months.[1] The

cedural rulemaking steps, Petitioners contend that good cause did not exist and that the order violates the APA rulemaking procedure. Further, Peti-

As we stated in order No. 455-C:

The Commission cannot permit consumers to go unprotected during the period of analysis and administrative proceedings neces-

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part—Coercing and Intimidating: § 13.350 Customers or prospective customers; § 13.358 Distributors. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.425 To enforce or bring about resale price maintainance; § 13.430 To enhance, maintain or unify prices; § 13.470 To restrain or monopolize trade; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-65 renegotiation and/or amendment of contracts. Subpart—Cutting Off Access To Customers or Market: § 13.535 Contracts restricting customers' handling of competing products; § 13.560 Interfering with distributive outlets; § 13.605 Withholding supplies or goods from competitors' customers. Subpart—Cutting Off Supplies or Service; § 13.610 Cutting off supplies or service; § 13.613 Advertising contacts; § 13.655 Threatening disciplinary action or otherwise. Subpart—Dealing On Exclusive and Tying Basis: § 13.670 Dealing on exclusive and tying basis; § 13.670-10 Clayton Act, Sec. 3; § 13.670-20 Federal Trade Commission Act. Subpart—Discriminating Between Customers: § 13.685 Discriminating between customers; § 13.685-5 Clayton Act; § 13.685-10 Federal Trade Commission Act. Subpart—Discriminating In Price Under Section 2, Clayton Act—Payment For Services or Facilities For Processing, or Sale Under 2(d): § 13.825 Allowances for services or facilities.—Furnishing Services or Facilities For Processing, Handling, Etc. Under 2(e): § 13.845 Share of advertising expenses. Subpart—Discriminating In Price Under Section 5, Federal Trade Commission Act: § 13.880 Delivered price systems. Subpart—Maintaining Resale Prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1145 Discrimination; § 13.1145-5 Against price cutters; § 13.1145-45 In favor of price maintainers; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; § 13.1165-80 Requiring information of price cutting.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 2, 49 Stat. 1526; (15 U.S.C. 45, 13); sec. 3, 38 Stat. 731; (15 U.S.C. 14).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-29704 Filed 10-19-78; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. R-441]

PART 2—GENERAL POLICY AND INTERPRETATION

Modification in Finding Clause (1) of Order No. 455-C Issued May 19, 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying requests for clarification, rehearing, and reconsideration and modifying order No. 455-C.

SUMMARY: In 1972 the Commission issued order No. 455 which established optional procedures for certificating new producer sales of gas. Order No. 455 was subsequently amended by order No. 455-C in May 1978. The subject regulations which was contained in § 2.75 relate to the collection of contract rates from customers for deliveries of natural gas at no higher than the prevailing nationwide rate. The Commission received petitions asking for clarification, rehearing and reconsideration of order No. 455-C. This order denies requests for clarification, rehearing, and reconsideration and also modifies the language in finding clause No. (1) of order No. 455-C issued by the Commission on May 19, 1978.

EFFECTIVE DATE: Effective on date of issuance.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Pendley, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4216.

ORDER DENYING REQUESTS FOR CLARIFICATION, REHEARING, AND RECONSIDERATION AND MODIFYING ORDER NO. 455-C

OCTOBER 11, 1978.

On June 16, 1978, Ecee, Inc., Pinto, Inc., Vsea, Inc., Texas Production Co., and TBP Offshore Co., and on June 19, 1978, POGO Producing Co. and Pennzoil Oil & Gas, Inc. (hereinafter collectively referred to as Petitioners) filed for clarification, rehearing, and reconsideration of order No. 455-C, pursuant to section 19(a) of the Natural Gas Act and § 1.34 of the Commission's [1] rules of practice and procedure.

[1] Prior to Oct. 1, 1977, the "Commission" refers to the Federal Power Commission; subsequent thereto, it refers to the Federal Energy Regulatory Commission.

ALLEGATIONS OF PETITIONERS

Petitioners contend that the Commission did not comply with the mandatory requirements of the Administration Procedure Act [2] nor did "good cause" [3] exist to waive said requirements. Further, Petitioners allege that order No. 455-C is void as the Commission did not comply with the DOE Act. Petitioners contend that said Act obligates "the Commission (to) give notice of and have a hearing on any rulemaking which relates to the establishment of rates and charges under the Act." [4] Petitioners contend that order No. 455-C will weaken optional procedure as a viable alternative mechanism, will create rate uncertainty by instituting an "open ended" period of collecting a rate which might be below that later found to be just and reasonable, and will exceed the Commission's statutory authority by instituting a retroactive rate increase.[5] Petitioners also contend that the issuance of order No. 455-C does not comply with the Sunshine Act.[6]

BACKGROUND

In 1972 the Commission issued order No. 455 [7] which established the optional procedure for certificating new producer sales of natural gas. Optional procedure, § 2.75: (1) Permits the producer to request approval of contracts at rates that may exceed the maximum authorized by the applicable rate order; (2) allows the Commission to determine in a single proceeding whether "the public convenience and necessity" warrants the issuance of a certificate and whether the rates requested are "just and reasonable"; (3) allows the Commission to issue a permanent certificate which upon acceptance by the producer is not subject to change under section 4 of the Act; (4) allows the producer to collect these rates without risk of refund obligations; and (5) provides an abandonment assurance, if authorized, at the end of the contract term.[8]

Originally, paragraph (o) of § 2.75 permitted producers, 6 months after the commencement of deliveries, to collect their contract rate without any refund obligation until such time as a final order was issued by the Commission. Subsequently, the 6-month provision was extended to 9 months.[9] The Commission reasoned that "the public interest requires a disposition of the certificate applications under the optional procedure * * * prior to the effectuation of a nonrefundable contract rate." [10]

ORDER NO. 455-C

On May 19, 1978, the Commission further revised paragraph (o) of § 2.75 by again extending the time period for analysis.[11] Section 2.75(o) now states that upon determining that a final decision would not be reached by the Commission within the 9-month period, the Commission may extend the analysis period until a final order is issued. During the extended period, deliveries would continue to be made at rates no higher than the prevailing nationwide rate. Also, the revision provided for a surcharge to be recouped by the applicant if the final order established a just and reasonable rate in excess of the nationwide rate collected during the extended period. These revisions of § 2.75(o) became effective upon issuance of the Commission order.

COMPLIANCE WITH THE ADMINISTRAITIVE PROCEDURE ACT

Petitioners contend that the Commission ignored the mandatory rulemaking procedure set by the Administrative Procedure Act (APA) which delineates a general notice of proposed rulemaking,[12] an opportunity for public participation or comment,[13] and publication of the rule at least 30 days prior to its effective date.[14] Although the commission acted under a finding of good cause [15] which waives the procedural rulemaking steps, Petitioners contend that good cause did not exist and that the order violates the APA rulemaking procedure. Further, Petitioners state that jurisprudence requires more than an agency's bare allegation of "good cause" to justify its dispensing with normal procedures, and that any exception must be strictly scrutinized.

At the time order No. 455 was issued, the Commission reiterated its responsibility to assure reliable and adequate supplies at the lowest reasonable costs to the consumers of natural gas.

> To this end, we seek to provide two incentives to domestic production, both fully congruous with consumer protection. First, we will certificate sales of gas not previously deliverable to the interstate market at prices which are shown to be in the public interest. Second, to the extent possible, we will lessen rate uncertainty which has prevailed since the early 1960's.[16]

Further, the Commission delineated its reasoning with regard to the 6-month period of analysis.

> Such a limitation is, however, a reasonable one, since predicated on the assumption that the Commission will have acted by final order within that period of time * * * 6 months is clearly an adequate period for preliminary Staff analysis and review of applications tendered under the optional procedure. Accordingly, by action to deny or condition certificates prior to the expiration of the 6-month period, we can protect against the impact of a nonrefundable rate which is not just and reasonable.[17]

During the 6 years from issuance of order No. 455 to its revision in order No. 455-C, the applications requesting optional procedure have become more complex requiring lengthy detailed analysis, and additional information. As well, the contract rate sought has increased dramatically during this time period with producers now seeking to collect substantially higher rates. It has long been recognized that the Commission has the flexibility to adapt its policies to changing circumstances.[18]

Obviously, the consequences of allowing producers to automatically collect their contract rate no matter how high at the expiration of the 9-month period imposes a substantial hardship for the consumer. This would be true even if producers were required, as they were not under order Nos. 455, 455-A and 455-B, to make refunds of amounts collected at the expiration of the 6- to 9-month period in excess of the just and reasonable rate.

As we stated in order No. 455-C:

> The Commission cannot permit consumers to go unprotected during the period of analysis and administrative proceedings necessary to determine the public interest and the necessity of allowing sales of gas at prices substantially in excess of the nationwide norm.[19]

The Administrative Procedures Act recognizes two exceptions to notice and public participation: One is for general statements of policy; the other is for a good cause finding that the procedure is impracticable, unnecessary or contrary to the public interest. The Commission utilized the latter exception.

The Commission did not peremptorily stamp "good cause" on the issuance of order No. 455-C; rather, in compliance with the Administrative Procedure Act, the Commission delineated its good cause findings that notice and public procedure were contrary to the public interest. The Commission stated that it was "concerned that a delay in the effective date of this rule until after public comment would trigger a flood of applications during the comment period from producers wishing to collect contract rates after the 9-month period without refund obligation." [20] The Commission feared that "Such a result would defeat the Commission's purpose of protecting consumers from the economic burden of nonrefundable rate collections in excess of the just and reasonable rate." The Commission feared that it would be so overwhelmed "with § 2.75 applications that existing as well as new applications could not be processed within the 9-month period. [21]

COMPLIANCE WITH DOE ACT

Petitioners contend that the order No.455-C, issued under the "good cause" exception to APA rulemaking regulations is void under section 403(c) of the DOE Act. Section 403(c) provides: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or the Natural Gas Act, may be conducted by rulemaking procedures. Except as provided in subsection (d), the procedures in such a rulemaking proceeding shall assure full consideration of the issues

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[2] 5 U.S.C. 553.

[3] 5 U.S.C. 553(b)(B).

[4] Petition of Ecee, Inc., Pinto, Inc., Vsea, Inc., Texas Production Co., and TBP Offshore Co., for rehearing and reconsideration of order No. 455-C, p. 3.

[5] Application of POGO Producing Co., and Pennzoil Oil & Gas, Inc., for clarification, rehearing, and reconsideration, pp. 2 and 3.

[6] Id. at 9; Sunshine Act, 5 U.S.C. 552(b).

[7] Order No. 455, Optional Procedure for Certificating New Producer Sales of Natural Gas, 48 FPC 218 (1972), affirmed in part and reversed in part sub nom., *Moss* v. *F.P.C.*, 502 F. 2d 461 (D.C. Cir. 1974), reversed in part, 424 U.S. 494 (1976).

[8] 18 CFR 2.75; 424 U.S. at 497, 598.

[9] In the Pennzoil Louisiana and Texas Offshore Co., Inc., et al., order issued May 8, 1978, in docket Nos. CI77-702, et al., the applicable time period ran 9 months from the date the Commission was notified of commencement of deliveries as required by sec. 2.75(n).

[10] Order No. 455-B, Amendment of Statement of Policy Relating to Optional Procedure for Certificating New Producer Sales of Natural Gas, issued Nov. 25, 1974, in docket No. R-441.

[11] Order No. 455-C, Further Amendment of Statement of Policy Relating to Optional Procedure for Certificating New Producer Sales of Natural Gas, issued on May 19, 1978, in docket No. R-441.

[12] Administrative Procedure Act, 5 U.S.C. 553(b).

[13] Administrative Procedure Act, 5 U.S.C. 553(c).

[14] Administrative Procedure Act, 5 U.S.C. 553(d).

[15] Administrative Procedure Act, 5 U.S.C. 553(b)(B)

* * * when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

[16] Order No. 455, Mimeograph at 3.

[17] Order No. 455, Mimeograph at 24.

[18] *Permian Basin Area Rate* cases, 390 U.S. 747 at 800, 816 n. 99; *Wisconsin* v. *F.P.C.*, 373 U.S. 294, 309 (1963); *F.P.C.* v. *Natural Gas Pipeline Co.*, 315 U.S. 575, 586 (1942).

[19] Order No. 455-C, Mimeograph at 4.

[20] During an en banc hearing before the Commission on June 19, 1978, a witness for United alluded to a sense of urgency on the part of PLATO to avoid a Commission order which would change § 2.75 as one of the reasons for filing the optional procedure petition hurriedly on May 17, 1978. Commission in en banc hearing in *Pennzoil Louisiana and Texas Offshore Co. Inc.*, docket Nos. CI78-767, CI77-702, CI78-499, CI78-501, et al., June 19, 1978, transcript pp. 354, 365-366, 368, 370-371, 372-373, 375.

[21] Order No. 445-C, Mimeograph at 6.

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and an opportunity for interested persons to present their views." Section 403(c) has no applicability to order No. 455-C because the Commission was not, in that order, establishing rates. Rather, the Commission was changing certain requirements regarding the time periods for which rates could be collected as well as provisions regarding refunds and surcharges. The rates which would be subject to the order would be established in separate proceedings under the optional procedure provisions of the Commission regulations.

Moreover section 403(c) is not the exclusive authority for the Commission's rulemakings, nor was it relied on in the issuance of the order. With respect to its authority to issue rules, the Commission in order No. 455-C, cited section 16 of the Natural Gas Act and section 401(a) of the Department of Energy Act. Both of these sections authorize the Commission, without qualification, to issue rules and regulations necessary to carry out its functions. Accordingly, it is the Administrative Procedure Act which governed order No. 455-C. As pointed out above, the Commission has complied with that Act.

RATE CERTAINTY

We agree that, at least for the period after the expiration of the 9-month period and prior to the Commission's determination of the just and reasonable rate, the provisions of order No. 455-C will diminish, for a period of time, the assurance to producers of the exact amount of revenues that they may retain. However, since throughout this period the producer will be authorized to keep the amount ultimately determined to be the just and reasonable rate, any asserted rate uncertainty does not really exist within the normal regulatory context. In any event, even if we were to accede to the producer's argument that rate certainty is a significant factor, it must be balanced against a need to adequately protect the consumer against unreasonable charges. The purpose of order No. 455-C was to strike a fair balance between these factors.

Petitioners' concern that our order violates the prohibition against retroactive ratemaking is misplaced. If the 9-month period is extended by us, the collection of the national ceiling rate will involve the collection of a tentative rate, which it is recognized, will be subject to upward adjustment in the event the just and reasonable rate is determined to be higher. It is thus the conditional nature of the rate which takes it out of the posture of retroactive ratemaking. We believe this procedure to be essentially the same as that followed when a producer collects an above ceiling rate, subject to refund. The difference in procedure is that the consumer is not required to pay above ceiling rates pending the Commission's determination, and this is particularly important when the contract is substantially above the ceiling and the volumes are large. Furthermore, our procedure obviates the difficulties involved in the trickling down of refunds to consumers.[22]

COMPLIANCE WITH THE SUNSHINE ACT

Petitioners question the Commission's compliance with the Sunshine Act [23] in the following manner: "To the best knowledge of Applicants, the Commission did not adopt this order during an open meeting as required by the Government in the Sunshine Act, 5 U.S.C.A. 552b, and its own regulations, 18 CFR 1.3a." [24]

In fact, the Secretary of the Commission issued a notice of the meeting on the afternoon of May 19, 1978, in accordance with the Sunshine Act. The meeting was held at 2 p.m., May 19, 1978, in the Commission meeting room, and was, in compliance with the Act, open to the public. The Commission's actions in this matter were in compliance with the Sunshine Act.

MODIFICATION OF ORDER NO. 455-C

The Commission has determined to modify the language of finding clause (1) order No. 455-C to more accurately portray the Commission's position in this matter.

The Commission orders: (A) The requests for clarification, rehearing, and reconsideration filed by Petitioners on June 16, 1978, and June 19, 1978, respectively, are hereby denied based on reasons set forth herein.

(B) The language in finding clause (1) has been modified to read as follows:

Good cause exists to issue this amendment without notice and public procedure. It is contrary to the public interest to provide for notice and public procedure because to do so would deter the Commission's efforts to protect consumers against the collection by producers of rates in excess of the national ceiling rate, without refund obligation and would delay the protection consumers are required to receive under the Natural Gas Act.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29564 Filed 10-19-78; 8:45 am]

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[22] *F.P.C. v. Tennessee Gas Transmission Co.*, 371 U.S. 145, 154 (1962).

[23] Sunshine Act, 5 U.S.C. 552b; order No. 562, Order Adopting Rules Governing Observation of Commission Meetings and Ex Parte Communications, issued Mar. 11, 1977, in docket No. RM77-4.

[24] Joint Application for Clarification, Rehearing, and Reconsideration, filed on June 19, 1978, in docket No. R-441 by Applicants, POGO producing Co. and Pennzoil Oil & Gas, Inc.

[4110-07-M]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—Income and Exclusions

EXCLUSION FROM INCOME OF ASSISTANCE BASED ON NEED FURNISHED BY STATES OR POLITICAL SUBDIVISIONS

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These rules provide for the exclusion from countable income in the Supplemental Security Income program (SSI) of assistance based on need furnished by a State or local government (including Indian tribes). The requirements that assistance payments must be made in cash to an individual, on a regular basis and in supplementation of an individual's SSI benefits have been removed. Thus payments made to a vendor on behalf of an eligible individual can now be excluded from countable income. For example, payments to providers of food, clothing, and shelter are now excluded if they are based on need.

DATES: These amendments will be effective October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry Short, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7455.

SUPPLEMENTARY INFORMATION: On September 30, 1977, a notice of proposed rulemaking and proposed amendments to subpart K of regulations No. 16 were published in the FEDERAL REGISTER (42 FR 52439).

ASSISTANCE FURNISHED BY A STATE OR POLITICAL SUBDIVISION

Section 1612(b) of the Social Security Act describes what income shall be excluded from countable income in determinations of eligibility for and amount of supplemental security income (SSI) benefits. Section 1612(b)(6) authorizes the exclusion of assistance based on need furnished by a State or local government. Effective October 1, 1976, the original requirements that assistance had to be made in cash to the individual on a regular basis and in supplementation of SSI benefits were removed by section 505(b) of Pub. L. 94-566. This now permits the exclusion of certain State or local government payments which previously resulted in countable income (e.g., foster care payments, adoption subsidies, and other payments to providers of food, clothing or shelter) if they are based on need and are furnished wholly by a State or local government. Since the statute requires that the assistance payments be made by a State or local government, excludable assistance payments still may not include any Federal or private funding.

The original criteria are still used to describe certain State supplementary benefit payments. Technical amendments are also being made in the regulations defining State supplementary payments for purposes of clarity.

COMMENTS ON NOTICE OF PROPOSED RULEMAKING

Interested parties were given the opportunity to submit data, views, or arguments within 45 days with regard to the proposed amendments.

Six agencies submitted comments. A State welfare department and a neighborhood legal aid society endorsed the changes as proposed. An association for the mentally retarded, while endorsing the proposed changes, expressed regret that assistance from a program funded in whole or in part by Federal or nonpublic moneys cannot be excluded from countable income. A State welfare agency, a Federal agency and a State social services agency suggested revisions be made in the regulations to permit the exclusion of Federal moneys and private donations from countable income. The State welfare agency contended that it was not the intention of Pub. L. 94-566 that title XX funds be considered income in determinations of eligibility for and amount of SSI payments. The Federal agency was concerned over the fact that assistance payments it makes are considered income to the recipients. The agency acknowleged that existing laws may not permit the necessary revisions to the regulations.

The above suggestions have not been accommodated since section 1612(b)(6) requires that the assistance be furnished by a State or local political subdivision. This requirement has been interpreted to mean State and local governmental funding which does not include Federal and private moneys. Therefore, this regulation section cannot be revised to permit exclusion of assistance involving Federal or private funds. However, an existing regulation, § 416.1109(b), excludes the value of social services provided under title XX from the definition of income for title XVI purposes. Thus, the suggestions involving title XX funds are accommodated under that section.

The State social services agency also expressed concern that assistance furnished by a State or political subdivision under a program not solely using the person's income as the criterion for eligibility would not be excluded from countable income for SSI purposes. The agency referred to a program in which eligibility for assistance is based upon eligibility for SSI benefits. The amount of assistance given is based on the person's actual situation (for example, a utility arrearage) irrespective of income. These amendments provide for the exclusion from income of assistance provided by a State or political subdivision under a program which uses income, or income and resources, as criteria for determining eligibility for and amount of such assistance. Since eligibility for the program described by the State social services agency is based on eligibility for SSI (which uses an income and resources test) we believe, based on the facts presented, that assistance given under this program would be excludable under 1612(b)(6) and these regulations.

Accordingly, the amendments as proposed are hereby adopted and set forth below.

Secs. 1102, 1612, 1614, 1616, and 1631 of the Social Security Act; 49 Stat. 647, as amended, 86 Stat. 1468, 1471, 1474, and 1475; (42 U.S.C. 1302, 1382a, 1382c, 1382e, and 1383).)

(Catalog of Federal Domestic Assistance Program No. 13 807, Supplemental Security Income program.)

Dated: July 25, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: October 11, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education and Welfare.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. Section 416.1145 is amended by revising paragraph (b)(2) to read as follows:

§ 416.1145 Exclusions from income; order of application.

. . . . . .

(b) For the purpose of determining countable income in accordance with § 416.1115, the following income shall be excluded after income described in paragraph (a) of this section:

. . . . . .

(2) Assistance based on need which is furnished by a State or political subdivision (including Indian tribes), or any combination of such jurisdictions (§ 416.1151).

. . . . . .

2. Section 416.1151 is revised to read as follows:

§ 416.1151 State assistance based on need.

(a) Assistance based on need furnished to or on behalf of an eligible individual (and eligible spouse, if any) shall not be considered in determining countable income under title XVI provided:

(1) The assistance is furnished by a State or political subdivision (including Indian tribes) under a program which uses income, or income and resources, as criteria for determining eligibility for an amount of such assistance; and

(2) The assistance payment is funded wholly by a State or by a political subdivision of a State (including Indian tribes), or any combination of such jurisdictions. When Federal or nonpublic moneys are provided for the assistance payment, e.g., when there is a specific Federal/State program of project or formula grants (such as grants-in-aid under title IV-A of the Act), the assistance payment is not funded wholly by a State or a political subdivision.

(b) Any payments which are excluded from countable income under paragraph (a) of this section are also excluded from income to be deemed under § 416.1185 (published as a notice of proposed rulemaking with interim effectiveness at 42 FR 3316 on January 18, 1977).

3. Section 416.2001 is amended by revising paragraph (a) to read follows:

§ 416.2001 State supplementary payments; general.

(a) *State supplementary payments; defined.* State supplementary payments are any payments made by a State or one of its political subdivisions (including any such payments for which reimbursement is available from the Social Security Administration pursuant to Pub. L. 94-23, as amended) to a recipient of supplemental security income benefits (or to an individual who would be eligible for such benefits except for income), if the payments are made:

. . . . . .

[FR Doc. 78-29700 Filed 10-19-78; 8:45 am]

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[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 78N-0285]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Neomycin Sulfate Sterile Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations for neomycin sulfate sterile solution to indicate those conditions of use for which approval of identical products need not include certain types of efficacy data. Approval may require submission of bioequivalency or similar data. The product was the subject of a National Academy of Science—National Research Council, Drug Efficacy Study Group (NAS/NRC) evaluation.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, Mich. 49001, is the sponsor of a new animal drug application (NADA 11-953V) which was conditionally approved August 14, 1959. The conditional approval concerned 50 and 200 milligram per milliliter neomycin sulfate sterile solutions for intramuscular, intravenous, or topical use for the treatment of cattle, horses, sheep, swine, dogs, and cats for chronic and acute bacterial infections due to organisms susceptible to neomycin. The status of the application was upgraded to approved on January 5, 1960.

Certain drug products containing neomycin were the subject of an NAS/NRC evaluation published in the FEDERAL REGISTER of August 21, 1970 (35 FR 13403). The Academy evaluated, and the agency concurred, these preparations as probably effective in treating systemic bacterial infections in cattle, horses, sheep, swine, dogs, and cats caused by pathogens sensitive to the drug. The Academy stated that (1) each disease claim should be properly qualified as to the name of disease caused by pathogens sensitive to the drug, and if the claim cannot be so qualified it must be dropped; (2) the minimum inhibitory concentration table tends to be misleading and should be deleted; (3) the labeling should carry a warning concerning curare-like neuromuscular blockade; (4) the inclusive phraseology describing use of the drug tends to be misleading and an overstatement of the activity of the drug; (5) comments relating to development of resistant microorganisms should be rephrased as resistance to neomycin sulfate has been reported more frequently.

This evaluation concerned the drug's effectiveness and safety to the animal to which it is administered. It did not take into account the safety for food use of food derived from drug-treated animals. The August 21, 1970 announcement was published (1) To inform holders of new animal drug applications (NADA's) as to the findings of the Academy and the agency and (2) to inform all interested persons that such articles may be marketed providing they are the subject of an approved NADA and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

The Upjohn Co. responded by submitting a supplement to NADA 11-953V updating its application by providing current information concerning manufacturing and controls and revised labeling. No new efficacy data were required.

The supplement was approved by a regulation published in the FEDERAL REGISTER of November 9, 1971 (36 FR 21405). The regulation (21 CFR 135b.40, recodified 21 CFR 522.1484) did not specify those conditions of use which were NAS/NRC approved—drug uses for which approval of an NADA does not require efficacy data as specified by §§ 514.1(b)(8)(ii) and 514.111(a)(5)(vi) (21 CFR 514.1(b)(8)(ii) and 514.111(a)(5)(vi)) of the animal drug regulations.

This document amends the regulations to indicate those conditions of use for which approvals for identical products need not include certain types of efficacy data required for approval as above. In lieu of those data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available with the Hearing Clerk (HFA-305), Food and Drug Administration.

In addition, the regulation is editorially revised to reflect current format.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 522.1484 is revised to read as follows:

§ 522.1484 Neomycin sulfate sterile solution.

(a) *Specifications.* Each milliliter of sterile aqueous solution contains 50 milligrams of neomycin sulfate (equivalent to 35 milligrams of neomycin base). The neomycin sulfate used in manufacturing the drug conforms to the standards of identity, strength, quality, and purity prescribed by § 444.42a(a)(1) of this chapter.[1]

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount.* 5 milligrams per pound of body weight daily divided into portions administered every 6 to 8 hours for 3 to 5 days.[1]

(2) *Indications for use.* Administer to dogs and cats for the treatment of acute and chronic bacterial infections due to organisms susceptible to neomycin.[1]

(3) *Limitations.* For intramuscular or intravenous use only. Neomycin is not for use parenterally in food-producing animals because of prolonged residues in edible tissues. Labeling shall bear an appropriate expiration date. For use by or on the order of a licensed veterinarian.[1]

Effective date. This regulation shall be effective October 23, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: October 12, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-29493 Filed 10-19-78; 8:45 am]

[4110-03-M]

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Selenium Disulfide Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hart-Delta, Inc., providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris.

[1] These claims are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Hart-Delta, Inc., 5055 Choctaw Drive, Baton Rouge, La. 70805, filed an NADA (111-349V) providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry eczema and nonspecific dermatoses.

This application concerns a product that is similar to a National Academy of Sciences—National Research Council (NAS/NRC) reviewed product, approval of which is reflected in the regulations in 21 CFR 524.2101. This application is approved on the basis of generic equivalenee to the reviewed product. It conforms to the NAS/NRC panel recommendations published in the FEDERAL REGISTER of September 5, 1970 (35 FR 14168).

Approval of this application does not constitute reevaluation of the NAS/NRC recommendations for use on dogs as a cleansing agent.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 524 is amended in § 524.2101 by revising paragraphs (b) and (c) (2) to read as follows:

§ 524.2101 Selenium disulfide suspension.

• • • • • •

(b) *Sponsors.* (1) See No. 043731 in § 510.600(c)(2) of this chapter for use as in paragraphs (c)(2)(i) of this section.

(2) See No. 015563 in § 510.600(c)(2) of this chapter for use as in paragraph (c)(2)(ii) of this section.

(c) • • •

(2) *Indications for use.* (i) For use on dogs as a cleaning shampoo and as an agent for removing skin debris associated with dry eczema, seborrhea, and nonspecific dermatoses.[1]

(ii) For use on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry eczema and nonspecific dermatoses.

• • • • • •

Effective date. This regulation becomes effective October 23, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: October 11, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-29331 Filed 10-19-78; 8:45 am]

[4110-03-M]

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

Soluble Bacitracin Methylene Disalicylate and Streptomycin Sulfate Oral Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for the manufacture of bacitracin methylene disalicylate and streptomycin sulfate oral powder from soluble, instead of nonsolubilized, bacitracin methylene disalicylate and for the deletion of certain inactive ingredients.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, N.J. 08560, filed a supplemental NADA (65-107V) providing for a change in the form of bacitracin methylene disalicylate used in soluble bacitracin methylene disalicylate and streptomycin sulfate oral powder. The original drug formulation contains bacitracin methylene disalicylate which is no longer commercially available. In its place, the sponsor is using soluble bacitracin methylene disalicylate which is the sodium salt of bacitracin methylene disalicylate. Because this change alters the specifications of one of the antibiotics used in this drug, an amendment to the requirements for certification is necessary. In addition, one of the inactive ingredients, sodium saccharin, has been deleted because of questions regarding its safe use. The oral powder containing soluble bacitracin methylene disalicylate, streptomycin sulfate, and carob flour is used for treating dogs for bacterial enteritis and associated diarrhea. The regulation effecting this approval is amended to reflect use of the solubilized form of bacitracin. This approval does not alter the safety and effectiveness of the drug and has not required reevaluation of its safety and effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i), (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i), (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), part 548 is amended in § 548.112d by revising the section heading and paragraph (a)(1) and (3) (i) (*a*) and (ii) (*a*) to read as follows:

§ 548.112d Soluble bacitracin methylene disalicylate and streptomycin sulfate oral powder.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Soluble bacitracin methylene disalicylate and streptomycin sulfate oral powder is composed of soluble bacitracin methylene disalicylate and streptomycin sulfate with carob flour and with or without one or more suitable and harmless diluents, colorings, and flavorings. Each gram contains 290 units of soluble bacitracin methylene disalicylate, streptomycin sulfate equivalent of 20 milligrams of streptomycin, and 850 milligrams of carob flour. Its soluble bacitracin methylene disalicylate content is satisfactory if it is 90 to 165 percent of the amount of bacitracin that it is represented to contain. Its streptomycin sulfate content is satisfactory if it is 90 to 125 percent of the amount of streptomycin that it is represented to contain. Its loss on drying is not more than 7.5 percent. The soluble bacitracin methylene disalicylate used conforms to the standards prescribed by § 548.112a of this chapter for soluble bacitracin methylene disalicylate without diluents, and in addition, it passes the safety test. The streptomycin sulfate used conforms to the standards prescribed by § 539.170(a)(1) of this chapter.

• • • • • •

(3) • • •

(i) • • •

(*a*) The soluble bacitracin methylene disalicylate used in making the batch

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

for potency, safety, loss on drying, and pH.

• • • • • •

titive procurement for services from one educational institution. When more than one educational institution is to be solicited, the procurement is to

rule, the response period is to be at least 20 calendar days when procuring standard commercial articles or services, and at least 30 calendar days

[4110-12-M]

MANAGEMENT APPROVAL LEVELS REGARDING DEPARTMENTAL PRO

Regulations § 1-2.202-1(c) which sets forth the minimal 20 and 30 calendar day response periods. Therefore, the suggestion was not accepted.

amendments are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

NOTE.—The Department of Health, Educa-

V 43/204 OCT 78

for potency, safety, loss on drying, and pH.

. . . . .

(ii) . . .

(*a*) The soluble bacitracin methylene disalicylate used in making the batch, 5 packages, each containing approximately 5 grams.

. . . . .

Effective date. This regulation shall be effective October 23, 1978.

(Sec. 512 (i), (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i), (n)).)

Dated: October 12, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-29492 Filed 10-19-78; 8:45 am]

[4110-12-M]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-1—GENERAL

Subpart 3-1.10—Publicizing Procurement Actions

AGENCY: Office of the Secretary, HEW.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare, is amending the Departmental procurement regulations by adding a new Subpart 3-1.10, Publicizing Procurement Actions. The new subpart relates the Department's policy with respect to making solicitations available to interested parties and clarifies the Federal Procurement Regulations exemption for synopsizing procurements for services from educational institutions.

The Department is issuing the amendment to insure that interested parties are able to obtain copies of solicitations after procurements are synopsized in the Commerce Business Daily, and to insure that response dates for bids or proposals permit adequate time for an interested party to request and receive a solicitation and to prepare and submit an offer by the closing date. In addition, the Department is proposing a clarification to the exemption for synopsizing procurements for services from educational institutions under § 1-1.1003-2(a)(8). That is, the exemption from the requirement to synopsize is to be applicable only when there is a noncompetitive procurement for services from one educational institution. When more than one educational institution is to be solicited, the procurement is to be synopsized.

EFFECTIVE DATE: This amendment is effective October 20, 1978.

FOR FURTHER INFORMATION, CONTACT:

Ed Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 539-H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-6347.

SUPPLEMENTARY INFORMATION: On August 1, 1978, the proposed rule regarding the publicizing of procurement actions was published in the FEDERAL REGISTER (43 FR 33761) inviting public comment by August 31, 1978. As a result, six responses were received, five from educational institutions and one from a private firm.

One of the respondents supported the proposed policy. Another suggested that the response period begin on the date the solicitation synopsis is published in the Commerce Business Daily rather than the date the solicitation is issued. The Federal Procurement Regulations (§ 1-1.1003-6) require that a procuring activity either publicize (synopsize) the proposed procurement in the Commerce Business Daily ten (10) calendar days before issuance of the solicitation or, if this is not feasible, forward the synopsis to the Commerce Business Daily to arrive not later than the date of issuance of the solicitation, and the Department is required to comply with this regulation. In addition, adoption of the suggestion would hamper the procuring activity's issuance of the solicitation because the issuance would be delayed until the procuring activity has verified the date the synopsis has appeared or is appear in the Commerce Business Daily. Therefore, the suggestion was not accepted.

Four of the respondents recommended that the thirty (30) calendar day minimum response period when procuring other than standard commercial articles or services be increased to at least forty-five (45) calendar days. The Department emphasizes that the thirty (30) calendar day response period and the twenty (20) calendar day response period, when procuring standard commercial articles or services, are minimum periods, and the procuring activity has the option of establishing a response period greater than the minimum response period based upon the complexity and the available leadtime of each particular procurement. The Department's basis for establishing the minimum response periods is Federal Procurement Regulations § 1-2.202-1(c) which sets forth the minimal 20 and 30 calendar day response periods. Therefore, the suggestion was not accepted.

The policy regarding the publicizing of procurement actions is finalized as originally stated in the proposed rule. The provisions of the amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Therefore, 41 CFR Chapter 3, is amended in the manner set forth below.

Dated: October 16, 1978.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procurement.

Under Part 3-1, General, Subpart 3-1.10, Publicizing Procurement Actions, is established. In addition, the table of contents for Part 3-1 is amended to add the following:

Subpart 3-1.10—Publicizing Procurement Actions

Sec.
3-1.1000 Scope of subpart.
3-1.1001 General policy.
3-1.1002 Availability of invitations for bids, requests for proposals, and requests for quotations.
3-1.1003 Synopses of proposed procurements.
3-1.1003-1 [Reserved]
3-1.1003-2 General requirements.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-1.10—Publicizing Procurement Actions

§ 3-1.1000 Scope of subpart.

This subpart establishes Departmental policy with respect to making solicitations available to interested parties and synopsizing proposed procurements in the Commerce Business Daily.

§ 3-1.1001 General policy.

It is the Department's policy to conduct its procurements in an open fashion, to make procurements known to the public in a timely manner, to foster open and unrestricted competition, and to allow potential bidders and offerors to participate in the procurement process without artificial restrictions.

§ 3-1.1002 Availability of invitations for bids, requests for proposals, and requests for quotations.

(a) Potential offerors/bidders must be allowed a reasonable period of time in which to prepare and submit a response to a solicitation. As a general rule, the response period is to be at least 20 calendar days when procuring standard commercial articles or services, and at least 30 calendar days when procuring other than standard commercial articles or services. The 20 and 30 calendar day response periods begin on the date the solicitation is issued. The response periods are applicable to all formally advertised and negotiated procurements and for small purchases of $5,000 and above, except in cases of unusual emergency.

(b) As indicated in § 1-1.1002, a reasonable number of copies of each solicitation publicized in the Department of Commerce Synopsis, including specifications and other pertinent information, are to be made available by the issuing office for distribution to requesting parties.

(1) A reasonable number of copies is defined as that number of copies necessary to promptly satisfy all requests received for the first 20 calendar days beginning on the date the solicitation is issued. All requests received during the 20-day periods are to be filled. Requests received after the 20-day periods may be filled on a supply available, first-come, first-served basis. If the supply of solicitations is exhausted after the twentieth day, an interested party requesting a copy should be so notified and advised that a copy of the solicitation is available in the issuing office for viewing.

(2) When response periods of less than 20 days for standard commercial articles or services and less than 30 days for other than standard articles or services are used, all requests received during these shorter than preferred periods are to be promptly filled. If a requestor requires a copy of a solicitation after these periods and the supply is exhausted, the requestor should be so notified.

§ 3-1.1003 Synopses of proposed procurements.

§ 3-1.1003-1 [Reserved]

§ 3-1.1003-2 General requirements.

(a)(1)-(7) [Reserved]

(8) The exemption from the requirement to synopsize in § 1-1.1003-2(a)(8) is applicable only when there is to be a noncompetitive procurement for services from one educational institution. When more than one educational institution is to be solicited, the procurement is required to be synopsized in the Commerce Business Daily.

(5 U.S.C. 301; 40 U.S.C. 486(c).)

[FR Doc. 78-29752 Filed 10-19-78; 8:45 am]

[4110-12-M]

MANAGEMENT APPROVAL LEVELS REGARDING DEPARTMENTAL PROCUREMENT ACTIONS

Miscellaneous Amendments

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is amending 41 CFR Chapter 3 to change management approval levels regarding departmental procurement actions. This is in accordance with the Secretary's memorandum of May 18, 1977, entitled "Actions Required to Correct Major Deficiencies in the Contracting and Grant Processes."

A review of management approval levels regarding departmentwide procurement actions revealed that the majority of approvals are being made by the "head of the procuring activity" (HPA), and that the management level of the official designated as the HPA varies throughout the Department's principal operating components and regional offices. The diversity of the HPA designation has resulted in the determination to establish those approval actions at comparable management levels throughout the Department. This serves to introduce uniform control in the procurement process, vest the requisite authority and responsibility for procurement decisionmaking with the appropriate management official, and simplify the procurement process.

In conjunction with the foregoing, the Department is establishing Subpart 3-1.2, Definition of Terms, and is introducing the term "principal official responsible for procurement" to designate the official who is to approve many of the procurement actions previously approved by the HPA.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Ed Lanham, Division of Procurement Policy and Regulations Development, Office of Grants and Procurement, OASMB-OS, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-6347.

It is the general policy of the Department to allow time for interested parties to participate in the rulemaking process. However, since the amendments concern internal administrative procedures, the public rulemaking process was deemed unnecessary in this instance. The provisions of these amendments are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. Therefore, 41 CFR Chapter 3 is amended as follows:

Dated: October 6, 1978.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procurement.

PART 3-1—GENERAL

1. Subpart 3-1.2, Definition of Terms, is established under Part 3-1, General. In addition, the table of contents for part 3-1 is amended to add the following:

. . . . .

Subpart 3-1.2—Definition of Terms

Sec.
3-1.200 Scope of subpart.
3-1.250 Principal official responsible for procurement.

. . . . .

Subpart 3-1.2—Definition of Terms

§ 3-1.200 Scope of subpart.

Definitions of commonly used procurement terms are in subpart 1-1.2 of the Federal Procurement Regulations. This subpart sets forth the definitions of other procurement and administrative terms used throughout this chapter.

§ 3-1.250 Principal official responsible for procurement.

The "principal official responsible for procurement" is defined in terms of certain organizational positions within the Office of Management Services (OMS-OS), Office of Facilities Engineering (OFE-OS), Social Security Administration (SSA), Health Care Financing Administration (HCFA), Office of Human Development Services (OHDS), National Institutes of Health (NIH), Health Services Administration (HSA), Health Resources Administration (HRA), Food and Drug Administration (FDA), Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), Center for Disease Control (CDC), Office of the Assistant Secretary for Health (OASH), Office of Education (OE), National Institute of Education (NIE), and the Regional Offices (RO's), as follows:

OMS-OS—Director, Division of Contract and Grant Operations, OMS-OASMB.
OFE-OS—Director, Office of Facilities Engineering, OASMB.
SSA—Director, Division of Contracting and Procurement, Office of Materiel Man-

agement, Office of Management and Administration.

HCFA—Chief, Contract Branch, Division of Contracts, Grants, and Administrative Services, Office of Management and Budget.

HRA—Director, Division of Grants and Contracts Management, Office of Management.

HSA—Director, Division of Grants and Contracts Management, Office of Management.

NIH—Director, Division of Research Grants, Office of Extramural Research and Training.

OASH—Director, Office of Management.

OE—Director, Grants and Contracts Management Division, Office of Management.

OHDS—Director, Division of Grants and Contracts Management, Office of Management.

§ 3-3.303-51 Determination that the making of advance payments is in the public interest.

The determination required by § 1-

§ 3-3.306-54 [Amended]

11. Section 3-3.306-54 is amended by deleting the first paragraph and substituting the following:

official responsible for procurement (not delegable)."

PART 3-56—GOVERNMENT

the FEDERAL REGISTER (43 FR 33940). Public comments were invited, and one comment was received.

The commenter opposed the incor-

Subpart 3-4.61—Procurement of Drugs and Medical Supplies

§ 3-4.6100 Scope of subpart.

agement, Office of Management and Administration.

HCFA—Chief, Contract Branch, Division of Contracts, Grants, and Administrative Services, Office of Management and Budget.

OHDS—Chief, Contracts Branch, Division of Grants and Contracts Management, Office of Administration and Management.

NIH—Director, Division of Contracts and Grants, Office of Administration (For procurements assigned to the Division of Contracts and Grants); Director, Division of Administrative Services, Office of Administration (For procurements assigned to the Division of Administrative Services).

HSA—Director, Office of Contracts and Grants, Office of Administration.

HRS—Director, Division of Grants and Contracts Management, Office of Administration.

FDA—Director, Division of Contracts and Grants Management, Office of the Associate Commissioner for Administration.

ADAMHA—Director, Division of Grants and Contracts Management, Office of the Administrator.

CDC—Director, Procurement and Grants Office, Office of the Center Director.

OASH—Director, Division of Materiel Management, Administrative Support Center, Office of Management.

OE—Director, Division of Grants and Procurement Management, Office of Management.

NIE—Chief, Contracts and Grants Management Division, Office of Administration and Management.

RO—Director, Regional Administrative Support Center in each Regional Office.

§ 3-1.405 [Amended]

2. Section 3-1.405(b) is amended by deleting the last sentence ("This approval authority shall not be redelegated."), and substituting the following: "This approval authority may be redelegated to a designee not lower than the principal official responsible for procurement."

§ 3-1.5403 [Amended]

3. Section 3-1.5403(a) is amended by deleting the term "head of the procuring activity or his designee" in the next to last sentence, and substituting the following: "principal official responsible for procurement (not delegable)."

PART 3-3—PROCUREMENT BY NEGOTIATION

§ 3-3.303 [Amended]

4. Section 3-3.303 is amended by deleting the first sentence, and substituting the following: "The following determinations and findings shall be made by the head of the principal operating component (POC), or the Assistant Secretary for Management and Budget in cases involving the Office of the Secretary:".

5. Section 3-3.303-51 is deleted in its entirety, and the following is substituted:

§ 3-3.303-51 Determination that the making of advance payments is in the public interest.

The determination required by § 1-3.302(d) that the making of advance payments is in the public interest shall be made by the principal operating component (POC), Office of the Secretary (OS), and Regional Office (RO) officials, as follows:

SSA—Director, Division of Contracting and Procurement, Office of Materiel Management, Office of Management and Administration.

HCFA—Chief, Contract Branch, Division of Contracts, Grants, and Administrative Services, Office of Management and Budget.

OHDS—Director, Division of Grants and Contracts Management, Office of Administration and Management.

PHS—Deputy Executive Officer.

ED—Deputy Assistant Secretary for Management and Budget.

OMS-OS—Director, Division of Contract and Grant Operations, OMS-OASMB.

OFE-OS—Director, Office of Facilities Engineering, OASMB.

RO—Principal Regional Official (PRO) in each Regional Office.

This authority is not delegable by the referenced officials.

§ 3-3.303-52 [Amended]

6. Section 3-3.303-52 is amended to delete the term "head of the procuring activity," in the title, and by substituting the term "principal official responsible for procurement."

7. Section 3-3.303-52(a) is amended to delete the term "head of the procuring activity or his designee [1]" and by substituting the term "principal official responsible for procurement (not delegable):"

8. Section 3-3.303-52(a) is further amended to delete the footnote designation "[1]" in items (1), (3), (6), and (8), and the footnote [1] at the bottom of the page.

§ 3-3.306-50 [Amended]

9. Section 3-3.306-50 is amended by deleting the first sentence, and substituting the following: "Determinations and findings to be made by the head of a principal operating component (POC) or, for OS, the Assistant Secretary for Management and Budget (ASMB) shall be prepared in an original and four copies and forwarded through procurement channels to the POC head or the ASMB."

§ 3-3.306-51 [Amended]

10. Section 3-3.306-51(a) is amended by deleting the heading "Secretarial determinations.", and substituting the term "POC head determinations." In addition, the term "an Assistant Secretary" in the first sentence is deleted, and the term "the head of a POC or the Assistant Secretary for Management and Budget" is substituted.

§ 3-3.306-54 [Amended]

11. Section 3-3.306-54 is amended by deleting the first paragraph and substituting the following:

Each determination to be signed by the officials cited in § 3-3.303-51 shall be accompanied by a briefing letter.

* * * * *

§ 3-3.408 [Amended]

12. Section 3-3.408 is amended by deleting paragraphs (d)(1) and (d)(2) and substituting the following:

* * * * *

(d) *Approval.* (1) Any letter contract which obligates more than 50 percent of the estimated cost of the procurement or provides for a period of effectiveness of more than 90 days must be approved by the appropriate official cited in § 3-3.303-51. (This authority is not delegable.) All requests for approval must be in writing, prepared by the contracting officer, and submitted to the appropriate official through normal procurement channels. Any letter contract which obligates up to 50 percent of the estimated cost of the procurement or provides for a period of effectiveness up to 90 days must be approved by the principal official responsible for procurement (not delegable).

(2) [Reserved]

* * * * *

13. Section 3-3.408(g) is amended by eliminating the first paragraph and substituting the following:

* * * * *

(g) *Approval for modifications to letter contracts.* All letter contract modifications (amendments) must be approved by the appropriate official referenced in paragraph (d)(1) of this § 3-3.408. Requests for authority to issue letter contract modifications shall be processed in the same manner as requests for authority to issue letter contracts (see paragraph (d)(1) of this section) and shall include the following:

* * * * *

PART 3-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

§ 3-4.5101 [Amended]

14. Section 3-4.5101(a) is amended by deleting the phrase in the first sentence, "an official delegated such authority (see Subpart 3-75.3).", and substituting the following: "the principal official responsible for procurement (not delegable)."

PART 3-56—GOVERNMENT PROPERTY

§ 3-56.501 [Amended]

15. Section 3-56.301(a) is amended by deleting the term "head of the procuring activity (§ 3-75.101)" in the second sentence and substituting the term "principal official responsible for procurement (not delegable)."

(5 U.S.C. 301; 40 U.S.C. 486(c).)

[FR Doc. 78-29701 Filed 10-19-78; 8:45 am]

[4110-12-M]

PROCUREMENT OF DRUGS AND MEDICAL SUPPLIES AND MAXIMUM ALLOWABLE COST FOR DRUG PRODUCTS

Final Rule

AGENCY: Office of the Secretary, HEW.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare, is amending its procurement regulations by adding a new Subpart 3-4.61, Procurement of Drugs and Medical Supplies, to consolidate the Department's policies pertaining to the procurement of drugs and medical supplies. The new subpart incorporates the Department's general policy regarding the procurement of drugs, the procurement of drug products classified by effectiveness, and the maximum allowable cost for drug products. As a result of the consolidation, § 3-1.352, Drug products—effectiveness, is deleted. In conjunction with the policy on the maximum allowable cost for drug products, Subpart 3-7.50, Special Contract Clauses, is amended by adding the clause entitled, Maximum Allowable Cost for Drugs.

EFFECTIVE DATE: These amendments are effective October 20, 1978.

FOR FURTHER INFORMATION, CONTACT:

E. S. Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 539-H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-6347.

SUPPLEMENTARY INFORMATION: On August 2, 1978, the proposed rule regarding the addition of a new subpart containing the Department's policy on the procurement of drugs and medical supplies was published in the FEDERAL REGISTER (43 FR 33940). Public comments were invited, and one comment was received.

The commenter opposed the incorporation of the sentence, "Only the prescriber may approve 'product shifting' of drugs," in paragraph (b) of § 3-4.6101-1, Policy. Upon evaluation of the commenter's rationale for requesting deletion of the sentence, the Department determined that the sentence was misleading and has removed it from the final regulation.

The provisions of the amendments are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Therefore, 41 CFR Chapter 3, Parts 3-1, 3-4, and 3-7 are amended in the manner set forth below

Dated: October 5, 1978.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procuremnt.

PART 3-1—GENERAL

Subpart 3-1.3—General Policies

§ 3-1.352 [Deleted]

1. Under Subpart 3-1.3, General Policies, of Part 3-1, General, delete § 3-1.352, Drug products—effectiveness, in its entirety.

PART 3-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

2. Under Part 3-4, Special Types and Methods of Procurement, Subpart 3-4.61, Procurement of Drugs and Medical Supplies, is established. In addition, the table of contents for Part 3-4 is amended to add the following:

* * * * *

Subpart 3-4.61—Procurement of Drugs and Medical Supplies

Sec.
3-4.6100 Scope of subpart.
3-4.6101 Procurement of drugs.
3-4.6101-1 Policy.
3-4.6103 Effectiveness of drug products.
3-4.6103-1 General.
3-4.6103-2 Policy.
3-4.6104 Maximum allowable cost for drugs.
3-4.6104-1 General.
3-4.6104-2 Applicability.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 3-4.61—Procurement of Drugs and Medical Supplies

§ 3-4.6100 Scope of subpart.

This subpart provides policies pertaining to the procurement of drug products and medical supplies by the Department or the Department's contractors.

§ 3-4.6101 Procurement of drugs.

§ 3-4.6101-1 Policy.

(a) Drugs shall be procured at the lowest possible price consistent with acceptable standards of identity, strength, quality, purity, safety, and effectiveness, and with due regard for the welfare of the patient and the professional judgment of the prescriber.

(b) Procuring activities shall ensure that drugs are procured by generic name on a competitive basis whenever it is possible to obtain therapeutically effective equivalent drugs of established quality. However, the professional judgment of the prescriber to request drugs by brand name or house designation must be recognized when the best interest of the patient requires it. Similarly, scientific investigators have the prerogative to request drugs having end-product characteristics considered necessary for the conduct of research or investigations.

§ 3-4.6103 Effectiveness of drug products.

§ 3-4.6103-1 General.

(a) The National Academy of Sciences National Research Council (NAS-NRC) has established effectiveness classifications for the indication of drug products, based upon the following criteria:

(1) Factual information that is freely available in scientific literature;

(2) Factual information that is available from the Food and Drug Administration, the manufacturer, or other sources; and

(3) Experience and informed judgment of the members of NAS—NRC panels.

(b) The indications mentioned in the following categories refer to "the effect the drug purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling." That is, the indications are the claims noted in the labeling of a given drug product.

(1) *Category A.—Effective.* For the presented indication, the drug is effective on the basis of the criteria cited in paragraph (a) of this section.

(2) *Category B.—Probably effective.* For the indication presented, effectiveness of the drug is probable on the basis of the criteria cited in paragraph (a) of this section, but additional evi-

dence is required before it can be assigned to Category A.

(3) *Category C.—Possibly effective.* In relation to the indication in question, there is some evidence to support effectiveness, but adequate and well-controlled studies are lacking.

(4) *Category D.—Ineffective.* In relation to the indication in question, there is no evidence to support effectiveness.

(5) *Category E.—Ineffective.* In relation to the indication in question, there is evidence of ineffectiveness.

(6) *Category F.—Ineffective.* In relation to the indication in question, there is evidence of ineffectiveness, but adequate and well-controlled studies are lacking.

§ 3-4.6103-2 Policy.

(a) Drug products classified by the NAS-NRC as Category A, B, C, or F shall be procured in accordance with § 3-4.6101-1, Policy.

(b) Drug products classified by the NAS-NRC as Category D or E shall not be procured.

§ 3-4.6104 Maximum allowable cost for drugs.

§ 3-4.6104-1 General.

(a) The maximum allowable cost for drug products is established to limit the amount of Federal funds expended for drug products procured by the Department or the Department's contractors.

(b) The maximum allowable cost for drug products is established by the Department's Drug Price Review Committee (DPRC). The DPRC is composed of representatives from the Office of the Secretary, the Health Care Financing Administration, the Health Services Administration, the Public Health Service, and the Social Security Administration.

(c) The DPRC establishes the maximum allowable cost for drug products on the basis of the lowest price available from a responsible source, as determined by the DPRC, which is capable of meeting the Department's requirements.

(d) The DPRC establishes the maximum allowable cost for drug products on a quarterly basis. The DPRC may establish the maximum allowable cost for drug products more frequently when it is necessary to meet the Department's requirements.

(e) The DPRC establishes the maximum allowable cost for drug products by therapeutic category. The DPRC may establish the maximum allowable cost for drug products by individual drug product when it is necessary to meet the Department's requirements.

(f) The DPRC establishes the maximum allowable cost for drug products by dosage form, strength, and package size.

(g) The DPRC establishes the maximum allowable cost for drug products by generic name.

§ 3-4.6104-2 Applicability.

(a) The maximum allowable cost for drug products established by the DPRC is applicable to all procurements of drug products by the Department's contractors.

(c) This regulation does not apply to the procurement of drugs for research

ments in which he stated that if a class A channel were assigned to Solvang, he would not apply for it.

3. Comments were also filed by Cliff

ACTION: Report and order in CT docket 78-266.

SUMMARY: The Commission is

procedures. These have been designed to assure: That effective public notice of new proposals is given; that applications contain full information on the details of system op-

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dence is required before it can be assigned to Category A.

(3) *Category C.—Possibly effective.* In relation to the indication in question, there is little evidence of effectiveness under any of the criteria cited in paragraph (a) of this section. The possibility that additional supporting evidence might be developed should not be ruled out, however.

(d) *Category D.—Ineffective.* In relation to the indication in question, there is no acceptable evidence under any of the criteria cited in paragraph (a) of this section to support a claim of effectiveness.

§ 3-4.6103-2 Policy.

(a) It is the Department's policy to *not* procure drug products classified "ineffective" or "possibly effective" for use in its direct care programs. However, there are two exceptions to this policy:

(1) Drug products categorized as "ineffective" and "possibly effective" may be procured for use in the pursuit of approved clinical research projects.

(2) Drug products categorized as "possibly effective" may be procured when no alternate means of therapy with drug products in the "probably effective" or "effective" categories are available.

(b) This policy applies to similar drug products marketed by the same or other firms.

§ 3-4.6104 Maximum allowable cost for drugs.

§ 3-4.6104-1 General.

(a) The regulation entitled "Limitation on Payment or Reimbursement for Drugs," also known as the Maximum Allowable Cost or MAC regulation, is set forth in Part 19 to Subtitle A of Title 45 of the Code of Federal Regulations.

(b) The MAC regulation established Departmental policies and procedures for determining allowable drug costs and, where applicable, dispensing fees to be used to establish:

(1) Reimbursement to providers and health maintenance organizations under the medicare program;

(2) Reimbursement to States under State administered health, welfare, and social service programs; and

(3) Allowable costs under projects for health services.

§ 3-4.6104-2 Applicability.

(a) This regulation implements the MAC regulation by establishing procurement procedures consistent with the purpose and intent of the MAC regulation.

(b) This regulation applies to the direct procurement of drugs by the Department and the procurement or supply of drugs by the Department's contractors.

(c) This regulation does not apply to the procurement of drugs for research programs made by the Department and its contractors.

PART 3-7—CONTRACT CLAUSES

Subpart 3-7.50—Special Contract Clauses

3. Under Subpart 3-7.50, Special Contract Clauses, of Part 3-7, Contract Clauses, add section 3-7.5021 as follows:

. . . . . .

§ 3-7.5021 Maximum allowable cost for drugs.

The following clause, or one reading substantially as follows, shall be included in all contracts subject to the provisions of the Maximum Allowable Cost regulation and § 3-4.6104.

MAXIMUM ALLOWABLE COST FOR DRUGS

(a) Reimbursement for drugs provided or used under this contract shall be in accordance with the Maximum Allowable Cost (MAC) regulation set forth in 45 CFR Subtitle A, Part 19. In accordance with § 19.3 of the MAC regulation, the amount which is recognized for reimbursement or payment purposes for any drug purchased under the terms of the contract shall not exceed the lowest of:

(1) The maximum allowable cost of the drug, if any, established in accordance with § 19.5 of the MAC regulation plus a reasonable dispensing fee;

(2) The acquisition cost of the drug plus a reasonable dispensing fee; or

(3) The provider's usual and customary charge to the public for the drug: *Provided*, That:

(i) The maximum allowable cost established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified in his own handwriting is medically necessary for that patient: *And provided further*, That:

(ii) When compensation for drug dispensing is included in some other amount payable to the provider by the reimbursing or payment program agency, a separate dispensing fee will not be recognized.

(b) The contractor agrees:

(1) To include the following solicitation notification in all applicable solicitations issued under this contract and to ensure that subcontractors include it in any subsequent applicable solicitations:

This procurement is subject to the Maximum Allowable Cost (MAC) regulation set forth in Part 19 to Subtitle A of Title 45 of the Code of Federal Regulations.

(2) To include this clause, including this paragraph (b), in all applicable subcontracts, regardless of tier, awarded pursuant to this contract.

(3) To include the furnished MAC determination or acquisition cost data in all applicable solicitations issued under this contract and in all resultant subcontracts awarded pursuant to this contract.

(5 U.S.C. 301; 40 U.S.C. 486(c).)

[FR Doc. 78-29754 Filed 10-19-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-152; RM-3004]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Solvang, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: In response to a petition, the Federal Communications Commission amends its regulations relating to radio broadcast services, by adding to the FM table of assignments Channel 244A as a first assignment at Solvang, California. An FM station will provide that community with a first local aural broadcast service.

EFFECTIVE DATE: November 27, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER

Adopted: October 12, 1978.

Released: October 17, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Solvang, Calif.), BC Docket No. 78-152, RM-3004.

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted May 16, 1978, 43 FR 23617, in the above-entitled proceeding instituted in response to the petition filed by John C. Butler ("petitioner"). The petition proposed the assignment of Class B FM Channel 233 at Solvang, California, as that community's first FM assignment.

2. The Notice indicated that a basis could not be found for an exception to the policy of assigning class B FM channels only to large communities. Instead, since there was an available class A channel which could provide city-grade coverage to Solvang, we proposed assignment of channel 244A to that community. Petitioner filed comments in which he stated that if a class A channel were assigned to Solvang, he would not apply for it.

3. Comments were also filed by Clifford A. Wagner[1] and Santa Ynez Valley Broadcasting Co. stating that if channel 244A were assigned to Solvang they would apply for it.

4. Solvang (pop. 2,004), in Santa Barbara County (pop. 264,324)[2] is located in the Santa Ynez Valley approximately 160 kilometers (100 miles) northwest of Los Angeles and 40 kilometers (25 miles) northwest of Santa Barbara, Calif. There is no local aural broadcast service in Solvang.

5. We believe the public interest would be served by the assignment of FM channel 244A to Solvang, Calif. Interests have been expressed for the use of a class A channel and an FM station would provide that community with a first local aural broadcast service.

6. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. *Accordingly, it is ordered*, That effective November 27, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City and Channel No.
Solvang, Calif. 244A

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 5, 303, 46 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29751 Filed 10-19-78; 8:45 am]

[6712-01-M]

[CT Docket No. 78-206; RM-3102; FCC 78-690]

PART 76—CABLE TELEVISION SERVICES

Cable Television Certificate of Compliance Process

AGENCY: Federal Communications Commission.

ACTION: Report and order in CT docket 78-206.

SUMMARY: The Commission is amending its rules to eliminate the certification procedure for new cable television operations and replace it with a system of registration. This change is in furtherance of the Commission's efforts to deregulate the cable television industry. Adoption of the registration process is intended only to make the initiation of new cable television services more efficient.

EFFECTIVE DATE: October 20, 1978.

ADDRESS: Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James Ewalt, Cable Television Bureau, 202-632-6468.

In the matter of amendment of part 76 of the Commission's rules and regulations concerning the cable television certificate of compliance process, CT docket No. 78-206,[1] RM-3102. Report and order (proceeding terminated) (43 FR 30845).

Adopted: September 27, 1978.

Released: October 13, 1978.

By the Commission: Commissioner Brown absent.

1. On July 12, 1978, the Commission issued a notice of proposed rulemaking, FCC 78-460, — FCC 2d — (1978), initiating this proceeding to determine whether the present system of prior review and certification of all new cable television operations ought to be eliminated and replaced by a simpler, more efficient process of registration. Comments were received from parties representing cable television interests, television broadcast interests, one State education department, and one municipality. After consideration of the comments we have determined that the certification process should be eliminated and a process of registration adopted instead. Appendix A sets forth the new regulations we are adopting to implement this procedure. Appendix B contains a list of parties filing comments in this proceeding.

2. When the certification process was adopted in 1972 the Commission addressed the question of procedural matters stating:

With the adoption of our new program for cable television, we are also instituting new procedures. These have been designed to assure: That effective public notice of new proposals is given; that applications contain full information on the details of system operation; and that new cable proposals are, without exception, reviewed for consistency with our rules. *Cable Television Report and Order*, FCC 72-108, 36 FCC 2d 143 at paragraph 109 (1972).

We also stated that:

Cable television is an emerging technology that promises a communications revolution. Inevitably, our regulatory pattern must evolve as cable evolves—and no one can say what the precise dimensions will be. *Cable Report and Order, id.*, at par. 189.

We contemplated dynamic procedural regulations changing over time, dependent upon changes within the industry as well as our assessment of the Commission's proper role in the regulatory process. Those procedures adopted in 1972 were thought to be essential at that stage for the "orderly development" of the industry in that they provided a means of obtaining citizen input with respect to the operation of particular cable systems and as a means of screening service proposals prior to the commencement of operations. *Cable Report and Order, id.* In general, it was thought that the process would be a useful complement to the substantive regulatory program. See discussion in notice beginning at paragraph 2.

3. Comments filed in this proceeding were nearly unanimous in recommending some type of overhaul of the certification process. Broadcast interests typically argued that the certification process should not be abandoned but merely streamlined, retaining the notice and service requirements. Most important, they argue, is the need to continue Commission authorization of new services as this facilitates enforcement through forfeiture and may be necessary for copyright purposes. The American Broadcasting Cos., Inc., in its comments further suggest that it would be premature to abandon certification at this time because it would prejudice pending issues regarding cable television's public interest responsibilities and the scope of the Commission's authority to impose such obligations. Cable television interests on the other hand enthusiastically support elimination of the certification process and propose replacing it with a process of simple registration. They argue that certification no longer serves its purpose and imposes unjustified delays and cost burdens on the initiation of new cable services. Others commenting also agree that the process should be revamped, but argue strongly for retention of a public notice procedure whereby interested parties may learn of new cable services.

[1] Although Wagner's comments were received after the expiration date for filing reply comments, we see no purpose in rejecting this pleading only to require a refiling of these comments for action. There has been no objection to our acceptance of this pleading and no other parties would be affected thereby. Therefore, we have accepted this pleading for our consideration.

[2] Population figures are taken from the 1970 U.S. census.

[1] This *Report and Order* also constitutes a partial decision with respect to petitions for reconsideration of our *Report and Order in Docket 21002*, FCC 77-530, 66 FCC 2d 380 (1977). See footnote 4 below. For that reason, copies of this decision will be filed in docket 21002 and the Secretary of the Commission is directed to serve copies on all parties to docket 21002.

4. The notice in this proceeding set forth a number of reasons why the certification process was no longer believed to be efficiently serving its intended purposes and why the whole tern must evolve as cable evolves." *Cable Television Report and Order, supra*, at paragraph 189. The speed with which new operations have commenced has not matched our expecta- cable television industry, particularly through deletion of those complex "leapfrogging" rules regulating from which markets particular signals had to be selected and the elimination of

access statement, which secured compliance with our rules. In sum, we have considered the substance of the reconsideration petitions and find nothing in them that would dissuade promptly process all applications filed, delays of this length would be hard to avoid considering the time involved in preparing the application and the delays built into the process by the re- from the cable industry strongly favor a simple process of registration patterned after that presently used for cable systems serving fewer than 1,000 subscribers. While limited notice and

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4. The notice in this proceeding set forth a number of reasons why the certification process was no longer believed to be efficiently serving its intended purposes and why the whole process was in need of reexamination. In general, we expressed the feeling that whatever benefits there were in the process had come to be more than outweighed by the costs it imposed on the Commission, the cable industry, and the public, especially in light of the other alternative procedures available for obtaining compliance with the rules. The need for a change in this process was largely unchallenged in the comments received. After consideration of these comments and the alternatives available to us, we have determined to delete the existing certificate system and replace it with a registration procedure.

5. This change appears desirable for a number of reasons. First, recent amendments to the Communications Act permitting the imposition of monetary forfeitures on cable operators of up to $20,000 for violations of Commission rules now provide us with a new and significant enforcement tool.[2] Because the procedure for imposing these civil penalties is less cumbersome than previously available means of enforcement, it should provide additional incentives for compliance which greatly diminish the need for a process of prior review and certification. An additional incentive for compliance with the carriage rules is also created by passage of the general copyright law revision under which violations of the Commission's signal carriage rules may also be violations of the copyright law for which harsh penalties may be imposed. These include statutory damages, treble damages, injunctions, the payment of attorney's fees, and criminal sanctions when the violation is willful and "for purposes of commercial advantage or private financial gain." [3]

6. A second factor in the decision to eliminate the certification process concerns the speed with which the cable industry has grown. When the certification process was adopted in 1972, the industry was perceived to be on the brink of a period of very rapid development. We stated at that time that this was a new regulatory program involving many unknowns so that "inevitably, our regulatory pattern must evolve as cable evolves." *Cable Television Report and Order, supra,* at paragraph 189. The speed with which new operations have commenced has not matched our expectations in 1972. Thus, the continued need for an especially close scrutiny of new cable operations as they commence is questionable. The Commission must, in its efforts to best regulate the industry, continually concern itself with the most efficient allocation of its own resources. In view of the slower than anticipated rate of growth of the industry we need not be as concerned as we were in 1972 that developments will be so rapid that they can only be coped with through a prior review process.[4]

7. Another important development supporting our decision to eliminate this process relates to various substantive changes in the rules that have been made since 1972. When first adopted, the process was used, among other things, to review compliance with the franchise standards, the access channel rules, and matters relating to preemptions of local laws or franchise requirements. Since that time we have moved away from our franchise standards, have moved toward making the preemptions self-enforcing, and have reduced the degree to which access matters are considered in the certification process.[5] Other efforts to deregulate the cable television industry, particularly through deletion of those complex "leapfrogging" rules regulating from which markets particular signals had to be selected and the elimination of all of the more complex rules from smaller cable systems (those with under 1,000 subscribers),[6] also mean that there is a reduced likelihood of inadvertent rule violations that might be revealed through a prior review process. This action is, in fact, the culmination of a series of evolutionary steps concerning the certification process which we have taken as greater confidence in our ability to enforce the rules was developed. Among the steps already taken toward a streamlining of the certification rules are the simplified filing requirement adopted in docket 21002, a total exemption from the requirement for smaller systems, and an expedited system for the addition of local signals.[7] This step is a continuation of this process of rule reform.

These arguments were previously considered by the Commission and were rejected for reasons specifically spelled out in the *Report and Order in Docket 21002.* No new fact or argument having been presented, we are not persuaded that our decision in that proceeding was incorrect. On the contrary, our review of *Gill Cable, Inc.* (San Jose, Calif.), FCC 77-683, 66 FCC 2d 515 (1977), the case advanced by the legislative committee to illustrate the need for prior review and approval of cable operators' access plans, strengthens our original skepticism about the value of the deleted requirements. In *Gill Cable,* it was our response to complaints, not our prior review and approval of the operator's

[2] Communications Act Amendments of 1978, Pub. L. 95-234, 92 Stat. 33, amending 47 U.S.C. § 503(b).

[3] General Revision of the Copyright Law, Pub. L. 94-553, 90 Stat. 2041 (1976), 17 U.S.C. 101-810 (1976). The provision of this law that ties the copyright obligations of cable operators to the Commission's signal carriage rules is found in sec. 111(c) (1) and (2). The remedies and penalties for copyright infringements are found in ch. 5 of the statute.

[4] As noted, paragraph 2, supra, in 1972 where we adopted the current cable regulatory approach we anticipated that cable might grow so rapidly that so stringent a measure as prior review and approval of service offerings would be necessary to assure its "orderly development," *Cable Television Report and Order, supra,* at par. 189, and to permit the growth of cable "without jeopardizing the basic structure of over-the-air television." Id., at par. 58 (footnote omitted). In fact, anticipated penetration rates have been far below levels predicted prior to the 1972 *Report and Order.* For example, the 1970 Broadcast Bureau Staff Report, The Economics of the TV-CATV Interface, estimated that 25 percent of TV homes would be connected to cable by 1975, and that an upper limit of 50 percent was reasonable. As of this date, approximately 17 percent of TV homes receive cable service, with the annual increase over the last 6 years averaging less than 2 percent of TV homes. We have recognized, in the *Second Report and Order in Docket No. 20423,* 55 FCC 2d 541 (1975), that "the cable industry has not developed with the speed many had predicted it would * * *."

[5] The franchise standards were largely deleted, along with the requirements relating to review of access channel proposals and franchise consistency statements in the certification process, in the *Report and Order in Docket 21002, supra.* Reconsideration of that decision insofar as it related to changes in the certification process (sec. 76.13) has been sought by the Legislative Committee of the Philadelphia Community Cable Coalition et al. In order to avoid any appearance that our present action forecloses a positive response to that petition without its merits have been considered and in accordance with footnote 13 of the notice in this proceeding we believe it appropriate to consider and resolve that portion of the legislative committee's reconsideration petition here. Restoration of those certification requirements that were deleted in docket 21002 is basically sought on the grounds that they were a useful, unburdensome requirement which protected consumers, eased the Commission's enforcement burden, and served to advise the cable operator of his obligations under the rules.

[6] *Report and Order in Docket 20487,* FCC 75-1409, 57 FCC 2d 625 (1975) (largely deleting the "leapfrogging" rules). *Second Report and Order in Docket 20561,* FCC 78-288, 68 FCC 2d —— (1978) (exempting small systems from franchise and certification requirements, "sports blackout" rules, and distant signal limitations).

[7] *Order,* FCC 73-1214, 43 FCC 2d 1072 (1973) (allowing addition of local signal without certification); *Second Report and Order in Docket 20561, supra* (exempting cable systems with fewer than 1,000 subscribers from the certification process); *Report and Order in Docket 21002, supra* (simplifying the certificate application procedures).

access statement, which secured compliance with our rules. In sum, we have considered the substance of the reconsideration petitions and find nothing in them that would dissuade us from the action proposed in this proceeding. To the extent those petitions seek rule changes inconsistent with those we are adopting in this proceeding, those petitions are denied.

8. We believe the certification process has largely accomplished the purposes we set out for it in 1972, that is to bring the industry as a whole into compliance with the Commission's regulatory program for cable television. The bulk of applications received today are for changes in already certified systems and reflect a high degree of awareness of the Commission's rules. The remainder of the applications, about 20 percent, are for new cable systems. Of these, almost all are filed by established operators certified for operations elsewhere or who are seeking approval to extend an existing operation into a neighboring community where the permissible signal carriage complement is well known by the applicant. It is quite unusual, in other words, for a new cable system to be constructed and operated by owners who are inexperienced with our cable regulatory program. At present the staff discovers very few requests for inconsistent signals that are not accompanied by a waiver request. This indicates to us that one of the major functions of the process—to educate the industry with respect to our rules—has been substantially accomplished so that the need for a continuation of this process is greatly diminished.[8]

9. Under the regulatory scheme adopted in 1972 it was intended that "new cable proposals [be] reviewed, *without exception,* for consistency with [the] rules." *Cable Report and Order, supra,* at paragraph 109 (emphasis added). Fully implementing this program of wholesale review proved as recently as 1974 to require a staff of 35 including 27 attorneys. In considering whether to continue the certification process we cannot ignore these very substantial costs nor the additional costs which this process imposes on the public in the form of delays in the receipt of new or improved cable television service. The problem is particularly acute when it is considered that every proposal for new or added service is held up for 2 or 3 months in order that a regulatory action may be taken with respect to a small minority of situations. Even were there adequate staff available to promptly process all applications filed, delays of this length would be hard to avoid considering the time involved in preparing the application and the delays built into the process by the requirement that each application be placed on public notice and held for 30 days before action may be taken. Several operators in their comments produced examples demonstrating that the processing period for consistent, unopposed applications for certificates of compliance often extends for 5 or more months. Several other systems allege that the processing period is even longer, approaching 6 months. Commission backlog figures confirm that there have been delays in the processing of applications, although the length of such delays has varied greatly depending upon the type of application involved and the staff available at any particular time to process the applications. Of course, some potential violations are uncovered through this process, but when the number of such violations is compared to the overall impact of the certification process in delaying service to the public we cannot conclude that a case has been made for its continuation. This is particularly the case when other enforcement tools are available with which to obtain compliance with the rules.

10. In the notice it was suggested that the certification process could be replaced by a simpler procedure whereby cable operators would register with the Commission by providing certain basic information pertaining to the operation and identification of their cable television operations. It was noted that registration already was being used for systems serving fewer than 1,000 subscribers and for systems adding local, "must carry" broadcast stations to their operations. These registration procedures were suggested as possible models for a procedure to replace certification. Generally, broadcast interests argued that adoption of a pure "registration" procedure which lacked Commission review and authorization would jeopardize protections for consumers and communications entities because it fails to provide adequate notice to interested parties and necessary information regarding the impact of nonbroadcast services such as subscription cable television. Most importantly, however, adoption of a registration procedure would impair the Commission's ability to enforce its regulations by eliminating prior review and restricting the use of forfeiture authority. The broadcasters do, however, acquiesce in, and some even detail, a "registration" procedure which is more efficient than the present certification process but which maintains the features noted above. Comments from the cable industry strongly favor a simple process of registration patterned after that presently used for cable systems serving fewer than 1,000 subscribers. While limited notice and service requirements would be acceptable, the operators want most to have eliminated the procedural delays encountered while seeking certification. They argue also that enforcement tools such as forfeiture are available to assure compliance with the regulations.

11. Taking all of the preceding factors into account, we have decided to replace the present system of certification with a simple registration procedure similar to the one employed for smaller cable television systems by present section 76.10 of the rules. Simple registration coupled with public notice will protect the interests of broadcast licensees, local authorities, the public and other interested parties while enabling cable operators to initiate new or different broadcast signals to their communities with a minimum of delay and burden. At the same time the Commission will continue to receive the information it needs to monitor cable operations throughout the country. We do not agree with the charges that this action is premature and neglects our public interest responsibilities. We have not abandoned the substantive provisions of our rules. Rather, we are adopting simpler, more efficient procedures for the initiation of new services, and we will continue our vigorous enforcement of the rules as we seek to fulfill the purposes for which they were adopted.[9]

REGISTRATION AND COMMENCEMENT OF SERVICE

12. Briefly, the registration procedure we are adopting will work as follows: Operators of cable systems commencing operation or adding signals to an existing operation will be required to file certain basic information with the Commission relating to system identification, location, and signal carriage. A separate copy of the registration statement will be required for each community in which service is to be provided. Immediately upon filing

[8] Since March 1972, 12,250 applications for certificates of compliance or interim authorization have been processed. More than 7,500 system community units have been scrutinized at least once.

[9] The Commission enjoys particular leeway, applying its experience and judgment gained in dealing with dynamic conditions, to bring about necessary changes in its procedural rules, as it has done in this proceeding. See, *FCC v. Schreiber,* 381 U.S. 279, 289-90 (1965); also, *American Farmlines v. Black Ball Freight Service,* 397 U.S. 532 (1970). No party can successfully argue that it has any vested right in maintenance of the status quo. Particularly, it is legitimate for the Commission to pursue simplification and ease of administration in its rules. See *CBS Television Network Affiliates Ass'n v. FCC,* 555 F2d 985 (D.C. Cir., 1977) (affirmed revisions in the cable television network nonduplication rules).

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this information, operation may be commenced or new signals added. The filing of this information is solely for the purpose of providing the Commission with certain basic information concerning the identity, location, and operations of cable systems and, in contrast with the certification procedure, does not create a forum in which disputes concerning proposed operations may be resolved. Thus, there will be no requirement that the registration statement be served on any party, nor will there be any systematic review of the information filed by the Commission's staff to ascertain if the service proposed is in compliance with the rules. Cable operators or others seeking either a variance from or enforcement of the rules will proceed in other forms, not through oppositions to or waiver requests filed with the registration form. See discussion beginning at paragraph 16 herein.

13. The commencement of operation upon filing of the registration will be entirely at the risk of the system operator. If violations are subsequently discovered, appropriate regulatory sanctions, including specifically the imposition of forfeitures and the issuance of cease and desist orders, may be employed. Moreover, the filing of a waiver request by a cable operator or the inclusion of signals whose carriage is not permitted by the rules in a registration statement will not prevent the imposition of sanctions if carriage of such signals is commenced in violation of the rules even if it is subsequently determined that a waiver of the rules is appropriate.

Information To Be Filed

14. Cable operators seeking to register signal carriage will be required to file only basic information relating to their system's identity, location, signal carriage, and equal employment opportunity program.[10] This reflects the Commission's perception of the registration process as an information gathering tool rather than as a forum for resolution of questions concerning the rules. Thus, registration statements should reflect actual signal carriage and not include other signals for which it is hoped that a waiver can be obtained. After a system has registered its signal carriage complement or has previously obtained a certificate of compliance or an interim authorization, additional signals may be registered individually without listing the entire complement of signals. Deleted signals need not be registered. We emphasize that any changes in operator, mailing address, or operational status continue to require submission of the appropriate information pursuant to § 76.400 of the rules. Several comments urge that cable operators be required to submit other information such as nonbroadcast services and penetration rates. We believe this additional information would encumber the registration process, is available from other sources such as the annual reports filed by each system and is not necessary for the purpose of registration. If it will be relevant in another context, that will be the appropriate time to obtain it.

Service and Public Notice

15. A public notice will be issued by the Commission setting forth the details of each cable registration as it is received. There will be no requirement that the registration statement be served on any party. Many of the comments received in this proceeding were addressed to the notice issue and indicate the concern held by those parties for the inclusion of a notice provision as part of any registration procedure. Key Television, Inc., for instance notes that it is a broadcast licensee in a small, highly saturated market, and argues that because cable carriage is so important, notification of the commencement of all new cable operations is imperative. Similarly, the State Education Department of the University of the State of New York, and the city of Seattle Board of Public Works Office of Communications both stress the importance of notice for educational administrations and municipalities. On the other hand, comments from cable operators note the economic and administrative burdens often imposed by the service requirements.[11] We agree that notice is important and, therefore, all registration statements will be placed on public notice. We believe that this simple procedure will be sufficient to protect any legitimate interests which may be affected by a cable system's service proposals and, in consequence, that the extensive service requirements of the past safely may be discontinued. Many who presently must be served (such as grade B licensees) have no direct interest or mandatory carriage rights. The commencement of cable operation or alterations in cable service offerings will almost always be attended by advertising to acquaint the community with its availability. Thus, interested parties, including local authorities, consumers, broadcasters, and educators, will be alerted that a new cable service is being commenced. In addition, the public notice issued by the Commission will provide this information. We emphasize that the purpose of the public notice is informational only and that no rights are dependent upon its issuance.

Special Relief Procedures and Enforcement

16. Even in the absence of our certification process the rules provide ample procedural mechanisms for rule violations to be corrected, disputed questions to be ruled on, and for variances from the rules to be considered. First, those who would seek to have the Commission "waive any provision of the rules relating to cable television systems" or "impose additional or different requirements," may proceed through the special relief procedures specified in § 76.7 of the rules. Under this process direct service of the request must be made on "all interested parties," an opportunity is provided for a reply to the request, and the Commission has the flexibility to act on the matter either on the papers filed or after oral argument or hearing or the filing of such additional written submissions as may be required by the Commission. The same section of the rules also provides a mechanism for issuance of declaratory rulings to resolve complaints or disputed questions. Requests under this section of the rules may be filed simultaneously with the registration statement, but no rights accrue to the petitioner until Commission disposition thereon.

17. Although the Commission will retain full authority to issue temporary orders maintaining the status quo pending resolution of a contested matter, there will be no automatic stay imposed while the matter in controversy is being litigated. Comments from cable operators agree that this change is warranted, particularly in view of the new enforcement tools available to us. Even some broadcast interests, who benefit most from the existing automatic stay process, apparently are more concerned about continued notice and Commission "authorization" than automatic stays. Although the National Association of Broadcasters would impose additional procedural requirements, it agrees that automatic stays may not be necessary. It generally supports the proposal that a system,

upon receipt of timely objection, would be on notice that its carriage on noncarriage of a specific signal or signals might be violative of the Commission's rules. The system then would have the option of continuing carriage of the allegedly illegal signal * * * at the risk of a possible forfeiture or copyright infringement suit in the event of an adverse determination. See comments filed August 14, 1978, p. 4.

[10] We continue to require the filing of this statement because it is a one-time requirement and registration appears to be the most appropriate time for it to be filed.

[11] Sec. 76.13 (f) and (g) requires cable operators to serve copies of certificate of compliance applications on all grade B broadcast licensees, the local superintendent of schools, State and local educational authorities, and the local franchising authority, in addition to broadcast licensees possessing mandatory carriage rights.

In the past the use of such automatic stay process was thought to be necessary for several reasons including the feeling that the cable industry might develop in unforeseeable ways and with such speed that irreparable injury might occur before regulatory relief could otherwise be granted, because the penalties available for use against rule violators were too weak to assure compliance, and because of the difficulties inherent in the withdrawal of service after the public had become accustomed to it. The first two of these considerations now provide much less justification for such a process. The last consideration remains, but does not outweigh, in our opinion, the negative aspects of withholding service from the public whenever an objection of any type is made to that service. Rather, it seems preferable to invoke such a stay either on our own motion or at the request of any party only in those particular situations where its need has been specifically justified.

18. Where rule violations are uncovered they can be addressed either through the issuance of an order to show cause under § 76.9 of the rules or through the imposition of forfeitures. We are in the process of developing and soon will announce specific rules to implement forfeiture authority. Allegations of rule violations need not be formally presented to merit our attention. See § 1.41 of rules.

19. Some parties have questioned the adequacy of forfeitures as an enforcement tool in the absence of the certification process. Under the statute any party that violates a Commission rule but who is not a holder of a "license, permit, certificate, or other authorization issued by the Commission" may not be subject to the payment of any forfeiture until the violation has been formally brought to his attention and the violation has occurred again.[12] We are confident that the forfeiture remedy will prove efficacious even if the less direct approach to its implementation were acquired. Even though our decision here is not dependent upon our interpretation of the procedural steps necessary to impose forfeitures, it appears that it would be useful to advise affected parties of our interpretation of our authority in this area. In our view, the registration statement which the rules will still require of cable operators is a sufficient license or authorization under this section so that a forfeiture may be imposed without the initial warning.[13]

[12] 47 U.S.C. § 503(b)(5).

[13] The meaning of the terms "license, permit, certificate, or other authorization" is not definitively set forth either in the Communications Act or in the legislative history of the Communications Act Revisions of 1978. However, the legislative history indicates that the initial warning approach of section 503(b)(5) was included in the amendments to protect those persons who might not reasonably know they were engaging in an activity regulated by the Commission. See, S. Rep. No. 95-580, 95th Cong., 1st Sess. (1977). Cable operators are presumed to be aware that their activities are regulated as evidenced by the registration filing requirement. Also, the term "license" is defined in the Administrative Procedure Act, 5 U.S.C. 551, as the "whole or a part of an agency permit, certificate, approval, *registration*, charter, membership, statutory exemption or other form of permission." (Emphasis added.)

Rule Changes

20. Adoption of the registration process is intended only to make more efficient the initiation of new cable television services by revising the Commission's procedural rules. It is not intended to alter in any way the substantive provisions of the rules. For example, while an operator no longer is required to submit a franchise for Commission approval prior to commencing operation, the franchise still must conform to the Commission's requirements as set out in the rules. Also, as noted by the Federal Aviation Administration representative to the Interdepartmental Radio Advisory Committee, this new procedure does not relieve the operator of the requirements imposed by §§ 76.610 and 76.611 of the rules relating to notification of operations in the frequency bands 108-136 and 225-400 MHz. Likewise, adoption of the registration process in no way constitutes a change in our concern that certain areas of regulation remain free from additional requirements imposed by local regulatory authorities. Thus, the registration process will produce some procedural changes to the extent that judgments previously made during the certificating process, such as signal carriage consistency and franchise fee limitations, now will be made in either a special relief or enforcement context. With respect to comments from noncommercial educational interests, arguing against the proposed change to a registration procedure, we do not believe the rule we are adopting works a substantive alteration in the manner of affording economic protection to educational stations, as approved in *Colby-Bates-Bowdoin Educational Foundation, Inc. v. FCC*, 574 F. 2d 639 (1st Cir. 1978). Nevertheless, it is apparent that some procedural changes are affected. The educational television commentors have argued that deletion of prior, personal notification to them of new or added cable television importation of distant competing signals, together with a decision to allow immediate startup of those services, will impact their flow of local contributions and audience shares. Moreover, they argue, startup prior to adjudication of any objections to that service will establish equities in carriage and viewing patterns which will be reluctantly rescinded after a final decision. In answer, we first point out that the actual process open to educators for voicing opposition has changed little under the new rule. The objections allowed under §§ 76.59(c) and 76.61(d) of the rules have always been implemented pursuant to the special relief provisions and burdens of § 76.7, just as will be the case under the registration process. The differences under the new rule have to do with the manner of receiving notice, and the time at which opposition may be filed. As to notice, now educators, as well as all others, will need to follow the Commission public notices of registration filings in order to become aware of signal carriage information, in addition to reviewing the annual report filings of cable systems. Nothing in the comments or our experience has indicated that this notice process change will work hardships. The effect of the rule probably more important to educators is that they cannot delay startup of new or increased cable services simply by filing their § 76.7 oppositions. The reason for this change has been procedural, and not intended to alter either burdens or substance of protection. We will continue, under the pattern explained in *Colby-Bates, supra*, to be solicitous of the special needs of educational stations, audiences. However, we do not believe, nor have we been shown in this proceeding, that this change denigrates their interests. The comments have acknowledged the opportunity for abuse of process under the former rule allowing an initial procedural stay of cable service. See Public Broadcasting Service Comments, August 14, 1978, at 9.

We believe that the interests of educational stations' viewers can be adequately assessed and protected, as needed, under this rule. We would note that they already have the capability under current procedures—§ 76.7 and related sections—to make requests for stay of cable carriage of competing educational signals. We will give such filings the scrutiny they warrant, in light of the concerns espoused by these stations. In addition, if it appears, from our experience with and application of the new rule to educational stations' circumstances, that modification of the rule is necessary, we will be amenable to reasonable amendment of the process.

Pending Applications

21. Those cable systems with certificate of compliance applications presently pending before the Commission will be considered to have registered and are free to initiate their new operations to the extent they are consist-

ent with the rules, as of the effective date of the adoption of these new procedures. Applications for certificates contain the information required for registration and, therefore, no need

paragraph (q) above, unless novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines are involved.

one of the partners, if the operator is a partnership; by an officer, if the operator is a corporation; by a member who is an officer, if the operator is an unincorporated association; or by any

§ 76.59 [Amended]

17. Section 76.59(d)(3) is amended to delete "approval in the certificating process" after the words "shall not re-

§ 76.400 [Amended]

21. The "note" in § 76.400 is amended to delete "during preoperational certification" after the words "rou-

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

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ent with the rules, as of the effective date of the adoption of these new procedures. Applications for certificates contain the information required for registration and, therefore, no need exists to have these systems refile. This should ameliorate the exisitng "backlog" problems.[14] Requests for special relief contained in applications or objections to consistent service will be identified and processed as special relief matters. Systems previously certified will be considered to have registered and no further filings, other than required annual reports, will be necessary until new signals are added to their operations.

22. Because the action in this proceeding relieves a restriction imposed on the initiation of new cable television operations, we are advancing the effective date so that the registration procedure adopted herein is effective immediately upon publication in the FEDERAL REGISTER.[15]

Authority for the amendments to the rules adopted in the appendix attached hereto is contained in sections 2, 3, 4 (i), and (j), 301, 303, 307, 308, 309, 315, and 317 of the Communications Act of 1934, as amended.

Accordingly, *it is ordered*, That part 76 of the Commission's rules and regulations is amended, effective October 20, 1978, as set forth below. *It is further ordered*, that this proceeding is terminated.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1088, 1089 (47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309 315, 317).)

FEDERAL COMMUNICATIONS COMMISSION,
WLILLIAM J. TRICARICO,
Secretary.

1. In § 0.288 paragraph (d) is amended to delete "76.20" after the words "as provided in § 76.8"; paragraph (i) is amended to delete "certificates" after the words "conditions in permits"; paragraph (k) is amended to delete "certificates" after the words "and to cancel"; paragraphs (r), (s), and (t) are deleted and paragraph (u) is amended to read as follows:

§ 0.288 Authority delegated.

• • • • • •

(u) To act on petitions for special relief subject to the limitations of paragraph (q) above, unless novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines are involved.

• • • • • •

§ 76.7 [Amended]

2. Section 76.7(i) is deleted.

3. Subpart B is renamed "Registration Statements."

§ 76.10 [Deleted]

4. Section 76.10 is deleted.

§ 76.11 [Deleted]

5. Section 76.11 is deleted.

6. A new § 76.12 is added as follows:

§ 76.12 Registration statement required.

A system community unit shall be authorized to commence operation or add a television broadcast signal to existing operations only after filing with the Commission the following information:

(a) The legal name of the operator, entity identification or social security number, and whether the operator is an individual, private association, partnership, or corporation. If the operator is a partnership, the legal name of the partner responsible for communications with the Commission shall be supplied;

(b) The assumed name (if any) used for doing business in the community;

(c) The mail address, including ZIP code, and the telephone number to which all communications are to be directed;

(d) The date the system provided service to 50 subscribers;

(e) The name of each separate community or area served and the county in which it is located;

(f) The television broadcast signals to be carried which previously have not been certified or registered; and

(g) A statement of the proposed community unit's equal employment opportunity program, as described in § 76.311, unless such program has previously been filed for the community unit or is not required to be filed by § 76.311 (d) and (g) basing this conclusion on the anticipated number of full-time employees during January, February, and March of the year following commencement of operations. If no program statement is filed, an explanation must be submitted.

§ 76.13 [Deleted]

7. Section 76.13 is deleted.

8. A new § 76.14 is added as follows:

§ 76.14 Who may sign registration statements.

(a) Registration statements shall be personally signed by the operator; by one of the partners, if the operator is a partnership; by an officer, if the operator is a corporation; by a member who is an officer, if the operator is an unincorporated association; or by any duly authorized employee of the operator.

(b) Registration statements may be signed by the operator's attorney in case of the operator's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reasons why the registration statement was not signed by the operator. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

§ 76.16 [Deleted]

9. Section 76.16 is deleted.

10. A new § 76.17 is added to read as follows:

§ 76.17 Public notice.

The Commission will give public notice of the filing of registration statements.

§ 76.18 [Deleted]

11. Section 76.18 is deleted.

§ 76.20 [Deleted]

12. Section 76.20 is deleted.

§ 76.25 [Deleted]

13. Section 76.25 is deleted.

§ 76.27 [Deleted]

14. Section 76.27 is deleted.

15. Section 76.29(a) is amended to delete "pursuant to a valid certificate of compliance" after the words "for operations not authorized" and substitute "by the Commission's rules," and paragraph (b)(7) is amended to read as follows:

§ 76.29 Special temporary authority.

• • • • • •

(b) • • •

(7) A certificate of service on all interested parties.

• • • • • •

§ 76.57 [Amended]

16. Section 76.57(c) is amended to delete "approval in the certificating process" after the words "shall not require prior" and substitute "registration with the Commission"; and paragraph (d) is amended to delete "Commission notification or approval in the certificating process" after the words "shall not require prior" and substitute "registration with the Commission."

[14] On Aug. 17, 1978, the National Cable Television Association filed a "Petition for Adoption of Interim Processing Procedures" for processing certificate of compliance applications pending our decision in this proceeding. We believe our action today eliminates any excess burden on systems with pending applications by immediately granting them "registered" status, and, therefore, we are denying the petition.

[15] See, Administrative Procedure Act, 5 U.S.C. 553(d)(1).

§ 76.59 [Amended]

17. Section 76.59(d)(3) is amended to delete "approval in the certificating process" after the words "shall not require prior" and substitute "registration with the Commission", and paragraph (d) (1), (2), and (4) is amended to delete "Commission notification or approval in the certificating process" after the words "shall not require prior" and substitute "registration with the Commission."

§ 76.61 [Amended]

18. Section 76.61(e)(3) amended to delete "approval in the certificating process" after the words "shall not require prior" and substitute "registration with the Commission", and paragraph (e) (1), (2), and (4) is amended to delete "Commission notification or approval in the certificating process" after the words "shall not require prior" and substitute "registration with the Commission."

19. Section 76.65(a) is revised to read as follows:

§ 76.65 Grandfathering provisions.

(a) The provisions of §§ 76.57, 76.59, 76.61, and 76.63 shall not require the deletion of any television broadcast or translator signals which a community unit was authorized to carry or was lawfully carrying prior to March 31, 1972: *Provided, however,* That if carriage of a signal has been limited by Commission order to discrete areas of a community, any expansion of service will be subject to the appropriate provisions of this subpart. If a community unit is authorized to carry signals, either by virtue of specific Commission authorization or otherwise, any other community unit already operating or subsequently commencing operations in the same community may carry the same signals. (Any such new community unit shall, before instituting service, register with the Commission if otherwise required by § 76.12.)

• • • • • •

20. Section 76.305(a)(9) is added to read as follows and in paragraph (c) the first sentence is revised to delete the words "or until the system receives a certificate or certificates of compliance from the Commission occasioned by a local franchise review, whichever occurs later.

§ 76.305 Records to be maintained locally by cable television system operators for public inspection.

(a) • • •

(9) A copy of every registration statement filed with the Commission pursuant to § 76.12 of the rules.

• • • • • •

§ 76.400 [Amended]

21. The "note" in § 76.400 is amended to delete "during preoperational certification" after the words "routinely assigned" and substitute "upon registration."

PARTIES FILING COMMENTS IN CT DOCKET 78-206

1. Bureau of Mass Communications, State Education Department, University of the State of New York.
2. City of Seattle Board of Public Works Office of Cable Communications.
3. National Cable Television Association.
4. A-R Telecommunications Division of Adams-Russell.
5. Telecable Corp.
6. Teleprompter Corp.
7. Joint comments of five cable operators filed by their attorneys, Dow, Lohnes & Albertson.
8. Joint comments of 73 cable operators filed by their attorneys, Cole, Zylstra & Raywid.
9. American Broadcasting Companies, Inc.
10. Key Television, Inc.
11. National Association of Broadcasters.
12. Cox Broadcasting Corp. and Multimedia, Inc.
13. Joint comments of 29 broadcast licensees.
14. Community Antenna Television Association.
15. Public Broadcasting Service.
16. Department of Transportation– Federal Aviation Administration.

[FR Doc. 78-29445 Filed 10-19-78; 8:45 am]

[4310-31-M]

Title 30—Mineral Resources

CHAPTER II—U.S. GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 211—COAL MINING OPERATING REGULATIONS

AGENCY: Geological Survey, Interior.

ACTION: Revision of regulations.

SUMMARY: On August 22, 1978, final rules were published in the FEDERAL REGISTER (43 FR 37181) revising departmental existing Federal coal mining operating regulations (30 CFR Part 211) to comply with the requirements of section 523 of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87. Section 211.75(c)(3) of the final regulations, relating to the modification of cooperative agreements in existence on August 3, 1977, pursuant to section 523(c) of the Act, provides that modification of such existing agreements must be agreed to within 60 days of the date of publication of the revised regulations. The purpose of this amendment is to extend the period for reaching an agreement to 90 days from the date of publication of the final rules in the FEDERAL REGISTER.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Chedville L. Martin, Staff Attorney, Division of Surface Mining, Office of the Solicitor, 202-343-5207.

SUPPLEMENTARY INFORMATION: Section 523(c) of the Surface Mining Control and Reclamation Act authorizes States with cooperative agreements existing on the date of enactment which provide for State regulation of surface coal mining and reclamation operation on Federal lands to elect to continue such agreements provided they are modified to fully comply with the initial regulatory procedues set forth in section 502 of the Act. Several States have indicated a desire to modify their agreements and the Department is actively engaged in concluding negotiations with these States. However, it has been determined that it is administratively impossible to conclude these negotiations within the 60-day time limit set forth in the rules published on August 22, 1978. The Department believes it is in the public interest to extend the time limit for 30 days.

OTHER INFORMATION: The principal author of this rulemaking is Chedville L. Martin, Staff Attorney, Division of Surface Mining, Office of the Solicitor, 202-343-5207. Under the authority delegated to the Secretary of the Interior by the Mineral Leasing Act of 1920 as amended, and the Surface Mining Control and Reclamation Act of 1977, part 211, chapter II, title 30 of the Code of Federal Regulations is amended as set forth below:

Section 211.75 is amended by revising (c)(3) to read as follows:

§ 211.75 Applicability of State law.

• • • • • •

(c) • • •(3) The Governor of any State that wishes to modify the cooperative agreement existing on August 3, 1977, shall notify the Secretary in writing of the State's intent to modify the cooperative agreement. The notice of intent to modify the cooperative agreement must have been received by the Secretary prior to December 31, 1977, and the modification to the existing cooperative agreement agreed to within 90 days of the date of publication of these regulations. Failure to give notice or to timely complete the modification shall result in termination of any cooperative agreement executed prior to August 3, 1977.

Dated: October 19, 1978.

HOPE M. BABCOCK,
Deputy Assistant Secretary, Energy and Minerals.

[FR Doc. 78-29873 Filed 10-19-78; 12:33 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 966]

[Amdt. No. 1]

TOMATOES GROWN IN FLORIDA

Notice of Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would extend through June 16, 1979, the minimum grade, size, pack, container, marking and inspection requirements effective from October 15 through November 15, 1978, for tomatoes grown in certain counties in Florida. It would promote orderly marketing of such tomatoes by keeping less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due: November 4, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 125 and order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Palm Beach, Fla., on September 8, 1978.

The recommendations of the committee reflect its appraisal of the composition of the 1978-79 crop of Florida tomatoes and the marketing prospects for this season. The proposed regulation is similar to those issued during past seasons and to the temporary regulation in effect during October 15 through November 15, 1978. The proposed grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This would provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The proposed requirements, including those for containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments would be allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards were used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief or charity purposes such shipments would also be exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments would also be exempt.

The following types of tomatoes would be exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Tomatoes marketed within the regulated area would be unregulated because of an increase in the u-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption would permit persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This would reduce the problem of enforcement on small shipments of essentially noncommercial nature. The proposals concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several new varieties, including Flora-Dade, may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varieties usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with present grade standards infeasible, the affected varieties could be exempted from the size requirements of the regulation.

The proposed amendment is as follows:

§ 966.317 Handling regulation.

During the period November 16, 1978, through June 16, 1979, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container and inspection requirements.* (1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. combination, U.S. No. 2 or U.S. No. 3, of the U.S. standards for grades of fresh tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2$^{2}/_{32}$ inches in diameter and be sized in accordance with § 2851.1859 of the U.S. tomato standards.

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$^{17}/_{32}$ inches in diameter and each container shall be marked to indicate the designated sizes.

(iii) Only the generic terms as defined in § 2851.1859 may be used to indicate size designations on containers of tomatoes; except that the following abbreviations may be used—SML for small, MED for medium, LG for large, EX LG for extra large, or MAX LG for maximum large.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without mark, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "Used Box" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a certificate of privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of these regulations each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of these regulations but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes resorted, regraded, and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from the tomato grade classifications of paragraph (a)(1) and the size classifications of paragraph (a)(2) (except that the tomatoes shall be at least 2$^{2}/_{32}$ inches in diameter) and the container requirements of paragraph (a)(3) if such tomatoes comply with the inspection requirements of paragraph (a)(4).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) *Size.*

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting, and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised U.S. standards for grades of fresh tomatoes (7 CFR 2851.1855-2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this secton (Title 7, Chapter I, Part 51 was redesignated Title 7, Chapter 28, Part 2851 on June 27, 1977). Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under section 8e of the act and section 980.212 "Import regulations" (7 CFR 980.212, as amended; 43 FR 3349) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$^{2}/_{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Dated: October 17, 1978.

JOHN J. GARDNER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29703 Filed 10-19-78; 8:45 am]

[3410-02-M]

[7 CFR Part 982]

FILBERTS GROWN IN OREGON AND WASHINGTON

Proposed Free and Restricted Percentages for 1978-79 Marketing Policy Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish free and restricted percentages of 50 percent and 50 percent, respectively, for inshell filberts for the marketing policy year beginning August 1, 1978. The free percentage prescribes the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withdrawn from such handling. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

DATES: Written comments to this proposal must be received by November 17, 1978.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader 202-447-6393.

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SUPPLEMENTARY INFORMATION: This proposal was recommended by the Filbert Control Board. The Board is established under the marketing agreement, as amended, and order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed percentages are based upon the following estimates by the Filbert Control Board for the 1978-79 marketing policy year:

	Tons
Inshell supply:	
(1) Total	12,925
(2) Less substandard, etc	1,681
(3) Merchantable production	11,244
(4) Carryover Aug. 1, 1978 of merchantable filberts	58
(5) Supply subject to regulation (item 3 plus item 4)	11,302
Inshell requirements:	
(6) Trade demand	5,800
(7) Carryover July 31, 1979	950
(8) Total	6,750
(9) Less carryover Aug. 1, 1978 not subject to 1978-79 regulation	1,055
(10) Inshell requirements	5,695
Percentage:	
(11) Free percentage (item 10 divided by item 3)	50
(12) Restricted percentage (100 pct minus 50 pct)	50

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

The proposal is as follows:

§ 982.228 Free and restricted percentages—1978-79 marketing policy year.

The free and restricted percentages for merchantable filberts for the 1978-79 marketing policy year shall be 50 percent and 50 percent, respectively.

Dated: October 16, 1978

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29570 Filed 10-19-78; 8:45 am]

[3410-34-M]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Amended Challenge Level; Leptospira Bacterin Standards

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the potency test in four standard requirements for leptospira bacterin by increasing the range in titer permitted for the challenge dose from 10-1,000 hamster LD_{50} to 10-10,000 hamster LD_{50}. Failure of the challenge to be within the range of titer permitted by the present standards occurs frequently and requires the test to be repeated. This amendment would reduce the number of retests required by increasing the range in titer permitted for challenge without affecting the validity of the results.

DATE: Comments must be received on or before December 19, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulation to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The present standard requirements for leptospira bacterins require potency tests to be conducted in hamsters using a challenge dose of 10-1,000 hamster LD_{50} for each animal. Failure of the challenge to have a titer within this range requires the test to be designated as a no test and to be repeated.

It is difficult to consistently prepare challenge material that will have a titer within this range because fresh challenge material such as is used here may vary in virulence. Therefore, an exact titer of the materials cannot be determined until the completion of the test. As a result, retests are frequently required.

This amendment would increase the range in titer permitted for challenge in these tests to 10-10,000 hamster LD_{50}. A survey of tests conducted over a 1-year period indicates this increase would reduce the number of retests conducted for these products by licensees by nearly 26 percent.

This reduction in retests would be accomplished without affecting test results since data indicate survival of hamsters in this test is not significantly effected by the titer of the challenge when evaluated in a range of 10-10,000 hamster LD_{50}.

§§ 113.86—113.89 [Amended]

1. The first letter in each word of the headings for §§ 113.86, 113.87, 113.88, and 113.89 are to be capitalized.

2. Section 113.86 would be amended by revising paragraph (c)(3) to read:

§ 113.86 Leptospira Pomona Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14-18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospire pomona* organisms, using a dose of 10-10,000 hamster LD_{50} as determined by titration.

* * * * *

3. Section 113.87 would be anended by revising paragraph (c)(3) to read:

§ 113.87 Leptospira Icterohaemorrhagiae Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14-18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of *Leptospira icterohaemorrhagiae* organisms using a dose of 10-10,000 hamster LD_{50} as determined by titration.

* * * * *

4. Section 113.88 would be amended by revising paragraph (c)(3) to read:

§ 133.88 Leptospira Canicola Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14-18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira canicola* organisms using a dose of 10-10,000 hamster LD_{50} as determined by titration.

* * * * *

5. Section 113.89 would be amended by revising paragraph (c)(3) to read:

§ 113.89 Leptospira Grippotphosa Bacterin.

* * * * *

(c) * * *

(3) *Challenge.* From 14-18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira grippotyphosa* organisms using a dose of 10-10,000 hamster LD_{50} as determined by titration.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 16th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-29597 Filed 10-19-78; 8:45 am]

[3410-34-M]

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Avian Pox Vaccine Safety Test; Proposed Revision

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the standard requirement for avian pox vaccines by adding a new safety test for vaccines that are recommended for use in birds 10 days of age or younger. Since issuance of the present standard requirement, new products have been developed that are recommended for use in birds as young as 1 day of age. This amendment would update the present standard by adding a safety test to evaluate these new products.

DATE: Comments must be received on or before December 19, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The safety test provided in the present standard requirement for avian pox vaccines in § 113.161 was designed for the testing of vaccine that is recommended for use in birds 6 to 8 weeks of age. Since the issuance of this standard, new avian pox vaccines have been developed that are recommended for use in birds as young as 1 day of age. The safety test in the present standard has been found to be unsatisfactory for use in the evaluation of these new products, since it does not make provision for occasional deaths that occur when conducting tests in birds less than 5 days of age that are not attributable to the product. As a result, retests are frequently required.

This amendment would provide a new two-stage safety test for these new products that is designed to be conducted in birds less than 5 days of age. This test would provide a valid evaluation of safety and result in less retesting of product than is required by the present standard.

Some editing changes would also be made for clarity and consistency in the safety test for products recommended for use in older birds.

1. The first letter in each word of the heading for § 113.161 is to be capitalized.

2. Section 113.161 would be amended by revising paragraph (d)(1) to read:

§ 113.161 Avian pox vaccine.

* * * * *

(d) * * *

(1) *Safety test.* Final container samples of completed product from each serial shall be tested to determine whether the vaccine is safe for use in susceptible young birds. Vaccines recommended for use in birds 10 days of age or younger shall be tested in accordance with paragraphs (d)(1) (i), (ii), and (iii) of this section.

(i) Twenty-five susceptible birds 5 days of age or younger, properly identified and obtained from the same source and hatch, shall be vaccinated as recommended on the label, with the equivalent of 10 doses of vaccine each, and the birds shall be observed each day for 14 days. Severe clincial signs or death shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which then becomes stage one) has three failures.

(ii) The results shall be evaluated according to the following table:

CUMULATIVE TOTALS

Stage	Number of birds	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	2 or less	4 or more.
2	50	6 or less	6 or more.

(iii) If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and may be repeated or, in lieu thereof, the serial declared unsatisfactory.

(iv) Vaccines not recommended for use in birds 10 days of age or younger shall be tested for safety as follows:

Each of twenty-five 3- to 5-week-old, fowl-pox-susceptible birds shall be vaccinated as recommended on the label with the equivalent of 10 doses and observed each day for 14 days. If any of the birds show severe clinical signs of disease or death during the observation period due to causes attributable to the product, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and may be repeated or, in lieu thereof, the serial declared unsatisfactory.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays), in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 16th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-29598 Filed 10-19-78; 8:45 am]

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

DATE: Comments by December 19, 1978, proposed effective date of the final regulation based on this proposal is 30 days after the date of publication

The Commissioner has determined that a requirement of an audiological evaluation would create an additional barrier to the receipt of a hearing aid

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve

sons were given an opportunity to request an oral hearing on the proposed regulation. The Commissioner has received several requests for an oral

[7550-01-M]

NATIONAL MEDIATION BOARD

[29 CFR Part 1206]

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[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Parts 303, 304, and 328]

REMOTE SERVICE FACILITY

Proposed Revision of Procedures; Correction

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule; correction.

SUMMARY: In FR Doc. 78-29796 appearing at page 46976 in the issue of Thursday, October 12, 1978, on page 46976, in the first column, the "DATE" paragraph should read as follows: "Comments must be received by December 11, 1978."

FOR FURTHER INFORMATION CONTACT:

Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4628.

FEDERAL DEPOSIT INSURANCE CORPORATION
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-29602 Filed 10-19-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 808]

[Docket No. 77N-0333]

EXEMPTION FROM PREEMPTION OF STATE AND LOCAL HEARING AID REQUIREMENTS

Applications for Exemption

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would deny an exemption from Federal preemption for a New Jersey hearing aid device requirement. The agency issued in the FEDERAL REGISTER of July 28, 1978 (43 FR 33180), a proposed regulation responding to applications from 19 State and local governments, including the State of New Jersey, for exemptions from Federal preemption for hearing aid device requirements. This proposal is in response to a request for an extention of the comment period on that proposal. The request pointed out that the July 28, 1978, proposal filed to address a regulation for which the State of New Jersey had sought exemption from preemption, elsewhere in this issue of the FEDERAL REGISTER is a notice extending the comment period on that proposal.

DATE: Comments by December 19, 1978, proposed effective date of the final regulation based on this proposal is 30 days after the date of publication of the final regulation in the FEDERAL REGISTER.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Sheehan, Bureau of Medical Devices HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare; 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 28, 1978 (43 FR 33180), the Commissioner of Food and Drugs issued a proposed regulation responding to 19 applications for exemption from Federal preemption of State and local hearing aid requirements. The applications were filed under section 521(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360k(b)). Interested persons were given until September 26, 1978, to comment on the proposed regulation.

In the same issue of the FEDERAL REGISTER (43 FR 32868), interested persons were given an opportunity to request an oral hearing on the proposed regulation. The Commissioner received several requests for an oral hearing. Subsequently, in the FEDERAL REGISTER of September 22, 1978 (43 FR 43037), the Commissioner announced that the oral hearing would be held on October 31, 1978, and that written notices of appearance should be filed by October 10, 1978.

In the proposal of July 28, 1978, the Commissioner proposed to exempt New Jersey Statutes Annotated, sections 45:9A-23, -24, and -25. Subsequently, it was brought to the attention of the Commissioner that the proposal failed to address one requirement for which New Jersey sought exemption from preemption, namely, chapter 3, section 5 of the rules and regulations adopted pursuant to N.J.S.A. 45:9A-1 et seq.

Chapter 3, section 5, provides that no hearing aid may be sold without a hearing examination including, at a minimum, pure tone air conduction and bone conduction thresholds. The measurements must be conducted in an environment which meets or exceeds the American national standard criteria for background noise in audiometer rooms.

The Commissioner agrees that the July 28, 1978, proposal should have addressed chapter 3, section 5 of the rules and regulations adopted pursuant to N.J.S.A. 49:9A-1 et seq.

The Commissioner has determined that a requirement of an audiological evaluation would create an additional barrier to the receipt of a hearing aid where audiological services are scarce and could increase the cost of obtaining a hearing aid without providing any conclusive assurance that the patient would benefit from amplification. The requirements of chapter 3, section 5, are the equivalent of an audiological evaluation requirement. Therefore, the Commissioner is proposing to deny exemption from preemption for this requirement.

Interested persons may address this issue at the oral hearing on October 31. Anyone who has not yet filed a notice of appearance for the October 31 hearing and who wishes to address this issue may schedule an appearance by telephoning Joseph M. Sheehan at 301-427-7114.

Therefore, under the Federal Food, Drug and Cosmetic Act (secs. 521, 701, 52 Stat. 1055-1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that part 808 be amended by adding new § 808.80 to read as follows:

§ 808.80 New Jersey.

(a) The following New Jersey medical device requirements are enforceable notwithstanding section 521 of the Act, because the Commissioner of Food and Drugs has granted an exemption from preemption under section 521(b) of the Act:

(1) New Jersey Statutes Annotated, section 45:9A-23, on the condition that New Jersey, in enforcing this requirement, applies the definition of "used hearing aid" in § 801.420(a)(6) of this chapter.

(2) New Jersey Statutes Annotated, sections 45:9A-24 and 45:9A-25.

(b) The following New Jersey medical device requirement is preempted by section 521 of the Act and has been denied an exemption from preemption: Chapter 3, section 5 of the rules and regulations adopted under New Jersey Statutes Annotated, section 45:9A-1 et seq.

Interested persons may, on or before December 19, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the hearing clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 16, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29571 Filed 10-19-78; 8:45 am]

[4110-03-M]

[21CFR Part 808]

[Docket No. 77N-0333]

EXEMPTION FROM PREEMPTION OF STATE AND LOCAL HEARING AID REQUIREMENTS

Applications for Exemption; Extension of Comment period

AGENCY: Food and Drug Administration.

ACTION: Extension of time for Comment.

SUMMARY: This document extends the time for submission of comments of a proposed regulation that would exempt certain State and local hearing aid device requirements from Federal preemption. The agency is taking this action in response to a request for an extension.

DATE: The deadline for written comments is December 19, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph M. Sheehan, Bureau of Medical Devices (HFK-70), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7114.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 28, 1978 (43 FR 33180), the Commissioner of Food and Drugs issued a proposed regulation responding to 19 applications for exemption from Federal preemption of State and local hearing aid requirements. The applications were filed under section 521(b) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360k(b)). Interested persons were given until September 26, 1978 to comment on the proposed regulation. In the same issue of the FEDERAL REGISTER (43 FR 32868), interested persons were given an opportunity to request an oral hearing on the proposed regulation. The Commissioner has received several requests for an oral hearing. Subsequently, in the FEDERAL REGISTER of September 22, 1978 (43 FR 43037), the Commissioner announced that the oral hearing would be held on October 31, 1978, and that written notices of appearance should be filed by October 10, 1978.

The Commissioner has received a request for a 60-day extension of the comment period. The request pointed out that the proposed regulation is of major importance requiring the broadest possible public input. The request also pointed out that the proposed regulation failed to address a requirement for which the State of New Jersey had sought exemption from preemption. Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner issues a proposed regulation addressing that New Jersey requirement.

The Commissioner agrees that an extension of the comment period is in order.

Therefore, under the Federal Food, Drug and Cosmetic Act (secs. 521, 701, 52 Stat. 1055-1056 as amended, 90 Stat. 574 (21 U.S.C. 360k, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby extends the comment period to December 19, 1978. This extension will enable interested persons to comment on all issues with respect to exemptions from Federal preemption of State and local hearing aid device requirements.

Interested persons may, on or before December 19, 1978, submit to the Hearing (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding exemptions from preemption of State and local hearing aid device requirements. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in the brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 16, 1978.

WILLIAM F. RANDLOPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29572 Filed 10-19-78; 8:45 am]

[7550-01-M]

NATIONAL MEDIATION BOARD

[29 CFR Part 1206]

REPRESENTATION DISPUTES TIME LIMITS ON APPLICATIONS

AGENCY: National Mediation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed text eliminates the note to § 1206.4(b) of the National Mediation Board Rules. The effect of such action is to make the time limits on applications for the investigation of representation disputes applicable to employees who are unrepresented for purposes of collective bargaining. The proposed text also makes certain grammatical changes in the existing text of rule 1206.4. The effect of the changes is to clarify the meaning of the rule.

DATES: Consideration will be given to all written comments received on or before December 19, 1978.

ADDRESS: Written comments should be addressed to Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, DC 20572.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, telephone: 202-523-5920.

SUPPLEMENTARY INFORMATION: These proposed regulations are issued pursuant to the authority of 44 Stat. 577, as amended, 45 U.S.C. 151 et seq.

By direction of the National Mediation Board.

Dated: October 17, 1978.

ROWLAND K. QUINN, JR.,
Executive Secretary.

It is proposed that 29 CFR 1206.4 be amended to read as follows:

§ 1206.4 Time limit on applications.

Except in unusual or extraordinary circumstances, the National Mediation Board will not accept an application for investigation of a representation dispute among employees of a carrier:

(a) For a period of two (2) years from the date of a certification covering the same craft or class of employees on the same carrier, and

(b) For a period of one (1) year from the date on which:

(1) The Board conducted an election among the same craft or class of employees on the same carrier and less than a majority of eligible voters participated in the election; or

(2) The Board dismissed a docketed application covering the same craft or class of employees on the same carrier

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because no dispute existed as defined in § 1206.2 of these rules; or

(3) The applicant withdrew an application covering the same craft or class of employees on the same carrier after the application was docketed by the Board.

[FR Doc. 78-29733 Filed 10-19-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 1880]

FINANCIAL ASSISTANCE, LOCAL GOVERNMENTS

Loans for Relief From Mineral Development Impacts

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: Section 317(c) of the Federal Land Policy and Management Act of 1976, as amended, authorizes the Secretary of the Interior to make loans to qualified States and their political subdivisions to relieve the adverse impacts which may result from the development of mineral deposits leased under the Act of February 25, 1920, as amended. This proposed rulemaking provides the procedure under which the loans may be made.

DATE: Comments requested by November 20, 1978.

ADDRESS: Send comments to: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

Comments will be available for public review in room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Robert C. Bruce, 202-343-8735.

SUPPLEMENTARY INFORMATION: Section 317(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1747), as amended by the Act of August 20, 1978 (Pub. L. 95-352), authorizes the Secretary of the Interior to make loans to those States and their political subdivisions that qualify under the provisions of the section. The loans are to be used to relieve social and economic impacts that result from the development of mineral deposits leased under the Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.). This does not cover the lease of mineral deposits on the Outer Contenental Shelf. The proposed rulemaking establishes the procedure under which States and their political subdivisions will apply for loans to relieve social and economic impacts resulting from the leasing and development of Federal mineral resources.

The loan program will be dependent on the amount of money, if any, appropriated by the Congress in any given fiscal year for such a program even though the loans are repaid out of the receipts paid the States under the provisions of section 35 of the Act of February 25, 1920.

The principal author of this proposed rulemaking is Mr. Robert C. Bruce of the Division of Legislation and Regulatory Management, assisted by the Divisions of Budget and program Development and Finance, all of the Bureau of Land Management.

It is hereby determined that the publication of this document is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044.

Pursuant to the authority of section 317(c) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740), it is proposed to amend part 1880, group 1800, subchapter A, chapter II of title 43 of the Code of Federal Regulations by adding a new subpart 1882 as set forth below:

Subpart 1882—Mineral Development Impact Relief Loans

Sec.
1882.0-1 Purpose.
1882.0-2 Objective.
1882.0-3 Authority.
1882.0-5 Definitions.
1882.1 Loan fund, general.
1882.2 Qualifications.
1882.3 Application procedures.
1882.4 Allocation of funds.
1882.5 Terms and condition.
1882.5-1 Tenure of loan.
1882.5-2 Interest rate.
1882.5-3 Limitation on amount of loans.
1882.5-4 Loan repayment.
1882.5-5 Security for a loan.
1882.5-6 Use of loan.
1882.5-7 Nondiscrimination.
1882.5-8 Additional terms and conditions.
1882.6 Loan renegotiation.
1882.7 Inspection and audit.

AUTHORITY: Sec. 317(c), Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740) (90 Stat. 2767).

Subpart 1882—Mineral Development Impact Relief Loans

§ 1882.0-1 Purpose.

The purpose of this subpart is to establish procedures to be followed in the implementation of a program under section 317 of the Federal Land Policy and Management Act to make loans to qualified States and their political subdivisions.

§ 1882.0-2 Objective.

The objective of the program is to provide financial relief through loans to those States and their political subdivisions that are experiencing adverse social and economic impacts as a result of the development of Federal mineral deposits leased under the provisions of the Act of February 25, 1920, as amended.

§ 1882.0-3 Authority.

Section 317(c) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1744), authorizes the Secretary of the Interior to make loans to States and their political subdivisions to relieve social or economic impacts resulting from the development of Federal minerals leased under the Act of February 25, 1920 (30 U.S.C. 181 et seq.).

§ 1882.0-5 Definitions.

As used in this subpart, the term:

(a) "Secretary" means the Secretary of the Interior.

(b) "Director" means the Director, Bureau of Land Management.

(c) "Act" means the Act of February 25, 1920, as amended (30 U.S.C. 181).

§ 1882.1 Loan fund, general.

Funds appropriated by Congress for loans for relief of adverse social and economic impacts resulting from the development of Federal mineral deposits leased and developed under the Act may be made to those States and their political subdivisions who qualify under this subpart. Such loans may be used for: (a) Planning, (b) construction and maintenance of public facilities, and (c) provisions for public services.

§ 1882.2 Qualifications.

(a) Any State or any political subdivision of a State receiving payments from the Federal Government under the provisions of section 35 of the Act that can document to the satisfaction of the Director that it has suffered or will suffer adverse social and economic impacts as a result of the leasing and development of Federal mineral deposits under the provisions of the Act shall be considered qualified to receive loans made under this subpart.

(b) A loan to a qualified political subdivision of a State receiving payment from the Federal Government under the provisions of section 35 of the Act shall be conditioned upon a showing of proof, satisfactory to the Director, by the political subdivision that it has a pledge from the State of sufficient funds from the payments made under section 35 of the Act to the State to secure the payment of the loan.

§ 1882.3 Application procedures.

No later than October 1 of the fiscal year in which a loan is to be made, the State or its political subdivision shall submit a letter signed by the authorized agent requesting a loan. The authorized agent shall furnish proof of authority to act for the State or political subdivision with the application. Such letter shall constitute a formal application for a loan under this subpart and shall contain the following:

(a) The name of the State or political subdivision requesting the loan.

(b) The amount of the loan requested.

(c) The name, address, and position of the person in the State or political subdivision who is to serve as contact on all matters concerning the loan.

(d) A description and documentation of the adverse social and economic impacts suffered as a result of the leasing and development of Federal mineral deposits.

(e) An analysis and documentation of the additional expenses generated as a result of the leasing and development of Federal minerals.

(f) Proposed uses of the funds derived from the loan.

(g) The Director may request any additional information from the applicant that is needed to properly act on the loan application. The applicant shall furnish such additional information in any form acceptable to the applicant and the Director. No loan shall be granted unless such additional information is timely received by the Director.

§ 1882.4 Allocation of funds.

If applications for loans exceed the funds appropriated for such purpose, loans shall be allocated among the States and their political subdivisions in a fair and equitable manner, after consultation with the Governors of the affected States, giving priority to those States and political subdivisions suffering the most severe social and economic impacts. The allocation of funds under this section shall be the final action of the Department of the Interior.

§ 1882.5 Terms and conditions.

§ 1882.5-1 Tenure of loan.

Loans shall be for a period not to exceed 10 years. Loan documents shall include a schedule of repayment showing the amount of the principal and interest due on each installment.

§ 1882.5-2 Interest rate.

Loans shall bear interest at a rate equivalent to the lowest interest rate paid on an issue of at least $1 million of bonds exempt from Federal taxes of the applicant State or any agency thereof within the calendar year immediately preceding the year of the loan. Proof of each rate shall be furnished by an applicant with its application.

§ 1882.5-3 Limitation on amount of loans.

Total outstanding loans under this program for qualified States or their political subdivisions shall not exceed the total amount of the qualified States's projected mineral revenues under the Act for the 10 years following. The total outstanding loans shall be the sum of the unpaid balance on all such loans made to a qualified State and all of its qualified political subdivisions.

§ 1882.5-4 Loan repayment.

Loan repayment shall be by withholding mineral revenus payable to the qualified State for itself or its political subdivisions under the Act until the full amount of the loan and interest have been recovered.

§ 1882.5-5 Security for a loan.

The only security for loans made under this subpart shall be the mineral revenues received by a qualified State or its political subdivisions under the Act. Loans made under this subpart shall not constitute an obligation upon the general property or taxing authority of the qualified recipient.

§ 1882.5-6 Use of loan.

A loan made under this subpart may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under the Act.

§ 1882.5-7 Nondiscrimination.

No person shall, on the grounds of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or part with funds made available under this subpart.

§ 1882.5-8 Additional terms and conditions.

The Director may impose any terms and conditions that he determines necessary to assure the achievement of the purpose of the loans made under this subsection.

§ 1882.6 Loan renegotiation.

The Secretary may, upon application of a qualified State or one of its qualified political subdivisions, take any steps he determines neessary and justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made under this subpart to renegotiate the loan, including restructuring of the loan. All applications submitted under this section shall set forth in detail the basis for the renegotiation of the loan. The renegotiated loan shall meet the requirements of this subpart to the extent possible.

§ 1882.7 Inspection and audit.

Upon receipt of a loan under this subpart, the grantee of the loan shall establish accounts and related records necessary to record the transactions relating to receipt and disposition of such loan. These accounts and related records shall be sufficiently detailed to provide an adequate inspection and audit by the Secretary and the Comptroller General of the United States. The loan funds shall not be commingled with other funds of the recipient.

GARY J. WICKS,
Acting Assistant Secretary of the Interior.

OCTOBER 16, 1978.

[FR Doc. 78-29599 Filed 10-19-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Gen. Docket No. 78-323; RM-3058; FCC 78-699]

AERONAUTICAL ADVISORY FREQUENCIES

Authorizing use by Aeronautical Utility Mobile Stations Located at Certain Landing Areas Which Do Not Have a Control Tower or FAA Flight Service Station

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: Amendment of the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

DATES: Comments must be received on or before November 15, 1978, and reply comments must be recevice on or before November 27, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

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FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of parts 2 and 87 of the rules to authorize the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station.

Adopted: September 26, 1978.

Released: October 12, 1978.

By the Commission:

SUMMARY

1. In this notice we are proposing to amend the Commission's rules to permit certain ground vehicles which routinely operate on airports that have no functioning control tower or FAA flight service station, but which are served by an aeronautical advisory station, to utilize aeronautical advisory frequencies for safety related communications.

BACKGROUND

2. The Commission has received a letter from the Federal Aviation Administration (FAA) requesting that the rules be amended to allow FAA vehicles and certain other ground vehicles to utilize aeronautical advisory frequencies while operating on landing areas not served by a control tower or FAA flight service station. FAA feels that safety and operating efficiency would be enhanced at these airports by permitting vehicles used for inspections, maintenance, emergencies, and the like, to communicate with the local aeronautical advisory station (unicom) when operating on the airfield. Primarily, these vehicles would be expected to monitor the appropriate frequency and only transmit or acknowledge relevant safety information. FAA recommends that communications by such vehicles, if authorized, be subject to the supervision of the advisory station operator. Also it is recommended that nonsafety communications, such as dispatching, not be permitted. We note that from time to time the Commission has received, and in appropriate cases granted, requests for waivers to provide similar communications capabilities for certain ground vehicles operating on nontower airfields.

DISCUSSION

3. Presently, aeronautical advisory frequencies are limited to the necessities of safe and expeditious operation of private aircraft, such as runway conditions, types of fuel available, wind conditions, weather information, and dispatching. Further, only one aeronautical advisory station is permitted on a landing area.[1] Due to congestion problems on the then one available aeronautical advisory frequency at uncontrolled airports, the Commission amended the rules to provide two additional frequencies for advisory purposes at these landing areas.[2] In view of the nature of this radio service and the potential that increased traffic would negate the beneficial effects of the two additional frequencies recently provided, we are cautious regarding the grant of broader access to the advisory frequencies.

4. However, it appears that with appropriate safeguards, as discussed below, the FAA recommended rule change would provide an added safety feature at many uncontrolled airports without appreciably increasing message traffic on the advisory frequencies. Therefore, we propose to amend the rules substantially as requested by FAA, to permit FAA vehicles and aeronautical utility mobile stations to utilize aeronautical advisory frequencies on a noninterference basis, at airports which have an aeronautical advisory station but no control tower or FAA flight service station (FSS). Also, at landing areas which have a part-time control tower and/or part-time FSS, utility mobile stations will be permitted to use advisory frequencies during the hours that neither the control tower nor FSS is in operation, on the same basis as utility mobile stations at nontower, non-FSS airfields. Communications by utility mobile stations on advisory frequencies will be limited to the necessities of safety (such as runway conditions and hazards on the landing area). Further, these stations will be required to discontinue transmission when so requested by the advisory station operator.

5. Eligibility for authority to operate utility mobile stations will be limited to those applicants able to demonstrate a legitimate need and authority to operate a ground vehicle on the particular airport movement area. An airport movement area is defined as the runways, taxiways, and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramps and parking areas. For example, the use of ground vehicles for inspection of airport movement areas by airport operators and State and local governmental organizations, and the various emergency and support vehicles, such as crash trucks and snowplows, customarily used on an airfield, would satisfy the proposed eligibility requirements. On the other hand, fuel trucks which normally operate only on ramp and parking areas, serve as an example of the type of vehicle not contemplated to be eligible. Our intention in proposing this rule amendment is to provide a means for vehicles which routinely operate on a nontower, non-FSS landing area to *monitor* the advisory frequency and communicate when safety considerations so dictate.

PROPOSAL

6. Accordingly, we propose to amend §§ 2.106, 87.257 and Subpart J of Part 87 of the Commission's rules to permit aeronautical advisory frequencies to be utilized on a noninterference basis by FAA vehicles and aeronautical utility mobile stations authorized to operate at landing areas having an aeronautical advisory station and either a part-time or no control tower or FAA flight service station.

7. The proposed amendments to the Commission's rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 (b), (c), (d), and (r) of the Communications Act of 1934, as amended.

COMMENTS

8. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 15, 1978, and reply comments on or before November 27, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

10. Regarding questions on matters covered in this document contact Robert McNamara, 202-632-7107.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[1] This restriction has been retained in the rules since the inception of the aeronautical advisory service. As indicated in a report prepared by Special Committee 113 of the Radio Technical Commission for Aeronautics (Document No. DO-129, November 23, 1965) such a limitation is necessary for safety, legal, and technical considerations.

[2] Report and Order, docket No. 20123, FCC 77-253, adopted April 1977; 42 FR 20469, 64 FCC 2d 573.

Parts 2 and 87 of Chapter 1 of title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In § 2.106 footnote US31 is amended to read as follows:

§ 2.106 Table of frequency allocations.

* * * * *

U.S. FOOTNOTES

* * * * *

US31 Except as provided below the band 121.9375–123.0875 MHz is for use by private aircraft stations.

The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary noninterference basis to aeronautical utility mobile stations, and may be use by FAA ground vehicles for safety related communications during inspections conducted at such landing areas.*

* * * * *

PART 87—AVIATION SERVICES

1. In § 87.257, paragraph (d)(5) is added to read as follows:

§ 87.257 Scope of service.

* * * * *

(d) * * *

(5) Aeronautical advisory stations may communicate with aeronautical utility mobile stations and FAA ground vehicles, concerning runway conditions and safety hazards on the landing area when neither an airdrome control tower nor FAA flight service station is in operation. (Transmissions by aeronautical utility mobile stations are subject to the control of the aeronautical advisory station to the extent that communications by ground vehicles must be discontinued when so requested by the aeronautical advisory station).

* * * * *

2. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) At landing areas having an airdrome control tower or an FAA flight service station, the frequencies 121.600 through 121.925 MHz listed in § 87.401(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.401(a) may be assigned to utility mobile stations on such landing areas only after FCC coordination with FAA. The frequency that will be assigned to the utility mobile station at an airport served by a control tower or flight service station, is the frequency that is used by the control tower for ground traffic control or the flight service station to communicate with ground vehicles.

(b) In addition to the frequencies described in paragraph (a) of this section, at landing areas which have a part-time airdrome control tower or part-time FAA flight service station and an aeronautical advisory station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. However, utility mobile stations may transmit on the advisory frequency only when the control tower or flight service station has ceased operations.

(c) At landing areas which have an aeronautical advisory station but no airdrome control tower or FAA flight service station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. (The frequencies available for assignment to aeronautical advisory stations are described in § 87.253.)

3. Section 87.432 is amended to read as follows:

§ 87.432 Eligibility.

(a) Authorization to operate an aeronautical utility mobile station on the frequencies described in § 87.431(a) will be issued only for operation at landing areas having an airdrome control tower or FAA flight service station.

(b) Authorization to operate an aeronautical utility mobile station on an aeronautical advisory frequency will be issued only for operation at landing areas having an aeronautical advisory station and either a part-time or no airdrome control tower or FAA flight service station. In addition, an applicant must: (1) Demonstrate a need to routinely operate a ground vehicle on the airport movement area (the airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas); (2) identity the vehicle in which the station is to be located; and (3) either attach a statement that the applicant is the airport owner or operator, or a State or local governmental aeronautical agency; or attach a statement from the airport owner or operator granting permission to operate the subject vehicle(s) on the specified airport movement area.

4. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

(a) Communications by an aeronautical utility mobile station at a landing area which has an airdrome control tower or FAA flight service station in operation, are limited to the management of ground traffic at the airport.

(b) Aeronautical utility mobile stations which operate on the aeronautical advisory station frequency are authorized only to transmit and acknowledge information relating to safety, such as runway conditions and hazards on the airfield. (Such stations are expected to be employed primarily for monitoring advisory communications.)

5. Section 87.437, including the heading, is amended to read as follows:

§ 87.437 Supervision by operator of airdrome control tower, FAA flight service station or aeronautical advisory station.

(a) Transmissions by an aeronautical utility mobile station are subject to the control of the airdrome control tower, the FAA flight service station or the aeronautical advisory station, as appropriate at the particular landing area. When so requested by the control tower, the flight service station or advisory station, a utility mobile station must discontinue transmitting immediately.

(b) An aeronautical utility mobile station must guard its assigned frequency during periods of operation.

(c) Aeronautical utility mobile stations operating on the frequency assigned to an airdrome control tower or FAA flight service station must cease to transmit on that frequency when neither of these stations are in operation.

6. Section 87.439 is amended to read as follows:

§ 87.439 Frequency change.

In the event that the utility frequency is changed by the Federal Aviation Administration (to a frequency in the band 121.600–121.925 MHz) or by the Federal Communications Commission, an aeronautical utility mobile station licensee has temporary authority for a period of 90 days to use the new frequency in place of the one listed on the license. An application for modification of the station license to specify the new frequency must be submitted within 10 days from the date that the station commences operation on the new frequency.

[FR Doc. 78-29559 Filed 10-19-78; 8:45 am]

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[6712-01-M]

[47 CFR Part 68]

[CC Docket No. 78-331; FCC 78-712; Transmittal No. 13012]

AMERICAN TELEPHONE & TELEGRAPH CO.

Providing for Certain Exceptions Required To Protect the National Defense and Security as Well as Other Appropriate Exceptions

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: As of July 1, 1979, all customer-provided tele-communications terminal equipment and systems must be registered in conformance with the FCC's rules. The Department of Defense has requested that the FCC make an exception for their equipment and systems in instances where compliance with the registration requirements would compromise the national security and defense. The FCC is thus proposing to amend its rules to meet this need. In addition, the FCC is soliciting comments on whether other special exceptions would be appropriate.

DATES: Comments must be received on or before November 17, 1978, and reply comments must be received on or before December 19, 1978.

ADDRESS: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Eliot J. Greenwald, Common Carrier Bureau, 202-632-5550.

SUPPLEMENTARY INFORMATION: In the matter of American Telephone & Telegraph Co., revision to tariff FCC No. 263 880th revised page 1; amendment of Part 68 of the Rules to provide for certain exceptions required to protect the national defense and security as well as other appropriate exceptions. Memorandum opinion and order and notice of proposed rulemaking.

Adopted: October 5, 1978.

Released: October 20, 1978.

By the Commission: 1. Presently before the Commission is Transmittal No. 13012, filed by American Telephone & Telegraph Co. (A.T. & T.) on June 5, 1978, to become effective on October 6, 1978. This transmittal would revise Tariff FCC No. 263 to require that as of July 1, 1979, customer-provided equipment that is used in connection with long-distance message telecommunications service (MTS) must conform to the registration requirements of Part 68 of the Commission's rules. 47 CFR 68.1 *et seq.* The Department of Defense (DOD) filed a petition for suspension and investigation on June 30, 1978. A.T. & T. filed an opposition on July 11, 1978.

2. In its petition, DOD explains that it has frequently connected its own telephone equipment and communications systems to telephone company provided services for use with MTS. It adds that in many instances the specific type of equipment, or the geographic location of the equipment may be subject to security classification, or the equipment or location may be used for security classified projects and exercises. DOD lists four general areas where these classified equipment items, locations and projects/exercises normally occur:

1. Communications support of the President and other senior U.S. officials, particularly when they are in a travel status;

2. Communications support of U.S. intelligence agencies, including counterintelligence;

3. Communications support of criminal investigative activities, particularly of espionage, sabotage, and subversion; and

4. Communications support of other classified/sensitive activities approved at Cabinet-official levels.

DOD contends that compliance with Part 68 of the Commission's rules would result in the public release of classified information. Thus, DOD maintains that the tariff revisions that would require it to register classified equipment, locations, and projects/exercises should not be allowed to go into effect.

3. In its opposition, A.T. & T. contends that its tariff revisions were necessary to comply with the Commission's *Third Report and Order* in Docket No. 19528, FCC No. 78-248, released April 13, 1978. A.T. & T. maintains that the order does not make any exceptions for DOD or any other party. A.T. & T. adds that should the Commission conclude that the Part 68 requistration program does not apply to certain Government equipment because of national defense or security, A.T. & T. would not oppose such action.

4. We agree with DOD when it maintains that the Commission never intended to enact an equipment registration program that would interfere with the national security and defense. In this regard we note that section 1 of the Communications Act requires that we regulate communications "* * * for the purpose of the national defense * * *" 47 U.S.C. § 151. Furthermore, in our *Third Report and Order* for Docket No. 19528, we stated at paragraph 67, note 20, that certain entities such as governmental agencies were presumed competent by the carriers to install and maintain their own telephone equipment and communications systems.[1] Nevertheless, Part 68, as written, does not contain any exceptions for DOD.

5. It would therefore appear appropriate to adopt an exception to the registration requirements of Part 68 of the rules to allow governmental agencies such as DOD to install and maintain their own communications equipment and systems without registration in instances where such governmental agency can certify that the equipment and systems will not harm the public telephone network and where disclosure of either equipment, locations, or projects/exercises would compromise the national security and defense.

6. Any such exception which we might adopt would have to be narrowly drawn so as not to compromise the objectives of our telephone equipment registration program. Thus, it would appear appropriate to limit such an exception solely to equipment and systems affecting national defense, and continue to require that DOD or other agencies conform to the requirements of Part 68 of our rules in instances where the information would not be classified. If DOD were to install an ordinary telephone, for example, in a nonclassified location, the registration requirements of Part 68 should apply.

7. In view of this, we will institute rulemaking to determine whether, and to what extent, Part 68 should be amended to reflect a national defense exception along these lines. Additionally, there are other historic exceptions to the earlier tariff requirements prohibiting interconnection of customer provided systems or equipment. They include, among others, railroads, pipeline companies, right-of-way companies,[2] so-called "service station" lines,[3] and customers in hazardous or inaccessible locations.[4] *See First Report and Order*, 56 FCC 2d 593, 598 (1975). These exceptions may also have been affected by the *Third Report and Order* in Docket No. 19528. We will thus explore whether any other special exceptions to Part 68 should be adopted for reasons other than national defense. We realize that many of these historical exceptions

[1] Moreover, in adopting the Part 68 standards for plugs and jacks in Docket No. 20774, we acknowledged the continuing validity of analagous exceptions to the predecessor telephone company imposed interconnection requirements. *See* 41 FR 28694, 28699 (Jul. 12, 1976).

[2] These include utilities such as electric companies.

[3] These are subscribers whose locations are distant from the main telephone lines and have been given the opportunity to connect their own lines to the main telephone lines.

[4] These include locations such as mining operations where a telephone may be located in a potentially explosive atmosphere.

were adopted in order to allow particular customers to interconnect their own systems or equipment.[5] At the present time, however, our Part 68 rules generally accord customers a right of interconnection. Thus, it may not be necessary to retain these historical tariff exceptions by making them exceptions to Part 68 of the rules. Moreover, we do not intend to relitigate the question of whether special assemblies provided by telephone companies or others should be registered or used with protective circuitry registered under Part 68 of the Rules. This matter was presented for decision on several occasions and has been ruled on. *Memorandum Opinion and Order*, 64 FCC 2d 1058, 1060-62 (1977).

8. This still leaves for consideration A.T. & T.'s Transmittal No. 13012 and DOD's Petition. Under the new tariff, the existing requirements will remain effective through the transition period specified in section 68.2 of our rules. Therefore DOD's equipment will not have to be registered until the expiration of that period, which is currently July 1, 1979. In any event, A.T. & T's tariff appears to fully comply with the Commission's existing rules in this regard, and therefore, suspension and investigation is unwarranted. However, it is our intention to act expeditiously on the rulemaking which we are instituting in order that these issues can be resolved prior to the end of the transition period.

9. In view of the foregoing, *it is ordered*, That the Petition of the Department of Defense for Suspension and Investigation of American Telephone & Telegraph Co.'s Transmittal No. 13012 revisions to Tariff FCC No. 263 is denied.

10. *It is further ordered*, That, pursuant to the provisions of sections 1, 2(a), 4(i)-(j), 201(b), 202(a), 203, 205, and 403 of the Communications Act of 1934 (as amended), 47 U.S.C. 151, 152(a), 154(i)-(j), 201(b), 202(a), 203, 205, and 403, and 5 U.S.C. 553, notice is given of proposed rule changes in part 68 of the FCC's Rules and Regulations, 47 CFR 68.1 *et seq.* to create an exception to the registration requirement for telephone systems and equipment provided by governmental agencies or others as discussed in paragraph 5 through 7, *supra*. Comments are specifically requested on the following issues.

(a) Should there be an exception to the general requirements of Part 68 of the FCC's Rules, running to equipment or systems provided by governmental agencies in instances where compliance with Part 68 might compromise the national security or defense? How shall any such exception be defined?

(b) Are there other special customer circumstances, such as those expressed in the historical special "interconnection" tariff regulations for pipeline, right-of-way, and railroad companies, as well as "service station" lines and hazardous or inaccessible locations, which would also warrant special treatment under Part 68 of the FCC's Rules? How shall the contours of any such special treatment be defined?

(c) What procedures, if any, should be adopted for any exceptions to part 68 of the FCC's Rules which might be promulgated under (a) or (b) above to assure that equipment or systems connected to the nationwide telephone network do not cause it harm?

(d) What specific rules or rule changes should be adopted in Part 68 of the FCC's Rules consistent with the foregoing?

11. *It is further ordered*, That interested persons may file comments on or before November 17, 1978 and reply comments on or before December 19, 1978. We particularly encourage the Department of Defense to actively participate in this proceeding. In reaching its decision in this matter the Commission may consider any other relevant information before it in addition to the comments filed pursuant to this notice. In accordance with § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and 11 copies of all comments, replies, pleadings, briefs and other documents filed shall be furnished to the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29699 Filed 10-19-78; 8:45 am]

[5] *See, e.g.*, American Telephone & Telegraph Co., 32 FCC 337 (1962) (providing for railroad interconnection).

[6712-01-M]

[47 CFR PART 73]

[BC Docket No. 78-237; RM-2937]

BROADCAST RENEWAL APPLICANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCAST APPLICANTS, PERMITTEES AND LICENSEES

Primer on Ascertainment of Community Problems; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning the Primer on Ascertainment of Community Problems by Broadcast Renewal Applicants and Noncommercial Educational Broadcast Applicants, Permittees and Licensees. Petitioners, National Religious Broadcasters, Inc., and the Midwest Chapter of the National Religious Broadcasters, state that the additional time is necessary so that they can respond to the issues involved.

DATES: Comments must be received on or before November 16, 1978, and reply comments December 18, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of the primer on ascertainment of community problems by broadcast renewal applicants and noncommercial educational broadcast applicants, permittees and licensees. Order extending time for filing comments and reply comments.

Adopted: October 12, 1978.

Released: October 16, 1978.

By the Chief, Broadcast Bureau:

1. On August 1, 1978, the Commission adopted a Memorandum Opinion and Order and Notice of Proposed Rulemaking, 43 FR 35357 (see also 43 FR 41241, Sept. 15, 1978), concerning the above-captioned proceeding. The present dates for filing comments and reply comments are October 16, and November 15, 1978, respectively.

2. On October 3, 1978, counsel for the National Religious Broadcasters, Inc. ("NRB"), filed a request seeking an extension of time for filing comments and reply comments to and including January 15, and March 16, 1979, respectively.[1] Counsel states that due to the complexity of issues NRB anticipates raising [2] and the geographical and other diversity of its member organizations and their interests in this proceeding, additional time is necessary to prepare comments.

3. On the basis of the reasons represented in the above-mentioned request for extension of time, we are persuaded that some additional time is warranted in order to assure development of a sound and comprehensive record on which to base a final decision in

[1] A Motion for Extension of time was also filed by the Midwest Chapter of the National Religious Broadcasters, requesting an extension for filing comments to Jan. 15, 1979.

[2] In this regard, counsel states that NTB proposes to offer the Commission, among other things, a survey of the law of the 50 states as it relates to the acts advocated by certain of the petitioners and their supporters.

this proceeding. We are, therefore, granting 30 additional days for filing comments and believe the same amount of time is appropriate for the filing of the reply comments.

40251, Sept. 11, 1978) proposing to substitute UHF TV channel 64 for UHF TV channel 39 at Miami, Fla. The date for filing comments has expired and the date for filing reply comments is

SUPPLEMENTARY INFORMATION: In the matter of petition to institute a notice of inquiry and proposed rulemaking on the airing of public service

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric

34450, July 5, 1977; 42 FR 36980, July 18, 1977). It is proposed that § 602.3 be amended to require the inclusion in FMP's of historical information on

(v) *Domestic processing capacity.* Assess and specify the capacity and extent to which U.S. fish processors, on an annual basis, will process the

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this proceeding. We are, therefore, granting 30 additional days for filing comments and believe the same amount of time is appropriate for the filing of the reply comments.

4. Accordingly, *it is ordered*, That the requests for extension of time filed by the National Religious Broadcasters, Inc., and the Midwest Chapter of the National Religious Broadcasters, Inc. are granted to and including November 16, and December 18, 1978, respectively, and are denied in all other respects.

5. This action is taken pursuant to sections 4(i), 5(d)(1), 303(r) and 307(b) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29695 Filed 10-19-78; 8:45 am]

[6712-01-M]

[47 CFR PART 73]

[BC Docket No. 78-207; RM-3208; RM-3209]

TELEVISION BROADCAST STATIONS IN MIAMI, AND WEST PALM BEACH, FLA.

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning the proposed assignment of television channels in Miami, West Palm Beach, Hollywood, and Boca Raton, Fla. Petitioner, Pierson, Ball & Dowd, state that the additional time is needed so that it can prepare comments.

DATE: Reply comments must be filed on or before October 31, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Miami, West Palm Beach, Hollywood, and Boca Raton, Fla.). Order extending time for filing reply comments.

Adopted: October 12, 1978.

Released: October 16, 1978.

By the Chief, Broadcast Bureau:

1. On July 6, 1978, the Commission adopted a Notice of Proposed Rulemaking, 43 FR 30841 (see also 43 FR 40251, Sept. 11, 1978) proposing to substitute UHF TV channel 64 for UHF TV channel 39 at Miami, Fla. The date for filing comments has expired and the date for filing reply comments is presently October 10, 1978.

2. On September 28, 1978, a request was filed by the law firm of Pierson, Ball & Dowd ("Pierson") seeking an extension of time for filing reply comments to and including October 31, 1978. Pierson states that a number of pleadings have been filed in this proceeding which require careful study.

3. We are of the view that the public interest would be served by granting the additional time so that Pierson, Ball & Dowd may file any information which may be helpful to the Commission in resolving the issues in this proceeding.

4. Accordingly, *it is ordered*, That the request for filing reply comments submitted by Pierson, Ball & Dowd is granted to and including October 31, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29696 Filed 10-19-78; 8:45 am]

[6712-01-M]

[47 CFR PART 73]

[BC Docket No. 78-251; RM-2712]

AIRING OF PUBLIC SERVICE ANNOUNCEMENTS BY BROADCAST LICENSEES

Order extending time for filing comments and reply comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning the airing of public service announcements by broadcast licensees. Petitioner, Public Media Center, states that the additional time is necessary so that it can respond to the issues involved.

DATES: Comments must be filed on or before November 22, 1978, and reply comments on or before December 22, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of petition to institute a notice of inquiry and proposed rulemaking on the airing of public service announcements by broadcast licensees. Order extending time for filing comments and reply comments.

Adopted: October 12, 1978.

Released: October 16, 1978.

By the Chief, Broadcast Bureau:

1. On August 8, 1978, the Commission adopted a Memorandum Opinion and Order and Notice of Inquiry, 43 FR 37725, concerning the above-entitled proceeding. The present dates for filing comments and reply comments are October 23, and November 22, 1978, respectively.

2. On September 29, 1978, counsel for Public Media Center ("PMC"), filed a request for extension of time for filing comments to and including November 22, 1978. Counsel states that various questions regarding public service announcements have been posed by the Commission. He contends that while much of this information is readily available to broadcast licensees, the listening and viewing public who have in the past been in a position to participate in Commission proceedings have had little reason to compile data until now. Counsel asserts that PMC is in communication with citizen and public interest groups, as well as local groups, which constitute a large and diverse segment of radio and television listeners, who have expressed a desire to participate in this proceeding.

3. We are of the view that the public interest would be served by this extension so that Public Media Center may file any information which might be helpful to the Commission in reaching a decision in this proceeding.

4. Accordingly *it is ordered*, That the dates for filing comments and reply comments in Docket No. 78-251 are extended to and including November 22, and December 22, 1978, respectively.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29697 Filed 10-19-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 602]

FISHERY MANAGEMENT PLANS

Proposed Guidelines for Development

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Proposed amendments to regulations.

SUMMARY: These proposed amendments require fishery management plans (FMP's) to contain information regarding: (1) Historical and projected transfers from U.S. harvesters to foreign vessels, (2) the processing capacity of U.S. fish processors, and (3) data which U.S. processors must submit to the Secretary of Commerce. The addition of such information is required by Pub. L. 95-354, an amendment of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) (FCMA).

DATE: Comments are invited until November 20, 1978.

ADDRESS: Comments should be submitted in writing to the Assistant Administrator for Fisheries, National Marine Fisheries Service (F37), Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Alfred J. Bilik, Program Support Specialist, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7265.

SUPPLEMENTARY INFORMATION: The FCMA establishes certain criteria and procedures for foreign vessels to engage in fishing in the fishery conservation zone (FCZ) of the United States. Included in those procedures is a requirement that no foreign fishing vessel may engage in fishing within the FCZ unless a valid permit has been issued to such vessel. As amended by Pub. L. 95-354, the FCMA requires that in the case of any application for a permit by a foreign vessel which proposes to receive U.S. harvested fish from vessels of the United States, the Secretary of Commerce may approve the application unless the Secretary determines that U.S. fish processors have adequate capacity, and will utilize such capacity, to process all U.S. harvested fish from the fishery concerned. Accordingly, the FCMA, as amended, requires all FMP's to contain information regarding the capacity and extent to which U.S. fish processors, on an annual basis, will process fish covered by FMP's.

50 CFR Part 602 contains the guidelines for development of FMP's (42 FR 34450, July 5, 1977; 42 FR 36980, July 18, 1977). It is proposed that § 602.3 be amended to require the inclusion in FMP's of historical information on any transfers of U.S. harvested fish to foreign vessels. A significant amendment is the proposal that a new subsection be added to § 602.3(b)(8) entitled "Domestic processing capacity" which will require inclusion in FMP's of an assessment and specification of the capacity and extent to which U.S. fish processors will process the stocks of fish covered by the plan. Certain factors are enumerated which shall be considered in assessing the extent to which U.S. fish processors will process the stocks. Comments regarding these factors and their application, or additional factors which deserve consideration, are specifically solicited.

Finally, it is proposed that § 602.3 specify the types of data which FMP's may require to be submitted by U.S. fish processors.

Signed in Washington, D.C., this 17th day of October, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

§ 602.2 [Amended]

1. Revise § 602.2(b)(5) by deleting the second sentence and substituting as follows:

. . . . . .

(b) * * *

(5) * * * In determining whether U.S. fishermen will not harvest an optimum yield, the Councils are to give consideration to the capacity and extent to which fishing vessels of the United States will harvest such optimum yield, including U.S. harvested fish which will be received at sea by foreign vessels. * * *

§ 602.3 [Amended]

2. Revise § 602.3(b)(8)(iv) by inserting "(A)" after "the fishery," and by adding a new subparagraph (B) as follows:

. . . . . .

(b) * * *
(8) * * *
(iv) * * *

(B) Describe and enumerate the amount or tonnage of any transfers, or proposed transfers, of the stock(s) comprising the management unit from U.S. harvesters to foreign vessels."

3. Amend § 602.3(b)(8) by adding the following new subparagraph (v):

. . . . . .

(b) * * *
(8) * * *

(v) *Domestic processing capacity.* Assess and specify the capacity and extent to which U.S. fish processors, on an annual basis, will process the stock(s) comprising the management unit. In assessing the extent to which U.S. fish processors will process the stock(s), the following factors, as appropriate, shall be considered:

(A) Any contracts or other agreements for the purchase of U.S. harvested fish by U.S. fish processors;

(B) The actual ability and intent of U.S. processors to utilize that ability to process a particular species;

(C) Considerations as geographical proximity of harvest areas to the facilities of U.S. fish processors, especially in relation to the refrigeration/freezing capability of potential U.S. fish harvesting vessels;

(D) Recent history of extent to which U.S. fish processors have processed particular species;

(E) Availability and capacity of the labor force, processing machinery, freezers and cold storage facilities of the U.S. fish processors and intent and plans to increase availability or capacity of any of the above to process a particular species;

(F) Seasonal schedules of the U.S. fish processors; and

(G) Availability of U.S. harvesting vessels to supply the stock(s) comprising the management unit taking into consideration such things as capability of vessels to fish the species in the fishery, seasonal schedules, and relative availabilities and prices of alternative fisheries.

. . . . . .

4. Substitute the following for § 602.3(b)(9)(ii):

. . . . . .

(b) * * *
(9) * * *

(ii) *Domestic processing sector.* Describe the wholesale products and their values. Specify the degree of dependence of the processing sector upon products from the fishery.

. . . . . .

5. Revise § 602.3(b)(13)(viii) by substituting "the harvesting and processing sectors of the U.S. fishing industry." for "U.S. fishermen."

6. Revise the head for § 602.3(b)(14)(ii) by substituting "(ii) *Domestic and foreign harvesters*" for "(ii) *Domestic and foreign fishermen*".

7. Revise § 602.3(b)(14)(ii) after "number of hauls," by adding "numbers or weight of fish received by foreign vessels from U.S. harvesting vessels,".

8. Substitute the following for § 602.3(b)(14)(iii):

. . . . . .

pared by a Council or by the Secretary.* * *

[FR Doc. 78-29605 Filed 10-19-78; 8:45 am]

ery Conservation and Management Act of 1976 (FCMA) did not apply to the Northern Mariana Islands at the time the PMP was being prepared in

are of special importance to American Samoans. Longliners deliver these species in addition to tuna, and wahoo are canned for local consumption while

[3310-01-M]

OFFICE OF MANAGEMENT AND BUDGET

29.3 State and Local Taxes.
29.4 Contract Clauses.

PART 29—TAXES

29.000 Scope of part—states that

8. Substitute the following for § 602.3(b)(14)(iii):

. . . . . .

(b) * * *
(14) * * *

(iii) *Processors.* The plan shall specify the data that shall be submitted by fish buyers, processors, etc. who purchase, transport, and process the catch of the stock(s). The data specified shall include, but are not limited to:

(A) The amount or tonnage of fish purchased, transported, and/or processed, by species.

(B) Locations at which fish are received and/or processed, by species.

(C) Limitations as to seasons, quantities, or quality standards of fish which apply to fish received and/or processed, by species.

(D) Disposition of the fish received or processed, by species.

(E) Prices paid for fish received, by species.

§ 602.4 [Amended]

9. Add to § 602.4(b)(8) the following:

. . . . . .

(b) * * *
(8) * * *
(v) Domestic processing capacity.

. . . . . .

10. Amend § 602.4(b)(14)(ii) to read: "Domestic and Foreign Harvesters"

§ 602.5 [Amended]

1. Revise § 602.5(d)(1) to read:

. . . . . .

(d) * * *

(1) *Council review.* The Act directs each Council to review on a continuing basis, and revise as appropriate, the assessments and specifications made regarding the optimum yield from, the capacity and extent to which U.S. fish processors will process U.S. harvested fish from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority.

12. Amend § 602.5(d)(2), second sentence, to read:

. . . . . .

(d) * * *

(2) * * * At least once each year, each Council must assess the accuracy of the estimates of MSY and optimum yield, the capacity and extent to which U.S. fish harvesters will harvest the optimum yield, the capacity and extent to which U.S. fish processors will process U.S. harvested fish, and the total allowable level of foreign fishing for each plan implemented regardless of whether the plan is prepared by a Council or by the Secretary. * * *

[FR Doc. 78-29605 Filed 10-19-78; 8:45 am]

[3510-22-M]

[50 CFR Part 611]

PACIFIC BILLFISHES AND SHARKS

Preliminary Fishery Management Plan

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice of public hearings.

SUMMARY: On September 14, 1978, the National Marine Fisheries Service (NMFS) published a notice in the FEDERAL REGISTER (43 FR 41062) withdrawing proposed rulemaking to implement a Preliminary Management Plan (PMP) for Pacific Billfish and Oceanic Sharks. The PMP was published in the FEDERAL REGISTER on July 21, 1978 (43 FR 3137-1406). The proposed rulemaking was withdrawn to provide an opportunity for the NMFS to reconsider certain provisions in the PMP. This notice is published to announce a series of public hearings to solicit inputs from the public on the issues being addressed in the reconsideration of the PMP.

DATES: Hearings will be held on November 13, 14, and 21, 1978. Comments should be submitted by December 24, 1978.

ADDRESSES: The hearing schedule is as follows:

Monday, November 13, 1978, 7 p.m., the Civic Center Conference Room, Saipan, Northern Mariana Islands.

Tuesday, November 14, 1978, 7 p.m., Legislative Hall, Agana, Guam.

Tuesday, November 21, 1978, 7 p.m., the Conference Center, Pago Pago, American Samoa.

Send comments to: Mr. Gerald V. Howard, Director, Southwest Region, National Marine Fisheries Service (NOAA), 300 South Ferry Streeet, Terminal Island, Calif. 90731, telephone: 213-548-2575.

FOR FURTHER INFORMATION CONTACT:

Mr. Denny Moore, 202-634-7454.

SUPPLEMENTARY INFORMATION: The particular issues for which the NMFS solicits public inputs are:

1. *Consideration of fishery conservation and management measures to apply in the fishery conservation zone (FCZ) seaward of the Northern Mariana Islands.* The PMP published in the FEDERAL REGISTER did not propose any such measures because the Fishery Conservation and Management Act of 1976 (FCMA) did not apply to the Northern Mariana Islands at the time the PMP was being prepared in 1977. The FCMA became applicable to the Northern Mariana Islands on January 8, 1978. The NMFS now proposes that the PMP be revised to apply to the FCZ around the Northern Mariana Islands as well as other portions of the FCZ in the Pacific Ocean. The alternatives being considered include establishment of 12-mile and 50-mile zones in which retention of billfish or other affected species by foreign fishing vessels may be prohibited. The NMFS is particularly interested in obtaining the views of the people of the Northern Mariana Islands as to the importance of domestic fishing and appropriate conservation and management measures; and in receiving data on domestic catches of billfish, sharks, and associated species.

2. *Consideration of separate determinations of optimum yield (OY), domestic capacity, and total allowable levels of foreign fishing (TALFF's) for each species of fish covered by the PMP for separate portions of the FCZ.* The published PMP proposed that there be a single determination of OY and TALFF for each affected species (or species group) in aggregate for the FCZ. Many organizations and individuals who commented on the PMP said that this approach did not give sufficient consideration to the special social and economic conditions and needs of different portions of the FCZ. Some commentors were especially concerned that the PMP could adversely affect operations of American Samoa-based foreign longliners whose deliveries are critical to tuna canneries which constitute the principal private industry of American Samoa. The NMFS is especially interested in receiving data on domestic and foreign catches of the fish covered by the PMP in the FCZ seaward of American Samoa, and in hearing the views of American Samoa interests on the impacts which would be expected if the PMP as originally proposed were implemented. The NMFS also solicits views on the merits of establishing separate OY's and TALFF's for different fisheries in the FCZ.

3. *Consideration of establishing OY's and TALFF's for wahoo and dolphin (also known as mahi mahi in Hawaii and masi masi in American Samoa).* The published PMP did not apply to foreign catches of wahoo and dolphin in the FCZ because of the limited data available on abundance, distribution, and stock status of these species. These species therefore would continue to be "prohibited species" under the FCMA and foreign fishing regulations (50 CFR 611.13). Reviewers of the PMP indicated that these species

are of special importance to American Samoans. Longliners deliver these species in addition to tuna, and wahoo are canned for local consumption while dolphin enter the fresh fish markets. Prohibition of retention of these species in the FCZ, it is claimed, may deprive American Samoans of important sources of protein. Therefore, consideration is being given to modification of the PMP to determine OY and TALFF for dolphin and wahoo. Consideration is also being given to establishing separate OY's for these species in separate fisheries in the FCZ. The NMFS is especially interested in obtaining data on domestic and foreign catches of wahoo and dolphin in the FCZ, quantities of each species processed and consumed in American Samoa and elsewhere, and alternative conservation and management measures to apply to foreign catches of wahoo and dolphin in the FCZ.

4. *Consideration of alternative reporting and inspection requirements.* The PMP and proposed rulemaking called for a variety of reporting, inspection, and related measures to monitor the foreign fishing which would be permitted under the PMP. Some commentors indicated that many of the foreign vessels invcived would have substantial difficulty complying with all these requirements. Therefore, the NMFS is interested in obtaining the views of the affected public concerning the extent to which modification of these requirements is warranted and the appropriate modifications, if any.

The NMFS has not reached any definite conclusions on the above issues at this time. The NMFS is cooperating with the Pacific and Western Pacific Fishery Management Councils and with State governments and other interests in evaluation alternatives. A Draft Supplemental Impact Statement/PMP is being prepared and will be distributed to interested parties in advance of the hearings to provide them with additional background. A notice of availability for the draft Supplemental will be published in the FEDERAL REGISTER in the future.

Dated: October 17, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-29710 Filed 10-19-78; 8:45 am]

[3310-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Ch. 1]

FEDERAL ACQUISITION REGULATION PROJECT

Availability and Request for Comment of Draft Regulation

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on dratt regulation.

SUMMARY: The Office of Federal Procurement policy is making available for public and Government agency review and comment a segment of the draft Federal Acquisition Regulation (FAR). Additional segments will be announced for availability and comment on later dates. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before December 20, 1978.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503. Government personnel may obtain copies from the contact points indicated in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT:

William Maraist, or Strat Valakis, 202-395-3390.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce the proliferation of regulations; to eliminate conflicts and redundancies, and to provide an acquisition regulation that is simple, clear, and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section of part available for review and describe any new policies therein.

The following segment of the draft Federal Acquistion Regulation is available for the public and Government agency review and comment.[1]

PART 29—TAXES

29.000 Scope of part.
29.1 General.
29.2 Federal Excise Taxes.
29.3 State and Local Taxes.
29.4 Contract Clauses.

PART 29—TAXES

29.000 Scope of part—states that this part explains Federal, State and local taxation of certain supplies and services, the applicability of such taxes to the Federal Government, and prescribes policy and procedures for use of tax clauses.

29.1 General—advises contracting officers to coordinate with and consult legal counsel on tax matters and to discourage contractors from negotiating independently with taxing authorities under certain circumstances.

29.2 Federal excise taxes—discusses the impostion of Federal excise taxes on certain supplies and services and the fact that the Federal Government is often exempt from such taxes. It describes the procedures and circumstances under which the Government takes advantage of the available exemptions.

29.3 State and local taxes—discusses the application of State and local taxes to the Federal Government and to its contractors and subcontractors. It covers the procedure for claiming exemption from the taxes, as well as the special circumstances involving the North Carolina Sales and Use Tax Act

29.4 Contract clauses—prescribes the circumstances for use of certain tax clauses. The tax clauses are provided here for review purposes. However, they will be published in part 52 of the completed FAR.

This segment of the FAR contains new policy only to the extent that certain DOD policies have been extended to all agencies where the change was considered desirable or necessary. Other changes include: (1) The material has been reorganized for clarity; (2) the FAR has not employed the DAR and FPR "guidance-by-example"; (3) applicable tax statutes are cited for reference purposes; but are not paraphrased; (4) the complicated subject of State and local taxes has been covered by a general discussion and reference to legal counsel on specific questions; (5) sections on exports and evidence of exemption are expanded and made consistent; (6) the discussion of taxes on communication and transportation has been amplified.

Government personnel in the following agencies must obtain copies of the FAR drafts through the established agency contact point listed for each agency. Official agency views are requested by this notice. Agency personnel, therefore, should not send their comments directly to the Office of Federal Procurement Policy. They should be coordianted within the

[1] Filed with the original document

agency and made a part of the agency's formal comments.

Dated: October 18, 1978.

Mr. William E. Mathis 755-0822 Director, Contracts Management Division (PM 214) *Environmental Protection Agency* 401 M Street, SW, Room 2003 Washington, D.C. 20460 STOP 460

Mr. Edward L. Halman, 427-4460, Director, Division of Contracts, *Nuclear Regulatory Commission*, Washington, D.C. 20555, STOP 555.

notices

agency and made a part of the agency's formal comments.

Dated: October 18, 1978.

LESTER A. FETTIG,
Administrator.

FAR AGENCY CONTACT POINT LIST

Mr. Edmund Alvarez, 447-3937, Deputy Director, Administrative Services, Office of Operations and Finance, Room 113W, Administration Building, *Department of Agriculture*, Washington, D.C. 20250, STOP 209.

Mr. Aubrey T. Chason, 281-8167, Chief, Procurement Management Staff, Office of Logistics, *Central Intelligence Agency*, Washington, D.C., STOP 64.

Mr. Donald J. Biglin, 632-6161, Director, Bureau of Management Services, *Civil Service Commission*, 1900 E Street NW., Room 5554, Washington, D.C. 20415, STOP 227.

Mr. David Larkin, 377-3891, Deputy Director for Program Development, Office of Administrative Services and Procurement, Room 6959, *Department of Commerce*, Washington, D.C. 20230, STOP 206.

Mr. Charles W. Fletcher, 557-1145, Executive Director, *Committee for Purchase from the Blind and Other Severely Handicapped*, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

Mr. Thomas Cassidy, 697-6710, *OUSDRE Department of Defense*, The Pentagon, Room 3D 1080, Washington, D.C. 20301.

Mr. Carl Brotman, 695-0255, Army Policy Member, DAR Council, Office of Assistant Secretary of the Army, R.D. & A., *Department of the Army*.

Mr. Billy Williams, 692-3324, Navy Policy Member, DAR Council, Office of Assistant Secretary of the Navy, OASN (MRANL), *Department of the Navy*.

Lt. Col. Daniel Unruh, 695-1997, Air Force Policy Member, DAR Council, AF/RDC, *Department of the Air Force*.

Mr. David Freeman, 274-6411, DLA Policy Member, DAR Council, *Defense Logistics Agency*, Cameron Station, Alexandria, Va.

Mr. Thomas Ruppert 353-4515 *U.S. Department of Energy* Procurement Policy Division M/S C-167, GTN Washington, D.C. 20545.

Mr. William E. Mathis 755-0822 Director, Contracts Management Division (PM 214) *Environmental Protection Agency* 401 M Street, SW, Room 2003 Washington, D.C. 20460 STOP 460

Mr. A. J. Nicolosi, 724-1133, Procurement Agent, Procurement and Contracts Branch, *Federal Trade Commission*, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580.

Mr. John Brosnan, 275-5476, *U.S. General Accounting Office*, Room 7075, 441 G Street NW., Washington, D.C. 20548.

Mr. Paul E. Goulding, 563-1226, Acting Deputy Administrator, *General Services Administration*, Washington, D.C. 20405, STOP 29.

Mr. Ed T. Rhodes, 245-8771, Deputy Assistant Secretary for Grants and Procurement, *Department of Health, Education, and Welfare*, Hubert H. Humphrey Building, Room 513D, Washington, D.C. 20201, STOP 367.

Mr. Thomas R. Whittleton, 724-0040, Director, Office of Procurement and Contracts, *Department of Housing and Urban Development*, Room B-133, 711 Building, Washington, D.C. 20410, STOP 98.

Mr. William Opdyke, 343-5914, Division of Procurement and Grants, Office of Administrative and Management Policy, *Department of the Interior*, 18th and C Street NW., Washington, D.C. 20240.

Mr. James T. McIlwee, 724-9711, Chief, Contract and Procurement Division, Office of Administration, *International Communication Agency*, Washington, D.C. 20547, STOP 121.

Mr. Stuart E. Schiffer, 739-3306, Acting Deputy Assistant Attorney General, Civil Division (Room 3607), *Department of Justice*, Washington, D.C. 20530.

Mr. Walter C. Terry, 523-9148, Director, Office of Grants, Procurement and ADP Management Policy, *Department of Labor*, 200 Constitution Avenue NW., Room S-1325, Washington, D.C. 20210, STOP 205.

Mr. Stuart J. Evans, 755-2255, Director of Procurement, *National Aeronautics and Space Administration*, Washington, D.C. 20546.

Mr. Kenneth B. Foster, 632-5772, Director, Division of Grants and Contracts, *National Science Foundation*, 1800 G Street NW., Washington, D.C. 20550.

Mr. Edward L. Halman, 427-4460, Director, Division of Contracts, *Nuclear Regulatory Commission*, Washington, D.C. 20555, STOP 555.

Mr. Thomas M. Constant, 724-0104, Assistant to the Governer, *Canal Zone Government, Panama Canal Company*, 425 13th Street NW., Room 312, Washington, D.C. 20004.

Mr. Edward H. Lewis, 653-6635, Associate Administrator for Procurement, *Small Business Administration*, 1441 L Street NW., Washington, D.C. 20416, STOP 71.

Mr. Harry P. Barton, 381-5924, Director, Office of Supply Services, *Smithsonian Institute*, Amtrak Building, Room 3120, 955 L'Enfant Plaza SW., Washington, D.C. 20024.

Mr. Joseph C. Watkins, 235-9107, Chief, Support Division, Office of Contract Management, *Agency for International Development*, Department of State, Washington, D.C. 20523, STOP 100.

Mr. Thaddeus J. Figura, 235-9512, Chief, Supply and Transportation Division, *Department of State*, Room 532, SA-6, Washington, D.C. 20520, STOP 27.

Mr. James L. Williams, Jr., 566-1401, Director, Division of Purchasing, *Tennessee Valley Authority*, Chattanooga, Tenn. 37401.

Mr. Barnett M. Anceleitz, 426-4237, Director, Installations and Logistics, *Department of Transportation*, Washington, D.C. 20490, STOP 330.

Mr. Thomas P. O'Malley, 376-0650, Assistant Director, Office of Administrative Programs, *Department of the Treasury*, Main Treasury Mail Room, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, STOP 223.

Mr. Eugene A. Keller, 245-4818, Assistant for Procurement Policy, Procurement and Supply Department, *United States Postal Service*, Room 1512, Washington, D.C. 20260, STOP 201.

Mr. Clyde C. Cook, 389-3808, Director, Supply Service, Department of Medicine and Surgery, *Veterans Administration*, Washington, D.C. 20420.

[FR Doc. 78-29866 Filed 10-19-78; 11:36 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

OFFICIAL WEIGHING AND SUPERVISION OF WEIGHING

Intent

AGENCY: Federal Grain Inspection Service, Department of Agriculture.

ACTION: Notice.

SUMMARY: Notice is given that effective November 20, 1978, the Administrator of the Federal Grain Inspection Service (FGIS), U.S. Department of Agriculture (USDA), will require all export grain to be officially weighed in accordance with provisions of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et. seq.) hereinafter cited as the Act), whether the grain is shipped from an export port location or from a location other than an export port location. Pending further study, the Administrator has determined that truck and rail shipments of grain exported into Canada, other than grain shipped from export locations, will not be required to be officially weighed until further notice. Additionally, notice is given that effective November 20, 1978, official weighing and supervision of weighing will be available upon request for nonexport grain.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Leslie E. Malone, Assistant Deputy Administrator, Room 1627—South Building, FGIS, USDA, Washington, D.C. 20250, 202-447-9166.

SUPPLEMENTARY INFORMATION: Since May 20, 1978, all grain transferred into or out of export elevators at export port locations has been officially weighed, as defined in section 3(x) of the Act (7 U.S.C. 75(x)), and as required by sections 5(a)(1) and 5(a)(2) of the Act (7 U.S.C. 77(a) (1) and (2)). In addition, official weighing and supervision of weighing, as defined in section 3(y) of the Act (7 U.S.C. 75(y)), are available on a request basis at nonexport elevators at export port locations. At export port locations, all official weighing and supervision of weighing are performed by official inspection personnel employed by the FGIS or by States which have been delegated export weighing authority by the Administrator under section 7A(c)(2) of the Act (7 U.S.C. 79a(c)(2)).

MANDATORY WEIGHING AFTER NOVEMBER 20

In addition to all export grain transferred into or out of export elevators at export port locations, effective November 20, 1978, all export grain transferred out of grain elevators at other than export port locations, must be officially weighed in accordance with the official weighing requirements of section 5(a)(1) of the Act.

In essence, section 5(a)(1) provides that no person shall ship from the United States to any place outside thereof any lot of grain, unless, first, the lot is officially weighed as it is being loaded aboard the final carrier in which it is to be transported from the United States; and, second, a valid official certificate showing the certified weight of the lot of grain has been provided by official inspection personnel and is promptly furnished by the shipper, or his agent, to the consignee.

Until further notice, the official weighing requirements of section 5(a)(1) will not be applied to grain shipped by truck or rail into Canada from export elevators that are not located at export port locations. Additional time is needed for FGIS to evaluate the feasibility of requiring the weighing of such shipments and its long-range impact on agricultural trade between the United States and Canada.

PERMISSIVE WEIGHING AFTER NOVEMBER 20

Pursuant to sections 7A(b) and 7A(e) of the Act (7 U.S.C. 79a (b) and (e)), effective November 20, 1978, the Administrator will authorize official weighing or supervision of weighing of grain not subject to the official weighing requirements of sections 5(a)(1) and 5(a)(2) of the Act. Such weighing services will be available on a request basis.

At locations where the Administrator has designated an official agency to perform official inspection functions, the official agency will be afforded an opportunity to apply for an amendment to its designation and, provided the agency is deemed qualified, its designation will be amended to authorize the agency to perform official weighing and supervision of weighing services. Such official weighing and supervision of weighing shall be performed only by those employees of the official agency specifically licensed to do so by the Administrator.

If an official agency does not apply for an amended designation, requests for official weighing or supervision of weighing in the geographic area assigned to the agency will be handled by FGIS. The Administrator may publish a notice in the FEDERAL REGISTER seeking applications from others for designation as the official agency to provide official weighing and supervision of weighing services in geographic areas in need of such services. Applicants for such designations will be required to meet the criteria in section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)). If no State or local government agency or person applies for such designations, FGIS will continue to provide official weighing or supervision of weighing services.

An official agency holding a designation to officially inspect grain which applies for an amended designation to provide official weighing and supervision of weighing services will be assigned only one geographic area in which to perform the combined functions. Not more than one official agency shall provide official weighing and supervision of weighing services at one time in any one area, pursuant to section 7A(i) of the Act (7 U.S.C. 79a(i)).

Effective November 20, 1978, official agencies designated to perform official weighing and supervision of weighing functions are prohibited from performing unofficial weighing services on commodities covered by the amended Act. This is in accordance with section 26.86(e)(2) of the regulations under the Act (7 CFR 26.86(e)(2)), which prohibits official personnel from engaging in any unofficial activities which the public could construe as an unofficial function under the Act.

FACILITY REQUIREMENTS

Before official weighing or supervision of weighing may be performed at a grain elevator, warehouse, or other storage or handling facility, either on a mandatory or permissive basis, such facilities must comply with requirements of section 7A(f) of the Act (7 U.S.C. 79a(f) and meet additional cri-

teria for approval established by the Administrator. Accordingly, effective November 20, 1978, no grain elevator, warehouse, or other storage or han-

These are primarily working sessions for the purpose of preparing the Committee Report to the Secretary, and therefore the Committee will not

It provides for preferential award of certain salvage sales, funded under Section 14(h) of the National Forest Management Act of 1976, to loggers

been used, more than 50 percent of the estimated preparation cost shall have been paid with salvage sale funds.

field representative believes that policy issues relating to the operation of the program are involved, he may seek review of the policy issues, with-

Dated: October 16, 1978.

R. A. RESLER,
Acting Chief,
Forest Service.

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teria for approval established by the Administrator. Accordingly, effective November 20, 1978, no grain elevator, warehouse, or other storage or handling facility shall export grain from the United States unless it has been specifically approved for official weighing by the Administrator. Until further notice, however, those elevators at locations other than export port locations that export grain by truck or rail into Canada will not have to be approved for weighing by the Administrator.

Done in Washington, D.C. October 18, 1978.

DAVID C. MANGUM,
Acting Administrator.

[FR Doc. 78-29842 Filed 10-19-78; 10:03 am]

[3410-11-M]

Forest Service

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meeting

The Committee of Scientists has scheduled three public meetings to continue preparation of its report to the Secretary of Agriculture regarding the scientific and technical adequacy of proposed regulations prepared by the Forest Service pursuant to Section 6 of the National Forest Management Act.

Each meeting will be held: beginning 8:30 a.m.

November 1-3, 1978 at the Edgewater Inn, 2411 Alaskan Way, Seattle, Wash., (meeting will adjourn 12 a.m., November 3).
December 7-8, 1978 at the Mansion Inn, 700 16th Street, Sacramento, Calif. (meeting will adjourn 5 p.m., December 8).
January 8-10, 1979 in Houston, Tex. Meeting facilities will be announced.

At its November 1-3 meeting, the Committee will hold intensive discussion on two major issues:

1. Lands suitable for timber production will be discussed on the morning of November 1, 1978.
2. Silvicultural standards will be discussed on the morning of November 2, 1978.

Wilderness and timber harvest scheduling, with particular emphasis on criteria for developing departures from nondeclining evenflow, will be discussed December 7-8.

Recommendations for treating the above subjects in regulations or for modifying the content of the proposed regulations should be sent to Charles R. Hartgraves, Forest Service, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, area code 202-447-5933, to insure adequate consideration.

These are primarily working sessions for the purpose of preparing the Committee Report to the Secretary, and therefore the Committee will not engage in extensive public discussion.

Dated: October 16, 1978.

DOUGLAS R. LEISZ,
Deputy Chief.

[FR Doc. 78-29709 Filed 10-19-78; 8:45 am]

[3410-11-M]

SPECIAL SALVAGE TIMBER SALE PROGRAM

Forest Service Policy

AGENCY: Forest Service, USDA.

ACTION: Proposed Policy.

SUMMARY: This proposal sets forth policy and procedures for administering a set-aside program of preferential awards to small business firms bidding on designated salvage timber sales. The program is to be based on a special size standard for loggers and other small forest products firms currently being promulgated by the Small Business Administration.

DATES: Written comments must be received by November 20, 1978.

ADDRESSES: Submit comments to: John R. McGuire, Chief, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Timber Management Staff, 12th and Independence Avenue, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Jim Beavers or George Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On October 3, 1978, the Administrator of the Small Business Administration (SBA) published a proposed rule in the FEDERAL REGISTER which would establish a size standard for small business firms applicable to a special salvage timber sale program to be jointly administered by the Forest Service and SBA. This program is designed to facilitate the salvage of insect-infested, dead, and down timber on National Forest System lands.

It is proposed to add the following to the Forest Service Manual.

2438.—Special Salvage Timber Sale Program.

The Special Salvage Timber Sale Program is a joint program administered by the Forest Service and the Small Business Administration (SBA). It provides for preferential award of certain salvage sales, funded under Section 14(h) of the National Forest Management Act of 1976, to loggers and forest products concerns qualified under size standards promulgated by the SBA. Initially the program will be tested on a limited number of Forests. Following an evaluation period it is anticipated that the program will be expanded Nationwide. The two Agencies plan to monitor it closely in order to be sure that it meets its objectives and does not adversely affect volumes available to small or large manufacturing concerns. Timber set aside under this program will be included in nonmanufacturer volume in establishing shares and in 6-month analyses as provided in the 1971 USDA/SBA Agreement.

2438.1—Authority.—The Small Business Act (15 U.S.C. 631) provides authority for the use of set-aside sales to ensure that a fair proportion of the total sales of government property be made to small business firms. SBA, acting under authority of the Small Business Act, has established a small business size standard which defines firms eligible for preferential award on salvage sales. The program operates under the general framework of the USDA/SBA Agreement of December 1971.

2438.2—Objective.—In order to promote the optimum use of wood material, the National Forest Management Act authorized the establishment of a revolving fund to cover the cost of preparing and administering sales of insect-infested, dead, damaged or down timber. The intent of this fund was to provide for increasing the sales of such timber. The objective of the Special Salvage Timber Sale Program is to encourage the development and maintenance of logging capability so that the utilization of such timber can be improved.

2438.3—Eligible Firms.—For the purposes of the Special Salvage Timber Sale Program, the SBA defines a small business as a concern that:

1. Is primarily engaged in the logging or forest products industry:
2. Is independently owned and operated;
3. Is not dominant in its field of operation; and
4. Together with its affiliates, its number of employees has not exceeded 25 persons during any pay period for the past 12 months.

2438.4—Eligible Sales.—Sales meeting all of the following criteria may be set-aside for preferential bidding to small business:

1. Sale preparation financed with salvage sale funds or with funds intended as "seed money" for the salvage sale fund. Where a mix of appropriated and salvage sale funds has been used, more than 50 percent of the estimated preparation cost shall have been paid with salvage sale funds.
2. Sale period no more than 1 year.
3. Sale involves only minor road construction or reconstruction.
4. Sale does not involve catastrophic damage, such as fire or windstorm.

Generally, salvage sales meeting the above criteria will be set aside, unless experience demonstrates that competitive bidding by small loggers and small forest products firms cannot be expected. Relatively small sales are preferred. However, there is no size limit on the sale, provided it can be completed by loggers of average capability in the area. Larger sales suitable for logging by only one or two operators in the area should be avoided so as to prevent allocation to individual firms.

When fire, windstorm or other catastrophic losses occur, the total capacity of the tributary industry is often needed to salvage the timber in a timely manner. Therefore, such sales are not eligible to be set aside under this program. A catastrophic loss is a loss resulting from a single, indentifiable event which affects volume of more than 10 percent of the volume planned for sale on the affected District within any 6-month period or 1 million board feet, whichever is less.

As a general rule, the size of the program in any locality should be geared to the existing capability of the local qualifying firms. However, occasionally it may be appropriate to set aside a larger volume when it is reasonable to expect that all of the included timber will be harvested promptly.

2438.41—Selection process.—Forest Supervisors administering salvage sale programs will, after considering such advice as the SBA representative may offer, select sales to be set aside for preferential bidding by concerns with less than 25 employees and notify the SBA field representative using SBA Form 441 to document the selection process. Each sale selected will be specifically defined as to whether the 30-70 log distribution requirement is or is not required on sawlog volume from that sale (see 2438.5). The SBA field representative will be provided a reasonable period (at least 1 week) for comment prior to publication of the program.

In the event the SBA field representative disagrees on whether or not a proposed sale should be set aside or whether 30-70 manufacturing requirements shall apply, the matter shall be promptly referred to the Regional Forester for review. Because of the need for prompt action on salvage sales, the Regional Forester's decision on whether or not to set aside specific sales or to apply the 30-70 requirement is final. However, if the SBA field representative believes that policy issues relating to the operation of the program are involved, he may seek review of the policy issues, without delay of the particular sale, by higher authorities within the Agencies. It is the intent of the Agencies that the program be a joint program and Forest Supervisors will make every effort to work cooperatively with SBA field representatives.

If a set-aside is agreed upon and the Forest Supervisor determines that it is no longer advisable, or if a new sale is proposed after agreement on the 6-month program, the Forest Supervisor will consult with the SBA representative following the same procedures as outlined above.

2438.5—Contract conditions.—The Forest Service and SBA expect to make annual reviews during the first 3 years of the Special Salvage Timber Sale Program, so that adjustments can be made as necessary to insure that the program objectives are met. In order to facilitate this review, contracts for set-aside salvage sales shall require the purchaser to provide the Forest Service with an accounting of log deliveries by 6-month periods. Data to be furnished shall include volume and species delivered, the point of delivery, and the name and affiliation of the party to whom the logs were sold. The contract shall also require the purchaser to make his records, including payroll records, available to the Forest Service and SBA to verify his eligibility for participation in the program.

Timber sold under the special salvage timber sale program will generally be offered subject to 30-70 manufacturing requirements (see FSM 2431.19) unless the Forest Supervisor determines the purchaser of the sale will not have a competitive market for logs available from qualified small business firms. A competitive market would involve two or more qualified firms which have demonstrated interest in the types (species, size, condition) of logs to be produced on the salvage sale and located within the normal log haul distance from the proposed sale. The Forest Supervisor will consult with the SBA field representative in determining whether sales shall be subject to the 30-70 manufacturing requirement.

2438.6—Size protests.—Instructions set forth in FSM 2431.19 govern procedures for responding to size protests. It is important to notify SBA of the nature of the sale so that appropriate priority can be assigned to resolving the protest.

Dated: October 16, 1978.

R. A. RESLER,
Acting Chief,
Forest Service.

[FR Doc. 78-29708 Filed 10-19-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 30233]

ATLANTA-PORTLAND/SEATTLE SUBPART N PROCEEDING

Cancellation of Hearing

Counsel for Aeroamerica, Inc., has advised the presiding administrative law judge that Aeroamerica, Inc., is withdrawing its certification application in this proceeding. Accordingly, the hearing set for October 20, 1978 (43 FR 46558, October 10, 1978) regarding Aeroamerica's application is canceled.

Dated at Washington, DC., October 17, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-29693 Filed 10-19-78; 8:45 am]

[6320-01-M]

[Docket 33019]

CHICAGO-MIDWAY EXPANDED SERVICE PROCEEDING

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 8, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ronnie A. Yoder.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the orders of the Board and the Judge in the docket on file in the Docket Section of the Civil Aeronautics Board. In order to facilitate the conduct of the conference, parties and applicants for intervention are instructed to submit with respect to each phase of the hearing specified in Order 78-7-41 (one copy to each party and six copies to the Judge): (1) proposed statements of issues; (2) proposed stipulations; (3) proposed request for information and for evidence; (4) statements of position; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before October 16, 1978, and the other parties on or before October 30, 1978. The submissions of the other parties shall be limited to points on which

they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

United States during the peak summer season and ten during the off-peak winter season.[2] Single-plane service to Luxembourg via Iceland is available to

tors and key management personnel of Loftleidir are Icelandic citizens.

ENFORCEMENT AND SAFETY RECORD

by the amended permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, condi-

named in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical

points New York, New York, Chicago, Illinois, and Baltimore, Maryland.

The holder shall be authorized to engage in charter trips in foreign air transporta-

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they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 13, 1978.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc. 78-29691 Filed 10-19-78; 8:45 am]

[6320-01-M]

[Order 78-10-67, Docket 33305]

LOFTLEIDIR, H.F. (ICELANDIC AIRLINES)

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1978.

Loftleidir, H.F. (Icelandic Airlines) is the holder of a foreign air carrier permit authorizing foreign air transportation of persons, property, and mail between terminal points in Iceland and the alternate U.S. terminal points New York, N.Y., and Chicago, Ill. By application filed on August 29, 1978, Loftleidir requests amendment of its foreign air carrier permit to add Baltimore, Md., as a U.S. coterminal point. On September 27, 1978, Loftleidir filed a motion for an order to show cause. The authority sought by Loftleidir is provided for in an Exchange of Notes dated August 17, 1978, between the United States and Iceland, amending the Annex of the United States-Iceland Air Transport Services Agreement. Loftleidir wishes to begin offering the service on November 4, 1978.

OPERATING HISTORY

Loftleidir was established in March 1944 as a domestic Icelandic carrier. It began international operations in 1947. In May 1948 it received its existing foreign air carrier permit and began New York-Iceland operations in August 1948.[1] In 1953 Loftleidir began offering U.S.-originating passengers, on a New York-Reykjavik-Luxembourg routing, fares at levels significantly below those established by the member carriers of the International Air Transport Association (IATA) in IATA fare agreements. Loftleidir has continued to offer scheduled low far alternatives vis-a-vis IATA carriers.

PRESENT OPERATIONS

Loftleidir currently operates 19 weekly round-trips to Iceland from the United States during the peak summer season and ten during the off-peak winter season.[2] Single-plane service to Luxembourg via Iceland is available to all passengers. Loftleidir operates four DC-8-63 aircraft. In 1977 its passenger revenues were over $49 million and its cargo revenues over $4 million.

SERVICE PROPOSAL

Loftleidir plans to operate three weekly round-trips during the peak summer season (April 1-October 31) and one weekly round-trip the remainder of the year from Baltimore to Iceland, continuing on to Luxembourg.[3] It will provide single-class service on an unrestricted basis. The basic round-trip fare will be $310 and be available between September 1 and May 31; the peak period fare will be $385 and be available between June 1 and August 31.[4]

The carrier forecasts for Calendar Year 1979: (1) 21,669 round-trip passengers; (2) $7.6 million in passenger revenues; (3) $1.7 million in freight revenues; and (4) $1.6 million operating profit for the proposed service.[5]

OWNERSHIP AND CONTROL

Loftleidir owns no interest in any other person. Loftleidir's stock is held by Flugleidir, H.F., a holding company over 99 percent owned by Icelandic nationals, including 6.3 percent owned by the Government of Iceland.[6] All directors and key management personnel of Loftleidir are Icelandic citizens.

ENFORCEMENT AND SAFETY RECORD

Loftleidir represents that it has never had its operating authority suspended, revoked, canceled or otherwise terminated, and that in the past 5 years it has not been involved in any safety violations or accidents.[7]

Loftleidir, along with several other route carriers providing scheduled service in the North Atlantic market, was a party to the consent decree entered in *United States v. Compagnie Nationale Air France, et al.* (S.D.N.Y., 1975) involving tariff rebating. Loftleidir states, however, that it has not been cited for any specific tariff violation in the past 5 years.

The State of Maryland filed an answer on October 3, 1978, in support of Loftleidir's application. It urged expedited action on the application.

In granting Loftleidir its existing routes to the United States, the Board determined that the carrier was substantially owned and effectively controlled by citizens of Iceland; that it was financially and operationally fit; and that it was in the public interest to grant the carrier authority to the United States.[8] Loftleidir's application indicates that no changes in its corporate structure or operations have occurred which would cast doubt upon the accuracy or validity of the Board's previous findings. Moreover, Loftleidir has operated United States-Iceland scheduled services for 30 years. During the last 25 years, Loftleidir has offered competitive low-fare service in the North Atlantic market giving consumers an alternative to the much higher scheduled fares set by IATA, albeit with a stop en route in Iceland. Thousands of U.S. citizens have taken advantage of Loftleidir's low fares to Luxembourg from New York and Chicago via Iceland, and we find it in the public interest to amend Loftleidir's foreign air carrier permit to authorize Baltimore-originating service to Iceland.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes that:

1. It is in the public interest to amend the foreign air carrier permit issued to Loftleidir, H.F. (Icelandic Airlines);

2. The public interest requires that the exercise of the privileges granted

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[1] *Loftleidir, H.F., Air Carrier Permit*, 9 C.A.B. 373 (1948). Loftleidir's route authority has remained unchanged since 1948. Loftleidir, along with other foreign route air carriers with outstanding foreign air carrier permits, was authorized to engage in off-route charter trips in 1958. See *Foreign Off-Route Charter Service Investigation*, 27 C.A.B. 196.

[2] Twelve from New York and seven from Chicago in the summer; seven from New York and three from Chicago in the winter.

[3] The proposed services will result in an annual fuel consumption of 3.9 million gallons, see Loftleidir Exhibit LL-3001. The marginal increase in flights at Baltimore-Washington International Airport will not lead to a significant increase in air pollution or a significant increase in the ambient noise level, see Loftleidir's environmental evaluation, Exhibit LL-3000.

[4] The fares will not be available to Luxembourg-originating passengers. Loftleidir expects to offer children's discounts at 50 percent of the applicable normal fare and to impose surcharges during holiday seasons.

[5] See Loftleidir Exhibit LL-805.

[6] Flugleidir owns, in addition to Loftleidir, interest in the following companies: (1) 100 percent of Flugfelag Islands, H.F., an Icelandic airline with domestic authority and international authority between Iceland and the United Kingdom and Scandinavia; (2) 100 percent of Hekla Holdings Limited, which owns International Air Bahama, an airline with international route authority between Nassau and Luxembourg; (3) 33 percent of Cargolux International Airlines, S.A., a Luxembourgian all-cargo airline; (4) 40 percent of Flugfelag Austurlands, H.F. (East Air Limited), an Icelandic commuter airline; (5) 35 percent of Flugfelag Nordurlands, H.F. (North Air Limited), an Icelandic commuter airline; (6) 80 percent of Urval Travel Agency, a travel agency in Reykjavik; (7) 100 percent of Icelandic Airlines, Inc. a travel agency in New York City; (8) 100 percent of Loftleidir Icelandic Airlines, S.A., a travel agency in Luxembourg; (9) 100 percent of Loftleidir Icelandic Airlines, S.A.R.L., a travel agency in Paris; (10) 100 percent of Hotel Esja HT in Reykjavik; (11) 23 percent of Hotel Aerogulf in Luxembourg; and (12) 16.7 percent of Hotel Husavik in Aukeyrl, Iceland, see Loftleidir Exhibit LL-103.

[7] The minor exception was a hard landing at John F. Kennedy International Airport, New York in 1973. See Loftleidir Exhibit LL-2000.

[8] See *Loftleidir Permit*, 9 C.A.B. 373, 377.

by the amended permit shall be subject to the terms, conditions, and limitations contained in the specimen permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board;

3. Loftleidir, H.F. (Icelandic Airlines) is fit, willing and able properly to perform the foreign air transportation described in the specimen permit, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations, and requirements of the Board;

4. The public interest does not require an oral evidentiary hearing on the application;[9]

5. The amendment of Loftleidir, H.F. (Icelandic Airlines') foreign air carrier permit would not constitute "a major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975, as defined in section 313.4(a)(1) of the Board's Regulations;[10]

6. The request of Loftleidir, H.F. (Icelandic Airlines) for a waiver of Part 312 of the Board's Regulations, regarding the requirements for the filing of an environmental evaluation should be granted; and

7. Except to the extent granted, the application of Loftleidir, H.F. (Icelandic Airlines) in Docket 33305 should be denied.

Accordingly,

1. We direct all interested persons to show cause why the Board should not (1) make final its tentative findings and conclusions, and (2) issue an amended foreign air carrier permit to Loftleidir, H.F. (Icelandic Airlines) in the specimen form attached, subject to the approval by the President pursuant to section 801 of the Act;[11]

2. Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions and issuing the attached specimen permit shall, no later than October 26, 1978, file with the Board and serve on the persons named in paragraph 5 below, a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and concrete evidence expected to be relied upon in support of the objections. If an oral evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action, *Provided*, that we may proceed to enter an order in accordance with our tentative findings and conclusions set forth in this order, if we determine that there are no factual issues presented that warrant the holding of an oral evidentiary hearing;[12]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Secretary shall enter an order which (1) shall make final our tentative findings and conclusions set forth in this order, and (2) subject to the approval of the President, shall issue an amended foreign air carrier permit to the applicant in the specimen form attached; and

5. We are serving this order upon Loftleidir, H. F. (Icelandic Airlines), the Ambassador of Iceland in Washington, D.C., the U.S. Departments of State and Transportation, Pan American World Airways, Trans World Airlines, Braniff Airways, Northwest Airlines, Delta Air Lines, Trans International Airlines, World Airways, Capitol International Airways, and the Governor and the State of Maryland.

We shall publish this order in the FEDERAL REGISTER and shall transmit a copy to the President of the United States.

By the Civil Aeronautics Board.[13]

PHYLLIS T. KAYLOR,
Secretary.

[Specimen Permit]

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD, WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER (AS AMENDED)

Loftleidir, H.F. (Icelandic Airlines) is authorized, subject to the provisions set forth, the provisions of the Federal Aviation Act of 1958, and the orders, rules and regulations of the Board, to engage in foreign air transportation of persons, property, and mail, as follows: Between a terminal point or points in Iceland, and the coterminal points New York, New York, Chicago, Illinois, and Baltimore, Maryland.

The holder shall be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations prescribed by Part 212 of the Board's Economic Regulations.

The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Iceland for Icelandic international air service.

The holder shall not operate any aircraft under the authority granted by this permit, unless the holder complies with the operational safety requirements at least equivalent to Annex 6 of the Chicago Convention.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Iceland shall be parties.

The holder shall keep on deposit with the Board a signed counterpart of C.A.B. Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of $1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation with respect to persons unless there is in effect liability insurance sufficient to cover the obligations assumed in Agreement C.A.B. 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

The initial tariff filed by the holder shall not set forth rates, fares and charges lower than those that may be in effect for any U.S. air carrier in the same foreign air transportation; *However*, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted here shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

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[9] Any interested persons having objections to the issuance of an order making final the Board's tentative findings and conclusions, and issuing the attached permit, shall be allowed ten (10) days in which to respond from the date of service of this order.

[10] Our tentative findings are based upon the fact that amendment of Loftleidir, H.F. (Icelandic Airlines') permit will not result in a significant increase in civil aviation operations at U.S. points, nor will it result in an annual increase in fuel consumption of more than 10 million gallons of fuel.

[11] We, therefore, are granting the Loftleidir, H.F. (Icelandic Airlines) motion for an order to show cause.

[12] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[13] All Members concurred.

This permit shall be effective on ———, 1978. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the route or routes authorized by this permit from the routes which may be operated by airlines designated by the Government of Iceland (or in the event of the elimination of any part of the authorized route or routes, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Iceland in lieu of the holder, or (3) upon the termination or expiration of the Air Transport Services Agreement between the Government of the United States of America and the Government of Iceland effective February 1, 1945, as amended by Exchanges of Notes on April 11, 1945 and August 17, 1978: *However*, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation authorized becomes the subject to any treaty, convention, or agreement to which the United States of America and Iceland are or shall become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on .

[SEAL]

Issuance of this permit to the holder approved by the President of the United States on , in .

———,
Secretary.

[FR Doc. 78-29694 Filed 10-19-78; 8:45 am]

[6320-01-M]

[Docket 33220]

YUCATAN SERVICE CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on November 30, 1978, at 10 a.m. in Room 1003, Hearing Room B, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned judge.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before November 9, 1978, and the other parties on or before November 21, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Pricing and Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 17, 1978.

RUDOLF SOBERNHEIM,
Administrative Law Judge.

[FR Doc. 78-29692 Filed 10-19-78; 8:45 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Public Availability of Report of Activities

Pursuant to section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and OMB Circular A-63 of March 27, 1974, the Federal Prevailing Rate Advisory Committee has prepared a report on its activities during calendar year 1977.

The report is available for public inspection and copying at the following location:

U.S. Civil Service Commission, Federal Prevailing Rate Advisory Committee, 1900 E Street NW., Washington, D.C. 20415.

DONALD J. BIGLIN,
Advisory Committee Management Officer, Civil Service Commission.

[FR Doc. 78-29586 Filed 10-19-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric

FOREIGN FISHING

Preliminary Determinations of Consistency

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Preliminary determinations of consistency of certain 1978 foreign fishing permits with the Fishery Conservation and Management Act of 1976, as amended by Pub. L. 95-354.

SUMMARY: Public comments are sought on preliminary determinations of the consistency of 1978 foreign fishing permits to receive U.S. harvested Gulf of Alaska pollock and Pacific hake with provisions of Pub. L. 95-354.

DATE: Comments received by November 20, 1978, will be considered.

ADDRESS: Comments may be submitted in writing to the Assistant Administrator of Fisheries, National Marine Fisheries Service, F37, Washington, D.C. 20235.

ADDITIONAL INFORMATION MAY BE OBTAINED FROM:

Mr. Alfred J. Bilik, Permits and Regulations Division, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, telephone 202-634-7265.

SUPPLEMENTARY INFORMATION: The fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 et seq. (Act) provides for a national program for the conservation and management of the Nation's fishery resources within the fishery conservation zone (FCZ). Under the Act and § 611.3 of the Foreign Fishing Regulations (50 CFR Part 611), procedures are established for foreign participation in fisheries under the exclusive management authority of the United States. Any foreign vessel harvesting fish or supporting fishing operations in the FCZ must have a permit. Activities in support of fishing include those in which a foreign vessel in the FCZ receives fish from a U.S. fishing vessel. The amount of fish that a foreign nation's vessels may harvest in the FCZ is limited to that amount which has been allocated by the Department of State to that nation. However, receipts by foreign vessels from U.S. vessels do not count against such allocations.

A NOAA policy, published in the FEDERAL REGISTER on May 12, 1978, created a mechanism to closely review foreign permit applications involving the receipt of U.S. harvested fish by foreign vessels in the FCZ to minimize the possibility that the optimum yield in a fishery would be exceeded. The policy was based on factors directly related to conservation and management of the resource and the requirements of the Act. The policy did not take into consideration any preference for U.S. fish processors.

On August 28, 1978, the President signed Pub. L. 95-354 into law. This law amended the Act to provide a preference for U.S. fish processors to U.S. harvested fish to the extent such processors have and will utilize the capacity to process such fish. An application for a foreign fishing vessel to receive U.S. harvested fish in the FCZ may be approved only if U.S. fish processors do not have, or will not utilize, the capacity to process all U.S. harvested fish from the fishery concerned. The amounts of any U.S. harvested fish which may be received by foreign fishing vessels in the FCZ may not exceed that portion of the optimum yield which will not be utilized by U.S. fish processors.

On June 9, 1978, NMFS issued foreign fishing permits to two Republic of Korea fishing vessels to allow the vessels (*Soo Gong 51* and *Book Neung*) to receive from vessels of the u.S. in the FCZ in 1978 up to a total of 51,460 metric tons (m.t.) of Gulf of Alaska pollock and various amounts of certain other designated species normally taken incidental to the pollock fishery.

On August 16 a similar permit was issued to the Soviet vessel, *Sulak*, for a similar operation in the pollock fishery. The amount of incidental species which may be received by the foreign vessels was determined as a percentage of the pollock received. Percentage limits were derived from experience with the incidental catch in directed foreign fisheries for Alaska pollock. The permits thus were consistent with the NOAA policy of May 12 and complied in all respects with existing requirements of the Act and other applicable law.

On August 16, 1978, NMFS also issued foreign fishing permits to the Soviet fishing vessels MYS *GRINA*, *TERNEY*, and *18 Siezd Vlksm* to allow the vessels to receive from vessels of the United States in the FCZ off California, Oregon, and Washington during 1978, up to a total of 10,000 m.t. of Pacific hake and various amounts of certain other designated species normally taken incidental to the hake fishery. The amount of incidental species which may be received by the foreign vessels again was determined as a percentage of the hake received. Percentage limits were derived from limitations on incidental catch by foreign fishing vessels prescribed under the 1978 Foreign Fishing Regulations for the Washington-Oregon-California trawl fishery. These permits thus also were consistent with the NOAA policy of May 12 and complied in all respects with existing requirements of the Act and other applicable law.

The purpose of this notice is to publish for public comment preliminary NMFS determinations concerning the consistency of permit actions applicable in 1978 for the above named vessels, with the Act, as amended by Pub. L. 95-354, specifically subparagraph 204(b)(6)(B) (i) and (ii). In order to make such determinations, it is necessary to assess the anticipated U.S. harvest of Pacific hake off Washington, Oregon, and California and of Alaska pollock in the Gulf of Alaska in 1978 and to assess the capacity, and utilization of such capacity, of U.S. fish processors to process Pacific hake and Alaska pollock from these geographic areas in 1978. Applying provisions of subparagraphs 204(b)(6)(B)(i) to reconsideration of permits issued on June 9 and August 16 requires a determination whether United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested hake and/or pollock from the Washington, Oregon, and California trawl fishery and/or the Gulf of Alaska Trawl fishery in 1978. If U.S. processors do not have, or will not utilize, adequate capacity, the condition of subparagraph 204(b)(6)(ii) must be applied. Under this condition, the total amount or tonnage of U.S. harvested hake or pollock which may be received at sea by foreign fishing vessels during 1978 under the permits may not exceed that part of the optimum yield of these species which will not be utilized by United States fish processors. Permit modifications, if any are required, may be effected in accordance with § 611.3 (i) of the Foreign Fishing Regulations (50 CFR Part 611).

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

OCTOBER 17, 1978.

1978 FOREIGN FISHING PERMITS FOR RECEIVING U.S. HARVESTED ALASKA POLLOCK—REPUBLIC OF KOREA (ROK) VESSELS "SOO GONG" 51 AND "BOOK NEUNG" AND SOVIET VESSEL "SULAK"

ANTICIPATED U.S. HARVEST

U.S. fishing vessels which operate in the Gulf of Alaska historically have not engaged in bottom trawl fishing operations but, rather, have been rigged to fish for crab and shrimp. For the most part, those vessels currently rigged for crab fishing would require major modifications in order to fish for Alaska pollock while most shrimp vessels could easily accommodate groundfish gear. There are about 80 shrimp fishing vessels operating out of Kodiak. In addition, there are two to five trawlers in the Kodiak area which devote a substantial amount of effort towards catching groundfish, including Alaska pollock, for bait. Up to three vessels in and around Petersburg have trawled for pollock during the winter and for flounders during the spring. From 60 to 70 dragnet vessels which normally harvest rockfish and flounder off the Washington, Oregon., and California coasts could fish for Alaska pollock in Gulf of Alaska if the weather conditions and economic factors were suitable. Of the total number of vessels presently capable of harvesting and immediately available to harvest Alaska pollock, a significant portion do not have freezing capability. Thus, these vessels could engage in the Alaska pollock fishery (other than the bait fishery) only in close proximity to a processing plant, a floating processor or a transport with freezer storage. While some conversions to the Alaska pollock fishery have been noted, mass shifts are not indicated.

The projection for the 1977 U.S. harvest of Alaska pollock from the Gulf of Alaska was 1,000 m.t. Actual catches were approximately 232 m.t. the 1978 projection was 17,000 m.t. This amount was contemplated to cover significant increases in domestic landings. In addition, a reserve of 33,760 m.t. has been set aside to accommodate domestic landings in excess of 17,700 m.t. and transfers from U.S. fish harvesters to foreign processors. And assessment completed by the Alaska Region, NMFS in early September has found that the 1978 U.S. harvest will be approximately 32,700 m.t. That assessment is based on catches through June of approximately 500 m.t. with the remainder predicated on the timely commencement and successful operation of the proposed transfer of Alaska pollock to the ROK vessels. Agents for U.S. harvesters who plan to deliver pollock to the ROK vessels state that up to seven U.S. vessels will deliver up to 50 tons per day per vessel for the balance of the year. Operation of the Soviet vessel in the Gulf of Alaska is not expected during 1978.

CAPACITY AND UTILIZATION OF SUCH CAPACITY OF U.S. FISH PROCESSORS

The initial projection of 1978 U.S. processing capacity of Alaska pollock was 17,700 m.t. Early in 1978 that projection was revised downward to 3,000 m.t. of Alaska pollock. The amount of Alaska pollock processed through June was approximately 500 m.t. Two U.S. fish processors who earlier in the year purchased Alaska pollock no longer are accepting deliveries. U.S. fish processors currently are fully utilized processing salmon and shrimp with shifts to crab processing contemplated. In short, realistic production estimates for the remainder of the year indicate that the amount of Alaska pollock which will be processed by U.S. fish processors during 1978 will not significantly exceed the 500 m.t. already processed. There are no indications of processing vessels or freezer transports employed or planned for use by U.S. fish processors for pollock production in 1978.

QUANTITIES WHICH MAY BE RECEIVED

Having established that U.S. fish processors do not have capacity, or will not utilize such capacity, to process all U.S. harvested Alaska pollock which up to seven U.S. vessels have potential to harvest in 1978, it is necessary to reassess the amount of Gulf of Alaska pollock which may be received by foreign fishing vessels in 1978. In accordance with section 204(b)(6)(B)(ii) of the act, as amended by Pub. L. 95-354, such amount may not exceed that portion of the optimum yield (OY) of Gulf of Alaska pollock which will not be utilized by U.S. fish processors. The OY of Gulf of Alaska pollock in 1978 is established at 168,800 m.t. That amount less the 500 m.t. expected to be processed by U.S. fish processors in 1978 leaves 168,300 m.t. Permits for the foreign vessels restrict the amount of U.S. harvested Gulf of Alaska pollock which may be received

by foreign vessels to a maximum of 51,460 m.t., thus meeting the requirements of section 204(b)(6)(B)(ii).

Under the terms of the permits

1978 FOREIGN FISHING PERMITS FOR RECEIVING U.S. HARVESTED PACIFIC HAKE—SOVIET VESSELS "MYS GRINA", "TERNEY", AND "18 SIEZD

In August, in the process of reassessing the anticipated U.S. harvest of Pacific hake during 1978, most of the potential and major buyers and proces-

U.S. harvested fish. Thus, unexpectedly large amounts of Pacific hake processed by U.S. fish processors may reduce amounts that may be received

eral Government will be required to procure the commodity and the service listed below from workshops for

[3128-01-M]

DEPARTMENT OF ENERGY

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by foreign vessels to a maximum of 51,460 m.t., thus meeting the requirements of section 204(b)(6)(B)(ii).

Under the terms of the permits, moreover, the actual amounts of gulf of Alaska pollock which will be received by foreign fishing vessels may be reduced below 51,460 m.t. the permit provides that if the Director of NMFS determines that 51,400 m.t. of pollock has been harvested by vessels of the United States the permitted foreign fishing vessels may not receive additional U.S. harvested fish in the FCZ. That is, at such time as the total of U.S. harvested Alaska pollock delivered to U.S. fish processors and delivered to foreign vessels equals 51,460 m.t., the foreign vessels may not receive any further U.S. harvested fish. thus, unexpectedly large amounts of Gulf of Alaska pollock harvested by U.S. vessels and processed by U.S. fish processors may reduce amounts that may be received by the foreign vessels.

It should be noted that the Gulf of Alaska trawl fishery management plan, prepared by the North Pacific Fishery Management Council, is to be implemented in late 1978. The plan includes new estimates of the domestic harvest of pollock. thus only about 10,850 m.t. of pollock plus 500 m.t. landed at U.S. ports (11,350 m.t.) will be harvested under the existing preliminary management plan for this fishery. It is expected that about 21,850 m.t. of pollock will be harvested under the fishery management plan for the balance of the year (November-December). Therefore, a total 1978 U.S. harvest of 33,200 m.t. of pollock is expected.

CONCLUSION

The anticipated U.S. harvest of Alaska pollock in the Gulf of Alaska during 1978 (33,200 m.t.) exceeds the capacity and expected utilization of such capacity of U.S. fish processors for Alaska pollock in that fishery during 1978 (500 m.t.). The amount of U.S. harvested fish which may be received by the subject foreign fishing vessels (51,460 m.t. or less) does not exceed that portion of the OY which will not be utilized by U.S. fish processors (168,300 m.t.). thus, permits issued to the foreign vessels are consistent with the provisions of section 204(b)(6)(B) (i) and (ii) of the act, as amended by Pub. L. 95-354. Further, permit restrictions insure that when the total U.S. harvest of Gulf of Alaska pollock reaches 51,460 m.t. in 1978, no further U.S. harvested fish may be received by the foreign vessels.

1978 FOREIGN FISHING PERMITS FOR RECEIVING U.S. HARVESTED PACIFIC HAKE—SOVIET VESSELS "MYS GRINA", "TERNEY", AND "18 SIEZD VLKSM"

ANTICIPATED U.S. HARVEST

Fishing vessels which operate out of Pacific coast ports from Northern California to Washington generally have not engaged in the hake fishery but, rather, have fished for shrimp, crab, rockfish, flounder, and other groundfish. These vessels generally shift among the west coast fisheries according to prices offered and the annual and seasonal availability of the fish resources. However, there are 30 to 50 crab boats which could be converted for trawling operations; up to 100 shrimp boats are rigged for trawling; and 60-70 dragnet vessels currently harvesting rockfish and flounder could operate in the hake fishery. Thus, while up to 220 U.S. vessels are capable of harvesting Pacific hake, the number which will engage in that fishery is dependent primarily on relative prices for and anticipated abundance of Pacific hake and other species. Currently, these factors do not create favorable conditions for mass shifts to the hake fishery. A significant number of the vessels capable of harvesting Pacific hake do not have freezing capability. Thus, these vessels could engage in the Pacific hake fishery only in close proximity to a processing plant, a floating processor or a transport with freezer storage.

The projection for the 1977 U.S. harvest of Pacific hake was 6,800 m.t. The actual 1977 U.S. harvest is estimated at only 630 m.t. The projection for the 1978 U.S. harvest was set originally at 41,000 m.t. This was a high-side estimate to allow for vastly increased domestic landings plus the contemplated joint venture. Based on the conduct of the 1978 fishery to date and reassessments of projections for the remainder of the 1978 fishery, on August 14, 1978, the anticipated U.S. harvest of Pacific hake was set at 10,000 m.t. Prior to August 14, 1978, the contemplated action was approved by the Pacific Fishery Management Council with no dissenting vote and was published in the FEDERAL REGISTER for public comment on August 4, 1978. No comments were received. It should be noted that 5,000 m.t. of the anticipated U.S. harvest of 10,000 m.t. was based on the availability of foreign processing vessels to receive the catch at sea.

CAPACITY AND UTILIZATION OF SUCH CAPACITY OF U.S. FISH PROCESSORS

The early 1978 survey indicated that about 6,000 m.t. of the 41,000 m.t. U.S. harvest of Pacific hake would be processed by U.S. fish processors in 1978. In August, in the process of reassessing the anticipated U.S. harvest of Pacific hake during 1978, most of the potential and major buyers and processors of Pacific hake were contacted. Quatitative estimates of hake production were generally not forthcoming. However, based on production up to that time and realistic production estimates for the remainder of the year it was determined that the amount of Pacific hake which will be processed by U.S. fish processors in 1978 will not exceed 4,000 m.t. It is apparent that the high interest of U.S. fish processors in Pacific hake has not yet been matched by capacity and performance. At present there is only one floating processor being employed by U.S. hake processors in 1978. There are no other indications of floating processors or freezer transports being employed or planned for use by U.S. fish processors during 1978.

QUANTITITES WHICH MAY BE RECEIVED

Having established that U.S. fish processors do not have the capacity, or will not utilize such capacity, to process all U.S. harvested Pacific hake in 1978, there remains the necessity to reassess the amount of Pacific hake, which may be received by foreign vessels. In accordance with section 204(b)(6)(B)(ii) of the Act, as amended by Pub. L. 95-354, such amount may not exceed that portion of the optimum yield (OY) of Pacific hake which will not be utilized by U.S. fish processors. The OY for Pacific hake in 1978 is established at 130,000 m.t. That amount less the 4,000 m.t. anticipated to be processed by U.S. fish processors in 1978 leaves 126,000 m.t. Permits for the Soviet vessels restrict the amount of U.S. harvested Pacific hake to a maximum of 10,000 m.t., thus meeting the requirements of section 204(b)(6)(B)(ii).

Because of the late start of operations by the Soviet vessels (September 17) and the required cessation of such operations not later than October 31, it is probable that the amount of Pacific hake which will be delivered to the Soviet vessels will not exceed 5,000 m.t. That amount added to the amount expected to be processed by U.S. fish processors, 4,000 m.t., does not exceed the anticipated U.S. harvest of 10,000 m.t. Moreover, the terms of the permits for the Soviet vessels provide that if the Director, NMFS, determines that 10,000 m.t. have been harvested by vessels of the United States, the permitted foreign vessels may not receive additional U.S. harvested fish in the FCZ. That is, at such time as the total of U.S. harvested Pacific hake delivered to U.S. fish processors and delivered to the Soviet vessels equals 10,000 m.t., the Soviet vessels may not receive any further U.S. harvested fish. Thus, unexpectedly large amounts of Pacific hake processed by U.S. fish processors may reduce amounts that may be received by the Soviet vessels.

CONCLUSION

The anticipated U.S. harvest of Pacific hake off Washington, Oregon, and California during 1978 (10,000 m.t.) exceeds the capacity and expected utilization of such capacity of U.S. fish processors for Pacific hake in that fishery during 1978 (4,000 m.t.) by 6,000 m.t. The maximum amount of U.S. harvested fish which may be received under the terms of the permits by the Soviet vessels (10,000 m.t.) does not exceed that portion of the OY which will not be utilized by U.S. fish processors (126,000 m.t.). Thus, permits issued to the Soviet vessels are consistent with the provisions of section 204(b)(6)(B)(i) and (ii) of the Act, as amended by Pub. L. 95-354. Further, permit restrictions ensure that when the total U.S. harvest of Pacific hake reaches 10,000 m.t. in 1978, no further U.S. harvested fish may be received by the Soviet vessels.

[FR Doc. 78-29604 Filed 10-19-78; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The committee has received proposals to add to Procurement List 1978 a commodity to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 22, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is pulished pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1978, November 14, 1977 (42 FR 59015):

NO NSN

Currency Packing Block, BEP Stock No. L-1391 (formerly BEP L-83).

SIC 0782

Grounds Maintenance Bldgs. M254, M311, M312, M317/318, M325, M339, M340, M495, Naval Air Station, Miramar, San Diego, Calif. 92145.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-29601 Filed 10-19-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

ALABAMA ELECTRIC COOPERATIVE, INC.

Prohibition Order; Effectiveness

Pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and 10 CFR 303.37 and 305.7, the Department of Energy (DOE) gives notice that the prohibition order dated June 30, 1975, to the below named powerplant shall be effective on the date this notice is signed. The prohibition against the burning of natural gas or petroleum products at the McWilliams Generating Station, powerplant No. 3, as its primary energy source shall commence January 15, 1979. This prohibition shall be in effect until December 31, 1984, unless the order is subsequently amended by DOE.

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-060	Alabama Electric Cooperative, Inc.	McWilliams	3	Gantt, Ala.

In accordance with the provisions of the Clean Air Act (42 U.S.C. 1857 et. seq.) (sec. 119(d)(1)(B)) which were in effect at the time the subject order was issued and in accordance with the requirements of the Clean Air Act, as amended (42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95, 112), EPA certified to the Federal Energy Administration (FEA), by letter dated April 28, 1976, that on and after January 28, 1976 powerplant No. 3 could burn coal and comply with the applicable regional limitation. A copy of the EPA letter is attached to this notice.

An Environmental Assessment (EA) of the environmental impact of the issuance of the notice has been performed and as a result of that assessment, FEA, on July 15, 1977, issued a declaration (42 FR 37233, July 20, 1977) that the June 30, 1975, prohibition order when made effective by this notice is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). The EA and the negative determination are available upon request from the DOE National Office at the address stated below:

Department of Energy, Division of Coal Utilization, 2000 M Street NW., Washington, D.C. 20461, phone: 202-254-5436.

As provided in the June 30, 1975, prohibition order, any person aggrieved by such order may file an appeal with the DOE's Office of Hearings and Appeals (formerly Office of Exceptions and Appeals), in accordance with 10 CFR part 303, subpart H, within 30 days after service of this notice.

In accordance with 10 CFR part 303, subpart J, application may be made for modification or rescission of the prohibition order based on "significantly changed circumstances", which circumstances occurred during the interval between issuance of the prohibition order and service of this notice. Such application shall be filed within 30 days of service of this notice. Application for modification or rescission based on significantly changed circumstances occurring after such interval may be filed at any time after service of this notice.

All terms and conditions of the prohibition order and this notice, may be the subject of either an appeal or an application for modification or rescission.

Any terms utilized in this notice have the same meaning as such terms have in 10 CFR parts 303 and 305 in the prohibition order.

The prohibition order is effective on the date this notice is signed. Pursuant to 10 CFR 303.7(c), service of the NOE is complete upon mailing. The prohibition against the burning of natural gas or petroleum products commences on January 15, 1979.

V 43/204 OCT 78

Any questions regarding this notice should be directed to Mr. Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202-254-3910.

Issued in Washington, D.C., October 16, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[3128-01-M]

IOWA PUBLIC SERVICE CO.

Prohibition Order; Effectiveness

Pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and 10 CFR 303.37 and 305.7, the Department of Energy (DOE) gives notice that the prohibition order dated June 30, 1975, to the below named powerplant shall be effective on the date this notice is signed. The prohibition against the burning of natural gas or petroleum products at the George Neal Generating Station, powerplant No. 1, as its primary energy source shall commence November 15, 1978. This prohibition shall be in effect until December 31, 1984, unless the order is subsequently amended by DOE.

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-007	Public Service Co	George Neal	1	Salix, Iowa

In accordance with the provisions of the Clean Air Act (42 U.S.C. 1857 et seq.) (section 119(d)(1)(B)) which were in effect at the time the subject order was issued and in accordance with the requirements of the Clean Air Act, as amended (42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95 112), EPA certified to the Federal Energy Administration (FEA), by letter dated November 19, 1976, that October 1, 1978 was the earliest date upon which powerplant No. 1 could burn coal and comply with the applicable regional limitation. A copy of the EPA letter is attached to this notice.

An Environmental Assessment (EA) of the environmental impact of the issuance of the notice has been performed, and as a result of that assessment, DOE, on June 23, 1978, (43 FR 28229, June 29, 1978) issued a declaration that the June 30, 1975, prohibition order when made effective by this notice is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). The EA and the negative determination are available upon request from the DOE National Office at the address stated below:

Department of Energy, Division of Coal Utilization, 2000 M Street NW., Washington, D.C. 20461, phone: 202-254-5436.

As provided in the June 30, 1975, prohibition order, any person aggrieved by such order may file an appeal with the DOE's Office of Hearings and Appeals (formerly Office of Exceptions and Appeals), in accordance with 10 CFR Part 303, Subpart H, within 30 days after service of this notice.

In accordance with 10 CFR Part 303, Subpart J, application may be made for modification or rescission of the prohibition order based on "significantly changed circumstances", which circumstances occurred during the interval between issuance of the prohibition order and service of this notice. Such application shall be filed within 30 days of service of this notice. Application for modification or rescission based on significantly changed circumstances occurring after such interval may be filed at any time after service of this notice.

All terms and conditions of the prohibition order and this notice, may be the subject of either an appeal or an application for modification or rescission.

Any terms utilized in this notice have the same meaning as such terms have in 10 CFR Parts 303 and 305 in the prohibition order.

The prohibition order is effective on the date this notice is signed. Pursuant to 10 CFR 303.7(c), service of the NOE is complete upon mailing. The prohibition against the burning of natural gas or petroleum products commences as of November 15, 1978.

Any questions regarding this notice should be directed to Mr. Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202-254-3910.

Issued in Washington, D.C., October 16, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-29712 Filed 10-19-78; 8:45 am]

[3128-01-M]

SAVANNAH ELECTRIC & POWER CO.

Prohibition Order; Effectiveness

Pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, 15 U.S.C. 791 et seq. (ESECA), and 10 CFR 303.37 and 305.7, the Department of Energy (DOE) gives notice that the prohibition order dated June 30, 1975, to the below named powerplants shall be effective on the date this notice is signed. The prohibition against the burning of natural gas or petroleum products at the Port Wentworth Generating Station, powerplants Nos. 1, 2 and 3, as their primary energy source shall commence December 15, 1978. This prohibition shall be in effect until December 31, 1984, unless the order is subsequently amended by DOE.

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-068,OFU-069, OFU-070.	Savannah Electric & Power Co.	Port Wentworth.	1, 2, and 3	Port Wentworth, Ga.

In accordance with the provisions of the Clean Air Act (42 U.S.C. 1857 et seq.) (section 119(d)(1)(B)) which were in effect at the time the subject order was issued and in accordance with the requirements of the Clean Air Act, as amended, (42 U.S.C. 7413(d)(5) and the Act of August 7, 1977, Pub. L. 95-95, 112), EPA recertified to the Department of Energy (DOE), by letter dated November 2, 1977, that October 1, 1978 was the earliest date upon which powerplant Nos. 1, 2 and 3 could burn coal and comply with the applicable regional limitation. A copy of the EPA letter is attached to this notice.

An Environmental Assessment (EA) of the environmental impact of the issuance of the notice has been performed, and as a result of that assessment, FEA, on april 14, 1977, (42 FR 20494, April 20, 1977) issued a declaration that the prohibition order when made effective by this notice is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). The EA and the negative determination are available upon request from the DOE National Office at the address stated below:

Department of Energy, Division of Coal Utilization, 2000 M Street NW., Washington, D.C. 20461, Phone: (202-254-5436.

As provided in the June 30, 1975, prohibition order, any person aggrieved by such order may file an appeal with the DOE's Office of Hearings and Appeals (formerly Office of Exceptions and Appeals), in accordance with 10 CFR Part 303, Subpart H, within 30 days after service of this notice.

In accordance with 10 CFR Part 303, Subpart J, application may be made for modification or rescission of the Prohibition Order based on "significantly changed circumstances", which circumstances occurred during the interval between issuance of the prohibition order and service of this notice. Such application shall be filed within 30 days of service of this notice. Application for modification or rescission based on significantly changed circumstances occurring after such interval may be filed at any time after service of this notice.

All terms and conditions of the prohibition order and this notice may be the subject of either an appeal or an application for modification or rescission.

Any terms utilized in this notice have the same meaning as such terms have in 10 CFR Parts 303 and 305 in the prohibition order.

The prohibition order is effective on the date this notice is signed. Pursuant to 10 CFR 303.7(c), service of the NOE is complete upon mailing. The prohibition against the burning of natural gas or petroleum products commences as of December 15, 1978.

Any questions regarding this Notice should be directed to Mr. Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202-254-3910.

Issued in Washington, D.C. October 16, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-29713 Filed 10-19-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. CP78-540]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

OCTOBER 12, 1978.

Take notice that on September 27, 1978, Arkansas Louisiana Gas Co. (Applicant), P.O. Box 1126, Shreveport, La. 71163, filed in Docket No. CP78-540, an application, pursuant to section 7(c) of the Natural Gas Act for authorization to drill five new wells in the Chiles Dome Area, Oklahoma, to test and develop new storage facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that this application is filed as a substitute for the petition to amend the order, issued on April 26, 1977, in Docket No. CP77-222, which Applicant filed on September 11, 1978. It is stated that pursuant to a budget-type authorization issued in Docket No. CP77-222. Applicant collected data which indicates the suitability of using the Chiles Dome Field in Coal County, Okla., as a new gas storage reservoir. In order to confirm the data collected, Applicant states that it desires to drill five new wells and that such wells would ultimately be incorporated into the storage reservoir as injection/withdrawal wells. Applicant anticipates using the Chiles Dome reservoir for its long-term storage needs and general system use and estimates that it would have a rated deliverability of 133,000 Mcf of gas per day, thus augmenting its existing Ada Storage Field. Applicant estimates the cost of drilling the new wells would be $3,500,000, which would be financed from cash on hand and short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29674 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-61 (PGA78-3)]

ARKANSAS LOUISIANA GAS CO.

Notice of Filing of Revised Tariff Sheets Reflecting Purchased Gas Cost Adjustment

OCTOBER 5, 1978.

Take notice that on September 29, 1978, Arkansas Louisiana Gas Co. (Arkla) tendered for filing 18th Revised Sheet No. 4 to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G-2, to become effective November 1, 1978.

Arkla states that the purpose of 18th Revised Sheet No. 4 is to track producer and pipeline supplier price changes as of November 1, 1978 and to recover the accumulated deferred purchased gas costs as of July 31, 1978, through unit rate adjustments computed pursuant to provisions of Arkla's purchased gas cost adjustment clause contained in its FERC Rate Schedule No. G-2.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Peti-

tion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

the parties. Accordingly, the Commission shall reject the proposed rates for filing, denying the implied request for waiver of the Commission's notice re-

that "General Plant as covered by accounts 389-399 in the Commission's Uniform System of Accounts for Public Utilities and Licenses, should

convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission,

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

not taken by an customer, thus having no effective date, or the assignment of an effective date 30 days after the

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tion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29675 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-489]

ARKANSAS-MISSOURI POWER CO.

Order Accepting in Part for Filing, Rejecting in Part, Suspending Proposed Rate Increase and Establishing Procedures

OCTOBER 12, 1978.

On July 13, 1978, Arkansas-Missouri Power Co. (Ark-Mo) tendered for filing a proposed rate change for its services to four firm power customers and three transmission service customers.[1] Ark-Mo's submittal was declared deficient in a letter dated August 11, 1978, and was completed on September 12, 1978. The proposed rate revision would increase revenues by approximately $323,091 (29.07 percent) to the firm power customers and by approximately $285,195 (75.84 percent) to the transmission customers, based on the 12-month test period ending December 31, 1979.

The original July 13th submittal requested an effective date of September 1, 1978, for all rates except the proposed transmission service rate to the city of Thayer. The September 12 transmittal letter accompanying the curing documents does not propose a new effective date; neither does Ark-Mo reiterate its request for a September 1 effective date or seek waiver of 18 CFR 35.3 notice requirements. According to 18 CFR 35.2(c), the filing date shall be September 12, 1978, and the suspension period shall commence 30 days thereafter, pursuant to 18 CFR 35.2(e).

As to the effective date for the proposed transmission service rates for the city of Thayer, Ark-Mo indicates that the rates are not to become effective until after the June 30, 1983, expiration of the fixed rate transmission contract currently in effect between the parties. Accordingly, the Commission shall reject the proposed rates for filing, denying the implied request for waiver of the Commission's notice requirements.[2] This denial is based solely upon the prematurity of the filing, and does not reflect the view that the continuation of transmission service to the city of Thayer upon expiration of the existing contract is inappropriate.

Notice of the filing was issued on July 26, 1978, with protests or petitions to intervene due on or before August 2, 1978. No such protests or petitions have been received.

We note that Ark-Mo's case-in-chief includes an allocation of a portion of Liquid Metal Fast Breeder Reactor (LMFBR) research contributions and Electric Power Research Institute (EPRI) contributions to the resale cost of service. In *Carolina Power & Light Co.*, Opinion No. 19, August 2, 1978, we affirmed that part of the Initial Decision in which the Presiding Judge removed LMFBR contributions from the wholesale customers' cost of service. Neither may contributions to EPRI be allocated to wholesale customers' cost of service. Such contributions are voluntary and are made on the basis of retail sales. Moreover, many wholesale customers make contributions to LMFBR and EPRI on the basis of their retail sales. Accordingly, we shall summarily dispose of the allocation to resale cost of service of contributions to LMFBR and EPRI.[3] However, we shall not require Ark-Mo to refile in this case to reflect proper treatment of LMFBR or EPRI, as the cost of refiling may outweigh the benefits it could be expected to produce. It should nevertheless be noted that, in the future, filings must comport with Commission determinations on these issues.

In addition, we find that Ark-Mo has included Accumulated Deferred Investment Tax Credit (ADITC) in its capital structure at zero cost. In the event that Ark-Mo seeks in the proceeding to claim a return on this component of its capital structure, Ark-Mo shall be bound, as are all utilities, by the precedent established in Opinion 19[4] that the appropriate return on this component shall be the overall rate of return allowed, rather than the return on common equity.

We also note Ark-Mo's allocation of General Plant based on plant ratios. In *Minnesota Power & Light Co.*, Opinion No. 20, issued August 3, 1978, in Docket Nos. E-9499, et al., we held that "General Plant as covered by accounts 389-399 in the Commission's Uniform System of Accounts for Public Utilities and Licenses, should be properly allocated on the basis of labor costs," and that "the Company's plant allocation method is not reasonable." We also "requir(ed) that labor ratios be used in allocating general plant. * * * in succeeding cases." In a subsequent order,[5] we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that labor ratios are unreasonable as applied to the Company, not merely that its alternative method might be reasonable." We reiterate that, at hearing, Ark-Mo must sustain the burden of proving labor ratios "unreasonable" and that the mere proffer of evidence of a "reasonable alternative" would be insufficient.[6]

Our reviews indicates that the rates filed by Ark-Mo have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, the Commission will accept the submittal for filing, excepting the proposed transmission rates for the city of Thayer, and suspend the proposed rates for 5 months. Accordingly, the rates will become effective March 13, 1979, subject to refund.

The Commission orders:

(A) The rates proposed by Arkansas-Missouri Power Co., excepting those rates proposed for transmission service to the city of Thayer, are hereby accepted for filing and are suspended for 5 months, to become effective as of March 13, 1979, subject to refund.

(B) Waiver of 18 CFR 35.3 notice requirements as pertains to the proposed rates for transmission service by Arkansas-Missouri Power Co. to the city of Thayer is hereby denied.

(C) The rates tendered for filing by Arkansas-Missouri Power Co. for transmission service to the city of Thayer is hereby rejected.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(A) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter 1, a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Arkansas-Missouri Power Company in this proceeding.

(E) The Staff shall prepare and serve top sheets on all parties on or before January 10, 1979.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (*see*, Delegation of Authority, 18 CFR 3.6(d)) shall convene a conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

FIRM POWER CUSTOMERS

City of Campbell.
City of Thayer.
Gideon-Anderson Lumber Co.
Missouri Utilities Co.

TRANSMISSION SERVICE CUSTOMERS

Arkansas Electric Cooperative Corp.
Mississippi County Electric Cooperative, Inc.
City of Thayer.

ATTACHMENT B.—*Arkansas-Missouri Power Co., Designations and Descriptions*

[Docket No. ER78-489]

Filed: Sept. 12, 1978.
Dated: Undated.
Effective: Mar. 13, 1979, subject to refund.

Designations	Other party	Descriptions
Supp. No. 5 to rate schedule FPC No. 13 (supersedes supp. No. 4).	Missouri Utilities Co	Resale power schedule R-1.
Supp. No. 3 to rate schedule FPC No. 40 (supersedes supp. No. 2).	Gideon-Anderson Lumber Co.	Do.
Supp. No. 2 to supp. No. 4 to rate schedule FPC No. 30 (supersedes supp. No. 1 to supp. No. 4).	City of Thayer, United States of America.	Do.
Supp. No. 3 to rate schedule FPC No. 42 (supersedes supp. No. 2).	City of Campbell	Do.
Supp. No. 3 to rate schedule FPC No. 46	Arkansas Electric Cooperative Corp.	Wheeling service W-1.
Supp. No. 1 to supp. No. 2 to rate schedule FPC No. 30	City of Thayer, United States of America.	Do.

[1] This filing is rejected.

[FR Doc. 78-29616 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. ER 78-304]

BOSTON EDISON CO.

Order Clarifying Prior Order

OCTOBER 4, 1978.

The Commission in Opinion No. 809-A,[1] inter alia, directed Boston Edison Co. (Edison) "to file a definitive, cost justified partial requirements rate tariff within 4 months of the issuance of this order." Edison responded by filing a proposed partial requirements tariff on April 10, 1978, this filing being docketed in ER78-304. Then by order issued on May 30, 1978, the Commission accepted the proposed partial requirements tariff for filing and set the matter for hearing. A prehearing conference on the matter was convened on July 19, 1978, during which procedural and jurisdictional concerns arose which have led to the instant motion for clarification filed by Edison on July 27, 1978.

Since Edison has received no requests for service under the newly filed partial requirements tariff, it did not ask for an effective date for that tariff.[2] In the May 30 order, the Commission waived § 35.3(a) and deferred the question of suspension until Edison files notice of commencement of service and asks for an effective date.

During the July 19 prehearing conference (Tr. 3-4), the Presiding Administrative Law Judge expressed concern that, without the partial requirements tariff being in effect, any Commission ruling thereon would be merely advisory and not enforceable.[3] Edison then agreed to seek clarification from the Commission as to its jurisdiction over this tariff absent an effective date (Tr. 37). In its July 27 motion which followed, Edison requests in the alternative either an order that the Commission has jurisdiction to rule definitively upon a rate schedule offered to but not taken by an customer, thus having no effective date, or the assignment of an effective date 30 days after the filing of this motion, in the event the Commission would not otherwise have jurisdiction.[4]

We find that Edison's requested clarification is correct and that no effective date is required for the Commission to exercise full jurisdiction under the Federal Power Act. When waiver of the effective date provision in our filing regulations is appropriate, as in the instant case, supra, the Commission does have jurisdiction to definitively rule upon the justness and reasonableness of rates, charges or tariffs under which the applicant utility seeks to provide service even though no potential customer has yet requested such service. The operative jurisdictional language of the Federal Power Act is "any rate, charges, or classification, demanded, observed, charged, or collected by any public utility * * *."[5] Clearly, Edison's filed partial requirements tariff is "demanded" in that Edison would provide partial requirements service only under that tariff, subject of course to a Commission ruling to the contrary. Accordingly, the Commission possesses jurisdiction under sections 205 and 206 of the Federal Power Act to adjudicate this tariff which has been demanded but never requested to be put into effect.

As a matter of sound regulatory administration, § 35.3(a) requires rate schedules or tariffs to be tendered for filing not less than 30 days nor more than 90 days before the effective date. This requirement can be and was waived in this proceeding when the Commission in the May 30 order found good cause. Specifically, the Commission in Opinion 809-A, supra note 1, concluded that a partial requirements rate should be established through a new filing even though no concrete request for partial requirements service has been made.

The Commission orders:

Edison's July 27 motion for clarification of jurisdiction is granted to the extent set forth in the body of this order.

[1] *Boston Edison Company*, Opinion No. 809-A, Docket Nos. E-7738 and E-7784, issued December 9, 1977.

[2] Instead, Edison requested waiver of § 35.3(a) of the Commission's Rules and Regulations under the Federal Power Act (rate filing cannot be made more than 90 days before effective date) and stated that it would inform the Commission when the tariff is to become effective.

[3] Edison stated on the record that it would be bound by a final nonappealable Commission order relative to the partial requirements tariff.

[4] Edison's full requirements wholesale customers, the Towns of Concord, Norwood and Wellesley, Mass. (the Towns) answered this motion for clarification on August 7, 1978. The Towns oppose setting any effective date, supporting instead deferral of an effective date pending final resolution on the merits.

[5] Section 206(a) of the Federal Power Act, 16 U.S.C. § 824(e). Similar language appears in section 205 of the Federal Power Act, 16 U.S.C. 824(d).

[2] Although Ark-Mo has not explicitly requested a waiver of 18 CFR 35.3, such a request is implicit in Ark-Mo's July 13 transmittal letter.

[3] *See also Connecticut Light & Power Co.*, Docket No. ER77-517 (order issued Aug. 31, 1978).

[4] *See Carolina, supra* at 2.

[5] *Public Service Co. of Indiana*, Docket No. ER78-513, issued Aug. 25, 1978.

[6] *See also, Pennsylvania Electric Co.*, Docket No. ER78-494, issued Sept. 29, 1978.

See attachments A and B.

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By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[6740-02-M]

[Docket No. CP77-407]

intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,

sesses a small amount of excess capacity, which capacity can be used to accept deliveries of natural gas made

and which are located in the areas of interest set forth in the exchange agreement, Northern has agreed to in-

the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

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By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-29676 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-86]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Proposed Changes in FERC Gas Tariff

OCTOBER 5, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1978:

FORTY-SEVENTH REVISED SHEET NO. 16

Columbia states that Forty-seventh Revised Sheet No. 16 is necessary in order to comply with Commission order issued January 20, 1975 at Docket No. RP73-86 which provides for a phased removal of its multiple zone system. In compliance with the above mentioned order the rates contained in this filing reflect a further one-sixth movement to be effective November 1, 1978 toward a system-wide rate structure.

Copies of this filing were served upon the Company's jurisdictional customers, interested State commissions and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29677 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-407]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

OCTOBER 13, 1978.

Take notice that on October 4, 1978, El Paso Natural Gas Co. (Petitioner), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP77-407, a petition, pursuant to section 7(c) of the Natural Gas Act, to amend the order issued July 5, 1978, in the instant docket so as to extend the period in which Petitioner is authorized to transport natural gas for Pacific Interstate Transmission Co. (Pacific), all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner states that it was authorized to transport and deliver, on a best efforts basis, up to 200 billion Btu's of gas per day for Pacific for a limited-term period ending October 31, 1978. It is stated that Petitioner receives the gas from Northwest Pipeline Corp. (Northwest) at a delivery point near Ignacio, Colo., and delivers the gas to Southern California Gas Co. (SoCal), for Pacific's account, at the Arizona-California boundary. It is further stated that Pacific's gas purchase agreement with Northwest has been amended to extend until October 31, 1981, with an automatic extension of the term to and including September 30, 1989. Consequently, Petitioner requests that the order of July 5, 1978, in the instant docket be amended to extend the period of authorization from October 31, 1978, through September 30, 1989.

The petition indicates that the gas supplies to be received under the extended arrangements would aid SoCal in meeting its public responsibilities to gas consumers in its service areas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29678 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-548]

EL PASO NATURAL GAS CO. AND NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 12, 1978.

Take notice that on September 29, 1978, El Paso Natural Gas Co. (El Paso), Post Office Box 1492, El Paso, Tex. 79978, and Northern Natural Gas Co. (Northern), 2223 Dodge Street, Omaha, Nebr. 68102, filed a joint application in Docket No. CP78-548 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (i) the utilization of certain existing facilities, (ii) the construction and operation of certain new facilities, and (iii) the limited-term delivery and exchange of up to 30 billion Btu's equivalent of natural gas per day on a firm and best efforts basis, at points of interconnection of El Paso's and Northern's facilities located in Eddy County, N. Mex. and Hemphill County, Tex., and the balancing point in Pecos County, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that El Paso is advised that Northern has acquired interests in gas production in two (2) supply areas, including two (2) wells presently connected to El Paso's existing field gathering facilities in such areas, both areas located in Eddy County, N. Mex., from which production can be delivered to El Paso, on a short-term basis, for exchange. It is stated that El Paso's existing facilities have capacity adequate to handle such production. Northern is advised that El Paso, through its gas acquisition and development program, has available natural gas supplies which are temporarily in excess of El Paso's available system capacity in Hemphill County, Tex.[1] El Paso is advised further, that Northern also has an existing gathering system located in Hemphill County, Tex., that currently possesses a small amount of excess capacity, which capacity can be used to accept deliveries of natural gas made available by El Paso for exchange, on a firm and a best efforts basis, for a limited-term period. Accordingly, in order to facilitate and effectuate such interim arrangements, El Paso and Northern have entered into a limited-term exchange agreement dated August 29, 1978 (exchange agreement), designed to assist each party in making additional quantities of natural gas available to their respective systems, it is asserted.

The application further states that under the subject exchange agreement, Northern has agreed to accept, partially on a firm and partially on a best efforts basis from El Paso up to an aggregate of 30 billion Btu's of natural gas that would be delivered by El Paso at mutually agreed to points of interconnection that would be installed between the parties systems in Hemphill County, Tex., hereinafter referred to as the Hemphill County Delivery Points. It is stated that from the date of initial deliveries through October 1, 1978, Northern has agreed to receive at the Hemphill County Delivery Points, up to 5 billion Btu's per day of natural gas on a firm basis. It is further stated that after October 1, 1978, and extending to the end of the term of the subject exchange arrangement (Apr. 30, 1979), Northern has agreed to receive at said points up to 15 billion Btu's per day of natural gas on a firm basis and up to 15 billion Btu's per day of natural gas on a best efforts basis. Concurrently, El Paso has agreed to receive from Northern quantities of natural gas equivalent on a million Btu basis to the firm and best efforts quantities delivered by El Paso to Northern such quantities to be made available to El Paso by Northern from the Little Box Canyon and Cass Ranch area supply sources located in Eddy County, N. Mex., hereinafter referred to as the Eddy County Delivery Points, it is said.

It is asserted that El Paso and Northern have agreed that the subject limited-term exchange arrangement would provide for the exchange of equivalent quantities of natural gas on a million Btu basis on a reasonably concurrent basis without charge. It is further asserted that should an imbalance occur, the exchange agreement provides that any such imbalance would be eliminated by the parties as soon as possible at Mobil Oil Corp's (Mobil) Coyanosa Plant located in Pecos County, Tex.

It is said that with respect to the existing Eddy County Delivery Points, no new or additional facilities would be required by either party. It is further said that as for new wells that Northern may acquire an interest in and which are located in the areas of interest set forth in the exchange agreement, Northern has agreed to install those facilities necessary to deliver and measure natural gas to El Paso's system and El Paso has agreed to install all necessary taps and side valves to accept such natural gas into its existing field gathering system. The parties have agreed that Northern would install necessary taps, side valves and related piping necessary to effectuate the receipt of natural gas from El Paso at the Hemphill County Delivery Points. It is said that El Paso would install all remaining facilities, including measurement and flow control devices at the Hemphill County Delivery Points. Further, El Paso requests that the authorizations sought herein, when granted, specifically permit the construction and operation of minor tap and valve facilities, as may be required, to permit Northern to attach to El Paso's gathering system additional wells which may become available to Northern in the Little Box Canyon and Cass Ranch areas of Eddy County, N. Mex., it is said. Northern would construct and operate its specific facilities at the Hemphill County Delivery Points A and B as well as additional facilities, when necessary, to attach future wells in Eddy County, N. Mex., through use of its budget-type gas-purchase facility authorization at Docket No. CP77-587, it is asserted. It is further stated that the total estimated cost of the facilities to be constructed by El Paso hereunder is $98,041, which cost El Paso would finance from internally generated funds.

The exchange agreement would become effective when all necessary regulatory approvals have been obtained and accepted and would continue in full force and effect through April 30, 1979, it is indicated.

It is stated that the subject agreement would make available to Northern certain natural gas supplies for the forthcoming 1978-79 heating season. It is further stated that the agreement would enable El Paso to obtain gas supplies which cannot be presently transported by El Paso to its interstate system markets due to El Paso's temporarily limited pipeline capacity in the Hemphill County, Tex., area.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the authorization is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29679 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-537]

FLORIDA GAS TRANSMISSION CO.

Notice of Application

OCTOBER 12, 1978.

Take notice that on September 25, 1978, Florida Gas Transmission Co. (Applicant), P.O. Box 44, Winter Park, Fla. 32790, filed in CP78-537 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 6.5 miles of pipeline facilities to extend between block 149 and block 132 in the South Marsh Island area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has acquired the right to purchase 77 percent of the total amount of gas produced from the block 149 field by Shell Oil Co., Florida Gas Exploration Co., Barber Oil Exploration, Inc., and Drillamex, Inc. Applicant requests authorization to construct and operate approximately 6.5 miles of 10-inch pipeline to extend

[1] It is stated that El Paso filed with the Commission on June 19, 1978, as supplemented on July 14, 1978, at Docket No. CP78-383, its application to increase the capacity of its existing Panoma to Dumas system, which will assist El Paso in increasing its capacity in Hemphill County, Tex. By order issued September 5, 1978, the Commission granted El Paso requisite certificate authorization at Docket No. CP78-383.

from Shell Oil Co.'s platform "A" in block 149 to the facilities of Transcontinental Gas Pipe Line Co. (Transco) in block 132, South Marsh Island area,

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[6740-02-M]

[Docket No. ER78-629]

[6740-02-M]

[Docket No. ER78-630]

[6740-02-M]

[Docket No. ER77-578]

sion, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) ural gas, plus compressor fuel. During 1980 and ensuing Summer Periods (April 1 through October 31), it is

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from Shell Oil Co.'s platform "A" in block 149 to the facilities of Transcontinental Gas Pipe Line Co. (Transco) in block 132, South Marsh Island area, offshore Louisiana. The proposed facilities Applicant States would be used to transport the gas produced from block 149 for delivery to Transco's facilities through which the gas would be transported for redelivery to Applicant in St. Helena Parish, La. Applicant estimates that it would cost $3,600,000 to construct the proposed facilities and states that the construction would be financed from cash on hand and short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29680 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-629]

IOWA POWER & LIGHT CO.

Notice of Filing of Transmission Service Agreement

OCTOBER 12, 1978.

Take notice that Iowa Power & Light Co., Des Moines, Iowa (Iowa Power) on September 29, 1978, tendered for filing a Transmission Service Agreement with Iowa-Illinois Gas & Electric Co., Davenport, Iowa (Iowa-Illinois) dated December 30, 1977.

Relating to the proposed utilization by Iowa-Illinois of 202 MW of capacity in Iowa Power's existing 345 kV transmission system from the Sycamore substation near Des Moines, Iowa, to Hills substation near Hills, Johnson County, Iowa, the agreement facilitates transmission of Iowa-Illinois' share of Council Bluffs Generating Unit No. 3 capacity. The agreement is to become effective on the first of the month next following synchronization of the unit, which is not anticipated to occur prior to October 1978. Consequently, an effective date of November 1, 1978 is requested, subject to confirmation of the synchronization date.

Iowa Power states the purpose of the proposed rates and charges is to recover reflected costs of the facilities to be provided as the scheduling path, for associated operation and maintenance, and for transmission losses for which compensation in kind is provided.

Iowa Power states copies of the filing have been mailed to Iowa-Illinois and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29681 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-630]

IOWA POWER & LIGHT CO.

Notice of Filing of Transmission Service Agreement

OCTOBER 12, 1978.

Take notice that Iowa Power & Light Co., Des Moines, Iowa (Company) on September 29, 1978, tendered for filing a Transmission Service Agreement with Eastern Iowa Light & Power Cooperative, Wilton, Iowa (Cooperative), dated February 27, 1978.

Relating to the proposed utilization by Cooperative of 24 MW of capacity in Company's existing 345 kV transmission system from the Sycamore substation near Des Monies, Iowa, to Hills substation near Hills, Johnson County, Iowa, the agreement facilitates transmission of Cooperative's share of Council Bluffs Generating Unit No. 3 capacity. The agreement is to become effective on the first of the month next following synchronization of the unit, which is not anticipated to occur prior to October 1978. Consequently, an effective date of November 1, 1978, is requested, subject to confirmation of the synchronization date.

Company states the purpose of the proposed rates and charges is to recover reflected costs of the facilities to be provided as the scheduling path, for associated operation and maintenance, and for transmission losses for which compensation in kind is provided.

Company states copies of the filing have been mailed to Cooperative and to the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29682 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. ER77-578]

KANSAS GAS & ELECTRIC CO.

Notice of Compliance Filing

OCTOBER 13, 1978.

Take notice that Kansas Gas & Electric Co. on February 28, 1978 tendered for filing changes in its FPC Electric Service Tariff Nos. 32, 45, 46, 47, 48, 49, 72, 74, 87, 89, 98, 110, 113, 114, 115, 117, 118, 119, 120, 122, 123, 124, 125, 126, 127, 128, 129, 131, and 134, in response to Ordering Paragraph H of the Commission's February 1, 1978, order in the above-noted docket.

This filing represents a number of contractual amendments which have not been previously filed with the Commssion. The majority are changes to the maximum and minimum amounts of power delivered to the customer.

The amendments date back to 1970 and were executed by both parties with appropriate copies supplied upon execution, according to the Company.

Any person desiring to be heard or to protest said application should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29683 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-2]

KANSAS POWER & LIGHT CO.

Notice of Filing

OCTOBER 12, 1978.

Take notice that Kansas Power & Light Co. on October 2, 1978, tendered for filing an amendment dated September 5, 1978, to that Certain Contract dated August 7, 1974, and designated KPL Rate Schedule FPC No. 186. The Company indicates that the contract concerns wholesale electric service to the City of Minneapolis.

The Company requests waiver of the Commission's notice requirements to allow for an effective date of September 5, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29684 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-545]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

OCTOBER 11, 1978.

Take notice that on September 28, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP78-545 an application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing Applicant to (1) provide transportation services for United Gas Pipe Line Co. (United), Panhandle Eastern Pipe Line Co. (Panhandle), Mississippi River Transmission Corp. (Mississippi), and Northern Indiana Public Service Co. (NIPSCO); (2) construct and operate pipeline, measurement, and compressor facilities necessary to provide the transportation services; and (3) exchange natural gas with Great Lakes Gas Transmission Co. (Great Lakes), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The application indicates that ANR Storage Co. (ANR) filed in Docket No. CP78-432 a request for authorization to provide natural gas storage services for United, Panhandle, Mississippi, and NIPSCO (collectively referred to as the storage customers), and for such purpose to acquire, develop, and operate for underground natural gas storage gas fields located in Kalkaska County, Mich. Applicant states the purpose of the instant application is to obtain authorization to provide transportation services for the storage customers, and to construct and operate pipeline, measurement, and compression facilities necessary to provide such services.

Applicant states that it has agreed to provide a transportation service for United of up to 30,000,000 Mcf of natural gas, plus compressor fuel. During 1980 and ensuing Summer Periods (April 1 through October 31), it is stated that United would cause Midwestern Gas Transmission Co. (Midwestern) to deliver annually to Applicant up to 30,000,000 Mcf of gas at a daily rate of up to 100,000 Mcf at an existing point of connection between the pipeline systems of Applicant and Midwestern located in Channahon Township, Will County, Ill. (the Will County delivery point).

It is further stated that United would annually deliver to Applicant up to 10,750,000 Mcf at a daily rate of up to 53,750 Mcf at a point of interconnection between the pipeline systems of Applicant and United located in Rapides Parish, La. Subject to an exchange arrangement presently being negotiated by United with Arkansas Louisiana Gas Co. (Arkla), Applicant states as an alternative to making deliveries to Applicant in Rapides Parish, at Applicant's option United would cause Arkla to make deliveries to Applicant for United's account of up to 10,750,000 Mcf at the tailgate of Arkla's treating plant located in Custer County, Okla. Applicant states that it would transport and redeliver equivalent volumes to Michigan Consolidated Gas Co., Interstate Storage Division (Consolidated), at an existing point of connection between the pipeline systems of Applicant and Consolidated located in Ypsilanti Township, Washtenaw County, Mich. (the Willow Run delivery point). Consolidated would transport the quantities so received and redeliver equivalent quantities to Applicant at a point of interconnection between the systems of Applicant and Consolidated located at Applicant's W. G. Woolfolk Compressor Station in Austin Township, Mecosta County, Mich. (the W. G. Woolfolk delivery point), it is asserted. From this point, Applicant states that it would transport and redeliver the storage volumes to Great Lakes at a point of interconnection between the pipeline systems of Applicant and Great Lakes at Farwell, Mich. (the Farwell delivery point), and Great Lakes would redeliver equivalent volumes to ANR at a proposed point of connection between ANR and Great Lakes (the Kalaska delivery point) pursuant to a transportation and exchange arrangement between Applicant and Great Lakes.

It is stated that during the Winter Period (November 1 through March 31), ANR would deliver the storage volumes to Great Lakes which in turn would deliver such volumes to Applicant at the Farwell delivery point. Applicant would transport and redeliver equivalent volumes to Midwestern and Consolidated for the account of United. Applicant indicates that it

would annually redeliver to Midwestern at the Will County delivery point up to 20,000,000 Mcf at a rate of up to 222,222 Mcf per day and the balance

transportation service in conjunction with the off peak storage service.

The application indicates that in accordance with a Transportation Agree-

plicant requests authorization to construct and operate the following new facilities:

November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

that Defendants have improperly produced and caused to be delivered to Tennessee natural gas from certain

ately paying back to Complainants amounts of gas which Tennessee took in disregard of the unitization order.

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would annually redeliver to Midwestern at the Will County delivery point up to 20,000,000 Mcf at a rate of up to 222,222 Mcf per day and the balance to Consolidated at the W. G. Woolfolk delivery point at a daily rate of up to 105,278 Mcf. Applicant states that daily delivery rates and the times of such deliveries would be determined by it based on its ability to provide the proposed service. It is stated that the quantities delivered by Applicant to Consolidated would be transported by Consolidated and redelivered to Applicant at the Willow Run delivery point. Applicant would redeliver equivalent volumes to United by displacement at a point of connection between their systems in St. Mary Parish, La., it is said. As consideration for providing the transportation service, Applicant states that United would pay it an initial rate of $622,000 per month.

The application indicates that in accordance with a Transportation Agreement covering transportation for 50-day storage service and a second transportation Agreement covering off-peak storage service, both dated July 6, 1978, with Panhandle, Applicant has agreed to provide a transportation service for Panhandle of up to an aggregate of 1,260,000 Mcf of natural gas, plus compressor fuel. In combination, it is stated, the agreements provide that during the 1980 and ensuing Summer Periods, Panhandle would deliver to Applicant up to 1,260,000 Mcf at a daily rate of up to 6,310 Mcf at an existing point of connection between their systems located in Noble Township, Defiance County, Ohio (the Defiance delivery point). Applicant states that it would transport and redeliver equivalent volumes to Consolidated at the Willow Run delivery point. From this point, it is stated, the gas would be transported and delivered to ANR for storage in the manner described above for the transportation and delivery of storage gas for United.

During the Winter Periods, Applicant asserts, ANR would deliver the storage volumes to Great Lakes for transportation to Michigan Wisconsin. Applicant states that it would transport and redeliver equivalent volumes, to Consolidated at the W. G. Woolfolk delivery point at a daily rate of up to 23,909 Mcf, and Consolidated would transport and deliver equivalent volumes to Applicant at the Willow Run delivery point. Applicant states that it would redeliver by displacement equivalent volumes to Panhandle at the Defiance delivery point. As consideration for providing the transportation service, Applicant states that the agreement covering the transportation service for the 50-day storage service provides for an initial rate of $21,170 per month and $1,388 per month for the transportation service in conjunction with the off peak storage service.

The application indicates that in accordance with a Transportation Agreement dated September 22, 1978, with Mississippi, Applicant has agreed to provide a transportation service, in conjunction with a 100-day storage service to be provided by ANR, for Mississippi of up to 3,050,000 Mcf of natural gas, together with compressor fuel. Applicant states that during the 1980 and ensuing Summer Periods, Mississippi would cause Panhandle to deliver to it up to 3,050,000 Mcf at a daily rate of up to 15,266 Mcf at the Defiance delivery point. Applicant further states that Mississippi's gas would be transported from, and redelivered to, the Defiance delivery point for Mississippi's account in the same manner as Panhandle's storage gas, described above, except that Applicant would not be obligated to redeliver gas to Consolidated for the account of Mississippi in excess of 29,997 Mcf per day. Applicant states that Mississippi would pay it an initial rate of $48,708 per month.

Finally, the application indicates that in accordance with a Transportation Agreement dated May 12, 1978, with NIPSCO, Applicant has agreed to provide a transportation service for up to 2,000,000 Mcf of natural gas, plus compressor fuel. Applicant states that during the 1980 and ensuing Summer Periods, NIPSCO would cause Natural Gas Pipeline Co. of America (Natural) to deliver to it up to 2,000,000 Mcf at a daily rate of up to 10,000 Mcf at an existing point of connection between the systems of Applicant and Natural at Joliet, Ill. Applicant states that it would transport and redeliver equivalent volumes to Consolidated at the Willow Run delivery point. From this point, applicant indicates that NIPSCO's gas would be transported to ANR for storage in the same manner as United's storage gas, described above.

During the winter period, Applicant states that ANR would deliver to Great Lakes, for the account of Applicant, and Applicant would redeliver equivalent volumes to NIPSCO at a daily rate of up to 21,833 Mcf at the outlet side of its meter station in La-Porte County, Ind., where Applicant's pipeline system is connected with the system of NIPSCO and/or, at NIPSCO's request, at Applicant's existing meter station in Adams County, Ind., where Applicant indicates it makes deliveries to NIPSCO under other service agreements. As consideration for providing the transportation service, Applicant states that NIPSCO would pay it an initial rate of $31,367 per month.

To provide the transportation services for United, Panhandle, Mississippi, and NIPSCO described above, Applicant requests authorization to construct and operate the following new facilities:

1. 4,000 horsepower of compression and four additional 8-inch meters at Applicant's existing compressor station located in Will County, Ill., at an estimated cost of $3,157,670.
2. 1,000 horsepower of additional compression at Applicant's existing compressor station located in Defiance County, Ohio, at an estimated cost of $898,030.
3. 4,000 horsepower of additional compression at Applicant's W. G. Woolfolk Compressor Station located in Mecosta County, Mich., at an estimated cost of $3,863,630.
4. 31.6 miles of 36-inch O.D. pipeline loop located in Mecosta, Osceola, and Clare Counties, Mich., between applicant's W. G. Woolfolk Compressor Station and Lincoln Compressor Station, at an estimated cost of $18,879,990.

Applicant estimates that the total cost of the above-described facilities will be $26,851,630 which, it indicates, would be financed initially with treasury funds, retained earnings and other funds generated internally together with borrowings from banks and/or short-term lines of credit as required. Applicant states that it contemplates that any bank borrowings will be permanently financed as market conditions permit.

To implement the above-described arrangement, Applicant states that it and Great Lakes have entered into a Gas Transportation and Exchange Contract dated May 30, 1978. Applicant indicates that the agreement provides that during the Summer Period, Great Lakes would exchange a maximum quantity of 300,000 Mcf per day for not in excess of 60 days and 200,000 Mcf per day for the remaining days. It is stated that during the Summer Period, the point of delivery where Applicant would make deliveries of exchange gas is at the Farwell interconnection and the point of delivery where Great Lakes would make redelivery of the exchange gas is at the Kalkaska delivery point. During the winter period, Applicant states that ANR would make deliveries of up to 550,000 Mcf per day to Great Lakes of storage gas at the Kalkaska delivery point, and Great Lakes would provide transportation and make redeliveries of equivalent volumes to Applicant at the Farwell interconnection and/or alternatively at an existing point of connection between the pipeline systems of Applicant and Great Lakes at Crystal Falls, Mich. As consideration for providing the transportation service, Applicant states that Great Lakes would charge 2.66 cents per Mcf for all gas received by Great Lakes for Applicant's account at the Kalkaska delivery point during the Winter Period.

Any person desiring to be heard or to make any protest with reference to said application should on or before

November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.7). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a petition to intervene in accordance with the Commission's rules.

Take further notice, that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29624 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-535]

NATURAL GAS PIPELINE CO. OF AMERICA, ET AL., COMPLAINANTS, V. TEXACO INC., ET AL., DEFENDANTS

Notice of Complaint

OCTOBER 12, 1978.

Take notice that on September 22, 1978, Natural Gas Pipeline Co. of America, 122 South Michigan Avenue, Chicago, Ill. 60603, Sea Robin Pipeline Co., P.O. Box 1478, Houston, Tex. 77001, and United Gas Pipeline Co., P.O. Box 1478, Houston, Tex. 77001 (jointly referred to as Complainants), jointly filed in Docket No. CP78-535 a complaint, pursuant to section 13 of the Natural Gas Act, against Texaco Inc. (Texaco), Tenneco Oil Co., a Division of Tenneco Inc. (Tenneco), and Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) (jointly referred to as Defendants) alleging that Defendants have improperly produced and caused to be delivered to Tennessee natural gas from certain unitized blocks located in the Federal Domain, offshore Louisiana, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

The facts alleged by Complainants are as follows: Complainants purchase gas produced from West Cameron Blocks 532, 533, and 534. The producers which have an interest in said West Cameron Blocks are Mobil Oil Corp., Chevron U.S.A., Inc., Pennzoil Louisiana and Texas Offshore, Inc., Pogo Producing Co., and Pennzoil Oil and Gas, Inc. Tennessee purchases gas produced by Tenneco and Texaco from East Cameron Block 281. Two reservoirs underlie all or part of the West Cameron Blocks 532, 533, and 534 and East Cameron Block 281, with the 3,200 ft. Sand reservoir underlying West Cameron Blocks 532, 533, and 534 and East Cameron Block 281, and the 3,500 ft. Sand reservoir underlying West Cameron Blocks 532 and 533, and East Cameron Block 281. In 1976, the Oil and Gas Supervisor, Production Control, Gulf of Mexico Area, of the United States Geological Survey (USGS) determined these reservoirs to be competitive. Subsequently, the USGS established a unitization plan, determining the proportionate share of production from such reservoirs to which each producer is entitled, which became effective January 1, 1977.

Complainants allege that since January 1, 1977, to the present Texaco and Tenneco have been producing from these reservoirs volumes of natural gas in excess of the amounts attributable to the East Cameron Block 281 under the USGS order. Complainants state that Texaco and Tenneco's proportionate share of the reservoirs as established by the USGS order is 16 percent. Complainants further state that from January 1, 1977 to July 1, 1978, Texaco and Tenneco have produced a combined total of 51,800,000 Mcf of gas from the two reservoirs which constitutes a production of 30,900,000 Mcf of gas over the amount properly attributable to their share as determined by USGS. The amount of recoverable reserves remaining in the two reservoirs, Complainants state to be 133,600,000 Mcf of gas. Consequently, Complainants state that because they are concerned that gas to which they are entitled will not be delivered to them, they request that the Commission issue an order directing Tenneco and Texaco to produce and Tennessee to take deliveries of no more gas than the amounts attributable to East Cameron Block 281 under the USGS unitization order. Additionally, it is requested that Tenneco, Texaco and/or Tennessee be ordered to begin immediately paying back to Complainants amounts of gas which Tennessee took in disregard of the unitization order. Alternatively, Complainants request that an order be issued establishing a date for a hearing on this matter.

Any person desiring to be heard or to make any protest with reference to said complaint should on or before November 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29621 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Project No. 2852]

NEW YORK STATE ELECTRIC & GAS CORP.

Notice of Application for Major License for Constructed Project

OCTOBER 12, 1978.

Public notice is hereby given that New York State Electric & Gas Corp. ("applicant") has filed an application under the Federal Power Act (16 U.S.C. 791(a)-825(r) (1970)) for a major license for its constructed Keuka project, FERC project No. 2852. The Keuka project is located on the impounded waters of Lamoka and Waneta Lakes near the cities of Geneva and Corning, in Schuyler and Steuben Counties, N.Y. Correspondence regarding this application should be sent to Mr. L. Theodore Everett, senior vice president, New York State Electric & Gas Corp., P.O. Box 287, Ithaca, N.Y. 14850 and Huber, Magill, Lawrence & Farell, 99 Park Avenue, New York, N.Y. 10016.

The constructed 2 megawatt Keuka project consists of:

(1) The Bradford Dam, located at the south end of Lamoka Lake, which is comprised of (A) a concrete, earth, and rock fill spillway and gate section (30 feet wide, 85 feet long, and 20 feet high) including a concrete apron (65 feet (average) wide, 31 feet long, and 8 inches thick); (B) two concrete outlet tunnels each of which are 6 feet wide, 4.5 feet high, and 30 feet long; (C) two earth and rock fill embankments, the one west of the spillway measuring 25

feet (average) wide, 424 feet long, and 10 feet high; the one east of the spillway measuring 48 feet (average) wide, 57 feet long, and 10 feet high;

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,

participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

the Commission and are available for public inspection.

KENNETH F. PLUMB,

proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to inter-

ceive volumes of natural gas equivalent to volumes of LNG which Haverhill would purchase from DOMAC.

Applicant proposes to receive from

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feet (average) wide, 424 feet long, and 10 feet high; the one east of the spillway measuring 48 feet (average) wide, 57 feet long, and 10 feet high;

(2) A natural channel, 25 feet wide, 5 feet deep, and 4,400 feet long connecting Lakes Lamoka and Waneta;

(3) An unlined canal 12 feet wide, 7 feet deep, and 9,290 feet long connecting Lake Waneta to the headworks structure;

(4) A reinforced concrete headworks structure;

(5) A concrete penstock, 54 inches in diameter and 3,600 feet long, connected to a riveted steel penstock 42 inches in diameter and extending 825 feet to the generating plant;

(6) A reinforced concrete powerhouse approximately 18 feet long, 30 feet wide, and 27 feet high;

(7) A single generating unit rated at 2,000 kW under a design head of 380 feet;

(8) A transmission-distribution substation located 50 feet east of the generating station; and

(9) Two 25.5-kV transmission lines.

(A) One approximately 7.5 miles long terminating at the Dundee substation; and

(B) One approximately 8.2 miles long terminating at the Hammondsport substation.

(10) Appurtenant facilities; and

(11) The impounded waters of Lakes Lamoka and Waneta which provide a storage capacity of approximately 5,760 acre-feet, at a spillway elevation of 1,099 feet.

RECREATION

Recreationists now make only limited use of the project area. Development plans for the near future provide only for parking facilities. Applicant states that access to the lakes is good.

USE OF PROJECT ENERGY

All energy generated is incorporated into the applicant's main transmission system for use within the State.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 18, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29622 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-2]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 12, 1978.

Take notice that on October 2, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP79-2 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 1, 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of the budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coestensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant request that the provisions of § 157.7 (b)(1) of the Commission's Regulations be waived so as to authorize Applicant to spend an amount not to exceed $15,000,000, with no single onshore project cost to exceed $2,500,000 and no single offshore project cost to exceed $3,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisidiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29623 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket Nos. ER78-460; ER78-483]

POTOMAC EDISON CO.

Notice of Compliance Filing

OCTOBER 5, 1978.

Take notice that Potomac Edison Co. on September 28, 1978, tendered for filing Period II costs the 12 month period ending June 30, 1979, a revised Statement M (Schedules 1 and 2) and Statement N (Schedule 1) of Period I of the initial filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29625 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-4]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Application

OCTOBER 13, 1978.

Take notice that on October 3, 1978, South Texas Natural Gas Gathering Co. (South Texas) Five Greenway Plaza East, Houston, Tex. 77046, filed in Docket No. CP79-4, an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing with the date of the requested authorization, and operation of facilities to enable South Texas to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment South Texas' ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with South Texas.

It is stated that the total cost of the proposed facilities would not exceed $360,000 and that the cost of any single project would not exceed a cost of $90,000. It is indicated that these costs would be financed from cash on hand and from cash generated from normal operations and internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for South Texas to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29626 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-543]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Notice of Application

OCTOBER 12, 1978.

Take notice that on September 28, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-543 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Haverhill Gas Co. (Haverhill), a distributor customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Haverhill has arranged to purchase volumes of liquefied natural gas (LNG) from Distrigas of Massachusetts Corp. (DOMAC), pursuant to an agreement between these parties dated February 3, 1977. In Docket No. CP77-216, et al., DOMAC received temporary certificate authorization from the Commission to make the sale, it is said. Applicant states that it is requesting authorization to transport gas for Haverhill in order to enable Haverhill to receive volumes of natural gas equivalent to volumes of LNG which Haverhill would purchase from DOMAC.

Applicant proposes to receive from Boston Gas Co. (Boston Gas), a distributor customer of Applicant, daily volumes of natural gas during each winter period from November 1 through the following March 31 as requested by Haverhill, up to a maximum daily volume of 1,300 Mcf, not to exceed 72,800 Mcf in any winter period, and to transport and deliver equal volumes to Haverhill at Applicant's existing Haverhill Sales Meter Station Delivery Point in Essex County, Mass. Boston Gas would receive daily volumes of LNG from DOMAC and would release equivalent volumes of gas to Applicant, it is said.

For the proposed transportation service Applicant would charge Haverhill 16.18 cents per Mcf, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to

appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29624 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-543]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Notice of Application

OCTOBER 12, 1978.

Take notice that on September 28, 1978, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-543 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Haverhill Gas Co. (Haverhill), a distributor customer of Applicant, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Haverhill has arranged to purchase volumes of liquefied natural gas (LNG) from Distrigas of Massachusetts Corp. (DOMAC), pursuant to an agreement between these parties dated February 3, 1977. In Docket No. CP77-216, et al., DOMAC received temporary certificate authorization from the Commission to make the sale, it is said. Applicant states that it is requesting authorization to transport gas for Haverhill in order to enable Haverhill to receive volumes of natural gas equivalent to volumes of LNG which Haverhill would purchase from DOMAC.

Applicant proposes to receive from Boston Gas Co. (Boston Gas), a distributor customer of Applicant, daily volumes of natural gas during each winter period from November 1 through the following March 31 as requested by Haverhill, up to a maximum daily volume of 1,300 Mcf, not to exceed 72,800 Mcf in any winter period, and to transport and deliver equal volumes to Haverhill at Applicant's existing Haverhill Sales Meter Station Delivery Point in Essex County, Mass. Boston Gas would receive daily volumes of LNG from DOMAC and would release equivalent volumes of gas to Applicant, it is said.

For the proposed transportation service Applicant would charge Haverhill 16.18 cents per Mcf, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to

Contract No.	Countries	Material
WC-1ACZ-101	United States and Czechoslovakia	53.1g uranium as UO, containing 1.2g

Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30

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appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29627 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-73; (AP No. 78-3)]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Informal Settlement Conference

OCTOBER 12, 1978.

Take notice that an informal settlement conference in this docket will be convened at 1:30 p.m., on October 19, 1978, in Room 8402 of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously be permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29628 Filed 10-19-78; 8:45 am]

[6740-02-M]

[Project No. 2818—Alaska]

CITY AND BOROUGH OF SITKA

Notice of Availability of Staff Draft Environmental Impact Statement

Notice is hereby given in the captioned project, that on or about October 24, 1978, as required by § 2.81(b) of Commission order No. 415-C, a draft environmental impact statement, prepared by the Staff of the Federal Energy Regulatory Commission, was made available for comments. This statement deals with the environmental impact of the issuance of a Federal Energy Regulatory Commission license to the city and borough of Sitka for the construction, operation, and maintenance of the proposed Green Lake Dam, reservoir, power tunnel, powerhouse, transmission line, and access road. The project would have an installed capacity of 16,500 kW.

This statement has been circulated for comments to Federal, State, and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and at its San Francisco Regional office located at 555 Battery Street, San Francisco, Calif. 94111. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before December 8, 1978.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to section 1.8 of the Commission's Rules of practice and procedures. Petitioners must also file timely comments on the draft statement in accordance with section 2.81(c) of order No. 415-C.

All petitions to intervene must be filed on or before December 8, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29617 Filed 10-19-78; 8:45 am]

[3128-01-M]

Office of Assistant Secretary for International Affairs

UNITED STATES AND EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the additional agreement for cooperation between the Government of the United States of America and the Europeon Atomic Energy Community (EURATOM) concerning the peaceful uses of atomic energy and the agreements for cooperation between the Government of the United States of America and the Governments of Sweden and Austria concerning civil uses of atomic energy.

The subsequent arrangements to be carried out under the above-mentioned agreements involve the following retransfers:

Application No.	Countries	Description and end use of material
RTD/EU(SW)-40	Sweden to Germany	2,248 kgs of uranium as UO_2 enriched to 1.44 percent U-235 for conversion to UF_6 for use as feed under DOE enrichment contracts.
RTD/AT(EU)-46	Germany to Austria	30 g of uranium enriched to 93 percent U-235 in the form of UCO kernels for methods and phase analysis by X-ray examination of the chemical composition.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security of the United States.

These subsequent arrangements will take effect no sooner than 15 days after the date of the publication of this notice (November 6, 1978).

For the Department of Energy.

Dated: October 16, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-29715 Filed 10-19-78; 8:45 am]

[3128-01-M]

PROPOSED SUBSEQUENT ARRANGEMENT

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "Subsequent Arrangement" under the Agreement Between the United States of America and the International Atomic Energy Agency (IAEA) for Cooperation in Peaceful Application.

The subsequent arrangement to be carried out under the above mentioned agreement involves transfer of the material listed below for use in the IAEA's Safeguards Analytical Laboratory Evaluation (SALE) program. This program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle and to provide the means by which measurement capability may be improved through the interchange of measurement technology.

Contract No.	Countries	Material
WC-1ACZ-101	United States and Czechoslovakia	53.1g uranium as UO_2 containing 1.2g of U-235, 20g uranium as U-NO_3 containing 0.8g of U-235 and 3.5g plutonium as PuO_2 containing 3g of Pu-239.
WC-EU-100	United States and West Germany	20g of uranium containing 0.8g of U-235.
WC-EU-102	United States and United Kingdom	4g of uranium containing 0.2g of U-235 and 20g of uranium containing 0.8g of U-235.
WC-EU-103	United States and France	4g of uranium containing 0.2g of U-235.
WC-EU-104	United States and West Germany	87.5g of uranium containing 2.1g of U-235.
WC-EU-105	United States and France	87.5g of uranium containing 2.1g of U-235 and 20g of uranium containing 0.8g of U-235.
WC-EU-106	United States and West Germany	87.4g of uranium containing 2.1g of U-235 and 20g of uranium containing 0.8g of U-235.
WC-EU-107	United States and Belgium	178.4g of uranium containing 4.2g of U-235 and 40g of uranium containing 1.6g of U-235.
WC-EU-108	United States and the Netherlands	87.6g of uranium containing 2.1g of U-235 and 40g of uranium containing 1.5g of U-235.
WC-EU-109	United States and Italy	89.0g of uranium containing 2.1g of U-235.
WC-EU-110	United States and West Germany	87.5g of uranium containing 2.1g of U-235 and 20g of uranium containing 0.8g of U-235.
WC-EU-111	United States and United Kingdom	87.3g of uranium containing 2.1g of U-235 and 20g of uranium containing 0.8g of U-235.
WC-JA-11	United States and Japan	87.6g of uranium containing 2.1g of U-235.
WC-JA-10	....do	87.3g of uranium containing 2.1g of U-235 and 40g of uranium containing 1.5g of U-235.
WC-1ARFI-103	United States and Finland	87.5g of uranium containing 2.1g of U-235 and 20g of uranium containing 0.8g of U-235.
WC-1AAU-102	United States and Austria	88.8g of uranium containing 2.1g of U-235.
WC-AR-2	United States and Argentina	3.1g of plutonium containing 0.8g of Pu-239 and 3g of natural uranium.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 6, 1978.

Dated: October 16, 1978.

For the Department of Energy.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-29609 Filed 10-19-78; 8:45 am]

[3128-01-M]

Office of Energy Research

ENERGY RESEARCH ADVISORY BOARD

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Energy Research Advisory Board will meet Thursday and Friday, November 9 and 10, 1978, from 9 a.m., to 5 p.m., in Room 1E-235, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

The Board was established to advise the Department of Energy on overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

The tentative agenda is as follows:

Preliminary organization.
Presentation of DOE programs.
Further organization and preparation for next meeting.

The meeting is open to the public. The Chairman of the Board is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Board will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements on the agenda items should inform Georgia Hildreth, Director, Advisory Committee Management (202)252-5935, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on October 17, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-29608 Filed 10-19-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

AM AND FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Correction

Adopted: October 13, 1978.

Released: October 16, 1978.

By the Chief, Broadcast Facilities Division.

The FM application listed below, which was inadvertently omitted from the cut-off Notice, BC Mimeo No. 8201, adopted on October 6, 1978, and released on October 11, 1978, is hereby incorporated into that Notice.

BPH-10924, New Nashua, N.H., Gateway Communications, Req: 106.3 MHz; No. 292; 300 ft.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29614 Filed 10-19-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

ANSON BANCSHARES, INC.

Formation of Bank Holding Company

Anson Bancshares, Inc., Anson, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Anson, Anson, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 14, 1978.

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,

to be received not later than November 14, 1978.

Board of Governors of the Federal

of credit by Rainier National Bank and Rainier Credit Co. (both wholly owned subsidiaries of Rainier Ban-

Board of Governors of the Federal Reserve System, October 12, 1978.

GRIFFITH L. GARWOOD,

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Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29587 Filed 10-19-78; 8:45 am]

[6210-01-M]

BYRON BANCORPORATION, INC.

Formation of Bank Holding Company

Byron Bancorporation, Inc., Byron, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of State Bank of Byron, Byron, Minn. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 8, 1978.

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29585 Filed 10-19-78; 8:45 am]

[6210-01-M]

FIRST HOLDREGE BANCSHARES, INC.

Formation of Bank Holding Company

First Holdrege BancShares, Inc., Holdrege, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Holdrege, Holdrege, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29588 Filed 10-19-78; 8:45 am]

[6210-01-M]

HUNTER HOLDING CO.

Formation of Bank Holding Company

OCTOBER 13, 1978.

Hunter Holding Co., Hunter, N. Dak., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares (less directors' qualifying shares) of Security State Bank, Hunter, N. Dak. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 13, 1978.

Board of Governors of the Federal Reserve System, October 13, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29589 Filed 10-19-78; 8:45 am]

[6210-01-M]

NORTHWEST OHIO BANCSHARES, INC.

Acquisition of Bank

Northwest Ohio Bancshares, Inc., Toledo, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of National Bank of Paulding, Paulding, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than November 8, 1978.

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29590 Filed 10-19-78; 8:45 am]

[6210-01-M]

[Docket No. R-0183]

SMALL BANKS

Reports of Condition and Income

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed simplification of Reports of Condition and Income.

SUMMARY: The Federal Reserve System has issued for public comment a proposed simplified version of the Reports of Condition and Income for small banks (banks with less than $100 million in assets) which could be used by commercial banks to reduce their reporting burden. The simplified reports would eliminate approximately 40 percent of the reporting over a year's time compared to the standard form and could be used by 91 percent of all commercial banks.

DATE: Comments should be received by November 15, 1978.

ADDRESS: Comments should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Copies of the reports are available upon request to the Federal Reserve Banks or to the Federal Reserve System's Freedom of Information Office 202-452-3684.

Board of Governors of the Federal Reserve System, October 13, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-29592 Filed 10-19-78; 8:45 am]

[6210-01-M]

TARRANT BANCSHARES, INC.

Formation of Bank Holding Company

Tarrant Bancshares, Inc., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding compnay by acquiring 80 per cent or more of the voting shares of Tarrant Bank, Forth Worth, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank,

to be received not later than November 14, 1978.

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29591 Filed 10-19-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

RAINIER BANCORP.

Proposed Acquisition of Rainier Credit Life Insurance Co.

Rainier Bancorp., Seattle, Wash., has applied, pursuant to Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through its subsidiary, Rainier Credit Co., all of the voting shares of Rainier Credit Life Insurance Co., Phoenix, Ariz., a proposed new subsidiary. Notice of the application was published on August 16, 1978 in *The Seattle Times*, a newspaper circulated in Seattle, Wash., and on August 21, 1978 in *The Arizona Republic*, a newspaper circulated in Phoenix, Ariz.

Applicant states that the proposed subsidiary would engage in the activities of underwriting, as reinsurer of credit life and disability insurance which is directly related to extensions of credit by Rainier National Bank and Rainier Credit Co. (both wholly owned subsidiaries of Rainier Bancorp.) Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 6, 1978.

Board of Governors of the Federal Reserve System, October 12, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29707 Filed 10-19-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. app. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. General Hospital and Personal Use Devices Section of the General Medical Devices Panel.	Nov. 6, 9 a.m., Room 6831, FB-8, 200 C Street SW., Washington, D.C.	Open public hearing 9 to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Lillian Yin (HFK-470), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7555.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the classification of general hospital and personal use devices to Lillian Yin. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Lillian Yin by October 27, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The General Hospital and Personal Use Devices Section will classify the following devices: Examination light, gas-powered fluid injectors, graduated liquid medication containers, ice bags, liquid crystal vein location device, liquid medication dispenser, medical insoles, I.V. bag pressure infusion device, rescue blanket, snake bite kit, and syringe needle introducer.

The Panel will discuss the Emergency Care Research Institute's Final Report for Neonatal Apnea Monitors and the Panel's recommended classification of these monitors.

The Panel will also discuss the previous classification recommendations for forehead liquid crystal fever indicators, bed-patient monitors, elastic stockings, vacuum regulator, ultraviolet air purifier, suction catheter and tip, and spinal pressure manometers.

Committee name	Date, time, and place	Type of meeting and contact person
2. Cardiovascular and Renal Drugs Advisory Committee.	Nov. 6 and 7, 9 a.m., Conference Room G-H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Nov. 6, 9 to 10 a.m.; open committee discussion, Nov. 6, 10 a.m. to 5 p.m., Nov. 7, 9 a.m. to 1 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writ-

drug application (NDA) 18-103—Selacryn (ticrynafen)—Smith, Kline and French; NDA 18-154—Loniten (minoxidil)—Upjohn; and an FDA update on

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription

mittee. Those who desire to make such a presentation should notify the contact person before November 7, 1978, and submit a brief statement of the

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel

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General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee wiii review and discuss new drug application (NDA) 18-103—Selacryn (ticrynafen)—Smith, Kline and French; NDA 18-154—Loniten (minoxidil)—Upjohn; and an FDA update on NDA 18-017—Timolate (timolol maleate), NDA 18-009—Saralasin (1-SAR-8-ALA angiotensin I), NDA 17-937—Petrin (pentrinitrol).

Committee name	Date, time, and place	Type of meeting and contact person
3. Ear, Nose, and Throat Devices Section of Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.	Nov. 6 and 7, 9 a.m., room 1813, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, Nov. 6, 9 a.m. to 12 p.m.; open committee discussion, Nov. 6, 12 to 4:30 p.m., Nov. 7, 9 a.m. to 4:30 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7536.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the proposed classification recommendations for ear, nose, and throat devices. Those desiring to make formal presentations should notify Glenn Rahmoeller by October 16, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The Ear, Nose, and Throat Devices Section will review: Medical and scientific data on the safety and efficacy of porous polyethylene when used as a middle ear implant material; medical and scientific data on nasal septal implants; procedures for regulating devices under investigational study; and other matters that may come to the Panel's attention relating to the classification of ear, nose, and throat devices.

Committee name	Date, time, and place	Type of meeting and contact person
4. Clinical Toxicology Devices Section of the Clinical Chemistry and Hematology Devices Panel.	Nov. 8 and 9, 9 a.m., Room 1209, 8757 Georgia Ave., Silver Spring, Md.	Open public hearing, Nov. 8, 9 to 10 a.m.; open committee discussion, Nov. 8, 10 a.m. to 5 p.m.; Nov. 9, 9 a.m. to 5 p.m.; William C. Dierksheide (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to the products listed below to Srikrishna Vadlamudi. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Dr. Vadlamudi at 301-427-7234 by October 20, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The Panel will review and comment on the reclassification petition under section 513(f)(2) of the act (21 U.S.C. 360c(f)(2)), by Wien Labs on their product Tri-Cy Test Set (a radioimmunoassay for tricylic antidepressent drugs). The Panel will review the classification list for completeness, particularly in relation to the following products: Tetrahydrocannabinal; dopamine; methotrexate; netilmicin; carbamazepine; procainimide; guinidine; and amitriptyline.

Committee name	Date, time, and place	Type of meeting and contact person
5. Technical Electronic Product Radiation Safety Standards Committee.	Nov. 9, 9 a.m., Room 146, 12720 Twinbrook Parkway, Rockville, Md.	Open public hearing, 9 to 10 a.m.; open committee discussion, 10 a.m. to 4:30 p.m.; Michael S. Terpilak (HFX-440), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3429.

General function of the Committee. The Committee advices on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation pursuant to 42 U.S.C 263f(f)(1)(A).

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Anyone from outside the agency wishing to make a presentation at the meeting is to submit a copy of the presentation to the executive secretary at least 3 weeks in advance of the meeting. This will permit distribution and advance review by the committee members.

Open committee discussion. The Committee will discuss the amendments to the diagnostic X-ray standard, the proposed mercury vapor lamp standard, and the status report on standards projects.

Committee name	Date, time, and place	Type of meeting and contact person
6. Antimicrobial Panel	Nov. 10 and 11, 9 a.m., Georgia Room, Holiday Inn, Bethesda, Md.	Open public hearing, Nov. 10, 9 to 10 a.m.; open committee discussion, Nov. 10, 10 a.m. to 4:30 p.m., Nov. 11, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6057.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before November 7, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
7. Psychopharmacologic Drugs Advisory Committee.	Nov. 13 and 14, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Nov. 13, 9 to 10 a.m.; open committee discussion, Nov. 13, 10 a.m. to 4:30 p.m., Nov. 14, 9 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss and review a new NDA from Sandoz Laboratories (Temazepam); and NDA resubmission from Schering Labs (Halazepam); report on Guidelines for Clinical Evaluation of Drugs in Dementia; and staff report on geriatic sections for previously published DNDP composed "Guidelines."

Committee name	Date, time, and place	Type of meeting and contact person
8. Science Advisory Board	Nov. 13 and 14, 9 a.m., Bldg. 12, National Center for Toxicological Research, Jefferson, Ark.	Open public hearing, Nov. 13, 9 to 10 a.m.; open committee discussion, Nov. 13, 10 a.m. to 4 p.m., Nov. 14, 9 a.m. to 2 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the Committee. The Committee advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. This discussion will include orientation for new members; the perinatal Research program; biolchemical mechanisms of toxicity; personnel safety; heritable translocation white paper; and the review of experiment 014 (mutagenesis).

Committee name	Date, time, and place	Type of meeting and contact person
9. Fertility and Maternal Health Drugs Advisory Committee.	Nov. 16, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, 9 to 10 a.m. open committee discussion, 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3490.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss prenatal glucocorticoid treatment; prevention of respiratory distress syndrome; clinical safety and efficacy of ethinyl estradiol, and conjugated natural estrogens as postcoital contraceptive agents; DES task force report; and FDA action report.

Committee name	Date, time, and place	Type of meeting and contact person
10. Arthritis Advisory Committee	Nov. 16 and 17, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Nov. 16, 9 to 10 a.m.; open committee discussion, Nov. 16, 10 a.m. to 5 p.m., Nov. 17, 9 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4360.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issued pending before the Committee.

Open committee discussion. The Committee will discuss Meclomen; Azathioprine use in rheumatoid arthritis; and reports from the Slow-acting Anti-Rheumatic Drugs Subcommittee (SAARDS) and the Non-Steroidal Anti-Inflammatory Drugs Subcommittee (NSAIDS). The Committee will also discuss general guidelines; relabeling gold salts; committee management information; and date for the next meeting.

Committee name	Date, time, and place	Type of meeting and contact person
11. Miscellaneous Internal Drug Products Panel	Nov. 17, 18, and 19, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane	Open public hearing, Nov. 17, 9 to 10 a.m.; open committee discussion, Nov. 17, 10 a.m. to 4:30 p.m., Nov. 18, 9 a.m. to 4:30 p.m., Nov. 19, 9 a.m. to 12 noon; Ronald W. Gots (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dentistry.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Ketorolac; Ketoprofen; Naproxen; Fenoprofen; Flurbiprofen; Ibuprofen; Meclofenamate; Mefenamic acid; Piroxicam; Tolmetin; Zomepirac; and Diflunisal.

Committee name	Date, time, and place	Type of meeting and contact person
12. Dental Drugs Advisory Committee	Nov. 20 and 21, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Nov. 20, 9 to 10 a.m.; open committee discussion, Nov. 20, 10 a.m. to 5 p.m., Nov. 21, 9 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4360.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss and review a new NDA from Sandoz Laboratories (Temazepam); and NDA resubmission from Schering Labs (Halazepam); report on Guidelines for Clinical Evaluation of Drugs in Dementia; and staff report on geriatic sections for previously published DNDP composed "Guidelines."

Committee name	Date, time, and place	Type of meeting and contact person
13. Psychopharmacologic Drugs Advisory Committee.	Nov. 27 and 28, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Nov. 27, 9 to 10 a.m.; open committee discussion, Nov. 27, 10 a.m. to 4:30 p.m., Nov. 28, 9 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss and review a new NDA from Sandoz Laboratories (Temazepam); and NDA resubmission from Schering Labs (Halazepam); report on Guidelines for Clinical Evaluation of Drugs in Dementia; and staff report on geriatic sections for previously published DNDP composed "Guidelines."

Committee name	Date, time, and place	Type of meeting and contact person
14. Science Advisory Board	Nov. 27 and 28, 9 a.m., Bldg. 12, National Center for Toxicological Research, Jefferson, Ark.	Open public hearing, Nov. 27, 9 to 10 a.m.; open committee discussion, Nov. 27, 10 a.m. to 4 p.m., Nov. 28, 9 a.m. to 2 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the Committee. The Committee advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. This discussion will include orientation for new members; the perinatal Research program; biolchemical mechanisms of toxicity; personnel safety; heritable translocation white paper; and the review of experiment 014 (mutagenesis).

Committee name	Date, time, and place	Type of meeting and contact person
15. Fertility and Maternal Health Drugs Advisory Committee.	Nov. 30, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, 9 to 10 a.m. open committee discussion, 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3490.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss prenatal glucocorticoid treatment; prevention of respiratory distress syndrome; clinical safety and efficacy of ethinyl estradiol, and conjugated natural estrogens as postcoital contraceptive agents; DES task force report; and FDA action report.

Committee name	Date, time, and place	Type of meeting and contact person
16. Arthritis Advisory Committee	Dec. 4 and 5, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing, Dec. 4, 9 to 10 a.m.; open committee discussion, Dec. 4, 10 a.m. to 5 p.m., Dec. 5, 9 a.m. to 5 p.m.; Joyce Creamer (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4360.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issued pending before the Committee.

Open committee discussion. The Committee will discuss Meclomen; Azathioprine use in rheumatoid arthritis; and reports from the Slow-acting Anti-Rheumatic Drugs Subcommittee (SAARDS) and the Non-Steroidal Anti-Inflammatory Drugs Subcommittee (NSAIDS). The Committee will also discuss general guidelines; relabeling gold salts; committee management information; and date for the next meeting.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Insti-

[4110-89-M]

Office of Education

Committee name	Date, time, and place	Type of meeting and contact person
11. Miscellaneous Internal Drug Products Panel.....	Nov. 17, 18, and 19, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. (Nov. 17), Holiday Inn, Chevy Chase, Md. (Nov. 18 and 19).	Open public hearing, Nov. 17, 9 to 10 a.m.; open committee discussion, Nov. 17, 10 a.m. to 4:30 p.m., Nov. 18 and 19, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before November 14, 1978, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
12. Hematology Section of the Clinical Chemistry and Hematology Devices Panel.	Nov. 21, 9 a.m., Room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing, 9 to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; William C. Dierksheide (HFK-440), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7234.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Those desiring to make formal presentations should notify Kaiser Aziz at 301-427-7550 by November 7, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and an indication of the approximate time required to make their presentations.

Open committee discussion. The Section will review and comment on the reclassification petition under section 513(f)(2) of the act, by Abbott Laboratories, North Chicago, Ill. 60064, for its radioimmunoassay for platelet factor 4, the PF4-RIA diagnostic kit.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Comissioner approves the scheduling of meetings at locations outside of the Washington, D.C., area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Dated: October 13, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29495 Filed 10-19-78; 8:45 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

REPORT ON BIOASSAY OF 1 - PHENYL - 3 - METHYL - 5 - PYRAZOLONE FOR POSSIBLE CARCINOGENICITY

Availability

1-Phenyl-3-methyl-5-pyrazolone (CAS 89-25-8) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of 1-phenyl-3-methyl-5-pyrazolone for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in hair dyes and as an intermediate in the manufacture of dyes. 1-Phenyl-3-methyl-5-pyrazolone was administered in the feed, at either of two concentrations, to groups of 49 or 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no evidence for the carcinogenicity of 1-phenyl-3-methyl-5-pyrazolone to Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-29301, Filed 10-19-78; 8:45 am]

[4110-08-M]

REPORT OF BIOASSAY OF ANILAZINE FOR POSSIBLE CARCINOGENICITY

Availability

Anilazine (CAS 101-05-3) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of anilazine for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a fungicide.

It is concluded that under the conditions of this bioassay, anilazine was not carcinogenic for either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-29302 Filed 10-19-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 4-NITROANTHRANILIC ACID FOR POSSIBLE CARCINOGENICITY

Availability

4-Nitroanthranilic acid (CAS 619-17-0) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of 4-nitroanthranilic acid for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in the past as an intermediate in the manufacture of dyes. 4-Nitroanthranilic acid was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. Under the conditions of this bioassay evidence was not provided for the carcinogenicity of 4-nitroanthranilic acid in Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health,

[FR Doc. 78-29303 Filed 10-19-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 2,5-TOLUENEDIAMINE SULFATE FOR POSSIBLE CARCINOGENICITY

Availability

2,5-Toluenediamine sulfate (CAS 6369-59-1) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay for possible carcinogenicity of 2,5-toluenediamine sulfate was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. 2,5-Toluenediamine sulfate was administered in the feed, at either of two concentrations, to groups of 50 males and 50 females of each species.

Under the conditions of this bioassay, sufficient evidence was not obtained to demonstrate the carcinogenicity of 2,5-toluenediamine sulfate in either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health,

[FR Doc. 78-29304 Filed 10-19-78; 8:45 am]

[4110-89-M]

Office of Education

EMERGENCY SCHOOL AID ACT

Closing Date for Transmittal of Applications for the Special Projects Program for Fiscal Year 1979

Applications are invited under the Emergency School Aid Special Projects Program.

Authority for this program is contained in section 708(a)(2) of the emergency School Aid Act ("ESAA"; Title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619)).

This program provides financial assistance to local educational agencies that have adopted desegregation plans (or other plans described in section 706(a) of the statute) for initial implementation during the 1978-79 school year and that have not previously applied for ESAA assistance based on those plans.

The Commissioner has determined that projects to meet needs arising from the implementation of the plans described above will make substantial progress toward achieving the purposes of the statute.

Closing date for transmittal of applications. Applications for awards must be mailed (postmarked) or hand delivered by November 27, 1978.

Applications delivered by mail. An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.532B, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a date postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

Applications delivered by hand. An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available funds. Fiscal year 1979 ap-

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agendas of forthcoming meetings of four ad-hoc

B. MONDAY, NOVEMBER 6

Meeting of the Committee on Adult Learning Needs and Financial Aid to review for reauthorization purposes Federal stu-

Dated: October 16, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the

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Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

Available funds. Fiscal year 1979 appropriations under the statute have not yet been made. It is expected that $5,000,000 will be available to support projects submitted in response to this notice.

Application forms. Application forms and program information packages are available and may be obtained by writing to the Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

Project period. Grant awards made pursuant to this notice will be for projects beginning no earlier than January 2, 1979, and ending no later than September 30, 1979.

Resubmitted applications. As required by section 710(d)(2) of the emergency School Aid Act (20 U.S.C. 1609(d)(2)), applications from local educational agencies which are not approvable in whole or in part will be returned to applicants for modification and resubmission, within a reasonable period of time, at the applicants' option.

Applicable regulations. The regulations applicable to this program are:

(a) Regulations relating generally to programs under the Emergency School Aid Act (45 CFR Part 185) and in particular 45 CFR 185.94 through 185.94-4, relating to Other Special Projects; and

(b) The Office of Education general provisions regulations (45 CFR Parts 100, 100a, and appendices), except to the extent that those regulations are inconsistent with 45 CFR Part 185.

Further information. For further information contact David Lerch, Acting Branch Chief, Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-245-2465 or 245-0931.

(20 U.S.C. 1601-1619.)

Dated: October 13, 1978.

(Catalog of Federal Domestic Assistance No. 13.532; Emergency School Aid-Special Projects.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-29600 Filed 10-19-78; 8:45 am]

[4110-02-M]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agendas of forthcoming meetings of four ad-hoc committees of the National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meetings.

DATE: Meetings: October 31, November 6, November 9, and November 16, 1978.

ADDRESS: Council's office: 425 Thirteenth Street NW., Suite 529, Washington, D.C. 20004.

FOR FURTHER INFORMATION:

William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street NW., Suite 529, Telephone: 202-376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning activities) of the title. The Council is required to review the administration and effectiveness of all federally supported extension and continuing education programs.

The meetings of the Council are open to the public. However, because of limited space in the Council's office, those interested in attending any meeting are asked to call the Council's office beforehand. Available seats will be assigned on a first-come basis. Less than 15 days notice to the public for the meetings is given because conflict in schedules among participants required the Council to reschedule the first committee meeting for October 31 rather then early November, as originally planned. Each of the meetings of the ad-hoc committees will begin at 9 a.m. and adjourn at about 5 p.m.

The agenda for the Council meetings are summarized as follows:

A. TUESDAY, OCTOBER 31

Meeting of the Title I Committee to review for reauthorization purposes title I and other titles of the Higher Education Act.

B. MONDAY, NOVEMBER 6

Meeting of the Committee on Adult Learning Needs and Financial Aid to review for reauthorization purposes Federal student financial aid provisions (title IV, HEA), especially as they relate to unserved adult educational needs.

C. THURSDAY, NOVEMBER 9

Meeting of the Committee on Private Funding Alternatives for Postsecondary Continuing Education to review for reauthorization purposes opportunities in the private sector for increased support to adult learners.

D. THURSDAY, NOVEMBER 16

Meeting of the Committee on International Dimensions of Continuing Education to review for reauthorization purposes opportunities among community and other organizations to increase support for cross-cultural continuing education programs among adults.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street NW., Washington, D.C.

Dated: October 17, 1978.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 78-29606 Filed 10-19-78; 8:45 am]

[4110-12-M]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Health Task Force meeting on Thursday, November 16, 1978 from 10 a.m. to 5 p.m., in Room 403-A, Hubert H. Humphrey Building, and on Friday, November 17, 1978 from 9 a.m. to 1 p.m., in Room 529-A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include discussions on: (1) Health Advisory Committees; (2) Teenage Pregnancy Initiative; (3) President's Mental Health Report; (4) National Health Insurance; and (5) Health Care Financing Administration (HCFA) regulations for medicaid-medicare boards of directors.

Further information on the Committee may be obtained from: Susan C. Lubick, executive secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: October 16, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-29706 Filed 10-19-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-12918]

ALASKA

Application for Pipeline Right-of-Way

OCTOBER 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) the State of Alaska, Department of Fish and Game filed an application for a right-of-way to construct a 2-inch pipeline for the purpose of transporting natural gas across the following described Federal lands.

SEWARD MERIDIAN, ALASKA

T. 13 N., R. 2 W.
Section 6

The pipeline will transport natural gas from the main line to hatchery building and residences at the Fort Richardson Hatchery.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Anchorage District Office, 4700 East 42d Street, Anchorage, Alaska 99502.

CURTIS V. MCVEE,
State Director.

[FR Doc. 78-29568 Filed 10-19-78; 8:45 am]

[1505-01-M]

[F-14838-A]

ALASKA NATIVE CLAIMS SELECTION

In FR Doc. 78-24686, appearing at page 39183 in the issue of Friday, September 1, 1978, make the following changes:

1. On page 39185, the seventh line of the second land description in column

2 should read, "15758 parcel V, F-16138, F-16193 parcel".

2. On page 39186, the first line of the second land description in column 1 should read, "T.8 N., R 71 W. (surveyed),".

3. On page 39187, the third line of the second land description in column 1 should read, "Secs. 11 to 14, inclusive, all;".

[4310-84-M]

[Bureau Order No. 701, Amdt. No. 27]

STATE DIRECTORS

Lands and Resources—Redelegation of Authority

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

1. Subparagraph (7), paragraph (t) of section 1.9 is amended to read:

PART II—REDELEGATION OF AUTHORITY TO STATE DIRECTORS

• • • • • •

SECTION 1.9—*Land use.*

• • • • • •

(t) *Matters pertaining to Alaska only.*

• • • • • •

(7) *Alaska Native selections.* Take all actions pursuant to 43 CFR Parts 2650 through 2654, and the authority delegated to the Director, Bureau of Land Management by 235 DM 1.1G under the Alaska Native Claims Settlement Act of December 18, 1971, (Pub. L. 92-203, 85 Stat. 688), as amended, including authority to sign and execute easement agreements between the Department and the Alaska Native corporations.

2. PART IV-B—REDELEGATION TO MANAGERS—OUTER CONTINENTAL SHELF OFFICES

Footnote 7 is amended to read as follows:

'The New Orleans OCS Office has responsibility for the Gulf of Mexico OCS and the Atlantic OCS from and including Florida to the east-west block line common to blocks 404 and 448 found on OCS Official Protraction Diagram NJ 18-11, revised June 22, 1977 (the approximate State line between North Carolina and Virginia). The New York OCS Office has responsibility for the Atlantic OCS from the east-west block line common to blocks 404 and 448 found on OCS Official Protraction Diagram NJ 18-11 (the approximate State line between Virginia and North Carolina) to the International boundary between the United States and Canada. The Pacific OCS Office has responsibility for the Pacific OCS from the International boundary between the United States and Mexico north to the International boundary between the United States and Canada, and for the Hawaii OCS. The Alaska OCS Office has responsibility for the Alaska OCS.

ARNOLD E. PETTY,
Acting Director.

OCTOBER 17, 1978.

[FR Doc. 78-29705 Filed 10-19-78; 8:45 am]

[4310-70-M]

Office of the Secretary

[INT DES 78-28]

DEVELOPMENT PLAN AND ADDENDUM TO FINAL ENVIRONMENTAL STATEMENT OBED WILD AND SCENIC RIVER, TENNESSEE

Availability

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an addendum to the final environmental statement on a development plan for Obed Wild and Scenic River, Tennessee. The final statement (FES 76-53) was prepared by the Heritage Conservation and Recreation Service (formerly Bureau of Outdoor Recreation), dated October 19, 1976.

The addendum presents additional information on proposals in the final environmental statement on the establishment of Obed Wild and Scenic River, administration of this area, and development of facilities which are to remain largely the same as that proposed in the final statement.

Copies are available for review from or for inspection at the following locations for a period of 30 days from publication of this notice (until November 20, 1978), after which proposals contained in this document may be implemented:

Regional Director, Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

National Park Service, Obed Wild and Scenic River, Land Acquisition Office, P.O. Box 429, Wartburg, Tenn. 37887.

Project Manager, Big South Fork National River and Recreation Area, P.O Box 477, Oneida, Tenn. 37841.

The U.S. Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: October 16, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-29612 Filed 10-19-78; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate, or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 16th day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 13, 1978

Name of Applicant, Location of Enterprise, and Principal Product or Activity

Galileo Electro-Optics Corp., Sturbridge, Mass., manufacture of fiber optic components, optical communication fiber, and electronic components.

Coleco Industries, Inc., Fulton and Montgomery Counties, N.Y., manufacture of toys, games, and swimming pools.

Bellanca Aircraft Corp., Alexandria, Minn., Osceola, Wis., manufactrure of single engine aircraft.

LoDal, Inc., Kingsford, Mich., manufacture of industrial refuse collection vehicles.

TemTex Industries, Inc., Malakoff and Terrell, Tex., manufacture of face-clay bricks and metal fireplaces.

Morgan Colorado Beef Co., Fort Morgan, Colo., beef fabrication facility.

Greenhouses, Salinas, Calif., florist.

[FR Doc. 78-29300 Filed 10-9-78; 8:45 am]

[4510-30-M]

FEDERAL-STATE EXTENDED BENEFITS

Ending of Extended Benefit Period in the State of New York

This notice announces the ending of the extended benefit period in the State of New York effective on October 21, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of Pub. L. 91-373; 84 Stat. 695, 708; 26 U.S.C. 3304 note), created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State unemployment compensation program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. This act is implemented by regulations of the Department of Labor at Part 615 of Title 20 of the Code of Federal Regulations, 20 CFR Part 615 (43 FR 13818, March 31, 1978), and in the unemployment compensation laws of the several States.

Extended Benefits are payable in a State during an extended benefit period, which is triggered on when unemployment in the State or in all States collectively reaches the high levels set in the act. During an extended benefit period the maximum amount of extended benefits which is payable to eligible individuals is up to 13 weeks, but the total of extended benefits and regular benefits together may not exceed 39 weeks. An extended benefit period commenced in the State of New York on February 17, 1974.

The act and the New York unemployment compensation law also provide than an extended benefit period in a State will trigger off when unemployment in the State is no longer at the high levels set in the act. A benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator. The extended benefit period in New York has now triggered off.

DETERMINATION OF "OFF" INDICATOR

The head of employment security agency of the State of New York has determined, in accordance with the State law and 20 CFR 615.21(e), that the average rate of insured unemployment in the State for the period consisting of the week ending on September 30, 1978, and the immediately preceding 12 weeks, has decreased so that for that week there was an "off" indicator in that State. Therefore, the extended benefit period in that State terminates with the week ending on October 21, 1978.

INFORMATION FOR CLAIMANTS

Persons who wish information about their rights to extended benefits in the State of New York should contact the nearest local office of the New York State Department of Labor.

Signed at Washington, D.C., on October 17, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-29669 Filed 10-19-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-92-C]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Consolidation Coal Co., 1800 Washington Road, Pittsburgh, Pa. 15241, has filed a petition to modify the application of 30 CFR 75.1101-8 (Sprinkler Systems), to its Laurel Mine, located in Somerset County, Pa. in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The petitioner requests permission to use a single line of automatic sprinklers for its fire protection system at main and secondary belt-conveyor drives in the above mine. Automatic sprinklers with actuation temperatures between 200° F and 230° F would be located on 10-foot centers with water pressure equal to or greater than 10 psi. Since the aperture of the automatic sprinklers is ½ inch, a strainer is not needed.

(2) To corroborate the effectiveness of the above system, the petitioner cites a USBM study on "Suppression of Fires on Underground Coal Mine Conveyor Belts," NTIS PB250 368 Final Report on USBM Contract No. H0122086.

(3) A system with the required second branch line would be less reliable. This second branch line is vulnerable to damage from material which may fall off the belt, thereby reducing the system reliability and operability.

(4) The proposed modification reduces the amount of piping, thereby making it practical to fully fill the system with antifreeze. Such protection is critical, since winter air temperatures as low as −40° F occur in Laurel Mine.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 20, 1978. Comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 12, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29671 Filed 10-19-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-101-C]

(c) Frequent tests of the top by management employees and miners to determine its stability;

(d) Continued job safety analysis

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive

APPENDIX —Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced

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[4510-43-M]

[Docket No. M-78-101-C]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Peabody Coal Co., Box 235, St. Louis, Mo. 63166, has filed a petition to modify the application of 30 CFR 75.1710-1 (canopies), to its Sunnyhill No. 9 South Underground Mine, located in Perry County, New Lexington, Ohio, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioner's statement is as follows:

(1) This petition pertains to the installation of cabs or canopies on Acme Roof Bolters used at the above mine.

(2) A cab or canopy on the above equipment diminishes miner safety for the following reasons:

(a) It significantly reduces the operator's field of vision.

(b) It restricts arm and leg movements, thereby causing operator fatigue.

(c) It limits the operator's means of getting on and off the equipment, thereby impairing his ability to escape from the equipment in an emergency.

(d) The significant increase in the height of the equipment creates the danger of destruction of line curtains and other similar ventilation devices.

(3) Miners refuse to operate such equipment installed with cabs or canopies because they fear for their safety and the safety of other miners.

(4) In the alternative, petitioner proposes:

(a) Compliance with all terms and provisions of its roof control plan adopted and filed in accordance with 30 CFR 75.200;

(b) Continuance of a regular program of safety instruction with emphasis on problems relating to top and roof falls;

(c) Frequent tests of the top by management employees and miners to determine its stability;

(d) Continued job safety analysis studies to assure compliance of roof control practices with company policy as well as Federal and State requirements; and

(e) Continued efforts in cooperation with the MSHA technical support group to design and construct suitable cabs and canopies which will not diminish the safety of miners.

REQUESTS FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 20, 1978. Comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 12, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29670 Filed 10-19-78; 8:45 am]

[4510-28-M]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 3, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 3, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 4th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Amigo Smokeless Coal Co., Jackpot No. 4 (UMWA).	Wyco, W. Va	Oct. 3, 1978	Sept. 27, 1978	TA-W-4,230	Mining of coal.
Amigo Smokeless Coal Co., Amigo No. 2 (UMWA).	Amigo, W. Va	do	do	TA-W-4,231	Do.
Amigo Smokeless Coal Co., Amigo No. 3 (UMWA).	do	do	do	TA-W-4,232	Do.
Amigo Smokeless Coal Co., Tralee Preparation Plant (UMWA).	Tralee, W. Va	do	do	TA-W-4,233	Cleaning of coal.
Amigo Smokeless Coal Co., Wyco Tipple (Loading Station) (UMWA).	Wyco, W. Va	do	do	TA-W-4,234	Loading of coal for shipment.
Amigo Smokeless Coal Co., Amigo Tipple (Loading Station) (UMWA).	Amigo, W. Va	do	do	TA-W-4,235	Do.
Amigo Smokeless Coal Co., Central Shop (UMWA).	Tralee, W. Va	do	do	TA-W-4,236	Maintenance of mining equipment.
Anthony & Josephine (company)	Gloucester, Mass	do	Sept. 29, 1978	TA-W-4,237	Catching and selling of fish.
GAF Photo Service (workers)	Appleton, Wis	do	Sept. 22, 1978	TA-W-4,238	Developing of film.
McAuley Textile Corp. (workers)	Ellsworth, Ma	do	Sept. 27, 1978	TA-W-4,239	Yarn (most from synthetic fibre).
Mirando Manufacturing Co., Inc. (workers).	Elizabeth, N.J	Oct. 2, 1978	do	TA-W-4,240	Men's and boys' jackets.

APPENDIX —Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Niffty Creations, Inc. (workers)	Lindenhurst, N.J	do	Sept. 28, 1978	TA-W-4,241	Ladies' jackets and blazers.
Reda Pump Co. (IUOE)	Bartlesville, Okla	Sept. 27, 1978	Sept. 26, 1978	TA-W-4,242	Oil and water well pumps.
Robby Kent, Ltd. (company)	New York, N.Y	Sept. 25, 1978	Sept. 20, 1978	TA-W-4,243	Sweaters.
Rockwell International Corp. Admiral Group—Buffalo Sales & Service Division (company).	Cheektowaga, N.Y	Oct. 3, 1978	Sept. 29, 1978	TA-W-4,244	Sell and service color and black and white televisions.
Rockwell International Corp. Admiral Group (workers).	Chicago, Ill	Oct. 2, 1978	Sept. 26, 1978	TA-W-4,245	Providing engineering functions related to the production of color televisions.
Do	Schaumburg, Ill	do	Sept. 29, 1978	TA-W-4,246	Administrative office.
Sherry Gale Casuals (company)	New York, N.Y	Sept. 25, 1978	Sept. 20, 1978	TA-W-4,247	Sweaters.

[FR Doc. 78-29672 Filed 10-19-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 3, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 3, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition no.	Articles produced
Clarke Precision Molding Co. (workers).	Fall River, Mass	October 10, 1978	October 6, 1978	T-W-4,248	Plastic molded luggage of various sizes.
Fermon Tanning Corp. (workers)	Peabody, Mass	October 6, 1978	Sept. 11, 1978	T-W-4,249	Suede cowhide splits.
Grunart, Inc. (ILGWU)	Paterson, N.J	October 2, 1978	Sept. 26, 1978	T-W-4,250	Ladies' sportswear.
F/V Linda B., Inc., (workers)	Gloucester, Mass	October 4, 1978	Sept. 18, 1978	T-W-4,251	Catching and selling of fish.
Rockwell International Corp., Admiral Group (workers).	McKees Rocks, Pa	do			
		October 3, 1978		T-W-4,252	Selling and service center—distribution (warehouse).
Rockwell International Corp., Admiral Group (Teamsters).	East Rutherford, N.J	October 6, 1978	October 2, 1978	T-W-4,253	TV service center—commercial and residential.
Rockwell International Corp., Admiral Group (workers).	Medford, Mass	do	do	T-W-4,254	Sales and service center—commercial and residential service for TV and serves as a distributor to large stores.
Saland & Salant, Inc. (ACTWU)	Union City, Tenn	October 10, 1978	October 4, 1978	T-W-4,255	Men's jeans.
United Screw & Bolt Corp. (UAW)	Cleveland, Ohio	October 4, 1978	October 2, 1978	T-W-4,256	Sheet metal screws, recessed heads, oval heads, slotted heads, washer heads, pan heads, etc.
Volvo Brass & Copper Co. (USWA)	Kenilworth, N.J	October 6, 1978	October 3, 1978	T-W-4,257	Brass and copper products—brass and copper wire, flat wire and brass copper sheet and sheet material.

[FR Doc. 78-29673 Filed 10-19-78; 8:45 am]

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[4510-28-M]

[TA-W-2756, 3126]

A. O. SMITH CORP., MILWAUKEE, WIS.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2756 and TA-W-3126: Investigations regarding eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

Investigation TA-W-2756 was initiated on December 12, 1977 in response to a worker petition received on December 2, 1977 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing front suspension control arms for Chrysler cars at the Automotive Division of the Milwaukee, Wis. plant of A. O. Smith Corp. During the course of the investigation, it was determined that the products being produced were fixtures (tools, dies, and jigs), which are required for the production of control arms, passenger car frames, and truck frames.

Investigation TA-W-3126 was initiated on February 15, 1978 in response to a worker petition received on February 1, 1978 which was filed by the Smith Steel Workers on behalf of workers and former workers producing automobile and truck frames and their components at the Milwaukee, Wis. plant of A. O. Smith Corp. Production is fully integrated between the Tool Engineering Services group of workers and the Production section group of workers who together form the Automotive Division of the Milwaukee, Wis. plant of A. O. Smith Corp. Workers are not identifiable by product line.

Notices of Investigation were published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65306) for TA-W-2756 and on February 28, 1978 (43 FR 8209) for TA-W-3126. No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of A. O. Smith Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to the production of car frames, truck frames and fixtures for car frames and truck frames:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of light truck frames increased from 52.2 thousand units in 1975 to 68.2 thousand units in 1976 and then decreased to 27.0 thousand units in 1977. U.S. imports of automobile frames increased from 915.4 thousand units in 1975 to 959.2 thousand units in 1976 and then decreased to 921.1 thousand units in 1977.

The ratio of imports to domestic production for light truck frames decreased from 2.7 percent in 1975 to 2.6 percent in 1976 and to 0.9 percent in 1977.

For automobile frames, the ratio of imports to domestic production decreased from 19.9 percent in 1975 to 15.7 percent in 1976 and to 14.2 percent in 1977.

The Department's survey of A. O. Smith's customers revealed that none of the customers who decreased purchases of truck frames and car frames from A. O. Smith increased purchases from foreign sources.

With respect to the production of control arms, which is A. O. Smith's major product, and fixtures for control arms, all of the group eligibility requirements of section 222 of the act have been met.

U.S. imports of control arms increased from 756.2 thousand units in 1975 to 1,925.0 thousand units in 1976 and to 2,055.3 thousand units in 1977.

The imports to domestic production ratio for control arms increased from 2.2 percent in 1975 to 5.2 percent in 1976 and to 5.6 percent in 1977.

A survey conducted among customers who purchase control arms from A. O. Smith Corp. revealed that the major customer decreased control arm purchases from A. O. Smith, and increased purchases from foreign sources in each year from 1975 through 1977. Layoffs in February were a result of bad weather.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with control arms, A. O. Smith's major product, produced by the Tool Engineering Services and the Production sections of the Automotive Division of the Milwaukee, Wis., plant of A. O. Smith Corp. contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Tool Engineering Services section of the Automotive Division of the Milwaukee, Wis., plant of A. O. Smith Corp., engaged in employment related to the production of fixtures for control arms, who became totally or partially separated from employment on or after November 1, 1977, and before February 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and All workers of the Production section of the Automotive Division of the Milwaukee, Wis., plant of A. O. Smith Corp., engaged in employment related to the production of control arms, who became totally or partially separated from employment on or after October 1, 1977, and before February 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that increases of imports of articles like or directly competitive with car frames and truck frames produced at the Milwaukee plant did not contribute importantly to the decrease in sales or production or to the total or partial separation of workers at that plant.

Signed at Washington, D.C., this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29629 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3433]

BESTFORM FOUNDATIONS OF PENNSYLVANIA, INC., JOHNSTOWN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3433: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1978 in response to a worker petition received on March 13, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing bras and girdles at Bestform Foundations of Pennsylvania, Inc., Johnstown, Pa. The investigation revealed that ladies' panties, sleepwear, and loungewear are also produced.

The notice of investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bestform Foundations, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of brassieres increased from 6,921 thousand dozen in 1975 to 8,751 thousand dozen in 1976 and to 9,507 thousand dozen in 1977. The ratio of imports to domestic production increased from 45.2 percent in 1975 to 51.6 percent in 1976. Imports of brassieres in the first quarter of 1978 increased to 2,402 thousand dozen compared to 2,235 thousand dozen in the first quarter of 1977.

Company imports of ladies' undergarments increased by 22.9 percent in 1977 compared to 1976. In 1977, Bestform Foundations imported nearly the same numbers of ladies' undergarments as it produced domestically in all of the company's divisions. These company imports, which were almost entirely bras, continued at an even greater rate in the first four months of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with bras produced by Bestform Foundations of Pennsylvania, Inc., Johnstown, Pa. contributed importantly to the decline in sales and production and to the total or partial separation of workers at the firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bestform Foundations of Pennsylvania, Inc., Johnstown, Pa. who became totally or partially separated from employment on or after March 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29630 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3729, 3730, 3731]

BETHLEHEM STEEL CORP., BETHLEHEM, PA.

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3729, 3730, and 3731: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were initiated on May 18, 1978 in response to a worker petition received on April 17, 1978 which were filed by the recorders on behalf of all workers engaged in the production of tool and alloy steel; machine tools; heavy, light, and drop forgings; brass, iron, and steel foundry products at the Bethlehem, Pa. plant of the Bethlehem Steel Corp. Subsequent investigation revealed that the workers filing the petition were not engaged in employment related to the production of any of the following products: heavy, light and drop forgings; brass, iron or steel foundry products at the Bethlehem plant. The current investigation includes alloy bars, alloy tool steel, ingot molds and carbon steel structural shapes.

Workers producing alloy bars and tool steel were previously certified eligible to apply for adjustment assistance under TA-W-924. This certification expired August 27, 1978. Workers producing carbon steel structural shapes were certified eligible to apply for adjustment assistance under TA-W-1496. The impact date was November 15, 1975 and the termination date was January 1, 1977.

The Notice of Investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-99). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. With respect to the workers engaged in employment related to the production of carbon steel structural shapes, without regard to whether any of the other criteria have been met the following criterion has not been met:

That sales or production, or both, of such firm or subdivision have decreased absolutely.

Sales and production of structural shapes increased in quantity in 1977 compared to 1976 and continued to increase in the first 5 months of 1978 compared to the same 1977 period.

With respect to workers engaged in employment related to the production of one of the following: alloy bars, tool steel, or ingot molds, all of the group eligibility requirements of section 222 of the act have been met.

ALLOY BARS

U.S. imports of alloy bars increased from 81,200 tons in 1976 to 140,900 tons in 1977. The ratio of imports to domestic shipments increased from 3.3 percent in 1976 to 5.6 percent in 1977.

U.S. imports of tool steel increased from 27,600 short tons in 1976 to 39,200 short tons in 1977. The ratio of imports to domestic shipments increased from 36.2 percent in 1976 to 45.9 percent in 1977.

The Department conducted a survey of some of the customers purchasing alloy bars and alloy tool steel produced at the Bethlehem, Pa. plant of the Bethlehem Steel Corp. Several of the customers indicated they reduced purchases from Bethlehem Steel and increased purchases from foreign sources in the first quarter of 1978 compared to the same 1977 period. Some customers reported that imports have adversely affected their purchases from domestic producers.

INGOT MOLDS

The majority of the ingot molds produced at the Bethlehem, Pa. plant are interworks shipments to other Bethlehem Steel plants which have previously been certified eligible to apply for adjustment assistance.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with one of the following products: alloy bars or tool steel, have contributed importantly to the decline in sales or production and to the total or partial separation of workers engaged in employment related to the production of each of these products at the Bethlehem, Pa. plant.

I further conclude that increased imports of articles like or directly competitive with various carbon steel products at the Sparrows Point, Md.; Lackawanna, N.Y.; Johnstown, Pa. and Steelton, Pa. plants of Bethlehem Steel Corp. contributed importantly to the decline in sales or production of ingot molds and to the total or partial separation of workers engaged in employment related to the production of

this product at the Bethlehem, Pa. plant.

In accordance with the provisions of the act, I make the following certifica-

sistance, each of the groups of eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the

principally from officials of CEL Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade

which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Dante Fash-

petition received on May 24, 1978, which was filed on behalf of workers and former workers producing electrical systems for engines at Eastman

other domestic sources. The customer stated that purchases from Eastman Manufacturing Co., Inc., declined due to a shift in technology toward break-

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this product at the Bethlehem, Pa. plant.

In accordance with the provisions of the act, I make the following certification:

All workers of the Bethlehem, Pa. plant of the Bethlehem Steel Corp. engaged in employment related to the production of either alloy bars or tool steel who became totally or partially separated from employment on or after August 27, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers of the Bethlehem, Pa. plant of the Bethlehem Steel Corp. engaged in employment related to the production of ingot molds who became totally or partially separated from employment on or after April 12, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in employment related to the production of carbon steel structural shapes at the Bethlehem, Pa. plant of the Bethlehem Steel Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29631 Filed 10-19-78; 8:45 am]

[4510-38-M]

[TA-W-3836]

CAROUSEL SLACK CO., HAMMONTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3836: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers producing men's and women's slacks at Carousel Slacks, Hammonton, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27024). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carousel Slack Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of elegibility to apply for adjustment assistance, each of the groups of eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threats thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that in 1976 and 1977 Carousel Slacks was a contractor of men's slacks primarily for one apparel manufacture. Carousel's sales increased in 1977 compared to 1976. This manufacturer does not import slacks or use foreign contractors. In 1978 this manufacturer changed product lines. Carousel as a result has contracted with other manufacturers.

CONCLUSION

After careful review I determine that all workers of Carousel Slack Co., Hammonton, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29632 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3663]

CEL FASHIONS, INC., UNION CITY, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3663: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing children's winter coats at CEL Fasions, Inc., Union City, N.J. The investigation revealed that children's coats and women's coats are produced.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of CEL Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion was not met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separations, or threat thereof, and to the absolute decline in sales or production.

CEL Fashions, Inc. was founded in April 1976. Total sales increased during the last three quarters of 1977 compared to the last three quarters of 1976.

The Department conducted a survey of customers of CEL Fashions, Inc. The customers responding to the survey accounted for 80 percent and more than 90 percent of CEL's sales in 1976 and 1977, respectively. The only customer who reduced purchases of coats from CEL and increased purchases of imported women's and children's coats during the period under consideration accounted for a negligible portion of CEL's sales.

CONCLUSION

After careful review, I determine that all workers of CEL Fashions, Inc., Union City, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29633 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3614]

DANTE FASHIONS, HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3614: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Dante Fashions, Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dante Fashions, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of such firm or subdivision have decreased absolutely.

Sales increased in quantity in 1977 compared to 1976 and also increased in the January-May period of 1978 compared to the same period in 1977. Dante Fashions produces on order; therefore, sales and production are equal.

CONCLUSION

After careful review, I determine that all workers of Dante Fashions, Hoboken, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29634 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3786]

EASTMAN MANUFACTURING CO., INC., WILBRAHAM, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3786: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 31, 1978, in response to a worker petition received on May 24, 1978, which was filed on behalf of workers and former workers producing electrical systems for engines at Eastman Manufacturing Co., Inc., Wilbraham, Mass.

The notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Eastman Manufacturing Co., Inc., its customers, the U.S. Department of Commerce, the Federal Reserve Board, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of battery charging generators and alternators decreased absolutely in quantity from 295,600 units in 1976 to 289,500 units in 1977, then increased from 131,100 units in the first half of 1977 to 187,200 units in the first half of 1978. These imports increased absolutely in value from $8.1 million in 1976 to $8.6 million in 1977, then increased from $3.2 million in the first half of 1977 to $5.5 million in the first half of 1978. The ratio of imports to domestic production remained at 1.5 percent in both 1976 and 1977.

Imports of other electronic ignition equipment for internal combustion engines increased absolutely in value from $78.2 million in 1976 to $98.7 million in in 1977, and increased from $47.5 million in the first half of 1977 to $58.2 million in the first half of 1978. The ratio of imports to domestic production increased from 7.5 percent in 1976 to 8.5 percent in 1977.

Sales by Eastman Manufacturing Co., Inc., to the R. E. Phelon Co. represented 98 percent, 96 percent, and 99 percent, respectively, of total company sales in value for fiscal years 1976, 1977, and 1978 (the fiscal year begins July 1 of the preceding calendar year and ends June 30). The remainder of sales were directly to local engine manufacturers.

The major customer of Eastman Manufacturing Co. was surveyed. The customer did not purchase any imported magneto parts, or imported magnetos, either directly or indirectly from other domestic sources. The customer stated that purchases from Eastman Manufacturing Co., Inc., declined due to a shift in technology toward breaker-less electronic ignition systems. Eastman does not have the capability to produce most of the parts for this type system.

CONCLUSION

After careful review I determine that all workers of Eastman Manufacturing Co., Inc., Wilbraham, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29635 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W- 3979 and 3980]

FAIRFIELD GLOVE CO., FAIRFIELD, IOWA, BONAPARTE, IOWA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3979 and 3980: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 19, 1978 in response to a worker petition received on July 17, 1978 which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing work gloves at the Fairfield and Bonaparte, Iowa plants of Fairfield Glove Co.

The Notice of Investigation was published in the FEDERAL REGISTER on July 28, 1978 (43 FR 32885). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fairfield Glove Co., the Amalgamated Clothing & Textile Workers' Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

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That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

There have been no layoffs or threats thereof, or reduced work hours at either plant in the past 12 months. Workers at both plants were certified eligible to apply for adjustment assistance in previous investigations (see TA-W-706 and 707); the period of certification expired on July 2, 1978.

CONCLUSION

After careful review, I determine that all workers of Fairfield Glove Co., Fairfield and Bonaparte, Iowa are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-29636 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3914]

FLORSHEIM SHOE CO., CHICAGO, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3914: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 27, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers producing women's and men's shoes at the Chicago, Ill. plant of the Florsheim Shoe Co. During the course of the investigation, it was established that only men's shoes are produced.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Florsheim Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear decreased from 58.7 million pairs in 1976 to 56.5 million pairs in 1977, and increased to 16 million pairs in the first quarter of 1978 from 15.7 million pairs in the same period of 1977. The ratios of imports to domestic production and consumption increased from 70.4 percent and 41.3 percent, respectively, in 1976 to 71.7 percent and 41.8 percent, respectively, in 1977 and decreased from 77.3 percent and 43.6 percent, respectively, in the first quarter of 1977 to 76.2 percent and 43.2 percent respectively, in the same period of 1978.

The decline in production and employment at Florsheim's Chicago plant can be linked to the import influence in the shoe industry generally, in accordance with the findings of the International Trade Commission. After careful consideration of all the alleged factors causing injury, the Commission concluded that certain footwear articles, including men's nonrubber shoes, were being imported into the United States in such increased quantities as to be the most substantial cause of injury to domestic producers. In the case of men's dress and casual footwear, the ratio of imports to domestic production has been greater than 50 percent in each of the past five years, reaching a peak level of 71.7 percent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's shoes produced at the Chicago, Ill. plant of the Florsheim Shoe Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Chicago, Ill. plant of the Florshiem Shoe Co. who become totally or partially separated from employment on or after August 12, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29638 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3686]

FORMFLEX FOUNDATIONS, INC., SADDLE BROOKE, N.J.

Affirmative Determination Regarding Application for Reconsideration

On September 21, 1978, counsel for one of the former workers of Formflex Foundations, Inc., requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the Federal Register on August 25, 1978 (43 FR 38127).

Counsel for the worker raises one basic issue in the application; namely, that the appropriate subdivision should be redefined from the total plant at Saddle Brooke, N.Y., to the sewing department at Saddle Brooke, N.J., which closed in 1978.

CONCLUSION

After review of the application, I conclude that the claims of counsel are of sufficient weight to justify reconsideration of the Department of Labor's prior decisions. The application is, therefore, granted.

Signed at Washington, D.C., this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29637 filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3952]

FREEDOM ELECTRONICS & ENGINEERING, INC., DORCHESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3952: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 6, 1978, in response to a worker petition received on July 5, 1978, which was filed on behalf of workers and former workers producing electronic components at Freedom Electronics & Engineering, Inc., Dorchester, Mass. The Department's investigation revealed that Freedom Electronics & Engineering produces power supplies, printed circuit boards, and electronic cables.

The Notice of the Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30927-30928). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Freedom Electronics & Engineering, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers producing electronic cables, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of such firm or subdivision have decreased absolutely.

Freedom Electronics produces on order, therefore sales equal production. Sales increased from fiscal year 1977 to fiscal year 1978 (12 months ending Mar. 30, 1978).

With respect to workers producing power supplies and printed circuit boards, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Customers surveyed who accounted for 100 percent of Freedom's sales of power supplies and printed circuit boards did not purchase any imported power supplies or printed circuit boards, either directly, or indirectly through domestic suppliers in 1977 or 1978.

CONCLUSION

After careful review, I determine that workers of Freedom Electronics & Engineering, Inc., Dorchester, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29639 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3819]

GENERAL INSTRUMENT CORP., F. W. SICKLES DIVISION, CHICOPEE, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3819: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 7, 1978, in response to a worker petition received on May 30, 1978, which was filed on behalf of workers and former workers of the General Instrument Corp., F. W. Sickles Division, Chicopee, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the General Instrument Corp., F. W. Sickles Division, and Deparment files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the criteria have been met.

The F. W. Sickles Division formerly produced electronic components at the General Instrument facilities in Chicopee, Mass. In the early 1970's production operations were transferred to a Sickles Division plant in Taiwan, but support operations such as repair, testing, and administrative functions were retained in Chicopee. A certification of eligibility to apply for adjustment assistance applicable to workers of the Sickles Division in Chicopee was issued at that time under provisions of Title III, Chapter 3, of the Trade Expansion Act of 1962 (TEA-W-21).

The F. W. Sickles Division maintained support operations for the Taiwan plant in Chicopee until 1978. In mid-1978 the firm transferred repair and testing operations to Juarez, Mexico, and administrative support functions to El Paso, Tex., resulting in the layoff of all remaining Sickles employees in Chicopee. The transfer was made largely in light of the fact that, since production operations are no longer in Chicopee, domestically oriented support functions such as repair and testing could be conducted in an area with lower labor costs than those in Chicopee; i.e., Juarez, Mexico.

The transfer of support operations out of Chicopee is a continuation of the transfer of production operations several years ago. Thus, increased import competition has continued to adversely affect workers at the Sickles Division, Chicopee facility in 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electronic components formerly produced by the F. W. Sickles Division of General Instrument Corp., Chicopee, Mass., contributed importantly to the separation of workers engaged in production support operations at that facility. In accordance with the provisions of the Act, I make the following certification:

All workers of the F. W. Sickles Division of General Instrument Corp., Chicopee, Mass., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-29659 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3153]

GEORGE J. MEYER MANUFACTURING DIVISION, A-T-O INC., WORCESTER, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3153: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 16, 1978, in response to a worker petition received on February 6, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing labeling and stripstamping machinery at the Worcester, Mass., plant of George J. Meyer Manufacturing Division of A-T-O Inc.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8862). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of George J. Meyer Manufacturing, its customers, the Packaging Machinery Manufacturing Institute, the U.S. Department of Commerce, the U.S. International

Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of

[4510-28-M]

[TA-W-3082]

HOUSTON ELECTRONICS CORP., KANE, PA.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management,

first quarter of 1978 compared to first quarter of 1977 while increasing the use of foreign contractors to produce brassieres and girdles.

sistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have

hearing was requested and none was held.

The determination was based upon formation obtained principally from

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Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of packing, packaging, and bottling machinery for food products increased absolutely in each year from 1973 to 1977 and increased relative to domestic production in each year from 1974 to 1977. Imports increased from 65.1 million dollars in 1975 to 74.2 million dollars in 1976 and increased to 85.9 million dollars in 1977.

The ratio of imports to domestic production increased from 17 percent in 1974 to 19 percent in 1976 and increased to 20.2 percent in 1977.

Because the life expectancy of the machinery produced by the subject firm is 20 years, and the firm may not have the same customers from year to year, a survey was conducted of companies who were approached by sales personnel of the subject firm in 1977. Of those companies which did purchase labeling and stripstamping machinery, several purchased imported machinery in greater quantity and value than from domestic sources. None of these companies purchased this type of machinery from George J. Meyer Manufacturing.

CONCLUSION

After careful review I conclude that increases of imports of articles like or directly competitive with labeling and stripstamping machinery produced by the Worcester, Mass., plant of George J. Meyer Manufacturing contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Worcester, Mass., plant of George J. Meyer Manufacturing Division of A-T-O Inc., who became totally or partially separated from employment on or after March 26, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29640 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3082]

HOUSTON ELECTRONICS CORP., KANE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3082: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 7, 1978, in response to a worker petition received on January 26, 1978, which was filed on behalf of workers and former workers producing crystal holders at Houston Electronics Corp., Kane, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Houston Electronics Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department survey of Houston Electronics' customers showed that most of the customers did not purchase imported crystal holders. Only one customer purchased imported crystal holders, from other domestic sources. This customer's purchases of imported crystal holders accounted for an insignificant and decreasing percentage of its total purchases from other domestic sources.

CONCLUSION

After careful review, I determine that all workers of Houston Electronics Corp., Kane, Pa., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29641 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3734]

JASPER BRASSIERE CO., JASPER, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3734: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 18, 1978, in response to a worker petition received on May 16, 1978, which was filed on behalf of workers and former workers producing brassieres and girdles at the Jasper Brassiere Co., Jasper, Ala.

The Notice of Investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jasper Brassiere Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes, and Bandeaux increased from 8,751 thousand dozen in 1976 to 9,507 thousand dozen in 1977. During the first quarter of 1978, imports increased to 2,402 thousand dozen compared to 2,235 thousand dozen during the same quarter of 1977. The ratio of imports to domestic production increased from 45.2 percent in 1975 to 51.6 percent in 1976.

U.S. imports of corsets and girdles increased from 231 thousand dozen in 1976 to 269 thousand dozen in 1977. During the first quarter of 1978, imports increased to 72 thousand dozen compared to 53 thousand dozen during the same quarter of 1977.

A Departmental survey of the manufacturer for which Jasper Brassiere Co. does a major portion of its contract work revealed that the customer decreased purchases of brassieres and girdles from the subject firm during first quarter of 1978 compared to first quarter of 1977 while increasing the use of foreign contractors to produce brassieres and girdles.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the brassieres and girdles produced by the Jasper Brassiere Co., Jasper, Ala., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Jasper Brassiere Co., Jasper, Ala., who became totally or partially separated from employment on or after May 9, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-29642 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3639]

KAYE COAT CO., INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3639: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing junior's and children's coats and raincoats at Kaye Coat Co., Inc., Passaic, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kaye Coat Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Sales by Kaye Coat increased in value in every quarter in 1977, compared to the corresponding quarter in 1976. The value of sales increased in 1977 compared to 1976 and increased in the first 5 months in 1978 compared to the first 5 months of 1977.

Total sales by Kaye Coat include coats produced in-house and coats which are cut by Kaye Coat and sewn by domestic apparel contractors. Declines in employment and production at Kaye Coat during periods of increasing company sales reflect temporary reductions in in-house sewing; that is, increased utilization of other domestic sewing contractors.

CONCLUSION

After careful review, I determine that all workers of Kaye Coat Co., Inc., Passaic, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29643 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3873]

KEYSTONE FIREWORKS MFG. CO., INC., DUNBAR, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3873: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 20, 1978 in response to a worker petition received on June 19, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing fireworks and firework display items at the Dunbar, Pa. plant of Keystone Fireworks Manufacturing Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The determination was based upon formation obtained principally from officials of Keystone Fireworks Manufacturing Co., Inc., its customers, manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of fireworks increased in 1976 from 1975 and increased 19 percent in 1977 from 1976 and increased 35 percent in the first quarter of 1978 compared to the first quarter of 1977. The ratio of imports to domestic production was 259.1 percent in 1976.

Customers of Keystone who were surveyed indicated that some respondents had decreased purchases of fireworks from Keystone and increased purchases of imports in 1977 from 1976 and in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fireworks produced at the Dunbar, Pa. plant of Keystone Fireworks Manufacturing Co., Inc., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Dunbar, Pa., plant of Keystone Fireworks Manufacturing Co., Inc., who become totally or partially separated from employment on or after June 16, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29644 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3874]

LEATHER SPORTSWEAR, INC., BRIDGEPORT, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3874: Investigation regarding

certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on

[4510-28-M]

[TA-W-3568]

assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this

A survey of Levi-Ottenheimer's customers purchasing gymsuits, evinced that those customers did not purchase imported gymsuits during the period

of Labor herein presents the results of TA-W-3689: Investigation regarding certification of eligibility to apply for worker adjustment assistance as pre-

sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

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certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 20, 1978 in response to a worker petition received on June 19, 1978 which was filed on behalf of workers and former workers producing men's and women's leather and suede outerwear at Leather Sportswear, Inc., Bridgeport, Conn.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Leather Sportswear, Inc., its customers, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of leather coats and jackets-men's boys', women's, misses', juniors', and children's increased from $177,800,000 in 1976 to $186,400,000 in 1977.

Customers who were surveyed indicated that they did not decrease purchases of leather coats and jackets from the subject firm and increase purchases of leather coats and jackets from foreign sources.

CONCLUSION

After careful review I determine that all workers of Leather Sportswear, Inc., Bridgeport, Conn., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29645 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3568]

LEBANON STEEL FOUNDRY, LEBANON, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3568: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 20, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel castings at Lebanon Steel Foundry, Lebanon, Pa.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lebanon Steel Foundry, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of steel castings increased from 27.1 million dollars in 1976 to 33.9 million dollars in 1977. The ratio of imports to domestic production increased from 1.1 percent in 1976 to 1.3 percent in 1977.

A survey of many of Lebanon Steel Foundry's customers revealed that most did not import steel castings in 1977 or in the first quarter of 1978. The only customers that increased purchases of imported steel castings and reduced purchases from Lebanon Steel Foundry together represented an insignificant percentage of sales.

CONCLUSION

After careful review, I determine that all workers of Lebanon Steel Foundry, Lebanon, Pa., are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29646 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3736]

LEVI-OTTENHEIMER, BALTIMORE, MD.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3736: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on May 11, 1978 which was filed on behalf of workers and former workers producing ladies' jumpsuits, blouses, shorts, slacks, and boys' sportswear (mainly slacks) at Levi-Ottenheimer, Baltimore, Md. The investigation revealed the workers produced girls' and women's gymsuits and boys' jeans and jean-cut slacks.

The Notice of Investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-9). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Levi-Ottenheimer, its customers, the U.S. Department of Commerce, the National Cotton Council of America, the American Textile Manufacturers Institute, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing gymsuits without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Gymsuits are classified in a basket category which includes playsuits, sunsuits, washsuits, and similar apparel. Industry sources report there are no gymsuits entering the United States.

A survey of Levi-Ottenheimer's customers purchasing gymsuits, evinced that those customers did not purchase imported gymsuits during the period from 1975 through 1977.

With respect to workers producing boys' jeans and jean cut slacks, all of the group eligibility requirements of section 222 of the act have been met.

The U.S. imports of men's and boys' woven cotton and man-made fiber jeans and dungarees increased from 9 million units in 1975 to 14 million units in 1976, and increased to 23 million units in 1977. The ratio of imports of jeans and dungarees to domestic production increased from 3.8 percent in 1975 to 5.4 percent in 1976, and increased to 8.5 percent in 1977.

A survey of customers of Levi-Ottenheimer was conducted by the Department. The survey indicated that some customers had reduced purchases of jeans and jean-cut slacks from Levi-Ottenheimer and increased purchases of imported jeans and jean-cut slacks in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with boys' jeans and jean cut slacks produced at Levi-Ottenheimer, Baltimore, Md. contributed importantly to the declines in sales and production and to the separations of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of boys' jeans and jean cut slacks at the Baltimore, Maryland plant of Levi-Ottenheimer who becames totally or partially separated from employment on or after May 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of girls' and women's gymsuits at the Baltimore, Maryland plant of Levi-Ottenheimer are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29647 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3689]

LOYAL CLOAK CO., LAKEWOOD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3689: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Loyal Cloak Co., Lakewood, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Loyal Cloak Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses', and children's suits decreased from 408,000 dozen in 1976 to 384,000 dozen in 1977. Imports increased from 62,000 dozen in the first quarter of 1977 to 104,000 dozen in the same period in 1978. The ratio of imports to domestic production decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

During the period under investigation Loyal Cloak Co. produced for one manufacturer. This manufacturer increased purchases of imported ladies' coats and suits and increased purchases from Loyal Cloak in 1977 compared to 1976. This manufacturer reduced purchases from Loyal Cloak Co. and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After a careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and suits produced at Loyal Cloak Co., Lakewood, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Loyal Cloak Co., Lakewood, N.J. who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29648 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-4005]

MEYER DANIEL PRODUCTS CORP., BROOKLYN, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4005: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 31, 1978 in response to a worker petition received July 18, 1978 which was filed on behalf of workers and former workers producing lampshades at Meyer Daniel Products Corp., Brooklyn, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-1). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Meyer Daniel Products Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Industry sources state that imports of lampshades are negligible. A survey of some of Meyer Daniel's customers was conducted. Most of the respon-

dents indicated that they did not purchase imported lampshades. Those respondents that purchase imports indicated that they decreased purchases

in 1977 and continued to increase from 3.0 percent in the first quarter of 1977 to 3.3 percent in the first quarter of 1978. With specific regard to imports

worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management,

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dents indicated that they did not purchase imported lampshades. Those respondents that purchase imports indicated that they decreased purchases of imported lampshades from 1976 to 1977 and in the first half of 1978 compared to the same period of 1977.

CONCLUSION

After careful review I determine that all workers of Meyer Daniel Products Corp., Brooklyn. N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-29649 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3721]

NORTH BERGAN LEATHER PRODUCTS CO., NORTH BERGEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3721: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 16, 1978 in response to a worker petition received on May 8, 1978 which was filed by the International Leather Goods, Plastics and Novelty Workers Union on behalf of workers and former workers producing ladies' handbags at the North Bergen Leather Products Co., North Bergen, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923-4). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the North Bergen Leather Products Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Handbag Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports increased from 22.1 million units in the first quarter of 1977 to 34 million units in the first quarter of 1978. The ratio of imports to domestic production increased from 111.1 percent in 1976 to 116.6 percent in 1977.

A survey of a sample of the North Bergen Leather Products Co.'s customers representing a significant portion of sales in 1976 and 1977 indicated that they either import handbags directly or purchase imported handbags from domestic sources. These customers' purchases of both types of imported handbags increased in 1977 compared to 1976 while their purchases from the subject firm decreased during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the handbags produced at the North Bergen Leather Products Co., North Bergen, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the North Bergen Leather Products Company, North Bergen, New Jersey who became totally or partially separated from employment on or after May 5, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29650 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3624]

NOVELLE FASHIONS, INC., HOBOKEN, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Novelle Fashions, Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Novelle Fashions, Inc. and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 13th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-29651 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-4001]

PACECO, INC., ALAMEDA, CALIF.

Certification Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4001: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 26, 1978 in response to a worker petition received on July 24, 1978 which was filed by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers on behalf of workers and former workers engaged in employment related to the production of fabricated steel which is produced in the form of cranes at the Alameda, Calif. plant of Paceco, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34562). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paceco, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the criteria have been met.

Imports of dockside container cranes are not separately identifiable in the TSUSA import schedules but are reflected in the category, "fabricated structural steel". Imports of fabricated structural steel increased from 94,400 tons in 1976 to 142,100 tons in 1977 before declining from 24,800 tons in the first quarter of 1977 to 24,600 tons in the first quarter of 1978. The ratio of imports to the domestic shipments of fabricated structural steel increased from 2.5 percent in 1976 to 4.1 percent in 1977 and continued to increase from 3.0 percent in the first quarter of 1977 to 3.3 percent in the first quarter of 1978. With specific regard to imports of dockside container cranes, industry sources have stated that the ratio of imports to the domestic production of dockside container cranes has increased from approximately 0 percent in 1974 to almost 100 percent in 1978.

All of the company's business is obtained through competitive bid. The Department conducted a survey of some of the firms offering contracts on which Paceco bid. The percentage of work awarded to foreign fabricators increased in 1976 compared to 1975 while the percentage of work awarded to Paceco declined in the same period. Due to the nature of the product, the actual production on a contact will be completed 12 to 24 months after the award date of the contract. Therefore, contracts lost in 1976 will adversely affect employment and production in 1977 and 1978. None of the respondents awarded any contracts to Paceco in 1976 or 1977 and most of the contracts awarded by the respondents in 1976 and 1977 were awarded to foreign fabricators.

CONCLUSION

It is concluded that increased imports of articles like or directly competitive with the dockside container cranes produced at the Alameda, Calif. plant of Paceco, Inc., have contributed importantly to the total or partial separation and to the decline in sales and production at the plant as required for certification under the Trade Act of 1974. In accordance with the provisions of the act, I make the following certification:

All employees of the Alameda, Calif. plant of Paceco, Inc., who became totally or partially separated from employment on or after July 20, 1977 are eligible to apply for adjustment assistance benefits under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29652 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3657]

REGAL SPORTOGS, INC., HACKENSACK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3657: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' and children's coats at Regal Sportogs, Inc., Hackensack, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Regal Sportogs, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Average employment at Regal Sportogs remained constant from 1976 to 1977 and increased in the first 5 months of 1978 compared to the first 5 months of 1977. Average employment increased in the third and fourth quarters of 1977 compared to the like period of 1976. The ladies' and children's coat industry is typically a seasonal operation. In most years, contractors suffer a period of negligible orders during the first quarter of the year, before winter production begins. Although employment declines took place in the form of layoffs at Regal Sportogs during the period under investigation, these employment declines are seasonal declines. Regal Sportogs, Inc. has been closed for 5 months during each spring season since 1975.

CONCLUSION

After careful review I determine that all workers of Regal Sportogs, Inc., Hackensack, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29053 Filed 10-19-78 8:45 am]

[4510-28-M]

[TA-W-3470]

REPUBLIC STEEL CORP. (ENDURO DIVISION), MASSILLON, OHIO

Negative Determination Regarding Eligibility to Apply for Worker adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3470: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 4, 1978 in response to a worker petition received on March 24, 1978 which was filed by the United Steel Workers of America on behalf of workers and former workers producing stainless and specialty steel products at the Massillon, Ohio plant of Republic Steel Corp. The investigation revealed that the petition was to cover workers in the Enduro Division of Republic Steel Corp.

In a determination signed on May 25, 1976, all workers producing stainless steel at the Massillon, Ohio plant were certified as eligible to apply for adjustment assistance. (See TA-W-666.) The certification expired on May 25, 1978.

The Notice of Investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360-61). No public hearing was requested an none was held.

The determination was based upon information obtained principally from officials of Republic Steel Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligivility requirements of section 222 of the act must be met. Without regard to whether any of the other critieria have been met, the following criterion has not been met:

That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment for the Enduro Division increased from 1976 to 1977 and in the first nine months of 1978

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compared to the same period in 1977. From May 25, 1978, the earliest possible impact date, to the present there have been no significant declines in employment, and no reduced work weeks have occurred. There is no immediate threat of separation to workers of the Enduro Division.

CONCLUSION

After careful review, I determine that all workers at the Massillon, Ohio plant (Enduro Division) of Republic Steel Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29654 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3769]

RIVER STREET SPORTSWEAR CORP., LOWELL, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3769: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on May 22, 1978 which was filed on behalf of workers and former workers producing women's dresses and sportswear at River Street Sportswear Corp., Lowell, Mass.

During the course of the Department's investigation it was revealed that River Street Sportswear no longer manufactures dresses. Sportswear production consists of skirts, slacks, jackets and shirts.

The Notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of River Street Sportswear Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

A survey of manufacturers for whom River Street Sportswear did contract work revealed that all of the manufacturers responding to the Department's survey reported increasing sales. Respondents indicated that most manufacturers did not purchase imports, those that did purchase imports indicated that the imported articles were different from those contracted for with River Street Sportswear.

CONCLUSION

After careful review, I determine that all workers of River Street Sportswear Corp., Lowell, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29665 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3482]

SPUN STEEL CO. CANTON, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3482: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 6, 1978 in response to a worker petition received on March 27, 1978 which was filed by the United Automobile, Aircraft and Agricultural Implement Workers on behalf of workers and former workers producting automotive pulleys at the Canton, Ohio plant of the Spun Steel Co., which is a division of Aspro, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550 and 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aspro, Inc., Spun Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

U.S. imports of automotive pulleys increased from 2.4 million units in 1976 to 4.5 million units in 1977. The ratio of imports to domestic production increased from 4.7 percent in 1976 to 8.3 percent in 1977.

A survey conducted with customers of the Spun Steel Company revealed that most customers increased purchases of imported automotive pulleys from 1976 to 1977, while decreasing their purchases from the Canton, Ohio, plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the automotive pulleys produced at the Canton, Ohio, plant of the Spun Steel Co., a division of Aspro, Inc., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Spun Steel Co., Canton, Ohio, who became totally or partially separated from employment on or after March 22, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29656 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3629]

STAR COAT MANUFACTURING CO, INC., HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3629: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at Star Coat Manufacturing Co., Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Star Coat Manufacturing Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of Women's, Misses', and Children's Coats and Jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of Women's, Misses', and Children's Raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Star Coat Manufacturing Co. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Star Coat Manufacturing Co. and increased purchases of imported coats and rainwear in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reported that they reduced purchases from Star Coat Manufacturing Co. and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats and raincoats produced at Star Coat Manufacturing Co., Hoboken, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Star Coat Manufacturing Co., Inc., Hoboken, N.J. who became totally or partially separated from employment on or after March 28, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29657 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3917]

STEVEN KNITTING MILLS, NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3917: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 27, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers producing knit fabrics at Steven Knitting Mills, New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Steven Knitting Mills, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imported wearing apparel cannot be considered to be like or directly competitive with finished or unfinished fabric. Imports of fabric must be considered in determining import injury to workers producing fabric.

The Department surveyed a sample of Steven Knitting Mills' major customers (apparel manufacturers) who had reduced their purchases of fabrics from that firm. Most respondents indicated that they did not purchase imported fabric.

CONCLUSION

After careful review I determine that all workers of Steven Knitting Mills, New York, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29658 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3501]

TIMA, INC., GREENSBORO, N.C.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3501: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on March 27, 1978, which was filed on behalf of workers and former knitting polyester and cotton yarn into fabrics for the garment industry at Tima, Inc., Greensboro, N.C.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Tima, Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petitioners allege that increased imports of finished apparel contributed importantly to the decline in sales

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or production and to the separation of workers producing knitted fabric at Tima, Inc., Greensboro, N.C. Imported wearing appared cannot be considered to be like or directly competitive with knitted fabric. Imports of all types of finished fabric must be considerd in determining import injury to workers producing knitted fabric at Tima, Inc.

Aggregate imports of all finished fabric (bleached, dyed, and printed) both woven and knitted, declined absolutely from 1976 to 1977 and then increased in the first quarter of 1978 compared to the same period in 1977. The ratios of imports to domestic production and consumption remained less than 2 percent from 1974 through 1977.

Customers who contracted with Tima for the knitting of fabric were surveyed. The survey revealed that none of the customers who responded purchased imported fabric or used foreign contractors during 1976 or 1977. Furthermore, the customers' sales increased from 1976 to 1977.

CONCLUSION

After careful review I determine that all workers of Tima, Inc., Greensboro, N.C., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., the 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-29661 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3958]

TRENT TUBE DIVISION OF COLT INDUSTRIES, CARROLLTON, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3958: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 11, 1978, in response to a worker petition received on July 6, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel pipe and tubing at the Carrollton, Ga., plant of Trent Tube Division of Colt Industries.

The Notice of Investigation was published in the FEDERAL REGISTER on July 25, 1978 (43 FR 32199). No public hearing was requested and none was held.

On May 28, 1976, the Department issued a certification of eligibility to apply for adjustment assistance benefits to all workers of the Carrollton, Ga., plant of Trent Tube division of Colt Industries. This certification expired May 28, 1978—2 years from the date of issuance.

The information upon which the determination was made was obtained principally from officials of Trent Tube Division, its customers, the Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of stainless steel pipe and tubing increased from 12.5 thousand short tons in the first half of 1977 to 12.8 thousand short tons in the first half of 1978.

A survey of customer of Trent Tube's Carrollton plant revealed that several major customers decreased purchases of stainless steel pipe and tubing from the subject firm while increasing purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with stainless steel pipe and tubing produced at the Carrollton, Ga., plant of the Trent Tube Division of Colt Industries contributed importantly to the total or partial separation of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Carrollton, Ga., plant of Trent Tube Division of Colt Industries who became totally or partially separated from employment on or after May 28, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29662 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3747]

TRW CRESCENT WIRE CABLE CO., TRENTON, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3747: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1978, in response to a worker petition received on May 18, 1978, which was filed by the International Association of Machinists on behalf of workers and former workers producing building wire at the Trenton, N.J., plant of TRW Crescent Wire & Cable Co. The investigation revealed that industrial wire, power cable, and instrument and control products are manufactured at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the TRW Crescent Wire & Cable Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department contacted a representative sample of the customers of TRW Crescent Wire & Cable Co., Trenton, N.J. None of the customers reported increasing purchases of imports and reducing purchases from TRW Crescent in 1977 compared to 1976 and in the first quarter of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of TRW Crescent Wire & Cable Company, Trenton, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29663 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3472]

UNITED MERCHANTS AND MANUFACTURERS, SHELBY MILLS, SHELBY, N.C.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3472: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 4, 1978, in response to a worker petition received on March 23, 1978, which was filed on behalf of workers and former workers producing spun type material for apparel at the Shelby, N.C., plant of United Merchants and Manufacturers.

During the course of the investigation it was established that the plant produces greige fabric for apparel.

The investigation was expanded to include the Buffalo, Clearwater, and Bath, S.C., plants of United Merchants.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360-18361). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Merchants and Manufacturers, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of greige woven polyester fabric increased from 19.9 million square yards in 1976 to 27.6 million square yards in 1977. Imports decreased from 6.6 million square yards in the first quarter of 1977 to 4.6 million square yards in the first quarter of 1978. The ratio of imports to domestic production increased from .38 percent in 1976 to .55 percent in 1977.

Imports of greige woven non-industrial cotton fabric decreased from 613 million square yards in 1976 to 445 million square yards in 1977. Imports increased from 92 million square yards in the first quarter of 1977 to 128 million square yards in the first quarter of 1978. The ratio of imports to domestic production decreased from 15.1 percent in 1976 to 9.9 percent in 1977.

Imports of greige woven woolen fabric increased from 17.2 million square yards in 1976 to 22.7 million square yards in 1977. Imports increased from 5.7 million square yards in the first quarter of 1977 to 7.6 million square yards in the first quarter of 1978.

A survey of customers of United Merchants' sales division indicated that customers accounting for a significant proportion of the total sales of Shelby, Buffalo, Seminole, and Bath mills decreased purchases of fabric from these mills and increased purchases of imported fabric in 1977 compared to 1976 and in the first quarter of 1978 compared to the same period of 1977. Another division of United Merchants and Manufacturers imports greige fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the greige fabric for apparel produced by the Shelby, N.C., plant of United Merchants contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Shelby, N.C., plant of United Merchants and Manufacturers, Inc., who became totally or partially separated from employment on or after March 20, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29664 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3472a, 3472b, 3472c]

UNITED MERCHANTS & MANUFACTURERS, INC., BUFFALO MILLS, BUFFALO, S.C., SEMINOLE MILLS, CLEARWATER, S.C.; BATH MILLS, BATH, S.C.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3472a, 3472b, 3472c: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 4, 1978, in response to a worker petition received on March 23, 1978, which was filed on behalf of workers and former workers producing spun type material for apparel at the Shelby, N.C., plant of United Merchants & Manufactures, Inc. During the course of the investigation it was established that the plant produces greige woven fabric for apparel.

The investigation was expanded to include the Buffalo, Clearwater, and Bath, S.C. plants of United Merchants.

The notice of investigation was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18360-18361). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Merchants & Manufactures, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of greige woven polyester fabric increased from 19.9 million square yards in 1976 and increased to 27.6 million square yards in 1977. Imports decreased from 6.6 million square yards in the first quarter of 1977 to 4.6 million yards in the first quarter of 1978. The ratio of imports to domestic production increased from 0.38 percent in 1976 to 0.55 percent in 1977.

Imports of greige woven non-industrial cotton fabric decreased from 613 million square yards in 1976 to 445 million square yards in 1977. Imports increased from 92 million square yards in the first quarter of 1977 to 128 mil-

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lion square yards in the first quarter of 1978. The ratio of imports to domestic production increased from 15.1 percent in 1976 to 9.9 percent in 1977.

Imports of greige woven woolen fabric increased from 17.2 million square yards in 1976 22.7 million square yards in 1977. Imports increased from 5.7 million square yards in the first quarter of 1977 to 7.6 million square yards in the first quarter of 1978.

A survey of customers of United Merchants' sales division indicated that customers accounting for a significant proportion of the total sales of Shelby, Buffalo, Seminole, and Bath Mills decreased purchases of fabric from these mills and increased purchases of imported fabric in 1977 compared to 1976 and in the first quarter of 1978 compared to the same period of 1977. Another division of United Merchants & Manufactures imports greige fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the greige fabric for apparel produced by the Buffalo, Clearwater, and Bath, S.C., plants of United Merchants & Manufactures contributed importantly to the decline in sales and production and to the separation of workers at those plants. In accordance with the provisions of the act, I make the following certification:

All workers of the plants, listed below, of United Merchants & Manufactures, Inc., who became totally or partially separated from employment on or after March 20, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Plant names and locations:
Buffalo Mills—Buffalo, S.C.
Seminole Mills—Clearwater, S.C.
Bath Mills—Bath, S.C.

Signed at Washington, D.C., this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.78-29665 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-2588A]

UNITED STATES STEEL CORP., FAIRLESS WORKS, TRENTON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2588A: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 9, 1977, in response to a worker petition received on October 31, 1977, which was filed by the United Steelworkers of America on behalf of all workers producing all carbon steel and steel products at the Fairless Works of the United States Steel Corp., Fairless Hills, Pa.

Workers engaged in the production of hot rolled sheets, tin mill products, carbon rods, and wire and wire products at the Fairless Hills, Pa. plant of the Fairless Works, United States Steel Corp., were certified eligible to apply for adjustment assistance on April 6, 1973 (see TA-W-2588). Workers engaged in employment related to the production of cold rolled sheets, bar-size light shapes and galvanized sheets at the Fairless Hills plant were denied eligibility to apply for adjustment assistance.

Further investigation revealed that the rope mill at the Fairless Works is a separate plant located in Trenton, N.J. Workers engaged in the production of wire rope, cord, strand, and other wire products at the Trenton plant are not covered under the certification for the Fairless Works. The Trenton plant receives all its carbon rods from Fairless Hills. Because it is an integrated operation of the Fairless Works, the investigation was expanded to include the Trenton, N.J. plant.

The Notice of Investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the criteria have been met.

The Department conducted surveys of some customers purchasing the following products from the Trenton plant of United States Steel: wire rope and cord, wire strand, and carbon rods.

Wire rope and cord represents the great majority of sales by the Trenton, N.J., plant of United States Steel in 1977. Several customers surveyed concerning purchases of wire rope, cord and strand in 1976 compared to 1977 and the first quarter of 1978 to the like quarter in 1977, increased their purchases of imports while decreasing purchases from the Trenton plant.

Sales of wire rope, cord, and strand and employment at the Trenton plant were higher in the fourth quarter of 1977 and the first quarter of 1978 than in the same quarters respectively a year earlier.

CONCLUSION

After careful review, I conclude that increases of imports of articles like or directly competitive with the wire rope, cord, and strand produced by the Trenton, N.J., plant of Fairless Works of the United States Steel Corp., contributed importantly to the separation of workers at that facility. In accordance with the provisions of the act, I make the following certification:

All workers of the Trenton, N.J., plant, Fairless Works of the United States Steel Corp. who become totally or partially separated from employment on or after October 20, 1976, and before October 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

FR Doc. 78-29666 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3417]

UNITED STATES STEEL CORP., McKEES ROCKS, PA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3417: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978, in response to a worker petition received on November 17, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing railway wheels and axles at the McKees Rocks, Pa., plant of United States Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was required and none was held.

The information upon which the determination was made was obtained principally from officials of United States Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

RAILROAD AXLES

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey was conducted of some of the firms which purchased railroad axles from the McKees Rocks plant. The results of the survey indicated that most of the firms surveyed increased their purchases of axles from the McKees Rocks plant in 1977 compared to 1976 and in the first half of 1978 compared to the first half of 1977. None of the firms surveyed reduced purchases of axles from the McKees Rocks plant while increasing purchases of imported axles.

RAILROAD WHEELS

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Import data for railroad wheels and railroad axles are not separately identifiable. Imports of railroad wheels and axles increased from 32.2 thousand tons in 1976 to 57.2 thousand tons in 1977. Imports amounted to 19.8 thousand tons in the first quarter of 1978 compared to 10.0 thousand tons in the first quarter of 1977.

A survey was conducted of some of the firms which purchased railroad wheels from the McKees Rocks plant. The results of the survey indicated that most of the firms surveyed increased their purchases of wheels from the McKees rocks plant in 1977 compared to 1976. However, several of these firms reduced purchases from the McKees Rocks plant in the first half of 1978 compared to the first half of 1977 and increased purchases of imported railroad wheels during the same period.

CONCLUSIONS

After careful review I determine that all workers engaged in employment related to the production of railroad axles at the McKees Rocks, Pa., plant of United States Steel Corp., are denied eligibility to apply for adjustment assistance unter Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that increases of imports of articles like or directly competitive with railroad wheels produced by the McKees Rocks, Pa., plant of United States Steel Corp., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the act, I made the following certification:

All workers engaged in employment related to the production of railroad wheels at the McKees Rocks, Pa., plant of United States Steel Corp., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Ace of 1974.

Signed at Washington, D.C. this 10th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29667 Filed 10-19-78 8:45 am]

[4510-28-M]

[TA-W-3756]

WESTERN PUBLISHING COMPANY, INC., ST. LOUIS, MO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3756: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 18, 1978 which was filed on behalf of workers and former workers engaged in commercial printing at the St. Louis, Mo. facility of Western Publishing Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Western Publishing Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of advertising printing materials including posters, billboards signs, and pamphlets are negligible and have had little, if any, effect upon the domestic industry.

The petitioning workers are employed in the St. Louis, Mo. plant of Western Publishing Co. The St. Louis plant performs commercial printing services on a contract basis. The largest percentage of business is the printing of billboard signs. The plant also prints smaller signs and posters.

CONCLUSION

After careful review, I determine that all workers of the St. Louis, Missouri plant of the Western Publishing Co., Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29668 Filed 10-19-78; 8:45 am]

[4510-28-M]

[TA-W-3846]

THE WILKOFF CO., YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3846: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on June 9, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing structural steel and other related carbon steel products at Wilkoff Co., Youngstown, Ohio. Subsequent investigation revealed that Wilkoff Co. pickles steel sheets and plates for steel companies and processes and sells scrap steel.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Wilkoff Co. and Department files.

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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Wilkoff Co. cleans rusted steel sheets and plates for steel companies in its pickling department. Ownership of the sheets and plates is retained by the steel companies for which Wilkoff performs the pickling.

Wilkoff's scrap metal department purchases scrap metal which is subsequently sheared, burned or baled.

Until December 1976, Wilkoff also fabricated its own structural steel. At the end of December 1976, Wilkoff closed its structural steel department. Separations resulting from the closure of the structural steel department occurred on December 31, 1976. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the subject firm occurred more than 12 months prior to the date of filing under Title II, Chapter 2 of the Trade Act of 1974. The date of the petition is May 10, 1978. Therefore, workers laid off prior to May 10, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974.

Since January 1977, workers at the Wilkoff Co. have been engaged in pickling steel sheets and plates for steel companies and processing scrap metal for sale to steel mills. Workers do not produce an article within the meaning of section 222(3) of the Trade Act.

All workers engaged in pickling steel sheets and plates and processing scrap metal for sale at Wilkoff Co. are employed by that firm. Thus, the Wilkoff Co. must be considered to be "the workers' firm."

CONCLUSION

After careful review, I determine that all workers of the Wilkoff Co., Youngstown, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29660 Filed 10-19-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (78-46)]

DR. ROBERT L. GOLDEN

Certification

Pursuant to the provision contained in section 207 of Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), having found that Dr. Robert L. Golden, formerly Chief, Space Physics Branch, Space and Life Sciences Directorate, Lyndon B. Johnson Space Center, National Aeronautics and Space Administration (NASA), and presently an employee of New Mexico State University, Las Cruces, N. Mex., possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Dr. Robert L. Golden acting as agent for or appearing personally before NASA on behalf of New Mexico State University in connection with the negotiation and administration of contracts or grants by the University with NASA, and the performance of work under such University contracts or grants with NASA, for (1) reasearch on the search for cosmic antimatters including measurement of positrons and antiprotons, and (2) measurement of isotopic abundance in cosmic rays, on matters in which he participated personally and substantially as an employee of NASA or which were under his official responsibility as a NASA employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: October 3, 1978.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-29582 Filed 10-19-78; 8:45 am]

[7510-01-M]

[Notice (78-47)]

WADE L. CRADDOCK, JR.

Certification

Pursuant to the provision contained in section 207 of Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), having found that Wade L. Craddock, Jr., formerly Assistant Chief, Space Physics Branch, Space and Life Sciences Directorate, Lyndon B. Johnson Space Center, National Aeronautics and Space Administration (NASA), presently an employee of New Mexico State University, Las Cruces, N.M., possesses outstanding scientific qualifications, I certify that the national interest would be served by the said Wade L. Craddock, Jr. acting as agent for or appearing personally before NASA on behalf of New Mexico State University in connection with the negotiation and administration of contracts or grants by the University with NASA, and the performance of work under such University contracts or grants with NASA, for research on (1) the search for cosmic antimatter, including measurement of positrons and antiprotons, and (2) measurement of isotopic abundance in cosmic rays, on matters in which he participated personally and substantially as an employee of NASA or which were under his official responsibility as a NASA employee.

This certification is directed to be published in the FEDERAL REGISTER.

Dated: October 3, 1978.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-29583 Filed 10-19-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meetings

In order to provide advance information regarding proposed meetings of the ACRS subcommittees and working groups, and of the full committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or canceled since the last list of proposed meetings published September 21, 1978 (43 FR 42826). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. those subcommittee and working group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full committee meetings begin at 8:30 a.m. and sub-committee and working group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full committee meetings and when subcommittee and working group meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, canceled, or rescheduled, or whether changes have been made in the agenda for the November 1978 ACRS full committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the committee (telephone 202-634-3267, Attention: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., e.d.t., before October 29 and e.s.t. after that date.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Fluid Dynamics*, October 24-25-26, 1978, San Francisco, Calif. Rescheduled to November 28-29-30, 1978.

**Plant Arrangements*, October 25, 1978, Washington, D.C. The subcommittee will begin its review of the NRC Generic Program, Systems Interaction in Nuclear Power Plants, Task A-17, and will review the Zion Station Systems Interaction Study. Notice of this meeting was published September 21 and October 10, 1978 (43 FR 42826 and 46611, respectively).

**Surry Power Station*, October 28, 1978, Washington, D.C., the subcommittee will discuss the steam generator repair program for Unit Nos. 1 and 2. Notice of this meeting was published October 13, 1978 (43 FR 47335).

**Reactor Operations*, November 1, 1978. Rescheduled from October 31-November 1. Washington, D.C. The subcommittee will review NRC Office of Nuclear Regulatory Research programs being conducted by the Research Support Branch, and will hear a briefing by representatives of the NRC Division of Operating Reactors concerning its policies and activities. Notice of this meeting was published September 21 and October 17, 1978 (43 FR 42826 and 47803, respectively).

**Advanced Reactors*, November 1, 1978, Washington, D.C. The subcommittee will continue its review of matters related to NRC sponsored research on the safety of advanced reactor designs. Notice of this meeting was published October 17, 1978 (43 FR 47802).

**Regulatory Activities*, November 1, 1978. Washington, D.C. Canceled. Notice of this meeting was published September 21, 1978 (43 FR 42826).

**William H. Zimmer Nuclear Power Station, Unit No. 1*, November 16-17, 1978. Rescheduled from November 15-16. Cincinnati, Ohio. The subcommittee will review the application of the Cincinnati Gas and Electric Co. for a license to operate Unit No. 1 of this station. Notice of this meeting was published September 21, 1978 (43 FR 42826).

**Architect-Engineer Balance of Plant* (Tentative), November 21, 1978. Rescheduled for December 18. Washington, D.C. Notice of this meeting was published September 21, 1978 (43 FR 42826).

**Fluid Dynamics*, November 28-29-30, 1978. Rescheduled from October 24-25-26. San Francisco, Calif. The subcommittee will meet with representatives of the NRC to discuss methods used in licensing by the NRC staff and the nuclear industry for calculating containment system response. Containment leak testing will also be discussed. In addition, the subcommittee will review the design basis and construction of the Mark II Boiling Water Reactor (BWR) Containment System. Notice of this meeting was published September 21, 1978 (43 FR 42826).

**Power and Electrical Systems*, December 1, 1978, Washington, D.C. The subcommittee will meet with representatives of Westinghouse Corp. and the NRC staff to review the potential adverse interactions through the interconnection of protection and safety systems with reactor control systems described in RESAR-414.

**Generic Items*, December 5, 1978, Washington, D.C. The subcommittee will review the status of the various generic items contained in the committee's November 15, 1977, "Status of Generic Items Relating to Light-Water Reactors, Report No. 6."

**Regulatory Activities*, December 6, 1978, Washington, D.C. The subcommittee will review working papers and future regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Architect-Engineer Balance of Plant*, December 18, 1978. Rescheduled from November 21, 1978. Washington, D.C. The subcommittee will review the Fluor Power Services, Inc., Balance of Plant Standard Safety Analysis Report (BOPSSAR) and its relationship to the Babcock and Wilcox Standard Reference System B-SAR-205 for a preliminary design approval.

**Salem Nuclear Power Station, Unit No. 2*, December 19, 1978, Washington, D.C. The subcommittee will review the application of the Public Service Electric and Gas Co. for a license to operate Unit No. 2 of this station.

**Regulatory Activities*, January 3, 1979, Washington, D.C. The subcommittee will review working papers and future regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Extreme External Phenomena*, January 9, 1979, Las Vegas, Nev. The subcommittee will review NRC-sponsored research regarding seismic design of nuclear power plants.

ACRS FULL COMMITTEE MEETINGS

November 2-4, 1978

A. *Fast Flux Test Facility—Operation.

B. *Reactor Safety Research—Review NRC Safety Research Program.

November 9-11, 1978

*Representatives of the ACRS will meet with representatives of the Reactor-Safety Commission (RSK) of the Federal Republic of Germany to discuss items of mutual interest related to nuclear safety and regulation.

December 7-9, 1978

Agenda to be announced.

January 4-6, 1979

Agenda to be announced.

Dated: October 18, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-29732 Filed 10-19-78; 8:45 am]

[7590-01-M]

[Docket No. 50-341-OL]

DETROIT EDISON CO., ET AL.

Establishment of Atomic Safety and Licensing Board to Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

DETROIT EDISON CO., ET AL.

(Enrico Fermi Atomic Power Plant, Unit 2)

Construction Permit No. CPPR-87

This action is in reference to a notice published by the Commission on September 11, 1978, in the FEDERAL REGISTER (43 FR 40327) entitled "Opportunity for Hearing."

The Chairman of this Board and his address is as follows:

Charles Bechhoefer, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. David R. Schink, Department of Oceanography, Texas A. & M. University, College Station, Tex. 77840.

Mr. Frederick J. Shon, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

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Dated at Bethesda, Md., this 13th day of October 1978.

JAMES R. YORE,
Chairman Atomic Safety and Licensing Board Panel.

[FR Doc. 78-29565 Filed 10-19-78; 8:45 am]

[7590-01-M]

[Docket No. 50-286, Facility Operating License No. DPR-64]

POWER AUTHORITY OF THE STATE OF NEW YORK, INDIAN POINT NUCLEAR GENERATING STATION, UNIT NO. 3

Denial of Amendment Application

The U.S. Nuclear Regulatory Commission (the Commission) has denied the Power Authority of the State of New York's (the licensee) "application for an Extension of the Period of Interim Operation Using the Installed Once-through Cooling System and Motion for Expedited Commission Consideration" dated August 7, 1978. The licensee seeks amendment of Condition 2.E.(1) of DPR-64 so as to extend the date for termination of operation with once-through cooling [1] to allow for (1) the Environmental Protection Agency (EPA) to reach an administrative decision in the pending discharge permit proceeding involving Indian Point 3 (and other steam-electric generating facilities on the low Hudson River), (2) any judicial remedies from the EPA decision to be exhausted, and (3) the cooling tower, if required by EPA, to be constructed.

The Commission's denial is set forth in a letter dated October 13, 1978, from Harold R. Denton, Director, Office of Nuclear Reactor Regulation to Paul J. Early, Assistant Chief Engineer, Projects of the licensee. Briefly, the bases for the denial are: (1) the Commission will be required to conform its license to whatever decision (including a compliance schedule for tower construction) is ultimately adopted by EPA; (2) the EPA proceeding is still in process and the Commission does not, therefore, have the benefit yet of an EPA decision; (3) the Commission will have to analyze whatever decision EPA reaches and determine what type of evaluation is required under the Commission's regulations implementing the National Environmental Policy Act; and (4) the Commission expects that the EPA final administrative decision will be rendered sufficiently in advance of the once-through cooling termination date that the Commission will be able to take whatever action might be required prior to that date. On these bases, the Commission determined that it is preferable to await the final EPA administrative decision before determining what action need be taken by the Commission and that there is no prejudice to the licensee from a denial of the application.

For further details with respect to this action, see (1) the licensee's application and supporting affidavit and (2) the letter fropm Mr. Denton to Mr. Early. Both of these documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. 10601.

A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 13th day of October 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-29567 Filed 10-19-78; 8:45 am]

[1] Condition 2.E.(1) presently requires termination of operation with once-through cooling by September 15, 1980. By operation of Condition 2.E.(1)(e), that date has now become September 15, 1982. The Commission will appropriately amend the license.

[7590-01-M]

RECOMMENDATIONS FOR IMPROVING NUCLEAR POWERPLANT LICENSING

Policy Statement

In its continuing efforts to improve the effectiveness and efficiency of Nuclear Regulatory Commission (NRC) licensing activities consistent with providing increased opportunity for the public to participate in the licensing process, the Commission requested a staff study of the lessons learned in nuclear power plant licensing since the NRC was created. The results of this study were published in June 1977 as NUREG-0292, "Nuclear Power Plant Licensing: Opportunities for Improvement." A press release was issued on July 27, 1977, which summarized these recommendations, noted public availability of the report, and indicated that the Commission had directed the staff to prepare a plan to implement these recommendations.

It is the intent of the Commission to implement the following recommendations of NUREG-0292 on an experimental basis whenever opportunities arise and it is practical to do so on both currently docketed and forthcoming applications. The recommendations will be implemented as a collective set if possible; however, implementation of any single recommendation will be undertaken if the staff believes a productive result will be achieved.

RECOMMENDATION NO. 3

INCREASE PRETENDERING COORDINATION WITH APPLICANTS

The expanded pretendering coordination with applicants has as its objective the subsequent filing of an application that is of such quality as to minimize the need for extensive requests for additional information, clarification, or design or procedural commitment that often result in considerable delay in the review of an application after docketing. The expanded pretendering activities will be initiated about 9 months prior to the proposed tendering of an application and will be designed to provide additional guidance and direction to the applicant during the preparation of its application. The increased coordination activities during this period will include several working level meetings between the applicant and the staff to provide specific updated guidance to the applicant regarding the format and content of the application and to provide an opportunity to discuss key aspects of the design, relevant problems, and current staff positions.

RECOMMENDATION NO. 4

EXPAND AND RESTRUCTURE THE ACCEPTANCE REVIEW

The present acceptance review program was initiated following publication of the Standard Format and Content document in 1972 and provided the staff with a standard by which to determine whether a tendered application was sufficiently complete to permit docketing and detailed review. The Acceptance Review will be expanded to emphasize the quality of the material presented as well as completeness.

The expanded and restructured Acceptance Review has as its objective the assurance that all significant information needed by the staff for the preparation of its Safety Evaluation Report will be in the docketed application. During the acceptance review, the staff will examine the information provided in the tendered application to determine that it includes most, if not all, of the information that is generally presently available in an application only after it has been amended to include the additional information developed in response to the staff's first round of questions after the application is docketed.

This expanded and restructured Acceptance Review in conjunction with the proposed increased pretendering coordination activities should result in a significant reduction, if not elimination, in the need for repetitive and time-consuming question and answer cycles subsequent to docketing.

RECOMMENDATION NO. 5

MODIFY CURRENT REVIEW PROCESS BY DEVELOPING EARLY SAFETY EVALUATION REPORT

In order to achieve the full measure of the benefits envisioned in implementing Recommendations No. 3 and No. 4, the present safety review sequence will be altered somewhat in this experimental program. Because of the increased pretendering coordination with applicants and the expanded and restructured Acceptance Review, it is expected that the two rounds of questions which are a part of the present review sequence would be essentially eliminated, and the review would be performed on the basis of the contents and quality of the application as docketed and supplemented by the applicant's responses to the staff questions asked during the expanded and restructured Acceptance Review. The staff's positions would be reflected in a Safety Evaluation Report which would be issued within about 6 months of docketing.

After evaluating the results of this experimental program, appropriate changes will be made to pertinent staff documents concerning procedures and practices in licensing reviews. If required, changes to Commission rules and regulations will be initiated. Pending any changes in the regulations after this evaluation, it is the intent of the Commission to proceed with the Acceptance Reviews of any applications, involved in the experimental program and where Recommendation 4 is to be implemented, on a case-by-case basis notwithstanding the provisions of the current regulation in 10 CFR 2.101 concerning the time limit and content of Acceptance Reviews.

In addition, the Commission has directed the staff to implement Recommendation No. 6:

INCREASE PUBLIC PARTICIPATION DURING STAFF REVIEW

Although the hearing process provides an opportunity for public participation, there is very little practical opportunity for interested members of the public, particularly those in the vicinity of the proposed site, to become aware of the staff's role during review of construction permit applications. It is the intent of the Commission to provide increased opportunity for the public to observe and participate in the licensing process in a meaningful way without imposing an undue burden upon the resources of staff manpower.

While the most efficient way to handle interaction of the staff with the applicant on licensing matters is to hold meetings in Bethesda where it is possible to have access to various elements of the staff, the costs and distance make it almost impossible, except for certain well-established intervenor organizations, for members of the public living near the proposed site to participate in these meetings. On the other hand, to arrange all such meetings near the proposed plant site would impose significant burdens upon the staff without necessarily providing commensurate improvement in public understanding of the licensing process.

Past experience with staff interaction with the public has shown that:

(1) The public appears to be most interested in the licensing process in the pre-docketing and/or early stages of the review.

(2) The number of people who attend public meetings appears to be directly correlated with the time of day at which the meetings are held. Past experience has shown that many more people attend meetings held in the evening than during the working day.

Based on the above considerations, a number of working meetings between the staff and construction permit applicants, both prior to and after docketing of an application, normally held at Commission offices in Bethesda, Md., will be held in the vicinity of the proposed site. Whenever possible, these meetings will be held in the evenings or on weekends.

These meetings will provide an opportunity for interested members of the public to listen to the staff and applicant discussions and observe the staff's role in the review of applications. Appropriate provisions will be made for public comments and questions and responses by the applicant and the staff.

Recommendation No. 6 is to be implemented by the staff to the extent permitted by resource considerations on all ongoing and future license application reviews. In this respect, it differs from the implementation of Recommendations No. 3, 4, and 5, which are being conducted on an experimental basis for selected applications.

Finally, whatever improvements that accrue in efficiency as a result of these recommendations will not be permitted to reduce the quality of the licensing review.

Future statements concerning the other recommendations of NUREG-0292 will be issued as appropriate.

Dated at Washington, D.C., this 16th day of October 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-29563 Filed 10-19-78; 8:45 am]

[7590-01-M]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility district, which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, Calif. The amendment is effective as of its date of issuance.

The amendment to the Technical Specifications revises the definitions of time periods for plant surveillance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 7, 1978, (2) Amendment No. 23 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Business and Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, Calif. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3rd day of October, 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors

in the Dynasty Room of the Holiday Inn, 1850 North Fort Myer Drive, Arlington, Va. 22209. The meeting is open to the public. Any interested

Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 305 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236), as amended.)

Dated: October 2, 1978.

fications of such candidates and would inhibit the ability of the Commission to obtain comments of third parties. Open meetings would thus significant-

dicated that those commodities produced a revenue/cost ratio of 110 percent or less. The railroads stated that the proposed increases on individual

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For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-29566 Filed 10-19-78; 8:45 am]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[Docket No. SA-465]

AIRCRAFT ACCIDENT—ST. THOMAS, V.I.

Accident Investigation Hearing

Notice is hereby given that the National Transportation Safety Board will convene an accident investigation hearing at 10 a.m., (local time) on November 6, 1978, at the Frenchman's Reef-Holiday Inn, St. Thomas, V.I.

The public hearing will be held in connection with the Safety Board's investigation of an accident involving an Antilles Air Boats, Inc., Grumman G21A, which occurred September 2, 1978, at St. Thomas, V.I.

DAVID F. THOMAS,
Hearing Officer.

OCTOBER 17, 1978.

[FR Doc. 78-29611 Filed 10-19-78; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the 17th meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on November 7 and 8, 1978.

The purpose of the meeting is to review the Collaborative Research Support Program planned under an AID contract for fisheries and aquaculture; to review procedures and programs for developing and implementing Collaborative Research Support Programs; to discuss measures for handling unsolicited research proposals; to discuss areas and schedules for possible exploratory and planning grants; to consider methods for determining priorities for contract research and other related subjects.

This meeting will convene at 9 a.m. and adjourn at 5 p.m. on November 7 and 8, 1978. The meeting will be held in the Dynasty Room of the Holiday Inn, 1850 North Fort Myer Drive, Arlington, Va. 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination, Development Support Bureau, is designated AID Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-2243.

Dated: October 12, 1978.

ERVEN J. LONG,
AID Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-29569 Filed 10-19-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RFA 305-78-1]

CONSOLIDATED RAIL CORP. (CONRAIL)

Supplemental Transaction Proposal

AGENCY: Federal Railroad Administration.

ACTION: Notice of supplemental transaction proposal.

SUMMARY: This notice solicits public comment on a proposal being developed by the Federal Railroad Administration ("FRA") by which the Consolidated Rail Corp. ("ConRail") would transfer 30 miles of railroad track in the Groton, Conn., area to the Providence & Worcester Co. ("P. & W."). FRA is developing this proposal because ConRail and the P. & W. have been unable to agree on the terms of the transfer through private negotiations. The State of Connecticut asserts that service on the affected trackage would be improved by a transfer of ownership to the P. & W.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 20, 1978.

ADDRESS FOR COMMENTS: Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Taylor, Office of Passenger and Special Programs, Office of the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The final system plan was a plan developed by the United States Railway Association which specified the rail properties in the Northeast to be conveyed to ConRail in 1976. Section 305 of the Regional Rail Reorganization Act of 1973 ("Act"), 45 U.S.C. 745, authorizes the Secretary of Transportation ("Secretary"): (1) to develop proposals for transactions supplemental to the final system plan which promote the establishment and retention of a financially self-sustaining rail service system in the Northeast and (2) to transmit such a proposal to the United States Railway Association for analysis and evaluation. The proposal must contain a description of the transaction proposed, the rail properties involved, the parties to the transaction, the financial and other terms of the transaction, and the purposes of the Act or the goals of the final system plan intended to be effectuated by the transaction.

The State of Connecticut has requested that the Secretary develop a supplemental transaction proposal with regard to the following railroad track now owned by ConRail: (1) the southernmost portion of the Norwich Secondary Track, extending from Groton to Plainfield, Conn., and (2) the Groton Old Main Branch line, located in Groton, Conn. Under the proposal being developed by FRA the P. & W. would acquire these rail facilities from ConRail and would acquire trackage rights from the National Railroad Passenger Corp., along approximately three miles of the Shoreline Track, located between the junction of the Norwich Secondary Track with the Shoreline Track and the Groton Old Main Branch line with the Shoreline Track. The State asserts that such an acquisition by the P. & W. would promote the establishment of a financially self-sustaining rail system; insure the establishment and maintenance of a rail service system adequate to meet the transportation needs and service requirements of the region; enhance both Northeast Corridor passenger service and intercity rail transportation between Worcester, Mass. and New London, Conn.; retain and promote competition in Connecticut and in the region; and enhance community development in eastern Connecticut.

The comments will be taken into consideration by the FRA in developing the proposal. However, formal acknowledgment of the comments will not be provided.

(Sec. 305 of the Regional Rail Reorganization Act of 1973 (Pub. L. 93-236), as amended.)

Dated: October 2, 1978.

CHARLES SWINBURN,
Associated Administrator for Federal Assistance, Federal Railroad Administration.

[FR Doc. 78-29613 Filed 10-19-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-6]

ADVISORY COMMITTEE ON EXPLOSIVES TAGGING AND ITS TECHNICAL SUBCOMMITTEE

Closed Meeting

Correction

In FR Doc. 78-27040, appearing on page 43790 in the issue of Wednesday, September 27, 1978, the signature at the end of the document should read, "John G. Krogman".

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

U.S. TAX COURT NOMINATION COMMISSION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the U.S. Tax Court Nominating Commission will meet in the General Counsel's office in the Treasury Department on November 6, 1978, at 10:30 a.m. The Commission was established by Executive Order 12064 of June 5, 1978 (43 FR 24661).

The members of the Commission will continue to examine the qualifications of persons to be recommended to the President for appointment to the U.S. Tax Court. This process will necessarily involve consideration of information of a personal nature relating to candidates for appointment. Discussion of sensitive and confidential matters relating to such persons in a meeting open to the public would constitute a clearly unwarranted invasion of personal privacy of the individuals being considered for appointment to the Tax Court.

Meetings of the Commission must be conducted in a manner conducive to a frank exchange of views and searching evaluation of the qualifications of candidates for appointment to the Tax Court. Open meetings would have a chilling effect on candid comments by Commission members about the qualifications of such candidates and would inhibit the ability of the Commission to obtain comments of third parties. Open meetings would thus significantly frustrate the Commission's efforts to implement its primary function under the Executive order.

A determination as required by section 10(d) of the Federal Advisory Commiittee Act has been made that this meeting will concern matters within section 552b(c)(6) and 9(B) of Title 5, United States Code, and that the public interest requires that this meeting be closed to public participation.

Dated: October 18, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-29796 Filed 10-19-78; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 28]

DECISION-NOTICE

Correction

In FR Doc. 78-25769 appearing at page 41128 in the issue for Thursday, September 14, 1978, on page 41130, in the middle column, in the paragraph "MC 69492 (Sub-63F)", in the 14th line, "Hichman, KY" should read "Hickman, KY".

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 349 (Sub-1)]

INCREASED FREIGHT RATES AND CHARGES, 1978, NATIONWIDE

OCTOBER 17, 1978.

In a decision served September 15, 1978, the Commission reopened Ex Parte No. 349, and permitted the Eastern railroads to file a master tariff, subject to protest and possible suspension, providing for the increase of freight rates and charges within Eastern Territory by 3 to 20 percent on 24 SPC groups. The commodities in question are stated by the carriers to be generally transported at marginal or noncompensatory rate levels.

The carriers' proposal was based on the Commission's decision in Ex Parte No. 349, served June 7, 1978, which directed the railroads to "take immediate steps to remedy" the problems regarding commodities transported at below-cost rates. The commodities chosen by the carriers were selected on the basis of Schedule C data submitted in Ex Parte No. 349, which indicated that those commodities produced a revenue/cost ratio of 110 percent or less. The railroads stated that the proposed increases on individual commodities were based on the best judgment of the carriers as to the amount that the rate could be raised without a substantial possibility of diversion or loss of traffic. The carriers also stated that a general rate increase format was used because individual filings were not practicable, nor in conformity with the Commission's June 7 decision.

Several protestants contend that the carriers' proposal is not a general increase, and therefore, should have been docketed for rate bureau handling on an individual commodity basis. At present, mandatory docketing of general increase proposals is not required. Ex Parte No. 297, *Rate Bureau Investigation*, 351 ICC 437. Pursuant to Ex Parte No. 290, *Procedures Governing Rail General Increase Proceedings*, effective January 1, 1978, 49 CFR 1102.1, a general increase is defined as an increase in freight rates or charges, applying to a substantial number of commodities or services, for which the justification is revenue need. This proposal was filed on behalf of substantially all railroads in one of the three primary rate-making territories and applies to a substantial number of commodities. The justification for the proposal is revenue need. We find that this proposal is a general increase under the present X-290 definition.[1]

Several other protestants submit that the Schedule C data is not a proper evidentiary basis for this proposal. Protestants point out that in the June 7 decision in Ex Parte No. 349, the Commission referred the carriers to its discussion of noncompensatory rates in Ex Parte No. 338, *Standards and Procedures For The Establishment of Adequate Revenue Levels*, decision served February 3, 1978. The Commission indicated in that proceeding that a proper resolution of the question of noncompensatory rates "would require a close examination of the costs of individual services, based on reliable cost evidence of the most specific kind." Ex Parte No. 338, *supra*, p. 37.

The quoted passage refers to the so-called "Kearney report" performed for the Commission in support of its evaluation of the 4-R Act. The analysis in the Kearney report relies on a burden study (one-percent waybill study) based on formula methods of cost escalation. In comparison with the Kear-

[1] Whether a more explicit definition of a "general increase" should be adopted will be considered in the reopened Ex Parte No. 290 proceeding. Additionally, we intend in the near future to review our Ex Parte No. 297 finding with regard to handling of general increases.

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ney study, the Schedule C data is much more specific in that it is based upon a traffic study of all carloads handled in line-haul service by each of the 36 Class I railroads, with individual Rail Form A unit costs for each Class I railroad, with certain adjustments, applied to the traffic base. This conforms with the general intent of the Commission in its decision in Ex Parte No. 290 that the Schedule C data reflect known transportation characteristics of each commodity, and, therefore, present an adequate breakdown of each railroads' total revenue and expenses on a commodity by commodity basis, for the purposes of this first attempt to comply with Ex Parte No. 290, *supra*, 351 ICC 544, 569.

The question basically argued is whether the carriers' Schedule C data has been adequately adjusted to reflect actual transportation characteristics of each specified commodity, as required by the X-290 procedures. The possible need for further refinement of the X-290 procedures, particularly Schedule C, was noted in the Commission's June 7 decision in Ex Parte No. 349. Whether Schedule C should be further refined will be considered in the reopened Ex Parte No. 290 proceeding. For purposes of this proceeding, the Schedule C data is an adequate starting point to evaluate the instant proposal.

An extensive record was assembled in the Ex Parte No. 349 proceeding, and an additional record was compiled here. In Ex Parte No. 349, the record indicated that the Eastern railroads expected an additional $242 million in annual revenue from the proposed increase, to partially offset $315 million in increased costs (labor, supply and materials, and other items). The Commission's actions in reducing the proposed increase on bituminous coal from 7 to 4 percent, and further reductions imposed after the investigation in Ex Parte No. 343, *Nationwide Increased Freight Rates and Charges—1977*, decision served June 29, 1978, reduced the anticipated revenue gain to approximately $197 million annually. The proposed increases will yield approximately $23 million annually, and will still fall far short of the increased costs shown of record. Along with other poor financial indicators, we find that the increase is justified from a cost and revenue standpoint.

However, protestants have presented some compelling evidence with regard to certain commodities, and certain of these will be placed under investigation here.

With regard to sanitary paper, a recent 10 percent increase within the East became effective January 28, 1978, but is presently under investigation in Docket No. 36817 (Sub-1), *Sanitary Paper and Related Articles, East, Midwest, and South*, with a decision to be rendered in the near future. In view of this pending proceeding, and indications of record that this commodity may be moving at more than adequate revenue/cost ratios, the proposed 5 percent increase on sanitary paper products is placed under investigation here.

With regard to the proposed 10 percent increases on the recyclable commodities textile waste and paper, waste or scrap, the carriers' Schedule C data conflicts strongly with the Commission's findings in Ex Parte No. 319, *Investigation of Freight Rates for the Transportation of Recyclables or Recycled Commodities*, decision served February 4, 1977. There the Commission found revenue to variable cost ratios on Eastern territory movements of 120 percent for paper waste, and between 114 and 137 percent for textile waste materials. Ex parte No. 319, *supra*, pp. 335, a, v, and y, 337, 388. These two commodities are under investigation in Ex Parte No. 349 and we believe these same recyclable commodities should be placed under investigation here.

With regard to pulpwood logs, a 7 percent increase on this commodity was published by Canadian National Railways and ConRail, respondents in this proceeding, on movements from Wenlock, Vt to Carthage, NY, effective October 24, 1977. This rate is now the subject of a complaint in Docket No. 36896, *St. Regis Paper Company* v. *Canadian National Railways, et al.* In this proceeding a 10 percent increase on pulpwood logs is proposed. The unrebutted evidence of record indicates that the rates on these movements are in the range of 180 percent of variable costs, far above what could be considered a marginal or noncompensatory level. The record also indicates that St. Regis Paper Co. will bear the major portion of this increase. As such, we are ordering that the proposed rate increase on this commodity be suspended, and investigated.

It is ordered:

The proposed 10 percent increase on pulpwood logs (SPC No. 46, STCC No. 24 114), Item 575 of Tariff of Increased Rates and Charges X-349 (Sub-1), is suspended to and incuding May 19, 1979.

The following commodities are placed under investigation. For the convenience of the parties, the Standard Transportation Commodity Code (STCC) associated with the SPC numbers for the commodities under investigation, as set forth in Ex Parte No. 290, *supra*, pp. 628–635, are as follows:

SPC and commodity	STCC No.[1]
46—Pulpwood logs	24 114
63—Sanitary paper products	26 471
	26 472
120—Textile waste	22 941
	22 973
	22 994
	40 22-
121—Paper, waste, or scrap	40 214
	40 24-

[1]The four or five digit STCC numbers referred to also embrace all articles assigned additional digits listed thereunder in STCC Tariff 1-E.

All Eastern railroads subject to Part I of the Interstate Commerce Act are respondents, and as such, they have the burden of proof in this investigation.

This proceeding shall be handled under modified procedure as provided by the Commission's General Rules of Practice, except that 20 copies of all statements submitted shall be filed with the Commission, and that the filing and service of pleadings be as follows.

(a) Opening statements of facts and arguments may be submitted no later than November 16, 1978.

(b) Statements by shippers and other parties to this proceeding may be submitted no later than December 18, 1978.

(c) Reply statements by respondents may be submitted no later than January 8, 1979.

Notice is given that petitions and motions filed with regard to this investigation may be disposed of in the Commission's report. Accordingly, all parties should proceed upon the assumption that the pendency of a petition or motion will not justify any party's failure to comply with the scheduled due date for filing of statements.

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Commission, the carriers will be required to refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with interest as specified in section 15(8)(e). Respondents' master tariff contains an appropriate "Provision for Refund" in the form required by our order served September 15, 1978, with a provision for interest at 6.66 percent.

We direct the carriers' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972*, 341 ICC 288, 336, and *Increased Freight Rates, 1970 and 1971*, 339 ICC 125, 188. In making effective any increases permitted herein, the carriers are required to protect and maintain all existing port relationships, duly established by order of the Commission or recognized customs of the trade, and to observe the prohibitions of the Interstate Commerce Act with regard to unjust discrimination and undue and unreasonable preference and prejudice.

All outstanding orders of the Commission are modified to the extent necessary to permit the proposed increases authorized in this decision to become effective.

On October 5, 1978, the National Association of Recycling Industries, Inc. (NARI) filed a motion to dismiss this general increase proceeding. Essentially, NARI argues that the Commission must refuse to approve any selective increases on recyclables (specifically textile waste and waste paper) in light of the remand issued in Ex Parte No. 319 by the Court of Appeals for the District of Columbia in No. 77-1187, *National Association of Recycling Industries, Inc.* v. *Interstate Commerce Commission*, August 2, 1978. NARI submits that this decision plus section 204 of the 4-R Act prevents any selective, disproportionate, or discriminatory increase on recyclables.

Section 204 of the 4-R Act required the Commission to conduct an investigation of the rate structures with respect to recyclables and virgin materials. That investigation was completed and, as noted by NARI, remanded to the Commission. Neither the statute nor the court decision suggests that the Commission may not authorize future rate adjustments.

However, an investigation is being ordered into the proposed increase on paper waste and textile waste. Most of NARI's other objections are similar to those of other parties—that this proceeding is not a general increase, and objections to the Schedule C data. As discussed earlier in this decision, these arguments are not persuasive, and the motion to dismiss is denied.

ENVIRONMENTAL CONSIDERATIONS

We have, several times in the past, given considerable study to the environmental impacts associated with increased rates for recyclable commodities. Detailed environmental impact statements were prepared for general revenue proceedings in *Ex Parte No. 281, Increased Freight Rates and Changes, 1972*, and *Ex Parte No. 295 (Sub-1), Increased Freight Rates and Changes, 1973*, while an environmental threshold assessment survey was prepared in *Ex Parte No. 318, Increased Freight Rates and Changes, 1976*. These studies concluded that the demand for recyclables was only minimally influenced by changes in freight rates. The most recent comprehensive analysis of the environmental implications of freight rates for recyclables was undertaken in *Ex Parte No. 319, supra*. In that proceeding, an environmental impact statement (EIS) was prepared analyzing (1) whether the rate structure per se has a significant effect on the relative utilization of recyclable and competing virgin materials, and (2) whether general rail freight rate increases have a significant effect on relative utilization.

The EIS in *Ex Parte No. 319* found that transportation costs were not significant factors in determining the relative utilization of recyclable and virgin materials. With respect to waste paper, the EIS found that other factors, such as the supply of virgin fibers, consumer preference, and increasing demand for paper play a greater role in paper recovery than transportation costs and that the demand for scrap paper is relatively unresponsive to price. With respect to textiles, the EIS identified a downward trend in textile recycling caused by shifting consumer preferences for virgin materials, the increased use of synthetic fibers, and a decrease in the supply of usable textile scrap. In view of these factors, the impact of transportation rates on the use of textile scrap was determined to be minimal.

In this proceeding we are again confronted with the issue of what effect a proposed general increase on certain recyclable commodities will have on the quality of the human environment. In view of the extensive environmental record developed in past proceedings and the lack of contradictory evidence in the record in this proceeding, we conclude that not suspending the increases on waste paper and textile waste, and not suspending or investigating certain other commodities, will not have a significant impact on the quality of the human environment.

We will further develop the environmental record, however, in the course of the investigation ordered for the rate increases for the recyclable and other commodities through preparation of an environmental impact statement or threshold assessment, as appropriate.

FOURTH SECTION NO. 20584

Respondent railroads have applied for relief from the provisions of section 4 of the Act necessary to establish the rates and charges originally sought. The increases in rates and charges authorized herein cannot be published and made effective without producing in some instances rates or charges that yield greater compensation in the aggregate for the transportation of the like kind of property for a shorter than for a longer distance over the same line or route in the same direction, or greater compensation as a through rate or charge than the aggregate-of-intermediate rates or charges subject to the Act, in contravention of section 4. The increased cost of railroad operation necessitates the increases in rates and charges involved in this proceeding which cannot be made effective without forth-section relief; that application of the increased charges to or from more distant points will not result in the establishment of rates to or from more distant points that are not reasonably compensatory; that no protestant adequately opposed issuance of the fourth-section relief sought on the ground that it would be adversely affected by the fourth-section departures that may be created by the increased rates; and that a special case has been presented in which the Commission may authorize relief from the provisions of section 4;

Carriers subject to the Interstate Commerce Act and parties to said proceeding be, and they are hereby, authorized to establish and maintain the increased rates and charges described herein without observing the provisions of section 4 of the Act;

Parties to said proceeding be, and they are hereby, authorized to establish and maintain rates and charges permitted to become effective in this order without observing the long-and-short haul provisions of section 4 of the Act in cases arising out of the failure to apply the full increases in rates and charges over interstate routes between points in a single State, in turn caused by the failure of the State authorities to authorize the full increases permitted in this proceeding;

In those instances in which rates in contravention of section 4 are established under authority contained herein, the schedule containing such rates shall make reference to this decision in the manner required by Rule 28 of Tariff Circular No. 20.

AMENDMENT TO SPECIAL PERMISSION NO. 78-4200 AUTHORIZING CERTAIN DEPARTURES FROM THE COMMISSION'S PUBLISHED TARIFF AND ORDERS

It is ordered: Special Permission No. 78-4200 is hereby amended to permit the establishment of the increases in freight rate and charges authorized by the Commission in this decision subject to the terms, conditions, and limitations provided therein.

A copy of this decision will be served on each party to the proceeding in Ex Parte No. 349, on the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Governor of each State. A copy will also be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection. In addition statuto-

ry notice of the substance and procedures in this investigation will be given to the general public by delivering a copy to the Director, Office of

jority noted the significance of coal to our Nation and refused to allow any portion of the Ex Parte No. 349 proposal to become effective unless the

[7035-01-M]

[Notice No. 730]

MC 115826 (Sub-306F), W. J. Digby, Inc., is assigned for hearing November 20, 1978 at Chicago, IL, (1 day) in a hearing room to be later designated.

MC 144400F, Bi-Rite Auto Transport, Inc., now being assigned for hearing on November 20, 1978 at Chicago, IL, (1 day) in a hearing room to be later designated.

MC 115826 (Sub-306F), W. J. Digby, Inc., is assigned for hearing November 20, 1978 at San Francisco, CA, in a hearing room to be later designated.

MC 144400F, Bi-Rite Auto Transport, Inc., now being assigned for hearing on November 20, 1978 at San Francisco, CA, in a hearing room to be later designated.

MC 136981 (Sub-8F), Blair Cartage, Inc., is assigned for hearing on December 11, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

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ry notice of the substance and procedures in this investigation will be given to the general public by delivering a copy to the Director, Office of the Federal Register, for publication.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Vice Chairman Christian dissenting in part. Commissioner Gresham concurring in part and dissenting in part.

H. G. HOMME, Jr.,
Acting Secretary.

Vice Chairman Christian, dissenting in part:

I disagree with the majority decision to the extent that it orders suspension and/or investigation of individual commodities. I detect no reason for tampering with the increases on these commodities.

In the case of the recyclables, there is no indication that the resulting rates would be unreasonably high. The same statement holds true for the sanitary paper rates regardless of the pending investigation proceeding. The rates on pulpwood logs are already subject to investigation by virtue of the complaint filed by St. Regis Paper Co. Any rate relief which may be needed can be ordered in the complaint proceeding.

To meet our obligations under the law, I believe that we must give significant rate flexibility to the railroads. We must resist the temptation of placing the heavy hand of regulation on carrier efforts to improve their financial condition. I am not prepared to tinker with carrier rate initiatives unless market dominance is apparent or there is a likelihood that the sections of the Act prohibiting unjust discrimination or undue preference and prejudice would be violated.

Commissioner Gresham, concurring in part and dissenting in part:

I am in agreement with the majority's decision to authorize additional increases and to place under investigation the increased rate levels for certain commodities currently subject to formal proceedings. I am not in agreement with the decision to suspend the increase on pulpwood logs. I would allow that increase to become effective pending the investigation.

I have difficulty, however, reconciling the majority's reasoning here with that previously espoused in Ex Parte No. 349, *Increased Freight Rates and Charges, 1978, Nationwide,* served June 7, 1978. In the earlier decision, a majority concluded that a higher level of increases on selected commodities (coal traffic) could not be authorized. The majority's rationale was that specific commodities could not be singled out for disproportionate treatment in an across-the-board increase. The majority noted the significance of coal to our Nation and refused to allow any portion of the Ex Parte No. 349 proposal to become effective unless the increase on coal was cut back to 4 percent. That decision did not contain any findings that the proposed increase would place the rates for specific movements of coal or for coal in general above the zone of reasonableness. Revenue need was not deemed an adequate basis for the additional 3 percent increase proposed by the railroads.

In the instant decision, the majority is permitting selective increases upon the same record that it earlier judged inadequate to support such a measure. I am at a loss to explain to the shipping public this discrepancy. I would emphasize my belief, though, that the kind of rate flexibility contemplated by today's action is essential if the financial plight of eastern carriers is to be improved.

[FR Doc. 78-29685 Filed 10-19-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 731]

ASSIGNMENT OF HEARINGS

OCTOBER 17, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

CORRECTION

MC 144741 (sub-1F), Nettleton Enterprise Co., Inc., d.b.a. Norwood Transport, now being assigned for hearing on Novemer 20 1978 (2 days), at Chicago, IL, instead of November 21, 1978 location hearing room to be later designated.

H. G. HOMME, Jr.,
Acting secretary.

[FR Doc. 78-29686 Filed 10-19-78; 8:45 am]

[7035-01-M]

[Notice No. 730]

Assignment of Hearings

OCTOBER 17, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 123407 (Sub-417), Sawyer Transport, Inc., now being assigned for hearing on November 1, 1978, (3 days), in room 430, Federal Building, 5th Avenue and 19th Street, North, Birmingham, AL.

MC 56637 (Sub-14F), R.C.A. Truck Lines, Inc., now being assigned for hearing November 28, 1978, (3 weeks), at Chattanooga, TN, in a hearing room to be later designated.

MCC 10094, International Brotherhood of Teamsters, Chauffers, Warehousemen & Helpers Of America versus Akers Motor Lines, Inc., et al., now assigned for hearing on October 31, 1978, at Washington, DC, is canceled and reassigned for prehearing conference on October 31, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 141076 (Sub-16F), Rogers Motor Lines, Inc., now being assigned for hearing on December 4, 1978, (2 days), at New York, NY, in a hearing room to be later designated.

MC 138144 (Sub-27F), Fred Olson Co., Inc., now assigned December 6, 1978 (3 days), at Denver, CO, is canceled and reassigned to Chicago, IL, in a hearing room to be later designated.

MC-C-9361, Central Motors Express, Inc., et al., versus Smith's Transfer Corp. now assigned November 14, 1978 (2 days) at Frankfort, KY, in the conference room, 4th floor, State Office Building.

MC 142059 (Sub-30F), Cardinal Transport, Inc., now being assigned for hearing on December 5, 1978, (1 day), at Chicago, IL, in a hearing room to be later designated.

MC-F-13486, Witte Transportation Co.—Purchase (portion), Scott's Transportation Service, Inc., now being assigned for hearing on December 11, 1978, (5 days), at Chicago, IL, in a hearing room to be later designated.

MC 125996 (Sub-54), Road Runner Trucking, Inc., is assigned for hearing October 16, 1978 at Des Moines, IA, in Room 453, Federal Building, 210 Walnut Street.

MC 135874 (Sub-116F), Ltl Perishables, Inc., is assigned for hearing October 20, 1978 at Des Moines, IA, in Room 453, Federal Building, 210 Walnut Street.

MC 141922 (Sub-2F), A. B. Mini Bus Tours, Inc., now being assigned for hearing on December 6, 1978, (3 days), at New York, NY, in a hearing room to be later designated.

MC 115826 (Sub-306F), W. J. Digby, Inc., is assigned for hearing November 20, 1978 at Chicago, IL, (1 day) in a hearing room to be later designated.

MC 52657 (Sub-742), Arco Auto Carriers, Inc., now assigned for hearing November 20, 1978 at Chicago, IL, (2 days), is canceled and application dismissed.

MC 25798 (Sub-302), Clay Hyder Trucking Lines, Inc., is assigned October 19, 1978 at Washington, DC, is canceled and application dismissed.

MC 129387 (Sub-57F), Payne Transportation, Inc., now assigned November 14, 1978 (1 day) at St. Louis, MO, in a hearing room to be later designated.

MC 9812 (Sub-9F), C. F. Kolb Trucking Co., Inc., now assigned November 20, 1978 (2 days) at St. Louis, MO, in a hearing room to be later designated.

MC 56637 (Sub-14F), R.C.A. Truck Lines, Inc., now assigned for hearing on November 28, 1978, at Chattanooga, TN, is postponed to January 9, 1979 (14 days), at Chattanooga, TN, in a hearing room to be later designated.

MC 115826 (Sub-308F), W. J. Digby, Inc., now assigned for hearing on October 18, 1978, at Denver, CO, is canceled and transfered to modified procedure.

MC 125433 (Sub-144F), F-B Truck Line Co., now being assigned for hearing on January 9, 1979, (1 day), at Los Angeles, CA, in a hearing room to be later designated.

MC144581F, Harvey Hayes, an individual d.b.a. Hayes, Trailer Transport, now being assigned for hearing on January 10, 1979, (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 2890 (Sub-54F), American Buslines, Inc., now being assigned for hearing on January 15, 1979, (1 week), at Los Angeles, CA, in a hearing room to be later designated.

MC 138882 (Sub-32), Wiley Sanders, Inc., now being assigned for hearing on January 24, 1979, (1 day), at Birmingham, AL, in a hearing room to be later designated.

MC 120257 (Sub-41), K. L. Breeden & Sons, Inc., now being assigned for hearing on January 25, 1979, (2 days), at Birmingham, AL, in a hearing room to be later designated.

MC 136828 (Sub-26F), Cook Transports, Inc., now being assigned for hearing on January 29, 1979, (1 week), at Birmingham, AL, in a hearing room to be later designated.

MC 61231 (Sub-122F), Easter Enterprises, Inc., d.b.a. Ace Lines, Inc., now assigned December 13, 1978 at Denver, CO, (3 days) in Room C-503, U.S. Courthouse, 1929 Stout Street.

MC 123872 (Sub-81F), W & L Motor Lines, Inc., now assigned December 11, 1978 (2 days) in Denver, CO, in Room C-503, U.S. Courthouse, 1929 Stout Street.

MC 121783 (Sub-2F), West-Pak, Inc., transferred to modified procedure.

MC 116254 (Sub-108) MI, Chem-Haulers, Inc., now being assigned for hearing on January 15, 1979, at the offices of the Interstate Commerce Commission, Washington, DC, continued to February 12, 1979 (2 weeks), at Nashville, TN, in a hearing room to be later designated, and continued to April 2, 1979, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 113908 (Sub-421), Erickson Transport Corp., now being assigned for continued hearing on December 4, 1978 (13 days), at San Francisco, CA, in a hearing room to be later designated.

MC 144400F, Bi-Rite Auto Transport, Inc., now being assigned for hearing on November 28, 1978 (4 days), at San Francisco, CA, in a hearing room to be later designated.

MC 77972 (Sub-30), Merchants Truck Line, Inc., now being assigned for hearing on October 25, 1978 (3 days), at the Holiday Inn (Rhodes room), Junction Hwy 78 and 45, Tupelo, MS and continued to October 30, 1978 (2 days), at the Sheraton Inn-Downtown, 300 North 10th Street, Birmingham, AL.

MC 97310 (Sub-25), Sharron Motor Lines, Inc., now being assigned for hearing on November 1, 1978 (3 days), at Birmingham, AL, in a hearing room to be later designated.

MC 103051 (Sub-426F), Fleet Transport Co., Inc., MC 103051 (Sub-429F), Fleet Transport Co., Inc., MC 111302 (Sub-123F), Highway Transport, Inc., and MC 124078 (Sub-791F), Schwerman Trucking Co., now being assigned for hearing on November 28, 1978 (1 day), at Nashville, TN, in a hearing room to be later designated.

MC-F-13546, Harper Truck Service, Inc.,—Purchase (portion)—F & W Express, Inc., now being assigned for hearing on December 4, 1978 (1 week), at Paducah, KY, in a hearing room to be later designated.

MC-C-10073, 88 Transit Lines, Inc., versus Fullington Auto Bus Co., Inc., now being assigned for hearing on December 5, 1978, (1 day), at Pittsburgh, PA, in a hearing room to be later designated.

MC 121412 (Sub-6), Suburban Lines, Inc., now being assigned for hearing on December 6, 1978 (3 days), at Pittsburgh, PA, in a hearing room to be later designated.

MC 135874 (Sub-104F), LTL Perishables, Inc., now assigned December 6, 1978 (1 day) at St. Paul, MN, in a hearing room to be later designated.

MC 119726 (Sub-131F), N.B.A. Trucking Co., now being assigned for hearing on January 9, 1979, (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 111401 (Sub-521F), Groendyke Transport, Inc., now being assigned for hearing on January 10, 1979 (3 days), at Chicago, IL in a hearing room to be later designated.

MC 133233 (Sub-57), Clarence L. Werner, d.b.a. Werner Enterprises, now being assigned for hearing on January 15, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.

MC F13586, Sawyer Transport, Inc.—Control—Warsaw Trucking, Co. Inc., now being assigned for hearing on January 17, 1979 (3 days), at Chicago, IL, in a hearing room to be later designated.

MC 135078 (Sub-23F), American Transport, Inc., now being assigned for hearing on January 23, 1979 (1 day), at Atlanta, GA, in a hearing room to be later designated.

MC 138157 (Sub-65F), Southwest Equipment Rental, Inc., d.b.a. Southwest Motor Freight, now being assigned for hearing on January 24, 1979 (1 day), at Atlanta, GA, in a hearing room to be later designated.

MC 109397 (Sub-405F), Tri-State Motor Transit Co., now being assigned for hearing on January 25, 1979 (2 days), at Atlanta, GA, in a hearing room to be later designated.

MC-C-10145, Dart Truck Co., Inc., et al., versus Nick Strimbu, Inc., now being assigned for hearing on December 11, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 136981 (Sub-6F), Blair Cartage, Inc., now being assigned for hearing on December 12, 1978 (1 day), at Columbus, OH, in a hearing room to be later designated.

MC 115654 (Sub-68F), Tennessee Cartage Co., Inc., now being assigned for hearing on December 13, 1978 (3 days), at Columbus, OH, in a hearing room to be later designated.

MC 56679 (Sub-94), Brown Transport Corp., now being assigned for hearing on January 29, 1979 (1 day), at Miami, FL, in a hearing room to be later designated.

MC 144343F, Florida Car Transport, Inc., now being assigned for hearing on January 30, 1979 (1 week), at Miami, FL, in a hearing room to be later designated.

MC 19227 (M1F), Leonard Bros. Trucking Co., Inc., now assigned November 28, 1978, at Washington, DC, is canceled and reassigned to November 28, 1978 (4 days) at Miami, FL, in a hearing room to be later designated.

MC 114569 (Sub-207), Shaffer Trucking, Inc., is assigned for hearing December 4, 1978, at Los Angeles, CA, and will be held at Room 323, Court House, 312 North Spring Street.

MC 135874 (Sub-114) LTL Perishables, Inc., now assigned December 6, 1978 (1 week) at St. Paul, MN, is postponed indefinitely.

MC 113678 (Sub-713), Curtis, Inc., is assigned for hearing December 11, 1978, at Los Angeles, CA, and will be held in Room 323, Court House, 312 North Spring Street.

MC 129857 (Sub-4), GRM Inc., d.b.a. Port Terminal Transport, Inc., is assigned for hearing December 6, 1978, at Los Angeles, CA, and will be held in Room 323, Court House, 312 North Spring Street.

MC 124211 (Sub-320F), Hilt Truck Line, Inc., is assigned for hearing December 4, 1978, at Los Angeles, CA, and will be held at Room 323, Court House, 312 North Spring Street.

MC 128273 (Sub-286F), Midwestern Distribution, Inc., is assigned for hearing December 4, 1978, at Los Angeles, CA, and will be held at Room 323, Court House, 312 North Spring Street.

MC 134460 (Sub-10), Market Express, Inc., is assigned for hearing November 29, 1978, at Los Angeles, CA, and will be held at Room 323, Court House, 312 North Spring Street.

MC 125996 (Sub-56F), Road Runner Trucking, Inc., is assigned for hearing November 28, 1978, at Los Angeles, CA, and will be held at Room 323, Court House, 312 North Spring Street.

MC 115826 (Sub-301F), W. J. Digby, Inc., is assigned for hearing November 28, 1978, at Room C-503, U.S. Courthouse, 1929 Stout Street.

MC 144506F, Koller Petroleum Products, Inc., now assigned January 10, 1979, at Madison, WI (3 days) in a hearing room to be later designated.

MC 2890 (Sub-54F), American Buslines, Inc., now being assigned for hearing on January 15, 1979 (5 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 144581F, Harvey Hayes, an individual, d.b.a. Hayes Trailer Transport, now being assigned for hearing on January 10, 1979 (3 days), at Los Angeles, CA, in a hearing room to be later designated.

MC 125433 (Sub-144F), F-B Truck Line Co., now being assigned for hearing on January 9, 1979 (1 day), at Los Angeles, CA, in a hearing room to be later designated.

and Tariff No. CA/PC-1, ICC No. 41, to become effective November 10, 1978. Grounds for relief: Water competition.

vehicles), from Robinson, IL, to Princeton, LA, for 180 days. Supporting shipper: Ethyl Corp., 451 Florida, Baton Rouge, LA 70801. Send protests

Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

10, thence over Interstate Hwy 10 to New Orleans and return over the same route, for 180 days. Supporting ship-

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

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MC 125433 (Sub-144F), F-B Truck Line Co., now being assigned for hearing on January 9, 1979 (1 day), at Los Angeles, CA, in a hearing room to be later designated.
MC 120257 (Sub-41), K. L. Breeden & Sons, Inc., now being assigned for hearing on January 25, 1979 (2 days), at Birmingham, AL, in a hearing room to be later designated.
MC 136828 (Sub-26F), Cook Transports, Inc., now being assigned for hearing on January 29, 1979 (1 week), at Birmingham, AL, in a hearing room to be later designated.
MC 138882 (Sub-32), Wiley Sanders, Inc., now being assigned for hearing on January 24, 1979 (1 day), at Birmingham, AL, in a hearing room to be later designated.
MC F13586, Sawyer Transport, Inc.—Control—Warsaw Trucking Co., Inc., now being assigned for hearing on January 17, 1979 (3 days), at Chicago, IL, in a hearing room to be later designated.
MC 119726 (Sub-131F), N.A.B. Trucking Co., Inc., now being assigned for hearing on January 9, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.
MC 111410 (Sub-521F), Groendyke Transport, Inc., now being assigned for hearing on January 10, 1979 (3 days), at Chicago, IL, in a hearing room to be later designated.
MC 133233 (Sub-57), Clarence L. Werner, d.b.a. Werner Enterprises, now being assigned for hearing on January 15, 1979 (2 days), at Chicago, IL, in a hearing room to be later designated.
MC 135078 (Sub-23F), American Transport, Inc., now being assigned for hearing on January 23, 1979 (1 day), at Atlanta, GA, in a hearing room to be later designated.
MC 138157 (Sub-65F), Southwest Equipment Rental, Inc., d.b.a. Southwest Motor Freight, now being assigned for hearing on January 24, 1979 (1 day), at Atlanta, GA, in a hearing room to be later designated.
MC 109397 (Sub-405F), Tri-State Motor Transit Co., now being assigned for hearing on January 25, 1979 (2 days), at Atlanta, GA, in a hearing room to be later designated.
MC 135797 (Sub-97), J. B. Hunt Transport, Inc., now assigned December 8, 1978, at Los Angeles, CA (1 day), in Room 323, Court House, 312 North Spring Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29688 Filed 10-19-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 17, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43613, Seatrain International, S.A., No. 23, intermodal rates on general commodities in containers, between rail terminals at ports in CA and ports in Central America, by way of New Orleans, LA, and Houston, TX, in its Tariff No. PC/CA-1, ICC No. 40, and Tariff No. CA/PC-1, ICC No. 41, to become effective November 10, 1978. Grounds for relief: Water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29687 Filed 10-19-78; 8:45 am]

[7035-01-M]

[Notice No. 196]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 11, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 50069 (Sub-536TA), filed August 22, 1978. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, OH 43616. Representative: William P. Fromm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Methyl Napthalene* (in bulk, in tank vehicles), from Robinson, IL, to Princeton, LA, for 180 days. Supporting shipper: Ethyl Corp., 451 Florida, Baton Rouge, LA 70801. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 51146 (Sub-625), filed August 16, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), when moving on bills of lading of Sheldon Forwarding Co. or United Freight Forwarders, Inc. (both freight forwarders), from Holyoke, MA, to points in IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Sheldon Forwarding Co., 170 Main Street, Holyoke, MA 01040 (William H. Clausen). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-626), filed August 16, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets and vanities and materials, equipment, and supplies* utilized in the manufacture and distribution of kitchen cabinets and vanities (1) from Adrian, ME to points in AR, CO, IL, IA, KS, LA, MN, MO, NE, ND, OK, SD, TX, and WI; and (2) from Lakeville, MN, to points in CO, IL, IA, KS, MI, MO, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Merillat Industries, Inc., 2075 Beecher Road, Adrian, MI 49221 (Donald E. Corbin). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-627), filed August 16, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298,

Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers* from Winston-Salem, NC, to Oklahoma City and Tulsa, OK, and Dallas, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: National Can Corp., 8101 West Higgins Road, Chicago, IL 60631 (Ron McDougald). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 51146 (Sub-632TA), filed August 22, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles, plastic containers, plastic articles and materials, equipment, and supplies* used in the manufacture, sale, and distribution of the foregoing commodities, between the facilities of Owens-Illinois at Havre de Grace, MD, and Birmingham, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. (Jack R. Simmons). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 59488 (Sub-43TA), filed August 18, 1978. Applicant: SOUTHWESTERN TRANSPORTATION CO., P.O. Box 6187, 7600 South Central Expressway, Dallas, TX 75222. Representative: Lloyd M Roach, 7600 South Central Expressway, P.O. Box 226187, Dallas, TX 75266. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, and New Orleans, LA, serving no intermediate points, and serving New Orleans, LA, for the purpose of interchange only: From Memphis over Interstate Hwy 55 to junction Interstate Hwy 12, then over Interstate Hwy 55 (U.S. 51) to junction Interstate Hwy 10, thence over Interstate Hwy 10 to New Orleans and return over the same route, for 180 days. Supporting shipper: Southern Pacific Transport Co. of Texas and Louisiana, 7600 South Central Expressway, P.O. Box 226187, Dallas, TX 75266. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 60186 (Sub-54TA), filed August 16, 1978. Applicant: NELSON FREIGHTWAYS, INC., 47 East Street, P.O. Box 356, Rockville, CT 06066. Representative: Clifford J. O. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets and vanities, component parts, accessories and equipment therefor*, from the plant site and storage facilities of Yorketowne, a division of the Wickes Corp., located at or near Red Lion and Mifflinburg, PA, to Wickes Lumber and Building Supply Centers located in the States of DE, MD, NJ, NY, and VT, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wickes Lumber, division of the Wickes Corp., 515 North Washington Avenue, Saginaw, MI 48607. Send protests to: J. D. Perry, Jr., Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

MC 70083 (Sub-32TA), filed August 16, 1978. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08002. Representative: Richard Rueda, Esq., 133 North Fourth Street, Philadelphia, PA 19106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies apparel wear and store supplies*, except in bulk, (1) from the facilities of the Miller-Wohl Co., Inc., at Secaucus, NJ to the facilities of or utilized by the Miller-Wohl Co., Inc., at or near Cleveland, OH and Detroit, MI and their respective commercial zones; (2) from the facilities of or utilized by the Miller-Wohl Co., Inc., at or near Cleveland, OH and its commercial zone, to the facilities of or utilized by the Miller-Wohl Co., Inc., at or near Detroit, MI and its commercial zone, for 180 days. Supporting shipper: The Miller-Wohl Co., Inc., 915 Secaucus Road, Secaucus, NJ 07094. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 70083 (Sub-33TA), filed August 16, 1978. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08002. Representative: Richard Rueda, Esq., 133 North Fourth Street, Philadelphia, PA 19106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies apparel wear and store supplies*, except in bulk, from the facilities of Petrie Stores Corp. at Secaucus, NJ, to the facilities of or utilized by Petrie Stores Corp., at or near Cleveland, OH and Detroit, MI, and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Petrie Stores Corp., 70 Enterprise Avenue, Secaucus, NJ 07094. Send protests to: John P. Lynn, Transportation Specialist, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 72069 (Sub-15TA), filed August 17, 1978. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Preston, Federalsburg, Cambridge, and Queen Anne, MD; and Cheriton, Parksley, and Hallwood, VA, to points in NC, SC, AL, GA, FL, KY, LA, TN, and TX, for 180 days. Supporting shipper(s): Gerald Hudson, Traffic Manager, A. W. Sisk & Son, Inc., Preston, MD 21655. (2) James E. Langford Sales Manager, KMC Foods, Inc., P.O. Box 298, Queen Anne, MD 21657. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 77061 (Sub-13TA), filed August 22, 1978. Applicant: SHERMAN BROS., INC., P.O. Box 706, 90129 Prairie Road, Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery and iron and steel articles*, between points in Lane and Jackson Counties, OR, on the one hand, and, on the other, points in CA on and north of Mendocino, Glenn, Butte, Plumas, and Lassen Counties, for 180 days. Supporting shipper(s): There are approximately (11) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest, Yamhill Street, Portland, OR 97204.

MC 83539 (Sub-505TA), filed August 22, 1978. Applicant: C & H TRANS-

PORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. *including component parts of such buildings when shipped therewith*, from the facilities of INRYCO at or

MC 108380 (Sub-96TA), filed August 17, 1978. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, New-

MC 114273 (Sub-457TA), filed August 22, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Repre-

75941. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, At-

House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 121300 (Sub-4TA), filed August

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PORTATION CO., INC., 9757 Military Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Gypsun wallboard, lath and plaster*, from points in Clark County, NV, to points in AZ, CA, and UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flintkote Co., 2201 East Washington, Los Angeles, CA 90051. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 94350 (Sub-413TA), filed August 22, 1978. Applicant: TRANSIT HOMES, INC., Haywood Road at Transit Drive, P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Oxford County, ME, to points in CT, MA, NH, NY, RI and VT, for 180 days. Supporting shipper: Oxford Homes, Route 26, Oxford, ME 04270. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 95084 (Sub-125TA), filed August 17, 1978. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, 611 Church Street, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and machinery, agricultural implement and machinery parts and accessories, and materials, equipment and supplies*, between Graettinger, IA, on the one hand, and, on the other, points in the United States, in and east of MN, IA, MO, AR, and LA, for 180 days. Supporting shipper: Shaver Manufacturing Co., P.O. Box 358, Graettinger, IA 51342. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 106398 (Sub-829TA), filed August 22, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, complete knocked down, or in sections, including component parts of such buildings when shipped therewith*, from the facilities of INRYCO at or near Cullman, AL, to points in OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: INRYCO, P.O. Box 393, Milwaukee, WI 53201. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW, Third, Oklahoma City, OK 73102.

MC 106398 (Sub-830TA), filed August 22, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., P.O. Box 3329, 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Iron and steel articles*, from the facilities of EBAA Iron, Inc., at or near Eastland and Frisdo, TX, to AL, GA, DE, CT, MD, MA, NC, NY, NJ, PA, SC, TN, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: EBAA, Inc., Route 2, TX 76448. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW, Third, Oklahoma City, OK 73102.

MC 107107 (Sub-470TA), filed August 22, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., P.O. Box 425, 12805 Northwest 42d Avenue, Opa Locka, FL 33054. Representative: Ford W. Sewell, 12805 Northwest 42d Avenue, Opa Locka, FL 33054. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, comodities in bulk, those requiring special equipment and foodstuffs), between points in an south of the FL counties of Orange, Polk, Brevard, Pinellas, and Hillsborough, and Lake Mary, FL, for 180 days. There is no environment impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (21) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Insterstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

MC 108380 (Sub-96TA), filed August 17, 1978. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, Newcastle, WY 82701. Representative: Truman A. Stockton, Jr., The 1650 Grant Street, Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aggregates, including sand, gravel and crushed limestone*, from Pennington, Custer and Fall River Counties, SD, to Croos, Weston, Campbell, Sheridan, and Johnston Counties, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Campbell County Concrete, Box 1136, Gillette, WY 82716. (2) Reeves, Inc., Box 610, Buffalo, NY. 82834. Send protests to: Paul A. Naughton District Supervisor, Interestate Commerce Commission, 105 Federal Building and U.S. Court House, 111 South Wolcott, Casper, WY 82601.

MC 109818 (Sub-31TA), filed August 22, 1978. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, 3909 West Rusholme, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Midwest Steel Division, National Steel Corp., at or near Portage, IN, to points in NE, and from Chicago, IL, to points in NE, for 180 days. Supporting shippers: There are approximately (5) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114045 (Sub-508TA), filed August 22, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, Beltline Road, Dallas, TX 75261. Representative: J.B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials and chemicals* (other than bulk, in tank vehicles), from Freehold, NJ, and New Brunswick, NJ, to points in CA., restricted to traffic originating at the named origin and destined to points within the named destination, for 180 days. Supporting shipper: Ciba-Geigy Corp., Ardsley, NY 10502. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 114273 (Sub-457TA), filed August 22, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue SW., Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Battery boxes, covere or vents, rubber and plastic and parts thereof*, from Indianapolis, IN, to Kansas City and St. Joseph, MO, and Salina, and Kansas City, KS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Richardson Co., 2701 Lake Street, Melrose Park, IL 60160. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114604 (Sub-56TA), filed August 22, 2978. Applicant: CAUDELL TRANSPORT, INC., Building 33 State Farmers Market, P.O. Drawer 1, Forest Park, GA 30050. Representative: Frank D. Haull, Postell & Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, as described in section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, from the facilities of Dixie Packers, Inc., at or near Madison, FL, to the facilities of Winn-Dixie Stores at Montgomery, AL; Atlanta, GA; Louisville, KY; New Orleans, LA; Raleigh, NC; Charlotte, NC; Greenville, SC, and Fort Worth, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dixie Packers, Inc., P.O. Box 622, Madison, FL 32340. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115311 (Sub-302TA), filed August 22, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Mark C. Ellison, Watkins & Daniell, P.O. Box 872, Atlanta, GA 31061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard and particleboard*, from the facilities of Temple Industries, Inc., at or near Diboll and Pineland, TX, to points in OK, KS, MO, AR, AL, LA, and MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Temple Industries, Inc., P.O. Drawer N, Diboll, TX, 75941. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 115931 (Sub-67TA), filed August 22, 1978. Applicant: BEE LINE TRANSPORTATION, INC., P.O Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and tubing, and fittings and accessories therefor*, from Footville, WI, to points in IA, MN, MO, NE, ND, and SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Triangle Pipe & Tube Co., Inc., P.O. Box 711, New Brunswick, NJ 08903. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 117119 (Sub-700TA), filed August 22, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, P.O. Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from Lake City, PA, to Burley and Boise, ID, and Ontario, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ore-Ida Foods, Inc., P.O Box 10, Boise, ID 83707. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol,.Little Rock, AR 72201.

MC 120427 (Sub-19TA), filed August 17, 1978. Applicant: WILLIAMS TRANSFER, INC., 2128 East Highway 30, P.O Box 488, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain storage, drying and handling equipment and items* used in the manufacture of grain storage, drying and handling equipment, from points in the United States (except AK and HI), to Winnie, TX, restricted to traffic destined to the storage facilities utilized by Keniry Agri-Systems at or near Winnie, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roger Keniry, President,. Keniry Agri-Systems, Winnie, TX 77665. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 121300 (Sub-4TA), filed August 22, 1978. Applicant: HARRIS TRANSPORTATION CO., 14880 Love's Lane, Victorville, CA 92392. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude talc* (in bulk), from points in Inyo County, CA, to San Diego, CA, and the Dunn Rail Siding and Field Rail Siding, both of which are near Yermo, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Minerals Corp., 1700 East Desert Inn Road, Las Vegas, NV 89109. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 123023 (Sub-8TA), filed August 18, 1978. Applicant: DI PIETRO TRUCKING CO., 2201 Sixth Avenue South, Seattle, WA 98134. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine and malt beverages*, from Van Nuys, Fairfield, and Los Angeles, CA, and from points in Los Angeles, Madera, Napa, San Francisco, Sanoma, Santa Clara, and San Joaquin Counties, CA, to Everett, Mount Vernon, Burlington, and Bellingham, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Friendly Distributors, Inc., 2202 Wall Street, Everett, WA 98201. (2) Bell Rainier Distributors, Inc., P.O. Box 459, Bellingham, WA 98255. (3) Skagit-Northwest Dist., Co., Inc., 735 Fairhaven, Burlington, WA 98233. (4) Van Gasken Dist., Inc., 1005 West Hazel Street, Mount Vernon, WA 98273. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 127539 (Sub-69TA), filed August 22, 1978. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, WA 9804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from points in CA to points in OR and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers:

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There are approximately 20 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 133314 (Sub-3TA), filed August 22, 1978. Applicant: SILVAN TRUCKING CO., INC., Rural Route 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed* (except in bulk), from facilities of Kal Kan Foods, Inc., in Sherburne, NY, to points in the United States east of the Mississippi River, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 136258 (Sub-5TA), filed August 22, 1978. Applicant: HARDING TRUCKING, INC., P.O. Box 65, Whiting, IA 51063. Representative: D. Douglas Titus, Titus, Holman & Myers, Suite 510, Benson Building, Sioux City, IA 51101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides* (in dump vehicles), from the facilities of Iowa Beef Processors, Inc., at or near Luverne, MN, to Dakota City, NE, under a continuing contract, or contracts, with Iowa Beef Processors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert E. Gillespie, Manager, Rates and Regulatory Affairs, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 136318 (Sub-52TA), filed August 17, 1978. Applicant: COYOTE TRUCK LINE, INC., 5367 West 86th Street, Indianapolis, IN 46268. Representative: David R. Parker, 1600 Broadway, 2310 Colorado State Bank Building, Denver CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furnishings*, from points in MS to Phoenix and Tucson, AZ; El Cajon, Fresno, Garden Grove, Los Angeles, Richmond, Sacramento, San Jose and San Leandro, CA; Las Vegas, NV, and Portland, OR. Restrictions: (1) restricted to traffic destined to the facilities of Montgomery Ward; and (2) restricted to traffic moving under a continuing contract, or contracts, with Montgomery Ward, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Montgomery Ward, 535 West Chicago Avenue, Chicago, IL 60671. Send protests to: Terrell Price, District Supervisor, Interstate Comerce Commission, Room CC-516, Mart Office Building, 800 Briar Creek Road, Charlotte, NC 28205.

MC 138313 (Sub-40TA), filed August 16, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, MT 59404. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation*, from ports of entry on the United States-Canada boundary line located in MT and ID to WY, UT, ID, MT, ND, and SD, restricted against the transportation of commodities in bulk; restricted to the transportation of traffic originating in foreign commerce. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Edwin L. Routt, Thermo-Spray NW., P.O. Box 6146, Portland, OR 97206. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 139457 (Sub-7TA), filed August 22, 1978. Applicant: G. L. SKIDMORE, d.b.a. JELLY SKIDMORE TRUCKING CO., P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and preserved foodstuffs*, and; (2) *canned and packaged animal food*, from the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, to points in LA, under a continuing contract, or contracts, with Campbell Soup (Texas), Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Campbell Soup (Texas), Inc., Paris, TX 75460. Send protests to: Opal M. Jones Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 139858 (Sub-26TA), filed August 17, 1978. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Avenue, Hamilton, OH 45015. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic plumbing fixtures and plumbers' fittings, and materials, supplies and equipment* used in the manufacture and distribution thereof, from Walden, GA, to points in IL, IN, OH, WV, MI, KY, and PA Restriction: The operations above, if authorized, are subject to the following conditions: (1) Said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with American Standard Inc., of New Brunswick, NJ (2) the product description does not include commodities which because of their size or weight require the use of special equipment, for 180 days. Supporting shipper: American Standard, Inc., Gregory J. Decker, Manager-Rates, P.O. Box. 2003, New Brunswick, NJ 08903. Send protets to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 140829 (Sub-128TA), filed August 8, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and materials, equipment and supplies* used by manufacturers and distributors of chemicals (except in bulk, in tank vehicles), from Syracuse, NY; North Claymont and Atlas Point, DE; Warners and Linden, NJ; Hopewell, VA; Cleveland, OH; Belle, WV; Baltimore, MD; Chicago Heights, IL; Woodstock, TN, and Philadephia, PA, to Berkeley, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Michael G. Graf, Administrative Manager, McKesson Chemical Co., 8925 Seeger Industrial Drive, Berkeley, MO 63134. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th Street, Omaha, NE 68102.

MC 142364 (Sub-4TA), filed August 8, 1978. Applicant: KENNETH SAGELY, d.b.a. SAGELY PRODUCE, P.O. Box 368, 2802 Kibler Road, Van Buren, AR 72956. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fencing, fencing materials, wire, and wire products*, from the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR, to points in AR, CA, CO, CT, DE, FL, ID, MD, MI, MN, MT, NV, NJ, NE, NM, NY, NC, ND, OR, PA, RI, SC, SD, UT, VA, WA, WV, WI, and WY; and (2) *Steel rods*, from the facilities of Georgetown Steel Co., at or near Beaumont, TX, to the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR; and (3) *Steel wire carriers*, from all points in the United States (except AR, AK, and HI), to the facilities of Bekaert Steel Wire Corp., at or near Van Buren, AR, for 180 days. Supporting shipper: Bekaert Steel Wire Corp., I-40 and Lee Creek Road, Van Buren, AR 72956. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142516 (Sub-12TA), filed August 16, 1978. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamps, lighting fixtures and materials, equipment and supplies* used in the manufacture and sale of lamps and lighting fixtures (except commodities in bulk) between the facilities of North American Philips Lighting Co., located at or near Essex County, MA, Hammond, IN, South Brunswick and Hightstown, NJ, on the one hand, and, on the other, points in the United States (except AL and HI) under a continuing contract or contracts with North American Philips Lighting Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: North American Philips Lighting Co., Bank Street, Hightstown, NJ 08520. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 143687 (Sub-6TA), filed August 22, 1978. Applicant: DAVID DALE TRANSPORT, INC., 2 Franklin Street, West Medway, MA 02053. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles (except in bulk) and cushioned envelopes*, from Hyannis, MA, to points in DE, IN, KS, KY, MI, MS, NJ, NY, PA, TN, and WI; and (2) *Equipment, materials, and supplies* used in the manufacture and distribution of plastic articles and cushioned envelopes (except in bulk), from the above-named destinations to the above-named origin, under a continuing contract, or contracts, with Sentinel Foam Products, Inc., Located at Hyannis, MA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sentinel Foam Products, Inc., Airport Road, Hyannis, MA 02601. Send protests to: John Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 144219 (Sub-2TA), filed August 18, 1978. Applicant: B.I.T. INC., P.O. Box 268, Reedley, CA 93654. Representative: Greg P. Stefflre, Kellner & Stefflre, Suite 1724, 700 South Flower Street, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Primary aluminum in billets, ingots, pigs, slabs, and other produced shapes*, from the facilities of Intalco Aluminum Corp., at or near Ferndale, WA, and points in AZ, CA, ID, OR, NV, and UT, pursuant to a continuing contract, or contracts, with Intalco Aluminum Corp., Ferndale, WA, for 180 days. Supporting shipper: Intalco Aluminum Corp., P.O. Box 937, Ferndale, WA 98248. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.

MC 144448 (Sub-3TA), filed August 22, 1978. Applicant: HERMAN STEFFENSMEIER, d.b.a. HERMAN STEFFENSMEIER TRUCKING, 811 East Decatur Street, West Point, NE 68788. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa pellets and alfalfa meal*, from the facilities of Land O'Lakes Agricultural Services at West Point and Columbus, NE, to points in IA, MN, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Land O'Lakes Agricultural Services, 2827 8th Avenue South, Fort Dodge, IA 50501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 145005 (Sub-2TA), filed August 18, 1978. Applicant: U & I, INC., d.b.a. U & I, INC., TRUCKING DIVISION, P.O. Box 2010, Salt Lake City, UT 84110. Representative: Dick E. Jones, P.O. Box 2696, Pasco, WA 99302. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Items and supplies* used in the repair, expansion and operation of facilities operated by Gourmet Food Products, Inc., and items manufactured and/or processed by Gourmet Food Products, Inc., between the facilities of Gourmet Food Products, Inc., at Boardman and Metolius, OR, on the one hand, and, on the other hand, all of the States west of the Mississippi River (excluding AK and HI), and the States of IL, IN, MI, and WI, under a continuing contract, or contracts, with Gourmet Food Products, Inc., for 180 days. Supporting shipper: Gourmet Food Products, Inc., P.O. Box 2365, Pasco, WA 99302, Judy Thomas, Customer Service Supervisor. Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

MC 145097 (Sub-1TA), filed August 8, 1978. Applicant: GEORGE C. HARPER, d.b.a. HARPER TRUCKING, P.O. Box 161, Green River, WY 82935. Representative: George C. Harper, Monroe Trailer Court, Space 16, Green River, WY 82935. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite, barite, drilling compounds, and lost circulation materials*, in sacks and in bulk, between points in Sweetwater, Carbon, Uinta, Lincoln, and Teton Counties, WY, on the one hand, and, on the other, points in CO located on and west of U.S. Hwy 85 and on and north of Interstate 70, and points in Daggett, Summit, Duschene, Uinta, Carbon, Grand, Sanpete, UT, Salt Lake, Wasatch, Davis, Morgan, Weber, Rich, Cache, Tooele, Box Elder, and Emery Counties, UT and points in ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Wyo-Ben, Inc., 1242 North 28th, Billings, MT 59101; (2) Wyo-Ben United, P.O. Box 1016, Casper, WY 82602; (3) IMCO Services, 135 "C" Street, P.O. Box 1908, Rock Springs, WY 82901; (4) Drilling Mud, Inc., P.O. Box 2229, Rock Springs, WY 82901. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105, Federal Building and Courthouse, 111 South Wolcott, Capser, WY 82601.

MC 145134 (Sub-1TA), filed August 4, 1978. Applicant: FMLD, INC., Box 181, Freeport Road, Creighton, PA 15030. Representative: Mark Lasser, 7130 Penn Avenue, Pittsburgh, PA 15208. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty containers, packaged petroleum motor oil, packaged petroleum industrial lubricants, packaged petroleum distillate products and all other products manufactured or distributed* or used in the manufacture of Pittsburgh Penn Oil Co. Products, between Creighton, PA, and points in the United States. This broad authority is required so that applicant can replace private shippers current activity without disruption of manufacturing and/or distribution, under a continuing contract, or contracts, with Pittsburgh

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Penn Oil Co., for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pittsburgh Penn Oil Co., Vice President, Box 181, Creighton, PA 15030. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 145179TA, filed August 8, 1978. Applicant: J & J CONTRACT CARRIER, INC., 60 South State Avenue, Indianapolis, IN 46201. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and (B) *equipment, materials, and supplies* used in the conduct of such business, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the dairy and bakery manufacturing and meat processing facilities of The Kroger Co., at or near Indianapolis, IN, on the one hand, and, on the other, points in IL, KY, MI, MO, OH, and PA, and Atlanta, GA; Roanoke, VA; Dallas and Houston, TX; Little Rock, AR; and Memphis and Nashville, TN, under a continuing contract or contracts with The Kroger Co., of Cincinnati, OH, for 180 days. Supporting shipper: The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 145250TA, filed August 18, 1978. Applicant: ROBERT R. MACKEN AND LOUIS M. MACKEN, d.b.a. MACKEN TRANSFER, 2006 Edison, P.O. Box 1832, Ames, IA 50010. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical instruments for water analysis equipment*; and (2) *materials, equipment, parts, and supplies* used by manufacturers of commodities in Part (1), (except commodities in bulk), between the facilities of Hach Chemical Co. at Ames, IA, and Berthoud and Loveland, CO, under a continuing contract, or contracts, with Hach Chemical Co., for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hach Chemical Co., P.O. Box 389, Loveland, CO. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 145256TA, filed August 22, 1978. Applicant: L.K.M. CO., INC., 16637 Sylvester Road SW., Seattle, WA 98166. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clothing, finished and partially finished and shoes*, from the facilities of Pacific Trail, Inc., at or near Seattle, Spokane, Wenatchee and Chewelah, WA, and Gunnison, Manti, Brigham City, and Richfield, UT, to points in WA, OR, CA, UT, CO, MN, IL, OH, PA, MA, WI, and NY; and (2) *Materials and supplies* used in the manufacturing of clothing and partially finished clothing, from points in OR, WA, CA, UT, CO, MN, IL, MA, NY, TN, NJ, RI, CT, and PA, to the facilities of Pacific Trail, Inc., at or near Seattle, Spokane, Wenatchee, and Chewelah, WA, and Gunnison, Manti, Brigham City, and Richfield, UT, for 180 days. Supporting shipper: Pacific Trail Sportswear, 1310 Mercer Street, Seattle, WA 98109. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 145257TA, filed August 17, 1978. Applicant: DUNBAR & SONS, INC., 8929 Grove Tree Way, Elk Grove, CA 95624. Representative: George M. Carr, Smulyan & Hartman, 235 Montgomery Street, Suite 1620, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated wooden frame houses, including component packages, truss and precut members, which includes glass, aluminum and steel parts*, from the facilities of Pacific Modern Homes, Inc., Elk Grove, CA, to the cities of Reno, Fallon, Carson City, North Shore, Lake Tahoe, Yearington, Minden, and Palamino, an area within 20 miles of the city limits of each city, all within the State of Nevada and return, under a continuing contract, or contracts, with Pacific Modern Homes, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Pacific Modern Homes, Inc., P.O. Box 670, Elk Grove, CA 95624. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

Passenger Carriers

MC 1515 (Sub-250TA), filed August 8, 1978. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken, Greyhound Tower, Phoenix, AZ 85077. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers, Between Lincoln Tunnel Interchange and Delaware Memorial Bridge Interchange on the NJ Turnpike serving the intermediate points between the Newark-Jersey City Interchange and the New Brunswick Interchange including said Interchanges and serving Interchange Nos. 5 and 7: From Lincoln Tunnel Interchange over the NJ Turnpike to the Delaware Memorial Bridge Interchange, and return over the same route. Restriction: The operations authorized herein are subject to the following conditions: Service is restricted against the transportation of any traffic originating in New York, NY, destined to Newark, NJ, or originating in Newark destined to New York City, except on carrier's intercity schedules which neither originate nor terminate at a point in NJ. Service is restricted against transportation of traffic from or to Interchange Nos. 5 and 7 of the NJ Turnpike, which originate at or is destined to Philadelphia, PA, or New York, NY, for 180 days. Applicant intends to tack the authority here applied for to Docket No. MC 1515 and Subs. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (11) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 145245TA, filed August 18, 1978. Applicant: FRASER VALLEY BUS SERVICE LTD., 30856 South Fraser Way, Clearbrook, BC, Canada, V2S 1M3. Representative: William H. Preston, 1737 West 61st Avenue, Vancouver, BC, Canada, V6P 2C2. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, beginning and ending at ports of entry on the International Boundary Line between the United States and Canada at or near Blaine, Lynden, and Sumas, WA, and extending to points in WA and OR. Restriction: To the transportation of traffic originating and terminating in BC, Canada, for 180 days. Supporting shippers: (1) Fraser Valley Broadcasters CFVR, 2722 Allwood Street, Abbotsford, BC, V2T 3R8, (2) Matsqui-Ab-

botsford Recreation Commission, 32383 South Fraser Way, Clearbrook, BC, V2T 1W7; (3) District of Mission Recreation, 7621 Taulbut Street, Mission, BC, V2V 4L9. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-29689 Filed 10-19-78; 8:45 am]

[7035-01-M]

[Notice No. 195]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 11, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 11722 (Sub-58TA), filed August 29, 1978. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel, rebar, fence posts, plain round, flats and merchant bar*, from McMinnville, OR to Stockton, Union City, Lynwood, Bell Garden, Los Angeles, Santa Rosa, La Habra, and San Leandro, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cascade Steel Rolling Mills, Inc., 3200 North Highway 99W, P.O. Box 687, McMinnville, OR 97128. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 28088 (Sub-36TA), filed August 29, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., attorney, 915 Pennsylvania Avenue, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Harrisonburg, VA, to points in DE, MD, NC, NJ, PA, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Associated Food Brokers, Inc., Silver Spring, MD 20910. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 28088 (Sub-37TA), filed August 29, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., Esq., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of Miller Brewing Co. at Fulton, NY, and Eden, NC, to Roanoke County, VA, for 180 days. Supporting shipper: Blue Ridge Beverage Co., Inc., P.O. Box 9, Salem, VA 24253. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 36509 (Sub-30TA), filed July 13, 1978, and published in the Federal Register issue of September 14, 1978, and republished as corrected this issue. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome Street, San Francisco, CA 94111. Representative: Robert C. Konkle (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin shipments*, between Denver, CO, and Philadelphia, PA, on the one hand, and, on the other, the commercial zones of Lake Tahoe, NV, Stateline, NV, Reno, NV, and Las Vegas, NV, and Phoenix, AZ, under a continuing contract or contracts with General Services Administration, Chief Contracts and Negotiations Branch, for 180 days. Supporting shipper: General Services Administration, Chief, Contracts and Negotiations Branch, GSA-FSS (FZTC), Washington, DC 20406. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105. The purpose of this republication is to add Philadelphia to the territorial description as previously indicated.

MC 56244 (Sub-58TA), filed August 25, 1978. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98 RD No. 2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail, wholesale, chain grocery, and food business houses* (except commodities in bulk and frozen foods), for the account of California Canners & Growers from points in Penn Township, York County, PA, to points in CT, IL, KY, ME, MA, MI, NH, OH, RI, VT, and WV and points in PA on and west of U.S. Hwy 15, for 180 days. Supporting shipper: California Canners & Growers, 1300 Ferry Building, San Francisco, CA 94106. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 56244 (Sub-59TA), filed August 25, 1978. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, RD No. 2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs, and materials, equipment and supplies*, used or useful in the conduct of retail food establishments (except commodities in bulk) from Chicago, IL, and Columbus, OH, and points in their commercial zones, to Mechanicsburg, PA, and points in its commercial zone, for the account of Food Service Specialists, Inc., for 180 days. Supporting shipper: Food Service Specialists, Inc., P.O. Box 1145, Mechanicsburg, PA 17055. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

MC 64189 (Sub-9TA), filed August 29, 1978. Applicant: FRANCIS J. GORRELL, d.b.a. Topliff Truck Line,

746 North Santa Fe, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. Au-

Services division at or near Mason City, IA to points in the States of MN, WI, ND, SD, and NE, for 180 days.

Materials and supplies used in the manufacture of home applicances, between findlay, OH and Chariton, IA

Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210.

way, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID

WI 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

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746 North Santa Fe, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, household goods as defined by the Interstate Commerce Commission, and classes A and B explosives, and commodities in bulk, in tank vehicles, Salina, KS, on the one hand, and Smith Center, Kensington, Agra, Gretna, Athol, Lebanon, Phillipsburg, Stuttgart, Prairieview, Bellaire, and Norton, on the other, for 180 days. Applicant states it does not intend to tack, but intends to interline at Salina and Norton, KS. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately eight statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 90870 (Sub-9TA), filed August 29, 1978. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, Attorney, 1100 Des Moines Building, Des Moines. IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles;* (2) *materials, equipment and supplies* used in the manufacture and processing of iron and steel articles, (1) from Union, MO to points in IL, IN, IA, KY, MI, OH, and WI; and (2) from points in IL, IN, IA, KY, MI, OH and WI to Union, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 dyas of operating authority. Supporting shipper(s): Chris Allen, General Manager, Sales, Maverick Tube Corp., 311 North Lindbergh Street, St. Louis, MO 63141. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 93840 (Sub-39TA), filed August 25, 1978. Applicant: GLESS BROS., INC., 534 Geneseo Street, P.O. Box 216, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbel Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, form the facilities of Land O'Lakes Agricultural Services division at or near Mason City, IA to points in the States of MN, WI, ND, SD, and NE, for 180 days. Supporting shipper: Land O'Lakes, Agricultural Services Division, 2827 Eight Avenue South Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 95084 (Sub-123TA), filed August 1, 1978, and published in the FEDERAL REGISTER issue of October 2, 1978, and republished as corrected this issue. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building components and agricultural building accessories* (1) from points in Dallas County, IA and Ankeny, IA to points in IL, IN, MI, MN, MO, OH, and WI; (2) from Norton, KS and Raymond, SD to points in Dallas County, IA and Ankeny, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ploytek Manufacturing, Inc., P.O. Box 178, Granger, IA 50109, Swine-Cycle, Inc., 613 East Magazine Road, Ankeny, IA 50021. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309. The purpose of this republication is to include Minnesota (MN) in the destination territority.

MC 107496 (Sub-1158TA), filed August 25, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, 3200 Ruan Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground aluminum scrap*, in bulk from Henrietta, MO to Channelview, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. By-Products Corp., P.O. Box 11430, Kansas City, Mo 64112. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 108393 (Sub-139TA), filed August 29, 1978. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Honsdale, IL 60521. Representative: Thomas B. Hill (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials and supplies* used in the manufacture of home applicances, between findlay, OH and Chariton, IA, under a continuing contract or contracts with Whirlpool Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Whirlpool Corporation, Carl R. Anderson, director of Transportation, Administrative Center, Benton Harbor, MI 49011. Sent protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 108676 (Sub-129TA), filed August 29, 1978. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete products and accessories* used in the installation thereof from Bristol, TN to points in KY, VA, WV, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippper: Ross Prestressed Concrete, Inc., P.O. Box 6300, Knoxville, TN 37914. Send protest to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 109064 (Sub-36TA), filed July 25, 1978, and published in the FEDERAL REGISTER issue of October 2, 1978 as MC-109064-TA, and republished as corrected this issue. Applicant: TEX-O-KAN TRASPORTATION CO., INC., 3301 East Loop 820 South, Box 8367, Forth Worth, TX 76112. Representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and accessories* used in the installation of such articles, from Houston County, TX, to points in OK, LA, and AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcraft Division/Nuclear Corp., of America, Box 186, Grapeland, TX 75844. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102. The purpose of this republication is to show MC 109064 (Sub-36TA) in lieu of MC-109064-TA as previously indicated.

MC 113843 (Sub-258TA), filed August 29, 1978. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316

Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils, 316 Summer Street, Boston, MA 02210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refrigerated meat products*, in vehicles equipped with mechanical refrigeration, from Baltimore, MD to Lawrence, Methuen, Billerica, South Easton, Chelsea, Brockton, Andover, MA, Waterbury, CT and Nashua, NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Royal Quality Foods, Inc., Baltimore, MD 21223. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 114569 (Sub-233TA), filed July 7, 1978, and published in the FEDERAL REGISTER issue of September 7, 1978, and republished as corrected this issue. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts* from Lyons, NE to St. Louis, MO, and it's commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Premier Boneless Meats, Inc., Lyons, NE. Send protests to: Charles E. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108. The purpose of this republication is to show the complete scope of the application as previously indicated.

MC 115322 (Sub-146TA), filed August 29, 1978. applicant: REDWING REFRIGERATED, INC., 9831 South Orange Avenue, P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Foodstuffs*, except in bulk from Buffalo, NY to DE, MD, PA, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Freezer Queen Foods Inc., 975 Fuhrmann Boulevard, Buffalo, NY 14203. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 115904 (Sub-120TA), filed August 25, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from points in Bannock, Jerome and Twin Falls Counties, ID to Los Angeles, CA and points in the commerical zone thereof, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Applicant does not intend to tack or interline authority. Supporting shipper' Doug Erb Enterprises, 529 9th Street, Buhl, ID 83316. Send protests to: Barney L. Hardin, District Supervisor, ICC, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 118696 (Sub-19TA), filed August 29, 1978. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: David I. Harfeld, 39 S. LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Microfoam*, in high cube vans, from the plant site of E. I. duPont de Nemours & Co. at or near Wurtland, KY, to points in IL, IN, MI, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: P. J. Keehan, Freight Transportation Manager, E. I. duPont de Nemours & Co., 1007 Market Street, Wilmington, DE 19898. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 119789 (Sub-515TA), filed August 29, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. BOX 226188, Dallas, TX 75266. Representative: Lewis Coffey (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, from the facilities of Peppertree Beef Co. at or near Denver, CO to points in AL, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peppertree Beef Co., 5300 Franklin Street, Denver, CO 80216. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119974 (Sub-77TA), filed August 25, 1978. Applicant: L.C.L. TRANSIT CO., P.O. Box 949, Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising matter* from Miller Brewing Co., Milwaukee, WI to points in IL, IN, IA, MI, MN, MO an OH. (2) *Empty malt beverage containers, malt beverage pallets, dunnage, damaged, refused and rejected shipments of malt beverages* from IL, IN, IA, MI, MN, MO and OH to Miller Brewing Co., Milwaukee, WI, for 180 days. Supporting shipper: Miller Brewing Co., 3939 W. Highland Boulevard, Milwaukee, WI 53208 (Edward P. Genrts). Send protests to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 123407 (Sub-496), filed August 29, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H.E. Miller, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of the United States Steel Corp. at McDonald, Cleveland and Lorain, OH, to points in MN, ND, SD, OK, TX, and WI, for 180 days. Supporting shipper: United States Steel Corp., 600 Grant Street, Room 568, Pittsburgh, PA 15230. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 123407 (Sub-497TA), filed August 29, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl covered paneling*, from Elkhart, IN, to points in CO, IA, KS, MN, MO, NE, OH, PA, SD and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Decor, Inc., 23789 Cooper Drive, Elkhart, IN 46514. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 124078 (Sub-854TA), filed August 29, 1978. Applicant: SCHWERMAN TRUCKING CO., P.O. Box 1601, 611 South 28 Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Dry barium carbonate and strontium carbonate*, in

Chemical of Canada Ltd., Prairie Industrial Chemicals Ltd., for 180 days.

Milwaukee, WI 53201. Send protests to: District Supervisor Ronald A.

als, equipment and supplies used in the manufacture of games, and toys,

carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat*

Pittsburgh, Imperial, Glenside, PA; Pawtucket, Cranston, RI; Houston,

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routes, transporting: *Dry barium carbonate and strontium carbonate,* in bulk, in tank vehicles from Cartersville, GA to Circleville, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chemical Products Corp., P.O. Box 449, Cartersville, GA 30120. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124896 (Sub-66TA), filed August 25, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3465 Thorne & Ralston Street, Wilson, NC 27893. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* for Chelsea Milling Co., Inc. from Chelsea, MI to points in AL, CT, DE, FL, GA, MD, MA, MS, NJ, NY, NC, PA, RI, SC, TN and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building 310 New Bern Ave., P.O. Box 26896, Raleigh, NC 27611.

MC 125777 (Sub-230TA). Applicant: Jack Gray Transport, Inc., 4600 East 15th Avenue, Gary, In 46403. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Ferro Alloys,* in dump vehicles, from Toledo, OH to points in MI, OH, and PA, for 180 days. Supporting shipper: Derby & Co., Inc., 400 Holiday Drive, Pittsburgh, PA 15220. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 126719 (Sub-6TA), filed August 25, 1978. Applicant: CARON TRANSPORT, LTD., P.O. Box 3464, Station D, Edmonton, AB, Canada. Representative: Charles A. Murray, Jr., Attorney at Law, 207A Behner Building, 2822 Third Avenue North, Billings, MT 59101. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Hydrochloric (Muriatic) acid* in bulk, in tank vehicles, from all ports of entry on the United States-Canada Boundary line between Sweetgrass, MT, and Portal, ND to points in MT, ND and WY, under a continuing contract or contracts with Saskatoon Chemicals, Hooker Chemicals, Dow Chemical of Canada Ltd., Prairie Industrial Chemicals Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: D. Ostryznik, Saskatoon Chemicals Div. of Prince Albert Pulp Co., Ltd., P.O. Box 1586, Saskatoon, SK Canada. I.P. Frederiksen, Hooker Chemicals, Div. of Canadian Occidental Petroleums Ltd., 100 Amherst Avenue, North Vancouver, BC, Canada. R.T. Cooper, Dow Chemical of Canada Ltd., P.O. Box 759, Fort Saskatchewan, AB, Canada. James W. Yuel, Prairie Industrial Chemicals Ltd., P.O. Box 7205, 1602 Ontario Avenue, Saskatoon, SK, Canada. Send protests to: District Supervisor Paul J. Labane, ICC, 2602 First Avenue, North Billings, MT 59101.

MC 127303 (Sub-48TA), filed August 29, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: Dwight L. Loerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from LaCrosse, WI to Hannibal and Mexico, MO, and empty containers on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Med Park Distributing, 120 Broadway, Hannibal, MO 63401. Send protests to: Lois Stahl, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 129309 (Sub-12TA), filed July 24, 1978, and published in the FEDERAL REGISTER issue of October 2, 1978 as MC 129908 (Sub-12TA), and republished as corrected this issue. Applicant: A & H, INC., a Wisconsin corporation, P.O. Box 346, Footville, WI 53537. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* excluding commodities in bulk, in vehicles equipped with mechanical refrigeration from the facilities utilized by Universal Foods in the New York, NY commercial zone and Lancaster, PA; to points to OH, PA, and IN, under a continuing contract or contracts with Universal Foods Corporation, for 180 days. Restricted to traffic originating at the named origins and destined to points in the named destination states. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Universal Foods Corporation, 433 East Michigan Avenue, Milwaukee, WI 53201. Send protests to: District Supervisor Ronald A. Morken, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703. The purpose of this republication is to show MC 129809 (Sub-12TA) in lieu of MC 129908 (Sub-12TA) as previously indicated.

MC 134286 (Sub-67TA), filed July 5, 1978, and published in the FEDERAL REGISTER issue of September 7, 1978, and republished as corrected this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, Suite 350, Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic film, plastic articles and corrugated boxes,* (except in bulk), *and materials, equipment, and supplies* used in the manufacture and distribution of the above commodities (except commodities in bulk), in vehicles equipped with mechanical refrigeration devices, from the plantsites and storage facilities of Resinite Department, Borden Chemical, Division of Borden, Inc., at or near North Andover, MA, to points in ME, VT, NH, RI, CT, NY, NJ, PA, MD, DE, VA, WV, OH, KY, IN, MI, IL, WI, IA, MO, KS, CO, WY, MT, MN, ND, SD, NE, and DC, and to Dallas, TX; Carson, CA; and Griffin, GA, and points in their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Resinite Department, Borden Chemical Division of Borden, Inc., W. T. "Tom" Willcox, Manager, Distribution & Materials, 1 Clark Street, North Andover, MA 01845. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to add the states of Minnesota (MN), North Dakota (ND), South Dakota, (SD), and Nebraska (NE) to the territorial description as previously omitted.

MC 135152 (Sub-25TA), filed July 12, 1978, and published in the FEDERAL REGISTER issue of September 15, 1978, and republished as corrected this issue. Applicant: CASKET DISTRIBUTORS, INC., P.O. Box 327, R.R. No. 2, Harrison-Brookville Road, West Harrison, IN 45030. Representative: J. D. Campbell (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Toys, games and children's vehicles,* from the facilities of Louis Marx & Co., at Girard, PA; Columbus, OH; Glendale, WV, to all points in the United States east of MT, WY, CO, and NM; and (2) *Materials, equipment and supplies* used in the manufacture of games, and toys, from El Paso, TX, to the facilities of Louis Marx & Co., at Glendale, WV, Girard, PA, and Columbus, OH, for 180 days. Supporting shipper; Louis Marx & Co., Inc., 633 Hope Street, Stamford, CT 06904. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. The purpose of this republication is to add Colorado (CO) to part (1) of the territorial description.

MC 135197 (Sub-14TA), filed August 29, 1978. Applicant: LEESER TRANSPORTATION, INC., P.O. Box 545, Palmyra, MO 63461. Representative: Robert Leeser, P.O. Box 545, Palmyra, MO 63461. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed ingredients,* in bulk, in tank vehicles, from plant site of American Cyanamid Co. at South River, (Marion County), MO to plant site of American Cyanamid Co. at Willow Island, (Pleasants County), WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 138313 (Sub-43TA), filed August 29, 1978. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, MT 59404. Repesentative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from international ports of entry on the Unites States-Canada boundary line in ID, MT and ND to ND, SD, WY, MT and ID, restricted against the transportation of commidities in bulk; restricted to traffic originating in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cascade Imperial Mills, Ltd., Norman G. Patterson, 1205 Richards Street, Vancouver, BC, Canada. Send protests to: Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 138366 (Sub-3TA), filed August 25, 1978. Applicant: DOUGLAS RUCKDASCHEL, d.b.a. RUCKDASCHEL TRUCKING, R.R. No. 1, P.O. Box 9, Postville IA 52162. Representative Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles,* distributed by meatpacking houses as described in section A and C of Appendix I to the report in Descriptions in Motor Carier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) from the facilities of Hygrade Food Products Corp. at Postville, IA to points in IN, MO, MN, NE, OH, PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper: Hygrade Food Products, 26300 North Western Highway, Southfield, MI 48075. Send Protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 138882 (Sub-69TA), filed April 27, 1978, and published in the FEDERAL REGISTER issue of July 5, 1978, and republished as corrected this issue. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Glandstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wheel weights, materials, equipment and supplies,* used in the manufacture and sale of wheel weights, (except commodities in bulk), between the facilities of Bada Company, Inc., division of Hennessey Industries Co., Bowling Green, KY, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *Tire changers, jacks, tire balancers, materials, equipment and supplies,* used in the manufacture and sale of tire changers, jacks and tire balancers, (except commodities in bulk), between the facilities of Coats Co., Inc., division of Hennessey Industries Co., Nashville, TN, on the one hand, and, on the other, Augusta, Savannah, Macon, Lithonia, GA; Kokomo, Indianapolis, Paoli, Morristown, Mishawaka, IN; Cedar Falls, Davenport, Ames, Rock Valley, Monare, Webster City, Marion, IA; Livonia, Detroit, Warren, Adrian, Taylor, Lansing, MI; Omaha, NE; Dayton Loveland, Youngstown, Akron, Findlay, Shelby, Warren, Toledo, OH; Dickson, TN; Beaver Dam, Milwaukee, Combined Locks, WI; Ormand Beach, Tampa, Auburndale, Miami, Daytona Beach, Orlando, FL; Franklin Park, Rockford, Effingham, Alington Heights, IL; Lenexa, Kansas City, St. Louis, MO; Kenner, LA; Lewiston, ME; Glen Burnie, MD; Quincy, Springfield, MA; Manchester, NH; Bound Brook, Cliffside Park, Newark, Piscataway, West Paterson, NJ; Emmaws, Freeland, Wilkes-Barre, Harrisburg, Tamaqua, Pittsburgh, Imperial, Glenside, PA; Pawtucket, Cranston, RI; Houston, Richardson, San Antonio, Fort Worth, Lubbock, Paris, Tyler, McAllen, TX; Little Rock, AR; Oklahoma City, OK; Tempe, AZ; San Leandro, Westminster, San Diego, Upland, Sunnyvale, Redwood City, Oakland, Sacramento, Fresno, San Francisco, Riverside, CA; Albuquerque, NM; Portland, OR; Salt Lake City, UT; Seattle, Spokane, Tacoma, WA; Lenexa, KS; Minneapolis, MN; Garden City, Long Island, Freeport, Buffalo, Tonawanda, Syracuse, Rochester, NY; Birmingham, AL; Rocky Mount, Charlotte, Winston-Salem, Ayden, NC; Spartenburg, Summerville, SC, restricted to shipments having origin and destination at the above facilities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hennessey Industries, Inc., LaVergne, TN 37086. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203. The purpose of this republication is to show the complete scope of the application as previously indicated.

MC 138882 (Sub-149TA), filed August 29, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots and zinc alloy ingots* for remelting purposes, from the facilities of Aluminum Smelting and Refining Co., Inc., and/or Certified Alloys Co. located at Maple Heights, OH; Clinton, IA; Evansville, IN, and Waukesha, WI to points in MI, IN, IL, WI, NY, PA, NJ, TN, KY, AL, MD, MO, WV, and (2) *scrap aluminum,* from points in MI, IN, IL, WI, NY, PA, NJ, TN, KY, AL, MD, MO, and WV, to the facilities of Aluminum Smelting and Refining Co. located at Maple Heights, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Heights, OH 44137. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140118 (Sub-5TA), filed August 29, 1978. Applicant: S.T.L. TRANSPORT, INC., P.O. Box 9776, 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards and Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY

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14580. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles,* distributed by meatpacking houses as described in section A and C of Appendix I to the report in Descriptions in Motor Carier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) from the facilities of Hygrade Food Products Corp. at Postville, IA to points in IN, MO, MN, NE, OH, PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper: Hygrade Food Products, 26300 North Western Highway, Southfield, MI 48075. Send Protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 138882 (Sub-69TA), filed April 27, 1978, and published in the FEDERAL REGISTER issue of July 5, 1978, and republished as corrected this issue. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Glandstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wheel weights, materials, equipment and supplies,* used in the manufacture and sale of wheel weights, (except commodities in bulk), between the facilities of Bada Company, Inc., division of Hennessey Industries Co., Bowling Green, KY, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) *Tire changers, jacks, tire balancers, materials, equipment and supplies,* used in the manufacture and sale of tire changers, jacks and tire balancers, (except commodities in bulk), between the facilities of Coats Co., Inc., division of Hennessey Industries Co., Nashville, TN, on the one hand, and, on the other, Augusta, Savannah, Macon, Lithonia, GA; Kokomo, Indianapolis, Paoli, Morristown, Mishawaka, IN; Cedar Falls, Davenport, Ames, Rock Valley, Monare, Webster City, Marion, IA; Livonia, Detroit, Warren, Adrian, Taylor, Lansing, MI; Omaha, NE; Dayton Loveland, Youngstown, Akron, Findlay, Shelby, Warren, Toledo, OH; Dickson, TN; Beaver Dam, Milwaukee, Combined Locks, WI; Ormand Beach, Tampa, Auburndale, Miami, Daytona Beach, Orlando, FL; Franklin Park, Rockford, Effingham, Alington Heights, IL; Lenexa, Kansas City, St. Louis, MO; Kenner, LA; Lewiston, ME; Glen Burnie, MD; Quincy, Springfield, MA; Manchester, NH; Bound Brook, Cliffside Park, Newark, Piscataway, West Paterson, NJ; Emmaws, Freeland, Wilkes-Barre, Harrisburg, Tamaqua, Pittsburgh, Imperial, Glenside, PA; Pawtucket, Cranston, RI; Houston, Richardson, San Antonio, Fort Worth, Lubbock, Paris, Tyler, McAllen, TX; Little Rock, AR; Oklahoma City, OK; Tempe, AZ; San Leandro, Westminster, San Diego, Upland, Sunnyvale, Redwood City, Oakland, Sacramento, Fresno, San Francisco, Riverside, CA; Albuquerque, NM; Portland, OR; Salt Lake City, UT; Seattle, Spokane, Tacoma, WA; Lenexa, KS; Minneapolis, MN; Garden City, Long Island, Freeport, Buffalo, Tonawanda, Syracuse, Rochester, NY; Birmingham, AL; Rocky Mount, Charlotte, Winston-Salem, Ayden, NC; Spartenburg, Summerville, SC, restricted to shipments having origin and destination at the above facilities, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hennessey Industries, Inc., LaVergne, TN 37086. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203. The purpose of this republication is to show the complete scope of the application as previously indicated.

MC 138882 (Sub-149TA), filed August 29, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Aluminum ingots and zinc alloy ingots* for remelting purposes, from the facilities of Aluminum Smelting and Refining Co., Inc., and/or Certified Alloys Co. located at Maple Heights, OH; Clinton, IA; Evansville, IN, and Waukesha, WI to points in MI, IN, IL, WI, NY, PA, NJ, TN, KY, AL, MD, MO, WV, and (2) *scrap aluminum,* from points in MI, IN, IL, WI, NY, PA, NJ, TN, KY, AL, MD, MO, and WV, to the facilities of Aluminum Smelting and Refining Co. located at Maple Heights, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Aluminum Smelting & Refining Co., Inc., 5463 Dunham Road, Maple Heights, OH 44137. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140118 (Sub-5TA), filed August 29, 1978. Applicant: S.T.L. TRANSPORT, INC., P.O. Box 9776, 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards and Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, NY

cant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. H. Robins Co., Filtron Sign, Inc., Mill

d.b.a. KWIKI ENTERPRISES AND KWIKI KABS, 493 Central Avenue, Dover, NH 03820. Representative:

Counties, OR, and Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Franklin, Grays Harbor, Island, Jef-

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14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, rolls and boardstock*, from Hampton, NH to Newark, NY, under a continuing contract or contracts with Fold-Pak Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fold-Pak Corp., P.O. Box 269, Newark, NY 14513. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

MC 140162 (Sub-2TA), filed August 25, 1978. Applicant: SCHNEIDER MOTORWAYS, INC., R.R. No. 1, Postville, IA 52162. Representative: Jack H. Blanshan, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles* distributed by meatpacking houses as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) from the facilities of Hygrade Food Products Corp. at Postville, IA to points in IN, MI, MN, NE, OH, PA, NJ, and NY, restricted to the transportation of traffic originating at the named origin and destined to the named destinations, for 180 days. Supporting shipper: Hygrade Food Products Corp., 26300 Northwestern Hwy, Southfield, MI 48075. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 140943 (Sub-2TA), filed June 22, 1978, and published in the FEDERAL REGISTER issue of August 22, 1978, and republished as corrected this issue. Applicant: CHEYENNE ROAD TRANSPORT, LTD., P.O. Box 968, Cochrane, AB, Canada. Representative: Grant J. Merritt, 415 Peavey Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, from ports of entry on the International Boundary line between the United States and Canada west of MN-ON, (except AK), to points in MN, IA, IL, KS, OK, TX, CO, UT, WY, MT, NE, AR, WI, OH, IN, MO, ND, SD and MI, restricted to the transportation of traffic originating in the Provinces of BC, and AB, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101. The purpose of this republication is to indicate the destination State of Michigan (MI).

MC 143389 (Sub-2TA), filed August 25,, 1978. Applicant: MERCHANTS DUTCH EXPRESS, INC., Post Office Box 2525, 700 Fine Street, Monroe, LA 72107. Representative: Bruce E. Mitchell, Serby & Mitchell, P.C., Fifth floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *such merchandise as is dealt in by retail discount stores* between points in KY, TN, GA, FL, AL, MS, LA, AR, TX, OK, MO, IN, IL, OH, KS under contract with Howard Bros. Discount Stores, Inc. of Monroe, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howard Bros. Discount Stores, Inc., 3030 Aurora Street, Monroe, LA 71201. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201, under a continuing contract or contracts with Howard Bros. Discount Stores, Inc.

MC 143619 (Sub-6TA), filed August 25, 1978. Applicant: PALS BROS. TRUCKING, INC., R.F.D., Alexander, IA 50430. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transportation: *Dry feed grade urea* from the Port Neal industrial complex in Woodbury County, IA, to the facilities of Cargill, Inc. at Fort Worth and Giddings, TN, under continuing contract or contracts with Cargill, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cargill, Inc. Nutrena Feed Division, Box 9300, Minneapolis, MN 55440. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309, under a continuing contract or contracts with Cargill, Inc.

MC 144027 (Sub-4TA), filed August 29, 1978. Applicant: WARD CARTAGE & WAREHOUSING, INC., Route No. 4, Glasgow, KY 42141. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transportation: *Cigars, cigarettes, plug, snuff, cigarette making kits, manufactured tobacco and related articles*, from Louisville, KY, and points in its commercial zone, to Chicago, IL, and points in its commercial zone, via Interstate Hwy 65, and return over the same route, serving no intermediate points, for 180 days. Supporting shipper: Mr. James M. Warner, Manager-Rates, Brown & Williamson Tobacco Corp., 1600 West Hill Street, Louisville, KY 40232. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 144964TA, filed June 22, 1978, and published in the FEDERAL REGISTER issue of August 18, 1978, and republished as corrected this issue. Applicant: ESSEX EXPRESS, INC., 1200 Hammondville Road, Pompano Beach, FL 33060. Representative: Clifton Peter Rose, Patton, Boggs & Blow, 1200 17th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportation: *Dried macaroni, spaghetti, vermicelli and noodles in cartons*, from C. F. Mueller Co., Jersey City, NJ, to distributors' warehouses in Jackonsville, Hialeah, Lakeland, Miami, Ocala, Orlanda, Pompano Beach, and Tampa, FL, for 180 days. Supporting shipper: C. F. Mueller Co., 180 Baldwin Avenue, Jersey City, NJ 07306. Send protests to: George M. Parker, District Supervisor, Monterey Buiding, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166. The purpose of this republication is to show the complete scope of the application.

MC 145011 (Sub-1TA), filed June 29, 1978, and published in the FEDERAL REGISTER issue of September 15, 1978, and republished as corrected this issue. Applicant: R. F. WESTBURY, 1617 Willis Road, Richmond, VA 23224. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toilet and drug preparations, medicines, prescriptions, and ingredients thereof; chemicals, animal, fish and poultry feed, animal, fish and poultry feed ingredients, cleaning compounds, displays, glassware, light bulbs, paper and paper articles, pet products, pharmaceutical products, pesticides, plastic or rubber articles, shampoo, soap; and toys*, and (2) *materials, supplies and equipment* used in the manufacture, sale or distribution of articles in (1) above (except in bulk in tank vehicles), under a continuing contract or contracts with A. H. Robins Co., Elkins-Sinn, Inc., Miller-Morton Co., Chap Stick Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. H. Robins Co., Elkins-Sinn, Inc., Miller-Morton Co., Chap Stick Co., Alfred W. Kenney, Director of Transportation, 700 Darbytown Road, Richmond, VA 23231. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North Eighth Street, Richmond, VA 23240. The purpose of this republication is to include territorial scope as previously omitted.

MC 145152 (Sub-3TA), filed August 29, 1978. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment and parts*, as defined by the Commission in Descriptions in Motor Carrier Certificates, 61 MCC 283, Appendix VIII, and materials used in the manufacture thereof (except commodities in bulk), from the facilities of Gibson-Metalux Corp., at or near Americus, GA, to points in the United States (except AK, AR, AZ, CA, CO, GA, FL, ID, NM, NV, OR, UT, WA, HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gibson-Metalux Corp., P.O. Box 1207, Americus, GA 31709. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145175 (Sub-1TA), filed August 29, 1978. Applicant: FRED M. CHARLES, SR., Rural Route 2, Mitchell, NE 69357. Representative: Lavern R. Holdeman, Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, in primary and secondary movements, from the facilities of Winterer Modulars, Inc., at or near Scottsbluff, NE, to points in the State of WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Winterer Modulars, Inc., Gerald A. Wilcox, Manager, 807 West 27th Street, Scottsbluff, NE 69261. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, NE 68508.

MC 145212TA, filed June 30, 1978, and published in the FEDERAL REGISTER issue of September 15, 1978, and republished as corrected this issue. Applicant: KENNETH R. MEADOWS, d.b.a. KWIKI ENTERPRISES AND KWIKI KABS, 493 Central Avenue, Dover, NH 03820. Representative: Alvin E. Taylor, 426 Middle Street, Portsmouth, NH03801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, alcoholic beverages, bulk commodities injurious to other lading, dangerous explosives, commodities requiring special equipment, commodities of unusual value or commodities requiring refrigeration), between points in NH, ME, and MA, for 180 days. Supporting shipper: Northern Heel, Inc., 6 Grove Street, Dover, NH 03820. (Attn: Barry Sansoucie, President) Moore Business Forms, Inc., Machinery Division, 121 Broadway, Dover, NH 03820. (Attn: Reginald H. Fogg, Specialist Buyer) Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Loudon Road, Concord, NH 03301. The purpose of this republication is to add another supporting shipper to the application as previously omitted.

MC 145288 (Sub-1TA), filed August 29, 1978. Applicant: SPECIALIZED HAULING CORP., P.O. Box 488, Barre, VT 05641. Representative: John P. Monte, P.O. Box 568, Barre, VT 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Utility poles*, between points in ME and points in VT; and from points in VT to towns in NH bordering the NH-VT borders, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Wood Piedmont Co., P.O. Box 5445, Spartanburg, SC 29304. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 145321 TA, filed August 29, 1978. Applicant: RAY L. AND CHERYLE RICHTER d.b.a. Wood-Ply Materials Trading and Transport Co., 3110 Southwest Iowa, Portland, OR 97258. Representative: Nick I. Goyak, Attorney-at-Law, One Southwest Columbia, No. 555, Portland, OR 97258. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, veneer, and shakes* to points from points in Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Kane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, and Yamhill Counties, OR, and Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Franklin, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Klickitat, Lewis, Mason, Okanogan, Pacific, Pend Oreille, Pierce, San Juan, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, and Yakima Counties, WA, to points in Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, and Yamhill Counties, OR, and Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Franklin, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Klickitat, Lewis, Mason, Okanogan, Pacific, Pend Oreille, Pierce, San Juan, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom, and Yakima Counties, WA, for 180 days, under a continuing contract or contracts with Alpine Veneers, Inc., Northern Yards, Inc., Sunrise Forest Products Co. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Alpine Veneers, Inc., 1210 Yeon Building, Portland. OR 97204; Northern Yards, Inc., 7400 Southwest Landmark Lane, Portland, OR 97223; Sunrise Forest Products Co., 6443 Southwest Beaverton Hwy, Portland, OR. Send protests to: A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland. OR 97204.

MC 145330 TA, filed August 29, 1978. Applicant: GILMER ALLISON d.b.a. Allison Trucking, Route 3, Box 123-A, Lawndale, NC 28090. Representative: W. C. Mauldin, 417 Old Post Road, Cherryville, NC 28021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bone meal, meat meal, fish meal, crab meal, glutton meal, soybean meal*, in bulk or in bags between points in MD, VA, NC, SC, and GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately five statements of support attached to the application which may be examined at the interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Terrel Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145331 TA, filed August 29, 1978. Applicant: JOHNSTON BROTHERS

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TRANSPORT, INC., P.O. Box 1029, Glenwood Springs, CO 81601. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic beverages*, from Los Angeles, Irvine, and Van Nuys, CA; Secaucus, NJ; and Milwaukee, WI, and points in their commercial zones to Steamboat Springs, Grand Junction, Denver, and Glenwood Springs, CO, and points in their commercial zones, and (2) *Empty alcoholic beverage containers* from the destinations in part (1) above to the origins in part (1) above, under a continuing contract or contracts with Johnston Brothers Distribution Co. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Johnston Brothers Distribution Co., Box 1029, Glenwood Springs, CO 81601. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145334TA, filed August 29, 1978. Applicant: SNODGRASS WELDING SERVICE, 700 Shaver Street, Bossier City, LA 71111. Representative: Mr. Milton Barnes, 412 Hamilton Road, Bossier City, LA 71111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment such as air compressors, water filters, pump parts, pipe connections, chemicals in sacks, and miscellaneous equipment parts.* No tank vehicles, no passengers or baggage to be transported, from Bossier City, LA, to Houma, LA; Bossier City, LA, to Hattiesburg, MS; Bossier City, LA, to Laredo, TX; Bossier City, LA, to Tulsa, OK; Bossier City, LA to Little Rock, AR; Tulsa, OK, for 180 days. Supporting shipper: Dowell Division of Dow Chemical, U.S.A., P.O. Box 5478, Bossier City, LA 71111. Send protests to: Connie A. Guillery, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

PASSENGER CARRIER

MC 144237 (Sub-1TA), filed August 29,, 1978. Applicant: EUGENE T. FALBO, d.b.a. MOUNTAIN VIEW TOURWAYS, R.D. No. 6, Box 401, Latrobe, PA 15650. Representative: John A. Pillar, Attorney-at-Law, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip special and charter operations beginning and ending in Latrobe and Greensburg, PA, and extending to points in the United States east of the Mississippi River, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately five statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-29960 Filed 10-19-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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Federal Communications Commission	5
Federal Election Commission	6
Federal Energy Regulatory Commission	7
Federal Home Loan Bank Board	8
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Federal Maritime Commission	10, 11
Federal Mine Safety and Health Review Commisssion	12
Federal Reserve System (Board of Governors)	13
Interstate Commerce Commission	14
Securities and Exchange Commission	15, 16

[6320-01-M]

1

[M-170, Oct. 13, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 1:30 p.m., October 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 29977, Cayman Airways Ltd.: Motion to amend Order 77-10-120 for blanket statement of authorization to operate off-route charters (Memo 6347-E, BIA).
3. Docket 32689, Tradewinds Airways Ltd.: Application for foreign air carrier permit to engage in charter foreign air transportation between the United Kingdom and the United States (Memo 8224, BIA, OGC).
5. Docket 33243, Application of Air Panama International, S.A. to modify the restriction on its Route 2 authority to allow stopover traffic between Los Angeles and Mexico City (Memo 8238, BIA, OGC).
4. Docket 32840, Application of Brooker-Wheaton Aviation Ltd. for an initial foreign air carrier permit to operate charters between Canada and the United States using small aircraft (Memo 8230, BIA, OGC).
6. Dockets 28366 and 32710, scoping orders on Reconsideration in *Denver-Alaska Service Investigation* and *San Francisco-Reno-Albuquerque-Texas Service Investigation* (Memo 8193, 8193-A, OGC, BALJ).
7. Docket 30635, *Arizona Service Investigation* (Memo 8158-B, OGC).
8. Dockets 25546 and 28266, *Mackey Certification Proceeding*--Motion of Rich to withdraw its motion to postpone effectiveness of certificate granted to it by Order 78-7-107 (Memo 7964-A, OGC).
9. Amending the rules of practice in economic proceedings to prohibit petitions seeking to amend scope orders and to establish a 30-day period for motions to consolidate with earlier applications (Memo 8237, OGC, BALJ, BIA, BPDA, BCP).
10. Dockets 33237, 32286, 32129, 32309, 32303, 33372, 33375, 33373, 33392, 33391, 33390, 33383, 33386, 33388, 33385, 33389, 33394, 33425, 33432, *California-Arizona Low Fare Route Proceeding*—Petitions for reconsideration; motions for consolidation and other relief (Memo 8065-B, OGC).
11. Docket 30256, *Transcontinental Low-Fare Route Proceeding*, (instructions to staff) for information, memo dated September 26, 1978.
12. Docket 30254 (*In the Matter of the Flying Tiger Line, Inc., Wayne M. Hoffman, Robert W. Prescott, Joseph J. Healy, Charles I. Hopkins, Rudolph J. Valenta, and Anna C. Chennault, Enforcement Proceeding*), discretionary review on Board initiative of supplemental initial decision explaining basis for earlier initial decision's approval of settlement of alleged accounting and reporting violations (Memo 7986-B, OGC).
13. Docket 33112, *Texas International-National Airlines Case and Enforcement Investigation*, Order disposing of the voting trust issues (OGC).
14. Docket 31013, Petition for reconsideration of Order 78-3-63, which approved an Air Traffic Conference of America resolution allowing intrastate carriers to participate in area settlement plan provided certain practices are optional rather than mandatory (Memo 7750-B, BPDA, OGC, BCP).
15. Docket 30452, Application for prior approval of the Universal Air Travel Plan (UATP)-1976, Agreements CAB 26433 and 26433-A1, under section 412 of the act. UATP is a joint venture among some 200 air carriers and foreign air carriers establishing a commonly accepted credit card (Memo 8236, BPDA, OGC, BALJ).
16. Docket 32390, CAB Agreements 27262, 27263, 27311, 27504 and 27505; Agreements between Continental and Air California, Continental and Air Florida, Aloha and Air California, and Braniff and Southwest providing reciprocal free and reduced-rate transportation (Memo 8231, BPDA, OGC).
17. Rulemaking to amend part 223 (Memo 8232, BPDA, OGC).
18. Revised transatlantic fares proposed by TWA, National, Air France, Sabena, Lufthansa and SAS. The proposals include increases in most normal and promotional fares (Memo 8240, BPDA, BIA).
19. Docket 33348, Final rule requiring U.S. carriers operating internationally and foreign route air carriers that have not complied with the tariff filing requirements of part 250 on oversales and denied boarding to include statement to that effect in any advertisement it places in any publication or on radio or television in the United States, its territories or possessions (Memo 8164-A, BPDA, OGC, BIA, BCP).
20. Docket 33151, Braniff's exemption request for Harford/Springfield-New York/Newark nonstop authority (Memo 8217, BPDA).
21. Docket 32319, Piedmont's motion for hearing or, in the alternative, request for an order to show cause, on its application for Tampa entry (Memo 8223, BPDA, OGC).
22. Docket 33172, Motion of Allegheny Airlines, Inc., for the issuance of a show cause order to amend its certificate for Route 97 so as to redesignate the intermediate point "Liberty-Monticello" the Intermediate Point "Catskills/Sullivan County" (Memo 8227, BPDA).
23. Docket 33179, Allegheny's petition for show-cause order for nonstop Cincinnati-Pittsburgh Authority Memo 8228, BPDA)
24. Dockets 32594, 32842, American's motion for an expedited hearing on its certificate application for Route 4 (Salt Lake City-St. Louis Nonstop Authority); Eastern's answer supporting American's motion and requesting the same authority; Atrwest's certificate application Route 76 (St. Louis-Salt Lake City Nonstop Authority (Memo 8239, BPDA OGC).
25. Docket 31593, Wien's motion for show cause or other expedited procedures on its application for amendment of its certificate to add a new segment between the coterminal points Anchorage and Fairbanks, Alaska and the terminal point Chicago, Illinois (Midway) (Memo 8234, BPDA, OGC).
26. Dockets 33567, 33550, 33558 and 33634, Pan Am request for suspension of service to points in Europe and Hawaii; applications of United, Braniff, Hawaii, and Aeroamerica for exemptions to serve Seattle/Portland-Honolulu (BPDA).
27. Docket 31128, 31244, and 32791, Service to Fort Myers (Memo 8233, BPDA, OGC).
28. Docket 27426, Application of Air New England, Inc. (ANE), and Delta Air Lines, Inc., for approval of a refinancing agreements. ANE wishes to consolidate its $3.2 million debt to Delta which it incurred in two separate transactions in 1974 (Memo 5123-A, BPDA, BCP).
29. Dockets 31129, and 32910, Commuter Airlines' exemptions to operate large aircraft (Memo 8152-A, BPDA, OGC, BCP).
30. Revision of record retention requirements (Memo 8197-a, BAS, BPDA, BCP, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the secretary, 202-673-5068.

[S-2109-78 Filed 10-18-78; 9:11 am]

[6320-01-M]

Suzuki has implemented to deal with a possible steering hazard in two models of off-

This notice issued October 17, 1978.

Classification actions.
Routine administrative matters.

Change of office location application—Highland Federal Savings & Loan Association

No. 190, October 17, 1978.

ROMAN A. SWIPER,

V 43 / 204 OCT 20 78

[6320-01-M]

2

[M-171, Oct. 16, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 23, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The city of Philadelphia to make a presentation regarding its problems and prospects.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Taylor, the Secretary, 202-673-5068.

[S-2110-78 Filed 10-18-78; 9:11 am]

[6355-01-M]

3

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: October 26, 1978, 9:30 a.m.

LOCATION: Third floor hearing room, 1111 18th Street NW., Washington, D.C. 20207.

STATUS: Open.

MATTERS TO BE CONSIDERED:

AGENDA

Open to the public

1. *Recommendation to accept corrective action plan: Collier-Keyworth, car seat/stroller, ID 78-29.* The staff has recommended that the Commission accept and monitor the corrective action plan which Collier-Keyworth has implemented to deal with a defect associated with a conversion kit which converts a car seat into a stroller. Collier-Keyworth has issued a joint press release with CPSC, and has begun a recall and repair program.

2. *Recommendation to accept corrective action plan: Parkway Fabricators, scuba regulator, ID 78-41.* The staff has recommended that the Commission accept the corrective action plan which Parkway has implemented to deal with hazards associated with certain scuba regulators it imports. Parkway has issued a joint press release with CPSC, and has begun a recall and repair program.

3. *Recommendation to accept corrective action plan: Black & Decker Manufacturing Co., cord adapter, ID 78-102.* The staff has recommended that the Commission accept the corrective action plan which Black & Decker has implemented to deal with possible shock hazards associated with cord adapters for electric hedge trimmers it manufactures. Black & Decker is notifying consumers, and is replacing the adapter at no cost.

4. *Recommendation to accept corrective action plan: U.S. Suzuki Motor Corp., off-road motorcycles, ID 78-57.* The staff has recommended that the Commission accept and monitor the corrective action plan Suzuki has implemented to deal with a possible steering hazard in two models of off-road motorcycles. Suzuki is notifying dealers and customers and will repair the defect at no cost.

5. *Memorandum of Understanding with HUD: Consumer products sold in mobile homes.* The Commission will consider a draft memorandum of understanding with the Department of Housing and Urban Development, prepared by CPSC and HUD staff, which would minimize duplicative or conflicting reporting requirements concerning consumer products also deemed to be mobile home components. If both HUD and CPSC approve the draft, the Commission will propose changes to its substantial product hazard reporting ("section 15") regulations.

Agenda approved October 17, 1978.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-2103-78 Filed 10-18-78; 9:11 am]

[6570-06-M]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 24, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Miscellaneous amendments to the Commission's Compliance Manual.
2. Amendment of Commission's Procedural Regulations at 1601.13 to correct omission.
3. Report on Commission operations by the Executive Director.

Closed to the public:

1. Proposed withdrawal of a Commissioner's charge.
2. Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretarial, at 202-634-6748.

This notice issued October 17, 1978.

[S-2115-78 Filed 10-18-78; 12:42 pm]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 24, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Review of delegations of authority to bureau and offices.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 17, 1978.

[S-2116-78 Filed 10-18-78; 3:21 pm]

[6715-01-M]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, October 25, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit reports, compliance, personnel.

* * *

DATE AND TIME: Thursday, October 26, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-75, AO 1978-80, AO 1978-76.
Proposed amendment for part II, section D-3 of the nonfiler procedures.
Computer contract procurement.
Earmarked contributions.
Appropriations and budget.
Presidential campaign disclosure form.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.

Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on October 25, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2117-78 Filed 10-18-78; 3:33 pm]

[6740-02-M]

7

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 47649, published October 16, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 18, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No. and Company

CAG-25. CP74-160, et al., Pacific Indonesia LNG Co., et al.

KENNETH F. PLUMB,
Secretary.

[S-2114-78 Filed 10-18-78; 11:43 am]

[6720-01-M]

8

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 25, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of exceptions to restrictions on real property transactions with affiliated persons.
Consideration of deregulation of RSU application procedure.
Preliminary application for conversion into a Federal Mutual Association—Fayetteville Savings & Loan Association, Fayetteville, Ark.
Limited facility application—Talman Federal Savings & Loan Association, Oaklawn, Ill.
Application for permission to organize a new Federal association—Manuel Blanco-Massol, et al., Catano, P.R.
Change of office location application—Highland Federal Savings & Loan Association of Cincinnati, Cincinnati, Ohio.
Change of name application—Jeannette Federal Savings & Loan Association, Jeannette, Pa.
Agency office application—United Federal Savings & Loan Association, Dothan, Ala.
Application for amendment of charter-change of name—First Federal Savings & Loan Association of Tullahoma, Tullahoma, Tenn.
Limited facility application—Commercial Federal Savings & Loan Association, Omaha, Nebr.
Extension of time application—Laguna Federal Savings & Loan Association, Laguna Beach, Calif.
Application for bank membership—Northfield Savings Bank, Northfield, Vt.
Concurrent consideration of branch office applications—(1) Biscayne Federal Savings & Loan Association, Miami, Fla; and (2) First Federal Savings & Loan Association of the Palm Beaches, West Palm Beach, Fla.
Agency office application—United Federal Savings & Loan Association, Sarasota, Fla.
Agency office application—First Federal Savings & Loan Association of Broward County, Fort Lauderdale, Fla.
Consideration of modification of resolution—First Federal Savings & Loan Association of Flint, Flint, Mich.
Branch office application—First Federal Savings & Loan Association of Fort Smith, Fort Smith, Ark.
Withdrawal from bank membership—Quincy Co-operative Bank, Quincy, Mass.
Merger, maintenance of branch offices, cancellation of membership and insurance and transfer of stock applications—Tri-County Savings & Loan Association, Hudson, Wis., into First Federal Savings & Loan Association of Eau Claire, Eau Claire, Wis.
Application for modification of condition for insurance of accounts—Amigo Savings & Loan Association, Brownsville, Tex.

No. 189, October 17, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2106-78 Filed 10-18-78; 9:11 am]

[6720-02-M]

9

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., October 26, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-789-4734.

MATTERS TO BE CONSIDERED:

Consideration or republication of record systems under the Privacy Act.
Consideration of book entry regulations.

No. 190, October 17, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2107-78 Filed 10-18-78; 9:11 am]

[6730-01-M]

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 47359, October 13, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 18, 1978.

CHANGES IN THE MEETING: Addition of the following item to the closed session:

1. Enforcement claim against certain carriers.

[S-2104-78 Filed 10-18-78; 9:11 am]

[6730-01-M]

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 25, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Report on notation items disposed of during September 1978.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during September 1978.
3. Report of the Secretary on applications for admission to practice approved during September 1978, pursuant to delegated authority.
4. Assignment of informal dockets by the Secretary during September 1978, pursuant to delegated authority.
5. Agreement No. 8240-13: Modification of the Atlantic and Gulf-Singapore, Malaya and Thailand Conference Agreement providing for appointment of collection agents.
6. Docket No. 78-26: Trimodal Inc.—Independent Ocean Freight Forwarder Application and possible violations of sections 16, first paragraph, 18(b)(1), 18(b)(3), and 44—Request for settlement.
7. Docket No. 77-25: Agreement No. 7540-28, modification of the Leeward and Windward Islands and Guianas Conference Agreement—Decision on holding of oral argument and discussion of the record.
8. Docket No. 73-3: *Maritime Service Corporation v. Acme Fast Freight of Puerto Rico, et al.*—Petition for reconsideration.
9. Docket No. 74-45: Agreement No. 8005-7 between members of the New York Terminal Conference (NYTC)—Petitions for reconsideration.
10. Docket No. 78-33: Actions to adjust or meet conditions unfavorable to shipping in

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the United States/Ecuador Trade—Discussion of the record.

11. Docket No. 74-5: Agreement No. 10066—Cooperative Working Arrangement—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2105-78 10-18-78; 9:11 am]

[6735-01-M]

12

OCTOBER 17, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., October 24, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following cases remanded from the Court of Appeals for the District of Columbia Circuit Court:

1. Cowin and Co., Inc., Docket No. IBMA 75-57 (*United Mine Workers of America* v. *Thomas S. Kleppe, Cowin and Company, Inc., Intervenor*, No. 76-1980, D.C. Cir. May 26, 1978).

2. Republic Steel Corp., Docket No. IBMA 76-28 (*Republic Steel Corporation* v. *Interior Board of Mine Operations Appeals*, No. 76-1041, D.C. Cir. February 22, 1978).

The following proceedings will be considered and acted upon by the Commission:

3. Pittsburgh and Midway Coal Co., Docket No. IBMA 76-57.

4. Christopher Coal Co., Docket No. IBMA 77-7.

The following proceedings will be considered and acted upon by the Commission. Motions to withdraw pleadings have been filed in these cases:

5. Kaiser Steel Corp., Docket No. IBMA 76-107.

6. *Ronnie R. Ross* v. *Maurice S. Childers, Mining Enforcement and Safety Administration, Marcell Chamness and Cecil Andrus*, Docket No. IBMA 77-63.

The Commission will consider and act upon a motion to set a briefing schedule in the following proceeding:

7. Consolidation Coal Co., Docket No. IBMA 77-18.

The Commission will consider and act upon a petition for discretionary review in the following proceeding:

8. Cowin and Co., Inc., Docket Nos. 76-210-P, 76-211-P, 76-212-P, 76-213-P.

The following item will be considered by the Commission and carried over to the next regularly scheduled meetings:

9. Propose rules of procedure.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Philip Paschall, 202-653-5648.

JEROME R. WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

[S-2108-78 Filed 10-18-78; 9:11 am]

[6210-10-M]

13

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, October 25, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed revisions in the Condition and Income Reports required of Edge corporations and the foreign branches and foreign subsidiaries of U.S. commercial banks.

DISCUSSION AGENDA

1. Proposed revised amendments to Regulation H (membership of State banking Institutions in the Federal Reserve System) to require that State member banks that effect certain securities transactions for customers provide confirmation and maintain certain records with respect to such transactions. (Proposed earlier for public comment; Docket No. R-0142.)

2. Request by the Commodity Futures Trading Commission for Board comment on a proposal to trade a futures contract based on the Dow Jones Industrial Average.

3. Proposed data collection for the monitoring of savings deposits subject to automatic transfer.

4. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

[S-2111-78 Filed 10-18-78; 11:34 am]

[7035-01-M]

14

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 25, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTERS TO BE CONSIDERED:

1. Staff briefing on the Milwaukee Road—Levels of service, prospects for winter, status of merger negotiations, and status of employee layoffs.

2. Discussion of pending Southern Motor Carriers Rate Conference general increase case.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-2118-78 Filed 10-18-78; 3:53 pm]

[8010-01-M]

15

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 47651, October 16, 1978.

STATUS: Open meeting and closed meeting.

DATE AND TIME: Thursday, October 19, 1978.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following additional item will be considered by the Commission at an open meeting scheduled for Thursday, October 19, 1978, at 10 a.m.:

Consideration of proposed amendments to the joint industry plan declared effective by the Commission pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 governing the consolidated transaction reporting system. For further information, please contact Stephen L. Parker, at 202-755-8949.

The following item will not be considered by the Commission at the open meeting scheduled for Thursday, October 19, 1978, at 10 a.m.:

Consideration of an objection by the U.S. Trust Co. to the mailing to holders of the 6½ percent Convertible Subordinated Debentures due 1996 of the Chase Manhattan Mortagage and Realty Trust of a proposed

communication from three of the holders. The grounds of the objection is that the mailing of such statement is not in the best interest of the debentures. For further information, please contact Norman Schou at 202-755-1240.

The following items will be considered by the Commission at a closed meeting scheduled for Thursday, October 19, 1978, immediately following the open meeting:

Subpoena enforcement action.
Other litigation matters.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a), (8), (9) (i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

OCTOBER 16, 1978.

[S-2112-78 Filed 10-18-78; 11:43 a.m.]

[8010-01-M]

16

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 23, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, October 24, 1978, at 10 a.m.

An open meeting will be held on Wednesday, October 25, 1978, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c) (4) (8) (9) (A) and (10) and 17 CFR 200.402(a) (8) (9) (i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 24, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Freedom of Information Act appeals.
Institution of administrative proceedings of an enforcement nature.
Institution of injuctive action.
Personnel security action.
Settlement of injunctive action.
Subpena enforcement action.

The subject matter of the open meeting scheduled for Wednesday, October 25, 1978, at 10 a.m., will be:

1. Consideration of a request by Power Designs, Inc., that the Commission review the Division of Corporation Finance's denial pursuant to delegated authority of a request by Power Designs, Inc., for an extension of time within which to file its annual report on Form 10-K for the period ended June 30, 1978. For further information, please contact Spencer Browne at 202-376-2976.

2. Consideration of a request that the Commission adopt Rule 17f-4 under the Investment Company Act of 1940 that would (1) designate the Federal Reserve/Treasury book-entry system as a permitted depository for securities owned by registered management investment companies, and (2) state the conditions under which deposits thereof may be made in the book-entry system or in clearing agencies which act as securities depositories. For futher information, please contact Stanley B. Judd at 202-755-0213.

3. Consideration of a request by Highland Investment Corp. for an exemption from the Investment Advisers Act of 1940. For further information, please contact Michael S. Lichtenthal at 202-755-9034.

4. Consideration of whether or not to approve proposed rules submitted by the Securities Investor Protection Corp. setting forth requirements for the closeout or completion of open contractual commitments. For further information, please contact Linda Kurjan at 202-376-7470.

5. Consideration of whether (1) to release withheld portions of two memoranda concerning the disposition to be made in the matter of the Freedom of Information request of W. B. Shellhorn (these memoranda were requested under the Freedom of Information Act by Brad Ragan, Inc., and certain individuals), and (2) to affirm the Freedom of Information Officer's decision to release certain investigative transcripts to Mr. Shellhorn, in light of objections to disclosures made by Brad Ragan, Inc. and certain individuals, on the ground that they believe this material is exempt under 5 U.S.C. 552(b)(4), 6, 7(A), 7(B), and 7(C). For further information, please contact Linda Schneider at 202-755-1339.

6. Consideration of a Freedom of Information Act appeal of Robert Adamson of Securities Week for mailing lists of SEC Docket, SEC News Digest and SEC Releases which were denied to him by the Freedom of Information Act officer relying on exemption 6 of the Freedom of Information Act. For further information, please contact Judy Chesser at 202-376-8085.

FOR FURTHER INFORMATION PLEASE CONTACT:

Michael P. Rogan at 202-755-1638.

OCTOBER 16, 1978.

[S-2113-78 Filed 10-18-78; 11:43 am]

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FRIDAY, OCTOBER 20, 1978
PART II

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federal register

FRIDAY, OCTOBER 20, 1978
PART II

DEPARTMENT OF LABOR

Employment Standards Administration

federal register

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

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[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Ohio: OH78-2133.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:
AR78-4063, June 16, 1978.
AR78-4064; AR78-4067; AR78-4068, June 23, 1978.
Georgia:
GA78-1077, September 8, 1978.
Michigan:
MI78-2078, September 29, 1978.
Oklahoma:
OK78-4054; OK78-4055; OK78-4056; OK78-4057; June 9, 1978.
OK78-4058; OK78-4059; OK78-4062; June 16, 1978.
Pennsylvania: PA78-3070, September 29, 1978.
Tennessee: TN78-1058; TN78-1060, July 7, 1978.
Texas:
TX78-4038, April 14, 1978.
TX78-4078; TX78-4079, August 11, 1978.
TX78-4081, August 18, 1978.
TX78-4082; TX78-4083; TX78-4084; TX78-4085, August 25, 1978.
TX78-4095; TX78-4096, September 22, 1978.
Washington: WA78-5105, June 30, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Illinois:
IL78-2017 (IL78-2092); IL78-2019 (IL78-2105); IL78-2020 (IL78-2094); IL78-2021 (IL78-2106); IL78-2022 (IL78-2107); IL78-2024 (IL78-2109); IL78-2026 (IL78-2111); IL78-2027 (IL78-2112); IL78-2034 (IL78-2120); IL78-2035 (IL78-2122); IL78-2037 (IL78-2124); IL78-2038 (IL78-2125); IL78-2018 (IL78-2093), March 17, 1978.
Indiana: IN76-2046 (IN78-2132), April 16, 1976.
New York: NY77-3076 (NY78-3077), June 6, 1977.
Pennsylvania: PA75-3070 (PA78-3078), July 18, 1975.
Tennessee:
TN77-1133 (TN78-1090), October 7, 1977.
TN77-1048 (TN78-1091), May 19, 1978.
Texas: TX78-4041 (TX78-4114), April 14, 1977.
Wisconsin:
WI77-2102 (WI78-2104), July 5, 1977.
WI77-2103 (WI78-2129), July 15, 1977.
WI77-2105 (WI78-2110); WI77-2106 (WI78-2114); WI77-2109 (WI78-2115); WI77-2110 (WI78-2121); July 22, 1977.
WI77-2126 (WI78-2108), August 26, 1977.
WI77-2130 (WI78-2116), September 23, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C., this 13th day of October 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. AR78-4063 - Mod. #2 (43 FR 26232 - June 16, 1978) Union and Ouachita Counties, Arkansas	$10.90	.75	.45		.05
CHANGE: PLUMBERS & PIPEFITTERS					
DECISION NO. AR78-4064 - Mod. #2 (43 FR 27341 - June 23, 1978) Pulaski County, Arkansas					
CHANGE: ELECTRICIANS					
Electricians	11.00	.50	3%+.35		1/4%
Cable splicers	11.125	.50	3%+.35		1/4%
LINE CONSTRUCTION:					
Linemen	11.95		3%		3/5%
Cable splicers	12.075		3%		3/5%
Operator	11.95		3%		3/5%
PAINTERS:					
Painters, paperhangers and steam cleaners, sheet rock finishers and wall covers	8.50		.40		.02
hangers					
Spray gun operators and sand blasterers	9.10		.40		.02
All skelton steel and all work on stacks, structural steel over 30 feet high	8.75		.40		.02
DECISION NO. AR78-4067 - Mod. #2 (43 FR 27342 - June 23, 1978) Garland, Hot Springs and Clark Counties, Arkansas					
CHANGE: BRICKLAYERS-Stonemasons	9.05		.25		
LINE CONSTRUCTION:					1/2%
Linemen	11.20		3%		1/2%
Cable splicers	11.325		3%		
DECISION NO. AR78-4064 - Mod. #2 (43 FR 27342 - June 23, 1978) Sebastian, Crawford & Washington Counties, Arkansas					
CHANGE: ELECTRICIANS:					
Electricians	11.00	.35	3%+5.5%		1/4%
Cable splicers	11.25	.35	3%+5.5%		1/4%
PLUMBERS & PIPEFITTERS	10.26	.45	.55		.04

[4510-27-C]

NEW DECISION

STATE: Ohio
DECISION NO.: OH78-2133
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories

COUNTIES: *See Below
DATE: Date of Publication

*Adams, Brown, and Highland

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 5.77				
BRICKLAYERS	7.14				
CARPENTERS	5.69				
CEMENT MASONS	5.53				
DRYWALL FINISHERS	6.88				
DRYWALL HANGERS	6.34				
ELECTRICIANS	6.02				
LABORERS:					
Laborers	4.00				
Mason Tenders	5.00				
PAINTERS	5.00				
PLUMBERS	5.95				
ROOFERS	5.07				
SHEET METAL WORKERS	5.33				
SOFT FLOOR LAYERS	5.00				
TRUCK DRIVERS	4.50				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	5.00				
Front End Loader	5.00				

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION #GA78-1077 - Mod. #2 (43 FR 40174 - September 8, 1978) Clayton, DeKalb, & Fulton Counties, Georgia					
CHANGE:					
Glaziers	$ 9.20	.70	.43	.75	.11
Laborers:					
Group 1	6.40	.25	.33		.05
Group 2	6.62	.25	.33		.05
Group 3	6.90	.25	.33		.05
Group 4	7.15	.25	.33		.05
Group 5	7.47	.25	.33		.05
Group 6 (25¢ above rate for classification under which employed)					
Marble, Tile, & Terrazzo Finishers	6.65				
Plumbers & Pipefitters	11.15	.65	.50		.11
DECISION NO. MI78-2078 - MOD. #1 (43 FR 45125 September 29, 1978) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan					
CHANGE:					
Asbestos Workers:					
Remainder of Counties, & the Remainder of Washtenaw Co.	$12.95	1.51	1.48		.07
Cement Masons:					
Remainder of Counties & North of Hwy. #151 in Monroe Co.	12.35	.95	11%		.02
Laborers - Building, Heavy & Residential					
Monroe County:					
Construction Laborer & Carpenter Helper	10.07	.65	.35	.90	.04
Mortar Mixer, Mason & Plaster Tender, Carpenter Helper, Cement Mason Helper, Tool Operator & Caisson Worker	10.27	.65	.35	.90	.04
Painters:					
Remainder of Counties:					
Brush	11.35	.92	1.15	1.10	50.00 P/Y
Spray to 40' Height	11.85	.92	1.15	1.10	50.00 P/Y
Sprinkler Fitters:					
Remainder of Counties	13.805	.75+.50	1.05		.10
Truck Drivers:					
Building, Heavy & Residential					
Pole Trailer; Low Boys; Straddle Carrier; Double - Bottoms & Special Load Permits	10.60	b29.50	b31.00		
Semi-Drivers	10.50	b29.50	b31.00		
All other Truck Drivers	10.35	b29.50	b31.00		

MODIFICATIONS P. 3

DECISION MI78-2078 - MOD. #1 (CONT'D)

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
BUILDING, HEAVY & RESIDENTIAL CONSTRUCTION					
CLASS A	$12.74	.90	1.25	11%	.05
CLASS B	12.51	.90	1.25	11%	.05
CLASS C	12.20	.90	1.25	11%	.05
CLASS D	12.08	.90	1.25	11%	.05
CLASS E	11.70	.90	1.25	11%	.05
CLASS F	10.32	.90	1.25	11%	.05
CLASS G	9.44	.90	1.25	11%	

CLASS A - Crane with boom & jib or leads 220' or longer

CLASS B - Crane with boom & jib or leads 140' or longer

CLASS C - Crane with boom & jib or leads 120' or longer

CLASS D - Regular Crane Operator

CLASS E - Regular Engineer

CLASS F - Engineer when operating compressor or Welding Machine

CLASS G - Fireman or Oiler

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. OK78-4054 - Mod. #4 (43 FR 25265 - June 9, 1978) Oklahoma, Cleveland, Caddo, Grady, Canadian, Kingfisher, Lincoln, Logan, McClain, Seminole, and Pottawatomie Counties, Oklahoma					
CHANGE:					
LATHERS	$10.50				.01
DECISION NO. OK78-4055 - Mod. #3 (43 FR 25270 - June 9, 1978) Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers Counties, Oklahoma					
CHANGE:					
Terrazzo workers	10.56		.30		
Terrazzo workers & tile layers finishers	8.72				
Terrazzo workers floor machine operator	8.84				
Terrazzo workers base machine operator	9.06				
Tile layers	10.56		.30		
DECISION NO. OK78-4056 - Mod. #2 (43 FR 25273 - June 9, 1978) Muskogee, Adair, Cherokee and Okmulgee Counties, Oklahoma					
CHANGE:					
SHEET METAL WORKERS	11.03	.50	.66		.10
BRICKLAYERS	10.70	.60	.40		.05
DECISION NO. OK78-4057 - Mod. #2 (43 FR 25275 - June 9, 1978) Latimer, LeFlore, Haskell, Sequoyah and Pushmataha Counties Oklahoma					
CHANGE:					
SHEET METAL WORKERS	11.03	.50	.66		.10
BRICKLAYERS	10.70	.60	.40		.05

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and or Appr. Tr.
DECISION NO. OK78-4058 - Mod. #2 (43 FR 26258 - June 16, 1978) McIntosh County, Oklahoma					
CHANGE:					
SHEET METAL WORKERS	$11.03	.50	.66		.10
TERRAZZO WORKERS	10.56		.30		
Terrazzo workers finishers	8.72				
Terrazzo workers floor machine operators	8.84				
Terrazzo workers base machine op..	9.06				
Tile layers	10.56		.30		
DECISION NO. OK78-4059 - Mod. #2 (43 FR 26258 - June 16, 1978) Wagoner County, Oklahoma					
CHANGE:					
SHEET METAL WORKERS	11.03	.50	.66		.10
DECISION NO. OK78-4062 - Mod. #2 43 FR 26269 - June 16, 1978) Pittsburg County, Oklahoma					
CHANGE:					
SHEET METAL WORKERS	11.03	.50	.66		.10
TILE SETTERS	10.56		.30		
TERRAZZO WORKERS	10.56		.30		
TILE & TERRAZZO WORKERS HELPERS TO READ "Tile & Terrazzo finishers"	8.72				

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA78-3070 - Mod. # 1 (43 FR 45162 - Sept. 29, 1978) Lancaster County, Pennsylvania					
Change:					
Laborers:					
General Laborers	$6.85	.50	.57		
Operator of Jackhammer	7.05	.50	.57		
Wagon drill	7.15	.50	.57		
Handling of all materials	7.00	.50	.57		
Laborers assisting tile	6.90	.50	.57		
Handling & using dynamite	7.18	.50	.57		
Caisson Work (Top Men)	7.10	.50	.57		
Caisson Work (Bottom Men)	7.30	.50	.57		
Mixer Man	7.25	.50	.57		
Sheet metal workers	10.47	1.40	1.18		.13
DECISION NO. TN78-1058 - Mod. #3 (43 FR 29461 - July 7, 1978) Hamilton, Marion, Polk, and Rhea Counties, Tennessee					
CHANGE:					
Asbestos workers	$10.50	.45	.70		.02
Ironworkers	9.76	.55	.50		1%
Roofers:					
Composition, damp & waterproofers	9.40		.10		.05
Kettlemen	8.90		.10		.05
Slate & tile	9.60		.10		.05
DECISION NO. TN78-1060 - Mod. #1 (43 FR 29467 - July 7, 1978) Davidson County, Tennessee					
CHANGE:					
Asbestos workers	$11.55	.55	.65		.05
Electricians	10.20	.55	3% + .25		½ of 1%

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4038 - Mod. #3 (43 FR 16129 - April 14, 1978) Harrison County, Texas					
Change:					
Sheet metal workers	$10.425	.50	.60		.105
DECISION #TX78-4078 - Mod. #4 (43 FR 35881 - August 11, 1978) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
Change:					
Marble, tile & terrazzo workers: Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	9.40		.30		
Omit:					
Sheet metal workers:					
Zone 1 - Collin, Dallas, Ellis, Grayson, Hunt, Kaufman & Rockwall Cos.	10.275	.45	.66		.055
Zone 2 - Denton, Hood, Johnson & Tarrant Cos.	10.425	.60	.33		.055
Zone 3 - Palo Pinto & Wise Cos.	10.58				.07
Add:					
Sheet metal workers:					
Zone 1 - Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Rockwall, Tarrant & Wise Cos.	10.425	.50	.66		.105
Zone 2 - Palo Pinto Co.	10.58				.07
DECISION #TX78-4079 - Mod. #4 (43 FR 35884 - August 11, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Line Construction:					
Linemen	10.93	.60	3%		1/2%
Cable splicers	11.055	.60	3%		1/2%
Groundmen (1st year)	5.47	.60	3%		1/2%
Groundmen	6.01	.60	3%		1/2%

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4081 - Mod. #1 (43 FR 36351 - August 18, 1978) Bexar County, Texas					
Change:					
Line Construction:					
Lineman	$11.32	.60	3%		1/2%
Cable splicer	11.57	.60	3%		1/2%
Groundman (1st year)	5.66	.60	3%		1/2%
Groundman	6.23	.60	3%		1/2%
DECISION #TX78-4082 - Mod. #2 (43 FR 38278 - August 25, 1978) Brazos County, Texas					
Change:					
Line Construction:					
Lineman & cable splicer	11.77	.60	3%		1/2%
Groundman (1st 6 months)	4.12	.60	3%		1/2%
Groundman (2nd 6 months)	4.94	.60	3%		1/2%
Groundman	6.83	.60	3%		1/2%
Marble masons	10.49	.63	.20		
Painters:					
Group 1	10.595	.565	.45	.40	.04
Group 2	10.97	.565	.45	.40	.04
Group 3	10.72	.565	.45	.40	.04
Group 4	11.22	.565	.45	.40	.04
Terrazzo workers	10.49	.63	.20		
Tile setters	10.49	.63	.20		
DECISION #TX78-4083 - Mod. #3 (43 FR 38279 - August 25, 1978) El Paso County, Texas					
Change:					
Asbestos workers	8.61	.57	1.30		.03
Plumbers & steamfitters	9.09	.59	.44		.05

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4084 - Mod. #3 (43 FR 38281 - August 25, 1978) Galveston & Harris Cos., Texas					
Change:					
Line Construction:					
Lineman & cable splicer	$11.77	.60	3%		1/2%
Groundmen (1st 6 months)	4.12	.60	3%		1/2%
Groundmen (2nd 6 months)	4.94	.60	3%		1/2%
Marble masons - Harris Co.	10.49	.63	.20		
Painters (Remainder of Harris Co.):					
Group 1	10.595	.565	.45	.40	.04
Group 2	10.97	.565	.45	.40	.04
Group 3	10.72	.565	.45	.40	.04
Group 4	11.22	.565	.45	.40	.04
Terrazzo workers - Harris Co.	10.49	.63	.20		
Tile setters - Harris Co.	10.49	.63	.20		
DECISION #TX78-4085 - Mod. #2 (43 FR 38263 - August 25, 1978) Travis County, Texas					
Change:					
Line Construction:					
Linemen	11.14	.60	3%		1/2%
Groundmen	6.13	.60	3%		1/2%
Groundmen (1st year)	5.57	.60	3%		1/2%
DECISION #TX78-4095 - Mod. #1 (43 FR 43241 - September 22, 1978) Ector & Midland Counties, Texas					
Change:					
Painters:					
Brush	8.24				
Spray & sandblasters	8.99				
DECISION #TX78-4096 - Mod. #2 (43 FR 43242 - September 22, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Carpenters:					
Zone 2 - Carpenters	9.58				
Millwrights	10.10				

MODIFICATIONS P. 10

DECISION NO. WA78-5105 - Mod. #3 (43 FR 28734 - June 30, 1978) Statewide Washington	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Sheet Metal Workers (As contained in Mod. #2)					
Adams (N.E. part), Ferry, Lincoln (E.½), Pend Oreille, Spokane, and Stevens Counties	$10.52	.40	.60		
Adams (S.E. part), Benton, Columbia, Franklin, Walla Walla Counties	10.04	.40	.80	1.21	
Adams (S.W.part), Chelan, Douglas, Grant, Lincoln (W½), and Okanogan Counties	11.00	.40	.90	.60	
King and Snohomish Counties	11.14	.63	1.00		.05
ADD:					
Soft Floor Layers:					
Adams (N.E.part), Ferry, Lincoln (E½), Pend Oreille, Spokane, and Stevens Counties	10.52	.40	.60		
Adams (S.E. part), Benton, Columbia, Franklin, and Walla Walla Counties	10.04	.40	.80	1.21	
Adams (S.W. part), Chelan, Douglas, Grant, Lincoln (W½), and Okanogan Counties	11.00	.40	.90	.60	
King and Snohomish Counties	11.14	.63	1.00		.05

SUPERSEDEAS DECISION

STATE: Illinois — COUNTIES: Adams, Brown & Pike
DECISION NUMBER: IL78-2092 — DATE: Date of Publication
Supersedes Decision No.: IL78-2017, dated March 17, 1978 in 43 FR 11371
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Bricklayers, Stonemasons, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Caulkers & Cleaners	11.65		.20		
CARPENTERS:					
Adams County:					
Carpenters & Soft Floor Layers	10.50	.65	.35		.02
Millwrights & Piledrivermen	10.75	.65	.35		.02
Brown County & Pike County:					
Carpenters & Soft Floor Layers	10.40	.55	.25		.02
Millwrights	10.65	.55	.25		.02
Piledrivermen	10.90	.55	.25		.02
CEMENT MASONS	9.85		1.00		
ELECTRICIANS:					
Electricians	11.15	.50	3%+.75		1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	10.39	.45	.50		
IRONWORKERS:					
Brown County, Pike County & the S. E. corner of Adams County	11.75	.55	.90		.08
Remainder of Adams County	11.50	.55	.90		.06
LATHERS:					
Brown & Pike Counties	12.30				
PAINTERS:					
Adams County:					
Brush	8.80				
Sand & Water Blasting; Spray & Steamcleaning	9.80				
Pike County:					
Commercial	11.05	.55	.35		
Industrial	11.30	.55	.35		

DECISION NO. IL78-2092

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$10.20		1.00		.01
PLUMBERS & STEAMFITTERS:					
Adams & Brown Counties	12.05	.35	.40		.05
Pike County	12.43	.35	.88		.07
ROOFERS	9.90				
SHEET METAL WORKERS:					
Adams & Pike Counties	10.11	.45	.44		.10
Brown County	11.86	3%+.50	.78		.07
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

b. 7 Paid Holidays: A through G

DECISION NO. IL78-2092

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Adams County	9.34	.50	.60		
Unskilled	$ 9.54	.50	.60		.035
Semi-skilled	9.69	.50	.60		.035
Skilled					.035
Brown and Pike Counties					
Unskilled	9.39	.60	.45		.035
Semi-skilled	9.59	.60	.45		.035
Skilled	9.74	.60	.45		.035

CLASSIFICATIONS

UNSKILLED: Allsewer workers plus depth pay, Asphalt Plant Laborers, Bankmen on Floating Plant, Batch Dumpers, Carpenters, Tenders, Cleaning Lumber, Cofferdam workers plus depth pay, Deck Hand, Dredge Hand and Shore Laborers, Dispatchers; Driving of stakes, Stringlines for all machinery, Fencing Laborers, Firemen or Salamander Tenders, Fireproofing Laborers, Fire Shop Laborers; Flagman, Form Handlers, Gravel Box Men, Dumpmen and Spotters, Janitors, Laborers with De-watering systems, Landscapers,Laying of Sod, Material Checkers, Material Handlers, Pit Men, Plaster Installers, Planting of Trees, Removal of Trees, Rip Rap Men, Rod and Chairmen, Scaffold Workers, Tool Cribmen, Track Laborers, Unloading explosives, Unloading and carrying Lath, Unloading and carrying or re-bars, Wrecking, Dismantlling Building, Wallmen and Housemovers, Wrecking Laborers, Wreter or Scale Tickets.

SEMI-SKILLED: Asphalt Workers with machine, Asphalt Raker, and Layers, Cement Handlers, Cement Silica, Clay, Fly Ash, Lime and Plasters, Handler (Bulk or Bag) Chain Saw, Chloride Handlers, Concrete Workers (wet); Grade Checker, Handling or material treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing, Kettle and Tar Men, Mason Tenders, Mortar Mixer Operaters, Motorized Buggies or Motorized Union used for wet concrete to handling of building materials, On concrete paving, placing, cutting and typing or Reinforcing, Signal man on Crane Tank cleaning helpers in free air, Vibrator Operators

SKILLED: Air Tamping Hammerman, Caisson workers plus depth, Concrete Burning Machine Operator, Concrete Saw Operator, Corming Machine Operator, Gunnite Nozzlemen, Jackhammer and drill Operators, Laborers handling masterplante or similar materials, Laborers Tending Masons with hot material or where foreign material are used, Laster Beam Operator, Layout Man/or Tile Layer Leadman on sewer work Jurcam, Multiple Concrete Duct - Leadman, Plasterer Tenders, Ready Mix Workmen, Portable or temporary plant, Screenman on Asphalt Paver, Steel Form Workers - street and highway, Welders, Cutters, Burners, and Torchmen

DECISION NO IL78-2092

ILL-5-FEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt spreed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, clam shell, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augerer boring machines, elevating graders engeers on dredge, gravel processing machines, high lift or fork lists, hoist w/two drums or two or more leadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO. IL78-2092

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers .

GROUP III: - 2,3 or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Champaign & Vermillion
DECISION NUMBER: IL78-2093 DATE: Date of Publication
Supersedes Decision No.: IL78-2018, dated March 17, 1978, in 43 FR 11373
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.15	.50	1.20		.01
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Champaign County:					
Bricklayers; Stonemasons	11.70	.45	.50		.05
Marble, Tile, Terrazzo Workers	12.55		.50		
Vermillion County:					
Bricklayers; Stonemasons Marble, Terrazzo Workers;	11.70	.45	.50		.05
Tile Setters	12.55		.50		
CARPENTERS:					
Champaign County:					
Carpenters & Soft Floor Layers	11.665	.45	1.00		.13
Millwrights & Piledrivermen	12.165	.45	1.00		.13
Vermillion County:					
North of Rosaville					
Carpenters; Soft Floor Layers; Millwrights & Piledrivermen	11.88	.65	.80		.01
Remainder of County					
Carpenters & Soft Floor Layers	11.665	.75	.80		.05
Millwrights & Piledrivermen	12.165	.75	.80		.05
CEMENT MASONS & PLASTERERS:					
Champaign County:					
Cement Masons	12.575	.45	.25		.025
Plasterers	11.915	.45			.025
Vermillion County:					
Cement Masons & Plasterers	11.35		1.00		
ELECTRICIANS:					
Champaign County	12.45	.50	3%+.40		.3%
Vermillion County	12.27	.50	3%+.50		.25%
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Champaign County	10.39	.45	.50		
IRONWORKERS	11.55	.65	1.00		.08
LATHERS	11.49	.45	.40		.01

DECISION NO. IL78-2093

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Champaign County:					
Brush	$ 11.57	.65	.40		.04
Open and Erected Steel	12.57	.65	.40		.04
Vermillion County:					
Brush	11.80				
Spray	12.80				
PLUMBERS & STEAMFITTERS:					
Champaign County	12.15	.35	1.15		.12
Vermillion County	11.52	.35	1.05		.25
ROOFERS:					
Champaign County:					
Roofers	12.39	.70	.45		.03
Vermillion County	11.55				.16
SHEET METAL WORKERS	11.94	3%+.60	.67		
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Thanksgiving Day; G-Christmas Day

FOOTNOTES:
a. 7 Paid Holidays: A through G

b. Employer contibutes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

DECISION NO. IL78-2093

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Champaign County:					
Unskilled	10.75	.30	.30		.035
Semi-skilled	10.95	.30	.30		.035
Skilled	11.10	.30	.30		.035
Vermillion County:					
Unskilled	10.30	.45	.60		.035
Semi-skilled	10.50	.45	.60		.035
Skilled	10.65	.45	.60		.035

UNSKILLED - All sewer workers plus depth pay, Asphlat plant laborers, Bankmen on floating plant, Barch dumpers, Carpenters tenders, Cleaning lumber, Coffersdam workers plus depth pay, Deck hand, Dredge hand and shore laborer, Dispatchers, Driving of stakes, Stringlines for all machinery, Fencing laborers, Firemen or Salamander tenders; Fireproofing laborers; Fire shop laborers; Flagmen; Form handlers, Gravel box men, Dumpmen and Spotters; Janitors, Laborers with de-watering systems; Landscapers, Laying of sod, Material checkers, Material handlers, Pit men, Plaster installers, Planting of trees, Removal of trees, Rip rap men, Rod and chairemen, Scaffold workers, Tool cribmen, Tractor laborers, Unloading explosives, Unloading and carrying Lath, Unlaoding and carrying re-bars, wrecking, dismanteling building, Wallmen and housemovers, Wrecking laborers, Writer or scale tickets

SEMI-SKILLED - Asphalt workers with machine, asphalt raker and layers, Cement handlers, cement silica, clay, Fly ash, line and plasters handler (bulk or bay) Chain saw; Chloride handlers, concrete workers (wet); Grade checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle and Tar men; Mason tenders; Mortar mixer operators; Motorized buggies or motorized unit used for wet concrete or handling of building materials, On concrete paving, placing, Cutting and Typing or Reinforcing, Signal man on crane tank cleaning, Tunnel helpers in free, air, Vibrator operators

SKILLED: - Air tamping hammerman, Caisson workers plus depth, Concrete burning machine operator, Concrete saw operator, corming machine operator, Gunnite nozzle men, Jackhammer and drill operators, Laborers handling masterplate or similar materials, Laborers tending masons with hot material or where foreign material are used, Laser beam operator, Layout man and/or tile Layer leadman on sewer work lutemen, Multiple concrete duct - Leadman, Platterer tenders, ready mix scalemen, portable or temporary plant, Screenman on asphalt pavers, Steel form setters - street and highway, Welders, cutters, burners and torchmen

DECISION NO. IL78-2093 ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.60	.55	.75		.13
CLASS II	11.55	.55	.75		.13
CLASS III	11.35	.55	.75		.13
CLASS IV	7.35	.55	.75		.13

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mehcanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on asphalt, Large rollers & rollers on asphalt, Geavel Macadam & brick surface, Roas carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, farm tractor with ½ yard bucket and/or backhoe attachment, Trench machine cutting over 24" Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, Soil cement machine, Mixers 14S capacity or less, trench Machine cutting 24" & under, backfiller, Elevating machine, Power Blade, asphalt Plant Engineer, Well drilling machines, Paint Machine, Pipe cleaning machine, Pipe wrapping machine, Pipe bending machine, Apaco paver, Boring machine, w/o winch, Head equipment, Greasers, Barger Green Loaders, Formless paver, farm Tractor with less than half-yard bucket and other attachments except backhow, Well point System

CLASS IV - Power Sub-Grader, Bull Float, Form grader, finishing machine, Pavement breaker, Rock Crushers, One drum machine, air compressor less than 20 cu. ft. capacity, Concrete pump, Gunnite machine, Air tuggers, Truck crane drivers, House Elevators when used for temporary heat, Samll rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill Flexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distributor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self propelled concrete saw, Striping machine (Motor driven), Form tamper, seaman tiller, Bulk cement Plant Equipment Greaser

DECISION NO. IL78-2093 ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.12½	.65	a31.00		
GROUP II	10.52½	.65	a31.00		
GROUP III	10.72½	.65	a31.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tolls, of men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2, 3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Dupage, Grundy, Kane, Kendall, Lake, McHenry and Will

DECISION NUMBER: IL78-2094 DATE: Date of Publication

Supersedes Decision No.: IL78-2020, dated March 17, 1978, in 43 FR 11379

DESCRIPTION OF WORK: Building Construction (including Residential Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.01	.91	.99		.05
BOILERMAKERS	13.85	1.05+.40	1.00	5%	.03
BRICKLAYERS & STONEMASONS:					
DuPage County:					
North of Butterfield Road:					
Argonne Vicinity (National Accl. Lab.) Aec Plant	11.71	.90	.85		.05
South of Butterfield Road from East to West	11.71	.90	.85		.05
Northern Kane, bounded on the south by St. Charles, Campton & Virgil Twps; West by the DeKalb County line East by Cook County line, McHenry County	12.03	.85	.60		
Southern Kane County & Kendall Counties	12.03	.75	.70		
Lake County	11.71	.90	.85		.05
Will and Grundy Counties	12.16	.90	.45		
Cement Masons:					
Southern Kane, Kendall Cos.	12.10	.75	.80		
Lake County	11.75	.85	1.05		
MARBLE, TILE & TERRAZZO WORKERS:					
Kane, Dupage, Lake & Will Cos.:					
Marble Setters	12.73	.80			
Terrazzo Workers	8.95	.30	.30		
Tile Setters	10.85	.425	.45625		
Tile Setters' Finishers	9.55	D.325	D3.40		
CARPENTERS:					
Carpenters, Soft Floor Layers, Millwrights and Piledrivermen					
Dupage and Lake Counties	10.50	.98	1.00		.08
Kane, Kendall & McHenry Cos.	11.74	.75	1.00		
Will County:					
Building	11.88	.85	1.00		
Residential	11.81	.85	1.00		
Grundy County	12.145	.75	.85		.04
CEMENT MASONS:					
Dupage County	10.90	.68	.70		.06
Southern Kane & Kendall Cos.	12.10	.75	.80		
Lake County	11.75	.85	1.05		
Will and Grundy Counties	11.02	.65	1.28		.05
Remainder of Kane County	12.15	.70	.80		

DECISION NO. IL78-2094

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Dupage County	13.20	5%	11%	8%	.5%
McHenry Co. & Norhtern half of Kane County	13.95	5%	11%		.5 of 1%
Kendall Co. & Nothern half of Kane County	13.80	5%	11%		½ of 1%
Will & Grundy Cos.: Building	13.93	.88	3%+.70		.2 of 1%
Residential	10.31	.88	3%+.60		.2 of 1%
Lake County	13.54	.65	3%+1.00		½ of 1%
GLAZIERS:					
Dupage, Kane, Kendall, Lake and Will Counties	11.09	.48	.89		.01
ELEVATOR CONSTRUCTORS:					
Dupage, Lake and Will Counties					
Constructors	12.455	.745	.56		.025
Helpers	70%JR	.745	.56		.025
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Kane, County; Kendall (Northern ½ Co., including Bristol & Yorkville Co; McHenry (S.E. ½ of Co., including Huntley) Co. & the remainder of Dupage Co.	13.65	.75	.525		.08
Will & Grundy Cos.; Dupage (Argonne) Co; & Southern half of Kendall Co.	11.07	2.65	.525		.02, 10
N. W. ½ of McHenry County	12.00	.65	.975		
Lake Co.; McHenry, (Heborn, Woodstock & east thereof) Co.	12.30	1.24	1.87		.10
LATHERS: Dupage & Lake Cos.	11.52	.58	.645		.04
Kane Co. & eastern ½ of McHenry Co.	11.05	.65	.50	.01	
Will and Grundy Counties	11.20		.65		
Western ½ of McHenry County	9.84	.40	.35		
LINE CONSTRUCTION: Dupage Co.:					
Linemen	12.83	.45	3%		.50%
Equipment Operator	10.92	.45	3%		.50%
Groundman Truck Driver	8.70	.45	3%		.50%
Groundman	8.41	.45	3%		.50%
PAINTERS: Dupage; Kane, Kendall, McHenry Counties					
Brush, Spray & Taper	9.34	.60	.70		.06
Lake County:					
Brush, Paperhangers & Tapers	10.20	.575	.65		.013

DECISION NO. IL78-2094

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Will and Grundy Counties:					
Residential and Commercial	10.45	.76	.55		.04
PLASTERERS: Dupage County	10.46	.75	.50		
Southern Kane & Kendall Cos.	11.62	.75	.50		
Lake County	10.935	.85	1.05		
Will and Grundy Counties	10.87	.875	.92		.045
Remainder of Kane County	11.80	.70	.77		
PLUMBERS, PIPEFITTERS & STEAMFITTERS:					
Dupage County: (Argenne-AEC Plant)					
Plumbers	12.50	.75	.82		.10
Pipefitters	12.90	.80	1.00		.02
Dupage County: (Remainder of Co.)					
Plumbers and Pipefitters:					
Wheaton and N. Dupage County	12.00	.60	.86		.07
Naperville and S. Dupage Co.	11.90	.65	.90		.05
Kane County:					
Plumbers; Steamfitters and Pipefitters:					
Elgin and Vicinity	11.72	.80	.60	1.00	.05
Aurora and Vicinity	13.06	.55	.29	.25	.02
Kendall (Cities of Oswego and Plano) County	13.06	.55	.29	.25	.02
Kendall (City of Yorkville) County; and Grundy (W. of Rt. #47) County	12.78	.55	.60		.09
Lake and McHenry Counties:					
Plumbers	12.10	.90	.92		.25
Steamfitters and Pipefitters	12.90	.80	1.00		.02
Will (City limits of Joliet) County; and Grundy (E. of Rt. #47) County:					
Plumbers and Pipefitters	12.90	.85	.87		.10
Remainder of Will County:					
Plumbers	12.50	.75	.82		.10
Pipefitters	12.90	.80	1.00		.02
ROOFERS:					
Dupage and Lake Counties:					
Composition and Waterproof	12.30	1.16	.90		.03
Slate and Tile	12.09	1.16	.75		.02

DECISION NO. IL78-2094

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (CONT'D)					
Kane; Kendall, McHenry (Southern part including Cities of McHenry, Woodstock & Crystal Lake) County	12.58	.85	.70		.02
Will and Grundy Counties	11.89	.86	.80		
Remaidner of McHenry Counties	12.20	.55			
SPRINKLERFITTERS:					
Dupage County	12.50	.95	1.05		.15
Lake County:					
Within 20 mile radius of Chicago City Hall	12.50	.95	1.05		.15
Kane, Will, Grundy, McHenry, Kendall and Remainder of Lake County	12.10	.75	1.05		.08
SHEET METAL WORKERS:					
Dupage County	12.15	.55	.60	.20	.12
Kane, Kendall and McHenry Cos.	11.65	.50	.55	1.00	.06
Lake County	12.35	.90	.73	.50	.06
Will and Grundy Counties	12.97	.70	.83		.08
TRUCK DRIVERS:					
2-3 Axle Trucks	10.65	c 29.00	c33.00		
4 Axle Trucks	10.80	c 29.00	c33.00		
5 Axle Trucks	11.00	c 29.00	c33.00		
6 Axle Trucks	11.20	c 29.00	c33.00		
GLAZIERS	11.09	.48	.89		.01
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. IL78-2094

PAID HOLIDAYS: (*WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular rate to vacation pay credit for employee who has worked in business less than 5 years.
b. 7 Paid Holidays; A through G
c. Per week per employee
d. Per Day

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DECISION NO. IL78-2094

ILL-4-LAB-1

LABORERS: Kane, Kendall & McHenry	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1 - Laborers	9.20	.57	1.10		
Class 2 - Power Vibrator	9.30	.57	1.10		
Class 3 - Mortar Men, Torchmen (on Demolition Only)	9.35	.57	1.10		
Class 4 - Power Tampers	9.40	.57	1.10		
Class 5 - Chain saw Men, Swinging State & Boatswin Chairs, Cement Gun Nozzlemen, Hod carriers, Plasterer Tenders, tunnelmen, Tree Surgeons (Toppers)	9.45	.57	1.10		
Class 6 - Tile Layers & Bottom Men	9.55	.57	1.10		
Class 7 - Caisson Laborers & Dynamiters	9.70	.57	1.10		

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DECISION NO. IL78-2094

Ill-9-LAB-1-2-3

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr
DUPAGE, GRUNDY, AND WILL COS.					
CLASS A - common Laborers, Plasterer, Laborers, Pumps or Dewatering & other Unclassified Laborers	9.20	.57	1.10		
CLASS 2 - Cement Gun Laborers	9.275	.57	1.10		
CLASS 3 - Scaffold Laborers & Chimney Laborers over 40'	9.30	.57	1.10		
CLASS 4 - Windlass & Cement Gun Nozzle Laborers - Gunnite	9.30	.57	1.10		
CLASS 5 - Stone Handler & Derrickmen	9.40	.57	1.10		
CLASS 6 - Jackhammermen	9.425	.57	1.10		
CLASS 7 - Concrete Vibrator, Plumbers' Labor & Chain Saw Operator	9.45	.57	1.10		
CLASS 8 - Firebrick & Boiler Setters' Laborers	9.52	.57	1.10		
CLASS 9 - Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	9.55	.57	1.10		
CLASS 10 - Boiler Setters Plastic Laborers	9.65	.57	1.10		
CLASS 11 - Jackhammer On Firebrick Only	9.755	.57	1.10		

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DECISION NO. IL78-2094

ILL-49-LAB-1

LABORERS: LAKE COUNTY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1 Building & Plasters Laborers; General Laborers (Wrecking & Demolition) Fireproofing & Fire Shop Laborers	$ 8.55	.57	1.10		
CLASS 2 Cement Gun Laborers & Hose	8.625	.57	1.10		
CLASS 3 Chimney Laborers (Over 40'); Scaffold Laborers; Wall Men or Wreckers	8.65	.57	1.10		
CLASS 4 Stone Derrickmen & Handlers	8.75	.57	1.10		
CLASS 5 Jackhammer Men (Tampers & Vibrators) Power Driven Concrete Saws	8.775	.57	1.10		
CLASS 6 Caisson Diggers, Well Point System; Chimney Laborers (on Firebrick)	8.90	.57	1.10		

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DECISION NO. IL78-2094

ILL-12-PEO-1

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.55	1.00	1.00	.50	.05
CLASS II	11.25	1.00	1.00	.50	.05
CLASS III	10.10	1.00	1.00	.50	.05
CLASS IV	8.85	1.00	1.00	.50	.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt plant, asphalt spreader, auto-grad, batch plant, Benoto (requires two engineers), boiler & throttle valve, caisson rigs, central redi-mix plant, combination backhoe front end-loader machine compressor & throttle valve, concrete breaker (truck mounted), conveyor, concrete paver, concrete placer, concrete tower, cranes (all), derricks (all), grader, elevating, grouting machines, highlift shovels or front endloader 2½ yd. & over, hoists, one, two & three drum hoists, two & three drum hoists, two tugger one floor, hydraulic boom truck, locomotives (all), mechanic, motor patrol, pile drivers & skid rig, post-hole digger pre-stress machine, pump cretes dual ram (requiring frequent Lubrication & water), pumpcretes, squeeze cretes - screw type pumps, Gysum bulker & pump, rock drill (self-propelled), rock drill (truck mounted), scoopes - tractor drawn, slip form paver, straddle buggies, tournapull, tractor with boom & side boom, trenchingmachines

CLASS II - Boilers, bulldozers, broom all power propelled, concrete mixer (2 bag & over), Conveyor portable, forklift truck greaser engineer, highlift shovels or front end loaders under 2½ yd., hoists, automatic, hoists,a ll elevators, hoists, tugger single drum, rollers, all steam generators, stone crushers, tractors, all winch trucks with "A" frame

CLASS III - Air compressor - small 150 & under (1) to 5 not to exceed a total of 300 ft.), Air compressor - large over 1½), combination - small equipment opr., generators under & over 50 KW, heaters, mechanical pumps over 3" (1 to 3 not to exceed a total of 300 ft.), pumps, well points, welding machine (2 through 5), winches, 4 small electric drill winches

CLASS IV - Oilers

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Cook
DECISION NUMBER: IL78-2105 DATE: Date of Publication
Supersedes Decision No.: IL78-2019, dated March 17, 1978, in 43 FR 11176
DESCRIPTION OF WORK: Building (including Residential), Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.01	.91	.99		.05
BOILERMAKERS	13.05	1.05+.40	1.00	5%	.03
BRICKLAYERS & STONEMASONS	11.71	.90	.85		.05
CARPENTERS:					
Building, Heavy & Highway					
Carpenters & Soft Floor Layers	11.50	.98	1.08		.08
Millwrights & Piledrivermen	11.50	.98	1.08		.08
CEMENT MASONS:					
Building	11.25	1.25	1.15		.05
Heavy &Highway	10.05	.82	.85		.05
ELECTRICIANS	12.25	8.90%	12.30%	6.53%	.84%
ELEVATOR CONSTRUCTORS:					
Constructors	12.455	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	11.09	.48	.89		.01
IRONWORKERS:					
Structural & Reinforcing	12.30	1.24	1.22		.10
Ornamental	12.30	.75	.905		.10
Riggers & Machinery Movers	9.90	.75	1.725	1.30	.15
Rod Buck Fence Erector	9.07	.75	.905		.10
LATHERS	11.02	.58	.445		.04
LINE CONSTRUCTION:					
Linemen	12.46	7.25%	6.5%	7.5%	.25%
Groundmen	9.45	7.25%	6.5%	7.5%	.25%
MARBLE SETTERS	12.73	.80			
MARBLE SETTERS' FINISHERS & POLISHER	9.00	.62		.33	
PAINTERS:					
Brush, Decorators, Paperhangers & Tapers	10.20	.575	.65		.013
PLASTERERS	10.07	.875	.92		.045
PIPEFITTERS	12.90	.80	1.00		.02
PLUMBERS	12.50	.75	.82		.10
POINTERS, CAULKERS & CLEANERS	11.60	1.10	.90		

DECISION NO. IL78-2105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition & Waterproofers	12.30	1.16	.90		.03
Slate & Tile	12.07	1.15	.75		.02
SHEET METAL WORKERS	12.35	.90	.73	.50	.06
SPRINKLER FITTERS	12.50	.95	1.05		.15
SURVEY CREW:					
Layout Technician	11.30	.80	.25		
Instrument Man	9.30	.80	.25		
Rodman	7.71	.80	.25		
TERRAZZO WORKERS	8.95	.30	.30		
TILE SETTERS	10.85	.425	.45625		
TILE SETTERS' FINISHERS	8.10	d2.45	d3.40		
TRUCK DRIVERS:					
Building & Residential					
2-3 Axle Trucks	10.15	c29.00	c33.00		
4 Axle Trucks	10.40	c29.00	c33.00		
5 Axle Trucks	10.60	c29.00	c33.00		
6 Axle Trucks	10.80	c29.00	c33.00		
Heavy and Highway					
2-3 Axle Trucks	10.05	.80	.85		
4 Axle Trucks	10.30	.80	.85		
5 Axle Trucks	10.50	.80	.85		
6 Axle Trucks	10.70	.80	.85		

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving Day; G-Christmas Day

FOOTNOTES:
a. 7 Paid Holidays A through G
b. Employer contributes 8% of regular houlry rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Per week per employee
d. Per Day

DECISION NO. IL78-2105 ILL-9-LAB-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS 1 Common Laborers, Plasterer Laborers, Pumps for DeWatering & other Unclassified Laborers	$ 9.20	.57	1.10		
CLASS 2 Cement Gun Laborers	9.275	.57	1.10		
CLASS 3 Scaffold Laborers & Chimney Laborers over 40'	9.30	.57	1.10		
CLASS 4 Windlass & Cement Gun Nozzle Laborers - Gunnite	9.30	.57	1.10		
CLASS 5 Stone Handlers & Derrickmen	9.40	.57	1.10		
CLASS 6 Jackhammermen	9.425	.57	1.10		
CLASS 7 Concrete Vibrator, Plumbers' Laborer & Chain Saw Operator	9.45	.57	1.10		
CLASS 8 Firebrick & Boiler Setters' Laborers	9.52	.57	1.10		
CLASS 9 Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	9.55	.57	1.10		
CLASS 10 Boiler Setter Plastic Laborers	9.65	.57	1.10		
CLASS 11 Jackhammer on Firebrick Only	9.755	.57	1.10		

DECISION NO. IL78- 2105

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
WRECKING LABORERS:	$ 7.82	.57	1.10		
General Laborers					
Wallmen, Wreckers, Burners, Air Hammermen	8.47	.57	1.10		
Smokestack or High Man	8.82	.57	1.10		
Landscape work:					
Highway Construction only					
Landscape Plantsmen	5.63			e	
Maintenance Men	5.32			e	
Truck Driver - Tractor Trailer (3 Axle of more) and Equipment Operator	6.11			e	
Truck Driver - 2 Axle	5.69			e	

FOOTNOTE:
e. Six paid holidays; New Year's Day; Memorial Day; July Fourth Labor Day; Thanksgiving Day; Christmas Day

DECISION NO. IL78-2105 ILL-12-PEO-1

POWER EQUIPENT OPERATORS: BUILDING & RESIDENTIAL CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.55	1.00	1.00	.50	.05
CLASS II	11.25	1.00	1.00	.50	.05
CLASS III	10.10	1.00	1.00	.50	.05
CLASS IV	8.85	1.00	1.00	.50	.05

CLASS I - Asphalt plant, asphalt apreader, auto-grad, batch plant, Benoto (requires two engineers), boiler & throttle valve, caisson rigs, central redi-mix plant, combination backhoe breaker (truckmounted), conveyor, concrete paver, concrete placer, concrete tower, cranes (all), derricks (all), grader, elevating, grouting machines, highlift shovels or front endloader 2¼ yd. & over, hoists, one, two & three drum, hoists, two & three, drum, hoists, two tugger one floor, hydraulic boom trucks, locomotives (all), mechanic, motor patrol, pile drivers & skid rig, post-hole digger, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), pumpcretes, squeeze cretes, - screw types pumps, Gysum bulker & pump, rock drill (self-propelled), rock drill (truck mounted), scoopes - tractor drawn, slipform paver, straddle buggies, tournapull, tractor with boom & side boom, trenching machines

CLASS II - Boiler, bulldozers, broom all power propelled, concrete mixer (2 bag & over), conveyor portable, forklift truck greaser engineer, highlift shovels or front endloaders under 2¼ yd., hoists, automatic, hoists, all elevator, hoists, tugger single drum, roller, all, steam generators, stone crushers, tractor, all winch trucks with "A" frame

CLASS III - Air compressor - small 150 & under (1) to 5 not to exceed a total of 300 Ft.), Air compressor - large over 150, combination - small equipment opr., generators under & over 50 KW heaters, mechanical pumps, over 3" (1 to 3 not to exceed a total of 300 ft.), pumps, well points, welding machines (2 through 5), winches, 4 small electric drill winches

CLASS IV -Oilers

DECISION NO. IL78-2105 ILL-10-PEO-2-3

POWER EQUIPMENT OPERATORS; SEWER, HEAVY & HIGHWAY CONST.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.20	1.00	1.00	.50	.05
CLASS II	11.65	1.00	1.00	.50	.05
CLASS III	10.90	1.00	1.00	.50	.05
CLASS IV	9.80	1.00	1.00	.50	.05
CLASS V	8.80	1.00	1.00	.50	.05

CLASS I - Asphlat plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, ciasson rigs, central redimix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 27S cu. ft., concrete placer, concrete tube float, cranes, all attachments, cranes, Linden, Peco & machines of alike nature, derricks, traveling, dredges, euclid loader, elevating type, gradall, & mechanics of a like nature, derricks, all derrick boats, derricks, traveling, dredges, euclid loader,elevating type gradall, and mechines of a like nature, 1 cu. yd. & over, mucking machine, under 1 cu. yd., piledrivers & skid rig, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), rock drill crane type, slip form paver, straddle buggies, tractor w/boom tractaire w/attachments, trenchingmachine, undergound boring &/or mining machine'under 5 ft., wheel exactor widener (Apsco)

CLASS II - Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front endloader machine, concrete bresker or hydro-hammer, concrete grinding machine, concrete mxier or paver 7S Series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & sealing machine, finishing machine, concrete grader, motor patrol auto patrol, form grader, pull grader, subgrader, highlift shovels or front endloader, hydraulic boom trucks (all attachments), locomotives, dinky, pump cretes; Squeeze cretes; arew type pumps Cypsum bulker & pump, rock drill (self-propelled), roto-tiller, seaman, etc. self-propelled scoops; tractor drawn, self-propelled compactor, spreader, chipstone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc. tug boats

DECISION NO. IL78-2105

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III - Boilers, boiler & throttle valve, brooms, all power propelled, cement supply tender, compressor throttle valve, concrete mixer (2 bags & over) conveyor, portable, fireman on boiler, forklift trucks, greaser engineer, grouting machine hoists, automatic, hoists, all elevators, hoists, tugger, single drum, jeep diggers, pipe power saw, concrete, power-driven, pug mills, rollers, all, steam generators, stone crushers, stump machine, winch truck with "A" frame, work boats, tamper, form motor driven

CLASS IV - Air Compressors, all, generators, heaters, mechanical, light plants, all (1 through 5), pmps, all, pumps well points, tractaire, welding machines (2 through 6)

CLASS V - Oilers

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Fulton, Hancock, McDonough & Schuyler

DECISION NUMBER: IL78-2106 DATE: Date of Publication

Supersedes Decision No.: IL78-2021, dated March 17, 1978 in 43 FR 11384

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fulton & Schuyler Counties	12.63	.80	.97		
Hancock & McDonough Counties	11.55	.40	.60		.10
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Schuyler County					
Bricklayers, Stonemasons, Plasterers, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers-Caulkers-Cleaners	10.80	.50	.52		.02
Marble & Tile Setters' Finishers	10.90				
Fulton County					
Bricklayers, Stonemasons, Cement Blocklayers, Cleaners-Pointers & Caulkers	11.70	.70	1.00		.01
Marble-Tile-Terrazzo Workers	11.45	.70	1.00		.01
Marble & Tile Setters' Finishers	11.00	.60	.25		
Hancock & McDonough Counties					
Bricklayers, Stonemasons, Cement Block Layers, Marble-Tile & Terrazzo Workers	12.30				
Marble & Tile Setters' Finishers	11.00	.60	.25		
CARPENTERS:					
Schuyler County					
Carpenters & Soft Floor Layers	10.40	.55	.25		.02
Millwrights	10.65	.55	.25		.02
Piledrivermen	10.90	.55	.25		.02
Fulton County					
Carpenters & Soft Floor Layers	12.01	.40	.40		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
McDonough Co. & Eastern 1/3 of Hancock Co.					
Carpenters & Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
Remainder of Hancock County					
Carpenters & Soft Floor Layers	10.70	.75	.90		.04
Millwrights & Piledrivermen	11.40	.75	.40		.04

DECISION NO. IL78-2106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
Hancock, McDonough & Schuyler Counties					
Cement Masons	12.35				
Hancock & McDonough Counties					
Plasterers	12.10				
Fulton County					
Cement Masons	11.30	.80	.90		.05
Plasterers	11.20	.80	.90		.03
ELECTRICIANS:					
Hancock & Schuyler Cos., Twps. of Lamoine, Bethel, Industry & Eldorado in McDonough County	11.15	.50	3%+.75		.1%
Twps. of Cass, Deerfield, Ellisville, Harris, Lee, Union, Young & Hickory in Fulton Co., & the Northern 2/3 of McDonough County	12.06	.50	3%+.75		3/4%
Remainder of Fulton County	12.32	.50	3%+.75		1%
IRONWORKERS:					
Hancock & McDonough Cos., the Western ½ of Schuyler County	11.50	.55	1.05		
Eastern ½ of Schuyler Co.	11.50	.55	.90		
The Southern Tip of Fulton Co., incl. Marbletown, Astoria, Summum, & Remainder of Fulton Co.	11.75	.55	1.05		.08
LABORERS:					
Hancock & McDonough Counties					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035
Schuyler County					
Unskilled	9.39	.60	.45		.035
Semi-Skilled	9.59	.60	.45		.035
Skilled	9.74	.60	.45		.035
Fulton County					
Projects Under $375,000					
Unskilled	10.15	.60	.60		.035
Semi-Skilled	10.35	.60	.60		.035
Skilled	10.55	.60	.60		.035

DECISION NO. IL78-2106

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Projects in Excess of $375,000					
Unskilled	$ 10.55	.60	.60		.035
Semi-Skilled	10.75	.60	.60		.035
Skilled	10.95	.60	.60		.035
PAINTERS:					
Fulton & Schuyler Cos.					
Brush	11.30	.55	.30		.03
Structural Steel & Spray	11.95	.55	.30		.03
Hancock & McDonough Cos.					
Brush	10.75				
Structural Steel & Spray	11.25				
PLUMBERS & STEAMFITTERS:					
Fulton & McDonough Counties	12.32	.35	.35	4%	
Hancock & Schuyler Counties	12.05	.35	.40		.05
ROOFERS:					
Schuyler County					
Composition	11.78				
Slate-Tile & Precast Slab	12.93	.70			
Fulton Co., & Eastern ½ of McDonough Co., excluding Macomb					
Slate-Tile-Comopsition-Damp & Waterproof	12.00	.70	.40		.025
Hancock Co., & Western ½ of McDonough including Macomb					
Slate-Tile-Damp & Waterproof	10.20				
SHEET METAL WORKERS:					
Fulton & McDonough Counties	11.83	.54	.99		.10
Hancock County	10.11	.45	.44		.10
Schuyler County	11.86	3%+.50	.78		.07
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO IL782106

SCHUYLER COUNTY

POWER EQUIPMENT OPERATORS:

ILL-5-PEO-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders eingeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO. IL78-2106

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS
REMAINDER OF COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.37	.45	.80		.05
GROUP 5	10.46	.45	.80		.05

POWER EQUIPMENT OPERATORS:

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity) require oiler, mechanics, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, knohring scoopers, draglines, backhoe, hoptics-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yunbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumperete-belt-squeeze cretes-screw-type pumps and gysum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tuneluger, rock crushers, automatic cement gravel batching plants, mobile drills (soil testing and similar types), (require oilers), flaherty spreader or similar types (require oilers), heavy equipment greaser (top greaser or spread), gurries and similar type), 1 and 2 drum hoists (buck holsts and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking machine, hydro boom, statting engineer on pipeline, C.M.I. and similar types (require oiler) Straw blower, hydro seeder and E.W.D. and similar types

DECISION NO. IL78-2106

POWER EQUIPMENT OPERATORS (Cont'd)

Group 3: Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barber greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27S, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

Group 4: Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, curb machines, truck crane oilers, and truck type hoptoe oilers

Group 5: Herman Nelson heater, Dravo, Warner, Silent glo, and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp, or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL78- 2106

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.125	.60	a31.00		
GROUP II	10.525	.60	a31.00		
GROUP III	10.725	.60	a31.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle truck hauling less than 9 tons, air compressor and welding machine including those pulled by seprate units truck driver helpers, warehousemen, mechanics helpers, greasers & firemen, pick-up trucks when hauling materials, tolls, or men to and from and on the jobs site; Fork lifts up to 6,000lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used tranportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4 axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatcher

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: Ford, Iroquios & Kankakee
DECISION NUMBER: IL78-2107 DATE: Date of Publication
Supersedes Decision No.: IL78-2022, dated March 17, 1978 in 43 FR 11387
DESCRIPTION OF WORK: Building Construction, (excluding single family himes and garden type apartments up to and including 4 stories).

DECISION NO. IL78-2107

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.01	.91	.99		.05
BOILERMAKERS:					
Kankakee County	13.05	1.05+.40	1.00	5%	.03
Ford & Iroquois Counties	11.45	.95	1.00		.03
BRICKLAYERS, STONEMASONS, MARBLE SETTERS, TERRAZZO WORKERS, TILE SETTERS, POINTERS, CAULKERS & CLEANERS:					
Kankakee County:					
Bricklayers, Stonemasons, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Caulkers & Cleaners, Cement Masons	11.70	.80	.75		
South of Roberts in Ford County:	11.70				
Bricklayers & Stonemasons	11.70	.45	.50		.05
Marble-Tile & Terrazzo Workers	12.55		.50		
Remainder of Ford County:					
Bricklayers & Stonemasons	11.70	.80	.75		
Marble Setters	11.45	.70	1.00		.01
Iroquois County:					
Bricklayers & Stonemasons	11.70	.80	.75		
Marble-Tile & Terrazzo Workers	11.45	.70	1.00		.01
CARPENTERS:					
Ford County:					
Carpenters & Soft Floor Layers	11.665	.45	1.00		.13
Millwrights & Piledrivermen	12.165	.45	1.00		.13
Iroquois & Kankakee Counties:					
Carpenters, Millwrights, Soft Floor Layers & Piledrivermen	11.88	.65	.70		.01
CEMENT MASONS:					
Ford County	12.575	.45	.25		.025
Iroquois County	11.70	.80	.75		
ELECTRICIANS:					
Twps. of Fountain Creek, Love Joy & Prairie Green in Iroquois County	12.27	.50	3%+.50		.25%
Area S. of Roberts Twps in Ford County, Twps of Artesia, Pigeon Grove & Loda in Iroquois County	12.45	.50	3%+.40		.3%
ELECTRICIANS (CONT'D)					
Kankakee County & Remainder of Ford & Iroquios Counties	12.42	.80	3%+.70		.2 of 1%
ELEVATOR CONSTRUCTORS:					
Kankakee County:					
Constructors	12.455	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
Piper City & North therof in Ford County & Area East of Cabery in Kankakee County	9.65			.65	
Remainder of Kankakee County	11.89	.48	.89		.01
Remainder of Ford County	11.53	.55	.55		.01
IRONWORKERS:					
Ford County	11.55	.65	1.00		.08
Iroquios & Kankakee Counties	12.50	.75	.75		.05
LATHERS:					
Ford County	11.49	.45	.40		.01
PAINTERS					
Ford County:					
Brush & Roller	11.20	.55			.06
Paperhanging	11.45	.55			.06
Structural Steel	11.70	.55			.06
Iroquois & Kankakee Counties:					
Brush & Roller	10.85	.55	.50		
Spray	10.90	.45	.50		
PLASTERERS:					
Ford County	11.915	.45			.025
Iroquois & Kankakee Counties	11.50	.80	.75		
PLUMBERS & STEAMFITTERS:					
Ford County	12.15	.35	1.15		.12
Iroquois & Kankakee Counties	12.68	.35	1.00		.08
ROOFERS:					
Ford County	12.39	.70	.45		.03
Iroquois County	11.55				
Kankakee County:					
Roofers	12.30	.65			

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS:					
Ford County	11.94	3%+.60	.67		.16
Iroquois & Kankakee Counties	12.97	.70	.89		.08
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCKDRIVERS:					
Kankakee County; Remainder of Iroquois County & Northern ½ of Ford Co.					
2-3 Axle Trucks	10.525	b29.50	b31.00		
4 Axle Trucks	10.725	b29.50	b31.00		
5 Axle Trucks	10.925	b29.50	b31.00		
6 Axle Trucks	11.075	b29.50	b31.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through C
b. Per week - Per Employee

DECISION NO. IL78-2107

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Unskilled	$10.07	.45	.60		.035
Semi-skilled	10.27	.45	.60		.035
Skilled	11.60	.45	.60		.035

UNSKILLED: Common Laborer; carpenter tenders; tool cribmen firemen or salamander tenders; flagmen; gravel bo men; dumpmen & spotters; form handlers; material patchers; landscapers; unloading explosives; laying of sod; planting of trees; asphalt plant laborers; wrecking laborers; writer of scale tickets; fire shop laborers; fireproofing laborers; janitors; wrecking-dismantling buildings; wallmen & [illegible]; driving of stakes; [illegible] machinery

SEMI-SKILLED: Handling of materials treated with oil, creosote, asphalt or any foreign material, track laborers; cement handlers; chloride handlers; the unloading and laborers w/steel workers 7 rebars; concrete workers (wet); tunnel helpers in free air; batch dumpers; mason & plasterer tenders & material wheelers kettlemen & tarmen; tank cleaners; plastic instrllers; scaffold workers; motorized buggies or motorized unit used for wet concrete or handling of building materials laborers w/dewatering systems; all sewer workers plus depth; rod & chainmen with land surveyors; vibrator operators; mortar mixer operator; cement silica; clay, fly ash, lime & plasters; handlers (bulk or bag); cofferdam workers plus depth; (on concrete paving) placing, cutting & trying or reinforcing; deck hand; dredge hand & shore laborers; bankmen on floating plant; asphalt workers w/machine; asphalt raker; grade checker

SKILLED: Dynamite man or blasters; caisson workers plus depth; gunnite; nozzle men leadman on sewer work; welder; cutters; burners; torchmen; chain saw operator; jackhammer & drill operators; layout man; steel form setters (street & highway); air tamping hammerman; signal man on crane, concrete saw operator; screenman on asphalt pavers; laborers tending masons w/hot materials are used: multiple concrete duct-leadmen; curb asphalt machine operator; ready-mix scalemen; portable or temporary plant; laborers handling masterplate or similar materials; laser beam operator; coring machine operator

DECISION NO. IL78-2107 ILL-1PEO-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: FORD & IROQUOIS COUNTIES					
CLASS I	11.60	.55	.75		.13
CLASS II	11.55	.55	.75		.13
CLASS III	11.35	.55	.75		.13
CLASS IV	7.35		.75		.13

POWER EQUIPMENT OPERATORS:

CLASS I: Master Mechanic

CLASS II: Utility Operator

CLASS III: Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on Asphalt, Large rollers & rollers on asphalt, Grave] Macadam & Brick surface, Koss carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, Farm tractor with ½ yard bucket and/or backhoe attachment, Trench machines cutting over 24", Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, Soil cement machine, Mixers 14S capacity or less, Trench Machine cutting 24" & under, Backfiller, Elevating machine, Power Blade, Asphalt Plant Engineer, Well drilling Machines, Paint Machine, Pipe Cleaning Machine, Pipe wraping machine, Pipe Bending Machine, Apsco paver, Boring Machine, w/o winch, Head equipment, Greasers, Barber Green Loaders, Formless paver, Farm Tractor with less than half-yard bucket and other attachments except backhoe, Well Point System

CLASS IV: Power Sub-Grader, Bull Float, Form Grader, Finishing machine, Pavement breaker, Rock Crushers, One drum machine, air compressor less than 20 cu. ft. capacity, Concrete pump, Gunnite machine, Air Tuggers, Truck crane drivers, House Elevators when used for temporary heat, Small rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill, Flexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distrbutor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self Propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser

DECISION NO. IL78-2107 ILL-12-PEO-1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: KANKAKEE COUNTY					
CLASS I	12.55	1.00	1.00	.50	.05
CLASS II	11.25	1.00	1.00	.50	.05
CLASS III	10.10	1.00	1.00	.50	.05
CLASS IV	8.85	1.00	1.00	.50	.05

POWER EQUIPMENT OPERATORS:

CLASS I: Asphalt plant, asphalt spreader, auto-grad, batch plant, Benoto (requires two engineers), boiler & throttle valve, caisson rigs, central redi-mix plant, combination backhoe front end-loader machine, compressor & throttle valve, concrete breaker (truck mounted), conveyor, concrete paver- concrete placer, concrete tower, cranes (all), derricks (all), grader, elevating, grouting machines, highlift shovels or front endloader 2½ yd. & over, hoists, one, two & three drum, hoists, two & three, drum, hoists, two tugger one floor, hydraulic boom trucks, locomotives (all), mechanic, motor patrol, pile drivers & skid rig, post-hole digger, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), pumpcretes, squeeze cretes - screw types pumps, Gysum bulker & pump, rock drill (self-propelled), rock drill (truck mounted), scoopes - tractor drawn, slip form paver, straddle buggies, tournapull, tractor with boom & side boom, trenching machines

CLASS II: Boilers, bulldozers, broom all power propelled, concrete mixer (2 bag & over), conveyor portable, forklift truck greaser engineer, highlift shovels or front endloaders under 2½ yd., hoists, automatic, hoists, all elevators, hoists, tugger single drum, rollers, all, steam generators, stone crushers, tractors, all, winch trucks with "A" frame

CLASS III: Air compressor - small 150 & under (1) to 5 not to exceed a total of 300 ft.), Air compressor - large over 150, combination - small equipment opr., generators under & over 50 KW, heaters, mechanical, pumps, over 3" (1 to 3 not to exceed a total of 300 ft.), pumps, well points, welding machines (2 through 5), winches, 4 small electric drill winches

CLASS IV: Oilers

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DECISION NO. IL78-2107

ILL-82-TD-1-2-3

TRUCK DRIVERS - S.E. CORNER OF IROQUOIS CO., & S. ½ OF FORD CO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks haulijg less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Bureau, LaSalle, Livingston, Marshall, Putnam and Woodford

DECISION NUMBER: IL78-2109

DATE: Date of Publication

Supersedes Deicsion NO. IL78-2024, dated March 17, 1978, in 43 FR 11391

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WOKRERS	13.01	.91	.99		.05
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS AND STONEMASONS:					
LaSalle county					
Peru and Vicinity	11.70	.65	1.00		
Streator and Vicinity	11.75	.70	.50		
Ottawa and Vicinity	11.80	.75	1.00		
Woodford & Marshall Counties	11.70	.70	1.00		.01
Livingston County	11.55	.85	.50		
CARPENTERS:					
LaSalle, Marshall, Bureau Cos. The Northern half of Putnam County and Northwestern corner of Livingston County					
Carpenters; Piledrivermen and Soft Floor Layers	11.68	.75	.70		.03
Millwrights	11.93	.75	.60		.03
Remainder of Livingston County					
Carpenters; soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
Woodford County					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
CEMENT MASONS:					
LaSalle, Bureau, Putnam Cos. and the Northern part of Livingston County	11.85		1.00		
Southern part of Livingston County and that portion East of Roanoke in Woodford Co.	12.53	.55			
Marshall County & the Remainder of Woodford county	11.30	.80	.90		.05
ELECTRICIANS:					
Northern half and Central Southern part of LaSalle Co. Walnut; Ohio, LaMoille, Clarion, Bureau, Dover, Berlin and Westville Townships in Bureau county	13.93	.80	3%+.70		.2 of 1%

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DECISION NO. IL78-2109

ELECTRICIANS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Vicinity of LaSalle - S. W. part of County; Remainder of Putnam County; Ariape, Concord, Fairfield, Gold, Greenville, Hall, Indientown, Leepertown, Macon, Manilus, Milo, Mineral, Neponset, Princeton, Sibly, Wheatland, and Waynet Townships, in Bureau County	12.30	.50	3%+.30		.25%
Area West of Bell Plain and Roberts Townships in Marshall County; Area West to but not including Linn, Kansas, Palestone, Roanoke, Cazenovia and Metamora Townships in Woodford County	12.32	.50	3%+.75		1%
Livingston County; Vicinity of Streator - S. E. part of County South of Eden in LaSalle County; Magnolia Township in Putnam County; Area East of Cazenovia and Metamora Townships, including Linn, Clayton, Minak, Roanoke, Green & Panola Townships in Woodford County; Remainder of Marshall County	12.45	.50	3%+.40		.3%
El Paso, Kansas and Palatine Townships S. E. corner of Woodford County	11.95	.50	3%+.55		.002
IRONWORKERS:					
LaSalle, Bureau, Putnam and the Remainder of Marshall County	13.19	.65	.375		.02
Woodford County; and the S. W. corner of Marshall County	11.975	.65	.925		
Livingston County	11.975	.65	.925		
LATHERS:					
S. W. half of Marshall County	11.92	.40	.40		.01

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DECISION NO. IL78-2109

PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Livingston County:					
Brush	9.00				
Structural Steel	9.50				
Vicinity of Ottawa, Streator and Marseilles in LaSalle Co.					
Brush	9.00	.55	.50		
Spray	10.00	.55	.50		
Putnam County and the Vicinity of LaSalle, Mendota, Oglesby, Utica and Peru in LaSalle Co.					
Brush	9.50	.65	.45		
Spray and Taping	9.50	.65	.45		
Woodford and Marshall Counties:					
Brush	11.30	.55	.30		.03
Spray	11.95	.55	.30		.03
Bureau County:					
Brush and Roller	10.27	.55	.85		.18
Spray	10.77	.55	.85		.18
PLASTERERS:					
Vicinity of LaSalle and Peru in LaSalle County	11.70	.65	1.00		
Vicinity of Ottawa, Earlville, Seneca and Marseilles - LaSalle County	11.80	.75	1.00		
Vicinity of Streator; LaSalle County and Northern part of Livingston County	11.75	.70	.50		
Portion East of Roanoke in Woodford County & the Southern part of Livingston County	13.05				.01
Marshall County & the Remainder of Woodford County	11.20	.80	.90		.03
Putnam and Bureau Counties	12.25	.70	.40		
PLUMBERS AND STEAMFITTERS:					
LaSalle, Putnam and Bureau Coe. and North of Pontiac in Livingston County	12.78	.55	.60		.09
City of Pontiac and South thereof Livingston County	12.55	.70	1.15		.15
Illinois State Prison (Pontiac) in Livingston county	12.68	.35	1.00		.08

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DECISION NO. IL78-2109

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
LaSalle, Bureau, Putnam, Livingston and N. E. half of Marshall County	11.38	.40	.60		
Woodford County and S. E. half of Marshall County	12.00	.70	.40		.025
SHEET METAL WORKERS:					
Woodford County	11.83	.65	.99		.10
LaSalle, Bureau, Marshall, Putnam and Southern part of Livingston County	11.24	.65+B	.99		.12
Northern portion of Livingston County	12.97	.70	.89		.08
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Remainder of Woodford and Livingston Counties					
2-3 Axle Trucks	10.65	a29.00	a33.00		
4 Axle Trucks	10.80	a29.00	a33.00		
5 Axle Trucks	11.60	a29.00	a33.00		
6 Axle Trucks	11.20	a29.00	a33.00		
WELDERS: - Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:

a. Per week per employee
B. 3% of gross earnings to SASHI

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DECISION NO. IL78-2109

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Unskilled	10.07	.45	.60		.035
Semi-skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035

UNSKILLED: Common Laborer; Carpenter Tenders; Tool Cribmen; Fireman or Salamander Tenders; Flagmen; Gravel Box Men; Dumpmen and Spotters; Form Handlers; Material Handlers; Fencing Laborers; Cleaning Lumber; Pit Men; Material Checkers; Dispatchers; Landscapers; Unloading explosives; Laying of sod; Panting of trees; Asphalt Plant Laborers; Wrecking Laborers; Writer or scale tickets; Fire shop Laborers; Fireproofing Laborers; Janitors; Wrecking-dismantling buildings; Wallmen and Housemovers; Driving of Stakes; Strinqlines for all Machinery

SEMI-SKILLED: Handling of Materials treated with oil, creosote, asphalt or any foreign material, track Laborers; Cement Handlers; Chloride Handlers; the unloading and Laborers w/steel workers and rebard; Concrete Workers (wet); Tunnel Helpers in free air; Batch Dumpers; Mason and Plasterer Tenders and material wheelers; Kettlemen and Tarmen; Tank Cleaners; Plaastic Installers; Scaffold Workers; Motorized buggies or motorized unit used for wet concrete or handling of building materials; Laborers w/dewatering systems; All sewer workers plus depth; Rod and Chainmen with land survcyors; Vibrator Operators; Mortar Mixer Operator; Cement Silica, Clay, Fly Ash, Lime and Plastera; Handlers (bulk or bag); Cofferdam Workers plu depth; (on concrete paving); Placing, Cutting and trying or Reinforcing; Deck Hand; Dredge hand or Shore Laborers; Bankmen on floating plant; Asphalt Workers w/machine; Asphalt Raker; Grade Checker

SKILLED: Dynamite Man or Blasters; caisson workers plus depth; Gunnite Nozzle Men; Leadmen on aewer work; Welders; Cutters; Burners; Torchmen; Chain Saw Operator; Jackhammer and Drill Operators; Layout man; wceel Form Setters (street and highway); Air Tamping Hammerman; Signalman on crane, Concrete Saw Operator; Screenman on Asphalt Pavers; Laborers tneding Masons w/hot materials are used; Multiple Concrete Duct-Leadmen; Lutemen; Curb Asphalt Machine Operator; Ready-mix Scalemen; Portable or temporary plant; Laborers handling master plate or similar materials; Laser Beam Operator; Coring Machine Operator

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DECISION NO. IL78-2109

ILL-12-PEO-1

POWER EQUIPMENT OPERATORS: Bureau (e. of Rt. #26); LaSalle; Livingston; Putnam (e. of Illinois River)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.55	1.00	1.00	.50	.05
CLASS II	11.25	1.00	1.00	.50	.05
CLASS III	10.10	1.00	1.00	.50	.05
CLASS IV	8.85	1.00	1.00	.50	.05

CLASS I - Asphalt plant, asphalt spreader, auto-grade, batch plant, Benoto (requires two engineers), boiler & throttle valve, caisson tugs, central ready-mix plant, combination backhoe front end-loader machine, compressor & throttle valve, concrete breaker (truck mounted), conveyor, concrete paver, concrete placer, concrete tower, cranes (all), derricks (all), grader, elevating, grouting machines, highlift shovels or front endloader 2½ yd. & over, hoists, one, two & three drum, hoists, two & three, drum, hoists, two tugger one floor, hydraulic boom trucks, locomotives (all) mechanic, motor patrol, pile drivers & skid rig, post-hole digger, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), pumpcretes, squeeze cretes - screw types pumps, Gysum bulker & pump, rock drill (self-propelled), rock drill (truck mounted), scoopes - tractor drawn, slip form paver, straddle buggies, tournapull, tractor with boom & side, trenching machines

CLASS II - Boilers, bulldozers, broom all power propelled, concrete mixer (2 bag & over), conveyor portable, forklift truck greaser engineer, highlift shovels or front endloaders under 2½ yd., hoists, automatic, hoists, all elevators, hoists, tugger single drum, rollers, all steam generators, stone crushers, tractors, all winch trucks with "A" frame

CLASS III - Air compressor - small 150 & under (1) to 5 not to exceed a total of 300 ft.), Air compressor - large over 150, combination - small equipment opr., generators under & over 50 KW, heaters, mechanical pumps, over 3" (1 to 3 not to exceed a total of 300 ft.), pumps, well points, welding machines (2 through 5), winches, 4 small electric drill winches

CLASS IV - Oilers

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DECISION NO. IL78-2109

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS: Bureau (w. of Rt. #26); Marshall; Putnam (W. of Illinois River); & Woodford Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.37	.45	.80		.05
GROUP 5	10.76	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27e-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, kohring scoopers, draglines, backhoe, loptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotives, cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-belt-creete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkey, power launches, tournapulls (all), multiple unit, earth mover, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine jeeps w/ditching machine, or other attachments, tuneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), require oiler), flaherty spreader or aimilar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seedeer and F.W.D. and similar types

DECISION NO. IL78-2109

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling roller, center stripper, cement finishing machines, barger greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam falves, power subgrader, oil distributer, straight tractor, trac-air without attachments, surb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent flo, and similar types. one engineer will opera 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 tons and under on drth or gravel, form grader, pump 1 Or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL78- 2109

TRUCK DIRVERS: Bureau, LaSalle, Marshall & Putnam Cos., Woodford Co: (NW Corner) Livingston Co: (SW Corner)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2,3, or 4 axle trucks hauling 16 tons or more, drivers on oil distributors, water pulls, mahcanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week per employee

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Logan, Mason, and Menard

DECISION NUMBER: IL78-2111

DATE: Date of Publication

Supersedes Decision No. IL78-2026, dated March 17, 1978 in 43 FR 11395

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS:					
Menard County	11.45	.90	1.20		.03
Logan and Mason	11.45	.95	1.00		.03
BRICKLAYERS:					
Logan and Mason Counties					
Bricklayers, Stonemason, Cement Blocklayers, Caulkers, Pointers, Cleaners and Plasterers	11.90				
Marble-Tile and Terrazzo Workers	11.65				
Marble-Tile Finishers	10.90				
Menard County					
Bricklayers, Stonemasons, Marble-Tile and Terrazzo Workers, Pointers, Caulkers and Cleaners	10.75	.50	1.00		.02
Plasterers	12.41	.65	1.00		.01
Marble and Tile Finishers	10.90				
CARPENTERS:					
Logan County					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
Menard County					
Carpenters and Soft Floor Layers	11.45	.55	.55		.06
Millwrights and Piledrivermen	11.95	.55	.55		.06
Mason County					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
CEMENT MASONS:					
Logan County	11.45				
Menard County	9.98	.35	.35		.02
Mason County--	11.30	.80	.90		.05

DECISION NO. IL78- 2111

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Logan and Menard Counties; the Townships of Bath, Crane Creek, Kilbourne, Lynchburg, Mason City and Salt Creek in Mason County	12.37	.50	3%+.60		.1 of 1%
Remainder of Mason County	12.32	.50	3 %+.75		1%
GLAZIERS	10.39	.45	.50		
IRONWORKERS	11.75	.55	1.05		.08
LABORERS:					
Logan County and Northern half of Menard County					
Unskilled	10.10	.45	.40		.035
Semi-Skilled	10.30	.45	.40		.035
Skilled	10.45	.45	.40		.035
Southern half of Menard County					
Unskilled	10.55	.45	.45		.035
Semi-killed	10.75	.45	.45		.035
Skilled	10.90	.45	.45		.035
Mason County					
Unskilled	9.39	.60	.45		.035
Semi-Skilled	9.59	.60	.45		.035
Skilled	9.74	.60	.45		.035
LATHERS	12.30				
PAINTERS:					
Logan and Menard Counties					
Brush and Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
Mason County					
Brush	11.30	.55	.30		.03
Spray	11.95	.55	.30		.03
PLUMBERS and PIPEFITTERS	12.43	.35	.88		.07
ROOFERS	12.93	.70			
SHEET METAL WORKERS	11.86	3%+.50	.78		.07
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. IL78-2111

ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS: LOGAN & MENARD COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

CLASS I - Asphalt screed man, Aspca concrete spreaders, Asphalt paver, Asphalt rollers on bituminous concrete, ethey loaders, backfiller, crane type, backhoes, cableways, cherry pickers, claim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick baots, draglines, earth augeror boring machines, levating graders engineers on dredge, graval processing machines, high lifts or fork lifts, hoist w/two drums or two or more loadlines locomotive (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operator power beat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozer, or push cats, rock crushers, rose carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propalled) shovels, skimmer scoops, test hole drilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type form lifts or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnel luggere, wheel type end laoders, winch cat, scoops, all or turnapull.

CLASS - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, conerete finishing machines, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 rum & 1 load line, mud jacks, post hole diggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressor, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size or type) truck crane oiler & driver 1 (man), water pumps*, welding machines (300 amp. or over)* welding machines

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS. WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTIERS OR WINTIN 300 FT.

DECISION NO. IL78-2111

POWER EQUIPMENT OPERATORS MASON COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.37	.45	.80		.05
GROUP 5	10.76	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gredall, cherry pickers (and similar types, over 15 tons lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27E-dual drum tri-batchers), blacktop plant operators and plant engineers. 3 drum hoist, derricks, hydro cranes,shovels skimmer scoops, koehring scoopers, draglines, badkhoe, hoptoes-cranes-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, -crane-type backfiller, drott yumbo and similar type considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, rose carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-belt creta-squease crete-screw-type pumps and gysum bulker and pump, dinkeys, power launchea, tournapulls (all), multiple unit, earth mover, $.25 per heur for each scoop over one, scoops (all sizes), push cats, endloaders (all types), aide boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tunneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaers (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I and similar types (require oilers) straw blower, hydro seeder and F.W.D. and similar types

DECISION NO. IL78-2111

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barger greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, curb machines, truck crane oilers, ad truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo, and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistnat heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (stnadard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL78-2111

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle truckd hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehousemen, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or ment to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II - 2 or 3 axle truck hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units. ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 tons or more, drivers on oil distributors, water pulls, mechanic & working foremen; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: McLean
DECISION NUMBER: IL78-2112 DATE: Date of Publication
Supersedes Decision No. IL78-2027 dated March 17, 1978, in 43 FR 11398
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.01	.91	.99		.05
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Bricklayers, Stonemasons, Marble, Tile, Terrazzo Workers	11.50	.70	.80		
CARPENTERS:					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
CEMENT MASONS:	12.53	.55			
ELECTRICIANS:					
Cropsey, Anchor, Cheney Grove and Bell Flower Townships	12.45	.50	3%+.40		.3%
Remainder of County	11.95	.50	3%+.55		.002
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	11.53	.55	.55		.01
IRONWORKERS:					
Eastern Part of County	11.55	.65	1.00		.08
Western Part of County	11.975	.65	.925		
LABORERS:					
Unskilled	9.97	.55	.60		.035
Semi-Skilled	10.17	.55	.60		.035
Skilled	10.37	.55	.60		.035
LATHERS	11.92	.40	.40		.01
PAINTERS:					
Brush	11.20	.55			.06
Structural Steel and Spray	11.70	.55			.06
PLASTERERS	13.05				.01
PLUMBERS and STEAMFITTERS	12.55	.70	1.15		.15
ROOFERS:					
Composition, Slate, tile and Asbestos Damp and Waterproof	11.00		.45		
SHEET METAL WORKERS	11.83	.65	.99		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS; Receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. IL78-2112

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:
a. 7 Paid Holidays: A through G

b. Employer contributes 8% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of Regular Hourly Rate to Vacation Pay Credit for employee who has worked in Business less than 5 years.

DECISION NO. IL78-2112

ILL-6-PFO-1

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.37	.45	.80		.05
GROUP 5	10.76	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27e-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, kohring scoopers, draglines, backhoe, loptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotives, cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine, pumperete-belt-crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkey, power launches, tournapulls (all), multiple unit, earth mover, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine euclid loader, forklifts, formless finishing machine jeeps w/ditching machine, or other attachments, tunneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D. and similar types

DECISION NO. IL78-2112

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling roller, center stripper, cement finishing machines, barger greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air without attachments, sub machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent flo, and similar types, one engineer will opera 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 tons and under on earth or gravel, form grader, pump 1 Or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

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DECISION NO. IL78-2112

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units;

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Cass, Morgan and Scott

DECISION NUMBER: IL78-2120

DATE: Date of Publication

Supersedeas Decision No. IL78-2034, dated March 17, 1978, in 43 FR 11410

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.63	.80	.67		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Morgan and Scott Counties: Bricklayers, Stonemasons, Plasterers, Marble-Tile and Terrazzo Workers, Cement Block Layers-Pointers-Caulkers and Cleaners	10.80	.50	.52		.02
Cass County: Bricklayers	10.80	.50	.52		.02
CARPENTERS:					
Carpenters and Soft Floor Layers	10.40	.55	.25		.02
Millwrights	10.65	.55	.25		.02
Piledrivermen	10.90	.55	.25		.02
CEMENT MASONS AND PLASTERERS:					
Morgan and Scott Counties: Cement Masons	10.555	.50	.52		.02
Cass County:					
Cement Masons	9.98	.35	.35		.02
Plasterers	12.41	.65	1.00		.01
ELECTRICIANS	12.37	.50	3%+60		.1 of 1%
ELEVATOR CONSTRUCTORS:					
Morgan and Scott Counties: Contructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Morgan and Scott Counties	10.39	.45	.50		
IRONWORKERS	11.75	.55	1.05		.08
LABORERS:					
Unskilled	9.39	.60	.45		.035
Semi-Skilled	9.59	.60	.45		.035
Skilled	9.74	.60	.45		.035
LATHERS	12.30				
PAINTERS:					
Brush and Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
PLUMBERS AND STEAMFITTERS	12.43	.35	.88		.07

PAGE 2

DECISION NO. IL78-2120

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	12.93	.70			
Slate-Tile-Precast Slab	12.93	.70			
SHEET METAL WORKERS	11.86	.50+c	.78		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDER: Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving; G-Christmas Day

FOOTNOTES:

a. Seven Paid Holidays

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employees who has worked in the business less than 5 years.

c. 3% of gross earnings to SASMI.

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DECISION NO. IL78-2120

ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
CLASS I	$11.90	.55	.60		.05
CLASS II	10.45	.55	.60		.05
CLASS III	9.35	.55	.60		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspco concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth augeror boring machines, levating graders engeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

SUPERSEDEAS DECISION

STATE: Illinois — COUNTIES: Peoria and Tazewell
DECISION NUMBER: IL78- 2122 — DATE: Date of Publication
Supersedeas Decision No. IL78- 2035, dated March 17, 1978 in 43 FR 11412
DESCRIPTION OF WORK: Building (including Residential) and Dredging Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.01	.91	.99		.05
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS AND STONEMASONS	11.70	.70	1.00		.01
CARPENTERS:					
Residential					
Peoria County:					
Chillicothe & Vicinity	10.78	.75	.70		.03
Tazewell County & Remainder of Peoria County	12.01	.40	.50		.05
Commerical					
Peoria County:					
Chillicothe & Vicinity:					
Carpenters, Piledrivermen & Soft Floor Layers	11.68	.75	.70		.03
Millwrights	11.93	.75	.70		.03
Tazewell County & Remainder of Peoria County:					
Carpenters & Soft Floor Layers	12.01	.40	.50		.05
Millwrights & Piledrivermen	12.51	.40	.50		.05
CEMENT MASONS	11.30	.80	.90		.05
ELECTRICIANS	12.32	.50	3%+.75		1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.195	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	10.73	.55	.45		
IRONWORKERS	11.975	.65	.925		
LATHERS	11.92	.40	.40		.01
MARBLE-TILE & TERRAZZO WORKERS	11.45	.70	1.00		.01
MARBLE & TILE FINISHERS	11.00	.60	.25		
TERRAZZO FINISHERS:					
Terrazzo Finishers & Floor Machine Operator	11.13	.60	.25		
Base Machine Operator	11.38	.60	.25		

DECISION NO. IL78-2120 — ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle truck hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similer equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:

a. Per week Per employee

DECISION NO. IL78- 2122

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	11.30	.55	.30		.03
Structural Steel & Spray	11.95	.55	.30		.03
PLASTERERS	11.20	.80	.90		.03
PLUMBERS & STEAMFITTERS:					
Peoria County & North of Highway #98 in Tazewell Co.	12.70	.51	1.05		.15
Remainder of Tazewell County	12.70	.51	1.02		.11
ROOFERS	12.00	.70	.40		.025
SHEET METAL WORKERS	11.83	.65	.99		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTES:

A. Six Paid Holidays; A through G

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employer who has worked in business less than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Washington's Birthday and Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular schedule work days immediately preceding and following the holiday.

DECISION NO. IL78- 2122 — ILL-28-LAB-1

LABORERS: PEORIA COUNTY & THE CITY OF EAST PEORIA (TAZEWELL COUNTY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	10.65	.50	.60		.035
CLASS 2	10.775	.50	.60		.035
CLASS 3	10.90	.50	.60		.035
CLASS 4	10.825	.50	.60		.035
CLASS 5	10.025	.50	.60		.035
CLASS 6	10.775	.50	.60		.035
CLASS 7	10.90	.50	.60		.035

CLASS 1 - Bricklayers tenders, Common Laborers, carpenter tenders, cement mason tenders, concrete form dismantler, Stone & tile derrickmen, Tool Crib men, Window washers, Wrecking & diamantling Old Buildings, wall men & house movers, Curing concrete

CLASS 2 - Cement men & sack shakers, concrete saw, drill operator, jackhammer, Kettlemen & carriers, men handling hot stuff, singalling & spotting of buckets on rig or rig men paving breaker, plasterers tenders, air tamper chain saw,

CLASS 3 - Gunnite pumpmen, sandblasting pump men, tile layers or laterial sewer, Unloading & handling of creosote materials.

CLASS 4 - Power wheel barrow or buggies

CLASS 5 - Cutting & Acetylene torch, gunnite nozzle men, sandblasting nozzle men, woodblock setters

CLASS 6 - Concrete form dismatler in composite crew with carpenters, compactor rammer type, setting up and using laser beam equipment

CLASS 7 - Setting up and using concrete burning bars, underpinning & shoring of existing buildings.

DECISION NO. IL78- 2122

ILL-34-LAB-1

LABORERS: REMAINDER OF TAZEWELL COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	10.55	.60	.60		.035
SEMI-SKILLED	10.75	.60	.60		.035
SKILLED	10.95	.60	.60		.035

UNSKILLED:
Carpenter Tender, Tool Cribmen, Cleaning & Oiling of Machinery, Firemen or Salamander Tenders, Flagmen, Gravel Box Men, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit Man, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Pile Driver Helpers, Asphalt Plant Helpers, Wrecking Laborers, Fireproofing Laborers, Surveyors & Instrument Men Helpers, Janitors, Driving of Stakes, String Lines for all Machinery, Unloading & Laborers w/Steel Workers & Re-Bars, Mason Tenders, Scaffold Workers, Laborers with De-Watering Systems, Plaster Tenders

SEMI-SKILLED:
Handling of materials treated w/oil, creosote & asphalt, Track Laborers, Cement Handlers, Concrete Workers (Wet), Clorida Handlers, Tunnel Helpers in Free Air, Batch Dumpers, Kettle & Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies, Sewer Workers, Vibrator Operators, Mortar Mixer Operators, Cement Silica, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag), Cofferdam Workers, Concrete Paving, Placing, Cutting & Tying of Reinforcing, Deck Hand, Dredge Hand & Shore Laborers, Bank Men on Floating Plant, Asphalt Workers & Layers w/ Machine, Grade Checker, Dumpmen, Spotter where grade is to be established, Power Tools, Chain Saw Operators, Jackhammer & Drill Operators, Air Tamping Hammerman, Tree Topping, Signalling & Spotting of Rigs & Equipment.

SKILLED:
Caisson Workers plus depth, Gunnite Nozzle Men, Leadman on Sewer Work, Welders, Cutters, Burners & Torchmen, Layout Man and/or Tile Layer, Steel Form Setters-Street & Highway, Concrete Saw Operator, Screenman on Asphalt Pavers, Front end man on Chip Spreader, Laborers tending Masons w/hot materials or foreign materials are used, Multiple Concrete Duct-Leadman, Luteman, Curb Asphalt Machine Operator, Ready-Mix Scalemen, Permanent, Portable or Temporary Plant, Laser Beam Operator, Concrete Burning Machine & Coring Machine Operators, Underpinning and Shoring or Buildings, Dynamite Shooter.

DECISION NO. IL78- 2122

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.37	.45	.80		.05
GROUP 5	10.76	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanic, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant opeators and plant engineers, 3 drum joist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oiler, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types). motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, droct yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine pumpcrete-belt crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, formless finishing machine, jeeps w/ditching machine, or other attachments, tuneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D and similar types

DECISION NO. IL78-2122

POWER EQUIPMENT OPERATOR (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barger greene or similar laoders, vibro temper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pullign power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-arc without attachments, curb machine, truck cranes oiler, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo, & similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spread, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity) bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL78- 2122

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

GROUP I - Drivers on axle trucks hauling less than 9 tons, air compressors and welding machine including those pulled by separate units, truck driver helpers, warchouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; fork lifts up to 6,000 lbs. capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch truck, hydrolifts trucks, or similar equipment when used for transportation purposes; fork lifts over 6,000 lb. capacity; winch truck; 4-axle combination units; ticket writers

GROUP III - 2,3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:
a. Per Week Per Employee

DREDGING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.37	.45	.80		.05
GROUP 5	10.76	.45	.80		.05

GROUP 1 - Operators on hydraulic dipper or clamshell dredges, Engineers and Repairmen, Operators on work boats
GROUP 2 - Power Winches 1-2-3 Drums
GROUP 3 - Security Engineer
GROUP 4 - Cranemen on dipper dredges, operators on launches or power boats
GROUP 5 - Firemen & Oilers

SUPERSEDEAS DECISION

PAGE 2

STATE: Illinois COUNTY: Sangamon
DECISION NUMBER: IL78-2124 DATE: Date of Publication
Supersedes Decision No. IL78-2037, dated March 17, 1978 in 43 FR 11421
DESCRIPTION OF WORK: Building (Including Residential), Construction.

DECISION NO. IL78-2124

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers, Caulkers & Cleaners	10.75	.50	1.00		.02
CARPENTERS:					
Residential					
Housing - 1 & 2 Family Dwellings	8.70	.55	.45		.06
Building					
Carpenters & Soft Floor Layers	11.45	.55	.55		.06
Millwrights & Piledrivermen	11.95	.55	.55		.06
CEMENT MASONS	9.98	.35	.35		.02
ELECTRICIANS:					
Building	12.37	.50	3%+.60		.1 of 1%
Residential	8.10	.50	3%+.40		.5 of 1%
ELEVATOR CONSTRUCTORS:					
Constructors	11.34	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS	10.39	.45	.50		
IRONWORKERS	11.75	.55	1.05		.08
LATHERS	12.30				
PAINTERS:					
Brush & Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
PLASTERERS	12.41	.65	1.00		.01
PLUMBERS & STEAMFITTERS	12.43	.35	.88		.07
ROOFERS:					
Composition	12.93	.70			
Slate-Tile & Precast Slab	12.93	.70			
SHEET METAL WORKERS					
Building	11.86	.50+D	.78		.05
Residential	7.71	.50+D	.78		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; F-Labor Day; E-Thanksgiving Day; F-Day after Thanksgiving; G-Christmas Day

FOOTNOTE:

a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in bsuiness more than 5 years and 6% of regular hourly rate for employee who has worked in business more than 5 years.

b. 7 paid Holidays: A through G

c. Nine paid holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work day immediately preceding anf following the holiday

d. 3% of gross earning to SASMI

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DECISION NO. IL78-2124

ILL-27-LAB-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
UNSKILLED	$10.55	.45	.45		.035
SEMI-SKILLED	10.75	.45	.45		.035
SKILLED	10.90	.45	.45		.035

LABORERS:

UNSKILLED All Sewer Workers plus Depth Pay, Asphalt Plant Laborers, Bankmen on Floating Plant, Batch Dumpers, Carpenter Tenders, Cleaning Lumber, Cofferdam Workers plus depth pay, Deck Hand, Dredge Hand & Shore Laborer, Dispatchers, Driving of Stakes, Stringlines for all machinery, Fencing Laborers, Firemen or Salamander Tenders, Fireproofing Fire Shop Laborers, Flagmen, Form Handlers, Gravel Box Men, Dumpmen & Spotters, Janitors, Laborers w/de-watering systems, Landscapers, Laying of Sod, Material Checkers, Material Handlers, Pit Men, Plastic Installers, Planting of Trees, Removal of Trees, Rip-Rap Men, Rod & Chairmen, Scaffold Workers, Tool Cribmen, Track Laborers, Unloading Explosives, Unloading & Carrying Lath; Unloading & Carrying of Re-Bars, Wrecking, Dismantling Buildings, Wallmen & Housemovers, Wrecking Laborers, Writer of Scale Tickets

SEMI-SKILLED Asphalt Workers with Machine, Asphalt Raker & Layers, Cement Handlers, Cement Silica, Fly Ash, Line & Plasters, Handlers (Bulk or Bag); Chain Saw, Chloride Handlers, Concrete Workers (wet), Grade Checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing, Kettle Tar Men, on Concrete Paving, Placing, Cutting & Typing of Reinforcing, Signal Man on Crane, Tank Cleaners, Tunnel Helpers in Free Air.

SKILLED Air Tamping Hammerman, Caisson Workers plus depth pay, Concrete Burning Machine Operator Concrete Saw Operator, Coring Machine Operator, Curb Asphalt Machine Operator, Gunnite Nozzle Men, Jackhammer & Drill Operators, Laborers handling Masterplate or similar materials, Laborers tenders Masons with hot material or where foreign materials are used for wet concrete or handling of Building Materials, Multiple Concrete Duct - Leadman; Plasterer Tenders, Ready Mix Scaleman, Portable or Temporary Plant, Screenman on Asphalt Pavers, Steel Form Setters (Street & Highway), Vibrator Operators, Cutters, Burners & Torchmen.

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DECISION NO. IL78-2124

ILL-5-PEO-1-2-3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	$11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspoo concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, clain shell, C.M.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derrick boats, draglines, earth auperor boring machines, levating graders eingeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange peels, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, ross carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot roller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tourmatull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, track or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

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DECISION NO. IL78-2124

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$ 10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportaion purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois
COUNTIES: *See bleow
DECISION NUMPER: IL78-2125
DATE: Date of Publication
Supersedes Decision No.: IL78-2038, dated March 17, 1978 in 43 FR 11423
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

*Counties: Alexander, Franklin, Gallitin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Alexander, Jackson, Jefferson, Marion, Perry & Unions Cos.,	$12.63	.80	.97		
REMAINDER OF Counties	11.30	.45	.60		.03
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS & STONEMASONS:					
Marion County:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Cleaners & Caulkers	10.70	.35	.50		
Remainder of Counties:					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Cement Blocklayers, Pointers, Caulkers & Cleaners	9.95	.55	.40		
CARPENTERS:					
Marion County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.06	.50	.50		.03
Millwrights	10.41	.50	.50		.03
Hamilton, Jefferson & White Counties:					
Carpenters, Piledrivermen & Soft Floor Layers	10.11	.45	.50		.02
Millwrights	10.46	.45	.50		.02
Remainder of Counties:					
Carpenters, Piledrivermen, Millwrights & Soft Floor Layers	10.25	.50	.50		.05
CEMENT MASONS & PLASTERERS:					
Marion County:					
Centrailia & Vicinity					
Cement Masons	10.75				.01
Plasterers	10.85				.01
Franklin, Hamilton, Jefferson & Williamson Counties	10.70				
Saline, Gallatin, Hardin, Pope Johnson, Massac & White Cos.	10.70				

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DECISION NO. IL78-2125

CEMENT MASONS & PLASTERERS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alexander, Jackson, Perry, Pulaski & Union Counties	$ 9.65	.30			
ELECTRICIANS	12.50	.40	13%		1%
IRONWORKERS:					
Marion & Perry Cos: Jefferson (Mt. Vernon & All Area West thereof) County	11.35	.55	.90		
Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Union & Williamson Counties	10.75	.55	.75		.05
LABORERS:					
Marion County:					
Central & Vicinity Laborers	7.75		.30		.035
Salem & Vicinity					
Unskilled	6.80		.30		.035
Skilled	7.05		.30		.035
Pataka & Sandoula & Vicinity Laborers	8.60	.40	.30		.035
Hamilton, Jefferson & White Counties	8.60	.40	.30		.035
Remainder of Counties	8.30	.40	.30		.035
PAINTERS:					
Marion County:					
Centrailia & Vicinity					
Brush & Structural Steel	8.10				
Roller	8.35				
Spray	9.10				
Salem, Flora, Clay & Vicinity					
Brush	8.00				
Roller, Spray	9.25				
Structural Steel	10.00				
Union County:					
Commercial	8.75				
Industrial	9.25				
White County:					
Brush & roller	9.65	.65	.30		
Spray	10.65	.65	.30		
Jefferson & Hamilton Counties:					
Brush and Roller	6.80				
Structural Steel & Spray	9.00				
Massac County					
Brush and Roller	7.60	.40			
Spray	10.45	.40			

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DECISION NUMBER IL78-2125

PAINTERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Jackson & Perry Counties:					
Commercial	$ 9.00				
Industrial	10.90				
Franklin & Williamson Counties:					
Commercial	9.45				
Industrial	10.20				
Gallatin, Hardin, Pope, Saline Counties:					
Brush	6.90				
Struc, Steel & Drywall	7.15				
Spray	7.25				
Alexander, Johnson, Pulaski Counties:					
Commercial	7.89				
Industrial	10.91				
PLUMBERS & STEAMFITTERS:					
Marion County	13.00	1.20	1.40		.15
White County:					
- Crossville, Phillipstown, Emma & Mauine	13.575	.50	.90		.06
Remainder of County	13.45	.50	.90		.06
Alexander, Hardin, Massac, Jackson, Johnson, Perry, Pope, Pulaski & Union Counties	12.70	.30	.90		.08
Franklin, Hamilton, Jefferson, Saline, Williamson, & Gallatin Counties	12.55	.50	.55		.08
ROOFERS:					
Gallatin, Hardin & White Cos.					
Composition	10.63	.60	.50		
Slate & Tile	10.88	.60	.50		
Remainder of Counties	8.75	.60			
SHEET METAL WORKERS	11.23	.45	.20	6%	.02
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. IL78-2125

POWER EQUIPMENT OPERATORS REMAINDER OF COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class 1	$11.30	.40	.60		.035
Class 2	10.35	.40	.60		.035
Class 3	10.10	.40	.60		.035
Class 4	9.80	.40	.60		.035
Class 5	9.10	.40	.60		.035
Class 6	10.35	.40	.60		.035
Class 7	10.10	.40	.60		.035
Class 8	9.60	.40	.60		.035
Class 9	9.00	.40	.60		.035
Class 10	9.00	.40	.60		.035
RIVER WORK and LEVEE WORK ON MISSISSIPPI and OHIO RIVERS					
Class 11	11.40	.40	.60		.035
Class 12	9.50	.40	.60		.035

POWER EQUIPMENT OPERATORS:

Class 1: Apsco or equal spreading machine; Backhoe; Backfiller; Boom or winch cat; Bituminous mixplace machine; Backsmith; Bituminous surfacing machine; Bulldozer; Crane; Shovel; Dragline; Truck crane; Piledriver; Concrete finishing machine or spreader machine; Concrete breaker; Concrete or pumpcrete pump; Dinky or standard locomotive; Drill well; Elevating grader; Forklifts; Rubbertired; Flex-plane; Gradall; Hi-lift; handblade, power; Hoists; Tugger type; Hoist, (2 drum) or over one; Guy-derrick; Hyster mechanic; Motor patrol; Mixer 21 cu. ft. or over; Push cat; Pulls and scrapers; Pumps; 2 well points; P&H pulverizer or pulverizer equal to pugmill; Rubber-tired farm type tractor with bulldozer or hi-lift (Over 1/2 yd.), Rubber-tired tractor w/auger; Skimmer scoops; Seaman tiller; Spreader, Jersey; Tract-air used w/drill or Hi-lift; Trenching machine; or ditching machine; Wood chipper with tractor; Self-propelled roller w/10 ft. blade; Concrete pumps; Equipment greader.

Class 2: Roller, self-propelled; Power subgrader; Elevator operator

Class 3: Rubber-tired farm type tractor w/bull dozer or hi-lift (½ yd. or less)

Class 4: Pump, one well point; All tract type tractors, pulling any type roller or disc.

Class 5: Oiler; All wheel type tractors, Oiler on 30 Hp ditches and over; Oiler; Hydra-crane with 15 ton lifting capacity or more and cranes similar to Hydra-crane w/15 ton capacity and more.

POWER EQUIPMENT OPERATORS (CONT'D)

Class 6: Air compressor w/valve driving piling air compressors, two (220 cu. ft. capacity or over); Air track drills, air track drill w/compressor; Automatic bins scales w/compressor or generator; pipeline boring machine; Bulk cement plant w/separate compressor bulk float power operator; Concrete saws, (two); Hydra-lift (single motor); Straw mulcher blower w/spout

Class 7: Backend man on bituminous surfacing machine; Boom or winch truck; Cat wagon w/or without dump; Conveyors, two; Chip spreader, self-propelled concrete saw, on self-propelled; Form grader, Heater, (motor driven); Hoist; 1 drum; Truck crane oiler; Vibrator, Self-propelled.

Class 8: Air track drill (one); Belt drag machine, Power boom; Mechanical; Plasterers applicator; Tract-air

Class 9: Air compressor (220 cu. ft. capacity or over), one; Air compressor under (220 cu. ft.); two; Automatic bins; Bulk cement plant w/built in compressor, running of same motor or electric motor; Firemen or switchmen; Form tamper, self-propelled; Light plants (two); Welding machine (two); Pumps (two); or combination or 2 pumps; Light plants, welding machines,air compressor (under 200 cu. ft.); Mud jacks or wood chipper; Mixers, less than 21 cu. ft., Motor mixer w/skip or pump; Pipeline track jack

Class 10: Air compressor, under 220 cu. ft. capacity (one); Conveyor (one); Conveyor operator on self-propelled chip spreader; Heater (one); Motor drive; Light plant (one) pump (one); Welding machine (one) Ulmac or equal spreader.

RIVER WORK and LEVEE WORK on MISSISSIPPI and OHIO RIVERS

Class 11: Crane, shovel, dragline 4 yards or more, scraper, 18 yards, struck or over, dredge, derrick and piledriver, push boat operator, mechanic or 4 yards machine or over, Engine man on dredge, Levee man on dredge.

Class 12: Oiler on crane, dragline, shovel, 4 yard machine or over; Oiler on dredge.

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JEFFERSON, PERRY, & MARION COUNTIES:

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.52	.87	1.51		.05
GROUP II	1 9	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.97	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanics, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (where oiler or firemen is not required) Hydraulic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas , concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., 25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders winch cats, boom tractors, and pipe wrapping or painting machines, Drills, (other than derrick type) 1-drum hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2', welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Stright tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boat oprs., (under 25', conveyors 1 , distribution oprs., on trucks, siphons or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air compressor (1), water pumps regardless or size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
- a. Engineers operating under air pressure
- b. Engineers operating in air over 50 lbs pressure
- c. Oilers operating under air pressure
- d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL78-2125

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & firemen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 tons, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3, or 4 axle trucks hauling 16 tons or more, drivers on oil distributores, water pulls, mechanic & working foreman; 5-axle or more combination units; dispatchers.

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: New York
DECISION NO.: NY78-3077
COUNTY: Westchester
DATE: Date of Publication
Supersedes Decision No. NY77-3076 dated June 6, 1977 in 42 FR 28801.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr
Asbestos Workers	$14.09	.82	1.64		
Boilermakers	13.19	5%	15%	7%	.02
Bricklayers, Cement Masons, Plasterers, Pointers, Caulkers, Cleaners and Stone Masons	11.50	1.00	2.00	a+b	.07
Carpenters	9.88	1.40	1.15	1.07	.085
Electricians	12.00	6%+c	9½%	10%	.02+½%
Elevator Constructors	11.52	.495	.32+d	e+f	
Elevator Constructors Helpers	8.64	.495	.32+d	e+f	
Glaziers	11.20	.66	1.66	.67	.01
Ironworkers:					
Ornamental	10.33	1.48	2.55	.78	.09
Structural	11.75	1.30	3.00	1.60+g	.06
Reinforcing	10.79	1.325	1.985	.75+h	.03
Laborers, Building:					
Unskilled	8.05	1.15	1.05	.75+i	
Equipment Operators, Drillers, Swinger Operators on Conveyor Belt, Pavement breakers, Plastering, Accoustic Pumps, Barco and all Air Tampers, Vibrator Operators, Power Buggies, Fork Lifts, Power Jacks and All Pneumatic Equipment	8.30	1.15	1.05	.75+i	
Lathers:					
Metal	10.79	1.325	1.985	.75+h	.03
Nail On	12.00				.01
Leadburners	10.75	.40	.25	j	.01
Marble Setters:					
Cutters and Setters	10.00	1.13	1.19	k	
Carvers	10.15	1.13	1.19	k	
Finishers and Crane Operators	8.28	1.13	1.19	k	
Millwrights, Soft Floor Layers	11.80	1.50	1.78	.85	.04
Painters:					
Brush	9.15	.60	1.03	.40	
Spray	10.15	.60	1.03	.40	
Tapers	9.60	.60	1.03	.40	
Swing Stage, Boatswain, Chair, Ladder or Rolling Scaffold 30 ft. or more, all Iron and steel	10.45	.60	1.03	.40	

SUPERSEDEAS DECISION

STATE: Indiana
DECISION NO.: IN78-2132
COUNTY: Vanderburgh
DATE: Date of Publication
Supersedes Decision No. IN76-2046, dated April 16, 1976, in 41 FR 16302
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 8.70				
CARPENTERS	6.76				
CEMENT MASONS	8.06				
DRYWALL FINISHERS	7.00				
DRYWALL HANGERS	6.50				
ELECTRICIANS	5.00				
INSULATION INSTALLERS	5.04				
LABORERS	4.88				
PAINTERS	8.60				
PLUMBERS	8.45				
SHEET METAL WORKERS	6.00				
TRUCK DRIVERS, Single Axle	8.05	27.50a	28.00a		
POWER EQUIPMENT OPERATORS: Grader	10.30	.50	.60		

FOOTNOTE:
a. per week per employee

DECISION NO. NY78-3077

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Piledrivers and Dockbuilders	$11.70	1.50	1.78	.91	.04
Plumbers	11.21	1.79	1.06	1.12	.28
Roofers	9.65	1.79	2.65	.65	
Sheet Metal Workers	10.97	1.645	2.28	1.04	.12
Sprinkler Fitters	12.31	.75	1.05		.08
Steamfitters	11.00	12%	10%+L	11%	
Terrazzo Workers	11.18	1.21	1.50		
Terrazzo Finisher	9.84	1.21	1.50		
Terrazzo Finisher Machine Operator	9.99	1.21	1.50		
Tile Layers	10.60	1.15	.75		
Tile Finisher	9.31	.68	.77	.50	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NY78-3077

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:
a. Holidays: Columbus Day, Presidential Election Day 1 hour off with pay.

b. Holidays: (Highway Construction Only) A thru F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Election Day and Veteran's Day.

c. Employer contributes $7.50 per day to Security Benefit Fund.

d. Employer contributes $8.00 per day to Annuity Fund.

e. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Armistice Day and Election Day.

f. Employer contributes 6.4% of basic hourly rate for 5 years or more of service of 4% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

g. Holidays: New Years Eve and Christmas Eve, providing the employee works a full half day preceeding the holiday, he shall receive a full day's pay.

h. Work on Christmas and New Year's Eve will terminate at noon, but employees will receive a full day's pay.

i. One hour voting time with pay on Election Day.

j. Holidays: A through F; Washington's Birthday, Good Friday, Christmas Eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly schedule work days immediately preceding and following the holiday.

k. One half days pay for Labor Day.

l. Employer contributes $7.70 per day to Annuity Fund.

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DECISION NO. NY78-3077	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Street Lighting Systems, installation of Signal Cable Systems, Overhead and Underground when installed on streets and right of way:					
Linemen	9.28	5½%+a	7½%	10%	.02
Compressor	7.68	5½%+a	7½%	10%	.02
Lamp Changer	7.16	5½%+a	7½%	10%	.02
Utility Outside Work:					
Linemen	10.71	6%+b	9½%	10%	.02
Compressor	8.67	6%+b	9½%	10%	.02
Boring Machine	9.32	6%+b	9½%	10%	.02
Dynamite Man	9.53	6%+b	9½%	10%	.02
Groundman	7.28	6%+b	9½%	10%	.02
Driver Groundman	8.14	6%+b	9½%	10%	.02
New Construction of Steel Towers, Substations, All Railroad Work Underground:					
Linemen and Cable Splicers	13.26	6%+b	9½%	10%	.02
Equipment Operators	12.20	6%+b	9½%	10%	.02
Heavy Driver groundman	9.68	6%+b	9½%	10%	.02
Driver Groundman	10.21	6%+b	9½%	10%	.02
Groundman	9.68	6%+b	9½%	10%	.02
Dynamite and Transit Men	11.80	6%+b	9½%	10%	.02
Mechanic	11.54	6%+b	9½%	10%	.02

FOOTNOTES:
a. Employer contributes $3.00 per hour to Supplementary Unemployment Benefit Fund.
b. Employer contributes $7.00 per hour to Supplementary Unemployment Benefit Fund.

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DECISION NO. NY78-3077 HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Blasters, blaster (quarry master) Joy drillers, wagon drillers, air track drillers, concrete form aligner, concrete form and curb form highway (steel), and deck winches on scows, jumbo driller	$ 9.60	9%	9%	a+.82	
Asphalt curb machine operator, jeeper operator, pavement breaker operator, rock scalers, power saw operator, bit grinder or grinders. barco rammer operator, air tamper and all type powered tampers not covered by any other classification, steel kings, power buggy operator, jack hammer drillers, all type pneumatic tool and gasoline drillers, concrete saw or saws, asphalt screeder on barbergreen, form pin puller railroad spike puller, pumps and their operation, and pneumatic tools and service of air power, gunniting	9.05	9%	9%	a+.82	
General concrete laborers or anything pertaining to concrete which means any men handling aggregate or concrete materials and carpenters tender and steel handling, pipe layers, puddlers, asphalt worker, fine grade men between forms, epoxy and waterproofing	8.95	9%	9%	a+.82	
Joy driller's helper, wagon driller helper, air track driller helper, common laborers, signal men and pitman, truck spotters, powdermen, landscape and nursery men, and dump men	8.80	9%	9%	a+.82	
Wrecking:	8.70	9%	9%	a+.82	
Blasters	9.70	9%	9%	a+.82	

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DECISION NO. NY78-3077	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers: (CONT'D)					
Wrecking:					
Barmen, and burner	$ 9.20	9%	9%	a+.82	
Barmen helpers and laborers	9.05	9%	9%	a+.82	
Shaft and Tunnel in Free Air:					
Blasters	9.85	9%	9%	a+.82	
Concrete setters	10.05	9%	9%	a+.82	
Form setters	9.55	9%	9%	a+.82	
Miners, drill runners air, tuggers, chippers, pneumatic tools and source of air-power pumps and their operations and vibrator operators	9.55	9%	9%	a+.82	
Puddlers	9.30	9%	9%	a+.82	
Chuck tenders, nippers, concrete laborers, tunnel sewer and water pipe reliners and Boring	9.20	9%	9%	a+.82	
Laborers	8.95	9%	9%	a+.82	
Powder carriers, signalmen	8.90	9%	9%	a+.82	
Brakemen	8.85	9%	9%	a+.82	
Outside laborers	8.80	9%	9%	a+.82	
Vibrator	9.35	9%	9%	a+.82	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; F-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Columbus Day; November Election Day; Veterans' Day; and Good Friday, provided employee works (2) two or more days in the calendar week in which the holiday falls.

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DECISION NO. NY78-3077	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, BUILDING:					
GROUP I	$14.105	6%+1.00	10%+b	a	1½%
GROUP II	13.19	6%+1.00	10%+b	a	1½%
GROUP III	13.0475	6%+1.00	10%+b	a	1½%
GROUP IV	12.905	6%+1.00	10%+b	a	1½%
GROUP V	11.7625	6%+1.00	10%+b	a	1½%
GROUP VI					
A	15.08	6%+1.00	10%+b	a	1½%
B	14.6175	6%+1.00	10%+b	a	1½%
C	9.9925	6%+1.00	10%+b	a	1½%
D	13.6175	6%+1.00	10%+b	a	1½%
E	12.3325	6%+1.00	10%+b	a	1½%
F	13.19	6%+1.00	10%+b	a	1½%
G	18.3325	6%+1.00	10%+b	a	1½%
H	11.7625	6%+1.00	10%+b	a	1½%
I	18.0475	6%+1.00	10%+b	a	1½%
J	16.105	6%+1.00	10%+b	a	1½%
K	17.105	6%+1.00	10%+b	a	1½%
L	14.605	6%+1.00	10%+b	a	1½%
M	15.105	6%+1.00	10%+b	a	1½%
GROUP VII	14.3325	6%+1.00	10%+b	a	1½%

POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION

GROUP I
Backhoe Oliver 88, Fordson, dynahoe, dual purpose & similar machine, Barber Green loader-euclid loader or similar type, cherry picker (cableway), compressor (steel erection), conway or similar mucking machines, dragline, gradall, shovel, backhoe, etc., (crawler or truck), front end loaders, hydraulic boom, Jersey spreader, Letourneau or Tournapull (scrapers over 20 yds. struck), mucking machines, pavement breaker (air ram), paver (concrete), pulsemeter, push button (buzz box) elevator, road boring machine, road mix machines, Ross carrier & similar machines, post hole digger, shovel (tunnels), side boom, spreader (asphalt), scoopmobile-tractor-shovel over 1-½ yds., trenching machines, tractor type demolition equipment, winch truck "A" frame

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP II
Compactor self-propelled, grader, bulldozer D7 & similar tractors with a draw bar horsepower of 100 & over maintenance engineer, mechanic (outside) all types, welder, scraper-20 yds. struck & under, machine pulling sheep's foot roller, etc., roller 4 ton and over, vib. roller

GROUP III
Asphalt plant, boiler (high pressure), bulldozer D6 & similar tractors with a draw bar horsepower less than 100, compressor, compresser plant, concrete mixing plants, concrete pump, conveyor belt machine-irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1-¼ yds., & under, lighting unit (portable & generator), locomotive (all sizes), mixer concrete-21E & over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, welding machine (steel erection excavation), well drilling machine, well point system

GROUP IV
Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, compressor to 125 cu. ft., curb cutter machine, dust collector, farm tractor (all types), finishing machine concrete, material hooper-sand-stone-cement, mixer-concrete-under 21E, Muching grass spreader, heater-all types, pump, pump station (water & sewer), pump-gypsum, etc., concrete, pump-plasterer roller under 4 ton, spreading & fine grading machine, steam Jenny, steel Jenny, steel cuting machine, sweeper, syphon pump air steam, tar joint machine, Turbo jet burner or similar equipment vibrator (1 to 5) fine grading machine

GROUP V
Concrete saw, mechanic's helper, oiler (fuel truck), oiler (grease truck), paint compressor, welder's helper

GROUP VI
A. Master mechanic
B. Helicopter hoist op.
C. Oiler, asphalt paver, utility man
D. Welder - certified
E. SEcond engineer on cranes 30 ton and over
F. Cable splicer
G. Helicopter pilot
H. Helicopter signalman
I. Engineer, all tower cranes, all climbing cranes and all cranes of 100 ton and regardless of how the same is rigged (except for pile rigs)

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POWER EQUIPMENT OPERATORS - BUILDING CONSTRUCTION (CONT'D)

GROUP VI (CONT'D)
J. Cranes (crawlers or truck) 100 ft. but less than 149 ft
K. Cranes (crawlers or truck) 149 ft. and over
L. Loaders op. (over 5 yd. capacity)
M. Shovel op. (over 4 yd. capacity)

GROUP VII
Concrete-portable hoist, crane & hoist engineer-steel (concrete, material, super structure, sub-structure), derrick (stone-steel), elevator & cage, engineer-pile driver, overheadcrane, power house plant, telephies, whirly, hoist (single, double or triple drum), hoist (portable mobile unit), hoist engineer-concrete (crane, derrick, mine hoist), hoist engineer material

FOOTNOTES:
a. Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and X-Mas Day.

b. Employer contributes $2.00 per day to an Annuity Fund.

Construction, Alteration, Repair of Sanitary Sewers, Storm Sewers, Combined Storm and Sanitary Sewers, drainage related thereto, on or off Streets or highways (except drainage systems or Storm sewers that are part of overall road, street and highway construction, or heavy construction or building construction), temporary pipe fittings, sinking of well points related to sewer construction and drainage, telephone cable and conduit (except trans-water and trans-state or trans-county cables and conduits), pipelines (except trans-water and trans-state pipelines or transportation pipelines) and electrical lines above or below the surface of the ground (except on or in connection with the construction of roads, buildings, highways, bridges and/or tunnels).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I-A	$11.80	6⅓%+a	9⅓%	b	1⅓%
GROUP I-B	11.675	6⅓%+a	9⅓%	b	1⅓%
GROUP II	11.00	6⅓%+a	9⅓%	b	1⅓%
GROUP III-A	10.875	6⅓%+a	9⅓%	b	1⅓%
GROUP III-B	10.75	6⅓%+a	9⅓%	b	1⅓%
GROUP IV-A	10.75	6⅓%+a	9⅓%	b	1⅓%
GROUP IV-B	10.625	6⅓%+a	9⅓%	b	1⅓%
GROUP V-A	9.75	6⅓%+a	9⅓%	b	1⅓%
GROUP V-B	9.625	6⅓%+a	9⅓%	b	1⅓%
GROUP VI-A MISCELLANEOUS					
CLASS I	13.00	6⅓%+a	9⅓%	b	1⅓%
CLASS II	12.25	6⅓%+a	9⅓%	b	1⅓%
CLASS III	15.25	6⅓%+a	9⅓%	b	1⅓%
CLASS IV	12.00	6⅓%+a	9⅓%	b	1⅓%
CLASS V	15.50	6⅓%+a	9⅓%	b	1⅓%
CLASS VI	9.75	6⅓%+a	9⅓%	b	1⅓%
CLASS VII	10.835	6⅓%+a	9⅓%	b	1⅓%
GROUP VI-B MISCELLANEOUS					
CLASS I	9.625	6⅓%+a	9⅓%	b	1⅓%
CLASS II	8.80	6⅓%+a	9⅓%	b	1⅓%
GROUP VII	13.80	6⅓%+a	9⅓%	b	1⅓%
GROUP VIII	14.80	6⅓%+a	9⅓%	b	1⅓%
GROUP IX	11.375	6⅓%+a	9⅓%	b	1⅓%
GROUP X	12.80	6⅓%+a	9⅓%	b	1⅓%

CLASSIFICATION DEFINITIONS

GROUP I-A - Auger, auto grader, backhoe oilver 88, Pordson, dynahoe, dual purpose and similar machines, barber green loader - euclid loader or similar type machine, central mix plant operator, cherry picker (Cableway), compactor with blade, concrete portable hoist, S.M.I. or similar, conway or similar mucking machines, crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, letourneau or tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete) power house plant, pulsemeter, push button (buzz box) elevator, road mix machines, ross carrier and similar machines, shovels (tunnels), side boom, spreader (asphalt) scoopmobile-tractor-shovel over 1¼ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" frame

GROUP I-B - Compressor (steel erection)

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CLASSIFICATION DEFINITIONS (CONT'D)

GROUP II - Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 or over, maintenance engineer, mechanic (outside) all types, welder, scraper - 20 yards struck and under, vibrator roller, etc., roller 4 ton and over

GROUP III- A - Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor plant, concrete pump, conveyor belt machine - irrespective of motor size, fireman, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader - 1¼ yards and under, locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete - 21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, well drilling machine, well point system

GROUP III-B - Compressor, lighting unit (portable & generator), Welding machine (steel erection excavation)

GROUP IV-A - Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, curb cutter machine, farm tractor (all types), finishing machine - concrete, material hopper - sand - stone - cement, mulching grass spreader, roller under 4 ton, spreading & fine grading machine, steel cutting machine, sweeper, turbo jet burner or similar equipment, fine grading machine

GROUP IV-B - Compressor to 125 cu. ft., dust collector, mixer - concrete under 21E, heater - all types, pump 4 inches and over, pump station (water & sewer), pump - gypsum, etc., pump - plaster, steam jenny, syphon pump - air - steam, tar joint machine, vibrator (1 to 5)

GROUP V-A - Concrete saw, oiler (fuel or grease truck)

GROUP V-B - Oiler, stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4", roller motorizer (walk behind)

GROUP VI-A MISCELLANEOUS:

CLASS I - Master mechanic, Asst. master mechanic

CLASS II - Helicopter hoist operator

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CLASSIFICATION DEFINITIONS (CONT'D)

CLASS III - Engineer, tower crane, 3900 Monitowac or over or similar (rail, truck or crawler mounted)

CLASS IV - Hoist engineer - steel sub-structure, engineer - pile driver

CLASS V - Helicopter pilot

CLASS VI - Helicopter pilot

CLASS VII - Jersey spreader, pavement breaker (air ram), Post hole digger

GROUP VI-B MISCELLANEOUS:

CLASS I - Safety man 60 ton crane & over

CLASS II - Oiler asphalt paver and utility man

GROUP VII - Operators of crane (crawlers or truck) 100 ft. but less than 149 ft.

GROUP VIII - Operators of crane (crawlers or truck) 149 ft. and over

GROUP IX - Loader Operators: Over 5 cu. yd. capacity

GROUP X - Shovel Operator over 4 cu. yd. capacity

Footnotes

a. Employer contributes $1.20 per hour to Supplemental Unemployment Benefit Fund.

b. Paid Holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, November Election Day, Veteran's Day, Thanksgiving Day and Christmas Day.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS, HEAVY & HIGHWAY					
GROUP I	$11.75	6%+1.00	9½%+.25	a	2%
GROUP II	10.96	6%+1.00	9½%+.25	a	2%
GROUP III	10.825	6%+1.00	9½%+.25	a	2%
GROUP IV	10.70	6%+1.00	9½%+.25	a	2%
GROUP V	9.70	6%+1.00	9½%+.25	a	2%
GROUP VI	11.95	6%+1.00	9½%+.25	a	2%
GROUP VII	11.325	6%+1.00	9½%+.25	a	2%
GROUP VIII	9.70	6%+1.00	9½%+.25	a	2%
GROUP IX	11.625	6%+1.00	9½%+.25	a	2%
GROUP X	10.70	6%+1.00	9½%+.25	a	2%
GROUP XI	10.575	6%+1.00	9½%+.25	a	2%
GROUP XII					
A	10.7875	6%+1.00	9½%+.25	a	2%
B	9.575	6%+1.00	9½%+.25	a	2%
C	8.75	6%+1.00	9½%+.25	a	2%
D	15.45	6%+1.00	9½%+.25	a	2%
E	12.20	6%+1.00	9½%+.25	a	2%
F	15.20	6%+1.00	9½%+.25	a	2%
G	12.95	6%+1.00	9½%+.25	a	2%

POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY

GROUP I

Auger, auto grader, backhoe Oliver 88, Fordson, dynahoe, dual purpose and similar machines, barber green loader-euclid loader or similar type, central mix plant operator, cherry picker (cableway), compactor with blade, concrete portable hoist, C.M.I. or similar Conway or similar mucking machines, crane (crawler or truck) dragline, gradall, shovel backhoe, etc., derrick (stone-steel), elevator & cage, front end loaders, hoist single, double, triple drum, hoist portable mobile unit, hoist engineer-concrete (crane-derrick-mine hoist), hoist engineer-material, hydraulic boom, LeTourneau or Tournapull (scrapers over 20 yards struck), mucking machines, overhead crane, paver (concrete), power house plant, pulsometer, push button (buzz box) elevator, road mix machines, Ross carrier and similar machines, shovel (tunnels), side boom, spreader (Asphalt), scoopmobile-tractor-shovel over 1½ yards, trenching machines, telephies, tractor type demolition equipment, whirly, winch truck "A" Frame

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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP II

Compactor self-propelled, grader, bulldozer D7 and similar tractors with a draw bar horsepower of 100 and over, maintenance engineer, mechanic (outside) all types, welder, scrapers 20 yards struck and under, shop foreman, vibratory roller, etc., roller 4 ton and over

GROUP III

Asphalt plant, boiler (high pressure), bulldozer D6 and similar tractors with a draw bar horsepower less than 100, compressor plant, concrete pump, conveyor belt machine-irrespective of motor size, firemen, forklift, forklift (electric), joy drill or similar tractor drilling machine, loader-1½ yds. and under, locomotive (all sizes), machine pulling sheeps foot roller, mixer concrete-21E and over, portable asphalt plant, portable batch plant, portable crusher, quarry master, stone crusher, well drilling machine, well point system

GROUP IV

Air tractor drill, batch plant, bending machine, concrete breaker, concrete spreader, curb cutter machine, farm tractor (all types), finishing machine-concrete, material hopper-sand-stone-cement, mulching grass spreader, roller under 4 ton, shop mechanic (not employed on job site), spreading & fine grading machine, steel cutting machine, sweeper, syphon pump-air-steam, tar joint machine, Turbo jet burner or similar equipment, fine grading machine

GROUP V

Concrete saw, mechanic's helper, oiler, oiler (fuel truck), oiler (grease truck)

GROUP VI

Hoist engineer-steel, sub-struct., engineer-pile driver

GROUP VII

Welder-certified crawlers or truck: 100 ft. but less than 149 ft. $2.00 per hour additional crawlers or truck: 149 ft. and over $3.00 per hour additional loader operators: Over 5 cu. yd. capacity $.50 per hour additional shovel operators: Over 4 cu. yd. capacity $1.00 per hour additional

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POWER EQUIPMENT OPERATORS - HEAVY AND HIGHWAY (CONT'D)

GROUP VIII

Stockroom or stockroom attendant, paint compressor, pump under 4" or any combination not equal to 4" roller motorized (walk behind, welder's helper

GROUP IX

Compressor (steel erection)

GROUP X

Compressor, lighting unit (portable and generator), welding machine (steel erection excavation)

GROUP XI

Compressor to 125 cu. ft., dust collector, mixer-concrete under 21E, heater-all types, pump 4" and over, pump station (water and sewer), pump-gypsum, etc., pump-plasterer, steam jenny syphon pump-air-steam, tar-joint machine, vibrator (1 to 5)

GROUP XII

A. Jersey spreader, pavement breaker (air ram), post hole digger
B. Safety man 60 ton crane & over, helicopter signalman
C. Oiler asphalt paver, utility man
D. Helicopter pilot
E. Helicopter hoist operator
F. Engineer, tower crane, 3900 monitowac or over or similar (rail, truck, or crawler mounted
G. Master mechanic

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday; Washington's Birthday; Good Friday; Columbus Day; November Election Day and Veteran's Day.

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TRUCK DRIVERS: HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP I	9.86	1.10	.85	a+b	
GROUP II	9.98	1.10	.85	a+b	
GROUP III	10.11	1.10	.85	a+b	
GROUP IV	10.23	1.10	.85	a+b	
GROUP V	10.86	1.10	.85	a+b	
GROUP VI	10.61	1.10	.85	a+b	
GROUP VII	10.31	1.10	.85	a+b	
GROUP VIII	9.81	1.10	.85	a+b	
GROUP IX	10.06	1.10	.85	a+b	
GROUP X	9.61	1.10	.85	a+b	
GROUP XI	11.36	1.10	.85	a+b	
GROUP XII	11.73	1.10	.85	a+b	

TRUCK DRIVERS - HEAVY CONSTRUCTION

GROUP I
Straight jobs, A-Frame (inside cab), winch (inside cab), tow, dynamite, seeding, mulching, agitator, water, post hole diggers, mortar mixing, suburbans, oil distributors, pick-up, hopper men & crusher op., concrete mixer, lift (in garage, yards and on job site)

GROUP II
Tractor trailers (all types), 3 axle trucks (physically load and unload), mixer men, high pressure boiler in asphalt and batch plants

GROUP III
Tractor trailers (carrying equipment), weighmasters

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TRUCK DRIVERS - HEAVY CONSTRUCTION (CONT'D)

GROUP IV	Euclid
GROUP V	Euclids, athey wagons, trailer wagons, belly dumps (All over 40 tons)
GROUP VI	Athey wagons, trailer wagons, belly dumps (Under 40 tons)
GROUP VII	Dual purpose grease & fuel trucks, fuel trucks, tire trucks
GROUP VIII	Welding trucks on pipelines
GROUP IX	Welders, Maintenance Men, Mechanics
GROUP X	Yardmen
GROUP XI	Darts (up to 100 tons)
GROUP XII	RXS

PAID HOLIDAYS:
A-New Year's Day; B-Memorial day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Good Friday, Columbus Day, Election Day, Veteran's Day (provided employee works one day of the work week in which the holiday occurs).

b. One week vacation after 90 days of employment in calendar year, plus one additional day for each additional 18 days of employment, not exceeding 10 days in any one calendar year; two weeks after 130 days of employment in a calendar year, However, an employee with 5 years of seniority service shall receive 2 weeks' paid vacation provided he works 90 days in a calendar year; three weeks and one day after 16 years of seniority service - plus 1 additional day for each year up to 19 years of seniority service; four weeks after 20 years of seniority service.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Allegheny
DECISION NO.: PA78-3078 DATE: Date of Publication
Supersedes Decision No. PA75-3070, dated July 18, 1975, in 40 FR 30433.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Bricklayers	$11.90	.75	1.00		
Carpenters	11.15	6%	8%	6%	.4%
Cement Masons	11.32	.68	1.81		
Drywall Taper/Finishers	7.40				
Electricians	12.10	.40	3% +.30	.60	.10
Laborers	5.61				
Painters	6.05				
Plasterers	6.42				
Plumbers	11.80	.92	1.26		.07
Roofers	7.21				
Sheet Metal Workers	9.32	.65	.85		.02
Soft Floor Layers	7.87				
Tile Setters	11.50	.60	1.40		
Truck Drivers	4.92				
Power Equipment Operators:					
Backhoe	11.975	.95	1.00		.09
Hi-Lift	11.975	.95	1.00		.09

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTIES: *SEE BELOW
DECISION NUMBER: TN78-1090 DATE: DATE OF PUBLICATION
Supersedes Decision No. TN77-1133, dated October 7, 1977, in 42 FR 54739.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

*COUNTIES: ALL OF KNOX & MONROE, AND THAT PORTION OF ANDERSON & ROANE WHICH COMPRISE THE OAK RIDGE ENERGY RESEARCH & DEVELOPMENT ADMINISTRATION SITE.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.50	.45	.70		.02
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	10.62				
CARPENTERS & SOFT FLOOR LAYERS	8.94		.50		.02
CEMENT MASONS	8.28				
ELECTRICIANS:					
Knox & Monroe Counties:					
Wiremen	9.71	.50	3% + .50		½ of 1%
Cable splicers	10.11	.50	3% + .50		½ of 1%
Anderson & Roane Counties:					
Wiremen	9.76	.50	3% + .40		
Cable splicers	10.26	.50	3% + .40		
ELEVATOR CONSTRUCTORS:					
Mechanics	8.805	.745	.56	4%+a+b	.025
Helpers	6.16	.745	.56	4%+a+b	.025
GLAZIERS	7.79	.10	.25	.13	
IRONWORKERS:					
Reinforcing	8.86	.50	.50		.02
Structural, Ornamental, & Fence Erectors	9.00	.50	.50		.02
LABORERS:					
Construction laborers	5.14	.15	.15		.01
Mortar mixers, plasterer tenders	5.29	.15	.15		.01
Hod carriers, power buggies, yearner, potman, grademen, snake men, form setters & strippers, pipelayers, asphalt rakers, jackhammer operators, air tool operators, vibrator operators, chain saw operators, barco tamp operators, & all power driven tool operators	5.29	.15	.15		.01
Acetlyene burner	5.32	.15	.15		.01
Wagon drill operator	5.44	.15	.15		.01
Concrete gun operator, nozzleman	5.84	.15	.15		.01
Powderman	5.64	.15	.15		.01

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 9.24		.20		.01
LINE CONSTRUCTION:					
Knox & Monroe Counties:					
Linemen & heavy equipment operators	9.71	.50	3% + .50		½ of 1%
Truck driver with winch	8.20	.50	3% + .50		½ of 1%
Truck driver without winch	7.76	.50	3% + .50		½ of 1%
Groundmen	7.86	.50	3% + .50		½ of 1%
Cable splicers	10.11	.50	3% + .50		½ of 1%
Anderson & Roane Counties:					
Linemen & Equipment operators	9.76	.50	3% + .40		½ of 1%
Groundmen	8.68	.50	3% + .40		½ of 1%
Cable splicers	10.26	.50	3% + .40		½ of 1%
MILLWRIGHTS	9.62		.50		.02
PAINTERS	8.70		.35		.03
PILEDRIVERMEN	9.19		.50		.02
PLASTERERS	9.45				
PLUMBERS & PIPEFITTERS:					
Knox County	9.95	.40	.70	.35	.05
Remaining Counties	10.25	.40	.70	.35	.05
ROOFERS - Composition, slate & tile	8.18		.25		
SHEET METAL WORKERS:					
Knox County	10.23	.61	.77		.04
Remaining Counties	10.73	.61	.77		.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
TRUCK DRIVERS:					
Trucks up to 3 tons, including 4-yard dump trucks (struck measure), & pick-up trucks	5.10	.25	.35		
Material checkers & batch plant scale operators	5.16	.25	.35		
Trucks 3 to 5 tons, including 6-yard dump trucks (struck measure)	5.34	.25	.35		
Trucks 5 tons & over, dump trucks over 6-yards (struck measure), ready-mix concrete trucks, tank trucks, floats, low-boys, winch trucks, semi-trailers, any truck pulling or towing equipment	5.45	.25	.35		

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 8.71	.35	.35		.05
GROUP B	8.09	.35	.35		.05
GROUP C	6.75	.35	.35		.05
GROUP D	6.19	.35	.35		.05

GROUP A: Backhoes; cableways; ross carrier; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherrypickers; tower cranes; skylift; gradall.

GROUP B: Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoist, (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); tracmobile; crushing plant; elevating graders; earth augers; forklifts; (8' lift or under); paving machines (Blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); maintainers.

GROUP C: Asphalt plant; barber-green type loader; engine tender (other than steam) mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operator or engineers (under 30 tons); finishing machine; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1); oiler; heater (1).

WELDERS - Rate for craft.

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more service, or 2% of the basic hourly rate of employees with 6 months to 5 years service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: SHELBY
DECISION NUMBER: TN78-1091 DATE: DATE OF PUBLICATION
Supersedes Decision No. TN78-1048, dated May 19, 1978, in 43 FR 21827.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.50	.55	.75		.05
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS & STONE MASONS	10.90	.50	.30		.10
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS	9.80	.60	.50		.065
CEMENT MASONS	9.725	.50	.65		.15
ELECTRICIANS:					
Wiremen & Electronic technicians	10.93	.75	3% + .50		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.07	.745	.56	4%+a+b	.025
Helpers	7.05	.745	.56	4%+a+b	.025
GLAZIERS	9.00	.75	.40		
IRONWORKERS	9.60	.65	.70		.125
LATHERS	9.30	.25			
LINE CONSTRUCTION:					
Linemen	10.93	.75	3% + .50		½ of 1%
Cable splicers	11.03	.75	3% + .50		½ of 1%
Special equipment operators	8.20	.75	3% + .50		½ of 1%
Groundmen	5.465	.75	3% + .50		½ of 1%
MARBLE MASONS, TERRAZZO WORKERS, TILE SETTERS	8.91	.53	.36		.05
MILLWRIGHTS	10.25	.65	.40		.12
PAINTERS:					
Commercial	9.40	.50	.45		.075
Industrial, spray, & sandblast	9.65	.50	.45		.075
PIPEFITTERS & AIR CONDITIONING MECHANICS	12.47	.55	.30		
PLASTERERS	10.25				.01
PLUMBERS	11.52	.75	.30		
ROOFERS	9.70		.25		.03
SHEET METAL WORKERS	11.32	3% + .65	.25	.55	.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION No. TN78-1091

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 6.975	.30	.35		.05
GROUP B	7.075	.30	.35		.05
GROUP C	7.125	.30	.35		.05
GROUP D	7.325	.30	.35		.05
GROUP E	7.525	.30	.35		.05
GROUP F	7.65	.35	.35		.05

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumbers helpers, carpenters tenders, asphalt rakers, tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pneumatic tools.

GROUP D: Deep hole men

GROUP E: Powderman, tool room attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

DECISION No. TN78-1091

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.725	.50	.50		.10
CLASS B	9.295	.50	.50		.10
CLASS C	8.595	.50	.50		.10
CLASS D	8.195	.50	.50		.10

CLASS A - Shovels, backhoes, draglines, cranes, gantrys, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, strattle carriers, core drills (over 3"), tower cranes, hydro cranes, austin western and similar type cranes, drilling of piling, tugger, earth freezing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, fork lift, & front end loader.

CLASS B - Trenching machines (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized - Buffalo-Springfield type).

CLASS C - Locomotive fireman (on boilers 100 h.p. and over), air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less), oilers on gantrys, & greasers.

CLASS D - Air compressor operator, mechanic helper, locomotive fireman, welding machine operator, deck hand, & elevator operators

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO.: TX78-4114 DATE: Date of Publication
Supersedes Decision No. TX78-4041, dated April 14, 1978, in 43 FR 16133.
DESCRIPTION OF WORK: Building Construction (does not include single family homes & garden type apartments up to & including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.30	.75	.85		.07
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS	9.82		.30		.03
CARPENTERS	9.20	.48	.50		.01
CEMENT MASONS	7.80				
ELECTRICIANS:					
Electricians	10.35	.60	3%		1/10%
Cable splicers	10.60	.60	3%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing;	9.13	.55	1.00		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	9.255	.55	1.00		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	5.525	.275	.27		
GROUP 2 - Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete & clay & all non-metallic pipe); handling, laying & cleaning purperete pipe	5.80	.275	.27		
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tender, lather tenders	5.725	.275	.27		
GROUP 4 - Wagon drill	5.875	.275	.27		
GROUP 5 - Blasters & powder men	6.125	.275	.27		
LATHERS	6.75	.20			.01
LINE CONSTRUCTION:					
Linemen	10.35	.60	3%		1/10%
Operators	80%JR	.60	3%		1/10%
Groundmen (more than 1 year experience)	55%JR	.60	3%		1/10%
Groundmen (less than 1 year experience)	50%JR	.60	3%		1/10%
Flat bed truck operator	70%JR	.60	3%		1/10%
PAINTERS:					
Brush	8.24				
Spray; Sandblasters	8.99				
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	9.95	.50	.45		.04
ROOFERS	3.50				
SHEET METAL WORKERS	10.54	.50	.55		.11
TRUCK DRIVERS	3.00				

DECISION NO. TX78-4114

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.20	.30	.50		.10
GROUP 2	8.10	.30	.50		.10
GROUP 3	8.50	.30	.50		.10

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated
GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hon-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Statewide
DECISION NUMBER: WI78-2104 DATE: Date of Publication
Supersedes Decision Number WI77-2102 dated July 5,1978 in 42 FR 36781
DESCRIPTION OF WORK: Highway and Airport Runway and Taxiway Construction (does not include bridges over navigable waters; tunnels; buildings in highway rest areas; and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS and STONEMASONS:					
Zone 1 - Barron, Buffalo, Burnett, Chippewa, Dunn, Eau Clair, Pepin, Pierce, Polk, Rusk, St. Croix and Sawyer Counties	$ 9.75	.65	.25		.04
Zone 2 - Brown, Calumet, Door, Florence, Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto Outagamie, Shawano, Waupaca, Washara, and Winnebago Counties	9.40	.65	.40	.55	
Zone 3 - Green, Lafayette and Rock Counties	10.13	.65	.30	.25	
Zone 4 - Crawford, Jackson, Juneau, La Crosse, Vernon, Trempealeau and Monroe Cos.	9.70	.40	.25		
Zone 5 - Walworth County	11.25	.60	.60	.50	
Zone 6 - Dane, Grant, Iowa and Richland Counties	9.29	.65	.69	.50	
Zone 7 - Milwaukee, Ozaukee, Washington and Waukesha Cos.	10.61	1.07	.90	.56	
Zone 8 - Columbia and Sauk Cos.	10.10	.65	.30		
Zone 9 - Kenosha and Racine Cos.	11.25	.60	.60	.50	
Zone 10 - Sheboygan County	9.40	.65	.40	.55	
Zone 11 - Ashland, Bayfield, Douglas and Iron Counties	10.51	.75	.45		
Zone 12 - Dodge and Jefferson Counties	9.85	.55	.25	.40	
Zone 13 - Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Price, Taylor, Vilas and Wood Counties	10.05	.65	.30		
CARPENTERS and PILEDRIVERMEN:					
Zone 1 - Ashland County					
Carpenters	9.44	.50	.35	.15	
Piledrivermen	9.64	.50	.35	.15	

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CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2 - Barron, Burnett, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk Rusk, St. Croix, Sawyer, and Taylor Counties					
Carpenters	$10.22	.50	.60		.05
Piledrivermen	10.62	.50	.60		.05
Zone 3 - Brown, Calumet, Door Fond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Waupaca & Waushara & Winnbago Cos.					
Carpenters	9.92	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05
Zone 4 - Green, Jefferson & Rock Counties					
Carpenters	10.90	.50	.60		.10
Piledrivermen	11.05	.50	.60		.10
Zone 5 - Kenosha County					
Carpenters	11.00	.40	.85		.05
Piledrivermen	11.08	.40	.85		.05
Zone 6 - Jackson, La Crosse, Monroe, Trempealeau & Vernon Counties					
Carpenters	9.92	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05
Zone 7 - Adams, Columbia, Crawford, Dane, Dodge, Grant, Iowa, Juneau, La Fayette, Richland & Sauk Counties					
Carpenters	10.27	.50	.60		.05
Piledrivermen	10.67	.50	.60		.05
Zone 8 - Florence & Iron Cos.					
Carpenters	10.69	.60	.70		.05
Piledrivermen	10.69	.60	.70		.05
Zone 9 - Milwaukee, Ozaukee, Washington & Waukesha Cos.					
Carpenters	10.37	.80	.80	.51	
Piledrivermen	10.91	.80	.80	.51	
Zone 10 - Racine County					
Carpenters	10.80	.60	.85		.05
Piledrivermen	10.88	.60	.85		.05

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CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 11 - Sheboygan County					
Carpenters	$10.20	.75	.30		
Piledrivermen	11.24	.75	.30		
Zone 12 - Bayfield & Douglas Counties					
Carpenters	9.45	.30	.40	.50	
Piledrivermen	9.45	.30	.40	.50	
Zone 13 - Walworth County					
Carpenters	10.90	.50	.60		.10
Piledrivermen	11.05	.50	.60		.10
Zone 14 - Forest, Langlade, Lincoln, Marathon, Oneida Portage, Price, Vilas, & Wood Counties					
Carpenters	9.82	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05
CEMENT MASONS:					
Zone 1 - Ashland, Bayfield, Douglas & Iron Counties	10.51	.75	.45		
Zone 2 - Barron, Burnett, Chippewa, Dunn, Polk, Rusk, St. Croix, Sawyer & Washburn Counties	9.75	.65	.25		.04
Zone 3 - Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Protage, Price, Taylor, Vilas & Wood Counties	9.55	.65	.30		
Zone 4 - Buffalo, Eau Claire, Pepin & Pirece Counties	9.75	.65	.25		
Zone 5 - Brown, Calumet, Door, Florence, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, & Waupaca Counties	9.45	.65	.40		
Zone 6 - Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau and Vernon Counties	9.18	.45	.25		
Zone 7 - Waushara, Winnebago, Sheboygan and Fond Du Lac Counties	9.45	.65	.40		

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CEMENT MASONS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 8 - Dodge & Jefferson Cos.	$ 9.35	.55	.25	.55	
Zone 9 - Columbia & Sauk Cos.	9.85	.65	.40		
Zone 10 - Milwaukee, Ozaukee, Washington & Waukesha Cos.	9.83	1.00	.50	.57	
Zone 11 - Dane, Green, Iowa, Lafayette & Rock Counties	9.50	.65	.65		
Zone 12 - Grant County	9.93				
Zone 13 - Walworth County	9.96	.60	.60	.50	
Zone 14 - Racine & Kenosha Cos.	10.09	.60	.85	.50	
ELECTRICIANS:					
Zone 1 - Calumet, Outagamie, Waupaca, Waushara & Winnebago Counties	11.83	.60	3%		
Zone 2 - Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk Price, Rusk & St. Croix, & Taylor Counties	11.62	5%	3%		
Zone 3 - Brown, Door, Kewaunee, & Shawano Counties	10.93	.60	3%		1/8%
Zone 4 - Florence & Forest Cos.	11.74	.50	3%		.5%
Zone 5 - Kenosha County	12.07	.51	3%	.25	3/4%
Zone 6 - Crawford, Grant, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau & Vernon Counties	11.25	.55	3%		
Zone 7 - Walworth County	11.35	.50	3%	7%	½%
Zone 8 - Columbia, Dane, Dodge, Green Lake, Iowa, Marquette, & Sauk Counties	11.13	.74	3%	8%	
Zone 9 - Sheboygan County	9.83	.92	3%+.35	10%	½%
Zone 10 - Ashland, Bayfield, Burnett, Douglas, Iron, Sawyer & Washburn Cos.	10.80	4%	3%	11%	3%

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ELECTRICIANS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 11 - Adams, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Vilas & Wood Cos.	$10.20	.45	3%	8%	1/8%
Zone 12 - Found Du Lac County	9.83	.92	3%+.35	10%	½%
Zone 13 - Green, Jefferson, Lafayette & Rock Counties	11.35	.50	3%	7%	½%
Zone 14 - Milwaukee, Ozaukee, Washington & Waukesha Cos.	11.13	.92	3%+.35	10%	½%
Zone 15 - Racine Co.	12.27	.55	3%		
Zone 16 - Manitowoc, Marinette & Oconto Counties	10.93	.60	3%		1/8%
IRONWORKERS:					
Zone 1 - Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk St. Croix & Trempealeau Counties	10.85	.75	.60		.02
Zone 2 - Ashland, Bayfield, Burnett, Douglas, Forest, Iron, Lincoln, Oneida, Price, Rusk, Sawyer, Taylor, Vilas & Washburn Counties	11.10	.40	.60	.10	
Zone 3 - Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, LaCrosse, Lafayette, Langlade, Marquette, Marathon, Menominee, Monroe, Portage, Richland, Sauk, Shawano, Waupaca, Vernon, Waushara, & Wood Counties	11.52	.65	.375		.055
Zone 4 - Brown, Calumet, Door, Florence, Fond Du Lac, Kenosha, Kewaunee, Manitowoc, Marinette, Milwaukee, Oconto, Outagamie Ozaukee, Racine, Sheboygan, Walworth, Washington & Waukesha & Winnebago Cos.	10.66	1.10	.80	1.15	.15
Zone 5 - Rock County	12.50	.65	.375		.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	$ 9.97	.45	7%		
Heavy Equipment Operator	8.97	.45	7%		
Light Equipment Operator	7.98	.45	7%		
Truck Drivers & Heavy Groundman	6.98	.45	7%		
Truck Drivers & Light Groundman	6.48	.45	7%		
Groundman	5.48	.45	7%		
PAINTERS:					
Zone 1 - Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Price & Taylor Cos.					
Brush	9.50				
Spray	10.00				
Zone 2 - Barron, Buffalo, Burnett, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, Trempealeau, & Washburn Cos.					
Brush	9.05				
Spray	9.30				
Steel	9.30				
Zone 3 - Brown, Door, Kewaunee, & Oconto Counties					
Brush	9.88	.80			
Spray	9.88	.80			
Zone 4 - Florence County					
Brush	8.00			.75	
Spray	8.75			.75	
Zone 5 - Kenosha & Walworth Cos.					
Brush	9.775	.50	.60		
Spray	10.025	.50	.60		
Zone 6 - Adams, Clark, Crawford, Jackson, Juneau, La Crosse, Monroe, Portage, Vernon & Wood Counties					
Brush	8.70		.45		
Spray	9.12		.45		
Zone 7 - Columbiana, Dane, Dodge, Grant, Green, Iowa, Lafayette, Richland, Rock & Sauk Cos.					
Brush	9.59	.70	.30	.30	
Spray	10.04	.70	.30	.30	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Zone 8 - Calumet & Manitowoc Counties					
Brush	$ 9.10				
Spray	9.10				
Zone 9 - Marinette County					
Brush	5.45				
Spray	6.10				
Zone 10 - Jefferson, Milwaukee, Ozaukee, Washington & Waukesha Counties					
Brush	10.55	.96	.80	.50	
Spray & Steel	10.55	.96	.80	.50	
Zone 11 - Fond Du Lac, Green Lake, Marquette, Outagamie, Shawano, Waushara, Waupaca, & Winnebago Counties					
Brush & Steel	9.45	.70	.10		
Spray	9.45	.70	.10		
Zone 12 - Racine County					
Brush	9.90	.60	.80		
Spray	10.50	.60	.80		
Zone 13 - Sheboygan County					
Brush, Steel & Spray	7.25	.50	.30	.30	
Zone 15 - Ashland, Bayfield, Douglas, Iron & Vilas Counties					
Brush & Steel	10.68	.40	.40		.09
Spray	10.68	.40	.40		.09
LABORERS:					
Zone 1 - Milwaukee, Ozaukee, Washington and Waukesha Counties					
Group 1	8.61	.85	.90	.25	.02
Group 2	8.71	.85	.90	.25	.02
Group 3	8.76	.85	.90	.25	.02
Group 4	8.81	.85	.90	.25	.02
Group 5	8.86	.85	.90	.25	.02
Group 6	8.91	.85	.90	.25	.02
Group 7	9.26	.85	.90	.25	.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Zone 2 - Racine County					
Group 1	$ 8.16	.60	.85	.50	.02
Group 2	8.26	.60	.85	.50	.02
Group 3	8.31	.60	.85	.50	.02
Group 4	8.36	.60	.85	.50	.02
Group 5	8.41	.60	.85	.50	.02
Group 6	8.46	.60	.85	.50	.02
Group 7	8.81	.60	.85	.50	.02
Zone 3 - Kenosha County					
Group 1	8.16	.60	.70	.50	.02
Group 2	8.26	.60	.70	.50	.02
Group 3	8.31	.60	.70	.50	.02
Group 4	8.36	.60	.70	.50	.02
Group 5	8.41	.60	.70	.50	.02
Group 6	8.46	.60	.70	.50	.02
Group 7	8.81	.60	.70	.50	.02
Zone 4 - Dane County					
Group 1	8.51	.45	.40		.02
Group 2	8.56	.45	.40		.02
Group 3	8.61	.45	.40		.02
Group 4	8.66	.45	.40		.02
Group 5	8.71	.45	.40		.02
Zone 5 - Remainder of State					
Group 1	8.23	.45	.40		.02
Group 2	8.28	.45	.40		.02
Group 3	8.33	.45	.40		.02
Group 4	8.38	.45	.40		.02
Group 5	8.43	.45	.40		.02

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LABORERS: (Cont'd)

Classifications for Zones 1, 2 and 3 RESPECTIVELY

Group 1: Bituminous workers (shoveler, loader, utility man), Demolition and wrecking laborer, Guard rail builder, Reinforcing steel setter (pavement), Stone handler, Tree trimmer, Landscaper, Multiplate culvert sssembler, Conduit layer, Unskilled laborer

Group 2: Bituminous worker (dumper, ironer, smoother, tamper), Batch truck dumper, Cement handler, Concrete handler

Group 3: Chain Saw Operator, demolition burning torch laborer, Joint sawyer and filler (pavement), Vibrator or tamper operator (mechanical, hand operated)

Group 4: Air tool operator (hand operated)

Group 5: Form setter (curb, walk & pavement), Strike offman

Group 6: Bituminous Worker (raker and luteman)

Group 7: Powderman, blaster

LABORERS (Cont'd)

Classifications for ZONES 4 and 5 RESPECTIVELY

Group 1: Bituminous Workers (dumper, ironer, smoother, tamper, shoveler, loader, utility man), Strike off man, Joint sawer or filler (pavement), Concrete handler, demolition & wrecking laborer, Guard rail builder, Reinforcing steel setter (pavement); Stone handler, Landscaper, Multiplate culvert assembler, Conduit layer, Unskilled labor

Group 2: Form setter (curb, walk, & pavement), Tree trimmer

Group 3: Air tool operator, vibrator or tamper operator, Batch truck dumper, Cement handler

Group 4: Bituminous worker (raker, luteman), Chain saw operator, Demolition burning torch laborer

Group 5: Powderman, blaster

DECISION NO. WI78-2104

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$10.92	.85	.65		.10
Group 2	10.66	.85	.65		.10
Group 3	10.57	.85	.65		.10
Group 4	10.49	.85	.65		.10
Group 5	10.41	.85	.65		.10
Group 6	10.37	.85	.65		.10
Group 7	10.28	.85	.65		.10
Group 8	10.16	.85	.65		.10
TRUCK DRIVERS					
Zone 1 - Milwaukee, Ozaukee, Washington & Waukesha Counties					
Group 1	8.80	$30.50a	$31.00a	.35	
Group 2	8.95	30.50a	31.00a	.35	
Zone 2 - Kenosha & Racine Cos.					
Group 1	8.80	136.04b	31.00a	.35	
Group 2	8.95	136.04b	31.00a	.35	
Zone 3 - Remainder of State					
Group 1	8.80	132.16b	31.00a	.35	
Group 2	8.95	132.16b	31.00a	.35	

FOOTNOTE:
a. Per week peremployee on payroll 30 days or longer
b. Per month per employee on payroll 30 days or longer.

DECISION NO. WI78-2104

POWER EQUIPMENT OPERATORS

CLASSIFICATIONS:

Group 1: Bituminous paver or plant, Concrete breaker (truck mounted heavy), Crane, Derrick, dragline, Dredge, Piledriver, Power shovel, Material hoist, Mixer or paver 21 cu. ft. or over, Roller over 5 ton, Self-propelled stabilizing mixer, Trenching machine, Tractor (side boom, heavy), Concrete pavement spreader (heavy duty) Rubber tires, Hydraulic back hoe, Asphalt Plane engineer; Automatic slip form concrete paver, Automatic concrete subgrader, Batch mixer, portable, Caisson rigs, Central Mixer concrete, Dredge engineer, Concrete batch plantengineer, Central mix plant concrete, Percussion or rotary drill machine, Grader or motor patrol, Loading machine (conveyor), Mechanic or welder (heavy duty equipment), Tractor (scraper, dozer, push, loader), Tugger, End Loader, Asphalt Heater and planer, Boatman, Bump cutter and grooving machine, Shoulder widener, Winches and "A" frames, Tube finisher

Group 2: Concrete mixer less than 21 cu. ft., Concrete pump, Steel roller, 5 tons or less

Group 3: Screed (bituminous paver), Shoulderingmachine, Self-propelled chip spreader

Group 4: Concrete breaker and Tamper (light), Concrete spreader, Finishing machine, Mechanical float, Curing machine, Power subgrader, Joint sawer (multiple blade), Launch, Roller (pneumatic tired) Self-propelled tractor (mounted or towed compactors and light equipment), Light rubber tired tractor - end loader, fork-lift, Belting machine, Burlap machine, Jeep digger, Mulcher, Texturing machine

Group 5: Fireman, Evironmental burner

Group 6: Air compressor, Drilling or boring machine (mechanical heavy), Greaser (heavy equipemnt) Lead-man, Tank car heaters, Stump chipper, Curb machine, Concrete proportioning plant, Generators, Mud Jacks

Group 7: Crusher or screening plant, Automatic belt conveyor and surge bin, pneumatic tired roller farm tractor towed, Pug mill

Group 8: Oiler, Pump over 3" Surge bin, Drilling machine helper

TRUCK DRIVERS

Group 1: Truck drivers, 2 Axle - Mechanics helper, truck

Group 2: TRuck Driver, 3 or more axle trucks - euclid or Dumpster type hauling units - Mechanic, truck

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Statewide
DECISION NUMBER: WI78-2108 DATE: Date of Publication
Supersedes Decision No. WI77-2126 dated August 26, 1977 in 43 FR 43364
DESCRIPTION OF WORK: Heavy, Sewer, Tunnel & Water Construction

BRICKLAYERS & STONEMASONS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - BARRON, BUFFALO, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, ST. CROIX, & SAWYER COUNTIES, BURNETTE County South of Hwy. 70 including the City of Grantburgh the Northern ½ of TREMPEALEAU County, and the Southern ½ of WASHBURN County	$ 9.75	.65	.25		.04
ZONE 2 - BROWN, CALUMET, DOOR, FLORENCE, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGAMIE, SHEBOYGAN, WAPAUCA, WASHARA, & WINNEBAGO Counties and all of SHAWANO County except the North West panhandle	9.40	.65	.40	.55	
ZONE 3 - GREEN, LAFAYETTE & ROCK Counties	10.13	.65	.30	.25	
ZONE 4 - CRAWFORD, JACKSON, JUNEAU, LA CROSSE & VERNON Counties and the remainder of TREMPEALEAU County	9.70	.40	.25		
ZONE 5 - WALWORTH County	11.25	.60	.60	.50	
ZONE 6 - DANE, GRANT, IOWA & RICHLAND COUNTIES	9.29	.65	.60	.50	
ZONE 7 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA COUNTIES	10.61	1.07	.90	.56	
ZONE 8 - COLUMBIA & SAUK Counties	10.10	.65	.30		
ZONE 9 - KENOSHA & RACINE Counties	11.25	.60	.60	.50	
ZONE 10 - ASHLAND, BAYFIELD, DOUGLAS & IRON Counties and the remainder of BURNETT & WASHBURN Counties	10.06	.45	.45		
ZONE 11 - DODGE & JEFFERSON COUNTIES	9.85	.55	.25	.40	
ZONE 12 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA, PORTAGE, PRICE, TAYLOR, VILAS & WOOD Counties and the remainder of SHAWANO County	10.05	.65	.30		

DECISION NO. WI78-2108

CARPENTERS & PILEDRIVERMEN	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - ASHLAND & IRON Counties and the East ½ of BAYFIELD CO.					
Carpenters	$ 9.44	.50	.35	.15	
Piledrivermen	9.64	.50	.35	.15	
ZONE 2 - BARRON, BURNETT, CHIPPEWA DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK, SAWYER & WASHBURN Counties the North ½ of BUFFALO, JACKSON & TREMPEALEAU Counties, CLARK County, West of Hwy. 73 & TAYLOR Co. West of Hwy. 73 & North of Hwy. 64 to Hwy 13 to PRICE County line					
Carpenters	10.22	.50	.60		.05
Piledrivermen	10.62	.50	.60		.05
ZONE 3 - BROWN, CALUMET, DOOR, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARQUETTE, MENOMINEE, OCONTO, OUTGAMIE, SHAWANO, WAUPACA, & WAUSHARA Counties & the South ½ of MARINETTE County					
Carpenters	9.92	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05
ZONE 4 - GREEN & ROCK Counties & JEFFERSON County South of Hwy 30					
Carpenters	10.90	.50	.60		.05
Piledrivermen	11.05	.50	.60		.05
ZONE 5 - KENOSHA County					
Carpenters	11.00	.40	.85		.05
Piledrivermen	11.08	.40	.85		.05
ZONE 6 - LA CROSSE, MONROE & VERNON Counties, the remainder of BUFFALO, JACKSON & TREMPEALEAU Counties & in JUNEAU County, West of County tract 80 & South of Hwy. 21					
Carpenters	9.92	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05

DECISION NO. WI78-2108

CARPENTERS & PILEDRIVERMEN CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 7 - CRAWFORD, COLUMBIANA, DANE, DODGE, GRANT, IOWA, LAFAYETTE, RICHLAND & SAUK Counties and the remainder of ADAMS, JEFFERSON AND JUNEAU Counties					
Carpenters	$ 10.27	.50	.60		.05
Piledrivermen	10.67	.50	.60		.05
ZONE 8 - FLORENCE County & the remainder of MARINETTE County					
Carpenters	10.69	.60	.70		.01
Piledrivermen	10.69	.60	.70		.01
ZONE 9 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties					
Carpenters	10.37	.80	.80	.51	
Piledrivermen	10.91	.80	.80	.51	
ZONE 10 - RACINE County East of Highway 75					
Carpenters	10.80	.60	.85		.05
Piledrivermen	10.88	.60	.85		.05
ZONE 11 - SHEBOYGAN County					
Carpenters	10.20	.75	.30		
Piledrivermen	11.24	.75	.30		
ZONE 12 - DOUGLAS County & the West ½ of BAYFIELD County					
Carpenters	9.45	.30	.40	.50	
Piledrivermen	9.45	.30	.40	.50	
ZONE 13 - WALWORTH County and RACINE County West of Hwy. 75					
Carpenters	10.90	.50	.60		.10
Piledrivermen	11.05	.50	.60		.10
ZONE 14 - FOREST, LANGLADE, LINCOLN, MARATHON. ONEIDA, PORTAGE, PRICE, VILAS & WOOD Counties and the remainder of ADAMS, CLARK, JUNEAU & TAYLOR Counties					
Carpenters	9.92	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05

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CEMENT MASONS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 -ASHLAND, BAYFIELD, DOUGLAS & IRON Counties & the North ½ of BURNETTE & WASHBURN Counties	9.69	.75	.45		
ZONE 2 - BARRON, CHIPPEWA, DUNN, POLK, RUSH, ST. CROIX, & SAWYER Counties and the remainder of BURNETTE & WASHBURN Counties	9.75	.65	.25		.04
ZONE 3 - ADAMS, CLARK, FOREST, LANGLADE, LINCOLN, MARATHON, MENOMINEE, ONEIDA, PORTAGE, PRICE, TAYLOR, VILAS & WOOD Counties and the Northwest panhandle of SHAWANO County	9.55	.65	.30		
ZONE 4 - EAU CLAIRE, PEPIN & PIERCE Counties & the North ½ of BUFFALO, JACKSON & TREMPEALEAU Counties	10.23	.75	.40		.04
ZONE 5 - BROWN, CALUMET, DOOR, FLORENCE, FOND DU LAC, GREEN LAKE, KEWAUNEE, MANITOWOC, MARINETTE, MARQUETTE, OCONTO, OUTAGANIE, SHEBOYGAN, WAUPACA, WAUSHARA & WINNEBAGO Counties and the remainder of SHAWANO County	9.45	.65	.40		.02
ZONE 6 - CRAWFORD, JUNEAU, LA CROSSE, MONROE, RICHLAND & VERNON Counties & the Remainder of BUFFALO, JACKSON & TREMPEALEAU Counties	9.18	.45	.25		
ZONE 7 - DODGE & JEFFERSON Cos.	10.20	.75	.40		
ZONE 8 - COLUMBIA & SAUK Counties	9.85	.65	.40		
ZONE 9 - MILWAUKEE, OZAUKEE, WASHINGTON & WASKESHA Counties	10.55	1.15	.90	.51	
ZONE 10 - DANE, GREEN, IOWA, LAYFAYETTE & ROCK Counties	10.00	.80	.75		
ZONE 11 - GRANT County	9.93				
ZONE 12 - WALWORTH County	9.96	.60	.60	.50	
ZONE 13 - KENOSHA & RACINE COS..	10.09	.60	.85	.50	

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ELECTRICIANS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - OUTAGAMIE, WAUPACA, WASHARA & WINNEBAGO Counties; All of CALUMET County except the Township of New Halstein; Berlin St. Marie and Seneca Townships in GREEN LAKE County, and Crystal Lake, Neshkoro, Newton and Springfield Townships in MARQUETTE County	$11.83	.60	3%		
ZONE 2 - BARRON, CHIPPEWA, CLARK, DUNN, EAU CLAIRE, PEPIN, PIERCE, POLK, RUSK & TAYLOR Cos. in BUFFALO Co. that portion North of Glencoe, Milton & Waumandee Twps, In BURNETTE Co., that portion South of Lincoln, Meenon, Rusk, Sand Lake and West Marchland Twps., in JACKSON County that portion North of Adams, Allison & Springfield Twps., All of PIERCE County except Eisenstein, Tifield and Lake Twps, All ST. CROIX County except Hudson, St. Joseph, Somerset & Troy Twps., In SAWYER County the Twps. of Edgewater, Meadowrock, Metor & Weigor & South thereof, In TREMPEALEAU Co. the Twps of Burnside, Lincoln & Pigeon North thereof &; in WASHBURN CO. The Twps of Buck wood, Evergreen, Madge & Spooner & South thereof	11.62	5%	3%		
ZONE 3 - BROWN, DOOR AND KEWAUNEE Counties; in OCONTO County, that portion South of How, Leno, Mable Valley, Oconto & Spruce Twps.; & in Shawano County that portion South of Aniwa & Hutchins Twps. also Manitowoc County	11.73	.60	3%		½%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 4 - FLORENCE & FOREST Cos. and that portion of MARINETTE County North of Ambest Athelstane & Silver Cliff Twps.	$11.74	.50	3%		.5%
ZONE 5 - KENOSHA County	12.07	.51	3%	.25	3/4%
ZONE 6 - CRAWFORD, GRANT, JUNEAU, LA CROSSE,MONROE, RICHLAND & VERNON Cos. & the remainder of BUFFALO, JACKSON & TREMPEALEAU Counties	11.25	.55	3%		
ZONE 7 - WALWORTH County	11.35	.50	3%	7%	½%
ZONE 8 - COLUMBIA, DANE, DODGE, IOWA & SAUK Counties & the remainder of GREEN LAKE & MARQUETTE Counties	11.13	.74	3%	8%	½%
ZONE 9 - SHEBOYGAN County the remainder of CALUMET County and Schleswig Township in MANITOWOC County	9.83	.92	3%+.35	10%	4%
ZONE 10 - ASHLAND, BAYFIELD, DOUGLAS & IRON & the remainder of BURNETT, PRICE, SAWYER & WASHBURN COUNTIES	10.80	4%	3%	11%	3%
ZONE 11 - ADAMS, LANGLADE, LINCOLN, MARATHON, ONEIDA, PORTAGE & VILAS Cos.; the remainder of SHAWANO Co. & all of MENOMINEE West of a line six miles West of Oconto County line & WOOD CO.	10.20	.45	3%	8%	1/8%
ZONE 12 - FOND DU LAC County	9.83	.92	3%+.35	10%	½%
ZONE 13 - GREEN, JEFFERSON LA FAYETEE, & ROCK Counties	11.35	.50	3%	7%	½%
ZONE 14 - RACINE County	12.27	.55	3%		
ZONE 15 - MILWAUKEE, OZAUKEE, WASHINGTON & WASKESHA Cos.	11.13	.92	3%+.35	10%	½%
ZONE 16 - The remainder of MARINETTE, MENOMINEE & OCONTO Counties	11.73	.60	3%		½%

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DECISION NO. WI79-2108

IRONWORKERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
ZONE 1 - BARRON, BUFFALO, CHIPPEWA, DUNN, EAU CLAIR, PEPIN PIERCE, POLK, ST. CROIX & TREMPEALEAU Counties; the South-West ¼ of BURNETT, RUSK & TAYLOR Counties; & the N. W. ¼ of CLARK & JACKSON Counties	10.85	.75	.60		.02
ZONE 2 - ASHLAND, BAYFIELD, DOUGLAS, IRON, LINCOLN, ONEIDA, PRICE, SAWYER, VILAS, WASHBURN Counties; the remainder of BURNETT, RUSK & TAYLOR COUNTIES THE N. W. ¼ of FOREST COUNTIES AND THE N. W. 1/3 of FLORENCE County	11.10	.40	.60	.10	
ZONE 3 - ADAMS, COLUMBIA, CRAWFORD, DANE, GRANT, GREEN LAKE, IOWA, JUNEAU, LA CROSSE, LAFAYETTE, LANGLADE, MARATHON, MARQUETTE, MENOMINEE, MONROE, PORTAGE, RICHLAND, SAUK, VERNON, WAUPACA, WAUSHARA, WINNEBAGO, & WOODS Counties; the remainder of CLARK FOREST, & JACKSON Counties; the West 2/3 of DODGE & SHAWANO Counties the West ½ of FOND DU LAC Co. all of GREEN County except the South-East corner; all of JEFFERSON County except the extreme Eastern portion; the West 1/3 of OUTAGAMIE County; the Townships of Edgerton, Evansville, Milton & Polesville in ROCK County & the North-West dorner of WALWORTH County including the town of Whitewater	11.52	.65	.375		.055

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DECISION NO. WI78-2108

IRONWORKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 4 - BROWN, CALUMET, DOOR, KENOSHA, KEWAUNEE, MANITOWOC, MARINETTE, MILWAUKEE, OZAUKEE, RACINE, SHEBOYGAN, WASHINGTON, & WAUKESHA Counties; the remainder of DODGE, FLORENCE, FOND DU LAC, JEFFERSON, OCONTO, OUTAGAMIE & SHAWANO Cos.; & the East ½ of WALWORTH	10.66	1.10	.80	1.15	.15
ZONE 5 - The remainder of GREEN, ROCK & WALWORTH Counties	12.60	.65	.375		.10
LINE CONSTRUCTION					
Lineman	9.97	.45	7%		
Heavy Equipment Operator	8.97	.45	7%		
Light Equipment Operator	7.98	.45	7%		
Truck Drivers & Heavy Groundman	6.98	.45	7%		
Light Groundman & Truck Driver	6.48	.45	7%		
Groundman	5.48	.45	7%		
PAINTERS:					
ZONE 1 - LANGLADE, LINCOLN, MENOMINEE, ONEIDA & PRICE COUNTIES The West 3/4 of FOREST County; In MARATHON Co. West of Hwy. 97 & South to Hwy. 153 & TAYLOR County North of Hwy. 64					
Brush	9.50				
Spray	10.00				
ZONE 2 - BARRON, BUFFALO, BURNETTE, CHIPPEWA, DUNN, EAU CLAIRE, PEPIN, PRICE, POLK, RUSK, ST. CROIX, SAWYER, TREMPEALEAU & WASHBURN Counties					
Brush	9.05				
Spray	9.30				
Steel	9.30				

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DECISION NO. WI79-2108

PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3 - BROWN, DOOR, KEWAUNEE, & OCONTO Counties					
Brush	9.88	.80			
Spray	9.88	.80			
ZONE 4 - FLORENCE Co. & the Northern ½ of MARINETTE Co.					
Brush	8.00				
Steel	8.75				
ZONE 5 - KENOSHA & WALWORTH CO.					
Brush	9.775	.50	.60		
Spray	10.025	.50	.60		
ZONE 6 - ADAMS, CLARK, CRAWFORD, JACKSON, JUNEAU, LA CROSSE, MONROE, PORTAGE, VERNON & WOOD Counties; & the remainder of MARATHON & TAYLOR COUNTIES					
Brush	8.70		.45		
Spray	9.12		.45		
ZONE 7 - COLUMBIA, DANE, DODGE, GRANT, GREEN, IOWA, LAFAYETTE RICHLAND, ROCK & SAUK Counties					
Brush	9.29	.70	.30	.30	
Spray	10.04	.70	.30	.30	
ZONE 8 - MANITOWOC County & the South ½ of Calumet County					
Brush	9.10				
Spray and Steel	9.10				
ZONE 9 - The remainder of MARINETTE & FOREST Counties					
Brush	5.45				
Spray	6.10				
ZONE 10 - JEFFERSON, MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties					
Brush	10.55	.65	.80	.50	
Steel and Spray	10.55	.65	.80	.50	

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 11 - FOND DU LAC, GREEN LAKE, MARQUETTE, OUTAGAMIE, SHAWANO, WAUSHARA, WAUPACA & WINNEBAGO Counties & the remainder of CALUMET COUNTY					
Brush & Steel	9.45	.70	.10		
Spray	9.95	.70	.10		
ZONE 12 - RACINE County					
Brush	9.35	.60	.80		
Spray	9.95	.60	.80		
ZONE 13 - SHEBOYGAN County					
Brush & Steel	7.25	.40	.30	.30	
Spray	7.75	.40	.30	.30	
ZONE 14 - ASHLAND, BAYFIELD, DOUGLAS, IRON & VILAS Counties					
Brush	10.68	.40	.40		.09
Spray & Steel	10.68	.40	.40		.09
LABORERS					
ZONE 1 - MILWAUKEE, OZAUKEE, WASHINGTON & WAUKESHA Counties					
OPEN CUT					
GROUP 1 - Yard & landscape laborer	9.65	1.05	.90	.51	
GROUP 2 - Paving laborer	9.70	1.05	.90	.51	
GROUP 3 - General laborer on surface, pipe layer tender, top man behind machine, kettle man, top man	9.82	1.05	.90	.51	
GROUP 4 - Gunnite man on top, scaffold man, mud mixer	9.87	1.05	.90	.51	
GROUP 5 - Mucker, form stripper, bottom digger miscellanious bottom man, welder on surface	10.04	1.05	.90	.51	
GROUP 6 - Concrete manhole builder, caisson worker, miner pipelayers, caulker, joint man, pipe yarner, timber man, concrete brusher, bracer in trench behind machine, bracer in tight sheeting, concrete formsetter, shoveler, concrete buster, jack hammer on rock driller	10.43	1.05	.90	.51	

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 7 - Blaster	$10.59	1.05	.90	.51	
TUNNEL-FREE AIR					
GROUP 8 - Tower man, general laborer on surface	9.82	1.05	.90	.51	
GROUP 9 - Saw man, top man	9.87	1.05	.90	.51	
GROUP 10 - Form stripper, car pusher	10.04	1.05	.90	.51	
GROUP 11 - Mucker, mucking machine, dinkey, welder on surface	10.14	1.05	.90	.51	
GROUP 12 - Conorete manhole builder, concrete buster, jack hammer op., rock driller, caisson workers, caulker, joint man, pipe yarner, bracerman, on gunnite, timber man, concrete brusher	10.43	1.05	.90	.51	
GROUP 13 - Miner, mining machine welder in tunnel	10,53	1.05	.90	.51	
GROUP 14 - Blaster	10.59	1.05	.90	.51	
TUNNEL COMPRESSED AIR					
GROUP 15 - Welder on surface	10.81	1.05	.90	.51	
GROUP 16 - Lock tender on surface	10.45	1.05	.90	.51	
GROUP 17 -Form stripper, car pusher	10.54	1.05	.90	.51	
GROUP 18 - Mucker, mucking machine, dinkey	10.64	1.05	.90	.51	
GROUP 19 - Lock tender in tunnel concrete buster, jack hammer, rock driller, caisson worker, pipe layer, caulker, joint man, pipe yarner, braceman, nozzle man on gunnite, timber man, concrete brusher	10.81	1.05	.90	.51	
GROUP 20 - Miner, Mining machine welder in tunnel	10,91	1.05	.90	.51	
GROUP 21 - Blaster	10.98	1.05	.90	.51	

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2 - DANE COUNTY					
GROUP 1 - Laborer, wellpoint installation, wire mesh & reinforcement, concrete worker, form stripper, strike-off worker	$ 9.00	.40	.35		.02
GROUP 2 - Machine & equipment op. sheeting, formsetting, patch-finisher, bottomman, jointsaw gunnite man, manhole builder, welder, torchman, blaster, caulker, bracer, bull float, conduit worker, all power driven tools, mucker, car pusher, raker, luteman	9.20	.40	.35		.02
GROUP 3 - Pilelayer, miner, laser operator	9.55	.40	.35		.02
ZONE 3 - KENOSHA COUNTY					
GROUP 1 - Topman	8.20	.50	.70	.70	
GROUP 2 - Bracer, builder, caulker, pipelayer, bottomman, air or electric tool operator	8.55	.50	.70	.70	
GROUP 3 - Blaster, cement manhole builder	8.90	.50	.70	.70	
ZONE 4 - RACINE COUNTY					
GROUP 1 - Topman	8.15	.60	.85	.50	
GROUP 2 - Bracer Builder, caulker, pipelayer, bottomman, air or electric tool operator	8.50	.60	.85	.50	
GROUP 3 - Blaster, cement manhole builder	8.85	.60	.85	.50	

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RERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
5 - Remainder of State					
P 1 - Laborers, wellpoint tallation wire mesh & reincement, concrete worker, form ipper, strike-off worker	$ 8.50	.40	.35		.02
P 2 - Machine & Equipment , sheeting, form setting, ch finsiher, bottomman, nt sawer, gunnite man, mane builder, welder, torchman, ster, caulker, bracer, bullat, conduit worker, all er driven tools, mucker, pusher raker, luteman	8.70	.40	.35		.02
P 3 - Pipelayer, miner, laser rator	9.05	.40	.35		.02

DECISION NO. WI78-2108

POWER EQUIPMENT OPERATORS
Heavy, Tunnel & Sewer Construction

Area 1 - Kenosha, Milwaukee, Ozaukee, Racine, Washington & Waukesha Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E); Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

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ISION NO. WI78-2108

SR EQUIPMENT OPERATORS
vy, Tunnel & Sewer
struction

a 2 - Remainder of
unties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
P I	10.67	.75	.70		.10
P II	10.42	.75	.70		.10
P III	10.12	.75	.70		.10
P IV	10.02	.75	.70		.10
P V	9.81	.75	.70		.10
P VI	9.57	.75	.70		.10

P I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, sson rigs, Pile driver, skid rigs, derrick operator and traveling ne (Bridge type), Concrete paver (over 27E), Concrete spreader and tributor

P II - Material hoists, Tractor or truck mounted hydraulic backhoe ctor or truck mounted hydraulic crane (5 tons or under), Mannoist, ctor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), tilift (25' and over), Motor parrol, Scraper operator, Sideboom, iddle carrier, Mechanic and welder, Bituminous plant and paver ator, Roller (over 5 tons), Rotary drill operator and blaster, cher (wheel type or chain type having over 8-inch bucket)

P III - Concrete and grout pumps, Backfiller, Concrete auto breaker ge), Concrete finishing machine (Road type), Roller (rubber tire), rete batch hopper, Concrete conveyor systems, Concrete mixers (14S ver), Screw type pumps, and gypsum pumps, tractor, Bulldozer, Ender (under 40 h.p.), Pumps (well points), Trencher (chain type having et 8-inch and under), Industrial locomotives, roller (under 5 tons) firemen (pile drivers and derricks)

IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors ng type), Assistant engineer, "A" frame and winch trucks, concrete breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), p chipper (large), Boats, safety Work, Barges and launch)

V - Shouldering machine operator, Screed operator, Farm or industrial tor mounted equipment, Post hole diggers, Stone crushers and Screening ts, Firemen (asphalt plants), air compressor (300 CFM or over)

VI - Generators over 15 KW, Pumps over 3" Augers (vertical and zontal), combination small equipment operator, Air, electric Hydraulic s (slip form), Compressors (under 300 CFM); Welding machines, Heaters hanical), Prestress machines, Bobcats, Generators (under 150 KW), ators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' nder)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Ashland, Bayfield and Douglas

DECISION NUMBER: WI78-2110

DATE: Date of Publication

Supersedes Decision No. WI77-2105 dated July 22 1977 in 42 FR 37766

DESCRIPTION OF WORK: Building (including residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.65	.40	.25		
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS	10.51	.75	.45		
CARPENTERS: Ashland County	9.44	.50	.35	.15	
Bayfield & Douglas Cos	9.45	.30	.40	.50	
(Residential) Bayfield & Douglas Cos.	5.82	.50	.40		.05
(Residential) Ashland	5.42	.50	.30		.03
CEMENT MASONS: Douglas County	9.69	.75	.45		
Ashland & Bayfield Counties	9.69	.75	.45		
ELECTRICIANS	11.47	4%	5%	11%	1%
Residential	7.00	.35	3%		1%
ELEVATOR CONSTRUCTORS:					
Constructors	9.89	.545	.35	a&b	
Helpers	6.09	.545	.35	a&b	
Helpers (Prob.)	4.885				
IRONWORKERS	11.10	.40	.60	.10	.02
LATHERS	10.55	.30	.45		
LINE CONSTRUCTION:					
Linemen	9.47	.45	7%		
Heavy Equipment Operator	8.97	.45	7%		
Light Equipment Operator	7.98	.45	7%		
Heavy Groundman - Truck Driver	6.98	.45	7%		
Light Groundman - Truck Driver	6.48	.45	7%		
Groundman	5.48	.45	7%		
MILLWRIGHTS & PILEDRIVERMEN:					
Ashland County	9.64	.50	.35	.15	
Bayfield & Douglas Counties					
Millwrights	9.45	.30	.40	.50	
Piledriverman	9.45	.30	.40	.50	
PAINTERS:					
Brush	10.08	.40	.40		.09
Spray	10.68	.40	.40		.09
PLASTERERS	10.20	.30		.45	
PLUMBERS	10.41	.30	.75	1.00	.05
ROOFERS	10.08	.40	.25	1.00	
SHEET METAL WORKERS	10.35	.40	.44	1.00	
SOFT FLOOR LAYERS	9.44	.50	.35	.15	
SPRINKLER FITTERS	12.10	.75	1.05		.08
TERRAZZO WORKERS	10.51	.75	.45		
TILE SETTERS	10.51	.75	.45		

Welders receive rate prescribed for craft performing operation to which welding is incidental.

PAGE 2

DECISION NO. WI78-2110

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years

c. Holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, regularly scheduled work days immediately preceding and following the holiday.

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DECISION NO. WI78-2110

WISC. 18 - LAB G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GENERAL LABOR:					
Handling of material for carpenters, craftsmen, cleaning forms, rough, grading, digging shallow trenching, tool checkers, general labor around building & construction work	8.50	.30	.35		
CONCRETE WORK:					
Concreto, bituminous concrete aggregates for walls, footings foundations, floors, any other const. Mixing, handling, conveying, pouring, vibrating, gunniting, etc. Operating motorized wheelbarrows, buggies or machines of similar character, the hooking on, signaling dumpling & unhooking of bucket when concrete or aggregates are conveyed by crane, derrick or similar method. Placing of concrete or aggregates, Assembly, uncoupling cleaning, etc. of equipment used in mixing or conveying concrete, aggregates or mortar, all vibrating, grinding, spreading, flowing, puddling, leveling and strike-off of concrete or aggregates by floating, rodding or screening, Loading, unloading, etc., of prestressed or pre-cast concrete, slabs, wall, etc. Mixing, handling, conveying, placing & spreading of grout, cutting of concrete or aggregate	8.50	.30	.35		
Jackhammer, concrete busters, air spades, sheeting drivers, air hammers, jumping jack tamper	8.75	.30	.35		
Vibrators, mason tenders, tile terrazzo helpers demolition & wrecking laborers, Lanscaping	8.50	.30	.35		

DECISION NO. WI78-2110

WISC. 18 LAB G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CONCRETE WORK: (CONT'D)					
Steel burners & steel form setters, mixing by hand for two or more bricklayers, hod carriers & plaster laborers	8.75	.30	.35		
Mixing by hand for one bricklayer, operator of power machinery used in cleaning brick roofing helper & Kettlemen, jack men on slip forms, underpinning, lagging, bracing, propping, shoring and all basement work etc.	8.50	.30	.35		
Miners, shafts, tunnels, underground sewers, drilling & blasting & compressed air work under ground or in compression chamber	8.85	.30	.35		
SEWER WORK:					
Pipelayers, cement manhole builder	8.75	.30	.35		
Bottom man and bracrers, caulker & joint man, swamper on a pipe gang, buffing machine man	8.65	.30	.35		
Kettlemen, top man	8.50	.30	.35		
DYNAMITE MAN	8.95	.30	.35		
Handling creosoted lumber, pileing square timber & like material where covered with creosote applying bit, or creosote on wood, steel or cement	8.75	.30	.35		
Work on towers or scaffolds 25 ft. or more above gground	8.75	.30	.35		
BITUMINOUS WORKER:					
Dumper, ironer, smoother, shoveler, loader, utility man Raker, luteman	8.65	.30	.35		
STEEL WORK:					
Handling of all rods, mesh & material for use in reinforcing concrete const. hoisting rods, mesh & other materials except when a derrick or outrigger operated by other than hand is used	8.50	.30	.35		

DECISION NO. WI78-2110

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Mannhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 9 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers, (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Barron, Dunn, Polk & St. Croix Counties

DECISION NUMBER: WI78-2114

DATE: Date of Publication

Supersedes Decision No. WI77-2106 dated, July 22, 1977 in 42 FR 37769

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

49-Wisconsin B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.32	.51	.65		.02
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS	10.23	.75	.40		.04
CARPENTERS:					
Carpenters	10.22	.50	.60		.05
Millwrights & Piledrivermen	10.62	.50	.60		.05
CEMENT MASONS	10.23	.75	.40		.04
ELECTRICIANS: (Hudson, St Joseph & Troy Twps. in St. Croix Co.	10.65	5 3/4%	4%	11½%	1%
ELECTRICIANS (Remainder of Area)	11.62	5%	3%		½%
ELEVATOR CONSTRUCTORS:					
Constructors	10.87	.745	.35	a or b	.02
Helpers	7.61	.745	.35	a or b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental and Reinforcing	10.85	.75	.60		.02
LABORERS:					
Laborers, common	8.38	.45	.40		.02
Mortar mixer & plasterer laborer air, gas & electric equipment, vibrator operator, Kettlemen, dumpmen & pittmen, Burner on wrecking, Scaffold builder & washing walls on swinging scaffold, Gunnite man & nozzle men, puddlers (when concrete pumps & when working behind paving machine, Cement dumper dumper	8.53	.45	.40		.02
Jackhammer	8.63	.45	.40		.02
LATHERS	10.00				
LINE CONSTRUCTION:					
Linemen	9.97	.45	7%		
Heavy Equipment Operator	8.97	.45	7%		
Light Equipment Operator	7.98	.45	7%		
Heavy Groundmen - Truck Driver	6.98	.45	7%		
Light Groundmen - Truck Driver	6.48	.45	7%		
Groundmen	5.48	.45	7%		

DECISION NO. WI78-2114

49 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	8.80			5%	
Structural Steel	9.05			5%	
Sandblaster & Spray	9.30			5%	
Swing Stage	9.30			5%	
PLASTERERS	10.60				
PLUMBERS & STEAM FITTERS	10.07	.45	.65	1.00	
ROOFERS	10.07			3%+.10	
SHEET METAL WORKERS	10.82	.75	.55		.03
TRUCK DRIVERS:					
Two axle	8.05	c	d	.20	
3 or more axles	8.15	c	d	.20	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

A. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays A through F

c. $14.25 per week for each employee.

d. $13.00 per week for each employee

PAGE 3

DECISION NO. WI78-2114

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Brown, Door, Kewaunee & Oconto

DECISION NUMBER: WI78-2115

DATE: Date of Publication

Supersedes Decision No. WI77-2109 dated, July 22, 1977, in 42 FR 37771

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

5 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.81	.70	.50	.65	.05
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & MARBLE SETTERS & STONEMASONS	9.95	.65	.40		.02
CARPENTERS	9.92	.40	.60		.05
CEMENT MASONS	9.45	.65	.40		.02
ELECTRICIANS	11.73	.60	3%		½%.
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.35	a&b	.02
Helpers	7.535	.745	.35	a&b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.66	1.10	.80	1.15	.15
LATHERS	9.69	.75		.75+.17	
MILLWRIGHTS & PILEDRIVERMEN	10.32	.50	.60		.05
PAINTERS:					
Brush	9.50	.80		.50	
Structural Steel	9.88	.80		.50	
Spray & Swing Stage	9.88	.80		.50	
PLASTERERS	9.95	.65	.40		.02
PLUMBERS & STEAMFITTERS	11.05	.75	.90		.05
ROOFERS: Composition	9.88			.50	
SHEET METAL WORKERS	9.87	.60	.44	1.10	.02
SOFT FLOOR LAYERS	9.92	.50	.60		.05
TERRAZZO WORKERS & TILE SETTERS	9.95	.65	.40		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. WI78-2115

5 - Wisconsin

HOLIDAYS:
New Year's Day B-Memorial Day; D-Independence Day; D-Labor Day; Thanksgiving Day; F-Christmas Day.

NOTES:

Holidays, a through F

Employer contributes 8% regularly hourly rate tO vacaion pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation pay credit for employer who has worked in businesss less than 5 years

.05 holiday pay.

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DECISION NO. WI78-2115

WISCONSIN 15 - LAB

BUILDING CONSTRUCTION

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.35	.45	.40		.02
CLASS II	8.40	.45	.40		.02
CLASS III	8.55	.45	.40		.02

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dump men, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pumps and nozzle man, bituminous worker

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter helpers, core drill operator

CLASS III - Jackhammer operator,driller gunite men, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator, jumping jack, terrazzo grinder, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector bituminous raker and luteman

PAGE 4

SUPERSEDEAS DECISION

DECISION NO. WI78-2115

STATE: Wisconsin

COUNTIES: Calumet, Fond Du Lac, Manitowoc, Outagamie & Sheboygan Cos

DECISION NUMBER: WI78-2116

DATE: Date of Publication

Supersedes Decision No. WI77-2130 dated, September 23, 1977 in 42 FR 48597

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.81	.70	.50	.65	.05
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS	9.95	.65	.40		.02
CARPENTERS:					
All Counties but SHEBOYGAN Co.	9.92	.50	.60		.05
Sheboygan Co. Only	10.20	.75	.30		
Millwrights & Piledrivermen:					
All Counties but SHEBOYGAN Co.	10.32	.50	.60		.05
SHEBOYGAN Co. Only	11.24	.75	.30		
CEMENT MASONS	9.45	.65	.40		.02
ELECTRICIANS:					
CALUMET & OUTAGAMIE Cos.	11.83	.60	3%		
MANITOWOC Co.	10.93	.60	3%		1/8%
FOND DU LAC & SHEBOYGAN Cos.	9.83	.92	3%+.35	10%	1%
ELEVATOR CONSTRUCTORS:					
OUTAGAMIE CO.					
Constructors	10.76	.745	.35	a&b	.02
Helpers	7.535	.745	.35	a&b	.02
Helpers (Prob.)	50%JR				
Remainder of Counties					
Constructors	11.715	.745	.35	a&b	.02
Helpers	8.20	.745	.35	a&b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.44	.92	.70		
IRONWORKERS:					
Western Part of FOND DU LAC Co. and OUTGAMIE Co.	11.27	.75	.525		.055
Remainder of the Area	10.96	1.20	.90	1.19	.15
LABORERS:					
General laborer; Bldg. Wrecker; Form Stripper	8.35	.45	.40		.02
Plaster Tender, Hod Carrier, Mason Tender, Vibrator oper.	8.40	.45	.40		.02
Jackhammeroperators, driller, Gunnite men, Mortar and plaster mixer, Fork lift operator	8.55	.45	.40		.02

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

PAGE 3

DECISION NO. WI78-2116

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOONTOTES:

A. Six paid holidays

b. Employer contributes 8% of regular hourly rate to vacation Pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to vacation Pay credit for employee who has worked in business less than 5 years.

PAGE 2

DECISION NO. WI78-2116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LATHERS	$ 9.69	.75		.75+.17	
PAINTERS:					
FOND DU LAC, OUTAGAMIE, & Northwest Corner of CALUMET Cos.					
Brush, Paperhangers, and Structural Ateel	9.45	.70	.10		
Spray and Sandblasting	9.95	.70	.10		
MANITOTOC And the Remainder of CALUMET Cos.					
Brush	8.60				
Spray and Roller	9.10				
SHEBOYGAN County					
Brush	7.25	.40	.30	.30	
Drywall Finishing	7.35	.40	.30	.30	
Spray	7.75	.40	.30	.30	
PLASTERERS	9.95	.65	.40		.02
PLUMBERS & STEAMFITTERS:					
OUTOGAMIE Co. and the Northwestern corner of CALUMET Co.	9.94	.82	1.00	.80	.04
MANITOWOC Co. and the north eastern part of CALUMET Co.	11.05	.75	.90		.05
FOND DU LAC, SHEBOYGAN & The Remainderof CALUMET Cos.	10.68	.80	1.10	.80	.01
ROOFERS:					
CALUMET & MANITOWOC Cos.	9.80	.25	.05		
FOND DU LAC Co.	9.25	1.00	.50		
OUTAGAMIE Co.	8.03	.65	.50		
SHEBOYGAN Co.	6.75	.40			
SHEET METAL WORKERS:					
OUTAGAMIE co.	9.87	.60	.44	1.10	.02
Remainder of Counties	9.96	.55	.72	1.20	.04
TERRAZZO WORKERS & TILE SETTERS	9.95	.65	.40		.02
Welders receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI78-2116

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
GROUP I	10.02	.70	.70		.10
GROUP II	9.77	.70	.70		.10
GROUP III	9.47	.70	.70		.10
GROUP IV	9.37	.70	.70		.10
GROUP V	9.16	.70	.70		.10
GROUP VI	8.92	.70	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin — COUNTIES: Columbia, Dane, Iowa & Sauk
DECISION NUMBER: WI78-2121 — DATE: Date of Publication
Supersedes Decision No. WI77-2110 dated July 22, 1977 in 42 FR 37775
DESCRIPTION OF WORK: Building Construction and residential construction in Dane County only.

11 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
ASBESTOS WORKERS	$11.15	.70	.80	1.00	.04
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS	10.34	.75	.70		
BRICKLAYERS: (Columbia & Sauk Counties)	10.34	.75	.70		
CARPENTERS	10.27	.50	.60		.05
Residential	6.07	.50	.15		.05
CEMENT MASONS (Columbia & Sauk Counties)	10.50	.75	.40		
CEMENT MASONS (Dane & Iowa Cos.)	10.00	.60	.75		
ELECTRICIANS	11.04	.84	3%	8%	.75%
Residential	6.14	.84	3%	8%	.75%
ELEVATOR CONSTRUCTORS:					
Constuctors	10.69	.745	.35	a&b	.02
Helpers	7.48	.745	.35	a&b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	9.85	.55	.50	.45	.01
IRONWORKERS: Structural, ornamental & reinforcing	11.27	.75	.525		.055
LATHERS	9.65	.45	.20	.50	.01
LINE CONSTRUCTION:					
Linemen	9.97	.45	7%		
Heavy Equipment Operator	8.47	.45	7%		
Light Equipment Operator	7.98	.45	7%		
Heavy Groundman - Truck Drivers	6.98	.45	7%		
Light Groundman - Truck Drivers	6.48	.45	7%		
Groundman	5.48	.45	7%		
MILLWRIGHTS & PILEDRIVERMEN	10.67	.50	.60		.05
PAINTERS					
Brush	9.86	.70	.30	.30	
Spray	10.26	.70	.30	.30	
Structural Steel (brush)	10.01	.70	.30	.30	
Swing Stage	10.11	.70	.30	.30	
Sandblaster	9.86	.70	.30	.30	
PLASTERERS (Columbia & Sauk Cos.)	10.50	.75	.40		
PLASTERERS	10.10	.75	.80		
PLUMBERS	10.86	.60	1.00	.85	.3%
SOFT FLOOR LAYERS	10.27	.50	.60		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
SHEET METAL WORKERS	11.69	.90	.50		
TERRAZZO WORKERS	10.30	.75	.40		
TILE SETTERS	10.05	.75	.40		

ISION NO. WI78-2121

ders receive rate prescribed for craft performing operation which welding is incidental.

D HOLIDAYS:
New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; Thanksgiving Day; F-Christmas Day

TNOTES:

Holidays: AthroughF.

Employer contributes 8% of regular hourly rate to Vaction Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.

Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

Wisconsin 14 - Lab A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
ILDING, SEWER, WATER, XCAVATING AND INCIDENTAL AVING					
borers, Building; neumatic tool op., air hammer, jackhammer, concrete buster, sheeting driver, air spade	9.23	.40	.35		.02
ibrator, air tamper & mortar mixer	9.13	.40	.35		.02
eneral laborer, concrete work, form stripeers, mason tenders, building wreckers	8.98	.40	.35		.02

DECISION NO. WI78-2121

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, File driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27S), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.o.), Endloadgr (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Asssistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (mall electric),Oiler and greaser, Boiler operators (temporary heat), Rotor, drill helpers, Conveyor, Forklift (12' and under)

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DECISION NO. WI78-2124

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$10.60				
LINE CONSTRUCTION:					
Linemen	9.97	.45	7%		
Heavy Equipment Operator	8.97	.45	7%		
Light Equipment Operator	7.58	.45	7%		
Heavy Groundman - Truck Drivers	6.92	.45	7%		
Light Groundman - Truck Drivers	6.48	.45	7%		
Groundman	5.48	.45	7%		
MILLWRIGHTS & PILEDRIVERMEN	10.62	.50	.60	-	.05
PAINTERS:					
Brush	8.80			.5%	
Structural steel & iron painting	9.05			.5%	
Spray & Sandblaster	9.30			.5%	
PLUMBERS AND STEAMFITTERS	10.07	.45	.65	1.00	
PLUMBERS (Residential)	8.87	.45	.65	1.00	
ROOFERS: Composition	10.07			3%+.10	
Kettlemen	9.84			3%+.10	
SHEET METAL WORKERS	10.82	.75	.55		.03
(Residential)	6.63	.62	.55		.03
TRUCK DRIVERS:					
Two axles	8.05	d	e		
Three or more axles	8.15	d	e		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 3% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
b. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays
c. $14.25 per week for each employee
d. $13.00 per week for each employee
e.

HOURLY BENEFITS DECISION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
STATE: Wisconsin	COUNTIES: Chippewa, Eau Claire & Pepin				
DECISION NUMBER: WI78-2129	DATE: Date of Publication				
Supersedes Decision No. WI77-2103 dated July 15, 1977 in 42 FR 36774					
DESCRIPTION OF WORK: Building Construction including Residential					
ASBESTOS WORKERS	$11.32	.75	.65		
BOILERMAKERS	11.30	.85	1.00		
BRICKLAYERS & STONEMASONS	10.23	.75	.40		
CARPENTERS	10.22	.50	.60		
Residential	5.92	.50	.50		
CEMENT MASONS	10.23	.75	.40		
Eau Claire & Pepin Counties	10.23	.75	.40		
Chippewa County	11.62	.75	.60		
ELECTRICIANS				3%	
Electricians (Residential)					
Twps. of Bally, Seymour, Union Washington, Lafayette, Tilden, Wheaton, Eagle Point and Cities of Chippewa Falls, Eau Claire & Altoona. Inside these Cities or Twps	6.57	.58	3%		
Outside the above areas	5.73	.58	3%		
Electricians Wiremen					
ELEVATOR CONSTRUCTORS:					
Constructors	10.87	.745	.35		.45%
Constructors' Helpers	7.61	.745	.35		.45%
Constructors' Helpers (Prob.)	50%JR				
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.85	.75	.60		
LABORERS:					
Laborers, Common	8.38	.45	.40		
Mason tender					
Mortar mixer & plaster laborer, air, gas, electric equipment, & vibrator operator, kettlemen dumpmen & pitmen, burner on wrecking, scaffold builder & washing walls on swinging					
Scaffold	8.53	.45	.40		
Gunnite man & nozzle men, puddlers (when concrete pumps & when working behind paving machine), cement dumper, scaffold builder, kettlemen, burner on wrecker, dumpman & pitman	8.53	.45	.40		
Jackhammer	8.63	.45	.40		

PAGE 3

DECISION NO. WI78-2129

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small)), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

[FR Doc. 78-29349 Filed 10-19-78; 8:45 am]

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federal register

FRIDAY, OCTOBER 20, 1978
PART III

SMALL BUSINESS ADMINISTRATION

FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

Implementation of Executive Orders 11988 and 11990

[8025-01-M]

Title 13—Business Credit and

published until the CEQ has completed its review and discussed it with SBA.

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PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Interior Department, Bureau of Land Management	Sept. 28	44798
Commerce Department, Office of the Secretary	Sept. 29	45284
Transportation Department, Office of the Secretary	Sept. 29	45285
Nuclear Regulatory Commission	Oct. 6	46499
Interior Department, Heritage Conservation and Recreation Service	Oct. 13	47449

[8025-01-M]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 1, Amendment 2 to Amendment 1]

PART 116—POLICIES OF GENERAL APPLICATION

Subpart D—Flood Plain Management and Wetlands Protection

AGENCY: Small Business Administration.

ACTION: Change in the effective date of the interim rule.

SUMMARY: On May 24, 1978, SBA published an interim rule on implementation of Executive Orders 11988 (Flood Plain Management) and 11990 (Wetlands Protection) with an effective date, as extended, of September 24, 1978. SBA has written a final rule based on comments received. The Council of Environmental Quality has told SBA the final rule should not be published until the CEQ has completed its review and discussed it with SBA.

DATES: The effective date of the interim rule is extended to such time as the final rule is published in approximately 90 days.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, Small Business Administration, 202-653-6470.

SUPPLEMENTARY INFORMATION: The subject Executive Orders provided for the Water Resources Council to prepare guidelines that each agency would follow when implementing the orders. The guidelines require clearance of all rules by the Water Resource Council, Council on Environmental Quality and Federal Insurance Administration. Because this review of the final rule has not been completed it cannot be published.

Dated: September 27, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-29581 Filed 10-19-78; 8:45 am]

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federal register

FRIDAY, OCTOBER 20, 1978
PART IV

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Program

COMPLIANCE RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY

Consolidation of Functions Pursuant to Executive Order 12086

[4510-27-M]

Title 41—Public Contract and Property Management

volved are parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-40, 60-50, 60-60, 60-250, 60-741 of Chapter 60, Title 41, Code of Federal Regulations.

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

ment contracts, to the extent set forth in this part. The regulations in this part also apply to all agencies of the Government administering programs

regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

"Minority group" as used herein shall include, where appropriate, female employees and perspective female employees.

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[4510-27-M]

Title 41—Public Contract and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

COMPLIANCE RESPONSIBILITY FOR EQUAL EMPLOYMENT OPPORTUNITY

Final Rule

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: On October 5, 1978, President Carter signed Executive Order 12086 (43 FR 46501), which amended Executive Order 11246, as amended. Executive Order 12086 consolidates into the Department of Labor, effective October 8, 1978, the compliance responsibility for equal employment opportunity programs previously assigned to 11 compliance agencies. This rule makes the necessary changes to the regulations to reflect the consolidated functions authorized under Executive Order 12086.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward E. Mitchell, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, Room C-3324, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9426.

SUPPLEMENTARY INFORMATION: On October 5, 1978, President Carter signed Executive Order 12086 which consolidates the contract compliance program under Executive Order 11246, as amended, into the Department of Labor. Accordingly, certain regulations which implement the Executive order and regulations which implement section 503 of the Rehabilitation Act of 1973, and section 402 of the Vietnam Era Veterans Readjustment Assistance Act are being republished today in the FEDERAL REGISTER to reflect the consolidation. Essentially, this has been effected simply by deleting the definition of "Compliance Agency" and references to "Contract Compliance Officer" (e.g., in 41 CFR 60-1.3 and 60-1.20(b) respectively).

Because the limited changes made in the regulations to reflect the consolidation are not substantive, the regulations are not being published for public comment. The regulations involved are parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-40, 60-50, 60-60, 60-250, 60-741 of Chapter 60, Title 41, Code of Federal Regulations.

An effort was made to add verbiage only where necessary. In some instances, however, it was necessary to replace deleted material with new verbiage in order to make the regulations intelligible. See, for example, 41 CFR 60-1.24(c)(4).

In addition, the Standard Compliance Review Report which is published as an attachment to revised order No. 14 (41 CFR Part 60-60) has been deleted from the regulations. The Standard Compliance Review Report is not being abolished, however. OFCCP will continue to use parts of the Standard Compliance Review Report in conducting compliance reviews until it is incorporated into the Compliance Manual or otherwise published. A number of references to regulations contained in the Standard Compliance Review Report are obsolete and it was feared that republication would be confusing. Moreover, this Report is a guide to compliance officers for conducting compliance reviews and republication in the regulations is not necessary.

The regulations are designed simply to eliminate confusion which could result if the public is not informed of new procedures and places resulting from the consolidation. Publication for comment therefore is not required. Because these amendments merely reflect technical and clarifying changes, they are not considered significant or major under Executive Order 12044, Improving Government Regulations (43 FR 12661, Mar. 24, 1978), and therefore it is not necessary for the Department to follow the procedures set forth therein, including those for public participation and regulatory analyses.

In consideration of the foregoing, 41 CFR Chapter 60 is amended by republishing parts 60-1, 60-2, 60-4, 60-30, 60-40, 60-60, 60-250, and 60-741 as set forth below.

RAY MARSHALL,
Secretary of Labor.

DONALD ELISBURG,
Assistant Secretary, Employment Standards Administration.

WELDON J. ROUGEAU,
Director, Office of Federal Contract Compliance Programs.

OCTOBER 16, 1978.

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

Subpart A—Preliminary Matters; Equal Opportunity Clause; Compliance Reports

Sec.
60-1.1 Purpose and application.
60-1.2 Administrative responsibility.
60-1.3 Definitions.
60-1.4 Equal opportunity clause.
60-1.5 Exemptions.
60-1.6 [Reserved]
60-1.7 Reports and other required information.
60-1.8 Segregated facilities.
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60-1.47 Effective date.

AUTHORITY: Sec. 201, E.O. 11246 (30 FR 12319), as amended by E.O. 12086.

Subpart A—Preliminary Matters; Equal Opportunity Clause; Compliance Reports

§ 60-1.1 Purpose and application.

The purpose of the regulations in this part is to achieve the aims of parts II, III, and IV of Executive Order 11246 for the promotion and insuring of equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts. The regulations in this part apply to all contracting agencies of the Government and to contractors and subcontractors who perform under Government contracts, to the extent set forth in this part. The regulations in this part also apply to all agencies of the Government administering programs involving Federal financial assistance which may include a construction contract, and to all contractors and subcontractors performing under construction contracts which are related to any such programs. The procedures set forth in the regulations in this part govern all disputes relative to a contractor's compliance with his obligations under the equal opportunity clause regardless of whether or not his contract contains a "Disputes" clause. Failure of a contractor or applicant to comply with any provision of the regulations in this part shall be grounds for the imposition of any or all of the sanctions authorized by the order. The regulations in this part do not apply to any action taken to effect compliance with respect to employment practices subject to title VI of the Civil Rights Act of 1964. The rights and remedies of the Government hereunder are not exclusive and do not affect rights and remedies provided elsewhere by law, regulation, or contract; neither do the regulations limit the exercise by the Secretary or Government agencies of powers not herein specifically set forth, but granted to them by the order.

§ 60-1.2 Administrative responsibility.

The Director has been delegated authority and assigned responsibility for carrying out the responsibilities assigned to the Secretary under the Executive order. All correspondence regarding the order should be directed to the Director, Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

§ 60-1.3 Definitions.

"Administering agency" means any department, agency and establishment in the executive branch of the Government, including any wholly owned Government corporation, which administers a program involving federally assisted construction contracts.

"Administrative law judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and subpart B of part 930 of title 5 of the Code of Federal Regulations (see 37 FR 16787) and qualified to preside at hearings under 5 U.S.C. 557.

"Agency" means any contracting or any administering agency of the Government.

"Applicant" means an applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.

"Construction work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any Government contract or any federally assisted construction contract.

"Contracting agency" means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Director" means the Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor or any person to whom he delegates authority under the regulations in this chapter.

"Equal opportunity clause" means the contract provisions set forth in § 60-1.4 (a) or (b), as appropriate.

"Federally assisted construction contract" means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

"Government" means the government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository. The term "Government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted construction contracts.

"Minority group" as used herein shall include, where appropriate, female employees and perspective female employees.

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Order," "Executive Order," or "Executive Order 11246" means parts II, III, and IV of the Executive Order 11246 dated September 24, 1965 (30 FR 12319), any Executive order amending such order, and any other Executive order superseding such order.

"Person" means any natural person, corporation, partnership, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract and, for the purposes of Subpart B of this part, any person who has held a contract subject to the order.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor or who provides for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (4) of the equal opportunity clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the order.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Site of construction" means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor, subcontractor, or other participating party meets a demand or performs a function relating to the contract or subcontract.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purposes of Subpart B of this part, any person who has held a subcontract subject to the order. The term "First-

tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

"Supplies" means all personal property, including equipment, materials, printing, and leases of personal property, but does not include the purchase or lease of real property or any interest therein.

"Underutilization" means the employment by the contractor of minority group members in such a manner that they are not employed to a degree consistent with their availability.

§ 60-1.4 Equal opportunity clause.

(a) Except as provided in § 60-1.5, all Government contracts shall include the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this section, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and relevant orders of the Secretary of Labor, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) Except as provided in § 60-1.5, all Government contracts shall include the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor

vant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(4) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(5) The contractor will include the provisions of paragraphs (1) through (5) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(c) Except as provided in § 60-1.5, all Government contracts shall include the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor

any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes, are exempt from the re-

agency, instrumentality or subdivision of such government, except for educational institutions and medical facili-

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tier subcontractor" refers to a subcontractor holding a subcontract with a prime contractor.

"United States" as used herein shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, and the possessions of the United States.

§ 60-1.1 Equal opportunity clause.

(a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) the contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) the contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Federally assisted construction contracts.* (1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contrator will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided,* That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) *Subcontracts.*

Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) *Incorporation by reference.* The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director may designate.

(e) *Incorporation by operation of the Order.* By operation of the Order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) *Adaptation of language.* Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

§ 60-1.5 Exemptions.

(a) *General*—(1) *Transactions of $10,000 or under.* Contracts and subcontracts not exceeding $10,000, other than Government bills of lading, and other than contracts and subcontracts with depositories of Federal funds in any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes, are exempt from the requirements of the equal opportunity clause. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. No agency, contractor, or subcontractor shall procure supplies or services in a manner so as to avoid applicability of the equal opportunity clause: *Provided,* that where a contractor has contracts or subcontracts with the Government in any 12-month period which have an aggregate total value (or can reasonably be expected to have an aggregate total value) exceeding $10,000, the $10,000 or under exemption does not apply, and the contracts are subject to the order and the regulations issued pursuant thereto regardless of whether any single contract exceeds $10,000.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to contracts and subcontracts for indefinite quantities (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements, the equal opportunity clause shall be included unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed $10,000. The applicability of the equal opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds $10,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the equal opportunity clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) *Contracts with State or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, any agency, instrumentality or subdivision of such government, except for educational institutions and medical facilities, are exempt from the requirements of filing the annual compliance report provided for by § 60-1.7(a)(1) and maintaining a written affirmative action compliance program prescribed by § 60-1.40 and part 60-2 of this chapter.

(5) *Contracts with certain educational institutions.* It shall not be a violation of the equal opportunity clause for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion. The primary thrust of this provision is directed at religiously oriented church-related colleges and universities and should be so interpreted.

(6) *Work on or near Indian reservations.* It shall not be a violation of the equal opportunity clause for a construction or nonconstruction contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The use of the word "near" would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors or subcontractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, or tribal affiliation, and the use of such a preference shall not excuse a contractor from complying with the other requirements contained in this chapter.

(b) *Specific contracts and facilities*—(1) *Specific contracts.* The Director may exempt an agency or any person from requiring the inclusion of any or all of the equal opportunity clause in any specific contract or subcontract when he deems that special circumstances in the national interest so require. The Director may also exempt groups or categories of contracts or subcontracts of the same type where he finds it impracticable to act upon each request individually or where group exemptions will contribute to convenience in the administration of the order.

(2) *Facilities not connected with contracts.* The Director may exempt

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from the requirements of the equal opportunity clause any of a prime contractor's or subcontractor's facilities which he finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he also finds that such an exemption will not interfere with or impede the effectuation of the order.

(c) *National security.* Any requirement set forth in these regulations in this part shall not apply to any contract or subcontract whenever the head of an agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirement is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(d) *Withdrawal of exemption.* When any contract or subcontract is of a class exempted under this section, the Director may withdraw the exemption for a specific contract or subcontract or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the order. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60–1.6 [Reserved]

§ 60–1.7 Reports and other required information.

(a) *Requirements for prime contractors and subcontractors.* (1) Each prime contractor and subcontractor shall file annually, on or before the 31st day of March, complete and accurate reports on Standard Form 100 (EEO–1) promulgated jointly by the Office of Federal Contract Compliance Programs, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of these regulations in accordance with § 60–1.5; (ii) has 50 or more employees; (iii) is a prime contractor or first tier subcontractor; and (iv) has a contract, subcontract or purchase order amounting to $50,000 or more or serves as a depository of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided,* That any subcontractor below the first tier which performs construction work at the site of construction shall be required to file such a report if it meets requirements of paragraphs (a)(1) (i), (ii), and (iv) of this section.

(2) Each person required by § 60–1.7(a)(1) to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with § 60–1.7(a)(1), or at such other intervals as the Director may require. The Director may extend the time for filing any report.

(3) The Director or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Director or the applicant deems necessary for the administration of the order.

(4) Failure to file timely, complete and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is ground for the imposition by the Director, an applicant, prime contractor or subcontractor, of any sanctions as authorized by the order and the regulations in this part.

(b) *Requirements for bidders or prospective contractors (1) Certification of compliance with Part 60–2: Affirmative Action Programs.* Each agency shall require each bidder or prospective prime contractor and proposed subcontractor, where appropriate, to state in the bid or in writing at the outset of negotiations for the contract: (i) Whether it has developed and has on file at each establishment affirmative action programs pursuant to Part 60–2 of this chapter; (ii) whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; (iii) whether it has filed with the Joint Reporting Committee, the Director or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

(2) *Additional information.* A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the Director requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the applicant or the Director requests.

(c) *Use of reports.* Reports filed pursuant to this section shall be used only in connection with the administration of the order, the Civil Rights Act of 1964, or in furtherance of the purposes of the order and said Act.

§ 60–1.8. Segregated facilities.

(a) *General.* In order to comply with his obligations under the equal opportunity clause, a prime contractor or subcontractor must insure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, or national origin cannot result. He may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. His obligation extends further to insuring that his employees are not assigned to perform their services at any location, under his control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term "facilities" as used in this section means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees.

(b) *Certification by prime contractors and subcontractors.* Prior to the award of any nonexempt Government contract of subcontract or federally assisted construction contract or subcontract, each agency or applicant shall require the prospective prime contractor and each prime contractor and subcontractor shall require each subcontractor to submit a certification, in the form approved by the Director, that the prospective prime contractor or subcontractor does not and will not maintain any facilities he provides for his employees in a segregated manner, or permit his employees to perform their services at any location, under his control, where segregated facilities are maintained; and that he will obtain a similar certification in the form approved by the Director, prior to the award of any nonexempt subcontract.

§ 60–1.9 Compliance by labor unions and by recruiting and training agencies.

(a) Whenever compliance with the equal opportunity clause may necessitate a revision of a collective bargaining agreement the labor union or unions which are parties to such an agreement shall be given an adequate opportunity to present their views to the director.

(b) The Director shall use his best efforts, directly and through agencies,

contractors, subcontractors, applicants, State and local officials, public and private agencies, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to comply in the implementation of, the purposes of the order.

(c) In order to effectuate the purposes of paragraph (a) of this section, the Director may hold hearings, public or private, with respect to the practices and policies of any such labor union or recruiting and training agency.

(d) The Director may notify any Federal, State, or local agency of his conclusions and recommendations with respect to any such labor organization or recruiting and training agency which in his judgment has failed to cooperate with himself, agencies, prime contractors, subcontractors, or applicants in carrying out the purposes of the order. The Director also may notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever he has reason to believe that the practices of any such labor organization or agency violates title VII of the Civil Rights Act of 1964 or other provisions of Federal law.

§ 60–1.10 Foreign government practices.

Contractors shall not discriminate on the basis of race, color, religion, sex, or national origin when hiring or making employee assignments for work to be performed in the United States or abroad. Contractors are exempted from this obligation only when hiring persons outside the United States for work to be performed outside the United States (see 41 CFR 60–1.5(a)(3)). Therefore, a contractor hiring workers in the United States for either Federal or nonfederally connected work shall be in violation of Executive Order 11246, as amended, by refusing to employ or assign any person because of race, color, religion, sex, or national origin regardless of the policies of the country where the work is to be performed or for whom the work will be performed. Should any contractor be unable to acquire a visa of entry for any employee or potential employee to a country in which or with which it is doing business, and which refusal it believes is due to the race, color, religion, sex, or national origin of the employee or potential employee, the contractor must immediately notify the Department of State and the Director of such refusal.

Subpart B—General Enforcement; Compliance Review and Complaint Procedure

§ 60–1.20 Compliance reviews.

(a) The purpose of a compliance review is to determine if the prime contractor or subcontractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to insure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, or national origin. It shall consist of a comprehensive analysis and evaluation of each aspect of the aforementioned practices, policies, and conditions resulting therefrom. Where necessary, recommendations for appropriate sanctions shall be made.

(b) Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor can be found to be in compliance with the order, it must make a specific commitment, in writing, to correct any such deficiencies. The commitment must include the precise action to be taken and dates for completion. The time period allotted shall be no longer than the minimum period necessary to effect such changes. Upon approval, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. The contractor shall be notified that making such commitments does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

(c) [Reserved]

(d) Each agency shall include in the invitation for bids for each formally advertised nonconstruction contract or state at the outset of negotiations for each negotiated contract, that if the award, when let, should exceed the amount of $1 million or more, the prospective contractor and his known first-tier subcontractors with subcontracts of $1 million or more will be subject to a compliance review before the award of the contract. No such contract shall be awarded unless a preaward compliance review of the prospective contractor and his known first-tier $1 million subcontractors has been conducted by the compliance agency within 12 months prior to the award. The awarding agency will notify OFCCP and request appropriate action and findings in accordance with this subsection. OFCCP will provide awarding agencies with written reports of compliance within 30 days following the request. In order to qualify for the award of a contract, a contractor and such first-tier subcontractors must be found to be in compliance pursuant to paragraph (b) of this section, and with part 60–2 of these regulations.

§ 60–1.21 Filing complaints.

Complaints shall be filed within 180 days of the alleged violation unless the time for filing is extended by the agency or the Director for good cause shown.

§ 60–1.22 Where to file.

Complaints may be filed with the OFCCP, 200 Constitution Avenue, NW., Washington, D.C. 20210, or with any OFCCP regional or area office.

§ 60–1.23 Contents of complaint.

(a) The complaint shall include the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor committing the alleged discrimination, a description of the acts considered to be discriminatory, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant or his/her authorized representative. Complaints alleging class-type violations which do not identify the alleged discriminatee or discriminatees will be accepted, provided the other requirements of this paragraph are met.

(b) If a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. In the event such information is not furnished to the Director within 60 days of the date of such request, the case may be closed.

§ 60–1.24 Processing of matters.

(a) *Complaints.* OFCCP may refer appropriate complaints to the Equal Employment Opportunity Commission (EEOC) for processing under Title VII of the Civil Rights Act of 1964, as amended, rather than processing under E.O. 11246 and the regulations in this chapter. Upon referring complaints to the EEOC, OFCCP shall promptly notify complainant(s) and the contractor of such referral.

(b) *Complaint investigations.* In conducting complaint investigations, OFCCP shall, as a minimum, conduct a thorough evaluation of the allegations of the complaint and shall be responsible for developing a complete case record. The case record should contain the name, address, and telephone number of each person interviewed, the interview statements, copies, transcripts, or summaries (where appropriate) of pertinent documents, a reference to at least one covered contract, and a narrative report of the investigation with references to exhibits and other evidence which relate to the alleged violations.

(c)(1) [Reserved]

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(2) If any complaint investigation or compliance review indicates a violation of the equal opportunity clause, the matter should be resolved by informal means whenever possible. Such informal means may include the holding of a compliance conference.

(3) Where any complaint investigation or compliance review indicates a violation of the equal opportunity clause and the matter has not been resolved by informal means, the Director shall proceed in accordance with § 60-1.26.

(4) When a prime contractor or subcontractor, without a hearing, shall have complied with the recommendations or orders of the Director and believes such recommendations or orders to be erroneous, he shall, upon filing a request therefor within ten days of such compliance, be afforded an opportunity for a hearing and review of the alleged erroneous action.

(5) For reasonable cause shown, the Director may reconsider or cause to be reconsidered any matter on his/her own motion or pursuant to a request.

(d) *Reports to the Director.* (1) With the exception of complaints which have been referred to EEOC, within 60 days from receipt of a complaint or within such additional time as may be allowed by the Director for good cause shown, the complaint shall be processed and the case record developed containing the following information:

(i) Name and address of the complainant;

(ii) Brief summary of findings, including a statement regarding the contractor's compliance or noncompliance with the requirements of the equal opportunity clause;

(iii) A statement of the disposition of the case, including any corrective action taken and any sanctions or penalties imposed or, whenever appropriate, the recommended corrective action and sanctions or penalties.

(2) A written report of every preaward compliance review required by this regulation or otherwise required by the Director, shall be developed and maintained.

(3) A written report of every other compliance review or any other matter processed involving an apparent violation of the equal opportunity clause shall be made. Such report shall contain a brief summary of the findings, including a statement of conclusions regarding the contractor's compliance or noncompliance with the requirements of the order, and a statement of the disposition of the case, including any corrective action taken or recommended and any sanctions or penalties imposed or recommended.

§ 60-1.25 Assumption of jurisdiction by or referrals to the Director.

The Director may inquire into the status of any matter pending before an agency. Where he considers it necessary or appropriate to the achievement of the purposes of the order, he may assume jurisdiction over the matter and proceed as provided herein. Whenever the Director assumes jurisdiction over any matter, or an agency refers any matter he may conduct, or have conducted, such investigations, hold such hearings, make such findings, issue such recommendations and directives, order such sanctions and penalties, and take such other action as may be necessary or appropriate to achieve the purposes of the order. The Director shall promptly notify the agency of any corrective action to be taken or any sanctions to be taken or any sanction to be imposed by the agency. The agency shall take such action, and report the results thereof to the Director within the time specified.

§ 60-1.26 Enforcement proceedings.

(a) *General.* Violations of the Order, equal opportunity clause, the regulations in this chapter, or of applicable construction industry equal employment opportunity requirements, may result in the institution of administrative or judicial enforcement proceedings to enforce the Order and to seek appropriate relief. Violations may be found based upon, inter alia, any of the following: (i) The results of a complaint investigation; (ii) analysis of an affirmative action program; (iii) the results of an on-site review of the contractor's compliance with the Order and its implementing regulations; (iv) a contractor's refusal to submit an affirmative action program; (v) a contractor's refusal to allow an on-site compliance review to be conducted; (vi) a contractor's refusal to supply records or other information as required by these regulations or applicable construction industry requirements; or (vii) any substantial or material violation or the threat of a substantial or material violation of the contractual provisions of the Order, or of the rules or regulations issued pursuant thereto.

(2) If the investigation of a complaint, or a compliance review, results in a determination that the Order, equal opportunity clause or regulations issued pursuant thereto, have been violated, and the violations have not been corrected in accordance with the conciliation procedures in this chapter, OFCCP may institute an administrative enforcement proceeding to enjoin the violations, to seek appropriate relief (which may include affected class and back pay relief), and to impose appropriate sanctions, or any of the above. However, if the contractor refuses to submit an affirmative action program, or refuses to supply records or other requested information, or refuses to allow the compliance agency access to its premises for an on-site review; and if conciliation efforts under this chapter are unsuccessful, OFCCP, notwithstanding the requirements of this chapter, may go directly to administrative enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any of the above. Whenever the Director has reason to believe that there is substantial or material violation or the threat of substantial or material violation of the contractual provisions of the Order or of the rules, regulations or orders issued pursuant thereto, he/she may refer the matter to the Solicitor of Labor to institute administrative enforcement proceedings as set forth in this section or refer the matter to the Department of Justice to enforce the contractual provisions of the Order, to seek injunctive relief (including relief against noncontractors, including labor unions, who seek to thwart implementation of the Order and regulations) and to seek such additional relief, including back pay, as may be appropriate. There are no procedural prerequisites to a referral to the Department of Justice by the Director, and such referrals may be accomplished without proceeding through the conciliation procedures in this chapter, and a referral may be made at any stage in the procedures under this chapter: *Provided,* That no order for debarment from further contracts or subcontracts pursuant to section 209(a)(6) of the Order shall be made without affording the contractor an opportunity for a hearing, either administrative or judicial.

(b) [Reserved]

(c) *Administrative enforcement proceedings.* Administrative enforcement proceedings shall be conducted under the control and supervision of the Solicitor of Labor and under the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in Part 60-30 of this chapter.

(d) *Decision following administrative proceeding.* If it is determined after a hearing (or after the contractor waives a hearing) that the contractor is violating the Order or the regulations issued thereunder, the Secretary (in accordance with 41 CFR 60-30.30(a)) shall issue an Administrative Order enjoining the violations and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in

the imposition of the sanctions contained in section 209 (a)(5) or (a)(6) of the Executive Order.

(e) *Referrals to the Department of Justice* (1) Whenever a matter has been referred to the Department of Justice for consideration of judicial proceedings pursuant to § 60-1.26(a)(2) of these regulations, the Attorney General may bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order, or any of the above.

(2) The Attorney General is authorized to conduct such investigation of the facts as he may deem necessary or appropriate to carry out his responsibilities under these regulations.

(3) Prior to the institution of any judicial proceedings, the Attorney General, on behalf of the Director, is authorized to make reasonable efforts to secure compliance with the contract provisions of the Order. He may do so by providing the contractor and any other respondent with reasonable notice of his findings, his intent to file suit, and the actions he believes necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation, in an effort to obtain such compliance without contested litigation.

(4) As defined in these regulations, the Attorney General shall mean the Attorney General, the Assistant Attorney General for Civil Rights, or any other person authorized by regulations or practice to act for the Attorney General with respect to the enforcement of equal employment opportunity laws, orders and regulations generally, or in a particular matter or case.

(5) The Director or his/her designee, and representatives of the Attorney General may consult from time to time to determine what investigations should be conducted to determine whether contractors or groups of contractors or other persons may be engaged in patterns or practices in violation of the Executive Order or these regulations, or of resistance to or interference with the full enjoyment of any of the rights secured by them, warranting judicial proceedings.

(f) *Initiation of lawsuits by the Attorney General without referral from the Director.* In addition to initiating lawsuits upon referral under 41 CFR 60-1.26, the Attorney General may, subject to approval by the Director, initiate independent investigations of contractors which he/she has reason to believe may be in violation of the Order or the rules and regulations issued pursuant thereto. If, upon completion of such an investigation, the Attorney General determines that the contractor has in fact violated the Order or the rules and regulations issued thereunder, he shall make reasonable efforts to secure compliance with the contract provisions of the Order. He may do so by providing the contractor and any other respondent with reasonable notice of the Department's findings, its intent to file suit, and the actions that the Attorney General believes are necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation in an effort to obtain such compliance without contested litigation. If these efforts are unsuccessful, the Attorney General may, upon approval by the Director, bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order or any of the above.

(g) To the extent applicable, this section and Part 60-30 of this chapter shall govern proceedings resulting from the Director's determination under § 60-2.2(b) that there are substantial issues of law or fact as to the contractor/bidder's responsibility.

§ 60-1.27 Sanctions and penalties.

The sanctions described in subsections (1), (5), and (6) of section 209(a) of the order may be exercised only by or with the approval of the Director. Referral of any matter arising under the order to the Department of Justice or to the Equal Employment Opportunity Commission shall be made by the Director.

§ 60-1.28 Show cause notices.

When the director has reasonable cause to believe that a contractor has violated the equal opportunity clause he may issue a notice requiring the contractor to show cause, within 30 days, why monitoring, enforcement proceedings or other appropriate action to ensure compliance should not be instituted.

§ 60-1.29 Preaward notices.

(a) *Preaward compliance reviews.* Upon the request of the Director, agencies shall not enter into contracts or approve the entry into contracts or subcontracts with any bidder, prospective prime contractor, or proposed subcontractor named by the Director until a preaward compliance review has been conducted and the Director or his designee has approved a determination that the bidder, prospective prime contractor or proposed subcontractor will be able to comply with the provisions of the equal opportunity clause.

(b) *Other special preaward procedures.* Upon the request of the Director, agencies shall not enter into contracts or approve the entry into subcontracts with any bidder; prospective prime contractor or proposed subcontractor specified by the Director until the agency has complied with the directions contained in the request.

§ 60-1.30 Contract ineligibility list.

The Director shall distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this part and the order.

§ 60-1.31 Reinstatement of ineligible prime contractors and subcontractors.

Any prime contractor or subcontractor declared ineligible for further contracts or subcontracts under the order may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the equal opportunity clause.

§ 60-1.32 Intimidation and interference.

The sanctions and penalties contained in Subpart D of the order may be exercised by the Director against any prime contractor, subcontractor or applicant who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the order or any other Federal, State, or local laws requiring equal employment opportunity.

Subpart C—Ancillary Matters

§ 60-1.40 Affirmative action compliance programs.

(a) *Requirements of programs.* Each contractor who has 50 or more employees and (1) has a contract of $50,000 or more; or (2) has Government bills of lading which in any 12-month period, total or can reasonably be expected to total $50,000 or more;

or (3) serves as a depository of Government funds in any amount; or (4) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any

sible for the personnel matters of such establishment. An affirmative action compliance program shall be part of the manpower and training plans for each new establishment and shall be

Employers with 75 or more employees, by Labor Organizations with a hiring hall of 75 or more members, by Employment Agencies, and by Joint Labor-Management Committees for Apprenticeship or Training. After

obtained in this manner shall be used only in connection with the administration of the Order, the administration of the Civil Rights Act of 1964 (as

mittee on Equal Employment Opportunity which appear at 28 FR 9812, September 2, 1963, and at 28 FR 11305, October 23, 1963, the temporary

action compliance program for each of its establishments. A review of compliance surveys indicates that many contractors do not have affirmative action

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or (3) serves as a depository of Government funds in any amount; or (4) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount, and each prime contractor and subcontractor shall require each subcontractor who has 50 or more employees and (i) has a subcontract of $50,000 or more; or (ii) has Government bills of lading which in any 12-month period, total or can reasonably be expected to total $50,000 or more; or (iii) serves as a depository of Government funds in any amount; or (iv) is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount, to develop a written affirmative action compliance program for each of its establishments. A necessary prerequisite to the development of a satisfactory affirmative action program is the identification and analysis of problem areas inherent in minority employment and an evaluation of opportunities for utilization of minority group personnel. The contractor's program shall provide in detail for specific steps to guarantee equal employment opportunity keyed to the problems and needs of members of minority groups, including, when there are deficiencies, the development of specific goals and time tables for the prompt achievement of full and equal employment opportunity. Each contractor shall include in its affirmative action compliance program a table of job classifications. This table should include but need not be limited to job titles, principal duties (and auxiliary duties, if any), rates of pay, and where more than one rate of pay applied (because of length of time in the job or other factors), the applicable rates. The affirmative action compliance program shall be signed by an executive official of the contractor.

(b) *Utilization evaluation.* The evaluation of utilization of minority group personnel shall include the following:

(1) An analysis of minority group representation in all job categories.

(2) An analysis of hiring practices for the past year, including recruitment sources and testing, to determine whether equal employment opportunity is being afforded in all job categories.

(3) An analysis of upgrading, transfer and promotion for the past year to determine whether equal employment opportunity is being afforded.

(c) *Maintenance of programs.* Within 120 days from the commencement of the contract, each contractor shall maintain a copy of separate affirmative action compliance programs for each establishment, including evaluations of utilization of minority group personnel and the job classification tables, at each local office responsible for the personnel matters of such establishment. An affirmative action compliance program shall be part of the manpower and training plans for each new establishment and shall be developed and made available prior to the staffing of such establishment. A report of the results of such program shall be compiled annually and the program shall be updated at that time. This information shall be made available to representatives of the Director upon request and the contractor's affirmative action program and the result it produces shall be evaluated as part of compliance review activities.

§ 60-1.41 Solicitations or advertisements for employees.

In solicitations or advertisements for employees placed by or on behalf of a prime contractor or subcontractor, the requirements of paragraph (2) of the equal opportunity clause shall be satisfied whenever the prime contractor or subcontractor complies with any of the following:

(a) States expressly in the solicitations or advertising that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin;

(b) Uses display or other advertising, and the advertising includes an appropriate insignia prescribed by the Director. The use of the insignia is considered subject to the provisions of 18 U.S.C. 701;

(c) Uses a single advertisement, and the advertisement is grouped with other advertisements under a caption which clearly states that all employers in the group assure all qualified applicants equal consideration for employment without regard to race, color, religion, sex, or national origin;

(d) Uses a single advertisement in which appears in clearly distinguishable type the phrase "an equal opportunity employer."

§ 60-1.42 Notices to be posted.

(a) Unless alternative notices are prescribed by the Director, the notices which prime contractors and subcontractors are required to post by paragraphs (1) and (3) of the equal opportunity clause will contain the following language and will be provided by the contracting or administering agencies:

EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW—DISCRIMINATION IS PROHIBITED BY THE CIVIL RIGHTS ACT OF 1964 AND BY EXECUTIVE ORDER NO. 11246

Title VII of the Civil Rights Act of 1964—*Administered by:*

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin by Employers with 75 or more employees, by Labor Organizations with a hiring hall of 75 or more members, by Employment Agencies, and by Joint Labor-Management Committees for Apprenticeship or Training. After July 1, 1967, employers and labor organizations with 50 or more employees or members will be covered; after July 1, 1968, those with 25 or more will be covered.

ANY PERSON

Who believes he or she has been discriminated against

SHOULD CONTACT

THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

2401 E Street NW, Washington, D.C. 20506

Executive Order No. 11246—*Administered by:*

THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

By all Federal Government Contractors and Subcontractors, and by Contractors Performing Work Under a Federal Assisted Construction Contract, regardless of the number of employees in either case.

ANY PERSON

Who believes he or she has been discriminated against

SHOULD CONTACT

THE OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

U.S. Department of Labor Washington, D.C. 20210

(b) The requirements of paragraph (3) of the equal opportunity clause will be satisfied whenever the prime contractor or subcontractor posts copies of the notification prescribed by or pursuant to paragraph (a) of this section in conspicuous places available to employees, applicants for employment, and representatives of each labor union or other organization representing his employees with which he has a collective-bargaining agreement or other contract or understanding.

§ 60-1.43 Access to records and site of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance reviews and inspecting and copying such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order, and the rules and regulations promulgated pursuant thereto by the agency, or the Director. Information

obtained in this manner shall be used only in connection with the administration of the Order, the administration of the Civil Rights Act of 1964 (as amended) and in furtherance of the purposes of the Order and that Act. (See 41 CFR Part 60-60, Contractor Evaluation Procedures for Nonconstruction Contractors; 41 CFR Part 60-40, Examination and Copying of OFCCP Documents.)

(Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303)

§ 60-1.44 Rulings and interpretations.

Rulings under or interpretations of the order or the regulations contained in this part shall be made by the Secretary or his designee.

§ 60-1.45 Existing contracts and subcontracts.

All contracts and subcontracts in effect prior to October 24, 1965, which are not subsequently modified shall be administered in accordance with the nondiscrimination provisions of any prior applicable Executive orders. Any contract or subcontract modified on or after October 24, 1965, shall be subject to Executive Order 11246. Complaints received by and violations coming to the attention of agencies regarding contracts and subcontracts which were subject to Executive Orders 10925 and 11114 shall be processed as if they were complaints regarding violations of this order.

§ 60-1.46 Delegation of authority by the Director.

The Director is authorized to redelegate the authority given to him by the regulations in this part. The authority redelegated by the Director pursuant to the regulations in this part shall be exercised under his general direction and control.

§ 60-1.47 Effective date.

The regulations contained in this part shall become effective July 1, 1968, for all contracts, the solicitations, invitations for bids, or requests for proposals which were sent by the Government or an applicant on or after said effective date, and for all negotiated contracts which have not been executed as of said effective date. Notwithstanding the foregoing, the regulations in this part shall become effective as to all contracts executed on and after the 120th day following said effective date. Subject to any prior approval of the Secretary, any agency may defer the effective date of the regulations in this part, for such period of time as the Secretary finds to be reasonably necessary. Contracts executed prior to the effective date of the regulations in this part shall be governed by the regulations promulgated by the former President's Committee on Equal Employment Opportunity which appear at 28 FR 9812, September 2, 1963, and at 28 FR 11305, October 23, 1963, the temporary regulations which appear at 30 FR 13441, October 22, 1965, and the orders at 31 FR 6881, May 10, 1966, and 32 FR 7439, May 19, 1967.

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

Subpart A—General

Sec.
60-2.1 Title, purpose and scope.
60-2.2 Agency action.

Subpart B—Required Contents of Affirmative Action Programs

60-2.10 Purpose of affirmative action program.
60-2.11 Required utilization analysis.
60-2.12 Establishment of goals and timetables.
60-2.13 Additional required ingredients of affirmative action programs.
60-2.14 Compliance status.

Subpart C—Methods of Implementing the Requirements of Subpart B

60-2.20 Development or reaffirmation of the equal employment opportunity policy.
60-2.21 Dissemination of the policy.
60-2.22 Responsibility for implementation.
60-2.23 Identification of problem areas by organizational units and job groups.
60-2.24 Development and execution of programs.
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60-2.26 Support of action programs.

Subpart D—Miscellaneous

60-2.30 Use of goals.
60-2.31 Preemption.
60-2.32 Supersedure.

AUTHORITY: 5 U.S.C. 553(a)(3)(B); 29 CFR 2.7; section 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086.

Subpart A—General

§ 60-2.1 Title, purpose and scope.

(a) This part shall also be known as "Revised Order No. 4," and shall cover nonconstruction contractors. Section 60-1.40 of this chapter, affirmative action compliance programs, requires that within 120 days from the commencement of a contract each prime contractor or subcontractor with 50 or more employees and (1) a contract of $50,000 or more; or (2) Government bills of lading which, in any 12-month period, total or can reasonably be expected to total $50,000 or more; or (3) who serves as a depository of Government funds in any amount; or (4) who is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount, develop a written affirmative action compliance program for each of its establishments. A review of compliance surveys indicates that many contractors do not have affirmative action programs on file at the time an establishment is visited by a compliance investigator. This part details the review procedure and the results of a contractor's failure to develop and maintain an affirmative action program and then sets forth detailed guidelines to be used by contractors and the Government in developing and judging these programs as well as the good faith effort required to transform the programs from paper commitments to equal employment opportunity. Subparts B and C of this part are concerned with affirmative action plans only.

(b) Relief, including back pay where appropriate, for members of an affected class who by virtue of past discrimination continue to suffer the present effects of that discrimination, shall be provided in the conciliation agreement entered into pursuant to § 60-60.6 of this title. An "affected class" problem must be remedied in order for a contractor to be considered in compliance. Section 60-2.2 herein pertaining to an acceptable affirmative action program is also applicable to the failure to remedy discrimination against members of an "affected class."

§ 60-2.2 Agency action.

(a) Any contractor required by § 60-1.40 of this chapter to develop an affirmative action program at each of his establishments who has not complied fully with that section is not in compliance with Executive Order 11246, as amended (30 FR 12319). Until such programs are developed and found to be acceptable in accordance with the standards and guidelines set forth in §§ 60-2.10 through 60-2.32, the contractor is unable to comply with the employment opportunity clause. An affirmative action plan shall be deemed to have been accepted by the Government at the time the appropriate OFCCP field, area, regional, or national office has accepted such plan unless within 45 days thereafter the Director has disapproved such plan.

(b) If, in determining such contractor's responsibility for an award of a contract it comes to the contracting officer's attention, through sources within his agency or through the Office of Federal Contract Compliance Programs or other Government agencies, that the contractor has no affirmative action program at each of his establishments, or has substantially deviated from such an approved affirmative action program, or has failed to develop or implement an affirmative action program which complies with the regulations in this chapter, the

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contracting officer shall declare the contractor-bidder nonresponsible and so notify the contractor, the Director, and the compliance agency unless he can otherwise affirmatively determine that the contractor is able to comply with his equal employment obligations. Any contractor-bidder which has been declared nonresponsible in accordance with the provisions of this section may request the Director to determine that the responsibility of the contractor-bidder raises substantial issues of law or fact to the extent that a hearing is required. Such request shall set forth the basis upon which the contractor-bidder seeks such a determination. If the Director, in his/her sole discretion, determines that substantial issues of law or fact exist, an administrative or judicial proceeding may be commenced in accordance with the regulations contained in § 601.26; or the Director may require the investigation or compliance review be developed further or additional conciliation be conducted: *Provided*, That during any pre-award conferences, every effort shall be made through the processes of conciliation, mediation, and persuasion to develop an acceptable affirmative action program meeting the standards and guidelines set forth in §§ 60-2.10 through 60-2.32 so that, in the performance of his contract, the contractor is able to meet his equal employment obligations in accordance with the equal opportunity clause and applicable rules, regulations, and orders.

(c)(1) Immediately upon finding that a contractor has no affirmative action program, or has deviated substantially from an approved affirmative action program, or has failed to develop or implement an affirmative action program which complies with the requirements of the regulations in this chapter, that fact shall be recorded in the investigation file. Whenever administrative enforcement is contemplated, the notice to the contractor shall be issued giving him 30 days to show cause why enforcement proceedings under section 209(a) of Executive Order 11246, as amended, should not be instituted. The notice to show cause should contain:

(i) An itemization of the sections of the Executive order and of the regulations with which the contractor has been found in apparent violation, and a summary of the conditions, practices, facts, or circumstances which give rise to each apparent violation;

(ii) The corrective actions necessary to achieve compliance or, as may be appropriate, the concepts and principles of an acceptable remedy and/or the corrective action results anticipated;

(iii) A request for a written response to the findings, including commitments to corrective action or the presentation of opposing facts and evidence; and

(iv) A suggested dated for the conciliation conference.

(2) If the contractor fails to show good cause for his failure or fails to remedy that failure by developing and implementing an acceptable affirmative action program within 30 days, the case file shall be processed for enforcement proceedings pursuant to § 60-1.26 of this chapter. If an administrative complaint is filed, the contractor shall have 20 days to request a hearing. If a request for hearing has not been received within 20 days from the filing of the administrative complaint, the matter shall proceed in accordance with Part 60-30 of this chapter.

(3) During the "show cause" period of 30 days, every effort will be made through conciliation, mediation, and persuasion to resolve the deficiencies which led to the determination of nonresponsibility. If satisfactory adjustments designed to bring the contractor into compliance are not concluded, the case shall be processed for enforcement proceedings pursuant to § 60-1.26 of this chapter.

(d) During the "show cause" period and formal proceedings, each contracting agency must continue to determine the contractor's responsibility in considering whether or not to award a new or additional contract.

Subpart B—Required Contents of Affirmative Action Programs

§ 60-2.10 Purpose of affirmative action program.

An affirmative action program is a set of specific and result-oriented procedures to which a contractor commits himself to apply every good faith effort. The objective of those procedures plus such efforts is equal employment opportunity. Procedures without effort to make them work are meaningless; and effort, undirected by specific and meaningful procedures, is inadequate. An acceptable affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to achieve prompt and full utilization of minorities and women, at all levels and in all segments of his work force where deficiencies exist.

§ 60-2.11 Required utilization analysis.

Based upon the Government's experience with compliance reviews under the Executive order programs and the contractor reporting system, minority groups are most likely to be underutilized in departments and jobs within departments that fall within the following Employer's Information Report (EEO-1) designations; officials and managers, professionals, technicians, sales workers, office and clerical and craftsmen (skilled). As categorized by the EEO-1 designations, women are likely to be underutilized in departments and jobs within departments as follows: Officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled). Therefore, the contractor shall direct special attention to such jobs in his analysis and goal setting for minorities and women. Affirmative action programs must contain the following information:

(a) Workforce analysis which is defined as a listing of each job title as appears in applicable collective bargaining agreements or payroll records (not job group) ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervision. If there are separate work units or lines of progression within a department a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line. Where there are no formal progression lines or usual promotional sequences, job titles should be listed by department, job families, or disciplines, in order of wage rates or salary ranges. For each job title, the total number of incumbents, the total number of male and female incumbents, and the total number of male and female incumbents in each of the following groups must be given: Blacks, Spanish-surnamed Americans, American Indians, and Orientals. The wage rate or salary range for each job title must be given. All job titles, including all managerial job titles, must be listed.

(b) An analysis of all major job groups at the facility, with explanation if minorities or women are currently being underutilized in any one or more job groups ("job groups" herein meaning one or a group of jobs having similar content, wage rates and opportunities). "Underutilization" is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. In making the utilization analysis, the contractor shall conduct such analysis separately for minorities and women.

(1) In determining whether minorities are being underutilized in any job group, the contractor will consider at least all of the following factors:

(i) The minority population of the labor area surrounding the facility;

(ii) The size of the minority unemployment force in the labor area surrounding the facility;

(iii) The percentage of the minority work force as compared with the total work force in the immediate labor area;

(iv) The general availability of minorities having requisite skills in the immediate labor area;

(v) The availability of minorities having requisite skills in an area in which the contractor can reasonably recruit;

(vi) The availability of promotable and transferable minorities within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

(2) In determining whether women are being underutilized in any job group, the contractor will consider at least all of the following factors:

(i) The size of the female unemployment force in the labor area surrounding the facility;

(ii) The percentage of the female workforce as compared with the total workforce in the immediate labor area;

(iii) The general availability of women having requisite skills in the immediate labor area;

(iv) The availability of women having requisite skills in an area in which the contractor can reasonably recruit;

(v) The availability of women seeking employment in the labor or recruitment area of the contractor;

(vi) The availability of promotable and transferable female employees within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to women.

§ 60-2.12 Establishment of goals and timetables.

(a) The goals and timetables developed by the contractor should be attainable in terms of the contractor's analysis of his deficiencies and his entire affirmative action program. Thus, in establishing the size of his goals and the length of his timetables, the contractor should consider the results which could reasonably be expected from his putting forth every good faith effort to make his overall affirmative action program work. In determining levels of goals, the contractor should consider at least the factors listed in § 60-2.11.

(b) Involve personnel relations staff, department and division heads, and local and unit managers in the goal-setting process.

(c) Goals should be significant, measurable, and attainable.

(d) Goals should be specific for planned results, with timetables for completion.

(e) Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work.

(f) In establishing timetables to meet goals and commitments, the contractor will consider the anticipated expansion, contraction, and turnover of and in the work force.

(g) Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies.

(h) Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the contractor shall establish and set forth specific goals and timetables separately for minorities and women.

(i) Such goals and timetables, with supporting data and the analysis thereof shall be a part of the contractor's written affirmative action program and shall be maintained at each establishment of the contractor.

(j) A contractor or subcontractor extending a publicly announced preference for Indians as authorized in 41 CFR 60-1.5(a)(6) may reflect in its goals and timetables the permissive employment preference for Indians living on or near an Indian reservation.

(k) Where the contractor has not established a goal, his written affirmative action program must specifically analyze each of the factors listed in § 60-2.11 and must detail his reason for a lack of a goal.

(l) In the event it comes to the attention of the compliance agency or the Office of Federal Contract Compliance Programs that there is a substantial disparity in the utilization of a particular minority group or men or women of a particular minority group, OFCCP may require separate goals and timetables for such minority group and may further require, where appropriate, such goals and timetables by sex for such job classifications and organizational units specified by the OFCCP.

(m) Support data for the required analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data will include but not be limited to progression line charts, seniority rosters, applicant flow data, and applicant rejection ratios indicating minority and sex status.

(n) Copies of affirmative action programs and/or copies of support data shall be made available to the Office of Federal Contract Compliance Programs, request, for such purposes as may be appropriate to the fulfillment of its responsibilities under Executive Order 11246, as amended.

§ 60-2.13 Additional required ingredients of affirmative action programs.

Effective affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) Development or reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

(b) Formal internal and external dissemination of the contractor's policy.

(c) Establishment of responsibilities for implementation of the contractor's affirmative action program.

(d) Identification of problem areas (deficiencies) by organizational units and job group.

(e) Establishment of goals and objectives by organizational units and job groups, including timetables for completion.

(f) Development and execution of action-oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

(g) Design and implementation of internal audit and reporting systems to measure effectiveness of the total program.

(h) Compliance of personnel policies and practices with the Sex Discrimination Guidelines (41 CFR Part 60-20).

(i) Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities and women.

(j) Consideration of minorities and women not currently in the work force having requisite skills who can be recruited through affirmative action measures.

§ 60-2.14 Compliance status.

No contractor's compliance status shall be judged alone by whether or not he reaches his goals and meets his timetables. Rather, each contractor's compliance posture shall be reviewed and determined by reviewing the contents of his program, the extent of his adherence to this program, and his good faith efforts to make his program work toward the realization of the program's goals within the timetables set for completion. There follows an outline of examples of procedures that contractors and Federal agencies should use as a guideline for establish-

ing, implementing, and judging an acceptable affirmative action program.

Subpart C—Methods of Implementing the Requirements of Subpart B

review all contractual provisions to insure they are nondiscriminatory.

(8) Publish articles covering EEO programs, progress reports, promotions, etc., of minority and female em-

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing

harassment of employees placed through affirmative action efforts.

§ 60-2.23 Identification of problem areas by organizational units and job groups.

(a) An in-depth analysis of the fol-

(10) De facto segregation still exists at some facilities.

(11) Seniority provisions contribute to overt or inadvertent discrimination, i.e., a disparity by minority group status or sex exists between length of

es should be carefully selected and trained to insure elimination of bias in all personnel actions.

(2) The contractor shall observe the requirements of the OFCCP Uniform Guidelines on Employee Selection

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ing, implementing, and judging an acceptable affirmative action program.

Subpart C—Methods of Implementing the Requirements of Subpart B

§ 60-2.20 Development or reaffirmation of the equal employment opportunity policy.

(a) The contractor's policy statement should indicate the chief executive officers' attitude on the subject matter, assign overall responsibility and provide for a reporting and monitoring procedure. Specific items to be mentioned should include, but not be limited to:

(1) Recruit, hire, train, and promote persons in all job titles, without regard to race, color, religion, sex, or national origin, except where sex is a bona fide occupational qualification. (The term "bona fide occupational qualification" has been construed very narrowly under the Civil Rights Act of 1964. Under Executive Order 11246 as amended and this part, this term will be construed in the same manner.)

(2) Base decisions on employment so as to further the principle of equal employment opportunity.

(3) Insure that promotion decisions are in accord with principles of equal employment opportunity by imposing only valid requirements for promotional opportunities.

(4) Insure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, company sponsored training, education, tuition assistance, social and recreation programs, will be administered without regard to race, color, religion, sex, or national origin.

§ 60-2.21 Dissemination of the policy.

(a) The contractor should disseminate his policy internally as follows:

(1) Include it in contractor's policy manual.

(2) Publicize it in company newspaper, magazine, annual report, and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain intent of policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to insure they are nondiscriminatory.

(8) Publish articles covering EEO programs, progress reports, promotions, etc., of minority and female employees, in company publications.

(9) Post the policy on company bulletin boards.

(10) When employees are featured in product or consumer advertising, employee handbooks or similar publications both minority and nonminority, men and women should be pictured.

(11) Communicate to employees the existence of the contractors affirmative action program and make available such elements of his program as will enable such employees to know of and avail themselves of its benefits.

(b) The contractor should disseminate his policy externally as follows:

(1) Inform all recruiting sources verbally and in writing of company policy, stipulating that these sources actively recruit and refer minorities and women for all positions listed.

(2) Incorporate the equal opportunity clause in all purchase orders, leases, contracts, etc., covered by Executive Order 11246, as amended, and its implementing regulations.

(3) Notify minority and women's organizations, community agencies, community leaders, secondary schools, and colleges, of company policy, preferably in writing.

(4) Communicate to prospective employees the existence of the contractor's affirmative action program and make available such elements of his program as will enable such prospective employees to know of and avail themselves of its benefits.

(5) When employees are pictured in consumer or help wanted advertising, both minorities and nonminority men and women should be shown.

(6) Send written notification of company policy to all subcontractors, vendors, and suppliers requesting appropriate action on their part.

§ 60-2.22 Responsibility for implementation.

(a) An executive of the contractor should be appointed as director or manager of company equal opportunity programs. Depending upon the size and geographical alinement of the company, this may be his or her sole responsibility. He or she should be given the necessary top management support and staffing to executive the assignment. His or her identity should appear on all internal and external communications on the company's equal opportunity programs. His or her responsibilities should include, but not necessarily be limited to:

(1) Developing policy statements, affirmative action programs, internal and external communication techniques.

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's goals and objectives have been attained.

(5) Serve as liaison between the contractor and enforcement agencies.

(6) Serve as liaison between the contractor and minority organizations, women's organizations and community action groups concerned with employment opportunities of minorities and women.

(7) Keep management informed of latest developments in the entire equal opportunity area.

(b) Line responsibilities should include, but not be limited to the following:

(1) Assistance in the identification of problem areas and establishment of local and unit goals and objectives.

(2) Active involvement with local minority organizations, women's organizations, community action groups and community service programs.

(3) Periodic audit of training programs, hiring and promotion patterns to remove impediments to the attainment of goals and objectives.

(4) Regular discussions with local managers, supervisors, and employees to be certain the contractor's policies are being followed.

(5) Review of the qualifications of all employees to insure that minorities and women are given full opportunities for transfers and promotions.

(6) Career counseling for all employees.

(7) Periodic audit to insure that each location is in compliance in area such as:

(i) Posters are properly displayed.

(ii) All facilities, including company housing, which the contractor maintains for the use and benefit of his employees, are in fact desegregated, both in policy and use. If the contractor provides facilities such as dormitories, locker rooms and rest rooms, they must be comparable for both sexes.

(iii) Minority and female employees are afforded a full opportunity and are encouraged to participate in all company sponsored educational, training, recreational, and social activities.

(8) Supervisors should be made to understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results, as well as other criteria.

(9) It shall be a responsibility of supervisors to take actions to prevent

harassment of employees placed through affirmative action efforts.

§ 60-2.23 Identification of problem areas by organizational units and job groups.

(a) An in-depth analysis of the following should be made, paying particular attention to trainees and those categories listed in § 60-2.11(b).

(1) Composition of the work force by minority group status and sex.

(2) Composition of applicant flow by minority group status and sex.

(3) The total selection process including position descriptions, position titles, worker specifications, application forms, interview procedures, test administration, test validity, referral procedures, final selection process, and similar factors.

(4) Transfer and promotion practices.

(5) Facilities, company sponsored recreation and social events, and special programs such as educational assistance.

(6) Seniority practices and seniority provisions of union contracts.

(7) Apprenticeship programs.

(8) All company training programs, formal and informal.

(9) Work force attitude.

(10) Technical phases of compliance, such as poster and notification to labor unions, retention of applications, notification to subcontractors, etc.

(b) If any of the following items are found in the analysis, special corrective action should be appropriate.

(1) An "underutilization" of minorities or women in specific job groups.

(2) Lateral and/or vertical movement of minority or female employees occurring at a lesser rate (compared to work force mix) than that of nonminority or male employees.

(3) The selection process eliminates a significantly higher percentage of minorities or women than nonminorities or men.

(4) Application and related preemployment forms not in compliance with Federal legislation.

(5) Position descriptions inaccurate in relation to actual functions and duties.

(6) Formal or scored selection procedures not validated as required by the OFCCP Uniform Guidelines on Employee Selection Procedures.

(7) Test forms not validated by location, work performance and inclusion of minorities and women in sample.

(8) Referral ratio of minorities or women to the hiring supervisor or manager indicates a significantly higher percentage are being rejected as compared to nonminority and male applicants.

(9) Minorities or women are excluded from or are not participating in company sponsored activities or programs.

(10) De facto segregation still exists at some facilities.

(11) Seniority provisions contribute to overt or inadvertent discrimination, i.e., a disparity by minority group status or sex exists between length of service and types of job held.

(12) Nonsupport of company policy by managers, supervisors or employees.

(13) Minorities or women underutilized or significantly underrepresented in training or career improvement programs.

(14) No formal techniques established for evaluating effectiveness of EEO programs.

(15) Lack of access to suitable housing inhibits recruitment efforts and employment of qualified minorities.

(16) Lack of suitable transportation (public or private) to the work place inhibits minority employment.

(17) Labor unions and subcontractors not notified of their responsibilities.

(18) Purchase orders do not contain EEO clause.

(19) Posters not on display.

§ 60-2.24 Development and execution of programs.

(a) The contractor should conduct detailed analyses of position descriptions to insure that they accurately reflect position functions, and are consistent for the same position from one location to another.

(b) The contractor should validate worker specifications by division, department, location or other organizational unit and by job title using job performance criteria. Special attention should be given to academic, experience and skill requirements to insure that the requirements in themselves do not constitute inadvertent discrimination. Specifications should be consistent for the same job title in all locations and should be free from bias as regards to race, color, religion, sex or national origin, except were sex is a bona fide occupational qualification. Where requirements screen out a disproportionate number of minorities or women, such requirements should be professionally validated to job performance.

(c) Approved position descriptions and worker specifications, when used by the contractor, should be made available to all members of management involved in the recruiting, screening, selection, and promotion process. Copies should also be distributed to all recruiting sources.

(d) The contractor should evaluate the total selection process to insure freedom from bias and, thus, aid the attainment of goals and objectives.

(1) All personnel involved in the recruiting, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to insure elimination of bias in all personnel actions.

(2) The contractor shall observe the requirements of the OFCCP Uniform Guidelines on Employee Selection Procedures.

(3) Selection techniques other than tests may also be improperly used so as to have the effect of discriminating against minority groups and women. Such techniques include but are not restricted to, unscored interviews, unscored or casual application forms, arrest records, credit checks, considerations of marital status or dependency or minor children. Where there exist data suggesting that such unfair discrimination or exclusion of minorities or women exists, the contractor should analyze his unscored procedures and eliminate them if they are not objectively valid.

(e) Suggested techniques to improve recruitment and increase the flow of minority or female applicants follow:

(1) Certain organizations such as the Urban League, Job Corps, Equal Opportunity Programs, Inc., Concentrated Employment programs, Neighborhood Youth Corps, Secondary Schools, Colleges, and City Colleges with high minority enrollment, the State Employment Service, specialized employment agencies, Aspira, LULAC, SER, the G.I. Forum, the Commonwealth of Puerto Rico are normally prepared to refer minority applicants. Organizations prepared to refer women with specific skills are: National Organization for Women, Welfare Rights organizations, Women's Equity Action League, Talent Bank from Business and Professional Women (including 26 women's organizations), Professional Women's Caucus, Intercollegiate Association of University Women, Negro Women's sororities and service groups such as Delta Sigma Theta, Alpha Kappa Alpha, and Zeta Phi Beta; National Council of Negro Women, American Association of University Women, YWCA, and sectarian groups such as Jewish Women's Groups, Catholic Women's Groups and Protestant Women's Groups, and women's colleges. In addition, community leaders as individuas shall be added to recruiting sources.

(2) Formal briefing sessions should be held, preferably on company premises, with representatives from these recruiting sources. Plant tours, presentations by minority and female employees, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of appli-

cants, followup with sources, and feedback on disposition of applicants.

(3) Minority and female employees, using procedures similar to subparagraph (2) of this paragraph, should be

formance related criteria. (Neither minority nor female employees should be required to possess higher qualifications than those of the lowest qualified incumbent.)

employees in local and minority news media.

(f) The contractor should support programs developed by such organizations as National Alliance of Business-

truction including those construction employees who work on a non-Federal or nonfederally assisted construction site. This part also established procedures which all Federal contracting of-

struction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designed by the Director pursuant to § 60-4.6 of this part (see 41 CFR 60-4.2(a)):

chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcon-

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cants, followup with sources, and feedback on disposition of applicants.

(3) Minority and female employees, using procedures similar to subparagraph (2) of this paragraph, should be actively encouraged to refer applicants.

(4) A special effort should be made to include minorities and women on the Personnel Relations staff.

(5) Minority and female employees should be made available for participation in Career Days, Youth Motivation Programs, and related activities in their communities.

(6) Active participation in "Job Fairs" is desirable. Company representative so participating should be given authority to make on-the-spot commitments.

(7) Active recruiting programs should be carried out at secondary schools, junior colleges, and colleges with predominant minority or female enrollments.

(8) Recruiting efforts at all schools should incorporate special efforts to reach minorities and women.

(9) Special employment programs should be undertaken whenever possible. Some possible programs are:

(i) Technical and nontechnical co-op programs with predominately Negro and women's colleges.

(ii) "After school" and/or work-study jobs for minority youths, male and females.

(iii) Summer jobs for underprivileged youth, male and female.

(iv) Summer work-study programs for male and female faculty members of the predominantly minority schools and colleges.

(v) Motivation, training and employment programs for the hardcore unemployed, male and female.

(10) When recruiting brochures pictorially present work situations, the minority and female members of the work force should be included, especially when such brochures are used in school and career programs.

(11) Help wanted advertising should be expanded to include the minority news media and women's interest media on a regular basis.

(f) The contractor should insure that minority and female employees are given equal opportunity for promotion. Suggestions for achieving this result include:

(1) Post or otherwise announce promotional opportunities.

(2) Make an inventory of current minority and female employees to determine academic, skill and experience level of individual employees.

(3) Initiate necessary remedial, job training and workstudy programs.

(4) Develop and implement formal employee evaluation programs.

(5) Make certain "worker specifications" have been validated on job performance related criteria. (Neither minority nor female employees should be required to possess higher qualifications than those of the lowest qualified incumbent.)

(6) When apparently qualified minority or female employees are passed over for upgrading, require supervisory personnel to submit written justification.

(7) Establish formal career counseling programs to include attitude development, education aid, job rotation, buddy system and similar programs.

(8) Review seniority practices and seniority clauses in union contracts to insure such practices or clauses are nondiscriminatory and do not have a discriminatory effect.

(g) Make certain facilities and company-sponsored social and recreation activities are desegregated. Actively encourage all employees to participate.

(h) Encourage child care, housing and transportation programs appropriately designed to improve the employment opportunities for minorities and women.

§ 60-2.25 Internal audit and reporting systems.

(a) The contractor should monitor records of referrals, placements, transfers, promotions and terminations at all levels to insure nondiscriminatory policy is carried out.

(b) The contractor should require formal reports from unit managers on a schedule basis as to degree to which corporate or unit goals are attained and timetables met.

(c) The contractor should review report results with all levels of management.

(d) The contractor should advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

§ 60-2.26 Support of action programs.

(a) The contractor should appoint key members of management to serve on merit employment councils, community relations boards and similar organizations.

(b) The contractor should encourage minority and female employees to participate actively in National Alliance of Businessmen programs for youth motivation.

(c) The contractor should support vocational guidance institutes, vestibule training programs and similar activities.

(d) The contractor should assist secondary schools and colleges in programs designed to enable minority and female graduates of these institutions to compete in the open employment market on a more equitable basis.

(e) The contractor should publicize achievements of minority and female employees in local and minority news media.

(f) The contractor should support programs developed by such organizations as National Alliance of Businessmen, the Urban Coalition and other organizations concerned with employment opportunities for minority or women.

Subpart D—Miscellaneous

§ 60-2.30 Use of goals.

The purpose of a contractor's establishment and use of goals is to insure that he meet his affirmative action obligation. It is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

§ 60-2.31 Preemption.

To the extent that any State or local laws, regulations or ordinances, including those which grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, we will regard them as preempted under the Executive order.

§ 60-2.32 Supersedure.

All orders, instructions, regulations, and memoranda of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent herewith, including a previous "Order No. 4" from this office dated January 30, 1970. Nothing in this part is intended to amend 41 CFR Part 60-3 or 41 CFR 60-20.

PART 60-4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

Sec.

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60-4.7 Effect on other regulations.
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60-4.9 Incorporation by operation of the Order.

AUTHORITY: Secs. 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended, 30 FR 12319; 32 FR 14303, as amended by E.O. 12086.

§ 60-4.1 Scope and application.

This part applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of $10,000. The regulations in this part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in on site construction including those construction employees who work on a non-Federal or nonfederally assisted construction site. This part also established procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended.

In addition, this part applies to construction work performed by construction contractors and subcontractors for Federal nonconstruction contractors and subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract.

§ 60-4.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in § 60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in § 60-4.3 of this part as a condition of any grant, contract, subcontract, loan insurance or guarantee involving federally assisted construction covered by this part 60-4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall given written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designed by the Director pursuant to § 60-4.6 of this part (see 41 CFR 60-4.2(a)):

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggegate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	Insert goals for each year.	Insert goals for each year.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

§ 60-4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to § 60-4.6 of this part and in construction subcontracts in excess of $10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive order.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered are either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those

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trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each contruction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newpaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

§ 60-4.4 Affirmative action requirements.

(a) To implement the affirmative action requirements of Executive Order 11246 in the construction industry, the Office of Federal Contract Compliance Programs previously has approved affirmative action programs commonly referred to as "Hometown Plans," has promulgated affirmative action plans referred to as "Imposed Plans" and has approved "Special Bid Conditions" for high impact projects constructed in areas not covered by a Hometown or an Imposed Plan. All solicitations for construction contracts made after the effective date of the regulations in this part shall include the notice specified in § 60-4.2 of this part and the specifications in § 60-4.3 of this part in lieu of the Hometown and Imposed Plans including the Philadelphia Plan and Special Bid Conditions. Until the Director has issued an order pursuant to § 60-4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice required by 41 CFR 60-4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved.

(b) Signatories to a Hometown Plan (including heavy highway affirmative action plans) shall have 45 days from the effective date of the regulations in this part to submit under such a Plan (for the director's approval) goals and timetables for women and to include female representation on the Hometown Plan Administrative Committee. Such goals for female representation shall be at least as high as the goals established for female representation in the notice issued pursuant to 41 CFR 60-4.6. Failure of the signatories, within the 45-day period, to include female representation and to submit goals for women or a new plan, as appropriate, shall result in an automatic termination of the Office of Federal Contract Compliance Program's approval of the Hometown Plan. At any time the Office of Federal Contract Compliance Programs terminates or withdraws its approval of a Hometown Plan, or when the plan expires and another plan is not approved, the contractors signatory to the plan shall be covered automatically by the specifications set forth in § 60-4.3 of this part and by the goals and timetables established for that geographical area pursuant to § 60-4.6 of this part.

§ 60-4.5 Hometown plans.

(a) A contractor participating, either individually or through an association, in an approved Hometown Plan (including heavy highway affirmative action plans) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the plan: *Provided,* That each contractor or subcontractor participating in an approved plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60-1.4; to make a good faith effort to achieve the goals for each trade participating in the plan in which it has employees; and that the overall good performance by other contractors or subcontractors toward a goal in an approved plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the plan's goals and timetables. If a contractor is not participating in an approved Hometown Plan it shall comply with the specifications set forth in § 60-4.3 of this part and with the goals and timetables for the appropriate area as listed in the notice required by 41 CFR 60-4.2 with regard to that trade. For the purposes of this part 60-4, a contractor is not participating in a Hometown Plan for a particular trade if it:

(1) Ceases to be signatory to a Hometown Plan covering that trade;

(2) Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade;

(3) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan for that trade;

(4) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan for that trade;

(5) is participating in a Hometown Plan for that trade which is no longer acceptable to the Office of Federal Contract Compliance Programs;

(6) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor a organization for that trade and the labor organization and the contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.

(b) Contractors participating in Hometown Plans must be able to demonstrate their participation and document their compliance with the provision of the Hometown Plan.

§ 60-4.6 Goals and timetables.

The director, from time to time, shall issue goals and timetables for minority and female utilization which

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shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices in the FEDERAL REGISTER, and shall be inserted by the contracting officers and applicants, as applicable, in the notice required by 41 CFR 60-4.2.

§ 60-4.7 Effect on other regulations.

The regulations in this part are in addition to the regulations contained in this chapter which apply to construction contractors and subcontractors generally. See particularly, 41 CFR 60-1.4 (a), (b), (c), (d), and (e); 60-1.5; 60-1.7; 60-1.8; 60-1.26; 60-1.29; 60-1.30; 60-1.32; 60-1.41; 60-1.42; 60-1.43; and 41 CFR part 60-3; part 60-20; part 60-30; part 60-40; and part 60-50.

§ 60-4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive order, any contract clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in (i)-(iv) of 41 CFR 60-2.2(c)(1). If the contractor does not show good cause within 30 days, or in the alternative, fails to enter an acceptable conciliation agreement which includes where appropriate, make up goals and timetables, back pay, and seniority relief for affected class members, the OFCCP shall follow the procedure in 41 CFR 60-1.26(b): *Provided*, That where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceeings.

§ 60-4.9 Incorporation by operation of the order.

By operation of the order, the equal opportunity clause contained in § 60-1.4, the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) contained in § 60-4.2, and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) contained in § 60-4.3 shall be deemed to be a part of every solicitation or of every contract and subcontract, as appropriate, required by the order and the regulations in this chapter to include such clauses whether or not they are physically incorporated in such solicitation or contract and whether or not the contract is written.

PART 60—20 SEX DISCRIMINATION GUIDELINES

Sec.
60-20.1 Title and purpose.
60-20.2 Recruitment and advertisement.
60-20.3 Job policies and practices.
60-20.4 Seniority system.
60-20.5 Discriminatory wages.
60-20.6 Affirmative actions.

AUTHORITY. Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086.

§ 60-20.1 Title and purpose.

The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance Programs regarding the implementation of Executive Order 11246, as amended for the promotion and insuring of equal opportunities for all persons employed or seeking employment with Government contractors and subcontractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to sex. Experience has indicated that special problems related to the implementation of the Executive Order require a definitive treatment beyond the terms of the order itself. These interpretations are to be read in connection with existing regulations, set forth in Part 60-1 of this chapter.

§ 60-20.2 Recruitment and advertisement.

(a) Employers engaged in recruiting activity must recruit employees of both sexes for all jobs unless sex is a bona fide occupation qualification.

(b) Advertisement in newspapers and other media for employment must not express a sex preference unless sex is a bona fide occupational qualification for the job. The placement of an advertisement in columns headed "Male" or "Female" will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

§ 60-20.3 Job policies and practices.

(a) Written personnel policies relating to this subject area must expressly indicate that there shall be no discrimination against employees on account of sex. If the employer deals with a bargaining representative for his employees and there is a written agreement on conditions of employment, such agreement shall not be inconsistent with these guidelines.

(b) Employees of both sexes shall have an equal opportunity to any available job that he or she is qualified to perform, unless sex is a bona fide occupational qualification.

NOTE: In most Government contract work there are only limited instances where valid reasons can be expected to exist which would justify the exclusion of all men or all women from any given job.

(c) The employer must not make any distinction based upon sex in employment opportunities, wages, hours, or other conditions of employment. In the area of employer contributions for insurance, pensions, welfare programs and other similar "fringe benefits" the employer will not be considered to have violated these guidelines if his contributions are the same for men and women or if the resulting benefits are equal.

(d) Any distinction between married and unmarried persons of one sex that is not made between married and unmarried persons of the opposite sex will be considered to be a distinction made on the basis of sex. Similarly, an employer must not deny employment to women with young children unless it has the same exclusionary policies for men; or terminate an employee of one sex in a particular job classification upon reaching a certain age unless the same rule is applicable to members of the opposite sex.

(e) The employer's policies and practices must assure appropriate physical facilities to both sexes. The employer may not refuse to hire men or women, or deny men or women a particular job because there are no restroom or associated facilities, unless the employer is able to show that the construction of the facilities would be unreasonable for such reasons as excessive expense or lack of space.

(f)(1) An employer must not deny a female employee the right to any job that she is qualified to perform in reliance upon a State "protective" law. For example, such laws include those which prohibit women from performing in certain types of occupations (e.g., a bartender or a core-maker); from working at jobs requiring more than a certain number of hours; and from working at jobs that require lifting or carrying more than designated weights.

(2) Such legislation was intended to be beneficial, but, instead, has been found to result in restricting employment opportunities for men and/or women. Accordingly, it cannot be used as a basis for denying employment or for establishing sex as a bona fide occupational qualification for the job.

(g)(1) Women shall not be penalized in their conditions of employment because they require time away from work on account of childbearing. When, under the employer's leave policy the female employee would qualify for leave, then childbearing must be considered by the employer to be a justification for leave of absence for female employees for a reasonable period of time. For example, if the female employee meets the equally applied minimum length of service requirements for leave time, she must be granted a reasonable leave on account of childbearing. The conditions applicable to her leave (other than the length thereof) and to her return to employment, shall be in accordance with the employer's leave policy.

(2) If the employer has no leave policy, childbearing must be considered by the employer to be a justification for a leave of absence for a female employee for a reasonable period of time. Following childbirth, and upon signifying her intent to return within a reasonable time, such female employee shall be reinstated to her original job or to a position of like status and pay, without loss of service credits.

(h) The employer must not specify any differences for male and female employees on the basis of sex in either mandatory or optional retirement age.

(i) Nothing in these guidelines shall be interpreted to mean that differences in capabilities for job assignments do not exist among individuals and that such distinctions may not be recognized by the employer in making specific assignments. The purpose of these guidelines is to insure that such distinctions are not based upon sex.

§ 60-20.4 Seniority system.

Where they exist, seniority lines and lists must not be based solely upon sex. Where such a separation has existed, the employer must eliminate this distinction.

§ 60-20.5 Discriminatory wages.

(a) The employer's wages schedules must not be related to or based on the sex of the employees.

NOTE. The more obvious cases of discrimination exist where employees of different sexes are paid different wages on jobs which require substantially equal skill, effort and responsibility and are performed under similar working conditions.

(b) The employer may not discriminatorily restrict one sex to certain job classifications. In such a situation, the employer must take steps to make jobs available to all qualified employees in all classifications without regard to sex. (Example: An electrical manufacturing company may have a production division with three functional units: One (assembly) all female; another (wiring), all male; and a third (circuit boards), also all male. The highest wage attainable in the assembly unit is considerably less than that in the circuit board and wiring units. In such a case the employer must take steps to provide qualified female employees opportunity for placement in job openings in the other two units.)

(c) To avoid overlapping and conflicting administration the Director will consult with the Administrator of the Wage and Hour Administration before issuing an opinion on any matter covered by both the Equal Pay Act and Executive Order 11246, as amended.

§ 60-20.6 Affirmative action.

(a) The employer shall take affirmative action to recruit women to apply for those jobs where they have been previously excluded.

NOTE. This can be done by various methods. Examples include: (1) Including in itineraries of recruiting trips women's colleges where graduates with skills desired by the employer can be found, and female students of coeducational institutions and (2) designing advertisements to indicate that women will be considered equally with men for jobs.

(b) Women have not been typically found in significant numbers in management. In many companies management trainee programs are one of the ladders to management positions. Traditionally, few, if any, women have been admitted into these programs. An important element of affirmative action shall be a commitment to include women candidates in such programs.

(c) Distinctions based on sex may not be made in other training programs. Both sexes should have equal access to all training programs and affirmative action programs should require a demonstration by the employer that such access has been provided.

PART 60-30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246

GENERAL PROVISIONS

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AUTHORITY: Secs. 201, 205, 208, 209, 301, 302(b) and 303(a) of the Executive Order 11246, as amended, 30 FR 12319; 32 FR 14303; § 60-1.26 of Part 60-1 of this chapter (41 CFR Part 60-1), as amended by E.O. 12086.

GENERAL PROVISIONS

§ 60-30.1 Applicability of rules.

This part provides the rules of practice for all administrative proceedings, instituted by the OFCCP including but not limited to proceedings instituted against construction contractors or subcontractors, which relate to the enforcement of equal opportunity under Executive Order 11246, as amended. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

§ 60-30.2 Waiver modification.

Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

§ 60-30.3 Computation of time.

In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

§ 60-30.4 Form, filing, service of pleadings and papers.

(a) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file

number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading

An amended answer shall be responded to within 14 days of its service.

§ 60-30.6 Answer.

porting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to

unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or may lead to relevant information and which are in the pos-

on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the

The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law

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number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless otherwise ordered for good cause by the Administrative Law Judge regarding specific papers and pleadings in a specific case, all such papers and pleadings are public documents.

(b) *Service.* Service upon any party shall be made by the party filing the pleading or document by delivering a copy or mailing a copy to the party's last known address. When a party is represented by an attorney, the service shall by upon the attorney.

(c) *Proof of service.* A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of services shall be proof of the service.

PREHEARING PROCEDURES

§ 60-30.5 Administrative complaint.

(a) *Issuance.* The Solicitor of Labor, upon referral from the Office of Federal Contract Compliance Programs, shall institute enforcement proceedings by issuing a complaint and causing the complaint to be served upon the contractor which shall be designated in the complaint as the defendant. The Department of Labor, OFCCP, shall be designated as the plaintiff.

(b) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the Order, the regulations, or its contractual obligations. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government.

(c) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. An amended answer shall be responded to within 14 days of its service.

§ 60-30.6 Answer.

(a) *Filing and service.* Within 20 days after the service of the complaint, the defendant shall file an answer with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the defendant or its attorney, and served on the Government in accordance with § 60-30.4(b).

(b) *Contents; failure to file.* The answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the defendant is without knowledge, in which case the answer shall so state; or (2) state that the defendant admits all the allegations of the complaint. The answer may contain a waiver of hearing; and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure, upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision and to file briefs in support of the exceptions.

§ 60-30.7 Notice of prehearing conference.

The Administrative Law Judge shall respond to defendant's request for a hearing within 15 days and shall serve a notice of prehearing conference on the parties. The notice shall contain the time and place of the conference.

§ 60-30.8 Motions; disposition of motions.

(a) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the Administrative Law Judge, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(b) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response: *Provided,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

§ 60-30.9 Interrogatories, and admissions as to facts and documents.

(a) *Interrogatories.* Not later than 25 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whoever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory.

(b) *Admissions.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within 25 days after service, the party to whom the request is directed serves upon the requesting party a sworn statement either (1) denying specifically the matter as to which an admission is requested, or (2) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(c) *Objections or failures to respond.* The party submitting the interrogatory or request may move for an order with respect to any objection or other failure to respond.

§ 60-30.10 Production of documents and things and entry upon land for inspection and other purposes.

(a) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any

unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and, which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 25 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

§ 60-30.11 Depositions upon oral examination.

(a) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding, and may use an administrative subpoena. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(b) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the parties agree otherwise, depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 5 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(c) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided,* That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(d) *Subscription; certification; filing.* The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his direction, and shall be submitted to the witness for examination and signing. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order of the Administrative Law Judge for good cause shown.

(e) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the hearing examiner finds: (i) That the witness is dead; or (ii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iii) that the party offering the deposition has been unable to procure the attendance of the witness by subpena; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(4) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(f) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 60-30.12 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

such agreement by issuing his decision based upon the agreed findings, and his decision shall consititute the final Administrative order.

(1) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters in evidence;

such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the con-

§ 60-30.20 Ex parte communications.

The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice

"Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(e) *Motion and proceedings.* The

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(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact and of contents and authenticity of documents;

(4) Limitation of number of witnesses;

(5) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(6) Such other matters as may tend to expedite the disposition of the proceedings.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 60-30.13 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirments of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) That any further procedural steps are waived; and

(4) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Administrative Law Judge for his consideration; or that agreement cannot be reached.

(2) Inform the Administrative Law Judge that

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his decision based upon the agreed findings, and his decision shall consititute the final Administrative order.

HEARINGS AND RELATED MATTERS

§ 60-30.14 Designation of Administrative Law Judges.

Hearings shall be held before an Administrative Law Judge of the Department of Labor who shall be designated by the Chief Administrative Law Judge of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge, pleadings and paper shall be filed with the Chief Administrative Law Judge.

§ 60-30.15 Authority and responsibilities of Administrative Law Judges.

The Administrative Law Judge shall propose findings and conclusions to the compliance agency or to the Secretary on the basis of the record. In order to do so, he shall have the duty to conduct a fair hearing, to take all necesssary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(a) Hold confernces to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(b) Require parties to state their position with respect to the various issues in the proceeding;

(c) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full;

(d) Administer oaths;

(e) Rule on motions, and other procedural items or matters pending before him;

(f) Regulate the course of the hearing and conduct of participants therein;

(g) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(h) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(i) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(j) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(1) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters in evidence;

(2) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(3) Expelling any party or person from further participation in the hearing;

(k) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(l) Recommend whether the respondent is in current violation of the order, regulations, or its contractual obligations, as well as the nature of the relief necessary to insure the full enjoyment of the rights secured by the order;

(m) Issue subpenas; and

(n) Take any action authorized by these rules.

§ 60-30.16 Appearances.

(a) *Representation.* The parties or other persons or organizations participating pursuant to this part 60-30 have the right to be represented by counsel.

(b) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's recommended decision and to file exceptions to it.

§ 60-30.17 Appearance of witnesses.

(a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpena, setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 5 days after notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

§ 60-30.18 Evidence; testimony.

Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available shall be applied. Testimony shall be given orally by witnesses at the hearing. A witness shall be available for cross-examination, and, at the descretion of the Adminsitrative Law Judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding. The Administrative Law Judge may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

§ 60-30.19 Objections; exceptions; offer of proof.

(a) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(b) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary, but shall be considered by the compliance agency or the Secretary upon filing exceptions to the Administrative Law Judge's recommendations and conclusions.

(c) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 60-30.20 Ex parte communications.

The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision in the case, except as witness or counsel in the proceeding.

§ 60-30.21 Oral argument.

Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

§ 60-30.22 Official transcript.

The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11(a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

§ 60-30.23 Summary judgment.

(a) *For the Government.* At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the respondent, the Government may move with or without supporting affidavits for a summary judgment upon all claims or any part.

(b) *For defendant.* The defendant may, at any time after commencement of the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(c) *Other parties.* Any other party to a formal proceedings under this part may support or oppose motions for summary judgment made by the Government or respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(d) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which shall provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(e) *Motion and proceedings.* The motion shall be served upon all parties at least 15 days before the time fixed for the hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment rendered for or against the Government or the respondent shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(f) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

§ 60-30.24 Participation by interested persons.

(a)(1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative Order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this paragraph shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at

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such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state: (i) Petitioner's interest in the proceedings; (ii) who will appear for petitioner; (iii) the issues on which petitioner wishes to participate; and (iv) whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: *Provided*, That the representative of a labor organization qualifying to participate under paragraph (a)(1) of the section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party of each petition granted.

(b)(1) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state: (i) The petitioner's interest in the hearing; (ii) who will represent the petitioner; and (iii) the issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this paragraph.

(2) An amicus curiae may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he shall serve a copy on each party.

POST-HEARING PROCEDURES

§ 60-30.25 Proposed findings of fact and conclusions of law.

Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 60-30.26 Record for recommended decision.

The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

§ 60-30.27 Recommended decision.

Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision to the Secretary of Labor for a final Administrative Order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

§ 60-30.28 Exceptions to recommended decisions.

Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Secretary. Service of such briefs or exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the Secretary for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

§ 60-30.29 Record.

After expiration of the time for filing briefs and exceptions, the Secretary shall make a final decision, which shall be the final Administrative Order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

§ 60-30.30 Final Administrative Order.

After expiration of the time for filing, the Secretary shall make a final Administrative Order which shall be served on all parties. If the Secretary concludes that the defendant has violated the Executive Order, the equal opportunity clause, or the regulations, an Administrative Order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate cancellation, termination and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

PART 60-40—EXAMINATION AND COPYING OF OFCCP DOCUMENTS

Subpart A—General

Sec.
60-40.1 Purpose and scope.
60-40.2 Information available on request.
60-40.3 Information exempt from compulsory disclosure and which may be withheld.
60-40.4 Information disclosure of which is prohibited by law.

Subpart B—Procedures for Disclosure

60-40.5 Applicability of procedures.
60-40.6 To whom to direct requests.
60-40.7 Partial disclosure.
60-40.8 Facilities and procedures for disclosure.

AUTHORITY: Executive Order 11246, as amended by Executive Order 11375; 5 U.S.C. 552, as amended by E.O. 12086.

Subpart A—General

§ 60-40.1 Purpose and scope.

This part contains the general rules of the OFCCP providing for public access to information from records of the OFCCP or its various compliance agencies. These regulations implement 5 U.S.C. 552, the Freedom of Information Act and supplement the policy and regulations of the Department of labor, 29 CFR Part 70. It is the policy of the OFCCP to disclose information to the public and to cooperate with other public agencies as well as private parties seeking to eliminate discrimination in employment. This part sets forth generally the categories of records accessible to the public, the types of records subject to prohibitions or restrictions on disclosure, and the places at which and the procedures whereby members of the public may obtain access to and inspect and copy information from records in the custody of the OFCCP.

§ 60-40.2 Information available on request.

(a) Upon the request of any person for identifiable records obtained or generated pursuant to Executive Order 11246 (as amended) such records shall be made available for inspection and copying, notwithstanding the applicability of the exemption from mandatory disclosure set forth in 5 U.S.C. 552 subsection (b), if it is determined that the requested inspection or copying furthers the public interest and does not impede any of the functions of the OFCCP, except in the case of records disclosure of which is prohibited by law.

(b) Consistent with the above, all contract compliance documents within the custody of the OFCCP shall be disclosed upon request unless specifically prohibited by law or as limited elsewhere herein. The types of documents which if in the custody of the OFCCP must be disclosed include, but are not limited to, the following:

(1) Affirmative action plans, whether or not reviewed and finally accepted by the OFCCP except as limited in 41 CFR 60-40.3(a)(1).

(2) Imposed plans and hometown plans, pending or approved.

(3) Text of final conciliation agreements.

(4) Validation studies of tests or other preemployment selection methods.

(5) Dates and times of scheduled compliance reviews.

§ 60-40.3 Information exempt from compulsory disclosure and which may be withheld.

(a) The following documents or parts thereof are exempt from mandatory disclosure by the OFCCP, and should be withheld if it is determined that the requested inspection or copying does not further the public interest and might impede the discharge of any of the functions of the OFCCP.

(1) Those portions of affirmative action plans such as goals and timetables which would be confidential commercial or financial information because they indicate, and only to the extent that they indicate, that a contractor plans major shifts or changes in his personnel requirements and he has not made this information available to the public. A determination to withhold this type of information should be made only after receiving verification and a satisfactory explanation from the contractor that the information should be withheld.

(2) Those portions of affirmative action plans which constitute information on staffing patterns and pay scales but only to the extent that their release would injure the business or financial position of the contractor, would constitute a release of confidential financial information of an employee or would constitute an unwarranted invasion of the privacy of an employee.

(3) The names of individual complainants.

(4) The assignments to particular contractors of named compliance officers if such disclosure would subject the named compliance officers to undue harassment or would affect the efficient enforcement of the Executive order.

(5) Compliance investigation files including the standard compliance review report and related documents, during the course of the review to which they pertain or while enforcement action against the contractor is in progress or contemplated within a reasonable time. Therefore, these reports and related files shall not be disclosed only to the extent that information contained therein constitutes trade secrets and confidential commercial or financial information, interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the agency, personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, data which would be exempt from mandatory disclosure pursuant to the "informants privilege" or such information the disclosure of which is prohibited by statute.

(6) Copies of preemployment selection tests used by contractors.

(b) Other records may be withheld consistent with the Freedom of Information Act on a case-by-case basis, with the prior approval of the Director, OFCCP.

§ 60-40.4 Information disclosure of which is prohibited by law.

The Standard Form 100 (EEO-1) which is submitted by contractors to the OFCCP or a Joint Reporting Committee servicing both the OFCCP and the EEOC shall be disclosed pending further instructions from the Director. The statutory prohibition on disclosure set forth in section 709(e) of the Civil Rights Act of 1964 is limited by the terms of that section to information obtained pursuant to the authority of title VII of that Act and its disclosure by employees of the EEOC.

Subpart B—Procedures for Disclosure

§ 60-40.5 Applicability of procedures.

Requests for the inspection and copy of information from records in the custody of the OFCCP which are identifiable and available under the provisions of Subpart A of this part shall be made and acted upon as provided in the following sections of this subpart. Officers and employees of the OFCCP are authorized by the Director to continue to furnish to the public, informally and without compliance with these procedures, information and copies from its records which prior to the enactment of the Freedom of Information Act (5 U.S.C. 552) were customarily furnished in the regular performance of their duties.

§ 60-40.6 To whom to direct requests.

A request for contract compliance records or information shall be directed to the National OFCCP or appropriate OFCCP Regional or Area Office. If the person making the request does not know in which office the record is located, he may direct his request to the Director, Office of Federal Contract Compliance Programs, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, for appropriate handling.

§ 60-40.7 Partial disclosure.

If a requested record contains some materials which are protected from disclosure and other materials which are not so protected, identifying details or protected matters shall be deleted wherever analysis indicates that such deletions are feasible. Whenever such deletions are made, the remainder of the records may be disclosed.

§ 60-40.8 Facilities and procedures for disclosure.

(a) [Reserved.]

(b) Procedures relating to the availability of records shall be governed by the Department of Labor regulations, 29 CFR 70.35 to 29 CFR 70.64.

(c) [Reserved.]

(d) [Reserved.]

PART 60-50—GUIDELINES ON DISCRIMINATION BECAUSE OF RELIGION OR NATIONAL ORIGIN

Sec.
60-50.1 Purpose and scope.
60-50.2 Equal employment policy.
60-50.3 Accommodations to religious observance and practice.
60-50.4 Enforcement.
60-50.5 Nondiscrimination.

AUTHORITY: Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303.

SOURCE: 38 FR 1933, Jan. 19, 1973, unless otherwise noted.

§ 60-50.1 Purpose and scope.

(a) The purpose of the provisions in this part is to set forth the interpretations and guidelines of the Office of Federal Contract Compliance Programs regarding the implementation of Executive Order 11246, as amended, for promoting and insuring equal employment opportunities for all persons employed or seeking employment with Government contractors and subcon-

tractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to religion or national

rected toward executive and middle-management levels, where employment problems relating to religion and national origin are most likely to

ee unless the employer demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or

Subpart A—General

§ 60-60.1 Purpose and scope.

This part shall be known as "Re-

supporting documentation" means the Required Contents of Affirmative Action Programs, as set forth in Subpart B of 41 CFR Part 60-2 and Meth-

site review need not be carried out when OFCCP can determine that the contractor's affirmative action program is acceptable. This determination

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tractors or with contractors and subcontractors performing under federally assisted construction contracts, without regard to religion or national origin.

(b) Members of various religious and ethnic groups, primarily but not exclusively of Eastern, Middle, and Southern European ancestry, such as Jews, Catholics, Italians, Greeks, and Slavic groups, continue to be excluded from executive, middle-management, and other job levels because of discrimination based upon their religion and/or national origin. These guidelines are intended to remedy such unfair treatment.

(c) These guidelines are also intended to clarify the obligations of employers with respect to accommodating to the religious observances and practices of employees and prospective employees.

(d) The employment problems of blacks, Spanish-surnamed Americans, orientals, and American Indians are treated under Part 60-2 of this chapter and under other regulations and procedures implementing the requirements of Executive Order 11246, as amended. Accordingly, the remedial provisions of § 60-50.2(b) shall not be applicable to the employment problems of these groups.

(e) Nothing contained in this Part 60-50 is intended to supersede or otherwise limit the exemption set forth in § 60-1.5(a)(5) of this chapter for contracts with certain educational institutions.

[38 FR 1933, Jan. 19, 1973; 38 FR 3511, Feb. 7, 1973, as amended at 40 FR 13218, Mar. 25, 1975]

§ 60-50.2 Equal employment policy.

(a) *General requirements.* Under the equal opportunity clause contained in section 202 of Executive Order 11246, as amended, employers are prohibited from discriminating against employees or applicants for employment because of religion or national origin, and must take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their religion or national origin. Such action includes, but is not limited to the following: Employment, upgrading, demotion, or transfer; Recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) *Outreach and positive recruitment.* Employers shall review their employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Special attention shall be directed toward executive and middle-management levels, where employment problems relating to religion and national origin are most likely to occur. Based upon the findings of such reviews, employers shall undertake appropriate outreach and positive recruitment activities, such as those listed below, in order to remedy existing deficiencies. It is not contemplated that employers necessarily will undertake all of the listed activities. The scope of the employer's efforts shall depend upon all the circumstances, including the nature and extent of the employer's deficiencies and the employer's size and resources.

(1) Internal communication of the employer's obligation to provide equal employment opportunity without regard to religion or national origin in such a manner as to foster understanding, acceptance, and support among the employer's executive, management, supervisory, and all other employees and to encourage such persons to take the necessary action to aid the employer in meeting this obligation.

(2) Development of reasonable internal procedures to insure that the employer's obligation to provide equal employment opportunity without regard to religion or national origin is being fully implemented.

(3) Periodically informing all employees of the employer's commitment to equal employment opportunity for all persons, without regard to religion or national origin.

(4) Enlisting the assistance and support of all recruitment sources (including employment agencies, college placement directors, and business associates) for the employer's commitment to provide equal employment opportunity without regard to religion or national origin.

(5) Reviewing employment records to determine the availability of promotable and transferable members of various religious and ethnic groups.

(6) Establishment of meaningful contacts with religious and ethnic organizations and leaders for such purposes as advice, education, technical assistance, and referral of potential employees.

(7) Engaging in significant recruitment activities at educational institutions with substantial enrollments of students from various religious and ethnic groups.

(8) Use of the religious and ethnic media for institutional and employment advertising.

§ 60-50.3 Accommodations to religious observance and practice.

An employer must accommodate to the religious observances and practices of an employee or prospective employee unless the employer demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As part of this obligation, an employer must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as his Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business. In determining the extent of an employer's obligations under this section, at least the following factors shall be considered: (a) Business necessity, (b) financial costs and expenses, and (c) resulting personnel problems.

§ 60-50.4 Enforcement.

The provisions of this part are subject to the general enforcement, compliance review, and complaint procedures set forth in Subpart B of Part 60-1 of this chapter.

§ 60-50.5 Nondiscrimination.

The provisions of this part are not intended and shall not be used to discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, or national origin.

PART 60-60—CONTRACTOR EVALUATION PROCEDURES FOR CONTRACTORS FOR SUPPLIES AND SERVICES

Subpart A—General

Sec.
60-60.1 Purpose and scope.
60-60.2 Background.

Subpart B—Procedures for Contractor Evaluation

60-60.3 Agency actions.

Subpart C—Disclosure and Review of Contractor Data

60-60.4 Confidentiality and relevancy of information.
60-60.5 Employee interviews.
60-60.6 Exit conference.
60-60.7 Time schedule for completion.
60-60.8 Supersedure.
60-60.9 Attachments.

AUTHORITY: 5 U.S.C. 553(a)(3)(B), 29 CFR 2.7; sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303, as amended by E.O. 12086.

Subpart A—General

§ 60-60.1 Purpose and scope.

This part shall be known as "Revised Order No. 14" and is intended to establish standardized contractor evaluation procedures for conducting compliance reviews of contractors for supplies and services subject to the Equal Employment Opportunity Requirements of 41 CFR 60-1.40 and 41 CFR Part 60-2 (Revised Order No. 4) for the development of written affirmative action programs.

§ 60-60.2 Background.

(a) Each prime contractor or subcontractor with 50 or more employees and a contract of $50,000 or more is required to develop a written affirmative action program for each of its establishments (§ 60-1.40 of this chapter). If a contractor fails to submit an affirmative action program and supporting documents, including the workforce analysis within 30 days of a request therefor, the enforcement procedures specified in OFCC Order No. 4 (§ 60-2.2(c) of this chapter) shall be applicable.

(b) Required affirmative action programs must contain a utilization analysis and goals and timetables as required in §§ 60-2.11 and 60-2.12 of this chapter.

Subpart B—Procedures for Contractor Evaluation

§ 60-60.3 Agency actions.

Basic steps. A contractor evaluation should proceed as follows: (1) A desk audit of the contractor's affirmative action program with special attention directed to the included workforce analysis, using the format set forth in the Standard Compliance Review Report, (2) an on-site review of those matters which still are not fully or satisfactorily addressed in the affirmative action program and workforce analysis, using the format set forth in the Standard Compliance Review Report and (3) where necessary, an off-site analysis of information supplied by the contractor during or pursuant to the on-site review. (The standard compliance review report will be published on or before the effective date of this part.) Contractors may reach agreement with OFCCP on nationwide AAP formats or on frequency of updating statistics.

(a) *Desk Audit.* Using its approved methods of priority selection, OFCCP shall routinely request from among the Federal contractors within their jurisdiction affirmative action programs and supporting documentation, including the workforce analysis and support data for audit. As used throughout this part, the term "Affirmative Action Program (AAP) and supporting documentation" means the Required Contents of Affirmative Action Programs, as set forth in Subpart B of 41 CFR Part 60-2 and Methods of Implementing the Requirements of Subpart B, set forth in Subpart C of 41 CFR Part 60-2. "Workforce analysis" is defined as a listing of each job title as appears in applicable collective bargaining agreements or payroll records (not job groups) ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervision. If there are separate work units or lines of progression within a department a separate list must be provided for each such work unit, or line, including unit supervisors. For lines of progression there must be indicated the order of jobs in the line through which an employee could move to the top of the line. Where there are no formal progression lines or usual promotional sequences, job titles should be listed by department, job families, or disciplines, in order of wage rates or salary ranges. For each job title, the total number of incumbents, the total number of male and female incumbents, and the total number of male and female incumbents in each of the following groups must be given: Blacks, Spanish-surnamed Americans, American Indians, and Orientals. The wage rate or salary range for each job title must be given. All job titles, including all managerial job titles, must be listed.

(1) *Exceptions to the desk audit requirements.* For preaward reviews and for complaint investigations, the desk audit need not be carried out or an abbreviated desk audit may be performed and an immediate on-site review performed. Special reports that meet the criteria in paragraph (b)(1) of this section may be requested from contractors, as required, for submission to the OFCCP for complaint investigations and follow-up reviews performed within 1 year of a full compliance review. The Director may approve other special compliance reviews when the circumstances require an immediate on-site review.

(b) *On-site review.* If upon selection of an AAP and included workforce analysis for desk audit, the OFCCP finds that the material submitted does not demonstrate a reasonable effort by the contractor to meet all the requirements of Subparts B and C of Order No. 4 (Part 60-2 of this chapter) the on-site review need not be carried out and the enforcement procedures specified in Order 4 shall be applicable. Otherwise following a desk audit of the affirmative action program and supporting documentation the OFCCP will schedule an on-site review of the establishment, provided, that an on-site review need not be carried out when OFCCP can determine that the contractor's affirmative action program is acceptable. This determination must be based on the current desk audit and an on-site review conducted within the preceding 24 months and also must include an affirmative determination that the circumstances of the previous on-site review have not substantially changed.

(1) OFCCP is to request from those contractors scheduled for on-site reviews that information necessary to perform the review be made available on-site. Specifically, this includes (i) information necessary to conduct an indepth analysis of apparent deficiencies in the contractors utilization of women or minorities, (ii) information required for a complete and thorough understanding of data contained in or offered as support for the affirmative action program, and (iii) information concerning matters relevant to a determination of compliance with the requirements of Executive Order 11246 (as amended), but not adequately addressed in the affirmative action program. However, the contractor should be requested to furnish only the specific items of information which the compliance officer determines are:

(*a*) Necessary for conducting the review and completing the standard compliance review report, and

(*b*) Not contained in or able to be derived from the material submitted by the contractor.

(2) In order to pursue certain issues uncovered in the compliance review, it may be necessary for the compliance officer to request certain additional information on-site even though such data have not been previously identified. Such additonal information must also meet the above criteria.

(c) *Off-site analysis.* Where necessary, the compliance officer may take information made available during the on-site review off-site for further analysis. An off-site analysis should be conducted where issues have arisen concerning deficiencies or an apparent violation which, in the judgment of the compliance officer, should be more thoroughly analyzed off-site before a determination of compliance is made.

Subpart C—Disclosure and Review of Contractor Data

§ 60-60.4 Confidentiality and relevancy of information.

(a) *Desk audit data.* If the contractor is concerned with the confidentiality of such information as lists of employees, employee names, reasons for termination and pay data then alphabetic or numeric coding or the use of an index of pay and pay ranges are acceptable for desk audit purposes.

(b) *On-site data.* The contractor must provide full access to all relevant data on-site as required by § 60-1.43 of this chapter.

an investigatory file compiled for law enforcement purposes within the meaning of 5 U.S.C. 552(b)(7), and such information obtained from a con-

OFCC for good cause shown, within 60 days from the date the affirmative action program including the workforce analysis is received, the contrac-

60-250.28 Actions for noncompliance.
60-250.29 Formal hearings.
60-250.30 Notification of agencies.
60-250.31 Contractor ineligibility list.

ment corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an

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(b) *On-site data.* The contractor must provide full access to all relevant data on-site as required by § 60-1.43 of this chapter.

(c) *Data required for off-site analysis.* The contractor must provide all data determined by the compliance officer to be necessary for off-site analysis pursuant to § 60-60.3(c) above. Such data may only be coded if the contractor makes the code available to the compliance officer. If the contractor believes that particular information which is to be taken off-site is not relevant to compliance with the Executive Order, the contractor may request a ruling by the OFCCP Area Director. The OFCCP Area Director shall issue a ruling within 10 days. The contractor may appeal that ruling to the OFCCP Assistant Regional Administrator within 10 days. The Assistant Regional Administrator shall issue a final ruling within 10 days. Pending a final ruling, the information in question must be made available to the compliance officer off-site, but shall be considered a part of the investigatory file and subject to the provisions of paragraph (d) of this section. The agency shall take all necessary precautions to safeguard all confidentiality of such information until a final determination is made. Such information may not be copied and access to the information shall be limited to the compliance officer and personnel involved in the determination of relevancy. Data determined to be not relevant to the investigation will be returned to the contractor immediately.

(d) *Public access to information.* information obtained from a contractor under Subpart B will be subject to the public inspection and copying provisions of the Freedom of Information Act, 5 U.S.C. 552. Contractors should identify any information which they believe is not subject to disclosure under 5 U.S.C. 552, and should specify the reasons why such information is not disclosable. The OFCCP Assistant Regional Administrator will consider the contractors claim and make a determination, within 10 days, as to whether the material in question is exempt from disclosure. The OFCCP Assistant Regional Administrator will inform the contractor of such a determination. The contractor may appeal that ruling to the Director of OFCC within 10 days. The Director of OFCC shall make a final determination within 10 days of the filing of the appeal. However, during the conduct of a compliance review or while enforcement action against the contractor is in progress or contemplated within a reasonable time, all information obtained from a contractor under Subpart B except information disclosable under §§ 60-40.2 and 60-40.3 of this chapter is to be considered part of an investigatory file compiled for law enforcement purposes within the meaning of 5 U.S.C. 552(b)(7), and such information obtained from a contractor under Subpart B shall be treated as exempt from mandatory disclosure under the Freedom of Information Act during the compliance review.

(e) *Examination and copying of documents.* Nothing contained herein is intended to supersede or otherwise limit the provisions contained in Part 60-40 of this chapter for public access to information from records of the OFCC or its various compliance agencies.

§ 60-60.5 Employee interviews.

The compliance officer should contact, where appropriate, a reasonable number of employees for interviews as part of the on-site review of the contractors' employment practices. The number, scope and manner of conducting such interviews should be discussed in advance with the contractor.

§ 60-60.6 Exit conference.

(a) Upon completion of the on-site review (and off-site analysis, if one is undertaken) the compliance officer should schedule an exit conference with contractor officials to review the findings of the review. This exit conference should itemize the apparent violations that lend themselves to immediate correction, and solicit the contractor's agreement to take adequate corrective action by specified dates. The contractor's commitments should be contained in a written conciliation agreement signed at the exit conference. However, in cases where the apparent deficiencies require further analysis subsequent to the on-site review, the compliance officer will advise the contractor of the areas of concern, secure the data necessary to his ultimate compliance determination, complete the review later by notifying the contractor in writing of all apparent violations found, and obtain the contractor's commitments in a written conciliation agreement to correct such deficiencies.

(b) The contractor may at any time avail himself of the provisions of § 60-1.24(c)(4) of this chapter which provides as follows:

When a prime contractor or subcontractor, without a hearing, shall have complied with the recommendations or orders of the Director and believes such recommendations or orders to be erroneous, he shall, upon filing a request therefor within 10 days of such compliance, be afforded an opportunity for a hearing and review of the alleged erroneous action.

§ 60-60.7 Time schedule for completion.

(a) With the exception of extensions of time granted by the Director of OFCC for good cause shown, within 60 days from the date the affirmative action program including the workforce analysis is received, the contractor must have been found in compliance and notified of that fact, or must have been issued a 30-day show cause notice as required under the rules and regulations pursuant to the Executive Order.

(b) During this period the compliance officer shall:

(1) Complete the desk audit.

(2) Schedule the on-site review.

(3) Complete the on-site review.

(4) Complete the off-site analysis, if conducted.

(5) Give notice of compliance or issue show cause notice.

(c) Failure to give the contractor a notice of compliance or issue a show cause notice within the time period set forth in paragraph (a) shall not be deemed a finding of compliance or acceptance of the contractor's affirmative action program.

§ 60-60.8 Supersedure.

The requirements of this part 60-60 supersede the prior version of Revised Order No. 14 published at 38 FR 13376, May 21, 1973.

§ 60-60.9 Attachments.

The following formats are set out in full as they give detailed information as to procedures and requirements of value to contractors:

PART 60-250—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

Sec.

60-250.1 Purpose and application.
60-250.2 Definitions
60-250.3 Coverage and waivers.
60-250.4 Affirmative action clause.
60-250.5 Applicability of the affirmative action program requirement.
60-250.6 Affirmative action policy, practices and procedures.
60-250.7 Determination of disability.
60-250.8 [Reserved]
60-250.9 Labor unions and recruiting and training agencies.

Subpart B—General Enforcement and Complaint Procedure

60-250.20 Subcontracts.
60-250.21 Adaptation of language.
60-250.22 Incorporation by reference.
60-250.23 Incorporation by operation of the Act and agency regulations.
60-250.24 Duties of agencies.
60-250.25 Evaluations by the Director.
60-250.26 Complaint procedures.
60-250.27 Noncompliance with the affirmative action clause.

60-250.28 Actions for noncompliance.
60-250.29 Formal hearings.
60-250.30 Notification of agencies.
60-250.31 Contractor ineligibility list.
60-250.32 Disputed matters related to the affirmative action program.
60-250.33 Responsibilities of State employment services.

Subpart C—Ancillary Matters

60-250.50 Reinstatement of ineligible contractors and subcontractors.
60-250.51 Intimidation and interference.
60-250.52 Recordkeeping.
60-250.53 Access to records of employment.
60-250.54 Rulings and interpretations.

Appendix A.
Appendix B.

AUTHORITY: Sec. 503(a), Pub. L. 92-540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by Sec. 402, Pub. L. 93-508, 88 Stat. 1593 (38 U.S.C. 2012), as amended by E.O. 12086.

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 60-250.1 Purpose and application.

The purpose of the regulations in this part is to assure compliance with section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The regulations in this part apply to all government contracts and subcontracts for the furnishing of supplies or services or for the use of real or personal property (including construction) for $10,000 or more.

§ 60-250.2 Definitions.

"Act" means the Vietnam Era Veterans Readjustment Assistance Act of 1974, Pub. L. 93-508, as it amends 38 U.S.C. 2012, the Vietnam Era Veterans Readjustment Assistance Act of 1972.

"Affirmative action clause" means the contract provisions set forth in § 60-250.4.

"Agency" means any contracting agency of the government.

"Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his or her designee.

"Construction" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any government contract.

"Contracting agency" means any department, agency, establishment or instrumentality of the United States, including any wholly owned Government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Director" means the Director of the Office of Federal Contract Compliance Programs of the United States Department of Labor.

"Disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans Administration for disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

"Government" means the Government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The term "government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally assisted contracts.

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Person" means any natural person, corporation, partnership, or joint venture, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract, and, for the purposes of subpart B of this part, includes any person who has held a contract subject to the act.

"Qualified disabled veteran" means a disabled veteran as defined in § 60-250.2 who is capable of performing a particular job, with reasonable accommodation to his or her disability.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" as used in paragraph (i) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his or her designee issued pursuant to the act.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purpose of subpart B of this part, any person who has held a subcontract subject to the act.

"United States" as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

"Veteran of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964 and May 7, 1975, and (2) who was so discharged or released within 48 months preceding the alleged violation of the act, the affirmative action clause, and/or the regulations issued pursuant to the act.

§ 60-250.3 Coverage and waivers.

(a) *General.* (1) Transactions for less than $10,000. Contracts and subcontracts for less than $10,000 are not covered by the act. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid the applicability of the affirmative action clause.

(2) Contracts and subcontracts for indefinite quantities. With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open-end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than $10,000. The applicability of the affirmative action clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative

action clause shall be applied to such contract whenever the amount of a single order is $10,000 or more. Once the affirmative action clause is deter-

head of the agency will notify the Director in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any class

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruit-

mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per

exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contrac-

§ 60-250.6 Affirmative action policy, practices and procedures.

(a) *General requirements.* Under the

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action clause shall be applied to such contract whenever the amount of a single order is $10,000 or more. Once the affirmative action clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) Work outside the United States. The requirements of the affirmative action clause are waived with respect to contracts and subcontracts with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) Contracts with State or local governments. The requirements of the affirmative action clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(5) Facilities not connected with contracts. The Director may waive the requirements of the affirmative action clause with respect to any of a prime contractor's or subcontractor's facilities which he or she finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the act. Such waivers shall be considered only upon the request of the contractor or subcontractor.

(b) *Waivers.* (1) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Director, may waive the application to any contract or subcontract of any part of or all the affirmative action clause when he or she deems that special circumstances in the national interest so require. The agency head, with the concurrence of the Director, may also grant such waivers to groups or categories of contracts or subcontracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will substantially contribute to convenience in administration of the act.

(2) *National security.* Any requirement set forth in the regulations in this Part shall not apply to any contract or subcontract whenever the head of the contracting agency determines that such contract or subcontract is essential to the national security and that it award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency will notify the Director in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any class of contracts or subcontracts under this section other than contracts granted waivers under paragraph (b)(2) of this section, the Director may withdraw the waiver for a specific contract or subcontract or group of contracts or subcontracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the act. The withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60-250.4 Affirmative action clause.

Each agency and each contractor and subcontractor shall include the following affirmative action clause in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract):

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporated affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause: (1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and nonproduction; plant and office; laborers and

mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

(j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

(k) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam Era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

§ 60-250.5 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract of $50,000 or more and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60-250.6 of this part. This program may be integrated into or kept separate from other affirmative action programs of the contractor. Contractors presently holding Government contracts shall update their affirmative action programs within 120 days of the effective date of this part.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The full affirmative action program shall be available for inspection to any employee or applicant for employment upon request. The location and hours during which the program may be obtained shall be posted at each facility.

(d) The contractor shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with the Act and regulations in this part. If an applicant or employee so identifies himself or herself, the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate accommodation (an acceptable form for such an invitation is set forth in appendix A attached). Nothing in this section shall preclude an employee from informing a contractor at a future time of his or her desire to benefit from this program. Nothing in this section shall relieve a contractor from liability for discrimination under the act.

§ 60-250.6 Affirmative action policy, practices and procedures.

(a) *General requirements.* Under the affirmative action obligation imposed by the Vietnam Era Veterans Readjustment Assistance Act of 1974, contractors are required to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era at all levels of employment, including the executive level. Such action shall apply to all employment practices, including, but not limited to, the following: hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship and on-the-job training programs under 38 U.S.C. 1787.

(b) *Proper consideration of qualifications.* Contractors shall reveiw their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known disabled veteran applicants and Vietnam era veteran applicants for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. In determining the qualifications of a covered veteran, the contractor shall consider only that portion of the military record, including discharge papers, relevant to the specific job qualifications for which the veteran is being considered. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this part. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the contractor or the Government. (The appendix attached is an example of an appropriate set of procedures. The procedures in appendix B are not required and contractors may develop other procedures which are appropriate to their circumstances.)

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical or mental job qualification requirements to insure that, to the extent qualification requirements tend to screen out qualified disabled veterans, they are job related and are consistent with business necessity and the safe performance of the job.

(2) Whenever a contractor applies physical or mental job qualification requirements in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion, or tran-

ing, to the extent that qualification requirements tend to screen out qualified disabled veterans, the requirements shall be related to the specific

those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to

(5) The contractor should establish meaningful contacts with appropriate veterans' service organizations which service disabled veterans or veterans

(8) Include articles on accomplishments of disabled veterans and veterans of the Vietnam era in company publications.

(9) Post the policy on company bul-

active involvement by company representatives in the community service programs of local organizations of and for disabled veterans and veterans of the Vietnam era.

the Veterans Administration or military service from which the person was discharged or released which indicates his or her disability. Such documentation shall be updated within 1

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ing, to the extent that qualification requirements tend to screen out qualified disabled veterans, the requirements shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and the safe performance of the job. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

(3) Nothing in this section shall prohibit a contractor from conducting a comprehensive medical examination prior to employment provided that the results of such an examination shall be used only in accordance with the requirements of this section. Whenever a contractor inquires into an applicant's or employee's physical or mental condition or conducts a medical examination prior to employment or change in employment status information obtained in response to such inquiries or examination shall be kept confidential except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans and regarding accommodations; and

(ii) First aid and safety personnel may be informed, where and to the extent appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the act shall be informed.

(d) *Accommodation to physical and mental limitations of employees.* A contractor must make a reasonable accommodation to the physical and mental limitations of a disabled veteran unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) Business necessity and (2) financial costs and expenses.

(e) *Compensation.* In offering employment or promotions to disabled veterans, and veterans of the Vietnam era, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(f) *Outreach, positive recruitment, and external dissemination of policy.* Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified disabled veterans and veterans of the Vietnam era. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(1) The contractor should develop internal communication of its obligation to engage in affirmative action efforts to employ qualified disabled veterans and veterans of the Vietnam era in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employeess and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) The contractor should develop reasonable internal procedures to ensure that its obligation to engage in affirmative action to employ and promote qualified disabled veterans and veterans of the Vietnam era is being fully implemented.

(3) The contractor should periodically inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified disabled veterans and veterans of the Vietnam era.

(4) The contractor should enlist the assistance and support of all recruiting sources including as follows:

(i) The local Veterans Employment Representative or his or her designee in the State Employment Service Office nearest each establishment where hiring takes place to recruit job ready veterans and to develop on-the-job training opportunities for covered veterans wherever feasible; (ii) The Veterans Administration Regional Office nearest each establishment to develop on-the-job training opportunities for covered veterans, and to recruit job ready veterans;

(iii) The office of the National Alliance of Businessmen nearest each establishment where hiring takes place in order to cooperate in the Jobs for Veterans' Program;

(iv) The veterans' counselors and coordinators ("Vet-Reps" and "VCIPS") on college campuses for the recruitment of covered veterans;

(v) The service officers of the national veterans groups active in the area of each establishment where hiring takes place for the recruitment of covered veterans; and

(vi) Local veterans' groups and veterans' service centers in the area of each establishment where employment services are performed near major cities, for the recruitment of covered veterans.

(5) The contractor should establish meaningful contacts with appropriate veterans' service organizations which service disabled veterans or veterans of the Vietnam era, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources listed in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providng technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(6) The contractor should review employment records to determine the availability of promotable and transferrable qualified known disabled veterans and veterans of the Vietnam era presently employed, and to the determine whether their present and potential skills are being fully utilized or developed.

(7) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(8) The contractor should consider all qualified disabled veterans and veterans of the Vietnam era not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor should adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to insure they are nondiscriminatory.

(8) Include articles on accomplishments of disabled veterans and veterans of the Vietnam era in company publications.

(9) Post the policy on company bulletin boards, including a statement that employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the Act.

(h) *Responsibility for implementation.* An executive of the contractor should be designated as director or manager of company affirmative action activities under these regulations. His or her identity should appear on all internal and external communications regarding the company's affirmative action programs. This executive should be given necessary top management support and staff to manage the implementation of this program, including the following activities:

(1) Develop policy statements, affirmative action programs, and internal and external communication techniques. The latter techniques should include regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed. In addition, supervisors should be advised that:

(i) Their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(ii) The contractor is obligated to prevent harassment of employees placed through affirmative action efforts, as set forth in § 60-250.51.

(2) Identify problem areas in conjunction with line management and known disabled veterans, in the implementation of the affirmative action programs, and develop solutions. This is particularly important for the accommodations requirements.

(3) Design and implement audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(iv) Determine whether known disabled veterans and veterans of the Vietnam era have had the opportunity to participate in all company sponsored educational, training, recreational and social activities.

(v) Insure that each location is in compliance with the Act and the regulations in this Part.

(4) Serve as liaison between the contractor and enforcement agencies.

(5) Serve as liaison between the contractor and organizations of and for disabled veterans and veterans of the Vietnam era, and arrange for the active involvement by company representatives in the community service programs of local organizations of and for disabled veterans and veterans of the Vietnam era.

(6) Keep management informed of the latest developments in the entire affirmative action area.

(7) Arrange for career counseling for known disabled veterans and veterans of the Vietnam era.

(i) *Development and execution of affirmative action programs.* (1) Job qualification requirements reviewed pursuant to paragraph (c) of this section should be made available to all members of management involved in the recruitment, screening, selection, and promotion process.

(2) The contractor should evaluate the total selection process including training and promotion to insure freedom from stereotyping disabled veterans and veterans of the Vietnam era in a manner which limits their access to all jobs for which they are qualified.

(3) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to insure that the commitments in its affirmative action program are implemented.

(4) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(5) A special effort should be made to include qualified disabled veterans or veterans of the Vietnam era on the personnel relations staff.

(6) Active participation in veterans "job fairs" is desirable.

(7) Recruiting efforts at all educational institutions should incorporate special efforts to reach disabled veterans and veterans of the Vietnam era.

(8) An effort should be made to participate in workstudy programs with Veterans' Administration rehabilitation facilities which specialize in training or educating disabled veterans.

(9) The contractor should use all available resources to continue or establish federally-assisted apprenticeship and on-the-job training programs under 38 U.S.C. 1787.

§ 60-250.7 Determination of disability.

Any disabled veteran filing an administrative complaint with the Veterans Employment Service under this part shall submit documentation from the Veterans Administration or military service from which the person was discharged or released which indicates his or her disability. Such documentation shall be updated within 1 year prior to filing the complaint.

§ 60-250.8 [Reserved]

§ 60-250.9 Labor unions and recruiting and training agencies.

(a) Whenever performance in accordance with the affirmative action clause or any matter contained in the regulations in this Part may necessitate a revision of a collective bargaining agreement, the labor union or unions which are parties to such agreements shall be given an adequate opportunity to present their views to the Director.

(b) The Director shall use his or her best efforts; directly or through contractors, subcontractors, local officials, the Veterans Administration, veterans' organizations and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to assist in, the implementation of the purposes of the Act.

Subpart B—General Enforcement and Complaint Procedure

§ 60-250.20 Subcontracts.

Each nonexempt prime contractor and subcontractor shall include the affirmative action clause prescribed in § 60-250.4 in each of their nonexempt subcontracts. The clause may be incorporated by reference in accordance with § 60-250.22.

§ 60-250.21 Adaptation of language.

Such necessary changes in language may be made to the affirmative action clause (see § 60-250.4) as shall be appropriate to identify properly the parties and their undertakings.

§ 60-250.22 Incorporation by reference.

The affirmative action clause and the regulations contained in this part may be incorporated by reference in all contracts and subcontracts.

§ 60-250.23 Incorporation by operation of the Act and agency regulations.

By operation of the Act, the affirmative action clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contracts and whether or not there is a written contract between the agency and the contractor.

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§ 60-250.24 Duties of agencies.

(a) *General responsibility.* Each agency shall cooperate with the Director in the performance of his or her responsibilities under the Act. Such

of Labor which will proceed as provided in this section.

(c) *Contents of complaints.* Complaints must be signed by the complainants or their authorized represen-

mum period necessary to effect such changes. Upon approval of such commitment by the Director, the contractor may be considered in compliance on condition that the commitments

contractor or a prospective prime contractor or subcontractor by the Director in any of the following circumstances:

(1) An apparent violation of the af-

tor after such actions have been taken. No agency may issue a waiver under § 60-250.3(b)(1) to any contractor subject to such action without prior approval of the Director.

§60-250.51 Intimidation and interference.

The sanctions and penalties contained in this regulation may be exercised by the Director against any

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§ 60-250.24 Duties of agencies.

(a) *General responsibility.* Each agency shall cooperate with the Director in the performance of his or her responsibilities under the Act. Such cooperation shall include the responsibility to insure that contractors are fully cognizant of their obligations under the Act and this part, to provide the Director with any information which comes to its attention that the contractor is not in compliance with the Act or this part, and to take such actions for noncompliance as set forth in § 60-250.28 as may be ordered by the Director.

(b) Reserved.

§ 60-250.25 Evaluations by the Director.

The Director shall be primarily responsible for undertaking such investigations of complaints and other matters as well as evaluations of contractor and agency performance as may be necessary to assure that the purposes of the Vietnam Veteran's Readadjustment Assistance Act, as amended are being effectively carried out.

§ 60-250.26 Complaint procedures.

(a) *Place and time for filing.* Any applicant for employment with a contractor or any employee of a contractor may, personally or by an authorized representative, file a written complaint with the Veteran's Employment Service of the Department of Labor through the Local Veteran's Employment Representative (LVER) or his designee at the local State employment office, alleging a violation of the Act or the regulations in this part. Local Veteran's Employment Representatives (LVERs) will assist veterans in preparing complaints and will promptly refer such complaints to the Director. The LVERs will keep a record of all complaints received and forwarded. LVERs will be informed of the progress and results of the veterans' complaint investigations. The State employment services shall cooperate with the Director in the investigation of any complaint. Such complaint is to be filed not later than 180 days from the date of the alleged violation unless the time for filing is extended by the Director for good cause shown.

(b) *Referral to contractor.* When a complaint is filed by an employee of a contractor and the contractor has an applicable internal review procedure, the complaint shall be referred to the contractor for processing under that procedure. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If there has not been a resolution of the complaint under that procedure satisfactory to the complainant within 60 days of the referral, the LVER will refer the complaint to the Department of Labor which will proceed as provided in this section.

(c) *Contents of complaints.* Complaints must be signed by the complainants or their authorized representatives and must contain the following information: (1) Name and address (including telephone number) of the complainant, (2) name and address of the contractor or subcontractor who committed the alleged violation, (3) a description of the act or acts considered to be a violation, (4) a copy of the veteran's form DD-214, and, where applicable, VAL-5 or similar VA certification indicating the percent of disability, updated within 1 year prior to the date the complaint is filed, and (5) other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted.

(d) *Incomplete information.* Where a complaint contains incomplete information, the Director shall seek the needed information from the complainant. If the information is not furnished to the agency or the Director within 60 days of the date of such request, the case may be closed.

(e) *Investigations.* The Department of Labor shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record. A complete case record consists of the following: (1) Name and address of each person interviewed, (2) a summary of his or her statement, (3) copies or summaries of pertinent documents, (4) a narrative summary of the evidence disclosed in the investigation as it related to each charge, and (5) recommended findings and resolution.

(f) [Reserved]

(g) *Resolution of matters.* (1) If the complaint investigation shows no violation of the Act or regulations in this part, or if the Director decides not to initiate administrative or legal proceedings against the contractor, the complainant shall be so notified. Within 30 days, the complainant may request review by the Director of such a finding or decision.

(2) Where an investigation indicates that the contractor has not complied with the requirements of the Act or this part, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment, in writing, to take corrective action to meet the requirements of the Act and this part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the Director, the contractor may be considered in compliance on condition that the commitments are kept.

(3) Where the complaint investigation indicates a violation of the Act or regulations in this part (and the complaint has not been resolved by informal means), the Director shall afford the contractor an opportuinty for a hearing in accordance with § 60-250.29.

§ 60-250.27 Noncompliance with the affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the affirmative action clause is a ground for taking appropriate action for noncompliance as set forth in § 60-250.28 by the Director, prime contractor, or subcontractor.

§ 60-250.28 Actions for noncompliance.

(a) *General.* In every case where any complaint investigation indicates the existence of a violation of the affirmative action clause or these regulations, the matter should be resolved by informal means, including conciliation, and persuasion, whenever possible. This will also include establishing a corrective action program in accordance with § 60-250.26(g)(2). Where the apparent violation is not resolved by informal means, the Director shall proceed in accordance with the enforcement procedures contained in this part.

(b) *Judicial enforcement.* In addition to the administrative remedies set forth herein, the Director may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60-250.4 including appropriate injunctive relief.

(c) *Withholding progress payments.* With the prior approval of the Director so much of the accrued payment due on the contract or any other contract between the Government prime contractor and the Federal Government may be withheld as necessary to correct any violations of the provisions of the affirmative action clause.

(d) *Termination.* A contract or subcontract may be canceled or terminated, in whole or in part, for failure to comply with the provisions of the affirmative action clause.

(e) *Debarment.* A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the affirmative action clause.

§ 60-250.29 Formal hearings.

(a) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the Director in any of the following circumstances:

(1) An apparent violation of the affirmative action clause by a contractor or subcontractor, as shown by any investigation, is not resolved by informal means and a hearing is requested; or

(2) The Director proposes to cancel or terminate the contract or withhold progress payments, or cause the contract to be canceled or terminated or progress payments to be withheld, in whole or in part, on a contract or contracts, or to require cancellation or termination of a contract or subcontract or withholding of progress payments; or

(3) The Director proposes to declare a prime contractor or subcontractor ineligible for further contracts or subcontracts under the Act.

(b) *Hearing practice and procedure.* (1) All hearings conducted under section 402 of the Vieterans' Era Veternas' Readjustment Assistance Act of 1974 and the regulations in this part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR Part 60-30 except that complaints shall be issued by the Associate Solicitor, Division of Labor Relations and Civil Rights, Office of the Solicitor, rather than by the Solicitor of Labor.

(2) For the purposes of hearings pursuant to this Part 60-250, references in 41 CFR Part 60-30 to "Executive Order 11246" shall mean section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974; to "Equal opportunity clause" shall mean the affirmative action clause published at 41 CFR 60-250.4; and to "regulations" shall mean the regulations contained in this part 60-250.

(3) The Administrative Law Judge's recommended findings, conclusions and decision shall be certified to the Assistant Secretary, Employment Standards Administration rather than to the Secretary (see 41 CFR 60-30.27). Accordingly, exceptions to the recommended decision (41 CFR 60-30.28) shall be filed with the Assistant Secretary, Employment Standards Administration, and the final Administrative Order contemplated by 41 CFR 60-30.30 shall be issued by the Assistant Secretary Employment Standards Administration. Except for these changes in procedure, all the other provisions of the rules of practice cited in this 41 CFR 60-741.29(b) shall remain in full force and effect.

§ 60-250.30 Notification of agencies.

The Director shall notify the heads of all agencies of any action for noncompliance taken against any contractor after such actions have been taken. No agency may issue a waiver under § 60-250.3(b)(1) to any contractor subject to such action without prior approval of the Director.

§ 60-250.31 Contractor ineligibility list.

The Director shall distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this part and the Act.

§ 60-250.32 Disputed matters related to the affirmative action program.

The procedures set forth in the regulations in this part govern all disputes relative to a contractor's compliance with the affirmative action clause and the requirements of this part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

§ 60-250.33 Responsibilities of State employment services.

(a) Any job openings listed pursuant to § 60-250.3 which requires contractors to list their job openings with State employment services offices, shall be utilized by State employment security agencies to refer qualified disabled veterans and veterans of the Vietnam era.

(b) The local offices of the Federal-State employment service shall give priority in referral to disabled veterans and veterans of the Vietnam era to such employment openings listed by contractors and subcontractors pursuant to this part.

(c) The local employment office staff will contract employers to solicit job orders. The State employment service will make available information pertinent to a determination of whether the contractor is in compliance with the mandatory listing and reporting requirements of the affirmative action clause.

Subpart C—Ancillary Matters

§ 60-250.50 Reinstatement of ineligible contractors and subcontractors.

Any prime contractor or subcontractor debarred from further contracts or subcontracts under the Act may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the affirmative action clause.

§ 60-250.51 Intimidation and interference.

The sanctions and penalties contained in this regulation may be exercised by the Director against any prime contractor or subcontractor, who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Act.

§ 60-250.52 Recordkeeping.

(a) Each contractor and subcontractor shall maintain for a period not less than 1 year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or by this part and shall furnish such information in the form required by the Director or as the Director deems necessary for the administration of the Act and regulations issued under this part.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60-250.5(b) constitutes noncompliance with the contractor's or subcontractor's obligations under the affirmative action clause and is a ground for the imposition of appropriate sanctions.

§ 60-250.53 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to its places of business, books, records and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto for the purposes of complaint investigations, and investigations of performance under the affirmative action clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the Act.

§ 60-250.54 Rulings and interpretations.

Rulings under or interpretations of the Act and the regulations contained in this Part 60-250 shall be made by the Secretary or his or her designee.

APPENDIX A

This employer is a government contractor subject to Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974 which requires government contractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. If you are a disabled veteran covered by this program and would like to be considered under the affirmative action program, please tell us. This information is voluntary

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and refusal to provide it will not subject you to discharge or disciplinary treatment. Information obtained concerning individuals shall be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations, and (ii) first aid personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment. In order to assure proper placement of all employees, we do request that you answer the following question: If you have a disability which might affect your performance or create a hazard to yourself or others in connection with the job for which you are applying, please state the following: (1) The skills and procedures you use or intend to use to perform the job notwithstanding the disability and (2) the accommodations we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job or other accommodations.

APPENDIX B

The following is a set of procedures which contractors may use to meet the requirements of § 60-250.6(b).

(1) The application or personnel form of each known covered veteran should be annotated to identify each vacancy for which he or she was considered, and the form should be quickly retrievable for review by the agency, the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

(2) The personnel or application records of each known covered veteran should include (i) the identification of each promotion for which he or she was considered, and (ii) the identification of each training program for which he or she was considered.

(3) In each case where a covered veteran is rejected for employment, promotion or training, a statement of the reasons should be appended to the personnel file or application form. This statement should include a comparison of the qualifications of the covered veteran and the person(s) selected, as well as a description of the accommodations considered. This statement should be available to the applicant or employee concerned upon request.

(4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation which makes it possible for him or her to place a covered veteran on the job, the application form or personnel record should contain a description of that accommodation.

PART 60-741—AFFIRMATIVE ACTION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS FOR HANDICAPPED WORKERS

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

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Appendix B
Appendix C

AUTHORITY. Sec. 503, Pub. L. 93-1112, 87 Stat. 393 (20 U.S.C. 793), as amended by sec. 111, Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706) and Executive Order 11758, as amended by E.O. 12086.

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 60-741.1 Purpose and application.

The purpose of the regulations in this Part is to assure compliance with section 503 of the Rehibilitation Act of 1973, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified handicapped individuals. The regulations in this Part apply to all government contracts and subcontracts for the furnishing of supplies or services or for the use of real or personal property (including construction) for $2,500 or more. Compliance of a contractor with the provisions of this Part will not necessarily determine its compliance with the requirements of section 504 of the Rehabilitation Act of 1973 and compliance with section 504 will not necessarily determine compliance with section 503 and the regulations in this Part.

§ 60-741.2 Definitions.

"Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516.

"Affirmative action clause" means the contract provisions set forth in § 60-741.4.

"Agency" means any contracting agency of the government.

"Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his or her designee.

"Construction" means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any government contract.

"Contracting agency" means any department, agency, establishment or instrumentality of the United States, including any wholly owned government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Director" means the Director of the Office of Federal Contract Compliance Programs of the United States Department of Labor.

"Government" means the government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The term "government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) federally-assisted contracts.

"Handicapped individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment. For purposes of this Part, a handicapped individual is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of a handicap. (See appendix A attached for guidelines on the applications of this definition.)

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Person" means any natural person, corporation, partnership or joint venture, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract, and, for the purposes of subpart B of this part, includes any person who has held a contract subject to the Act.

"Qualified handicapped individual" means a handicapped individual as defined in § 60-741.2 who is capable of performing a particular job, with reasonable accommodation to his or her handicap.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" as used in paragraph (b) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his or her designee issued pursuant to the Act.

"Secretary" means the Secretary of Labor, U.S. Department of Labor.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purpose of subpart B of this part, any person who has held a subcontract subject to the Act.

"United States" as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

§ 60-741.3 Coverage and waivers.

(a) *General.* (1) Transactions for less than $2,500. Contracts and subcontracts for less than $2,500 are not covered by the Act. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid the applicability of the affirmative action clause.

(2) Contracts and subcontracts for indefinite quantities. With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open-end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than $2,500. The applicability of the affirmative action clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order is $2,500 or more. Once the affirmative action clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) Work outside the United States. The requirements of the affirmative action clause are waived with respect to contracts and subcontracts with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) Contracts with State or local governments. The requirements of the affirmative action clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(5) Facilities not connected with contracts. The Director may waive the requirements of the affirmative action clause with respect to any of a prime contractor's or subcontractor's facilities which he or she finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waivers shall be considered only upon the request of the contractor or subcontractor.

(b) *Waivers.* (1) Specific contracts and classes of contracts. The head of an agency, with the concurrence of the Director, may waive the application to any contract or subcontract of any part of or all the affirmative action clause when he or she deems that special circumstances in the national interest so require. The agency head, with the concurence of the Director, may also grant such waivers to groups or categories of contracts or subcontracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will substantially contribute to convenience in administration of section 503 of the Act.

(2) National security. Any requirement set forth in the regulations in this Part shall not apply to any contract or subcontract whenever the head of the contracting agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination the head of the agency will notify the Director in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any class of contracts or subcontracts under this section other than contracts granted waivers under paragraph (b)(2) of this section, the Director may withdraw the waiver for a specific contract or subcontract or group of contracts or subcontracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act. The withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 60-741.4 Affirmative action clause.

Each agency and each contractor and subcontractor shall include the following affirmative action clause in each of its covered government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract).

AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The contractor will include the provisions of this clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct as a means of enforcing such provisions, including action for noncompliance.

§ 60-741.5 Applicability of the affirmative action program requirement.

(a) Except as provided in paragraph (b) of this section, every contract and subcontract entered into by a contracting agency which is subject to the affirmative action clause shall require the contractor to maintain an affirmative action program at each establishment which shall be available to employees and applicants for employment for inspection upon request by the Director or his or her designee.

(b) Contracts and subcontracts with State or local governments (or any agency, instrumentality or subdivision thereof) shall not be required to maintain an affirmative action program at any establishment which does not participate in work on or under the contract or subcontract.

§ 60-741.6 Affirmative action policy, practices and procedures.

(a) *Policy.* Each contractor shall develop a written affirmative action policy which shall be reviewed and approved annually by a responsible official of the contractor. The policy shall be communicated to all employees and applicants for employment.

(b) *Practices and procedures.* Each contractor shall develop practices and procedures to implement its policy. These practices and procedures must be designed so as to facilitate a review of the implementation of this requirement. Practices and procedures shall be reviewed and updated annually.

(c) *Dissemination of policy.* Each contractor shall disseminate its policy to employees and applicants for employment by including it in any employee or applicant handbook or other publication describing the employment policies or practices of the contractor, and shall specifically bring it to the attention of employees who have any responsibility for hiring, assignment, promotion or other employment decisions affecting applicants or employees. Each contractor shall also disseminate its policy to labor unions and recruiting and training agencies which refer workers to the contractor for employment, and to subcontractors and vendors. Methods of dissemination shall include:

(1) Posting the policy on bulletin boards accessible to employees at each location where the contractor has a facility.

(2) Including it in any employee or applicant handbook or other publication describing the employment policies or practices of the contractor.

(3) Publicizing it in the company newspaper, magazine, annual report or other publication.

(4) Conducting meetings with employees, labor unions and recruiting and training agencies to explain the policy.

(5) Including it in any bid proposal form or other document which is circulated to subcontractors or vendors.

(6) Including it in any policy manual or collective bargaining agreement.

(d) *Responsibility for implementation.* Each contractor shall appoint a responsible official to implement its affirmative action policy and practices and procedures. The name of the official shall be communicated to employees and applicants for employment.

(e) *Training.* Each contractor shall provide training for all personnel who have any responsibility for hiring, assignment, promotion or other employment decisions affecting applicants or employees. Training shall be provided for new employees and periodically for present employees.

(f) *Applicant flow.* Each contractor shall maintain a record of the number of applicants for employment who are handicapped individuals. The record shall indicate the action taken with respect to each such applicant. Where an applicant is hired, promoted or transferred, the record shall indicate the position applied for and the position filled. Where an applicant is not hired, promoted or transferred, the record shall indicate the reason for such action. Where the reason for not hiring, promoting or transferring a handicapped applicant is that the applicant is not qualified for the position sought, the record shall indicate what accommodation, if any, was considered necessary for the applicant to perform the position properly and safely. Where the reason for not hiring, promoting or transferring a handicapped applicant is that the applicant is not qualified for the position sought because of his or her handicap, the record shall indicate what accommodation, if any, was considered necessary for the applicant to perform the position properly and safely.

(g) *Accommodation to physical and mental limitations.* (1) Each contractor shall make a reasonable accommodation to the physical and mental limitations of an employee or applicant for employment who is a handicapped individual, unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. Reasonable accommodation may include, but is not limited to, making facilities used by employees readily accessible to and usable by handicapped individuals, job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and similar actions.

(2) In determining whether an accommodation would impose an undue hardship on the conduct of the contractor's business, factors to be considered include:

(i) The overall size of the business of the contractor with respect to number of employees, number and type of facilities, and size of budget;

(ii) The type of the contractor's operations, including the composition and structure of the contractor's workforce;

(iii) The nature and cost of the accommodation needed.

(3) A contractor may not claim that the cost of necessary accommodation is an undue hardship where advance provision for such cost has been made, where the cost is borne by other entities, such as insurance or a rehabilitation agency, or where the cost is paid or reimbursed under any law providing such payment (except that the contractor may require the payment of insurance deductibles or co-payments that are required of nonhandicapped individuals).

(4) The contractor may not claim that the cost of necessary accommodation is an undue hardship because of the attitudes of other employees.

(h) *Selection procedures.* Selection procedures such as employment tests or other selection criteria shall be reviewed prior to their use or continued use to ensure that they do not discriminate against handicapped individuals who are qualified for the position in question.

(i) *Procedures to preclude physical and mental limitations.* Each contractor shall review its facilities and practices and procedures to ensure that handicapped individuals are not denied employment opportunities because of unnecessary barriers to employment.

§ 60-741.7 Determination of handicap.

(a) *Preemployment inquiry.* Except as provided in paragraph (b) of this section, a contractor may not make preemployment inquiry as to whether an applicant for employment is a handicapped individual or as to the nature or severity of a handicap. A contractor may make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) *When permissible.* A contractor may make preemployment inquiry as to whether an applicant for employment is a handicapped individual and as to the nature or severity of a handicap at the following times:

(1) When an applicant requests or indicates a need for accommodation to the interview process, the contractor may inform the applicant of the process that is available and may request the applicant to indicate what accommodation the applicant will need;

(2) When the contractor is taking remedial action to correct for past discrimination pursuant to paragraph (b) of this section or to increase the number of handicapped individuals in its workforce pursuant to paragraph (c) of this section, the contractor may request that handicapped individuals inform the contractor of their handicap;

(3) When the contractor is taking affirmative action pursuant to paragraph (c) of this section, the contractor may request that handicapped individuals inform the contractor of their handicap;

(4) When an applicant is applying for a position which has been designated as one for which affirmative action is needed, the contractor may request that handicapped individuals inform the contractor of their handicap.

(c) *Affirmative action.* Each contractor shall undertake affirmative action to employ and advance in employment qualified handicapped individuals. (A list of numerous national organizations serving the handicapped, many

applicant unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's

meaningful employment opportunities to qualified handicapped individuals.

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and

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(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

§ 60-741.5 Applicability of the affirmative action program requirement.

(a) Within 120 days of the commencement of a contract every government contractor or subcontractor holding a contract of $50,000 or more and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices and procedures in accordance with § 60-741.6 of this Part. This program may be integrated into or kept separate from other affirmative action programs of the contractor. Contractors presently holding government contracts shall update their affirmative action programs within 120 days of the effective date of this Part.

(b) The affirmative action program shall be reviewed and updated annually. If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) (1) The contractor shall invite all applicants and employees who believe themselves covered by the Act and who wish to benefit under the affirmative action program to identify themselves to the contractor. The invitation shall state that the information is voluntarily provided, that it will be kept confidential, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with the Act and the regulations in this Part. If an applicant or employee so identifies himself or herself the contractor should also seek the advice of the applicant or employee regarding proper placement and appropriate acommodation. (An acceptable form for such an invitation is set forth in Appendix B attached.)

(2) Nothing in this section shall preclude an employee from informing a contractor at any future time of his or her desire to benefit under the program.

(3) Nothing in this section shall relieve a contractor of its obligation to take affirmative action with respect to those applicants or employees of whose handicap the contractor has actual knowledge: *Provided*, That the contractor is not obligated to search the medical files of any applicant or employee to determine the existence of a handicap.

(4) Nothing in this section shall relieve a contractor from liability for discrimination under the Act.

(d) The full affirmative action program shall be available for inspection to any employee or applicant for employment upon request. The location and hours during which the program may be obtained shall be posted at each facility.

§ 60-741.6 Affirmative action policy, practices, and procedures.

(a) *General requirements.* Under the affirmative action obligation imposed by section 503 of the Rehabilitation Act of 1973, contractors are required to take affirmative action to employ and advance in employment qualified handicapped individuals at all levels of employment, including the executive level. Such action shall apply to all employment practices, including, but not limited to, the following: Hiring, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) *Proper consideration of qualifications.* Contractors shall review their personnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known handicapped applicants and employees for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this part. These procedures must be designed so as to facilitate a review of the implementation of this requirement by the contractor or the Government. (Appendix C attached is an example of an appropriate set of procedures. The procedures in Appendix C are not required and contractors may develop other procedures which are appropriate to their circumstances.)

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the review of all physical or mental job qualification requirements to insure that, to the extent qualification requirements tend to screen out qualified handicapped individuals, they are job related and are consistent with business necessity and the safe performance of the job.

(2) Whenever a contractor applies physical or mental job qualification requirements in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification requirements tend to screen out qualified handicapped individuals, the requirements shall be related to the specific job or jobs for which the individual is being considered and shall be consistent with business necessity and the safe performance of the job. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph.

(3) Nothing in this section shall prohibit a contractor from conducting a comprehensive medical examination prior to employment provided that the results of such an examination shall be used only in accordance with the requirements of this section. Whenever a contractor inquires into an applicant's or employee's physical or mental condition or conducts a medical examination prior to employment or change in employment status information obtained in response to such inquiries or examination shall be kept confidential except that:

(i) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals and regarding accommodations; and

(ii) First aid and safety personnel may be informed, where and to the extent appropriate, if the condition might require emergency treatment; and

(iii) Government officials investigating compliance with the Act shall be informed.

(d) *Accommodation to physical and mental limitations of employees.* A contractor must make a reasonable accommodation to the physical and mental limitations of an employee or applicant unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. In determining the extent of a contractor's accommodation obligations, the following factors among others may be considered: (1) business necessity and (2) financial cost and expenses.

(e) *Compensation.* In offering employment or promotions to handicapped individuals, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from another source.

(f) *Outreach, positive recruitment, and external dissemination of policy.* Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified handicapped individuals. based upon the findings of such reviews, contractor shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practice are adequate.

(1) The contractor should develop internal communication of its obligation to engage in affirmative action efforts to employ qualified handicapped individuals in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) The contractor should develop reasonable internal procedures to ensure that its obligation to engage in affirmative action to employ and promote qualified handicapped individuals is being fully implemented.

(3) The contractor should periodically inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified handicapped individuals.

(4) The contractor should enlist the assistance and support of recruiting sources (including State employment security agencies, State vocational rehabilitation agencies or facilities, sheltered workshops, college placement officers, State education agencies, labor organizations and organizations of or for handicapped individuals) for the contractor's commitment to provide meaningful employment opportunities to qualified handicapped individuals. (A list of numerous national organizations serving the handicapped, many of which have State or local affiliates, is found in the "Directory of Organizations Interested in the Handicapped" published by the Committee for the Handicapped People-to-People Program, Washington, D.C.)

(5) The contractor should engage in recruitment activities at educational institutions which participate in training of the handicapped, such as schools for the blind, deaf, or retarded.

(6) The contractor should establish meaningful contracts with appropriate social service agencies, organizations of and for handicapped individuals, vocational rehabilitation agencies or facilities, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources described in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(7) The contractor should review employment records to determine the availability of promotable and transferable qualified known handicapped individuals presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(8) The contractor should include handicapped workers when employees are pictured in consumer, promotional or help wanted advertising.

(9) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(10) The contractor should take positive steps to attract qualified handicapped persons not currently in the work force who have requisite skills and can be recruited through affirmative action measures. These persons may be located through the local chapters of organizations of and for handicapped individuals described in paragraph (f)(4).

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees, who may have had limited contact with handicapped persons in the past. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor should adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Include articles on accomplishments of handicapped workers in company publications.

(9) Post the policy on company bulletin boards, including a statement that employees and applicants are protected from coercion, intimidation, interference or discrimination for filing a complaint or assisting in an investigation under the Act.

(10) When employees are featured in employee handbooks or similar publications for employees, include handicapped employees.

(h) *Responsibility for implementation.* An executive of the contractor should be designated as director or manager of company affirmative action activities under these regulations. His or her identity should appear on all internal and external communications regarding the company's affirmative action programs. This executive should be given necessary top management support and staff to manage the implementation of this program, including the following activities:

(1) Develop policy statements, affirmative action programs, and internal and external communication techniques. The latter techniques should include regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed. In addition, supervisors should be advised that:

(i) Their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(ii) The contractor is obligated to prevent harassment of employees placed through affirmative action efforts, as set forth in § 60-741.51.

(2) Identify problem areas in conjunction with line management and

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known handicapped employees, in the implementation of the affirmative action programs, and develop solutions. This is particularly important for the accommodations requirements.

(3) Design and implement audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(iv) Determine whether known handicapped employees have had the opportunity to participate in all company sponsored educational training, recreational and social activities.

(v) Ensure that each location is in compliance with the Act and the regulations in this Part.

(4) Serve as liaison between the contractor and OFCCP.

(5) Serve as liaison between the contractor and organizations of and for handicapped persons, and arrange for the active involvement by company representatives in the community service programs of local organizations of and for the handicapped.

(6) Keep management informed of the latest developments in the entire affirmative action area.

(7) Arrange for career counseling for known handicapped employees.

(i) *Development and execution of affirmative action programs.* (1) Job qualification requirements reviewed pursuant to paragraph (c) of this section should be made available to all members of management involved in the recruitment, screening, selection, and promotion process.

(2) The contractor should evaluate the total selection process including training and promotion to ensure freedom from stereotyping handicapped persons in a manner which limits their access to all jobs for which they are qualified.

(3) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to ensure that the commitments in its affirmative action program are implemented.

(4) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position, descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(5) A special effort should be made to include qualified handicapped persons on the personnel relations staff.

(6) Handicapped employees should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(7) Recruiting efforts at all schools should incorporate special efforts to reach handicapped students.

(8) An effort should be made to participate in workstudy programs with rehabilitation facilities and schools which specialize in training or educating handicapped individuals.

(9) The contractor should use all available resources to continue or establish on the job training programs.

(j) *Sheltered workshops.* Contracts with sheltered workshops do not constitute affirmative action in lieu of employment and advancement of qualified handicapped individuals in the contractor's own workforce. Contracts with sheltered workshops may be included within an affirmative action program if the sheltered workshop trains employees for the contractor and the contractor is obligated to hire trainees at full compensation when such trainees become qualified as "qualified handicapped individual" as defined in § 60-741.2.

§ 60-741.7 Determination of handicap.

(a) Any handicapped individual filing a complaint with the Director under this part shall submit with his or her complaint a signed statement specifying the handicapping impairment or situation (see § 60-741.2 definition of "handicapped individual"). If the Director determines that further documentation is necessary, he or she may require the complainant to provide additional information.

(b) Any contractor requiring a determination of an applicant's or employee's handicap may require the applicant or employee to provide medical documentation of the impairment or, in the alternative, may require the applicant or employee to undergo a medical examination at the contractor's expense.

(c) Any determination of handicap required pursuant to paragraph (b) of this section must meet the requirements of § 60-741.5(c) and must be for the purpose of affirmative action and proper job placement. Information obtained therefrom shall not be used to exclude or otherwise limit the employment opportunities of qualified handicapped individuals.

(d) All medical documentation required under this section shall be based upon the American Medical Association Guides to the Evaluation of Permanent Impairment, provided that the guides shall be used only to determine the existence of impairment without regard to the degree of impairment.

§ 60-741.8 Listing of employment openings.

Contractors should request State employment security agencies to refer qualified handicapped individuals for consideration under their affirmative action programs.

§ 60-741.9 Labor unions and recruiting and training agencies.

(a) Whenever performance in accordance with the affirmative action clause or any matter contained in the regulations in this part may necessitate a revision of a collective bargaining agreement, the labor union or unions which are parties to such agreements shall be given an adequate opportunity to present their views to the Director.

(b) The Director shall use his or her best efforts, directly or through contractors, subcontractors, local officials, vocational rehabilitation facilities, and all other available instrumentalities, to cause any labor union, recruiting and training agency or other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate with, and to assist in, the implementation of the purposes of the Act.

Subpart B—General Enforcement and Complaint Procedure

§ 60-741.20 Subcontracts.

Each nonexempt prime contractor and subcontractor shall include the affirmative action clause prescribed in § 60-741.4 in each of their nonexempt subcontracts. The clause may be incorporated by reference in accordance with § 60-741.22.

§ 60-741.21 Adaptation of language.

Such necessary changes in language may be made to the affirmative action clause (see § 60-741.4) as shall be appropriate to identify properly the parties and their undertakings.

§ 60-741.22 Incorporation by reference.

The affirmative action clause and the regulations contained in this part may be incorporated by reference in all contracts and subcontracts.

§ 60-741.23 Incorporation by operation of the Act and agency regulations.

By operation of the Act, the affirmative action clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contracts and whether or not there is a written contract between the agency and the contractor.

§ 60-741.24 Duties of agencies.

(a) General responsibility. Each agency shall cooperate with the Director in the performance of his or her responsibilities under the Act. Such cooperation shall include the responsibility to insure that contractors are fully cognizant of their obligations under the Act and this part, to provide the Director with any information which comes to its attention that the contractor is not in compliance with the Act or this part, and to take such actions for noncompliance as set forth in § 60-741.28 as may be ordered by the Director.

(b) Reserved.

§ 60-741.25 Evaluations by the Director.

The Director shall be primarily responsible for undertaking such investigations of complaints and other matters as well as evaluations of contractor and agency performance as may be necessary to assure that the purposes of section 503 of the Rehabilitation Act of 1973 are being effectively carried out.

§ 60-741.26 Complaint procedures.

(a) *Place and time of filing.* Any applicant for employment with a contractor or any employee of a contractor may, personally or by an authorized representative, file a written complaint with the Director alleging a violation of the Act or the regulations in this part. Such complaint must be filed within 180 days from the date of the alleged violation, unless the time for filing is extended by the Director for good cause shown.

(b) *Referral to contractor.* When a complaint if filed by an employee of a contractor and the contractor has an applicable internal review procedure, the complaint shall be referred to the contractor for processing under that procedure. The complaint and all actions taken thereunder shall be kept confidential by the contractor. If there has not been a resolution of the complaint under that procedure satisfactory to the complainant within 60 days of the referral, the Department of Labor will proceed as provided in this section.

(c) *Contents of complaints.* Complaints must be signed by the complainants or their authorized representatives and must contain the following information: (1) Name and address (including telephone number) of the complainant, (2) name and address of the contractor or subcontractor who committed the alleged violation, (3) a description of the act or acts considered to be a violation, (4) a signed statement that the individual is handicapped or has a history of a handicap or other documentation of impairment or was regarded by the contractor as having an impairment, and (5) other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted.

(d) *Incomplete information.* Where a complaint contains incomplete information, the Director shall seek the needed information from the complainant. If the information is not furnished to the Director within 60 days of the date of such request, the case may be closed.

(e) *Investigations.* The Department of Labor shall institute a prompt investigation of each complaint, and shall be responsible for developing a complete case record. A complete case record consists of the following: (1) Name and address of each person interviewed, (2) a summary of his or her statement, (3) copies or summaries of pertinent documents, (4) a narrative summary of the evidence disclosed in the investigation as it related to each charge, and (5) recommended findings and resolution.

(f) Reserved

(g) *Resolution of matters.* (1) If the complaint investigation shows no violation of the Act or regulations in this part, or if the Director decides not to initiate administrative or legal proceedings against the contractor, the complainant shall be so notified. Within 30 days, the complainant may request review by the Director of such a finding or decision.

(2) Where an investigation indicates that the contractor has not complied with the requirements of the Act or this part, efforts shall be made to secure compliance through conciliation and persuasion within a reasonable time. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment, in writing, to take corrective action to meet the requirements of the Act and this part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the Director, the contractor may be considered in compliance on condition that the commitments are kept.

(3) Where the complaint investigation indicates a violation of the Act or regulations in this part (and the complaint has not been resolved by informal means), the Director shall afford the contractor an opportunity for a hearing in accordance with § 60-741.29.

§ 60-741.27 Noncompliance with the affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the affirmative action clause is a ground for taking appropriate action for noncompliance as set forth in § 60-741.28 by the Director, prime contractor, or subcontractor.

§ 60-741.28 Actions for noncompliance.

(a) *General.* In every case where any complaint investigation indicates the existence of a violation of the affirmative action clause or these regulations, the matter should be resolved by informal means, including conciliation, and persuasion, whenever possible. This will also include establishing a corrective action program in accordance with § 60-741.26(g)(2). Where the apparent violation is not resolved by informal means, the Director shall proceed in accordance with the enforcement procedures contained in this part.

(b) *Judicial enforcement.* In addition to the administrative remedies set forth herein, the Director may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60-741.4 including appropriate injunctive relief.

(c) *Withholding progress payments.* With the prior approval of the Director so much of the accrued payment due on the contract or any other contract between the government prime contractor and the Federal Government may be withheld as necessary to correct any violations of the provisions of the affirmative action clause.

(d) *Termination.* A contract or subcontract may be canceled or terminated, in whole or in part, for failure to comply with the provisions of the affirmative action clause.

(e) *Debarment.* A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the affirmative action clause.

§ 60-741.29 Formal hearings.

(a) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the Director in any of the following circumstances:

(1) An apparent violation of the affirmative action clause by a contractor or subcontractor, as shown by any investigation, is not resolved by informal means and a hearing is requested; or

(2) The Director proposes to cancel or terminate the contract or withhold progress payments, or cause the contract to be canceled or terminated or progress payments to be withheld, in whole or in part, on a contract or contracts, or to require cancellation or termination of a contract or subcon-

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tract or withholding of progress payments; or

(3) The Director proposes to declare a prime contractor or subcontractor ineligible for further contracts or subcontracts under the Act.

(b) *Hearing practice and procedure.* (1) All hearings conducted under section 503 of the Rehabilitation Act of 1973, as amended, and the regulations in this Part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR Part 60-30 except that complaints shall be issued by the Associate Solicitor, Division of Labor Relations and Civil Rights, Office of the Solicitor, rather than by the Solicitor of Labor.

(2) For the purposes of hearings pursuant to this Part 60-741, references in 41 CFR Part 60-30 to "Executive Order 11246" shall mean section 503 of the Rehabilitation Act of 1973, as amended; to "equal opportunity clause" shall mean the affirmative action clause published at 41 CFR 60-741.4; and to "regulations" shall mean the regulations contained in this Part 60-741.

(3) The Administrative Law Judge's recommended findings, conclusions and decision shall be certified to the Assistant Secretary, Employment Standards Administration rather than to the Secretary (see 41 CFR 60-30.27). Accordingly, exceptions to the recommended decision (41 CFR 60-30.28) shall be filed with the Assistant Secretary, Employment Standards Administration, and the final Administrative Order contemplated by 41 CFR 60-30.30 shall be issued by the Assistant Secretary, Employment Standards Administration. Except for these changes in procedure, all the other provisions of the rules of practice cited in this 41 CFR 60-741.29(b) shall remain in full force and effect.

§ 60-741.30 Notification of agencies.

The Director shall notify the heads of all agencies of any action for noncompliance taken against any contractor after such actions have been taken. No agency may issue a waiver under § 60-741.3(b)(1) to any contractor subject to such action without prior approval of the Director.

§ 60-741.31 Contractor ineligibility list.

The Director shall distribute periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this Part and the Act.

§ 60-741.32 Disputed matters related to the affirmative action program.

The procedures set forth in the regulations in this Part govern all disputes relative to a contractor's compliance with the affirmative action clause and the requirements of this Part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

Subpart C—Ancillary Matters

§ 60-741.50 Reinstatement of ineligible contractors and subcontractors.

Any prime contractor or subcontractor debarred from further contracts or subcontracts under the Act may request reinstatement in a letter directed to the Director. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that it has established and will carry out employment policies and practices in compliance with the affirmative action clause.

§ 60-741.51 Intimidation and interference.

The sanctions and penalties contained in this regulation may be exercised by the Director against any prime contractor or subcontractor, who fails to take all necessary steps to insure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Act.

§ 60-741.52 Recordkeeping.

(a) Each contractor and subcontractor shall maintain for a period not less than 1 year records regarding complaints and actions taken thereunder, and such employment or other records as required by the Director or by this Part and shall furnish such information in the form required by the Director or as the Director deems necessary for the adminstration of the Act and regulations issued under this Part.

(b) Failure to maintain complete and accurate records as required under this section or failure to update annually the affirmative action program as required by § 60-741.5(b) constitutes noncompliance with the contractor's or subcontractor's obligatons under the affirmative action clause and is a ground for the imposition of appropriate sanctions.

§ 60-741.53 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to its places of business, books, records and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto for the purposes of complaint investigations, and investigations of performance under the affirmative action clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the Act.

§ 60-741.54 Rulings and interpretations.

Rulings under or interpretations of the Act and the regulations contained in this Part 741 shall be made by the Secretary or his or her designee.

APPENDIX A—GUIDELINES ON THE APPLICATION OF THE DEFINITION "HANDICAPPED INDIVIDUAL"

The Rehabilitation Act of 1973, as amended, defines a handicapped individual for the purposes of the program as any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment.

"Life activities" may be considered to include communication, ambulation, selfcare, socialization, education, vocational training, employment, transportation, adapting to housing, etc. For the purpose of section 503 of the Act, primary attention is given to those life activities that affect employability.

The phrase *"substantially limits"* means the degree that the impairment affects employability. A handicapped individual who is likely to experience difficulty in securing, retaining or advancing in employment would be considered substantially limited.

"Has a record of such an impairment" means that an individual may be completely recovered from a previous physical or mental impairment. It is included because the attitude of employers, supervisors, and coworkers toward that previous impairment may result in an individual experiencing difficulty in securing, retaining, or advancing in employment. The mentally restored, those who have had heart attacks or cancer often experience such difficulty. Also, this part of the definition would include individuals who may have been erroneously classified and may experience discrimination based on this misclassification. This group may include persons such as those who have been misclassified as mentally retarded or mentally restored.

"Is regarded as having such an impairment" refers to those individuals who are perceived as having a handicap, whether an impairment exists or not, but who, because of attitudes or for any other reason, are regarded as handicapped by employers, or supervisors who have an effect on the individual securing, retaining or advancing in employment.

APPENDIX B

1. This employer is a government contractor subject to section 503 of the Rehabilitation Act of 1973, which requires government contractors to take affirmative action to employ and advance in employment qualified handicapped individuals. If you have such a handicap and would like to be considered under the affirmative action program, please tell us. Submission of this information is voluntary and refusal to provide it will not subject you to discharge or disciplinary treatment. Information obtained concerning individuals shall be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of handicapped individuals, and regarding necessary accommodations, (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if the condition might require emergency treatment, and (iii) government officials investigating compliance with the Act shall be informed.

2. If you are handicapped, we would like to include you under the affirmative action program. It would assist us if you tell us about (1) any special methods, skills and procedures which qualify you for positions that you might not otherwise be able to do because of your handicap, so that you will be considered for any positions of that kind, and (2) the accommodations which we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job, or other accommodations.

APPENDIX C

The following is a set of procedures which contractors may use to meet the requirements of § 60-741.6(b).

(1) The application or personnel form of each known handicapped applicant should be annotated to identify each vacancy for which the applicant was considered, and the form should be quickly retrievable for review by the agency, the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

(2) The personnel or application records of each known handicapped employee should include (i) the identification of each promotion for which the handicapped employee was considered, and (ii) the identification of each training program for which the handicapped employee was considered.

(3) In each case where a handicapped employee or applicant is rejected for employment, promotion or training, a statement of the reason should be appended to the personnel file or application form. This statement should include a comparison of the qualifications of the handicapped applicant or employee and the persons selected, as well as a description of the accommodations considered. This statement should be available to the applicant or employee concerned upon request.

(4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation which makes it possible for him or her to place a handicapped individual on the job, the application form or personnel record should contain a description of that accommodation.

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Monday	Tuesday	Wednesday	Thursday	Friday
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D C 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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rules and regulations

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 4]

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for October through February the limit on the amount of milk not needed for bottling use that may be moved (diverted) directly from farms to nonpool manufacturing plants and still be priced under the order. The action also reduces the required proportion of a bottling plant's milk supply that must be disposed of in bottling use. The suspension is in response to industry requests and is based on information received at a public hearing held for this order on October 3-4, 1978, in Philadelphia, Pa. The action will enable producers who have been regularly associated with the fluid milk market to continue to have their milk pooled and priced under the order pending a decision on the proposed order amendments that were considered at the hearing.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of hearing issued September 14, 1978, published September 19, 1978 (43 FR 41990).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) and of the order regulating the handling of milk in the Middle Atlantic marketing area.

It is hereby found and determined that:

§ 1004.7 [Amended]

1. For the months of November 1978 through February 1979, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In the first sentence of § 1004.7(a) the words " 50 percent in the months of September through February, and" and " in the months of March through August, ".

As suspended that portion of the first sentence would read: " * * * not less than 40 percent of its receipts * * *"

§ 1004.12 [Amended]

2. For the months of October 1978 through February 1979, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1004.12(d) all of the remaining words after "(other than a producer-handler plant)".

As suspended paragraph (d) would read:

"(d) A dairy farmer with respect to milk which is diverted to a nonpool plant (other than a producer-handler plant)".

STATEMENT OF CONSIDERATION

This action, based on evidence received at a public hearing held for this order on October 3-4, 1978, at Philadelphia, Pa., is requested by Inter-State Milk Producers' Cooperative and Michaels Dairies, Inc. It suspends for October 1978 through February 1979, the limit on the amount of producer milk that may be diverted from pool plants to nonpool plants by a cooperative association or a proprietary handler operating a pool plant. It also reduces the pool distributing plant class I milk route disposition requirement from 50 percent down to 40 percent of the milk supply associated with such a plant.

At the hearing proposed amendments were considered that would reduce the pool distributing plant performance standards and remove limits on the diversion of milk to nonpool plants. Proponents of the proposals testified that the amendments are needed to accommodate the pooling and efficient handling of the reserve milk supply for the market.

Certain pooling provisions of the order have been suspended since April 1978. This action will extend relaxation of the pooling standards, plus give added relief in handling milk that must be diverted to nonpool plants. The need for the suspension stems from a continuing downward trend in class I sales and the class I utilization percentage for the market to the point that without suspension action cooperative associations handling a majority of the market's milk supply would be threatened with loss of producer status for their dairy farmer members who are associated with the market.

Whether or not the pooling provisions should be amended and to what extent is a matter to be determined after the hearing record and posthearing briefs have been fully reviewed. In the interim, suspension through February 1979 is warranted, as it will tend to assure orderly marketing pending the outcome of the hearing proceeding. It is unlikely that relaxation of the pooling provisions by suspension for this temporary period will have any appreciable effect on the availability of milk for the market. This action, however, will enable the handling of the market's reserve supplies in a more efficient and more orderly manner. Also, it will eliminate the possibility of producers who are regular suppliers of milk for the fluid market losing their producer status because of the present pooling and diversion provisions and thus not having their milk priced under the order. Accordingly, this temporary suspension will permit the orderly disposal of the market's reserve milk supplies pending the completion of the hearing proceeding.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby

causing a disruption in the orderly marketing of milk;

comments made pursuant to this notice will be available for public in-

cordance with the National Policy Act of 1969, Pub. L. 91-190 and environ-

Subpart C—Emergency Livestock Loans

suant to a line of credit guaranteed by a contract of guarantee.

§§ 1980.211-1980.214 [Reserved]

§ 1980.215 Types of guarantees

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causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The need for changing the pooling provisions was considered at a public hearing held October 3-4, 1978, where all interested parties had an opportunity to participate in this rulemaking proceeding.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period October 1978 through February 1979, with respect to § 1004.12(d) and for November 1978 through February 1979, with respect to § 1004.7(a).

Effective date: October 23, 1978.

Signed at Washington, D.C., on October 18, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-28819 Filed 10-20-78; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER P—GUARANTEED LOANS

PART 1980—GENERAL

Subpart C—Emergency Livestock Loans

REVISION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration revises its regulations concerning emergency livestock loans. The intended effect is to continue making credit available during the period authorized by Pub. L. 93-357, as amended, in the form of loans guaranteed by FmHA for bona fide farmers and ranchers who have substantial livestock operations, so that they may continue their normal farming and ranching operations. This action is taken to implement a public law and to make clarification in existing regulations.

EFFECTIVE DATE: However, comments must be received on or before November 22, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

William Krause, 202-447-7600.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration revises subpart C to part 1980, chapter XVIII, title 7 in the Code of Federal Regulations and redesignates the regulations presently in subchapter N to subchapter P "Guaranteed Loans." The need for this revision is to comply with requirements of Pub. L. 95-334 (Agricultural Credit Act of 1978) which extended the emergency livestock program from September 30, 1978, to September 30, 1979; broadened the definition of the term "United States"; broadened eligibility, and granted authority to continue making loan advances under existing emergency livestock line of credit contracts over the original repayment period or renewal period of the loan even if advance(s) are made after September 30, 1979. In addition the regulations are revised to clarify the use of escrow accounts; changes the definition of principal partners or stockholders from those owning or controlling 20 percent to those owning or controlling 10 percent. Certain of these changes should enable bona fide farmers and ranchers who have substantial livestock operations to return to conventional sources of credit more smoothly.

It is the policy of this Department that rules related to public property, loans, grants, benefits, or contracts should be published for comments notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, this rule is not published for proposed rulemaking since many farmers are suffering severe economic hardship and have an immediate need for this loan program. Any delay in extending the program would thus be contrary to the public interest. Although this rule is published as a final rule, the Agency is interested in receiving comments which should be submitted to the address given above. In addition to implementing the provisions required by Pub. L. 95-334 other changes which are administrative in nature are being made to clarify existing policy, and to make the emergency livestock loan procedures consistent with other guarantee farmer loan procedures.

"This document has been reviewed in accordance with FmHA Instruction 1901-G 'Environmental Impact Statements'." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Policy Act of 1969, Pub. L. 91-190 and environmental impact statement is not required.

As revised, subpart C of part 1980 reads as follows:

Subpart C—Emergency Livestock Loans

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1980.202-1980.206 [Reserved]
1980.207 Definitions.
1980.208 Program objective.
1980.209 Eligible lenders.
1980.210 Case and identification (ID) numbers.
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1980.216 Full faith and credit.
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1980.220 Eligibility.
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1980.224 Loan rates and terms.
1980.225 Collateral requirements.
1980.226 Promissory notes, security instruments, and financing statements.
1980.227 Relationship with other FmHA insured or guaranteed loans.
1980.228 Charges and fees by lender.
1980.229-1980.245 [Reserved]
1980.246 Receiving and processing applications.
1980.247 FmHA evaluation of applications.
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1980.249 Review of requirements.
1980.250 Conditions precedent to issuance of the guarantee.
1980.251 Issuance of guarantee instruments.
1980.252-1980.259 [Reserved]
1980.260 Substitution of lenders.
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1980.269 Extension of line of credit guarantees issued before (October 1, 1978).
1980.270 Changeover of loans covered by 80 percent loss guarantees to line of credit guarantees without sale to holder(s).
1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by subpart A of part 1980.
1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the Loan Note Guarantee system.
1980.273-1980.276 [Reserved]
1980.277 Change from livestock to farming operation after guarantee is issued.
1980.278 Transfer and assumption of loans.
1980.279 Loan servicing.
1980.280 Protective advances.
1980.281 Termination of guarantee.
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1980.290 Graduation.
1980.291 Appeal procedure.
1980.292 Access to records of lenders.
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1980.294 FmHA forms.
1980.295-1980.300 [Reserved]
Appendix A—FmHA Forms.

Subpart C—Emergency Livestock Loans

§ 1980.201 Introduction.

(a) *Policy.* This subpart contains regulations for making and servicing emergency livestock (EL) loans made after (October 23, 1978) and applies to lenders, holders, borrowers, Farmers Home Administration (FmHA) personnel, and other parties involved in making, guaranteeing, holding, servicing, or liquidating such loans. Part 1980, subpart A applies to EL loans only to the extent that sections of subpart A are specifically referred to in this subpart.

(b) *Program administration.* The county supervisor is the focal point for the program and the local contact person for guarantee processing and servicing activities.

(c) *Administrative provisions.* Throughout this subpart there appear administrative provisions for the State director, District director, and county supervisor. These provisions establish the internal duties, responsibilities, and procedures to carry out the requirements of the program and are identified as "administrative."

§§ 1980.202-1980.206 [Reserved]

§ 1980.207 Definitions.

The following general definitions are applicable to this subpart. Additional definitions may be found in § 1980.6 of subpart A, of this part, except that those contained in § 1980.6(a) (2), (4), (7), (9), (13), and (14) are not applicable to cases in which a lender requests a contract of guarantee.

(a) *Act.* The Emergency Livestock Credit Act of 1974 (Pub. L. 93-357); as amended by Pub. L. 94-35 and 94-517, and title III of Pub. L. 95-334.

(b) *Applicant.* The person or entity carrying on the farming operation and desiring EL loan assistance from a lender.

(c) *Approval official.* A field official who has been delegated loan and grant approval authorities subject to the dollar limitations contained in tables available in any FmHA office.

(d) *Guaranteed line of credit.* EL loan advances made and serviced by a lender subject to a maximum amount agreed to by the lender and FmHA which is specified in a Form FmHA 1980-27, "Contract of Guarantee (Emergency Livestock Loan or Economic Emergency Loan)."

(e) *Livestock.* Beef cattle, dairy cattle, including dairy cattle raised and maintained for the primary purpose of marketing dairy products, swine, sheep, goats, chickens, and turkeys.

(f) *Loan.* Both a fixed amount loan to which a loan note guarantee will be attached and an advance(s) made pursuant to a line of credit guaranteed by a contract of guarantee.

(g) *Loan servicing.* All actions that are necessary after loan closing to collect the indebtedness and to protect the security and security rights. The term "servicing" also includes transfer and assumption and liquidation.

(h) *Mortgage.* Any form of instrument used to obtain a security interest or lien upon any rights or interest in real property of any kind. In Louisiana and Puerto Rico the term "mortgage" also refers to the instrument granting any security interest in chattel property.

(i) *Principal partner or stockholder.* Any partner of a partnership or stockholder of a corporation owning or controlling a 10 percent or more interest in the entity. If no person owns or controls as much as 10 percent, all partners or stockholders will be considered principal partners or stockholders.

(j) *Protective advances.* Payments made by the lender to third parties to protect or preserve security property.

(k) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term "security."

(l) *State or United States.* Any of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 1980.208 Program objective.

The basic objective is to make more credit available during the period authorized by Pub. L. 93-357, as amended, (authority expires September 30, 1979) in the form of loans guaranteed by FmHA to bona fide farmers and ranchers who are primarily and directly engaged in agricultural production and who have substantial livestock operations, so that they may continue their normal farming or ranching operations.

§ 1980.209 Eligible lenders.

See § 1980.13 of subpart A of this part, except that in contract of guarantee cases, the form to use for the purposes of § 1980.13 (g) and (h) will be Form FmHA 1980-38, "Lenders Agreement (Emergency Livestock Loan or Economic Emergency Loan—Contract of Guarantee)."

§ 1980.210 Case and identification (ID) numbers.

See § 1980.12 of subpart A of this Part.

§§ 1980.211-1980.214 [Reserved]

§ 1980.215 Types of guarantees.

(a) *Loan note guarantee.* Lenders desiring to sell the guaranteed portion of fixed amount loans may use the method contained in subpart A of this part. In accordance with that method, loans may be made by a lender and guaranteed by issuance of Form FmHA 449-34 (1980-34), "Loan Note Guarantee." Any sale or assignment by the lender of the guaranteed portion of the loan may be accomplished in accordance with the conditions in paragraph III of Form FmHA 449-35, "Lender's Agreement", which explains the options for processing guaranteed loans to be sold in the secondary market and will be executed in loan note guarantee cases. Copies of this form may be obtained from any FmHA office.

(b) *Contract of guarantee.* Lenders desiring a guarantee on a "line of credit" may use the method contained in this subpart. Line of credit loans are guaranteed by Form FmHA 1980-27. The amount of loan advances outstanding at any one time under a contract of guarantee may not exceed the line of credit ceiling set forth in the contract.

(c) *Multiple guarantees.* Two or more loan note guarantees or contracts of guarantees may be executed with the same or different lenders to a borrower provided each loan is secured with separate collateral. The total loans must not exceed $350,000 at any time.

§ 1980.216 Full faith and credit.

The loan note guarantee and contract of guarantee constitutes an obligation supported by the full faith and credit of the United States and are incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purchase in loan note guarantee cases will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the loan note guarantee by lender. The loan note guarantee and contract of guarantee will be unenforceable by the lender to the extent any loss is occasioned by violations of usury laws, use of the loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. As used in this section and in any loan note guarantee or contract of guarantee (including those now outstanding) in which the phrase appears, "use of loan funds for unauthorized purposes" refers to the situation in which the

lender in fact agrees with the borrower that loan funds are to be so used

(1) doing business in the United States either as an individual, corporation, or partnership which is recognized in the

gaged in other business or employment.

(2) Persons who work in agriculture

vided such individual owns at least 50 percent of the new partnership assets or corporation's voting stock and con-

§ 1980.221 Loan purposes.

EL loans may be guaranteed for purposes which are essential to carrying

to continuance of the authorized level of operation including silos and other feed storage facilities, necessary for

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lender in fact agrees with the borrower that loan funds are to be so used and the phrase "unauthorized purposes" means any purpose not listed by the lender in the completed application as approved by FmHA.

§ 1980.217 Guarantee limits.

The maximum loss covered under form FmHA 449-34 (1980-34) or form FmHA 1980-27 will not exceed 90 percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note(s) or assumed under an assumption agreement. Lenders and applicants will propose the percentage of guarantee. FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to those provisions contained in subsections (a), (b), (c), (d), and (e) of § 1980.20 of subpart A of this part. In this regard, loan guarantees will not be rejected solely because the applicant has collateral which has depreciated in value because of temporary economic conditions or temporarily lacks repayment ability because of temporary economic conditions. Instead, the percentage of the guarantee should be reduced as outlined above to compensate for any additional risk to the Government resulting from these factors. The lender and applicant will be informed in writing on Form FmHA 449-14, "Conditional Commitment for Guarantee", or Form FmHA 1980-15, "Conditional Commitment for Emergency Livestock Loan or Economic Emergency Loan—Contract of Guarantee," by FmHA of any percentage of guarantee less than that proposed by the lender and the applicant and the reasons for such a reduction.

§§ 1980.218-1980.219 [Reserved]

§ 1980.220 Eligibility.

To be eligible for an EL loan, an applicant must:

(a) *Citizen.* Be a citizen of the United States as defined above or a person who has been legally admitted for permanent residence in the United States. If a partnership, the principal partners must be citizens or such permanent residents of the United States. If a corporation, it must be incorporated under the laws of a State, its principal stockholders must be citizens or such permanent residents of the United States, and the corporation must be authorized to carry on farming or ranching operations in the State in which the EL operation is being conducted. See § 1980.207 of this subpart for definition of "principal partner or stockholder" and "United States." (b) *Bona fide farmer or rancher.* Be a bona fide farmer or rancher (owner-operator, or tenant-operator), (1) doing business in the United States either as an individual, corporation, or partnership, which is recognized in the community as one whose chief occupation is farming or ranching, (2) being primarily and directly engaged in agricultural production, and (3) having substantial operations in breeding, raising, fattening, or marketing livestock, including dairy cattle raised and maintained for the primary purpose of marketing dairy products (hereinafter referred to as a livestock operation). In the case of an individual loan applicant the term "primarily and directly engaged in agricultural production" means that the applicant derives more than 50 percent of the gross income from the applicant's own agricultural production or devotes more than 50 percent of the applicant's time to such production. The term "substantial operations in livestock" means that the applicant derives not less than 25 percent of the gross farm income from the applicant's own livestock operation, or devotes not less than 25 percent of the applicant's time to such operation, or has not less than 25 percent of the applicant's total capital investment in such operation. In the case of a corporation or partnership loan applicant, the term "primarily and directly engaged in agricultural production" means that the corporation or partnership derives more than 50 percent of its gross income from agricultural production, and the shareholders or partners owning or controlling a majority interest (more than 50 percent) in such corporation or partnership derive more than 50 percent of their gross income from their own or the corporation's or partnership's agricultural production, and devote more than 50 percent of their time to such production. The term "substantial operations in livestock" means that the corporation or partnership derives not less than 25 percent of its gross farm income from its own livestock operation, or devotes not less than 25 percent of its time to such operation, or nas not less than 25 percent of its total capital investment in such operation.

(1) Bona fide farmers and ranchers must be actually engaged in the livestock operations to be financed by the EL loan. If the applicant is an individual, the applicant must manage such livestock operation. If the applicant is a partnership or corporation, it must be managed by one or more of the partners or stockholders. In addition, bona fide farmers or ranchers do not include those commenting livestock operations or reentering such operations after July 25, 1974, or those engaged in farming, ranching, or livestock operations as a hobby or for tax shelter purposes; or those chiefly engaged in other business or employment.

(2) Persons who work in agriculture and derive more than 50 percent of their earned income from agriculture, including livestock that are fed in custom feedyards, are considered to be bona fide farmers and ranchers and may be eligible for an EL loan for their livestock feeding operation.

(3) An individual engaged in a joint livestock operation and/or owning an undivided interest in the property of such an operation is not considered a bona fide farmer for EL loan purposes. However, if the individuals engaged in the joint operation on their own decide to reorganize their operation to form a corporation or partnership, an application from the entity for an EL loan may then be accepted and considered by FmHA in accordance with this Subpart.

(4) An estate or trust; a corporation owned primarily by an estate, trust, other corporations, or other partnerships; or a partnership composed primarily of an estate, trust, corporation, or other partnerships is not considered to be a bona fide farmer or rancher for EL loan purposes.

(c) *Legal capacity.* Possess legal capacity to contract for the loan.

(d) *Ability and experience.* Possess the ability, industry, and experience necessary to carry out the proposed livestock operations to assure a reasonable prospect of success with the assistance of the loan, and honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(e) *Credit elsewhere.* Certify that financing is not available without the guarantee. Furthermore, no loan shall be guaranteed unless the lender certifies that the lender is unwilling to provide the needed credit to the applicant without the guarantee.

(f) *Change in the form of an applicant.* Have conducted the livestock operations before July 25, 1974. A change in the form of an applicant from an individual, partnership, or corporation in existence before July 25, 1974, to another form of legal entity will not disqualify the new entity if it is conducting basically the same operation as was conducted before July 25, 1974, and is primarily owned by substantially the same people that owned the operation before July 25, 1974. If the change in the legal entity has been accompanied by a substantial change in the type(s) of livestock, it will not be financed.

(1) When an individual who was engaged in a livestock operation before July 25, 1974, later forms a partnership or corporation which continues to carry on basically the same livestock operation, the operation's application may still receive consideration provided such individual owns at least 50 percent of the new partnership assets or corporation's voting stock and continues to manage or control the livestock operation.

(2) When a partnership that was engaged in a livestock operation before July 25, 1974, later dissolves but basically the same livestock operation is continued by an individual or a newly formed partnership or corporation, an application from the individual or the new entity will receive consideration provided one or more of the partners who managed the livestock operation for the prior partnership will now manage the operation for the applicant, and provided—

(i) The assets of the prior partnership are now owned by an individual applicant who as a partner in the prior partnership had owned at least 50 percent of the partnership assets; or

(ii) The assets of the prior partnership are now owned by a new partnership applicant and the partners who had owned at a least 50 percent of the assets of the prior partnership are now partners owning at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the prior partnership are now owned by a new corporation applicant, and the partners of the prior partnership who had owned at least 50 percent of those assets now own at least 50 percent of the voting stock of the new corporation applicant.

(3) When a corporation that was engaged in a livestock operation before July 25, 1974, dissolves but basically the same livestock operation is continued by an individual or a newly formed corporation or partnership, the appalication from the individual or new entity will receive consideration provided one or more of the stockholders who managed the livestock operation for the prior corporation must now manage the operation for the new applicant, and provided—

(i) The assets of the dissolved corporation are now owned by an individual who had owned at least 50 percent of the voting stock of the former corporation; or

(ii) The assets of the former corporation are now owned by a new partnership applicant and the stockholders who had owned at least 50 percent of that corporation are now partners owning at least 50 percent of the assets of the new partnership applicant; or

(iii) The assets of the former corporation are now owned by a new corporation applicant and the stockholders who had owned at least 50 percent of the voting stock of the former corporation are now stockholders owning at least 50 percent of the voting stock of the new corporation applicant.

§ 1980.221 Loan purposes.

EL loans may be guaranteed for purposes which are essential to carrying on livestock operations related to breeding, raising, fattening, or marketing livestock. These purposes are:

(a) Purchase of livestock for replacement or restocking purposes, but not for expansion of livestock operations beyond a level (represented by numbers of livestock) equal to the highest level reached during the eighteen months immediately preceding July 25, 1974. When operations have been expanded beyond that level, the amount of a loan which may be guaranteed will be limited to the amount that would be needed to finance the highest livestock number level reached during the eighteen months immediately preceding July 25, 1974.

(b) Purchase or production of livestock feed.

(c) Payment of customary and equitable charges for grazing permits and for the use of farm or ranch buildings, pasture land, and land for the production of feed crops.

(d) Hiring, repairing, or replacing fixtures, farm machinery, and equipment necessary for livestock production and marketing.

(e) Transportation of livestock, normally incurred in the livestock operation.

(f) Building or repair of fences and holding pens.

(g) Refinancing of secured and unsecured debts incurred for the livestock operation, when:

(1) Such refinancing is essential for the applicant to remain in business, and

(2) The lender would not refinance the loan in the absence of a guarantee, and

(3) The lender is not currently refinancing similar loans to others without such a guarantee.

(h) Payment of real estate or personal property taxes and water or drainage taxes or assessments that must be paid to permit continuation of the livestock operation.

(i) Payment of premiums on insurance necessary to obtain or secure the loan.

(j) Repair or essential improvement of livestock water supplies, and provide any pollution abatement facilities which are necessary to comply with the requirements of Federal, State, or local governments.

(k) Repair of existing irrigation systems necessary for livestock production.

(l) Payment of veterinary fees and charges for livestock medicines.

(m) Payment of the cost of hired labor used in livestock production.

(n) Payment of the cost of construction or repair and normal maintenance of farm and ranch buildings essential to continuance of the authorized level of operation including silos and other feed storage facilities necessary for livestock production.

(o) Purchase of fuel, seed, fertilizer, insecticides, farm supplies, and payment of other operating expenses that are essential to continuation of the livestock operations.

(p) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(q) Payment of a loan fee and costs incident to consummation of the loan as authorized in § 1980.22 of subpart A of this part.

(r) Payment of essential family living expenses.

(s) Payment of not more than 1 year's installment(s) (principal and interest) on debts secured by liens on chattels or real estate related to the livestock operation when a deferment on such obligations cannot be obtained.

§ 1980.222 Prohibited loan purposes.

No EL loan may be guaranteed which will:

(a) Establish or reestablish an applicant in livestock operations, or to permit an expansion of such operations beyond the level set forth in § 1980.221(a) of this subpart.

(b) Be used to finance livestock or poultry feeding operations when the applicant does not maintain ownership of the feeders through the normal feeding period or is only performing a service for others.

(c) Be used to finance or refinance anything not essential to the continuation of livestock enterprise. This includes the purchase of nonessential vehicles, machinery or equipment.

(d) Be used by a landlord to furnish credit, equipment, or supplies to the tenant operators, whether share, cash, or standing rent is paid by the tenants.

(e) Enable an applicant to make major changes or adjustments in the livestock operation.

(f) Be used to pay Federal or State income taxes or to pay social security taxes payable by the borrower in the borrower's own behalf.

(g) Be used to pay for labor performed by the borrower or members of the borrower's immediate family.

(h) Be used to purchase machinery or equipment, or for supplies or labor, which will be used in the handling, processing, or marketing of livestock products such as milk, eggs, wool, and mohair. However, this does not prohibit refinancing debts which have already been created for these purposes when they are part of an "overall" livestock operation indebtedness being refinanced with an EL loan under the conditions set forth in § 1980.221(g) of this subpart.

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(i) Be used to pay "hedging" costs including brokerage fees and margins in connection with a futures contract.

(j) Be used to finance the interests of individual stockholders of a corporation or partners of a partnership in the corporate or partnership livestock operation. The corporation or partnership will be considered for one loan to cover the livestock operation being conducted by the entity.

§ 1980.223 Limitations and special provisions.

(a) *Total loans to applicants.* The total principal balance outstanding at any one time on an EL loan(s) made to assist a livestock operation shall not exceed $350,000. An applicant conducting livestock operations may be considered for more than one EL guarantee when more than one lender is involved, if each lender is financing a separate enterprise, provided (1) identifiable separate security is given to each lender and (2) the combined total principal balance outstanding at any one time on guaranteed loans for all lenders involved does not exceed $350,000.

(b) *Applicants involved in more than one operation.* Loans to applicants involved in more than one operation will be considered as follows:

(1) If an applicant who, in addition to the applicant's own livestock operation, owns or controls 50 percent or more of another livestock operation(s), and is actively engaged in both operations, both the applicant and the other livestock operation(s) may be considered for separate loans provided the combined total does not exceed the $350,000 limitation.

(2) If an applicant who, in addition to the applicant's own livestock operation, owns or controls less than 50 percent of another livestock operation(s), and is actively engaged in separate livestock operation(s), the applicant and the other farm operation(s) will be considered as separate entities for application of the $350,000 limitation.

(3) If the first applicant described in subparagraph (b) (1) and (2) of this section is found to be ineligible, such determination shall not preclude the other operation(s) in which the applicant holds an interest from being considered for an EL loan(s).

(c) *County committee certification.* A county committee certification is not required.

(d) *Program termination date.* Neither a loan note guarantee nor a contract of guarantee will be executed after September 30, 1979.

§ 1980.224 Loan rates and terms.

(a) *Interest rate to borrower.* The interest rate to be paid by the borrower to the lender will be any legal rate agreed upon between the lender and the borrower. It may be a variable or fixed rate provided it conforms to State usury laws.

(b) *Variable interest rate.* (1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed upon by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will be no floor or ceiling on variable interest rates.

(2) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on the unguaranteed portion of the loan, provided the lender and borrower agree, and

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion. Fixed and variable interest rates cannot be used on the same loan.

(3) When multi-rates are used, the lender will provide FmHA with the overall effective interest rate for the entire loan.

(c) *Loan terms for loan note guarantee and contract of guarantee.* Each loan will be scheduled for repayment over a period not to exceed 7 years from the date of the guarantee or such shorter period as may be necessary to assure that the loan will be adequately secured. The borrower's needs, repayment ability, and type of security the borrower has to offer will be taken into consideration when scheduling loans for repayment. Generally, amounts advanced for annual recurring operating expenses should be scheduled for repayment from that year's income.

(d) *Repayment schedules.* In order for notes to be acceptable, the principal and interest repayment schedules will have to be clearly shown in the note(s). Use of a note with a "payment on demand" feature is not permissible unless it is modified by a supplemental agreement which waives the demand feature and sets forth the repayment schedule.

(e) *Advances under a contract of guarantee—line of credit.* A lender may pay off an outstanding guaranteed advance before the end of its term with funds from a new guaranteed advance, provided the line of credit ceiling is not exceeded. However, no advance may be made for a term which exceeds the period remaining in the original line of credit term. The original line of credit term may be up to 7 years, but is limited to the term established in the "Line of Credit Agreement." A line of credit agreement may be extended to 7 years if the initial agreement was for less than 7 years. The lender should consider extension of the line of credit agreement to the full 7 years before considering a renewal as set forth in paragraph (f) of this section.

(f) *Renewal authority for line of credit under contract of guarantee.* When FmHA and the lender determine that renewal will be in the best interst of the borrower, an EL line of credit which has reached final maturity may be renewed one time only for not more than 3 additional years. Also, additional advances under a contract of guarantee on a line of credit may be made during the renewal period provided:

(1) The borrower meets the eligibility and security requirements for an initial loan as contained in §§ 1980.220 and 1980.225, of this subpart, and

(2) A replacement note(s) is prepared setting forth the new repayment terms, and

(3) The line of credit agreement is extended to cover the renewal period when new advances are to be made, and

(4) The renewal is approved by FmHA in writing.

(g) *Renewal authority for loan note guarantee.* When FmHA and the lender determine that renewal will be in the best interest of the borrower an EL loan which has reached final maturity may be renewed one time only for 3 additional years provided:

(1) The borrower meets the eligibility and security requirements for an initial loan as contained in §§ 1980.220 and 1980.225 of this subpart, and

(2) A replacement note is prepared setting forth new repayment terms, and

(3) Approval is obtained in writing from FmHA and any holder(s).

§ 1980.225 Collateral requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Except for the modifications contained in subparagraph (c)(1) of this section, collateral must be of such a nature that repayment of the loan is reasonably assured considering the integrity and ability of the applicant's management, soundness of the operation, and the applicant's prospective earnings. Collateral may include, but is not limited to, the following: land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, personal and corporate guarantees, marketable securities, and cash surrender value of life insurance.

Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances or certificates of deposit as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from principal stockholders in a corporation and all partners of a partnership usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) An exception to the requirements for personal guarantees or corporate guarantees may be granted by FmHA if the proposed guarantors provide written evidence through the lender to FmHA that they connot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past 3 years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(c) *Additional requirements.* (1) If the present market value of the collateral is not in an amount at least equal to the amount of the loan, the applicant's repayment ability may be considered by the lender and FmHA (provided the FmHA loan approval official's opinion is based on the evaluation set forth in § 1980.247 of this subpart) in determining whether the loan should be made. When the applicant's repayment ability is so considered, the following conditions must also be met:

(i) The collateral has depreciated in value due to temporary economic conditions; and

(ii) The applicant's typical operating plans indicate ability to pay the loan in full in a period not exceeding 7 years; and

(iii) The applicant will give a lien on all available security property; and

(iv) The agreement between the lender and FmHA concerning the applicant's repayment ability will be indicated on either form FmHA 449-14 or form FmHA 1980-15.

(2) The lien position securing credit by the lender outside the guarantee must be junior to any liens taken for the guaranteed EL advances, or by a lien on other collateral.

(3) When the same lender is involved in an EL guaranteed loan and a separate unguaranteed loan and there will be like security for each, the EL guaranteed loan must be adequately secured by (1) a lien on separate security property that is clearly identifiable, or (2) a lien of a higher priority if the same property is used to secure both loans. In the latter case when the same security secures both loans the lender must agree in writing that the scheduled installments on the EL guaranteed loan will be paid first.

(4) The use of escrow accounts by lenders to maintain ongoing livestock operations will be established for loan note guarantee cases. This requirement is imposed by FmHA for the purposes of assisting the lender in maintaining security and in order that the lender and FmHA will have available a record of the use of both loan funds and funds received in the normal course of a borrower's livestock operation, such as proceeds received from the sale of security. Such funds placed in such an account must be assigned as collateral for the guaranteed loan made by the lender and provided further that the value of the security and the lien position of such loan is maintained. Funds disbursed will be only for authorized EL loan purposes. Lenders will maintain a running record of funds placed in, and disbursed from, the account. It is intended that escrow accounts be used primarily with loan note guarantee cases. However, the same requirements will apply should the occasion arise to use an escrow account with a contract of guarantee on a line of credit.

(5) The lender must ascertain that the borrower has marketable title in fact to the collateral pledged for the loan and there are no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties against such collateral, and that no suits are pending or threatened that would adversely affect the borrower's collateral when the security instruments are filed.

(6) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required when necessary to properly protect the interests of the Government and the lender on every loan in an amount that is at least the lesser of the replacement cost of the real estate property being insured or the amount of the loan. Insurance may be required on personal property when the loan approval official determines that it is necessary to protect the interests of the Government and the lender.

(7) If the applicant's repayment ability is being considered in determining whether the loan should be made, and FmHA and the lender agree, life insurance will be required for the individual borrower or for the principals and key employees of the borrower and will be assigned or pledged to the lender. This life insurance may be decreasing term insurance. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

Administrative: The county supervisor will review and determine whether the lender has required the necessary security to be taken. If necessary, advice and assistance will be sought from the District Director.

§ 1980.226 Promissory notes, security instruments, and financing statements.

(a) *Promissory notes, mortgages, and security agreements.* The lender may use its own promissory notes, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided such forms do not contain any provisions that are in conflict or are inconsistent with the provisions of this subpart or subpart A of this part.

(b) *Financing statements.* Commercial financing statement forms that comply with State laws and regulations may be used. They must be adapted to meet FmHA requirements by inserting provisions:

(1) Covering the "proceeds and products" of the collateral described, and

(2) Stating that "disposition of the collateral is not authorized hereby."

§ 1980.227 Relationship with other FmHA insured or guaranteed loans.

If an applicant for FmHA assistance will qualify for another type or types of FmHA insured or guaranteed loans and an EL guarantee for the same purpose, it will be the policy to process an EL guarantee for that purpose if the repayment and security requirements for the EL guarantee will not preclude furnishing the credit necessary to

enable the applicant to carry on sound farming or ranching operations. However, if the applicant qualifies for an

(1) Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend pay-

percentage of ownership or of stock held in the corporation by each or the percentage of interest held in the

3. Review form FmHA 449-10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the

conditions are acceptable, form FmHA 449-14 or form FmHA 1980-15 will be revised.

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enable the applicant to carry on sound farming or ranching operations. However, if the applicant qualifies for an emergency (EM) loan in a designated disaster area, the applicant should be considered first for an EM loan. An EL guarantee may be processed to continue the livestock operation(s) even though the applicant receives an EM loan.

§ 1980.228 Charges and fees by lender.

For both loan note guarantee and contract of guarantee cases, see § 1980.22 of subpart A of this part for these requirements.

§§ 1980.229–1980.245 [Reserved]

§ 1980.246 Receiving and processing applications.

An applicant and/or lender(s) may file either a preliminary application or complete application. A preliminary application may be used when an applicant or lender wants a determination from FmHA on eligibility or feasibility, before proceeding with a completed application. The county supervisor will cooperate with the lender and applicant and provide appropriate assistance in connection with loan application processes. The degree of this assistance will be guided by the lender's experience with FmHA guaranteed loan processing, the lender's farm lending experience, and the complexity of the proposal. The lender and applicant should contact the local FmHA office serving the area where the livestock operation is conducted for guidance and assistance in preparing the request and for obtaining the guarantee. An applicant conducting livestock operations as an individual, corporation, or partnership in different counties or locations will be considered for only one application and will file the application in the county in which the livestock operation headquarters is located unless determined otherwise by the State director. In cases where the operation is located in more than one State, the State directors involved will determine which State, will process the application and service the loan(s). The county supervisor will provide copies of all applicable FmHA forms and regulations. See appendix A of this subpart for a list of these FmHA forms.

(a) *Preliminary application.* The purpose of the preliminary application is to enable FmHA to make an eligibility determination without requiring the lender to complete all material required for issuance of a guarantee. The preliminary application is not intended to discriminate against applicants based on national origin, sex, marital status, religion or age. The preliminary application will consist of:

(1) Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."

(2) Credit report and/or lien search of county records.

(3) Form FmHA 440-32, "Request for Statement of Debts and Collaterals."

(4) Form FmHA 449-26, "Certificates of Lender and Loan Applicant (Emergency Livestock Loan)."

(5) Form FmHA 1980-25, "Request for Guarantee (Emergency Livestock Loan or Economic Emergency Loan)."

(6) A record of livestock production for each calendar year beginning with 1973 through the most recent completed calendar year.

(7) Proposed "Line of Credit Agreement" for contract of guarantee cases. See subparagraph (c)(4) of this section.

(b) *Preliminary determination by FmHA.* If the preliminary application indicates the proposal will not meet FmHA's minimum credit standards for a sound loan, or if it is determined that the applicant does not meet the eligibility requirements, the county supervisor will so inform the lender using form FmHA 449-13, "Denial Letter." The lender will notify the applicant in writing of all the reasons for the decision indicated. If it appears that the proposal is feasible and the applicant is eligible, the county supervisor will inform the lender in writing and request that the formal application be prepared.

(c) *Completed application.* This will consist of:

(1) Those items listed for the preliminary application in subsection (a) of this section.

(2) Applicable "compliance" items required by §§ 1980.40, 1980.41, 1980.42, 1980.43, 1980.44, and 1980.45 of subpart A of this part.

(3) If a lease of land is involved, a copy of the lease agreement between tenant applicants and their landlords. When a lease is not obtainable, a statement concerning lease terms will be included in the loan docket.

(4) Proposed loan agreements (or line of credit agreement when a contract of guarantee is requested) between the borrower and lender. (See paragraph VIII of form FmHA 449-35, "Lender's Agreement," in loan note guarantee cases or form FmHA 1980-38, in contract of guarantee cases.) Ordinarily, agreements will include information such as the following:

(i) Improved management practices to be implemented, if any.

(ii) Requirements for accounting and recordkeeping and periodic financial reporting.

(iii) A list of security property for the loan and periodic accounting of security property (at least annually).

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments if a corporate entity or distribution if a partnership.

(vi) Limitations on purchase or sale of equipment and/or fixed assets.

(vii) Limitations on compensation of officers, partners, and/or owners if applicant is a corporation or partnership.

(viii) Restrictions concerning consolidation, mergers or other circumstances of a corporate entity.

(ix) Repayment schedule for the loan, including the ceiling and duration of any line of credit.

(x) Purposes for which loan funds will be used.

(xi) Interest rate.

(5) *Appraisal report.* (i) Real estate or chattel property that will serve as collateral for loans will be appraised by a qualified appraiser selected by the lender. A real estate appraisal report will be based on at least two comparable sales made within 2 years. Appraisal reports may be on forms approved by the lender and/or form FmHA 422-1, "Appraisal Report (Farm Tract)" and form FmHA 440-21, "Appraisal of Chattel Property." However, for real estate security, an acceptable appraisal not over 3 years old may be used in lieu of a new appraisal providing the appraisal was completed by FmHA or another similarly qualified appraiser and also provided no significant changes in the market value of real estate has occurred in an area within the 3-year period.

(ii) A current chattel appraisal will be required when chattels are taken as security.

(iii) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(6) *Notices of compliance with the Privacy Act of 1974.* (i) Regardless of whether the applicant is acting in a personal capacity or as a representative of a partnership or corporation, and FmHA solicits personal information from the applicant, the applicant will be provided form FmHA 410-9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide such source with form FmHA 410-10, "Privacy Act Statement to References."

(7) If the applicant is a corporation or partnership the following information will also be obtained and included in the loan docket: (i) A complete list of stockholders or partners showing the address, citizenship or permanent residency, principal occupation, and

percentage of ownership or of stock held in the corporation by each or the percentage of interest held in the partnership by each.

(ii) A current personal financial statement from each of the principal partners of a partnership or stockholders of a corporation. Any other member, partner or stockholder whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the corporation or partnership will also be required to provide personal financial statements.

(iii) A current financial statement from the corporation or partnership itself.

(iv) A copy of the corporation's charter or any partnership agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the board of directors or partners or stockholders authorizing specified officers of the corporation or partnership to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

§ 1980.247 FmHA evaluation of applications.

When the county supervisor receives a completed application, the county supervisor will make any proper independent investigations, inspections, and appraisal reviews which are deemed necessary to determine whether (1) the applicant is eligible, (2) the proposed loan is for an eligible purpose, (3) there is reasonable assurance of repayment ability, and (4) there is sufficient collateral and equity. The county supervisor's determinations will be recorded on form FmHA 449-23, "Guaranteed Loan Evaluation—Farmer Programs."

(a) *Indication of unacceptability.* If the evaluation indicates that the guarantee cannot be approved, the county supervisor will inform the lender on form FmHA 449-13 of the reasons and will discuss with the lender the items necessary to overcome any objections and will record such discussion in the county office file.

(b) *Indication of acceptability.* If the evaluation is favorable, the administrative actions set forth in the administrative section which follows will be taken.

Administrative:

A. The county supervisor will:

1. Determine if the material and information submitted is complete.

2. Determine that the compliance information and forms listed in §§ 1980.40 through 1980.45 of subpart A of this part are a part of the application, and the conditions of each section are being complied with when applicable.

3. Review form FmHA 449-10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and follow the requirements of subpart G of part 1901 of this chapter.

B. If the evaluation is favorable, the county supervisor will:

1. Prepare form FmHA 449-14 for loan note guarantee cases or form FmHA 1980-15 for contract of guarantee cases. If it is within the county supervisor's approval authority, the country supervisor will list any special conditions of approval in the space provided on the form, including requirements for security, improved management practices, and type and frequency of financial reports required but not proposed by the lender. The county supervisor is authorized to execute forms FmHA 449-14 and FmHA 1980-15.

2. Prepare and distribute form FmHA 440-1, "Request for Obligation of Funds," in accordance with the forms manual insert (FMI). form FmHA 440-1 should be prepared and funds obligated in the same fiscal year as form FmHA 449-14 or form FmHA 1980-15. The Finance Office will obligate funds and so notify the county supervisor by forwarding the original and one copy of form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request." Unless the county supervisor has received notice that EL funds are not available, the lender will immediately be notified by providing a copy of form FmHA 449-14 or form FmHA 1980-15. The county supervisor will record the actual date of lender notification on the remaining copy of form FmHA 440-1 and make such copy a permanent part of the county office loan file.

3. Forward the loan docket to the appropriate approval official if the loan is not within the county supervisor's approval authority.

C. If the evaluation is favorable, the appropriate approval official will:

1. Set forth any special conditions of approval, including requirements for security, improved management practices, type and frequency of financial reports required but not proposed by the lender in the space provided in form FmHA 449-14 or form FmHA 1980-15 and return the form to the county supervisor for execution and proper distribution.

2. Sign original and one copy of form FmHA 440-1 and distribute copies in accordance with the forms manual insert being sure the lender receives a signed copy.

3. Forward the loan docket to the National Office when assistance is needed in handling any complaints of noncompliance.

§ 1980.248 [Reserved]

§ 1980.249 Review of requirements.

The lender and applicant, after reviewing approval conditions and security requirements as set forth in form FmHA 449-14 or form FmHA 1980-15 should complete and execute the "Acceptance or Rejection of Conditions" and return a copy to the county supervisor. If the conditions cannot be met, the lender and applicant may propose alternate conditions to the county supervisor. These alternatives will be considered by the county supervisor and the lender will be advised of the county supervisor's decision. If altered conditions are acceptable, form FmHA 449-14 or form FmHA 1980-15 will be revised.

§ 1980.250 Conditions precedent to issuance of the guarantee.

See § 1980.60 of subpart A of this part for conditions precedent to the issuance of either a loan note guarantee or a contract of guarantee except:

(a) The provisions of § 1980.60(a)(2) are not applicable to loan note guarantee cases;

(b) The provisions of § 1980.60 (a)(2) and (d) are not applicable to contract of guarantee cases, and

(c) To meet the requirements of § 1980.60(c) in contract of guarantee cases, the lender will execute and deliver form FmHA 1980-38 to FmHA.

Administrative: The county supervisor will:

1. Negotiate with the lender and applicant any changes made to the initially issued or proposed form FmHA 449-14 or form FmHA 1980-15. A copy of the completed form and any amendments thereto will be included in the loan file.

2. Review the loan agreement or line of credit agreement between the borrower and lender. It should provide for the frequency of submission of financial statements to the county supervisor. Quarterly financial statements should be required on new loans needing close monitoring. However, an annual analysis report will always be required.

3. Review plans for inspection made on any construction projects.

4. Review cost overruns, if any are found, and determine with the lender how cost overruns will be met.

5. Review basic loan requirements with the lender.

§ 1980.251 Issuance of guarantee instruments.

Events from issuance of a conditional commitment through issuance of the guarantee instruments may all occur at loan closing in the sequence indicated in § 1980.61 of subpart A of this part.

(a) *Loan note guarantee cases.* See § 1980.61 of subpart A of this part, except that § 1980.61(b)(2) and § 1980.61(f) as well as the "guarantee fee" in § 1980.61(a) shall not apply.

(b) *Contract of guarantee cases.* (1) If FmHA finds that all requirements have been met, FmHA will execute form FmHA 1980-38. The original will be retained by FmHA and a signed duplicate original retained by the lender. There will be a form FmHA 1980-38 executed for all lines of credit guaranteed by FmHA. The lender's agreement will be executed not later than the time the contract of guarantee is signed.

(2) Upon receipt of the form FmHA 1980-38 and after all requirements have been met, FmHA will execute form FmHA 1980-27. The lender will be provided the original and a con-

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formed copy will be retained by FmHA.

(3) If FmHA determines that it cannot execute the contract of guarantee because all requirements have not been met, it will promptly inform the lender on form FmHA 449-13 of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(4) If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will prepare and submit form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," to the Finance Office.

(c) *Authorized FmHA representatives to execute forms.* State directors and county supervisors are authorized to execute the lender's agreement, loan note guarantee, contract of guarantee, and assignment guarantee agreement.

Administrative: A. The original form FmHA 449-35 or form FmHA 1980-38 will be kept in the county office. A copy may be retained in the State office.

B. Copies of form FmHA 449-34 (1980-34) and form FmHA 1980-27 will be kept in the county office. Additional copies may be retained by the State office. Copies of issued guarantees will be kept in each borrower's loan file.

C. For reporting purposes when multinotes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

D. The county supervisor completes Form FmHA 449-31, "Emergency Livestock Loan Analysis," executes the original, and conforms the copies. This will be done on the same date the guarantee instrument is executed. The original will be sent to the finance office and a copy transmitted to the State office.

E. The guarantee processing actions will be completed as soon as possible, but in no case more than 30 days after FmHA receives a lender's formal written request for an EL guarantee, unless unusual circumstances are involved.

F. The State director may maintain a daily record of all forms FmHA 449-31 received.

G. Upon receipt of form FmHA 440-1, the Finance Office will charge the loan amount or line of credit ceiling (as appropriate for the type of guarantee) against any EL allocation for the particular State. The Finance Office will submit a State summary report on the loan obligations to the State and National Office.

§§ 1980.252–1980.259 [Reserved]

§ 1980.260 Substitution of lenders.

With prior FmHA written approval, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all servicing responsibilities and acquires the unguaranteed portion of the loan. In loan note guarantee cases, such substitution may be made without the holder's consent but not without notice to the holder(s) by the substituted lender. The new lender will execute form FmHA 449-35 for loan note guarantee cases of form FmHA 1980-38 for contract of guarantee cases at the same time as the substitution. After FmHA approval of the new lender, Form FmHA 471-7, "Notice and Acknowledgement of Sale of Insured Loan or Guaranteed Loan," will be completed by the old lender and mailed to the Finance Office.

§§ 1980.261–1980.268 [Reserved]

§ 1980.269 Extension of line of credit guarantees issued before (October 1, 1978).

New loan advances made after September 30, 1978, will not be automatically covered by "line of credit" guarantees issued before (October 1, 1978), under the terms of the Emergency Livestock Credit Act of 1974, as amended by Pub. L. 95-334. Any advance(s) made under these guarantees after September 30, 1978, requires an extension of the guarantee.

(a) When lenders desire to continue making new advances to borrowers indebted under a contract of guarantee issued prior to (October 1, 1978), it will not be necessary to issue a new contract of guarantee, provided the lender will certify in writing that:

(1) The borrower meets eligibility requirements for an EL loan including a statement that the lender is unable to extend the additional credit without a guarantee, and

(2) The outstanding balance is current, and

(3) Collateral for the new advance(s) will be sufficient to meet EL security requirements, and

(4) The borrower has reasonable repayment ability for the overall guaranteed indebtedness, and

(5) The advance(s) will be within the terms of the existing line of credit ceiling previously approved by FmHA.

(b) For cases meeting the criteria stated in paragraph (a) of this section the county supervisor will strike "before September 30, 1978," in the second line of the existing contract of guarantee and date and initial the change. If the county supervisor questions the proposal and needs supporting information in addition to that previously furnished by the lender, the county supervisor will obtain it before initialing the change in the contract of guarantee.

(c) When a lender desires to make advance(s) above the previously approved line of credit ceiling, or when the advance(s) will not be within the limits of the "Line of Credit Agreement," or when the line of credit loan advances are not paid current, the above method will not be used. In such cases it will be necessary for the lender to prepare a completely new guarantee request with all the supporting forms and information required by this subpart for a contract of guarantee on a new line of credit. If the loan approval official determines that all the requirements of a new guarantee have not been met, the lender will be so informed in accordance with the procedure set forth in § 1980.247(a) of this subpart. If the loan approval official determines that all the requirements for a new guarantee are met, the existing line of credit will be refinanced by the new line of credit, and a new contract of guarantee will be issued. To complete the transaction, the lender must surrender the previous contract of guarantee to the county supervisor who will mail it to the Finance Office with a new form FmHA 449-31. The county supervisor will indicate in the transmittal letter to the Finance Office that the previous contract is being replaced and that the Finance Office records should be adjusted to reflect only the new line of credit guarantee.

§ 1980.270 Changeover of loans covered by 80-percent loss guarantees to line of credit guarantees without sale to holder(s).

This changeover can no longer occur as the last date for such a conversion was July 25, 1978.

§ 1980.271 Conversion of existing EL loans so the guaranteed portions can be sold as permitted by subpart A of part 1980.

(a) Conversion does not constitute a new guarantee. Rather, the process is a substitution of documents which confer additional rights to lenders but do not change what is being guaranteed.

(b) Existing advances constituting an EL guaranteed line of credit may be converted to loan note guarantee loans and structured and sold according to this subpart and subpart A of this part. The percentage guaranteed must be the same as the percentage guaranteed in the old guarantee.

(c) Before the loan note guarantee system can be used, the lender must notify FmHA of the option it has elected to use for sale of the guaranteed portion(s). Where necessary, existing note(s) must be rewritten so that all regulations pertaining to the options found in paragraph III of form FmHA 449-35 will be complied with.

(d) A conversion fee of 1 percent of the principal loan balance owed on the loan at the time of the conversion multiplied by the percent of guarantee must be paid by the lender to FmHA before a loan note guarantee will be issued.

(e) The lender must certify in writing and FmHA must agree that the loan is in good standing and adequately secured.

(f) The lender's request for conversion will be transmitted to the county supervisor with the following items:

(1) A narrative of the proposal.

(2) Original contract of guarantee. If the lender does not want to deliver its original contract of guarantee with its request for a conversion to a loan note guarantee, the county supervisor will accept a copy of the contract of guarantee and proceed as set forth above. However, the loan note guarantee will be delivered only upon receipt of the contract of guarantee.

(3) Copies of note(s) with lender's identification number(s).

(4) Certification that the loan is current and in good standing.

(5) Certification of outstanding principal and interest owed on loan account.

(6) Executed lender's agreement.

(7) Current maket value appraisals of loan collateral.

Administrative: A. The county supervisor may approve all conversions to loan note guarantee.

B. The original loan must be paid current at the time the loan note guarantee is issued.

C. The county supervisor will:

1. Check to see that the note or notes presented by the lender for sale in the loan note guarantee system are structured to meet all requirements in the regulations.

(i) If the lender has selected the multinote system, the note representing the unguaranteed portion must not mature before the other notes. If the lender is converting a line of credit represented by separate notes for each advance, these existing, partially amortized notes may be used provided that, if the notes have different maturities, the note with the latest maturity date must represent the unguaranteed portion. The amount represented by this note must be exactly the unguaranteed portion of the face amount of all notes composing the loan which is to be converted to the loan note guarantee system. If both these requirements cannot be met, the lender must get the borrower to execute new notes which do not exceed the limitations of the existing guaranteed line of credit.

(ii) If the lender has elected to sell the guaranteed portions through the assignment route, and is coverting a line of credit, only one note may be presented for attachement to a loan note guarantee. The face amount of the note must be equal to the entire amount of the loan.

2. Review all requirements of § 1980.271 of this subpart.

3. Arrange to inspect the livestock operation with the lender and the borrower. The inspection will include an observation of the farming or ranching facilities, any growing crops, and livestock and chattel security.

4. Reach a mutual understanding concerning the operating plans for farming and ranching enterprises, plans for loan repayment, and the appraised value of the loan collateral.

5. Verify the submitted request, and, if in order, complete the loan note guarantee, date and sign the instrument. Before the form is signed the following statement will be entered at the top of the form: "This loan note guarantee is issued in substitution of the contract of guarantee dated ———." The county supervisor will transfer from the outstanding contract of guarantee all pertinent information pertaining to the substitute loan note guarantee.

6. Execute the lender's agreement either before or contemporaneously with execution of the loan note guarantee.

7. Cancel the contract of guarantee being replaced.

8. Transmit to the lender the original of the loan note guarantee, and a copy of the executed lender's agreement, and retain copies of the loan note guarantee and attached canceled forms in the county office file.

9. Notify the Finance Office of the substitution and cancellation by letter enclosing the conversion fee collected from the lender. The notification will indicate the date and amount of the loan note guarantee and that it is not to be considered as a new loan for record keeping purposes.

§ 1980.272 Refinancing existing EL loans so that the guaranteed portion can be sold through the loan note guarantee system.

(a) Lenders with existing EL loans covered by 80 percent loss guarantee issued by FmHA before July 25, 1975, or with existing guaranteed EL lines of credit, who desire to obtain a loan note guarantee without payment of the fee provided in § 1980.271 of this subpart may apply for a new loan note guarantee under the regular procedure of this subpart. All provisions including §§ 1980.246 through 1980.251 of this subpart will be complied with. If all of the requirements of this subpart and subpart A of this part are met, a new loan note guarantee will be issued. The unpaid balance on the existing loan will be refinanced by the new loan guaranteed by the loan note guarantee.

(b) The previous contract of guarantee must be surrendered by the lender and mailed to the Finance Office by the county supervisor with a new form FmHA 449-31. The county supervisor will indicate in the transmittal letter to the Finance Office that the old guarantee is being replaced and that the Finance Office records should be adjusted to reflect only the new loan note guarantee.

§§ 1980.273–1980.276 [Reserved]

§ 1980.277 Change from livestock to farming operation after guarantee is issued.

(a) When a borrower ceases to carry on a livestock operation, but will continue farming, the borrower is not eligible to receive any more loan advances under the guarantee. In such cases the lender may continue with the loan(s) and reamortize it within the original term provided FmHA and the lender determine that:

(1) There is a reasonable chance for the guaranteed loan advance(s) to be paid in full; and

(2) The remaining collateral plus any to be obtained will be sufficient to meet EL security requirements; and

(3) Proceeds from livestock sales properly have been paid on the guaranteed loan advance(s) or released for authorized EL purposes; and

(4) FmHA and any holders consent to the reamortization and the reamortization documents are attached to all documents evidencing the guarantee.

§ 1980.278 Transfer and assumption of loans.

(a) If the borrower can no longer continue with the loan, the lender may consider transferring the loan to an eligible transferee with the concurrence of FmHA. If the transferor has any equity in the loan the transferee will pay the transferor for this equity either by using cash or by obtaining a loan with or without a guarantee, or a combination of cash and a loan. The total security will be transferred unless unusual circumstances prevail in which case National Office approval will be required. Assumption and transfer of security property agreements, notes, or assumption forms provided by the lender will be executed by the transferee. An "eligible transferee" is one that, after the assumption, meets the eligibility requirements specified in § 1980.220 of this subpart. No applicant shall be deemed "eligible" after September 30, 1979. The transferee's application will be processed by the lender as prescribed in § 1980.246 of this subpart and the following will also apply:

(1) The priorities of the existing lien(s) securing the guarantee will not be adversely affected.

(2) Any cash down payment (other than an equity payment) or proceeds from the sale of any security will be credited on the transferor's guaranteed loan before the transfer and assumption transaction is closed.

(3) The transferor may be released from personal liability with FmHA concurrence provided the total outstanding indebtedness is assumed and providing the collateral being transferred is at least equal to the amount of the loan being assumed and further provided all holders, if any, consent.

(4) The existing guarantee will continue in effect, so a new guarantee instrument will not be issued. However, as soon as the transfer and assumption have been completed, the lender will so indicate on the original loan note

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guarantee or contract of guarantee by inserting a check in the assumption agreement box and inserting the name

4. Take appropirate action upon receipt of notice from the lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be de-

Administrative: The county supervisor will advise the Finance Office by memorandum when a loan note guarantee or contract of guarantee is terminated.

by the lender and before submission of such reports to lenders when FmHA is conducting liquidation.

§§ 1980.284–1980.289 [Reserved]

§ 1980.290 Graduation

forms and other material which is needed to monitor the lender's loan

guarantee or contract of guarantee by inserting a check in the assumption agreement box and inserting the name of the assuming party for those purposes on the loan note guarantee or contract of guarantee.

(b) All changes in loan terms must be approved in writing by the loan approval official, the borrower, and lender, and all holders if any, and a copy of the changed terms attached to each portion (both guaranteed and unguaranteed) of the loan.

Administrative: A. Loan approval officials, consistent with their authority to approve guarantees, may consent:

1. To all transfer and assumption cases.
2. To the releases of the transferor and guarantor(s) from liability on the loan and will notify the lender and the transferor and guarantor(s) of the decision in writing.
3. To any changes in the loan terms provided the holder(s), if any, and lender agree.

B. The loan note guarantee or contract of guarantee will be endorsed in the space provided on the form.

C. A copy of the Assumption Agreement will be retained in the county office file. The county supervisor will notify the Finance Office of all approved transfer and assumption cases so that Finance Office records may be adjusted accordingly.

D. When all the security is not transferred the State director will submit to the National Office the full facts and justification for the State director's recommendation and the county office files.

§ 1980.279 Loan servicing.

The lender is responsible for loan servicing. See paragraph X of form FmHA 449-35 for loan note guarantee cases and paragraph IX of form FmHA 1980-38 for contract of guarantee cases for specific requirements.

Administrative: A. The lender has the primary responsibility for loan servicing and protecting the collateral, but the county supervisor is responsible for monitoring the lender's servicing actions. Loan servicing is a preventive rather than a curative action. Prompt followup on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. The county supervisor will:

1. Make timely investigations during acquisition or development and at least annually thereafter to determine whether any security property that was to be acquired or constructed after issuance of the contract of guarantee or loan note guarantee has been acquired or constructed, and whether the guaranteed loan is being properly serviced. If a problem develops the county supervisor will promptly contact the lender to resolve it.
2. Review all EL borrowers' financial statements furnished by the lender and will take appropriate servicing action to remind the lender of its servicing responsibilities. See paragraph X of form FmHA 449-35 or paragraph IX of form FmHA 1980-38.
3. take appropriate action immediately when notified by the lender of borrower's failure to fulfill any of the loan approval conditions to determine the action to be taken.
4. Take appropirate action upon receipt of notice from the lender when any guaranteed loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. See paragraph XI of form FmHA 449-35 or paragraph X of form FmHA 1980-38.
5. Establish an office management system for guaranteed loans in accordance with FmHA instruction 405.1 (available in any FmHA office) to insure timely followup on all required financial statements, and any special requirements for loan servicing conditions.
6. Notify the Finance Office when the lender makes any approved protective advances.
7. Submit to the Finance Office semiannually the lender's statement required in paragraph X B 10 of form FmHA 449-35 or paragraph IX of form FmHA 1980-38, reflecting the unpaid principal balances on the loan.

C. The District Director will:

1. Assure that the responsibilities of the county supervisor are carried out.
2. Provide guidance and assistance to the county supervisor if a loan develops into a problem case and make recommendations or comments and transmit them to the State director, if necessary.

D. County supervisors are authorized to approve or concur in:

1. Alterations in the loan approval conditions which will not prejudice the Government's interest.
2. Any replacement of collateral for the loan.
3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the guarantee.
4. Any renewal of loan notes in concurrence with the lender.
5. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of form FmHA 449-35 or paragraph IX of form FmHA 1980-38.

E. State directors may consult with the National Office on any servicing problem, and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

§ 1980.280 Protective advances.

See paragraph XIII of form FmHA 449-35 or paragraph XII of form FmHA 1980-38, as appropriate.

Administrative: A. Protective advances will not be made in lieu of additional loans.

B. The county supervisor is authorized to approve protective advances and will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current, and, if not, the extent of the delinquencies.
2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

§ 1980.281 Termination of guarantee.

See paragraph 12 of Form FmHA 449-34 (1980-34) for termination of loan note guarantee and paragraph 5 of form FmHA 1980-27 for termination of contracts of guarantee.

Administrative: The county supervisor will advise the Finance Office by memorandum when a loan note guarantee or contract of guarantee is terminated.

§ 1980.282 Defaults by borrower.

(a) See paragraph XI of form FmHA 449-35 for loan note guarantee cases and paragraph X of form FmHA 1980-38 for contract of guarantee cases.

(b) The lender will arrange a meeting with the county supervisor and the borrower to resolve the problems.

(c) The lender will summarize the meeting in a memorandum listing the individuals who attended and describing the problems and the proposed solutions. The original will be retained in the lender's loan file and a copy will be submitted to the county supervisor.

Administrative: A. The county supervisor monitoring the loan will coordinate and process any request for FmHA to purchase when the holder(s) are located in close proximity of the local lender. If several holders are located outside the area, the State director will handle the transaction and notify the county supervisor.

B. The county supervisor will review the material submitted, verify the amounts due the holder(s) and transmit the request by memorandum to the State director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the county office. A proposed payment date will be established in order to calculate the interest due the holder(s).

C. The county supervisor will verify the amounts payable to the holder(s) and assure that all necessary material has been obtained. The county supervisor will request a check to pay the holder(s) on the appropriate date entry form. The finance Office will forward the check to the holder within 10 days after receipt of the request.

D. Any evidence of ownership retained in the county office will be considered in any future report of loss calculations. A record of any purchase will be maintained in the loan file.

§ 1980.283 Liquidation.

See paragraph XII of form FmHA 449-35 for loan note guarantee cases and paragraph XI of form FmHA 1980-38 for contract of guarantee cases.

Administrative: A. The District Director determines which FmHA personnel will attend meetings with the lender.

B. *Form FmHA 449-35 or form FmHA 1980-38, paragraphs XII B or XI B, respectively.* FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. District Directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate.

C. *Form FmHA 449-35 or form FmHA 1980-38, paragraphs XII D or XI D, respectively.* County supervisors are responsible for seeing that the lender complies with the requirements of paragraph XII D or paragraph XI D as appropriate. The concurrence of the District Director will be necessary before the county supervisor may accept the accounting reports as submitted by the lender and before submission of such reports to lenders when FmHA is conducting liquidation.

D. *Form FmHA 449-35 or Form FmHA 1980-38, paragraphs XII E 2 or XI E 2, respectively.* County supervisors are authorized to accept report of loss determinations for both loan note guarantee and contract of guarantee cases on Form FmHA 449-30 "Loan Note Guarantee Report of Loss," in those cases where loss will not exceed $35,000; District Directors for loss not to exceed $100,000; and State directors for all others. The State director will submit to the Finance Office for payment any losses claimed on form FmHA 449-30. The Finance Office will forward loss payment checks within 10 days of receipt of the claim to the county supervisor for delivery to the lender.

E. *Form FmHA 449-35 or form FmHA 1980-38, paragraphs XII E 3 or XI E 3, respectively.* Final loss payments will be made within the 60 days required but only after a review has been made to accurately determine FmHA liability. State directors are responsible for seeing that such reviews are accomplished in time to be evaluated and accepted or otherwise resolved within the 60-day period. County supervisors may conduct such reviews when the loss does not exceed $35,000; District Directors when the loss does not exceed $100,000; and State directors for amounts not to exceed their loan approval authority. If the State director wishes National Office assistance in the conduct of the review, the State director may request it.

§§ 1980.284–1980.289 [Reserved]

§ 1980.290 Graduation.

There is no "graduation" requirement for EL loans. Therefore, these loans will not be reviewed by FmHA to determine whether lenders should be in position to carry them without a guarantee.

§ 1980.291 Appeal procedure.

See § 1980.80 of subpart A of this part for the method of having adverse decisions of county supervisors, District Directors, and State directors reviewed.

§ 1980.292 Access to records of lenders.

See § 1980.81 of subpart A of this part for this requirement.

§ 1980.293 County and State office files.

(a) *County office files.* County offices having charge of loan guarantees are not expected to maintain complete case files. However, the county office case file for each loan guarantee should contain originals or copies of forms and other material which is needed to monitor the lender's loan servicing actions.

(b) *State office files.* State directors may maintain files on cases which require special servicing attention.

§ 1980.294 FmHA forms.

See appendix A of this subpart for list of applicable FmHA forms, number to be prepared, signatures required, and manner of distribution.

§§ 1980.295–1980.300 [Reserved]

APPENDIX A

General administrative: A. *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to EL loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loan making, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters it should consult with OGC.

B. *Delegation of authority.* The State director may delegate to the State director's staff those administrative duties and responsibilities stipulated in the administrative sections of this subpart.

APPENDIX A.—*FmHA Forms*

(a) The following chart lists applicable FmHA forms, number to be prepared, signatures required, and manner of distribution. Any of these FmHA forms and others needed by lenders or applicants may be obtained from FmHA.

FmHA Form No.	Name of form	Total number	Signed by *	Distribution
	Forms needed by a lender for use in preparing the EL guarantee request			
400-1	Equal Opportunity Agreement	3	B-O	O-L, C-B, C-FmHA.
400-3	Notice to Contractors and Applicants	4	L-O	O-Con, C-B, C-L, C-FmHA.
400-6	Compliance Statement	4	L and Con 3-0	O-L, C-Con, C-B, C-FmHA.
449-6	Application for Guaranteed Loan (Farmer Programs).	2	B-O	O-L, C-FmHA.
1980-25	Request for Guarantee (Emergency Livestock Loan or Economic Emergency Loan).	2	L-O	O-FmHA, C-L.
449-26	Certificates of Lender and Loan Applicant (Emergency Livestock Loan).	3	L and B-O	O-FmHA, C-L, C-B.
449-35	Lender's Agreement	2	L and FmHA	O-FmHA, C-L.
449-36	Assignment Guarantee Agreement	3	L, H and FmHA	O-H, C-L, C-FmHA.
1980-33	Lender's Agreement (Emergency Livestock Loan or Economic Emergency Loan Contract of Guarantee).	2	L and FmHA (O and C)	O-FmHA, C-L.
	Forms used by FmHA in processing and handling the guarantee request			
440-1	Request for Obligation of Funds	4	FmHA-O	O-FC, C-County Office, C-State Director.
449-13	Denial Letter	2	FmHA-O	O-L, C-FmHA.
449-14	Conditional Commitment for Guarantee	2	FmHA-O	O-L, C-FmHA.
1980-15	Conditional Commitment for Emergency Livestock Loan or Economic Emergency Loan–Contract of Guarantee.	2	FmHA-O	O-L, C-FmHA.
1980-27	Contract of Guarantee (Emergency Livestock Loan or Economic Emergency Loan).	2	FmHA-O	O-L, C-FmHA.
449-31	Emergency Livestock Loan Analysis	3	FmHA-O	O-FC, C-FmHA, C-State Director.
449-34	Loan Note Guarantee	2	FmHA-O	O-L, C-FmHA.
	Forms used jointly by lender and FmHA			
449-30	Loan Note Guarantee Report of Loss	3	L-O	O—FmHA, C-L, C-FmHA.

* Signature and Distribution "L"—Lender; "H"—Holder; "B"—Borrower or assumptor; "FC"—Finance Office; "FmHA"—Authorized FmHA Official; "Con"—Contractor; "O"—original; "C"—copy.

(b) *Other forms and information.* Any needed forms not furnished by FmHA will be provided by the lender.

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 152 and A152

known registered owners/operators of the affected airplanes were notified of the AD by airmail letter from the FAA dated September 18, 1978. The AD

whether the exhaust system is a KMR Industries part No. 1-1000, either bearing serial Nos. 1 through 2249 or having an "R" prefix or suffix on any serial number. If the

(Secs. 313(a), 601, 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of

Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION:

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(b) *Other forms and information.* Any needed forms not furnished by FmHA will be provided by the lender. The lender may obtain information from FmHA and copies of other FmHA forms that may be helpful in various aspects of loan making, construction and development, and loan servicing.

(c) *Racial code.* Some FmHA forms contain space for coding the race of the applicant for the loan or assumption. In the code, "W" means "White," "N/B" means "Negro (Black)," "S" means "Spanish-American," "AI" means "American Indian," and "O" means any other race. The lender is responsible for completing this code on all forms on which it appears, in accordance with its best judgment as to the race involved.

(d) *Revision of existing forms.* Until the present supply is exhausted, the forms described below will be revised on an individual case basis as follows:

(1) *Form FmHA 400-1, "Equal Opportunity Agreement."* In the second paragraph after the word "Recipient", insert "or to Recipient's lender." In subparagraph 1(e), change the word "or" to "issued."

(2) *Form FmHA 400-6, "Compliance Statement."* In the first paragraph between "with" and "assistance," insert "loan guarantee."

(3) *Form FmHA 449-6, "Application for Guaranteed Loan (Farmer Programs)."* The crop and livestock production tables on the face of the form may be omitted.

(AUTHORITY: Sec. 10, of Pub. L. 93-357 88 Stat. 392; delegation of authority Secretary of Agriculture (7 CFR 2.23); delegation of authority by Assistant Secretary for Rural Development (7 CFR 2.70).

Dated: October 17, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-29610 Filed 10-20-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-CE-18-AD; Amdt. 39-3318]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 152 and A152 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Cessna models 152 and A152 airplanes. It requires inspection of the exhaust system and replacement or conditional repair of cracked or failed KMR heat exchangers having serial No. 2249 or below. This Ad, which is of an emergency nature, is necessary because failures have occurred on these exhaust systems which allow carbon monoxide to enter the cabin air. Such a condition may cause pilot incapacitation and adversely affect safety of flight.

EFFECTIVE DATE: October 6, 1978, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated September 18, 1978.

COMPLIANCE: As required in the body of the AD.

ADDRESSES: Cessna Single Engine Service Letter SE78-57, dated September 19, 1978, and supplement No. 1, dated October 3, 1978, or later revisions, applicable to this AD, may be obtained from Cessna Aircraft Co., Marketing Division, Attention: Customer Service Department, Wichita, Kans. 67201, telephone 316-685-9111. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106, and at Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3146.

SUPPLEMENTARY INFORMATION: The FAA has determined that the problem described in the Summary is an unsafe condition which is likely to exist or develop in other airplanes of the same type design. Since the agency also determined that an emergency situation existed and that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest. Accordingly, all known registered owners/operators of the affected airplanes were notified of the AD by airmail letter from the FAA dated September 18, 1978. The AD became effective as to those individuals upon receipt of the notification letter. Inspections of these airplanes conducted pursuant to the emergency AD have disclosed cracked or failed heat exchangers on a much higher percentage of airplanes than originally anticipated. Consequently, sufficient parts are not available to immediately replace all cracked or failed heat exchangers. This situation is resulting in unnecessary grounding of affected airplanes and undue hardship on the owners/operators of these airplanes. Therefore, the Chief, Engineering and Manufacturing Branch, FAA, Central Region, per the authority in paragraph (C) of the AD, approved an equivalent method of compliance with paragraph (A)3(b)3 of the AD which authorizes conditional repair of cracked heat exchangers and their continuation in service without compromising safety. The above equivalent method of compliance is being incorporated in paragraph (A)3(b)3 of this AD. Since the unsafe condition described herein still exists on other Cessna models 152 and A152 airplanes, the AD is being published in the FEDERAL REGISTER as an amendment to part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the letter notification.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

CESSNA. Applies to model 152 (serial Nos. 15279406 through 15282563) and model A152 (serial Nos. A1520735 through A1520829) airplanes having Cessna original equipment type exhaust systems installed.

Compliance: Required as indicated unless already accomplished.

To preclude contamination of cabin heater air with carbon monoxide, accomplish the following:

(A) Before next flight, except that the airplane may be flown with the cabin heat in the "OFF" position to a location where this inspection may be accomplished:

1. Visually inspect the clearance between the exhaust pipe and cowl opening. Minimum clearance must be 0.375 inch in the fore and aft direction and 0.625 inch in the lateral direction with a smooth transition between. Enlarge cowl opening as required to obtain this clearance.

2. Remove the lower engine cowl and visually inspect the nameplate on the exhaust system heat exchanger shroud to determine whether the exhaust system is a KMR Industries part No. 1-1000, either bearing serial Nos. 1 through 2249 or having an "R" prefix or suffix on any serial number. If the exhaust system is not one specified above, further requirements of this AD are not applicable.

3. If the exhaust system is one as specified above:

(a) Prior to further flight, safety wire the cabin heat valve control arm in the closed position by securing it to the engine mount using 0.032 diameter safety wire.

(b) Within the next 10 hours time-in-service and within each 50 hours time-in-service thereafter:

1. Remove the engine cowling and the KMR Industries heat exchanger shroud.

2. Using a 5-power, or greater, magnifying glass, visually inspect the heat exchanger can for any cracks around the tailpipe and along the three lines of spot welds on the surface of the heat exchanger can itself.

3. If the heat exchanger can is found cracked, prior to next flight:

(i) Replace it with a heat exchanger can having a serial No. 2250 or above; or

(ii) Repair and reinstall heat exchangers having cracked or completely pulled-through spot welds and/or closed cracks that do not extend under the end plates and do not exceed 3 inches continous length, by heliarc welding in accordance with the following:

1. Use rod material compatible with titanium stabilized 321 stainless steel.

2. It is not necessary to reattach the can to the baffle at pulled through spot welds if the can and baffle are separated. In this case, it is only necessary to close the hole or crack in the can at the spot weld location.

3. Disconnect the hose between the heat exchanger shroud and the firewall cabin heat valve at the cabin heat valve and safety wire it to the engine mount tube so that 1.5 inches of the hose extends below the fuselage through the cowl air exit hole and to the right of the nose gear. Install the hose clamp on the valve end of the hose so that it grips the wire supported section of the hose. Route the safety wire between the clamp and the hose to secure the clamp and hose to the engine mount.

4. After installation of a new heat exchanger can having a serial No. 2250 or above, obliterate the existing exhaust system serial number located on the nameplate attached to the shroud.

(B) Upon installation of a KMR Industries heat exchanger can having a serial No. 2250 or above and incorporation of a dam in the heat exchanger shroud in accordance with Cessna service kit 152-3, the cabin heat system may be reactivated and the inspection required by paragraph (A)3(b) discontinued.

NOTE.—The serial number will be stamped on a flange of the replacement heat exchanger can.

(C) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Cessna Service Letter SE78-57, dated September 19, 1978, and supplement No. 1, dated October 3, 1978, or later revisions, pertain to this subject.

This amendment becomes effective on October 6, 1978.

(Secs. 313(a), 601, 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89 of the Federal Aviation Regulations (14 CFR sec. 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

Issued in Kansas City, Mo., on October 6, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-29573 Filed 10-20-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-18-AD Amdt. 39-3320]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Model UH-12 Series Helicopters Including Military Models

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: An emergency airworthiness directive (AD) was issued on September 22, 1978, and sent by priority mail to all owners and operators of the Hiller model UH-12D, UH-12E, and UH-12E (4 Place) helicopters including military models. This AD was required because of failure of the antinode weight outboard retention system in the main rotor blade which will result in a complete loss of control of the main rotor blade.

DATES: Effective October 27, 1978. Initial compliance—before further flight after receipt of the priority mail letter.

ADDRESSES: The applicable service information may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, Calif.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: Threaded portions of the antinode weight attachment rod have been found to be undersized. A failure in this area causes the antinode weight to break loose and hit the blade tip weights. This will cause the main rotor blades to be completely uncontrolled, and this condition will result in the loss of the rotorcraft regardless of the altitude or of the main rotor blade RPM.

Hiller Service Bulletin 54-4, dated September 26, 1978, has been approved by the FAA as an equivalent procedure to paragraph (a)(3) of the priority mail letter, and the AD has been amended to incorporate this alternate means of compliance. Also, the note has been revised to further describe the caution necessary in reinstalling the antinode bar assembly and minor corrections have been made.

The phrase "or later FAA approved revisions" has not been included in the service bulletin citation and a note has been added indicating that the cited version of the service bulletin is the only version acceptable for demonstrating compliance with the AD.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impractical and contrary to the public interest and good cause existed for making airworthiness directive effective immediately as to all known U.S. operators of Hiller UH-12 series helicopters by individual priority mail letters dated September 22, 1978. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to section 39.13 of part 39 of the Federal Aviation Regulations to make it effective as to all persons.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HILLER HELICOPTER applies to Hiller model UH-12D, UH-12E, and UH-12E (4 Place) certificated in all categories including military models UH-23D, UH-23G, H-23F, and turbine powered models, equipped with main rotor blades assembly, Parson part No. 2253-1101-03 or 2253-1101-04.

Compliance required as indicated.

To prevent failure of the main rotor blade Parson part No. 2253-1101-03 and 2253-1101-04 antinode outboard retention system, which could result in a loss of the rotocraft, accomplish the following:

(a) Before further flight after receipt of this AD, unless already accomplished, in-

spect the threaded end of the antinode bar outboard of the antinode weight anchor nut according to the following instructions:

(1) Remove the antinode bar assembly per

[4910-13-M]

[Airspace Docket No. 78-EA-41]

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations so as to amend the description of the Reading, Pa., control zone by deleting "5 miles

tion area by deleting, "and within 2.5 miles each side of the Salisbury, Md., VORTAC 096° radial, extending from

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administra-

2. The FAA regional office of the region in which the affected airport is located; or

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spect the threaded end of the antinode bar outboard of the antinode weight anchor nut according to the following instructions:

(1) Remove the antinode bar assembly per paragraph 4.53 of UH-12E/UH-12L Series Structural Repair Manual.

(2) Clean thread outboard of the antinode weight anchor nut with a suitable wire brush.

(3) Using a micrometer, measure the thread major diameter.

(i) If the rod thread major diameter is between 0.3678 and 0.3750 inch, no further action is required for this AD and the rod may be reinstalled per instructions contained in the Structural Repair Manual.

NOTE.—*Caution.* Use extreme care in reinstalling the antinode bar assembly to insure that the screws attaching the anchor nut to the antinode bar are not sheared. Hand pressure is the maximum force allowed.

(ii) If the rod thread major diameter measures 0.3667 inch or less, before returning to service:

(A) Return the rotor blade(s) to Hiller Aviation or an FAA approved repair station to replace the antinode bar assembly, or

(B) Replace the antinode bar assembly per Hiller Service Bulletin 51-4, dated September 26, 1978.

NOTE.—Hiller Service Bulletin 51-4, dated September 26, 1978, is the only version of the service bulletin suitable for compliance with this AD.

(b) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate aircraft to a base for accomplishment of the repair required by paragraph (a) of this AD.

(c) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Record the rod thread major diameter on the appropriate blade record card.

(e) Report the helicopter serial number, blade serial number, blade total time and the antinode rod thread major diameter to the Chief, Aircraft Engineering Division, FAA Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009. (Reporting approved by the Bureau of Budget under BOB No. 04-RO174.)

This amendment is effective October 27, 1978, and was effective upon receipt for all recipients of the priority mail letter dated September 22, 1978, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

Issued in Los Angeles, Calif., on October 11, 1978.

LEON C. DAUGHERTY,
Acting Director,
FAA Western Region.

[FR Doc. 78-29790 Filed 10-20-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-41]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area, Reading, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Reading, Pa., control zone and transition area, over Carl A. Spaatz Field, Reading, Pa. This alteration will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 G.m.t., December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to subparts F and G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter a control zone and transition area. The rule resulted from the development of a revision to the instrument approach for the airport. On page 28207 of the FEDERAL REGISTER for June 29, 1978, the FAA published a proposed amendment to alter the subject control zone and transition area. Interested parties were given time in which to submit comments. No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subparts F and G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, effective 0901 G.m.t., December 28, 1978, as published.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, N.Y., on October 10, 1978.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.171 of part 71 of the Federal Aviation Regulations so as to amend the description of the Reading, Pa., control zone by deleting "5 miles northwest" and by inserting "6 miles northwest" in lieu thereof.

2. Amend § 71.181 of part 71 of the Federal Aviation Regulations so as to amend the description of the Reading, Pa., transition area by adding the following: "within 4.5 miles each side of 301° bearing from a point 40°27'10" N., 76°07'40" W., extending from said point to 8.5 miles northwest of said point.".

[FR Doc. 78-29578 Filed 10-20-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-75]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Ocean City, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will amend the Ocean City, Md., transition area's description by deleting the extension referenced to the Salisbury, Md., VORTAC 096° radial. This change is the result of the cancellation of the VOR-B instrument approach procedure.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The rule is minor in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective upon publication in the FEDERAL REGISTER by adoption of the amendment, as follows:

1. Amend § 71.181 of part 71 of the Federal Aviation Regulations by amending the description of the Ocean City, Md., 700-foot floor transition area by deleting, "and within 2.5 miles each side of the Salisbury, Md., VORTAC 096° radial, extending from the 5-mile radius area to 15.5 miles east of the VORTAC".

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, N.Y., on October 10, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-29576 Filed 10-20-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-92]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Westminster, Md.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will alter the transition area of Westminster, Md., by amending the descriptions to reflect a change of 1° for the transition area extension for Westminster Airport and extending the duration of the transition area from part time to full time. The 1° results from the implementation of a new VOR RWY 34 approach procedure. The full-time transition area is permitted by night-time use of the new procedure.

EFFECTIVE DATE: 0901 G.m.t., November 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The 1° change is minor in nature and does not impose any additional burden on any person. The change from part-time to full-time transition can be effective November 16, 1978, when the new approach procedure is implemented. In view of the enhancement of air safety and fuller utilization of Westminster Airport, notice and public procedure hereon are impracticable and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., November 16, 1978, as follows:

1. Amend § 71.181 of part 71 of the Federal Aviation Regulations by amending the description of the Westminster, Md. (Westminster Airport) 700-foot floor transition area as follows:

a. Delete "350°" and insert, "351°" in lieu thereof.

b. Delete "This transition area is effective from sunrise to sunset, daily.".

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, N.Y., on October 10, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-29575 Filed 10-20-78; 8:45 am]

[4910-13-M]

[Docket No. 18348; Amdt. No. 1122]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes standard instrument approach procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria or because of changes occurring in the national airspace system, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—

1. FAA rules docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA regional office of the region in which the affected airport is located; or

3. The flight inspection field office which originated the SIAP.

For purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA regional office of the region in which the affected airport is located.

By subscription—Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked standard instrument approach procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA forms are identified as FAA forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAP's which have

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compliance dates stated as effective dates based on related changes in the national airspace system or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a national flight data center (FDC) notice to airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. standard for terminal instrument approach procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking standard instrument approach procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

• • • effective December 28, 1978.

Lansing, MI—Capital City, VOR Rwy 6, Amdt. 16.
Lansing, MI—Capital City, VOR Rwy 24, Amdt. 2.

• • • effective November 30, 1978.

Auburn, AL—Auburn-Opelika, VOR Rwy 28, Amdt. 6.
Huntsville, AL—Huntsville Airport North, VOR/DME-B, Amdt. 1.
Benton, AR—Saline County, VOR-A, Amdt. 4.
Blythe, CA—Blythe, VOR Rwy 26, Amdt. 2.
Blythe, CA—Blythe, VOR-A, Amdt. 3.
Santa Ynez, CA—Santa Ynez, VOR-A, Amdt. 6.
Santa Ynez, CA—Santa Ynez, VOR-B, Amdt. 4.
Logansport, IN—Logansport Municipal, VOR-A, Amdt. 4.
Pineville, LA—Pineville Municipal, VOR-A, Amdt. 1.
Frederick, MD—Frederick Municipal, VOR Rwy 23, Amdt. 5.
Hattiesburg, MS—Hattiesburg Muni, VOR Rwy 13, Amdt. 7.
Las Vegas, NV—McCarran Int'l, VOR Rwy 25, Amdt. 9.
Raton, NM—Crews Fld, VOR/DME Rwy 2, Amdt. 2.
Pittsburgh, PA—Greater Pittsburgh Int'l, VOR Rwy 28C, Amdt. 3.
Pawtucket, RI—North Central State, VOR-B Original.
Charleston, SC—Charleston AFB/Muni, VOR Rwy 3 (TAC), Amdt. 9.
Cleburne, TX—Cleburne Muni, VOR/DME-A, Amdt. 1.

• • • effective November 16, 1978.

Carbondale-Murphysboro, IL—Southern Illinois, VOR-B, Original.
Kirksville, MO—Clarence Cannon Memorial, VOR-A, Amdt. 11.
Kirksville, MO—Clarence Cannon Memorial, VOR/DME-B (TAC), Amdt. 3.

• • • effective November 2, 1978.

Lawrenceville, VA—Lawrenceville Municipal, VOR-A, Amdt. 3.

• • • effective October 5, 1978.

Charlotte, NC—Douglas Muni, VOR/DME Rwy 18L, Amdt. 1.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • effective December 28, 1978.

Dayton, OH—James M. Cox Dayton International, LOC Rwy 24R, Amdt. 1, cancelled.

• • • effective November 30, 1978.

Batesville, AR—Batesville Regional, SDF Rwy 7, Amdt. 2.
Charlotte, NC—Douglas Municipal, LOC/DME (BC) Rwy 23, Original.

• • • effective November 16, 1978.

Kirksville, MO—Clarence Cannon Memorial, LOC Rwy 35, Original.

• • • effective October 11, 1978.

Oklahoma City, OK—Will Rogers World, LOC (BC) Rwy 17L, Amdt. 6, cancelled.

3. By amending § 97.27 NDB/ADF SIAPs as follows:

• • • effective December 28, 1978.

Texarkana, AR—Texarkana Muni/Webb Field, NDB Rwy 22, Amdt. 6.
Wauseon, OH—Fulton County, NDB Rwy 27, Amdt. 4.
Dayton, OH—James M. Cox Dayton International, NDB Rwy 6L, Amdt. 3.
Dayton, OH—James M. Cox Dayton International, NDB Rwy 6R, Amdt. 3.

• • • effective November 30, 1978.

Batesville, AR—Batesville Regional, NDB Rwy 7, Amdt. 2.
Strugis, KY—Strugis Muni, NDB Rwy 36, Amdt. 1.
Lebanon, OH—Lebanon-Warren County, NDB-A, Original.
Hattiesburg, MS—Hattiesburg Muni, NDB Rwy 13, Amdt. 6.
Binghamton, NY—Broome County, NDB Rwy 34, Amdt. 14.
Pittsburgh, PA—Greater Pittsburgh Intl., NDB Rwy 10L, Amdt. 8.
Pittsburgh, PA—Greater Pittsburgh Intl., NDB Rwy 28C, Amdt. 3.
Pittsburgh, PA—Greater Pittsburgh Intl., NDB Rwy 28R, Amdt. 3.
Greer, SC—Greenville-Spartanburg, NDB Rwy 3, Amdt. 9.

• • • effective November 16, 1978.

Carbondale-Murphysboro, IL—Southern Illinois, NDB Rwy 18, Amdt. 5.

• • • effective November 2, 1978.

Fort Heiden, AK—Port Heiden, NDB Rwy 5, Original.
Port Heiden, AK—Port Heiden, NDB Rwy 13, Original.
Staunton-Waynesboro-Harrisonburg, VA—Shenandoah Valley, NDB Rwy 4, Amdt. 4.

• • • effective October 11, 1978.

Oklahoma City, OK—Will Rogers World, NDB Rwy 17L, Orig., cancelled.
Oklahoma City, OK—Will Rogers World, NDB Rwy 35R, Amdt. 1, cancelled.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • effective December 28, 1978.

Texarkana, AR—Texarkana Muni/Webb Field, ILS Rwy 22, Amdt. 8.
Dayton, OH—James M. Cox Dayton International, ILS Rwy 6L, Amdt. 2.
Dayton, OH—James M. Cox Dayton International, ILS Rwy 18, Amdt. 5.
Dayton, OH—James M. Cox Dayton International, ILS Rwy 24L, Amdt. 3.
Dayton, OH—James M. Cox Dayton International, ILS Rwy 24R, Original.

• • • effective November 30, 1978.

Binghamton, NY—Broome County, ILS Rwy 34, Amdt. 18.
New York, NY—John F. Kennedy Int'l., ILS Rwy 13L, Amdt. 10.
Pittsburgh, PA—Greater Pittsburgh Int'l., ILS Rwy 10L, Amdt. 18.
Pittsburgh, PA—Greater Pittsburgh Int'l., ILS Rwy 28C, Amdt. 18.
Pittsburgh, PA—Greater Pittsburgh Int'l., ILS Rwy 32, Amdt. 1.
Greer, SC—Greenville-Spartanburg, ILS Rwy 3, Amdt. 12.

• • • effective November 16, 1978.

Carbondale-Murphrysboro, IL—Southern Illinois, ILS Rwy 18, Amdt. 5.

• • • effective November 2, 1978.

New York, NY—LaGuardia, ILS Rwy 4, Amdt. 31.
Dallas-Ft. Worth, TX—Dallas-Ft. Worth, Regional, ILS Rwy 17R, Amdt. 7.
Staunton-Waynesboro-Harrisonburg, VA—Shenandoah Valley, ILS Rwy 4, Amdt. 2.

• • • effective October 11, 1978.

Oklahoma City, OK—Will Rogers World, ILS Rwy 35R, Amdt. 5, cancelled.

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • effective December 28, 1978.

Lansing, MI—Capital City, RADAR 1, Amdt. 5.
Dayton, OH—James M. Cox Dayton International, RADAR-1, Amdt. 1.

• • • effective November 30, 1978.

Pittsburgh, PA—Greater Pittsburgh Int'l., RADAR 1, Amdt. 18.
Charleston, SC—Charleston AFB/Muni, RADAR-1, Amdt. 12.

6. By amending § 97.33 RNAV SIAPs identified as follows:

• • • effective December 28, 1978.

Dayton, OH—James M. Cox Dayton International, RNAV Rwy 6R, Amdt. 4.
Dayton, OH—James M. Cox Dayton International, RNAV Rwy 24L, Amdt. 3.
Reading, PA—Reading Municipal Gen. Carl A. Spaatz Field, RNAV Rwy 13, Amdt. 1.
Reading, PA—Reading Municipal Gen. Carl A. Spaatz Field, RNAV Rwy 18, Amdt. 1.

• • • effective November 30, 1978.

Logansport, IN—Logansport Municipal, RNAV Rwy 27, Original.
Chapel Hill, NC—Horace Williams, RNAV Rwy 8, Amdt. 1, cancelled.
Chapel Hill, NC—Horace Williams, RNAV Rwy 26, Amdt. 1, cancelled.
Pittsburgh, PA—Greater Pittsburgh Int'l., RNAV Rwy 14, Amdt. 3.
Pawtucket, RI—North Central State, RNAV Rwy 5, Original.
Pawtucket, RI—North Central State, RNAV Rwy 23, Original.

• • • effective November 16, 1978.

Kirksville, MO—Clarence Cannon Memorial, RNAV Rwy 35, Amdt. 4.

• • • effective October 11, 1978.

Oklahoma City, Ok—Will Rogers World, RNAV Rwy 17L, Amdt. 2, cancelled.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on October 13, 1978.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc. 78-29674 Filed 10-20-78; 8:45 am]

[3510-17-M]

Title 15—Commerce and Foreign Trade

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 8—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF COMMERCE—IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Appendix A—Federal Financial Assistance to Which This Part Applies [1]

AGENCY: Department of Commerce.

ACTION: Revision and amendment of Department of Commerce appendix A.

SUMMARY: Executive Order 11764 delegated to the Attorney General final approval of regulations to implement title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. In accordance with that authority the Department of Justice issued regulations (28 CFR 42.401-415) to coordinate each Federal agency's title VI regulations. Section 42.403(d) of the Justice regulations requires that each agency publish a current list of the Federal financial assistance covered under its title VI programs. This rule revises the Commerce Department's list of Federal financial assistance which is contained in appendix A to this part.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Alice K. Helm, Office of Civil Rights, Department of Commerce, 14th and Constitution Avenue, Washington, D.C. 20230, 202-377-5391.

Appendix A to part 8 of title 15, subtitle A of the Code of Federal Regulations is hereby revised and amended as follows:

Dated: September 29, 1978.

JUANITA M. KREPS,
Secretary.

APPENDIX A: PROGRAMS COVERED BY TITLE VI

1. FEDERAL FINANCIAL ASSISTANCE TO WHICH TITLE 15, SUBTITLE A, PART 8 APPLIES

Economic Development Administration

1. Loans, grants, technical and other assistance for public works and development facilities, for supplementing Federal grants-in-aid, for private businesses, and for other purposes, including assistance in connection with designated economic development districts and regions (Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121 et seq.).

2. Financial and technical assistance to firms to aid economic adjustment to the effects of increased imports in direct competition with firm products (Trade Act of 1974, 19 U.S.C. 2341-2354).

3. Assistance to communities adversely affected by increased imports in direct competition with products manufactured in the community area (Trade Act of 1974, 19 U.S.C. 2371-2374.

4. Assistance to projects involving construction of local and State public facilities in order to reduce unemployment and provide State and local governments with badly needed public facilities (Local Public Works Capital Development and Assistance Act of 1976, 42 U.S.C. 6701-6710).

5. Trade adjustment assistance: Loans, dissemination of technical information (title II of the Trade Act of 1974, 19 U.S.C. 2341-2374).

Maritime Administration

1. Operating differential subsidy assistance to operators of U.S. flag vessels engaged in U.S. foreign commerce (46 U.S.C. 1171 et seq.).

2. Assistance to operate State maritime academies and colleges to train merchant marine officers (46 U.S.C. 1381-1388).

3. Ship construction differential subsidies, direct payments (Merchant Marine Act of 1936, as amended, 46 U.S.C. 1151-1161).

National Fire Prevention and Control Administration

1. Academy planning assistance: To assist States in the development of training and education in the fire prevention and control area (15 U.S.C. 2201-2219).

2. State fire incident reporting assistance: To assist States in the establishment and operation of a statewide fire incident and casualty reporting system (15 U.S.C. 2201-2219).

3. Public education assistance planning: Publications, audiovisual presentations and demonstrations, research, testing, and experimentation to determine the most effective means for such public education (15 U.S.C. 2205(c).

4. Policy development assistance: Studies of the operations and management aspects of fire services (15 U.S.C. 2207(c).

National Oceanic and Atmospheric Administration

1. Assistance to States, educational institutions, and the commercial fishing industry for the development of tuna and other latent fisheries (16 U.S.C. 758e).

2. Assistance to States for the development and implementation of programs to protect and study certain species of marine mammals (16 U.S.C. 1379b).

3. Financial assistance to States with agencies which have entered into a cooperative agreement to assist in the preservation of threatened and endangered species (16 U.S.C. 1535).

4. Assistance to coastal States for the development of estuarine sanctuaries to serve as field laboratories and for acquiring access to public beaches (16 U.S.C. 1461).

5. Assistance to coastal States for the development, implementation, and administration of coastal zone management programs (16 U.S.C. 1454-1455).

6. Assistance to coastal States to help communities in dealing with the economic, social, and environmental consequences re-

[1] NOTE.—Appendix A to this part was added on July 5, 1973, 38 FR 17938. It was inadvertently omitted from title 15 of the Code of Federal Regulations. This rule revises and reinstates appendix A to part 8 of title 15.

sulting from expanded coastal energy activity (16 U.S.C. 1456).

7. Authority to enter into cooperative agreements with "colleges and universities

Regional Action Planning Commissions

1. Supplemental grants to Federal grant-in-aid programs and technical assistance funds for planning, investigations, studies

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Oper-

SUMMARY: This rule establishes a tolerance for residues of the insecticide carbaryl. The request was submit-

Effective on the date of publication in the FEDERAL REGISTER, part 180, subpart C, § 180.169 is amended by alpha-

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sulting from expanded coastal energy activity (16 U.S.C. 1456).

7. Authority to enter into cooperative agreements with "colleges and universities, with game and fish departments of the several States, and with nonprofit organizations relating to cooperative research units." Assistance limited to assignment of personnel, supplies, and incidental expenses (16 U.S.C. 753 a and b).

8. Grants for education and training of personnel in the field of commercial fishing, "to public and nonprofit private universities and colleges * * *" (16 U.S.C. 760d).

9. Grants for "office and any other necessary space" for the Northern Pacific Halibut Commission (16 U.S.C. 772).

10. The "Dingell Johnson Act": Apportionment of dollars to States for restoration and management of sport or recreational species (16 U.S.C. 777-777i; 777k).

11. Authority to cooperate with and provide assistance to States in controlling jellyfish, etc. (16 U.S.C. 1201, 1202).

12. Authority to cooperate with and provide assistance to certain States and territories in the study and control of "Crown of Thorns" starfish (16 U.S.C. 1211-1213).

13. Technical assistance to fishing cooperatives regarding catching and marketing aquatic products (15 U.S.C. 521-522).

14. Fish research and experimentation program cooperation with other agencies in acquisition of lands, construction of buildings, employment of personnel in establishing and maintaining research stations (16 U.S.C. 778a).

15. Assistance to upgrade commercial fishing vessels and gear (16 U.S.C. 742c).

16. Assistance to State projects designed for the research and development of commercial fisheries resources of the nation (16 U.S.C. 779a-779f).

17. Assistance to State and other non-Federal interests under cooperative agreements to conserve, develop, and enhance anadromous and Great Lakes Fisheries (16 U.S.C. 757a et seq.).

18. Grants and other assistance under the National Sea Grant College and Program Act of 1966: To support establishment of major university centers for marine research, education, training, and advisory services (33 U.S.C. 1121-1124).

19. Geodetic surveys and services; advisory services; dissemination of technical information (33 U.S.C. 883a).

20. Nautical charts assistance; advisory services; dissemination of technical information (33 U.S.C. 883a).

21. River and flood forecast and warning services; advisory services (15 U.S.C. 313).

22. Weather forecast and warning services (15 U.S.C. 311 and 313, 49 U.S.C. 1351 and 1463).

23. Commercial fisheries disaster assistance (16 U.S.C. 779b).

24. Provision for the Weather Service to assist in joint projects "of mutual interest" (15 U.S.C. 1525).

Office of Minority Business Enterprise

1. Assistance to minority business enterprises: Grants, contracts, advisory service, technical information (15 U.S.C. 1512; title III of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3151; Executive Order 11625, Oct. 13, 1971).

Regional Action Planning Commissions

1. Supplemental grants to Federal grant-in-aid programs and technical assistance funds for planning, investigations, studies, training programs, and demonstration projects, including demonstrations in energy, transportation, health and nutrition, education and indigenous arts and crafts (title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181-3196).

United States Travel Service

1. Assistance to strengthen the domestic and foreign commerce of the United States, and to promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States (22 U.S.C. 2121 et seq.).

Departmentwide

1. Authority to make basis scientific research grants (42 U.S.C. 1891-1893; to be superseded no later than Feb. 3, 1979, by the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224).

II. A PRIMARY OBJECTIVE OF THE FINANCIAL ASSISTANCE AUTHORIZED BY THE FOLLOWING STATUTES, ALREADY LISTED ABOVE IN APPENDIX AI, IS TO PROVIDE EMPLOYMENT

1. Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 et seq.).

2. Trade Act of 1974 (19 U.S.C. 2341-2354).

3. Local Public Works Capital Development and Assistance Act of 1976 (42 U.S.C. 6701-6716).

[FR Doc. 78-29807 Filed 10-20-78; 8:45 am]

[3510-25-M]

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

Embargo on Export Trade With Uganda

AGENCY: Office of Export Administration, Bureau of Trade Regulation, (Industry and Trade Administration) U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: Pub. L. 95-435, signed by President Carter on October 10, 1978, amended the Export Administration Act of 1969 by adding a provision embargoing export trade (except cereal grains and additional food products) with Uganda. This rule announces that, effective October 10, 1978, this embargo supersedes any existing provisions of the Export Administration Regulations to the contrary. The Department is now reviewing the statute to determine what further regulatory changes may be required.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, part 385 of the Export Administration Regulations (15 CFR Part 385) is amended to add a new section to read as follows:

§ 385.7 Uganda.

Pub. L. 95-435, effective October 10, 1978, added a new subsection (m) to section 4 of the Export Administration Act of 1969, as amended, as follows:

No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights.

Any provision in the Export Administration Regulations contrary to this embargo is superseded.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; sec. 5(d), Pub. L. 95-435, 92 Stat. 1051; E.O. 12002, 42 FR 35623 (1977); Department Organization order 10-3, dated Dec. 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated Dec. 4, 1977, 42 FR 64716 (1977).)

Dated: October 17, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-29803 Filed 10-18-78; 3:37 pm]

[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 204—DANGER ZONE REGULATIONS

San Miguel Island, Calif.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This document amends the regulations which establish a naval danger zone at San Miguel Island, Calif. This amendment extends the period of use for the danger zone to July 1, 1980.

DATE: Effective on October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard, 202-693-5070, or write: Office of the Chief of Engineers, attention: DAEN-CWO-N, Forrestal Building, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: The proposed revision was published in the FEDERAL REGISTER on August 16, 1978 (43 FR 36283), with the comment period expiring on September 18, 1978. We received no objections to extending the period of use for this danger zone. Pursuant to section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), and chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3), 33 CFR 204.203(c)(9) is revised as set forth below:

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 2, 1978.

Approved:

MICHAEL BLUMENFELD,
Deputy Under Secretary of the Army.

§ 204.203 Pacific Ocean at San Miguel Island, Calif., naval danger zone.

* * * * * * *

(c) The regulations. * * *

(9) The regulations in this section shall be in effect until July 1, 1980, and shall be reviewed in May 1980 to determine the continuing need.

(33 U.S.C. 1, 3.)

[FR Doc. 78-29768 Filed 10-20-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 992-1; PP 6E1848/R175]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbaryl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide carbaryl. The request was submitted by the Interregional Research Project No. 4. This regulation establishes a maximum permissible level for residues of carbaryl on sweet potatoes.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW, Washington, D.C. 20460, 202-755-4851.

SUPPLEMENTARY INFORMATION: On August 3, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 34163) in response to a pesticide petition (PP 6E1848) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Florida, Louisiana, and North Carolina. this petition proposed that 40 CFR 180.169 be amended by establishing a tolerance for residues of the insecticide carbaryl (1-napthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as carbaryl, in or on the raw agricultural commodity sweet potatoes at 0.2 part per million (ppm). Two comments were received in response to this notice of proposed rulemaking. One advocated establishment of the proposed tolerance. The other pointed out a typographical error ("rate" should be changed to "rat" in the ninth paragraph, third line) and recommended that the word "teratology" in the ninth paragraph, third line, be changed to "feeding" and that the term "highest level fed" in the ninth paragraph, fifth line, be deleted, all in the preamble.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.169 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before November 22, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on the date of publication in the FEDERAL REGISTER, part 180, subpart C, § 180.169 is amended by alphabetically inserting a tolerance for carbaryl on sweet potatoes at 0.2 ppm as set forth below.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: October 16, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, subpart C, § 180.169, is revised by reformatting the section into an alphabetized columnar listing and alphabetically inserting the new tolerance of 0.2 ppm in or on sweet potatoes, as follows:

§ 180.169 Carbaryl; tolerances for residues.

Tolerances are established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate), including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate, in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Alfalfa	100
Alfalfa, hay	100
Almonds	1
Almonds, hulls	40
Apples	10
Apricots	10
Asparagus	10
Bananas	10
Barley, grain	0
Barley, green fodder	100
Barley, straw	100
Beans	10
Beans, forage	100
Beans, hay	100
Beets, garden (roots)	5
Beets, garden (tops)	12
Blackberries	12
Blueberries	10
Boysenberries	12
Broccoli	10
Brussels sprouts	10
Cabbage	10
Carrots	10
Cauliflower	10
Cherries	10
Chinese cabbage	10
Citrus fruits	10
Clover	100
Clover, hay	100
Collards	12
Corn, fresh (including sweet) K+CWHR	5
Corn, fodder	100
Corn, forage	100
Cotton, forage	100
Cottonseed	5
Cowpeas	5
Cowpeas, forage	100
Cowpeas, hay	100
Cranberries	10
Cucumbers	10
Dandelions	12
Dewberries	12
Eggplants	10
Endive (escarole)	10
Filberts (hazelnuts)	1
Grapes	10
Grass	100
Grass, hay	100
Horseradish	5
Kale	12
Kohlrabi	10
Lettuce	10
Loganberries	12

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	Parts per
Melons	10
Mustard greens	12
Nectarines	10
Oats, fodder, green	100
Oats, grain	0
Oats, straw	100
Okra	10
Olives	10
Parsley	12
Parsnips	5
Peaches	10
Peanuts	5
Peanuts, hay	100
Pears	10
Peas (with pods)	10
Peavines	100
Pecans	1
Peppers	10
Plums (fresh prunes)	10
Poultry, fat	5
Poultry, meat	5
Potatoes	0.2(N)
Pumpkins	10
Radishes	5
Raspberries	12
Rice	5
Rice, straw	100
Rutabagas	5
Rye, fodder, green	100
Rye, grain	0
Rye, straw	100
Salsify (roots)	5
Salsify (tops)	10
Sorghum, forage	100
Sorghum, grain	10
Soybeans	5
Soybeans, forage	100
Soybeans, hay	100
Spinach	12
Squash, summer	10
Squash, winter	10
Strawberries	10
Sugar beets, tops	100
Sweet potatoes	0.2
Swiss chard	12
Tomatoes	10
Turnips, roots	5
Turnips, tops	12
Walnuts	1
Wheat, fodder, green	100
Wheat, grain	0
Wheat, straw	100

[FR Doc. 78-29729 Filed 10-20-78; 8:45 am]

[6560-01-M]

[FRL 992-8; PP 7E1964/R178]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Terbacil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of terbacil on sainfoin forage and hay. The regulation was requested by the Interregional Research Project No. 4. This rule establishes maximum permissible leveis for residues of terbacil on sainfoin forage and hay.

EFFECTIVE DATE: Effective on October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C., 202-755-4851.

SUPPLEMENTARY INFORMATION: On August 9, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 35349) in response to a pesticide petition (PP 7E1964) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Montana.

This petition proposed that 40 CFR 180.209 be amended by the establishment of a tolerance for combined residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) and its hydroxylated metabolites (calculated as terbacil) in or on the raw agricultural commodities sainfoin forage and sainfoin hay at 5 parts per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.209 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before November 22, 1978, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on October 23, 1978, part 180, subpart C, § 180.209 is amended by adding tolerances for residues of terbacil on sainfoin forage and hay at 5 ppm as set forth below.

Dated: October 16, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Part 180, subpart C, § 180.209 is amended by alphabetically inserting sainfoin forage and sainfoin hay at 5 ppm in the table in paragraph (b), to read as follows:

§ 180.209 Terbacil; tolerances for residues.

* * * * *

Commodity	Parts per million
Sainfoin, forage	5
Sainfoin hay	5

* * * * *

[FR Doc. 78-29718 Filed 10-20-78; 8:45 am]

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Redesignation of PSRO Areas in North Carolina

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This rule amends the professional standards review organization (PSRO) area designations for North Carolina by transferring Watauga County from PSRO area I to PSRO area II. The redesignation of these areas will result in PSRO areas that better coincide with existing medical service areas in North Carolina.

DATE: The transfer is effective October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Arnold Wilson, Health Care Financing Administration, telephone 301-443-5327.

SUPPLEMENTARY INFORMATION: On March 18, 1974, we published regulations (39 FR 10204) designating eight PSRO areas within North Carolina. Area I is composed of 20 counties in the westernmost portion of the State, and area II is composed of 12 counties in the northwestern portion of the State. Area VI is composed of 26 counties in the eastern portion of the State, and area VIII is composed of 13 counties in the southeastern portion of the State.

On October 27, 1977, we published a notice (42 FR 55626) proposing to transfer Watauga County from PSRO area I to PSRO area II and Onslow County from PSRO area VIII to PSRO area VI. Our aim was to have PSRO areas that more accurately reflect the medical referral patterns in those geographical areas.

No comments were received concerning the transfer of Watauga County. Comments were received, however, from the Onslow Medical Society, Onslow Hospital, Health Services Area Planning Agency, and the Southeastern North Carolina Medical Peer Review Foundation, requesting that Onslow County remain in PSRO area VIII. Onslow County is located on the border between areas VI and VIII, and is equally distant from the nearest major medical facilities in both PSRO areas.

The comments indicate that referrals from Onslow County are made as frequently to providers of medical care in area VIII as they are made to providers in area VI. Furthermore, the local review program of the North Carolina State Medicaid Hospital Admissions Review program (HARP) is operating in PSRO area VIII and includes review of medicaid patients in Onslow County.

We have concluded that leaving Onslow County in area VIII is consistent with current medical referral patterns. Therefore, we decided not to transfer Onslow County to area VI.

We have decided to transfer Watauga County from area I to area II so that these PSRO areas will more nearly coincide with the existing medical service areas. Data concerning patients in these two areas indicate that physicians from Watauga County generally refer patients to Winston-Salem in area II rather than to Asheville, the major medical center in area I. Hospitals in Watauga County are linked with health care facilities in Winston-Salem by a radio communication system which facilitates the delivery of emergency medical services to residents of Watauga County. Furthermore, because of the mountainous terrain between Watauga County and Asheville, Winston-Salem is more accessible than Asheville for Watauga County patients who travel by automobile.

42 CFR 460.37 is amended by revising the designation of PSRO area I and area II to read as follows:

§ 460.37 North Carolina.

Eight professional standards review organization areas are designated in North Carolina, composed of the following counties:

AREA I

Avery, Caldwell, Mitchell, Yancey, McDowell, Burke, Haywood, Buncombe, Rutherford, Swain, Transylvania, Jackson, Henderson, Polk, Graham, Macon, Cherokee, Clay, and Madison.

AREA II

Watauga, Surry, Stokes, Yadkin, Forsyth, Iredell, Davie, Rowan, Davidson, Ashe, Alleghany, Wilkes, and Alexander.

AREA III

Rockingham, Caswell, Guilford, Alamance, and Randolph.

AREA IV

Person, Orange, Durham, and Chatham.

AREA V

Granville, Vance, Warren, Franklin, Wake, Lee, Harnett, and Johnston.

AREA VI

Halifax, Northampton, Hertford, Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, Nash, Edgecombe, Bertie, Martin, Washington, Tyrrell, Dare, Wilson, Greene, Pitt, Beaufort, Hyde, Lenoir, Craven, Pamlico, Jones, and Carteret.

AREA VII

Catawba, Lincoln, Cleveland, Gaston, Mecklenburg, Cabarrus, Stanly, Montgomery, Moore, Union, Anson, and Richmond.

AREA VIII

Wayne, Hoke, Cumberland, Sampson, Duplin, Onslow, Scotland, Robeson, Bladen, Pender, Columbus, Brunswick, and New Hanover.

(Secs. 1102, 1152, Social Security Act (42 U.S.C. 1302, 1302c-1).)

Dated: September 7, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: October 11, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-29830 Filed 10-20-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-710]

PART 0—COMMISSION ORGANIZATION

Delegation of Authority to the Chief Administrative Law Judge

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: To encourage and expedite the consolidation for related hearing cases, the FCC authorizes the chief administrative law judge to consolidate such cases.

EFFECTIVE DATE: October 23, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

SUPPLEMENTARY INFORMATION:

Adopted: October 5, 1978.
Released: October 17, 1978.

By the Commission.

In the matter of delegation of authority to the chief administrative law judge.

1. Hearing cases involving the same parties, issues and factual disputes should ordinarily be consolidated. We think that the consolidation of such cases will be encouraged and expedited if the chief administrative law judge is authorized to consolidate them.

2. *Accordingly, it is ordered,* effective October 23, 1978, that the chief administrative law judge is authorized to consolidate related proceedings which have been designated for hearing. Authority for the rule amendment set forth below is contained in sections 4 (i) and (j), and 5 (d), of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and (j) and 155(d). Because the amendment involves a matter of procedure and internal organization, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Section 0.351(i) is added, to read as follows:

§ 0.351 Authority delegated.

* * * * *

(i) The consolidation of related proceedings pursuant to § 1.227(a) of this chapter, after designation of those proceedings for hearing.

[FR Doc. 78-29698 Filed 10-19-78; 8:45 am]

[6712-01-M]

[FCC 78-709]

PART 1—PRACTICE AND PROCEDURE

Implementation of Pub. L. 95-234, Forfeiture Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission amends its rules to implement the new forfeiture statute (Pub. L. 95-234). The statute and the new regulations provide for forfeitures in amounts up to $20,000 in some cases against persons who willfully or repeatedly violate communications laws or regulations; extend the period for bringing an action to 1 year and in some cases to 3; and provide alterna-

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tive hearing and nonhearing procedures for the imposition of forfeitures.

EFFECTIVE DATE: October 23, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Upton Guthery, Office of General Counsel, 202-632-6444.

SUPPLEMENTARY INFORMATION:

Adopted: October 5, 1978.

Released: October 20, 1978.

By the Commission.

In the matter of implementation of Pub. L. 95-234, forfeiture procedures.

1. By Pub. L. 95-234, February 21, 1978, the Congress enacted new provisions governing the imposition of forfeitures by the Commission. The law applies to conduct taking place on or after March 23, 1978. Conduct which took place on or before March 22, 1978, continues subject to preexisting law and regulation (47 CFR 1.80, 1.621, and 1.991 (Oct. 1, 1977 ed.)).

2. *The law.* The new forfeiture law effectuates the following major changes:

(a) Under the new law, the Commission may impose forfeitures on any person who willfully or repeatedly fails to comply with the Communications Act, the Commission's rules, Commission orders, treaties, or the terms of any instrument of authorization. Thus, a forfeiture may be imposed for operation without a license, for marketing radio equipment in violation of the rules, etc. The previous law applied only to 12 specific offenses.

(b) The new law substantially increases the amount of the forfeiture which may be imposed. Under the new law, the maximum is $2,000. Previously it was $1,000 for broadcast licensees and $100 for other licensees. The maximum penalty imposed for multiple violations in a single notice of apparent liability is now $20,000 for common carriers, broadcast station licensees, and cable television station operators, and $5,000 for others. Previously it was $10,000 for broadcast station licensees and $500 for other licensees ($400 for a radio operator who did not hold a station license).

(c) The new law contains more generous statute of limitations provision—up to 3 years in the case of violations by broadcasters, and 1 year for others. The previous law required issuance of a notice of apparent liability within 1 year for violations by broadcast station licensees and within 90 days for other licensees.

(d) The new law specifies alternative procedures. First, the Commission may issue a notice of apparent liability and impose a forfeiture without holding a hearing; if the forfeiture is not paid, collection is by trial de novo in a Federal district court. Second, the Commission may issue a notice of opportunity for hearing, which is followed by an evidentiary hearing before an administrative law judge; respondent may petition for judicial review of a final forfeiture order under section 402(a) of the Communications Act, but is not entitled to a trial de novo. The previous law provided only for the notice of apparent liability—trial de novo procedure.

2. *Procedure; § 1.80.* Section 1.80, as set out in the attached appendix tracks the provisions of the new law and carries forward some of the administrative provisions of present § 1.80 (see, e.g., 1.80(h), providing details on payment of forfeitures). New § 1.80 would replace existing §§ 1.80, 1.81, 1.621, and 1.991. To preclude repetitive pleadings following issuance of a final forfeiture order, which have heretofore posed a problem, § 1.80(i) provides that requests for remission or mitigation filed pursuant to section 504(b) of the Communications Act shall be filed as petitions for reconsideration. We believe that one opportunity for reconsideration following final Commission action, followed by judicial review or a trial de novo, quite adequately suffices to serve the interests of fairness.

3. Authority for these rules is contained in sections 4(i), 503(b), and 504(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 503(b), and 504(b). Because the rules concern procedure and because they simply track the provisions of Pub. L. 95-234, the prior notice and effective date provisions of 5 U.S.C. 553 are inapplicable.

4. *Accordingly, it is ordered,* effective October 23, 1978, That part 1 of the rules and regulations is amended as set out below.

(Secs. 4, 503, 504, 48 Stat., as amended, 1066, 1101, 47 U.S.C. 154, 503, 504.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 1 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

1. Section 1.80 is revised to read as follows:

§ 1.80 Forfeiture proceedings.

(a) *Persons against whom and violations for which, a forfeiture may be assessed.* A forfeiture penalty may be assessed against any person found to have:

(1) Willfully or repeatedly failed to comply substantially with the terms and conditions of any license, permit, certificate, or other instrument of authorization issued by the Commission;

(2) Willfully or repeatedly failed to comply with any of the provisions of the Communications Act of 1934, as amended; or of any rule, regulation or order issued by the Commission under that Act or under any treaty, convention, or other agreement to which the United States is a party and which is binding on the United States;

(3) Violated any provision of section 317(c) or 509(a) of the Communications Act; or

(4) Violated any provision of section 1304, 1343, or 1464 of Title 18, United States Code.

A forfeiture penalty assessed under this section is in addition to any other penalty provided for by the Communications Act, except that the penalties provided for in subpargraphs (1) and (2) of paragraph (b) of this section shall not apply to conduct which is subject to a forfeiture penalty under section 202(c), 203(e), 205, 214(d), 219(b), 220(d), 364, 386, or 507 of the Communications Act. The remaining provisions of this section are applicable to such conduct.

(b) *Limits on the amount of the forfeiture assessed—(1) Limit for each violation.* The amount of any forfeiture penalty assessed under this section shall not exceed $2,000 for each violation.

(2) *Limits on total penalty.* Each day of a continuing violation shall constitute a separate offense, but the total forfeiture which may be imposed under this section for conduct set forth in any notice of apparent liability or notice of opportunity for hearing shall not exceed: (i) $20,000, if the violator is a common carrier subject to the provisions of the Communications Act, a broadcast station licensee or permittee, or a cable television system operator, and the violation relates to operation of those facilities, and

(ii) $5,000, in the case of any other violator.

NOTE.—For information concerning notices of apparent liability and notices of opportunity for hearing, see paragraphs (e), (f), and (g) of this section.

(3) *Factors considered in determining the amount of the forfeiture penalty.* In determining the amount of the forfeiture penalty, the Commission or its designee will take into account the nature, circumstances, extent and gravity of the violations and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(c) *Limits on the time when a proceeding may be initiated.* (1) In the case of a broadcast station, no forfeiture penalty shall be imposed if the violation occurred more than 3 years prior to the date on which the notice of apparent liability or notice of opportunity for hearing is issued. In addition, no forfeiture penalty shall be imposed if the violation occurred more than 1 year prior to the issuance of the appropriate notice or prior to the date of commencement of the current license term, whichever is earlier.

(2) In the case of a forfeiture imposed against a carrier under sections 202(c), 203(e), and 220(d), no forfeiture will be imposed if the violation occurred more than 5 years prior to the issuance of a notice of apparent liability.

(3) In all other cases, no penalty shall be imposed if the violation occurred more than 1 year prior to the date on which the appropriate notice is issued.

(d) *Preliminary procedure in some cases; citations.* No forfeiture penalty shall be imposed upon any person under this section, if such person does not hold a license, permit, certificate, or other authorization issued by the commission, unless, prior to the issuance of the appropriate notice, such person: (1) Is sent a citation reciting the violation charged; (2) is given a reasonable opportunity (usually 30 days) to request a personal interview with a Commission official, at the field office which is nearest to such person's place of residence; and (3) subsequently engages in conduct of the type described in the citation. However, a forfeiture penalty may be imposed, if such person is engaged in (and the violation relates to) activities for which a license, permit, certificate, or other authorization is required. Paragraph (c) of this section does not limit the issuance of citations. When the requirements of this paragraph have been satisfied with respect to a particular violation by a particular person, a forfeiture penalty may be imposed upon such person for conduct of the type described in the citation without issuance of an additional citation.

(e) *Alternative procedures.* In the discretion of the Commission, a forfeiture proceeding may be initiated either: (1) By issuing a notice of apparent liability, in accordance with paragraph (f) of this section, or (2) a notice of opportunity for hearing, in accordance with paragraph (g).

(f) *Notice of apparent liability.* Before imposing a forfeiture penalty under the provisions of this paragraph, the Commission or its designee will issue a written notice of apparent liability.

(1) *Content of notice.* The notice of apparent liability will: (i) Identify each specific provision, term, or condition of any act, rule, regulation, order, treaty, convention, or other agreement, license, permit, certificate, or instrument of authorization which the respondent has apparently violated or with which he has failed to comply,

(ii) Set forth the nature of the act or omission charged against the respondent and the facts upon which such charge is based,

(iii) State the date(s) on which such conduct occurred, and

(iv) Specify the amount of the apparent forfeiture penalty.

(2) *Delivery.* The notice of apparent liability will be sent to the respondent, by certified mail, at his last known address (see § 1.15).

(3) *Response.* The respondent will be afforded a reasonable period of time (usually 30 days from the date of the notice) to show, in writing, why a forfeiture penalty should not be imposed or should be reduced, or to pay the forfeiture. Any showing as to why the forfeiture should not be imposed or should be reduced shall include a detailed factual statement and such documentation and affidavits as may be pertinent.

(4) *Forfeiture order.* If the proposed forfeiture penalty is not paid in full in response to the notice of apparent liability, the Commission, upon considering all relevant information available to it, will issue an order canceling or reducing the proposed forfeiture or requiring that it be paid in full and stating the date by which the forfeiture must be paid.

(5) *Judicial enforcement of forfeiture order.* If the forfeiture is not paid, the case will be referred to the Department of Justice for collection under section 504(a) of the Communications Act.

(g) *Notice of opportunity for hearing.* The procedures set out in this paragraph will ordinarily be followed only when a hearing is being held for some reason other than the assessment of a forfeiture (such as, to determine whether a renewal application should be granted) and a forfeiture is to be considered as an alternative or in addition to any other Commission action. However, these procedures may be followed whenever the Commission, in its discretion, determines that they will better serve the ends of justice.

(1) Before imposing a forfeiture penalty under the provisions of this paragraph, the Commission will issue a notice of opportunity for hearing. The hearing will be a full evidentiary hearing before an administrative law judge, conducted under procedures set out in subpart B of this part, including procedures for appeal and review of initial decisions. A final Commission order assessing a forfeiture under the provisions of this paragraph is subject to judicial review under section 402(a) of the Communications Act.

(2) If, after a forfeiture penalty is imposed and not appealed or after a court enters final judgment in favor of the Commission, the forfeiture is not paid, the Commission will refer the matter to the Department of Justice for collection. In an action to recover the forfeiture, the validity and appropriateness of the order imposing the forfeiture are not subject to review.

(h) *Payment.* The forfeiture should be paid by check or money order drawn to the order of the Federal Communications Commission. The Commission does not accept responsibility for cash payments sent through the mails. The check or money order should be mailed to the Fee Collection Section, Finance Branch, Federal Communications Commission, Box 19302, Washington, D.C. 20036, or delivered to the Fee Collection Section, Room 209, 1919 M Street NW., Washington, D.C.

(i) *Remission and mitigation.* In its discretion, the Commission, or its designee, may remit or reduce any forfeiture imposed under this section. After issuance of a forfeiture order, any request that it do so shall be submitted as a petition for reconsideration pursuant to § 1.106.

(j) *Effective date.* In accordance with Pub. L. 95-234, February 21, 1978, the provisions of this section govern the imposition of forfeiture involving conduct which took place on or after March 23, 1978. Provisions which govern the imposition of forfeitures involving conduct which took place on or before March 22, 1978 are set out at 47 CFR 1.80, 1.621, and 1.991 (Oct. 1, 1977 ed.).

§§ 1.81, 1.621, 1.991 [Deleted]

2. Section 1.81 is deleted.
3. Section 1.621 is deleted.
4. Section 1.991 is deleted.

[FR Doc. 78-29832 Filed 10-20-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7CFR Part 1030]

MILK IN THE CHICAGO REGIONAL MARKETING AREA

Proposed Temporary Revision of Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal that the supply plant shipping requirements under the Chicago order be temporarily decreased by 5 percentage points for the months of October and November 1978. The action was requested by cooperative associations representing a majority of the producers supplying the market to prevent uneconomic shipments of milk.

DATE: Comments are due on or before October 26, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the months of October and November 1978.

All persons who desire to submit written data, views or arguments in connection with the proposed revision should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, not later than October 26, 1978. All documents filed should be in quadruplicate. The period for filing views is being limited to the above mentioned date to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during October. Further, the proposed change provides some relaxation of pooling standards and thus will not require extensive preparation or substantial alteration in method of operation for handlers.

All written submissions made pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be revised is the supply plant shipping percentage of 35 percent set forth in § 1030.7(b) that is applicable during the months of October and November.

Pursuant to the provisions of § 1030.7(b)(5) the supply plant shipping percentages set forth in § 1030.7(b) shall be increased or decreased by up to 10 percentage points during the months of September through March as necessary to obtain needed shipments or to prevent uneconomic shipments.

Cooperative associations representing a majority of producers supplying the Chicago Regional market request that during October and November 1978 the supply plant shipping percentages be reduced 5 percentage points. These cooperatives state that the 35 percent shipping requirements in October and November would cause uneconomic shipments of milk.

There is a reduced demand for Class I milk and an increase in the milk supply on the market. Thus, there is a reduced demand for supply plant milk in Class I use and a reduction in required shipments may, accordingly, be appropriate. A reduction in the required shipments of supply plant milk during October and November would allow greater flexibility in obtaining milk as among supply plants in the market and may prevent uneconomic movements of milk merely for purposes of pool plant qualification.

Therefore, it may be appropriate to reduce the aforementioned pool supply plant shipping percentages for the months of October and November 1978 to prevent uneconomic shipments.

Signed at Washington, D.C., on October 18, 1978.

H. L. FOREST,
Director, Dairy Division.

[FR Doc. 78-29818 Filed 10-20-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 78-ASW-48]

TRANSITION AREA, GIDDINGS, TEX.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of the action being taken is to propose designation of a transition area at Giddings, Tex. The intended effect of the proposed action is to provide controlled airspace for aircraft executing instrument approach procedures to the Giddings-Lee County Airport. The circumstance which created the need for the action was a requirement to provide capability for flight under instrument weather conditions to the airport. Coincident with this action, the airport will be changed from visual flight rules (VFR) to instrument flight rules (IFR) status.

DATES: Comments must be received by November 22, 1978.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (43 CFR 440) of FAR Part 71, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Giddings, Tex., will necessitate an amendment to this subpart.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before November 22, 1978, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Prodcedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Giddings, Tex. The FAA believes this action will enhance IFR operations at the Giddings-Lee County Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the Industry, Tex., VORTAC. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished (43 FR 440), by ading the Giddings, Tex., transition area as follows:

GIDDINGS, TEX.

That airspace extending upward from 700 feet above the surgface within a 5-mile radius of Giddings-Lee County Airport (lat. 30°10'11" N., long. 96°58'51" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Forth Worth, Tex., on October 10, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-29579 Filed 10-20-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-71]

TRANSITION AREA, PITTSTOWN, N.J.

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Pittstown, N.J., Transition Area, over Sky Manor Airport, Pittstown, N.J. This alteration will change the approach course by 1 degree and provide protection to aircraft executing the revised instrument approach by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before December 4, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before December 4, 1978, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedure Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), to alter the transition area over Sky Manor Airport. The alteration will increase the length of the present transition area extension by 1 mile, and increase the width of the extension from a total width of 6 miles to a total width of 9 miles.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations, by deleting the description of the Pittstown,

An informal docket may be examined at the office of the Regional Air Traffic Division.

trol procedures and aid air traffic controllers when applying ATC IFR procedures.'

DATES: Comments must be received on or before November 22, 1978.

THE PROPOSAL

The FAA is considering an amend-

[4910-13-M]

[14 CFR Part 71]

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1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations, by deleting the description of the Pittstown, N.J., 700-foot floor transition area and by inserting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°33'59" N., 74°58'43" W., of Sky Manor Airport, Pittstown, N.J., and within 4.5 miles each side of the Solberg, N.J., VORTAC 264° radial, extending from the 7-mile radius area to 23 miles west of the VORTAC.

Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Jamaica, N.Y., on October 10, 1978.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc. 78-29577 Filed 10-20-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-NW-7]

CONTROL AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to enlarge the Omak, Wash., Control Area. This action would aid air traffic control by improving the flow control procedures associated with aircraft arriving/departing the Seattle and Spokane, Wash., Area.

DATES: Comments must be received on or before November 22, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-7, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before November 22, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would enlarge the southern portion of the Omak, Wash., Control Area and would lower the base altitude from 5,500 feet MSL to 4,500 feet MSL in the new area. The portion of the Omak Control Area extending to the United States-Canada border with a base of 8,500 feet MSL would not be changed. This action would improve the flow of traffic around the Seattle and Spokane, Wash. Terminal Areas. This amendment would enhance aircraft flight safety, improve flow control procedures and aid air traffic controllers when applying ATC IFR procedures.[1]

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 348) as follows:

In Section 71.163, Omak, Wash.:

"That airspace extending upward from 5,500 feet MSL within 5 miles each side of a line extending from the Omak RBN to the Ephrata VOR;" would be deleted and "That airspace extending upward from 4,500 feet MSL beginning at Lat. 48°00' N., Long. 118°36' W., to Lat. 47°45' N., Long. 118°36' W., to Lat. 47°45' N., Long. 120°00' W., to Lat. 48°00' N., Long. 120°00' W., to Lat. 48°00' N., Long. 119°35' W., to Lat. 48°09'30" N., Long. 119°36' W., to Lat. 48°10' N., Long. 119°23' W., to Lat. 48°00' N., Long. 119°22'20" W., to point of beginning." would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 16, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-29794 Filed 10-20-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-NW-13]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to enlarge the Seattle, Wash., Transition Area since the currently designated transition area is not large enough to provide for maximum air traffic service. This action would aid air traffic control by improving traffic flow into the Seattle, Spokane, Wash., terminal areas.

[1]Map filed as part of the original document.

DATES: Comments must be received on or before November 22, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-13, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before November 22, 1978 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would enlarge the Seattle, Wash., Transition Area. A part of this transition area has a base of 700 feet, another part a base of 1,200 feet, and a third part a base of 9,500 feet. The proposed addition would extend the portion with a base of 9,500 feet to permit expeditious flow of traffic associated with the Seattle and Spokane, Wash., terminal areas. This would improve aviation safety and aid air traffic controllers by permitting flexibility during radar vectoring.[1] Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 440).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71,181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) as follows:

Seattle, Wash., beginning on line 10, the description would be amended to read:

All after "that airspace east of Seattle extending upward from 9,500 feet MSL bounded on the north by a line beginning at Lat. 48°00' N., Long. 121°35' W.;" would be deleted and "to Lat. 48°00' N., Long. 120°00' W., on the east by a line extending south via Long. 120°00' W., to the north edge of V-2N.; on the south by the north edge of V-2N to Long. 121°35' W.; and on the west by Long. 121°35' W., to the point of beginning." would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 16, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-29791 Filed 10-20-78; 8:45 am]

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[1]Map filed as part of the original document.

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-WE-14]

VOR FEDERAL AIRWAYS

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign a segment of V-8 north alternate airway between Seal Beach, Calif., and Pomona, Calif., to begin at the INT of the Seal Beach 058° and Pomona 187° magnetic radials rather than to begin at Seal Beach. This action would designate as airway the route that is presently used as an arrival vector route, thereby reducing the communication and coordination time required for its use.

DATES: Comments must be received on or before November 22, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 78-WE-14, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before November 22, 1978 will be considered before action is taken on the proposed

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amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would realign a segment of V-8N Airway from Pomona to terminate at the INT of Pomona 202°T(287°M) and Seal Beach 073°T(058°M) radials rather than Seal Beach. This action would improve an arrival route into the Long Beach, Calif. terminal airspace by designating a vector route as an airway.

THE PROPOSED AMENDENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) as follows: Under V-8 "including a N alternate from Seal Beach to Morman Mesa via Pomona, Calif.," is deleted and "including a N alternate from the INT of Seal Beach 073° and Pomona, Calif., 202° radials to Morman Mesa via Pomona," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 16, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-29792 Filed 10-20-78; 8:45 am]

[4910-13-M]

[14 CFR Part 71]

[Airspace Docket No. 78-EA-56]

VOR FEDERAL AIRWAYS

Proposed Alteration and Revocation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke victor airway V-35W in the vicinity of Morgantown, W. Va., realign victor airway V-37 in the vicinity of Elkins, W. Va., and extend victor airway V-469 from Elkins to Johnstown, Pa. This action would aid flight planning, improve traffic flow in the Pittsburgh, Pa., terminal and reduce controller work load.

DATES: Comments must be received on or before November 22, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 78-EA-56, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before November 22, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart C of part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would revoke alternate airway V-35W between Morgantown, W. VA., and Johnstown, Pa.; realign V-37 between Elkins, W. Va., and Ellwood City, Pa., and extend V-469 from Elkins to Johnstown.[1] This amendment would reduce the airway distance between Elkins and Ellwood City approximately 6 miles and increase the lateral separation for arrival/departure aircraft in the Pittsburgh, Pa., terminal area. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) as follows:

Under V-35, "including a west alternate from Morgantown to Johnstown via INT Morgantown 010° and Johnston 260° radials;" would be deleted.

Under V-37, "Morgantown, W. Va.; INT Morgantown 331° and Ellwood City, Pa., 185° radials" would be deleted and "Clarksburg, W. Va.; INT Clarksburg 359°T(005°M) and Ellwood City, Pa., 185°T(191°M) radials;" would be substituted therefor.

Under V-469, "to Elkins." would be deleted and "Elkins; Morgantown, W. Va.; INT Morgantown 010°T(016°M) and Johnstown, Pa., 260°T(266°M); to Johnstown." would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

[1] Map filed as part of the original document.

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 16, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-29793 Filed 10-20-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[EDR-347E/PDR-49E, Docket No. 32219; Dated: October 18, 1978]

U.S. CORPORATIONS WHICH DO NOT QUALIFY AS A "CITIZEN OF THE UNITED STATES"

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice denies the motion of British Airways for clarification of how the Board's tentative legal conclusion that U.S. corporations are citizens of the United States for purposes of section 408(a)(4) of the Federal Aviation Act would be applied to foreign governments if finalized, and extends the comment date until November 6.

DATE: Comments by November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald H. Horn, Routes Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5206.

SUPPLEMENTARY INFORMATION: By advance notice of proposed rulemaking (EDR-347/PDR-49, 43 FR 10938, Mar. 16, 1978), the Civil Aeronautics Board gave notice of its tentative conclusion that U.S. corporations are citizens of the United States for purposes of section 408(a)(4) of the Federal Aviation Act. It requested comments on that tentative conclusion, including the nature and extent of the problems that might be created by finalizing that tentative conclusion, and what regulatory action might be taken to minimize them consistent with statutory objectives. Comments were requested to be filed by May 1, 1978. By a series of supplemental advance notices of proposed rulemaking, the date for the filing of comments has been extended until October 23, 1978 (EDR-347D/PDR-49D, 43 FR 41410, Sept. 18, 1978).

On June 26, 1978, British Airways filed a motion for clarification and extension of time. It states that there are grounds for assuming that the Board intends to apply section 408(a)(4) to all acquisitions of U.S. corporations engaged in a phase of aeronautics by governments which control foreign air carriers. However, the Department of State's statement of further views suggests that the Board had not intended to extend the application of section 408(a)(4) to foreign government acquisitions of U.S. corporations engaged in a phase of aeronautics unrelated to commercial air services, such as the manufacture, distribution, sale or purchase of aerospace products. British Airways asserts that the resulting confusion as to whether and/or how the Board intends to apply section 408(a)(4) to foreign governments controlling foreign air carriers makes it impossible to evaluate the impact of the proposed rulemaking. It, therefore, asks the Board to clarify the point and extend the comment time pending that clarification.

We have decided to deny the motion for clarification. British Airways states that our proposed legal conclusion can be interpreted in at least two ways, and requests that we clarify our interpretation. However, the issues in this rulemaking specifically include how section 408(a)(4) should properly be interpreted and, as to relationship which are covered, what means (including rules, reports, approvals, and disclaimers) should be employed to minimize regulatory requirements consistent with statutory objectives. Thus, British Airways is, in essence, requesting that we resolve, at the outset, issues that this rulemaking was designed to help us decide. The proper course for British Airways is to file comments addressed to these issues. To allow interested persons to address the issues in light of our action here, we will extend the comment date by 2 weeks.

Accordingly, British Airways' motion for clarification of EDR-347/PDR-49 is denied. Comments in this rulemaking are due by November 6, 1978.

Sec. (204(a), Federal Aviation Act of 19758, as amended, 72 Stat. 743, (49 U.S.C. 1324))

By the Civil Aeronautics Board.

PHILLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29826 Filed 10-20-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3065]

NORRIS INDUSTRIES, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Long Beach, Calif., manufacturer and distributor of dishwashers and other major home appliances to cease misrepresenting or making unsubstantiated claims regarding the qualities, performance, or efficacy of its products.

DATE: Comments must be received on or before December 19, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFOMATION CONTACT:

Wallace S. Snyder, Assistant Director for Advertising Practices, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-724-1499.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

IN THE MATTER OF NORRIS INDUSTRIES, INC., A CORPORATION

notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of

4. Representing, directly or by implication, that any dishwasher manufac-

4. For purposes of this Order the term "major home appliances" means the following appliances presently

dor/Waste King division who are engaged in the preparation, placement, or review of advertisements for the

poso-drain will eliminate all soft food waste from the dishwasher.

Part II(1)(a) prohibits the making of

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IN THE MATTER OF NORRIS INDUSTRIES, INC., A CORPORATION

[File No. 782-3065]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Norris Industries, Inc., a corporation, sometimes hereinafter referred to as respondent, and it now appearing that the proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of acts and practices being investigated.

It is hereby agreed by and between the said proposed respondent and its attorney, and counsel for the Federal Trade Commission, that:

1. Proposed respondent Norris Industries, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its principal office and place of business at One Golden Shore, Long Beach, Calif. 90802.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated or that any of the facts are true as alleged in the draft of the complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34(b) of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, but no agreement, understanding, representation, or interpretation not contained in the order, complaint, or the aforementioned agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent have read the proposed complaint and order contemplated hereby and understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty as provided by law for each violation of the order after it becomes final.

ORDER

PART I

It is ordered, That Norris Industries, Inc. [hereinafter referred to as the Respondent], its successors and assigns, either jointly or individually, and its officers, representatives, and agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, distribution or sale of dishwashers in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any dishwasher manufactured or sold by Respondent can sterilize or destroy all microorganisms on utensils placed in the dishwasher.

2. Representing directly, or by implication, that the stainless steel parts in any dishwasher manufacturered or sold by Respondent are rustproof or will not rust under normal household conditions.

3. Representing, directly or by implication, that the dispos-drain in any dishwasher manufactured or sold by Respondent will remove all soft food waste from the dishwasher.

4. Representing, directly or by implication, that any dishwasher manufactured or sold by Respondent can completely clean dishes, cookware, and other utensils placed in the dishwasher, without prior scraping, scouring, or rinsing.

5. Representing, directly or by implication, that any dishwasher manufactured or sold by Respondent can be randomly loaded or that there are no special instructions to follow when loading.

PART II

It is further ordered, That Respondent, its successors and assigns, either jointly or individually, and its officers, representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, distribution or sale of major home appliances in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. (a) Making any statements or representations, directly or by implication, concerning the performance of such products unless at the time that the statements or representations are made Respondents posssess and rely on a reasonable basis for such statements or representations, which shall consist of competent and reliable scientific tests, as defined in paragraph 1(b) hereafter.

(b) For purposes of this order a "competent and reliable scientific test" is one in which one or more persons with education, knowledge, and experience in the field conduct a test and evaluate its results in an objective manner using testing, evaluation, and analysis procedures generally accepted in the profession and which best insure valid and reliable results. Moreover, the test results must either accurately predict, or be correlated with, the results that a consumer ordinarily would obtain using the product under normal household conditions.

2. Failing to make a "clear and conspicuous disclosure" (as that term is defined in the FTC's Statement of Enforcement Policy of October 21, 1970) that product features, depicted or described in advertising for a product, are not applicable to certain models. Such disclosure shall include the model number (and name of the model if applicable) and the product features which do not apply to such model(s).

3. Making any statements or representations, directly or by implication, in connection with the advertisement of any such product which are inconsistent in any material respect with any statements or representations contained directly or by implication in post purchase material(s) supplied to the purchaser of such products.

4. For purposes of this Order the term "major home appliances" means the following appliances presently manufactured or sold by the Respondent: Automatic dishwashers, garbage disposers, trash compactors, and microwave ovens.

PART III

It is further ordered, That Respondent, its successors and assigns, either jointly or individually, and their officers, representatives, and agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, distribution or sale of "major home appliances" in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to maintain the following accurate records which may be inspected by Commission staff members upon reasonable notice:

(a) Documentation in support of and on which respondent relied in making any claim included in advertising, sales promotional material, or post purchase materials, disseminated by respondents or by any division or subdivision of respondent, or by any advertising agency engaged for such purpose by respondent or by any such division or subsidiary, concerning the performance characteristics of any of Respondent's major home appliances;

(b) Documentation which contradicts, qualifies, or calls into serious question any claim included in advertising, sales promotional material, or post purchase materials disseminated by respondents or by any division or subdivision or respondent, or by any advertising agency engaged for such purpose by respondent or by any such division or subsidiary, concerning the performance characteristics of any Respondent's major home appliances.

Such documentation shall be retained by respondent for a period of 3 years from the date such advertising, sales promotional, or post purchase materials were last disseminated.

PART IV

It is further ordered, That Respondent notify the Commission at least 30 days prior to the effective date of any proposed change in the corporate Respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the Respondent shall forthwith distribute a copy of this Order to each of its officer's agents, representatives, or employees of the Respondent's Thermador/Waste King division who are engaged in the preparation, placement, or review of advertisements for the "major home appliances" defined in this order.

It is further ordered, That the Respondent shall, within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has provisionally accepted an agreement to a proposed consent order from Norris Industries, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged the respondent with disseminating and causing the dissemination of advertisements containing several false and misleading representations regarding Waste King dishwashers. In particular, the complaint alleged that representations made in the Waste King advertisements about a number of product features, such as the dishwashers ability to clean baked-on or cooked-on food, their ease of loading, as well as the rustproof qualities of the stainless steel employed in them, were both false and without a reasonable basis. The complaint further alleged that Waste King's advertising was deceptive in that representations contained therein were inconsistent with statements made in post-purchase materials. Finally, the Waste King advertisements were alleged to be deceptive in the complaint because they failed to qualify certain of their representations as applying only to particular Waste King models.

The Consent Order contains the following provisions designed to remedy the advertising violations charged:

Part I (1)–(5) prohibit the dissemination of claims that Waste King dishwashers can be randomly loaded, can completely clean dishes, cookware, and other utensils without prior scraping, scouring, or rinsing, and can sterilize or destroy all microorganisms on utensils. These paragraphs also prohibit the claims that the stainless steel parts will not rust and that the dispos-drain will eliminate all soft food waste from the dishwasher.

Part II(1)(a) prohibits the making of any representations about the performance of any major home appliance, as defined in II(4), unless a reasonable basis consisting of competent and reliable scientific tests was possessed and relied upon at the time when the representations were made.

Part II(1)(b) defines what constitutes a "competent and reliable scientific test" for purposes of the order requiring that, for a test to be competent and reliable, persons qualified by their education, knowledge, and experience conduct and evaluate the test objectively and according to generally accepted procedures in their profession to best insure valid and reliable results. The results of the test furthermore must correlate with or accurately predict the results a consumer would ordinarily obtain in normal household usage of the appliance.

Part II(2) requires that respondent make a clear and conspicuous disclosure of the model number(s), as well as of product feature(s) which do not apply to such model(s), in circumstances where there is advertising of certain features of a major home appliance which features are not found on all models of that appliance.

Part II(3) prohibits any representations made in the advertising for a major home appliance, as defined in II(4), which are inconsistent with post-purchase materials supplied to the purchaser of the appliance.

Part II(4) defines "major home appliance" as dishwashers, garbage disposers, trash compactors, and microwave ovens.

Part III(a) requires respondent to maintain accurate records which support and which were relied upon by respondent in making any performance claim about its major home appliances in advertising, in sales promotional material, or in post-purchase material. Respondent must keep the records for a period of 3 years from when the advertising, sales promotional, or post-purchase materials were last disseminated.

Part III(b) requires respondent to maintain accurate records which contradict, qualify, or call into serious question any performance claim about its major home appliances in advertising, in sales promotional material, or in post-purchase material. Respondent must maintain such records for a period of 3 years from the date upon which such advertising, sales promotional, or post purchase materials were last disseminated.

Part IV of the Consent Order requires that respondent notify the Commission at least thirty (30) days prior to any proposed structural change in the corporate respondent

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which change affects compliance with the Consent Order; distribute a copy of the order to its Thermador/Waste King division; and file an initial compliance report within 60 days of the effective date of the Consent Order.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-29820 Filed 10-20-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 146 and 150]

[CGD 76-170A]

MARINE CASUALTIES

Proposed Rules

Correction

In FR Doc. 78-29483 appearing at page 48982 in the issue of Thursday, October 19, 1978, in the eighth and ninth lines of the "Summary" paragraph, the document referred to as being on "* * * page 48724 (third column) * * *" should have been referred to as being on page "* * * 48982 (third column) * * *".

[1410-01-M]

COPYRIGHT ROYALTY TRIBUNAL

[37 CFR Part 301]

AGENCY RULES OF PROCEDURE

Proposed Rules

AGENCY: Copyright Royalty Tribunal.

ACTION: Proposed rule.

SUMMARY: This document includes the complete text of the proposed Copyright Royalty Tribunal rules of procedure, including regulations required by the Government in the Sunshine Act, the Privacy Act, the Freedom of Information Act, and the equal employment opportunity procedures of the Tribunal.

DATE: Comments must be received on or before November 8, 1978.

ADDRESS: Written comments should be addressed to Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: The Tribunal wishes to call attention to those provisions of the proposed rules of procedure (§§ 301.56, 301.58, 301.64, and 301.66) concerning the publication of proposed final determinations and the reopening of proceedings in royalty fee adjustment and royalty fee distribution proceedings. Sections 118(c) and 804(e) of Pub. L. 94-553 for the general revision of the Copyright Law establish statutory deadlines for the conclusion of these proceedings and the publication of a final determination by the Tribunal. The proposed rules reflect the Tribunal's view that it may not conduct any further proceedings after the expiration of the statutory period. Section 809 of the Copyright Act controls the effective date of final determinations of the Tribunal and provides that such determinations shall become effective 30 days after publication in the FEDERAL REGISTER unless an appeal has been filed in the United States Court of Appeals.

In an effort to afford all interested parties as complete participation in the decisionmaking process as is permissible under the time limitations imposed by the Copyright Act, §§ 301.56 and 301.64 of the rules provide for the publication in the FEDERAL REGISTER of a proposed final determination, unless such publication is not feasible because of the statutory time limitations. The Tribunal will afford all parties a reasonable opportunity to submit written comments on the proposed determination, and may, if necessary, conduct additional hearings. Upon publication in the FEDERAL REGISTER of a final determination in a proceeding, the proposed rules preclude the reopening of proceedings for any purpose.

Accordingly, pursuant to 17 U.S.C. 803(a), title 37 would be amended by establishing a chapter III entitled Copyright Royalty Tribunal and by adding the following new part 301, reading as follows:

PART 301—COPYRIGHT ROYALTY TRIBUNAL RULES OF PROCEDURE

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301.2 Address for information.
301.3 Composition of the Tribunal.
301.4 The Chairman.
301.5 Standing committees.
301.6 Administration of the Tribunal.
301.7 Proceedings.

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301.13 Closed meetings.
301.14 Procedure for closing meeting.
301.15 Transcripts of closed meetings.
301.16 Requests to open or close meetings.
301.17 Ex parte communication.

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301.76 Reopening of proceedings.
301.77 Effective date of final determination.

AUTHORITY: 17 U.S.C. 803(a).

Subpart A—Organization

§ 301.1 Purpose.

The Copyright Royalty Tribunal (Tribunal) is an independent agency in the Legislative Branch, created by Public Law 94-553 of October 19, 1976.

The Tribunal's statutory responsibilities are:

(a) To make determinations concerning copyright royalty rates in the areas of cable television covered by 17 U.S.C. 111.

(b) To make determinations concerning copyright royalty rates for phonorecords (17 U.S.C. 115) and for coin-operated phonorecord players (jukeboxes) (17 U.S.C. 116).

(c) To establish and later make determinations concerning royalty rates and terms for non-commercial broadcasting (17 U.S.C. 118).

(d) To distribute cable television and jukebox royalties under 17 U.S.C. 111 and 17 U.S.C. 116 deposited with the Register of Copyrights.

§ 301.2 Address for information.

The official address of the Copyright Royalty Tribunal is 1111 20th Street NW., Washington, D.C. 20036, until March 31, 1979. Office hours are Monday through Friday, 8:30 a.m. to 5:30 p.m., excluding legal holidays.

§ 301.3 Composition of the Tribunal.

The Tribunal is composed of five members appointed by the President with the advice and consent of the Senate.

§ 301.4 The Chairman.

(a) On December 1st of each year the Chairman will be designated for a term of 1 year from the most senior Commissioner who has not yet previously served as Chairman, or, if all the Commissioners have served, the most senior Commissioner who has served the least number of terms will be designated Chairman.

(b) The responsibilities of the Chairman are, first, to preside at meetings and hearings of the Tribunal, and second, to represent the Tribunal officially in all external matters. In matters of legislation and legislative reports, the Chairman will represent the majority opinion of the Tribunal; however, any Commissioner with a minority or supplemental opinion may have that opinion represented also. The Chairman is the initial authority for all communications with other government officials or agencies and is the contracting officer; however, another Commissioner or subordinate official may be designated to act in his stead. The Chairman shall convene a meeting of the Tribunal upon the request of a majority of the Commissioners.

§ 301.5 Standing committee.

The Tribunal may establish standing or temporary committees to act in whatever capacity the Tribunal feels is appropriate. Said committees are authorized, in the areas of their jurisdiction, to conduct hearings, meetings, and other proceedings, but no such subdivision shall be authorized to act on behalf of the agency as a whole within the official meeting of 5 U.S.C. 552(a)(1).

§ 301.6 Administration of the Tribunal.

The administration of the Tribunal denotes chiefly the maintenance of the Tribunal records and the custodianship of Tribunal property. The records to be maintained include legal and public records, a current index of opinions, orders, policy statements, procedures, and rules of practice, and instructions that affect the public. Also, announcements of Tribunal actions must be published in the FEDERAL REGISTER as required, and the observance by the Tribunal of appropriate administrative procedure must be supervised, as well as the disposition of Tribunal correspondence. From time to time other administrative responsibilities may emerge. To manage the above, the Tribunal may choose to install an Administrative Officer; however, if not, it will be the Chairman's duty to see that these responsibilities are met.

§ 301.7 Proceedings.

(a) *Location.* The Tribunal will normally hold all proceedings at its principal office, except under exceptional circumstances, in which case the Tribunal may perform its duties anywhere in the United States. The Tribunal's proceedings will all be public, except as exempted in § 301.15.

(b) *Quorum.* A majority of the members of the Tribunal constitutes a quorum.

(c) *Voting.* Each Commissioner's vote shall be recorded separately, and the votes of the Commissioners shall be taken in order of their seniority, except that the Chairman shall vote last. No proxy votes will be recorded.

Subpart B—Public Access to Tribunal Meetings

§ 301.11 Open meeting.

(a) The purpose of this chapter is to comply with the Government in the Sunshine Act, Pub. L. 94-409; 90 Stat., 1241 et seq., 5 U.S.C. 522(b), and insure that all Tribunal meetings shall be open to the public. The conditions under which meetings, as an exception, may be closed, are listed in § 301.13

(b) Each meeting announcement by the Tribunal shall be made at least 7 calendar days in advance in the FEDERAL REGISTER and shall state the time and place of the meeting, the subject to be discussed, whether the meeting is to be open or closed, and the name and telephone number of the person to contact for further information.

(c) If amendments are made to the original announcement, they must be placed in the FEDERAL REGISTER as soon as practicable. Changes in time and place may be made simply by making such an announcement, but a change in subject matter requires a recorded vote by Commissioners, with the results of that vote appearing in the announcement of the amendment.

(d) If it is decided that a meeting must be held on shorter notice than 7 days, that decision must be made by recorded vote of Commissioners and included in the announcement.

§ 301.12 Conduct of open meetings.

(a) Meetings of the Tribunal will be conducted in a manner to insure both the public's right to observe and the ability of the Tribunal to conduct its business properly. The Chairman or presiding officer will take whatever measures he feels necessary to achieve this.

(b) The right of the public to be present does not include the right to participate or make comments.

(c) Reasonable access for news media will be provided at all public sessions provided that it does not interfere with the comfort of Commissioners, staff, or witnesses. Cameras will be admitted only on the authorization of the Chairman, and no witness may be photographed or have his testimony recorded for broadcast if he objects.

§ 301.13 Closed meetings.

In the following circumstances (as per 5 U.S.C. 552(c), 1-10) the Tribunal may close its meetings or withold information from the public:

(a) If the matter to be discussed has been specifically authorized to be kept secret by Executive order, in the interests of national defense or foreign policy;

(b) If the matter relates solely to the internal personnel rules and practices of the Tribunal;

(c) If the matter has been specifically exempted from disclosure by statute (other than 5 U.S.C. 552) and there is no discretion on the issue;

(d) If the matter involves privileged or confidential trade secrets or financial information;

(e) If the result might be to accuse any person of a crime or formally censure him;

(f) If there would be a clearly unwarranted invasion of personal privacy;

(g) If there would be disclosure of investigatory records compiled for law enforcement, or information which if written would be contained in such records, and to the extent disclosure would (1) interfere with enforcement proceedings, (2) deprive a person of the right to a fair trial or impartial adjudication, (3) constitute an unwarranted invasion of personal privacy, (4) disclosure the identify of a confidential source or, in the case of a criminal investigation or a national security intelligence investigation, confidential information furnished only by a confidential source, (5) disclosure investigative techniques and procedures,

or (6) endanger the life or safety of law enforcement personnel.

(h) If premature disclosure of the information would be likely to significantly frustrate implementation of a proposed agency action, except where the Tribunal has already disclosed to the public the content or nature of its proposed action, or where the Tribunal is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal;

(i) If the matter specifically concerns the Tribunal's participation in a civil action or proceeding or an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Tribunal of such action or proceeding or arbitration (or any subpoena, order, or investigation related thereto) involving a determination on the record after opportunity for a hearing; or

(j) If the matter specifically concerns the Tribunal's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Tribunal of such action or proceeding or arbitration (or any subpoena, order, or investigation related thereto) involving the Tribunal's issuance of, or failure to issue, a subpoena, or the Tribunal's initiation, conduct, or disposition of a particular case of formal adjudication pursuant to the procedures in section 554 of title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

§ 301.14 Procedure for closing meeting.

(a) A majority of the Commissioners may vote to close a meeting or portion thereof or to withhold information pertaining to such meeting or portion thereof pursuant to any one or more of the exemptions set forth in § 301.13 and shall state each such basis.

(b) Within one day of any vote taken pursuant to paragraph (a) of this section, the Tribunal shall make publicly available a written copy of such vote reflecting the vote of each Commissioner on the question. All documents or portions thereof relating to any action under this section shall be maintained for a minimum of 2 years after such action or one year after the conclusion of any Tribunal proceeding with respect to the action, whichever occurs later.

§ 301.15 Transcripts of closed meetings.

(a) The Tribunal will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting or portion of a meeting closed only pursuant to paragraph (j) of § 301.13, the Tribunal will maintain either such a transcript or recording or a set of minutes. Such minutes will fully and clearly describe all matters discussed and provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each Commissioner on the question). All documents considered in connection with any action shall be identified in such minutes.

(b) The Tribunal will maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least one year after the meeting, or until one year after the conclusion of any Tribunal proceeding with respect to which the meeting or portion was held, whichever occurs later.

(c) Upon request, the Tribunal will make available for public inspection a transcript, electronic recording, or minutes of any meeting closed to the public, except for such item or items of such discussion as may be withheld under § 301.13. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription. The Tribunal will maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least one year after the meeting, or until one year after the conclusion of any Tribunal proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 301.16 Requests to open or close meetings.

(a) Requests to open or close meetings may be submitted to the Tribunal at any time.

(b) Requests to close meetings will be considered by the Tribunal at the next meeting following the request.

§ 301.17 Ex parte communication.

(a) Ex parte communications are prohibited in accordance with 5 U.S.C. 557(d) during the pendency of proceedings under 17 U.S.C. 803(a)(1) and (2) and 17 U.S.C. 804(b)(3) and (4). For the purpose of this section, proceedings begin upon publication of a notice of proceedings or upon publication of a petition for the making, amendment, or repeal of a rule, whichever occurs sooner, and terminate upon the date of the final order of the Tribunal and the expiration of the time allowed for any appeal of that order or, if appealed, upon final affirmance.

(b) Any person who submits an ex parte communication in violation of this section may be required to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(c) A Commissioner or employee who receives an ex parte communication relating to the merits of or issues in a proceeding, whether written, oral, or otherwise, shall transmit or cause to be transmitted to the Tribunal for inclusion in the record of the proceeding the communication and all written responses and memoranda stating the substance of all oral responses to the communication.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section, the Tribunal may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

(e) The prohibitions of this section do not apply to communications which relate solely to matters which are the duties of the Tribunal to perform or monitor through personnel not employed by the Tribunal, or to communications which solely concern matters of general significance to the field of copyright royalties and royalty distribution.

(f) The prohibitions of this section do not apply to requests for status reports concerning any proceeding.

(g) The prohibitions of this section do not apply to communications between Commissioners or employees of the Tribunal.

(h) The prohibitions of this section do not apply to communications between the Tribunal and other agencies of the United States Government, unless the communication is from a party to the proceeding and concerns the substance of the proceeding.

(i) The prohibitions of this section do not apply to communications between the Tribunal and its counsel.

(j) The prohibitions of this section do not apply to communications which are required for the disposition of ex parte matters as authorized by law.

(k) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(l) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(m) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(n) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(o) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(p) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(q) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(r) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(s) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(t) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(u) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(v) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(w) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(x) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(y) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(z) The prohibitions of this section do not apply to communications between the Tribunal and any person who has been employed by the Tribunal as an expert witness in the proceeding.

(b) If the material sought is not a Tribunal record, is exempted, or for some reason is unavailable, the person may (1) Request that the Tribunal obtain the record; (2) Request that the Tribunal identify the record; (3) Learn if and to whom the Tribunal has disclosed such records; and (4) Amend such records.

Subpart D—Equal Employment Opportunity

§ 301.21 Purpose.

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or (6) endanger the life or safety of law enforcement personnel.

(h) If premature disclosure of the information would frustrate the Tribunal's action, unless the Tribunal has already disclosed the concept or nature of the proposed action, or is required by law to make disclosure before taking final action.

(i) If the matter concerns the Tribunal's participation in a civil action or proceeding or in an action in a foreign court or international tribunal, or an arbitration, or a particular case of formal agency adjudication pursuant to 5 U.S.C. 554, or otherwise involving a determination on the record after opportunity for a hearing.

§ 301.14 Procedure for closing meetings.

(a) Meetings may be closed, or information withheld from the public, only by a recorded vote of a majority of the Commissioners. Each question, either to close a meeting or withhold information, must be voted on separately, unless a series of meetings is involved, in which case the Tribunal may vote to keep the discussions closed for 30 days, starting from the first meetings. If the Tribunal feels that information about a closed meeting must be withheld, the decision to do so must also be the subject of a recorded vote.

(b) Before a discussion to close a meeting or withhold information, the Chairman must certify that, in his opinion, such a step is permissible, and he shall cite the appropriate exemption under § 301.13. This certification shall be included in the announcement of the meeting and be maintained as part of the Tribunal's records.

(c) Following such a vote, and by the end of the working day, the Chairman must transmit the following information to the FEDERAL REGISTER for publication:

(1) The vote of each Commissioner;

(2) The appropriate exemption under § 301.13;

(3) A list of all persons expected to attend the meeting and their affiliation.

§ 301.15 Transcripts of closed meetings.

(a) All meetings closed to the public shall be subject to either a complete transcript or, in the case of § 301.13(i) and at the Tribunal's discretion, detailed minutes. Detailed minutes shall describe all matters discussed, identify all documents considered, summarize action taken as well as the reasons for it, and record all rollcall votes as well as any views expressed.

(b) Such transcripts or minutes shall be kept by the Tribunal for 2 years or 1 year after the conclusion of the proceedings, whichever is later. Any portion of transcripts of meetings which the Chairman does not feel is exempt from disclosure under § 301.13 will ordinarily be available to the public within 20 working days of the meeting. Transcripts or minutes of closed meetings will be reviewed by the Chairman at the end of each calendar year and if he feels they may at that time be disclosed, he will resubmit the question to the Tribunal to gain authorization for their disclosure.

§ 301.16 Requests to open or close meetings.

(a) Any person may request the Tribunal to open or close a meeting or disclose or withhold information. Such a request must be captioned "Request to Open" or "Close" a meeting on a specific date concerning a specific subject. The requester must state his or her reasons, and include name and address, and desirably, telephone number.

(b) In the case of a request to open a meeting the Tribunal has previously voted closed, the Tribunal must receive the request within 3 working days of the meeting's announcement. If not, it will not be heeded, and the requester will be so notified. Requests are desired in seven copies.

(c) For the Tribunal to act on a request to open or close a meeting, the question must be brought to a vote before the Tribunal by one of the Commissioners. If the request is granted, an amended meeting announcement will be issued immediately and the requester notified. If a vote is not taken, or if after a vote the request is denied, the requester will also be notified promptly.

§ 301.17 Ex parte communication.

(a) No person not employed by the Tribunal and no employee of the Tribunal who performs any investigative function in connection with a Tribunal proceeding shall communicate, directly or indirectly, with any member of the Tribunal or with any employee involved in the decisions of the proceeding, with respect to the merits of any proceeding before the Tribunal or of a factually related proceeding.

(b) No member of the Tribunal and no employee involved in the decision of a proceeding shall communicate, directly or indirectly, with any person not employed by the Tribunal or with any employee of the Tribunal who performs an investigative function in connection with the proceeding, with respect to the merit of any proceeding before the Tribnal or of a factually related proceeding.

(c) If an *ex parte* communication is made to or by any member of the Tribunal or employee involved in the decision of the proceeding, in violation of paragraph (a) or (b) of this section, such member or employee shall promptly inform the Tribunal of the substance of such communciation and of the circumstance surrounding it. The Tribunal shall then take such action it considers appropriate; provided that any written *ex parte* communication and a summary of any oral *ex parte* communication shall be made part of the public records of the Tribunal, but shall not be considered part of the record for the purposes of decision unless introduced into evidence by one of the parties.

(d) A request for information with respect to the status of proceeding shall not be considered an *ex parte* communication prohibited by this section.

Subpart C—Public Access To and Inspection of Records

The following is the manner in which Tribunal opinions, recommended decisions, orders, public reports and records shall be made available to the public.

§ 301.21 Public records.

(a) Final official determinations of the Tribunal will be published in the FEDERAL REGISTER and include the relevant facts and the reasons for those determinations.

(b) An annual report, required of the Tribunal to be presented to the President and Congress each fiscal year, along with a detailed fiscal statement of account, will be available both for inspection at the Tribunal and for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(c) All other Tribunal records are available, for inspection or copying at the Tribunal, except:

(1) Records that relate solely to the internal personnel rules and practices of the Tribunal;

(2) Records exempted by statute from disclosure;

(3) Interoffice memoranda or correspondence not available by law except to a party in litigation with the Tribunal;

(4) Personnel, medical, or similar files whose disclosure would be an invasion of personal privacy;

(5) Communications among Commissioners concerning the drafting of decisions, opinions, reports, and findings on any Tribunal matter or proceeding;

(6) Offers of settlement which have not been accepted unless they have been made public by the offerer;

(7) Records not herein listed but which may be withheld as "exempted" if the Tribunal finds compelling reasons exist.

§ 301.22 Public access.

(a) Information may be requested from the Tribunal in person, by telephone, or by mail.

(b) If the material sought is not a Tribunal record, is exempted, or for some reason is unavailable, the person requesting it will be so informed and, in the case of an "exempted record," will be explained the reason for the exemption and the procedure for appeal under the Freedom of Information Act, § 301.13.

(c) Fees for copies of Tribunal records are: $.45 per page for 24 pages or less, and $.35 per page for 25 copies or more, with a minimum fee of $4; $10 for each hour or fraction thereof spent searching for records; $4 for certification of each document; and the actual cost to the Tribunal for any other costs incurred.

301.23 Freedom of Information Act.

(a) If a request is made under the Freedom of Information Act (5 U.S.C. 552), it must be in writing, be captioned "Freedom of Information Act Request," and identify as accurately as possible, the information desired.

(b) Within 10 working days after the Tribunal has received such a request, the Chairman shall inform the requester how the records may be inspected or copied and the cost (as under § 301.22) of copying. The chairman may, however, extend this time limit up to 10 working days if:

(1) Records must be located or transferred;

(2) Voluminous material must be examined;

(3) Other agencies with substantial interest in the matter must be consulted or other elements of the Tribunal must be consulted.

In this case the requester shall be notified in accordance with 5 U.S.C. 552 (a)(6)(B).

(c) If the request is denied, the Chairman shall so inform the requester in writing, citing the exemption authorizing the denial and informing the requester that he or she may appeal the denial to the Tribunal within 20 working days. Appeals must be in writing and must be acted on by the Tribunal within 20 working days of their receipt. If the appeal is rejected, the requester must be so notified immediately and informed of the provisions for judicial review under 5 U.S.C. 552(a)(4).

§ 301.24 Privacy Act.

(a) The Privacy Act of 1974 (Pub. L. 93-579) 5 U.S.C. 552(a), concerns only requests which contain personal information retrievable by a personal identified. This section does not apply to personnel records located in Government-wide systems elsewhere.

The purpose of the Privacy Act is to enable individuals to:

(1) Learn if the Tribunal maintains records concerning them;

(2) Have access to such records;

(3) Learn if and to whom the Tribunal has disclosed such records; and

(4) Amend such records.

The Tribunal, in compliance with paragraph (a)(4) of this section, will record the disclosures of all records, their dates, the material disclosed, and to whom the material has been disclosed.

(b) A request made under the Privacy Act must be in writing, captioned "Privacy Act Request," and identify as accurately as possible the records in question and the nature of the information desired. This section is not to be construed as allowing an individual access to information compiled in reasonable anticipation of a civil action or proceeding.

(c) The request must be signed by the person making it, and such signature will be considered certification that the person signing is either the individual involved or that person's guardian. If the Chairman considers it necessary, he may require additional verification. Section 552(a)(i)(3) of the Privacy Act; 5 U.S.C. 552(a)(i)(3), states the penalties for false representation.

(d) If a medical record is involved and the chairman feels that its disclosure might adversely affect the individual, he shall require that person to designate a medical doctor to whom the record will be transmitted.

(e) Within 10 working days after the Tribunal has received such a request, the Chairman shall acknowledge its receipt to the requester and within 30 days shall inform the requester how the records may be inspected and the cost for copying, unless the records are exempted under § 301.21(c).

(f) If an individual who has obtained access to personal records wishes to have those records amended, he or she must make such a request in writing, state the nature of the information desired amended, and cite the reasons. Within 10 working days after the Tribunal has received such a request, the Chairman shall acknowledge its receipt and inform the requester whether or not the request has been granted. If the request is denied, the Chairman shall explain why and inform the requester of the right to appeal the denial to the Tribunal. All appeals must be in writing, with the caption "Privacy Act Appeal," and the Chairman will inform the requester of their disposition within 30 working days, unless there is good cause for the time to be extended. If the appeal is denied the requester will be notified of the provision for judicial review under 5 U.S.C. 552(b).

(g) Exempt from this section is all investigatory material compiled for law enforcement purposes as stipulated in 5 U.S.C. 552(k)(2).

Subpart D—Equal Employment Opportunity

§ 301.31 Purpose.

(a) This section sets forth the Tribunal's policy concerning Equal Employment Opportunity and the complaint procedures in the case of discrimination.

(b) The policy of the Tribunal is to oppose discrimination in all areas of job application, employment, and promotion on the basis of race, religion, sex, national origin, age, or physical handicap; this is because such a policy is right and any other would be morally indefensible. This policy will be pursued actively and affirmatively.

§ 301.32 Recruitment and hiring.

(a) Except in the case of the personal staffs of Commissioners, responsibility for equal employment opportunity is the Tribunal's as a whole; however, the authority to execute this policy may be delegated to a Personnel Committee.

(b) All hiring will be done on the basis of individual qualifications, without discrimination. The criteria of who is best qualified to fill a vacancy rests with the Tribunal, but there will be no criteria which discriminates in the areas covered by § 301.31(b).

(c) In soliciting job applicants, systematic efforts will be made to locate and encourage qualified minority and women candidates. Where appropriate, the positions will be advertised in publications with primarily minority and women readership and announced through organizations or groups with high minority and women representation.

(d) Applicants for the same position will be required to have the same skills and to provide the same background information. The total number of applicants considered must reflect the proportion of minorities and women reasonable available for such a position. The criteria by which applicants are screened and selected shall be job related.

§ 301.33 Complaint procedures.

(a) Any person who believes that he or she has been discriminated against on the basis of race, religion, sex, national origin, age, or physical handicap, must first resolve such a complaint through the following procedure before taking civil action. Before a complaint may be presented formally the procedures for resolving it informally must be exhausted.

(1) *Informal complaint procedures.* (i) Within 30 days of an alleged discriminatory act, or in the case of a personnel action, within 30 days of its effective date, the complainant must contact the Chairman of the Personnel Committee and explain the case for the complaint. In case the com-

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plaint is against the Chairman of the Personnel Committee, it will be made to the chairman of the Tribunal. The complainant may be accompanied or represented by any person of his or her choosing.

(ii) The chairman of the Personnel Committee, or the Chairman of the Tribunal, or a Commissioner designated by the Chairman, shall then make whatever inquiry seems necessary into the circumstances surrounding the complaint and shall attempt to resolve it informally through counseling. Such counseling shall be completed within twenty-one (21) days of the date on which the complaint was first brought, and written record will be kept. If an informal resolution is reached, its terms will be in writing. The identity of the complainant at this stage, however, will at no time be revealed unless he or she specifically authorizes it.

(iii) If an informal resolution is not reached, the complainant will be advised that he or she may then file a formal complaint.

(2) *Formal complaint procedure.* (i) Within 15 days of the final counseling session under the informal procedure above, and if no resolution has been reached, the complainant may file a formal written complain addressed to the Chairman of the Tribunal, signed by the complainant, and specifying all the details surrounding the complaint.

(ii) On receipt of the complaint, the Chairman shall request an investigation by the Chairman of the Personnel Committee and two Commissioners not on the Committee. This investigation will review thoroughly all the circumstances surrounding the alleged discrimination and analyze the treatment of the complainant as compared with others in the same situation. The results shall be in writing and a copy sent to the complainant. The complainant shall then be given the opportunity to meet with the Commissioners who prepared this report to try to reach an adjustment of the complaint. The complainant may be accompanied or represented by a person of his or her own choosing. If the complainant is an employee of the Tribunal, he or she shall be allowed sufficient official time to present the complaint. If the complainant has designated another Tribunal employee to advise or represent him, that person shall be allowed sufficient official time to perform the appropriate duties.

(iii) If an adjustment is reached at this point, it must be signed by the complainant and shall serve to terminate the matter. If an adjustment is not reached, the investigative report will be transmitted to the Chairman of the Tribunal, and the Tribunal shall make a disposition of the complaint to take affect within 15 days. This disposition will be relayed to the complainant in writing immediately. The complainant shall also be advised of his or her right to file a civil action, or in the case of an employee of the Tribunal to demand a hearing.

(iv) Within 15 days of the announcement of the Tribunal's proposed disposition, a complainant who is an employee of the Tribunal may request a hearing. Upon receipt of such a request, the Chairman shall request from another Federal agency, a qualified Hearing Examiner who has been certified to hear Equal Employment Opportunity complaints.

(v) The Hearing Examiner, within 21 days, shall conduct a hearing. Witnesses will be allowed to testify, but their testimony must relate only to the complaint; information will be admitted into evidence, but only information having a direct bearing on the complaint. Both parties to the complaint shall have the opportunity to cross-examine. The hearing shall be recorded, and the transcript as well as the findings and recommendations of the Hearing Examiner shall be transmitted to the Tribunal for a final decision.

(vi) The Tribunal will give special consideration to the recommendations of the Hearing Examiner, and if he wishes to reject or modify those recommendations, the Tribunal must accompany such a decision with a letter detailing his reasons. The Tribunal's final decision will be accompanied by a copy of the Hearing Examiner's findings and recommendations and a transcript of the hearing.

(vii) After the decision has been issued, the complainant shall be advised immediately that he or she has the right to file a civil action in the appropriate District Court within 30 days.

(viii) If within one hundred eighty (180) days from the date the complainant first brought the complaint, the Tribunal has failed to issue a decision, the complainant will also have the right to file a civil action.

(ix) Where discrimination is found, the Tribunal shall review the matter which gave rise to the complaint and determine whether or not disciplinary action is necessary. The basis for this action shall be in writing, but not included in the complaint file.

§ 301.34 Third party allegation of discrimination.

Organizations or third parties may bring allegations of discrimination against the Tribunal in areas unrelated to individual complaints, but such allegations must be in writing, and in sufficient detail for the Tribunal to investigate them. The Tribunal may order an investigation, and the party bringing the allegations will be informed of its results as well as of any decision by the Tribunal and corrective action.

§ 301.35 Business relations.

Business contracts entered into by the Tribunal shall stipulate that all contractors, subcontractors, and suppliers to the Tribunal conform in their own policies with the substance of the Tribunal's Equal Employment Opportunity Policy.

Subpart E—Procedures and Regulations

§ 301.40 Scope.

All Tribunal proceedings will be governed by the procedures of this Subpart. This subpart does not apply to general statements of policy or to rules of agency organization, procedure, or practice.

§ 301.41 Formal hearings.

(a) The formal hearings which will be conducted pursuant to the rules of this subpart are rate adjustment proceedings, royalty fee distribution proceedings, and all rulemaking proceeding in which it has been determined to conduct a hearing. The Tribunal may also, on its own motion or on the petition of an interested party, hold other proceedings it deems necessary on any matter it has the authority to investigate, in order to obtain information in determining its policies, in exercising its duties, or in formulating or amending its rules and regulations. Such proceedings also will be subject to the rules of this subpart.

(b) Studies or conferences the Tribunal may hold in carrying out its statutory responsibilities may be conducted in whole or in part under the provisions of this subpart, depending upon the discretion of the Tribunal.

§ 301.42 Suspension, amendment, or waiver of rules.

(a) The provisions of this subpart may be suspended, revoked, amended, or waived, in whole or in part, at any time by the Tribunal for good cause shown, subject to the provisions of the Administrative Procedure Act. Where procedures have not been specifically prescribed in this subpart, the Tribunal shall follow those which in its opinion will best serve the purposes of a proceeding.

§ 301.43 Notice of proposed rulemaking.

(a) *General notice.* Public notice for rate adjustment and royalty distribution proceedings is covered in Subparts F and G of this Part. Before the adoption of any rule of general applicability, or the commencement of any hearing on any proposed rulemaking, the Tribunal shall publish a general notice in the FEDERAL REGISTER, such notice to be published not less than 30 days prior to the date on which the proposed rules may be considered by the Tribunal, or the date of any hearing on such proposed rules. However, where the Tribunal, for good cause, finds it impracticable, unnecessary, or contrary to the public interest to give such notice, it may adopt the rules without notice by incorporating a finding to such effect and a concise statement of the reasons therefor in the notice.

(b) *Notice.* A rule proceeding shall commence with a notice of proposed rulemaking. Such notice shall be published in the FEDERAL REGISTER, and to the extent practicable, otherwise made available to interested persons. The notice shall include: (1) The terms or substance of the proposed rule or a description of the subjects and issues involved; (2) reference to the legal authority, under which the rule is proposed; (3) a statement describing the particular reason for the rule; and (4) an invitation to all interested persons to comment.

(c) *Hearing notice.* A hearing notice of proposed rulemaking shall be published in the FEDERAL REGISTER, and to the extent practicable, otherwise made available to interested persons. The hearing notice shall include: (1) Designated issues which are to be considered; (2) the time and place of hearing, and (3) instructions to interested persons seeking to make oral presentation.

§ 301.44 Conduct of proceedings.

(a) At the opening of the proceeding the Chairman shall announce the subject under consideration.

(b) Only Commissioners of the Tribunal, authorized Tribunal staff, or counsel as provided in this chapter shall question witnesses.

(c) Subject to the approval of the Tribunal, the Chairman will have the responsibility for:

(1) Setting the order of presentation of evidence and appearance of witnesses;

(2) Ruling on objections and motions;

(3) Administering oaths and affirmations to all witnesses;

(4) Making all rulings with respect to introducing or excluding documentary or other evidence;

(5) Regulating the course of the proceedings and the decorum of the parties and their counsel, and insuring that the proceedings are fair and impartial;

(6) Announcing the schedule of subsequent hearing;

(7) Taking any other action which is consistent with this chapter and which has been authorized by the Tribunal.

(d) With all due regard for the convenience of witnesses, proceedings shall be conducted as expeditiously as possible.

(e) Following the opening statement, the Tribunal may convene first in executive session if such is the requirement of a statute or rule.

§ 301.45 Declaratory rulings.

In accordance with 5 U.S.C., Sec. 554(e), the Tribunal may on motion of its own, or on motion of an interested party, issue a declaratory ruling in order to terminate a controversy or remove uncertainty.

§ 301.46 Testimony under oath or affirmation.

All witnesses at Tribunal proceedings shall be required to take an oath or affirmation before testifying; however, attorneys who do not appear as witnesses shall not be required to do so.

§ 301.47 Transcript and record.

(a) An official reporter for the recording and transcribing of hearings will be designated by the Tribunal from time to time. Anyone wishing to inspect the transcript of any hearing may do so at the Tribunal; however, anyone wishing a copy must purchase it from the official reporter.

(b) After the close of the hearing, the complete transcript of testimony together with all exhibits shall be certified as to identity by the Chairman and filed in the offices of the Tribunal.

(c) The transcript of testimony and all exhibits, papers, and requests filed in the proceeding, shall constitute the exclusive record or decision. Any decision resting on official notice of a material fact not appearing in the record shall automatically afford any party, on timely request, to have an opportunity to show the contrary.

§ 301.48 Closing the hearing.

To close the record of hearing, the Chairman shall make an announcement that the taking of testimony has concluded. In its discretion the Tribunal may close the record as of a future specified date, and allow time for exhibits yet to be prepared to be admitted: *Provided*, That the parties to the proceeding stipulate on the record that they waive the opportunity to cross-examine or present evidence with respect to such exhibits. The record in any hearing which has been recessed may not be closed by the Chairman prior to the day on which the hearing is to resume, except upon 10 days' notice to all parties.

§ 301.49 Documents.

(a) *Copies of documents.* The original and 15 copies of every document filed and served in proceedings before the Tribunal shall be furnished for the Tribunal's use, except exhibits made a part of the record.

(b) *Subscription and verification.* (1) The original of all documents filed by any party represented by counsel, shall be signed by at least one attorney of record and list his address and telephone number. All copies shall be confirmed. Except when otherwise specifically provided, documents signed by the attorney for a party need not be verified or accompanied by an affidavit. The signature of an attorney constitutes certification by him that he has read the document, that to the best of his knowledge and belief there is good ground to support it, and that it has not been interposed for delay.

(2) The original of all documents filed by a party not represented by counsel shall be both signed and verified by that party and list that party's address and telephone number.

(3) The original of a document that is not signed, or is signed with intent to defeat the purpose of this section, may be stricken as sham and false and the matter proceed as though the document had not been filed.

§ 301.50 Reopening of proceedings, modification or setting.

(a) *Condition for reopening.* (1) Except in the case of rate adjustment proceedings and distribution proceedings the Tribunal may, upon petition or its own motion, reopen any proceeding, after reasonable notice, for the purpose of rehearing arguments or reconsideration.

(2) After granting an opportunity to be heard, the Tribunal may alter, modify or set aside in whole or in part, the report of its finding or order if it finds such action required by changed conditions, by material mistake of fact or law, or by the public interest

(b) *Petition for reopening.* A petition for reopening shall be made in writing and shall state its grounds. If it is a petition to take further evidence, the nature and purpose of the new evidence to be adduced shall be stated briefly, and an explanation given for why such evidence was not available at the time of the prior hearing. If it is a petition for reargument or reconsideration, the matter that is claimed to have been erroneously decided shall be specified and the alleged errors outlined briefly. Copies of the petition shall be furnished to all participants or their counsel.

(c) *Stay of rule or order.* No petition for reopening nor permission for reopening shall constitute a stay of any Tribunal rule or order; except that the Tribunal may postpone the effective date of any action taken by it pending judicial review and if, in the Tribunal's opinion, justice so requires.

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§ 401.51 Rules of evidence.

(a) *Admissibility.* In any public hearing before the Tribunal, evidence which is not unduly repetitious or cumulative and is relevant and material shall be admissable. The testimony of any witness will not be considered evidence in a proceeding unless the witness has been sworn.

(b) *Documentary evidence.* Evidence which is submitted in the form of documents or detailed data and information shall be presented as exhibits. Relevant and material matter embraced in a document containing other matter not material or relevant or not intended as evidence must be plainly designated as the matter offered in evidence, and the immaterial or irrelevant parts shall be marked clearly so as to show they are not intended as evidence. A document in which material and relevant matter occurs which is of such bulk that it would unnecessarily encumber the record, may instead be marked for identification, and the relevant and material parts, once properly authenticated, may be read into the record. If the Tribunal desires, a true copy of the material and relevant matter may be presented in extract and submitted as evidence. Anyone presenting documents as evidence must present copies of all other participants at the hearing or their attorneys, and afford them an opportunity to examine the documents in their entirety and offer any other portion in evidence which may be felt material and relevant.

(c) *Documents filed with the Tribunal.* If the matter offered in evidence is contained in documents already on file with the Tribunal, the documents themselves need not be produced, but may instead be referred to according to how they have been filed with the Tribunal.

(d) *Public documents.* If a public document is offered in evidence either in whole or in part, such as an official report, decision, opinion or published scientific or economic data, and the document has been issued by an Executive Department, a legislative agency or committee, or a Federal administrative agency (Government-owned corporations included), and is proved by the party offering it to be reasonably available to the public, the document need not be produced physically, but may be offered instead by identifying the document and signaling the relevant parts.

(e) *Copies to participants.* Copies of all prepared testimony and exhibits must be distributed to the Tribunal and to other participants or their counsel at a hearing, unless the Chairman directs otherwise. For its use the number of copies the Tribunal requires is seven.

(f) *Reception and ruling.* Any ruling on the admissibility of evidence will be made by the Chairman, and he shall control the reception of evidence and insure that it confines itself to the issues of the proceeding.

(g) *Offers of proof.* If the Chairman rejects or excludes proposed oral testimony and an offer of proof is made, the offer of proof shall consist of a statement of the substance of the evidence which it is contended would have been adduced. In the case of documentary or written evidence, a copy of such evidence shall be marked for identification and shall constitute the offer of proof.

(h) *Introduction of studies and analysis.* If studies or analysis are offered in evidence, they shall state clearly the study plan, all relevant assumptions, the techniques of data collection, and the techniques of estimation and testing. The facts and judgments upon which conclusions are based shall be stated clearly, together with any alternative courses of action considered. If requested, tabulations of input data shall be made available to the Tribunal.

(i) *Statistical studies.* Statistical studies offered in evidence shall be accompanied by a summary of their assumptions, their study plans, and their procedures. Supplementary details shall be added in appendices. For each of the following types of statistical studies the following should be furnished:

(1) *Sample surveys.* (i) A clear description of the survey design, the definition of the universe under consideration, the sampling frame and units, the validity and confidence limits on major estimates; and

(ii) An explanation of the method of selecting the sample and of which characteristics were measured or counted.

(2) *Econometric investigations.* (i) A complete description of the econometric model, the reasons for each assumption, and the reasons for the statistical specification;

(ii) A clear statement of how any changes in the assumptions might affect the final result; and

(iii) Any available alternative studies, if requested, which employ alternative models and variables.

(3) *Experimental analysis.* (i) A complete description of the design, the controlled conditions, and the implementation of controls; and

(ii) A complete description of the methods of observation and adjustment of observation.

(4) *Studies involving statistical methodology.* (i) The formula used for statistical estimates;

(ii) The standard error for each component;

(iii) The test statistics, the description of how the tests were conducted, related computations, computer programs, and all final results; and

(iv) Summarized descriptions of input data and, if requested, the input data itself.

(j) *Cumulative evidence.* Cumulative evidence will be discouraged by the Tribunal and the Tribunal may limit the number of witnesses that may be heard in behalf of any one party on any one issue.

(k) *Further evidence.* At any state of a hearing the Chairman may call upon any party to furnish further evidence upon any issue.

(l) *Rights of parties as to presentation of evidence.* Every participant shall have the right to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be necessary to disclose the facts fully and truthfully. The Chairman, however, may limit introduction of evidence, examination, and cross-examination if in his judgment this evidence or examination would be cumulative or cause undue delay.

§ 301.52 Participation in any proceeding.

Interested persons will be afforded an opportunity to participate in any proceeding and submit written data, views, or arguments, with or without the opportunity to present the same orally. If proposed rules are required by statute to be made on the record after opportunity for a hearing, such a hearing shall be conducted pursuant to 5 U.S.C., Subchapter II, and 7 U.S.C., and the procedure will be the same as in § 301.55 herein.

§ 301.53 Examination, cross-examination, and rebuttal.

(a) Each Commissioner may examine any witness at any time.

(b) Examination, cross-examination, and rebuttals relevant to the issues under consideration, shall be allowed by the Chairman, but only to the extent they are necessary for a full and true disclosure of the facts.

(c) *Selection of representatives for cross-examination.* The Tribunal will encourage individuals or groups with the same or similar interests in a proceeding to select a single representative to conduct their examination and cross-examination for them. However, if there is no agreement on the selection of a representative, then each individual or group will be allowed to conduct his own examination and cross-examination, but only on issues affecting his particular interest.

§ 301.54 Proposed findings and conclusions.

(a) Any party to the proceeding may file proposed findings of fact and conclusions, briefs, or memoranda of law, or may be directed by the Chairman so to file, such filings to take place within 20 days after the record has been closed, unless additional time is granted.

(b) Failure to file when directed to so do may be considered a waiver of the right to participate further in the proceeding, unless good cause is shown.

(c) Proposed findings of fact shall be numbered by paragraph and include all basic evidentiary facts developed on the record used to support proposed conclusions and cite appropriately the record for each evidentiary fact. Proposed conclusions shall be stated separately. Proposed findings submitted by someone other than an applicant in a proceeding shall be restricted to those issues which specifically affect that person.

(d) Proof of service upon all other counsel or parties in a proceeding must accompany pleadings and all other papers filed under this section.

§ 301.55 Promulgation of rules or orders.

(a) In adopting a rule or order the Tribunal will consider all relevant matters of fact, law, and policy, and all relevant matters which have been presented by interested persons, and will exercise due discretion. Together with a concise general statement of its basis and purpose and any necessary findings, the rule or order will be published in the FEDERAL REGISTER, and if any other public notice is necessary that will be made also.

(b) The effective date of any rule, or its amendment, suspension, or repeal, will be at least 30 days after it is published in the FEDERAL REGISTER, unless good cause has been shown and is published with the rule.

§ 301.56 Public suggestions and comments.

(a) The Tribunal encourages the public, not just those persons subject to its regulations, to submit suggestions and proposals concerning any substantial question before it, when that question will have subtantial impact either upon those directly regulated by the Tribunal or upon others. It is in the best interests of both the Tribunal and the public at large that the Tribunal be advised on issues and problems that are potentially significant to it. This will permit the Tribunal to consider policy questions and administrative reforms early enough so that they may be viewed in a general context and not in the detailed application of a particular proceeding.

(b) Upon receiving such suggestions or proposals, the Tribunal shall review them and take whatever action seems necessary. Further information may be requested from the party submitting the suggestion or proposals, and the Tribunal staff may be asked to make a study, or an informal public conference may be held. Conferences or procedures undertaken pursuant to this section shall not be deemed subject to the Administrative Procedure Act with respect to notice of rulemaking. They are intended by the Tribunal simply as a means of determining the need for Tribunal action, prior to issuing a notice of proposed rulemaking.

(c) Such suggestions or proposals, however, shall be filed in accordance with the Tribunal's rules.

(d) This policy may not be used to advocate ex parte a position in a pending proceeding. Suggestions or proposals offered must relate to general conditions, such as conditions in industry, the public interest, or the policies of the Tribunal.

Subpart F—Rate Adjustment Proceedings

§ 301.60 Scope.

This chapter governs only those proceedings dealing with royalty rate adjustments affecting cable television (17 U.S.C. 111), the production of phonorecords (17 U.S.C. 115), coin-operated phonorecord players (jukeboxes) (17 U.S.C. 116), and non-commercial broadcasting (17 U.S.C. 118). It does not govern unrelated rulemaking proceedings. Those provisions of subpart E generally regulating the conduct of proceedings shall apply to rate adjustment proceedings, unless they are inconsistent with the specific provisions of this subpart.

§ 301.61 Commencement of adjustment proceedings.

(a) In the case of cable television, phonorecords, and coin-operated phonorecord players (jukeboxes) rate adjustment proceedings will commence by the publication of a notice to that effect in the FEDERAL REGISTER on January 1, 1980, pursuant to 17 U.S.C. 804(a)(1). In the case of non-commercial broadcasting the notice will be published on June 30, 1982 and at 5-year intervals thereafter, pursuant 10 U.S.C. 118(c). The notice shall, to the extent feasible, describe the general structure and schedule of the proceeding.

(b) Initially, as outline in paragraph (a) of this section a petition from an interested party is not necessary to commence proceedings. Thereafter, however, for rate adjustment proceedings to commerce, a petition must be filed by an interested party according to the following schedule:

(1) Cable Television: During 1985 and each subsequent fifth calendar year.

(2) Phonorecords: During 1987 and each subsequent 10th calendar year.

(3) Coin-operated phonorecord players (jukeboxes): During 1990 and each subsequent 10th calendar year.

(c) Cable television rate adjustment proceedings may also be commenced by the filing of a petition, according to 17 U.S.C., 801(b)(2) (B) and (C), if the Federal Communications Commission amends certain of its rules concerning the carriage by cable of broadcast signals, or with respect to syndicated and sports program exclusivity.

(d) In the case of non-commercial broadcasting, a petition is not necessary for the commencement of proceedings. They commence automatically according to paragraph (a) of this section.

§ 301.62 Content of petition.

(a) The petition shall detail the petitioner's interest in the royalty rate sufficiently to permit the Tribunal to determine whether the petitioner has "significant interest" in the matter. The petition must also identify the extent to which the petitioner's interest is shared by other owners or users, and owners or users with similar interests may file a petition jointly.

(b) In the case of a petition for rate adjustment as the result of a Federal Communications Commission rule change, the petition shall also set forth the action of the Federal Communications Commission which the party filing the petition feels authorizes a rate adjustment proceeding.

§ 301.63 Consideration of petition.

The Tribunal shall not start to consider any petition before the expiration of 90 days from the start of the calendar year specified in § 301.61(b) or 90 days from the effective date of the Federal Communications Commission action mentioned in § 301.62(c). Similar petitions may be joined together by the Tribunal for the purpose of determining "significant interest", and the Tribunal may permit written comments or a hearing on pending petitions.

§ 301.64 Disposition of petition.

At the end of the 90-day period, the Tribunal shall determine as expeditiously as possible if one or more petitioner's interest is "significant"; and shall publish in the FEDERAL REGISTER a notice of its determination and the reasons therefor, together with a notice of the commencement of proceedings if it has been determined to commence a proceeding. Any commencement notice shall, to the extent feasible, describe the general structure and schedule of the proceeding.

§ 301.65 Rate adjustment proceedings.

In any rate adjustment proceeding, all interested persons shall have the opportunity to present written com-

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ments and oral testimony, subject to the general provisions of subpart E.

ing the conduct of proceedings shall apply to royalty fee distribution proceedings, unless they are inconsistent

comments and oral testimony, subject to the general provisions of subpart E.

[6560-01-M]

[6560-01-M]

submit by January 1, 1979, for the Bir-

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ments and oral testimony, subject to the general provisions of subpart E.

§ 301.66 Publication of proposed rate determination.

(a) Following the conclusion of the hearings, the Tribunal shall publish as soon as possible in the FEDERAL REGISTER, a notice of its proposed findings and conclusions in the rate adjustment proceeding. The Tribunal shall afford all parties a reasonable opportunity to submit written comments on the proposed determination. The Tribunal may, if necessary, conduct additional hearings.

(b) A proposed determination will not be published if, in the Tribunal's judgment, a final determination cannot feasibly be rendered before the year's end as required by 17 U.S.C. 118(c) and 17 U.S.C. 804(e) concerning the termination of proceedings.

§ 301.67 Final determination.

Upon the conclusion of the procedures for proposed determinations described in § 301.66, or upon the conclusion of the rate adjustment proceedings provided in § 301.65, if the publication of a proposed rate determination is not feasible because of the requirements to reach a final determination before the end of the year (17 U.S.C. 118(c) and 17 U.S.C. 804(e)), the Tribunal shall publish in the FEDERAL REGISTER a written opinion stating in detail the criteria it found applicable, the facts found relevant, and the specific reasons for its determination.

§ 301.68 Reopening of proceedings.

Following the publication of a final determination in the FEDERAL REGISTER the Tribunal shall not reopen or conduct any further proceedings.

§ 301.69 Effective date of final determination.

A final determination by the Tribunal shall become effective thirty days following its publication in the FEDERAL REGISTER, unless an appeal has been filed prior to that time pursuant to 17 U.S.C. 810 to vacate, modify or correct a determination, and notice of the appeal has been served on all parties who appeared in the proceeding.

Subpart G—Royalty Fees Distribution Proceedings

§ 301.70 Scope.

This subpart governs only those proceedings dealing with the distribution of compulsory cable television and coin-operated phonorecord player (jukebox) royalties desposited with the Register of Copyrights, according to the terms of 17 U.S.C., 111(d)(5) and 116(c). It does not govern unrelated rulemaking proceedings. Those provisions of subpart E generally regulating the conduct of proceedings shall apply to royalty fee distribution proceedings, unless they are inconsistent with the specific provisions of this subpart.

§ 301.71 Commencement proceedings.

(a) *Cable television.* In the case of compulsory royalty fees for secondary tranmissions by cable television, any person claiming to be entitled to such fees must file a claim with the Tribunal during the month of July each year in accordance with Tribunal regulations.

(b) *Coin-operated phonorecord players.* In the case of compulsory royalty fees for the use of nondramatic musical works by coin-operated phonorecord players (jukeboxes) any person claiming to be entitled to such fees must file a claim with the Tribunal during the month of January each year in accordance with Tribunal regulations.

§ 301.72 Determination of controversy.

(a) *Cable television.* After the first day of August each year, the Tribunal shall determine whether a controversy exists among the claimants of cable television compulsory royalty fees. In order to determine whether a controversy exists, the Tribunal may conduct whatever proceedings it feels necessary , subject to the procedures and regulations of subpart E. The results of this determination shall be announced in the FEDERAL REGISTER. If the Tribunal decides that a controversy exists, the FEDERAL REGISTER notice shall also announce the commencement of the royalty distribution proceeding, and shall, to the extent feasible, describe the general structure and schedule of the proceeding.

(b) *Coin-operated phonorecord players.* After the first day of October each year, the Tribunal shall determine whether a controversy exists among the claimants of coin-operated phonorecord player (jukebox) compulsory royalty fees. In order to determine whether a controversy exists the Tribunal may conduct whatever proceedings it feels necessary, subject to the procedures and regulations of subpart E. The results of this determination shall be announced in the FEDERAL REGISTER. If the Tribunal decides that a controversy exists, the FEDERAL REGISTER notice shall also announce the commencement of the royalty distribution proceeding, and shall, to the extent feasible, describe the general structure and schedule of the proceeding.

§ 301.73 Royalty distribution proceedings.

In any royalty distribution proceeding all interested claimants shall have the opportunity to present written comments and oral testimony, subject to the general provisions of subpart E.

§ 301.74 Publication of proposed royalty distribution determination.

(a) Following the conclusion of the hearings, the Tribunal shall publish, as soon as possible, in the FEDERAL REGISTER, a notice of its proposed findings and conclusions in the royalty distribution proceeding. The Tribunal shall afford all claimants a reasonable opportunity to submit written comments on the proposed determination. The Tribunal may, if necessary, conduct additional hearings.

(b) A proposed determination will not be published if, in the Tribunal's judgment, a final determination cannot feasibly be rendered before the year's end, as required by 17 U.S.C. 804(e) concerning the termination of proceedings.

§ 301.75 Final determination.

Upon the conclusion of the procedures for proposed determination described in § 301.74, or upon the conclusion of the royalty distribution proceedings provided in § 301.73, if the publication of a proposed rate determination is not feasible because of the requirements to reach a final determination before the end of the year (17 U.S.C. 804(e)), the Tribunal shall publish in the FEDERAL REGISTER a written opinion stating in detail the criteria it found applicable, the facts found relevant, and the specific reasons for its determination.

§ 301.76 Reopening of proceedings.

Following the publication of a final determination in the FEDERAL REGISTER, the Tribunal shall not reopen or conduct any further proceedings.

§ 301.77 Effective date of final determination.

A final determination by the Tribunal shall become effective thirty days following its publication in the FEDERAL REGISTER, unless an appeal has been filed prior to that time pursuant to 17 U.S.C. 810 to vacate, modify, or correct a determination, and notice of the appeal has been served on all parties who appeared in the proceeding.

COPYRIGHT ROYALTY TRIBUNAL,
THOMAS C. BRENNAN,
Chairman.

[FR Doc. 78-29871 Filed 10-20-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 991-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Alabama: Proposed Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today giving notice of its intention to approve regulations adopted by the Alabama Air Pollution Control Commission for the charging and pushing of coke in existing conventional batteries. These revised regulations are part of the plan revision submittal Alabama is making pursuant to requirements of the Clean Air Act Amendments of 1977.

DATE: To be considered, comments must be received on or before November 22, 1978.

ADDRESSESS: Comments should be addressed to Eliot Cooper of EPA Region IV's Air Programs Branch at the Atlanta address given below. Telephone: 404-881-3286; FTS 257-3286. Copies of the materials submitted by the State of Alabama are available for public inspection during normal business hours at the following locations:

Alabama Air Pollution Control Commission, 615 South McDonough Street, Montgomery, Ala. 36130.

Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Eliot Cooper of EPA Region IV's Air Programs Branch (see address and phone number above).

SUPPLEMENTARY INFORMATION: On March 3, 1978, on the basis of information submitted by the Alabama Air Pollution Control Commission, the Administrator designated areas in Jefferson and Etowah Counties nonattainment for particulate matter. Under section 172 of the Clean Air Act, as amended 1977, plan revisions assuring the attainment of national standards for particulate matter are to "provide for implementation of reasonably available control measures as expeditiously as practicable." The new coke oven regulations described below are intended to serve as part of the attainment plan which Alabama is to submit by January 1, 1979, for the Birmingham and Gadsden areas pursuant to section 172 of the Clean Air Act.

On July 11, 1978, following notice and public hearing in conformity with 40 CFR 51.4 and 51.6, the Alabama Air Pollution Control Commission adopted changes in its regulations for emissions of particulate matter from existing coke batteries. These revised regulations were submitted for EPA's approval on July 14, 1978.

This revision includes changes to the existing charging regulation and requires pushing controls in Jefferson and Etowah Counties. They apply to the charging of wet coal by use of a larry car in existing conventional coke batteries and restrict the allowable visible emission from any five consecutive charges to 94 seconds.

Also, existing coke oven batteries shall be equipped with a device that will capture and collect coke-side emissions resulting from the pushing operation. The collection device shall be such that the outlet gas shall contain no more than 0.03 pounds of noncondensable particulate matter per ton of coal charged for each oven, averaged over five consecutive pushes. In addition, visible emissions from the hot car, capture or collection device cannot exceed 20 percent opacity.

The regulation changes just described, in the Agency's view, represent reasonably available control measures that can be applied now to reduce particulate emissions in the Birmingham and Gadsden nonattainment areas, and it is on that basis that this proposal to approve them is made. The January 1979 plan revision submittal is to contain a control strategy demonstration which will take into account the particulate emission reduction expected from the new coke oven regulations and other control measures which the Alabama Air Pollution Control Commission will have adopted by that time. Under section 172 of the Clean Air Act, the completed January 1979 submittal must show that all particulate standards will be attained by December 1982.

The public is invited to participate in this rulemaking by submitting written comments on the proposed new Alabama coke regulations. After considering all relevant comments received together with other information available to him, the Administrator will take approval/disapproval action on them.

(Sec. 110(a) of the Clean Air Act (42 U.S.C. 7410(a).)

Dated: October 12, 1978.

JOHN A. LITTLE,
Acting Regional Administrator.

[FR Doc. 29731 Filed 10-20-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 991-5]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Buckeye Power, Inc., Cardinal Generating Station, Brilliant, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an Administrative Order to Buckeye Power, Inc. The Order requires the Company to bring Unit 2 at Brilliant, Ohio (the source) into compliance with Ohio Regulations AP-3-07 and AP-3-11, part of the federally approved Ohio State implementation Plan (SIP). Because the Company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by April 15, 1980. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATE: Written comments must be received on or before November 22, 1978 and requests for a public hearing must be received on or before November 7, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Linda M. Buell, Attorney, Enforcement Division, U.S. Environmental

Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, at

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1 as follows:

comments, U.S. EPA has determined that the following schedule requires compliance as expeditiously as practicable, and that the

as to maximize the reliability and efficiency of the existing controls on Unit 2, minimize particulate matter emissions, avoid any imminent and substantial endangerment to

[6560-01-M]

[40 CFR Part 65]

manufacture of aluminum rod bar and wire products in Heath, Ohio. The proposed Order addresses emissions

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Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, at 312-3530-2082.

SUPPLEMENTARY INFORMATION: Buckeye Power, Inc. owns Unit 2 at the Cardinal Generating Station at Brilliant, Ohio. The propsed Order addresses emissions from one coal-fired boiler at this facility, which is subject to Regulations AP-3-07 and AP-3-11 of the Ohio Implementation Plan. The regulations limit the emissions of particulate matter, and are part of the federally approved Ohio State implementation Plan. The Order requires final compliance with the regulations by April 15, 1980, and the source has consented to its terms. As of the date of this publication, the source has already satisfied the first three increments in this Order.

The proposed Order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the Order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (sec. 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promlgated by EPA soon,[1] and will contain the precedure for EPA's issuance, approval, and disapproval of an Order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing Orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

Dated: October 10, 1978.

JOEL MCGUIRE,
Regional Administrator,
Region V.

[1] Published at 43 FR 44522, Sept. 28, 1978.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.400, Federal delayed compliance Orders issued under section 113(d) (1), (3), and (4) of the Act, to reflect approval of the following order:

U.S. ENVIRONMENTAL PROTECTION AGENCY

[Order No. EPA-5-78-A-]

In the Matter of Buckeye Power, Inc., Cardinal Generating Station, Brilliant, Ohio. Proceeding Under sections 113 (a), (d) and 114, Clean Air Act, as Amended.

Order

The following Order is issued today under sections 113 (a), (d) and 114 of the Clean Air Act, 42 U.S.C. section 7401 et seq. ("the Act"). The Order contains a compliance schedule with increments of progress, interim emission reduction requirements, and emission monitoring and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than April 15, 1980. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided under section 113(d)(1) of the Act.

On September 2, 1976, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency ("U.S. EPA"), under authority duly delegated to him by the Administrator of U.S. EPA, issued a Notice of Violation to Buckeye Power, Inc. ("the Company") stating that the Company's generating Unit 2 at the Cardinal Generating Station, located in the vicinity of Brilliant, Ohio, was found to be in violation of the applicable Ohio Implementation Plan, as defined in section 110(d) of the Act. The Notice cited the Company's Unit 2 for violation of Ohio Regulations AP-3-07 and AP-3-11. A copy of that Notice was sent to the State of Ohio Environmental Protection Agency.

Under section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegates was duly given to the Company. On October 14, 1977, a conference was held in Chicago, Ill., to discuss the September 2, 1976, Notice of Violation. Subsequent meetings were held in Chicago on December 1, 1977, and March 30, 1978, to discuss a compliance schedule for the installation of new control equipment on Unit 2 at the Cardinal Generating Station.

U.S. EPA has determined that these violations have continued beyond the 30th day after the date of the Enforcement Director's notification and that the Company is unable to comply with the applicable implementation plan at this time.

After a review of information submitted at the conference, a thorough investigation of all relevant facts, and considering public comments, U.S. EPA has determined that the following schedule requires compliance as expeditiously as practicable, and that the terms of this Order comply with section 113(d) of the Act.

Therefore, it is hereby *ordered and agreed*, That: I. The Company shall achieve compliance with Ohio Regulations AP-3-07 and AP-3-11 at Unit 2 at the Cardinal Generating Station in accordance with the following schedule:

Increment	*Date*
Submit final control plans and specifications to U.S. EPA	Achieved
Award contract(s) for control equipment	Do.
Begin on-site construction	Do.
Complete erection of precipitator hoppers and shells	August 15, 1979
Achieve compliance with Ohio Regulations AP-3-07 and AP-3-11	April 15, 1980

II. Compliance test results and certification of compliance shall be submitted to U.S. EPA one month after completion of construction and tie-in of control equipment. The Company shall notify U.S. EPA and Ohio EPA at least 10 days before any compliance test is conducted.

III. Nothing contained in this Order shall affect the responsibility of the Company to comply with other Federal, State or local regulations.

IV. No later than 15 days after any date for achievement of an incremental step for final compliance specified in this Order, the Company shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons for any noncompliance, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Company shall immediately notify U.S. EPA in writing of the anticipated delay, reasons for the delay, and the estimated length of the delay.

The Company shall submit quarterly reports to U.S. EPA detailing the current status in meeting each increment of progress in this Order. In addition, photographs shall be submitted along with these reports, showing progress made since the previous quarter. U.S. EPA personnel shall be admitted to the facility at any reasonable time for the purpose of viewing such progress.

V. In issuing this order, the Administrator does not waive any rights or remedies under the Clean Air Act.

VI. Under section 113(d)(7) of the Act, during the period of this order, until completion of the program set out in Paragraph I herein, the Company shall use the best practicable system of emission reduction so as to maximize the reliability and efficiency of the existing controls on Unit 2, minimize particulate matter emissions, avoid any imminent and substantial endangerment to the public health, and comply with the requirement of the applicable implementation plan to the extent it is able to do so.

The Company shall submit written operating and maintenance procedures for the existing controls to U.S. EPA for approval within one month from the effective date of this order. These procedures shall provide for maximizing reliability and efficiency, malfunction reporting, record keeping, and corporate reviewing. Failure to submit or comply with the procedures will constitute a violation of this order.

VII. A continuous opacity monitoring system for the stack servicing Unit 2 shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in Appendix B of 40 CFR Part 60 no later than July 1, 1979. Monitor data shall be retained by the Company for at least two years. In accordance with Section 114 of the Act, on a quarterly basis, the Company shall report all 6-minute data averages from the monitor [reduced as specified in 40 CFR § 60.13(b)] in excess of 20 percent.

VIII. The Company is notified that failure to achieve final compliance as required by the Act may result in a requirement to pay a noncompliance penalty. In that event, the Company will be formally notified under section 120(b)(3) and any regulations promulgated under that section.

IX. The Company hereby waives its right to file a petition for review of this order under section 307(b)(1) of the Act.

X. All submissions and notifications to U.S. EPA, under this order, shall be made to the Air Compliance Section, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2090. A copy of all submissions and notifications shall be made to the North Ohio Valley Air Authority, 814 Adams Street, Steubenville, Ohio 43952.

XI. This order is effective upon its issuance.

Date: ———————.

———————,
Administrator.

Buckeye Power, Inc. has review ed this order, consents to the terms and conditions of this order, and believes it to be a reasonable means by which Unit 2 at the Cardinal Generating Station can achieve final compliance with Ohio Regulations AP-3-07 and AP-3-11.

Date: ———————.

ROBERT N. CLEVELAND,
President,
Buckeye Power, Inc.

[FR Doc. 78-29722 Filed 10-20-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 991-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Kaiser Aluminum & Chemical Corp., Heath, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative Order to the Kaiser Aluminum & Chemical Corp. (Kaiser Aluminum). The Order requires the company to bring air emissions from its two coal-fired boilers in Heath, Ohio, into compliance with certain regulations contained in the federally-approved Ohio State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by March 31, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before November 22, 1978, and requests for a public hearing must be received on or before November 7, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to James O. McDonald, Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Louise Gross, Attorney, at the above address. Telephone at 312-353-2082.

SUPPLEMENTARY INFORMATION: Kaiser Aluminum is engaged in the manufacture of aluminum rod bar and wire products in Heath, Ohio. The proposed Order addresses emissions from its two coal-fired boilers at this facility, which are subject to Ohio Regulation AP-3-11. The regulation limits the emissions of particulate matter, and is part of the federally-approved Ohio SIP. The Order requires final compliance with the regulation by March 31, 1979, and the source has consented to its terms. The source has also agreed to meet the Order's increments during the period of this informal rulemaking and has already satisfied particular increments contained in the Order.

The proposed Order satisfies the applicable requirements of Section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of an Order under section 113(d) of the Act. In addition, Part 65 will contain sections summarizing Orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: October 3, 1978.

VALDAS V. ADAMKUS,
Deputy Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.400, Federal delayed compliance orders issued under Section 113(d)(1), (3), and (4) of the Act, to reflect approval of the following order:

[1] Published at 43 FR 44522, September 28, 1978.

[Order No. ——]

U.S. ENVIRONMENTAL PROTECTION AGENCY

F. Demonstrate compliance with AP-3-11—March 31, 1979.

II. Kaiser Aluminum shall achieve and

[6560-01-M]

[40 CFR Part 65]

Dated: October 12, 1978.

JOHN A. LITTLE,
Acting Regional

EDITORIAL NOTE: The correct document was published Friday, October 20, 1978 at 43 FR 49017.

("PBS"), American Broadcasting Co., Inc. ("ABC"), Columbia Broadcasting System, Inc. ("CBS"), the Joint Com-

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[Order No. ——]

U.S. ENVIRONMENTAL PROTECTION AGENCY

[Order No. EPA-5-78-A]

In the Matter of Kaiser Aluminum & Chemical Corporation Heath, Ohio. Proceeding Under Section 113(d) of the Clean Air Act, as Amended.

ORDER

The following Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. section 7401 *et seq.* (hereinafter the Act). Public notice, opportunity for public hearing and thirty days notice to the State of Ohio have been provided pursuant to section 113(d)(1) of the Act. This Order contains a schedule of compliance, interim control requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but no later than March 31, 1979.

On November 15, 1977, Dale S. Bryson, Acting Director, Enforcement Division, Region V, U.S. Environmental Protection Agency (hereinafter U.S. EPA), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a Notice of Violation, pursuant to section 113(a)(1) of the Act, to the Kaiser Aluminum & Chemical Corp. in Heath, Ohio (hereinafter Kaiser Aluminum), upon finding that the two coal-fired boilers at its Heath, Ohio facility (hereinafter the Heath facility) were found to be in violation of the applicable Ohio Implementation Plan, as defined in section 110(d) of the Act. The Notice cited Kaiser Aluminum for violation of Ohio Regulation AP-3-11 (hereinafter AP-3-11) as demonstrated by emission factor calculations and material submitted to the U.S. EPA by Kaiser Aluminum pursuant to section 114 of the Act. A copy of this Notice was sent to the State of Ohio.

At Kaiser Aluminum's request, a conference was held on December 12, 1977 to discuss the Notice of Violation. Kaiser explained the State-approved method of calculating compliance on which it had relied. In order to resolve the issue as to Kaiser Aluminum's violations, it was agreed that Kaiser Aluminum would perform stack testing at its Heath facility. Such testing was in fact performed on March 28, 1978, and established the existence of violations of AP-3-11.

After a thorough investigation of all relevant facts, it is determined that Kaiser Aluminum is presently unable to comply with the Ohio Implementation Plan, that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. Therefore, *it is hereby ordered*, That:

I. The Kaiser Aluminum & Chemical Corp. shall achieve compliance with AP-3-11 at its two coal-fired boilers in accordance with the following schedule:

A. Submit control plan to U.S. EPA—Completed.

B. Award contracts—September 1, 1978.

C. Initiate on-site construction—October 6, 1978.

D. Complete construction—February 2, 1979.

E. Perform final compliance testing—March 10, 1979.

F. Demonstrate compliance with AP-3-11—March 31, 1979.

II. Kaiser Aluminum shall achieve and demonstrate final compliance with AP-3-11 at its Heath, Ohio facility by March 31, 1979.

III. Pursuant to section 113(d)(7) of the Act, during the period in which this Order is in effect, Kaiser Aluminum shall utilize the best practicable interim system of emission reduction (taking into account the requirement with which the source must ultimately comply in section 1, above). This shall include operation of the boilers on a seasonal basis only and at minimum practical levels.

IV. Kaiser Aluminum shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this Order. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than March 31, 1979, Kaiser Aluminum shall certify to the U.S. EPA that its two coal-fired boilers are in final compliance with AP-3-11.

V. All submissions and notifications to the U.S. EPA pursuant to this Order shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

VI. Nothing in this Order shall be construed so as to affect Kaiser Aluminum's responsibility to comply with any other Federal, State or local regulations.

VII. Nothing in this Order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. section 7603.

VIII. Kaiser Aluminum is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, Kaiser Aluminum will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

IX. This Order shall be effective upon FEDERAL REGISTER promulgation.

Date: ——————.

——————,
Administrator or Delegate.

The Kaiser Aluminum & Chemical Corp. has reviewed this Order and believes it to be a reasonable means by which its Heath, Ohio facility can achieve compliance with Ohio Regulation AP-3-11. Kaiser Aluminum stipulates as to the correctness of all facts stated above and consents to the requirements and terms of this Order. Kaiser Aluminum further agrees not to challenge the reasonableness of this Order.

Date: ——————.

——————,
Kaiser Aluminum & Chemical Corp.

[FR Doc. 78-29721 Filed 10-20-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 993-1; Docket No. DCO-78-1]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for St. Joe Paper Co., Port St. Joe, Fla.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior FEDERAL REGISTER notice proposing a delayed compliance order for the No. 4 power boiler at the St. Joe Paper Co. located in Port St. Joe, Fla. This action is being taken because St. Joe Paper Co.'s No. 4 power boiler, the source covered by the order, is no longer in violation of the Florida State implementation plan provisions covered by the proposed order.

EFFECTIVE DATE: This withdrawal is effective October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Wayne Aronson, Air Enforcement Branch, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone 404-881-4253.

SUPPLEMENTARY INFORMATION: On May 24, 1978, a FEDERAL REGISTER notice published at page 22221 FEDERAL REGISTER, volume 43, No. 101, solicited public comments and offered the opportunity to request a public hearing on a proposed delayed compliance order to be issued by the EPA to St. Joe Paper Co. located in Port St. Joe, Fla. The source, which was the subject of the delayed compliance order—St. Joe Paper Co.'s No. 4 power boiler—has subsequently achieved compliance with the Florida State implementation Plan regulations covered by the order. On July 10, 1978, a performance test was conducted at St. Joe Paper Co.'s No. 4 power boiler and the results indicate that the boiler is operating in compliance with Chapter 17-2.04(2), air pollution rules for the State of Florida, dealing with the control of particulate emissions from process sources.

In consideration of the foregoing the proposal published in the FEDERAL REGISTER (22221 FR vol. 43, No. 101) on May 24, 1978, entitled "Proposed Delayed Compliance Order for St. Joe Paper Co., Port St. Joe, Fla.," is hereby withdrawn.

Dated: October 12, 1978.

JOHN A. LITTLE,
Acting Regional Administrator, Region IV.

[FR Doc. 78-29730 Filed 10-20-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Gen. Docket No. 78-323; RM-3058; FCC 78-699]

AUTHORIZING THE USE OF AERONAUTICAL ADVISORY FREQUENCIES BY AERONAUTICAL UTILITY MOBILE STATIONS LOCATED AT CERTAIN LANDING AREAS WHICH DO NOT HAVE A CONTROL TOWER OR FAA FLIGHT SERVICE STATION

Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the notice of proposed rulemaking appearing in the FEDERAL REGISTER, October 11, 1978, at 43 FR 46871, concerning authorizing the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station.

DATES: Comments must be received on or before November 15, 1978, and reply comments must be received on or before November 27, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Released: October 16, 1978.

In the matter of amendment of Parts 2 and 87 of the rules to authorize the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station, Gen. Docket No. 78-323.

In the above captioned matter, FCC 78-699, released October 12, 1978, in the FEDERAL REGISTER at 43 FR 46871, the Notice of Proposed Rulemaking is incorrect, withdrawn, and will be published at a later date.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

EDITORIAL NOTE: The correct document was published Friday, October 20, 1978 at 43 FR 49017.

[FR Doc. 78-29766 Filed 10-20-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-308; RM-2869; FCC 78-679]

PERMITTING TRANSMISSION OF PROGRAM-RELATED SIGNALS IN VERTICAL BLANKING INTERVAL OF THE STANDARD TELEVISION SIGNAL

Proposed Rulemaking and Memorandum Opinion and Order

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking and memorandum opinion and order.

SUMMARY: Proposed amendment would allow the transmission of a digital source identification signal on line 20 of the television vertical blanking interval. Action initiated by a petition from the National Broadcasting Co. in order to improve accuracy and availability of program ratings and automate some recordkeeping and switching functions.

DATES: Comments must be received on or before January 29, 1979, and reply comments must be received on or before February 28, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Gordon W. Godfrey, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: September 22, 1978.

Released: October 20, 1978.

By the Commission: Commissioners Lee and Fogarty and absent.

In the matter of amendment of § 73.682 of the Commission's rules to permit the transmission of program related signals in the vertical blanking interval of the standard television signal, BC Docket No. 78-308, RM-2869.

1. The Commission has received a petition for rulemaking to amend § 73.682 of the Commission's rules and regulations to permit the transmission of program related signals during the vertical blanking interval ("VBI") of the standard television signal. The petition (RM-2869) was filed by the National Broadcasting Co., Inc. ("NBC") on March 30, 1977. Statements supporting the petition were received from the Public Broadcasting Service ("PBS"), American Broadcasting Co., Inc. ("ABC"), Columbia Broadcasting System, Inc. ("CBS"), the Joint Committee on Intersociety Coordination Ad Hoc Committee on Television Broadcast Ancillary Signals ("JCIC Ad Hoc Committee"), and from Mr. Daniel L. Rapak, a television station broadcast engineer. On November 11, 1977, the Board of Delegates of the National Broadcasting Co., Inc., television network affiliates ("Board"), submitted comments on the petition for rulemaking and a motion for leave to accept late filed comments.[1] The Board states that its members only recently became aware of the proposed rulemaking, and subsequently their investigation of the proposal and possible alternatives resulted in late filed comments. Although the comments were filed well after the close of the comment period, they provide additional information on areas which require consideration in this proceeding and will be accepted. An additional statement in opposition was received on December 5, 1977, from the Association for Maximum Service Telecaster ("AMST"). On March 15, 1978, the ABC Television Affiliates Association filed reply comments supporting the petition. These will similarly be accepted in this proceeding despite the late dates of their filing.

2. NBC proposes that § 73.682(a)(21) be amended to allow the transmission of a digital source identification ("SID") signal on line 20 of the VBI. Specifically, NBC requests that this section be amended by adding the underlined material as follows:

> The interval beginning with line 17 and continuing through line 20 of the vertical blanking interval of each field may be used for the transmission of test signals and cue and control signals, subject to the conditions and restrictions set forth below. Test signals may include signals used to supply reference modulation levels so that variations in light intensity of the scene viewed by the camera will be faithfully transmitted, and signals designed to check the performance of the overall transmission system or its individual components. Cue and control signals shall be related to the operation of the television broadcast station *and may include signals to identify the broadcast material or its source.* Figures 6 and 7 of § 73.699 identify the numbered lines referred to in this subparagraph.

Although this section currently allows test signals and cue and control signals to be transmitted on lines 17 thorugh 20 of the VBI, three of these four lines are reserved for specific signals; § 73.682(a)(21)(iv) reserves the use of line 19, in each field, for the transmis-

[1] Pursuant to § 1.405 of the Commission's rules and regulations, the period for filing statements in support of or in opposition to a petition for rulemaking is 30 days from the date of the Commission's "Public Notice" of the filing of the petition. Public Notice was given Apr. 12, 1977, (Rept. No. 1038).

sion of the vertical interval reference signal described in figure 16 of § 73.699 of the rules. In addition, § 73.676(f) re-

Currently, test, cue and control signals are permitted in the VBI, pursuant to § 73.682(a)(21)(ii), on condition that

information systems such as "Teletext".[2] The Board indicates that a teletext type system in this country would

use of line 20 by the SID signal to preclude the ultimate use of line 20 by a general purpose data system. We would instead expect the transmission

VBI program identification signal is also being considered. However, no information has been submitted regard-

consideration of the instant proposal in a rulemaking proceeding. In view of the field test reports filed by the net-

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sion of the vertical interval reference signal described in figure 16 of § 73.699 of the rules. In addition, § 73.676(f) requires that television broadcast stations authorized to operate by remote control shall utilize specified test signals inserted in the VBI on lines 17 and 18 of both fields. Line 20 of he VBI is not currently reserved for any specific use and is thus available for the transmission of any other test or cue and control signal that is in compliance with § 73.682(a)(21).

3. NBC proposes to use the SID signal to identify the originating network, the city of origination and the date and time of origination. NBC projects potential use of the proposed signal for verification of network service transmitted; faster and more accurate program ratings; automatic logging; and automatic operation of cable television nonduplication switching equipment. In their comments, ABC and Mr. Rapak stated that an SID signal such as that proposed by NBC could also be used to give network affiliates much more reliable time references, allowing a more synchronized switching to the network feed.

4. It is the inclusion of the proposed SID signal in the over-the-air television transmissions which would necessitate a change in the Commission's rules. If the SID signal is deleted from the television signal before it is broadcast, no changes in the rules are required. NBC states that radiation of the signal is necessary to allow monitoring of the total television system, from the picture source to the transmitter output, and to allow use of the signal at affiliate stations which receive the network programing off-the-air from other affiliates. In Addition, NBC submits that its radiation will offer any interested party equal access to the SID signal.

5. In February of 1973, the networks (ABC, CBS, NBC and PBS), in a joint letter to the Commission, sought informal authority to implement an off-the-air monitoring system using a vertical interval digital signal. The Commission, by letter dated April 4, 1973, rejected this approach and indicated that such authorization could be obtained only through a rulemaking. Since then, pursuant to special temporary authorization ("STA") first issued by the Commission to each network in November of 1974, development and testing have been conducted by NBC, ABC, and CBS. The results of these field tests, as analyzed by the networks and reported to the Commission, show that recovery of the SID signal is accurate and extremely reliable, even when radiated, after traversing long network circuits.

6. NBC does not propose that technical restrictions or a required format for the SID signal should be adopted. Currently, test, cue and control signals are permitted in the VBI, pursuant to § 73.682(a)(21)(ii), on condition that their use shall not result in significant degradation of the program transmissions of the television broadcast station, nor produce emission outside of the frequency band occupied for normal program transmissions. Filings in this proceeding indicate that there is virtually no potential for program degradation by the proposed SID transmissions, and the testing done pursuant to the STA's seems to confirm this. Therefore, we would anticipate no problems in allowing the SID signals to be transmitted on the same noninterfering basis as currently applies for other test signals and cue and control signals. However, if it were to become evident that the transmission of the SID signal caused interference to other signals in the VBI, or that it required an unreasonable amount of spectrum space in the VBI, we would consider, at that point, such technical restrictions as appeared necessary.

7. NBC claims that development of technology to further utilize the VBI spectrum space would not be inhibited by the action it has requested since it does not propose that line 20 be reserved for the SID signal. In addition, NBC states that the transmission of the SID signal in the odd fields of only two frames per second is sufficient to permit full recovery of the required data. Approximately 30 frames per second are transmitted, and each frame is comprised of two fields, thus, by time sharing, NBC states that almost all of the active line 20 time would remian available for other test, cue and control signals, or for other signals which may be developed in the future. Statements filed in support of this petition concur with the contention that this would be an efficient use of the scarce VBI spectrum space available.

8. The NBC petition limits its discussion to the use of SID signals with network distributed material. However, no such restriction is included in the rule amendment requested by NBC and we do not believe such a limitation is necessary. An SID signal could also be included on video tape programing that is syndicated or individual stations could transmit it for the identification of local programs.

9. In its comments, the Board indicates reservations with regard to the SID proposal. It expresses the belief that line 20 would be effectively dedicated to SID use, precluding possible alternative uses of this scarce spectrum. The Board states that since line 20 is the last VBI spectrum space remaining available for use by each local television station, an SID system would prevent future use of the VBI for other services, specifically public information systems such as "Teletext".[2] The Board indicates that a teletext type system in this country would permit each television station to transmit a great variety of local news and information which might not otherwise be broadcast. In conclusion, the Board requests that the NBC petition for rulemaking be denied, and in lieu of a rulemaking proceeding, a notice of inquiry be instituted to explore all alternative uses of the vertical blanking interval.

10. AMST concurs in many of the Board's arguments, and stresses that the VBI signals transmitted must remain under the exclusive control of the individual broadcasters. AMST further points out that the SID proposal would be used by the "broadcasting industry" and would not provide a signal for reception or use by the public. AMST questions the usefulness of the proposed signal indicating that the primary purpose of the SID system does not require the over-the-air transmission of the signal and that there is no desire for several of the other potential uses listed by NBC.

11. While a teletext type system in this country could prove beneficial, there has been no indication that institution of such service would be proposed in the near future. However, we are aware that testing and development of teletext systems is being carried on at this time.

Earlier this year, the Commission granted special temporary authority to Boneville International Corp., licensee of television station KSL-TV, channel 5, Salt Lake City, Utah, to transmit a teletext signal for test purposes on lines 15 ad 16 of the VBI. However, no proposal to allow regular transmission of such signals has been submitted, and none is expected until further testing and development is completed. Furthermore, it may be technically possible to combine closed captioning and teletext operations through reallocation or expanded use of the lines in the VBI. For example, in response to a petition (RM-2859) filed by AVC, we are presently examining a proposal which could reduce the number of lines in the VBI which are used for vertical interval test signals during remote control of television transmitters. In any case, there is sufficient spectrum space in the vertical blanking interval to accomodate the current demands upon it. If it is desirable in the future to consider use of line 20 for teletext or other general purpose data transmission systems, we will not allow the currently proposed use of line 20 by the SID signal to preclude the ultimate use of line 20 by a general purpose data system. We would instead expect the transmission of the information contained in the SID signal to be integrated with the general purpose system, possibly including some form of time sharing. Otherwise, relocation of the SID signal may be necessary, if possible. In addition, the action proposed by NBC would neither reserve line 20 for SID nor require individual stations to broadcast the SID signal supplied by the networks. The individual licensee would retain responsibility for the signal it broadcasts and would have the options of deleting the SID signal or substituting its own test or cue and control signals. We believe that information regarding alternative uses of the vertical blanking interval in addition to information on the usefulness and necessity of the proposed SID transmissions can be adequately considered in a rulemaking context and that a comprehensive VBI notice of inquiry is not necessary at this time. For these reasons, the Board's request for dismissal of the NBC petition and for institution of a notice of inquiry will be denied, but its filing, along with that of AMST, will be treated as comments in this proceeding.

12. PBS, in its statement in this proceeding, raised the question of whether the proposed SID signal is program related or broadcast related. PBS contends that the SID signal is broadcast related, and thus should not be considered an obstacle should line 20 be needed in the future for a program related signal. Petitioner, and some other respondents to the petition, view the SID signal as program related since it would be unique for each program transmitted, and when used in conjunction with a program schedule or log, it will provide information as to the particular programs broadcast by a station. "Broadcast related" implies that a signal's primary use is as an aid in the operation of a television or radio station. "Program related" indicates a direct correlation of the signal with the material that is being broadcast at the same time. While some signals fall neatly into one of the two categories (e.g., the vertical interval test signals are broadcast related and the closed captioning signal is program related) the proposed SID signal includes aspects of each. It is the program related uses of the SID signal which differentiate if from the test, cue and control signals currently allowed by the rules. For the purposes of this proceeding, we will therefore consider the SID signal to be program related.

13. Examination of the wording which NBC offers for the rule amendment suggests that a comprehensive VBI program identification signal is also being considered. However, no information has been submitted regarding this type of system even though some of the uses of a comprehensive program identification system (e.g, automatic logging and faster, more accurate ratings) can apparently be derived from the proposed SID signal. We are proposing to amend the rules as requested by NBC. However, comments concerning the application and utility of the SID signal for program identification purposes are requested.

14. This is not the first proposal for transmission of program related signals that has been before the Commission and a finding that such transmissions are in the public interest has previously been made. For a period of several years in the early 1970s, a program identification system utilizing encoded signals inserted in the extreme four corners of the active television picture was sanctioned by the Commission's rules.[3] Additionally, a "submerged signalling" technique of program identification using insertion of coded information into the audio signal is presently being considered in Docket 18877. In the Commission's considerations of these systems it was necessary to determine that the use of broadcast frequencies for such a purpose was in the public interest. The Commission has "found that the transmission on broadcast frequencies of signals intended to be used in the rendition of a nonbroadcast automatic program identification service to be in the public interest."[4] In view of the limited program identification functions of the proposed SID signal, we consider that public interest finding to be valid with respect to the instant proposal.

15. As an alternative to rulemaking, NBC suggests that its proposal could be implemented by an order, since the action requested could be considered interpretive in nature. We do not believe that the issuance of an order is appropriate. Because the proposal involves a new utilization of the very limited VBI spectrum space which remains available, we believe that a rulemaking is in order. This proceeding will provide an opportunity for comments on the potential benefits and uses of the SID signal; the impact of the proposal on present and future use of the VBI spectrum; and on the possible existence of other technologies which might produce the same benefits more effectively or more reliably.

16. In sum, the requisite public interest finding has been made to warrant consideration of the instant proposal in a rulemaking proceeding. In view of the field test reports filed by the networks and the statements filed in support of this petition, we are convinced that the techniques involved in providing this service are technically viable. Further, we are persuaded that such a system is potentially beneficial to the general public, as well as to the networks and broadcasters.

17. Accordingly, pursuant to authority found in sections 1, 4 (i) and (o) and 303 (g) and (r) of the Communications Act of 1934, as amended, it is proposed to amend § 73.682(a)(21) as set forth below.

18. Comments are requested addressing all of the above mentioned areas as well as any other considerations respondents consider important.[5] The Commission notes also that there appears to be some confusion among cable systems regarding their obligations under § 76.55(b)[6] in handling signals transmitted in the VBI. The Commission contemplates affording cable systems the same options as television broadcast stations in handling SID signals. Specific comments addressing this matter are requested. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before January 29, 1979, and reply comments on or before February 28, 1979.

19. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Participants filing the required copies who also desire that each Commissioner receive a personal copy of the comments may file an additional six copies. Responses will be made available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, NW.).

20. *It is ordered*, That the request contained in the Board's comments for institution of a Notice of Inquiry and for dismissal of the NBC petition, is denied as discussed in paragraph 11, above.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

It is proposed to amend § 73.682 (a)(21) of the Commission's rules and

[2] A high data-rate system, using space in the VBI, capable of providing a multiplicity of services, possibly including closed captioning. The Board included in its comments information concerning the British Broadcasting Corporation ("BBC") teletext type system called "CEEFAX".

[3] See report and order in Docket 18605, adopted Apr. 15, 1970 (35 FR 6484); report and order in Docket 19314, 43 FCC 2d 927, 944 (1973); and memorandum opinion and order in Docket 19314, 57 FCC 2d 1025 (1976).

[4] Par. 72, report and order in Docket 19314, supra.

[5] Reports submitted to the Commission of tests made pursuant STA's are being made a part of the record in this proceeding. Comments on the methods and results summarized in these reports are invited.

[6] Section 76.55(b) states: "Where a television broadcast signal is carried by a cable television * * * the programs broadcast shall be carried in full, without deletion or alteration of any portion except as required by this part."

regulations by the addition of the phrase "and may include signals to identify the broadcast material of its

DATE: Interested persons are invited to submit written comments on this proposal before December 15, 1978.

was made with an insufficient allowance for the expansion and contraction of plastic material due to tem-

by the plastic pipe manufacturers and fitting manufacturers if the procedures are appropriately applied and

sults: If rupture occurs in the pipe and not in the joint, the joint is qualified; if the failure involves the joint in any

If pipe or tubing pulls from fitting, the lowest of the five values shall be used in design calculations for stress * * *

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regulations by the addition of the phrase "and may include signals to identify the broadcast material of its source as follows:

§ 73.682 Transmission standards and changes.

* * * * *

(a) * * *

(21) The interval beginning with line 17 and continuing through line 20 of the vertical blanking interval of each field may be used for the transmission of test signals and cue and control signals, subject to the condition and restrictions set forth below. Test signals may include signals used to supply reference modulation levels so that variations in light intensity of the scene viewed by the camera will be faithfully transmitted, and signals designed to check the performance of the overall transmission system or its individual components. Cue and control signals shall be related to the operation of the television broadcast station and may include signals to identify the broadcast material or its source. Figures 6 and 7 of § 73.699 identify the numbered lines referred to in this subparagraph.

* * * * *

[FR Doc. 78-29748 Filed 10-20-78; 8:45 am]

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 192]

[Docket No. PS-54; Notice No. 1]

TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Joining of Plastic Pipe

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to amend its regulations, relating to qualifying procedures and personnel to make all types of joints used with plastic pipe, including heat fusion, solvent cement, adhesive, or mechanical joints. Accident reports filed with the MTB in recent years indicate that many pipeline operators have not established effective procedures for properly joining plastic pipe, have not trained construction personnel, or performed effective inspection of construction to insure that plastic pipe is properly installed and joined. The regulations are intended to reduce the potential for accidents as a result of poor workmanship in making joints.

DATE: Interested persons are invited to submit written comments on this proposal before December 15, 1978. Late filed comments will be considered to the extent practicable.

ADDRESS: Communications should refer to the docket and notice, and should be sent to: Docket Branch, Materials Transportation Bureau, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Paul J. Cory, 202-426-2392.

SUPPLEMENTARY INFORMATION: Individual accident reports, Form DOT F 7100.1 (Leak Report—Distribution System), submitted to the Materials Transportation Bureau (MTB) by gas pipeline operators over the past several years, as well as the National Transportation Safety Board (NTSB) reports of accidents that occured at Fort Worth, Tex., October 4, 1971, and Fremont, Nebr., January 10, 1976, have indicated that many pipeline operators have not established effective procedures for properly joining plastic pipe, have not trained construction personnel, or performed effective inspection of construction to insure that plastic pipe is properly installed and joined.

In an NTSB report NTSB-Par-72-5 titled "Pipeline Accident Report, Lone Star Gas Co., Fort Worth, Tex., October 4, 1971," NTSB found that improper joint fusion due either to overheating or joint disturbance before setting was partially to blame for the failure. The Fort Worth failure occurred in a plastic service line where the service line was connected by heat fusion to a service saddle that had previously been fused to the gas main. The conclusions to this report stressed, in part, the following:

(1) The plastic gas distribution system which suffered failures in this area was installed improperly and was not inspected during construction.

(2) The plastic service connection was weakened additionally by improper fusion and by an incorrect reinforcing sleeve. The connection failed under the stress applied to it by the rainsoaked, heaving soil.

The investigation of this accident revealed that in the area near the failed joint responsible for the explosion and fire, there were four other leaks that resulted from similar failures on other service connections in the joint between the plastic service saddle and the plastic pipe.

In NTSB Report No. NTSB-Par-76-6, titled "Pipeline Accident Report, Nebraska Natural Gas Co., Pathfinder Hotel Explosion and Fire, Fremont, Nebr., January 10, 1976," NTSB indicated that the plastic pipe installation was made with an insufficient allowance for the expansion and contraction of plastic material due to temperature changes, and that a compression coupling was improperly installed.

The Fremont failure resulted from the forces of thermal contraction in a 348-foot length of 2-inch plastic pipe that had been inserted through a leaking 4-inch steel gas main during warm weather without proper allowance being made for the contraction that takes place in cold weather.

Conclusions to this report stressed, in part, the following:

(1) The pipeline was not designed and installed so that the tie-in compression coupling would sustain the longitudinal pull or the thrust forces which were caused by the pipe's contraction within its 4-inch steel casing.

(2) The pipe was not installed in accordance with several important manufacturer's recommendations and the quality of workmanship at the tie-ins was marginal.

NTSB has made the following specific recommendations as a result of these two incidents:

BSTS-P-72-63: Undertake a study in the field of heat fusion of plastics and, as a result of that study, issue regulations for the heat-fusion welding of plastic piping systems in 49 CFR Part 192, Fusion Welding, in as much detail as is contained in the existing welding specifications for steel piping systems.

BSTS-P-76-43: Study the plastic-to-steel transition problems and take appropriate regulatory action to correct any unsafe practices.

An MTB sponsored contract study, DOT/OPS-75/07, "Pipeline Industry's Practices Using Plastic Pipe in Gas Pipeline Facilities and the Resulting Safety Factors," conducted by Toups Corp., of Santa Ana, Calif., repeatedly stresses that poor workmanship in making joints is one of the major causes of plastic pipeline failures. Toups review of MTB accident records and the response to a questionnaire sent be Toups to pipeline operators support this position. This study further indicates that four basic factors contribute to the problem of poor workmanship in joining plastic pipe: Absence of effective procedures, not following procedures even in those cases when procedures were in existence, inadequate training of construction crews regarding joining procedures, and inadequate field inspection of joints. The amendment proposed by the notice addresses each of these factors.

Effective procedures. Procedures and tools for joining plastic pipe have continually been improved since plastic pipe was first used over 40 years ago. Currently available procedures and tools will produce satisfactory plastic pipe joints by utilizing the various types of joining techniques developed

by the plastic pipe manufacturers and fitting manufacturers if the procedures are appropriately applied and carefully followed. To produce consistently sound joints, procedures must cover details such as, joint preparation, alinement, equipment condition, time limits, temperature, and force applied. Because of the importance of covering such details, it is imperative that a proper testing method be used to qualify each joining procedure to be used in producing plastic pipe joints.

The current standards in Part 192 relating to the effectiveness of joining procedures are written in performance terms in § 192.273 (a) and (b) and § 192.281(a). Under § 192.281(a), each plastic pipe joint must be made in accordance with written procedures that have been proven by destructive burst test to produce joints at least as strong as the pipe being joined. Sections 192.273 (a) and (b) require that joints must sustain longitudinal pull out and thrust forces and be gas tight. Part 192 does not describe, however, either the characteristics of the test to be used or how test results are to be evaluated in determining whether a joining procedure is effective in meeting the performance objectives. Thus, the current standards leave to the operator's judgment the testing and proof needed to qualify procedures to produce joints as strong as the pipe or sustain pull out or thrust forces. As a consequence, the use of different test methods can produce different test results. Because of this variation, MTB believes that a standard test method and standard for evaluating test results are needed in Part 192 to qualify procedures for each type of plastic pipe joint.

In this regard, MTB believes that Part 192 should be amended to require that joining procedures be qualified for use by both burst tests and tensile pull tests. The present performance requirement regarding a burst test in § 192.281(a) would be revised to require burst testing in a manner similar to that provided by ASTM D1599-74, "Standard Method of Test for Short-Time Rupture Strength of Plastic Pipe, Tubing, and Fittings." This testing consists of applying a steadily increasing internal hydraulic pressure to the piping being tested at a controlled rate of pressure increase such that failure occurs between 60 and 70 seconds from beginning the application of the pressure. The ASTM test method includes such details as temperature control and conditioning, pressure control, timing devices, pipe specimen dimensions, and preparations.

Consistent with the existing performance language in § 192.281(a), MTB also proposes that the following criteria be used to evaluate the test results: If rupture occurs in the pipe and not in the joint, the joint is qualified; if the failure involves the joint in any way, the joint is unacceptable.

At present, the ASTM D1599 is used by industry to establish quality control during manufacture of pipe or for procurement specifications. However, if this ASTM test is adopted as a standard burst test under Part 192, it would be used to determine whether joining procedures will produce joints that resist hoop stress as well as the pipe being joined. Because both the purpose and criteria for evaluating the results of the ASTM burst test would be different under Part 192 than in current usage, the test is modified in the proposal by eliminating the determination of the stress at which failure occurs.

The accident at Fremont, Nebr., resulted in part from improper installation of a compression coupling. This failure focused MTB's attention on the fact that a standard test was not available to determine the capability of a joining procedure to produce a plastic pipe joint that would satisfactorily resist a longitudinal stress as required by § 192.273(a).

Subsequently, the Plastic Pipe Institute (PPI), a research group sponsored by plastic pipe manufacturers, and the ASTM F-17.60 Gas Piping Systems Subcommittee, who are responsible for development of standards for the use of plastic pipe in gas piping systems, combined to develop a test method for use in demonstrating the capability of any type of joint used in plastic natural gas piping to resist longitudinal forces due to thermal contraction and expansion.

Approval was given by ASTM on September 21, 1978, to add the proposed test method on an interim basis to ASTM D2513-75b "Standard Specification for Thermoplastic Gas Pressure Pipe, Tubing, and Fittings." The following is excerpted from this revision;

EM8.14 Categorization of Mechanical Joints

This method of test provides a uniform procedure by which the gas engineer can qualify or categorize short-term pullout resistance of mechanical joints. The apparatus, conditioning, and report shall be as specified in Method D-638-77a (see ASTM Handbook 35). The speed of the testing shall be 5 (mm ±0.20 inch) per minute + 25 percent (speed B). Five specimens shall be prepared following the manufacturer's fabrication procedures. Length of the specimen shall be such that the distance between the grip of the apparatus and the end of the stiffener is at least five times the nominal o.d. of the pipe size being tested.

Start the machine. Pull until pipe or tubing yields to an elongation of 25 percent or is pulled from fitting. Length of yield is to be ascertained over a 50 mm (2 inch) span. Specimens that fail at the grips should be retested using new pipe or tubing. If pipe or tubing pulls from fitting, the lowest of the five values shall be used in design calculations for stress * * *.

Results obtained from the above method pertain only to the specific outside diameter, wall thickness and resin of the pipe or tubing used in the test.

The Method ASTM D683-77a, "Standard Test Method for Tensile Properties of Plastics," referenced in section EM8.14, provides for determination of the tensile properties of plastics in the form of standard test specimens when tested under defined conditions of pretreatment, temperature, humidity, and testing machine speed. The apparatus referred to in EM8.14 includes the testing machine and tools needed to perform the testing operation. The conditioning referred to is the procedure for control of the termperature and humidity at which testing is to be done.

The ASTM test procedure is being issued in ASTM D2513 as a pull test for use with mechanical fittings. MTB is proposing that this method be used to qualify joining procedures for all types of joints in plastic pipelines transporting gas within the scope of Part 192.

Training and Qualification of Personnel

At present, Part 192 has no requirements for qualifying personnel to make plastic pipe joints. As mentioned previously, leak reports filed with MTB and NTSB accident investigations have pointed out the need for improving the reliability of plastic pipe joining personnel. One of the major points stressed by the study done for MTB on the use of plastic pipe in gas systems was that even when procedures were properly established, they were often not followed by those doing the work. Thus, not only is there a need for qualifying proposed procedures, but there is also a need for qualifying the persons who are actually carrying out those procedures. As a result, MTB is also proposing that Part 192 be amended to require that persons who join plastic pipe be trained and qualified under the same testing procedure used to qualify the joining procedure.

Inspection

There are basic differences in the four types of joints and joining procedures used on plastic pipe (i.e., adhesive, fusion, solvent cement, and mechanical joints). Thus, persons making inspections of joints as required by § 192.273(c) need to have a thorough knowledge of each type of joint to be inspected including the procedure by which a joint is made. To make their qualification mandatory, MTB is proposing that a new standard be adopted to require that persons who perform

joint inspections be qualified by training or experience in making the type of joint being inspected. MTB has de-

Appendix A—Incorporated by Reference

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standards generally applicable to passenger automobiles (42 FR 64169); December 22, 1977). That notice summarized the Checker petition and invited

tion, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C.

model year 1979 and 17.5 mpg for model year 1980.

Technological feasibility and economic practicability. In considering

by downsizing is not economically practicable for Checker for the affected model years.

"Material substitution", the other

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joint inspections be qualified by training or experience in making the type of joint being inspected. MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

It is proposed that Part 192 of Title 49 of the CFR be amended as follows:

§ 192.281 [Amended]

1. By deleting the first sentence in § 192.281(a).

2. By adding a new § 192.283 to read as follows:

§ 192.283 Qualifying plastic pipe procedures and personnel.

(a) Written procedure required by § 192.273(b) for making plastic pipe joints must be qualified by testing in accordance with paragraph (c) of this section.

(b) An operator may only use a person to make plastic pipe joints who has demonstrated his capability to make sound joints by—

(1) Appropriate training or experience in the joining procedure to be followed;

(2) Making within the preceding 12 months, five consecutively made test joints that have been tested and found acceptable in accordance with each test method required in paragraph (c) of this section for the joining procedure to be followed; and

(3) Having in his possession a certificate signed by an operator stating that the requirement of this paragraph for testing and training or experience has been met.

(c) Testing required by paragraphs (a) and (b) of this section must be performed as follows by a person who is familiar with the testing method and apparatus:

(1) Burst tests must be conducted in accordance with ASTM D1599 except that the burst stress need not be calculated. If as a result of these burst tests, failure occurs only outside of the joint area, the joint tested is acceptable.

(2) Tensile testing of all types of joints must be conducted in accordance with paragraph EM8.14 of ASTM D2513-75b, as amended September 21, 1978, except that a report is not required.

(d) The inspection required by § 192.273(c) for joints made on plastic pipelines must be performed by persons qualified by appropriate training or experience in following the procedure for the type of joint being inspected.

3. In Section II of Appendix A, by redesignating items (19) and (20) as items (20) and (21), respectively, and adding a new item (19) as follows:

APPENDIX A—INCORPORATED BY REFERENCE

* * * * *

(19) ASTM Specification D1599 "Standard Method of Test for Short-Time Rupture Strength of Plastic Pipe, Tubing, and Fittings: (D1599-74)."

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4. By amending the Table Sections to include under Subpart F—Joining of Materials Other Than by Welding, the following section:

* * * * *

Section 192.283 Qualifying Plastic Pipe Procedures and Personnel

* * * * *

(49 U.S.C. 1692; 49 U.S.C. 1804; 49 CFR 1.53, App. A of Part 1, and App. A of Part 106.)

Issued in Washington, D.C., on October 18, 1978.

CESAR DELEON,
Associate Director for Pipeline Safety Regulation.

[FR Doc. 78-29870 Filed 10-20-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[49 CFR Part 531]

[Docket No. LVM 77-03; Notice 4]

PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

Proposed Decision to Grant Exemption

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Proposed decision to grant exemption from average fuel economy standards and to establish alternative standards.

SUMMARY: This notice is being issued in response to a petition by Checker Motors Corp. (Checker) requesting that it be exempted from the generally applicable average fuel economy standards of 19 miles per gallon (mpg) and 20 mpg for 1979 and 1980 model year passenger automobiles, respectively, and that lower alternative standards be established for it. This notice proposes that the requested exemptions be granted and that alternative standards of 17.6 mpg and 18.6 mpg be established for Checker for those model years.

DATE: Comment closing date: November 22, 1978.

ADDRESS: Comments on this notice must refer to Docket LVM 77-03 and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Douglas Pritchard, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost-Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the National Highway Traffic Safety Administration (NHTSA) establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufactures less than 10,000 passenger automobiles worldwide in the model year for which the exemption is sought (the affected model year) and which manufactured less than 10,000 passenger automobiles worldwide in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.

To implement section 502(c), NHTSA issued Part 525, Exemptions from Average Fuel Economy Standards (42 FR 38374: July 28, 1977). Part 525 prescribes the contents of exemption petitions and sets forth the procedures for processing those petitions. After receipt of a complete petition, the agency publishes a notice of receipt which summarizes the petition and invites comments on it. Subsequently, the agency publishes a proposed decision to grant or deny the petition and provides a further opportunity for comment. Finally, the agency publishes a final decision to grant or deny the petition.

Checker originally filed an incomplete petition in September 1977 for exemption from the generally applicable standards for the 1979 and 1980 model year passenger automobiles. After obtaining further information on these automobiles from Checker, NHTSA issued a notice announcing receipt of a complete petition for exemption from the model year 1978-1980 standards generally applicable to passenger automobiles (42 FR 64169); December 22, 1977). That notice summarized the Checker petition and invited public comment on it.

Only one comment on the notice of receipt was submitted. The commenter urged that Checker be exempted "in the name of commonsense."

The NHTSA then issued a proposed decision to grant Checker an exemption from the generally applicable passenger automobile average fuel economy standard for the 1978 model year, and to establish an alternative standard of 17.6 mpg for 1978 model year Checker automobiles (43 FR 24871; June 8, 1978). No comments were received on this notice. A final decision exempting Checker from the generally applicable average fuel economy standard for the 1978 model year and establishing an alternative standard of 17.6 mpg for Checker 1978 model year automobiles was published at 43 FR 34785; August 7, 1978.

Requested alternative standards. In its petition, Checker requested that its alternative standard for the 1979 model year be set at 16.7 mpg and that its standard for the 1980 model year be set at 16.5 mpg. These requests were premised on the assumption by Checker that its four base levels of automobiles would achieve the same level of fuel economy in the 1978-1980 model years as they had in the 1977 model year. A base level is a classification of automobiles produced by the same manufacturer with the same inertia weight and which are equipped with the same engine and transmission type (e.g., manual, automatic, or semi-automatic). This description of a base level is a simplification of the Environmental Protection Agency's (EPA) definition of the term, which can be found at 40 CFR 600.002-77(a)(23). Checker projects that its automobiles during the affected model years will not differ technically from its 1978 model year automobiles.

Baseline fuel economy. Since the submission of Checker's petition for exemption for the 1979 and 1980 model years, EPA has reported Checker's average fuel economy for the 1978 model year as 17.6 mpg, assuming Checker sells the mix it projected, rather than the 16.8 mpg level projected by Checker for the 1978 model year. This agency will use the 1978 fuel economy level instead of Checker's projected 1978 fuel economy level as Checker's baseline fuel economy. Since Checker stated that its 1979-1980 model year base levels would have the same fuel economy as its 1978 model year base levels, the agency believes that the minimum levels which could be established as Checker's maximum feasible average fuel economy would be 17.6 mpg for model year 1979 and 17.5 mpg for model year 1980.

Technological feasibility and economic practicability. In considering whether Checker could improve its average fuel economy for the 1979 and 1980 model years, NHTSA examined the same methods for improving average fuel economy that it examined in establishing average fuel economy standards for 1981-1984 passenger automobiles (42 FR 33534; June 30, 1977) and for model year 1980-1981 light trucks (43 FR 11995; March 23, 1978). These methods were weight reduction, aerodynamic improvements, engine efficiency improvements, engine accessory efficiency improvements, alternative engines, turbochargers, automatic transmission improvements, improved lubricants, reduced rolling resistance, engine displacement or drive ratio reductions, and mix shifts. The tenative results of this analysis are indicated below for each model year.

Weight reduction. For purposes of this proposed decision, weight reduction refers to two options—downsizing and materials substitution. "Downsizing" means the reduction of vehicle weight and exterior dimensions by optimizing the vehicle design. The goal of downsizing is to reduce the exterior dimensions of the automobile without reducing significantly the interior passenger and luggage volume of the automobile.

According to Checker, its automobiles are designed to serve as taxicabs, which requires those automobiles to have a large passenger carrying area. Thus, the automobiles feature, in Checker's words, "a flat floor in the rear compartment, chair-height seats, larger interior volume with ample headroom, and large door openings for ease of entry and exit." The Checker automobiles have either six, eight, or nine designated seating positions.

In addition to a large passenger and cargo carrying capacity, Checker asserts that its automobiles are also designed for maximum durability and ease of maintenance. As examples of its efforts to insure low maintenance costs, Checker cites its use of bolt-on front and rear fenders, interchangeable aluminum bumpers on the front and rear, and the same vehicle design since 1956. This constancy of design is said to permit taxicab fleet owners to use parts from scrapped vehicles as replacement parts for newer Checkers.

Downsizing of the Checkers while retaining these design features would be extremely difficult in the time frame of the 1979 and 1980 model years. Given the difficulty of the task and the limited assets available to Checker for the task, NHTSA tentatively concludes that weight reduction by downsizing is not economically practicable for Checker for the affected model years.

"Material substitution", the other weight reduction option indicated above, refers to the substitution of materials with lighter weight for a given strength, such as aluminum, plastics, and high-strength steel, for currently used materials. For the 1978 model year, the Checker base levels with 6-cylinder engines were tested in the 4,000-pound inertia weight class and the base levels with 8-cylinder engines were tested in the 4,500-pound inertia weight class. The loaded vehicle weights for the 1978 Checker models were as follows:

Model	Loaded vehicle weight	Inertia weight class
6-cylinder Federal	4,197	4,000
6-cylinder California	4,225	4,000
V-8 Federal	4,328	4,500
V-8 Federal (long wheelbase)	4,528	4,500
V-8 California	4,328	4,500
V-8 California (long wheelbase)	4,528	4,500

Under EPA procedures for the 1979 model year, automobiles with a loaded vehicle weight of 3,251 to 3,750 pounds are placed in the 3,500-pound inertia weight class, 3,751 to 4,250 pounds are placed in the 4,000-pound inertia weight class, and 4,251 to 4,750 pounds are placed in the 4,500-pound inertia weight class.

For the results of any weight reduction to show up on the EPA fuel economy tests, the Checker automobiles would have to drop to a lower inertia weight class. In the case of the 1979 Checker automobiles, about 450 pounds would have to be removed from the 6-cylinder models and about 275 pounds would have to be removed from the long wheelbase 8-cylinder models to place the vehicles in the next lowest inertia weight class. The lack of leadtime available to Checker for making weight reductions of this magnitude on its 1979 automobiles has led NHTSA to the proposed conclusion that weight reductions on these models are not technologically feasible and economically practicable for the 1979 model year.

As can be seen from the above table, the normal wheelbase V-8 models would have to shed 78 pounds from the 1978 model to be placed in a lower inertia weight class. If this reduction were effected, the automobiles would be tested in the 4,000-pound inertia weight class and their fuel economy would increase by about five percent. This change would raise Checker's 1979 corporate average fuel economy by 0.1 mpg. However, the minimal leadtime available to Checker for making this reduction leads this

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agency to tentatively conclude that this weight reduction is not technologically feasible and economically practicable for the 1979 model year.

For the 1980 model year, Checker plans to reduce the body weight of each base level by 58 pounds. Additionally, the weight of the 6-cylinder base levels will be further reduced by 76 pounds from a reduction in the weight of the engine, for a total weight reduction of 134 pounds on the 1980 6-cylinder Checker automobiles.

For the 1980 model year, EPA will change the test weight groupings. In the 1980 model year, automobiles with a loaded vehicle weight of 3,813 to 3,937 pounds will be placed in the 3,875-pound inertia weight class, 3,938 to 4,125 pounds will be placed in the 4,000-pound inertia weight class, 4,126 to 4,375 will be placed in the 4,350-pound inertia weight class, and 4,376 to 4,625 will be placed in the 4,500-pound inertia weight class. The table below shows the effects this change in inertia weight classes will have on Checker's automobiles.

1980 Model Year

Model	Loaded vehicle weight	Inertia weight class	Weight reduction needed for lower inertia weight class
6-cylinder Federal	4,063	4,000	126
6-cylinder California	4,091	4,000	154
V-8	4,270	4,250	145
V-8 (long wheelbase)	4,470	4,500	95

As the above table shows, the weight reductions by Checker will by themselves have no effect on the inertia weight classes in which the 1980 Checker automobiles will be tested. The change in EPA test procedures will, however, place the normal wheelbase V-8 in a lower inertia weight class. The lower inertia weight class will allow these vehicles to show a 2.5-percent improvement in fuel economy.

To lower the inertia weight classes of its vehicles in the 1980 model year, Checker would have to further reduce the weight of its automobiles by at least 100 pounds.

This further reduction could be accomplished by Checker by making significant materials substitution. However, the short leadtime available to Checker makes it very difficult for Checker to design components from alternate materials, find suppliers of those alternate materials, test the component, and incorporate the redesigned components in its production for the 1980 model year. Checker already uses aluminum bumpers, so material substitution would not significantly improve fuel economy with respect to that component. Given the small staff of Checker and its general economic position, this agency has tentatively decided that material substitution would not be economically practicable for the 1980 model year to a greater extent than Checker projected in its petition.

In summary, this agency would find that no improvement in fuel economy above the 1978 level through weight reduction is technologically feasible and economically practicable for Checker in the 1979 model year. For the 1980 model year, Checker's maximum feasible average fuel economy due to weight reduction would be a 2.5-percent improvement on the normal wheelbase 8-cylinder models, as a result of being tested in a lower inertia weight class. The normal wheelbase 8-cylinder configuration is projected to constitute 90 percent of Checker's production of 8-cylinder automobiles in the 1980 model year.

Aerodynamic improvements and reduced rolling resistance. At present, neither the aerodynamics of an automobile nor the lower rolling resistance of radial tires necessarily affect the fuel economy of that automobile as measured by the EPA. The EPA procedures will change for the 1979 and subsequent model years, so that a vehicle's frontal area and its use of radial tires will affect its road load setting on the dynamometer. The road load setting will increase for vehicles which do not use radial tires and will increase to the extent that a vehicle's frontal area is greater than average. Increasing the road load setting increases the power drain on the engine and lowers the measured fuel economy for that engine.

Alternative procedures for determining the road load setting, which would measure the entire aerodynamic design of the vehicle rather than simply the frontal area, may be used by manufacturers, if approved by EPA. Checker stated that its investigation of the possibility of using these alternative procedures ended when the company determined that a measurement of the entire aerodynamic design yield lower fuel economy results than simply using the formula which factors in the vehicle's frontal area and use of radial tires.

The frontal area of the Checker automobiles in the 1979 and 1980 model years will be 25.7 square feet, the same as the frontal area of the 1978 Checker automobiles. This is a relatively large frontal area, but is comparable to the 25 square feet of the 1978 Chevrolet and 1978 Chevrolet Nova, and smaller than the 26 square feet of the 1978 Chevrolet station wagon.

As a result of the vehicle's frontal area necessarily being considered in determining a vehicle's road load setting for the 1979 model year fuel economy tests, the setting for Checker's 6-cylinder base levels will increase from 12.0 horsepower to 15.1 and the setting for Checker's 8-cylinder base levels will increase from 14.0 to 15.2 horsepower. The consequences of these changes will be to lower the fuel economy of the 6-cylinder Federal base level by 0.8 mpg, that of the 6-cylinder California base level by 0.7 mpg, and that of the 8-cylinder base levels by 0.2 mpg.

A design change by Checker to improve its aerodynamics is tentatively determined to be not feasible, because of Checker's financial situation and the lack of leadtime available to it, as explained above in the discussion of *weight reduction*. Furthermore, aerodynamic drag increases geometrically at speeds above 40 miles per hour, while the fuel economy effects are not very significant at lower speeds. Since taxicabs spend most of their operating time at speeds lower than 40 miles per hour, the actual fuel savings that would be achieved by Checker improving its aerodynamics would be minimal. Accordingly, the agency tentatively concludes that Checker's maximum feasible average fuel economy for the 1979 model year should include the fuel economy loss for each base level shown above, as a result of the vehicle's aerodynamics.

Checker automobiles do not use radial tires, which do offer better fuel economy than bias-ply tires. The use of radial tires has not been taken into account by the EPA in its fuel economy testing to date, but will be for the 1979 and subsequent model years. Those vehicles not using radial tires will be tested at an increased road load setting.

The type of tires to be used on the Checker automobiles is specified by the customer in the sales contract. The vast majority of Checker's customers are taxi fleet owners. In most cases, these fleet owners have a contract with a tire company which requires that tire company to provide the fleet owner with all the tires needed on his taxis for the coming year. Under the terms of these contracts, the tire companies are free to install any tire they wish, and they never have chosen to provide radial tires under these contracts. The reason for this choice is that the tire manufacturer attempts to minimize its costs, and certain nonradial tires deliver the best total mileage on the taxis per dollar of cost for the tire manufacturer. Accordingly, these nonradial tires are always installed on the taxis. For Checker to install radial tires on its vehicles, it would be forced to purchase the original equipment tires itself, which would raise Checker's costs and raise the initial price and the operating costs to the customers. This change could result in some Checker customers purchasing automobiles of other manufacturers for use as taxicabs. The risk of a loss of sales has resulted in this agency's tentative conclusion that the use of radial tires would not be economically practicable for Checker in the 1979 and 1980 model years.

Accordingly, Checker's maximum feasible average fuel economy for the 1979 model year will tentatively include a 1.7 percent fuel economy reduction since the Checker automobiles will not use radial tires and since the EPA procedures will require testing such automobiles at an increased road load beginning in 1979.

Engine improvements. The 6-cylinder engine used in Checker's automobiles is a 250 cubic inch displacement in-line 6-cylinder engine made by the Chevrolet Division of General Motors. According to the petition, Checker selected this engine for use in its vehicles because of its durability and ease of maintenance. The 250 engine is presently installed in 85 percent of the automobiles produced by Checker. An engine change to either the 6-cylinder or the 8-cylinder base levels for the 1979 model year is tentatively deemed not to be feasible because of the very short leadtime available to Checker and the fact that they have already ordered their 1979 engines from the Chevrolet Division.

General Motors will discontinue the production of the 250 cubic inch in-line 6-cylinder engine as a passenger car engine after the 1979 model year. Therefore, Checker will need to change its 6-cylinder engine for the 1980 model year. Checker could attempt to purchase an in-line 6-cylinder engine from Ford or Chrysler, but a change in engine suppliers by Checker does not appear practicable for two reasons. First, Checker's petition refers to its 14-year history of good relations with General Motors, which handles the emissions certification process for the engines it sells Checker, thereby saving Checker a significant expenditure of staff and resources. Second, the in-line 6-cylinder engine will eventually be phased out of passenger cars by all manufacturers because of the long installation space required by this engine. Since a change to a V-6 engine is inevitable, it is very unlikely that Checker could afford to change its engine mounts and other components to accommodate a different in-line engine, only to soon to make another change to accommodate a V-6 engine.

Hence, it seems most practicable for Checker to use a General Motors V-6 engine in its 6-cylinder 1980 model year automobiles. General Motors produces two V-6 engines at this time. The smaller 200 cubic inch displacement engine is not certified for use in automobiles of more than 3,875 pounds inertia weight. For the reasons set forth above in the *weight reduction* section, it is tentatively deemed not feasible for Checker to reduce the weight of its automobiles sufficiently so that they would be classed in that inertia weight class. That leaves the 231 cubic inch displacement V-6 engine as the only 6-cylinder General Motors engine which could be used by Checker. This engine has been certified for use on automobiles in Checker's inertia weight class. On those automobiles, the 231 V-6 engine delivers 4 percent better fuel economy than the 250. This agency tentatively concludes that this 4 percent fuel economy improvement would be technologically feasible and economically practicable for Checker's 6-cylinder base levels in the 1980 model year.

With respect to the 8-cylinder engine to be used by Checker in the 1980 model year, Checker has no plans to change the V-8 engines currently used in its automobiles. General Motors has provided Checker with a prototype 350 cubic inch displacement V-8 diesel engine (currently available on certain models of Oldsmobile). This is the engine which Checker's petition states is the engine Checker would like to install in its 8-cylinder automobiles in the future. General Motors has indicated that this engine may be available to Checker in the 1981 model year. NHTSA tentatively concludes that it would not be economically practicable for Checker to redesign its frame and engine compartment to accommodate a different 8-cylinder engine for the 1980 model year, and then change those specifications again to accommodate the diesel engine in the 1981 model year.

Checker's 49-State 8-cylinder base level currently uses a 305 cubic inch displacement engine, the smallest V-8 engine manufactured by its supplier, General Motors. Checker indicated that its California 8-cylinder base level was tested with the 305 engine, but did not comply with the California emissions requirements. Checker then decided to use the next largest size V-8 engine, the 350 V-8 for its 8-cylinder California automobiles. This agency tentatively concludes that no change to the 8-cylinder engines would be practicable for the 1980 model year.

If Checker were to make any changes to the General Motors engines, it would be required to recertify the engines for compliance with the aplicable emissions standards. Checker has no emissions and fuel economy test facilities or staff of its own. For Checker to test and certify its vehicles is estimated by NHTSA to cost between $160,000 and $200,000, assuming that Checker can gain access to some manufacturer's test facilities. Checker's annual rate of return on equity has been about 1 percent, and net income has been about $300,000. Given this economic position, the agency tentatively concludes that it is not economically practicable for Checker to conduct its own testing.

Another potential fuel economy improvement can be gained by improving the efficiency of the fuel metering system. However, during the affected model years, Checker will be completely dependent upon outside suppliers for the design and manufacture of the fuel metering system used on the engines in the Checker automobiles. As long as Checker purchases General Motors engines, it can use the fuel metering system on that engine. If Checker were to purchase a fuel metering system from a different supplier and install it on the General Motors engine, it would be required to recertify the vehicles compliance with the emissions standards, and this is tentatively judged not to be economically practicable for the reasons set forth above.

In summary, this agency tentatively concludes that it would not be technologically feasible and economically practicable for Checker to improve its 1979 average fuel economy by engine improvements. For the 1980 model year, it would be feasible for Checker to achieve a 4-percent improvement for the 6-cylinder base levels. No other engine improvements are judged to be economically practicable and technologically feasible.

Automatic transmission improvements. An automatic transmission has been standard equipment on all Checker automobiles since the 1970 model year. The automatic transmission currently used on Checkers is a heavy duty General Motors transmission. The transmission will be unchanged for the 1979 model year, so

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no fuel economy improvement will result. Since Checker has already ordered the transmissions for its 1979 automobiles, and the leadtime for substituting different transmissions is so short, this agency has tentatively decided that a transmission change on the 1979 Checkers would not be technologically feasible and economically practicable.

With respect to the 1980 model year, General Motors has indicated to this agency that it does not sell sufficient quantities of the particular transmission used by Checker to warrant making the extensive capital investments necessary to improve this transmission. At present, General Motors plans to replace this transmission with a new four speed heavy duty transmission with a lockup torque converter, but this replacement will not occur before the 1981 model year at the earliest.

General Motors has forecast to this agency that a lighter duty three speed automatic transmission with lockup torque converter would be available to Checker in the 1980 model year and that the use of this transmission would improve fuel economy by 3 percent. However, since this is a lighter duty transmission, this agency tentatively concludes that it would not be feasible for use on the heavier Checker automobiles, i.e., the V-8's. The agency does, however, believe that it would be feasible for Checker to install this lighter duty transmission on its 6-cylinder automobiles. Hence, the NHTSA has tentatively concluded that it is feasible for Checker's 1980 average fuel economy to include a 3-percent fuel economy improvement on its 6-cylinder base levels due to transmission improvements.

Improved lubricants. In connection with the final rule setting forth the 1980 and 1981 average fuel economy standards for light trucks (43 FR 11995; Mar. 23, 1978), this agency projected that the use of synthetic, lower viscosity, or friction modified lubricants in the crankcase, or axle of an automobile would result in at least a 3-percent fuel economy benefit. However, the use of these lubricants has not yet been approved by EPA in the fuel economy testing. Accordingly, to assure ample time for the approval of these lubricants for use in fuel economy testing, NHTSA indicated in that rule that this agency would not project the use of these lubricants before the 1981 model year. This proposal would continue that policy, so no fuel economy benefits from the use of these lubricants is included in Checker's maximum feasible average fuel economy for the 1979 and 1980 model years.

Drive ratio reductions. Checker reduced its rear axle ratio in the 1977 model year from 3.31 to 3.07. In the 1978 model year, a rear axle ratio of 2.72 was made standard on the 8-cylinder models sold by Checker and optional on the 6-cylinder models. Checker has stated that it will make this lower ratio standard equipment on all its 1979 automobiles if emissions standards can be met, but did not forecast any fuel economy improvement from this change. The reduction of the axle ratio would, in this agency's estimation, improve the fuel economy of the 6-cylinder Checker automobiles by 5 percent in the 1979 model year.

Further reductions of the axle ratio by Checker are said to depend upon General Motors making lower ratios available. During the 1979 and 1980 model years, the 2.72 axle ratio will be the lowest ratio made by General Motors. Accordingly, this agency proposes to determine that it is feasible in the 1979 model year for Checker to achieve a 5-percent fuel economy benefit for its 6-cylinder automobiles as a result of the axle ratio reduction. No further reduction would be found technologically feasible and economically practicable for Checker.

Mix shifts. The term "mix shifts" as used in this proposal refers to shifting the percentages of vehicles sold in each of Checker's base levels (6-cylinder Federal, 6-cylinder California, 8-cylinder Federal, and 8-cylinder California) for the purpose of increasing average fuel economy. A mix shift by Checker away from the lower mileage California base levels to the higher mileage 49-State base levels would raise Checker's average fuel economy. However, Checker's petition explains that the reason it plans to shift to a higher percentage of California vehicles is that, beginning in the 1978 model year, New York City requires all new vehicles to be used as taxicabs or limousines in New York City to comply with the applicable California emissions standards. New York City is one of Checker's largest markets. Thus, if Checker does not increase the percentage of its fleet built to comply with the California emissions standards, it will be forced to decrease its sales in this major market. This decrease in sales has been tentatively determined not to be economically practicable.

The other mix shift that could improve fuel economy would be for Checker to decrease the percentage of 8-cylinder automobiles it produces. In Checker's case, approximately 15 percent of its annual production consists of 8-cylinder engine models. Checker's 8-cylinder models are generally ordered by taxicab fleet owners along with all the 6-cylinder automobiles those fleet owners need. There is reason to believe that these owners would not order more 6-cylinder automobiles if Checker restricted the availability of its 8-cylinder automobiles, but, rather, that these fleet owners would look elsewhere for 8-cylinder automobiles to be used as taxicabs. This would result in Checker losing a significant portion of its sales, a result which causes this agency to tentatively conclude that this mix shift would not be economically practicable. Accordingly, this agency has tentatively decided that no mix shifts to improve fuel economy are economically practicable for Checker for the 1979 and 1980 model years.

Impact of other Federal standards. Checker did not claim any negative fuel economy impacts on its 1979 or 1980 average fuel economy resulting from Federal safety, damageability, emissions, or noise standards applicable in those model years. In the absence of a showing to the contrary, NHTSA will assume that there is no negative impact on fuel economy caused by the applicable Federal standards.

The need of the Nation to conserve energy. The daily extra U.S. demand for petroleum that will result from Checker achieving an average fuel economy of 17.6 and 18.6 mpg in the 1979 and 1980 model years, respectively, rather than the generally applicable average fuel economy standard of 19 and 20 mpg in those model years is estimated to average 51.8 barrels perday over the life of the 1979 Checkers and 49.1 barrels per day over the life of the 1980 Checkers. To give a perspective on these numbers, the fuel consumed by passenger automobiles in the United States is about 5 million barrels each day. For all purposes, the United States currently consumes about 17 million barrels of petroleum each day.

Summary of fuel economy improvements. The improvements projected for each model year in this proposal are conbined in a straightforward arithmentically additive manner. This technique has been used by this agency in both the rulemaking to establish average fuel economy standards for 1981-1984 passenger automobiles (42 FR 33534; June 30, 1977) and the rulemaking to establish average fuel economy standards for 1980-1981 light trucks (43 FR 11995; March 23, 1978). It has not been seriously questioned by any commenter in either of the two prior rulemakings.

For the 1979 model year, the 6-cylinder Checker automobiles could achieve 5 percent better fuel economy by use of a lower rear axle ratio, but all Checker models would suffer a fuel economy loss because of some changes in the EPA test procedures, since these automobiles have larger than average frontal areas and will not use radial tires. Compared to model year 1978 Checkers, the 6-cylinder Checker base levels would show a net gain of 0.1 mpg as a result of these changes, but the 8-cylinder base levels would incur a net 0.2 mpg fuel economy loss. The combined effect of these changes would give Checker for 1979 the same corporate average fuel economy as it showed in the 1978 model year, 17.6 mpg.

Compared to the 1979 model year Checkers, the 1980 model year 6-cylinder base levels would show a four percent fuel economy gain from the use of a smaller 6-cylinder engine and a three percent gain from the use of an improved automatic transmission. The model year 1980 normal wheel base 8-cylinder models would show a 2.5 percent fuel economy improvement since they would be tested in a lower inertia weight class. The combined effect of these changes would be to increase Checker's average fuel economy by 1.0 mpg, to a level of 18.6 mpg for 1980.

Selecton of the type of alternative standard. The Act permits NHTSA to establish an alternative average fuel economy standard applicable to exempted manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

The NHTSA believes that it is appropriate to establish a separate standard for Checker. The analyses of the petitions submitted by other low volume manufacturers for exemptions in the 1979 and 1980 model years have not yet been completed, so the agency cannot practicably use the second or third approaches described in the preceding paragraph.

Proposed alternative standard. Based on its tentative conclusions that it is not technologically feasible and economically practicable for checker to improve the fuel economy of its 1979 and 1980 model year automobiles above an average of 17.6 and 18.6 mpg, respectively, that other Federal automobile standards will not adversely affect achievable fuel economy, and that the national effort to conserve energy will be negligibly affected by the granting of the requested exemptions and establishment of alternative standards, this agency proposes to conclude that the maximum feasible average fuel economy for Checker in the 1979 and 1980 model years is 17.6 and 18.6 mpg, respectively. Therefore, the agency proposes to exempt Checker from the generally applicable standards of 19.0 mpg and 20.0 mpg and to establish alternative standards of 17.6 mpg for the 1979 model year n 18.6 mpg for the 1980 model year.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by revising § 531.5(b)(3) to read as follows:

§ 531.5 Fuel economy standards.

. . . . . .

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

. . . . . .

(3) Checker Motors Corporation.

Model year:	*Average fuel economy standard (miles per gallon)*
1978	17.6
1979	17.6
1980	18.6

Interested persons are invited to submit comments on this proposed decision. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a succinct and concise fashion.

NHTSA typically allows at least 45 days for the public to comment on its proposals. With respect to this decision, however, the agency has shortened the comment period to 30 days. There are several reasons for taking this action. First, it is desirable to give Checker as much notice as possible about the fuel economy levels which will be applicable to that company during the 1979 and 1980 model year. Second, the agency already provided a 25 day comment period on this petition when the notice of receipt was published.

All comments received before the close of businesss on the comment closing date indicated at the beginning of this proposal will be considered, and will be available for public inspection in the docket both before and after the comment closing date. To the extent possible, comments filed after the comment closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the comment closing date, and it is recommended that interested persons continue to examine the docket for new material.

The agency has reveiwed the impacts of this proposal and determined that they are minimal and that the proposal is not a significant regulation within the meaning of Executive Order 12044.

The program offical and attorney principally responsible for the development of this proposed regulation are Douglas Pritchard and Stephen Kratzke, respectively.

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976, and 43 FR 8525, March 2, 1978.)

Issued on October 17, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-29789 Filed 10-20-78; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS ACT ADVISORY COMMITTEE

Cancellation of Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the cancellation of the following committee meeting as published in 43 FR 4655.

Name: Grain Standards Act Advisory Committee.

Date: October 25, 1978.

Place: U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 6451 South Building, Washington, D.C. 20250.

Time: 9 a.m.

Purpose: The meeting has been canceled because it was determined the committee members did not require additional discussion of their comments on the study draft regulation published in the FEDERAL REGISTER [43 FR 33612), on July 31, 1978, which are to be submitted on or before October 29, 1978.

Dated: October 17, 1978.

DAVID C. MANGUM,
Acting Administrator.

[FR Doc. 78-29777 Filed 10-20-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

PINE CREEK WATERSHED PROJECT, TENNESSEE

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Pine Creek Watershed project, Scott County, Tenn.

The EIS concerns a plan for watershed protection and flood prevention. The planned work of improvement is channel work.

The final EIS incorporates changes subsequent to comments received during the draft statement review period.

Comments pertaining to the proposed action or requests for additional information should be addressed to Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tenn. 37203; 615-749-5471. A limited supply of the final EIS is available to fill single copy requests.

No administrative action concerning this project will be taken until November 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008).)

Dated: October 10, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C.

[FR Doc. 78-29757 Filed 10-20-78; 8:45 am]

[3410-16-M]

TRINITY RIVER WATERSHED (AUTHORIZED), TEXAS

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Trinity River Watershed (authorized), Texas.

The environmental assessment of this Federal action indicates that the project will cause significant, local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for installing the remaining measures in this project.

The project concerns remaining planned measures for watershed protection, flood prevention, improved water quality and quantity, and improved quality of life for the area. The planned action for the remaining measures provides for the installation of 134 floodwater retarding structures, 3 multiple-purpose structures with recreational facilities, 12 grade stabilization structures (stream), critical area treatment on 27,000 acres of critically eroding lands, channel work on 15.93 miles of clogged streams, and technical assistance for application of land treatment measures on watershed lands. Accelerated technical assistance for land treatment has been provided for application of approximately 67 percent of the land treatment needs for the watershed. Other measures that have been installed are 840 floodwater retarding structures, 5 multiple-purpose structures, 32,600 acres of critical area treatment, and 90.9 miles of channel work. Measures in the watershed not installed but covered by previous actions under NEPA guidelines include 89 floodwater retarding structures and one multiple-purpose structure.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environment impact statement is being developed by Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Tex. 76501; 817-774-1255.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act, Pub. L. 78-534, 58 Stat. 905)

Dated: October 10, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, Department of Agriculture.

[FR Doc. 78-29760 Filed 10-20-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

AIRLINE INDUSTRY MERGER POLICY SEMINARS

Notice is hereby given that a series of seminars on airline industry merger policy will be conducted by the Board's Office of Economic Analysis on the following dates:

Time		Guest Speakers
Wednesday, Oct. 25, 1978	2:30 p.m.	Prof. Gary Dorman (University of Maryland), "Airline Mergers—An Overview."
Tuesday, Oct. 31, 1978	do	Prof. Dennis Mueller (University of Maryland), "The Performance of Firms Before and After Merging: An Empirical Analysis."
Monday, Nov. 6, 1978	9:30 a.m.	Prof. Ted Keeler (University of California at Berkeley), "Potential Gains and Losses from Airline Mergers."
Monday, Nov. 13, 1978	2:30p.m.	Dr. John Hanna and Dr. Richard Ippolito (Office of Economic Analysis, CAB), "Barriers to Entry in the Airline Industry."

All seminars will be held at room 1027, 1825 Connecticut Avenue NW., Washington, D.C.

For further information contact: Robert H. Frank, Office of Economic Analysis, CAB, Washington, D.C. 20428, 202-673-5357.

Dated at Washington, D.C., October 18, 1978.

ROBERT H. FRANK, *Director-Designate, Office of Economic Analysis, Civil Aeronautics Board.*

[FR Doc. 78-29831 Filed 10-20-78; 8:34 am]

[6320-01-M]

CONTINENTAL AIR LINES, INC.

Application for Amendment of Certificate of Public Convenience and Necessity

OCTOBER 16, 1978.

Notice is hereby given that the Civil Aeronautics Board on October 16, 1978, received an application, Docket 33695, from Continental Air Lines, Inc., for amendment of its certificate of public convenience and necessity for Route 29 so as to authorize unrestricted nonstop air transportation between Midland/Odessa and Lubbock, Tex., on the one hand, and Los Angeles, Calif., on the other hand.

The applicant requests that its application be processed under the expedited procedures set forth in Subpart M of Part 302 (14 CFR Part 302).

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29827 Filed 10-20-78; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON THE ASIAN AND PACIFIC AMERICANS POPULATION FOR THE 1980 CENSUS

Public Meeting

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census will convene on November 9, 1978, at 9:15 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

This Committee was established in June 1976 to advise the Director, Bureau of the Census, during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, developing definitions and terminology for improved identification and classification of the Asian and Pacific Americans population, suggesting areas of research, recommending subject content and tabulations of particular use to the Asian and Pacific Americans population, and expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community.

This Committee is composed of 21 members appointed by the Secretary of Commerce, and constitutes a broad spectrum of community leaders, scholars, and other appropriate persons.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m., is: (1) Introductory remarks by the Director, Bureau of the Census; (2) current status of 1980 census planning; (3) Affirmative Action Program; (4) Community Services Program; (5) decentralized processing plans; (6) public information campaign in lower Manhattan; and (7) Committee discussion, recommendations, and plans for future meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Control Officer, Mr. Clifton S. Jordan, Deputy Chief, Demographic Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Md. (Mailing address: Washington, D.C. 20233.) Telephone 301-763-5169.

Dated: October 17, 1978.

MANUEL D. PLOTKIN,
Director, Bureau of the Census

[FR Doc. 78-29778 Filed 10-20-78; 8:45 am]

[3510-24-M]

Economic Development Administration

NCC INDUSTRIES, INC. ET AL.

Petitions for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from three firms: (1) NCC Industries, Inc., 105 Madison Avenue, New York, N.Y. 10016, a producer of women's body-supporting garments (accepted October 6, 1978); (2) Gaiety Sportswear, Inc., 130-29 180th Street, Springfield Gardens, N.Y. 11434, a producer of women's pants, blouses, blazers, and skirts and (accepted October 13, 1978); and (3) Norwalk Dyeing & Finishing Corp., P.O. Box 737, Muller Avenue, Norwalk, Conn. 06852, a producer of dyed and finished piece goods for apparel (accepted October 17, 1978). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in

sales or production of each petitioning firm.

Any party having a substantial interest in these proceedings may request a public hearing. A request for a hearing must be received by the Assistant Secretary for Industry and Trade, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, no later than the close of business of the tenth day following the publication of this notice.

Interested parties may submit comments or information regarding the determination of eligibility to the Assistant Secretary for Industry and Trade, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, no later than the close of business of the tenth day following the publication of this notice.

Any information submitted to the Assistant Secretary in connection with this investigation is subject to public inspection pursuant to section 315.13(b) of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Any information submitted to the Assistant Secretary which the person submitting it requests be treated as confidential commercial information must be accompanied by a request in writing setting forth the reasons why such information should be treated confidentially.

The Assistant Secretary will make no public disclosure of confidential commercial information before the agency determines whether to disclose the information after the close of the public comment period.

The Assistant Secretary will issue determinations either affirmative or negative as early as possible but no later than 40 days after the date of this notice. Upon making a determination, the Assistant Secretary will cause to be published in the FEDERAL REGISTER a notice of the determination stating the reasons for the determination.

Date: October 1, 1978.

RAUER H. MEYER,
Director, Office of Export Administration.

(1) Opening remarks by the subcommittee chairman.
(2) Presentation of papers or comments by the public.
(3) Nomination and election of a new chairman.
(4) Other business.

Date: October 1, 1978.

RAUER H. MEYER,
Director, Office of Export Administration.

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sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of November 2, 1978.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-29787 Filed 10-20-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, November 9, 1978, at 1 p.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

General Session

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Nomination and election of a new chairman.

(4) Report on the work programs of the subcommittees:

(a) Technology transfer;
(b) Foreign availability;
(c) Hardware; and
(d) Licensing procedures.

Executive Session

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

The general session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act relating to open meetings and public participation therein, because the Executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone, 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41073).

Date: October 1, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-29717 Filed 10-20-78; 8:45 am]

[3510-25-M]

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, November 8, 1978, at 9 a.m. in Room 3708, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977 and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The subcommittee meeting agenda has five parts:

(1) Opening remarks by the subcommittee chairman.
(2) Presentation of papers or comments by the public.
(3) Additional comments or inputs on the RYAD II report.
(4) Brief review of highlights of trip to the U.S.S.R.
(5) Discussion of future work program for the subcommittee.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone, 202-377-4196.

Dated: October 17, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-29716 Filed 10-20-78; 8:45 am]

[3510-25-M]

Industry and Trade Administration

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that meetings of the Management-Labor Textile Advisory Committee will be held on November 8, 1978 at 1:30 p.m. in Room 5611, and on December 12, 1978 at 1:30 p.m. in Room 6802, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961, to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meetings to the extent time is available.

Copies of the minutes of the meetings will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Telephone requests for the minutes of the meetings and requests for further information concerning the committee may be directed to Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: October 18, 1978.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-29806 Filed 10-20-78; 8:45 am]

[3510-25-M]

LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Thursday, November 9, 1978, at 9 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this subcommittee, pursuant to the charter of the committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the subcommittee pursuant to the charter of the committee.

The committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The subcommittee meeting agenda has seven parts:

1. Opening remarks by the subcommittee chairman.
2. Presentation of papers or comments by the public.
3. Discussion of recommendations which were submitted to the full Computer Systems Technical Advisory Committee on September 21, 1978.
4. Status of and discussion on industry recommendation for establishment of a Qualified Product/Distribution License.
5. Requirement for full information of add-ons to small computers, i.e., below certain PDR levels.
6. Requirement for extensive information on Form DIB-6031P related to add-ons for computer installed several years previously.
7. Delegation of authority for parts and supplies and other items.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

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Dated: October 17, 1978.

RAUER H. MEYER,
Director Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-27999 Filed 10-20-78; 8:45 am]

[3510-25-M]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, November 8, 1978, at 1:30 p.m. in Room 3708, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this subcommittee, pursuant to the charter of the committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations..

The subcommittee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of possible future activities for the subcommittee.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4) the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the subcommittee during the executive session of the meeting have been properly classified under Executive Order 11652. All subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41072).

Dated: October 18, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-29800 Filed 10-20-78; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-623]

CHAS. KURZ & CO., INC.

Application

Notice is hereby given that application has been filed under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy on the SS *Chilbar* to engage in bulk carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on December 31, 1978, unless extended. The *Chilbar* is a 33,692 DWT tanker built in March 1959.

Inasmuch as the applicant, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if its application for operating-differential subsidy is to be granted.

The written permission requested by Chas. Kurz & Co., Inc. was previously granted under section 805(a) to Margate Shipping Co., Chestnut Shipping Co., Juniper Tankers, Inc., Keystone Shipping Co., Keystone Tankship Corp., and Fredericksburg Shipping Co., affiliates of Kurz, and is as follows:

For affiliated or associated companies to operate up to a total of 31 U.S. flag vessels in the transport of liquid bulk cargoes within and between the following U.S. coastal areas, with free interchange of vessels among those areas, and with the maximum number of vessels to be employed in the areas at any one time specified:

U.S. Gulf-Atlantic Coastwise, 17 vessels.
U.S. Gulf-Atlantic-Puerto Rico, 2 vessels.
U.S. Atlantic-Gulf Intercoastal (including Alaska and Hawaii), 10 vessels.
Pacific Coast-Alaska-Hawaii, 15 vessels.

Such written permission is required under section 805(a) notwithstanding the fact that a voyage in the proposed service on which the vessel engaged in domestic intercoastal or coastwise trade would not be eligible for subsidy.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on October 27, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

Dated: October 16, 1978.

By order of the Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-29749 Filed 10-20-78; 8:45 am]

[3510-13-M]

National Bureau of Standards

RECOMMENDED VOLUNTARY PRODUCT STANDARD NOTICE OF CIRCULATION

In accordance with the provisions of § 10.5 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR part 10), the National Bureau of Standards is giving public notice and circulating for acceptance Recommended Voluntary Product Standard TS 223, "Body Measurements for the Sizing of Men's, Women's, and Children's Knee High and Shorter Hosiery."

The purpose of the standard is to provide standard size designations and body measurements for consistent sizing of all categories of hosiery fitting below the knee. It is intended to provide information for the guidance of manufacturers, distributors, and consumers, and serve as a basis for common understanding of the relationship of hosiery size to foot and leg dimensions. The standard should eliminate misunderstandings by providing nationally recognized definitions and methods of measuring.

Copies of TS 223 may be obtained from Standards Development Services, National Bureau of Standards, Washington, D.C. 20234. Written comments concerning the standard should be submitted to Standards Development Services on or before December 7, 1978.

Dated October 17, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-29436 Filed 10-20-78; 8:45 am]

[3510-17-M]

Office of the Secretary

U.S. INMARSAT (INTERNATIONAL MARITIME SATELLITE) PREPARATORY COMMITTEE WORKING GROUP

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March, 1974, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the U.S. INMARSAT Preparatory Committee Working Group is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established by Order No. 11 of the Office of Telecommunications Policy on October 15, 1976, and it was scheduled to terminate on October 15, 1978. Pursuant to Executive Order No. 12046, effective March 26, 1978, most functions of the Office of Telecommunications Policy have been transferred to the National Telecommunications and Information Administration, U.S. Department of Commerce.

The purpose of the Committee is to advise the Secretary of Commerce on matters pertinent to the Department's responsibilities regarding the various positions to be taken by the U.S. Government on issues under consideration by the INMARSAT Preparatory Committee. That Preparatory Committee was established by the Second Session of the International Conference on the Establishment of an International Maritime Satellite System (INMARSAT) to conduct economic and technical studies and to prepare draft organizational structure, financial, and staff regulations. The Secretary will require the advice of the Advisory Committee until the INMARSAT Preparatory Committee is replaced by a fully functioning INMARSAT organization.

The Committee will continue with a balanced representation of not more than twenty members, chaired by the Department's Assistant Secretary for Communications and Information or his or her delegate, and will operate in compliance with the provisions of the Federal Advisory Committee Act, as amended.

Copies of the committee's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquires or comments may be addressed to the Committee Control Officer, Dr. Wladimir Naleszkiewicz, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street NW., Room 790, Washington, D.C. 20504, telephone 202-395-3782.

Dated: October 16, 1978

GUY W. CHAMBERLAIN,
Assistant Secretary of for Administration

[FR Doc 78-29788 Filed 10-20-78 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

FAMILY HOUSING AT GRAND FORKS AFB, N. DAK.

Candidate Environmental Impact Statement; Negative Determination

OCTOBER 16, 1978.

A Candidate Environmental Impact Statement was prepared by Strategic Air Command for a Family Housing project at Grand Forks Air Force Base, N. Dak. After careful review of this document, I have concluded that this project will not constitute a major Federal action having a significant effect on the quality of the human environment, it is not likely to be controversial with regard to its environmental impacts, and that a Draft Environmental Impact Statement will not be filed with the Environmental Protection Agency. This determination is based on the following considerations:

a. Description of Action: The proposed project will move 197 relocatable frame-type family housing units from the previously deactivated Army Safeguard Site near Nekoma, N. Dak., to Grand Forks Air Force Base, N. Dak. The 197 units are included in 100 buildings. These buildings will be disassembled into divisions that can be conveniently moved and reassembled at the new location. The distance between current and proposed locations is about 100 miles. Purchase of approximately 51 acres is required at the proposed site. The current estimated cost of the project is $4.8 million.

b. Principal Environmental Effects. (1) Air: There will not be a significant impact on air quality. Temporary generation of dust during construction and moving of the units will occur.

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However, the contractor will be required to use appropriate dust control measures. The minor impact due to additional furnaces burning fuel oil will be partially offset by the reduced consumption of gasoline by off-base commuters moving into base housing.

(2) Water: The additional consumption of water (6 percent maximum) will increase the total consumption to only 46 percent of the contracted available supply. The storm runoff from the additional built-over area will increase the drainage by only 0.5 percent. This is not a significant amount and all drainage system capacities are more than adequate.

(3) Solid Waste: All solid wastes are disposed of off base by contract operations in a privately owned sanitary landfill in accordance with State of North Dakota Health Department regulations. This landfill area will soon be discontinued and the contractor will use the city of Grand Forks landfill area with extensive capacity.

(4) Sanitary Waste: The sanitary wastes generated by occupants of the new units will be discharged into the existing two-stage lagoon. The estimated increase in sewage volume is under 8 percent. While this will elevate the level of the primary lagoon about ½ foot through the winter period, it will not exceed the design capacity of the lagoon. Discharge from the lagoon will continue to meet NPDES permit requirements.

(5) Fish and Wildlife: There are no known species on the endangered lists in the area surrounding Grand Forks Air Force Base.

(6) Energy: There will be an increased demand for approximately 23,000 gallons of fuel oil per year for heating the proposed housing units. This will be partially offset by reduced consumption of gasoline by off-base commuters moving into base housing.

(7) Schools: There will be about 125 school students added to the elementary and junior high schools on base. Both schools have adequate capacities. Some transfer of Pub. L. 81-874 funds between counties will be involved.

(8) Land Use: The proposed project will require that 51 acres of prime farmland be acquired for siting of the housing units. Land of less than prime production quality, and suitable for construction, is not available in the vicinity of Grand Forks Air Force Base.

(9) Socioeconomic: Upon completion of the proposed project, 197 rental properties will be released on the local market. It is anticipated that these units will be reoccupied within a relatively short period of time and no long term impact will result. Relocation of the housing units may make the Safeguard Site at Nekoma, N. Dak. less desirable for redevelopment by the State or other agency; however, the best interest of the Air Force must be the deciding factor in utilizing available facilities.

(10) Alternatives: Other locations on base will not singularly contain all the units. Splitting the units between two sites increases the cost. Also the noise levels will be higher from base operations and attenuation of the relocatable units is slightly less than conventionally framed housing. The other sites are therefore less desirable economically and environmentally. A "no-action" alternative will not provide the needed base housing at Grand Forks Air Force Base.

(11) Controversies: There are no unresolved environmental issues. The only controversies will be with regard to whether or not the housing units are significant in redevelopment of the Nekoma Safeguard site by another agency.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, The Pentagon, Washington, D.C. 20330, telephone 202-697-9297.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-29761 Filed 10-20-78; 8:45 am]

[3901-01-M]

FAMILY HOUSING AT KI SAWYER AFB, MICH.

Candidate Environmental Impact Statement; Negative Determination

OCTOBER 16, 1978.

A candidate environmental impact statement was prepared by Strategic Air Command for a family housing project at KI Sawyer AFB, Mich. After careful review of this document, I have concluded that this project will not constitute a major Federal action having a significant effect on the quality of the human environment, it is not likely to be controversial with regard to its environmental impacts, and that a draft environmental impact statement need not be filed with the Environmental Protection Agency. This determination is based on the following considerations:

a. Description of action. The proposed project will move 198 relocatable frame-type family housing units from Kincheloe AFB to KI Sawyer AFB. These relocatable housing units were designed and constructed using hinges in the walls, floors, and roofs. When the units are folded, they can be transported over the highway similar to a mobile home. The distance between current and proposed locations is about 150 miles. Purchase of 139 acres is required at the proposed site. The current estimated cost of the project is $4.6 million.

b. Principal environmental effects.

(1) Air. There will not be a significant impact on air quality. Temporary generation of dust during construction and moving of the units will occur. However, the contractor will be required to use appropriate dust control measures. The minor impact due to additional oil-fired furnaces will be partially offset by the reduced consumption of gasoline by off-base commuters moving into base housing.

(2) Water. The additional consumption of water (about 5 percent) will increase the total consumption to only about 81 percent of the total capacity from the installation's wells. The storm runoff from the additional built-over area will be dispersed to natural drainage in the ravines radiating from the project site.

(3) Solid waste. All solid wastes will be disposed of in the on-base sanitary landfill. The landfill reserves have an estimated life of 80 years.

(4) Sanitary waste. The sanitary wastes generated by occupants of the new units will be discharged into the existing base sewage treatment plant. In November 1977, EPA issued a notice of violation of effluent limitations in the treatment plant NPDES permit. Corrective actions will be accomplished in two phases to be completed in December 1978 and December 1979 respectively. The treatment plant will be in compliance with the NPDES permit by the time the initial units are occupied. Plant capacity is adequate for the new units.

(5) Fish and wildlife. There are no known species on the threatened or endangered lists in this area.

(6) Energy. There will be an increased demand for fuel oil for heating the proposed housing units. This will be partially offset by reduced consumption of gasoline by off-base commuters moving into base housing.

(7) Schools. It is estimated that about 165 school children now attending neighboring school districts will be transferring to the local district. The student/teacher ratio will increase from 21:1 to 22:1. School capacities are adequate.

(8) Land use. The proposed project will require that 139 acres of land be purchased. The ridge and valley topography is covered with a poorly stocked stand of jack pine timber. Forty-seven acres on flat ridge areas will be utilized for construction of the housing project. The balance of the acreage will be incorporated into the KI Sawyer AFB timber management program.

(9) Socioeconomic. Upon completion of the proposed project, 198 residential properties will be released on the local market. Due to the rapidly expanding mining industry in the area, it is anticipated that these units will be reoccupied within a relatively short period of time and no long term impact will result.

(10) Alternatives. On-base sites are not suitable for housing because of aircraft noise levels. Other off-base sites will incur additional costs ($300,000 to $500,000) for land acquisition and utilities extensions. A "no-action" alternative will not provide the needed base housing at KI Sawyer AFB.

(11) Controversies. There are no unresolved environmental issues.

Any comments or questions should be directed to the Deputy for Environment and Safety, Office of the Secretary of the Air Force, Room 4C885, The Pentagon, Washington, D.C. 20330, telephone 202-697-9297.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-29756 Filed 10-20-78; 8:45 am]

[3710-08-M]

Department of the Army

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of committee: The National Board for the Promotion of Rifle Practice.
Date of meeting: November 17, 1978.
Place: Secretary of the Army conference room, Room 2E 687, The Pentagon.
Time: 0900 hours.

PROPOSED AGENDA

1. Distinguished International Shooter Badge.
2. M-14 Rifle (National Match-Defined).
3. M-1 Rifle Sale.
4. Air Gun Shooting.
5. NBPRP Responsibility for International Shooting.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Board at the time and in the manner permitted by the committee.

Dated: October 11, 1978.

GARY R. CHITTESTER,
Executive Officer.

[FR Doc. 78-29755 Filed 10-20-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ECM

Advisory Committee Meeting

The Defense Science Board Task Force on ECM will meet in closed session on November 9 and 10, 1978 in the Pentagon, Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Task Force on ECM has been scheduled for November 9 and 10, 1978 to discuss potential technical solutions to several current problems in electronic countermeasures.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board Task Force meeting concerns matters listed in Section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives DOD/WHS

[FR Doc. 78-29797 Filed 10-20-78; 8:45 am]

[3810-70-M]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

The DOD Advisory Group on Electron Devices (AGED) will meet in closed session at the Naval Postgraduate School, Monterey, Calif. 93940 on November 13, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of Electron Devices.

The meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The AGED will review programs on microwave devices, night vision devices, lasers, infrared systems and microelectronics. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

OCTOBER 18, 1978.

[FR Doc. 78-29801 Filed 10-20-78; 8:45 am]

[3810-70-M]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session at the Institute for Defense Analyses, 400 Army Navy Drive, Arlington, VA., on November 6-8, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs on Large Scale Integrated Circuits which the Military Departments propose to initiate with industry, universities or in their laboratories. The review will include classified program details and technical and financial information provided in confidence by business throughout the meeting.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

OCTOBER 18, 1978.

[FR Doc. 78-29802 Filed 10-20-78; 8:45 am]

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[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CI78-1000, et al.]

CITIES SERVICE COMPANY, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 13, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI78-1000, A, July 17, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Michigan Wisconsin Pipe Line Co., No. 1 Arnold Well, sec. 1-15N-18W, Custer County, Okla., limited from the surface to the base of the Springer Formation.	(1)	14.65
CI78-1003, B, July 18, 1978	Mineral Services Corp., 1121 Walker, Suite 1503 (Melrose Bldg.), Houston, Tex. 77002.	Transwestern Pipeline Co., Crawar field, Crane and Ward Counties, Tex.	(2)	
CI78-1004 (CI64-375), B, July 17, 1978	Texaco Inc., P.O. Box 430, Bellaire, Tex. 77401.	Natural Gas Pipe Line Co. of America, Hostetter and Eubank fields, Duval and McMullen Counties, Tex.	No known physically recoverable gas reserves in acreage and leases released.	
CI78-1005, A, July 17, 1978	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	United Gas Pipe Line Co., Waveland field, Hancock County, Miss.	(1)	15.025
CI78-1008, F, July 17, 1978	Kerr-McGee Corp. (successor) in interest to Carter-Jones Drilling Co., Inc. et al., P.O. Box 25861, Oklahoma City, Okla. 73125.	Texas Eastern Transmission Corp., E. H. Pepper unit, Cherokee Lake field area, Rusk County, Tex.	(13)	14.65
CI78-1019, F, Aug. 10, 1978	Energy Reserves Group, Inc. (partial successor in interest to Shenandoah Oil Corp.), P.O. Box 1201, Wichita, Kans. 67201.	Natural Gas Pipeline Co. of America, Boonville field, Wise County, Tex.	(45)	14.65
CI78-1020, A, July 11, 1978	CIG Exploration, Inc., 5 Greenway Plaza East, Houston, Tex. 77046.	El Paso Natural Gas Co., Allison Parks field, Wheeler County, Tex.	(1)	14.73
CI78-1027, A, July 26, 1978	Columbia Gas Development Corp., P.O. Box 1350, 1700 West Loop South, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Keohane Federal Com No. 1 well in Eddy County, N. Mex.	(18)	14.73
CI78-1042, A, Aug. 8, 1978	Chevron U.S.A. Inc., 575 Market St., San Francisco, Calif. 94105.	Natural Gas Pipeline Co. of America, OCS-G-2855 No. 1, No. 2, No. 3, and No. 4 wells, East Cameron block 34, offshore Louisiana.	(1)	15.025
CI78-1053, B, July 28, 1978	Petro-Lewis Corp., P.O. Box 2250, Denver, Colo. 80201.	Michigan Wisconsin Pipe Line Co., Delcambre No. 1 well, Loisel field, Iberia Parish, La.	Reserves depleted.	
CI78-1054, B, Aug. 1, 1978	McMoRan Exploration Co., P.O. Box 6800, Metairie, La. 70009.	Tanscontinental Gas Pipe Line Corp., Andrus Cove field, Jefferson Davis and Acadia Parishes, La.	Ceased production, plugged and abandoned in October 1974 and leases released.	
CI78-1058, A, July 31, 1978	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	Northern Natural Gas Co., Nordan Trust "45" No. 1 well, sec. 45, block 33, H & TC RR Co. survey, Barstow (Wolfcamp) field, Ward County, Tex.	(1)	14.73
CI78-1072, A, Aug. 8, 1978	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	United Gas Pipe Line Co., Kent Bayou field, Terrebonne Parish, La.	(1)	15.025
CI78-1073, A, Aug. 7, 1978	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Cities Service Gas Co., B. H. Lemert well No. 1, Seward County, Kans.	(1)	14.65
CI78-1074, A, Aug. 9, 1978	Mobil Oil Corp., 9 Greenway Plaza—Suite 2700, Houston, Tex. 77046.	United Gas Pipe Line Co., certain portions of blocks 72, 73, and 74, located in the Main Pass area, Federal offshore, La.	(1)	15.025
CI78-1075, A, Aug. 9, 1978	Mobil Oil Corp	Southern Natural Gas Co., certain portions of blocks 72, 73, and 74, located in the Main Pass area, Federal offshore, La.	(1)	15.025
CI78-1077 (CI62-1101), B, Aug. 10, 1978	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Blanco field, San Juan County, N. Mex.	Lease expired due to lack of production.	
CI78-1078, A, Aug. 10, 1978	Kerr-McGee Corp., P.O. Box 25861, Oklahoma City, Okla. 73125.	Southern Natural Gas Co., S. L. 1230 well No. 3 in the north half of Breton Sound block 36, Plaquemines Parish, La.	(1)	15.025
CI78-1079, A, Aug. 10, 1978	Kerr-McGee Corp	Southern Natural Gas Co., S. L. 6802 well No. 1 in the north half of Breton Sound block 35, Plaquemines Parish, La.	(1)	15.025

See footnotes at end of document.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI78-1080, A, Aug. 11, 1978	Belco Petroleum Corp., agent for Belring Co., 1 Dag Hammarskjold Plaza, New York, N.Y. 10017.	United Gas Pipe Line Co., 13,100' Sand of the Kirby Lumber Co. No. 1 well, Billams Creek Southeast field, Tyler County, Tex.	(1)	14.65
CI78-1081 (CI72-481), B, Aug. 14, 1978	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	United Gas Pipe Line Co., Cabeza Creek South field, Goliad County, Tex.	Sale is superseded by rate schedule No. 96.	
CI78-1082 (CI72-497), B, Aug. 14, 1978	American Petrofina Co. of Texas	do	Do.	
CI78-1083, A, Aug. 14, 1978	J. M. Huber Corp., 2000 West Loop South, Houston, Tex. 77027.	Transwestern Pipeline Co., Coffee Estate No. 2 and Feeney Coffee No. 1 wells in the Shriekey field, Roberts County, Tex., in the Morrow Formation only.	(1)	14.65
CI78-1084 (CI72-396) B, Aug. 7, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Northwest Pipeline Corp., Cisco Dome field, Grand County, Utah.	(1)	
CI78-1085 (G-17789), B, Aug. 7, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Cities Service Gas Co., Eureka field (Wakita area), Grant County, Okla.	(1)	
CI78-1086 (CI70-673), B, Aug. 8, 1978	The Ballard & Cordell Corp., Box 52151, Lafayette, La. 70505.	Michigan Wisconsin Pipe Line Co., North Krotz Springs field, St. Landry Parish, La.	Uneconomical	
CI78-1087, B, Aug. 9, 1978	Payne, Inc., 720 Northeast 63d—Suite 103, Oklahoma City, Okla. 73105.	Colorado Interstate Gas Co., Cimarron County, Okla.	Do.	
CI78-1088, B, Aug. 9, 1978	Payne, Inc	Northern Natural Gas Co., Beaver County, Okla.	Do.	
CI78-1089, A, Aug. 9, 1978	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	Panhandle Eastern Pipe Line Co., certain acreage in Ellis County, Okla.	(1)	14.65
CI78-1090 (CI61-691), B, Aug. 7, 1978	Kirkpatrick Oil & Gas Co. (successor in interest to Atlantic Richfield Corp.), 1300 North Broadway, Oklahoma City, Okla. 73103.	Michigan Wisconsin Pipe Line Co., sec. 8-T22N-R16W, Major County, Okla	(10)	
CI78-1091, A, Aug. 9, 1978	Gulf Oil Corp	Texas Eastern Transmission Co., Bethany-Longstreet field, De Soto Parish, La.	(1)	15.025
CI78-1092 (CI63-1139), B, Aug. 11, 1978	Harper Oil Co., 904 Hightower Bldg., 105 North Hudson, Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., North Drummond area, Garfield County, Okla.	Release by purchaser	
CI78-1093, B, Aug. 9, 1978	Payne, Inc., 720 Northeast 63d—Suite 103, Oklahoma City, Okla. 73105.	Panhandle Eastern Pipe Line Co., George Smithson well No. 1, located 150 feet SW of C of NE/4 sec. 20-27N-16W, Cora (Oswego) field, Woods County, Okla.	(11)	
CI78-1094, A, Aug. 11, 1978	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	El Paso Natural Gas Co., Turkey Tract State No. 1 well, Turkey Tract Morrow north field, Eddy County, N. Mex., limited to the Morrow series of the Pennsylvanian system.	(1)	14.65
CI78-1095, (CI65-1009), B, Aug. 14, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex 77001.	Natural Gas Pipeline Co. of America, above the base of the Missouri Formation, sec. 37, block A-5, H and GN RR Survey, Wheeler County, Tex.	Depleted	
CI78-1098, A, Aug. 14, 1978	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102	Sea Robin Pipeline Co., OCS-G-2300 No. A-2 and No. A-3 wells, from the 22-Sand and 24-Sand underlying blocks 234 and 235, South Marsh Island area, offshore Louisiana.	(1)	15.025
CI78-1097, A, Aug. 17, 1978	Union Oil Co. of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Columbia Gas Transmission Corp., Lake Hatch-Orange Grove area, Terrebonne Parish, La.	(1)	15.025
CI78-1098, A, Aug. 18, 1978	Continental Oil Co	Natural Gas Pipeline Co. of America, South Marsh Island block 288, offshore Louisana.	(12)	15.025
CI78-1099, A, Aug. 18, 1978	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., Cedarlake field, Canadian County, Okla.	(1)	14.73
CI78-1100, A, Aug. 15, 1978	Ocean Production Co. et al., P.O. Box 61780, New Orleans, La. 70161.	Tennessee Gas Pipeline Co., Ship Shoal block 167, in the Gulf of Mexico, offshore Louisiana.	(1)	15.025
CI78-1101, A, Aug. 15, 1978	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., the Stephens-Cody No. 1 well, sec. 35-T2N-R9E, Centrahoma field, Coal County, Okla.	(13)	14.65
CI78-1102, A, Aug. 18, 1978	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Montana-Dakota Utilities Co., certain acreage in Fremont County, Wyo.	(1)	14.73
CI79-4, A, Oct. 5, 1978	Chevron U.S.A., Inc., 1111 Tulane Ave., New Orleans, La. 70112.	Transcontinental Gas Pipe Line Corp., High Island block 140, offshore Texas.	(1)	14.65

[1] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[2] Although seller allegedly is not subject to FPC jurisdiction a declaration of abandonment is sought to remove any question of FPC jurisdiction over these gas reserves which cannot be sold in interstate commerce.
[3] By reason of Kerr-McGee's not having been signatory to the C-J-TETC contract under which Kerr-McGee's gas was previously sold by C-J to TETC and by reason of the failure of either C-J or TETC to advise Kerr-McGee of C-J's small producer certificate, Kerr-McGee was left in the position of possessing neither contract nor certificate authority to deliver its gas to TETC on and after July 12, 1973.
[4] Applicant is willing to accept the applicable rate pursuant to opinion No. 749, for both temporary and permanent partial successor in interest certifications.
[5] Applicant acquired an interest in the Boonville area from Red River Drilling Co. Shenandoah Oil Corp. succeeded to the interest of Delmar petroleum, Inc., with all gas being covered under Shenandoah's small producer certificate issued Oct. 12, 1971 in docket No. CS71-354
[6] Applicant and purchaser are affiliated.
[7] Applicant is filing under gas purchase agreement dated Aug. 10, 1978.
[8] by instrument effective Mar. 1, 1976, continental assigned all of its rights, title and interest in and to the lease covered by this certificate and rate schedule to Willard Pease Oil & Gas Co. also assignment by Continental's joint interest owner of said property, Tenneco Oil Co., inasmuch as Tenneco was the record title owner of this and other property jointly acquired through the Delhi-Taylor acquisition.
[9] bilderback "A" unit well No. 1 was the only well that was completed on the unit acreage covered by the contract on file as Gulf's FERC gas rate schedule No 340. This well was depleted to the extent that it could produce only 35 Mcf per day and was plugged and abandoned.
[10] The acreage involved is nondeveloped acreage from which service was never commenced under rate schedule No. 443. Michigan Wisconsin Pipe Line Co. has determined that it is economically unfeasible to purchase the gas from this well and has executed its consent to a partial release of the acreage covered by contract dated Oct. 17, 1960, as supplemented by agreement dated Feb. 6, 1961.

[11] Nonproduction since February 1978, leases expired and returned back to the lessors and no further exploration of the leases is contemplated by Payne, Inc., or any other party.
[12] Applicant is filing under gas purchase and sales agreement dated Aug. 4, 1978.
[13] Applicant is filing under gas purchase contract dated July 13, 1978.

Herbert S. Woods and Associates, Docket No. RI77-128

[Average investment and annual rate base]

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[11] Nonproduction since February 1978, leases expired and returned back to the lessors and no further exploration of the leases is contemplated by Payne, Inc., or any other party.
[12] Applicant is filing under gas purchase and sales agreement dated Aug. 4, 1978.
[13] Applicant is filing under gas purchase contract dated July 13, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—total succession. F—Partial succession.

[FR Doc. 78-29620 Filed 10-20-78; 8:45 am]

[6740-02-M]

[Docket No. RI77-128]

HERBERT S. WOODS & ASSOCIATES

Order Granting Special Relief

OCTOBER 4, 1978.

On August 29, 1977, Herbert S. Woods & Associates (Woods), a small producer, filed a petition for special relief pursuant to § 2.76 of the Commission's [1] general policy and interpretations (18 CFR 2.76). Woods requested a rate of $2.00/Mcf for gas from the J. L. Swiney No. 1 well, Hall Wood Ben Conglomerate Field, Jack County, Tex., sold to Natural Gas Pipeline Co. of America (Natural). Woods currently is authorized a rate of 13¢/Mcf plus Btu adjustments.

Woods, the well's operator, owns 81.25 percent of the working interest, and has a small producer certificate in docket No. CS77-580, issued November 25, 1977. This petition for special relief is joined by 100 percent of the well's working interest owners.

Woods amended his petition to a rate of $1.55/Mcf on April 1, 1978.

The original petition was noticed on September 29, 1977, and the amendment was noticed April 25, 1978. Natural intervened on October 20, 1977, stating it would pay Woods the rate authorized by the Commission.

Woods proposes to purchase a $35,000 two-stage compressor and a $30,000 pumping unit and spend a total of $123,000 to place the well back into production. Woods states that the well presently lacks pressure sufficient to prevent water encroachment and flooding. Staff estimates the expenditures of the stated funds will result in the gross production of 187,554 Mcf of natural gas (at 14.65 psia) and 1,951 bbls of liquids, over 6 years 7 months.

Staff estimates that the proposed investment is reasonable and it calculated that a rate of $1.56/Mcf would yield Woods a return of his costs plus a 15-percent return. Staff recommends the rate of $1.55/Mcf be authorized Woods for the gas sales from the subject well.[2]

Our review of the costs to be incurred and the reserves to be recovered convinces us that it is in the public interest to grant Woods' amended petition for special relief. The authorized rate is $1.55/Mcf at 14.65 psia under the terms of this order.

The Commission orders:

(A) Herbert S. Woods & Associates is authorized to collect a total rate of $1.55/Mcf at 14.65 psia for the sale of the subject gas to Natural Gas Pipeline Co. of America, effective the date of this order or the date the proposed work is completed, whichever is later, subject to ordering paragraphs (B) and (C).

(B) The special relief rate authorized in ordering paragraph (A) shall not become effective as provided therein unless Woods files a statement, signed by Natural, setting forth the date the proposed work has been completed to Natural's satisfaction, within 30 days of the effective date of ordering paragraph (A).

(C) The special relief rate authorized in ordering paragraph (A) shall not become effective as provided therein, unless within 30 days of the date of issuance of this order, Woods files a copy of an executed contract amendment with Natural, providing for payment of the rate authorized herein, and a notice of independent producer rate change filing in docket No. CS77-580 for such rate.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Herbert S. Woods and Associates, Docket No. RI77-128*

[Unit rost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—Mcf at 14.65 psia [1]	158,249
3. Liquids—bbl [2]	1,646
4. Cost of production:	

[1] Staff reserve estimate of 187,554 Mcf times 84.375 pct net working interest.
[2] Staff reserve estimate of 1,951 bbl times 84.375 pct net working interest.

APPENDIX A.—Continued

Line No. and item (a)	Amount (b)
5. Return on rate base [3]	66,384
6. D.D. & A [4]	124,800
7. Production expense [5]	56,598
8. Subtotal	247,782
9. Allocated to gas [6]	288,455
10. Regulatory expense [7]	158
11. Total cost of production	$228,613
12. Unit cost of production (cents per Mcf):	
13. Cost of production [8]	144.47
14. Tax at 7.5 pct [9]	11.71
15. Total unit cost of production [10]	156.18

[3] 15 pct per yr times 6 yr, 7 mo times $67,225 (from schedule 3, line 13).
[4] From schedule 2, line 8.
[5] Estimate of future production costs based on latest year's data, adjusted 5 pct per yr.
[6] Line 8 times 92.20 pct (from schedule 2, line 15).
[7] Line 2 times $0.001/Mcf, per opinion No. 749.
[8] Line 11 divided by line 2.
[9] 7.50 pct times line 15.
[10] Line 13 divided by 92.5 pct.

[Depreciable investment, depreciation factor, and allocation factor]

Line No. and item (a)	Amount (b)
1. Depreciable investment.	
2. Remaining book investment [1]	$10,000
3. New investment:	
4. Tangible investment [2]	82,000
5. Less salvage of 10 pct	8,200
6. Net new tangible investment	73,800
7. Intangible investment [3]	41,000
8. Total depreciable investment	$124,800
9. Depreciation factor:	
10. $12,800 [4] ÷ 158,249 Mcf [5] = cents per Mcf	78.8631
11. Allocation factor:	
12. Gas MMBtu [6]	159,040
13. Liquid MMBtu [7]	13,451
14. Total MMBtu	172,491
15. Gas allocation factor [8]	92.20

[1] Data supplied by applicant.
[2] From line 8.
[3] From schedule 1, line 2.
[4] 158,249 Mcf × 1.005 MMBtu/Mcf = 159,040 MMBtu.
[5] 1,646 bbl × 5.448 MMBtu/Bbl = 13,451 MMBtu.
[6] Line 12 divided by line 14.

[1] This proceeding was commenced before the FPC. By the joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission," when used in the context of action taken prior to Oct. 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.
[2] Staff's cost study is attached as app. A.

Herbert S. Woods and Associates, Docket No. RI77-128

[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation (d)	End of year investment (e)	Average investment (f)
1. Average investment:					
2. 1978	17,553	[1]$133,000	$13,843	$119,157	$126,078
3. 1979	36,959	119,157	29,147	90,010	104,584
4. 1980	30,685	90,010	24,199	65,811	77,910
5. 1981	25,484	65,811	20,097	45,714	55,762
6. 1982	21,165	45,714	16,691	29,023	37,368
7. 1983	17,564	29,023	13,852	15,171	22,097
8. [2]1984	8,839	15,171	6,971	8,200	11,686
9. Totals	158,249		124,800		435,485
10. Average annual rate base:					
11. Average annual investment [3]					66,150
12. Average annual working capital allowance [4]					1,075
13. Total annual rate base					67,225

[1] Total depreciable investment (schedule 2, line 8) + salvage value (schedule 2, line 5).
[2] Line 9, col. (f) ÷ 6½ yr.
[3] Schedule 1, line 7 × 12.5 pct ÷ 6½ yr.
[4] 7 mo.
Col. (c)—Col. (e) previous line.
Col. (d)—col. (b) times schedule 2, line 10.
Col. (f) average of col. (c) and (e).

[FR Doc 78-29619 Filed 10-20-78; 8:45 am]

[6740-02-M]

[Docket No. RI77-70]

INTERSTATE DRILLING, INC. (OPERATOR)

Order Granting Special Relief

OCTOBER 4, 1978.

On May 5, 1977, Interstate Drilling, Inc. (Interstate), a small producer, filed a petition for special relief pursuant to § 2.76 of the Commission's [1] Statements of general policy and interpretations, 18 CFR 2.76, for the sale of natural gas to Columbia Gas Transmission Corp. (Columbia Gas) from 8 wells which have State permit Nos. GIL 2263, 2264, 2265, 2272, 2274, 2275, 2277, 2279 and which are located in the Troy district of Gilmer County in West Virginia. Interstate, which has no ownership interest in the subject property, is the operator and is filing on behalf of all the working interests. Subsequently, Interstate filed an amended petition for special relief on September 30, 1977.

Interstate is selling this gas under a contract dated June 30, 1973, pursuant to a certificate issued in Docket No. CS76-1164. The present authorized rate for the sale of this gas is $1.22 per Mcf.

Notice of Interstate's petition for special relief was issued by the Commission on May 17, 1977; notice of the amended petition was issued March 8, 1978. Both notices were published in the FEDERAL REGISTER. The Public Service Commission of West Virginia filed a timely notice of intervention.

THE PROPOSAL

In its amended petition for special relief, Interstate requests authorization to increase the rate for the sale of this gas from $1.22 per Mcf to $1.32 per Mcf.[2] Interstate proposes to spend $12,000 to disconnect the fluid siphoning line from eight wells and then set a plug in each well to prevent fluids from covering the producing zone.

In a letter dated September 29, 1977, Columbia Gas stated that it was willing to amend the price provision of the January 30, 1973, contract to a price found to be just and reasonable by the Commission.

COST STUDY ANALYSIS

On the basis of a field investigation conducted on July 21, 1977, staff has determined that Interstate does not have any current investment in the subject property. Staff found the 1976 costs to be suitable as a base year for projecting the total annual production costs. The total estimated production expenses of $81,094 were determined by applying a 5 percent inflation factor for the first 5 years to the 1976 base year costs of $8,258. Staff accepts

[1] This proceeding was commenced before the FPC. By the joint regulation of Oct. 1, 1977 (10 CFR 1000.1) it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to Oct. 1, 1977, refers to the FPC. When used otherwise, the reference is to the FERC.

[2] In its original petition Interstate requested a rate of $1.70 per Mcf for the sale of this gas.

the estimate of $12,000 for the proposed investment. Finally, based on data filed by Interstate, staff estimates that 100,500 Mcf of gas remain to be recovered over 9 years.

Staff's cost study using the above costs and 82,450 Mcf of the gas reserves, attributable to Interstate's 82.04 percent net working interest, indicates that a total rate of $1.32 per Mcf at 14.73 psia will allow Interstate to recoup all costs associated with this project over its 9 year life including a 15 percent rate of return. Therefore, Staff concludes that the requested rate for special relief is cost supported.[3]

After reviewing the costs to be incurred and the reserves to be recovered, the Commission determines that Interstate's petition for special relief is warranted and that it is in the public interest to grant this petition.

The Commission finds: The petition for special relief by Interstate meets the criteria set forth in § 2.76 of the Commission's general policy and interpretations.

The Commission orders:

(A) The amended petition for special relief filed by Interstate is granted.

(B) Interstate is authorized to collect a rate of $1.32 per Mcf at 14.73 psia for the sale of gas to Columbia Gas from eight wells which have State permit numbers GIL 2263, 2264, 2265, 2272, 2274, 2275, 2277, 2279, and which are located in the Troy district of Gilmer County in West Virginia effective either upon the date of issuance of this order or the date the proposed work is completed, whichever is later.

(C) This authorization is conditioned on the following: (1) Interstate must file within 30 days of the date of this order a notice of independent producer rate change in Docket No. CS76-1164, accompanied by an executed copy of the amended contract agreement providing for the rate increase; (2) within 30 days of the effective date provided in ordering paragraph (B) above for the rate authorized herein, Interstate shall file a statement signed by Columbia Gas that the work has been completed to its satisfaction.

(D) The Public Service Commission of West Virginia is permitted to intervene in the captioned proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its notice of intervention: *and provided further,* That the admission of the Public Service Commission of West Virginia in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that it agrees to accept the record as it now stands.

[3] See app. A.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A.—*Interstate Drilling, Docket No. R177-70, Wells Nos. 2263, 2264, 2265, 2272, 2274, 2275, 2277, 2279, Gilmer County, W. Va.*

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—Mcf at 14.73 psia [1]	82,450
3. Liquids—bbl	0
4. Cost of production:	
5. Return on rate base [2]	$7,362
6. D.D. & A [3]	12,000
7. Production expense [4]	81,094
8. Regulatory expense [5]	82
9. Total cost of production	100,538
10. Unit cost of gas (cents per Mcf):	
11. Cost of production [6]	1.219
12. West Virginia tax [7]	.103
13. Total unit cost of gas	1.322

[1] 100,560 times 0.8204.
[2] Line 16 of sheet 3 times 0.15 times 9 yr productive life.
[3] Line 6 of sheet 2.
[4] Based on a 1976 base yr of $8,258 escalated 5 pct per yr for the first 5 yrs.
[5] Line 2 times 0.1 cent per Mcf per opinion No. 749.
[6] Line 9 divided by line 2.
[7] Average West Virginia business and occupation tax.

[Investment]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value	0
3. Remove siphon line and install plugs	$12,000
4. Total investment	12,000
5. Less salvage	0
6. Depreciable investment	12,000
7. Depreciation per unit of production [1]	0.145542

[1] Line 6 divided by 82,450 Mcf.

Interstate Drilling, Docket No. R177-70, Wells, Nos. 2263, 2264, 2265, 2272, 2274, 2275, 2277, 2279, Gilmer County, W. Va.

[Average annual investment]

Line No. and Year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation [1] (d)	End of year investment (e)	Average investment [2] (f)
1. Average investment:					
2. 1977	13,980	$12,000	$2,035	$9,965	$5,492
3. 1978	12,601	9,965	1,834	8,131	9,048
4. 1979	11,075	8,131	1,612	6,519	7,325
5. 1980	9,845	6,519	1,433	5,086	5,803
6. 1981	8,762	5,086	1,275	3,811	4,449
7. 1982	7,777	3,811	1,132	2,679	3,245
8. 1983	6,891	2,679	1,003	1,676	2,178
9. 1984	6,104	1,676	888	788	1,232
10. 1985	5,415	788	788	0	197
11. Total	82,450		12,000		38,969
12. Average annual investment [3]					4,330
13. Annual rate base:					
14. Average annual investment					4,330
15. Average annual working capital allowance [4]					1,126
16. Total annual rate base					5,456

[1] Col. (b) times line 7 of schedule 2.
[2] (Col. (c) plus col. (e)) divided by 2.
[3] Col. (f) of line 11 divided by 9 yr. of productive life.
[4] 0.125 times line 7 of sheet 1 divided by 9 yr of productive life.

[FR Doc. 78-29618 Filed 10-20-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket Nos. G-5044, et al.]

SHELL OIL CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

OCTOBER 13, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 9, 1978, file with the Federal Energy Regulatory Commission.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [2]	Pressure base
G-5044, D, Sept. 28, 1978	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Mid-Louisiana Gas Co., Vixen field, Caldwell Parish, La.	(1)	
G-8820, D, Sept. 8, 1978	Texaco Inc. (operator) et al., P.O. Box 2420, Tulsa, Okla. 74102	Natural Gas Pipeline Co. of America, Hansford field, Hansford County, Tex.	Well plugged and abandoned and leases released.	
G-11707, D, Sept. 29, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	United Gas Pipe Line Co., Maxie field, Forrest County, Miss.	(2)	
G-19282, C, Aug. 11, 1978	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Davis "G" No. 1 well from the Lower Morrow Formation of the Pennsylvania System only in the Gentzler field, Stevens County, Kans.	(3)	14.65
G-19589, C, Sept. 7, 1978	Belco Petroleum Corp., 1 Dag Hammarskjold Plaza, New York, N.Y. 10017.	Northwest Pipeline Corp., Fogarty field area, Sublette County, Wyo.	(3)	15.025
G-19591, C, Sept. 7, 1978	Belco Petroleum Corp	do	(3)	15.025
CI78-1103, A, Aug. 17, 1978	Getty Oil, P.O. Box 1404, Houston, Tex 77001.	United Gas Pipe Line Co., certain acreage in block 137, South Marsh Island area, offshore Louisiana.	(3)	15.025
CI78-1104, A, Aug. 17, 1978	Getty Oil Co	United Gas Pipe Line Co., certain acreage in block 487, West Cameron area, offshore Louisiana.	(3)	15.025
CI78-1105, A, Aug. 17, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	El Paso Natural Gas Co., certain acreage in Lea County, N. Mex., limited to the Blinebry, Tubb, and Drinkard Formations.	(3)	14.65
CI78-1106 (CI66-921), B, Aug. 18, 1978.	Coastal States Gas Producing Co., 5 Greenway Plaza East, Houston, Tex. 77046.	Transcontinental Gas Pipe Line Co., Sambo field, St. Landry Parish, La.	(3)	
CI78-1107, A, Aug. 21, 1978	Panhandle Western Gas Co., P.O. Box 1348, Kansas City, Mo. 64141.	Panhandle Eastern Pipe Line Co., certain acreage in Sweetwater County, Wyo.	(3)	14.65
CI78-1108 (CI75-770), B, Aug. 21, 1978.	Sohio Natural Resources Co., 50 Penn Pl., Suite 1100, Oklahoma City, Okla. 73118.	Northern Natural Gas Co., Drinkard field, Lea County, N. Mex.	(3)	
CI78-1109, A, Aug. 21, 1978	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Southern Natural Gas Co., Kerr-McGee et al., State lease No. 1230 well No. 3 (Phillips well No. 9-A) Breton Sound block 36, offshore Plaquemines Parish, La.	(3)	15.025
CI78-1110, A, Aug. 21, 1978	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Texas Eastern Transmission Corp., Vermilion area, block 331 field, offshore Louisiana.	(3)	15.025
CI78-1111, A, Aug. 21, 1978	General Crude Oil Co., P.O. Box 2252, Houston, Tex. 77001.	Florida Gas Transmission Co., Erck Nos. 5 and 6 wells, McGill Ranch field area, Kenedy County, Tex.	(3)	14.65
CI78-1112, A, Aug. 21, 1978	Marathon Oil Co	El Paso Natural Gas Co., Burton Flat East field, Eddy County, N. Mex.	(3)	14.65
CI78-1113, A, Aug. 21, 1978	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	Panhandle Eastern Pipe Line Co., certain acreage in Sweetwater County, Wyo.	(3)	14.65
CI78-1114, A, Aug. 21, 1978	Diamond Shamrock Corp. (successor to the Shamrock Oil & Gas Corp.), P.O. Box 631, Amarillo, Tex. 79173.	Mid Louisiana Gas Co., Hemler No. 1 well in Richland Parish, La.	(4)	15.025
CI78-1115, A, Aug. 21, 1978	Marathon Oil Co	United Gas Pipe Line Co., High Island area, block A-480 field, offshore Texas.	(10)	14.65
CI78-1116, A, Aug. 21, 1978	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	El Paso Natural Gas Co., Amoco State "18" No. 1 well located in sec. 18, block 55, T-2, T & P RR Co. survey, Tunstill, East (Wolfcamp) field, Loving County, Tex., limited to Wolfcamp Formation only.	(3)	14.73
CI78-1117, A, Aug. 22, 1978	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77001.	Texas Eastern Transmission Corp., block A-480 field, High Island area, offshore Texas.	(3)	14.65
CI78-1120 (CI78-251), B, Aug. 21, 1978.	Sohio Natural Resources Co., 50 Penn Pl.—Suite 1100, Oklahoma City, Okla. 73118.	Cities Service Gas Co., S. E. Chilloco field, Kay County, Okla.	Only well on lease is depleted.	
CI78-1121 (CI68-274), B, Aug. 21, 1978.	Chevron U.S.A., Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Michigan Wisconsin Pipe Line Co., North Thorndike area, Gray and Roberts Counties, Tex.	(11)	
CI78-1122 (CI62-1313), B, Aug. 22, 1978.	Robbins Petroleum Corp., et al., P.O. Box 2347, Longview, Tex. 75601.	Lone Star Gas Co., Danville field, Rusk County, Tex..	Supply exhausted.	
CI78-1123, A, Aug. 22, 1978	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79189.	El Paso Natural Gas Co., White City Penn field, Eddy County, N. Mex.	(3)	14.65
CI78-1124, A, Aug. 23, 1978	Terra Resources, Inc., 5416 South Yale, Tulsa, Okla. 74135.	Transcontinental Gas Pipe Line Corp., High Island area block A-330 field, Gulf of Mexico.	(12)	15.025
CI78-1126, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [2]	Pressure base
CI78-1127, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1128, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1129, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1130, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1131, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1132, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1133, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1134, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1135, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1136, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1137, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1138, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1139, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1140, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1141, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1142, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1143, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1144, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1145, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1146, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1147, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1148, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1149, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. [2]	Pressure base
CI78-1150 (CI68-205), B, Aug. 21, 1978.	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Cities Service Gas Co., certain acreage in Depleted leases terminated as result of application for abandonment filed in Docket No. CI78-1120 (CI78-251), Kay County, Okla.	(3)	14.65
CI78-1151, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1152, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1153, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1154, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1155, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1156, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1157, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1158, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1159, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1160, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1161, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1162, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1163, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1164, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1165, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1166, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1167, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1168, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1169, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1170, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1171, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1172, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1173, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1174, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73
CI78-1175, A, Aug. 29, 1978	Mobil Oil Corp., 3 Greenway Plaza East—Suite 800, Houston, Tex. 77046.	Arkansas Louisiana Gas Co., Red Tank field, Sequoyah County, Okla.	(3)	14.73

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI78-1127, A, Aug. 25, 1978	Panhandle Western Gas Co., P.O. Box 1348, Kansas City, Mo. 64141.	Panhandle Eastern Pipe Line Co., Hay Reservoir area, Sweetwater County, Wyo.	(2)	14.65
CI78-1128, A, Aug. 25, 1978	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Dyco-Martin No. 1-9 well, sec. 9-T16N-R20W, Leddy area, Dewey County, Okla.	(3)	14.65
CI78-1129, A, Aug. 28, 1978	Mitchell Energy Corp., 3900 1 Shell Plaza, Houston, Tex. 77002.	Northwest Pipeline Corp., certain acreage in Rio Arriba County, N. Mex.	(4)	14.73
CI78-1130, A, Aug. 28, 1978	Chevron U.S.A., Inc.	Mississippi River Transmission Corp., Mills Ranch (Granit Wash Formation), Wheeler County, Tex.	(5)	14.65
CI78-1132, B, Aug. 25, 1978	General Crude Oil Co., P.O. Box 2252, 2600 1 Allen Center, Houston, Tex. 77002.	El Paso Natural Gas Co., J. H. Hutt well No. 1, Hadacol Corner field, Upton County, Tex.	Depletion of the reservoir.	
CI78-1133, A, Aug. 28, 1978	Union Oil Co. of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Eastern Transmission Corp., block 279 located in the block 280 field, West Cameron area, offshore Louisiana.	(3)	15.025
CI78-1135, A, Aug. 28, 1978	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., J. W. Young No. 2 well unit in the Mills Ranch field, Wheeler County, Tex.	(3)	14.65
CI78-1136, B, Aug. 28, 1978	Southeastern Public Service Co., 1625 Southwest Tower, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., East Bernard field, Wharton County, Tex.	The Vacek and Krotky Gas unit wells are depleted. Applicant installed compression in March 1965	
CI78-1137, A, Aug. 24, 1978	Cotton Petroleum Corp., 4200 1 Williams Center, Tulsa, Okla. 74103.	Arkansas Louisiana Gas Co., certain acreage in the Aledo field, Custer County Okla.	(3)	14.65
CI78-1138, A, Aug. 24, 1978	Cotton Petroleum Corp.	Colorado Interstate Gas Co., certain acreage in Adams County, Colo.	(3)	15.025
CI78-1139, A, Aug. 24, 1978	....do	Arkansas Louisiana Gas Co., Reed No. 1-22 well, sec. 22-T7N-R23E, LeFlore County, Okla., limited to the Red Oak Formation only.	(3)	14.65
CI78-1140, A, Aug. 24, 1978	....do	Southern Natural Gas Co., certain acreage in the Pointe-a-la-Hache field, Plaquemines Parish, La.	(3)	15.025
CI78-1141, A, Aug. 24, 1978	....do	Northern Natural Gas Co., Conley "A" No. 1 well, sec. 73, block 13, T & NO Survey, Ochiltree County, Tex., limited to the Upper Morrow Formation only.	(3)	14.65
CI78-1142, A, Aug. 24, 1978	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32790.	Florida Gas Transmission Co., Tylertown field, Walthall County, Miss.	(3)	15.025
CI78-1143, A, Aug. 24, 1978	Florida Gas Exploration Co	Florida Gas Transmission Co., Bassfield field, Jeffersun Davis County, Miss.	(14)	15.025
CI78-1144, A, Aug. 29, 1978	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79189.	Mountain Fuel Supply Co., Yellow Creek field, Uinta County, Wyo.	(3)	14.73
CI78-1145, A, July 31, 1978	HNG Oil Co., P.O. Box 1188, Houston, Tex. 77001.	El Paso Natural Gas Co., Willow Lake unit Federal No. 3 well, located in the south ½ of sec. 15-T24S-R28E, Malaga (Morrow) field, Eddy County, N. Mex.	(3)	14.73
CI78-1146, A, Aug. 24, 1978	Diamond Shamrock Corp., (successor to the Shamrock Oil & Gas Corp.), P.O. Box 631, Amarillo, Tex. 79173.	Cities Service Gas Co., certain acreage in Sweetwater County, Wyo.	(15)	15.025
CI78-1147, A, Aug. 24, 1978	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., Wheeler Pan-Hunton field, Wheeler County, Tex.	(3)	14.73
CI78-1148, B, Aug. 24, 1978	Millard Deck et al., 1500 First National Bank Bldg., Fort Worth, Tex. 76102.	Warren Petroleum Co., division of Gulf Oil, Monument Grayburg field, Lea County, N. Mex.	Contract expired by its own terms, plugged and abandoned.	
CI78-1149, A, Aug. 28, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	United Gas Pipe Line Co., Mollie Woolf Gas unit well No. 1, Good Omen (Overton) field, Smith County, Tex.	(3)	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI78-1150 (CI68-205), B, Aug. 28, 1978	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Cities Service Gas Co., certain acreage in Woods County, Okla.	Depleted, leases terminated as result of cessation of production.	

[1] Shell was unable to establish commercial production from lease L-21606 and executed the "Release of Oil and Gas Lease" dated Feb. 25, 1970, releasing 1133 acres more or less, to the lessor.
[2] Lands were condemned by several unsuccessful wells drilled to or below the Tusculoosa on or in the vicinity. Leases were assigned or released. Continental has no knowledge of the disposition of these lands, which they surrendered or assigned many years ago (over 20 yr in most cases).
[3] Applicant is willing to accept the applicable national rate pursuant to option No. 770, as amended.
[4] Applicant is filing under gas sales contract dated May 18, 1978.
[5] Applicant is filing under gas sales contract dated Apr. 28, 1978.
[6] Gas deliveries ceased April 1975, depleted, all wells plugged and abandoned, leases expired by their own terms and gas sales contract with purchaser canceled.
[7] Seller and purchaser are affiliated.
[8] Only gas well on lease reclassified as an oil well and casinghead gas from the oil well is not dedicated to Northern Natural Gas Co. under rate schedule No. 164.
[9] Applicant is filing under contract dated June 21, 1978.
[10] Applicant is requesting special relief in the form of waiver of the prices set forth in sec. 2.59a pursuant to sec. 2.56a(g) of the Commission's general policy and interpretations and is filing under gas purchase contract dated Aug. 14, 1978.
[11] Chevron no longer retains any interest in lands originally subject to the certificate and has obtained no production from the lands since March 1974. None of the surrendered lands contained prospects for further economic reserves. In the case of those lands assigned to King Resources the assignee applied for and obtained a successor certificate in docket No. CI69-966 et al.
[12] Applicant is filing under gas purchase contract dated July 19, 1978.
[13] Applicant is filing under gas sale contract dated Mar. 1, 1977.
[14] Applicant is filing under gas purchase contract dated and entered into as of Jan. 1, 1979.
[15] Applicant is filing under gas purchase contract dated Aug. 10, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-29711 Filed 10-20-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

September 25 Through September 29, 1978

Notice is hereby given that during the period September 25 through September 29, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a pro-

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posed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the public docket room of the Office of Hearings and Appeals, room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

OCTOBER 16, 1978.

PROPOSED DECISIONS AND ORDERS

Asiatic Petroleum Corp., New York, N.Y., DPI-0017

Pacific Resources, Inc., Honolulu, Hawaii, DPI-0009

Inter-Americas Oil Co., Pittsburgh, Pa., DPI-0010

Roarda, Inc., Washington, D.C., DPI-0011

Seanoil, Inc., New York, N.Y., DPI-0012, Residual Fuel Oil

Asiatic Petroleum Corp., Pacific Resources, Inc., Inter-Americas Oil Co., Roarda, Inc., and Seanoil, Inc., filed applications for Exception from the mandatory oil import program of the DOE. The exception requests, if granted, would permit the firms to import specified quantities of residual fuel oil into District I on a license fee-exempt basis during the current allocation period. On September 25, 1978, the DOE issued a Proposed Decision and Order to the firms in which it tentatively determined that they should be granted sufficient fee-exempt authority to permit them to import 81.2 percent of their projected imports into District I during the current allocation period on a fee-exempt basis subject to certain conditions.

Champlin Petroleum Co., Fort Worth, Tex., DEE-1309, Crude Oil Producer

The Champlin Petroleum Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil produced from the State of New Mexico's lease number 18 at upper tier prices. On September 29, 1978, the DOE issued a Proposed Decision and Order granting in part the Champlin exception application.

Clarke County Supply, Inc., Berryville, Va., DEE-0452, No. 2 Heating Oil/Coal

Clarke County Supply, Inc., filed an Application for Exception from the reporting requirements of Forms EIA 2 and EIA 9. This exception request, if granted, would have relieved Clarke of the obligation to file one of these forms. On September 28, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Don Baldwin Oil, Gloversville, N.Y., DEE-1052

Wilmont Oil Co., Seabrook, N.H., DEE-1063

John Galt, Inc., Hyattsville, Md., DEE-1035

Shur-Heel Oil Co., Lyndhurst, N.J., DEE-1172

H. C. Mayer & Sons, Inc., Wayzata, Minn., DEE-1343, No. 2 Heating Oil

The five firms specified above filed Applications for Exception from the reporting requirements of Form EIA 9. The exception requests, if granted, would relieve these firms of any obligation to prepare and submit Form EIA 9. On September 28, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the exception requests be denied.

R. H. Engelke, San Antonio, Tex., DXE-1667, Crude Oil

R. H. Engelke filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell a portion of the crude oil produced from the Bertha Copsey Lease located in Jackson County, Tex., at upper tier ceiling prices. On September 28, 1978, the DOE issued a Proposed Decision and Order in which it determined that exception relief should be granted.

McGoldrick Oil Co., Shreveport, La., DEE-1654, Crude Oil

McGoldrick Oil Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit McGoldrick to sell certain volumes of the crude oil which it produces from the Chaparral Oil Units 18-4, 18-5, and 18-6 at market prices. On September 26, 1978, the Department of Energy issued a Proposed Decision and Order to McGoldrick in which it was tentatively determined that the exception request be granted with respect to the Chaparral Oil Unit 18-5 and denied with respect to Units 18-4 and 18-6.

M. J. Mitchell, Dallas, Tex., DXE-1666, Crude Oil

M. J. Mitchell filed an Application for Exception from the provisions of 10 CFR 212.73. The request, if granted, would result in the extension of exception relief previously granted and permit the firm to continue to sell crude oil which it produces from the Pickrel Ranch Minnelusa Sand Unit at market prices. On September 28, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request should be granted in part.

Petroleum, Inc., Wichita, Kans., DEE-0317, Crude Oil

Petroleum, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Petroleum to sell the crude oil which it produces from the Crowder Lease at upper tier ceiling prices. On September 29, 1978, the DOE issued a Proposed Decision and Order which determined that Petroleum should be permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Crowder Lease for the benefit of the working interest owners for a period of six months.

Phillips Petroleum Co., Bartlesville, Okla., DXE-1554, Crude Oil

Phillips Petroleum Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm requested that it be permitted to continue to sell certain of the crude oil which it produces at the Foote Lease, located in Oklahoma County, Oklahoma, at upper tier ceiling prices. On September 26, 1978, the DOE issued a Proposed Decision and Order which determined that the Phillips exception request be granted.

Southland Drilling Co., Inc., Houston, Tex., DEE-0113, Crude Oil

Southland Drilling Co., Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Southland to receive upper tier ceiling prices for the crude oil which the firm produced from the ARCO Castillo "A" Lease during the months of February, March, and April 1977. On September 28, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request should be denied.

[FR Doc. 78-29804 Filed 10-20-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 991-1]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: the 45-day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30-day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from October 2, 1978, through October 6, 1978; the date of submission of comments on draft EIS's as computed from October 13, 1978, is November 27, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: October 17, 1978.

PETER L. COOK,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965

FOREST SERVICE

Draft

Norbeck Wildlife Preserve, Black Hills National Forest, Custer and Pennington Counties, S. Dak., October 3: Proposed is a land management plan for the Norbeck Wildlife Preserve of the Black Hills National Forest located in Custer and Pennington Counties, S. Dak. The preserve encompasses 34,873 acres of national forest, private, State, or other federally owned lands. The preferred alternative consists of: (1) Allocation of the entire unit (with exception of the Norbeck Rare II Area and the Pine Creek Natural Area) for wildlife habitat improvement, (2) use of motorized vehicles for management activities, (3) closing of roads after management activities are completed, and (4) continuing use of existing main highways and roads serving private lands. (USDA-FS-R2-DES-(ADM)-FY-78-04) (EPA Order No. 81063).

Final

Gospel Hump, Nezperce and Payette National Forest Wilderness, Idaho, October 3: Proposed is the recommendation for a wilderness study area of 30,830 acres of national forest land in the Nezperce and Payette National Forests in northern Idaho, and a land management plan for 289,034 acres of national forest land in the Nezperce National Forest. Principal environmental impacts resulting from the recommendations in this EIS are associated with timber harvest and culture, treatment of big game winter ranges, off-road vehicle use and general wilderness use. (USDA-FS-R1-17-FES-(ADM)-R1-78-4). Comments made by: DOC, EPA, DOI, State and local agencies, and individuals. (EPA Order No. 81068.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Western farmers coal fired plant and transmission, Choctaw County, Okla., October 6: This proposal involves the granting of REA loan guarantee funds and the issuance of an EPA NPDES permit to the Western Farmers Electric Cooperative (WFEC), for the construction of a new steam-electric generating plant on a 3,000-acre site, and associated transmission lines in Choctow County, Okla. As part of the project coal will be obtained from the Powder River Basin and water will be obtained from the Hugo Reservoir. The transmission lines will run from the plant with approximately 18 miles of 345 KV line to the WFEC Valliant Substation and approximately 11 miles of line to the PSO Valliant Substation (USDA-REA-EIS-(ADM)-78-9F). Comments made by: EPA, AHP, HEW, USDA, DOI, State agencies, and groups. (EPA Order No. 81109.)

SOIL CONSERVATION SERVICE

Final

Beartown flood control RC&D measure, Pike County, Miss., October 2: The project covered in this proposal concerns the elimination of flooding in an area located near Beartown Creek, Pike County, Miss. The project activities include the installation of 5,395 feet of channel work which consists of enlargement of 298 feet, construction of a new channel, channel clearing, and rock lining for stability. Also planned is the construction of a levee along the west channel, and a lateral of 595 feet in length to bring flows back into the main channel. (USDA-SCS-EIS-RC&D-(ADM)-78-2-D-MS). Comments made by: DOI, USDA, EPA, State agencies, and groups. (EPA Order No. 81060.)

White's Mill Flood prevention and drainage, RC&D, Sumter County, S.C., October 4: This proposal concerns the management and alteration of 145 acres of land in Sumter County, S.C., to prevent flooding and improve drainage. Land treatment will include such measures as land leveling, open ditches, tile drains, field ditches, brush control, and improved management practices. The proposed structural measures consist of about 0.7 miles of channel work with a bottom width of 3 feet. All of the channel work will be on previously altered ephemeral streams (USDA-SC-EIS-RC&D-(ADM)-78-1-(F)-SC). Comments made by: DOD, DOI, DOC, HEW, EPA, State and local agencies. (EPA Order No. 81078.)

Hungry Hall flood prevention and drainage, Clarendon and Sumter Counties, S.C., October 6: The purpose of this proposal is to eliminate flooding and improve drainage on farmlands within Clarendon and Sumter Counties, S.C. The planned project will consist of land treatment and 3.5 miles of channel work on previously altered ephemeral streams. Land treatment measures will consist of on-farm drainage (open and closed), field borders, wind breaks, and wildlife food and cover planting. The main channel which is 2.4 miles long will have a bottom width of 3 to 8 feet, and the lateral will have a bottom width to 3 feet. (USDA-SCS-EIS-RC&D-(ADM)-78-2-(F)-SC). Comments made by: DOI, DOC, HEW, EPA, and State agencies. (EPA Order No. 81090.)

Pine Creek watershed, city of Oneida, Scott County, Tenn., October 3: Proposed is a watershed project to reduce floodwater damages to farmland and to floodplain within the city of Oneida, Tenn. The plan calls for an increased amount of conservation land treatment; a multiple-purpose structure for flood prevention and municipal water supply; a multiple-purpose structure for flood prevention and recreation; and, channel work to increase design capacity and to incorporate improved SCS channel stability requirements. Adverse effects include the disturbance of 171 acres of flood plain (USDA-SCS-EIS-WS-78-(ADM)-2-F-TN). Comments made by: DOD, DOI, HEW, USDA, EPA, FPC, TVA, State and local agencies, and businesses. (EPA Order No. 81067.)

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Dr. Carlos Stern, Deputy for Environment and Safety, Office of Assistant Secretary of the Air Force, Department of Defense, Air Force, Pentagon, Room 4C885, Washington, D.C. 20330, 202-697-9297.

Final

Air Force Missile MX: Milestone II, October 6: The U.S. Air Force proposes the development of a new intercontinental ballistic missile (ICBM) force and basic system known as MX. The MX system will soon require a limited number of full-scale prototype missiles and a series of tests associated with these prototypes. This development and test program is known as a full-scale engineering development (FSED). The proposal discusses the feasibility of proceeding with the FSED phase. Comments made by: AHP, DOD, DOI, FERC, NASA, DOI, EPA, State and local agencies, groups and individuals. (EPA Order No. 81093.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Wilmington Harbor, northeast Cape Fear River, Wilmington, New Hanover County, N.C., October 3: Proposed is the widening and deepening of an existing deep draft ship channel and turning basin located in Wilmington, New Hanover County, N.C. Other features of the project are: (1) Acquiring fee simple or conservation rights on 2,800 acres of wetland and upland attendant to the river, (2) maintaining the new navigation improvements, (3) providing for controlled access to the navigation channel, and (4) management of the acquired 2,800-acre conservation area (Wilmington District). (EPA Order No. 81069.)

Bellingham Harbor navigation project, Whatcom County, Washington, October 4: Proposed is an ongoing program of maintenance dredging within the Bellingham Harbor, Whatcom County, Wash., including project waterways. Dredged materials (320,000 cubic yards) will be disposed of in a Washington Department of Natural Resources designated open water disposal area. The currently authorized Bellingham Harbor navigation project will involve dredging of three project waterways to maintain their authorized project depths. Included under the present authorization are Squalicum Creek Waterway, I&J Street Waterway, Whatcom Creek, and the entrance channel to Squalicum Small Boat Basin (Seattle District). (EPA Order No. 81074.)

Final

Dredging of the Missouri River Bridge, Dakota County, Nebr., and Woodbury County, Iowa, October 6: The proposed project involves the dredging of fill material from the Missouri River at Mile 732.05 to 732.40 in conjunction with the proposed new bridge at Mile 732.30 in Dakota County, Nebr., and Woodbury County, Iowa. A permit for this dredging, if granted, will be authorized under section 10 of the River and Harbor Act of 1899, and under provisions of section 404 of the FWPCA Amendments of 1972. The issuance of the section

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10 permit would allow dredging of approximately 650,000 cubic yards of fill material from the Missouri River for the construction of the interchange between U.S. 20 and Interstate 29 in conjunction with the construction of a replacement bridge. Comments made by: HUD, EPA, FERC, DOT, DOI, State and local agencies. (EPA Order No. 81088.)

Mouth of Colorado River, Tex., Matagh-orda County, Tex., October 3: The proposed project consists of an entrance channel in the gulf, 15 feet deep by 200 feet wide, protected by jetties. The proposed east jetty is a weir type, designed to pass littoral material into an impoundment basin for periodic transfer to the down-drift beach. From the gulf inland to its connection with the Gulf Intracoastal Waterway (GIWW), the proposed channel will be dredged to 12 feet in depth and 100 feet in width. Adverse effects include the elimination of most of the benthic populations occupying the affected areas. About 242 acres of terrestrial wildlife habitat will be removed or modified (Galveston District). Comments made by: EPA, DOI, DOC, AHP, HEW, USDA, DOT, and State agencies. (EPA Order No. 80949.)

Final supplement

Grays Harbor and Chehalis River, Terminal No. 2, Grays Harbor, Wash., October 6: This EIS supplements a final EIS filed with CEQ. The proposed action involves the construction of a new pier, dredging of a berth in front of this pier, and filling of tidelands between the new pier and adjacent to slip No. 2 at the port of Grays Harbor in Aberdeen, Wash. (Seattle District). Comments made by: USDA, DOE, DOC, EPA, COE, HUD, DOI, State and local agencies, and groups. (EIS Order No. 81094.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Mr. George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Final supplement

Transportation of chemical material, several counties, October 6: This statement supplements a final EIS filed in October 1977, and was prepared to provide additional information relative to the preparation and shipment of the MK116 MOD O WETEYE bombs from Rocky Mount Arsenal in Colorado to Toole Army Depot, Utah. The method of transport has been modified to avoid any leakage problems during the transfer. (EPA Order No. 81098.)

Contact: Mr. John Hagan, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-7458.

Draft

Horsepen Creek Intrerceptor, Greensboro, Guilford County, N.C., October 4: Proposed is the awarding of grant funds to Guilford County, N.C., for the purpose of developing a wastewater treatment system to service the Greensboro-Guilford County area of which the Horsepen Creek Interceptor is a part. The project consists of the necessary facilities to transport wastewater from the Horsepen Creek Basin to the city of Greensboro wastewater collection system for treatment. Six alternatives are considered (EPA-904/9-78-021). (EPA Order No. 81079.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Riverview Estates, Fresno, Fresno County, Calif., October 3: Proposed is the issuance of HUD home mortgage insurance for the residential development of Riverview Estates in the city of Fresno, Fresno County, Calif. Development will occur on 354.39 acres of presently vacant grazing land. Initial development of 163.39 acres will provide 357 single-family homes, and 657 multiple-family units. The developer plans to build an additional 600-800 single-family units on the remaining 191 acres. Alternatives include no project, and other uses (HUD-R09-EIS-1978-7D). (EPA Order No. 81070.)

Ardenwood Village, Fremont, Alameda County, Calif., October 4: Proposed is the issuance of HUD home mortgage insurance for Ardenwood Village, Fremont, Alameda County, Calif. The subdivision is located on 317 acres of prime agricultural land and would provide 1,417 single family homes, a 2.1-acre commercial site, a 12-acre combined primary school and park site and 9.3 acres of 60-foot-wide buffer strip. Three alternatives are considered which include: (a) no HUD participation in the project, (2) modification of project proposal, and (3) no project (HUD-R09-EIS-78-8D). (EPA Order No. 81077.)

Amhurst Subdivision, Harris County, Tex., October 3: Proposed is the issuance of HUD home mortgage insurance for the Amhurst Subdivision located in Harris County, Tex. The subdivision encompasses approximately 340 acres and when completed, will contain approximately 1,672 single family homes. Recreational facilities will be provided to serve the subdivision. Three alternatives are considered (HUD-R06-EIS-45D). (EPA Order No. 81065.)

Morton Road Tract, Subdivision, Harris County, Tex., October 3: Proposed is the issuance of HUD mortgage insurance for the Morton Road Tract in Harris County, Tex. The subdivision encompasses approximately 237 acres of land and will be composed of about 435 units, primarily single-family homes. Three alternatives are considered which include: (1) Accept proposal as submitted, (2) accept with modifications, and (3) reject (HUD-R06-EIS-78-43D). (EPA Order No. 81066.)

Ricewood Tract, Highlands of Westlake, Harris County, Tex., October 3: Proposed is the issuance of HUD home mortgage insurance for the Ricewood Tract, Harris County, Tex. The proposed subdivision is being developed in conjunction with another tract and is being marketed as the Highlands of Westlake. The area will encompass approximately 358 acres and will provide, when completed, approximately 1,400 single-family dwellings (HUD-R06-EIS-78-44D). (EPA Order No. 81071.)

Northwest El Paso Joint Venture, El Paso, El Paso County, Tex., October 5: Proposed is the issuance of HUD home mortgage insurance for the Northwest El Paso Joint Venture, El Paso County, Tex. Seven different, adjoining owners of land plan to develop approximately 2,106.6 acres as residential subdivisions. Included in the planned development are the needed and necessary support facilities, such as, commercial, recreational, educational, fire and utilities. Three alternatives are considered (HUD-R06-EIS-8-321). (EPA Order No. 81084.)

Final

Grandview Pines, Ltd., Millbrook, Elmore and Millbrook Counties, Ala., October 6: This statement concerns Grandview Pines, an ongoing development project on 530 acres of land located in Millbrook and Elmore Counties, Ala. A portion of the development is completed or under construction with the remainder under application for FHA mortgage insurance. Community facilities and 1,250 housing units will be constructed over a 10-year period with land reserved for open space, recreational facilities, and commercial use. (HUD-R04-EIS-77-31F). Comments made by USDA, EPA, FPC, COE, DOI, AHP, and State agencies. (EPA Order No. 81096.)

Partial development in Dover Valley, Fairfield, Solano County, Calif., October 4: Proposed is the development of 300 acres of vacant agricultural land into a residential subdivision which will provide 862 single-family homes, 165 multiple homes and 224 townhouses in Solano County, Calif. Application has been made for HUD home mortgage insurance funds by the Hufmann Construction Co. Also included as part of the proposal is the development of a 20-acre community park combined with 23 acres for school sites (HUD-R09-EIS-1978-1F). Comments made by: GSA, VA, DOT, HEW, AHP, DOI, USDA, local agencies, and businesses. (EPA Order No. 81075.)

Forest Park Subdivision, Hamilton, Clermont, and Warren Counties, Ohio, October 3: Proposed is the development of 2,732 residential units including 210.02 acres of supplementary commercial industrial land. This site is located in the city of Forest Park, Ohio, and is approximately 14 miles north of Cincinnati. It is conveniently accessible to both I-275 and I-75. Upon completion of the applicant's four land development phases, the project will contain 2,732 residential units with 210.2 acres of industrial/commercial development on a total of 1,024.45 acres (HUD-R05-EIS-77-19F). Comments made by: DOT, DOC, GSA, DOD, DDO, EPA, and State agencies. (EPA Order No. 81062.)

Highland Creek Village Subdivision, Harris County, Tex., October 2: The proposed action is for the Department of Housing and Urban Development to accept 541 acres for the Highland Creek Village Subdivision located in Harris County, Tex., for HUD-FHA mortgage insurance under section 203(B) of Title II of the National Housing Act of 1943. When complete the subdivision will contain approximately 2,400 single-family homes. Beneficial impacts include providing needed housing with the growing community (HUD-R06-EIS-78-9-F.) Comments made by: USDA, USA, DOT, EPA, AHP, DOI, State agencies, and groups. (EPA Order No. 81058.)

SECTION 104(H)

Following are community development block grant statements prepared and circulated directly by applicant pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the appropriate local executive. Copies are not available from HUD.

Final

4447 Duke Street Rehabilitation, Alexandria, Fairfax County, Va., October 6: The proposal is an application for funds to rehabilitate the existing Shirley Duke and Regina Apartments, located on Duke Street in Alexandria, Fairfax County, Va. The project activities include the replanning and reconstruction of the interior units to provide 1,585 one- and 528 two-bedroom units, replacement of roofs and interior utility systems, commercial construction of seven recreational areas, paving of parking areas and minor rehabilitation of the commercial area (HUD-000-35198-PM-SR). Comments made by: EPA, DOD, DOI, State and local agencies. (EPA Order No. 81095.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Final

Tuledad-Home camp planning unit, grazing, California and Nevada, October 4: The proposed action is the implementation of a grazing management program of the Tuledad-Home camp planning unit, located in the counties of Modoc and Lassen, Calif. and Washoe County, Nev. The management area comprises nearly 700,000 acres of public land. The plan proposed 3 levels of management: (1) systematic grazing management on 670,000 acres, (2) custodial management on about 5,000 acres, and (3) livestock grazing exclusions (no livestock grazing) in 19,000 acres (FES-78-26). Comments made by: DOI, AHP, HEW, USDA, DOT, DOD, NRC, DOE, State and local agencies. (EPA Order No. 81073.)

BUREAU OF MINES

Draft

Surface Mining Control and Reclamation Act, 501(B), October 3: Proposed is the promulgation of a permanent regulatory program, under section 501(B) of the Surface Mining Control and Reclamation Act of 1977. The three major components which comprise this proposal are: (1) regulations concerning environmental performance standards, permit applications, and bonding requirements; (2) procedure regulations for submission of State programs and for review criteria used for approval; and (3) regulations governing development and implementation of a Federal program for a State (DES-78-24). (EPA Order No. 81061.)

CLARIFICATION: This notice establishes November 27, 1978 as the closing date for receipt of comments k However, the Office of Surface Mining (OSM) in their notice of availability dated October 4, 1978 (43 FR 45886) established November 17, 1978 as the closing date. OSM has agreed that it shall undertake its best efforts to respond to commends received between November 17 and November 27, 1978 including incorporation of such comments as well as OSM responses in the final EIS. For those comments which may not be accomodated in the final EIS, OSM will assure that responses to those comment letters will be made available to the public.

GEOLOGICAL SURVEY

Draft

Caballo Mine, mining and reclamation plan, Campbell County, Wyo., October 6: Proposed is approval of the surface mining and reclamation plan for the Caballo Mine, Carter Mining Co., Campbell County, Wyo. The plan describes mining operations for 40 years on a total of about 6,700 acres (about 4,300 acres will actually be mined) of Federal, State, and privately owned mining leases. All of the land surface, except for 640 acres of State land, is privately owned. The coal will be used for electric power generation. Ten alternatives are considered (DES-78-43). (EPA Order No. 81091.)

NATIONAL PARK SERVICE

Final

Youghiogheny State and National Wild and Scenic River, Garrett County, Md. and Somerset and Fayette Counties, Pa., October 5: This proposal recommends that the Youghiogheny River between Oakland and Friendsville, Garrett County, Md. be included in the National Wild and Scenic Rivers System and that the segment between confluence and South Connellsville, Fayette and Somerset Counties, Pa., included in the Pennsylvania Scenic Rivers System, and if desired in the national system. The 22.2-mile Maryland segment will be administered by the State of Maryland as a wild river and the 27-mile Pennsylvania segment by the commonwealth of Pennsylvania as a scenic river. The protection boundary would encompass the visual corridor and several recreation sites would be developed (FES-78-27). Comments made by: USDA, DOD, DOE, DOI, HUD, EPA, and businesses. (EPA Order No. 81083.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Richard E. Cunningham, Acting Director, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-427-4152.

Final

Irigaray solution mining project, Johnson County, Wyo., October 2: This action concerns an application for a source material license by the Wyoming Mineral Corp., to conduct production-scale solution mining of uranium at the Irigaray site, Johnson County, Wyo., within the Powder River Basin. The project will affect approximately 1,000 acres of land at the site. The actions consist of leaching uranium from subsurface ore-bearing sandstone by adding chemical reagents to existing ground water to reverse the natural uranium precipitation process NUREG-0481. Comments made by: AHP, USA, DOE, HEW, DOI, HUD, EPA, FERC, USDA, State agencies, individuals and businesses. (EPA Order No. 81057.)

OHIO RIVER BASIN COMMISSION

Contact: Mr. Fred E. Morr, Chairman, Suite 208-20, Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202, 513-684-3831.

Draft

Water and land resource plan, Ohio River Basin, several Counties, October 2: Proposed is a regional water and land resource plan for the Ohio River Basin in the States of Illinois, North Carolina, Indiana, Kentucky, New York, Maryland, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia. The plan consists of: (1) 1,233, PL-566 and RC&D projects; (2) 3 navigation projects; (3) 8 reservoir projects; (4) 45 local flood protection projects; (5) 793 municipal water quality control measures; (6) 107 recreation areas; (7) 9 State wild and scenic rivers; (8) 101 natural areas; (9) 69 fish and wildlife areas; and (10) 2 hydroelectric power projects (EPA Order No. 81059.)

STATE DEPARTMENT

Contact: Mr. William Mansfield, III, Office of Environmental Affairs, Room 7820, Department of State, Washington, D.C. 20520, 202-632-2418.

Draft

Incineration of wastes at sea, ocean dumping, national, October 4: Proposed is the participation of the United States in negotiations to amend the convention on the prevention of Marine Pollution of dumping of wastes and other matter. To establish international regulations and guidelines for the incineration of wastes at sea to be enforced nationally. The purpose of the regulations and guidelines is to set standards to minimize adverse impacts on the oceans and the atmosphere from incineration at sea. Five alternatives are considered (EPA Order No. 81072).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW, Washington, D.C. 20590, 202-426-4357.

FEDERAL RAILROAD ADMINISTRATION

Draft

Niantic River Bridge and approaches, replacement, New London County, Conn., October 5: Proposed is the replacement of the existing movable-span railroad bridge across the Niantic River in the towns of East Lyme and Waterford, New London County, Conn. The plan includes the placement of a new bridge and approaches. The replacement alternative, which is preferred, is an overhead counterweight bascule bridge on a new alinement approximately 56 feet south of the existing structure, with a channel width of 100 feet and a vertical clearance of 13 feet aboye mean high water in the closed position. Total project length between tie-in points with the existing track alinement is 0.7 miles. (FRA-RNC-EIS-78-01-D). (EPA Order No. 81086.)

FEDERAL AVIATION ADMINISTRATION

Final

New runway 13-31, Fergus Falls Airport, Otter Tail County, Minn., October 5: Proposed is the acquisition of approximately 500 acres of land, including one farmstead and two dwellings, for the construction of a new 4,900 × 100 foot runway 13-31, to be extended to 5,700 feet the following year, at Fergus Falls, Minn. Plan implementation calls for the development of a new terminal area, with terminal building and access road, and the acquisition of easements under runway approaches of approximately 600 acres. Adverse effects include increased air and noise pollution; the relocation of six persons; loss of approximately 85 acres of land from agricultural purposes; and the possible loss of a 2-acre type III wetland through filling. Comments made by: DOI, USDA, EPA. (EPA Order No. 81082.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

acres for highway right-of-way; and increased noise and air pollution (FHWA-TN-EIS-77-05-F). Comments made by: HUD, dependence Avenue SW., Washington, D.C. 20310, 202-693-6795.

EIS No., Date Received, and Title

Missouri, Nebraska, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas

Dated: October 13, 1978.

DOUGLAS D. CAMPT,

Interested parties wishing to review the experimental use permits are re-

V 43/205 OCT 23 78

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-75, improvements, Cleveland and Central Avenue, Fulton and Clayton Counties, Ga., October 6: Proposed are two concurrent projects which involve the widening and improvement of I-75, beginning at I-285 and following I-75 northward to the interchange area at the Lakewood Freeway in Clayton and Fulton Counties, Ga. Also included will be interchange improvements at Central Avenue and Cleveland Avenue, with an interchange to be added to serve Hartsfield International Airport. The facility will be limited access. In addition to no-build, two alternatives are considered (FHWA-GA-EIS-78-01-D). (EPA Order No. 81092.)

I-151, Marion Bypass, Linn County, Iowa, October 6: Proposed is the construction of a four-lane divided highway in Linn County, Iowa, beginning at First Avenue (I-151), near 30th Street in Cedar Rapids and extending easterly to present I-151 east of Marion. The length of the project is approximately 7.5 miles and would provide a bypass for the present I-151 through Marion. The extension of IO-150 from the present juction of IO-150 and I-151 southerly to the proposed bypass is also a part of the project, and will be approximately 1.1 miles in length. (FHWA-IOWA-EIS-78-03-D). (EPA Order No. 81089.)

Final

I-65-3(52)(53) and M-7257(1), Lewisburgh to Warrior, Jefferson County, Ala., October 4: Project I-65-3(52)(53) is a 14.5-mile, four-, six-, or eight-lane, limited-access facility extending from Lewisburgh (5-Mile Creek), to Warrior. Project M-7257(1) is a 0.4-mile, nonlimited access, four-lane facility beginning at the Mt. Olive Road Interchange and extending easterly to U.S. 31 in Gardendale. The beneficial effects are the project will ease traffic movement in and through their corridors, safety benefits will accrue, economy and growth will be enhanced, and accessibility to public facilities and services will be enhanced (FHWA-ALA-EIS-78-01-F). Comments made by: EPA, DOD, USCG, HUD, DOT, USDA, DOC, State and local agencies. (EPA Order No. 81081.)

MN-101 Shakopee Bypass, Scott County, Minn., October 5: Proposed is the construction of relocated Minnesota Highway 101 (I.H. 101), in Scott County, Minn. The project begins at U.S. 169 in Jackson Township, southeast of the city of Shakopee, proceeds easterly through Shakopee for 8.5 miles and ends on I.H. 101 at the west edge of the city of Savage. The action will provide a four-lane divided freeway with full access control, constructed to rural design standards. Of the 525 acres of additional right-of-way, 290 acres are agricultural and 8 acres are wetlands, (Region 5) (FHWA-MN-EIS-77-01-F). Comments made by: EPA, USDA, DOI, DOT, DOD, FPC, State and local agencies (EPA Order No. 81085).

I-40 and I-75, Knoxville, Knox County, Tenn., October 4: Proposed are two plans for the widening and reconstruction of approximately 5.5 miles of I-40 and I-75 within the central city of Knoxville, Tenn. Plan implementation calls for six-lane roadways within the project limits with auxiliary lanes where required for traffic weaving and merging between certain interchange ramps. Adverse effects include the displacement of 37 households and 22 businesses; acquisition of approximately 21.5 acres for highway right-of-way; and increased noise and air pollution (FHWA-TN-EIS-77-05-F). Comments made by: HUD, TVA, EPA, State and local agencies, and businesses (EPA Order No. 81087).

I-264, Portsmouth and Norfolk, Chesapeake County, Va., October 4: Proposed is the construction of new facilities which will complete the interstate segment between the present terminus of Interstate Route 264 in Portsmouth and downtown Norfolk. The project would extend from Des Moines Avenue in Portsmouth to Brambleton Avenue in Norfolk, and would be between 2.3 and 3.0 miles in length. Adverse effects include the displacement and relocation of from 16 to 72 families, 2 to 6 businesses, and 0 to 3 nonprofit organizations. Construction of the project facilities would require dredging of the southern branch of the Elizabeth River and disposal of dredge material (Region 3) (FHWA-VA-EIS-76-08-F). Comments made by: USCG, EPA, DOI, DOT, State and local agencies (EPA Order No. 81076).

Final

Evanston Streets improvement, US-30, WY-150, WY-89, Uinta County, Wyo., October 3: Proposed are improvements to highways within the city of Evanston, Wyo. The improvements consist of replacing an existing railroad underpass, building new bridges over the Bear River, widening U.S. Highway 30 and Wyoming Highway 150 through Evanston, and relocating a portion of Wyoming Highway 89 in Evanston. Adverse impacts include removal of several houses, businesses and municipal buildings, the relocation of families, and increased noise, water, and air pollution during construction (Region 8) (FHWA-Wyo-Eis-77-01-F). Comments made by: EPA, HUD, DOI, State and local agencies, and individuals (EPA order No. 81064).

Draft supplement

University and Monroe Avenues, improvement, Brown County, wis., October 4: This statement supplements a draft EIS filed in February 1977, concerning the upgrading and improvement of Monroe Avenue from Cedar Street to the East River and University Avenue from the East End River to Humboldt Road, a total distance of 2.9 miles, in the city of Green Bay, Brown County, Wis. Included in the project is placement of a new six-lane bridge to replace the existing Monroe Avenue Bridge and a correction to a proposed I-43 interchange. Rehabilitation of the neighborhood to the north and south of University Avenue from Quincy Street to Forest Street is also included (FHWA-WICS-EIS-76-03-D (S-1)). (EPA Order No. 81080.)

INFORMATION REPORT

The EPA has received the following report which provides supplemental information on proposals which have fulfilled the NEPA process. Copies of the report are available from the originating agency upon request.

U.S. ARMY, CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, attention: DARB-CWR-P, Office of the Chief of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20310, 202-693-6795.

EIS No., Date Received, and Title

81117—October 13, 1978, Information Supplement III, Libby Dam and Lake Koocanusa, Kootenai River, Mont., Bald Eagle (Seattle District).

OFFICIAL RETRACTION

It has come to EPA's attention that the following EIS was not distributed to the public at the same time the official filing was made by the originating agency. Therefore, notice of availability is hereby republished. The review period will begin on October 6, 1978 for forty-five (45) days as specified by the date below.

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Malecon Avenue, PR-14, Ponce, Puerto Rico, October 6: This proposed action involves the extension of Malecon Avenue, PR-14, from its present terminus at the PR-2 bypass northerly to an interchange with existing Arenas Avenue, PR-14. The project, approximately 3.5 kilometers in length, is located in the municipality of Ponce on the south central coast of Puerto Rico. The proposed highway will be a six-lane divided highway, with restricted access at specific intersections and interchanges. Just north of PR-2 bypass, Malecon Avenue will bridge over the recently constructed Rio Portugus diversion channel. A bridge permit may be required, pending determination of jurisdiction by the U.S. Coast Guard (FHWA-PR-EIS-78-01-D) (EIS Order No. 80937).

[FR Doc. 78-29719 Filed 10-20-78; 8:45 am]

[6560-01-M]

[FRL 992-5; OPP-50387]

AGRICULTURAL DIVISION, AMERICAN CYANAMID CO., ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 241-EUP-91. Agricultural Division, American Cyanamid Co., Princeton, N.J. 08540. This experimental use permit allows the use of 5,166 pounds of the nematocide cyclic methylene (diethoxyphophinyl) dithioimidocarbonate on field corn and sweet corn to evaluate control of corn rootworms, corn borers, symphylans, and nematodes. A total of 4,920 acres is involved; the program is authorized only in the States of California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from September 12, 1978 to September 12, 1979. A temporary tolerance for residues of the active ingredient in or on corn grain (except popcorn), field corn fodder (except popcorn), sweet corn (kernels plus cob with husk removed), and sweet corn fodder has been established. (PM 21, Room E-305, telephone 202-426-2454).

No. 7969-EUP-9. BASF Wyandotte Corp., Parsippany, N.J. 07054. This experimental use permit allows the use of 307 pounds of the plant regulator N, N-dimethyl- piperidinium chloride on cotton to evaluate reduction of internodal length. A total of 5,120 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from September 5, 1978 to September 5, 1979. Temporary tolerances for residues of the active ingedient in or on cotton forage, cottonseed, milk, eggs, and in meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep have been established. A temporary feed additive regulation for residues of the active ingredient in cottonseed meal has been established. (PM 25, Room: E-301, telephone: 202-755-2196).

No. 524-EUP-42. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 15 pounds of the herbicide glyphosate on avocados to evaluate control of various annual and perennial weeds. A maximum total of 20 acres is involved; the program is authorized only in the States of California and Florida. The experimental use permit is effective from September 18, 1978 to September 18, 1980. A temporary tolerance for residues of the active ingredient in or on avocados has been established. (PM 25, Room E-301, telephone 202-755-2196).

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136(a) et seq.)).)

Dated: October 13, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-29725 Filed 10-20-78; 8:45 am]

[6560-01-M]

[FRL 992-4; OPP-50386]

AGRICULTURAL AND VETERINARY PRODUCTS DIVISION, ABBOTT LABORATORIES, ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 275-EUP-21. Agricultural and Veterinary Products Division, Abbott Laboratories, North Chicago, Ill. 60064. This experimental use permit allows the use of approximately 12 billion spores of the herbicide *Phytophthora citrophthora* on citrus fruits to evaluate control of the strangler vine. A total of 30 acres per year is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from August 21, 1978 to August 21, 1980. An exemption from temorary tolerances for residues of the active ingredient in or on citrus fruits has been established. (Room E-351, telephone 202-755-1397).

No. 241-EUP-88. Agricultural Division, American Cyanamid Co., Princeton, N.J. 08540. This experimental use permit allows the use of 400 pounds of the herbicide pendimethalin on grain sorghum to evaluate control of 15 specific weeds. A total of 556 acres is involved; the program is authorized only in the States of Arizona, Arkansas, California, Colorado, Georgia, Illinois, Kansas, Louisiana, Missouri, Nebraska, New Mexico, North Carolina, Oklahoma, South Dakota, and Texas. The experimental use permit is effective from August 24, 1978 to August 24, 1979. A temporary tolerance for residues of the active ingredient in or on sorghum grain, fodder and forage has been established. (Room E-315, telephone 202-755-4851).

No. 524-EUP-43. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 1,050 pounds of the herbicide glyphosate on sugarbeets and potatoes to evalate control of various annual and perennial weeds. A total of 700 acres is involved; the program is authorized only in the States of Alabama, California, Colorado, Delaware, Florida, Idaho, Indiana, Kansas, Maine, Michigan, Minnesota, Montana, Nebraska, North Carolina, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming; and in Georgia and Missouri for redistribution purposes only. Temporary tolerances for residues of the active ingredient in or on potatoes, sugarbeets (roots and tops) and in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep have been established. (Room E-315, telephone 202-755-4851).

Interested parties wishing to review the experimental use permits are referred to the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.).)

Dated: October 13, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-29726 Filed 10-20-78; 8:45 am]

[6560-01-M]

[FRL 992-7; OPP-50389]

FMC CORP. ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 279-EUP-70. FMC Corp., Philadelphia, Pa. 19103. This experimental use permit allows the use of 45.84 pounds of the insecticide permethrin on mixed conifer forest to evaluate control of western spruce budworm. A total of 750 acres is involved; the program is authorized only in the State of Idaho. The experimental use permit is effective from September 8, 1978 to September 8, 1979. (PM 17, Room E-229, telephone: 202-426-9425).

No. 10350-EUP-1. 3M Co., St. Paul, Minn. 55101. This experimental use permit allows the use of 955 pounds of the insecticide synergized pyrethrins in carrier in stores, warehouses, transportation vehicles, industrial buildings, houses, apartment buildings, schools, nursing homes, hospitals, restaurants, hotels, and food manufacturing, processing, and servicing establishments to evaluate control of various insects. The program is authorized only in the States of Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Washington, and Wisconsin. The experimental use permit is effective from September 25, 1978 to September 25, 1979. (PM 17, Room E-229, telephone: 202-426-9425).

No. 10350-EUP-2. 3M Co., St. Paul, Minn. 55101. This experimental use permit allows the use of 955 pounds of the insecticide synergized pyrethrins in carrier in Carolina, Tennessee, Vermont, Washington, West Virginia, Wisconsin, and Virginia; and in Delaware and Ohio for redistribution only. The experimental use Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq).)

Dated: October 13, 1978.

2,4-D is a widely used broadleaf weed herbicide and tolerances have been established on foods that make

6. All applications were to be made by State-certified commercial applicators or by growers:

Dated: October 13, 1978.

DOUGLAS D. CAMPT,

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No. 10350-EUP-2. 3M Co., St. Paul, Minn. 55101. This experimental use permit allows the use of 955 pounds of the insecticide synergized pyrethrins in carrier in certain farm buildings to evaluate control of various insects. The program is authorized only in the States of Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, and West Virginia. The experimental use permit is effective from September 25, 1978 to September 25, 1979. (PM 17, Room E-229, telephone: 202-426-9425).

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.)).)

Dated: October 13, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-29723 Filed 10-20-78; 8:45 am]

[6560-01-M]

[FRL 992-6; OPP-50388]

MONSANTO CO. AND SHELL CHEMICAL CO.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 524-EUP-31. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 636 pounds of the herbicide glyphosate on pome fruits to evaluate control of various annual and perennial weeds. A maximum total of 728 acres is involved; the program is authorized only in the States of Arkansas, California, Colorado, Connecticut, Georgia, Idaho, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Tennessee, Vermont, Washington, West Virginia, Wisconsin, and Virginia; and in Delaware and Ohio for redistribution only. The experimental use permit is effective from September 18, 1978 to September 18, 1980. A temporary tolerance for residues of the active ingredient and its metabolite in or on pome fruits has been established. (PM 25, Room E-301, telephone: 202-755-2196).

No. 524-EUP-36. Monsanto Co., St. Louis, Mo. 63166. This experimental use permit allows the use of 720 pounds of the herbicide glyphosate on alfalfa to evaluate control of various annual and perennial weeds. A maximum total of 840 acres is involved; the program is authorized only in the States of Alabama, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming; and in Delaware, Georgia, and Tennessee for redistribution only. The experimental use permit is effective from September 18, 1978 to September 18, 1980. Temporary tolerances for residues of the active ingredient and its metabolite in or on alfalfa (fresh) and hay, and liver and kidney of cattle, goats, hogs, horses, poultry, and sheep have been established. (PM 25, Room E-301, telephone: 202-755-2196).

No. 201-EUP-58. Shell Chemical Co., Washington, D.C. 20036. This experimental use permit allows the use of 400 pounds of the insecticide cyano(3-phenoxyphenyl) methyl 4 - chloro - alpha - (1 -methylethyl) benzeneacetate on peanuts, pears, potatoes, and soybeans to evaluate control of various insects. A total of 550 acres is involved; the program is authorized only in the States of Alabama, Arkansas, California, Idaho, Illinois, Iowa, Louisiana, Maine, Michigan, Missouri, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Texas, and Washington. The experimental use permit is effective from September 19, 1978 to September 19, 1979. Temporary tolerances for residues of the active ingredient in or on peanuts, pears, potatoes, and soybeans have been established. (PM 17, Room E-229, telephone: 202-426-9425).

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751 (7 U.S.C. 136(a) et seq.).)

Dated: October 13, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-29724 Filed 10-20-78; 8:45 am]

[6560-01-M]

[FRL 992-2; OPP-180236]

SOUTH DAKOTA STATE DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use 2,4-D To Control Broadleaf Weeds in Millet

The Environmental Protection Agency (EPA) granted a specific exemption to the South Dakota State Department of Agriculture (hereafter referred to as the "Applicant") to use (2,4-dichlorophenoxyacetic acid, alkylamine salt) on 35,000 acres of millet for the control of broadleaf weeds in South Dakota. This exemption was granted in accordance with, and was subject to, provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

Millets are minor crops grown for grain and forage. Although at least five different groups of millets are grown in the United States, proso is the primary variety grown in South Dakota. According to the Applicant, approximately 99 percent of the millet is harvested for grain and the major commercial use for the grain is in bird seed mixtures. Proso millet can also be foraged or cut and dried for hay. Broadleaf weeds are of primary concern to millet growers. There are currently no EPA registered pesticides for control of broadleaf weeds in millets.

The Applicant stated that more than normal acreage of millet was seeded this year in South Dakota because of an extremely late, wet spring. Yield loss on approximately 50 percent of this acreage was expected if an efficacious herbicide was not applied to control broadleaf weeds. The potential economic loss was valued at $1,000,000.

The Applicant proposed to make a single application of 0.25 to 0.50 pound dimethylamine salt of 2,4-D per acre on a maximum of 35,000 acres of millet by State-certified commercial applicators or by growers using air and ground equipment.

2,4-D is a widely used broadleaf weed herbicide and tolerances have been established on foods that make up approximately 80 percent of the total average human diet. EPA determined that millet grain and straw with residues of 2,4-D not in excess of 0.1 part per million (ppm) and 10 ppm, respectively, pose a negligible hazard to human health. EPA also considered the potential for residues from nitrosamine contamination of the chemical and has calculated that such residues would be less than 1 part per billion (ppb) which level also should not pose undue hazard to the environment. This determination was based on the following reasons: (1) Millet is not normally a human food item; (2) the residues are extremely small; and (3) the residues are very likely not stable. The proposed use of 2,4-D was not expected to result in dietary exposure to residues of the chemical which would be in excess of those levels currently considered adequate to protect the public health for the following reasons: (1) Millet is not normally a human food item; (2) established tolerances for meat, milk, and poultry will not be exceeded; and (3) 2,4-D tolerances are established for the major feed commodities at levels significantly higher than the 10 ppm level expected to occur in millet straw.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of broadleaf weeds in millet was likely to occur; (b) there was no pesticide registered and available for use to control these weeds in North Dakota; (c) there were no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems might have resulted if these weeds were not controlled; and (e) the time available for action to mitigate the problems posed was insufficient for a pesticide to be registered for this use. Accordingly, the Applicant was granted a specific exemption to use the pesticide noted above until September 1, 1978, to the extent and in the manner set forth in the application. The specific exemption was also subject to the following conditions:

1. An EPA-registered dimethylamine salt of 2,4-D which is appropriately labeled for the intended means of application (ground or air) was authorized;
2. 2,4-D was to be applied at a maximum rate of one-half pound active ingredient per acre. A maximum of one application might be made;
3. A maximum of 35,000 acres might be treated;
4. A maximum of 17,500 pounds active ingredient might be applied;
5. Applications might be made by air and ground equipment;
6. All applications were to be made by State-certified commercial applicators or by growers;
7. No application was to be made within 4 weeks of heading time;
8. All applications were to be made only in situations where the weed problem was serious and substantial crop losses were imminent;
9. The resulting residue levels of 0.1 ppm in or on millet grain and 10 ppm in or on straw from such use of this herbicide have been judged adequate to protect the public health. Permanent tolerances have been established for 2,4-D in meat and milk under provisions of the Federal Food, Drug and Cosmetic Act. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, was advised of this action;
10. All applicable directions, restrictions, and precautions on the product label were to be followed;
11. Precautions were to be taken to minimize or avoid spray drift to nontarget areas;
12. The EPA was to be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and
13. The applicant was responsible for assuring that all of the provisions of this specific exemption were met, and must submit a report summarizing the results of this program by July 1, 1979.

(Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; (7 U.S.C. 136 et seq.).)

Dated: October 16, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-29728 Filed 10-20-78; 8:45 am]

[650-01-M]

[FRL 992-3; OPP-50373A]

3M CO.

Amendment to Experimental Use Permit

In FR Doc. 78-22488, on page 36000 in the issue of Monday, August 14, 1978, information appeared pertaining to the issuance of an experimental use permit, No. 7182-EUP-20, to the 3M Co. At the request of the company, that permit has been amended. The experimental use permit now allows the use of 1,000 pounds of the plant regulator mefluidide on sugarcane to evaluate increase of sucrose levels on a total of 1,000 acres in Hawaii. The experimental use permit period was also extended and is now effective from May 8, 1978, to September 8, 1979. (PM 25, Room E-315, telephone 202-755-4851.)

[6570-06-M]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

RECORDS AND REPORTS; LOCAL UNION REPORT EEO-3; APPRENTICESHIP INFORMATION REPORTS EEO-2 AND EEO-2E

Waiver of Filing Reports for Calendar Year 1977

At a duly constituted meeting on October 17, 1978, the Equal Employment Opportunity Commission voted to waive the requirement for filing the Local Union Report EEO-3 and the Apprenticeship Information Reports EEO-2 and EEO-2E for the calendar year 1977. The recordkeeping requirements for calendar year 1977 remain unchanged and are not waived. The Commission reaffirms its filing requirements for these reports on an annual basis including calendar year 1978.

NOTE.—Since the reporting requirements have been waived and no forms have been mailed to entities required to report, no further reporting action is required on 1977 reports.

Signed at Washington, D.C., this 17th day of October 1978.

ELEANOR HOLMES NORTON,
Chair, Equal Employment
Opportunity Commission.

[FR Doc. 78-29828 Filed 10-20-78; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 257]

BENEFICIAL CORP. AND JWH, INC., AND JWH MERGER CORP.

Receipt of Application for Permission To Acquire Control of First Texas Financial Corp., Dallas, Tex.

OCTOBER 18, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corp. has received an application from Beneficial Corp. ("Beneficial"), JWH, Inc. ("JWH"), a wholly-owned subsidiary of Beneficial, and JWH Merger Corp. ("Merger Corp."), a wholly-owned subsidiary of JWH, for approval of the acquisition of control of First Texas Financial Corp., Dallas, Tex. ("First Texas"), a registered savings and loan holding company, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regula-

tions for savings and loan holding companies (12 CFR 584.4), said acquisition to be effected through (1) the merger of Merger Corp. with First Texas, with First Texas as the surviving corporation, and (2) the merger of First Texas with Beneficial, with Beneficial as the surviving corporation. Upon consummation of the proposed transaction, First Texas would become a subsidiary of Beneficial and JWH, and Merger Corp. would cease to exist.

Beneficial is a diversified financial services company which is engaged in consumer finance, insurance, and savings and loan activities. Beneficial is the parent holding company of Beneficial Finance Co., Beneficial Insurance Co., Beneficial Life Insurance Co., Beneficial Savings and Loan Association, and Beneficial Corp. of Canada, Ltd. Beneficial is also the parent holding company of Beneficial Management Corp., which is the investment advisor to Beneficial Income Fund, Inc., Beneficial Industrial Fund, Inc., Beneficial Growth Fund, Inc., and Beneficial Tax-Free Income Fund, Inc. Beneficial is also the parent holding company of Beneficial Corp. of Delaware, which is engaged in the business of leasing personal property. Beneficial is also the parent holding company of Beneficial Corp. of Texas, which is engaged in the business of leasing personal property. Beneficial is also the parent holding company of Beneficial Corp. of Canada, Ltd., which is engaged in the business of leasing personal property. Beneficial is also the parent holding company of Beneficial Corp. of Canada, Ltd., which is engaged in the business of leasing personal property.

First Texas is a diversified financial services company which is engaged in savings and loan activities. First Texas is the parent holding company of First Texas Savings and Loan Association, which is engaged in the business of savings and loan activities. First Texas is also the parent holding company of First Texas Financial Corp., which is engaged in the business of leasing personal property. First Texas is also the parent holding company of First Texas Financial Corp., which is engaged in the business of leasing personal property.

JWH is a wholly-owned subsidiary of Beneficial, and Merger Corp. is a wholly-owned subsidiary of JWH. Merger Corp. is engaged in the business of leasing personal property. Merger Corp. is also engaged in the business of leasing personal property.

Beneficial is a diversified financial services company which is engaged in consumer finance, insurance, and savings and loan activities. Beneficial is the parent holding company of Beneficial Finance Co., Beneficial Insurance Co., Beneficial Life Insurance Co., Beneficial Savings and Loan Association, and Beneficial Corp. of Canada, Ltd. Beneficial is also the parent holding company of Beneficial Management Corp., which is the investment advisor to Beneficial Income Fund, Inc., Beneficial Industrial Fund, Inc., Beneficial Growth Fund, Inc., and Beneficial Tax-Free Income Fund, Inc. Beneficial is also the parent holding company of Beneficial Corp. of Delaware, which is engaged in the business of leasing personal property. Beneficial is also the parent holding company of Beneficial Corp. of Texas, which is engaged in the business of leasing personal property. Beneficial is also the parent holding company of Beneficial Corp. of Canada, Ltd., which is engaged in the business of leasing personal property. Beneficial is also the parent holding company of Beneficial Corp. of Canada, Ltd., which is engaged in the business of leasing personal property.

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JWH is a wholly-owned subsidiary of Beneficial, and Merger Corp. is a wholly-owned subsidiary of JWH. Merger Corp. is engaged in the business of leasing personal property. Merger Corp. is also engaged in the business of leasing personal property.

[4110-02-M]

Office of Education

the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commission-

purpose of the closed meeting is to review applications for the position of Executive Director of the National Ad-

V 43 / 205 OCT 23 78

tions for savings and loan holding companies (12 CFR 584.4), said acquisition to be effected through (1) the merger of Merger Corp. into First Texas, accompanied by the conversion of Merger Corp.'s issued and outstanding shares into an equal number of shares of First Texas, less the number of shares owned by JWH and any dissenting shareholders, (2) the dissolution of Merger Corp., as of the effective date of the merger, (3) the cancellation of the First Texas common shares, other than those owned by JWH, in exchange for rights to receive $58.50 per share or dissenting shareholders' rights under the Texas Business Corporation Act, (4) the merger of the 10 subsidiary insured institutions of First Texas into one wholly-owned savings and loan association, and (5) the dissolution of JWH, whereby Beneficial would become the sole stockholder of First Texas. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of the District Banks, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before November 22, 1978.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc. 78-29805 Filed 10-20-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

MERCANTILE BANCORPORATION, INC.

Proposed Acquisition of Financial Loan & Investment Company

Mercantile Bancorporation, Inc., St. Louis, Mo., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through its subsidiary, Franklin Finance Co., Clayton, Mo. certain assets of: Financial Loan & Investment Co., Tulsa, Okla. Notice of the application was published on September 15, 1978 in Tulsa World, a newspaper circulated in Tulsa, Okla.

Applicant states that the proposed subsidiary would engage in the following activities: Operating a consumer finance loan company in the manner authorized by the laws of Oklahoma in an institution which will not both accept demand deposits and make commercial loans; and acting as insurance agent or broker in connection with selling to borrowers credit life insurance and credit accident and health insurance, and property damage insurance for collateral securing loans made to borrowers. Such activities have been specified by the Board in §225.4(a) of regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 8, 1978.

Board of Governors of the Federal Reserve System, October 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-29778 Filed 10-20-78; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Filing of Annual Report

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the annual report for the following Health Resources Administration Federal Advisory Committee has been filed with the Library of Congress:

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, on weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791. Copies may be obtained from Dr. Mary S. Hill, Bureau of Health Manpower, Room 3-50, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6681.

Dated: October 16, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-29798 Filed 10-20-78; 8:45 am]

[4110-35-M]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and time: November 13, 1978 (10 a.m. to 5 p.m.). November 14, 1978 (9 a.m. to 1 p.m.).

Place: Auditorium (first floor), Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On November 3, 1978, a tentative agenda will be available to the public.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Margaret VanAmringe, Staff Director, National Professional Standards Review Council, Health Standards Quality and Bureau, Room 5127-S, Switzer Building, 330 C Street, Washington, D.C. 20201, 202-472-5536.

Dated: October 16, 1978.

MARGARET VANAMRINGE,
Staff Director, National Professional Standards Review Council.

[FR Doc. 78-29824 Filed 10-20-78; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming Executive Director's Search Committee meeting of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, section 10(a) (2)). This document is intended to notify the general public of their opportunity of attend.

DATES: Executive Director Search Committee Meetings: November 10, 1978, 9 a.m. to 5 p.m., closed and November 11, 1978, 9 a.m. to 5 p.m., closed.

ADDRESS: Sheraton Denver Hotel, 3535 Quebec Street, Denver, Colo.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, Suite 326, 425 13th Street NW, Washington, D.C. 20004, 202-376-8882.

The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act, Title IV of Pub. L. 92-318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advised the Commissoner of Education with respect to the administration (including the development of regulations and of administrative practice and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under section 303(b) of the act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A, of Pub. L. 92-318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

Sec. 453 [Title IV, Pub. L. 92-318]. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The Executive Director Search Committee of the National Advisory Council on Indian Education will hold a meeting, closed to the public, beginning at 9 a.m. November 10, recessing at 5 p.m. and reconvening at 9 a.m. November 11, until the conclusion of business, approximately 5 p.m.

The sessions are closed to the public in accordance with provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 United States Code, Appendix I) and the exemption in 5 United States Code, section 552b(c) (2) and (6). The purpose of the closed meeting is to review applications for the position of Executive Director of the National Advisory Council on Indian Education. This discussion will include consideration of the qualifications and fitness of the candidates for the position and will touch upon many matters which would constitute a serious invasion of privacy if conducted in open session.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street NW., Suite 326, Washington, D.C. 20004. A summary of activities at the closed sessions and related matters which are informative to the public and consistent with the policy of 5 United States Code 552b will be available to the public within 14 days of the meeting.

For further information call Stuart A. Tonemah, Executive Director, National Advisory Council on Indian Education, 202-376-8882.

Dated: October 6, 1978, signed at Washington, D.C.

STUART A. TONEMAH,
Executive Director, National Advisory Council on Indian Education.

[FR Doc. 78-29739 Filed 10-20-78; 8:45 am]

[4110-89-M]

INFORMATION AND DATA ACQUISITION ACTIVITY

Comments on Collection

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The Assistant Secretary for Education, the National Center for Education, and the Office for Civil Rights have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

the purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

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These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before November 22, 1978, and should be addressed to Administrator, National Center for Education Statistics, Attn: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: October 18, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity: Application for Comprehensive Program of the Fund for the Improvement of Postsecondary Education.
2. Agency/Bureau/Office: DHEW/ASE/Fund for the Improvement of Postsecondary Education.
3. Agency Form Number: ASE 0001.
4. Legislative Authority for this Activity: "Sec. 404(a) Subject to the provisions of subsection (b), the Secretary is authorized to make grants and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for * * * (Pub. L. 92-318; 20 U.S.C. 1221D).
5. Voluntary/Obligatory Nature of Response: Voluntary.
6. How Information Collected Will be Used: To determine how grants will be awarded.
7. Data Acquisition Plan: a. Method of Collection: Mail; b. time of Collection: January; c. Frequency: Annual.
8. Respondents: a. Type: Postsecondary education institutions; b. Number: 2000; c. Estimated Average Man-hours Per Respondent: 11.
9. Information to be Collected: Institution name and address and type; contact person address and phone; Federal identification number; type and number of clients benefiting from program; Proposal title and abstract; Federal funds requested; Duration of project; Budget detail on salaries and wages, benefits, consultants, travel, materials and supplies, equipment, production, and other expenses.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity: Survy of Teacher Demand and Shortage (1978-79).
2. Agency/Bureau/Office: The National Center for Education Statistics.
3. Agency Form Number: NCES-2406.
4. Legislative Authority for This Activity: "The Education Amendments of 1976, Title IV, section 401(a) * * * (5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, * * *" (Pub. L. 94-482:20 U.S.C. 1221e-1).
5. Voluntary/Obligatory Nature of Response: Voluntary.
6. How Information Collected Will Be Used: The information to be obtained by NCES will be reported to the Congress to be used in considering new legislation or in modifying existing legislation, as well as in considering funding levels for related educational programs. Such information is required by the Congress to help determine whether programs should be redirected toward critical teacher shortage areas and whether incentives should be provided to encourage students to enter teaching shortage areas or discourage them from entering surplus fields.
7. Data Acquisition Plan: a. Method of Collection: Mail; b. Time of Collection: January-February 1979; c. Frequency: Biennially.
8. Respondents: a. Type: Local Education Agencies/State-operated schools; b. Number: 2000-2500; c. Estimated Average Man-hours Per Respondent: 30 minutes.
9. Information To Be Collected: Total full-time teachers, number of new hires this school year, number of new hires who are newly qualified and number who had been qualified prior to this school year, and number of openings for which teachers have been sought unsuccessfully, all by instructional field and level; principal emerging fields and declining fields; and, the total number of part-time teachers in the LEA, the number of those who were newly hired this school year, and the number of teachers laid off since 1977-78 school year as a result of budget reductions.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Title of Proposed Activity: Fall 1979 Vocational Education Civil Rights Survey.
2. Agency/Bureau/Office: Department of Health, Education, and Welfare/Office of the Secretary/Office for Civil Rights.
3. Agency Form Number: CR-203.
4. Legislative Authority for This Activity: This survey is mandated by Order of the United States District Court in *Kenneth Adams, et al v. Joseph A. Califano, Jr.*, Civil No. 3095-70 (D.D.C. filed December 29, 1977), and § 42.406 of the Justice Department's Title VI Coordinating Regulations (42 CFR 42).

The following are the relevant legislative authorities; *Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.):* * * * Each recipient shall keep records and submit to the responsible Department official or his/her designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his/her designee may determine to be necessary to enable him to ascertain whether the recepient has complied or is complying with this part * * * (45 CFR 80.6(b)) (Pub. L. 88-352); *Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.):* The procedural regulation applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated by reference. These procedures may be found at 45 CFR 80.6-80.11 and 45 CFR Part 81. (45 CFR 86.71) (Pub. L. 92-318); *Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794.):* The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated by reference. The procedures are found at 45 CFR 80.6-80.10 and 45 CFR Part 81. (Pub. L. 93-112).

5. Voluntary/Obligatory Nature of Response: Obligatory.
6. How Information to be Collected Will Be Used: The purpose of the survey will be to help determine which vocational education institutions will be reviewed under Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national orgin by recipients of federal financial assistance; Title IX of the Education Amendments of 1972 which prohibits discrimination on the basis of sex in federally assisted education programs; and section 504 of the Rehabilitation Act of 1973, which prohibits discrimination based on handicapping conditions by recipients of Federal finanical assistance. OCR is authorized to monitor recipient institutions and investigate allegations or indications of discrimination prohibited by these statues. The primary plan for analysis of compliance with the statutes is dependent on statistics shown: (a) In the enrollment of students in the institution as compared with the representation of minorities, females, and handicapped persons in the service area of the institution and (b) In the enrollment of students by sex, race/ethnicity, and handicap among the programs and services offered by the institution.
7. Data Acquisition Plan: a. Method of Collection: Mail; b. Time of Collection: Fall 1979; c. Frequency: One time only.
8. Respondent: a. Type: Comprehensive High Schools, Vocational High Schools, Vocational Centers, Area Vocational Schools, Technical Institutes, Junior or Community Colleges; b. Number: 9,200; c. Estimated Average Person hours Per Respondent: 7 hours.
9. Information To Be Collected: Each school will provide enrollment data by sex, race/ethnicity, handicap, and limited English-speaking ability for each vocational program offered. For schools offering adult programs, the total enrollment, only, is required by sex, race/ethnicity, limited English-speaking ability, and handicap. The instructional setting must be provided by each type of handicapping condition. Enrollments in Apprentice Training, Cooperative Training, and Work Study, are required by sex, race/ethnicity, and handicap. Composition of the staff, (Administrative, Instructional and non-Instructional) is requested by sex, race/ethnicity, and handicap.

[FR Doc 78-29786 Filed 10-20-78; 8:45 am]

[4110-85-M]

Office of the Assistant Secretary for Health

ADVISORY COMMITTEES

Reestablishments

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463 (5 U.S.C. Appendix I), the Office of the Assistant Secretary for Health announces the reestablishment by the Secretary, HEW, with concurrence by the General Services Administration, of the following advisory committees:

Designation: Health Care Technology Study Section.
Purpose: The Study Section shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, on research grant and contract applications in the information sciences (computer science, communications technology) and decision sciences (operations research, industrial engineering, health-care administration) bioengineering and related fields as applied to community health services, hospital medicine, and patient care. The members of this Study Section shall survey, as scientific leaders, the status of research in their field.

* * * * *

Designation: Health Services Research Study Section.
Purpose: The Study shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, on research grant or contract applications relating to the delivery and acceptance of health services.

* * * * *

Designation: Health Services Developmental Grants Study Section.
Purpose: The Study Section shall advise the Secretary and make recommendations to the Director, National Center for Health Services Research, concerning scientific and technical merit of health services developmental grant and contract applications reviewed.

Authority for these Committees will expire on December 6, 1978, unless the Secretary, HEW, with the concurrence of the General Services Administration, formally determines that continuance is in the public interest.

Dated: October 17, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-29762 Filed 10-20-78; 8:45 am]

[4110-86-M]

Public Health Service

CENTER FOR DISEASE CONTROL

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Center for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1461-68, January 9, 1974, as amended in pertinent part at 42 FR 30434 dated June 14, 1977, and most recently at 43 FR 26139 dated June 16, 1978) is amended to reflect the following:

(1) The consolidation of the General Services Office (HCA54) and the Management Analysis Office (HCA56) into one office to be named the Management Analysis and Services Office (HCA59); and (2) the transfer of the manpower management activities (including productivity measurement) from the Management Analysis Office (HCA56) to the Financial Management Office.

Sec. HC-B *Organization and Functions* is amended, as follows: Under the *Office of Administrative Management (HCA5)*, under *Financial Management Office (HCA53)*, after item (6) add the following new item (7) and change the numbering of items (7) through (12) to items (8) through (13), respectively: "(7) conducts Centerwide manpower management (including productivity measurement) activities;"

Delete in their entirety the statements for *General Services Office (HCA54)* and *Management Analysis Office (HCA56)* and substitute the following after *Procurement and Grants Office (HCA58):*

Management Analysis and Services Office (HCA59): (1) Plans, coordinates, and provides Centerwide administrative, technical, and management services in the following areas: Committee management, communications, correspondence, delegations of authorities, distribution, forms, Freedom of Information Act Index, issuances, mail, organization and functions, personnel and physical security, policy and procedures, printing and reproduction (including operation of the printing plant and copy centers), Privacy Act, public inquiries, real property and space management, records (including microfilm), regulations, reports (including congressional reports), studies and surveys, and word processing; (2) develops and implements policies and procedures in these areas; (3) maintains liaison with HEW, PHS, GSA, the Government Printing Office, and other Government and private agencies.

Dated: October 13, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-29825 Filed 10-20-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 31863]

MONTANA

Centennial Mountains Primitive Area Modification

Correction

In FR. Doc. 78-28124 appearing on page 46080 in the issue of Thursday October 5, 1978, the fourth line in column two should read as follows: "T. 15 S., R. 4 W.,".

[4310-84-M]

[Colorado 23972-C RW]

IGC PRODUCTION CO.

R/W Application for Pipeline

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), IGC Production Co., 555 South Cole Road, Boise, Idaho 83707, has applied for an amendment to right-of-way for a 2" underground natural gas pipeline approximately 728.95 feet long, (0.14 mile) across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 2 N., R. 101 W.
Sec. 30: Lot 4

The facilities will enable the applicant to meet customer demand for increased natural gas supply in the applicant's service area. The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof

has been served on IGC Production Co.

Any comment, claim, or objections

ice, Washington, D.C. 20240, 202-343-5611.

SUPPLEMENTARY INFORMATION:

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing

The agenda for the meeting will include discussions of the proposed wilderness recommendations for the national lakeshore and transportation fa-

8th Floor, Windsor, Ontario. Many libraries throughout the basin also have copies for reading.

[7510-01-M]

NATIONAL AERONAUTICS AND

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has been served on IGC Production Co.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-29753 Filed 10-20-78; 8:45 am]

[4310-84-M]

CLOSURE OF CENTENNIAL MOUNTAINS TO MOTORIZED VEHICLE USE

Correction

OCTOBER 13, 1978.

In FR Doc. 78-26989 appearing at page 43567 in the issue for Tuesday, September 26, 1978, in the first column, in the first paragraph, the following corrections should be made:

1. In the sixth line "43 CFR 6010.4 and 6290" should read "43 CFR 8364".

2. In the seventh line, immediately following "Order No. 11644" add "as amended by Executive Order 11989".

ROLAND F. LEE,
Chief, Branch of Lands and
Minerals Operations.

[FR Doc. 78-29785 Filed 10-20-78; 8:45 am]

[4310-55-M]

Fish and Wildlife Service

MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

Judging

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of judging.

SUMMARY: This notice announces the date and location of the Migratory Bird Hunting and Conservation Stamp Contest to select the design for the 1979-80 Migratory Bird Hunting and Conservation Stamp. This event is open to the public.

DATES: The entries will be on display at 12 noon, November 9, 1978, and will be judged at 1 p.m. that day.

ADDRESS: The contest will take place in the Main Auditorium, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Bob Hines, Chief, Office of Audio Visual, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-5611.

SUPPLEMENTARY INFORMATION: The Migratory Bird Hunting Stamp was authorized and required by the Migratory Bird Hunting Stamp Act of 1934, as amended (16 U.S.C. 718a). The name was changed to the Migratory Bird Hunting and Conservation Stamp by the Wetlands Loan Extension Act of 1976.

The annual contest regularly held by the Service to select the stamp design is the only art contest sponsored by the Federal Government. These colorful stamps constitute the longest running annually issued series of stamps in revenue or postage stamp history. Popularly known as the "Duck Stamp," they are sold through post offices and must be carried by every migratory waterfowl hunter 16 years of age or older. All of the stamp revenue beyond printing and handling costs is used for the acquisition of refuge land for migratory birds. Rules for the contest are published in 50 CFR Part 91.

The primary author of this document is also Bob Hines.

LYNN A. GREENWALT,
Director, U.S. Fish
and Wildlife Service.

OCTOBER 16, 1978.

[FR Doc. 78-29759 Filed 10-20-78; 8:45 am]

[4310-70-M]

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice (November 22, 1978) the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Harbor Carriers, Inc., authorizing it to continue to provide concession facilities and services for the public at Golden Gate National Recreation Area for a period of five (5) years from January 1, 1979, through December 31, 1984.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, Calif. 94123.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1978, and therefore, pursuant to the act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Harbor Carriers, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if thereafter, the offer of Harbor Carriers, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice (November 22, 1978).

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: October 16, 1978.

ROBERT STANTON,
Acting Associate Director,
National Park Service.

[FR Doc. 78-29736 Filed 10-20-78; 8:45 am]

[4310-70-M]

SLEEPING BEAR DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 1:30 p.m. (e.s.t.), November 10, 1978, at Innisfree Port Oneida Road, near Glen Arbor, Mich.

The Commission was established by Pub. L. 91-479 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Charles H. Yeates (Chairman)
Mr. Noble D. Travis
Mr. William B Bolton
Mr. John B. Daugherty
Mr. Samuel F. Eberly
Mr. John D. Stanz
Mr. Carl T. Johnson
Mrs. Charles R. Williams
Mr. Walter B. Hart
Mr. John A. Stahlin

The agenda for the meeting will include discussions of the proposed wilderness recommendations for the national lakeshore and transportation facilities for the Manitou Islands.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact the Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Mich. 49635, telephone 616-352-9611. Minutes of the meeting will be available for public inspection 4 weeks after the meeting in the office of the Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Mich. 49635, telephone 616-352-9611.

Dated: October 13, 1978.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc. 78-29737 Filed 10-20-78; 8:45 am]

[4710-14-M]

INTERNATIONAL JOINT COMMISSION

POLLUTION OF THE GREAT LAKES BY LAND USE ACTIVITIES

Public Hearings

The International Joint Commission will conduct public hearings at the times and places noted below to obtain the public's views on the report of the Pollution From Land Use Activities Reference Group. This group (PLUARG) was created in 1972 by the International Joint Commission and charged with three basic questions—Are the Great Lakes being polluted from land use sources? If so, what land use activities are contributing what types of pollutants? And, how can they be dealt with and what will the cost be?

PLUARG submitted its final report after 5 years of intensive study throughout the Great Lakes Basin and selected river sub-basins. The report urges that the Commission recommend a wide-ranging program of reduction of pollution from nonpoint sources, employing educational, grant and possibly regulatory programs affecting farmers and others. The Commission wishes to receive the public's views before preparing its own report to the Governments of Canada and the United States.

Copies of the report may be obtained without charge from the IJC Regional Office, 100 Ouellette Avenue, 8th Floor, Windsor, Ontario. Many libraries throughout the basin also have copies for reading.

The hearings are international in nature and citizens of the United States and Canada may attend and participate at any of the locations listed below. Time allotted to each witness may be limited. If a written statement will take longer than 10 minutes to present, a summary statement should be given and the full statement submitted for the record. When a written statement is presented, 30 copies should be provided, if possible, for distribution to the news media and for Commission purposes.

TIMES AND PLACES OF HEARINGS

Rendezvous Room, Statler Hilton Hotel, 107 Delaware Avenue, Buffalo, N.Y., November 1, 1978, 2:30 p.m. and 7:30 p.m.

DEB Auditorium (NASA), 2100 Brookpark Road, Cleveland, Ohio, November 2, 1978, 2:30 p.m. and 7:30 p.m.

Windsor Inn, 6565 North Mannheim Road, Corner of Mannheim and Higgins Roads (O'Hare Airport), Rosemont, Ill., November 13, 1978, 2:30 p.m. and 7:30 p.m.

Mead Public Library, 710 Plaza, Sheboygan, Wis., November 14, 1978, 3 p.m. and 7:30 p.m.

Great Hall, Radisson Hotel, 505 West Superior Street, Duluth, Minn., November 15, 1978, 2:30 p.m. and 7:30 p.m.

Blake Auditorium, City Hall, Thunder Bay, Ontario, November 16, 1978, 3 p.m. and 8 p.m.

Sutton Place Hotel, Salon C, Toronto, Ontario, November 28, 1978, 9:30 a.m. and 2:30 p.m.

Bellevue Room, Holiday Inn, Kingston, Ontario, November 29, 1978, 10 a.m. and 2:30 p.m.

Wheels Motor Inn, Chatham, Ontario, December 5, 1978, 3 p.m. and 8 p.m.

Civic Center, Parlor C and D, 505 West Allegan Street, Lansing, Mich., December 6, 1978, 2:30 p.m. and 7:30 p.m.

Holiday Inn, Algoma West Room, Sault Ste. Marie, Ontario, December 7, 1978, 3 p.m. and 8 p.m.

WILLIAM A. BULLARD,
Secretary, U.S. Section, International Joint Commission, 1717 H Street NW., Room 203, Washington, D.C. 20440.

DAVID G. CHANCE,
Secretary, Canadian Section, International Joint Commission, 100 Metcalf Street, 18th Floor, Ottawa, Ontario K1P 5M1.

OCTOBER 13, 1978.

[FR Doc. 78-29767 Filed 10-20-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (78-48)]

NASA ADVISORY COUNCIL (NAC) SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE

Meeting

The Informal Ad Hoc Advisory Subcommittee on OAST Space Technology Mission Model of the NAC Space Systems and Technology Advisory Committee will meet on November 9, 1978, in Room 647, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including subcommittee members and participants).

The subcommittee was established to review and critique the space technology mission model utilized by OAST to identify future technology needs and requirements. The Chairman is Mr. Ray F. Larson, and there are six additional members of the subcommittee.

For further information contact Mr. Stanley R. Sadin, Executive Secretary of the Informal Ad Hoc Advisory Subcommittee on OAST Space Technology Mission Model of the NAC Space Systems and Technology Advisory Committee, Code RX-4, NASA Headquarters, Washington, D.C. 20546, 202-755-3256.

AGENDA

NOVEMBER 9, 1978

9 a.m.—Introductory remarks.
10 a.m.—Presentation of the draft OAST Space Technology Model: (1) Missions Selection and Choice of Performance Descriptors, (2) Technology Trends and Forecasts with Mission Readiness Requirements.
1 p.m.—Committee discussion.
5 p.m.—Adjourn.

ARNOLD W. FRUTKIN,
Acting Associate Administrator
for External Relations.

OCTOBER 17, 1978.

[FR Doc. 78-29764 Filed 10-20-78; 8:45 am]

[7510-01-M]

[Notice (78-49)]

NASA ADVISORY COUNCIL (NAC) SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Advisory Subcommittee on Satellite Communications Applications of the NAC-STAAC will meet on November 8 and 9, 1978 from 8:30 a.m. to 4:30 p.m. at NASA Headquarters, Room 226A, Federal

Office Building, 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be

This amendment revises Technical Specification 4.6.4.3.b to specify that the flow rate for each of the contain-

The amendment corrects a typographical error in the Appendix B Technical Specifications.

This amendment adds license conditions relating to the completion of fa-

[7590-01-M]

[Docket No. 50-366]

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,

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Office Building, 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come, first-served basis and will be required to sign a visitors register. The seating capacity of the meeting room is for 35 persons.

This subcommittee, comprised of five members of the NAC-STAAC including the subcommittee Chairman, Dr. John V. Harrington, will review the current and planned program in communications and discuss the future direction of this program. In addition, five members of the NAC-Space Systems and Technology Advisory Committee (SSTAC) will also participate in the meeting.

NOVEMBER 8, 1978

TOPIC

8:30 a.m.—Introduction.
9 a.m.—Recent and Current NASA R. & D. Activities.
10 a.m.—Current and Pending Government Related Activities.
10:30 a.m.—Discussion of Five-Year Plan Progress and Initiatives.
1 p.m.—Issues and Concerns.
2 p.m.—General Discussion.
4:30 p.m.—Adjourn.

NOVEMBER 9, 1978

8:30 a.m.—Committee Response to NASA.
10:30 a.m.—Summary of Conclusions and Recommendations.
11:30 a.m.—Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C., 202-755-8601.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

OCTOBER 13, 1978.

[FR Doc. 78-29765 Filed 10-20-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO., ARKANSAS NUCLEAR ONE, UNIT 2

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF-6 to Arkansas Power & Light Co. for operation of Arkansas Nuclear One, Unit 2 (the facility) located at the licensee's site in Pope County, Ark. The amendment is effective as of the date of its issuance.

This amendment revises Technical Specification 4.6.4.3.b to specify that the flow rate for each of the containment recirculation fans will be at least equal to 4,500 cubic feet per minute.

The amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see (1) the licensee's application for amendment dated September 7, 1978, (2) Amendment No. 3 to License No. NPF-6, and (3) the Commission's related Safety Evaluation supporting Amendment No. 3 to License No. NPF-6. All of these items are available for public inspection at the Commission's Public Document room at 1717 H Street NW., Washington, D.C. 20555 and the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated at Bethesda, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-29740 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 4 to Facility Operating License No. NPF-6, issued to Arkansas Power & Light Co. which revised technical specifications for operation of the Arkansas Nuclear One, Unit 2 plant located in Pope County, Ark. The amendment is effective as of its date of issuance.

The amendment corrects a typographical error in the Appendix B Technical Specifications.

Issuance of the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see Amendment No. 4 to License No. NPF-6 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Ark. A copy of the amendment may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 17th day of October 1978.

For the Nuclear Regulatory Commission.

WM. H. REEGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-29743 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-213]

CONNECTICUT YANKEE ATOMIC POWER CO.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR-61 issued to Connecticut Yankee Atomic Power Co. which amended the license and its appended Technical Specifications for operation of the Haddam Neck Plant located in Middlesex County, Conn. The amendment is effective as of the date of its issuance.

This amendment adds license conditions relating to the completion of facility modifications for fire protection and the implementation of administrative controls, and modifies the Technical Specifications to require additional spray and/or sprinkler systems and fire hose stations to be operable in the turbine building.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative delcaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 5, 1978, (2) the licensee's submittals dated February 22, 1977, April 3, and 12, June 23, July 11, August 1 and 29, 1978, (3) Amendment No. 28 to License No. DPR-61, including the Commission's letter of transmittal, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Russell Library, 119 Broad Street, Middletown, Conn. 16457. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 3d day of October 1978

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-29742 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-366]

GEORGIA POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 Facility Operating License No. NPF-5 issued to Georgia Power Co., Oglethorpe Electric Membership Corp., Municipal Electric Association of Georgia and City of Dalton, Ga., which revised technical specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 2, located in Appling County, Ga. The amendment is effective as of its date of issuance.

This amendment modifies the Technical Specifications to provide for a one-time, temporary revision which would delete the Limiting Condition for Operation (LCO) on Primary Containment Internal Pressure to permit conduct of a test as part of the HNP-2 initial startup test program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 4, 1978, (2) Amendment No. 2 to License No. NPF-5, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78—29747 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT & POWER CO., CENTRAL IOWA POWER COOPERATIVE, AND CORN BELT POWER COOPERATIVE

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-49, issued to Iowa Electric Light & Power Co., Central Iowa Power Cooperative, and Corn Belt Power Cooperative (the licensee), which revises the technical specifications for operation of the Duane Arnold Energy Center (the facility), located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment revises the technical specifications to incorporate requirements for establishing and maintaining the drywell to suppression chamber differential pressure and suppression chamber water level, to maintain the margins of safety established in the NRC staff's, "Mark I Containment Short Term Program Safety Evaluation", NUREG-0408. Operation in accordance with the conditions specified in NUREG-0408 has been previously authorized in 43 FR 13108 dated March 29, 1978.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment, dated November 3, 1976 as supplemented April 14, 1977, (2)

Amendment No. 46 to License No. DPR-49, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 500 First Street SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29741 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. NPF-3 issued to Toledo Edison Co. and Cleveland Electric Illuminating Co. which revised technical specifications for operation of the Davis-Besse Nuclear Power Station, Unit 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to change the Reactor Coolant System pressure-temperature limits, the Low Temperature Overpressure Protection System setpoints, and the Reactor Coolant System heatup and cooldown rates.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 31, 1978, (2) Amendment No. 31 to License No. NPF-3, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Toledo, William Carlson Library, 2801 West Bancroft Street, Toledo, Ohio 43606. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29744 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. NPF-3 issued to Toledo Edison Co. and Cleveland Electric Illuminating Co. which revised technical specifications for operation of the Davis-Besse Nuclear Power Station, Unit 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to change the Reactor Coolant System pressure-temperature limits, the Low Temperature Overpressure Protection System setpoints, and the Reactor Coolant System heatup and cooldown rates.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 29, 1978, (2) Amendment No. 32 to License No. NPF-3, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the University of Toledo, William Carlson Library, 2801 West Bancroft Street, Toledo, Ohio 43606. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29745 Filed 10-20-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND

Department of the Air Force Forecast of Propellant Requirements, AF-858, on occasion, 100 aerospace contractors, 1,792 re-

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Amendment No. 46 to License No. DPR-49, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue SW., Cedar Rapids, Iowa 52401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 17th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29746 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-44 issued to Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co., which revised technical specifications for operation of the Peach Bottom Atomic Power Station, Unit No. 2. The amendment is effective as of its date of issuance.

The changes permit operation of Peach Bottom Unit No. 2 with a new type reload fuel (8x8R) for Cycle 4.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on September 7, 1978 (43 FR 39869). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, negative declaration or environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 28, 1978, as supplemented September 5, 26, and October 4, 1978, (2) Amendment No. 48 to License No. DPR-44, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29744 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 48 to Facility Operating License No. DPR-28, issued to Vermont Yankee Nuclear Power Corp. which revised technical specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vt. The amendment is effective as of its date of issuance.

The amendment revises the technical specifications to allow operation during October 15, 1978 through May 15, 1979, in modes other than closed-cycle, provided certain discharge temperature restrictions were met.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for this amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to this action other than that which has already been predicted and described in the Commission's final environmental statement for the facility dated July 1972.

For further details with respect to this action, see (1) the application for amendment dated August 16, 1978, (2) Amendment No. 48 to License No. DPR-28, and (3) the Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Brooks Memorial Library, 224 Main Street, Brattleboro, Vt.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 13th day of October, 1978.

For the Nuclear Regulatory Commission.

THOMAS A. IPPOLITO,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-29745 Filed 10-20-78; 8:45 am]

[7590-01-M]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised the Technical Specifications for operation of the Yankee Nuclear Power Station (Yankee-Rowe) (the facility) located at Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revises the provisions of the technical specifications for the facility to permit movement of temporary support brackets and a shielded work platform over the spent fuel pit for performing limited work related to the licensee's planned modifications of the spent fuel pit.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

The Commission's "Notice of Proposed Issuance of Amendment to Operating License" in connection with the licensee's request to expand the spent fuel storage capacity from 391 fuel assemblies to 721 assemblies was published in the FEDERAL REGISTER on September 21, 1978 (43 FR 42825). As indicated in this Notice, the Commission's staff has determined that the modifications approved by the amendment have a utility independent of the proposed increase in spent fuel storage capacity. Therefore, based on the above considerations, the Commission's staff has (1) approved the modifications described above, separately from consideration of the proposed increase in spent fuel storage capacity and (2) determined that prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 13, 1978 (Supplement No. 2 to Proposed Change No. 158) and supplements thereto dated September 15 and 25, 1978, (2) Amendment No. 51 to License No. DPR-3, (3) the Commission's related Safety Evaluation, and (4) Notice of Proposed Issuance of Amendment to Operating License, dated September 11, 1978 (43 FR 42825, September 21, 1978). All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C., and at the Greenfield Community College, 1 College Drive, Greenfield, Mass. 01301. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 6th day of October 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-29741 Filed 10-20-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 11, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

VETERANS ADMINISTRATION

Veterans Application for Counseling, 22-8832, on occasion, 75,000 veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Economic Development Administration, State Data Needs Assessment Survey, ED-445Q, single time, 100 State planning directors, economic development officials, Office of Federal Statistical Policy and Standard, 673-7956, C. Louis Kincannon.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Successful Sites Interview Schedules, 656-1, -2, single time, 350 school staffs in high poverty schools, Laverne V. Collins, 395-3214.

REVISIONS

VETERANS ADMINISTRATION

Comprehensive Evaluation of Health Services, 10-1465 A&B, on occasion, 31,000 VA patients, 15,000 responses, 3,750 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF DEFENSE

Departmental and Other DOD Property Record, DD 1342, on occasion, 4,500 NASA contractors, 72,000 responses, 69,700 hours, Caywood, D. P., 395-3443.

Department of the Air Force Forecast of Propellant Requirements, AF-858, on occasion, 100 aerospace contractors, 1,792 responses, 1,792 hours, Caywood, D. P., 395-3443.

Departmental and Other Claim for Exemption From Submissions of Certified Cost or Pricing Data, DD 633-7, on occasion, 3,077 Government contractors, 4,000 responses, 2,000 hours, Caywood, D. P., 395-3443.

Departmental and Other Contract Pricing Proposal, DD 633, on occasion, 17,763 Government Contractors, 30,000 responses, 30,000 hours, Caywood, D. P., 395-3443.

Departmental and Other DOD Industrial Plant Equipment Requisition, DD 1419, on occasion, 900 NASA contractors, 8,000 responses, 4,000 hours, Caywood, D. P., 395-3443.

Departmental and Other Contractor's Request for Progress Payment, DD 1195, on occasion, 14,040 Government contractors, 100,000 responses, 10,000 hours, Caywood, D. P., 395-3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Request for Payment of BEOG Award, OE 304, on occasion, 20,000 BEOG recipients and institutions they are enrolled in, 10,000 responses, 5,833 hours, Laverne V. Collins, 395-3214.

Food and Drug Administration Front-end analysis survey, single time, 1,500 X-ray equipment operators, 1,500 responses, 750 hours, Office of Federal Statistical Policy and Standard, 673-7956, Richard Eisinger.

EXTENSIONS

DEPARTMENT OF AGRICULTURE,

Agricultural Marketing Service Inventory Adjustment Notice, commodities for price support and school lunch programs, TW-570, on occasion, public commercial warehouses, 300 responses, 150 hours, Ellett, C. A. 395-6132.

Agricultural Marketing Service Warehouse Infestation Control Information, processed commodities, TW-564, on occasion, approximately 1,000 public commercial warehouses, 1,000 responses, 2,000 hours, Ellett, C. A. 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29734 Filed 10-20-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 12, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of

who will be the respondents to the proposed collection; the estimated

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Beyond." A National Longitudinal Study, NCES 2408, single time, high school students and staff, 9,360 responses, 5,124

BSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

sions desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission,

Fundex were $430,040, and those of Manhattan were $46,663,241. Applicants state that New Manhattan was

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who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

Heat pump dealer questionnaire, TVA-6230 (PU 10-78), single-time, heat pump dealers, 1,000 responses, 250 hours, Warren Topelius, 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
- Evaluation of accreditation, OE-663, single-time, accreditation agencies, commission members, 450 responses, 700 hours, Laverne V. Collins, 395-3214.
- Assessment of education programs in State schools for handicapped, OE-622-1, through 6, single-time, State agencies; State schools for the handicapped, 115 responses, 557 hours, Laverne V. Collins, 395-3214.
- Teacher centers: Financial status and performance report, OE-632, semiannually, local educational agencies, institutions of higher education, 120 responses, 960 hours, Laverne V. Collins, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing production and mortgage credit, background data on request for assignment of mortgage to HUD, HUD-92206, on occasion, mortgage banking industry savings and loan leagues, 14,400 responses, 7,200 hours, Caywood, D. P., 395-3443.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of health, development of methodologies for behavioral measurements related to malocclusion, single-time, 150 family units, 6,000 responses, 525 hours, Office of Federal Statistical Policy and Standard, Richard Eisinger, 673-7956.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing production and mortgage credit request for assignment of mortgage, HUD-92068F, on occasion, delinquent mortgagors, 6,000 responses, 1,500 hours, Caywood, D. P., 395-3443.

VETERANS ADMINISTRATION

Application for accreditation as service organization representative, VA 2-21, on occasion, applicants for accreditation as service organization representative, 500 responses, 125 hours, Caywood, D. P., 395-3443.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary):
- Title I refinancing report (property improvement), FH-5, on occasion, banks, savings and loans, etc., 30,000 responses, 6,000 hours, Caywood, D. P., 395-3443.
- Title I, transfer of note report (property improvement), FH-6, on occasion, banks, savings and loans, etc., 20,000 responses, 4,000 hours, Caywood, D. P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29735 Filed 10-20-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 16, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service:
- Rural Fire Service Questionnaire, single time, local government and firm department in community less 10,000 population, 1,350 responses, 675 hours, Ellett, C.A., 395-6132.
- DDT Ban Impact Study: Gypsy Moth Phase Survey, single time, Federal and State Governments, 75 responses, 56 hours, Ellett, C.A., 395-6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Field Test 1979 for "High School and Beyond," A National Longitudinal Study, NCES 2408, single time, high school students and staff, 9,360 responses, 5,124 hours, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 673-7956.

National Institute of Education, Study of the Career Intern Program, NIE 191, single time, interns, controls, instructions, counselors, parents, 2,084 responses, 792 hours, Lavern V. Collins, 395-3214.

Office of Human Development, Revision of Form NCSS-120 Part IV Supplement, Monthly, Title XX of the Social Security Act, 612 responses, 306 hours, Reese B.F., 395-3211.

REVISIONS

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Fatal Accident Reporting System (FARS), HS-214, 214A, 214B, 214C, and 214D, on occasion, States, 50,000 responses, 125,000 hours, Strasser, A., 395-6132.

EXTENSIONS

NATIONAL ENDOWMENT FOR THE ARTS

Individual Grant Applications, NEA-2, on occasion, individuals, 6,000 responses, 6,000 hours, Warren Topelius, 395-6132.

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, Farm Real Estate Tax Trends in Current Year, letter of inquiry, anually, selected tax experts in each State, 150 responses, 38 hours, Ellett, C.A. 395-6132.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of Census, paint, varnish, and lacquer, M-28B.2, monthly, phosphatic fertilizer manufacturers, 3,600 responses, 1,200 hours, C. Louis Kincannon, 395-3211.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29795 Filed 10-20-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15229; File No. SR-BSE-76-13]

BOSTON STOCK EXCHANGE, INC.

Self-Regulatory Organizations: Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on April 13, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

BSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Boston Stock Exchange, Inc. ("BSE") rule as amended would: (1) Require member-organizations to maintain certain net capital and subordinated cash borrowing and secured demand note requirements; (2) require dealer-specialists to maintain certain net capital and liquidating equity requirements; (3) require alternate-specialists to maintain certain liquidating equity requirements; (4) define "net liquid assets" for purposes of the proposed rule; (5) prescribe procedures to be followed in the event a member organization ceases to be in compliance with Rule 15c3-1; (6) require certain monthly financial statements to be filed by member organizations under specified circumstances of noncompliance; (7) provide for extraordinary field examinations of certain member organizations as shall be necessary; (8) place the responsibility of computation of net capital requirements on member organizations; and (9) provide that, under certain circumstances relating to the financial condition of member organizations, BSE restrict the operations of member organizations.

BSE'S STATEMENT OF PURPOSE

The purpose of the proposed rule change is to conform the rules of the Exchange with Rule 15c3-1, the Uniform Net Capital Rule under the Act.

BSE'S STATEMENT OF STATUTORY BASIS

The Exchange looks to Section 19 of the Act as providing the statutory basis for this proposal.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

BSE states that no comments were solicited or received.

BURDEN ON COMPETITION

BSE has determined that no burden on competition will be created by adoption of the proposed rule change.

On or before November 27, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 13, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 12, 1978.

[FR Doc. 78-29784 Filed 10-20-78; 8:45am]

[8010-01-M]

[Release No. 10430; 812-4359]

FUNDEX, INC. ET AL.

Filing of Application for an Order Exempting a Proposed Transaction and Exception

OCTOBER 11, 1978.

Notice is hereby given that Fundex, Inc. ("Fundex"), Liberty Fund, Inc. ("Liberty"), Manhattan Fund, Inc. ("Manhattan"), New Manhattan Fund, Inc. ("New Manhattan"), Schuster Fund, Inc. ("Schuster"), and CNA Management Corp. ("CNA") (collectively referred to as "Applicants"), 127 John Street, New York, N.Y. 10028, filed an application on August 30, 1978, and amendments thereto on September 28, 1978, and October 5, 1978, pursuant to section 17(b) of the Investment Company Act of 1940 (the "Act") for an order exempting the proposed merger of Fundex and Manhattan into New Manhattan from the provisions of section 17(a) of the Act and pursuant to section 6(c) of the Act for an order of exemption from sections 11(a), 14(a)(1), and 22(d) of the Act and Rules 22c-1 and 22d-1 thereunder in connection with the proposed merger. Applicants, except for Schuster and CNA, are open-end, diversified management investment companies registered under the Act. Schuster is an open-end, nondiversified management investment company registered under the Act, and CNA is the investment adviser of each of the other Applicants. All interested persons are referred to the application on file with the Commission for a statement of the matters contained therein, which are summarized below.

Applicants represent that on June 30, 1978, the total net assets of Fundex were $430,040, and those of Manhattan were $46,663,241. Applicants state that New Manhattan was incorporated on August 28, 1978, and that on August 29, 1978, the total net assets of New Manhattan were $1,000. They state that the sole investment objective of each of Fundex, Manhattan, and New Manhattan is to seek capital appreciation and that any income received from portfolio securities is entirely incidental to this objective. The application states that the investment objective of Liberty is to obtain liberal current income consistent with reasonable safety of capital and that the investment objective of Schuster is to seek appreciation of capital.

According to the application, Fundex, Manhattan, and New Manhattan, in accordance with the approval of their Boards of Directors, will enter into a Plan of Reorganization and Agreement of Merger (the "Plan") under which Manhattan and Fundex will merge into New Manhattan. Except as described below, the outstanding shares of capital stock of Manhattan held of record by each shareholder of Manhattan on the day prior to the effective date of the merger ("Effective Date") shall become the same number of full and fractional shares of common stock of New Manhattan. The outstanding shares of capital stock of Fundex held of record by each shareholder of Fundex on the day prior to the effective date shall become the full and fractional shares of common stock of New Manhattan which has an equivalent net asset value. The application states that each shareholder of Manhattan or Fundex who held less than 60 shares of Manhattan (or less than the equivalent value of shares of Fundex) on the record date for the meetings of shareholders for approval of the Plan, would have his shares converted into cash based upon their net asset value as of the Effective Date. However, no shareholder of Manhattan who makes additional investments, which would bring his holdings up to 60 shares before the effective date, will be subject to automatic conversion. The application also states that any shareholder of Manhattan or Fundex who resides in the State or other jurisdiction where shares of New Manhattan will be permitted to be sold on or prior to March 30, 1979, who undertakes in writing to make investments in New Manhattan which would bring the value of his investment in New Manhattan as of March 30, 1979, up to the value of 60 shares of Manhattan as of the record date, and who complies with such undertaking, will not have his holdings converted into cash as of the effective date. If the shareholder does not

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comply with his undertaking, his holdings will be automatically converted into cash as of March 30, 1979.

The Applicants state that a shareholder of Manhattan or Fundex who held less than 60 shares of Manhattan (or less than the equivalent value of shares of Fundex) on the record date and who resides in a State or other jurisdiction where share of New Manhattan will not be permitted to be sold on or prior to March 30, 1979, will have his holdings converted into cash as of the Effective Date but will be entitled, on or before March 30, 1979, to exchange his shares of Manhattan or Fundex on a no-load basis for shares of Schuster or Liberty, provided that the aggregate value of shares exchanged and an additional investment equals the value of 60 shares of Manhattan as of the record date. This exchange privilege will be permitted notwithstanding the fact that those funds normally require an initial investment of $500 and shareholders of Fundex paid a lower initial sales load than those of Liberty or Schuster. Such additional investments will be permitted on a no-load basis even though Liberty and Schuster normally impose a sales charge.

Applicants represent that Fundex and Manhattan have capital loss carryforwards for Federal income tax purposes at December 31, 1977, of approximately $603,000 and $162,111,000, respectively. At June 30, 1978, Manhattan had net unrealized depreciation of approximately $3,489,823.00, while at the same date Fundex had net unrealized appreciation of approximately $32,496. Applicants assert that since there is no assurance that capital gains will be realized against which the capital loss carryforwards may be offset or that unrealized depreciation or appreciation may be realized, no adjustments will be made in the aggregate net asset values of Fundex, Manhattan, or New Manhattan to compensate shareholders for any potential Federal income tax impact which may result from the differences between the Applicants.

Applicants state that it is proposed to call special meetings of shareholders of Fundex, Manhattan, and New Manhattan on November 29, 1978, to consider the Plan. The adoption of the Plan requires the affirmative vote of a majority of the outstanding shares of each of Fundex and New Manhattan and a two-thirds majority of the outstanding shares of Manhattan. Applicants represent that because of the uncertainty of obtaining the two-thirds shareholder approval required of Manhattan, it may be necessary to adjourn the meeting of shareholders until December 28, 1978. In that event, the Effective Date of the merger would be December 29, 1978, but if sufficient votes to approve the merger are present at the shareholders meetings scheduled for November 29, 1978, the management of Applicants will have to decide whether to make the Effective Date November 30, 1978 or December 29, 1978. The application states that shareholders of Fundex or Manhattan will be permitted to redeem their shares through the close of business on the last business day prior to the Effective Date, after which such requests will be deemed to be redemption requests for shares of New Manhattan.

The proposed merger is also contingent upon the receipt of a ruling from the Internal Revenue Service, or in lieu thereof, an opinion of counsel, to the effect that the Plan will constitute a tax-free reorganization. Each of Fundex and Manhattan will, prior to the Effective Date, distribute to its respective shareholders any material amount of undistributed net taxable investment income or net taxable short-term gains and shall make such other distributions as may be required for such companies to qualify as regulated investment companies under the Internal Revenue Code of 1954 if the Board of Directors of the corporation involved determines that it is in the best interest of the corporation to do so.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person or a registered investment company, or any affiliated person of such person, knowingly to sell to such registered investment company any security or property. Section 2(a)(3) of the Act provides, in part, that an affiliated person of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person. Applicants state that Fundex, Manhattan, New Manhattan, and CNA may be deemed to be affiliated persons of one another because the Boards of Directors and officers of Fundex, Manhattan, and New Manhattan are identical and CNA provides investment advice to each other applicant and owns all of the outstanding capital stock of New Manhattan. Section 17(b) of the Act provides, in pertinent part, that the Commission upon application, shall exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants submit that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants state that the aggregate expenses of consummating the reorganization are estimated to be $100,000. Under the agreement, such expenses are the obligation of new Manhattan in the even that the merger is effected and of Manhattan and Fundex in proportion to their respective net asset values as of the record date in the event that the merger is not effected. No brokerage commission or other fees (other than nominal transfer taxes) will result from the transfer of assets from Manhattan and Fundex to New Manhattan pursuant to the merger. Applicants submit that the proposed transaction is consistent with the investment policies of Fundex, Manhattan, and New Manhattan and with the general purposes and policies of the Act.

Applicants assert that the reasons for the reorganization are largely economic. In the case of Manhattan, the application states that the reorganization will result in a lower expense ratio and will thereby help Manhattan become a more viable economic entity. It is asserted that Manhattan's expense ratio problem stems from the cost of servicing an inordinately large number of small shareholder accounts for a mutual fund of its size. At July 24, 1978, Manhattan had 91,768 shareholder accounts, of which approximately 3 percent hold shares having a value less than the annual cost of servicing the account. In effect, it is contended, the large shareholder accounts bear the burden of servicing the small accounts. The application states that it is estimated that, as a result of the reorganization, approximately 30 percent of the Manhattan accounts (aproximately 28,000 accounts) would be eliminated, which would substantially reduce the operating expenses of New Manhattan but, as of July 24, 1978, would only have reduced Manhattan assets by $1,846,306, or 4 percent. For the year ended December 31, 1977, Manhattan incurred $591,023 in transfer agent, proxy solicitations, shareholder reports and dividend disbursement expenses. If the reorganization had occurred on January 1, 1977 and, as a consequence, Manhattan had 28,000 fewer shareholder accounts in fiscal 1977, Manhattan would have save a substantial portion of the $165,000 which it spent to maintain such accounts. Applicants estimate that the ratio of operating expenses to average net assets of New Manhattan for its first full year of operation would be approximately 1.5 percent, assuming net assets average approximately $47,000,000. This ratio compares with a 1.9 percent ratio for Manhattan for the year ended December 31, 1977. Applicants submit that the reorganization promotes the valid business purpose of Manhattan in becoming a more economically viable entity.

The application states that, in the case of Fundex, the primary reason for the reorganization is to merge that small, uneconomic fund into a viable entity. For the year ended December 31, 1977, Fundex's ratio of operating expenses to average net assets was 4.89 percent even though Fundex paid no management fee that year. In the opinion of the management of Fundex, its combination with Manhattan in New Manhattan will resut in certain economies. The application states that such items as fees of attorneys, auditors, and custodians, expenses of preparation of shareholder reports, franchise taxes and possibly brokerage commissions, which are now paid by Fundex and Manhattan, will constitute a lower percentage of income of New Manhattan after the reorganization, than of Fundex separately. In addition, at July 24, 1978, Fundex had 584 shareholder accounts, of which 156 or 27 percent would be eliminated in the reorganization. This will contribute somewhat to the reduced operating expenses of New Manhattan but, as of July 24, 1978, would only reduce Fundex's assets by $10,448.90 or 2.25 percent. The application states that CNA has informed management of the funds that, if the reorganization is effected, certain of its clerical and administrative expenses in rendering services to the funds may be reduced.

Section 14(a)(1) of the Act provides that no registered investment company shall make a public offering of securities of which such company is the issuer unless such company has a net worth of at least $100,000. Applicants state that the shares of common stock of New Manhattan to be offered and sold to existing shareholders of Fundex and Manhattan will be publicly offered to such shareholders through prospectuses included as part of the registration statement of New Manhattan. Applicants state that as of the time of the initial public offering of shares of New Manhattan to existing shareholders of Fundex and Manhattan, New Manhattan will have a net worth of only $1,000 and not $100,000 as required by section 14(a)(1) of the Act.

Applicants submit that section 14(a)(1) of the Act was designed to assure that registered investment companies do not engage in public offerings without sufficient net worth to meet their expenses and otherwise operate as viable economic entities. Applicants state that the exemption is sought only with regard to the public offering of shares of New Manhattan in the reorganization, and that once the reorganization is consummated, New Manhattan will have a net worth well in excess of $100,000. Applicants represent that it would be only when the reorganization is effected with regard to either Manhattan or Fundex, that New Manhattan would make a public offering to the general public. Applicants submit that the requested exemption from section 14(a)(1) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Rule 22c-1 promulgated under section 22(c) of the Act provides, in pertinent part, that no registered investment company issuing any redeemable security, no person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and no principal underwriter of, or dealer in, any such security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicants state that the requirements of Rule 22c-1 may not be met by the proposed transaction if such rule is deemed to apply to shares issued in the reorganization because the net asset values per share of Fundex, Manhattan, and New Manhattan for purposes of the exchange are to be determined as of the close of trading on the New York Stock Exchange on the last day such Exchange is open for unrestricted trading prior to the Effective Date. Applicants also represent that under Maryland General Corporation law shareholders of Manhattan who perfect appraisal rights are entitled to receive the "fair value" of their shares at the close of business on the date of the vote approving the agreement of merger.

If the Effective Date is on Friday, December 29, because of the need for an adjourned meeting to solicit further proxies, the respective net asset values of Fundex and Manhattan would be determined as of the close of business on Thursday, December 28 and shareholders of Manhattan who assert and perfect appraisal rights and those who do not would all receive the same price for their shares. In the event that sufficient votes to approve the Plan are present at the meetings of Fundex and Manhattan scheduled for November 29 the management of the funds would have to decide whether to make the effective date November 30, 1978, and thereby avoid the Rule 22c-1 problems or face those problems and have the Effective Date December 29, 1978. If management chooses the later alternative, it would probably adopt the SEC's position that Rule 22c-1 would preempt the Maryland appraisal procedures, notwithstanding the fact that this position might not be binding upon Maryland courts. See Investment Company Act Release No. 8752 (April 10, 1975).

Applicants submit that among the purposes for adoption of Rule 22c-1 was the prevention of speculative trading which the then existing "backward pricing" practices were believed to permit. They assert that computation of net asset value on the day prior to the Effective Date will prevent speculative trading by objecting shareholders of Manhattan who would have the option to elect to pursue the appraisal remedy based on the voting date or accept the exchange price based on the Effective Date. Applicants assert then that the requested exemption is designed to implement the basic purposes of the Rule and that the exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 11(a) provides, in part, that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make cause to be made an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any other basis other than relative net asset values of the securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 22(d) of the Act and Rule 22d-1 thereunder provide, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

The application states that since shareholders of Fundex, who will be permitted to exchange their shares for shares of Schuster or Liberty without sales charge or other fee and without complying with the usual minimum investment of $500, paid a lower initial sales charge than the shareholders of Schuster or Liberty, such exchanges by Fundex shareholders might be deemed to be on a basis other than net asset value of the respective securities to be exchanged, and hence not in compliance with section 11(a) of the Act.

Applicants submit that section 11(a) of the Act was designed to assure that the net asset value of one investment company is not diluted through an ex-

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change and that the shareholders of each company are treated fairly. Applicants assert that it is not unfair to

quest, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the

Bowen and Branch steam plants located, respectively, in Bartow and Putnam Counties, as hereinafter de-

Each Trust Indenture will provide that the Revenue Bonds issued thereunder will be redeemable (i) at any

demand the mandatory redemption of the Collateral Bonds then held by it as collateral at a redemption price equal

It is stated that the fees, commissions, and expenses to be paid or in-

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change and that the shareholders of each company are treated fairly. Applicants assert that it is not unfair to the shareholders of Schuster and Liberty to increase the assets of these companies through a one-time exchange by a specific and limited number of Fundex shareholders who purchased their shares a decade ago. The application asserts that there will be no dilution of net asset value for Liberty and Schuster, because the Fundex shareholders will be providing full net asset value for their shares, and that the requested exemption from section 11(a) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The application states that the shares of Schuster and Liberty are sold by CNA as principal underwriter at a public offering price which includes a sales load. Applicants state that certain shareholders of Fundex and Manhattan will be able to exchange their shares and make additional investments in Schuster or Liberty at no load and without compliance with the usual exchange privilege minimum of $500.

Applicants state that section 22(d) of the Act and Rule 22d-1 thereunder were designed to assure that purchasers of shares of a registered investment company are treated similarly. Applicants assert that the shareholders of Fundex and Manhattan, who would be covered by the exemption, are a specific and limited class and that the exemption would be in effect for only a limited period of time. Applicants submit, therefore, that the requested exemption from the provisions of section 22(d) and rule 22d-1 thereunder is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class of persons, securities, or transactions from any provision or provisions of the Act and the rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 3, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulation, promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29781 Filed 10-20-78; 8:45 am]

[8010-01-M]

[Release No. 20731; 70-6211]

GEORGIA POWER CO.

Proposed Transactions Related to Financing of Pollution Control Facilities and Exception From Competitive Bidding

OCTOBER 12, 1978.

Notice is hereby given that Georgia Power Co. ("Georgia"), 270 Peachtree Street NW., Atlanta, Ga. 30302, an electric utility subsidiary company of the Southern Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the act and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Georgia states that in order to comply with prescribed environmental standards of the State of Georgia with respect to air and water quality, it has been and will be necessary for the company to construct certain pollution control facilities solely for this purpose. The present application relates to Georgia's proposal for its financing of the pollution control facilities for use in connection with its Bowen and Branch steam plants located, respectively, in Bartow and Putnam Counties, as hereinafter described. Each transaction will be substantially similar. It is intended that a Development Authority of each such county ("Authority") will issue its pollution control revenue bonds ("Revenue Bonds") for the purpose of making loans to Georgia to pay the costs of the acquisition, construction, installation, and equipping of the pollution control facilities at the plant located in its county referred to above ("Project"). The Authorities are authorized by the Development Authorities Law of the State of Georgia ("Statute") to issue their respective Revenue Bonds for such purpose. While the actual amount of Revenue Bonds to be issued by each Authority has not yet been determined, such amount will be based upon the cost of the Project located in its county. It is presently estimated that the aggregate principal amount of Revenue Bonds to be issued by both Authorities will not exceed $80,000,000.

Georgia proposes to enter into a separate Loan Agreement with each Authority ("Agreement"). Under each Agreement, the Authority will loan to Georgia the proceeds of the sale of the Authority's Revenue Bonds, and Georgia will issue a nonnegotiable promissory note therefor ("Note"). Such proceeds will be deposited with a Trustee ("Trustee") under an indenture to be entered into between the Authority and such Trustee ("Trust Indenture"), pursuant to which such Revenue Bonds are to be issued and secured, and will be applied by Georgia to payment of the Cost of Construction (as defined in the Agreement) of the related Project. Each Note will provide for payments thereon to be made at times and in amounts which shall correspond to the payments with respect to the principal of, premium, if any, and interest on the Revenue Bonds whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration, or otherwise.

Each agreement will provide for the assignment to the Trustee of the Authority's interest in, and of the moneys receivable by the Authority under, the Agreement and the Note. Each Agreement will also obligate Georgia to pay the fees and charges of the Trustee and will provide that Georgia may at any time, so long as it is not in default thereunder, prepay the amount due under the Note, including interest thereon, in whole or in part, such payment to be sufficient to redeem or purchase the outstanding Revenue Bonds in the manner and to the extent provided in the Trust Indenture.

Each Trust Indenture will provide that the Revenue Bonds issued thereunder will be redeemable (i) at any time on or after 10 years from the date of issuance, in whole or in part, at the option of Georgia, initially with a premium of 3 percent of the principal amount and declining by one-half of 1 percent annually thereafter, and (ii) in whole, at the option of Georgia, in certain other cases of undue burdens or excessive liabilities imposed with respect to the related Project, its desgtruction or damage beyond practicable or desirable repairability, or condemnation or taking by eminent domain, or if operation of the related plant is enjoined and Georgia determines to discontinue operation thereof, such redemption of all such outstanding Revenue Bonds to be at the principal amount plus accrued interest, but without premium. It is intended that the Revenue Bonds will mature 30 years from the first day of the month in which they are initially issued and that such Revenue Bonds will be entitled to the benefit of mandatory redemption sinking funds calculated to retire not less than 25 percent of the aggregate principal amount of the issue prior to maturity.

In order to obtain the benefit of ratings for the Revenue Bonds equivalent to the rating enjoyed by the first mortgage bonds outstanding under its Indenture dated as of March 1, 1941, between Georgia and Chemical Bank, as Trustee ("Indenture Trustee"), as supplemented and amended ("Mortgage"), which ratings Georgia has been advised may be thus attained, Georgia proposes to secure its obligations under each Note by delivering to the Trustee, to be held as collateral, a series of its first mortgage bonds ("Collateral Bonds") in principal amount equal to the principal amount of the Revenue Bonds. Each series of Collateral Bonds will be issued under an indenture supplemental to the Mortgage ("Supplemental Indenture") to be dated as of the first day of the month in which the Collateral Bonds are to be issued and delivered, will bear interest at a rate equal to the interest rate to be borne by the related Revenue Bonds, will mature on the maturity date of such Bonds, and will be nontransferable by the Trustee.

The Supplemental Indenture will provide, however, that the obligation of Georgia to make payment with respect to the Collateral Bonds will be satisfied to the extent that payments are made under the Note sufficient to meet payments when due in respect of the related Revenue Bonds. The Supplemental Indenture will provide that, upon acceleration by the Trustee of the principal amount of all related outstanding Revenue Bonds under the Trust Indenture, the Trustee may demand the mandatory redemption of the Collateral Bonds then held by it as collateral at a redemption price equal to the principal amount thereof plus accrued interest, if any, to the date fixed for redemption. The Supplemental Indenture will also provide that, upon the optional redemption of the Revenue Bonds, in whole or in part, at any time after they have been outstanding for 10 years, an equal principal amount of the Collateral Bonds will be redeemed at an initial premium of 3 percent declining by 0.5 percent every year. It is stated that because interest accrues in respect of the Collateral Bonds until satisfied by payments under the Note, "annual interest charges" in respect of the Collateral Bonds will be included in computing the "interest earnings requirement" of the Mortgage which restrict the amount of first mortgage Bonds which may be issued and sold to the public in relation to Georgia's net earnings. The Collateral bonds will be issued on the basis of unfunded net property additions. The Trust Indenture will further provide that, upon deposit with the Trustee of funds sufficient to pay or redeem all or any part of the related Revenue Bonds, or upon direction to the Trustee by Georgia to so apply funds available therefor, or upon delivery of such outstanding Revenue Bonds to the Trustee by or for the account of Georgia, the the Trustee will be obligated to deliver to Georgia, or for the account of Georgia, Collateral Bonds then held as collateral in an aggregate principal amount equal to the aggregate principal amount of such Revenue Bonds for the payment or redemption of which such funds have been deposited or applied or which shall have been so delivered.

It is contemplated that the Revenue Bonds will be sold by the Authorities pursuant to arrangements with one or more underwriters. In accordance with the laws of the State of Georgia, the interest rate to be borne by the Revenue Bonds will be fixed by the Boards of Directors of the Authorities. While Georgia will not be party to the underwriting arrangements for the Revenue Bonds, such arrangements will provide that the terms of the Revenue Bonds and their sale by the Authorities shall be satisfactory to Georgia. Bond counsel will issue an opinion that interest on the Revenue Bonds will be exempt from Federal income taxation. Georgia has been advised that the interest rates on obligations, interest on which is so tax exempt, historically have been, and can be expected at the time of issue of the Revenue Bonds to be, 1½ percent to 2½ percent lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation.

It is stated that the fees, commissions, and expenses to be paid or incurred, directly or indirectly, in connection with the proposed issuance of the Notes and Collateral Bonds (as distinguished from and excluding fees, commissions, and expenses incurred or to be incurred in connection with the sale of the Revenue Bonds by the Authorities payable out of the proceeds of such sales and in connection with the determination of the tax status of the Revenue Bonds) will be filed by amendment. It is further stated that the issuance of the Collateral Bonds, the borrowings under the Agreements, and the issuance of the Notes in respect thereof will have been expressly authorized by the Georgia Public Service Commission and that no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Georgia has requested a finding of the Commission that competitive bidding is inappropriate under the circumstances inasmuch as the Notes and Collateral Bonds are to be issued and pledged solely to evidence and secure Georgia's obligations to the Authorities and no public offering by Georgia of the notes and Collateral Bonds is to be made.

Notice is further given that any interested person may, not later than November 6, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

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For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

ligations in a principal amount of at least $10,000,000, which will be deposited with the Trustee in exchange for

prospectus for such Series, plus a sales charge of 4½ percent. The Applicants further state that, during the initial

any purchaser of Units purchased from the Sponsor. Such refund shall be made directly by the Sponsor or

tifies the Trustee by the Payment Date that he no longer wishes to participate in the Plan or the transaction

broker with respect to participation in any particular Available Series. They also assert that a charge of 1¼ percent

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For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29780 Filed 10-20-78; 8:45 am]

[8010-01-M]

[Rel. No. 10435; 812-4362]

NEW YORK MUNICIPAL TRUST, SERIES 1 (AND SUBSEQUENT SERIES) AND BEAR, STEARNS & CO.

Filing of Application Requesting an Order Granting Exemption

OCTOBER 12, 1978.

Notice is hereby given that New York Municipal Trust, Series 1 (and Subsequent Series) ("Trust"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and its sponsor, Bear, Stearns & Co. ("Sponsor") (collectively, "Applicants"), 55 Water Street, New York, N.Y., 10041, have filed an application on August 31, 1978, and an amendment thereto on October 11, 1978, requesting an order, pursuant to section 6(c) of the Act, exempting Series 1 of the Trust, and subsequent series thereof, from the provisions of sections 14(a) and 22(d) of the Act and Rules 19b-1 and 22c-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, the various series of the Trust will be created under the laws of New York pursuant to a separate trust Agreement for each such series, under which the Bradford Trust Co. shall act as Trustee, the Sponsor shall act as such, and Standard and Poors Corp. shall act as evaluator. Each Agreement will contain standard terms and conditions of trust common to Series 1 and all subsequent series (collectively "Series"), and each Agreement will be executed and delivered on or before the time the registration statement filed pursuant to the Securities Act of 1933 becomes effective for each Series.

The application states that, pursuant to each Agreement, the Sponsor will deposit with the Trustee Debt Obligations which the Sponsor shall have accumulated for such purpose, in a principal amount at least equal to the aggregate offering price of the units ("Units") of the Series to be offered. Simultaneously with such deposit, the Trustee will deliver to the Sponsor registered certificates for the Units, which will represent the entire ownership of the Series. The Sponsor will then offer the Units for sale to the public. Series 1 will consist of debt obligations in a principal amount of at least $10,000,000, which will be deposited with the Trustee in exchange for 10,000 Units of Series 1.

According to the Applicants, the Debt Obligations will not be pledged or in any manner subjected to any debt at any time after the Debt Obligations are deposited in the Trust, with the exception of the lien of the Trustee as security for certain liabilities as set forth in the Agreement. The Applicants state that the Debt Obligations will be long-term, interest-bearing debt obligations, the interest on which will be exempt from Federal income taxation. The application further states that each Series will consist of Debt Obligations, such Debt Obligations as may have been acquired in exchange or substitution for Debt Obligations upon certain refunding, accrued and undistributed interest and undistributed cash. Certain of the Debt Obligations may from time to time be sold under the special circumstances set forth in the Agreement, or may be redeemed or may mature in accordance with their terms. Under certain circumstances, according to the application, where the Sponsor believes that the retention of certain Debt Obligations may be detrimental to any Series, such as a default in the payment of principal or interest, the Sponsor may direct the Trustee to dispose of such Debt Obligation. In such cases, the proceeds therefrom will be distributed to the Unitholders and may not be reinvested.

According to the Application, each Unit of a Series will represent a fractional undivided interest in such Series. Units will remain outstanding until redeemed or until the termination of the Agreement. The application states that the Agreement, with respect to any particular Series, may be terminated (1) by agreement of 100 percent of the holders of the then outstanding Units of such Series, or (2) if the value of the Debt Obligations in a particular Series falls below 40 percent of the aggregate principal amount of the Debt Obligations orginally deposited in such Series, upon direction of the Sponsor to the Trustee: Provided, however, that in no event shall a Series continue beyond the earlier of the disposition of the last Debt Obligation in the Series or the end of the calendar year preceeding the 50th anniversary of the Series.

The Applicants assert that following the deposit of Debt Obligations in the Series by the Sponsor with the Trustee, and following the effectiveness of a Series' registration statement under the Securities Act of 1933 and clearance by the securities authorities of the various states, the Sponsor intends to offer the Units to the public at the public offering price set forth in the prospectus for such Series, plus a sales charge of 4½ percent. The Applicants further state that, during the initial offering period of each Series, a purchaser of 100 or more Units will be entitled to a discount of $5 per Unit from the public offering price. According to the application, the Sponsor, while under no obligation to do so, intends to maintain a market for the Units and continuously to offer to purchase such Units at prices in excess of the redemption price as set forth in the Agreement. Applicants assert that, absent such a market, Unitholders may be able to dispose of their Units only by redemption to the Trustee.

SECTION 14(a)

Section 14(a) of the act provides, in part, that no registered investment company and no principal underwriter for such company, shall make a public offering of securities of which such company is the issuer, unless (1) the company has a net worth of at least $100,000; (2) such company has previously made a public offering of its securities, and at the time of such offering had a net worth of at least $100,000; or (3) provision is made in connection with registration of such securities under the Securities Act of 1933 that such company will obtain a net worth of at least $100,000 from not more than 25 responsible persons within 90 days of the effective date of such registration, and that, otherwise, the entire proceeds received by such company shall be refunded to any subscriber, including any sales load, on demand and without any deduction.

Applicants request an order, pursuant to section 6(c) of the Act, exempting each Series from compliance with the provisions of section 14(a) of the Act. In support of the requested exemption, Applicants represent that the Sponsor agrees to: (1) Refund the sales load to purchasers of Units in any Series if, within 90 days of the effective date of the registration under the Securities Act of 1933, the net worth of such Series is reduced to less than $100,000 or if such Series is terminated; (2) instruct the Trustee, on the date of deposit of the Debt Obligations in any Series, that if such Series shall at any time have a net worth of less than 40 percent of the aggregate principal amount of the Debt Obligations originally deposited in such Series as a result of Sponsor redemption of unsold Units of such Series the Trustee shall terminate such Series in the manner provided in the Agreement with respect to such Series and distribute any Debt Obligations or other assets deposited with the Trustee pursuant to such Agreement as provided therein; and (3) in event of termination for the reasons described in (2) above, to refund any sales load to

any purchaser of Units purchased from the Sponsor. Such refund shall be made directly by the Sponsor or any underwriter of the Units, without deduction to each Unitholder at his address appearing in the Trustee's registration books.

SECTION 22(d)

The Applicants propose to afford Unitholders of each Series the option automatically to reinvest income and principal distributions into Units of Series to be issued in the future ("Future Series") or, if no Future Series is available, into Units of a previously formed Series which have been purchased by the Sponsor in the secondary market and with respect to which the Sponsor has a currently effective registration statement ("Secondary Series") (Future Series and Secondary Series referred to, collectively, as "Available Series"), such reinvestment to be made at a reduced sales charge. Applicants propose to offer such option ("Plan") to only those Unitholders who elect to receive semi-annual distributions of principal and interest. Under Applicants' proposal, a Unitholder will be able to join the Plan at any time by delivering an authorization form to the Trustee; a participant may withdraw from the Plan at any time upon written notice to the Trustee. Once delivered to the Trustee, the authorization form will constitute a valid election to participate in the Plan with respect to all Units purchased in the Series (and with respect to Plan Units purchased with the distributions from the Units purchased in such Series) for each distribution as long as the Unitholder continues to participate in the Plan.

According to the application, each Plan participant will have his interest and principal distributions reinvested on each semi-annual Payment Date in Units of the other currently Available Series. Applicants state that the Sponsor intends that an Available Series will be offered on or about each semi-annual Record Date, which shall be June 1 and December 1 of each year. If (a) the Sponsor does not have a currently effective Available Series on any Payment Date or (b) the Available Series materially differs from the Trust in the opinion of the Sponsor, then the Sponsor intends to suspend the Plan and distribute to each participant his regular semi-annual distribution. If the Plan is so suspended, it will resume with the next semi-annual Payment Date. The application further states that, on or about each semi-annual Record Date, a current Prospectus relating to the Available Series will be mailed to each Plan participant along with a letter reminding each participant that Plan Units are being purchased for him unless he notifies the Trustee by the Payment Date that he no longer wishes to participate in the Plan or the transaction. Applicants state that if a Future Series has not been declared effective in sufficient time to distribute final prospectuses, and a then currently effective Secondary Series is not available, the Plan will be suspended with respect to that Payment Date and recommenced with the next Payment Date. In such case the participant would receive his normal cash distribution. The application further states that both the Sponsor and the Trustee reserve the right to suspend, modify or terminate the Plan at any time and that notice of such action will be given to each participant.

Applicants state that, under the Plan, fractional Units will be purchased from the Sponsor at a price equal to the aggregate offering price per Unit of the Debt Obligations in the Available Series portfolio divided by 100, plus a sales charge equal to 3.627 percent of the offering side evaluation of such Debt Obligations (or 3½ percent of the offering price per Plan Unit), plus accrued interest, rather than the 4½ percent sales load which is applied to all primary and secondary sales of Units in each Series.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person except a dealer, a principal underwriter, or to the issuer except at a current public offering price described in the prospectus.

Applicants request an order pursuant to section 6(c) of the Act exempting the Plan offered with respect to each Series from the provisions of section 22(d) of the Act. In support of their request, Applicants assert that applying a sales charge for Plan purchases at less than the customary 4½ percent charge is both beneficial to Plan participants and warranted in light of the related cost savings. Applicants state that approximately 3 percent of the customary 4½ sales charge is attributable to the efforts of the initial soliciting broker. Since each Available Series will be substantially similar to the Series initially purchased by the participant, except for the exact make-up of the bond portfolio, selling and counselling effort is reduced. The Applicants assert that the participant may seek professional advice from his broker with respect to participation in any particular Available Series. They also assert that a charge of 1½ percent of the price per Plan Unit is a reasonable and justifiable expense to be allocated by the Sponsor to the soliciting broker for his professional assistance to a participant in connection with each Available Series. For this purpose, a participant may designate the broker entitled to receive such commission. If no broker is so designated, the Sponsor will retain the commission. Applicants further assert that implementation and continuation of the Plan will create special out-of-pocket costs which should be borne by the Plan participants, and that the sponsor believes that such out-of-pocket expenses will amount to 1 percent of the price per Plan Unit. Applicants further state that prior experience indicated that the out-of-pocket costs of establishing each Series will represent approximately 1 percent of the public offering price of the Units of the Available Series. Applicants represent that all such costs will be covered in the proposed 3½ percent sales charge. Thus, Applicants conclude that the proposed 3½ percent sales charge for Plan purchases not only passes through certain cost savings to Plan participants but also charges such persons for reasonable expenses related to the creation of the Plan, and for fees relating to periodic, professional financial advice.

RULE 19b-1

Rule 19b-1(a) promulgated under the Act provides, in pertinent part, that no registered investment company which is a "regulated investment company" as defined in section 851 of the Internal Revenue Code of 1954 shall distribute more that one capital gain distribution per taxable year. Rule 19b-1(b) contains a similar prohibition for a company not a "regulated investment company", but permits a unit investment trust to distribute capital gain dividends received from a "regulated investment company" within a reasonable time after such receipt.

According to the application, distributions of interest to Unitholders of the various Series will be either monthly or semiannually, depending on the distribution Plan selected by the participant. Distributions of principal, if any, will be made semiannually. Applicants state that distributions of principal containing capital gains may occur in two instances: (1) When an issuer calls or redeems an issue in the portfolio, and (2) when Units are redeemed by the Trustee and Debt Obligations are sold to provide the funds necessary for redemption. In such instances, the Applicants assert that a Unitholder may receive funds

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constituting capital gains, since, in some cases, the Debt Obligations sold ... have appreciated since their ini-

vide estimated evaluations on trading days based on both the offer and bid prices of the Debt Obligations. In the

olders will benefit from the Sponsor's pricing procedure in the secondary market since they will normally re-

the date of the hearing (if ordered) and any postponements thereof.

acts as the investment adviser to the Fund, it is an affiliated person of the Fund as defined in section 2(a)(3)(E)

thereupon dissolve. The Agreement provides that the Fund and EDEV rec-ognize and agree that the Fund share-

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constituting capital gains, since, in some cases, the Debt Obligations sold may have appreciated since their initial deposit in the Series. Applicants anticipate that no capital gains will arise from the sale of Debt Obligations which may occur upon default on payment of principal or interest, or the occurrence of other factors which in the opinion of the Sponsor would make the retention of such Debt Obligations detrimental to the Series.

Applicants request an order, pursuant to section 6(c) of the Act, exempting the Series from the provisions of Rule 19b-1 under the Act. In support of their request, Applicants assert that the purpose, in part, of Rule 19b-1(b) is to avoid forcing unit investment trusts to accumulate valid distributions throughout the year and distribute them only at year end, and that the operations of the Trust are squarely within the purpose of such provisions. Applicants further assert that the dangers against which Rule 19b-1 was intended to guard do not exist in the situation at hand since neither the Sponsor nor the Trustee can directly control the events which might trigger capital gains. In addition, Applicants state that the amounts involved in a normal distribution of principal are relatively small in comparison to the normal interest distribution, and the nature of such distributions are clearly indicated in accompanying reports to Unitholders.

RULE 22c-1

Rule 22c-1 under the Act provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or receipt of an order to purchase or sell such security.

The Applicants state that following the initial offering period, the Sponsor intends to offer to purchase and sell Units in the secondary market at prices based on the offering side evaluation of the Debt Obligations in each Series, determined on the last business day of each week, effective for all purchases and sales made during the following week. Applicants assert that the pricing by the Sponsor in the secondary market will in no way affect any Series' assets, and the public Unitholders will benefit from such pricing procedure by receiving a normally higher repurchase price for their Units without the cost of daily evaluation of the Units' redemption value. In addition, Applicants state that the Sponsor has undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide estimated evaluations on trading days based on both the offer and bid prices of the Debt Obligations. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's offering price is at least equal to the current bid price, the Sponsor will order a full evaluation. The Applicants further assert that, in order to protect itself against a decline in the current offering prices of the Debt Obligations, the Sponsor may, in its sole discretion, order a full evaluation in the event the previous Friday's offering price is higher than the current offering price. The Sponsor further agrees, in the case of a resale of Units in the secondary market, that if the Evaluator cannot state that the previous Friday's offering price is not more than one-half point ($5 on a Unit representing $1,000 principal amount of underlying Debt Obligations) greater than the current offering price, a full evaluation will be ordered. The application further states that each Series will bear the costs of its weekly evaluation, that the Sponsor will bear the costs of each full evaluation ordered pursuant to the conditions set forth in this paragraph.

Applicants request, pursuant to section 6(c) of the Act, an order exempting them from the provisions of Rule 22c-1 to the extent it might otherwise apply to the aforedescribed secondary market activities of the Sponsor. In support thereof, the Applicants contend that Rule 22c-1 has two purposes: (1) To eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the sale, redemption, or repurchase of such securities at prices other than their current net asset values, and (2) to minimize speculation in the securities of registered investment companies. The Applicants state that the secondary market activities of the Sponsor and the manner for the acquisition by investors of Units in the secondary market may be deemed to violate Rule 22c-1 because of the absence of daily pricing. Applicants contend, however, that the purposes of Rule 22c-1 will not be offended by the Sponsor's secondary market activities. According to the Applicants, only those investors who purchase Units in the secondary market at a price which is higher than the current offering price by one-half point or less may be deemed to suffer any detriment from the lack of daily pricing. However, Applicants assert that such detriment would be offset by the lower cost burden to each Series of having evaluations made on a weekly, rather than daily, basis. Applicants assert that the pricing of Units by the Sponsor in the secondary market will in no way dilute the assets of a Series and that Unitholders will benefit from the Sponsor's pricing procedure in the secondary market since they will normally receive a higher repurchase price for their Units than they could by redeeming their Units at the current net asset value. According to the Applicants, this will be accomplished without the cost burden to the Series of daily price evaluations of the Unit redemption price. In addition, the Applicants contend that speculation in the Units of any Series is unlikely in that weekly price changes are limited in the type of Debt Obligations which will be held in the Trust.

Applicants finally assert that in order to avoid the Sponsor's receiving more than the specified sales charge on the resale of Units, the Sponsor undertakes not to resell any Units (including resales to the Plan) which it may repurchase at a price below the offering side evaluation of the Debt Obligations in any Series.

Section 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 3, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including

the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29782 Filed 10-20-78; 8:45 am]

[8010-01-M]

[Release No. 10429; 812-4350]

NUVEEN MUNICIPAL BOND FUND, INC. AND NUVEEN ADVISORY CORP.

Filing of an Application for an Order Exempting a Proposed Exchange of Shares

OCTOBER 10, 1978.

Notice is hereby given that Nuveen Municipal Bond Fund, Inc. (the "Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, and Nuveen Advisory Corp. ("Nuveen"), 230 W. Monroe Street, Chicago, Illinois 60606, investment adviser to the Fund (collectively referred to as "Applicants"), filed an application on August 17, 1978, and amendments thereto on September 1, 1978, September 21, 1978, and October 6, 1978, for an order of the Commission pursuant to section 6(c) of the Act exempting from the provisions of section 22(c), Rule 22c-1 thereunder, and section 22(d) of the Act, a proposed exchange of Fund shares at net asset value without a sales charge and at a price other than the price next determined after receipt of a purchase order for substantially all the assets of EDEV Corporation ("EDEV"), a personal holding company; and for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting an agreement between the Fund and Nuveen calling for the Fund and Nuveen each to bear one-half of the Fund's out-of-pocket expenses related to the proposed exchange, up to a maximum of $10,000, and for all additional out-of-pocket expenses of the Fund and all other expenses connected with the exchange to be borne by Nuveen. All interested persons are referred to the application on file with the Commission for statement of the representations contained therein, which are summarized below.

The Fund's shares are currently being offered by John Nuveen & Co. Inc. ("John Nuveen & Co."), its principal underwriter, for sale to dealers who in turn resell them to the public at public offering prices consisting of the net asset value per share plus varying sales charges described in the Fund's current prospectus. Nuveen is an investment adviser registered with the Commission under the Investment Advisers Act of 1940. Since Nuveen acts as the investment adviser to the Fund, it is an affiliated person of the Fund as defined in section 2(a)(3)(E) of the Act.

Based upon representations made by or for EDEV, the Applicants represent that EDEV is a corporation organized and existing under the laws of Delaware. Its common stock, which is its only class of securities outstanding, is held of record by one individual. The Fund represents that there is no connection between it and EDEV, no affiliated person of EDEV is an affiliated person of the Fund, and no affiliated person of the Fund is an affiliated person of EDEV.

The Applicants state that the Fund and EDEV have entered into an Agreement and Plan of Reorganization (the "Agreement") which provides for the transfer of substantially all of the securities owned by EDEV (which securities had a market value of $1,314,828 on July 31, 1978) to the Fund in exchange for shares of common stock of the Fund. The shares of the Fund are to be acquired at net asset value without a sales charge. Pursuant to the Agreement, Fund shares having an aggregate net asset value equal to the value of EDEV's assets to be acquired shall be issued in exchange therefor (the number of shares to be determined by dividing the aggregate value of EDEV's net assets to be acquired by the net asset value per share of the Fund). The net asset value per share of the Fund and the value of the net assets of EDEV to acquired by the Fund will be determined as of the close of business on the business day next preceding the Closing Date. The actual exchange of EDEV's assets for shares of the Fund will take place on the Closing Date. If the valuation under the Agreement had taken place at the close of business on July 31, 1978, approximately 148,209 shares having a net asset value of $9.31 each of the Fund would have been issued for substantially all of the assets of EDEV having an aggregate value of $1,379,828 as of that date. The Fund currently expects to sell approximately $335,000 (about 24 percent) of the securities proposed to be acquired from EDEV within a relatively short period after their acquisition.

The Agreement also provides for the retention by EDEV of an amount of cash and/or securities not to exceed 10 percent of its net assets as of the Closing Date to cover its expneses related to the above proposed transaction and any liabilities it may have outstanding. The Agreement further provides that, to the extent these expenses and liabilities are less than the amount of cash and/or securities so withheld, EDEV will distribute all of its remaining assets to its sole stockholder in full and complete liquidation and shall thereupon dissolve. The Agreement provides that the Fund and EDEV recognize and agree that the Fund shares received by EDEV will be distributed to the stockholder as part of such complete liquidation. Under the terms of the Agreement, John Nuveen & Co., has agreed to pay a finder's fee to a third party, and EDEV is paying a financial consultant fee to said party, for services rendered in connection with the proposed transaction. Applicants assert that to their knowledge neither the Fund, John Nuveen & Co., or EDEV is affiliated with the party receiving such compensation or any affiliated person thereof. No portion of the fees for such services will be paid by the Applicants either directly or indirectly.

It is a condition to the obligations of the Fund and EDEV under the Agreement that, prior to the exchange of EDEV assets for Fund shares, EDEV shall have received a written ruling from the Internal Revenue Service satisfactory to counsel for EDEV in form and substance or an opinion from EDEV's counsel to the effect that the transfer of the assets of EDEV in exchange for Fund shares will constitute a reorganization within the meaning of section 368(a)(1)(C) of the Internal Revenue Code, and no gain or loss will be recognized to EDEV or its stockholder as a consequence of such reorganization. This condition may, however, be waived by EDEV's Board of Directors. The application states that as of May 31, 1978, the Federal tax cost basis of the EDEV securities which are proposed to be transferred was $1,485,649, and their market value was $1,381,000. On that date Federal tax cost basis and market value of the Fund's portfolio were $53,757,059 and $51,875,340, respectively.

The proposed transaction will be accounted for as a purchase transaction and the Fund will record the market value of EDEV's securities as its basis for cost, and thus will not recognize any unrealized appreciation or depreciation on the transaction. The proportion of unrealized appreciation of the assets of the Fund is greater than such appreciation of the EDEV assets to be transferred. In addition, the Fund states that it will not recognize a material capital loss carryforward from the transaction, since under the Internal Revenue Code, EDEV's approximately $10,000 of capital loss carryforward will be reduced by 5 percent for each percentage point that the EDEV assets is less than 20 percent of the combined Fund-EDEV assets. Accordingly, the Directors of the Fund have determined that no adjustment to the EDEV assets need be made to protect the Fund's shareholders against possible tax liability resulting

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from the eventual disposition by the Fund of EDEV's assets, and that a net asset value exchange is appropriate

purposes fairly intended by the policy and provisions of the Act, and that the proposed acquisition will be beneficial

Because this Agreement may be deemed to be a joint and several transaction between the Fund and an affili-

Nuveen, it is more advantageous than Nuveen's participation because any expenses in excess of $10,000 will be

craft from wake vortices. The National Aviation System needs to regain this

RTCA Executive Committee to be held November 15, 1978, Sheraton Na-

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from the eventual disposition by the Fund of EDEV's assets, and that a net asset value exchange is appropriate under the circumstances.

For the above reasons, it is anticipated that the transaction will have no adverse impact on the Fund.

Section 22(c) of the Act and Rule 22c-1 thereunder taken together provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company may sell redeemable securities issued by such company only at the current public offering price described in the prospectus. The current public offering price of shares of the Fund as described in its prospectus is net asset value plus a sales charge.

The Applicants further state that without an exemption from section 22(c), Rule 22c-1 thereunder, and section 22(d) of the Act, the Fund would be prohibited from: (a) Exchanging its shares at net asset value without a sales charge for substantially all of the assets of EDEV, and (b) effecting the proposed exchange transaction on the Closing Date based on the market value of the assets of EDEV to be transferred and net asset value per share of the Fund, both determined as of the valuation time which is the close of business on the last business day immediately preceding the Closing Date. Because the Closing Date and the Valuation Date will be fixed in advance, and in view of the short time span involved, the Applicants assert that the possible abuses at which Rule 22c-1 is directed will not exist.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Applicants represent that they consider the proposed exchange of shares to be at a fair price, arrived at by arms-length bargaining, and believe that granting of the requested exemption from the provisions of section 22(c), Rule 22c-1 thereunder and section 22(d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that the proposed acquisition will be beneficial to the shareholders of the Fund for the following reasons:

(1) Those expenses of the Fund which do not rise proportionately with an increase in portfolio size will be spread over a larger number of shares, and therefore will be a smaller amount per share to the existing shareholders;

(2) The proposed exchange of shares will enable the Fund to acquire at one time additional securities for its existing portfolio without affecting the market in such securities; and

(3) Even after offsetting transaction costs involved in disposition of securities which the Fund does not expect to retain for any significant period after completion of the proposed exchange of shares, the transfer of portfolio securities to be retained pursuant to the proposed acquisition will cause the Fund less expense than the purchase of securities of the same issuers in the open market.

The Applicants have also agreed to a proposal calling for the fund's out-of-pocket expenses related to the above proposed exchange of shares to be borne, up to a maximum of $10,000, one-half by the Fund and one-half by Nuveen, and for all additional out-of-pocket expenses of the Fund and all other expenses connected with the exchange to be borne by Nuveen. For purposes of this proposal, the Fund's out-of-pocket expenses shall include legal and accounting fees and the filing fees associated with this application, but shall not include State and Federal registration fees applicable to shares of the Fund to be issued pursuant to the Agreement. Under the Agreement, the Fund would bear $5,000 of these out-of-pocket expenses and Nuveen would bear the balance. The Fund further notes that although such expenses are properly allocable to it and that the Fund will, therefore, bear such costs directly, the expenses will, in effect, be borne by Nuveen. This result arises from the fact that Nuveen has agreed to waive, at least until May 1, 1979, its management fee and assume certain expenses of the Fund, so as to limit until that time the ratio of expenses incurred by the Fund (including the management fee) to average net assets to an annual rate of .75 of 1 percent. Since the Fund's expenses are currently in excess of a level which would produce the agreed upon ratio, Nuveen is assuming such expenses in order to limit the ratio to the agreed upon level. Thus, although the Fund will bear such costs directly, they will ultimately be assumed by Nuveen pursuant to the terms of the above expense limitation agreement between the Fund and Nuveen.

Because this Agreement may be deemed to be a joint and several transaction between the Fund and an affiliated person thereof, the Applicants state that an order pursuant to the provisions of Rule 17d-1 under the Act approving the terms of the Agreement may be necessary.

As noted above, the Applicants have determined that the Fund will benefit from the proposed exchange of shares both from a spreading of fixed expenses over a broader asset base and because of the opportunity to obtain portfolio securities at reduced acquisition costs. On this basis, the directors of the Fund (including a majority of the disinterested directors) concluded that the Fund could properly bear all of the expenses related to the proposed exchange of shares. This being the case, the directors of the Fund (including a majority of the disinterested directors) concluded that an arrangement whereby the Fund would bear only part of such expenses, with a maximum exposure of $5,000, was entirely appropriate.

Rule 17d-1, adopted by the Commission pursuant to section 17(d) of the Act, provides in pertinent part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company, or any affiliated person of such a person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The Fund represents that its management believes that granting of the application and the issuance of the requested section 17 order would be consistent with the provisions, policies, and purposes of the Act and that, to the extent that the participation of the Fund is different from that of

Nuveen, it is more advantageous than Nuveen's participation because any expenses in excess of $10,000 will be borne by Nuveen.

Notice is further given that any interested person may, not later than November 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29783 Filed 10-20-78; 8:45 am]

[4910-13-M]

FAA/NASA WORKSHOP ON WAKE VORTEX ALLEVIATION AND AVOIDANCE

Joint FAA/NASA Conference

The purpose of this notice is to announce a joint Federal Aviation Administration (FAA)/National Aeronautics and Space Administration (NASA) workshop on Wake Vortex Alleviation and Avoidance to be hosted by the Department of Transportation's Transportation Systems Center. This 2-day conference will commence at 9 a.m. on November 28, 1978, at the Transportation Systems Center, 55 Broadway, Cambridge, Mass. The meeting will be open to the public and no advance registration is required.

Capacity restrictions have resulted from the increased longitudinal spacing required for safely separating aircraft from wake vortices. The National Aviation System needs to regain this lost capacity, as well as to further increase its capacity, by decreasing separation standards below those required today. The highest priority program for pursuing this type of capacity increase is the alleviation and avoidance of wake vortices in the terminal area. The purpose of this conference is (1) to make clear that significant system payoff potential exists for reducing longitudinal separation in the terminal area and to describe various methods being considered to accomplish this, (2) to insure that the aviation community is made aware of all wake vortex efforts that are planned or underway, (3) to thoroughly discuss the operational, safety, and economic implications of wake vortex alleviation and avoidance, and (4) to gain advice from the using community as to the emphasis and priority of the program and solicit further ideas for solving the wake vortex problem. Participants will receive government and industry briefings, and then participate in workshops. The objective of the workshops will be to deliver reports to the conference co-chairman prior to the end of the second day with program recommendations coming in three areas; (1) wake vortex alleviation at the source, (2) development of wake vortex avoidance systems on the ground, and (3) operational and safety procedures and regulations. It is not expected that full response will be provided at the conference. Workshop participants will have the opportunity to subsequently submit detailed comments to NASA and FAA within 2 months after the conference for inclusion in the final report.

Requests for the conference agenda or to receive other information should be sent to: Transportation Systems Center, Office of Air and Marine Systems, attention: DTS-521, 55 Broadway, Cambridge, Mass. 02142; or by telephoning: 617-494-2181.

Issued in Washington, D.C., on October 13, 1978.

A. P. ALBRECHT,
Acting Associate Administrator for Engineering and Development.

[FR Doc. 78-29774 Filed 10-20-78; 8:45 am]

[4910-13-M]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) EXECUTIVE COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Executive Committee to be held November 15, 1978, Sheraton National Motor Hotel South Ballroom, Arlington, Va., commencing at 2 p.m.

The Agenda for this meeting is as follows; (1) Chairman's introductory remarks; (2) summary report of special committee activities for the past year; (3) review of initiatives related to international cooperation; (4) informal exchange of views on RTCA standards and their use in regulations, and (5) other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; 202-296-0484. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on October 16, 1978.

KARL F. BIERACH,
Designated Officer.

[FR Doc. 78-29773 Filed 10-20-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

STATE PARTICIPATION PROGRAM

Participation During Fiscal Year 1978

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice of certification and agreement.

SUMMARY: The Federal Railroad Administration (FRA) has certified or entered into agreements with certain States to permit their participation in investigative and surveillance activities prescribed by the Administrator of the FRA as necessary for the enforcement by the Administrator of rules, regulations, orders, and standards issued under the authority of the Federal Railroad Safety Act of 1970, 45 U.S.C. 421 et seq.

FOR FURTHER INFORMATION CONTACT:

Ms. Ann Cook, Office of State Assistance Programs, Federal Railroad Administration, 202-426-1510.

SUPPLEMENTARY INFORMATION: In accordance with 49 CFR 212.21, the following table lists separately for the track and equipment inspection programs each State that has obtained agreement, certification, or full certification under 49 CFR Part 212, the number of inspectors or trainees, and the effective date of such agreement or certification.

	Number of inspectors/ trainees	Participation	Effective date

NHTSA understands that the vehicle is under study by the U.S. Park Service; for that reason, and the national

[4910-59-M]

NATIONAL HIGHWAY SAFETY ADVISORY

and an opportunity afforded for comment.

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State	Number of inspectors/ trainees	Participation	Effective date
Track Safety Standards (49 CFR Part 213)			
Alabama	1	Certification	Oct. 1, 1977.
Arizona	1	Full certification	Do.
Connecticut	1*	Agreement	Mar. 22, 1978.
Illinois	3	....do	Oct. 1, 1977.
Indiana	1	....do	Do.
Iowa	3	Full certification	Do.
Kansas	1*	Agreement	May 9, 1978.
Maryland	1	....do	Oct. 1, 1977.
Maine	2*	....do	May 4, 1978.
Michigan	3	Certification	Oct. 1, 1977.
Minnesota	2	Agreement	Do.
Missouri	3—1*	....do	Do.
Nebraska	1	....do	Oct. 1, 1978.
New Hampshire	1*	....do	Do.
New York	3	....do	Do.
North Carolina	1*	....do	May 26, 1978.
Ohio	3—2*	....do	Oct. 1, 1977.
Oregon	2	Full certification	Do.
Pennsylvania	3	Certification	Do.
Rhode Island	1*	Agreement	Aug. 1, 1978.
Utah	1	....do	May 24, 1978.
Vermont	2	....do	Oct. 1, 1977.
Washington	2	Full certification	Do.
West Virginia	2	Agreement	May 1, 1978.
Railroad Freight Car Safety Standards (49 CFR Part 215)			
Alabama	2	Certification	Oct. 1, 1977.
Arizona	1	Full certification	Do.
Massachusetts	1	Certification	May 4, 1978.
Maryland	1	Full certification	Oct. 1, 1977.
Michigan	1	Certification	Mar. 1, 1978.
New York	4	Agreement	May 26, 1978.
North Carolina	1*	do	Do.
Ohio	1	....do	Oct. 1, 1977.
Oregon	1	Full certification	Do.
Pennsylvania	4	....do	Do.
Utah	1*	Agreement	Mar. 23, 1978.
Washington	2	Full certification	Oct. 1, 1977.
West Virginia	2	....do	Do.

*Denotes trainee.

(Secs. 202 and 206 of the Federal Railroad Safety Act of 1970. 84 Stat. 971, 45 U.S.C. 421 et seq.; 49 CFR sec. 212.21; and 49 CFR 1.49(n).)

Issued in Washington, D.C., on October 3, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-29702 Filed 10-20-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. EX78-4; Notice 2]

MARATHON ELECTRIC VEHICLES, INC.

Temporary Exemption From Federal Motor Vehicle Safety Standards

This notice grants the petition by Marathon Electric Vehicles, Inc. of the District of Columbia for a temporary exemption from compliance with several Federal motor vehicle safety standards on the basis that an exemption would facilitate the development and field evaluation of a low-emmission vehicle.

Notice of receipt of this petition was published on June 26, 1978, and an opportunity afforded for comment. (43 FR 27630)

Petitioner is the recently established American Subsidiary of Marathon Electric Co. Ltd. of Montreal, Canada. The parent company was formed in 1969 to manufacture and sell electric golf carts. The company has under development the C-300 electric utility vehicle, and tested five prototypes in 1976 and 1977. In 1978 it intends to produce for delivery 25 C-300's which "will help create the base for the testing and marketing effort in coming years." Marathon believes that the primary market for its vehicles is in both off and on road applications that do not require a high speed, high cost internal combustion engine.

Marathon asked for exemption from the following standards for the reasons given: Standard No. 205, *Glazing Materials.* The rear window is composed of a plastic material that is less resistant to abrasion than materials that comply with test Nos. 16, 22, and 23 or 24 of ANS Z26. materials that meet Standard No. 205 are said to be in short supply but the company expects the shortage to end before expiration of the exemption. Standard No. 208, *Occupant Crash Protection.* The company requires an exemption from S7.3a, the requirement for a seat belt warning system, though "efforts are currently underway to design an electrical system incorporating such a warning system * * *." Standard No. 219, *Windshield Zone Intrusion.* The company is uncertain whether it meets the requirements of the standard. However, since the hood does not reach to the windshield, "it would not penetrate the windshield safety zone as defined by the regulation so long as the hinges didn't disintegrate." Standard No. 301-75, *Fuel System Integrity.* The C-300 is equipped with a gasoline heater as optional equipment, and the company has not conducted barrier impact tests on any of the five vehicles it has produced to date to determine conformance status.

The company argued that an exemption would not unduly degrade the safety of the vehicle. Visibility through the rear window "is not appreciably worse than through a window of the conforming material." The C-300 has a canvas top and the rear window can be unzipped. Much of the vehicle's operation will be off-road and at low speeds.

The C-300 "possesses significant electrical and mechanical innovations which set it apart from all other electric-powered vehicles," basically in the efficiency and economy with which the electric power from the batteries is utilized. To evaluate its unique transmission and other components, Marathon believes that it must test its vehicles in a variety of physical and work environments. Therefore, in the company's view, an exemption would facilitate the development and field evaluation of this vehicle.

No comments were received on the petition.

The statutory requirements for an exemption granted pursuant to 15 U.S.C. 1410 (a)(1)(C) and (a)(2), is that it would facilitate the development and field evaluation of a low-emission motor vehicle and would not unreasonably degrade its safety, and that it would be consistent with the public interest and the objectives of the National Traffic and Motor Vehicle Safety Act. It appears to NHTSA from its production figures that the Marathon is still in a prototype stage with respect to its electrical and mechanical innovations, and that an exemption would allow field evaluation of it and facilitate its further development.

NHTSA understands that the vehicle is under study by the U.S. Park Service; for that reason, and the national policy of exploring alternatives to the internal combustion engine as well, NHTSA has decided that an exemption is in the public interest. Because of Marathon's low volume of production and its apparent general conformance with the Federal safety standards, NHTSA also finds that an exemption is consistent with the agency's mission to reduce traffic injuries and deaths.

With respect to the finding that an exemption would not unduly degrade the safety of the vehicle, it is apparent that the intent of Congress in providing in providing this exemption authority was to balance the need for vehicle safety against another social benefit, the necessity to encourage vehicle propulsion systems producing minimal pollutants, and to conclude that some degradation of safety was allowable as long as it was not, in the agency's judgment, unreasonable. With respect to Standard Nos. 219 *Windshield Zone Intrusion* and 301-75 *Fuel System Intergrity* the agency has concluded that a 2-year exemption would be reasonable, and would afford the time to conduct tests and make the changes necessary for conformance. With respect to Standard No. 205 *Glazing Materials,* the supply problem appears temporary, and a 1-year exemption will encourage the company to improve rear visibility at an early date. Because of the emphasis that the agency places on passenger restraint systems, it also believes that a 1-year exemption from Standard No. 208 *Occupant Crash Protection* will encourage Marathon to incorporate a seatbelt warning system in the relatively near future.

In consideration of the foregoing Marathon Electric Vehicles, Inc. is hereby granted NHTSA Exemption No. 78-4 from 49 CFR 571.205 motor Vehicle Safety Standard No. 205 and S7.3a of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208, expiring September 1, 1979, and from 49 CFR 571.219 Motor Vehicle Safety Standard No. 219, and 49 CFR 571.301-375 Motor Vehicle Safety Standard No. 301-75, expiring September 1, 1980.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410): delegation of authority at 49 CFR 1.50.)

Issued on October 16, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-29603 Filed 10-20-78; 8:45 am]

[4910-59-M]

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee's Safe Utilization of Commercial Vehicles Task Force. This meeting will be held on November 8 and 9, 1978, at the California Highway Patrol Police Academy, 3500 Reed Avenue, Bryte, Calif.

The task force will be discussing issues related to the safe utilization of commercial vehicles.

Attendance is open to the interested public but limited to the space available. Since these meetings will be taking place at a restricted facility, the public will be required to sign in and receive a pass and instructions to the appropriate classroom. All meetings will start at 9 a.m. With the approval of the chairperson, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C., 20590, telephone 202-426-2872.

Issued in Washington, D.C., on October 16, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-29580 Filed 10-20-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

[Docket No. IP77-17; Notice 2]

AMERICAN HONDA MOTOR CO., INC.

Grant of Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

This notice grants the petition by American Honda Motor Co., Inc., of Gardena, Calif., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, *Control Location, Identification, and Illumination.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on December 1, 1977 (42 FR 61106) and an opportunity afforded for comment.

Paragraph S4.2.1 of Standard No. 101 requires that the hazard warning switch control be identified by the word "Hazard," and may, in addition, be identified by a symbol shown in table 1 of the standard. Honda identified the control with the symbol only, failing to use the word "Hazard" on approximately 82,000 Accords manufactured in model years 1976 and 1977. The company stated that it has had no owner complaints about the noncompliance, and that the control was identified in the owner's manual. Finally, in further support of its petition, Honda cited the agency's determination that an identical noncompliance by Toyota had an inconsequential relationship to motor vehicle safety (Docket IP75-2, 42 FR 5173).

One comment was received on the petition which supported it. The commenter, a Honda owner, stated that he and his wife knew the purpose of the switch "immediately" and that he would probably not subject himself to the inconvenience of taking his car in for modification.

Since notice of Honda's petition was published, NHTSA has amended Standard No. 101 to allow the hazard warning signal control, among others, to be identified by symbol alone if the manufacturer so choses (32 FR 27541, June 28, 1978). In addition, as Honda noted, the agency has previously granted the Toyota petition regarding an identical noncompliance. Accordingly, it has been determined that Honda's failure to label the hazard warning system control with the word "Hazard" is inconsequential as it relates to motor vehicle safety.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 17, 1978.

MICHAEL M. FINKELSTEIN,
Associate Administrator for Rulemaking.

[FR Doc. 78-29771 Filed 10-20-78; 8:45 am]

[4910-59-M]

[Docket No. IP77-18; Notice 2]

BUDD CO.

Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by the Budd Co. of Troy, Mich., to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* The basis of the petition was that the noncom-

pliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published

Issued on October 17, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator

and side marker lamps are not of a size required by the standard.

No. 206 *Door Locks and Door Reten-*

CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,* (exclusive of requirements for number

be held in the Management Information Center (room 10214), DOT Headquarters (Nassif) Building, 400 Sev-

areas, representatives of DOT and DOE will be holding a number of meetings with representatives of in-

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pliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on March 2, 1978, and an opportunity afforded for comment (43 FR 8607).

Budd has informed NHTSA that it manufactured 80 semitrailer vans, produced for a single customer in 1975 and 1976, with the identification lamp cluster "located between the turn signals on the rear cross member * * *" Standard No. 108 requires, instead, that these lamps be located as close to the top of the vehicle as is practicable. Petitioner argued that the noncompliance is inconsequential because the cross member location is used in many instances in which higher mounting is impracticable, e.g., open top trailers, dump trucks. It also argues that lower mounted lights are much easier to keep clean and in operating order, thus enhancing motor vehicle safety.

Four comments were received on the petition. It was supported by Truck Safety Equipment Institute (TSEI), Ohio Body Manufacturing Co., and Strick Corp. Alloy Trailers, Inc., opposed it. TSEI argued that no significant safety advantage would be served by requiring the recall of only 80 semitrailer vans. Ohio Body urged the agency to consider a lower mounting height for identification lamps. Strick commented that a lower mounting location would be more practicable. Alloy based its opposition on the necessity that all manufacturers comply with regulations, and to find that an illegal mounting height is inconsequential would imply that the requirement itself might be erroneous.

The NHTSA has decided to deny Budd's petition. Although the cross member location is used on such vehicles as dump trucks and open top trailers, this practice is followed only when a higher location is impracticable; the lower mounting of identification lamps on such vehicles therefore complies with Standard No. 108. The desired mounting height is "as close to the top of the vehicle as practicable" for the cue that these lights afford to drivers, at night and under other conditions of reduced visibility, that large and frequently slow moving vehicles are in the roadway ahead. The presence of lower mounted lamps does not, in the agency's view, contribute to motor vehicle safety and the number of vehicles affected is considered irrelevant in this instance.

Accordingly petitioner has not met its burden of persuasion that its noncompliance with Standard No. 108 is inconsequential as it relates to motor vehicle safety, and its petition is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 17, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-29772 Filed 10-20-78; 8:45 am]

[4910-59-M]

[Docket No. EX76-1; Notice 4]

JET INDUSTRIES, INC.

Petition for Temporary Exemption From Motor Vehicle Safety Standards

This notice grants the petition by Jet Industries, Inc., of Austin, Tex., for an extension of NHTSA Exemption No. 76-1, from compliance with certain safety standards. The basis of the extension is that a further exemption would continue to facilitate the development and field evaluation of a low-emission motor vehicle.

Notice of the petition was published on February 13, 1978 (43 FR 6192), and an opportunity afforded for comment.

Since 1975 Jet has imported the Subaru 360 van, manufactured by Fuji Heavy Industries of Japan. The vehicle is not marketed in the United States and therefore is not certified as conforming to the Federal motor vehicle safety standards. Upon arrival in the United States these vehicles have had their gasoline-powered engines removed and electric motors substituted. They have been marketed as trucks under the name "Electra Van." Jet asked for a 2-year extension of the exemption originally granted it in 1976 and will not import more than 2,500 vehicles during any 12-month period that the exemption is in effect. Thus far 56 vehicles have been sold under the previous exemption. The following is a list of Federal standards or portions thereof for which continued exemption was requested:

No. 101 *Control Location, Identification and Illumination.* § 4.3-Control identification for headlamps, hazard warning, and windshield wiper switches is not directly illuminated. Ambient light is provided by light from adjoining gauges.

No. 103 *Windshield Defrosting and Defogging Systems.* Vehicle is furnished with systems but petitioner is unsure if performance requirements are met. Field experience in British Columbia and Connecticut indicates that "the system provides ice and fog free windshields within the limits of the existing standards".

No. 104 *Windshield Wiping and Washing Systems.* Wiping system has one speed only, with a frequency of 50 cycles per minute.

No. 108 *Lamps, Reflective Devices, and Associated Equipment.* Petitioner believes that stop, tail, turn signal, and side marker lamps are not of a size required by the standard.

No. 206 *Door Locks and Door Retention Components.* "Only limited tests as prescribed have been made at this time," but the company believes that this vehicle in all probability complies.

The company sought no extension of its exemption from Standard Nos. 119 and 207 as compliance has been achieved. The company essentially argued that exemption would not degrade the safety of the vehicle as experience under the previous exemption and the vehicle's intended use had shown no safety problems.

Jet has been selected by the former Energy Research and Development Administration to participate in the Department of Energy's electric and hybrid vehicle development program and will incorporate the knowledge gained from its recent research and experience in developing and supplying the vehicles under this grant.

No comments were received on the petition.

Pursuant to section 123(a)(1)(C) of the National Traffic and Motor Vehicle Safety Act an exemption may be granted if it would facilitate the development or field evaluation of a low-emission motor vehicle and would not unreasonably degrade the vehicle's safety, and if the exemption is consistent with public interest and objectives of traffic safety.

As a selected participant in the electric and hybrid vehicle program of the Department of Energy, the petitioner has demonstrated that continued experimentation, testing, and field evaluation of its vehicles is in the public interest. An exemption will also be consistent with traffic safety objectives as petitioner has pointed out that possible hazards presented by internal combustion propelled vehicles are lacking. These are the danger of fire in a collision and of carbon monoxide poisoning from exhaust fumes. The scope of the exemptions requested may be characterized as minimal and it has been concluded that they would not unreasonably degrade the safety of the vehicle.

However, to encourage compliance with those standards where compliance problems appear minimal, a shorter exemption is being provided with respect to Standards Nos. 108 and 206. The exemption from Standard No. 103 is being terminated. Petitioner certifies its vehicles as "multipurpose passenger vehicles". The sole requirement established by Standard No. 103 for such vehicles is that they be equipped with defroster/defogger systems, a requirement Jet already meets. Performance requirements apply only to passenger car systems.

In consideration of the foregoing NHTSA Exemption No. 76-1, from 49

CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,* (exclusive of requirements for number of lamps, etc., and their location) and 49 CFR 571.206, Motor Vehicle Safety Standard No. 206, *Door Locks and Door Retention Components,* is hereby extended to expire July 1, 1979. NHTSA Exemption No. 76-1, from S4.3 of 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, *Control Location, Identification, and Illumination,* and 49 CFR 571.104, Motor Vehicle Safety Standard No. 104, *Windshield Wiping and Washing Systems,* is hereby extended to expire January 1, 1980. NHTSA Exemption No. 76-1 from 49 CFR 571.103, Motor Vehicle Safety Standard No. 103, *Windshield Defrosting and Defogging Systems,* is hereby terminated effective the date of publication of this notice.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50.)

Issued on October 16, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-29770 Filed 10-20-78; 8:45 am]

[3128-01-M]

[4910-62-M]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DEPARTMENT OF ENERGY

Office of the Secretary

[OST File No. 61; Notice 78-15]

NATIONAL ENERGY TRANSPORTATION STUDY

Public Meetings With Industry

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Notice of public meetings with industry.

SUMMARY: As part of the President's national energy plan, DOT and DOE are conducting a joint study to determine if the Nation's transportation system is adequate to accommodate the future energy needs of the United States. Meetings among representatives of DOT, DOE, and the railroad industry, and among representatives of DOT, DOE, and the natural gas pipeline industry, will be held to discuss the capability of each of these industries to transport the energy materials that will be needed in the period 1985-2000. The public is invited to both meetings.

DATES: Railroad industry: Thursday, October 26, 1978, 10 a.m. to 12 noon, eastern time; natural gas pipeline industry: Tuesday, October 31, 1978, 3 p.m. to 5 p.m., eastern time. Both will be held in the Management Information Center (room 10214), DOT Headquarters (Nassif) Building, 400 Seventh Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Marchessault, Staff Member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT (202-426-4168). Since available space for the public is limited, those wishing to attend should contact Mr. Marchessault not later than the day before the meeting.

SUPPLEMENTARY INFORMATION: By 1985 and beyond it appears likely that the Nation will experience numerous changes in the historical patterns of energy supply and demand, which in turn will require changes in the way energy is transported. The changing energy patterns include dwindling domestic oil and natural gas production, regional shifts in supply and demand, and shifts in national and regional fuel use, including new energy sources.

The joint DOT-DOE study team will look at important aspects of the movement of coal, crude oil and petroleum products, natural gas, nuclear fuel, and electrical power to 1985 and beyond. This will be done to determine what adjustments are needed in the present transportation network.

In the first phase of the study, DOE is to select alternative national energy scenarios based on different assumptions about future energy supply and demand. These scenarios will be broken down into 173 geographical regions for the fuels listed above.

In the second phase of the study, DOT is to determine how energy would be moved from supply areas to energy-consuming areas by all modes of the transportation network. DOT will use the assistance of a computer model to compare the present capacity with future needs and identify potential bottlenecks.

In the third phase of the study, the joint study team is to examine a number of issues that may affect the transportation of energy. While the major emphasis of the study is transportation needs in 1985, the study team will also look at 1990 and 2000.

The final report is expected to identify constraints on the efficient transportation of energy and to recommend any Federal actions that may be necessary.

To gain the widest possible range of information and opinion concerning this undertaking, DOT and DOE have established an "open file" for the submission of comments from interested groups and individuals. (See 43 FR 38795, August 30, 1978.) To provide more detailed information in certain areas, representatives of DOT and DOE will be holding a number of meetings with representatives of industries affected by the study. The one with railroad industry representatives will be held from 10 a.m. to 12 noon, eastern time, Thursday, October 26, 1978, and the one with the natural gas pipeline industry will be held from 3 p.m. to 5 p.m., eastern time, Tuesday, October 31, 1978. Both will be in the Management Information Center (room 10214), DOT Headquarters (Nassif) Building, 400 Seventh Street SW., Washington, D.C.

The topics for discussion at the railroad industry meeting will include the capability of the railroads to transport increased amounts of coal; the impact on grade crossings of increased unit train traffic; problems associated with the rail transport of nuclear wastes; and related railroad energy transportation issues.

The topics for discussion at the natural gas pipeline industry meeting will include future pipeline capacity vis-a-vis supply; the expected imports of liquefied natural gas; transportation impacts of new offshore natural gas production; the potential likelihood of importing Mexican natural gas; and related natural gas transportation issues.

These meetings will be open to the public on a space available basis. Anyone who wishes to attend should contact the NETS staff member identified above. There will be an opportunity at the conclusion of each meeting for the public to make comments. Minutes of each meeting will be available for public inspection and copying in the NETS open file in the office of the Assistant General Counsel for Regulation and Enforcement, room 10421, Department of Transportation Headquarters (Nassif) Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4723, from 9 a.m. to 5:30 p.m., eastern time, Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on October 17, 1978.

RAYMOND A. YOUNG III,
Acting Chairman, NETS, Acting Assistant Secretary for Policy and International Affairs, Department of Transportation.

ALVIN ALM,
Deputy Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 78-29849 Filed 10-20-78; 8:45 am]

[4910-62-M]

[OST File No. 61; Notice 78-14]

tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the

be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an

the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are

ted, which must be received at such institution no later than:

(a) Friday, October 27, 1978, if the

be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are

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[4910-62-M]

[OST File No. 61; Notice 78-14]

NATIONAL ENERGY TRANSPORTATION STUDY

Announcement of Change in Location of Public Hearing

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Announcement of change in location of public hearing.

SUMMARY: Notice is hereby given that the location of the Los Angeles public hearing for the National Energy Transportation Study has been changed. The November 6 hearing will now be held at the Los Angeles Bonaventure Hotel (Santa Barbara Room), Fifth and Figueroa Streets, Los Angeles, Calif.

FOR FURTHER INFORMATION CONTACT:

Nancy MacRae, Staff Member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT, 202-426-4203, or Diana Diamond, Office of Policy and Evaluation, DOE, 202-566-9037.

Issued in Washington, D.C., on October 17, 1978.

RAYMOND A. YOUNG III,
Acting Chairman, NETS. Acting Assistant Secretary for Policy and International Affairs, Department of Transportation.

ALVIN L. ALM,
Deputy Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 78-29848 Filed 10-22-78; 8:45 am]

[4810-40-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series—No. 24-78]

TREASURY NOTES OF OCTOBER 31, 1980

Series U-1980

OCTOBER 18, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,250,000,000 of the United States securities, designated Treasury Notes of October 31, 1980, Series U-1980 (CUSIP No. 912827 JC 7). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reseve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated October 31, 1978, and will bear interest from that date, payable on a semiannual basis on April 30, 1979, and each subsequent 6 months on October 31 and April 30, until the principal becomes payable. They will mature October 31,1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, October 24, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, October 23, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1 for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commerical banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, October 31, 1978, at the Federal Reserve Bank or Branch or at the bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, October 27, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, October 26, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

[FR Doc. 78-29769 Filed 10-18-78; 12:02 pm]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 732]

ASSIGNMENT OF HEARINGS

OCTOBER 18, 1978.

Cases assigned for hearing, postponement cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 120181 (Sub-8), Main Line Hauling Co., Inc., now assigned for hearing on November 6, 1978, at Jefferson City, MO, will be held in Room 201, Governor's Hotel.

MC 2202 (Sub-556F), Roadway Express, Inc., now assigned for hearing on November 13, 1978, at Texarkana, TX, will be

held at the Ramada Inn, Interstate Highway 30 East, State Line Avenue.

MC 107012 (Sub-258), North American Van Lines, Inc., now being assigned for hearing on January 15, 1979 (3 days), at Seattle, WA, will be held in Room 2068, Federal Building, 915 Second Avenue.

MC 115841 (Sub-624F), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on January 15, 1979 (3 days), at Seattle, WA, will be held in Room 2068, Federal Building, 915 Second Avenue.

MC 138018 (Sub-41F), Refrigerated Foods, Inc., now assigned for hearing on December 11, 1978, at Seattle, WA, will be held

named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the

TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box

MC 42261 (Sub-139TA) filed August 28, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jefferson City,

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held at the Ramada Inn, Interstate Highway 30 East, State Line Avenue.

MC 107012 (Sub-258), North American Van Lines, Inc., now assigned for hearing on November 13, 1978, at Atlanta, GA, will be held in Room 226, Federal Building, Forsythe Street.

MC 109533 (Sub-104F), Overnite Transportation, now assigned for hearing on November 13, 1978, at Cincinnati, OH will be held at the Netherland Hilton, Fifth and Race Streets.

MC 116254 (Sub-188), Chem-Haulers, Inc., now assigned for hearing on November 13, 1978, at Louisville, KY, will be held in Room 635, Post Office Building, Sixth and Broadway.

MC 19311 (Sub-41F), Central Transport, Inc., now assigned for hearing on November 14, 1978, at Lansing, MI, will be held at the Corporation & Security Commission, 6546 Mercantile Way.

MC 111785 (Sub-62F), Burns Motor Freight, Inc., now assigned for hearing on November 14, 1978, at Marlinton, WV, will be held in Main Court Room, Marlinton County Courthouse, Ninth Avenue.

MC 65941 (Sub-48F), Tower Lines, Inc., now assigned for hearing on November 16, 1978, at Atlanta, GA, will be held in Room 226, Federal Building, Forsythe Street.

MC 112617 (Sub-382F), Liquid Transporters, Inc., now assigned for hearing on November 16, 1978, at Louisville, KY, will be held in Room 635, Post Office Building, Sixth and Broadway.

MC 112304 (Sub-139F), Ace Doran Hauling & Rigging Co., a Corp., now assigned for hearing on November 17, 1978, in Room 635, Post Office Building, Sixth and Broadway, Louisville, KY.

MC 143364 (Sub-1F), Associated Cab Co., Inc., d.b.a. Gray Line Of Atlanta, now assigned for hearing on November 20, 1978, at Atlanta, GA, will be held in Room 305, 1252 Peachtree Street NW.

AB 7 (Sub-62), Stanley, E. G. Hillman, trustee of the property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., debtor, abandonment near Faribault and Zumbrota, in Rice and Goodhue Counties, MN now assigned for hearing on November 27, 1978, at Zumbrota, MN will be held in City Hall, 55 East Third.

FF 510F, Rocky Mountain Express, Inc., now assigned for hearing on November 28, 1978, at San Francisco will be held in Room 510, Fifth Floor, 211 Main Street.

MC 115826 (Sub-302F), W. J. Digby, Inc., now assigned for hearing on November 28, 1978, at Seattle, WA, will be held in Room 3086, Federal Building, 915 Second Avenue.

MC 119493 (Sub-190F), Monkem Co., Inc., now assigned for hearing on November 28, 1978, at St. Louis, MO, will be held in Room 313, Third Floor, U.S. Courts & Customhouse, 1114 Market Street.

MC 139495 (Sub-310), National Carriers, Inc., now assigned for hearing on November 28, 1978, at Dallas, TX, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 58923 (Sub-45), Georgia Highway Express, Inc., now assigned for hearing on November 29, 1978, at Atlanta, GA, will be held in Room 651, U.S. Courthouse, 801 Broadway.

MC 20783 (Sub-111F), Tompkins Motor Lines, Inc., now being assigned for hearing on January 9, 1979 (4 days), at Tampa, FL, in a hearing room to be later designated.

MC 115841 (Sub-624F), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on January 15, 1979 (3 days), at Orlando, FL, in a hearing room to be later designated.

MC 134426 (Sub-6F), McCort Drive-A-Way, Inc., now being assigned for hearing on January 18, 1979 (2 days), at Jacksonville, FL, in a hearing room to be later designated.

MC 107107 (Sub-463F), Alterman Transport Line, Inc., now being assigned for hearing on January 9, 1979 (9 days), at Miami, FL, in a hearing room to be later designated.

MC 116519 (Sub-27 (MIF)), Fredrick Transport Ltd., now being assigned for hearing on January 16, 1979 (4 days), at Buffalo, NY, in a hearing room to be later designated.

MC 108531 (Sub-20F), Blue Bird Coach Line, Inc., now being assigned for hearing on January 22, 1979 (1 week), at Rochester, NJ, in a hearing room to be later designated.

MC 71043 (Sub-10F), LaPorte Transit Co., Inc., now being assigned for hearing on January 9, 1979 (2 weeks), at Chicago, IL, in a hearing room to be later designated.

MC 144296F, Lewis Bus Line, Inc., now being assigned for hearing on December 6, 1978 (3 days),at Augusta, GA, in a hearing room to be later designated.

MC 133233 (Sub-58F), Clarence L. Werner, d.b.a. Werner Enterprises, now assigned for hearing on November 29, 1978, at Dallas, TX, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 136605 (Sub-47F), Davis Bros., Inc., now assigned for hearing on November 29, 1978, at Seattle, WA, will be held in Room 3086, Federal Building, 915 Second Avenue.

MC 95876 (Sub-232F), Anderson Trucking Service, Inc., now assigned for hearing on November 30, 1978, at St. Louis, MO, will be held in Room 313, Third Floor, U.S. Court and Customhouse, 1114 Market Street.

MC 115841 (Sub-589), Colonial Refrigerated Transportation, Inc., now assigned for hearing on November 30, 1978, at Dallas, TX, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 118832 (Sub-8), Westours Motor Coaches, Inc., now assigned for hearing on December 4, 1978, at Seattle, WA, will be held in Room 3086, Federal Building, 915 Second Avenue.

MC 100666 (Sub-389F), Melton Truck Lines, Inc., now assigned for hearing on December 4, 1978, at Dallas, TX, will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 125433 (Sub-145), F-B Truck Lines, Co., now assigned for hearing on December 4, 1978, at San Francisco, CA, will be held in Room 510, Fifth Floor, 211 Main Street.

MC 138713 (Sub-3), R & G Transit Corp., now assigned for hearing on December 4, 1978, at St. Louis, MO, will be held in Room 313, Third Floor, U.S. Court and Customhouse, 1114 Market Street.

MC 123407 (Sub-447F), Sawyer Transport, Inc., now assigned for hearing on December 5, 1978, at San Francisco, CA, will be held in Room 510, Fifth Floor, 211 Main Street.

MC 144170 Nationwide Truck Lines, Inc., now assigned for hearing on December 6, 1978, at San Francisco, CA, will be held in Room 510, Fifth Floor, 211 Main Street.

MC 138018 (Sub-41F), Refrigerated Foods, Inc., now assigned for hearing on December 11, 1978, at Seattle, WA, will be held in Room 2866, Federal Building, 915 Second Avenue.

MC 138732 (Sub-12F), Osterkamp Trucking, Inc., now assigned for hearing on December 11, 1978, at San Francisco, CA, will be held in Room 510, Fifth Floor, 211 Main Street.

MC 29948 (Sub-10F), Empire Lines, Inc., now assigned for hearing on December 13, 1978, at Spokane, WA, will be held in Conference Room 752, U.S. Courthouse, West 920 Riverside.

MC 144296F, Lewis Bus Lines, Inc., now being assigned for hearing on December 6, 1978 (3 days), at Augusta, GA, in a hearing room to be later designated.

MC 117574 (Sub-310), Dally Express, Inc., now being assigned for hearing on December 11, 1978 (1 day), at Atlanta, GA, in a hearing room to be later designated.

MC 56679 (Sub-90), Brown Transport Corp., now being assigned for hearing on December 12, 1978 (Continued, 4 days), at Atlanta, GA, in a hearing room to be later designated.

MC 103066 (Sub-68F), Stone Trucking Co., now being assigned for hearing on January 9, 1979 (1 day), at Kansas City, MO, in a hearing room to be later designated.

MC 118535 (Sub-117F), Tiona Truck Line, Inc., now being assigned for hearing on January 15, 1979 (1 day), at Kansas City, MO, in a hearing room to be later designated.

MC 119777 (Sub-347F), Ligon Specialized Hauler, Inc., now being assigned for hearing on January 11, 1979 (1 day), at Kansas City, MO, in a hearing room to be later designated.

MC 4405 (Sub-577F), Dealers Transit, Inc., now being assigned for hearing on January 12, 1979 (1 day), at Kansas City, MO, in a hearing room to be later designated.

MC 119493 (Sub-201F), Monkem Co., Inc., now being assigned for hearing on January 10, 1979 (1 day), at Kansas City, MO, in a hearing room to be later designated.

MC 118535 (Sub-122F), Tiona Truck Line, Inc., now being assigned for hearing on January 16, 1979 (2 days), at Kansas City, MO, in hearing room to be later designated.

MC 200-300F, Riss International Corp., now being assigned for hearing on January 18, 1979 (2 days), at Kansas City, MO, in hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29823 Filed 10-20-78; 8:45 am]

[7035-01-M]

[Notice No. 197]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 11, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official

named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 24379 (Sub-47TA), filed August 3, 1978. Applicant: LONG TRANSPORTATION CO., 14510 West Eight Mile Road, Oak Park, MI 48237. Representative: David A. Turano, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive engines*, from the plantsites and manufacturing facilities of Ford Motor Co. at or near Cleveland, OH, to the plant and warehouse facilities of Ford Motor Co. located at or near Norfolk, VA; and (2) *Empty returned racks, and rejected engines*, from the plant and warehouse facilities of Ford Motor Co. at or near Norfolk, VA, to the plantsite and manufacturing facilities of Ford Motor Co. at or near Cleveland, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Co., One Parklane Boulevard, Parklane Towers-East, Suite 200, Dearborn, MI 48126. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 25798 (Sub-332TA), filed August 28, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, scouring pads, sodium hypochlorite, and cleaning, scouring, and washing compounds*, between the facilities of the Purex Corp. at Auburndale and Tampa, FL, on the one hand, and on the other, Atlanta, GA, restricted to traffic originating or terminating at the facilities of the Purex Corp., for 180 days. There is no environmental impact involved in this application. Supporting shipper: Purex Corp., P.O. Box 6200, Carson, CA 90749. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

MC 26396 (Sub-196TA) filed August 28, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from Winnebago, MN, to points in the states of WY, MT, ID, UT, ND, SD, CO, NE, IL, IA, WI, MO, KS, OK, AR, TX, WA, OR, and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marvin Nilson, Winnebago Drainage Systems, Inc., Winnebago, MN 56098. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-197TA) filed August 28, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the ports of entry on the International Boundary line between the United States and Canada located in ID, MT, and ND, to points in the states of MT, WY, ID, CO, ND, SD, NE, KS, MN, IA, AR, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norman G. Patterson, Cascade Imperial Mills, Ltd., 1205 Richards Street, Vancouver, BC, Canada. Send protests to: Paul J. Labane, District Supervisor, 2602 First Avenue North, Billings, MT 59101.

MC 42261 (Sub-139TA) filed August 28, 1978. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, NJ 07303. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oil*, (in bulk, in tank vehicles), from the facilities of the Rolfite Co. at or near Elizabeth, NJ, to points in AL, AR, LA, MS, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Rolfite Co., 300 Broad Street, Stamford, CT 06901. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 61825 (Sub-79TA) filed August 24, 1978. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone, Roy Stone Transfer Corp. P.O. Box 385, Collinsville, VA 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and container accessories, and materials, equipment, and supplies used in the manufacture and distribution of glass containers and container accessories*, between the facilities of Brockway Glass Co., Inc., in Jefferson and Clearfield Counties, PA, on the one hand, and, on the other, Richmond, Danville, Norfolk, Suffolk, and Williamsburg, VA, and Reidsville and Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brockway Glass Co., Inc., Brockway, PA. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 78400 (Sub-63TA) filed August 23, 1978. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1201 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Linn, MO, and its commercial zone, and Kansas City, KS, and its commercial zone serving the intermediate points of California, Tipton, Syracuse, Otterville, and Smithton, MO, and their commercial zones, and between the facilities of E-Z Manufacturing Co., at or near Latham, MO, and Kansas City, KS, and its commercial zone. From Linn, MO, and its commer-

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cial zone, over U.S. Hwy 50 to Kansas City, KS, and its commercial zone and

plicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper:

room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 113908 (Sub-450TA) filed August

New York City, NY; Plainfield, CT; Houston, TX; Los Angeles and San Francisco, CA, and Seattle, WA, for

tive: Mr. Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate

neapolis, MN 55413. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commis-

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cial zone, over U.S. Hwy 50 to Kansas City, KS, and its commercial zone and return over the same route. Between Smithton, MO, and its commercial zone, and East St. Louis, IL, and its commercial zone serving the intermediate points of Otterville, Syracuse, Tipton, and California, and their commercial zones, and between the facilities of E-Z Manufacturing Co., at or near Latham, MO, and East St. Louis, IL, and its commercial zone. From Smithton, MO, and its commercial zone, over U.S. Hwy 50 to East St. Louis, IL, and its commercial zone, and return over the same route for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (9) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 78400 (Sub-64 TA) filed August 24, 1978. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, MO. 63037. Representative: Allen Dieckmann, Hwy 50, Gerald, MO 63037. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tubing*, (1) from the facilities of Bull Moose Tube Co., at Gerald, MO, to points in AR, IL, IN, IA, NE, KS, and OK; and (2) from the facilities of G.S.I., Warehouse in Granite City, IL, to points in AR, IL, IN, IA, NE, KS, OK, CO, TX, LA, MS, AL, GA, TN, KY, OH, MN, and WI., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bull Moose Tube Co., P.O. Box 214, Hwy 50, Gerald, MO. Send protests to: Peter E. Binder, District Supervisor, Interstate Commerce Commission, 210 N. 12th Street, room 1465, St. Louis, MO 63101.

MC 106674 (Sub-336TA) filed August 28, 1978. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, U.S. Hwy 24 West, Remington, IN 47997. Representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products and materials and supplies* used in the installation and distribution thereof, from facilities of Georgia-Pacific Corp. located at or near Wilmington, DE, Buchanan and Croton-on-Hudson, NY, to points in Michigan and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 107403 (Sub-1114TA) filed August 9, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (in bulk, in tank vehicles), from Pearl River, LA, to Fresno and San Francisco, CA; Clifton and Swedesboro, NJ; Detroit, MI; Huntington, WV; Fort Madison, IA; Camas, WA; Portland, OR; Toledo, OH; and Millinocket and Bucksport, ME, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pearl River Chemical Co., P.O. Box 1202, Slidell, LA 70459. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, room 3238, Philadelphia, PA 19106.

MC 113908 (Sub-448TA) filed August 28, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, 2105 Dale Street, Glenstone Station, Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Apple juice* (in bulk), from Rogers, AR, to Kansas City, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Speas Co., Minneapolis, MN 55402. Send protests to: John V. Barry, District Supervisor, room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 113908 (Sub-449TA) filed August 28, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, 2105 Dale Street, Glenstone Station, Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, N.O.I. (rums, among others)*, in bulk, from Boston, MA, to Paducah, KY, Allen Park, MI, and Menlo Park, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Heublein, Inc., 330 New Park Avenue, Hartford, CT 06106. Send protests to: John V. Barry, District Supervisor, room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 113908 (Sub-450TA) filed August 28, 1978. Applicant: ERICKSON TRANSPORT, P.O. Box 3180, 2105 Dale Street, Glenstone Station, Springfield, MO. 65804. Representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar stock* (in bulk), from Golden Eagle, IL, to Kansas City, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Speas Co., Minneapolis, MN 55402. Send protests to: John V. Barry, District Supervisor, room 600, 911 Walnut Street, Kansas City, MO 64106.

MC 114632 (Sub-180TA) filed August 28, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter, 212 Southwest Second Street, Madison, SD 57042. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Milwaukee, WI, to points in ID, IL, IN, IA, KS, KY, MN, MO, MT, NE, ND, OH, OR, SD, WA, and WY, for 180 days. Supporting shipper: Miller Brewing Co, 3939 Highland Boulevard, Milwaukee, WI 53208 (Mr. Edward P. Geurts, Assistant Corporate Traffic Manager). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 455, Federal Building, Pierre, SD 57501.

MC 115651 (Sub-45TA) filed August 23, 1978. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: Robert D. Higgins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas* (in bulk, in tank trucks), from Lemont, IL, to WI points, for 180 days. Supporting shipper: Universal Energy Corp., 1301 East Main Street, Waukesha, WI 53186. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, room 1386, Chicago, IL 60604.

MC 115826 (Sub-347TA) filed August 28, 1978. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, 1960 31st Street, Denver, CO 80217. Representative: Howard Gore, 1960 31st Street, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Horse meat*, from Redmond, OR, to Boston, MA;

New York City, NY; Plainfield, CT; Houston, TX; Los Angeles and San Francisco, CA, and Seattle, WA, for 180 days. Supporting shipper: Orio Meat Co., 1607 Southwest Railroad Avenue, Redmond, OR 97756. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 421 19th Street, Denver, CO 80202.

MC 119435 (Sub-5TA) filed August 24, 1978. Applicant: WADDELL TRANSFER, INC., P.O. Box 168, Atkins, VA 24311. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products, concrete and concrete products, shale and shale products, mortar mixes, materials and supplies* used in the manufacture or distribution of the foregoing commodities, and such other commodities as are dealt in or distributed by a manufacturer of the commodities named herein (except in bulk, in tank vehicles), between facilities of General Shale Products Corporation located at or near Groseclose and Richlands, VA, on the one hand, and on the other, points in the United States, in and east of ND, SD, NE, KS, OK, and TX (except points in KY, NC, TN, and WV, restricted to the transportation of shipments moving, under a continuing contract or contracts, with General Shale Products Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Shale Products Corp., Johnson City, TN. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 124078 (Sub-868TA), filed July 28, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum wax* (in bulk, in tank vehicles), from Doraville, GA, to Mesquite, TX, for 180 days. Supporting shipper: Multi-Chem, Inc., 200 Piedmont Court, Doraville, GA 30340 (G. W. Sinner, Vice President). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 125708 (Sub-152TA), filed August 24, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT-LINES, INC., 425 West 152nd Street, East Chicago, IN 46312. Representative: Mr. Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Kansas City, MO, to VA, WA, DE, MD, NC, SC, GA, FL, NY, MA, CT, VT, ME, NH, NJ, RI, and DC, restricted to traffic originating at the facilities of Armco, Inc., at Kansas City, MO, for 180 days. Supporting shipper: Armco, Inc., 7000 Roberts Street, Kansas City, MO 64125. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 128555 (Sub-24TA), filed August 28, 1978. Applicant: MEAT DISPATCH, INC., 2103 17th Street East, Palmetoo, FL 33561. Representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and containers, materials, supplies, and equipment* used in the manufacture, production, sale, or distribution of foodstuffs (except in bulk), between Murfreesboro, TN, on the one hand, and, on the other, points in AL, AR, CA, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI, restricted to the transportation of traffic originating at or destined to the plant site or facilities of Rich Products Corp. at or near Murfreesboro, TN, under a continuing contract, or contracts, with Rich Products Corp., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53rd Terrance, Miami, FL 33166.

MC 134477 (Sub-267TA), filed August 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, wine, cocktail mixes, and bitters* (except malt beverages and commodities in bulk), from Minneapolis, MN, to Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ed Phillips & Sons Co., 2345 Kennedy Street, Minneapolis, MN 55413. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 135221 (Sub-9TA), filed August 23, 1978. Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 West, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are distributed by manufacturers of explosives and materials and supplies used in the manufacture and distribution of explosives, oxidizers, and boosters, (a) between West Jordan and Lehi, UT; Bonne Terre, MO; Plymouth, IN; and Biwabik, MN, and (b) between West Jordan and Lehi, UT, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ireco Chemicals, Inc., Suite 700, Kennecott Building, Salt Lake City, UT 84133 (Ronald E. Bowes, Traffic Manager). Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 135598 (Sub-18TA), filed August 14, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising material*, (a) from Pabst, GA, Milwaukee, WI, Peoria, IL, Evansville, IN, LaCrosse, WI, and Omaha, NE, to Hannibal, MO, and (b) from Milwaukee, WI, Peoria, IL, and Pabst, GA, to Mexico, MO, and (2) *Empty containers and pallets on return*, from the above destinations to the above origins, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: James C. Williams, President, Mark Twain Enterprises, d.b.a. Mark Twain Beverage, Mark Twain Enterprises of Mexico, Inc., 305 South 8th Street, Hannibal, MO 63401. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 135797 (Sub-144TA), filed August 28, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, AR

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72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a

ucts, low calorie products, quiescently frozen confection, yogurt, and cultured (frozen) dairy products, from the facilities of International Dairy Queen,

days of operating authority. Supporting shipper: Pabst Brewing Co., Georgia Hwy 247 Spur, Pabst, GA 31069.

ton, NC; Burkeville, Norfolk, Danville, VA; Montgomery, Mobile, Selma, Brewton, AL; Lucedale, MI; Chatham,

North Main Street, Memphis, TN 38103.

merce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

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72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such *commodities* as are dealt in or used by wholesale and retail discourt or variety stores (except commodities in bulk), from points in AL, AZ, CA, CT, FL, GA, IA, IL, IN, MA, MI, MN, NC, NJ, NM, NY, OH, PA, SC, TX, VA, and WI, to the facilities of Wal-Mart Stores, Inc., located in AR, IL, KS, KY, LA, MO, MS, OK, TN, and TX, for 180 days. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135867 (Sub-4TA), filed August 28, 1978. Applicant: H.T.L., INC., P.O. Box 122, Fairfield, AL 35064. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe, fittings, valves, and castings, and materials, and supplies used in the installation thereof*, from the facilities of McWane Cast Iron Pipe Co., at Birmingham, AL, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, restricted to traffic originating at the facilities of McWane Cast Iron Pipe Co., at Birmingham, AL, and (2) *materials and supplies used in the manufacturing of commodities shown in (1) above* (except commodities in bulk, in tank vehicles), from points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, to the facilities of McWane Cast Iron Pipe Co., at Birmingham, AL, restricted to traffic destined to the facilities of McWane Cast Iron Pipe Co., at Birmingham, AL, under a continuing contract or contracts with McWane Cast Iron Pipe Co., at Birmingham, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McWane Cast Iron Pipe Co., 1200 Vanderbilt Road, North Birmingham, AL. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 135874 (Sub-137TA), filed August 28, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th Street South, South St. Paul, MN 55075. Representative: K.O. Petrick, 550 East 5th Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water ices, ice cream, ice milk products, low calorie products, quiescently frozen confection, yogurt, and cultured (frozen) dairy products*, from the facilities of International Dairy Queen, Inc., Richland Center, WI, to Richmond, IN, Detroit and Taylor, MI, Maryland Heights and St. Louis, MO, Cincinnati, Lima, and Westerville, OH, Evans City, Harrisburg, and Tunkhannock, PA, Midland Park, NJ, and Suffield, CT, restricted to traffic originating at the facilities of International Dairy Queen, Inc., Richland Center, WI, and destined to the points in the named States, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Dairy Queen, Inc., P.O. Box 35286, Minneapolis, MN 55435. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Post Office, 110 South 4th Street, Minneapolis, MN 55401.

MC 136605 (Sub-69TA), filed August 28, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, asbestos, cement pipe, pipe fittings, and accessories* used in the installation thereof, from the facilities of Johns-Manville Sales Corp. located at or near McNary, OR, and Stockton, CA, to points in the States of MT, ID, UT and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charles G. Adler, Johns-Manville Sales Corp., 2600 Campus Drive, San Mateo, CA 94403. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 138882 (Sub-140TA), filed August 28, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36018. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and advertising materials*, from the facilities of Pabst Brewing Co., located at Pabst (Houston County), GA, to points in the States of MD, NJ, VA, DE, and PA, and (2) *Materials, equipment and supplies* used in the maufacture and sale of malt beverages, (except commodities in bulk), from points in MD, NJ, VA, DE, and PA, to the facilities of Pabst Brewing Co., located at Pabst (Houston County), GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pabst Brewing Co., Georgia Hwy 247 Spur, Pabst, GA 31069. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-141TA), filed August 28, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures, equipment, materials and supplies*, from the facilities of Artesian Industries, Inc., located at or near Shelby, OH, to points in KY, WV, VA, TN, SC, NC, LA, MI, AL, GA, and FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Artesian Industries, Inc., 201 East Fifth Street, Mansfield, OH 44902. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-142TA), filed August 28, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and advertising materials*, from the facilities of Pabst Brewing Co., located at Pabst (Houston County), GA, to points in the States of NC, SC, and FL, and (2) *Materials, equipment and supplies* used in the manufacture and sale of malt beverages, (except commodities in bulk), from points in the states of NC, SC, and FL, to the facilities of Pabst Brewing Co., located at Pabst (Houston County), GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pabst Brewing Co., Georgia Hwy 247 Spur, Pabst, GA. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-143TA), filed August 28, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC.. P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber mill products*, from Murphy and Wilmington, NC; Burkeville, Norfolk, Danville, VA; Montgomery, Mobile, Selma, Brewton, AL; Lucedale, MI; Chatham, New Orleans, Baton Rouge, LA; Collins, MI; Blountstown and Jacksonville, FL; Jackson, TN; Savannah, GA, and Charleston and Olar, SC, to points in NC, NY, VA, WV, TX, IL, VT, PA, MI, WI, MI, LA, KY, TN, IN, IA, AR, CA, UT, OH, AL, SC, FL, and NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clarke Veneers & Plywood, P.O. Box 4876, Jackson, MI 39216. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139234 (Sub-5TA), filed August 28, 1978. Applicant: BRUCE'S TRANSPORT SERVICE, INC., P.O. Box 457, 5721 North Ventura Avenue, Ventura, CA 93001. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Barium sulfate*, (in dry bulk form), between Humbolt and Landen Counties, NV, and Kern, Ventura, and Los Angeles Counties, CA, and Douglas County, OR, under a continuing contract, or contracts, with IMCO Services, a Division of Halliburton Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: IMCO Services, a Division of Halliburton Co., 3711 Long Beach Boulevard, Suite 521, Long Beach, CA. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 140995 (Sub-1TA), filed August 28, 1978. Applicant: PARSONS TRUCKING CO., INC., P.O. Box 16, Iuka, MI 38852. Representative: Mr. Olen Parsons, P.O. Box 16, Iuka, MI 38852. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, clay, gravel, wash gravel, crushed limestone, and rip-rap limestone*, between points in MI, AL, and TN, for 180 days. Supporting shipper: There are approximately (12) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof may be examined at the field office named below. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 141008 (Sub-2TA), filed August 28, 1978. Applicant: AIR TRANSPORT, INC., 66 Von Hilleron Street, Boston, MA 02125. Representative: Frederick T. O'Sullivan, P.O. Box 2184, Peabody, MA 01960. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen crushed bones, defatted chopped beef, and beef trimmings*, (except commodities in bulk, in tank vehicles), from Marlboro, MA, to Camden, NJ, and Clayton, DE, under a continuing contract or contracts, with Stop & Shop Cos., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stop & Shop Cos., Inc., Marlboro, MA 01752. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 142059 (Sub-46TA), filed August 23, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, P.O. Box 911, Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Road, Joliet, IL 60436. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Folding doors or partitions and plastic sheeting in packages*, from Arlington Heights, IL, to Sunnyvale and Santa Fe Springs, CA, Hillside and Hackensack, NJ; New York NY; Philadelphia, PA, and Houston, TX, for 180 days. Supporting shipper: Plifoflex, Inc., 1400 East Davis Street, Arlington Heights, IL 60005. Send protests to: Lois Stah, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Chicago, IL 60604.

MC 142244 (Sub-1TA), filed August 28, 1978. Applicant: LLOYD WEST AND BURDETT WEST, d.b.a. WEST BROTHERS CONSTRUCTION CO., Canada Hallow Road, Millport, PA 16739. Representative: Gregory B. Fraser, Bankers Trust Building, Jamestown, NY 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips* (in bulk), from the Union Fork & Hoe Co. facility at or near Portville, NY, to the Masonite Corp. facility at or near Towanda, PA, under a continuing contract, or contracts, with Union Fork & Hoe Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Fork & Hoe Co., Portville Handle Division, P.O. Box 258, Portville, NY 14770. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 142603 (Sub-3TA), filed August 28, 1978. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richard/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules and pellets*, in containers, from Worcester and Oxford, MA, to all points in AL, CA, FL, IL, IN, KY, MD, MI, NC, NY, OH, PA, TN, and VA; and from Owensboro, KY, to all points in MA, NJ, NY, and NC, under a continuing contract, or contracts, with Hammond Plastics Division, Carl Gordon Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hammond Plastics Division, Carl Gordon Industries, 1001 Southbridge Street, Worcester, MA 01610. Send protests to: David M. Miller, District Supervisor, Interstate Commerce Commission, 436 Dwight Street, Springfield, MA 01103.

MC 143088 (Sub-3TA), filed August 28, 1978. Applicant: ROBERT TARBOX, d.b.a. TARBOX TRUCKING, Johnson Heights, Blossburg, PA 16912. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, (except liquid commodities in bulk), from Decatur and Danville, IL; Indianapolis, Decatur, and Lawrenceburg, IN; Muscatine, IA; Minneapolis and St. Paul, MN; Marion, North Baltimore, and Perrysburg, OH; and Milwaukee, WI, to points in DE, CT, MD, NJ, NY, PA, and VT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Agway, Inc., P.O. Box 4933, Syracuse, NY 13221. (2) Cooperative Feed Dealers, Inc., P.O. Box 670, Binghamton, NY 13902. (3) Ames Burns Co., Inc., 701-3 Hotel Jamestown Building, Jamestown, NY 14701. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 143378 (Sub-9TA), filed August 23, 1978. Applicant: WESTERN PRODISIONERS, INC., P.O. Box 15861, Salt Lake City, UT 84115. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are distributed by manufactur-

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ers of explosives and materials and supplies used in the manufacture and distribution of explosives, oxidizera, and boosters, (a) between West Jordan and Lehi, UT; and Bonn Terre, MO; Plymouth, IN; and Biwabik, MN; and (b) between West Jordan and Lehi, UT, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ireco Chemicals, Inc., Suite 700, Kennecott Building, Salt Lake City, UT 84133. (Ronald E. Bowes, Traffic Manager) Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 143610 (Sub-12TA), filed August 28, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AR 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Winchester, VA, and its commercial zone, to points in TX, OR, WA, UT, CO, AR, and CA, under a continuing contract, or contracts, with Rubbermaid Commercial Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rubbermaid Commercial Products, Inc., 3124 Valley Avenue, Winchester, VA 22601. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Buiding 230 North First Avenue, Phoenix, AR 85025.

MC 143853 (Sub-6TA), filed August 28, 1978. Applicant: SME EXPRESS, INC., P.O. Box 571, Upland, IN 46989. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Rockville, MD, to points in AZ, CA, CO, FL, GA, IL, IN, LA, MI, MN, MO, NC, OH, PA, TX, UT, and WI, under a continuing contract, or contracts, with Fawcett Printing Corp., for 180 days. Supporting shipper: Fawcett Printing Corp., 1900 Chapman Avenue, Rockville, MD 20852. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 144075 (Sub-3TA), filed August 28, 1978. Applicant: INDUSTRIAL TRANSPORT, INC., 2301 East 65th Street, Cleveland, OH 44104. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Transit expressway vehicles and equipment, materials, and supplies* (except commodities in bulk), used in the manufacture, distribution, and installation of transit expressway vehicles, (a) between Jackson Center, OH, and Pittsburgh, PA, and (b) between points named in (a) above, on the one hand, and, on the other, Atlanta, GA, under a continuing contract, or contracts, with Westinghuse Electric Corp., for 180 days. Supporting shipper: Westinghouse Electric Corp., Westinghouse Building, Room 1653, Gateway Center, Pittsburgh, PA 15222. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 144440 (Sub-1TA), filed August 28, 1978. Applicant: RICHARD C. DOMBACH, 58 South Duke Street, Millersville, PA 17551. Representative: John W. Metzger, May & May, 49 North Duke Street, Lancaster, PA 17602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals, liquid nitrogen and fertilizer*, (1) from the plantsite and storage facilities of Lebanon Chemical Corp., located at or near Baltimore, MD, to Millersville, PA, and the Pennsylvania counties of York, Lebanon, Cumberland, Dauphin, Columbia, Chester, and Snyder, and (2) from the plantsite and storage facilities of Lebanon Chemical Corp., located at or near Allentown, PA, to Baltimore, MD, under a continuing contract, or contracts, with Lebanon Chemical Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lebanon Chemical Corp., P.O. Box 180, Lebanon, PA 17042. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, PA 17108.

MC 145054 (Sub-1TA), filed August 15, 1978. Applicant: COORS TRANSPORTATION CO., 5101 York Street, Denver, CO 80401. Representative: David R. Parker, 1600 Broadway, 2310 Colorado State Bank Building, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, such as are dealt in by grocery stores, from facilities of Safeway Stores, Inc., in Dallas and Denison, TX, to the facilities of Safeway Stores, Inc., Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Safeway Stores, Inc., 5725 East 14th Street, Oakland, CA 94660. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145054 (Sub-2TA), filed August 23, 1978. Applicant: COORS TRANSPORTATION CO. 5101 York Street, Denver, CO 80401. Representative: David R. Parker, 1600 Broadway, 2310 Colorado State Bank Building, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products* (except in bulk, in tank vehicles), from the facilities of Texaco, Inc., in Wilmington, CA, to points in CO; and (2) *Empty drums and pallets*, from the facilities of Texaco, Inc., in Denver, CO, to the facilities of Texaco, Inc., in Wilmington, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texaco, Inc., 1111 Rush, Houston, TX 77052. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145132 (Sub-1TA), filed August 15, 1978. Applicant: K. C. SALLEY VAN & STORAGE CO., 1301 South Falfurrias Highway, Alice, TX 78332. Representative: Stanley L. Laskowske, 1301 South Falfurrias Highway, Alice, TX 78332. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between Kingsville, TX, on the one hand, and, on the other hand, points in Klebery County, TX, restricted to the transportation of traffic having a prior or subsequent movement, in containers or crates, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chief, Regulatory Law Office, U.S. Army Legal Services Agency, Department of the Army (JALS-RL), Room 2C-455, Pentagon, Washington, DC 20310. Send protests to: Richard H. Dawkins, district Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, 727 East Durango Street, San Antonio, TX 78206.

MC 145157 (Sub-1TA), filed August 24, 1978. Applicant: GORDON D. JOHNSON AND VELMA J. JOHNSON, d.b.a. PRODUCTIVE PRODUCTS CARRIER, 1213 Georgene Northeast, Albuquerque, NM 87112. Representative: Gordon D. Johnson and Velma Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and plastic pipe fittings*, from facilities of Spartan Products Co. at or near Anaheim, CA, and facilities of Lone Star Plastic Pipe Co. at or near Ennis, TX, to points in NM and El Paso, Hale, Lubbock, Potter, and Randall Counties, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. S. P. Co., P.O. Box 26324, Albuquerque, NM 8712. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue Southwest, Albuquerque, NM 87101.

MC 145243TA, filed August 18, 1978. Applicant: REDBIRD DEVELOPMENT, INC., 1018 Whitlock Road, Rochester, NY 14609. Representative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal, for recycling purposes*, from points in CN, IL, IN, MA, ME, MI, NH, NJ, NY, OH, PA and VT, to the port of entry on the International Boundry Line between the United States and Canada at Rouses Point, NY, under a continuing contract, or contracts, with Intermetco U.S., Inc., of Detroit, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D. A. Newstead, Traffic Manager, Metals Recycling Division of Intermetco U.S., Inc., Lloyd D. Jackson Square, P.O. Box 70, Hamilton, ON, Canada. Send protests to: District Supervisor, Interstate Commission, U.S. Courthouse and General Building, 100 South Clinton Street, Room 1259, Syracuse, NY 13260.

MC 145285TA, filed August 28, 1978. Applicant: CLICK DELIVERY SERVICE, INC., 3710 Robertson Street, P.O. Box 683, Metairie, LA 70004. Representative: Kim G. Meyer, P.O. Box 872, 235 Peachtree Street, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home Products Distributors for the account of Avon Prodicts, Inc., from Gulfport, MS, and Baton Rouge and New Orleans, LA, to points in MS in and south of Jefferson, Lincoln, Lawrence, Jefferson Davis, Covington, Jones, and Wayne Counties and points in LA, in and east of Pointe Coupee, Iberville, Assumption, and Terrebonne Parishes, under a continuing contract, or contracts, with Avon Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30303. Send protests to: Connie A. Guillory, District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Service Building, Bureau of Operations, 701 Loyola Avenue, New Orleans, LA 70113.

MC 145287 (Sub-1TA), filed August 24, 1978. Applicant: NIP KELLEY EQUIPMENT CO., INC., 410 William, Cape Girardeau, MO 63701. Representative: Bernard P. McDonnell, 8015 Forsyth, Suite 207, St. Louis, MO 63105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled, motorized, and nonmotorized machinery plus attachments and supplies for such items*, the size and weight of such items may, from time to time, require the use of special trailers, between Cape Girardeau, MO, and all points in MO, IL, AR, TN and KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Missouri-Illinois Tractor Co., I-55 at Gardenville Road, P.O. Box 639, Cape Girardeau, MO 63701. Send protests to: Peter E. Binder, District Supervisor, Interstate Commerce Commission, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

By the Commission.

H. G. Homme, Jr.,
Acting secretary.

[FR Doc. 78-29821 Filed 10-20-78; 8:45 am]

[7035-01-M]

[Notice No. 198]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

MC 2368 (Sub-80TA), filed August 23, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 495, Richmond, VA 23204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (in bulk, in tank vehicles), between Chesapeake, VA, on the one hand, and, on the other, points in NC for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Smith Douglas, Division of Borden Chemical, Borden, Inc., 5100 Virginia Beach Boulevard, Norfolk, VA 23501. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10, 502 Federal Building, 400 North Eighth Street, Richmond, VA.

MC 2368 (Sub-81TA), filed August 23, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative:. William T. Marshburn, P.O. Box 495, Richmond, VA 23204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid* (in bulk, in tank vehicles), from Richmond, VA, to points in NC and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dominion Chemical Co., P.O. Box 1069, Petersburg, VA 23803. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10, 502 Federal Building, 400 North Eighth Street, Richmond, VA.

MC 2368 (Sub-82TA), filed August 23, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 496, Richmond,

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VA 23204. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (in bulk), from Norfolk, VA, to points in MD and NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chemphalt of Carolina, Inc., P.O. Box 717, Norfolk, VA. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10, 502 Federal Building, 400 North Eighth Street, Richmond, VA 23219.

MC 2368 (Sub-82TA), filed August 23, 1978. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, P.O. Box 495, Richmond, VA 23204. Representative: William T. Marshburn, P.O. Box 496, Richmond, VA 23204. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (in bulk, in tank vehicles), from Suffolk, VA, to points in MD, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Suffolk Chemical Co., P.O. Box 1606, Suffolk, VA 23434. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10, 502 Federal Building, 400 North Eighth Street, Richmond, VA 23204.

MC 26396 (Sub-198TA), filed August 28, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Sharon L. Hamlett (same address as applicant). Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and posts, treated and untreated*, from points in SD, to points in the States of WY, NE, MN, IA, WI, MI, MT, UT, CO, and ND, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Johnny J. Patino, Whitewood Post & Poles, P.O. Box 97, Whitewood, SD 57793. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-199TA), filed August 28, 1978. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Building brick*, from ports of entry on the International Boundary line between the United States and Canada located in MT and ND, to points in the State of UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dave Patterson, IXL Industries, Box 70, Medicine Hat, AB, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 31389 (Sub-255TA), filed August 21, 1978. Applicant: McLEAN TRUCKING CO., 617 Waughtown Street, Winston-Salem, NC 27107. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Wichita, KS, and Kansas City, KS: From Wichita over Interstate Hwy 35 to Kansas City, KS, and return over the same route (also from Wichita over Interstate Hwy 135 to junction U.S. Hwy 50, thence over U.S. Hwy 50 to the junction of Interstate Hwy 35, thence over Interstate Hwy 35 to Kansas City, KS, and return over the same route). Serving as intermediate or off-route points in connection with the described regular routes, points in Sedgwick, Reno, McPherson, Harvey, Sumner, and Cowley Counties, KS. Restriction: Serving Kansas City, KS-MO, St. Louis, MO, Chicago, IL, and points in the Commercial Zones thereof for joinder only. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. J. Reynolds Tobacco Co., Winston-Salem, NC. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

NOTE.—Common control may be involved, for 180 days.

MC 63417 (Sub-165TA), filed August 24, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 245034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures, parts, attachments and accessories therefor*, from Evansville and Rockport, IN, to points in AR, DE, FL, LA, NJ, NY, OH, OK, PA, and TX, for 180 days. Supporting shipper: Peerless Pottery, Inc., 817 North St. Joseph Avenue, Evansville, IN 47712. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24001.

MC 63838 (Sub-8TA), filed August 28, 1978. Applicant: BOLUS MOTOR LINES, INC., 700 North Keyser Avenue, Scranton, PA 18508. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magazines and periodicals*, from Scranton, PA, to Absecon and Trenton, NJ, for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Scranton Lithographing Co., 530 Electric Street, Scranton, PA 18509. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 65895 (Sub-4TA), filed August 24, 1978. Applicant: REDDAWAY'S TRUCK LINE, 1721 Northwest Northrup, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 Northwest 23rd Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A & B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those commodities injurious or contaminating to other ladings), between Salem, OR and Seattle, WA, serving the intermediate points of Tacoma and Olympia, WA; Portland, OR; and those points in OR, intermediate to Salem, OR, and the commercial zones of the above points, from Salem, OR, over U.S. Hwy 99E to Portland, OR, then over U.S. Hwy I-5 to Seattle, WA, and return over the same route, for 180 days. Supporting shipper: There are approximately (109) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 77061 (Sub-12TA), filed August 24, 1978. Applicant: SHERMAN BROS., INC., P.O. Box 706, 90129 Prairie Road, Eugene, OR 97401. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper and waste paper products*, from King, Thurston, and Spokane Counties, WA, to Lane and Benton Counties, OR, for 180 days. Applicant has also filed an underlying

ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, OR 97204. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 78400 (Sub-62TA), filed August 21, 1978. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel tubing*, from the facilities of Maverick Tube Corp., Union, MO, to points in IL, IA, MS, IN, NC, AR, OK, KY, TN, VA, GA, PA, SC, KS, WI, AL, OH, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Maverick Tube Corp., 311 North Lindbergh, St. Louis, MO 63141. Send protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 95540 (Sub-1032TA), filed August 22, 1978. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 West Griffin Road, Lakeland, FL 33802. Representative: K. Edward Wolcott, Suite 1200 Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injuries or contaminating to other lading), (1) between Atlanta, GA, and Cuba, AL, serving all intermediate points: From Atlanta, GA, over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to Cuba, AL, and return over the same route. (2) Between Atlanta, GA, and Grand Bay, AL, serving all intermediate points: From Atlanta, GA, over U.S. Hwy 29 to Tuskegee, AL, then over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 31 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Grand Bay, AL, and return over the same route. (3) Between Columbus, GA, and Cuba, AL, serving all intermediate points: From Columbus, GA, over U.S. Hwy 80 to Cuba, AL, and return over the same route. (4) Between Bainbridge, GA, and Ardmore, AL, serving all intermediate points: From Bainbridge, GA, over U.S. Hwy 84 to Dotham, AL, then over U.S. Hwy 231 to Montgomery, AL, then over U.S. Hwy 31 to junction AL Hwy 251, then over AL Hwy 251 to junction AL Hwy 53, then over AL Hwy 53 to Ardmore, AL, and return over the same route. (5) Between Dothan, AL, and Isney, AL, serving all intermediate points: From Dothan, AL, over U.S. Hwy 84 to Isney AL, and return over the same route. (6) Between Montgomery, AL, and Stafford, AL, serving all intermediate points: From Montgomery, AL, over U.S. Hwy 82 to Stafford, AL, and return over the same route. (7) Between Birmingham, AL, and Rossville, GA, serving all intermediate points: From Birmingham, AL, over U.S. Hwy 11 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Rossville, GA, and return over the same route. (8) Between Birmingham, AL, and Bexar, AL, serving all intermediate points: From Birmingham, AL, over U.S. Hwy 78 to Bexar, AL, and return over the same route. (9) Between Atlanta, GA, and Hamilton, AL, serving all intermediate points: From Atlanta, GA, over U.S. Hwy 278 to Hamilton, AL, and return over the same route. (10) Between Rossville, GA, and Cherokee, AL, serving all intermediate points: From Rossville, GA, over U.S. Hwy 27 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction U.S. Hwy 72, then over U.S. Hwy 72 to Cherokee, AL, and return over the same route. (11) Between Anniston, AL, and junction U.S. Hwy 72 and Alternate U.S. Hwy 72 serving all intermediate points: From Anniston, AL, over U.S. Hwy 431 to Huntsville, AL, then over Alternate U.S. Hwy 72 to junction U.S. Hwy 72 and return over the same route. (12) Between Columbus, GA, and Birmingham, AL, serving all intermediate points: From Columbus, GA, over U.S. Hwy 280 to Birmingham, AL, and return over the same route. (13) Between Columbus, GA, and Mobile, AL, serving all intermediate points: From Columbus, GA, over U.S. Hwy 431 to Dothan, AL, then over U.S. Hwy 231 to junction U.S. Hwy 90 then over U.S. Hwy 90 to Mobile, AL, and return over the same route. (14) Between Bainbridge, GA, and Pensacola, FL, serving all intermediate points: From Bainbridge, GA, over U.S. Hwy 27 to Tallahassee, FL, then over U.S. Hwy 319 to Carrabelle, FL, then over U.S. Hwy 98 to Pensacola, FL, and return over the same route. (15) Between Pensacola, FL, and Flomaton, AL, serving all intermediate points: From Pensacola, FL, over U.S. Hwy 29 to Flomaton, AL, and return over the same route. (16) Between Rossville, GA, and Atlanta, GA, serving all intermediate points: From Rossville, GA over U.S. Hwy 27 to junction GA Hwy 2, then GA Hwy 2 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Atlanta, GA, and return over the same route. Service is authorized at all points in AL, and those points in FL, on and west of U.S. Hwy 319, and those points in GA on, north and west of U.S. Hwy 411, not on the above described routes as off route points. Restriction: The authority granted to points in GA, is restricted to the transportation of traffic moving from, to or through points in AL, for 180 days. Applicant indicates it intends to tack existing authority under MC 95540 Sub-733 and 999. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 48 statements of support attached to this applicant which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies which may be exmained at the field office named below. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53d Terrace, Miami, FL 33166.

MC 103051 (Sub-452TA), filed August 24, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid* (in bulk, in tank vehicles), from Savannah, GA, to points in FL and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Cyanamid Co., Bound Brook, NJ 08805. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106074 (Sub-65TA), filed August 21, 1978. Applicant: B AND P MOTOR LINES, INC., P.O. Box 727, Shiloh Road, Forest City, NC 28043. Representative: William E. Collier, 447 Calumet Place, San Antonio, TX 78209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Watsonville, CA, to AL, CT, DC, FL, GA, IL, IN, IA, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, TX, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Frozen Foods, Inc., P.O. Box 607, McAllen, TX, 78501. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 113325 (Sub-153TA), filed August 28, 1978. Applicant: SLAY

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TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, MO 63104. Representative: T. M. Tahan

Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th

W. Smith, Suite 945, 9000 Keystone Crossing, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to op-

36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Authority

Fayetteville, 1010 Institute Building, Raleigh, NC 27602. Authority sought to operate as a *common carrier*, by

the States of NC, SC, GA and FL, under a continuing contract, or contracts, with Howmet Aluminum Corp

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TRANSPORTATION CO., INC., 2001 South Seventh Street, St. Louis, MO 63104. Representative: T. M. Tahan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coaltrol* (in bulk, in tank vehicles), from Mailstee, MI, to New Madrid, MO, for 180 days. Supporting shipper: Apollo Chemical Corp., 35 South Jefferson Road, Whippany, NJ 07981. Send protests to: P. E. Binder, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 114211 (Sub-372TA), filed August 24, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Representative: Adelor J. Warren, P.O. Box 420, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast stone veneer*, from Napa and Solano Counties, CA, to points in the United States (excluding AK and HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stucco Stone Products, P.O. Box 237, Napa, CA 94558. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114457 (Sub-428TA), filed August 23, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, from Green Bay, WI, to Wichita, KS, and Stuttgart, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midway Can Co., 2341 Hampden Avenue, St. Paul, MN 55114. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 114725 (Sub-90TA), filed August 28, 1978. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 North 11th Street, Omaha, NE 68110. Representative: D. F. Swerczek (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (in bulk, in tank vehicles), from Casper, WY, to NE, for 180 days. Supporting shipper: Dave Rau, Equipment Superintendent, Western Engineering Co., Harlan, IA. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 115826 (Sub-344TA), filed August 23, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Box 5088 Terminal Annex, Denver, CO 80217. Representative: Howard Gore, 1960 31st Street, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and feed ingredients* (except in bulk), from the facilities of Kal Kan Foods, Inc., at or near Vernon, CA, to points in AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: H. C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115841 (Sub-111TA), filed August 24, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal roofing and siding*, from Jackson, GA, to points in AL, TN, FL, NC, SC and GA, for 180 days. Supporting shipper: Fabral-Division of Alcan Aluminum, 3449 Hempland Road, Lancaster, PA 17601. Send protests to: Glen Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 118831 (Sub-164TA), filed August 21, 1978. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller III, P.O. Box 7007, High Point, NC 27264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry polyester resin* (in bulk), between Fayetteville, NC, and Lewistown, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carodel Corp., P.O. Box 630, Cedar Creek Road, Fayetteville, NC 28302. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 119656 (Sub-49TA), filed August 23, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, P.O. Box 40659, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials and cement pipe containing asbestos fibre;* and (2) *insulation board*, from (1) the plantsite of Johns-Manville Sales Corp., at or near Waukegan, IL, and (2) from the plantsite of Johns-Manville Perlite Corp., at or near Rockdale, IL, to points in IN, KY, MI (the Lower Peninsula), NY, OH and PA, for 180 days. Supporting shipper: Johns-Manville Sales Corp., 2222 Kensington Court, Oak Brook, IL 60521. Send protests to: Lois Stahl, District Supervisor, Interstate Commerce Commission, 219 South Dearborn Street, Chicago, IL 60604.

MC 119700 (Sub-40TA), filed August 23, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum wallboard, gypsum joint cement and related commodities* (except in bulk), from Acme, TX, to points in the States of AR, OK, KS, LA, and NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia-Pacific Corp., 900 Southwest 5th Avenue, Portland, OR 97204. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 119765 (Sub-57TA), filed August 23, 1978. Applicant: EIGHT WAY XPRESS, INC., P.O. Box 7356, 5402 South 27th Street, South Omaha Station, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from Omaha, NE, and Milwaukee, WI, and their respective commercial zones, to Jefferson City and Camdenton, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: David Allen, Transportation Manager, Quality Wholesalers, Inc., P.O. Box 274, Jefferson City, MO 65101. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 121664 (Sub-33TA), filed August 28, 1978. Applicant: HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Drewery Road, Monroeville, AL

36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring, hardwood block or squares, adhesives, accessories, and lumber*, from Nashville and Jackson, TN, to points in MI, AL, FL, GA, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Bruce Hardwood Floors, a Triangle-Pacific Co., P.O. Box 90726, Nashville, TN 37209. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121664 (Sub-34TA), filed August 28, 1978. Applicant: HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Drewery Road, Monroeville, AL 36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel in coils, flat sheet steel, steel tubing, mufflers, and tailpipes*, from, to, and between Monticello, AR, and Gadsden, Birmingham, Fayette, and Monroeville, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Arvin Automotive, 1531 13th Street, Columbus, IN. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 126133 (Sub-3TA), filed August 24, 1978. Applicant: GENERAL LEASING, INC., Box 216, 1620 South 15th Street, Prairie du Chien, WI 53821. Representative: Michael S. Varda, 121 S. Pinckney Street, Madison, WI 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, IL, to Prairie du Chien, WI, under a continuing contract, or contracts, with Quality Beverages of Wisconsin, Inc., of Prairie du Chien, WI, for 180 days. Supporting shipper: Quality Beverages of Wisconsin, Inc., 1620 South 15th Street, Prairie du Chien, WI 53821. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 126139 (Sub-3 TA), filed August 28, 1978. Applicant: AARON SMITH TRUCKING CO., INC., P.O. Box 153, Dudley, NC 28333. Representative: John N. Fountain, P.O. Box 2246, 336 Fayetteville, 1010 Institute Building, Raleigh, NC 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from the facilities of Bruce Foods Corp. at Wilson, NC, to all points in FL, AL, and all points in GA south of U.S. Hwy. 78, for 180 days. Supporting shipper: Bruce Foods Corp., P.O. Drawer 1030, New Iberia, LA 70560. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 127804 (Sub-8 TA), filed August 23, 1978. Applicant: WILLIAM R. WEINRICH, d.b.a. WEINRICH TRUCK LINES, P.O. Box 1037, Hinton, IA 51024. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urea*, from the facilities of Terra Chemicals International, Inc., at or near Sioux City, IA, to points in AR, LA, MS, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert Stone, Traffic Manager, Terra Chemicals International, Inc., P.O. Box 1828, Sioux City, Ia 51102. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 128007 (Sub-127 TA), filed August 28, 1978. Applicant: HOFER, INC., P.O. Box 583, 20th & Bypass, Pittsburg, KA 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KA 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate*, (in bulk), from facilities of Gulf Oil Chemicals Co. at or near Military, KA, to points in AR, MO, OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gulf Oil Chemicals Co., P.O. Box 6200B, Pittsburg, KA 66762. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KA 67202.

MC 128801 (Sub-7 TA), filed August 24, 1978. Applicant: RONALD SHREINER, R.D. No. 7, Lebanon, PA 17042. Representative: Ronald Shreiner, R.D. No. 7, Lebanon, PA 17042. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum plate or sheet, aluminum blanks*, from the plant site and storage facilities of Howmet Aluminum Corp. at or near Lancaster, PA, to points in the States of NC, SC, GA and FL, under a continuing contract, or contracts, with Howmet Aluminum Corp., Mill Products Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Howmet Aluminum Corp., Mill Products Divison, BOX 3167, Lancaster, PA 17604. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108.

MC 133485 (Sub-23 TA), filed August 23, 1978. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster Street, Providence, RI 02909. Representative: Morris J. Levin, 1050 Seventeenth Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precious metals (cobalt)*, in armored motor vehicles escorted by armed guards, between New York, NY, and Valparaiso, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phillip Brothers, Division of Engelhard Minerals & Metals Corp., 1221 Avenue of the Americas, New York, NY 10020. Send protests to: Gerald H. Curry, District Supervisor, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 135070 (Sub-11TA), filed August 28, 1978. Applicant: JAY LINES, INC., 720 North Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 18149, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal cabinets and parts and accessories thereto*, from the facilities of General Metalcraft Co., at or near Dover, DE, to Bentonville, AR, Wichita, KS, Denver, CO, El Paso, TX, and Phoenix, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midway America, Inc., 721 East Central Street, Wichita, KS 67202. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 135221 (Sub-8TA), filed August 23, 1978. Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 West, Salt Lake City, UT 84120. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden doors*, from Vancouver, WA, to Salt Lake City, UT, for 180 days. Applicant has

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also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cook Lumber, Inc., 6533 South State, Salt Lake City, UT 84107. (Ed Butterfield, Vice President). Send protests to: L. D. Helfer, District Supervisor, Interstate Commerce Commission, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

MC 135326 (Sub-10TA), filed August 28, 1978. Applicant: SOUTHERN GULF TRANSPORT, INC., 4277 North Market Street, P.O. Box 7959, Shreveport, LA 71107. Representative: J. D. Haynes, P.O. Box 759, Shreveport, LA 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sulfate liquid*, from near Shreveport, LA, (Caddo Parish) to AR, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Thompson-Hayward Chemical Co., 1011 Jack Wells Boulevard, P.O. Box 7884, Shreveport, LA 71107. Send protests to: Connie A. Grillory, District Supervisor, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 136275 (Sub-27TA), filed August 28, 1978. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Boulevard, El Paso, TX 79922. Representative: H. B. Dudley, 777 Executive Boulevard, El Paso, TX 79922. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk and in pneumatic trailers, from Pueblo, CO, to Las Cruces, NM, and El Paso, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) El Paso Sand Products, Inc., One McKelligon Canyon Road, El Paso, TX, (2) Certified Concrete Products, Box 128, Las Cruces, NM. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 138635 (Sub-60TA), filed August 21, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, 1511 K Street, NW, Suite 423, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders operating pursuant to part IV of the Interstate Commerce Act, (a) between Charlotte, NC, Atlanta, GA; Lynchburg and Norfolk, VA, and points in their respective commercial zones, on the one hand, and, on the other, Chicago, IL, and points in its commercial zone, (b) from New York, NY, and points in its commercial zone to points in FL, for 180 days. Supporting shipper: Acme Fast Freight, Inc., 2335 New Hyde Park Road, New Hyde Park, NY, 11040 Universal Carloading & Distributing Co., Inc., 345 Hudson Street, New York, NY 10014. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC—516, Mart Office Building, Charlotte, NC 28205.

MC 139858 (Sub-27TA), filed August 23, 1978. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Avenue, Hamilton, OH 45015. Representative: Chandler L. Van Orman 1729 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stoves, fireplaces, and accessories and materials, equipment, and supplies*, used in the manufacture and distribution thereof, from Grand Rapids, MI, to Huntington, IN. Restriction: The operations described above, if authorized, are subject to the following conditions: (1) The product description does not include commodities which because of their size or weight require the use of special equipment; (2) said operations are limited to transportation service to be performed, under a continuing contract, or contracts, with American Standard, Inc., New Brunswick, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Standard, Inc., Gregory J. Decker, Manager, Rates, P.O. Box 2003, New Brunswick, NJ 08903. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 141197 (Sub-26TA), filed August 28, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64150. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in pneumatic tank vehicles, from Muncie, KS, to points in MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Holiday Sand & Gravel Co., 6811 West 63d Street, Overland Park, KS 66202. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, KS 64106.

MC 143267 (Sub-32TA), filed August 21, 1978. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, Mantua, OH 44255. Representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand and dry mixed aggregates containing silica sand*, from the facilities of Set Products, Inc., at Streetsboro, OH, to points in MT, WY, CO, NM, and States east thereof, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Set Products, Inc., 8501 Freeway Drive, Macedonia, OH 44056. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 144041 (Sub-23TA), filed July 18, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, NE., Atlanta, GA 30345. Representative: K. Edward Wolcott, 235 Peachtree Street, NE., P.O. Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastics products* (except in bulk), from the facilities of the Dow Chemical Co. at or near Carteret, NJ, and Allyn's Point, CT, to points in the States of DE, MD, WV, KY, TN NC, SC, GA, AL, MI, FL, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dow Chemical, U.S.A., Eastern Division, 14955 Sprague Road, P.O. Box 36000, Strongsville, OH 44136. Send protests to: Sara K. Davis, transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, GA 30309.

MC 144855 (Sub-3TA), filed August 28, 1978. Applicant: TRANS CONTINENTAL CARRIERS, INC., 169 East Liberty Avenue, Anaheim, CA 92803. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, in bags, from Chester, VT to Canton, OH, for 180 days. Supporting shipper: U.S. Chemical & Plastic Co., 1446 Tuscarawas West Street, Canton, OH 44706. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

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MC 145136 (Sub-1TA), filed August 23, 1978. Applicant: JOHN H. UTSINGER, d.b.a. NICK'S CARTAGE CO., 100 Summit Street, West Alexandria, OH 45381. Representative: John H. Utsinger (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic vinyl gloves, mold formed; latex gloves, mold formed; PVC resins, in bags; corrugated cartons, KD; and paper board boxes, KD*, between Eaton, OH, and Richmond, IN, under a continuing contract, or contracts, with Dayton Flexible Products, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dayton Flexible Products, Charles R. Bryant, Traffic Manager, Route 35 West, Eaton, OH 45320. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145147 (Sub-1TA), filed August 28, 1978. Applicant: LEONARD J. MORIN, d.b.a. MORIN'S AUTO BODY SHOP, 188 Warren Avenue, Portland, ME 04103. Representative: Leonard J. Morin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coarse concrete aggregate*, from Westbrook, ME, to Seabrook, NH, under a continuing contract, or contracts, with Blue Rock Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Blue Rock Industries, 58 Main Street, Westbrook, ME 04092. Send protests to: Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

MC 145227TA, filed August 17, 1978. Applicant: ROGERS TRANSPORTATION CO., INC., 1316 South Blount Street, Raleigh, NC 27611. Representative: David H. Permar, P.O. Box 527, 327 Hillsborough Street, Raleigh, NC 276021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (in bulk, in tank truck), from pipeline terminals or port facilities at or near Wilmington, Morehead City, and Selma, NC, to points in Horry, Dillon, Marlboro, and Spartanburg Counties, SC, under a continuing contract, or contracts, with Rogers Oil Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rogers Oil Co., 1316 South Blount Street, Raleigh, NC 27611. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 145251 (Sub-1TA), filed August 23, 1978. Applicant: RANCHERS TRANSPORTATION SERVICE, INC., 3102 Brighton Boulevard, Denver, CO 80216. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses and fabricators*, from Douglas, WY, to all points in the United States, (except AL and HI); (2) *materials, equipment, supplies, and products used in the production, processing, packaging, and distribution of the commodities*, moved in (1) above, from all points in the United States, (except AL and HI), to Douglas, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ranchers Meats, Inc., P.O. Box 547, Douglas, WY 82633. Send protests to: Roger Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 145295TA, filed August 28, 1978. Applicant: VIRGIL ACHINGER, d.b.a. ACHINGER TRUCKING SERVICE, Rural Route 1, Laona, WI 54541. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, from Long Lake, WI, to Escanaba and Ontonagon, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pine River Lumber Co., Ltd., Long Lake, WI. 54542 (Richard Connor, Jr.). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

PASSENGER CARRIER

MC 144040 (Sub-1TA), filed August 23, 1978. Applicant: PINETREE TRANSPORTATION CO., 1175 East Spring Street, Long Beach, CA 90806. Representative: Robert J. Corber, 1747 Pennsylvania Avenue NW., Suite 1050, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations, in vehicles specially equipped to accommodate wheelchairs, from Orange County, CA, to Las Vegas, NV, and return, for 180 days. Supporting shipper: Indoor Sports, 206 South Lyon, Santa Ana, CA. Send protest to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-29822 Filed 10-20-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 120]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 22, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77731, filed June 27, 1978. Transferee: EMERALDA HORSE TRANSPORT, INC., Route 2, Box 444, Sanford, FL 32771. Transferor:

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Fox Hollow, Inc., 155 N. Eucla, San Dimas, CA 91773. Representative: Alvin Altman, c/o Brodsky, Linett, Altman & Schechter, 888 Seventh Avenue, New York, NY 10019. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificates No. MC 18944 and MC 18944 Sub-3 issued October 4, 1965 and December 31, 1968 respectively, as follows: Prize animals, livestock, horses, ponies, mascots, food, supplies, equipment, and paraphernalia incidental to the transportation, care and exhibition of such animals, and the household goods and personal effects of attendants, trainers, exhibitors and owners, over irregular routes, between points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, PA, MD, VA, WV, NC, SC, KY, OH, IN, IL, MI, MO, TN, FL, AR, LA, TN, AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WY, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210(b).

MC-FC-77778, filed July 25, 1978. Transferee: WILLARD E. TEADTKE AND JACK J. L. SINCLAIR, d.b.a. T. & S. Trucking, Bristow, NE 68719. Transferor: Emil Prokop, d.b.a. Emil Prokop Trucking, Bristow, NE. Representative: Jack J. L. Sinclair, T. & S. Trucking, Bristow, NE 68719. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 92936 issued June 7, 1941 as follows: *Livestock*, over regular routes, between Bristow, NE and Sioux City, IA; from Bristow over NE Hwy 12 to junction NE Hwy 15, then over NE Hwy 15 to junction U.S. Hwy 20, and then over U.S. Hwy 20 to Sioux City; and *Livestock, agricultural implements and parts, and feeds*, from Sioux City over the above-specified routes to Bristow. Service is authorized to and from intermediate and off-route points within 10 miles of Bristow. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77813, filed August 11, 1978. Transferee: BILL H. SEVERNS and DENISE B. SEVERNS, d.b.a. RAVALLI MOTOR FREIGHT, 250 Corvallis Road, Corvallis, MT 59828. Transferor: Charles D. Shupe and Sibyl Shupe, d.b.a. Ravalli Motor Freight, Route 2, Box 2381, Hamilton, MT 59840. Representative: Gail H. Goheen, Attorney at Law, 345 West Main Street, Hamilton, MT 59840. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration MC 121623 issued September 13, 1978, as follows: Commercial freight between Victor, Corvallis, Grantsdale, Stevensville, Thrifty Grocery Store, Casey's Store, and Wayside Grocery Store, Hamilton and Darby on the one hand, and Butte and Anaconda on the other hand, over a specified regular route. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

MC-FC-77859, filed September 27, 1978. Transferee: ANN E. PRITCHETT, d.b.a. PRINCE TRUCKING, 5865 Smithway, City of Industry, CA 90040. Transferor: Robert J. Pritchett, (Ann E. Pritchett, Heir at law) d.b.a. Prince Trucking, 5865 Smithway, City of Industry, CA 90040. Representative: Theodore Moraitis, Esq., Attorney, 1200 North Main Street, Suite 440, Santa Ana, CA 92701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit MC 139333 (Sub-1), issued June 20, 1975, as follows: *New office furniture*, from the facilities of the carrier located at or near City of Commerce, CA to points in Los Angeles, Orange, San Diego, San Bernardino, Riverside, Santa Barbara, Ventura, and Kern Counties, CA. Transferee presently holds o authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

MC-FC-77874, filed October 3, 1978. Transferee: PATRICK J. ENNIS & DOUGLAS J. BRADLEY, a Partnership, Popejoy, IA 50227. Transferor: Sioux City Bulk Feed Service, Inc., Highway 75 North, Sioux City, IA 51108. Representative: Richard D. Howe, Attorney at Law, 600 Hubbell Building, Des Moines, IA 50309. Searla Jacobsma, Box 2766, Highway 75 North, Sioux City, IA. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate MC 136803 (Sub-2), issued May 21, 1976, as follows: *Dry animal and poultry feeds, dry animal and poultry feed ingredients*, and *animal poultry health aids* (except in bulk, in tank vehicles), from the facilities of Ralston Purina at or near Iowa Falls, IA, to points in IL and WI, (2) *Dry animal and poultry feeds*, and *dry animal and poultry feed ingredients*, in bulk, (except in tank vehicles), from the facilities of Ralston Purina, at or near Iowa Falls, IA, to points in MN and NE. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29814 Filed 10-20-78; 8:45 am]

[7035-01-M]

[Notice No. 119]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 23, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC-77884. By application filed October 12, 1978, ETI CORP., P.O. Box 549, Linden, NJ 07036, seeks temporary authority to transfer a portion of the operating rights of EASTERN TRANSPORT INC., P.O. Box 549, 320 South Stiles Street, Linden, NJ 07036, under section 210a(b). The transfer to ETI CORP. of a portion of the operating rights of EASTERN TRANSPORT INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29815 Filed 10-20-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28870]

ILLINOIS TERMINAL RAILROAD CO.

Construction and Operation of a Line of Railroad at Wood River, Madison County, IL

Illinois Terminal Railroad Co., P.O. Box 7282, 710 North 12th Boulevard, St. Louis, MO 63177, represented by Steven J. Anthony, Secretary and General Counsel, Illinois Terminal Railroad Co., P.O. Box 7282, St. Louis, MO 63177, hereby give notice that on the 29th day of September 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under section 1(18) of the Interstate Commerce Act for a decision approving and authorizing the construction of and operation over one segment of railroad being 803 feet long, connecting the line of applicant with track of the Illinois Central Gulf Railroad Co. (ICG) at Wood River, Madison County, IL.

Applicant proposes to construct a new line of railroad, 803 feet to be constructed from a line of railroad owned by the applicant to a line of railroad owned by the ICG over which applicant proposes to acquire trackage rights. The new line of railroad will be located in Madison County, IL. The section of track at Wood River, IL, will have a total length of 803 feet between main line tacks of the ICG beginning at Valuation Station 1347+70 and continuing 803 feet southwardly to the main line of the Illinois Terminal, all located in the southwestern part of Wood River, IL.

By related application docketed Finance Docket No. 28868, Illinois Terminal seek trackage rights on a line of railroad owned by the Illinois Central Gulf between Wood River, IL, and Springfield, IL, a total distance of approximately 77.08 miles.

This application is also made in conjunction with a separate application, docketed AB-84 (Sub-2F), in which applicant seeks authority to abandon trackage rights over ICG from Mont to Springfield in Madison, Macoupin, Montgomery, and Sangamon Counties, IL, a distance of approximately 81.24 miles.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451(1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOME, Jr.,
Acting Secretary.

[FR Doc. 78-29817 Filed 10-20-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28868]

ILLINOIS TERMINAL RAILROAD CO.

Trackage Rights—Over Illinois Central Gulf Railroad Co. Between Springfield and Wood River, IL

Illinois Terminal Railroad Co., P.O. Box 7282, 710 North Twelfth Boulevard, St. Louis, Mo. 63177, represented by Steven J. Anthony, Illinois Terminal Railroad Co., P.O. Box 7282, St. Louis, Mo. 63177, hereby give notice that on the 29th day of September, 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under section 5(2) of the Interstate Commerce Act for a decision approving and authorizing the trackage rights by Illinois Terminal over trackage of the Illinois Central Gulf Railroad Co. between Wood River and Springfield, IL, a total distance of 77.08 miles.

Under the trackage rights requested, the Illinois Terminal will not serve any station along the line of the Illinois Central Gulf (ICG) nor would Illinois Terminal have the right to pick up or set out along the line. The proposed transaction will not adversely affect shippers, receivers, or employees of this carrier. This transaction is proposed as a substitute for a line which Illinois Terminal presently operates over between Mont and Springfield, IL, a distance of 81.24 miles, pursuant to authority granted in Finance Docket No. 25615. ICG has filed for abandonment in AB-43 (Sub-30) of a substantial segment of that line. These trackage rights will enable the carrier to continue operations between the St. Louis area and all points northerly.

By related application docketed Finance Docket No. 28870, applicant seeks approval and authorization for the construction of and operation over one segment of railroad being 803 feet long, connecting its line with track of the ICG at Wood River, Madison County, IL.

This application is also made in conjunction with a separate application, docketed AB-84 (Sub-2F), in which applicant seeks authority to abandon trackage rights over ICG from Mont to Springfield in Madison, Macoupin, Montgomery, and Sangamon Counties, IL, a distance of approximately 81.24 miles.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28868 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, on or before December 7, 1978. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29816 Filed 10-20-78; 8:45 am]

[7035-01-M]

CODIFICATION OF THE INTERSTATE COMMERCE ACT

Pub. L. 95-473, an Act to "revise, codify and enact without substantive change the Interstate Commerce Act," was signed by President Carter on October 17, 1978. The new law constitutes a substantial revision and reorganization of the laws administered by the Interstate Commerce Commission. It repeals the Interstate Commerce Act (49 U.S.C. 1 et seq., 301 et seq., 901 et seq., and 1001 et seq.) and certain related statutes. These laws have now been replaced by a new subtitle IV of title 49 of the United States Code, 49 U.S.C. 10101 through 11916.

Copies of Pub. L. 95-473 may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Information concerning the price and availability of the public law may be obtained by calling the Government Printing Office "Order Desk" on 202-783-3238.

The Interstate Commerce Commission is not able to supply copies of the new subtitle to members of the public. However, copies are being made available for public reference in the public docket room (room 1221) at the Commission's office at 12th Street and Constitution Avenue NW., Washington, D.C. and at each of the Commission's field offices. A revised edition of

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the laws administered by the Commission, and related sections of other acts, replacing the 1973 revision of the Interstate Commerce Act, is being prepared and will be published as soon as possible.

The Commission recognizes that not all parties to its proceedings will be able to obtain copies of the new subtitle promptly. We also recognize that persons familiar with the former Interstate Commerce Act may find it difficult at first to refer to and cite the new law. During a transition period of 6 months from the date of this notice, the Commission will accept pleadings and other documents containing citations to the old act. Parties are, however, requested to cite the new subtitle if possible, and it is suggested that, during the 6-month transition period, pleadings contain citations to both the old and the new laws (for example, 49 U.S.C. 10726; section 4 of the former Interstate Commerce Act).

Dated: October 18, 1978.

By the Commission.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29813 Filed 10-20-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-170, Amdt. 1; Oct. 17, 1978]

CIVIL AERONAUTICS BOARD.

Notice of typographical omission from the October 20, 1978, agenda.

TIME AND DATE: 1:30 p.m., October 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 26. Dockets 33448, 33567, 33550, 33558, and 33634, Pan Am request for suspension of service to points in Europe and Hawaii; applications of United, Braniff, Hawaii and Aeroamerica for exemptions to serve Seattle/Portland-Honolulu (BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Docket 33448, Item 26, was inadvertently omitted from the announcement published on October 13, 1978.

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2119-78 Filed 10-19-78; 11:07 am]

[6740-02-M]

2

OCTOBER 18, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., October 25, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—167TH MEETING, OCTOBER 25, 1978, REGULAR MEETING

CAG-1. Docket Nos. RP74-61 (PGA78-3) and RP76-10 (PGA78-3), Arkansas Louisiana Gas Co.
CAG-2. Docket No. RP72-157 (PGA78-12), Consolidated Gas Supply Corp.
CAG-3. Docket No. RP78-62, Panhandle Eastern Pipe Line Co.
CAG-4. Docket No. RP74-36, Gulf Energy & Development Corp.
CAG-5:
Docket No. CI78-686, Amerada Hess Corp.
Docket No. CI78-632, Aminoil USA Inc.
Docket No. G-3894, Atlantic Richfield Co.
Docket No. G-4542, Atlantic Richfield Co.
Docket No. CI78-636, Atlantic Richfield Co.
Docket No. CI77-327, Cities Service Co.
Docket No. CI78-882, Exxon Corp.
Docket No. G-11637, Gulf Oil Corp.
Docket No. CI78-285, Gulf Oil Corp.
Docket No. CI78-673, Helmerich & Payne, Inc.
Docket No. CI75-387, Pennzoil Co.
Docket No. CI78-508, Sun Oil Co.
Docket No. CI78-391, Tenneco Oil Co.
Docket No. CI78-1117, Texas Eastern Exploration Co.
Docket No. CI77-370, Union Oil Company of California.
CAG-6. Docket No. CP78-468, Transcontinental Gas Pipe Line Corp.
CAG-7. Docket Nos. CP77-222 and CP78-540, Arkansas Louisiana Gas Co.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP-73-14 (PGA78-3 and DCA78-2), Michigan Wisconsin Pipe Line Co.
RP-2. Docket No. RP-78-94, Texas Gas Transmission Corp.
RP-3. Docket No. RP-79-1, Colorado Interstate Gas Co.
RP-4. Docket No. RP-74-4, Cities Service Gas Co.

II. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. OR78-1, Trans Alaska Pipeline System.
CP-2. Docket No. RP75-79, *Lehigh Portland Cement Company* v. *Florida Gas Transmission Company.*

MISCELLANEOUS AGENDA, 167TH MEETING, OCTOBER 25, 1978, REGULAR MEETING

CAM-1. Docket No. RM78- , Revision in § 154.38 of Title 18 of the Code of Federal Regulations to clarify the 36 month purchased gas adjustment clause cost of service filing requirement.

POWER AGENDA, 167TH MEETING, OCTOBER 25, 1978, REGULAR MEETING

CAP-1. Docket Nos. ER78-551, ER78-552, ER78-587, and ER78-588, Central Vermont Public Service Corp.
CAP-2. Docket No. ER78-591, Empire District Power Co.
CAP-3. Docket Nos. ER78-629 and ER78-630, Iowa Power & Light Co.
CAP-4. Docket No. ER78-513, Public Service Co. of Indiana, Inc.
CAP-5. Docket No. ER78-517, The Connecticut Light & Power Co.
CAP-6. Docket Nos. ER78-337 and ER78-338, Public Service Co. of New Mexico.
CAP-7. Docket No. ER78-515, The Montana Power Co.
CAP-8. Docket No. ES78-47, Iowa Electric Light & Power Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket Nos. ER78-526 and ER77-331, Central Power & Light Co.
ER-2. Docket No. ER78-512, Wisconsin Electric Power Co.
ER-3. Docket Nos. ER76-39, ER76-340 and ER76-363, Kansas Power & Light Co.

II. LICENSED PROJECT MATTERS

P-1. Project No. 2863, City of Holyoke, Mass.

KENNETH F. PLUMB,
Secretary.

[S-2120-78 Filed 10-19-78; 11:07 am]

[6735-01-M]

3

OCTOBER 19, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

Notice of addition of items to the October 24, 1978, agenda.

TIME AND DATE: 10 a.m., October 24, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

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MATTERS TO BE CONSIDERED: The following proceedings will be considered and acted upon by the Commission. Motions have been filed in these proceedings.

1. *Chris Rogers, et al.* v. *Anschutz Coal Corporation*, Docket No. DENV 76-138 (motion to dismiss petition for discretionary review).

2. *Joseph Maynard* v. *Standard Sign and Signal Company*, Docket No. IBMA 77-48 (motion for expedited ruling; motion to strike ex parte communications).

CONTACT PERSON FOR FURTHER INFORMATION:

Mr. Philip Paschall, 202-653-5648.

JEROME R. WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

[S-2121-78 Filed 10-19-78; 3:34 pm]

[7910-01-M]

4

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR, October 16, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, October 17, 1978; 10 a.m.

CHANGE IN MEETING: Matters 6 and 7 are added to the previously announced agenda.

MATTERS TO BE CONSIDERED:

6. Recommended action on contractor's request for a statement of facts and reasons: DeLong Corp., fiscal year ended December 31, 1969.

7. Recommended assignment to a division: Kings Point Industries, Inc., consolidated with: Kings Point Manufacturing Co., Inc., fiscal years ended April 30, 1969, 1970, and 1971 and simultaneous with: Victory Enterprises, Inc., fiscal years ended September 30, 1969, 1970, and 1971.

STATUS: Matters 6 and 7 are open to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 18, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2122-78 Filed 10-19-78; 3:34 pm]

[7910-01-M]

5

RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 47812, October 17, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, October 24, 1978; 10 a.m.

CHANGES IN MEETING:

1. Date postponed to: Tuesday, October 31, 1978; 10 a.m.
2. Delete agenda items 2 and 3.
3. Matters 8 and 9 are added to the previously announced agenda.

MATTERS TO BE CONSIDERED:

8. Exemption recommendations (List 3008):
A. Sealright Co., Inc., fiscal year ended September 30, 1978.
B. H. P. Smith Paper Co., fiscal year ended September 30, 1976.
9. Exemption recommendations (List 3009):
A. Alloy Steels Inc., fiscal year ended September 30, 1976.
B. Jorgensen Steel Co., fiscal year ended September 30, 1976.
C. Earle M. Jorgensen Co., fiscal year ended September 30, 1976.
D. William G. Wetherall, Inc., fiscal year ended September 30, 1976.

STATUS: Matters 8 and 9 are open to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 18, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2123-78 Filed 10-19-78; 3:34 pm]

[7910-01-M]

6

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, October 26, 1978; 2 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED:

Kaiser Industries Corp., Kaiser Aerospace & Electronics Corp., Kaiser Engineers, Inc., Henry J. Kaiser Co., fiscal years ended December 31, 1972.

Kaiser Industries Corp. (Agent), consolidated with: Kaiser Aerospace & Electronics Corp., Henry J. Kaiser Co., Kaiser Engineers, Inc., Hallanger Engineers, Inc., fiscal years ended December 31, 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 17, 1978.

GOODWIN CHASE,
Chairman.

[S-2124-78 Filed 10-19-78; 3:34 pm]

[7910-01-M]

7

RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, November 8, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Stupp Corp., fiscal year ended July 31, 1975.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 17, 1978.

GOODWIN CHASE,
Chairman.

[S-2125-78 Filed 10-19-78; 3:34 pm]

[7910-01-M]

8

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, November 30, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Temtex Industries, Inc., consolidated with: Temco, Inc., fiscal year ended August 31, 1972.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 17, 1978.

GOODWIN CHASE,
Chairman.

[S-2126-78 Filed 10-19-78; 3:34 pm]

federal register

MONDAY, OCTOBER 23, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Coast Guard

VISUAL DISTRESS SIGNALS AND INDEPENDENT LABORATORY PROCEDURES AND STANDARDS FOR COAST GUARD APPROVED EQUIPMENT

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 175]

[CGD 76-183]

VISUAL DISTRESS SIGNALS ON BOATS

Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: In FR Doc. 78-9470 appearing at page 15118 in the FEDERAL REGISTER of April 10, 1978, in § 175.110(a) on page 15122, the applicability was incorrectly stated as applying to any boat "carrying passengers," instead of "carrying six or less passengers". Section 175.110(a) is corrected to read as follows:

§ 175.110 Visual distress signals required.

(a) No person may use a boat 16 feet or more in length or any boat carrying six or less passengers unless visual distress signals suitable for day and night use as listed in § 175.130 or § 175.135, in the number required, are on board.

* * * * *

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. David Gauthier, U.S. Coast Guard, Office of Boating Safety (G-BLC), Room 4308, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4176.

Dated: October 11, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-29476 Filed 10-20-78; 8:45 am]

[4910-14-M]

[46 CFR Parts 2 and 159]

[CGD 76-048]

EQUIPMENT AND MATERIAL SPECIFICATIONS

Proposed Approval Procedures, Production Inspection and Test Requirements, and Independent Laboratory Standards

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: This document propopses a new part containing approval procedures, production inspection and test procedures, and standards for accepting independent laboratories for testing certain equipment and materials requiring Coast Guard approval. This new part would establish the procedures that would eventually replace the Coast Guard factory inspection requirements in many specification regulations. The factory inspections required by those specifications divert the Coast Guard's field personnel from other duties. This proposed part in conjunction with changes to the specification regulations would place the responsibility for quality control on the manufacturer of the equipment or material. This would free some of the Coast Guard's limited field personnel for other duties with no change in the quality of the approved equipment or material.

This proposal should be considered in conjunction with Coast Guard document 76-048(b), Distress Signals, Signal Pistols, and Line-Throwing Appliances appearing at page 49350 of this issue of the FEDERAL REGISTER.

DATES: Comments must be received on or before December 22, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 76-048), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert L. Markle, Office of Merchant Marine Safety (G-MMT-3/83), Room 8301, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 76-048) and the specific section of the proposal to which each comment applies, and give reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank K. Thompson and Robert L. Markle, Project Managers, Office of Merchant Marine Safety, and Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

BACKGROUND

The Coast Guard is planning to amend the approval requirements in many specification regulations to permit equipment and material under those regulations to be inspected and tested by an independent laboratory or, if the equipment or material requires little inspection or testing, by the manufacturer of that equipment or material. The goal of this plan is to reduce Coast Guard involvement in routine approval and production testing and place responsibility for product quality control on the manufacturer where feasible.

Over the years, the Coast Guard's marine inspection responsibilities increased while the number of personnel available to perform these inspections has not increased at a comparable rate. Among the many demands on Coast Guard marine inspection personnel are tests and inspections for approval of equipment and materials and production inspection and testing of approved equipment and materials. While the number of man-hours devoted to each individual test and inspection is not great, these approval and production tests and inspections, taken as a whole, create a significant drain on the Coast Guard's limited personnel resources.

The Coast Guard is reviewing the need for continued Government testing and inspection of certain equipment or material required to be carried on vessels. Private industry has the capability of conducting the tests and inspections involved and there are independent laboratories that are regularly engaged in this type of activity. In many cases there appears to be no need for continued Government involvement in the tests and inspections in order to maintain the desired level of quality control. The Coast Guard currently requires independent laboratory inspection of buoyant vests and other personal flotation devices, portable fire extinguishers, and marine sanitation devices. Under the program now being considered, the Coast Guard would extend similar requirements to other types of equipment, such as distress signals, line-throwing appliances, foam buoyant materials, and similar equipment. Certain other equipment would be approved on the basis of plans, samples, and data submitted by the manufacturer with the application for approval.

Production inspections and tests, under this program, would in many instances be performed by the manufacturer; however some types of equipment and material would also have to be inspected or tested periodically by an independent laboratory. The Coast Guard would monitor production tests from reports submitted annually by the manufacturer.

The procedures under this program would eventually affect all the lifesaving equipment specifications in part 160 except those for lifeboats, including disengaging apparatus and hand-propelling gear, inflatable liferafts, winches, and davits, which may be considered by the Coast Guard at a later date. The planned procedures would also affect certain lifeboat equipment specifications in part 161, the fire-extinguishing equipment specifications in part 162, and the specifications for materials in part 164. Because of the number of subparts to be amended, the Coast Guard intends to carry out this proposal in increments. Proposed amendments to the approval procedures and tests for distress signals, signal pistols, and line-throwing appliances, are in another document (CGD 76-048b) that appears at page 49350 of this issue of the FEDERAL REGISTER. Proposed amendments to other equipment and material specifications will appear in future issues of the FEDERAL REGISTER.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, Mar. 8, 1978). A draft evaluation has been prepared and placed in the public docket.

DISCUSSION OF PROPOSAL

Because the proposed approval requirements and procedures are essentially the same for all types of affected equipment and materials, proposed part 159 would contain the approval requirements and procedures for all the affected specifications. This proposed part sets forth:

a. The procedures by which the Coast Guard would approve each type of equipment and material affected by these proposed amendments.

b. The procedures for production inspection and testing by the manufacturer and by an independent laboratory.

c. The standards and the procedures under which the Coast Guard would accept or recognize an independent laboratory for performing or supervising inspections and tests.

In consideration of the foregoing, the Coast Guard proposes to amend chapter I of title 46, Code of Federal Regulations, as follows:

PART 2—VESSEL INSPECTIONS

1. In § 2.75-10, the words "Parts 160 to 164, inclusive" in paragraph (a), are changed to "Parts 159 through 164". Paragraph (b) is revised to reflect current procedures and addresses. as amended § 2.75-10 reads as follows:

§ 2.75-10 Procedures for obtaining approvals.

(a) The requirements for obtaining approvals of items covered by specifications and bearing offical Coast Guard approval numbers are set forth in parts 159 through 164 of this chapter. For other items, the requirements are described in the regulations governing such items.

(b) Unless otherwise specified, correspondence concerning approvals should be addressed to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590. When plans, drawings, test data, etc., are required to be submitted by the manufacturer, the material being transmitted with the application should be clearly identified.

2. In the first sentence of § 2.75-17(a), the words "33 CFR Parts 140 through 146 (artificial islands and fixed structures on the Outer Continental Shelf)" are changed to "33 CFR Chapter I". As amended, § 2.75-17(a) reads as follows:

§ 2.75-17 General policy regarding acceptance and use of industry specifications, standards, and codes.

(a) Certain equipment, materials, and installations required by various provisions of the navigation and vessel inspection laws and regulations in this chapter and in 33 CFR Chapter I have to be approved by the Commandant, U.S. Coast Guard, prior to their use. For many items of equipment, materials, and installations, the normal manufacturing practices are based on the use of certain industrial or Federal specifications, standards, and codes. However, it is realized that certain provisions are based on conditions normally found "ashore," rather than in the marine environment which may be experienced onboard vessels or on artificial islands and fixed structures. Industry specifications, standards, and codes are adopted and shall form a part of the regulations of this chapter to the extent specified in this subpart and in the more detailed regulations in parts 160 through 164 (Subchapter Q—Equipment Construction and Materials: Specifications and Approval) of this chapter. Unless specifically stated otherwise in the regulations, the current issue of the specifications, standards, or codes, including addenda or changes, described in the regulations shall be used. The current issue is that issue, including any addenda or changes, in effect on the date the work is contracted for, or, if no contract exists, the date fabrication is begun. The Commandant may authorize the use of an issue of an earlier or later date when circumstances warrant such action.

* * * * *

SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION, AND MATERIALS: SPECIFICATIONS AND APPROVAL

3. By changing the title of subchapter Q to "Equipment, Construction, and Materials: Specifications and Approval" as set forth above and by adding a new part 159 to read as follows:

PART 159—APPROVAL OF EQUIPMENT ND MATERIALS

Subpart 159.001—General

Sec.
159.001-1 Purpose.
159.001-3 Definitions.
159.001-5 Correspondence and applications.
159.001-7 Substituted procedures.

Subpart 159.005—Approval Procedures

159.005-1 Purpose.
159.005-3 Application for preapproval review.
159.005-5 Preapproval review: Contents of application.
159.005-7 Preapproval review: Coast Guard action.
159.005-9 Approval inspections and tests.
159.005-11 Approval inspection or test report: Contents.
159.005-12 Plans.
159.005-13 Equipment or material: Approval.
159.005-15 Approval of equipment or material: Suspensions, withdrawals, and terminations.

Subpart 159.007—Independent Laboratory: Production Inspections and Tests

159.007-1 Purpose.
159.007-3 Production inspections and tests: Independent laboratory's procedures.
159.007-5 Production inspections and tests: Application for acceptance.
159.007-7 Application for acceptance for production inspections and tests: Coast Guard action.
159.007-9 Production inspections and tests.
159.007-11 Production inspections and tests: Yearly report.
159.007-13 Production inspections and tests: Records.

Subpart 159.010—Independent Laboratory: Acceptance, Listing, and Termination

159.010-1 Purpose.
159.010-3 Independent laboratory: Standards for acceptance.
159.010-5 Independent laboratory: Application for acceptance.
159.010-7 Independent laboratory: Standards for listing.
159.010-9 Independent laboratory: Application for listing.
159.010-11 Independent laboratory: Listing in subpart.
159.010-15 Contracting inspections and tests or transferals to another laboratory or person.
159.010-17 Application and test plans: Changes.

159.010-19 Termination of acceptance or listing of a independent laboratory.
159.010-21 Termination of acceptance or

§ 159.005-3 Application for preapproval review.

(1) The trade name and a brief description of the equipment or material inspected or tested.

under this subpart, the Commandant determines that the equipment or material meets the applicable requirements and tests has been accepted by the Commandant;

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159.010-19 Termination of acceptance or listing of a independent laboratory.
159.010-21 Termination of acceptance or listing: Procedure.

AUTHORITY: Sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 201, 86 Stat 427, as amended (46 U.S.C. 391a); sec. 6(b)(1), 80 Stat 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46 (b) and (n)(4).

Subpart 159.001—General

§ 159.001-1 Purpose.

(a) This part contains the procedures for the approval of equipment and materials when that equipment or material is inspected or tested by an independent laboratory or by the manufacturer of the equipment or material.

§ 159.001-3 Definitions.

(a) As used in this part:

(1) "Applicable subpart" means a subpart under which equipment or material is approved, or under which an independent laboratory is listed.

(2) "Listed laboratory" means an independent laboratory that has been listed in an applicable subpart under the provisions of § 159.010-11.

(3) "Test plan" means a description of the procedures by which an independent laboratory meets or exceeds the inspection and test requirements of an applicable subpart.

§ 159.001-5 Correspondence and applications.

(a) Unless otherwise specified, all correspondence and applications in connection with the approval and testing of equipment and materials shall be addressed to: Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

§ 159.001-7 Substituted procedures.

(a) The Commandant may substitute the procedures in this part for the procedures in any other part of this subchapter. Each person known to be affected by the substitution shall be informed that the procedures in this part apply.

Subpart 159.005—Approval Procedures

§ 159.005-1 Purpose.

(a) This subpart contains the procedures by which the Coast Guard approves equipment and materials under other subparts of this subchapter that require—

(1) Preapproval inspections and tests by an independent laboratory;

(2) Preapproval inspections and tests by the manufacturer; or

(3) No preapproval inspections or tests.

§ 159.005-3 Application for preapproval review.

(a) Each manufacturer of equipment or material who seeks Coast Guard approval under an applicable subpart must submit an application that meets § 159.005-5 to the Commandant unless—

(1) The subpart contains a list of independent laboratories;

(2) The subpart does not require Coast Guard review prior to testing; and

(3) The manufacturer meets the requirements of paragraph (b) of this section.

(b) If the applicable subpart contains a list of independent laboratories and does not specifically require Coast Guard review prior to testing, the manufacturer may have the tests performed by a listed laboratory and submit the report required by § 159.005-11 to the Commandant.

§ 159.005-5 Preapproval review: Contents of application.

(a) Each application must contain the following:

(1) The name and address of the manufacturer and the factory where the equipment or material is produced.

(2) One or more of the following as required by the applicable subpart:

(i) Two sets of general plans of the equipment or material.

(ii) Two sets of specifications of the equipment or material.

(iii) A sample of the equipment or material accompanied by a written description of its components.

(b) If the equipment or material is required by the subpart to be inspected and tested by an independent laboratory, the application must contain the following additional information:

(1) The name and address of a laboratory that meets § 159.010-3(a) and that is selected by the manufacturer to perform or supervise the inspections and tests.

(2) If the laboratory has not been accepted previously for inspecting and testing the manufacturer's equipment or material under the applicable subpart, the completed application under § 159.010-5(a).

§ 159.005-7 Preapproval review: Coast Guard action.

(a) If approval inspections and tests are required under the applicable subpart, the Commandant takes the following action:

(1) If the Commandant determines from the application that the equipment or material appears to meet the design requirements of an applicable subpart or appears to have equivalent performance characteristics, and that the laboratory meets § 159.010-3(a), the Commandant informs the manufacturer that the required approval inspections and tests may be conducted.

(2) If the Commandant determines from the application for approval that the equipment or material does not appear to meet the design requirements of an applicable subpart or does not appear to have equivalent performance characteristics, or that the laboratory does not meet § 159.010-3(a), the Commandant informs the manufacturer of the reason why the equipment or material is not acceptable for approval inspections and tests or why the laboratory is not accepted.

(b) If no approval inspections or tests are required under the applicable subpart, the Commandant—

(1) Takes action in accordance with § 159.005-13; or

(2) Informs the manufacturer of additional information required before action under § 159.005-13 can be taken.

§ 159.005-9 Approval inspections and tests.

(a) Each manufacturer of equipment or material that is required to be subjected to approval inspections and tests must—

(1) If the applicable subpart requires the equipment or material to be inspected or tested, have the approval inspections or tests performed;

(2) If the applicable subpart requires the equipment or material to be inspected or tested by an independent laboratory, insure that a laboratory accepted by the Commandant performs or supervises the approval inspections or tests;

(3) Bear all costs of the approval inspections and tests;

(4) If requested, advise the Commandant of the time, date, and place of each approval inspection or test, or both, before the inspection or test is performed; and

(5) After completion of the approval inspections and tests, submit to the Commandant—

(i) A test report that meets § 159.005-11;

(ii) At least two sets of specifications of the material as inspected or tested or at least two sets of plans of the equipment as inspected or tested that meet § 159.005-12; and

(iii) A description of the quality control procedures that will be in effect during the production of the equipment or material.

§ 159.005-11 Approval inspection or test report: Contents.

(a) Each inspection or test report must contain the following:

(1) The name of the manufacturer.

(2) If the inspections or tests are performed or supervised by an independent laboratory, the name and address of the laboratory.

(3) The trade name and a brief description of the equipment or material inspected or tested.

(4) The time, date, and place of each approval inspection and test.

(5) The name and title of each person performing, supervising, and witnessing the approval inspections or tests.

(6) The performance data for each test required in the applicable subpart, including a description of each failure.

(7) A description or photographs of the procedures and apparatus used in the inspections or tests.

(8) At least one photograph that shows an overall view of the equipment or material submitted for approval and other photographs that show—

(i) Design details; and

(ii) Each occurance of damage or deformation to the equipment or material that occurred during the approval tests.

(b) Each inspection or test report must bear an attestation that the inspections or tests were conducted as required by the applicable subpart and that the report contains no known errors, omissions, or false statements. The attestation must be signed by:

(1) The manufacturer or manufacturer's representative, if the inspection or tests are conducted by the manufacturer; or

(2) The chief officer of the laboratory, or the chief officer's representative, if the inspection or tests were conducted by an independent laboratory.

NOTE.—A false representation on a report is a ground for suspension or withdrawal of approval of the equipment or material. A false representation is also punishable as a crime under 18 U.S.C. 1001.

§ 159.005-12 Plans.

(a) Each set of plans under § 159.005-9(a)(5)(ii) for equipment must include the following:

(1) An assembly drawing or general arrangement drawing.

(2) A description of each component of the equipment that includes the name, the manufacturer, and the part identification of each component in—

(i) A detail drawing;

(ii) A bill of material or parts list; or

(iii) A specification for that component.

(3) A list of the drawings and specifications in the set of plans, including each revision, and the date of that list.

(4) If a manufacturer's instructions or manual is required in the applicable subpart, a copy of the instructions or manual.

§ 159.005-13 Equipment or material: Approval.

(a) If from analysis of the material and data required to be submitted under this subpart, the Commandant determines that the equipment or material meets the applicable subpart, the Commandant—

(1) Approves the equipment or material;

(2) Issues a certificate of approval to the manufacturer under § 2.75-5 of this chapter;

(3) Retains one set of approved plans and returns all others to the manufacturer; and

(4) Publishes a notice of the approval in the FEDERAL REGISTER.

(b) If from analysis of the material and data submitted the Commandant determines that the equipment or material does not meet the applicable subpart, the Commandant informs the manufacturer of the reason why that equipment or material does not meet the subpart.

§ 159.005-15 Approval of equipment or material: Suspensions, withdrawals, and terminations.

(a) The Commandant suspends an approval issued under this subchapter in accordance with § 2.75-40 of this chapter, withdraws an approval issued under this subchapter in accordance with § 2.75-50(a) of this chapter, and terminates an approval issued under this subchapter in accordance with § 2.75-50(b) of this chapter.

Subpart 159.007—Independent Laboratory: Production Inspection and Tests

§ 159.007-1 Purpose.

(a) This subpart contains the procedures under which production inspections and tests of approved equipment or materials are to be performed under this subchapter.

§ 159.007-3 Production inspections and tests: Independent laboratory's procedures.

(a) The manufacturer may follow an independent laboratory's procedures for production inspections and tests if those procedures—

(1) Meet or exceed the production inspection and test requirements of the applicable subpart or are equivalent to those inspections and tests;

(2) Include labeling or marking the equipment or material when the equipment or material meets the inspection and test procedures of the laboratory; and

(3) Are accepted by the Commandant under § 159.007-7(b).

§ 159.007-5 Production inspections and tests: Application for acceptance.

(a) If the applicable subpart requires production inspections and tests by an independent laboratory, the manufacturer must insure that the laboratory selected for production inspections and tests has been accepted by the Commandant;

(b) The manufacturer must submit an application for acceptance that meets § 159.010-5(a) unless the laboratory—

(1) Is listed in the subpart; or

(2) Is accepted by the Commandant for approval inspections and tests of the equipment or material under § 159.005-7(a)(1).

(c) If the manufacturer wants to follow the laboratory's procedures for production inspections and tests instead of meeting the Coast Guard procedures under this subchapter, the application must contain a description of those procedures.

§ 159.007-7 Application for acceptance for production inspections and tests: Coast Guard action.

(a) From the information submitted with the application, the Commandant determines whether or not the laboratory is accepted for production inspections and tests. The Commandant informs the manufacturer of the results of this determination, if the Commandant does not accept a laboratory, the reason for the disapproval will be given.

(b) From the description of the laboratory's procedures for production inspections and tests, the Commandant determines whether or not those procedures are accepted. The Commandant informs the manufacturer of the results of this determination. If the Commandant does not accept the laboratory's procedures, the reasons why they are not accepted will be given.

§ 159.007-9 Production inspections and tests.

(a) If the applicable subpart requires the production inspections and tests to be performed or supervised by an independent laboratory, the manufacturer shall insure that all required production inspections and tests are performed or supervised by an independent laboratory accepted by the Commandant.

(b) If the applicable subpart does not require an independent laboratory to perform the production inspections and tests, the manufacturer shall have those inspections and tests performed.

(c) Unless alternative procedures have been accepted by the Commandant under § 159.007-3 each production inspection and test must be performed or supervised in accordance with the applicable subpart.

§ 159.007-11 Production inspections and tests: Yearly report.

(a) When the manufacturer uses the production inspection and test procedures in an applicable subpart he must submit a yearly report. The report is not required when inspection and test

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procedures approved under § 159.007-3 are used.

(b) The report must include the following:

(1) A list of all inspections and test performed;

(2) A summary of the results of each group of inspections or tests:

(3) A detailed description of any test failures; and

(4) A statement whether or not all required tests were performed.

§ 159.007-13 Production inspections and tests: records.

(a) The manufacturer must have a completed record with the information under § 159.005-11 (a)(4) through (a)(7) for each production inspection and test.

(b) The manufacturer must retain each record under this section for at least 60 months after the month in which the inspection or test was conducted.

(c) The records must be made available for examination by the Commandant upon request.

Subpart 159.010—Independent Laboratory: Acceptance, Listing, and Termination

§ 159.010-1 Purpose.

(a) This subpart contains the following:

(1) The standards under which the Coast Guard accepts an independent laboratory that a manufacturer proposes to use.

(2) The standards and procedures under which a laboratory is listed in applicable subparts for tests required by that subpart.

(3) The circumstances under which the acceptance or listing of a laboratory is terminated.

§ 159.010-3 Independent laboratory: Standards for acceptance.

(a) To be accepted by the Coast Guard as an independent laboratory, a laboratory must—

(1) Be engaged, as a regular part of its business, in inspecting and testing equipment or material that is the same as or is similar to the equipment or material to be inspected and tested under the applicable subpart;

(2) Have the apparatus, facilities, personnel, and calibrated instruments that are necessary to inspect and test the equipment or material under the applicable subpart;

(3) Not be owned or controlled by—

(i) The manufacturer of the equipment or material to be inspected or tested under this subchapter or any manufacturer of similar equipment or material;

(ii) A vendor of the equipment or material to be inspected or tested under this subchapter or a vendor of similar equipment or material; or

(iii) A supplier of materials to the manufacturer;

(4) Not be dependent on Coast Guard acceptance under this subchapter to remain in business; and

(5) Not advertise or promote the manufacturer's equipment or material that the laboratory inspects and tests under this subchapter.

§ 159.010-5 Independent laboratory: Application for acceptance.

(a) Each application for acceptance of a laboratory must contain the following:

(1) The name and address of the laboratory, its subsidiaries, and its divisions.

(2) The name, title, address, and principal business activity of each of the laboratory's officers and directors, and the name, address, and principal business activity of each person, company, or corporation that owns at least 3-percent interest in the laboratory or in a company or corporation that controls the laboratory.

(3) A list of the equipment or material that the laboratory would inspect or test, or both, under this subchapter.

(4) A description of the laboratory's experience and its qualifications for conducting the inspections and tests required in the applicable subpart.

(5) A description of the apparatus and facilities available to the laboratory for conducting those inspections and tests.

(6) The qualifications of personnel who are to perform, supervise, or witness those inspections and tests.

(7) A description of the laboratory's instrument calibration program.

(8) A statement, signed by the chief officer of the laboratory or the chief officer's representative, that an official representative of the Coast Guard is allowed access to the facility to verify the information submitted in the application or to witness tests.

§ 159.010-7 Independent laboratory: Standards for listing.

(a) To be listed as an independent laboratory under an applicable subpart, a laboratory must—

(1) Meet § 159.010-3;

(2) Have a test plan that is accepted by the Commandant under § 159.010-11(a); and

(3) Agree to perform or supervise approval or production inspections or tests under that subpart upon request from a manufacturer, however a laboratory may limit the area it serves.

§ 159.010-9 Independent laboratory: Application for listing.

(a) A laboratory that wants to be listed in one or more applicable subparts must submit to the Commandant an application that contains the information required by § 159.010-5, and that includes—

(1) The subparts under which it wants to be listed;

(2) Its test plans; and

(3) A statement of any limitations on the availability of the laboratory' service.

§ 159.010-11 Independent laboratory: Listing in subpart.

(a) From the application, the Commandant determines whether or not the laboratory meets § 159.010-7. If it meets these standards, the laboratory is added to the list in the applicable subpart. If it does not meet these standards, the Commandant informs the laboratory of the reasons why it is not added to the list.

§ 159.010-15 Contracting inspections and tests or transferals to another laboratory or person.

(a) No independent laboratory may contract or transfer to another person or laboratory the performance or supervision of inspections or tests, or both, required under an applicable subpart for which it is accepted or listed unless—

(1) A request in writing regarding the contract or transfer is submitted to the Commandant before the contract is executed or the transfer is completed; and

(2) The Commandant notifies the laboratory in writing that the contract or the transfer is allowed.

§ 159.010-17 Application and test plans: Changes.

(a) If any of the information submitted under § 159.010-5(a) or § 159.010-9(a) changes, a notification in writing of each change must be submitted to the Commandant within 30 days after the change has occurred.

(b) If an independent laboratory wants to change its test plan, the proposed changes must be submitted to the Commandant. The Commandant notifies the laboratory if the changed test plan is accepted. If the changed test plan is not accepted, the Commandant informs the laboratory of the reasons why the change test plan is not accepted.

§ 159.010-19 Termination of acceptance or listing of a independent laboratory.

(a) The acceptance or listing of a laboratory terminates if the laboratory—

(1) Requests termination; or

(2) Is no longer in business.

(b) The acceptance of a laboratory may be terminated by the Commandant if the laboratory—

(1) Fails to perform or supervise an inspection or test, or both, as required in an applicable subpart;

(2) Changes its test plan without Coast Guard acceptance;

(3) Attests to the lack of errors, omissions, or false statements of an approval test report that contains errors, omissions, or false statements;

(4) Does not meet § 159.010-3(a); or

(5) Unless allowed by the Commandant, contracts or transfers the performance or supervision of required inspections or tests, or both, to another laboratory or person.

(c) A laboratory is removed from the list published in an applicable subpart if the laboratory—

(1) Is no longer accepted by the Commandant; or

(2) Unreasonably refuses a request from a manufacture to perform or supervise an approval or production inspection or test.

§ 159.010-21 Termination of acceptance or listing: Procedure.

(a) Whenever evidence is received that there exists a basis for termination of acceptance or listing of an independent laboratory under § 159.010-19 (b) or (c), the Commandant notifies the laboratory of the specific reasons for considering termination. If the deficiency could materially effect the validity of the approval issued under an applicable subpart, the Commandant may immediately suspend the acceptance of the laboratory and may direct the holder of the certificate of approval to cease claiming that the items tested or inspected by the laboratory are Coast Guard approved, pending a final decision in the matter. The Commandant may direct an investigation into the matter.

(b) Within 30 days after receipt of notice of the basis for considering termination, the laboratory may provide the Commandant evidence or arguments why acceptance or listing should continue. After consideration of all available material on the matter, the Commandant informs the laboratory, in writing, of this decision. Any person holding a certificate of approval affected by the decision is also notified of the decision.

(Sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 201, 86 Stat. 427, as amended (46 U.S.C. 391a); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46 (b) and (n)(4).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: October 11, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-29477 Filed 10-20-78; 8:45 am]

[4910-14-M]

[46 CFR Part 160]

[CGD 76-048a]

DISTRESS SIGNALS, SIGNAL PISTOLS, AND LINE-THROWING APPLIANCES

Proposed Specification and Tests

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard is considering amending the specifications for pyrotechnic distress signals, signal pistols for flare-type distress signals, and line-throwing appliances by adding a new technical test to measure flare fire exposure, amending the marking and labeling requirements, changing certain technical specifications relating to signal pistol chamber diameter, line diameter and strength, to specify dimensions in SI metric units, and adding a new requirement to label pyrotechnic distress signals with an expiration date. The amendments are necessary to update the requirements to reflect current standards, to change marking to reflect changes in USCG inspection procedures, to inform the user of the service life of pyrotechnic signals and to include a new fire test necessitated by use of distress flare signals on recreational boats. This proposal should be considered in conjunction with the proposed visual distress signals for boats (CGD 76-183a) contained in the notice appearing on page 49354 of this issue of the FEDERAL REGISTER.

DATES: Comments must be received on or before December 22, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) (CGD 76-048a), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Markle, Office of Merchant Marine Safety (G-MMT/83), Room 8301, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 76-048a) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Robert L. Markle, Project Manager, Office of Merchant Marine Safety, and Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF PROPOSAL

The regulations that would be amended as a result of this proposal are:

46 CFR Subpart 160.021—Signals, Distress, Hand Red Flare, for Merchant Vessels.

46 CFR Subpart 160.022—Signals, Distress, Floating Orange Smoke (5 Minutes), for Merchant Vessels.

46 CFR Subpart 160.023—Signals, Distress, Combination Flare and Smoke, Hand, for Merchant Vessels.

46 CFR Subpart 160.024—Signals, Distress, Pistol-Projected Parachute Red Flare, for Merchant Vessels.

46 CFR Subpart 160.028—Signal Pistols for Parachute Red Flare Distress Signals for Merchant Vessels.

46 CFR Subpart 160.031—Line-Throwing Appliance, Shoulder Gun Type (and Equipment), for Merchant Vessels.

46 CFR Subpart 160.036—Signals, Distress, Hand-Held Rocket-Propelled Parachute Red Flare, for Merchant Vessels.

46 CFR Subpart 160.037—Signals, Distress, Hand, Orange Smoke, for Merchant Vessels.

46 CFR Subpart 160.040—Line-Throwing Appliance, Impulse-Projected Rocket Type (and Equipment), for Merchant Vessels.

46 CFR Subpart 160.057—Signals, Distress, Floating Orange Smoke (15 Minutes), for Merchant Vessels.

Proposed changes to the regulations in these subparts are discussed in detail below.

A new technical test would be added to the hand-held flare specification subpart 160.021 to determine the tendency of the hot slag that drips from a burning flare to start a fire. The problem of introducing flares on recreational boats introduces the problem of fire exposure. To minimize this po-

tential, passing a slag ignition test would be required before signal apparatus could be produced. Each manufacture unless the production lot is stored in accordance with certain controlled stowage conditions which

age that does not meet the requirements in paragraph (d) of this section, the expiration date must be 3 years

9. By revising the first sentence of § 160.040-4(c) to read as follows:

DATES: Comments must be received on or before December 22, 1978

Type (and Equipment), for Merchant Vessels.

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tential, passing a slag ignition test would be required before signal approval.

Changes would be made to labeling and marking requirements of the above subparts to require that each distress signal be marked with the replacement date. This would be the date on which the service life of the signal, discussed below, expires. At present, the purchaser of a distress signal has to be aware that the signal must be replaced after 3 years. Under this proposal, the replacement date would be clearly shown. Also marking would indicate that floating orange smoke distress signals are approved for daytime use only.

The Coast Guard intends to include a note in the text of the final regulation to remind manufacturers of the need to comply with the Consumer Product Safety Commission marking requirements as follows:

NOTE.—See 16 CFR 1500.3(b)(14)(i) for the information required and 16 CFR 1500.14(b)(7)(vii) for the form prescribed for fireworks device labels.

In accordance with the policy established by the Metric Conversion Act of 1975 (89 Stat. 1007), all measurements in the subparts would be converted to SI (metric) units. English units would follow in parentheses for reference.

The marking requirements in each subpart for the line-throwing appliances would be revised to delete the requirements that the launcher must be marked with the Marine Inspection Office identification letters and the letters "USCG."

Signal pistols would no longer be limited for use with parachute distress signals on merchant vessels. The existing chamber and bore dimensions currently specified in subpart 160.028 would apply only to signal pistols intended to launch parachute distress signals that meet subpart 160.024. For signal pistols intended to launch other aerial flares, the chamber and bore dimsensions of the pistol would be discretionary. Additionally a provision would be added to require that the pistol be designed to fire only a distress signal and not a conventional round of ammunition.

The requirement that the line diameter for rocket-type line-throwing appliances of the specification must be 7/32 to 9/32 inch would be revised. This requirement has been outdated by advances in rope-fiber technology. As amended, the specification would require that the breaking strength of line must be at least 2,250 N (500 lb). To provide an adequate handhold, the minimum diameter would be 4 mm (5/32 fraction in).

A provision would be added to require distress signals to be marked with an expiration date. This service life would be 3 years from the date of manufacture unless the production lot is stored in accordance with certain controlled stowage conditions which are included in the proposal. For pyrotechnic signals so stored, the expiration date would be 3 years from the date they are removed from storage, but not more than 4 years from the date of manufacture.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (43 FR 9582, Mar. 8, 1978). A draft evaluation has been prepared and placed in the public docket.

In consideration of the preceding, subchapter Q of Title 46, Code of Federal Regulations, would be amended as follows:

1. By adding paragraph (p) to § 160.021-4 to read as follows:

§160.021-4 Sampling, inspections, conditioning, and tests.

* * * * * *

(p) *Hot slag test.* The following procedure must be followed for each hot slag test:

(1) Ten layers of clean standard newsprint paper must be laid out on a clean, dry, flat surface covering an area at least 110 cm (43 in) by 140 cm (55 in). Each paper must have a moisture content between 5 percent and 8 percent but paper that is neither dry and brittle nor damp and limp is allowed.

(2) The top layer of the paper must have a grid drawn on it of at least 616 squares, each of which must be 5 cm by 5 cm (2 in x 2 in).

(3) A flare must be ignited and held, with the flame projecting upward at an angle of approximately 45°, 1.2 m (4 ft) directly above the geometric center of the grid.

(4) The flare must burn completely and if the top sheet of paper is consumed by hot slag or flame anywhere within the boundaries of 308 or more of the individual squares in the grid, the flare fails the test.

2. By adding in the list of marking requirements contained in §§ 160.021(5)(a), 160.022(5)(b), 160.023(5)(a), 160.024(5)(b), 160.036(5)(b), 160.037(5)(b), and 160.057(5)(b) the following words: "service life expiration date (date to be inserted by manufacturer.)"

3. By adding a new section in subparts 160.021, 160.022, 160.023, 160.024, 160.036, 160.037, and 160.057 to read as follows:

§ 160. Marking of expiration date.

(a) Each approved signal must have an expiration date marked on it.

(b) For each signal shipped directly from the production line or from storage that does not meet the requirements in paragraph (d) of this section, the expiration date must be 3 years from the date of manufacture.

(c) For each signal stored before shipment under conditions specified in paragraph (d) of this section, the expiration date must be—

(1) Not more than 3 years after removal from storage; and

(2) Not more than 4 years after the date of manufacture.

(d) The following conditions must be met to qualify for determining the expiration date under paragraph (c) of this section:

(1) The relative humidity of the storage place must not exceed 50 percent.

(2) The temperature of the storage place must be maintained between 10° C (50° F) and 30° C (86° F).

(3) The temperature and humidity of the storage place must be recorded daily.

(4) The signal must be from a lot that is stored separately from other lots.

(5) The lot number, the date of shipment, the date the lot is placed in storage, the number of signals shipped, and the consignee of the shipment must be recorded and the manufacturer must retain this record for at least 5 years after the date of shipment.

§§ 160.022(5)(a) and 160.057(5)(a) [Amended]

4. By amending the first sentence in §§ 160.022(5)(a) and 160.057(5)(a) adding the words, "approved for daytime use only."

Subpart 160.028—Signal Pistols for Red Flare Distress Signals

5. By revising the title of subpart 160.028 to read as set forth above.

§ 160.031-6 [Amended]

6. By amending § 160.031-6 by deleting the words "the Marine Inspection Office identification letters, and the letters 'USCG.'"

§ 160.040-5 [Amended]

7. By amending § 160.040-5 by revoking and reserving paragraph (d).

8. By revising § 160.028-2 to read as follows:

§ 160.028-2 Type.

(a) Each signal pistol for launching a parachute distress signal that meets subpart 160.024 of this part must be of the center-firing type having chamber and bore dimensions within the limits indicated by drawing No. 160.028-2(A).

(b) A signal pistol for launching an aerial flare not under paragraph (a) of this section may have any chamber and bore dimensons if they are not the dimensions for a conventional round of ammunition.

9. By revising the first sentence of § 160.040-4(c) to read as follows:

§ 160.040-4 Equipment for impulse projected rocket type line-throwing appliance.

* * * * * *

(c) Four service lines, each 4 mm (5/32 in) minimum diameter with a minimum breaking strength of at least 2,250 N (500 lb), and in one continual length not less than that specified in the approval of the appliance carried, without splice, knot, or other retarding or weakening features. * * *

* * * * * *

(Sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

OCTOBER 11, 1978.

[FR Doc. 78-29478 Filed 10-20-78; 8:45 am]

[4910-14-M]

[46 CFR Part 160]

[CGD 76-048b]

DISTRESS SIGNALS, SIGNAL PISTOLS, AND LINE-THROWING APPLIANCES

Proposed Inspection and Approval Procedures

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard is considering amending the specifications for pyrotechnic distress signals, signal pistols for flare-type distress signals, and line-throwing appliances to allow the approval of these devices to be based on inspection and testing by independent laboratories. The purpose of these amendments is to place responsibility for factory inspection on the manufacturer. This would free some of the Coast Guard's field personnel for other duties while still providing necessary inspection without any changes in the quality of the product. This proposal should be considered in conjunction with the proposed general approval and test procedures (subpt. 159) CGD 76-048) contained in the notice appearing on page——of this issue of the FEDERAL REGISTER.

DATES: Comments must be received on or before December 22, 1978

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION, CONTACT:

Mr. Robert Markle, Office of Merchant Marine Safety (G-MMT/83), Room 8301, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1444.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 76-048b) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. The proposal may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Robert Markle, Project Manager, Office of Merchant Marine Safety, and Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF PROPOSAL

The regulations that would be amended as a result of this proposal are:

46 CFR Subpart 160.021—Signals, Distress, Hand Red Flare, for Merchant Vessels.

46 CFR Subpart 160.022—Signals, Distress, Floating Orange Smoke (5 Minutes), for Merchant Vessels.

46 CFR Subpart 160.023—Signals, Distress, Combination Flare and Smoke, Hand, for Merchant Vessels.

46 CFR Subpart 160.024—Signals, Distress, Pistol-Projected Parachute Red Flare, for Merchant Vessels.

46 CFR Subpart 160.028—Signal Pistols for Parachute Red Flare Distress Signals for Merchant Vessels.

46 CFR Subpart 160.031—Line-Throwing Appliance, Shoulder Gun Type (and Equipment), for Merchant Vessels.

46 CFR Subpart 160.036—Signals, Distress, Hand-held Rocket-Propelled Parachute Red Flare, for Merchant Vessels.

46 CFR Subpart 160.037—Signals, Distress, Hand, Orange Smoke, for Merchant Vessels.

46 CFR Subpart 160.040—Line-Throwing Appliance, Impulse-Projected Rocket Type (and Equipment), for Merchant Vessels.

46 CFR Subpart 160.057—Signals, Distress, Floating Orange Smoke (15 Minutes), for Merchant Vessels.

This proposal has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (43 FR 9582, Mar. 8, 1978). A draft evaluation has been prepared and placed in the public docket.

Proposed changes to the regulations in those subparts are discussed in detail below.

DISTRESS SIGNALS

Subparts 160.021, 160.022, 160.023, 160.024, 160.036, 160.037, and 160.057 would be amended as follows:

(1) Each section entitled "*Procedure for approval*" would be revised as follows:

(a) The procedures by which a manufacturer applies for approval and the Commandant approves a distress signal would be replaced by a reference to proposed subpart 159.005.

(b) The requirements for submission of plans and specifications would be deleted. Approval testing by recognized independent laboratories would be required. Requirements for conducting and reporting tests, including submission of plans and specifications would be those specified in proposed §§ 159.005-9 and 159.005-11.

(c) The paragraph entitled "*Preapproval sample*" would be deleted. Sample selection would be as specified in a proposed sample plan which is discussed below.

(2) Each section entitled "*Sampling, inspections, conditioning and tests*" would be replaced by two new sections entitled "*Approval tests*" and "*Production tests*". The nature of the tests required would not change, however, some of the present "operational" tests would be made "technical" tests. Tests would be required to be conducted by a recognized independent laboratory, or under the supervision of such a laboratory. A list of recognized laboratories, as provided for under proposed § 159.010-11, would be added to each subpart.

(3) Under the proposed "*Approval tests.*"

(a) For each of the following subparts, the operational tests would be a

combination of the present requirements as indicated:

since approval of the signal or submission of the previous report would have

(d) The production check tests that are now performed at a Government

[4910-14-C]

combination of the present requirements as indicated:

(i) Subpart 160.021—§ 160.021-4 (b)(1), (e), (f), and (h).

(ii) Subpart 160.022—§ 160.022-4 (b)(1), (e), and (f).

(iii) Subpart 160.024—§ 160.024-4 (b)(1), (e), (f), (g), and (h).

(iv) Subpart 160.036—§ 160.036-4 (b)(1), (e), (f), (g), and (h).

(v) Subpart 160.037—§ 160.037-4 (b)(1), (e), (f), and (h).

(vi) Subpart 160.057—§ 160.057-4 (b)(1), (e), and (f).

The existing operational tests not listed would be added to the technical tests.

(b) In subpart 160.023, the combination flare and smoke signal would continue to be tested as prescribed by MIL-S-18655.

(c) The proposed operational tests for subparts 160.021, 160.022, 160.024, 160.036, and 160.037 would be conducted in accordance with the sampling plan in table 1. The operational tests for subpart 160.057 would be conducted in accordance with the sampling plan in table 2. These sampling plans are based on MIL-STD-105, a widely used standard for quality control testing. Statistically, under the proposed sampling plans, the test results would be more more valid than the present test results. These sampling plans are discussed in further detail below.

(d) For each technical test in subparts 160.021, 160.022, 160.024, 160.036, and 160.037, three signals would have to be tested. Two of the three signals tested would have to pass for the signal model to be approved. For each technical test in subpart 160.057, one signal would be tested. Each signal tested would have to pass for the signal model to be approved. The reason for the different approach in subpart 160.057 is discussed in the explanation of the sampling plan.

(e) A report summarizing all production tests performed by the manufacturer and the independent laboratory since approval of the signal or submission of the previous report would have to be submitted to the Commandant as provided in proposed § 159.007-11. This summary would include the date of each test, the production lot number of the signals tested, and a complete test report on any lot that was rejected.

(f) The manufacturer would have to retain the records of each test performed by the manufacturer and by the recognized independent laboratory as required under the proposed § 159.007-13.

(4) Under the proposed *"Production tests"*:

(a) The operational and technical tests would be the same as those described above in paragraph (3), "Approval tests." The operational tests would have to be conducted for each lot produced and would use the same sampling plan as prescribed for "Approval tests." This sampling plan would allow larger lots than are now allowed, so that manufacturers could increase lot sizes over those presently produced and thereby reduce the frequency of the operational tests. The sampling plan would assure that the quality of the lot is maintained regardless of its size.

(b) The manufacturer or laboratory would select the required number of signals from each production lot and perform the tests that are now performed by the Coast Guard marine inspector as production checks at the place of manufacture.

(c) A recognized independent laboratory would have to perform or supervise the production tests periodically. The frequency of these tests would be determined by the laboratory, but would not be less often than four times a year, unless the number of lots of signals produced in a year is less than four. If less than four lots are produced, each lot would have to be tested by the laboratory.

(d) The production check tests that are now performed at a Government laboratory would be performed by the recognized independent laboratory at a location determined by agreement between the laboratory and the manufacturer.

(5) The existing provisions for determining the number of samples for operational tests and the accept/reject criteria would be replaced by a sampling plan as follows:

(a) Under the sampling plans in tables 1 and 2, a sample consisting of a specified number of distress signals is selected from a production lot. The sample size depends on the lot size. Each unit in the sample is tested as prescribed in the operational tests. Each signal that has a defect listed in the table of defects in each subpart is assigned a score (failure percent) in accordance with that table. If the sum of all the failure percents (cumulative failure percent) for the number of units in the sample is less than or equal to the accept criterion, the lot is accepted. If this sum is equal to or more than the reject criterion the lot is rejected. If the cumulative failure percent falls between the accept and reject criteria, another sample is selected from the production lot and the operational tests are repeated. The cumulative failure percent of each sample tested is added to that of the previous samples to obtain the cumulative failure percent for all the signals tested (cumulative sample size). Additional samples are tested and the tests repeated until either the accept or reject criterion for the cumulative sample size is met. If any signal in the sample explodes when fired or ignites in a way that could burn or otherwise injure the person firing it, the lot is rejected without further testing. The steps in the operational test procedure are diagrammed in figure 1.

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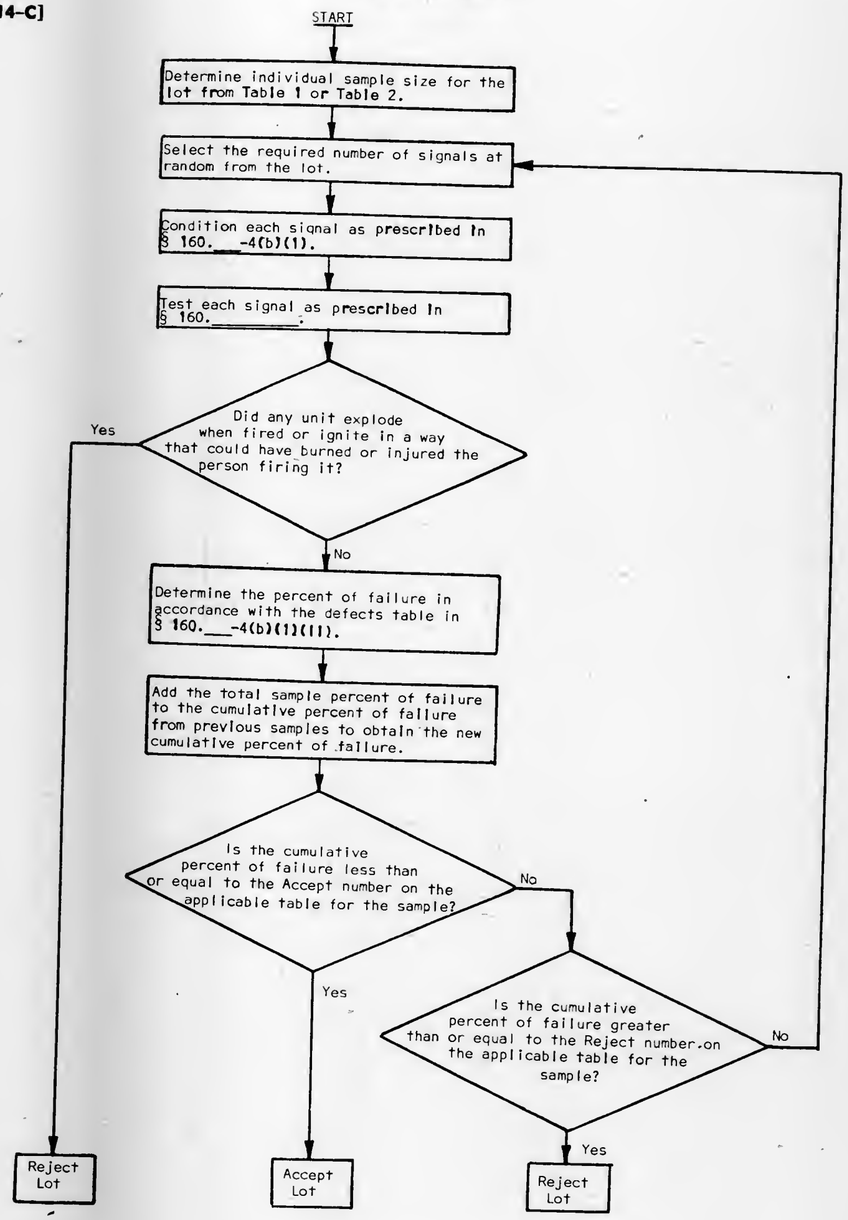

Figure 1. Operational test procedure.

TABLE 1.—*Accept and Reject Criteria for Operational Test Lots for Subparts 160.021, 160.022, 160.024, 160.036, and 160.037*

(b) Under the sampling plan in table 2, the sample size for subpart 160.057 (Orange Smoke Signals) would be

throwing appliance tested and the date of each test.

(d) The manufacturer would have to

also available for examination at this address.

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TABLE 1.—*Accept and Reject Criteria for Operational Test Lots for Subparts 160.021, 160.022, 160.024, 160.036, and 160.037*

Lot size	Individual sample size	Sample	Cumulative sample size	Accept [1]	Reject [1]
280 or less	8	First	8	[2]	400
		Second	16	100	500
		Third	24	200	600
		Fourth	32	300	700
		Fifth	40	500	800
		Sixth	48	700	900
		Seventh	56	950	951
281 to 500	13	First	13	0	400
		Second	26	100	600
		Third	39	300	800
		Fourth	52	500	1,000
		Fifth	65	700	1,100
		Sixth	78	1,000	1,200
		Seventh	91	1,350	1,351
501 to 1,200	20	First	20	0	500
		Second	40	300	800
		Third	60	600	1,000
		Fourth	80	800	1,300
		Fifth	100	1,100	1,500
		Sixth	120	1,400	1,700
		Seventh	140	1,850	1,851
1,201 to 3,200	32	First	32	100	700
		Second	64	400	1,000
		Third	96	800	1,300
		Fourth	128	1,200	1,700
		Fifth	160	1,700	2,000
		Sixth	192	2,100	2,300
		Seventh	224	2,550	2,551
3,201 to 10,000	50	First	50	200	900
		Second	100	700	1,400
		Third	150	1,300	1,900
		Fourth	200	1,900	2,500
		Fifth	250	2,500	2,900
		Sixth	300	3,100	3,300
		Seventh	350	3,750	3,751

[1] Cumulative failure percent.
[2] Lot may not be accepted. Next sample must be tested.

TABLE 2.—*Accept and Reject Criteria for Operational Test Lots for Subpart 160.057*

Lot size	Individual sample size	Sample	Cumulative sample size	Accept [1]	Reject [1]
150 or less	2	First	2	[2]	200
		Second	4	[2]	200
		Third	6	0	200
		Fourth	8	0	300
		Fifth	10	100	300
		Sixth	12	100	300
		Seventh	14	299	300
151 to 500	3	First	3	[2]	200
		Second	6	0	300
		Third	9	0	300
		Fourth	12	100	400
		Fifth	15	200	400
		Sixth	18	300	500
		Seventh	21	499	500
501 to 1,200	5	First	5	[2]	300
		Second	10	0	300
		Third	15	100	400
		Fourth	20	200	500
		Fifth	25	300	600
		Sixth	30	400	600
		Seventh	35	699	700

[1] Cumulative failure percent.
[2] Lot may not be accepted. Next sample must be tested.

(b) Under the sampling plan in table 2, the sample size for subpart 160.057 (Orange Smoke Signals) would be smaller than those of the other subparts. The risk to the manufacturer that a satisfactory lot of signals might be rejected and the risk to the consumer that an unsatisfactory lot of signals might be accepted would be greater under subpart 160.057 than under the other subparts. The proposed increased risks are believed to be acceptable. The smoke signal approved under subpart 160.057 is known to be produced in much smaller quantities than the other signals and to cost much more than the other signals. Adopting the same sampling plan that is used for the other signals would result in testing that is prohibitively expensive.

SIGNAL PISTOLS AND LINE-THROWING APPLIANCES

Subparts 160.028, 160.031, and 160.040 would be amended as follows:

(6) In each subpart, the section entitled "*Procedure for approval*" would be amended as proposed in paragraph (1) of this document "*Distress Signals.*"

(7) Section 160.028-4 and 160.031-5, "*Inspections and tests*", and §160.040-5, "*Inspections, sampling, and tests*", would each be replaced by two new sections entitled "*Approval tests*" and "*Production tests.*" The test requirements, however, would remain in the same.

(8) Under the proposed "*Approval tests*":

(a) The tests would be performed by a recognized independent laboratory listed as provided in proposed § 159.010-11 or by the manufacturer under the supervision of such a laboratory.

(b) The requirements for conducting and reporting the results of the approval test would be as prescribed in proposed §§ 159.005-9 and 159.005-11.

(9) Under the proposed "*Production tests*":

(a) The manufacturer would continue to proof-test each signal pistol and line-throwing device, except that in § 160.040-5 the requirement that this be done in the presence of a marine inspector would be deleted.

(b) A recognized independent laboratory would have to perform or supervise the production tests periodically, at a frequency to be determined by the laboratory, but not less than once in any year in which signal pistols, appliances, or rockets are manufactured.

(c) A report summarizing all production tests would have to be submitted to the Commandant as provided in proposed § 159.007-11. The summary would have to include the serial number of each signal pistol or line-throwing appliance tested and the date of each test.

(d) The manufacturer would have to retain records of each test performed by the manufacturer and by the independent laboratory as required under the proposed § 159.007-13.

(Sec. 1, 73 Stat. 475 (46 U.S.C. 481); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended, and OMB Circular A—107.

Dated: October 11, 1978.

J. B. HAYES,
Admiral,
U.S. Coast Guard Commandant.

[FR Doc. 78-29479 Filed 10-20-78; 8:45 am]

[4910-14-M]

[46 CFR Parts 160, 161]

[CGD 76-183a]

SPECIFICATIONS: VISUAL DISTRESS SIGNALS FOR BOATS

Proposed Rules

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing that specifications for three new distress signals be added to the regulations describing Coast Guard approved equipment. The three signals are red aerial pyrotechnic flares, electric distress lights, and distress flags. These three signals are included in the proposed rule that would require some recreational boats to carry distress signals, CGD 183, published on April 10, 1978 in the FEDERAL REGISTER (43 FR 15118). This proposal will insure that devices produced to meet the carriage requirement will not vary in performance specifications from one manufacturer to another, and the boater will be assured of both reliable and safe distress signals.

DATES: Comments must be received on or before December 22, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Copies of studies referenced in this document are available for examination at the above address. A copy of the economic evaluation from which the economic summary in this document is taken is also available for examination at this address.

FOR FURTHER INFORMATION CONTACT:

Mr. David R. Gauthier Office of Boating Safety (G-BLC), Room 4308, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4176.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 76-183a), the name and address of the person submitting the comments and the specific section of the proposal to which each comment is addressed. The proposal may be changed in light of comments received before the expiration of the comment period. No hearing is contemplated, but one may be held at a time and place set out in a later notice in the FEDERAL REGISTER, if requested by a person or organization desiring to comment orally at a public hearing and raising a genuine issue.

DRAFTING INFORMATION

The principal persons involved in the drafting of this rulemaking are: Mr. D. R. Gauthier, Project Manager, Office of Boating Safety; Lieutenant G. Stephen Karavitis, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The purpose of this proposed rule is to include in Subchapter Q, specifications, three new distress signals designed for use by operators of boats as defined in the Federal Boat Safety Act of 1971 (46 U.S.C. 1452) in complying with the proposed carriage requirement published in the FEDERAL REGISTER on April 10, 1978 (43 FR 15118). The three signals are: (1) Aerial red pyrotechnic flares, both self-contained or pistol launched, and both parachute assisted and nonparachute assisted (meteors); (2) electric distress lights, both automatic and manually keyed; and (3) distress flags. Including these specifications in subchapter Q will insure that devices produced to meet the carriage requirement will not vary in performance specifications from one manufacturer to another, and the boater will be assured of both reliable and safe distress signals if he or she chooses to carry one of these types of signals.

All these signals have been manufactured in this country for several years. However, specifications for distress signals for boats are new. They are

being included in subchapter Q along with specifications for distress signals required on merchant vessels. Distress

The red aerial pyrotechnic distress signal specifications were drawn in part from existing Coast Guard speci-

function in a manner which would cause burns or injury to an unprotect-

ly to purchase one with a shorter duration, choosing instead a signal with longer duration that costs about what

technical tests required by this specification. The tests must be conducted by an independent laboratory that has

operational tests are the responsibility of the manufacturer. The technical tests do not have to be conducted for

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being included in subchapter Q along with specifications for distress signals required on merchant vessels. Distress signals required on merchant vessels are designed for more extreme signaling needs than are normally encountered by boats. The proposed carriage requirement for signals on boats will be found in title 33. To require boats to carry the same devices as merchant ships would impose higher costs on the boater than is necessary.

On September 27, 1976, the Coast Guard published an advanced notice of proposed rulemaking for visual distress signals on boats (41 FR 42218). Its purpose was to solicit public input on the question of visual distress signals on boats. Over 150 comments were received, the largest group being from private individuals who own or operate boats. The following is a statistical breakdown of respondents:

	Percent
Private individuals	44
Industry	17
Organized groups	13
State boating law administrators	13
Other Government bodies	3
Media	1
Other	8

A large number of devises were suggested by respondents. Many of the suggestions in those comments have been incorporated in this proposed rule.

Several specific considerations influenced these specifications. The Coast Guard has conducted numerous tests during the past few years in attempting to define necessary characteristics for distress signals on boats. A detailed description of these tests is included in CGD 76-183, published in the FEDERAL REGISTER of April 10, 1976 (43 FR 15118), since they influenced which signals would meet the proposed carriage requirement. However, it is appropriate that they be included in summary form here as well. First, the signal must serve both an alerting and a locator function. The alerting function tells a potential observer that the boat displaying the signal needs help. The locator function aids potential rescuers in identifying which boat out of several is the one in distress. Second, it must serve both these functions at a range of 1 mile for daytime signals and 3 miles for nighttime signals. These distances were determined by analysis of both search and rescue (SAR) data and other boating surveys. Third, these signals must be visible to other boats, since they are the most likely source of assistance. Signals designed primarily for recognition from search aircraft are not acceptable. Finally, the signals should be consistent with the 1972 Convention on the International Regulations for Preventing Collisions at Sea, the 72 COL REGS.

The red aerial pyrotechnic distress signal specifications were drawn in part from existing Coast Guard specifications for other aerial pyrotechnics. There are several differences, however. First, this specification allows nonparachute assisted signals (meteors). It also allows smallers pistol-projected signals. Previous specifications required pistol projected distress signals to be 37 mm. This ruled out the smaller 25 mm and 12 gage signals that have been carried by boaters for many years. These signals will now be included. An amendment to the existing pistol specification is contained in CGD 76-048a, also in this issue of the FEDERAL REGISTER, which deletes the bore specifications for signal pistols. This amendment will allow pistols to be producted that can fire these smaller signals.

Included in the specification are some construction standards. These standards require that signals produced under this specification either be self-contained or designed for use in an approved pistol. Signals must be constructed in lots, with a new lot started whenever: (1) Any change in construction details or raw materials occurs; (2) a new product line is started; or (3) a lot exceeds 10,000 signals. Signals must have a main propulsion charge consisting of a self-oxidizing fuel containing no black powder. However, a manufacturer may use black powder in other components of the signal, such as during the candle-ejection sequence for parachute assisted signals. A final construction standard require that self-contained signals have an interior chamber containing the main propulsion charge and the pyrotechnic candle which is a single, continuous, unbroken cylinder constructed so that it is capable of withstanding the forces generated by ignition without rupture, crack, or deformation of any kind.

Performance requirements for the signal are relatively simple. The signal must burn for a minimum of 6 seconds, with a luminous intensity of at least 10,000 candela. It must burn out completely before it falls back to the level of launch. It must burn a total of at least 1,000 candle-minutes, with a candle-minute equal to the product of the intensity of the signal expressed in candela times the total burning time in minutes of the pyrotechnic candle or candles. The signal must meet these performance requirements after immersion in water for 24 hours, and must also meet these performance requirements after being subjected to an elevated temperature, humidity and storage test.

In addition, there are two performance requirements for the signal which relate to the person-device interface. A signal cannot normally function in a manner which would cause burns or injury to an unprotected person when fired in accordance with the manufacturer's instructions. The Coast Guard will not approve signals which pose hazards to prudent individuals who use signals as they were intended. We recognize that some signals do pose hazards to people when they are used for purposes other than distress signaling, or when people use them without reading or heeding the instructions the manufacturer must include. The Coast Guard does not feel that it is reasonable to require the manufacturer of the signal to try and prevent, through design and production, misuse of distress signals. The Coast Guard does feel, however, that the manufacturer has a responsibility to produce a signal that does not burn or injure an unprotected person using it properly. The accompanying performance requirement is that a signal cannot malfunction in a manner that would cause burns or injury to an unprotected person when it is fired. This is essentially a "fail-safe" provision in the specifications. Several signals currently produced already appear to meet the spirit of this proposed requirement. The key to this requirement is that, in the unlikely event that a signal did malfunction, the user would have some margin of safety in disposing of the signal promptly without the possibility, for example, of having the signal explode in one's hand.

The Coast Guard does not intend at the present time to intentionally induce signal malfunction to evaluate how the manufacturer meets this performance requirement. Evaluation of compliance with this provision would be on a design level, when the signal is submitted for approval. However, provisions are included in the production testing requirements that would automatically fail a lot where a signal malfunctioned in a manner that would cause burns or injury to an unprotected person. A further source of information would be reports from users where signals did not meet this requirement. The Coast Guard could then use such reports to reevaluate an approval certificated issued under this specification to a manufacturer. The Coast Guard invites comments from manufacturers and potential users of signals on both these related performance requirements.

Performance requirements do not vary between parachute flares and meteors. Conceivably a manufacturer could produce a parachute flare that only burns for 6 seconds. However, this probability seems unlikely, given the fact that current parachute flares of the 25 mm size have a burning time of 20 to 25 seconds, and present consumers of this device would be unlikely to purchase one with a shorter duration, choosing instead a signal with longer duration that costs about what they are presently paying. Two additional factors in the performance requirements will preclude malfunctioning parachute flares from being approved as meteors. Parachute flares whose parachutes fail to deploy will not meet either the 6-second burning requirement or the requirement to burn out before falling back to the level of launch. The reason for distinguishing between meteors and parachutes flares, and the consequent labeling differences, has to do with the fact that the carriage requirement for these signals on boats, CGD 76-183, allows the parachute flares to meet both the day and night signal requirements, while the meteor is acceptable only in meeting the night signal requirement.

There are specific labeling requirements for the manufacturer. Devices must be labeled with the manufacturer's name, color, and burning time of the pyrotechnic candle or candles, the size signal pistol if one is required, the lot number, Coast Guard approval number, operation and storage instructions, date of expiration, and identification as either parachute assisted or meteor. Some of this information can be printed on a separate piece of paper packed with each signalor in the smallest container in which several signals are packed. Compliance with these labeling requirements in no way relieves the manufacturer of any obligation to comply with other labeling requirements, specifically those of the Federal Hazardous Substances Act, 15 U.S.C. 1263.

One change from previous pyrotechnic specifications is the shift from printing the date of manufacture on the signal to printing the date of expiration. This was done so consumers of the signals will know when the time has come to replace them. Date of expiration will normally be 3 years from the date of manufacture. The manufacturer can extend the date of expiration up to 1 additional year by storing the signals in a controlled environment until they are shipped from the plant. To do this, the manufacturer must store the signals in an area where the temperature remains between 10° C (50° F) and 30° C (85° F) and the relative humidity does not exceed 50 percent. A number of records must also be kept when the manufacturer choose to exercise this option.

All signals produced under this specification must be approved by the Coast Guard. The manufacturer applies to the Coast Guard for this approval. An application must include plans and diagrams of the device, as well as results of the operational and technical tests required by this specification. The tests must be conducted by an independent laboratory that has been accepted by the Coast Guard as capable of performing the required tests and as independent from the manufacturer of the signals. The Coast Guard will furnish a list of such laboratories on request from a manufacturer. Laboratories that seek to be listed by the Coast Guard for conducting these tests must apply to the Commandant (G-MMT), U.S. Coast Guard. Procedures covering this program are proposed in a separate document, CGD 76-048, which is also published in this issue of the FEDERAL REGISTER. Manufacturers must produce a lot of at least 100 signals for use in these tests. The U.S. Coast Guard will consider all the data submitted, and either accept or reject the application for approval. If accepted, the manufacturer will receive an approval certificate. If rejected, the manufacturer will be notified as to why the device was not approved.

Approval certificates will automatically expire 5 years from the date of issuance. The Coast Guard may withdraw an approval certificate before that time if the manufacturer produces signals that do not meet these specifications, or if the manufacturer does not conduct the production testing that is required by these proposed rules.

The specification includes two types of tests. Operational tests are designed to insure that the signals meet the performance requirements of the specifications. Samples for these tests are selected using a sample plan based on military standard 105D, which assures random sample selection, and adjusts the number of samples required to the size of lot produced. Technical tests are designed to insure that the intensity, color, and storage characteristics of the signals produced meet the requirements of the proposed specification. The number of samples required for the technical tests is constant, regardless of the size of the lot, since these characteristics do not normally vary among the signals produced within one lot.

Production testing for these signals will be the responsibility of the manufacturer and the listed independent laboratory that performs the tests for the application for approval. Operational tests must be conducted for each lot produced. The laboratory must conduct or directly supervise the operational tests for at least four lots during the course of each year. The lots thus selected may be at irregular intervals, but if there is production in a quarterly period, the laboratory must conduct or directly supervise the operational tests for at least one lot during that quarterly period. All other operational tests are the responsibility of the manufacturer. The technical tests do not have to be conducted for every lot. They must be conducted at least once every year, or every 10 lots, whichever happens first. All technical tests must be performed or directly supervised by the laboratory. The manufacturer must provide a yearly report of the production tests, both operational and technical, to the Coast Guard.

The specifications for the distress flag are new, but are related to those established by Canada and recognized internationally as a distress signal. The flag must be either a square or a rectangle, at least 3 feet on a side. It must be indian orange in color, and have a black square and disc superimposed on the central horizontal axis of the flag. The sizes of the square and disc are proportional to the total size of the flag, but the square must have a side that is at least 1 foot long. The disc must have a diameter of at least 1 foot. If the flag is a rectangle, the shorter side must be at least ⅔ the length of the longer side. The flag must have reinforced corners, and have a grommet in each corner. It must also be packed with four pieces of line that can be used to secure it to a pole or mast. The line must have a tensile strength of at least 25 pounds, and each piece must be at least 12 inches long.

The choice of international orange as the color for the flag was to insure a high contrast color in the marine environment. The color specified is indian orange, Cable No. 70072, Standard Color Card of America, issued by the Textile Color Asssociation of the United States, Inc., 200 Madison Avenue, New York, N.Y., and is the color required for Coast Guard approved life preservers. It is possible that other, more desirable colors have been developed. The Coast Guard is interested and welcomes suggestions for alternative colors for the distress flag.

Distress flags produced under this specification will not require approval from the Coast Guard. The manufacturer will however, have to certify that flags will have to be labeled accordingly, so that potential consumers will be able to indentify flags that meet the proposed carriage requirement.

Flags will not have to undergo any type of testing. However, the specification does require that the material used in the flag must be capable of passing an accelerated weathering test. The accelerated weathering test is comprised of a salt spray in combination with an air blast, and conducted under ultraviolet light. This is similar to tests currently required for plastic materials on lifeboats. The Coast

Guard solicits suggestions from flag manufacturers on this test, and spe-

there must be at least one point where the intensity is at least 5,000 candela.

justing the cost data drawn from existing approval systems. In addition, it

Subpart 160.066—Distress Signal for Boats, Red Aerial Pyrotechnic Flare

(1) Submersion in water for 24 hours, or

(2) If protected by a sealed contain-

(2) Not more than 4 years after the date of manufacture.

(d) The following conditions must be

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Guard solicits suggestions from flag manufacturers on this test, and specifically on ultraviolet light specifications appropriate for flag materials.

The manufacturer, by certifying the flag, must consequently insure that the material used will meet this test, either through agreements with the supplier of the material or through his own production system. The manufacturer must submit to the Commandant (B-BBT), U.S. Coast Guard, a notice that he is producing flags under this specification. The Coast Guard will maintain a copy of this notice for 5 years. This will allow the Coast Guard to list the manufacturer in CG-190, Equipment Lists, as a potential supplier of flags produced under this specification.

The specifications for the distress light represent the greatest departure from existing specifications. The Coast Guard presently approves flashlights used on lifeboats and strobe lights used as man-overboard lights. Through tests conducted and discussed in document CGD 76-183 (43 FR 15118), the conclusion was reached that these lights are not satisfactory for use on boats as distress signals. The flashlights do not have sufficient intensity, and the strobe lights do not necessarily indicate distress to an observer. This is because flashing lights, such as strobe lights, are common in the marine environment, and are used as aids to navigation lights, collision avoidance lights, and personal flotation device lights for people in the water.

The proposed specification will allow two types of distress lights. A light must either be programed to automatically flash an S-O-S signal, or be equipped with a switch that allows a similar S-O-S signal to be produced manually. Lights may either employ a parabolic beam, or emit light visible over a horizontal arc of 360 degrees. Irrespective of the type of light or beam, the light must have certain characteristics. It must be waterproof, corrosion resistant, float with the lens up, and contain an independent power source that will power the light for at least 8 hours of continuous use. If the power source requires external water to form an electrolyte, then it must operate in both sea water and fresh water.

The intensity of the light is dependent on whether it is a parabolic beam or emits light visible over a horizontal arc of 360 degrees. Parabolic beam lights must produce a light that, measured 10 feet from the outer lens surface, illuminates an area that is at least 18 inches in diameter measured perpendicular to the beam. Within this illuminated area, which will commonly be a circle, no point can have an intensity less than 50 candela, and there must be at least one point where the intensity is at least 5,000 candela.

Lights visible over a horizontal arc of 360 degrees must produce a beam that has its focal plane at the horizon. The area illuminated by a light of this type will most commonly be a band of light. At a distance of 10 feet from the outer lens surface, the intensity of this band of light must be at least 350 candela. In addition, perpendicular to this point on the focal plane at a distance of 9 inches above and below it, the measured intensity must be at least 50 candela.

The purpose in specifying beam width for both types of lights is to insure that the light will be able to transmit the S-O-S signal to an observer, and the observer will be able to recognize the signal, even if the boat in distress is rocking up and down in a seaway. If the beam width is too narrow, the light will only be seen as a blinking light, and thus will not be considered a distress signal by an observer.

Lights that produce an automatic S-O-S must produce the signal at the rate of between 3 and 5 times each minute. Our field tests have shown that a faster rate blurs the signal together at a range of 3 miles, and a slower rate is difficult to perceive as a distress signal. Lights that rely on a manual switch must be engineered in such a way that a person can produce an S-O-S signal manually that is the same as the signal produced by automatic lights. The Coast Guard considers this more a matter of switch design than any other factor, but will allow manufacturers design latitude in this area.

Lights produced under this specification will not require approval by the Coast Guard. The manufacturer must certify that the light meets Coast Guard specifications if it is sold as a distress signal. Labeling and certification statements will reflect this fact. The manufacturer will be required to test a prototype light to insure that it meets all the requirement of this specification before it can be sold as certified. In addition, he must submit to the Commandant (G-BBT), U.S. Coast Guard, a notification of the test results for each type of light that is certified under this specification. The Coast Guard will maintain a copy of this notice for 5 years. This will allow the Coast Guard to list the manufacturer in CG-190, Equipment Lists, as a potential supplier of lights produced under this specification.

The Coast Guard has evaluated this proposal under the Department of Transportation policies for improving Government regulations published on March 8, 1978 (43 FR 9582). The proposed approval system for aerial pyrotechnic distress signals requires adjusting the cost data drawn from existing approval systems. In addition, it should be noted that this proposal would increase the limits on lot size from 3,000 signals to 10,000 signals, which should lower the cost per signal. The Coast Guard estimates that the cost incident to approval will not be more than $1.50 to $2 for each signal. While this represents a relatively high percentage of the total cost of some types of pyrotechnic distress signals, the Coast Guard feels that it is reasonable in view of the necessity of insuring reliable and safe signals. Comments on the anticipated costs of the proposed approval system from persons having experience in this area are particularly desired.

Costs associated with certification of lights and flags will be primarily labeling costs. These are anticipated to range below $0.50 for each device.

The Coast Guard estimated in the proposed carriage requirement (43 FR 15118) that it will apply to about 1.9 million boats. However, it is difficult to project how many of these boats will choose to carry the three signals included in this proposed rule, especially since five other types of signals will be acceptable in meeting the proposed carriage requirement. In addition, boats not required to carry signals will be encouraged to do so through the Coast Guard's boating safety program. Considering that there are an estimated 3 million boats on the coastal waters of the United States, many boaters, who would otherwise not carry signals, might select one of these three signals to improve their margin of safety. Without knowing how many of these devices will be produced and sold to the boating public, the total cost of this proposed rule cannot be determined.

In consideration of the foregoing, it is proposed to amend Title 46, Code of Federal Regulations, Subchapter Q, by adding subparts 160.066, 160.072, and 161.013, to read as follows:

Subpart 160.066—Distress Signal for Boats, Red Aerial Pyrotechnic Flare

Sec.

160.066-1 Type.
160.066-5 Design, construction, and manufacturing requirements.
160.066-7 Performance requirements.
160.066-9 Labeling.
160.066-10 Expiration date.
160.066-11 Approval procedures.
160.066-12 Operational tests.
160.066-13 Technical tests.
160.066-14 Production testing.
160.066-18 Listed Independent Laboratories.

AUTHORITY: Sec. 5, 85 Stat. 215 (46 U.S.C. 1454); 49 CFR 1.46(n)(1).

Subpart 160.066—Distress Signal for Boats, Red Aerial Pyrotechnic Flare

§ 160.066-1 Type.

(a) Red aerial pyrotechnic distress signals specified by this subpart must be either self-contained or pistol launched, and either meteor or parachute type.

§ 160.066-5 Design, construction, and manufacturing requirements.

(a) Each signal must be either:

(1) A self-contained unit, with all necessary components for firing the signal, or

(2) A cartridge intended for firing from a signal pistol that is approved under subpart 160.028 of this chapter.

(b) Each signal must have a main propulsion charge consisting of a self-oxidizing solid fuel containing no black powder.

(c) Each self-contained unit must have an interior chamber containing the main propulsion charge and the pyrotechnic candle which is a single, continuous, unbroken cylinder constructed so that it is capable of withstanding the forces generated by ignition without rupture, crack, or deformation of any kind.

(d) Signals must be constructed in lots numbered serially by the manufacturer. A new lot must be started when:

(1) Any change in construction details or raw materials occurs;

(2) Production is started on a new production line or on a previously discontinued production line; or

(3) A lot exceeds 10,000 units.

§ 160.066-7 Performance requirements.

(a) Each signal must:

(1) Burn "vivid red" as specified in 46 CFR 160.021-4(n) for at least 6 seconds.

(2) Have a luminous intensity of at least 10,000 candela.

(3) Burn out completely before falling back to the level of launch.

(4) Function in a manner that would not cause burns or injury to an unprotected person firing the signal in accordance with the manufacturer's instructions.

(5) Not malfunction in a manner that would cause burns or injury to an unprotected person.

(6) Burn a total of not less than 1,000 candle-minutes using the formula $I \times T = Cm$ where:

I = the average luminous intensity in candela;
T = the total burn time of the device in minutes; and
Cm = the candle-minute rating of the device.

(b) Each signal must meet the requirements of paragraph (a) of this section after:

(1) Submersion in water for 24 hours, or

(2) If protected by a sealed container, submersion in water for 24 hours inside the sealed container immediately followed by submersion for 10 minutes without the container, and

(3) Being exposed to the elevated temperature, humidity, and storage test in § 160.066-14(b).

§ 160.066-9 Labeling.

(a) Each signal must be legibly and indelibly marked with the following information:

(1) The manufacturer's name,

(2) The color and burning time of the pyrotechnic candle(s),

(3) The specific signal pistol for which the signal is designed, if any,

(4) The lot number,

(5) The Coast Guard approval number,

(6) Operation and storage instructions,

(7) The month and year of expiration determined by § 160.066-10, and

(8) If the signal's descent is parachute controlled, the following words:

Parachute Flare. Acceptable as a Day and Night Visual Distress Signal for boats as required by 33 CFR 175.110, For Emergency Use Only.

or

(9) If the signal's descent is not parachute controlled, the following words: "Meteor Flare. Acceptable as a Night Only Visual Distress Signal for boats as required by 33 CFR 175.110. For Emergency Use Only".

(b) If the signal is too small to contain all of the information required by paragraph (a) of this section and any labeling which may be required by paragraph (c) of this section, the information required by paragraphs (a) (2), (6), (8), and (9) of this section may be printed on a separate piece of paper packed with each signal or with the smallest container in which several signals are packed.

(c) Compliance with the labeling requirements of this section does not relieve the manufacturer of the responsibility of complying with the label requirements of 15 U.S.C. 1263, the Federal Hazardous Substances Act.

§ 160.066-10 Expiration date.

(a) Each approved signal must have an expiration date marked on it.

(b) For each signal shipped directly from the production line or from storage that does not meet the requirements in paragraph (d) of this section, the expiration date must be 3 years from the date of manufacture.

(c) For each signal stored before shipment under conditions specified in paragraph (d) of this section, the expiration date must be—

(1) Not more than 3 years after removal from storage; and

(2) Not more than 4 years after the date of manufacture.

(d) The following conditions must be met to qualify for determining the expiration date under paragraph (c) of this section:

(1) The relative humidity of the storage place must not exceed 50 percent.

(2) The temperature of the storage place must be maintained between 10° C (50° F) and 30° C (86° F).

(3) The temperature and humidity of the storage place must be recorded daily.

(4) The signal must be from a lot that is stored separately from other lots.

(5) The lot number, the date of shipment, the date the lot is placed in storage, the number of signals shipped, and the consignee of the shipment must be recorded and the manufacturer must retain this record for at least 5 years after the date of shipment.

§ 160.066-11 Approval procedures.

(a) Red aerial pyrotechnic flare distress signals are approved under the procedures of subpart 159.005 of this chapter.

(b) The manufacturer must produce a lot of at least 100 signals from which samples for preapproval testing must be drawn. Preapproval testing must be conducted in accordance with the operational test in § 160.066-13 and the technical tests in § 160.066-14. In order for the signal to be approved, the samples must pass the operational tests and must not fail the technical tests.

(c) The preapproval tests must be performed by an independent laboratory accepted by the Commandant under § 159.010 of this chapter. A list of independent laboratories accepted by the Commandant is in § 160.066-18.

§ 160.066-12 Operational tests.

(a) The procedure for conducting operational tests is described in figure (1).

(1) An "accept lot" decision must be reached in order to pass the operational tests.

(2) If a "reject lot" decision is reached, the entire lot is rejected and must not be sold as Coast Guard approved.

(3) If a lot is produced with the Coast Guard approval number printed on the signals, and a "reject lot" decision is reached, the signals must be destroyed or the Coast Guard approval number obliterated.

(b) Each signal selected for the operational tests must be conditioned by:

(1) Being submerged under at least 25 mm (1 in) of water for 24 hours without any protection other than its waterproofing; or

(2) If waterproofing is provided by a sealed plastic bag or other waterproof packaging, submersion under 25 mm (1

(2) The pyrotechnic candle fails to ignite,

(3) The signal is any color other

TABLE 1.—*Accept and Reject Criteria for Operational Test Lots*

Lot size	Individual	Sample	Cumulative	Accept	Reject

(iii) Every 2 seconds during the burning of the candle beginning one second after the candle (not including

(2) If waterproofing is provided by a sealed plastic bag or other waterproof packaging, submersion under 25 mm (1 in) of water for 24 hours in the packaging, followed immediately by submersion for 10 minutes with the signal removed from the packaging.

(c) After each signal selected has undergone the conditioning required by paragraph (b) of this section it must be fired as described by the manufacturer's operating instructions. The following data must be recorded for each signal:

(1) Burning time of the pyrotechnic candle;

(2) Color;

(3) Whether the pyrotechnic candle burns out above, at, or below the level of launch.

(d) A signal fails the operational tests if:

(1) It fails to fire;

(2) The pyrotechnic candle fails to ignite,

(3) The signal is any color other than vivid red,

(4) The burning time with a vivid red color is less than 6 seconds,

(5) The pyrotechnic candle continues to burn after if falls back to the level of launch, or

(6) The pyrotechnic candle burns less than 1,000 candle-minutes as calculated in § 160.066-7(a)(6), using the time observed from paragraph (c)(1) of this section and the rated intensity from the most recent technical test conducted under § 160.066-13.

(e) A lot is rejected if:

(1) A "reject lot" decision is reached using figure (1) and table 1 after completion of the operational tests; or

(2) Any signal in the sample malfunctions in a manner that would cause burns or injury to an unprotected person firing the signal.

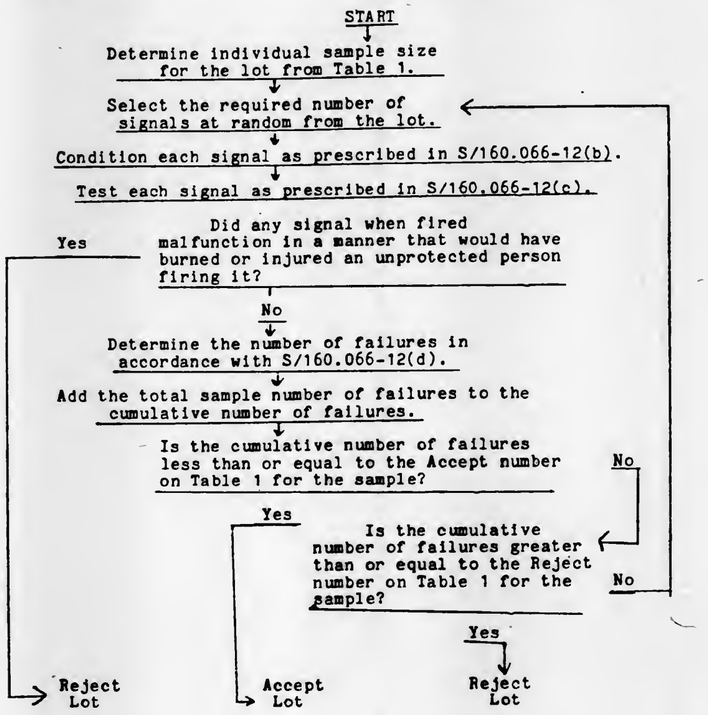

Figure 1. Operational Test Procedure.

TABLE 1.—*Accept and Reject Criteria for Operational Test Lots*

Lot size	Individual sample size	Sample	Cumulative sample size	Accept [1]	Reject [1]
280 or less	8	First	8	*	4
		Second	16	1	5
		Third	24	2	6
		Fourth	32	3	7
		Fifth	40	5	8
		Sixth	48	7	9
		Seventh	56	9	10
281 to 500	13	First	13	*	4
		Second	26	1	6
		Third	39	3	8
		Fourth	52	5	10
		Fifth	65	7	11
		Sixth	78	10	12
		Seventh	91	13	14
501 to 1,200	20	First	20	*	5
		Second	40	3	8
		Third	60	6	10
		Fourth	80	8	13
		Fifth	100	11	15
		Sixth	120	14	17
		Seventh	140	18	19
1,201 to 3,200	32	First	32	1	7
		Second	64	4	10
		Third	96	8	13
		Fourth	128	12	17
		Fifth	160	17	20
		Sixth	192	21	23
		Seventh	224	25	28
3,201 to 10,000	50	First	50	2	9
		Second	100	7	14
		Third	150	13	19
		Fourth	200	19	25
		Fifth	250	25	29
		Sixth	300	31	33
		Seventh	350	37	38

[1] Cumulative number of failures.
*Lot may not be accepted. Next sample must be tested.

§ 160.066-13 Technical tests.

(a) The following conditions apply to technical tests as described in this section:

(1) A total of nine signals must be selected at random from one lot for the tests;

(2) If the signals are protected by sealed packaging, then the technical tests must be conducted with the signal in the sealed packaging;

(3) If the test sample fails to pass one of the technical tests, the entire lot is rejected and must not be sold as Coast Guard Approved;

(4) If a lot is produced with the Coast Guard Approval Number on the signals, and the test sample fails one of the technical tests the signals must be destroyed or the approval number obliterated.

(b) The Elevated Temperature, Humidity, and Storage Test must be conducted in the following manner:

(1) Select three signals;

(2) Place each signal in a thermostatically controlled even-temperature oven held at 60 Degrees C (140 degrees F), and at not less than 90 percent relative humidity, for at least 72 hours;

(3) Remove each signal from the oven identified in (2), and immediately store each signal for 10 days in a chamber held at—

(i) A temperature of at least 20 degrees C (68 degrees F) but not more than 25 degrees C (77 degrees F), and

(ii) At not less than 65% relative humidity.

(4) Then remove each signal from any sealed packaging and fire it;

(5) The signals fail the test if:

(i) Any signal ignites or decomposes before firing,

(ii) Any signal when fired malfunctions in a manner that would cause burns or injury to an unprotected person firing the signal, or;

(iii) Two or more of the signals fail to project and ignite the pyrotechnic candle.

(c) The Spontaneous Combustion Test must be performed in the following manner:

(1) Select three signals,

(2) Place each signal in a thermostatically controlled oven for 48 hours at a temperature of 75 degrees C (167 degrees F),

(3) Remove the signals,

(4) The signals fail the test if any signal ignites or decomposes during the test.

(d) The Luminous Intensity and Chromaticity Test must be performed in the following manner:

(1) Remove the pyrotechnic candle from the remaining three signals,

(2) Ignite, measure, and record the intensity of the burning candle with a visual photometer or equivalent photometric device—

(i) While the specimen is supported in a horizontal position and the photometer is at right angles to the axis of the specimen,

(ii) At a distance of at least 3 m (10 ft.),

(iii) Every 2 seconds during the burning of the candle beginning one second after the candle (not including any primer, initiator, or delay) is ignited;

(3) Calculate the intensity of the candle as the arithmetic average of the readings taken;

(4) Measure and record the chromaticity of the burning candle as specified in 46 CFR 160.021-4(n);

(5) The signals fail the test if more than one signal has a luminous intensity of less than 10,000 candela, or more than one signal is not "vivid red".

§ 160.066-14 Production testing.

(a) Production tests must be performed under the procedures in Subpart 159.007 of this chapter.

(b) The operational tests in § 160.066-12 must be performed for every lot of signals produced.

(c) The technical tests in § 160.066-13 must be performed at least once every 12 months, or at least once every 10 lots, whichever occurs first.

(d) If a lot is rejected on the basis of the technical tests, then each subsequent lot produced must be tested according to the technical tests until samples from a lot pass these tests.

(e) The independent laboratory must perform or directly supervise—

(1) Each technical tests; and

(2) All operational tests for at least four lots in a 12-month period, unless fewer than four lots are produced in a 12-month period. If less than four lots are produced in a 12-month period, each operational tests must be performed or directly supervised by the independent laboratory.

(f) If a lot selected by the independent laboratory for an operational test is rejected, then the operational tests for each subsequent lot must be performed or directly supervised by the independent laboratory, until samples from a lot pass these tests;

(g) The independent laboratory selects the lots upon which technical tests are performed.

(h) If the manufacturer produces more than four lots within a 12-month period, the independent laboratory selects the lots for which it performs or directly supervises the operational tests.

(i) The operational test performed or directly supervised by the independent laboratory must be done at least once during each quarterly period, unless no lots are produced during that period.

(j) The independent laboratory, when it performs or directly supervises the technical tests required by paragraph (c) or (d) of this section, must inspect the signals selected for testing and compare them with the approved plans. Each signal inspected must conform to the plans.

§ 160.066-18 Listed independent laboratories.

(a) The following are independent

visible signs of fading or rot over more than 3 percent of the flag surface;

(5) Have reinforced corners, each with a grommet, capable of withstand-

Sec.
161.013-11 Incandescent lights.
161.013-12 Manufacturer testing.
161.013-13 Labels.
161.013-15 Manufacturer certification

(3) The dark period between each short flash must have a duration of ⅓ second;

(4) The dark period between each

"Night Visual Distress Signal for Boats Complies with U.S. Coast Guard Requirements. International Code for Distress S-O-S (... ---...) For Emergency Use Only."

ACTION: Reopen comment period for proposed rules.

SUMMARY: The Coast Guard pub-

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§ 160.066–18 **Listed independent laboratories.**

(a) The following are independent laboratories acceptable to the Commandant for approval and production testing under this subpart:

(Independent laboratories will be listed in this section as they are accepted by the Commandant.)

Subpart 160.072—Distress Signals for Boats, Orange Flag

Sec.
160.072-1 Applicability.
160.072-3 General performance requirements.
160.072-5 Accelerated weathering test.
160.072-7 Labeling.
160.072-9 Manufacturer certification.
160.072-10 Manufacturer notification.

AUTHORITY: Sec. 5, 85 Stat. 215; (46 U.S.C. 1454); 49 CFR 1.46(n)(1).

Subpart 160.072—Distress Signals for Boats, Orange Flag

§ 160.072–1 **Applicability.**

(a) This subpart establishes standards for distress flags for boats.

§ 160.072–3 **General performance requirements.**

(a) Each flag must:

(1) Be a square or rectangle at least 90 cm (36 inches) wide and at least 90 cm (36 inches) long. If the flag is a rectangle, the shorter side cannot be less than ⅔ the length of the longer side;

(2) Have no less than 70 percent of the total area colored Indian orange as specified in § 160.002-3(b);

(3) Display a black disc and a black square on the orange background arranged as follows:

(i) The diameter of the disc and the length of one side of the square shall be equal, and shall each be ⅓ of the length of the longest side of the flag, or 30 cm (12 inches), whichever is greater;

(ii) The disc and square must be centered on one axis of the flag parallel to the longest side of the flag as shown in Figure 160.072-3. If the flag is a square, the axis may be parallel to any side.

(iii) The disc and square shall be separated by a distance of ⅙ the length of the longest side of the flag or 15 cm (6 inches), whichever is greater;

Figure 160.072-3

(4) Be constructed of material capable of withstanding the accelerated weathering test in § 160.072-5 without visible signs of fading or rot over more than 3 percent of the flag surface;

(5) Have reinforced corners, each with a grommet, capable of withstanding the accelerated weathering test in § 160.072-5 without visible signs of corrosion; and

(6) Have four pieces of line—

(i) Each at least 30 cm (12 inches) long with a minimum diameter of 10 mm,

(ii) With a tensile strength of at least 115N (25 lbs.),

(iii) Capable of passing through the grommets freely, and,

(iv) Capable of withstanding the accelerated weathering test in § 160.072-5 with no more than a 5-percent decrease in tensile strength.

§ 160.072–5 **Accelerated weathering test.**

(a) Under ultraviolet light, subject the material to alternate 3-minute cycles of 20-percent salt spray at 55 degrees C and an air blast of 40 knots at 55 degrees C without interruption for a period of 200 hours. Metallic parts shall be free of paint or other finish during this test.

§ 160.072–7 **Labeling.**

(a) Each distress flag must be legibly and indelibly marked with:

(1) The manufacturer's name; and

(2) The following words and symbols—

"Day Visual Distress Signal for Boats. Complies with U.S. Coast Guard Requirements. For Emergency Use Only".

§ 160.072–9 **Manufacturer Certification.**

(a) Each distress flag intended as a Day Visual Distress Signal required by 33 CFR Part 175 must be certified by the manufacturer as complying with the requirements of this subpart.

(b) Each distress flag must be accompanied by a certification statement containing:

(1) The manufacturer's name, and address, and;

(2) The following words—

"This flag complies with the requirements of 46 CFR Subpart 160.072. Acceptable as a Day Visual Distress Signal for Boats required by 33 CFR 175.110".

§ 160.072–10 **Manufacturer notification.**

(a) Each manufacturer certifying flags in accordance with the specifications of this subpart must send written notice to the Commandant (G-BBT), U.S. Coast Guard, Washington, D.C. 20590 within 30 days after first certifying them, and send a new notice every five years thereafter as long as it certifies flags.

Subpart 161.013—Electric Distress Light for Boats

Sec.
161.013-1 Applicability.
161.013-3 General performance requirements.
161.013-5 Intensity requirements.
161.013-7 Signal requirements.
161.013-9 Independent power source.
161.013-11 Incandescent lights.
161.013-12 Manufacturer testing.
161.013-13 Labels.
161.013-15 Manufacturer certification.
161.013-17 Manufacturer notification.

AUTHORITY: Sec. 5, 85 Stat. 215; (46 U.S.C. 1454); 49 CFR 1.46(n)(1).

Subpart 161.013—Electric Distress Light for Boats

§ 161.013–1 **Applicability.**

(a) This subpart establishes standards for electric distress lights for boats.

§ 161.013–3 **General performance requirements.**

(a) Each electric light must:

(1) Emit a white light which meets the intensity requirements of § 161.013-5;

(2) Be capable of manual or automatic signaling in a manner which meets the requirements of § 161.013-7;

(3) Contain an independent power source which meets the requirements of § 161.013-9;

(4) Float with the lens up;

(5) Be equipped with a waterproof switch; and

(b) Meet the requirement of paragraphs (a) (1) through (4) of this section after submersion in water for at least 72 hours.

§ 161.013–5 **Intensity requirements.**

(a) If an electric light emits light over an arc of the horizon of 360 degrees:

(1) The light's focal plane must be at the horizon;

(2) The light's peak intensity, measured 10 feet from the outer lens surface, must be at least 350 candela; and

(3) The light's minimum intensity, measured 10 feet from the outer lens surface and 9 inches perpendicular to the focal plane containing the peak intensity, must be at least 50 candela.

(b) If an electric light emits a directional beam of light, the light, measured 10 feet from the outer lens surface along the axis of the beam, must:

(1) Illuminate an area at least 18 inches in diameter measured perpendicular to the axis of the beam;

(2) Have an intensity of no less than 50 candela at any point within the area defined by paragraph (a)(1) of this section; and

(3) Have one point within the area defined by paragraph (a)(1) of this section where the intensity is at least 5,000 candela.

§ 161.013–7 **Signal requirements.**

(a) If an electric light signals automatically it must have a flash characteristic of the International Morse Code for S-O-S and;

(1) Each short flash must have a duration of ⅓ second;

(2) Each long flash must have a duration of 1 second;

(3) The dark period between each short flash must have a duration of ⅓ second;

(4) The dark period between each long flash must have a duration of 1 second;

(5) The dark period between each letter must have a duration of 2 seconds; and

(6) The dark period between each S-O-S signal must have a duration of 3 seconds.

(b) If an electric light does not signal automatically it must be equipped with a switch capable of manually signaling the flash characteristic of the International Morse Code for S-O-S as described in paragraph (a) of this section.

§ 161.013–9 **Independent power source.**

(a) Each independent power source must be capable of powering the light so that it meets the requirements of § 161.013-3(a) (1) and (2) after 8 hours of continuous use.

(b) If the independent power source is rechargeable, it must have a waterproof recharger designed for marine use.

(c) If the independent power source requires external water to form an electrolyte, it must operate in sea water and fresh water.

§ 161.013–11 **Incandescent lights.**

(a) Each manufacturer must test a prototype light identical to the lights to be certified prior to the labeling required by § 161.013-13.

(b) If the prototype light fails to meet any of the general performance requirements of § 161.013-3 the lights must not be certified under this subpart.

(c) Each manufacturer must:

(1) Forward the test results within 30 days to the Commandant (G-BBT), U.S. Coast Guard, Washington, D.C. 20590; and

(2) Retain records of the test results for at least 5 years, or as long as the light is manufactured and certified, whichever is longer.

§ 161.013–13 **Labels.**

(a) Each electric light must be legibly and indelibly marked with:

(1) The manufacturer's name;

(2) Replacement battery type;

(3) Lamp size; and

(4) The following words and symbols—

"Night Visual Distress Signal for Boats Complies with U.S. Coast Guard Requirements. International Code for Distress S-O-S (... ---...) For Emergency Use Only."

(b) If an electric light is designed for use with dry cell batteries the label must contain the following additional words: "Signal most effective when batteries have not passed expiration date".

§ 161.013–15 **Manufacturer certification.**

(a) Each electric light intended as a Night Visual Distress Signal required by 33 CFR Part 175 must be certified by the manufacturer as complying with the requirements of this subpart.

(b) Each electric light must be accompanied by a certification statement containing:

(1) The manufacturer's name, and address; and

(2) The following words, "This light complies with the requirements of 46 CFR Subpart 161.013. Acceptable as a Night Visual Distress Signal for Boats required by 33 CFR 175.110".

§ 161.013–17 **Manufacturer notification.**

(a) Each manufacturer certifying lights in accordance with the specifications of this subpart must send written notice to the Commandant (G-BBT), U.S. Coast Guard, Washington, D.C. 20590 within 30 days after first certifying them, and send a new notice every 5 years thereafter as long as it certifies lights.

(Sec. 5, 85 Stat. 215; (46 U.S.C. 1454); 49 CFR 1.46(n)(1).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended and OMB Circular A-107.

Dated: October 11, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-29480 Filed 10-20-78; 8:45 am]

[4910-14-M]

[33 CFR Part 175]

[CGD 76-183]

VISUAL DISTRESS SIGNALS ON BOATS

Reopen of Comment Period on Proposed Rules.

AGENCY: U.S. Coast Guard, DOT.

ACTION: Reopen comment period for proposed rules.

SUMMARY: The Coast Guard published a proposed rule (CGD 76-183), in the FEDERAL REGISTER of April 10, 1978 (43 FR 15118), that would require some recreational boats to carry Coast Guard-approved visual distress signals. The comment period on CGD 76-183 ended on August 8, 1978. The preamble to CGD 76-183 noted that associated proposals concerning Coast Guard approval specifications for visual distress signals would be published in a future issue of the FEDERAL REGISTER. Those proposals appear in this issue of the FEDERAL REGISTER in CGD 76-183a, CGD 76-048a, CGD 76-048b, and CGD 76-048. The comment period on CGD 78-183 is reopened so that interested persons may comment further on the carriage requirements in light of the associated proposals concerning approval specifications. The comment period for all five proposals (CGD 76-183, CGD 76-183a, CGD 76-048a, CGD 76-048b, and CGD 76-048), will run concurrently and close on December 22, 1978.

DATES: As explained above, comments must be received on or before December 22, 1978.

ADDRESSES: As explained in the notice of proposed rulemaking published on April 10, 1978, written comments should be submitted to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. David Gauthier, U.S. Coast Guard, Office of Boating Safety (G-BLC), Room 4308, Department of Transportation, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590, 202-426-4176.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Mr. David Gauthier, Project Manager, Office of Boating Safety, and Lt. Steven Karavitis, Project Attorney, Office of the Chief Counsel.

(Sec. 5, 85 Stat. 215; (46 U.S.C. 1454); 49 CFR 1.46(n)(1).)

Dated: October 11, 1978.

J. B. HAYES,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc. 78-29481 Filed 10-20-78; 8:45 am]

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MONDAY, OCTOBER 23, 1978
PART III

V 43 / 205 OC 23 78

federal register

MONDAY, OCTOBER 23, 1978
PART III

DEPARTMENT OF STATE

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish off the Coasts of the United States

[4710-09-M]

DEPARTMENT OF STATE

the Regional Fishery Management Councils that receive copies of these applications, be published in the FED-

[4710-09-M]

DEPARTMENT OF STATE

[Public Notice 635]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the act.

The act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the FEDERAL REGISTER.

Applications have been received from foreign nations for fishing during 1979 and are reproduced herewith. Individual vessel applications for fishing during 1978 and 1979 have been received from foreign nations and are summarized herein.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, telephone, 202-634-7265.

Dated: October 13, 1978.

JAMES A. STORER,
Director,
Office of Fisheries Affairs.

[FR Doc. 78-29486 Filed 10-20-78; 8:45 am]

FISHERY CODES AND DESIGNATION OF REGIONAL COUNCILS WHICH REVIEW APPLICATIONS FOR INDIVIDUAL FISHERIES ARE AS FOLLOWS:

CODE	FISHERY	REGIONAL COUNCIL
ABS	Atlantic Billfishes and Sharks	New England Mid-Atlantic South Atlantic Gulf of Mexico Caribbean
BSA	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet	North Pacific
CRB	Crab (Bering Sea)	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic	New England Mid-Atlantic
SMT	Seamount Groundfish (Pacific Ocean)	Western Pacific
SNL	Snails (Bering Sea)	North Pacific
WOC	Washington, Oregon, California Trawl	Pacific

ACTIVITY CODES SPECIFY CATEGORIES OF FISHING OPERATIONS APPLIED FOR AS FOLLOWS:

ACTIVITY CODE	FISHING OPERATIONS
1	Catching, processing, and other support.
2	Processing and other support only.
3	Other support only.

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
BULGARIA			
AKTINIA LARGE STERN TRAWLER	BU-79-0001	NWA	1
ARGONAUT LARGE STERN TRAWLER	BU-79-0002	NWA	1
ROTALIA LARGE STERN TRAWLER	BU-79-0005	NWA	1
ALBENA CARGO/TRANSPORT VESSEL	BU-79-0006	NWA	3
FIZALIA LARGE STERN TRAWLER	BU-79-0008	NWA	1
NITEN CARGO/TRANSPORT VESSEL	BU-79-0010	NWA	3
AURELIA LARGE STERN TRAWLER	BU-79-0018	NWA	1
KAPRELA LARGE STERN TRAWLER	BU-79-0019	NWA	1
JAPAN			
KASHIMA MARU FACTORY SHIP	JA-79-0001	SNA, CRB, GOA, NWA BSA	3 2
OTOHA MARU PAIR TRAWLER	JA-79-0010	BSA	1
KUREHA MARU PAIR TRAWLER	JA-79-0011	BSA	1
HOKKAI MARU PAIR TRAWLER	JA-79-0012	BSA	1
HAKUREI MARU PAIR TRAWLER	JA-79-0013	BSA	1
HOKUSHIN MARU PAIR TRAWLER	JA-79-0014	BSA	1
HOKUTO MARU PAIR TRAWLER	JA-79-0015	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
SHIKISHIMA MARU FACTORY SHIP	JA-79-0030	BSA	2
KAIUN MARU NO. 52 DANISH SEINER	JA-79-0040	BSA	1
EBISU MARU NO. 11 DANISH SEINER	JA-79-0042	BSA	1
SEIHO MARU NO. 15 DANISH SEINER	JA-79-0043	BSA	1
HOKKO MARU NO. 17 DANISH SEINER	JA-79-0050	BSA	1
MIZUHO MARU PAIR TRAWLER	JA-79-0060	BSA	1
ANIHO MARU PAIR TRAWLER	JA-79-0061	BSA	1
SYUNYO MARU PAIR TRAWLER	JA-79-0062	BSA	1
KANUYO MARU PAIR TRAWLER	JA-79-0063	BSA	1
WAYO MARU PAIR TRAWLER	JA-79-0064	BSA	1
JUNYO MARU PAIR TRAWLER	JA-79-0065	BSA	1
KOYO MARU PAIR TRAWLER	JA-79-0066	BSA	1
RYUYO MARU PAIR TRAWLER	JA-79-0067	BSA	1
YASHIMA MARU PAIR TRAWLER	JA-79-0070	BSA	1
TSUSHIMA MARU PAIR TRAWLER	JA-79-0071	BSA	1
MINESHIMA MARU FACTORY SHIP	JA-79-0080	BSA	2
KAIKO MARU NO. 8 DANISH SEINER	JA-79-0090	BSA	1
EBISU MARU NO. 21 DANISH SEINER	JA-79-0091	BSA	1
KAIUN MARU NO. 78 DANISH SEINER	JA-79-0092	BSA	1
HEIKYU MARU NO. 25 DANISH SEINER	JA-79-0093	BSA	1
MITSU MARU NO. 50 DANISH SEINER	JA-79-0095	BSA	1
HOKKO MARU NO. 77 MEDIUM STERN TRAWLER	JA-79-0100	BSA	1
SHUYO MARU PAIR TRAWLER	JA-79-0110	BSA	1
EIYO MARU PAIR TRAWLER	JA-79-0111	BSA	1
KOYO MARU PAIR TRAWLER	JA-79-0112	BSA	1
FUKUYO MARU PAIR TRAWLER	JA-79-0113	BSA	1
KATORI MARU PAIR TRAWLER	JA-79-0114	BSA	1
KATSUKI MARU PAIR TRAWLER	JA-79-0115	BSA	1
AOBA MARU PAIR TRAWLER	JA-79-0116	BSA	1
WAKABA MARU PAIR TRAWLER	JA-79-0117	BSA	1
OYO MARU PAIR TRAWLER	JA-79-0120	BSA	1
EIYO MARU PAIR TRAWLER	JA-79-0121	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
WASHIMA MARU PAIR TRAWLER	JA-79-0122	BSA	1
TOYOSHIMA MARU PAIR TRAWLER	JA-79-0123	BSA	1
NISSHIN MARU NO. 2 FACTORY SHIP	JA-79-0140	BSA	2
SHOKEN MARU NO. 8 DANISH SEINER	JA-79-0151	BSA	1
AKASHI MARU NO. 16 PAIR TRAWLER	JA-79-0160	BSA	1
AKASHI MARU NO. 17 PAIR TRAWLER	JA-79-0161	BSA	1
AKASHI MARU NO. 31 PAIR TRAWLER	JA-79-0162	BSA	1
AKASHI MARU NO. 32 PAIR TRAWLER	JA-79-0163	BSA	1
AKASHI MARU NO. 38 PAIR TRAWLER	JA-79-0164	BSA	1
AKASHI MARU NO. 39 PAIR TRAWLER	JA-79-0165	BSA	1
AKASHI MARU NO. 63 PAIR TRAWLER	JA-79-0166	BSA	1
AKASHI MARU NO. 65 PAIR TRAWLER	JA-79-0167	BSA	1
AKASHI MARU NO. 66 PAIR TRAWLER	JA-79-0168	BSA	1
AKASHI MARU NO. 67 PAIR TRAWLER	JA-79-0169	BSA	1
AKASHI MARU NO. 68 PAIR TRAWLER	JA-79-0170	BSA	1
AKASHI MARU NO. 69 PAIR TRAWLER	JA-79-0171	BSA	1
AKASHI MARU NO. 71 PAIR TRAWLER	JA-79-0172	BSA	1
AKASHI MARU NO. 72 PAIR TRAWLER	JA-79-0173	BSA	1
AKASHI MARU NO. 73 PAIR TRAWLER	JA-79-0174	BSA	1
AKASHI MARU NO. 75 PAIR TRAWLER	JA-79-0175	BSA	1
AKASHI MARU NO. 76 PAIR TRAWLER	JA-79-0176	BSA	1
AKASHI MARU NO. 77 PAIR TRAWLER	JA-79-0177	BSA	1
AKASHI MARU NO. 18 PAIR TRAWLER	JA-79-0178	BSA	1
HOYO MARU FACTORY SHIP	JA-79-0190	BSA	2
TENYU MARU NO. 21 DANISH SEINER	JA-79-0200	BSA	1
YURYO MARU NO. 35 DANISH SEINER	JA-79-0201	BSA	1
TENYU MARU NO. 18 DANISH SEINER	JA-79-0202	BSA	1
SOHO MARU NO. 68 DANISH SEINER	JA-79-0204	BSA	1
KAKUYO MARU NO. 1 PAIR TRAWLER	JA-79-0210	BSA	1
KAKUYO MARU NO. 2 PAIR TRAWLER	JA-79-0211	BSA	1
KAKUYO MARU NO. 3 PAIR TRAWLER	JA-79-0212	BSA	1
KAKUYO MARU NO. 5 PAIR TRAWLER	JA-79-0213	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
KANUYO MARU NO. 7 PAIR TRAWLER	JA-79-0214	BSA	1
KANUYO MARU NO. 8 PAIR TRAWLER	JA-79-0215	BSA	1
NITTO MARU NO. 31 PAIR TRAWLER	JA-79-0218	BSA	1
NITTO MARU NO. 32 PAIR TRAWLER	JA-79-0219	BSA	1
NITTO MARU NO. 35 PAIR TRAWLER	JA-79-0220	BSA	1
NITTO MARU NO. 36 PAIR TRAWLER	JA-79-0221	BSA	1
SOYO MARU FACTORY SHIP	JA-79-0240	BSA	2
TAIGEI MARU NO. 51 MEDIUM STERN TRAWLER	JA-79-0250	BSA	1
MUTSU MARU NO. 52 MEDIUM STERN TRAWLER	JA-79-0251	BSA	1
TORA MARU NO. 10 MEDIUM STERN TRAWLER	JA-79-0252	BSA	1
ZENPO MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0253	BSA	1
KAKUDAI MARU NO. 25 MEDIUM STERN TRAWLER	JA-79-0254	BSA	1
FUJI MARU NO. 1 MEDIUM STERN TRAWLER	JA-79-0255	BSA	1
HOKEN MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0256	BSA	1
KAIKO MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0257	BSA	1
KAIKO MARU NO. 3 MEDIUM STERN TRAWLER	JA-79-0258	BSA	1
JAPAN			
RYUYO MARU LARGE STERN TRAWLER	JA-79-0280	BSA,GOA	1
TOMI MARU NO. 85 MEDIUM STERN TRAWLER	JA-79-0282	BSA,GOA	1
ANYO MARU NO. 8 MEDIUM STERN TRAWLER	JA-79-0283	BSA	1
DAISHIN MARU NO. 12 LARGE STERN TRAWLER	JA-79-0285	GOA,BSA	1
DAISHIN MARU NO. 22 LARGE STERN TRAWLER	JA-79-0286	GOA,BSA	1
DAISHIN MARU NO. 23 LARGE STERN TRAWLER	JA-79-0287	GOA,BSA	1
ASO MARU LARGE STERN TRAWLER	JA-79-0288	BSA,GOA,SMT	1
NIITAKA MARU LARGE STERN TRAWLER	JA-79-0289	BSA,GOA	1
TAKACHIHO MARU LARGE STERN TRAWLER	JA-79-0291	BSA,GOA	1
KOYO MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0292	GOA,BSA	1
SHINNICHI-MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0293	BSA	1
SHUNYOO MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0294	BSA	1
ZUIHOO-MARU NO. 8 MEDIUM STERN TRAWLER	JA-79-0296	BSA	1
KOYO MARU NO. 2 LARGE STERN TRAWLER	JA-79-0297	GOA,BSA	1
EIKYU MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0299	BSA	1
EIKYU MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0300	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
EIKYU MARU NO. 86 MEDIUM STERN TRAWLER	JA-79-0302	BSA	1
KOSHIN MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0303	BSA	1
FUKUYOSHI MARU NO. 38 MEDIUM STERN TRAWLER	JA-79-0304	BSA,GOA	1
KYOWA MARU NO. 15 MEDIUM STERN TRAWLER	JA-79-0305	BSA,GOA	1
AKEBONO MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0306	BSA,GOA	1
AKEBONO MARU NO. 32 MEDIUM STERN TRAWLER	JA-79-0307	BSA,GOA	1
AKEBONO MARU NO. 27 MEDIUM STERN TRAWLER	JA-79-0308	BSA,GOA	1
AKEBONO MARU NO. 28 MEDIUM STERN TRAWLER	JA-79-0309	BSA,GOA	1
AKEBONO MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0310	BSA,GOA	1
AKEBONO MARU NO. 12 MEDIUM STERN TRAWLER	JA-79-0311	BSA	1
AKEBONO MARU NO. 15 MEDIUM STERN TRAWLER	JA-79-0312	BSA	1
AKEBONO MARU NO. 16 MEDIUM STERN TRAWLER	JA-79-0313	BSA,GOA	1
AKEBONO MARU NO. 17 MEDIUM STERN TRAWLER	JA-79-0314	BSA	1
AKEBONO MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0315	BSA,GOA	1
AKEBONO MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0316	BSA	1
AKEBONO MARU NO. 22 MEDIUM STERN TRAWLER	JA-79-0317	BSA,GOA	1
JAPAN			
SHIZUOKA MARU MEDIUM STERN TRAWLER	JA-79-0318	BSA,GOA	1
KITAKAMI MARU MEDIUM STERN TRAWLER	JA-79-0321	BSA,GOA	1
RYUYO MARU NO. 2 LARGE STERN TRAWLER	JA-79-0330	BSA,GOA	1
ZUIYO MARU NO. 3 LARGE STERN TRAWLER	JA-79-0331	BSA,GOA	1
TENYO MARU NO. 2 LARGE STERN TRAWLER	JA-79-0332	BSA	1
TENYO MARU NO. 3 LARGE STERN TRAWLER	JA-79-0333	BSA	1
TENYO MARU NO. 5 LARGE STERN TRAWLER	JA-79-0334	BSA	1
CHINUEU MARU LARGE STERN TRAWLER	JA-79-0336	BSA,GOA	1
TSUDA MARU LARGE STERN TRAWLER	JA-79-0337	BSA,GOA	1
AKEBONO MARU NO. 72 LARGE STERN TRAWLER	JA-79-0338	BSA,GOA	1
YAMATO MARU LARGE STERN TRAWLER	JA-79-0339	BSA,GOA	1
RIKUZEN MARU LARGE STERN TRAWLER	JA-79-0340	BSA,GOA	1
KONGO MARU LARGE STERN TRAWLER	JA-79-0341	BSA,GOA,SMT	1
OHTORI MARU LARGE STERN TRAWLER	JA-79-0342	GOA,BSA	1
KOYO MARU NO. 3 LARGE STERN TRAWLER	JA-79-0343	BSA,GOA	1
HARUNA MARU LARGE STERN TRAWLER	JA-79-0350	BSA,GOA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
ZUIYO MARU NO. 2 LARGE STERN TRAWLER	JA-79-0351	BSA,GOA	1
TENYO MARU LARGE STERN TRAWLER	JA-79-0352	BSA	1
TONACHI MARU LARGE STERN TRAWLER	JA-79-0360	NWA	1
ZAO MARU LARGE STERN TRAWLER	JA-79-0361	NWA	1
SHIRANE MARU LARGE STERN TRAWLER	JA-79-0362	NWA	1
SUZUNA MARU LARGE STERN TRAWLER	JA-79-0363	NWA	1
OKUNI MARU LARGE STERN TRAWLER	JA-79-0364	NWA	1
KOYO MARU LARGE STERN TRAWLER	JA-79-0365	NWA	1
MINAMI MARU LARGE STERN TRAWLER	JA-79-0368	NWA	1
NIHONKAI MARU MEDIUM STERN TRAWLER	JA-79-0369	NWA	1
AKEBONO MARU NO. 50 LARGE STERN TRAWLER	JA-79-0371	NWA	1
BANSHU MARU NO. 6 LARGE STERN TRAWLER	JA-79-0373	NWA	1
BANSHU MARU NO. 7 LARGE STERN TRAWLER	JA-79-0374	NWA	1
DAISHIN MARU NO. 16 LARGE STERN TRAWLER	JA-79-0376	NWA	1
DAISHIN MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0377	NWA	1
DAISHUN MARU MEDIUM STERN TRAWLER	JA-79-0378	NWA	1
TAIYO MARU NO. 83 MEDIUM STERN TRAWLER	JA-79-0380	NWA	1
JUNYU MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0402	BSA	1
HATSUE MARU NO. 62 MEDIUM STERN TRAWLER	JA-79-0403	BSA	1
HONYU MARU NO. 32 MEDIUM STERN TRAWLER	JA-79-0405	BSA	1
NITTO MARU NO. 75 MEDIUM STERN TRAWLER	JA-79-0406	BSA	1
HONKO MARU NO. 37 MEDIUM STERN TRAWLER	JA-79-0407	BSA	1
YAMASAN MARU NO. 81 MEDIUM STERN TRAWLER	JA-79-0409	BSA	1
YAMASAN MARU NO. 85 MEDIUM STERN TRAWLER	JA-79-0410	BSA	1
EIKYU MARU NO. 12 MEDIUM STERN TRAWLER	JA-79-0411	BSA	1
DAITO MARU NO. 38 MEDIUM STERN TRAWLER	JA-79-0413	BSA	1
DAITO MARU NO. 55 MEDIUM STERN TRAWLER	JA-79-0414	BSA	1
TOMI MARU NO. 52 MEDIUM STERN TRAWLER	JA-79-0415	BSA	1
CHUYO MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0418	BSA	1
CHUYO MARU NO. 22 MEDIUM STERN TRAWLER	JA-79-0419	BSA	1
EIKYU MARU NO. 16 MEDIUM STERN TRAWLER	JA-79-0420	BSA	1
KORYO MARU NO. 108 MEDIUM STERN TRAWLER	JA-79-0421	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
TORA MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0422	BSA	1
EBISU MARU NO. 38 MEDIUM STERN TRAWLER	JA-79-0423	BSA	1
KYOYO MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0424	BSA	1
HOKEN MARU NO. 38 MEDIUM STERN TRAWLER	JA-79-0425	BSA	1
RYOAN MARU NO. 28 MEDIUM STERN TRAWLER	JA-79-0426	BSA	1
TAISEI MARU NO. 68 MEDIUM STERN TRAWLER	JA-79-0428	BSA	1
SHOYO MARU MEDIUM STERN TRAWLER	JA-79-0429	BSA	1
KAIYO MARU NO. 8 MEDIUM STERN TRAWLER	JA-79-0432	BSA	1
TOMI MARU NO. 53 MEDIUM STERN TRAWLER	JA-79-0433	BSA	1
TOMI MARU NO. 82 MEDIUM STERN TRAWLER	JA-79-0434	BSA	1
NO. 8 MIIOMARU MEDIUM STERN TRAWLER	JA-79-0435	BSA	1
TOMI MARU NO. 55 MEDIUM STERN TRAWLER	JA-79-0437	BSA	1
SHOTOKU MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0438	BSA	1
YAHATA MARU NO. 53 MEDIUM STERN TRAWLER	JA-79-0440	BSA	1
YAHATA MARU NO. 56 MEDIUM STERN TRAWLER	JA-79-0441	BSA	1
KOHOKU MARU NO. 16 MEDIUM STERN TRAWLER	JA-79-0442	BSA	1
KOHOKU MARU NO. 17 MEDIUM STERN TRAWLER	JA-79-0443	BSA	1
MANRYO MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0445	BSA	1
MANRYO MARU NO. 32 MEDIUM STERN TRAWLER	JA-79-0446	BSA	1
SEITOKU MARU NO. 105 MEDIUM STERN TRAWLER	JA-79-0447	BSA	1
TAISEI MARU NO. 3 MEDIUM STERN TRAWLER	JA-79-0449	BSA	1
TAISEI MARU NO. 16 MEDIUM STERN TRAWLER	JA-79-0450	BSA	1
TAISEI MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0451	BSA	1
YASHIO MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0452	BSA	1
SHOSHIN MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0453	BSA	1
SHOSHIN MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0454	BSA	1
NARITA MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0456	BSA	1
KOKUO MARU NO. 25 MEDIUM STERN TRAWLER	JA-79-0457	BSA	1
KYUEI MARU NO. 1 MEDIUM STERN TRAWLER	JA-79-0459	BSA	1
HAMAZEN MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0461	BSA	1
YURYO MARU NO. 8 MEDIUM STERN TRAWLER	JA-79-0463	BSA	1
KAIYO MARU NO. 53 MEDIUM STERN TRAWLER	JA-79-0464	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
SEIJU MARU NO. 28 MEDIUM STERN TRAWLER	JA-79-0465	BSA	1
SEIJU MARU NO. 26 MEDIUM STERN TRAWLER	JA-79-0466	BSA	1
YAHATA MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0467	BSA	1
FUKUYOSHI MARU NO. 28 MEDIUM STERN TRAWLER	JA-79-0472	BSA	1
KYOAN MARU NO. 25 MEDIUM STERN TRAWLER	JA-79-0475	BSA	1
SACHI MARU NO. 22 MEDIUM STERN TRAWLER	JA-79-0477	BSA	1
KYUHO MARU NO. 51 MEDIUM STERN TRAWLER	JA-79-0479	BSA	1
KYUHO MARU NO. 37 MEDIUM STERN TRAWLER	JA-79-0480	BSA	1
DAINICHI MARU NO. 32 MEDIUM STERN TRAWLER	JA-79-0482	BSA	1
DAINICHI MARU NO. 37 MEDIUM STERN TRAWLER	JA-79-0483	BSA	1
DAINICHI MARU NO. 51 MEDIUM STERN TRAWLER	JA-79-0484	BSA	1
RYUJIN MARU NO. 8 MEDIUM STERN TRAWLER	JA-79-0486	BSA	1
SHINEI MARU NO. 53 MEDIUM STERN TRAWLER	JA-79-0487	BSA	1
KOEI MARU NO. 51 MEDIUM STERN TRAWLER	JA-79-0488	BSA	1
KOEI MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0489	BSA	1
KOEI MARU NO. 25 MEDIUM STERN TRAWLER	JA-79-0490	BSA	1
YANUSHI NO. 21 MEDIUM STERN TRAWLER	JA-79-0491	BSA	1
DAINICHI MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0494	BSA	1
FUKUCHO MARU NO. 23 MEDIUM STERN TRAWLER	JA-79-0495	BSA	1
YANUSHI MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0496	BSA	1
TENYU MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0497	BSA	1
RYUJIN MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0499	BSA	1
ANYO MARU NO. 12 MEDIUM STERN TRAWLER	JA-79-0500	BSA	1
KOTOBUKI MARU NO. 25 MEDIUM STERN TRAWLER	JA-79-0502	BSA	1
ANYO MARU NO. 15 MEDIUM STERN TRAWLER	JA-79-0504	BSA	1
HANARYU MARU NO. 51 MEDIUM STERN TRAWLER	JA-79-0505	BSA	1
RYUHO MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0506	BSA	1
NASHIMA MARU NO. 23 MEDIUM STERN TRAWLER	JA-79-0508	BSA	1
EIKYU MARU NO. 35 MEDIUM STERN TRAWLER	JA-79-0511	BSA	1
SHOFUKU MARU NO. 61 MEDIUM STERN TRAWLER	JA-79-0512	BSA	1
DAINICHI MARU NO. 31 MEDIUM STERN TRAWLER	JA-79-0514	BSA	1
KYOWA MARU NO. 23 MEDIUM STERN TRAWLER	JA-79-0516	BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
RYOEI MARU NO. 38 MEDIUM STERN TRAWLER	JA-79-0517	BSA	1
CHOUN MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0519	BSA	1
MEISHO MARU NO. 15 MEDIUM STERN TRAWLER	JA-79-0522	BSA	1
DAIRIN MARU NO. 28 MEDIUM STERN TRAWLER	JA-79-0524	BSA	1
KOSHIN MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0525	BSA	1
FUKUHO MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0528	BSA	1
KYOWA MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0530	BSA,GOA	1
FUKUSHIN MARU NO. 5 MEDIUM STERN TRAWLER	JA-79-0531	BSA	1
KAIUN MARU NO. 38 MEDIUM STERN TRAWLER	JA-79-0533	BSA	1
KUMANO MARU NO. 15 MEDIUM STERN TRAWLER	JA-79-0534	BSA	1
TEISHO MARU NO. 18 MEDIUM STERN TRAWLER	JA-79-0535	BSA	1
SHINEI MARU NO. 21 MEDIUM STERN TRAWLER	JA-79-0537	BSA	1
SHOEI MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0539	BSA	1
ANYO MARU NO. 11 MEDIUM STERN TRAWLER	JA-79-0541	GOA,BSA	1
FUKUI MARU NO. 8 MEDIUM STERN TRAWLER	JA-79-0542	BSA	1
FUKUI MARU NO. 10 MEDIUM STERN TRAWLER	JA-79-0543	BSA	1
DAIEI MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0544	BSA	1
YASHIMA MARU NO. 3 MEDIUM STERN TRAWLER	JA-79-0548	BSA	1
YASHIMA MARU NO. 2 MEDIUM STERN TRAWLER	JA-79-0550	BSA	1
ORIENT MARU NO. 3 MEDIUM STERN TRAWLER	JA-79-0551	BSA	1
DAIAN MARU NO. 188 MEDIUM STERN TRAWLER	JA-79-0553	BSA	1
TSUNE MARU NO. 31 LONGLINER/GILLNET	JA-79-0601	GOA,BSA	1
NIYO MARU NO. 55 LONGLINER/GILLNET	JA-79-0602	GOA,BSA	1
FUKUYOSHI MARU NO. 85 LONGLINER/GILLNET	JA-79-0603	GOA,BSA	1
HATSUE MARU NO. 38 LONGLINER/GILLNET	JA-79-0605	GOA,BSA	1
HATSUE MARU NO. 55 LONGLINER/GILLNET	JA-79-0606	GOA,BSA	1
BUMIYOSHI MARU NO. 53 LONGLINER/GILLNET	JA-79-0608	GOA,BSA	1
MATSUEI MARU NO. 88 LONGLINER/GILLNET	JA-79-0609	GOA,BSA	1
EBISU MARU NO. 88 LONGLINER/GILLNET	JA-79-0610	GOA,BSA	1
MITO MARU NO. 82 LONGLINER/GILLNET	JA-79-0611	GOA,BSA	1
TOMI MARU NO. 88 LONGLINER/GILLNET	JA-79-0612	GOA,BSA	1
SHINTOKU MARU NO. 25 LONGLINER/GILLNET	JA-79-0613	GOA,BSA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
SHINKO MARU NO. 3 LONGLINER/GILLNET	JA-79-0614	GOA,BSA	1
CHOYO MARU NO. 81 LONGLINER/GILLNET	JA-79-0615	GOA,BSA	1
TENYU MARU NO. 37 LONGLINER/GILLNET	JA-79-0616	GOA,BSA	1
RYUHO MARU NO. 17 LONGLINER/GILLNET	JA-79-0617	GOA,BSA	1
TENYO MARU NO. 25 LONGLINER/GILLNET	JA-79-0618	GOA,BSA	1
RYUSHO MARU NO. 15 LONGLINER/GILLNET	JA-79-0619	GOA,BSA	1
RYUSHO MARU NO. 18 LONGLINER/GILLNET	JA-79-0620	GOA,BSA	1
ANYO MARU NO. 21 LONGLINER/GILLNET	JA-79-0621	GOA,BSA	1
ANYO MARU NO. 22 LONGLINER/GILLNET	JA-79-0622	GOA,BSA	1
FUKUYOSHI MARU NO. 8 LONGLINER/GILLNET	JA-79-0624	GOA,BSA	1
KAIYO MARU NO. 12 MEDIUM STERN TRAWLER	JA-79-0724	BSA	1
EIKYU MARU NO. 26 POT FISHING VESSEL	JA-79-0822	GOA,BSA,CRB	1
DAIHO MARU CARGO/TRANSPORT VESSEL	JA-79-1000	NWA,BSA,GOA	3
SAKURA MARU CARGO/TRANSPORT VESSEL	JA-79-1001	NWA,BSA,GOA	3
DAIRYO MARU CARGO/TRANSPORT VESSEL	JA-79-1002	NWA,BSA,GOA	3
DAITOKU MARU NO. 16 CARGO/TRANSPORT VESSEL	JA-79-1003	NWA,BSA,GOA	3
SATSUKI MARU CARGO/TRANSPORT VESSEL	JA-79-1004	NWA,BSA,GOA	3
SHINTOKU MARU CARGO/TRANSPORT VESSEL	JA-79-1008	NWA,BSA,GOA	3
SETA MARU CARGO/TRANSPORT VESSEL	JA-79-1010	ABS,BSA,CRB,GOA NWA	3
KARAGAKI MARU CARGO/TRANSPORT VESSEL	JA-79-1011	BSA,CRB,GOA,SNA	3
SHIGA MARU CARGO/TRANSPORT VESSEL	JA-79-1012	ABS,BSA,CRB,GOA NWA	3
WAKASHIO MARU CARGO/TRANSPORT VESSEL	JA-79-1013	CRB,GOA,BSA,SNA NWA	3
SEIWA MARU CARGO/TRANSPORT VESSEL	JA-79-1014	BSA,CRB,GOA,NWA SMT,SNA	3
KAISEI MARU NO. 5 CARGO/TRANSPORT VESSEL	JA-79-1015	BSA,CRB,GOA,NWA SNA	3
HAKODATE MARU NO. 2 CARGO/TRANSPORT VESSEL	JA-79-1017	NWA,CRB,GOA,BSA SNA	3
YOHO MARU CARGO/TRANSPORT VESSEL	JA-79-1018	NWA,CRB,GOA,BSA SNA	3
KAIKO MARU CARGO/TRANSPORT VESSEL	JA-79-1019	NWA,CRB,GOA,BSA SNA	3
KENTOKU MARU CARGO/TRANSPORT VESSEL	JA-79-1021	NWA,CRB,GOA,BSA SNA	3
TIYODA MARU NO. 2 CARGO/TRANSPORT VESSEL	JA-79-1022	CRB,GOA,BSA,SNA NWA	3
RYOYO MARU CARGO/TRANSPORT VESSEL	JA-79-1024	BSA,CRB,GOA,NWA SMT,SNA	3
FUKUYO MARU CARGO/TRANSPORT VESSEL	JA-79-1025	BSA,CRB,GOA,NWA SMT,SNA	3
KIYO MARU CARGO/TRANSPORT VESSEL	JA-79-1026	BSA,CRB,GOA,NWA SMT,SNA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
HAKUBASAN MARU CARGO/TRANSPORT VESSEL	JA-79-1027	BSA,CRB,GOA,NWA SNA	3
SHUYO MARU CARGO/TRANSPORT VESSEL	JA-79-1028	BSA,CRB,GOA,NWA SMT,SNA	3
HOYO MARU CARGO/TRANSPORT VESSEL	JA-79-1029	BSA,CRB,GOA,NWA SMT,SNA	3
TAMAGAWA MARU CARGO/TRANSPORT VESSEL	JA-79-1030	BSA,CRB,GOA,NWA SMT,SNA	3
KAKOGAWA MARU CARGO/TRANSPORT VESSEL	JA-79-1031	BSA,CRB,GOA,NWA SMT,SNA	3
ABUGAWA MARU CARGO/TRANSPORT VESSEL	JA-79-1032	BSA,CRB,GOA,NWA SMT,SNA	3
KYOHO MARU CARGO/TRANSPORT VESSEL	JA-79-1034	BSA,CRB,GOA	3
KOTOKU MARU CARGO/TRANSPORT VESSEL	JA-79-1035	NWA,CRB,GOA,BSA SNA	3
BUSAN CARGO/TRANSPORT VESSEL	JA-79-1036	BSA,CRB,GOA	3
HAYATSUKI MARU CARGO/TRANSPORT VESSEL	JA-79-1037	CRB,GOA,BSA,SNA NWA	3
ISONAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1038	BSA,CRB,GOA,NWA SNA	3
EIHEI MARU CARGO/TRANSPORT VESSEL	JA-79-1039	CRB,GOA,BSA,SNA	3
SOYOKAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1040	BSA,CRB,GOA,NWA SNA	3
NANKO MARU CARGO/TRANSPORT VESSEL	JA-79-1041	BSA,CRB,GOA,NWA SNA	3
TOKO MARU CARGO/TRANSPORT VESSEL	JA-79-1042	BSA,CRB,GOA,NWA SNA	3
SEIKO MARU CARGO/TRANSPORT VESSEL	JA-79-1043	BSA,CRB,GOA,NWA SNA	3
HOKKO MARU CARGO/TRANSPORT VESSEL	JA-79-1044	BSA,CRB,GOA,NWA SNA	3
MATSUKAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1045	BSA,CRB,GOA,NWA SNA	3
KAZUSHIMA MARU CARGO/TRANSPORT VESSEL	JA-79-1046	BSA,CRB,GOA,NWA SNA	3
HARUNAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1049	BSA,CRB,GOA,NWA SNA	3
FUKUJU MARU NO. 37 CARGO/TRANSPORT VESSEL	JA-79-1050	CRB,BSA,GOA,SNA	3
TAISEI MARU NO. 16 CARGO/TRANSPORT VESSEL	JA-79-1052	NWA,CRB,BSA,GOA SNA	3
TAISEI MARU NO. 87 CARGO/TRANSPORT VESSEL	JA-79-1053	NWA,CRB,BSA,GOA SNA	3
TAISEI MARU NO. 98 CARGO/TRANSPORT VESSEL	JA-79-1054	NWA,CRB,BSA,GOA SNA	3
TAISEI MARU NO. 52 CARGO/TRANSPORT VESSEL	JA-79-1055	NWA,CRB,BSA,GOA SNA	3
TAISEI MARU NO. 41 CARGO/TRANSPORT VESSEL	JA-79-1056	CRB,BSA,GOA,SNA	3
SACHINAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1057	BSA,GOA,CRB	3
SUZUNAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1058	BSA,GOA,CRB	3
KASHIWAHANA MARU CARGO/TRANSPORT VESSEL	JA-79-1059	BSA,GOA	3
AWAGHIMA MARU CARGO/TRANSPORT VESSEL	JA-79-1060	BSA,GOA	3
NAGISA MARU CARGO/TRANSPORT VESSEL	JA-79-1061	BSA,GOA	3
EIHO MARU CARGO/TRANSPORT VESSEL	JA-79-1062	CRB,GOA,BSA,SNA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
EIO MARU CARGO/TRANSPORT VESSEL	JA-79-1063	CRB,GOA,BSA,SNA	3
TAKASHIRO MARU NO. 28 CARGO/TRANSPORT VESSEL	JA-79-1064	BSA,CRB,GOA,NWA SMT,SNA	3
JINYO MARU CARGO/TRANSPORT VESSEL	JA-79-1066	CRB,GOA,BSA,SNA	3
REIYO MARU CARGO/TRANSPORT VESSEL	JA-79-1067	BSA,CRB,GOA,NWA SMT,SNA	3
JUYO MARU CARGO/TRANSPORT VESSEL	JA-79-1068	BSA,CRB,GOA,NWA SMT,SNA	3
MIHO MARU CARGO/TRANSPORT VESSEL	JA-79-1069	NWA,BSA,GOA	3
HAKUYO MARU CARGO/TRANSPORT VESSEL	JA-79-1070	BSA,CRB,GOA,NWA SMT,SNA	3
TOSA MARU CARGO/TRANSPORT VESSEL	JA-79-1071	BSA,CRB,GOA,NWA SMT,SNA	3
ITOHAM MARU CARGO/TRANSPORT VESSEL	JA-79-1072	BSA,CRB,GOA,NWA SMT,SNA	3
SANPUKU MARU CARGO/TRANSPORT VESSEL	JA-79-1073	BSA,CRB,GOA	3
DAIEN MARU NO. 18 CARGO/TRANSPORT VESSEL	JA-79-1074	NWA,BSA,GOA	3
SANTO MARU CARGO/TRANSPORT VESSEL	JA-79-1075	NWA,BSA,GOA	3
NIKKO MARU CARGO/TRANSPORT VESSEL	JA-79-1077	NWA,CRB,GOA,BSA SNA	3
KOEI MARU NO. 22 CARGO/TRANSPORT VESSEL	JA-79-1078	CRB,GOA,BSA,SNA	3
YACHIYO MARU NO. 26 CARGO/TRANSPORT VESSEL	JA-79-1079	CRB,GOA,BSA,SNA	3
SHINPRIMA MARU CARGO/TRANSPORT VESSEL	JA-79-1081	NWA,CRB,GOA,BSA SNA	3
NIPPONHAM MARU NO. 1 CARGO/TRANSPORT VESSEL	JA-79-1082	NWA,CRB,GOA,BSA SNA	3
HOKO MARU NO. 31 CARGO/TRANSPORT VESSEL	JA-79-1083	BSA,CRB,GOA,NWA SNA	3
TSURU MARU CARGO/TRANSPORT VESSEL	JA-79-1085	BSA,CRB,GOA	3
NIZAN MARU CARGO/TRANSPORT VESSEL	JA-79-1088	NWA,CRB,GOA,BSA SNA	3
ASAKAZE MARU CARGO/TRANSPORT VESSEL	JA-79-1089	BSA,CRB,GOA,NWA SNA	3
DAITOKU MARU NO. 31 CARGO/TRANSPORT VESSEL	JA-79-1092	NWA,BSA,GOA	3
NOJIMA MARU CARGO/TRANSPORT VESSEL	JA-79-1096	BSA,CRB,GOA,NWA SNA	3
NAIJIN MARU NO. 28 CARGO/TRANSPORT VESSEL	JA-79-1099	BSA,CRB,GOA,NWA SMT,SNA	3
MIYAJIMA MARU CARGO/TRANSPORT VESSEL	JA-79-1101	BSA,CRB,GOA,NWA SNA	3
HAYASHIKANE MARU NO. 1 CARGO/TRANSPORT VESSEL	JA-79-1102	BSA,CRB,GOA,NWA SMT,SNA	3
HAYASHIKANE MARU NO. 2 CARGO/TRANSPORT VESSEL	JA-79-1103	BSA,CRB,GOA,NWA SMT,SNA	3
TENRYU MARU CARGO/TRANSPORT VESSEL	JA-79-1104	NWA,BSA,GOA	3
TAIHAKU MARU CARGO/TRANSPORT VESSEL	JA-79-1106	BSA,CRB,GOA,NWA SMT,SNA	3
TAISHO MARU CARGO/TRANSPORT VESSEL	JA-79-1107	BSA,CRB,GOA	3
SEIRYU MARU CARGO/TRANSPORT VESSEL	JA-79-1109	CRB,GOA,BSA,SNA	3
ITU MARU NO. 18 CARGO/TRANSPORT VESSEL	JA-79-1111	CRB,GOA,BSA,SNA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
KOEI MARU NO. 16 CARGO/TRANSPORT VESSEL	JA-79-1117	CRB,GOA,BSA,SNA	3
WAKASHIO MARU NO. 26 CARGO/TRANSPORT VESSEL	JA-79-1118	CRB,GOA,BSA,SNA	3
WAKASHIO MARU NO. 32 CARGO/TRANSPORT VESSEL	JA-79-1121	CRB,GOA,BSA,SNA	3
WAKASHIO MARU NO. 27 CARGO/TRANSPORT VESSEL	JA-79-1122	CRB,GOA,BSA,SNA	3
YACHIYO MARU NO. 15 CARGO/TRANSPORT VESSEL	JA-79-1123	CRB,GOA,BSA,SNA	3
YUWASU MARU CARGO/TRANSPORT VESSEL	JA-79-1125	BSA,CRB,GOA	3
TAKASHIRO MARU NO. 25 CARGO/TRANSPORT VESSEL	JA-79-1127	BSA,CRB,GOA,NWA SMT,SNA	3
KURUSHIMA MARU CARGO/TRANSPORT VESSEL	JA-79-1128	BSA,GOA	3
AKATSUKI MARU NO. 1 PAIR TRAWLER	JA-79-1129	BSA	1
JINYO-MARU CARGO/TRANSPORT VESSEL	JA-79-1132	BSA,CRB,GOA,NWA SMT,SNA	3
MEIYO-MARU CARGO/TRANSPORT VESSEL	JA-79-1133	BSA,CRB,GOA,NWA SMT,SNA	3
CHIYO-MARU CARGO/TRANSPORT VESSEL	JA-79-1134	BSA,CRB,GOA,NWA SMT,SNA	3
TOKYO REEFER CARGO/TRANSPORT VESSEL	JA-79-1135	NWA,CRB,GOA,BSA SNA	3
AKASHI MARU NO. 19 PAIR TRAWLER	JA-79-1136	BSA	1
JIN PO MARU NO. 65 CARGO/TRANSPORT VESSEL	JA-79-1142	BSA,GOA,CRB	3
KAISEI MARU NO. 7 CARGO/TRANSPORT VESSEL	JA-79-1143	BSA,CRB,GOA,NWA SNA	3
TENKAI MARU TANKER FUEL/WATER	JA-79-2000	CRB,BSA,GOA,SNA	3
UKO MARU TANKER FUEL/WATER	JA-79-2001	CRB,BSA,GOA,SNA	3
CHIGUSA MARU TANKER FUEL/WATER	JA-79-2002	CRB,BSA,GOA,SNA	3
TENRYO MARU TANKER FUEL/WATER	JA-79-2003	BSA,GOA,CRB	3
KANAZURU MARU TANKER FUEL/WATER	JA-79-2004	CRB,BSA,GOA,SNA	3
SHOSEI MARU NO. 25 DANISH SEINER	JA-79-2006	BSA	1
SOHO MARU NO. 32 DANISH SEINER	JA-79-2007	BSA	1
KANUYO MARU NO. 11 PAIR TRAWLER	JA-79-2008	BSA	1
KANUYO MARU NO. 12 PAIR TRAWLER	JA-79-2009	BSA	1
OSAKA REEFER CARGO/TRANSPORT VESSEL	JA-79-2011	NWA,NWA,CRB,GOA BSA,SNA	3
EIRYU MARU NO. 2 CARGO/TRANSPORT VESSEL	JA-79-2012	NWA,CRB,GOA,BSA SNA	3
NISSHO MARU CARGO/TRANSPORT VESSEL	JA-79-2013	BSA,CRB,GOA	3
SURUGA MARU CARGO/TRANSPORT VESSEL	JA-79-2014	BSA,CRB,GOA	3
MATSUSHIMA MARU CARGO/TRANSPORT VESSEL	JA-79-2015	BSA,CRB,GOA	3
RYUSHO MARU CARGO/TRANSPORT VESSEL	JA-79-2016	CRB,GOA	3
KOSHO MARU CARGO/TRANSPORT VESSEL	JA-79-2017	BSA,CRB,GOA	3

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
JAPAN			
MIKO MARU CARGO/TRANSPORT VESSEL	JA-79-2018	BSA,CRB,GOA	3
YAMATO REEFER CARGO/TRANSPORT VESSEL	JA-79-2019	NWA,CRB,GOA,BSA SNA	3
EIRYU MARU NO. 3 CARGO/TRANSPORT VESSEL	JA-79-2020	NWA,CRB,GOA,BSA SNA	3
KOMESHIMA MARU CARGO/TRANSPORT VESSEL	JA-79-2021	NWA,BSA,GOA	3
TAKATSUKI MARU CARGO/TRANSPORT VESSEL	JA-79-2022	NWA,BSA,GOA	3
AKIZUKI MARU CARGO/TRANSPORT VESSEL	JA-79-2023	NWA,BSA,GOA	3
SOUTH KOREA			
GAE YANG HO LARGE STERN TRAWLER	KS-79-0001	BSA,GOA	1
SEO YANG HO LARGE STERN TRAWLER	KS-79-0002	BSA,GOA	1
CHEOG YANG HO LARGE STERN TRAWLER	KS-79-0003	BSA,GOA	1
PUNG YANG HO LARGE STERN TRAWLER	KS-79-0004	BSA,GOA	1
HEUNG YANG HO LARGE STERN TRAWLER	KS-79-0006	BSA,GOA	1
NAMBUG LARGE STERN TRAWLER	KS-79-0033	BSA,GOA	1
DAEJIN NO. 52 LARGE STERN TRAWLER	KS-79-0037	BSA,GOA	1
DONGSAN-HO LARGE STERN TRAWLER	KS-79-0039	BSA,GOA	1
SOO GONG NO. 51 LARGE STERN TRAWLER	KS-79-0042	BSA,GOA	1
SOUTH KOREA			
SHIN AN HO LARGE STERN TRAWLER	KS-79-0047	BSA,GOA	1
DAE SUNG HO LARGE STERN TRAWLER	KS-79-0051	BSA,GOA	1
NO. 91 DONGWON LONGLINE FISHING VESSEL	KS-79-0054	GOA	1
SOO GONG NO. 31 LONGLINE FISHING VESSEL	KS-79-0059	GOA	1
NO. 3 CHIL RO SAN HO CARGO/TRANSPORT VESSEL	KS-79-0074	BSA,GOA	3
NO. 5 CHIL RO SAN HO CARGO/TRANSPORT VESSEL	KS-79-0075	BSA,GOA	3
NO. 6 CHIL RO SAN HO CARGO/TRANSPORT VESSEL	KS-79-0076	BSA	3
TAE YANG NO. 12 CARGO/TRANSPORT VESSEL	KS-79-0081	BSA,GOA	3
KYUNG YANG HO LARGE STERN TRAWLER	KS-79-0085	BSA,GOA	1
GAE CHEOG HO NO. 2 CARGO/TRANSPORT VESSEL	KS-79-0090	BSA,GOA	3
ROMANIA			
IEZER LARGE STERN TRAWLER	RO-79-0006	NWA	1
CARAIMAN LARGE STERN TRAWLER	RO-79-0007	NWA	1
CALIMAN LARGE STERN TRAWLER	RO-79-0014	NWA	1
CIUCAS LARGE STERN TRAWLER	RO-79-0017	NWA	1
COSTILA LARGE STERN TRAWLER	RO-79-0018	NWA	1

NATION/VESSEL NAME/VESSEL TYPE	APPLICATION NO.	FISHERY	ACTIVITY
ROMANIA			
CLABUCET LARGE STERN TRAWLER	RO-79-0022	NWA	1
HARGHITA LARGE STERN TRAWLER	RO-79-0023	NWA	1
MEXICO			
KORMEX NO. 1 MEDIUM STERN TRAWLER	MX-78-0052	GOA	1
KORMEX NO. 2 MEDIUM STERN TRAWLER	MX-78-0053	GOA	1
KORMEX NO. 3 MEDIUM STERN TRAWLER	MX-78-0054	GOA	1
KORMEX NO. 5 MEDIUM STERN TRAWLER	MX-78-0055	GOA	1
KORMEX NO. 6 MEDIUM STERN TRAWLER	MX-78-0056	GOA	1
JAPAN			
KOSHIN MARU NO. 2 LONGLINER	JA-78-1290	ABS	1

MONDAY, OCTOBER 23, 1978
PART IV

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federal register

MONDAY, OCTOBER 23, 1978
PART IV

DEPARTMENT OF THE INTERIOR

Office of the Secretary

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PRIVACY ACT OF 1974

Systems of Records; Annual Publication

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[4310-10-M]

DEPARTMENT OF THE INTERIOR
Office of the Secretary
Privacy Act Issuances
Notice of Incorporation by Reference

Agency: Department of the Interior.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that the Department of the Interior has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact: Warren Dahlstrom Privacy Act Officer (202) 343-6669.

Approval of the Director

The notices of systems of records of the Interior Department which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978. Published below is the full text of systems of records that Interior has amended since publication of the 1977 Compilation.

NEW SYSTEMS OR SYSTEMS TRANSFERRED TO OTHER AGENCIES

SYSTEM NAME, BUREAU AND NATURE OF CHANGE

Office of the Secretary

Pilot Flight Time Report—Interior, AAS-97—New

Personnel Research Records—Interior O/S-98—New

Bonneville Power Administration

Travel Records—Interior, BPA-1—Transferred to Department of Energy.

Payroll Files—Interior, BPA-2—Transferred to Department of Energy.

Audiometric Testing Forms—Interior, BPA-3—Transferred to Department of Energy.

Automotive Accident files—Interior, BPA-4—Transferred to Department of Energy.

Motor Vehical Operator Identification Records—Interior, BPA-5—Transferred to Department of Energy.

Industrial Accident Files and Employee Claim Files—Interior, BPA-6—Transferred to Department of Energy.

Safety Training Files—Interior, BPA-7—Transferred to Department of Energy.

Plant Services History Files—Interior, BPA-8—Transferred to Department of Energy.

Plant Services Personal Accountability Property System—Interior, BPA-9—Transferred to Department of Energy.

Land Records—Interior, BPA-10—Transferred to Department of Energy.

Accounts Receivable—Interior, BPA-11—Transferred to Department of Energy.

Report of Inventions—Interior, BPA-12—Transferred to Department of Energy.

Parking Assignment Records—Interior, BPA-13—Transferred to Department of Energy.

Security Clearance Files—Interior, BPA-14—Transferred to Department of Energy.

Alaska Power Administration

Administrative Management and Fiscal Records—Interior, Alaska Power Administration-1—Transferred to Department of Energy.

Southeastern Power Administration

Administrative Management and Fiscal Records—Interior, Southeastern Power Administration-1—Transferred to Department of Energy.

Southwestern Power Administration

Payroll System—Interior, Southwestern Power Administration-1—Transferred to Department of Energy.

Contracts System—Interior, Southwestern Power Administration-2—Transferred to Department of Energy.

Property Management System—Interior, Southwestern Power Administration-3—Transferred to Department of Energy.

Travel Record System—Interior, Southwestern Power Administration-5—Transferred to Department of Energy.

Imprest Fund Cashiers—Interior, Southwestern Power Administration-6—Transferred to Department of Energy.

Accidents—Interior, Southwestern Power Administration-7—Transferred to Department of Energy.

Bureau of Reclamation

Sale of Power to Individuals—Interior, Reclamation-21—Transferred to Department of Energy

Mining Enforcement and Safety Administration

Coal and Metal and Nonmetal Mine Accident and Injury—Interior, MESA-1—Transferred to Department of Labor.

Identification Cards—Interior, MESA-2—Transferred to Department of Labor.

Metal and Nonmetal Mine Health and Safety Management Control—Interior, MESA-3—Transferred to Department of Labor.

Employee Conduct Investigations—Interior, MESA-4—Transferred to Department of Labor.

Payroll Records—Interior, MESA-5—Transferred to Department of Labor.

Travel—Interior, MESA-6—Transferred to Department of Labor.

Travel Advance File—Interior, MESA-7—Transferred to Department of Labor.

Accident and Injury Records—Interior, MESA-8—Transferred to Department of Labor.

Security Clearance Records—Interior, MESA-9—Transferred to Department of Labor.

Coal Mine Health and Safety Special Investigations—Interior, MESA-10—Transferred to Department of Labor

A system of records, National Mine Health and Safety Academy Records—Interior, MESA-11, will remain with the Department of the Interior, National Mine Health and Safety Academy. The system notice published April 11, 1977, remains substantially in effect as published on page 19065, Vol. 42 of that date.

Property Control—Interior, MESA-12—Transferred to Department of Labor.

Coal Mine Respirable Dust Program—Interior, MESA-13—Transferred to Department of Labor.

Coal Mine Noise Level Program—Interior, MESA-14—Transferred to Department of Labor.

Health and Safety Training Records Including Qualifications and Certification Data—Interior, MESA-15—Transferred to Department of Labor.

Employee Locator System, Department of the Interior, Mesa-16—Transferred to Department of Labor.

National Park Service

Advisory Council on Historic Preservation Membership—Interior, NPS-9—Transferred to Advisory Council on Historic Preservation (independent agency).

Congressional Correspondence, Advisory Council on Historic Preservation—Interior, NPS-11—Transferred to Advisory Council on Historic Preservation (independent agency).

Office of Surface Mining Reclamation and Enforcement

Payroll—Interior, OSM-1—New system.

Travel Advance File—Interior, OSM-2—New system.

Travel Vouchers and Authorizations—Interior, OSM-3—New system.

Property—Interior, OSM-4—New system.

Personnel Identification—Interior, OSM-5—New system.

Safety Files—Interior, OSM-6—New system.

Personnel Security Files—Interior, OSM-7—New system.

Employment and Financial Interest Statements—States and Other Federal Agencies—Interior, OSM-8—New system.

Geological Survey

Water Data Sources Directory—Interior, EGS-25—New system.

National Water Data Exchange User Accounting System—Interior, EGS-26—New system.

Office of the Secretary

Office of the Secretary Financial Interest Statements and Ethics Counselor Decisions—Interior, OS-3—Modified.

Biography File—Interior, OS-65—Modified.

Proposed modification of the following three systems of records was published in the Federal Register for August 10, 1978 (43 FR 35557). No comments were received, therefore, they are being adopted as proposed. The full text of these systems appears in sequence with the other systems published below.

Youth Conservation Corps (YCC) and Youth Adult Conservation Corps (YACC) Enrollee and Corpsmember Records—Interior, Office of the Secretary—25—Modified.

Youth Conservation Corps (YCC) Enrollee and Young Adult Conservation Corps (YACC) Corpsmembers Payroll Records File—Interior, Office of the Secretary—26—Modified.

Youth Conservation Corps (YCC) Enrollee and Young Adult Conservation Corps (YACC) Corpsmember Medical Records—Interior, Office of the Secretary—27—Modified.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of the Interior Department's systems of records appear in Volume 6 of the 1977 Compilation at pages 3 to 157 (42 FR 18968, April 11, 1977). The price of this Volume is 5 dollars and 75 cents.

September 25, 1978.

Richard R. Hite,
Deputy Assistant Secretary of the Interior

Interior/AAS—97

System name: Pilot Flight Time Report—Interior, Office of the Secretary—

System location: (1) National Headquarters, Office of Aircraft Services, Division of Technical Services, 3905 Vista Avenue, Boise, Idaho, 83705. (2) Regional Office—Regional Director, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska 99503.

Categories of individuals covered by the system: Professional, dual-function and incidental pilots employed by Interior Bureaus/Offices.

Categories of records in the system: The system contains information relative to certificates, qualifications, experience levels, currency and proficiency.

Authority for maintenance of the system: 5 USC 301, Reorganization Plan 3 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the record is to determine pilot qualifications and to monitor compliance with OAS directives and Federal Aviation Regulations. Disclosure outside the Department of the Interior may be made, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, pilot qualification card, grant or other benefit, (4) to Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —Manual and automated.

Retrievability: —Indexed Social Security Account Number, Name, Agency and Location.

Safeguards: —Access to and use of these records are limited to those persons whose official duties require such access.

Retention and disposal: —According to approved records disposal schedules.

System manager(s) and address: (1) National Headquarters—Chief, Technical Services Division, Office of Aircraft Services, 3905 Vista Avenue, Boise, Idaho, 83705. (2) Regional Office—Regional Director, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska, 99503.

Notification procedure: Inquiries regarding the existence of records shall be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access shall be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment shall be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Information in this system comes from the individual to whom it applies and from OAS records.

System name: Personnel Research Records—INTERIOR OS—98.

System location: For Departmental Records: a. Office of the Secretary, Office of Personnel Management, Division of Program Planning and Evaluation, 18th and C Streets, N.W., Washington, D.C. 20240. For Bureau Records: a. Bureau of Indian Affairs, Division of Personnel Management, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. b. Bureau of Mines, Division of Personnel, 2401 E Street, N.W., (Columbia Plaza) Washington, D.C. 20241 c. Geological Survey 12201 Sunrise Valley Drive, Reston, Virginia 22092. d. National Park Service, Division of Personnel, 18th and C Streets N.W., Washington, D.C. 20240. e U.S. Fish and Wildlife Service, Division of Personnel Management, 18th and C Streets, N.W., Washington, D.C 20240. f Bureau of Reclamation, Division of Personnel Management, 18th and C Streets, N.W., Washington, D.C. 20240. g. Bureau of Land Management, Division of Personnel (530, 18th and C Streets, N.W., Washington, D.C. 20240) h. Heritage Conservation and Recreation Service, Division of Personnel, 1951 Constitution Avenue, N.W., Washington, D.C. 20245. i. Office of the Solicitor, 18th and C Streets, N.W., Washington, D.C. 20240. j. Office of the Secretary and other Departmental Offices, Division of Personnel Services, 18th and C Streets, N.W., Washington, D.C. 20240.

Categories of individuals covered by the system: Department of the Interior employees and applicants for Interior employment.

Categories of records in the system: These records may include education and experiential history, test scores, responses to questionnaires and test, interview data, ratings of supervisors or other individuals (such as references) familiar with the individual and other pertinent information concerning the individual to whom the records pertain.

Authority for maintenance of the system: Title 5, U.S. Code Section 3301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Data are collected on a project-by-project basis and are used for research on personnel measurement and selection methods. Routine use includes the exchange of personnel records between the department and other Federal agencies for personnel research purposes only and the use of personal identifiers such as employee name to identify employees included in research studies that extend over a period of time (longitudinal studies). No personal personnel decisions are made in the use of these research records. The confidentiality of the data collected will be protected. Personnel identifiers will be used only as a means of relating information. Information in this system of records is used by the Departmental personnel research staff or by the specific bureau personnel offices involved. These records may be also used as a data source for management information for production of summary descriptive statistics and analytical studies in support of research function for which the records are collected and maintained, or for related personnel research functions or manpower studies; they may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate individuals for personnel research.

In addition to the above uses disclosures outside the Department of Interior many be made: 1. to other Federal agencies (such as the Civil Service Commission) having a subject matter interest; 2. to the U.S. Department of Justice when related to litigation or anticipated litigation; 3. of information indicating a violation or potential violation of a statute, regulation, rule, order, or license to appropriate Federal, State, local, or foreign agencies responsible for investigating

or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

Policies and practices for storing, retrieving, accessing, retaining, and

another Federal agency to which an employee has transferred; (6) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (1) to provide an accounting record of obligations due to

records are (a) as backup entry data for obligations and disbursements in the automated Finance system of OSM; (b) computer data

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or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —Records are maintained in file folders, on punched cards, magnetic tape, computer printout, and/or organized lists.

Retrievability: —Records are maintained by project. Personal information can be retrieved by name or personal identifier only for research projects that involve longitudinal studies, and only for the period of time needed to complete all data collection.

Safeguards: —Records are kept in locked files, in a locked room, and access is limited to authorized research staff.

Retention and disposal: —Retention may be for a short period of time or indefinite.

System manager(s) and address: Chief, Division of Program Planning and Evaluation, Office of Personnel Management, Office of the Secretary, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240 and Bureau Personnel Officers (see systems location above for Bureau Personnel Officer addresses).

Notification procedure: An individual may inquire whether or not the system contains a record pertaining to him/her by contacting the systems manager.

Record access procedures: Under very specific situations (see exemptions) an individual may gain access to portions of or all of their record by contacting the system manager.

Record source categories: Interior employees or applicants, supervisors, colleges, or data from the agency files and records.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a (k)(6) all material and information in this system of records about an individual that meets the critieria stated in 5 U.S.C. 552(c)(3); (d): (e)(4)(G)(H), and (I); and (f) relating to access and contest, making an accounting of disclosure to the individual named in the record, maintenance of information in records, publication annually in the Federal Register, and provisions regarding agency rules in that portion of this system relate to testing and examination materials. The specific material that is exempted is as follows:

a. Answer keys.
b. Ratings given for the purpose of validating examinations, or examination procedures.
c. Rating sheets.
d. Rating schedules, including crediting plans.
3. Transmutation tables.
f. Test booklets.
g. Test item files.

Interior/OSM-1

System name: Payroll—Interior, OSM-1

System location: (1) U.S. Bureau of Mines, Division of Finance, Building 53, Denver Federal Center, Denver, Colorado 80225. (2) Input documents supplied by all facilities of the Office of Surface Mining Reclamation and Enforcement (OSM).

Categories of individuals covered by the system: Current OSM employees and employees separated within the prior 2 years.

Categories of records in the system: A variety of documents which set forth or affect an employee's annual wage rate, leave, biweekly earnings, payroll deductions, and disposition of earnings. Hard copy records consist of a folder of action-type documents for each employee. The information from these documents is recorded on computer tape for payroll purposes.

Authority for maintenance of the system: 5 U.S.C. 5101 et seq., 31 U.S.C. 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide information and accounting records regarding employee pay and leave for the automated payroll data file; (b) to inform each OSM office of the composition of their labor cost changes by reporting total payroll changes for each individual made to various cost accounts within the finance system. This reporting is made every 2 weeks on a regular payroll cycle. Disclosures outside the Department of the Interior may be made (1) to provide States with pay data relative to claims for unemployment; (2) to the Department of the Treasury for preparation of payroll checks and payroll deductions and other checks to Federal, State and local Government agencies, non-governmental organizations and individuals; (3) to the Internal Revenue Service and to state, commonwealth, territorial and local governments for tax purposes; (4) to the Civil Service Commission in connection with the Civil Service Retirement System; (5) to another Federal agency to which an employee has transferred; (6) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (10) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —records are maintained in file folders, magnetic tape, and punched cards.

Retrievability: —file folders are maintained by name and magnetic tape and punched cards are maintained by social security number.

Safeguards: —file folders are maintained in metal file cabinets which are in a locked room during periods of non-work, During working hours; access is allowed only to Division of Finance, Bureau of Mines personnel or Division of Budget and Financial Management, OSM personnel. Punched cards have no interpreted printing on them and are retained in cardboard boxes locked into the same room as the file folders. Magnetic tapes are maintained in the Division of Data Processing with limited ADP personnel accessibility.

Retention and disposal: —actively employed personnel file folders are retained indefinitely. Inactive employees' folders (death, resignation, retirement, and separation) are destroyed after 2 years. Cards are destroyed after 1 year. Magnetic tapes are erased and reused in accordance with memorandum dated December 29, 1970, from the Chief, Division of Finance to the Chief, Division of ADP, Bureau of Mines. All other official payroll data are disposed of in accordance with General Records Schedule FPMR 101-11.4 dated August 1, 1974.

System manager(s) and address: Chief, Division of Budget and Financial Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

Notification procedure: Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Information in this system of records comes from the individual to whom it applies or is derived from information he supplied. Pay rates and their applicability and leave regulations are established by public law and their effect upon the individual are in accordance with such public laws and regulations. Generally, most payroll source data are echo records of official personnel actions.

INTERIOR/OSM-2

System name: Travel Advance File—Interior, OSM-2

System location: U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225.

Categories of individuals covered by the system: All Office of Surface Mining Reclamation and Enforcement (OSM) employees who have active travel advances or who have closed travel advances.

Categories of records in the system: File consists of signed forms whereon employees request travel advances for the purpose of paying travel expenses incurred in the performance of official government business. These forms also include repayments against any advances, whether by claims offset on travel vouchers or remittances by checks, money orders, etc.

Authority for maintenance of the system: 5 U.S.C. Secs. 4111(b), 5701-5709, 5721-5733, 5742(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (1) to provide an accounting record of obligations due to the U.S. Government from employees' authorized cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in this record; (b) to serve as a backup authority and manually reconciled file to the entries for travel expenses in the automated Finance systems; (c) computer data are reported to each OSM office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual OSM offices are available to that office. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —records are maintained in cardboard boxes in the Division of Finance, Bureau of Mines.

Retrievability: —files are stored alphabetically by fiscal year.

Safeguards: —files are maintained in a locked steel file drawer during periods of non-work and are accessible during working hours only be personnel from the Division of Finance, Bureau of Mines, or the Division of Budget and Financial Management, OSM.

Retention and disposal: —disposition is in accordance with General Records Schedule, FPMR 101-11.4 dated August 1, 1974.

System manager(s) and address: Chief, Division of Budget and Financial Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Notification procedure: Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63

Contesting record procedures: A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Information for this system originates with the traveler who specifies the need of a travel advance. The request is concurred in by signature of a responsible supervisory official. All entries on the file are as a result of actions taken by the individual to liquidate his travel advance.

Interior/OSM-3

System name: Travel Vouchers and Authorizations—Interior, OSM-3

System location: U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colorado 80225, and the various Divisions of the Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Categories of individuals covered by the system: All persons traveling for or in behalf of OSM on official business.

Categories of records in the system: Voucher file consists of paid travel vouchers which reimburse travelers for expenses incurred in connection with official travel. Travel authorization file consists of record copies of authorizations for travel for which no travel vouchers have been submitted for payment.

Authority for maintenance of the system: 5 U.S.C. Sec. 5701 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) as backup entry data for obligations and disbursements in the automated Finance system of OSM; (b) computer data are reported to each OSM office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual OSM offices are available to that office; (c) vouchers are used to determine allowability of expenses within the law, authorizing payment of travel expenses. The documents are used to determine which expenses incurred by the traveler can be paid and are sometimes used to report to other Federal agencies summarizations of those types of allowable expenses. Usually, the individual's name is not used in outside reporting but the data is. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —records are maintained in steel filing cabinet in the Division of Finance, Bureau of Mines, and Divisions of OSM.

Retrievability: —vouchers are filed by voucher number in sequence of payment within the overall numbering sequence of the finance system. Authorizations are filed alphabetically by name awaiting payment of a travel voucher. Authorization becomes part of the voucher packet at time of payment.

Safeguards: —files are maintained with safeguards meeting the requirements of 43 CFR 2.51 in the Division of Finance and are available only to personnel from the Department of Finance, Bureau of Mines, or the Divisions of the Office of Surface Mining.

Retention and disposal: —disposition is in accordance with General Schedule, FPMR 101-11.4 dated August 1, 1974.

System manager(s) and address: Chief, Division of Budget and Financial Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Notification procedure: Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Information for these files is based on an authorization signed by the traveler in the form of a request. Travel vouchers are submitted by the traveler after incurring expenses for official travel and is a request for payment based on his record of official expenses.

Interior/OSM-4

System name: Property Control—Interior, OSM-4

System location: (1) Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240. (2) All field facilities of OSM.

Categories of individuals covered by the system: Employees who have custody or responsibility for OSM property.

Categories of records in the system: Contains information indicating what property, including equipment, motor vehicle operator's license, keys, motor pool vehicles, transportation request books, and parking spaces, for which the employee has custody or responsibility. A list is maintained of inventions by name as a cross-reference to case numbers. In addition, all other records directly related to the property control function.

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Authority for maintenance of the system: Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. Sec. 483(b)(1); 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) identification, assignment, and control of OSM property; (b) assistance in locating carpools. Disclosures outside of the Department of Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —maintained in manual form in file folders or card indexes, a limited quantity on computer tape.

Retrievability: —indexed by employee name or control number.

Safeguards: —security will be provided to meet the requirements of 43 CFR 2.51.

Retention and disposal: —upon completion of the use period, vital records are transferred to the Official Personnel Folder or Federal Records Center and all other records are destroyed.

System manager(s) and address: Chief, Division of Administrative Services, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Notification procedure: System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Employees. Property control information required for accountability purposes.

INTERIOR/OSM-5

System name: Personnel Identification—Interior, OSM-5

System location: (1) Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Sts., N.W. Washington, D.C. 20240. (2) All field facilities of OSM.

Categories of individuals covered by the system: All employees of OSM.

Categories of records in the system: Records concerning identification and location of employees.

Authority for maintenance of the system: 5 U.S.C. Secs. 301, 3101; 43 U.S.C. Sec. 1457.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to provide identification cards to employees; (b) locator information provided for use by management to contact employees in case of an emergency. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —card indexes, manually.

Retrievability: —indexed by employee name and identification card number

Safeguards: —security will be provided to meet the requirements of 43 CFR 2.51 for manual records

Retention and disposal: —after use period, records transferred to Federal Records Center or destroyed.

System manager(s) and address: Chief, Division of Personnel, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Notification procedure: System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager, or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must meet the content requirement of 43 CFR 2.63.

Contesting record procedures: A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

Record source categories: Employees. Information necessary to prepare the identification card and locator index.

Interior/OSM-6

System name: Safety Files—Interior, OSM-6

System location: (1) Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240. (2) All field facilities of OSM.

Categories of individuals covered by the system: Persons who have had an accident, injury, illness or fatality or are associated with a health hazard, radio-active materials, and radiation producing media in performance of job related duties or while a visitor.

Categories of records in the system: Contains records about accident, injury, illness, or fatality of an employee in a work related situation or a visitor. Also, records of initial, re-examination, annual, and terminal health physical of employees in potentially hazardous health and radiation situations. In addition, all other records directly related to employee health and safety.

Authority for maintenance of the system: (1) Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. Sec. 668 and 5 U.S.C. Sec. 7902. (2) Executive Order 11807 (September 28, 1974). (3) Federal Employees Compensation Act, as amended, 5 U.S.C. Sec. 8101, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for managerial review of safety related work situations, and (b) for authenticating work related accident, injury, illness, or fatalities for employee compensation purposes. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —maintenance in manual form in card index and file folders.

Retrievability: —indexed by name or control number of the individual..

Safeguards: —security will be provided to meet the requirements of 43 CFR 2.51 for manual records.

Retention and disposal: —upon completion of work project or employee separation, health records are transferred to the Official Personnel Folder. All other records are transferred to Federal Records Centers upon completion of case processing.

System manager(s) and address: Chief, Division Personnel, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Notification procedure: System Manager, or with respect to records maintained at field facilities, the safety officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the safety officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Individuals involved and physicians.

INTERIOR/OSM-7

System name: Personnel Security Files—Interior, OSM-7

System location: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Categories of individuals covered by the system: OSM personnel who have been authorized access to classified information.

Categories of records in the system: Contains records concerning employees, including personal data submitted by the individual, information developed by investigatory authorities, and records of the requirement, basis, degree and data of clearances. Contains a security briefing statement signed by the employee.

Authority for maintenance of the system: Executive Order 10450, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to identify OSM personnel who have security clearances and their degree of clearance. Disclosures outside the Department of the Interior may be made (1) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (2) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, contract, license, grant or other benefit; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —maintained in manual form in file folders.

Retrievability: —indexed by name.

Safeguards: —maintained in a safe having a three-position dial-type, manipulation proof, combination lock, in the same manner as defense classified material.

Retention and disposal: —maintained until the individual has been debriefed or terminated. Destroyed by fire, shredder, disintegrator or pulverizer.

System manager(s) and address: Chief, Division of Personnel, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240.

Notification procedure: A written and signed request to the System Manager stating that the requester seeks information concerning record pertaining to him.

Record access procedures: A request for access shall be addressed to the System Manager. The request must be in writing and signed by the requester.

Contesting record procedures: A petition for amendment shall be addressed to the System Manager.

Record source categories: Individual on whom the record is maintained and investigations conducted by Federal, State or local agencies or other pertinent authorities.

Interinr/OSM-8

System name: Employment and Financial Interest Statements—States and other Federal agencies—Interior, OSM—8.

System location: (1) Office of Surface Mining Reclamation and Enforcement, 18th and C Streets, NW., Washington, D.C. 20240.

Categories of individuals covered by the system: 1. The head of each State regulatory authority who is required to file a financial statement with the Director of the Office of Surface Mining Reclamation and Enforcement by 30 CFR 705.15; 2. Federal employees, other than Interior Department employees, who are required to file a financial interest statement by 30 CFR 706.11(b) and who file with the Director of the Office of Surface Mining Reclamation and Enforcement in accordance with 30 CFR 706.15(c); and 3. State employees, and Federal employees other than Interior Department employees, whose financial interest statements are referred to the Department of the Interior in accordance with 30 CFR 705.19(a)(3) or 30 CFR 706.19(c).

Categories of records in the system: Contains Statements of Employment and Financial Interest forms for State employees (form OSM-705-1) and for Federal employees (form DI-212A) and similar forms used by Federal agencies other than the Department of the Interior. Also contains records of decisions, analysis of financial holdings, employee statements, pertinent comments from supervisors, heads of bureaus or offices, and the Solicitor's Office, and related records needed for processing.

Authority for maintenance of the system: Sections 201(c) and (f) and 517(g) of P.L. 95-87.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to review employee financial interests and determine employee compliance or non-compliance with the applicable statute and regulations; (b) to record the fact that the employee has been made aware of specifically directed legislation or regulations covering his organization and duties and that he or she is in compliance with such specific legislation or regulations; and (c) to provide an adequate system of records for auditors performing compliance audits. Disclosures outside the Department of the Interior may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, or local agencies responsible for investigating or prosecuting the violation or, (3) to a Congressional office from the record of an individual in response to an inquiry made at the request of that individual, (4) to Federal, State or local agencies where necessary to obtain information relevant to resolving prohibited financial interest situations or to litigation which may affect the hiring or retention of an employee.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —maintained in file folders;

Retrievability: —filed alphabetically by position or by employee name;

Safeguards: —maintained in locked file cabinet in a locked office;

Retention and disposal: —records filed with the Department by regulation will be destroyed two years after the employee leaves the position requiring the filing of a financial interest statement. Records referred to the Department will be returned to the referring agency for disposal in accordance with that agency's disposal policy.

System manager(s) and address: Director, Office of Surface Mining, U.S. Department of the Interior, 18th and C Sts., NW., Washington, D.C. 20240.

Notification procedure: Inquiries may be addressed to the System Manager as indicated above.

Record access procedures: A request for access may be addressed to the System Manager for information regarding the entire system or for specific information about a State or Federal office system. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

Record source categories: Present or past Federal or State employees required to file Employment and Financial Interest Statements, employee's supervisors, bureau or office heads, Ethics Counselors or the Solicitor.

INTERIOR/EGS-25

System name: Water Data Sources Directory

System location: National Water Data Exchange, Water Resources Division, U.S. Geological Survey, Reston, Virginia 22092.

Categories of individuals covered by the system: Individuals who are sources of water or water-related data and to whom requesters can be referred to obtain water data held by them.

Categories of records in the system: Contains, name, address and telephone number of individuals who are sources of water or water-related data.

Authority for maintenance of the system: The Water Data Sources Directory is maintained under the authority of 43 U.S.C. 31 (28 Stat. 398), OMB Cir. A-67, and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Referenced by (1) Geological Survey and Geological Survey contractor personnel in processing requests for water or water-related data, (2) Personnel of Local Assistance Centers listed in Appendix A of the National Water

Data Exchange (NAWDEX) including Geological Survey personnel and personnel of state-governmental, local-governmental, other public, and private organizations serving as NAWDEX Local Assist-

event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Feder-

the Department of the Interior may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the

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Data Exchange (NAWDEX) including Geological Survey personnel and personnel of state-governmental, local-governmental, other public, and private organizations serving as NAWDEX Local Assistance Centers in processing requests for water or water-related data, and (3) Users of NAWDEX including Federal, state-governmental, local-governmental, other public, and private organizations and private citizens in identifying sources of water and water-related data and transmitting requests for the acquistion of desired data. (4) Transfer to the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —Maintained in computerized form on punch cards, magnetic disks or magnetic tape, printed lists, and a published directory available for public dissemination;

Retrievability: —Retrievable by name, a unique identifier, geographical identifiers, and types of data available from the individual;

Safeguards: —Computer files are password protected to prevent unauthorized use, and all entry of information is made by Geological Survey personnel of the NAWDEX Program Office only;

Retention and disposal: —Records retained indenfinitely unless cancelled by a reported individual.

System manager(s) and address: Program Manager, National Water Data Exchange, U.S. Geological Survey, 421 National Center, Reston, Virginia 22092.

Notification procedure: Any individial may inquire about information stored on themselves by submitting a written request to the System Manager. See 43 CFR 2.60.

Record access procedures: Requests for access should be in writing addressed to the System Manager. See 43 CFR 2.63.

Contesting record procedures: A petition for amendment must be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Information stored may be obtained from the individual on whom the record is maintained, organizations, or other individuals, with whom the individual identified in the record is associated, NAWDEX personnel, and NAWDEX-contracted information researchers.

Interior/EGS-26

System name: National Water Data Exchange User Accounting System

System location: (1) National Water Data Exchange, NAWDEX Water Resources Division, U.S. Geological Survey Reston, Virginia 22092 (2) NAWDEX Local Assistance Centers listed in Appendix A

Categories of individuals covered by the system: Individuals who have requested water data from or to whom information has been sent by the National Water Data Exchange and its Local Assistance Centers.

Categories of records in the system: Contains name, address, and telephone number, types of data requested, type of response made, types and volumes of data provided and appropriate cost accounting procedures.

Authority for maintenance of the system: The User Accounting System is maintained under authority of 43 U.S.C. 31 (Stat. 398), OMB Cir. A-67, and 5 U.S.C. 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) By Geological Survey and Geological Survey contractor personnel in processing user requests for data, (2) By personnel of Local Assistance Centers of the National Water Data Exchange (NAWDEX) including Geological Survey personnel and personnel of state-governmental, local-governmental, other public, and private organizations serving as NAWDEX Local Assistance Centers in processing user requests for data, (3) By the personnel in (1) and (2) above for verification of responses referred to other organizations for data acquisition, program planning and accounting, cost effectiveness computations, and follow-up on quality of service provided. (4) Transfer to the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated a violation or potential violation of a statute, regulation, rule, order or license, whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether Federal, state, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —Maintained in manual form in file folders and on magnetic computer storage devices;

Retrievability: —Indexed by geographic location or requester and cross-indexed by name of requester, in chronological order, and by request record number;

Safeguards: —Maintained in areas occupied by NAWDEX personnel during working hours with building locked and/or guarded during off-duty hours. Computer files are password protected to restrict unauthorized use;

Retention and disposal: —Original hard copy destroyed after a period not to exceed two years. Computerized file copy destroyed after a period not to exceed three years. All records may be retained longer, with permission of subject individual requester transactions.

System manager(s) and address: Program Manager, National Water Data Exchange (NAWDEX), U.S. Geological Survey, 421 National Center, Reston, Virginia 22092.

Notification procedure: System manager or manager of installation which is believed to have the request record. Installation will only provide information on records held locally. A written and signed request stating that the requester seeks information concerning records pertaining to himself or herself is required. See 43 CFR 2.63.

Record access procedures: Same as above. See 43 CFR 2.63.

Contesting record procedures: A petition for amendment must be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Individual on whom the record is maintained or individuals or organization requesting data be sent to the individual on whom the record is maintained.

INTERIOR/AAI-3

System name: Financial Interest Statements and Ethics Counselor Decisions—Interior, Office of the Secretary—3.

System location: (1) Office of Audit and Investigation, U.S. Department of the Interior, 18th and C Sts., N.W., Washington, D.C. 20240. (2) Bureau and Office Ethics Counselors, Deputy Ethics Counselors and Assistant Ethics Counselors. (A list may be obtained from the Department Ethics Counselor, Office of Audit and Investigation.)

Categories of individuals covered by the system: Current or past Interior Department employees required to file a Statement of Employment and Financial Interests by regulations contained in 43 CFR 20.735-18, 19, 20, 22, and 43, or in 30 CFR 706-11.

Categories of records in the system: Contains Confidential Statements of Employment and Financial Interests (forms DI-212, DI-212A or DI-213) for present or past Interior Department employees required to file such statements by 43 CFR 735-22(a), 30 CFR 706-11, and 43 CFR 20.735-43(a). Contains Public Disclosure Statements of Known Financial Interests (forms DI-211, DI-211A and DI-211B) for present or past incumbents in positions required to file such statements by 43 CFR 20.735-18, 19 and 20. Also contains records of conflict of interest decisions and appeals, analysis of financial holdings, employee statements, Solicitor's comments, head of bureau or office comments, and supervisor comments on present or past employees as requested by the bureau of office conselors or as needed by the Departmental counselor.

Authority for maintenance of the system: (1) 5 USC 7301. (2) 43 USC 11. (3) 30 USC 6 (4) 43 USC 31. (5) 18 USC 201-209. (6) 25 USC 68. (7) E.O. 11222. (8) P.L. 94-579. (9) P.L. 94-429. (10) P.L. 94-163. (11) P.L. 95-87.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) to review employee financial interests and determine employee compliance on non-compliance with applicable conflict of interest statutes and regulations; (b) to record the fact that the employee has been made aware of specifically directed legislation or regulations covering his organization and that he or she is in compliance with such specific legislation or regulations; and (c) to provide an adequate system of records for Interior auditors performing compliance audits within the Interior Department. Disclosures outside

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the Department of the Interior may be made: (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regulations, rule, order, or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or, (3) to a Congressional office from the record of an individual in response to an inquiry made at the request of that individual, (4) to Federal, State or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license grant or other benefit, (5) to the Civil Service Commission to perform oversight reviews, (6) to the public for only those records covered by 43 CFR 20.735-18, 19 and 20.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: For Confidential Statements of Employment and Financial Interests:

Storage: —maintained in file folders;

Retrievability: —filed alphabetically by position or employee name.

Safeguards: —maintained in locked file cabinet in locked office.

Retention and disposal: —disposal will be made two years after an employee leaves a position requiring the filing of the Statement

For Public Disclosure Statements of known Financial Interest

Storage: —maintained in file folders;

Retrievability: —filed by Bureau, form number, and alphabetically by employee name at the Department Library;

Record access procedures: —maintained by Bureau or Office Ethics Counselors designated in 43 CFR 20.735-22(c) and maintained centrally at the main Department Library.

System manager(s) and address: Department Ethics Counselor, Office of Audit and Investigation, U.S. Department of the Interior 18th and C Streets, N.W., Washington, D.C. 20240.

Notification procedure: Inquiries may be addressed to the System manager, as indicated above, or to the Bureau or Office Ethics Counselor as listed in 43 CFR 20.735-22(c). (See 43 CFR 2.60 for details on inquiries.)

Record access procedures: A request for access may be addressed to the System Manager (for information regarding the entire system) or to the Bureau or Office Ethics Counselor as listed in 43 CFR 20.735-22(c) (for information regarding the specific bureau or office system) The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63. With respect to the public disclosure statements, persons wishing to invoke the Privacy Act may do so in accordance with the foregoing procedures. However, such persons are advised that the public disclosure statements are available for direct access from Bureau or Office Ethics Counselors designated in 43 CFR 20.735-22(c) and at the main Department Library.

Contesting record procedures: A petition for amendment shall be addressed to the System Manager or to the appropriate Bureau or Office Ethics Counselor as listed in 43 CFR 20.735-22(c) and must meet the requirements of 43 CFR 2.71.

Record source categories: Present or past Interior employees required to file financial intererst statements, Ethics Counselors, employees's supervisors, or the Solicitors.

Interior/AJC-25

System name: Youth Conservation Corps (YCC), and Young Adult Conservation Corps (YACC) Enrollee and Corpsmember Records—Interior, Office of the Secretary—25.

System location: (1) All USDI Federal Camp Directors Offices. Address of YCC and YACC Camp Directors may be obtained each year by writing to the System Manager. (2) Administrative Services Center, Bureau of Reclamation, Salt Lake City, Utah 84147

Categories of individuals covered by the system: Enrollees (YCC) and corpsmembers (YACC) of USDI Federal YCC and YACC programs.

Categories of records in the system: (1) Current enrollees and corpsmembers USDI Application Forms and Employment and Training Administration Form 27; USDI Medical History Forms; Personal and Statistical Information. (2) Optional: Evaluation of enrollee's and corpsmember's performance by camp staff; Accident, injury, and treatment forms. (3) Past enrollees and corpsmembers: List of names and addresses. (4) Current alternates (YCC) or applicants (YACC) USDI Application Forms and Employment and Training Administration Form 27.

Authority for maintenance of the system: Pub. L. 93-408 and Pub. L. 95-93.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) the identification of current and past enrollees and corpsmembers and current alternates or applicants; (b) for the selection of alternate upon enrollee withdrawal from program (YCC), or hiring of additional or replacement corpsmembers (YACC); (c) to provide enrollee or corpsmember participation record for school credit. Disclosures outside of the Department of the Interior may be made (1) to the U.S. Department of Agriculture in connection with joint administration of YCC and YACC programs, and to the Department of Labor in connection with joint administration of the YACC program; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to any inquiry from a congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit, (6) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —maintained in personnel jackets.

Safeguards: —Stored in metal filing cabinets with three-way combination locks or key locks.

Retention and disposal: —Complete files are maintained until the end of the service or training. At termination, personal and statistical information is removed from enrollee file jacket. A list of the names and addresses is retained. Disposal schedule is pending. The application forms of current alternates are destroyed at the termination of the current program year.

System manager(s) and address: Director, Office of Youth Programs, Department of the Interior, Office of the Secretary, Washington, D.C. 20240.

Notification procedure: System Manager and camp directors. Camp Director will only be able to provide information from records maintained at the camp. See 43 CFR 2.60.

Record access procedures: System Manager or camp directors. See 43 CFR 2.71.

Contesting record procedures: A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Individual on whom the record is maintained medical doctor, school or other official.

Interior/AJC-26

System name: Youth Conservation Corps (YCC) Enrollee and Young Adult Conservation Corps (YACC) Corpsmember Payroll Records File—Interior, Office of the Secretary—26

System location: Administrative Services Center, Bureau of Reclamation, P.O. Box 11568, Salt Lake City, Utah 84147. Records for the YCC are joint records of the U.S. Department of Interior, Office of Youth Programs and the U.S. Department of Agriculture, Forest Service. Records for the YACC are joint records of the U.S. Department of the Interior, Office of Youth Programs, the U.S. Department of Agriculture, Forest Service, and the U.S. Department of labor.

Categories of individuals covered by the system: Youth accepted into the YCC program and young adults accepted into the YACC program.

Categories of records in the system: Personnel, pay, statistical and termination data compiled by camp officials.

Authority for maintenance of the system: Pub. L. 93-408 and Pub. L. 95-93.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) the identification of current and past enrollees and corpsmembers; (b) for payroll purposes for current enrollees and corpsmember; (c) to develop demographic characteristics of enrollee and corpsmember population for statistical purposes. Disclosures outside the Department of the Interior may be made (1) to the Department of the Treasury for preparation of (a) payroll checks and (b) payroll deduction and other checks to Federal, State, and local

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government agencies, nongovernmental organizations and individuals; (2) to the Internal Revenue Service and to State, Commonwealth, Territorial and local government for tax purposes; (3) to the Civil Service Commission in connection with the Civil Service Retirement System, (4) to another Federal agency to which an employee has transferred; (5) to the U.S. Department of Justice when related to litigation or anticipated litigation; (6) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (7) from the records of an individual in response to an inquiry from a congressional office made at the request of that individual; (8) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (9) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, contract, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Current and past personal and statistical information on magnetic tape and printouts.

Retrievability: Tape reels are coded by number.

Safeguards: Tapes are stored in a tape file and vault while printouts are stored in a locked metal filing cabinet.

Retention and disposal: Current payroll information is purged from magnetic tapes at the termination of the program after being transferred to a sedle magnetic tape which is retained permanently. Other material disposal regulations are pending.

System manager(s) and address: (1) Director, Division of Manpower and Youth Conservation Programs, U.S. Department of Agriculture, Forest Service, Washington, D.C. 20250. (2) Director, Office of Youth Programs, U.S. Department of the Interior, Washington, D.C. 20240.

Notification procedure: Inquiries regarding the existence of records should be addressed to the System Managers. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Managers. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.71.

Contesting record procedures: A petition for amendment should be addressed to the System Managers and must meet the content requirements of 43 CFR 2.71.

Record source categories: Individual on whom the record is maintained, camp personnel.

Interior/AJC-27

System name: Youth Conservation Corps (YCC) Enrollee and Young Adult Conservation Corps (YACC) Corpsmember Medical Records—Interior, Office of the Secretary—27.

System location: Administrative Services Center, Bureau of Reclamation, P.O. Box 11568, Salt Lake City, Utah 84147.

Categories of individuals covered by the system: Enrollees and corpsmembers of past Interior Federal YCC and YACC programs.

Categories of records in the system: (1) U.S.D.I. Medical History Forms. (2) Accident, injury and treatment forms. (3) Parental permission portion of the U.S.D.I. Application forms for YCC enrollees.

Authority for maintenance of the system: Pub. L. 93-408 and Pub. L. 95-93.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary uses of the records are (a) for the adjudication of FEC medical claims, and (b) the adjudication of tort claims. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Agriculture in connection with joint administration of the YCC program, and to the U.S. Department of Agriculture and the U.S. Department of Labor in connection with joint administration of the YACC program; (2) to the U.S. Department of Justice when related to litigation or anticipated litigation; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation of for enforcing or implementing the statute, rule, regulation, order or license; (4) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (5) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —manual records.

Retrievability: —by individual name.

Safeguards: —maintained with safeguards meeting the requirements of 43 CFR 2.51.

Retention and disposal: —pending.

System manager(s) and address: Director, Office of Youth Programs, Department of the Interior, Office of the Secretary, Washington, D.C. 20240.

Notification procedure: Inquiries regarding the existence of records should be addressed to the System Manager. A written signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures: A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Individual on whom the record is maintained, medical doctor, and camp official compiling accident or medical treatment information.

INTERIOR/AOC-65

System name: Biography File—Interior, Office of the Secretary—65.

System location: (1) Office of Public Affairs, Research Office, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (2) Bureau public information offices in the Bureau of Indian Affairs, the Bureau of Reclamation, the U.S. Geological Survey, the National Park Service, the U.S. Fish and Wildlife Service, and the Office of Surface Mining Reclamation and Enforcement (OSM). (See System Manager paragraph for addresses.)

Categories of individuals covered by the system: Officials of the Department of the Interior, including the Secretary, Assistant Secretaries, heads of Bureaus and Offices.

Categories of records in the system: The records are biographical news releases generally containing the individual's name, place and date of birth, education, military service, work experience, publications, membership in professional or scientific societies, maritial status plus occasional newspaper clippings about the individual and in some cases a photograph of the individual.

Authority for maintenance of the system: Statutes 5 U.S.C. Secs. 301, 3101, 43 U.S.C. Sec. 1467.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The primary use of the records is to maintain biographic information on key officials of the Department. Disclosures outside the Department of the Interior may be made (1) to the news media and the public for public information purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: —biographies are in press release form, maintained in file folders.

Retrievability: —alphabetized by name.

Safeguards: —maintained in a locked room.

Retention and disposal: —destroyed when obsolete.

System manager(s) and address: Unless othewise noted, the addresss for all system managers: U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240. (1) For the Office of Public Affairs: Director, Office of Public Affairs. (2) For the Bureau of Indian Affairs: Director, Public Information Staff, Bureau of Indian Affairs. (3) For the Bureau of Reclamation: Chief, Office of Public Affairs, Bureau of Reclamation. (4) For the Geological Survey: Information Officer, U.S. Geological Survey, the National Center, Reston, Virginia 22092. (5) For the National Park Service: Assistant to the Director, Office of Public Affairs, National Park Service. (6) For the Fish and Wildlife Service, Assistant Director—Public Affairs, U.S. Fish and Wildlife Service. For Office of Surface Mining Reclamation and Enforcement, Chief, Public Affairs Staff.

Notification procedure: Same as the above. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures: Same as the above. The request must be in writing, signed by the requester. See 43 CFR 2.63.

Contesting record procedures: A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories: Data furnished by the individual and newspaper clippings.

[FR Doc. 78-29210 Filed 10-18-78; 8:45 am]

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MONDAY, OCTOBER 23, 1978
PART V

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federal register

MONDAY, OCTOBER 23, 1978
PART V

INTERSTATE COMMERCE COMMISSION

AMENDED SYSTEM DIAGRAM MAPS

V 43 / 205 OCT 23 78

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[AB 6 (SDM)]

BURLINGTON NORTHERN, INC.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Burlington Northern, Inc., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 6 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on August 7, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting Docket No. AB 6 (SDM).

H. G. HOMME, JR.,
Acting Secretary.

BURLINGTON NORTHERN INC. AB-6

Category 1 (Unless Otherwise Noted)

BN Map No. 1

Line Segment No. 12—Moose Lake (MP 107.50) to Carlton MP 129.49), Carlton County, Minn.—Stations: Barnum—112.5; Mahtowa—118.5; Otter Creek—124.2.

BN Map No. 2

Line Segment No. 13—French (MP 56.5) to Breckenridge (MP 74.0), Ottertail and Wilkin Counties, Minn.—Stations: Foxhome—61.27; Everdell—66.0.

Line Segment No. 15—Fergus Falls W. Jct. (MP 0.00) to Pelican Rapids (MP 21.37), Ottertail County, Minn.—Stations: Erhard—15.4; Pelican Rapids—21.37.

Line Segment No. 16—Barnesville (MP 5.0) to Downer (MP 9.09), Clay County, Minn.—Stations: Downer—9.09.

Line Segment No. 19 is a Category 3 line pending before the Commission.

Line Segment No. 23—Joliette (MP 179.13) to Pembina (MP 191.71), Pembina County, N. Dak.—Stations: McArthur—82.5; Pembina—189.49.

Line Segment No. 71—Funkley (MP 126.28) to Kelliher (MP 136.70), Beltrami County, Minn.—Stations: Shooks—131.40; Kelliher—136.00.

BN Map No. 3

Line Segment No. 20 is a Category 3 line pending before the Commission.

Line Segment No. 22—York (Mp 0.00) to Dunseith (MP 41.8), Benson, Pierce and Rolette Counties, N. Dak.—Stations: Wolford—14.01; Rolette—27.76; Thorne—33.80; Dunseith—41.80.

Line Segment No. 24—Crete (MP 141.93) to Oakes (MP 148.18), Sargent and Dickey Counties, N. Dak.—Stations: None.

Line Segment No. 75—Hamar (MP 97 40) to Devils Lake (MP 125.01), Benson, Eddy and Ramsey Counties, N. Dak.—Stations: Warwick—79.6; Tokio—86.9; Fort Totten—96.1.

BN Map No. 4

All lines Category 5.

BN Map No. 5

Line Segment No. 73—Glasgow (MP 0.00) to Glasgow Air Base (MP 18.39), Valley County, Mont.—Stations: Glasgow Air Base—18.8.

Line Segment No. 74—Beach (MP 0.00) to Carlyle (MP 29.76), Golden Valley County, N. Dak., and Wibaux County, Mont.—Stations: Thelan, N. Dak.—8.4; Golya, N. Dak.—13.3; Carlyle, Mont.—20.8.

BN Map No. 6

Line Segment No. 28 (also shown BN MP 26) is a Category 3 line pending before the Commission.

Line Segment No. 29—Moccasin (MP 0.00) to Lewistown (MP 30.68), Judith Basin and Fergus Counties, Mont.—Stations: Kolin—7.32; Rossfork—14.1; Kingston—20.19; Spring Creek Jct.—21.38; Hanover—70.2; Lewistown Jct.—62.2; Lewistown—61.9.

Line Segment No. 31—Saco (MP 0.10) to Hogeland (MP 77.40), Phillips and Blaine Counties, Mont.—Stations: Hogeland Jct.—0.10; Cole—6.87; Tattnall—13.41; Whitewater—24.01; Loring—36.95; Chapman—52.26; Turner—65.27; Hogeland—77.40.

BN Map No. 7

All lines Category 5.

BN Map No. 8

Line Segment No. 30 is a Category 3 line pending before the Commission.

Line Segment No. 72—St. Regis (MP 0.00) to Haugan (MP 19.57), Mineral County, Mont.—Stations: Foraker—4.7; Drexel—8.7; Henderson—13.5; DeBorgia—15.6; Haugan—18.7.

BN Map No. 9

Line Segment No. 48—Palouse (MP 75.80) to Grinnell (MP 70.83), Whitman County, Wash.—Stations: Grinnell—70.81.

Line Segment No. 52—Mt. Hope (MP 25.17) to Spring Valley (MP 39.90), Spokane County, Wash.—Stations: West Fairfield—31.0; Waverly—34.1; Jefferson—36.55; Spring Valley—39.96.

Line Segment No. 53—Rosalia (MP 46.10) to Manning (MP 71.20), Whitman County, Wash.—Stations: Balder—50.6; Thorton—55.44; Cashup—59.65; Steptoe—64.65; Manning—71.12.

Line Segment No. 54—Spring Valley (MP 40.30) to Seabury (MP 47.75), Spokane and Whitman Counties, Wash.—Stations: Fairbanks—45.55; Seabury—47.75.

Line Segment No. 55—Palouse (MP 75.85), Whitman County, Wash., to Viola (MP 82.68), Latah County, Idaho—Stations: State Line—3.9; Viola—82.68.

BN Map No. 10

Line Segment Nos. 48, 53 and 55 are described with Map No. 9

BN Map No. 11

Line Segment No. 56—Aloha (MP 96.36) to Moclips (MP 100.70), Grays Harbor County, Wash.—Stations: Moclips—100.4.

Line Segment No. 57—Clear Lake (MP 85.79) to Sedro Woolley (MP 83.05), Skagit County, Wash.—Stations: Clear Lake—83.3.

BN Map No. 12

All lines Category 5.

BN Map No. 13

All lines Category 5.

BN Map No. 14

Line Segment No. 14—Elk River (MP 2.95) to Princeton (MP 18.79), Sherburne and Mille Lacs Counties, Minn.—Stations: Zimmerman—9.5; Princeton—18.8.

Line Segment No. 17—Starbuck (MP 67.00) to Villard (MP 51.61), Pope County, Minn.—Stations: Villard—52.0; Glenwood—58.91.

Line Segment No. 18—White Bear Lake (MP 0.00) to Duluth Jct. (MP 6.38), Ramsey and Washington Counties, Minn.—Stations: Mahtomedi—3.54.

BN Map No. 15

Line Segment No. 17—Starbuck to Villard—Also shown on BN Map No. 14.

Line Segment No. 21—Oakes (MP 149.5) to Forbes (MP 62.97), Dickey County, N.Dak.—Stations: Guelph—34.66; Ellendale—49.17; Forbes—62.51—Including trackage rights.

Line Segment No. 26—Sioux Falls (MP 2.8) to Hayti (MP 85.26), Minnehaha, Lake, Brookings, Kingsbury and Hamlin Counties, S.Dak.—Stations: Crooks—9.15; Lyons—14.8; Colton—20.61; Chester—28.19; Wentworth—35.80; Rutland—42.1; Nunda—47.79; Sinai—53.80; Arlington—63.47; Badger—73.03; Lake Norden—79.67; Hayti—85.26.

Line Segment No. 27—Sioux Falls (MP 150.68) to Yankton (MP 208.80), Minnehaha, Lincoln, Turner and Yankton Counties, S.Dak.—Stations: Tea—156.55; Lennox—163.32; Davis—171.95; Viborg—179.35; Irene—186.74; Volin—196.96; Mission Hill—201.7; Yankton—208.39—Including trackage rights.

BN Map No. 16

All lines Category 5.

BN Map No. 17

Line Segment No. 2—Aledo to Joy (MP 39.40) to Joy (MP 45.18), Mercer County, Ill.—Stations: Joy—44.54.

Line Segment No. 3—Bushnell (MP 161.10) to Roseville (MP 176.97), McDonough and Warren Counties, Ill.—Stations: Walnut Grove—165.9; Swan Creek—172.1; Roseville—176.85.

Line Segment No. 5—Bradford (MP 10.00) to Buda (MP 0.32), Stark and Bureau Counties, Ill.—Stations: Lombardville—7.1; Burnett—3.2; Buda—0.00.

Line Segment No. 7—Earlville (MP 8.55) to Baker (MP 13.72), LaSalle County, Ill.—Stations: Baker—13.72.

Line Segment No. 10—Alpha (MP 18.52) to Woodhull (MP 14.36), Henry County, Ill.—Stations: Woodhull—14.62.

BN Map No. 18

Line Segment No. 4 is a Cagetory 3 line pending before the Commission.

Line Segment No. 6—Vermont (MP 140.13) to Astoria (MP 133.02), Fulton County, Ill.—Stations: Astoria Branch Jct.—140.13; Amax Coal Co., Sun Spot Mine—139.5; Astoria—133.4.

Line Segment No. 11—E. Alton (MP 26.63) to Whitehall (MP 72.37), Greene, Macoupin, Madison and Jersey Counties, Ill.—Stations: Wrights—65.45; Greenfield—60.64; Rockbridge—55.53; Medora—47.95; Piasa—43.6; Brighton—38.49; Alton Hospital—28.28.

Line Segment No. 46—Old Monroe (MP 52.35) to Mexico (MP 114.17), Lincoln, Warren, Montgomery and Audrain Counties, Mo.—Stations: Ethlyn—56.25; Moscow—61.3; South Troy—65.5; Hawk Point—72.9; Bellflower—85.25; Buell—90.6; Wellsville-98.2; Haig—109.6; Francis—114.6; Mexico via trackage rights.

BN Map No. 19

Line Segment No. 2—Aledo to Joy—See BN Map No. 17.

Line Segment No. 9—Quincy (MP 70.30) to Mendon (MP 55.77), Adams County, Ill.—Stations: Rock Creek—64.1; Ursa—61.2; Mendon-56.1.

Line Segment No. 40—Burlington (MP 0.00) to Washington (MP 52.64), Des Moines, Henry, Louisa and Washington Counties, Iowa—Stations: Sperry—11.6 (CRI&P); Roscoe—20.55; Yarmouth—24.93; Mt. Union—28.35; Winfield—33.97; Wyman—36.6; Crawfordsville—42.43; Washington—52.50—Including trackage rights.

Line Segment No. 43—St. Joseph (MP 142.19) to Humeston (MP 16.65), including Giles to Mt. Lamoni, in Buchanan, Andrew, DeKalb, Gentry, and Harrison Counties, Mo., and Decatur and Wayne Counties, Iowa—Stations: End of Line—143.56; Helena—125.7; Union Star—119.66; King City—112.68; Darlington—99.16; Albany Junction—96.88; Albany—94.88; New Hampton—86.75; Bethany—77.85; Ridgeway—67.5; Blythedale—60.6; State Line—52.5; Giles—49.31; Davis City—44.48; Leon—36.97; Garden Grove—23.68; Huxeston—16.92; Lamoni—approximately 2 miles west of Giles.

Line Segment No. 44—West Quincy (MP 1.99) to Kirksville (MP 70.68), Marion, Lewis, Knox, and Adair Counties, Mo.—Stations: Taylor—6.55; Maywood—10.8; Ewing—18.12; Lewistown—26.05; LaBelle—31.8; Knox—37.2; Edina—46.6; Hurdland—53.4; Brashear—57.55; Kirksville Ag. Center—67.7; Kirksville—69.3.

Line Segment No. 45—Alexandria (MP 5.23), Clark, Scotland and Schulyer Counties, Mo., to Centerville (MP 91.53), Appanoose County, Iowa—Stations: Wayland—12.4; Kahoka—20.0; Medill—23.3; Granger—34.2; Arbela—36.6; Memphis—45.1; Downing—56.35; Lancaster—65.75; Glenwood Jct.—69.0; State Line—74.85; Centerville—89.6.

Line Segment No. 47—Laclede (MP 181.73) to Unionville (MP 128.41), Linn, Sullivan and Putnam Counties, Mo.—Stations: Linneus—174.6; Purdin—169.25; Browning—162.43; Milan—149.95; Unionville—128.3.

BN Map No. 20

Line Segment No. 33—Cooper Spur (MP 26.5) to Shubert (MP 11.23), Nemaha and Richardson Counties, Nebr.—Stations: Nemaha—28.45; Shubert—11.49.

Line Segment No. 34—Ashland (MP 0.00) to Prague (MP 31.42), Saunders County, Nebr.—Stations: Memphis—6.04; Ithaca—13.14; Wahoo—18.91; Malmo—25.58; Prague—31.40.

Line Segment No. 36—Villisca (MP 52.43) to Clarinda (MP 67.67), Page and Montgomery Counties, Iowa—Stations: Hepburn—60.45; Clarinda—52.82.

Line Segment No. 37—Creston (MP 0.53), Adams, Union, and Taylor Counties, Iowa, to Maryville (MP 59.80), Nodaway County, Mo.—Stations: Kent—9.33; Lenox—17.27; Merle—24.78; Conway—27.63; Bedford—35.20; Hopkins—45.05; Pickering—52.17; Maryville—59.50.

Line Segment No. 38—Hastings (MP 0.17) to Randolph (MP 11.61), Mills and Fremont Counties, Iowa—Stations: Clark—5.83; Randolph—11.45.

Line Segment No. 39—Merle (MP 196.13) to Clearfield (MP 189.42), Taylor County, Iowa—Stations: Clearfield—189.70.

Line Segment No. 41—Albany Jct. (MP 65.75) to Grant City (MP 45.66), Gentry and Worth Counties, Mo.—Stations: Gentry—57.45; Worth—52.2; Grant City—45.65.

Line Segment No. 42—Birmingham (MP 216.18) to Kearney (MP 199.07), Clay County, Mo.—Stations: Liberty—210.5; Kearney—200.3.

Line Segment No. 43—St. Joseph to Humeston—See BN Map No. 19.

BN Map No. 21

Line Segment No. 27—Sioux Falls to Yankton—See BN Map No. 15.

Line Segment No. 32—Edgar (MP 26.44) to Nelson (MP 14.01), Clay and Nuckolls Counties, Nebr.—Stations: Nelson—14.01.

Line Segment Nos. 33, 34, and 38—See BN Map No. 20.

BN Map Nos. 22, 23, and 24

All lines Catetory 5.

BN Map No. 25

Line Segment No. 25—Hill City (MP 0.00) to Keystone (MP 8.85), Pennington County, S. Dak.—Stations: Oblivion—4.24; Keystone—8.85.

BN Map No. 26

Line Segment No. 28—Silesia to Red Lodge—See BN Map No. 6.

BN Map No. 27

All lines Category 5.

Category 3 Lines

AB-6 (Sub-48F)—Jamestown—Klose, N. Dak. 5.92 miles, MP 39.67—33.75, Stutsman County. Line Segment 20—BN Map No. 3.

AB-6 (Sub-49F)—Battle Lake—Henning, Minn. 15.11 miles, MP 31.42—15.89, Otter Tail County. Line Segment 19—BN Map No. 2.

AB-6 (Sub-51F)—Haugan, Montana—Wallace, Idaho. 39.04 miles, MP 19.57—58.61, Mineral County, Mont., and Shoshone County, Idaho. Line Segment 30—BN Map No. 8.

AB-6 (Sub-52F)—Silesia—Red Lodge, Mont. 34.52 miles, MP 9.65—44.17, Carbon County. Line Segment 28—BN Map No. 6.

AB-6 (Sub-53F)—Vermont—Rushville, Ill. 15.09 miles, MP 94.60—109.69, Schuyler and Fulton Counties. Line Segment 4—BN Map No. 18.

AB-6 (Sub-2F)—Camp Clatsop—Seaside, Oreg. 10.5 miles, MP 108.59—119.09, Clatsop County. Line Segment 58—BN Map No. 12.

[FR Doc. 78-29809 Filed 10-20-78; 8:45 am]

[7035-01-C]

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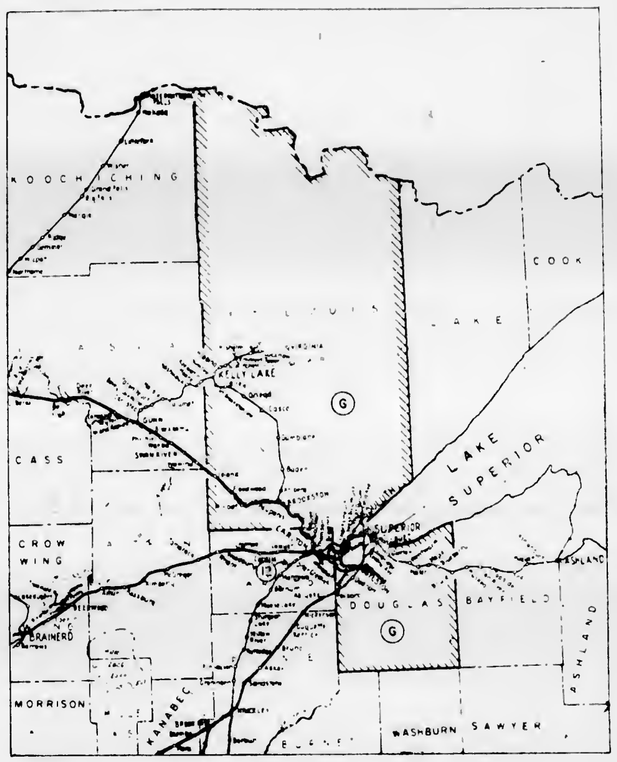

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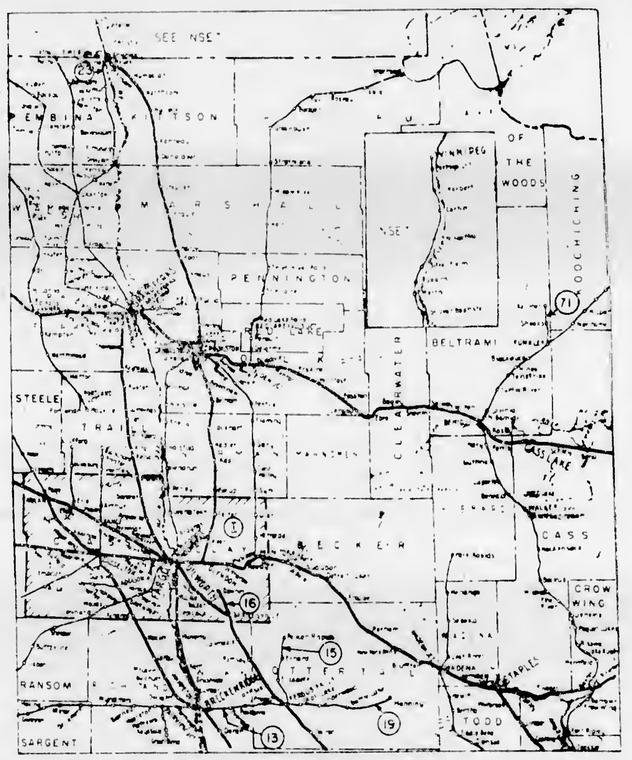

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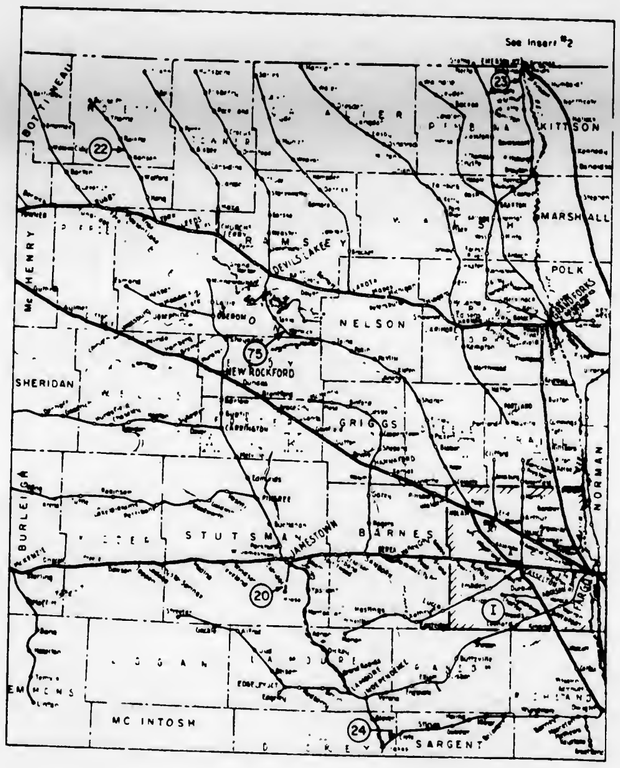

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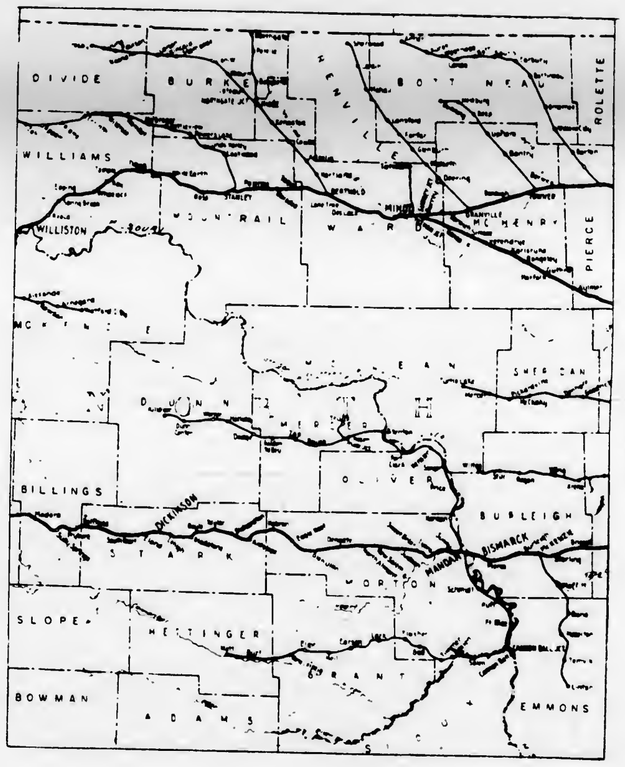

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B.N. MAP No. (5)

B.N. MAP No. (8)

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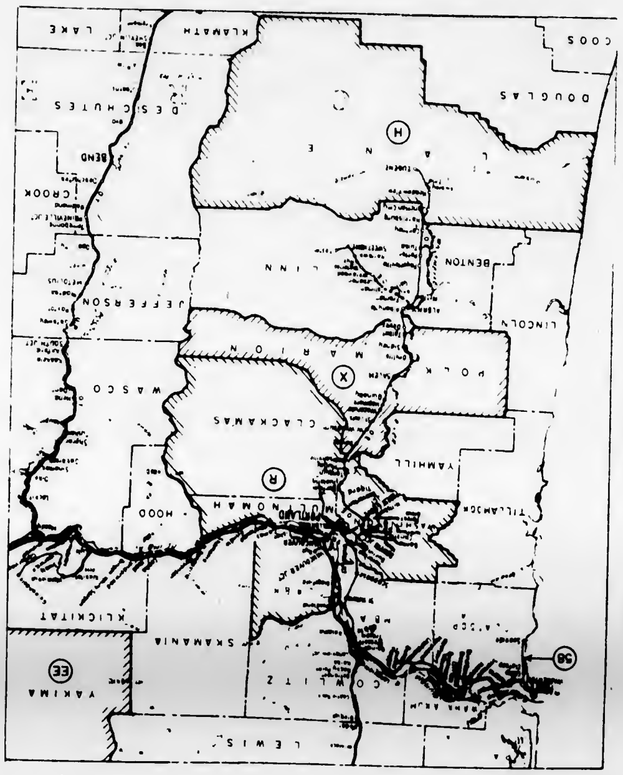

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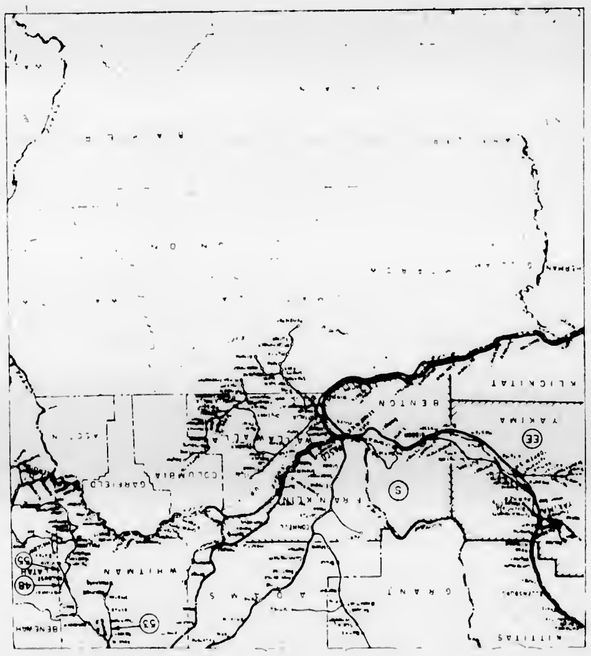

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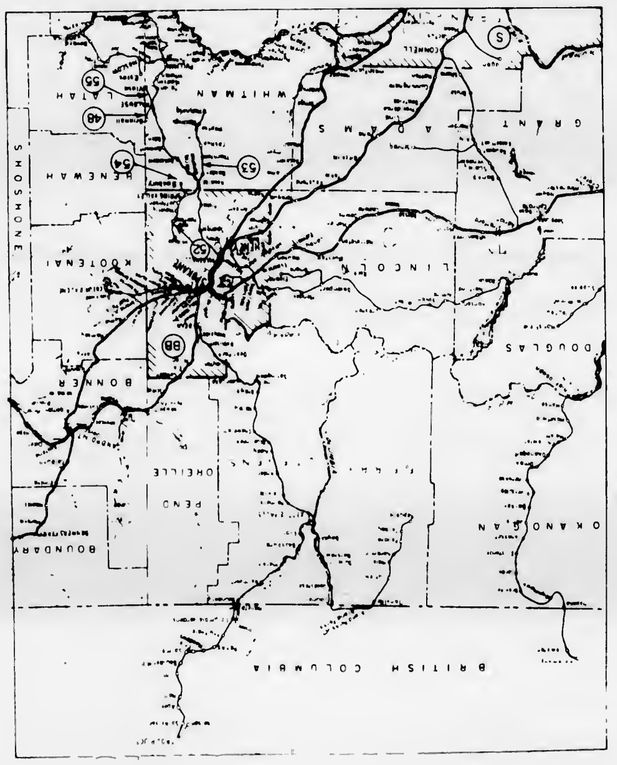

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B.N. MAP No. (16)

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S.N. MAP No. (14)

B.N. MAP No. (13)

B.N. MAP No. (16)

B.N. MAP No. (15)

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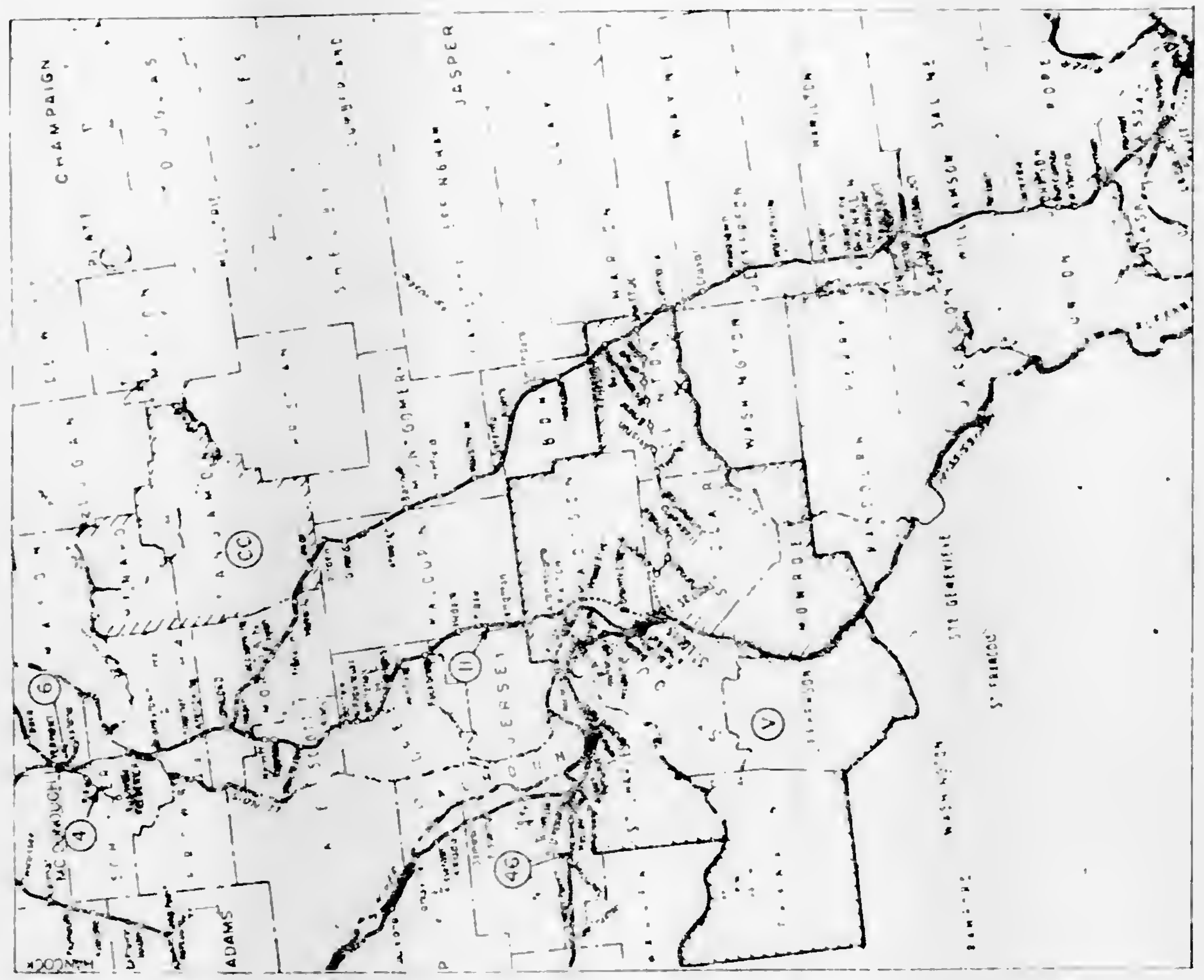

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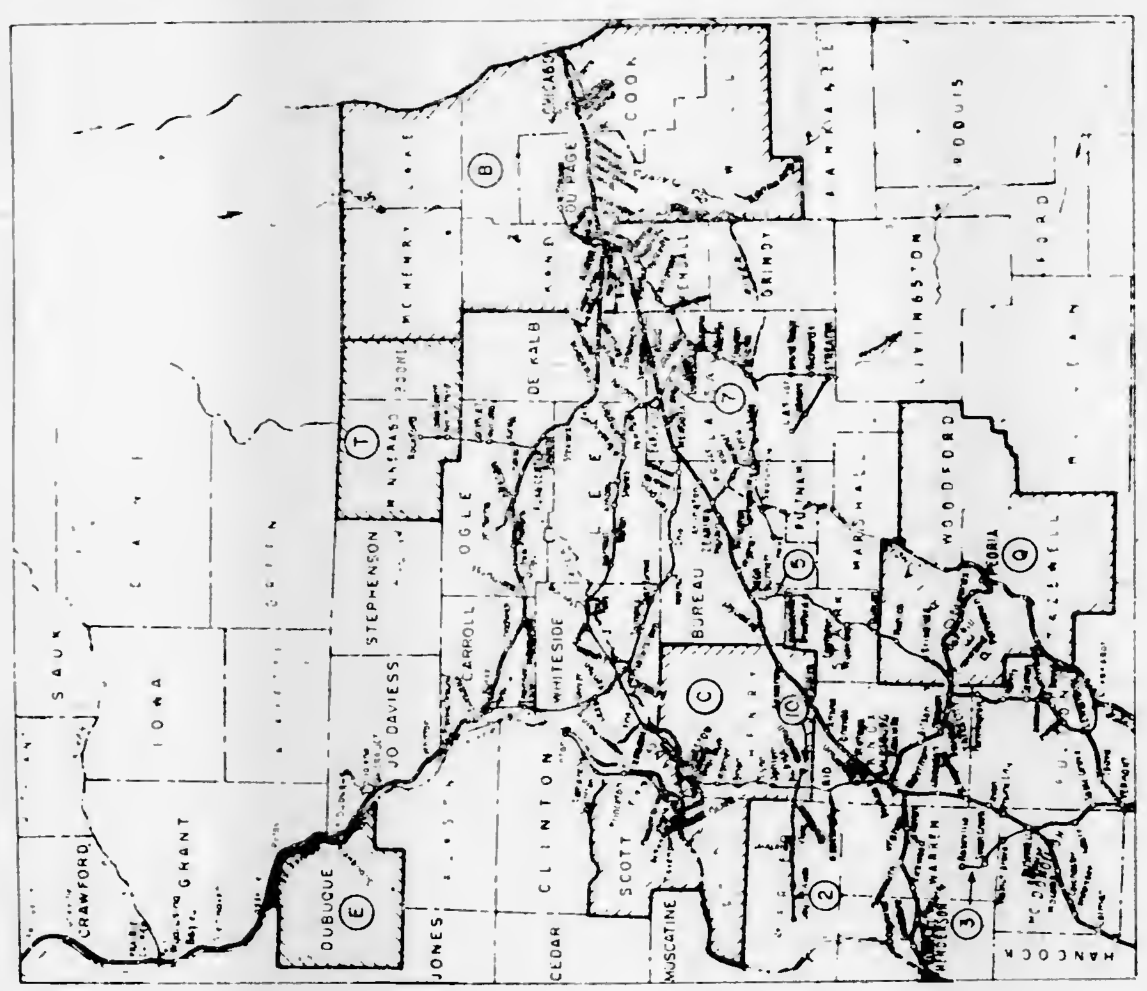

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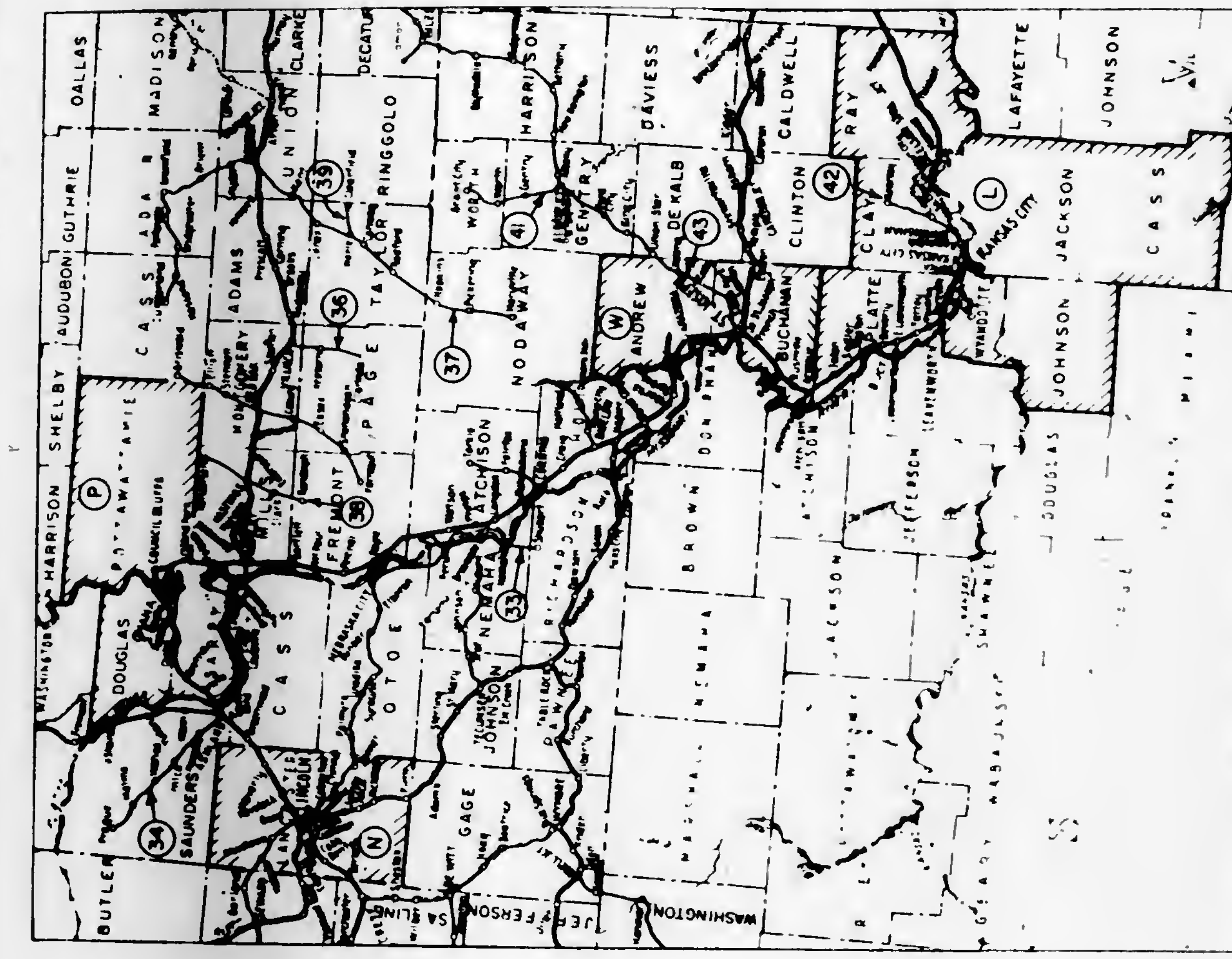

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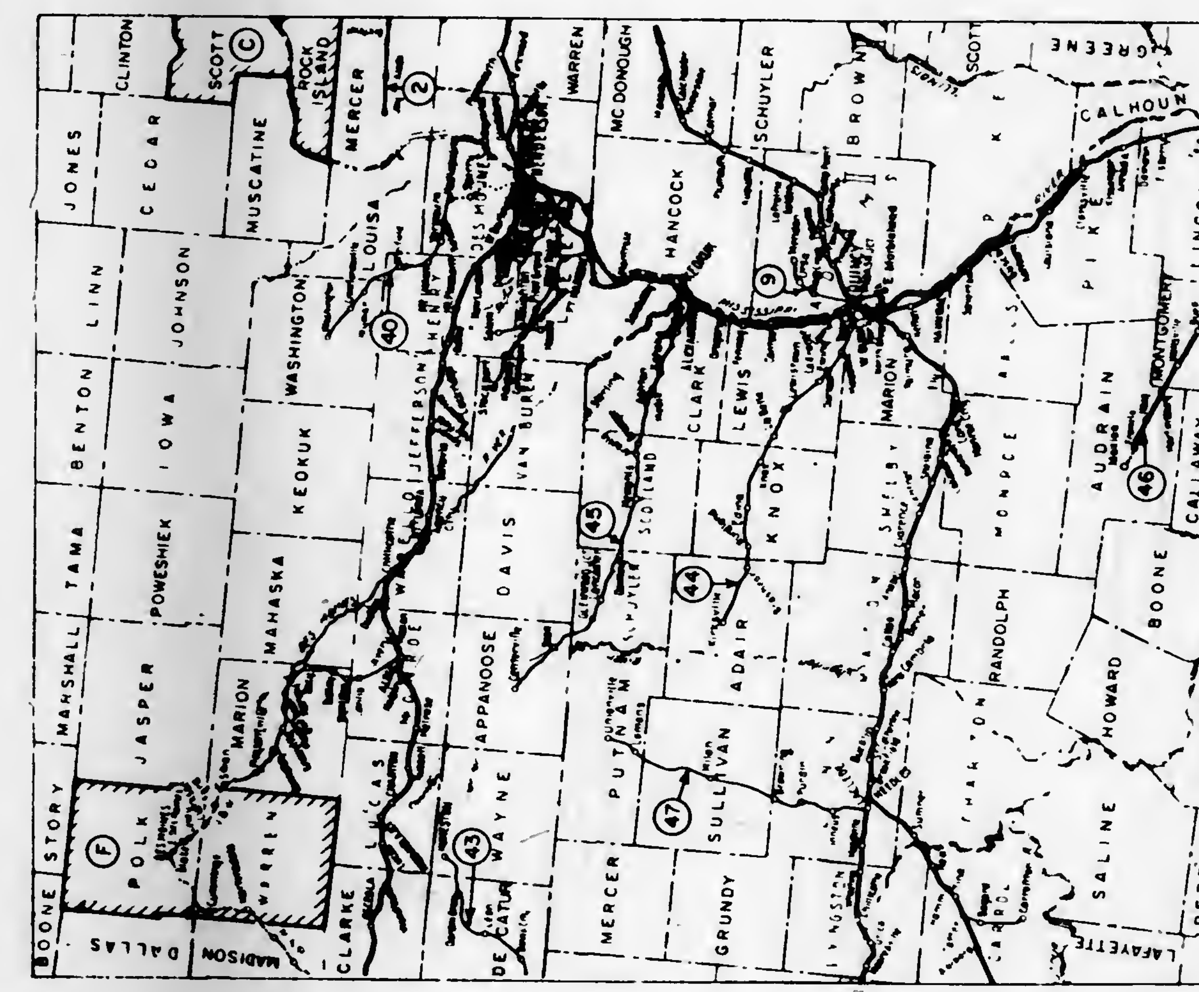

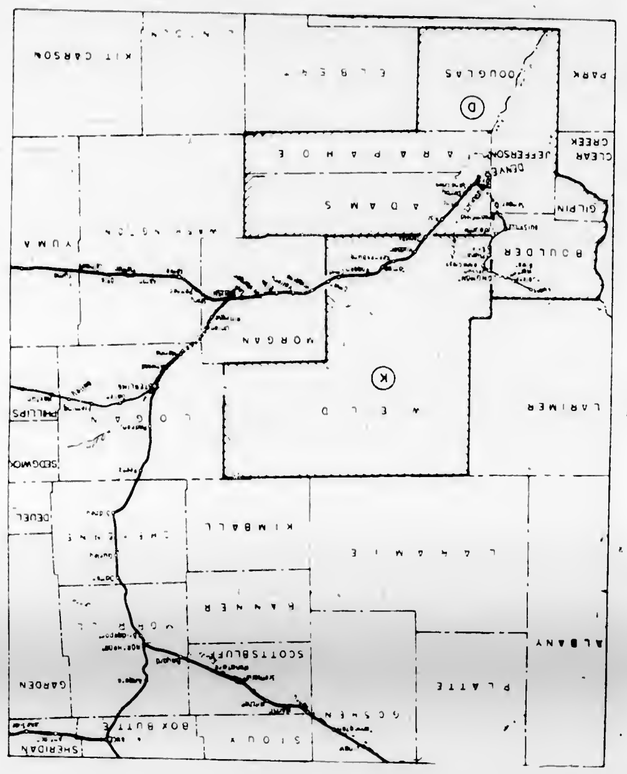

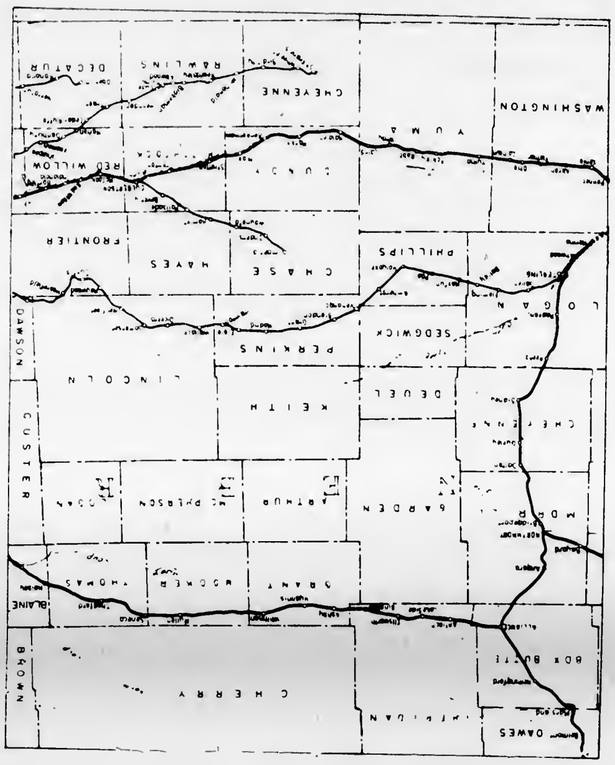

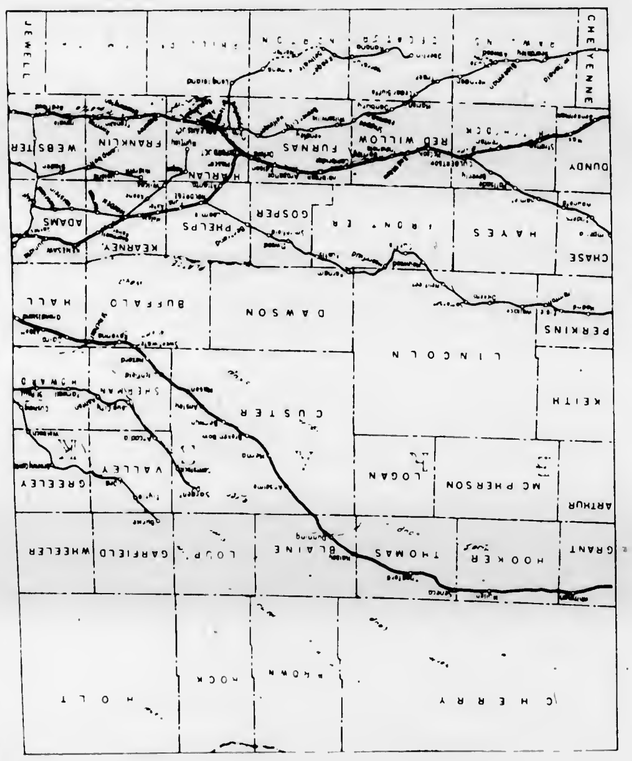

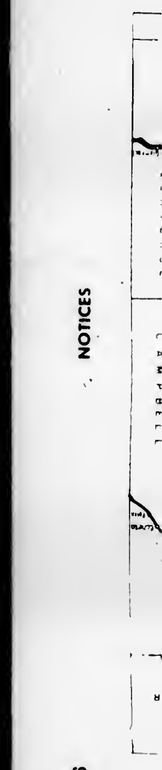

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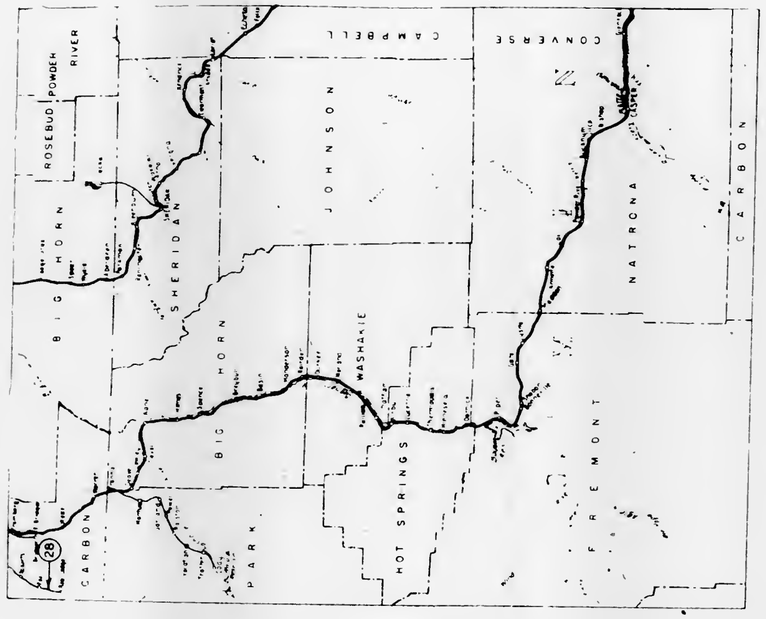

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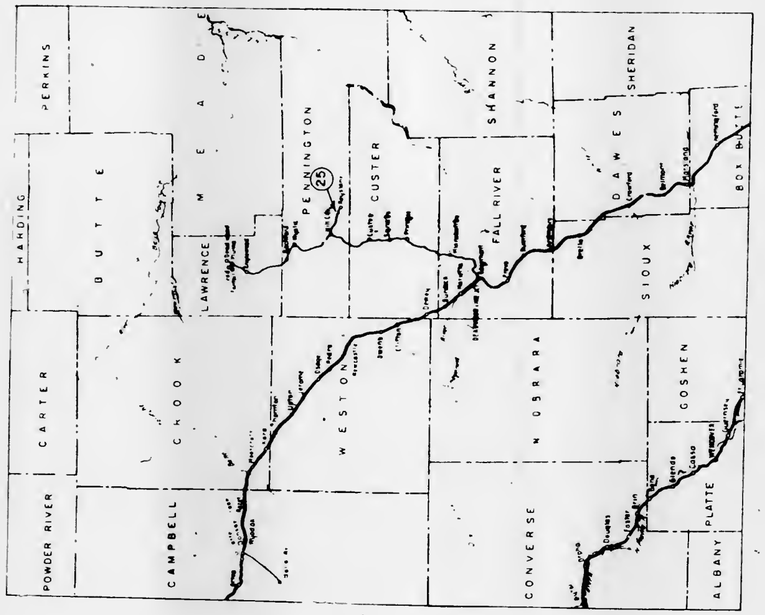

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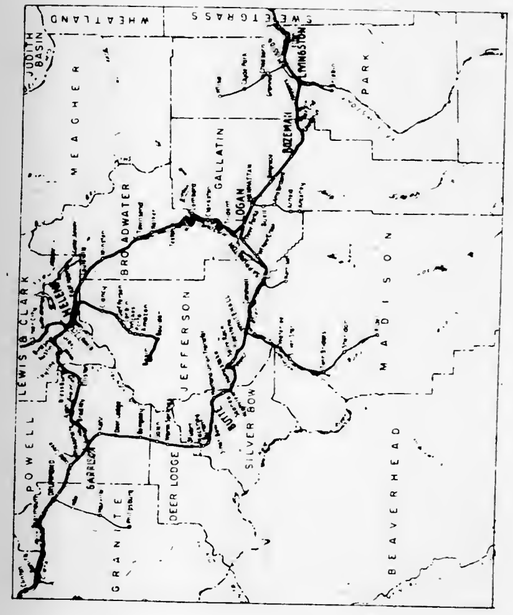

[7035-01-M]

cate of publication as required by said regulation which is considered the ef-

[7035-01-C]

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[7035-01-M]

[AB 102 (SDM)]

MISSOURI-KANSAS-TEXAS RAILROAD CO.

Amended System Diagram Map

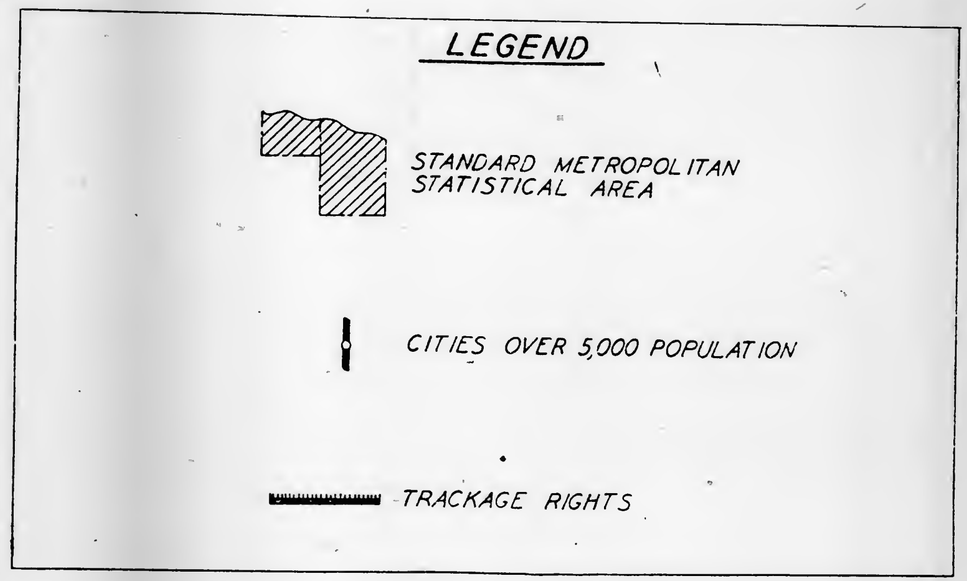
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Missouri-Kansas-Texas Railroad Co., has filed with the Commission its amended color-coded system diagram map in docket No. AB 102 (SDM). The maps reproduced here in black and white are reproductions of that system diagram map and the Commission on September 25, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

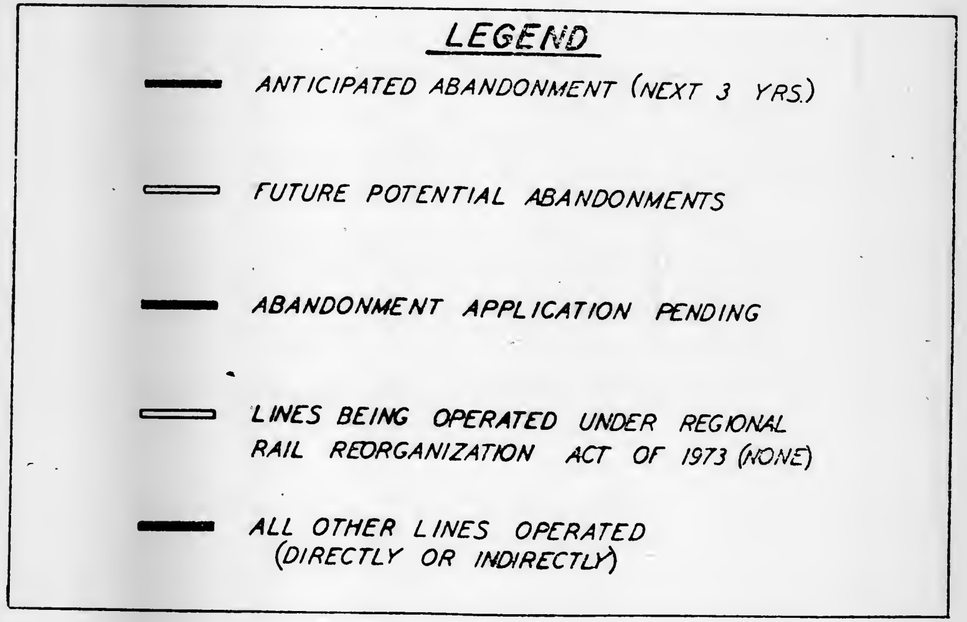
Color-coded copies of the map have been served on the Governor of each State in which the railroad operates and Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 102 (SDM).

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-29810 Filed 10-20-78; 8:45 am]

[7035-01-C]





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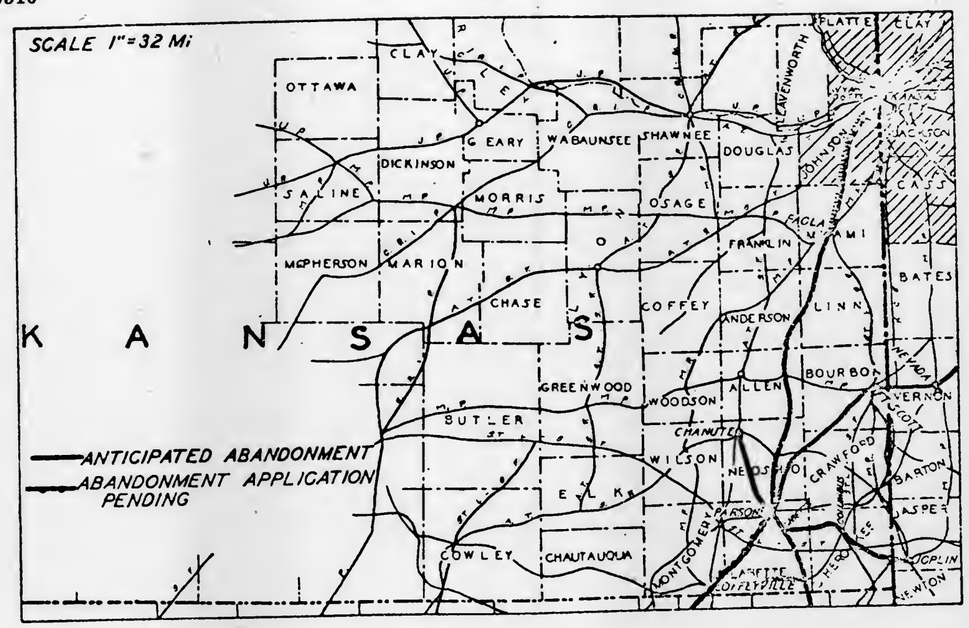


LINE DESCRIPTION

(a) Portion of Joplin Subdivision.

(b) State of Kansas.

(c) Counties of Labette and Cherokee.

(d) MP S-394.4 at Labette, Kansas, to MP S-419.1 at Columbus, Kansas.

(e) None.

[7035-01-M]

[AB 202 (SDM)]

MONTPELIER & BARRE RAILROAD CO.

System Diagram Map

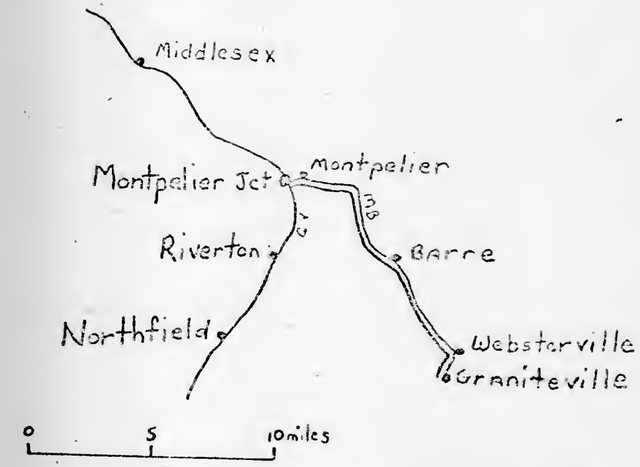
Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.22, that the Montpelier & Barre Railroad Co., has filed with the Commission its color-coded system diagram map in docket No. AB 202 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system diagram map and the Commission on August 21, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 202 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

Montpelier and Barre Railroad Company

System Diagram Map
(All lines shown are in Washington County, Vermont)



Entire system of Montpelier and Barre Railroad Company is in Category 1. Carrier anticipates entire system will be the subject of an abandonment application.

Central Vermont Railway Inc.

MONTPELIER & BARRE RAILROAD CO.

Description of lines to accompany the System Diagram Map.

Each carrier shall list and describe, separately by category and within each category by State, all lines or portions of lines indentified on its system diagram map as falling within categories 1 through 3 (§ 1121.20(b) (1) thru (3)) as follows:

(a) Carrier's designation for each line—Entire line or entire system;

(b) State or States in which each line is located—Vermont;

(c) County or counties in which each line is located—Washington;

(d) Mileposts delineating each line or portion of line—no mile posts; and

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(e) Agency or terminal stations located on each line or portion of line with milepost designations—Barre is the only agency station. The terminal stations are Graniteville and Montpelier Junction.

[FR Doc. 78-29811; Filed 10-20-78; 8:45 am]

[7035-01-M]

[AB 84 (SDM)]

ILLINOIS TERMINAL RAILROAD CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, § 1121.23, that the Illinois Terminal Railroad Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 84 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on September 1, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 84 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

ILLINOIS TERMINAL RAILROAD CO.

[AB Number 84]

DESCRIPTION OF LINES

STATE OF ILLINOIS

Category: All lines or portions of lines which the Carrier anticpates will be the subject of an abandonment or discontinuance application to be filed within the three year period following the date upon which the diagram is filed with the Interstate Commerce Commission.

I. (a) O'Fallon Branch.
(b) State of Illinois.
(c) Madison County, Illinois; St. Clair County, Illinois.
(d) Milepost 20.3 to Milepost 30.6.
(e) Agency Station—Troy Junction, Illinois Milepost 20; Agency Station—O'Fallon, Illinois Milepost 30.

II. (a) Forsyth Branch.
(b) State of Illinois.
(c) Macon County, Illinois.
(d) Milepost 2.5 to Milepost 7.0.
(e) Agency Station—Forsyth, Illinois Milepost 7.

III. (a) Lincoln to East Peoria Line.
(b) State of Illinois.
(c) Logan County, Illinois; Tazewell County, Illinois.
(d) Milepost 128.4 to Milepost 155.9.
(e) Terminal Station—Allentown, Illinois Milepost 156; Agency Station—Lincoln, Illinois Milepost 128; Agency Station—Union, Illinois Milespost 137; Agency Station—Mindale, Illinois Milepost 147.

IV. (a) Mont to Springfield.
(b) State of Illinois.
(c) Madison County, Illinois; Macoupin County, Illinois; Montgomery County, Illinois, Sangamon County, Illinois.
(d) Milepost 194.8 to Milepost 272.9.
(e) Agency Station—Mont, Illinois Milepost 18.2.

V. (a) Mount Pulaski to Lincoln.
(b) State of Illinois.
(c) Logan County, Illinois.
(d) Milepost 44.1 to Milepost 55.4.
(e) Agency Station—Lincoln, Illinois—Milepost 128.

[FR Doc. 78-29812 Filed 10-20-78; 8:45 am]

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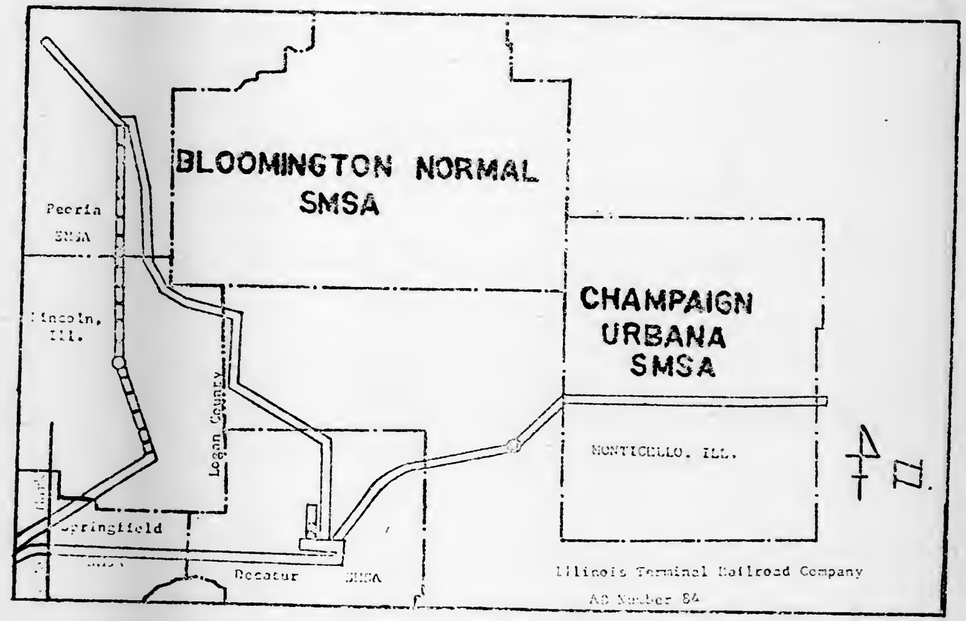

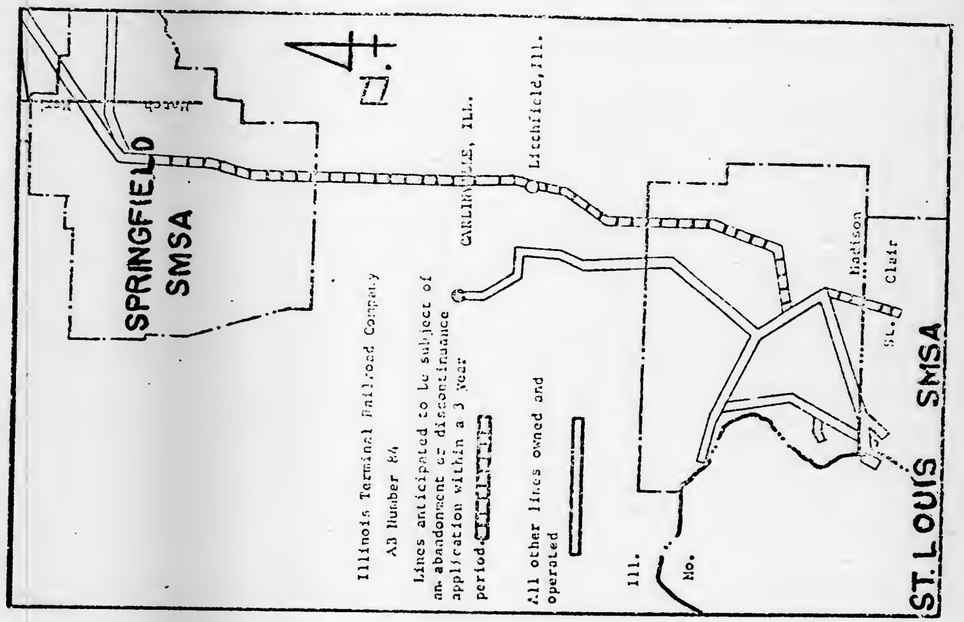

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federal register

MONDAY, OCTOBER 23, 1978
PART VI

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DEPARTMENT OF ENERGY

Office of the Secretary

■

NATIONAL ENERGY TRANSPORTATION STUDY

Additional Public Meeting

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[3128-01-M]

[4910-62-M]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST File No. 61; Notice 78-13]

DEPARTMENT OF ENERGY

Office of the Secretary

NATIONAL ENERGY TRANSPORTATION STUDY

Announcement of Additional Public Meeting

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Announcement of public meeting.

SUMMARY: In conjunction with the President's national energy plan, DOT and DOE are conducting a joint study to determine if the Nation's transportation system is adequate to meet the future energy demands of the United States. The scheduling of three public meetings was announced previously in the FEDERAL REGISTER. A fourth meeting has now been scheduled in Boston in order to receive oral presentation of information and comment from interested individuals and groups concerning the issues involved and regional and local impacts of anticipated changes in the energy transportation system.

ADDRESS: Address requests to speak to: National Energy Transportation Study Public Hearings, Office of Intermodal Transportation, P-10, Room 9217, Department of Transportation, Washington, D.C. 20590.

DATES: Meeting date: 10 a.m. e.s.t., Monday, November 13, 1978, State House (Gardner Auditorium), Beacon and Bowdoin Streets, Boston, Mass.

FOR FURTHER INFORMATION CONTACT:

Nancy MacRae, staff member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT 202-426-4203, or Diana Diamond, Office of Policy and Evaluation, DOE, 202-566-9037.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

By 1985 and beyond it appears likely that the Nation will experience numerous changes in the historical patterns of energy supply and demand which in turn will require changes in the way energy is transported. The changing energy patterns include dwindling domestic oil and natural gas production, regional shifts in supply and demand, and shifts in national and regional fuel use, including new energy sources. The Nation's transportation system established during the last 50 years must adjust to accommodate new markets and new energy sources. These adjustments may have broad social, economic, and environmental impacts.

The joint DOT-DOE study team will look at important aspects of the movement of coal, crude oil and petroleum products, natural gas, nuclear fuel, and electrical power to 1985 and beyond. This will be done to determine what adjustments are needed in the present transportation network. While the major emphasis of the study is the transportation needs to 1985, the study team will also look at 1990 and 2000.

The final report is expected to identify constraints on the efficient transportation of energy and to recommend any Federal actions that may be necessary.

II. SCOPE OF STUDY

The study is intended to be an overview of energy transportation needs, based on various scenarios of energy use in 1985 and beyond, and of the adaptation that will be necessary in present energy production and transportation patterns. This will be done by computer-based analysis of transportation network flows by mode of various energy materials. These include crude oil, syncrude, petroleum products, natural gas, electricity transmission, and nuclear materials. The modes included in the network are pipelines, inland and intracoastal waterways, highway, railroads, and tankers; terminals and ports are also included. The study will attempt to identify future shortfalls in transportation capacity, recognizing the limitations of this type of analysis.

In addition, major issues affecting efficient energy distribution will be considered. Examples are: the ability of railroads to invest for required capacity; impact of unit trains on rail/highway crossings; capacity and investment requirements of water transportation; coal slurry pipelines (constraints and competition); highway requirements for coal movement; oil distribution, natural gas distribution (including LNG and LPG); electric power transmission; safety requirements for the movement of nuclear waste; new fuel sources; and major regional shifts. The study team will review alternatives for action and conclude with recommendations for Federal action, if appropriate.

III. TOPICS FOR PUBLIC MEETING

DOT and DOE are interested in receiving information on constraints which would affect the ability and capacity of the transportation system to carry future energy commodities. These potential constraints can be divided into four categories:

- *Financial*, such as investment requirements to handle increased capacity (terminals, locks, highways, port facilities);
- *Technological*, such as future availability of advanced techniques for transporting energy materials;
- *Environmental/social*, such as impacts of increased coal unit train movement, long-range health effects of high-voltage electrical transmission, impacts of coal slurry pipelines, and disposal of scrubber sludge;
- *Institutional*, for example, constraints of economic regulation and the need for safeguards to the movement of potentially hazardous materials such as liquefied natural gas (LNG), liquefied petroleum gas (LPG), or spent nuclear fuel.

Interested persons are invited to make oral presentations on these four or any related topics. DOT and DOE are particularly interested to learn about regional or local constraints or problems which might otherwise be overlooked.

IV. MEETING PROCEDURES

1. *Request procedure.* A public meeting to receive oral presentation of data, views, and arguments from interested persons will be held at the time and place indicated earlier in this notice. Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class or persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Office of Intermodal Transportation, P-10, Room 9217, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Requests must be received before 4:30 p.m. e.s.t. on November 3, 1978. A request should be labeled, both on the document and on the envelope, "National Energy Transportation Study Public Hearings."

The persons making the request should be prepared to describe the interest concerned, to state why he or she is a proper representative of a group or class of persons which has such an interest, and to give a concise summary of the proposed statement and a telephone number where he or she may be reached through November 9, 1978.

Each person selected to be heard will be notified by DOT before 4:30 p.m., November 8, 1978, and must submit 10 copies of his or her statement to the registration desk at the meeting.

2. *Conduct of meeting.* DOT and DOE reserve the right to select the persons to be heard at the meeting, to schedule their respective presentations, and to establish the procedures governing the conduct of the meeting. The time allotted to each presentation may be limited, depending on the number of persons requesting to be heard. Each person testifying should be prepared to submit his or her statement and attachments for the record and to make a summary oral presentation. DOT and DOE officials will preside at the meeting. This will not be a judicial or evidentiary-type meeting. Questions may be asked only by those conducting the meeting.

If time permits at the end of the meeting, any person who makes an oral statement may ask a question of any other person making a statement, but questions must be submitted in writing to the presiding officer, who determines whether the question is relevant and whether time limits permit it to be presented for answer. Any further procedural rules needed for the proper conduct of this meeting are announced by the presiding officer.

A transcript of the meeting will be made and the entire record of the meeting, including the transcript, will be retained by DOT and DOE and made available for inspection in the DOE Freedom of Information Offices, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday; and the DOT/DOE Open File in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Nassif (DOT Headquarters) Building, Washington, D.C., between 9 a.m. and 5:30 p.m. local time, Monday through Friday except holidays.

Issued in Washington, D.C., on October 17, 1978.

RAYMOND A. YOUNG III,
Acting Chairman, NETS, Acting Assistant Secretary for Policy and International Affairs, Department of Transportation.

ALVIN L. ALM,
Vice Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 78-29847 Filed 10-20-78; 8:45 am]

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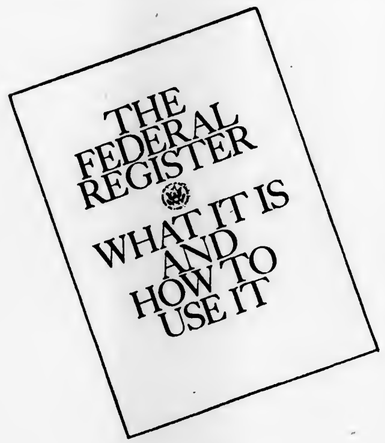

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: October 23, 1978]

S. 3486 ..... Pub. Law 95-485
Department of Defense Appropriation Authorization Act, 1979. (Oct. 20, 1978; 92 Stat. 1611) Price: $1.00

H.R. 7843 ..... Pub. Law 95-486
To provide for the appointment of additional district and circuit judges, and for other purposes. (Oct. 20, 1978; 92 Stat. 1629) Price $.70

H.R. 14026 ..... Pub. Law 95-487
To provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the Village of Kake, Alaska, and for other purposes. (Oct. 20, 1978; 92 Stat. 1635) Price $.60

H.R. 13167 ..... Pub. Law 95-488
To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes. (Oct. 20, 1978; 92 Stat. 1637) Price: $.60

H.R. 13803 ..... Pub. Law 95-489
To terminate the authorization of the navigation project on the Columbia Slough, Oregon. (Oct. 20, 1978; 92 Stat. 1639) Price: $.60

S. 1318 ..... Pub. Law 95-490
To permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose. (Oct. 20, 1978; 92 Stat. 1640) Price $.60

S. 3259 ..... Pub. Law 95-491
Federal Information Centers Act. (Oct. 20, 1978; 92 Stat. 1641) Price: $.60

S. 3373 ..... Pub. Law 95-492
To amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes. (Oct. 20, 1978; 92 Stat. 1642) Price: $.60

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[3195-01-M]

Title 3—The President

PROCLAMATION 4606

National Family Week, 1978

By the President of the United States of America

A Proclamation

Families differ, but the values of family life are unchanging—warmth, love, compassion, support, and understanding. Families are the building blocks of civilization. Our social and individual achievements, be they great or small, can generally be traced to early family influences. Family values are our most fundamental and lasting heritage.

Changing social patterns have threatened family stability. In today's increasingly complex world it is important to maintain the values and continuity of family life. All families are important, but the extended family, the foster family and the adoptive family play a special role by relieving the isolation of those who lack the comfort of a loving nuclear family.

Thus, National Family Week offers the opportunity to pay special tribute to those who open their homes and provide the warmth of family life to those who would otherwise be alone. We salute all families as we focus attention this week on opportunities to restore their strength and help them meet the challenges of contemporary society.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with a joint resolution of Congress, do hereby proclaim the week of November 19, 1978, as National Family Week and call upon the American people to observe this week with appropriate thoughts and actions in their houses and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-30207 Filed 10-23-78; 10:29 am]

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[3195-01-M]

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[3195-01-M]

PROCLAMATION 4607

Thanksgiving Day, 1978

By the President of the United States of America

A Proclamation

Since 1621, the people of this country have gathered each year to celebrate with a feast their good fortune in their continuing ability to provide for families and friends.

On this Thanksgiving Day, we reaffirm our faith in our heritage of freedom, and our spirit of sharing.

In the spirit of Thanksgiving, Americans humbly recognize how fortunate we are to be strong—as individuals, and as a nation. It is that strength which allows us to display compassion for those around the world who face difficulties that our forefathers, blessed with the American land, were able to overcome.

While Providence has provided Americans with fertile land and bountiful harvests, other nations and peoples have not been so favored. Each year growing food supplies give us greater cause for giving thanks, yet one person in six worldwide still suffers from chronic hunger and malnutrition.

Two hundred years ago the Continental Congress proclaimed a day of thanks, and asked for deliverance from war. This year, let us observe Thanksgiving in the spirit of peace and sharing, by declaring it a day of Thankful Giving, a day upon which the American people share their plenty with the hungry of other lands.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with Section 6103 of Title 5 of the United States Code, do proclaim Thursday, the 23rd of November, 1978, as Thanksgiving Day.

I call upon the Governors, Mayors, and all other State and local officials to broaden the observance of Thanksgiving to include the practice of Thankful Giving in their celebration, inviting Americans to share with those abroad who suffer from hunger.

I call upon the American people to make personal donations to religious or secular charities to combat chronic hunger and malnutrition, and to support the concept of Thankful Giving in order that we may one day assure that no individual anywhere will suffer from hunger, and that we may move to a day of universal celebration in a more perfect community within our nation and around the world.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

Jimmy Carter

[FR Doc. 78-30208 Filed 10-23-78; 10:30 am]

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[3195-01-M]

Memorandum of October 20, 1978

Determination Under Section 202(b) of the Trade Act, Unwrought, Unalloyed Copper

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
October 20, 1978.

Pursuant to section 202(b)(1) of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC), transmitted to me on August 23, 1978, concerning the results of its investigation of a petition for import relief. This petition was filed by the Anaconda Co., Asarco, Inc., Cities Service Co. (Minerals Group), Copper Range Co., Cyprus Mines Corp., Duval Corp., Hecla Mining Co., Inspiration Consolidated Copper Co., Kennecott Copper Corp., Magma Copper Co., Phelps Dodge Corp., and Ranchers Exploration and Development Corp., on behalf of the domestic industry producing unwrought, unalloyed copper, provided for in item 612.06 of the Tariff Schedules of the United States.

After considering all relevant aspects of the case, including those considerations set forth in section 202(c) of the Trade Act of 1974, I have determined that import relief is not in the national economic interest for the following reasons:

1. Import relief would impose significant costs on U.S. consumers of unwrought, unalloyed copper (refined copper). The increases in refined copper prices resulting from provision of relief could create incentives for circumvention of relief through increased imports of other copper products such as scrap, blister, and fabricated items. This would effectively reduce the level of protection provided to the domestic copper industry. Moreover, domestic copper fabricators would be faced with higher refined copper input costs and, at the same time, possible increased import competition in fabricated products.

2. Domestic copper market conditions have improved during 1978 and there is an improving outlook over the next several years for both the U.S. and world copper markets. U.S. and world copper prices have risen markedly during 1978 and the world inventory overhang has declined. Domestic refined copper production was up slightly during the first part of 1978; and imports have begun to decline from the high levels prevailing during the first part of the year.

3. Provision of import relief would subject U.S. jobs in other industries to possible foreign retaliation against U.S. exports or compensation by the United States in the form of reducing import restrictions on other products.

4. Import relief would adversely affect U.S. international economic interests. It would be contrary to our efforts to reduce trade barriers in the MTN and to develop cooperative international solutions to the world copper industry's problems in the context of discussions in the UNCTAD Integrated Program for Commodities. Import relief would also affect our bilateral relations with Canada and with LDC copper producers, such as Chile, Zambia, and

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Peru, who are heavily dependent on copper exports as a source of foreign exchange earnings.

5. Trade adjustment assistance benefits have been and will continue to be available to copper mine, smelter, and refinery workers.

This determination is to be published in the FEDERAL REGISTER.

Jimmy Carter

[FR Doc. 78-30163 Filed 10-20-78; 4:46 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Schedule A exception for positions of Current Program Interviewer in the Census Bureau is amended to cover part time as well as intermittent positions because data collection for recurring Census Bureau surveys scheduled for the same week(s) each month may be properly designated as part-time work. Schedule A exception is still appropriate because it is still impracticable to examine for the positions.

EFFECTIVE DATE: October 12, 1978.

FOR FURTHER INFORMATION CONTACT:

James Edman 202-632-4533.

Accordingly, 5 CFR 213.3114(d)(2) is amended as set out below:

§ 213.3114 **Department of Commerce.**

• • • • • •

(d) *Bureau of the Census* • • •

(2) Current Program Interviewers employed on an intermittent or part-time basis in the field service.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29875 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce, Department of Energy, Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions at the Department of Commerce, Department of Energy and the Department of Housing and Urban Development because they are confidential in nature. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATE: September 23, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 632-4533.

Accordingly, 5 CFR 213.3314(w)(2), 213.3331(l)(1) and 213.3384(b)(15) are amended as set out below:

§ 213.3314 **Department of Commerce.**

• • • • • •

(w) *Industry and Trade Administration.* • • •

(2) One Confidential Assistant, one Senior Policy Analyst and one Policy Analyst to the Deputy Assistant Secretary for Trade Regulation.

• • • • • •

§ 213.3331 **Department of Energy.**

• • • • • •

(l) *Office of the Assistant Secretary for Defense Programs.* (1) One Confidential Assistant (Secretary) and one Staff Assistant to the Assistant Secretary.

• • • • • •

§ 213.3384 **Department of Housing and Urban Development.**

• • • • • •

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* • • •

(15) One Executive Assistant and one Special Assistant to the President, Government National Mortgage Association.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29891 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Defense, Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under schedule C certain positions in the Department of Defense and Department of Commerce because they are confidential in nature. Appointments to these positions may be made without examination by the Civil Service Commission.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(10) and 213.3314(r)(3) are amended as set out below:

§ 213.3306 **Department of Defense.**

(a) *Office of the Secretary.* • • •

(10) Two Special Assistants to the Assistant to the Secretary of Defense (Legislative Affairs).

• • • • • •

§ 213.3314 **Department of Commerce.**

• • • • • •

(r) *National Oceanic and Atmospheric Administration.* • • •

(3) One Secretary and one Special Assistant to the Assistant Administrator for Policy and Planning.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29877 Filed 10-23-78; 8:45 am]

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[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following title changes pertaining to 11 positions excepted under schedule C are effected because the new titles more accurately reflect the duties of the positions: From two positions of Assistant to the Chairman to two positions of Assistant to the Chairman—Legal; from one position of Assistant to the Chairman to one position of Assistant to the Chairman—Economics; from seven positions of Technical Assistant to a member of the Commission to seven positions of Legal Advisor to a member of the Commission; from one position of Technical Assistant to a member of the Commission to one position of Technical Advisor to a member of the Commission. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATE: August 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3331(c) (3) and (4) are amended as set out below:

§ 213.3331 Department of Energy.

* * * * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(3) Two Assistants to the Chairman—Legal, one Assistant to the Chairman—Economics, and one Assistant to the Chairman.

(4) Seven Legal Advisors to members of the Commission and one Technical Advisor to a member of the Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29892 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare; Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This amendment corrects the title of a position excepted under schedule C in the Department of Health, Education, and Welfare in the document published in 43 FR 36591 August 18, 1978.

EFFECTIVE DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3316(c)(21) is corrected as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * * * *

(c) *Office of Education.* * * *

(21) Deputy Assistant Secretary for Education (Education Resources).

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29893 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of the Navy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Oceanographer, grade GS-14, which functions as project director and manager for research in the weapons systems applications of ocean eddies at the Naval Underwater Systems Center, New London, Conn., is excepted under schedule B because it is impracticable to hold a competitive examination for it.

EFFECTIVE DATE: October 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3208 is added as set out below:

§ 213.3208 Department of the Navy.

(a) *Naval Underwater Systems Center, New London, Conn.* (1) One position of oceanographer, grade GS-14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29876 Filed 10-23-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This authority excepts from the competitive service all positions at grades GS-15 and below on the staff of the President's Commission on the Coal Industry with the provision that no one may serve under this authority after October 30, 1979. This exception is granted because it is impracticable to examine for these positions.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3199(n) is added as set out below:

§ 213.3199 Temporary Boards and Commissions.

* * * * * * *

(n) *President's Commission on the Coal Industry.* (1) All positions on the staff of the President's Commission on the Coal Industry. No one may serve under this authority after October 30, 1979.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29878 Filed 10-23-78; 8:45 am]

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS

PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amended its regulations concerning Rural Rental Housing by interim rule on July 27, 1978, at 43 FR 32399. The intended effect of this action was to clearly indicate to participating interim construction lenders that FmHA's commitment to close a rural rental housing loan is contingent upon acceptable performance by the builder and payment of all construction bills. It also revised FmHA regulations to permit FmHA to make a loan to an eligible applicant to purchase an acceptably completed rural rental housing project from an interim construction lender if the original FmHA loan applicant becomes financially insolvent or ceases to exist during the construction period. This action was necessary in order to remove existing misunderstandings concerning FmHA's commitment to interim lenders and provide additional safeguards to help assure FmHA loan closing. The comment period has now expired, and no further amendments are being considered at this time.

EFFECTIVE DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lynn Voigt, Multiple Family Housing Loan Officer, telephone number 202-447-7207.

SUPPLEMENTARY INFORMATION: Through interim rule on July 27, 1978, at 43 FR 32399, the Farmers Home Administration (FmHA) amended subpart D of part 1822, by adding § 1822.85(o); amending §§ 1822.86 (b) (1), (8)(i), and (c); 1822.90 (d) and (i); 1822.94 (a), (b), and (c); and adding exhibit I. The interim rule amended the existing regulations by adding a guide letter for FmHA's use in informing an interim lender of FmHA's commitment to close the FmHA loan to pay off the interim indebtedness, and for use in informing the interim lender of conditions of FmHA's commitment. The conditions indicated in the interim rule were acceptable completion of construction and payment of all construction bills. The guide letter also invites the interim lender to conduct construction inspections jointly with FmHA and suggests several alternatives that can be used to help reduce the risk of the FmHA loan not being closed.

The interim rule also permits FmHA to make a loan to an eligible applicant to purchase an acceptably completed project from an interim lender that has been forced to accept title to the project due to default of the contractor, the financial insolvency of the original loan applicant, or because the original loan applicant is deceased or has been dissolved.

The comment period for the interim rule closed August 28, 1978. FmHA received two written comments in response to the interim regulations. One comment was supportive of the interim regulations. The other comment concerned the requirement that an applicant who is unable to obtain the necessary initial operating and maintenance capital as part of the FmHA loan must provide evidence of the deposit of that capital into the general fund account of the project prior to FmHA issuing a letter of commitment to an interim lender. It was suggested that such a requirement imposes an undue economic inequity to the developer of the project.

FmHA carefully considered these comments. Requiring the deposit of initial operating and maintenance capital into the general fund account of the project prior to FmHA issuing the letter of commitment to the interim lender does assure the interim lender that this required capital is available, and therefore reduces the risk of the FmHA loan not being closed. In addition, some of these funds are needed during the construction phase of the project to cover initial operating and maintenance expenses. These include such expenses as real estate taxes during construction, property and liability insurance premiums, fidelity bond premiums, purchase of movable furnishings and equipment, and other initial expenses which cannot always be included in FmHA loan funds. This requirement assures that adequate funds will in fact be available for these purposes. This requirement also assures the initial tenants of the project that they will receive all of the services to which they are entitled, even before the project is fully occupied and able to operate on at least a break-even basis.

Accordingly, subpart D of part 1822 is adopted as a final rule as published on July 27, 1978, at 43 FR 32399.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: October 12, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-29968 Filed 10-23-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (USDA).

Action: Final rule.

SUMMARY: This amendment updates 11 sections of the regulations with respect to requirements for detecting extraneous viruses in master seed virus used in the preparation of certain biological products. A new section containing such requirements was recently added to the regulations and published in the FEDERAL REGISTER. Tests for the detection of extraneous viruses which are presently required by the 11 sections, are required to be performed according to the new section by this amendment. This change will make uniform test requirements applicable to all the biological products affected by this amendment. Additionally, one section is amended by adding a reference to a cat safety test to be conducted when vaccines are recommended for use in cats.

EFFECTIVE DATE: This amendment becomes effective October 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: Requirements for detection of extraneous viruses in Master Seed Virus which is used in the preparation of biological products have recently been codified in new § 113.55 of the standard requirements (see 43 FR 11145, Mar. 17, 1978). This amendment incorporates these requirements in the standard requirements for several products. This is accomplished by either adding a reference to new § 113.55 in the standard being amended, or by making editorial changes which require the testing of master

seed virus for extraneous viruses to be done according to the new section. These editorial changes include deletion of the requirement that the Director of the Veterinary Services Laboratories, Ames, Iowa, be notified of the results of tests for extraneous viruses. This requirement is unnecessary because the Director is notified of the results of tests for extraneous viruses when the Master Seed Virus is submitted for approval. Also, the requirement that the Director be notified of the results of tests for extraneous viruses in serials of biological products is unnecessary because the Director is notified of the results of tests for extraneous viruses when the Master Seed Virus is submitted for approval. Finally, the requirement that the Director be notified of the results of tests for extraneous viruses in serials of biological products is unnecessary because the Director is notified of the results of tests for extraneous viruses when the Master Seed Virus is submitted for approval.

EFFECTIVE DATE: This amendment becomes effective October 22, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: Requirements for detection of extraneous viruses in Master Seed Virus which is used in the preparation of biological products have recently been codified in new § 113.55 of the standard requirements (see 43 FR 11145, Mar. 17, 1978). This amendment incorporates these requirements in the standard requirements for several products. This is accomplished by either adding a reference to new § 113.55 in the standard being amended, or by making editorial changes which require the testing of master seed virus for extraneous viruses to be done according to the new section. These editorial changes include deletion of the requirement that the Director of the Veterinary Services Laboratories, Ames, Iowa, be notified of the results of tests for extraneous viruses. This requirement is unnecessary because the Director is notified of the results of tests for extraneous viruses when the Master Seed Virus is submitted for approval. Also, the requirement that the Director be notified of the results of tests for extraneous viruses in serials of biological products is unnecessary because the Director is notified of the results of tests for extraneous viruses when the Master Seed Virus is submitted for approval. Finally, the requirement that the Director be notified of the results of tests for extraneous viruses in serials of biological products is unnecessary because the Director is notified of the results of tests for extraneous viruses when the Master Seed Virus is submitted for approval.

6. Section 113.142 is amended by revising the introductory portion of paragraph (b) and deleting paragraphs (b)(1) and (b)(2) to read as follows:

§ 113.142 Master Seed Virus for extraneous viruses.

(b) Each lot of Master Seed Virus propagated in tissue or cells of avian origin shall also be tested for extraneous viruses in accordance with § 113.55 except that:

(1) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

§ 226.8 Credit other than open end—specific disclosures.

(a) *General rule.* * * *

seed virus for extraneous viruses to be done according to the new section. These editorial changes include deletions additions, and revisions of the present standards for certain virus products. Additionally, this amendment adds a cat safety test found in § 113.39 to § 113.135, as a general requirement.

On April 25, 1978, a notice of the proposed amendment to part 113 was published in the FEDERAL REGISTER at 43 FR 17477.

Comments on this proposal were solicited and nine responses were received. One reponse was favorable to the proposal as written.

Three responses were favorable to the proposal but requested that it not become effective for 1 year in order to allow sufficient time to conduct the new tests on Master Seed Virus presently being used for the production of biological products. It was also requested that testing in accordance with § 113.55 not be required for Master Seed Virus presently being used until the next scheduled repeat immunogenicity test. The request for the 1-year period to complete the new required testing was considered appropriate and constructive. The effective date of this regulation will, therefore, be set at 1 year from the date of publication in the FEDERAL REGISTER. The suggestion that the new testing not be required until the next scheduled master seed repeat immunogenicity test was rejected since some Master Seed Viruses will not be scheduled for such testing for 3 to 5 years. This was considered to be more time than necessary to complete the tests.

Three responses suggested that Master Seed Virus that has already been tested for extraneous viruses according to §§ 113.51 and 113.52 be exempted from the testing required by § 113.55. This suggestion was rejected since § 113.55 requires the use of cell types and fluorescent antibody conjugates for the testing of some Master Seed Viruses that are not required by §§ 113.51 and 113.52 and has the potential of detecting a broader spectrum of extraneous viruses.

If certain Master Seed Viruses were exempted from the tests required by § 113.55, as suggested, uniform test requirements would not be applied to all the biological products affected by the amendment as intended. Results of tests for extraneous viruses that have been conducted previously may be acceptable to meet some of the requirements of § 113.55 and may be submitted for review. Supplemental data shall be required, however, for those tests that have not been conducted or that are found to be incomplete.

Two responses suggested that Master Seed Virus used for the production of certain vaccines be exempted from testing according to § 113.55 because the method of production used for these vaccines makes testing of the Master Seed Virus impractical and inappropriate.

The suggestion that Wart Vaccine and Ovine Ecthyma Vaccine be exempted was rejected as inappropriate since standard requirements for these products in §§ 113.126 and 113.136 do not require testing of the Master Seed Virus according to § 113.55.

The suggestion that Encephalomyelitis Vaccine and Mink Enteritis Vaccine be exempted was rejected since review indicates only one manufacturer of each of these products has a method of production that makes testing of the Master Seed Virus impractical and inappropriate. These specific cases may be handled in a more appropriate manner by the consideration of individual exemptions or alternate test procedures that may be noted in the outline of production as provided in § 113.4.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of part 113, subchapter E, chapter I, title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted with the following exceptions:

Printing errors have been corrected by capitalizing the first letter in each word of the headings for §§ 113.129, 113.140, 113.141, 113.142, 113.144, 113.145, 113.146, 113.147, and 113.148.

1. Section 113.120 is amended by adding a new paragraph (c)(4) to read:

§ 113.120 General requirements for killed virus vaccines.

* * * * * * *

(c) * * *

(4) *Extraneous viruses.* Each lot of Master Seed Virus used to prepare killed virus vaccine recommended for animals other than poultry shall meet the requirements for extraneous viruses as prescribed in § 113.55.

* * * * * * *

2. Section 113.129 is amended by revising the introductory portion of paragraph (a), by revising paragraphs (a)(1) and (a)(2), and by deleting paragraph (a)(3) to read:

§ 113.129 Rabies Vaccine, Killed Virus.

* * * * * * *

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.120 and the requirements prescribed in this section.

(1) Each lot of Master Seed Virus propagated in tissue or cells of avian origin shall also be tested for extraneous pathogens by procedures prescribed in § 113.37.

(2) Each lot of Master Seed Virus propagated in primary cell cultures of mouse or hamster origin or brain tissues of mouse origin shall be tested for lymphocytic choriomeningitis (LCM) virus by the procedure prescribed in § 113.42. If LCM virus is detected, the Master Seed Virus is unsatisfactory.

* * * * * * *

3. Section 113.135 is amended by adding a new paragraph (a)(4) and a new paragraph (b)(4) to read:

§ 113.135 General requirements for live virus vaccines.

* * * * * * *

(a) * * *

(4) *Extraneous viruses.* Each lot of Master Seed Virus used to prepare live virus vaccine recommended for animals other than poultry shall meet the requirements for extraneous viruses as prescribed in § 113.55

* * * * * * *

(b) * * *

(4) All live virus vaccines recommended for use in cats shall be tested for safety in accordance with the test provided in § 113.39.

* * * * * * *

4. Section 113.140 is amended by deleting and reserving paragraph (b)(3) to read:

§ 113.140 Canine Hepatitis Vaccine.

* * * * * * *

(b) * * *

(3) [Reserved]

* * * * * * *

5. Section 113.141 is amended by revising the introductory portion of paragraph (b)(2), by deleting subparagraphs (b)(2) (i) and (ii), and by deleting paragraph (b)(3) to read:

§ 113.141 Canine Distemper Vaccine, Ferret Avirulent.

* * * * * * *

(b) * * *

(2) Master Seed Virus propagated in chicken embryos shall be tested for pathogens by the chicken embryo test prescribed in § 113.37. If found unsatisfactory, the Master Seed Virus shall not be used.

* * * * * * *

6. Section 113.142 is amended by revising the introductory portion of paragraph (b) and deleting paragraphs (b)(1) and (b)(2) to read:

§ 113.142 Canine Distemper, Ferret Virulent.

* * * * * * *

(b) The lot of Master Seed Virus shall be tested for other viral contaminants as prescribed in § 113.55.

* * * * * * *

7. Section 113.144 is amended by revising paragraphs (a) and (b) to read:

§ 113.144 Bovine Parainfluenza$_3$ Vaccine.

* * * * * * *

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

* * * * * * *

8. Section 113.145 is amended by revising paragraphs (a) and (b) to read:

§ 113.145 Bovine Rhinotracheitis Vaccine.

* * * * * * *

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

* * * * * * *

9. Section 113.146 is amended by revising paragraphs (a) and (b) to read:

§ 113.146 Bovine Virus Diarrhea Vaccine.

* * * * * * *

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

* * * * * * *

10. Section 113.147 is amended by revising paragraphs (a) and (a) (1) to read:

§ 113.147 Rabies vaccine.

* * * * * * *

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(1) Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

* * * * * * *

11. Section 113.148 is amended by revising paragraph (a) and (b), and by deleting paragraphs (b)(1) and (b)(2) as follows:

§ 113.148 Measles Vaccine.

* * * * * * *

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135. Each lot of Master Seed Virus shall meet the special requirements prescribed in this section.

(b) To detect virulent canine distemper virus, each of two canine distemper susceptible ferrets shall be injected with a sample of the Master Seed Virus equivalent to the amount of virus to be used in one dog dose and observed each day for 21 days. If undesirable reactions occur in either ferret, the lot of Master Seed Virus is unsatisfactory.

* * * * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 17th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-29776 Filed 10-23-78; 8:45 am]

[1505-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0152]

PART 226—TRUTH IN LENDING

Disclosure of Varying Payments Scheduled To Repay the Indebtedness

Correction

In FR Doc. 78-24598, appearing at page 38811 in the issue of Thursday, August 31, 1978, on page 38812, in the first and second columns, the amendment to § 226.8 is correctly reprinted as follows:

§ 226.8 Credit other than open end—specific disclosures.

(a) *General rule.* * * *

* * * * * * *

Notwithstanding the provisions of paragraphs (a) (1) and (2) of this section, a creditor may, in any transaction in which the payments scheduled to repay the indebtednes vary, satisfy the requirements of § 226.8(b)(3) with respect to the number, amount, and due dates or periods of payments by disclosing the required information on the reverse of the disclosure statement or on a separate page(s): *Provided,* That the following notice appears with the other required disclosures: "NOTICE: See [reverse side] [accompanying statement] for the schedule of payments."

* * * * * * *

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. PR-180, Amdt. 43]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Unused Authority Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Airline Deregulation Act of 1978 includes new provisions governing unused nonstop route authority. The Board is adopting rules to govern unused authority proceedings.

DATED: Adopted: October 18, 1978. Effective: October 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Civil Aeronautics Board, Office of the General Counsel, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: On October 15, 1978, Congress enacted S. 2493, the Airline Deregulation Act of 1978. Section 10 of that Act will take effect immediately upon signature by the President. It will add a new paragraph (5) to section 401(d) of the Federal Aviation Act of 1958, as amended, concerning unused nonstop route authority.

Under paragraph (5), a certificate authorizing round-trip nonstop service between a pair of points will be considered unused or dormant if the certificated carrier does not provide service

of at least five round trips a week for at least 13 weeks during a 26-week period. This will apply to any 26-week

Applicants are not precluded from asking, in a single application, for authority in more than one market. Be-

Domestic Aviation the authority to exercise the Board functions set forth in section 401(d)(5) of the Act, as amend-

conforming to, an order instituting a route investigation. * * *

point shall be identified by the Official Airline Guide's 3-letter airport code. If more than one airport serves a

ers as set forth in section 401(d)(5)(J) of the Act, its application shall at a

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of at least five round trips a week for at least 13 weeks during a 26-week period. This will apply to any 26-week period that ends on or after the bill becomes law. There are similar standards for seasonal certificates.

There will be two types of procedures for issuing new authority in a market that has dormant certificates, according to the number of carriers that are actually providing round-trip nonstop service there market. In a market that has no such service, or receives it from only one carrier, the Board must authorize new service within 15 days to the first applicant who certifies that it complies with FAA regulations and is able to comply with Board regulations. For markets served by two or more carriers, the Board must authorize the first applicant who makes these certifications unless it finds, within 60 days, that the award of new authority would be inconsistent with the public convenience and necessity. There is a rebuttable presumption that any application to replace a dormant carrier is consistent with the public convenience and necessity. On a one-time basis for each pair of points, an air carrier with dormant authority will be able, by giving notice to the Board and reactivating service, to stop the Board from issuing new authority under paragraph (5).

Applications may be submitted as soon as the President signs the bill into law. Temporary procedures for the receipt of applications are being issued along with this rule.

Paragraph (5) will also direct the Board, when issuing new authority (other than seasonal authority) in a market receiving round-trip nonstop service from one or no carriers, to suspend all dormant authority unless it finds that a suspension is not necessary to encourage continued service by the newly authorized carrier.

This amendment of part 302 of our procedural regulations, Rules of Practice in Economic Proceedings (14 CFR Part 302), adds a new Subpart R—Rules Applicable to Unused Authority Proceedings. These rules include requirements for applications under new section 401(d)(5) of the Act, answers to applications, incumbent carriers' notices of intent to begin service (used to block awards of new authority), and notices of inauguration of service. The rules do not preclude applications under other portions of the Act for certificates to serve markets that are the subject of unused authority proceedings.

Applications for new authority under section 401(d)(5) are governed by four different subparagraphs of paragraph (5)—(A), (B), (D), and (E)—depending on the number of incumbent carriers actually providing service and on whether the service is seasonal. Applicants are not precluded from asking, in a single application, for authority in more than one market. Because of the possibility of a large volume of applications, however, § 302.1804(b) is designed to expedite handling by requiring applications to be segregated according to the subparagraph that governs the request. Similar requirements are set out in § 302.1808(b) for incumbents' notices that attempt to block the issuance of new authority.

The rule requires applications to be served on all named carriers, affected airport authorities, and the FAA. Applications must be titled, "Application for Unused Authority."

Each application must identify the relevant subparagraph of section 401(d)(5), and include the dates of the base period used and the names of the carriers with authority between the points in question, both active and dormant. The points between which authority is sought must of course be identified, and the rule requires use of the Official Airline Guide's three-letter airport code and alphabetization of the pairs of points. The applicant must also certify that its aircraft meet all applicable FAA requirements for common carriers, that it is able to conform to Board regulations, and that it will obtain the necessary operating authority from the FAA in time to begin the service applied for.

The Board will consider suspending the dormant authority forming the basis of the application only if the applicant for new authority makes a showing that it is prepared to initiate service under the certificate applied for. Such a showing must include, at a minimum, specific information showing why suspension is necessary to encourage continued service between those points by the applicant, a list of any other applications filed by the applicant within the preceding 45 days, and a description of the aircraft that the applicant intends to use, or a plan for obtaining it.

Answers to an application may be filed within 7 calendar days (with no exceptions for weekends or holidays) after the application.

Successful applicants under this subpart must file a notice of inauguration of service between each pair of points, within 7 days after service begins.

In view of the short-time periods that Congress has provided for us to act on applications under section 401(d)(5), we conclude that Congress did not intend the requirements of the National Environmental Policy Act of 1969 and the Energy Policy and Conservation Act to apply to any action that we take under that section.

In order 78-10-73, issued along with this rule, we are delegating to the Director of the Bureau of Pricing and Domestic Aviation the authority to exercise the Board functions set forth in section 401(d)(5) of the Act, as amended. Allegations of violations of the separation of functions rule, 14 CFR 300.4, could arise in situations where the requested authority is already in issue in a hearing case. Since the award of authority under section 401(d)(5) is not discretionary, however, this rule specifies that actions taken by the Director under this delegation will not be considered violative of § 300.4.

We are also amending rule 908 of the rules of practice (14 CFR 302.908) to exclude applications filed under this new subpart from its coverage. That rule is meaningful only for applications upon which hearings might be held, and we do not expect to hold hearings in unused authority proceedings.

Because of the need to have these rules in effect by the time the Deregulation Act is signed, we find that notice and public procedure are impracticable and contrary to the public interest, and that an immediate effective date is in the public interest.

Accordingly, the Civil Aeronautics Board amends part 302 of its procedural regulations, rules of practice in Economic Proceedings (14 CFR Part 302), as follows:

1. The table of contents is amended by adding a new subpart R, to read:

Sec.

. . . . . .

Subpart R—Rules Applicable to Unused Authority Proceedings

302.1801 Applicability.
302.1802 Definitions.
302.1803 Service of applications and answers.
302.1804 General requirements for applications.
302.1805 Contents of applications.
302.1806 Additional requirements for applications that request suspension of unused authority.
302.1807 Answers to applications.
302.1808 General requirements for incumbent carriers' notices of intent to begin service.
302.1809 Contents of incumbent carriers' notices of intent to begin service.
302.1810 Notices of inauguration of service.
302.1811 Environmental evaluations and energy information not required.
302.1812 No conflict with separation of functions rule.

2. In § 302.908, the first sentence of paragraph (a) is amended to read:

§ 302.908 Applications for new or modified certificated route authority.

(a) This section applies to all applications for new or modified certificated route authority except those filed under subpart M, N, or R of this part and those filed in response to, and conforming to, an order instituting a route investigation. • • •

. . . . . .

3. A new subpart R is added, to read:

Subpart R—Rules Applicable to Unused Authority Proceedings

§ 302.1801 Applicability.

This subpart applies to applications for nonstop route authority where unused authority exists, filed under sections 401(d)(5)(A), (5)(B), (5)(D), and (5)(E) of the Act, and to notices of incumbents' intent to begin service that are filed under section 401(d)(5)(G) of the Act.

§ 302.1802 Definitions.

As used in this subpart:

"Application" means an application for nonstop route authority under section 401(d)(5)(a), (5)(B), (5)(D), or (5)(E) of the Act.

"Applicant" means a person who files an application under this subpart.

"Minimum level" and "minimum level of service" mean the minimum level of service set forth in subparagraph (A), (B), (D), or (E) of paragraph (5) of section 401(d) of the Act, as applicable.

§ 302.1803 Service of applications and answers.

(a) *Manner of service.* Applications and answers to applications filed under this subpart shall be served in the manner set forth in § 302.8.

(b) *Persons to be served.* Applications shall be served on:

(1) All air carriers named in the application in accordance with paragraph (c)(2) or (c)(3) of § 302.1805.

(2) The airport authority of each airport the applicant proposes to use.

(3) The Federal Aviation Administration.

§ 302.1805 General requirements for applications.

(a) Applications filed under § 302.1805 shall be titled "Application for Unused Authority."

(b) An application may request nonstop authority in more than one market. However, applications shall not include requests for authority under more than one subparagraph of paragraph (5) of section 401(d) of the Act.

§ 302.1804 Contents of applications.

Each application filed under this subpart shall:

(a) Identify the subparagraph of paragraph (5) of section 401(d) of the Act that governs the application.

(b) Indicate the pair or pairs of points between which the applicant seeks nonstop route authority. Each point shall be identified by the Official Airline Guide's 3-letter airport code. If more than one airport serves a point, the airports shall be listed in alphabetical order. (Example: EWR/JFK/LGA.) Each pair of points shall be internally alphabetized. (Example: BOS-SFO, not SFO-BOS.) If the application covers more than one pair of points, the pairs shall be listed in alphabetical order.(Example: BOS-LAX; BOS-SFO; EWR/JFK/LGA-CHI.)

(c) State, for each pair of points named in the application:

(1) The beginning and ending dates of the 26-week period or season, as applicable, upon which the application is based.

(2) The name of each air carrier that has provided the minimum level of service between those points during the time described in paragraph (c)(1) of this section.

(3) The name of each air carrier having certificate authority to provide nonstop round-trip service between those points that has not provided the minimum level of service during the time described in paragraph (c)(1) of this section.

(4) For each carrier named in paragraph (c)(3) of this section, the dates of below-minimum service during the time described in paragraph (c)(1) upon which the application is based. The application shall include a copy of the relevant portions of the Official Airline Guide necessary to demonstrate that the carrier has not provided the minimum level of service. The absence from the Official Airline Guide of a listing for any service shall create a rebuttable presumption that the service was not provided.

(d) Certify that the applicant's aircraft meet all applicable requirements established by the Secretary of Transportation for the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in commerce.

(e) Certify that the applicant will obtain any necessary operating authority from the Federal Aviation Administration in time to begin exercising the nonstop route authority sought under this subpart within the time set forth in paragraph (H)(I) or (H)(ii) of section 401(d)(5) of the Act, as applicable.

(f) Certify that the applicant is able to conform to the rules, regulations, and requirements of the Board promulgated pursuant to the Act.

§ 302.1806 Additional requirements for applications that request suspension of unused authority.

(a) If an applicant for authority under section 401(d)(5)(A) of the Act wants the Board to suspend the unused authority of incumbent carriers as set forth in section 401(d)(5)(J) of the Act, its application shall at a minimum include, in addition to the information set forth in § 306.1805, the following:

(1) Information specific to each pair of points showing why suspension is necessary to encourage continued service between those points by the applicant;

(2) A list, by filing date and points, of all other applications filed or to be filed under this subpart on the same day and within the preceding 45 days; and

(3) A description of the aircraft that the applicant intends to use in exercising the authority sought in the current application and all applications filed or to be filed under this subpart on the same day and within the preceding 45 days. The description shall consist of either a plan for obtaining aircraft identified by type, that can be verified within 15 days by the Board's staff, or a list of aircraft identified by FAA registration number.

(b) If the Board grants an application under this subpart that does not include the information set forth in paragraph (a) of this section, the Board will not suspend the unused authority of incumbent carriers.

§ 302.1807 Answers to applications.

(a) Any person may file an answer to an application filed under this subpart within 7 calendar days (with no exceptions for weekends or holidays) after the application is filed.

(b) Answers shall be entitled "Answers to Applications for Unused Authority."

§ 302.1808 General requirements for incumbent carriers' notices of intent to begin service.

(a) Notices of intent to begin service filed under § 302.1809 of this subpart shall be titled "Notice of Intent To Exercise Unused Authority."

(b) A notice may address service in more than one market. However, notices shall not address authority covered by more than one subparagraph of paragraph (5) of section 401(d) of the Act.

§ 302.1809 Contents of incumbent carriers' notices of intent to begin service.

Each incumbent carrier's notice of intent to begin service, as described in section 401(d)(5)(G) of the Act, shall state:

(a) The subparagraph of paragraph (5) of section 401(d) that governs the authority covered by the notice; and

(b) The pair or pairs of points between which the carrier filing the notice intends to begin service within the time set forth in section 401(d)(5)(G)(i) or (G)(ii), as applicable, identi-

fied by airport codes in alphabetical order as set forth in § 302.1805(b).

§ 302.1810 Notices of inauguration of service.

(a) Each notice of inauguration of service filed under § 302.1806 of this subpart shall be titled "Notice of Inauguration of Service."

(b) Each notice shall state the pair or pairs of points between which service has been inaugurated, the date service began, and the aircraft type used.

§ 302.1811 Environmental evaluations and energy information not required.

Applications under this subpart are not required to include environmental evaluations or energy information.

§ 302.1812 No conflict with separation of functions rule.

Actions taken by the Director under this subpart are not considered violative of § 300.4.

(Sec. 204, 72 Stat. 743, as amended, 49 U.S.C. 1324; Sec. 1001, 72 Stat. 788, as amended, 49 U.S.C. 1481)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

Subpart B—Chemical Formulations for Consumer Products

tative support to the Chronic Hazard Program, HIEA, for the physical security of the confidential information and for assisting in regulating the

manner as required for the original material by this subpart B and records shall be kept by the Division Docu-

side of the designated security area as long as the material is kept in the im-

dentiality of the proprietary information.

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fied by airport codes in alphabetical order as set forth in § 302.1805(b).

§ 302.1810 Notices of inauguration of service.

(a) Every person to whom a certificate is issued by the Board under section 401(d)(5) of the Act shall, for each pair of points between which the certificate newly authorizes that person to perform round-trip nonstop service, file a notice within 7 days after inaugurating that service.

(b) Notices described in paragraph (a) of this section shall identify the points between which service has been inaugurated, and shall be filed in three copies, titled "Notice of Inauguration of Service Under Section 401(d)(5)," and marked for the attention of the Director, Bureau of Pricing and Domestic Aviation.

§ 302.1811 Environmental evaluations and energy information not required.

Notwithstanding any provision of part 312 of this title, Implementation of the National Environmental Policy Act, including the preparation of environmental impact statements, or Part 313, Implementation of the Energy Policy and Conservation Act, a person filing an application under this subpart is not required to file an environmental evaluation or energy information with the application.

§ 302.1812 No conflict with separation of functions rule.

Actions taken by the Director of the Bureau of Pricing and Domestic Aviation under delegated authority to administer section 401(d)(5) of the Act will not be considered as conflicting with the Board's separation of functions rule, § 300.4 of this chapter.

(Secs. 204, 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (14 U.S.C. 1324, 1371).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-29910 Filed 10-19-78; 2:16 pm]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1017—PROCEDURES FOR SAFEGUARDING CONFIDENTIAL INFORMATION

Subpart B—Chemical Formulations for Consumer Products

REVISION OF PROCEDURES

AGENCY: Consumer Product Safety Commission.

ACTION: Revision of procedures.

SUMMARY: The Commission revises its procedures for safeguarding confidential chemical formulations of consumer products, to reflect a recent reorganization of the Commission. Under the reorganization, responsibility for the maintenance of chemical formulations was transferred from the Bureau of Biomedical Sciences to the Directorate for Hazard Identification and Analysis. Likewise, the officials responsible for safeguarding the information are changed to reflect the change in organizational structure. The Commission is also making changes to the procedures to facilitate use of the data by authorized Commission employees.

DATE: Effective October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Irvin Weiss, Chronic Hazard Program, Division of Program Analysis-Epidemiology, HIEA, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6470.

SUPPLEMENTARY INFORMATION: On August 31, 1976, the Commission issued procedures for safeguarding confidential chemical formulations that are submitted to the Commission (16 CFR 1017, subpart B.) Those procedures placed responsibility for maintenance and safeguarding of chemical formulations with the Bureau of Biomedical Science, and made the Director of the Bureau of Biomedical Science and the Bureau Document Control Custodian responsible for the implementation of those procedures. In April 1978, the Commission was reorganized and various responsibilities and functions were transferred. The reorganization transferred the responsibility for collecting and maintaining chemical formulations to the Directorate for Hazard Identification and Analysis (HIA). The officials within HIA designated to be responsible for chemical formulations are the Team Leader, Chronic Hazard Program, Division of Program Analysis-Epidemiology, and the Division Document Control Custodian (HIEA). Part 1017, subpart B has been revised throughout to reflect this transfer of responsibility.

In addition, § 1017.13(2) has been amended to permit authorized Commission employees to use the data outside of the designated security area as long as the material is kept in the immediate possession and direct personal control of the authorized employee and returned to the Document Control Custodian at the close of business each day.

Permitting use of the data outside of the security area is necessary for efficiency and flexibility while control is maintained by requiring that the data remain under the personal supervision of the authorized employees.

In view of the foregoing, the Commission, pursuant to section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(2)), amends part 1017, subpart B as follows:

Subpart B—Chemical Formulations for Consumer Products

Sec.
1017.11 Purpose and scope.
1017.12 Responsible officials.
1017.13 Internal Commission safeguards.
1017.14 Commission representatives' safeguards.

AUTHORITY: Sec. 6(a)(2), Pub. L. 92-573, 86 Stat. 212; 15 U.S.C. 2055(a)(2).

Subpart B—Chemical Formulations for Consumer Products

§ 1017.11 Purpose and scope.

The procedures set forth in this subpart B describe the measures taken by the Consumer Product Safety Commission (the Commission) to safeguard the confidentiality of chemical product formula information claimed confidential and submitted to the Commission in any form, voluntarily or pursuant to its special order of August 21, 1975 (40 FR 36617), or any similar special order.

§ 1017.12 Responsible officials.

(a) The Team Leader, Chronic Hazard Program, Division of Program Analysis-Epidemiology (HIEA), Directorate for Hazard Identification and Analysis (HIA) or the Team Leader's designee, in concert with the Associate Executive Director, Directorate for Hazard Identification and Analysis, or the Associate Executive Director's designee, is responsible for implementing and supervising the procedures of this subpart B.

(b) The Division Document Control Custodian HIEA designated by the Associate Executive Director, HIA, is responsible for keeping a logbook record that shall account for the custody of proprietary information. The logbook record shall also show which employees are authorized to have access to the information and shall reflect each instance of access to the information.

(c) The Commission Security Officer designated by the Associate Executive Director, Directorate for Administration, is responsible for providing facilitative support to the Chronic Hazard Program, HIEA, for the physical security of the confidential information and for assisting in regulating the use of confidential information by other Commission employees outside the Chronic Hazard Program, HIEA.

§ 1017.13 Internal Commission safeguards.

(a) *Personnel.* In accordance with the statutory restrictions imposed by section 6(a)(2) of the Consumer Product Safety Act, only Commission employees concerned with carrying out the Consumer Product Safety Act may be authorized to have access to the confidential information. The Team Leader, Chronic Hazard Program, HIEA, shall determine on an individual basis which employees are so authorized and to what information the employees may have access. These determinations shall be communicated in writing to the Division Document Control Custodian and the Commission Security Officer.

(b) *Facilities and other measures.* (1) Confidential information shall be kept in a combination lock safe within a security area in the Commission. Additional (backup) copies of the proprietary information shall be stored in a commercial bank vault. The Commission security area shall be a room or rooms that are locked at all times and electronically monitored outside normal working hours. Also, after regular business hours, the security area shall be periodically checked by a member of the Commission's building security force. Any time a Commission employee who knows a combination to a safe leaves the employ of the Commission, the combination will be changed.

(2) Information may be removed from the safe or bank vault only by the Division Document Control Custodian or, in the Custodian's absence, by the Team Leader, Chronic Hazard Program, HIEA, or the Commission Security Officer. At no time shall such information be out of the immediate possession of the authorized employee. The information shall be returned to the Division Document Control Custodian by the close of business each day or whenever the authorized employee is not able to exercise direct surveillance and immediate personal control of the information. The Division Document Control Custodian, or, in the Custodian's absence, the Team Leader, Chronic Hazard Program, HIEA, or the Commission Security Officer, in turn, shall return the information to the safe or bank vault.

(3) Only the Division Document Control Custodian or the Team Leader, Chronic Hazard Program, HIEA, may authorize making a copy of proprietary information. Any copy made shall be safeguarded in the same manner as required for the original material by this subpart B and records shall be kept by the Division Document Control Custodian to record each copy produced.

(4) Disposal or destruction of any confidential information shall be carried out in the presence of the Division Document Control Custodian or the Team Leader, Chronic Hazard Program, HIEA, and the Commission Security Officer. Disposal or destruction shall be done in a manner that allows no possible extraction or compilation of information contained therein. Records shall be kept of all materials destroyed.

(5) The Division Document Control Custodian shall maintain complete records on the use or disposal of proprietary information as specified in § 1017.12(b).

(c) *Computer processing.* (1) Processing of proprietary information shall be done only at a Government or contract facility having security procedures that meet or substantially exceed the standards of the DHEW Information Processing Standards Publication No. 3, entitled "ADP System Security Required by the Privacy Act of 1974," dated July 24, 1975 (HEW TN75.4).

(2) Magnetic tapes containing proprietary information shall be handcarried by an authorized Commission employee to and from the appropriate computer facility, and all processing shall be done under that employee's supervision and in that employee's presence. After completion of the processing, no proprietary information shall remain in the computer.

(3) The Division Document Control Custodian shall maintain complete records on instances of computer processing of the material, citing the location of the facility, the employee transporting the records and witnessing the computer processing of the material, and the date and time.

§ 1017.14 Commission representatives' safeguards.

A representative of the Commission, whether another governmental entity or a private contractor, when collecting or processing proprietary information for the Commission, shall be subject to the procedures of this section. Before any entity may act as the Commission's representative for collecting or processing proprietary information, the following requirements must be met:

(a) *Facilities and other measures.* The Team Leader, Chronic Hazard Program, HIEA and/or the Division Document Control Custodian and the Commission Security Officer shall inspect and approve in writing the proposed representative's facilities and control measures to insure that they are adequate to safeguard the confidentiality of the proprietary information.

(b) *Computer processing.* The Team Leader, Chronic Hazard Program, HIEA and the Division Document Control Custodian shall inspect and approve the computer processing methods of the proposed representative to insure that they are adequate to safeguard the confidentiality of the proprietary information. Approval shall not be given unless the methods meet the standards described in § 1017.13(c)(1).

(c) *Personnel.* The Team Leader, Chronic Hazard Program, HIEA, and the Division Document Control Custodian shall take steps to insure that any access to information by employees of a Commission representative is strictly controlled. If the representative is a private contractor, these steps shall include requiring each employee who is permitted to have access to the proprietary information to first execute an affidavit of nondisclosure. The Commission Security Officer shall review affidavits of nondisclosure executed by Commission representatives to insure that the forms are completed accurately and completely.

(d) *Subcontractors.* Use of a subcontractor by a Commission representative must have the approval, in writing, of the Team Leader, Chronic Hazard Program, HIEA, if the subcontractor will handle proprietary information. The Team Leader, in concert with the Commission Security Officer, shall insure that the requirement of paragraphs (a), (b), and (c) of this section are met by each subcontractor.

(e) *Agreements.* Every agreement between the Commission and its representative and between the representative and a subcontractor which will handle proprietary information shall include provisions to insure that measures adequate to safeguard proprietary information are maintained.

Effective date: The changes in this regulation are now in effect. Because these amendments to 16 CFR 1017 are questions of internal Commission procedure, it is not necessary that the regulation be published for comment under 5 U.S.C. 553 or that there be a delayed effective date.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

OCTOBER 18, 1978.

[FR Doc. 78-29952 Filed 10-23-78; 8:45 am]

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[4110-03-M]

Title 21—Food and Drugs

concentration not greater than 30 percent by weight of total polymer solids, for use in paper and paperboard.

submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections,

generic equivalence to the NAS/NRC reviewed product. It conforms to the NAS/NRC panel recomendations pub-

ACTION: Final rule.

SUMMARY: On August 17, 1978, the

tions, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens

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[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77F-0175]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Dimethylolpropionic Acid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the use of dimethylolpropionic acid as a comonomer for polyester resin for use in paper and paperboard. The action is being taken in response to a petition filed by Callaway Chemical Co.

DATES: Effective October 24, 1978. Objections by November 24, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of July 1, 1977 (42 FR 33807) announced that a food additive petition (FAP 6B3240) was filed by Callaway Chemical Co., P.O. Box 2335, Columbus, Ga. 31902, proposing that § 176.170 Components of paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended by providing for the safe use of dimethylolpropionic acid as a comonomer in polyester resin coatings for use in paper and paperboard.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as set forth below to include polyester resins containing dimethylolpropionic acid as a comonomer at a concentration not greater than 30 percent by weight of total polymer solids, for use in paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 5.1), § 176.170(a)(5) is amended by alphabetically inserting a new item to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* *
Polyester resin produced by reacting dimethylolpropionic acid (CAS Registry Number 4767-03-7) as a comonomer, at no more than 30 percent by weight of total polymer solids in reaction with 2,2-dimethyl-1,3-propanediol, phthalic anhydride and isophthalic acid, such that the polyester resin has a viscosity of 200-600 centipoises at 80° F as determined by a Brookfield RVT viscometer using a number 3 spindle at 50 rpm (or equivalent method).	For use only as a surface-sizing compound applied after the sheet-forming operation in the manufacture of paper and paperboard and limited to use at levels not to exceed 0.1 percent by weight of finished dry paper or paperboard.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 24, 1978 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective October 24, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: October 16, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29763 Filed 10-23-78; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Selenium Disulfide Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: this document amends the animal drug regulations to reflect aproval of a new animal drug application (NADA) filed by Zoecon Industries, Inc., providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris.

EFFECTIVE DATE: October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Zoecon Industries, Inc., 12200 Denton Drive, Dallas, Tex. 75234, filed an NADA (103-434V) providing for use of a selenium disulfide suspension on dogs as a cleansing shampoo and as an agent for removing skin debris associated with dry exzema and nonspecific dermatoses.

This application concerns a product which is similar to one reviewed by the National Academy of Sciences—National Research Council (NAS/NRC), approval of which is reflected in the regulations in 21 CFR 524.2101. this application is approved on the basis of generic equivalence to the NAS/NRC reviewed product. It conforms to the NAS/NRC panel recomendations published in the FEDERAL REGISTER of September 5, 1970 (35 FR 14168).

Approval of this application does not constitute reevaluation of the NAS/NRC recommendations for use on dogs as a cleansing agent.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), part 524 is amended in § 524.2101 by revising paragraph (b)(2) to read as follows:

§ 524.2101 Selenium disulfide suspension.

* * * * *

(b) * * *

(2) See Nos. 015563 and 011536 in § 510.600(c)(2) of this chapter for use as in paragraph (c)(2)(ii) of this section.

* * * * *

Effective date. This regulation becomes effective October 24, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: October 16, 1978.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-29879 Filed 10-23-78; 8:45 am]

[4410-02-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[AAG/A Order No. 15-78]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart E—Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On August 17, 1978, the Department of Justice published in the FEDERAL REGISTER a proposal to amend 28 CFR 16.96(b)(2), Exemption of Federal Bureau of Investigation Systems—Limited Access, as it relates to the Federal Bureau of Investigation Central Records System (Justice/FBI-002). The amendment will add a sentence to supplement the published reasons for exempting the Central Records System from subsection (d) of the Privacy Act.

DATES: The rule will be effective October 24, 1978.

ADDRESS: Administrative Counsel, Office of Management and Finance, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Kevin D. Rooney, 202-739-4165.

SUPPLEMENTARY INFORMATION: The system was last published in full text on July 21, 1978. On August 27, 1975, the Department published a notice establishing the system. On the same day the Department published a rule exempting the system from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), (g), and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). While justification for exemption from the access provisions of subsection (d)(1) was given, the reasons for exemption from the record amendment provisions of subsection (d) (2), (3), and (4) of the Privacy Act were not given. This amendment will correct that omission. No comments have been received regarding the proposed regulations.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, the proposed regulations are adopted without change as set forth below.

§ 16.96 Exemption of Federal Bureau of Investigation Systems—Limited Access.

* * * * *

(2) From subsections (c)(4), (d), (e)(4) (G) and (H), (f), and (g) because these provisions concern individual access to records and such access might compromise ongoing investigations, reveal investigatory techniques and confidential informants, and invade the privacy of private citizens who provide information in connection with a particular investigation. In addition, exemption from subsections (d), (e)(4) (G) and (H) is necessary to protect the security of information classified in the interest of national defense and foreign policy. In addition, exemption from subsection (d) is necessary because to require the agency to correct or otherwise amend information thought to be incorrect, irrelevant or untimely might, because of the nature of the information collected and the essential length of time it is maintained, create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations in an attempt to resolve questions of accuracy, etc.

Dated: October 13, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

[FR Doc. 78-29912 Filed 10-23-78; 8:45 am]

[3810-71-M]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER B—NAVIGATION

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

USNS "Powhatan"; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USNS *Powhatan* (T-ATF 166) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with annex I, section 2(f) of the 72 COLREGS without interfering with its

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special function as a naval tug, and (2) has authorized the use of exemptions allowed in 72 COLREGS' rule 38(a), 38(b) and 38(d)(i) by USNS *Powhatan*. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: October 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Comdr. M. D. Seiders, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C., telephone 202-694-5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USNS *Powhatan* (T-ATF 166) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS annex I, section 2(f) in that, during those situations when the masthead lights used for towing required by rule 24 and the vessel not under command or vessel restricted in its ability to maneuver task lights required by rule 27 are displayed simultaneously, the masthead lights used for towing will not be located above and clear of the rule 27 task lights. Full compliance with this provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the lights previously mentioned are located in closest possible compliance with the applicable 72 COLREGS' requirement.

Notice is also provided to the effect that the Secretary of the Navy has authorized the use by T-ATF 166 class of certain exemptions permitted by 72 COLREGS rule 38. Specifically, the use of the exemptions has been authorized as allowed in rule 38(a), pertaining to lights with ranges and intensities prescribed in rule 22, rule 38(b), pertaining to lights with color specifications prescribed in annex I, section 7, and rule 38(d)(i), pertaining to the repositioning of masthead lights on vessels less than 150 meters in lengths required by annex I, section 3(a).

The Secretary of the Navy has determined that USNS *Powahtan* is a member of the T-ATF 166 class, is in compliance with the 1960 rules of the road, and its keel was laid prior to July 15, 1977.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table four of § 706.2 is amended by adding the following new note 10 which reflects the certification issued by the Secretary of the Navy:

* * * * *

10. On USNS *Powhatan* T-ATF 166, the masthead lights used for towing required by rule 24 will be displayed approximately 3.7 meters below the lowest of the lights required to be displayed by rule 27 when a vessel is not under command or is restricted in its ability to maneuver.

* * * * *

§ 706.3 [Amended]

2. The fifth table one of § 706.3 is amended as follows to indicate exemptions authorized by the Secretary of the Navy:

Vessel or class	Lights with ranges in rule 22, 4 yrs; rule 38(a)	Lights with color specs in § 7, annex I, 4 yrs; rule 38(b)	Repositioning of masthead lights, vessels less than 150 meters, in § 3(a), annex I, permanent; rule 38(d)(i)	...
*	*	*	*	*
USNS Myer (T-ARC 6) * * *				
T-ATF 166 class	X	X	X	
*	*	*	*	*

Dated: October 2, 1978.

R. JAMES WOOLSEY,
Under Secretary of the Navy.

[FR Doc. 78-29913 Filed 10-23-78; 8:45 am]

[3810-71-M]

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

U.S.S. "New York City" (SSN 696); Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that U.S.S. *New York City* (SSN 696) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval submarine, and (2) has found that U.S.S. *New York City* (SSN 696) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Comdr. M. D. Seiders, JAGC, USN Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C., telephone 202-694-5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment to part 706 provides notice that the Secretary of the Navy has certified that U.S.S. *New York City* (SSN 696) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c) regarding the arc of visibility and location of the stern light; annex I, section 2(a)(i) regarding the height of the masthead light; annex I, section 2(k) regarding the height and relative positions of the anchor lights; and annex I section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that U.S.S. *New York City* (SSN 696) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to U.S.S. *New York City*.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. The third table one of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height; § 2(a)(i) annex I
*	*	*
U.S.S. Birmingham	SSN 695 * * *	
U.S.S. New York City	SSN 696	3.49
*	*	*

2. The fourth Three of § 706.2 is amended as follows to indicate certifications issued by the Secretary of the Navy:

Vessel	Number	Masthead light, arc of visibility; rule 21(a)	Sidelights, arc of visibility; rule 21(b)	Stern light, arc of visibility; rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; § 2(K), annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(K), annex I
*	*	*	*	*		*	*	
U.S.S. Birmingham	SSN-695 * * *							
U.S.S. New York City	SSN-696			209	4.3	6.1	3.4	1.7 below
*	*	*	*	*		*	*	

Effective Date: The effective date of this amendment will be October 6, 1978.

Dated: October 6, 1978.

Dated: 6 October, 1978.

D. E. MANN,
Acting Secretary of the Navy.

[FR Doc. 78-29914 Filed 10-23-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 977-1]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Interlake, Inc., Toledo, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to Interlake, Inc. The order requires Interlake to bring air emissions from its coke battery at Toledo, Ohio, into compliance with certain regulations contained in the federally approved State implementation plan (SIP). Interlake's compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the order.

EFFECTIVE DATE: This rule takes effect October 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert B. Hurwitz, Attorney, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: On June 28, 1978, the Acting Regional Administrator of EPA's region V office published in the FEDERAL REGISTER a notice setting out the provisions of a proposed Federal delayed compliance order for Interlake, Inc. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments and no request for a public hearing were received in response to the proposed notice.

Therefore, a delayed compliance order effective this date is issued to Interlake, Inc., by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Interlake on a schedule to bring its coke battery at Toledo, Ohio, into compliance as expeditiously as practicable with regulations AP-3-07 and AP-3-12, parts of the federally approved Ohio State implementation plan. Interlake is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit Interlake to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by Interlake will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulations covered by the the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determines that Interlake is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(9) of the Act

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will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

The provisions of the order will be summarized, as set forth below, in 40 CFR Part 65. The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 149876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

NOTE.—EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Interlake on a schedule for compliance with the Ohio State implementation plan.

(AUTHORITY: 42 U.S.C. 7413(d), 7601.)

Dated: October 17, 1978.

BARBARA BLUM,
Acting Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.400 by adding the following entry:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

The delayed compliance orders referenced below have been issued by the Administrator in accordance with section 113(d) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for issuance of the order under section 113(d) of the act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Interlake, Inc.	Toledo, Ohio	EPA-5-78-A-24	June 28, 1978.	AP-3-07	July 1, 1979

[FR Doc. 78-29837 Filed 10-23-78; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Temp. Reg. G-37]

APPENDIX—TEMPORARY REGULATIONS

Changes in Requirements for Reporting Motor Vehicle Data

AGENCY: General Services Administration, Federal Supply Service.

ACTION: Temporary regulation.

SUMMARY: This regulation deletes the requirement for agencies to report motor vehicle data on standard form 82, Agency Report of Motor Vehicle Data. The changes in reporting requirements prescribed by this regulation reflect recommendations made by the Interagency Motor Equipment Management Committee and will simplify and improve the collection and reporting of data needed to evaluate and analyze the operations and management of the Federal motor vehicle fleet.

DATES: Effective date: October 24, 1978. Expiration date: June 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

SUPPLEMENTARY INFORMATION: FPMR Temporary Regulation G-34 (43 FR 5437, February 8, 1978) is canceled and deleted from the appendix at the end of Subchapter G in 41 CFR Chapter 101.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

In 41 CFR Chapter 101, the following temporary regulation is listed in the appendix at the end of Subchapter G.

[Federal Property Management Regs.; Temporary Reg. G-37]

CHANGES IN REQUIREMENTS FOR REPORTING MOTOR VEHICLE DATA

1. *Purpose.* This regulation deletes the requirement for submitting standard form 82-D, Agency Report of Sedan Data, and requires that supplemental data be submitted with standard form 82, Agency Report of Motor Vehicle Data.

2. *Effective date.* This regulation is effective October 24, 1978.

3. *Expiration date.* This regulation expires June 30, 1979, unless revised or superseded sooner.

4. *Applicability.* This regulation applies to all executive agencies holding or using Government-owned or commercially leased motor vehicles.

5. *Background.* a. FPMR 101-38.100-1 requires the use of standard forms 82 and 82-D by agencies for reporting motor vehicle management data to GSA. The data is used by GSA to evaluate and analyze the operations and management of the Federal motor vehicle fleet.

b. The Interagency Motor Equipment Management Committee (IMEMC) was appointed in December of 1977, to study motor vehicle reporting requirements and to recommend changes to simplify the collection and reporting of the data. IMEMC has completed the study and recommended the following:

(1) Standard form 82 be revised to include additional inventory data on agency-held and leased sedans and station wagons by class;

(2) The revised standard form 82 be made available for the fiscal year 1979 report;

(3) Standard form 82-D be canceled immediately; and

(4) The report for fiscal year 1978 be submitted on the current edition of standard form 82 and that supplemental motor vehicle data be submitted along with the form.

6. *Changes in reporting requirements.* a. Executive agencies are no longer required to submit standard form 82-D and should dispose of any remaining stock of the form.

b. The May 1972 edition of standard form 82 shall be used by executive agencies for reporting motor vehicle data to GSA for fiscal year 1978. In addition to submitting a completed standard form 82, agencies shall report year-ending inventory data listed below in the format shown.

*NOTE. FPMR Temporary Regulation G-36 concerned a delegation of authority to the Administrator of the National Aeronautics and Space Administration and was distributed only to the National Aeronautics and Space Administration.

INVENTORY DATA

Vehicle class	Agency-held		Leased	
	Sedans	Station wagons	Sedans	Station wagons
Small 1/A				
Subcompact 1/B				
Compact II				
Midsize III				
Large IV				
Limousine V				

c. Standard form 82 will be revised to reflect the changes recommended by the Interagency Motor Equipment Management Committee (IMEMC). The revised form will be available for the fiscal year 1979 report. To provide the data on the revised standard form 82, beginning October 1, 1978, agencies shall collect inventory data on light trucks that are 4 x 2 or 4 x 4 and less than 8,500 GVWR; regular trucks that are 4 x 2 or 4 x 4 and 8,500 to 12,499 GVWR; trucks 12,500 to 23,999 GVWR; and trucks 24,000 GVWR or more. No acquisition costs or disposal proceeds will be required on the revised standard form 82. Interagency motor pool system (IMPS) data will be furnished by GSA. Vehicle years and cost data are required for commercially leased vehicles that are leased for 60 days or more. Trip rental data are not required. Cost data for accidents and total direct, total indirect, and total cost will be required.

7. *Effect on other directives.* This regulation supersedes the requirements for use of standard form 82-D prescribed in FPMR 101-38.100-1 and cancels FPMR temporary regulation G-34.

JAY SOLOMON,
Administrator of General Services.

OCTOBER 10, 1978.

[FR Doc. 78-29858 Filed 10-23-78; 8:45 am]

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 154—EDUCATIONAL OPPORTUNITY CENTERS

Final Regulations; Correction

AGENCY: Office of Education, HEW.

ACTION: Correction, final regulations.

SUMMARY: In the regulations published in the FEDERAL REGISTER on May 14, 1976, pages 19949-19950, a technical correction needs to be made. The document is corrected as follows: On page 19950, first column, item (7), last line (ii) should be changed to (iii).

FOR FURTHER INFORMATION CONTACT:

Barbara W. Freeman, telephone 202-245-2511.

Dated: October 18, 1978.

L. D. TAYLOR,
Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-29964 Filed 10-23-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Aransas National Wildlife Refuge, Tex., to Hunting of Migratory Birds and of Resident Game Species

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule adds Aransas National Wildlife Refuge, Tex., to the refuge areas open for the hunting of migratory game birds and of resident game species. The Director has determined that this action would be in accordance with the provisions of all laws applicable to the area, would be compatible with the principles of sound wildlife management, would otherwise be in the public interest, and that such use is compatible with the management objectives established for the refuge. Hunting, subject to annual special regulations, will provide additional public recreational opportunities.

EFFECTIVE DATE: November 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Young, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4307.

SUPPLEMENTARY INFORMATION: Donald G. Young is also the primary author of this final rule. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation. On September 13, 1978, there was published (43 FR 40893) a notice of proposed rulemaking adding Aransas National Wildlife Refuge, Tex., to hunting of migratory game birds and resident game species. The public was provided a 17-day comment period and was advised that pursuant to the requirements of § 102(2)(c) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c), an environmental assessment has been prepared on this proposal, which is available for public inspection and copying at room 2342, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the address given above. On the basis of this assessment, the Director has determined that this rulemaking does not constitute a major Federal action significantly affecting the human environment.

Two letters of comment were received concerning the proposed regulation—one of objection and one of agreement. The following points of objection were cited.

(1) The hunting would have an adverse impact on the endangered whooping crane.

Response: The area open to hunting does not include established critical habitat for the endangered whooping crane. An "Intra-Service Consultation Procedure" pursuant to section 7 of the Endangered Species Act of 1973, was conducted. The Director has determined that this action will not affect any endangered species or their habitat. Whooping cranes have never been recorded on the area proposed for hunting.

(2) The time period for public comment was too short.

Response: Special circumstances are involved in the promulgation of this rulemaking which limit the amount of time the Service can allow for public comment. Opening dates for State hunting seasons are rapidly approaching and the public interest would not be served by delaying the opening of the refuge unnecessarily.

(3) The proposal should have a public hearing and an Environmental Impact Statement.

Response: An environmental impact statement is not deemed necessary by the Fish and Wildlife Service. Reasons for the decision are: (a) The proposal will not have a significant impact on the environment, and (b) hunting on Aransas National Wildlife Refuge is not deemed a major Federal action significantly affecting the quality of the

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human environment. An environmental assessment statement and the section 7 consultation are considered adequate.

proposed rules

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human environment. An environmental assessment statement and the section 7 consultation are considered adequate.

The second letter gave full support to this proposal.

Because of the time limitation involved to coordinate the State and Federal hunting regulations for the cooperative hunting program, and the rapid approach of the hunting season, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of 5 U.S.C. 553(d)(3), the Administrative Procedure Act to expedite the implementation of this rulemaking; therefore, the effective date of this final rule is November 4, 1978.

Accordingly, after consideration of all interests and concerns, 50 CFR Part 32 is amended by the addition of Aransas National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

§ 32.21 List of open areas; upland game.

TEXAS

ARANSAS NATIONAL WILDLIFE REFUGE

Dated: October 18, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-29889 Filed 10-23-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would impose pack, container and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. The regulation, if issued, should promote orderly marketing of such lettuce by standardizing the pack of lettuce shipped to consumers.

DATE: Comments due November 8, 1978.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This notice is based upon the recommendations made by the committee at its public meeting in McAllen, Tex., on October 12, 1978.

The recommendations of the committee reflect its appraisal of the 1978-79 lettuce crop and marketing prospects for the season.

The South Texas lettuce industry as well as other lettuce shipping areas are accustomed to operating on a 6 day shipping week. The experience has been that a 6 day shipping week is adequate for 5 days distribution in terminal markets. Therefore, proposed "packaging holidays" on Sundays would promote more orderly marketing.

The proposed pack and container requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day would be exempt from such requirements.

Proposed provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers utilize lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted provided certain safeguard requirements are met.

The proposal is as follows:

§ 971.319 Handling regulation.

During the period November 20, 1978, through March 31, 1979, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraphs (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85-40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches × 14¼ inches × 21$^{5}/_{16}$ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches × 14 inches × 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches × 9¾ inches × 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches × 16⅛ inches × 21½ inches (designated as carrier container No. 85-40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (e) or (f) of this section.

(2) No handler may transport by motor vehicle, or cause the transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the current grade, pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements. This exception may not be applied to any

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shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* The

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

tralization of the other fraction(s) and/or dilution of the vaccine beyond the titer range of the other fraction(s)

[1505-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

prevent the sale of such devices by others.

DATE: Comments must be received on

4. This agreement shall not become a part of a public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Com-

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shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* The pack, container, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a certificate of privilege for such lettuce prior to handling it, pursuant to §§ 971.120-971.125; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated October 18, 1978.

JOHN J. GARDNER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-29888 Filed 10-23-78; 8:45 am]

[3410-34-M]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Revision of Viricidal Activity Test

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the standard test procedure that is used to assure that certain liquid biological products that are used as diluents for dessicated live virus vaccines are free of viricidal activity. It would also simplify that test procedure by reducing the number of virus titrations required and would allow for greater flexibility by providing for the general use of single-fraction vaccines and for alternate methods of titration in the test without affecting the validity of the results.

DATE: Comments must be received on or before December 19, 1978.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The present standard test procedure for the detection of viricidal activity found in § 113.35 of the standards requires that titration of vaccine rehydrated with the liquid product being tested and vaccine rehydrated with sterile purified water (which is used for comparison purposes as a control) be conducted at zero hour and 2 hours after rehydration. Experience with this test since it became effective (5 years) indicates that titrations conducted at zero hour are not necessary for interpretation results. This amendment would simplify the test by deleting these titrations, thus reducing the total number by 50 percent.

Presently § 113.35 provides that in testing vaccines containing more than one dessicated fraction, each such fraction must be tested (the other fraction or fractions being neutralized or diluted).

However, licensees are presently permitted to use representative single-fraction vaccines in this test provided they are licensed to produce such vaccines. This amendment would provide greater flexibility in this regard by also permitting the preparation of unlicensed single-fraction vaccines for use in the test if authorized by the Deputy Administrator.

The present test procedure specifies that titrations shall be conducted using 1.0 $\log_{10}$ dilutions and a minimum of 10 substrate units per dilution. This amendment would delete that requirement and would permit the use of titration methods described in a filed outline of production or in an applicable standard requirement. This would add flexibility to the testing procedures by permitting the use of other satisfactory methods of titration.

Section 113.35 would be revised to read as follows:

§ 113.35 Detection of viricidal activity.

The test for detection of viricidal activity provided in this section shall be conducted when such a test is prescribed in an applicable standard requirement or in the filed outline of production for each inactivated liquid biological product used as diluent for a dessicated live virus vaccine in a combination package.

(a) Bulk or final container samples of completed product from each serial shall be tested.

(b) The product shall be tested with each virus fraction for which it is to be used as a diluent. If the vaccine to be rehydrated contains more than one virus fraction, the test shall be conducted with each fraction after neutralization of the other fraction(s) and/or dilution of the vaccine beyond the titer range of the other fraction(s) or the test shall be conducted using representative single-fraction dessicated vaccines which are prepared by the licensee and which are licensed.

Provided, that the Deputy Administrator may authorize licenseees to prepare and use unlicensed single-fraction vaccines for this purpose.

(c) Test procedure:

(1) Rehydrate at least two vials of the vaccine with the liquid product under test according to label recommendations and pool the contents.

(2) Rehydrate at least two vials of the vaccine with the same volume of sterile purified water and pool the contents.

(3) Neutralize to remove other fractions, if necessary.

(4) Hold the two pools of vaccine at room temperature (20-25° C) for 2 hours. The holding period shall begin when rehydration is completed.

(5) Tritrate the virus(es) in each pool of vaccine as provided in the filed outline of production or an applicable standard requirement.

(6) Compare respective titers.

(d) If the titer of the vaccine virus(es) rehydrated with the product under test is 0.7 $\log_{10}$ or more below the titer of the vaccine virus(es) rehydrated with sterile purified water, the product is unsatisfactory for use as diluent.

(e) If the product is unsatisfactory in the first test, one retest to rule out faulty techniques may be conducted using four vials of the vaccine for each pool and the acceptability of the product judged by the results of the second test.

(f) Liquid products found to be unsatisfactory for use as diluent by this test are not prohibited from release as separate licensed products if labeled as prescribed in § 112.7(h).

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 17th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator, Veterinary Services.

[FR Doc. 78-29775 Filed 10-23-78; 8:45 am]

[1505-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 703]

INVESTMENTS AND DEPOSITS

Investment Activities of Federal Credit Unions

Correction

In FR Doc. 78-29213 in the issue of Thursday, October 17, 1978, appearing at page 47731, make the following changes:

(1) On page 47731, in the second column, in paragraph "3. *Forward Placement Contracts (Forwards)*" in the 15th line the word "delivery" should read "delivering".

(2) On page 47732, in the second column, in paragraph "5. *Repurchase Agreements.*" in the 6th line the semicolon after the word, "transaction" should be a comma.

(3) On page 47734, in the third column, in the 9th line, the cite "12 U.S.C. 1557" should read as "12 U.S.C. 1757".

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 751-0026]

FEDERAL SIGNAL CORP.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Chicago, Ill. manufacturer and seller of public safety and communication equipment, to cease, in connection with the sale of such products to governmental entities, from exchanging bidding information with its distributors prior to submission of competitive bids, submitting or soliciting the submission of collusive bids, or otherwise engaging in any practice that may hinder or prevent competitors from bidding successfully. The firm would also be required to cease furnishing governmental bodies seeking to purchase civil defense warning systems with advertisements or specifications that might induce these entities to limit distribution of invitation to bid; incorporate the name or model number of firm's products into advertisements for bids or specifications; or draft specifications that would restrain, lessen, or prevent the sale of such devices by others.

DATE: Comments must be received on or before December 21, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis Street, Denver, Colo. 80202. 303-837-2271.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 751-0026]

FEDERAL SIGNAL CORP.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Federal Signal Corp., a corporation, (hereinafter "Federal" or respondent) and it now appearing that Federal is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Federal, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Federal is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 120 South Riverside Plaza, Chicago, Ill. 60606.

2. Federal admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Federal waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of a public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related materials, pursuant to rule 2.34, will be placed on the public record for a period of 60 days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by Federal that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Federal has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered that respondent, Federal Signal Corp., its subsidiaries, successors, assigns, officers and directors, and respondent's agents, representatives and employees, individually or in concert with others, directly or indirectly, or through any corporate or other device, in connection with the distribution, offering for sale, or sale of Signal Division products by Federal or any of its distributors, to public bodies on a competitive bidding basis, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Exchanging information with any of its distributors, prior to any bid being submitted on any particular project, concerning:

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(a) The intent to submit or not to submit a bid; or

(b) The price(s) that will be bid;

2. Entering into any agreement or understanding with any of its distributors, prior to any bid being submitted on any particular project, concerning:

(a) The intent to submit or not to submit a bid;

(b) The type of equipment that will be bid;

(c) The price(s) that will be bid; or

(d) The party which will submit the low bid;

3. Submitting or soliciting the submission of any collusive bid;

4. Allocating or attempting to allocate customers among respondent and its distributors: *Provided*, That respondent may furnish the name of one or more of its distributors to any buyer or prospective buyer of respondent's products.

II

It is further ordered, That respondent, in connection with the distribution, offering for sale, or sale of civil defense warning systems by Federal or any of its distributors, to public bodies on a competitive bidding basis, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Furnishing, directly or indirectly, prior to the submission of any written bid, any written specifications to such public body (other than specifications established by any department of the Federal Government) to be substantially incorporated into materials used to obtain or evaluate bids;

2. Influencing or attempting to influence any such public body to:

(a) Limit the distribution of invitations to bid to respondent and/or its distributors;

(b) Incorporate the name or model number of any of respondent's products into advertisements for bids or specifications used to obtain or evaluate bids;

(c) Draft specifications which disqualify sellers of competitive products from bidding effectively;

3. Preparing any part of any advertisement for bids or specification used by a public body to obtain or evaluate bids.

Nothing contained in part II of the order shall prohibit respondent from conducting surveys of civil defense warning system needs for public bodies and providing quotations containing descriptions of civil defense warning systems and estimated costs. All such quotations shall contain the following statement in close proximity to the product description:

"Civil defense warning systems produced by other manufacturers may provide adequate coverage for the area surveyed even though such systems may contain differing numbers of sirens having different decibel ratings or functioning in a different manner. The names and addresses of other recognized manufacturers of civil defense warning systems will be provided upon request."

It is further ordered, That respondent, upon request by a public body, provide the names and addresses of all other manufacturers of civil defense warning systems known to respondent.

III

It is further ordered, That respondent, for a period of 5 years from the date of service of this order:

1. Institute a continuing surveillance program to insure that its distributors of civil defense warning systems are not engaging in any act or practice which, if engaged in by respondent, would violate paragraphs 1, 2, or 3 of part II of this order;

2. Upon receiving information indicating that any of its distributors of civil defense warning systems has engaged in any such act or practice, respondent shall obtain the written assurance of such distributor that such conduct shall not again occur. If the distributor fails to provide such written assurance, respondent shall forthwith cease and desist from supplying civil defense warning systems to such distributor;

3. Upon ascertaining that a distributor, after having given such written assurance, has again engaged in any such act or practice, forthwith cease and disist from supplying civil defense warning systems to such distributor.

IV

It is further ordered, That respondent, for a period of three years from the date of service of this order, in connection with each bid on civil defense warning systems submitted to a public body:

(1) Include a copy of the letter set forth in appendix A hereto and a copy of this order with each such bid; and

(2) Maintain a file concerning each such bid, such file to include a copy of the bid and accompanying letter, all work papers used in computing the bid, and a copy of each document furnished to the public body involved.

The files described herein shall be made available for Commission inspection upon reasonable notice.

V

It is further ordered, That respondent shall within thirty days after service upon it of this order, distribute a copy of the order to each of the respondent's operating divisions, to each of its present corporate officers and to each domestic sales representative in the Signal Division, and to its future corporate officers and Signal Division domestic sales representatives within 5 days of their assumption of office or employment with respondent corporation.

VI

It is further ordered, That respondent shall notify the Commission at least thirty days prior to any proposed change in its organization, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent shall within sixty days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Signed this 29th day of November, 1977.

Federal Signal Corporation, a corporation.

KARL F. HOENECKE,
Chairman and President, 1415 West 22d Street, Oak Brook, Ill. 60521.

GARY L. MOWDER,
Attorney for proposed respondent.

JOHN T. HANKINS,
Counsel for Federal Trade Commission.

DAVID J. RICHMAN,
Counsel for Federal Trade Commission.

Approved: December 9, 1977.

PAUL C. DAW,
Acting Regional Director.

APPENDIX A

(Official Stationery of Federal Signal Corp.)

Dear ——————: Federal Signal Corp. has entered into a consent agreement with the Federal Trade Commission concerning the company's competitive bidding practices. The agreement is for settlement purposes only and does not constitute an admission of any law violations. Part I of the order issued pursuant to the agreement applies to the sale of all Signal Division products. Parts II, III, and IV apply to sales of civil defense warning systems.

A copy of the order issued by the Commission is enclosed. If, in connection with this bid or at any time in the future, you believe that Federal has engaged in any of the practices prohibited by the order, report the details in writing to: Federal Trade Commission, Washington, D.C. 20580. You are also requested, at your option, to send a copy of any such letter to:

Federal Signal Corp., Attention: President.

Very truly yours,

(Name)
President
Federal Signal Corp.

FEDERAL SIGNAL CORP., FILE NO. 751 0026

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Federal Signal Corp., Chicago, Ill., a manufacturer and seller of public safety and communication equipment.

The proposed consent order and material submitted by Federal Signal Corp. to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The proposed complaint alleges that respondent, prior to submitting bids on public safety and communications equipment to government bodies, exchanged information and entered into agreements with its distributors concerning the terms of such bids. The proposed complaint also charges that respondent has submitted and solicited the submission of collusive bids on particular projects and has entered into agreements with its distributors allocating customers among respondent and its distributors.

The proposed complaint further alleges that in connection with the sale of civil defense warning systems to governmental bodies, Federal has adopted and maintained various business practices to restrain, lessen or prevent the sale of warning systems by others engaged in the manufacture or sale of such products. The complaint alleges that:

(1) Respondent has participated in the preparation of advertisements soliciting bids and the specifications used to obtain and evaluate bids with the purpose and effect of hindering or preventing competitors from bidding effectively; and

(2) Respondent has submitted bids, and solicited its distributors to submit bids, which are not intended to secure business but are intended to hinder or prevent competitors from bidding successfully.

The proposed consent order prohibits respondent, prior to the submission of competitive bids on public safety and communications equipment to governmental bodies, from entering into agreements or exchanging information with its distributors concerning the intent to submit or not submit a bid or the prices that will be bid. The order further prohibits respondent from submitting and soliciting the submission of collusive bids and from allocating or attempting to allocate customers among respondent and its distributors.

Respondent is also ordered to cease and desist from furnishing written specifications to public bodies seeking bids on civil defense warning systems prior to the submission of any written bid. Respondent is further ordered to cease and desist from influencing or attempting to influence the public body to; (1) Limit the distribution of invitations to bid; (2) incorporate the name or model number of any of respondent's products into advertisements for bids or specifications; or (3) draft specifications which prevent sellers of competitive products from bidding effectively.

The order further enjoins respondent from preparing any part of any advertisement or specification used by public bodies to obtain and evaluate bids on civil defense warning systems. Repondent is also ordered to institute a continuing surveillance program to insure that none of its distributors are engaging in any acts or practices which if engaged in by the respondent would violate the portion of the order relating to civil defense warning systems.

The terms of the consent order will have the effect of removing restraints on competition between Federal, its distributors, and other manufacturers of public safety and communications equipment including civil defense warning systems. Utimately this action should lead to lower prices to the purchasers of public safety and communications equipment, many of which are funded by the public.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the terms of the agreement and proposed order or to modify the terms in any manner.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-29895 Filed 10-23-78; 8:45 am]

[1505-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3066]

HERTZ CORP.

Consent Agreement With Analysis To Aid Public Comment

Correction

In FR Doc. 78-29261 appearing at page 47736 in the issue for Tuesday, October 17, 1978, on page 47738, in the third column, in the paragraph beginning "In addition to * * *" the last line should read as follows: "prior to the date * * *".

[4110-07-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Parts 404 and 416]

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Determinations, Appeals, and Representation of Parties, Employment, Wages, Self-Employment, Self-Employment Income Rights and Benefits Based on Disability

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

Determinations of Disability or Blindness, Income and Exclusions, Determinations, Appeals, and Representation of Parties

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is rewriting and reorganizing several subparts of the regulations under titles II and XVI of the Social Security Act. The objectives are: (1) To meet the Department's "Operation Common Sense" standards by making the regulations clearer and easier to understand; (2) to remove provisions that are obsolete and rarely applicable; and (3) as appropriate, to examine the policies and consider additions, revisions, and clarifications.

The regulations presently being rewritten are:

(1) *20 CFR Part 404, Subpart J, and 20 CFR Part 416, Subparts N and O.* Included in these subparts are the regulations on determinations, appeals, reopening of determinations, and representation of parties for social security benefits under title II and for supplemental security income benefits under title XVI.

(2) *20 CFR Part 404, Subpart K.* The regulations in this subpart describe the types of employment and self-employment that are included and excluded for purposes of social security coverage under title II.

(3) *20 CFR Part 404, Subpart P, and 20 CFR Part 416, Subpart I.* These regulations include the rules for determining disability under title II, and for determining disability and blindness under title XVI.

(4) *20 CFR Part 416, Subpart K.* The regulations in this subpart cover what is "income" and how much income to count in determining eligibility for supplemental security income benefits, and the amount of those benefits, under title XVI.

The rewriting of subpart K of 20 CFR Part 404 has been classified as "technical," since no changes in current policies regarding employment and self-employment are planned. The others have been classified by the Department as "policy significant," since there may be some policy additions and clarifications.

FOR FURTHER INFORMATION CONTACT:

Charles Rollins, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-6666.

Dated: October 14, 1978.

Approved:

STANFORD G. ROSS,
Commissioner of Social Security.

[FR Doc. 78-29829 Filed 10-23-78; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 614]

UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

New Schedule of Remuneration

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor proposes to amend 20 CFR 614.19, to increase the monthly rates of remuneration in the Schedule of Remuneration used to compute the Federal wages of ex-servicemen and women covered by the program of Unemployment Compensation for Ex-Servicemen (UCX program). It is a program of unemployment benefits for individuals who are separated from military service and are unable to obtain work. The new schedule will apply to new claims that are filed on and after January 1, 1979.

DATES: Comments: All comments on this proposal must be received on or before November 24, 1978. Proposed

12087. As was the case with the current Schedule of Remuneration in 20 CFR 614.19, it is proposed to make the

graph (a) does not revoke the prior schedule or any preceding schedule or change the periods of time they were

ceived in response to this notice may be inspected and copied (for appropriate charges) at this address during

EPA presently believes that provisions of sections 113(d)(1)(D), relating to final compliance, and 113(d)(7), re-

Proposed Tolerance for the Pesticide Chemical O,O-Dimethyl S-[(4-oxo-1,2,3-Benzotriazin-3(4H)-yl)Methyl] Phosphorodithioate

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DATES: Comments: All comments on this proposal must be received on or before November 24, 1978. Proposed effective date: January 1, 1979, with respect to first claims filed on and after that date.

ADDRESSES: Send comments on this proposal to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 "D" Street NW., Washington, D.C. 20213.

All comments received will be available for public inspection during normal business hours, in room 7000 at the above address.

FOR FURTHER INFORMATION CONTACT:

Robert B. Edwards, Acting Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, D.C. 20213, telephone: 202-376-7032.

SUPPLEMENTARY INFORMATION: The UCX program was established by the "Ex-Servicemen's Unemployment Compensation Act of 1958," and is now codified at subchapter II of chapter 85, in title 5 of the United State Code (5 U.S.C. 8521-8525). It is a program of unemployment benefits for individuals who are separated from military service and are unable to obtain work.

In most unemployment compensation programs, the benefit amounts payable to claimants are computed on the basis of the wages paid to each claimant in a designated base period. For the UCX program, the statute provides that benefit amounts shall be computed on the basis of wages as prescribed in the current Schedule of Remuneration.

Section 8521(a)(2) requires the Secretary of Labor to issue, from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind.

A Schedule of Remuneration adopted in accordance with the law has been published from time to time as changes in military pay and allowances occur, and appears in 20 CFR 614.19. These schedules adopted from time to time are made effective for new claims filed on and after the effective date of each new schedule, and new claims established under a prior schedule are not changed.

The new Schedule of Remuneration proposed in this document adjusts the scheduled monthly rates of pay upward to reflect the military pay increase that became effective on October 1, 1978, under Executive Order 12087. As was the case with the current Schedule of Remuneration in 20 CFR 614.19, it is proposed to make the new schedule set forth in this document effective with respect to first claims which are filed after the end of this year; that is, new claims filed on and after January 1, 1979. As stated in the preamble of the proposal for the current schedule (42 FR 60166), the purpose is to regularize the Effective dates of new schedules and this would stabilize administration of the UCX program and be fairer to claimants.

In order to accomplish the goal of making the new schedule effective at the beginning of next year, and consider any comments received before the new schedule is put into effect, it is necessary to limit the comment period to 30 days.

NOTE.—The Department of Labor has determined that the proposal in this document will not have major economic effects requiring the preparation of a regulatory analysis under Executive Order 12044 and applicable authority.

This document was prepared under the direction and control of Robert B. Edwards, Acting Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 "D" Street NW., Washington, D.C. 20213, telephone: 202-376-7032.

Accordingly, it is proposed to revise 20 CFR 614.19 to read as follows:

§ 614.19 Schedule of Remuneration.

(a) The following Schedule of Remuneration is issued pursuant to 5 U.S.C. 8521(a)(2), and shall apply to first claims which are filed after December 31, 1978:

Pay grade	Monthly rate
(1) Commissioned officers:	
O-10	$4,973
O-9	4,969
O-8	4,678
O-7	4,129
O-6	3,412
O-5	2,797
O-4	2,307
O-3	1,935
O-2	1,535
O-1	1,142
(2) Warrant officers:	
W-4	2,184
W-3	1,757
W-2	1,527
W-1	1,332
(3) Enlisted personnel:	
E-9	1,873
E-8	1,614
E-7	1,393
E-6	1,177
E-5	995
E-4	845
E-3	754
E-2	706
E-1	645

(b) The Schedule of remuneration published at 42 FR 65483 remains applicable to first claims filed prior to the effective date of the new schedule of Remuneration set forth in paragraph (a). The new schedule in paragraph (a) does not revoke the prior schedule or any preceding schedule or change the periods of time they were in effect.

(5 U.S.C. 8508, 8521(a)(2).)

Signed at Washington, D.C., on October 18, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-29956 Filed 10-23-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 986-5]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Disapproval of an Administrative Order Issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to disapprove an administrative order issued by the Virginia State Air Pollution Control Board ("SAPCB") to Jewell Coal & Coke Co. ("Jewell"). The order requires the company to bring air emissions from its plant No. 1 coke ovens in Vansant, Va., into compliance with certain regulations contained in the federally approved Virginia State Implementation Plan (SIP) by May 31, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed disapproval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 24, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary Gross, at the address above or telephone 215-597-8907.

SUPPLEMENTARY INFORMATION: Jewell Coal & Coke Co. operates a nonrecovery type coke plant at Vansant, Va. The order under consideration addresses emissions from 168 Mitchell coke ovens (designated plant No. 1) at the facility, which are subject to §§ 4.20 and 4.40 of the regulations for the control and abatement of air pollution. The regulations limit the emissions of particulate and visible emissions, and are part of the federally approved Virginia State Implementation Plan. The order requires final compliance with the regulations by May 31, 1979, through installation of common tunnel afterburners on each oven, a state-of-the-art quench tower using clean water makeup, and a coke side shed with a baghouse air pollution control device. The order is based on control programs proposed by Jewell.

On October 21, 1974, the SAPCB issued a special order to Jewell requiring shutdown of plant No. 1 by June 30, 1975. This order was based on a unanimous agreement among Jewell, the SAPCB, and EPA that no control technique was both feasible and sufficient to achieve compliance with the SIP. Subsequently, the SAPCB deferred the date for final compliance with the special order on five separate occasions. In December 1977, Jewell stated for the first time that, based on a preliminary evaluation by their engineering consultant and ongoing experimentation with control techniques at plant No. 2, plant No. 1 could be modified to operate in compliance with the SIP. On March 21 and 22, 1978, Jewell conducted particulate emission tests on four prototype ovens retrofitted with common tunnel afterburners. Observations made by EPA and SAPCB personnel as well as the quantitative results of those tests indicated that compliance with the applicable regulations was, in fact, possible. On June 5, 1978, the SAPCB, after notice and public hearing, approved the subject order.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

EPA presently believes that provisions of sections 113(d)(1)(D), relating to final compliance, and 113(d)(7), relating to interim emission reductions, have not been satisfied. Both of these findings are based on EPA observations of special work practices employed by Jewell during the March 1978 stack tests and the Agency's judgment that such work practices are an essential part of Jewell's demonstration of ability to comply with the SIP. Although the order provides that these work practices must be reduced to writing and agreed upon by Jewell and the SAPCB, it does not provide for incorporation of these practices into the order nor does it provide for EPA approval of the work practices. EPA cannot approve an order which specifies that terms necessary to meet the requirements of the Act will be agreed upon by other parties without EPA review and approval.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: October 2, 1978.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc. 78-28836 Filed 10-23-78; 8:45 am]

[6560-01-M]

[40 CFR Part 180]

[FRL 993-4; PP 8E2111/P93]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerance for the Pesticide Chemical O,O-Dimethyl S-[(4-oxo-1,2,3-Benzotriazin-3(4H)-yl)Methyl] Phosphorodithioate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide *0,0*-dimethyl *S*-[(4-oxo - 1,2,3 - benzotriazin - 3(*4H*) - yl) methyl] phosphorodithioate on kiwi fruit. The proposal was submitted by Mobay Chemical Corp. This regulation would establish a maximum permissible level for residues of the subject insecticide on kiwi fruit.

DATE: Comments must be received on or before November 24, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Timothy A. Gardner, Product Manager (PM)15, Registration Division (TS-767), Office of Pesticide Programs, EPA, 202-426-9425.

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., Chemagro Agricultural Division, P.O. Box 4913, Kansas City, Mo. 64120, has submitted a pesticide petition (PP 8E2111) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.154 be amended by the establishment of a tolerance for the cholinesterase-inhibiting residues of the insecticide *0,0*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(*4H*)-yl)methyl] phosphorodithioate in or on raw agricultural commodity kiwi fruit at 10 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. No toxicology data accompanied this petition. All toxicology data requirements were referenced in this action. The toxicology data referenced in the petition in support of the proposed tolerance included a rabbit teratology study (negative at 0.75 milligram (mg)/kilogram (kg) of body weight (bw), a 30-day subacute neurotoxicity study (negative at 100 ppm)(highest level fed), a rat acute oral lethal dose (LD_{50}) study of 5-6 mg/kg bw, 2-year dog and rat feeding studies (both with a 5 ppm noobservable effect level (NOEL), a three generation reproduction study in mice (negative at 5 mg/kg bw)(highest level fed), and a teratology study in rats

and mice (negative at 5 mg/kg bw)(highest level fed).

cious metals that may be designated for recovery are gold, silver, and metals in the platinum group. Examples of materials containing precious metals that may be designated for recovery are used hyposolution or scrap film generated. Installation of a silver recovery unit consistent with the quantity of

done by controlled burning without an open flue. Recovery on site by this

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and mice (negative at 5 mg/kg bw)(highest level fed).

Based on the NOEL in the rat 2-year feeding study and using a ten-fold safety factor, the acceptable daily intake (ADI) is 0.025 mg/kg bw day. The theoretical maximal residue contribution (TMRC) from the tolerances which have been previously established for residues of the insecticide on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.04 ppm represents approximately 45 percent of the ADI. The increment in TMRC from the requested tolerance on kiwi fruit is negligible; the ADI will not be exceeded by the existing established and proposed tolerances.

The nature of the residue in kiwi fruit is adequately understood from data on other crops, and an adequate analytical method (spectrophotometric determination) is available for enforcement purposes. There are no feed items involved with this petition so there is no expectation of secondary residues in meat, milk, poultry, or eggs as delineated in 40 CFR 180.6(a)(3).

A recently completed oncogenicity study performed by the National Cancer Institute indicated that the compound had no oncogenic potential in one rodent species, while, in a second species, the data were inconclusive and insufficient to judge the potential oncogenicity of the subject pesticide. Although the results of the study warrant a retesting in rats to clarify the remaining uncertainty raised by the present study, the currently available data together with the small increment in human exposure from kiwi fruit lead to the conclusion that an unacceptable risk is not associated with the subject pesticide's residues on kiwi fruit and that the tolerance of 10 ppm on kiwi fruit established by amending 40 CFR 180.154 will protect the public health. Additionally, there are no actions currently pending against continued registration of the subject pesticide, nor any other considerations involved in establishing the proposed tolerance. The pesticide is considered useful for the purpose for which a tolerance is being sought. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before November 24, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition document control number, "PP 8E2111/P93." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 17, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 408(e) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

It is proposed that part 180, subpart C, § 180.154 be amended by alphabetically inserting kiwi fruit at 10 ppm in the table to read as follows:

§ 180.154 0,0-Dimethyl S-[(4-oxo-1,2,3-benzotriazin-3(4H1)-yl)methyl] phosphorodithioate; tolerances for residues.

Commodity	Parts per million
Kiwi fruit	10

[FR Doc. 78-29834 Filed 10-23-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[41 CFR Part 101-42]

PRECIOUS METAL RECOVERY

Recovery of Precious Metals and Strategic and Critical Materials

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that the General Services Administration (GSA) proposes to amend the Federal Property Management Regulations by requiring more frequent surveying and reporting by agencies to GSA of their precious-metal-generating activities and by revising the current reporting format to require information on types of silver or other precious-metal-bearing scrap processed or generated, estimates of potential silver recovery yield and method of estimation, explanation for any lack of recovery, and actions planned to maximize recovery. The first semianual report utilizing this format shall be for the first half of fiscal year 1979. A standard form is being developed for agency use in reporting, and will be announced when it becomes available. These measures are being proposed as a result of a U.S. General Accounting Office report dated December 28, 1977, entitled "Additional Precious Metals Can Be Recovered" (LCD-77-228), which recommended that GSA take action to improve Federal agency silver recovery programs. The changes proposed herein will, by requiring more frequent and detailed surveying and reporting of data by agencies to GSA, improve the management of Federal agency silver recovery programs.

DATES: Comments are due on or before December 31, 1978.

ADDRESS: Written comments should be sent to: General Services Administration (DP), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. William S. Eckert Director, Property Rehabilitation Division, Office of Personal Property, Federal Property Resources Service, General Services Administration, Washington, D.C. 20405, 703-557-1743.

It is proposed to amend part 101-42 by revising subparts 101-42.3 and 101-42.48 as follows:

Subpart 101-42.3—Recovery of Precious Metals and Strategic and Critical Materials

§ 101-42.300 Scope of subpart.

This subpart prescribes the policy and procedures for recovery of precious metals and strategic and critical materials from articles of excess personal property.

§ 101-42.301 General.

GSA is responsible for the initiation of Government-wide precious metals and strategic and critical materials recovery programs, and for the issuance and administration of applicable contracts, except those issued and administered by the Department of Defense (DOD) for precious metal recovery and refinement operations. Situations will occur where, in terms of economy, efficiency, and environmental quality, it is in the best interest of the Government to recover precious metals and strategic and critical materials from articles of excess personal property instead of using other methods of disposal. GSA will determine when Government-wide recovery is appropriate on the basis of an evaluation of the supply-demand factor, the price of the commodity, the cost of recovering the precious metal or strategic and critical material, and applicable guidelines or regulations on polution control. Precious metals that may be designated for recovery are gold, silver, and metals in the platinum group. Examples of silver-bearing scrap and waste include used photographic fixing (hypo) solution, photographic and X-ray film, silver alloys, and dental scrap. Strategic and critical materials, lists of which may be issued from time to time as provided in § 101-14.106, also may be designated for recovery.

§ 101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA

Each agency having activities that generate silver or other precious metals (including used hyposolution, scrap film, and other precioous-metal-bearing scrap) shall survey each of those activities regarding precious metals recovery and potential recovery information and shall submit a consolidated semiannual report (based on fiscal year) on that information to the General Services Administration (DPR), Washington, D.C. 20405. The consolidated report shall be submitted within 45 calendar days after the end of each half fiscal year reporting period. Each agency shall designate an individual to be responsible for coordinating the surveys, implementing and improving recovery procedures, monitoring the recovery programs, and submitting the consolidated report to GSA. Section 101-42.4801 illustrates a suggested format for the report (interagency report control No. 1529-GSA-SA). The report shall contain specific information regarding the types of silver or other precious-metal-bearing scrap processed or generated; the number of activities generating silver or other precious-metal-bearing scrap and quantity generated; the estimated amounts potentially recoverable and method of estimation; the number of activities recovering precious metals from such scrap and quantity generated; the amount of precious metals recovered in troy ounces; the type of recovery equipment and method of disposition of recovered silver; the method of disposal if precious metals are not recovered; the explanation for any lack of recovery; the agency estimate of dollar savings for the report period; and any actions planned to maximize recovery.

§ 101-42.301-2 [Deleted]

§ 101-42.302 Recovery of silver from used hypo solution and scrap film.

Heads of executive agencies shall be responsible for establishing, maintaining, and pursuing a program for silver recovery from used hypo solution and scrap film.

§ 101-42.302-1 Agency responsibility.

Each agency shall consider recovering silver regardless of the quantity of used hyposolution or scrap film generated. Installation of a silver recovery unit consistent with the quantity of used hyposolution generated or storage of used hyposolution or scrap film until a processable quantity is obtained are two alternatives. If an activity generates small quantities of hyposolution and tests show that there is a minimal amount of silver per gallon of solution, arrangements should be made with another activity in the area, which is using a recovery unit, to receive and process its used hyposolution to the extent feasible. When consolidation with other activities is not practicable and information and assistance with regard to recovery techniques are required, the GSA regional office serving the area or the Defense Logistics Agency (DLA) (in accordance with § 101-42.303) should be contacted. If it is determined that the silver cannot be recovered economically by Government-owned equipment or by a commercial recovery contractor, the solution or scrap film should be disposed of in accordance with part 101-45 and in an environmentally acceptable manner.

§ 101-42.302-2 General guidelines for the recovery of silver from used hypo solution.

The basic factors that determine the potential quantity of recoverable silver are: (a) The amount of used hyposolution generated; (b) the amount and type of film processed; and (c) the physical layout of the photographic facility. Since these factors may vary for each activity, a single method of recovery cannot be prescribed. Used hyposolution should be processed to recover the maximum amount of silver from the solution, consistent with overall economic feasibility and environmental considerations. Recovery can be effected either by Government-owned equipment or through use of commercial recovery contracts. Metallic replacement or electrolytic methods may be used. Various types of recovery equipment are available which permit economic silver recovery from both large and small quantities of used hypo solution.

§ 101-42.302-3 General guidelines for the recovery of silver from scrap film.

Scrap film, the silver content of which varies according to the type of film and degree of exposure, is a source for recovery. A common method of recovery is periodic disposal of accumulated film by sale in accordance with part 101-45. Another method of recovering silver is through the destruction of scrap film by burning and reducing it to ash, which can provide economy through savings in transportation costs as well as the conservation of the silver. This must be done by controlled burning without an open flue. Recovery on site by this method should be accomplished only at those activities or installations where adequate facilities exist and the local code on burning permits it.

§ 101-42.302-4 Detailed guidelines for recovery of silver from used hyposolution and scrap film.

Detailed guidelines and economic criteria for evaluating silver recovery potential and establishing recovery programs are contained in the GSA pamphlet "Guide for the Recovery of Silver from Used Fixing Solution and Scrap Film" (FPMR 101-42.3), copies of which may be obtained from GSA regional offices or from agency publications liaison officers.

§ 101-42.303 Recovery and utilization of precious metals through the Defense precious metals recovery program.

Civilian agencies may utilize the Defense precious metals recovery program as prescribed in this § 101-42.303.

§ 101-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDPMRO).

Civilian agency activities which generate precious-metal-bearing scrap may utilize DPDPMRO, which is a part of DLA. Accumulations of precious-metal-bearing scrap such as silver-cell batteries, missile and electronic parts, silver turnings, dental scrap, film scrap, and silver sludge recovered from used hyposolution, should be reported by letter to the Chief, Defense Property Disposal Precious Metals Recovery Office, Naval Weapons Station, Earle, Colts Neck, N.J. 07722, with a request for shipping instructions. Shipping instructions will be furnished the activity by the DPDPMRO within 30 calendar days following receipt of the request. Participating civilian agencies are entitled to requisition refined precious metals for use as Government-furnished material (GFM) to reduce new procurement costs in accordance with § 101-42.303-2. For additional information or recovery assistance, DLA may be contacted at the following address: DOD Precious Metals Recovery Program Manager, Cameron Station, Alexandria, Va. 22314.

§ 101-42.303-2 Utilization of DOD-recovered precious metals as Government-furnished material (GFM) in Federal procurements.

To determine the need for recovered precious metals as GFM to reduce new procurement costs, each agency shall review procurements for which precious metals will be required by a contractor. Each agency having requirements for refined precious metals as

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GFM should submit a request to the Commander, Defense Industrial Supply Center, 700 Robbins Avenue,

g. Method of recovery (equipment used) and disposition of recovered silver.

h. Method of disposal of scrap film for

[6712-01-M]

FEDERAL COMMUNICATIONS

better suited for some reception conditions than others. Unfortunately, most consumers lack the necessary informa-

could not be sold at as high a price. This should induce manufacturers to put more emphasis on antenna and re-

3-A. How should the noise figure and related information be presented to the public?

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GFM should submit a request to the Commander, Defense Industrial Supply Center, 700 Robbins Avenue, Philadelphia, Pa. 19111. Each agency requesting precious metals under the DOD precious metals recovery program shall also contribute any generated accumulations of silver, gold, and platinum to the DPDPMRO in accordance with § 101-42.303-1. Normally, the amount of precious metals authorized for sale to individual agencies will not exceed the quantity of such refined metals derived from the agency contributions of precious-metal materials to the program. Exceptions to this limitation will be made on a case-by-case basis if refined metals on hand exceed DOD requirements. No minimum ordering quantity is prescribed. There is a nominal charge for the refined precious metals to cover the administrative and processing costs; however, such costs are substantially lower than the current market price of fine silver, gold, and platinum.

Subpart 101-42.48—Exhibits

§ 101-42.4800 Scope of subpart.

This subpart exhibits information referenced in the text of this part 101-42 that is not suitable for inclusion elsewhere in that part.

§ 101-42.4801 Format for semiannual consolidated report to GSA on activities generating precious metals.

Agency ——————————
Address ——————————
Period covered ——————————
Date ——————————
Report prepared by ——————————
Telephone ——————————

1. *Used hyposolution.*
a. Type(s) of film processed: X-ray, motion picture, other (specify).
b. Number of activities generating used hyposolution ——. Gallons generated ——.
c. Estimated amount of silver potentially recoverable (in troy ounces) ——.
d. Method of estimation.
e. Number of activities from b, above, which are recovering silver from used hyposolution ——. Gallons generated ——.
f. Amount of silver recovered (in troy ounces) ——.
g. Method of recovery (equipment used) and disposition of recovered silver.
h. Method of disposal of used hyposolution for those activities not recovering silver.
i. Explanation for any lack of recovery.
2. *Scrap film.*
a. Type(s) of scrap film generated: X-ray, motion picture, other (specify).
b. Number of activities generating scrap film ——. Pounds generated ——.
c. Estimated amount of silver potentially recoverable (in troy ounces) ——.
d. Method of estimation.
e. Number of activities from b, above, which are recovering silver from scrap film ——. Pounds generated ——.
f. Amount of silver recovered (in troy ounces)——.
g. Method of recovery (equipment used) and disposition of recovered silver.
h. Method of disposal of scrap film for those activities not recovering silver.
i. Explanation for any lack of recovery.
3. *Other silver-bearing scrap.*
a. Type(s) of other silver-bearing scrap (batteries, electronic parts, etc.).
b. Number of activities generating other silver-bearing scrap ——. Pounds generated ——.
c. Estimated amount of silver potentially recoverable (in troy ounces) ——.
d. Method of estimation.
e. Number of activities from b, above, which are recovering silver from other silver-bearing scrap ——. Pounds generated ——.
f. Amount of silver recovered (in troy ounces) ——.
g. Method of recovery (equipment used) and disposition of recovered silver.
h. Method of disposal of other silver-bearing scrap for those activities not recovering silver.
i. Explanation for any lack of recovery.
4. *Other precious metal-bearing scrap (gold, platinum metals, etc.).* (Please provide the information requested in this section for each type of precious metal generated other than silver.)
a. Type(s) of other precious-metal-bearing scrap.
b. Number of activities generating other precious-metal-bearing scrap ——. Pounds generated ——.
c. Estimated amount of the precious metal potentially recoverable (in troy ounces) ——.
d. Method of estimation.
e. Number of activities from b, above, which are recovering the precious metal from such scrap ——. Pounds generated ——.
f. Amount of the precious metal recovered (in troy ounces) ——.
g. Method of recovery (equipment used) and disposition of the recovered precious metal.
h. Method of disposal of other precious-metal-bearing scrap for those activities not recovering such metal.
i. Explanation for any lack of recovery.
5. *Estimated dollar savings for the period for each category reported and description of the formula used to compute the savings.*
6. *Actions planned by agency to maximize recovery.*

NOTE.—The format illustrated in this section shall be used as a guide for individual preparation pending GSA's development of a standard form for this purpose. When the form becomes available, an announcement will be made.

§ 101-42.4802 [Reserved]

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

Dated: October 10, 1978.

ROY MARKON,
Commissioner, Federal Property Resources Service.

[FR Doc. 78-29859 Filed 10-23-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[BC Docket No. 78-307; FCC 78-665]

TELEVISION RECEIVER EQUIPMENT GRADING

Inquiry Initiated

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry initiated.

SUMMARY: An inquiry into how the Commission might increase the amount of information available to the consumer about the performance of television receivers was instituted. A desire to bring about improvement in receiver performance as a substitute for or a complement to contemplated programs, such as the adoption of comprehensive performance standards as part of the FCC certification requirements, resulted in Agency initiation of this proceeding. This inquiry may lead to the adoption of a program of grading of all television receivers and the labeling of receivers with their performance characteristics.

DATES: Comments must be received before February 1, 1979, and reply comments must be received before March 1, 1979.

ADDRESS: Federal Communications Commission, Office of Chief Engineer, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Will McGibbon, 202-632-7060.

In the matter of television receiver equipment grading, BC docket No. 78-307.

Adopted: September 22, 1978.

Released: October 20, 1978.

By the Commission: Commissioners Lee and Fogarty absent.

INTRODUCTION

1. The Federal Communications Commission (FCC) is initiating this inquiry to determine whether a program of television receiver grading would be in the public interest. The FCC has consistently sought to improve television reception.[1] Even if other FCC action results in new receiver standards, some receiver models will be

[1]The FCC is taking several interrelated actions, which we anticipate will result in improved television reception by the general public, and possibly provide other benefits. Briefly, these actions are: Report and Order in Docket No. 21010, UHF Television Receiver Noise Figures, FCC 78-582, 43 FR 36096 (Aug. 15, 1978) at par. 10. This order will change the noise figure standard to 12 dB by 1982.

better suited for some reception conditions than others. Unfortunately, most consumers lack the necessary information to select the television receiver and antenna system which best meets their particular needs. In this inquiry, the FCC will investigate ways to improve reception by helping consumers to better choose, install and operate their televisions.

2. In pleadings before the FCC, television receiver manufacturers have explained that the sale of television receivers is extremely competitive. To the consumer the most important characteristics of a television receiver in the showroom environment are the size of the picture tube, the cabinet quality, and the control panel appearance. It is difficult for consumers to recognize improvements to a receiver which do not affect the more obvious characteristics. If a manufacturer increases his cost by a few dollars to make technical improvements, she/he therefore runs the risk of reduced sales. Manufacturers say that this problem has deterred them from making several technical improvements to television receivers.

3. It is not unusual for Government agencies to make product information available to consumers. For example, the Department of Agriculture grades beef on taste and texture, and the Environmental Protection Agency rates cars on the basis of gas mileage. The Food and Drug Administration has occasionally required that some commercials and product packaging contain specific types of information. Consumers can also get information from industry trade organizations and from private testing groups.

4. The FCC believes that there are three reasons why television reception would improve if consumers had more information available to them.

A. *Consumers could select television sets that best meet their needs.* Consumers would be better able to consider how well a television receiver would perform in their homes if they had better information available to them. For example, consumers in weak signal areas could purchase receivers that had low noise figures. A receiver with a low noise figure would bring in weak signals better. The same consumers might not want to pay extra for increased picture resolution, which would only make picture "snow" more apparent. Similarly, they may wish to purchase an antenna system better suited to their area. Reception would be improved if consumers were able to select the most suitable receiver and antenna system for their areas.

B. *There would be more incentive for manufacturers to improve their products.* Informed consumers may be willing to pay a premium for an improved product. Relatively inferior equipment could not be sold at as high a price. This should induce manufacturers to put more emphasis on antenna and receiver improvements. Manufacturers might also produce some lines of receivers and antenna systems designed specifically for particular operating conditions, such as weak signal areas.

C. *Consumers may benefit from improved installation and operation of their equipment.* Some consumers may lack the necessary information to install and operate their systems. It may be possible to improve reception by making more information on the installation and operations of television sets available to the consumer.

5. Three sets of questions are addressed in this inquiry. The first set concerns the types of information about systems and receivers that should be provided to consumers. There are specific questions on the means, costs, and benefits of providing this information. The second set of questions seeks to determine the types of information which would help consumers install and operate their TV systems. The third set of questions asks whether a system of noise figure labeling might be the logical first step in making more of this type of information available to the consumer. Of particular interest is how quickly such a program could be implemented.

6. Questions to be addressed in this inquiry:

Question 1.—If the consumer is to have more information on antenna systems, transmission lines (the wire connecting the antenna to the receiver), and receivers:

1-A. What characteristics of antennas, transmission lines and receivers should be covered?

1-B. How can this information be presented so that it would be most meaningful and useful to the average consumer?

1-C. To what degree would this information improve the consumers' ability to choose a system which best met their needs?

1-D. How should this information be made available to the consumer?

1-E. What would be the costs of providing this information to the consumer?

1-F. What would be the other impacts of making this information available?

Question 2.—Once the consumer has purchased equipment:

2-A. What information does the consumer need to install and operate the equipment (or to know that it is installed properly)? Is sufficient information provided by the retailer or enclosed with the equipment?

2-B. If consumers do not have sufficient information, how should additional information be made available to them?

Question 3.—Should the Commission require that television receivers have their maximum noise figures clearly indicated as a first step towards making more information available to the consumer? If so:

3-A. How should the noise figure and related information be presented to the public?

3-B. How quickly could this phase of a grading program be implemented?

3—C. What would be the costs, benefits, and impacts of implementing noise figure labeling as the initial phase of an equipment grading program?

INFORMATION ON COMMENTS

7. *Who should file comments?* We urge the viewing public, television equipment manufacturers, broadcasters, and all other interested parties to participate in this inquiry. You may participate by sending information and opinions that are relevant to the questions listed in this inquiry.

8. *How will this information be used?* The comments we receive will be used to evaluate the issues we have discussed above. Comments may result in FCC action to provide the consumer with more information about television equipment. For example, we might change the rules to require receiver grade or quality labeling for certification. The FCC will make rule changes only after all interested parties are given an adequate opportunity to comment.

9. *How comments should be prepared.* Your comments must clearly show this docket number "General Docket No. 78-307", at the top of the first page. Please label your responses so that it will be clear which numbered question is being answered. If your comments are general, and not related to a specific question, please state the issue being addressed.

10. *How many copies should be sent?* Section 1.419 of the rules requires that you file the original and five copies of your comments. If you want each Commissioner to receive a personal copy of your comments, you should include six additional copies. The FCC will fully consider all comments, even if only the original is filed.

11. *Where to send comments.* Send your comments to: Secretary, Federal Communications Commission, Washington, D.C. 20554.

12. *How to see the comments of other parties.* All comments will be available for public inspection in the FCC Dockets Reference Room, Room 239, 1919 M Street NW., Washington, D.C. The FCC is open weekdays between 8 a.m. and 5:30 p.m. You can reply to comments submitted by another party by following the same procedure as you do for commenting.

13. *Deadline for filing Comments.* Comments must be received by February 1, 1979. Replies to comments must be received by March 1, 1979.

14. *The source of our legal authority.* Sections 4(i), 302, 303(f), (g), (r), and (s), 330, and 403 of the Communications Act gives the FCC the authority

to conduct this inquiry. Accordingly, the FCC orders that this inquiry is instituted.

James J. Freeman, filed a request seeking a 30-day extension of time for filing comments and reply comments. additional time is needed to prepare reply comments.

DATE: Reply comments must be re-

notices

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to conduct this inquiry. Accordingly, the FCC orders that this inquiry is instituted.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29915 Filed 10-23-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[Docket No. 20954; RM-2684; RM-2772; RM-2982]

FM BROADCAST STATION IN STAUNTON, VA.

Order extending time for filing comments and reply comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of a class B FM channel to Staunton, Va. Petitioner, James J. Freeman, states that the additional time is necessary so that a proper response can be made.

DATES: Comments must be filed on or before November 17, 1978, and reply comments on or before December 8, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley P. Wiggins, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 16, 1978.

Released: October 18, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Staunton, Va.), docket No. 20954, RM-2684, RM-2772, RM-2982.

1. On August 17, 1978, the Commission adopted a second further notice of proposed rulemaking, 43 FR 38060, proposing the assignment of class B FM channel 259 to Staunton, Va. The present dates for filing comments and reply comments are October 16, and November 6, 1978, respectively.

2. On October 6, 1978, counsel for James J. Freeman, filed a request seeking a 30-day extension of time for filing comments and reply comments. Counsel asserts that the Commission indicated in the Notice that a primary objective was to obtain approval of the proposed assignment from the National Radio Astronomy Observatory ("NRAO") and the Naval Research Laboratory ("NRL"). Counsel states that a meeting was scheduled between WANV's engineering consultant and an Observatory representative but the meeting was cancelled at the request of the representative. Counsel advises that a subsequent meeting was held and the engineering consultants are furnishing certain data for NRAO/NRL review which would be available within 20 days, but this time frame would not permit WANV sufficient time to prepare a response.

3. We are of the view that the additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including November 17, and December 8, 1978, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29907 Filed 10-23-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-221; RM-3060]

FM BROADCAST STATION IN ATLANTA, MICH.

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning the proposed assignment of an FM channel to Atlanta, Mich. Petitioner, Wilderness Broadcasting, Inc., states the additional time is needed to prepare reply comments.

DATE: Reply comments must be received on or before October 26, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 16, 1978.

Released: October 18, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Atlanta, Mich.), BC docket No. 78-221, RM-3060.

1. On July 17, 1978, the Commission adopted a notice of proposed rulemaking, 43 FR. 32834, proposing to assign FM channel 223 to Atlanta, Mich. The date for filing comments has expired and the date for filing reply comments was October 5, 1978.

2. A request was filed by Wilderness Broadcasting, Inc. ("Wilderness"), proponent in this proceeding, seeking a 3-week extension of time for filing reply comments. Wilderness states that it had recently moved from one community to another and many of the materials needed to prepare the reply comments were delayed enroute.

3. Section 1.46 of the rules states that requests (extension) must be filed 7 days in advance but permits late-filed requests in case of last-minute emergencies which could not have been anticipated by the party requesting the extension. We believe that good cause has been shown in this instance, and that justification for an extension has been shown, so we are granting the request.

4. *Accordingly, it is ordered*, That the date for filing reply comments in BC docket No. 78-221 is extended to and including October 26, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
Wallace E. Johnson,
Chief, Broadcast Bureau.

[FR Doc. 78-29908 Filed 10-23-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

BARRETT LIVESTOCK MARKET, INC., WETUMPKA, ALA., ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, and location of stockyard	Date of posting
Alabama:	
AL—162 Barrett Livestock Market, Inc., Wetumpka	June 27, 1978
Arizona:	
AZ—110 Sun Valley Livestock Auction Co., Sun Valley	Oct. 28, 1977
Colorado:	
CO—148 Valley Livestock Auction Co., Fruita	June 1, 1978
Mississippi:	
MS—157 Corinth Livestock Commission Co., Corinth	Oct. 10, 1978
New York:	
NY—157 Bast's Livestock Exchange, Watertown	Aug. 2, 1978
Virginia:	
VA—151 Abingdon Livestock Market, Inc., Abingdon	Aug. 10, 1978

Done at Washington, D.C., this 18th day of October 1978.

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 78-29868 Filed 10-23-78; 8:45 am]

[3410-02-M]

[P&S Docket No. 5157]

ROBERTSDALE LIVESTOCK AUCTION, INC.

Petition for Modification of Rate Order

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), an order was issued on August 30, 1978, authorizing the respondent, Robertsdale Livestock Auction, Inc., Robertsdale, Ala., to assess the following rates and charges effective November 3, 1978:

A. Regular selling-yardage charges:
Ordinary cattle:
Weighing less than 300 pounds, $2.90 per head.
Weighing 300 pounds and over, $4.00 per head.
Bulls: All bulls 700 pounds and over, $7.50 per head.
Cows and calves sold as pairs, $5.50 per pair.
Horses, ponies, and mules, $6.00 per head.
Sheep and goats, $1.00 per head.
Hogs:
Weighing less than 180 pounds, $1.00 per head.
Weighing 180 pounds and over, $1.35 per head.
Boars, Sows, and Stags, 270 pounds and over, $2.00 per head.
Sows and Pigs, sold as a litter, $2.50 per litter.

B. Resale and no-sale charges:
Definitions:
(1) Resale charges shall apply on all livestock resold without leaving the market premises.
(2) No-sale charges shall apply when a consignor declares his consignment no-sale on price bid, bids in his consignment, or withdraws the same prior to actual sale.
Charges: One-half of the regular selling and yardage charges shall be assessed on all resales and no-sales.

C. Feed: The charge for all feed sold shall be the average monthly cost f.o.b. the market plus $0.005 per pound, $0.50 cwt.

D. Veterinary services: The schedule of charges on all necessary veterinary services performed by an accredited veterinarian will be at posted uniform per head rates, pursuant to company agreement with the veterinarians performing such services and does not contain any charges retained by the market.

E. Special sales or services: Special sales or unusual stockyard services, such as are included in featured registered cattle and calf sales, annual 4-H sales, and sales for one consignor sold on other than regular sales days which require special services and handling will be charged for under special arrangements agreed to between the parties prior to the special sales.

By a petition filed October 11, 1978, the respondent requested authority to modify its rates and charges as follows:

Comes now the Respondent, Robertsdale Livestock Auction, Inc., in the above entitled cause and for its petition for modification states as follows:

I

Respondent is a livestock marketing business registered per and subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. sections 201 et seq., later referenced as the Act) and related regulations found at 9 CFR Chapter II.

In April 1976, respondent was involved in a rate hearing which was initiated by a complaint filed in July 1975, and which was prosecuted by the Packers and Stockyards—AMS of the U.S. Department of Agriculture (formerly Packers and Stockyards Administration, later referred to as Agency).

On August 30, 1978, the Judicial Officer, acting on behalf of the Secretary of Agriculture, see 7 U.S.C. 450c-450g, issued a final order in this cause in which Respondent was given a prescribed schedule of rates and charges under which to operate, see Exhibit A attached to and made a part of this petition. The Judicial Officer's order was the result of an appeal from an initial Decision and Order in this cause, filed on March 23, 1978, by Administrative Law Judge Dorothea A. Baker.

II

With this petition Respondent seeks to have the schedule of rates and charges which have been recommended by the Agency and prescribed by the orders so far entered in this cause modified to permit Respondent to continue to utilize the schedule of rates and charges in its Tariff No. 3, which is now on file with the Agency.

III

In support of its petition for modification, Respondent states:

On October 2, 1978, the President of the United States of America signed into law Senate bill 3272, which amended the Packers and Stockyards Act, 1921, to provide that a market agency subject to the Act could utilize a value-based tariff such as Respondent's Tariff No. 3.

Respondent has been utilizing its present Tariff No. 3 for some three (3) years, e.g. since about September 1975. This schedule of rates and charges has been favorably accepted by Respondent's public, both buyers and sellers, during this period of time.

Wherefore Respondent respectfully requests that the rate orders previous-

ly entered in this cause be modified to permit Respondent to utilize a schedule of rates and charges as now found in its Tariff No. 3.

TARIFF No. 3

Robertsdale Livestock Auction, Inc., is a business that constitutes a public livestock market where, in proper facilities, it renders complete and productive stockyard and marketing services to livestock owners in respect to their livestock as assembled for sale, and which it sells on the basis of competitive bids by auction.

ITEM NO. 1—DEFINITIONS, SERVICES

Section 1. Selling Commission: a. The selling commission consists of the charge made by the company for the selling services performed in respect to consigned livestock.

Sec. 2. Yardage: a. Includes suitable facilities and services for: Receiving and handling, safeguarding against loss, feeding, holding, weighing, delivery and shipment of livestock.

Sec. 3. Veterinary Livestock Inspection: a. Includes inspection services of accredited veterinarians under state and federal livestock sanitary regulations.

Sec. 4. Veterinary Services: a. Includes veterinary services necessary, or required by state or federal livestock sanitary regulations, which will be performed by accredited veterinarians.

Sec. 5. Feed:
a. All feeding at the market shall be done by the company or under its direction.
b. All feed charges are based on the quantity and type of feed fed.

ITEM NO. 11—CHARGE CLASSIFICATION

Section 1. Selling commission:
a. Cattle: $2.75 per head plus 1 percent of the gross proceeds of sale.
b. Hogs: (1) Up to and including $24.99, $0.50 per head; (2) $25.00 and over, 2 percent of the gross proceeds of sale.
c. Sheep and goats: (1) Sheep, $0.50 per head; (2) Goats, $0.50 per head.
d. Horses and mules: $5.00 per head.

Sec. 2. Yardage:
a. Cattle: $0.25 per head.
b. Hogs: $0.10 per head.
c. Sheep and goats: $0.10 per head.
d. Horses and mules: No charge.

Sec. 3. Veterinary inspection:
a. The schedule of charges on all necessary veterinary services performed by an accredited veterinarian for inspection will be at uniform per head rates.

Sec. 4. Veterinary services: a. The schedule of charges on all necessary veterinary services performed by an accredited veterinarian will be at posted uniform per head rates, pursuant to company agreement with the veterinarian performing such services and does not contain any charges retained by the market.

Sec. 5. Feed:
a. Hay: $1.50 per bale.
b. Grain and other feeds: Actual cost.

Sec. 6. Special or unusual services: a. Special selling and marketing services, such as involved in featured registered cattle and calf sales, not usually required in handling livestock for sale and other than specified, will be charged for under special arrangement.

ITEM NO. 111—RESALES AND NO-SALES

Section 1. Definitions:
a. Resale charges shall apply on all livestock resold without leaving the company livestock market premises.
b. No sale charges shall apply when the consignor declares his consignment no-sale on price bid, bids in his consignment, or withdraws the same prior to actual sale.

Sec. 2. Charge classification.
a. No charges shall apply in respect to all resales.
b. The following charges shall apply in respect to no-sales: (1) Cattle, $2.75 per head; (2) Hogs, sheep, and goats, $0.50 per head; (3) Horses and mules, $5.00 per head.

ITEM NO. IV—BUYING ON COMMISSION

Section 1. Definition: a. Consists of those services best applied to accomplish the purchase of livestock on a commission basis.

Sec. 2. Charge classification: a. There shall be no charge for this service.

ITEM NO. V—GENERAL PROVISIONS

Section 1. Code of Business Standards and Practices: a. The company subscribes to the Code of Business Standards and Practices of the Competitive Livestock Marketing Association, as adopted by such business trade association.

Sec. 2. Allocation of pens: a. All pens, chutes, and alleys are the property of the company and may not be claimed by any patron for his exclusive use. The management will assign pens and may change such assignment without advance notice.

Sec. 3. Title to livestock: a. Title to all animals consigned for sale remains in the consignor until the time sold. Time of sale shall be at the time the highest bid is accepted, unless the sale is conditional or unless proof of title in consignor fails.

The modification, if authorized, would produce additional revenue for the respondent and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in this matter shall notify the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, before November 8, 1978.

Done at Washington, D.C., this 18th day of October, 1978.

CHAS B. JENNINGS,
Deputy Administrator, Packers and Stockyards—AMS.

[FR Doc. 78-29869 Filed 10-23-78; 8:45 am]

[3410-05-M]

Office of the Secretary

ADVISORY COMMITTEE ON EXPORT SALES REPORTING

Meeting

In Accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following Committee meeting:

NAME: Advisory Committee on Export Sales Reporting.

DATE: November 8, 1978.

TIME: 9 a.m. to 4 p.m.

PLACE: Room 5066, South Building, U.S. Department of Agriculture, 1400 Independence Avenue, Washington, D.C. 20250.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. Kelly Harrison, General Sales Manager, USDA, Washington, D.C. 20250, telephone 202-447-5173.

SUMMARY MINUTES: May be obtained from the Office of the General Sales Manager, USDA, Washington, D.C. 20250.

PURPOSE: To review mandatory export sales reporting requirements and make recommendations to strengthen and improve the effectiveness of the monitoring system.

Dated: October 19, 1978.

FRED WELZ,
Acting General Sales Manager and Executive Secretary, Advisory Committee for Export Sales Reporting.

FR Doc. 70-29969 Filed 10-23-78; 8:45 am]

[3410-15-M]

Rural Electrification Administration

ENVIRONMENTAL IMPACT STATEMENT

Intent To Prepare Supplement

Notice is hereby given that the Rural Electrification Administration (REA) intends to prepare a Supplement to a previous published Environmental Impact Statement (EIS) in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a possible reclassification of guaranteed loan funds for Brazos Electric Power Cooperative, Inc. (Brazos), P.O. Box 6296, Waco, Tex. 76706.

In August 1976, REA issued a Final EIS related to the G&T Cooperative Project (San Miguel Project) Lignite Unit No. 1 and Associated Mine and Transmission Lines. One transmission line contemplated in that EIS was a 345 kV, single-tower, double-circuit line which was anticipated to extend some 254 miles from the proposed San Miguel lignite-fired steam generating plant in Atascosa County, Tex., to the Lake Whitney area, northwest of Waco, Tex. On January 31, 1978, REA approved a loan guarantee commitment for constructing this line and associated terminal facilities, in the amount of $49,560,000. In section 5.6.A, of REA's August 1976 Final EIS, it was noted that Brazos had "• • • initiated meetings with other Texas utilities toward the objective of arranging for interconnections so as to reduce the overall length of this 254 miles of 345 kV transmission line • • •," as an alternative to the proposed construction. It now appears that it may be possible for Brazos to utilize interconnections with two other Texas utilities to transport power and energy over part of the distance from the San Miguel plant to points in the existing Brazos transmission system. Establishment of such an arrangement would require that Brazos construct approximately 78 miles of 345 kV, single-tower, double-circuit transmission line from the San Miguel plant to the proposed Marion Substation of the Lower Colorado River Authority (LCRA), an agency of the State of Texas. Power and energy would be transferred from Marion Substation, located in Guadalupe County, Tex., over the LCRA and Texas Power & Light Co. (TP&L) transmission systems for delivery to Brazos at existing interconnection points. Various alternative routings for the transmission line from San Miguel to Marion are being evaluated at this time. Termination of the transmission line at Marion could reduce the total mileage originally contemplated in the Final EIS by some 176 miles (a 69-percent reduction), depending upon the route selected. Brazos would also be required to construct a 345 kV switching facility on or near the LCRA Marion Substation site.

Interested persons are invited to submit comments which may be helpful in preparing the Supplement to the Environmental Impact Statement. Comments should be forwarded to the Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy of Brazos, whose mailing address is given above. Additional information may be obtained from Brazos at their offices, located at 2402 LaSalle Avenue, Waco, Tex., telephone 817-752-2501, during regular business hours.

Any reclassification of loan funds which may be made pursuant to the proposed change in previously approved facilities will be subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects, and final action will be taken only after compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as well as the National Historic Preservation Act of 1966, Executive Order 11593, USDA Secretary's Memorandum No. 1827, Supplement 1, Executive Order 11988, Executive Order 11990, and the Endangered Species Act of 1973.

Dated at Washington, D.C., this 18th day of October 1978.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc. 78-29953 Filed 10-23-78; 8:45 am]

[3410-16-M]

Soil Conservation Service

ANDERSON RIVER, IND.

Authorization of Federal Assistance in the Installation of Works of Improvement

Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001-1108) has been authorized for the following watersheds:

Anderson River, Ind.
Boulder River, Mont.
Bush River, Va.
Cedar Run, Va.
Cypress Creek, Ala. and Tenn.
Goose Creek, Wash.
Great Creek, Va.
McKinney-Buzzard, Okla.
Pine River, Wis.
Short Creek, Ohio
Twenty-five Mile Stream, Maine.

Dated: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008))

R. M. DAVIS,
Administrator, Soil Conservation Service.

[FR Doc. 78-29900 Filed 10-23-78; 8:45 am]

[6820-32—M]

ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (the Act), and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on November 8, 1978, from 9 a.m. to 6 p.m., on November 9, 1978, from 9 a.m. to 6 p.m., and on November 10, 1978, from 9 a.m. to 6 p.m. at 2201 C Street NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 11652 dated March 10, 1972.

The meeting will be closed to the public in accordance with the determination of October 3, 1978, made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973 issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: October 16, 1978.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

[FR Doc. 78-30166 Filed 10-23-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-10-73]

DIRECTOR, BUREAU OF PRICING AND DOMESTIC AVIATION

Order Regarding Temporary Delegation of Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on October 18, 1978.

S. 2493, the Airline Deregulation Act of 1978, will amend section 401 of the Federal Aviation Act to give the Board new powers over unused nonstop route authority. Along with this order we are issuing PR-180, to add a new subpart R to govern applications under new section 401(d)(5). This order delegates authority to the Director of the Bureau of Pricing and Domestic Aviation (BPDA) to exercise the Board functions set forth in that section. This delegation is necessary to handle expeditiously the volume of applications that may be filed as soon as the President signs the deregulation bill.

We plan to amend 14 CFR part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, in the near future, to codify the temporary delegation of authority to the Director of BPDA set forth in

order 78-4-147. We will then incorporate this temporary delegation in part

trance of the Universal Building (1825 Connecticut Avenue) on Connecticut

ning, and Research, Office of the Associate Director for Policy, Planning,

[3125-01-M]

COUNCIL ON ENVIRONMENTAL

Clean Air Act of environmentally unsatisfactory proposals, where CEQ has

meeting will be in session from 10 a.m. until 3:30 p.m., e.s.t.

V 43/206 OCT 24 78

order 78-4-147. We will then incorporate this temporary delegation in part 385.

By the terms of § 385.2, the general provisions of subpart A and the review provisions of subpart C of part 385 apply only to continuing delegations made by rule. Because of the breadth of this temporary delegation and the Board's need to retain a discretionary right of review, those provisions will also be applied to the delegations made by this order. As indicated in §§ 385.4 and 385.52, the Director of BPDA will have authority to provide that any of his actions taken under delegated authority shall not be stayed by the filing of a petition for review.

Accordingly:

1. Authority is delegated to the Director, Bureau of Pricing and Domestic Aviation to perform all functions of the Board set forth in section 401(d)(5) of the Federal Aviation Act, as amended; and

2. The exercise of this delegated authority shall be subject to the provisions of subparts A and C of part 385.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[1]
Secretary.

[FR Doc. 78-29872 Filed 10-19-78; 2:16 pm]

[6320-01-M]

PROCESSING OF APPLICATIONS FOR UNUSED AUTHORITY

The Airline Deregulation Act of 1978, as it is expected to be signed by the President, provides that certificates for route authority on the basis of present unused authority (new sec. 401(d)(5)) will be granted to the first applicants, after the bill is signed, who make the proper certifications. In order for the applications to be received and processed in a fair and orderly way, the following procedures will govern the Board's receiving and processing of applications presented immediately after the bill becomes law.

1. Applications will be received and recorded at the regular location in the Board's Docket Room, Room 714, 1825 Connecticut Avenue NW., Washington, D.C.

2. No applications will be accepted until the President signs the bill into law. Submission of an application before that time will have no effect (3 and 4 apply only if applicants begin to line up before 8:30 a.m. on the day the bill is scheduled to be signed).

3. The line-up point for persons carrying applications ("applicants") who wish to establish their place in line before 8:30 a.m. on the day the bill is signed shall be outside the front entrance of the Universal Building (1825 Connecticut Avenue) on Connecticut Avenue. Applicants will be responsible for maintaining an orderly queue on the sidewalk.

4. At 8:30 a.m. a Board employee will be stationed just inside the front entrance of the Universal Building to give out place numbers to applicants as they come in, in the order in which they have queued. As soon as all applicants who have queued have been given numbers, the place number station will be moved to the hall outside Room 714.

5. As soon as the Board staff receives notification that the bill has been signed, the Docket Section in Room 714 will start receiving applications. The Docket Section will take applications at a single designated point in the order of the lowest place numbers that are presented. (If, for example, after applicant No. 10 is processed, No. 11 is not immediately present, No. 12 will be taken next. If No. 11 then shows up, it will be taken before any others.)

5a. These procedures also apply to notices by incumbent carriers of their intent to reactivate service. Persons submitting such notices shall be in the same line as applicants for unused authority.

6. Applications submitted by means other than hand carrying will be received after all waiting applicants have been processed.

7. The Docket Section will make no judgments as to the completeness or validity of an application, but will record only the time and order in which documents are presented at the designated receiving point. The Board staff will, however, examine all applications for conformity with the statute and regulations and may reject nonconforming applications.

For further information contact: Barbara A. Clark, 202-673-5830, or Richard B. Dyson, 202-673-5444, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

Dated: October 18, 1978.

JOHN R. HANCOCK,
Acting Managing Director.

[FR Doc. 78-29865 Filed 10-19-78; 2:16 pm]

[63-2501-M]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Title Change in Noncareer Executive Assignment

By notice of June 14, 1977, FR Doc. 77-17079, the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Associate Director for Policy, Planning, and Research, Office of the Associate Director for Policy, Planning, and Research, Office for Civil rights, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Director for Standards, Policy, and Research, Office for Civil Rights, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION.
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-29846 Filed 10-23-78; 8:45 am]

[3510-11-M]

DEPARTMENT OF COMMERCE

Travel Service

TRAVEL ADVISORY BOARD

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on December 5, 1978, at 9 a.m., in the Capitol Room of the Hotel Washington, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20004.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements is allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, the United States Travel Service, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4752 will respond to public requests for information about the meeting.

FABIAN CHAVEZ, JR.,
Assistant Secretary for Tourism,
Department of Commerce.

[FR Doc. 78-29899 Filed 10-23-78; 8:45 am]

[1] All members concurred.

[3125-01-M]

COUNCIL ON ENVIRONMENTAL QUALITY

FREEDOM OF INFORMATION ACT

Revised Quarterly Index

AGENCY: Council on Environmental Quality.

ACTION: Notice.

SUMMARY: The Freedom of Information Act (5 U.S.C. 552), requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967 and required to be made available or published (5 U.S.C. 552(a)(2)). The Act further requires quarterly publication of the indexes. An outline of CEQ's current index is printed in the latest Quarterly Index to the FEDERAL REGISTER.

EFFECTIVE DATE: September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20008, 202-633-7032.

SUPPLEMENTARY INFORMATION:

NEW QUARTERLY INDEX STATEMENT

The Council has changed the format and content of its Quarterly Index. Beginning this quarter, the index will be divided into six parts:

Part I: *CEQ Guidelines/Regulations.*—Comprehensive guidance or rules by the Council on NEPA compliance (pursuant to E.O. 11514 or other applicable law).

Part II: *Memoranda to heads of agencies.*—Major statements of policy or interpretation, signed by Council members, on substantive or procedural environmental quality requirements; usually directive in nature (pursuant to E.O. 11514, Sec. 3(i) under which CEQ is ordered to issue instructions to agencies).

Part III: *Other memoranda to agencies.*—CEQ statements of policy or interpretation, usually on NEPA compliance, which may provide instructions or important information from CEQ officials to agency officials.

Part IV: *Current policy positioning.*—CEQ current policy statements or public positions on issues; these include speeches, testimony, position papers, articles correspondence, or other documents which express a general position by the Council on major issues.

Part V: *Predecision referrals.*—CEQ responses to referrals by agencies under NEPA and section 309 of the Clean Air Act of environmentally unsatisfactory proposals, where CEQ has assisted in resolving these interagency disputes (pursuant to E.O. 11514, Sec. 3(h)).

Part VI: *General information.*—CEQ documents which provide or request important general information on evironmental matters or which indicate the availability of CEQ publications or other items of public interest.

Those items which are listed in a previous Index, but which are not listed in a current index, should not be considered principal policies of the Council. Part IV, which lists the Council's current policy positions on important issues of the day, is intended to help the public locate materials which are usually on the public record already, such as speeches or testimony. The contents of this section should be viewed as selected major statements by the Council in areas of public concern. Part IV does not list every position the Council may hold, because the Council's principal purpose is to provide advice to the President. Because the Council does not adjudicate or otherwise regulate the conduct of private parties policies not listed would not be the kind of "unpublished law" that prompted the quarterly index requirement of the Freedom of Information Act.

Unless otherwise noted, the materials in the Index are available from the Public Affairs Office, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place NW., Washington, D.C. 20006, 202-633-7005.

NICHOLAS C. YOST,
General Counsel.

[FR Doc. 78-29909 Filed 10-23-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES—ST. LAWRENCE SEAWAY

Rescheduling of Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice was published in the FEDERAL REGISTER on October 10, 1978 (43 FR 46562) of a meeting of the Winter Navigation Board on October 26, 1978.

Notice is hereby given that the date and place of the meeting has been changed as stated below.

The meeting of the Winter Navigation Board will be held on November 17, 1978 at the Ramada Inn at 8270 Wickham Road in Ramulus, Mich., located just north of the I-94 expressway, across from the Detroit Metropolitan International Airport. The meeting will be in session from 10 a.m. until 3:30 p.m., e.s.t.

The Winter Navigation Board is a multiagency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes-St. Lawrence Seaway navigation season extension demonstration investigations being conducted pursuant to Pub. L. 91-611, as amended by Pub. L. 93-251, and 94-587.

The primary purpose of the meeting is to discuss the 1979 demonstration activities and particularly the funding requirements and the St. Lawrence River activities. This includes the status of the environmental impact statement, water levels and flows reconciliation status report, status of permits application, and status of the development of the engineering/environmental/operational plan. Other items to be discussed include a summay of the fiscal year 1978 funding allocation and a status report on the draft feasibility report.

The meeting will be open to the public, subject to the following limitations:

a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements, to be made part of the minutes, may be submitted prior to, or up to 10 days following, the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Mr. David Weatheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Mich. 48231, telephone 313-226-6770.

Dated: October 18, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGGEN.

[FR Doc. 78-29901 Filed 10-23-78; 8:45 am]

[3710-08-M]

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army.

ACTION: Notification of a new system of records.

SUMMARY: The Department of the Army proposes a new system of rec-

ords identified as A0710.02DAJA, entitled: "JAGC Reserve Components Officer Personnel Records." The record

Categories of individuals covered by the system

All Judge Advocate General Corps

Army elements for analysis of Total Force and mobilization readiness.

[3128-01-M]

DEPARTMENT OF ENERGY

given of a proposed "subsequent arrangement" under the additional Agreement for Cooperation Between

after the date of publication of this notice. (November 8, 1978.)

ords identified as A0710.02DAJA, entitled: "JAGC Reserve Components Officer Personnel Records." The record system notice is published in its entirety below.

DATE: This system shall become effective as proposed without further notice on November 24, 1978, unless comments are received on or before November 24, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, the Adjutant General Center, Department of the Army, Room GA-084, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.
FR Doc. 78-23952 (43 FR 38070), August 25, 1978.
FR Doc. 78-25562 (43 FR 40272), September 11, 1978.
FR Doc. 78-26373 (43 FR 42026), September 19, 1978.
FR Doc. 78-25879 (43 FR 42374), September 20, 1978.
FR Doc. 78-26699 (43 FR 43059), September 22, 1978.
FR Doc. 78-26956 (43 FR 43539), September 26, 1978.

The Department of the Army has submitted a new system report on September 20, 1978, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 18, 1978.

A0710.02DAJA

System name

JAGC Reserve Components Officer Personnel Records.

System location

Reserve Affairs Department, Room 232, the Judge Advocate General's School, U.S. Army (TJAGSA), Charlottesville, VA. 22901.

Computer Center, University of Virginia, Charlottesville, Va. 22901.

Categories of individuals covered by the system

All Judge Advocate General Corps (JAGC) U.S. Army Reserve and National Guard officers, not serving on extended active duty; and officers seeking appointment, branch transfer, or Federal recognition to the JAGC without concurrent call to active duty.

Categories of records in the system

Data bank includes individual officer's name, social security number (SSN), home and business addresses, home and business telophone numbers, grade, promotion eligibility date, primary military occupational specialty, date of birth, sex, basic date of mandatory removal, educational courses taken, unit assignment and unit address, employer, job title, specialty, and awards.

Personnel file contains such documents as application for appointment, active duty training, constructive credit, mobilization designee (MOB DES) position, and related matters dealing with educational courses completed; correspondence between Reserve Affairs Department personnel and the individual.

Authority for maintenance of the system

Title 10 U.S.C. 275(a) and regulations promulgated thereto.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Career Management: To schedule JAGC reserve officer training; select officers for reserve unit command positions; identify individual reservists in need of training; determine mandatory retirement dates; provide full background information on individuals applying for MOB DES positions, constructive credit by the Judge Advocate General for portions of a judge advocate course, and/or Active Duty for Training; to document backgrould of applicants for appointment in the JAGC or branch transfer to JAGC consistent with prerequisites required for type of appointment/branch transfer and to establish eligibility for appointment/branch transfer.

Communications

To maintain current and complete address and telephone listings to insure that each officer can be quickly and reliably contacted.

Manpower management

To forecast field grade officer requirements and the number of officers required to fill positions vacated by officers transferred to the Retired Reserve; to provide aggregate statistical reports to other Department of the Army elements for analysis of Total Force and mobilization readiness.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records in file folders; automated records on magnetic tape.

Retrievability

Alphabetically by last name and SNN.

Safeguards

Records maintained in areas where authorized personnel work. During nonduty hours files and office doors are secured.

Computer records maintained in computer building in areas accessible only to authorized personnel; system entry by password.

Retention and disposal

Records are maintained until individual officer retires form Reserve Component. They are then placed in inactive file for 2 years after which they are destroyed.

System manager(s) and address

Director, Reserve Affairs Department, the Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

Notification procedure

Information may be obtained from: Director, Reserve Affairs Department, Charlottesville, Va. 22901.

Record assess procedures

Requests from individuals should be addressed to: Director, Reserve Affairs Department, the Judge Advocate General's School, U.S. Army, Charlottesville, Va. 22901.

Contesting record procedures

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulations 340-21, (32 CFR Part 505).

Record source categories

Individual officer(s) concerned; official personnel documents.

Systems exempt from certain provisions of the act

None.

[FR Doc. 78-29982 Filed 10-23-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

UNITED STATES OF AMERICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Communities (Euratom) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves a loan agreement for the transfer of four micrograms each of Pu-242 and Pu-244 to be used in West Germany for research alpha transfer reactions on a number of targets using a beam of lithium-6 ions.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice (November 8, 1978).

For the Department of Energy.

Dated: October 19, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-29885 Filed 10-23-78; 8:45 am]

[3128-01-M]

UNITED STATES OF AMERICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (Euratom) Concerning Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves the sale of 10 microcuries thorium-229 in the form of a nitrate powder or solution for use as a tracer in the analysis of thorium and uranium in natural samples for dating by alpha counting to give chemical and counting yield.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice. (November 8, 1978)

For the Department of Energy.

Dated: October 19, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-29884 Filed 10-23-78; 8:45 am]

[3128-01-M]

UNITED STATES OF AMERICA AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangements" under the additional agreement for cooperation between the Government of the United States of America and the European Atomic Energy Community (Euratom) concerning the peaceful uses of atomic energy and the agreements for cooperation between the Government of United States of America and the Governments of Norway, Brazil, and Sweden for peaceful uses of atomic energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve the following retransfers:

Retransfer No.	Countries	Description of material and purpose
1. RTD/EU(BR)-3	Brazil to West Germany	1.3666 Kg uranium (1.98 pct) for irradiation in the FRJ-2 Reactor, KFA-Julich.
2. RTD/NO(SW)-11	Sweden to Norway	8.0 Kg (0.72 to 3.50 pct) for analysis of the uranium content, isotopic composition and rare earth metals.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than 15 days after the date of publication of this notice. (November 8, 1978.)

For the Department of Energy.

Dated: October 19, 1978.

HAROLD D. BENGLESDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-29886 Filed 10-23-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

TRUST TERRITORY OF THE PACIFIC ISLANDS AND THE NORTHERN MARIANA ISLANDS UNDER SECTION 106 OF PUB. L. 95-217

Determination of Fiscal Year 1979 Grant Amounts

On January 9, 1978, the Northern Mariana Islands (NMI) were accorded commonwealth status and became a political entity separate from the Trust Territory of the Pacific Islands (TTPI). Under the provisions of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, the NMI are now eligible for "the full range of Federal programs and services available to the territories of the United States."

Since the TTPI was one of the political entities eligible for water quality management grants under section 106 of Pub. L. 95-217 on January 8, 1978, and since at that time the geographical area now encompassed by the NMI was part of the TTPI, it is necessary to divide the section 106 grant which formerly went to the TTPI between the NMI and the TTPI.

The total section 106 allocation for the geographical area within the NMI and TTPI is determined by the provisions of 40 CFR 35.553. Both these regulations and Pub. L. 95-217 (the Clean Water Act of 1977) specify that section 106 funds shall be divided among the States according to the extent of the pollution problem in each.

Accordingly, EPA has divided the former TTPI allocation as follows. First, the section 106 fiscal year 1979 grant for the TTPI and the NMI was computed by multiplying the former allocation ratio for the TTPI (see 40 CFR 35.553) by $52,400,000, which is the total national section 106 appropriation for fiscal year 1979. From the resulting $176,700, $31,000 is provided

to the TTPI for the extraordinary administrative expenses resulting from the need to travel long distances to

BP-21,042 new, Palm Springs, Calif., Whitmont Associates, Inc., Req: 1010 kHz, 500 W, 1 kW-LS, DA-2, U

tification portion of the application "not be dated and signed until all sections and exhibits have been prepared

use of the frequency and thus better serve the public interest. [1] In the event that this issue is resolved in the af-

issues, the applicant is financially qualified.

4. To determine the number of other

Released: October 19, 1978.

In re applications of Webster-Baker

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to the TTPI for the extraordinary administrative expenses resulting from the need to travel long distances to manage its water pollution control program.

The remaining $145,700 is divided between NMI and TTPI according to the ratio of permits in each political entity. The number of permits was used as the best surrogate measure of pollution, because the standard statistical indicators listed in 40 CFR 35.552 are not available for the TTPI and the NMI.

The total number of permits in the two entities is 29, of which 19, or 65.5 percent, are in the TTPI, and 10, or 34.5 percent, are in the NMI. By multiplying these percentages times $145,700, the $145,700 is divided as follows: NMI—$50,300 and TTPI—$95,400. When the $31,000 for extraordinary administrative expenses is added to TTPI's share, the total fiscal year 1979 grant amounts are as follows: NMI—$50,300, and TTPI—$126,400.

Public comments regarding this notice are welcome on or before December 26, 1978. Comments should be addressed to Ed Richards, Environmental Protection Agency, WH-554, 401 M Street SW., Washington, D.C. 20460, 202-755-7003.

THOMAS C. JORLING,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc. 78-29833 Filed 10-23-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

AM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: October 18, 1978.

Released: October 19, 1978.

Cut-off date: December 18, 1978.

Notice is hereby given that the AM broadcast application listed below will be considered as ready and available for processing on December 19, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of Westminster Broadcasting for renewal of license of AM Station KCMJ, Palm Springs, Calif. (file No. BP-1235), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BP-21,042 new, Palm Springs, Calif., Whitmont Associates, Inc., Req: 1010 kHz, 500 W, 1 kW-LS, DA-2, U

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-29898 Filed 10-23-78; 8:45 am]

[6712-01-M]

GRANFALLOON DENVER-EDUCATIONAL BROADCASTING, INC., AND REGENTS OF THE UNIVERSITY OF COLORADO

[BC Docket Nos. 78-292, 78-293; File Nos. BPED-1691, 1882]

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: August 29, 1978.

Released: October 20, 1978.

In re applications of Granfalloon Denver-Educational Broadcasting, Inc., Denver, Colo., BC Docket No. 78-292, File No. BPED-1691, Req: 89.3 MHz, No. 207; 58.5 kW; 910 feet HAAT; the Regents of the University of Colorado, a Body Corporate, Boulder, Colo., BC Docket No. 78-293, File No. BPED-1882, Req: 89.3 MHz, No. 207; 3.89 kW, minus 723 feet HAAT; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned applications of Granfalloon Denver-Educational Broadcasting, Inc. (Granfalloon), and the Regents of the University of Colorado, a Body Corporate (University) which are mutually exclusive and must be designated for comparative hearing.

2. A review of Granfalloon's application reveals several deficiencies with regard to our certification requirements which require the specification of an improper certification issue. We note that exhibit No. 2 of the Granfalloon application contains the corporate bylaws of the applicant as required by paragraph 3 of section II, FCC form 340. However, the bylaws have not been certified by an officer of the applicant, as required by paragraph 3(a) of section II, FCC form 340. More significantly, Gerald Greene, former executive director of Granfalloon, submitted an amendment to the application, dated April 25, 1974. The second page of the amendment is dated "April 24, 1974," but the accompanying balance sheet of Gerald Greene is dated April 27, 1974. Finally, V. Tobi Kanter, executive director of Granfalloon, submitted an amendment by transmittal letter dated July 17, 1976, which contains the certification page signed by Ms. Kanter and dated July 19, 1976. Section 1, page 2 of FCC form 340 requires that the certification portion of the application "not be dated and signed until all sections and exhibits have been prepared and attached." A similar requirement has been applied to amendments. *Badlands Broadcasting Co.*, 60 FCC 2d 353, 37 RR 2d 1719 (Rev. Bd. 1976). Accordingly, we are specifying an issue to permit Granfalloon to clarify the circumstances surrounding the preparation of its application and the April 25, 1974, and July 17, 1976, amendments.

3. In response to section II, paragraph 14(a) of the University's application, it is indicated that the execution of the application was duly authorized on April 1, 1974. However, the resolution of the University Regents, submitted as exhibit 2, is dated March 27, 1970. Although the Broadcast Bureau requested clarification of this apparent inconsistency, none was supplied. Accordingly, an issue will be specified to permit the University to clarify the date of authorization.

4. Analysis of University's application indicates that it will require $29,945 to construct and operate its proposed station for 3 months. Based upon the original financial data included in its application, the University demonstrated the availability of $89,680 to meet this requirement. By letter dated May 14, 1976, the staff requested the University to file an updated showing to reflect its current financial position, and make some provision for the legal fees which will be incurred in the comparative hearing. The University did not update its application as requested and, a financial issue will be specified.

5. The respective proposals, which are for different communities, would serve substantially different areas and populations. Consequently, it will be necessary to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard areas and populations issue will be modified in accordance with the Commission's prior action in *New York University*, FCC 67-673 released June 8, 1967, 10 RR 2d 215 (1967). Thus, the evidence adduced under this issue will be limited to available noncommercial educational FM signals within the respective service areas.

6. Although Grandfalloon has attempted to negotiate a share-time arrangement with the University on channel 207 (89.3 MHz), the University has not been amenable to such an agreement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus better serve the public interest.[1] In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a "share-time issue" is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.[2]

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the application of Granfalloon Denver-Educational Broadcasting, Inc., and the April 25, 1974, and July 17, 1976, amendments thereto, were properly certified and executed in accordance with Commission requirements, and the effect thereof, if any, on the applicant's basic qualifications to be a Commission licensee.

2. To determine, with respect to the application of the Regents of the University of Colorado, a Body Corporate the date of authorization of the execution of the University's application, and the effect thereof, if any, on the applicant's basic qualifications to be a Commission licensee.

3. To determine with respect to the application of the University:

(a) The applicant's estimated expenses for the hearing;

(b) In light of the foregoing issue, whether the applicant has accurately estimated its total costs for procuring its construction permit, building its station, and operating it for 3 months;

(c) Whether sufficient funds will be available to meet the applicant's total estimated costs; and

(d) Whether, in light of the evidence adduced pursuant to the foregoing issues, the applicant is financially qualified.

4. To determine the number of other reserved channel noncommercial educational FM services available in the proposed service area of each applicant, and the areas and populations served thereby.

5. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service, or, in the event this determination is not dispositive, whether a share-time arrangement between the applicants would result in the most effective use of channel 207 (89.3 MHz) and thus better serve the public interest, and, if so, the terms and conditions thereof.[3]

6. To determine in light of the evidence adduced pursuant to the foregoing issues whether either or both of the applications should be granted.

9. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

10. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communication's Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29896 Filed 10-23-78; 8:45 am]

[6712-01-M]

[BC Docket Nos. 78-337, etc., File Nos. BP-20, 621 etc.]

WEBSTER-BAKER BROADCASTING CO., ET AL

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: October 10, 1978.

Released: October 19, 1978.

In re applications of Webster-Baker Broadcasting Co., Omaha, Nebr., BC Docket No. 78-337, File No. BP-20,621, Omaha Broadcasting Service Co., Omaha, Nebr., BC Docket No. 78-338, File No. BP-20,671, Nebraska-Iowa Broadcasting Corp., Omaha, Nebr., BC Docket No. 78-339, File No. BP-20,672, for construction permits for the facilities of former station KOIL, Omaha, Nebr. (1290 kHz, 5 Kw, DA-N U), KRCB, Inc., Council Bluffs, Iowa, BC Docket No. 78-340, File No. BP-20,677, Has: 1560 kHz, 1 kW, D, Req: 1290 KHz, 5 kW, DA-N, U; Webster-Baker Broadcasting Co., Omaha, Nebr., BC Docket No. 78-341, File No. BPH-10,193, Req: 96.1 MHz, Channel No. 241; 100 kW; 265 feet; Nebraska-Iowa Broadcasting Corp., Omaha, Nebr., BC Docket No. 78-342, File No. BPH-10,272, Req: 96.1 MHz, Channel No. 241; 100 kW; 210 feet; Nebraska Communications Corp., Omaha, Nebr., BC Docket No. 78-343, File No. BPH-10,313, Req: 96.1 MHz, Channel No. 241; 100 kW; 280 feet; KYLE Broadcasting Co., Inc., Omaha, Nebr., BC Docket No. 78-344, File No. BPH-10,317, Req: 96.1 MHz, Channel No. 241; 100 kW; 285 feet, Omaha Broadcasting Service Co., Omaha, Nebr., BC Docket No. 78-345, File No. BPH-10,318, Req: 96.1 MHz, Channel No. 241; 100 kW; 275 feet, for construction permits for the facilities of former station KEFM, Omaha, Nebr.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the mutually exclusive applications of Webster-Baker Broadcasting Co. (Webster), Omaha Broadcasting Service Co. (OBSC), Nebraska-Iowa Broadcasting Corp. (NIBC), and KRCB, Inc. (KRCB)[1] for the former facilities of standard broadcast station KOIL, Omaha, Nebr. Also before the Commission are the mutually exclusive applications of Webster-Baker Broadcasting Co. (Webster), Nebraska-Iowa Broadcasting Corp. (NIBC), Nebraska Communications Corp. (NCC), KYLE Broadcasting Co., Inc. (KYLE), and Omaha Broadcasting Service, Co. (OBSC) for the former facilities of FM broadcast station KEFM, Omaha, Nebr.[2]

2. To meet expenses of approximately $364,810[3] KYLE relies upon $11,000 in existing capital, a $325,000 loan from Allied Capital Corp., and $44,000

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[1] To some degree this issue represents a departure from the rules adopted by the Commission in the *Second Report and Order* in Docket No. 20735 which would not require a station operating 12 hours a day or more (as is the case here) to share time. However, time-sharing here is consistent with the objectives of the new rules and therefore deserves exploration in this proceeding.

[2] *Board of Education, Union School District No. 46*, FCC 73-940, 38 FR 26763, released Sept. 18, 1973.

[3] In the past, sec. 307(b) has not been a relevant factor in the specification of a share-time issue. Here, however, not only are two widely separated communities involved but the applicants proposals differ greatly in terms of their efficiency. Accordingly, sec. 307(b) considerations may be relevant in the resolution of the share-time issue in this proceeding.

[1] The application of KRCB, Inc. requests a major change for KRCB, Council Bluffs, Iowa, to specify the former KOIL frequency.

[2] These applications are subject to former § 1.229 of the Commission's rules, which allowed the filing of petitions to enlarge, modify, or delete issues during the 15-day period following designation of the applications for hearing.

[3] The estimated cost of construction and 3 months of operation is as follows:

in stock subscriptions. However, since the applicant has not complied with one of the conditions for the loan, to

aural service from the AM proposals and the availability of other primary service to such areas and populations

field offices located at New York, N.Y.; New Orleans, La; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Inter-

a Terminal Stevedore and LCL Service Agreement whereby Global agrees to provide and perform, at its terminal facility in

Agreement No.: T-3716.
Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc.

[6730-01-M]

PETITIONS FILED

V 43 / 206 OCT 24 78

in stock subscriptions. However, since the applicant has not complied with one of the conditions for the loan—to invest $55,000 in equity in the corporation—we must conclude that the loan is unavailable to it. Likewise, as KYLE has failed to submit subscription agreements reflecting the sale of $44,000 worth of its capital stock, we cannot credit it with funds from that source. Consequently, only $11,000 has been shown available to meet a $364,810 requirement and a limited financial issue will be specified.

Equipment	$225,000
Pre-operating expenses	30,000
Operating	97,135
Interest on loan	12,675
Total	364,810

3. Data submitted by the FM applicants indicate that there would be a significant difference in the size of the areas and population which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. Although the KRCB proposal is for Council Bluffs, Iowa, and the other AM broadcast applicants seek Omaha, Nebr., as their community of license, the facilities of all of these proposals would serve substantially the same areas. Consequently, in addition to determining, pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the AM proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will also be specified.

5. Except as indicated below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below. *Accordingly, it is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to KYLE Broadcasting Co., Inc.: (a) The source and availability of additional funds over and above the $11,000 indicated; and, (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine the areas and populations which would receive primary aural service from the AM proposals and the availability of other primary service to such areas and populations.

3. To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the AM broadcast proposals would best provide a fair, efficient, and equitable distribution of radio service.

4. To determine, in the event it is concluded that a choice among the AM broadcast applications should not be based solely on considerations relating to section 307(b), which of the applications, on a comparative basis, would best serve the public interest.

5. To determine which of the FM proposals would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

6. *It is further ordered*, That to avail themselves of the opportunity to be heard the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person, or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

7. *It is further ordered*, That, the applicants herein, shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29897 Filed 10-23-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the field offices located at New York, N.Y.; New Orleans, La; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 13, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos.: T-3709, T-3709-A, T-3709-A-1.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3709, between Global Terminal & Container Services, Inc. (Global) and Orient Overseas Container Line, Inc. (OOCL) provides for a 5-year container terminal stevedoring and LCL cargo handling services agreement between the parties. Global will furnish the necessary equipment, labor, and facilities for the performance of certain container freight station services for OOCL in connection with containers to be loaded onto or discharged from vessels owned, operated, chartered or controlled by OOCL in the trade between the Far East and the Port of New York. OOCL agrees to utilize Global exclusively for such services at the Port of New York. As compensation, OOCL shall pay Global at rates in accordance with schedules attached to the agreement. In addition, Global will collect demurrage and loading and unloading charges according to the rates and conditions specified in Global's Terminal Tariff No. 1, as amended from time to time. Agreement No. T-3709-A, between the same parties, is an agency collection agreement whereby OOCL appoints Global as its agent for the assessment, billing, collection and administration of free time and demurrage on cargoes originating in the Far East and discharged from OOCL vessels at Global's facilities at New York. Agreement No. T-3709-A-1, between the same parties, is an amendment to the agency collection agreement whereby OOCL also appoints Global as its collection agent for cargoes carried by OOCL pursuant to its Thailand-U.S. Atlantic & Gulf Ports Freight Tariff No. 50.

Agreements Nos.: T-3712, T3712-1 and T-3712-A.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3712, between Global Terminal & Container Services, Inc., (Global) and Italian Line (IL), is a Terminal Stevedore and LCL Service Agreement whereby Global agrees to provide and perform, at its terminal facility in the Port of New York, container terminal stevedoring and LCL cargo handling services, for containers and Ro/Ro cargo, to be loaded onto or discharged from full cellular container vessels and combination Ro/Ro/Container vessels, owned, operated, chartered or controlled by IL in IL's service between the Mediterranean and the Port of New York. IL agrees to utilize exclusively, Global's terminal services and facilities at the Port of New York. IL shall compensate Global at rates listed in the agreement, said rates being based on the rates of pay and working conditions in the Labor Agreements with the ILA in existence on October 1, 1977, subject to further modifications. Global shall bill and collect charges for its services according to rates set in its Terminal Tariff No. 1, filed with the Commission. Agreement No. T-3712-1, between the same parties, modifies the basic agreement by changing the term of the agreement to commence December 4, 1977, and end May 31, 1979, with the agreement remaining in force thereafter until terminated by 90 days prior written notice given by either party to the other in writing. In addition, section II, subparagraph (5) is changed to reflect 500 empty containers rather than 400 empty containers. Agreement No. T-3712-A, between the same parties, is an Agency Collection Agreement whereby IL appoints Global as its agent for the assessment, billing, collection and administration of free time and demurrage on cargo and containers discharged from its vessels at Global's terminal facilities at the Port of New York. Global shall bill, collect and retain demurrage charges in accordance with the Rules and Regulations of the W.I.N.A.C. Freight Conference, Iberian/U.S. North Atlantic Westbound Freight Conference, and the Marseilles North Atlantic U.S.A. Freight Conference. In the event of noncollection from consignees or brokers, Global shall have no recourse against IL.

Agreement No.: T-3715.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3715, between Global Terminal & Container Services, Inc., (Global) and D.D.G. "Hansa" (Hansa), is a Terminal, Stevedore and LCL Service Agreement whereby Global agrees to provide and perform, at its terminal facility in the Port of New York, stevedoring, LCL cargo handling, and terminal services for containers, trailers, and self-propelled vehicles, to be loaded onto or discharged from combination roll-on/roll-off container vessels owned, operated, chartered or controlled by Hansa in the trade between the Middle East and the Port of New York. Hansa agrees to utilize exclusively, Global's terminal services and facilities at the Port of New York. Hansa shall compensate Global at rates listed in the agreement, said rates being based on the rates of pay and working conditions contained in the Labor Agreements with the ILA in existence on May 1, 1977, subject to further modifications. Global shall bill and collect charges for its services according to rates set in its Terminal Tariff No. 1, filed with the Commission.

Agreement No.: T-3716.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, N.J. 07303.

Summary: Agreement No. T-3716, between Global Terminal & Container Services, Inc., (Global) and Korea Shipping Corp. (KSC) provides for a container terminal and LCL cargo handling service agreement between the parties. Global will furnish the necessary equipment and labor for the performance of certain services for KSC in connection with the operation of a container freight station. Global will also prepare various documents associated with the above services. KSC agrees to utilize Global exclusively for such services at the Port of New York. As compensation, KSC shall pay Global at rates in accordance with schedules attached to the agreement. In addition, Global will collect demurrage and loading and unloading charges according to the rates and conditions specified in Global's Terminal Tariff No. 1, as amended from time to time.

Agreement No.: 8080-16.

Filing Party: Mr. Wade S. Hooker, Jr., Burlingham Underwood & Lord, One Battery Park Plaza, New York, N.Y. 10004.

Summary: Agreement No. 8080-16, entered into among the member lines of the Atlantic and Gulf-Indonesia Conference, amends Article 8 of the basic agreement to read as follows (with insertions indicated by underlining):

"8. There shall be no absorption of wharfage; storage or other charges against the cargo *and no absorption at loading or discharge ports of rail, truck or water freights*, except as authorized by the Conference."

Agreement No.: 9615-27.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 9615-27, among the member lines of the Iberian/U.S. North Atlantic Westbound Freight Conference, modifies the basic agreement by amending Article 12.5 to provide for vote by proxy at conference meetings.

Agreement No.: 9976-4.

Filing Party: John R. Attanasio, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 9976-4, among the member conferences of the Mediterranean Associated Conferences Agreement, modifies the basic agreement by amending paragraph (a) of Article 4 to provide, essentially, that meetings of Executive Committee representatives of two or more of the Associated Conferences may be held under the auspices of the Agreement, and paragraph (b) of Article 4 to provide, again essentially, that meetings of such Executive Committee representatives shall be called upon not less than 2 weeks' prior notice to each Conference.

By order of the Federal Maritime Commission.

Dated: October 18, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29850 Filed 10-23-78; 8:45 am]

[6730-01-M]

PETITIONS FILED

The Federal Maritime Commission hereby gives notice that the following petitions have been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect and obtain a copy of the petitions and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or may inspect the petitions at the field offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., Chicago, Ill., and San Juan, P.R. Interested parties may submit comments on the petitions, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 13, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed petitions. Comments shall discuss with particularity allegations that the petition is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the petitions and the statement should indicate that this has been done.

Agreement No. 2846 DR-7.

Filing party: David C. Jordan, Esq., Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

Summary: Agreement No. 2846 DR-7 would amend the Merchant's Contract of the West Coast of Italy, Sicilian & Adriatic Ports North Atlantic Range Conference (WINAC) to provide that (1) whenever a shipment is made by a merchant who regularly operates as a freight forwarder, the shipment shall be deemed to be made in the interest of an underlying company; (2) such merchant shall be bound to disclose the name of said company since it is understood that the contract will only apply if said company is a contract signatory; (3) the merchant shall be charged the contract rate only if he has the legal right at the time of shipment to select the carrier; (4) either the shipper or consignee, whoever pays the freight charges, shall have the legal right at the time of shipment to select the carrier; and (5) the merchant shall have the right to select the carrier if he pays the freight charges.

By order of the Federal Maritime Commission.

V 43/206 OCT 24 78

Dated: October 18, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29853 Filed 10-23-78; 8:45 am]

[6730-01-M]

[Docket No. 78-40]

SALEN SHIPPING AGENCIES, INC. v. PACIFIC MARITIME ASSOCIATION

Filing of Complaint

Notice is hereby given that a complaint filed by Salen Shipping Agencies, Inc. against the Pacific Maritime Association (PMA) was served October 17, 1978. The complaint alleges that certain actions taken by PMA pursuant to collective bargaining arrangements between PMA and the International Longshoreman's & Warehouseman's Union have resulted in violations of sections 15, 16, and 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 17, 1979. The Hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29851 Filed 10-23-78; 8:45 am]

[6730-01-M]

[Docket No. 78-39]

STANDARD FRUIT AND STEAMSHIP CO., INC. AND UNITED BRANDS, INC. v. PACIFIC MARINE ASSOCIATION

Filing of Complaint

Notice is hereby given that a complaint filed by Standard Fruit and Steamship Co., Inc. and United Brands, Inc. against the Pacific Maritime Association (PMA) was served October 17, 1978. The complaint alleges that certain actions taken by PMA pursuant to collective bargaining arrangements between PMA and the International Longshoreman's & <Warehouseman's Union have resulted in violations of sections 15, 16, and 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 17, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-29852 Filed 10-23-78; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

[Temporary Regulation D-62]

Secretary of Transportation

SUBJECT: Delegation of authority.

1. *Purpose.* This regulation continues in effect the authority delegated to the Secretary of Transportation to perform all functions in connection with leasing of certain space at the Department's Federal Aviation Administration, National Aviation Facilities Experimental Center (NAFEC).

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation shall expire upon termination of the lease.

4. *Background.* This regulation reflects the delegation of authority which was granted by letter of October 28, 1976, to the Secretary of Transportation by the Administrator of General Services.

5. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, authority is hereby delegated to the Secretary of Transportation to perform all functions in connection with the leasing of approximately 500,000 gross square feet of space at the Federal Aviation Administration, National Aviation Facilities Experimental Center, Atlantic County, N.J.

b. This authority shall extend to leasing space under authority in section 210(h)(1) of the above-cited act (40 U.S.C. 490(h)(1)) for a firm term of 20 years with renewal options for firm term periods not to exceed 20 years as deemed appropriate by the Secretary of Transportation.

c. The Secretary of Transportation may redelegate this authority to any official or employee of the Department of Transportation.

d. This authority shall be exercised in accordance with the applicable limitations and requirements of the above-cited act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, other applicable statutes and regulations, and policies, procedures, and controls prescribed by General Services Administration.

6. *Effect on other issuances.* This temporary regulation cancels the letter dated October 28, 1976, from the Administrator of General Services to the Secretary of Transportation, related to the above delegation.

September 29, 1978.

JAY SOLOMON,
Administrator of General Services

[FR Doc. 78-29857 Filed 10-23-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78N-0280; DESI Nos. 740, 1543, and 7661]

ESTROGENS FOR POSTPARTUM BREAST ENGORGEMENT

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications for Certain Estrogen-Containing Drugs

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of new drug applications for estrogen-containing drugs that are labeled for use in postpartum breast engorgement. The basis for the action is that estrogens are not shown to be safe for that use.

DATE: Hearing requests due on or before November 24, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the Docket number 78N-0280, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for hearing: Hearing Clerk, Food and Drug Administration (HFA-305), Room 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Supplements to approved new drug applications (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD-130), Room 14B-04, Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: For many years estrogens, in both injectable and oral form, have been used to suppress lactation in the nonnursing mother. The objective of the therapy was "to dry up the milk," thereby preventing postpartum breast discomfort.

In recent years the benfit/risk ratio for the use of estrogens for this indication has become a concern of FDA. Due to the lack of well-controlled objective and subjective evaluation of patients' symptoms in postpartum days 4 through 14, the new drug application for quinestrol for use in the suppression of postpartum lactation was rejected on June 17, 1971. On November 24, 1971, FDA representatives and the sponsor of quinestrol developed a protocol which provided for very close surveillance of patients during this period, giving particular attention to evidence of rebound breast engorgement and pain following initial use of their drug and the comparison drug chlorotrianisene. After examining data from the studies at their meeting of July 15-16, 1976, the FDA Obstetrics and Gynecology Advisory Committee recommended that the physician labeling include a statement concerning the increased risk of puerperal thromboembolism in the use of estrogens for this indication. Because of the Committee's findings, FDA undertook an extensive review of information about estrogens. On the basis of the review of available information on these drugs and the recommendations of the advisory Committee, FDA published revised physician labeling in the FEDERAL REGISTER of September 29, 1976 (41 FR 43117), as a guide for manufacturers and distributors of estrogenic drug products for general use. The notice stated that the need for revised physician labeling arose principally from reports which associate an increased risk of adverse effects with the use of estrogens. It announced that the following statement is required in the Indications section of the physician labeling:

> Although estrogens have been widely used for the prevention of postpartum breast engorgement, controlled studies have demonstrated that the incidence of significant painful engorgement in patients not receiving such hormonal therapy is low and usually responsive to appropriate analgesic or other supportive therapy. Consequently, the benefit to be derived from estrogen therapy for this indication must be carefully weighed against the potential increased risk of puerperal thromboembolism associated with the use of large doses of estrogens.

A final regulation to require patient labeling for all prescription estrogenic drug products for general use was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636). The regulation (21 CFR 310.515), specifies the kind of information to be contained in the patient labeling and how it is to be made available to the patient. It requires that the labeling contain a statement regarding the proper use of estrogens in the prevention of breast engorgement, and their limited usefulness for this purpose. A notice also published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37645), revised the guideline text for patient labeling for presciption estrogenic drug products. The notice stated that the following text can be relied upon as meeting the requirements of 21 CFR 310.515(b)(3) regarding breast engorgement.

> ESTROGEN TO PREVENT SWELLING OF THE BREASTS AFTER PREGNANCY
>
> If you do not breast feed your baby after delivery, your breasts may fill up with milk and become painful and engorged. This usually begins about 3 to 4 days after delivery and may last for a few days to a week or more. Sometimes the discomfort is severe, but usually it is not and can be controlled by pain-relieving drugs such as aspirin and by binding the breast up tightly. Estrogens can be used to try to prevent the breasts from fillig up. While this treatment is sometimes successful, in many cases the breasts fill up to some degree in spite of treatment. The dose of estrogens needed to prevent pain and swelling of the breasts is much larger than the dose needed to treat symptoms of the menopause and this may increase your chances of developing blood clots in the legs or lungs. Therefore, it is important that you discuss the benefits and the risks of estrogen use with your doctor if you have decided not to breast feed your baby.

These labeling statements reflected the increasing concern of FDA about the risk in using estrogens for postpartum breast engorgememt when other therapy with less risk is available to the patient. This concern was also reflected in the required labeling statement concening the limited effectiveness of estrogens for this indication.

On January 31, 1978, the subject of estrogen use for prevention of breast engorgement and lactation suppression was again considered by the FDA Obstetrics and Gynecology Advisory Committee. A literature review of estrogen use for lactation suppression and its adverse consequences was given by Dr. Jennifer Niebyl of the Johns Hopkins School of Medicine. With regard to effectiveness, the review indicated that the drugs do no more than suppress, or delay, breast engorgement and milk flow in the immediate postpartum period. When patients are evaluated over a more extended period of time, 10 days to 3 weeks, very little difference of any significance is seen in the incidence of complete control of symptoms or rebound breast engorgement and lactation in either treated or untreated groups. Dr. Niebyl felt that the initial effect of the drug, which is most prominently demonstrated at the time of the patient's hospitalization, has perpetuated the feeling among physicians that estrogens used for these indications are indeed effective without them critically considering the number of patients who report a resurgence of milk flow and painful breasts a week or 10 days after discharge. This hypothesis is supported by the fact that no data are available that domonstrate a substantial lasting effect of estrogens when used for this purpose.

In addition to demonstrating the limited effectiveness of the drug, the literature also indicated that significant risks are involved in the use of these drugs for prevention of postpartum breast engorgement. Studies conducted by Daniel, Jeffcoate, Tindall, and others demonstrate that risks are imposed by the use of estrogens in nonnursing mothers. Daniel, for example, reported a tenfold increase in low-parity women aged 25 and older in the incidence of thromboembolism. In his studies, diethylstilbestrol was the estrogen used. Jeffcoate, et al. subsequently showed that lactation inhibition with use of ethinyl estradiol was associated with a threefold increase in thromboembolic disease, although the effect was seen mainly in women of 25 and older; in women aged 35 or more who had assisted deliveries, there was a tenfold increase. Tindall reported similar findings. In women less than 25 years old he found little difference in the incidence of thromboembolism between lactating and nonlactating (estrogen treated) groups, but this incidence increased threefold beyond age 25 and a startling 9.6/1000 or sixfold in women aged 35 and older. More striking were his findings that even in women under 25 the incidence was increased threefold if there had been an assisted delivery and lactation was inhibited. After age 25, he reported that thromboembolic disease is doubled if the delivery is assisted even if the patient is nursing, but if lactation is inhibited the risk is increased 3 times if normal delivery occurred and is increased 6 times, possibly 12 times, if the delivery is assisted. There seems to be no question that these risks would be appreciably greater following Cesarean section. On the basis of the literature review presented at the Obstetrics and Gynecology Advisory Committee meeting of January 31, 1978, the Committee concluded that available evidence does not support the safety and effectiveness of estrogens for the treatment of postpartum breast engorgement. The Committee recommended that the indication for

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postpartum breast engorgement be removed from the labeling of estrogenic products.

REFERENCES

1. Kaulla, E., et al., "Effect of Estrogens on Postpartum Hypercoagulability and Antithrombin III Activity," *American Journal of Obstetrics and Gynecology*, 113:920-926, 1972.

2. David, A., et al., "Stilbestrol Administration in the Puerperium and Its Effect on the Prolactin Excretion of Non-Lactating Patients," *Acta Obstetrica et Gynecologica Scandinavica*, 56:211-215, 1977.

3. Tindall, V. R., "Factors Influencing Puerperal Thrombo-Embolism," *Journal of Obstetrics and Gynaecology of the British Commonwealth*, 75:1324-1327, 1968.

4. Daniel, D. G., H. Campbell, and A. C. Turnbull, "Puerperal Thromboembolism and Suppression of Lactation" *The Lancet*, 287-289, 1968.

5. Jeffcoate, T. N. A., et al., "Puerperal Thromboembolism in Relation to the Inhibition of Lactation by Oestrogen Therapy," *British Medical Journal*, 4:19-25, 1968.

6. Howie, P. W., et al., "The Effects of Stilboestrol and Quinestrol Upon Coagulation and Fibrinolysis During the Puerperium," *British Journal of Obstetrics and Gynecology*, 82:968-975, 1975.

7. Nilsen, P. A., A. Meling, and U. Abildgaard, "Study of the Suppression of Lactation and the Influence on Blood Clotting with Bromocriptine (CB 154) (Paralodel): A Double Blind Comparison with Diethylstilboestrol," *Acta Obstetrica et Gynecologica Scandinavica*, 55:39-44, 1976.

8. Ambrus, J. L., et al., "Effect of Various Estrogen Treatment Schedules on Antithrombin III Levels," *Research Communications in Chemical Pathology and Pharmacology*, 14:543-549, 1976.

The Director of the Bureau now proposes to withdraw approval of the new drug applications for estrogen-containing drug products that are labeled for use in postpartum breast engorgement. Specifically, the Director refers to the adverse effects of thrombophlebitis and embolism, which give an unfavorable benefit-to-risk ratio to such drugs for this indication, and the fact that other therapy, including analgesic drug products having less potential for risk, are readily available. Another notice appearing elsewhere in this issue of the FEDERAL REGISTER proposes to revoke that part of 21 CFR 310.515(b)(3) pertaining to breast engorgement. If the agency, following the administrative proceeding resulting from this notice concludes that estrogens are not shown to be safe for use in postpartum lactation suppression, it will issue a final rule on the matter and amend the September 29, 1976, notice regarding physician and patient labeling which serves as a guide for manufacturers and distributors of estrogenic drug products.

Various notices published in the FEDERAL REGISTER as part of the Drug Efficacy Study Implementation (DESI) project have covered specific estrogens. These include: DESI 740 (36 FR 21537, Nov. 10, 1971; 38 FR 26824, Sept. 26, 1973; 40 FR 8242, Feb. 26, 1975; and 40 FR 32774, Aug. 4, 1975); DESI 1543 (37 FR 14826, July 25, 1972; and 41 FR 43114, Sept. 29, 1976) DESI 7661 (37 FR 18225, Sept. 8, 1972; and 41 FR 43112, Sept. 29, 1976).

This notice applies not only to the particular estrogens subject to the Drug Efficacy Study and named in this notice but to all such products that are the subject of a new drug application approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6) whether or not it is the subject of an approved new drug application.

1. NDA 0-740; Di-Ovocylin Injection containing estradiol dipropionate; Ciba Pharmaceutical Co., Division Ciba-Geigy Corp., 556 Morris Ave., Summit, N.J. 07901.

2. NDA 4-039; Stilbestrol Ect. containing diethylstilbestrol; Eli Lilly & Co., Box 618, Indianapolis, Ind. 46206.

3. NDA 4-041; Stilbestrol Tablets and Injection containing diethylstilbestrol; Eli Lilly & Co.

4. NDA 4-056; Stilbestrol Tablets, Injection, and Suppositories containing diethylstilbestrol; E. R. Squibb & Sons, Inc., Box 4000, Princeton, N.J. 08540.

5. NDA 4-073; Stilbestrol Perles, Injection, and Suppositories containing diethylstilbestrol; The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49002.

6. NDA 4-782; Premarin Tablets containing conjugated estrogens; Ayerst Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, N.Y. 10017.

7. NDA 4-823; Estrone Injection containing estrone; Abbott Laboratories, 14th and Sheridan Rd., North Chicago, Ill. 60064.

8. NDA 5-159; Diethylstilbestrol Dipropionate Tablets containing diethylstilbestrol dipropionate; Blueline Laboratories, Inc., 302 South Broadway, St. Louis, Mo. 63102.

9. NDA 5-233; Diethylstilbesterol Tablets containing diethylstilbestrol; High Chemical Co., 1760 North Howard St., Philadelphia, Pa. 19122.

10. NDA 5-292; Estinyl Tablets containing ethinyl estradiol; Schering Corp., Galloping Hill Rd., Kenilworth, N.J.07033.

11. NDA 7-661; AE Tablets and Tylosterone Tablets containing diethylstilbestrol and methyltestosterone; Eli Lilly & Co.

12. NDA 8-099; Tylosterone Injection containing diethylstilbestrol and methyltestosterone; Eli Lilly & Co.

13. NDA 8-102; Tace Tablets and Capsules containing chlorotrianisene; Merrell-National Laboratories, Division of Richardson-Merrell Inc., 110 East Amity Rd., Cincinnati, Ohio 45215.

14. NDA 8-579; Vallestril Tablets containing methallenestril; Searle Laboratories, Division of G. D. Searle & Co., Box 5100, Chicago, Ill. 60680.

15. NDA 9-402; Delestrogen Injection, Delestrogen 4X Injection, and Delestrogen 2X Injection containing estradiol valerate; E. R. Squibb & Sons, Inc.

16. NDA 9-545; Deladumone Injection containing testosterone enanthate and estradiol valerate; E. R. Squibb & Sons, Inc.

17. NDA 10-597; Tace-Androgen Capsules containing chlorotrianisene and methyltestosterone; Merrell-National Laboratories.

18. NDA 11-444; Tace Capsules containing chlorotrianisene and Tace with Ergonovine Capsules containing chlorotrianisene and ergonovine maleate; Merrell-National Laboratories.

19. NDA 16-235; Tace 72-Milligram Capsule containing chlorotrianisene; Merrell-National Laboratories.

20. NDA 17-768; Plestrovis Tablets containing quinestrol; Warner Chilcott Laboratories, Division Warner Lambert Co., 201 Tabor Rd., Box W, Morris Plains, N.J. 07950.

It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

The following drug entities, along with their salts and esters, are examples of estrogens that are covered by this notice; however this is not intended to be an exhaustive listing: Benzestrol, chlorotrianisene, conjugated estrogens, dienestrol, diethylstilbestrol, esterfied estrogens, estradiol, estriol, estrone, ethinyl estradiol, hexestrol, mestranol, methallenestril, piperazine estrone sulfate, polyestradiol phosphate, promethestrol, and quinestrol.

Therefore, notice is given to the holders of the new drug applications and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications providing for use of the drug products in postpartum breast engorgement and all amendments and supplements thereto on the ground that new evidence of clinical experience, not contained in such applications or not available until after such applications were approved, evaluated together with the evidence available when the applications were approved, shows that such drugs are not shown to be safe for use in postpartum breast engorgement. An order withdrawing approval will not issue with respect to any application supplemented on or before December 26, 1978, to delete the claim of use in postpartum breast engorgement from physician labeling, except for applications that are approved only for this indication.

In addition to the specific ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that the product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355), and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above (21 CFR 310.6) are hereby given an opportunity for a hearing to show why approval of the new drug applications providing for the claim involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to its legal status.

An applicant or any other person subject to this notice who decides to seek a hearing, shall file (1) on or before November 24, 1978, a written notice of appearance and request for hearing, and (2) on or before December 26, 1978, the data, information, and analyses relied upon to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election not to make use of the opportunity for a hearing concerning the action proposed with respect to the drug products and a waiver of any contentions concerning the legal status of the drug products.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the applications, or when the request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 11, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29845 Filed 10-23-78; 8:45 am]

[4110-03-M]

[Docket No. 77N-0378; DESI 12329]

GUANETHIDINE SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing guanethidine sulfate for the indications for which it continues to be regarded as effective, allowing for the submission of abbreviated new drug applications (ANDA's). The drug is effective for lowering blood pressure.

DATE: Supplements to approved new drug applications (NDA's) due on or before December 26, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 12329, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to full new drug applications (identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Room 16B-30, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences—National Research Council: Public Records and Document Center (HFI-35), Room 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 12329) published in the FEDERAL REGISTER of June 22, 1971 (36 FR 11876), the Food and Drug Administration, having evaluated the drug described below, announced its conclusion that guanethidine sulfate is effective for its labeled indications. The notice also stated that new drug applications, containing full information required by the new drug application form FD-356H (21 CFR 314.1(c)), are required for marketing this product.

NDA 12-329; Ismelin Sulfate Tablets containing guanethidine sulfate; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Avenue, Summit, N.J. 07901.

Upon reevaluating the requirement of full NDA's for guanethidine sulfate, the Director of the Bureau of Drugs concludes that abbreviated new drug applications are appropriate for the drug.

Guanethidine sulfate was not included in the list of effective drugs (21 CFR 320.22(c)) having a known or potential bioequivalence problem published in the FEDERAL REGISTER of January 7, 1977 (42 FR 1649). That list had been developed based on review of all products that had been determined to be effective for at least one indication and eligible for abbreviated new drug applications. At that time, effective products requiring full NDA's from new applicants were not considered for inclusion in that list because, by its very nature, a pending full NDA can be required to contain bioavailability/bioequivalence data if such data are necessary. In treating for severe hypertension with guanethidine sulfate, close patient monitoring and drug titration are necessary. Guanethidine sulfate of varying bioavailability could result in either clinical failure or drug intoxication due to overdosage. For these reasons, the Director concludes that guanethidine sulfate is a

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drug that should be added to the list in 21 CFR 320.22(c); i.e., it is a drug

new drug application may be continued provided that, on or before De-

SUMMARY: The Food and Drug Administration is reissuing a notice of op-

The following product was among those named in the November 11, 1975, notice:

notice insofar as it concerned Tral Gradumets.

Abbott Laboratories submitted the

tions was about 1.4 to 2.5 times greater for Gradumet and Filmtab treatments but the difference was statistically sig-

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drug that should be added to the list in 21 CFR 320.22(c); i.e., it is a drug for which bioavailability data should not be waived. As stated in the notice of August 23, 1977 (42 FR 42311), amending and clarifying the bioavailability requirements, the list of drugs in 21 CFR 320.22(c) will be updated from time to time.

Accordingly, the June 22, 1971, notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such a drug product.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Guanethidine sulfate is in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For the treatment of severe hypertension, either alone or as an adjunct; and for the treatment of renal hypertension, including that secondary to pyelonephritis, renal amyloidosis, and renal artery stenosis.

3. *Marketing status.* a. Marketing of such a drug product that is now the subject of an approved or effective new drug application may be continued provided that, on or before December 26, 1978, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items (6) (components), (7) (composition), and (8) (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)). Holders of such applications are required to submit in vivo bioavailability data if any of the conditions of 21 CFR 320.21(b) apply.

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)), must be obtained prior to marketing such products. Such abbreviated new drug applications are required to contain evidence from in vivo bioavailability studies comparing the product to an appropriate reference material. Such studies are to consist of single- and/or multiple/dose blood level comparison to the reference material. Multiple dose studies require prior submission of a notice of claimed investigational exemption for a New Drug (IND) including a protocol for such studies. Because of inherent toxicological side effects associated with this drug, it is advisable that firms submit a protocol with the ANDA prior to undertaking a single dose study in human subjects. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 11, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29841 Filed 10-23-78; 8:45 am]

[4110-03-M]

[Docket No. 75N-0223; DESI 3265]

HEXOCYCLIUM METHYLSULFATE IN CONTROLLED-RELEASE DOSAGE FORM

Opportunity for Hearing on Proposal to Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is reissuing a notice of opportunity for hearing on a proposal to withdraw approval of an anticholinergic drug containing hexocyclium methylsulfate in controlled-release dosage form. The ground for the proposed action is that the product lacks substantial evidence of effectiveness. The product has been used as an adjunct in the treatment of peptic ulcer.

DATES: Hearing requests due on or before November 24, 1978. All data and information relied upon in support of any such request and any other comments must be submitted on or before December 26, 1978.

ADDRESSES: Communications in response to this notice should be identified with the docket number 75N-0233 and the reference number DESI 3265, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Requests for hearing, supporting data and information, and other comments: Hearing Clerk (HFA-305), Room 4-65.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 3265) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11754), the Food and Drug Administration (FDA) announced its conclusions based on a report received from the National Academy of Sciences-National Research Council (NAS-NRC) that the drug product described below is probably effective for use as adjunctive therapy in the treatment of peptic ulcer.

In a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52651), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to withdraw approval of the new drug applications for certain anticholinergic drugs in controlled-release dosage form, based upon lack of substantial evidence of effectiveness. The conclusion that the controlled-release products lack evidence of effectiveness was based upon the lack of any data demonstrating a prolonged effect, when compared with the products in conventional dosage form.

The following product was among those named in the November 11, 1975, notice:

Tral Gradumets (controlled-release tablets) containing hexocyclium methylsulfate; Abbott Laboratories, Abbott Park, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 11-200).

The non-controlled-release form of hexocyclium methylsulfate (Tral Tablets) had previously been concluded to be an effective anticholinergic (36 FR 11754, June 18, 1971).

Although Abbott Laboratorics did not formally request a hearing pursuant to the November 11, 1975, notice, in a letter of November 21, 1975, Abbott pointed out that it had earlier submitted studies to FDA that were intended to show the prolonged effect of the controlled-release product as compared to the conventional product and that FDA had approved these studies as adequate on January 8, 1974. The letter thus questioned the applicability of the November 11, 1975, notice to Tral Gradumets. Inadvertently, FDA had not referred to those studies or described their deficiencies in the November 11, 1975, notice, and in a notice published in the FEDERAL REGISTER of October 7, 1977 (42 FR 54617), the Director of the Bureau of Drugs withdrew approval of Tral Gradumets among other drugs. In a notice published in the FEDERAL REGISTER of February 7, 1978 (43 FR 5072), the Director rescinded the October 7, 1977, notice insofar as it concerned Tral Gradumets.

Abbott Laboratories submitted the results of bioavailability studies by Drs. Freston, Rider, and Turner to demonstrate the prolonged effect of Tral Gradumets. These studies are discussed below.

The objective of these studies was to determine the comparative duration of effect of hexocyclium methylsulfate on gastric acid secretion when given as standard-release (Filmtab) or sustained-release (Gradumet) tablets in a placebo-controlled, double-blind, randomized, crossover study utilizing a currently recommended dosage schedule.

Freston compared the 25-milligram Filmtab and the 50-milligram Gradumet in 12 healthy male volunteers between the ages of 21 and 45, who produced an average of at least two milliequivalents of titratable acid per hour over a 4-hour fasting baseline. On the morning of each study day, a gastric tube was placed into the stomach, located by X-ray and secured in approximately the same position in ech subject for each study day. Gastric contents were then continuously aspirated over a 12-hour period except for the hour following each drug dose to allow for drug absorption. Volume and acidity were measured hourly.

The following dosing schedule was employed using a three-way crossover design, with a 7-day washout between treatments.

Drug group	First dose (0 hr)	Second dose (6 hr)
I	Placebo Gradumet	
	Placebo Filmtab	Placebo Filmtab.
II	Active Tral Gradumet 50 mg	
	Placebo Filmtab	Placebo Filmtab.
III	Placebo Gradumet	
	Active Tral Filmtab 25 mg	Active Tral Filmtab 25 mg.

The responses to the hexocyclium methylsulfate Gradumet and Filmtab were highly variable, as indicated by a large standard deviation in volume and acid secretion. There were significant reductions in the amount of acid secreted after both Tral treatments compared to the placebo treatment at nearly all collections (2d, 4th, 5th, 6th, 9th, and 10th hours). There was no longer a significant difference from placebo at the 11th hour, indicating that the duration of Tral Gradumet action was about 10 hours. The Filmtab group was still significantly different from placebo through the 11th hour, i.e., 5 hours after dosing. Differences between the Filmtab and Gradumet treatments were not statistically significant at any time.

Rider carried out a very similar study except that the in vivo gastric pH was monitored over the 12-hour period utilizing a Heidelberg capsule. The gastric pH was titrated by administering an antacid (calcium carbonate) by mouth to maintain a pH of 3.5 or greater (physiologic anacidity) and he compared the number of tablets needed and the time interval between antacid administrations needed to maintain the pH. Thus, suppression of acid secretion would lead to greater intervals and fewer tablets.

Rider began with 12 subjects but one failed to complete the third (placebo) treatment. Placebo-treated subjects required significantly more antacid tablets than patients treated with Filmtabs or Gradumets during each 6-hour interval. There were no differences between the Gradumet and Filmtab treatments. The mean time interval in minutes between antacid administrations was about 1.4 to 2.5 times greater for Gradumet and Filmtab treatments but the difference was statistically significant only for the Gradumet treatment. The study thus shows that the Gradumet has pharmacologic activity during the 6- to 12-hour time interval.

Both the Freston and Rider studies are fundamentally flawed in that they consist solely of a comparison of a single 50-milligram Gradumet with two 25-milligram Filmtabs given 6 hours apart. There is no comparison of the Gradumet with two conventional tablets given together. Without this comparison there is no way to tell whether the longer duration of action is due to the larger content of drug or represents true controlled release. The Freston study suggests the former may be the case. In that study, the 25-milligram Filmtab was pharmacologically active for at least 5 hours, and 50 milligrams of Filmtabs obviously would have been active longer—possibly as long as the 10-hour activity of the Gradumet. The studies thus fail to compare the Gradumet with the appropriate control. 21 CFR 14.111(a)(5)(ii)(*a*)(*4*).

Turner conducted a third study using a similar protocol except that (1) the comparative duration of action of hexocyclium methylsulfate was based on the measurement of anticholinergic response as observed by pupillary and salivary changes, and (2) the study lasted only 6 hours. The latter difference is fatal to the study, however, as it cannot possibly demonstrate sustained action of the Gradumet.

In summary, the studies relied upon by Abbott fail to demonstrate sustained-released characteristics of Tral Gradumet tablets and thus do not satisfy the requirements of 21 CFR 320.21.

The proper study to demonstrate the sustained-release claim would consist of a 3- or 4-way crossover study comparing two 25-milligram immediate-release Tral tablets given at 0 hour, one 25-milligram Tral tablet administered at 0 and 6 hours, and one 50-milligram Tral Gradumet administered at 0 hour. A placebo group is optional and probably would not be necessary if a difference between the 50-milligram sustained-release and 50-milligram immediate-release groups was seen in the later hours. The appropriate design was pointed out to Abbott in a letter of March 31, 1976.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigations, conduct-

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ed by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), and 21 CFR 314.111(a)(5) which provide substantial evidence of effectiveness for Tral Gradumet tablets (NDA 11-200).

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application (or if indicated above, those parts of the application providing for the drug product listed above) and all amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before November 24, 1978, a written notice of appearance and request for hearing, and (2) on or before December 26, 1978, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 11, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29840 Filed 10-20-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0283; DESI 8048]

LIDOCAINE OINTMENT 5 PERCENT

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing lidocaine ointment 5 percent for the indications for which it is now regarded as effective and offers an opportunity for a hearing concerning other indications reclassified to lacking substantial evidence of effectiveness. The drug is used as a local anesthetic.

DATES: Hearing requests due on or before November 24, 1978.

Supplements to approved NDA's due on or before December 26, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 8048, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFD-160), Rm. 16B-03, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (identify with docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFA-305), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFI-35), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 8048) published in the FEDERAL REGISTER of September 3, 1970 (35 FR 14020), the Food and Drug Administration announced its conclusions that the drug described below is (1) effective for production of anesthesia of accessible mucous membranes of the oropharynx; and (2) possibly effective for the control of itching, burning, and other unpleasant symptoms due to abrasions, herpes zoster, eczema, and similar conditions; hemorrhoids; fissures; postoperative anorectal conditions; nipple soreness; and anesthesia of unbroken skin.

NDA 8-048; Xylocaine Ointment 5 Percent containing 5 percent lidocaine; Astra Pharmaceutical Products Inc., 7 Neponset St., Worcester, Mass. 01606.

Xylocaine Ointment 2.5 percent, an over-the-counter (OTC) drug product, was also included in the September 3, 1970 notice. It will be handled by the OTC review and is not affected by this notice.

Astra submitted data, both to its new drug application and to the OTC review, to demonstrate effectiveness of the drug for certain of its possibly effective indications. On August 6, 1974, Astra was informed that the data submitted for the indication "for topical anesthesia of the anorectal tissues in the treatment of conditions such as anal fissures" did not provide substantial evidence of effectiveness. On August 1, 1975, Astra supplemented its new drug application to delete all the indications classified as possibly effective, except for the indication "for the temporary relief of pain associated with minor abrasions of the skin," and added the indication "as an anesthetic lubricant for endotracheal intubation." The latter indication was supported by the information submitted. On November 24, 1975, FDA informed Astra that the revised labeling was "permitted" pending resolution of the effectiveness of all the claims.

Other data in support of the possibly effective indication have been reviewed and determined to provide substantial evidence of effectiveness for the indication "for the temporary relief of pain and itching associated with minor burns and abrasions of the skin." That indication is now upgraded to effective. No data providing substantial evidence of effectiveness were submitted for the other possibly effective indications, and they are reclassified to lacking substantial evidence of effectiveness.

Accordingly, the September 3, 1970 notice is amended to read as follows insofar as it pertains to lidocaine ointment 5 percent.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to the product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications in the labeling conditions below. The drug lacks substantial evidence of effectiveness for all other indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in ointment form suitable for topical administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indications are as follows:

For production of anesthesia of accessible mucous membranes of the oropharynx.

For use as an anesthetic lubricant for endotracheal intubation.

For the temporary relief of pain and itching associated with minor burns and abrasions of the skin.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before December 26, 1978, the holder of the application has submitted (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-2566H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Bioavailability regulations (21 CFR 320.21) published in the FEDERAL REGISTER of January 7, 1977, require any person submitting an abbreviated new drug application after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement, unless such evidence is already waived under § 320.22(c) (21 CFR 320.22(c)). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drug for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder of the new drug application, and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto providing for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at

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the time of approval of the application, shows there is a lack of substantial evidence that the drug product

pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR

SUMMARY: This document requests nominations for voting members to serve on certain public advisory com-

mittee, and to make appropriate recommendatins to the Commissioner of Food and Drugs.

plications submitted to obtain marketing approval of drugs. However, for certain committees, for example, the

[4110-03-M]

[Docket No. 78N-0278; DESI 5378 and

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the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application supplemented, in accord with this notice, to delete the claims lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exampt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above (21 CFR 310.6) are hereby given an opportunity for a hearing to show why approval of the new drug application providing for the claims involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

An applicant or any person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before November 24, 1978, a written notice of appearance and request for hearing, and (2) on or before December 26, 1978, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to make use of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: October 13, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29844 Filed 10-23-78; 8:45 am]

[4110-03-M]

PUBLIC ADVISORY COMMITTEES

Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for voting members to serve on certain public advisory committees of the Bureau of Drugs. Nominations will be accepted for vacancies that currently exist and vacancies that will or may occur on the committees during the next 12 months.

DATES: Since scheduled vacancies occur on various dates throughout each year, no cutoff date is establishd for the receipt of nominations. However, nominations should be received at least 90 days before the dates of scheduled vcancies for each year, as indicated in the list of the advisory committees given in this notice.

ADDRESS: All nominations for the voting members of the respective advisory committees must be sent to: Joseph F. Price, Bureau of Drugs (HFD-22), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joseph F. Price, at the address given above, 31-443-4090.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for voting members for the following 13 advisory committees.

1. Anesthetic and Life Support Drugs Advisory Committee: 1 vacancy, June 30.
2. Anti-Infective and Topical Drugs Advisory Committee: 1 vacancy, December 31.
3. Arthritis Advisory Committee: 1 vacancy, September 30.
4. Cardiovascular and Renal Drugs Advisory Committee: 1 vacancy, June 30.
5. Endocrinologic and Metabolic Drugs Advisory Committee: 1 vacancy, June 30.
6. Fertility and Maternal Health Drugs Advisory Committee: 1 vacancy, June 30.
7. Gastointestinal Drugs Advisory Committee: 1 vacancy, June 30.
8. Oncologic Drugs Advisory Committee: 1 vacancy, June 30.
9. Peripheral and Central Nervous System Drugs Advisory Committee: 1 vacancy, January 31.
10. Psychopharmocologic Drugs Advisory Committee: 1 vacancy, June 30.
11. Pulmonary-Alergy Drugs Advisory Committee: 1 vacancy, June 30.
12. Radiopharmaceutical Drugs Advisory Committee: 1 vacancy, June 30.

The function of the 12 committees listed above is to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the area of the medical specialities indicated by the title of the committee, and to make appropriate recommendatins to the Commissioner of Food and Drugs.

13. Drug Abuse Advisory Committee: vacancy, June 30.

The function of the Drug Abuse Advisory Committee is to (1) advise the Commissioner regarding the scientific and medical evaluation of all information gathered by both the Department of Health, Education, and Welfare (DHEW) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances and (2) recommend actions to be taken by the DHEW regarding the marketing, investigation, and control of such drugs or other substances.

Persons nominated for membership shall have adequately diverslfied experience appropriate to the work of the committee in such fields as infectious disease, internal medicine, microbiology, pharmacology, psychiatry, neurology, obstetrics and gynecology, surgery, ophthalmology, anesthesiology, nuclear medicine, epidemiology, statistics, or other appropriate areas of expertise. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years.

In recent months, concerns have been expressed about the need for insuring "balanced advocacy" in decisionmaking at the Federal level; these concerns have been expressed by Congress and also in the report by the Commissioner of Food and Drugs to the Secretary of the Department of Health, Education, and Welfare on findings and recommendations of the review panel on new drug regulations. Additionally, an expanded concept of risk-benefit judgments has evolved in scientific, public, and government circles from one of purely scientific assessment to one which also incorporates global value judgments.

Accordingly, through this announcement, it is the Commissioner's intent to broaden the field from which potential members of these committees may be chosen in order to provide a wide range of viewpoints on issues addressed by the committees. Specifically, in addition to nominations from scientific and professional organizations, the Commissioner seeks nominations of well qualified individuals by consumer oriented and public interest groups. Because of the technical nature of the work performed by the committees, emphasis will be on a scientific background which permits in-depth review and critical analysis of clinical data in investigational new drug applications and of new drug applications submitted to obtain marketing approval of drugs. However, for certain committees, for example, the Fertility and Maternal Health Drugs Advisory Committee, the classical background needed for review of clinical data in investigational and new drug applications may be supplied by other experience or specialized knowledge which would be of value to the work of the committee. Because the Fertility and Maternal Health Drugs Advisory Committee deals with the optional use of drugs (such as oral contraceptives, medicated intrauterine devices, drugs used for analgesia in obstetrical labor, as well as drugs used for voluntary termination of pregnancy), experience in consumer concerns relating to the possible effects of these drugs on women and fetuses would add an important dimension to this committee.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts, in order to permit evaluation of possible sources of conflict of interest.

The Food and Drug Administration has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR part 14, relating to advisory committees.

Dated: October 17, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-29738 Filed 10-23-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0278; DESI 5378 and 10187]

UNIFORM PHYSICIAN LABELING FOR STIMULANT DRUGS FOR CHILDREN

Revised Labeling

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice amends the physician labeling of drug products containing amphetamines, methylphenidate, and pemoline to provide uniform labeling concerning their use in children. This action is being taken because the agency recognized the need for more accurately describing and providing information on the syndromes for which stimulant drugs are used in children. The drugs are used in the treatment of children with a behavioral syndrome characterized by hyperactivity, distractability, and impulsiveness.

DATES: Supplements to approved NDA's due on or before December 26, 1978. Revised labeling to be used on or before February 21, 1979.

ADDRESSES: Communications forwarded in response to this notice should be identified with the docket number 78N-0278, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Room 10B-34, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: After reviewing the physician labeling for several drugs which were approved for use in children for the treatment of hyperkinesis and/or minimal brain dysfunction, the FDA Pediatric Advisory Panel found that there is considerable variance in the physician labeling of these drugs. The panel also concluded that "minimal brain dysfunc-

tion" (MBD) is an inappropriate diagnostic term that does not accurately characterize the behavioral syndromes for which these drugs are effective in children with a behavioral syndrome characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractibility, short attention span, hyperactivity, perceptual lability, emotional lability, impulsivity, and moderate to severe gross motor hyperactivity. The panel also found that there is considerable variance in the physician labeling of these stimulant drug products for use in children that are the subject of new drug applications approved either before or after the Drug Amendments of 1962, and

[4110-08-M]

REPORT ON BIOASSAY OF 5-NITRO-O-ANISIDINE FOR POSSIBLE CARCINOGENICITY

ministered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no evidence for the carcinogenicity of triphenyltin hy-

tion" (MBD) is an inappropriate diagnostic term that does not accurately characterize the behavioral syndromes for which these drugs are effective. The problem in using this term is that while MBD refers to several symptoms (hyperactivity, distractability, short attention span, minor neurological dysfunction), no single symptom or set of symptoms defines the term MBD. In addition, the FDA Pediatric Advisory Panel concluded that the term MBD (sometimes referred to as "minimal brain damage") implies the presence of an organic lesion which often cannot be demonstrated in patients with these symptoms.

Therefore the FDA Pediatric Advisory Panel drafted uniform physician labeling to more accurately describe the syndromes for which the stimulant drugs have been found effective. The labeling as described below also provides uniform information concerning the drugs' use, and eliminates the term "minimum brain dysfunction." The panel unanimously approved the labeling at its meeting on April 25, 1975, after the FDA Psychopharmacological Agents Advisory Committee approved it on October 17, 1974.

REFERENCES

1. Minutes of the Psychopharmacological Agents Advisory Committee Meeting, October 17, 1974.

2. Minutes of the Pediatric Advisory Panel, April 25, 1975.

Reprints of the above references have been placed on file with the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

In view of these findings and recommendations of the FDA Pediatric Advisory Panel, the Director of the Bureau of Drugs concludes that the labeling of stimulant drugs used in children should be uniform in presenting information about such use, as well as more informative. Accordingly, the physician labeling for such drug products should be revised to include the following:

ACTIONS

There is neither specific evidence which clearly establishes the mechanism whereby (*name of drug*) produces its mental and behavioral effects in children, nor conclusive evidence regarding how these effects relate to the condition of the central nervous system.

INDICATIONS

(*Name of drug*) is indicated as an integral part of a total treatment program which typically includes other remedial measures (psychological, educational, social) for a stabilizing effect in children with a behavioral syndrome characterized by the following group of developmentally inappropriate symptoms: moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity. The diagnosis of this syndrome should not be made with finality when these symptoms are only of comparatively recent origin. Nonlocalizing (soft) neurological signs, learning disability, and abnormal EEG may or may not be present, and a diagnosis of central nervous system dysfunction may or may not be warranted.

WARNINGS

Clinical experience suggest that in psychotic children, administration of (*name of drug*) may exacerbate symptoms of behavior disturbance and thought disorder.

Data are inadequate to determine whether chronic administration of (*name of drug*) may be associated with growth inhibition; therefore, growth should be monitored during treatment.

PRECAUTIONS

Drug treatment is not indicated in all cases of this behavioral syndrome and should be considered only in light of the complete history and evaluation of the child. The decision to prescribe (*name of drug*) should depend on the physician's assessment of the chronicity and severity of the child's symptoms and their appropriateness for his/her age. Prescription should not depend solely on the presence of one or more of the behavioral characteristics.

When these symptoms are associated with acute stress reactions, treatment with (*name of drug*) is usually not indicated.

Long-term effects of (*name of drug*) in children have not been well-established.

DOSAGE AND ADMINISTRATION

Where possible, drug administration should be interrupted occasionally to determine if there is a recurrence of behavioral symptoms sufficient to require continued therapy.

The following drug entities, and their salts and esters, are examples of stimulant drugs which are covered by this notice: amphetamines, pemoline, and methylphenidate hydrochloride. The term amphetamine includes dextroamphetamine, dl-amphetamine, methamphetamine (which is used in this notice to cover both the dextroisomer and the racemate), a mixture of dextroamphetamine and dl-amphetamine.

The notice applies not only to the particular stimulant drugs subject to the drug efficacy study but to all stimulant drug products for use in children that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. Any person may request an opinion of the applicability of this notice to a specific drug product the person manufactures or distributes by writing to the Division of Drug Labeling Compliance (address given above). The following stimulant drugs were reviewed by the drug efficacy study and conclusions on them were published in the following FEDERAL REGISTER notices: October 7, 1970 (35 FR 15771; DESI 10187) and April 28, 1978 (43 FR 18256) Methylphenidate hydrochloride and July 19, 1974 (39 FR 26459; DESI 5378) Dextroamphetamine, dl-Amphetamine, and Methamphetamine.

Supplements to approved NDA's or ANDA's providing for appropriate revision of labeling to add the above labeling are to be submitted on or before December 26, 1978. The revised labeling is to be put into use by February 2, 1979, or at the next printing of the labeling, whichever occurs first. The revised labeling may be put into use without advance approval by the Food and Drug Administration.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 13, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-29843 Filed 10-23-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT ON BIOASSAY OF 3-CHLORO-P-TOLUIDINE FOR POSSIBLE CARCINOGENICITY

Availability

3-Chloro-p-toluidine (CAS 95-74-9) has been tested for cancer-causing activity with rates and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for the possible carcinogenicity of 3-chloro-p-toluidine was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chamical include use as an intermediate in dye manufacture and as an avicide. 3-Chloro-p-toluidine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay there was no convincing evidence for the carcinogenicity of 3-chloro-p-toluidine in Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 2014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29306 Filed 10-23-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF MEXACARBATE FOR POSSIBLE CARCINOGENICITY

Availability

Mexacarbate (CAS 315-18-4) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of technical-grade mexacarbate for the possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chamical include use as an agricultural pesticide. Mexacarbate was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, sufficient evidence was not obtained for the carcinogenicity of mexacarbate for Osborne-Mendel rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer <Communications National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29305 Filed 10-23-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 5-NITRO-O-ANISIDINE FOR POSSIBLE CARCINOGENICITY

Availability

5-Nitro-o-anisidine (CAS 99-59-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 5-nitro-o-anisidine for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. 5-Nitro-o-anisidine was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of 5-nitro-o-anisidine was carcinogenic in Fischer 344 rats, causing tumors of the integumentary system in males and females and of the clitoral gland in females. The compound was also carcinogenic to female B6C3F1 mice causing hepatocellular carcinomas.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29307 Filed 10-23-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF TRIPHENYLTIN HYDROXIDE FOR POSSIBLE CARCINOGENICITY

Availability

Triphenyltin hydroxide (CAS 76-87-9) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of triphenyltin hydroxide for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a fungicide and as an insect control agent. Triphenyltin hydroxide was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, there was no evidence for the carcinogenicity of triphenyltin hydroxide to Fischer 344 rats or to B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research).

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-29308 Filed 10-23-78; 8:45 am]

[4110-02-M]

Office of Education

GUARANTEED STUDENT LOAN PROGRAM

Special Allowance for Quarter Ending September 30, 1978

The Commissioner announces that for the 3-month period ending September 30, 1978, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at the *annual rate* of 4¼ percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *3-month* period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (7.53 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (4.03) upward to the nearest one-eighth of 1 percent (4.125), and by dividing the resultant percent by 4 (1.03125 percent). Thus, the special allowance to be paid for this period will be 1.03125 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(20 U.S.C. 1087-1(b).)

ERNEST L. BOYER,
Commissioner of Education.
October 16, 1978.

[FR Doc. 78-29919 Filed 10-23-78; 8:45 am]

[4110-02-M]

HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

Variable Interest Rate for Quarter Ending December 31, 1978

The Commissioner announces that for the 3-month period ending December 31, 1978, the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 11⅛ percent.

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner computed the variable rate

[8230-01-M]

INTERNATIONAL COMMUNICATION

'The sessions will be open to the public. The agenda is:

3. These surveys were executed at the request of the National Park Service.

700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publica-

[4310-84-M]

V 43/206 0 C 2 4 7 8

Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), the Commissioner computed the variable rate for this 3-month period by adding the fixed annual rate (7 percent) plus a variable component which is calculated by determining the average of the bond equivalent rates of the 91-day Treasury bills for the preceding calendar quarter (7.53 percent), by subtracting 3.5 percent from that average, and by rounding the resultant percent (4.03) upward to the nearest one-eight of 1 percent (4.125)

ERNEST L. BOYER,
Commissioner of Education.

OCTOBER 16, 1978
[FR Doc. 78-29918 Filed 10-23-78; 8:45 am]

[4110-12-M]

Office of the Secretary

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Meeting

The President's Committee on Mental Retardation was established by Executive order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on November 17-18, 1978, 9 a.m. to 5 p.m., in meeting rooms C and H of the Beacon Complex, Boston-Sheraton Hotel, Prudential Center, Boston, Mass. At the meeting, the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness, and prevention of mental retardation.

These meetings are open to the public.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, Rayburn Office Building No. 3, Seventh and D Streets SW., Washington, D.C. 20201, telephone 202-245-7634.

Dated: October 17, 1978.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc. 78-29883 Filed 10-23-78; 8:45 am]

[8230-01-M]

INTERNATIONAL COMMUNICATION AGENCY

ADVISORY PANEL ON FOLK, JAZZ, AND POPULAR MUSIC OF THE ADVISORY COMMITTEE ON MUSIC

Meeting

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Folk, Jazz, and Popular Music has scheduled a meeting to be held Wednesday, November 29, 1978 in room 660 at Pennsylvania Avenue NW., Washington, D.C. The meeting hours will be from 9:30 a.m. to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the International Communication Agency;

(3) Evaluation of tapes and records of professional music individuals and groups which wish to be considered as candidates for grants, sponsorship, or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

It is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before November 27; the telephone number is area code 202-724-1927.

The meeting room has a seating capacity of 40, so the public will be admitted on a first-come, first-served basis.

JANE S. GRYMES,
Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 78-29971 Filed 10-23-78; 8:45 am]

[8230-01-M]

ADVISORY PANEL ON MUSIC OF THE ADVISORY COMMITTEE ON MUSIC

Meeting

Pursuant to Pub. L. 92-462, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Music has scheduled a meeting to be held Monday, November 27, 1978, in room 660 at 1776 Pennsylvania Avenue NW., Washington, D.C. The meeting hours will be from 9:30 a.m. to 12:30 p.m. and from 2 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the International Communication Agency;

(3) Evaluation of tapes and records of professional and academic jazz, folk, rock, and popular music individuals and groups which wish to be considered as candidates for grants, sponsorship, or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

It is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before November 27; the telephone number is area code 202-724-1927.

The meeting room has a seating capacity of 40, so the public will be admitted on a first-come, first-served basis.

JANE S. GRYMES,
Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

FR Doc. 78-29972 Filed 10-23-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Group 627]

CALIFORNIA

Filing of Plats of Survey

OCTOBER 13, 1978.

1. Plats of survey of the lands described below, accepted August 2, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 28, 1978:

SAN BERNARDINO MERIDIAN, CALIF.

T. 2 S., R. 10 E.,
T. 2 S., R. 11 E.,
T. 2 S., R. 12 E.,
T. 2 S., R. 13 E.,
T. 3 S., R. 13 E.,
T. 3 S., R. 14 E.,
T. 1 S., R. 15 E.,
T. 2 S., R. 15 E.,
T. 3 S., R. 15 E.,
T. 2 S., R. 16 E.,
T. 3 S., R. 16 E.

2. Each of the above plats represent a dependent resurvey and survey of a portion of the boundaries and subdivisional lines in each township.

3. These surveys were executed at the request of the National Park Service.

HERMAN J. LYTTGE,
Chief, Branch of Records and Data Management.

[FR Doc. 78-29902 Filed 10-23-78; 8:45 am]

[4310-84-M]

[Colorado 25122 e, f]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch (o.d.), natural gas pipeline for the Foundation Creek Gathering System approximately 4.338 miles long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 4S., R. 104 W.,
Sec. 13, SW¼NE¼;
Sec. 14, NW¼, W½NE¼, NW¼SE¼;
Sec. 15, N½, NE¼SW¼;
Sec. 16, NE¼NE¼;
Sec. 17, NW¼SW¼, S½NW¼, NE¼NW¼, NW¼NE¼;
Sec. 18, NE¼SE¼;
Sec. 22, N½NE¼;
Sec. 23, W½NE¼;
Sec. 24, W½NW¼, NW¼NE¼.
T. 3S., R. 103 W.,
Sec. 19, NW¼SW¼.
T. 4S., R. 102 W.,
Sec. 25, NE¼NE¼NW¼.

The proposed gathering system will enable the applicant to expand its gas gathering ability and thereby meet the demands of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-29903 Filed 10-23-78; 8:45 am]

[4310-84-M]

[Colorado 24402 M]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch-o.d. natural gas pipeline for the East Douglas Creek Gathering System approximately 0.446 mile long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 3 S., R. 100 W.
Sec. 20: SE¼NW¼, NE¼SW¼

The proposed gathering system will enable the applicant to expand its gas gathering ability and thereby meet the demands of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-29904 Filed 10-23-78; 8:45 am]

[4310-84-M]

[Colorado 23734 P]

NORTHWEST PIPELINE CORP.

R/W Application for Pipeline

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for a 4½-inch-o.d. natural gas pipeline for the Rocky Mountain Natural Gas Gathering System, approximately 7.623 miles long, across the following public lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 1 S., R. 101 W.
Sec. 18: SW¼NE¼, S½NW¼, NW¼SW¼, S½SW¼
Sec. 19: N½NW¼
T. 1 S., R. 102 W.
Sec. 11: S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼
Sec. 14: N½NW¼, SW¼NW¼, NW¼SW¼
Sec. 15: S½N½N½/2S½
Sec. 16: SE¼NE¼, E½SE¼

The proposed gathering system will enable the applicant to expand its gas gathering ability and thereby meet the demands of the applicants' customers.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system, to file its claim or objections in the Colorado State office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-29905 Filed 10-23-78; 8:45 am]

[4310-03-M]

Lonoke County

Scott vicinity, *Martsgate* (William P. Dortch

IOWA

Madison County

RHODE ISLAND

Kent County

Comments on the notice may be submitted to the Departmental Privacy Act Office, Office of Administrative

or vacancies of possible interest to the applicant.

Disclosures outside the Department

V 4 3 / 2 0 6 0 C 2 4 7 8

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 13, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by November 3, 1978.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

ALABAMA

Clay County

Ashland, *Black, Hugo, House*, AL 77 (proposed move)

Madison County

Huntsville, *Leech-Hauer House*, 502 Governors Dr.

Mobile County

Mobile, *Lower Dauphin Street Historic District*, 171-614 Dauphin St.

ARKANSAS

Boone County

Harrison, *Eagle Heights School*, Washington and N. Robinson Sts.

Carroll County

Eureka Springs, *Eureka Springs Historic District* (boundary increase)

Clay County

Corning, *Oliver House*, 203 W. Front St.

Crawford County

Van Buren, *Dunham, Joseph Starr, House*, 4th and Drennen Sts. (proposed move)

Hot Spring County

Malvern, *Boyle House*, 221 E. 3rd St.

Howard County

Mineral Springs, *Graysonia, Nashville and Ashdown Depot*

Jefferson County

Pine Bluff, *Baim-Buffalo Hatters Building and Havis-Rosenzweig Building*, 219 Main St. and 231 Main St.

Pine Bluff, *Pine Bluff Historic District*, roughly bounded by W. 6th Ave., Ash, Barraque, and Pine Sts.

Lonoke County

Scott vicinity, *Marlsgate (William P. Dortch House)* NE of Scott off AR 130 at Bearskin Lake (boundary increase)

Miller County

Texarkana, *Shotgun House*, 19th and Ash Sts.

Monroe County

Clarendon, *Ellas-McKay House, 404 N. Walls St.*

Newton County

Parthenon, *Newton County Academy*, Gum Springs Rd.

Prairie County

Des Arc, *Bethell, Bedford Brown, House, 2nd and Curran Sts.*

Pulaski County

Little Rock, *McDonnell House*, 1312 W. 2nd St.

North Little Rock, *Baker House*, 109 5th St.

North Little Rock, *Faucette Building*, 4th and Main Sts.

Randolph County

Pocahontas, *Bates House*, off U.S. 67

Sebastian County

Fort Smith, *West Garrison Avenue Historic District*, 100-525 Garrison Ave.

White County

Bradford, *Morris House*, Rte. 1

CONNECTICUT

Hartford, *Asylum Hill Historic District*, roughly bounded by RR. tracks, North Branch of Park River, Homestead Ave., and Walnut St.

ILLINOIS

Champaign County

Urbana, *Griggs, Clark R., House*, 505 W. Main St.

DeKalb County

Sycamore, *Chicago and Northwestern Depot*, Sacramento and DeKalb Sts.

Sycamore, *Elmwood Cemetery Gates*, S. Cross and Charles Sts.

Fulton County

Table Grove, *Table Grove Community Church*, N. Broadway and W. Liberty Sts.

Kane County

St. Charles, *Hotel Baker*, 100 W. Main St.

St. Clair County

Lebanon vicinity, *Building No. 7*, NW of Lebanon on Scott Air Force Base

Winnebago County

Pecatonica, *Roberts, William H., House*, 523 Main St.

INDIANA

Hamilton County

Nobelsville, *Stone, Judge Earl S., House*, 107 S. 8th St.

IOWA

Madison County

Cumming vicinity, *St. Patrick's Church*, NW of Cumming

LOUISIANA

Rapides Parish

Alexandria, *Commercial Building*, 3rd and Johnston Sts.

MASSACHUSETTS

Essex County

Andover, *Shawsheen Village Historic District*, S of I 495 and MA 28 interchange S to Shawsheen River

Methuen, *Methuen Memorial Music Hall*, 192 Broadway

Middlesex County

Concord, *Damon Mill*, 9 Pond Lane

Lowell, *Merrimack-Middle Streets Historic District*, Merrimack, Middle, Prescott, and Central Sts.

Plymouth County

Duxbury, *Alden, John, House*, 105 Alden St.

MINNESOTA

Anoka County

Anoka, *Jackson Hotel*, 214 Jackson St.

MONTANA

Yellowstone County

Billings, *Billings Historic District*, roughly bounded by N. 23rd and N. 25th Sts., 1st and Montana Aves.

NEW MEXICO

Valencia County

Adelino, *Baca, Miguel E., House*, NM 47

NEW YORK

Chautauqua County

Bemus Point, *Bemus Point Site*, off NY 17

New York County

New York, *Greenwich Village Historic District*, roughly bounded by W. 13th St., St. Luke's Pl., University Pl. and Washington St.

Onondaga County

Syracuse, *St. Paul's Cathedral and Parish House*, 310 Montgomery St.

Westchester County

Ossining, *Rohr, George, Saloon and Boarding House*, 1-3 Highland Ave.

NORTH CAROLINA

Franklin County

Louisburg, *Main Building*, Louisburg College campus

Jackson County

Cullowhee, *Joyner Building*, Western Carolina University campus

Orange County

Mebane vicinity, *Paisley-Rice Log House*, N of Mebane

RHODE ISLAND

Kent County

Warwick, *Green, Caleb, House*, 15 Centerville Rd.

West Warwick vicinity, *Arkwright Bridge*, NW of West Warwick over Pawtuxet River (also in Providence County)

Newport County

Portsmouth, *Portsmouth Friends Meetinghouse, Parsonage and Cemetery*, 11 Middle Rd. and 2232 E. Main Rd.

Providence County

North Providence, *Smith, John, House*, 109 Smithfield Rd.

Saylesville, *Saylesville Meetinghouse*, Smithfield Ave.

Washington County

Exeter, *Lillibridge, Simon, Farm*, Summit Rd.

SOUTH CAROLINA

Anderson County

Anderson, *Anderson Downtown Historic District*, Main St. between Tribble and Market Sts.

Marion County

Marion, *Marion Historic District*, proposed boundary increased to include additional properties on N. Wilcox and Main Sts.

Newberry County

Pomaria vicinity, *St. John's Lutheran Church*, SE of Pomaria

UTAH

Salt Lake County

Salt Lake City, *Lyne, Walter C., House*, 1135 E. S. Temple St.

Weber County

Ogden, *Scrowcroft Warehouse*, 23rd St.

WASHINGTON

Franklin County

Walker vicinity, *Burr Cave*, N of Walker

[FR Doc. 78-29562 Filed 10-23-78; 8:45 am]

[4310-10-M]

Office of the Secretary

PRIVACY ACT OF 1974

Systems Notice

Notice is hereby given that the Department of the Interior has under consideration a system notice describing a record system which will be maintained and subject to the Privacy Act of 1974, 5 U.S.C. 552a. The following system is now being considered:

PERSONNEL CORRESPONDENCE FILES—INTERIOR, OFFICE OF THE SECRETARY, OS/99

The System notice is published below.

Comments on the notice may be submitted to the Departmental Privacy Act Office, Office of Administrative and Management Policy, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. All comments received on or before November 20, 1978, will be considered. Copies of any comments may be inspected in Room 5316 at the above address.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

OCTOBER 17, 1978.

System name

Personnel Correspondence Files—Interior, Office of the Secretary; OS/99.

System location

Office of the Secretary, Office of Congressional and Legislative Affairs, Division of Congressional Services, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Categories of individuals covered by the system

Those who have corresponded directly or indirectly through Members of Congress with the Office of Congressional and Legislative Affairs concerning personnel and employment matters within the Department.

Categories of records in the system

Correspondence files in alphabetical order by individuals names which may contain applications, resumés, or other personal materials in support of their reason of inquiry.

Authority for maintenance of the system

5 U.S.C. 301; 44 U.S.C. 3101; 43 U.S.C. 1457; and Reorganization Plan 3 of 1950.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

The primary use is to maintain a temporary record of the personal interest of the subject of the correspond- ence. Usually the correspondence is advising the constituent of the status of his or her application for a position with the Department, or advising of the current availability of opportunities, or of the procedures the applicant must undergo in order to be eligible for Federal work within the Department. These records are maintained alphabetically by calendar year basis and are destroyed after the yearly file has become 2 years old. The applications submitted may be provided at the subject's wishes to other personnel authorities within the Department for current consideration should there be possible opportunities or vacancies of possible interest to the applicant.

Disclosures outside the Department of the Interior may be made (1) to a Federal agency so that the agency may respond to an inquiry from the named individual, (2) to the U.S. Department of Justice when related to litigation or anticipated litigation, (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigation or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license, and (4) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual.

Records management policies and practices

Storage

Records are stored in metal file cabinets in locked rooms.

Retrievability

Filing system maintained on yearly basis in alphabetical name order.

Retention and disposal

Filing system maintained on calendar year basis and the 2d yearly file is destroyed December 31 at the end of the 2d year.

System managers and address

Congressional Liaison Officer, Office of the Secretary, Office of Congressional and Legislative Affairs, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure

Same as above. See 43 CFR 2.60 for submission requirements.

Record access procedures

Same as above. See 43 CFR 2.63 for submission requirements.

Contesting record procedures

Same as above. See 43 CFR 2.71 for submission requirements.

Record source categories

Correspondence or documents signed within the Office of the Secretary, Office of Congressional and Legislative Affairs, or presented to the Office in person by constituents and this material became a record of the interview or visit, etc.

[FR Doc. 78-29983 Filed 10-23-78; 8:45 am]

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[4510-30-M]

DEPARTMENT OF LABOR

in other areas (where such competition is a factor).

5. In the case of applications involving the restricted lengths for trailing cables has meant moving the power source every hundred feet of advance.

loaded switch would require a third hand, consequently a second operator. Furthermore, both hands are required

REQUEST FOR COMMENTS

Persons interested in this petition

ards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va.

V 4 3 / 2 0 6 0 C 2 4 7 8

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 23d day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 20, 1978

NAME OF APPLICANT, LOCATION OF ENTERPRISE, AND PRINCIPAL PRODUCT OR ACTIVITY

Brown Mackie College Salina, Kans., college.
National Health Corp., Murfreesboro, Tenn., nursing home service.

[FR Doc. 78-29880 Filed 10-23-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-93-C]

BRAZTAH CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Braztah Corp., P.O. Box 599, Helper, Utah 84526, and Local 8303 the United Mine Workers of America, District 22, 23 South Carbon Avenue, Price, Utah 84501, have filed a petition to modify the application of 30 CFR 18.5 (trailing cables), to its No. 3 Mine, located in Carbon County, Utah, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of petitioners' statement is as follows:

(1) There is no history of trailing cable failures with the present electrical system.

(2) The mine operator has an electrical program and testing equipment which exceeds the standard testing procedures on equipment. The program has been in use at the mine for three years and has been determined to improve electrical safety.

(3) The position of pillar blocks in the above mine in conjunction with the restricted lengths for trailing cables has meant moving the power source every hundred feet of advance. In some instances, this has necessitated passing a high voltage power cable over equipment travelways or installing high-voltage power cables in the return airways, making the power source susceptible to caving or equipment damage.

(4) For the reasons set forth above, the petitioners request that the maximum allowable portable cable length for the above mine be exceeded 50 percent for number four (4) and six (6) cables receiving 950 and 440 volts of power.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standard, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29921 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-50-M]

CITIES SERVICE CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Cities Service Co., P.O. Box 100, Miami, Ariz. 85539, has filed a petition to modify the application of 30 CFR 57.19-18, (overtravel by-pass switch) to its Old Dominion Shaft, located in Miami, Ariz., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The hoist in question is used once a week for pump inspection only.

(2) The installed switch system is not spring loaded. It de-energizes the hoist motor when overtravel limits are exceeded. There are two (2) independent upper limit switches. Should one fail, the other will de-energize the entire hoisting circuit.

(3) Petitioner contends the above system provides greater safety than strict adherence to the standard for the following reasons:

(a) Certain circumstances require the hoistman to have one hand on the power control and one hand on the brake.

(b) Introduction of an operation requiring the depression of a spring loaded switch would require a third hand, consequently a second operator. Furthermore, both hands are required at time to set the brake in a locked position.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29922 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-90-C]

EASTOVER MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Eastover Mining Co., Brookside, Ky. 40801, has filed petition to modify the application of 30 CFR 75.1719 (illumination), to its Highsplint mine in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The petitioner requests that face lighting systems not be required on all face equipment in the above mine because they diminish the safety of miners for the reasons set forth below.

(2) Failure of the installed lighting systems while the equipment is in operation will cause an abrupt change in the light intensity which could confuse the equipment operator.

(3) Failures of the lighting system will disrupt crew performance, cause undue hazards to team performance and interfere with corrections of hazards.

(4) Heat generated from the lights creates an undesirable environment at the work face resulting in undue stress and fatigue for the miner.

(5) The glare from equipment lights has caused the equipment operator headaches and nausea and resulted in complaints and grievances.

(6) When a miner enters or exits a lighted work place, a hazard is created while his eyes adjust to new light levels.

(7) Steam created by the contact of spray water from dust allaying with heat generated by the lights hampers the miner's vision.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29923 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-107-C]

EASTOVER MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Eastover Mining Co., Brookside, Ky. 40801, has filed a petition to modify the application of 30 CFR 75.1719 (illumination), to its Arjay mine in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The petitioner requests that face lighting systems not be required on all face equipment in the above mine because they diminish the safety of miners for the reasons set forth below.

(2) Failure of the installed lighting systems while the equipment is in operation will cause an abrupt change in the light intensity which could confuse the equipment operator.

(3) Failures of the lighting system will disrupt crew performance, cause undue hazards to team performance and interfere with corrections of hazards.

(4) Heat generated from the lights creates an undesirable environment at the work face resulting in undue stress and fatigue for the miner.

(5) The glare from equipment lights has caused the equipment operator headaches and nausea and resulted in complaints and grievances.

(6) When a miner enters or exits a lighted work place, a hazard is created while his eyes adjust to new light levels.

(7) Steam created by the contact of spray water from dust allaying with heat generated by the lights hampers the miner's vision.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29924 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-105-C]

GATEWAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Gateway Coal Co., 900 Oliver Building, Pittsburgh, Pa. 15222, has filed a petition to modify the application of 30 CFR 75.1105 (transformer housing), to its Gateway Mine, located in Greene County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Flight 1 and Flight 2 control rooms (transformer stations) are located at a great distance (6,600 feet and 3,000 feet respectively) from return air.

(2) The only personnel exposed to the possible hazard against which the mandatory standard is designed to protect are Mine Examiners, Pumpers, Beltmen and Belt Mechanics. These personnel have ready access to two slopes for exit from the mine.

(3) The air from the transformer areas doesn't enter any active working section.

(4) The control rooms are of fireproof construction using steel, concrete and concrete block with a sand< rock top.

(5) An emergency train (with fire car) is positioned in intake air between the control rooms for which modification is sought.

(6) In the alternative, the Petitioner proposes to install self-contained dry chemical deluge fire extinguishing systems in the two control rooms and believes that the fire extinguishing system will provide more protection for miners than a vented system because it provides positive fire prevention protection.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va.

22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29925 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-106-C]

GATEWAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Gateway Coal Co., 900 Oliver Building, Pittsburgh, Pa. 15222, has filed a petition to modify the application of 30 CFR 75.1105 (transformer housing), to its Gateway Mine, located in Greene County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Flight 1 and Flight 2 control rooms (transformer stations) are located at a great distance (6,600 feet and 3,000 feet respectively) from return air.

(2) The only personnel exposed to the possible hazard against which the mandatory standard is designed to protect are Mine Examiners, Pumpers, Beltmen and Belt Mechanics. These personnel have ready access to two slopes for exit from the mine.

(3) The air from the transformer areas doesn't enter any active working section.

(4) The control rooms are of fireproof construction using steel, concrete and concrete block with a sand< rock top.

(5) An emergency train (with fire car) is positioned in intake air between the control rooms for which modification is sought.

(6) In the alternative, the Petitioner proposes to install self-contained dry chemical deluge fire extinguishing systems in the two control rooms and believes that the fire extinguishing system will provide more protection for miners than a vented system because it provides positive fire prevention protection.

REQUESTS FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29926 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-108-C]

GATEWAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Gateway Coal Co., 900 Oliver Building, Pittsburgh, Pa. 15222, has filed a petition to modify the application of 30 CFR 75.1105 (transformer housing), to its Gateway Mine, located in Greene County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Flight 1 and Flight 2 control rooms (transformer stations) are located at a great distance (6,600 feet and 3,000 feet respectively) from return air.

(2) The only personnel exposed to the possible hazard against which the mandatory standard is designed to protect are Mine Examiners, Pumpers, Beltmen and Belt Mechanics. These personnel have ready access to two slopes for exit from the mine.

(3) The air from the transformer areas doesn't enter any active working section.

(4) The control rooms are of fireproof construction using steel, concrete and concrete block with a sand< rock top.

(5) An emergency train (with fire car) is positioned in intake air between the control rooms for which modification is sought.

(6) In the alternative, the Petitioner proposes to install self-contained dry chemical deluge fire extinguishing systems in the two control rooms and believes that the fire extinguishing system will provide more protection for miners than a vented system because it provides positive fire prevention protection.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29927 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-109-C]

GATEWAY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Gateway Coal Co., 900 Oliver Building, Pittsburgh, Pa. 15222, has filed a petition to modify the application of 30 CFR 75.1105 (transformer housing), to its Gateway Mine, located in Greene County, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Flight 1 and Flight 2 control rooms (transformer stations) are located at a great distance (6,600 feet and 3,000 feet respectively) from return air.

(2) The only personnel exposed to the possible hazard against which the mandatory standard is designed to protect are Mine Examiners, Pumpers, Beltmen and Belt Mechanics. These personnel have ready access to two slopes for exit from the mine.

(3) The air from the transformer areas doesn't enter any active working section.

(4) The control rooms are of fireproof construction using steel, concrete and concrete block with a sand< rock top.

(5) An emergency train (with fire car) is positioned in intake air between the control rooms for which modification is sought.

(6) In the alternative, the Petitioner proposes to install self-contained dry chemical deluge fire extinguishing systems in the two control rooms and believes that the fire extinguishing system will provide more protection for miners than a vented system because it provides positive fire prevention protection.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29928 Filed 10-23-78; 8:45 am]

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22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29925 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-38-M]

THE HITCHCOCK CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Hitchcock Corp., P.O. Drawer 459, Murphy, N.C. 28906, has filed a petition to modify the application of 30 CFR 57.11-50 (escapeways), to its Nancy Jordan No. 5 Mine, located in Murphy, N.C., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Geological conditions in the vicinity of the mine are not favorable for a second escapeway. Due to the small nature of the ore body and the physical presence of the L&N Railroad which passes over the ore body, a second shaft would have to pass through porous marble formations containing significant amounts of water. Shaft construction under similar geologic conditions has proven very hazardous.

(2) Since the mine was developed with the idea of using one shaft, the entire shaft was constructed with steel and concrete to be completely fireproof. Fire doors on all three levels of the mine can effectively seal the shaft area from the rest of the mine.

(3) A manway independent of the main shaft exists between the three levels providing access to the entire mine outside the main shaft area.

(4) No point in the mine is over approximately a 250 feet radius from the main shaft.

(5) The petitioner believes that application of the standard will result in a diminution of safety to the miners affected and proposes that one shaft or escapeway and two refuge chambers be acceptable.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29926 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-86-C]

K.L.M. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that K.L.M. Coal Co., Treverton, Pa. has filed a petition to modify the application of 30 CFR 75.301 (air flow), to its K.L.M. Mine, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3) There is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(5) Extremely high velocities of air in small cross sectional areas of airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to the above conditions.

(8) For these reasons Petitioner requests that for the above mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of the pillar line be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29927 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-88-C]

MORRIS COAL, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Morris Coal, Inc., 1000 Lincoln Square, Marion, Ill. 62959, has filed a petition to modify the application of 30 CFR 75.1710 (canopies), to its No. 5 Mine, located in Marion, Ill., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) The average mining height of the No. 5 Mine varies between 47 and 52 inches. The minimum mining height on a particular section in the mine is below the average mining height.

(2) Petitioner is unable to operate the electric face equipment in its No. 5 Mine with canopies without diminishing safety in the mine. While the specific problems vary depending upon the particular piece of equipment involved, the problems experienced can be generally categorized for all equipment as follows:

(a) Diminished safety resulting from impaired vision. This includes inability to see across the machine and in some cases to the front and rear of the machine; inability to see obstructions; inability to see personnel or other equipment moving in the area; and other dangers created by poor visibility.

(b) Diminished safety resulting from decreased comfort of the operator. This includes the dangers resulting from the increased fatigue and discomfort caused by canopies, which may in turn cause carelessness, frustration, inattention, or other hazardous actions during operation of the equipment.

(c) Diminished safety resulting from increased operating risks. This includes the risks of the canopy striking the mine roof, roof bolts, line curtains, or other obstructions; the danger of entrapment; and the hazards created by the increased number of pinch points created by the canopy.

(3) For the reasons stated above, Petitioner contends that application of the standard in the above mine will result in a diminution of safety in mining heights above 42 inches and asks relief.

REQUESTS FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29928 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-98-C]

SHALLY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Shally Coal Co., R.D. 2, Ashland, Pa. 17921, has filed a petition to modify the application of 30 CFR 75.301 (air flow), to its No. 4 Vein Slope Mine, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Air sample analysis reveals that harmful quantities of methane are nonexistent in the mine.

(2) There is no history of ignition, explosion or fire in the mine.

(3) There is no history of harmful quantities of carbon dioxide and other noxious or harmful gases in the mine.

(4) Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

(5) Extremely high velocities of air in small cross sectional areas of airways and manways in friable anthracite veins present a hazard of dangerous flying objects.

(6) High velocities and large quantities of air cause extremely uncomfortable damp and cold conditions in the already uncomfortable wet mine.

(7) Difficulty in keeping miners on the job and securing additional mine help is due primarily to the above conditions.

(8) For these reasons Petitioner requests that for the above mine the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last crosscut in any pair of developing entries be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29929 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-102-C]

T & M COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that T & M Coal Corp., Route 1, Baxter, Ky. 40806, has filed a petition to modify the application of 30 CFR 1710-1 (canopies), in its Number 2 Mine, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of Petitioner's statement is as follows:

(1) The mine's present roof control would be seriously weakened if cabs are installed on face equipment. Due to the uneven floor of the mine, the dislodgement of roof bolts by canopies is frequent.

(2) The impaired vision caused by a canopy could result in serious injury to the equipment operator or to his fellow workmen.

(3) The equipment operator cannot effectively evaluate his rock due to the obstruction of a canopy or cab.

(4) In a cab the operator must arrange himself in a cramped position which makes it virtually impossible to operate the equipment safely.

(5) Undulating bottom is often encountered in the mine and decreased clearance makes it nearly impossible to operate canopied equipment in the section.

(6) Present technology is inadequate to design a suitable cab for use in low seams.

(7) For these reasons, the petitioner believes that the installation of cabs or canopies would result in a diminution of miner safety and requests to be relieved of these requirements.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 13, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29930 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-47-M]

UNION CARBIDE CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Union Carbide Corp., P.O. Box 1029, Grand Junction, Colo. 81501, has filed a petition to modify the application of 30 CFR 57.11-55 (emergency hoisting facility), to Martha Belle Mine, located in Uravan, Colo., Ura Mine, located in Uravan, Colo., Fula Belle, located in Uravan, Colo., and Snowball Mine, located at P.O. Box 97, La Sal, Utah, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is follows:

(1) In the alternative to locating an emergency hoist facility at each of the above mines, Petitioner proposes to maintain two portable hoists for this purpose, one located at Petitioner's Uravan, Colo., mine shop and the other used for construction in the Uravan area.

(2) Travel time from Uravan to the affected mines is approximately one hour.

(3) Petitioner is completing installation of refuge stations adjacent to the bottom of those vent holes designated as escapeways served by portable hoists.

(4) Petitioner contends that the portable hoists, in conjunction with the refuge stations, will provide greater safety than a fixed hoist for the following reasons:

(a) A system of two portable hoists provides backup capability not possible with fixed hoists in the event of unforeseen damage.

(b) Portable hoists are in superior condition to fixed hoists. They are not subjected to weather and other natural hazards which could affect their readiness. Their central location allows for maintenance and operation to be handled by workers well familiar with them.

(c) Portable hoists are adaptable to vent holes not normally designated, but capable of being used, as escapeways.

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REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29931 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. 78-89-C]

UNITED STATES STEEL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230, has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells), to its Cumberland Mined, located in Waynesburg, Pa., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Boreholes of long-abandoned oil and gas wells, including but not limited to those designated by Petitioner as Nos. 76, 101, 102, 103, 111, 114, and 115, penetrate and pass through the coal seam where Petitioner intends to mine.

(2) Oil and gas sands in the area are now nearly depleted, and no appreciable volume of gas comes from petroleum reservoirs.

(3) If Petitioner were required to establish and maintain barriers around the wells in accordance with the standard, the roof control plan of the mine would be adversely affected, and the mine ventilation plan would be unduly complicated.

(4) In the alternative, Petitioner proposes to plug and mine the boreholes according to recommendations of MESA Informational Report 1052, "Cleaning Out, Sealing and Mining Through Wells Penetrating Areas of Active Coal Mines in Northern West Virginia." This alternative method will result in no diminution of the protection afforded miners by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29932 Filed 10-23-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-96-C]

WESTMORELAND COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Westmoreland Coal Co., Quinwood, W. Va. 25981, has filed a petition to modify the application of 30 CFR 75.1710 (canopies) to its Imperial Smokeless Division, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) In parts of the above mine cabs or canopies on electrical face equipment are impractical and could diminish safety because of irregularities on the roof and floor, varying seam heights, and danger of collision with roof supports.

(2) Cabs or canopies impair the operator's field of vision and restrict his movements, resulting in a diminution of his own safety and the safety of other miners working in the area.

(3) Because of the above reasons, Petitioner requests permission to use electric face equipment in seam heights of 56 inches or less without cabs or canopies.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 24, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 17, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-29933 Filed 10-23-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4032]

ALUMINUM CO. OF AMERICA, POINT COMFORT, TEX.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 3, 1978, in response to a worker petition received on August 3, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing alumina and chlorine at the Point Comfort works of the Aluminum Co. of America (ALCOA).

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The petitioning group of workers in this case is covered under cerification TA-W-1151, issued on December 30, 1976. Since all workers separated, totally or partially, from the Point Comfort, Tex., operations of the Aluminum Co. of America on or after September 1, 1975 (impact date) and before December 30, 1978 (expiration date of the certification), are covered, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 18th day of October, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-29935 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3761]

ANCUR TEXTILE PRINTING CORP., EAST NEWARK, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3761: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978, in response to a worker petition received on May 22, 1978, which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers engaged in the screen printing of textiles at the Ancur Textile Printing Corp., East Newark, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24624-5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Ancur Textile Printing Corp., its customers (converters), the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers' Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The customers of the Ancur Textile Printing Corp. are converters. A survey of the firm's customers representing a majority of sales in 1977 and 1978 revealed that those customers who decreased purchases from Ancur Textile Printing during the period under investigation did not purchase imports of finished fabric. These customers also experienced increased sales of finished fabric.

The ratio of imports of finished fabric to domestic production has been less than 2 percent from 1974 through 1977.

CONCLUSION

After careful review, I determine that all workers of the Ancur Textile Printing Corp., East Newark, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974 period.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29936 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3803]

CRANE EDMUND CORP., BUTLER, IND.

Certification Regarding Eligibility To Apply for Worker Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3803: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 5, 1978, in response to a worker petition received on May 25, 1978, which was filed by the United Rubber, Cork, Linoleum, and Plastics Workers of America on behalf of workers and former workers producing bicycle pedals, training wheels, and kickstands at the Crane Edmund Corp., Butler, Ind. During the course of the investigation it was established automative parts were also produced by Crane Edmund.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498-26499). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Crane Edmund Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Sales of bicycle parts, primarily pedals, comprised a significant portion of sales by Crane Edmund during 1977 and all of sales in the first quarter of 1978.

Imports of bicycle pedals increased absolutely from 1975 to 1976 and from 1976 to 1977. Imports increased absolutely from January through June 1978 when compared to the like period of 1977.

Several customers of Crane Edmund who were surveyed, including a major customer, indicated that they had reduced purchases of bicycle pedals from Crane Edmund and increased purchases from foreign suppliers from 1976 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of bicycle parts of the Crane Edmund Corp., Butler, Ind., who became totally or partially separated from employment on or after May 23, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29937 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3849]

DELAVAL TURBINES, INC., DELROYD DIVISION, TRENTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3849: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 15, 1978 in response to a worker petition received on June 9, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing worm gears and speed reducers at the Trenton, N.J. plant of the Delroyd Division of Delaval Turbines.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27922). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Delaval Turbines, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the Crane Edmund Corp., Butler, Ind., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm.

The Department conducted a survey of some of the customers of worm gears and speed reducers of the Delroyd Division. Most respondents indicated that they did not purchase imported worm gear sets and speed reducers. Those respondents that indicated that they did purchase imports, increased purchases from the Delroyd Division.

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CONCLUSION

After careful review, I determine that all workers of the Trenton, N.J. plant of the Delroyd Division of Delaval Turbines are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29938 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3617]

ELIZABETH FASHIONS, HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3617: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' fake fur coats at Elizabeth Fashions, Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 28, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Elizabeth Fashions, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Elizabeth Fashions worked in 1976 and 1977. Manufacturers accounting for a substantial portion of sales in 1976 and 1977 reduced purchases from the subject firm and increased purchases of imported ladies' fake fur coats in 1977 compared to 1976 and in the first half of 1978 compared to the like period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' fake fur coats produced at Elizabeth Fashions, Inc., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Elizabeth Fashions, Inc., Hoboken, N.J., who became totally or partially separated from employment on or after September 24, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29939 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3805]

ENSIGN COIL CO., CASCADE, IOWA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3805: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 5, 1978, in response to a worker petition received on May 30, 1978, which was filed on behalf of workers formerly producing transformer coils at the Cascade, Iowa Plant of Ensign Coil Co.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ensign Coil Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to made an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of inductors for electronic applications including coils increased from 82.1 million dollars in 1976 to 111.9 million dollars in 1977. The ratio of imports to domestic production increased from 17.4 percent in 1976 to 22.9 percent in 1977.

The Cascade, Iowa plant of Ensign Coil Co. produced coils which were used in the production of transformers at the company's plants in Chicago, Ill., and Bellvue, Iowa. Company imports of coils from Mexico increased 34.5 percent in 1977 compared to 1976 and increased 5 percent in the first half of 1978 compared to the first half of 1977. These imported coils were used in the production of transformers at the Bellvue, Iowa, plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with transformer coils produced by the Cascade, Iowa, plant of Ensign Coil Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cascade, Iowa, plant of Ensign Coil Co. who became totally or partially separated from employment on or after October 2, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29940 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3871; TA-W-3909]

ESCAPADES FASHION INC., VISCOUNT KNIT MILLS, RIDGEFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3871 and TA-W-3909: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation of TA-W-3871 was initiated on June 20, 1978, in response to a worker petition received on June 16, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's knit sweaters at Escapades Fashion Inc., Ridgefield, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The investigation of TA-W-3909 was initiated on June 26, 1978, in response to a worker petition received on June 22, 1978, which was filed on behalf of workers and former workers producing women's knit fabrics at Viscount Knit Mills, Ridgefield, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Escapades Fashion Inc. and Viscount Knit Mills, Escapades' customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of womens' misses' and childrens' sweaters increased both absolutely and relatively from 1975 to 1976. Imports declined 1 percent from 1976 to 1977 and increased 7 percent in the first 3 months of 1978, compared to the first 3 months of 1977. The ratios of imports to domestic production and consumption declined from 141.9 percent and 58.7 percent, respectively, in 1976 to 140.8 percent and 58.5 percent, respectively in 1977.

A Department survey revealed that retail customers of Escapades Fashion Inc. increased purchases of imported womens' sweaters from 1976 to 1977 and in the first 6 months of 1978 compared to the first 6 months of 1977. These customers decreased their purchases from Escapades during the same periods of comparison.

Viscount Knit Mills produced knit fabric as part of the integrated production of knit sweaters at Escapades.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's knit sweaters produced at Escapades Fashion Inc., Ridgefield, N.J. contributed importantly to the decline in sales or production and to the total or partial separation of workers at Escapades Fashion and Viscount Knit Mills. In accordance with the provisions of the Act, I make the following certification:

All workers of Escapades Fashion Inc., Ridgefield, N.J., who became totally or partially separated from employment on or after January 14, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers of Viscount Knit Mills, Ridgefield, N.J., who became totally or partially separated from employment on or after June 20, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29941 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3618]

G & S COAT, HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3618: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at G & S Coat, Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of G & S Coat, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which G & S Coat worked in 1976 and 1977. Some manufacturers reduced purchases from G & S Coat and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases of ladies' coats from G & S Coat and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at G & S Coat, Hoboken, N.J. contributed importantly to the decline in sales and to the separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of G & S Coat, Hoboken, N.J. who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-29942 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3880]

JOHNSTOWN & STONY CREEK RAILROAD CO., JOHNSTOWN, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3880: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on May 30, 1978, which was filed by the United Steelworkers of America on behalf of all workers and former workers of the Johnstown & Stony Creek Railroad Co. in Johnstown, Pa., who were engaged in the rail transport of commodities.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Johnstown & Stony Creek Railroad Co.,

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United States Steel Corp., and Department files.

[4510-28-M]

[TA-W-3737]

with the provisions of the Act, I make the following certification:

separation, or threat thereof, and to the absolute decline in sales or production.

merce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts,

sults of TA-W-4083: Investigation regarding certification of eligibility to apply for worker adjustment assist-

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United States Steel Corp., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the criteria have been met.

The Johnstown & Stony Creek Railroad Co. (J. & S.C.) in Johnstown, Pa., is a wholly owned subsidiary of the United States Steel Corp. The railroad operates autonomously as a common carrier subject to the Interstate Commerce Commission's regulations.

A significant percentage of the total freight hauled by J. & S.C. in both 1977 and in the first 7 months of 1978 was hauled for the Johnstown, Pa., plant of the United States Steel Corp. All workers and former workers of the Johnstown, Pa., plant of the United States Steel Corp. who became totally or partially separated from employment on or after October 1, 1977, have previously been certified eligible to apply for adjustment assistance benefits in a determination issued on April 20, 1978 (TA-W-2779). This certification will remain in effect until April 20, 1980, unless terminated by the Secretary of Labor prior to that date.

CONCLUSION

After careful review of the facts, I conclude that increased imports of articles like or directly competitive with the steel products produced at the Johnstown, Pa., plant of the United States Steel Corp. have contributed importantly to the decline in sales and to the total or partial separation of workers of the Johnstown & Stony Creek Railroad Co. in Johnstown, Pa. In accordance with the provisions of the Act, I make the following certification:

All employees of the Johnstown & Stony Creek Railroad Co. in Johnstown, Pa., who became totally or partially separated from employment on or after May 26, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29943 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3737]

LEVI STRAUSS & CO., VALDOSTA, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3737: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on May 15, 1978 which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing jeans at the Valdosta, Ga. plant of Levi Strauss and Co.

The notice of investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-99). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Levi Strauss & Co., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven cotton and man-man jeans and dungarees increased from 9 million units in 1975 to 14 million units in 1976 and to 23 million units in 1977. The ratios of imports to domestic production and consumption increased from 5.4 percent and 5.1 percent, respectively, in 1976 to 8.5 percent and 7.8 percent, respectively, in 1977. Imports increased from 6.7 million units in the first 6 months of 1977 to 17.0 million units in the first 6 months of 1978.

Customers who reduced purchases of jeans from Levi Strauss were surveyed. The survey revealed that customers increased purchases of imported jeans in the first 6 months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with jeans produced by Levi Strauss & Co. contributed importantly to the decline in sales or production and to the total or partial separations of the workers of the Valdosta, Ga. plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Valdosta, Ga. plant of Levi Strauss & Co. who became totally or partially separated from employment on or after February 12, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29944 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3656]

LYNDHURST COAT, INC. HACKENSACK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3656: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' outwear and rainwear at Lyndhurst Coat, Inc., Hackensack, N.J. During the course of the investigation it was established that Lyndhurst Coat, Inc., produces only ladies' winter coats and ladies' raincoats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lyndhurst Coat, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

A survey of the manufacturers purchasing coats and raincoats from Lyndhurst Coat, Inc. indicated that the only manufacturer who purchased imported ladies' coats or raincoats in 1976 and/or 1977 decreased purchases of imports in 1977 compared to 1976. Total annual sales by this manufacturer increased over the same period.

Two manufacturers increased purchases of imported ladies' coats and raincoats in the first quarter of 1978 compared to the first quarter of 1977. These manufacturers also increased contracts with other domestic contractors over the period. Furthermore, Lyndhurst's sale and employment increased in the first quarter of 1978 compared to the first quarter of 1977 and in the first 5 months of 1978 compared to the first 5 months in 1977.

CONCLUSION

After careful review, I determine that all workers of Lyndhurst Coat, Inc., Hackensack, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29945 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3602]

PENNSY COAT CO., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3602: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at Pennsy Coat Co., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pennsy Coat Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all requirements have been met.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production declined from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Pennsy Coat worked in 1976 and 1977. A manufacturer that accounted for a majority of sales in 1977 went out of business in February 1978. A survey of this manufacturers' customers revealed that a major customer increased purchases of imported ladies' raincoats and reduced purchases from the manufacturer in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' raincoats produced at Pennsy Coat Co., Inc., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Pennsy Coat Co. Inc., Paterson, N.J. who became totally or partially separated from employment on or after December 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, *Administration and Planning.*

[FR Doc. 78-29146 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-4083]

REIDBORD BROTHERS CO., INC., PHILIPPI, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4083: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 18, 1978, in response to a worker petition received on August 18, 1978, which was filed on behalf workers and former workers producing men's work trousers at the Philippi, W. Va. plant of Reidbord Brothers Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193-94). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Reidbord Brothers Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales of Reidbord Brothers Co., Inc., Pittsburgh, Pa., increased from fiscal year (Dec. 1 through Nov. 30) 1976 to fiscal year 1977 and during the first fiscal half of 1978 compared with the same period in 1977. All production at the Philippi, W. Va., plant is part of the integrated operations of Reidbord Bros. Production at the Philippi plant increased from fiscal year 1976 to fiscal year 1977 and during the first half of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of the Philippi, W. Va., plant of Reidbord Brothers Co., Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29947 Filed 10-23-78; 8:45 am]

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[4510-28-M]

[TA-W-3843]

STRIDE RITE MANUFACTURING CORP., BROCKTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein prsents the results of TA-W-3843: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 14, 1978, in response to a worker petition received on June 9, 1978, which was filed on behalf of workers and former workers producing infants' shoes at Stride Rite Manufacturing Corp., Brockton, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Stride Rite Manufacturing Corp., its customers, the American Footwear Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the decline in sales or production.

Stride Rite Corp. sales in value have increased each year since 1975. Further, the average number of workers was higher in the first half of 1978 than in the same period in 1977. Most customers of the Stride Rite Manufacturing Corp. surveyed increased purchases of infants' shoes from the subject firm during 1977 compared to their purchases of the previous year and during the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review, I determine that all workers of the Brockton, Mass., plant of the Stride Rite Manufacturing Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[4510-28-M]

[TA-W-4041]

TENN-TEX ALLOY CORP. OF HOUSTON, HOUSTON, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4041: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 7, 1978 in response to a worker petition received on August 7, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing high carbon ferromanganese and silicomanganese at Tenn-Tex Alloy Corp. of Houston, Houston, Tex.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Officials of Tenn-Tex Alloy Corp. of Houston, the United Steelworkers of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

Tenn-Tex Alloy Corp. of Houston produced high carbon ferromanganese and silicomanganese at its plant in Houston, Tex. The plant was shut down in December following a strike which began on July 31, 1977.

The shutdown of the plan was a result of the failure to negotiate a settlement to a strike at the plant which began on July 31, 1977, and not a result of imports of ferroalloys.

The strike began more than 1 year prior to the date of the petition. Therefore, no workers separated prior to the beginning of the strike could be covered if a certification were to be issued.

CONCLUSION

After careful review, I determine that all workers of Tenn-Tex Alloy Corp. of Houston, Houston, Tex., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29949 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3835]

VERSAILLES TEXTILE PRINT CORP., WEEHAWKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3835: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 8, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing printed fabrics for women's wear at Versailles Textile Print Corp., Weehawken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officals of Versailles Textile Print Corp., its customers, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petition appears to allege that imports of finished garments have contributed to the closing of Versailles Textile Print Corp. Imported wearing apparel cannot be considered to be like or directly competitive with finished fabric. Imports of all types of finished fabric must be considered in determining import injury to workers producing printed fabric at Versailles Textile Print Corp.

Aggregate imports of all finished fabric (bleached, dyed, and printed) declined absolutely from 1976 to 1977 and then increased in the first quarter of 1978 compared to the same period in 1977. The ratios of imports to domestic production and consumption remained less than 2 percent from 1974 through 1977.

Customers who contracted with Versailles for printing on fabric were surveyed. The survey revealed that none of the customers surveyed purchased imported fabric during the period from 1976 through the first quarter of 1978. Customers increased their printing contracts with Versailles during 1977 and the first quarter of 1978.

CONCLUSION

After careful review, I determine that all workers of Versailles Textile Print Corp., Weehawken, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washinton, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29950 Filed 10-23-78; 8:45 am]

[4510-28-M]

[TA-W-3632]

WINTER SCENE FASHIONS, INC., HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3632: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Winter Scene Fashions, Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Winter Scene Fashions, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The ladies' and children's coats industry is typically a seasonal operation. In most years, contractors suffer a period of negligible orders during the first quarter of the year, before winter production begins. Although employment declines occurred at Winter Scene during the period under investigation, these employment declines are seasonal. Winter Scene Fashions, Inc., has been closed for 5 months during each spring season since 1975.

CONCLUSION

After careful review, I determine that all workers of the Winter Scene Fashions, Inc., Hoboken, N.J., are denied eligibility for adjustment assistance under Title II, Chapter of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-29951 Filed 10-23-78; 8:45 am]

[1410-03-M]

LIBRARY OF CONGRESS

AMERICAN FOLKLIFE CENTER BOARD OF TRUSTEES

Meeting

OCTOBER 19, 1978.

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Board of Trustees of the American Folklife Center will be held beginning at 9:30 a.m., Monday, November 20, 1978, at the Woodstock Inn, Woodstock, Vt.

This meeting is a regularly scheduled meeting of the Board. The meeting is open to the public. Any member of the public wishing to attend or to obtain additional information should contact Raymond L. Dockstader, Deputy Director of the American Folklife Center, 202-426-6590, by close of business, November 6.

RAYMOND L. DOCKSTADER,
Deputy Director, American Folklife Center.

[FR Doc. 78-29887 Filed 10-23-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-51]

APPLICATIONS STEERING COMMITTEE (ASC), SUPPORTING RESEARCH AND TECHNOLOGY (SR&T) AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Supporting Research and Technology (SR&T) Ad Hoc Advisory Subcommittee of the Applications Steering Committee (ASC) will meet at NASA Headquarters, 600 Independence Avenue SW., Washington, D.C., on November 8, 1978. The meeting will be held in Room 347 of FOB 10 from 1:30 p.m. to 4:30 p.m. The Subcommittee will discuss, evaluate, and categorize the unsolicited proposals submitted to NASA to perform ground-based research work as described in the Applications Notice dated April 19, 1978. Discussion of the professional qualifications of the proposers and their potential scientific contributions to materials technology would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6) as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Dr. John R. Carruthers, NASA Headquarters, Washington, D.C., at 202-755-8582.

AGENDA

SUPPORTING RESEARCH AND TECHNOLOGY (SR&T) AD HOC ADVISORY SUBCOMMITTEE

November 8, 1978

1:30 p.m.—Introductory Remarks.
1:45 p.m.—General review of unsolicited proposals for ground-based research.
4:00 p.m.—Final recommendations of Subcommittee regarding review of proposals.

Dated: October 18, 1978.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

[FR Doc. 78-29856 Filed 10-23-78; 8:45 am]

[7510-01-M]

[Notice 78-50]

Dated: October 18, 1978.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

Type of meeting: November 9, open; November 10, open.
Contact person: Dr. D. L. Mitchell, Con-

tions, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR Part

open and align all four isolation valves. This would allow the flow from the one HPI pump to feed all four re-

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[7510-01-M]

[Notice 78-50]

NASA ADVISORY COUNCIL (NAC) SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE (SSTAC) AND APPLICATIONS STEERING COMMITEE (ASC) SUPPORTING RESEARCH AND TECHNOLOGY (SR&T) AD HOC ADVISORY SUBCOMMITTEE

Joint Meeting

The Informal Ad Hoc Advisory Subcommittee on Materials Processing in Space (MPS) of the NAC Space Systems and Technology Advisory Committee will meet with the Materials Processing Panel of the Applications Steering Committee, SR&T Ad Hoc Advisory Subcommittee to discuss important approaches and considerations for materials processing which can be benefited by the space environment and the important role of ground-based research as background for the NASA Materials Processing in Space program on November 8, 1978. The joint meeting will be held from 9:30 a.m. to 12:30 p.m. in Room 625T, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. A continuation of the SSTAC meeting only will then take place from 1:30 p.m. to 3:30 p.m. in the same room. It will be open to the public up to the seating capacity of the room (about 40 persons including subcommittee and panel members as well as participants).

The SSTAC Informal Ad Hoc Advisory Subcommittee was established to advise the NASA Materials Processing in Space program regarding its long range plans; it has five members and is chaired by Dr. Martin Glicksman. The SR&T Materials Processing Panel is a group of scientists who evaluate proposals submitted in response to Announcements of Opportunity and unsolicited proposals for space and ground based investigations to be supported by the MPS program. It has 22 members and is chaired by Dr. John R. Carruthers.

For further information, contact Dr. James H. Bredt, Executive Secretary of the Informal Ad Hoc Subcommittee on Materials Processing in Space and the Materials Processing Panel, Code EM-7, NASA Headquarters, Washington, D.C., 20546, 202-755-8573.

AGENDA

November 8, 1978

9:30 a.m.—Introductory Remarks.

10:00 a.m.—Presentation on existing NASA Materials Processing in Space program philosophy and the role of ground-based research.

1:00 p.m.—Committee discussion and formulation of recommendatidons.

3:30 p.m.—Adjourn.

Dated: October 18, 1978.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

[FR Doc. 78-29855 Filed 10-23-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Choral Section) to the National Council in the Arts will be held on November 10, 1978, from 9 a.m. to 5 p.m.; November 11, 1978, from 9 a.m. to 5 p.m., in the Choral Rehearsal Room, Orchestra Hall, 220 South Michigan Avenue, Chicago, Ill.

A portion of this meeting will be open to the public on November 10, 1978, from 9 a.m. to 5 p.m.; and on November 11, 1978, from 9 a.m. to 2 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on November 11, 1978, from 2 p.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-29857 Filed 10-23-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON METABOLIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metabolic Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

Date and time: November 9, and 10, 1978—9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 331, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4312.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in metabolic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 19, 1978.

[FR Doc. 78-29881 Filed 10-23-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON THE CONDENSED MATTER SCIENCES OF THE MATERIALS RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on the Condensed Matter Sciences of the Materials Research Advisory Committee.

Date and time: November 9 and 10, 1978—9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: November 9, open; November 10, open.

Contact person: Dr. D. L. Mitchell, Condensed Matter Sciences Section, Room 404, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7404.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in the condensed matter sciences.

Agenda:

November 9—9 a.m. to 5 p.m. Oversight review of the condensed matter theory program. Report of ad hoc review committee. Reports and discussion of major projects.

November 10—9 a.m. to 5 p.m. Final committee report on review of condensed matter theory. Reports of special studies. Future outlook and directions.

Summary minutes: May be obtained from the Committee management Coordinator, Room 248, Division of Financial and Administrative Management, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 19, 1978.

[FR Doc. 78-29882 Filed 10-23-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-320]

METROPOLITAN EDISON CO., ET AL., THREE MILE ISLAND NUCLEAR STATION, UNIT 2

Order for Modification of License

I. The Metropolitan Edison Co., et al. (the licensee or Met Ed), is the holder of Facility Operating License No. DPR-73 which authorizes the operation of the nuclear power reactor known as Three Mile Island Nuclear Station, Unit 2 (the facility or TMI-2), at reactor core power levels not in excess of 2772 megawatts thermal (rated power). The facility, using a Babcock & Wilcox Co., designed pressurized water reactor (PWR), is located at the licensee's site in Dauphin County, Pa.

II. In accordance with the requirements of the Commission's ECCS Acceptance Criteria, 10 CFR Part 50.46, the licensee submitted on March 31, 1976 an ECCS evaluation for the facility. The ECCS evaluation submitted by the licensee was based upon an ECCS Evaluation Model Developed by the Babcock & Wilcox Co. (B&W), the designer of the nuclear steam supply system for this facility. The B&W ECCS Evaluation Model had been previously found to conform to the requirements of the Commission's ECCS Aceptance Criteria, 10 CFR Part 50.46 and Appendix K. The evaluation indicated that with the limits set forth in the facility's Technical Specifications, the ECCS cooling performance for the facility would conform with the criteria contained in 10 CFR Part 50.46(b) which govern calculated peak clad temperature, maximum cladding oxidation, maximum hydrogen generation, coolable geometry and long-term cooling.

On April 12, 1978, B&W informed the NRC that it had determined that in the event of a small break loss-of-coolant accident (LOCA) on the discharge side of a reactor coolant pump, high pressure injection (HPI) flow to the core could be reduced somewhat. Subsequent calculations indicated that in such a case the calculated peak clad temperature might exceed 2200 F.

Previous small break analyses for B&W 177 fuel assembly (FA) lowered loop plants had identified the limiting small break to be in the suction line of the reactor coolant pump. Recent analyses have shown that the discharge line break is more limiting than the suction line break.

The Three Mile Island Nuclear Station, Unit 2, has an ECCS configuration which consists of two high pressure injection trains. Each train has an HPI pump and the train injects into two of the four reactor coolant system (RCS) cold legs on the discharge side of the RCS pump. (There is also a third HPI pump installed.) The two parallel HPI trains are connected but are kept isolated by manual valves (known as the cross-connect valves) that are normally closed. Upon receiving a safety injection signal the HPI pumps are started and valves in the four injection lines are opened. Assuming loss of offsite power and the worst single failure (failure of diesel to start) only one HPI pump would be available and two of the four injection valves would fail to open.

If a small break is postulated to occur in the RCS piping between the RCS pump discharge and the reactor vessel, the high pressure injection flow injected into this line (about half of the output of one high pressure injection pump) could flow out the break. Therefore, for the worst combination of break location and single failure, only one-half of the flow rate of a single high pressure injection pump would contribute to maintaining the coolant inventory in the reactor vessel. This situation had not been previously analyzed and B&W had indicated that the limits specified in 10 CFR Part 50.46 may be exceeded.

B&W had stated that they had analyzed a spectrum of small breaks in the pump discharge line and had determined that to meet the limits of 10 CFR Part 50.46, operator action was required to open the two manually-operated cross-connect valves and to manually open the two motor-driven isolation valves which had failed to open and align all four isolation valves. This would allow the flow from the one HPI pump to feed all four reactor coolant legs. B&W has assumed that 30 percent of the flow would be lost through the break and 70 percent would contribute to recovering the core.

B&W had prepared a summary entitled "Analysis of Small Breaks in the Reactor Coolant Pump Discharge Piping for the B&W Lowered Loop 177 FA Plants," May 1, 1978 (the B&W Summary), which describes the methods used and the results obtained in the above analysis. The analysis modelled operator action by assuming a step increase in flow to the reactor vessel (with balanced flow in the three intact loops) 10 minutes after the LOCA reactor protection system trip signal occurs.

By letter dated May 5, 1978, Met Ed submitted a copy of the B&W Summary for our review. In their submittal Met Ed stated that they had reviewed the B&W Summary and determined that the results were applicable to TMI-2 and that operation of TMI-2 up to 2568 megawatts thermal would be in full conformance with 10 CFR Part 50.46.

In their submittal of May 5, 1978, Met Ed also stated that they had modified certain plant procedures to provide the necessary operator actions on a time scale consistent with that assumed in the analysis, and that they had conducted drills to verify that the assumed operator response time was achievable. The Commission's Office of Inspection and Enforcement has confirmed that appropriate procedures are in place and that drills were performed which verified operator response time. Met Ed also committed to submit a proposal for a permanent solution to this problem by August 5, 1978.

In their letter of May 11, 1978, Met Ed provided additional information clarifying aspects of the proposed manual actions.

In the event of a small break and a limiting single failure, manual action will be taken to begin opening the crossconnect valves and the isolation valves within five minutes and have them opened and an adequate flow split obtained within 10 minutes. To facilitate this operation the licensee has committed to maintain one of the series-connected, manually-operated cross-connect valves normally open. The analysis performed by B&W assumed that the flow split was established at 650 seconds by operator action. We concluded that the analysis provides a reasonable approximation of the operator action that actually will be taken, since specific procedures have been prepared and drills performed to verify the adequacy of the

procedures and to train the plant operators.

Based on the B&W analysis available, we have concluded that operation of Three Mile Island Unit 2 at power levels up to 2772 Mwt in accordance with the proposed modification will provide adequate protection against the consequences of small breaks in the pump discharge piping. Therefore, we have concluded that the licensee's ECCS performance for the facility with the proposed modification will conform fully to the requirements of 10 CFR Part 50.46. We therefore required that the licensee submit the proposed modification to the facility.

III. Accordingly, pursuant to Sections 103, 161i, and 182 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 50, it is hereby ordered that Facility Operating License No. DPR-73 be modified as follows:

Prior to operation above 2568 megawatts thermal, the licensee shall modify the facility as discussed above we conclude that operation of Three Mile Island Unit 2 at power levels up to 2772 Mwt in accord-

[3110-01-M]

AFLC 399; Supplements A and B
On occasion

publishing this list in the FEDERAL REGISTER is to inform the public.

V 43/206 OCT 24 78

procedures and to train the plant operators.

Based on the B&W analysis available at that time and the licensee's commitment to provide operator action consistent with that assumed in the analyses, we issued an Order for Modification of License dated May 26, 1978, which amended the facility license to: (1) limit the maximum reactor power level to 2568 Mwt, (2) require operation in accordance with the procedures committed to by the licensee, and (3) require submission of further analysis as soon as possible.

By letter dated July 18, 1978, B&W submitted a summary of further analyses of this event. This summary (the 2772 Summary) described the methods used and the results obtained for small breaks in the pump discharge piping for a reactor power of 2772 Mwt, which is the rated power level of TMI-2. The results provided in this 2772 Summary were obtained by incorporating two modifications in the B&W ECCS Evaluation Model. These modifications, which involve use of a two-node inner vessel simulation and phase distributional multipliers for bubble rise in all control volumes within the reactor vessel, were described in a B&W letter to the staff dated May 26, 1978.

By letter dated July 24, 1978, the licensee stated that it had reviewed the B&W submittal of July 18, 1978, and had found the conclusions acceptable and applicable to TMI-2. Based on this review, the licensee requested authorization to operate TMI-2 at 100 percent full power (2772 Mwt).

We have reviewed the B&W submittal of July 18, 1978. This submittal presents the results of analyses performed for reactor coolant pump discharge line break sizes of 0.15, 0.10, 0.085, 0.07, 0.055 and 0.004 ft^2 at a reactor power level of 2772 Mwt. Based on these results, B&W states that with operator action consistent with that modelled in the analysis, a 0.07 ft^2 discharge line break is the most limiting case. In this case, core uncovery occurs for about 410 seconds and the conservatively calculated peak clad temperature is approximately 1092 F. This temperature is well below the limit specified in 10 CFR 50.46(b).

Based on our review of these analyses, we find that the calculations support the conclusion that a 0.07 ft^2 discharge line break is the most limiting case. The analyses which have been submitted used a simplified input to the FOAM code for the distribution of steam sources. In our Order dated May 26, 1978, we had noted that the B&W Summary did not demonstrate that the assumptions employed in supplying heat inputs to the FOAM code were conservative and that we could not determine that operation at full power conforms fully to the requirements of 10 CFR Part 50.46. We therefore required that the licensee submit as soon as possible a reevaluation wholly in conformance with 10 CFR Part 50.46.

In response to this requirement, B&W submitted with their letter dated August 11, 1978 the results of two FOAM code analyses for the limiting 0.07 ft^2 break for a power level of 2772 Mwt. One analysis used the simplified FOAM input that had been previously used by B&W and questioned by the staff. The other analysis used the more detailed input calculations, as previously reviewed and approved by the staff, to more properly account for the actual distribution of steam sources in the vessel.

A comparison of the FOAM calculations using these different inputs shows that the core mixture height and steaming rate calculated with FOAM were lower for the simplified input case than for the detailed distribution method. Since the peak cladding temperature would be higher for the case having more core uncovery and lower steaming rate, the staff concluded from the analyses that the simplified FOAM code input method results in a more conservative calculation. Therefore, the staff finds that the B&W small break LOCA analyses using the simplified FOAM code input method are acceptably conservative. To meet the requirements of 10 CFR Part 50.46, operator action is necessary to locally actuate certain valves. These actions are to be completed in 10 minutes from the onset of the small break LOCA. Operator action modelled in the 2772 summary is the same as that previously described in Met Ed's letters of May 5 and May 11, 1978. (By another letter also dated July 24, 1978, Met Ed submitted their proposal for a permanent solution to the problem of eliminating reliance on that prompt operator action. This proposal has not yet been reviewed and does not form the basis for any evaluation herein.)

The original concern derived from an unexpected but nevertheless inadequate assessment of a spectrum of breaks. This deviation from 10 CFR 50.46 has been ameliorated on a temporary basis by the actions discussed herein. However, continued reliance on prompt operator action to perform the required steps to assure plant safety on a permanent basis is undesirable and should be replaced as promptly as possible by returning the system to automatic or control room actuation. To this extent, the original defect still remains until the modifications are made to eliminate the reliance on prompt operator actions. However, based on our review of the submittals by the licensee and B&W discussed above we conclude that operation of Three Mile Island Unit 2 at power levels up to 2772 Mwt in accordance with the operating procedures discussed herein will assure that the ECCS system will conform to the performance criteria of 10 CFR 50.46(b). Accordingly, until modifications are completed to achieve an acceptable permanent solution, operation of the facility at power levels up to 2772 Mwt with appropriate operating procedures will not endanger life or property or the common defense and security.

III. Copies of the following documents are available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 29555, and are being placed in the Commission's local public document room at the State Library of Pennsylvania, Comonwealth and Walnut Streets, Harrisburg, Pa., 17126:

1. Letters from J. G. Herbein to S.A. Varga, Chief, Light Water Reactors Branch No. 4, dated May 5, May 11, and July 24, 1978.

2. Order for Modification of License, Docket No. 50-320, dated May 26, 1978.

3. Letters from J. H. Taylor to S.A. Varga, Chief, Light Water Reactors Branch No. 4, dated July 18 and August 11, 1978.

IV. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, our Order for Modification of License dated May 26, 1978, is superseded effective this date and it is ordered that Facility Operating License No. DPR-73 is hereby amended by adding the following new provisions:

1. The reactor core power level shall not exceed 2772 megawatts thermal, and

2. Upon approval by the staff, the licensee shall undertake modifications to eliminate reliance on prompt operator action described herein, in accordance with an approved schedule, and

3. Until further authorization by the Commission, the licensee shall operate in accordance with the procedures describe in its letters of May 5, and May 11, 1978.

Dated at Bethesda, Md., this 13th day of October 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-29906 Filed 10-23-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 18, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses; the estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

REVISIONS

ACTION
Peace Corps Volunteers Background Information Form
PC-5
On occasion
Peace Corps volunteers, 7,000 responses; 3,500 hours
Reese, B. F., 395-3211
Department of Agriculture
Economics, Statistics, and Cooperatives Service
Commercial Floriculture Survey
Annually
Wholesale flower grower, 4,400 responses; 1,100 hours
Ellett, C. A., 395-6132
Department of Agriculture
Economics, Statistics, and Cooperatives Service
Cost of Production Survey
Annually
Selected crop producers, 7,800 responses; 7,800 hours
Office of Federal Statistical Policy and Standard, 673-7956
Ellett, C. A.
Department of Defense
Department of the Air Force
Teardown Deficiency Report
AFLC 399; Supplements A and B
On occasion
ACFT Manufacturing and/or Repair Contractors, 2,156 responses; 5,390 hours
Warren Topelius, 395-6132

EXTENSIONS

ACTION
"Employer Job Order Form" From Cutplacement Counseling
Weekly
Target Firms; "Fortune 500," "NAM member firms," etc., 260 responses; 65 hours
Reese, B. F., 395-3211
ACTION
National Survey of High School Student Community
Service Programs
A-860
Single time
Random sample of U.S. high schools, 300 responses; 100 hours
Reese, B. F., 395-3211
Department of Housing and Urban Development
Federal Insurance Administration
Standard Reinsurance Contract
HUD-1601
Annually
Property insurance companies in United States of America, 200 responses; 600 hours
Caywood, D. P., 395-3443
Department of Housing and Urban Development
Administration (Office of Assistant Secretary)
Fiscal Information—Military Acquisition
FHA1176
On occasion
Banks, savings, and loans and mortgage companies, 120 responses; 60 hours
Caywood, D. P., 395-3443
Department of Housing and Urban Development
Housing Production and Mortgage Credit
Title I, Report of Complaint
FH-70
On occasion
Title I, borrowers, 1,000 responses; 500 hours
Caywood, D. P., 395-3443

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29960 Filed 10-23-78; 8:45 am]

[3110-01-M]

CLEARANCE OF REPORT

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the office of management and budget on October 17, 1978 (44 U.S.C. 3501). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The title of each request received;

The name of the agency sposoring the proposed collection of information;

The Agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, office of management and budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

Department of Health, Eduction, and Welfare
Office of Eduction
Institutional Release of Funds/Request for Additional Funds: CWS and SEOG
OE-1286
Annually
Financial aid officers institution of higher education, 2,500 responses; 500 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Heath Care Financing Administration (Medicare)
Request for Addition Medical Information
HCFA-2081 and L-2081
On occasion
Providers of service submitting medicare billing, 35,040 responses; 8,760 hours
Richard Eisinger, 395-3214
Department of Health, Education, and Welfare
Office of the Secretary
Employer Health Insurance Cost Survey
OS-10-78
Single-time
Cross-section of empoyers, 7,200 responses; 1,440 hours
Richard Eisinger, 395-3214
Department of Justice
Law Enforcement Assistance Administration
Juvenile Court Statistical Card
Single-time
Young people from ages 10-18, names and age, 90,000 responses; 9,000 hours

Office of Federal Statistical Policy and Standard, 673-7956
Laverne V. Collins

EXTENSIONS

Department of Agriculture

[7715-01-M]

POSTAL RATE COMMISSION

company engaged primarily in investment management and other trust company, fiduciary, and related bank-

Brown by applying for the exercise of the Commission's exemptive power under section 6(c) of the Act

attorney-at-law, by certificate) shall be filed contemporaneously with the re-

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Office of Federal Statistical Policy and Standard, 673-7956
Laverne V. Collins
Department of Labor
Labor Management and Service Administration
Survey of Employee Welfare Benefit Plan Provisions
LMSA-89T and 90T
Single-time
Plan sponsors of welfare benefit plans, 8,500 responses; 760 hours
Strasser, A. 395-6132

REVISIONS

Department of Health, Eduction, and Welfare
Office of Education
Terminal Report for Holders of National Foreign Language Graduate Fellowship
OE-7614
Annually
Graduate students, 3,600 responses; 900 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Office of Education
Financial Status and Performance Reports—State
Student Incentive Grant Program
OE-1288-1
Annually
State agencies, 50 responses; 400 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Office of Eduction
ADS Student Report (Request of Additional Payment of BEOG Award)
OE 304-1
On occasion
BEOG recipients and institutions they enroll in, 10,000 responses; 3,333 hours
Laverne V. Collins 395-3214
Department of Justice
Law Enforcement Assistance Administration
1978 NILECJ Planning Survey
LEAA 6060
Single-time
Criminal Justice research professionals, 500 responses; 250 hours
Laverne V. Collins, 395-3214
Department of Labor
Bureau of Labor Statistics
Initiation International Price Program (Exports) and Repricing Form
BLS 2894A, 2894B, and 2894C
Monthly
Exporters, 17,500 responses; 2,916 hours
Strasser, A., 395-6132
Department of Labor
Bureau of Labor Statistics
Initiation International Price Program (Imports) and Repricing Form
BLS 3007A, 3007B, and 3007C
Monthly
Importers, 9,500 responses; 1,583 hours
Strasser, A., 395-6132

EXTENSIONS

Department of Agriculture
Economics, Statistics, and Cooperatives Service
Rice Stocks at Mills and Warehouses; Receipts at Mills
Other (see SF-83)
Rice mills and warehouses, 1,360 responses; 303 hours
Ellett, C. A., 395-6132
Department of Agriculture
Economics, Statistics, and Cooperatives Service
Environmental and Corn Yield Study (Missouri)
Single-time
Sample of corn growers, 660 responses; 206 hours
Office of Federal Statistical Policy and Standard, 673-7956
Ellett, C. A.
Department of Agriculture
Agricultural Marketing Service
Original Warehouse Examination Report—Processed Commodities (for Approval as a Storage Facility)
TW-561
On occasion
Public commercial warehouses, 150 responses; 900 hours
Ellett, C. A., 395-6132
Department of Commerce
Bureau of Census
Inorganic Fertilizer Chemicals (Production and Stocks)
M-28B.1
Monthly
Chemical manufacturers, 1,860 responses; 744 hours
C. Louis Kincannon, 395-3211
Department of Defense
Departmental and Other
Engineering Change Proposal
DD 1692
On occasion
All Government contractors/mil indus facs, 2,100 responses; 12,600 hours
Warren Topelius, 395-6132
Department of Health, Education, and Welfare
Office of Education
Report on Title I, ESEA Comparability
4524
Annually
State educational agencies, 56 responses; 168 hours
Laverne V. Collins, 395-3214
Department of Health, Education, and Welfare
Health Care Financing Administration (Medicare)
Physician's Practice Cost Survey
HCFA-3482
On occasion
Physicians in 18 specialists, 6,500 responses; 3,250 hours
Richard Eisinger, 395-3214

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29961 Filed 10-23-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

VISIT TO POSTAL FACILITY

OCTOBER 18, 1978.

Notice is hereby given that Vice Chairman Simeon M. Bright, Commissioner Kieran O'Doherty, and certain staff members will visit a United Parcel Service facility on the date indicated for the purpose of acquiring general background knowledge of <operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visit will be on file in the Commission's Docket room.

Place of Visit.—3901 Vero Road, Baltimore, Md.
Time of Visit.—1 p.m. to 2 p.m.
Date of Visit.—October 25, 1978.

By direction of the Commission.

CYRIL J. PITTACK,
Acting Secretary.

[FR Doc. 78-29854 Filed 10-23-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10436; 812-4256]

ADAMS FIDUCIARY BOND FUND

Filing Application for Exemption

OCTOBER 13, 1978.

In the matter of Adams Fiduciary Bond Fund, 55 Court Street, Boston, Mass. 02108, 812-4256.

Notice is hereby given that Adams Fiduciary Bond Fund ("Fund"), an open-end diversified investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on January 12, 1978, and an amendment thereto on October 2, 1978, for an order pursuant to section 6(c) of the Act declaring that Miss Dorothy A. Brown shall not be deemed an "interested person" of the Fund or its investment adviser within the meaning of section 2(a)(19) of the Act by reason of her position with the Boston Safe Deposit & Trust Co. ("Boston Safe"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that it is contemplated that Miss Brown will serve as a Trustee of the Fund. The principal occupation of Miss Brown is Vice-President and Portfolio Manager of Boston Safe, a long established trust company engaged primarily in investment management and other trust company, fiduciary, and related banking services. As such, Miss Brown manages the investments of a number of indivjdual trusts, estates, and agency accounts. Miss Brown is also a present or past trustee of the Cape Ann Historical Association, the New England Peabody Home for Crippled Children, Kieve Affective Education, Inc., and St. Luke's Home for Convalescents.

The Boston Co., Inc., a holding company whose subsidiaries are engaged in providing resource management services, owns more than 99 percent of the stock of Boston Safe. The Boston Co. Financial Strategies, Inc. ("Strategies"), which is registered under the Investment Advisers Act of 1940, is a wholly owned subsidiary of The Boston Co., Inc., and provides financial planning an asset management services for its clients. Strategies has a subsidiary, The Boston Co. Investment Creation, Inc. ("TBCIC"), which is a registered broker-dealer under the Securities Exchange Act of 1934 (the "Exchange Act") and is involved exclusively in the structuring and sale of oil and gas programs and other special situation nonmarketable securities.

The application states that while there is a statutory presumption in section 2(a)(9) of the Act that a natural person is not a controlled person, that presumption may be rebutted by evidence and a contrary determination made by Commission order, and an officer of one subsidiary may be determined to be under common control with another subsidiary. The application further states that under such interpretation, Miss Brown could be determined to be under common control with TBCIC, since both TBCIC and Boston Safe are subsidiaries of The Boston Co., Inc. Section 2(a)(3) of the Act includes in the definition of "affiliated person" any person directly or indirectly controlling, controlled by, or under common control with such other person. Sections 2(a)(19) (A)(V) and (B)(V) of the Act define an " interested person" of an investment company and of an investment adviser of any investment company to include any broker or dealer registered under the Exchange Act or any affiliated person of such broker or dealer. The application states that if Miss Brown were considered to be under common control with TBCIC, she would be an affiliated person of TBCIC under section 2(a)(3) of the Act, and hence, an interested person of the Fund and its investment adviser, Adams, Harkness & Hill, Inc., under sections 2(a)(19) (A)(V) and (B)(V) of the Act. The Fund asserts that while it does not necessarily agree with such an interpretation, the Fund has deemed it advisable to clarify the status of Miss Brown by applying for the exercise of the Commission's exemptive power under section 6(c) of the Act.

The Fund states that the relationship of Miss Brown with Boston Safe and Boston Safe's relationship with The Boston Co., Inc., Strategies, and TBCIC will not impair Miss Brown's independence in acting as a Trustee of the Fund. The application states that Miss Brown is not an officer or director of The Boston Co., Strategies, or TBCIC and therefore has no authority or responsibility for management of the operations of TBCIC.

The application states that because of the special nature of the type of investments with which TBCIC is presently involved, the Fund cannot legally purchase or sell such investments from or through TBCIC because of restrictions adopted by the Fund which require it to invest only in municipal securities and certain types of other short-term taxable instruments. Moreover, the Fund has undertaken in its application not to transact any business with TBCIC if TBCIC becomes involved with a type of security in which the Fund may legally invest.

In its application the Fund states its belief that Miss Brown is a person of recognized integrity, judgment, independence, and competence in the investment company industry. The Fund further asserts that Miss Brown is in fact a disinterested Trustee, and that it is in the best interests of the Fund that she be permitted to serve the Fund as a disinterested Trustee.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 7, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29838 Filed 10-23-78; 8:45 am]

[8010-01-M]

[Release No. 34-15228; File No. SR-Amex-78-24]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended, by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 25, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission, a rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF PROPOSED RULE CHANGE

The American Stock Exchange, Inc. ("Amex"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act"), hereby proposes to amend its policies relating to the expiration cycle on which certain option classes would be placed. The text of the proposed rule change is set forth below (brackets indicate deletions; italics indicate new material):

The Amex proposes to transfer ten (10) option classes from the January, April, July, October expiration cycle to the March, June, September, and December expiration cycle. Such a transfer would then result in 29 option classes traded on the January cycle, 24 option classes on the February, May, August, November cycle, and 11 option classes traded on the March cycle.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed amendment is to permit more even distribution of member firm operational tasks among expiration cycles. At present, 39 of the Exchange's 64 option classes expire on the January cycle, while

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only one (1) option class expires on the March cycle. In addition, those January cycle classes have typically accounted for about 60 percent of the Exchange's contract volume. Further, it has been noted that contract volume tends to increase with the approach of the last day of trading in an expiration cycle, particularly the January cycle. The Exchange proposes to transfer ten (10) option classes from the January cycle to the March cycle in order to ease some of the workload of member firms' by distributing the volume more evenly throughout the year.

The transition would be expected initially upon the expiration of the October series in the ten (10) option classes through the introduction of June 1979, expiration cycles, instead of July expiration cycles for the subject option classes. Thereafter, upon the expiration of those ten (10) option classes in January 1979, and April 1979, the Exchange will introduce September 1979, and December 1979, expiration cycles, respectively, for the ten (10) option classes. This will result in the initiation of trading in each of the new June, September, and December expiration cycles approximately eight (8) months prior to their respective expiration dates.

It should be noted that all of the ten (10) option classes subject to this proposed transfer to the new March expiration cycle are presently traded exclusively on the Exchange. Therefore, this proposed transfer will not result in the commencement of multiple exchange trading of option classes on different expiration cycles, but rather merely the continuation of the exclusive trading of such options classes on this Exchange in a different expiration cycle.

This proposal is consistent with sections 6(b)(5) and 17A(a)(1)(A) of the act for it will facilitate the clearance and settlement of options transactions, and reduce periodic pressures upon the operational capabilities of member firms. This will operate to protect and benefit investors and the public interest.

The proposed rule amendment was considered and approved by the options committee of the Amex, which is composed of Amex members and representatives of Amex member organizations.

The Exchange does not believe this proposal will impose any burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by November 14, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 12, 1978.

[FR Doc. 78-29839 Filed 10-23-78; 8:45 am]

[1505-01-M]

[Release No. 15188; SR-OCC-78-1]

OPTIONS CLEARING CORP. ("OCC")

Order Approving Proposed Rule Change; Withdrawal of Previously Published Document

The text of Release No. 15188; SR-OCC-78-1 appearing on page 46093 in the FEDERAL REGISTER of Thursday, october 5, 1978, was published incorrectly; therefore, FR Doc. 78-28207 is withdrawn in its entirety.

[8010-01-M]

[Release No. 15189; SR-OCC-78-2]

OPTIONS CLEARING CORP.

Order Approving Proposed Rule Change

SEPTEMBER 25, 1978.

On May 15, 1978, OCC filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change revising the formula used to determine the variable portion of clearing members' clearing fund contributions. Currently, that calculation is based on a clearing member's open interest, that is, the number of option contracts held in short positions. OCC proposes to change the basis of the calculation to the value of the clearing member's open interest.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14801, May 25, 1978) and by publication in the FEDERAL REGISTER (43 FR 24157, June 2, 1978). No written comments were received by the Commission. By letter dated July 18, 1978, OCC submitted the results of a test which, among other things, determined the effect of the proposed clearing fund formula on the size of the OCC clearing fund.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29836 Filed 10-23-78; 8:45 am]

[8010-01-M]

[Release No. 15188; SR-OCC-78-1]

OPTIONS CLEARING CORP. ("OCC")

Order Approving Proposed Rule Change

SEPTEMBER 25, 1978.

On May 15, 1978, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which increased the margin requirements for certain low-priced, volatile, spot month options. Specifically, the proposal prescribes minimum marking prices for short positions in such options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14798, May 24, 1978) and by publication in the FEDERAL REGISTER (43 FR 23775, June 1, 1978). No written comments were received by the Commission. By letter dated July 18, 1978, OCC submitted the results of a test which, among other things, determined the effect of the proposal on clearing members' margin obligations.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29835 Filed 10-23-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5149]

MIAMI CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On July 27, 1978, a notice was published in the FEDERAL REGISTER (43 FR 32487) stating that Miami Capital Corp. located at 801 Dade Federal Building, 101 East Flagler Street, Miami, Fla. 33131, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business August 11, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04-5149 to Miami Capital Corp. on October 6, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 16, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29861 Filed 10-23-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1259; Amdt. No. 1]

NEW YORK

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 FR 29233), is amended by changing the incidence period to June 30, 1976, through July 1, 1976, and extending the filing date for physical damage until the close of business on December 15, 1978, and for economic injury until the close of business on July 17, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 17, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-29864 Filed 10-22-78; 8:45 am]

[8025-01-M]

REGION V ADVISORY COUNCIL

Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, Ind., will hold a public meeting at 10:30 a.m. e.s.t., on Wednesday, November 15, 1978, in the Midtown Ramada, 1530 North Meridian Street, Indianapolis, Ind., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call William F. Miller, District Director, U.S. Small Business Administration, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind. 46204, 317-331-7275.

Dated: October 18, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-29863 Filed 10-23-78 8:45 am]

[8025-01-M]

[License No. 03/03-0138]

TDH CAPITAL CORP.

Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to § 107.102 of the Regulations (13 CFR 107.102 (1978)), under the name of TDH Capital Corp., 2 Radnor Center, Radnor, Pa. 19082, for a license to operate in the Commonwealth of Pennsylvania as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers/directors and major stockholders are as follows:

J. Mahlon Buck, Jr.*, President, Director, 121 Rose Lane, Haverford, Pa. 19041.
William C. Buck,* Vice President, Assistant Treasurer, Director, 274 Hothorte Lane, Villanova, Pa. 19085.
Alexander K. Buck,* Vice President, Assistant Secretary, Director, 4535 Province Line Road, Princeton, N.J. 08540.
Philip C. Herr,** Secretary, Treasurer, Director, 1701 Arch Street, Philadelphia, Pa. 19103.
John A. Hagy, Director, 1105 Stackhouse Mill Road, Newton Square, Pa. 19073.
TDH, Inc.—100 percent.

*Each owns approximately one-third of TDH, Inc.
**Owns less than 2 percent of TDH, Inc.

The Applicant will begin operations with a capitalization of $4,600,000, which will be a source of long-term loans and venture capital for diversified small business concerns. In addition to financial assistance, the Applicant intends to render management assistance to small business concerns through its investment adviser, K. S. Sweet Associates.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and investment adviser, including adequate profitability and financial soundness in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than November 8, 1978, submit written comments on the proposed company to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Radnor, Pa.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.

Dated: October 16, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29862 Filed 10-23-78; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The Working Group on Standards of Training and Watchkeeping of the Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on Wednesday, November 8, 1978 in Room 8334 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting will be to discuss the future work program of the Subcommittee on Standards of Training and Watchkeeping.

Requests for further information should be directed to Capt. D. E. Hand, U.S. Coast Guard (G—MVP/82), Washington, D.C. 20590. He may

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be reached by telephone at 202-426-1500.

The Chairman will entertain comments from the public as time permits.

JOHN LLOYD III,
Acting Director,
Office of Maritime Affairs.

OCTOBER 12, 1978.

[FR Doc. 78-29867 Filed 10-23-78; 8:45 am]

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

TRAFFIC SAFETY IN HIGHWAY AND STREET WORK ZONES

Meeting

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) will hold a public meeting on November 7, 1978, to discuss the status of ongoing agency activities relating to safety in construction and maintenance work zones. Interested individuals and groups are invited to attend and participate in the discussion.

DATE: November 7, 1978.

TIME: 9:30 a.m.

PLACE: FAA Auditorium, Room 310, U.S. Department of Transportation, Federal Office Building 10A, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Jim Daves, Contract Administration and Safety Branch, Office of Highway Operations, 202-426-4848, or Stan Abramson, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: For the third consecutive year the Federal Highway Administration (FHWA) has designated traffic safety in construction and maintenance work zones an area for national emphasis. Although much has been accomplished during the first 2 years, field reviews conducted by FHWA, the General Accounting Office (GAO) and public interest groups demonstrate a need for further improvement. Accordingly, FHWA has adopted a positive action plant to assure this improvement.

Elements of the plant to be covered at the meeting include the recently issued FHWA regulation on traffic safety in highway and street work zones (23 CFR Part 630, Subpart J), guidelines issued to FHWA field offices in this area, and development of a handbook to supplement Part VI of the Manual on Uniform Traffic Control Devices. Additional activities which may be discussed include training in proper traffic control techniques sponsored by FHWA's National Highway Institute and FHWA—sponsored research on traffic control devices for use in construction zones.

All interested individuals and groups are invited to attend. Following presentations by FHWA officials, an opportunity will be provided for the public to participate in the discussion of the foregoing activities.

Issued on: October 13, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-29894 Filed 10-23-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

DISCUSSION OF U.S.A.-CANADA TAX TREATY ISSUES

Announcement of Public Meeting

The Treasury Department today announces that it will hold a public meeting on December 13, 1978, to solicit the views of interested persons regarding issues being considered during negotiations to develop a new income tax treaty between the United States and Canada.

The public meeting will be held at the Treasury Department, at 2 p.m. Persons interested in attending are requested to give notice in writing by December 4, 1978, of their intention to attend. The room in which the meeting will be held will be announced after that date. Notices should be addressed to H. David Rosenbloom, International Tax Counsel, Department of the Treasury, Washington, D.C. 20220.

Today's announcement of the December public meeting follows the recent conclusion of a further round of negotiations between representatives of the United States and Canada to develop a new income tax treaty for the avoidance of double taxation and the prevention of tax evasion. The new treaty would replace the income tax treaty presently in effect, which was signed in 1942.

In the course of the recent negotiations, many subjects of mutual concern were identified and discussed. Among the major issues being considered are: The taxation of business income and income from personal services; the taxation of dividends, interest, and royalties; the taxation of income from various forms of transportation; the taxation of capital gains, pensions, annuities, and income from the performance of government services; the treatment of the income of exempt organizations and contributions thereto; the allowance of foreign tax credits, particularly with respect to U.S. citizens resident in Canada; and nondiscrimination.

The Treasury seeks the views of interested persons in regard to these issues, as well as other matters that may have relevance in the context of an income tax treaty between the United States and Canada. The December 13 public meeting is being held to provide an opportunity for an exchange of views, as well as for the purpose of discussing the United States position in regard to the issues presented in the negotiations.

Dated: October 18, 1978.

DONALD C. LUBICK,
Assistant Secretary,
Tax Policy.

[FR Doc. 78-29917 Filed 10-23-78; 8:45 am]

[4810-25-M]

[General Counsel Order No. 1 (rev.)]

LEGAL DIVISION

Organization and Functions

Correction

In FR Doc. 78-29003, appearing at page 47343 in the issue for Friday, October 13, 1978, the following changes are made in paragraphs 3 and 5: Reference to "Assistant General Counsel—Tax Legislative Counsel" should be "Tax Legislative Counsel."

Dated: October 18, 1978.

HENRY C. STOCKELL, Jr.,
Deputy General Counsel.

[FR Doc. 78-29916 Filed 10-23-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Decided: September 22, 1978.

Wales Transportation, Inc. (MC 83335 and numerous subs) and J. J. Willis Trucking Co. (MC 107993 and numerous subs), under common control have filed a petition for waiver of paragraph (a)(3) of § 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

Findings: (1) The petitioners have an effective, jointly administered safety program, and (2) The petitioners will be able to operate more efficiently and economically if permitted to trip lease.

It is ordered: Waiver of paragraphs (a)(3) is granted, provided petitioners remain in compliance with the motor carrier safety regulations of the U.S. Department of Transportation and under common control.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29955 Filed 10-23-78; 8:45 am]

[7035-01-M]

[No. MC-C-3437 (Sub-No. 7)]

PETITION TO AMEND INTERPRETATION OF OPERATING RIGHTS AUTHORIZING SERVICE AT DESIGNATED AIRPORTS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of petition seeking institution of rulemaking.

PETITIONER'S REPRESENTATIVE: Gerald K. Gimmel, 4 Professional Drive, Gaithersburg, Md. 20760.

SUMMARY: By petition filed October 3, 1978, Pinto Trucking Service, Inc., a motor common carrier specializing in the transportation of air freight between airports, seeks the institution of a rulemaking to amend the Commission's regulations to permit motor carriers with authority to serve specific airports to serve also any point within the air terminal areas of those airports.

DATES: Comments are due on or before December 8, 1978. An original and 11 copies (where possible) shall be filed with Commission.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTAL INFORMATION: Petitioner points out that in recent years the transportation of freight by air has undergone significant changes. With the increasing use of larger cargo-only aircraft, compatible rollerbed van equipment, and aircraft cargo bays to accommodate larger and sturdier containers, and the development of a "hub" and "feeder" airport system, motor transportation of airfreight has become a specialized and highly sophisticated service, no longer merely an adjunct to air passenger service.

Under current Commission regulations an air freight motor carrier holding authority to perform line-haul operations between specific airports may perform that service only to and from the airports themselves or the particular air freight terminals utilized by the air carriers in connection with the movement of air freight to or from the particular airports. Airport to airport authority does not now permit air freight to be transported by motor carrier directly from one airport to the ultimate consignee in the terminal area of the second airport. Instead, the line-haul carrier must deliver the freight to the involved air carrier at the second airport or its freight terminal. From that point a local carrier, operating within the exempt air terminal zone pursuant to section 203(b)(7a) of the Interstate Commerce Act and the Commission's regulations at 49 CFR 1047.40(a), makes final delivery.

Petitioner contends that the air terminal exempt zone is analagous to the commercial zone of a municipality in that it represents the territorial limits of the community depending on the airport for its transportation needs. Accordingly, it asserts that the implied authority concept permitting a line-haul carrier serving a municipality to serve all points within its commercial zone is equally applicable to and should be extended to the air terminal zone.

Petitioner states that motor carriers with the capability of transporting containerized air traffic are a major link between the "hub" and "feeder" airports throughout the United States. It believes that their service can be more responsive to the needs of the public for expedited service by being able to perform direct pickups and delivery. Petitioner avers that the relief sought is in the public interest because it would assertedly (1) encourage the development of intermodal land-air transportation in a manner contemplated by the National Transportation Policy, and (2) benefit the public directly by reducing circuitous mileage, conserving fuel, reducing transportation costs, and increasing the efficiency of air freight delivery.

SPECIFIC PROPOSAL

Petitioner proposes that the regulation at 49 CFR 1041.22(a) be amended to read as follows:

A certificate or permit issued to a motor carrier or property pursuant to Part II of the Interstate Commerce Act (49 U.S.C. 301 et. seq.) authorizing service at a named airport shall be construed as authorizing service in the transportation of freight having prior or subsequent movement by air at all points or places located within the air terminal area (as described in § 1047.40 of this chapter) of the airport authorized to be served by the motor carrier.

Petitioner states that the intended purpose of the proposed amendment is to have authority to serve an airport include implied authority to serve all points within the air terminal area of that airport.

Oral hearings do not appear necessary at this time and none is contemplated. Anyone wishing to present its views and evidence, either in support of, or in opposition to, this proposal is invited to submit written data, views, or arguments.

Written materials submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, D.C., during regular business hours.

Notice of this matter will be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29967 Filed 10-23-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28861]

SOUTHERN RAILWAY CO. AND CONSOLIDATED RAIL CORP.

Joint Use Between Mt. Carmel, Wabash County, Ill., and Skelton, Gibson County, Ind.

Southern Railway Co. (Southern), P.O. Box 1808, 920 15th Street NW., Washington, D.C. 20005, represented by Nancy S. Fleischman, P.O. Box 1808, Washington, D.C. 20013 and Consolidated Rail Corp. (ConRail), Six Penn Center Plaza, Philadelphia, Pa. 19104, represented by Charles E. Mechem, Six Penn Center Plaza, Philadelphia, Pa. 19104 hereby give notice that on the 25th day of September 1978, they filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for a decision approving and authorizing the joint use by Southern Railway Co. and Consolidated Rail Corp. of 4.46 miles of railroad line between Mt. Carmel in Wabash County, Ill. (MP 127.4), and Skelton in Gibson County, Ind. (MP 132.0).

ConRail now owns and operates the line, and Southern also operates over it. The application seeks authority for ConRail to sell the line to Southern and for both Southern and ConRail to continue to operate over the line. The purpose of the transaction is to permit Southern to gain control of maintenance on the line so that it may rehabilitate to Southern's standards a de-

teriorating bridge across the Wabash River. No effect upon service to the public or upon employees will result.

In the opinion of the applicants, the

two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date

sunshine act meetings

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teriorating bridge across the Wabash River. No effect upon service to the public or upon employees will result.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28861 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-29954 Filed 10-23-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contoins notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 27, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2128-78 Filed 10-20-78; 11:50 am]

[6712-01-M]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—TAT-7 reconsideration (Dkt. 18875).
Common Carrier—2—Authorization to construct an earth station at Lake Placid, N.Y., for the 1980 Olympic Games.
Common Carrier—3—Modification of depreciation rates for C. & P. of Virginia and New England Telephone Co.
Common Carrier—4—Briefing on unsolicited phone call inquiry.
Common Carrier—5—Section 214 applications filed by United Video, et al., to lease satellite transponders from RCA Americom.
Common Carrier (See Public Notice No. 8519)—6—Assignment and transfer of radio authorizations in various services from American Television and Communications Corporation to Time Television and Communications, Inc.
Cable Television (See Public Notice No. 8519)—1—Transfer of control of two cable television relay service stations from American Television and Communications Corp. to the Industrial National Bank of Rhode Island (trustee).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this matter may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 20, 1978.

[S-2133-78 Filed 10-20-78; 3:12 pm]

[6720-01-M]

3

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 29, 1978, volume 43, No. 204, page 49107.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 25, 1978.

PLACE: 1700 G Street NW., 6th floor.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Frank Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following items have been added to the open portion of the meeting:

Consideration of regulations partially implementing the Financial Institutions Regulatory and Interest Rate Control Act of 1978: 1. NOW Accounts; and, 2. Keogh/IRA Account Insurance.

RONALD A. SNIDER,
Assistant Secretary.

[S-2136-78 Filed 10-20-78; 3:12 pm]

[6210-01-M]

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to Federal Register on October 18, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 25, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposed revisions in the Condition and Income Reports required of Edge corporations and the foreign branches and foreign subsidiaries of U.S. commerial banks.

This matter will be rescheduled at a later time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 19, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-2131-78 Filed 10-20-78; 11:50 am]

[6210-01-M]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, October 27, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve system employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board 202-452-3204.

V 4

Dated: October 19, 1978.

GRIFFITH H. GARWOOD,
Deputy Secretary of the Board.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 48814, October 19, 1978.

MATTERS FOR ACTION:

OLD BUSINESS

TUESDAY, OCTOBER 24, 1978
PART II

V 43 / 206 OC 24 78

Dated: October 19, 1978.

GRIFFITH H. GARWOOD,
Deputy Secretary of the Board.

[S-2132-78 Filed 10-20-78; 10:50 am]

[6750-01-M]

6

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, October 17, 1978, page No. 47811.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, October 20, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted the item from the agenda of its previously announced open meeting of October 20, 1978, 10 a.m. Because this was the only item scheduled, the meeting has been canceled.

[S-2129-78 Filed 10-20-78; 11:50 am]

[6750-01-M]

7

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, October 26, 1978.

PLACE: Room 532 (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public:

(1) Oral agrument in Pillsbury Co., et al., Docket No. 9091.

Portions closed to the public:

(2) Executive Session to discuss oral argument in Pillsbury Co., et al., Docket No. 9091.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2130-78 Filed 10-20-78; 11:50 am]

[7020-02-M]

8

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 48814, October 19, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, October 24, 1978.

CHANGES IN THE MEETING: The briefing noticed under agenda item No. 5 [Motorcycles from Japan (Inv. AA1921-187)— briefing] previously announced as open to the public, was closed to the public by a vote of a majority of the entire membership of the Commission.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2135-78 Filed 10-20-78; 3:12 pm]

[7600-01-M]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., November 3, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Neva Hayslett, 202-634-4015.

Dated: October 20, 1978.

[S-2134-78 Filed 10-20-78; 3:12 pm]

[8120-01-M]

10

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, October 26, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR DISCUSSION: Norris Energy Demonstration—City of Norris will present proposal that TVA work with city to demonstrate new concepts in energy conservation and use and innovative land-use planning techniques to foster quality community development.

MATTERS FOR ACTION:

OLD BUSINESS

No. 1. Action on bids received in response to Invitation No. 553593 for indefinite quantity term contract for electrical terminals, connectors, lugs, tools, and accessories for Hartsville Nuclear Plant.

NEW BUSINESS

Purchase awards

1. Req. No. 572845—Idefinite quantity term contract for metal culvert pipe for any TVA project or warehouse.
2. Req. No. 824262—Furnish all necessary labor, tools, equipment and materials and construct office building for Division of Forestry, Fisheries, and Wildlife Development at Norris, Tenn.
3. Req. No. 824100—Diesel generator fuel tanks for Hartsville and Phipps Bend Nuclear Plants.
4. Amendment to Contract 78T3-540503—Indefinite quantity term contract for computer and related services for Computing Services Branch.
5. Req. No. 824717—Type PXJ insulated conductors for Bellefonte Nuclear Plant.
6. Rejection of bids received in response to Invitation No. 108149 for galvanized structural tower steel for various transmission lines.
7. Req. No. 577555—IQT contract for complete line of new tires and tubes for any TVA project or warehouse.

Power items

1. Consolidation of funding authorization in connection with uranium exploration properties leased to TVA, located in Grand and Emery Counties, Utah.
2. Letter agreement with Central Electric Power Association covering change in arrangements for power supply to cooperative's proposed Lake, Mississippi Substation.
3. Letter agreement with Marshall-DeKalb Electric Cooperative covering arrangements for provision by distributor of a 46-13-kV substation near Horton, Ala.

Real property transactions

1. Filing of condemnation suits.
2. Grant of 19-year lease to Sevier County, Tenn., for public recreation affecting 286.5 acres of Douglas Reservoir land—tract XTDR-17L.
3. Grant of 30-year public recreation easement to Marshall County, Ala., Park and Recreation Board affecting 51.4 acres of Guntersville Reservoir land—tract XTGR-97RE.
4. Sale of 4.1 acres of phosphate land in Maury County, Tenn., at public auction—tract XPS-21.

Dated: October 19, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-2127-78 Filed 10-20-78; 11:05 am]

federal register

TUESDAY, OCTOBER 24, 1978
PART II

DEPARTMENT OF ENERGY

PROPERTY MANAGEMENT

Proposed Regulations

V43/206 OC 24 78

[3128-01-M]

DEPARTMENT OF ENERGY

[41 CFR Ch. 109]

PROPERTY MANAGEMENT

Proposed Regulations

AGENCY: Department of Energy.

ACTION: Proposed regulations.

SUMMARY: The Department of Energy (DOE) was established by the Department of Energy Organization Act (Pub. L. 95-91), which was made effective October 1, 1977, by Executive Order 12009, dated September 13, 1977 (42 FR 46267, Sept. 15, 1977). The Act consolidated in DOE various energy functions previously performed by several Federal agencies, so that Federal energy policy and programs would be effectively coordinated and administered. The Act transfers to, and vests in DOE the functions of the former Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission (now an independent collegial body within DOE called the Federal Energy Regulatory Commission), and certain functions previously performed by the Interstate Commerce Commission, the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, and the Department of Commerce. Under the Department of Energy Organization Act, each of the agencies or parts of agencies that became part of the DOE on October 1, 1977, has authority to continue to follow its formerly applicable policies and regulations until such policies and regulations are modified, superseded, or terminated. DOE is now proposing consolidated property management regulations that will bring each of the Department's constituent organizations under the umbrella of a single, uniform regulatory system.

DATE: Comments must be received on or before November 24, 1978.

ADDRESS: Comments should be addressed to the Department of Energy, Office of Public Hearing Management, Room 2313, Box VS, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis Roche, Chief, Property and Equipment Management Branch, Procurement and Contracts Management Directorate, Room C-167, Washington, D.C. 20545, telephone 301-353-3703.

SUPPLEMENTARY INFORMATION: The Department of Energy Property Management Regulations (DOE-PMR's) are published as proposed regulations in this issuance of the FEDERAL REGISTER in accordance with the requirement of title V, Department of Energy Organization Act (Pub. L. 95-91) and the Administrative Procedure Act, as amended (5 U.S.C. 551 et. seq.). Under section 644 of the Department of Energy Organization Act, the Secretary of the Department is authorized to prescribe such procedural and administrative rules and regulations as he may determine necessary or appropriate to administer and manage the functions now or hereinafter vested in him.

In addition to the requirement for publication of the Property Management Regulations in the FEDERAL REGISTER, title V also provides that if the Secretary determines that a substantial issue of fact or law exists or that the regulations are likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided. For reasons set forth below, our preliminary view is that the proposed DOE-PMR's do not involve substantial issues of fact or law and that the regulations are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, at this time, we do not propose to hold public hearings on the DOE-PMR's.

The preliminary view that public hearings are not required is based on the fact that the proposed DOE-PMR's primarily implement and supplement the Federal Property Management Regulations issued by the General Services Administration, which are published in the FEDERAL REGISTER and commented on by interested persons. Additionally, the proposed regulations are applicable only to Department of Energy direct Government operations and to operating and onsite service contractors under contract to the Department of Energy.

Interested persons are invited to participate by submitting data or views with respect to the DOE-PNR's. Comments should be identified on the outside envelope and on documents submitted with a designation "Proposed DOE-PMR's." Ten copies should be submitted. All comments will be available for public inspection at the Department of Energy Freedom of Information Reading Room, 2017 12th and Pennsylvania Avenue NW., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays.

All written comments received will be carefully assessed and fully considered prior to publication of the DOE-PMR's as final regulations. A final determination of whether there should be an opportunity for the presentation of oral views will be made after an evaluation of the written comments on the DOE-PMR's themselves, and consideration of the views of those requesting an opportunity for oral presentations.

NOTE.—The Department of Energy has determined these proposed regulations to be nonsignificant since they implement and supplement the Federal Property Management Regulations issued by the General Services Administration and provide necessary internal guidance and management controls to comply with these regulations. Substantial public comment is not anticipated. The Department has also determined, since these proposed regulations are essentially being followed currently by the majority of Department of Energy activities, they will not result in impacts greater than $100 million per year and a regulatory analysis under Executive Order 12044 is not required.

Dated: October 16, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

It is proposed to revise the title of chapter 109 in title 41 to read "Department of Energy."

It is proposed to change chapter 109 as follows:

Subchapter A: Revised.
Subchapter B: Reserved.
Subchapter C: New.
Subchapter D: Reserved.
Subchapter E: New.
Subchapter F: No change.
Subchapter G: New part 109-38 and 109-39 are added.
Subchapter H: New.
Subchapter I: Reserved.
Subchapter J: New.

The proposed changes to chapter 109 are set forth below.

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AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

SUBCHAPTER A—GENERAL

PART 109-1—INTRODUCTION

Subpart 109-1.1—Regulation System

§ 109-1.100 Scope of subpart.

This subpart establishes a system and describes procedures for promulgating Department of Energy Property Management Regulations (DOE-PMR) 41 CFR Chapter 109, within the Federal Property Management Regulations system (FPMR), 41 CFR Chapter 101, as established by the General Services Administration (GSA). These regulations implement and supplement the FPMR's governing the acquisition, utilization, management, and disposition of personal property.

§ 109-1.100-50 Definitions.

As used in these regulations the following definitions apply:

(a) "Heads of field offices" are the heads of any officially established departmental office located outside the Washington, D.C. metropolitan area.

(b) "Direct operations" means operations conducted by DOE personnel.

(c) Operating and onsite service contractors:

(1) Operating contractors are those which—

(i) Manage Government-owned laboratories, production plants, and research facilities located on Government-owned or -leased sites, where the programs being conducted are considered of a long-term, continuing nature;

(ii) Operate Government-owned facilities located on contractor-owned or -leased sites where the programs being conducted are of a long-term, continuing nature. An example of this category would be those contracts with universities for the operation of Government-owned laboratories and facilities, located on university-owned sites, for the purpose of conducting long-term basic research programs; or

(iii) Are designated by the senior procurement official, Headquarters, or the head of a procuring activity to be subject to the provisions of these regulations. An example would be a major cost-reimbursement contract for construction on a Government-owned or -leased site.

(2) Onsite service contracts are those cost-reimbursement type contracts for the performance of services of a continuing nature for DOE at Government-owned or -leased sites.

(3) Single purpose contracts for the operation of process developmental units, pilot plants, and demonstration plants where the purpose is to demonstrate the viability of processes toward the goal of commercialization are not considered, unless designated, operating contracts in accordance with § 109-1.100-50(c)(1)(iii) for the purpose of this section.

(d) "Contractor" means operating or onsite service contractor or as designated in accordance with with § 190-1.100-50(c)(1)(iii).

§ 109-1.103-50 DOE-PMR temporary regulations.

(a) The Department of Energy Property Management Regulations system includes a temporary-type issuance which will be used when—

(1) The regulation will remain in effect for a specific temporary period of time or is for one-time application; or

(2) Time will not permit preparation and publication of the regulations in final codified form.

(b) As a general rule, temporary-type regulations having continuing application will be converted to permanent form within 180 days after publication.

§ 109-1.104 Publication and distribution of DOE-PMR.

§ 109-1.104-1 Publication.

The DOE-PMR will be published in the FEDERAL REGISTER and will appear in the Code of Federal Regulations as chapter 109 of Title 41, Public Contracts and Property Management. Loose- leaf publications will be distributed to DOE offices.

§ 109-1.104-2 Distribution.

The responsibilities and authorities for distribution of publications in the FPMR series are as follows:

(a) The Director of Procurement and Contracts Management—

(1) Designates an official to serve as liaison with GSA;

(2) Establishes and maintains distribution patterns; and

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(3) Processes DOE-PMR Handbooks for final approval and publication.

(b) The Director of Administration—

lation as implemented and supplemented from time to time;

(2) To the extent practicable, follow

program objectives, and prescribes authorities and responsibilities of heads of Headquarters organizations, and

tions as: (1) Making special surveys and studies of practices and proce-

(c) Arrange with contractors to establish effective administrative proce-

§ 109-1.5005 Review of contractors' procedures and practices.

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(3) Processes DOE-PMR Handbooks for final approval and publication.

(b) The Director of Administration—

(1) Distributes publications in accordance with established distribution patterns; and

(2) Provides additional support services as required.

(c) Heads of field offices—

(1) Provide Director of Procurement and Contracts Management, as necessary, with field office and contractor requirements;

(2) Forward one-time requests for additional copies of specific centrally distributed publications to the Office of Administrative Services, Headquarters (AD-473); and

(3) Distribute publications in accordance with established distribution patterns.

§ 109-1.105 Authority for DOE-PMR.

The DOE-PMR's are prescribed by the Secretary or his designee and the head of any DOE Headquarters organization having functional responsibility for the Regulations being prescribed, pursuant to the authority of the Department of Energy Organization Act of 1977, (42 U.S.C. 7101 et seq.), the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.), and FPMR 101-1.108.

§ 109-1.106 Applicability.

(a) The FPMR and this DOE-PMR apply to all direct operations.

(b) Unless otherwise provided in the appropriate part or subpart, contracting officers shall assure that the FPMR and DOE-PMR are applied to operating and onsite service contractors. The FPMR and DOE-P MR shall be used by contracting officers in their review, approval, administration or appraisal of such contractor operations.

§ 109-1.107 Consultation regarding DOE-PMR.

DOE-PMR's shall be fully coordinated with all departmental elements substantively concerned with the subject matter.

§ 109-1.108 Agency implementation and supplementation of FPMR.

(a) The DOE-PMR's shall include regulations deemed necessary to understand basic and significant departmental property management policies and procedures which implement, supplement, or deviate from the FPMR.

(b) Implementing procedures, instructions, and guides which are necessary to clarify or to implement the DOE-PMR may be issued by Headquarters or field organizations, providing the implementing procedures, instructions and guides—

(1) Are consistent with the policies and procedures contained in this regulation as implemented and supplemented from time to time;

(2) To the extent practicable, follow the format, arrangement, and numbering system of this regulation; and

(3) Contain no material which duplicated, paraphrases, or is inconsistent with the contents of this regulation.

§ 109-1.109 Numbering of DOE-PMR.

(a) Where the DOE-PMR's implement the FPMR, the implementing part, subpart, section or subsection of the DOE-PMR will be numbered and captioned, to the extent possible, to correspond to the part, subpart, section, or subsection of the FPMR.

(b) Where the DOE-PMR's supplement the FPMR, the numbers 50 and up will be assigned to the parts, subparts, sections or subsections involved.

(c) Where the subject matter contained in a part, subpart, section, or subsection of the FPMR requires no implementation, the DOE-PMR will contain no corresponding part, subpart, section, or subsection number and the subject matter as published in the FPMR governs within the meaning of § 109-1.106.

§ 109-1.110 Deviation.

§ 109-1.110-2 Procedure.

(a) In individual cases, deviations from the FPMR and DOE-PMR may be authorized by the head of the Headquarters organization having functional responsibility. A supporting statement for each individual deviation, which indicates briefly the nature of the deviation, the reasons for such special action, and the Headquarters approval, shall be maintained by the Headquarters organization concerned.

(b) In classes of cases, requests for deviations from the FPMR and the DOE-PMR shall be forwarded to the head of the Headquarters organization having functional responsibility, and shall be accompanied by a supporting statement. Requests shall be considered on an expedited basis and coordination with Headquarters organizations will be obtained as appropriate. Requests involving the FPMR will be considered jointly by DOE and GSA, unless, in the judgment of the Headquarters organization having functional responsibility, circumstances preclude such joint effort. In such case, the organization having functional responsibility will approve such class deviations as determined to be necessary and notify GSA.

Subpart 109-1.50—Personal Property and Supply Management Program

§ 109-1.5000 Scope of subpart.

This subpart supplements the FPMR, states DOE personal property and supply management policy and program objectives, and prescribes authorities and responsibilities of heads of Headquarters organizations, and heads of field offices exercising property management functions.

§ 109-1.5001 Policy.

It is DOE policy that a program for the management of Government personal property (sometimes referred to as personal property or as property) shall be established and maintained to meet program needs economically and efficiently and in accordance with applicable Federal statutes and Federal agency regulations.

§ 109-1.5002 Property and supply management program objectives.

The objectives of the DOE Property and Supply Management Program are to provide—

(a) A system for managing Government personal property in the custody or possession of DOE and its contractors; and

(b) Uniform principles, policies, standards, and procedures for economical and efficient management of Government personal property that are sufficiently broad in scope and flexible in nature to facilitate adaptation to local needs and various kinds of operations.

§ 109-1.5003 Definitions.

AS used in these regulations, the following definitions apply:

(a) "Government personal property"—

(1) Is property which is Government-owned or -rented or -leased from commercial sources in the custody of DOE or its contractors; and

(2) Is property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual Part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and by-product materials as defined in section II of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

(b) "Personal property and supply management" means the implementation, development and administration of policies, programs and procedures for effective and economical receipt, storage, issue, use, control, physical protection, care and maintenance, disposal, determination of requirements and maintenance of related operating records, as appropriate, for Government personal property exclusive of the accounting records. It includes such established management functions as: (1) Making special surveys and studies of practices and procedures and regular staff reviews and analyses of property requirements in budget estimates, financial plans, and reports, (2) furnishing staff assistance and guidance to DOE and contractor counterparts (3) assuring the maintenance of pertinent costs at reasonable levels, and (4) conducting periodic appraisals of performance.

§ 109-1.5004 Responsibilities and authorities.

§ 109-1.5004-1 The Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and maintains departmental personal property policies, standards and procedures;

(b) Develops and publishes departmental regulations relating to personal property and supply management;

(c) Represents the Department with GSA and other agencies on matters relating to personal property and supply management;

(d) Submits departmental personal property and supply management reports to GSA, the Congress and other Federal agencies;

(e) Provides staff assistance to departmental organizations performing personal property and supply management functions;

(f) Conducts reviews and appraisals of departmental personal property and supply management functions;

(g) Prepares the departmental aircraft and motor vehicle budget; and

(h) Reviews and provides staff evaluation and support of budget proposals relating to stores inventories.

§ 109-1.5004-2 The Director of Administration.

The Director of Administration—

(a) Manages personal property for Headquarters organizations located in the Washington, D.C. metropolitan area for which he has been assigned property management responsibilities; and

(b) Exercises responsibilities cited in § 109-1.5004-3 as they relate to functions under his management control.

§ 109-1.5004-3 Heads of field offices and contracting officers.

Heads of field offices and contracting officers—

(a) Assure effective management of Government personal property in the custody of DOE and its contractors, consistent with applicable laws and regulations;

(b) Interpret departmental personal property management policies and procedures for their contractors and promote improved property management practices and controls;

(c) Arrange with contractors to establish effective administrative procedures, to the extent practicable and economical, which will insure adequate physical protection and control of Government personal property, proper utilization of Government personal property, adequate supply support of approved programs, and compliance with applicable laws and regulations;

(d) Assure that new contracts or modifications, extensions, or amendments to existing contracts contain provisions that will promote efficient and economical management of Government personal property in the custody or possession of the contractors;

(e) Review and approve personal property management policies, practices and procedures of contractors and assure that they are maintained in writing on a current basis consistent with the terms of the contract and pertinent DOE regulations;

(f) Authorize the use of Government personal property for purposes other than performance of official work of the U.S. Government only in accordance with applicable laws;

(g) Authorize loans of Government personal property to other Government agencies and to others for official purposes;

(h) Assure that DOE employees and contractors are aware that acts of theft, illegal possession, and unlawful destruction or use of Government personal property are violations punishable under Federal law, notwithstanding disciplinary measures taken under administrative policy;

(i) Assure that DOE employees and contractors are aware that every user of Government personal property is responsible for its physical protection and for reporting the loss, theft, destruction or damage of property;

(j) Apply personal property management regulations, instructions, standards, procedures, and practices as prescribed in the FPMR's and the DOE-PMR's;

(k) Assure that responsibility for an effective property and supply management program is clearly and definitely assigned to a responsible member or members of each staff; and

(l) Provide reports on property management activities as provided in these regulations.

§ 109-1.5004-4 Heads of Headquarters organizations.

Heads of Headquarters organizations will exercise responsibilities as described in these regulations for property management activities for which they have a programmatic responsibility.

§ 109-1.5005 Review of contractors' procedures and practices.

(a) Contracting Officers shall review Contractors' procedures and practices for control and management of property as soon as practicable after approval of the contract if the contractor is to use Government personal property. Further reviews shall be made as necessary.

(b) The type and frequency of reviews will depend on—

(1) The quantity and value of Government personal property to be furnished; and

(2) The period of time the property is to be used or consumed; that is, whether or not storage and subsequent issue are involved or the property will be issued or used on the job directly following receipt.

(c) Whether the review consists of a simple desk review of procedures or a full scale onsite appraisal shall be based on the amount of property involved, conditions of usage, storage, and other pertinent factors.

Subpart 109-1.51—Personal Property Management Standards and Practices

§ 109-1.5100 Scope of subpart.

This subpart provides general guidance on DOE standards and practices to be applied in the management of Government personal property.

§ 109-1.5101 Definition.

"Sensitive items" are those items of property which are considered to be susceptible to being appropriated for personal use or which can be readily converted to cash, for example: Firearms, portable photographic equipment, binoculars, portable tape recorders, portable calculators, and portable power tools.

§ 109-1.5102 Official use of property.

Property shall be used only in the performance of official work of the U.S. Government, except (a) in emergencies threatening loss of life or property, or (b) as otherwise authorized by law and approved by heads of organizations having property management responsibilities, or by the contracting officer.

§ 109-1.5103 Maximum use of property.

Property and supply management practices shall assure that the best possible use is made of property. Supplies and equipment provided for DOE work shall be generally limited to those items essential for carrying out the programs of DOE effectively. Adequate staff review shall be made of operating programs to coordinate and plan future supply activities and to assure against overstocking, waste, and improper use of property.

§ 109-1.5104 Loan of property.

(a) Property which would otherwise

(c) To the extent practicable and economical, markings shall be removed prior to disposal outside of

trols could include extraordinary physical protection, guidance for re-

(d) Full use should be made of accounting records and reports.

§ 109-1.5107 Retirement of property.

the use of incentive award plans to promote interest, (c) the use of visual aids such as posters, plant publica-

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§ 109-1.5104 Loan of property.

(a) Property which would otherwise be out of service for temporary periods (and not excess) may be loaned to other DOE offices and contractors, other Federal agencies, and to others for official purposes. Such loans shall be covered by written agreements or memorandum receipts which shall include all terms of the loan (such as loan period, delivery time, method and payment of transportation, point of delivery and return, conditions of use, responsibilities of the borrower for condition of property on return, inspection requirements, etc.) that may be required to insure proper control and protect DOE's interest. The loan period should not exceed 1 year, but may be renewed.

(b) Requests for loan by foreign governments and other foreign organizations shall be submitted to the Office of Assistant Secretary for International Affairs, for approval, with a copy to the cognizant Headquarters program office.

§ 109-1.5105 Borrowing of property.

(a) Offices and contractors are encouraged to borrow property within DOE to further DOE programs. Property classified as "Equipment Held For Future Projects (EHFFP)" or as "In Standby" should be reviewed by those receiving availability inquiries for short-term loans (1 year or less). Borrowing of Government property from other Federal agencies is also encouraged when required for short periods of time. Such transactions shall be covered by written agreements which include all the terms of the transaction.

(b) In determining whether it is practical and economical to borrow property, consideration shall be given to suitability, condition, value, extent and nature of use, extent of availability, portability, cost of transportation, and other similar factors.

§ 109-1.5106 Control of property.

§ 109-1.5106-1 Identification marking of property.

(a) Identification marking of property by numbering may be used where it has been administratively determined to be sufficiently advantageous to justify the cost.

(b) All capitalized Government property shall be permanently marked to identify it as U.S. Government property. Other property susceptible to unauthorized personal use should be considered for marking for control purposes. Marking may be accomplished by any means which will produce a permanent marking and which is most adaptable to the particular item of property.

(c) To the extent practicable and economical, markings shall be removed prior to disposal outside of DOE, or additional markings may be added to indicate such disposal.

(d) Property which by its nature cannot be marked is exempted from this requirement. Where such Government property is in the custody of contractors it should not be commingled with contractor-owned property unless it is administratively determined by the contracting officer to be advantageous to the Government.

§ 109-1.5106-2 Segregation of property.

Ordinarily, provisions shall be made for the contractor to keep Government property segregated from contractor-owned property. Commingling of Government-owned and contractor-owned property may be allowed only when—

(a) The segregation of the property would materially hinder the progress of the work, i.e., segregation is not feasible for reasons such as small quantities, lack of space, or increased costs; and

(b) Control procedures are adequate, i.e., the Government property is specifically marked or otherwise identified as being Government property.

§ 109-1.5106-3 Physical protection of property.

Controls such as property pass systems, memorandum records, regular or intermittent gate checks, marking of tools, and perimeter fencing shall be established as required to prevent loss, theft, or unauthorized movement of property from the premises on which such property is located.

§ 109-1.5106-4 Control of sensitive items.

(a) Controls shall be established over the acquisition, storage, issue, use, and return of sensitive items of property. These controls should be applied with judgment and should take into consideration the dollar value of the items to be controlled and costs of administration.

(b) A list of sensitive items shall be maintained for items considered to require special controls before and after issue. Determination of specific sensitive items shall be a matter for management judgment at individual locations.

(c) Written procedures shall be established for control of sensitive items. Specific procedures to be considered for control before and after issue include—

(1) Approval of purchase requisitions for issue documents at an appropriate supervisory level prior to purchase or issue;

(2) Establishment of administrative controls in the central receiving and warehousing department. Such controls could include extraordinary physical protection, guidance for receiving and warehousing personnel as to procedures for protection, and a current listing of sensitive items;

(3) Establishment and maintenance of appropriate property management records, including all necessary information for adequate functional control;

(4) Requirements for tagging and identification;

(5) Use of memorandum receipts or custody documents at time of assignment or change in custody;

(6) Establishment of custodial responsibilities describing—

(i) Need for extraordinary physical protection;

(ii) Requirement for prompt reporting of apparent loss, damage or destruction;

(iii) Requirement to return items in condition beyond economical repair to an appropriate organizational element;

(iv) Requirement for promptly reporting changes in custody or extended loans;

(v) Reminder of prohibition of use for other than official purposes, and penalties for misuse;

(vi) Requirement for effective physical and administrative control of sensitive items assigned for general use within an organizational unit as appropriate to the type of property and the circumstances; and

(vii) A clear definition of the extent of responsibility or financial accountability, depending on contractor policy.

(7) Requirement for annual physical inventory;

(8) Requirement for prompt and thorough investigation of losses;

(9) Requirement for an employee transfer or termination checkout procedure and examination and adjustment of records; and

(10) Reference to other property and supply management procedures which, through experience and independent audit, have demonstrated effective physical and administrative control over sensitive items.

§ 109-1.5106-5 Physical inventories.

(a) Physical inventories shall be conducted at all DOE and contractor locations. The physical inventory shall be conducted consistent with approved procedures and generally accepted accounting procedures.

(b) The frequency of physical inventories shall be as follows:

(1) Moveable capital equipment—not less frequently than every 2 years.

(2) Sensitive items—annually.

(3) Stores inventories—annually.

(4) Precious metals—semiannually.

(c) Adjustments will be made to the control records and all significant discrepancies shall be investigated.

(d) Full use should be made of accounting records and reports.

§ 109-1.5107 Retirement of property.

When government property is worn out, lost, stolen, destroyed, abandoned, or damaged beyond economical repair, it shall be listed on a retirement work order. A full explanation shall be supported by an investigation, if necessary, as to the date and circumstances surrounding loss, theft, destruction, abandonment, or damage. The retirement work order shall be signed by the responsible official initiating the report and reviewed and approved by an official at least one supervisory echelon above the official initiating the report.

§ 109-1.5108 Property belonging to others.

Procedures shall be established which will provide for no less attention to the management of property belonging to other Federal agencies in the possession or custody of DOE or its contractors than for DOE property.

§ 109-1.5109 Employee participation and development.

Full advantage shall be taken of suitable methods for stimulating employee participation and cooperation in carrying out an effective and economical program of property and supply management. Some examples of effective methods are (a) indoctrination of new employees and others who have access to or use property, (b) the use of incentive award plans to promote interest, (c) the use of visual aids such as posters, plant publications, outdoor signboards, and displays to keep employees informed as to progress and to remind them of their responsibilities, and (d) training of employees in specialty fields.

§ 109-1.5110 Use of non-Government-owned property.

Personal property, title to which is vested in a DOE employee, an employee of a DOE contractor, or in any person or organization not under contract or subcontract to DOE, shall not be installed in, affixed to, or otherwise made a part thereof, of any Government-owned personal or real property.

§ 109-1.5148 Records and reports.

(a) Inventory records and reports will be maintained and will serve as a basis for: (1) Effecting maximum utilization of available property, including excess, (2) prompt identification and reporting of excess property, (3) maximizing effective physical protection of property, and (4) preparation of special and recurring reports. Full use will be made of accounting records and reports to avoid duplication.

(b) Property management reports which require input from the DOE field offices or from Headquarters organizations exercising property management responsibilities, and Financial Information Subsystems generated reports, are listed in § 109-1.5148-1.

PERSONAL PROPERTY MANAGEMENT REPORTS

I. Property and Equipment

	Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1.	Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority	Letter (1)	Annually	HQ PRPM	Nov. 30	No	FPMR 101-46.407 DOE-PMR 109-46.406	The annual Departmental report to GSA is submitted by HQ PRPM
2.	Changes in Plant and Equipment and Accumulated Depreciation - Supporting Details	DOE Form CR-84-31 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
3.	Plant and Equipment by Facilities	DOE Form CR-84-34 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
4.	Plant and Equipment by Location	DOE Form CR-84-35 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
5.	Plant and Equipment Facilities in Standby and Maintenance Costs	DOE Form CR-85-1 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	
6.	Utilization and Disposal of Excess and Surplus Personal Property	DOE Form CR-85-2 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI	The annual Departmental report to GSA (SF 121) is submitted by HQ PRPM
7.	Excess Personal Property Furnished to Non-Federal Recipients	Letter	Annually	HQ PRPM	Nov. 30	No	FPMR 101-43.4701 DOE-PMR 109-43.4701	The annual Departmental report to GSA is submitted by HQ PRPM
8.	Disposal of Foreign Excess Property	DOE Form CR-85-3 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	FPMR 101-43.4701 DOE-PMR 109-43.4701 DOE Order 2200, Chapter XI	The annual Departmental report to GSA is submitted by HQ PRPM
9.	Summary of Excess Property Received from Other Agencies	DOE Form CR-85-4 (3)	Annually	HQ CR	Sept. 30 + 32 work days	No	DOE Order 2200, Chapter XI	
10.	Annual Wastepaper Report		Annually	HQ PRPM	Oct. 30	No	40 CFR 246.100g	

PERSONAL PROPERTY MANAGEMENT REPORTS

II. Supply

	Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
1.	Direct Labor Costs of Stores Inventory Warehousing Activities	DOE Form CR-85-7 (3)	Annually	HQ CR	Sept. 30 + 32 work days	Yes	DOE Order 2200, Chapter XI	Information for the annual Supply Activity Report submitted to GSA by HQ PRPM
2.	Precious Metals	Letter (1)	Annually	HQ PRPM	Oct. 30	No	FPMR 101-42.301-2 DOE-PMR 109-42.301-2	The annual Departmental report to GSA is submitted by HQ PRPM

III. Motor Vehicles

1.	Agency Report of Motor Vehicle Data	SF 82	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	FPMR 101-38.1 DOE-PMR 109-38.100-1	The annual Departmental report to GSA (SF 82) is submitted by HQ PRPM
1a.	Agency Report of Sedan Data	SF 82-d	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	FPMR/TR G-22 DOE-PMR 109-38.100-1	The annual Departmental report to GSA (SF 82d) is submitted by HQ PRPM
2.	Supplemental (Motor Vehicle) Data Reports		Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PMR 109-38.100-1	
2a.	Acquisitions and Disposals by Transfer	DOE-PMR 109-38.4950	Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PMR 109-38.100-1	
2b.	Special Purpose Vehicles	DOE-PMR 109-38.4951	Annually	HQ PRPM	Sept. 30 + 21 work days	No	DOE-PMR 109-38.100-1	
2c.	Age and Mileage Analysis	SF82-b DOE-PMR 109-38.4952	Annually	HQ PRPM	Sept. 30 + 21 work days	Yes	DOE-PMR 109-38.100-1	
3.	Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil	Letter	Semi-Annually	HQ PRPM	Oct. 10 April 10	No	GSA Bulletin G-36 DOE-PMR 109-38.53	The semiannual Departmental report to GSA is submitted by HQ PRPM

109-25.4800 Scope of subpart.
109-25.4800-50 Applicability.

109-27.5100 Scope of subpart.

PERSONAL PROPERTY MANAGEMENT REPORTS

Report Title	Form No. (No. of Cys.)	Frequency	Submitted To	Due at HQ	Narrative Analysis Required	References	Comments
4. Unused Passenger Vehicle Replacement Authorizations	Letter	Annually	HQ PRPM	June 15	No	DOE-PMR 109-38.5101-5(b)	
5. Geographical Distribution of Motor Vehicles	Letter	Annually	HQ PRIM	Feb. 13	No	Department of Transportation	The annual Departmental report to DOT is submitted by HQ PRPM
6. Report of Exempted Motor Vehicles	Letter	On Request	HQ PRPM	On Request	Yes	FPMR 101-38.607 DOE-PMR 109-38.607	The requested Departmental report is submitted to GSA by HQ PRPM
7. Annual Plan for Acquisition of Fuel Efficient Passenger Automobiles	Letter	Annually	HQ PRPM	Nov. 1	No	Executive Order 12003, FPMR Temporary Bulletin G-32, DOE-PMR 109-38.1305	The Departmental consolidated plan is submitted to GSA by HQ PRPM
IV. FIS Generated Reports							
1. Analysis of Stores	DOE 84-20				Yes	DOE Order 2200, Chapter XI	Reports 1 and 2 provide data for the Departmental annual Supply Activity Report to be submitted to GSA (GSA 1473) by HQ PRPM Reference: FPMR 101-25.48 DOE-PMR 109-25.48
2. Summary of Current Use and Standby Stores Inventory Transactions	DOE 84-21				Yes	DOE Order 2200, Chapter XI	
3. Changes in Plant and Equipment and Accumulated Depreciation	DOE 84-30				No	DOE Order 2200, Chapter XI	
4. Completed Plant and Accumulated Depreciation by Type	DOE 84-32				No	DOE Order 2200, Chapter XI	
5. Equipment Held for Future Projects					Yes	DOE Order 2200, Chapter XI DOE-PMR 109-27.5109	

§109-1.5149-1

SUBCHAPTER C—DEFENSE MATERIALS

PART 109-14—NATIONAL STOCKPILE

Sec.
109-14.000 Scope of part.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile

109-14.103-1 General requirements of reporting.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

PART 109-14—NATIONAL STOCKPILE

§ 109-14.000 Scope of part.

This part implements and supplements FPMR Part 101-14, National Stockpile.

Subpart 109-14.1—Transfer of Excess Strategic and Critical Materials to the National Stockpile.

§ 109-14.103-1 General requirements of reporting.

Holding activities shall submit reports of storage materials determined to be excess to their needs, through appropriate administrative channels, to the Procurement and Contracts Management Directorate (PR-221) for determination of Departmental requirements and, if appropriate, for further reporting to GSA as required by FPMR 101-14.103-1.

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 109-25—GENERAL

Sec.
109-25.000 Scope of subchapter.
109-25.001 Scope of part.

Subpart 109-25.1—General Policies

109-25.101-1.50 Definitions.
109-25.101-3 Supply through consolidated purchase for direct delivery to use points.
109-25.109 Laboratory and research equipment.
109-25.109-1 Identification of idle equipment.
109-25.109-2 Equipment pools.

Subpart 109-25.3—Use Standards

109-25.302 Office furniture, furnishings and equipment.
109-25.302-1 Executive type office furniture and furnishings.
109-25.302-2.50 Filing equipment and supplies.
109-25.302-3 Electric typewriters.
109-25.304 Additional systems and equipment for passenger motor vehicles.
109-25.350 Use of furnishings and household goods in Government personnel quarters.
109-25.351 Furnishing of Government clothing and individual equipment to employees.

Subpart 109-25.4—Replacement Standards

109-25.403 Office machines.
109-25.405 Materials handling equipment.

Subpart 109-25.48—Reports

109-25.4800 Scope of subpart.
109-25.4800-50 Applicability.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

109-26.000 Scope of part.
109-26.001-50 Applicability.

Subpart 109-26.2—Federal Requisitioning System

109-26.201 General.
109-26.205-2 Assignment of codes.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.
109-26.406-1 General.

Subpart 109-26.5—GSA Procurement Programs

109-26.501 Purchase of new motor vehicles.

PART 109-27—INVENTORY MANAGEMENT

109-27.000 Scope of part.
109-27.001-50 Objectives.
109-27.001-51 Definitions.
109-27.001-52 Evaluation of stores inventory management.

Subpart 109-27.1—Stock Replenishment

109-27.102 Economic order quantity principle.
109-27.102-1 Applicability.

Subpart 109-27.2—Management of Shelf-Life Materials

109-27.202 Applicability.

Subpart 109-27.3—Maximizing Use of Inventories

109-27.302 Applicability.

Subpart 109-27.4—Elimination of Items From Inventory

109-27.402 Applicability.

Subpart 109-27.5—Return of GSA Stock Items

109-27.500-50 Policy.

Subpart 109-27.50—Inventory Management Policies, Procedures and Guidelines

109-27.5001 Scope of subpart.
109-27.5002 Stock control.
109-27.5002-1 General.
109-27.5002-2 Criteria.
109-27.5002-3 Construction inventories.
109-27.5003 Guide levels for construction inventories.
109-27.5004 Sub-stores.
109-27.5005 Shop, bench, cupboard or site stock.
109-27.5006 Standardization of stores items.
109-27.5007 Stores catalogs.
109-27.5008 Physical inventories.
109-27.5008-1 Procedures.
109-27.5008-2 Inventory adjustments.
109-27.5009 Control of drug substances and potable alcohol.
109-27.5010 Containers returnable to vendors.
109-27.5011 Identification marking of metals and metal products.
109-27.5011-1 General.
109-27.5011-2 Exception.
109-27.5011-3 Federal standards applicable to marking.

Subpart 109-27.51—Management of Equipment Held for Future Projects

109-27.5100 Scope of subpart.
109-27.5101 Definition.
109-27.5102 Other exclusions.
109-27.5103 Objective.
109-27.5104 Storage.
109-27.5105 Retention.
109-27.5106 Justification and review procedures.
109-27.5107 Field organization review.
109-27.5108 Utilization.
109-27.5109 Reports.

Subpart 109-27.52—Management of Spare Equipment

109-27.5200 Scope of subpart.
109-27.5201 Definition.
109-27.5202 Exclusions.
109-27.5203 Classification.
109-27.5204 Management policy.

PART 109-28—STORAGE AND DISTRIBUTION

109-28.000 Scope of part.
109-28.001-50 Policy.
109-28.001-51 Storage guidelines.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS

109-29.000 Scope of part.

Subpart 109-29.1—General

109-29.103 Availability of Federal standardization documents.

PART 109-30—FEDERAL CATALOG SYSTEM

109-30.000 Scope of part.
109-30.000-50 Applicability.

Subpart 109-30.5—Maintenance of the Federal Catalog System

109-30.503 Maintenance actions required.

PART 109-32—GOVERNMENTWIDE AUTOMATED DATA MANAGEMENT SERVICES

109-32.000 Scope of part.

Subpart 109-32.3—Reutilization of Automatic Data Processing Equipment and Supplies

109-32.300-50 Scope of subpart.
109-32.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.
109-32.303 Reutilization of excess ADPE.
109-32.303-0.50 Reporting excess or exchange/sale ADPE within DOE.
109-32.303-1 Designation of agency ADPE point of contact.
109-32.303-50 Transfer of ADPE within DOE.
109-32.304 Availability list.
109-32.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Subpart 109-32.47—Reports

109-32.4700 Scope of subpart.
109-32.4702 Reporting excess or exchange/sale ADPE.

AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended, (5 U.S.C. 551, et seq.).

PART 109-25—GENERAL

shall be submitted to the head of the laboratory or other facility involved.

to them annually the report on the use and effectiveness of equipment

(2) Cabinet types appropriate for use in DOE:

to be derived from its procurement. All such benefits

graph means protection from physical

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PART 109-25—GENERAL

§ 109-25.000 Scope of subchapter.

This subchapter implements and supplements FPMR Subchapter E, Supply and Procurement.

§ 109-25.001 Scope of part.

This part implements and supplements FPMR Part 101-25, General, and provides cross-references to the DOE Procurement Regulations (DOE-PR) where appropriate.

Subpart 109-25.1—General Policies

§ 109-25.101-1.50 Definitions.

As used in this subpart, the following definitions apply:

(a) "Equipment" consists of those items having an anticipated service life of 1 year or more regardless of use or source of funding.

(b) "Equipment pool" is a formally designated collection of equipment, generally functionally associated, which is available for loan or temporary use. The pool may be a physical collection of equipment or may be a record system which provides identification, location and availability information on equipment available for loan or temporary use.

(c) "Equipment in storage" is all equipment not in use, whether stored in formal storage areas, stored in or adjacent to work areas, held for future projects, or retained in standby or abandoned facilities.

§ 109-25.101-3 Supply through consolidated purchase for direct delivery to use points.

See DOE-PR 9-5.5206-19, Procurement of gas masks and canisters.

§ 109-25.109 Laboratory and research equipment.

(a) The provisions of FPMR 101-25.109 and § 109-25.109 shall apply to all types of equipment and not be limited to laboratory and research equipment.

(b) The provisions of FPMR 101-25.109 and § 109-25.109 apply to all DOE field offices and contractors, and are not limited to Federal laboratories.

§ 109-25.109-1 Identification of idle equipment.

(a) See § 109-25.109(b).

(b) As a minimum, management walk-through inspections shall be scheduled to provide for coverage of all operating and storage areas at least once every 2 years to identify idle and unneeded equipment. The frequency of management walk-through inspections may vary with the operation or area involved. A report of walk-throughs conducted, including participants, areas covered, findings, recommendations, and results achieved, shall be submitted to the head of the laboratory or other facility involved. Equipment identified as idle and unneeded shall be redeployed, reassigned, placed in equipment pools or declared excess, as appropriate.

(c) In accordance with FPMR 101-25.109-1(c), members of management walk-through inspection teams should be appointed by the head of the laboratory or other DOE or contractor facility.

(d) Heads of field offices and contracting officers or their designated representatives shall periodically review walk-through procedures and practices of organizations under their jurisdiction to evaluate their effectiveness. This review should include actual walk-through inspections of representative DOE or contractor activities.

§ 109-25.109-2 Equipment pools.

(b) Equipment pools shall be established where practicable to obtain optimum utilization of equipment. The number and types of pools to be established will depend upon local circumstances. In addition to those provided in FPMR 101-25.109-2, factors to be considered are types of equipment, number and location of potential users and distances involved.

(c) Surveys of equipment holdings should be conducted periodically to determine those items which are suitable for pooling. Criteria for placing an item in a pool should include (but not be limited to) the following: The item is suitable for use by more than one individual or group; its use is intermittent rather than full time; it has a degree of portability; and, it has sufficient cost or value to merit controlling. It is anticipated that items pooled would vary from one activity to another due to local conditions, and each activity should develop its own criteria for items to be pooled. Items to be considered for pooling include (but are not limited to) certain types of measuring and recording equipment, pumps, electric motors, photographic equipment, portable tools, microscopes, portable radios, power supplies, amplifiers, business machines, radiation detection instruments, and construction and automotive equipment. Where feasible, equipment pools should be combined with existing calibration and maintenance service to foster use and control of pooled equipment.

(d) Records of usage shall be maintained to permit the evaluation of need for quantities and types of equipment in pools. Reviews of usage should be conducted periodically (at least annually) to eliminate items which are no longer required. Heads of field offices and contracting offices shall require laboratories or other DOE or contractor facilities to submit to them annually the report on the use and effectiveness of equipment pooling required by FPMR 101-25.109-2(d).

(e) Heads of field offices and contracting officers shall require periodic independent reviews of equipment pool operations as required by FPMR 101-25.109-2(e).

Subpart 109-25.3—Use Standards

§ 109-25.302 Office furniture, furnishings, and equipment.

(a) The criteria contemplated in FPMR 101-25.302 shall be established by the Director of Administration for the DOE Headquarters, and heads of field offices shall establish criteria for their offices, consistent with FPMR 101-25.302-1 and this subpart. Office furniture, furnishings, and equipment shall be limited to that required for immediate needs, considering such factors as ordering lead time, potential emergency needs and economical ordering quantities. Items used only occasionally should be pooled within an office when and as necessary. Requirements shall be met to the fullest extent practicable and economical from available excess or by rehabilitation or repair. A distinction should be made between the requirements of organizational elements concerned with purely administrative functions and those of a technical, scientific, or specialized nature.

(b) Contractors should be encouraged to limit executive-type furniture and furnishings to contractor personnel who organizationally are in positions that are similar or comparable to DOE positions authorized to use executive type office furniture as provided in FPMR 101-25.302-1, when such action will effect economy without decreasing efficiency.

§ 109-25.302-1 Executive type office furniture and furnishings.

The Director of Administration for Headquarters activities and heads of field offices or their designees are authorized to make the determination contemplated by FPMR 101-25.302-1.

§ 109-25.302-2.50 Filing cabinets and equipment.

In addition to the use standards prescribed in FPMR 101-25.302-2, the following standards are applicable:

(a) Filing equipment:

(1) Letter-size cabinets shall be used for letter-size records. When legal- and letter-size records are interfiled and less than 20 percent are legal-size, the legal-size papers are to be folded and the entire collection placed in letter-size cabinets. When more than 20 percent of the records to be filed consist of legal-size papers, legal-size cabinets may be used.

(2) Cabinet types appropriate for use in DOE:

(i) General purpose cabinets (noninsulated and nonsecurity) are used for unclassified records. General purpose cabinets equipped with a key lock may be used to house unclassified sensitive records requiring access restrictions. Key lock cabinets are not tamper proof nor do they meet security standards for the protection of classified material.

(ii) Security cabinets are equipped with a three-way combination lock and are designed to provide the protection required for storage of classified records.

(iii) Insulated cabinets designed to protect their contents from fire shall be used for irreplaceable records having an unusual importance or major value when stored in non-fire-resistant structures. Insulated cabinets shall not normally be used in fire-resistant buildings or structures equipped with fire detection devices, an approved sprinkler system or a connection to a source of adequate fire department response. Buildings equipped with automatic sprinkler systems generally are considered to provide adequate protection for records outside the immediate area of fire origin. Where records are considered irreplaceable, and duplicate copies are not available at another location, insulated cabinets may be required for primary fire protection.

(3) Shelf files should be considered instead of filing cabinets for file collections of 20 or more cubic feet because they provide a greater concentration of files per square foot of floor space at less cost. Shelf files accommodate with equal facility almost all varieties of files from those arranged by number or name to subjectively arranged correspondence files.

(4) The metal transfer case, a single file drawer enclosed as a complete unit, may be bolted together to form stacks of any convenient height. Transfer case are not recommended for general office use, but may be used in inactive storage areas or in offices where usage may be of relatively short term, such as field construction sites.

(5) Such items as lateral files (as used in the office landscaping concept), hanging files, safes, map files, film cabinets (both X-ray and microfilm), and visible files are special purpose equipment designed to fulfill specific filing requirements. Each potential appliction of special purpose equipment should be fully evaluated prior to purchase.

(6) The proposed use of power files requires a cost-benefit study due to the extraordinary cost of this equipment. This study must include an analysis of various alternatives to the application in addition to any benefits to be derived from its procurement. All such benefits accruing to the agency and other information documenting the decision to obtain this equipment must be made a matter of record.

(b) To attain the maximum use of low-cost filing equipment such as shelf files for housing collections of classified records, as well as increased utilization of manpower, consideration should be given to the use of security-approved vaults or vault-type rooms in lieu of acquiring additional security cabinets.

§ 109-25.302-3 Electric typewriters.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve exceptions to the criteria contained in FPMR 101-25.302-3.

§ 109-25.304 Additional systems and equipment for passenger motor vehicles.

(a) If an item is determined to be essential and the guidelines in FPMR 101-25.304 cannot be met, or the required item is not shown in Federal Standard 122, requisitions, accompanied by supporting justifications, shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for further coordination with the Commissioner, Federal Supply Service, General Services Administration, prior to procurement.

(b) See FPMR 101-26.501, "Purchase of new motor vehicles," and DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

§ 109-25.350 Use of furnishings and household goods in Government personnel quarters.

The Director of Administration for Headquarters and heads of field offices and other contracting officers have the authority to authorize the use of furnishings and household goods in Government personnel quarters.

§ 109-25.351 Furnishing of Government clothing and individual equipment to employees.

(a) Government-owned clothing and individual equipment may be furnished employees under the circumstances indicated below. Care should be exercised to avoid the purchase and furnishing of clothing and individual equipment to be fitted to an employee who may soon be separated from service or permanently assigned to other duties.

(b) Special clothing and individual equipment for the protection of personnel may be furnished employees. Protection as used in this subparagraph means protection from physical injury or occupational disease.

(c) Articles of clothing and individual equipment may be furnished employees when the items are such that the employee could not reasonably be required to furnish them as a part of their personal clothing and equipment necessary to enable them to perform the regular duties of the position to which they are assigned or for which their services were engaged.

(This section does not apply to provision of uniforms or uniform allowances under the Federal Employees Uniform Allowances Act of 1954, as amended.)

Subpart 109-25.4—Replacement Standards

§ 109-25.403 Office machines.

The Director of Administration for Headquarters and heads of field offices or their designees are authorized to approve replacement of office machines under the conditions cited in FPMR 101-25.403(c).

§ 109-25.405 Materials handling equipment.

The Director of Administration for Headquarters, heads of field offices and other contracting officers or their designees are authorized to approve replacement of materials handling equipment under the conditions cited in FPMR 101-25.405(b).

Subpart 109-25.48—Reports

§ 109-25.4800 Scope of subpart.

This subpart supplements information concerning the reporting of suply management data to GSA as contained in FPMR 101-25.48, 101-25.49, 101-25.4902-1473, and 101-25.4902-1473-1.

§ 109-25.4800-50 Applicability.

The provisions of FPMR Part 101-25.48 and 101-25.49 and this subpart apply only to those DOE direct operations and contractors controlling Government-owned stores inventories. However, based on an agreement with GSA, the DOE supply activity report is prepared at Headquarters from supply management data available in DOE's financial reports and is sent to GSA by the director of Procurement and Contracts Management. Therefore, no additional reports are required from those field organizations or contractors reporting under the DOE financial reporting system. Those activities with stores operations which do not report under the DOE financial reporting system shall submit supply activity reports to the Procurement and Contracts Management Directorate (PR-221) by November 15 for inclusion in the departmental report.

PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

the Atomic Energy Act of 1954, as amended, enriched uranium in stock-

(3) Providing accurate analyses of quantities to determine requirements

§ 109-27.001-52 Evaluation of stores inventory management.

accepted approach to maximizing use of inventories.

fectiveness of such checks, they should be supplemented with DOE re-

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PART 109-26—PROCUREMENT SOURCES AND PROGRAMS

§ 109-26.000 Scope of part.

This part implements and supplements FPMR Part 101-26, procurement sources and programs.

§ 109-26.001-50 Applicability.

FPMR Part 101-26 and this part are applicable to contractors to the extent that Government supply sources are made available. For DOE policy on the use of Government supply sources by contractors, see DOE-PR Part 9-5 and 9-50.5.

Subpart 109-26.2—Federal Requisitioning System

§ 109-26.201 General.

The GSA Handbook entitled "FEDSTRIP Operating Guide" and revisions thereto, as discussed in FPMR 101-26.201, are distributed within DOE based on the standard distribution pattern established by the Procurement and Contracts Management Directorate. Requests for additional copies or a change in the distribution pattern should be coordinated with the local DOE publications control office.

§ 109-26.205-2 Assignment of codes.

Applications for FEDSTRIP activity address codes and contractor authorizations for use of GSA supply sources shall be forwarded to the Procurement and Contracts Managment Directorate (PR-221) for review and further processing to GSA for assignment.

Subpart 109-26.4—Purchase of Items From Federal Supply Schedule Contracts

§ 109-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

§ 109-26.406-1 General.

The Director of Administration and heads of field offices or their designees may authorize the use of U.S. Government National Credit Cards as contemplated in FPMR 101-26.406-1.

Subpart 109-26.5—GSA Procurement Programs

§ 109-26.501 Purchase of new motor vehicles.

See DOE-PR 9-5.5201-2, "Consolidated purchase of new vehicles by General Services Administration."

PART 109-27—INVENTORY MANAGEMENT

§ 109-27.000 Scope of part.

This part implements and supplements FPMR Part 101-27, Inventory Management, but excludes atomic weapons or byproducts and source or special nuclear materials as defined in the Atomic Energy Act of 1954, as amended, enriched uranium in stockpile storage, and petroleum held in reserve in the strategic petroleum reserve and the naval petroleum reserve.

§ 109-27.001-50 Objectives.

Necessary inventories shall be established and maintained at reasonable levels, consistent with program requirements. They shall be managed and controlled in the most practicable and economic manner consistent with program needs, applicable laws and regulations and the following objectives:

(a) Provide materials and supplies as needed to meet DOE requirements.

(b) Maintain reasonable inventory levels.

(c) Provide adequate safeguards for protection.

(d) Maintain adequate quantity controls for effective management over all inventories, including those not under financial controls.

(e) Assure maximum efficient utilization and avoid waste.

(f) Maintain an economical operation.

(g) Standardize inventories to the greatest extent practicable.

§ 109-27.001-51 Definitions.

As used in this part the following definitions apply:

(a) "Construction inventories" are supplies, materials, and parts held for exclusive use on construction projects.

(b) "Economic order quantity (EOQ)" means the size of the order which produces a level at which the combined costs of procuring and carrying inventory are at a minimum.

(c) "Expensed inventories" are items for which the cost is charged to operations and are not under financial control.

(d) "Inventories" are stocks of stores, construction, special reactor and other special materials, supplies, and parts used in support of DOE programs.

(e) "inventory level," usually expressed in the number of months supply on hand based on anticipated usage, is the maximum amount of supplies authorized to be on hand and due-in less any amount dueout.

(f) "Inventory management" means the effective use of methods, procedures and techniques for recording, analyzing, evaluating, adjusting, and regulating inventories in accordance with established policy. The following related functions are included:

(1) Providing adequate protection against misuse, theft, and misappropriation.

(2) Providing proper analyses of quantities to determine their turnover so that only minimal obsolescence will be encountered.

(3) Providing accurate analyses of quantities to determine requirements and adequate inventory levels to meet program schedules.

(4) Providing adequate and accessible storage facilities and services based upon analyses of program requirements so that a minimum and economical amount of time is required to service the program.

(g) "Other special materials" include precious metals and other rare materials having a very high monetary value in relation to volume or weight, special barrier materials, and any others that have been specifically approved by the controller.

(h) "Physical inventory" means the process of counting the quantities of items on hand and reconciling quantities counted with the quantities shown on control records.

(i) "Quantity control" means the management of inventories through control of levels, determination of requirements, and replenishment of stock.

(j) "Safety stock" is that portion of inventories under stock control carried for protection against stock depletion due to an increase in demand or when lead time is greater than anticipated.

(k) "Shop, bench, cupboard, or site stock" is a collection or store of materials located at or near the point of use.

(l) "Special reactor materials" include special materials approved for research and for use in reactors but generally available through the usual channels in sufficient quantity because of limited commercial production applications.

(m) "Standardization" is the reduction of stores inventories to the least practicable variety of sizes, shapes, and materials compatible with program needs.

(n) "Stock record" is a device for collecting, storing, and providing historical data on recurring transactions for each line item of inventory. The stock record of a line item may be a visible register of transactions recorded by hand or by machine for that item, or it may by the input, output, stored data, or the corresponding print-out of such data representing transactions on the item in an electronic data processing system.

(o) "Stores catalog" means a listing of stock items for use in requisitioning supplies and materials.

(p) "Substore" is a geographically removed part of the main store's operation conducted as a subordinate element of it and subject to the same management policies and inventory controls.

§ 109-27.001-52 Evaluation of stores inventory management.

(a) Comparison of investment in stores inventories to annual issues shall be made to assure that minimum inventories are maintained for the support of programs. This comparison may be expressed either as a turnover ratio (issues divided by dollar value of inventory) or in the average number of months' supply on hand. Turnover or number of months' supply is calculated only on "current-use" (for issue) inventory.

(b) Performance goals, in terms of months' investment or turnover ratio, are established for each stores using activity and shall take into account the application of EOQ and other management practices. The evaluation of stores inventory management at each level shall take into account the current number of months' investment or turnover ratio, particularly in relation to the goal established for each such activity.

Subpart 109-27.1—Stock Replenishment

§ 109-27.102 Economic order quantity principle.

§ 109-27.102-1 Applicability.

Procedures and practices shall be established for replenishment of stock items having recurring demands to minimize costs involved. Guidelines for implementing the EOQ principle of stock replenishment are described in the GSA Handbook, "The Economic Order Quantity Principle and Application," issued by the General Services Administration. When considered more suitable, contractors may use any of the other generally accepted approaches to EOQ.

Subpart 109-27.2—Managment of Shelf-Life Materials

§ 109-27.202 Applicability.

Procedures and practices shall be established for managing shelf life items to minimize loss and insure maximum use prior to deterioration. FPMR 101-27.2 prescribes principles and objectives for such a program. When considered more suitable, contractors may use any other generally accepted approach to the management of shelf life items.

Subpart 109-27.3—Maximizing Use of Inventories

§ 109-27.302 Applicability.

Procedures and practices shall be established for maximizing use of inventories. FPMR 101-27.3 prescribes policies and procedures to assure maximum use of inventories based upon recognized economic limitations. When considered more suitable, contractors may use any other generally accepted approach to maximizing use of inventories.

Subpart 109-27.4—Elimination of Items From Inventory

§ 109-27.402 Applicability.

Procedures and practices shall be established for eliminating from inventory items that can be obtained more economically from readily available sources on a timely basis. FPMR 101-27.4 provides policies and procedures for such a program. When considered more suitable, contractors may use other generally accepted approaches to determine which items should be retained in inventory.

Subpart 109-27.5—Return of GSA Stock Items

§ 109-27.500-50 Policy.

Procedures and practices shall be established to provide for the return of GSA stock items for credit when such action is feasible and economical and consistent with DOE program needs.

Subpart 109-27.50—Inventory Management Policies, Procedures, and Guidelines

§ 109-27.5001 Scope of subpart.

This subpart supplements FPMR Part 101-27 by providing additional policies, principles and guidelines for the economical and efficient management of inventories in support of DOE programs.

§ 109-27.5002 Stock control.

§ 109-27.5002-1 General.

Stock control shall be maintained on the basis of stock record accounts of inventories on hand, on order, received and issued, and supported by proper documents in evidence of these transactions. Stock record accounts shall be susceptible to review and inspection.

§ 109-27.5002-2 Criteria.

Effective quantity control shall be maintained over inventories not under financial control. Ordinarily, when such items are warehoused or stored for an extended period (generally 90 days or more), the controls should include stock cards, bin cards, or other suitable records showing usage and quantities on hand. Bench or cupboard stocks at individual work stations may sometimes temporarily exceed 90 days' requirements with justification, and it is not intended that these be subjected to quantity control stock records.

§ 109-27.5002-3 Construction inventories.

Stock control for construction inventories shall be maintained by the regular checking of individual items to assure that the quantities ordered plus amounts on hand do not exceed current job requirements. To test the effectiveness of such checks, they should be supplemented with DOE reviews of inventory items on a selective basis at approximately the 25 percent, 50 percent, and 75 percent construction completion stages. Undelivered portions of purchase orders, which these checks and reviews indicate are not needed to complete the project, should be canceled.

§ 109-27.5003 Guide levels for construction inventories.

To insure that inventories maintained for construction programs and activities are reasonable, the following standards are established as guides (variations may be used where it is established by field organizations that they will more effectively or economically assure that inventory levels are held to the amounts required to complete the construction project):

(a) Ordinary construction materials and supplies readily available from commercial sources and not available from Government excess stocks permit phasing of deliveries and cancellation of undelivered quantities that may prove excess to project requirements. The onhand inventory of such materials generally should not exceed a 3 or 4 months' supply at the anticipated usage rates.

(b) Ordinary construction materials and supplies readily obtainable from Government excess stocks should be procured only in the amounts estimated to complete the construction project.

(c) Items obtained in bulk quantities that do not lend themselves to direct charge treatment, and which are obtainable only by special manufacture or fabrication, should be limited to the estimates of requirements to complete the project as determined by a takeoff from plans and specifications, except as outlined in paragraph (d) of this section.

(d) Inventory levels in excess of estimates to complete the project should be confined to items so unusual in character or unique to the DOE program that they are obtainable only by special manufacture and will be required for maintenance purposes or for operation of the completed plant.

§ 109-27.5004 Sub-stores.

(a) Sub-stores shall be established when necessary in isolated or remote locations to expedite delivery of materials and supplies to the users, serve emergencies, provide economy in transportation, reduce shop and site stocks, and enable stores personnel to assist personnel in obtaining materials and supplies as needed.

(b) Items stored for issue in the substores shall be treated as inventory items for control and reporting purposes. Stock records shall be integrat-

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ed with central stock records so that the total amount on hand of any item at all locations is known.

§ 109-27.5005 Shop, bench, cupboard, or site stock.

(a) Shop, bench, cupboard, or site stocks are an accumulation of small inventories of fast-moving materials at the point of use. Normally, these inventories are expensed. However, when stocks of such inventories are not consumed or do not turn over in a reasonable period of time, which normally should not exceed 30 to 90 days, these items should be subject to the required physical controls and recorded in the proper inventory account.

(b) Care shall be exercised to prevent excessive accumulation of inventories at such points. As a control measure, requisitions should be screened against issue data as reflected in stock records at the supply point. Also, work orders, retirement notices, minor construction projects, maintenance programs, and research and experimental projects, involving removal and dismantling should be reviewed and screened to prevent excessive inventories at point of use. However, the most effective control at point of use may be effected by administrative action through visual examination of quantities on hand, and close supervisory control and training of persons who requisition materials and supplies.

§ 109-27.5006 Standardization of stores items.

Stores items shall be standardized to the greatest extent practicable, taking into consideration the minimum requirements of the users, the need to follow good purchasing practices, the limitations of competitive bidding in specifying proprietary items, the availability of excess, and other limiting factors. In standardizing stores items, there should be close coordination among the supply, planning, and user groups.

§ 109-27.5007 Stores catalogs.

A suitable stores catalog for customer use in requisitioning stores items shall be established for each stores operation. Exceptions to this requirement are authorized where establishment of a catalog is impracticable or uneconomical because of small total value or number of items involved, or temporary need for the facility. To minimize the need for revision, catalog appendices may be used to show standard or average unit prices and various locations of items. Revisions should be made at reasonable intervals.

§ 109-27.5008 Physical inventories.

§ 109-27.5008-1 Procedures.

The following procedures shall be established for taking physical inventory of stocks subjected to quantity controls as well as those under financial control:

(a) Completing an inventory at least once a year.

(b) Reconciling quantities shown by inventory with the stock record cards.

(c) Preparing a report evaluating the effectiveness of inventory control, projection methods, records management, and showing debit and credit adjustments made.

§ 109-27.5008-2 Inventory adjustments.

(a) Discrepancies between physical inventories and stock records shall be adjusted and the supporting adjustment records shall be reviewed and approved by a responsible official at least one supervisory echelon above the supervisor in charge of the warehouse or storage facility. Items on an adjustment report which are not within reasonable tolerances for particular items shall be thoroughly investigated before approval.

(b) Such inventory adjustment reports, when properly approved, support credits to the stock record cards and financial inventory accounts. Adjustment reports shall be retained on file for inspection and review.

§ 109-27.5009 Control of drug substances and potable alcohol.

(a) This section provides policies and procedures for the management of drug substances and potable alcohol.

(b) The term "controlled substance" means any drug or substance which has been assigned a "Bureau of Controlled Substance Code Number" as published in 21 CFR Part 1308—Schedule of Controlled Substances.

(c) Effective procedures and practices shall be established for the management and physical security of controlled substances and potable alcohol to the point of use. Such procedures shall, as a minimum, provide for (1) safeguarding, (2) proper use, (3) adequate records, and (4) compliance with applicable laws and regulations, whether such items are used in laboratories for research, instruction, experiments, analysis, medical purposes, or otherwise. Controls of potable alcohol shall be maintained on quantities of 1 quart and above.

(d) Effective procedures and practices shall be established for the management and physical security of hypodermic needles to prevent illegal use. Controls shall include prior signed supervisory approval for issue, and storage in locked repositories, and the needles shall be made useless upon disposal.

§ 109-27.5010 Containers returnable to vendors.

Containers furnished by vendors shall be administratively and physically controlled before and after issuance. Prompt action shall be taken to return such containers to vendors for credit after they have served their intended use.

§ 109-27.5011 Identification marking of metals and metal products.

§ 109-27.5011-1 General.

Metals and metal products shall be identification marked in accordance with applicable Federal standards. This requirement applies to direct charges as well as to items procured for store, shop, or floor stock, or for use on construction projects. Additional markings not covered by the Federal standards should be used to show special properties, corrosion data or test data as required. The preferred process is for the marking to be done in the manufacturing process, but it may be applied by jobbers or other vendors when circumstances warrant.

§ 109-27.5011-2 Exception.

Exception to the marking requirement may be made when—

(a) It is necessary to procure small quantities from suppliers not equipped to do the marking;

(b) It would delay delivery of emergency orders; or

(c) Procurement is from DOE or other Federal agency excess.

§ 109-27.5011-3 Federal standards applicable to marking.

(a) Federal Standard 182A(2) "Identification Marking of Nickel and Nickel Base Alloys."

(b) Federal Standard 183B "Continuous Identification Marking of Iron and Steel Products."

(c) Federal Standard 184A "Identification Marking of Aluminum, Magnesium and Titanium."

(d) Federal Standard 185 "Continuous Marking of Copper and Copper Base Alloy Mill Products."

Copies of the above Federal standards can be obtained from the General Services Administration, Federal Supply Service (3 FRI), Washington, D.C. 20407.

Subpart 109-27.51—Management of Equipment Held for Future Projects

§ 109-27.5100 Scope of subpart.

This subpart provides policies, principles, and guidelines to be used in the DOE program for the management of equipment held for future projects (EHFFP).

§ 109-27.5101 Definition.

"Equipment Held for Future Projects (EHFFP)" is equipment that is being retained, based on approved economic justifications for retention, (a) for a known future use, i.e., equipment earmarked for use in future approved projects, (b) for a potential use in planned projects, or (c) for potential use in as yet unidentified projects. Ideally, such equipment should fall under paragraph (a) or (b) of this section. However, there may be instances where retention is justified even though the project in which it may be used cannot be identified as in the case where the equipment has been specially fabricated, may be required in the future to confirm experimental results, and has little recovery value other than as scrap. This classification excludes spare equipment retained as backup for equipment in service or equipment placed in equipment pools (classified as "In Service"), and spare and other equipment constituting a part of the facilities in standby (classified as "Standby").

§ 109-27.5102 Other exclusions.

In addition to the exclusions cited in § 109-27.5101, the following categories of equipment will not be included in EHFFP:

(a) Excess completed plant and equipment.

(b) Equipment classified as "Plant and Equipment Changes in Progress."

§ 109-27.5103 Objective.

The objective of the "Equipment Held for Future Project" program is to enable management to retain equipment not in use in current programs but which has a known or potential use in future DOE programs while providing visibility on the types and amounts of equipment so retained through review and reporting procedures. It is intended that equipment be retained which is economically justifiable for retention, that it be made available for use by others, and that equipment no longer needed be excessed.

§ 109-27.5104 Storage.

EHFFP will ordinarily be stored in warehouse space allocated for that purpose. However, where considered more appropriate, such equipment may be stored in storage yards or other areas with due consideration to the type of property and protection required.

§ 109-27.5105 Retention.

Equipment not require in current programs may be held for future projects when it is considered by appropriate authorities to be economically justified for retention, considering costs of replacement, storage, obsolescence, deterioration, or future availability.

§ 109-27.5106 Justification and review procedures.

Procedures shall be established to provide for the following:

(a) The original decision to classify and retain equipment as EHFFP shall be justified in writing, providing sufficient detail to support the need for retention of the equipment. This justification will cite the project for which retained, the potential use to be made of the equipment or other reasons for retention.

(b) The validity of initial classification of equipment held for future projects shall be reviewed at a level of management one echelon above that of the individual making the initial determination.

(c) Retention of EHFFP shall be rejustified periodically (at least annually) to insure that original justifications remain valid. These rejustifications will be supported with sufficient detail to support retention.

(d) Periodic rejustifications for retention of EHFFP shall be reviewed at a level of management above that of the individual making the determination to retain the equipment as held for future projects. Procedures should provide for higher level management review at the time the equipment held is extended.

(e) Suitable records shall be maintained by the holding organization to support initial justifications for retaining EHFFP, rejustifications of retention, and periodic reviews conducted by higher levels of management.

§ 109-27.5107 Field organization review.

Heads of field offices and contracting officers shall conduct periodic revews of validity of justifications for retaining EHFFP, including those of contractors under their jurisdiction. These reviews should include onsite surveys of a representative sample of equipment in this classification.

§ 109-27.5108 Utilization.

It is DOE policy that, where practicable and consistent with program needs, EHFFP be considered as a source of supply to avoid or postpone procurement. Procedures shall be established to provide for—

(a) Distribution within the holding organization of lists of EHFFP to purchasing offices (or some other central screening office) and potential users for screening against requirements prior to procurement;

(b) Exchange of lists of EHFFP which can be made available for loan between organizations involved in the same or similar programs; and

(c) Encouragement of informal contacts between technical personnel and those engaged in similar work at other DOE facilities for the prupose of arranging property loans to meet program requirements.

§ 109-27.5109 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 2200, Chapter XI.

Subpart 109-27.52—Management of Spare Equipment

§ 109-27.5200 Scope of subpart.

This subpart provides policy guidance to be used in the management of spare equipment.

§ 109-27.5201 Definition.

"Spare equipment" is equipment held as replacement spares for equipment in current use in DOE programs.

§ 109-27.5202 Exclusions.

The following categories of equipment will not be considered spare equipment:

(a) Equipment installed for emergency backup, e.g., an emergency power facility, or an electric motor or a pump, any of which is in place and electrically connected.

(b) Equipmentlike items properly classified as stores inventory.

§ 109-27.5203 Classification.

Equipment retained as replacement spares for plant and equipment in current use shall be classified as plant and equipment in service.

§ 109-27.5204 Management policy.

(a) Procedures shall be established to provide that equipment retained as replacement spares for plant and equipment in current use is identified as spare equipment, that its purpose for retention is known, and that its need for retention is periodically reviewed.

(b) Reviews shall be made based on technical evaluations of the continued need for the equipment, as related to the equipment it backs up. Frequency of review should normally be biennial. In addition, individual item levels shall be reviewed when spare equipment is installed for use, the basic equipment is removed from service, or the process supported is changed.

(c) Procedures shall be established to provided that unneeded equipment is identified, promptly offered for use elsewhere within DOE as excess, or disposed of.

PART 109-28—STORAGE AND DISTRIBUTION

§ 109-28.000 Scope of part.

This part implements and supplements FPMR Part 101-28, Storage and Distribution.

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§ 109-28.001-50 Policy.

Storage and warehouse services shall be—

(a) Established for the receipt, storage, issue, safekeeping, and protection of Government-owned property when advantageous to the Government;

(b) Provided in the most economical and efficient manner through the use of Government-owned facilities, and where necessary available commercial facilities, consistent with program requirements; and

(c) Operated in accordance with generally accepted industrial management practices and principles.

§ 109-28.001-51 Storage guidelines.

(a) Adequate storage facilities shall be provided to insure the proper safeguarding of all Government property. Facilities required will vary largely between the projects and other activities of the Department. Actual requirements will depend upon such factors as volume of property to be handled, characteristics of commodities to be stored, and nature of the operations.

(1) Indoor storage areas should be arranged to obtain proper stock protection and maximum utilization of space within established floor load capacities, but should be subject to flexibility to provide for periodic changes in specific space requirements. Employees engaged in warehouse and storage operations shall be instructed in safety and fire protection regulations pertaining to these operations.

(2) Storage yards for items not requiring covered protection shall be protected by locked fenced enclosures to the extent necessary to protect the Government's interest. Outside storage areas shall be prominently posted to clearly indicate that the property stored therein is U.S. Government property. Entrance to such areas should be restricted to authorized personnel only.

(b) The following general storage principles shall be observed in the planning for the storage of Government personal property.

(1) Efficient storage demands the maximum utilization of space with a minimum amount of labor. Where practicable, labor should be conserved by use of modern materials handling equipment and storage aids which permit stacking by unit loads rather than by individual container units.

(2) Fast-moving items should be stored in convenient locations from which they can be issued with minimum handling. Stocks of individual items or classes of items should be segregated to facilitate handling, issuing, and inventorying.

(3) Different types of property should be stored according to the kind of protection required. Protection requirements will vary greatly with the types of commodities stocked. All items must be protected from fire and theft. Certain items require protection from dampness, heat, freezing, or extreme temperature changes. Others must be stored away from light and odors, protected from vermin infestation, or, because of their hazardous characteristics, stored separate from other stocks. These factors, as well as maximum protection of property against all causes of deterioration or destruction, must be considered in selecting proper storage locations.

(4) Orderly arrangement is essential to efficient operation of storehouses. All items, whether stored in bins, bays, in bulk, or in original containers should be so arranged that nomenclature and quantity may be readily determined.

(5) Stock rotation is based on the general storage principle of "first in, first out." The fact that many items, such as perishables, food stuffs, medicines, paints, and chemicals are subject to deterioration or infestation, requires that the older stock be issued first.

(6) The safety regulations pertaining to the handling and storage of flammable materials, including bulk storage of gasoline, fuel oil, etc., and explosives are issued by the Department of Labor pursuant to the Occupational Safety and Health Act (Pub. L. 91-956). DOE offices and contractors are required to comply with the regulations contained in the Act.

PART 109-29—FEDERAL SPECIFICATIONS AND STANDARDS

§ 109-29.000 Scope of part.

This part implements and supplements FPMR Part 101-29, Federal specifications and standards.

Subpart 109-29.1—General

§ 109-29.103 Availability of Federal standardization documents.

The index of Federal specifications, standards, and handbooks may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of Federal specifications and standards may be obtained as provided in the index.

PART 109-30—FEDERAL CATALOG SYSTEM

§ 109-30.000 Scope of part.

This part supplements FPMR Part 101-30, Federal Catalog System.

§ 109-30.000-50 Applicability.

The provisions in FPMR Part 101-30 and this part do not apply to contractors.

Subpart 109-30.5—Maintenance of the Federal Catalog System

§ 109-30.503 Maintenance actions required.

(a) Standard form 1303, "Request for Federal Cataloging/Supply Support Action," will be used to request cataloging action involving additions, deletions, or revisions. The instructions on the reverse of the form, supplemented as follows, will govern its preparation and submission.

(b) The original and two copies of the completed form shall be sent to GSA for processing. Inquiries concerning policy should be directed to the Procurement and Contracts Management Directorate (PR-221).

PART 109-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

§ 109-32.000 Scope of part.

This part implements and supplements FPMR Part 101-32 as it relates to excess utilization and disposal of Automatic Data Processing Equipment (ADPE). Guidance on other areas, such as resources utilization, acquisition studies, procurement and contracting, and maintenance and repair is or will be published in other parts of the DOE Directives System.

Subpart 109-32.3—Reutilization of Automatic Data Processing Equipment and Supplies

§ 109-32.300-50 Scope of subpart.

This subpart implements and supplements FPMR Subpart 101-32.3. Policies and procedures relating to acquisition, reassignment, or retention of excess ADPE are contained in policies and procedures established by the Office of the Director of Administration.

§ 109-32.302-50 Reassignment of ADPE, and use and reutilization of excess ADPE within DOE.

Data processing equipment and related services shall not be acquired (purchased or leased) from commercial sources until the necessary approvals have been obtained in accordance with instructions issued by the Office of the Director of Administration.

§ 109-32.303 Reutilization of excess ADPE.

§ 109-32.303-0.50 Reporting excess or exchange/sale ADPE within DOE.

(a) All ADPE, either Government-owned or -leased, which is no longer needed or is scheduled for replacement, shall be made available for utilization within DOE as soon as plans for the release of such equipment are known.

(b) SF 120's for Government-owned ADPE shall be circularized for screening within DOE prior to reporting the item to GSA. The SF 120 shall contain the information required in FPMR 101-32.4702 and, for internal screening purposes, a release date (date of availability). If the release date is not firm, a tentative release date should be given, which would be subject to change until the actual release date is established.

ADPE shall not be reported to GSA as excess until this screening has been accomplished and it has been established that there are no DOE claimants. Concurrent screening within DOE and GSA shall not be done. A minimum of 30 days should be allowed for screening ADPE prior to reporting it to GSA. In those instances where the release date can be determined sufficiently in advance, additional screening time should be allowed to permit maximum time for processing of requests to acquire excess ADPE.

(c) The procedures prescribed in § 109-32.303-0.50(b) shall be followed for leased ADPE. However, when time does not permit sequential DOE and GSA circularization, excess leased ADPE may be circularized concurrently in DOE and GSA to assure earned credits are not lost to the Government. The SF 120 should clearly indicate concurrent screening by DOE and GSA.

Where time does not permit assurance that earned credits are not lost to the Government, announcement of availability of excess leased ADPE may be circularized within DOE by teletype (TWX).

(d) SF 120's or teletypes shall be sent to DOE activities listed on the distribution pattern of installations to receive reports of excess as provided in § 109-43.311-1.50. In addition, a copy of each report of excess Government-owned or -leased ADPE shall be provided to the Director of Administration, who will perform an additional screening of excess ADPE against known DOE requirements.

§ 109-32.303-1 Designation of agency ADPE point of contact.

The Director of Administration shall designate the DOE point of contact to carry out the responsibilities contained in FPMR 101-32.303-1.

§ 109-32.303-50 Transfer of ADPE within DOE.

(a) Transfers of excess ADPE having a current market price equal to or greater than that specified for major items as defined in the DOE Program Budget Structure are made pursuant to the requirement for proposals submitted in accordance with instructions form the Office of the Director of Administration.

(b) Transfers of excess ADPE with a current market price of less than that specified for major items shall be approved by the head of the field office and the head of the Headquarters organization having ADPE responsibility for the equipment. However, when more han one request is received, the field office head shall notify the requestors that acquisition proposals prepared in accordance with instructions from the Office of the Director of Administration shall be forwarded to the field office for review. After receipt of all proposals, the field office head shall—

(1) Approve the request for transfer which is judged to be in the best interests of DOE; or

(2) Where this judgment cannot be made locally, forward the proposals to the Director of Administration for action in a manner similar to proposals for equipment having a current market price equal to or greater than that specified for major items.

§ 109-32.304 Availability lists.

The Director of Administration shall develop and maintain distribution patterns for availability lists of excess and exchange/sale ADPE as contemplated in FPMR 101-32.304.

§ 109-32.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

The Director of Administration, heads of field offices, the Administrator, Energy Information Administration and contracting officers are authorized to sign standard form (SF) 122, Transfer Order Excess Personal Property, after appropriate approvals, involving requests for transfer of excess or exchange/sale ADPE, as required by FPMR 101-32.306(a). This authority may be redelegted to DOE personnel under their jurisdiction.

Subpart 109-32.47—Reports

§ 109-32.4709 Scope of subpart.

This subpart implements and supplements FPMR subpart 101-32.47 as it relates to reporting excess or exchange/sale ADPE to GSA.

§ 109-32.4702 Reporting excess or exchange/sale ADPE.

Excess Government-owned or -leased ADPE and exchange/sale ADPE shall be reported to GSA on standard form (SF) 120, Report of Excess Personal Property, in accordance with the requirements of FPMR 101-32.4702. No provision is made in FPMR 101-32.4702 for the use of a TWX as a substitute for the SF 120 in reporting excess ADPE to GSA. When a TWX is used to report excess leased ADPE to GSA, it shall be followed up with an SF 120 to GSA, providing appropriate cross-reference information.

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 109-38—MOTOR EQUIPMENT MANAGEMENT

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nance equipment, materials handling equipment, aircraft and vessels.

(b) "Motor vehicle" means any

(c) Each field office and reporting headquarters organization shall submit consolidated reports on all ve-

Subpart 109-38.2—Registration and Inspection

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Authority: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended, (5 U.S.C. 551, et seq.).

PART 109-38—MOTOR EQUIPMENT MANAGEMENT

§ 109-38.000 Scope of part.

This part implements and supplements FPMR Part 101-38 concerning the management of motor equipment, vehicles and aircraft.

§ 109-38.000-50 Policy.

Necessary motor equipment, vehicles and aircraft shall be provided, maintained and utilized in support of DOE programs in the most practical and economical manner consistent with program requirements, safety considerations, fuel economy and applicable laws and regulations.

Subpart 109-38.0—Definition of Terms

§ 109-38.001 Definitions.

As used in this part the following definitions apply:

(a) "Motor equipment" means any item of equipment which is self-propelled or drawn by mechanical power, including motor vehicles, motorcycles and scooters, construction and maintenance equipment, materials handling equipment, aircraft and vessels.

(b) "Motor vehicle" means any equipment, self-propelled or drawn by mechanical power, designed to be operated principally on the highways in the transportation of property or passengers. This includes both motorcyles and motor scooters.

(c) A "replacement off-set" is an authorization to one field office to acquire a new passenger motor vehicle to replace an old passenger motor vehicle which is excess to another field office. The transaction does not require the physical transfer of the excess vehicle, but it is limited to a documentary transfer.

(d) "Special purpose vehicles" have limited but essential missions. They cannot be used generally to carry passengers, freight or other material. Trucks with permanently mounted equipment—such as fire trucks, special tank trucks, wreckers and trucks with compressors or generators in fixed mounting on the body may be classified as special purpose trucks. Vehicles other than sedans and station wagons which are to be used only during a defined or specified contingency, such as evacuation or other similar emergency, may also be classified as special purpose vehicles. For reporting purposes within DOE, motorcycles and motor scooters will also be reported as special purpose vehicles.

(e) "Experimental vehicles" are those acquired solely for testing and research purposes or otherwise designated for experimental purposes. Such vehicles are to be the object of testing and research as differentiated from those used as vehicular support to testing and research. Experimental vehicles are not to be used as passenger carrying vehicles, and they are not subject to statutory price limitations or to authorization limitations.

Subpart 109-38.1—Reporting Motor Vehicle Data

§ 109-38.100-1 Reporting forms.

(a) Organizations operating motor vehicles shall provide the following reports:

(1) Agency report of Motor Vehicle Data, standard form 82 (SF-82).

(2) Agency report of Sedan Data, standard form 82-D (SF 82-D).

(3) Supplementary data reports:

(i) Acquisitions and Disposals by Transfer (§ 109-38.4950)

(ii) Special Purpose Vehicles (§ 109-38.4951)

(iii) Supplemental Age and Mileage Analysis (§ 109-38.4952).

(b) One copy of each of the above reports shall be submitted to the Procurement and Contracts Management Directorate (PR-221) by the 21st working day following September 30 of each year.

(c) Each field office and reporting headquarters organization shall submit consolidated reports on all vehicles for organizations under their jurisdiction and, attached thereto, the separate reports for each field organization, multi-program laboratory and contractor which submits a budget schedule 81 to headquarters.

(d) Where authorized by the Procurement and Contracts Management Directorate (PR-221) the reports shall be submitted in mechanized form.

§ 109-38.102 Preparation of forms.

(a) Costs in the standard forms shall be shown in dollars (not rounded to thousands).

(b) Narrative comments shall be submitted in connection with these reports. The comments shall include: (1) A comparison of statistical information between fiscal years, (2) an explanation of any significant changes between years, and (3) any other information that will assist in the interpretation of data contained in the reports.

§ 109-38.102-2 Reporting domestic and foreign vehicles.

Separate SF-82's and supplementary data forms shall be prepared for vehicles located (a) in the United States, including territories and possessions, and (b) in a foreign country.

§ 109-38.102-50 Supplementary data reports.

(a) Supplementary Data on Acquisitions and Disposals by Transfer, in the format illustrated in § 109-38.4950, shall be submitted with each SF-82. The purpose of the supplementary data on acqulstion and disposal is to identify the number of motor vehicles transferred (1) between DOE and other agencies, (2) between DOE activities, (3) from one vehicle type to another by reclassification, and (4) to permit reporting of the actual number of vehicles acquired or disposed of by DOE.

(b) Supplementary data on age and mileage of sedans and light trucks, less than 12,500 pounds (one ton and under), 4 x 2, shall be reported in the format illustrated in § 109-38.4952. This supplementary data shall be submitted only for those sedans and light trucks, 4 x 2, listed in the SF-82 submitted in accordance with § 109-38.100-1.

(c) Supplementary data on Special Purpose Vehicles shall be reported in the format illustrated in § 109-38.4952. For the purpose of this report, contaminated vehicles shall be reported as special purpose.

Subpart 109-38.2—Registration and Inspection

§ 109-38.202-50 Registration in foreign countries.

Motor vehicles used in foreign countries are to be registered and carry license tags in accordance with the existing motor vehicle regulations of the country concerned.

§ 109-38.202-51 Shipment to foreign countries.

(a) When motor vehicles are being shipped for use in a foreign country, the desk officer or individual handling the affairs pertaining to that country in the Department of State shall be contacted before shipment is made for information concerning the licensing and shipping of the vehicle.

(b) The person responsible for, and expected to use, a motor vehicle in a foreign country shall make inquiry at the U.S. Embassy, Legation, or Consulate concerning the regulations that apply to registration, licensing, and operation of motor vehicles and shall be guided accordingly.

Subpart 109-38.3—U.S. Official Government Tags

§ 109-38.302 Records.

(a) The Director of Procurement and Contracts Management assigns "blocks" of U.S. Government tag numbers to DOE organizations and maintains a current record of such assignments. Additional "blocks" will be assigned upon request.

(b) Each Departmental organization shall maintain a current record of individual assignments of tags to the motor vehicles under its jurisdiction as required by FPMR 101-38.302.

§ 109-38.303 Procurement.

The procedures for procuring official Government tags by DOE activities are covered in DOE-PR 9-5.5206-9.

§ 109-38.305 Display, assignment and removal of U.S. Government tags.

§ 109-38.305-3 Removal.

Necessary controls shall be established to ensure that tags which are voided shall be destroyed or defaced to prevent their reuse.

Subpart 109-38.4—Official Legend and Agency Identification

§ 109-38.401 Procurement of decalcomanias.

The official legend and agency identification for DOE shall be of elastomeric pigmented film type decalcomania which are currently standardized DOE form 597. The form shall be requisitioned from the Office of the Director of Administration (AD-472), on a regular 6-month basis.

Subpart 109-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

§ 109-38.602 Unlimited exemptions.

§ 109-38.602-50 Department of Energy exemptions.

(a) Exemptions from the requirements for the display of Federal license tags and other official identification may be approved by heads of field offices or the director of administration for motor vehicles under their cognizance which are used in the conduct of security operations or in the enforcement of security regulations of the DOE.

(b) The requirements for displaying Federal license tags on the front an rear of all motor equipment is modified in the case of trailers to require tags in the rear only.

(c) The requirements for the display of Federal license tags and other identification does not apply to motor vehicles used in foreign countries, Trust Territories, or the Pacific Test Areas (see FPMR 101-38.202 and § 109-38.202-50).

§ 109-38.605 Additional exemptions.

(a) Requests made pursuant to FPMR 101-38.605 for exemption from the requirement for displaying U.S. Government tags and other identification on motor vehicles which are not within the criteria in FPMR 101-38.602 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221). Each such request shall describe the vehicle for which exemption is sought, the nature of the work on which it is used, and include a certification to the effect that conspicuous identification would interfere with such use.

(b) The Director of Procurement and Contracts Management shall be notified promptly when—

(1) The need for a previously authorized exemption no longer exists;

(2) An exempted motor vehicle is rotated to other work not requiring continued exemption; or

(3) An exempted motor vehicle is replaced by another vehicle, in which case the notification shall include a description of the replacement vehicle.

(c) Copies of certifications and cancellation notices required to be furnished to GSA pursuant to FPMR 101-38.605 will be transmitted to GSA by the Director of Procurement and Contracts Management.

§ 109-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

The Director of Administration is designated as the DOE Liaison Representative to approve requests for regu-

lar District of Columbia tags for headquarters motor vehicles exempted from carrying U.S. Government tags

Subpart 109-38.9—Motor Vehicle Replacement Standards

senger vehicle may be justified. However, such retention may not be used as justification for concurrent oper-

all those responsible for maintenance of Government-owned motor vehicles.

(a) The first 3 digits of the 10-digit billing code embossed on national

number of passenger vehicles which may be acquired.

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lar District of Columbia tags for headquarters motor vehicles exempted from carrying U.S. Government tags and other official identification, and furnishes annually to the district of Columbia Department of Motor Vehicles the name and specimen signature of each representative authorized to approve such requests.

§ 109-38.607 Report of exempted motor vehicles.

The Director of Administration, heads of field offices and other contracting officers or their designees shall maintain records of motor vehicles exempted from displaying Federal license tags and other identification which will permit the submission of reports by the Director of Procurement and Contracts Management upon request of GSA in accordance with FPMR 101-38.607. The records shall contain a listing by type of each exempted vehicle operated during the previous fiscal year, giving the information for each vehicle on hand at the beginning of the year and each of those newly authorized during the year, including—

(a) By whom exemption was authorized, by name and title of authorizing official (including any authorization by Headquarters and GSA);

(b) Date exemption was authorized;

(c) Reasons for exemptions and limitations on uses of the exempted vehicle;

(d) Date of discontinuance for any exemption discontinued during the year; and

(e) Probable duration of exemption for vehicles continuing in use.

Subpart 109-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 109-38.701 Methods of transfer.

(c) The certificates and copies of Certificate of Release of a Motor Vehicle (SF's 97 and 97A) shall be numbered consecutively by each DOE organization disposing of motor vehicles.

§ 109-38.701-50 Delegation of authority to sign Standard Forms 97 and 97A.

(a) Heads of DOE organizations may delegate the authority to sign SF's 97 and 97A to responsible DOE personnel under their jurisdiction. The name of the officer delegated to sign will be typed on the certificate in addition to the signature in ink.

(b) All DOE organizations shall establish proper controls to prevent blank copies of SF's 97 and 97A from being obtained by unauthorized persons.

Subpart 109-38.9—Motor Vehicle Replacement Standards

§ 109-38.900-50 Policy.

It is the policy of DOE to continue in service motor vehicles which meet prescribed replacement standards, but which are in usable and workable condition, provided that—

(a) A continued need exists for the vehicle;

(b) The vehicle can be operated safely and dependably without excessive repair and maintenance costs. Normally, when any single repair job exceeds 25 percent of the estimated current market value of a vehicle, consideration should be given to replacement in lieu of repair and retention;

(c) Repair parts are readily obtainable; and

(d) Retention will not substantially reduce the trade-in value of the vehicle.

§ 109-38.907 Fleets.

(a) The replacement limitations cited in FPMR 101-38.907 are applicable to each of DOE's field offices and may not be exceeded.

(b) For replacement purposes, fleet vehicles are classified as follows:

(1) Automobiles (sedans and station wagons).

(2) All other passenger vehicles (ambulances, buses).

(3) All trucks and truck tractors.

(c) To be replaced, vehicles must meet age and mileage standards shown in FPMR 101-38.9.

§ 109-38.908 Exceptions.

After certification by the appropriate head of the field office, or the head of the appropriate Headquarters organization, that a motor vehicle is beyond economical repair due to wreck or damage, including wear caused by abnormal operating conditions, it may be replaced without regard to replacement standards in FPMR 101-38.9.

§ 109-38.908-50 Prompt disposal of replaced passenger vehicles.

Because of the limitation on the total number of passenger vehicles which DOE may have, replaced passenger vehicles shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both vehicles. Because of disposal problems, there may be occasions where quick disposal of the old equipment may not be feasible or advantageous to the Government, e.g., it may be determined that there is an insufficient number for economical sale or that sale would bring substantially better prices at a later date because of seasonal effects on sale prices. Under such circumstances, retention of the replaced passenger vehicle may be justified. However, such retention may not be used as justification for concurrent operation of the new and replaced vehicles.

Subpart 109-38.10—Scheduled Maintenance of Motor Vehicles

§ 109-38.1002 Agency requirements.

All DOE organizations responsible for Government-owned motor vehicle and equipment operations shall establish a scheduled maintenance program.

§ 109-38.1003 Guidelines.

(a) In line with the basic maintenance policy in FPMR 101-38.10, the scheduled maintenance program for motor vehicles and equipment shall consist of a systematic written procedure for servicing and inspection to ensure safe, efficient and economical operation throughout the period of use and to meet warranty requirements. Maintenance procedures shall be reviewed by the field offices at least annually and revised as necessary to reflect approved changes.

(b) Motor vehicles and equipment shall be maintained in accordance with the manufacturers' recommended specifications.

(c) Whenever practicable, existing Government shops and service facilities shall be consolidated or commercial shops and services shall be utilized to reduce to a minimum the maintenance facilities and equipment, supplies, parts, stocks and overhead costs.

(d) Maintenance also shall be geared to a planned replacement program. Individual jacket files shall be kept and made readily available to appropriate maintenance personnel to provide historical records of past repairs, as a control against unnecessary repairs and overmaintenance, and as an aid in determining the most economical time for replacement.

(e) One-time maintenance and repair limitations shall be established by heads of field offices. To exceed repair limitations, approval from heads of field offices is required, particularly as the time of replacement approaches.

(f) Adequate maintenance schedules shall be provided to accomplish the following objectives in the most economical manner:

(1) To maintain equipment in safe and economical operating condition.

(2) To prevent equipment failures resulting in program delays and excessive downtime.

(3) To prevent premature wear and deterioration.

(4) To prevent undue depreciation.

(5) To conserve materials and manpower.

(g) A "Guide for Preventive Maintenance of Motor Vehicles," published by GSA, is available or the guidance of

all those responsible for maintenance of Government-owned motor vehicles.

(h) Warranties.

(1) Special attention shall be devoted to the warranty on each motor vehicle to ensure that maximum benefits are realized from each warranty. Defective materials and workmanship on vehicles under warranty should be corrected under the terms of the warranty to avoid maintenance and repair of such vehicles at Government expense.

(2) When motor vehicles are maintained in Government shops in isolated locations that are distant from franchised dealer shops, or when it is not practical to return the vehicles to a dealer, billback agreements shall be sought from manufacturers to permit warranty work to be performed in Government shops on a reimbursable basis. GSA's "New Vehicle Guide, Warranty, Delivery Acceptance and Recall of Motor Vehicles," provides guidance on the procedures to be followed in the development of billback agreements as well as other aspects of motor vehicle warranties.

§ 109-38.1005 Assistance to agencies.

GSA is prepared to furnish comments and suggestions with respect to scheduled maintenance programs and, at no cost, will make motor equipment management technicians available to assist in establishing or reviewing preventive maintenance programs. Requests for GSA assistance should be made to the Procurement and Contracts Management Directorate (PR-221) through normal administrative channels.

Subpart 109-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

§ 109-38.1200 General.

FPMR 101-26.406 authorizes the use of standard form 149, U.S. Government National Credit Card for Federal agencies for obtaining service station deliveries and services. The use of SF-149 by each field organization within DOE is optional. When a field organization elects to use the form, it shall be used on a field organization basis. Procedures concerning the methods to obtain credit cards shall be as specified in FPMR 101-26.406-5.

§ 109-38.1201 Billing code.

DOE organizations shall request the assignment of billing address code numbers from the Procurement and Contracts Management Directorate (PR-221). Following the assignment, DOE organizations shall submit orders for issuance of national credit cards in accordance with FPMR 101-26.406-5. The billing code consists of the following:

(a) The first 3 digits of the 10-digit billing code embossed on national credit cards in use by DOE will always be 000.

(b) The fourth digit may be used by DOE organizations and contractors to designate the vehicle class or provide additional billing code numerals. If not used for either of these purposes, zero will be used.

(c) The fifth and sixth digits will be "89," the agency code assigned to DOE.

(d) The seventh, eighth, and ninth digits indicate the billing address code number.

§ 109-38.1202 Administrative control of credit cards.

(a) In the event an SF-149 is lost or stolen, reasonable precautions shall be taken to minimize the opportunity of purchases being made by unauthorized persons. The following actions shall be taken as a minimum:

(1) The paying office shall be notified of the loss or theft and to be on the alert for any unauthorized bills.

(2) Appropriate service station outlets in the area shall be notified of the loss or theft to guard against purchases by unauthorized persons.

(b) The head of each office using credit cards shall be responsible for establishing procedures to provide for the administrative control of credit cards in accordance with the guidelines set forth in FPMR Part 101-38.

Subpart 109-38.13—Energy Conservation in Motor Vehicle Management

§ 109-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(c) The use of motor vehicles for official purposes within DOE is governed by the provisions of DOE Subpart 109-38.55.

§ 109-38.1304-50 Selection of type of motor vehicles.

(a) All vehicles acquired for use, whether by purchase, hire, lease, forfeiture, or transfer from another agency, shall be limited to the minimum body size, engine size, maximum fuel efficiency, and to only that operational equipment (if any) necessary to fulfill programmatic needs.

(b) The least expensive unit overall should be used, considering both acquisition and operating costs for units to be purchased, and rental rates for rented or leased units.

(c) Dual purpose vehicles capable of hauling both personnel and light cargo shall be used whenever appropriate to avoid the need for two vehicles when one can serve both purposes. However, truck-type or van vehicles shall not be acquired for passenger use merely to avoid limitations on the number of passenger vehicles which may be acquired.

(d) Motor scooters and motorcycles in place of higher cost motor vehicles can be used advantageously for certain applications within plant areas, such as mail and messenger service and small parts and tool delivery. Their advantage, however, should be weighed carefully from the standpoint of overall economy (comparison with costs for other types of motor vehicles) and increased safety hazards, particularly when mingled with other motor vehicle traffic.

(e) Electric vehicles may be used advantageously for certain applications. The use of these vehicles is encouraged whenever it is feasible to use them to further the goal of fuel conservation.

§ 109-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of motor vehicles.

(a) DOE shall comply with the requirements established by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201, sec. 510) and Executive Order 12003, "Relating to Energy Policy and Conservation," and current GSA implementation concerning the acquisition of fuel efficient motor vehicles.

(b) Offices conducting motor vehicle operations shall forward annually to the Procurement and Contracts Management Directorate (PR-221) through normal administrative channels, their plan for acquisition of motor vehicles for the next fiscal year. This plan shall conform to the fuel efficiency standards for motor vehicles for the applicable fiscal year, as established by Executive Order 12003 and as implemented by GSA. Annual guidance for the preparation of the plan will be issued by the Procurement and Contract Management Directorate (PR-221) which shall review each submission for conformance with established fuel efficiency standards and shall forward to GSA the departmental consolidated annual motor vehicle acquisition forecast.

(c) Requisitions for the purchase of these motor vehicles shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review, certification, and submission to GSA.

(d) Proposals/requests for commercially leased passenger automobiles, for a period of 60 continuous days or more, shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for review and certification prior to entering into an agreement to lease in order to comply with Executive Order 12003 as implemented by GSA.

(e) Requests to acquire passenger automobiles larger than class 1A, 1B,

or II shall be forwarded with justifications through normal administrative channels to the Procurement and Con-

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or II shall be forwarded with justifications through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) for certification to GSA.

§ 109-38.1350 Conservation of motor vehicle fuels.

In furtherance of the President's announced energy conservation objectives, each organization within DOE shall establish programs which will insure achievement of the reduced motor vehicle fuel consumption objectives. The following actions shall be adopted to achieve the conservation goals of reduced motor vehicle fuel consumption.

(a) Do not idle engine for long periods of time. Limit idle time to 1 minute when the vehicle is parked.

(b) Reduce motor vehicle travel to the maximum extent practicable without jeopardizing essential business.

(c) Use the smallest vehicle that is feasible for the job.

(d) Maintain tire pressure to tire manufacturer's recommendations. Check pressure at least once each week.

(e) Give wide publicity on proper driving techniques as prescribed by GSA to conserve fuels and require that all drivers diligently follow them.

(f) Travel at reduced speeds and limit speed to the national speed limit.

(g) Enforce proper maintenance and servicing procedures, such as tuneups, in accordance with the manufacturer's latest specifications.

Subpart 109-38.49 Forms and Reports

§109-38.4950 Acquisitions and Disposals by Transfer.

ACQUISITIONS AND DISPOSALS BY TRANSFER

	Sedans	Station Wagons	Ambulances	Buses	Light 4X2	Trucks 4X4	Medium Trucks	Heavy Trucks	Special Purpose	Total
Acquired By Transfer										
From Other Agencies										
From Other DOE Offices										
By Reclassification										
Disposal By Transfer										
To Other Agencies										
To Other DOE Offices										
By Reclassification										

Note 1: With regard to sedans, station wagons, ambulances and buses, the acquiring office should specifically identify the agency or office from which acquired and the disposing office should specifically identify the acquiring office or agency.

Note 2: Vehicles transferred by reclassification should specifically identify by footnote the gaining and losing category, i.e., one each 2-1/2 T truck to special purpose.

Subpart 109-38.49 Forms and Reports

Subpart 109-38.49 Forms and Reports

§109-38.4951 Special purpose vehicles.

SPECIAL PURPOSE VEHICLES

FY 19__

	TOTALS
1. Vehicles on Hand, October 1	
2. Acquisitions	
3. Disposals	
4. Vehicles on Hand, September 30	
5. Cost of Vehicles Acquired	
6. Proceeds from Sales	
7. Net Cost (Line 5 minus 6)	
8. Number Assigned from Interagency Motor Pools (Term Basis)	
9. Cost of 8 above	
10. Number of Rented Commercially (Term Basis)	
11. Cost of 10 above	

§109-38.4952 Supplemental age and mileage analysis.

SUPPLEMENTAL AGE AND MILEAGE ANALYSIS

Model	NUMBER OF VEHICLES, BY CUMULATIVE MILES OPERATED										TOTAL
	0 TO 999	1,000 TO 9,999	10,000 TO 19,999	20,000 TO 29,999	30,000 TO 39,999	40,000 TO 49,999	50,000 TO 59,999	60,000 TO 79,999	80,000 TO 99,999	100,000 AND OVER	
CURRENT YEAR											
PRECEDING YEAR											
2ND PRECEDING YEAR											
3RD PRECEDING YEAR											
4TH PRECEDING YEAR											
5TH PRECEDING YEAR											
6TH PRECEDING YEAR											
7TH PRECEDING YEAR											
8TH PRECEDING YEAR											
9TH PRECEDING YEAR											
10TH PRECEDING YEAR											
TOTAL											

Subpart 109-38.50—Utilization of Motor Vehicles

(g) Other motor vehicles—no average use goals for other trucks, ambu-

§ 109-38.5101-2 Administration of the requirements of the statute with respect

appropriation or other Act, which shall be in addition to the amount required for transportation."

ported to the Procurement and Contracts Management Directorate (PR-221) prior to any disposal action so

§ 109-38.5202 General.

Departmentwide policies, standards, guidelines and procedures for manage-

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Subpart 109-38.50—Utilization of Motor Vehicles

§ 109-38.5000 General.

To keep the number of motor vehicles at the minimum which will adequately satisfy program requirements, continuing attention shall be given to developing and implementing methods and practices which will help achieve the most practical and economical utilization of vehicles.

§ 109-38.5001 Utilization practices.

Methods and practices for achieving maximum economical utilization of motor vehicles shall include but not be limited to—

(a) The maximum use of equipment pooling arrangements, taxicabs, or other common service arrangements;

(b) The minimum, practicable assignment of equipment to individuals, groups, or specific organizational components;

(c) Frequent review of vehicle utilization statistics by appropriate levels of management;

(d) The careful selection of equipment types to permit the maximum appropriate use of multipurpose equipment;

(e) The rotation of equipment between high and low mileage assignments where practicable to maintain the fleet in the best overall replacement age and mileage balance and operating economy; and

(f) The maintenance of individual equipment use records, such as trip tickets or vehicle logs, showing sufficiently detailed information to evaluate appropriateness of assignment and adequacy of use being made. If one-time use is involved, such as assignments from motor pools, the individual's trip records must, as a minimum, identify the vehicle and show the name of the operator, dates, destination, time of departure and return, and mileage.

§ 109-38.5002 Use objectives for motor vehicles.

The following use goals are established for DOE as average objectives:

(a) Sedans and station wagons—3,000 miles per quarter or 12,000 miles per year.

(b) Light trucks and general purpose vehicles, 1 ton and under (less than 12,500 GVW)—10,000 miles per year.

(c) Medium trucks and general purpose vehicles, 1½ ton through 2½ ton (12,500 to 16,999 GVW)—7,500 miles per year.

(d) Heavy trucks and general purpose vehicles, 3 ton and over (17,000 GVW and over)—7,500 miles per year.

(e) Truck tractors—10,000 miles per year.

(f) All-wheel-drive vehicles—7,500 miles per year.

(g) Other motor vehicles—no average use goals for other trucks, ambulances, buses, and special purpose vehicles are established. The use of such equipment shall be reviewed and necessary action taken to ensure that the equipment is fully utilized or declared excess to the Department's needs.

§ 109-38.5003 Application of use goals.

Individual motor vehicle utilization cannot always be measured or evaluated strictly on the basis of miles operated or against any departmentwide mileage standard. Other measures of use will need to be considered. Accordingly, as an aid in achieving maximum feasible utilization, local use objectives which represent practical units of measurement for vehicle utilization and for planning and evaluating future vehicle requirements should be established. Such objectives should generally be initiated by the organization involved and reviewed and adjusted as appropriate, but not less often than annually. The objectives will take into consideration past performance, future requirements and special operating conditions and should be consistent with the justifications used to obtain vehicle authorizations.

Subpart 109-38.51—Acquisition of Motor Vehicles

§ 109-38.5100 General requirements.

The acquisition of motor vehicles shall be limited to the minimum number needed to adequately serve program requirements. Any additions to the fleet must be fully justified and the justification shall include satisfaction that established utilization objectives are being achieved.

§ 109-38.5101 Authority required for purchase or hire of passenger motor vehicles.

§ 109-38.5101-1 Statute.

(a) 31 U.S.C. 638a(a) provides that no appropriation shall be available for the purchase or hire of passenger motor vehicles unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE. These acts usually are specific as to the number of passenger motor vehicles which may be pruchased and whether they are to be "replacements" or "additions." Any authority for DOE to hire passenger motor vehicles is also contained in the acts (although numbers are not specified).

(b) 31 U.S.C. 638a(e) provides that the acquisition of passenger motor vehicles by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5101-2 Administration of the requirements of the statute with respect to acquisition of passenger motor vehicles.

In implementation of the provisions of 31 U.S.C. 638a (a) and (e) and the Comptroller General's Decision B-154282, dated October 15, 1966, passenger motor vehicles may not be acquired by purchase or transfer unless they are—

(a) Specifically authorized by the Director of Procurement and Contracts Management, pursuant to the appropriation concerned or other law;

(b) Acquired from excess without reimbursement for upgrading or replacement purposes and an equal number of replaced vehicles are reported for disposal as excess within 30 days; or

(c) For temporary emergency needs not in excess of three months in lieu of commercial rentals.

§ 109-38.5101-3 Administration of the requirements of the statute with respect to the hire or loan of passenger motor vehicles.

(a) Inclusion of specific authority in the DOE appropriation or other law is sufficient basis for hiring passenger motor vehicles.

(b) Prior to commercial rental, temporary vehicle needs which cannot be filled by GSA motor pools shall be obtained from available excess (or other Federal agencies on a loan basis) to the greatest extent feasible and economical. Excess (or loaned) vehicles may be acquired to fill temporary needs for periods not to exceed three months without specific Headquarters approval or without charging against the number authorized for purchase. If, however, it becomes desirable to extend the use of such vehicles in excess of three months, they shall be charged against the number authorized for purchase unless otherwise <approved by the Procurement and Contracts Management Directorate (PR-221). (Comp Gen B-154282 dated October 15, 1965.)

§ 109-38.5101-4 Limitation on unit cost of sedans and station wagons.

(a) Pub. L. 91-423 dated September 26, 1970, amends paragraph (1) of subsection (c) of section 5 of the Act of July 16, 1914, as amended (31 U.S.C. 638a), and provides that: "unless otherwise specifically provided, no appropriation available for any department shall be expended • • • to purchase any passenger motor vehicle (exclusive of buses and ambulances), at a cost, completely equipped for operation, and including the value of any vehicles exchanged, in excess of the maximum price therefor, if any, established pursuant to law by a Government agency and in no event more than such amount as may be specified in an

appropriation or other Act, which shall be in addition to the amount required for transportation."

(b) The above amendment continues as follows: "A passenger motor vehicle shall be deemed completely equipped for operation if it includes the systems and equipment which the Administrator of General Services finds are customarily incorporated into a standard passenger motor vehicle completely equipped for ordinary operation. Notwithstanding any other provisions of law, additional systems or equipment may be purchased whenever the Administrator finds it appropriate. The price of such additional systems or equipment shall not be considered in determining whether the cost of a passenger motor vehicle is within any maximum price otherwise established by law." The Administrator of General Services has issued instructions to Federal agencies for procurement of additional systems and equipment in FPMR 101-25.304 and 101-26.501.

(c) The essentiality of additional systems and equipment shall be based on requirements for safety, efficiency, economy, suitability of the vehicle for purposes intended and fuel economy.

(d) Requests may be made in the annual budget estimates, where appropriate, for the cost of additional systems and equipment on sedans and stations wagons, including those police-type vehicles necessary for security purposes. Actual purchase of passenger vehicles shall be made only after allocation by the Director of Procurement and Contracts Management based on Congressional authorizations contained in the Departmental appropriation acts.

§ 109-38.5101-5 Passenger motor vehicle allocations.

(a) To assure that DOE purchases do not exceed the number of passenger motor vehicles authorized to be purchased in any fiscal year, the Director of Procurement and Contracts Management shall allocate to field offices the number that they may purchase and shall inform them of the number of passenger motor vehicles which may be purchased. These allocations and applicable unit cost limitations shall not be exceeded.

(b) In order that unused authority to purchase may be reallocated, the offices concerned shall notify the Procurement and Contracts Management Directorate (PR-221) when allocations will not be used. Such notification shall be submitted as soon as possible but not later than June 15 of each year.

(c) In order that passenger vehicles no longer needed by one field office may be used by another, either by actual transfer for continued use or as replacement off-sets, they shall be reported to the Procurement and Contracts Management Directorate (PR-221) prior to any disposal action so that such use can be properly coordinated within DOE.

§ 109-38.5102 Procurement.

(a) Policies and procedures for the purchase of new motor vehicles, including provisions for the procurement of additional systems and equipment for sedans and station wagons, are set forth in FPMR 101-26.5 and DOE-PR 9-5.52.

(b) Selection guidelines for justification of air-conditioning and other additional systems and equipment, with respect to procurement of new sedans and station wagons and procurement for installation in such vehicles already in service, are contained in FPMR 101-25.304, and 101-26.501.

(c) Special procedures relating to the delivery, inspection, and acceptance of motor vehicles are provided in FPMR 101-26.501-6. These special procedures are designed primarily to identify and report on deliveries of unsatisfactory motor vehicles ordered by GSA.

Subpart 109-38.52—Aircraft

§ 109-38.5200 Scope of subpart.

This subpart establishes basic policies and procedures that apply to the management of aircraft and aircraft services. The policies and procedures set forth herein are the minimum required, and the head of each field office operating aircraft shall issue such supplemental instructions as may be needed to ensure efficient management of aircraft.

§ 109-38.5201 Definitions.

As used in this subpart the following definitions apply:

(a) "Aircraft" means a device that is used or intended to be used for flight in the air, including: heavier than air and lighter than air aircraft, airplanes, gliders, helicopters, rigid and nonrigid airships, and balloons.

(b) "Chartered aircraft" are aircraft rented or hired on an intermittent basis, with or without a pilot or other operating aircrew members.

(c) "Leased aircraft" are aircraft obtained on a contractual basis, for a stipulated time interval, as distinguished from intermittent charter or short-term rental.

(d) "Military aircraft" are aircraft on loan from the Department of Defense (DOD).

(e) "Pilot" is an individual possessing the required FAA credentials and meeting the qualification requirements and other criteria as required by the employing office.

(f) "Part-time pilot" is one who is employed specifically to operate aircraft on a "when-needed" basis.

§ 109-38.5202 General.

Departmentwide policies, standards, guidelines and procedures for management of aircraft and aviation services, necessary staff assistance, and general liaison with other Federal agencies are provided by the Director of Procurement and Contracts Management.

§ 109-38.5203 Aircraft safety.

(a) Policy development and general overview of aircraft safety in Departmental operations is exercised by the Assistant Secretary's for Environment operational and environmental safety staff.

(b) Minimum aviation operations and aircraft safety standards, criteria and procedures for DOE aviation operations shall be established by the Assistant Secretary's for Environment operational and environmental safety staff in coordination with the Procurement and Contracts Management Directorate and heads of field offices. Heads of field offices may establish higher safety standards, criteria and procedures when they have determined that it is necessary to assure the safety of specific operations under their jurisdiction.

§ 109-38.5204 Pilot responsibility and authority.

(a) It shall be the responsibility of the pilot to be aware of and conform to Federal Aviation Regulations and other requirements of the Federal Aviation Administration, Departmental policies and field office directives, and the regulations and directives of other applicable authority, including those relating to use for official purposes only.

(b) The maintenance and repair of aircraft are also the responsibility of the pilot who shall be responsible for determining that the aircraft is airworthy and that the required FAA maintenance checks are performed periodically and on schedule.

(c) The pilot is at all times responsible for the safe operation of his aircraft and for the safety of his crew and passengers. Insofar as the loading of the aircraft, weather, mechanical, and other safety conditions are concerned, the pilot shall have final authority for determining whether a particular flight shall be continued or terminated and how it shall be made.

§ 109-38.5205 Acquisition of aircraft.

§ 109-38.5205-1 Statute.

(a) 31 U.S.C. 638a(b) provides that no appropriation shall be available for the purchase, maintenance or operation of any aircraft, unless specifically authorized by the appropriation concerned or other law. Such authority will generally be included in the annual appropriation acts for DOE.

These acts usually are specific as to the number of aircraft which may be purchased, and whether they are to be "replacements" or "additions." Any

§ 109-38.5205-4 Notification of acquisition authorization.

To assure that acquisitions do not

hire of aircraft and operators meeting no more than the minimum basic operating standards of part 91 of the

§ 109-38.5210 Operation.

(a) Flight operations must comply

ports that may be needed for management or other purposes.

(b) All accidents involving aircraft

Government who willfully uses or authorizes the use of any Government-

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These acts usually are specific as to the number of aircraft which may be purchased, and whether they are to be "replacements" or "additions." Any authority for DOE to hire aircraft is also contained in these acts (although numbers are not specified).

(b) 31 U.S.C. 638a(e) provides that the acquisition of aircraft by any agency by transfer from another department of the Government shall be considered as a purchase within the meaning thereof.

§ 109-38.5205-2 Approval requirements.

(a) All proposed acquisitions of aircraft (with or without reimbursement) except for temporary (30 days or less) rentals or loans shall be referred to the Director of Procurement and Contracts Management for prior approval. Temporary rental or loans (30 days or less) may be approved by heads of field offices.

(b) The acquisition of specific aircraft by type shall be coordinated with the Assistant Secretary's for Environment operational and environmental safety staff to assure that the selected aircraft type can perform the mission requirements safely and meet all applicable safety standards.

(c) Because of the limitation on the number of aircraft which DOE may acquire, replaced aircraft shall be removed from service and disposed of prior to or as soon as practicable after delivery of the replacement equipment to avoid concurrent operation of both aircraft.

§ 109-38.5205-3 Acquisition from excess sources.

Acquisition from excess sources is encouraged when there is specific authority for additional or replacement aircraft. Aircraft may also be acquired from excess sources for upgrading or replacement purposes: *Provided* (a) That such acquisition is without reimbursement, and (b) that an equal number of aircraft is reported to GSA as excess within 30 days after delivery of the replacement aircraft. The aircraft being declared excess should not be routinely circularized within the Department. The SF 120, Report of Excess Property, shall be annotated to identify the GSA transfer order number shown on the transfer document for the replacement aircraft, and a copy of the SF 120 shall be forwarded to the Procurement and Contracts Management Directorate (PR-221). Prior to the acquisition of aircraft from any excess source, the Federal Aviation Administration should be contacted to ensure that the Federal Aviation Regulations authorize the type of operations to be conducted and that the aircraft can be certified as airworthy without extensive or costly modification.

§ 109-38.5205-4 Notification of acquisition authorization.

To assure that acquisitions do not exceed the number of aircraft authorized by statute to be acquired in any fiscal year, the Director of Procurement and Contracts Management shall inform DOE field offices each fiscal year of the number of aircraft which may be acquired. These authorizations shall not be exceeded.

§ 109-38.5206 Management responsibility.

The head of each field office having an aircraft operation shall establish procedures to insure—

(a) That the acquisition of aircraft, including military aircraft, is centrally controlled to insure that authorizations are not exceeded;

(b) That each aircraft is equipped with the instruments, accessories, radio, navigational aids, safety equipment, and survival gear necessary for the safe performance of each operating mission, including the installation of aircraft crash position indicators as needed. Safety equipment shall include, as a minimum, seat belts and/or shoulder harnesses for the pilot and all passengers, at least one emergency fire extinguisher, and a first aid kit. Aircraft used on night flights and/or under other than visual flight rules (VFR) conditions shall be equipped for instrument flight (IFR). Life jackets shall be provided and readily available for all occupants of aircraft on extended overwater flights as defined in Federal Aviation Regulation 1.1. Aircraft on flights into isolated areas shall be equipped with emergency rations and appropriate survival gear;

(c) Conformance with Federal Aviation Administration requirements for the registration, certification, maintenance, and operation of aircraft, engines, and component equipment;

(d) Selection of qualified pilots and crew members and the maintenance of pilot and crew competence commensurate with job requirements;

(e) Establishment of dispatching and tracking procedures or other controls that will assure knowledge of aircraft location when operating in areas where flight plan service is not available;

(f) Overall safe, efficient, and economical operation, maintenance, utilization, and replacement of aircraft;

(g) The pooling of usage as a means of increasing utilization;

(h) That contract or charter pilots are duly certified to meet all requirements and regulations established by the Federal Aviation Administration for the particular aircraft, and that chartered, leased, or rented aircraft are operated and maintained in compliance with all rules, regulations, and minimum standards of the Federal Aviation Administration. Any rental or hire of aircraft and operators meeting no more than the minimum basic operating standards of part 91 of the Federal Aviation Regulations is discouraged, and such marginally safe aircraft and operators shall not be used to transport passengers or hazardous cargo; and

(i) That all pilots are aware of the provisions of 31 U.S.C. 638a(c)(2) which prohibits the use of any Government-owned or -leased aircraft for other than official purposes (see subpart 109-38.54).

§ 109-38.5207 Registration and identification.

(a) Department-owned aircraft shall be registered with the Federal Aviation Administration. The certificate of registration shall be displayed in the aircraft in accordance with FAA requirements. A similar requirement shall be included in any arrangement for the charter, rent, hire, or lease of aircraft.

(b) All aircraft shall display markings as required by the Federal Aviation Regulations for registered aircraft of the United States.

§ 109-38.5208 Airworthiness.

With the exception of public use aircraft being operated under special regulations of the Federal Aviation Administration, all aircraft shall be <required to have a currently effective Federal Aviation Administration Airworthiness Certificate appropriate to the proposed usage. This certificate shall be displayed in the aircraft. Exceptions to this requirement are (a) uncertified aircraft may be ferried with minimum crew when there is a written determination by the head of the field office of his designee that the aircraft is safe for flight, and (b) aircraft obtained by transfer from the Department of Defense or the U.S. Coast Guard may be ferried incident to such transfer when the aircraft has been released as airworthy for flight.

§ 109-38.5209 Maintenance.

As a minimum, all aircraft, aircraft engines, propellers, accessories, and equipment shall be maintained and serviced in accordance with Federal Aviation Administration requirements for air carrier and non-air carrier aircraft, as appropriate, and the instructions of the manufacturer. All repairs and alterations shall be performed and approved in accordance with applicable FAA or military standards and requirements. Preventive maintenance inspections shall be made of the airframe, engine, and accessory equipment in conformance with the equipment manufactuer's recommendations and FAA or military requirements, as applicable.

§ 109-38.5210 Operation.

(a) Flight operations must comply with the Federal Aviation Regulations, and responsibility for such compliance rests with the pilot of the aircraft (§ 109-38.5204). Any special problem requiring deviation from the regulations shall be submitted through normal administrative channels to the Assistant Secretary's for Environmental operational and environmental safety staff for review and possible referral to the FAA for an appropriate waiver. Such a waiver is required for all fixed-wing aircraft engaged in low-level flying, and any change of conditions shall be reported to the responsible FAA District Office.

(b) Flight plans are required for all flights over isolated areas, and are also required for flights under visual flight rules (VFR) conditions except where the flight is of a local nature. Where normal flight plan channels are not available, a flight dispatching and tracking procedure or other control shall be followed that will assure current knowledge by responsible DOE or DOE contractor personnel of the aircraft's operating plan and of its arrival at destination.

(c) Aircraft, engines, and equipment shall be operated within the operating limits prescribed by the manufacturer.

(d) Adequate preflight and in-flight check lists shall be provided to, and used by, all pilots. A visual preflight inspection shall be made by the pilot before each takeoff, and any deficiency which might affect the safety of the flight shall be corrected before takeoff.

(e) All flights shall be planned and conducted so that the aircraft will arrive over its destination with a fuel reserve sufficient to reach a planned alternate destination. Flights conducted under FAA Instrument Flight Rules shall be required to conform to FAA fuel time minimum requirements, or better.

§ 109-38.5211 Records.

As a minimum, flight, aircraft, and engine logs shall be maintained in accordance with FAA requirements, and records of operation and maintenance shall be maintained as required for management, budgetary and reporting purposes. Heads of field offices shall establish requirements for other records needed.

§ 109-38.5212 Reports.

(a) Reports shall be submitted as required by the Federal Aviation Administration, the National Transportation Safety Board, the Assistant Secretary's for Environment operational and environmental safety staff and others. Heads of field offices shall establish the requirements for other reports that may be needed for management or other purposes.

(b) All accidents involving aircraft shall be reported promptly to the National Transportation Safety Board, Federal Aviation Administration as required, the head of the field office concerned and the Assistant Secretary's for Environment operational and environmental safety staff.

Subpart 109-38.53—Cost Reductions Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil

§ 109-38.5300 Scope of subpart.

This subpart provides instructions for application of Gas Bulletin FPMR G-36, "Cost Reduction Obtainable Through Cross-Servicing Arrangements for Motor Vehicle Fuel and Oil," and submission of reports required by that Bulletin.

§ 109-38.5301 Submission of reports.

Headquarters and field offices shall prepare semi-annual reports as of September 30 and March 31 which will include the information requested in paragraph 5, GSA Bulletin FPMR G-36. The reports shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) by October 10 and April 10 of each year. A negative report is required.

Subpart 109-38.54—Official Use of Motor Vehicles and Aircraft

§ 109-38.5400 Scope of subpart.

This subpart supplements FPMR Part 101-38, implements the provisions of statutes concerning the use of Government-owned or -leased motor vehicles and aircraft for official purposes and prescribes policies and procedures governing the use of such vehicles and aircraft acquired for official purposes.

§ 109-38.5401 Statutory requirement.

(a) 31 U.S.C. 638a(c)(2) provides "Unless otherwise specifically provided, no appropriation available for any department shall be expended • • • for the maintenance, operation, and repair of any Government-owned passenger vehicle or aircraft not used exclusively for official purposes; and 'official purposes' shall not include the transportation of officers and employees between their domiciles and places of employment, except in cases of medical officers on outpatient medical service and except in cases of officers and employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the head of the department concerned. Any officer or employee of the Government who willfully uses or authorizes the use of any Government-owned passenger motor vehicle or aircraft or of any passenger motor vehicle or aircraft leased by the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended from duty by the head of the department concerned, without compensation, for not less than one month and shall be suspended for a longer period or summarily removed from office if circumstances warrant • • •"

The above statute is interpreted to preclude reimbursement to Government contractors for the maintenance, operation or repair of Government-owned or -leased passenger motor vehicles or aircraft which are used by contractor personnel for other than official purposes.

(b) Under the provisions of 18 U.S.C. 641, any person who knowingly misuses any Government property (which includes Government motor vehicles) is subject to criminal prosecution and, upon conviction, to fines up to $10,000 or imprisonment for up to 10 years.

§ 109-38.5402 Policy.

All Government-owned or -leased motor vehicles and aircraft operated by DOE and its contractors shall be utilized for official purposes only, and officers, employees and contractors of the Department shall not use or authorize others to use any Government-owned or -leased motor vehicles or aircraft for other than official purposes.

§ 109-38.5403 Official purposes.

(a) The term "official purposes" means those purposes required to carry out authorized programs, including program work carried out under contracts made pursuant to authority vested in the Department. "Official purposes" largely is a matter of administrative discretion and determination based on the particular facts of the case and the Government interest in the proposed use of the Government motor vehicle. It is the responsibility of the person authorizing or approving the use to examine the circumstances surrounding such use and assure that the facts sufficiently justify a conclusion of "official purpose."

(b) The term "field work" as used in 31 U.S.C. 638a quoted above refers to the nature of the work performance; is is not restricted to "field service" as distinguished from "Headquarters service."

§ 109-38.5404 Approval of authorizations.

(a) The Director of Administration and heads of field offices may approve the use of a Government-owned or -leased motor vehicle between a DOE employee's domicile and place of employment. This authority may be re-

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delegated. Redelegation shall not be below the chief administrative officer level.

(b) Heads of field offices and contracting officers shall require contractors to assure that—

(1) Contractors prescribe and issue, subject to approval by the head of the field office or contracting officer, such local written guidelines regarding the official use of motor vehicles or aircraft as may be necessary and appropriate for particular operating situations;

(2) The use of Government-owned or -leased motor vehicles or aircraft by contractor employees for transportation between places of employment and domiciles, including their storage at or near such domiciles, conforms to official use policies and guidelines, and that they make and document appropriate administrative determinations, authorizations, or approvals for such use and storage by contractor employees at appropriate supervisory levels within the contractors' organizations.

(c) Except as provided in § 109-38.5407, the approving official shall determine the nature of the field duties of the employees which makes such transportation necessary. Approvals shall be in writing.

§ 109-38.5405 Duration of authorizations.

An authorization to use a motor vehicle for transportation between a domicile and place of employment shall be limited to the period of actual need. Where such need extends beyond a year, each authorization shall be limited to a single year. Requests for renewals of authorizations shall be subject to the same justification as original requests, and must also show what attempts were made during the original period to eliminate the necessity for the request.

§ 109-38.5406 Use of a motor vehicle to drive to residence at start of official travel.

The use of a Government motor vehicle by an officer or employee to drive to his residence when it is in the interest of the Government that he start on official travel in the vehicle from that point, rather than from his place of business, is not regarded as prohibited by 31 U.S.C. 638a(c)(2), (25. Comp. Gen. 844) or by Departmental policy.

§ 109-38.5407 Use of Government-owned or -furnished motor vehicles in travel status.

The use of Government-owned or Government-furnished motor vehicles by Government employees while in travel status is governed by the Federal and DOE Travel Regulations.

§ 109-38.5408 Use of Government-owned or -leased bus systems.

The provisions of this subpart do not affect passenger use of Government-owned or -leased bus systems (regardless of type of vehicle used in such system) established under the provisions of section 161e of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201e).

§ 109-38.5409 Use of Government motor vehicles in emergencies.

In limiting the use of Government motor vehicles to official purposes, it is not intended to preclude their use in emergencies threatening loss of life or property (see § 109-1.5102). Such use shall be documented.

§ 109-38.5410 Use of motor vehicles by the Postal Service.

(a) Section 411 of the Postal Reorganization Act provides that executives agencies are authorized to furnish property and services to the Postal Service under such terms and conditions, including reimbursability, as the Postal Service and the agency concerned deem appropriate. Executive Order 11672 establishes a requirement for reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property, as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

(b) Pursuant to the authority in 39 U.S.C. 411, motor vehicles may be made available to the Postal Service for temporary use, particularly during the Christmas season. The rental rate to be charged shall be the same as is charged by the General Services Administration for similar motor vehicles available from the interagency motor pool serving the geographical area involved, with appropriate allowances for any fuel and oil furnished by the Postal Service.

§ 109-38.5411 Instructions to motor vehicle operators.

Procedures shall be established to insure that motor vehicle operators are informed concerning—

(a) The statutory requirement that motor vehicles shall be used only for official purposes;

(b) Personal responsibility for safe driving and operation of motor vehicles, and for compliance with Federal, State, and local laws and regulations, and all accident reporting requirements;

(c) Protection under the Federal Tort Claims Act (28 U.S.C. 2671) when acting within the scope of his/her employment;

(d) The penalties for unauthorized use of motor vehicles;

(e) The prohibition against picking up strangers or hitchhikers; and

(f) Any other duties and responsibilities assigned to motor vehicle operators with regard to the use, care, operation, and maintenance of motor vehicles.

PART 109-39—INTERAGENCY MOTOR VEHICLE POOLS

Subpart 109-39.3—Motor Vehicle Exemptions

§ 109-39.302 Unlimited exemptions.

In those instances where it is determined that an unlimited exemption from inclusion of a vehicle in the Interagency Motor Pool System is warranted under the criteria set forth in FPMR 101-39.302, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

§ 109-39.303 Limited exemptions.

The procedure established in § 109-39.302 shall be followed in seeking limited exemptions under the criteria set forth in FPMR 101-39.303.

Subpart 109-39.4—Establishment, Modification and Discontinuance of Motor Pools

§ 109-39.404-3 Problems involving service or cost.

To resolve problems involving motor pool service or cost, the affected field or Headquarters organization shall bring the matter to the attention of the chief of the motor pool providing the vehicles. In the event a satisfactory solution does not result, full particulars shall be forwarded to the Procurement and Contracts Management Directorate (PR-221), for consideration and possible referral to the Administrator of General Services.

§ 109-39.404-4 Agency requests to withdraw participation.

Should circumstances arise at a given interagency motor pool location which tend to justify discontinuance or curtailment of participation by a DOE organization, the participating organization should forward complete details to the Procurement and Contracts Management Directorate (PR-221) for consideration and possible referral to the Administrator of General Services.

Subpart 109-39.5—Services

§ 109-39.502 Services available.

§ 109-39.502-50 Commercially rented vehicles available through Interagency Motor Pools.

(a) Interagency motor pool locations, services, and rental rates are published periodically by GSA in a leaflet for the current information and guidance of Federal agencies. Availability of this publication and details concerning distribution are announced in GSA Bulletins.

(b) Details concerning the availability and arrangements for GSA contract commercial rental car services are contained in Federal Supply Schedule, Industrial Group 751, Motor Vehicle Rental Without Driver and in a leaflet, "Traveler's Pocket Guide." Copies may be obtained from GSA regional offices.

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

§ 109-39.601 General requirements.

(a) The head of each office operating leased vehicles is designated as responsible for certifying that leased vehicles larger than Type II (compact) are essential to the mission of the particular organization concerned.

(b) New requirements for leased vehicles on a nationwide basis shall be submitted to the Procurement and Contracts Management Directorate (PR-221), for transmittal to the General Services Administration.

§ 109-39.602 Authorized use.

§ 109-39.602-1 Government vehicles.

(a) Subpart 109-38.54, Official Use of Motor Vehicles and Aircraft, prescribes DOE policies and procedures governing the official use of Government motor vehicles.

(b) The heads of field offices and the Director of Administration are responsible for compliance with FPMR 101-39.602-1(b), which places limitations on the use of Government-owned or -leased motor vehicles for official purposes.

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AUTHORITY: Title V, Department of Energy Organization Act (Pub. L. 95-91); Administrative Procedure Act, as amended (5 U.S.C. 551 et seq.).

PART 109-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

§ 109-42.000 Scope of part.

This part implements and supplements FPMR Part 101-42, Property Rehabilitation Services and Facilities.

§ 109-42.000-50 Applicability.

The provisions of FPMR 101-42 and this part apply to contractors which generate used hyposolution, scrap film, other precious metals, scrap and other recoverable scrap materials.

Subpart 109-42.3—Recovery of Precious Metals and Critical Materials

§ 109-42.301-1 Guidelines for conducting intraagency surveys.

The intraagency survey required by FPMR 101-42.301-1 shall be prepared by each DOE organization and contractor that has no precious metal recovery program as directed by the Director of Procurement and Contracts Management. The format of the report is included in FPMR 101-42.4801.

§ 109-42.301-2 Reporting to GSA.

(a) The annual silver or other precious metals recovery report required by FPMR 101-42.301.2 shall be prepared by each DOE organization and contractor conducting a precious metal recovery program. The format of the report is included in FPMR 101-42.4802. Negative reports are required. A report shall also be submitted providing applicable information in those instances where activities use indirect methods of recovery by shipping the hyposolution or scrap film to another recovery activity or by disposal by sale.

(b) Individual reports shall cover the entire fiscal year and shall be forwarded to the appropriate field office for forwarding to the Procurement and Contracts Management Directorate (PR-221) not later than 30 days after the end of each fiscal year.

§ 109-42.302 Recovery of silver from used hyposolution and scrap film.

A program for recovery of silver from used hyposolution and scrap film is established for DOE. All DOE organizations and contractors shall recover silver from hyposolution and scrap film where economically feasible. Where an activity generates minimal amounts of hyposolution, consideration shall be given to combining output with another recovering activity as contemplated in FPMR 101-42.301-1.

§ 109-42.350 Platinum and platinum family.

See § 109-43.313-52 for procedures for reporting excess platinum for recovery and subsequent redistribution within DOE.

Subpart 109-42.50—Reclamation of Wastepaper

§ 109-42.5000 Scope of subpart.

This subpart implements and supplements 40 CFR 246, "Materials Recovery Guidelines for Source Separation" as issued by the Environmental Protection Agency (EPA), states DOE policy on reclamation of paper, and prescribes authorities and responsibilities of Heads of Headquarters organizations, heads of field offices, and other contracting officers.

§ 109-42.5001 Policy.

It is DOE policy that a program for recovery and reclamation of wastepaper shall be established at any DOE facility where such recovery is economically feasible, i.e., implementation and operating costs are not greater than revenue derived, in accordance with the criteria contained in 40 CFR Part 246.

§ 109-42.5002 Definition.

"DOE facilities" as used in this subpart means Government-owned or -leased buildings operated by DOE personnel or operating and onsite service contractors.

§ 109-42.5003 Responsibilities and authorities.

§ 109-42.5003-1 Responsibility for departmentwide coordination.

The Director of Procurement and Contracts Management is responsible for (a) representing the Department with EPA and other Federal agencies on matters relating to the recovery and reclamation of wastepaper at DOE facilities, (b) consolidating the departmental reports on recovery of wastepaper for submission to EPA, and (c) providing staff assistance to DOE organizations implementing the guidelines contained in 40 CFR Part 246.

§ 109-42.5003-2 Responsibility for implementing and conducting wastepaper recovery programs.

The Director of Administration, heads of field offices, and contracting officers are responsible for implementation and conduct of a wastepaper recovery program in accordance with 40 CFR Part 246 at DOE facilities under their cognizance and shall submit the required reports to the Procurement and Contracts Management Directorate (PR-221) within 30 days after the end of each fiscal year in the format illustrated in § 109-42.5004.

§ 109-42.5004 Reports.

Wastepaper recovery reports shall be submitted in the following format:

Facility name and address	Number of office workers	Implementation date	Tons of wastepaper recovered	Revenue received

PART 109-43—UTILIZATION OF PERSONAL PROPERTY

§ 109-43.000 Scope of part.

This part implements and supplements FPMR Part 101-43, Utilization of Personal Property.

§ 109-43.000-50 Applicability.

The provisions of FPMR Part 101-43 and this part are applicable to contractors unless otherwise provided herein.

§ 109-43.001 Definitions.

§ 109-43.001-5 Excess personal property.

The definition of excess personal property in FPMR 101-43.001-5 is supplemented to provide that excess personal property, generally referred to herein as "excess property," means personal property which is—

(a) Under the control of a DOE organization or contractor and not required for the holder's needs or in the discharge of its responsibilities and which has been documented as excess by a responsible DOE or contractor official having responsibility for its custody and accountability; or

(b) Under the control of any Federal agency, including DOE, and not required for its needs or the discharge of its responsibilities. Property is not considered to be excess to DOE until it has been determined that no requirement for the property exists within the Department.

§ 109-43.001-14 Personal property.

The definition in FPMR 101-43.001-14 is modified to read as follows: Personal property means property of any kind or type except real property; records; special source materials, which includes source materials and special nuclear material, and those other materials to which the provisions of DOE Manual part 7400 apply, such as deuterium, enriched lithium, neptunium 237 and tritium, and atomic weapons and byproduct materials as defined in section 11 of the Atomic Energy Act of 1954, as amended; enriched uranium in stockpile storage; and petroleum being held in reserve in the Strategic Petroleum Reserve and the Naval Petroleum Reserve.

§ 109-43.001-50 Nonreportable property.

"Nonreportable property" is excess personal property which is not required to be formally circularized within DOE or reported to GSA.

§ 109-43.001-51 Platinum.

"Platinum" means platinum family, including platinum, palladium, rhodium, iridium, ruthenium and osmium.

§ 109-43.001-52 Reportable property.

"Reportable property" is excess personal property which is required to be formally circularized within DOE and, if not required within DOE, reported to GSA.

Subpart 109-43.1—General Provisions.

§ 109-43.101 Surveys.

Each organization holding Government personal property shall continuously survey property under its control to assure efficient use and shall promptly make property excess to its needs available for use elsewhere. See § 109-25.109-1 for DOE policy on the conduct of management walk-through inspection tours to identify idle and unneeded equipment.

§ 109-43.102 Reassignment of property within executive agencies.

See DOE Order 2200, Chapter XI for preparation of the feeder reports upon which the consolidated DOE report of internal property reassignments is based.

§ 109-43.103 Agency utilization officials.

The Director of Procurement and Contracts Management shall designate the DOE National Utilization Officer.

Subpart 109-43.3—Utilization of Excess

§ 109-43.301-50 Policy.

It is the policy of DOE to consider excess property as the first source of supply. In no case, however, will excess property be acquired unless a present or foreseeable program need exists for the property. In carrying out this policy, the objective of which is to obtain maximum effective and economical utilization of property already owned by the Federal Government, consideration should be given to such factors as—

(a) Nature and cost of any repairs required to restore excess equipment to a safe, dependable, and economic operating condition;

(b) Duration of the job on which the equipment will be used;

(c) Economic feasibility of ownership vs. loan or rental of the equipment. Frequency of use, particularly where the equipment will be needed only infrequently, is one of the factors which must be considered in determining the most economical method of acquisition; and

(d) Handling and transportation costs involved in acquisition of excess property.

§ 109-43.302 Agency responsibility.

Procedures shall be established to assure the effective conduct of the excess property utilization program and to assure, to the fullest extent practicable, that excess personal property available within DOE or from other Federal agencies is used as a first source of supply in fulfilling requirements.

§ 109-43.302-50 Utilization and disposal by contractors.

Heads of field offices may authorize contractors to perform the functions pertaining to utilization and disposal of excess property, provided such activities are in accordance with written policies and procedures which they have approved as being consistent with this part and those contained in FPMR Part 101-45 and DOE-PMR Part 109-45.

§ 109-43.303-1 Acquisition of mercury.

Notwithstanding the provisions of FPMR 101-43.303-1, requests for 76 pound flasks of mercury, for use by DOE or its contractors, shall be forwarded to the Director, Supply Division, Oak Ridge Operations Office, Oak Ridge, Tenn.

§ 109-43.306 Property not required to be reported.

To the extent practicable and economical, notification of availability of nonreportable excess property shall be made on an informal basis to other DOE installations and other Federal

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agencies known to use such property. If no requirement is established within a reasonable time, usually not more than 30 days after the availability of the property is announced, the property will be considered surplus to the needs of the Government.

§ 109-43.311-1.50 Circularization within DOE.

(a) Prior to reporting excess personal property to GSA as required by FPMR 101-43.311-1, reportable property shall be listed and circularized as available excess within DOE using standard form 120, "Report of Excess Personal Property" and standard form 120a, "Continuation Sheet." Distribution patterns, points of contact, and number of copies of excess lists to be sent to DOE installations shall be issued annually by the Procurement and Contracts Management Directorate (PR-221) based on information submitted by the field offices. Revisions during the year shall be coordinated with the appropriate contacts by the DOE offices concerned. In cases where time does not permit the circularization of excess lists, notification of the availability may be made by telegram, teletype or telephone, with due consideration to the additional costs involved.

(b) A period of at least 15 calendar days from the date of transmittal should be allowed potential users within DOE to request the transfer of items listed. When necessary, an additional 15 calendar days may be allowed to permit potential users to inspect the property or to obtain additional information regarding the items on the list. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally shall not be permitted.

(c) If, after DOE circularization, reportable property is known to be needed by another Federal agency, it shall be transferred as provided in FPMR 101-43.315-5(a).

§ 109-43.311-5 Property at installations due to be discontinued.

(a) In closing out installations or any activities where it is important that upon completion of the work the personnel be released and activities ended as quickly as possible in order to avoid large expenditures, arrangements may be made for expediting the utilization and disposal of excess inventories and other excess property. (See DOE-PR 9-8 for special provisions regarding disposition of contractor inventories arising out of termination of contracts.)

(b) DOE field organizations shall work with appropriate GSA regional offices to develop a utilization and disposal program which takes into consideration all the factors involved, is expedited to the maximum degree, and is mutually satisfactory and in the best overall interest of the Government. When closeout involves an activity which is not located geographically in a DOE installation, information concerning the situation shall be given to the appropriate regional administrator of GSA, as early as possible, by letter (copy to the Procurement and Contracts Management Directorate (PR-221)). The information should include the type of property available and indicate that the activity is to be discontinued, the scheduled date for the removal of personnel from the location, and the last dates when the property will be needed.

The following guidelines are furnished for possible use, although variations may be used as long as agreement is reached with GSA and there is no conflict with DOE requirements except as noted in subparagraph (1) of this paragraph:

(1) If a proposed expedited program provides for deviation from the DOE policy or procedural requirements, approval of the Director of Procurement and Contracts Management shall be obtained.

(2) Approval of the proposed plan by the appropriate GSA regional office, when deviation from existing GSA regulations is involved, will be sufficient to validate the plan. A copy of the approval plan should be forwarded for information to the Procurement and Contracts Management Directorate (PR-221).

(3) In developing an expedited disposal program, property shall be determined to be excess to DOE before it is reported to GSA. Concurrent circularization of lists of DOE excess property within DOE and to other Federal agencies generally is not permitted.

(4) Summary catalog listings of certain categories of excess property, such as property in classes 48, 51, 55, 56, etc., showing estimated release dates, might be furnished GSA with good utilization results. On the other hand, excess property in such classes as 23, 24, 32, 34 and 38 shall normally be listed by individual item with sufficient description for ready identification.

(5) In order to obtain maximum utilization of the property by other Federal agencies, the plan shall provide that the field office will furnish assistance to GSA, upon request, to arrange for invitational inspections by Federal agency representatives.

(6) Upon request, DOE can provide assistance to GSA in its circularization of reportable items to other Federal agencies or in locating potential users within the government.

(7) Care should be exercised to be sure that orders from other Federal agencies for excess property are processed through GSA, as may be required by the GSA regional office concerned.

(8) Although it may be possible to arrange for expediting donations for educational, public health, or civil defense purposes, adequate time must be allowed for the screening of all donable property.

(9) Provisions should be made for accelerated release by GSA of excess property for disposal as surplus, particularly where there is little or no potential use by other Federal agencies.

(10) Methods should be developed whereby last minute requests for surplus property, cataloged for an auction sale or listed in a sealed bid invitation and inspected by prospective bidders, can be kept to a minimum.

§ 109-43.312 Exceptions to reporting.

In addition to the categories of nonreportable property identified in FPMR 101-43.312 (a) through (g), the following property, when determined excess to a DOE installation, is not reportable and shall not be formally circularized within DOE or reported to GSA—

(h) Asphalt products in less than carload (LCL) quantities (roofing tile, paving materials);

(i) Cement and fabricated cement products in LCL quantities (concrete block, pumic block, cinder block, pipe and fittings);

(j) Fabricated clay products in LCL quantities (brick, tile, pipe and fittings);

(k) Fuels in LCL quantities (gasoline, diesel fuels, coal and coke and kerosene);

(l) Special purpose or site fabricated shelving, cabinets, shop tables, etc., of limited adaptability or with high cost of disassembly or transportation;

(m) Uncrated window glass; and

(n) Equipment, parts, accessories, jigs and components, which are of special design, composition, or manufacture and which are intended for use only by specific DOE installations, such as spare parts for equipment used in atomic processes.

§ 109-43.313 Items requiring special handling.

§ 109-43.313-2 Printing, binding, and blankbook equipment and supplies.

DOE installations shall report excess printing, binding and blankbook equipment to the Office of Administration for processing in accordance with the Joint Committee on Printing Regulations.

§ 109-43.313-50 Classified property.

Classified personal property which is excess to DOE needs shall be stripped of all characteristics which cause it to

be classified, or otherwise rendered unclassified prior to disposal, in accordance with instructions of the head of the field office concerned. Declassification shall be accomplished in a manner which will preserve, so far as practicable, any civilian utility or commercial value of the property.

§ 109-43.313-51 Naval gun mounts.

When a naval gun mount obtained from the Naval Sea Systems Command, Department of the Navy, becomes excess, it may be listed, circularized, and transferred with DOE in the same manner as other excess property. However, when a naval gun mount is determined to be excess to DOE, it shall be reported to the Department of the Navy, Naval Sea Systems Command, Washington, D.C. 20360, and shall not be disposed of except in accordance with instructions of that Department.

§ 109-43.313-52 Platinum and platinum family.

All precious metals in the platinum family which become excess shall be reported to the Chicago Operations Office for recovery and/or subsequent redistribution within DOE. It is intended that any platinum which is not needed for current or foreseeable requirements shall be reported to the Chicago Operations Office. This means platinum in any form, including shapes, scrap, or which is radioactively contaminated. The Chicago Operations Office will furnish necessary shipping instructions. (For pricing of transfers, see DOE Order 2200, Chapter III.)

§ 109-43.313-53 Shielding material.

All excess movable shielding material of any type will be circularized within DOE using normal excessing procedures. However, prior to disposal outside DOE (by transfer to other Federal agencies or by sale), the procurement and Contracts Management Directorate (PR-221) shall be advised concerning the types and quantities which remain available.

§ 109-43.313-54 Property in which the Government has an interest.

Personal property in which the Government has an interest means (a) Government-owned property which is available for exchange or sale and (b) property leased with an option to purchase. Such property shall be circularized within DOE for possible utilization whenever it is practicable to do so, considering the contract terms, cost in relation to remaining useful life, location of item, purchase option time remaining, etc.

§ 109-43.313-55 Department of Defense excess.

An interagency agreement between DOE and the Department of Defense has been executed which permits certain DOE contractors to screen excess property listings from the Defense Property Disposal Service concurrently with military activities for use in support of DOE/DOD programs.

§ 109-43.315-5 Procedure for effecting transfers.

Notwithstanding the provisions of FPMR 101-43.315-5(b), in accordance with a DOE agreement with GSA, execution of transfer orders by a DOE official is not required in those cases where heads of field offices have authorized contractors to perform this function, and GSA has been notified of such authorization. GSA regional offices will furnish the cognizant DOE field office a copy of each transfer order received from contractors. This copy of the transfer order wil be reviewed by the cognizant DOE field office to determine if the contractor has been authorized to submit orders for excess property. If the contractor submitting the transfer order to the GSA regional office has not been authorized in writing to submit such orders, GSA will not honor such requests unless they are subsequently executed by an appropriate DOE official.

§ 109-43.317 Costs and proceeds.

§ 109-43.317-1 Cost of care and handling.

DOE field offices and contractors shall comply with the provisions of DOE Order 2200, Chapter III as they relate to billings for direct costs incurred in the transfer of excess property.

§ 109-43.317-2 Proceeds.

For DOE procedures on the handling of proceeds from transfer of excess property to another Government agency with reimbursement, see DOE Order 2200, Chapter III.

§ 109-43.319 Use of excess property on cost-reimbursement type contracts.

(b) It is DOE policy for operating and onsite service contractors to use Government excess personal property to the maximum extent possible to reduce contract costs. However, the determination required in FPMR 101-43.319(b) does not apply to such contracts and the acquisitions of Government excess personal property by these contractors are not subject to the annual reporting requirements of FPMR 101-43.4701(c). The procedures prescribed in § 109-43.315-5 for execution of transfer orders apply.

§ 109-43.320 Use of excess property on grants.

The requirements of FPMR 101-43.320 do not apply to operating and onsite service contracts.

§ 109-43.321 Certification on non-Federal agency screeners.

Contracting officers shall maintain a record of the number of certified non-Federal agency screeners operating under their authority and shall immediately notify the appropriate GSA regional office of any changes in screening arrangements.

Subpart 109-43.5—Utilization of Foreign Excess Personal Property

§ 109-43.503 Holding agency responsibilities.

(a) Property which remains excess after utilization screening within the general foreign geographical area where the property is located should be reported to the Procurement and Contracts Management Directorate (PR-221) for consideration for return to the United States for further utilization within DOE, by other Government agencies, or for donation, based on such factors as cost, residual value, usefulness in ongoing or future programs, condition, and cost of transportation.

(b) If determined to be in the interest of the Government for return to the United States, the property shall be reported on excess listings (SF 120) to the accountable field office or Headquarters program organization. These listings should contain information on location and available transportation facilities in addition to the detailed descriptions required by FPMR 101-43.4901-120-1. The field office or Director of Administration, acting for the responsible Headquarters program organization, will circularize the property within DOE. If not claimed by a DOE activity, it shall be reported to the Procurement and contracts Management Directorate (PR-221) for coordination with GSA.

§ 109-43.504-50 Disposition of property not selected for return to the United States.

Property not selected for return to the United States for utilization within DOE or the Government or for donation in accordance with FPMR 101-44.7 shall be disposed of in accordance with § 109-45.5105.

Subpart 109-43.47—Reports

§ 109-43.4701 Performance reports.

Instructions for submission of financial data for the reports required in FPMR 101-43.4701 (a) and (b) are contained in DOE Order 2200, Chapter XI. The report prescribed in FPMR

101-43.4701(c) does not apply to excess property acquired by operating and returned within the established startup criteria.

PART 109-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Subpart 109-45.3—Sale of Personal Property

§ 109-45.301-50 Sales by DOE contractors.

Sales of contractor inventory will be

§ 109-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) Negotiated sales, including purchases by DOE contractors, shall be made by the head of the field office who will be responsible for providing an adequate

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101-43.4701(c) does not apply to excess property acquired by operating and onsite service contractors.

Subpart 109-43.51—Utilization of Personal Property Held for Facilities in Standby

§ 109-43.5100 Scope of subpart.

This subpart supplements FPMR Part 101-43 by providing policies and procedures for the economic and efficient utilization of personal property associated with facilities placed in standby status.

§ 109-43.5101 Definition.

"Facility in standby" is a significant segment of plant and equipment, such as a complete plant or section of a plant, which is neither "in service" or declared "excess."

§ 109-43.5102 Policy.

Procedures and practices shall be established to assure economical and efficient utilization of property associated with facilities placed in standby status as provided for in this subpart.

§ 109-43.5103 Reviews to determine need for retaining items.

Procedures and practices shall be established which require an initial review at the time the plant is placed in standby to determine which items can be made available for use elsewhere within the established startup criteria, periodic reviews (no less than biennially) to determine need for continued retention of property, and special reviews when a change in startup time is made or when circumstances warrant. such procedures should recognize that (a) generally, equipment, spares, stores items, and materials peculiar to a plant should be retained for possible future operation of the plant, (b) where practicable, common-use stores should be removed and used elsewhere, and (c) uninstalled equipment and other personal property not required should be utilized elsewhere onsite or be disposed of as excess.

§ 109-43.5104 Utilization of property in facilities in standby status.

Procedures and practices shall be established which require that property comprising the plant in standby, to the extent consistent with program requirements reflected by the startup criteria, be considered as a source of supply prior to procurement. Such procedures should provide for (a) furnishing potential users and procurement officers or some other responsible screening office, both onsite and offsite, listings of equipment and other significant property holdings available for loan or transfer, and (b) removal and use elsewhere of installed equipment which can be replaced or returned within the established startup criteria.

In addition to the above procedures, organizations should encourage informal contacts between their technical staffs and those engaged in similar work at other DOE locations for the purpose of ascertaining the availability of Government property to meet their program requirements.

PART 109-44—DONATION OF PERSONAL PROPERTY

§ 109-44.000 Scope of part.

This part implements and supplements FPMR Part 101-44, Donation of Personal Property. For donation of surplus personal property in foreign areas, see § 109-45.51.

§ 109-44.000-50 Policy.

It is the policy of the DOE to cooperate fully with all public agencies and their accredited representatives authorized to participate in the donation program. Upon reasonable request, DOE organizations shall make available complete information on surplus property held for disposal.

§ 109-44.000-51 Responsibilities and authorities.

Heads of field offices shall appoint officers to make findings and reviews as required in FPMR 101-44.7 relating to donation of property to public bodies. Decisions relating to the actual donation of Government personal property are to be reserved to the Government and cannot be delegated to contractors.

Subpart 109-44.3—Donation of Foreign Excess Personal Property

§ 109-44.301 Holding agency responsibility.

After utilization screening and prior to disposal in the foreign area, property shall be considered available for return to the United States for donation as provided in FPMR 101-44.7 and § 109-43.5.

§ 109-44.305 Costs incurred incident to donation.

For DOE procedures on costs incurred incident to donation, see DOE Order 2200, Chapter III.

Subpart 109-44.47—Reports

§ 109-44.4701 Reports.

Instructions for submission of financial data for this report are contained in DOE Order 2200, Chapter XI.

PART 109-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

§ 109-45.000 Scope of part.

This part implements and supplements FPMR 101-45, Sale, Abandonment, or Destruction of Personal Property, but does not apply to (a) sale or other disposal activities for deuterium, enriched lithium, atomic weapons, and byproduct, source and special nuclear materials, as defined in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014), (b) properties which are sold or otherwise disposed of pursuant to special statutes, or (c) disposal of personal property in foreign areas (see § 109-45.51).

§ 109-45.000-50 Policy.

It is the policy of DOE to provide for the disposal of surplus personal property in an economical and efficient manner, and when sales are involved, for the fair and equal treatment of all prospective buyers, and tor the protection of the Government's interests.

Subpart 109-45.1—General

§ 109-45.101-50 Applicability.

The provisions of FPMR Part 101-45 and this part are applicable to contractors which are authorized to dispose of surplus personal property.

§ 109-45.103 Sales responsibilities.

§ 109-45.103-1 Responsibilities of the General Services Administration.

GSA regional offices are responsible for the conduct of sales of surplus and replacement property in the custody of DOE direct operations, except that DOE will continue to sell replacement property where trade-in offers are also involved in the transaction.

§ 109-45.103-2 Responsibilities of holding agencies.

See § 109-45.105-3, exemptions, and § 109-45.3 for policy and procedures governing the sale of personal property by DOE contractors.

§ 109-45.105 Exclusions and exemptions.

§ 109-45.105-3 Exemptions.

The General Services Administration, by letter dated May 28, 1965, authorizes DOE contractors to sell contractor inventory, including replacement property. This exemption is for sales of contractor inventory only. All surplus property in the custody of DOE direct operations (except replacement property where trade-in offers are involved) will be reported to GSA in accordance with FPMR 101-45.303.

Subpart 109-45.3—Sale of Personal Property

§ 109-45.301-50 Sales by DOE contractors.

Sales of contractor inventory will be made by DOE contractors when heads of field offices determine that it is in the best interests of the Government to do so.

§ 109-45.302-50 Sales to DOE and contractor employees.

(a) Employees of DOE and DOE contractors shall be afforded the same opportunity to purchase Government-owned property as is afforded the general public: *Provided*, The employees warrant in writing prior to award that they have not either directly or indirectly—

(1) Participated in the determination to dispose of the property;

(2) Participated in the preparation of the property for sale;

(3) Participated in determining the method of sale; or

(4) Acquired information not otherwise available to the general public regarding usage, condition, quality, or value of the property.

(b) Special clothing and other articles of personal equipment purchased for the exclusive use of and fitted to an individual employee, when not otherwise usable by, and in all respects excess to the needs of, the holding installation, may be sold to DOE or contractor employees at the best price obtainable in the event of termination of their employment or their permanent assignment to duties not requiring such clothing or equipment.

§ 109-45.303 Reporting property for sale.

(a) Reportable property. In those cases where GSA is to be responsible for the sales function, the GSA regional offices will normally initiate sales action from the list of items remaining as surplus on standard form 120 reports after utilization and donation screening. In order to assure no misunderstanding at GSA regional offices as to who is to perform the sales function, each standard form 120 report forwarded to GSA (whether for DOE or DOE contractor property) shall bear a capitalized notation in a prominent place reading either "To Be Sold By GSA" or "Not To Be Sold By GSA" as appropriate.

§ 109-45.303-1 Describing property.

DOE organizations shall assure that property reported or offered for sale is described accurately. In addition to the requirements contained in FPMR 101-45.303-1, particular emphasis should be placed on the accuracy of item quantities to achieve uniformly fair and reasonable disposition of all surplus personal property, protecting the interests of both the Government and the purchaser.

§ 109-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) Negotiated sales, including purchases or retentions at less than cost by the contractor, may be made when the contracting officer determines and documents that the use of this method of sale is essential to expeditious contract closeout, or is otherwise justified on the basis of circumstances enumerated below, provided that the Government's interests are adequately protected. Negotiated sales, including purchases or retentions at less than cost by the contractor shall be at prices which are fair and reasonble and not less than the proceeds which could reasonably be expected to be obtained if the property was offered for competitive sale. Specific conditions justifying negotiated sales are when—

(1) No acceptable bids have been received as a result of competitive bidding under a suitably advertised sale;

(2) Property is of such small value that the proceeds to be derived would not warrant the expense of a formal competitive sale;

(3) The disposal will be to States, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained;

(4) The specialized nature and limited use potential of the property would create negligible bidder interest;

(5) Removal of the property would result in a significant reduction in value, or the accrual of disproportionate expenses in handling; or

(6) It can be clearly established that such action is essential to the Government's interests.

See FPMR 101-45.304-6 and § 109-45.304-6 for reviewing authority requirements.

(b) Negotiated sales at fixed prices. When determined to be in the best interests of the Government, heads of field offices may authorize fixed-price sales of contractor inventory by DOE contractors provided (1) the reasonable recovery value of the property to be sold to any one purchaser at any one time does not exceed $100, (2) adequate procedures for publicizing such sales have been established, (3) the sales prices are not less than could reasonably be expected if competitive bid sales were employed and the prices have been approved by a reviewing authroity designated by the heads of field offices, and (4) the warranty prescribed in § 109-45.302-50(a) is obtained when sales are made to employees.

§ 109-45.304-6 Reviewing authority.

The reviewing authority required under FPMR 101-45.304-6 may consist of one or more persons designated by the head of the field office who will be responsible for providing an adequate and independent review of proposed sales for the purpose of determining whether—

(a) The method of sale is in accordance with established policies and procedures; and

(b) Proceeds constitute a reasonable return for the property sold.

§ 109-45.304-7 Advertising.

(b) Procedures shall be established by all sales activities to assure that notification is provided to the Department of Commerce of proposed sales of surplus property with an acquisition cost of $250,000 or more as required by FPMR 101-45.304-7(b).

§ 109-45.304-50 Processing bids and award of contract.

The procedures established in FPR 1-2.4 shall be made applicable to execution, receipt, safeguarding, opening, abstracting, and evaluation of bids and awarding sales contracts, except that in evaluating bids and awarding contracts, disposal under conditions most advantageous to the Government based on high bids received shall be the determining factor. For mistakes in bids, see FPMR 101-45.8.

§ 109.45.304-51 Documentation.

Files pertaining to sales shall contain copies of all documents necessary to provide a complete record of the transaction and as a minimum shall include the following.

(a) A copy of request for proposals if written proposals are employed.

(b) A list of prospective bidders contacted.

(c) An abstract of proposals received, whether oral or written.

(d) Copies of written proposals or confirming proposals received, including standard forms 119 (see FPMR 101-45.313-9) which have been received from prospective bidders, together with other relevant information.

(e) A notation concerning basis for determination that proceeds constitute a reasonable return for property sold.

(f) Full and adequate justification for not advertising for competitive bids when the fair market value of property sold in this manner in any one case exceeds $1,000.

(g) A notation concerning any award made to other than the high bidder.

(h) The approval of reviewing authority when required.

(i) A copy of notice of award.

(j) All related correspondence.

(k) In the case of auction or spot bid sales, the following additional information should be included:

(1) A list of items or lots sold indicating book cost and sales price for each item or lot sold.

the Director of Procurement and Contracts Management.

(b) Prior to utilization or disposal outside DOE, with due consideration to the economic factors involved, every

§ 109-45.5101 Authority.

The policies and procedures con-

in the best interest of the Government as provided in § 109-45.5105-2(b).

ture (in the case of any agricultural commodity, food, or cotton or woolen

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(1) A list of items or lots sold indicating book cost and sales price for each item or lot sold.

(2) A copy of advertising literature distributed to prospective bidders.

(3) A summary listing of advertising by means of newspapers, radio, television, public posting, etc.

(4) The names of prospective bidders who attended sale if list was made.

(5) A copy of any pertinent contract for auctioneering services and related documents or appropriate reference to files containing such documents.

(6) A record of deposits and payments made or appropriate reference to files containing such records.

§ 109-45.307 Proceeds from sales.

Notwithstanding the provisions of FPMR 101-45.307, DOE installations shall comply with the provisions of DOE Order 2200, Chapter IV.

§ 109-45.309 Special classes of property.

§ 109-45.309-50 Unserviceable property (salvage and scrap).

(a) A continuous cleanup program shall be maintained at all DOE installations to locate, efficiently handle, and promptly dispose of unserviceable property (salvage and scrap). Property inventories and construction, wrecking, dismantling and other projects which might produce scrap, should be regularly reviewed, particularly for metals and other items which offer potential as marketable materials and for economic returns to the Government. (See FPMR Part 101-42 and DOE-PMR Part 109-42 for recovery of precious metals and reporting requirements.)

(b) Scrap metals shall be segregated to the maximum economical extent consistent with good industrial practice.

(c) Scrap metal which is contaminated with radioactive material shall be segregated and appropriately marked at the source as to type and degree of contamination.

§ 109-45.310 Antitrust laws.

Selling organizations shall submit to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management, the report on proposed sales of surplus personal property with an acquisition cost of $3,000,000 or more, or a patent, process, technique, or invention, regardless of cost. Information to be included is contained in FPMR 101-45.310.

§ 109-45.316 Report on identical bids.

Selling organizations shall forward the report on identical bids required by FPMR 101-45.316 to the Office of the General Counsel, with a copy to the Director of Procurement and Contracts Management.

Subpart 109-45.5—Abandonment or Destruction of Surplus Property

§ 109-45.501 Findings justifying abandonment and destruction.

§ 109-45.501-1 General.

(a) The finding required by FPMR 101-45.501-1(a) that property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale shall be in writing and shall be made by an official designated by the head of the field office concerned.

§ 109-45.501-2 Reviewing authority.

The head of the field office concerned or his designee will be the reviewing authority for approval to abandon or destroy property with an acquisition cost of more than $1,000.

Subpart 109-45.50—Excess and Surplus Radioactivity Contaminated Personal Property.

§ 109-45.5001 Scope of subpart.

This subpart provides policies and procedures for the utilization and disposal outside of DOE of excess and surplus personal property which has been radioactively contaminated.

§ 109-45.5002 Responsibilities.

§ 109-45.5002-1 Development of criteria for utilization and disposal outside DOE.

The Assistant Secretary's for Environment operational and environmental safety staff has responsibility for development of criteria for utilization and disposal of excess and surplus radioactively contaminated personal property outside of DOE.

§ 109-45.5092-2 Approval of requests for utilization and disposal outside DOE.

Requests for utilization and disposal outside DOE shall be forwarded to the Director of Procurement and Contracts Management for approval and coordination with the Assistant Secretary's for Environment operational and environmental safety staff for recommendations as to approval or disapproval.

§ 109-45.5003 Procedures.

§ 109-45.5003-1 Suspect personal property.

(a) Each excess item of personal property (including scrap), having a history of use in an area where exposure to radioactive materials may occur, shall be considered suspect and shall be monitored using appropriate instruments and techniques by qualified personnel of the DOE office or contractor generating the excess.

(b) Prior to utilization or disposal outside DOE, with due consideration to the economic factors involved, every effort shall be made to reduce the level of radioactive contamination of items of excess or surplus property to the lowest practicable level.

(c) If contamination is suspect and the property is of such size, construction, or location as to make the contamination inaccessible for the purpose of measurement, such property shall not be utilized or disposed of outside DOE through normal channels.

§ 109-45.5003-2 Handled as uncontaminated equipment.

If monitoring of suspect equipment indicates that the contamination does not exceed applicable standards, it may be utilized and disposed of in the same manner as uncontaminated equipment: *Provided*, The guidance in § 109-45.5003-1(b) has been considered. However, recipients shall be advised where levels of contamination require specific controls for shipment as provided in Department of Transportation regulations for shipment of radioactive materials (49 CFR parts 171-179, inclusive).

In addition, when such equipment is circularized within DOE, reported to GSA, or otherwise disposed of, the kind and degree of contamination must be plainly indicated on all pertinent documents.

§ 109-45.5003-3 Contaminated property.

When the holding activity determines it is appropriate to dispose of contaminated personal property, such contaminated personal property shall be disposed of by DOE in accordance with appropriate Federal regulations governing radiation exposure to the public and contamination in the environment. In special cases where Federal regulations do not exist or apply, appropriate national consensus standards shall be used.

Prior to utilization or disposal outside of DOE, approvals of the Director, Procurement and Contracts Management, and the Assistant Secretary's for Environment operational and environmental safety staff, are required. The requests for approval of utilization or disposal outside of DOE shall be forwarded to the Director of Procurement and Contracts Management for Headquarters coordination and approval.

Subpart 109-45.51—Disposal of Excess Personal Property in Foreign Areas

§ 109-45.5100 Scope of subpart.

This subpart prescribes policies and procedures governing the disposal of DOE-owned foreign excess and surplus personal property.

§ 109-45.5101 Authority.

The policies and procedures contained in this subpart are issued pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471). Title IV of that Act entitled "Foreign Excess Property" provides that, except where commitments exist under previous agreements, all excess property located in foreign areas shall be disposed of by the owning agency, and directs that the head of such an agency conform to the foreign policy of the United States in making such disposals.

§ 109-45.5102 General.

Disposal of Government-owned property in the custody of DOE or its contractors in foreign areas shall be made in an efficient and economical manner, and in conformance with the foreign policy of the United States.

§ 109-45.5103 Definitions.

As used in this subpart, the following definitions apply:

(a) "Foreign" means outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) "Foreign service post" means the local diplomatic or consular post in the area where the excess property is located.

§ 109-45.5104 Responsibilities.

§ 109-45.5104-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Develops and interprets policies, principles, and general procedures for the disposal of excess property in foreign areas; and

(b) Prepares an annual report to GSA on the disposal of excess property in foreign areas. (See FPMR 101-43.4701, 101-44.4701, and 101-45.4701).

§ 109-45.5104-2 Heads of offices in foreign areas.

Heads of DOE foreign offices—

(a) Are authorized to handle foreign excess disposal matters in accordance with Title IV, "Foreign Excess Property" of the Federal Property and Administrative Services Act of 1949, as amended and this subpart;

(b) Shall refer to the Procurement and Contracts Management Directorate (PR-221), any requests for advice or approval of the State Department on proposed disposals of excess property in foreign areas for review, coordination and handling through appropriate channels; and

(c) Shall approve the exchange or lease of foreign excess property when in their opinion such action is clearly in the best interest of the Government as provided in § 109-45.5105-2(b).

§ 109-45.5105 Disposal.

§ 109-45.5105-1 General.

(a) Foreign excess property which is not required for transfer within DOE or to other U.S. Government agencies shall be considered surplus and may be disposed of by transfer, sale, exchange, or lease, for cash, credit, or other property and upon such other terms and conditions as may be deemed proper. Such property may also be donated, abandoned, or destroyed under the conditions specified in § 109-45.5105-2(c) below. Most foreign governments have indicated to the State Department that they wish to be consulted before U.S. Government property is disposed of in their countries (except in the case of transfers to other U.S. Government agencies). Matters concerning customs duties and taxes, or similar charges, may require prior agreement with the foreign government involved. The State Department shall be contacted in regard to these problems.

Whenever advice or approval of the State Department is required by this subpart, it may be obtained either through the foreign service post in the foreign area involved or from the State Department in Washington, D.C. If the problem is to be presented to the State Department in Washington, D.C., it shall be referred through appropriate administrative channels to the Director of Procurement and Contracts Management, for review, coordination, and handling.

(b) Foreign excess property which is not transferred for use may be transferred to other U.S. Government agencies for disposal. This procedure may often prove advantageous, particularly when only small amounts of property are involved or when personnel of the other agencies are generally engaged in disposal activities.

§ 109-45.5105-2 Methods of disposal.

(a) Sales of foreign excess shall be conducted in accordance with the following guidelines:

(1) Generally, all sales of surplus foreign excess property shall be conducted under the competitive bid process unless it is advantageous and more practicable to the Government not to do so. When competitive bids are not solicited, reasonable inquiry of prospective purchasers shall be made in order that sales may be made on terms most advantageous to the U.S. Government.

(2) In no event shall any property be sold in foreign areas without a condition which states that its importation into the United Stated is forbidden unless the U.S. Secretary of Agriculture (in the case of any agricultural commodity, food, or cotton or woolen goods), or the U.S. Secretary of Commerce (in the case of any other property), determines or has determined that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of the United States.

(3) Sales documents shall provide that the purchaser must pay any import duties or taxes levied against property sold in the country involved and further provide that the amount of this duty or tax shall not be included as a part of the price paid the U.S. Government for the property. In the event the levy is placed upon the seller by law, the buyer will be required to pay all such duties or taxes and furnish the seller copies of his receipts prior to the release of the property to him. However, if the foreign government involved will not accept payment from the buyer, the seller will collect the duties or taxes and turn the amounts collected over to the foreign government. Accounting for the amounts collected shall be coordinated with the disbursing officer of the nearest United States foreign service post. The property shall not be released to the purchaser until the disposal officer is satisfied that there is no responsibility for payment by the United States (as contrasted to collection by the United States) of taxes, duties, excises, etc.

(4) Certain categories of property, including small arms and machine guns; artillery and projectiles; ammunition, bombs, torpedoes, rockets and guided missiles; fire conrtol equipment and range finders; tanks and ordnance vehicles; chemical and biological agents, propellents and explosives; vessels of war and special naval equipment; aircraft and all components, parts and accessories for aircraft; military electronic equipment; aerial cameras, military photo-interpretation, stereoscopic plotting and photogrammetry equipment; and all material not enumerated which is classified from the standpointof military secruity (United States Munitions List, 22 CFR 121.01), are subject to restrictions as to disposal. Advance approval must be obtained from the State Department for the sale of all such articles. Therefore, prior to the sale of any of the articles enumerated in the U.S. Munitions List, the foreign service post in the area shall be consulted.

(5) Prior to the sale of property which had a total acquisition cost of $250,000 or more, plans for such sale shall be reported to the Procurement and Contracts Management Directorate (PR—221) in ample time to allow considerations of possible foreign policy aspects and advice thereon from the State Department. (See § 109-

45.5106(a).) All proposed sales, regardless of the total acquisition cost of the property involved, which the head of

foreign currency, or credit, including terms of proposed agreement).

Procurement and Contracts Management Directorate (PR-221) and for

eligible institutions prior to reporting the equipment to GSA for utilization.

§ 109-50.303 Authority.

of an item of equipment exceeds $100,000 or where the cumulative book value of used equipment grants to any one institution exceeds $100,000; and

dosimeters, survey meters, radiometers, and spectroscopes,

radiation shields and reactor associated components,

mass spectrometers, infrared spectrom-

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45.5106(a).) All proposed sales, regardless of the total acquisition cost of the property involved, which the head of the DOE foreign office believes might have a significant effect on the economic or political situation in a particular area, shall be discussed with the foreign service post.

(b) While there is authority for exchange or lease of foreign surplus property, such authority shall be exercised only when such action is clearly in the best interests of the U.S. Government. Disposals by exchange are subject to the same requirements as disposals by sale under § 109-45.5105-2(a).

(c) Foreign excess or surplus property (including waste, salvage, and scrap) may be donated, abandoned, or destroyed provided: (1) The property has no commercial value, or the estimated cost of its care and handling would exceed the estimated proceeds from its sale and (2) a written finding to that effect is made and approved by the head of the DOE foreign office. No property shall be abandoned or destroyed if donation is feasible. Donations under these conditions may be made to any agency of the U.S. Government, or to educational, public health or charitable nonprofit organization of foreign governments. Foreign excess property may also be abandoned or destroyed when such action is required by military necessity, safety, or considerations of health or security. A written statement explaining the basis for disposal by this means and approval by the head of the DOE foreign office is required. Property shall not be abandoned or destroyed in a manner which is detrimental or dangerous to public health and safety, or which will cause infringement on the rights of other persons.

§ 109-45.5106 Reports.

(a) Proposed sales of foreign excess property having an acquisition cost of $250,000 or more reported to the Director of Procurement and Contracts Management should present all pertinent data, including the following:

(1) The description of property to be sold, including—

(i) Identification of property (description should be in terms understandable to persons not expert in technical nomenclature); property covered by the Munitions List and regulations pertaining thereto (as published in 22 CFR 121.01) should be clearly indicated;

(ii) Quantity;

(iii) Condition; and

(iv) Acquisition cost.

(2) The proposed method of sale (i.e., bid, negotiated sale, etc.).

(3) Any currency to be received and payment provisions (i.e., U.S. dollars, foreign currency, or credit, including terms of proposed agreement).

(4) Any restrictions on use of property to be sold (such as retransfer of property, disposal as scrap, demilitarization, etc.).

(5) Any special terms.

(6) The categories of prospective purchasers (e.g., host country, other foreign countries, special qualifications, etc.).

(7) How taxes, excises, duties, etc. will be handled.

(b) Instructions for reporting foreign excess utilization and disposal transactions are contained in DOE Order 2200, Chapter III.

PART 109-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

§ 109-46.000 Scope of part.

This part implements and supplements FPMR Part 101-46.

§ 109-46.000-50 Applicability.

This part is not applicable to DOE contractors.

Subpart 109-46.4—Disposal.

§ 109-46.407 Reports.

Feeder reports of exchange/sale transactions required by FPMR 101-46.407 shall be submitted through normal administrative channels to the Procurement and Contracts Management Directorate (PR-221) within 60 days after the close of the fiscal year. Negative reports are required.

PART 109-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

§ 109-48.000 Scope of part.

This part implements and supplements FPMR Part 101-48, Utilization, Donation, or Disposal of Abandoned and Forfeited Personal Property.

§ 109-48.001-50 Applicability.

The provisions of FPMR 101-48 and this part are applicable to contractor operations where the abandoned or forfeited personal property is found on premises owned or leased by the Government.

Subpart 109-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 109-48.101-6 Transfer to other Federal agencies.

(d) Transfer orders covering requests for transfers of forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages for medicinal, scientific, or mechanical purposes shall be forwarded through normal administrative channels for signature by the Procurement and Contracts Management Directorate (PR-221) and for subsequent forwarding to GSA for release.

§ 109-48.102-4 Proceeds.

After retention of any moneys received from disposal of abandoned or forfeited property for the 3-year period specified in FPMR 101-48.102-4 with no claim being filed, such moneys shall be deposited as provided in DOE order 2200, chapter IV.

PART 109-50—PROGRAMMATIC DISPOSAL OF DOE PROPERTY

§ 109-50.000 Scope of part.

This part provides guidance on the authorities, policies, and procedures for the disposal of DOE property for programmatic purposes.

§ 109-50.001 Applicability.

The provisions of this part 109-50 apply to direct DOE activities, but do not apply to contractors unless specifically provided in the appropriate subpart.

Subpart 109-50.1—General

§ 109-50.101 Authority.

Programmatic disposals of DOE property generally are made under the authority and subject to the provisions of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), the Energy Reorganization Act of 974 (42 U.S.C. 5801), the Department of Energy Organization Act (42 U.S.C. 7101), and other special laws which provide authority for DOE program activities.

Subpart 109-50.3—Used Energy-Related Laboratory Equipment Grant Program

§ 109-50.300 Scope of subpart.

This subpart provides guidance on the granting of used, energy-related laboratory equipment to universities and colleges and other nonprofit educational institutions of higher learning in the United States for use in energy-oriented educational programs.

§ 109-50.301 Applicability.

This subpart is applicable to direct operations and to contractors.

§ 109-50.302 General.

DOE, to encourage research in the field of energy, awards grants of used energy-related laboratory equipment to eligible institutions for use in energy-oriented educational programs. Under the used energy-related laboratory equipment grant program, grants of used energy-related equipment excess to the requirements of DOE offices and contractors may be made to eligible institutions prior to reporting the equipment to GSA for utilization.

§ 109-50.303 Authority.

The used energy-related laboratory equipment grant program is conducted under the authority of article 31 of the Atomic Energy Act of 1954, as amended, section 103, paragraph 10, of the Energy Reorganization Act of 1974, and title III of the Department of Energy Organization Act.

§ 109-50.304 Definitions.

As used in this subpart the following definitions apply:

(a) "Book value" means acquisition cost less depreciation.

(b) "Eligible institution" means any nonprofit educational institution of higher learning, such as universities, colleges, junior colleges, hospitals, and technical institutes or museums located in the United States and interested in establishing or upgrading energy-oriented educational programs.

(c) "Energy-oriented education program" means one that deals partially or entirely in energy or energy-related topics.

(d) "DOE Assistance Regulations (DOE-AR)" is the Department of Energy regulation which establishes a uniform administrative system for application, award, and administration of assistance awards, including grants and cooperative agreements.

(e) "Grants officer" is an employee or officer of DOE who has been delegated the authority to take final action on grants by signing grant awards and modifications thereto.

§ 109-50.305 Responsibilities and authorities.

§ 109-50.305-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management—

(a) Establishes policies and procedures for the award and administration of grants; and

(b) Delegates grants officer authority.

§ 109-50.305-2 Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations.

The Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations—

(a) Has program responsibility for the used energy-related laboratory equipment grants program;

(b) Issues general instructions and information on the program to institutions;

(c) Reviews and, where appropriate, approves requests from institutions for used equipment where the book value of an item of equipment exceeds $100,000 or where the cumulative book value of used equipment grants to any one institution exceeds $100,000; and

(d) Issues annual summary reports of equipment granted under this program to field offices and Headquarters organizations. Advises when grants to individual institutions approach the $100,000 book value cumulative limit.

§ 109-305-3 Heads of field offices.

Heads of field offices shall establish procedures for review and evaluation of equipment grant proposals in accordance with this subpart.

§ 109-50.305-4 Grants officers.

Grants officers—

(a) Award energy-related laboratory equipment grants under this program in accordance with the DOE Assistance Regulations (DOE-AR) and program instructions issued by the Director, Office of Education, Business and Labor Affairs, Assistant Secretary for Intergovernmental and Institutional Relations, and this subpart;

(b) Forward a copy of each approved and accepted grant to the Office of Education, Business and Labor Affairs; and

(c) Forward to Office of Education, Business and Labor Affairs, for approval prior to award of grant, requests from institutions for used equipment where the book value of the equipment exceeds $100,000 or where the cumulative book value of grants to an institution exceeds $100,000.

§ 109-50.305-5 Excess used energy-related laboratory equipment holding activities.

Each DOE and contractor organization holding excess used energy-related laboratory equipment shall forward copies of excess reports (SF 120) to screening locations cited in § 109-50.310.

§ 109-50.305-6 Screening locations.

Activities designated in § 109-50.310 shall retain current files of reports of excess used energy-related laboratory equipment for review by eligible institutions.

§ 109-50.306 Types of equipment which may be granted.

Examples of types of equipment which may be granted under the used energy-related laboratory equipment grant program are listed below. These examples are merely illustrative and not inclusive.

radiation detectors, monitors, scalers, and counters.
nuclear reactors and accelerators.
neutron howitzers and generators.
critical and subcritical assemblies.
bubble and cloud chambers.
dosimeters, survey meters, radiometers, and spectroscopes.
radiation shields and reactor associated components.
mass spectrometers, infrared spectrometers, and ultraviolet spectrometers.
gas and liquid chromatographs.
ammeters, voltmeters, electrometers.
linear and pulse-height analyzers.
power supplies.
catalyst test units.
distillation columns.
temperature and pressure recorders.
ion control gauges.
gas tracers and analyzers.
solar collectors and heliometers.

§ 109-50.307 Types of equipment which may not be granted.

Types of equipment which will not be granted include—

(a) Any equipment determined to be required by DOE direct operations or DOE contractors;

(b) General supplies, such as Bunsen burners, hoods and work benches; furniture; office equipment, such as typewriters, adding machines, and duplicating machines; slide rules, and drafting and office supplies; refrigerators; tools; presses, lathes, furnaces, hydraulic and mechanical jacks, cranes and hoists; and computing equipment; or

(c) Any equipment which has been obtained as excess from another Federal agency.

§ 109-50.308 Procedure.

(a) Copies of excess reports (SF 120) of used energy-related laboratory equipment will be forwarded by each holding activity to the sites listed in § 109-50.310 for use by eligible institutions in reviewing and earmarking specific equipment. These reports will be separately prepared and identified with the caption "Used Energy-Related Laboratory Equipment."

(b) The following periods have been established during which time equipment will remain available to this program prior to reporting it to the General Services Administration for utilization by other Federal agencies:

(1) Sixty days from the date the report is issued to permit suitable time for eligible institutions to review and earmark the desired equipment.

(2) An additional 60 days after the equipment is earmarked to permit the eligible institutions to prepare and submit an equipment proposal request and to provide time for field organizations to review and evaluate the proposal and take appropriate action.

(c) Upon approval of the proposal, the issuance of the grant instrument and acceptance by the institution are deemed to constitute transfer of title.

(d) A standard form 120, accompanied by a copy of the completed grant, shall be used to drop accountability of the granted equipment from the financial records.

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(e) The cost of care and handling of property incident to the grant shall be charged to the receiving institution. Such costs may consist of packing, crating, shipping and insurance, and are limited to actual costs. In addition, where appropriate, the cost of any repair and/or modification to any equipment shall be borne by the recipient institution.

§ 109-50.309 Reports.

(a) In addition to the copy of the awarded grant required to be forwarded in accordance with § 109-50.305-4(b), each awarded grant shall be reported in the Integrated Procurement Management Information System.

(b) Heads of field offices shall include grants made under this program in the annual report of property transferred to non-Federal activities, as required by FPMR 101-43.4701(c).

§ 109-50.310 Screening locations.

The following locations shall retain current files of SF-120's, reports of excess used energy-related laboratory equipment, for review by eligible institutions. DOE activities shall forward copies of SF 120's covering used energy-related laboratory equipment to these locations.

California

Property Management Office, Atomics International Division, Rockwell International Corp., 8900 DeSoto Ave., Canoga Park, Calif. 91305.
Property Manager, Lawrence Livermore Laboratory, University of California, Livermore, Calif. 94720.
Business Services, L-53, Lawrence Livermore Laboratory, University of California, Livermore, Calif. 94550.

Colorado

Rocky Flats Area Office, Department of Energy, P.O. Box 928, Golden, Colo. 80401

Idaho

Property Management Branch, E.G. & G., 539 Second St., Idaho Falls, Idaho 83401.
Property Management and Administrative Services Branch, Idaho Operations Office, 550 Second St., Idaho Falls, Idaho 83401.

Illinois

Plant Operations, Plant Management, Argonne National Laboratory, 9700 South Cass Ave., Argonne, Ill. 60439.

Iowa

Materials Handling and Property Office, Room 152, Research Building, Ames Laboratory, Iowa State University, Ames, Iowa 50010.

Missouri

Kansas City Area Office, Department of Energy, P.O. Box 202, Kansas City, Mo. 66141.

Nevada

Property Management, Nevada Operations Office, Department of Energy, P.O. Box 14100, Las Vegas, Nev. 89114.

New Mexico

Office of University Relations, Sandia Laboratories, P.O. Box 5800, Albuquerque, N. Mex. 87115.

New York

Supply and Materials Office, Brookhaven National Laboratory, Upton, Long Island, N.Y. 11973.

Ohio

Property Management, Mound Laboratory, Monsanto Research Corp., P.O. Box 32, Miamisburg, Ohio. 45342.

South Carolina

University Relations Office, Savannah River Laboratory, E. I. DuPont de Nemours & Co., Aiken, S.C. 29801.

Tennessee

Materials and Services, Oak Ridge National Laboratory, P.O. Box X, Oak Ridge, Tenn. 37830.

Washington

Excess Utilization, Rockwell Hanford, Building 1167-A, P.O. Box 250, Richland, Wash 99352.

Subpart 109-50.4—Programmatic Disposal to Contractor of DOE Property in a Mixed Facility

§ 109-50.400 Scope of subpart.

This subpart contains guidance to be followed when it is proposed to sell or otherwise transfer DOE personal or real property located in a mixed facility to the contractor who is the operator of that facility.

§ 109-50.401 Definitions.

As used in this subpart, the following definitions apply:

(a) "DOE property" is the DOE-owned personal or real property in a mixed facility.

(b) "Contractor" is the operator of the mixed facility.

(c) "Mixed facility" is a partly DOE-owned and partly contractor-owned facility. For purposes of this subpart, however, this definition does not apply to such a facility operated by an educational or other nonprofit institution under a basic research contract with DOE.

§ 109-50.402 Responsibilities and authorities.

§ 109-50.402-1 Director of Procurement and Contracts Management.

The Director of Procurement and Contracts Management is authorized to approve proposals for the programmatic disposal of DOE personal property in a mixed facility to the contractor operating that facility.

§ 109-50.402-2 Director of Administration.

The Director of Administration is authorized to approve proposals for the programmatic disposal of DOE real property in a mixed facility to the contractor operation that facility.

§ 109-50.402-3 Heads of headquarters program organizations.

Heads of headquarters program organizations shall review and, where appropriate, forward to the authorized officers in § 109-50.402-1 and 402-2 for approval, proposals for the programmatic disposal of DOE property in a mixed facility to the contractor operating that facility.

§ 109-50.402-4 Heads of field offices and contracting officers.

Heads of field offices and contracting officers shall submit proposals involving programmatic disposals of DOE property in mixed facilities through appropriate administrative channels to the cognizant headquarters program organization for review and forwarding for approval.

§ 109-50.403 Programmatic disposal of DOE property in mixed facilities.

§ 109-50.403-1 Submission of proposals.

Proposals involving programmatic disposals of DOE property in mixed facilities to contractors operating the facility shall be forwarded through the appropriate program organization to the authorized officers in § 109-50.402-1 and 402-2 for review and processing for approval. Each such request for review and approval shall include all information necessary for a proper evaluation of the proposal. The proposal shall include, as a minimum—

(a) The purpose of the mixed facility;

(b) The character, condition and present use of the DOE property involved, as well as its acquisition cost, accumulated depreciation, and net book value;

(c) The programmatic benefits which would accrue to DOE from the disposal to the contractor (including the considerations which become important if the disposal is not made);

(d) The appraised value of the DOE property (preferably by independent appraisers); and

(e) The proposed terms and conditions of disposal (covering for example, (1) price, (2) priority to be given work for DOE requiring the use of the transferred property, and including the basis for any proposed charge to DOE for amortizing the cost of plant and equipment items, (3) recapture of the property if DOE foresees a possible future urgent need, and (4) delivery of the property, whether "as is-where is," etc.).

§ 109-50.403-2 Need to establish DOE program benefit.

When approval for a proposed programmatic disposal of DOE property in a mixed facility is being sought, it must be established that the disposal will benefit a DOE program. For example, approval might be contingent on a showing that—

(a) The entry of the contractor as a private concern into the energy program is important and significant from a programmatic standpoint; and

(b) The sale of property to the contractor will remove obstacles which otherwise discourage his entry into the field.

§ 109-50.404 Notification.

The Under Secretary will be advised prior to any disposal which is considered sensitive.

SUBCHAPTER J—INDUSTRIAL PLANT EQUIPMENT

PART 109-51 LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER (DIPEC)

Sec.
109-51.000 Scope of part.
109-51.000-50 Policy.
109-51.001 Memorandum of Agreement.
109-51.002 General provisions.
109-51.003 DIPEC Handbook.

AUTHORITY: Title V, Department of Energy Organization Act, (Pub. L. 95-91); Administrative Procedure Act, as amended, (5 U.S.C. 551 et seq.).

PART 109-51 LOANS OF INDUSTRIAL PLANT EQUIPMENT FROM THE DEFENSE INDUSTRIAL PLANT EQUIPMENT CENTER (DIPEC)

§ 109-51.000 Scope of part.

This part prescribes the policy and conditions for loans of industrial plant equipment (IPE) from the Department of Defense General Reserve under the management of the Defense Industrial Plant Equipment Center (DIPEC) and makes reference to the DOE DIPEC Handbook which prescribes procedures for arranging loans of IPE from DIPEC.

§ 109-51.000-50 Policy.

Since loan of DIPEC equipment is at no cost, except for packing, crating, handling, and transportation charges, DOE field offices and contractors are encouraged to use DIPEC as a source of industrial plant equipment in lieu of purchasing such equipment.

§ 109-51.001 Memorandum of agreement

An agreement between DOE and the Defense Logistics Agency establishes the policies, procedures and conditions by which DOE may obtain loans of IPE from DIPEC. (Exhibit A of the DIPEC Handbook).

§ 109-51.002 General provisions.

(a) DOE field offices and contractors may requisition IPE on a loan basis for periods up to five years. The IPE loan period may be extended on mutual agreement between DIPEC and the DOE field office involved.

(b) DOE and DOE contract personnel may visit DIPEC headquarters or storage centers to acquire information or to inspect requisitioned or required IPE. Visit arrangements are to be coordinated through DIPEC.

(c) DOE has a 30-day period to accept or reject IPE placed on hold by DIPEC.

(d) DOE field offices or contractors will pay costs of transportation, dismantling, crating and handling of IPE from and to DOD.

(e) On completion of the loan period, the DOE field office or contractor shall return the DIPEC-IPE in the same condition as received except for fair wear and tear.

(f) DOE is required under terms of the agreement to decontaminate IPE prior to return or replace the equipment with an equivalent item.

§ 109-51.003 DIPEC Handbook.

The DIPEC Handbook is available through field organizations or by request to the Procurement and Contracts Management Directorate (PR-221). The Handbook cites the procedures for arranging loan of IPE, illustrates the forms used and provides a bibliography of DIPEC publications which list the available IPE by type of equipment and by DIPEC control numbers.

[FR Doc. 78-29561 Filed 10-23-78; 8:45 am]

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federal register

TUESDAY, OCTOBER 24, 1978
PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

DOMESTIC CRUDE OIL ALLOCATION PROGRAM REGARDING ENTITLEMENT ADJUSTMENTS FOR RESIDUAL FUEL OIL

Final Rules

[3128-01-M]

Title 10—Energy

sidual fuel oil for the period July 1, 1978 through June 30, 1979. Further comments on the amendments set

A public hearing on the June 1978 proposal was held on July 26-28, 1978, in Washington, D.C., where numerous

(f) Except as specifically provided in this section, nothing in this section affects the authority of the President to amend the

Section 211.67(a)(3) is amended to increase the benefits granted to imported residual fuel oil from 30 per-

IV. SUNSET PROVISION

Subsection (b)(2) of section 307 of the 1979 Appropriations Act provides

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[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

[Docket Nos. ERA-R-78-17; ERA-R-76-1]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Entitlements Program Regarding Residual Fuel Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends the domestic crude oil allocation ("entitlements") program with respect to entitlement adjustments for residual fuel oil. The final rule set forth below is adopted to implement the congressional mandate set forth in section 307 of the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes ("the 1979 Appropriations Act"), enacted on October 17, 1978. The amendments adopted today effectuate three changes in the residual fuel oil program, which amendments are effective for the period July 1, 1978 through June 30, 1979: first, the entitlement penalty ("reverse entitlements") which has existed for sales of domestic residual fuel oil in excess of 5,000 barrels per day in the east coast market is eliminated, unless such residual fuel oil is transported by domestic refiners to that market in foreign flag tankers; second, the entitlement value issuable for imports of residual fuel oil into the east coast market is increased from the previous 30 percent of the per barrel crude oil entitlement value to 50 percent of that value; and finally, the amendments expand the scope of the residual fuel oil entitlements program from the Bureau of Mines East Coast Petroleum Refining District to include as well the State of Michigan. In accordance with the 1979 Appropriations Act, today's rule is adopted in final notwithstanding the general rulemaking requirements of the Administrative Procedure Act and those specifically applicable to the DOE set forth in the Department of Energy Organization Act (Pub. L. 95-91).

DATES: Effective for refiners' crude oil runs to stills and for imports of residual fuel oil for the period July 1, 1978 through June 30, 1979. Further comments on the amendments set forth below are due on or before December 1, 1978, in docket No. ERA-R-78-17. Comments on the issues set forth in section IV below are due on or before February 1, 1979, in docket No. ERA-R-76-1.

ADDRESS: Send comments to: Department of Energy, Public Hearing Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket No. ERA-R-78-17 (for comments due on or before Dec. 1, 1978), or docket No. ERA-R-76-1 (for comments due on or before Feb. 1, 1979).

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, Room B-110, 2000 M Street NW., Washington, D.C. 20461, 202-634-2170.

F. Scott Bush (Regulations and Emergency Planning), Economic Regulatory Administration, Department of Energy, Room 8222, 2000 M Street NW., Washington, D.C. 20461, 202-632-8494.

Doug McIver (Entitlements Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street NW., Washington, D.C. 20461, 202-254-8660.

Michael Paige or Nancy E. Williams (Office of General Counsel), Department of Energy, Room 5136, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565 or 566-2454.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Amendment adopted.
III. Effective date.
IV. Sunset provision.
V. Comment procedures.

I. Background

On June 15, 1978 (43 FR 26551, June 20, 1978), the ERA issued a further notice of proposed rulemaking and public hearing to amend the residual fuel oil provisions of the entitlements program, which generally provided for elimination of the entitlement loss for sales of domestic residual fuel oil, and an increase in entitlement benefits for imported residual fuel oil sold in the east coast market. This proposal was cast as a further notice of proposed rulemaking because three alternative amendments on the residual fuel oil program had been proposed in December of 1976, but were never adoped as a final rule. The June 15 notice proposed amendments which differed significantly from any of the three December 1976 alternatives.

A public hearing on the June 1978 proposal was held on July 26-28, 1978, in Washington, D.C., where numerous commenters, representing a broad range of interests which would be affected by the proposed amendments, presented views.

Following the July hearing and while we were considering the numerous comments submitted on the June 1978 proposal, the Congress initiated legislation on the subject of entitlements for residual fuel oil. This legislation took the form of an amendment to the appropriations bill (sec. 307 of the bill as enacted) for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979. The bill was signed into law by the President on October 17, 1978.

Section 307 provides as follows:

Sec. 307. (a) No funds appropriated under this Act may be used to implement the provisions with respect to the allocation of domestic crude oil specified in 10 CFR 211.67 on the date of enactment of this section, unless the President within 30 days after such enactment has amended the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 as provided in this section.

(b) (1) The amendment to the regulation required under subsection (a) shall provide that for the period between the effective date of such amendment and July 1, 1979, the provisions of the regulation specified in 10 CFR 211.67(a)(3) on the date of enactment of this section (relating to the issuance of entitlements to eligible firms importing residual fuel oil) shall be amended by replacing the words "thirty (30%) per cent" wherever they appear by the words "fifty (50%) percent," except that for the purposes of this section the State of Michigan will be treated as if it were part of the east coast market as defined in 10 CFR 211.62.

(2) Such amendment shall provide that on and after July 1, 1979, the provisions of the regulation referred to in paragraph (1) shall revert to those provisions in effect on the date of enactment of this section.

(c) The amendment required under subsection (a) shall amend the provisions of the regulation specified in 10 CFR 211.67(d)(4) on the date of enactment of this section (relating to the reduction in entitlement value for sales into the east coast market) to delete the provisions exempting the first 5,000 barrels per day of a refiner's crude oil runs to stills from the operation of that subsection and to provide that 10 CFR 211.67(d)(4) is applicable only to domestic refiners that transport residual fuel oil for sale in the east coast market in foreign flag tankers.

(d) The effective date of the amendment required under subsection (a) shall be July 1, 1978, unless the Secretary finds it impracticable to implement such amendment on such date.

(e) In promulgating the amendment required under subsection (a) and any related implementing or conforming amendments the President shall not be subject to the provisions of section 553 of title 5 or of sections 7174 and 7191 of title 42 of the United States Code.

(f) Except as specifically provided in this section, nothing in this section affects the authority of the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

We are hereby adopting amendments to the entitlements program which implement the requirements of this section 307. A summary of the amendments, together with a description of the implementing regulatory changes, is set forth below.

II. Amendments Adopted

Under the amendments adopted today, imports of residual fuel oil into the Bureau of Mines East Coast Refining District and the State of Michigan will be eligible to earn 50 percent of the per barrel crude oil entitlement value. Domestic refiners will receive 100-percent entitlement value for all barrels of domestically produced residual fuel oil sold into the east coast market (which, as defined, includes Michigan), unless such barrels are shipped in foreign flag tankers.

These changes are effectuated through the following specific amendments to the current entitlements program regulations:

First, we are amending the definitions of "east coast market," "eligible product," and "national domestic crude oil supply ratio" in 10 CFR 211.62. The amendment to the definition of "east coast market" implements the extension of the residual fuel oil entitlements program from the Bureau of Mines East Coast Refining District to include also the State of Michigan.

The defined term "eligible product" is amended to make clear that residual fuel oil which is processed in a refinery located in the Virgin Islands and then imported into the east coast market is not considered to be an "eligible product," so as to be eligible for imported product entitlement issuances. In contract, residual fuel oil that is refined abroad, rather than in the Virgin Islands, and is imported into the east coast market by a Virgin Islands refiner will qualify as an "eligible product."

The definition of "national domestic crude oil supply ratio" is amended to change the reference from a 30-percent entitlement benefit to a 50-percent entitlement benefit for imports of eligible products.

The reporting requirements in § 211.66 are amended to conform the language therein to that of the definition of "eligible firm" by adding the phrase "or use" after the phrase "for sale." This will make it clear that importers of record which are the ultimate consumers of the residual fuel oil, as well as those importing for resale, are subject to this reporting requirement.

Section 211.67(a)(3) is amended to increase the benefits granted to imported residual fuel oil from 30 percent of the per barrel crude oil entitlement value (the so-called "run credit") to 50 percent of that value. Subparagraph (d)(4) of that section is amended to eliminate the exemption of the first 5,000 barrels per day (bbl/d) of domestically produced residual fuel oil from the 50-percent entitlement penalty, and to provide for application of the 50-percent entitlement penalty only in that situation where residual fuel oil processed by a domestic refiner is transported for sale or use in the east coast market in a foreign flag tanker.

You are asked to comment by December 1, 1978, on the regulatory amendments we are hereby adopting, as to whether such amendments are consistent with and fully implement the provisions of the 1979 Appropriations Act. Procedures for the submission of such comments are set forth in section V below.

III. Effective Date

Subsection (d) of section 307 of the 1979 Appropriations Act provides that the provisions of the amendment required thereunder shall be effective July 1, 1978, "unless the President finds it impracticable to implement such amendment on such date." We believe a July 1, 1978, effective date is practicable, and are therefore adopting these amendments effective July 1, 1978.

This effective date will require that entitlement calculations that accord with the statutory requirements with respect to imported and domestic residual fuel oil sold into the east coast market for the months of both July and August 1978 be reflected in the entitlement notice for August, which is published in October. Since the July entitlement calculations were published in September, implementation of this effective date requires that certain firms' July entitlement positions be adjusted, so that their net position after publication of the October entitlement notice for July transactions in residual fuel oil sold in the east coast market will be consistent with the regulation amendments adopted today. We believe this adjustment will not present an undue burden to any affected parties and is necessary to accord with congressional intent to the greatest extent possible. The July 1 effective date also necessitates that those firms whose entitlements reports for July or August do not reflect the amendments adopted today file as soon as possible amended reports for those months so that July and August transactions may be properly reflected in the October entitlements notice.

IV. Sunset Provision

Subsection (b)(2) of section 307 of the 1979 Appropriations Act provides that on and after July 1, 1979, the provisions of the regulation referred to in paragraph (1) (relating to entitlement benefits for imports) shall revert to those provisions in effect on the date of enactment of that section. Accordingly, we are making all of the amendments adopted below effective for crude oil runs and imports from July 1, 1978, through June 30, 1979, with automatic reversion to the regulation previously in effect on July 1, 1979. Although section 307 is silent as to whether subsection (c) (relating to reverse entitlements) also shall revert to its previous form, which suggests that we have flexibility on this issue, we believe that it is appropriate so to provide based on the mutually dependent nature of these entitlement adjustments, i.e., entitlement benefits for imports and "reverse" entitlements. Thus, on July 1, 1979, the previous "reverse" entitlement provisions, the 30-percent entitlement benefits for imports of residual fuel oil, and restriction of the covered market to the Bureau of Mines East Coast Refining District will automatically be reinstated.

Notwithstanding the action taken today, we will continue to keep open our pending rulemaking proceeding as to entitlement adjustments for residual fuel oil, in which a further notice of proposed rulemaking was issued on June 15, 1978 (docket No. ERA-R-76-1). In connection with that continuing rulemaking proceeding, we request further comments by February 1, 1979, as to whether the amendments proposed therein or some alternative amendments should be adopted effective on or after July 1, 1979, when the amendments adopted today otherwise automatically revert to the provisions previously in effect. The comments should specially address whether such amendments if adopted should be effective immediately upon termination of the amendments adopted today or at some later date, such as September 30, 1979, the last day of the fiscal year covered by the 1979 Appropriations Act. We are also interested in receiving comments on the performance of the market under the amendments adopted today, and recommendations as to whether any other type of regulatory provision with respect to residual fuel oil would be more appropriate than that provided for herein or in our June 15 proposal. You are asked to submit all such comments by February 1, 1979, in accord with the procedures set forth below in section V.

V. Comment Procedures

Comments as requested above in sections II and IV should be submitted to

[1] Editorial Note.—Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

the address indicated in the "Address" section of this preamble and should be identified on the outside envelope

In consideration of the foregoing, part 211 of chapter II, title 10 of the Code of Federal Regulations is amend-

rection of reporting errors pursuant to paragraph (j) of § 211.67.

7505, as appropriate, in which importation takes place.

. . . . . .

paragraph (d)(4): *Provided*, That for the period July 1, 1978 through June 30, 1979, this paragraph (d)(4) shall read as follows:

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the address indicated in the "Address" section of this preamble and should be identified on the outside envelope with the designation "Residual Fuel Oil Entitlements." Fifteen copies should be submitted. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

We have prepared a regulatory analysis (as contemplated by the provisions of the President's Executive Order No. 12044) of the amendments hereby adopted. Copies of this analysis may be obtained from the ERA, Office of Public Information, 2000 M Street NW., Room B-110, Washington, D.C. 20461, 202-634-2170.

Subsection (e) of section 307 of the 1979 Appropriations Act provides that promulgation of the amendments adopted pursuant to the requirement of subsection (a) of that section, and any related implementing or conforming amendments, is not subject to the provisions of three statutory requirements which normally are applicable to DOE rulemaking proceedings. These three requirements are the rulemaking provisions of the Administrative Procedures Act (5 U.S.C. 553), and sections 404 and 501 of the DOE Organization Act (42 U.S.C. 7174 and 7191). Section 404 of the DOE Act sets forth a referral procedure to the Federal Energy Regulatory Commission (FERC) and section 501 sets forth additional procedures applicable to DOE rulemaking proceedings.

Since the present rulemaking has been exempted from compliance with these three requirements, the amendments hereby adopted have not been proposed for public notice and a hearing prior to their adoption, have not been referred to FERC for a determination as to whether they significantly affect certain FERC functions, and have not been proposed in accord with any of the requirements of section 501 of the DOE Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 211 of chapter II, title 10 of the Code of Federal Regulations is amended as set forth below, effective July 1, 1978.

Issued in Washington, D.C., October 17, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 211.62 is amended by amending the definitions of "east coast market," "eligible product," and "national domestic crude oil supply ratio" to read as follows:

§ 211.62 Definitions.

* * * * *

"East coast market" means the geographical area coextensive with the Bureau of Mines East Coast Petroleum Refining District: *Provided,* That, for the period July 1, 1978 through June 30, 1979, the east coast market shall also include the State of Michigan.

* * * * *

"Eligible product" means residual fuel oil imported into the east coast market, except that an import of residual fuel oil into United States customs territory which has been processed in the U.S. Virgin Islands shall not be considered an eligible product: *And provided,* That for the period July 1, 1978 through June 30, 1979, Canadian residual fuel oil imported into the State of Michigan will also qualify as an eligible product.

* * * * *

"National domestic crude oil supply ratio" means, for a particular month, the volume of deemed old oil (as defined in § 211.67(b)) included in the aggregate adjusted crude oil receipts of all refiners, decreased by a number of barrels of deemed old oil equal to the number of entitlements issuable to small refiners under § 211.67(e) and the number of entitlements issuable under § 211.67(a)(4) and § 211.67(a)(5), divided by the sum of the total volume of the crude oil runs to stills for all refiners for that month and thirty percent (30%) of the total volume of imports of eligible products by eligible firms for that month: *Provided,* That, for the period July 1, 1978 through June 30, 1979, the reference herein to thirty percent (30%) shall read fifty percent (50%). The calculation of the national domestic crude oil supply ratio for each month shall take into account entitlement purchase or sale requirements resulting from the correction of reporting errors pursuant to paragraph (j) of § 211.67.

* * * * *

2. Section 211.66 is revised in paragraph (j) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(j) *Monthly report by eligible firms.* On or prior to the fifth day of each month, commencing with the month of April 1976, each eligible firm that has imported an eligible product in the second month preceding that month shall file with the ERA a report certifying the following:

(1) The identity, volumes, and ports of origin and entry of any eligible products imported by the eligible firm in that preceding month.

(2) That the eligible product was imported for sale or use in the east coast market.

(3) Such other information as the ERA may request.

* * * * *

3. Section 211.67 is revised in subparagraph (3) of paragraph (a) and in subparagraph (4) of paragraph (d) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.* * * *

(3) For each month, commencing with the month of February 1976, each eligible firm that has imported an eligible product in that month shall be issued a number of entitlements equivalent to thirty percent (30%) of the number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to the number of barrels of that eligible product imported by that eligible firm: *Provided,* That for each month in the period July 1, 1978 through June 30, 1979, the number of entitlements issued to each eligible firm that has imported an eligible product in that month shall be equivalent to fifty percent (50%) of the number of entitlements that would be received by a refiner (without giving effect to the provisions of § 211.67(e)) in that month with respect to inclusion of a number of barrels of crude oil in that refiner's crude oil runs to stills equal to the number of barrels of that eligible product imported by that eligible firm. An eligible product is imported for purposes of this paragraph (a)(3) in the month, as specified on Customs Forms 7501 or

7505, as appropriate, in which importation takes place.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.* * * *

(4) For purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of par. (e) of this section), the volume in excess of the first 5,000 barrels per day of a refiner's crude oil runs to stills for a particular month attributable to production of residual fuel oil for sale (whether directly for consumption or for resale) by that refiner in or into the east coast market shall be reduced by fifty (50%) percent. Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) above shall not be considered as residual fuel oil production for purposes of this paragraph (d)(4): *Provided,* That for the period July 1, 1978 through June 30, 1979, this paragraph (d)(4) shall read as follows:

(4) For purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio (but not for purposes of par. (e) of this section), the volume of crude oil runs to stills of any domestic refinery attributable to production of residual fuel oil transported in foreign flag tankers for sale (whether directly for consumption or for resale) or use in the east coast market shall be reduced by fifty (50%) percent. Any export sales of residual fuel oil giving rise to a deduction under paragraph (d)(2) of this section shall not be considered as residual fuel oil production for purposes of this paragraph (d)(4).

[FR Doc. 78-29890 Filed 10-19-78; 2:31 pm]

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TUESDAY, OCTOBER 24, 1978
PART IV

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federal register

TUESDAY, OCTOBER 24, 1978
PART IV

ENVIRONMENTAL PROTECTION AGENCY

TOXIC SUBSTANCES CONTROL ACT

Policy for Revised Inventory Reporting; Draft Report Form

{6560-01-M}

ENVIRONMENTAL PROTECTION AGENCY

20460. Or call the toll-free number, 800-424-9065. In Washington, D.C., please call 554-1404. Applications for reserving copies of the Initial Inventory

1975. A manufacturer or importer (in bulk) of a chemical substance for a commercial purpose may *not* report for the Revised Inventory; he is sub-

PROCESSORS AND USERS

For purposes of the Inventory re-

the initial reporting period, will be available in advance of the Initial Inventory. Manufacturers who reported

and C, which were used during the Initial Inventory reporting period. This single form approach represents a

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

Office of Toxic Substances

[FRL-993-5; OTS-081002C]

POLICY FOR REPORTING FOR THE REVISED INVENTORY DRAFT REPORT FORM

AGENCY: Environmental Protection Agency.

ACTION: Policy for Revised Inventory Reporting; draft report form.

SUMMARY: The inventory reporting regulations, promulgated under the authority of the Toxic Substances Control Act (TSCA), govern the reporting of chemical substances to create an Inventory of chemical substances manufactured, imported, or processed in the United States for a commercial purpose. Under these regulations the Inventory will be compiled in two phases. In early 1979, the Agency will publish an Initial Inventory of Chemical Substances manufactured or imported for a commercial purpose since January 1, 1975. Following publication of the Initial Inventory, there will be a special, 210-day period during which processors and certain importers of chemical substances will have an opportunity to add substances to the Inventory in order to insure compliance with TSCA. This second phase will result in publication of a Revised Inventory sometime in 1980.

This notice addresses Agency policy concerning reporting for the Revised Inventory and proposes a draft report form for public comment. In addition, persons may use the coupon provided in this notice to reserve a copy of the Initial Inventory in printed form or microfiche. EPA will publish another notice in the FEDERAL REGISTER to announce the beginning of the 210-day reporting period.

DATES AND ADDRESS: Comments on the proposed report form must be received on or before December 8, 1978, and should be addressed to: Ms. Joyce Barbour, U.S. Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C., 20460. Comments should bear the identifying notation OTS-081002C. All written comments filed pursuant to this notice will be available for public inspection at the above address in room 711A, East Tower, from 8 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Director, Industry Assistance Office, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460. Or call the toll-free number, 800-424-9065. In Washington, D.C., please call 554-1404. Applications for reserving copies of the Initial Inventory should be sent to the above address. Persons who wish to receive copies of the Inventory reporting regulations and supplements to the regulations should call the toll-free number listed above.

SUPPLEMENTARY INFORMATION: The Inventory reporting regulations (40 CFR Part 710) were promulgated under the authority of section 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA. These regulations were published in the FEDERAL REGISTER on December 23, 1977 (42 FR 64572), and were supplemented on March 6, 1978 (48 FR 9254) and April 17, 1978 (43 FR 16178). The regulations implemented section 8(b) of TSCA, which requires the Administrator of the Environmental Protection Agency (EPA) to compile, keep current, and publish a list of chemical substances manufactured, imported, or processed in the United States for a commercial purpose.

Section 710.6 of the Inventory reporting regulations establishes a two-phase reporting schedule designed to prevent duplicative reporting. During the initial reporting period, which ended on May 1, 1978, certain manufacturers and importers reported to EPA concerning chemical substances they manufactured or imported for a commercial purpose since January 1, 1975. Based on these reports, EPA will publish an Initial Inventory early in 1979. Persons who begin manufacture or importation of a chemical substance after May 1, 1978, are permitted to report that substance for the Inventory up to 30 days after publication of the Initial Inventory. At that time the premanufacture notification requirements of section 5(a)(1)(A) of TSCA will take effect for all persons who intended to manufacture or import (in bulk form), for a commercial purpose, a chemical substance not included on the Initial Inventory. Rules governing premanufacture notification are currently being developed by EPA and will be proposed in the FEDERAL REGISTER for public comment.

A second reporting period lasting 210 days will begin when the Initial Inventory is published. During this period, a person may report a chemical substance that was not included on the Initial Inventory if the person has processed or used the chemical substance (including use in the manufacture of a mixture or article containing the chemical substance) for a commercial purpose since January 1, 1975, or the person has imported the substance as part of a mixture or article for a commercial purpose since January 1, 1975. A manufacturer or importer (in bulk) of a chemical substance for a commercial purpose may *not* report for the Revised Inventory; he is subject to premanufacture notification requirements 30 days after the Initial Inventory is published. Reporting by processors and users for the Revised Inventory is solely intended to supplement the Initial Inventory. EPA will publish one or more supplements to the Initial Inventory during the revised Inventory reporting period. These supplements will include substances that were omitted from the Initial Inventory due to late reporting or errors, substances reported for the Revised Inventory, and substances that have completed premanufacture review. The Agency expects to publish the Revised Inventory sometime in 1980.

After publication of the Revised Inventory, it will become unlawful for any person to process or use for a commercial purpose a chemical substance that was manufactured or processed in violation of section 5 of TSCA. Thirty days after publication of the Revised Inventory, the premanufacture notification requirements of section 5 of TSCA will be applied to importers of new chemical substances as part of mixtures.

IMPORTED ARTICLES

In the near future EPA will issue proposed rules to govern the premanufacture notification review program under TSCA. These proposed rules would maintain the policy established under the Inventory reporting regulations with respect to the premanufacture notification requirements for importers of chemical substances. Under this policy, set forth in the FEDERAL REGISTER on October 3, 1977 (14 FR 53804), December 23, 1977 (42 FR 64572), and March 6, 1978 (43 FR 9254), premanufacture notification initially will apply *only* to importation of new chemical substances in bulk form (30 days after publication of the Initial Inventory) and to importation of mixtures (30 days after publication of the Revised Inventory). Importers of chemical substances as part of articles will *not* be subject to premanufacture notification requirements at this time. However, at a later date the Agency may propose to apply premanufacture notification requirements to certain categories of chemical substances imported as part of articles after providing importers an opportunity to report existing substances falling within such categories for inclusion on the Inventory. The proposal would be followed by a public comment period prior to any change in the Agency's current policy. EPA continues to welcome comments on this issue.

PROCESSORS AND USERS

For purposes of the Inventory reporting regulations, "processors" and "users" of chemical substances "for commercial purposes" are persons who (1) prepare for distribution in commerce or (2) use as an intermediate a chemical substance that has *already been manufactured.* (See § 710.2 (t), (u), and (v)). Examples are persons who use chemical substances to manufacture mixtures or articles and persons who grind, pulverize, blend, or repackage chemical substances for a commercial purpose. A person who uses a chemical substance as an intermediate in the intentional manufacture of another chemical substance is considered a processor of the intermediate.

EPA wishes to emphasize that processors and users of chemical substances are *not required* to report substances for the Inventory. The Revised Inventory reporting period is an opportunity for them to add to the Inventory substances that may not have been reported by a manufacturer of importer, in order to insure a continuing supply of a particular substance and avoid penalties under TSCA. Once a chemical substance has been reported by a processor or user and included on the Inventory, it may be manufactured or imported for a commercial purpose without going through premanufacture notification.

REPORTING TRADEMARKS

Chemical substances reported for the Revised Inventory must qualify as "reportable chemical substances" (see Chapter II, "Reporting for the Chemical Substance Inventory," (December 1977)), and must not be included on the Initial Inventory.

All reported substances must be identified as specifically as possible. EPA will *not* process report forms on which a substance is identified only by a trademark or brand name. However, EPA recognizes that processors may know certain products only by a trademark or brand name (e.g., "Brand X"). Such products may be comprised of one or more reportable chemical substances. Processors should either determine that the component substances are included on the Initial Inventory and therefore should not be reported, or obtain the specific identities of the substances from the supplier and report them for inclusion on the Revised Inventory. The procedure outlined below should assist processors in obtaining this information.

To determine whether the substances comprising a trademarked product are included on the Initial Inventory, a processor should first consult the Product Trademark List. This list, which is currently being compiled from Form D reports submitted during the initial reporting period, will be available in advance of the Initial Inventory. Manufacturers who reported their product trademarks for inclusion on this list were required to certify that all reportable chemical substances comprising the trademarked product had been reported for the Initial Inventory. Processors who reported product trademarks were required to certify that any component chemical substance not reported for the Initial Inventory would be reported by them for the Revised Inventory. (Refer to 43 FR 9254, March 6, 1978.) Therefore, if a trademark appears on the Product Trademark List the component chemical substances should not be reported for the Revised Inventory by anyone other than the person who reported the trademark.

Reporting of trademarks for inclusion on the Product Trademark List was strictly voluntary. Therefore, not all eligible trademarks will be included on the list. If a trademarked product does not appear on the Product Trademark List, a processor should ask his supplier to (1) provide him with a letter certifying that all reportable chemical substances comprising the trademarked product have been reported for the Inventory, *or* (2) reveal to the processor the identity of the component substances so that the processor may determine whether or not the substances are reportable, and, if they are, report them for the Revised Inventory. If the supplier refuses to do either of the above, the processor should submit a report form to EPA, providing the name and address of the supplier and the name of the trademarked product, and indicating that his supplier has refused to provide him the information necessary to determine whether he should report for the Revised Inventory. EPA will then attempt to obtain the necessary information directly from the supplier.

An importer of a chemical substance as part of a mixture or article may not know the true identity of the chemical substance because the foreign supplier may choose to keep it confidential. In this situation, the importer may be assisted in reporting by the foreign supplier, who would report the substance identity directly to EPA. EPA has established a procedure for reporting in this manner in the instruction booklet "Reporting for the Chemical Substance Inventory" (December 1977). A revised edition of this booklet will be available in advance of publication of the Initial Inventory.

DRAFT REPORT FORM

EPA is proposing a single report form to be used in reporting for the Revised Inventory. This form, on which one chemical substance may be reported, would replace Forms A, B, and C, which were used during the Initial Inventory reporting period. This single form approach represents a slight deviation from § 710.5(b) of the Inventory reporting regulations, which specifies use of three separate forms depending on whether (1) the substance appeared on the TSCA Candidate List of Chemical Substances (Form A), (2) the substance did not appear on the Candidate List but had a Chemical Abstracts Service (CAS) Registry Number (Form B), or (3) the substance had no CAS Registry Number or the substance identity was claimed as confidential (Form C). The draft form is essentially a revised From C, and would be used to report a chemical substance that falls within any of the above three categories.

EPA expects to receive reports on relatively few chemical substances during the Revised Inventory reporting period. Most of the substances eligible for inclusion on the Inventory should have been reported by their manufacturers and importers during the initial reporting period. The large number of substances reported during this period justified the printing and distribution of three separate forms, two of which were designed to allow reporting of several substances on a single form. There should be few cases in which a processor reports a chemical substance not reported by a manufacturer or importer during the initial reporting period. In addition, persons who import chemical substances as part of mixtures or articles had the option of reporting during the initial reporting period, and are expected to add relatively few substances to the Inventory during the Revised Inventory reporting period. Therefore, EPA has determined that three separate forms would not be necessary and that a single form should be adequate for Revised Inventory reporting. The Agency specifically welcomes comment on the report form.

I. CERTIFICATION STATEMENT

The Revised Inventory report form must be signed by a responsible company official, attesting to the trust of the following certification statement: "I hereby certify that, to the best of my knowledge and belief: (1) The chemical substance identified below (a) is not included on the Initial Inventory, (b) is eligible for inclusion on the Revised Inventory under 40 CFR 710.3(b) as it has been processed or used for a commercial purpose since January 1, 1975, or has been imported as part of a mixture or article for a commercial purpose since January 1, 1975, and (c) was not manufactured or imported (in bulk form) for a commercial purpose for the first time after the effective date of premanufacture notification requirements for manu-

facturers of chemical substances and importers of chemical substances in bulk form; (2) all information entered

ments appearing on the back of the form.

1. My company has taken measures

List in addition to the Initial Inventory. The Product Trademark List will be available in advance of the Initial

[6560-01-C]

V 43/206 OCT 24 78

facturers of chemical substances and importers of chemical substances in bulk form; (2) all information entered on this form is complete and accurate; and (3) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here."

A foreign supplier who assists an importer in reporting a substance for the Inventory must also sign the forn attesting to the completeness and accuracy of all information he provides on behalf of the importer. A trade association or other agent reporting on behalf of a person must follow the procedures of § 710.5(f) of the inventory reporting regulations.

II. Required Information

Persons who choose to report for the Revised Inventory must provide the following information on the form: (1) The name and address of the reporting company (or corporation, trade association or other agent); (2) the specific identity of the chemical substance (including its CAS Registry Number, if known); and (3) the activity the reporting company is engaged in with respect to the chemical substance (i.e., "process" or "import"). Persons should also provide the name, address, and phone number of a principal technical contact, whom EPA may contact to clarify any information submitted on the form. Detailed instructions for completing the form will be distributed with the forms, and will follow the approach of the instruction booklet for the Initial Inventory, "Reporting for the Chemical Substance Inventory" (December 1977).

III. Confidentiality

Section 710.7 of the inventory reporting regulations outlines the confidentiality provisions. A processor or importer may claim as confidential whether he processes or imports the chemical substance by checking the box labeled "Activity" under the heading "Confidentiality Claims." In addition, he may claim as confidential the link between his company and the chemical substance by checking the box labeled "Company" under the same heading. By signing the certification statement, he attests to the trust of the following confidentiality statements appearing on the back of the form.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

In accordance with § 710.7(e) of the inventory reporting regulations, a person may claim the specific identity of a chemical substance as confidential if such person believes that inclusion of the specific chemical identity on the Inventory would reveal the trade secret fact that the particular substance is manufactured, imported, or processed by anyone for a commercial purpose. Such claims must be substantiated in writing, addressing the points specified in the instruction manual, "Reporting for the Chemical Substance Inventory." The person must also propose a generic (less specific) chemical name for the substance and agree to certain other provisions of § 710.7(e) of the regulations. Such persons should adhere to the procedures detailed in the EPA document "Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities for the TSCA Inventory," which may be obtained from the Industry Assistance Office by calling the toll-free number listed at the beginning of this notice. If EPA determines that the specific substance identity is entitled to confidential treatment, the specific identity will not be included on the published Inventory. Rather, EPA will publish a generic chemical name for the substance in the Confidential Chemical Substance Appendix to the Inventory.

Reserving a Copy of the Inventory

Persons who reported chemical substances for the Initial Inventory and persons who have the opportunity to make additions to the Inventory during the second reporting period should carefully examine the Initial Inventory for completeness and accuracy. Processors and importers who may report for the Revised Inventory should consult the Product Trademark List in addition to the Initial Inventory. The Product Trademark List will be available in advance of the Initial Inventory, and may be obtained from EPA's Industry Assistance Office by completing the coupon provided in this notice. Persons who are interested in obtaining a copy of the Product Trademark list *only* are encouraged to check the appropriate box on the coupon. Persons who reserve a copy of the complete Initial Inventory will automatically receive a copy of the Product Trademark List.

Because of the anticipated size of the Initial Inventory and the large number of copies EPA expects to make available, printing and distribution costs will be very high. EPA will take the following measures to keep the cost as low as possible:

(1) EPA will provide *one* free copy of the Initial Inventory, in printed form or microfiche, to each company, corporation (or subsidiary, division or major department of a large corporation), or interested organization while supplies last. EPA encourages persons to request microfiche copies wherever equipment permits, since these copies are less expensive to print and distribute.

(2) EPA will place reference copies of the Initial Inventory, in printed form or microfiche (as equipment permits) in the libraries of all large cities, GPO regional depository libraries, State environmental offices, and EPA regional offices. Persons requiring minimal access to the Inventory are encouraged to make use of reference copies, rather than ordering a complete copy of the Inventory from EPA.

(3) Additional copies of the Initial Inventory will be available in printed form and microfiche through the Government Printing Office (GPO) or other source at a cost to be specified later.

(4) A computer readable version of the Initial Inventory will be available at a cost to be specified later.

In order to determine the number of copies of the Initial Inventory EPA needs to print in hard copy and on microfiche, affected persons are encouraged to complete the coupon below and mail it to the Industry Assistance Office by November 30, 1978. A company that reserves a copy of the Initial Inventory in this manner can expect to receive its free copy automatically after the Inventory is published.

Dated: October 18, 1978.

Steven D. Jellinek,
Assistance Administrator for Toxic Substances.

[6560-01-C]

Initial Inventory (TS-799)
Industry Assistance Office
E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

(Date) _____

Please reserve one (1) copy of (check one):

◯ complete Initial TSCA Chemical Substance Inventory, or

◯ Product Trademark List only

in (check one): ◯ Printed Form ◯ Microfiche

for:

(Name) _____

(Company) _____

(Address or P.O. Box) _____

(City) _____ (State) _____ (ZIP) _____

My company is a: ◯ manufacturer ◯ processor ◯ importer of chemical substances or ◯ other (please check one or more as appropriate).

(Signature) _____

EPA Form 7710-23 (10-78)

IMPORTANT. Before completing this form carefully read the EPA publication "Reporting for the Chemical Substance Inventory". That book contains instructions for properly completing this form.

U.S. ENVIRONMENTAL PROTECTION AGENCY — REVISED INVENTORY

TUESDAY, OCTOBER 24, 1978
PART V

V 43 / 206 OC 24 78

IMPORTANT. Before completing this form carefully read the EPA publication "Reporting for the Chemical Substance Inventory". That booklet contains instructions for properly completing this form.

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 8 (a) and (b) Toxic Substances Control Act 15 USC 2607)

REVISED INVENTORY
(40 CFR 710.3(b))

I. CERTIFICATION STATEMENT I hereby certify that to the best of my knowledge and belief: 1) the chemical substance identified below (a) was not included on the initial inventory, (b) is reporting for inclusion on the Revised Inventory under 40 CFR 710.3 (a) as it has been processed or used for a commercial purpose since January 1, 1975 or has been imported as part of a mixture or article for a commercial purpose since January 1, 1975 and (c) was not manufactured or imported in bulk form for a commercial purpose for the first time after the effective date of premanufacture notification requirements for manufacturers of chemical substances and importers of chemical substances in bulk form, 2) all information entered on this form is complete and accurate and 3) the confidentiality statements on the back of this form are true as to all information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

SIGNATURE DATE NAME / TITLE - TYPE OR PRINT

EPA USE ONLY MID Form of Submission Supervisor Date

II. COMPANY NAME/ADDRESS
NAME
ADDRESS
CITY STATE ZIP

III. PRINCIPAL TECHNICAL CONTACT(S)
NAME
ADDRESS
CITY STATE ZIP
PHONE

Form No.

IV. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY CLAIMS

CAS REGISTRY NUMBER (IF KNOWN)	SPECIFIC CHEMICAL NAME (SEPARATE SYNONYMS WITH A SEMICOLON)	ACTIVITY (CHECK ALL THAT APPLY) PROCESS	IMPORT	COMPANY (a) ACTIVITY	COMPANY (b)	EPA USE ONLY

IN THE SPACE PROVIDED BELOW PROVIDE STRUCTURAL INFORMATION, MOLECULAR FORMULA AND OTHER SUPPLEMENTAL INFORMATION TO AID IN THE SPECIFIC IDENTIFICATION OF THE CHEMICAL SUBSTANCE

MOLECULAR FORMULA

☐ SEE ATTACHED SHEETS (WRITE FORM NO. ON ALL ATTACHMENTS)

(a) ☐ CHEMICAL SUBSTANCE IDENTITY IS CONFIDENTIAL
(1) SUBSTANTIATION
(2) Proposed Generic Name
(3) ☐ I agree to the terms of CONFIDENTIAL CHEMICAL SUBSTANCE IDENTITY STATEMENT on the back of this form

DRAFT
Do Not Use

One Time (Expires Jan. 1, 1979)
EPA Form 7710-A

[FR Doc. 78-29874 Filed 10-23-78; 8:45 am]

federal register

TUESDAY, OCTOBER 24, 1978
PART V

DEPARTMENT OF LABOR

Employment and Training Administation

SERVICES OF THE EMPLOYMENT SERVICE SYSTEM, BASIC SERVICES OF THE EMPLOYMENT SERVICE AND SERVICES IN SUPPORT OF BASIC SERVICES

Proposed Rulemaking

V 43/206 OCT 24 78

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Parts 602, 604, 651, 653, 658]

SERVICES OF THE EMPLOYMENT SERVICE SYSTEM, BASIC SERVICES OF THE EMPLOYMENT SERVICE AND SERVICES IN SUPPORT OF BASIC SERVICES

Proposed Rulemaking

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Department of Labor is proposing regulations which all State employment service agencies must follow in offering services to the public. These regulations are intended to clarify and update the requirements governing basic services of the employment service system and services offered in support of basic services.

DATES: Comments must be received on or before: December 26, 1978.

ADDRESS: Charles I. Carter, Division Chief, Policies and Program Design, 601 D Street NW. Room 8018, Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Alan Lafferman, Regulations Coordinator, Policies and Program Design, 601 D Street NW., Room 8018, Washington, D.C. 20213, 202-376-6701.

SUPPLEMENTARY INFORMATION: The Wagner-Peyser Act of 1933, as amended, established the Employment Service system. The Act authorized a national system of public employment offices to assist men, women and youth in obtaining employment.

The Employment Service performs essentially a labor exchange function. That is, the system provides no-fee employment services to applicants seeking employment and to employers seeking applicants. Among the services provided applicants are job information, referral to job openings listed with the employment service, employment counseling, employment testing, job development and referral to training. Among the services provided employers are referral of qualified applicants to job openings listed with the employment service system; labor market information; and assistance in meeting affirmative action obligations under legislation, court order, consent decree, government contracts, or other fair employment practice authority rulings.

The U.S. Employment Service gave serious consideration to publishing, as part of this proposed rulemaking document, specific standards to be used for the employment of counselors by State agencies. However, in view of the very recent publication of the uniform employee selection guidelines by the Department, the Department of Justice, the Civil Service Commission, and the Equal Employment Opportunity Commission, and the emphasis in those guidelines of validating personnel standards with respect to equal employment opportunity, the Department has decided not to publish specific standards at this time. The Department will continue to study this issue.

The Need for Changes

These proposed regulations are part of an attempt to revise and update the management and operation of the employment service system. Prior to November 1976, the State employment service agencies were required to follow Federal regulations at 20 CFR Parts 601-604, a myriad of procedures contained in the Employment Security Manual established at 20 CFR 603.4, and numerous field instructions.

The new regulations issued or under development for 20 CFR Parts 651-658 will provide Federal policy and requirements which must be adhered to by State employment service agencies.

The Department is especially interested in comments and suggestions with respect to ways of simplifying and clarifying the provisions of the regulations.

Summary of Proposed Changes

1. Sections of 20 CFR Parts 601-604 which are superseded by these regulations will be deleted.

2. A new part 653, subpart A, of this chapter is proposed which will contain regulations governing services which each State employment service agency must make available to applicants and employers. For example, with respect to services for women, § 653.6, *Job Development*, § 653.10 *Discriminatory Job Orders*, and § 653.12 *Employer Services* require the State agency to, among other things, develop nontraditional jobs for women, accept no job order discriminating by sex, and educate employers to nontraditional job roles for women.

3. A new part 653, subpart E, of this chapter is proposed which will contain regulations governing services which each State employment service agency must perform in support of basic services, but which may not necessarily be available through all local offices of a given State employment service agency.

4. Additional definitions to 20 CFR 651.7 are proposed. These definitions are generally for terms contained in the proposed subparts. However, at the time of final rulemaking, it is intended that all definitions contained throughout 20 CFR Parts 651-658 and which apply to all parts will be pulled together into 20 CFR 651.7. Where the same term may have a second definition specific to a particular part, or where a term is specific to a particular part, the appropriate definition will remain in the part for which it is used.

Accordingly, Title 20, Chapter V of the Code of Federal Regulations is proposed to be amended as follows:

PART 602—FEDERAL-STATE EMPLOYMENT SERVICE SYSTEM

1. The following sections in part 602 are proposed to be deleted:

Sec.
602.2 Placement services.
602.4 Occupational analysis.
602.4a Industrial services.
602.5 Services to veterans.
602.6 Labor market information service.
602.7 Participation in community programs.

PART 604—POLICIES OF THE UNITED STATES EMPLOYMENT SERVICE

2. The following sections in part 604 are proposed to be deleted:

Sec.
604.1 The placement process.
604.2 Clearance.
604.3 Employment counseling.
604.4 Services for veterans.
604.6 Service to youth.
604.8 Service to minority groups.
604.9 Preparation and use of labor market information.
604.10 Employment service testing.
604.11 Industrial services.
604.12 Community participation.
604.13 Foreign labor.
604.14 Employer relations.
604.15 Information services.
604.17 Older workers.
604.18 Occupational analysis activities.
604.20 Service to women.
604.21 Employability development services.

PART 651—GENERAL PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM

3. The contents for part 651 are amended to read as follows:

Sec.
651.1 Scope and purpose of the Federal-State employment service system.
651.2 Basic structure of the employment service system.
651.3 Authority and effect of regulations for the employment service system.
651.4 Series of operating instructions for the employment service system.
651.5 Federal statutes governing the employment service system.
651.6 Executive orders affecting the employment service system.
651.7 Format of the regulations for the employment service system.
651.8 Consolidated table of contents for parts 651-658.
651.9 Definitions of terms used in parts 651-658.

§ 651.1 [Amended]

4. A new paragraph (c) is added to read as follows:

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(c) Neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. No job order accepted or recruited upon by the ES constitutes an offer to contract to which the ETA or a State agency is in any way a party. Nevertheless, material misrepresentation of job order information supplied by the employer constitutes a violation of these regulations, and the procedures at subpart F of part 658 of this chapter shall be followed upon discovery by the ETA or a State agency.

§§ 651.3-651.7 [Redesignated as §§ 651.5-651.9]

5. § 651.3, § 651.4, § 651.5, § 651.6, § 651.7 are redesignated to § 651.5, § 651.6, § 651.7, § 651.8, and § 651.9 respectively.

6. A new § 651.3 and § 651.4 are added to read as follows:

§ 651.3 Authority and effect of regulations for the employment service system.

(a) The regulations governing the employment service system in chapter V of this title are issued under the authority of the Wagner-Peyser Act unless otherwise noted.

(b) The regulations are binding on both Federal and State staff in the Federal/State employment service system. The Assistant Secretary for Employment and Training has the authority to waive any provision(s) of these regulations except to the extent they are required by statute through a notice in the Federal Register which includes:

(1) The provisions being waived;
(2) The State agencies affected;
(3) The reason for the waiver; and
(4) The period for which the waiver will be in effect.

(c) The ES regulations require State agencies to provide certain services to the public in return for funds appropriated each year under authority of the Wagner-Peyser Act and title III of the Social Security Act. The level of required services provided by a State agency, though, is dependent upon:

(1) The extent to which the State agency can provide the required services through the proper and efficient administration of its allocated share of the appropriation; and

(2) The degree to which the State agency is bound by national priorities and special emphasis.

§ 651.4 Series of operating instructions for the employment service system.

(a) Section 12 of the Wagner-Peyser Act authorizes the Secretary to issue instructions to the State agencies for carrying out employment service programs. The Employment and Training Administration (ETA) publishes those instructions as a series of Operating Instructions Handbooks, which are continuing documents, and through a system of temporary directives, which have a maximum effective length of six months.

(b) The Operating Instructions Handbooks and temporary directives are viewed by the Secretary as Federal requirements and thus are binding on both Federal and State staff. The Handbooks will not contain policy or basic requirements beyond that which are established in the regulations, but the Handbooks will contain required procedures which implement the regulations.

(c) Because of the continuing nature of the operating instructions handbooks, each State agency in the employment service system will be offered the opportunity to review and comment on any operating instructions handbook as well as any subsequent substantive amendment or revision prior to its becoming effective.

§ 651.8 [Amended]

7. The table of contents for parts 651-658 is amended by amending the table of contents for part 651, inserting the table of contents of subpart A of part 653, reserving a subpart D, and inserting the table of contents of subpart E of part 653 to read as follows:

PART 651—GENERAL PROVISIONS GOVERNING THE EMPLOYMENT SERVICE SYSTEM

Sec.
651.1 Scope and purpose of the Federal-State employment service system.
651.2 Basic structure of the employment service system.
651.3 Authority and effect of regulations for the employment service system.
651.4 Series of operating instructions for the employment service system.
651.5 Federal statutes governing the employment service system.
651.6 Executive orders affecting the employment service system.
651.7 Format of the regulations for the employment service system.
651.8 Consolidated table of contents for parts 651-658.
651.9 Definitions of terms used in parts 651-658.

. . . . . .

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart A—Basic Services of the Employment Service System

Sec.
653.1 Scope and purpose of this subpart.
653.2 Job information.
653.3 Information on supportive services and training and educational opportunities in the local office area.
653.4 Registration for work.
653.5 Job referral.
653.6 Job development.
653.7 Employment counseling.
653.8 Employment service testing.
653.9 Job order taking.
653.10 Discriminatory job orders; affirmative action job orders.
653.11 Job openings at issue in labor disputes.
653.12 Employer services.

. . . . . .

Subpart D—Services to the Handicapped [Reserved]

Subpart E—Services in Support of Basic Services

Sec.
653.400 Scope and purpose of this subpart.
653.401 Labor market information (LMI) program.
653.402 Occupational analysis activities.
653.403 Multistate labor market area agreements.
653.404 Automated systems.
653.405 Clearance system for job orders for nonagricultural workers.
653.406 Recruitment of United States workers for foreign employers.
653.407 Participation in administration of the work test.
653.408 Coordination with other employment and training programs.
653.409 Participation with community programs.
653.410 Information service.

§ 651.9 [Amended]

8. In each definition where it applies, the words "shall mean" are amended to read "means."

9. The definition for "DOT" is deleted.

10. The following definitions are amended:

"Applicant" means a person, legally qualified to work in the United States, who has either a partial application or a full application on file with the local office.

"Employment Service (ES)" means the national system of public employment offices consisting of the U.S. Employment Service (USES), its grantee State agencies, and the various offices of the State agencies.

"Job Bank" means a computer assisted system which provides listings of current job openings in an area, on a regular basis, for distribution to ES offices and cooperating agencies.

"Local Office" means a full-time office of a State agency maintained for the purpose of providing the basic services and other services of the employment service system. A local office which serves a significant number of Migrants or Seasonal Farmworkers (MSFW's) means a local office which is officially designated as such by the ETA.

11. The following definitions are added and inserted in alphabetical order:

"Applicant's job order" means an employer's job order for a specific applicant for whom the local office has no suitable opening on file.

"Rural Area" means an area which is not included in the urban area of a Standard Metropolitan Statistical

a new Subpart A—Basic Services of the Employment Service System, reserving a Subpart D—Services to the Handicapped and adding contents for

are registered with the employment service.

(2) Sections 653.4 through 653.8 describe the registration process and

tion shall consist of, officially recording an individual's availability for referral to job opportunities, training, and/or employability development

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11. The following definitions are added and inserted in alphabetical order:

"Affirmative Action" means a program or procedure intended to provide or foster employment opportunities for members of groups pursuant to legislation, court order, consent decree, government contracts or other fair employment practice authority.

"Clearance" means activities in the placement process involving joint action of local offices in different labor market areas and/or States in the location, selection and the job referral of an applicant.

"Decertification" means the rescission by the Secretary of the certification made under section 5 of the Wagner-Peyser Act to the Secretary of the Treasury that the State agency may receive funds authorized by the Wagner-Peyser Act.

"Dictionary of Occupational Title (DOT)" means the reference book published by the U.S. Employment Service which contains definitions of U.S. job titles, number codes, and worker function data.

"Employer" means (1) a person, firm, or corporation which currently has a location within the United States, or (2) a firm or corporation with a location in a foreign country, to which U.S. workers may be legally referred for employment. See Part 655 or Part 656 of this chapter for the definition of "employer" as it applies to labor certification.

"Establishment" means a public or private employing unit which produces and/or sells goods or services, for example, a mine, factory, or store. It is usually at a single physical location and engaged in one, or predominantly one, type of industrial activity. Each branch or subsidiary unit of a large employer in a geographical area or community should be considered an individual establishment, except that all such units *in the same physical location* shall be considered a single establishment. A component of an establishment which may not be located in the same physical structure (such as the warehouse of a department store) should also be considered as part of the parent establishment.

"Full Application" means an application for an applicant who has participated in an application interview and which includes the applicant's personal characteristics, work history, and an occupational classification and DOT code.

"Identification Card (Applicant identification card)" means a card given to the applicant on which are recorded identifying information and the dates of the applicant's visits to the local employment office.

"Job Development" means the process of eliciting a public or private employer's job order for a specific applicant for whom the local office has no suitable opening on file.

"Job Information" means information derived from data compiled in the normal course of employment service activities from reports, job orders, applications and the like.

"Job Opening" means a single job opportunity for which a local office has on file a job order.

"Job Order" means (1) a single request for job referral of one or more applicants to fill one or more job openings in a single occupation classification; also, (2) the record of such a request.

"Job Referral" means (1) the act of bringing to the attention of an employer (or another local office) an applicant, or a group of applicants, who are available for specific job openings or (2) the record of such referral. "Job referral" means the same as "Referral to a job."

"Labor Market Area" means a geographic area consisting of a central city (or cities) and the surrounding territory within a reasonable commuting distance.

"Labor Market Information (LMI)" means that body of information arising from the measurement and evaluation of the socioeconomic forces influencing the employment process in specific labor market areas. The factors that affect labor demand-supply relationships define the content of LMI and include population and growth and characteristics, trends in industrial and occupational structure, technological developments, shifts in consumer demands, unionization and trade disputes, recruitment practices, wage levels, conditions of employment, and training opportunities.

"Partial Application" means the application of an applicant who has not participated in an application interview and which does not include an occupational classification or DOT code. Partial applications prepared for Migrants and Seasonal Farmworkers must include a signed waiver of full services at that time in accordance with 20 CFR 653.103.

"Placement" means the hiring by an employer of an individual referred by the employment office for a job or an interview, providing that the employment office completed all of the following steps: (a) Made prior arrangements with the employer for the referral of an individual or individuals; (b) referred an individual who had not been specifically designated by the employer; (c) verified from a reliable source, preferably the employer, that the individual had entered on the job; and (d) prepared a job order form prior to referral and recorded the placement on appropriate employment service forms.

"Rural Area" means an area which is not included in the urban area of a Standard Metropolitan Statistical Area and which has a population of less than 10,000.

"Secretary" means the Secretary of the U.S. Department of Labor or the Secretary's designee.

"Standard Metropolitan Statistical Area (SMSA)" means a metropolitan area designated as a SMSA by the Bureau of Census which contains (1) at least one city of 50,000 inhabitants or more, Or (2) twin cities with a combined population of at least 50,000.

"Supportive Services" means services other than training needed to enable individuals to obtain or retain employment or to participate in employment and training programs. Such services include but are not limited to health care and medical services; child care; resident support; Veterans' Administration assistance; and assistance in securing bonds.

"Tests" means a standardized means of measuring an individual's possession of interest in, or ability to acquire, job skills and knowledge. Use of tests by employment service staff must be in accordance with the provisions of:

(1) 41 CFR, Chapter 60, Part 60-3, *Employee Testing and Other Selection Procedures;* and

(2) 29 CFR Part 30, *Equal Employment Opportunity in Apprenticeship and Training.*

"Training" means a planned, systematic sequence of instruction or other learning experience on an individual or group basis under competent supervision, which is designed to impart skills, knowledges, or abilities to prepare individuals for employment.

"Transaction" means a single ES activity performed in behalf of an individual seeking assistance and/or the result of such an activity; e.g., applicant registration, referral to a job, referral to a supportive service, counseling, interview, testing, job development, job placement, negative job referral, enrollment in training, and inactivation of an applicant registration.

"Vocational Plan" means a plan developed by a counselor and the applicant which describes: (1) The problem in terms of vocational choice, occupational change or job adjustment; (2) the applicant's objective and the steps to be taken to attain it; and (3) the occupational goals and the job search strategy to be used.

. . . . .

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

12. The Table of Contents for Part 653 is amended by adding contents for a new Subpart A—Basic Services of the Employment Service System, reserving a Subpart D—Services to the Handicapped, and adding contents for a new Subpart E—Services in Support of Basic Services to read as follows:

Subpart A—Basic Services of the Employment Service System

Sec.
653.1 Scope and purpose of this subpart.
653.2 Job information.
653.3 Information on supportive services and training and educational opportunities in the local office area.
653.4 Registration for work.
653.5 Job referral.
653.6 Job development.
653.7 Employment counseling.
653.8 Employment service testing.
653.9 Job order taking.
653.10 Discriminatory job orders; affirmative action job orders.
653.11 Job openings at issue in labor disputes.
653.12 Employer services.

. . . . .

Subpart D—Services to the Handicapped [Reserved]

Subpart E—Services in Support of Basic Services

Sec.
653.400 Scope and purpose of this subpart.
653.401 Labor market information (LMI) program.
653.402 Occupational analysis activities.
653.403 Multistate labor market area agreements.
653.404 Automated systems.
653.405 Clearance system for job orders for nonagricultural workers.
653.406 Recruitment of United States workers to foreign employers.
653.407 Participation in administration of the work test.
653.408 Coordination with other employment and training programs.
653.409 Participation with community programs.
653.410 Information service.

13. A new Subpart A is added to Part 653 to read as follows:

Subpart A—Basic Services of the Employment Service System

§ 653.1 Scope and purpose of this subpart.

(a) This subpart sets forth those basic employment services which each State agency shall provide to the public. Subparts B, C, and D of this Part 653 describe the special efforts which State agencies must make in providing services to MSFW's, veterans and the handicapped, respectively.

(b) The basic services described in this subpart are the principal ES services which lead to placement of individuals into employment.

(1) Sections 653.2 and 653.3 describe services which must be available to all individuals, regardless of whether they

are registered with the employment service.

(2) Sections 653.4 through 653.8 describe the registration process and those services which may only be provided to applicants.

(3) Sections 653.9 through 653.12 describe those services which are provided employers in eliciting job orders, accepting and servicing those job orders, and assisting employers to make better use of the employment service system.

§ 653.2 Job information.

(a) State agencies shall compile job information for the purpose of providing it to the public.

(b) Each State agency shall make available job information with respect to local office areas to all individuals and, if desired by an individual, job information with respect to other areas within the State, upon request from an individual. State agencies shall assist an individual to obtain job information about jobs in other States in which he/she may have an interest in employment.

(c) Job information available to the public about specific job openings listed with a State agency shall ordinarily include:

(1) Job title and hiring specifications;

(2) Salary or wage range;

(3) Starting date for employment;

(4) Anticipated duration of employment;

(5) Any special terms and conditions of employment identified by the employer, including bona fide occupational qualifications;

(6) Total hours to be worked each week, excluding overtime; and

(7) Location of worksite, when appropriate.

(d) State agencies shall insure that the policy for disclosure of information at 20 CFR 604.16 is adhered to in providing job information.

§ 653.3 Information on supportive services and training and educational opportunities in the local office area.

Each State agency shall provide information on supportive services that are available from other agencies (e.g., CETA, WIN, State welfare, Veterans' Administration) in the local office area to the public on request, and information on available training and educational opportunities within the local office area to the public on request.

§ 653.4 Registration for work.

(a) State agencies shall register as a job applicant (applicant) individuals legally qualified to work in the United States without regard to place of residence, current employment status, or occupational qualifications. Registration shall consist of, officially recording an individual's availability for referral to job opportunities, training, and/or employability development services on an application form that includes all ETA required data elements. An individual shall have registered with the employment service prior to:

(1) Job referral;

(2) Job development;

(3) Employment counseling; or

(4) Employment testing.

(b) Except as otherwise required by ES regulations, State agencies may require full or partial applications in registering individuals. When establishing State agency policy on requiring full or partial applications, State agencies shall consider the extent to which a full application is necessary for offering services to applicants which require knowledge of the applicants, skills, knowledges, and abilities such as in job development, employment counseling, and job referral from the active application file when the applicant is not physically present. State agencies, shall, however, require employment service staff to accept a full application from any individual who requests to file a full application.

§ 653.5 Job referral.

State agencies shall refer applicants to job openings listed with the employment service pursuant to the following provisions:

(a) Every attempt shall be made to refer applicants to jobs which utilize the applicant's highest skills, knowledges, and abilities in keeping with the amount of information provided by the applicant and the employer.

(b) In the case of similarly qualified applicants, preference in referring applicants shall be given to the one(s) who are veterans pursuant to § 653.221. In the case of affirmative action job orders, the provisions of § 653.10 shall be followed.

(c) No referral shall be made which results in a charge or fee being levied on the applicant for referral to a job or a referral which results in a charge or fee being levied on the employer for hiring applicants referred by the employment service.

(d) When the employment service staff are performing services under grant, subcontract or other agreement with another federally funded program, e.g., CETA, WIN, Job Corps, referrals to that program shall be made in accordance with the regulations in effect for that program.

§ 653.6 Job development.

(a) State agencies shall develop and implement techniques that result in job openings suitable for specific applicants that can best benefit from such assistance.

(b) State agencies shall develop and implement specialized techniques for women and men applicants in order to

(1) 41 CFR, Chapter 60, Part 60-3, *Uniform Guidelines on Employee Selection Procedures (1978)*

§ 653.10 Discriminatory job orders; affirmative action job orders.

(a) State agencies shall promote the

(f) Whenever an employer submits a discriminatory job order, the State agency shall inform the employer that the job order may not be accepted and

significant number of workers are employed; or

(2) Take place at an establishment of a multiestablishment employer

fiscal year for using any funds specifically allocated for LMI activities;

(c) Develop labor market informa-

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(b) State agencies shall develop and implement specialized techniques for women and men applicants in order to facilitate their placement in nontraditional jobs for which they are qualified; and

(c) State agencies shall develop and implement specialized techniques for women and men applicants, especially displaced homemakers, in order to overcome artifical barriers to entry or reentry into the labor market.

§ 653.7 Employment counseling.

(a) State agencies shall provide employment counseling for applicants who are in need of employment counseling services and who accept referral to counseling.

(b) Employment service staff shall be trained to recognize applicants in need of employment counseling and refer them for employment counseling.

(c) Each State's agency's employment counseling service shall have as its objective to assist applicants having problems of vocational choice, occupational change, or job adjustment which interfere with their obtaining employment suitable to them. Each State agency's employment counseling staff shall:

(1) Use tests and other assessment techniques approved by ETA and obtain and use supplementary testing and appraisal services which meet Federal requirements when needed;

(2) Develop a vocational plan for the applicant in cooperation with the applicant, include the vocational plan as part of the applicant's counseling record, and reflect the vocational plan in the assignment of classifications to the applicant; and

(3) Refer applicants to other community resources for training and other services which the State agency is not equipped to provide and which will improve the applicant's individual employability.

(d) Each State agency shall cooperate with schools, community agencies, and other public organizations which also provide counseling and guidance services or which have clients who can benefit from employment counseling services of the State agency.

(e) Employment counseling shall be provided by qualified and trained employment counselors, or by Counselor Trainees or other individuals trained in counseling and designated by the State counseling supervisor in accordance with ETA instructions.

§ 653.8 Employment testing.

(a) Each State agency shall administer an employment testing program in accordance with the following Federal regulations on testing:

(1) 41 CFR, Chapter 60, Part 60-3, *Uniform Guidelines on Employee Selection Procedures (1978)*

(2) 29 CFR Part 30, *Equal Employment Opportunity in Apprenticeship and Training;* and

(3) 29 CFR Part 850, *Records To Be Made or Kept Relating to Age, Notices To Be Posted; Administrative Exemptions.*

(b) In operating the testing program, the State agency shall:

(1) Use only those tests and related techniques developed or approved by the ETA;

(2) Provide for reporting test results to individuals, employers, and other organizations;

(3) Where appropriate, provide for testing employed workers for promotion or transfer, testing apprenticeship candidates for Joint Apprenticeship Committees, and testing civil service candidates under certain conditions; and

(4) Where appropriate, provide for release of certain test materials to other organizations and individuals.

§ 653.9 Job order taking.

(a) State agencies shall accept job orders from an employer except for:

(1) Job orders from an employer who has had services discontinued in accordance with the provisions at Subpart F of Part 658 of this Chapter;

(2) Job orders which contain specifications which are in violation of Federal, State, or local law governing minimum wages, housing standards where housing is offered as a condition of work, and/or child labor laws;

(3) Job orders which contain discriminatory provisions in accordance with § 653.10;

(4) Job orders involving labor disputes in accordance with § 653.11;

(5) Job orders on which a job referral may result in a monetary or other charge being made to either the employer or the applicant; and

(6) Farm labor contractors who are not registered with the Employment Standards Administration where required by Federal law, and who do not possess a valid State certificate where required by State law.

(b) Job orders from establishments with a SIC code of 01 through 07 (agricultural and related industries) or a SIC code of 201, 2033, 2035, or 2037 (certain food processing establishments) which require recruitment from outside the local office area shall be service according to Subpart B, § 653.108 of this Part 653.

(c) Job orders accepted by the State agency shall contain sufficient information to select qualified applicants for job referral and to satisfy ETA reporting requirements.

§ 653.10 Discriminatory job orders; affirmative action job orders.

(a) State agencies shall promote the equal employment opportunity of all applicants on the basis of their skills, knowledge, and abilities as determined from the information provided by the applicant.

(b) State agencies shall not accept any discriminatory job orders. A discriminatory job order is one which indicates a preference or requirement for workers of a specific race, color, religion, sex, age, national origin, citizenship, or physical or mental status, or a requirement for veteran status, except if the requirement is a bona fide occupational qualification (BFOQ). This does not prevent an order from indicating a preference for veterans.

(c) State agencies shall accept affirmative action job orders. An affirmative action job order is one which (1) seeks qualified applicants, particularly applicants who are members of a specified group which has, for reasons of past custom, historical practice, or otherwise been discouraged from entering certain occupational fields, and (2) results only from a court order, the directives of a fair employment practice authority, or the affirmative action provisions of a government contract, grant, loan or the provisions of a Federal, State, or local law.

(d) An employer asserting a bona fide occupational qualification (BFOQ) has the burden of proving that the BFOQ exists. A BFOQ as to sex or age shall be interpreted narrowly. A job order asserting a BFOQ as to sex or age shall be accepted only if the request for applicants of a particular sex or age is not based on assumptions of the comparative employment characterisitics of the sexes or age groups, on stereotyped characterizations of the sexes or age groups, or on the preferences of coworkers, the employer, clients, or customers. A job order asserting a BFOQ as to sex or age shall be accepted if the sex or age requirement is necessary for the genuineness of the profession, e.g., with respect to a job order for an actor or actress or a child actor or actress. A job order specifying workers of a particular age group may be accepted if the job order is for training or employment in a Federal or federally assisted employment or training program in which participation is limited to persons of a certain age or age group, or if the job order specification is required by Federal or State law such as Federal or State child labor laws.

(e) A job order asserting a BFOQ based on religion shall be accepted if the employer can demonstrate that the job duties are such that they can only be performed by an individual who is a member of the specified religious denomination.

(f) Whenever an employer submits a discriminatory job order, the State agency shall inform the employer that the job order may not be accepted and the reason why, and shall request the employer to withdraw the discriminatory specifications.

(g) If the employer asserts that the job order is an affirmative action order and cites an authority for that order described at paragraph (c) of this section, the State agency shall note on the order that the order is an affirmative action job order, the authority, and the target group(s), and take the order as usual.

(h) In making job referrals on an affirmative action job order, State agencies shall make every effort to refer, among the qualified applicants referred to the employer, a significant number of qualified members of the target group in order to assist the employer, in selecting workers from those referred, to meet its affirmative action obligations.

(i) State agencies shall attempt to service affirmative action job orders from applicants currently available and through recruitment in the local community, especially through local public agencies such as the CETA prime sponsors. If qualified applicants from the target group are not available, then the employer shall be so informed.

§ 653.11 Job openings at issue in labor disputes.

State agencies shall make no job referrals on job orders which will aid directly or indirectly in the filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute. In dealing with employing establishments known to have labor disputes which result in job vacancies, State agencies shall insure that:

(a) They are informed of the existence of a labor dispute. When the labor dispute may affect multiple sites, State agencies shall notify all potentially affected staff;

(b) Full referral services are resumed when they have been notified of, and verified with the employer and workers' representative(s), that the labor dispute has been terminated;

(c) Written notification is provided to all applicants referred to jobs not at issue in the labor dispute that a labor dispute exists in the employing establishment and that the job to which he/she is being referred is not at issue in the dispute; and

(d) The State agency shall notify the regional office in writing of the existence of any labor disputes which:

(1) Result in the complete shut down of any establishment at which a *significant* number of workers are employed; or

(2) Take place at an establishment of a multiestablishment employer when the employer has other establishments outside the State in which the labor dispute occurs.

§ 653.12 Employer services.

(a) Each State agency shall establish and maintain an employer services program which:

(1) Solicits job orders from employers;

(2) Promotes the maximum use of employment service facilities and services in the recruitment and retention of workers;

(3) Provides information on labor market conditions, and other subjects of interest to the employers;

(4) Provides information to employers covered by the federal contractor job listing program regarding the employers' listing and reporting responsibilities under the provisions of section 2012 of Title 38, United States Code and the Department's veterans' affirmative action regulations at 41 CFR, Chapter 29, Part 60-250; and

(5) Elicits information from employers which will contribute to the State agencies' ability to plan and provide services to them including individual job requirements, anticipated hiring, composition and size of work force, and need for employment services.

(b) Each State agency shall promote employer acceptance of both women and men on the basis of their occupational qualifications through cooperation and participation in the conduct of educational programs with employers, employer groups, and labor unions.

14. A new Subpart E is added to Part 653 to read as follows:

Subpart E—Services in Support of Basic Services

§ 653.400 Scope and purpose of this subpart.

Subpart A of this Part 653 sets forth the basic services of the employment service system. This subpart sets forth the services in support of those basic services.

§ 653.401 Labor market information (LMI) program.

State agencies, under the direction of the ETA, with appropriate assistance from the Bureau of Labor Statistics (BLS) shall:

(a) Maintain an LMI program to collect, analyze, and issue information on current and anticipated labor market developments and opportunities for employment and training.

(b) Submit plans as part of the Program and Budget Plan (PBP) each fiscal year for using any funds specifically allocated for LMI activities;

(c) Develop labor market information required by the ETA, consistent with LMI allocations, and supplement these with other items appropriate to meet individual State and area needs; and

(d) Disseminate and explain LMI to approprite groups (e.g., CETA prime sponsors, State Manpower Services Councils, Vocational Education Agencies).

§ 653.402 Occupational analysis activities.

(a) The ETA shall design and maintain an occupational analysis program for the purpose of developing improved occupational information which may then be used to develop job search and career guidance information and techniques. This program shall include collectiing, analyzing, and organizing information about the duties and performance requirements of jobs and the relationships that exist among jobs.

(b) State agencies shall inform the ETA of changes that occur in occupations within their State (e.g., new or emerging occupations, changes in job requirements).

(c) State agencies shall identify and classify full applications and job orders by using the Dictionary of Occupational Titles (DOT) and other approprite means approved by the ETA.

§ 653.403 Multistate labor market area agreements.

(a) When a single labor market area covers part of two or more State, the State agencies involved shall establish and maintain by a written agreement adequate arrangements and procedures to assure that applicants have full access to job opportunities and employers have full access to the available labor supply within the area, without regard to state boundaries. Where such agreements exist: (1) A job order shall be serviced as if it were a local order with referrals being made from eithers jurisdiction; and (2) the State agency in the jurisdiction in which the applicant has registered shall be credited with the placement.

(b) The appropriate regional office(s) must review and approve all multistate agreements prior to implementation. Modifications to multistate agreements must also be approved by the regional office.

§ 653.404 Automated systems.

(a) State agencies shall establish and maintain automated systems designed to aid in the more effective administration and operation of employment service programs which:

(1) Provide listings of appropriate current job openings in selected areas on a regular basis;

(2) Match qualified applicants with available job openings in selected areas; and

(3) Provide operational and fiscal workers between labor market areas within the State (intrastate clearance), or between the States (interstate clearance). In doing so, each order that the agency may apply appropriate sanctions, if necessary; and

(3) Where appropriate, serving as a Work Incentive Program Sponsor,

(c) State agencies should be aware that the following legislation requires and to correct deficiencies in performance. The State agency Program and

(v) Extent of services provided in relation to the need for services;

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(2) Match qualified applicants with available job openings in selected areas; and

(3) Provide operational and fiscal management information to assist in assessisng ES program performance and effectiveness.

(b) ETA shall assist in appraising and selecting sites for the establishment of automated systems. The ETA shall:

(1) Provide assistance to State agencies in establishing automated systems and making them operational; and

(2) Monitor implementation of the systems and their subsequent operation.

(c) State agencies shall insure that:

(1) ES staff, in making job referrals based on the output of automated matching systems, shall follow the requirements for preference in job referral of veteran applicants established at § 653.221(a)(7) and for filling job orders from employers with affirmative action obligations at § 653.10;

(2) Local offices which do not have automated systems as described in paragraphs (b)(1) and/or (b)(2) of this section are provided the same job opening information on a timely basis that is available at nearby local offices which do have automated systems as described at paragraphs (b)(1) and/or (b)(2) of this section. Timely refers to the time necessary to transmit the information between the affected local offices.

(3) Information on applicants and employers in the automated system shall be used in ways consistent with the policies set forth at § 604.16 of this chapter, *Disclosure of Information*, and

(4) CETA prime sponsors are aware of the services available through automated systems and encouraged to obtain such services through the employment service.

(d) Costs for the implementation and maintenance of computer-assisted systems will be shared with other ETA programs in accordance with ETA fiscal standards.

§ 653.405 Clearance system for job orders for nonagricultural workers.

(a) This section applies only to clearance activities conducted by State agencies in areas which are not covered by multistate agreements under § 653.403 for job orders for applicants seeking work in nonagricultural industries, except as provided at § 653.108 which describes procedures to be followed for the interstate clearance of job orders for migrant food processing workers where housing is a condition of employment.

(b) Each State agency shall cooperate with the ETA in establishing and maintaining a system for facilitating the movement of nonagricultural workers between labor market areas within the State (intrastate clearance), or between the States (interstate clearance). In doing so, each State agency shall:

(1) Serve applicants by referring them to job openings suitable for them when they desire employment in a State dfferent from where they live, or when they cannot be placed locally and will accept employment elsewhere;

(2) Service employers who request such assistance by locating, selecting, and referring qualified applicants from other States when such applicants are not available within the State; and

(3) Recruit qualified applicants from sources within the State before resorting to interstate clearance unless (i) the area is covered by a multistate labor market area agreement or (ii) the State agency anticipates a shortage of workers within the State.

§ 653.406 Job referral of U.S. workers to job openings in foreign countries.

Each State agency shall assist both United States and foreign employers to recruit U.S. workers for employment at a location outside the United States provided that U.S. workers may otherwise legally be referred to such openings and employed at the worksite. Prior to performing this service, the State agency must have a written understanding with the employer involved on the particulars of the referral activity and a copy of this must be sent to the appropriate regional office.

§ 653.407 Participation in administration of the work test.

(a) Each State agency shall participate in the administration of the work test in cases where the following criteria are met:

(1) An individual is required by Federal law, or State unemployment compensation law, to register for referral to employment or training through the facilities of the employment service as a condition of eligibility for, or continuing benefit under either a federally administered or federally assisted program; and

(2) The employment service system is directed to provide work test information or results to a benefit paying agency:

(i) By Federal legislation; cr

(ii) By directive of the Secretary; or

(iii) Under national agreement between the U.S. Employment Service and a Federal agency administering such a program.

(b) The role of the State agency shall include:

(1) Offering appropriate labor exchange services to the applicant;

(2) Providing information concerning the outcome of labor exchange services to the benefit paying agency in order that the agency may apply appropriate sanctions, if necessary; and

(3) Where appropriate, serving as a Work Incentive Program Sponsor.

(c) State agencies shall not participate in applying a work test required only by State or local law, other than a State unemployment compensation law, unless funds to support the cost of the work test activity are made available by the applicable jurisdiction or State agency.

(d) A State agency shall make information from employment service files available to a public agency with any duty or responsibility under Parts A or D of Title IV of the Social Security Act upon request of that public agency provided that:

(1) The costs for doing so are paid to the State agency by the appropriate public agency and are not contrary to State law; and

(2) The information concerns an individual receiving benefits or eligible to receive benefits under a program receiving funds under Parts A or D of Title IV of the Social Security Act; and

(3) The information is limited to whether the specified individual(s) have refused an offer of employment and, if so, a description of that employment and its terms, conditions and rate of pay.

§ 653.408 Coordination with other employment and training programs.

(a) Each State agency shall endeavor to establish linkages with other agencies and organizations funded through the Employment and Training Administration. Such linkages shall be consistent with the purposes of the Wagner-Peyser Act.

(b) State agencies shall take steps to enter into agreements with program sponsors, including State and local prime sponsors, under the Comprehensive Employment and Training Act (CETA) which:

(1) Coordinate employment service and CETA activity to the maximum extent possible, both through financial and nonfinancial linkages;

(2) Provide job referral as appropriate to CETA eligibiles who are referred to the State Employment Service by the CETA program sponsor;

(3) Minimize duplication of services between CETA program sponsors and State agencies to the CETA eligible population (e.g., act as placement agency for CETA whenever possible);

(4) Assure ES participation in prime sponsor planning councils; and

(5) Assure coordination between prime sponsor staff and veterans employment representatives in providing priority services to veterans and other eligible persons and in filling job openings covered by mandatory listing requirements of 38 U.S.C. 2012.

(c) State agencies should be aware that the following legislation requires the agency responsible for the appropriate activity to include the employment service in that activity as stated below:

(1) Section 107 of the Comprehensive Employment and Training Act of 1973 (CETA) requires that one representative from the employment service sit on each State Manpower Services Council (SMSC);

(2) Section 412(g) of CETA requires the Secretary to use the employment service for job placement of Job Corps enrollees to the fullest extent possible; and

(3) Sections 326, 327, 348 and 803 of CETA require the consideration, and in some cases, use of the employment service as a source of referrals of eligible youth.

§ 653.409 Participation with community programs.

Each State agency shall, wherever practicable:

(a) Cooperate with other public agencies and private nonprofit organizations concerned with employment problems in developing programs for increasing employment opportunities where such will result in more efficient administration of ES activities or use of ES funds; and

(b) Cooperate with and participate in activities with government agencies and private and community organizations with whom the ETA has made national agreements.

§ 653.410 Information service.

Each State agency shall keep the pubic informed,through the use of the public information media, e.g., radio, television, and newspapers, about ES operations and services. Disclosure of identifying information of individual applicants or employers is prohibited unless that disclosure is specifically authorized in writing by each applicant and/or employer, and is in keeping with § 604.16 of this chapter.

* * * * * *

PART 658—ADMINISTRATIVE PROVISIONS GOVERNING THE EMPLOYMENT SERVICE

Subpart G—Review and Assessment of State Agency Compliance With Employment Service Regulations

§ 658.601 [Amended]

12. Paragraph (a) is amended as follows:

(a) Each State agency shall establish and maintain a State agency self-appraisal system which complies with the following standards:

(1) Each State agency shall monitor its ES program against established goals, standards, and procedures to determine its success in reaching goals and to correct deficiencies in performance. The State agency Program and Budget Plan (PBP) shall be the basic planning document against which performance shall be measured. The State office shall insure that any local office plans and district or area plans reflect and support the numerical goals and standards contained in the State agency PBP.

(2) The provisions of ES regulations which require the assessment of services to special applicant groups, e.g., services to veterans (20 CFR 653.230) and services to MSFW's (20 CFR 653.111), shall supplement the appraisal of employment services as described in this section.

(3) Each State agency shall select key numerical indicators which best measure ES performance in categories which reflect current Federal emphases stated in the State agency PBP Guidelines prepared by ETA. At a minimum, appraisal shall be conducted in the following performance areas:

(i) Placements, both individuals placed and transactions;

(ii) Employment counseling;

(iii) Services to special applicant groups;

(iv) Job openings received and filled;

(v) Total staff years worked and productivity per staffyear worked with separate consideration for special project staff funded under Title III of the Social Security Act and under the Wagner-Peyser Act;

(4) To appraise key numerical indicators, actual results as shown on Employment Security Automated Reporting System tables and cost accounting reports shall be compared to planned goals each quarter. Significant deviations from plan shall be explained and actions proposed to correct deficiencies described.

(5) Each State agency shall develop nonnumerical methods and procedures to assess the quality of services provided applicants, employers and the community at large by each local office with respect to the basic services at Part 653 of this chapter. Nonnumerical appraisal shall involve the observation of processes, review of documents used in providing services, and the solicitation of input on effectiveness of services from clients. Results of nonnumerical appraisal shall be documented and shall include plans to correct deficiencies, where they exist. Nonnumerical assessment shall be based, at a minimum, on the following factors:

(i) Prompt delivery of services;

(ii) Thoroughness and accuracy of documents prepared;

(iii) Equitable and courteous treatment of applicants and others;

(iv) Appropriateness of job referral and other services;

(v) Extent of services provided in relation to the need for services;

(vi) Provision for input from applicants and the community; and

(vii) Effectiveness of ES coordination with other ETA programs.

(6) Each State agency shall insure that performance appraisal is conducted as follows:

(i) At the local level, key data indicators (numerical appraisal) are assessed each quarter and processes and procedures within the local office (nonnumerical appraisal) are assessed at least once annually. Results of each type of appraisal shall be communicated to the next higher level of authority for review.

(ii) At the area or district level, the composite of numerical indicators within each area of district jurisdiction is assessed against area/district goals each quarter. Results of this appraisal shall be communicated to the next higher authority for review; and

(iii) At the State office level:

(A) Statewide totals of numerical performance indicators are assessed each quarter;

(B) State office employment service operations are analyzed to assess progress made on goals and objectives established for State office staff each quarter;

(C) Technical assistance is delivered as needed and coordination exists between State office staff and local office and area/district staff; and

(D) Problems resulting from State office processes and procedures are identified and corrected.

(7) Each State office shall oversee local office area or district performance appraisal as follows:

(i) Review numerical appraisal reports from local offices on a scheduled basis, so that a report from each local office is reviewed annually and area/district numerical appraisal reports are reviewed quarterly to determine significant problem areas requiring direct State office involvement; and

(ii) Conduct, at a minimum, onsite reviews in those local offices which show persistent deficiencies in performance or give evidence of continuing internal problems as determined by such things as reviews of data, requests for technical assistance from field operations, and complaints received from the public; and

(iii) Determine the effectiveness of the appraisal system Statewide by insuring that appraisal reviews are conducted in accordance with this section and that reports are properly completed and submitted on time.

(8) Each State agency shall take action to correct deficiencies uncovered by the self-appraisal process. Plans to correct deficiencies shall be specific, establish who will do what and when, contain a timetable for fol-

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indicators selected, to the ETA Regional Administrator (RA) for review and concurrence prior to implementation. Substantive changes in the self-appraisal system shall be submitted to the regional office for concurrence. State agency self-appraisal systems shall provide for ETA staff participation in reviews and assessment of internal ES operations at all levels in order to allow for proper ETA oversight and support of ES program objectives.

Signed at Washington, D.C., this 19th day of October 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-29920 Filed 10-23-78; 8:45 am]

lowup action, and indicate results of previous actions taken. Planning for performance improvement shall be conducted at each level within the State agency. Technical assistance from administrative, staff, and technical services (A.S. & T.) and program specialist staff shall be considered in planning for performance improvement. Superior local office performance shall be recognized by the State office and factors underlying superior performance shall be used to improve performance elsewhere, as appropriate.

(9) Each State agency shall submit its self-appraisal system including forms developed, procedures, staff responsibilities, methodology, and key

federal register

TUESDAY, OCTOBER 24, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

MILK IN THE SOUTHWESTERN IDAHO—EASTERN OREGON MARKETING AREA

Hearing on Proposed Marketing Agreement and Order

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

(b) Determining whether the handling of milk in the area proposed for

§ 1135.4 [Reserved].

§ 1135.5 Distributing plant.

of in such other marketing area but which plant is nevertheless fully regulated under such other Federal order;

(3) A supply plant qualified pursu-

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the

(2) Whose milk is received at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1135]

[Docket No. AO-380]

MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider a proposed milk order that would regulate the handling of milk in an area designated as the Southwestern Idaho-Eastern Oregon marketing area. Three dairy farmer cooperatives requested the proposed milk order. The marketing area of the proposed order would include 18 southwestern Idaho and five eastern Oregon counties. Proponents contend that a milk order is needed to establish and maintain orderly marketing conditions and a stable price structure to producers in the area.

DATE: Comments due on: December 5, 1978.

ADDRESS: Send comments to: Federal Building, U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83724.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Federal Building, U.S. Courthouse, 550 west Fort Street, Boise, Idaho 83724 beginning at 10 a.m., local time, on December 5, 1978, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The hearing is for the purpose of:

(a) Receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and any appropriate modifications thereof;

(b) Determining whether the handling of milk in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determing whether there is need for a marketing agreement or order regulating the handling of milk in the area; and

(d) Determining whether the proposed marketing agreement and order or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

The proposals, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen's Creamery Association, Inc.; Mountain Empire, Dairymen's Association; and Western General Dairies, Inc.:

PROPOSAL NO. 1

GENERAL PROVISIONS

§ 1135.1 General Provisions.

The terms, definitions, and provisions in part 1000 of this chapter are hereby incorporated by reference and made a part of this order.[1]

DEFINITIONS

§ 1135.2 Southwestern Idaho-Eastern Oregon marketing area.

"Southwestern Idaho-Eastern Oregon marketing area," hereinafter called the "marketing area" means all the territory, all Government reservations and installations and all municipalities within the counties listed below:

IDAHO

Adams	Gooding
Ada	Jerome
Blaine	Lincoln
Boise	Minidoko
Camas	Owyhee
Canyon	Payette
Cassia	Twin Falls
Elmore	Valley
Gem	Washington

OREGON

Baker	Malheur
Grant	Union
Harney	

§ 1135.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to a retail or wholesale outlet (including any delivery through a distribution point, by a vendor, from a plant store or through a vending machine) except a delivery to another plant.

[1] The provisions of part 1000 (7 CFR Part 1000) are set forth immediately following Proposal No. 1.

§ 1135.4 [Reserved].

§ 1135.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted regulatory agency for fluid consumption, or filled milk, is processed or packaged and from which there is route disposition in the marketing area during the month.

§ 1135.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred during the month to a pool distributing plant.

§ 1135.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant that during the month has:

(1) Route disposition, except filled milk, representing not less than 50 percent of its total receipts of Grade A fluid milk products (including milk diverted from such plant to a nonpool plant pursuant to § 1135.13); and

(2) Route disposition, except filled milk, in the marketing area representing not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of its Grade A milk receipts from dairy farmers (including milk diverted from such plant to a nonpool plant pursuant to § 1135.13) is transferred to a pool distributing plant pursuant to paragraph (a) of this section as fluid milk products, except filled milk. Any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the following months of March through July unless written request for nonpool status for any such month is filed by the plant operator with the market administrator prior to the first day of any such month. A plant withdrawn from supply pool plant status may not be reinstated for any subsequent month of the March through July period unless it fulfills the transferring requirement of this paragraph for such month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section that also meets the pool plant requirements of an other Federal order on the basis of route disposition in such other marketing area, and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month as route disposition in this marketing area than is disposed

of in such other marketing area but which plant is nevertheless fully regulated under such other Federal order;

(3) A supply plant qualified pursuant to paragraph (b) of this section that also meets the pool plant requirements of an other Federal order and from which greater qualifying transfers are made during the months to plants regulated under such other order than are made to plants regulated under this order, except during the months of March through July if the transfers to the other order plant are for surplus disposition and the operator of the supply plant elects to retain automatic pooling under this part; or

(4) A distributing plant from which less than an average of 300 pounds of Class I milk per day, except filled milk, is disposed of in the marketing area during the month.

§ 1135.8 Nonpool plant.

"Nonpool plant" means any milk, or filled milk receiving, manufacturing, or processing plant other than a pool plant. This definition shall include, but not be limited to, the following categories of plants:

(a) "Other order plant" means a plant that if fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a distributing plant that does not qualify as a pool plant and is not an other order plant, a producer-handler plant or an exempt distributing plant.

(d) "Unregulated supply plant" means a supply plant that does not qualify as a pool supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant defined in § 1135.7(c)(4).

§ 1135.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its producers that is diverted pursuant to § 1135.13 for the account of the cooperative association;

(c) Any cooperative association with respect to milk of its producers that is received at the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1135.7(c);

(g) Any person in his capacity as the operator of an unregulated supply plant; and

(h) Any person in his capacity as the operator of an exempt distributing plant.

§ 1135.10 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives fluid milk products only from:

(1) His own dairy farm production; and

(2) Pool plants or other order plants (by transfers) in an amount that is not in excess of the lesser of 5 percent of his Class I utilization during the month or 5,000 pounds;

(c) Does not reprocess or convert milk products into fluid milk products except to increase the nonfat milk solids content above that of the fluid milk products received only the addition of nonfat dry milk; and

(d) Provides proof satisfactory to the market administrator that:

(1) The care and management of the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from regulated plants) is the personal enterprise of and at the personal risk of such person; and

(2) Such plant is operated under his complete and exclusive management and control and at his sole risk, and is not used during the month to process, package, receive or otherwise handle fluid milk products for any other person; and

(3) For the purpose of this section, all fluid milk products disposed of on routes or at stores operated by him or by any person (including the operator of a plant, or a vendor) who controls or is controlled by him (e.g., as an interlocking stockholder) or in which he (including, in the case of a corporation, any stockholder therein) has a financial interest, shall be considered as having been received at his plant; and the utilization for such plant shall include all such route and store dispositions.

§ 1135.11 [Reserved]

§ 1135.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person:

(1) Who produces milk in compliance with the fluid milk inspection requirements of a duly constituted regulatory agency; and

(2) Whose milk is received at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-handler plant within the limits set forth in § 1135.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1135.44(a)(8)(iii) and the corresponding step of § 1135.44(b);

(3) Any person with respect to milk produced by him which is reported as diverted to an other plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order or the other order designates such person as a producer under such order.

§ 1135.13 Producer milk.

"Producer milk" means the milk of a producer which is:

(a) With respect to a handler described in § 1135.9(a):

(1) Received at his pool plant directly from the producer;

(2) Received at his pool plant from a handler described in § 1135.9(c); or

(3) Diverted for his account from his pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(b) With respect to a handler described in § 1135.9(b), diverted for such handler's account from a pool plant, to a nonpool plant that is not a producer-handler plant, subject to the conditions set forth in paragraph (d) of this section;

(c) With respect to a handler described in § 1135.9(c), received by the handler from the producer's farm in excess of the producer's milk that is received at pool plants pursuant to paragraph (a)(2) of this section;

(d) The following conditions shall apply to milk of a producer diverted from a pool plant to a nonpool plant that is not a producer-handler plant;

(1) A cooperative association may divert for its account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(2) of this section) from whom at least 40 percent of his milk production is received during the month at a pool plant. The total quantity of milk so diverted may not exceed 50 percent in the months of March through July and 40 percent in other months of the producer milk which the association causes to be delivered to pool plants during the month. Two or more cooperative associations may have their al-

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lowable diversions computed on the basis of the combined deliveries of the producer milk which the associations cause to be delivered to pool plants if each association has filed a request in writing with the market administrator on or before the first day of the month the agreement is effective. This request shall specify the basis for assigning over-diverted milk to the producer deliveries of each cooperative according to a method approved by the market administrator.

(2) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (d)(1) of this section) from whom at least 40 percent of his milk production is received during the month at the pool plant. The total quantity of milk so diverted may not exceed 50 percent in the months of March through July and 40 percent in other months of the milk received at such pool plant from producers and for which the operator of such plant is the handler during the month. The milk for which the operator of such plant is the handler during the month shall not duplicate milk diverted pursuant to paragraph (d)(1) of this section;

(3) Diversions in excess of such percentages shall not be producer milk, and the diverting handler shall designate the dairy farmers whose milk is not producer milk. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

(4) The quantity of milk diverted for the account of a cooperative association from a pool plant to another handler that would cause the pool plant to become a nonpool plant shall not be producer milk.

§ 1135.11 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk fluid cream products from any source other than producers, handlers described in § 1135.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants or products specified in § 1135.40(b)(1);

(c) Products (other than fluid milk products and products specified in § 1135.40(b)(1)) from any source (including those products produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1135.40(b)(1)) for which the handler fails to establish a disposition.

§ 1135.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form: Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1135.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1135.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid product, and contains less than 6 percent nonmilk fat (or oil).

§ 1135.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the cooperative association:

(a) To be qualified under the provisions of the Act of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk for its members; and

(c) To have its entire activities under the control of its members.

HANDLER REPORTS

§ 1135.30 Reports of receipts and utilization.

On or before the seventh day after the end of the month, each handler shall report to the market administrator, in the detail and on the forms prescribed by the market administrator, the following information for such month:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to the other plants;

(2) Receipts of milk from handlers described in § 1135.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products specified in § 1135.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1135.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1135.31 Payroll reports.

(a) On or before the eighth day after the end of each month, each handler described in § 1135.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information showing for each producer for such month:

(1) His name and address;

(2) The number of days on which milk was received from such producer;

(3) The total pounds of milk received from such producer;

(4) The average butterfat content of such milk;

(5) In the case of cooperative associations, the identity of producers for whom the cooperative association is authorized to collect payment pursuant to § 1135.73;

(6) The amount and nature of any deductions authorized in writing by the producer to be made from payments due such producer for milk delivered.

(b) On or before the 21st day of each month, each handler described in § 1135.9 (a), (b), and (c) shall report to the market administrator, in detail and on forms prescribed by him, the name and address of each producer from whom milk was received during the first 15 days of such month, and the total pounds of milk so received during said period from such producer.

(c) Each handler operating a partially regulated distributing plant who elects to make payments pursuant to § 1135.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1135.32 Other reports.

In addition to the reports required pursuant to §§ 1135.30 and 1135.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1135.40 Classes of utilization.

Except as provided in § 1135.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1135.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1135.15; and

(6) In shrinkage assigned pursuant to § 1135.41(a) to the receipts specified in § 1135.41(a)(2) and in shrinkage specified in § 1135.41 (b) and (c).

1135.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1135.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section and which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not pecified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product or a bulk fluid cream product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1135.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1135.9(c), except that, if the operator of the plant to which the milk is delivered purchasers such milk on the basis of weights determined from its measurement at the farm and the butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk

fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order to the extent that such

ation with respect to milk for which it is the handler pursuant to § 1135.9 (b) or (c) the pounds of skim milk and

not in excess of the pounds remaining in Class II;

(5) Except for the first month that a

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fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section;

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1135.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1135.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1135.44(a)(12) and the corresponding step of § 1135.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1135.44(a)(7) or the corresponding step of § 1135.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1135.44(a) (11) or (12) or the corresponding steps of § 1135.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or transferred in the form of a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustments when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1135.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butter fat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or transferred in the form of a bulk fluid cream product, unless the following conditions apply:

(i) If the transferor-handler or diverter-handler so requests and the conditions described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1135.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants; and

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1135.43 General classification rules.

In determining the classification of producer milk pursuant to § 1135.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1135.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1135.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1135.40, 1135.41, and 1135.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1135.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1135.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1135.9(a) for each of his pool plants separately and of each handler described in § 1135.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1135.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1135.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds remaining in Class II;

(5) Except for the first month that a pool plant is subject to this subparagraph, subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1135.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to any product specified in § 1135.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1135.40(b)(1) that were not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classifi-

cation other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants if the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1135.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11) (i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section.

(i) Subject to the provisions of paragraphs (a)(12) (ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1135.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation

step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computation pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1135.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1135.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1135.44(a)(12) and the corresponding step of § 1135.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1135.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to another order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association that so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

Class Prices

§ 1135.50 Class prices.

The class prices for the month per hundredweight of milk shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.75.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1135.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1135.52 [Reserved]

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month:

(a) The Class I price for the following month.

(b) The Class II and Class III prices for the preceding month.

§ 1135.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

§ 1135.55 [Reserved]

Uniform Price

§ 1135.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1135.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1135.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1135.44(a)(14) and the corresponding step of § 1135.44(b) by the applicable class prices;

(c) Add the amounts computed pursuant to paragraph (c)(1) and (2) of this section:

(1) Multiply the difference between the Class III price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(9) and the corresponding step of § 1135.44(b);

(2) Multiply the difference between the Class III price for the preceding month and the Class II price for the current month by the hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1135.44(a)(9) and the corresponding step of § 1135.44(b);

(d) Add the amount obtained by multiplying the difference between the Class I price and the Class III price by the hundredweight of slim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(7)(i) through (iv) and (vii) and the corresponding step of § 1135.44(b), exclud-

ing receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained by

uniform proce and producer butterfat differential for such month.

Payments for Milk

ministrator shall make payment, subject to paragraph (c) of this section, to each producer for milk (except the

average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as

partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partial-

the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

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ing receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained by multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(7)(v) and (vi) and the corresponding step of § 1135.44(b); and

(f) Add the amount obtained by multiplying the Class I price by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1135.44(a)(11) and the corresponding step of § 1135.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unreg<ulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1135.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1135.60 for all handlers who filed reports prescribed by § 1135.30 for the month and who made the payments pursuant to § 1135.71 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1135.74 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1135.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price."

§ 1135.62 Announcement of uniform price and producer butterfat differential.

On or before the 12th day after the end of each month the market administrator shall announce publicly the uniform price and producer butterfat differential for such month.

PAYMENTS FOR MILK

§ 1135.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1135.71, 1135.76, and 1135.77, and out of which he shall make the appropriate payments pursuant to §§ 1135.73 and 1135.77. Payments due to a person from the fund shall be offset by payments due to the fund from such person.

§ 1135.71 Payments to market administrator.

(a) On or befor the 25th day of the month, each handler shall pay to the market administrator for deposit into the producer-settlement fund an amount determined by multiplying the hundredweight of producer milk received by him (excluding his own farm production) during the first 15 days of such month by the Class III price for the preceding month.

(b) On or before the 14th day after the end of the month, each handler shall pay the market administrator an amount equal to his net pool obligation computed pursuant to § 1135.60, less:

(1) Payments made pursuant to paragraph (a) of this section for such month and the value of the handler's own farm production (based upon the uniform price adjusted pursuant to §§ 1135.74 and 1135.75) received at such handler's plant during the month.

(2) An amount computed by multiplying the inform price by the hundredweight of other source milk for which a value is computed pursuant to § 1135.60(f); and

(3) Proper deductions, charges, or other reimbursement in favor of the handler authorized in writing by producers from whom such handler received milk.

§ 1135.72 [Reserved]

§ 1135.73 Payments to producers and to cooperative associations.

(a) On or before the last day of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk (except the own farm production of a handler) received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1135.71(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 19th day after the end of each month, the market administrator shall make payment, subject to paragraph (c) of this section, to each producer for milk (except the own farm production of a handler) for which credit is allowed pursuant to § 1135.71(b)(1) received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1135.71(b) at the uniform price per hundredweight as adjusted pursuant to § 1135.74, less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) Deductions for marketing services pursuant to § 1135.86;

(3) Other proper deductions authorized by such producer in writing.

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay on or before the second day prior to the date specified in such paragraph to each cooperative association for all producers who market their milk through the cooperative association and who are certified to the market administrator by the cooperative association as having authorized the cooperative association to receive such payment in amount equal to the sum of the individual payments otherwise payable to such producers pursuant to paragraphs (a) and (b) of this section;

(d) If the market administrator does not receive the full payment required of a handler pursuant to § 1135.71, he shall reduce uniformly per hundredweight his payments to producers and/or cooperative associations for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall complete such payments on or before the next date for making final payments pursuant to this section following the date on which the remaining payments is received from such handler; and

(e) If the unobligated balance in the producer-settlement fund is insufficient to make all payments pursuant to this section except those payments due producers and/or cooperative associations as described in paragraph (d) of this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments on or before the next date on which the funds become available.

§ 1135.74 Producer butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth of one percent variation from 3.5 percent by a butterfat differential rounded to the nearest one-tenth cent, which shall be 0.115 times the simple

average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1135.75 [Reserved]

§ 1135.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1135.30(b) and 1135.31(c) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price; and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1135.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following computations:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1135.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1135.60 for such handler shall include, in lieu of the value of other source milk specified in § 1135.60(f) less than the value of such other source milk specified in § 1135.71(b)(2), a value of milk determined pursuant to § 1135.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1135.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1135.30(b) and 1135.31(c) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1135.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1135.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in money due the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

§ 1135.78 Charges on overdue accounts.

Any unpaid obligation pursuant to §§ 1135.71, 1135.76, and 1135.77 shall be increased three-fourths of 1 percent each month beginning with the third day following the date such obligation was payable under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, and shall include any unpaid charges previously made pursuant to this section. For the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

cultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

(b) *Order.* "Order" means the appli-

which the order provides a separate charge, all expenses necessarily incurred in the maintenance and func-

time as the Secretary may declare and shall continue in force until suspended or terminated.

or established as used in a class other than the highest priced class.

(a) *Records to be maintained.* (1)

§ 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the

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ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1135.85 Assessment for order administration.

As his pro rata share of the expenses of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1135.44(a) (7) and (11) and the corresponding steps of § 1135.44(b), except such other source milk that is excluded from the computations pursuant to § 1135.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1135.76(a)(2).

§ 1135.86 Deduction for marketing services.

(a) The market administrator, in making payments to each producer pursuant to § 1135.73, shall deduct 8 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk (except a handler's own farm production) of such producer for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association as determined by the market administrator.

(b) The moneys deducted pursuant to paragraph (a) of this section shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible for him.

PART 1000—GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS

§ 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order except as specifically defined otherwise, or modified, or otherwise provided, in an individual order.

§ 1000.2 Definitions.

The following terms shall have the following meanings as used in the order:

(a) *Act.* "Act" means Public Act No. 10 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*).

(b) *Order.* "Order" means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to section 8c of the Act as a Federal milk marketing order (as amended).

(c) *Department.* "Department" means the U.S. Department of Agriculture.

(d) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(e) *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 1000.3 Market Administrator.

(a) *Designation.* The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) *Powers.* The market administrator shall have the following powers with respect to each order under his administration.

(1) Administer the order in accordance with its terms and provisions;

(2) Make rules and regulations to effectuate the terms and provisions of the order;

(3) Receive, investigate, and report compliants of violations to the Secretary; and

(4) Recommend amendments to the Secretary.

(c) *Duties.* The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his administration, including, but not limited to, the following:

(1) Execute and deliver to the Secretary a bond covering himself and a bond covering any person designated by the Secretary to act in his stead. The respective bond shall be:

(i) Delivered within 45 days after he (or the acting market administrator) enters upon his duties.

(ii) Effective as of the date he (or the acting market administrator) enters upon his duties;

(iii) Conditioned upon the faithful performance of the market administrator's duties; and

(iv) In an amount and with surety thereon satisfactory to the Secretary.

(2) Employ and fix the compensation of persons necessary to enable him to exercise his powers and perform his duties;

(3) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of his office and in the performance of his duties, including his own bond and compensation and the necessary bonds of his employees;

(4) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary surrender the records to his successor or such other person as the Secretary may designate;

(5) Furnish information and reports requested by the Secretary and submit his records to examination by the Secretary;

(6) Announce publicly at his discretion, unless otherwise directed by the Secretary, by such means as he deems appropriate, the name of any handler who, after the date upon which he is required to perform such act, has not:

(i) Made reports required by the order;

(ii) Made payments required by the order; or

(iii) Made available records and facilities as required pursuant to § 1000.5;

(7) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities; and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect.

(8) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(9) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

§ 1000.4 Continuity and separability of provisions.

(a) *Effective time.* The provisions of the order or any amendment to the order shall become effective at such

time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of the order whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) *Continuing obligations.* If upon the suspension or termination of any or all of the provisions of the order, there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) *Liquidation.* (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) *Separability of provisions.* If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

§ 1000.5 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of his operations and make such records and his facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall not be considered accounted for or established as used in a class other than the highest priced class.

(a) *Records to be maintained.* (1) Each handler shall maintain records of his operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) *Availability of records and facilities.* Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary for such market administrator to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his duties.

(c) *Retention of records.* All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

§ 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money;

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association (except an obligation to be prorated to producers under an individual handler pool), the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator;

(c) Nothwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR Part 900.50 *et seq.*) within the applicable 2-year period indicated below, the obligation of the market administrator.

(1) To pay a handler any money which such handler claims to be due him under the terms of the order shall terminate 2 years after the end of the month during which the skim milk

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and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

PROPOSED BY KRAFT, INC.

PROPOSAL NO. 2

Revise the provisions of the proposed order as set forth under *Proposal* 1, as follows:

A. Section 1135.6, *Supply plant* should read:

§ 1135.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory agency for fluid consumption, or filled milk, is transferred or diverted during the month to a pool distributing plant.

B. Paragraphs (a) and (b) of § 1135.7, *Pool plant*, should read:

§ 1135.7 Pool plant.

(a) A distributing plant that during the month has:

(1) Route disposition, except filled milk, representing not less than 50 percent of its total receipts of Grade A fluid milk products (including milk diverted from such plant pursuant to § 1135.13); and

(2) Route disposition, except filled milk, in the marketing area representing not less than 10 percent of such receipts.

(b) A supply plant from which during the month not less than 50 percent of its Grade A milk receipts from dairy farmers (including milk diverted from such plant pursuant to § 1135.13) is shipped to pool distributing plants pursuant to paragraph (a) of this section as fluid milk products, except filled milk; and any supply plant that has qualified as a pool plant in each of the immediately preceding months of August through February shall be a pool plant in each of the next following months of March through July except that such plant will not be a pool plant for any month during such March through July period for which the operator of the plant files with the market administrator prior to the first day of such month a written request for nonpool status for such month.

(i) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers.

(ii) A proprietary handler may include as qualifying shipments milk diverted pursuant to § 1135.13(c) to pool distributing plants.

* * * * *

C. Paragraph (a) of § 1135.12, *Producer*, should read:

§ 1135.12 Producer.

(a) Except as provided in paragraph (b) of this section "producer" means any person:

(1) Who produces milk in compliance with the fluid milk inspection requirements of a duly constituted regulatory agency; and

(2) Whose milk is received at a pool plant or diverted from a pool plant pursuant to § 1135.13.

* * * * *

D. Section 1135.13, *Producer milk*, should read:

§ 1135.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer by the operator of the plant;

(b) Received by a handler described in § 1135.9(c); or

(c) Diverted by the operator of a pool plant, or a cooperative association from a pool plant to another pool plant, or to a nonpool plant that is not a producer-handler plant, subject in the case of diversions to nonpool plants, to the following conditions:

(1) In any month of March through July, such milk may be diverted on any number of days.

(2) In any month of August through February not less than one day's production of the producer whose milk is diverted is physically received at a pool plant during the month.

(3) In any month of August through February, the total quantity of milk so diverted during the month to nonpool plants by a cooperative association shall not exceed 50 percent of the producer milk that the cooperative association caused to be delivered to or diverted from pool plants during the month;

(4) In any month of August through February the operator of a pool plant that is not a cooperative association may divert any milk that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (c)(3) of this section. The total quantity of milk so diverted during the month to nonpool plants shall not exceed 50 percent of the producer milk physically received at such plant and of the milk diverted from such plant that is eligible to be diverted by the plant operator.

(5) To the extent that it would result in nonpool status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(6) Any milk diverted in excess of the limits prescribed in paragraph (c)(3) and (4) of this section shall not be producer milk. The diverting handler may designate the dairy farmers whose diverted milk will not be producer milk, otherwise the milk last diverted, in lots of an entire days' production, shall be excluded first in determining which milk should not be producer milk; and

(7) Diverted milk shall be priced at the location of the plant to which diverted.

§ 1135.41 [Amended]

E. In § 1135.41(b)(2), replace the words "except that" with the words "and in milk diverted to such plant from another pool plant, except that in either case".

§ 1135.42 [Amended]

F. In § 1135.42(a), revise the heading of the introductory paragraph "Transfers to pool plants", to "Transfers and diversions to pool plants"; and add the words "or diverted" after the word "transferred", to make the first sentence of said introductory paragraph read, in part, "Skim milk or butterfat transferred or diverted".

G. In § 1135.42(a)(2), add the phrase "or divertor plant", to make the opening phrase in said paragraph read "(2) If the transferor plant or divertor plant".

H. In § 1135.42(a)(3), strike the opening phrase "If the transferor-handler" and replace it with the phrase "If the transferor-handler or the divertor-handler".

I. In § 1135.42(a)(3), conclude the subparagraph with the words "or the divertee plant".

J. Section 1135.42(c)(1) should read: "As Class I milk, if transferred or diverted in the form of a fluid milk product; and."

PROPOSAL NO. 3

A. Provide in the order for direct payments to producers and cooperative associations by the handlers who purchase milk from them, without the intervention of the market administrator as proposed in Proposal No. 1 whereby handlers would make payments for milk to the market administrator, who, in turn, would pay the producers and cooperative associations.

B. Should the final order, contrary to the position stated in A above, provide for such intervention of the market administrator in said payment process, the order should also provide in § 1135.73 the following:

In making payments to producers pursuant to paragraphs (a) and (b) of § 1135.73, the market administrator, on or before the day prior to the dates specified in said paragraphs, shall deliver payment to each handler who so requests for milk received by the handler from producers for whom a cooperative association is not collecting payments pursuant to paragraph (c) of § 1135.73 an amount equal to the sum of individual payments otherwise due such producers pursuant to paragraphs (a) and (b) of § 1135.73. The handler shall then pay the individual producers the amounts due them by the respective dates specified in paragraphs (a) and (b) of § 1135.73.

Copies of this notice may be procured from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).

Procedural matter are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on October 19, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-29966 Filed 10-23-78; 8:45 am]

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federal register

TUESDAY, OCTOBER 24, 1978

PART VII

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Coverage of Dialysis Supplies, Equipment, and Support Services

[4110-35-M]

Title 42—Public Health

1972 (Pub. L. 92-603) provided medicare coverage for kidney transplant and dialysis services furnished to enti-

1881(b) (4), (5), and (6) of the act, HCFA will enter into agreements with approved ESRD facilities to supply

ance, and premiums are not applicable.

We are proposing to implement this provision by amending §§ 405.116 and

for home support services only if they are provided in accordance with a written plan which is periodically reviewed by a medical team that includes the

with persons and agencies whom we knew would be interested in this regulation.

Because we believe it important to

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[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Coverage of Dialysis Supplies, Equipment, and Support Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule with comment period.

SUMMARY: These amendments change existing medicare regulations governing coverage of end-stage renal disease (ESRD) services. The changes are required to implement provisions of the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 59-292) which extend coverage to home dialysis support services and services furnished in connection with kidney donations, provide for 100-percent reimbursement of kidney donor expenses, and expand coverage of home dialysis supplies and equipment. The intent of these amendments is to remove program disincentives to the use of home dialysis and transplanatation, the most economical forms of ESRD care.

DATES: These regulations are effective on October 1, 1978. However, consideration will be given to written comments or suggestions received by December 26, 1978, with a view to revision of the regulations, if necessary.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to MAB-79. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks from today, in room 5231 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week, from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Harold Fishman, Medicare Bureau, Room 181, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9764.

SUPPLEMENTARY INFORMATION: The Social Security Amendments of 1972 (Pub. L. 92-603) provided medicare coverage for kidney transplant and dialysis services furnished to entitle individuals suffering from end-stage renal disease. Congress studied the operation of the ESRD program since its inception in 1973 and determined that, although the program was successful in relieving beneficiaries of most of the catastrophic costs of ESRD trestment, a number of problems threatened its continued stability and effectiveness. The End-Stage Renal Disease Program Amendments of 1978 were enacted to alleviate these problems. The amendments specifically encourage the use of home dialysis and transplantation, the least expensive forms of ESRD treatment, by eliminating program disincentives to their use.

Recognizing that home dialysis is the least costly form of dialysis, Congress added several provisions modifying and extending coverage of home dialysis services. Prior to the amendments, for example, not all supplies necessary for home dialysis were covered by medicare. Thus, home dialysis patients often incurred greater out-of-pocket expenses for dialysis than patients receiving institutional care because they had to pay for disposable supplies such as syringes, sterile drapes, and topical anesthetics. The amendments added sections 1861(s)(2)(F), 1831(b)(1)(B), and 1881(b)(7) to the act, providing medicare coverage of these supplies.

The 1978 amendments also added section 1881(e) to the act, which modifies coverage provisions with respect to home dialysis equipment to create incentives for the purchase of such equipment. Under existing law, medicare paid beneficiaries (or their assignees) 80 percent of the rental charge or purchase price of the equipment. Because the equipment is very expensive and most patients were not able to afford the large initial expense for their share in buying this equipment, few beneficiaries bought dialysis machines. The total medicare rental payments for dialysis equipment made over the life of the equipment in some cases amounted to several times its purchase price.

To solve this problem and to encourage home dialysis, the amendments authorize HCFA to pay 100 percent of the reasonable costs incurred by ESRD facilities, under agreements with HCFA, to purchase, install, maintain, and recondition dialysis equipment for medicare beneficiaries dialyzing at home.

The amendments also extend coverage to home dialysis supplies, equipment, and home dialysis support services furnished by facilities to medicare beneficiaries whose home care they supervise. Under new sections 1881(b) (4), (5), and (6) of the act, HCFA will enter into agreements with approved ESRD facilities to supply this package of services on the basis of a target reimbursement rate. These provisions are intended to improve supervision and management of home care, as well as to make this care more economical.

Finally, the amendments added section 1881(d), which makes explicit HCFA's authority to reimburse medical expenses of kidney donors. To encourage transplantation and to assure a continued supply of donor organs, the act now specifically authorizes HCFA to pay all reasonable expenses of such individuals, without regard to the usual medicare deductible, premium, and coinsurance amounts.

To implement these statutory changes in the scope of medicare coverage of end-stage renal disease services, we are amending the medicare regulations under 42 CFR part 405, subparts A, B, and I.

This is the third in a series of regulations implementing the 1978 amendments. The first regulation dealt with entitlement and the second dealt with the certification of ESRD facilities. Still to be issued are regulations dealing with reimbursement and ESRD networks.

Regulatory Changes

An explanation of the changes to existing regulations follows:

1. *Coverage of kidney transplantation services.* Section 405.116 is amended to state that, beginning on September 1, 1977, medicare reimbursement for kidney transplantation surgery will be made only if the surgery is performed in a rental transplantation center approved under subpart U of the medicare regulations. This amendment conforms this section of the regulation to the existing rules for certification in subpart U. (See 45 CFR 405.2100(a).) The September 1, 1977, date is used here because that is the date on which the present regulations in subpart U became applicable to all rental transplantation centers.

2. *Payment for services furnished to kidney donors.* Pub. L. 95-292 extends medicare benefits, under both part A and part B, to individuals who are not otherwise eligible for medicare and who donate a kidney for transplant surgery. The scope of these benefits is limited to expenses incurred with respect to the kidney donation; it does not create a general entitlement to medicare benefits. The benefits cover all expenses for the evaluation and preparation of a kidney donor (or potential donor), for the donor's operation, and for postoperative recovery. Moreover, the normal medicare requirements for deductibles, coinsurance, and premiums are not applicable.

We are proposing to implement this provision by amending §§ 405.116 and 405.231 to add part A and part B coverage, respectively, and by adding new §§ 405.117, 405.244-1, and 405.906 to exclude the requirements for deductibles, coinsurance, and premiums.

3. *Coverage of institutional dialysis services and supplies.* Section 405.231 is amended to specify that all services and supplies necessary to perform dialysis in approved ESRD facilities are covered as "institutional dialysis services and supplies." Until the present, most services and supplies required for dialysis in a facility setting were covered under various paragraphs of this section, including paragraph (h) covering prosthetic devices. Some services were covered by the terms of the appendix to subpart B of the regulations. However, some necessary services (such as injections and diagnostic tests) were covered only if provided "incident to a physician's service." The result was that some necessary services were not covered, or covered only under rules which were impractical in the dialysis facility setting. Pub. L. 95-292, by amending section 1861(s)(2)(F) of the Act, corrects this difficulty and this regulatory amendment implements that change.

4. *Home dialysis services, supplies, and equipment.* Section 405.231 is further amended by specifying coverage provisions for home dialysis services, supplies, and equipment. Prior to enactment of Pub. L. 95-292, this coverage was limited to purchase or rental of durable medical equipment; installation, repairs, and maintenance of such equipment; and items and supplies necessary for the effective operation of the equipment. Pursuant to Pub. L. 95-292, effective October 1, 1978, such coverage is broadened to include all disposable supplies and other supplies required for dialysis. The legislation also extends coverage to home dialysis support services furnished by an ESRD facility, including periodic monitoring of the patient's home adaptation, emergency visits by facility personnel, testing and treatment of water, and ordering of supplies. Finally, the legislation provides for coverage of services of trained home aides, where necessary, if furnished by a facility which has an agreement with HCFA to receive target rate reimbursement for home dialysis supplies, equipment, and support services. The specific provisions in the agreement which a facility must have in order to receive target rate reimbursement will be spelled out in the next set of ESRD regulations, to be issued soon.

Section 405.250 is amended, as required under Pub. L. 95-292, to provide that reimbursement will be made for home support services only if they are provided in accordance with a written plan which is periodically reviewed by a medical team that includes the patient's physician. This conforms the regulation to section 1881(b)(8)(A) of the Act.

5. *Routine dialysis monitoring tests.* Section 405.232 is amended to provide for coverage of routine dialysis monitoring tests performed by an ESRD facility, even though the facility does not qualify as an independent laboratory under the medicare program. This change is made to conform the coverage regulations on diagnostic laboratory tests to requirements concerning certification of ESRD facilities (42 CFR 405.2163(b)) which state that certain specified tests can be provided by an ESRD facility, even if it does not meet the requirements of an independent laboratory as defined in subpart M of 42 CFR part 405. (If the ESRD facility and the laboratory are part of a hospital, the laboratory would be subject to the requirements of 42 CFR 405.1028.)

6. *Waiver of cost-sharing.* As required by Pub. L. 95-292, § 405.240 is amended to provide for waiver of medicare deductible and coinsurance amounts for the purchase, installation, and maintenance of home dialysis equipment furnished by ESRD providers and facilities that have a special agreement with HCFA. The specific elements for these agreements will be specified in the next set of ESRD regulations.

7. *Elimination of appendix to subpart B.* The amendments eliminate the appendix to subpart B, which established interim ESRD policies and is no longer needed. (Prior to March 1, 1977, ESRD facilities were certified on the basis of these interim rules, which were intended to permit implementation of the ESRD program while final rules on certification were being developed.)

8. *Editorial and technical changes.* The amendments also make various editorial and technical changes, including amendment of § 405.236 to reinstate a paragraph in the definition of home health services that was inadvertently omitted from recent edition of 42 CFR Part 405.

Waiver of Proposed Rulemaking

Pub. L. 95-292 provides that medicare payments for the renal disease services specified in that statute shall be available beginning on October 1, 1978. Because of the short period between the enactment (June 13, 1978) and the effective date of the statute, we have not been able to go through the normal process for NPRM and public participation. We have attempted, however, in the limited time available to consult as widely as possible with persons and agencies whom we knew would be interested in this regulation.

Because we believe it important to provide rules for how these services are to be covered and reimbursed beginning October 1, we have found good cause to waive proposed rulemaking. However, we welcome comments and suggestions on this regulation.

42 CFR part 405 is amended as set forth below:

1. The table of contents is amended to add new §§ 405.117, 405.244-1, and 405.906.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DSIABLED

Sec.

. . . . . .

405.117 Inpatient hospital services; kidney donors.

. . . . . .

405.244-1 Payment of supplementary medical insurance benefits; kidney donors.

. . . . . .

405.906 Waiver of premiums of kidney donors.

. . . . . .

2. Section 405.116 is amended by revising paragraph (g) and adding a new paragraph (h) to read as follows:

§ 405.116 Inpatient hospital services; defined.

. . . . . .

(g) *Services in connection with kidney transplantation.* Beginning September 1, 1977, kidney transplantation surgery is covered only if performed in a renal transplantation center approved under subpart U of this part.

(h) *Services in connection with kidney donations.* Services furnished in connection with kidney donations are covered if the kidney donation is intended for an individual entitled to medicare benefits and the services are related to the evaluation or preparation of a potential or actual donor, to the donation of the kidney, or to postoperative recovery services directly related to the kidney donation.

§ 405.117 Inpatient hospital services: kidney donor services.

Notwithstanding any other provisions in this title, there are no deductible or coinsurance requirements with respect to services furnished to an individual in connection with the dona-

tion of a kidney for transplant surgery.

4. Section 405.231 is amended by re-

tient's home adaptation (in accordance with a plan as required by § 405.250(c)), emergency visits by

(g) Any of the items or services specified in paragraphs (a) through (f) of this section that are furnished on an

agreement in accordance with paragraph (g) of this section.

. . . . . .

(iii) Such services were furnished

ed to claim such payment) for which payment may be made under the provisions set forth in § 405.230(a) (1) and

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tion of a kidney for transplant surgery.

4. Section 405.231 is amended by revising paragraph (g), (h), and (n) and adding new paragraphs (o), (p), and (q) to read as follows:

§ 405.231 Medical and other health services; included items and services.

Subject to the conditions, limitations, and exclusions set forth in § 405.232, the term "medical and other health services" means the following items or services:

* * * * *

(g) Rental or, effective January 1, 1968, purchase of durable medical equipment used in the patient's home, including iron lungs, oxygen tents, hospital beds, wheelchairs, and renal dialysis systems. For purposes of this paragraph, the term "home" does not include an institution that meets the definition of hospital in section 1861(e)(1) or skilled nursing facility in section 1861(j)(1) of the act.

(h) Prosthetic devices (other than dental) that replace all or part of an internal body organ. On or after October 30, 1972, colostomy bags and supplies directly related to colostomy care are included. (For the period before October 1, 1978, such devices include prosthetic services furnished by nonprovider renal dialysis facilities.);

* * * * *

(n) Rural health clinic services as specified in subpart X of this part;

(o) Effective October 1, 1978, institutional dialysis services and supplies furnished in approved ESRD facilities, including all services, items, supplies, and equipment necessary to perform dialysis, routine dialysis monitoring tests specified in § 405.2163(b), routine diagnostic tests, and routine diagnostic laboratory tests;

(p) Effective October 1, 1978, home dialysis services, supplies, and equipment, as follows:

(1) *Dialysis equipment*, purchase or rental, installation, and maintenance of all equipment necessary for home dialysis, and the reconditioning of this equipment. Dialysis equipment includes (but is not limited to) artificial kidney and automated peritoneal dialysis machines, and support equipment such as blood pumps, bubble detectors, and other alarm systems.

(2) *Items and supplies required for dialysis*, including (but not limited to) dialyzers, syringes and needles, forceps, scissors, scales, sphygmomanometer with cuff and stethoscope, alcohol wipes, sterile drapes, and rubber gloves.

(3) *Home dialysis support services furnished by an ESRD facility*, including periodic monitoring of the patient's home adaptation (in accordance with a plan as required by § 405.250(c)), emergency visits by qualified provider or facility personnel, personnel costs associated with the installation and maintenance of dialysis equipment, testing and appropriate treatment of water, and ordering of supplies on an ongoing basis.

(4) *Services of trained home aides*, if furnished by a facility that has an agreement to receive target rate reimbursement under § 405.691; and

(q) Services furnished in connection with kidney donations to persons who have end-stage renal disease and are entitled to medicare benefits.

5. Section 405.232 is amended by revising the introductory sentence and paragraph (b)(1) to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

In addition to the general exclusions specified in subpart C of this part, the following conditions, limitations, and exclusions shall apply with respect to the "medical and other health services" specified in § 405.231:

* * * * *

(b) *Diagnostic tests.* For purposes of § 405.231(d): (1) (i) Except as specified in paragraph (b)(1)(ii) of this section, diagnostic laboratory tests are not "medical or other health services" if performed in a laboratory which is independent of a hospital and the attending or consulting physician's office, unless that laboratory meets the requirements set forth in subpart M of this part. For purposes of this paragraph, the term "hospital" means a hospital which meets the requirements specified in § 405.249(a)(1).

(ii) Routine dialysis monitoring tests (specified in § 405.2163(b)) are covered if they are furnished by an ESRD facility, even if the facility does not meet the requirements of subpart M of this part.

* * * * *

6. Section 405.236 is amended by revising the introductory sentence and reinstating and revising paragraph (g), which was inadvertently dropped from the Code of Federal Regulations, to read as follows:

§ 405.236 Home health services; items and services included.

Subject to the provisions specified in § 405.237, "home health services" means the following items and services furnished to an individual in accordance with §§ 405.234 and 405.235:

* * * * *

(g) Any of the items or services specified in paragraphs (a) through (f) of this section that are furnished on an outpatient basis at a hospital, skilled nursing facility, or rehabilitation center under an arrangement with the home health agency, even though the items or services could have been provided to him in his home. These items or services must be furnished at the same time that items or services which could not be readily available to him in his home are furnished to him.

* * * * *

7. Section 405.240 is amended by revising paragraphs (b) through (f) and adding new paragraphs (g) and (h) to read as follows:

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243-405.246, be made as follows:

* * * * *

(b) Except as specified in paragraphs (g) and (h) of this section, 80 percent of the reasonable charges for medical and health services furnished by other than a participating provider of services;

(c) Except as specified in paragraphs (g) and (h) of this section, 80 percent of the reasonable cost for medical and other health services furnished by (or under arrangements made by) participating providers of services;

(d)(1) [Vacated and reserved]

(2) One hundred percent of the reasonable cost of home health services furnished by (or under arrangements made by) a participating home health agency for services furnished after December 31, 1972;

(e) [Vacated and reserved]

(f) Eighty percent of the costs payable under subpart X of this part, which are reasonable and related to the cost of furnishing rural health clinic services or which are based on other tests of reasonableness as specified by the Secretary;

(g) One hundred percent of the reasonable cost for purchase, installation, maintenance, and reconditioning for subsequent use of home dialysis equipment furnished by ESRD facilities that have an agreement with HCFA under § 405.690; and

(h) Eighty percent of the target reimbursement rate for items and services furnished by an ESRD facility under § 405.691, except for items and services that are reimbursed under an agreement in accordance with paragraph (g) of this section.

8. A new § 405.244-1 is added, to read as follows:

§ 405.244-1 Payment of supplementary medical insurance benefits; kidney donor services.

Notwithstanding any other provisions in this title, there are no deductible or coinsurance requirements with respect to services furnished to an individual in connection with the donation of a kidney for transplant surgery.

9. Section 405.250 is amended by revising the heading and paragraphs (a) and (b), and by adding a new paragraph (c) to read as follows:

§ 405.250 Procedures for payment; medical and other health services furnished by participating provider or ESRD facility home health services.

Payment for medical and other health services (see §§ 405.230(a)(3), 405.231, and 405.232), and for home health services (see §§ 405.230(a)(4), 405.233 through 405.236), furnished by a participating provider of services is made to such provider only if:

(a) A written request for payment is filed by or on behalf of the individual to whom the services were furnished to have such payment made;

(b) A physician certifies and recertifies when required (see subpart P of this part) that:

(1) In the case of medical and other health services (except certain outpatient services specified in § 405.231 (c), (k), and (l) and institutional or home dialysis services specified in § 405.231 (o) and (p)), such services were medically required; or

* * * * *

(3) In the case of outpatient physical therapy and speech pathology services:

* * * * *

(iii) Such services were furnished while the individual was under the care of a physician; and

(c) In the case of home dialysis support services (see § 405.231 (p), (3) and (4)), the services are furnished in accordance with a written plan prepared and periodically reviewed by a team that includes the patient's physician and other professionals familiar with the patient's condition (see § 405.2137(b)(2)).

10. Section 405.251 is amended by revising the heading, introductory sentence, and paragraphs (a) and (b), to read as follows:

§ 405.251 Procedures for payment; medical and other health services furnished by other than a participating provider or ESRD facility.

Payment for medical and other health services furnished by a person or organization other than a participating provider of services of ESRD facility may be made to the individual who incurred such expenses, or to the person or organization that provided such services, under the following circumstances:

(a) *Payment to the individual.* Payment may be made to an individual who incurred expenses for medical and other health services furnished him by a person or organization other than a participating provider of services or ESRD facility, if:

(1) He files a written request for payment;

(2) An itemized bill (which may be receipted or unpaid) is submitted which shows in detail the services furnished; and

(3) The items or services furnished such individual are "medical and other health services" (including "emergency outpatient services," if payment cannot be made under the provisions of § 405.249 solely because the hospital furnishing such services has not elected to claim such payment) for which payment may be made under the provisions set forth in § 405.230(a) (1) and (2).

(b) *Payment to the person who furnished the services.* Payment in the amount determined in accordance with § 405.240 may be made to a person or organization, other than a participating provider of services or ESRD facility, that furnishes an enrolled individual medical and other health services for which payment may be made under the provisions set forth in §§ 405.230(a) (1) and (2), 405.231, and 405.232, if:

11. The appendix to subpart B is deleted.

APPENDIX [DELETED]

12. A new § 405.906 is added, to read as follows:

§ 405.906 Premiums not required for certain kidney donors.

Notwithstanding any other provisions in this title, no premiums are required from a kidney donor who is eligible for benefits in connection with kidney transplant surgery, solely on the basis of section 1881(d) of the Act. A kidney donor enrolled for medicare part B benefits is not relieved of liability for premiums by virtue of his or her donating a kidney.

(Secs. 1861(s)(2)(F), 1881(b)(1)(B), (4), (5), (6), and (7), 1881(d), and 1881(e) (42 U.S.C. 1395x).)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; and 13.774, Medicare—Supplementary Insurance.)

Dated: September 27, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: October 18, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-29965 Filed 10-23-78; 8:45 am]

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federal register

TUESDAY, OCTOBER 24, 1978
PART VIII

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

SELECTED GENERAL AND SPECIAL (COOPERAGE AND LAUNDRY MACHINERY, AND BAKERY EQUIPMENT) INDUSTRY SAFETY AND HEALTH STANDARDS

Revocation

[4510-26-M]

Title 29—Labor

merce.* * *" (Section 2(b)(3) of the Act, 29 U.S.C. 651). Cognizant of the necessity of creating a speedy mecha-

ments. The proposals were announced on December 5, 1977, and published in the FEDERAL REGISTER on December 13,

ly comply with the Agency's rules governing application for public hearing (29 CFR 1911.11 and reprinted in the

A detailed listing identifying the standard proposed for revocation with one or more revocation criteria was

which reflects the Act's intent to avoid unnecessary duplication of governmental effort, also supports the revo-

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[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Selected General Industry Safety and Health Standards; Revocation

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes certain general industry safety and health standards codifed in 29 CFR Part 1910. These standards are among those proposed for revocation on December 13, 1977 (42 FR 62734). OSHA has determined that revocation of most of the provisions proposed for revocation will better effectuate the purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on hazards which have greater significance and impact on exposed employees. The Agency believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA has also determined that revocation of certain of those standards proposed for revocation would not be beneficial to employee safety or health, and therefore these requirements have been retained in the best interest of worker protection.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In order to assure safe and healthful working conditions for working men and women, the United States Congress enacted in 1970 the Occupational Safety and Health Act (the Act) (84 Stat. 1590, 29 U.S.C. 651 *et seq.*). Among other things, the Act authorized the Secretary of Labor "* * * to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce.* * * " (Section 2(b)(3) of the Act, 29 U.S.C. 651). Cognizant of the necessity of creating a speedy mechanism to issue standards expeditiously upon the statute's effective date, Congress in Section 6(a) of the Act authorized the Secretary "* * * [to] promulgate as an occupational safety or health standard any national concensus standard. * * * " 29 U.S.C. 655(a).

Following this Congressional direction, OSHA promulgated its initial occupational safety and health standards for General Industry on May 29, 1971, as 29 CFR Part 1910 (36 FR 10466). These standards were derived primarily from national consensus standards which were originally developed by such voluntary nongovernmental organizations as the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). OSHA also adopted, as occupational safety and health standards, established Federal standards previously issued under several prior Acts of Congress; however, none of the standards derived from such established Federal standards were proposed for revocation in this rulemaking.

Since the adoption of these consensus standards, OSHA has received comments from many affected parties concerning the effectiveness, relevance, and applicability of a large number of their provisions. In the appropriations bill for fiscal year 1977, Congress specifically directed OSHA to eliminate "so-called 'nuisance standards' or standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State Departments of Public Health." More recently, President Carter ordered the Executive Departments to reduce and simplify the existing body of governmental regulations.

The Secretary of Labor and the Assistant Secretary for Occupational Safety and Health have responded to this mandate by reviewing the Agency's regulations and regulatory policy and redirecting its enforcement efforts toward more significant safety and health hazards. Among the initial steps was the creation of a task force charged with identifying and recommending to the Assistant Secretary provisions within 29 CFR Part 1910 (General Industry Safety and Health Standards) which should be modified. In order to achieve its first goals expeditiously, the Agency sought to identify those provisions within Part 1910 where the desired modification could be accomplished through the simple revocation of one or more provisions. The task force review culminated in two proposals to revoke a total of approximately 1,100 regulatory requirements. The proposals were announced on December 5, 1977, and published in the Federal Register on December 13, 1977 (42 FR 62734 and 42 FR 62892). The first proposal (Docket S-250), proposed to revoke selected standards of general applicability; the second (Docket S-251), involving special industry standards, proposed to revoke in their entirety 29 CFR 1910.214 (cooperage machinery), 1910.263 (bakery equipment), and 1910.264 (laundry machinery and operations). The standards proposed for revocation were all provisions derived from national consensus standards promulgated pursuant to section 6(a) of the Act.

In addition to these rulemakings, the Agency is continuing its on-going review of each Subpart of Part 1910 which subsequently will result in comprehensive revisions of 29 CFR Part 1910 (General Industry). In revising these subparts, the Agency intends to develop and promulgate new standards which will concentrate on the more serious safety hazards facing employees. Efforts will also be made to simplify regulatory language and eliminate detail wherever possible. OSHA believes that this will facilitate compliance, improve enforcement, and increase employee protection.

II. Procedural History

The December 13, 1977 proposal provided for a comment period continuing through March 3, 1978. Interested parties representing both employees and employers individually requested that this be extended to May 3, 1978. After reviewing such requests OSHA extended the comment period to May 3, 1978 (43 FR 9830, 43 FR 9831, March 10, 1978) for both Docket Nos. S-250 and S-251.

During the comment period, OSHA also received requests from several labor organizations to discuss the standards proposed for revocation. The requests were granted and meetings were conducted during the period March 13-23, 1978. Individual OSHA staff members presented the Agency's position regarding specific provisions proposed for revocation and outlined OSHA's policy objectives. A written memorandum summarizing the meetings was prepared and entered into the public record on April 11, 1978. Similar opportunity was made available to other interested groups. No other persons or groups requested similar meetings.

Eight interested parties filed requests for a hearing on the proposal to revoke general industry standards. Two requests were denied by the Agency in writing; one on the grounds that the nature of the hearing requested was beyond the scope of the particular rulemaking, and also that requesting party failed to substantially comply with the Agency's rules governing application for public hearing (29 CFR 1911.11 and reprinted in the preamble to the proposal); and second request, likewise for failure to substantially comply with 29 CFR 1911.11. The remaining requests were formally withdrawn by the filing parties. Therefore, no public hearing was held on the proposal.

III. General Findings of the Agency and Summary of the Final Rule

In response to the many public concerns regarding the effectiveness, relevance, and applicability of these national consensus standards, OSHA has committed itself to a program of developing safety and health standards that more effectively achieve the goals and purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on higher hazard industries and operations. As a first step, the Agency is revoking a number of those regulations identified by OSHA which most clearly have no direct or immediately relationship to the safety and health of employees, or are otherwise inappropriate to enforce pursuant to the Agency's statutory purposes.

In taking this action, OSHA has determined that these revocations will, permit the Agency to better effectuate the purposes of the Act by focusing Agency resources on hazards which have greater significance and impact on exposed employees. The Agency also believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA believes that the objectives of this rulemaking are being achieved without compromising the health or safety of the affected workers.

For the reasons stated herein, the Agency has determined that the findings of the Secretary in this rulemaking meet the provisions of section 6(b)(8) of the Act. 29 U.S.C. 655.

Several criteria were used in determining which general industry standards should be proposed for revocation. In general, these categories were grouped as to standards which were:

1. Obsolete or inconsequential.
2. Concerned with comfort or convenience.
3. Directed toward public safety or property protection.
4. Subject to enforcement by other regulatory agencies.
5. Contingent on manufacturer's approval or recommendation.
6. Encumbered by unnecessary detail.
7. Adequately covered by other general standards.

A detailed listing identifying the standard proposed for revocation with one or more revocation criteria was prepared by OSHA and filed with its Technical Data Center for public inspection and copying. Notice of this document's availability was made in the preamble to the proposal. These criteria are discussed briefly below.

Criterion No. 1.—Obsolete or inconsequential. Some provisions have clearly become obsolete due to technological change or the expiration of time set forth within the standard itself. In the Agency's judgment, revocation of these provisions would not jeopardize employee safety in the workplace. Other provisions have been shown to be inconsequential to worker safety because they do not impose substantive requirements appropriate for mandatory enforcement by the Agency.

Criterion No. 2.—Concerned with comfort or convenience. Provisions proposed for revocation under this criterion were determined to be directed primarily to the comfort and convenience of employees rather than to safety or health hazards. Although the objectives of these standards may have beneficial consequences, they are not appropriate for enforcement as mandatory requirements under the Occupational Safety and Health Act.

Criterion No. 3.—Directed toward public safety or property protection. Some of the national consensus standards promulgated as OSHA standards are explicitly directed toward property protection or the safety of the general public, rather than employee safety and health. However, the Act defines occupational safety and health standards as standards which provide for "safe and healthful employment and places of employment." Section 3(8) of the Act. Therefore, the Agency proposed for revocation under this criterion provisions which were determined to explicitly and primarily affect the general public or property. However, standards which OSHA has ascertained do directly benefit employee safety or health, notwithstanding any public safety or property aspects, have not been revoked.

Criterion No. 4.—Subject to enforcement by other regulatory agencies. Standards proposed for revocation under this criterion are those which cover situations over which another Federal agency has exercised its statutory authority consistent with section 4(b)(1) of the Act. This section provides that OSHA's jurisdiction over specific working conditions is preempted whenever other Federal agencies "* * * exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health." 29 U.S.C. § 653(b)(1). In addition, section 4(b)(3) of the Act, which reflects the Act's intent to avoid unnecessary duplication of governmental effort, also supports the revocation of these provisions.

Criterion No. 5.—Contingent on manufacturer's approvals or recommendations. Another group of OSHA standards proposed for revocation specifically requires employers to obtain the written approval of manufacturers for modifications of equipment. Such provisions may also require the employer to follow the manufacturer's instruction or recommendations for the equipment. Standards of this type were revoked based on the following: (1) the standard contained few or no guidelines for the manufacturers' approvals or recommendations; (2) the manufacturers' approval or recommendations appeared to be motivated by concerns only remotely related to employee safety; and/or (3) the standard gave full discretion to the manufacturer, placing OSHA in a difficult position to challenge effectively the appropriateness of the manufacturer's recommendation in an enforcement proceeding.

Criteria Nos. 6.—Encumbered by unnecessary detail and 7.—Adequately covered by other general standards. Numerous provisions and standards proposed for revocation contain very detailed design or construction requirements. These details should not be mandated for all situations. However, OSHA recognizes these highly detailed provisions may still be useful guidelines to be followed whenever appropriate. The revocation of these provisions will permit employers greater flexibility in selecting the specific methods to abate these workplace hazards, including the development of new technology. Moreover, other generally applicable provisions in 29 CFR Part 1910 will provide adequate protection without jeopardizing employee safety or health. In selecting the standards under these criteria, consideration was given to the nature of the operation, the type of hazard involved, and the adequacy of coverage under general standards.

A total of 230 comments were received regarding docket No. S-250. Of these, 58 were received from various trade associations, 89 from management, 22 from labor unions, 21 from other interested persons and 40 from various Governmental sources. Of the comments objecting to the proposed rulemaking, some were general in nature, addressing the concept of rulemaking and/or the criteria used in determining the standards proposed for revocation, while others addressed their objections to specific provisions proposed for revocation. Most of the comments in favor of the proposed rulemaking were general in nature.

OSHA has reviewed the provisions proposed for deletion, considering the criterion which most strongly supports

lowing provisions in 1910.22(d) should not be revoked:

Paragraph 1910.22(d)(1).

A large number of detailed requirements related to the type of materials to be used in ladder construction, espe-

"(xi) Rungs shall be kept free of greases and oil."

OSHA believes that these provisions

Paragraph (c)(2)(ii)(c) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(c)(*1*) of 1910.25

Paragraph (c)(3)(iii)(*f*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*g*)(*1*) of 1910.25

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OSHA has reviewed the provisions proposed for deletion, considering the criterion which most strongly supports revocation in light of specific public comments in favor of and opposed to revocation. The criteria for revocation of specific provisions were utilized in the following order of descending frequency: Encumbered by unnecessary detail (Criteria 6); Adequately covered by other general standards (Criteria 7); Directed toward public safety or property protection (Criteria 3); Obsolete or inconsequential (Criteria 1); Subject to enforcement by other regulatory agencies (Criteria 4); Contingent on manufacturer's approval or recommendation (Criteria 5); and Concerned with comfort or convenience (Criteria 2). Of the approximately 700 general industry standards proposed for revocation, 607 are being revoked. Upon reexamination of the evidence, OSHA has determined that certain standards proposed for revocation should be retained in the interest of worker protection.

IV. Specific Findings of the Secretary

Therefore, in consideration of the evidence and public comments, OSHA has made the following specific determinations regarding the general industry standards proposed for revocation.

SUBPART D—WALKING-WORKING SURFACES

§ 1910.22 General requirements. A large number of commenters objected to the revocation of this provision, citing the dangers of overloading floors, especially balconies. At least two commenters cited specific cases where a building floor had collapsed due to overloading, causing injury to employees. Another commenter noted that this standard is frequently cited by Compliance Safety and Health Officers. Other commenters noted that local building officials should monitor the floor loading and establish appropriate controls to prevent overloading. However, still other commenters noted that building officials are seldom involved except when a building is initially constructed or substantially remodeled. They further implied that only OSHA would be able to detect overloading of floors which would occur during the normal course of building use.

Other commenters suggested a revision of the standard to improve its clarity. OSHA will consider the suggestions for revision and subsequent rulemaking when rewriting this subpart. However, this suggestion goes beyond the scope of this proceeding.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection the following provisions in 1910.22(d) should not be revoked:

Paragraph 1910.22(d)(1).

Paragraph 1910.22(d)(2).

§ 1910.23 Guarding floor and wall openings and holes. The provisions proposed for deletion in this section are concerned with the wood to be used for constructing railings and overhang of rail ends.

Paragraph 1910.23(e)(3) contains a very detailed requirement for the material to be used in the construction of railings which references documents that are unnecessarily detailed, and in some cases, no longer available because they are out of date. Therefore, this paragraph is revoked.

Paragraph 1910.23(e)(3)(v)(*d*) relates to the elimination of overhang of rail ends. Objections were received to this proposed revocation because those commenting considered that rail end overhang could constitute a hazard in a panic situation. OSHA has reviewed this objection and does not agree that the rail overhang which is prohibited by this provision would constitute a hazard. Therefore, this provision is revoked.

§ 1910.24 Fixed industrial stairs. No comments were received which objected to the proposed revocation of this standard, but two of those commenting suggested a partial deletion or revision of the standard. After reviewing the suggestions of the commenters for a partial deletion or revision of the standard, OSHA disagrees that it is necessary to retain a portion of paragraph 1910.24(k). As currently stated, this provision is inconsequential because it is stated only in terms of the desirability of using an open-grating type tread and cannot be enforced. Furthermore, other acceptable methods are available for providing a nonslip tread on outside stairs. For these reasons, this provision is revoked.

§ 1910.25 Portable wood ladders. This section contains a large number of detailed requirements for the construction, care, and use of common types of portable wood ladders. Comments were received objecting to the revocation of a portion of paragraph 1910.25(b)(1)(i) which contains a reference to Table D-5 that has very detailed requirements concerning the wood used for construction of ladders. OSHA disagrees with these commenters because the portion of this paragraph which is being retained will still provide an adequate assurance that the wood used for construction ladders is of sufficient quality. The revised paragraph will read as follows: "All wood parts shall be free from sharp edges and splinters; sound and free by accepted visual inspection from shake, wane, compression failures, decay or other irregularities. Low density wood shall not be used."

A large number of detailed requirements related to the type of materials to be used in ladder construction, especially the wood used, and the construction details for the ladder, follow in this section. All of the paragraphs proposed for revocation contain unnecessarily detailed information and are beyond the capability of a typical employer to ascertain when buying a wood ladder. The ladder manufacturer may choose from a variety of wood and construction methods to achieve an overall specification for the allowable load guaranteed for the ladder. OSHA compliance efforts can be directed principally toward insuring that the wood is sound and the ladder is stable.

For example, paragraph 1910.25(b)(1)(ii) contains detailed requirements related to permissible irregularities in western hemlock used for ladder construction. This requirement is unnecessarily detailed because the requirements being retained in paragraph 1910.25(b)(1)(i) are sufficient to insure that wood of adequate quality is used for ladder construction.

As another example, paragraph 1910.25(c)(2)(ii)(*b*) contains unnecessarily detailed construction requirements for ladders. Other equally acceptable methods exist for construction of ladders. It should also be noted, at this point, that OSHA is retaining provisions in paragraph 1910.25(d) which relate to the care and use of ladders. The specific provisions which are being retained in this section will permit OSHA compliance officers to issue citations for ladders which are not maintained adequately to be safe and serviceable regardless of the construction method uses. For instance, paragraph 1910.25(d)(1) contains the following requirements which are being retained: "To insure safety and serviceability, the following precautions on the care of ladders shall be observed:

(i) Ladders shall be maintained in good condition at all times, the joint between the steps and side rails shall be tight, all hardware and fittings securely attached and the moveable parts shall operate freely without binding or undue play.

"(ii) Metal bearings of locks, wheels, pulleys, ect., shall be frequently lubricated.

"(iii) Frayed or badly worn rope shall be replaced.

"(iv) Safety feet and other auxiliary equipment shall be kept in good condition to insure proper performance.

"(x) Ladders shall be inspected frequently and those which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as 'Dangerous, Do Not Use.'

"(xi) Rungs shall be kept free of greases and oil."

OSHA believes that these provisions which are being retained provide adequate requirements for insuring the safety of wood ladders.

Paragraphs 1910.25(d)(1)(v) 1910.25(d)(1)(vi), and 1910.25(d)(1)(vii), 1910.25(d)(1)(viii), and 1910.25(b)(1)(ix) all contain recommended precautions for the storage, painting and transporting of wood ladders. They are considered to be unnecessary details and are revoked.

Paragraph (b)(1)(ii) of 1910.25 is revoked.

Paragraph (b)(2)(i) of 1910.25 is revoked.

Paragraph (b)(2)(ii) of 1910.25 is revoked.

Paragraph (b)(2)(iii) of 1910.25 is revoked.

Paragraph (b)(2)(iv) of 1910.25 is revoked.

Paragraph (b)(2)(v) of 1910.25 is revoked.

Paragraph (b)(3)(i) of 1910.25 is revoked.

Paragraph (b)(3)(ii) of 1910.25 is revoked.

Paragraph (b)(3)(iii) of 1910.25 is revoked.

Paragraph (b)(4) of 1910.25 is revoked.

Paragraph (b)(4)(i) of 1910.25 is revoked.

Paragraph (b)(4)(ii) of 1910.25 is revoked.

Paragraph (b)(5) of 1910.25 is revoked.

Paragraph (c)(1)(i) of 1910.25 is revoked.

Paragraph (c)(1)(ii) of 1910.25 is revoked.

Paragraph (c)(1)(iii) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(*a*) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(*a*) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(*b*) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(*c*) of 1910.25 is revoked.

Paragraph (c)(1)(iii)(*d*) of 1910.25 is revoked.

Paragraph (c)(2)(i)(*a*) of 1910.25 is revoked.

Paragraph (c)(2)(i)(*d*) of 1910.25 is revoked.

Paragraph (c)(2)(i)(*e*) of 1910.25 is revoked.

Paragraph (c)(2)(i)(*g*) of 1910.25 is revoked.

Paragraph (c)(2)(i)(*h*) of 1910.25 is revoked.

Paragraph (c)(2)(i)(*i*) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(*a*)(*1*) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(*a*)(*2*) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(*b*) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(*c*) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(*c*)(*1*) of 1910.25 is revoked.

Paragraph (c)(2)(ii)(*c*)(*2*) of 1910.25 is revoked.

Table D-4 of Subpart D is revoked.

Table D-3 of Subpart D is revoked.

Paragraph (c)(2)(ii)(*d*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*a*)(*1*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*a*)(*2*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*b*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*c*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*c*)(*1*)(*i*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*c*)(*1*)(*ii*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*c*)(*2*) of 1910.25 is revoked.

Paragraph (c)(2)(iii)(*c*)(*3*) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(*a*) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(*b*) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(*c*) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(*c*)(*1*) of 1910.25 is revoked.

Paragraph (c)(2)(iv)(*c*)(*2*) of 1910.25 is revoked.

Paragraph (c)(3) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*a*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*b*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*c*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*d*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*e*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*f*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*g*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*h*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*i*) of 1910.25 is revoked.

Paragraph (c)(3)(i)(*j*) of 1910.25 is revoked.

Paragraph (c)(3)(ii)(*b*) of 1910.25 is revoked.

Paragraph (c)(3)(ii)(*c*) of 1910.25 is revoked.

Paragraph (c)(3)(ii)(*d*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*b*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*c*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*d*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*e*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*f*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*g*)(*1*) of 1910.25 is revoked.

Paragraph (c)(3)(iii)(*g*)(*2*) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(*b*) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(c) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(*c*)(*1*) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(*c*)(*2*) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(*c*)(*3*) of 1910.25 is revoked.

Paragraph (c)(3)(iv)(*c*)(*4*) of 1910.25 is revoked.

Table D-4 of Subpart D is revoked.

Paragraph (c)(3)(v)(*b*) of 1910.25 is revoked.

Paragraph (c)(3)(v)(*c*) of 1910.25 is revoked.

Paragraph (c)(3)(v)(*d*) of 1910.25 is revoked.

Paragraph (c)(3)(v)(*e*) of 1910.25 is revoked.

Paragraph (c)(3)(v)(*f*) of 1910.25 is revoked.

Paragraph (c)(3)(v)(*g*) of 1910.25 is revoked.

Paragraph (c)(4) of 1910.25 is revoked.

Paragraph (c)(4)(i) of 1910.25 is revoked.

Paragraph (c)(4)(i)(*a*) of 1910.25 is revoked.

Paragraph (c)(4)(i)(*b*) of 1910.25 is revoked.

Paragraph (c)(4)(i)(*c*) of 1910.25 is revoked.

Paragraph (c)(4)(i)(*d*) of 1910.25 is revoked.

Paragraph (c)(4)(i)(*e*) of 1910.25 is revoked.

Paragraph (c)(4)(i)(*f*) of 1910.25 is revoked.

Paragraph (c)(4)(ii)(*b*) of 1910.25 is revoked.

Paragraph (c)(4)(ii)(*b*)(*1*) of 1910.25 is revoked.

Paragraph (c)(4)(ii)(*b*)(*2*) of 1910.25 is revoked.

Paragraph (c)(4)(iii)(*b*) of 1910.25 is revoked.

Paragraph (c)(4)(iii)(*c*) of 1910.25 is revoked.

Paragraph (c)(4)(iii)(*d*) of 1910.25 is revoked.

Paragraph (c)(5)(ii) of 1910.25 is revoked.

Paragraph (c)(5)(iii) of 1910.25 is revoked.

Paragraph (c)(5)(iv) of 1910.25 is revoked.

Paragraph (c)(5)(v) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(*a*) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(*b*) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(*c*) of 1910.25 is revoked.

Paragraph (c)(5)(vi)(*d*) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(*a*) of 1910.25 is

should be noted that a more recent ANSI standard is available for the construction and testing of ladders. The

Paragraph (a)(5)(v) of 1910.26 is revoked.

Paragraph (a)(5)(vi) of 1910.26 is re-

commenters' concerns are warranted for requiring that the equipment, because of its critical safety aspects,

1910.36(b)(8) contains the requirement that every building or structure occupied by workers shall have at least two

following provisions in 1910.66(c)(21) should not be revoked:

1910.66(c)(21)(i)—metal data tag.

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Paragraph (c)(5)(vi)(*d*) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(*a*) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(*b*) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(c) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(*d*) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(*e*) of 1910.25 is revoked.

Paragraph (c)(5)(vii)(*f*) of 1910.25 is revoked.

Paragraph (d)(1)(v) of 1910.25 is revoked.

Paragraph (d)(1)(vi) of 1910.25 is revoked.

Paragraph (d)(1)(vii) of 1910.25 is revoked.

Paragraph (d)(1)(viii) of 1910.25 is revoked.

Paragraph (d)(1)(ix) of 1910.25 is revoked.

Paragraph (d)(2)(xxi) of 1910.25 is revoked.

Table D-5 of subpart D is revoked.

§ *1910.26 Portable metal ladders.* This section contains a large number of detailed requirements for the construction, care, and use of common types of portable metal ladders. One comment was received with the following statement: "I hereby request that the following list of standards not be rewritten. To add or delete from the present wording of these standards can only lead to retrogression in the telecommunications industry." The commenter than provided a list of sections, one of which was Section 1910.26. OSHA finds that this comment is not detailed with regard to any of the particulars of the paragraphs proposed for revocation in this section.

Another commenter pointed out that the proposed revocation of paragraph 1910.26(a)(3)(viii) would be inconsistent with the retention of paragraph 1910.25(c)(2)(i)(*f*) which requires that a metal spreader or locking device be used to hold the front and back sections of a stepladder open. OSHA agrees with this commenter that the revocation of paragraph 1910.26(a)(3)(viii) would be inconsistent and therefore this paragraph is not revoked.

The revocations which OSHA has proposed for this section, with the exception of those noted above, all provide unnecessary detail regarding the materials to be used and the construction methods for metal ladders. For example, paragraph 1910.26(b)(2) contains detailed requirements for the testing of straight and extension ladders. Such provisions are only applicable to a manufacturer of a ladder who has the facilities and equipment to test the ladder in accordance with the procedures. Even in this instance, it should be noted that a more recent ANSI standard is available for the construction and testing of ladders. The typical employer who purchases a portable metal ladder would not possess the capabilities for testing of the ladder, but rather would purchase a ladder guaranteed for a given load which is in keeping with his intended use of the ladder. OSHA has retained certain provisions related to the construction of portable metal ladders that it believes are essential to the construction of the ladder and which can easily be observed by compliance officers, such as paragraph 1910.26(a)(1)(v) which is as follows: "Rungs and steps shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping." In addition, OSHA is retaining a number of paragraphs related to the care and use of ladders which are found in 1910.26(c)(2) beginning with paragraph (iv) and continuing through the remainder of the section. OSHA believes that the sections which are being retained will provide adequate requirements for the care of ladders to insure that a ladder which has been purchased originally as a safe ladder can be required to be maintained so that it continues to be a safe ladder.

OSHA therefore finds that the following paragraphs are unnecessary detailed.

Paragraph (a)(1)(i) of 1910.26 is revoked.

Paragraph (a)(1)(ii) of 1910.26 is revoked.

Paragraph (a)(1)(iv) of 1910.26 is revoked.

Paragraph (a)(1)(vi) of 1910.26 is revoked.

Paragraph (a)(2)(v)(*a*) of 1910.26 is revoked.

Paragraph (a)(2)(v)(*b*) of 1910.26 is revoked.

Paragraph (a)(3)(i) of 1910.26 is revoked.

Paragraph (a)(3)(ii) of 1910.26 is revoked.

Paragraph (a)(3)(iv) of 1910.26 is revoked.

Paragraph (a)(3)(v) of 1910.26 is revoked.

Paragraph (a)(3)(vi) of 1910.26 is revoked.

Paragraph (a)(4)(ii) of 1910.26 is revoked.

Paragraph (a)(4)(iii) of 1910.26 is revoked.

Paragraph (a)(4)(iv) of 1910.26 is revoked.

Paragraph (a)(4)(v) of 1910.26 is revoked.

Paragraph (a)(5)(ii) of 1910.26 is revoked.

Paragraph (a)(5)(iii) of 1910.26 is revoked.

Paragraph (a)(5)(iv) of 1910.26 is revoked.

Paragraph (a)(5)(v) of 1910.26 is revoked.

Paragraph (a)(5)(vi) of 1910.26 is revoked.

Paragraph (b)(1) of 1910.26 is revoked.

Paragraph (b)(2)(i) of 1910.26 is revoked.

Paragraph (b)(2)(ii) of 1910.26 is revoked.

Paragraph (b)(2)(iii) of 1910.26 is revoked.

Paragraph (b)(2)(iv) of 1910.26 is revoked.

Paragraph (b)(2)(v) of 1910.26 is revoked.

Paragraph (b)(2)(vi) of 1910.26 is revoked.

Paragraph (b)(2)(vii) of 1910.26 is revoked.

Paragraph (b)(3)(i)(*a*) of 1910.26 is revoked.

Paragraph (b)(3)(i)(*b*) of 1910.26 is revoked.

Paragraph (b)(3)(ii) of 1910.26 is revoked.

Table D-6 of subpart D is revoked.

Paragraph (c)(2)(i) of 1910.26 is revoked.

Paragraph (c)(2)(ii) of 1910.26 is revoked.

Paragraph (c)(2)(iii) of 1910.26 is revoked.

§ *1910.28 Safety requirements for scaffolding.* OSHA received one comment regarding the proposed revocation of paragraph 1910.28(i)(2) which is concerned with the type of power unit which may be used for single point adjustable suspension scaffolds. The commenter objected to the revocation of this paragraph which requires that power units be either electrically or air motor driven. The basis of the objection stated was that the revocation of this paragraph would permit other types of power units to be used which, in the opinion of the commenter, would be unsafe. OSHA disagrees with this commenter, noting that the scaffolding, including power units, must be of a type tested and listed by Underwriters' Laboratories or Factory Mutual Engineering Corp., as stated in paragraph 1910.28(i)(1). Since this requirement is applicable to single-point adjustable suspension scaffolds, OSHA considers the requirement that the power unit be either electrically or air motor driven is inconsequential and this paragraph is hereby revoked.

A large number of commenters objected to the proposed revocation of paragraph 1910.28(i)(9) which requires that equipment shall be maintained and used in accordance with the manufacturers' instructions. The commenters included both manufacturers and distributors of single-point adjustable suspension scaffolds and organized labor. After reviewing these comments, OSHA believes that the

commenters' concerns are warranted for requiring that the equipment, because of its critical safety aspects, should be maintained and used in accordance with the manufacturers' instructions. OSHA, therefore, agrees with the commenters and will not revoke this paragraph.

Some of the commenters objected to the deletion of the words, "construction, alteration, demolition, and" from paragraph 1910.28(v). The purpose of the proposed revocation of this portion of the paragraph was to avoid duplication and misapplication of the general industry standards where other standards specifically exist in 29 CFR Part 1926.451 for scaffolding to be used during building construction, alteration, or demolition. Apparently, those commenting in opposition to this proposed revocation are not aware that other standards exist which are applicable to construction and further pursuant to OSHA's regulation governing the interpretation of standards 29 CFR 1910.5 that the general industry standards in 29 CFR Part 1910 are not to be applied where comparable standards exist in 29 CFR 1926. OSHA feels that this revocation is necessary to restrict the scope of the section appropriately and, therefore, the selected words noted above are revoked from this paragraph.

§ *1910.29 Manually propelled mobile ladder standards and scaffolds (towers).* OSHA received one comment with respect to a partial proposed revocation of 1910.29(a)(2)(iii) where the words "shall be of standard manufacture and conform to standard specifications of strength, dimensions, and weights and" were proposed for revocation. The revised paragraph would then read as follows: "The materials used in mobile ladder stands and scaffolds shall be selected to safely support the design working load." The commenter noted that while the portions remaining after the proposed revocation indicate that a safe design is to be used, there exists the possibility that workers could become confused and use nonstandard materials in the construction of mobile ladder stands and scaffolds without realizing that they had compromised the safe design of the ladder stand or scaffold. OSHA recognizes that this type of equipment is typically designed with certain component parts that are unique for that application and the use of other apparently similar component parts could compromise the integrity of the scaffold or ladder stand. For these reasons, OSHA agrees with the commenter, and the words proposed for revocation will be retained.

SUBPART E—MEANS OF EGRESS

§ *1910.36 General requirements—means of egress.* Paragraph 1910.36(b)(8) contains the requirement that every building or structure occupied by workers shall have at least two means of egress which are distant from one another. This proposed revocation provoked a significant amount of comment. These commenters were largely opposed to the revocation of this paragraph, stating their belief that at least two means of egress should always be provided.

OSHA's position in proposing the revocation of this paragraph was that the other sections of 1910.36(b) not being proposed for revocation provided adequate requirements for means of emergency egress without specifically stating that a minimum number of two means of egress should be provided regardless of other precautions taken in assuring safe egress. While OSHA continues to believe that adequate requirements exist in the remainder of 1910.36(b) without the specific incorporation of 1910.36(b)(8), OSHA agrees with the commenters that the specific statement that at least two means of egress should be provided does reinforce the requirements present in the other portions of 1910.36(b). Therefore, this paragraph is not revoked.

SUBPART F—POWERED PLATFORMS, MANLIFTS, AND VEHICLE-MOUNTED WORK PLATFORMS

§ *1910.66 Powered platforms for exterior building maintenance.* Paragraph 1910.66(c) prescribes regulations for hoisting ropes and rope connections for use with type F powered platforms for exterior building maintenance. OSHA has reviewed the comments received and studied the evidence and has determined that certain paragraphs in the section dealing with the fabrication of both the wire rope and the metal data tags represented requirements so detailed, that the flexibility needed to achieve maximum workplace hazard abatement was limited. OSHA has determined therefore that four provisions in this section may be revoked without reducing employee safety. The four provisions being revoked from paragraph 1910.66(c) for containing unnecessary detail are 1910.66(c)(20)(ii) which deals with overall wire grade, wire coding, drawing to finished size and other mechanical properties; 1910.66(c)(21)(i)(*h*) which requires the name of the person or firm who installed the rope; 1910.66(c)(21)(ii) which specifies the fabrication of the rope tag and the lettering characteristics; and 1910.66(c)(21)(iii) which prescribes rope tag installation requirements when ropes are renewed or refastened.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.66(c)(21) should not be revoked:

1910.66(c)(21)(i)—metal data tag.

1910.66(c)(21)(i)(*a*)—diameter.

1910.66(c)(21)(i)(*b*)—construction classification.

1910.66(c)(21)(i)(c)—preformed or nonpreformed.

1910.66(c)(21)(i)(*d*)—grade of material.

1910.66(c)(21)(i)(*e*)—rated breaking strength.

1910.66(c)(21)(i)(*f*)—name of manufacturer.

1910.66(c)(21)(i)(*g*)—month and year of manufacture.

§ *1910.68 Manlifts.* Paragraph 1910.68(b) prescribes general requirements applicable to manlifts which are used to carry only personnel trained and authorized by the employer in their use. OSHA has reviewed the comments and the evidence received and determined that the provision proposed for revocation in this paragraph should be revoked because it addresses public safety.

Paragraph 1910.68(b)(8)(vi) requires protection of manlift entrances and exits in buildings to which the public has access. This provision is revoked because public safety is addressed, rather than employee safety.

Paragraph 1910.68(c) prescribes the mechanical requirements applicable to manlifts. Included in this paragraph are two provisions directed toward instruction and warning signs. OSHA has reviewed the evidence and the comments received and determined that these two provisions should be revoked because they contain unnecessary detail.

Paragraph 1910.68(c)(7)(i)(*a*) provides specific requirements for instruction signs at manlift landings and on manlift belts. This provision is revoked because it contains unnecessary detail for sign letters and colors, and does not address employee safety.

Paragraph 1910.68(c)(7)(iii) provides specific requirements for visitor warning signs at manlift landings. The second sentence of the provision is revoked because it requires unnecessary detail for sign letters and color, and does not address employee safety.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in 1910.68(e) should not be revoked:

1910.68(e)(3)—inspection log.

SUBPART G—OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROLS

§ *1910.94 Ventilation.* This section contains certain requirements for fans and ductwork used in spray booths.

All comments received were in favor of revoking paragraph 1910.94 (c)(5)(i)(*b*) which contains a reference to the obsolete document, Air Moving

and Conditioning Association Standard Bulletin 210, dated April 1962, which addresses a method for rating of fans.

may prevent a recurrence which could otherwise cause injuries and deaths.

It is the Agency's position that the reporting of such incidents to OSHA is

§ *1910.104 Oxygen.* This section contains a large number of detailed requirements for installation of bulk oxygen systems on industrial and in-

Certain paragraphs in this section regulate the use of drainage and diking systems to control accidental

on the degree of fuel loading as related to public property protection.

For example, paragraph 1910.106

depend on whether the container being filled is labeled or not. The adequacy of containers for storage of liq-

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and Conditioning Association Standard Bulletin 210, dated April 1962, which addresses a method for rating of fans.

There were no comments advocating retention of paragraph 1910.94 (c)(5)(iii) which contains detailed design specifications for duct construction. Paragraph 1910.107(d) covers this subject area and there is no need for duplicate coverage.

Therefore, paragraphs 1910.94 (c)(5)(i)(*b*) and 1910.94(c)(5)(iii) are revoked because they contain unnecessary detail.

§ 1910.96 Ionizing radiation. After a careful review of all comments and reexamination of the evidence, OSHA has determined that all 13 provisions of § 1910.96 which were proposed for revocation can be revoked without compromising employeee safety and health.

Of the provisions being revoked, three contain inconsequential requirements, four concern loss of the use of facilities and/or damage to property and one entire paragraph containing six provisions, is covered by another Federal agency.

Paragraph 1910.96(b)(5) is concerned with limiting when employers may change the method used to determine calendar quarters for exposure record keeping purposes to the beginning of the calendar year. There were several comments on this proposed revocation, most of which favor retention. The main reason given was that if arbitrary change of quarters was allowed employers would manipulate to allow higher exposures.

OSHA has taken the position that any increased exposure which may be received by an employee because of a change in the method of determining calendar quarters as would be allowed by revocation of paragraph 1910.96(b)(5) would be inconsequential and therefore this paragraph is revoked.

Paragraph 1910.96(e)(1)(ii) explicitly allows other appropriate information on caution signs and labels in addition to that prescribed. There was no substantive comment. This provision is inconsequential and is therefore revoked.

Paragraphs 1910.96(l)(1)(iii) and 1910.96(l)(2)(iii) concern the reporting to OSHA of the loss of the operation of facilities and paragraphs 1910.96(l)(1)(iv) and 1910.96(l)(2)(iii) concern damage to property. Some commenters favored revoking these paragraphs, while a number were opposed. The reason most often given by those opposing revocation was that accidents which cause loss of use of facilities and property damage often also cause injuries and fatalities. Reporting will be followed by investigation and may prevent a recurrence which could otherwise cause injuries and deaths.

It is the Agency's position that the reporting of such incidents to OSHA is not essential, and therefore these provisions are revoked.

Paragraph 1910.96(o)(2) concerns the information that a former employee should include when requesting exposure records. No substantive comments were received on this proposed revocation. This provision is inconsequential and is therefore revoked.

Paragraph 1910.96(r) is concerned with radiation standards for mining. Mine Safety and Health is under the jurisdiction of the Mine Safety and Health Administration, Department of Labor which has issued such standards in Title 30 of the Code of Federal Regulations. Paragraph 1910.96(r) is therefore revoked.

SUBPART H—HAZARDOUS MATERIALS

1910.103 Hydrogen. This section contains a large number of detailed requirements for installation of gaseous hydrogen systems on consumer premises where the hydrogen supply to the consumer premises originates outside the consumer premises and is delivered by mobile equipment.

The provisions, which are the following lines in Table H-2, line 13 "public sidewalks • • •" and line 14 "line of adjoining property • • •", and the words "and places of public assembly" from the footnote to the Table designated by "• • •", address public safety and property protection concerns. Also line 12 of Table H-4 and the following provision in the footnote which states the words "and places of public assembly" address public protection or property protection issue. Comments were received objecting to the revocation of these provisions. OSHA disagrees with these commenters because the portion of the Table which is being revoked provides protection for public safety and property protection which is not within OSHA's regulatory authority. Therefore, Table H-2 of 1910.103 is amended by striking line 13, "public sidewalks • • •," and line 14, "line of adjoining property • • •," and by striking the words "and places of public assembly" from the footnote to the Table designated by "• • •." Table H-4 of 1910.103 is amended by striking line 12 thereof, and by striking in the footnote the words "and places of public assembly." Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in 1910.103 which was proposed for revocation should not be revoked:

Paragraph 1910.103(c)(1)(ii)—Second sentence dealing with protective coating for steel subparts.

§ 1910.104 Oxygen. This section contains a large number of detailed requirements for installation of bulk oxygen systems on industrial and institutional consumer premises.

The majority of comments received support the revocation of paragraphs 1910.104(b)(3)(xiv), public areas; 1910.104(b)(3)(xv), patients; 1910.104 (b)(3)(xvi), sidewalks; and 1910.104 (b)(3)(xvii), adjacent property which are requirements for public safety and property protection.

Therefore, paragraphs 1910.104(b)(3)(xiv), 1910.104(b)(3)(xv), 1910.104(b)(3)(xvi), and 1910.104(b)(3)(xvii) are revoked because they are concerned with public safety and property protection.

In addition, paragraph 1910.104 (b)(3)(xviii), exceptions is amended by striking the numerical references "(xvi) and (xvii)" as these provisions are revoked.

§ 1910.106 Flammable and combustible liquids. Section 1910.106 contains many detailed specifications which are related to tank storage of flammable and combustible liquids.

Some paragraphs contain advisory language which are for information only and are without a basis for enforcement. For example, paragraph 1910.106(b)(1)(i)(*e*) states that tanks "may" have either combustible or noncombustible linings and does not require mandatory action by the employer. The same is true for paragraph 1910.106(b)(1)(ii)(*a*).

Comments received support the revocation of these paragraphs for the reasons explained above. Therefore, the provisions in paragraph 1910.106 (b)(1)(i)(e), (b)(1)(ii)(*a*), (d)(6)(ii)(*a*), (f)(4)(ii) and (f)(4)(v) are revoked because they are advisory and inconsequential to employee safety.

Certain paragraphs of this section contain detailed specifications which regulate the location of storage tanks with respect to property lines and public ways.

There were comments which objected to the revocation of certain provisions containing specific distances to property lines and public ways; however, the majority of comments supported their revocation because they are directed toward property protection. Therefore, the following paragraphs and supporting Tables are revoked because they mandate specific distances of separation between storage tanks and property lines and are directed to property protection: 1910.106 (b)(2)(i)(*a*) and Table H-5; 1910.106(b)(2)(i)(*b*) and Table H-6; 1910.106(b)(2)(i)(c) and Table H-7; 1910.106(b)(2)(i)(*d*) and Table H-8; 1910.106(b)(2)(i)(*e*); 1910.106(b)(2)(i)(*f*) and Table H-9; 1910.106(b)(2)(iii); 1910.106(h)(2)(i) and Table H-20 and 1910.106(h)(2)(ii).

Certain paragraphs in this section regulate the use of drainage and diking systems to control accidental discharging of liquids. For example, paragraphs 1910.106(b)(2)(vii)(*b*)(*1*) and (b)(2)(vii)(*b*)(*3*) regulate certain design factors of man-made or natural drainage systems which have been included to protect "property, natural water courses, public sewers, and public drains." Since these provisions are directed toward property protection, they are revoked.

Paragraphs 1910.106(b)(2)(vii), (*c*)(*5*), (c)(7)(*i*), (*c*)(7)(*ii*), (c)(7)(*iii*), and (c)(7)(*iv*), regulate certain design criteria for diking systems. These criteria are encumbered by unnecessary detail and are directed toward property protection. For example, paragraphs 1910.106(b)(2)(vii) (*c*)(*3*) and (*c*)(*4*) regulate the height and width of dike walls. These requirements are unnecessary because adequate employee protection is provided in paragraphs 1910.106(b)(2)(vii) (*c*)(*1*) and (*c*)(*2*). Paragraph 1910.106(b)(2)(vii)(*c*)(*7*) contains requirements directed toward protection of other storage tanks.

While some comments object to revocations, the majority of comments received support the revocation of these paragraphs because they are encumbered with unnecessary detail and because they are directed toward property protection. Therefore, the following provisions are revoked: 1910.106(b)(2)(vii)(*c*)(*5*), 1910.106 (b)(2)(vii)(*c*)(7), 1910.106 (b)(2)(vii)(*c*)(7)(*i*), 1910.106 (b)(2)(vii)(*c*)(7)(*ii*), 1910.106 (b)(2)(vii)(*c*)(7)(*iii*), and 1910.106 (b)(2)(vii)(*c*)(7)(*iv*). These standards regulate dikes and drainage areas surrounding storage tanks.

Paragraphs 1910.106(b)(2)(viii)(*a*), (b)(2)(viii)(*b*), and (b)(2)(viii)(*c*) contain certain requirements directed toward prevention of liquid spills.

While a few comments objected to the proposed revocations, most of the comments received support this revocation because of the property protection aspects of the requirements. Therefore, the following requirements are revoked: 1910.106 (b)(2)(viii)(*a*), 1910.106 (b)(2)(viii)(*b*), and 1910.106 (b)(2)(viii)(*c*).

One paragraph, 1910.106 (b)(5)(vi)(*e*), provides protection for spherical and spheroidal tanks. Comments support the revocation of this property protection standard. OSHA agrees with the comments and the requirement is revoked because it is directed toward property protection.

Certain paragraphs in this section are directed to the regulation of flammable and combustible liquid storage inside of buildings. These paragraphs limit the amount of liquids that may be stored in certain occupancies based on the degree of fuel loading as related to public property protection.

For example, paragraph 1910.106 (d)(5)(iv) sets limits for the amount of liquids to be stored inside of mercantile or other retail stores. These limits are based on the possible exposure of the public to fires involving stored liquids. Employee protection from exposure to the hazards of fire involving stored liquids is assured by paragraph 1910.106(d)(5)(i). In case of a fire, employees can be evacuated and the amount of fuel load becomes inconsequential to their safety.

Other paragraphs limit the amount of flammable and combustible liquids to be stored in areas where employee exposure is limited and where adequate fire protection systems are provided but not required. For example, Tables H-14 and H-15 limit stacking heights of flammable and combustible liquids in warehouses. Again, limited employee exposure and easy egress from the area makes such limitation unnecessary for employee safety. Paragraph 1910.106(d)(5)(i) would provide adequate employee safety.

Comments received support revocation of standards directed toward property protection when adequate employee safety is provided for in other ways. Therefore, since employee safety is adequately insured by paragraph 1910.106(d)(5)(i), the following provisions are revoked because they are directed to property protection: 1910.106 (d)(5)(iv)(*a*), 1910.106 (d)(5)(iv) (*b*), 1910.106 (d)(5) (iv)(c), 1910.106 (d)(5)(iv)(*d*), 1910.106 (g)(1)(ii)(*c*). These standards regulate storage of flammable and combustible liquids in mercantile and service station occupancies.

Tables H-14 and H-15 are amended by striking the two headings entitled "Height" and all numbers appearing thereunder.

Paragraphs 1910.106 (e)(3)(iv)(c) and (h)(3)(ii)(c) are directed toward protection of property by regulating plant drainage systems. These paragraphs are revoked because they protect "public waterways, public sewers and adjoining property." Comments received support this revocation.

Paragraph 1910.106(f)(4)(iii) is directed toward property protection because it sets limits to the distances between bridges or similar structures and bulk tank vessels on waterways. Comments received support revocation of this paragraph because it is directed toward property protection. Therefore, the paragraph is revoked.

Paragraph 1910.106(g)(1)(iv) is directed to the sale of flammable or combustible liquids at service stations and is not directly related to employee safety.

Employee safety at service stations during dispensing operations does not depend on whether the container being filled is labeled or not. The adequacy of containers for storage of liquids is provided for in paragraph 1910.106(d)(2)(i) where approved containers are required. Therefore, paragraph 1910.106(g)(1)(iv) is revoked.

Paragraph 1910.106(i)(4) of this section contains requirements directed toward spill containment and property protection, particularly the property of others. Comments received support the revocation of this paragraph. However, OSHA believes that only the second sentence should be revoked. Therefore, paragraph 1910.106(i)(4) is amended by revoking the second sentence thereof.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection, the following provisions of section 1910.106 should not be revoked:

1910.106(b)(2)(vi)(*b*).
1910.106(b)(2)(vii)(*a*).
1910.106(b)(2)(vii)(*b*).
1910.106(b)(2)(vii)(*b*)(*2*).
1910.106(b)(2)(vii)(c).
1910.106(b)(2)(vii)(*c*)(*1*).
1910.106(b)(2)(vii)(c)(*2*).
1910.106(b)(2)(vii)(c)(*3*).
1910.106(b)(2)(vii)(c)(*4*).
1910.106(b)(2)(vii)(c)(*6*).
1910.106(b)(2)(vii)(*d*).
1910.106(b)(2)(vii)(e).
1910.106(b)(2)(vii)(*f*).
1910.106(d)(2)(iii)(*b*).
1910.106(d)(5)(ii)(*a*).
1910.106(d)(6)(i).
Table H-16
1910.106(d)(6)(ii).
1910.106(d)(6)(ii)(*b*).
Table H-17
1910.106(g)(3)(vi)(*b*).
1910.106(g)(3)(vi)(c).

§ 1910.109 Explosives and blasting agents. The OSHA standards for explosives and blasting agents contain some definitions which are inconsequential in enhancing employee safety. These definitions include paragraph 1910.109(a)(9) which provides a definition for "public conveyance" and paragraph 1910.109(a)(11) which provides a definition for "railway." Other definitions are inconsequential to employee safety since they contain information pertaining to standards of another regulatory agency. For example, paragraph 1910.109(a)(20) serves only as a reference to specifications contained in the Department of Transportation regulations.

Some commenters disagree with revoking any definitions since the definitions may provide helpful information in the implementation of the standard. However, the majority of commenters agree with OSHA that there are some definitions which do not contain information which will enhance employee safety or enhance the implementation of the standard. The under-

standing of OSHA's explosives and blasting agents requirements would not be compromised by the revocation

to property protection or public safety in that they specify minimum distance requirements in locating explosive ma-

plosives is amended by striking the three column headings entitled, "Inhabited buildings, passenger railways,

portation. Accordingly, those paragraphs which specify minimum age requirements are amended as follows:

removed from a building once a training class has terminated. An overwhelming number of the comments re-

the terms used in the section on the storage and handling of anhydrous ammonia. OSHA has reviewed the evi-

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standing of OSHA's explosives and blasting agents requirements would not be compromised by the revocation of these inconsequential definitions. Therefore, paragraph 1910.109(a)(5) which is the definition for "inhabited building;" 1910.109(a)(9) which is the definition for "public conveyance;" 1910.109(a)(11) which is the definition for "railway"; 1910.109(a)(20) which is the definition for "DOT regulations;" 1910.109(a)(21) which is the definition for DOT requirements; and, 1910.109(i)(1)(ii)(*a*) which provides information concerning the definition of ammonium nitrate fertilizer are revoked.

Paragraph 1910.109(c)(2)(iii) contains a sentence which prescribes location requirements for warning signs that are required on explosives storage magazines. Commenters agree with OSHA that this sentence can be revoked since it contains unnecessary detail that does not enhance employee safety. Additionally, magazine sign requirements are, in fact, regulated and controlled by another regulatory agency, the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of Treasury. Accordingly, paragraph 1910.109(c)(2)(iii) is amended by striking the second sentence thereof.

1910.109(d)(2)(ii)(*b*) prescribes detailed specifications for the marking of placards which are required for vehicles transporting explosives and oxidizing materials. Commenters agree with OSHA that these specifications provide unnecessary detail and can be revoked without compromising employee safety. Additionally, the marking and placarding of vehicles transporting explosives is controlled by another regulatory agency, i.e., the Department of Transportation. Therefore, paragraph 1910.109(d)(2)(ii)(*b*) is revoked.

Some of the standards contained in Section 1910.109 included property and public safety provisions which do not relate directly to employee safety. These provisions address such property protection requirements as the locking of magazines, minimum distances of storage and use of explosives with respect to "inhabited buildings," and property lines. Other provisions address such public safety requirements as the transportation of explosive material on public conveyances, blasting in congested areas, distances to public highways, and the amount of smokeless propellants and small arms ammunition primers allowed to be displayed in a commercial establishment. These provisions are subject to control by local building and fire code officials, and are regulated by the Department of Transportation and the Bureau of Alcohol, Tobacco and Firearms.

Accordingly, the following provisions are revoked because they are directed to property protection or public safety in that they specify minimum distance requirements in locating explosive materials installations and storage; and, because they address the use and transportation of explosive materials only in relation to public safety:

1910.109(b)(2) concerning unauthorized receipts of explosives or blasting agents;

1910.109(b)(3) concerning displaying explosive or blasting agents on any highway, street, sidewalk, public way, or public place;

1910.109(c)(3)(viii) concerning the locking of magazines;

1910.109(d)(1)(ii) concerning the transportation of explosives upon public conveyances or vehicles carrying passengers for hire;

1910.109(e)(4)(i) concerning the use of electric blasting caps in congested districts, or on highways, or adjacent to highways open to traffic;

1910.109(g)(2)(i) concerning the location of buildings used for mixing blasting agents with respect to inhabited buildings, passenger railroads and public highways;

1910.109(g)(6)(v) concerning the carrying or transportation of blasting agents upon public vehicles carrying passengers for hire;

1910.109(g)(6)(vii) concerning the marking of blasting agents when transported on public highways;

1910.109(g)(6)(viii) concerning the placarding of vehicles transporting blasting agents on public highways;

1910.109(h)(3)(i)(*a*) concerning the location of buildings used for mixing water gels in respect to inhabited buildings, passenger railroads, and public highways;

Paragraph 1910.109(h)(3)(i)(*b*) concerning the distance separating highways, railroads and inhabited buildings from potential explosions in fixed explosive mixing locations;

Paragraph 1910.109(j)(3)(ii) concerning the displaying of smokeless propellants in commercial establishments; and

Paragraph 1910.109(j)(4)(ii) concerning the displaying of small arms ammunition primers in commercial establishments.

The following paragraphs contain provisions which address public protection and property protection. These provisions are also subject to control by local building and fire code officials and are regulated by the Department of Transportation and the Bureau of Alcohol, Tobacco and Firearms. Accordingly, these paragraphs are amended as follows:

Paragraph 1910.109(b)(1) which concerns the general hazard of explosives is amended by striking words, "and property."

Table H-21 which is the *American Table of Distances for Storage of Explosives* is amended by striking the three column headings entitled, "Inhabited buildings, passenger railways, and public highways;" and, also striking all numbers appearing thereunder.

Paragraph 1910.109(c)(1)(viii) which concerns location requirements for Class II magazines is amended by striking the words, "neighboring inhabited buildings, railways, highways, and."

Paragraph 1910.109(c)(4)(iii) which concerns magazine locks is amended by striking the second sentence thereof.

Paragraph 1910.109(d)(3)(i) which prescribes requirements for drivers of vehicles transporting explosives is amended by striking the words, "physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs, and not less than 21 years of age. He shall be."

Paragraph 1910.109(d)(3)(ii) which concerns parking requirements for vehicles transporting explosives is amended by striking the words, "bridge, tunnel, dwelling, building, or" and "congregate or assemble."

Paragraph 1910.109(e)(1)(iii) which concerns the covering of a blast to prevent the throwing of fragments is amended by striking the words "railway, or highway."

Paragraph 1910.109(g)(5)(i)(c) which concerns onsite storage of blasting agents is amended by striking the words, "Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to."

Paragraph 1910.109(g)(5)(ii)(*a*) which concerns warehouse location requirements for blasting agents is amended by striking the words, "the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and public highways, and according to."

Paragraph 1910.109(i)(1)(i)(*e*) which concerns the production and storage of ammonium nitrate is amended by striking the words, "provided that no distinct undue hazard to the public is created."

Paragraph 1910.109(i)(2)(iii)(*e*) which concerns the continued use of existing buildings for storage of ammonium nitrate is amended by striking the words, "or adjoining property."

The following paragraphs contain minimum age requirements for those employees in charge of storage magazines and for drivers of vehicles tranporting explosives. There age requirements are inconsequential to employee safety, and the public safety aspect is regulated and controlled by the Bureau of Alcohol, Tobacco and Firearms, and the Department of Transportation. Accordingly, those paragraphs which specify minimum age requirements are amended as follows:

Paragraph 1910.109(c)(5)(viii) is amended by striking the words, "who shall be at least 21 years of age."

Paragraph 1910.109(g)(5)(vii) is amended by striking the words, "who shall be not less than 21 years of age."

Paragraph 1910.109(g)(6)(ii) is amended by striking the words, "at least twenty-one (21) years of age who is capable, careful, reliable, and."

§ 1910.110 Storage and handling of liquified petroleum gases. Section 1910.110 contains a large number of property and public safety requirements for liquified petroleum gas (LPG) installations, use, and handling.

Paragraphs 1910.110(a)(17) and (a)(18) prescribe definitions for DOT regulations and DOT requirements. All comments received were in favor of revoking these definitions. Therefore, because the definitions in paragraphs 1910.110(a)(17) and (a)(18) are inconsequential in nature and pertain to standards of another regulatory agency, they are revoked.

Paragraphs 1910.110(b)(6)(ii) and (b)(6)(iv) prescribe locations for LPG containers. The vast majority of comments received favored the revocation of these provisions. The provisions are directed toward property protection and their intent is regulated and controlled by local building and fire officials.

Therefore, the phrase "or line of adjoining property which may be built on" in paragraph 1910.110(b)(6)(ii) and all of paragraph (b)(6)(iv) are revoked because they are directed towards property protection which is beyond OSHA's regulatory authority, and in addition, employee safety will not be compromised.

Paragraphs 1910.110 (b)(11)(iii)(*i*), (b)(11)(iv)(*g*), and (b)(15)(viii)(*b*) relate to the minimum distances which vaporizers and tank car or transport truck loading and unloading points may be located to adjacent property. The vast majority of comments received were in favor of revoking these provisions. Therefore, the phrase "or line of adjoining property which may be built upon" in paragraphs 1910.110 (b)(11)(iii)(*i*), (b)(11)(iv)(*g*) and all of paragraph (b)(15)(viii)(*b*) are revoked because they are directed to property protection which is beyond OSHA's regulatory authority.

Paragraphs 1910.110(c)(5)(iv), (*a*), (*a*)(*1*) (*a*)(*2*), (*a*)(*3*), and (*b*) prescribe requirements which are directed solely to public protection. Consistent with the overwhelming majority of comments received, paragraphs 1910.110(c)(5)(iv) (*a*), (*a*)(*1*), (*a*)(*2*), (*a*)(*3*), and (*b*) are revoked.

Paragraph 1910.110(c)(5)(ix)(c) specifies that LPG containers shall be removed from a building once a training class has terminated. An overwhelming number of the comments received were in favor of revoking this requirement. Since this provision is directed to property protection, paragraph 1910.110(c)(5)(ix)(*c*) is revoked.

Paragraphs 1910.110 (d)(13)(i)(*b*), (d)(13)(ii)(*a*), and (d)(13)(iii)(*b*) prescribe locations for container-charging rooms. The majority of comments received favor revoking these provisions. The provisions are directed toward property protection of future buildings, and the intent of the provisions are regulated and controlled by local building and fire officials. Therefore, paragraphs 1910.110 (d)(13)(i)(*b*), (d)(13)(ii)(*a*), and (d)(13)(iii)(*b*) are revoked because they are directed towards property protection.

Paragraph 1910.110(d)(15) states "Above ground containers shall be kept properly painted." The vast majority of comments received were in favor of revoking this provision. Therefore, paragraph 1910.110(d)(15) is revoked because it is directed towards property protection which is beyond OSHA's regulatory authority.

Paragraphs 1910.110 (e)(13)(iii), (e)(13)(iv), (f)(3)(i), and (f)(3)(ii) prescribe requirements for the use of LPG powered industrial trucks, and the storage of LPG cylinders within buildings frequented by the public. The majority of comments received favored the revoking of these provisions. Therefore, paragraphs 1910.110 (e)(13)(iii), (e)(13)(iv), (f)(3)(i) and (f)(3)(ii) are revoked since public protection in general does not have particular impact on employee safety.

Paragraphs 1910.110 (f)(6)(i)(*b*), (f)(6)(i)(*d*) and the phrase "and adjoining property lines which may be built upon" in paragraph (h)(6)(i)(*a*) prescribe the location of containers stored outside and containers stored at service stations. The majority of comments received favored the revoking of these provisions since they relate to property protection. Accordingly, paragraphs 1910.110 (b)(6)(i)(*b*) (f)(6)(i)(*d*) and the phrase "and adjoining property lines which may be built upon" in paragraph (h)(6)(i)(*a*) are revoked.

Paragraph 1910.110(g)(1) specifies the application of the requirements for LPG systems used on vehicles and trailers. The phrase proposed for revocation "or public service purposes such as mobile libraries and clinics" deals with public safety. The vast majority of comments received were in favor of revoking this requirement. Therefore, the phrase shown above in paragraph 1910.110(g)(1) is revoked because it addresses a public safety issue.

§ 1910.111 Storage and handling of anhydrous ammonia. Paragraph 1910.111(a)(2) provides definitions of the terms used in the section on the storage and handling of anhydrous ammonia. OSHA has reviewed the evidence and the comments received and determined that the two provisions in this paragraph proposed for revocation should be revoked because they are inconsequential.

Paragraph 1910.111(a)(2)(xiii) references paragraph 1910.111(a)(2)(xii) for the definition of "DOT regulations." This provision is revoked as being inconsequential, because the term "DOT regulations" is synonomous with the term "DOT specifications" in Paragraph 1910.111(a)(2)(xii).

Pararaph 1910.111(a)(2)(xiv) references paragraph 1910.111(a)(2)(xii) for the definition of the "DOT requirements." This provision is revoked as being inconsequential, because the term "DOT requirements" is synonomous with the term "DOT specifications" in paragraph 1910.111(a)(2)(xii).

Paragraph 1910.111(b) provides basic rules for the storage and handling of anhydrous ammonia. OSHA has examined the evidence and the comments received and determined that the six provisions proposed for revocation in paragraph 1910.111(b) may be revoked without compromising employee safety. Two provisions are revoked from paragraph (b) because they address public safety; two are revoked because they are inconsequential; one because another Federal agency is exercising statutory authority with regard to that provision and another because it is concerned with property protection.

Paragraph 1910.111(b)(5)(iii) requires that permanent storage containers be located outside densely populated areas. This provision is revoked because it addresses public safety.

Paragraph 1910.111(b)(5)(iv) and Table H-35 specify the distances between permanent storage containers and public property. Paragraph 1910.111(b)(5)(iv) and Table H-35 are revoked because they address property protection and public safety.

Paragraph 1910.111(b)(11)(iii) requires that the regulations of the Department of Transportation (DOT) must be followed if shipped under the jurisdiction of DOT. This provision is revoked because it relates to the regulatory authority of DOT and not of OSHA.

Paragraph 1910.111(b)(11)(iv) refers to paragraph 1910.111(d) for information on filling densities of refrigerated storage containers. This provision is revoked as being inconsequential because it only references information in another paragraph of the standard.

Paragraph 1910.111(b)(12)(vi)(*f*) requires an oil separator be provided in the discharge side of the compressor used for transferring anhydrous ammonia. This provision is revoked be-

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cause the purpose of this provision is to prevent contamination of the ammonia, rather than protect employee safety.

Paragraph 1910.111(b)(13)(iii) provides specific requirements for caution signal used at tank car unloading points and operations. The last sentence of this provision is revoked as being inconsequential because it specifies the colors to be used on the caution sign.

Paragraph 1910.111(c) provides regulations for systems utilizing stationary, non-refrigerated storage containers. OSHA has examined the evidence and the comments received and determined that the provision proposed for revocation in paragraph 1910.111(c) may be revoked because it is concerned with property protection.

Paragraph 1910.111(c)(4)(ii) requires that the corrosion-resistant coating of storage containers be put in good condition, before they are reinstalled underground. The first sentence of this provision is revoked because it is directed toward protection of property rather than employee safety.

Paragraph 1910.111(d) prescribes regulations for systems utilizing containers with the storage of anhydrous ammonia under refrigerated conditions. OSHA has examined the evidence and the comments received and determined that the provision proposed for revocation in paragraph 1910.111(d) may be revoked because it addresses the protection of property; namely, the anhydrous ammonia in the system.

Paragraph 1910.111(d)(12)(ii), requires that an oil separator be installed in the discharge line of the compressor used in an anhydrous ammonia refrigeration system. This provisions is revoked because it provides design requirements for the oil separator, and insures its performance in preventing oil contamination of the anhydrous ammonia. These design requirements are provided to insure product quality rather than employee safety.

SUBPART I—PERSONAL PROTECTIVE EQUIPMENT

§ 1910.134 Respiratory protection. This section contains an advisory provision which is in the form of a nonmandatory recommendation.

A comment received objected to the revocation of paragraph 1910.134 (g)(3)(iii) which recommends the location of markings on respirator canisters. OSHA disagrees with the commenter because all respirators used to meet OSHA standards will continue to be required to be approved by NIOSH or its predecessor. NIOSH certification criteria mandates in 30 CFR 11.153 that such marks be on canisters before approval is granted. Therefore, paragraph 1910.134(g)(3)(iii) is revoked because effective regulation is provided by NIOSH.

SUBPART J—GENERAL ENVIRONMENT CONTROLS

§ 1910.141 Sanitation. Paragraph 1910.141(b)(1)(ii) provides construction specification for drinking fountain surfaces. A number of commenters stated that such detailed specifications were unnecessary to assure sanitary drinking fountains. However, other commenters believed that drinking fountains were not adequately covered by other general standards and therefore were important to employee health. OSHA has reviewed the arguments and has concluded that such detailed specifications are unnecessary and that the requirement for potable water, paragraph 1910.141(b)(1)(i), is sufficiently broad in scope to address unsanitary drinking fountains. Therefore, paragraph 1910.141(b)(1)(ii) is revoked.

Ice in contact with drinking water is required to be made of potable water and kept in a sanitary condition by paragraph 1910.141(b)(1)(iv). Although some commenters believed this specification was necessary to assure clean water, OSHA does not agree that this provision is needed. Paragraph 1910.141(b)(1)(i) already requires potable water, and any ice made from non-potable water would by definition contaminate the water into which it was placed and render this water non-potable. Therefore paragraph 1910.141(b)(1)(iv) is revoked.

Paragraph 1910.141(b)(1)(vi) prohibits the use of the common drinking cup and other common utensils. A number of commenters pointed to the use of common utensils as a source of the spread of disease. OSHA has reviewed the comments and decided to retain this provision in the interest of worker protection.

Paragraph 1910.141(b)(1)(vii) provides for sanitary containers for unused drinking cups and for receptacles for used cups. A number of commenters considered this provision to be a component of the preceeding requirement prohibiting a common drinking cup. However, OSHA regards this paragraph as a separable provision and one which should be revoked because it adds unnecessary detail and is inconsequential.

Paragraph 1910.141(c)(1)(iv) requires an increase in the number of toilet facilities in accordance with the number of non-employees who are permitted use of the facilities. Although a number of commenters opposed revocation of this provision, OSHA has concluded that agency authority in this area should extend only to requiring minimum numbers of facilities for emplyees. Use of such facilities in a place of employment by the public would be more generally a problem of public health, and any additional requirements for such shared facilities beyond the OSHA provisions would appropriately fall under the purview of local or state building codes or public safety and health authorities. Further, this particular provision is in large part inconsequential in that the provision lacks substantive requirements appropriate for mandatory enforcement by this agency with respect to determining the relative usage of the facilities by the public and the number of additional water closets that would therefore be necessary.

Toilet paper and holders are required for every water closet by paragraph 1910.141(c)(1)(v). Paragraph 1910.141(c)(1)(vi) requires covered receptacles in toilet rooms used by women. The Agency has considered the arguments for and against the retention of these provisions, and as a matter of policy has adjudged them to encumber this section with unnecessary detail.

Paragraph 1910.141(c)(1)(vii) is a requirement for a minimum number of lavatories for toilet facilities. Because paragraph 1910.141(d)(1)(i) requires lavatories in all places of employment, paragraph 1910.141(c)(1)(vii) is considered as being adequately covered by other general standards. Therefore, OSHA has determined that this provision should be revoked.

Paragraph 1910.141(c)(2)(ii) and 1910.141(c)(2)(iii) are concerned with the construction details of toilet rooms and paragraphs 1910.141 (c)(3)(i), 1910.141(c)(3)(ii) and 1910.141(c)(3)(iii) are concerned with toilet facilities. OSHA has decided to revoke these provisions on the ground that they add unnecessary and non-essential detail.

The portion of paragraph 1910.141(d)(2)(i) and Table J-2 of that section which are proposed for revocation are concerned with the number of lavatories required relative to the number of employees. OSHA had reviewed the comments for and against the retention of these provisions and has determined that these provisions contain unnecessary detail. The remaining requirements for lavatories in sub-section 1910.141(d)(2) are considered adequate in addressing the need for washing facilities in a place of employment.

Paragraph 1910.141(d)(2)(v) requires that receptacles be provided for used hand towels and paragraph 1910.141(d)(2)(vi) and 1910.141 (d)(2)(vii) are concerned with specifications for warm air blowers. There was relatively little interest in these provisions by commenters. Paragraphs 1910.141(d)(2)(v) and 1910.141 (d)(2)(vi) add unnecessary detail and

paragraph 1910.141(d)(2)(vii) is an unnecessary cross reference to Subpart S which contains the necessary provisions. Therefore, these three paragraphs are revoked.

Upon reexamination of the evidence OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.141 should not be revoked.

Paragraph 1910.141(c)(1)(i)—Toilet Facilities—General.

Table J-1—Minimum number of water closets.

Paragraph 1910.141(c)(1)(ii)—Toilet Facilities—General.

Paragraph 1910.141(c)(2)(i)—Construction of toilet rooms.

Paragraph 1910.141(f)—Clothes drying facilities.

Paragraph 1910.141(g)(3)—Waste disposal containers.

§ 1910.143 Nonwater carriage disposal systems. Section 1910.143, which was proposed for revocation in its entirety, contains very detailed specifications for toilet facilities which may be used where water closets are not feasible. Comments in favor of revocation said that OSHA should not be involved with sanitary facilities in as much as general public health and sanitation are primary concerns of State and local authorities. Other comments argued that these standards are necessary to protect workers where local authorities have not issued comparable regulations.

The Agency has reviewed the comments and examined the evidence and has determined to revoke section 1910.143 in its entirety. Hazards related to inadequate nonwater carriage disposal systems or to the lack of such sanitary facilities have an intrinsic relationship to community oriented health problems rather than being limited solely to those of the workplace. Standards or specifications relating to such facilities are more properly within the purview and expertise of community or State public health officials who can determine the disposal systems most appropriate and acceptable for the local environment.

§ 1910.144 Safety color code for marking physical hazards. Section 1910.144 is concerned with the use of color only for equipment and the surfaces of various structures. Employee safety is not enhanced by such unnecessarily detailed requirements for these various colors and applications.

The majority of comments received object to the revocation of these requirements. OSHA disagrees with these commenters because the requirements in 1910.145 which are being retained will provide for adequate recognition of hazards. The colors specified in the color coding standard when used solely by themselves are not very effective since they have no criteria for the hue and, therefore, no standardization in the physical application of color coding. The protection of employees can be better addressed by the use of signs where color and legend are used. Additionally, color by itself may cause those who are visually handicapped (color blind) to fail to understand the intended message.

An example of the unnecessary detail in the standard is the use of red only for fire exits. There are several model buildings codes and many local fire and building regulations that require or permit green exit signs, thus creating a conflict with the OSHA requirements. Additionally, Subpart E, Means of Egress, 1910.37(q)(4) states that, "Every sign shall be distinctive in color and shall provide contrast with the decoration, interior finish, or other signs." This allows for flexibility and research innovation, such as the determination of an appropriate color in smoke conditions.

Another example is that other designations and not only the color green as required in 1910.144(a)(4) could serve the purpose of indicating "safety" and the location of first aid equipment (such as the cross symbol). In 1910.144(a)(5) the blue color requirements that caution against the starting, use, or movement of equipment, with no mention of how to employ the color, could be served more clearly by utilizing accident prevention signs or tags required in 1910.145(f)(i) that are used for a "temporary means of warning all concerned of a hazardous condition * * *." The vague requirement in 1910.144(a)(6) concerning the use of purple for radiation is covered in the 1910.96, Ionizing Radiation requirements. Additionally the use of black and yellow for radiation signs is finding greater acceptance nationally.

Therefore, the following provisions are revoked for color coding because they are unnecessarily detailed.

SAFETY COLOR CODE FOR MARKING PHYSICAL HAZARDS

Paragraph 1910.144(a)(1)(i)(*a*) is revoked.

Paragraph 1910.144(a)(1)(i)(*b*) is revoked.

Paragraph 1910.144(a)(1)(i)(*c*) is revoked.

Paragraph 1910.144(a)(1)(i)(*d*) is revoked.

Paragraph 1910.144(a)(1)(i)(*e*) is revoked.

Paragraph 1910.144(a)(1)(i)(*f*) is revoked.

Paragraph 1910.144(a)(1)(i)(*g*) is revoked.

Paragraph 1910.144(a)(1)(i)(*h*) is revoked.

Paragraph 1910.144(a)(1)(i)(*i*) is revoked.

Paragraph 1910.144(a)(1)(i)(*j*) is revoked.

Paragraph 1910.144(a)(1)(i)(*k*) is revoked.

Paragraph 1910.144(a)(2) is revoked.

Paragraph 1910.144(a)(4) is revoked.

Paragraph 1910.144(a)(5) is revoked.

Paragraph 1910.144(a)(6) is revoked.

Paragraph 1910.144(a)(7) is revoked.

Paragraph 1910.144(b) is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.144 should not be revoked:

Paragraph 1910.144(a)(1)(i)—Red.

Paragraph 1910.144(a)(1)(ii)—Danger.

Paragraph 1910.144(a)(1)(iii)—Stop.

Paragraph 1910.144(a)(3)—Yellow.

§ 1910.145 Specifications for accident prevention signs and tags. Section 1910.145 contains a large number of detailed requirements for the design, application, and use of signs and symbols for accident prevention. Comments were received objecting to the revocation of any of the provisions contained in this section. Several commenters objected to the loss of the standardization of accident prevention signs and tags. Additionally, several objected to the possibility of the employees not being able to recognize the purpose of a sign because of a less specified standard. OSHA disagrees with these commenters because accident prevention signs and tags can be designed and applied in a manner different from that specified in this section, and the new sign will be as effective as a sign designed in conformance with the detailed specification requirements of section 1910.145.

For example, table J-2 includes dimensional specifications for caution signs. This table is unnecessarily detailed and restrictive for sign design, thereby preventing innovative and more effective designs from being acceptable.

As another example, paragraph 1910.145(d)(6)(ii) requires the use of a specific format and standard sizes for danger signs. Other equally acceptable methods exist for designing danger signs. Therefore, the following provisions are revoked because they are unnecessarily detailed:

Paragraph 1910.145(d)(3)(i).

Paragraph 1910.145(d)(3)(ii).

Paragraph 1910.145(d)(3)(iii).

Paragraph 1910.145(d)(4)(ii).

Table J-1.

Table J-2.

Paragraph 1910.145(d)(5).

Paragraph 1910.145(d)(6)(ii).

Figure J-1.

Figure J-2.

Figure J-3.

Figure J-4.

Figure J-5.

Figure J-6.

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Figure J-7.
Paragraph 1910.145(d)(7)(i).
Paragraph 1910.145(d)(7)(ii).
Paragraph 1910.145(d)(8).
Paragraph 1910.145(d)(9).
Paragraph 1910.145(d)(11).
Paragraph 1910.145(e)(1).
Paragraph 1910.145(e)(3).
Figure J-9.
Paragraph 1910.145(e)(5).
Paragraph 1910.145(e)(6).
Paragraph 1910.145(e)(7).
Paragraph 1910.145(e)(8).
Paragraph 1910.145(f)(7)(i).
Figure J-10.
Figure J-11.
Figure J-12.
Figure J-13.
Figure J-14.
Figure J-15.
Paragraph 1910.145(f)(7)(ii)
Paragraph 1910.145(f)(8)(i).
Table J-3.
Table J-4.

There are a number of paragraphs which make reference to the unnecessarily detailed tables, figures, and paragraphs which are being revoked. For this reason, the following paragraphs are amended as shown to eliminate reference to revoked provisions:

Paragraph 1910.145(d)(1) is amended as follows:

(d) *Sign design.* (1) All signs shall be furnished with rounded or blunt corners and shall be free from sharp edges, burrs, splinters, or other sharp projections. The ends or heads of bolts or other fastening devices shall be located in such a way that they do not constitute a hazard.

Paragraph 1910.145(e)(4) is amended as follows:

(4) *Biological hazard signs.* The biological hazard warning shall be used to signify the actual or potential presence of a biohazard and to identify equipment, containers, rooms materials, experimental animals, or combinations thereof, which contain or are contaminated with viable hazardous agents. For the purpose of this paragraph the term "biological hazard," or "biohazard," shall include only those infectious agents presenting a risk or potential risk to the well-being of man. The symbol design shall be a fluorescent orange or orange-red color. Background color is optional as long as there is sufficient contrast for the symbol to be clearly defined. Appropriate wording may be used in association with the symbol to indicate the nature or identity of the hazard, name of individual responsible for its control, precautionary information, etc., but never should this information be superimposed on the symbol.

Paragraph 1910.145(f)(4)(i) is amended as follows:

(4) *Danger tags.* (i) Danger tags should be used only where an immediate hazard exists. There should be no variation in the type of design of tags posted or hung to warn of specific dangers.

Paragraph 1910.145(f)(5)(i) is amended as follows:

(5) *Caution tags.* (i) Caution tags should be used only to warn against potential hazards or to caution against unsafe practices.

Paragraph 1910.145(f)(6) is amended as follows:

(6) *Out of order tags.* Out of order tags should be used only for the specific purpose of indicating that a piece of equipment, machinery, etc., is out of order and to attempt to use it might present a hazard.

Paragraph 1910.145(d)(2)(ii), which makes reference to table J-1 is revoked.

Paragraph 1910.145(f)(1)(ii) contains a requirement related to property damage which is not within the scope of the Occupational Safety and Health Act. For this reason paragraph (f)(1)(ii) is amended as follows:

(ii) The purpose of this paragraph is to establish a set of specifications for tags based on experience and previous use. The tags are to be used in industry, mercantile establishments, or wherever such tags can be utilized to help prevent accidental injury to personnel.

Upon reexamination of the evidence OSHA has determined that in the best interest of worker protection the following provisions in 1910.145, should not be revoked.

Paragraph 1910.145(d)(2)(i)—Danger Signs.
Paragraph 1910.145(d)(4)(i)—Caution Signs.
Paragraph 1910.145(d)(6)(i)—Safety Instructions Signs.
Paragraph 1910.145(d)(11)—Symbols.
Paragraph 1910.145(f)(3)(i)—Do Not Start Tags.
Paragraph 1910.145(f)(3)(ii)—Do Not Start Tags.
Figure J-8—Poison/Electricity.

SUBPART L—FIRE PROTECTION

§ 1910.157 Portable fire extinguishers. Section 1910.157 contains several requirements which specify the exact manner to be used in mounting portable fire extinguishers and the exact manner to be used in distributing the extinguishers throughout the workplace.

For example, paragraphs 1910.157 (a)(5), (a)(6), (a)(7), and (a)(8) require specific methods of mounting extinguishers depending upon weight, height, which way instructions face, or what type of location is selected.

Some commenters disagree with the revocation of these requirements on the basis that extinguisher mounting and ease of handling is of prime consideration in fire prevention. Even though OSHA agrees that extinguisher mounting criteria are important, it also believes that such detailed requirements for extinguisher mounting are unnecessary; further, OSHA believes that paragraphs 1910.157 (a)(1), (a)(2), (a)(3), and (a)(4) provide sufficient regulation of extinguisher mounting to insure adequate employee safety.

The majority of commenters agree with OSHA that these specific provisions for the mounting of portable fire extinguishers can be revoked because they are inconsequential and are adequately covered elsewhere by another OSHA standard. Accordingly, the following paragraphs are revoked:

Paragraph 1910.157(a)(5).
Paragraph 1910.157(a)(6).
Paragraph 1910.157(a)(7).
Paragraph 1910.157(a)(8).

Certain paragraphs of section 1910.157 contain requirements which are specifically directed toward property protection. For example, paragraph 1910.157(c)(1)(iii) calls for "required building protection" to be provided by certain types of extinguishers. Paragraph 1910.157(c)(1)(v) regulates extinguishers which have been "provided for building protection." Paragraph 1910.157(c)(1)(ii) contains certain wording which applies to building protection.

Only one commenter opposed the revocation of these property protection provisions on the basis that requirements for property protection may have an affect on employee safety. All other commenters support the revocation of those provisions which address property protection. Therefore, OSHA is amending paragraph 1910.157(c)(1)(ii) by striking the words "both the building structure, if combustible and", and is revoking paragraphs 1910.157 (c)(1)(iii) and (c)(1)(v) because they are directed toward property protection.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection, the following provisions in section 1910.157 should not be revoked:

Paragraph 1910.157(d)(3)(iv)—fire extinguisher tag.
Paragraph 1910.157(d)(4)(vii)—second sentence—corrosion of water pail/extinguisher.
Paragraph 1910.157(d)(4)(viii)—record tag for hydrostatic test.

§ 1910.158 Standpipe and hose systems. Paragraph 1910.158(b)(2)(i) requires standpipes for class I service to be provided with 2½ inch hose connections on each floor. However, class I standpipe service is for use by fire departments and those trained in handling heavy fire streams (2½" hose). Class I service is directed toward protection of the building and not intended to be used by employees.

One commenter opposed the revocation of this paragraph but gave no reason. Another commenter opposed the revocation of this paragraph because it is based on a consensus standard; the commenter believes that revocation would result in less fire protection. However, all other commenters agree with OSHA that this provision is directed toward property protection and can be revoked. Additionally, class I standpipe systems are regulated by local building code and fire officials. Accordingly, paragraph 1910.158(b)(2)(i) is revoked.

Paragraph 1910.158(c)(1) addresses minimum water supplies for class I standpipe service. As stated previously, class I standpipe service is not intended to be used by employees. Instead, it is directed toward property protection and used by fire departments and those trained in handling heavy fire streams. Therefore, because class I standpipe systems are directed toward property protection, and because these systems are regulated by local building codes and fire officials, paragraphs 1910.158(c)(1)(i), 1910.158(c)(1)(ii), and 1910.158(c)(1)(iii) are revoked.

Paragraph 1910.158(c)(4) specifies requirements for standpipe fire department connections. A few commenters opposed revocation of this paragraph because they believe fire department connections for class I standpipe systems are essential to employee safety. However, the majority of commenters agree with OSHA that this paragraph is directed more toward property protection than toward employee safety. Additionally, requirements for fire department connections are regulated by building code officials and local fire officials. Therefore, paragraph 1910.158(c)(4), which prescribes requirements for fire department connections, is revoked in its entirety. This includes paragraphs 1910.158(c)(4)(i), 1910.158(c)(4)(ii), 1910.158(c)(4)(iii), 1910.158(c)(4)(iv), 1910.158(c)(4)(v), 1910.158(c)(4)(vi), 1910.158(c)(4)(vii), 1910.158(c)(4)(viii), 1910.158(c)(4)(ix), 1910.158(c)(4)(x), and 910.158(c)(4)(xi).

§ 1910.159 Automatic sprinkler systems. Section 1910.159 contains detailed requirements for fire department connections used to provide auxiliary water supplies to automatic sprinkler systems.

Comments were received which support the revocation of paragraph (b) of this section. OSHA agrees with these commenters because paragraph (b) applies to sprinkler system equipment designed primarily for property protection which will be used by persons other than employees (i.e., the public fire department). Employee evacuation at the time of a fire would limit employee exposure to the hazards needing automatic sprinkler protection and the auxiliary water supply provided by fire department connections which would therefore be used for property protection and fire control.

Therefore, the following paragraphs are revoked because they are directed toward property protection: 1910.159(b)(1) which concerns the pipe size on fire department connections; 1910.159(b)(2)(i) which concerns the use of approved straightaway check valves on fire department connections; 1910.159(b)(2)(ii) which concerns not using shutoff valves on fire department connections; 1910.159(b)(3) which concerns the use of proper support for fire department connections; 1910.159(b)(4)(i) which concerns the use of approved hose connections for fire department connections; 1910.159(b)(4)(ii) which concerns the compatibility of hose couplings on fire department connections; 1910.159(b)(4)(iii) which concerns the use of caps on hose connections on fire department connections; 1910.159(b)(4)(iv) which concerns the location and arrangement of hose connections for fire department connections; and, 1910.159(b)(4)(v) which concerns the designation of hose connections on fire department connections.

§ 1910.160 Fixed dry chemical extinguishing systems. Section 1910.160 contains a requirement for an inspection report of a dry chemical system to be filed with the employer.

Comments were received which objected to the deletion of this requirement. OSHA disagrees with these comments because the location of an inspector's report is inconsequential to employee safety as long as inspections are conducted. Employee protection is insured by paragraphs 1910.160(c)(1)(i) and 1910.160(c)(1)(ii) which require that inspections be conducted. Therefore, paragraph 1910.160(c)(1)(iii) is revoked as inconsequential to employee safety since it only requires that the inspector file his report with the employer.

SUBPART N—MATERIALS HANDLING AND STORAGE

§ 1910.176 Handling materials—general. Paragraph 1910.176(d) requires proper drainage in those areas where materials are handled by employees. OSHA has reviewed the evidence and the comments received and determined that this paragraph should be revoked. This provision is adequately covered by the requirements of paragraph 1910.22(a)(2).

§ 1910.178 Powered industrial trucks. Paragraph 1910.178(q)(11) requires only glycol base products to be used as an antifreeze in an engine cooling system. Several commenters stated that this provision should be retained because it will prevent the use of such coolants as alcohol. Another commenter stated that one type of antifreeze should not be a requirement, since others are available. OSHA has reviewed the evidence and the comments received and determined that this paragraph should be revoked because it is directed at protecting property, that is, preventing engine coolant from freezing and cracking the engine.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.178 should not be revoked:

1910.178(a)(4)—modification of trucks.
1910.178(n)(5)—railroad track consideration.
1910.178(q)(6)—altering trucks.

§ 1910.179 Overhead and gantry cranes. Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.179 should not be revoked:

1910.179(h)(2)(i)—hoisting ropes.
1910.179(h)(2)(ii)—socketing ropes.
1910.179(h)(2)(v)—sparing of clips.
1910.179(h)(2)(vi)—swaged fittings.
1910.179(h)(2)(viii)—replacement rope.
1910.179(h)(4)—hooks.
1910.179(j)(2)(vii)—inspection of rope reeving.

§ 1910.181 Derricks. Paragraph 1910.181(f)(2)(i)(g) requires that welding repairs to a derrick be approved by an appointed person. One commenter suggested that we retain this provision, while another suggested that we modify it to require reinspection of derricks on a scheduled frequency. OSHA has considered the evidence and comments received and determined that the paragraph should be revoked because the requirement is inconsequential.

Paragraph 1910.181(f)(3)(iii)(c) requires that pitted or burned electrical contacts should be replaced in sets, and controller parts should be lubricated according to the manufacturer's recommendation. One commenter recommended deletion of this provision, while another recommended a modification of the paragraph. The evidence and comments received on this paragraph has been examined by OSHA, and it has been determined that the paragraph should be revoked. This provision is primarily a requirement for improving the performance of electrical controls and not for enhancing employee safety.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in 1910.181(f) should not be revoked:

1910.181(c)(2)—nonpermanent installations.
1910.181(f)(1)—maintenance of derricks.

SUBPART O—MACHINERY AND MACHINE GUARDING

§ 1910.213 Woodworking machinery requirements. Section 1910.213 pre-

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scribes regulations for woodworking machinery. The original proposal for revocation of four provisions, based on the criteria that they were obsolete or inconsequential, generated a very limited response. The majority of commenters favored deletion. Those comments favoring retention were based on performance of the machine rather than the safety of the employee. There were no substantive objections.

The four paragraphs identified below are revoked because the provisions are either obsolete or inconsequential and in some cases, fall into both categories. Some are obsolete due to changes within the woodworking industry which have improved or altered conditions to the extent that the hazard has been eliminated and the rule is no longer valid; others are termed inconsequential because they have no direct bearing on the safety of employees, do not contain useful information, or are intended to provide operational instructions for effective machine utilization or product acceptance.

Therefore, paragraphs 1910.213(a)(3), 1910.213(m)(2), 1910.213(s)(10), and 1910.213(s)(11) are revoked.

§ 1910.215 Abrasive wheel machinery. Section 1910.215 prescribes the safety regulations for abrasive wheel machinery.

The proposed revocation of three provisions in 1910.215(c)(2), on the basis that they constitute design criteria for the use of machine manufacturers, generated little response. The one objecting comment received requested retention of a paragraph because it presently discourages the use of substitute abrasive wheel flanges and forces equipment manufacturers to comply with safe design factors.

OSHA disagrees with the objecting commenter because the flanges used to support abrasive wheels are accessory tooling provided by the machine manufacturers and impractical for the employer to fabricate. Further, the design criteria is beyond the control of the employer since it was intended to provide the manufacturer with specifications necessary for the equipment to effectively perform its function.

Paragraph 1910.215(c) covers the design and material specifications regulating abrasive wheel flanges. The three paragraphs identified below are revoked because they contain design criteria intended for machine manufacturers use and do not contribute to employee safety and health.

Therefore, paragraphs 1910.215(c)(2)(i), 1910.215(c)(2)(ii), and 1910.215(c)(2)(iii) are revoked.

1910.217 Mechanical power presses. Paragraph 1910.217(a) contains three provisions prescribing the general requirements for coming into compliance with specific portions of the power press standard.

Comments on the proposal for revocation of these paragraphs have been decidedly in favor of the action. There were no substantive objections. The three regulations that follow are revoked because they all contain effective dates that have expired and are now meaningless.

Paragraph 1910.217(a)(1), requiring new installations to be in compliance with the standard by a date that has expired, is revoked.

Paragraph 1910.217(a)(2), requiring existing installations to be in compliance with the standard by a date that has expired, is revoked.

Paragraph 1910.217(a)(3), requiring all installations to be in compliance with the standard by a date that has expired, is revoked.

Paragraph 1910.217(c) establishes the requirements for point of operations safeguarding devices used on mechanical power presses.

The proposal to revoke a portion of one provision and completely revoke three others involving the use of a sweep device because they no longer apply did not provoke many comments. There were no substantive objections. The four regulations that follow will be revoked because sweep devices as a single means of protection from the point of operation hazard are prohibited after December 31, 1976. The date after which use of the device is prohibited has passed and continued use of the performance language relating to it is no longer necessary.

Paragraph 1910.217(c)(3)(v) is amended to read, "The sweep device may not be used for point of operation safeguarding after December 31, 1976." All performance criteria for a sweep device is revoked.

Paragraph 1910.217(c)(3)(v)(*a*) providing performance criteria for a sweep device is revoked.

Paragraph (c)(3)(v)(*b*) providing performance criteria for a sweep device is revoked.

Paragraph (c)(3)(v)(c) providing performance criteria for a sweep device is revoked.

Paragraph (c)(3)(v)(*d*) providing performance criteria for a sweep device is revoked.

Paragraph 1910.217(f) regulates the operation of mechanical power presses in regard to the employment of minors, instruction to operators and inspection and maintenance of equipment.

The proposal for revocation of the paragraph dealing with the employment of minors did not generate very many comments. There were no substantive objections.

The following paragraph is revoked because minimum age for employment as a machine operator is subject to the Fair Labor Standards Act, regulated by subpart E of 29 CFR part 570, and enforced by the Wage and Hour Division of the Department of Labor.

Paragraph 1910.217(f)(1) providing minimum age requirements for employment is revoked.

1910.219 Mechanical power transmission apparatus. Section 1910.219 contains a large number of detailed requirements for the construction of guards for all types of mechanical power transmission apparatus.

An overwhelming majority of the comments received were in favor of revocation. OSHA concurs with these commenters because those regulations being retained will still provide an adequate assurance that all mechanical power transmission apparatus will be guarded to prevent accidental contact.

Twenty-eight provisions and two tables are being revoked from section 1910.219 because they contain unnecessary detail. These provisions prescribe detailed specifications for the types of materials and methods of guarding mechanical power-transmission apparatus. Other adequate materials and methods of guarding exist. It is not OSHA's intention to limit the employer to certain materials and methods of guarding, but rather to assure adequate employee protection.

For example, paragraph 1910.219(o)(1)(i)(*b*) contains detailed specifications for the bracing of guards. This requirement is unnecessarily detailed because the requirements being retained in paragraph 1910.219(o)(1)(i)(*a*) are sufficient to insure that all guards are rigidly braced.

As another example, Table O-12 contains unnecessarily detailed requirements for the types and dimensions of materials used for guards. Other equally acceptable materials exist for guarding mechanical power transmission apparatus. Therefore, the following provisions are revoked for the design and construction of mechanical power transmission apparatus guards because they are unnecessarily detailed:

Paragraph 1910.219(l)(2) is amended by striking all the text immediately following the first complete sentence.

Paragraph 1910.219(m)(1)(iii) is revoked.

Paragraph 1910.219(m)(2) is amended by striking the words, "by one of the following methods:"

Paragraph 1910.219(m)(2)(i)(*a*) is revoked.

Paragraph 1910.219(m)(2)(i)(*b*) is revoked.

Paragraph 1910.219(m)(2)(i)(c) is revoked.

Paragraph 1910.219(m)(2)(i)(*d*) is revoked.

Paragraph 1910.219(m)(2)(i)(*e*) is revoked.

Paragraph 1910.219(m)(2)(ii) is revoked.

Paragraph 1910.219(m)(2)(iii) is revoked.

Paragraph 1910.219(n)(1) is revoked.

Paragraph 1910.219(n)(2)(i) is revoked.

Paragraph 1910.219(n)(2)(ii) is revoked.

Paragraph 1910.219(n)(3) is revoked.

Paragraph 1910.219(o) is amended by striking the words, "(For the latter, see Table O-13.)".

Paragraph 1910.219(o)(1)(i) is revoked.

Paragraph 1910.219(o)(1)(i)(*b*) is revoked.

Paragraph 1910.219(o)(1)(i)(c) is revoked.

Paragraph 1910.219(o)(1)(ii) is revoked.

Paragraph 1910.219(o)(2)(ii)(*a*) is revoked.

Paragraph 1910.219(o)(2)(ii)(*b*) is revoked.

Paragraph 1910.219(o)(2)(ii)(c) is revoked.

Paragraph 1910.219(o)(2)(ii)(*d*) is revoked.

Paragraph 1910.219(o)(2)(ii)(*e*) is revoked.

Paragraph 1910.219(o)(3)(ii) is revoked.

Paragraph 1910.219(o)(3)(iv) is revoked.

Paragraph 1910.219(o)(3)(v) is revoked.

Paragraph 1910.219(o)(4) is amended by striking all the text of the paragraph following the word "guard", starting with the word "construction" and ending with "pulley".

Table O-12 of Subpart O is revoked.

Table O-13 of Subpart O is revoked.

Four provisions of section 1910.219 are being revoked because they are directed primarily toward protection of property rather than that of the employee.

Twelve of the thirteen comments received pertaining to these provisions were in favor of revocation. OSHA agrees with these commenters because these provisions do not relate to employee safety but only to property protection.

For example, paragraph 1910.219(j) calls for self-lubricating bearings. The use of self-lubricating bearings would merely facilitate the protection of the machinery in use and have no affect on employee safety. Therefore, the following provisions are revoked because they are directed toward property protection:

Paragraph 1910.219(d)(5) is revoked.

Paragraph 1910.219(j) is amended by striking the words, "Self lubricating bearings are recommended and."

Paragraph 1910.219(k)(3) is revoked.

Paragraph 1910.219(p)(6)(i) is revoked.

Two provisions of section 1910.219 are being revoked because they pertain to guarding obsolete types of mechanical power transmission apparatus. There were few comments objecting to the revocation. No comments were substantive.

The following two paragraphs pertaining to governor balls and continuous rope drives are revoked:

Paragraph 1910.219(b)(4) is revoked.

Paragraph 1910.219(e)(2)(v) is revoked.

Paragraph 1910.219(c)(5) provides regulations pertaining to power transmission apparatus located in basements. One section of this paragraph was proposed for revocation because it was adequately covered by other standards. Most of the comments agreed with OSHA. There were no substantive objections.

The following paragraph requiring the footing around power transmission apparatus to be dry, firm and level is revoked because it is adequately covered by the general housekeeping requirements in section 1910.22.

Paragraph 1910.219(c)(5)(iv) is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in paragraph 1910.219(c) should not be revoked:

Paragraph 1910.219(c)(5)(v)—Protection for the oiler.

SUBPART P—HAND AND PORTABLE POWERED TOOLS AND OTHER HAND-HELD EQUIPMENT

§ 1910.241 Definitions. Paragraph 1910.241(c) defines eleven power lawnmower terms. OSHA has reviewed the evidence and the comments received and determined that this paragraph should be revoked. These definitions contain unnecessary detail because the terms defined are in common usage. In addition, paragraph 1910.243(e)(1)(i) references "American National Standard Safety Specifications for Power Lawnmowers, ANSI B71.1-1968," which is the source of these definitions. Therefore, the following provisions, which define specific power lawnmower terms, are revoked because they are unnecessarily detailed:

Paragraph 1910.241(c)(1)—Blade Tip Circle.

Paragraph 1910.241(c)(2)—Guards.

Paragraph 1910.241(c)(3)—Catcher Assemblies.

Paragraph 1910.241(c)(4)—Walk-Behind Mower.

Paragraph 1910.241(c)(5)—Operator Area, Walk-Behind Mower.

Paragraph 1910.241(c)(6)—Power Reel Mower.

Paragraph 1910.241(c)(7)—Power Rotary Mower.

Paragraph 1910.241(c)(8)—Lowest Blade Position.

Paragraph 1910.241(c)(9)—Riding Mower.

Paragraph 1910.241(c)(10)—Sulky Type Mower.

Paragraph 1910.241(c)(11)—Deadman Control.

§ 1910.243 Guarding of portable powered tools. Paragraph 1910.243(d)(2) prescribes regulations for explosive actuated fastening tools. OSHA has examined the evidence and the comments received, and determined that the three provisions in this paragraph proposed for amendment should be amended. The amendments would remove safety requirements which are based on the manufacturer's discretion.

Paragraph 1910.243(d)(2)(i), 1910.243(d)(2)(ii), and 1910.243(d)(2)(iii) identify the requirements of design and the characteristics of different types of explosive actuated fastening tools. In addition, these paragraphs require OSHA to enforce the addition of any safety feature the manufacturer may wish to incorporate on such tools. Due to the wording of these provisions, OSHA could not effectively challenge any safety feature added by the manufacturer.

OSHA has reviewed the comments and the evidence and determined that the three paragraphs 1910.243(d)(2)(i), 1910.243(d)(2)(ii), and 1910.243(d)(2)(iii) be amended as follows: Strike from paragraphs 1910.243(d)(2)(i) and 1910.243(d)(2)(iii) the words "and, at the discretion of the manufacturer, any additional safety feature he may wish to incorporate," and from paragraph 1910.243(d)(2)(ii) the words "at the discretion of the manufacturer."

Paragraph 1910.243(d)(3) and Table P-1 identify the requirements for loads and fasteners and contain detailed requirements for identifying the power levels of loads used in explosive actuated fastening tools, by means of a uniform color and numbering system. OSHA has examined the evidence and determined that the provisions and Table proposed for revocation in this paragraph should be revoked because they contain unnecessary detail.

The revocation will not remove the performance requirement that there be a standard means of identifying the power levels of loads used in such tools. Therefore, paragraph 1910.243(d)(3)(i) is amended by striking the last two sentences. Paragraph 1910.243(d)(3)(ii) and Table P-1 are revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in 1910.243 should not be revoked:

1910.243(e)—Power lawnmowers.

SUBPART Q—WELDING, CUTTING, AND BRAZING

§ 1910.252 Welding, cutting, and brazing. This section prescribes regu-

There were seven comments regarding the amendment of paragraph 1910.252(a)(5)(vi)(*d*) concerned with union nuts and connections on regula-

thorities; therefore, this paragraph is amended by striking the second sentence.

Two commenters objected to the

precautions. Several of the commenters stated that the paragraph should be retained because it required a job hazard analysis to be made or

are in effect. OSHA has determined that the requirement is related to public safety, not to the employee's safety. Therefore, paragraph

Paragraph 1910.266(d)(2)(ii) relates to design details for protective canopy. It is revoked because it is encumbered by unnecessary detail.

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SUBPART Q—WELDING, CUTTING, AND BRAZING

§ 1910.252 Welding, cutting, and brazing. This section prescribes regulations for the safety and health of employees engaged in welding, cutting, and brazing and any other employees who may be exposed to the hazards created by such activities.

OSHA has determined that some of the requirements contained in this section are not necessary for the safety and health of the employee.

A total of 107 comments were received on the proposed amendment of the section, with some commenting on more than one provision. Each comment was considered by OSHA in making its decision on the final rule. A discussion of the comments with OSHA's disposition of them follows.

Several comments were made on subjects not contained in the proposal. Several commenters recommended rewriting of portions or all of some of the rules. These comments dealt with subject matter which is outside of the scope of the proposal and are not discussed.

There were three comments received on the proposal to amend paragraph 1910.252(a)(4)(iii)(*b*) concerned with servicing piping systems by striking the first sentence thereof. All three commenters were in agreement with the proposed amendment.

OSHA has determined that the striking of the first sentence would not adversely affect the safety of employees. Since this sentence is only informational in nature, it is not enforceable and is inconsequential. Paragraph 1910.252(a)(4)(iii)(*b*) is therefore amended by striking the first sentence.

Ten comments were received on the proposal to revoke paragraph 1910.252(a)(5)(v)(*b*); colors for hose and hose connections. One agreed with the proposal as written and nine were opposed. All of the comments opposed stated one or both of the following reasons as to why they opposed the revoking of paragraph 1910.252 (a)(5)(v)(*b*): (a) That color coding of acetylene, oxygen, and air hoses is a universally accepted practice in welding; (b) That removing a requirement for color coding of hoses could result in the mixing of the gases, creating a serious hazard to the employee.

Paragraph 1910.252(a)(5)(v)(*b*) is only informational in nature and does not contain any requirements for color coding of hoses. It only states a generally recognized practice; it is unenforceable and is of inconsequential value to the standard. For these reasons OSHA does not agree with the recommendations of the commenters. Paragraph 1910.252(a)(5)(v)(*b*) is therefore revoked.

There were seven comments regarding the amendment of paragraph 1910.252(a)(5)(vi)(*d*) concerned with union nuts and connections on regulators by striking the last sentence. Two of the commenters favored the proposal and five of the commenters were opposed. All five of the commenters who were opposed took the position that destroying the nuts and connectors would prevent other employees from using faulty equipment. OSHA feels that adequate protection remains in the portion of the paragraph being retained and the striking of the sentence as proposed would not have adverse effect upon the safety of employees since the requirement is of inconsequential value to the standard. Paragraph 1910.252(a)(5)(vi)(*d*) is therefore amended by striking the last sentence.

There were three comments received on the amendment of paragraph 1910.252(a)(6)(iv)(*b*)(*1*) concerned with venting of acetylene generators. Two of the commenters agreed with the proposed amendment. One commenter was opposed to the amendment. The commenter who opposed revocation stated that the proper construction of a vent pipe is considered a safety workman's item and that broken and corroded pipe can discharge acetylene into the working space.

OSHA is of the opinion that to burden the standard with unnecessary details of vent pipe construction tends to inhibit those who seek better means of constructing vent pipes. The provision of adequate venting remains in the standard, thus assuring employee protection. Paragraph 1910.252 (a)(6)(iv)(*b*)(*1*) is therefore amended by striking all of the provision after "each generator shall be provided with a vent pipe." For these reasons, the proposed amendment is adopted.

There were four comments received on the proposed amendment to paragraph 1910.252(a)(6)(vi)(*a*)(*7*); outside generation houses and inside generation rooms for stationary acetylene generators. One commenter recommended that the words "of ample size" be defined. OSHA has determined that the words "of ample size" are vague in meaning and of no consequence for the purposes of the standard; therefore, paragraph 1910.252 (a)(6)(vi)(*a*)(7) is amended by striking the words "of ample size."

Two commenters objected to the revocation of paragraph 1910.252 (a)(7)(ii)(*c*); calcium carbide storage, expressing concern about the safety of workers in adjacent buildings.

OSHA is of the opinion that this type of requirement is addressed to public safety and/or protection of property, neither of which is properly the function of OSHA. OSHA is of the further opinion that this type of protection is best afforded by local authorities; therefore, this paragraph is amended by striking the second sentence.

Two commenters objected to the revocation of paragraph 1910.252(a)(7)(iii)(*d*); storage outdoors. The reasons they stated were the protection of adjacent buildings and the employees therein. OSHA disagrees, since this paragraph is concerned with public safety and/or protection of property. The paragraph is therefore revoked.

There was no public comment received on paragraphs 1910.252(a)(8)(i) thru (a)(8)(ii)(*i*)(*3*) concerning public exhibitions and demonstrations which were proposed for revocation. These paragraphs contain many detailed requirements for public exhibitions and demonstrations, all of which relate to protection of the public, rather than employees. The following paragraphs are therefore revoked:

Paragraph 1910.252(a)(8)(i).
Paragraph 1910.252(a)(8)(ii)(*a*).
Paragraph 1910.252(a)(8)(ii)(*b*).
Paragraph 1910.252(a)(8)(ii)(*c*).
Paragraph 1910.252(a)(8)(ii)(*d*).
Paragraph 1910.252(a)(8)(ii)(*e*).
Paragraph 1910.252(a)(8)(ii)(*f*).
Paragraph 1910.252(a)(8)(ii)(*g*)(*1*).
Paragraph 1910.252(a)(8)(ii)(*g*)(*2*).
Paragraph 1910.252(a)(8)(ii)(*h*).
Paragraph 1910.252(a)(8)(ii)(*i*)(*1*).
Paragraph 1910.252(a)(8)(ii)(*i*)(*2*).
Paragraph 1910.252(a)(8)(ii)(*i*)(*3*).

Four comments were received on the proposed amendment to paragraph 1910.252(b)(2)(iv)(*b*) concerned with control handles for arc welding machines. They stated that retention of the requirement to easily grasp control handles with a gloved hand would make it more convenient for the welder to grasp the wheel or control handles. Two commenters thought that revocation of the requirement could result in a hazard in an emergency but did not support their contention with any data or other pertinent information.

OSHA is of the opinion that this is a requirement concerned with the convenience of the employee. Lacking any substantial evidence to the contrary, paragraph 1910.252(b)(2)(iv)(*b*) is hereby amended by striking the last sentence.

There were two comments received concerning the proposed amendment to paragraph 1910.252(c)(3)(iii) concerned with the fabrication of a clevis used for attachment to safety chains, both in agreement with the proposal. OSHA has determined that the information proposed for deletion is obsolete. Paragraph 1910.252(c)(3)(ii) is hereby amended by striking the first sentence.

Thirteen comments were received concerning the proposed revocation of paragraph 1910.252(c)(5); hazards and

precautions. Several of the commenters stated that the paragraph should be retained because it required a job hazard analysis to be made or that it related to job hazard analysis in welding. One commenter stated that job hazard analysis is an accepted safety engineering technique. None of the commenters supplied any material, information or data to support their contentions that the requirement should be retained.

Job hazard analysis is one of many techniques that can produce such information. OSHA believes that the requirement of one technique to the exclusion of all others may inhibit the use of newer or alternate methods. This could have a retarding effect upon the development of newer and better technology. The freezing of the state-of-the-art by prescribing a single specification would place undue restraints on those who wish to advance the state-of-the-art or raise the level of safety voluntarily. For these reasons, the recommendations of the commenters are not adopted. Paragraph 1910.252(c)(5) is therefore revoked.

Paragraph 1910.252(e)(3)(ii) contains a great many detailed requirements for protective clothing to be used by welders and was proposed for revocation in its entirety. Since all the requirements relate to the same specific subject matter they are consolidated for the purpose of discussion.

A significant number of comments were received stating that the requirements should be retained because they related to specified protective clothing for welders. OSHA has determined that all of the requirements proposed to be revoked are adequately covered by other general standards, specifically, Subpart I—Personal Protective Equipment, section 1910.132, general provisions, paragraphs 1910.132 (a), (b), and (c) and section 1910.135, occupational head protection.

In view of the fact that none of the commenters furnished any substantial information or facts to show that adequate safety is not provided by sections 1910.132 and 1910.135, the following paragraphs are hereby revoked:

Paragraph 1910.252(e)(3)(ii).
Paragraph 1910.252(e)(3)(ii)(*a*).
Paragraph 1910.252(e)(3)(ii)(*b*).
Paragraph 1910.252(e)(3)(ii)(*c*).
Paragraph 1910.252(e)(3)(ii)(*d*).
Paragraph 1910.252(e)(3)(ii)(*e*).
Paragraph 1910.252(e)(3)(ii)(*f*).
Paragraph 1910.252(e)(3)(ii)(*g*).
Paragraph 1910.252(e)(3)(ii)(*h*).
Paragraph 1910.252(e)(3)(ii)(*i*).

There were two comments made concerning the proposed amendment to paragraph 1910.252(f)(1)(v)(*b*); precautionary labels. One commenter recommended that the requirement be retained until other labeling standards are in effect. OSHA has determined that the requirement is related to public safety, not to the employee's safety. Therefore, paragraph 1910.252(f)(1)(v)(*b*) is amended by striking the sentence "Keep children away when using," in the warning notice.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision in paragraph 1910.252(f) should not be revoked:

Paragraph 1910.252(f)(1)(v)—Precautionary labels.

SUBPART R—SPECIAL INDUSTRIES

§ 1910.261 Pulp, paper and paperboard mills. Paragraph 1910.261(d) prescribes requirements concerning the handling and storage of raw materials other than pulpwood or pulp chips in the pulp, paper and paperboard mills. OSHA has reviewed the comments received and determined that the one sentence proposed for revocation should be revoked.

Paragraph 1910.261(d)(4)(iv) is amended by revoking the last sentence of this paragraph which relates to portable roll chocks because it is concerned with comfort and convenience, and not with employee safety.

Paragraph 1910.261(k) prescribes requirements concerning paper machine rooms. OSHA has reviewed the comments received and determined that the one provision proposed for revocation should be revoked.

Paragraph 1910.261(k)(23) requires a clearance of at least 8 inches between reels of paper to enable forklift trucks to lift the reels. This paragraph is revoked because it does not relate to employee safety.

§ 1910.265 Sawmills. Paragraph 1910.265(c) prescribes requirements concerning building facilities and isolated equipment in sawmills. OSHA has reviewed the comments received and determined that the two requirements proposed for revocation should be revoked.

Paragraph 1910.265(c)(20)(iv) relates to possibility of clogging in exhaust pipes. It is revoked because it is directed to property protection, and not employee safety.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection the following provisions in 1910.265 should not be revoked:

1910.265(c)(7)—air requirements.
1910.265(f)(8)—kiln tender room.

Paragraph 1910.266(d) is concerned with equipment protective devices for stationary and mobile equipment in the pulpwood logging industry. OSHA has reviewed the comments received and determined that the one provision proposed for revocation should be revoked.

Paragraph 1910.266(d)(2)(ii) relates to design details for protective canopy. It is revoked because it is encumbered by unnecessary detail.

Paragraph 1910.266(e) is concerned with pulpwood harvesting in the pulpwood logging industry. OSHA has reviewed the comments received and determined that the two provisions proposed for revocation should be revoked.

Paragraph 1910.266(e)(1)(ii) requires that a flagman be assigned to direct traffic if trees being harvested fall into public roads. This standard is revoked because it is directed toward public safety.

Paragraph 1910.266(e)(9) requires truck drivers to check and tighten loose load binders before entering a public road. It is revoked because it is directed toward public safety.

Upon reexamination of the evidence, OSHA has determined that in the best interest of worker protection the following provisions in 1910.266(c) should not be revoked:

1910.266(c)(5)(ii)—chain saw instructions.
1910.266(c)(6)(i)—equipment instructions.

§ 1910.268 Telecommunications. Section 1910.268 is concerned with safety in telecommunications. Three paragraphs of this section were proposed for revocation and are now revoked. Paragraph 1910.268(f)(3) permits the use of multiply construction with contrasting colors for insulating gloves. OSHA has examined the comments received and determined that this paragraph is inconsequential and is revoked without compromising employee safety because it does not contain any requirement. It simply permits the use of multiply construction with contrasting colors in the plies.

Paragraph 1910.268(g)(2)(ii)(*b*)(*4*) is revoked as it contains detailed requirements for the placement of pocket tabs on body belts. Five commenters favored revocation claiming that it was a manufacturing detail not related to safety. One commenter simply stated that they were not in favor of revoking it but did not give any reason. OSHA has reviewed the comments received and determined that this provision is encumbered with unnecessary detail and may be revoked without jeopardizing employee safety.

Paragraph 1910.268(g)(2)(ii)(*c*) specifies the number of tool loops on a body belt. OSHA has examined the comments received and determined that this requirement is inconsequential and provides no determinable safety to the employee. Therefore, its revocation would not compromise employee safety.

SUBPART S—ELECTRICAL

§ 1910.308 Application. Paragraph 1910.308(c) states the scope of Subpart

conditions at the worksite, the violations directly or immediately related to employee safety and health. See 42 FR 62735. Where a technical violation

tions thereof 29 CFR Part 1910 which are listed below.

Signed at Washington, D.C., this

17. Paragraph (b)(5) of § 1910.25 is revoked.
18. Paragraph (c)(1)(i) of § 1910.25 is revoked.
53. Paragraph (c)(3) of § 1910.25 is revoked.
54. Paragraph (c)(3)(*i*)(*a*) of § 1910.25
89. Paragraph (c)(4)(i)(*a*) of § 1910.25 is revoked.
90. Paragraph (c)(4)(i)(*b*) of § 1910.25

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SUBPART S—ELECTRICAL

§ 1910.308 Application. Paragraph 1910.308(c) states the scope of Subpart S. Paragraph 1910.308(c)(1) is amended by striking the words, "public and private." Since all buildings and other premises are either public or private, the words "public and private" are an unnecessary detail which can be deleted without affecting the scope of the standard.

SUBPART Z—TOXIC AND HAZARDOUS SUBSTANCES LIST

§ 1910.1003-.1017 Paragraph (d)(1) of OSHA standards for cancer causing substances, codified under 1910.1003 thru 1910.1016, and paragraphs (e)(2) and (m)(1)(ii) of 1910.1017, require a daily roster of employees entering regulated areas where potential exposure to these agents could occur. Some commenters argued that these provisions should be retained, because such data could prove value for epidemiological research, for purposes of enforcement and as an adjunct to medical and environmental testing. Information of this general class concerning worker exposure conditions is of considerable value to epidemiological research and is useful for other purposes. However, the Agency has determined that these particular requirements, in the form as written into this group of standards, are of limited benefit in achieving the intended purposes, and therefore add unnecessary detail and do not substantially contribute to employee safety and health. Other paragraphs within these standards relating to employee exposure to these substances, for example, section (f) "Reports" and section (g), "Medical Surveillance"of 1910.1003-.1017 do contain certain recordkeeping requirments which the Agency believes, are necessary and useful and therefore the Agency did not propose to revoke these sections.

These standards will be examined under the continuing review of each subpart of 1910 and revised as necessary to conform with the framework for employee exposure monitoring and recordkeeping established in more recent standards and under the Agency's general policy and procedure for the regulation of carcinogens.

V. Termination of Interim Enforcement Policy

In conjunction with the proposal to revoke these standards, an interim enforcement policy was implemented by Progam Directives Nos. 200-67 and 200-68 under section 9(a) of the OSH Act, 29 USC § 658(a). Under this interim enforcement policy, violations of the provisions proposed for revocation were treated as de minimis except in those instances where, as a result of conditions at the worksite, the violations directly or immediately related to employee safety and health. See 42 FR 62735. Where a technical violation was found to exist which did not directly or immediatley relate to employee safety and health, it was simply brought to the attention of the employer without need of further employer corrective action.

With the promulgation of this final rule, the interim enforcement policy is being terminated. New Program Directive No. 200-89 revokes Program Directive No. 200-68 with respect to standards involved in this rulemaking upon its effective date. Program Directive 200-67 stating OSHA's enforcement policy regarding de minimis situations generally continues in effect.

Standards proposed for revocation but not revoked will be enforced in accordance with the procedures and policies in effect prior to commencement of this rulemaking.

VI. Economic Impact

In accordance with Executive Order 11821 (39 FR 41501, November 29, 1974), Executive Order 11949 (42 FR 1017, January 5, 1977) and OMB Circular No. A-107 (January 28, 1975), OSHA assessed the potential economic impact of the proposal which is resulting in this final rule. Based on the six economic thresholds, OSHA concluded that the subject matter of the proposal was not a "major" action which would necessitate further economic impact evaluation or the preparation of an Economic Impact Statement. No new evidence has come before the Agency to alter its initial findings in the area of economic impact. Therefore, upon consideration of the entire record using the same criteria, OSHA has concluded that this final rule is not a "major" action, and that no Economic Impact Statement is required, and so certifies.

VII. Effective Date

The revocations listed herein shall be effective as of November 24, 1978.

VIII. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to section 4(b)(2), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 29 U.S.C. 653, 655, 657), the specific statutes referred to in section 4(b)(2), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations, is hereby amended by revoking those selected standards or portions thereof 29 CFR Part 1910 which are listed below.

Signed at Washington, D.C., this 20th day of October, 1978.

These amendments are effective on November 24, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

Accordingly, Part 1910 of 29 CFR is amended as follows:

Subpart D—Walking-Working

§ 1910.23 Guarding floor and wall openings and holes [Amended]

1. Paragraph (e)(3) of § 1910.23 is revoked.

2. Paragraph (e)(3)(*v*)(*d*) of § 1910.23 is revoked.

§ 1910.24 Fixed industrial stairs [Amended]

3. Paragraph (k) of § 1910.24 is revoked.

4. Paragraph (b)(1)(i) of § 1910.25 is amended by deleting the phrases: "of the species specified in Table D-5, seasoned to a moisture content of not more than 15 percent; smoothly machined and dressed on all sides;" and "except as hereinafter provided". As amended, § 1910.25(b)(1)(i) reads as follows:

§ 1910.25 Portable wood ladders.

* * * * *

(b) *Materials.* (1) *Requirements applicable to all wood parts.* (i) All wood parts shall be free from sharp edges and splinters; sound and free from accepted visual inspection from shake, wane, compression failures, decay, or other irregularities. Low density wood shall not be used.

* * * * *

5. Paragraph (b)(1)(ii) of § 1910.25 is revoked.

6. Paragraph (b)(2)(i) of § 1910.25 is revoked.

7. Paragraph (b)(2)(ii) of § 1910.25 is revoked.

8. Paragraph (b)(2)(iii) of § 1910.25 is revoked.

9. Paragraph (b)(2)(iv) of § 1910.25 is revoked.

10. Paragraph (b)(2)(v) of § 1910.25 is revoked.

11. Paragraph (b)(3)(i) of § 1910.25 is revoked.

12. Paragraph (b)(3)(ii) of § 1910.25 is revoked.

13. Paragraph (b)(3)(iii) of § 1910.25 is revoked.

14. Paragraph (b)(4) of § 1910.25 is revoked.

15. Paragraph (b)(4)(i) of § 1910.25 is revoked.

16. Paragraph (b)(4)(ii) of § 1910.25 is revoked.

17. Paragraph (b)(5) of § 1910.25 is revoked.

18. Paragraph (c)(1)(i) of § 1910.25 is revoked.

19. Paragraph (c)(1)(ii) of § 1910.25 is revoked.

20. Paragraph (c)(1)(iii) of § 1910.25 is revoked.

21. Paragraph (c)(1)(iii)(*a*) of § 1910.25 is revoked.

22. Paragraph (c)(1)(iii)(*b*) of § 1910.25 is revoked.

23. Paragraph (c)(1)(iii)(*c*) of § 1910.25 is revoked.

24. Paragraph (c)(1)(iii)(*d*) of § 1910.25 is revoked.

25. Paragraph (c)(2)(i)(*a*) of § 1910.25 is revoked.

26. Paragraph (c)(2)(i)(*d*) of § 1910.25 is revoked.

27. Paragraph (c)(2)(i)(*e*) of § 1910.25 is revoked.

28. Paragraph (c)(2)(i)(*g*) of § 1910.25 is revoked.

29. Paragraph (c)(2)(i)(*h*) of § 1910.25 is revoked.

30. Paragraph (c)(2)(i)(*i*) of § 1910.25 is revoked.

31. Paragraph (c)(2)(ii)(*a*)(1) of § 1910.25 is revoked.

32. Paragraph (c)(2)(ii)(*a*)(2) of § 1910.25 is revoked.

33. Paragraph (c)(2)(ii)(*b*) of § 1910.25 is revoked.

34. Paragraph (c)(2)(ii)(*c*) of § 1910.25 is revoked.

35. Paragraph (c)(2)(ii)(*c*)(*1*) of § 1910.25 is revoked.

36. Paragraph (c)(2)(ii)(*c*)(*2*) of § 1910.25 is revoked.

37. Table D-2 of Subpart D is revoked.

38. Table D-3 of Subpart D is revoked.

39. Paragraph (c)(2)(ii)(*d*) of § 1910.25 is revoked.

40. Paragraph (c)(2)(iii)(*a*)(*1*) of § 1910.25 is revoked.

41. Paragraph (c)(2)(iii)(*a*)(*2*) of § 1910.25 is revoked.

42. Paragraph (c)(2)(iii)(*b*) of § 1910.25 is revoked.

43. Paragraph (c)(2)(iii)(*c*) of § 1910.25 is revoked.

44. Paragraph (c)(2)(iii)(*c*)(*1*)(*i*) of § 1910.25 is revoked.

45. Paragraph (c)(2)(iii)(*c*)(*1*)(*ii*) of § 1910.25 is revoked.

46. Paragraph (c)(2)(iii)(*c*)(*2*) of § 1910.25 is revoked.

47. Paragraph (c)(2)(iii)(*c*)(*3*) of § 1910.25 is revoked.

48. Paragraph (c)(2)(iv)(*a*) of § 1910.25 is revoked.

49. Paragraph (c)(2)(iv)(*b*) of § 1910.25 is revoked.

50. Paragraph (c)(2)(iv)(c) of § 1910.25 is revoked.

51. Paragraph (c)(2)(iv)(*c*)(*1*) of § 1910.25 is revoked.

52. Paragraph (c)(2)(iv)(*c*)(*2*) of § 1910.25 is revoked.

53. Paragraph (c)(3) of § 1910.25 is revoked.

54. Paragraph (c)(3)(*i*)(*a*) of § 1910.25 is revoked.

55. Paragraph (c)(3)(i)(*b*) of § 1910.25 is revoked.

56. Paragraph (c)(3)(i)(c) of § 1910.25 is revoked.

57. Paragraph (c)(3)(i)(*d*) of § 1910.25 is revoked.

58. Paragraph (c)(3)(i)(*e*) of § 1910.25 is revoked.

59. Paragraph (c)(3)(i)(*f*) of § 1910.25 is revoked.

60. Paragraph (c)(3)(i)(*g*) of § 1910.25 is revoked.

61. Paragraph (c)(3)(i)(*h*) of § 1910.25 is revoked.

62. Paragraph (c)(3)(i)(*i*) of § 1910.25 is revoked.

63. Paragraph (c)(3)(i)(*j*) of § 1910.25 is revoked.

64. Paragraph (c)(3)(ii)(*b*) of § 1910.25 is revoked.

65. Paragraph (c)(3)(ii)(c) of § 1910.25 is revoked.

66. Paragraph (c)(3)(ii)(*d*) of § 1910.25 is revoked.

67. Paragraph (c)(3)(iii)(*b*) of § 1910.25 is revoked.

68. Paragraph (c)(3)(iii)(c) of § 1910.25 is revoked.

69. Paragraph (c)(3)(iii)(*d*) of § 1910.25 is revoked.

70. Paragraph (c)(3)(iii)(*e*) of § 1910.25 is revoked.

71. Paragraph (c)(3)(iii)(*f*) of § 1910.25 is revoked.

72. Paragraph (c)(3)(iii)(*g*)(*1*) of § 1910.25 is revoked.

73. Paragraph (c)(3)(iii)(*g*)(*2*) of § 1910.25 is revoked.

74. Paragraph (c)(3)(iv)(*b*) of § 1910.25 is revoked.

75. Paragraph (c)(3)(iv)(c) of § 1910.25 is revoked.

76. Paragraph (c)(3)(iv)(c)(*1*) of § 1910.25 is revoked.

77. Paragraph (c)(3)(iv)(c)(*2*) of § 1910.25 is revoked.

78. Paragraph (c)(3)(iv)(c)(*3*) of § 1910.25 is revoked.

79. Paragraph (c)(3)(iv)(c)(*4*) of § 1910.25 is revoked.

80. Table D-4 of Subpart D is revoked.

81. Paragraph (c)(3)(v)(*b*) of § 1910.25 is revoked.

82. Paragraph (c)(3)(v)(c) of § 1910.25 is revoked.

83. Paragraph (c)(3)(v)(*d*) of § 1910.25 is revoked.

84. Paragraph (c)(3)(v)(*e*) of § 1910.25 is revoked.

85. Paragraph (c)(3)(v)(*f*) of § 1910.25 is revoked.

86. Paragraph (c)(3)(v)(*g*) of § 1910.25 is revoked.

87. Paragraph (c)(4) of § 1910.25 is revoked.

88. Paragraph (c)(4)(i) of § 1910.25 is revoked.

89. Paragraph (c)(4)(i)(*a*) of § 1910.25 is revoked.

90. Paragraph (c)(4)(i)(*b*) of § 1910.25 is revoked.

91. Paragraph (c)(4)(i)(c) of § 1910.25 is revoked.

92. Paragraph (c)(4)(i)(*d*) of § 1910.25 is revoked.

93. Paragraph (c)(4)(i)(*e*) of § 1910.25 is revoked.

94. Paragraph (c)(4)(i)(*f*) of § 1910.25 is revoked.

95. Paragraph (c)(4)(ii)(*b*) of § 1910.25 is revoked.

96. Paragraph (c)(4)(ii)(*b*)(*1*) of § 1910.25 is revoked.

97. Paragraph (c)(4)(ii)(*b*)(*2*) of § 1910.25 is revoked.

98. Paragraph (c)(4)(iii)(*b*) of § 1910.25 is revoked.

99. Paragraph (c)(4)(iii)(c) of § 1910.25 is revoked.

100. Paragraph (c)(4)(iii)(*d*) of § 1910.25 is revoked.

101. Paragraph (c)(5)(ii) of § 1910.25 is revoked.

102. Paragraph (c)(5)(iii) of § 1910.25 is revoked.

103. Paragraph (c)(5)(iv) of § 1910.25 is revoked.

104. Paragraph (c)(5)(v) of § 1910.25 is revoked.

105. Paragraph (c)(5)(vi)(*a*) of § 1910.25 is revoked.

106. Paragraph (c)(5)(vi)(*b*) of § 1910.25 is revoked.

107. Paragraph (c)(5)(vi)(c) of § 1910.25 is revoked.

108. Paragraph (c)(5)(vi)(*d*) of § 1910.25 is revoked.

109. Paragraph (c)(5)(vii)(*a*) of § 1910.25 is revoked.

110. Paragraph (c)(5)(vii)(*b*) of § 1910.25 is revoked.

111. Paragraph (c)(5)(vii)(c) of § 1910.25 is revoked.

112. Paragraph (c)(5)(vii)(*d*) of § 1910.25 is revoked.

113. Paragraph (c)(5)(vii)(*e*) of § 1910.25 is revoked.

114. Paragraph (c)(5)(vii)(*f*) of § 1910.25 is revoked.

115. Paragraph (d)(1)(v) of § 1910.25 is revoked.

116. Paragraph (d)(1)(vi) of § 1910.25 is revoked.

117. Paragraph (d)(1)(vii) of § 1910.25 is revoked.

118. Paragraph (d)(1)(viii) of § 1910.25 is revoked.

119. Paragraph (d)(1)(ix) of § 1910.25 is revoked.

120. Paragraph (d)(2)(xxi) of § 1910.25 is revoked.

121. Table D-5 of Subpart D is revoked.

§1910.26 Portable Metal Ladders [Amended]

122. Paragraph (a)(1)(i) of § 1910.26 is revoked.

123. Paragraph (a)(1)(ii) of § 1910.26 is revoked.

124. Paragraph (a)(1)(iv) of § 1910.26 is revoked.

125. Paragraph (a)(1)(vi) of § 1910.26 is revoked.

158. Paragraph (v) of § 1910.28 is amended by deleting the words, "construction, alteration, demolition and".

182. Table H-4 of Subpart H is amended by striking line 12 thereof the footnote to the Table designated by "* * * *".

213. Paragraph (b)(5)(vi)(*e*) of § 1910.106 is revoked.

214. Paragraph (d)(5)(iv)(*a*) of § 1910.106 is revoked.

242. Paragraph (c)(2)(iii) is amended by striking the second sentence thereof.

264. Paragraph (i)(2)(iii)(*e*) of § 1910.109 is amended by striking the words, "or adjoining property".

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124. Paragraph (a)(1)(iv) of § 1910.26 is revoked.
125. Paragraph (a)(1)(vi) of § 1910.26 is revoked.
126. Paragraph (a)(2)(v)(*a*) of § 1910.26 is revoked.
127. Paragraph (a)(2)(v)(*b*) of § 1910.26 is revoked.
128. Paragraph (a)(3)(i) of § 1910.26 is revoked.
129. Paragraph (a)(3)(ii) of § 1910.26 is revoked.
130. Paragraph (a)(3)(iv) of § 1910.26 is revoked.
131. Paragraph (a)(3)(v) of § 1910.26 is revoked.
132. Paragraph (a)(3)(vi) of § 1910.26 is revoked.
133. Paragraph (a)(4)(ii) of § 1910.26 is revoked.
134. Paragraph (a)(4)(iii) of § 1910.26 is revoked.
135. Paragraph (a)(4)(iv) of § 1910.26 is revoked.
136. Paragraph (a)(4)(v) of § 1910.26 is revoked.
137. Paragraph (a)(5)(ii) of § 1910.26 is revoked.
138. Paragraph (a)(5)(iii) of § 1910.26 is revoked.
139. Paragraph (a)(5)(iv) of § 1910.26 is revoked.
140. Paragraph (a)(5)(v) of § 1910.26 is revoked.
141. Paragraph (a)(5)(vi) of § 1910.26 is revoked.
142. Paragraph (b)(1) of § 1910.26 is revoked.
143. Paragraph (b)(2)(i) of § 1910.26 is revoked.
144. Paragraph (b)(2)(ii) of § 1910.26 is revoked.
145. Paragraph (b)(2)(iii) of § 1910.26 is revoked.
146. Paragraph (b)(2)(iv) of § 1910.26 is revoked.
147. Paragraph (b)(2)(v) of § 1910.26 is revoked.
148. Paragraph (b)(2)(vi) of § 1910.26 is revoked.
149. Paragraph (b)(2)(vii) of § 1910.26 is revoked.
150. Paragraph (b)(3)(i)(*a*) of § 1910.26 is revoked.
151. Paragraph (b)(3)(i)(*b*) of § 1910.26 is revoked.
152. Paragraph (b)(3)(ii) of § 1910.26 is revoked.
153. Table D-6 of Subpart D is revoked.
154. Paragraph (c)(2)(i) of § 1910.26 is revoked.
155. Paragraph (c)(2)(ii) of § 1910.26 is revoked.
156. Paragraph (c)(2)(iii) of § 1910.26 is revoked.

§ 1910.28 Safety requirements for scaffolds [Amended]

157. Paragraph (i)(2) of § 1910.28 is revoked.

158. Paragraph (v) of § 1910.28 is amended by deleting the words, "construction, alteration, demolition and".

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

§ 1910.66 Powered platforms for exterior building maintenance [Amended]

159. Paragraph (c)(20)(ii) of § 1910.66 is revoked.
160. Paragraph (c)(21)(i)(*h*) of § 1910.66 is revoked.
161. Paragraph (c)(21)(ii) of § 1910.66 is revoked.
162. Paragraph (c)(21)(iii) of § 1910.66 is revoked.

§ 1910.68 Manlifts [Amended]

163. Paragraph (b)(8)(vi) of § 1910.68 is revoked.
164. Paragraph (c)(7)(i)(*a*) of § 1910.68 is revoked.
165. Paragraph (c)(7)(iii) of § 1910.68 is amended by deleting the second sentence thereof.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation [Amended]

166. Paragraph (c)(5)(i)(*b*) of § 1910.94 is revoked.
167. Paragraph (c)(5)(iii) of § 1910.94 is revoked.

§ 1910.96 Ionizing radiation [Amended]

168. Paragraph (b)(5) of § 1910.96 is revoked.
169. Paragraph (e)(1)(ii) of § 1910.96 is revoked.
170. Paragraph (l)(1)(iii) of § 1910.96 is revoked.
171. Paragraph (l)(1)(iv) of § 1910.96 is revoked.
172. Paragraph (l)(2)(ii) of § 1910.96 is revoked.
173. Paragraph (l)(2)(iii) of § 1910.96 is revoked.
174. Paragraph (o)(2) of § 1910.96 is revoked.
175. Paragraph (r)(1) of § 1910.96 is revoked.
176. Paragraph (r)(2) of § 1910.96 is revoked.
177. Paragraph (r)(3)(i) of § 1910.96 is revoked.
178. Paragraph (r)(3)(ii) of § 1910.96 is revoked.
179. Paragraph (r)(4)(i) of § 1910.96 is revoked.
180. Paragraph (r)(4)(iii) of § 1910.96 is revoked.

Subpart H—Hazardous Materials

§ 1910.103 Hydrogen [Amended]

181. Table H-2 of Subpart H is amended by striking lines 13 and 14 thereof, and by deleting the words "and places of public assembly" from the footnote to the Table designated by "* * * *".

182. Table H-4 of Subpart H is amended by striking line 12 thereof, and by striking in the footnote the words "and places of public assembly".

§ 1910.104 Oxygen [Amended]

183. Paragraph (b)(3)(xiv) of § 1910.104 is revoked.
184. Paragraph (b)(3)(xv) of § 1910.104 is revoked.
185. Paragraph (b)(3)(xvi) of § 1910.104 is revoked.
186. Paragraph (b)(3)(xvii) of § 1910.104 is revoked.
187. Paragraph (b)(3)(xviii) of § 1910.104 is amended by striking the numerical references "(xvi) and (xvii)".

§ 1910.106 Flammable and combustible liquids [Amended]

188. Paragraph (b)(1)(i)(*e*) of § 1910.106 is revoked.
189. Paragraph (b)(1)(ii)(*a*) of § 1910.106 is revoked.
190. Paragraph (b)(2)(i)(*a*) of § 1910.106 is revoked.
191. Paragraph (b)(2)(i)(*b*) of § 1910.106 is revoked.
192. Table H-5 of Subpart H is revoked.
193. Table H-6 of Subpart H is revoked.
194. Paragraph (b)(2)(i)(*c*) of § 1910.106 is revoked.
195. Table H-7 of Subpart H is revoked.
196. Paragraph (b)(2)(i)(*d*) of § 1910.106 is revoked.
197. Table H-8 of Subpart H is revoked.
198. Paragraph (b)(2)(i)(*e*) of § 1910.106 is revoked.
199. Table H-9 of Subpart H is revoked.
200. Paragraph (b)(2)(i)(*f*) of § 1910.106 is revoked.
201. Paragraph (b)(2)(iii) of § 1910.106 is revoked.
202. Paragraph (b)(2)(vii)(*b*)(*1*) of § 1910.106 is revoked.
203. Paragraph (b)(2)(vii)(*b*)(*3*) of § 1910.106 is revoked.
204. Paragraph (b)(2)(vii)(c)(5) of § 1910.106 is revoked.
205. Paragraph (b)(2)(vii)(c)(7) of § 1910.106 is revoked.
206. Paragraph (b)(2)(vii)(*c*)(7)(*i*) of § 1910.106 is revoked.
207. Paragraph (b)(2)(vii)(c)(7)(*ii*) of § 1910.106 is revoked.
208. Paragraph (b)(2)(vii)(c)(7)(*iii*) of § 1910.106 is revoked.
209. Paragraph (b)(2)(vii)(c)(7)(*iv*) of § 1910.106 is revoked.
210. Paragraph (b)(2)(vii)(*a*) of § 1910.106 is revoked.
211. Paragraph (b)(2)(vii)(*b*) of § 1910.106 is revoked.
212. Paragraph (b)(2)(viii)(c) of § 1910.106 is revoked.

213. Paragraph (b)(5)(vi)(*e*) of § 1910.106 is revoked.
214. Paragraph (d)(5)(iv)(*a*) of § 1910.106 is revoked.
215. Paragraph (d)(5)(iv)(*b*) of § 1910.106 is revoked.
216. Paragraph (d)(5)(iv)(c) of § 1910.106 is revoked.
217. Paragraph (d)(5)(iv)(*d*) of § 1910.106 is revoked.
218. Table H-14 is amended by striking the two headings entitled "Height" and all numbers appearing thereunder.
219. Table H-15 is amended by striking the two headings entitled "Height" and all numbers appearing thereunder.
220. Paragraph (d)(6)(ii)(*a*) of § 1910.106 is revoked.
221. Paragraph (e)(3)(iv)(c) of § 1910.106 is revoked.
222. Paragraph (f)(4)(ii) of § 1910.106 is revoked.
223. Paragraph (f)(4)(iii) of § 1910.106 is revoked.
224. Paragraph (f)(4)(v) of § 1910.106 is revoked.
225. Paragraph (g)(1)(ii)(*c*) of § 1910.106 is revoked.
226. Paragraph (g)(1)(iv) of § 1910.106 is revoked.
227. Paragraph (h)(2)(i) of § 1910.106 is revoked.
228. Table H-20 of Subpart H is revoked.
229. Paragraph (h)(2)(ii) of § 1910.106 is revoked.
230. Paragraph (h)(3)(ii)(c) of § 1910.106 is revoked.
231. Paragraph (i)(4) of § 1910.106 is amended by deleting the second sentence thereof.

§ 1910.109 Explosives and blasting agents [Amended]

232. Paragraph (a)(5) of § 1910.109 is revoked.
233. Paragraph (a)(9) of § 1910.109 is revoked.
234. Paragraph (a)(11) of § 1910.109 is revoked.
235. Paragraph (a)(20) of § 1910.109 is revoked.
236. Paragraph (a)(21) of § 1910.109 is revoked.
237. Paragraph (b)(1) of § 1910.109 is amended by striking the words "and property".
238. Paragraph (b)(2) of § 1910.109 is revoked.
239. Paragraph (b)(3) of § 1910.109 is revoked.
240. Table H-21 of Subpart R is amended by striking the three column headings entitled "Inhabited buildings, Passenger railways, and Public highways" and also striking all numbers appearing thereunder.
241. Paragraph (c)(1)(viii) of § 1910.109 is amended by striking the words "neighboring inhabited buildings, railways, highways, and ".
242. Paragraph (c)(2)(iii) is amended by striking the second sentence thereof.
243. Paragraph (c)(3)(viii) of § 1910.109 is revoked.
244. Paragraph (c)(4)(iii) of § 1910.109 is amended by striking the second sentence thereof.
245. Paragraph (c)(5)(viii) of § 1910.109 is amended by the words "who shall be at least 21 years of age".
246. Paragraph (d)(1)(ii) of § 1910.109 is revoked.
247. Paragraph (d)(2)(ii)(*b*) of § 1910.109 is revoked.
248. Paragraph (d)(3)(i) of § 1910.109 is amended by striking the words, "physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs, and not less than 21 years of age. He shall be".
249. Paragraph (d)(3)(ii) of § 1910.109 is amended by striking the words, "bridge, tunnel, dwelling, building or" and "congregate or assemble".
250. Paragraph (e)(1)(iii) of § 1910.109 is amended by striking the words, "railway, or highway".
251. Paragraph (e)(4)(i) of § 1910.109 is revoked.
252. Paragraph (g)(2)(i) of § 1910.109 is revoked.
253. Paragraph (g)(5)(i)(c) of § 1910.109 is amended by striking the words, "Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to".
254. Paragraph (g)(5)(ii)(*a*) of § 1910.109 is amended by striking the words, "the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and public highways, and according to".
255. Paragraph (g)(5)(vii) of § 1910.109 is amended by striking the words "who shall be not less than 21 years of age".
256. Paragraph (g)(6)(ii) of § 1910.109 is amended by striking the words, "at least twenty-one (21) years of age who is capable, careful, reliable, and".
257. Paragraph (g)(6)(v) of § 1910.109 is revoked.
258. Paragraph (g)(6)(vii) of § 1910.109 is revoked.
259. Paragraph (g)(6)(viii) of § 1910.109 is revoked.
260. Paragraph (h)(3)(i)(*a*) of § 1910.109 is revoked.
261. Paragraph (h)(3)(i)(*b*) of § 1910.109 is revoked.
262. Paragraph (i)(1)(i)(*e*) of § 1910.109 is amended by striking the words, "provided that no distinct undue hazard to the public is created".
263. Paragraph (i)(1)(ii)(*a*) of § 1910.109 is revoked.
264. Paragraph (i)(2)(iii)(*e*) of § 1910.109 is amended by striking the words, "or adjoining property".
265. Paragraph (j)(3)(ii) of § 1910.109 is revoked.
266. Paragraph (j)(4)(ii) of § 1910.109 is revoked.

§ 1910.110 Storage and handling of liquified petroleum gases [Amended]

267. Paragraph (a)(17) of § 1910.110 is revoked.
268. Paragraph (a)(18) of § 1910.110 is revoked.
269. Paragraph (b)(6)(ii) of § 1910.110 is amended by striking the words, "or line of adjoining property which may be built on".
270. Paragraph (b)(6)(iv) of § 1910.110 is revoked.
271. Paragraph (b)(11)(iii)(*i*) of § 1910.110 is amended by striking the words, "or line of adjoining property which may be built upon".
272. Paragraph (b)(11)(iv)(*g*) of § 1910.110 is amended by striking the words, "or line of adjoining property which may be built upon".
273. Paragraph (b)(15)(viii)(*b*) of § 1910.110 is revoked.
274. Paragraph (c)(5)(iv)(*a*) of § 1910.110 is revoked.
275. Paragraph (c)(5)(iv)(*a*)(*1*) of § 1910.110 is revoked.
276. Paragraph (c)(5)(iv)(*a*)(*2*) of § 1910.110 is revoked.
277. Paragraph (c)(5)(iv)(*a*)(*3*) of § 1910.110 is revoked.
278. Paragraph (c)(5)(iv)(*b*) of § 1910.110 is revoked.
279. Paragraph (c)(5)(ix)(c) of § 1910.110 is revoked.
280. Paragraph (d)(13)(i)(*b*) of § 1910.110 is revoked.
281. Paragraph (d)(13)(ii)(*a*) of § 1910.110 is revoked.
282. Paragraph (d)(13)(iii)(*b*) of § 1910.110 is revoked.
283. Paragraph (d)(15) of § 1910.110 is revoked.
284. Paragraph (e)(13)(iii) of § 1910.110 is revoked.
285. Paragraph (e)(13)(iv) of § 1910.110 is revoked.
286. Paragraph (f)(3)(i) of § 1910.110 is revoked.
287. Paragraph (f)(3)(ii) of § 1910.110 is revoked.
288. Paragraph (f)(6)(i)(*b*) of § 1910.110 is revoked.
289. Paragraph (f)(6)(i)(*d*) of § 1910.110 is revoked.
290. Paragraph (g)(1) of § 1910.110 is amended by striking the words, "or public service purposes such as mobile libraries and clinics".
291. Paragraph (h)(6)(i)(*a*) of § 1910.110 is amended by striking the words, "and adjoining property lines which may be built upon".

§ 1910.111 Storage and handling of anhydrous ammonia [Amended]

292. Paragraph (a)(2)(xiii) of § 1910.111 is revoked.
293. Paragraph (a)(2)(xiv) of § 1910.111 is revoked.
294. Paragraph (b)(5)(iii) of § 1910.111 is revoked.
295. Paragraph (b)(5)(iv) of § 1910.111 is revoked.
296. Table H-35 of Subpart H is revoked.
297. Paragraph (b)(11)(iii) of § 1910.111 is revoked.
298. Paragraph (b)(11)(iv) of § 1910.111 is revoked.
299. Paragraph (b)(12)(vi)(*f*) of § 1910.111 is revoked.
300. Paragraph (b)(13)(iii) of § 1910.111 is amended by striking the last sentence thereof.
301. Paragraph (c)(4)(ii) of § 1910.111 is amended by striking the first sentence thereof.
302. Paragraph (d)(12)(ii) of § 1910.111 is revoked.

Subpart I—Personal Protective Equipment

§ 1910.134 Respiratory protection [Amended]

303. Paragraph (g)(3)(iii) of § 1910.134 is revoked.

Subpart J—General Environmental Controls

§ 1910.141 Sanitation [Amended]

304. Paragraph (b)(1)(ii) of § 1910.141 is revoked.
305. Paragraph (b)(1)(iv) of § 1910.141 is revoked.
306. Paragraph (b)(1)(vii) of § 1910.141 is revoked.
307. Paragraph (c)(1)(iv) of § 1910.141 is revoked.
308. Paragraph (c)(1)(v) of § 1910.141 is revoked.
309. Paragraph (c)(1)(vi) of § 1910.141 is revoked.
310. Paragraph (c)(1)(vii) of § 1910.141 is revoked.
311. Paragraph (c)(2)(ii) of § 1910.141 is revoked.
312. Paragraph (c)(2)(iii) of § 1910.141 is revoked.
313. Paragraph (c)(3)(i) of § 1910.141 is revoked.
314. Paragraph (c)(3)(ii) of § 1910.141 is revoked.
315. Paragraph (c)(3)(iii) of § 1910.141 is revoked.
316. Paragraph (d)(2)(i) is amended by striking the words, "in accordance with the requirements for lavatories as set forth in Table J-2 of this section. In a multiple-use lavatory, 24 lineal inches of wash sink or 20 inches of a circular basin, when provided with water outlets for each space, shall be considered equivalent to one lavatory".
317. Table J-2 of Subpart J is revoked.
318. Paragraph (d)(2)(v) of § 1910.141 is revoked.
319. Paragraph (d)(2)(vi) of § 1910.141 is revoked.
320. Paragraph (d)(2)(vii) of § 1910.141 is revoked.

§ 1910.113 Nonwater carriage disposal systems [Amended]

321. Paragraph (a)(1) of § 1910.143 is revoked.
322. Paragraph (a)(2) of § 1910.143 is revoked.
323. Paragraph (a)(3) of § 1910.143 is revoked.
324. Paragraph (a)(4) of § 1910.143 is revoked.
325. Paragraph (a)(5) of § 1910.143 is revoked.
326. Paragraph (a)(6) of § 1910.143 is revoked.
327. Paragraph (a)(6)(i) of § 1910.143 is revoked.
328. Paragraph (a)(6)(ii) of § 1910.143 is revoked.
329. Paragraph (a)(7) of § 1910.143 is revoked.
330. Paragraph (b)(1) of § 1910.143 is revoked.
331. Paragraph (b)(1)(i) of § 1910.143 is revoked.
332. Paragraph (b)(1)(ii) of § 1910.143 is revoked.
333. Paragraph (b)(1)(iii) of § 1910.143 is revoked.
334. Paragraph (b)(1)(iv) of § 1910.143 is revoked.
335. Paragraph (b)(1)(v) of § 1910.143 is revoked.
336. Paragraph (b)(1)(vi) of § 1910.143 is revoked.
337. Paragraph (b)(1)(vii) of § 1910.143 is revoked.
338. Paragraph (b)(2) of § 1910.143 is revoked.
339. Paragraph (b)(2)(i) of § 1910.143 is revoked.
340. Paragraph (b)(2)(ii) of § 1910.143 is revoked.
341. Paragraph (b)(2)(iii) of § 1910.143 is revoked.
342. Paragraph (b)(2)(iv) of § 1910.143 is revoked.
343. Paragraph (b)(2)(v) of § 1910.143 is revoked.
344. Paragraph (b)(2)(vi) of § 1910.143 is revoked.
345. Paragraph (b)(2)(vii) of § 1910.143 is revoked.
346. Paragraph (b)(2)(viii) of § 1910.143 is revoked.
347. Paragraph (c)(1) of § 1910.143 is revoked.
348. Paragraph (c)(2) of § 1910.143 is revoked.
349. Paragraph (c)(3) of § 1910.143 is revoked.
350. Paragraph (c)(4) of § 1910.143 is revoked.
351. Paragraph (c)(5) of § 1910.143 is revoked.
352. Paragraph (c)(6) of § 1910.143 is revoked.
353. Paragraph (c)(7) of § 1910.143 is revoked.
354. Paragraph (d)(1) of § 1910.143 is revoked.
355. Paragraph (d)(2) of § 1910.143 is revoked.
356. Paragraph (d)(3) of § 1910.143 is revoked.
357. Paragraph (d)(4) of § 1910.143 is revoked.
358. Paragraph (d)(5) of § 1910.143 is revoked.
359. Paragraph (d)(6) of § 1910.143 is revoked.
360. Paragraph (e)(1) of § 1910.143 is revoked.
361. Paragraph (e)(2) of § 1910.143 is revoked.
362. Paragraph (e)(3) of § 1910.143 is revoked.
363. Paragraph (e)(4) of § 1910.143 is revoked.
364. Paragraph (e)(5) of § 1910.143 is revoked.
365. Paragraph (f)(1) of § 1910.143 is revoked.
366. Paragraph (f)(2) of § 1910.143 is revoked.
367. Paragraph (f)(3) of § 1910.143 is revoked.
368. Paragraph (f)(4) of § 1910.143 is revoked.
369. Paragraph (f)(5) of § 1910.143 is revoked.
370. Paragraph (f)(6) of § 1910.143 is revoked.
371. Paragraph (g)(1) of § 1910.143 is revoked.
372. Paragraph (g)(2) of § 1910.143 is revoked.
373. Paragraph (g)(2)(i) of § 1910.143 is revoked.
374. Paragraph (g)(2)(ii) of § 1910.143 is revoked.
375. Paragraph (g)(3) of § 1910.143 is revoked.
376. Paragraph (g)(3)(i) of § 1910.143 is revoked.
377. Paragraph (g)(3)(ii) of § 1910.143 is revoked.
378. Paragraph (g)(3)(iii) of § 1910.143 is revoked.
379. Paragraph (g)(4) of § 1910.143 is revoked.

§ 1910.144 Safety color code for marking physical hazards [Amended].

380. Paragraph (a)(1)(i)(*a*) of § 1910.144 is revoked.
381. Paragraph (a)(1)(i)(*b*) of § 1910.144 is revoked.
382. Paragraph (a)(1)(i)(*c*) of § 1910.144 is revoked.
383. Paragraph (a)(1)(i)(*d*) of § 1910.144 is revoked.
384. Paragraph (a)(1)(i)(*e*) of § 1910.144 is revoked.
385. Paragraph (a)(1)(i)(*f*) of § 1910.144 is revoked.
386. Paragraph (a)(1)(i)(*g*) of § 1910.144 is revoked.

387. Paragraph (a)(1)(i)(*h*) of § 1910.144 is revoked.
388. Paragraph (a)(1)(i)(*i*) of § 1910.144 is revoked.
389. Paragraph (a)(1)(i)(*j*) of § 1910.144 is revoked.
390. Paragraph (a)(1)(i)(*k*) of § 1910.144 is revoked.
391. Paragraph (a)(2) of § 1910.144 is revoked.
392. Paragraph (a)(4) of § 1910.144 is revoked.
393. Paragraph (a)(5) of § 1910.144 is revoked.
394. Paragraph (a)(6) of § 1910.144 is revoked.
395. Paragraph (a)(7) of § 1910.144 is revoked.
396. Paragraph (b) of § 1910.144 is revoked.

§ 1910.145 Specifications for accident prevention signs and tags [Amended].

397. Paragraph (d)(1) of § 1910.145 is amended by: striking from the paragraph heading the words "*and colors*"; and striking the first and last sentences of such paragraph.
398. Paragraph (d)(2)(ii) of § 1910.145 is revoked.
399. Paragraph (d)(3)(i) of § 1910.145 is revoked.
400. Paragraph (d)(3)(ii) of § 1910.145 is revoked.
401. Paragraph (d)(3)(iii) of § 1910.145 is revoked.
402. Paragraph (d)(4)(ii) of § 1910.145 is revoked.
403. Table J-1 of Subpart J is revoked.
404. Table J-2 of Subpart J is revoked.
405. Paragraph (d)(5) of § 1910.145 is revoked.
406. Paragraph (d)(6)(ii) of § 1910.145 is revoked.
407. Figure J-1 of Subpart J is revoked.
408. Figure J-2 of Subpart J is revoked.
409. Figure J-3 of Subpart J is revoked.
410. Figure J-4 of Subpart J is revoked.
411. Figure J-5 of Subpart J is revoked.
412. Paragraph (d)(7)(i) of § 1910.145 is revoked.
413. Paragraph (d)(7)(ii) of § 1910.145 is revoked.
414. Figure J-6 of Subpart J is revoked.
415. Paragraph (d)(8) of § 1910.145 is revoked.
416. Paragraph (d)(9) of § 1910.145 is revoked.
417. Figure J-7 of Subpart J is revoked.
418. Table J-3 of Subpart J is revoked.
419. Paragraph (d)(11) of § 1910.145 is revoked.
420. Paragraph (e)(1) of § 1910.145 is revoked.
421. Paragraph (e)(3) of § 1910.145 is revoked.
422. Paragraph (e)(4) of § 1910.145 is is amended by striking the sentence, "The biohazard symbol shall be designed and proportioned as illustrated in figure J-9."
423. Figure J-9 of Subpart J is revoked.
424. Paragraph (e)(5) of § 1910.145 is revoked.
425. Paragraph (e)(6) of § 1910.145 is revoked.
426. Paragraph (e)(7) of § 1910.145 is revoked.
427. Paragraph (e)(8) of § 1910.145 is revoked.
428. Table J-4 of Subpart J is revoked.
429. Paragraph (f)(1)(ii) of § 1910.145 is amended by striking the words, "or damage to property, or both."
430. Paragraph (f)(4)(i) of § 1910.145 is amended by striking the words "(See Fig. J-11)."
431. Paragraph (f)(5)(i) of § 1910.145 is amended by striking the words, "(See Fig. J-12)."
432. Paragraph (f)(6) of § 1910.145 is is amended by striking the words, "(See Fig. J-13)."
433. Paragraph (f)(7)(i) of § 1910.145 is revoked.
434. Figure J-10 of Subpart J is revoked.
435. Figure J-11 of Subpart J is revoked.
436. Figure J-12 of Subpart J is revoked.
437. Figure J-13 of Subpart J is revoked.
438. Figure J-14 of Subpart J is revoked.
439. Figure J-15 of Subpart J is revoked.
440. Paragraph (f)(7)(ii) of § 1910.145 is revoked.
441. Paragraph (f)(8)(i) of § 1910.145 is revoked.

Subpart L—Fire Protection

§ 1910.157 Portable fire extinguishers [Amended].

442. Paragraph (a)(5) of § 1910.157 is revoked.
443. Paragraph (a)(6) of § 1910.157 is revoked.
444. Paragraph (a)(7) of § 1910.157 is revoked.
445. Paragraph (a)(8) of § 1910.157 is revoked.
446. Paragraph (c)(1)(ii) of § 1910.157 is amended by striking the words, "both the building structure, if combustible and"
447. Paragraph (c)(1)(iii) of § 1910.157 is revoked.
448. Paragraph (c)(1)(v) of § 1910.157 is revoked.

§ 1910.158 Standpipe and hose systems [Amended]

449. Paragraph (b)(2)(i) of § 1910.158 is revoked.
450. Paragraph (c)(1)(i) of § 1910.158 is revoked.
451. Paragraph (c)(1)(ii) of § 1910.158 is revoked.
452. Paragraph (c)(1)(iii) of § 1910.158 is revoked.
453. Paragraph (c)(4)(i) of § 1910.158 is revoked.
454. Paragraph (c)(4)(ii) of § 1910.158 is revoked.
455. Paragraph (c)(4)(iii) of § 1910.158 is revoked.
456. Paragraph (c)(4)(iv) of § 1910.158 is revoked.
457. Paragraph (c)(4)(v) of § 1910.158 is revoked.
458. Paragraph (c)(4)(vi) of § 1910.158 is revoked.
459. Paragraph (c)(4)(vii) of § 1910.158 is revoked.
460. Paragraph (c)(4)(viii) of § 1910.158 is revoked.
461. Paragraph (c)(4)(ix) of § 1910.158 is revoked.
462. Paragraph (c)(4)(x) of § 1910.158 is revoked.
463. Paragraph (c)(4)(xi) of § 1910.158 is revoked.

§ 1910.159 Automatic sprinkler systems [Amended]

464. Paragraph (b)(1) of § 1910.159 is revoked.
465. Paragraph (b)(2)(i) of § 1910.159 is revoked.
466. Paragraph (b)(2)(ii) of § 1910.159 is revoked.
467. Paragraph (b)(3) of § 1910.159 is revoked.
468. Paragraph (b)(4)(i) of § 1910.159 is revoked.
469. Paragraph (b)(4)(ii) of § 1910.159 is revoked.
470. Paragraph (b)(4)(iii) of § 1910.159 is revoked.
471. Paragraph (b)(4)(iv) of § 1910.159 is revoked.
472. Paragraph (b)(4)(v) of § 1910.159 is revoked.

§ 1910.160 Fixed dry chemical extinguishing systems [Amended]

473. Paragraph (c)(1)(iii) of § 1910.160 is revoked.

Subpart N—Materials Handling and Storage

§ 1910.176 Handling Materials—general [Amended].

474. Paragraph (d) of § 1910.176 is revoked.

§ 1910.178 Powered industrial trucks [Amended].

475. Paragraph (q)(11) of § 1910.178 is revoked.

§ 1910.181 Derricks [Amended].

476. Paragraph (f)(2)(i)(*g*) of § 1910.181 is revoked.
496. Paragraph (d)(5) of § 1910.219 is revoked.
497. Paragraph (e)(2)(v) of § 1910.219 is revoked.
528. Table O-12 of Subpart O is revoked.
529. Table O-13 of Subpart O is re-

551. Paragraph (a)(6)(iv)(*b*)(*1*) of § 1910.252 is amended by striking all the text following "Each generator shall be provided with a warning sign on the last line thereof, "Keep children away when using."

Subpart R—Special Industries

605. Paragraph (d)(1) of § 1910.16 *N-Nitrosodimethylamine* is revoked.
606. Paragraph (e)(2) of § 1910.1017

V 4 3 / 2 0 6 0 C 2 4 7 8

§ 1910.181 Derricks [Amended].

476. Paragraph (f)(2)(i)(*g*) of § 1910.181 is revoked.

477. Paragraph (f)(3)(iii)(c) of § 1910.181 is revoked.

Subpart O—Machinery and Machine Guarding

§ 1910.213 Woodworking machinery requirements [Amended]

478. Paragraph (a)(3) of § 1910.213 is revoked.

479. Paragraph (m)(2) of § 1910.213 is amended by striking the second sentence thereof.

480. Paragraph (s)(10) of § 1910.213 is revoked.

481. Paragraph (s)(11) of § 1910.213 is revoked.

§ 1910.215 Abrasive wheel and machinery [Amended]

482. Paragraph (c)(2)(i) of § 1910.215 is revoked.

483. Paragraph (c)(2)(ii) of § 1910.215 is revoked.

484. Paragraph (c)(2)(iii) of § 1910.215 is revoked.

§ 1910.217 Mechanical power presses [Amended]

485. Paragraph (a)(1) of § 1910.217 is revoked.

486. Paragraph (a)(2) of § 1910.217 is revoked.

487. Paragraph (a)(3) of § 1910.217 is revoked.

488. Paragraph (c)(3)(v) of § 1910.217 is amended by striking all text following the words "The sweep device" through the word "device." As amended, the paragraph reads as follows:

§ 1910.217 Mechanical power presses.

* * * * *

(c) *Safeguarding the point of operation* * * *

(3) *Point of operation devices.* * * *

(v) The sweep device may not be used for point of operation safeguarding after December 31, 1976.

* * * * *

489. Paragraph (c)(3)(v)(*a*) of § 1910.217 is revoked.

490. Paragraph (c)(3)(v)(*b*) of § 1910.217 is revoked.

491. Paragraph (c)(3)(v)(c) of § 1910.217 is revoked.

492. Paragraph (c)(3)(v)(*d*) of § 1910.217 is revoked.

493. Paragraph (f)(1) of § 1910.217 is revoked.

§ 1910.219 Mechanical power-transmission apparatus [Amended]

494. Paragraph (b)(4) of § 1910.219 is revoked.

495. Paragraph (c)(5)(iv) of § 1910.219 is revoked.

496. Paragraph (d)(5) of § 1910.219 is revoked.

497. Paragraph (e)(2)(v) of § 1910.219 is revoked.

498. Paragraph (j) of § 1910.219 is amended by striking the words, "Self lubricating bearings are recommended and".

499. Paragraph (k)(3) of § 1910.219 is revoked.

500. Paragraph (l)(2) of § 1910.219 is amended by striking all the text immediately following the first complete sentence.

501. Paragraph (m)(1)(iii) of § 1910.219 is revoked.

502. Paragraph (m)(2) of § 1910.219 is amended by striking the words, "by one of the following methods:"

503. Paragraph (m)(2)(i)(*a*) of § 1910.219 is revoked.

504. Paragraph (m)(2)(i)(*b*) of § 1910.219 is revoked.

505. Paragraph (m)(2)(i)(c) of § 1910.219 is revoked.

506. Paragraph (m)(2)(i)(*d*) of § 1910.219 is revoked.

507. Paragraph (m)(2)(i)(*e*) of § 1910.219 is revoked.

508. Paragraph (m)(2)(ii) of § 1910.219 is revoked.

509. Paragraph (m)(2)(iii) of § 1910.219 is revoked.

510. Paragraph (n)(1) of § 1910.219 is revoked.

511. Paragraph (n)(2)(i) of § 1910.219 is revoked.

512. Paragraph (n)(2)(ii) of § 1910.219 is revoked.

513. Paragraph (n)(3) of § 1910.219 is revoked.

514. Paragraph (o) of § 1910.219 is amended by striking the words, "(For the latter, see Table O–13.).

515. Paragraph (o)(1)(i) of § 1910.219 is revoked.

516. Paragraph (o)(1)(i)(*b*) of § 1910.219 is revoked.

517. Paragraph (o)(1)(i)(c) of § 1910.219 is revoked.

518. Paragraph (o)(1)(ii) of § 1910.219 is revoked.

519. Paragraph (o)(2)(ii)(*a*) of § 1910.219 is revoked.

520. Paragraph (o)(2)(ii)(*b*) of § 1910.219 is revoked.

521. Paragraph (o)(2)(ii)(c) of § 1910.219 is revoked.

522. Paragraph (o)(2)(ii)(*d*) of § 1910.219 is revoked.

523. Paragraph (o)(2)(ii)(*e*) of § 1910.219 is revoked.

524. Paragraph (o)(3)(ii) of § 1910.219 is revoked.

525. Paragraph (o)(3)(iv) of § 1910.219 is revoked.

526. Paragraph (o)(3)(v) of § 1910.219 is revoked.

527. Paragraph (o)(4) of § 1910.219 is amended by striking all the text of the paragraph following the word "guard", starting with the word "construction" and ending with "pulley".

528. Table O-12 of Subpart O is revoked.

529. Table O-13 of Subpart O is revoked.

530. Paragraph (p)(6)(i) of § 1910.219 is revoked.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

§ 1910.241 Definitions [Amended]

531. Paragraph (c)(1) of § 1910.241 is revoked.

532. Paragraph (c)(2) of § 1910.241 is revoked.

533. Paragraph (c)(3) of § 1910.241 is revoked.

534. Paragraph (c)(4) of § 1910.241 is revoked.

535. Paragraph (c)(5) of § 1910.241 is revoked.

536. Paragraph (c)(6) of § 1910.241 is revoked.

537. Paragraph (c)(7) of § 1910.241 is revoked.

538. Paragraph (c)(8) of § 1910.241 is revoked.

539. Paragraph (c)(9) of § 1910.241 is revoked.

540. Paragraph (c)(10) of § 1910.241 is revoked.

541. Paragraph (c)(11) of § 1910.241 is revoked.

§ 1910.243 Guarding of portable powered tools [Amended]

542. Paragraph (d)(2)(i) of § 1910.243 is amended by striking the words, "and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate."

543. Paragraph (d)(2)(ii) of § 1910.243 is amended by striking the words, "at the discretion of the manufacturer."

544. Paragraph (d)(2)(iii) of § 1910.243 is amended by striking the words, "and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate."

545. Paragraph (d)(3)(i) of § 1910.243 is amended by striking the last two sentences thereof.

546. Paragraph (d)(3)(ii) of § 1910.243 is revoked.

547. Table P-1 of Subpart P is revoked.

Subpart Q—Welding, Cutting, and Brazing

§ 1910.252 Welding, cutting and brazing [Amended]

548. Paragraph (a)(4)(iii)(*b*) of § 1910.252 is amended by striking the first sentence thereof.

549. Paragraph (a)(5)(v)(*b*) of § 1910.252 is revoked.

550. Paragraph (a)(5)(vi)(*d*) of § 1910.252 is amended by striking the last sentence thereof.

551. Paragraph (a)(6)(iv)(*b*)(*1*) of § 1910.252 is amended by striking all the text following "Each generator shall be provided with a vent pipe."

552. Paragraph (a)(6)(vi)(*a*)(*7*) of § 1910.252 is amended by striking the words, "of ample size."

553. Paragraph (a)(7)(ii)(*c*) of § 1910.252 is amended by striking the following words after the first sentence, "The location of such storage buildings shall be away from congested mercantile and manufacturing districts."

554. Paragraph (a)(7)(iii)(*d*) of § 1910.252 is revoked.

555. Paragraph (a)(8)(i) of § 1910.252 is revoked.

556. Paragraph (a)(8)(ii)(*a*) of § 1910.252 is revoked.

557. Paragraph (a)(8)(ii)(*b*) of § 1910.252 is revoked.

558. Paragraph (a)(8)(ii)(c) of § 1910.252 is revoked.

559. Paragraph (a)(8)(ii)(*d*) of § 1910.252 is revoked.

560. Paragraph (a)(8)(ii)(*e*) of § 1910.252 is revoked.

561. Paragraph (a)(8)(ii)(*f*) of § 1910.252 is revoked.

562. Paragraph (a)(8)(ii)(*g*)(*1*) of § 1910.252 is revoked.

563. Paragraph (a)(8)(ii)(*g*)(*2*) of § 1910.252 is revoked.

564. Paragraph (a)(8)(ii)(*h*) of § 1910.252 is revoked.

565. Paragraph (a)(8)(ii)(*i*)(*1*) of § 1910.252 is revoked.

566. Paragraph (a)(8)(ii)(*i*)(*2*) of § 1910.252 is revoked.

567. Paragraph (a)(8)(ii)(*i*)(*3*) of § 1910.252 is revoked.

568. Paragraph (b)(2)(iv)(*b*) of § 1910.252 is amended by striking the second sentence thereof.

569. Paragraph (c)(3)(iii) of § 1910.252 is amended by striking the first sentence thereof.

570. Paragraph (c)(5) of § 1910.252 is revoked.

571. Paragraph (e)(3)(ii) of § 1910.252 is revoked.

572. Paragraph (e)(3)(ii)(*a*) of § 1910.252 is revoked.

573. Paragraph (e)(3)(ii)(b) of § 1910.252 is revoked.

574. Paragraph (e)(3)(ii)(c) of § 1910.252 is revoked.

575. Paragraph (e)(3)(ii)(*d*) of § 1910.252 is revoked.

576. Paragraph (e)(3)(ii)(*e*) of § 1910.252 is revoked.

577. Paragraph (e)(3)(ii)(*f*) of § 1910.252 is revoked.

578. Paragraph (e)(3)(ii)(*g*) of § 1910.252 is revoked.

579. Paragraph (e)(3)(ii)(*h*) of § 1910.252 is revoked.

580. Paragraph (e)(3)(ii)(*i*) of § 1910.252 is revoked.

581. Paragraph (f)(1)(v)(*b*) of § 1910.252 is amended by striking the last line thereof, "Keep children away when using."

Subpart R—Special Industries

§ 1910.261 Pulp, paper, and paperboard mills [Amended]

582. Paragraph (d)(4)(iv) of § 1910.261 is amended by striking the second sentence thereof.

583. Paragraph (k)(23) of § 1910.261 is revoked.

§ 1910.265 Sawmills [Amended].

584 Paragraph (c)(7) of § 1910.265 is revoked.

585. Paragraph (e)(20)(iv) of § 1910.265 is revoked.

§ 1910.266 Pulpwood logging [Amended]

586. Paragraph (d)(2)(ii) of § 1910.266 is revoked.

587. Paragraph (e)(1)(ii) of § 1910.266 is revoked.

588. Paragraph (e)(9) of § 1910.266 is revoked.

§ 1910.268 Telecommunications [Amended]

589. Paragraph (f)(3) of § 1910.268 is revoked.

590. Paragraph (g)(2)(ii)(*b*)(*4*) of § 1910.268 is revoked.

591. Paragraph (g)(2)(ii)(c) of § 1910.268 is revoked.

Subpart S—Electrical

§ 1910.308 Application [Amended]

592. Paragraph (c)(1) of § 1910.308 is amended by striking the words, "public and private."

Subpart Z—Toxic and Hazardous Substances

§§ 1910.1003—1910.1017 [Amended]

593. Paragraph (d)(1) of § 1910.1003 *4-Nitrobiphenyl* is revoked.

594. Paragraph (d)(1) of § 1910.1004 *alpha-Naphthylamine* is revoked.

595. Paragraph (d)(1) of § 1910.1006 *Methyl chloromethyl ether* is revoked.

596. Paragraph (d)(1) of § 1910.1007 *3,3'-Dichlorobenzidene (and its salts)* is revoked.

597. Paragraph (d)(10) of § 1910.1008 *bis-Chloromethyl ether* is revoked.

598. Paragraph (d)(1) of § 1910.1009 *beta-Naphthylamine* is revoked.

599. Paragraph (d)(1) of § 1910.1010 *Benzidine* is revoked.

600. Paragraph (d)(1) of § 1910.1011 *4-Aminodiphenyl* is revoked.

601. Paragraph (d)(1) of § 1910.1012 *Ethylenimine* is revoked.

602. Paragraph (d)(1) of § 1910.1013 *beta-Propiolactone* is revoked.

603. Paragraph (d)(1) of § 1910.1014 *2-Acetylaminofluorene* is revoked.

604. Paragraph (d)(1) of § 1910.1015 *4-Dimethylaminoazobenzene* is revoked.

605. Paragraph (d)(1) of § 1910.16 *N-Nitrosodimethylamine* is revoked.

606. Paragraph (e)(2) of § 1910.1017 *Vinyl Chloride* is amended by striking the second sentence thereof.

607. Paragraph (m)(2)(ii) of § 1910.1017 is revoked.

[FR Doc. 78-30164 Filed 10-23-78; 8:45 am]

[4510–26–M]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Selected Special Industry Safety and Health Standards; Revocation

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes certain safety and health standards codified in 29 CFR 1910.214 (cooperage and machinery), 29 CFR 1910.263 (bakery equipment), and 29 CFR 1910.264 (laundry machinery and operations). These sections were proposed for revocation in their entirety on December 13, 1977 (42 FR 62892). OSHA has determined that revocation of most of the provisions contained within these sections will better effectuate the purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on hazards which have greater significance and impact on exposed employees. The Agency believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA has also determined that revocation of certain of the provisions proposed for revocation would not be beneficial to employee safety or health, and therefore these requirements have been retained in the best interest of worker protection.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. BACKGROUND

In order to assure safe and healthful working conditions for working men and women, the U.S. Congress enacted

in 1970 the Occupational Safety and Health Act (the Act) (84 Stat. 1590, 29 U.S.C 651 *et seq.*). Among other things, the Act authorized the Secretary of

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standard in 1981. Subsequent to OSHA's regulatory adoption, ANSI revised its Z8.1 standard in 1972.

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3. *Laundry machinery and operations*: 29 CFR *1910.264*. The condi-

in 1970 the Occupational Safety and Health Act (the Act) (84 Stat. 1590, 29 U.S.C 651 *et seq.*). Among other things, the Act authorized the Secretary of Labor "• • • to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce • • •" (Section 2(b)(3) of the Act, 29 U.S.C. 651). Cognizant of the necessity of creating a speedy mechanism to issue standards expeditiously upon the statute's effective date, Congress in section 6(a) of the Act authorized the Secretary "• • • [to] promulgate as an occupational safety or health standard any national consensus standard • • •" 29 U.S.C. 655(a).

Following this congressional direction, OHSA promulgated its initial occupational safety and health standards for general industry on May 29, 1971, as 29 CFR Part 1910 (36 FR 10466). These standards were derived primarily from national consensus standards which were orignially developed by such voluntary nongovernmental organizations as the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA). OSHA also adopted, as occupational safety and health standards, established Federal standards previously issued under several prior acts of Congress; however, none of the standards derived from such established Federal standards were proposed for revocation in this rulemaking.

Since the adoption of these consensus standards, OSHA has received comments from many affected parties conerning the effectiveness, relevance, and applicability of a large number of their provisions. In the appropriations bill for fiscal year 1977, Congress specifically directed OSHA to eliminate "so-called nuisance standards or standards which do not deal with workplace conditions that are clearly hazardous to the health or safety of workers or are more properly under the jurisdiction of State departments of public health." More recently, President Carter ordered the executive departments to reduce and simplify the existing body of governmental regulations.

The Secretary of Labor and the Assistant Secretary for Occupational Safety and Health have responded to this mandate for change by reviewing the Agency's regulations and regulatory policy, and redirecting its enforcement efforts toward more significant safety and health hazards. Among the initial steps was the creation of a task force charged with identifying and recommending to the Assistant Secretary provisions within 29 CFR Part 1910 (General Industry Safety and Health Standards) which should be modified. In order to achieve its first goals expeditiously, the Agency sought to identify those provisions within part 1910 where the desired modification could be accomplished through the simple revocation of one or more provisions. The task force review culminated in two proposals to revoke a total of approximately 1,100 regulatory requirements. The proposals were announced on December 5, 1977, and published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62734 and 42 FR 62892). The first proposal (docket S-250), proposed to revoke selected standards of general applicability; the second (docket S—251), involving selected special industry standards, proposed to revoke in their entirety 29 CFR 1910.214 (cooperage machinery), 1910.263 (bakery equipment), and 1910.264 (laundry machinery and operations).

In addition to these rulemakings, the Agency is continuing its on-going review of each Subpart which subsequently will result in comprehensive revisions of 29 CFR Part 1910 (General Industry). In rewriting these subparts, the Agency intends to develop and promulgate new standards which will concentrate on the more serious safety hazards facing employees. Efforts will also be made to simplify regulatory language and eliminate detail wherever possible. OSHA believes that this will facilitate compliance, improve enforcement, and increase employee protection.

The three special industry sections proposed for revocation were derived originally from standards developed by the American National Standards Institute (ANSI) and adopted by OSHA pursuant to Section 6(a) of the Act, 29 U.S.C. 655(a). Since the Agency's adoption, ANSI has substantially brevised the respective standards upon which OSHA has relied. The OSHA safety standards adopted for cooperage, § 1910.214, were derived from the ANSI 01.1-1954 standard, "Safety Code for Woodworking Machinery," (reaffirmed in 1961). Subsequently, ANSI has revised its voluntary standard for cooperage, effective 1975. The OSHA safety standards adopted for bakery equipment (§ 1910.263) were drawn from the ANSI Z50.1-1947 "Safety Code for Bakery Equipment," which was initiated in 1943 and received final approval on August 4, 1947. Subsequently, in 1971 ANSI revised its bakery equipment standard. OSHA's Laundry Machinery and Operations standards, § 1910.264 were based on the 1961 national consensus standard ANSI Z8.1-1961, "Safety Code for Laundry Machinery and Operations." The original voluntary standard was first approved in 1924 and became an American Standard in 1941. In June 1953, a revision was started which produced an approved standard in 1961. Subsequent to OSHA's regulatory adoption, ANSI revised its Z8.1 standard in 1972.

II. PROCEDURAL HISTORY

The December 13, 1977 proposal provided for a comment period continuing through March 3, 1978. Interested parties representing both employees and employers requested that this be extended to May 3, 1978. After reviewing such requests, OSHA extended the comment period to May 3, 1978 (43 FR 9830, 43 FR 9831, March 10, 1978) for both Docket Nos. S-250 and S-251.

During the comment period, OSHA also received requests from several labor organizations to discuss the standards proposed for revocation. The requests were granted and meetings were conducted during the period March 13-23, 1978. Individual OSHA staff members presented the Agency's position regarding specific provisions proposed for revocation and outlined OSHA's policy objectives. A written memorandum summarizing the meetings was prepared and entered into the public record on April 11, 1978. Similar opportunity was made available to other interested groups. No other persons or groups requested similar meetings.

Two requests were received for hearing on the special industry standards proposed for revocation. The Agency denied one request in writing on the grounds that the requesting party failed to substantially comply with the Agency's rules governing application for public hearings (29 CFR 1911.11 and reprinted in the preamble to the proposal). The other request was formally withdrawn by the filing party. Therefore, no public hearing was held on the proposal.

III. GENERAL FINDINGS OF THE AGENCY AND SUMMARY OF THE FINAL RULE

In response to the many public concerns regarding the effectiveness, relevance, and applicability of these national consensus standards, OSHA has committed itself to a program of developing safety and health standards that more effectively achieve the goals and purposes of the Occupational Safety and Health Act by allowing OSHA to concentrate its enforcement resources on higher hazard industries and operations. As a first step, the Agency is revoking a number of those regulations which most clearly have no direct or immediate relationship to the safety or health of employees, or are otherwise inappropriate to enforce pursuant to the Agency's statutory purposes. OSHA has determined that these revocations will permit the Agency to better effectuate the purposes of the Act by focusing Agency resources on hazards which have greater significance and impact on exposed workers. The Agency also believes that this action will likewise permit both employers and employees to focus their attention toward the elimination or reduction of the more significant hazards in the workplace. OSHA believes that the objectives of this rulemaking are being achieved without compromising the health or safety of the affected workers.

For the reasons stated herein, the Agency has determined that the findings of the Secretary in this rulemaking meet the provisions of Section 6(b)(8) of the Act, 29 U.S.C. 655.

In reviewing provisions of Part 1910 for possible revocation, OSHA gave particular attention to sections prescribing regulations for specific industries. This examination was based on several factors. An overriding consideration was whether it was an effective use of OSHA's resources to enforce highly detailed standards with limited applicability in workplace situations which have relatively low accident incidence rates and/or less severe injuries. OSHA has determined as a matter of policy that such a commitment of resources would be of limited benefit where most of the hazards addressed by the highly detailed standard were already covered by other standards of more general applicability.

A second factor was whether the standards were directly relevant to occupational safety or health. Many of the original ANSI provisions from which the OSHA standards were derived were concerned with protection of the equipment itself rather than the employees who work with the equipment. Others were informational in nature or not otherwise appropriate for mandatory enforcement.

Based on these considerations, the special industry standards for cooperage (1910.214), bakery (1910.263), and laundries (1910.264) were proposed for revocation in their entirety. In proposing these sections for revocation, OSHA was of the opinion that their elimination would result in better utilization of its resources by focusing them on higher hazard industries or workplace situations, and would effectuate the current directives of both the President and the Congress to reduce and simplify governmental regulations without compromising the goals and purpóses of the Occupational Safety and Health Act. However, OSHA also recognized in its proposal that the evidence and comments might indicate that certain portions of the affected sections should not be revoked (See 42 FR 62892), and therefore the Agency might retain those portions it deemed appropriate if revocation of such provisions would significantly reduce worker safety and health.

A total of 74 comments were received regarding the special industry standards which were proposed for revocation (Docket No. S-251). Of these comments, 17 were received from various trade associations, 16 were were received from management, 11 from labor unions, nine from interested individuals and 21 from various governmental sources. Several of the comments received addressed the Agency's overall approach to this rulemaking of proposing to eliminate entire sections of Part 1910 regulations, while others addressed specific provisions within the special industry sections which had been proposed for revocation. Most of the comments in favor of revocation were general in nature. The thrust of the comments objecting to revocation was that there are certain important provisions in these sections for which the general industry standards do not provide adequate or alternative coverage. Upon examining the evidence, OSHA has determined that in the best interest of worker protection, certain of these provisions should not be revoked.

1. *Cooperage machinery: 29 CFR 1910.214.* The hazards addressed by this section's highly detailed provisions are already covered by other OSHA standards of general applicability; specifically: § 1910.212 (general machine guarding), § 1910.213 (woodworking machinery requirements) and § 1910.219 (mechanical power-transmission apparatus) as appropriate. Although specific injury incidence rates for cooperage machinery are not available, industry usage has declined over the years. Therefore, it was determined by OSHA that employee protection would not be diminished by the revocation of this entire section. This determination has not been altered by the comments received. All 38 provisions in this section are therefore revoked.

2. *Bakery equipment: 29 CFR 1910.263.* The proposal suggested that most of the working conditions presently covered by the highly detailed specifications in this section are for the most part addressed by other OSHA standards of more general applicability, such as machine guarding (§ 1910.212) or mechanical power-transmission apparatus (§ 1910.219). Upon review of the evidence and public comment, OSHA has determined that most of this section may be revoked without diminishing protection of employee safety or health. Two hundred twenty-three provisions have therefore been revoked from this section. However, it has been determined that revocation of certain requirements in this section might have an adverse impact on worker safety or health, and therefore such provisions will be retained to provide the necessary protection to exposed employees.

3. *Laundry machinery and operations: 29 CFR 1910.264.* The conditions in the laundry industry which result in the greatest number of accidents involve machine guarding and walking and working surfaces. These conditions are already adequately covered by existing general industry standards, including § 1910.212 and §§ 1910.21-1910.32. Upon review of the evidence and public comments, OSHA has determined that most of this section could be revoked without diminishing protection of employees safety or health. Sixty-four provisions have therefore been revoked from this section. However, it has been determined that a limited number of provisions should be retained to provide the necessary protection to exposed employees.

IV. SPECIFIC FINDINGS OF THE SECRETARY

Therefore, in consideration of the evidence and public comments, OSHA has made the following specific determinations regarding the special industry standards proposed for revocation.

SUBPART O

§ 1910.214 Cooperage machinery. Section 1910.214 consists of 38 regulations in paragraphs (a) through (w) for the safeguarding of cooperage machinery. The proposed revocation of this section is based on the rationale that other standards adequately cover working conditions currently regulated by the cooperage standard did not provoke a great deal of comment. One commenter opposed this revocation because he feared it would leave the industry without protection, another because he did not feel the criteria used by OSHA justified revocation. At least one commenter objected to the revocation because he believed cooperage machinery presented problems different than those encountered with ordinary woodworking or metal cutting machines.

OSHA disagrees with the objecting commenters. While it is true that cooperage machinery differs somewhat in configuration from that of the machinery in paragraph 1910.213 (Woodworking Machinery) it is generically related and therefore similar in function. The hazards are the same as those to be contended with in the operation of machinery in general, woodworking machines and power transmission apparatus.

A paragraph-by-paragraph examination of Section 1910.214 has determined that paragraph 1910.213 does apply where the machines, equipment and methods of safeguarding are identical. Paragraph 1910.212 applies for general machine guarding of ingoing

nip points and rotating or reciprocating parts with the point of operation guarding requirements based on technology found in paragraph 1910.213 voked because it is covered by paragraphs 1910.212 (a)(1); (a)(3)(ii), 1910.213 (c)(1), (d)(1) and (r)(4).

graphs 1910.212 (a)(1), (a)(3)(iii), and 1910.213(b)(6).

Paragraph 1910.214(n)(1) requiring

vertical standards were unnecessary and coverage currently existing in the general industry horizontal standards due to revocation of the reference in paragraph 1910.264(d)(10). Paragraphs 1910.263(b) (8) and (9) defining direct ments and evidence has enabled OSHA to revoke 36 provisions. A total of 19 are revoked because they are cov-

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nip points and rotating or reciprocating parts with the point of operation guarding requirements based on technology found in paragraph 1910.213 for circular saws, cutting heads, planers, jointers, etc. Further, paragraph 1910.219 applies for the guarding of power transmission apparatus and is currently referenced in paragraph 1910.213 for that purpose.

The 38 regulations revoked in paragraph 1910.214 because they are adequately covered by other standards are listed below indicating those standards that do apply.

Paragraph 1910.214(a)(1) requiring the machine to have a hood-type guard and exhaust system is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213 (a)(12), (g)(1) and (r)(4).

Paragraph 1910.214(a)(2) requiring the balance wheel to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9) and 1910.219(b) (1), (1)(ii), (v) and (vi).

Paragraph 1910.214(a)(3) requiring a return device for a swing carriage is revoked because it is covered by paragraph 1910.213(g)(2).

Paragraph 1910.214(a)(4) requiring a limit stop for a swing carriage is revoked because it is covered by paragraphs 1910.212 (a)(1) and (a)(3)(ii), 1910.213 (a)(12) and (g)(3).

Paragraph 1910.214(b)(1) requiring the machine to have a hood-type guard and exhaust system is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (a)(12), (c)(1), and (r)(4).

Paragraph 1910.214(b)(2) requiring guards for portions of the saw blades not covered by stationary guards is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (a)(12) and (r)(4).

Paragraph 1910.214(b)(3) requiring a limit stop for the table is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213(g)(3).

Paragraph 1910.214(c)(1) requiring a hinged-type guard for the saw blade and head is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213(r)(4).

Paragraph 1910.214(c)(2) requiring an exhaust hood to guard the bottom of the saw blade is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii) and 1910.213(r)(4).

Paragraph 1910.214(d)(1) requiring hand-fed ripsaws to be equipped with a hood-type guard is revoked because it is covered by paragraphs 1910.213(a)(12), and (c)(1).

Paragraph 1910.214(d)(2) requiring the use of a spreader is revoked because it is covered by paragraph 1910.213 (1)(2).

Paragraph 1910.214(e)(1) requiring a self-adjusting hood-type guard is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (c)(1), (d)(1) and (r)(4).

Paragraph 1910.214(e)(2) requiring a saw blade guard and exhaust system beneath the table mandrel is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (a)(12) and (r)(4).

Paragraph 1910.214(f)(1) requiring a guard and exhaust system for planers is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213 (j)(3), (5) and (r)(4).

Paragraph 1910.214(f)(2) requiring the feed rolls of planers to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(1), and 1910.213 (b)(7).

Paragraph 1910.214(f)(3) requiring the proper adjustment of hold down arrangements is revoked because it is covered by paragraph 1910.212(a)(1).

Paragraph 1910.214(g)(1) requiring the machine to be guarded and an exhaust system provided is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213(j) (3), (5) and (r)(4).

Paragraph 1910.214(g)(2) requiring the use of a limit stop is revoked because it is covered by paragraph 1910.212(a)(l).

Paragraph 1910.214(g)(3) requiring compliance with (g)(1) and (g)(2) is revoked because the reference to those rules is also revoked.

Paragraph 1910.214(h)(1) requiring a guard for the knives is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(ii), 1910.213(j) (5), (o)(3) and (r)(4).

Paragraph 1910.214(h)(2) requiring a point of operation guard to be provided is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3) (iii), and 1910.213 (r)(4).

Paragraph 1910.214(i) requiring a hood-type guard and exhaust system is revoked because it is covered by paragraphs 1910:212 (a)(1), (a)(3)(ii), and 1910.213(r)(4).

Paragraph 1910.214(j) requiring counterweights and frictions gears to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213 (a)(9), (1)(4), 1910.219 (e)(6)(ii), (f)(1), (l), (ii), (iii) and (g).

Paragraph 1910.214(k) requiring feed chains and sprockets to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(l), 1910.213(a)(9) and 1910.213 (f)(1), (3).

Paragraph 1910.214(l) requiring rack and drive gear teeth to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219(f)(1) (i), (ii) and (iii).

Paragraph 1910.214(m) requiring a tripping mechanism to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(1), (a)(3)(iii), and 1910.213(b)(6).

Paragraph 1910.214(n)(1) requiring eccentric cams and gear works to be guarded is revoked because it is covered by paragraphs 1910.212 (a)(l), 1910.213(a)(9), 1910.219 (f)(1)(i), (ii), (iii) and (f)(3).

Paragraph 1910.214(n)(2) requiring the flywheel gear to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), and 1910.219(b)(1)(i).

Paragraph 1910.214(o) requiring sprockets and chains to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219(f) (1) and (1)(i).

Paragraph 1910.214(p) requiring the nip points to be guarded on belt sanders is revoked because it is covered by paragraphs 1910.212(a)(1) and 1910.213(p)(4).

Paragraph 1910.214(q)(1) requiring friction pulleys and blocks to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219 (f)(4) and (g).

Paragraph 1910.214(q)(2) revoked for equipment similar to (q)(1) because it is covered by the same provisions.

Paragraph 1910.214(r) requiring exhaust hoods and guards for disk sanders is revoked because it is covered by paragraphs 1910.212(a)(1) and 1910.213 (p)(3).

Paragraph 1910.214(s) requiring hand-fed jointers to be guarded to suit the provisions of 1910.213 is revoked because it is covered by paragraphs 1910.213(j) (1), (2), (3), (4) and (5).

Paragraph 1910.214(t) requiring gears and pulleys to be guarded is revoked because it is covered by paragraphs 1910.21(a)(1), 1910.213(a)(9), 1910.219 (d)(1), (f)(1)(i), (ii), (iii) and (f)(2), (3) and (4).

Paragraph 1910.214(u) requiring balance and drive wheels to be guarded is revoked because it is covered by paragraphs 1910.212(a)(1), 1910.213(a)(9), 1910.219(b)(1), (i), (ii), (iv), (vi), and (d)(1).

Paragraph 1910.214(v) requiring gears to be guarded is revoked because it is covered in paragraphs 1910.212(a)(1), 1910.213(a)(9), and 1910.219(f)(1)(i).

Paragraph 1910.214(w) requiring inspection and maintenance is revoked because it is covered by paragraph 1910.213(s).

SUBPART R

§ 1910.263 Bakery equipment. The comments received regarding the proposed revocation of this entire section ranged from complete agreement to complete disagreement, with a spectrum of comments between either extreme. Some commenters noted that the concept of vertical standards was desirable while others thought that

vertical standards were unnecessary and coverage currently existing in the general industry horizontal standards was adequate. OSHA has adopted the position that vertical standards are desirable for high hazard industries with large worker populations such as construction or maritime, but cannot be justified in other applications because of the resources required to maintain a large body of vertical standards. Specific provisions of 1910.263 were addressed by some commenters and these are treated in the following discussion of the standard.

Paragraph 1910.263(a) prescribes the general requirements that apply to all regulations governing bakery equipment. There were no comments received specifically addressing the revocaton of either of the two provisions contained within the paragraph. Paragraph 1910.263(a)(2) which clarifies the application of standards that have been incorporated by reference is to be revoked because it contains unnecessary detail. The general industry standards are held applicable to bakeries under the criteria defined in paragraph 1910.5 for any employment, place of employment or any industry. Further, the provision being revoked does not identify those standards which would be deemed appropriate for application. Upon reexamination of the evidence, OSHA has determined that paragraph 1910.263(a)(1) which defines the scope of the bakery equipment standard should not be revoked.

Paragraph 1910.263(b) contains the definitions which are applicable to the bakery section. There were no comments received specifically addressing the recvocation of these provisions. All 14 definitions are revoked because they provide unnecessary detail and information. Seven of the terms are deleted because the regulations they reference have been revoked and the other seven because it is unnecessary to define the equipment involved in order to apply the remaining standards. Paragraph 1910.263(b)(1) defining a dumpbin and blender is revoked because it provides unnecessary detail and information. Paragraph 1910.263(b)(2) defining a flour elevator is revoked as unnecessary due to revocation of the reference in paragraphs 1910.263(d)(4) (i) and (ii). Paragraph 1910.263(b)(3) defining a screw conveyor is revoked because it provides unnecessary detail and information. Paragraph 1910.263(b)(4) defining a boiting reel is revoked as unnecesary due to revocation of the reference in paragraphs 1910.263(b)(5) (i) and (ii). Paragraphs 1910.263(b) (5) and (6) defining sifters and flour scales are revoked because they provide unnecessary detail and information. Paragraph 1910.263(b)(7) defining a flour gate is revoked as being unnecessary due to revocation of the reference in paragraph 1910.264(d)(10). Paragraphs 1910.263(b) (8) and (9) defining direct fired and recirculating ovens are revoked because they provide unnecessary detail and information.

Also, paragraphs 1910.263(b) (10), (11) and (12) defining flue type, indirect multiple burner and steam tube ovens are revoked as unnecessary detail due to revocation of the reference in paragraphs 1910.263(1)(12) (i), (ii), (iii), and (iv); (13) (i) and (ii); and (14). Paragraph 1910.263(b)(13) defining indirect recirculating ovens is revoked because it provides unecessary detail and information.

Paragraph 1910.263(b)(14) defining electric ovens is revoked as providing unnecessary detail due to revocation of the reference in paragraph 1910.263(l)(16).

Paragraph 1910.263(c) provides general machine guarding regulations for bakeries. One comment was received addressing the four provisions to be revoked. The commenter favored revocation.

Two provisions being revoked are covered by other regulations, one is being revoked because it deals with employee comfort and convenience or machine design and one because it is directed toward property protection. Paragraph 1910.263(c)(1) requiring each machine to be electrically grounded is revoked because it is covered by paragraph 1910.309(a) and Article 250-42 of the National Electric Code. Paragraph 1910.263(c)(4) requiring the lubrication fittings of rotating parts to be guarded is revoked because it is covered by paragraph 1910.219(h)(1). Paragraph 1910.263 (c)(6) requiring removable covers or guards to be made removable with the least effort is revoked because it is concerned with the comfort or convenience of the employee and to basic machine design criteria. Paragraph 1910.263(c)(7) requiring the guards for motors or other equipment to be designed for proper ventilation is revoked because it is a specification directed toward the primary purpose of protecting the machine from damage.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in paragraph 1910.263(c) should not be revoked:

Paragraph 1910.263(c)(2)—Enclosure of gears.

Paragraph 1910.263(c)(3)—Enclosure of sprockets and V-belt drives.

Paragraph 1910.263(c)(5)—Special lubrication fittings to avoid reaching into dangerous part of machine.

Paragraph 1910.263(c)(8)—Covering hot pipes to avoid burns.

Paragraph (d) of 1910.263 sets standards for flour-handling equipment used in bakeries. A review of all comments and evidence has enabled OSHA to revoke 36 provisions. A total of 19 are revoked because they are covered by other provisions. Eleven are revoked because they are concerned with protection of property and equipment or product ingredients being handled. Six are revoked because they are concerned with comfort, convenience or design criteria and not with safety of the employee. Paragraph 1910.263(d)(1)(i)(*a*) requires disconnecting means for motor circuits. This is required by paragraph 1910.309(b) and is covered by Articles 240 and 422 of the National Electrical Code. Therefore, the provision is revoked. Paragraph 1910.263(d)(1)(i)(c) requires motor control switches to be capable of being locked in the open position. This is required by paragraph 1910.309(b) which refers to Articles 240, 422, and 430-86 of the National Electrical Code and paragraph 1910.145(f)(1)(i). The provision is revoked. Paragraph 1910.263(d)(1)(ii) requires removable covers to be designed for ease in lifting and is revoked because it relates to design criteria for convenience of the employee. Paragraph 1910.263(d)(1)(iii) requiring walkways and platforms around and over bins makes reference to 1910.22 and .23 which adequately cover this hazard. The provision is therefore revoked. Paragraph 1910.263(d)(1)(iii)(*a*) requires walkways to be maintained in a nonslip condition. This hazard is adequately covered in 1910.22 and .23. The provision is therefore revoked. Paragraph 1910.263(d)(1)(iii)(*b*) requires walkways to have railings and toeboards and is covered by paragraph 1910.23(c)(1). The provision is therefore revoked.

Also, paragraph 1910.263(d)(1)(iii)(c) requires ladders to comply with 1910.25, 1910.26, and 1910.27 of Subpart D. The provision is revoked because they would apply without this reference. Paragraph 1910.263(d)(1)(iii)(*d*) requires proper methods to warn occupant of the walkway of inadequate headroom and is covered in paragraphs 1910.145(c) and 1910.145(e). The provision is therefore revoked. Paragraph 1910.263(d)(1)(iv) requires oscillating and vibrating sifters to be protected with guardrails and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(d)(1)(v) requires all mechanical transmission shafting, gearing, and sprocket drives to be completely guarded and is covered by Section 1910.219. Therefore the provision is revoked. Paragraph 1910.263(d)(1)(vi) requires all guards to be readily removable and is revoked because is it concerned with comfort or convenience. This requirement is concerned with ease of cleaning, not employee safety. Paragraph 1910.263(d)(1)(vii) requires all interior

or exterior protruding corners of flour-handling equipment to be of a rounded nature and is revoked because

nonsplintering material. This provision is directed toward public safety and is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the

Also, paragraph 1910.263(e)(1)(xi) requires mixers to be bolted solidly to the floor to prevent dislocation or ex-

Paragraph 1910.263(e)(1)(v)(*b*)—Two-hand safety switches for mixers.

Paragraph 1910.263(e)(1)(x)—Coun-

is revoked, since it is covered by paragraph 1910.212(a)(1). Paragraph 1910.263(g)(6) requires brackets for

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or exterior protruding corners of flour-handling equipment to be of a rounded nature and is revoked because it is concerned with comfort or convenience. Paragraph 1910.263(d)(1)(viii) requires motors to be approved for locations rated Class II hazard, and makes reference to Part 1910, Subpart S. This provision is revoked, because coverage is provided in paragraph 1910.309(b) which references Article 502 of the National Electrical Code.

Also, paragraph 1910.263(d)(2)(iii) requiring conveyor chains to remain in guides if broken is covered by paragraph 1910.212(a)(1) which requires employee protection from all machinery parts and is revoked. Paragraph 1910.263(d)(3)(i) requires that a dumpbin or blender be constructed of metal or other nonsplintering material, and is revoked because it is directed toward public safety or property protection.

Also, paragraph 1910.212(a)(3). This provision therefore is revoked. Paragraph 1910.263(d)(3)(ii) requires guarding for openings of dumpbins and blenders, and is covered in paragraph 1910.263(d)(3)(iii) requires that covers be provided with locks or latches so that they will not accidentally fall down while the machine is in operation, and is revoked because it is concerned with design for convenience of the employee. Paragraph 1910.263(d)(3)(iv) requires dumpbins and blenders to be so constructed that no separate pits in floors be required at the point which connects the final discharge to the usual elevator. This is a design matter considered at the time of construction and installation to provide for efficient production, not employee safety. The provision therefore is revoked. Paragraph 1910.263(d)(3)(viii) requires a screen in the suction nozzle over the bin or blender, and is directed toward property protection. It is therefore revoked. Paragraph 1910.263(d)(4)(i) requires flour elevators to be constructed of metal or other nonsplintering material, and is directed toward public safety and is revoked.

Also, paragraph 1910.263(d)(4)(ii) requires removable sections of the elevator casing to be equipped with clamps for quick removal, etc., and is revoked because it is concerned with comfort or convenience of the employee. Paragraph 1910.263(d)(5)(i) requires bolting reels to be constructed of metal or other nonsplintering material. This provision is directed toward public safety and is revoked. Paragraph 1910.263(d)(5)(ii) requires refuse tailing spouts to be located at a safe distance from unguarded moving parts, and is revoked because it is covered by paragraph 1910.212(a)(1). Paragraph 1910.263(d)(6)(i) requires storage bins to be constructed of metal or other nonsplintering material. This provision is directed toward public safety and is revoked.

Also, paragraph 1910.263(d)(6)(iv) relates to the location of conveyors in top of storage bins and is not concerned with hazards to employees. The rule is revoked as it is more concerned with property protection. Paragraph 1910.263(d)(6)(v) requires an electric limit switch be provided in the top of the bin to avoid delivering an excessive amount of flour to the bin. It is revoked because it is directed toward property protection. Paragraph 1910.263(d)(7)(i) requires that screw conveyors be constructed of metal or other nonsplintering material. This paragraph is revoked because it is directed toward property protection. Paragraph 1910.263(d)(7)(ii) requires screw conveyors to be provided with an overflow safety gate and is revoked because it is directed toward property protection. Paragraph 1910.263(d)(8)(ii) requires oscillating and vibrating sifters to be constructed so that all moving parts are well within the outer frame or the apparatus. This paragraph is covered in paragraph 1910.212(a)(1) and is revoked. Paragraph 1910.263(d)(8)(iii) requires tailing spouts be located at a safe distance from unguarded moving parts. This paragraph is covered in paragraph 1910.212(a)(1) (guarding by location) and is revoked. Paragraph 1910.263(d)(9)(i) requires flour scales to be constructed of metal or other nonsplintering material. This paragraph is directed toward public safety. It is therefore revoked. Paragraph 1910.263(d)(9)(ii) requires covering over dial scales be made of nonshatterable transparent material. This paragraph is directed toward property protection and is revoked. Paragraph 1910.263(d)(9)(iv) requires guarding all moving trolley wheels and is covered in paragraph 1910.212(a) and is therefore revoked.

Also, paragraph 1910.263(d)(9)(v) requires that a scale cutoff switch be enclosed and guarded to protect the operator from contact. This is required by and covered in paragraph 1910.309(b) which refers to Article 110-17 of the National Electrical Code. The provision is therefore revoked. Paragraph 1910.263(d)(9)(vi) requires interlocks on traveling flour scales so that the gate will not open unless the hopper is below. This paragraph is revoked because it is directed toward property protection. Paragraph 1910.263(d)(10) requires automatic flour-gate equipment to be constructed of metal or other nonsplintering material. This paragraph is revoked because it is directed toward property protection.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(d) should not be revoked:

1910.263(d)(1)(i)(*b*)—Remote switches for electric motors.

1910.263(d)(1)(i)(*d*)—Magnetic controllers for electfic motors arranged in a unit.

1910.263(d)(2)(i)—Gravity bag chutes.

1910.263(d)(2)(ii)—Bag-arm elevators.

1910.263(d)(2)(iv)—Prohiition of manlifts.

1910.263(d)(3)(v)—Dumpbin and blender hoods.

1910.263(d)(3)(vi)—Height of dumpbins from floor.

1910.263(d)(3)(vii)—Control device to stop dumpbin and blender.

1910.263(d)(6)(ii)—Storage bin covers.

1910.263(d)(6)(iii)—Storage bin safety ladders.

1910.263(d)(6)(vi)—Storage bin cover interlock.

1910.263(d)(9)(iii)—Bar handles on traveling or track-type flour scales.

Paragraph (e) of 1910.263 establishes standards for mixers used in bakeries. The comment and evidence examined by OSHA will permit the revocation of 14 provisions and the partial revocation of one provision. Ten provisions being revoked are adequately covered elsewhere, two provisions relate to equipment design criteria for manufacture or comfort and convenience of the employee. One provision is obsolete. One requirement is concerned with property protection not employee safety. One provision is amended to exclude references which have been revoked. Paragraph 1910.263(e)(1)(ii) requires all drive elements of mixers within power units to be enclosed. This paragraph is covered in paragraph 1910.212(a)(1) and is revoked. Paragraph 1910.263(e)(1)(v)(c) permits the operator to have a full view of the bowl opening while the mixing bowl is more than one-fifth open and the agitator is in motion. This is a design and installation specification for production purposes. The requirement is revoked. Paragraph 1910.263(e)(1)(vi) requires the operator of mixers with power dumping devices to keep at least one hand engaged during the entire closure of the mixing bowl. This paragraph is covered in paragraph 1910.(a)(1) and is therefore revoked. Paragraph 1910.263(e)(1)(vii) requires mixer's operating mechanisms be conveniently manipulated in order not to jeopardize the employee's safety. This paragraph is revoked because it is concerned with comfort or convenience. Paragraph 1910.263(e)(1)(ix) requires no loose access doors and covers on mixers weighing more than 2 pounds. This is revoked because it is concerned with comfort or convenience.

Also, paragraph 1910.263(e)(1)(xi) requires mixers to be bolted solidly to the floor to prevent dislocation or excessive vibration. This is covered in paragraph 1910.212(b) and is revoked. Paragraph 1910.263(e)(1)(xii) requires mixers to be installed on substantial foundations to withstand the live loads incurred in mixing operations. This is covered in paragraph 1910.212(b) and is revoked. Paragraph 1910.263(e)(1)(xiii) requires that access for lubrication be provided. This is covered in paragraph 1910.263(c)(5) of the bakery standard and is revoked. Paragraph 1910.263(e)(1)(xiv) requires an interlock for the mixer to prevent injury to the operator. This paragraph is covered in paragraphs 1910.212(a)(1) and (a)(4) and is revoked. Paragraph 1910.263(e)(1)(xv) prohibiting the use of control circuits with potential in excess of 240 volts, is obsolete in that present consensus standards require a maximum of 120 volts to ground, and is revoked. Paragraph 1910.263(e)(1)(xvi) provides for overcurrent protection for motors and undervoltage protection in all magnetic controllers. This paragraph is revoked because it is required by paragraph 1910.309(b) and it is covered in Articles 430-31 through 430-44 of the National Electrical Code. Paragraph 1910.263(e)(1)(xvii) requires positive means to prevent application of pressure above the stipulated maximum in all mixer cooling jackets. This paragraph is revoked because it is directed toward property protection. Paragraph 1910.263(e)(2)(i) should exclude reference to revoked paragraphs, and is therefore amended to read, "Vertical mixers shall comply with paragraphs (e)(1), (i), (iii), and (x) of this section."

Also, paragraph 1910.263(e)(2)(ii) requires positive means on vertical mixers to prevent injury to the operator during speed change manipulations. This paragraph is revoked because it is covered in paragraph 1910.212(a)(1). Paragraph 1910.263(e)(2)(v) requires protection against moving agitators of the mixer. This paragraph is revoked because it is covered in paragraphs 1910.212(a)(3) (i) and (ii).

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(e) should not be revoked:

Paragraph 1910.263(e)(1)(i)—Enclosure of external power application component.

Paragraph 1910.263(e)(1)(iii)—Mixer control interlock.

Paragraph 1910.263(e)(1)(iv)—Location of mixer control station.

Paragraph 1910.263(e)(1)(v)(*a*)—Two-hand safety switches for mixers.

Paragraph 1910.263(e)(1)(v)(*b*)—Two-hand safety switches for mixers.

Paragraph 1910.263(e)(1)(x)—Counterbalancing of mixer overhead doors.

Paragraph 1910.263(e)(1)(xviii)—Safe location of valves and controls for mixer jackets.

Paragraph 1910.263(e)(2)(iii)—Positive bowl locking devices.

Paragraph 1910.263(e)(2)(iv)—Handling devices for mixing bowls weighing more than 80 pounds.

Paragraph (f) of 1910.263 provides requirements for dividers used in bakery operations. After a review of comments and evidence OHSA is revoking several provisons. Three provisions are revoked as they are covered by other regulations, one provisions revoked deals with property protection and one provision is revoked because it is concerned with comfort and convenience and not with employee safety. Paragraph 1910.263(f)(1) requires pinch and shear points guarding for dividers. This paragraph is covered in paragraph 1910.212(a)(1) and is revoked. Paragraph 1910.263(f)(2) requires that guards at front of dividers be arranged so that weight of dough can be adjusted without removing the guard. This paragraph is revoked because it is concerned with comfort or convenience. Paragraph 1910.263(f)(4) requires that oil holes in the knife at the back of the divider be of such size that an employee's finger cannot go through the hole. This paragraph is revoked because it is covered in paragraph 1910.212(a)(1). Paragraph 1910.263(f)(5) requires a guard on any elongated hole in the knife actuating arm at the back of the divider. This paragraph is revoked because it is covered in paragraph 1910.212(a)(1). Paragraph 1910.263(f)(6) requires that dividers be equipped with mechanical overload release devices. This paragraph is revoked because it is directed toward property protection.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provision of paragraph 1910.263(f) should not be revoked:

Paragraph 1910.263(f)(3)—Guarding and interlock of cover for rear of dividers.

Paragraph (g) of 1910.263 provides requirements for moulders used in bakery operations. Two provisions are revoked because they are covered by other regulations. One provision is revoked because it is concerned with convenience and not with employee safety. Paragraph 1910.263(g)(4) requires design and proximity of clean out holes to be clear of shear points. It is revoked, since it is adequately covered by paragraph 1910.212(a)(3)(iii). Paragraph 1910.263(g)(5) requires the rear of moulder to be designed to prevent a shearing or pinching hazard. It is revoked, since it is covered by paragraph 1910.212(a)(1). Paragraph 1910.263(g)(6) requires brackets for holding a removable adjustment crank when not in use. It is revoked, since it relates to employee convenience.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(g) should not be revoked:

Paragraph 1910.263(g)(1)—Guarding hoppers used on moulders.

Paragraph 1910.263(g)(2)—Guarding hand-fed moulders.

Paragraph 1910.263(g)(3)—Stopping devices for moulders.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(h) should not be revoked:

Paragraph 1910.263(h)(1)—Top roll protection on manually fed dough brakes.

Paragraph 1910.263(h)(2)—Emergency stop bar on dough brakes.

Paragraph (i) of 1910.263 prescribes regulations for miscellaneous equipment used in bakery operations. OSHA has reviwed the evidence and comments received, and determined that 23 provisions in that paragraph can be revoked. Twelve of the regulations are revoked because they are covered adequately elsewhere. Five provisions are revoked because they are concerned with property protection not with employee safety. Five provisions are revoked because they are concerned with comfort, convenience or design and are not concerned with employee safety. One provision is revoked because it is inconsequential. Paragraph 1910.263(i)(6)(i) requires the elimination of sharp splinters or rough corners or edges. It is revoked because it relates to the protection of property. Paragraph 1910.263(i)(6)(iv) requiring end guards for shelves is revoked, because it is directed toward property protection. Paragraph 1910.263(i)(8)(i) requires handles for operating devices that are suspended from the overhead and less than 6 feet 8 inches above the floor, to be made of pliable material. It is revoked, since it is covered by paragraph 1910.37(i). Paragraph 1910.263(i)(8)(ii) requires dials of floor scales to be covered by nonshatterable transparent material. It is revoked, as it is intended to protect property. Paragraph 1910.263(i)(9) requires guarding of chute for the protection of employees from falling in. It is revoked, since appropriate protection is provided in paragraph 1910.23(a)(3). Paragraph 1910.263(i)(10)(i) requires elimination of sharp corners or edges on metal skids. It is revoked, as it is intended to protect property.

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Also, paragraph 1910.263(i)(10)(ii) requires protecting exposed splinters on edges and corners of skids. It is revoked, as it is intended to protect merchandise. Paragraph 1910.263(i)(11)(ii) requires that attachment cords for portable electric agitators shall be so wired that the agitator will be grounded. It is revoked, because it is covered by paragraph 1910.309(b) and Article 250-45(d) of the National Electrical Code. Paragraph 1910.263(i)(14)(i) requires all sharp corners and edges on air-conditioning units to be eliminated. It is revoked, as it relates to the protection of the general public. Paragraph 1910.263(i)(15)(i) requires counter balanced hinged covers or sliding covers on pan washing tanks. It is revoked, because it is inconsequential and does not impose a substantial requirement. Paragraph 1910.263(i)(15)(iii) requires working platforms to be kept at least 32 inches below the top of the tank or guardrails. It is revoked because it duplicates the intent of paragraph 1910.22(c) Pagagraph 1910.263(i)(15)(iv) requires electric sockets to be nonmetallic and keyless and other electrical equipment shall be moisture proof. It is revoked because it duplicated requirements of paragraph 1910.309(b) and is covered by Article 110-11, 300-6 of the National Electrical Code. Paragraph 1910.263(i)(16) requires sharp corners and edges to be eliminated from pan washing machines. It is revoked because it is obsolete due to technological change. Paragraph 1910.263(i)(17) requires all pinch points on cake depositors to be eliminated, guarded, or shielded. It is revoked because it is adequately covered by paragraph 1910.212(a)(1). Paragraph 1910.263(i)(18) requires all pinch points on icing machines to be eliminated, guarded, or shielded. It is revoked because it is adequately covered by paragraph 1910.212(a)(1).

Also, paragraph 1910.263(i)(19)(i) requires all pinch points on conveyor type bread coolers to be eliminated or guarded. It is revoked because it is adequately covered by paragraph 1910.212(a)(1). Paragraph 1910.212(i)(19)(ii) requiring installation of stop bumpers at conveyor ends is revoked since appropriate protection is provided in paragraph 1910.212(i)(7)(ii). Paragraph 1910.212(i)(20)(i) requires guard rails to be installed to the center rack of rack type bread coolers. It is revoked because it is not related to employee safety. Paragraph 1910.263(i)(21)(i) requires sharp corners and edges to be eliminated from bread and cake boxes, etc. It is revoked because it relates to the design of the metal parts not controlled by the employer.

Paragraph 1910.263(i)(21)(iii) requires protecting all wooden corners and edges to prevent splinters on bread, cake boxes, etc. It is revoked because it relates to the design of the utensils. Paragraph 1910.263(i)(23)(ii) requires fire extinguisher for a Class B fire to be provided. It is revoked becuase it duplicates the requirement of 1910.157. Paragraph 1910.263(i)(23)(iii) requires goggles and face shields to be provided to prevent injuries from hot fat splashes. It is revoked because it duplicates the requirements of 1910.133.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(i) should not be revoked:

Paragraph 1910.263(i)(1)—Door locks on proof boxes.

Paragraph 1910.263(i)(2)—Nonshattering material on fermentation room doors.

Paragraph 1910.263(i)(3)—Antifriction bearing casters on troughs.

Paragraph 1910.263(i)(4)(i)—Caster placement on hand trucks.

Paragraph 1910.263(i)(4)(ii)—Handle locks for hand trucks.

Paragraph 1910.263(i)(5)—Handle locks for lift trucks.

Paragraph 1910.263(i)(6)(ii)—Positioning handles on racks.

Paragraph 1910.263(i)(6)(iii)—Antifriction bearings on casters for racks.

Paragraph 1910.263(i)(7)(i)—Guarding conveyors passing over aisles.

Paragraph 1910.263(i)(7)(ii)—Stop bumpers required for conveyors.

Paragraph 1910.263(i)(7)(iii)—Stop buttons for conveyors.

Paragraph 1910.263(i)(8)(i)—Handles for overhead trolley switches.

Paragraph 1910.263(i)(11)(i)—Interlocks for covers of premixers and emulsifiers.

Paragraph 1910.263(i)(12)(i)—Marking chain tackle for maximum load capacity.

Paragraph 1910.263(i)(12)(ii)—Marking chain tackle for minimum support capacity.

Paragraph 1910.263(i)(12)(iii)—Required safety hooks.

Paragraph 1910.263(i)(13)(i)—Marking trough hoists for maximum load capacity.

Paragraph 1910.263(i)(13)(ii)—Marking hoists for minimum support requirements.

Paragraph 1910.263(i)(13)(iii)—Safety catches for chain to hold load.

Paragraph 1910.263(i)(13)(iv)—Required use of safety hooks.

Paragraph 1910.263(i)(14)(ii)—Double door locks for inside and outside operation required on air-conditioning units where they can be entered.

Paragraph 1910.263(i)(15)(ii)—Requires non-slip floor surface around pan washing tanks.

Paragraph 1910.263(i)(15)(v)—Exhaust hoods over pan washing tanks.

Paragraph 1910.263(i)(20)(ii)—Double door locks for inside and outside operation required on bread coolers.

Paragraph 1910.263(i)(22) (i) and (ii)—Separate flue for venting frying vapors and products of combustion for chamber used to heat fat.

Paragraph 1910.263(i)(23)(i)—Requires non-slip floors around fat kettles.

Paragraph 1910.263(i)(23)(iv)—Minimum height of fat kettles above floor.

Paragraph 1910.263(i)(24)(i)—Positive locking devices to hold steam kettles required.

Paragraph 1910.263(i)(24)(ii)—Safety valves required for steam kettles.

Paragraph (j) of 1910.263 prescribes regulations for slicers and wrappers used in bakery operations. OSHA has reviewed the evidence and comments received, and determined that many of the provisions in that paragraph can be revoked without exposing employees to recognized hazards, since most of the requirements in those paragraphs are covered elsewhere in Part 1910. Eleven provisions being revoked from paragraph (j) are covered by other regulations and one because it is a design criteria set by machine manufacturers.

Paragraph 1910.1263(j)(1)(i) requires the enclosure of sprockets, chains and V-belts drives, and is covered by paragraph 1910.219(f)(3) for sprockets and chains, and by paragraph 1910.219(e)(1) for belt drives. The provision is therefore revoked. Paragraph 1910.263(j)(1)(ii) protects against a point of operation hazard and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vi) requires guarding of a pinch point and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vii)(*a*) protects against the hazard of a shear point and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vii)(*b*) requires the guarding of chains, sprockets and belts and is adequately covered by paragraph 1910.219(e)(1) and 1910.219(f)(3). The provision is therefore revoked. Paragraph 1910.263(j)(1)(vii)(*d*) requires that transfer chain be completely enclosed and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(2)(i) requires a smooth solid disk wheel on a wrapping machine, which is a design criteria set by machine manufacturers and cannot be controlled by employers. The provision is therefore revoked. Paragraph

1910.263(j)(2)(ii) requires a two-piece guard in front of the crossfeed chain and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(j)(2)(iv) requires that electrical wiring used to connect the movable heaters assembly be heat resistant and minimum in number. This is required by paragraph 1910.309(b) and is covered by Sections 300-17, 310-4 and 300-20 of the National Electrical Code. The provision is therefore revoked.

Also, paragraph 1910.263(j)(2)(v) protects against the hazard of inrunning nip point of rubber rollers and is covered by paragraph 1910.212(a)(1). The provisions is therefore revoked. Paragraph 1910.263(j)(2)(vi) requires guarding of the nip point between a chain and a sprocket and is covered by paragraph 1910.219(f)(3). The provision is therefore revoked. Paragraph 1910.263(j)(2)(vii) requires a complete enclosure of sprocket, chain and V-belt drives on wrappers, and is covered by paragraph 1910.219(f)(3) for sprockets and chains, and by paragraph 1910.219(e)(1) for belt drives. The provision is therefore revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following paragraphs in 1910.263(j) should not be revoked:

Paragraph 1910.263(j)(1)(iii)—Interlocking cover over knife head of slicing machine.

Paragraph 1910.263(j)(1)(iv)—Guarding of slicers with endless band knives.

Paragraph 1910.263(j)(1)(v)—Protection when sharpening slicer blades.

Paragraph 1910.263(j)(1)(vii)(c)—Control levers for slicing machine conveyors and wrapping machines.

Paragraph 1910.263(j)(2)(iii)—Protection from contact with electrical heaters.

Paragraph (k) of 1910.263 prescribes regulations for biscuit and cracker equipment used in bakery operations. OSHA has examined the evidence and the comments received and determined that many of the provisions in that paragraph can be revoked without compromising employee safety. Fourteen provisions being revoked from paragraph (k) are covered by other regulations, and two are revoked because they pertain to the protection of property.

Paragraph 1910.263(k)(4) protects against the hazards of top openings on horizontal tub type machines and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(7)(i) protects against the hazard of a nip point on sheeting rolls and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(8)(i) protects against the hazard of a nip point on roll stands and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(8)(ii) requires guarding of a cutter and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(8)(iii) requires guarding of reciprocating panner heads and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(k)(8)(iv) provides for motor control buttons to be located within view of a cutting head, and is explicitly directed toward protection of the machine, rather than employee safety and health. The provision is therefore revoked. Paragraph 1910.263(k)(10) protects against the hazard of a nip point on band ovens and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked.

Also, paragraph 1910.263(k)(11) requires guarding of wafer-cutting machines, and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(12)(ii) requires guarding of pan cooling tower conveyors, and is covered by paragraph 1910.212(a)(1). The provision is therefore revoked. Paragraph 1910.263(k)(12)(iii) requires guarding of a floor opening and is covered by paragraph 1910.23(a)(3) and 1910.23(a)(9). The provision is therefore revoked. Paragraph 1910.263(k)(12)(iv) requires guarding of a pan conveyor over a work area and is covered by paragraph 1910.263(i)(7)(i). The provision is therefore revoked. Paragraph 1910.263(k)(12)(v) requires the enclosure of sprocket wheels on pan conveyors and is covered by paragraph 1910.219(f)(3). The provision is therefore revoked. Paragraph 1910.263(k)(12)(vi) requires a partition between conveyor chains which run in opposite directions, and is primarily directed toward protection of the conveyors, rather than employee safety and health. The provision is therefore revoked. Paragraph 1910.263(k)(14) requires guarding of a stitching head and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked. Paragraph 1910.263(k)(15) requires guarding of end seal drums and is covered by paragraph 1910.212(a)(4). The provision is therefore revoked. Paragraph 1910.263(k)(16) requires guarding of cutting knives on carton and lining feeding machines and is covered by paragraph 1910.212(a)(3)(ii). The provision is therefore revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions of paragraph 1910.263(k) should not be revoked:

Paragraph 1910.263(k)(1)(i)—Electrical interlock between hopper and grinders.

Paragraph 1910.263(k)(1)(ii)—Guards and interlocking covers on hoppers.

Paragraph 1910.263(k)(2)(i)—Grounding of belts on sugar and spice pulverizers.

Paragraph 1910.263(k)(2)(ii)—Requirement for magnetic separators to reduce fire and explosion hazard.

Paragraph 1910.263(k)(3)—Protection of operator for cheese, fruit and food cutters.

Paragraph 1910.263(k)(5)—Guarding of reversible dough brakes and tripping mechanism.

Paragraph 1910.263(k)(6)—Guarding of cross-roll brakes.

Paragraph 1910.263(k)(7)(ii)—Automatic stopping device on hoppers for sheeters.

Paragraph 1910.263(k)(9)—Dough hopper design to protect employees' hands from moving parts.

Paragraph 1910.263(k)(12)(i)—Lockouts for servicing pan cooling towers.

Paragraph 1910.263(k)(13)—Covers for chocolate kettles.

Paragraph 1910.263(k)(17)—Covers for peanut cooling trucks.

Paragraph (l) of 1910.263 sets standards for bakery ovens and associated fuel burning equipment. A review of the evidence and comments has enabled OSHA to select a significant number of provisions for revocation without adversely affecting employee safety. Fourteen provisions are revoked because the subject is covered by alternate provisions, 56 provisions are revoked on the basis that they are design requirements for manufacturers of ovens, five provisions are revoked because they relate to public safety or property protection, eight provisions being revoked are subject to the authority of local building code or fire department officials, and eight provisions are revoked because they are now obsolete or inconsequential.

The current codes applicable for ovens and fuel burning systems are: Standard for Ovens and Furnaces, Design, Location, and Equipment, NFPA No. 86A; National Electrical Code, NFPA No. 70; Standard for the Storage and Handling of Liquified Petroleum Gases, NFPA No. 58; National Fuel Gas Code, NFPA No. 54; and Standard for the Installation of Oil Burning Equipment, NFPA No. 31. These codes provide detailed information for the design and installation of ovens. They reflect current technology and are referenced by local building code officials and insurance companies in approving ovens used in bakeries.

Paragraph 1910.263(l)(1)(i)—which requires ovens to be located with due regard for the safety of persons from casualties such as fire, explosion or

escape of fuel is revoked. This subject is covered adequately by 1910.263(l)(1)(vii) which directs that

voked. This is a design and construction feature subject to the authority of local building and fire code enforc-

mosphere or under any other conditions which might extinguish the flame. This is a design requirement

cause the equipment designer controls the installation of such equipment.

Paragraph 1910.263(l)(5)(i)(*a*) re-

Paragraph 1910.263(l)(6)(ii)(*b*) requires protection against flame failure hazards and is an installation and

Paragraph 1910.263(l)(8)(i) refers to Subpart S of Part 1910 for electrical heating equipment regulations. This

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escape of fuel is revoked. This subject is covered adequately by 1910.263(l)(1)(vii) which directs that ovens be located to eliminate exposure of persons to injury from fire or explosion and prohibits ovens adjoining locker, lunch or sales rooms and passageways or exits.

Paragraph 1910.263(l)(1)(ii) requires that ovens either be built on noncombustible foundations or have an insulated sole and a ventilated space of at least 3 inches provided so the floor beneath will not exceed a temperature of 160° F. This rule is revoked because the type of foundation and construction relative to floors is subject to the authority of building code or fire department officials at the time of construction and installation.

Paragraph 1910.263(l)(1)(iii) which requires insulation on the crown of any oven and ventilation to keep the ceiling temperature from rising above 200° F is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(l)(1)(iv) which requires oven ducts and stacks to have clearance or insulation when passing through walls or ceilings to keep temperatures of combustible ceilings from rising above 200° F is revoked. This is a design and construction feature subject to the authority of laocal building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(l)(1)(v) which covers fireproofing of columns or structural members passing through ovens to keep their temperature below 160° F is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(l)(1)(vi) which requires ovens to be accessible with proper space provided for functioning of explosion vents is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(l)(2)(i) which requires ovens to be protected from corrosion or deterioration is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(l)(2)(ii) which requires the roof of an oven to be strong enough to withstand such loads as employees climbing on or in ovens is revoked. This is a design requirement subject to control of the manufacturer.

Paragraph 1910.263(l)(3)(ii)(*a*) which sets requirements for ovens and fuel system piping connections is revoked. This is a design and construction feature subject to the authority of local building and fire code enforcing authorities at the time of construction.

Paragraph 1910.263(l)(3)(ii)(*b*) is revoked because the requirement to use good material for pipe and fittings free of defects is a responsibility of the fire and building code officials and is a part of a specification followed by the builder and installer of the oven.

Paragraph 1910.263(l)(4)(i) is revoked as this internal reference identifies the 1910.110 standard for Storage and Handling of Liquefied Petroleum Gas the source of the applicable regulations.

Paragraph 1910.263(l)(4)(ii) is a design requirement for inspirators on gas burning systems which fuel system manufacturers are guided by to issure proper functioning of the system. This rule is revoked.

Paragraph 1910.263(l)(4)(iii) requires the interlocking of dampers and the gas supply to prevent admission of gas when damper is closed. This is a design feature subject to the control of fuel system manufacturers and installers and it is revoked.

Paragraph 1910.263(l)(4)(iii)(*a*) requires secondary air ducts below each burner extending full length with air inlets placed outside the baking chamber. This is a design requirement subject to the control of the oven manufacturer and is revoked.

Paragraph 1910.263(l)(4)(iii)(*b*) requires a specific size hole in oven stack dampers with atmospheric gas-burning systems which is a design requirement for oven manufacturers and installers. The provision is revoked.

Paragraph 1910.263(l)(4)(iv) requires burners to be equipped with gas pilots or electric ignition with an exception for certain burners equipped with quick acting combustion safeguards. Hand torch ignition for initial lightings only is also provided. These requirements relate to design of the system and manufacturers are guided by the provision and the latest standards for bakery ovens in NFPA 86A of 1977. The provision is revoked.

Paragraph 1910.263(l)(4)(v) relates to the maintenance of a stable flame by perforated pipe, ribbon, slot, tip or similar type burners under all draft conditions. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vi) requires that burner design preclude any backfire or blow off within the operating range. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vi)(*a*) requires burners used on premixed gas systems to be capable of instant ignition in normal or steam-laden oven atmosphere or under any other conditions which might extinguish the flame. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vi)(*b*) requires each burner to be equipped with electric or gas ignition. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii) prescribes criteria for design, construction and machinery to insure perfect alignment of inspirator and burner which are design requirements. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(*a*) prohibits a valve or other obstruction between the inspirator and the burner. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(*b*) requires adjusting screws for inspirators. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(c) requires positive licking means for air adjustment. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(*d*) requires oven to inspirator air adjustment. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(*e*) requires inspirator mounting to consider the possibility of a backfire. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(*f*) requires that high pressure inspirators not be used under low air conditions. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(vii)(*g*) requires a positive locking device on certain inspirating sets. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(viii) requires the installation of low-pressure proportioning inspirators with zero governors with no valve or other obstruction before the burner. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(4)(ix) requires that certain features be incorporated in two-pipe systems. This is a design requirement subject to the control of the manufacturer and is revoked.

Paragraph 1910.263(l)(5)(i) requires installation of certain equipment associated with burners and is revoked because the equipment designer controls the installation of such equipment.

Paragraph 1910.263(l)(5)(i)(*a*) requires protection against certain fire and explosion hazards and is revoked. These design and installation requirements are set by equipment designers and manufacturers.

Paragraph 1910.263(l)(5)(i)(*b*) requires that all diaphragm and similar chamber be connected to the outside atmosphere and is revoked because it is a system design requirement not controlled by the employer.

Paragraph 1910.263(l)(5)(i)(*c*) requires an automatic safety shutoff valve in the mixing valve gas line and is revoked because it is an installation requirement provided by the equipment manufacturer and supplier or installer.

Paragraph 1910.263(l)(5)(i)(*d*) specifies the location of air inlets of gas mixing machines and is revoked because it is an installation design requirement not controlled by the employer.

Paragraph 1910.263(l)(5)(ii) deals with obstructions between mixing blowers and burners and is revoked because installation is prescribed by the builder/manufacturer of the equipment and installation.

Paragraph 1910.263(l)(5)(ii)(*a*) is concerned with mixing blowers construction which is not within the purview of the employer, therefore, it is revoked.

Paragraph 1910.263(l)(5)(ii)(*b*) is concerned with installation of a pressure regulator at the mixing valve inlet. The requirement is revoked because it is an installation function specified by the equipment manufacturer.

Paragraph 1910.263(l)(5)(ii)(c) concerns construction requirements of mixing blowers and is revoked since this is a product design feature not controlled by the employer.

Paragraph 1910.263(l)(5)(ii)(*d*) deals with provision of automatic safety shutoff valves and is revoked because it is an installation requirement set by the manufacturer.

Paragraph 1910.263(l)(6)(i) requires conformance with NFPA 31-1968 for the storage and distribution of fuel oil in bakeries and is revoked. Such a requirement is under the control of other authorities when the system is constructed such as local building code and fire safety officials.

Paragraph 1910.263(l)(6)(ii) requires oil burner approval by Underwriters' Laboratories, Inc., and is revoked since this is an installation requirement not controlled by the employer.

Paragraph 1910.263(l)(6)(ii)(*a*) sets pilot or ignition requirements and is an installation design feature not contolled by the employer and is, therefore, revoked.

Paragraph 1910.263(l)(6)(ii)(*b*) requires protection against flame failure hazards and is an installation and design feature not controlled by the employer. It is, therefore, revoked.

Paragraph 1910.263(l)(6)(ii)(c) sets certain system installation and design requirements which would be prescribed by the design and set by the manufacturer. It is therefore revoked.

Paragraph 1910.263(l)(6)(ii)(*d*) sets certain damper arrangement requirements and is revoked since this is an equipment design function not controlled by the employer.

Paragraph 1910.263(l)(6)(ii)(*e*) sets certain installation and design requirements for oil burners and is revoked since these are for the guidance of equipment manufacturers.

Paragraph 1910.263(l)(6)(ii)(*f*) sets system design requirements for the preheating of oil and is revoked. This is a system installation design requirement not under the control of the employer.

Paragraph 1910.263(l)(6)(ii)(*g*) sets certain installation design requirements for air pressure and oil supply and is revoked since this function is not controlled by the employer.

Paragraph 1910.263(l)(6)(iii) requires a pressure cutoff valve between the pump and nozzle and is revoked since this is a system design function not controlled by the employer.

Paragraph 1910.263(l)(6)(iv) sets certain requirements concerning air atomizing burners and is revoked since these are system design requirements for equipment manufacturers.

Paragraph 1910.263(l)(6)(v) sets certain design requirements concerning rotary-type mechanical atomizing burners and is revoked since these requirements are not controlled by the employer.

Paragraph 1910.263(l)(6)(vi) establishes requirements for evaporator-type burners on oil-fired ovens. This paragraph is revoked because it is a system design requirement of the oven manufacturer.

Paragraph 1910.263(l)(6)(vii) establishes pilot light requirements for ovens with "vaporizers." This is an oven design parameter and is revoked because it is subject to a manufacturer's overall system's design in making a safe oven.

Paragraph 1910.263(l)(7)(i) establishes requirements for solid-fuel firing systems, which requirements are now obsolete, as other fuels are now used in bakeries. The rule is revoked.

Paragraph 1910.263(l)(7)(ii)(*a*) requires mechanical stokers and is revoked because such equipment is obsolete.

Paragraph 1910.263(l)(7)(ii)(*b*) requires mechanical, stoker-fired system dampers and is revoked because these systems are no longer in use.

Paragraph 1910.263(l)(8)(i) refers to Subpart S of Part 1910 for electrical heating equipment regulations. This reference provision is revoked because Subpart S is applicable under the provisions of 1910.5.

Paragraph 1910.263(l)(8)(ii) requiring protection from electric shock by open heating elements is revoked because the hazard is covered by 1910.309(a) NEC, Article 422-2.

Paragraph 1910.263(l)(9)(iv)(*b*) requires electric circuits of ignition systems to comply with Subpart S, Electrical. This reference is revoked because Subpart S is applicable.

Paragraph 1910.263(l)(9)(v)(c) requiring valve packing glands to be designed so as to prevent binding by excessive tightening is a valve manufacturer design feature and the requirement is revoked.

Paragraph 1910.263(l)(9)(v)(*d*) requiring electrically operated safety shutoff valves by opened only be electric power is a design criterion applicable to firms who make such valves. It is revoked.

Paragraph 1910.263(l)(9)(ix)(*a*) requiring connection of ovens to flues or chimneys of ample size is for the efficient operation and is based on oven design specifications. It is revoked.

Paragraph 1910.263(l)(9)(ix)(*b*) requires chimneys to be inspected after installation or repair. The provision is revoked because it it concerned with property condition and not worker protection.

Paragraph 1910.263(l)(9)(ix)(c) requiring proper support of flue pipe or breeching is for the proper functioning of the oven or protection from damage. The rule is revoked because it is covered by applicable NFPA codes.

Paragraph 1910.263(l)(9)(ix)(*d*) setting a limit for flue pipe entry into chimneys is for the protection of the pipe and proper functioning of the oven and is revoked as it is not related to employee safety.

Paragraph 1910.263(l)(9)(lx)(*e*) requiring the flue pipe to be cemented and sealed to the chimney to prevent air infiltration is for oven efficiency and not employee safety and is revoked.

Paragraph 1910.263(l)(9)(ix)(*f*) requiring a means for regulating draft on natural draft ovens is a design feature prescribed for oven manufacturers and installers to assure efficient operation. The provision is revoked.

Paragraph 1910.263(l)(9)(ix)(*g*) requiring dampers with minimum and maximum stops and the providing of burner turnoff means when the damper is closed is a design requirement which is revoked.

Paragraph 1910.263(l)(9)(x) requiring check valves in fuel lines to prevent air backing up into the line is a design requirement which is revoked.

Paragraph 1910.263(l)(9)(xi)(*a*) which requires gas regulators to maintain manifold pressures within 10 per-

Paragraph 1910.263(l)(13)(i) requiring safety shutoff valves is covered by 1910.263(l)(9)(v)(*g*) and (*h*) and is re-

Paragraph 1910.263(l)(9)(v)(*f*)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(*g*)—Safety shutoff valves.

Paragraph 1910.264(b) is not revoked because it is a statement covering the scope of the section on laundry ma-

which were driven by engines or DC motors rather than the modern equipment which uses AC motors. The pro-

ation, and 1910.212(a)(1) covers protection from rotating parts.

Paragraph 1910.264(c)(3)(ii)(*b*), pre-

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Paragraph 1910.263(l)(9)(xi)(*a*) which requires gas regulators to maintain manifold pressures within 10 percent of operating pressure is a design criterion. The requirement is revoked.

Paragraph 1910.263(l)(9)(xi)(*b*) prohibits weight and lever-type regulators and states that regulator springs shall be covered by a housing. This is a design requirement which is revoked.

Paragraph 1910.263(l)(9)(xi)(*c*) requiring gas pressure regulators to be vented when access to the atmosphere is necessary for operation is revoked because it deals with the design features of the equipment.

Paragraph 1910.263(l)(9)(xii) is concerned with the connection of lines to the atmosphere which are required to sense atmospheric pressure on one side of flexible membranes. This detailed requirement of oven design is revoked.

Paragraph 1910.263(l)(9)(xiii) is concerned with filtering air supplied to mixing flues and burners. It is concerned with property protection and is revoked.

Paragraph 1910.263(l)(11)(iii) provides for preventilating devices to be fitted on ovens. This design feature is revoked.

Paragraph 1910.263(l)(11)(iv) requires fans to be made of temperature resistant materials to prevent rupture of the wheel. This design feature protects the fan from deterioration and insures reliable efficient operation. The rule is revoked because it is not relevant to employee safety.

Paragraph 1910.263(l)(11)(v) requires protection of the fan wheel from the flame of burners, which is a design feature and is revoked.

Paragraph 1910.263(l)(11)(vi) requires protection from overheating of ovens and fans of direct, recirculating ovens. The provision is for property protection and is revoked.

Paragraph 1910.263(l)(11)(vii) requiring access to elevated burners by means of permanent steps is revoked because this is covered by 1910.24(b).

Paragraph 1910.263(l)(12)(i) requires flue-type ovens to be operated to insure less than atmospheric pressure in the flues. This design consideration is revoked.

Paragraph 1910.263(l)(12)(ii) requiring protection of gas burners against flame failure is revoked because 1910.263(l)(9)(v)(*h*) covers this requirement.

Paragraph 1910.263(l)(12)(iii) requiring UL listed combustion safeguards is a design requirement for oven manufacturers. The provision is revoked.

Paragraph 1910.263(l)(12)(iv) requiring solid-fuel stoker fired flue-type ovens to have interlocked stack damper and stoker is revoked because such equipment is obsolete.

Paragraph 1910.263(l)(13)(i) requiring safety shutoff valves is covered by 1910.263(l)(9)(v)(*g*) and (*h*) and is revoked.

Paragraph 1910.263(l)(13)(ii) requires annual testing by repeated explosions for parts of ovens and is revoked because the practice is obsolete as a method for detecting leaks.

Paragraph 1910.263(l)(14) requiring the use of devices to protect against overfiring and overheating is a design requirement and is revoked.

Paragraph 1910.263(l)(15)(i) requiring combustion safeguards is covered by 1910.263(l)(9)(v)(*h*) and is revoked.

Paragraph 1910.263(l)(15)(ii) establishes specific design requirements for explosion vents in duct systems. This is a detailed design requirement and subject to NFPA codes. It is therefore revoked.

Paragraph 1910.263(l)(15)(iv) requiring fans and other parts to comply with paragraph (11) is revoked as unnecessary detail.

Paragraph 1910.263(l)(16) requires compliance with Subpart S, of this Part. It is revoked because it contains unnecessary reference to another Subpart of 1910 which is applicable when appropriate.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in paragraph 1910.263(l) should not be revoked:

Paragraph 1910.263(l)(1)(vii)—Location of ovens.

Paragraph 1910.263(l)(3)(i)—Emergency stop buttons on ovens.

Paragraph 1910.263(l)(3)(iii)—Main shutoff valves for ovens.

Paragraph 1910.263(l)(3)(iii)(*a*)—Access to main shutoff valves.

Paragraph 1910.263(l)(3)(iii)(*b*)—Lock out of main shutoff valves for oven maintenance.

Paragraph 1910.263(l)(8)(iii)—Main disconnect switch for electrical ovens.

Paragraph 1910.263(l)(9)(i)—Maintenance of protecting devices.

Paragraph 1910.263(l)(9)(ii)—Inspection of safety devices on ovens.

Paragraph 1910.263(l)(9)(iii)(*a*)—Gas pilot light protection.

Paragraph 1910.263(l)(9)(iii)(*b*)—Pilot lights for multiple burners.

Paragraph 1910.263(l)(9)(iv)—Combustion safeguards.

Paragraph 1910.263(l)(9)(iv)(*a*)—Ignition-fuel interlocks on ovens.

Paragraph 1910.263(l)(9)(iv)(*c*)—Combustion safeguards.

Paragraph 1910 263(l)(9)(v)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(*a*)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(*b*)—Safety shutoff valves testing.

Paragraph 1910.263(l)(9)(v)(*e*)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(*f*)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(*g*)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(v)(*h*)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(vi)—Safety shutoff valves.

Paragraph 1910.263(l)(9)(vii)—Oven fuel control.

Paragraph 1910.263(l)(9)(viii)—Explosion vents on ovens.

Paragraph 1910.263(l)(9)(viii)(*a*)—Explosion door attachment.

Paragraph 1910.263(l)(9)(viii)(*b*)—Explosion vent shields.

Paragraph 1910.263(l)(9)(viii)(*c*)—Exemption for explosion vents.

Paragraph 1910.263(l)(9)(xi)—Requirement for gas pressure regulator.

Paragraph 1910.263(l)(9)(xi)(*d*)—Relief valves for gas pressure regulators.

Paragraph 1910.263(l)(10)(i)—Direct-fired oven safeguards.

Paragraph 1910.263(l)(10)(ii)—Preventilation of ovens before firing.

Paragraph 1910.263(l)(11)(i)—Interconnect of circulating fans and fuel shutoff value.

Paragraph 1910.263(l)(11)(ii)—Protection of burner flame.

Paragraph 1910.263(l)(15)(iii)—Duct testing on ovens.

§ *1910.264 Laundry machinery and operations.* Paragraph 1910.264(a) defines terms used in the standard for laundry machinery and operations. The paragraphs which reference several of these definitions are being revoked, as unnecessary. The revocation of definitions such as point of operation, prime mover and mechanical power transmission will eliminate any possible conflicts with the definition of these terms in 1910.212 and 1910.219. Also, the definitions for machines such as washing machine, laundry, ironer, sewing machine and extractor are revoked because they do not have do be defined in a manner different from the common usage of these terms. The entire list of definitions are revoked in 1910.264(a):

1910.264(a)(1)
1910.264(a)(2)
1910.264(a)(3)
1910.264(a)(4)
1910.264(a)(5)
1910.264(a)(6)
1910.264(a)(7)
1910.264(a)(8)
1910.264(a)(9)
1910.264(a)(10)
1910.264(a)(11)
1910.264(a)(12)
1910.264(a)(13)
1910.264(a)(14)
1910.264(a)(15)
1910.264(a)(16)
1910.264(a)(17)
1910.264(a)(18)
1910.264(a)(19)
1910.264(a)(20)
1910.264(a)(21)

Paragraph 1910.264(b) is not revoked because it is a statement covering the scope of the section on laundry machinery and operations.

Paragraph 1910.264(c) provides point of operation guarding for washroom machines such as washing machines, extractors, starching and drying machines, fans, shakers, and finishing machines like ironers and sewing machines. A review of the comments and the evidence disclosed that the hazards of these machines are covered by other machinery safeguarding regulations. Therefore, 21 of these provisions in 1910.264(c) are revoked. Two of the machines in this paragraph are obsolete and no longer used in laundry operations, and these provisions are revoked.

Paragraph 1910.264(c)(1)(i) provides for prevention of injury to fingers of operators by means of a spring-compression device or a two-hand control or a barrier guard. Paragraph 1910.212(a)(3)(ii) covers the safeguarding of this type of hazard, therefore, the provision is revoked.

Paragraph 1910.264(c)(1)(ii)(*a*) requires each washing machine cover to be interlocked with the driving mechanism to prevent movement of the cylinder when the outer door is open, or to prevent opening the door when the cylinder is in motion. This hazard is covered by 1910.212(a)(3)(ii) and 1910.212(a)(4); therefore, the provision is revoked.

Paragraph 1910.264(c)(1)(iii)(*a*) requiring extractors to be fitted with a cover is revoked because the hazard is covered by 1910.212(a)(1) and 1910.212(a)(3)(ii).

Paragraph 1910.264(c)(1)(iii)(*b*) which requires interlocking of the extractor covers to prevent the cover being opened when the extractor is in motion, or to prevent starting of the extractor with the cover open is revoked. The hazard of rotating containers is covered by 1910.212(a)(3)(ii) and 1910.212(a)(4) which requires the interlocking of enclosures.

Paragraph 1910.264(c)(1)(iii)(*c*) requires the extractor to be secured in position to eliminate vibration. It also requires the manufacturer's rating giving the maximum permissible speed to be stamped on the inside of the basket. The anchoring of machines is covered by 1910.212(b) and the practice of stamping extractor baskets has been discontinued; therefore, the requirements are revoked.

Paragraph 1910.264(c)(1)(iii)(*d*) provides for an engine stop approved by Underwriters' Laboratories, Inc., and a speed limiting governor. There is a suggestion for a "no field" release to be provided when a DC motor drives the extractor. Both of these regulations are obsolete because they refer to older machines formerly in use which were driven by engines or DC motors rather than the modern equipment which uses AC motors. The provision is revoked.

Paragraph 1910.264(c)(1)(iv) requires a safety bar or other guard across the front of pressure rolls of power wringers to stop the machine when struck by the operator or another person. This point of operation hazard is covered by 1910.212(a)(3)(ii) and the provision is revoked.

Paragraph 1910.264(c)(2)(i) requiring an enclosure or guard for a cylinder or box-type starching machine is revoked because the hazard of the machine rotating or contact with moving parts is covered by 1910.212(a)(1).

Paragraph 1910.264(c)(2)(ii) provides for the guarding of fan blades with wire mesh or screening with openings, which will reject a ball ½-inch in diameter. The hazard of fan blades is covered by 1910.212(a)(5) and this provision is revoked.

Paragraph 1910.264(c)(2)(iii)(*a*) requires interlocking of the drying tumbler inside cylinder and the outer door to prevent the door from opening when the cylinder is in motion, or the cylinder from moving when the door is open. The hazard is covered by the requirement for interlocks in 1910.212(a) and this provision is revoked.

Paragraph 1910.264(c)(2)(iv)(*a*)(*1*) requires an interlock on each shaker or clothes tumbler. The requirement of 1910.212(a)(4) covers this requirement and the provision is revoked.

Paragraph 1910.264(c)(2)(iv)(*a*)(*2*) requires guarding of the tumbler when it is in motion and this is covered by 1910.212(a)(4). The provision is revoked.

Paragraph 1910.264(c)(2)(iv)(*b*)(*1*) requires interlocks for double-cylinder-type shakers or clothes tumblers which is covered by 1910.212(a)(4) and the provision is revoked.

Paragraph 1910.264(c)(3)(i) provides for roll-dampening machine safeguarding by enclosure and point of operation guarding which is covered by 1910.212 (a)(1) and (a)(3)(ii). The provision is revoked.

Paragraph 1910.264(c)(3)(i)(*a*) is revoked because it is a type of safeguarding acceptable for point of operation protection, which is also acceptable under 1910.212(a)(1).

Paragraph 1910.264(c)(3)(i)(*b*) is revoked because it is a type of safeguarding acceptable for point of operation protection, which is also acceptable under 1910.212(a)(1).

Paragraph 1910.264(c)(3)(ii)(*a*) requires a safety bar or guard for flatwork ironer pressure rolls. The guarding of the rolls is also required. Both of these provisions are revoked, because 1910.212(a)(3)(ii) covers this type of hazard at the point of operation, and 1910.212(a)(1) covers protection from rotating parts.

Paragraph 1910.264(c)(3)(ii)(*b*) prescribes guarding of body-type ironers and other types to protect employees from the hazard of the point of operation or from the hazard of burns. The provision is revoked because these hazards are covered by 1910.212(a)(1) and (a)(3)(ii).

Paragraph 1910.264(c)(3)(ii)(*c*) covers protection of employees operating combined rotary-bosom and coat ironers from the hazards of the point of operation and the hot roll or shoe. The hazards are covered by 1910.212(a)(1) and (a)(3)(ii) and the requirement is revoked.

Paragraph 1910.264(c)(3)(ii)(*d*) requires ironing presses to be provided with a guard or other means for the protection of employees from the point of operation. This hazard is covered by 1910.212(a)(3)(ii) and the provision is revoked.

Paragraph 1910.264(c)(4)(i) requires the guarding of sewing machines which is covered by 1910.212(a)(3)(ii). The provision is revoked.

Paragraph 1910.264(c)(4)(ii) provides for guards on exhaust or ventilating fans which is adequately covered by 1910.212(a)(5). The provision is revoked.

Paragraph 1910.264(c)(4)(iv) requires a means for disconnecting the source of power for machines. The regulation is concerned with belt and pulley drives which are obsolete and no longer used. The provision is revoked.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the other paragraphs in 1910.264(c) should not be revoked.

Paragraph 1910.264(d) prescribes the operating rules for laundries. Two provisions being revoked are covered by other regulations. Two are obsolete, three others are revoked because they address equipment protection, employee comfort and laundry protection. One provision is adequately covered by another regulation in 1910.264.

Paragraph 1910.264(d)(1)(i)(*a*) requires laundry room floors to be properly constructed, watertight and free of projections or dangerous gradients with good drainage and no water accumulation.

Paragraphs 1910.22(a)(2), 1910.23 (a)(9) and 1910.141(a)(3)(i), (a)(3)(ii), and (a)(3)(iii) cover the construction, care and maintenance of floors, and sanitary as well as dry conditions. The provision is revoked.

Paragraph 1910.264(d)(1)(i)(*b*) requires floors to be free from nails, splinters, loose boards and be maintained in a safe condition, all of which are covered by 1910.22(a)(2) and 1910.141(a)(3)(iii). The provision is revoked.

Paragraph 1910.264(d)(1)(ii) requires table tops, shelves, and machine woodwork to be properly surfaced and free

such general standards continue to be applicable whenever otherwise appropriate.

new evidence has come before the Agency to alter its initial findings in the area of economic impact. There-

14. Paragraph (f)(1) of § 1910.214 is revoked.

15. Paragraph (f)(2) of § 1910.214 is

49. Paragraph (b)(10) of §1910.263 is revoked.

50. Paragraph (b)(11) of §1910.263 is

85. Paragraph (d)(7)(ii) of § 1910.263 is revoked.

86. Paragraph (d)(8)(ii) of § 1910.263

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Paragraph 1910.264(d)(1)(ii) requires table tops, shelves, and machine woodwork to be properly surfaced and free from splinters. This provides for protection from damage of materials being processed and is not important to employee safety; therefore, the provision is revoked.

Paragraph 1910.264(d)(1)(iv) requires artificial ventilation to be installed for comfortable working conditions. This comfort requirement is revoked.

Paragraph 1910.264(d)(2)(i)(*b*) prohibits operation of machines until they are repaired and properly adjusted. This equipment performance and protection rule is revoked.

Paragraph 1910.264(d)(2)(ii) requires steam pressure apparatus to be operated in accordance with the manufacturer's pressure rating, which in some cases requires the use of pressure reducing valves and safety valves. The requirement is covered by 1910.264(c)(4)(ii)(*b*) and the provision is revoked.

Paragraph 1910.264(d)(2)(iii) requires all machines to be stopped when being oiled, cleaned, adjusted, or repaired. This obsolete requirement is a carryover from the time when machines were operated from a common power shaft with belts and the maintenance of one machine required stopping all machines. All machines in use today have a separate power source, thus making it easy to stop the machine for maintenance. The paragraph is therefore revoked.

Paragraph 1910.264(d)(2)(iv) requiring the dismantling of each extractor every year is revoked because the practice is no longer recommended by manufacturers, and is directed to property protection.

Upon review of the evidence and the comments, OSHA has determined that in the best interests of worker protection the other paragraphs in 1910.264(d) should not be revoked.

Paragraph 1910.264(e) prescribes regulations for machine guarding other than points of operation. Two provisions being revoked are covered by other regulations.

Paragraph 1910.264(e)(1) requires guarding of moving parts such as gears, sprockets, belts, pulleys, and shafts in accordance with 1910.219, which is applicable without this reference. The regulation is revoked because 1910.219 (c)(1), (f)(1), (f)(3), (f)(4), and (c)(1) cover these hazards.

Paragraph 1910.264(e)(2) covers guarding of prime movers in accordance with 1910.219, which is applicable without this reference, therefore, the provision is revoked.

Paragraph 1910.264(f) prescribes the general industrial safety standards to be used in laundries and is revoked as it contains unnecessary reference; such general standards continue to be applicable whenever otherwise appropriate.

Paragraph 1910.264(e)(2) covers guarding of prime movers in accordance with 1910.219, which is applicable without this reference, therefore, the provision is revoked.

Paragraph 1910.264(f) prescribes the General Industry Safety Standards to be used in laundries.

Paragraph 1910.264(f)(1) refers to reference standards listed in 1910.264(f)(2) and applies the general coverage standards of Part 1910 under the rules of construction in 1910.5. This regulation is revoked, because general standards are applicable as appropriate under 1910.5.

Paragraph 1910.264(f)(2) lists under (i) through (viii) the national consensus standards which have some application to laundry operations. These referenced standards as listed in 1910.264(f)(2)(i) through 1910.264(f)(2)(viii) are revoked because several appear in Part 1910 subparts, some have been amended and now conflict with the national consensus standard, and some are design standards for equipment manufacturers.

Upon reexamination of the evidence, OSHA has determined that, in the best interest of worker protection, the following provisions in section 1910.264 should not be revoked:

Paragraph 1910.264(c)(1)(ii)(*b*)—Holding door open on washing machines.

Paragraph 1910.264(c)(2)(iii)(*b*)—Holding door open on drying tumblers.

Paragraph 1910.264(c)(2)(iv)(*b*)(*2*)—Holding door open on shakers.

Paragraph 1910.264(c)(2)(v)—Exception of holding door open for automatic machines.

Paragraph 1910.264(c)(4)(iii)(*a*)—Insulating steam pipes to prevent burns.

Paragraph 1910.264(c)(4)(iii)(*b*)—Safety valves on steam lines.

Paragraph 1910.264(d)(1)(iii)—Precautions for handling soiled clothes.

Paragraph 1910.264(d)(1)(v)—Employee instruction.

Paragraph 1910.264(d)(2)(i)(*a*)—Prohibition against removing safety guards.

V. Economic Impact

In accordance with Executive Order 11821 (39 FR 41501, November 29, 1974), Executive Order 11949 (42 FR 1017, January 5, 1977) and OMB Circular No. A-107 (January 28, 1975), OSHA assessed the potential economic impact of the proposal which is resulting in this final rule. Based on the six economic thresholds, OSHA concluded that the subject matter of the proposal was not a "major" action which would necessitate further economic impact evaluation or the preparation of an Economic Impact Statement. No new evidence has come before the Agency to alter its initial findings in the area of economic impact. Therefore upon consideration of the entire record using the same criteria, OSHA has concluded that this final rule is not a "major" action, and that no Economic Impact Statement is required, and so certifies.

VI. Effective Date

The revocations listed herein shall be effective as of November 24, 1978.

VII. Authority

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to section 4(b)(2), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 29 U.S.C. 653, 655, 657), the specific statutes referred to in section 4(b)(2), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations, is hereby amended by revoking those selected standards or portions thereof in 29 CFR Part 1910 which are listed below.

Signed at Washington, D.C., this 20th day of October, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

Part 1910 of Title 29, Code of Federal Regulations, is amended as follows:

§ 1910.214 Cooperage machinery [Amended]

1. Paragraph (a)(1) of § 1910.214 is revoked.
2. Paragraph (a)(2) of § 1910.214 is revoked.
3. Paragraph (a)(3) of § 1910.214 is revoked.
4. Paragraph (a)(4) of § 1910.214 is revoked.
5. Paragraph (b)(1) of § 1910.214 is revoked.
6. Paragraph (b)(2) of § 1910.214 is revoked.
7. Paragraph (b)(3) of § 1910.214 is revoked.
8. Paragraph (c)(1) of § 1910.214 is revoked.
9. Paragraph (c)(2) of § 1910.214 is revoked.
10. Paragraph (d)(1) of § 1910.214 is revoked.
11. Paragraph (d)(2) of § 1910.214 is revoked.
12. Paragraph (e)(1) of § 1910.214 is revoked.
13. Paragraph (e)(2) of § 1910.214 is revoked.

14. Paragraph (f)(1) of § 1910.214 is revoked.
15. Paragraph (f)(2) of § 1910.214 is revoked.
16. Paragraph (f)(3) of § 1910.214 is revoked.
17. Paragraph (g)(1) of § 1910.214 is revoked.
18. Paragraph (g)(2) of § 1910.214 is revoked.
19. Paragraph (g)(3) of § 1910.214 is revoked.
20. Paragraph (h)(1) of § 1910.214 is revoked.
21. Paragraph (h)(2) of § 1910.214 is revoked.
22. Paragraph (i) of §1910.214 is revoked.
23. Paragraph (j) of §1910.214 is revoked.
24. Paragraph (k) of §1910.214 is revoked.
25. Paragraph (l) of §1910.214 is revoked.
26. Paragraph (m) of §1910.214 is revoked.
27. Paragraph (n)(1) of §1910.214 is revoked.
28. Paragraph (n)(2) of §1910.214 is revoked.
29. Paragraph (o) of §1910.214 is revoked.
30. Paragraph (p) of §1910.214 is revoked.
31. Paragraph (q)(1) of §1910.214 is revoked.
32. Paragraph (q)(2) of §1910.214 is revoked.
33. Paragraph (r) of §1910.214 is revoked.
34. Paragraph (s) of §1910.214 is revoked.
35. Paragraph (t) of §1910.214 is revoked.
36. Paragraph (u) of §1910.214 is revoked.
37. Paragraph (v) of §1910.214 is revoked.
38. Paragraph (w) of §1910.214 is revoked.

§1910.263 Bakery equipment [Amended].

39. Paragraph (a)(2) of §1910.263 is revoked.
40. Paragraph (b)(1) of §1910.263 is revoked.
41. Paragraph (b)(2) of §1910.263 is revoked.
42. Paragraph (b)(3) of §1910.263 is revoked.
43. Paragraph (b)(4) of §1910.263 is revoked.
44. Paragraph (b)(5) of §1910.263 is revoked.
45. Paragraph (b)(6) of §1910.263 is revoked.
46. Paragraph (b)(7) of §1910.263 is revoked.
47. Paragraph (b)(8) of §1910.263 is revoked.
48. Paragraph (b)(9) of §1910.263 is revoked.
49. Paragraph (b)(10) of §1910.263 is revoked.
50. Paragraph (b)(11) of §1910.263 is revoked.
51. Paragraph (b)(12) of §1910.263 is revoked.
52. Paragraph (b)(13) of §1910.263 is revoked.
53. Paragraph (b)(14) of §1910.263 is revoked.
54. Paragraph (c)(1) of §1910.263 is revoked.
55. Paragraph (c)(4) of §1910.263 is revoked.
56. Paragraph (c)(6) of §1910.263 is revoked.
57. Paragraph (c)(7) of §1910.263 is revoked.
58. Paragraph (d)(1)(i)(*a*) of §1910.263 is revoked.
59. Paragraph (d)(1)(i)(c) of §1910.263 is revoked.
60. Paragraph (d)(1)(ii) of §1910.263 is revoked.
61. Paragraph (d)(1)(iii) of §1910.263 is revoked.
62. Paragraph (d)(1)(iii)(*a*) of §1910.263 is revoked.
63. Paragraph (d)(1)(iii)(*b*) of §1910.263 is revoked.
64. Paragraph (d)(iii)(c) of §1910.263 is revoked.
65. Paragraph (d)(1)(iii)(*d*) of §1910.263 is revoked.
66. Paragraph (d)(1)(iv) of §1910.263 is revoked.
67. Paragraph (d)(1)(v) of §1910.263 is revoked.
68. Paragraph (d)(1)(vi) of §1910.263 is revoked.
69. Paragraph (d)(1)(vii) of § 1910.263 is revoked.
70. Paragraph (d)(1)(viii) of § 1910.263 is revoked.
71. Paragraph (d)(2)(iii) of § 1910.263 is revoked.
72. Paragraph (d)(3)(i) of § 1910.263 is revoked.
73. Paragraph (d)(3)(ii) of § 1910.263 is revoked.
74. Paragraph (d)(3)(iii) of § 1910.263 is revoked.
75. Paragraph (d)(3)(iv) of § 1910.263 is revoked.
76. Paragraph (d)(3)(viii) of § 1910.263 is revoked.
77. Paragraph (d)(4)(i) of § 1910.263 is revoked.
78. Paragraph (d)(4)(ii) of § 1910.263 is revoked.
79. Paragraph (d)(5)(i) of § 1910.263 is revoked.
80. Paragraph (d)(5)(ii) of § 1910.263 is revoked.
81. Paragraph (d)(6)(i) of § 1910.263 is revoked.
82. Paragraph (d)(6)(iii) of § 1910.263 is revoked.
83. Paragraph (d)(6)(v) of § 1910.263 is revoked.
84. Paragraph (d)(7)(i) of § 1910.263 is revoked.
85. Paragraph (d)(7)(ii) of § 1910.263 is revoked.
86. Paragraph (d)(8)(ii) of § 1910.263 is revoked.
87. Paragraph (d)(8)(iii) of § 1910.263 is revoked.
88. Paragraph (d)(9)(i) of § 1910.263 is revoked.
89. Paragraph (d)(9)(ii) of § 1910.263 is revoked.
90. Paragraph (d)(9)(iv) of § 1910.263 is revoked.
91. Paragraph (d)(9)(v) of § 1910.263 is revoked.
92. Paragraph (d)(9)(vi) of § 1910.263 is revoked.
93. Paragraph (d)(10) of § 1910.263 is revoked.
94. Paragraph (e)(1)(ii) of § 1910.263 is revoked.
95. Paragraph (e)(1)(v)(c) of § 1910.263 is revoked.
96. Paragraph (e)(1)(vi) of § 1910.263 is revoked.
97. Paragraph (e)(1)(vii) of § 1910.263 is revoked.
98. Paragraph (e)(1)(ix) of § 1910.263 is revoked.
99. Paragraph (e)(1)(xi) of § 1910.263 is revoked.
100. Paragraph (e)(1)(xii) of § 1910.263 is revoked.
101. Paragraph (e)(1)(xiii) of § 1910.263 is revoked.
102. Paragraph (e)(1)(xiv) of § 1910.263 is revoked.
103. Paragraph (e)(1)(xv) of § 1910.263 is revoked.
104. Paragraph (e)(1)(xvi) of § 1910.263 is revoked.
105. Paragraph (e)(1)(xvii) of § 1910.263 is revoked.
106. Paragraph (e)(2)(i) of § 1910.263 is amended to read: "(2) *Vertical Mixers.* (i) Vertical mixers shall comply with paragraphs (e)(1)(i), (iii), (ix), and (x), of this section."
107. Paragraph (e)(2)(ii) of § 1910.263 is revoked.
108. Paragraph (e)(2)(v) of § 1910.263 is revoked.
109. Paragraph (f)(1) of § 1910.263 is revoked.
110. Paragraph (f)(2) of § 1910.263 is revoked.
111. Paragraph (f)(4) of § 1910.263 is revoked.
112. Paragraph (f)(5) of § 1910.263 is revoked.
113. Paragraph (f)(6) of § 1910.263 is revoked.
114. Paragraph (g)(4) of § 1910.263 is revoked.
115. Paragraph (g)(5) of § 1910.263 is revoked.
116. Paragraph (g)(6) of § 1910.263 is revoked.
117. Paragraph (i)(6)(i) of § 1910.263 is revoked.
118. Paragraph (i)(6)(iv) of § 1910.263 is revoked.
119. Paragraph (i)(8)(i) of § 1910.263 is revoked.

120. Paragraph (i)(8)(ii) of § 1910.263 is revoked.
121. Paragraph (i)(9) of § 1910.263 is revoked.
156. Paragraph (k)(8)(iv) of § 1910.263 is revoked.
157. Paragraph (k)(10) of § 1910.263 is revoked.
192. Paragraph (l)(4)(vii)(*e*) of § 1910.263 is revoked.
193. Paragraph (l)(4)(vii)(*f*) of § 1910.263 is revoked.

228. Paragraph (l)(9)(v)(*d*) of § 1910.263 is revoked.
229. Paragraph (l)(9)(ix)(*a*) of § 1910.263 is revoked.
259. Paragraph (a)(2) of § 1910.264 is revoked.
260. Paragraph (a)(4) of § 1910.264 is revoked.
292. Paragraph (c)(3)(i) of § 1910.264 is revoked.
293. Paragraph (c)(3)(i)(*a*) of § 1910.264 is revoked.

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120. Paragraph (i)(8)(ii) of § 1910.263 is revoked.
121. Paragraph (i)(9) of § 1910.263 is revoked.
122. Paragraph (i)(10)(i) of § 1910.263 is revoked.
123. Paragraph (i)(10)(ii) of § 1910.263 is revoked.
124. Paragraph (i)(11)(ii) of § 1910.263 is revoked.
125. Paragraph (i)(14)(i) of § 1910.263 is revoked.
126. Paragraph (i)(15)(i) of § 1910.263 is revoked.
127. Paragraph (i)(15)(iii) of § 1910.263 is revoked.
128. Paragraph (i)(15)(iv) of § 1910.263 is revoked.
129. Paragraph (i)(16) of § 1910.263 is revoked.
130. Paragraph (i)(17) of § 1910.263 is revoked.
131. Paragraph (i)(18) of § 1910.263 is revoked.
132. Paragraph (i)(19)(i) of § 1910.263 is revoked.
133. Paragraph (i)(19)(ii) of § 1910.263 is revoked.
134. Paragraph (i)(20)(i) of § 1910.263 is revoked.
135. Paragraph (i)(21)(i) of § 1910.263 is revoked.
136. Paragraph (i)(21)(iii) of § 1910.263 is revoked.
137. Paragraph (i)(23)(ii) of § 1910.263 is revoked.
138. Paragraph (i)(23)(iii) of § 1910.263 is revoked.
139. Paragraph (j)(1)(i) of § 1910.263 is revoked.
140. Paragraph (j)(1)(ii) of § 1910.263 is revoked.
141. Paragraph (j)(1)(vi) of § 1910.263 is revoked.
142. Paragraph (j)(1)(vii)(*a*) of § 1910.263 is revoked.
143. Paragraph (j)(1)(vii)(*b*) of § 1910.263 is revoked.
144. Paragraph (j)(1)(vii)(*d*) of § 1910.263 is revoked.
145. Paragraph (j)(2)(i) of § 1910.263 is revoked.
146. Paragraph (j)(2)(ii) of § 1910.263 is revoked.
147. Paragraph (j)(2)(iv) of § 1910.263 is revoked.
148. Paragraph (j)(2)(v) of § 1910.263 is revoked.
149. Paragraph (j)(2)(vi) of § 1910.263 is revoked.
150. Paragraph (j)(2)(vii) of § 1910.263 is revoked.
151. Paragraph (k)(4) of § 1910.263 is revoked.
152. Paragraph (k)(7)(i) of § 1910.263 is revoked.
153. Paragraph (k)(8)(i) of § 1910.263 is revoked.
154. Paragraph (k)(8)(ii) of § 1910.263 is revoked.
155. Paragraph (k)(8)(iii) of § 1910.263 is revoked.
156. Paragraph (k)(8)(iv) of § 1910.263 is revoked.
157. Paragraph (k)(10) of § 1910.263 is revoked.
158. Paragraph (k)(11) of § 1910.263 is revoked.
159. Paragraph (k)(12)(ii) of § 1910.263 is revoked.
160. Paragraph (k)(12)(iii) of § 1910.263 is revoked.
161. Paragraph (k)(12)(iv) of § 1910.263 is revoked.
162. Paragraph (k)(12)(v) of § 1910.263 is revoked.
163. Paragraph (k)(12)(vi) of § 1910.263 is revoked.
164. Paragraph (k)(14) of § 1910.263 is revoked.
165. Paragraph (k)(15) of § 1910.263 is revoked.
166. Paragraph (k)(16) of § 1910.263 is revoked.
167. Paragraph (l)(1)(i) of 1910.263 is revoked.
168. Paragraph (l)(1)(ii) of 1910.263 is revoked.
169. Paragraph (l)(1)(iii) of 1910.263 is revoked.
170. Paragraph (l)(1)(iv) of § 1910.263 is revoked.
171. Paragraph (l)(1)(v) of § 1910.263 is revoked.
172. Paragraph (l)(1)(vi) of § 1910.263 is revoked.
173. Paragraph (l)(2)(i) of § 1910.263 is revoked.
174. Paragraph (l)(2)(ii) of § 1910.263 is revoked.
175. Paragraph (l)(3)(ii)(*a*) of § 1910.263 is revoked.
176. Paragraph (l)(3)(ii)(*b*) of § 1910.263 is revoked.
177. Paragraph (l)(4)(i) of § 1910.263 is revoked.
178. Paragraph (l)(4)(ii) of § 1910.263 is revoked.
179. Paragraph (l)(4)(iii) of § 1910.263 is revoked.
180. Paragraph (l)(4)(iii)(*a*) of § 1910.263 is revoked.
181. Paragraph (l)(4)(iii)(*b*) of § 1910.263 is revoked.
182. Paragraph (l)(4)(iv) of § 1910.263 is revoked.
183. Paragraph (l)(4)(v) of § 1910.263 is revoked.
184. Paragraph (l)(4)(vi) of § 1910.263 is revoked.
185. Paragraph (l)(4)(vi)(*a*) of § 1910.263 is revoked.
186. Paragraph (l)(4)(vi)(*b*) of § 1910.263 is revoked.
187. Paragraph (l)(4)(vii) of § 1910.263 is revoked.
188. Paragraph (l)(4)(vii)(*a*) of § 1910.263 is revoked.
189. Paragraph (l)(4)(vii)(*b*) of § 1910.263 is revoked.
190. Paragraph (l)(4)(vii)(*c*) of § 1910.263 is revoked.
191. Paragraph (l)(4)(vii)(*d*) of § 1910.263 is revoked.
192. Paragraph (l)(4)(vii)(*e*) of § 1910.263 is revoked.
193. Paragraph (l)(4)(vii)(*f*) of § 1910.263 is revoked.
194. Paragraph (l)(4)(vii)(*g*) of § 1910.263 is revoked.
195. Paragraph (l)(4)(viii) of § 1910.263 is revoked.
196. Paragraph (l)(4)(ix) of § 1910.263 is revoked.
197. Paragraph (l)(5)(i) of § 1910.263 is revoked.
198. Paragraph (l)(5)(i)(*a*) of § 1910.263 is revoked.
199. Paragraph (l)(5)(i)(*b*) of § 1910.263 is revoked.
200. Paragraph (l)(5)(i)(*c*) of § 1910.263 is revoked.
201. Paragraph (l)(5)(i)(*d*) of § 1910.263 is revoked.
202. Paragraph (l)(5)(ii) of § 1910.263 is revoked.
203. Paragraph (l)(5)(ii)(*a*) of § 1910.263 is revoked.
204. Paragraph (l)(5)(ii)(*b*) of § 1910.263 is revoked.
205. Paragraph (l)(5)(ii)(*c*) of § 1910.263 is revoked.
206. Paragraph (l)(5)(ii)(*d*) of § 1910.263 is revoked.
207. Paragraph (l)(6)(i) of § 1910.263 is revoked.
208. Paragraph (l)(6)(ii) of § 1910.263 is revoked.
209. Paragraph (l)(6)(ii)(*a*) of § 1910.263 is revoked.
210. Paragraph (l)(6)(ii)(*b*) of § 1910.263 is revoked.
211. Paragraph (l)(6)(ii)(*c*) of § 1910.263 is revoked.
212. Paragraph (l)(6)(ii)(*d*) of § 1910.263 is revoked.
213. Paragraph (l)(6)(ii)(*e*) of § 1910.263 is revoked.
214. Paragraph (l)(6)(ii)(*f*) of § 1910.263 is revoked.
215. Paragraph (l)(6)(ii)(*g*) of § 1910.263 is revoked.
216. Paragraph (l)(6)(iii) of § 1910.263 is revoked.
217. Paragraph (l)(6)(iv) of § 1910.263 is revoked.
218. Paragraph (l)(6)(v) of § 1910.263 is revoked.
219. Paragraph (l)(6)(vi) of § 1910.263 is revoked.
220. Paragraph (l)(6)(vii) of § 1910.263 is revoked.
221. Paragraph (l)(7)(i) of § 1910.263 is revoked.
222. Paragraph (l)(7)(ii)(*a*) of § 1910.263 is revoked.
223. Paragraph (l)(7)(ii)(*b*) of § 1910.263 is revoked.
224. Paragraph (l)(8)(i) of § 1910.263 is revoked.
225. Paragraph (l)(8)(ii) of § 1910.263 is revoked.
226. Paragraph (l)(9)(iv)(*b*) of § 1910.263 is revoked.
227. Paragraph (l)(9)(v)(*c*) of § 1910.263 is revoked.

228. Paragraph (l)(9)(v)(*d*) of § 1910.263 is revoked.
229. Paragraph (l)(9)(ix)(*a*) of § 1910.263 is revoked.
230. Paragraph (l)(9)(ix)(*b*) of § 1910.263 is revoked.
231. Paragraph (l)(9)(ix)(*c*) of § 1910.263 is revoked.
232. Paragraph (l)(9)(ix)(*d*) of § 1910.263 is revoked.
233. Paragraph (l)(9)(ix)(*e*) of § 1910.263 is revoked.
234. Paragraph (l)(9)(ix)(*f*) of § 1910.263 is revoked.
235. Paragraph (l)(9)(ix)(*g*) of § 1910.263 is revoked.
236. Paragraph (l)(9)(x) of § 1910.263 is revoked.
237. Paragraph (l)(9)(ix)(*a*) of § 1910.263 is revoked.
238. Paragraph (l)(9)(xi)(*b*) of § 1910.263 is revoked.
239. Paragraph (l)(9)(xi)(*c*) of § 1910.263 is revoked.
240. Paragraph (l)(9)(xii) of § 1910.263 is revoked.
241. Paragraph (l)(9)(xiii) of § 1910.263 is revoked.
242. Paragraph (l)(11)(iii) of § 1910.263 is revoked.
243. Paragraph (l)(11)(iv) of § 1910.263 is revoked.
244. Paragraph (l)(11)(v) of § 1910.263 is revoked.
245. Paragraph (l)(11)(vi) of § 1910.263 is revoked.
246. Paragraph (l)(11)(vii) of § 1910.263 is revoked.
247. Paragraph (l)(12)(i) of § 1910.263 is revoked.
248. Paragraph (l)(12)(ii) of § 1910.263 is revoked.
249. Paragraph (l)(12)(iii) of § 1910.263 is revoked.
250. Paragraph (l)(12)(iv) of § 1910.263 is revoked.
251. Paragraph (l)(13)(i) of § 1910.263 is revoked.
252. Paragraph (l)(13)(ii) of § 1910.263 is revoked.
253. Paragraph (l)(14) of § 1910.263 is revoked.
254. Paragraph (l)(15)(i) of § 1910.263 is revoked.
255. Paragraph (l)(15)(ii) of § 1910.263 is revoked.
256. Paragraph (l)(15)(iv) of § 1910.263 is revoked.
257. Paragraph (l)(16) of § 1910.263 is revoked.

§ 1910.264 Laundry machinery and operations [Amended].

258. Paragraph (a)(1) of § 1910.264 is revoked.
259. Paragraph (a)(2) of § 1910.264 is revoked.
260. Paragraph (a)(4) of § 1910.264 is revoked.
262. Paragraph (a)(5) of § 1910.264 is revoked.
263. Paragraph (a)(6) of § 1910.264 is revoked.
264. Paragraph (a)(7) of § 1910.264 is revoked.
265. Paragraph (a)(8) of § 1910.264 is revoked.
266. Paragraph (a)(9) of § 1910.264 is revoked.
267. Paragraph (a)(10) of § 1910.264 is revoked.
268. Paragraph (a)(11) of § 1910.264 is revoked.
269. Paragraph (a)(12) of § 1910.264 is revoked.
270. Paragraph (a)(13) of § 1910.264 is revoked.
271. Paragraph (a)(14) of § 1910.264 is revoked.
272. Paragraph (a)(15) of § 1910.264 is revoked.
273. Paragraph (a)(16) of § 1910.264 is revoked.
274. Paragraph (a)(17) of § 1910.264 is revoked.
275. Paragraph (a)(18) of § 1910.264 is revoked.
276. Paragraph (a)(19) of § 1910.264 is revoked.
277. Paragraph (a)(20) of § 1910.264 is revoked.
278. Paragraph (a)(21) of § 1910.264 is revoked.
279. Paragraph (c)(1)(i) of § 1910.264 is revoked.
280. Paragraph (c)(1)(ii)(*a*) of § 1910.264 is revoked.
281. Paragraph (c)(1)(iii)(*a*) of § 1910.264 is revoked.
282. Paragraph (c)(1)(iii)(*b*) of § 1910.264 is revoked.
283. Paragraph (c)(1)(iii)(*c*) of § 1910.264 is revoked.
284. Paragraph (c)(1)(iii)(*d*) of § 1910.264 is revoked.
285. Paragraph (c)(1)(iv) of § 1910.264 is revoked.
286. Paragraph (c)(2)(i) of § 1910.264 is revoked.
287. Paragraph (c)(2)(ii) of § 1910.264 is revoked.
288. Paragraph (c)(2)(iii)(*a*) of § 1910.264 is revoked.
289. Paragraph (c)(2)(iv)(*a*)(*1*) of § 1910.264 is revoked.
290. Paragraph (c)(2)(iv)(*a*)(*a2*) of § 1910.264 is revoked.
291. Paragraph (c)(2)(iv)(*b*)(*1*) of § 1910.264 is revoked.
292. Paragraph (c)(3)(i) of § 1910.264 is revoked.
293. Paragraph (c)(3)(i)(*a*) of § 1910.264 is revoked.
294. Paragraph (c)(3)(i)(*b*) of § 1910.264 is revoked.
295. Paragraph (c)(3)(ii)(*a*) of § 1910.264 is revoked.
296. Paragraph (c)(3)(ii)(*b*) of § 1910.264 is revoked.
297. Paragraph (c)(3)(ii)(*c*) of § 1910.264 is revoked.
298. Paragraph (c)(4)(i) of § 1910.264 is revoked.
299. Paragraph (c)(4)(i) of § 1910.264 is revoked.
300. Paragraph (c)(4)(ii) of § 1910.264 is revoked.
301. Paragraph (c)(4)(iv) of § 1910.264 is revoked.
302. Paragraph (d)(1)(i)(*a*) of § 1910.264 is revoked.
303. Paragraph (d)(1)(i)(*b*) of § 1910.264 is revoked.
304. Paragraph (d)(1)(ii) of § 1910.264 is revoked.
305. Paragraph (d)(1)(iv) of § 1910.264 is revoked.
306. Paragraph (d)(2)(i)(*b*) of § 1910.264 is revoked.
307. Paragraph (d)(2)(ii) of § 1910.264 is revoked.
308. Paragraph (d)(2)(iii) of § 1910.264 is revoked.
309. Paragraph (d)(2)(iv) of § 1910.264 is revoked.
310. Paragraph (e)(1) of § 1910.264 is revoked.
311. Paragraph (e)(2) of § 1910.264 is revoked.
312. Paragraph (f)(1) of § 1910.264 is revoked.
313. Paragraph (f)(2) of § 1910.264 is revoked.
314. Paragraph (f)(2)(i) of § 1910.264 is revoked.
315. Paragraph (f)(2)(ii) of § 1910.264 is revoked.
316. Paragraph (f)(2)(iii) of § 1910.264 is revoked.
317. Paragraph (f)(2)(iv) of § 1910.264 is revoked.
318. Paragraph (f)(2)(v) of § 1910.264 is revoked.
319. Paragraph (f)(2)(vi) of § 1910.264 is revoked.
320. Paragraph (f)(2)(vii) of § 1910.264 is revoked.
321. Paragraph (f)(2)(viii) of § 1910.264 is revoked.

[FR Doc. 78-30165 Filed 10-23-78; 8:45 am]

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federal register

TUESDAY, OCTOBER 24, 1978
PART IX

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PRIVACY ACT OF 1974

Additional Routine Use and New System of Records

[6325-01-M]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PRIVACY ACT OF 1974

Additional Routine Use and New System of Records

AGENCIES: Civil Service Commission and Department of Health, Education, and Welfare.

ACTION: Notice of additional routine use and new system of records.

SUMMARY: The Civil Service Commission proposes to add a routine use to its system of records, Personnel Investigations Records, CSC/Central-1. The Department of Health, Education, and Welfare proposes to establish a new system of records, Recipient Eligibility Verification Records, HEW/SSA/OA. The Commission proposes to disclose information to the Department of Health, Education, and Welfare. The Department of Health, Education, and Welfare proposes to disclose information to the Civil Service Commission. The Commission and the Department of Health, Education, and Welfare are conducting a matching program to reduce fraud and unauthorized payments in Federal benefit programs administered by the Department of Health, Education, and Welfare.

DATES: The Civil Service Commission and the Department of Health, Education, and Welfare will implement the proposed routine use and new system of records without further notice on November 24, 1978, unless comments received on or before that date result in a contrary determination.

ADDRESSES: Comments should be addressed to the Executive Director, Federal Personnel Manual System, Civil Service Commission, Washington, D.C. 20415, or to the Director, Office of Management and Budget, Department of Health, Education, and Welfare, Washington, D.C. 20201. Comments received will be available for inspection in Room 526-F, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Hampton, Executive Director, Federal Personnel Manual System, Civil Service Commission, Washington, D.C. 20415, 202-632-5581, or Mr. Thomas S. Dawson, Director, Office of Management and Budget, Department of Health, Education, and Welfare, Washington, D.C. 20201, 202-245-6252.

SUPPLEMENTARY INFORMATION: The Civil Service Commission proposes to add a routine use to its system of records, Personnel Investigations Records, CSC/Central-1. The routine use will allow the Commission to disclose information to the Department of Health, Education, and Welfare. The Department of Health, Education, and Welfare proposes to establish a new system of records, Recipient Eligibility Verification Records, HEW/SSA/OA. The Department of Health, Education, and Welfare proposes to disclose information to the Civil Service Commission. The Commission and the Department of Health, Education, and Welfare are conducting a matching program to reduce fraud and unauthorized payments in Federal benefit programs administered by the Department of Health, Education, and Welfare.

Dated: October 13, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for

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[6325-01-M]

CIVIL SERVICE COMMISSION

PRIVACY ACT OF 1974

Proposed New Routine Use

AGENCY: U.S. Civil Service Commission.

ACTION: Proposal for a new routine use for an existing system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to 5 U.S.C. 552a(e)(11) of the Privacy Act of 1974, of intent to establish a new routine use, for limited duration, covering the disclosure of information to the Department of Health, Education, and Welfare (DHEW) from the central personnel data file (CPDF) for current Federal employees.

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before November 24, 1978.

ADDRESS: Address comments to: Assistant Director for Workforce Information, Bureau of Personnel Management Evaluation, Room 6410, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Comments received will be made available for public inspection at the above address between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION, CONTACT:

Mr. John Sanet or Mr. William Lynch, Office of Advisory Services, Bureau of Personnel Management Evaluation, 202-254-9790.

SUPPLEMENTAL INFORMATION: The published description of the affected system, General Personnel Records (CSC/GOVT-3), appears in the FEDERAL REGISTER of September 8, 1978 (43 FR 40106).

BACKGROUND: The Office of Inspector General of the Department of Health, Education, and Welfare (DHEW) is authorized under Pub. L. 94-505, section 205(a)(2), to request information necessary to accomplish the duties and responsibilities required by that Act from any Federal agency. As part of an effort to detect and prevent fraud in the supplemental security income (SSI) program, DHEW needs information concerning those Federal employees who are receiving SSI benefits. It should be noted that a current Federal employee who is also receiving SSI benefits does not necessarily indicate that the benefits are being improperly or fraudulently obtained by that individual.

The most efficient way of comparing the name of individuals who are receiving SSI benefits with those who are Federal civilian employees is for the Civil Service Commission to provide certain data from its central personnel data file (CPDF) to DHEW. The release of an individual's name, grade, and duty station is permitted under the Commission's regulations implementing the Freedom of Information Act (5 U.S.C. 552). These regulations are found at § 294.702 of Title 5 of the Code of Federal Regulations.

Under the new routine use, in addition to the three data elements cited above, the Civil Service Commission will provide from the CPDF the individual's social security number and date of birth to DHEW. DHEW will then "match" this identifying information with its SSI files and use the results as an indicator that a more thorough review of the recipient's eligibility to receive payments is required.

Although the social security number and date of birth of an individual are not considered to be public information, anticipated benefits to the public justify disclosure of this information for matching with SSI records under safeguards established by DHEW to protect against unauthorized data disclosure and to respect individual rights. Disclosure under the proposed routine use will permit DHEW to assure greater integrity of the SSI benefit program and, additionally, will be compatible with the personnel management responsibility for oversight of Federal employees' conduct, particularly with regard to the requirement that employees pay just financial obligations in a proper and timely manner.

An important limitation associated with the Commission's supplying of the data is that DHEW will not make nor will they retain copies of the Civil Service Commission's magnetic tapes containing the information, but will return all the source tapes to the Commission for destruction after use. This will limit the possibility of unauthorized use of the data. In addition, since access is pursuant to a Privacy Act routine use, an accounting of disclosure is made as required by 5 U.S.C. 552a(c).

PROPOSED ROUTINE USE: The proposed routine use which follows will be added to the Civil Service Commission's governmentwide system of general personnel records (CSC/GOVT-3). The current notice of this system is published at 43 FR 40106 et seq (September 8, 1978).

To disclose the name, date of birth, social security number, pay grade, work schedule, and duty station location of Federal employees to the Department of Health, Education, and Welfare in connection with that agency's supplemental security income matching program. Pursuant to Pub. L. 94-505, the Departmnent of Health, Education, and Welfare is conducting a matching program to reduce fraud and unauthorized payments in Federal programs, and to collect debts owed to the Federal Government. This routine use will be operative for a limited period of 6 months from its effective date (May 27, 1979).

The comment period on the routine use ends at the close of business 30 days after the date of this notice (November 24, 1978). This system shall be amended as proposed without futher notice 33 days from the publication date (November 27, 1978) unless comments are received on or before November 24, 1978 which would result in a contrary determination and require republication for further comment.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

Dated: October 23, 1978.

[FR Doc. 78-30201 Filed 10-23-78; 10:00 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PRIVACY ACT OF 1974

Report on New System

AGENCY: Department of Health, Education, and Welfare

ACTION: Notification of report on new system, SSI/CSC Temporary Matching File, HEW/OS/OIG.

SUMMARY: The Department of Health, Education, and Welfare (HEW) proposes to establish a new system of records entitled SSI/CSC Temporary Matching File HEW/OS/OIG, under the Privacy Act and in accordance with the OMB Supplemental Guidance for Matching Programs.

DATES: The Department has sent new system reports for this system to the Congress and OMB on October 13, 1978. The Department has requested a waiver of the 60 day advance notification required by OMB Circular A-108. If this waiver is granted, the system notice, with the exception of the routine uses, will be effective on the date the waiver is granted. The routine uses will be effective November 24, 1978 provided no comment is received with results in a contrary determination. If the waiver is not granted, the system notice will be effective 60 days from the date submitted to OMB.

ADDRESS: Comments should be addressed to Acting Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-F, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

John M. Allen, Privacy Coordinator, Office of the Inspector General, Department of Health, Education, and Welfare, Room 5545, North Building, 330 Independence Avenue SW., Washington, D.C. 20201 or call 202-472-6735.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare has initiated a major project called Project Match II, to reduce fraud and abuse in the supplementary security income (SSI) program as administered by HEW. This project seeks identify and take action, where appropriate, against those Federal employees who are illegally receiving such benefits.

Supplemental security income (SSI) is a Federal income maintenance program for the aged (65 or older), blind and disabled in the 50 States and the District of Columbia. Through monthly payments the program provides a floor of income for aged, blind, and disabled people who have little or no income or resources. During fiscal year 1977, the SSI program provided an estimated $6 billion in Federal benefit payments to 4.2 million recipients.

The matching program is needed to eliminate from the SSI program those individuals who should not be receiving payments because they are gainfully employed by the Federal Government. The results of a small pilot project using only HEW employees and comparing them with the SSI rolls has hown considerable promise.

The SSA uses many methods in assuring that only those who are eligible remain on the SSI rolls. The Office of Program Integrity within SSA has as one of its responsibilities the oversight of the SSI program to insure that any ineligible individuals are removed from the rolls and duly prosecuted for any fraudulent activity.

The project uses as its primary source of information data collected by means of a comparison by computer of the entire Federal civilian workforce obtained from the U.S. Civil Service Commission with the recipient rolls of the supplementary security income program provided by the Social Security Administration, HEW. The major criterion for comparision is the social security number.

Cases identified through this computer comparison of files are forwarded to the Federal employer for verification of employment status and to obtain quarterly wage information for each individual for the previous eight quarters. This information is then forwarded to the Social Security Administration so that the cases may be included in the normal validation process to determine whether individuals are receiving SSI benefits to which they are not entitled.

The validation process takes place at the SSA district offices and SSA Integrity Staff regional and central offices. Where a determination of improper payment occurs the SSI benefit is terminated or adjusted appropriately. All cases where there is sufficient evidence of fraud are referred to the appropriate U.S. attorneys for investigation and prosecution. All cases where fraud has been determined, whether prosecuted or declined by the U.S. attorneys, are referred to the appropriate Federal agencies employing the individuals involved in the fradulent activity. It is expected that the Federal agencies will pursue the application of administrative sanctions in accordance with their established prodecures.

In addition to the disclosures provided for under the routine uses, disclosures from this system of records may be made in accordance with the following disclosure provisions of the Privacy Act (5 U.S.C. 522a(b)):

To those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

As required by the Freedom of Information Act;

To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

To the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

Pursuant to the order of a court of competent jurisdiction.

Dated: October 13, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

09-90-0078

System Name:

SSI/SCS Temporary Matching File, HEW/OS/OIG.

Security Classification:

None.

System Location:

Office of the Inspector General, DHEW, Room 2111, SSA Annex, Baltimore, Md. 21235.

Categories of individuals covered by the system:

All Federal employees covered under Civil Service Commission Central Personnel Data File (CPDF) who are also included in the Supplementary Security Income (SSI) file of the Social Security Administration.

Categories of records in the system:

Civil Service Commission Central Personnel Data File extract including name of employee, date of birth, Social Security Number, work status, pay grade and duty station, and Supplementary Security Income Record File data including names, Social Security Number, address, SSI application data, disability data, income and resource data and payment data used in the administration of the SSI program.

Authority for maintenance of the system:

Pub. L. 94-505.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant

to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer tape and disk.

Retrievability:

Records are retrieved by name and social security number.

Safeguards:

Computer tapes and disks are stored in a locked room with access limited to authorized personnel. Computer systems are programmed to limit access to authorized personnel.

Retention and disposal:

Records will be retained for the duration of the matching program. Paper listings will be destroyed by shredding. Computer tapes and disks will be erased.

System manager(s) and address:

Director, Office of Program Integrity, SSA, 6401 Security Boulevard, Baltimore, Md. 21235.

Notification procedure:

Inquiries should be addressed to the System Manager.

Record access procedures:

Same as notification procedures.

Contesting record procedures:

Same as notification procedures.

Record source categories:

Civil Service Commission Central Personnel Data File and Social Security Administration Supplementary Security Income Record File.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-30202 Filed 10-23-78; 10:00 am]

to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

In the event of litigation where one of the parties is (a) the Department, any component of the Department, or any employee of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

A record from this system may be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records if necessary to obtain a record relevant to a Department decision concerning the determination of initial or continuing eligibility for program benefits.

Policies and practices for storing, retrieving, accessing, retrieving, and disposing of records in the system:

Storage:

The records are stored on computer tape files and computer printed listings.

Retrievability:

The records are retrieved by computer using Social Security Number as the principal matching criterion. We disclose the records within the Department to the Social Security Administration for investigation and redetermination of SSI benefits.

Safeguards:

Direct access is restricted to authorized staff members of the Office of the Inspector General. Access within HEW is limited to those employees who are directly involved in the matching program on a need-to-know basis. Computer files and printed listing are maintained in security type safes or lock bar file cabinets. They are safeguarded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual, Part 6, "ADP Systems Security Policy". All computer tapes are password protected prohibiting unauthorized access.

Retention and disposal:

In instances of computer matching of files, only those records which meet predetermined criteria are maintained. All records which do not meet these criteria are destroyed. All original source computer tapes will be returned within 60 days. All records obtained as a result of the matching program will be degaussed as soon as possible within 6 months except for those records which are necessary to the completion of pending law enforcement activities or administrative activities of the matching program. Paper listings will be either shreded or burned.

System Manager(s) and address:

Inspector General/Deputy Inspector General, Room 5262, North Building, U.S. Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

Notification procedure:

Contact: Privacy Act Coordinator, Department of Health, Education, and Welfare, Office of the Inspector General, Room 5545, North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

Record access procedures:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought. (These access procedures are in accordance with Department Regulation (45 CFR, Section 5b.5(a)(2)).

Contesting Record procedures:

Contact the official at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. (These procedures are in accordance with Department Regulations (45 CFR, Section 5b.7)).

Record source categories:

Records are furnished from the Central Personnel Data File (CPDF) maintained by the U.S. Civil Service Commission and from the Supplemental Security Income Record (SSR) maintained by the Social Security Administration, Department of Health, Education, and Welfare.

Systems exempted from certain provisions of the Act:

None.

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federal register

WEDNESDAY, OCTOBER 25, 1978

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

WHEN: October 27; November 3, 17; or December 1, 15—from 9–11:30 a.m.

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

Out of Town Workshops Previously Announced:

ALBANY, NEW YORK

WHEN: October 27 and 28, 1978, at 1:00 p.m.
WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.
RESERVATIONS: Call Elizabeth Closson, 518–474–5943.

DALLAS, TEXAS

WHEN: October 30, 1978, at 9:30 a.m.
WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.
RESERVATIONS: Call Federal Information Center, 214–749–2131.

FORT WORTH, TEXAS

WHEN: October 31, 1978, at 9:30 a.m.
WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.
RESERVATIONS: Call Federal Information Center, 817–334–3624.

AUSTIN, TEXAS

WHEN: November 2, 1978, at 2 p.m.
WHERE: Room 100B, Regan Office Building, 15th & Congress Sts., Austin, Texas.
RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512–475–6725.

NASHVILLE, TENNESSEE

WHEN: November 13, 1978, at 9:00 a.m.
WHERE: University of Tennessee at Nashville, 10th and Charlotte, Room 358, Nashville, Tennessee.
RESERVATIONS: Call 615–741–2570, or 615–741–2786.

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[3195-01-M]

Title 3—The President

Executive Order 12089 • **October 23, 1978**

National Productivity Council

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide for coordinated and effective Federal programs to improve productivity in the public and private sectors, it is hereby ordered as follows:

1-1. *Establishment of the Council.*

1-101. There is established the National Productivity Council.

1-102. The Council will be composed of the heads of the following agencies, or a designated representative, and such others as the President may designate:

(a) Department of the Treasury.
(b) Department of Commerce.
(c) Department of Labor.
(d) Office of the Special Representative for Trade Negotiations.
(e) Council of Economic Advisers.
(f) Office of Management and Budget.
(g) Office of Science and Technology Policy.
(h) Council on Environmental Quality.
(i) Civil Service Commission, and
(j) Council on Wage and Price Stability.

1-103. The Director of the Office of Management and Budget will serve as Chairman of the Council.

1-2. *Functions of the Council.*

1-201. The Council will work with Executive agencies to assure that activities designed to improve productivity in the private and public sectors are carried out in a manner that realizes maximum benefit from the resources invested. As part of this responsibility the Council will identify opportunities for cooperative or innovative projects to be undertaken by the agencies, as well as overlapping or duplicative programs which should be eliminated.

1-202. The Council will identify issues pertaining to private and public sector productivity and productivity improvement, and will make assignments to Council members or other Executive agencies for studying and resolving the issues.

1-203. The Council will identify major policy issues with productivity implications for consideration by the President, including the need for legislative initiatives.

1-204. The Council will serve as the focal point within the Executive Branch for liaison with elements of the private sector concerned with improving productivity, and will seek the advice and assistance of business, labor, and academic leaders, as well as representatives from State and local governments and others concerned with productivity.

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1-205. The Council will serve as the focal point within the Executive Branch for liaison with organizations of foreign governments involved in efforts to improve productivity.

1-3. *Administrative Provisions.*

1-301. Executive agencies shall cooperate with and assist the Council in performing its functions.

1-302. The Chairman shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate.

1-303. The Chairman may establish working groups or subcommittees of the Council. The Chairman may invite representatives of nonmember agencies to participate from time to time in the functions of the Council.

1-304. The Chairman shall report to the President on the performance of the Council's functions.

Jimmy Carter

THE WHITE HOUSE,
October 23, 1978.

[FR Doc. 78-30299 Filed 10-23-78; 2:45 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Revocation of Certain Reporting Requirements

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulation "Domestic Licensing of Production and Utilization Facilities" to revoke two reporting requirements on antitrust information and to revoke a requirement for retention of 25 copies of the antitrust report during the antitrust review. These requirements are no longer needed.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Hutton, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7086.

SUPPLEMENTARY INFORMATION: Paragraph (c) of § 50.33a requires that any person who applies for a construction permit for a nuclear power reactor prior to July 28, 1975, shall submit the document titled "Information Requested by the Attorney General for Antitrust Review" as soon as possible. This paragraph (c) is being revoked on the basis that all antitrust reports required by paragraph (c) have been submitted.

Section 50.55b requires antitrust reports as a condition of certain construction permits and operating licenses. Section 50.55b is being revoked on the basis that all antitrust reports that may be required as a condition of the construction permits or operating licenses specified in § 50.55b have been submitted.

The last sentence of the introduction of appendix L of 10 CFR Part 50 requires the applicant to retain not less than 25 additional copies of the document titled "Information Requested by the Attorney General for Antitrust Review," to be available as needed during the antitrust review. Experience to date indicates that the 25 additional copies are not needed in the event of an antitrust hearing. Accordingly, this requirement is being revoked as unnecessary.

Because these amendments relate solely to minor matters, good cause exists for omitting notice of proposed rulemaking, and public procedure thereon, as unnecessary. Since the amendments are of a relieving nature and do not impose obligations on persons other than the Nuclear Regulatory Commission, the Commission has found that good cause exists for making the amendments effective immediately without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50 are published as a document subject to codification.

§ 50.33a [Amended]

1. Section 50.33a of 10 CFR Part 50 is amended by revoking paragraph (c).

§ 50.55b [Revoked]

2. Section 50.55b of 10 CFR Part 50 is revoked.

3. The introduction of appendix L of 10 CFR Part 50 is amended by deleting the words "and not less that twenty-five (25) additional copies shall be retained by the applicant to be available as needed during the antitrust review," to read as follows:

. . . . . .

APPENDIX L—INFORMATION REQUESTED BY THE ATTORNEY GENERAL FOR ANTITRUST REVIEW FACILITY LICENSE APPLICATIONS

Introduction. The information in this appendix is that requested by the Attorney General in connection with his review, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, of certain license applications for nuclear power plants. The applicant shall submit the information as a separate document titled, "Information Requested by the Attorney General for Antitrust Review." Twenty (20) copies shall be submitted prior to any other part of the facility license application as provided in § 50.33a and in accordance with § 2.101 of this chapter.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Md., this 13th day of October 1978.

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,
Executive Director for Operations.

[FR Doc. 78-28207 Filed 10-24-78; 8:45 am]

[3128-01-M]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION[1]

Interpretations and Rulings

AGENCY: Department of Energy.

ACTION: Notice of indexes for interpretations and rulings.

SUMMARY: Attached are indexes to all interpretations and rulings issued by the General counsel (or his delegate) of the Department of Energy or predecessor agencies through October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of the General Counsel, Department of Energy, 12th and Pennsylvania Avenue NW., Room 1121, Washington, D.C. 20461, 202-566-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F ("Interpretations"), are published from time to time in the FEDERAL REGISTER in accordance with editorial and classification criteria set forth in 42 FR 7923,

[1] EDITORIAL NOTE.—Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

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February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Interpretations have been published as indicated in the following table.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the In-

APPENDIX A.—*Alphabetical Listing of Interpretations Issued Through Sept. 30, 1978*—Continued

APPENDIX A.—*Alphabetical Listing of Interpretations Issued Through Sept. 30, 1978*—Continued

APPENDIX A.—*Alphabetical Listing of Interpretations Issued Through Sept. 30, 1978*—Continued

APPENDIX B.—*Chronological Index of Rulings by Number and Title Issued Through September 30, 1978*—Continued

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February 8, 1977, as modified in 42 FR 46270, September 15, 1977. Interpretations have been published as indicated in the following table.

1974-1 through 1974-29: 42 FR 25648, May 18, 1977.
1975-1 through 1975-74: 42 FR 23722, May 10, 1977.
1976-1 through 1976-23: 42 FR 7923, February 8, 1977.
1976-24: 42 FR 10963, February, 25, 1977.
1976-25: 42 FR 23722, May 10, 1977.
1977-1 through 1977-5: 42 FR 10963, February 25, 1977.
1977-6: 42 FR 17100, March 31, 1977.
1977-7 through 1977-16: 42 FR 31143, June 20, 1977.
1977-17 through 1977-21: 42 FR 39959, August 8, 1977.
1977-22 through 1977-27: 42 FR 41095, August 13, 1977.
1977-28 through 1977-33: 42 FR 46270, September 15, 1977.
1977-34 through 1977-38: 42 FR 54268, October 5, 1977.
1977-39 through 1977-44: 42 FR 61271, December 2, 1977.[2]
1977-45 through 1977-53: 42 FR 1479, January 10, 1978.
1978-1: 43 FR 5797, February 10, 1978.
1978-2 through 1978-5: 43 FR 12848, March 28, 1978.
1978-6 through 1978-10: 43 FR 15617, April 14, 1978.
1978-11 through 1978-21: 43 FR 19817, May 9, 1978.
1978-22 through 1978-28: 43 FR 25079, June 9, 1978.
1978-29 through 1978-42: 43 FR 29528, July 10, 1978.
1978-43 through 1978-47: 43 FR 34433, August 4, 1978.
1978-48 through 1978-56: 43 FR 40200, September 11, 1978.
1978-57 through 1978-59: 43 FR 46517, October 10, 1978.

The appendices to today's notice provide an updated comprehensive index system covering all of the published Interpretations and Rulings issued by FEO/FEA/DOE through October 1, 1978. Previously published indexes have appearcd at 43 FR 1613, January 11, 1978, and 43 FR 17337, April 24, 1978. A total of 299 Interpretations and Rulings are covered by the indexes published today.

Appendix A provides an alphabetical listing of the firms or persons to whom or on whose behalf Interpretations have been issued, while Appendix B lists Rulings in chronological order of issuance by number and title. Appendix C contains an index of Interpretations and Rulings according to informal subject entries, such as "Base Period Supplier," "Class of Purchaser," "Stripper Well Lease Exemption," etc. Interpretations and Rulings are indexed in Appendix D according to the regulation sections which they interpret. Appendix E provides an index of Rulings construed by Interpretations, and Appendix F contains a list of statutes construed by Interpretations and Rulings.

[2](Correction Notice) 1977-42: 43 FR 64104, Dec. 22, 1977.

Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)), and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(c)). In addition, Interpretations are subject to reconsideration by the General Counsel (§ 205.85(f)). The Interpretations indexed herein have been published only for the general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., October 20, 1978.

EZRA C. LEVINE,
Acting Assistant General Counsel for Interpretations and Rulings.

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75-6	Pricing of Natural Gas Liquid Products Prior to January 1, 1975.
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75-12	Calculation of "Average Daily Production" for Purposes of the Stripper Well Lease Exemption of 10 CFR 210.32 Where Production Has Been Curtailed.
75-13	Early Payment Percentage Discounts.
75-14	Prices Charged to Reflect Non-Product Cost Increases Incurred by Resellers, Reseller-Retailers and Retailers.
75-15	Definition of "Property" for Purposes of Computing Base Production Control Level Pursuant to 10 CFR 212.72.
75-16	Carry-Forward of the Amount by Which Prices Charged are Less Than the Price Increases Permitted To Reflect Increased Non-Product Costs by Resellers, Reseller-Retailers, and Retailers.
75-17	Application of FEA's Mandatory Petroleum Price and Allocation Regulations During September 1975.
75-18	Computation of Increased Cost of Natural Gas Shrinkage.
76-1	Allocations With Respect to Newly Constructed or Purchased Refineries Under Crude Oil Buy/Sell Program.
76-2	Production of "New" Crude Oil Due to Extra Day in February, 1976; Effect on Cumulative Deficiency Requirement and BPCL Adjustments.
76-3	Interpretation of Naval Petroleum Reserves Production Act of 1976.
76-4	Inapplicability of Mandatory Petroleum Allocation and Price Regulations to Synthetic Fuels Processed From Oil Shale, Tar Sands, and Coal.
76-5	Retail Sales Outlet Operator's Entitlement to Motor Gasoline.
76-6	Record Keeping Requirements.
77-1	Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.

APPENDIX B.—*Chronological Index of Rulings by Number and Title Issued Through September 30, 1978*—Continued

Ruling	Title
77-2	Supplier/Purchaser Relationships Under the Petroleum Allocation Regulations.
77-3	Allocation of Refiner's Increased Product Costs to Sales Volume.
77-4	Inapplicability of the "Stripper Well Lease" Exemption of 10 CFR § 210.32 to Gas Wells.
77-5	Production Wells for Purposes of the "Stripper Well Lease" Exemption of 10 CFR § 210.32.
77-6	Measurement of the Number of Barrels of Production from an Oil Well for the "Stripper Well Lease" Exemption of 10 CFR § 210.32.
77-7	Transportation Costs.
77-8	Application of the Term "Class of Purchaser" under FEA Petroleum Price Regulations.
77-9	Prospective Increases in Rent for Real Property Used in the Retailing of Gasoline
77-10	Storage Tank Rentals.
77-11	Treatment of Confidential Information Received by FEA Pursuant to Oil and Gas Reserves Survey (Form FEA P-301-S-0).
77-12	Pricing of Natural Gas Liquid Products Prior to January 1, 1975.
77-13	Export Sales.
77-14	Qualification of Certain Consignees as Wholesale Purchaser-Resellers
77-15	Storage Costs.
77-16	Transportation Costs Where Transportation is Provided by the Firm Concerned.
77-17	Rentals of New, Higher Cost Storage Tanks.
77-18	Calculation of "Average Daily Production" for Purposes of the Stripper Well Lease Exemption of 10 CFR 210.32 Where Production Has Been Curtailed.
77-19	Early Payment Percentage Discounts.
77-20	Prices Charged to Reflect Non-Product Cost Increases Incurred by Resellers, Reseller-Retailers and Retailers.
77-21	Definition of "Property" for Purposes of Computing Base Production Control Level Pursuant to 10 CFR 212.72.
77-22	Carry-Forward of the Amount by Which Prices Charged are Less Than the Price Increases Permitted To Reflect Increased Non-Product Costs by Resellers, Reseller-Retailers, and Retailers.
77-23	Application of FEA's Mandatory Petroleum Price and Allocation Regulations During September 1975.
77-24	Computation of Increased Cost of Natural Gas Shrinkage.
77-25	Allocations With Respect to Newly Constructed or Purchased Refineries Under Crude Oil Buy/Sell Program.
77-26	Production of "New" Crude Oil Due to Extra Day in February, 1976; Effect on Cumulative Deficiency Requirement and BPCL Adjustments.
77-27	Interpretation of Naval Petroleum Reserves Production Act of 1976.
77-28	Inapplicability of Mandatory Petroleum Allocation and Price Regulations to Synthetic Fuels Processed From Oil Shale, Tar Sands, and Coal.
77-29	Retail Sales Outlet Operator's Entitlement to Motor Gasoline.
77-30	Record Keeping Requirements.
77-31	Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.
77-32	Supplier/Purchaser Relationships Applying to the Department of the Interior.
77-33	Car Wash Sales of Gasoline.
77-34	Truck Stop Leases.
77-35	Spot Sales Under Part 211.
77-36	Application of the Refiner's Cost Formula of § 212.83(c) to Refiners Required to Sell Crude Oil Under the Allocation Program
77-37	Allocation of Refiner's Increased Product Costs to Sales Volume.
77-38	Inapplicability of the "Stripper Well Lease" Exemption of 10 CFR § 210.32 to Gas Wells.
77-39	Production Wells for Purposes of the "Stripper Well Lease" Exemption of 10 CFR § 210.32.
77-40	Measurement of the Number of Barrels of Production from an Oil Well for the "Stripper Well Lease" Exemption of 10 CFR § 210.32.
77-41	Transportation Costs.
77-42	Application of the Term "Class of Purchaser" under FEA Petroleum Price Regulations.
77-43	Prospective Increases in Rent for Real Property Used in the Retailing of Gasoline
77-44	Storage Tank Rentals.
77-45	Treatment of Confidential Information Received by FEA Pursuant to Oil and Gas Reserves Survey (Form FEA P-301-S-0).
77-46	Pricing of Natural Gas Liquid Products Prior to January 1, 1975.
77-47	Export Sales.
77-48	Qualification of Certain Consignees as Wholesale Purchaser-Resellers
77-49	Storage Costs.
77-50	Transportation Costs Where Transportation is Provided by the Firm Concerned.
77-51	Rentals of New, Higher Cost Storage Tanks.
77-52	Calculation of "Average Daily Production" for Purposes of the Stripper Well Lease Exemption of 10 CFR 210.32 Where Production Has Been Curtailed.
77-53	Early Payment Percentage Discounts.
78-1	Prices Charged to Reflect Non-Product Cost Increases Incurred by Resellers, Reseller-Retailers and Retailers.
78-2	Definition of "Property" for Purposes of Computing Base Production Control Level Pursuant to 10 CFR 212.72.
78-3	Carry-Forward of the Amount by Which Prices Charged are Less Than the Price Increases Permitted To Reflect Increased Non-Product Costs by Resellers, Reseller-Retailers, and Retailers.
78-4	Application of FEA's Mandatory Petroleum Price and Allocation Regulations During September 1975.
78-5	Computation of Increased Cost of Natural Gas Shrinkage.
78-6	Allocations With Respect to Newly Constructed or Purchased Refineries Under Crude Oil Buy/Sell Program.
78-7	Production of "New" Crude Oil Due to Extra Day in February, 1976; Effect on Cumulative Deficiency Requirement and BPCL Adjustments.
78-8	Interpretation of Naval Petroleum Reserves Production Act of 1976.
78-9	Inapplicability of Mandatory Petroleum Allocation and Price Regulations to Synthetic Fuels Processed From Oil Shale, Tar Sands, and Coal.
78-10	Retail Sales Outlet Operator's Entitlement to Motor Gasoline.
78-11	Record Keeping Requirements.
78-12	Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.

APPENDIX C.—*Subject Index for Interpretations and Rulings Issued Through Sept. 30, 1978*—Continued

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APPENDIX B.—*Chronological Index of Rulings by Number and Title Issued Through September 30, 1978*—Continued

Ruling	Title
77-2	Further Clarifications to Mandatory Petroleum Price Regulations Applicable to Domestic Crude Oil.
77-3	Cargo Sales.
77-4	Timing of Landed Cost for Interaffiliate Transactions.
77-5	Application of the Definition of "Transaction" for Purposes of Computing Weighted Average May 15, 1973, Prices.
77-6	Applicability of the Stripper Well Property Exemption to Properties That Produce Both Crude Oil and Condensate Recovered in Non-Associated Production.
77-7	Post-September 1, 1976 Treatment of Separate Reservoirs as Stripper Well Properties.
77-8	Termination of Crude Oil Supplier/Purchaser Relationships by a Producer.

APPENDIX C.—*Subject Index for Interpretations and Rulings Issued Through Sept. 30, 1978*

Subject	Interpretations	Rulings
Accounting Practices	1978-52	
Acquisition Rule	1975-9; 1978-18	
Affiliated Entities, def	1978-6	
Allocation Entitlement	1974-17; 1975-37	
Allocation Entitlement, Method of	1974-19	
Allocation Entitlement, Transfer of	1974-29; 1975-35; 1977-47.	1974-13.
Allocation Fraction		1974-16.
Allocation Levels	1974-1	
Assignment by FEA	1976-25	
Average Daily Production, def	1974-22; 1975: -41, -43	
Aviation Fuel, Allocation of		1974-8.
Base Period Supplier	1974: -6, -15; 1975: -31, -73.	
Base Period Supplier, Designation of	1974-21	
Base Period Supply Obligations	1974-25; 1976-11; 1977: -19, -20.	1974-25.
Base Period Use, Adjustments to	1977: -28, -32; 1978-24	1974-13.
Base Period Volume	1975-50	
Base Price	1975-5	1974: -2, -17, -18, -26; 1975-6; 1977-5.
BPCL	1975-27; 1976-16; 1977: -12, -37; 1978-6.	1975-15; 1976-2; 1977-2.
Base Rent Rule	1974: -24, -28	1974: -7, -9, -14, -20, -24; 1975-3.
Base Rent Rule, Lease Termination	1975-58	
Benzene and Toluene, Special Rules for	1976-10	
Blending Costs, Retailer	1975-74	
Bonded Fuel, def	1975: -8, -26, -46	
Bonded Fuel Exemption	1975: -8, -26, -46	
Borrow—Pay Back Rule	1975-30	
Burning of Petroleum Products by Power Generators	1975-25	
California lower tier crude oil	1978-48	
Certification	1977: -33, -52; 1978: -12, -24.	
Class of Purchaser	1974-7; 1975: -5, -6, -22, -31, -47, -63; 1976: -1, -6, -7, -20; 1977: -10, -11; 1978-44.	1974: -1, -2, -17, -18; 1975-2.
Commission Agents or Consignees	1974-10; 1975: -13, -17, -19, -31, -33, -48; 1977: -8, -27.	1975-8.
Competitive Bids	1975-56	1974-19.
Condensate, def	1978-35	
Confidential Information		1975-5.
Cost of Crude Oil, def	1976-4	
Covered Products, def	1976-24; 1977: -9, -50; 1978: -11, -28, -54.	
Crude Oil Buy/Sell Program	1977-34; 1978-39	1974-26; 1976-1.
Crude Oil, def	1975-29; 1977: -3, -22, -31.	
Crude Oil Resales	1978-25	
Crude Oil Runs to Stills, def	1978-31	
Crude Oil Ceiling Price Rules, Long-Term Contracts (Premiums).	1977: -2, -14; 1978-21	
Current Cumulative Deficiency	1974-8; 1976-16	1976-2.
Customary Discounts	1975-66	1974: -18, -23; 1975-13.
Customary Price Differential	1978-44	
D, Subpart; Part 212	1974-20; 1975-29; 1977-3; 1978-21.	
December 1 Rule	1974: -2, -3, -4; 1975-45; 1978: -15, -20; 1977: -7, -13, -14, -15, -42; 1978: -1, -45.	1974: -11, -21, -22; 1977-8.
E, Subpart; Part 212	1978: -16, -29	
EPAA Supercession of Other Federal Laws	1974-27; 1975-15	
End-user, def		1974-19.
Energy Conservation Program, Room Air Conditioners	1978-26	
Entitlements Program	1975-21; 1976-22; 1977: -5, -22, -31, -45; 1978: -31, -42, -48.	1976-3.

APPENDIX C.—*Subject Index for Interpretations and Rulings Issued Through Sept. 30, 1978*—Continued

Subject	Interpretations	Rulings
Equal Application Rule	1975-5; 1976-17; 1978: -36, -53.	
Exchange Agreements		1974-21.
Export Sales, def	1977-16	
Export Sales Deduction	1975-21; 1977: -16, -30, -36, -44; 1978: -10, -42, -54, -55.	
Export Sales Exemption	1977-16, -21, -44; 1978: -10, -42.	1975-7.
F, Subpart; Part 212	1976-6; 1977-3; 1978-4	1977-3.
Federal Preemption of State Laws	1978-4	
Field	1977-43	
Firm, def	1975: -3, -32, -52, -55, -69; 1976: -3, -8; 1977: -6, -18, -29.	
First Sale, def	1976-4; 1977-38; 1978-21.	
Five Percent Rule	1974-14; 1977: -6, -24	
G, Subpart; Part 212	1974: -24, -28; 1975-69	1974-24; 1975-3.
Guam	1975: -8, -26, -46	
Import Exemption	1975-24	
Inventories	1975-23	1977-3.
K, Subpart; Part 212	1976: -2, -5; 1977-3; 1978: -16, -29, -32.	1975: -6, -18.
Landed Costs		1977-4.
Motor Gasoline, def	1978-47	
Naphtha, def	1978-47	
Naphtha Allocation	1975-44	
Naval Petroleum Reserves, Crude Oil Price Exemption		1976-3.
Natural Gas Shrinkage	1978: -27, -34, -37, -41	
Natural Gas Liquids, def	1978: -32, -35	
Natural Gas Liquid Products	1974-13; 1977-3; 1978: -3, -27.	1975: -6, -18.
Natural Gasoline, def	1978-35	
Net-back Sale, def	1978-32	
New and Released Crude Oil	1975-2; 1977-42	1974-11.
New Item and New Market Rule	1974: -23, -24; 1975: -3, -9; 1976: -5, -7; 1978-3.	1974-20.
"New" Motor Gasoline Retail Sales Outlet	1975-61	1976-5.
"New" Wholesale Purchaser-Reseller	1975-57; 1977-28	
Non-product Cost Increases	1975: -48, -59, -74; 1978: -8, -13, -14, -52.	1975: -1, -4, -10, -11, -14, -16.
Normal Business Practices	1974: -3, -18, -27; 1975: -49, -62; 1977: -8, -11, -19, -26, -35; 1978: -7, -21, -38, -56, -57.	1974: -6, -10, -11, -23; 1975: -4, -11, -13.
Oil Import Regulations	1978-50	
Once-a-Month Rule	1975-64	
Over-recoupment	1975-12	
Passenger Transportation Services	1975-85	
Posted Price, def	1976-4; 1977: -26, -43; 1978: -17, -20, -30, -43.	1977-1.
Price, def		1974-10
Price Increase	1977-53	
Price/Octane Number Information and Posting	1976-9	
Procedural Requirements	1975-40; 1976-12; 1977-28.	
Processing Agreements	1974-6	
Producer, def	1974-20	
Producer of Crude Oil, Price Rule	1978-17	
Product Cost Increases	1974-5; 1978: -40, -51	1974: -5, -26, -27; 1975: 1 -9, -10, -13, -18; 1977-3.
Product Cost Increases, Carryover of	1975-16	1974-12; 1975-16.
Propane Allocation	1975-14; 1976: -19, -21	
Propane Prices	1978-4	1974-5.
Property, def	1974-22; 1975: -2, -4, -27, -42; 1977: -1, -37, -42, -46; 1978: -5, -9, -15, -18, -58.	1975-15; 1977: -1, -2, -7.
Reclamation of Waste Crude Oil	1978-18	
Record-Keeping Requirements		1976-6.
Refined Petroleum Products, def	1975-1; 1978-42	
Refiner, def	1974-13; 1976-2; 1977: -6, -29; 1978: -22, -33.	
Refiner Gasoline Price Variation Rules	1978: -36, -53	
Refiner Price Formula:		
"A" Factor	1978-40	
"B" Factor	1978-51	
"V" Factor	1975-7	1974-27; 1975-7.
"H" Factor	1977-23	
"N" Factor	1978: -8, -13, -14, -52	
Refiner Price Rule	1977-53; 1978: -11, -13	1974-26.
Refinery Yield	1976-23	
Refunds	1975-12	
Rent, def	1975-51	
Rent Regulations (see also Base Rent Rule)	1975-69	1974: -7, -9, -14, -20, -24; 1975-3.

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APPENDIX C.—*Subject Index for Interpretations and Rulings Issued Through Sept. 30, 1978*—Continued

Subject	Interpretations	Rulings
Reporting Requirements, Refiner	1975-11; 1977-24	
Reseller, def	1974-12; 1976-2; 1977: -3, -8, -29; 1978-22.	
Residual Fuel Oil, def	1975-29	
Retail Sales Outlets, Motor Gasoline		1974-13.
Retailer, def	1974-12; 1976-2; 1978-22.	
Retaliatory Actions	1975-63	
Retroactive Price Increase	1977-14; 1978-2	
Sales by Federal, State and Local Governments	1974-4; 1975-15	1974-22; 1976-3.
Sanitation Services, def	1974-1; 1975-39	1974-15.
Seller, def	1976-8	
September 1975; Application of Price/Allocation Regulations during.		1975-17.
Single Firm Treatment		1974-13.
State Tax Increase Pass-through	1975-18	1974-4.
Storage Tank Rentals		1975: -4, -11.
Stripper Well Lease Exemption	1974: -22, -26; 1975: -4, -10, -41, -43; 1977-48; 1978: -5, -9.	1974: -28, -29, -30; 1975-12; 1977: -1, -2, -6, -7.
Supplier, def	1976-23	
Supplier/Purchaser Relationship	1974: -17, -18, -19; 1975: -20, -54; 1976: -13, -14, -18; 1977: -20, -49; 1978: -23, -45, -46, -49, -56, -57, -59.	1974: -3, -19; 1975-8.
Supplier Substitution	1976-25	
Surplus Product, Purchase of	1974-19; 1975-20; 1977-41.	
Synthetic Fuels		1976-4.
S.N.G. Feedstock Allocation	1975-34	
Temporary Discounts on May 15, 1973	1975-6	
Transaction, def	1978-19	1977-5.
Transfer Pricing	1974-20	
Transportation Costs, def	1978-25	
Transportation Costs to Reseller/Retailer Inventory	1977: -4, -51	1975: -1, -9, -10.
Transportation Cost, Refiner	1977-25	
United States, def	1975: -8, -26, -46	
Unitization	1974-22; 1975: -2, -4, -10, -27; 1978: -6, -9.	1975-15; 1977-2.
Unleaded Gasoline	1976-3	
Waste Crude Oil, Reclamation of	1974: -11, -20; 1977-22	
Wholesale Purchaser-Consumer, def	1975: -37, -52	1974-19.
Wholesale Purchaser-Reseller, def	1974: -10, -12; 1975: -13, -17, -19, -33, -37, -38, -53, -60, -67, -68, -70, -71, -72; 1977: -17, -27, -39, -40; 1978: -46, -59.	1975-8.

APPENDIX D.—*Regulation Index for Interpretations and Rulings Issued Through Sept. 30, 1978**

Regulation interpreted	Interpretations	Rulings
Pt. 202, subpt. A		1975-5.
205.2	1976-12; 1977-28	
205.26(d)	1975-40	
205.33(a)	1976-12; 1977-28	
205.194	1975-12	
210.21	1975: -8, -26, -46; 1977-5.	
210.32	1974: -22, -26; 1975: -4, -10, -41, -43.	1974: -28, -29, -30; 1975-12; 1977-1.
210.33	1975: -8, -26, -46	
210.61	1975-63	1974-3.
210.62	1974: -3, -27; 1975-49; 1977: -8, -19, -26; 1978: -7, -21, -38.	1974: -6, -10, -11; 1975: -4, -11, -13.
210.62(a)	1974-16; 1975: -62, -63; 1977-35; 1978: -56, -57.	
210.62(c)	1976-18; 1977-11	1974-23.
210.77	1975-51	
210.914	1977-24	
210.92		1976-6.
211.1(a)	1977-8	
211.9	1974: -15, -19; 1975: -58, -62; 1976-25; 1977: -19, -49; 1978: -46, -49, -59.	1974: -3, -19.
211.9(a)	1974-18; 1975: -20, -54, -56, -73; 1977-8; 1978-23.	
211.9(c)	1977-20	
211.10	1975: -20, -56, -73	
211.10(a)	1975-35	

APPENDIX D.—*Regulation Index for Interpretations and Rulings Issued Through Sept. 30, 1978**—Continued

Regulation interpreted	Interpretations	Rulings
211.10(b)	1974-17	1974: -16,-25.
211.10(e)	1974-29	
211.10(g)	1974-19; 1976: -14, -21; 1977-41.	
211.11	1974-17; 1975-61; 1976-19.	
211.11(b)	1974-6	
211.11(d)	1975-35	
211.12	1975: -50, -57; 1976-11	
211.12(e)	1974-17; 1976-19; 1977: -28, -49; 1978-38.	1974-19.
211.12(f)		1974-19.
211.12(h)	1976-18	
211.12(g)	1976-21	
211.13	1975-50	
211.13(e)	1976-12; 1977: -28, -32; 1978: -24, -38.	
211.13(f)	1977-28; 1978-24	
211.14(d)		1974: -3, -16.
211.22	1975-23	
211.24		1974-3.
211.24(a)	1974-25; 1976-11	
211.25	1975-31; 1976-25; 1978-23.	
211.25(a)	1977-20	
211.25(c)	1975-30	
211.29	1975-34; 1976-19	
Special rule No. 1 to subpt. A of pt. 211	1975-34; 1976-19	
211.31	1977-8	
211.51 (definitions)	See corresponding subject entry, app. C.	See corresponding subject entry, app. C.
211.62 (definitions)	do	Do.
211.63	1974: -2, -3, -4, 1975-45; 1976: -14, -20; 1977: -7, -13, -14, -15, -42; 1978: -1, -45.	1974: -21, -22; 1977-8.
211.64	1974: -2, -3	
211.64(a)		1974-11.
211.65	1974-6; 1977-34; 1978-39.	1976-1.
211.67	1977: -5, -22, -31; 1978-31.	1976-3.
211.67(a)(4)	1978-48	
211.67(d)(2)	1975-22; 1976-22; 1977: -16, -30, -36, -44; 1978: -10, -42, -54, -55.	
211.67(d)(5)	1977-45	
211.71(c)	1976-23	
Special rule No. 7 to subpt. C of pt. 211	1976-22	
211.82	1976-21; 1978-49	
211.83	1975-14	
211.83(c)	1976-19	
211.85	1978-49	
211.88	1978-49	
211.96(b)	1977-49	
211.102	1975: -20, -73	
211.103	1975-65	
211.103(a)	1974-1	
211.104	1974-6	
211.106	1975: -58, -61, -73; 1976-11; 1977: -19, -47.	1974-13; 1976-5.
211.106(b)	1974: -12, -25	
211.106(c)	1974-29; 1975-53	
211.106(d)	1974-25	
211.106(e)	1975-57	
211.145	1976-13	1974-8.
211.145(c)	1974-21	
211.145(d)	1974-21	
211.162	1975-54	
211.166	1974-19	
211.182	1978-47	
211.183	1975-44	
211.201	1975-37	
211.202	1975-37	
211.203(c)(2)(iii)	1975-37	
212.1		1975-3.
212.2	1975-24	
212.31 (definitions)	See corresponding subject entry, app. C.	See corresponding subject entry app. C.
212.52	1974-4; 1975-15	
212.53	1975-24; 1976-22	1975-7.
212.53(a)	1977: -16, -21, -36, -44; 1978: -10, -55.	
212.53(c)	1977-30	
212.54	1974: -22, -26; 1977: -2, -48; 1978: -5, -9, -58.	1977: -6, -7.

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APPENDIX D.—*Regulation Index for Interpretations and Rulings Issued Through Sept. 30, 1978**—Continued

Regulation interpreted	Interpretations	Rulings
212.55	1977-2	1976-3.
212.71	1974-11	
212.72	1974: -8, -11; 1975: -2, -4, -27; 1976-16; 1977: -1, -3, -12, -33, -37, -38, -42, -46, -52; 1978: -5, -12, -15, -18, -58.	1977-7.
212.73	1974-11; 1975-42; 1977: -2, -3; 1978-20.	
212.74	1974: -8, -11; 1975: -2, -4, -42; 1977: -2, -3; 1978: -2, -17, -20, -30, -43.	1974-11.
212.74(c)	1977-14	
212.75	1978-6	1977-2
212.76		1976-2.
212.81	1977-29	
212.82	1975: -5, -47; 1976: -3, -4, -5; 1977: -6, -18.	1974: -17, -18.
212.82(a)	1976-1	
212.82(b)	1975: -22, -31	
212.83	1974-20; 1975: -3, -5, -7; 1976-10; 1977: -23, -53; 1978-16.	1974: -12, -26, -27; 1975: -6, -7, -13.
212.83(b)	1976-4	
212.83(c)	1978-40	
212.83(e)(1)(iii)		1974-5.
212.83(e)(2)(ii)(D)	1978-51	
212.83(e)(2)(ii)(E)	1978: -8, -11, -13, -14, -52.	
212.83(e)	1975: -12, -16	
212.83(h)	1976-17; 1978: -36, -53	
212.84		1977-4.
212.85	1977-25	
212.86		1974-26.
212.91	1974-14; 1975: -3, -59; 1977: -3, -6, -24, -29.	
212.92	1975: -48, -74; 1976: -6, -8; 1977: -4, -51.	1975: -1, -9, -10.
212.93	1974: -5, -6, -12; 1975: -6, -9, -18, -59, -74; 1976-6; 1977-4.	1974: -4, -17, -18, -26.
212.93(a)	1976-7; 1977-3	
212.93(b)	1975: -48, -54, -64	1975: -1, -10, -14, -16.
212.93(e)		1975-16.
212.94	1978-39	1974-26.
212.101	1975-58	
212.102	1974-24; 1975: -51, -58	1974: -7, -9, -14, -20, -24; 1975-3.
212.103	1975-51	1974: -7, -9, -14, -20, -24; 1975-3.
212.111	1974: -23, -24; 1975: -3, -9; 1976: -5, -7; 1978-3.	1974-20.
212.111(c)(2)	1978-18	
212.112	1976-3	
212.126	1975-11	
212.129	1976-9	
212.131	1977: -33, -52	
212.131(a)(2)	1978-12	
212.161	1976-2	
212.161(b)(2)	1978-29	
212.162	1977-3; 1978: -3, -27, -32, -35, -37, -41.	
212.163	1978-32	
212.163(a)	1976-5; 1977-3	
212.164	1978-29	
212.164(a)	1976-5	
212.165	1978-16	
212.166		1975-18.
212.166(b)(3)	1978: -27, -37, -41	
212.167(b)	1978: -16, -34	
212.168	1978-34	
212.169	1978-32	
212.170	1978-16	
212.182	1978-25	
212.183	1978-25	
213.35	1978-50	
215.3	1975-25	
215.5	1975-25	
10 CFR pt. 430	1978-26	

*Regulations listed as cited in Interpretations and Rulings. No attempt has been made to change citations to reflect those relatively few cases in which regulations have been renumbered.

APPENDIX E.—*Rulings Construed by Interpretations Issued Through Sept. 30, 1978*

Rulings	Interpretations
1974-3	1975: -61, -62, 1976-25.
1974-4	1975-18.
1974-10	1974-16.
1974-11	1976-15.
1974-15	1975-39.
1974-17	1975-66.
1974-18	1975: -6, -66; 1976-20.
1974-19	1974-15; 1975: -52, -56.
1974-20	1974-24.
1974-22	1977-7.
1974-24	1974-28.
1974-29	1975: -41, -43.
1975-1	1975-74; 1977: -4, -51.
1975-2	1975: -22, -47, -63, -66; 1976: -1, -7 -20.
1975-4	1977-11; 1978-7.
1975-8	1975: -33, -60, -67, -70, -71, -72; 1976-23; 1977: -17, -27, -39, -40.
1975-9	1975-74; 1977: -4, -51.
1975-10	1977: -4, -51.
1975-11	1977-11; 1978-7.
1975-12	1975: -41, -43; 1977-48.
1975-14	1976-8.
1975-15	1975-42; 1978: -6, -9, -15.
1977-1	1977: -1, -26, -37, -43; 1978-15.
1977-2	1978: -6, -15.
1977-5	1978-19.

APPENDIX F.—*Statutes Construed by Interpretations and Rulings Issued Through Sept. 30, 1978*

Statutes	Interpretations	Rulings
Economic Stabilization Act of 1970, as amended	1975-12; 1978-24	
Energy Policy and Conservation Act of 1975, as amended.	1977: -7, -12, -22, -26, -38, -42; 1978-26.	
Energy Supply and Environmental Coordination Act of 1974.	1975-5	
Emergency Petroleum Allocation Act of 1973, as amended.	1974: -6, -13, -22, -26, -27; 1975: -1, -5, -8, -12, -15, -56, -66; 1976: -4, -6, -12, -20, -21, -22, -23, -24; 1977: -3, -5, -7, -11, -26, -42; 1978: -1, -4, -51, -54.	1974: -3, -28; 1975-17; 1976-4; 1977-1.
Federal Energy Administration Act of 1974	1974-13	
Freedom of Information Act		1975-5.
Naval Petroleum Reserves Protection Act of 1976		1976-3.
Trans-Alaska Pipeline Authorization Act		1975-12; 1977-1.

[FR Doc. 78-30205 Filed 10-24-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

[4810-22-M]

Title 19—Customs Duties

as noted below under that part of the document entitled "Inapplicabilty of Public Notice Requirement and De-

able for public inspection within 120 days after the decision is issued. Sections 177.10(a) and 177.11(b)(7), Customs Regulations, are being amended

of the United States. Sections 148.41 and 148.66(b), Customs Regulations, are being amended to reflect this change. Item 813.30, TSUS, is amend-

the Virgin Islands) of the fair retail value of the articles would be assessed in place of any other rates of duty except free rates of duty. The flat rate

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[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 368—U.S. IMPORTS

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

Delegation of Authority to St. Louis District Office To Issue Import Certificates and Process Amendment Requests

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: In order to facilitate certain import and export control matters, selected U.S. Department of Commerce District Offices have been delegated authority to validate International Import Certificates and to process Amendments to Export Licenses. This authority is limited by certain conditions enumerated in Parts 368 and 372. This rule adds the St. Louis, Mo., District Office to the lists of district offices authorized to perform these functions.

EFFECTIVE DATE: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: Accordingly, the Export Administration Regulations (15 CFR Part 368 et seq.) are amended as follows:

1. Section 368.2(a)(2) is amended by inserting "St. Louis" in alphabetical order in the list of District Offices.

2. Section 372.11(g)(1) is amended by inserting "St. Louis" in alphabetical order in the list of District Offices.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

Dated: October 19, 1978.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-30098 Filed 10-24-78; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[TD 78-394]

CONFORMING AMENDMENTS REQUIRED BY THE "CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document conforms various sections of the Customs Regulations to the statutory changes made by Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978. Statutory changes include:

1. Increasing the value of forfeited merchandise sold at summary sale;

2. Publishing precedential decisions in the Customs Bulletin;

3. Increasing the dollar amount of the personal exemption accorded returning U.S. residents;

4. Providing a flat rate of duty for articles intended for personal or household use, or as bona fide gifts, not imported for resale or for the account of another person, if valued not over $600;

5. Providing that the flat rate of duty and personal exemption provisions are applicable to articles which are purchased in and shipped from American Samoa, Guam, or the U.S. Virgin Islands and which do not accompany the U.S. resident upon his return to the United States;

6. Reducing the delay in the effective date of the imposition of a higher rate of duty resulting from an administrative ruling;

7. Increasing the dollar limits for which the Secretary of the Treasury may forgo collecting small amounts of duties;

8. Treating an air waybill in the same manner as a bill of lading for Customs purposes;

9. Excluding yachts and other pleasure boats from the prohibition against Customs officers owning vessels; and

10. Prohibiting admission of baggage and effects without entry for all returning individuals except where otherwise provided by law, and limiting expedited customs examination to special circumstances.

EFFECTIVE DATE: Different effective dates apply to the various sections as noted below under that part of the document entitled "Inapplicability of Public Notice Requirement and Delayed Effective Date."

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Charles D. Ressin, Regulations and Legal Publications Division (202-566-8237); operational aspects: Harry W. Carnes, Inspection and Control Division (202-566-5607), 1301 Constitution Avenue NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 ("the Act"), amends various statutes administered by the Customs Service ("Customs"). As a result, it is necessary for Customs to amend its regulations contained in Chapter I of Title 19, Code of Federal Regulations (19 CFR Chapter I), to conform to the statutory changes. The amendments in this document represent technical changes and changes not requiring public comment necessary to conform the regulations to the Act. Other amendments which will require public comment will be the subject of separate documents to be published in the FEDERAL REGISTER as notices of proposed rulemaking.

SUMMARY SALE OF FORFEITED MERCHANDISE

1. Section 111 of the Act amends sections 607, 610, and 612, Tariff Act of 1930, as amended (19 U.S.C. 1607, 1610, 1612), to increase from $2,500 to $10,000 the value of merchandise seized and forfeited because of violations of the Customs laws which may be sold at summary sale without judicial proceedings. Sections 162.32(b), 162.43(c), 162.45, 162.46, 162.47(a), and 162.48, Customs Regulations, are being amended to reflect this change.

PUBLICATION OF PRECEDENTIAL DECISIONS

2. Section 112 of the Act amends the Tariff Act of 1950 by adding a new section 625, entitled "Publication of Decisions." New section 625 requires that any precedential decision issued by Customs with respect to any Customs transaction under the Tariff Act, including any ruling letter, internal advice memorandum, or protest review decision, shall be published in the Customs Bulletin or otherwise made available for public inspection within 120 days after the decision is issued. Sections 177.10(a) and 177.11(b)(7), Customs Regulations, are being amended and a new § 174.32 is being added to incorporate these requirements.

Customs has begun an expanded program of publishing its more significant administrative decisions in the Customs Bulletin. Furthermore, a listing of decisions which are not of sufficient general interest to warrant publication as Treasury Decisions also is published in the Customs Bulletin. Other decisions are available under the Freedom of Information Act, as amended. In the future, Customs intends to make available to the public its precedential decisions by using advanced technology, such as microfiche. As new mechanisms are developed, a notice will be published in the FEDERAL REGISTER advising the public of the specific procedures to obtain a decision.

METRIC CONVERSION

3. Section 202 of the Act in part amends Schedule 8, Tariff Schedules of the United States ("TSUS") (19 U.S.C. 1202), to convert to the metric system of measurement with respect to quantities of merchandise to which an exemption from duty is accorded to individuals entering the United States. Conversion becomes effective on January 1, 1980, when the regulations of the Bureau of Alcohol, Tobacco, and Firearms will require all containers of alcoholic beverages to be in metric sizes. This document is limited to aspects of section 202 which are nonmetric in nature or which are not to be considered as metric changes. Amendments to the Customs Regulations to reflect the metric conversion will be published at a future time.

PERSONAL EXEMPTIONS

4. Section 202 also amends schedule 8, TSUS, to equalize the personal liquor and cigarette duty-free exemption for returning U.S. residents and nonresidents. Item 812.20, TSUS, is amended to reduce from 300 to 200 the number of cigarettes which may be brought in by an adult nonresident for his own consumption. Section 148.43(a), Customs Regulations, is being amended to reflect this change. Item 812.25, TSUS, is amended to eliminate alcoholic beverage and cigarettes from the category of articles that a nonresident may import duty-free as bona fide gifts. Sections 148.43(b) and 148.44(a), Custom Regulations, are being amended to reflect these changes. Item 812.40, TSUS, is amended to include not more than 4 liters of alcoholic beverages which may accompany an arriving adult person (resident or nonresident) who is in transit to a place outside outside of the United States. Sections 148.41 and 148.66(b), Customs Regulations, are being amended to reflect this change. Item 813.30, TSUS, is amended to limit to 200 (one carton) the number of cigarettes that may accompany a returning U.S. resident. Section 148.33(d)(1), Custom Regulations, is being amended to reflect this change.

Item 813.10, TSUS, is amended to provide that U.S. citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States ("Virgin Islands") shall be treated as residents for purposes of applying items 812.25 and 813.30, TSUS. Sections 148.2(b) and 148.31(a), Customs Regulations, are being amended to reflect this change.

In addition, item 813.31, TSUS, is amended to increase the dollar amount of the personal exemption accorded returning U.S. residents. The prior exemption was $100, or $200 in the case of persons arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands. These amounts are increased to $300 and $600, respectively. Sections 148.12(b)(1)(i) and 148.17 (b) and (c), subpart D of part 148, and § 148.51(a)(2), Customs Regulations, are being amended to reflect these changes.

FLAT RATE OF DUTY

5. The tariff classification and rate of duty of an imported article generally were not affected by the commercial or noncommercial nature of the importation before enactment of Pub. L. 95-410. Exceptions to this rule included the personal exemptions provided for returning residents and nonresidents and the provisions granting free entry of unsolicited gifts not exceeding $10 in value. A returning resident was entitled to an exemption from duty for articles accompanying him of up to $100 aggregate value ($200 if coming from the insular possessions of the United States). Dutiable articles over the $100 limitation were subject to duty at the rate prescribed in the applicable provisions of TSUS.

Section 203 of the Act amends schedule 8, TSUS, by redesignating present part 6 as part 7 and by introducing a new Part 6, comprised of items 869.00 and 869.10, TSUS, entitled "Noncommercial Importations of Limited Value." New part 6 applies to articles intended for personal or household use, or as bona fide gifts, not imported for resale or for the account of another person, if valued not over $600 fair retail value in the country of acquisition and accompanying "a person," including a crewmember, arriving in the United States. In these circumstances, a flat rate of duty of 10 percent (or 5 percent, for articles acquired in American Samoa, Guam, or the Virgin Islands) of the fair retail value of the articles would be assessed in place of any other rates of duty except free rates of duty. The flat rate of duty does not apply to commercial entries.

To implement section 203 of the Act, part 148, Customs Regulations, concerning personal declarations and exemptions, is being further amended by adding a new subpart J relating to noncommercial importations of limited value.

New § 148.101 provides that if the dutiable amount of the article(s) is over $600 fair retail value, the flat rate of duty provisions would apply to the amount not over $600 fair retail value and the excess amount would be valued under section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). The article(s) would be classified under the appropriate TSUS item number.

New § 148.103 provides that when members of a family residing in one household travel together on their return to the United States, the flat rate of duty allowance under item 869.00 or 869.10, TSUS, will be grouped and allowed without regard to which member of the family may be the owner of the articles. For example, an eligible family of four would have their articles grouped for a total of $2,400 fair retail value for entry at the flat rate of duty. This section parallels the provision relating to personal exemptions presently found in § 148.34, Custom Regulations.

Section 203 of the Act also provides that if application of the flat rate of duty to particular articles adversely affects the economic interest of the United States, the Secretary of the Treasury or his delegate may exclude those articles from the application of this provision. Part 148, Customs Regulations, is being amended by adding a new § 148.105 to establish a procedure for excluding articles from the flat rate of duty provisions if the importation of the articles adversely affects the economic interests of the United States.

ARTICLES TO FOLLOW

6. Under section 203 of the Act, the flat rate of duty provisions are applicable to articles which are purchased in *and* shipped from American Samoa, Guam, or the Virgin Islands by "a person," including a crewmember, and which do not accompany the person upon his arrival in the United States.

Previously, under item 813.31, TSUS, the personal exemption provisions applicable to a U.S. resident arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands permitted the exemption from duty only with respect to articles accompanying the returning U.S. resident.

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Under section 202 of the Act, U.S. residents arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands may apply the personal exemption to articles purchased there even if the articles do not accompany the resident upon his return to the United States. The personal exemption thus is applicable to articles purchased in the islands by U.S. residents for delivery to them after their return to the United States.

To implement sections 202 and 203 of the Act, concerning unaccompanied articles purchased in and shipped from American Samoa, Guam, or the Virgin Islands, part 148 is further amended by adding a new subpart K. Conforming amendments to part 145 are also being made.

New § 148.116 provides that a claim for administrative review may be filed if the person is dissatisfied with the amount of duties assessed an unaccompanied article. This section provides a remedy to the person who is entitled to the flat rate of duty allowance but is assessed duty under another item or items of the tariff schedules when the article or articles arrive(s) in the United States. This situation may arise, for example, if the proper documentation did not accompany the shipment.

Crewmembers, while not entitled to the benefit of the articles to follow provision of item 813.31, are entitled to use the articles to follow provision of item 869.10.

EFFECTIVE DATE FOR INCREASE OF DUTY

7. Section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), formerly provided that no administrative ruling resulting in a higher rate of duty than found to have been applicable to imported merchandise under an established and uniform practice shall be effective prior to the expiration of 30 days after the date of publication of the ruling in the weekly "Treasury Decisions" (now the "Customs Bulletin").

Section 204 of the act amends 19 U.S.C. 1315(d) to provide that no administrative ruling described above shall be effective prior to the expiration of 30 days after the date of publication of the ruling in the FEDERAL REGISTER rather than the Customs Bulletin. Section 177.10(e), Customs Regulations, is being amended to reflect this change.

DUTY COLLECTION WHERE EXPENSES ARE DISPROPORTIONATE

8. Section 321, Tariff Act of 1930, as amended (19 U.S.C. 1321), formerly permitted the Secretary of the Treasury to forgo collecting specified small amounts of duties and taxes where the expense and inconvenience to the Government of collection were disproportionate to the amount of revenue that was collected.

Under 19 U.S.C. 1321(a)(1), the Secretary was authorized to disregard a difference of less than $3 between estimated duties or taxes deposited and duties or taxes ultimately determined to be due. Under 19 U.S.C. 1321(a)(2)(A), the Secretary was authorized to admit bona fide gifts to persons in the United States free of duty and tax if the aggregate value of the exempt articles imported by one person on 1 day did not exceed $10 ($20 if from American Samoa, Guam, or the Virgin Islands). Likewise, under 19 U.S.C. 1321(a)(2)(B), the Secretary was authorized to admit free of duty and tax articles up to a value of $10 per person per day which accompanied, and which were for the personal household use of, persons arriving in the United States who were not entitled to other listed exemptions. Under 19 U.S.C. 1321(a)(2)(C), the Secretary was authorized to admit free of duty and tax in any other case $1 worth of goods per person per day.

Section 205 of the Act increases the dollar limits in 19 U.S.C. 1321 from $3 to $10 (sec. 1321(a)(1)); $10 to $25 and $20 to $40 (sec. 1321(a)(2)(A)); $10 to $25 (sec. 1321(a)(2)(B)); and $1 to $5 (sec. 1321(a)(2)(C)). Also, the authority to forego an underpayment of "duties or taxes" is changed to "duties and taxes". Whereas previously $3 of duty and $3 of tax could be disregarded, the Act limits the total amount of duty and tax underpayment which may be disregarded to $10 (not $10 of duty and $10 of tax). Sections 10.151, 10.152, 10.153(b), 10.153 (d)(2) and (d)(3), 10.153 (e) and (f), 145.31, 145.32, 148.12(b)(2)(ii), 148.51(b)(1), and 159.6, Customs Regulations, are being amended to reflect these changes.

AIR WAYBILLS

9. Section 483(1), Tariff Act of 1930, as amended (19 U.S.C. 1483(1)), makes all imported merchandise the property of the consignee for purposes of Customs law administration. The holder of a bill of lading endorsed by the consignee named in the bill (or, if the merchandise is consigned to order, endorsed by the consignor) is considered to be the consignee of the merchandise.

However, the holder of an endorsed air waybill for merchandise imported by air previously was not considered to be the consignee and owner of the merchandise under 19 U.S.C. 1483 because article 12 of the Warsaw Convention (49 Stat. 3017) permits the consignor to direct the air carrier not to deliver merchandise to the person named in the air waybill. Thus, the carrier has been required to certify that the holder of an air waybill is the consignee of the merchandise.

Section 207 of the Act amends 19 U.S.C. 1483 to create the same presumption for a holder of a properly endorsed air waybill as exists for a holder of a properly endorsed bill of lading (that he is the consignee of the merchandise). At the same time, 19 U.S.C. 1483 is further amended to insure that the rights of the consignor under article 12 of the Warsaw Convention remain the same. For Customs purposes, an air waybill now will be treated in the same manner as a bill of lading so that a separate air carrier's certificate would no longer be necessary to enter merchandise. Sections 141.11(a), 141.13, 141.14, 141.15, 141.16(a), 141.53(d), 141.54 (b) and (c), 141.111(b)(4), and 141.111(c), Customs Regulations, are being amended to reflect these changes.

OWNERSHIP OF YACHTS BY CUSTOMS OFFICERS AND EMPLOYEES

10. Section 599, Tariff Act of 1930 (19 U.S.C. 1599), prohibits Customs officers from owning any vessels. This provision has been interpreted to prohibit ownership of yachts and other pleasure boats by Customs officers and employees.

Section 212 of the Act amends 19 U.S.C. 1599 by excluding yachts and other pleasure boats from the prohibition against Customs officers owning vessels.

Accordingly, part 4, Customs Regulations, is being amended by adding a new § 4.101 to reflect this prohibition and exception.

ENTRY OF INDIVIDUALS

11. Treasury Decision 76-325 prohibited the prior practice of Customs permitting certain U.S. officials and employees duty-free entry of articles they brought with them from abroad by not requiring them to enter their baggage and effects. However, expedited Customs examination and clearance for these officials still was permitted in certain circumstances. (See 41 FR 50997, Nov. 19, 1976).

Section 215 of the Act prohibits admission of the baggage and effects without entry for all individuals returning to the United States from abroad in all situations except where otherwise provided by law. Also, no individual shall be entitled to expedited Customs examination and clearance of his or her baggage and effects unless under special circumstances, including when that individual is seriously ill or infirm, summoned home by news of affliction or disaster, or accompanying the body of a deceased relative. Section 148.84, Customs Regulations, is being amended to reflect this change.

INAPPLICABILITY OF PUBLIC NOTICE REQUIREMENT AND DELAYED EFFECTIVE DATE

Because each of these amendments merely implements a statutory requirement, notice, and public procedure thereon are unnecessary, and good cause exists for dispensing with the delayed effective date provisions of 5 U.S.C. 553.

Except as hereafter provided, each amendment is effective on October 3, 1978, the date of enactment of Pub. L. 95-410. However, Pub. L. 95-410 provides that the personal exemption provisions in section 202 and the flat rate of duty provisions in section 203 shall be effective on the 30th day following enactment. Accordingly, the amendments to §§ 145.12 and 145.43 and each amendment to part 148, except amendments to §§ 148.12(b)(2)(ii), 148.51(b)(1), and 148.84, which are effective on the date of enactment, are effective on November 2, 1978, the 30th day following enactment.

COMMENTS

Since the amendments in this document merely implement statutory requirements which are effective on the date of enactment of Pub. L. 95-410, or on the 30th day following enactment, these amendments are being published as a final rule. Recognizing the need to assess the effects of these amendments, the Customs Service will evaluate their impact as soon as sufficient experience has been acquired, with a view to making appropriate revisions.

Customs will entertain written comments from the public. Any comments received will be reviewed to determine whether it would be appropriate to change the amendments in the future. Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, Room 2335, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), during regular business hours, at the Regulations and Legal Publications Division.

DRAFTING INFORMATION

The principal authors of this document were Charles D. Ressin and John E. Elkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Parts 4, 10, 141, 145, 148, 159, 162, 174, and 177, Customs Regulations (19 CFR 4, 10, 141, 145, 148, 159, 162, 174, 177), are amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. Part 4 is amended by adding a new § 4.101 to read as follows:

§ 4.101 Prohibitions against Customs officers and employees.

No Customs officer or employee shall:

(a) Own, in whole or in part, any vessel except a yacht or other pleasure boat;

(b) Act as agent, attorney, or consignee for the owner or owners of any vessel, or of any cargo or lading on board the vessel; or

(c) Import or be concerned directly or indirectly in the importation of any merchandise for sale into the United States

(Sec. 599, 46 Stat. 753 (19 U.S.C. 1599).)

(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.151 [Amended]

1. Section 10.151 is amended by substituting "$5" for "$1" in the section heading and text.

§ 10.152 [Amended]

2. The first sentence of § 10.152 is amended by substituting "$25" for "$10" and "$40" for "$20".

§ 10.153 [Amended]

3. The third sentence of § 10.153(b) is amended by substituting "$25" for "$10" and "$40" for "$20".

4. Sections 10.153(d)(2) and 10.153(d)(3) are amended by substituting "$25" for "$10" and "$40" for "$20".

5. Section 10.153(e) is amended by substituting "$5" for "$1".

6. Section 10.153(f) is amended by substituting "$25" for "$10" and "$40" for "$20".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 141—ENTRY OF MERCHANDISE

1. Section 141.11(a)(1) is amended to read as follows:

§ 141.11 Evidence of right to make entry for importations by common carrier.

(a) *Merchandise not released directly to carrier.* • • •

(1) A bill of lading or air waybill, presented by the holder thereof, properly endorsed when endorsement is required under the law. A nonnegotiable bill of lading, or air waybill, may not be endorsed by the named consignee to give someone else the right to make entry. If the person making entry intends to use the original bill of lading or air waybill to obtain a duplicate bill of lading, duplicate air waybill, or carrier's certificate from the carrier, the exchange shall be made before the entry is filed, and the duplicate bill of lading, duplicate air waybill, or carrier's certificate shall be used to make entry in accordance with subparagraph (3) or (4) of this paragraph. For purposes of this part, the rights of the consignor relating to an air waybill as prescribed by the Warsaw Convention (49 Stat. 3017) shall be protected.

• • • • •

2. Section 141.11(a)(2) is amended by inserting "or air waybill" after "bill of lading" and "or air waybills" after "bills of lading".

3. Section 141.11(a)(3) is amended by inserting "or air waybill" after "bill of lading" where it appears in the text, the title of the form, and the text of the form.

4. Section 141.11(a)(6) is amended by inserting "or air waybill" after "bill of lading".

5. Section 141.13 is amended to read as follows:

§ 141.13 Right to make entry of abandoned or salvaged merchandise.

Underwriters of abandoned merchandise or salvors of merchandise saved from a wreck who are unable to produce a bill of lading, air waybill, certified duplicate bill of lading or air waybill, or carrier's certificate, shall produce evidence satisfactory to the district director of their right to act.

6. Section 141.14 is amended to read as follows:

§ 141.14 Deceased or insolvent consignees and court-appointed administrators.

The executor or administrator of the estate of a deceased consignee, the receiver or other legal representative of an insolvent consignee, or the representative appointed in any action or proceeding at law to act for a consignee shall not be permitted to make entry unless he produces a duly endorsed bill of lading or air waybill, a carrier's certificate, or a duplicate bill of lading or air waybill, executed in accordance with subsections (h) or (i) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), showing him to be the consignee for Customs purposes.

7. Section 141.15(a) is amended to read as follows:

§ 141.15 Bond for production of bill of lading or air waybill.

(a) *When appropriate.* If the person desiring to make entry is unable to by endorsement. The certificate shall be in the following form:

• • • • •

5. Part 145 is further amended by adding a new § 145.43 to read as follows:

§ 148.43 [Amended]

9. Section 148.43(a) is amended by substituting "200 cigarettes" for "300 cigarettes" in the first sentence and by

16. Part 148 is further amended by adding new Subparts J and K to read as follows:

Example 1: B returned from Europe where he acquired merchandise having a fair retail value of $1,050. Assume for purposes of this example that (1) in addition to the personal

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§ 141.15 Bond for production of bill of lading or air waybill.

(a) *When appropriate.* If the person desiring to make entry is unable to present a bill of lading, air waybill, or other evidence of right to make entry in accordance with § 141.11, the district director may accept a bond for the production of a bill of lading or air waybill under the provisions of section 484(c), Tariff Act of 1930, as amended (19 U.S.C. 1484(c)). The bond shall be for the production of a bill of lading or air waybill, unless the person making entry intends to produce a carrier's certificate or certified duplicate bill of lading or air waybill. In that case, no bond is required because section 484(c) does not apply to entries made on a carrier's certificate or certified duplicate bill of lading or air waybill. If the district director is in doubt as to the propriety of accepting entry on a bond for the production of a bill of lading or air waybill, he shall request authority to do so from the Commissioner of Customs.

. . . . . .

8. Section 141.15(c) is amended by inserting "or air waybill" after the term "bill of lading" wherever it appears.

§ 141.16 [Amended]

9. Section 141.16(a) is amended by inserting "or air waybill" after the term "bill of lading" wherever it appears in the heading and text.

§ 141.53 [Amended]

10. Section 141.53(d) is amended by inserting "or air waybill" after the term "bill of lading" wherever it appears in the text.

11. Section 141.54(b) is amended by inserting "or air waybill" after the term "bill of lading" wherever it appears in the heading, text, and endorsement.

12. Section 141.54(c) and footnote 1 to the form entitled "Authority To Make Entry" included therein are amended to read as follows:

§ 141.51 Separate entries for consolidated shipments.

. . . . . .

(c) *Certificate by nominal consignee.* Except when an authority to make entry for a portion of a consolidated shipment is executed on the entry form in the space provided, at the time of depositing the bill of lading, air waybill, or other document, the named consignee shall produce a certificate prepared and signed by him for each portion of the shipment for which separate entry is desired. The authority to make entry carried by such a certificate may be transferred by endorsement. The certificate shall be in the following form:

. . . . . .

[1] Insert "bill of lading," "air waybill," "certified duplicate bill of lading," "certified duplicate air waybill," "carrier's certificate," or "shipping receipt."

§ 141.111 [Amended]

13. Section 141.111(b)(4) is amended by inserting "or air waybill" after the term "bill of lading" wherever it appears in the text and form.

14. Section 141.111(c) is amended by inserting "or air waybill" after "bill of lading."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 145—MAIL IMPORTATIONS

1. The first sentence of § 145.12(b) is amended by substituting "paragraphs (c) and (e)" for "paragraph (c)".

2. Section 145.12 is further amended by adding a new paragraph (e) to read as follows:

§ 145.12 Entry of merchandise.

. . . . . .

(e) *Unaccompanied shipments—(1) Mail entry to be attached.* If the requirements of § 148.115(a) of this chapter are met, Customs officers shall prepare and attach a mail entry, Customs Form 3419, for each shipment for which entry is claimed under item 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), which is to be delivered by the Postal Service, and return the shipment to the Postal Service for delivery and collection of duty. If the addressee has arranged to pick up the shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry, Customs Form 5119-A, and collect the duty in accordance with Subpart C of Part 143 of this chapter if the requirements of § 148.115(a) of this chapter are met.

(2) *Disposition of Customs Form 255.* The Declaration of Unaccompanied Articles, Customs Form 255, affixed to the shipment shall be removed by the Customs officer and retained for Customs purposes. If a mail entry, Customs Form 3419, has been prepared, the mail entry number shall be noted on the Customs Form 255.

§ 145.31 [Amended]

3. Section 145.31 is amended by substituting "$5" for "$1" in the section heading and text.

§ 145.32 [Amended]

4. Section 145.32 is amended by substituting "$25" for "$10" and "$40" for "$20".

5. Part 145 is further amended by adding a new § 145.43 to read as follows:

§ 145.43 Unaccompanied tourist shipments.

Unaccompanied tourist shipments for which entry is claimed under item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), may be passed free of duty and tax if the requirements of § 148.115(a) of this chapter are met. The Declaration of Unaccompanied Articles, Customs Form 255, shall be removed by the Customs officer from the shipment and retained for Customs purposes.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C 66, 1624).)

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.2 [Amended]

1. The first sentence of § 148.2(b) is amended by inserting "(including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States)" after "or persons who have formerly resided in the United States" and by substituting "of the United States" for "thereof".

§ 148.12 [Amended]

2. Section 148.12(b)(1)(i) is amended by substituting "$300" for "$100" and "$600" for "$200".

3. Section 148.12(b)(2)(ii) is amended by substituting "$25" for "$10".

§ 148.31 [Amended]

4. The first sentence of § 148.31(a) is amended by inserting "(including American citizens who are residents of American Samoa, Guam, or the Virgin Islands of the United States)" after "Each returning resident".

§ 148.17 [Amended]

5. Sections 148.17 (b) and (c) are amended by substituting "$300" for "$100" and "$600" for "$200".

Subpart D—[Amended]

6. Subpart D of Part 148 is amended by substituting "$300" for "$100" and "$600" for "$200" wherever those amounts appear.

§ 148.33 [Amended]

7. Section 148.33(d)(1) is amended by inserting "200 cigarettes and" before "100 cigars".

§ 148.41 [Amended]

8. Section 148.41 is amended by inserting "(including not more than 4 liters of alcoholic beverages)" after "articles not exceeding $200 in aggregate value".

§ 148.43 [Amended]

9. Section 148.43(a) is amended by substituting "200 cigarettes" for "300 cigarettes" in the first sentence and by replacing the semicolon in the second sentence with a period and deleting the remainder of the second sentence.

10. Section 148.43(b) is amended by deleting "not more than 1 wine gallon of alcoholic beverages and" and substituting "cigars" for "articles".

§ 148.44 [Amended]

11. The first sentence of § 148.44(a) is amended by inserting "(not including alcoholic beverages and cigarettes, but including not more than 100 cigars)" after "articles not over $100 in aggregate value". The second sentence of this section is amended to read as follows:

"See section 148.43(b) for limitations on cigars under this exemption."

§ 148.51 [Amended]

12. Section 148.51(a)(2) is amended by substituting "$300" for "$100" and "$600" for "$200".

13. Section 148.51(b)(1) is amended by substituting "$25" for "$10".

§ 148.66 [Amended]

14. Section 148.66(b) is amended by inserting "(including not more than 4 liters of alcoholic beverages)" after "articles not exceeding $200 in aggregate value".

15. Section 148.84 is amended to read as follows:

§ 148.84 Special treatment for returning individuals.

(a) Except as otherwise provided by law, an individual returning to the United States from abroad:

(1) Shall not have his or her baggage and effects admitted free of duty without entry.

(2) Shall not be entitled to expedited Customs examination and clearance of his or her baggage and effects unless the district director finds:

(i) That the individual:

(A) Is seriously ill or infirm;

(B) Was summoned by news of affliction or disaster; or

(C) Is accompanying the body of a deceased relative; or

(ii) That a special circumstance exists which warrants expedited examination and clearance.

(b) For purposes of this section, the term "baggage and effects" means any article which was in the possession of the individual while abroad, is being imported in connection with his or her arrival, and is intended for his or her bona fide personal or household use. This term does not include any article imported as an accommodation to others or for sale or other commercial use.

16. Part 148 is further amended by adding new Subparts J and K to read as follows:

Subpart J—Noncommercial Importations of Limited Value

Sec.
148.101 Applicability.
148.102 Flat rate of duty.
148.103 Family grouping of allowances.
148.104 Frequency of use.
148.105 Procedure for excluding articles from flat rate of duty.
148.106 Excluded articles of merchandise.

Subpart K—Unaccompanied Shipments from American Samoa, Guam, or the Virgin Islands of the United States

Sec.
148.110 Applicability.
148.111 Written declaration for unaccompanied articles.
148.112 Evidence of purchase.
148.113 Declaration, entry, and collection of duty.
148.114 Shipment of unaccompanied articles.
148.115 Release of shipment.
148.116 Claim for refund.

AUTHORITY: R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).

Subpart J—Noncommercial Importations of Limited Value

§ 148.101 Applicability.

Each person, including a crewmember, arriving in the United States who enters articles for his personal or household use, or as bona fide gifts not imported for sale nor for the account of another person, valued in the aggregate at not over $600 fair retail value in the country of acquisition, shall be assessed a flat rate of duty on the articles, as provided in § 148.102. The entry shall be made under item 869.00 or 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), and is subject to the limitations and conditions in this subpart. Except as provided in § 148.105, the flat rate of duty shall be assessed in place of any rates of duty other than free rates of duty. If the dutiable amount of the article(s) is over $600 fair retail value, the flat rate of duty provisions shall apply to the amount not over $600 fair retail value, and the excess amount shall be valued under section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). The article(s) shall be classified under the appropriate item number of the tariff schedules. For purposes of this subpart, "fair retail value" in the country of acquisition means the price at which the merchandise is freely offered there for sale at retail and "country of acquisition" includes America Samoa, Guam, and the Virgin Islands of the United States.

Two examples of the application of this subpart are set forth below:

Example 1: B returned from Europe where he acquired merchandise having a fair retail value of $1,050. Assume for purposes of this example that (1) in addition to the personal exemption of $300, $100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, and (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate.

B presents his baggage to the Customs officer for examination and his declaration for verification. Duty is figures as follows:

	Fair retail value	Duty
(a) The $300 personal exemption	$300	
(b) Articles which carry a free rate of duty	100	
(c) The $600 flat rate of duty allowance calculated at 10 percent	600	$60
(d) Balance of articles subject to duty at rates other than flat rate	[1]50	(1)
Total	1,050	(1)

[1] The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402 or 402(a), Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

Example 2: Mr. and Mrs. B return from the U.S. Virgin Islands. During the trip, they acquired merchandise having a fair retail value of $2,900. Assume for purposes of this example that (1) in addition to the personal exemption of $600 for each returning resident, $100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate, and (4) Mrs. B made $400 in purchases on the trip, none of which carries a free rate of duty.

Mr. and Mrs. B present their baggage to the Customs officer for examination and their declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The $600 personal exemptions for residents returning from the Virgin Islands are grouped for a total of	$1,200	
(b) Articles which carry a free rate of duty	100	
(c) The $600 flat rate of duty allowances calculated at 5 percent for persons arriving from the Virgin Islands are grouped for a total of	1,200	$60
(d) Balance of articles subject to duty at rates other than the flat rates of duty	[1]400	(1)
Total	2,900	(1)

[1] The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402 or 402(a), Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

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§ 148.102 Flat rate of duty.

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, or the Virgin Islands of the United States) shall be 10 percent of the fair retail value in the country of acquisition.

(b) *Insular possessions.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these insluar possessions as an incident of the person's physical presence there, shall be 5 percent of the fair retail value in the insular possession in which acquired.

§ 148.103 Family grouping of allowances.

(a) *Generally.* When members of a family residing in one household travel together on their return to the United States, the flat rate of duty allowance will be grouped and allowed without regard to which member of the family is the owner of the articles. A group allowance shall not include an allowance for a family member not entitled to it in his own right, nor shall a group allowance be applied to any property of that member.

(b) *Members of a family residing in one household.* "Members of a family residing in one household" shall include all persons, regardless of age, who:

(1) Are related by blood, marriage, or adoption;

(2) Lived together in one household at their last permanent residence; and

(3) Intend to live in one household after their arrival in the United States.

§ 148.104 Frequency of use.

(a) *30-day period.* The flat rate of duty shall not apply to a person who has used the provision within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he declared articles for which the flat rate of duty was applicable shall be considered the date that rate was last used.

(b) *Computation of time.* The 30-day period immediately prior to the person's arrival in the United States shall be computed by excluding the day of arrival and counting backward 30 days.

(c) *Remainder not applicable to subsequent journey.* A person who has received a flat rate of duty allowance of less than $600 in connection with his return from one journey is not entitled to apply the remainder to articles acquired abroad on a subsequent journey.

§ 148.105 Procedure for excluding articles from flat rate of duty.

(a) *Generally.* Any person who has information that merchandise is being imported into the United States under the provisions of item 869.00 or 869.10, Tariff Schedules of the United States (19 U.S.C. 1202), and this subpart which adversely affects the economic interest of the United States may communicate the information in writing to the Commissioner of Customs, Attention: Office of Operations, Washington, D.C. 20229.

(b) *Content of communication.* The communication to the Commissioner need not be in any particular form but shall contain the following:

(1) The name of the individual and the person, firm, or association the individual represents, if any;

(2) The nature of the individual's interest in the matter, if any;

(3) A description of the merchandise, which it is alleged affects the economic interest of the United States adversely, including item numbers of the tariff schedules, if known;

(4) The country of acquisition and the ports and dates of entry of the merchandise, if known; and

(5) A statement and supporting evidence as to the manner in which the individual believes the economic interest of the United States is being adversely affected.

(c) *Inquiry to be conducted.* Upon receipt of a communication containing the information required by paragraph (b) of this section, an inquiry will be conducted.

(d) *Negative determination.* If the inquiry results in a finding that no reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is adversely affecting the economic interest of the United States, the inquirer shall be advised in writing of the finding and the matter shall be closed.

(e) *Publication of tentative finding.* If the inquiry results in a finding by the Secretary of the Treasury that reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is affecting the economic interest of the United States adversely, a notice of the finding will be published in the FEDERAL REGISTER and Customs Bulletin, along with a statement of intent to exclude the articles from application of the flat rate of duty provisions. Interested persons will be given an opportunity to submit written comments on the notice.

(f) *Final determination.* Based upon the comments received and the results of any additional inquiry as may be necessary, if it is determined by the Secretary of the Treasury that application of the flat rate of duty provisions adversely affects the economic interest of the United States, a Treasury Decision will be published in the FEDERAL REGISTER and Customs Bulletin announcing that the merchandise will be excluded from application of the flat rate of duty provisions. Excluded articles of merchandise shall be listed in § 148.106. If it is determined by the Secretary of the Treasury that a valid basis for excluding the merchandise from the flat rate of duty provisions does not exist, the notice proposing to exclude the article will be withdrawn by publishing a notice in the FEDERAL REGISTER and the Customs Bulletin.

§ 148.106 Excluded articles of merchandise.

The following articles of merchandise have been found to affect the economic interest of the United States adversely, and they are excluded from the application of the flat rate of duty provisions.

[Reserved for listing.]

Subpart K—Unaccompanied Shipments From American Samoa, Guam or the Virgin Islands of the United States

§ 148.110 Applicability.

The provisions of this subpart are applicable to articles not accompanying a person, including a crewmember, which are purchased in and shipped from American Samoa, Guam, or the Virgin Islands of the United States. However, this subpart is not applicable to the importation of unaccompanied articles in a manner prohibited by law or regulation (e.g., mail shipments of alcoholic beverages or alcoholic beverages shipped other than by mail in excess of quantities authorized by State laws or regulations).

The following is a summary of the procedure to be followed to obtain the benefits of this subpart: A person purchasing articles in American Samoa, Guam or the Virgin Islands of the United States would receive a sales slip, invoice, or other evidence of purchase which he would present to the Customs officer along with his baggage declaration, Customs Form 6059-B, and a Declaration of Unaccompanied Articles, Customs Form 255. The latter form is prepared in triplicate for each shipment to follow. The Customs officer would verify the information, indicate on the form whether the article or articles were free of duty, dutiable at the flat rate, or a combination of the foregoing, and validate the form. Two copies would be returned to

the traveler, who would send one form to the vendor. Upon receipt of the form the vendor would place it in an envelope, affix it to the outside of the package, clearly mark the package "Unaccompanied Tourist Shipment," and send the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by Customs and forwarded to the Postal Service for delivery. Any duties due would be collected by the mailman. If the shipment arrives other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

§ 148.111 Written declaration for unaccompanied articles.

The baggage declaration, Customs Form 6059-B, of a person (the crewmembers declaration, Customs Form 5129, in the case of a returning crewmember) arriving directly or indirectly from American Samoa, Guam, or the Virgin Islands of the United States shall be in writing if it covers articles which do not accompany him and:

(a) The articles are entitled to free entry under the $600 exemption provided by item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or

(b) The articles are noncommerical importations of limited value subject to a flat rate of duty under item 869.10 of the tariff schedules.

§ 148.112 Evidence of purchase.

A sales slip, invoice, or other evidence of purchase, shall be presented with the declaration for all unaccompanied articles.

§ 148.113 Declaration, entry, and collection of duty.

(a) *Declaration and entry for unaccompanied articles—(1) Declaration.* A baggage declaration covering articles for which a claim of free entry, in whole or in part, is made under the $600 exemption provided by item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or a baggage or crewmembers declaration covering articles for which the flat rate of duty provision of item 869.10 of the tariff schedules appears to be applicable, shall be accompanied by a Declaration of Unaccompanied Articles, Customs Form 255. Customs Form 255 shall be prepared in triplicate by the vendor or declarant for each shipment of declared articles not accompanying the person. A shipment consists of one or more packages or containers sent as a unit.

(2) *Verification.* The Customs officer shall verify the information from the declaration, sales slip, invoice, or other evidence of purchase furnished by the person. The completed Customs Form 255 shall be validated by the Customs officer and two copies given to the person.

(b) *Collection of duty.* Duties shall be collected before release of the articles, after their arrival in the United States, as provided in § 145.12 or § 148.115.

§ 148.114 Shipment of unaccompanied articles.

One copy of the validated Customs Form 255 shall be returned to the vendor. The vendor shall place the form in an envelope, affix it to the outside of the shipment, and clearly mark the outside of the shipment "Unaccompanied Tourist Shipment."

§ 148.115 Release of shipment.

(a) *Release after examination.* Unaccompanied tourist shipments—

(1) To which the personal exemption provided in item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), is applicable, or

(2) For which entry is made under the flat rate of duty provisions of item 869.10 of the tariff schedules, or under those provisions in conjunction with the regular rate of duty provision of another item of the tariff schedules, shall be released if:

(i) The shipment is properly marked and accompanied by a validated copy of Customs Form 255,

(ii) The examining Customs officer is satisfied that the contents of the shipment are as stated on the Customs Form 255 and, if applicable, that they are properly classified,

(iii) The declared value conforms to the fair retail value in the country of acquisition, and

(iv) In respect to shipments for which entry is made under item 869.10, any duties found to be due are paid.

(b) *Removal of Customs Form 255.* The copy of Customs Form 255 attached to the shipment shall be removed by the Customs officer and retained for Customs purposes.

(c) *Missing Customs Form 255.* If a validated copy of Customs Form 255 does not accompany the shipment, entry shall be made under the provisions of part 141 or 145 of this chapter.

(d) *Restricted or prohibited shipments.* No shipment containing prohibited or restricted merchandise for which exemption is claimed under item 813.31 of the Tariff Schedules of the United States (19 U.S.C. 1202), or for which entry is claimed under item 869.10 of the tariff schedules, shall be released except upon compliance with the provisions of part 12 and §§ 145.51 through 145.59 of this chapter, and other applicable laws and regulations.

(e) *Verification of claim.* The district director may withhold release of any shipment for which exemption is claimed under item 813.31, Tariff Schedules of the United States (19 U.S.C. 1202), or for which entry is claimed under item 869.10 of the tariff schedules, to verify the validity of the claim. If he is unable to verify the claim, the merchandise shall be released under the provisions of part 141 or 145 of this chapter.

§ 148.116 Claim for refund.

Any person who has filed a declaration of unaccompanied articles under §§ 148.112 and 148.113 and who is dissatisfied with the amount of duty assessed on the articles upon their arrival in the United States may file a claim for administrative review under subpart C, part 145, of this chapter if the articles arrived by mail, or under parts 173 and 174 if the articles arrived other than by mail. Any supporting documents, including a copy of Customs Form 255, should be submitted with the claim.

(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 159—LIQUIDATION OF DUTIES

§ 159.6 [Amended]

1. Sections 159.6 (a), (b), (c), and (d) are amended by substituting "$10" for "$3" wherever "$3" appears in the paragraph headings and text.

(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 162—INSPECTION, SEARCH, AND SEIZURE

§§ 162.32, 162.43, 162.45, 162.46, 162.47, and 162.48 [Amended]

1. Sections 162.32(b), 162.43(c), 162.45, 162.46, 162.47(a), and 162.48 are amended by substituting "$10,000" for "$2,500" wherever "$2,500" appears in the headings and text.

(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 174—PROTESTS

1. Part 174 is amended by adding a new § 174.32 to read as follows:

§ 174.32 Publication.

Within 120 days after issuing a protest review decision, the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 31 CFR Part 1 and 19 CFR Part 103.

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(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

[6560-01-M]

Title 40—Protection of the Environment

tion. This includes full public disclosure of alternatives and potential adverse environmental impacts through-

FWPCA, as amended, those administrative actions in § 6.504.

[6820-24-M]

Title 41—Public Contracts and

ernment bill of lading, or on a commercial bill of lading as provided in the Federal Property Management

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(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 177—ADMINISTRATIVE DECISIONS

1. The heading of § 177.0 and § 177.10(a) are amended to read as follows:

§ 177.10 Publication of decisions.

(a) *Generally.* Within 120 days after issuing any precedential decision under the Tariff Act of 1930, as amended, relating to any Customs transaction (prospective, current, or completed), the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. For purposes of this paragraph a precedential decision includes any ruling letter, internal advice memorandum, or protest review decision. Disclosure is governed by 31 CFR Part 1, 19 CFR Part 103, and 19 CFR 177.8(a)(3).

. . . . .

2. The second sentence of § 177.10(e) is amended by substituting "FEDERAL REGISTER" for "Customs Bulletin."

3. Section 177.11(b)(7) is amended to read as follows:

§ 177.11 Requests for advice by field offices.

. . . . .

(b) *Certain current transactions—*

. . . . .

(7) *Publication.* Within 120 days after issuing an internal advice memorandum, the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 31 CFR Part 1 and 19 CFR Part 103.

(R.S. 251 as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

R. E. CHASEN,
Commissioner of Customs.

Approved: October 11, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-30095 Filed 10-24-78; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

[FRL-988-6]

PART 6—PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Interim Final Rule for Administrative Actions Under Water Quality Management Program

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule for administrative actions under water quality management program.

SUMMARY: Based upon the authority in section 511(c)(1) of the Clean Water Act (Act), EPA has determined that the environmental impact statement requirements contained in 40 CFR Part 6 will not be applied to the water quality management (WQM) program authorized by section 208 of the Act. The amendment implements this determination.

DATE: Effective date: October 25, 1978. Written comments may be submitted. Comments must be received by December 26, 1978.

ADDRESS: Comments are to be mailed to the Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 Attention: Thomas Sheckells.

FOR FURTHER INFORMATION CONTACT:

Thomas Sheckells, Office of Federal Activities (A-104), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; telephone 202-755-0790.

SUPPLEMENTARY INFORMATION: EPA has determined that this amendment is consistent with section 511(c)(1) of the Act. The WQM program, however, will still continue to follow procedures consistent with 40 CFR Part 6 and the requirements of the National Environment Policy Act (NEPA) other than section 102(2)(C).

The WQM public participation process requires that sufficient information and opportunities for involvement in the decisionmaking process be provided the public. Public participation must be provided early and continue through the WQM process so that the public can understand and participate in the WQM plan and its implementation. This includes full public disclosure of alternatives and potential adverse environmental impacts throughout the plan development, planning, and implementation phases. Also, the WQM process requires analysis and presentation of the social, economic, and environmental impacts of carrying out the WQM plan. As a result, a detailed environmental assessment is required to be prepared through a process which is as rigorous and open to public input as the procedures established under section 102(2)(C) of NEPA. This assessment must be included and circulated as a component of every WQM plan and plan update.

Prior to taking any approval actions on a WQM plan each regional administrator must ascertain that these public involvement and environmental assessment requirements have been met. The regional administrator shall note any plan recommendations that must be addressed in subsequent NEPA section 102(2)(C) actions required for decision under section 201 or 402 of the Act. However, it remains the prerogative of the regional administrator to require an EIS on any WQM plan approval action.

EPA is entering a critical stage of the WQM program where individual WQM plans are being submitted for approval. In view of this timing factor, this revision will take effect on an interim basis.

Dated: October 19, 1978.

BARBARA BLUM,
Acting Administrator.

40 CFR Part 6 is amended as follows:

Subpart E—Guidelines for Compliance With NEPA in the Title II Wastewater Treatment Works Construction Grant Program

1. The heading of Subpart E is revised as set forth above.

2. The second sentence in § 6.102(a) is revised to read as follows and (j) is revoked and reserved:

§ 6.102 Definitions.

(a) * * * For facilities plans as defined in § 6.102(k), the assessment must be an integral, though identifiable, part of the plan submitted to EPA for review.

. . . . .

(j) (Reserved)

3. Section 6.106(a)(3) is revised to read as follows:

§ 6.106 Applicability.

(a) * * *

(3) For wastewater treatment works construction grants under title II of FWPCA, as amended, those administrative actions in § 6.504.

. . . . .

§ 6.400 [Amended]

4. The language "or section 209 plans" in the second sentence of § 6.400 is revoked.

§ 6.500 [Amended]

5. The language "and the areawide waste treatment management planning program" in § 6.500 is revoked.

§ 6.504 [Amended]

6. Section 6.504(a)(1) is revoked and reserved.

7. Section 6.504(b)(3) is amended by adding the language "or approval of a section 208 plan" after the term "grant".

§ 6.510 [Amended]

8. The comma after the term "plan" in the introductory text of § 6.510 is deleted and the language "208 plan or other appropriate water quality management plan" is revoked.

§ 6.512 [Amended]

9. Section 6.512 is amended as follows:

(A) The language "or section 208" in paragraphs (a) and (d) is revoked;

(B) The language "or section 208 plan" in paragraphs (c), (e), and (g) is revoked;

(C) Paragraph (a)(4)(vi) is revoked;

(D) The sentence "Hearings should be held in section 208 plans." and the language "or the 208 water quality management strategy" in paragraph (b) are deleted; and

(E) Paragraph (f) is revised to read:

(f) *Scope of EIS.* It is the regional administrator's responsibility to determine the scope of the EIS. The regional administrator should determine if an EIS should be prepared on a facilities plan(s) or voluntarily for a section 208 plan, and which environmental areas should be discussed in greatest detail in the EIS.

10. Section 6.514 is revised to read:

§ 6.514 Content of environmental impact statements.

EIS's for treatment works or facility plans shall be prepared according to § 6.304.

[FR Doc. 78-29975 Filed 10-24-78; 8:45 am]

[6820-24-M]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 195]

PART 1-19—TRANSPORTATION

Vendor Prepaid Transportation Charges

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment adds procedures regarding vendor prepaid transportation charges applicable to Government procurements of personal property. These procedures make it easier for suppliers to obtain payment for transportation charges involving small dollar amounts. The amendment provides that, where Government suppliers cannot provide a receipted freight bill to substantiate a transportation charge of $100 or less, payment may be made if the charge has otherwise been determined to be reasonable. The intended effect of the amendment is to eliminate the rigid requirement that receipted freight bills be obtained where the amount involved is $100 or less. The general requirement for substantiation of prepaid transportation charges remains applicable, regardless of the monetary amount of the charges, whenever such substantiation is reasonably available.

EFFECTIVE DATE: November 27, 1978, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

The table of contents for part 1-19 is amended by adding the following entry:

Sec.
1-19.204 Transportation charges in the procurement of personal property.

Subpart 1-19.2—Transportation Factors in the Procurement of Personal Property

Section 1-19.204 is added as follows:

§ 1-19.204 Transportation charges in the procurement of personal property.

(a) Domestic procurements of personal property made on an f.o.b. point of origin basis (see § 1-19.302) may be shipped on a Government bill of lading, on a commercial bill of lading for subsequent conversion to a Government bill of lading, or on a commercial bill of lading as provided in the Federal Property Management Regulations (see 41 CFR 101-41.303-1 and 2). The transportation charges may be prepaid by the vendor when shipment is made on a commercial bill of lading.

(b) Commercial forms and procedures may be used for shipments in which the transportation charges ordinarily do not exceed $100 per shipment and in the occasional situation that does not exceed that monetary limitation by an unreasonable amount (see 41 CFR 101-41.304-2). When the transportation cost is prepaid by the vendor and subsequently included on the vendor's invoice to the Government, the invoice shall identify separately the cost of transportation and the cost of the material being delivered. In such cases, the vendor shall verify the cost of transportation by including a copy of the receipted freight bill with the invoice.

(c) The requirement for obtaining a receipted freight bill is subject to the two exceptions which follow.

(1) A receipted freight bill is not required when the vendor cannot reasonably provide the receipted bill. In such instances, an invoiced, unsupported transportation charge of $100 or less for a transaction; i.e., purchase, invoice, aggregate billing, or payment for multiple purchases, may be paid if the charge has been determined to be reasonable. Shipments and invoices shall not be split in order to bring the transportation cost under $100. The basis for determining the reasonableness of the charge may include, or be based upon, one of the following:

(i) Past experience (authenticated transportation charges for similar shipments);

(ii) Rate checks;

(iii) Copies of freight bills submitted by the vendor; or

(iv) Other information submitted by the vendor to substantiate the amount claimed.

(2) A receipted freight bill is not required when reimbursement is made pursuant to a contract requiring the contractor's retention of records for a period not less than 3 years from the date of final payment under the contract. In such instances, an invoiced, unsupported transportation charge of $100 or less may be paid, provided that the contractor certifies that the transportation charges have been paid, and that evidence in support of such certification of payment will be furnished upon the request of the Government.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

Dated: October 10, 1978.

JAY SOLOMON,
Administrator of

Dated: October 4, 1978.

JAY SOLOMON,
Administrator of

Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

The FCC also established cutoff dates for filing applications in order that the companies can negotiate technical agreements (frequency coordination) with the Canadian authorities. Applications for the Buffalo-Niagara Falls area were to be filed by January 15, 1979, and applications for the Detroit-Windsor area were to be filed by March 15, 1979. Applications for other areas were to be filed by May 15, 1979. Applications for the Buffalo-Niagara Falls area and the Detroit-Windsor area were to be limited to those licensees authorized at that time (Domestic Public Land Mobile Radio Service and Rural Radio Service RCC's). We further stated that use of the frequencies was to be limited to those licensees authorized at that time (Domestic Public Land Mobile Radio Service and Rural Radio Service RCC's). We further stated that use of the frequencies was to be limited to those licensees authorized at that time had fewer "exclusive" channels. Implementation of this concept could be accomplished by carriers either shar-

V 43/207 OCT 25 78

Dated: October 10, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-29999 Filed 10-24-78; 8:45 am]

[6820-24-M]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G-46]

PART 101-38—MOTOR EQUIPMENT MANAGEMENT

Subpart 101-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

MOTOR VEHICLE AND TRANSPORTATION MANAGEMENT

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation updates the list of organizational activities of the Department of Health, Education, and Welfare (DHEW), which have been granted unlimited exemptions by GSA from displaying U.S. Government tags and other identification. This regulation is necessary to show the full extent of DHEW's exemption.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

Section 101-38.602(f) is revised to read as follows:

§ 101-38.602 **Unlimited exemptions.**

. . . . .

(f) *Health, Education, and Welfare, Department of.* Motor vehicles operated by the Food and Drug Administration in undercover law enforcement and similar investigative work; motor vehicles operated by St. Elizabeths Hospital in out-patient work where the identification of the vehicle would be prejudicial to the patient; one vehicle operated by the National Institutes of Health in transporting mentally disturbed children; and motor vehicles operated by the Office of Investigations and Office of the Inspector General that are used for law enforcement and investigative purposes.

. . . . .

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

Dated: October 4, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-30000 Filed 10-24-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[OR-14341, OR-17491]

PUBLIC LAND ORDER

Oregon; Revocation of Executive Orders No. 4848 and No. 5033

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This action will restore 80 acres of land to operation of the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: November 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Orders No. 4848 and No. 5033 of April 2, 1928, and January 19, 1929, respectively, which withdrew the following described public lands for use by the State of Oregon as lookout stations are hereby revoked:

WILLAMETTE MERIDIAN

T. 7 S., R. 7 W.,
Sec. 9, NW¼NW¼.
T. 40 S., R. 7 E.,
Sec. 15, SW¼SE¼.
The areas described contains 80 acres in Polk and Klamath Counties.

2. At 10 a.m. on November 23, 1978, the land shall be open to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Lands.

3. At 10 a.m. on November 23, 1978, the lands will be open to location under the U.S. mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oreg. 97208.

GUY R. MARTIN,
Assistant Secretary of the Interior.

OCTOBER 18, 1978.

[FR Doc. 78-30092 Filed 10-24-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21039; FCC 78-713]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Reflecting the Availability of Land Mobile Channels in the 470-512 MHz Band in 13 Urbanized Areas of the United States

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In earlier stages of this proceeding the FCC decided that two UHF TV channels would be used for land mobile radio purposes in each of our Nation's 10 largest cities. In addition, one UHF TV channel would be used for land mobile radio purposes in three other major cities. It was also decided that the major portion of each of these channels would be used for industrial, land transportation, and public safety radio systems and that 10 percent of each of the channels would be used for common carrier car telephone systems. The result is that 12 car telephone channels are carved out of each UHF TV channel. The purpose of this order is to resolve the controversies which have prevented the FCC from assigning licenses to the car telephone companies.

In the order, the FCC decided that any qualified applicant may apply for a license to operate. In other words, in order to receive a license, an applicant does not already have to be a car telephone company. Rather, the applicant need only demonstrate that it is qualified to operate a car telephone system.

The FCC adopted a plan in which all of those that receive licenses will share the channels. A customer of a company can "seize" a car telephone channel and use it for the duration of the telephone call. Once the call is completed, the channel is available for use by any customer of any of the companies licensed to use the channels.

The FCC also established cutoff dates for filing applications in order that the companies can negotiate technical arrangements with each other. Those that apply after the cutoff date must abide by the technical arrangements decided by those that applied before the cutoff date.

Lastly, the FCC established technical standards for the use of the car telephone channels.

EFFECTIVE DATE: December 26, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

S. R. McConoughey, Common Carrier Bureau, 202-632-6400.

SUPPLEMENTARY INFORMATION:

Adopted: October 5, 1978.

Released: October 16, 1978.

By the Commission.

In the matter of Amendment of part 21 of the rules to reflect the availability of land mobile channels in the 470-512 MHz band in 13 urbanized areas of the United States, memorandum opinion and order (proceeding terminated). See 42 FR 13309.

1. This proceeding is a continuation of docket No. 18261. (See below for the history of that docket.) The purpose of this document is to resolve the controversies which have prevented usage of the frequencies in the 470-512 MHz band in the domestic public land mobile radio service (DPLMRS).

BACKGROUND

2. This proceeding was initiated by a notice of proposed rulemaking on July 17, 1968 (14 FCC 2d 297), in which we considered means for providing additional spectrum space to meet the needs of land mobile radio services in major population centers. That notice was followed by our first report and order (23 FCC 2d 325 (1970), in which we adopted rules to provide for use of a maximum of two of the lower seven UHF TV channels, on a shared basis with television broadcasting, by land mobile stations within 50 miles of the center of the 10 largest urbanized areas. However, we left open assignment principles and specific frequencies to be designated for each of the land mobile services. Subsequently, in a notice of proposed rulemaking, released January 28, 1971 (27 FCC 2d 371), we proposed decisions on those matters, and rules to implement the decisions. With respect to the domestic public land mobile radio service (DPLMRS), we proposed 12 frequency pairs (for each television channel to be shared), for use by nonwire line common carriers (more commonly called radio common carriers or RCC's). We further stated that use of the frequencies was to be limited to those licensees authorized at that time to serve the areas involved.

3. After comments and reply comments were received, we issued our second report and order (30 FCC 2d 221) on June 22, 1971. In that document we assigned frequencies, adopted rules, and set out in § 21.501(k)(1), as well as related sections, provisions for the DPLMRS. However, we also concluded that there was no support in the record for the conclusion that ruinous competition would result from allowing new carriers to enter these markets, and so we decided in favor of "open entry," that is, the frequencies would not be limited to existing carriers.

4. After release of that document we received petitions for partial reconsideration from the National Association of Radiotelephone Systems (NARS)[1] and from a group of RCC's directed against our "open entry" decisions in the DPLMRS. Both petitioners also requested a stay of that portion of the order, to allow them to make a showing that would justify "closed entry," that is eligibility limited to existing licensees. On August 9, 1971, we issued a memorandum opinion and order (31 FCC 2d 48 (1971)) granting the petition for stay of effective date and the petition for partial stay, and postponing the effective date of allocation of frequencies to the DPLMRS pending action on the petitions for partial reconsideration.

5. On March 15, 1974, we proposed to extend the land mobile UHF TV sharing to Houston, Dallas/Fort Worth, and Miami, fourth further notice of proposed rulemaking (45 FCC 2d 1093). By our fifth report and order issued July 17, 1974 (48 FCC 2d 360), this was done, including provisions for DPLMRS operations. Docket No. 18261 was terminated at that time, except with respect to disposing of petitions for reconsideration.

6. In our memorandum opinion and order and notice of proposed rulemaking issued on January 31, 1977 (63 FCC 2d 126), we denied the petitions for reconsideration seeking "closed entry" and reaffirmed our policy of permitting "open entry" to these new frequencies, thus terminating the proceedings for docket No. 18261. We proposed to make these frequencies available only on a joint-use basis, that is any user could "seize" an idle channel and use it exclusively for the duration of a call. At the end of the call, the channel would be released and available to the next user. Where a "group" of 12 such channels is trunked, greater use can be made of the individual radio channels than if each carrier had fewer "exclusive" channels. Implementation of this concept could be accomplished by carriers either sharing a common terminal or using wireline or "off-the-air" monitoring to "seize" a channel if operating through separate terminals. Because each licensee would not be obtaining the exclusive use of these channel frequencies, applicants would not be required to submit a showing of public need for the proposed facilities. There would be no "cutoff" dates because applications would not be mutually exclusive. We proposed that a system of 12 trunked channels would be considered loaded when there were 100 mobile subscriber units per channel. No further market entry would be authorized at that point. Finally, we proposed that frequency assignments in cities where two television channels were allocated to DPLMRS would consist of the base station frequencies on one TV channel and the mobile frequencies on the other TV channel. We solicited comments and reply comments on these proposals. A list of parties who submitted filings is contained in appendix A.[2]

SUMMARY OF THE COMMENTS

7. Most of the comments received were directed at our frequency sharing plan. Some of the parties suggested that the sharing of the Guardband[3] paging frequencies has not worked as well as anticipated and that sharing of two-way frequencies is much more complicated, technically and otherwise, than sharing of one-way frequencies. It was suggested that a common terminal under the control of one operator be used. Others commented that a limited number of licenses be given out. Then, if the channels are not substantially loaded within a certain period of time, new entrants should be allowed. One party suggested that one group of 12 channel pairs be used by existing licensees and that the other group of 12 channel pairs be used by new entrants to the market, while others urged that all 24 channel pairs be allocated to one licensee. An association of RCC's argued that allowing new entrants would delay service to the public because in this association's city the existing carriers are already organized to share the frequencies. The Commission was criticized for not making an adequate finding

[1] NARS has recently changed its name to Telocator Network of America.

[2] On Mar. 10, 1977, NARS filed a petition for reconsideration, praying that we reconsider our Jan. 31, 1977 order to the extent that such order was intended to constitute final agency action. However, in our present order, we have considered all of the issues raised, including those discussed by NARS in its petition for reconsideration. Accordingly, we are dismissing the NARS petition.

[3] Docket No. 16788, 12 FCC 2d 841, recon. denied, 14 FCC 2d 269, aff'd sub nom. *Radio Relay Corporation* v. *FCC* 409 F. 2d 322 (2d Cir. 1968).

that open entry serves a useful public purpose. Many comments were opposed to allowing open entry for an unlimited period of time. It was argued that the abrogation of a time

two-way service, others favored allocating some channels to tone-plus-voice paging. One comment suggested paging on the two-way channels, pro-

parties. There was disagreement over whether the frequencies should be reassigned to television use and whether the allocation to DPLMRS

Mass. Furthermore, as mentioned in note 7, supra 90 percent of the spectrum space for television channel 19 is available for the industrial, public

21. Some parties suggested that we not assign base station frequencies on one television channel and mobile sta-

of notifying its potentially affected licensees.

24. Some of the parties suggested that we either allocate some of the

V 4 3 / 2 0 7 0 C 2 5 7 8

that open entry serves a useful public purpose. Many comments were opposed to allowing open entry for an unlimited period of time. It was argued that the abrogation of a time cutoff rule for filing of applications was merely a promotion of competition for the sake of competion without a resulting public benefit.

8. Some parties suggested that we not eliminate the requirement for demonstrating a public need for the proposed facilities. It was argued that there is a difference between the Commission finding in a rulemaking that the public needs additional facilities and the Commission stating that an applicant need not demonstrate that it can satisfy the public need. In fact, it was suggested that the Commission enact strict threshold requirements for the entire application as a method of eliminating unqualified applicants.

9. Several parties supported our proposal that we waive the requirement of State certification and allow an applicant to file an application with the Commission pending the outcome of proceedings at the State level. One party objected to this proposal.[4]

10. In general, our proposal for large scale automatic trunked frequencies was supported as an efficient use of the spectrum. Our proposal of pairing base and mobile frequencies across television channels was supported as a practical solution to the problem of one of the television channels being unavailable for base station use but available for mobile use in some areas. One party argued against the pairing on the grounds that there may not be enough market demand for two 12-channel pairs and that the second pair should be allocated only after the first pair is allocated. It added that on the other hand, if the pairing is across television channels, one of the channels would be unable to revert back to television use.

11. Many of the parties objected to a traffic loading of 100 subscriber mobile units per channel. It was suggested that a lower number of subscriber mobiles per channel be used because subscribers complain about channel access when there is loading at the level proposed. Some parties urged that the RCC's decide when channels are fully loaded while others argued that the FCC should audit loading to ascertain whether the channels are fully utilized.

12. Although some parties supported our proposal of not allowing one-way signaling on a secondary basis because it would reduce the efficiency of the two-way service, others favored allocating some channels to tone-plus-voice paging. One comment suggested paging on the two-way channels, provided that it would be offered on a noninterfering basis.

13. One manufacturer supported our proposed rulemaking and commented that the equipment that would provide for off-the-air monitoring of other base stations and channel seizure would raise the cost of equipment by only 3 percent.[5] Others contended that the off-the-air monitoring devices would substantially raise the cost of equipment. It was also suggested that the required rapid signaling would only minimize interference when stations were attempting to seize channels, but would not eliminate such interference.[6] One party suggested that because only one manufacturer has stated that it can supply the required equipment, the result of our rulemaking may be to create a monopoly for the manufacturer.

14. One broadcasting company objected to the fact that we would not specifically be notifying the UHF TV stations in the event of waivers of television protection criteria. A broadcaster's association objected to any allocations in the 470-512 MHz band to DPLMRS on the grounds that these allocations were supposed to be temporary. It was suggested that the DPLMRS use the 806-947 MHz spectrum. The New Jersey Public Broadcasting Authority (NJPBA) indicated that it was planning on filing an application to use channel 19 to provide a New Jersey oriented public broadcasting station. The use of channel 19 in Philadelphia for DPLMRS allegedly would interfere with NJPBA's proposal.

15. In its comments, NARS included a counterproposal, suggesting that we license the frequencies (in 12-channel groups) for operation on a single, integrated "carrier's carrier" trunked system basis in each of the markets affected. Each of the "carrier's carriers" would construct and operate base station facilities. They would wholesale air time on a nondiscriminatory basis to each of the RCC's who would in turn retail two-way communications service to the public. A copy of the NARS counterproposal is attached as appendix B.

16. The reply comments addressed the suggestions made by some of the parties. There was disagreement over whether the frequencies should be reassigned to television use and whether the allocation to DPLMRS was permanent or temporary. There was also disagreement over whether one-way signaling should be allowed on these frequencies.

17. Numerous reply comments addressed the NARS counterproposal. Some parties endorsed it, but offered some minor changes. Others disagreed with NARS. It was suggested that the NARS counterproposal would be more attractive if the base station operator were allowed to make a larger profit. It was also suggested that all 24 channels be allocated to one base station operator. One carrier urged that the "carrier's carrier" need only serve a substantial portion of the service area rather than the entire area, and that the "carrier's carrier" be able to apply for a specific block of frequencies. Some reply comments opposed the NARS counterproposal on the basis that it would further delay the ultimate outcome of the proceedings. Some parties feared that allowing "carrier's carriers" would be anticompetitive with respect to new applicants and would therefore discourage open entry into the market.

Discussion

A. Frequency allocation

18. Some of the comments filed suggested that we reallocate the frequencies to broadcast use. However, the issues raised have been carefully considered in earlier stages of this proceeding and new arguments have not been raised. Accordingly, we reaffirm our position of allocating the frequencies in the market areas involved to the land mobile radio services.[7]

19. The New Jersey Public Broadcasting Authority (NJPBA) had indicated that it was interested in using TV channel 19 as an educational station at a site on top of the World Trade Center in New York but would be unable to do so because of the present allocation of channel 19 to land mobile use in Philadelphia. It requested that we reallocate channel 19 to broadcast use. We will deny the request of NJPBA. Even if channel 19 were not available for land mobile use in Philadelphia, the NJPBA proposal would still be infeasible because it would cause harmful cochannel interference to station WCDC at Adams, Mass. Furthermore, as mentioned in note 7, supra, 90 percent of the spectrum space for television channel 19 is available for the industrial, public safety, and land transportation services. Many of these frequencies are already in use in the Philadelphia area. Thus, to reallocate channel 19 in Philadelphia from land mobile use to broadcast use would not only be a costly process, but has not been demonstrated to outweigh the public interest benefits provided by the present allocation of the channel.

20. Some of the parties suggested that the channel sharing plan for television channels 14-20 was a temporary measure until regulations and equipment on the 900 MHz band could be implemented. They added that since 900 MHz systems are being implemented, the Commission should set an early date for land mobile to vacate the channels so that they can be reallocated to broadcasting. This issue has been raised previously in the docket No. 18261 proceedings. In our memorandum opinion and order released on September 24, 1970 (25 FCC 2d 764), we stated at paragraph 15:

> NAEB's request that we limit the sharing plan to a 5-year period will be denied. We do not believe this is desirable or appropriate. We think that the appropriate course to follow is that announced in the report and order, docket 18261 (see par. 41); that is, to evaluate the sharing plan after a 5-year period and, based on our experience with it and on circumstances then obtaining, to make whatever revisions, if any, that may be in the public interest.
>
> Id. at 770. We see no reason to change our views at this time. While we did not review the sharing plan in 5 years as we said we would, we initiated a formal staff investigation of the future spectrum requirements of UHF television when we created an Offshore Radio Telecommunications Service (ORTS). See docket No. 20568, 60 FCC 2d 463, 468 (1976). We therefore are continuing to monitor the use of UHF frequencies and will make the necessary reallocation if such future need arises. We also note that the 900 MHz band is not yet fully ready for commercial use. While regular licensing is proceeding in the conventional and trunked bands, we presently are in the process of granting only developmental licenses for DPLMRS use in the cellular bands.

21. Some parties suggested that we not assign base station frequencies on one television channel and mobile station frequencies on the other television channel in cities where two television channels have been allocated for land mobile use. They argue that we could license the frequencies on one channel. If it does not fill up, the other channel could revert to television use. We point out, however, that the present frequency assignment is necessary because in many cities only one of the television channels can be effectively utilized for base station operations. Thus, if we do not pair base and mobile frequencies across television channels, we would end up confining operations to one television channel, resulting in a reduction of the number of available DPLMRS channels by one-half.

22. We also note that the assignments under discussion are in our largest urban areas where there is a growing demand for additional two-way radio service. See paragraph 43, infra. We therefore cannot accept the argument that there is insufficient need for two television channels for land mobile use in each of these market areas. Additionally, we observed in note 7, supra, that most of the available land mobile channels have already been licensed by the Safety and Special Radio Services Bureau. Therefore, reallocation to broadcast use would not be a simple task or one for which there is sufficient public interest need at this time.

23. One party objected to the fact that the Common Carrier Bureau would not specifically be notifying the UHF TV stations in the event of waivers of the television protection rules.[8] We do not see this as a problem, however, because the Common Carrier Bureau will coordinate any such waivers with the Broadcast Bureau. The Broadcast Bureau will have the option of notifying its potentially affected licensees.

24. Some of the parties suggested that we either allocate some of the frequencies for one-way signaling use or that we allow subaudible paging. Although we recognize that in the urbanized centers we are dealing with in this proceeding there may exist a substantial unsatisfied demand for tone-plus-voice paging services, we find that the mixture of one-way signaling (paging) on channels employed in a multichannel trunked system could substantially diminish trunking efficiency and accordingly the grade of service to the mobile subscribers. Thus we conclude that these frequencies be made available solely for mobile telephone services except for that signaling necessary to establish and maintain communications with mobile units. We propose to address the demand for additional paging channels in separate proceedings.

B. Open entry v. closed entry

25. In the notice of proposed rulemaking released on January 28, 1971, we proposed that the use of the frequencies in the 10 market areas then involved would be limited to those licensees authorized at that time to serve the areas involved. Our belief at the time was that ruinous competition would result from allowing new carriers to enter these markets. We subsequently concluded in our second report and order released on June 22, 1971, that there was no support in the record for a policy of "closed entry," and we therefore decided in favor of "open entry," that is, the frequencies would not be limited to existing carriers.

26. We have recently reviewed the FCC form L data available[9] for the RCC's located within a 50-mile radius of the center of the 10 largest urbanized areas. The review focused on determining whether DPLMRS operations were reporting profits or losses. In the event profits were reported, the rate of return on investment was analyzed. The rate of return figure was calculated on the book value (item 22 on form L) and not on total investment.

[9] Our analysis is based on those companies that filed a form L for 1976. We are also limited by the fact that there is no uniform system of accounts governing RCC's. There is thus a lack of consistency among the data items being reported. This problem is particularly troublesome in the case of items relating to depreciation.

Market	Number of reports analyzed	Number of call signs showing profits	Largest profits (in dollars)	Average profits (in dollars)	Low profits (in dollars)	Number of call signs showing losses	Largest losses (in dollars)	Average losses (in dollars)	Low losses (in dollars)	Average rate of return for call signs showing a profit [9]
New York	25	18	250,028	47,352	236	7	(35,955)	(8,400)	(504)	0.194
Philadelphia	15	14	377,525	34,262	212	1	(5,484)	(5,484)	(5,484)	0.159
Chicago	11	9	104,541	36,819	3,677	2	(9,603)	(5,336)	(1,068)	0.375

[1] This issue has now been resolved by our recent decision in docket No. 20870, FCC No. 78-559, released Aug. 9, 1978, where we eliminated the requirement of demonstrating any requisite State or local operating franchise or authority at the time of filing an application.

[5] Rydax suggested that § 21.501(8)(i) of the rules, which requires that cochannel transmitters employ a "busy mark" tone to indicate that a channel is being used, define the busy mark as a subaudible tone at a standardized frequency and depth of modulation.

[6] One manufacturer suggested that there was no need for faster signaling on the grounds that the time for signaling is already fast, and that a shorter time would not increase efficiency.

[7] Two-hundred and forty (240) land mobile frequencies (120 channel pairs) were derived from each television channel. The DPLMRS frequencies considered herein represent only 12 channel pairs or 10 percent of the total. The remaining 90 percent are available for the industrial, public safety, and land transportation services; in some cities this portion of the spectrum has been totally assigned and is currently in use.

[8] The 50 dB cochannel and 0.0 dB adjacent channel protection criteria were implemented by imposing a "worst-case" basis, i.e. the base station located 50 miles from the metropolitan center, the mobile ranging 30 miles beyond this, high terrain elevating the mobile antenna 100 ft, 200 W mobile transmitters, etc. We do not propose to relax the protection criteria but rather to permit an applicant to submit an engineering showing that he meets the protection criteria if his proposed system has parameters less than the "worst-case."

Market	Number of reports analyzed	Number of call signs showing profits	Largest profits (in dollars)	Average profits (in dollars)	Low profits (in dollars)	Number of call signs showing losses	Largest losses (in dollars)	Average losses (in dollars)	Low losses (in dollars)	Average rate of return for call signs showing a profit [9]
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scribers, based on queueing and campon; and Airsignal suggests 696 subscribers, based on its consultation with

shall be limited to 85 percent average channel usage during the busy hour.

41. There will thus be an initial au-

rule [11] for the frequencies under discussion is in the public interest.

45. Nevertheless, we find a compel-

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Market	Number of reports analyzed	Number of call signs showing profits	Largest profits (in dollars)	Average profits (in dollars)	Low profits (in dollars)	Number of call signs showing losses	Largest losses (in dollars)	Average losses (in dollars)	Low losses (in dollars)	Average rate of return for call signs showing a profit *
Los Angeles	16	12	49,383	17,449	1,519	4	(5,000)	(3,879)	(1,000)	0.275
Detroit	9	3	65,320	36,218	3,918	6	(22,309)	(9,520)	(6,960)	0.899
Boston	13	10	343,184	44,787	486	3	(150,022)	(58,220)	(790)	0.125
San Francisco	15	10	199,069	51,384	1,976	5	(24,139)	(11,038)	(1,541)	0.367
Washington	21	17	107,076	22,111	5,518	4	(11,180)	(6,116)	(7,167)	0.371
Pittsburgh	5	5	39,104	17,025	5,740	0				0.204
Cleveland	9	3	39,104	17,336	5,740	6	(24,950)	(8,331)		0.286
Total 128139		101	157,433	34,227	2,902	38	(32,071)	(11,891)	3,060	.2719

* The average rate of return calculations does not include 6 call signs for which the calculated rate of return was greater than 1.0 because such data is suspect.

27. The results are summarized below. Some comment concerning the results will follow.

28. The profitability of the DPLMRS operations seems to have improved sharply when compared with similar data gathered in 1970. In 1970, 39 percent of the DPLMRS operations in the large urban areas reported losses. This figure was down to 27.7 percent in 1976. A review of all forms L for the miscellaneous common carriers for 1976 showed that 38 percent were operating at a loss. This indicates that the carriers in large urban areas were relatively better off than their counterparts in less densely populated areas. For the large urban areas, the 1970 study showed that the average DPLMRS income was only $8,860. From the 1976 reports, it appears that the average profit for these firms showing a profit was $34,227. Note that the income reported on the form L is after tax income. While it is true that some extremely high values have distorted the average upward, the lowest average profit figure reported for an urban area was $17,025.

29. The average rate of return on investment, calculated on the book value of the investment, was 27.1 percent. There are no comparable figures available for 1970. However, a return of 27.1 percent is high regardless of the criteria used. The rate of returns ranged from a low of 12.5 percent in Boston to a high of 37.5 percent in Chicago. The rate of return of 89.1 percent of that is shown for Detroit is discounted because there are only three operators reporting profits.

30. A word of caution on the operations reporting losses is in order. Because of the way the accounts are structured, firms can report excessively high amounts for salaries and wages or depreciation. Firms in this category would be reporting an accounting loss although they could be, in a real sense, very profitable. An analysis of the call signs which reported losses showed that, on the average, the call signs had been in existence for 7 years. Only 3 of the 34 call signs showing losses have been in existence for less than 2 years. Firms losing money and still remaining in business for any considerable period of time are a paradox. This, of course, would indicate that these call signs are either not losing money or, perhaps, are showing a loss for tax or other purpose.

31. Whatever the actual profit figures, it is clear that the urban DPLMRS industry is a mature, profitable business. With the constant demand for new frequencies and the historical growth in traffic, we find that there is a growing demand for DPLMRS services. Accordingly, we reaffirm our conclusion that "open entry" will not result in ruinous competition to existing carriers. We find that "open entry" provides the public with a greater choice of service than "closed entry." We therefore will allow "open entry" in the market areas involved in this rulemaking procedure.

C. THE FREQUENCY SHARING PLAN

32. We have carefully reviewed the various comments received concerning our proposed frequency sharing plan and have decided, with the exceptions noted below, to adopt the plan proposed in our January 31, 1977 Order. In adopting this plan, we recognize that no one plan is perfect. Nevertheless, we find that the public will benefit from better spectrum utilization if we provide for groups of 12 trunked channels. We also find that our plan provides for the greatest degree of flexibility in implementing trunked channel systems. Each market area has its own unique problems, and no particular approach will work for all market areas. The rules that we are adopting recognize this problem. Therefore, if there exists a market where the carriers cannot agree on using a common terminal as a means of managing the joint-use of frequencies, then independently the carriers can use wireline or "off-the-air" monitoring to coordinate separate terminals to prevent seizure of a busy channel.

33. Although one party suggested that we allocate one group of 12 frequencies to existing carriers and the other group to new market entrants, we see no basis in law or fact for this proposal. The markets involved are highly competitive, and we find no public interest considerations for granting any group favored treatment.

34. Some parties suggested that we assign all 24 channel pairs as a single group rather than assign two groups of 12 channel pairs. We reject this suggestion. The spectral efficiencies achieved from assigning groups of 12 channel pairs are a result of the fact that the 12 channel pairs can be trunked together. No additional spectral efficiencies can be achieved from assigning all 24 channel pairs as a single group because the two 12 channel groups are separated by 3 MHz. At the present state of the art, it appears that technical problems in both transmitter and receiver design preclude a reasonable expectation that a mobile unit covering a 24-channel system with this frequency spread can be made commercially to operate with an acceptable grade of service. Thus, no additional trunking efficiencies can be achieved by assigning all 24 channel pairs as a single group. Although we will not be assigning all 24 channel pairs as a single group, we nevertheless will allow a single entity to apply for both 12 channel pairs, and our rules do not prohibit granting a permit to operate on both of these 12 channel pairs in those cities where two groups of 12 channel pairs are available.

35. Some of the parties suggested that the Guardband frequency sharing plan [10] has not worked; and, based on their experience, they do not expect the frequency sharing plan to work in the present proceeding. Nevertheless, the parties have not submitted any data to substantiate their claim; and, to the best of our knowledge, the Guardband frequency sharing plan is working.

D. CHANNEL LOADING

36. We have received numerous comments criticizing our proposal that we allow up to 1,200 subscriber mobile units on a group of 12-trunked channels. For such a 12-channel system, Motorola suggests 360 to 480 subscribers, depending on waiting time assumptions; Rydax suggests 900 subscribers, based on queueing and campon; and Airsignal suggests 696 subscribers, based on its consultation with major RF manufacturers, with call-waiting assumptions unspecified.

[10] See docket No. 16788, 12 FCC 2d 841, recon. denied, 14 FCC 2d 269, aff'd sub nom. *Radio Relay Corporation v. FCC*, 409 F. 2d 322 (2d Cir. 1968).

37. Thus, there seems to be no one figure for "mobiles per channel" which is widely accepted. The responses imply that there is a wide divergence in call rates and holding times. Therefore, we find considerable merit in suggestions that call rates and holding times, or their product, channel usage, should be taken into account in determining channel loading criteria. This is the substance of the suggestion of the Association of Maximum Service Telecasters, Inc., which points out, correctly, that the Commission has been on record previously expressing its doubts on frequency assignments based solely on the number of mobiles.

38. Each authorization will initially allow each carrier to operate 40 mobile units per channel provided that the total number of mobile units for all carriers operating on a 12-channel group of frequency pairs within a given metropolitan area does not exceed 40 mobile units per channel. Prior to Commission authorization, the carriers will be required to submit to the Commission an agreement containing a method of informing each other of how many mobile units are on each of their systems in order that the total number of units on the 12-channel group of frequency pairs within their metropolitan area does not exceed 40 mobile units per channel. This agreement will be considered to be part of the technical coordination discussed in paragraph 45 infra and required by section 21.501(l)(8) of the rules.

39. We realize that 40 mobile units per channel is a conservative figure; however, we will increase the number of authorized mobile units per channel, based upon the actual channel usage for each system. It is thus our goal to alter the number of mobile units authorized until optimum channel usage is attained.

40. In reviewing the recommendations for maximum channel usage figures, we find the difference to be smaller than those for "mobiles per channel." Motorola suggests an initial busy-hour level of 80 percent average usage, which may reach 90 percent as a practical limit. Airsignal suggests 80 percent average busy-hour channel usage. Rydax suggests 100 percent. We believe that a figure for maximum channel usage for 12 channels should be on the conservative side, though still within the range recommended. Based on these considerations, we have decided that 12-channel systems in trunked interconnection service shall be limited to 85 percent average channel usage during the busy hour.

41. There will thus be an initial authorization of 40 mobile units per channel on a 12-channel group of frequency pairs. Once this figure is attained, any carrier may apply for an increase in the number of authorized units. The proposed new number of authorized units should be based on an estimate of the number of units that would result in 85 percent average channel usage during the busy hour. This estimate should be calculated based on traffic load studies. The traffic load studies as well as the method of calculation should accompany the application.

42. As mentioned, we are aware of the paucity of hard data concerning optimum channel usage. It is our intention to review the 85-percent maximum average busy-hour channel utilization figure as experience from new systems becomes available, keeping in mind possible differences among individual localities. See section 21.501(l)(10)(d) of the new rules which will allow for variations of the 85-percent figure if good cause is shown.

E. "CUTOFF" RULES

43. Many parties are opposed to our proposal to abrogate a time "cutoff" rule for filing applications. They argue that initial licensees and their investors cannot determine the risk of investment because the competition cannot be ascertained as of the date of commencement of construction because other licensees could enter the market at any time. They thus contend that this creates a high risk investment, causing investors either to charge high interest rates or not to finance the proposed construction.

44. We find that the parties that have made the above arguments failed to submit any factual data in support of their claims. On the other hand, in our discussion of "open entry" versus "closed entry," see paragraphs 24-30, supra, we found that in general, the RCC's in many of the metropolitan areas under discussion are operating on a financially sound basis. In the past, we have found that competition allows for the public to choose between different systems, techniques, and ideas. Cf. *General Mobile Radio Service*, 13 FCC 1190, 1218 (1949). This allows the public to get the best possible service at the lowest cost available. Because we will allow assignment of the spectrum in groups of 12 channel pairs, a time "cutoff" rule may limit the number of applicants, and thus the extent of competition necessary to give the public a choice of service. Accordingly, we find that our proposal to eliminate the usual time "cutoff" rule [11] for the frequencies under discussion is in the public interest.

45. Nevertheless, we find a compelling public interest consideration in assigning the frequencies as soon as possible in order to meet the public demand for mobile service. See, e.g., *Fourth Further Notice of Proposed Rulemaking*, 45 FCC 2d 1093 (1974); *Second Report and Order*, 30 FCC 2d 221, 233 (1971); *First Report and Order*, 23 FCC 2d 325 (1970). The concept of frequency assignment embodied herein is for the system to "search and seize" an idle channel when traffic is presented to it. Technically this is quite simply done when there is one system operator, manager or terminal. While we have suggested the possibility of multiple carriers operating through a single common control terminal, we also have recognized that they may choose not to do so. In this event, technical coordination between separate systems becomes necessary. We suggested two possibilities, wireline ties between systems and off-the-air monitoring, to accomplish this. For this and other technical arrangements it is essential to be able to identify other participants in order that technical design arrangements can be made to insure that users will have exclusive interference free use of the channel during calls, Section 21.501(l)(8) requires that applicants in a single market area submit plans to the Commission to demonstrate interference free operation with each other. In order that applicants may know with whom to work out technical arrangements in order to provide for interference free operation, some type of "cutoff" rule is needed. Otherwise, rather than work out technical arrangements, applicants may wait indefinitely to see who else will file. This would defeat any possibility of promptly implementing facilities so that the public may be served.

46. Accordingly, we are instituting a time "cutoff" rule for the limited purpose of facilitating technical arrangements between applicants in the same metropolitan area. Commencing with the effective date of this order, any qualified party may apply for a construction permit. For any given market area, all applicants who file within 60 days of the public notice announcing the filing of an application for that market area will be required to work out technical arrangements with each other as required by section 21.501(l)(8) of the rules. Any entity which files subsequent to this 60-day period must conform its application to be technically compatible with whatever technical arrangements are worked out by those who filed within

[11] Sec. 21.31(b)(2) of the Commission's rules provides for "cutoff" dates for mutually exclusive applications.

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the 60-day period. For the purposes of this proceeding, a market area is considered to be the territory within a 50-mile radius of the center of each of the 13 cities under discussion.

47. In other words, full open entry will prevail, but those applicants who file within the initial 60-day period will be able to identify other potential participants and participate in establishing the necessary technical arrangements for workable systems. They will then be able to modify their applications to reflect these arrangements. Those that are found to be legally, technically, financally, and otherwise qualified will be granted authorizations. For those who file subsequent to the "cutoff," open entry will also apply provided the proposal is technically compatible with the systems of those who filed prior to the "cutoff." Obviously, those who file subsequent to the "cutoff" but prior to the implementation of the proposals filed prior to the "cutoff" will be given a reasonable opportunity to amend their applications to comply with the technical sharing arrangements adopted by the initial applicants. We wish to emphasize one further matter. The technical compatability required must not operate as a method of stifling competiton. Thus, we will entertain complaints and take whatever actions are necessary, including revocation of licenses, should this requirement prove to be a barrier to entry to new competitors.

F. DEMONSTRATION OF PUBLIC NEED

48. We are reaffirming our position that applicants do not have to demonstrate a showing of public need for their proposed systems. We have already found a need in the market areas concerned for additional mobile services. See *Fourth Further Notice of Proposed Rulemaking*, 45 FCC 2d 1093 (1974); *Second Report and Order*, 30 FCC 2d 221, 233 (1971); *First Report and Order*, 23 FCC 2d 325 (1970). These markets are among the largest in the country, and there currently exist waiting lists for mobile telephone service. Because we will allow a number of applicants to apply for licenses, and because the grant of one license will not preclude the grant of another, we do not see the usual comparative problem of issuing a license to the one who better identifies the market for radiotelephone service.[12] Nor do we see the problem of a party receiving a license but not utilizing the spectrum because new parties may apply for a license at any time and will be eligible for a grant and may use the system if it is not being utilized in accordance with the channel loading criteria discussed in paragraphs 36-42 supra.

G. TECHNICAL COMMENTS

49. In its comments, NARS questioned whether the Rydax system of "off-the-air" monitoring will work. We have carefully considered the comments submitted by Rydax and NARS and have determined that NARS has failed to submit sufficient data to raise a substantial question concerning the technical feasibility of the Rydax system.

50. NARS is also concerned about the need for preventing mobiles from interfering with each other during attempted channel seizures and the need for preventing channel seizure interference between base stations when a multiple base terminal system is used. Although NARS claims that the rules for rapid signaling will only minimize the interference and not eliminate it, NARS has failed to submit sufficient information to demonstrate that any possible interference will lead to an unacceptable grade of service.

51. Motorola, on the other hand, questions the need for rapid signaling if a common base terminal is used. We fail to understand Motorola's question, however, since section 21.501(l)(8(ii) will apply only when multiple base terminal systems are used.

52. Lastly, Rydax suggested that the Commission specify standards for "off-the-air" monitoring as described in section 21.501(l)(8)(i) in order to avoid the problem of antagonistic competitors who might pick unusual or discontinuous methods of busy marking. Rydax suggested that transmitters be marked with a subaudible tone at a standardized frequency and depth of modulation. We appreciate the suggestions made by Rydax, but do not see the need for enacting a rule. Section 21.501(l)(8) of the rules will require that permittees submit details on how interference free operation will be accomplished.

53. Throughout this proceeding, various parties have expressed concern over the anticompetitive effects of our proposed rulemaking. As we noted in paragraph 47, supra, we will not hesitate to take action to prevent anticompetitive conduct arising out of our frequency sharing proposal. At this time, however, we do not find the potential anticompetitive concern to be sufficiently serious to outweigh our consideration of the public benefits to be derived from the plan that we are adopting today. With regard to the "carrier's carrier" approach, we do have serious reservations both as to its potential anticompetitive effects as well as the licensing difficulties inherent in such a plan. Although parties are free to propose such an approach, or any other alternative which appears to be reasonable, we will review any such plan with the idea in mind that such a plan may not be designed so as to limit competition. Finally, with regard to the fact that at this time Rydax is the only company that claims that it can provide "off-the-air" monitoring at a reasonable cost, we do not find this to be an anticompetitive problem. Our rules do not prevent any other manufacturer from designing and developing equipment for "off-the-air" monitoring, and in any event, "of-the-air" monitoring, must still compete with other methods of technical coordination.

54. In view of the foregoing, *it is ordered*, That, pursuant to sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303, part 21 of the rules is amended as shown below. The reporting requirement included in § 21.501(l)(10) below is adopted subject to General Accounting Office clearance and, unless advised to the contrary, these rule changes will be effective December 26, 1978.

55. *It is further ordered*, That the proceeding in docket No. 21039 is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX A

Comments:
- Airsignal International, Inc.
- American Broadcasting Co., Inc.
- Association of Maximum Service Telecasters, Inc. (MST).
- Metropolitan RCC Corp.*
- Motorola, Inc.
- The National Association of Radiotelephone Systems (NARS).**
- Rydax, Inc.
- Singnal Telephone Corp.

Reply comments:

*These comments were originally misplaced by the Commission, but were later resubmitted by Metropolitan RCC Corp.

**NARS has recently changed its name to Telocater Network of America.

[12] Neither is there a problem of a party being deprived of its right to a comparative hearing. See *Ashbacker Radio Corp. v. FCC*, 326 U.S. 327 (1945). All parties that file an application within 60 days after the public notice date of the first application for an assignment of a particular 12-channel group of frequency pairs in that metropolitan area are jointly required to comply with sec. 21.501(l)(8) of the rules. Construction permits will not be issued until after compliance with sec. 21.501(l)(8) is achieved. Thus, all parties who file within the 60-day period will receive their authorizations at the same time and will have an equal opportunity to load their systems with mobile units. Any party that files after the 60-day period is filing with the understanding that the channels may be loaded to capacity by the time it is ready to operate. Nevertheless, the party is not denied any *Ashbacker* rights because it had an opportunity to file an application within the initial 60-day period.

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Airsignal International, Inc.
Illinois Association of Radiotelephone Systems, Inc.
Land Mobile Communications Council.
MST.
NARS.
Public Broadcasting Service.
Radio Broadcasting Co.
Radio Relay New York Corp., Radio Relay Corp.—Illinois, Radio Relay Corp.—Michigan, and Radio Relay Corp.—California.
Signal Telephone Corp.

Supplemental reply comments (late filed):
MST.
Radio Broadcasting Co.

Petition for reconsideration:
NARS.

Motion for extension of time in which to file comments:
NARS.

Motion for extension of time in which to file reply comments:
NARS.
New Jersey Public Broadcasting Authority.

APPENDIX B

THE NARS COUNTERPROPOSAL †

1. As may be discerned from its previous comments, due to the inherent characteristics of the allocations at issue, NARS is not certain that the frequencies could be successfully implemented even under the most idealized environment and circumstances. Nevertheless, in view of its extensive objections to the Commission's proposal, NARS has devoted considerable time and effort toward attempting to develop an alternative approach which it believes would be more desirable.

2. In this endeavor, NARS was neither unmindful of, nor unsympathetic to, the practical difficulties faced by the Commission and its staff in attempting to license these frequencies on a fair and equitable basis. Similarly, NARS is in full accord with the Commission's view that the frequencies should be made available for public service at the earliest practicable time, without unwarranted procedural delays. At the same time, the paramount governing consideration was NARS's view that the least cost and most spectrally efficient systems possible should be designed.

3. * * * NARS wishes to emphasize, however, that it cannot warrant that the allocations are practicably workable even under its plan (although it seemed to be favorably received by most of the carriers in the affected markets with which NARS informally consulted). Nevertheless, NARS believes that if the allocations are practicably usable at all, its plan offers the best possibility of doing so on an acceptable economic and regulatory basis.

4. Basically, what NARS is proposing is that the Commission license the frequencies (in 12-channel groups) for operation on a single, integrated "carrier's carrier" trunked system basis in each of the markets affected. Under this concept, the Commission would first accept applications from persons or entities (except wireline telephone companies and RF equipment manufacturers) proposing to construct and operate the necessary base station facilities (including the interconnect lines, terminals, transmitters, antennas, etc.) to provide signal coverage throughout the entire service area in a given market. A separate base station operator could be licensed for each 12-channel group, if necessary,[1] but a single entity licensed for all 24 channels would not be prohibited if the applicants jointly agreed to it.

5. Applicants would not specify the particular frequencies applied for; they would specify only whether one or both of the 12-channel groups is being applied for. As an indispensable part of the plan, the normal cutoff rule established by § 21.31 would apply. Thus, the number of contenders for base station system licensing would be definitely established for both regulatory and planning purposes at an early time.

6. Also as an indispensable part of the plan, any application which did not include a showing that the full service area would be provided coverage would be returned as not acceptable for filing, and would not be entitled to comparative consideration. The essential purpose of this requirement is to weed out at the threshold any applicant that is not genuinely interested in or capable of becoming a carrier's carrier.

7. After the cutoff period has expired, if the applications for the 12-channel groups do not exceed the number of such groups available, all pending applications could be granted as soon as the Commission has satisfied itself that the requisite legal criteria for such grant have been met.[2] If the applications exceed the number of available 12-channel groups, they would be processed according to the following criteria:

a. If the total number of qualified entities proposing base station operations do not exceed the number of 12-channel groups, available, each such entity will be licensed only for one 12-channel group unless a voluntary agreement to the contrary is reached prior to grant. However, application processing would not be held up pending interparty negotiations in this regard.

b. If the total number of qualified entities proposing base station operations exceeds the number of 12-channel groups available, a hearing designation order would be issued as soon as possible, but in no event later that 90 days after the expiration of the cutoff period, unless a voluntary settlement was reached prior to such issuance. The order would designate all applications for hearing on an expedited basis. Application processing would not be held up pending interparty negotiations.[3]

8. In this regard, NARS believes that the possibility of comparative hearings having to be held is more theoretical than real. The base station operation itself would not appear to be an overwhelmingly attractive business proposition, in light of the large initial investment required and the many practical problems associated with the allocations. Thus, it is doubtful that many applications will be filed. Those applicants who do file would likely desire to pool their risks as much as possible; hence, there is a high probability that they would voluntarily consolidate their proposals to reduce the number of entities down to the number of 12-channel groups available, thereby avoiding the expense of a hearing.

9. Further, the knowledge that they would definitely be required to prosecute their applications on a timely basis undoubtedly would have a salutary impact upon their willingness and ability to reach a voluntary accord. Thus NARS believes that the probability of actually having hearings is de minimis.[3]

10. The base station operator would have complete discretion in establishing the signaling and other technical parameters of the system, so long as automatic trunking techniques were employed and integrated system coverage is provided throughout the service area. One of the key advantages of such an approach is that existing technology could be employed in the network design, thereby reducing the cost of the fixed plant and enabling the operator to solicit genuinely competitive bids for systems from various manufacturers. This approach would also eliminate any need for the Commission to establish signaling and related technical standards in the rules.

11. Other advantages include the ability to optimize coordination of base stations so as to eliminate wastefully duplicative facilities with their attendant cost burden on the public. Also, with such coordinated system planning, frequency reuse may be possible in some of the markets, which would otherwise be difficult or impossible if independent systems were operating on the same frequencies. In addition, it would enable the base station operator to establish system traffic and loading criteria according to his own best business judgment, which would eliminate the need for the Commission to establish arbitrary standards.

12. The quid pro quo for this arrangement is that the base station operator would be precluded from retailing any communication service or mobile equipment to the public, but could only wholesale air time and associated items (such as number assignments) as a common carrier offering to qualified RCC's operating in the market. In turn, the RCC's would retail the service and equipment to the public. The retail RCC's would be separately licensed for the mobiles they lease to the public, which would also be authorized to operate on any of the frequencies in the 12-channel group. Therefore, no procedural complications such as MX'd applications should arise at the Commission with respect to the retail RCC's themselves. Subscribers would also have the option of being separately licensed for their own mobiles and obtaining a COAME service-only rate from any "interconnected" retail RCC.

13. The base station operator would be required to deal with the retail RCC's in the

† Paragraphs and footnotes have been renumbered.

[1] It is believed that 12-channel groups are the minimum that would make such a business venture economically viable, but it is recognized that further economies of scale might be realized by encompassing all 24 channels in a single system. If the applicants jointly agree to such a plan it should be permitted; if they do not, the frequencies would be licensed in separate 12-channel groups.

[2] In theory, such grant could be made before the expiration of the cutoff period. However, in practice it is unlikely that such a "clean" application would be filed that it could be adequately processed in less than 60 days.

[3] Nevertheless, despite this view, NARS concedes that there is a possibility, however slight, that one or more comparative hearings may be required under its plan. In NARS's opinion, however, there is no lawful way to absolutely exclude such a possibility under the Act; but the NARS proposal is the most reasonable and practicable method that has been suggested for reducing to relative insignificance the practical likelihood of such an event.

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area on a nondiscriminitory basis for "interconnection" purposes, under familiar common carrier statutes and precepts. As a practical matter, it may be expected that the base station operators most likely would be consortia (separate corporations, partnerships or joint ventures) of principals of existing RCC's in a market. It is expected and contemplated that the existing RCC's affiliated with the base station operator would also be authorized to retail the service in competition with other, nonaffiliated retail RCC's. However, the base station operator would be required to treat nonaffiliated retail RCC's no less favorably than affiliated retail RCC's.

14. One of the advantages of such an approach also is that if some existing RCC's in a market, but not all, can agree upon a system plan, those that can agree can proceed with their plan without being frustrated by the minority. The minority would then have the choice of developing its own plan and capital investment, or of "interconnecting" with the first group when the system is constructed. Thus, the minority could not be frozen out of the market as a result of its independence or its financial limitations.

15. Since the base station operator would have a substantial investment in the fixed network plant, but could only realize a return on that investment through the actual use of the channels by subscribers, he would have every incentive to encourage loading of the system in the shortest possible time. At the same time, by maintaining control over an affiliated retail RCC, he would not be left completely at the mercy of others (with no vested interests in the network plant) for his ability to earn a reasonable return. Similarly, he would have every incentive to maintain the quality of service as high, and the cost of service as low, as possible in order to maintain its saleability. State regulation of the base station operator would also be available to correct or forestall any problems in the relationships between the wholesale and retail carriers that might arise.

16. Finally, since it is unlikely that the requisite state certification is now held in the name of the precise entity(ies) which would actually be the licensee of the base station facilities, it would appear to be inappropriate and unnecessary to require prior state certification for the base station applicants as a condition of filing the application with this Commission. However, obtaining such certification would be required prior to grant of a construction permit, in order to conform to the legal requirements of the Communications Act. Since no retail service would be involved in such certification proceedings, this requirement should not delay implementation of service. Prior state certification would continue to be a requirement for new retail RCC's entering a given market.

17. In the foregoing discussion, NARS has attempted both to outline its proposal thoroughly, and to anticipate likely questions as to how it would work in actual practice. Similarly, NARS has attempted to highlight the advantages of its plan in terms of implementing the instant allocations on the most efficient, simplest and most economical basis possible. NARS believes its proposal accommodates the Commission's public policy objectives on a reasonable basis, in the context of a workable business and public service proposition. Accordingly, NARS urges that the rules and policies advanced herein be adopted by the final order in this proceeding.

I. Part 21—Domestic Public Radio Services (other than Maritime Mobile) subpart C is amended as follows:

Existing 21.501 (k) and (l) are revised to read as follows:

§ 21.501 Frequencies.

. . . . . .

(k) The following frequencies are available for assignment to stations in the Domestic Public Land Mobile Radio Service operated by miscellaneous common carriers operating in the listed urbanized areas and subject to the limitations contained herein:

Base station frequencies (MHz)	Mobile, dispatch, and auxiliary test frequencies (MHz)
Boston	
Channel 14	Channel 16
Group 1:	
470.0125	482.0125
470.0375	482.0375
470.0625	482.0625
470.0875	482.0875
470.1125	482.1125
470.1375	482.1375
470.1625	482.1625
470.1875	482.1875
470.2125	482.2125
470.2375	482.2375
470.2625	482.2625
470.2875	482.2875
Group 2:	
473.0125	485.0125
473.0375	485.0375
473.0625	485.0625
473.0875	485.0875
473.1125	485.1125
473.1375	485.1375
473.1625	485.1625
473.1875	485.1875
473.2125	485.2125
473.2375	485.2375
473.2625	485.2625
473.2875	485.2875
Chicago, Cleveland, New York—Northeastern New Jersey	
Channel 14	Channel 15
Group 1:	
470.0125	476.0125
470.0375	476.0375
470.0625	476.0625
470.0875	476.0875
470.1125	476.1125
470.1375	476.1375
470.1625	476.1625
470.1875	476.1875
470.2125	476.2125
470.2375	476.2375
470.2625	476.2625
470.2875	476.2875
Group 2:	
473.0125	479.0125
473.0375	479.0375
473.0625	479.0625
473.0875	479.0875
473.1125	479.1125
473.1375	479.1375
473.1625	479.1625
473.1875	479.1875
473.2125	479.2125
473.2375	479.2375
473.2625	479.2625
473.2875	479.2875
Channel 14	Channel 15
Dallas-Fort Worth	
Channel 16	
482.0125	485.0125
482.0375	485.0375
482.0625	485.0625
482.0875	485.0875
482.1125	485.1125
482.1375	485.1375
482.1625	485.1625
482.1875	485.1875
482.2125	485.2125
482.2375	485.2375
482.2625	485.2625
482.2875	485.2875
Detroit	
Channel 16	Channel 15
Group 1:	
482.0125	476.0125
482.0375	476.0375
482.0625	476.0625
482.0875	476.0875
482.1125	476.1125
482.1375	476.1375
482.1625	476.1625
482.1875	476.1875
482.2125	476.2125
482.2375	476.2375
482.2625	476.2625
482.2875	476.2875
Group 2:	
485.0125	479.0125
485.0375	479.0375
485.0625	479.0625
485.0875	479.0875
485.1125	479.1125
485.1375	479.1375
485.1625	479.1625
485.1875	479.1875
485.2125	479.2125
485.2375	479.2375
485.2625	479.2625
485.2875	479.2875
Houston	
Channel 17	
488.0125	491.0125
488.0375	491.0375
488.0625	491.0625
488.0875	491.0875
488.1125	491.1125
488.1375	491.1375
488.1625	491.1625
488.1875	491.1875
488.2125	491.2125
488.2375	491.2375
488.2625	491.2625
488.2875	491.2875
Los Angeles	
Channel 20	Channel 14
Group 1:	
506.0125	470.0125
506.0375	470.0375
506.0625	470.0625
506.0875	470.0875
506.1125	470.1125
506.1375	470.1375
506.1625	470.1625
506.1875	470.1875
506.2125	470.2125
506.2375	470.2375
506.2625	470.2625
506.2875	470.2875
Group 2:	
509.0125	473.0125
509.0375	473.0375
509.0625	473.0625
509.0875	473.0875
509.1125	473.1125
509.1375	473.1375
509.1625	473.1625
509.1875	473.1875

Channel 20	Channel 14
509.2125	473.2125
509.2375	473.2375
509.2625	473.2625
509.2875	473.2875
Miami	
Channel 14	
470.0125	473.0125
470.0375	473.0375
470.0625	473.0625
470.0875	473.0875
470.1125	473.1125
470.1375	473.1375
470.1625	473.1625
470.1875	473.1875
470.2125	473.2125
470.2375	473.2375
470.2625	473.2625
470.2875	473.2875
Philadelphia	
Channel 19	Channel 20
Group 1	
470.0125	506.0125
500.0375	506.0375
500.0625	506.0625
500.0875	506.0875
500.1125	506.1125
500.1375	506.1375
500.1625	506.1625
500.1875	506.1875
500.2125	506.2125
500.2375	506.2375
500.2625	506.2625
500.2875	506.2875
Group 2	
503.0125	509.0125
503.0375	509.0375
503.0625	509.0625
503.0875	509.0875
503.1125	509.1125
503.1375	509.1375
503.1625	509.1625
503.1875	509.1875
503.2125	509.2125
503.2375	509.2375
503.2625	509.2625
503.2875	509.2875
Pittsburgh	
Channel 14	Channel 18
Group 1	
470.0125	494.0125
470.0375	494.0375
470.0625	494.0625
470.0875	494.0875
470.1125	494.1125
470.1375	494.1375
470.1625	494.1625
470.1875	494.1875
470.2125	494.2125
470.2375	494.2375
470.2625	494.2625
470.2875	494.2875
Group 2	
473.0125	494.0125
473.0375	494.0375
473.0625	494.0625
473.0875	494.0875
473.1125	494.1125
473.1375	494.1375
473.1625	494.1625
473.1875	494.1875
473.2125	494.2125
473.2375	494.2375
473.2625	494.2625
473.2875	494.2875
San Francisco	
Channel 17	Channel 16
Group 1:	
488.0125	482.0125
488.0375	482.0375
488.0625	482.0625
488.0875	482.0875
488.1125	482.1125
488.1375	482.1375
488.1625	482.1625
488.1875	482.1875
488.2125	482.2125
488.2375	482.2375
488.2625	482.2625
488.2875	482.2875
Group 2:	
491.0125	485.0125
491.0375	485.0375
491.0625	485.0625
491.0875	485.0875
491.1125	485.1125
491.1375	485.1375
491.1625	485.1625
491.1875	485.1875
491.2125	485.2125
491.2375	485.2375
491.2625	485.2625
491.2875	485.2875
Washington, D.C.	
Channel 18	Channel 17
Group 1:	
494.0125	488.0125
494.0375	488.0375
494.0625	488.0625
494.0875	488.0875
494.1125	488.1125
494.1375	488.1375
494.1625	488.1625
494.1875	488.1875
494.2125	488.2125
494.2375	488.2375
494.2625	488.2625
494 2875	488.2875
Group 2:	
497.0125	491.0125
497.0375	491.0375
497.0625	491.0625
497.0875	491.0875
497.1125	491.1125
497.1375	491.1375
497.1625	491.1625
497.1875	491.1875
497.2125	491.2125
497.2375	491.2375
497.2625	491.2625
497.2875	491.2875

(1) Frequencies in paragraph (k) of this section are for assignment in, or in the vicinity of, the urbanized areas listed in table A below, subject to the following conditions:

(1) The transmitter site(s) for base station(s) shall be located not more than 50 miles from the geographic center of an urbanized area as defined in table A.

(2) Mobile stations shall be operated not more than 80 miles from the "Geograhic Center" of an urbanized area as defined in table A, below, nor beyond a 30-mile radii of the associated base station or stations.

(3) Base stations operating on the frequencies available for land mobile use in any listed urbanized area shall afford protection to cochannel and adjacent channel television stations in accordance with the values set out in tables B and C, below, except for channel 15 in New York, N.Y., and Cleveland, Ohio, and channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in tables C and F, below.

(i) Base stations shall be located a minimum of one mile from local television stations operating on TV channels separated by 2, 3, 4, 5, 7, and 8 TV channels from the television channel in which the base station will operate.

(ii) Mobile units operating on the frequencies available for land mobile use in any given urbanized area shall afford protection to cochannel and adjacent channel television stations in accordance with the values set out in tables D and G, below, except for channel 15 in New York, N.Y., and Cleveland, Ohio, and channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in tables E and G below.

(iii) The television stations to be protected in any given urbanized area, in accordance with the provisions of (i) and (ii) of this paragraph, are identified in the Commission's publication, "TV Stations To Be Considered in The Preparation of Applications for Land Mobile Facilities in the Band 470-512 MHz." The publication is available at the offices of the Federal Communications Commission at Washington, D.C. or upon the request of interested persons.

(4) For antenna heights between 500 feet and 3,000 feet above average terrain the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure A below, except for channel 15 in New York, N.Y., and Cleveland, Ohio, and channel 16 in Detroit, Mich., where the effective radiated power must be reduced in accordance with figure B. For heights of more than 500 feet above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the grade B contour of a cochannel TV station, and authorization will not be granted unless it can be shown that actual terrain considerations are such as to provide the desired protection at the grade B contour, or that the effective radiated power will be futher reduced so that, assuming free space attenuation, the desired protection at the grade B contour will be achieved.

(5) Applicants for base stations in the Miami, Fla. urbanized area may, in lieu of calculating the height of average terrain, use 10 feet as average terrain height.

(i) Tables and figures:

TABLE A—*Frequency Availability for Land Mobile Use*

Geographic center	
Urbanized area	Channel
Akron, Ohio	14
Albany, N.Y.	14
Albuquerque, N. Mex.	14
Allentown, Pa.	14
Amarillo, Tex.	14
Anaheim, Calif.	14
Anchorage, Alaska	14
Ann Arbor, Mich.	14
Arlington, Tex.	14
Atlanta, Ga.	14
Augusta, Ga.	14
Austin, Tex.	14
Bakersfield, Calif.	14
Baltimore, Md.	14
Baton Rouge, La.	14
Beaumont, Tex.	14
Bethlehem, Pa.	14
Binghamton, N.Y.	14
Birmingham, Ala.	14
Boise, Idaho	14
Boston, Mass.	14
Bridgeport, Conn.	14
Brownsville, Tex.	14
Buffalo, N.Y.	14
Canton, Ohio	14
Charleston, S.C.	14
Charleston, W. Va.	14
Charlotte, N.C.	14
Chattanooga, Tenn.	14
Chicago, Ill.	14
Cincinnati, Ohio	14
Cleveland, Ohio	14
Colorado Springs, Colo.	14
Columbia, S.C.	14
Columbus, Ohio	14
Corpus Christi, Tex.	14
Dallas, Tex.	14
Dayton, Ohio	14
Daytona Beach, Fla.	14
Denver, Colo.	14
Des Moines, Iowa	14
Detroit, Mich.	14
Duluth, Minn.	14
El Paso, Tex.	14
Erie, Pa.	14
Eugene, Oreg.	14
Evansville, Ind.	14
Fayetteville, N.C.	14
Flint, Mich.	14
Fort Lauderdale, Fla.	14
Fort Myers, Fla.	14
Fort Wayne, Ind.	14
Fort Worth, Tex.	14
Fresno, Calif.	14
Gainesville, Fla.	14
Grand Rapids, Mich.	14
Greensboro, N.C.	14
Greenville, S.C.	14
Hamilton, Ohio	14
Harrisburg, Pa.	14
Hartford, Conn.	14
Honolulu, Hawaii	14
Houston, Tex.	14
Huntington, W. Va.	14
Huntsville, Ala.	14
Indianapolis, Ind.	14
Jacksonville, Fla.	14
Jersey City, N.J.	14
Johnson City, Tenn.	14
Kalamazoo, Mich.	14
Kansas City, Mo.	14
Kenosha, Wis.	14
Knoxville, Tenn.	14
Lakeland, Fla.	14
Lancaster, Pa.	14
Lansing, Mich.	14
Las Cruces, N. Mex.	14
Las Vegas, Nev.	14
Lexington, Ky.	14
Lima, Ohio	14
Lincoln, Nebr.	14
Little Rock, Ark.	14
Long Beach, Calif.	14
Los Angeles, Calif.	14
Louisville, Ky.	14
Lubbock, Tex.	14
Macon, Ga.	14
Madison, Wis.	14
Manchester, N.H.	14
Memphis, Tenn.	14
Miami, Fla.	14
Milwaukee, Wis.	14
Minneapolis, Minn.	14
Mobile, Ala.	14
Modesto, Calif.	14
Monroe, La.	14
Montgomery, Ala.	14
Nashville, Tenn.	14
New Bedford, Mass.	14
New Haven, Conn.	14
New Orleans, La.	14
New York, N.Y.	14
Newark, N.J.	14
Norfolk, Va.	14
Oakland, Calif.	14
Oklahoma City, Okla.	14
Omaha, Nebr.	14
Orlando, Fla.	14
Oxnard, Calif.	14
Pascagoula, Miss.	14
Pensacola, Fla.	14
Peoria, Ill.	14
Philadelphia, Pa.	14
Phoenix, Ariz.	14
Pittsburgh, Pa.	14
Portland, Oreg.	14
Portland, Maine	14
Poughkeepsie, N.Y.	14
Providence, R.I.	14
Provo, Utah	14
Pueblo, Colo.	14
Racine, Wis.	14
Raleigh, N.C.	14
Reading, Pa.	14
Reno, Nev.	14
Richmond, Va.	14
Riverside, Calif.	14
Roanoke, Va.	14
Rochester, N.Y.	14
Rockford, Ill.	14
Sacramento, Calif.	14
Saginaw, Mich.	14
St. Louis, Mo.	14
Salem, Oreg.	14
Salinas, Calif.	14
Salt Lake City, Utah	14
San Antonio, Tex.	14
San Bernardino, Calif.	14
San Diego, Calif.	14
San Francisco, Calif.	14
San Jose, Calif.	14
Santa Barbara, Calif.	14
Santa Rosa, Calif.	14
Sarasota, Fla.	14
Savannah, Ga.	14
Scranton, Pa.	14
Seattle, Wash.	14
Shreveport, La.	14
South Bend, Ind.	14
Spokane, Wash.	14
Springfield, Ill.	14
Springfield, Mass.	14
Springfield, Mo.	14
Stamford, Conn.	14
Stockton, Calif.	14
Syracuse, N.Y.	14
Tacoma, Wash.	14
Tallahassee, Fla.	14
Tampa, Fla.	14
Toledo, Ohio	14
Trenton, N.J.	14
Tucson, Ariz.	14
Tulsa, Okla.	14
Utica, N.Y.	14
Vallejo, Calif.	14
Vineland, N.J.	14
Visalia, Calif.	14
Waco, Tex.	14
Washington, D.C.	14
Waterbury, Conn.	14
Wichita, Kans.	14
Wilmington, Del.	14
Worcester, Mass.	14
York, Pa.	14
Youngstown, Ohio	14

TABLE C—BASE STATION—ADJACENT CHANNEL FREQUENCIES
MAXIMUM EFFECTIVE RADIATED POWER (ERP)

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TABLE A—*Frequency Availability for Land Mobile Use*

Urbanized area	Geographic center N. latitude	Geographic center W. longitude	Frequencies (MHz)
Boston, Mass.	42°21'24"	71°03'24"	Chan. 14 470-476.
			Chan. 16 482-488.
Chicago, Ill.	41°52'28"	87°38'22"	Chan. 14 470-476.
			Chan. 15 476-482.
Cleveland, Ohio[1]	41°29'51"	81°41'50"	Chan. 14 470-476.
			Chan. 15 476-482.
Dallas, Tex.	32°47'09"	96°47'37"	Chan. 16 482-488.
Detroit, Mich.[2]	42°19'48"	83°02'57"	Chan. 15 476-482.
			Chan. 16 482-488.
Houston, Tex.	29°45'26"	95°21'37"	Chan. 17 488-494.
Los Angeles, Calif.	34°03'15"	118°14'28"	Chan. 14 470-476.
			Chan. 20 506-512.
Miami, Fla.	25°46'37"	80°11'32"	Chan. 14 470-476.
New York, Northeastern New Jersey	40°45'06"	73°59'39"	Chan. 15 476-476.
			Chan. 15 476-482.
Philadelphia, Pa.	39°56'58"	75°09'21"	Chan. 19 500-506.
			Chan. 20 506-512.
Pittsburgh, Pa.	40°26'19"	80°00'00"	Chan. 14 470-476.
			Chan. 18 494-500.
San Francisco-Oakland, Calif.	37°46'39"	122°24'40"	Chan. 16 482-488.
			Chan. 17 488-494.
Washington, D.C., Maryland, Virginia	38°53'51"	77°00'33"	Chan. 17 488-494.
			Chan. 18 494-500.

[1] Channels 14 and 15 are not available in Cleveland, Ohio, until further order from the Commission.
[2] Channels 15 and 16 are not available in Detroit, Mich., until further order from the Commission.

TABLE B—BASE STATION—COCHANNEL FREQUENCIES
(50 dB Protection)
MAXIMUM EFFECTIVE RADIATED POWER (ERP)

At this distance from transmitter site of protected UHF television station →	Distance in miles	Antenna height in feet (AAT)[1] 50	100	150	200	250	300	350	400	450	500	The effective radiated power (ERP)* and antenna height above average terrain (AAT) shall not exceed the values given in the table ←
	165	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	160	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	155	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	150	1,000	1,000	980	775	725	675	775	700	625	575	
	145	850	750	650	575	475	400	400	350	320	300	
	140	600	575	475	400	350	300	275	250	240	225	
	135	450	400	335	300	255	210	200	185	165	150	
	130	350	300	245	200	185	160	145	135	120	110	
	125	225	200	170	150	125	110	100	90	80	75	
	120	175	150	125	105	90	80	70	60	55	50	

* Power levels listed in table are given in watts.

NOTE: To determine the maximum permissible effective radiated power:
(1) Using the method specified in § 73.611 or charts or maps of suitable scale, determine the distance between the proposed land mobile base station and the protected cochannel television station. If the exact mileage does not appear in Table B, the next lower mileage separation figure is to be used.
(2) Entering the table at the mileage figure found in (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 to 500 feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in Table B, use the power figure beneath the next greater antenna height.
(3) If the power found to be permitted following this procedure is lower than that determined hereafter from Table C, this lower figure is the maximum power that may be employed at the proposed land mobile base station.

[1] In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map may be used. The average elevation of the 8-mile distance between 2 and 10 miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps, whichever are the latest. If such maps are not published for the area in question, the next best topographic information should be used.

TABLE C—BASE STATION—ADJACENT CHANNEL FREQUENCIES
MAXIMUM EFFECTIVE RADIATED POWER (ERP)

At this distance from transmitter site of protected UHF television station →	Distance in miles	Antenna height in feet (AAT)[1] 50	100	150	200	250	300	350	400	450	500	The effective radiated power (ERP)* and antenna height above average terrain (AAT) shall not exceed the values given in the table ←
	67	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	66	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	750	
	65	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	825	650	
	64	1,000	1,000	1,000	1,000	1,000	1,000	775	675	625	600	
	63	1,000	1,000	1,000	1,000	1,000	650	450	375	325	325	
	62	1,000	1,000	1,000	1,000	925	375	250	200	150	125	
	61	1,000	1,000	700	450	250	200	125	100	75	50	
	60	1,000	1,000	425	225	125	100	75	50	.....	.....	

* Power levels listed in table are given in watts.

NOTE: To determine the maximum permissible effective radiated power:
(1) Using the method specified in § 73.611 or charts or maps of suitable scale, determine the distance between the proposed land mobile base station and the protected cochannel television station. If the exact mileage does not appear in Table C, the next lower mileage separation figure is to be used.
(2) Entering the table at the mileage figure found in (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 to 500 feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in Table C, use the power figure beneath the next greater antenna height.
(3) If the power found to be permitted following this procedure is lower than that determined heretofore from Table F or B, this lower figure is the maximum power that may be employed at the proposed land mobile base station.

[1] In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map may be used. The average elevation of the 8-mile distance between 2 and 10 miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps, whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used.

TABLE F—BASE STATION—COCHANNEL FREQUENCIES
(40 dB Protection)
MAXIMUM EFFECTIVE RADIATED POWER (ERP)

At this distance from transmitter site of protected UHF television station. →	Distance in miles	Antenna height in feet (AAT)[1] 50	100	150	200	250	300	350	400	450	500	The effective radiated power (ERP)* and antenna height above average terrain (AAT) shall not exceed the values given in the table. ←
	130	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	125	1,000	1,000	1,000	1,000	1,000	1,000	1,000	850	750	725	
	120	1,000	1,000	1,000	1,000	900	750	675	600	550	500	
	115	1,000	1,000	900	725	600	525	475	425	375	350	
	110	850	700	600	500	425	375	325	300	275	225	
	105	600	475	400	325	275	250	225	200	175	150	
	100	400	325	275	225	175	150	140	125	110	100	
	95	275	225	175	125	110	95	80	70	60	50	
	90	175	125	100	75	50	.....	.....	.....	.....	.....	

*Power levels listed in table are given in watts.

NOTE: To determine the maximum permissible effective radiated power:
(1) Using the method specified in § 73.611 or charts or maps of suitable scale, determine the distance between the proposed land mobile base station and the protected cochannel television station. If the exact mileage does not appear in Table F, the next lower mileage separation figure is to be used.
(2) Entering the table at the mileage figure found in (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 to 500 feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in Table F, use the power figure beneath the next greater antenna height.
(3) If the power found to be permitted following this procedure is lower than that determined hereafter from Table C, this lower figure is the maximum power that may be employed at the proposed land mobile base station.

[1] In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map may be used. The average elevation of the 8-mile distance between 2 and 10 miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps, whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used.

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TABLE D—DISTANCE BETWEEN ASSOCIATED BASE STATION AND PROTECTED COCHANNEL TV STATION WHERE MOBILE OPERATES IN THE SAME TELEVISION CHANNEL

(50 dB Protection)

Effective radiated power (watts) of mobile unit	*Distance (miles)*
60	140
50	135
25	125
10	117
5	112

TABLE E—DISTANCE IN MILES BETWEEN ASSOCIATED LAND MOBILE BASE STATION AND PROTECTED COCHANNEL TELEVISION STATION WHERE MOBILE OPERATES IN THE SAME TELEVISION CHANNEL

(40 dB Protection)

Effective radiated power (watts) of mobile unit	*Distance (miles)*
60	120
50	115
25	110
10	105
5	100

TABLE G—DISTANCE IN MILES BETWEEN ASSOCIATED LAND MOBILE BASE STATION AND PROTECTED ADJACENT CHANNEL TELEVISION STATION WHERE MOBILE OPERATES IN ADJACENT TELEVISION CHANNEL

(0, 0 dB Protection)

Effective radiated power (watts) of mobile unit	*Distance (miles)*
60	90
50	90
25	90
10	90
5	90

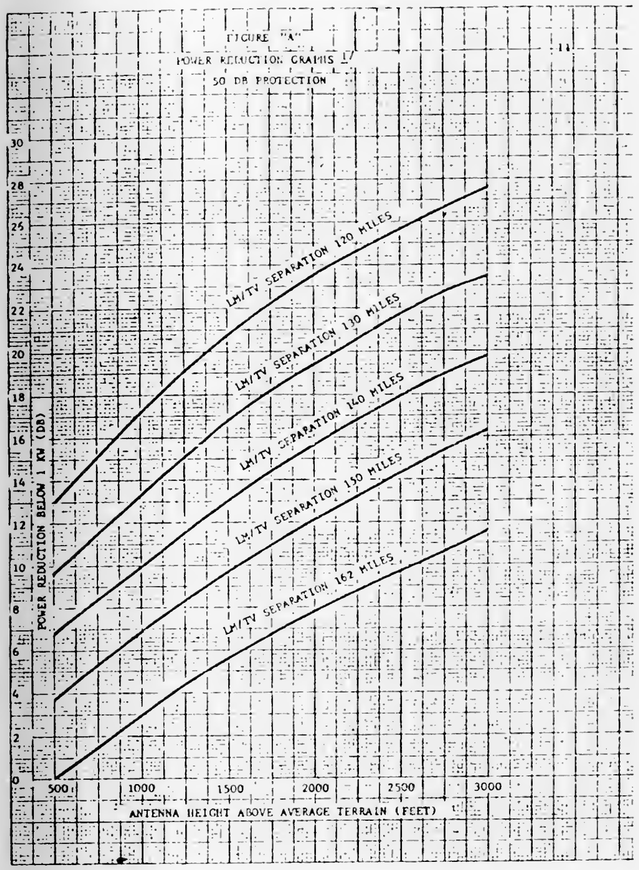
TABLE H.—*Decibel Reduction/Power Equivalents*

	E.R.P. permitted (figures rounded)
Decibel reduction below 1 kW:	
1	795
2	630
3	500
4	400
5	345
6	250
7	200
8	160
9	125
10	100
11	80
12	65
13	50
14	40
15	30
16	25
17	20
18	15
19	12
20	10
21	8
22	6
23	5
24	4
25	3
26	2.5
27	2
28	1.5
29	1.25
30	1

FIGURE "A"

POWER REDUCTION GRAPHS [1]

50 DB PROTECTION



[1] Directions for using this graph.

1. Determine antenna height above average terrain.
2. Locate this value on the antenna height axis.
3. Determine the separation between the LM antenna site and the nearest protected co channel TV station.
4. Draw a vertical line to intersect the LM/TV separation curve at the distance determined in step 3 above. For distances not shown on the graph, use linear interpolation.
5. From the intersection of the LM/TV separation curve draw a horizontal line to the power reduction scale.
6. The power reduction in dB determines the reduction below 1 kW that must be achieved.
7. See Table H for dB/power equivalents

[2] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

Antenna height (ASL) (feet):	*Power (ERP)*
1,501–2,000	155 W.
2,001–2,500	100 W.
2,501–3,000	70 W.
3,001–3,500	50 W.
3,501–4,000	40 W.
4,001–4,500	30 W.
4,501–and above	25 W.

(ii) Upon prior coordination with the Broadcast Bureau, departures from the separation distances shown in the

nels. No more than one (1) second of channel time may be employed for each call attempt, and no more than

compatible with whatever technical arrangements are implemented pursuant to § 21.501(1)(8) by applicants that

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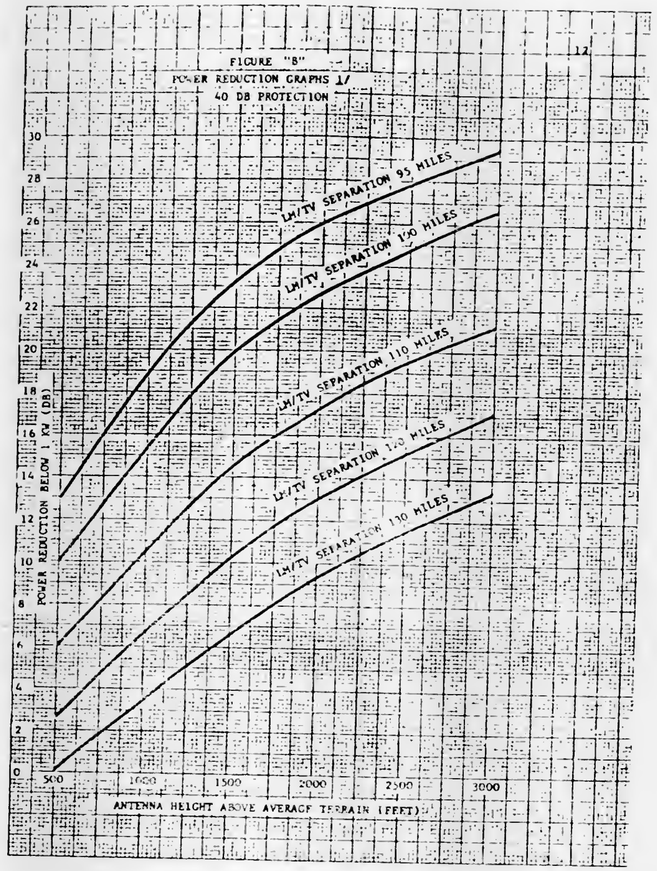

1/ Directions for using this graph.

1. Determine antenna height above average terrain.
2. Locate this value on the antenna height axis.
3. Determine the separation between the LM antenna site and the nearest protected co-channel TV station.
4. Draw a vertical line to intersect the LM/TV separation curve at the distance determined in step 3 above. For distances not shown on the graph, use linear interpolation.
5. From the intersection of the LM/TV separation curve draw a horizontal line to the power reduction scale.
6. The power reduction in dB determines the reduction below 1 kW that must be achieved.
7. See Table II for dB/power equivalents.

(ii) Upon prior coordination with the Broadcast Bureau, departures from the separation distances shown in the tables of this section may be authorized upon a specific engineering showing by an applicant that the protection ratios specified (i.e. 50, 40 or 0.0 dB as may be applicable) will be afforded to the protected television station(s) by the applicant's proposed facilities.

(6) These frequencies are to be employed solely for providing land mobile communication services. Signaling communications will be authorized only when employed for the purposes of establishing and maintaining mobile communications and to "mark" a busy channel in order to prevent interference between two or more licensees.

(7) Assignment of frequencies will be made from pairs listed within a single 12-channel group and, in the event of assignment to more than one applicant, will be available only on a cooperative shared basis. In this event, each licensee will be granted exclusive use of a channel only when the channel is idle and then only for the duration of a call or call attempt, after which the channel must be relinquished.

(8) To facilitate interference free operation between two or more systems assigned the same block of frequencies in the same urbanized area, each permittee shall, prior to commencing operation, submit to the Commission copies of agreements and system diagrams and plans illustrating how interference free operation will be accomplished. Submitted plans must contain as a minimum the following provisions:

(i) A means whereby a base station transmitter will be prevented from being keyed when the frequency is in use by any other base station in the area. If this is to be accomplished by off-the-air monitoring of base station transmit frequencies, then each base station must be equipped with a receiver monitoring base station frequencies which is colocated with the base station transmitter and interconnected with the transmitter in such a way that it is impossible to key the associated transmitter upon detection of a signal by the receiver.

(ii) A means to insure rapid selective calling and station identification. Selective calling will be permitted on any channel in a group but may only take place on one channel at a time by any one licensee, and only on idle channels. No more than one (1) second of channel time may be employed for each call attempt, and no more than three (3) attempts are to be made during a one (1) minute period. High-speed signaling must be used for selective calling and station identification. Each identification code must provide at least 6 decimal digits of unique code capacity. Calling and identification shall take no more than 500 milliseconds at either base or mobile from the time the transmitter has reached 90 percent power output, and the time needed to reach this output should not exceed 50 milliseconds. Likewise, receiver squelch circuits should be fully opened within 10 milliseconds from detection of carrier above threshold.

(iii) A means whereby it will be impossible for the operator of a mobile unit to key his transmitter in such a way as to cause harmful interference or to obstruct the communications of other stations or to transmit when beyond range of its base station. Each mobile unit shall be so configured as to provide automatic station identification when initiating a request for service; that such request can only be transmitted on an idle channel, and further that it shall be impossible to activate the mobile transmitter unless the mobile unit has received an enabling signal from a base -station in response to its request for service.

(iv) A means whereby the total number of mobile units, as determined in subsection 10, operating within a metropolitan area on a 12-channel group of frequency pairs, as listed in 21.501(k), does not exceed the total authorized number of mobile units.

(9) Notwithstanding other provisions of this part, applications for any of the frequencies listed in paragraph 21.501(k) hereof will be processed under the following procedure.

(i) All applicants who file within 60 days after the public notice date of the first application that requests assignment of a particular 12-channel group of frequency pairs substantially in the same metropolitan area for which the first application is submitted are jointly responsible for compliance with § 21.501(l)(8).

(ii) Any applicant who files more than 60 days after the public notice date of the first application that requests assignment of the particular 12-channel group of frequency pairs substantially in the same metropolitan area for which the first application is submitted, pursuant to § 21.501(l)(8), must conform its application to be compatible with whatever technical arrangements are implemented pursuant to § 21.501(l)(8) by applicants that file within the 60-day period.

(10) The total number of mobile units for all carriers operating within a metropolitan area on a 12-channel group of frequency pairs, as listed in 21.501(k), will be authorized as follows:

(i) A total of 40 mobile units per channel will initially be authorized. The Commission will authorize additional mobile units if the applicant can demonstrate, as indicated in subsection (b) below, that the average busy-hour channel usage is below 85 percent.

(ii) The licensees in each market shall measure channel usage at least once every 3 months. These measurements shall be reported to the Commission within 30 days. Measurements shall be taken during the busiest 12-hour periods on 3 days (within a 7-day period) having normal usage. This information should be reported separately for each of the 3 days selected, should be reported by dates, and should disclose the following:

(A) The number of mobile units in service during each of the days specified;

(B) The number of calls completed each hour;

(C) The total number of minutes that the channels (base and mobile) were utilized for transmissions between the base station and land mobile units during each hour;

(D) The average channel usage for the busiest hour as defined in subsection (iii) above for the 3 days being measured; and

(E) Such other additional information which may more accurately reflect channel usage.

(iii) If the average busy-hour channel usage of the 12-channel group of frequency pairs is in excess of 85 percent, the Commission may order a reduction in the authorized number of mobile units, provided that a minimum of 40 mobile units per channel are in service for a 12-channel pair system. This reduction shall be implemented by the carriers through normal attrition of system users.

(iv) The carriers utilizing any 12-channel group of frequency pairs in a given metropolitan area may petition the Commission to alter the 85-percent average busy-hour channel usage figure. The Commission shall authorize such a change if good cause is shown.

[FR Doc. 78-29584 Filed 10-24-78; 8:45 am]

proposed rules

administrator" and substitute the following therefor:

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.

SUPPLEMENTARY INFORMATION: On December 7, 1977, the Nuclear U.S. Regulatory Commission published a

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proposed rules

This section of the FEDERAL REGISTER contoins notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, 1138]

[Docket Nos. AO-231-A47, etc.]

HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENTS AND ORDERS

7 CFR Parts	Marketing area	Docket Nos.
1126	Texas	AO-231-A47
1073	Wichita, Kansas	AO-173-A36
1097	Memphis, Tennessee	AO-219-A35
1102	Fort Smith, Arkansas	AO-237-A29
1104	Red River Valley	AO-298-A29
1106	Oklahoma Metropolitan	AO-210-A42
1108	Central Arkansas	AO-243-A33
1120	Lubbock-Plainview, Texas	AO-328-A22
1132	Texas Panhandle	AO-262-A31
1138	Rio Grande Valley	AO-335-A27

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider a cooperative association's proposal to amend 10 southwestern federal milk orders. The proposal would increase the funding rate for the advertising and promotion program of each order and would tie the rate to the level of producers' pay prices in the 10 markets. The rate under each order is now at a fixed level. The cooperative association contends that the requested change for each order is needed to keep the funding rate current with the inflationary trend in the economy.

DATE: November 8, 1978, beginning at 9:30 a.m., local time.

ADDRESS: Dunfey's Royal Coach Inns, 3800 W. Northwest Highway, Dallas, Tex. 75220.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held November 8, 1978, at Dunfey's Royal Coach Inns, 3800 W. Northwest Highway, Dallas, Tex. 75220, beginning at 9:30 a.m., local time, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Texas and certain other marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY ASSOCIATED MILK PRODUCERS, INC.

Proposal No. 1

Amend the provisions relative to the advertising and promotion programs in each of the aforementioned orders as follows:

A. Deduct for advertising and promotion, eight-tenths of one percent, rounded to the nearest one-half cent per hundredweight, of the simple average of the minimum uniform or "blend" prices per hundredweight as announced by the respective market administrators for Orders No. 126, 73, 97, 102, 104, 106, 108, 120, 132 and 138 during the preceding calendar year period. Said rate of deduction shall be applicable to the volume of milk marketed by each producer during the following period of July through June of each year.

B. Delete paragraph (d) of §.116 "Duties of the Agency" of each respective Order and substitute the following therefor:

(d) Prepare and submit to the Secretary for approval prior to each semi-annual period of each calendar year a budget showing the projected amounts to be collected during the semi-annual period of each calendar year and how such funds are to be dispersed by the Agency.

C. Delete paragraphs (b) and (c) of §.120 "Procedure for requesting refunds" of each respective Order and substitute the following therefor:

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the month of April for milk to be marketed during the following July through December period and within October for milk marketed during the following January through June period.

(c) A dairy farmer who first acquires producer status under this part after the month of April or October as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar semi-annual period involved.

D. Delete sub-paragraphs (b)(2) and (b)(3) of §.121 "Duties of the market administrator" and substitute the following therefor:

(b)(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producer for which deductions were made pursuant to proposal No. 1.

(b)(3) After the end of each two-month period, make a refund to each producer who has made application for such refund pursuant to §.120. Such refund shall be computed at the rate of such producer's milk pooled for which deductions were made pursuant to proposal No. 1 herein for such two-month period, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

E. Renumber paragraphs (c) and (d) of §.121 "Duties of the market administrator" of each respective Order as paragraph (d) and (e), respectively and add a new paragraph (c) as follows:

(c) On or before March 15th of each year, the market administrator shall announce to all producers and thereafter with respect to new producers, the rate of deduction to be effective during the following period of July through June.

F. Except for the Texas order (No. 1126), amend §.112 "Term of office" to provide that the "Term of office" of each member of each respective agency shall be extended through June 30, 1980 and that members shall serve annually thereafter, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator of each of the aforesaid marketing areas or from the Hearing Clerk, Room 1077-S, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units.

Office of the Secretary of Agriculture.
Office of the Administrator, Agricultural Marketing Service.
Office of the General Counsel.
Dairy Division, Agricultural Marketing Service (Washington office only).
Office of the Market Administrator of each of the aforesaid marketing areas.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on October 20, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-30084 Filed 10-24-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 61]

MANAGEMENT AND DISPOSAL OF LOW-LEVEL WASTES BY SHALLOW LAND BURIAL AND ALTERNATIVE DISPOSAL METHODS

Advance Notice of Proposed Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission has underway development of a specific regulatory program for management of low-level radioactive wastes. It is anticipated that the regulations will initially cover only the currently practiced method of shallow land burial. Alternative disposal methods would be added as acceptable criteria are developed. The purpose of this notice is to invite advice, recommendations, and comments on the scope of the environmental impact statement (EIS) for proposed new 10 CFR Part 61 and on the alternative waste disposal methods that may eventually be incorporated into the new regulation.

DATE: Comment period expires December 26, 1978.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. Michael J. Bell, Chief, Low-level Waste Branch, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-427-4240.

SUPPLEMENTARY INFORMATION: On December 7, 1977, the Nuclear U.S. Regulatory Commission published a notice "Comments on Task Force Report (NUREG-0217) and Statement on Implementation of Regulatory Program for Low-level Waste Management." The program was published as NUREG-0240.

Recent developments at the six commercially operated shallow land burial sites have highlighted the need for an explicit regulatory program for shallow land disposal of low-level wastes and for disposal of such wastes by alternative disposal methods. Two of the six licensed commercial burial grounds (West Valley, N.Y. and Maxey Flats, Ky.) are closed. A third site (Sheffield, Ill.) is filled to its licensed capacity. A contested application for expansion of Sheffield is currently under review. The State of South Carolina has placed a limit on the volume of waste that may be buried each month at a fourth site (Barnwell, S. C.). The Commission believes that development of those parts of its program dealing with regulation of alternative methods of disposal of low-level wastes should be accelerated, since such alternatives offer means of providing additional disposal capacity. The staff had informal inquiries concerning requirements for licensing of such facilities, and expects that an application for such a facility may be forthcoming.

The low-level waste program provides for development of proposed regulations for disposal of low-level wastes by shallow land burial by 1980, and development of proposed regulations for disposal of low-level wastes by at least one alternative disposal method by 1981. NRC currently licenses operation of commercial shallow land burial under the provisions of parts 20, 30, 40, 51, and 70 following the procedures in 10 CFR Part 2. Part 20 requires that land burial sites be on Federal or State owned land and outlines factors to be addressed when evaluating proposed disposal procedures. Parts 30, 40, and 70 contain general rules governing licensing of by-product, source, and special nuclear material respectively. These regulations require the submission of an environment report as part of an application for commercial waste disposal by shallow land burial. Through 10 CFR Part 51, NRC implements the requirements of the National Environmental Policy Act of 1969 in its licensing process. Licensing decisions are based on a case-by-case evaluation.

The procedures in part 2 include requirements to furnish involved State and local government copies of the application, FEDERAL REGISTER notification of receipt of an application, participation, and involvement of State and other interested and effected par-

ties in the licensing process and the opportunity for an impartial hearing to review all pertinent issues through

plans initially to consider the environmental impact of low-level waste disposal alternatives and of technical cri-

SUPPLEMENTARY INFORMATION: Federal agency programs which may be covered by these procedures are:

lished in the FEDERAL REGISTER for public comment. Comments received in response to such FEDERAL REGISTER

creditation program in these areas is the responsibility of those agencies which statutorily have been assigned

[3510-17-M]

DEPARTMENT OF COMMERCE

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ties in the licensing process and the opportunity for an impartial hearing to review all pertinent issues through the licensing process. As stated in this notice, NRC recognizes the need for and plans to develop more explicit criteria and regulations for LLW management.

To provide guidance to the staff on alternative disposal methods to be considered, the U.S. Nuclear Regulatory Commission has contracted with Ford, Bacon & Davis Utah, Inc. to perform a study of potential disposal methods. The purpose of the study is to identify viable disposal methods and to submit to further detailed study alternative methods determined on the basis of a preliminary screening effort. Based on the contractor's findings and a review by a Technical Advisory Panel, the U.S. Nuclear Regulatory Commission has identified as the candidates for detailed study the following alternatives: Emplacement of wastes in engineered structures, disposal of wastes in ocean waters, emplacement of wastes in mined cavities (existing mines or mines dug specifically for waste disposal), and burial of wastes at an intermediate level (e.g., 30 feet of cover as compared to 4-6 feet of cover for shallow land burial). The contractor has recommended that modifications to current shallow land burial practices should also be considered. The contractor is submitting these alternatives to further study. The study is expected to be completed by November 1978, and the U.S. Nuclear Regulatory Commission plans to publish the results as soon as possible following completion of the study. Preliminary results of the study to date will be published shortly as NUREG/CR-0308. Copies of the report may be examined at the Commission's Public Document Room at 1717 H Street N W., Washington, D.C., and at the Commission's local public document rooms. Single copies of the report may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. After existing stock is exhausted, copies are available from the National Technical Information Service, Springfield, Va. 22161, at current rates.

Advice, recommendations, and comments on the development of this regulation are invited from all interested persons. Specific comments are requested on the following questions:

1. Proposed New 10 CFR Part 61. The Commission has concluded that an environmental impact statement should be prepared pursuant to the National Environmental Policy Act on its actions to develop more explicit criteria and regulations for low-level waste management. The Commission plans initially to consider the environmental impact of low-level waste disposal alternatives and of technical criteria for disposal of radioactive wastes by shallow land burial. An environmental impact statement will be prepared to provide an essential part of the information and decision base for the criteria and rulemaking action. What significant issues should the Commission consider and analyze in depth in the environmental impact statement? What issues are not significant, or are covered or may be covered in another environmental review, and therefore may be eliminated from analysis in this enviromental impact statement? Within this statement, what should the criteria be to distinguish among viable and nonviable alternatives? Do we know enough about certain disposal options to make an informed decision at this time? Should waste segregation be applied to low-level wastes (e.g., separate disposal sites for nonfuel cycle wastes)?

2. Is it desirable to develop explicit criteria and standards for the disposal of low-level wastes? If so, what should be the general format and content of the criteria and standards?

3. What should be considered in developing the criteria for waste performance; site suitability, design, and operations; site monitoring; site decommissioning, postoperational maintenance, and funding? Are there other areas where criteria are needed?

4. What are the advantages and disadvantages of the four alternatives described above? Which of the alternatives should be given the greatest priority in development of regulations?

5. Are there viable alternatives, other than the four alternate methods identified above, which should be further considered in the development of the U.S. Nuclear Regulatory Commission's program? (Those which have been considered were noted earlier in this notice and are discussed in greater detail in NUREG/CR-0308.) If so, what is the basis (technical, economic, social, etc.) for considering an additional alternative as a potential candidate?

6. What should be the extent of each State's responsibility for management of the low-level wastes generated by operations within its borders?

The Commission would appreciate any other comments on the development of its program.

Dated at Washington, D.C., this 18th day of October 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

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[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 7B]

OPTIONAL LABORATORY ACCREDITATION

Proposed Procedures Designed for Federal Agency Needs

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Proposed optional procedures for a national voluntary laboratory accreditation program serving Federal programs.

SUMMARY: Federal agency programs normally require assurance that the products covered by such programs meet certain standards issued by Federal agencies under directives given to them by the Congress. Many of these agencies employ or plan to employ laboratory accreditation procedures whereby testing laboratories are evaluated and approved to conduct the product tests required by the standards. Such accreditation procedures are or will be similar in purpose to those of the National Voluntary Laboratory Accreditation Program (NVLAP) operated by the Department of Commerce (Title 15 CFR Part 7).

The Secretary of Commerce is striving for effective coordination of the NVLAP procedures with similar programs of other government agencies so as to minimize the burden on the laboratories being evaluated while maximizing benefits derived from accreditation activities. It is the Secretary's intent to avoid duplication of other government laboratory examination or accreditation activities and to foster and promote uniformly acceptable standards of competence in testing laboratories. These optional NVLAP procedures are proposed for use in programs of other Federal agencies when those agencies have determined that a need for an accreditation program exists.

DATES: Interested parties are requested to submit their comments not later than December 26, 1978. If an informal hearing is desired, a request therefore must be made in writing before November 14, 1978.

ADDRESS: Send comments or requests for a hearing to the Assistant Secretary for Science and Technology, Room 3864, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTARY INFORMATION: Federal agency programs which may be covered by these procedures are:

1. Regulatory programs, usually related to public health and safety, where mandatory standards and test methods are established by rule based on specific authorities and responsibilities assigned to a Federal agency by statute; and

2. Public service programs where standards and test methods are of a voluntary nature and for which a Federal agency has been given specific statutory authority and responsibility.

The optional procedures proposed herein for Federal agency program needs will be designated as Part 7B of title 15 CFR Part 7. Part 7A will be the new designation for the existing procedures for a National Voluntary Laboratory Accreditation Program (NVLAP), formerly designated as Part 7 title 15, and is being retained in its entirety.

The optional Part 7B procedures eliminate the requirement to make a finding of need described in §§ 7A.4 and 7A.5 of the NVLAP procedures, the head of the Federal agency involved, rather than the Secretary of Commerce, has the responsibility for determining whether a need exists to accredit testing laboratories that serve a specific product of interest to that agency. It is believed that this is appropriate since such a finding is the responsibility of the Federal agency with the regulatory or service program authority over that product in a specific application.

These optional Part 7B procedures also make possible the elimination of the requirement that the Secretary of Commerce establish a criteria committee to develop and recommend general and specific criteria for accrediting testing laboratories. Under the proposed optional Part 7B procedures, the head of the concerned Federal agency may elect to (a) submit recommended general and specific criteria directly to the Secretary of Commerce for consideration, or (b) request the Secretary of Commerce to establish a Governmental Laboratory Accreditation Criteria Committee composed of government employees to recommend such criteria, or (c) use the relevant provisions of NVLAP (§ 7A.6) by requesting the Secretary of Commerce to establish a National Laboratory Accreditation Criteria Committee (NLACC) to develop and recommend such criteria. All criteria recommended are expected to be compatible with criteria established in existing NVLAP Part 7A programs or are to explain in detail the reasons for deviating from those criteria.

As in the NVLAP procedures, the Secretary of Commerce, will be responsible for the proposed general and specific criteria which would be published in the FEDERAL REGISTER for public comment. Comments received in response to such FEDERAL REGISTER notice will be analyzed by the Secretary of Commerce in cooperation with the Federal agency having authority over the program. The National Bureau of Standards (NBS) will contract for or will itself conduct the examination of testing laboratories seeking accreditation in accordance with examination requirements established by the Secretary of Commerce. Fees and charges established by the Secretary of Commerce for examining, accrediting and auditing test laboratories on behalf of other Federal agencies shall be in amounts calculated to maximize the self-sufficiency of this program and will be published in the FEDERAL REGISTER as prescribed under the NVLAP procedures.

On February 25, 1976, the Secretary of Commerce published in the FEDERAL REGISTER (41 FR 8163-8168) the procedures for the operation of the National Voluntary Laboratory Accreditation Program. The goal of this program is to provide, in cooperation with the private sector, a national voluntary system to examine upon request the professional and technical competence of private and public testing laboratories that serve regulatory and nonregulatory product evaluation and certification needs. The referenced procedures require that the Secretary make a preliminary finding of need for each laboratory accreditation program, obtain public comment on the preliminary finding and, where appropriate, make a final finding of need. Once the final finding of need has been established, general and specific criteria for accrediting laboratories are developed and recommended to the Secretary by a National Laboratory Accreditation Criteria Committee established for that purpose. The Secretary, after consideration of such recommendations, prepares proposed accreditation criteria to be employed and publishes them in the FEDERAL REGISTER for public comment. After evaluation of such comment, the Secretary will determine the final accreditation criteria and will publish them in the FEDERAL REGISTER along with a separate statement of fees to be charged applicants for accreditation. Following this, the Secretary will begin to evaluate and accredit testing laboratories which apply and which meet the requirements of those criteria.

Upon reviewing the NVLAP procedures as now published, the Secretary finds that certain parts are not directly applicable to regulatory programs or to public service programs where responsibility for such programs rests with other Federal agencies. Specifically, the Secretary finds that the need for establishing a laboratory accreditation program in these areas is the responsibility of those agencies which statutorily have been assigned authority for developing and conducting such programs. Further, the Secretary finds that certain other aspects of the NVLAP procedures dealing with the establishment of general and specific criteria for accrediting testing laboratories should be changed to allow optional procedures to be invoked at the election of other interested Federal agencies.

Moreover, the Secretary is satisfied that, based on public comments received at the time the proposed NVLAP procedures were published, there is a need to provide a laboratory accreditation system which will avoid duplication of other testing laboratory examination or accreditation programs while at the same time providing a thorough and consistent approach to laboratory accreditation.

It is with these factors in mind that the Secretary proposes this Part 7B to Title 15 CFR to provide a laboratory accreditation program servicing the needs of other Federal agencies for the following two specific types of programs:

1. Federal regulatory programs, usually related to public health and safety, where mandatory standards and test methods are established by rule based on specific authorities and responsibilities assigned to a Federal agency by statute. Programs such as energy conservation, environmental protection, and occupational and product safety, fall into this category.

2. Federal public service programs where standards and test methods are of a voluntary nature and for which a Federal agency has been given specific statutory authority and responsibility. An example of one such public service program is the program which guarantees mortgages for qualified individuals who desire to buy homes that meet minimum property standards. Another example would be programs to provide for a national measurement system capable of assuring accurate measuring instruments, devices, and standards for use in commerce, engineering, and science.

Regulatory Analysis. President Carter's Executive Order 12044, "Improving Government Regulations," directs that a regulatory analysis be prepared for each significant regulation determined to have potential major economic consequences for the general economy, for individual industries, geographic regions, levels of government, or specific elements of the population. These proposed regulations would not, in and of themselves, have such major economic consequences. It is only in the implementation of these regulations by the development of a laboratory accreditation program for a

given product that such economic consequences could be determined. In the Part 7A procedures, such determina-

Dated: October 19, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

from other testing laboratory examination and accreditation activities. In

§ 7B.4 Request to accredit testing laboratories.

(a) Any Federal agency responsible

be developed by a Governmental Laboratory Accreditation Criteria Committee composed of government employ-

Secretary or the Criteria Committee, acting at the request of the Secretary in developing general and specific cri-

given product that such economic consequences could be determined. In the Part 7A procedures, such determination is included as part of the final finding of need made by the Secretary as published in the FEDERAL REGISTER. However, for these Part 7B procedures, the determination of potential major economic consequences would be the responsibility of the requesting agency. For a regulatory program such a determination would be a part of the FEDERAL REGISTER notice announcing the program. For other agency programs, the Secretary shall request that a statement of such determination accompany the request to implement an accreditation program under Part 7B procedures.

Request for Comments. Interested persons desiring to comment on the proposed Part 7B operational procedures set out below are invited to submit such comments, in four copies, on or before December 26, 1978. To the Assistant Secretary for Science and Technology, U.S. Department of Commerce, Room 3864, Main Commerce Building, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal hearing relative to such procedures shall notify the Assistant Secretary for Science and Technology in writing on or before November 14, 1978, at the address shown in the preceding paragraph. Upon receipt of such request, informal public hearings will be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate, such hearings may be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearings will be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be made of any oral presentation.

All written and oral comments and testimony that are furnished in response to the invitation made by this notice will also be made part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility (CRRIF), Room 5317, Main Commerce Building, 14th Street between E Street and Constitution Avenue, NW., Washington, D.C. 20230.

Based on these concepts and principles, the Secretary proposes the actions and additional procedures under Part 7 CFR Title 15 as set forth below.

Dated: October 19, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

Part 7 CFR Title 15 titled "Procedures for a National Voluntary Laboratory Accreditation Program" as published in the FEDERAL REGISTER, Volume 41, Number 38, Wednesday, February 25, 1976 (pages 8163-8168) is retained and redesignated Part 7A CFR Title 15. Each section thereunder shall be denominated as 7A followed by the appropriate section number.

Part 7B is added to Title 15 CFR to read as follows:

Sec.
7B.1 Purpose.
7B.2 Description and goal of program.
7B.3 Definitions.
7B.4 Determination of need to accredit testing laboratories.
7B.5 Establishment of criteria with which to accredit laboratories.
7B.6 Establishment and functions of a Governmental Laboratory Accreditation Criteria Committee.
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7B.15 Refund of fees and charges.
7B.16 Amendment or revision of criteria.
7B.17 User information and reports.
7B.18 Support function.

AUTHORITY: Sec. 2, 31 Stat. 1449, as amended; sec. 1, 64 Stat. 371 (15 U.S.C. 272); Reorganization Plan No. 3 of 1946, Part VI.

§ 7B.1 Purpose.

The purpose of this part is to establish procedures under which a National Voluntary Laboratory Accreditation Program (NVLAP) serving Federal agencies which have specific regulatory or public service programs will function.

§ 7B.2 Description and goal of program.

(a) This program extends the provisions of the National Voluntary Laboratory Accreditation Program (NVLAP) (Title 15 CFR Part 7A) to examine the professional and technical competence of testing laboratories that serve government regulatory and public interest needs. Testing laboratories that meet the qualifications established pursuant to the procedures set out below would be accredited. This program will also require those testing laboratories that are accredited to maintain their qualification status through periodic checks and examinations. In conjunction with the NVLAP Part 7A program, this program will seek, through coordination and consultation, to maximize benefits derived from other testing laboratory examination and accreditation activities. In this way, it is intended that the program will avoid duplication of other testing laboratory examination or accreditation programs conducted by the public and private sectors.

(b) The intended goal of this program is to serve, on a timely basis, the needs of Federal agencies by accrediting this Nation's testing laboratories. Achievement of this goal would be attained by fostering and promoting a uniformly acceptable base of clearly defined criteria for professional and technical competence in testing laboratories and by establishing a background of experience necessary to the orderly evolution of a laboratory accreditation system designed to serve national needs as they develop.

§ 7B.3 Definitions.

(a) The term "Secretary" means the Secretary of Commerce or the Secretary's designee.

(b) The term "Product" includes the plural thereof and means a type or a category of manufactured goods, constructions, installations and natural and processed materials or those associated services whose characterization, classification or functional performance determination is specified by standards.

(c) The term "Criteria Committee" means a National Laboratory Accreditation Criteria Committee or a Governmental Laboratory Accreditation Criteria Committee appointed by the Secretary under these procedures (i.e., part 7A or B).

(d) The term "person" means associations, companies, corporations, educational institutions, firms, government agencies at the Federal, State, and local level, partnerships, and societies, as well as divisions thereof, and individuals.

(e) The term "testing laboratory" means any "person" as defined above whose functions include testing, analyzing or inspecting "products," as defined above, and/or evaluating the designs or specifications of such "products" according to the requirements of applicable standards.

(f) The term "general criteria" means those characteristics of a testing laboratory commonly found in, and generally expected of, such a laboratory serving the product under consideration. See in this connection § 7B.5(a).

(g) The term "specific criteria" means those detailed requirements deemed essential to assuring an acceptable examination and evaluation of the testing function performed by a testing laboratory in performing specific tests related to identified standards for the product under consideration. See in this connection § 7B.5(a).

§ 7B.4 Request to accredit testing laboratories.

(a) Any Federal agency responsible for regulatory or public service programs established pursuant to statute which has determined there is a need to accredit testing laboratories and indicates that it would use such accredited laboratories may request the Secretary to establish a NVLAP based on these Part 7B procedures.

(b) Such a request shall be in writing and will include the following:

(1) Identification of the product;

(2) Text of applicable rules or product standards;

(3) Text of test methods, if not included in the applicable rule or standard identified in paragraph (b)(2) of this section;

(4) Recommended general and specific criteria compatible with similar criteria established under NVLAP Part 7A procedures to be used in accreditation of test laboratories or a request for the establishment of either a Governmental Laboratory Accreditation Criteria Committee or a National Laboratory Accreditation Criteria Committee to develop and recommend such criteria to the Secretary;

(5) A statement of the need identified under paragraph (a) of this section for accrediting testing laboratories that serve the product identified in paragraph (b)(1) of this section, and citation of the specific authority relied upon in making such determination of need; and

(6) A statement of willingness to support any necessary developmental aspects of the program with funding and personnel.

(c) If, on the basis of the information provided or because of the lack of funding and personnel from the requesting agency, the Secretary is unable to justify the establishment of a NVLAP under these Part 7B procedures, the Secretary will decline to act further on the request. The Secretary shall in that event notify the requesting agency in writing within ten (10) working days after making a decision and shall state the reasons for so declining.

§ 7B.5 Establishment of criteria with which to accredit laboratories.

(a) Laboratories will be accredited on the basis of their conformance to general and specific accreditation criteria issued by the Secretary under these procedures. The general criteria will deal with those qualities which make for an effective testing laboratory. The specific criteria will be based on the requirements of the relevant rules, standards, and test methods involved.

(b) Laboratory accreditation criteria may be recommended to the Secretary by the requesting Federal agency, may be developed by a Governmental Laboratory Accreditation Criteria Committee composed of government employees, or may be developed by a National Laboratory Accreditation Criteria Committee described in the NVLAP procedures (newly redesignated § 7A.6). The choice of which approach to use will lie with the Federal agency requesting the program.

(c) The Secretary will decide, after consultation with the requesting Federal agency, on the precise language of the proposed general and specific criteria to be published by the Secretary in the FEDERAL REGISTER. In making the decision, the Secretary will consider:

(1) The needs and scope of the program of the requesting agency;

(2) Compatibility with other criteria already established and being used in other NVLAP's; and

(3) The nature and content of other related laboratory accreditation programs.

§ 7B.6 Establishment and functions of a Governmental Laboratory Accreditation Criteria Committee.

(a) In those instances where a Federal agency declines to recommend laboratory accreditation criteria, the Secretary, pursuant to the request of such agency, will establish a Governmental Laboratory Accreditation Criteria Committee or a National Laboratory Accreditation Criteria Committee in order to develop and recommend general and specific criteria for accrediting laboratories serving the product specified.

(1) Membership in each such Governmental Laboratory Accreditation Criteria Committee thus established will be composed of employees of the Department of Commerce, the requesting Federal agency, and other Government agencies having an employee of the Department of Commerce or of the requesting Federal agency to serve as chairperson of each Committee.

(2) Membership in each National Laboratory Accreditation Criteria Committee thus established shall consist of a combination of Federal, State, and local government personnel and qualified representatives chosen from among producers, users, consumers, testing laboratories, academia, and general interest groups, in accordance with the relevant provisions of the NVLAP procedures (redesignated section 7A.6 of Part 7 CFR Title 15).

§ 7B.7 Development and recommendation of criteria for accrediting testing laboratories.

(a) The Secretary, and either the requesting Federal agency in those cases where it has elected to recommend general and specific criteria to the Secretary or the Criteria Committee, acting at the request of the Secretary in developing general and specific criteria to accredit testing laboratories that serve a specific product, shall consider factors such as:

(1) For general criteria pertaining to testing laboratories:

(i) Organization;

(ii) Staff;

(iii) Physical plant;

(iv) Operational processes;

(v) Control procedures;

(vi) Quality assurance; and

(vii) Professional and ethical business practices, as appropriate.

(2) For specific criteria pertaining to testing laboratories:

(i) Personnel and equipment qualifications required of the testing laboratory function;

(ii) Requirements applicable to proficiency sample programs;

(iii) Application requirements;

(iv) Initial and periodic examination and audit procedures; and

(v) Professional and technical qualifications of personnel who examine testing laboratories.

(b) The general and specific criteria developed under this section for accrediting testing laboratories will be based upon criteria found in existing rules or standards where such existing criteria are deemed appropriate. Where appropriate existing criteria cannot be found, the requesting Federal agency, in those cases where it has elected to recommend general and specific criteria to the Secretary, or the Criteria Committee, will, at the request of the Secretary, undertake to develop and recommend such appropriate general and specific criteria as may be needed.

(c) The criteria shall contain instructions for making application for accreditation by testing laboratories serving the product involved and shall require that each testing laboratory that desires to participate in this program must agree to conditions that include but are not limited to the following:

(1) Be examined and audited initially and on a continuing basis;

(2) Pay accreditation fees and charges; and

(3) Avoid reference by itself and forbid others utilizing the services of an accredited testing laboratory from referencing its accredited status in consumer media and in product advertising or on product labels, containers and packaging or the contents therein or in any other way which might convey product certification.

(d) The criteria shall contain a statement that compliance by testing laboratories with the general and specific critria and other conditions established by the Secretary and which are accredited by the Secretary under

these procedures shall in no way relieve such laboratories from the necessity of also observing and being in compliance with any existing Federal,

tion. Alternatively, the applicant testing laboratory shall have thirty (30) days to request a hearing pursuant to 5 U.S.C. 556. In the event, however,

notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed denial shall become final through the issuance of a

Secretary shall notify the testing laboratory that its accreditation has been terminated pursuant to its request.

(d) A testing laboratory whose appli-

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these procedures shall in no way relieve such laboratories from the necessity of also observing and being in compliance with any existing Federal, State and local statutes, ordinances, and regulations that may be applicable to the operation of such laboratories, including consumer protection and antitrust laws.

(e) In carrying out the activities authorized by this section:

(1) No action will be taken or criteria developed that would prohibit the accreditation of a testing laboratory solely on the basis of that laboratory's association or nonassociation with manufacturing, distributing or vending organizations, or because the testing laboratory is a foreign firm;

(2) No action will be taken under this program to develop an administrative rule, a product standard, or a test method standard;

(3) No action will be taken under this program to modify an administrative rule, a product standard, or a test method standard where such a standard is in existence; and

(4) The Secretary, under this program, will not ask for or accept confidential business data, trade secrets or other proprietary information.

§ 7B.8 Publication of proposed criteria.

(a) Upon its development of the general and specific criteria for accrediting testing laboratories under § 7B.7, the requesting Federal agency where it has elected to recommend general and specific criteria to the Secretary, or the Criteria Committee shall forward its recommendations for such criteria to the Secretary for consideration. The Secretary, after consideration of such recommendations (see § 7B.5(c)), will publish in the FEDERAL REGISTER a notice giving the complete text of the proposed general and specific criteria, and inviting any interested persons to submit written comments on such proposed criteria within sixty (60) days after such publication in the FEDERAL REGISTER, unless another time limit is provided by the Secretary.

(b) Interested persons wanting to express their views in an informal hearing shall notify the Secretary of that desire within twenty (20) days after such proposed criteria are published in the FEDERAL REGISTER. Upon receipt by the Secretary of such request, informal public hearings shall be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate by the Secretary, such hearings will be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearings shall be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be kept of any oral presentation.

(1) All written and oral comments that are furnished in response to the invitation made by this notice will be filed in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230, and will be available for public inspection and copying at that location.

(c) The Secretary upon receipt of all written and oral comments will ask the requesting Federal agency, in those cases where it has recommended general and specific criteria to the Secretary, or the Government or National Laboratory Accreditation Criteria Committee, to conduct and return to the Secretary in writing, within a time period specified by the Secretary, its evaluation and recommendations with respect to such comments. After considering such evaluation and recommendations, and after consultation with the requesting Federal agency, the Secretary will publish in the FEDERAL REGISTER a notice:

(1) Announcing the final general and specific criteria that testing laboratories must meet in order to be accredited and the date when such final criteria shall go into effect which shall not be less than sixty (60) days after the date of publication of such notice;

(2) Stating that the proposed general and specific criteria will be further developed before final publication; or

(3) Withdrawing the proposed general and specific criteria from further consideration.

§ 7B.9 Coordination with Federal agencies.

As a means of assuring effective and meaningful cooperation, input, and participation by those Federal agencies that have an interest in and may be impacted by the laboratory accreditation program carried out under these procedures, the Secretary shall undertake to communicate and consult with appropriate officials within those agencies. The coordination efforts will include opportunities for representatives designated by those agencies to serve on each Criteria Committee established by the Secretary in which those agencies have an interest.

§ 7B.10 Establishment of fees and charges.

(a) The Secretary in conjunction with the use of the Working Capital Fund of the National Bureau of Standards, as authorized by section 12 of the Act of March 3, 1901, as amended (15 U.S.C. 278b), or any similar financial arrangement for this program, shall establish fees and charges for examining, accrediting, and auditing testing laboratories. The fees and charges established by the Secretary, which may be revised when the Secretary deems it appropriate to do so, shall be in amounts calculated to enable the self-sufficiency of this program. A separate notice will be published in the FEDERAL REGISTER simultaneously with the notice of proposed general and specific criteria referred to in § 7B.8(a). Such notice will set out a schedule of estimated fees and charges the Secretary proposes to establish. The notice would be furnished for information and guidance purposes only in order that the public may evaluate the proposed criteria in light of the expected fees to be charged.

(b) At such time as the Secretary publishes the notice announcing the final general and specific criteria referred to in § 7B.8(c)(1), the Secretary shall also simultaneously publish a separate notice in the FEDERAL REGISTER setting forth the final schedule of fees that will be charged testing laboratories that serve a specific product. The effective date of such final schedule of fees shall be the same as the date on which the final general and specific criteria are to take effect.

(c) Revisions, if any, to the fees and charges established by the Secretary under paragraph (b) of this section shall be published in subsequent FEDERAL REGISTER notices and shall take effect not less than thirty (30) days after the date of publication of such notice. Mention of such revisions shall also be published in the appropriate quarterly reports referred to in § 7B.17(a).

§ 7B.11 Participation of testing laboratories.

(a) Each testing laboratory serving a product for which final general and specific criteria have been promulgated under § 7B.8(c)(1), and desiring to be accredited under this program, will notify the Secretary of its desire pursuant to the provisions of such criteria.

(b) After receipt and evaluation of the testing laboratory's application and information contained therein, the Secretary shall, upon the acceptance thereof, notify the applicant testing laboratory and the National Bureau of Standards in writing of the specific applicable examination requirements for accreditation and the fees and charges for such examination and accreditation. If the application is not accepted, the Secretary shall notify the applicant testing laboratory of the reasons for rejection of its application, and such testing laboratory may reapply under § 7B.13(d) after correcting the deficiencies set out in the Secretary's notification of rejection. Alternatively, the applicant testing laboratory shall have thirty (30) days to request a hearing pursuant to 5 U.S.C. 556. In the event, however, that the applicant testing laboratory requests a hearing within that thirty (30) day period the Secretary's rejection shall be stayed until the hearing held pursuant to 5 U.S.C. 556.

(c) A testing laboratory desiring to be accredited under this program to serve the product identified by the Secretary under § 7B.4(b) in accordance with the administrative rules, standards, and test methods identified must meet the general and specific criteria promulgated by the Secretary.

(d) Upon receipt by the National Bureau of Standards of the applicant testing laboratory's written response pertaining to the specific applicable examination requirements and of the fees and charges specified in paragraph (b) of this section, the National Bureau of Standards, on behalf of the Secretary, will arrange for by contract or will itself conduct the examination in accordance with the examination requirements of the Secretary. In all cases where testing laboratories are examined, the National Bureau of Standards will assure that the personnel used by the contractor or by the National Bureau of Standards possess the professional and technical qualifications set out in the specific criteria promulgated under § 7B.8(c)(1). If the National Bureau of Standards conducts the examination, the resultant examination report will be forwarded to the Secretary. In cases where the examination report is prepared by a contractor, the National Bureau of Standards, before making payment thereunder or forwarding the report to the Secretary, will review the report to assure that the contract terms have been fulfilled.

(e) The Secretary, after reviewing the examination report furnished under paragraph (d) of this section, will make a determination granting or proposing to deny accreditation to the applicant testing laboratory, not later than twenty (20) working days following the date on which the report is received. If the determination is not made within such time limit, the Secretary shall notify the applicant testing laboratory in writing of the reasons for the delay. Upon making such determination, the Secretary will notify the testing laboratory in writing of its accreditation status. If the Secretary proposes to deny accreditation to an applicant testing laboratory, the notification will state the reasons for such proposed denial.

(f) If an applicant testing laboratory is notified by the Secretary of a proposal to deny accreditation, the testing laboratory shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed denial shall become final through the issuance of a written decision to the applicant in the event that the applicant does not appeal such notification by the end of that thirty (30) day period. In the event, however that the applicant testing laboratory requests a hearing within that thirty (30) day period, the Secretary's proposed denial shall be stayed until the hearing held pursuant to 5 U.S.C. 556.

§ 7B.12 Reference to accredited status.

Except as limited under § 7B.7(c)(3), a testing laboratory accredited under this program may use the following statement on its letterheads and in professional, technical and trade publications: "Accredited by the Department of Commerce, National Laboratory Accreditation Program for (appropriate wording as authorized by the Secretary's notification under § 7B.11(e))."

§ 7B.13 Revocation or termination of accreditation of a testing laboratory.

(a) If the Secretary finds that a testing laboratory which has previously been accredited violated the terms of its accreditation or the provisions of these Part 7B procedures, after consultation with such testing laboratory, the Secretary shall nofity that testing laboratory of the revocation of its accreditation.

(b) Upon receipt of a notice from the secretary of the proposed revocation, which notice shall set forth the reasons for such proposed revocation, the accredited testing laboratory shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed revocation shall become final through the issuance of a written decision to the testing laboratory in the event that such testing laboratory does not appeal the proposed revocation within that thirty (30) day period. In the event, however, that the accredited testing laboratory requests a hearing within that thirty (30) day period, the Secretary's proposed revocation shall be stayed at least until the hearing is held pursuant to 5 U.S.C. 556.

(c) A testing laboratory may at any time terminate its participation and responsibilities under this NVLAP Part 7B program or withdraw its application for accreditation by giving written notice to the Secretary. Upon receipt by the Secretary of such notice, the Secretary shall terminate further processing of the testing laboratory's application for accreditation. If such testing laboratory has been accredited, the Secretary shall terminate that testng laboratory's accreditation. The Secretary shall notify the testing laboratory that its accreditation has been terminated pursuant to its request.

(d) A testing laboratory whose application has been rejected or whose accreditation has been denied, revoked or terminated or which has withdrawn its application prior to being accredited may reapply for and be accredited if it meets the applicable general and specific criteria promulgated by the Secretary under § 7B.8(c)(1) and agrees also to meet the conditions set out under § 7B.7(c) and the provisions of § 7B.12.

§ 7B.14 Cessation of accreditations.

(a) The Secretary shall cease the accreditation of testing laboratories that serve a specific product if requested to do so by the Federal agency which requested the program if such agency makes a determination that the program is no longer needed. Such request, however, may not be made if the program has been in existence for less than 1 year after publication of the final accreditation criteria. The determination that the program is no longer needed shall be submitted to the Secretary in writing and shall set forth the requesting agency's reasons for causing the Secretary to cease accreditation through this NVLAP. Termination of the program will occur 60 days after the Secretary has published in the FEDERAL REGISTER a notice of such determination.

(b) If the Secretary ceases the accreditation of testing laboratories that serve a specific product as provided in this section, accreditation issued to all those testing laboratories serving the same specific product before termination of the program has occurred shall continue for the remainder of the period for which accreditation has been granted.

§ 7B.15 Refund of fees and charges.

(a) If a testing laboratory withdraws its application for accreditation after it has submitted the required examination fees and provides written notice to the Secretary of such withdrawal prior to the issuance of an accreditation of the denial thereof, the testing laboratory will be refunded such fees except for the application fee, if any, and for any other costs that have been incurred relative to its application.

(b) If a testing laboratory terminates its participation and responsibilities under this Part 7B program at any time after it has been accredited or after it has been notified by the Secretary that it is not being accredited, no part of the fees and charges paid by the testing laboratory will be refunded.

(c) If the accreditation of a testing laboratory is revoked by the Secretary under § 7B.13, no part of the fees and

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charges paid by the testing laboratory will be refunded.

(d) If the Secretary ceases the accreditation of testing laboratories that

§ 7B.18 Support function.

The Secretary is authorized to make provisions for administrative and tech-

days. Public comment is invited. Such comments or views will be considered by the Commission and will be availa-

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

a civil penalty in the amount provided by law for each violation of the order after it becomes final.

of paper which does not contain the consumer credit agreement:

NOTICE

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charges paid by the testing laboratory will be refunded.

(d) If the Secretary ceases the accreditation of testing laboratories that serve a specific product under § 7B.14 and withdraws the accreditation of a testing laboratory to test a specific product under that section, no part of the fees and charges paid by the testing laboratory will be refunded as the testing laboratory will have been allowed to continue its accredited status for the period for which it had paid fees.

§ 7B.16 Amendment or revision of criteria.

The Secretary, the requesting government agency in those cases where it recommended general and specific criteria to the Secretary, or a Criteria Committee acting at the request of the Secretary, may undertake the development of amendments or revisions of any applicable general or specific criteria previously promulgated by the Secretary by following the same procedures pertaining to the original development of such criteria.

§ 7B.17 User information and reports.

(a) For each specific product for which a NVLAP Part 7B accreditation exists, the Secretary will publish a quarterly report noting all actions regarding such matters as accreditations, revocations, the establishment of fees and charges, the promulgation of general and specific criteria and any amendments or revisions to such criteria. Such publications shall clearly state that testing laboratories accredited by the Secretary under these procedures are in no manner immune from the necessity of being in compliance with all legal obligations and responsibilities imposed by existing Federal, State, and local laws, ordinances, and regulations, including those related to consumer protection and antitrust prohibitions.

(b) The Secretary will also prepare an annual report summarizing all activities carried out under these procedures which shall include a listing of all testing laboratories accredited by the Secretary during the year to which the annual report relates.

(c) As a means of giving prompt notice to the public of accreditation action taken, the Secretary shall, in addition to the reports called for under this section, publish in the FEDERAL REGISTER all actions taken during the preceding month which grant, revoke, terminate or result in the withdrawal of the accreditation of a testing laboratory. Such notice shall include the name and address of the testing laboratory concerned, and a brief explanation of the action taken by the Secretary with respect to that laboratory.

§ 7B.18 Support function.

The Secretary is authorized to make provisions for administrative and technical support and staff services as may be needed to carry out this program. The Secretary is also authorized to negotiate for and use funds of the requesting Federal agency as such funds are authorized for use by the requesting agency.

[FR Doc. 78-30203 Filed 10-24-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 752 3050]

KELCOR CORP., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Dallas, Tex. finance company to cease, in connection with the extension of consumer credit, failing to compute finance charges and provide relevant disclosures in the manner and form required by Federal Reserve System regulations.

DATE: Comments must be received on or before December 22, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FUTHER INFORMATION CONTACT:

Juereta P. Smith, Regional Director, Dallas Regional Office, Federal Trade Commission, 2001 Bryan Street, Suite 2665, Dallas, Tex. 75201. 214-749-3056.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[6750-01-M]

[File No. 752 3050]

Agreement Containing Consent Order To Cease and Desist

In the matter of Kelcor Corp., a corporation, and C. K. Wingo, individually and as an officer of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Kelcor Corp., a corporation, and C. K. Wingo, individually and as an officer of said corporation, and it now appearing that Kelcor Corp. a corporation, and C. K. Wingo, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Kelcor Corp., a corporation, by its duly authorized officer and C. K. Wingo, individually and as an officer of said corporation, their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Kelcor Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 907< Hedrick Building, San Antonio, Tex.

Proposed respondent Kelcor Corp. does not engage in any consumer loan transactions itself, but operates through wholly-owned subsidiary offices located in the States of Texas, Louisiana and Oklahoma. Each subsidiary is incorporated in the respective State in which it is located under such names as Family Plan Corp., Credit Plan Corp., Credit Plan Corp. of Houston, Credit Plan Corp. of Corpus Christi, Credit Plan Corp. of Fort Worth, Mutual Plan Corp., Mutual Plan of Tulsa, Inc., or Mutual Plan Corp. of Shreveport.

Proposed respondent C. K. Wingo is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of Kelcor Corp. and its subsidiaries. His address is the same as that of the corporate respondent.

Proposed respondents, Kelcor Corp. and C. K. Wingo formulate, direct and control the policies, acts and practices of each of the wholly-owned subsidiaries.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the sixty (60) day period, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It is ordered, That respondents Kelcor Corp., a corporation, its successors and assigns, and its officers, and C. K. Wingo, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the granting of consumer loans or with any other extension of consumer credit or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to include and to itemize in the Truth in Lending disclosure statement the amount of charges for credit life, accident, health or loss of income insurance as part of the finance charge, unless the amount of such charges is excluded from the finance charge because of the option available pursuant to § 226.4(a)(5) of regulation Z and disclosures are made in accordance with paragraph 2 following. In the event such charges are included in the finance charge, respondents shall make the following disclosure clearly and conspicuously on the disclosure statement on the front side of the page and immediately above or adjacent to the blank for the consumer's signature which consummates the loan transaction. Said disclosure shall be in the following form and set off from the text of the instrument by a black border:

NOTICE

The charges for credit life, accident, health or loss of income insurance [as applicable] are included in the finance charge. As a result, the annual percentage rate for your loan is higher than it would be if such charges were not included.

2. Offering or presenting to any consumer optional credit life, accident, health or loss of income insurance where respondents seek to invoke the elections provided by section 226.4(a)(5) of regulation Z unless respondents:

A. Read to each consumer at the time of the first personal meeting the following statement. A copy of the statement shall be given to the consumer simultaneously therewith. It shall be printed in a clear and conspicuous manner in 12-point boldfaced type on one side of a single sheet of paper which does not contain the consumer credit agreement:

NOTICE

Credit life, accident, health or loss of income insurance is entirely optional. You are not required to buy any such insurance to obtain a loan and your choice regarding insurance coverage will not be considered in our decision on approving a loan.

B. Retain a copy of the statement, signed and dated by the consumer and the employee who reads the statement to the consumer, for a period of two (2) years from the date shown thereon and provide a copy of said executed statement to the consumer at the time of the first personal meeting.

C. Present to the consumer as the first document at the time of consummating the loan or other consumer credit transaction a separate, written insurance authorization form which sets forth clearly and conspicuously that:

(i) The consumer has received credit approval up to a specified amount;

(ii) The consumer's decision with regard to the insurance available through respondents is not considered in granting the credit;

(iii) Insurance is optional and is not required to obtain the loan;

(iv) The amount of the total charge for credit life insurance, the total charge for credit accident and health insurance and/or the total charge for loss of income insurance along with the net proceeds payable in each instance;

(v) The monthly payments which would result from the consumer's election to take the loan, set forth in the following order from left to right across the document: (1) Without credit life, accident and health or loss of income insurance; (2) with credit life insurance only, (3) with credit accident and health insurance only, (4) with loss of income insurance only and (5) with credit life, accident and health and loss of income insurance; and, if applicable, (6) with other available forms of credit insurance; and

(vi) A blank signature and date line for each option set forth in (v) above for the consumer to indicate his election.

(vii) The borrower authorizes respondents on behalf of the borrower to pay the insurance premiums to the insurance company for such personal insurance which has been chosen.

D. Make the disclosures in the manner and form required by subparagraph C above on a separate document which contains no other printed or written material. The disclosures required by subparagraphs (i), (ii) and (iii) above shall not be smaller than 12-point type. A form in conformance with attachment A herein will be con-

sidered as in compliance with disclosure provisions of this subparagraph and subparagraph C. Respondent shall provide the consumer with an executed copy of the statement required by this subparagraph.

II

It is further ordered, That respondents Kelcor Corp., a corporation, its successors and assigns, and its officers, and C. K. Wingo, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the granting of consumer loans or with any other extension of consumer credit or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to include and to itemize in the Truth in Lending disclosure statement the amount of charges for credit life, accident, health or loss of income insurance as part of the finance charge, unless the amount of such charges is excluded from the finance charge because of the option available pursuant to § 226.4(a)(5) of regulation Z and disclosures are made in accordance with paragraph 2 following. In the event such charges are included in the finance charge, respondents shall make the following disclosure clearly and conspicuously on the disclosure statement on the front side of the page and immediately above or adjacent to the blank for the consumer's signature which consummates the loan transaction. Said disclosure shall be in the following form and set off from the text of the instrument by a black border:

NOTICE

The charges for credit life, accident, health or loss of income insurance [as applicable] are included in the finance charge. As a result, the annual percentage rate for your loan is higher than it would be if such charges were not included.

2. Offering or presenting to any consumer optional credit life, accident, health or loss of income insurance where respondents seek to invoke the elections provided by section 226.4(a)(5) of regulation Z unless respondents:

A. Read to each consumer at the time of the first personal meeting the following statement. A copy of the statement shall be given to the consumer simultaneously therewith. It shall be printed in a clear and conspicuous manner in 12-point boldfaced type on one side of a single sheet of paper which does not contain the consumer credit agreement:

NOTICE

Credit life, accident, health or loss of income insurance is entirely optional. You are not required to buy any such insurance to obtain a loan and your choice regarding insurance coverage will not be considered in our decision on approving a loan.

B. Retain a copy of the statement, signed and dated by the consumer and the employee who reads the statement to the consumer, for a period of two (2) years from the date shown thereon and provide a copy of said executed statement to the consumer at the time of the first personal meeting.

C. Present to the consumer as the first document at the time of consummating the loan or other consumer credit transaction a separate, written insurance authorization form which sets forth clearly and conspicuously that:

(i) The consumer has received credit approval up to a specified amount;

(ii) The consumer's decision with regard to the insurance available through respondents is not considered in granting the credit;

(iii) Insurance is optional and is not required to obtain the loan;

(iv) The amount of the total charge for credit life insurance, the total charge for credit accident and health insurance and/or the total charge for loss of income insurance along with the net proceeds payable in each instance;

(v) The monthly payments which would result from the consumer's election to take the loan, set forth in the following order from left to right across the document: (1) Without credit life, accident and health or loss of income insurance; (2) with credit life insurance only, (3) with credit accident and health insurance only, (4) with loss of income insurance only and (5) with credit life, accident and health and loss of income insurance; and, if applicable, (6) with other available forms of credit insurance; and

(vi) A blank signature and date line for each option set forth in (v) above for the consumer to indicate his election.

(vii) The borrower authorizes respondents on behalf of the borrower to pay the insurance premiums to the insurance company for such personal insurance which has been chosen.

D. Make the disclosures in the manner and form required by subparagraph C above on a separate document which contains no other printed or written material. The disclosures required by subparagraphs (i), (ii) and (iii) above shall not be smaller than 12-point type. A form in conformance with attachment A herein will be given to a consumer pursuant to section II of this order.

[6750-01-M]

Kelcor Corp. and C. K. Wingo

also be informed that such insurance, if required, may result in a higher annual percentage rate for the loan. If

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sidered as in compliance with disclosure provisions of this subparagraph and subparagraph C. Respondent shall provide the consumer with an executed copy of the said insurance authorization form at the time a loan or other consumer credit transaction is consummated. Respondents shall retain a copy of said form for a period of two (2) years following its execution and make such copy available to the Federal Trade Commission or its staff for inspection and copying on request.

E. Cease and desist from:

(i) Failing to leave the Truth in Lending disclosure statement blank as to the cost of credit life, accident, health or loss of income insurance and all other information or amounts which are effected by the election or declination of insurance until the consumer has signed the written insurance authourization form required by subparagraph C above electing the insurance coverage.

(ii) Making any marks or otherwise instructing a consumer where to sign or date the separate insurance authorization form required by subparagraph C above in advance of the consumer's free and independent choice for such insurance.

(iii) Representing, by any means, that credit life, accident, health or loss of income insurance is required to obtain an extension of credit from respondents.

(iv) Discouraging by any means the declination of credit life, accident, health or loss of income insurance.

3. Offering or presenting to any consumer the "Cash Benefit Hospital Policy" or any insurance other than credit life, accident, health, loss of income or property insurance without including the charge therefor in the finance charge.

4. Failing to tell every consumer the purpose(s) of each signature requested by respondents on any document relating to a consumer credit transaction.

5. Supplying, orally or in writing, any information to a consumer which misleads or confuses the consumer, or which contradicts, obscures or detracts from the information to be disclosed by section I of this order or by regulation Z.

6. Failing to compute and disclose accurately the finance charge, as required by §§ 226.4 and 226.8 of regulation Z.

7. Failing to compute and disclose accurately the annual percentage rate to the nearest quarter of 1 percent as required by §§ 226.5 and 226.8 of regulation Z.

8 Failing in any consumer credit transaction or advertisement to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, and 226.10 of regulation Z.

II

It is further ordered, That respondents Kelcor Corp., a corporation, its successors and assigns, and its officers, and C. K. Wingo, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of household goods—fire insurance or other property insurance incident to any extension of consumer credit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Failing to include and to itemize the amount of charges for household goods—fire insurance or other property insurance as part of the finance charge, unless the amount of such premiums or charges are excluded from the finance charge as allowed by § 226.4(a)(6) of regulation Z. In the event such insurance charges are included in the finance charge, respondents shall make the following disclosure clearly and conspicuously on the side of the page and above or adjacent to the place for the consumer's signature. Said disclosure shall be in the following form and set off from the text of the instrument by a black border:

NOTICE

The charges for household goods—fire insurance or other property insurance are included in the finance charge. As a result, the annual percentage rate for your loan is higher than it would be if such charges were not included.

2. Offering or presenting to any consumer household goods—fire insurance or other property insurance unless respondents:

A. Present to the consumer at the time of consummating the loan or other consumer credit transaction a separate, written insurance authorization form which sets forth clearly and conspicuously that:

(i) The consumer's decision of whether to purchase insurance from or through respondents is or is not considered (as applicable) in granting the credit;

(ii) Household goods—fire insurance or other property insurance is or is not required (as applicable) to obtain the loan;

(iii) The total premium for household goods—fire insurance or any other property insurance along with the net proceeds payable;

(iv) The consumer may or may not elect (as applicable) to purchase property insurance through or from respondents;

(v) The consumer may or may not elect (as applicable) to furnish respondents with an existing property insurance policy or one purchased through a third party together with a loss payable clause or endorsement naming respondents as loss payee;

(vi) The consumer has ten (10) days from the date of disclosure to exercise the election, if any, disclosed in accordance with subparagraphs 2(A)(iv) and 2(A)(v) of section II of this order;

(vii) In the event such insurance is not required, a signature and date line for the consumer to indicate his election; and

(viii) In the event such insurance is required, a signature and date line for the consumer to indicate that he has read the disclosures.

B. Make the disclosures in the manner and form required by subparagraph A above on a separate document which contains no other printed or written material. The said disclosures shall not be smaller than 12-point type. Disclosures given in the form of attachment B herein will be considered as in compliance with the disclosure provisions of this subparagraph and subparagraph A. Respondents shall provide the consumer with an executed copy of the said insurance authorization form at the time the loan or other consumer credit transaction is consummated. Respondents shall retain a copy of said form for a period of two (2) years from the date shown thereon and make such copy available to the Federal Trade Commission or its staff for inspection and copying upon request.

C. In the event that household goods—fire insurance is optional, cease and desist from:

(i) Making any marks or otherwise instructing a consumer where to sign or date the separate insurance authorization form required by subparagraph A above in advance of the consumer's free and independent choice for such insurance.

(ii) Representing, by any means, that household goods—fire insurance or any other property insurance is required to obtain an extension of credit from respondents.

(iii) Discouraging by any means the declination of household goods—fire insurance or other property insurance.

3. Failing to tell every customer the purpose(s) of each signature requested by respondents on any document relating to a consumer credit transaction.

4. Supplying, orally or in writing, any information to a consumer which misleads or confuses the consumer, or which contradicts, obscures or detracts from the information required to be given to a consumer pursuant to section II of this order.

III

It is further ordered, That whenever a credit transaction is principally conducted in a language other than English, e.g., Spanish, that any disclosures required by paragraphs I or 2 of sections I and II of this order be given in the form and manner prescribed therein but in the same language as that principally used in the credit transaction with the consumer.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of the corporate respondent at its general offices in San Antonio and in each of its subsidiary offices engaged in any extension of consumer credit, and that respondents secure a signed statement acknowledging receipt of said copy of this order from each such person and retain said statement for a period of not less than two (2) years from the date of execution.

It is further ordered, That the corporate respondent notify the Commission within thirty (30) days of any change in the corporate respondent which may affect compliance obligations with regard to the extension of consumer credit arising out of this order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his employment with Kelcor Corp. or its subsidiaries, and of his affiliation with another business or employment. In addition, the individual respondent named herein shall promptly notify the Commission of his affiliation with another business or employment whose principal activities include the granting of consumer loans or any extension of consumer credit or advertising to aid, promote or assist directly or indirectly any extension of consumer credit or his affiliation with another business or employment in which his own duties and responsibilities involve the granting of consumer loans or any extension of consumer credit or advertising to aid, promote or assist directly or indirectly any extension of consumer credit. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

[6750-01-M]

KELCOR CORP. AND C. K. WINGO

[File No. 752 3050]

ANALYSIS OF PROPOSED CONSENT AGREEMENT TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Kelcor Corp. and C. K. Wingo, individually and as an officer of said corporation.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of views and comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the consent order in light of the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Kelcor Corp. and C. K. Wingo, hereinafter referred to a respondents, are in the business of extending credit to consumers in the States of Texas, Louisiana and Oklahoma. In connection with such extensions of credit, respondents sell credit life and accident and health insurance to borrowers as well as property insurance and hospitalization insurance.

The complaint alleges that respondents require borrowers to buy credit life and accident and health insurance without including the charge for such insurance in the finance charge. The Truth in Lending Act requires that all charges for credit insurance imposed by the creditor be included in the finance charge unless the insurance coverage is voluntary. The complaint alleges that as a result of respondents' practices, the credit insurance is in fact required although language to the contrary exists in the Truth in Lending disclosure statement.

Similar allegations are made regarding the respondents' sale of property insurance. Although the law allows respondents to require such insurance the law also allows borrowers to choose the person through whom they wish to purchase the insurance. The complaint alleges that, despite language to the contrary in the Truth in Lending disclosure statement, borrowers are required to purchase insurance through respondents.

To eliminate the practices in regard to the insurance coverages outlined above, the order provides that borrowers be given an oral disclosure as well as clear and conspicuous written disclosures about the credit life and accident and health insurance and property insurance offered by respondents. Borrowers must be informed that such insurance is required or that it is voluntary, as the case may be. They must also be informed that such insurance, if required, may result in a higher annual percentage rate for the loan. If such insurance is voluntary, each borrower must sign a separate insurance authorization form electing the insurance. In this manner, a borrower will be adequately informed about the cost of credit being offered by respondents and have the opportunity to determine whether credit may be obtained elsewhere at a lower cost.

Another portion of the complaint charges respondents with violating the Truth in Lending Act and regulation Z by failing to include in the finance charge the premium for hospitalization insurance sold in connection with a substantial number of consumer credit transactions. According to § 226.4(a) all charges incident to the credit transaction must be included in the finance charge except charges for credit life and accident and health and property insurance that may be excluded pursuant to §§ 226.4(a)(5) and 226.4(a)(6) of regulation Z. Since the cash benefit hospitalization policy being offered is not credit insurance subject to the specific exclusions of § 226.4 the charge for such insurance must be included in the finance charge. The order therefore requires that respondents include the premium for the cash benefit hospitalization policy in computing the finance charge and the annual percentage rate or that such insurance not be offered incident to the credit transaction. Inclusions of the premium for the hospitalization insurance would result in a significant increase in the finance charge expressed as an annual percentage rate. Therefore, if respondents continue to offer the cash benefit hospitalization policy, borrowers will have an opportunity to decide whether respondents' charge for credit is competitive.

Other provisions in the proposed order require that respondents take no action which detracts from the order and the disclosure provision provided therein or take any action which discourages the declination of insurance in the event such insurance is optional. Respondents must also tell every borrower the purpose of each signature requested by respondents on any documents relating to a consumer credit transaction.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the proposed order or to modify in any way the terms of the proposed order.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc. 78-30116 Filed 10-24-78; 8:45 am]

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[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4400]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Frederick, Weld County, Colo.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 38420 of the FEDERAL REGISTER of August 28, 1978.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

Due to a clerical error the following correction is made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tri Area Drainageway.	First Street	4970

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30083 Filed 10-24-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4417]

NATIONAL FLOOD INSURANCE

Proposed Flood Elevation Determinations for the Town of Herndon, Fairfax County, Va.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on August 29, 1978, at 43 FR 38596 in the FEDERAL REGISTER, and in the *Reston Times* on August 24, and August 31, 1978, describing Young Avenue at confluence of Spring Branch under Folly Lick Branch in Herndon as being 317 feet, should be corrected to read: Young Avenue, 312 feet; and Confluence of Spring Branch, 317 feet.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30082 Filed 10-24-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-287-76]

INCOME TAX

Tax Treatment of Cemetery Perpetual Care Funds; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to tax treatment of cemetery perpetual care funds.

DATES: The public hearing will be held on November 29, 1978, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by November 14, 1978.

ADDRESS: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. the outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-287-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 642(j) of the Internal Revenue Code of 1954. The proposed regulations appeared in the FEDERAL REGISTER for Wednesday, August 2, 1978, at page 33936 (43 FR 33936).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by November 14, 1978. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restriction, attendees can not be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

By direction of the Commissioner of Internal Revenue.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 78-30181 Filed 10-24-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 993-8]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Approval of an Administrative Order Issued by State of Colorado to Public Service Co. of Colorado, Denver, Colo.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the State of Colorado, through the Air Pollution Variance Board, to Public Service Co. of Colorado (PSCC) at its Arapahoe generating station in Denver, Colo. The order requires PSCC to bring its air emissions from units 3 and 4 into compliance with certain regulations contained in the federally approved Colorado State implementation plan (SIP) by June 15, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by this order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 24, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colo. 80295. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTRACT:

Mr. C. A. Baldwin, Enforcement Division, EPA, Region VIII, 1860 Lincoln Street, Denver, Colo. 80295, telephone 303-837-2361.

SUPPLEMENTARY INFORMATION: The order under consideration is set forth after the signature line below.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has preliminarily determined that the order complies with those requirements, but specifically requests public comment on those matters.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Colorado SIP.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

All interested persons are invited to submit written comments on proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. Final approval or disapproval will also be published in the FEDERAL REGISTER.

Dated: October 6, 1978.

ALAN MERSON,
Regional Administrator, Region VIII.

BEFORE AIR POLLUTION VARIANCE BOARD, STATE OF COLORADO, COLORADO DEPARTMENT OF HEALTH, DIVISION OF ADMINISTRATION

PUBLIC SERVICE CO. OF COLORADO, ARAPAHOE STATION—FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

This matter was heard by the Colorado Air Pollution Variance Board (hereinafter "the Board") at its scheduled meeting on July 20, 1978, at the Colorado Department of Health Building, Denver, Colo. The hearing was conducted at the request of the Public Service Co. of Colorado (hereinafter "the petitioner") for the purpose of determining whether this Board should grant an order authorizing a specific period of variance from the provisions of regulation No. 1, section I.A.1., of the Air Pollution Control Commission for the purpose of petitioner's installation of control equipment. Such installation is to be upon an express timetable and schedule and is to accomplish compliance of petitioner's Arapahoe Steam Electric Generating Station's west stack for boiler units 3 and 4 with the above-referenced regulations.

A quorum of the Variance Board was present during the entire hearing and participated in deliberation and voting on this matter with Mr. Heaton, Chairman, presiding.

FINDINGS OF FACT

In accord with the full and complete agreement of parties and based upon the evidence presented at and during the hearing on July 20, 1978, a record of the proceedings having been duly recorded and compiled by a certified shorthand reporter (which record is available to any party and for review by any member of the public, in accord with C.R.S. 1973, 25-7-116(3)), the Board has made the following findings of fact in support of its decision:

1. The petitioner's west boiler stack (units 3 and 4) at Arapahoe Station, located at 2601 South Platte River Drive in Denver, Colo., was in violation of the Commission's regulation No. 1, section I.A.1., as alleged in the cease and desist order issued by the Division on March 21, 1978. This finding is supported by petitioner's stipulation as to the validity and propriety of the Division's cease and desist order.

2. Petitioner's Arapahoe Station west boiler stack is not capable of compliance with applicable emission control regulations without modification and installation of control equipment. This finding is supported by petitioner's stipulation thereto and by inspections and evaluations conducted by the Division.

3. Petitioner desires the grant of a variance for the purpose of installing sufficient control equipment at its Arapahoe Station to accomplish compliance of the west boiler stack with all applicable rules and regulations of the Colorado Air Pollution Control Commission and further desires to take such steps as may be necessary to assure that this order of the Board is sufficient to meet all requirements of section 113(d) of the Federal Clean Air Act, as amended (42 U.S.C. 7413(d)) ("delayed compliance order"). This finding is supported by petitioner's stipulation thereto.

CONCLUSIONS OF LAW

In the course of its deliberations and ancillary to its findings and decision in this matter, the Board has made the following conclusions of law:

1. That the Colorado Air Pollution Variance Board has authority to accept, review, and grant or deny requests for hearings regarding requested variances and that it has the power to hold such public hearings, receive pertinent and relevant proof, rule on objections and motions, and do such other things as it deems necessary, proper, or desirable in order to effectively discharge its duties and responsibilities under article 7 of title 25, C.R.S. 1973, all on conformity with that statute and with article 4 of title 24, C.R.S. 1973. In the course of such a hearing, the Board has specific authority to determine whether alleged violations of emission control regulations exist or did exist and to consider the granting of variances. (Sec. 25-7-113 and 25-7-115, C.R.S. 1973, as amended.)

2. That in the course of performing duties and exercising responsibilities delegated to this Board, a hearing afforded petitioner was conducted in accord with procedural requirements of Procedural Rules for Proceedings Before the Air Pollution Control Commission and the Air Pollution Variance Board and the Colorado Administrative Procedure Act and all applicable provisions of the Colorado Air Pollution Control Act. The decision of the Board, set forth below, is based upon substantial evidence presented at the hearing.

3. That as concerns violations alleged by the Division, the petitioner's west boiler stack at Arapahoe Station is subject to 20 percent opacity standard as set forth in the Commission's regulation No. 1, section I.A.1. In addition, there is no basis for applying the 40 percent opacity standard, regulation No. 1, section I.A.2.(3).

[1] Published at 43 FR 44522 (Sept. 28, 1978).

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4. That the Board, having determined violations to exist or have existed and having received a specific request for variance from

Start Installation of Opacity Monitor, May 15, 1979.

Completion of Monitor Installation, June

will be shutdown in order to install a new gas system on unit 4.

(c) An engineering evaluation on the half

decision: Thomas R. Heaton, Lewis H. Hoyle, M.D., A. George Setter, E. W. Karger, Thomas D. Smart, Jr., Michael L.

a rulemaking would be required to develop specific amendments to the Standards for Determining Commuter

manner consistent with the compensation principles in the Final System Plan and the concepts originally em-

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4. That the Board, having determined violations to exist or have existed and having received a specific request for variance from the petitioner, has authority to grant a variance to the petitioner with the express conditions pursuant to authority granted by C.R.S. 1973, section 25-7-115(4). Petitioner has the burden of proof with regard to the necessity of propriety of any such variance. The determination of this Board is final and effective on the date of the grant or denial of variance to the petitioner, subject to further action by the Commission pursuant to C.R.S. 1973, 25-7-116(9) or the grant of a hearing by this Board, either or both of which must occur within thirty (30) days from the date of such grant or denial of variance.

DECISION AND ORDER

Upon formal motion, the Air Pollution Variance Board finds the Public Service Co. of Colorado, Arapahoe Station west boiler stack, at Denver, Colo., is in violation of Air Pollution Control Commission regulation No. 1, section I.A.1., pursuant to the stipulation of Public Service Co. of Colorado, at Denver, and based upon the testimony and exhibits presented by the Colorado Department of Health, Air Pollution Control Division.

The Colorado Air Pollution Variance Board hereby grants to the petitioner a variance from the application of Commission regulation No. 1, section I.A.1., and from the enforcement of a cease and desist order issued by the Division on March 21, 1978, which order pertains to the petitioner's Arapahoe Station west boiler stack at Denver, Colo.

This variance is granted to allow for completion of construction and preliminary testing of a new fabric filter dust collector (baghouse) on Arapahoe unit no. 3 and the installation of a new flue gas conditioning system on Arapahoe unit No. 4. Petitioner shall employ its best efforts and proceed as expeditiously as practicable to achieve final compliance, but in no event shall petitioner fail to attain compliance with regulation No. 1, section I.A.1., on its west boiler stack by June 15, 1979. This variance shall expire on the date of attainment of compliance, but in no event later than June 15, 1979, and shall be subject to the following specific terms and conditions:

1. Petitioner will implement a schedule for construction and final compliance as follows:

UNIT 3 INSTALLATION OF FABRIC FILTER DUST COLLECTOR

ACTIVITY AND DATE
PSCC Initiation of Project, May 1977.
APCD Authorization for Project to Proceed, September 29, 1977.
Completion of Engineering, July 31, 1978.
Start of Structural Steel Shipments, September 1, 1978.
Start of FFDC Components Shipments, September 1, 1978.
Start of FFDC Erection, September 15, 1978.
Completion of Shipment of All Material, March 15, 1979.
Completion of Erection, April 1, 1979.
FFDC Start-Up and System Check-Out, April 1, 1979.
In-Service Date, May 1, 1979.
Start of Velocity Traverse Testing for Monitor Installation, May 1, 1979.
Start Installation of Opacity Monitor, May 15, 1979.
Completion of Monitor Installation, June 15, 1979.
Completion of Fabric Filter Performance Evaluation, June 15, 1979.
Final Compliance Date, June 15, 1979.

UNIT 4 MODIFICATION OF ELECTROSTATIC PRECIPTATOR GAS CONDITIONING SYSTEM

ACTIVITY AND DATE
PSCC Initiation of Project, June 1, 1978.
Purchase Opacity Monitor, June 15, 1978.
Start of System Fabrication, August 1, 1978.
Completion of Shipment of Opacity Monitor and Accessories, September 30, 1978.
Completion of System Engineering, October 1, 1978.
Start of System Installation, November 1, 1978.
Complete Installation of Opacity Monitor, Recorders and System Check-Out, November 30, 1978.
Completion of Shipment of Gas Conditioning System Materials, January 1, 1979.
Completion of Electrostatic Precipitator Gas Conditioning System Installation, February 1, 1979.
Start-Up and Check-Out of System, February 1, 1979.
In-Service Date, March 1, 1979.
Unit Performance Test Completion, April 1, 1979.
Final Compliance Date, April 1, 1979.

Quarterly progress reports shall be submitted to the Air Pollution Control Division and the Variance Board in a form prescribed by the Board, and the Board shall be given 4 weeks prior notice of any anticipated failure to meet schedule dates.

2. During the interim period prior to the final compliance date, the following measures will be undertaken by the petitioner:

(a) At the completion of the baghouse installation on unit 3, a new opacity monitor will be installed on unit 3 in accord with the aforementioned schedule. A new opacity monitor will be purchased and installed on unit 4 ductwork in accord with the aforementioned schedule. Petitioner will continue to report on a monthly basis to the Division data recorded by these systems in a format previously established by the Division and presently in use.

(b) Such operation measures as are considered practical and beneficial with respect to minimization of emissions shall be undertaken on a continuous basis. Such measures shall include, but not be limited to, the following:

(i) Units 3 and 4 precipitators and No. 4 scrubber shall be inspected on a daily basis and, if needed, adjusted for most efficient operation as per petitioner operating procedures as prescribed in a letter to John Clouse from George P. Green, attached hereto as appendix A. As a result of the maintenance inspection or at any time that a problem becomes evident with the precipitators, a station service request will be originated and maintenance action initiated immediately and continued on a 24-hour per day basis until the deficiency is corrected.

(ii) Daily operational procedures will include inspection and maintenance of ash handling system, precipitator rapper controls and operations, gas conditioning system operation, and scrubber. The present gas conditioning system should be maintained and operated during the interim period of variance, until such time that it will be shutdown in order to install a new gas system on unit 4.

(c) An engineering evaluation on the half wave versus full wave rectification of the unit 4 electrostatic precipitator shall be completed and a report will be prepared. The report is to be submitted to the Board and the Division no later than September 1, 1978.

In addition, an engineering evaluation of the effectiveness of the unit 4 electrostatic precipitator electrical controls shall be performed. This study is to be completed with a report presented to the Board and the Division by September 30, 1978. If the studies indicate significant improvements to the precipitator, and the petitioner and the Division agree, such controls and adjustments shall be completed by June 15, 1979. If the petitioner and the Division fail to agree, either party may petition the Board for a Hearing.

(d) Continue the evaluation and development program on the unit 4 scrubber grid sections. Such evaluation to include rubber covered grids installed in the 2d and 3d level of A module, 317 stainless steel grid bars installed in lower section of A and B module, and ceramic grid bars installed on the 3d level of B module, installation of new solid rubber vertical stage dividers of the two upper levels of the scrubber, continuation of scrubber ball evaluation with the purchase and installation of a new rubber nitrile ball.

3. Petitioner will comply to the best of its ability with the requirements of all applicable provisions of the State and Federal regulations regarding air pollution and is fully aware that if final compliance is not achieved by July 1, 1979, sanctions will be imposed by USEPA (United States Environmental Protection Agency) pursuant to section 120 of Federal Clean Air Act (42 U.S.C. 7420).

4. For purposes of insuring that this order of the Colorado Air Pollution Variance Board will be acceptable to the USEPA for approval and issuance pursuant to section 113(d) of the Federal Clean Air Act, as amended (42 U.S.C. 7413(d)), the petitioner has expressed its desire to and does formally:

(a) Waive any and all its rights provided under Colorado law for appeal of or challenge to the substantive merits of a cease and desist order issued March 21, 1978, by the Air Pollution Control Division, Colorado Department of Health, and to any and all associated rights and claims for administrative and judicial stay of said order.

(b) Waive any and all of its rights provided under Colorado law for appeal of or challenge to the substantive merits of any order issued by the Colorado Air Pollution Variance Board granting a variance in this matter, and to any and all associated rights for or claims to administrative or judicial stay of such order.

(c) These waivers are entirely voluntary on the part of the petitioner, but have been specifically relied upon by the Board in the consideration of this variance and therefore are included as specific conditions of such variance.

5. Should the petitioner, Public Service Co. of Colorado, Denver, fail to meet any of the above terms and conditions of this variance, the variance shall forthwith be rendered null and void in accord with the provisions of C.R.S. 1973, 25-7-115(4).

The following members of the Air Pollution Variance Board voted in favor of this decision: Thomas R. Heaton, Lewis H. Hoyle, M.D., A. George Setter, E. W. Karger, Thomas D. Smart, Jr., Michael L. Gilbert, Samuel E. Forbes.

The following members of the Air Pollution Variance Board voted against this decision:

Dated this 4th day of September 1978, *nunc pro tunc* to July 20, 1978.

AIR POLLUTION VARIANCE BOARD OF THE STATE OF COLORADO.

THOMAS R. HEATON,
Chairman.

[FR Doc. 78-29977 Filed 10-24-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1127]

[Ex Parte No. 293 (Sub-No. 8)]

STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Proposed Rulemaking

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On August 15, 1978, the Rail Services Planning Office (RSPO) issued Interpretation No. 9 relating to the "900-day option" under which a commuter authority could purchase certain lines from Consolidated Rail Corp. (ConRail) for commuter service. In Interpretation No. 9, we stated that a rulemaking would be required to develop specific amendments to the Standards for Determining Commuter Rail Service Continuation Subsidies and Emergency Operating Payments (Standards) that would be required to bring the language of the Standards in conformance with the conceptual issue resolved by the interpretation. Comments are invited on changes and proposed amendments to the Standards which are required to reflect the concept that the owner of a rail facility is the dominant user and should bear the base costs associated with that facility. Comments received earlier in response to our January 11, 1978, request for comments on the restatement of the Standards to conform with the new Uniform System of Accounts (USOA) will also be addressed in the report to the final rulemaking to be issued in this proceeding.

DATES: Comments may be filed on or before December 18, 1978.

ADDRESS: An original and six copies of any comments should be mailed to: Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036, Attn: Commuter Standards.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, Interstate Commerce Commission, 1900 L Street NW., Washington, D.C. 20036, 202-254-7552.

SUPPLEMENTARY INFORMATION: Interpretation No. 9 resolved the issues of the cost responsibilities of the parties at the conceptual level in a manner consistent with the compensation principles in the Final System Plan and the concepts originally embodied in the Standards. Several of the commuter authorities raised these issues while determining whether to exercise their "900-day option" to purchase certain rail lines from ConRail for commuter service.

RSPO invites interested parties to comment on any area of the Standards which they feel should be amended to reflect the concept expounded in Interpretation No. 9 to the Standards, which was issued August 15, 1978. In that interpretation, RSPO stated that the owner of a line is presumed to be the dominant user and shall bear the base costs associated with the line. In commenting on changes to the Standards, particular attention should be given to the speed factored gross tons formula, the return on investment portion of the Standards and related accounts, and any other area of the Standards where the base cost burden would be borne by the owner of the property as the principal user of that property.

Copies of Interpretation No. 9 are available from RSPO.

This decision does not significantly affect the quality of the human environment.

Issued October 19, 1978, by Richard J. Schiefelbein, Acting Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30182 Filed 10-24-78; 8:45 am]

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notices

organize the work schedule for the coming year.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Police-Community Relations in Memphis," to discuss National and SAC programing for fiscal year 1981.

This meeting will be conducted pur-

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 30699]

OAKLAND SERVICE CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 28, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues, (2) proposed stipulations, (3) proposed requests for information and for evidence, (4) statements of positions, and (5) proposed procedural dates. The Bureau of Pricing and Domestic Aviation will circulate its material on or before November 6, 1978, and the other parties on or before November 17, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated: Washington, D.C., October 20, 1978.

ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc. 78-30180 Filed 10-24-78; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

CALIFORNIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the California Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 11 p.m. November 17, 1978; 9 a.m. to 3 p.m. November 18, 1978, at Peppertree Inn, 3850 State Street, Santa Barbara, Calif. 93105.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, Calif. 90012.

The purpose of this meeting is to discuss programing and projects for the California Advisory Committee for fiscal years 1979 and 1980.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30104 Filed 10-24-78; 8:45 am]

[6335-01-M]

CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, NEW JERSEY, NEW YORK, RHODE ISLAND, VERMONT ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the State Advisory Committees (SAC's) of the Northeastern Region of the Commission will convene at 4 p.m. and end at 8 p.m. on December 1, 1978; and convene at 9 a.m. and end at 5 p.m. on December 2, 1978, at the Hyatt Regency Hotel, Boston (Cambridge), Mass.

Persons wishing to attend this conference should contact any one of the Committee Chairpersons, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this conference is to discuss recommended Commission Programs for fiscal years 1979, 1980, and 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30105 Filed 10-24-78; 8:45 am]

[6335-01-M]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 2 p.m. on November 20, 1978, at 230 South Dearborn, Room 3280, Chicago, Ill. 60604.

Persons wishing to attend this planning meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, Room 3280, Chicago, Ill. 60604.

The purpose of this planning meeting is to discuss the following projects: Special Education Program, Housing Issues and Chicago School Desegration.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30106 Filed 10-24-78; 8:45 am]

[6335-01-M]

IOWA, KANSAS, MISSOURI, NEBRASKA ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the State Advisory Committees (SAC's) of the Central States Region of the Commission will convene at 12 noon and will end at 6 p.m. November 30, 1978; and 9 a.m. to 3:30 p.m., December 1, 1978, at the Continental Hotel, 11th and Baltimore, Harnett Room, 5th Floor, Kansas City, Mo. 64105.

Persons wishing to attend this conference should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Mo. 64106.

The purpose of this conference is to finalize regional recommendations for Commission program planning and to organize the work schedule for the coming year.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30107 Filed 10-24-78; 8:45 am]

[6335-01-M]

MINNESOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 6 p.m. and end at 9 p.m. on November 20, 1978, at the Radisson Hotel, 11 East Kellogg Boulevard, St. Paul, Minn. 55101.

Persons wishing to attend this planning meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, Room 3280, Chicago, Ill. 60604.

The purpose of this planning meeting is to review data collected on the Police Study and to discuss field interviews.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30108 Filed 10-24-78; 8:45 am]

[6335-01-M]

MONTANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Montana Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 1 p.m., on November 11, 1978, at Rocky Mountain College, the Fortin Center, Billings, Mont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to develop future SAC projects for fiscal years 1979 and 1980.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-3109 Filed 10-24-78; 8:45 am]

[6335-01-M]

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on November 18, 1978, at the Netherland Hilton, 5th and Race, Julip Room, Cincinnati, Ohio 45201.

Persons wishing to attend this planning meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, Room 3280, Chicago, Ill. 60604.

The purpose of this planning meeting is to discuss the proposed Police Community Project and plan for fiscal year 1979. The Committee will also review Commission's 1980 and 1981 projected programs.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30110 Filed 10-24-78; 8:45 am]

[6335-01-M]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) of the Commission will convene at 2 p.m. and will end at 5:30 p.m. on November 17, 1978, at University Inn, 1700 Clinch Boulevard, A-N-B Room, Knoxville, Tenn.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, 75 Piedmont Avenue NE, Atlanta, Ga. 30303.

The purpose of this meeting is a followup to the recent released SAC report, "Civic Crisis—Civic Challenge: Police-Community Relations in Memphis," to discuss National and SAC programing for fiscal year 1981.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30111 Filed 10-24-78; 8:45 am]

[6335-01-M]

VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6 p.m. and will end at 9 p.m., on November 9, 1978, at City Hall, room 106, Richmond, Va.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30112 Filed 10-24-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COMPUTER PERIPHERALS, COMPONENTS, AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, November 21, 1978, at 9 a.m. in Room 13029, the Federal Building, 450 Golden Gate Avenue, San Francisco, Calif.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3,

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1973. On December 20, 1974, January 13, 1977 and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The committee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Review of committee activities.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

The general session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41071).

Dated: October 19, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-30076 Filed 10-24-78; 8:45 am]

[3510-25-M]

NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Numerically Controlled Machine Tool Technical Advisory Committee will be held on Monday, November 20, 1978, at 10 a.m. in room 3708, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Numerically Controlled Machine Tool Technical Advisory Committee was initially established on January 3, 1975. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The committee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act Pub. L. 94-409, that the matters to be discussed in Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because Executive Sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the committee during the meeting have been properly classified under the Executive order. All committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Numerically Controlled Machine Tool Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: October 19, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

Determination

In response to written requests of representatives of a substantial segment of the numerically controlled machine tool industry, the Numerically Controlled Machine Tool Technical Advisory Committee was established

by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1)(1976), to advise the Department of Commerce with respect to questions involving (A) technical matters, (B) worldwide availability, and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The committee, which currently has 10 members representing industry and eight members representing Government agencies, will terminate no later than August 29, 1980, unless extended by the Secretary of Commerce or her designee. All members of the committee have the appropriate security clearances.

The committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1); the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976); and the Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

Eight Notices of Determination authorizing the closing of meetings, or portions thereof, of the Numerically Controlled Machine Tool Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, have been approved in the past.

In order to provide advice to the Department under the terms of its charter, the committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive order No. 11652, 3 C.F.R. 339 (1974) or Executive Order No. 12065, 43 F.R. 28949 (1978). In order for the committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the committee and its formal subcommittees with such classified material. Therefore, the series of meetings or portions of meetings of the committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, must be closed to the public. The remaining series of meetings or portions thereof will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the series of meetings or portions of meetings of the committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1980, from the provisions of section 10)(a)(3), relating to open meetings and public participation therein, because the committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining series of meetings or portions thereof will be open to the public.

Dated: September 6, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Dated: September 5, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel

[FR Doc. 78-30075 Filed 10-24-78; 8:45 am]

[3510-15-M]

Maritime Administration

[Docket No. S-624]

CTS ASSOCIATES

Application

Notice is hereby given that CTS Associates, Wall Street Plaza, Suite No. 1630, New York, N.Y. 10005, has filed an application dated October 3, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1978, unless extended, to operate the SS *Cove Engineer*, 31,991 deadweight tons and SS *Cove Ranger*, 29,305 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry and liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, it should be assumed that should the Board grant the requested approval, the vessels named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before October 31, 1978, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible,

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the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held concerning the application described herein, the purpose thereof will be to receive evidence relative to whether the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies)

By order of the Maritime Subsidy Board.

Dated: October 20, 1978.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 78-30074 Filed 10-24-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Republic of Korea

Pursuant to the bilateral cotton textile agreement of February 9, 1978, between the Governments of the United States and the Republic of Korea, and the provisions of the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended on December 14, 1977, the Committee for the Implementation of Textile Agreements has directed that the import limit for Category 363 for the agreement year which began on January 1, 1978, be increased by 1,000,000 numbers.

A letter to the Commissioner of Customs directing him to adjust the limit is published below.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements.

OCTOBER 20, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Pursuant to the bilateral cotton textile agreement of February 9, 1978, between the Governments of the United States and the Republic of Korea, and the provisions of the Arrangement Regarding International Trade in Textiles of December 20, 1973, as extended on December 14, 1977, you are directed to adjust the limit for Category 363 for the agreement year which began on January 1, 1978, to 6,687,000 numbers.

The action taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textile products from the Republic of Korea has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements.

quin), seeks to identify its cost of service filing obligations under § 154.38(d)(4)(vi)(b) of the Commission's Regulations under the Natural

the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessels to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS)).

Dated: October 19, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-30114 Filed 10-24-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL'S ANCHOVY AND JACK MACKEREL ADVISORY SUBPANELS AND PLAN DEVELOPMENT TEAMS

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Anchovy and Jack Mackerel Advisory Subpanels and Plan Development Teams of the Pacific Fishery Management Council established under section 302(a) of the Fishery Conservation and Management Act (Pub. L. 94-265) will conduct a joint meeting to discuss the specification of the anchovy domestic annual harvest for the 1979-80 season and beyond, and to review the draft of Jack Mackerel Fishery Management Plan.

DATES: The meeting will convene on Monday, November 13, 1978, at 10 a.m. and adjourn at approximately 5 p.m. This meeting is open to the public.

ADDRESS: The meeting will take place at the California Fish and Game Office, located at 350 South Golden Shores, Long Beach, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 SW. Mill Street, Second Floor, Portland, Oreg. 97201.

Dated: October 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-30117 Filed 10-24-78; 8:45 am]

[3510-22-M]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) will meet to: (1) Review status reports on development of fishery management plans; (2) consider foreign fishing applications, if any; and (3) conduct other fishery management business.

DATES: The meeting will convene on Tuesday, November 14, 1978, at 1:30 p.m. and adjourn on Friday, November 17, 1978, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Hacienda Room at the International American Motor Inn, 2601 Severn Avenue, Metairie, La.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

Dated: October 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-30118 Filed 10-24-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS FROM PAKISTAN

Adjusting Import Restraint Level

OCTOBER 20, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for flexibility and carryover in Category 363 (cotton terry and other pile towels) during the agreement year which began on January 1, 1978.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).)

SUMMARY: Paragraphs 7(b) and 8(a) of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, between the Governments of the United States and Pakistan provide, respectively, for percentage increases in certain specific category ceilings during an agreement year and for the carryover of shortfalls in certain ceilings from the previous agreement year. Pursuant to the foregoing paragraphs of the bilateral agreement, the import restraint level established for Category 363 is being increased to 5,687,000 numbers for the 12-month period which began on January 1, 1978 and extends through December 31, 1978.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On January 27, 1978, a letter dated January 19, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (43 FR 3738), which established import restraint levels for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in Pakistan and exported to the United States during the 12-month period which began on January 1, 1978, and extends through December 31, 1978.

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement, to adjust the level of restraint previously established for Category 363 to 5,687,000 numbers.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C., October 20, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On January 19, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the 12-month period beginning on January 1, 1978, and extending through December 31, 1978, of cotton textile products in certain specified categories, produced or manufactured in Pakistan, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to paragraphs 7(b) and 8(a) of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 25, 1978, to increase the 12-month level of restraint established for cotton textile products in Category 363 to 5,687,000 numbers.[2]

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-30080 Filed 10-24-78; 8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, between the Governments of the United States and Pakistan, which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any imports after December 31, 1977.

[3128-01-M]

DEPARTMENT OF ENERGY

Office of the Secretary

URANIUM HEXAFLUORIDE

Separative Work Charges and Base Charges for Natural Uranium

The Department of Energy (DOE) hereby announces revisions to the notice entitled "Uranium Hexafluoride: Separative Work Charges, and Base Charges for Natural Uranium; as published in the FEDERAL REGISTER on September 29, 1977 (42 FR 51636), hereinafter referred to as the notice.

Paragraph 1 of the notice is deleted and the following paragraph 1 is inserted in lieu thereof:

1. *Separative work charges.* (a) The charge per separative work unit furnished pursuant to requirements-type contracts is $83.15 or the ceiling charge computed in accordance with the provisions of such contracts, whichever is the lesser charge. Effective April 24, 1979, the charge per separative work unit furnished pursuant to requirements-type contracts will be $98.30 or the ceiling charge computed in accordance with the provisions of such contracts, whichever is the lesser charge.

(b) The charge per separative work unit furnished pursuant to other than requirements-type contracts is $74.85. Effective December 30, 1978 (61st day) the charge per separative work unit furnished pursuant to other than requirements-type contracts will be $88.65.

Effective date: This notice is effective (October 25, 1978).

Dated at Washington, D.C., this 19th day of October 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 29976 Filed 10-24-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RP78-74]

ALGONQUIN GAS TRANSMISSION CO.

Order on Purchased Gas Cost Adjustment Clause Filing Requirement

OCTOBER 13, 1978.

By letter filed June 27, 1978, Algonquin Gas Transmission Co. (Algonquin), seeks to identify its cost of service filing obligations under § 154.38(d)(4)(vi)(b) of the Commission's Regulations under the Natural Gas Act. The letter states that as a result of the recently approved Algonquin rate cases settlement,[1] it will not be required to restate its Base Tariff Rate and file an overall cost of service until July 31, 1980. For the reasons set forth below, the Commission will treat the letter as a Petition for a Declaratory Order and, upon review of the applicable regulations and Algonquin's letter, the Commission shall affirm Algonquin's interpretation of the applicable FERC regulations.

Algonquin's FERC Gas Tariff contains a PGA filed pursuant to § 154.38(d)(4) of the Commission's Regulations. Subsection (vi)(a) requires the filing of a cost of service study at least every 36 months to establish new Base Tariff Rates. The 36-month period begins to run according to subsection (vi)(b) which states:

(b) If a section 4(e) case is filed before the expiration of the 36-month period, a new 36-month period will start running when the proposed rates go into effect. Rates determined by the Commission in a section 4(e) or a 5(a) proceeding or rates in a settlement agreement approved by the Commission shall establish the new Base Tariff Rate when they become effective pursuant to a final order, and a new 36-month period will start running.

Algonquin has recently settled its section 4(e) rate proceedings in Docket Nos. RP73-112, RP74-92, and RP75-88, which settlement was approved by Commission order issued March 31, 1978. The settlement covered a 4-year period and established new Base Tariff Rates made effective August 1, 1977. In settlement of the RP75-88 proceeding the parties agreed to two locked-in refund periods[2] utilizing actual per book figures and a test period approach[3] to determining the rates effective August 1, 1977. On the basis of these settlement determinations, Algonquin asserts that it has been subject to continuing full rate review for the period January 1, 1974 (RP73-112) through October 31, 1977 (RP75-88), and that the rates effective August 1, 1977, are "rates in a settlement agreement approved by the Commission" which will start a new 36-month period running. Algonquin further states that these particular facts of its recent rate case determinations and the language of the applica-

[1] See: *Algonquin Gas Transmission Co.*, letter order issued March 31, 1978, in Docket Nos. RP73-112, RP74-92, and RP75-88.

[2] RP75-88 locked-in refund period: (A Nov. 1, 1975 to Oct. 31, 1976 (B) Nov. 1, 1976 to Jul. 31, 1977.

[3] Future period commencing Aug. 1, 1977 based on a 12-month test period ending Oct 31, 1977.

ble regulations establish August 1, 1980, as the date on which it will next be required to restate its Base Tariff

certificates during the winters of 1974-75, 1975-76, and 1976-77.

The letter-order of September 21,

eous form by pipeline. It is further stated that redelivery in gaseous form by pipeline will be by means of dis-

The Commission is aware that this service is now in its fifth year and has been renewed annually by separate applications which have resulted in tem-

ers to file in rebuttal, they may do so on or before December 11, 1978.

(E) The Connecticut Gas Co., Valley Gas Co., and Boston Gas Co. are per-

[6740-02-M]

[Docket No. CP77-512]

CLAY BASIN STORAGE CO.

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ble regulations establish August 1, 1980, as the date on which it will next be required to restate its Base Tariff Rate and be subject to a full cost of service review unless a section 4(e) case is filed in the intervening period.

The Commission affirms Algonquin's interpretation. Although the language as to the 36-month period is not free from ambiguity, it appears that as to the particular facts related to Algonquin, its interpretation is correct. The Base Tariff Rates established as of August 1, 1977, were based upon an updated full cost of service review. Thus it is appropriate to grant Algonquin's request and affirm its interpretation of section 154.38(d)(4)(vi) of the Regulations that it need not restate its Base Tariff Rates and be subject to a full cost of service review prior to July 31, 1980. The Commission notes that by separate order a rulemaking proceeding will be initiated to clarify the regulations as to the beginning of the 36-month period.

The Commission finds and orders: The petition for declaratory order is hereby granted as set forth and for the reasons set forth in the body of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30122 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-256]

ALGONQUIN LNG, INC. AND ALGONQUIN GAS TRANSMISSION CO.

Order Providing Formal Hearing and Granting Interventions

OCTOBER 13, 1978.

On March 29, 1978, Algonquin LNG, Inc. (Algonquin LNG) and Algonquin Gas Transmission Co. (Algonquin Gas), filed in docket No. CP78-256 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas and storage of liquid and gas-phase liquified natural gas (LNG) for certain participating resale companies for the period extending through May 31, 1979. The application requested a limited-term and temporary certificate. By letter order issued September 21, 1978, the Commission granted the requested temporary authority.

A similar service was rendered under a temporary certificate in docket No. CP77-413, which terminated on May 31, 1978. The only outstanding matter in that docket involves treatment of revenues and can be dealt with apart from this docket. In addition, similar service was provided under temporary certificates during the winters of 1974-75, 1975-76, and 1976-77.

The letter-order of September 21, 1978, stated: "This authorization is issued without prejudice to such ultimate disposition of the proceedings as the record many require." The hearing provided for by this order is undertaken to examine the several issues raised by the storage service provided by Algonquin LNG.

Algonquin LNG proposes to utilize its LNG storage facilities at Providence, R.I., to receive, store, and redeliver LNG belonging to others in quantities of up to 248,000 barrels.

It states that it has a 600,000 barrel capacity LNG storage tank at Providence which is currently being used, and would continue to be used, in part, for the benefit of Providence Gas Co. (Providence Gas). It further states that this tank is located in the intrastate phase, or phase 1, of its terminal facilities, and that an application to construct and operate phase 2 or the interstate phase is pending in docket No. CP73-139.

During the 1978-79 heating season, Algonquin LNG states that it will have approximately 248,000 barrels, after allowance for tank heel, of available capacity over and above the 348,000 barrels of capacity which has been dedicated to Providence Gas under a long-term arrangement to supply its local distribution system. It is further asserted that there will be available liquefaction capacity and a supply of LNG in excess of the LNG storage capacity available during the 1978 summer season. Consequently, certain additional resale companies, including regular distribution curtomers of Algonquin Gas, will be able to use the available capacity of Algonquin LNG's tank to store gas for use during the 1978-79 winter. Algonquin LNG states that the additional storage service will permit participating resale customers to forego interruptible sales during summer periods and convert such gas through storage into an additional supply for high priority requirements during the following winters.

Algonquin LNG has entered into agreements with the Connecticut Gas Co. and the Valley Gas Co. for storage service during the 1978-79 winter season. It is asserted that the terms of such service will be for the period ending May 31, 1979, and that no new facilities will be required to effectuate the service. The storage service will be provided at a rate which is the subject of a proposed settlement agreement now pending before the Commission in docket No, CP75-14, *et al.*

The application states that the deliveries to Algonquin LNG's Providence storage facilities will be made by truck, and redelivery will be made either in liquid form by truck or gaseous form by pipeline. It is further stated that redellvery in gaseous form by pipeline will be by means of displacement. Algonquin LNG will gasify the LNG and physically deliver it to Providence Gas Co. which will back off equivalent volumes from Algonquin gas. Algonquin Gas, in turn, will deliver equivalent volumes to other customers on a basis which, it asserts, will not impair service to its remaining customers.

The joint application filed in Docket No. CP78-256, was noticed in the FEDERAL REGISTER on April 13, 1978 (42 FR 15481). Connecticut Gas Co., Valley Gas Co., and Boston Gas Co., filed petitions to intervene in Docket No. CP78-256. No other petitions to intervene, notices of intervention, nor protests to filing of the application have been filed.

The Commission is concerned about the substantial increase in trucking of LNG to and from the Providence terminal that would result if this proposal were approved. Although Algonquin claims the bulk of any such transportation is not within the jurisdiction of this Commission, the FERC is charged with the responsibility of considering any safety and environmental issues involved with terminal operations generally. With regard to this concern for safety, the Commission is aware of the functions of the Interstate Commerce Commission and the U.S. Department of Transportation in this area and would welcome the active participation of these agencies in this matter.

The issue of Commission jurisdiction over the service to be rendered to Providence Gas Co. has not been finally determined. Applicants are invited to address this issue as well as the propriety of the contemplated use of the facilities in view of the fact that the operation of the Providence terminal was not considered in the Distrigas of Massachusetts Corp., proceeding in Docket No. CP78-216, *et al.* and, so, has not been certificated by the Commission.

The question also arises as to the appropriate treatment of "Allowance for Funds Used During Construction" (AFUDC) including whether the continued capitalization of costs is appropriate and how Algonquin LNG contemplates recovering these costs. In addition, the treatment of revenues received by Algonquin Gas for the redelivery service of gaseous volumes should be pursued in the hearing. The charge for storage, however, is dependent upon final resolution of the proposed settlement in Docket No. CP75-14, *et al.* Applicants should also present testimony demonstrating the need for the contemplated service and whether there are plans to continue to offer this or comparable winter service.

The Commission is aware that this service is now in its fifth year and has been renewed annually by separate applications which have resulted in temporary certificates. This procedure has failed to permit resolution thus far of basic jurisdictional issues as to the facility itself, and the transportation and storage service, as well as the question of whether the public convenience and necessity is served best by pre-granted abandonment. The level of service in Docket No. CP78-256, together with an increase in the volumes of LNG to be transported by truck make necessary the examination of this matter by formal hearing at this time. For these reasons we set this docket for formal hearing and direct the filing of testimony by the Applicants on the several issues in this matter discussed above as well as whether the expanded service is in the public interest.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings as hereinbefore described.

(2) Participation in these proceedings by Connecticut Gas Co., Valley Gas Co., and Boston Gas Co., may be in the public interest.

The Commission orders: (A) These proceedings are hereby set for formal hearing and disposition.

(B) Pursuant to the Natural Gas Act, particularly sections 4, 5, 7, and 15 thereof, and the Commission Rules of Practice and Procedure (18 CFR Chapter 1, Subchapter E), a Prehearing Conference shall be held on December 21, 1978, commencing at 10 a.m. in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, to discuss procedural matters and to clarify, to the degree possible, subjects at issue.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR, section 3.61), shall preside at the prehearing conference in this proceeding with authority to establish and change all procedural dates, and to rule on all motions (with the sole exceptions of motions to consolidate or sever and motions to dismiss), as provided for the Rules of Practice and Procedures.

(D) The direct case of the Applicants and any Interveners in support shall be filed and served on all parties, the Presiding Judge, and the Commission Staff on or before October 13, 1978. All parties in opposition, and the Commission Staff, may file their cases in chief on or before December 4, 1978, and should said filing give rise to the need for the Applicants and supporters to file in rebuttal, they may do so on or before December 11, 1978.

(E) The Connecticut Gas Co., Valley Gas Co., and Boston Gas Co. are permitted to intervene in the instant proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* The participation, of such interveners shall be limited to matters effecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved because of any order the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30123 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. E-8755]

CENTRAL KANSAS POWER CO., INC.

Compliance Filing

OCTOBER 17, 1978.

Take notice that on July 31, 1978, Central Kansas Power Co., Inc., ("CKP") tendered for filing as part of CKP's FERC Electric Tariff, Volume No. 1, the following tariff sheets:

Volume No. 1—Effective

Original Sheets Nos. 1, 2, 3, 4, and 5—Sept. 16, 1978.

These sheets are all being filed in compliance with the Commission's Order Affirming Initial Decision issued on June 30, 1978, in Docket No. E-8755 and reflect adjustments in rates in accordance with such Order, according to CKP.

CKP states that a copy of this filing has been mailed to Sunflower Electric Cooperative, Inc., its only jurisdictional electric customer, and to the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30125 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP77-512]

CLAY BASIN STORAGE CO.

Amendment to Application and Petition To Amend Order

OCTOBER 18, 1978.

Take notice that on September 25, 1978, Clay Basin Storage Co. (Applicant), 100 Broadway, New York, N.Y. 10005, filed in Docket No. CP77-512, an amendment to its application and a petition to amend the order of July 3, 1978, issued by the Commission in *Mountain Fuel Resources, Inc., et al.*, Docket Nos. CP76-285, *et al.*, pursuant to section 7(c) of the Natural Gas Act so as to provide for the extension and amendment of the Clay Basin Interim Storage Arrangements designed for the preservation of a portion of the payback gas to which certain of the east-of-California (EOC) customers of El Paso Natural Gas Co. (El Paso), are entitled under the Commission's Opinion No. 800-B, issued December 30, 1977, in Docket No. CP74-289, *et al.*, all as more fully set forth in the amendment and petition on file with the Commission and open to public inspection.

It is indicated that by order issued September 30, 1977, in *Moutain Fuel Resources, Inc., et al.*, Docket Nos. CP76-285, *et al.*, Applicant and other parties received temporary certificate authorization for the interim utilization of a portion of the Clay Basin Storage Field located in Daggett County, Utah, for the protection of service to El Paso's EOC customers' Priority 1 and 2 requirements through December 31, 1979. Thereafter, the parties to the Clay Basin Interim Storage Arrangements entered into various agreements and made appropriate filings necessary to extend the term of such arrangements whereby protection could be afforded to the Priority 1 and 2 requirements of El Paso's EOC customers for a further period extending through September 30, 1980, it is said. Applicant states that by order issued July 3, 1978, in *Moutain Fuel Resources, Inc., et al.*, Docket Nos. CP76-285, *et al.*, it received temporary authorization for its part of the extended Clay Basin Interim Storage Arrangements.

It is indicated that in Opinion No. 800-B, the Commission approved El Paso's proposal to restore to certain of its EOC Customers certain volumes of natural gas. On August 30, 1978, El Paso filed in Docket No. CP77-289 for authorization to transport and deliver all payback quantities by the end of February 1979, it is said. Applicant states that Southwest Gas Corp. (Southwest) advised El Paso that it, Southwest, desired to use a portion of the payback gas to which it is entitled

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after February 1979, and would like to store these volumes for its use. It is indicated that in order to accommodate Southwest, Applicant and El Paso have entered into a Letter Agreement amending the Clay Basin Storage Arrangements. The amended agreement would permit the preservation, on an interim basis, through September 30, 1980, of a portion of the payback gas to which Southwest is entitled, it is stated. Applicant also says that it, El Paso, and Southwest have entered into a Letter Agreements whereby El Paso would sell to Applicant and deliver to Northwest Pipeline Corp. (Northwest) for Applicant's account, those quantities of payback gas to be stored for Southwest. Northwest would then transport such quantities to the Clay Basin Storage Field, located in Daggett County, Utah, where such gas would be delivered to Mountain Fuel Resources, Inc. for injection into the field for Applicant's account, it is indicated. The gas would be held in storage until Southwest calls for equivalent quantities, but not before September 30, 1980, says Applicant. Applicant states that the return of the stored pay back gas to Southwest would be accomplished by essentially reversing the above described procedures.

Applicant states that it would purchase the payback gas for storage from El Paso at El Paso's then-current Rate Schedule G rate, and that it would sell such returned payback gas to Southwest at a rate equivalent to the rate in effect for El Paso's sales of gas to Southwest, at the time and place of delivery, with any difference between the cost of such gas to Applicant and the proceedes of its sale to Southwest to be reflected as a credit or debit, as the case may be, in the calculation of the surcharge.

Any person desiring to be heard or to make any protest with reference to said amendment and petition to amend should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30128 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP72-122 and RP78-51 (PGA78-3)]

COLORADO INTERSTATE GAS CO.

Extension of Time

OCTOBER 17, 1978.

On October 4, 1978, Commission Staff Counsel filed a motion to extend the procedural dates set in the Commission's order of September 25, 1978, in this proceeding. The motion states that CIG would like to narrow certain issues in order to prevent its case in chief from being overly voluminous and burdensome and that the schedule established by the order does not allow sufficient time for adequate discovery and meaningful settlement discussions.

Upon consideration, notice is hereby given that the procedural schedule as set forth in the Commission's order of September 25, 1978, in this proceeding is modified as follows:

Informal settlement conference—November 23, 1978, 10 a.m.
Filing of CIG's case in chief—December 15, 1978.
Filing of Staff's statement of position—January 8, 1979.
Prehearing conference—January 23, 1979, 10 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30130 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-17]

COLUMBIA GAS TRANSMISSION CORP.

Application

OCTOBER 18, 1978.

Take notice that on October 10, 1978, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP79-17, an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing March 1, 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $6,000,000, with the cost of no single project to exceed $1,500,000. Applicant indicates that the cost of the proposed facilities would be financed with funds generated from internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protestants filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30129 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-16]

COLUMBIA GAS TRANSMISSION CORP.

Application

OCTOBER 18, 1978.

Take notice that on October 10, 1978, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in docket No. CP79-16, an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing March 1, 1979, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000, which cost would be financed from funds generated from internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30131 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-8]

COMMERCIAL PIPELINE CO., INC.

PGA Filing

OCTOBER 17, 1978.

Take notice that on October 6, 1978, Commercial Pipeline Co., Inc. (Commercial) tendered for filing revised substitute 26th revised sheet No. 3A reflecting purchased gas adjustments and effective dates as set out below:

Sheet No.	Current adjustment	Cumulative adjustments	Effective date
Revised substitute 26th revised sheet No. 3A	0.0376	0.0008	Sept. 23, 1978

Commercial states that these revisions track precisely similar revisions in the tariff of Cities Service Gas Co., its sole supplier. Commercial requests waiver of notice to the extent required to permit said tariff sheets to become effective as proposed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30126 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-4]

CONSUMERS POWER CO.

Application

OCTOBER 18, 1978.

Take notice that on October 11, 1978, Consumers Power Co., a corporation organized under the laws of the State of Michigan, with its principal business office in Jackson, Mich., filed an application pursuant to section 204 of the Federal Power Act, seeking authority to issue up to $400 million unsecured short-term notes and commercial paper, on or before December 31, 1979, and to mature on or before December 31, 1980.

The short-term debt will be used to finance construction costs pending permanent financing.

Any person desiring to be heard or to make any protests with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules and practice and procedure (18 CFR 1.8 or 1.10) on or before November 2, 1978. The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30132 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Project No. 2004]

HOLYOKE WATER POWER CO.

Application for Change in Land Rights

OCTOBER 17, 1978.

Public notice is given that Holyoke Water Power Co. ("applicant") has filed an application under the Federal Power Act (16 U.S.C. §§ 791a-825r) for a change in land rights for FERC Project No. 2004. The project is located on the Connecticut River in the city of Holyoke, Hampden County, Mass. (Correspondence to: Leon E. Maglathlin, vice president, Holyoke Water Power Co., One Canal Street, Holyoke Mass. 01040 and Maurice L. Zilber, Esquire, Peabody Brown, Rowley, and Storey, One Boston Place, Boston, Mass. 02108.)

Applicant requests Commission approval of the sale of project lands to the city of Holyoke. The affected canal area is within the city of Ho-

Any person desiring to be heard or to make any protest with reference to said Application should file a petition to intervene or protest with the Feder-

with the Commission and are available for public inspection.

KENNETH F. PLUMB,

[6740-02-M]

[Docket No. CP78-533]

Trunkline delivering equivalent volumes to Petitioner at an existing interconnection near Potomac, Ill., and by

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commis-

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Applicant requests Commission approval of the sale of project lands to the city of Holyoke. The affected canal area is within the city of Holyoke and is bounded by Water Street and Canal Street, between Appleton Street and the Maine Railroad crossing. The grant would allow the city to fill in an abandoned 1.46-acre section of an existing project canal for the purpose of creating a 160-space parking area for employees of local industrial concerns.

Anyone desiring to be heard or to make any protest about his application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 20, 1978. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30133 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-2]

IDAHO POWER CO.

Application

OCTOBER 17, 1978.

Take notice that on October 5, 1979, Idaho Power Co. (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Idaho, Oregon, Nevada and Wyoming, with its principal business office in Boise, Idaho, filed an Application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $120,000,000 of unsecured promissory notes and commercial paper.

Proceeds from the borrowing will be used in the financing of Applicant's construction expenditures and other corporate purposes. Construction expenditures for the period January 1, 1979 to December 31, 1979, total approximately $157,116,000. The balance of funds required for construction is expected to come from internally generated cash.

Any person desiring to be heard or to make any protest with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 27, 1978. The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30134 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-6]

KANSAS POWER & LIGHT CO.

Proposed Changes in Rates

OCTOBER 17, 1978.

Take notice that on October 5, 1978, the Kansas Power & Light Co. (Kansas) tendered for filing an amendment dated September 7, 1978, with Leavenworth-Jefferson Electric Cooperative, Inc., for wholesale service to that cooperative. Kansas states that this is a supplement to a contract dated September 1, 1973, and designated KPL Rate Schedule FPC No. 157. This amendment will provide for a new delivery point for the cooperative to be known as "New Tonganoxie," the deletion of three delivery points known as Springdale, Oskaloosa, and Tonganoxie, and the change in maximum capacity for the delivery point known as New Oskaloosa. The proposed effective date is September 7, 1978, and Kansas requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to Kansas, the net billing for the 12 months succeeding the proposed change in agreements is $1,015,362.68. In addition, Kansas states that copies of the agreement have been mailed to Leavenworth-Jefferson Electric Cooperative, Inc., and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the apropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30135 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. RP70-6, et al.]

LAWRENCEBURG GAS TRANSMISION CORP.

Report of Refunds

OCTOBER 18, 1978.

Take notice that on October 10, 1978, Lawrenceburg Gas Transmission Corp. (Lawrenceburg) filed a Report of Refunds, pursuant to article VI of its Stipulation and Agreement at RP70-6, et al., approved by Commission order issued August 25, 1972. Lawrenceburg states that on October 6, 1978, it made gas refunds to its two (2) jurisdictional wholesale customers, Lawrenceburg Gas Co. in the amount of $9,702.07 and the Cincinnati Gas & Electric Co. in the amount of $4,629.83 for a total refund of $14,331.90.

Lawrenceburg states that this refund, applicable to various periods between April 1, 1956, and May 31, 1972, constitutes a flow through of the allocated jurisdictional portion of a refund it received from Texas Gas Transmission Corp. dated September 29, 1978.

Lawrenceburg states that copies of its refund report have been mailed to its two jurisdictional customers and to the two interested State Commissions for the States of Indiana and Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene (unless such intervention has previously been granted) or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rule of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-30136 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-533]

MIDWESTERN GAS TRANSMISSION CO.

Petition for Declaratory Order

OCTOBER 13, 1978.

Take notice that on September 21, 1978, Midwestern Gas Transmission Co. (Petitioner), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-533 a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedures (18 CFR 1.7(c)) for a declaratory order advising Petitioner, Panhandle Eastern Pipe Line Co. (Panhandle), and Trunkline Gas Co. (Trunkline) that an emergency exchange of natural gas may be rendered pursuant to the terms of § 157.22(a) of the Regulations under the Natural Gas Act, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner states that it currently sells natural gas for resale in interstate commerce to Central Illinois Light Co. (CILCO) at a delivery point in Vermilion County, Ill., and that CILCO utilized the gas for service for high priority 1 requirements of its customers in Oakwood, Ill.

It is stated that during the 1977-78 winter curtailment period, CILCO, because of unusually cold weather, exceeded its applicable curtailment period quantity entitlement (CPQE), and that for that period Petitioner granted relief to CILCO by providing an additional 9,332 Mcf of natural gas. Petitioner states that it effected repayment of such volume by subtracting the 9,332 Mcf from the CPQE of 24,802 Mcf that would otherwise be assigned to CILCO for the current summer. Thus, pursuant to section XIX of Petitioner's FERC Gas Tariff, Third Revised Volume No. 1, Petitioner has assigned 15,470 Mcf to CILCO as its 1978 summer CPQE, it is asserted. The summer curtailment period ends October 31, 1978, it is said.

Petitioner states that such substantial reduction in summer CPQE creates a severe problem for CILCO in its efforts to meet the priority 1 requirements of its Oakwood customers. Petitioner further states that at CILCO's current summer level of usage, it has estimated that by October 31, 1978, CILCO would have exceeded its summer CPQE by 9,000 Mcf.

It is indicated that in order to meet Petitioner's payback requirements CILCO is seeking to shift some of its gas supply from its Panhandle service territory to its Petitioner service territory. It is stated that this can be accomplished physically by having Panhandle deliver gas as designated by CILCO to Trunkline at existing Panhandle/Trunkline interconnections, by Trunkline delivering equivalent volumes to Petitioner at an existing interconnection near Potomac, Ill., and by Petitioner delivering equivalent volumes of gas to CILCO at Oakwood.

Accordingly, Petitioner, Panhandle, and Trunkline propose to accomplish an exchange and transportation of gas whereby Petitioner would continue to make gas available to CILCO at Oakwood to meet CILCO's requirements there until October 31, 1978. All gas delivered by Petitioner to CILCO at Oakwood during the 1978 summer curtailment period in excess of the volume assigned to CILCO as its summer CPQE would be delivered to CILCO for the account of Panhandle, it is stated. It is indicated that on or about November 10, 1978, when Petitioner would know the precise volume by which CILCO has exceeded its summer CPQE, CILCO's total overrun volume would be delivered by Panhandle to Trunkline, and by Trunkline to Petitioner.

Consequently, Petitioner requests that the Commission issue a declaratory order authorizing it, Panhandle and Trunkline to perform the proposed exchange of natural gas as an emergency delivery of gas pursuant to the terms of § 157.22(a) of the Regulations under the Natural Gas Act.

In considering the petition for declaratory order in the Commission public meeting of October 11, 1978, the Commission decided to treat said petition as an application for a permanent certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act. Accordingly, the subject notice gives notice of said petition and of the intention of the Commission to consider it as an application pursuant to section 7(c) of the Natural Gas Act.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition should on or before October 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30124 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-7]

MONTANA POWER CO.

Proposed Cancellation of Rate Schedules

OCTOBER 17, 1978.

Take notice that on October 5, 1978, the Montana Power Co. (Montana) tendered for filing pursuant to section 35.15 of the Commission's regulations a Notice of Cancellation of Rate Schedules FERC Nos. 14, 17, 18, 19, 22, 23, 24, and 26, agreements for service to Beartooth Electric Cooperative, Fergus Electric Cooperative, Hill County Electric Cooperative, McCone County Electric Cooperative, Park Electric Cooperative, Sun River Electric Cooperative, Tongue River Electric Cooperative, and Yellowstone Valley Electric Cooperative (Cooperatives), respectively. Montana states that the Cooperatives no longer take service under Individual contracts but are served through Central Montana Generation & Transmission Cooperative, Inc. (Central Montana).

Montana requests that cancellation of Rate Schudules FERC Nos. 14, 17, 18, 19, 22, 23, and 26 be made effective as of July 1, 1974, and Rate Schedules FERC No. 24 be made effective as of September 1, 1975, the date on which service commenced through Central Montana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

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with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30138 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-8]

MONTANA POWER CO.

Proposed Cancellation of Rate Schedules

OCTOBER 17, 1978.

Take notice that on October 5, 1978, the Montana Power Co. (Montana) tendered for filing pursuant to section 35.15 of the Commission's Regulations a Notice of Cancellation of Rate Schedules FERC Nos. 15, 20, 21, and 25, agreements for service to Big Flat Cooperative, Inc., Missoula Electric Cooperative, Inc., Northern Lights, Inc., and Vigilante Electric Cooperative, Inc., respectively. Montana states that these cooperatives no longer purchase wholesale power and energy from it, but are served from other sources.

Montana requests that cancellation of Rate Schedule FERC No. 15 be made effective as of May 1, 1967, and that cancellation of Rate Schedule FERC Nos. 20, 21, and 25 be made effective as of August 1, 1978, the dates on which the sale of wholesale power and energy by Montana was discontinued.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30139 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-8]

MOUNTAIN FUEL SUPPLY CO.

Applicotion

OCTOBER 18, 1978.

Take notice that on October 6, 1978, Mountain Fuel Supply Co. (Mountain Fuel), 180 East First South Street, P.O. Box 11368, Salt Lake City, Utah 84139, filed in docket No. CP79-8 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Mountain Fuel to make a limited term best efforts sale of natural gas to United Gas Pipe Line Co. (United), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Mountain Fuel states that it may have, on a best efforts basis, natural gas which is in excess of its current system requirements and which could be made available to United. It is stated that United has a need for additional supplies of natural gas to help eliminate curtailments on United's system. Therefore, it is said, Mountain Fuel and United signed a Gas Purchase Contract (Contract) dated May 4, 1978, setting forth the details of the sale by Mountain Fuel to United.

Mountain Fuel accordingly requests the issuance of a certificate of public convenience and necessity authorizing the sale of natural gas to United, on a best efforts basis, of up to 50,000 Mcf per day and not to exceed 7,000,000 Mcf per year for a period of three (3) years. Mountain Fuel further requests that the Commission grant permission and approval to abandon the sale at the termination of the Contract.

As stated in the application, Mountain Fuel would deliver all volumes of natural gas purchased by United to Colorado Interstate Gas Co. (CIG) at an existing point of interconnection near Green River, Wyo., located in Sweetwater County, Wyo. Mountain Fuel states that it understands that CIG has or will file with the Commission its application for the authorizations necessary to effectuate the transportation of United's natural gas through CIG's transmission system.

Mountain Fuel states that it proposes to charge United for each Mcf of natural gas purchased at a rate consisting of the following:

(1) The applicable area rate as prescribed by the Commission (currently $1.51 per Mcf) plus all adjustments for new natural gas produced from wells in southwestern Wyoming;

(2) Mountain Fuel would charge United five cents (5¢) per Mcf for compression of the volumes of natural gas delivered to CIG for United's account through the proposed Kanda Exchange Point;

(3) Mountain Fuel would charge United for its cost of service, including return on its investments in gathering and transmission facilities. (The rate to be charged for the cost of service would be fifteen cents (15¢) per Mcf.)

The application states that Mountain Fuel does not propose the construction of any additional transmission facilities to render the best efforts sale to United. Mountain Fuel would utilize the existing point of interconnection with CIG and the facilities proposed in docket No. CP75-37 to render the sale to United.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing herein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Mountain Fuel to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30137 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP75-141]

NATURAL GAS PIPELINE CO. OF AMERICA

Petition to Amend

OCTOBER 18, 1978.

Take notice that on October 6, 1978, Natural Gas Pipeline Co. of America (Natural), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP75-141 [1] a petition to amend further the order of February 12, 1975, issued in said docket pursuant to section 7(c) of the Natural Gas Act to include in the certificate of public convenience and necessity authorization to exchange natural gas with Arkansas Louisiana Gas Co. (Arkla) at additional points of delivery, all as more fully set forth in the petition.

The order of February 12, 1975, authorized the exchange of up to 10,000 Mcf of natural gas per day between Natural and Arkla pursuant to an exchange agreement dated July 5, 1974, and the construction and operation of certain facilities located in Washita and Grady Counties, Okla., to make the exchange. Arkla received Commission authorization for its part of the exchange in Docket No. CP75-123. On May 22, 1978, the Commission issued an order amending its order of February 12, 1975, so as to authorize additional points of exchange of gas from the Hickey well in Rogers Mills County, Okla., and the Rogers well in Wheeler County, Tex.

It is stated that Natural has the right to purchase all gas produced by its subsidiary, Napeco Inc., from wells now being drilled and completed, or future wells to be drilled and completed, within certain onshore areas as identified in Docket No. RP73-63. It is further stated that Natural has executed gas purchase contracts with Napeco to purchase gas produced from two wells located in Roger Mills County, Okla. It is said that Arkla also has an interest in the wells and has connected or will connect said wells to its existing pipeline system to complete its purchase.

It is said that Natural hereby proposes to add two new delivery points in Roger Mills County, Okla., where gas delivered for its account would be in a commingled stream with gas volumes purchased from said wells, as set forth in an amendment dated August 3, 1978, to the gas exchange agreement dated July 5, 1974. It is further said that the proposed delivery points would allow Natural to deliver its share of the gas from two wells to Arkla which also is purchasing gas from the wells. Arkla would redeliver equivalent volumes of gas to Natural at the "Arkla Point of Delivery" as defined in the subject gas exchange agreement, as amended, it is said. Natural would not be required to construct any facilities to effectuate said delivery of gas to Arkla, it is stated.

It is stated that the exchange arrangement between Natural and Arkla is mutually beneficial to them in that it provides a means for each party to connect remote sources of gas supply into their respective systems while obviating the necessity to contruct and operate duplicate facilities otherwise required if they were to proceed independently. The exchange would have no effect on any of the other sales or services now rendered by Natural nor would there be any change in operations occasioned thereby, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30140 Filed 10-24-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. ER78-490]

OHIO EDISON CO.

Extension of Time

OCTOBER 17, 1978

On October 3, 1978, Ohio Edison filed a motion for extension of time to submit the testimony and supporting cost data as required by the Commission order of August 16, 1978, in this proceeding. The motion states that the extension is needed because of involvement with another FERC rate proceeding and a hearing before the Ohio PUC. The motion further states that Ohio Power Co. supports the request and that the intervenor Ohio Cities does not oppose it.

Upon consideration, an extension of time is granted to and including November 15, 1978, for Ohio Edison to file the testimony and supporting cost data required by ordering paragraph (D) of the Commission's August 16, 1978, order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30141 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-10]

OKLAHOMA GAS & ELECTRIC CO.

Proposed Rate Schedule Change

OCTOBER 17,1978.

Take notice that Oklahoma Gas & Electric Co. on October 6, 1978, tendered for filing a letter agreement dated May 25, 1978, between O.G. & E. and Arkansas Power & Light Co. (A.P. & L.) which provides for O.G. & E. to transfer to A.P. & L. 130,000 megawatt-hours of O.G. & E.'s "diversity exchange" entitlement under the TVA-SCEC agreement for the 1978 summer exchange period. O.G. & E. indicates that this entitlement is provided for in the agreement between Tennessee Valley Authority and the Mississippi Power & Light Co. for delivery of the allocated diversity capacity and energy within the South Central Electric Companies' agreement. O.G. & E. states that it desires to transfer the energy and accompanying capacity entitlement and A.P. & L. desires to purchase such entitlement for its system requirements in the summer exchange period.

O.G. & E. requests waiver of the Commission's notice requirements to allow the proposed sale to become effective as of May 28, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30142 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-11]

to the Clark-Cowlitz Joint Opreating Agency (CCJOA), [2] the Department of Ecology of the State of Washington,

ly set forth in their petitions to intervene. Admission of these intervenors shall not be construed as recognition

with the Commission and are available for public inspection.

KENNETH F. PLUMB,

additional volumes of gas committed to it to serve better Applicant's customer, it is said.

appear or be represented at the hearing.

KENNETH F. PLUMB,

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[6740-02-M]

[Docket No. ER79-11]

OKLAHOMA GAS & ELECTRIC CO.

Filing

OCTOBER 17, 1978.

Take notice that on October 6, 1978, Oklahoma Gas & Electric Co. (O.G. & E.), Oklahoma City, Okla., tendered for filing a letter agreement dated February 9, 1978, between O.G. & E. and Arkansas Power & Light Co. (A.P. & L.) whereby O.G. & E. sold to A.P. & L. 200,000 kW of power and accompanying energy for the period from February 10, 1978, through March 10, 1978.

O.G. & E. states that the rates contained in the letter agreement include a demand charge of $0.45 per kilowatt per week and an energy charge per kilowatt hour equivalent to company's incremental production cost plus 10 percent. O.G. & E. requested waiver of notice requirements and requested that the agreement be accepted for filing effective February 10, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30143 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Project No. 935 and Project No. 2791]

PACIFIC POWER & LIGHT CO. AND CLARK-COWLITZ JOINT OPERATING AGENCY

Notice Granting Petitions To Intervene and Consolidating Proceedings

OCTOBER 18, 1978.

Pacific Power & Light Co. (PP&L) filed an application on May 5, 1976, for a new, long-term license to continue operating the constructed Merwin Project (No. 935).[1] Notice of the application was issued on August 20, 1976. Intervention was subsequently granted to the Clark-Cowlitz Joint Opreating Agency (CCJOA),[2] the Department of Ecology of the State of Washington, the Washington State Department of Game, the Washington State Department of Fisheries,[3] and the Public Utility Commission of Oregon.[4]

On Sept. 18, 1978, the city of Woodland, Wash. filed a late petition to intervene.[5] On May 23, 1978, P.P. & L. filed an answer, stating that participation of the City would be helpful in resolving land use planning issues.

On February 18, 1977, CCJOA filed a competing application for a new major license to operate the Merwin Project. Notice of the application was issued on May 11, 1978. Petitions to intervene were filed by P.P. & L. on May 22, 1978, Washington State Department of Fishies on July 10, 1978, and Department of Game on July 13, 1978. P.P. & L. states its application (Project No. 935) is the identical project for which it seeks a new license, and that it will oppose CCJOA's application. On July 6, 1978, CCJOA filed an answer, stating P.P. & L. has an interest in the proceeding. CCJOA does not object to the intervention of P.P. & L., but asserts that because it proposes substantially different recreation facilities at the project, the applications are not identical, while recognizing the physical project works involved are the same in Project Nos. 935 and 2791. No objections were filed to the petition of the Department of Fisheries. As the applications are both for a single, long-term license for the same constructed project, and are, therefore, mutually exclusive,[6] further proceedings should be conducted on a consolidated basis.

Pursuant to § 3.5(a) of the Commission's Rules of Practice and Procedure (Rules), 18 CFR § 3.5(a) (as amended): (1) the proceedings on the applications of P.P. & L. and CCJOA for license for the constructed Merwin Project are consolidated; (2) the city of Woodland, Wash., is permetted to intervene in the consolidated proceedings; (3) all parties to the proceeding on application for license for Project No. 935 shall be treated as intervenors in the consolidated proceeding on application for license for Project No. 2791 (except the applicant, CCJOA). These interventions are granting subject to the Rules and Regulations of the Commission. Participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene. Admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any other or orders entered in the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30144 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-9]

PUBLIC SERVICE ELECTRIC & GAS CO.

Proposed Toriff Change

OCTOBER 17, 1978.

Take notice that Public Service Electric & Gas Co. of New Jersey, on October 6, 1978, tendered for filing proposed changes in its FERC Electric Service Tariff Nos. 60, 61, and 63. According to the Company, the proposed changes would increase revenues from jurisdictional sales and service by $188,523 based on the 12-month period ending June 30, 1978. In addition, the proposed filing also slightly modified Public Service Electric & Gas Co.'s existing fuel adjustment clause in the above tariff to conform to § 35.14 of the Commission's Regulations.

Public Service states that despite all efforts by it to combat increased costs, the continuing inflationary trend has affected practically all its operations. Due to these increased costs, Public Service states that it has become increasingly difficult for it to provide adequate and reliable service for the growing needs of its customers. The Company also contends that the rate increases are necessary to assure continued confidence in its financial integrity to provide earnings which will attract additional capital at reasonable cost to enable the Company to finance its electrical construction program.

Copies of the filing were served upon the public utility's jurisdictional customers, the Boroughs of Milltown, South River, Park Ridge, and the New Jersey Board of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file

[1] The existing licence expires on Dec. 11, 1979.

[2] CCJOA is composed of the Public Utility District No. 1 of Clark County, Wash., and Public Utility District No. 1 of Cowlitz County, Wash.

[3] Order issued Dec. 30, 1976.

[4] Order issued Feb. 18, 1977.

[5] The city's petition states it was served on all parties on May 9, 1978.

[6] *Ashbakder Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30145 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-11]

SOUTHERN NATURAL GAS CO.

Application

OCTOBER 18, 1978.

Take notice that on October 6, 1978, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP79-11 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 13.947 miles of 16-inch pipeline which pipeline would loop Applicant's existing 12-inch Breton Island-Olga pipeline, Plaquemines Parish, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the proposed 16-inch line would run from a point on its existing 14-inch Breton Sound pipeline in Block 45 through Blocks 46, 47, 48, 49, 36 and Main Pass Area Block 49 to Applicant's existing Olga Compressor Station. Applicant further states that the proposed pipeline is necessary to allow Applicant to transport the gas currently committed to it from Breton Sound Area Blocks 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 45 and from Main Pass Block 21. It is indicated that Applicant presently must transport all gas available to it from the Breton Sound Area through its 12-inch Breton Island-Olga pipeline which has a capacity of 125,000 Mcf per day, and that the capacity is no longer adequate to transport proven reserves committed to Applicant. As a result of new contracts for additional gas reserves with Kerr-McGee Corp., Phillips Petroleum Co. and Terra Resources, Inc., as well as production in the area exceeding Applicant's original estimates, gas available to Applicant from proven reserves presently exceeds pipeline capacity by over 55,000 Mcf per day, it is stated. Applicant asserts that even without considering probable and possible reserves, the limited capacity of the existing pipeline would prevent it from transporting substantial volumes of natural gas per day available to it in July 1979 when the proposed loop line should be completed. The proposed loop lines would enable Applicant to transport additional volumes of gas committed to it to serve better Applicant's customer, it is said.

It is indicated that the estimated cost of the proposed pipeline is $5,102,750. Applicant states that it expects initial financing by short-term financing which would be repaid from cash from current operations and from permanent financing.

Applicant states that the new facilities would be operated as integral parts of its present system and would not result in expansion of Applicant's sales or service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30146 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-94]

TEXAS GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

OCTOBER 18, 1978.

Take notice that on September 29, 1978, Texas Gas Transmission Corp. (Texas Gas) tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. The proposed changes would increase revenues from jurisdictional sales and services by approximately $92,607,000 based on the 12-month period ending June 30, 1978, as adjusted, compared with the rates proposed to be effective in Docket No. RP77-139 on August 1, 1978.

Texas Gas states that the increase costs are attributable to (1) increases in operating expenses; (2) increase in rate base and related costs; and (3) increase in rate of return and related taxes.

Texas Gas requests an effective date of November 1, 1978, for the proposed Revised Sheets. Texas Gas further states that it served copies of this filing upon the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30147 Filed 10-24-78; 8:45 am]

[6740-02-M]

Docket Nos. RP73-3 (PGA78-3); RP73-3 (PGA76-1a); RP73-3 (PGA76-2); RP73-69, for its request to collect these "out of period" ENGA costs under the applicable orders of the ENGA Administra-

Substitute Revised Sheet No. 15, which were filed on September 15, 1978, and which reflect the rates pro-

[6740-02-M]

points where Transco may receive Mich Wisc's gas in Mississippi, other than the point described above.

[6740-02-M]

[Docket No. CP79-10]

[6740-02-M]

Docket Nos. RP73-3 (PGA78-3); RP73-3 (PGA76-1a); RP73-3 (PGA76-2); RP73-69, RP72-99 (EPGA76-3); RP73-3, et al. (PGA77-3a); RP72-99, RP75-75 (EPGA 76-1) and RP72—99, RP75-75 (EPGA 76-2)

TRANSCONTINENTAL GAS PIPE LINE CO.

Order on Rehearing Modifying Prior Order and Denying Stay Request as Moot

OCTOBER 16, 1978.

On August 31, 1978, the Federal Energy Regulatory Commission (Commission) issued an order in this docket Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing, and Consolidating Proceedings. In that order the Commission required Transcontinental Gas Pipe Line Corp. (Transco) to file tariff sheets eliminating from its PGA filing the costs of emergency purchase gas volumes not delivered to Transco during the 6 month accrual period for the deferred account surcharge. For the reasons set forth below, we shall grant in part and deny in part Transco's application for rehearing.

Transco argues that the Commission improperly disallowed certain emergency purchase costs incurred prior to the 6 months determination period used to calculate the revised surcharge proposed by Transco to become effective September 1, 1978. Transco argues that certain of these costs were emergency purchases made pursuant to the Emergency National Gas Act, [ENGA] of 1977 and they are not subject to disallowance by the Commission. Transco cites, among other things, the FERC's order in *Mississippi River Transmission Corporation*, order issued April 24, 1978, in Docket No. RP72-149 (PGA77-10) as support for this argument. Transco requests an opportunity at the hearing to prove these contentions.

Transco also argues that the Commission should give Transco an opportunity at the hearing scheduled in this docket to support its argument that the other non-ENGA emergency purchases not placed in the deferred account during the 6 month determination period used to calculate the latest surcharge adjustment should be collected through the current surcharge.

The Commission finds that the issues raised by Transco cited above should be developed in the hearing ordered in this docket. Accordingly, we shall amend our August 31, 1978, order to provide that Transco may collect the "out of period" emergency costs as of September 2, 1978, subject to refund, pending completion of the proceeding initiated by our August 31, 1978, order. In that proceeding, Transco should show which of the "out of period costs" reflect costs of purchases made under the ENGA of 1977. Also, Transco should demonstrate legal and "good cause" support for its request to collect these "out of period" ENGA costs under the applicable orders of the ENGA Administrator, the *Mississippi River* order, and any other applicable bases for the relief requested. Furthermore, Transco should show that on a legal and on a "good cause" Basis, it should be permitted to collect its "out of period" non-ENGA emergency costs in its current surcharge adjustment. To the extent any of those non-ENGA emergency purchases were made at rates in excess of the applicable just and reasonable producer rate levels prescribed in this Commission's Regulations, Transco will also be required to demonstrate the prudency of the rates paid for such purchases.

Transco also argues that five of the dockets [1] should be severed from this proceeding because Transco has already filed data in support of the prudency of the emergency purchases at issue in those dockets and that Staff, by pleading filed with the FPC on August 26, 1976, in Docket No. RP73-3 et al., has already indicated that it agrees with Transco that the emergency purchases at issue in those dockets were prudent. Transco argues further that no useful purchase will be served by setting this matter for hearing.

As indicated in Staff's August 26, 1976, comments in the five subject dockets, Transco filed comments in support of the prudency of the emergency purchases on the dates listed in the Appendix to Staff's comments. Pursuant to Staff's request, supplemental information was received. Staff's comments indicated that the emergency purchases were made at rates which a reasonably prudent pipeline purchaser would pay for gas under the same or similar circumstances. Therefore Staff recommended that the purchases be approved, and that the proceedings with respect to such purchases be terminated.

Upon review of that information and Staff's August 26, 1976, filed comments, the Commission agrees that the emergency purchases contained therein are prudent. Accordingly, the Commission shall sever those five dockets from this proceeding and terminate the proceedings in those dockets insofar as they involve emergency purchases. To the extent there are not amounts subject to refund in those dockets involving other unresolved issues, the refund obligation of Transco in those dockets shall be terminated.

Since this order grants the relief requested by Transco, Transco's motion for stay shall be denied as being moot.

Consistent with the determinations made in this order, Transco's Substitute Ninth Revised Sheet No. 12 and Substitute Revised Sheet No. 15, which were filed on September 15, 1978, and which reflect the rates proposed in Transco's August 1, 1978, filing are adjusted to exclude the "out of period" costs at issue in this proceeding, shall be accepted for filing and made effective as of September 1, 1978, subject to any refund obligation in other unresolved Transco rate cases. In addition, Transco's Substitute Tenth Revised Sheet No. 12 and Substitute Ninth Revised Sheet No. 15, which were also filed on September 15, 1978, and which reflect all of the proposed costs in Transco's August 1, 1978, filing, shall be made effective September 2, 1978, subject to refund pending resolution of this proceeding.

The Commission orders:

(A) The August 31, 1978, order is modified to extent discussed in the body of the order, and in Ordering Paragraph (B) below.

(B) The proceedings in Docket Nos. RP73-3 (PGA76-1a); RP73-3 (PGA76-2); RP73-69, RP72-99 (EPGA76-3); RP72-99, RP75-75 (EPGA76-1); and RP72-99, RP75-75 (EPGA76-2) are terminated insofar as they involve the prudency of 60 day emergency purchases. To the extent there are not amounts subject to refund in those dockets involving other unresolved issues, the refund obligations in those dockets are hereby terminated.

(C) Transco's Substitute Ninth Revised Sheet No. 12 and Substitute Revised Sheet No. 15, which were filed on September 15, 1978, are accepted for filing and made effective as of September 1, 1978, subject to any refund obligations in any other unresolved Transco rate proceedings.

(D) Transco's Substitute Tenth Revised Sheet No. 12 and Substitute Ninth Revised Sheet No. 15 filed on September 15, 1978, shall become effective as of September 2, 1978, subject to refund pending resolution of this proceeding.

(E) To the extent not granted in this order, Transco's application for rehearing is denied.

(F) Transco's motion for stay of the Commission's August 31, 1978, order is denied because it is now moot as a result of the action taken in the instant order.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30127 Filed 10-24-78; 8:45 am]

[1] RP73-3 (PGA76-1a); RP73-3 (PGA76-2); RP73-69, RP72-99, RP75-75 (EPGA76-1); and RP72-99, RP75-75 (EPGA76-2).

[6740-02-M]

[Docket No. CP79-3]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND MICHIGAN WISCONSIN PIPE LINE CO.

Application

OCTOBER 18, 1978.

Take notice that on October 3, 1978, Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001 and Michigan Wisconsin Pipe Line Co. (Mich Wisc), One Woodward Avenue, Detroit, Mich. 48226, (Applicants) filed in Docket No. CP79-3 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to transport and exchange natural gas under the terms of an agreement dated September 8, 1978 (Agreement), all as more fully set forth in the application which is on file with the commission and open to public inspection.

It is stated that the Agreement provides that Mich Wisc would take receipt of gas to be purchased by Transco in the Mayfield West Field, Beckham County, Okla. and redeliver thermally equivalent quantities to Transco at designated points of redelivery. It is further said that Transco would make deliveries of such gas to Mich Wisc at the well heads or well head separators, and Mich Wisc would construct the gathering facilities necessary to connect the wells in the Mayfield West Field to the Mich Wisc system in Oklahoma. It is said that the redelivery points under the Agreement are: (1) The tailgate of Mobil Oil Corp.'s Cameron Meadows Processing Plant in Cameron Parish, La., (2) a point of interconnection between the pipeline systems of Mich Wisc and Transco located near Eunice, Acadia Parish, La., and (3) such other redelivery points as may be established by mutual consent of the parties.

It is stated that Mich Wisc expects to control certain gas reserves in Jefferson Davis, Covington and other counties in Mississippi. It is further said that the Agreement provides that Transco would take receipt of all gas Mich Wisc would deliver to Transco at a point in Covington County, Miss. It is said that Transco would redeliver thermally equivalent exchange volumes to Mich Wisc at the above-designated points of redelivery. It is stated that to the extent that the volumes of gas Transco would receive in Mississippi are in excess of the volumes which Mich Wisc would receive in Oklahoma, Transco agrees to transport such excess volumes, by displacement, to Mich Wisc and redeliver such transportation volumes to Mich Wisc at the points of redelivery.

Applicants also request authority to add, from time to time, additional points where Transco may receive Mich Wisc's gas in Mississippi, other than the point described above.

To compensate Mich Wisc for providing the gathering service for Transco's gas supplies in the Mayfield West Field, as described above, it is said that Transco would pay Mich Wisc 9.9 cents per Mcf delivered by Transco to Mich Wisc in such field. Transco would charge Mich Wisc 3.5 cents per Mcf for all excess volumes which it transports.

It is stated that the term of the Agreement would be for a primary term of 15 years from the date of first deliveries by Transco to Mich Wisc in the Mayfield West Field.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in an subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30148 Filed 10-24-78; 8:15 am]

[6740-02-M]

[Docket No. CP79-10]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

OCTOBER 18, 1978.

Take notice that on October 6, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP79-10 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 1,775 dekatherms (dt) equivalent of natural gas on an interruptible basis, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to transport up to 1,775 dt equivalent per day on an interruptible basis for the account of Carolina Pipeline Co.; NCNG Exploration Corp., an affiliate of North Carolina Natural Gas Corp.; Philadelphia Electric Co.; Piedmont Exploration Co., Inc., an affiliate of Piedmont Natural Gas Co., Inc.; Tar Heel Energy Corp., an affiliate of Public Service Co. of North Carolina, Inc.; Owens-Corning Fiberglas Corp.; UCG Energy Corp., an affiliate of United Cities Gas Co., North and South Carolina Divisions; Rockingham Exploration Co., and affiliate of North Carolina Gas Service Division of Pennsylvania & Southern Gas Co.; Burlington Industries, Inc.; and Devco Enterprises, Inc., and affiliate of Cherokee Brick Co. of North Carolina, Inc., all of which Applicant maintains are existing customers of Applicant, affiliates of such customers, customers of Applicant's distribution customers, or their affiliates. Applicant states that the proposed transportation service would be rendered for such transportation customers, who have joined the Transmac Exploration and Development Program (Transmac), a joint venture exploration and development program formed to finance the search for and development of new natural gas reserves in onshore areas, and in non-Federal waters, in the Gulf Coast region, which received temporary authorization by order of December 21, 1977 in Docket No. CP77-421. Applicant further states that the transportation customers' participation in the Transmac joint venture entitles them to a proportionate working interest in the production in successful discoveries. It is stated that such a discovery has been developed in the State Tract 889-S Field, Mustang Island Area, offshore Nueces County, Tex., and Applicant proposes to transport such customers' interests in the discovery to existing points of delivery to its distributors and to its

direct industrial customer, Owens-Corning Fiberglas Corp.

The gas would be delivered by the producers to the Lovera Pipeline Co. appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[6740-02-M]

[Docket No. ER77-311]

Washington proposes an effective date of September 14, 1978, and therefore requests waiver of the Commis- would not exceed $500,000 with the cost of no single project to exceed $125,000, which costs Applicant would tion to intervene is filed within the time required herein, if the Commission on its own review of the matter

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direct industrial customer, Owens-Corning Fiberglas Corp.

The gas would be delivered by the producers to the Lovera Pipeline Co. (Lovera) for delivery to United Gas Pipe Line Co. (United) in Nueces County, Tex., it is said. United would then transport and deliver the gas to Applicant at an existing point of connection between their two systems, it is stated. Applicant further states that it would construct 1.12 miles of 4-inch pipeline to connect Lovera's facilities with United's existing 12-inch pipeline pursuant to Applicants' budget-type certificate.

Applicant states that it would initially charge 23.5 cents and 24 cents per dt equivalent for transportation service into its Rate Zones 2 and 3, respectively. Also, Applicant states that it would initially withhold 3.8 percent and 4.4 percent of the transportation volumes destined for delivery in its Rate Zones 2 and 3, respectively, for compressor fuel and line loss make-up.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30149 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-12]

TUCSON GAS & ELECTRIC CO.

Proposed Interconnection Agreement

OCTOBER 17, 1978.

Take notice that on October 6, 1978, Tucson Gas & Electric Co (Tucson), tendered for filing an interconnection agreement between it an Tri-State Generation & Transmission Association, Inc. (Tri-State) dated September 1, 1978. Tucson states that the primary purpose of this interconnection agreement is to provide for the exchange of capacity and energy between the electric systems of the parties.

Tucson states that services may be provided under three Service Schedules:

1. Service Schedule A—Emergency Assistance.
2. Service Schedule B—Economy Energy Interchange.
3. Service Schedule C—Banked Energy.

Tucson requests an effective date of September 1, 1978, for this interconnection agreement with a term that shall remain in force until and unless canceled upon thirty (30) days notice by either party.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions and protests should be filed on or before October 24, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30150 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER77-311]

UTAH POWER & LIGHT CO.

Further Extension of Time

OCTOBER 12, 1978.

On October 3, 1978 Lincoln Service Corp. filed a motion for a further extension of time for the filing of briefs on exceptions to the initial decision issued in this proceeding on June 12, 1978.

Three earlier requests by the same party have been granted, the last extension being until October 2, 1978. The motion states the previous extensions was sought because Utah was to file additional rate data with the Commission which would enable Lincoln to determine whether the dispute between it and Utah is moot. This data has still not been filed and Lincoln seeks a further extension. The motion states that Utah does not oppose the motion.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 2, 1978 for the filing of briefs on exceptions. Briefs opposing exceptions are due on or before November 22, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30151 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-13]

WASHINGTON WATER POWER CO.

Filing

OCTOBER 18, 1978.

Take notice that on October 10, 1978, the Washington Power Co. (Washington) tendered for filing copies of a service schedule applicable to what Washington refers to as "Storage Agreement" between Washington and the San Diego Gas & Electric Co. (San Diego). Washington states that this "Storage Agreement" would apply to the delivery of energy to San Diego which could be stored for Washington's future requirements.

Washington further states that the purchase of this energy by San Diego is dependent on such energy being found at some future date to be surplus to Washington's requirements. Washington indicates that the rate at which such energy is purchased by San Diego is 12 mills per kilowatthour computed in accordance with the formula rate specified in Washington's tariff, FPC No. 88. Washington further indicates that if the energy is not surplus to Washington's requirements, San Diego will return such energy under the provisions outlined in the Agreement.

Washington proposes an effective date of September 14, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30152 Filed 10-24-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-12]

WESTERN TRANSMISSION CORP.

Application

OCTOBER 18, 1978.

Take notice that on October 10, 1978, Western Transmission Corp. (Applicant), 2700 Fidelity Union Tower, Dallas, Tex. 75201, filed in Docket No. CP79-12 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of the order granting the requested authorization, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed gas purchase facilities would not exceed $500,000 with the cost of no single project to exceed $125,000, which costs Applicant would finance from cash on hand and from cash generated from normal internal sources and from short-term bank loans and other short-term borrowings utilized in the normal operation of Applicant's total business.

Applicant recognizes that the proposed budget-type authorization for the construction of gas-purchase facilities has an estimated total cost and estimated single project cost in excess of the amounts specified in subparagraph (1) (i) and (ii) of section 157.7(b) of the Commission's Regulations. Consequently, pursuant to subparagraph (2) of section 157.7(b) of the Commission's Regulations, Applicant requests waiver of the cost limitations so as to allow for a total project cost and estimated single project cost in excess of the amount specified in subparagraph (1) (i) and (ii). Applicant states that the purpose of the budget-type authorization cannot be served in its situation by an authorization limited to a total of $150,000 and $37,500 for each project. Applicant asserts that its cost of laying 4-inch pipe, which includes right-of-way, surface damage, material costs, transportation costs and construction costs is approximately $40,000 per mile, and that under a budget-type authority of $37,500 per project, it can lay less than 5,000 feet of pipe to connect new supplies of natural gas; whereas, with the proposed authority of $125,000 per project, it could lay up to 16,500 feet of pipe.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30153 Filed 10-24-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 993-7]

NATIONAL DRINKING WATER ADVISORY COUNCIL

Open Meeting

Under section 10(a)(2) of Pub. L. 92-423, the Federal Advisory Committee Act, notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the Safe Drinking Water Act, will be held at 9 a.m. on November 30, 1978 and at 8:30 a.m., December 1, 1978, at the Torresdale Water Treatment Plant, 9001 State Road, Philadelphia, Pa.

The purpose of the meeting will be to observe the operation of a drinking water treatment plant including the pilot testing of granular activated carbon treatment facilities for the removal of organic contaminants. Other issues to be discussed will include regional water supply programs, and the sharing of information on the implementation of the safe drinking water program in a nonprimacy State.

Both days of the meeting will be open to the public. The Council encourages the hearing of selected outside statements and will allocate a portion of the meeting time for public participation. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement and the petitioner's telephone number.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at Council meetings.

Any member of the public wishing to attend the Council meeting, present a oral statement, or submit a written

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statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Drinking Water (WH-

ty authorized by the experimental use permits.

2. Monsanto Co. must immediately

Review periods for draft and final EIS will be computed as follows: The 45-day review period for draft EIS's

tional forest lands. The preferred alternative includes management or maintenance of: (1) Wood fiber production, (2) big game winter area and habitat, (3) scenic and rec-

Draft

Manatee Harbor, Channel maintenance, Manatee County, Fla., October 12; Proposed

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200

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statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Drinking Water (WH-550), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Directions to the Torresdale Water Treatment Plant can be obtained by contacting the Executive Secretary at 202-426-6877 or the Philadelphia Water Department at 215-686-3801.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

OCTOBER 17, 1978.

[FR Doc. 78-29973 Filed 10-24-78; 8:45 am]

[6560-01-M]

[FRL 993-6; PP 6G1862, 7G1903, and 8G2020/T170]

PESTICIDE PROGRAMS

Establishment of Temporary Tolerances

Monsanto Agricultural Products Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, submitted three pesticide petitions (PP 6G1862, 7G1903, and 8G2020), to the Environmental Protection Agency (EPA). These petitions requested that temporary tolerances be established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities pome fruits (PP 6G1862), fresh alfalfa, alfalfa hay (PP 7G1903), and avocados (PP 8G2020) at 0.2 part per million (ppm) and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.5 ppm (PP 7G1903).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with experimental use permits that have been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerances were adequate to cover residues resulting from the proposed experimental use. A nitrosamine compound, which is a suspect carcinogen, appears in the formulations as an impurity. However, no residues of the compound are present at detectable levels in the raw agricultural commodities. Thus, it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permits.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental uses that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

Residues not in excess of 0.2 ppm remaining in or on pome fruits, fresh alfalfa, alfalfa hay, and avocados and 0.05 ppm remaining in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and temporary tolerances. These temporary tolerances may be revoked if the experimental use permits are revoked or if any scientific data or experience with these pesticides indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-426-2632.

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: October 18, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-29974 Filed 10-24-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 994-3]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these funtions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to § 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: The 45-day review period for draft EIS's will be computed from the Friday following the week which is being reported; the 30-day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from October 9, 1978 through October 13, 1978; the date of submission of comments on draft EIS's as computed from October 20, 1978 is December 4, 1978.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: October 20, 1978.

PETER L. COOK,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Landmark Planning Unit, Boise National Forest, Ada County, Idaho, October 11: Proposed are 10 alternatives and a selected plan for the Landmark Planning Unit located in the Boise National Forest, Ada County, Idaho. Under the proposed plan, timber harvest would be phased in at optimum rates of 5 million board feet per year for a 10-year period. The planning unit would be divided into seven management areas. Some features of the alternatives considered are: (1) Timber harvest, (2) sediment levels, (3) wilderness study areas, (4) wildlife habitat values, and (5) recreation development. (USDA-FS-R4-DES(ADM)-R4-78-10). (EPA Order No. 81105.)

Malheur National Forest, 10-year timber resource plan, several counties, Oregon, October 12: Proposed is a 10-year timber resource management plan for 1,540,423-acre Malheur National Forest located in Grant, Harney, Baker, and Malheur Counties, Oreg. The preferred alternative is an intensive management plan which will include: (1) A current level cut of 203.3 million board feet; (2) prompt reforestation; (3) stocking level control; (4) release of all plantations from other vegetative competitions; (5) construction of an average of 72 miles of road annually; and (6) other management features. (DES-06-04-78-16). (EPA Order No. 81113.)

Burnt Powder Planning Unit, Wallowa-Whitman National Forest, several counties, Oregon, October 12: Proposed is a land Management plan for the Burnt Powder Planning Unit located in the Wallowa-Whitman National Forest in the Counties of Baker, Grant, Malheur, and Union, Oreg. The proposal will cover 670,778 acres of na-

tional forest lands. The preferred alternative includes management or maintenance of: (1) Wood fiber production, (2) big game winter area and habitat, (3) scenic and recreation characteristics, (4) municipal watershed values, (5) wilderness, (6) undeveloped forest characteristics, and (7) other features. (USDA-FS-R6-DES(ADM)-78-17). (EPA Order No. 81114.)

Final

Bear Lake Planning Unit, Caribou National Forest Bear Lake, Franklin, and Caribou Counties, Idaho, October 13: The purpose of the proposed plan is to determine what the long range land management direction should be for the Bear River Planning Unit located in the Caribou National Forest, Bear Lake, Franklin and Caribou Counties, Idaho. Many issues will be raised in this study to address possible conflicts including: (1) Recreation v. water quality and wildlife; (2) timber harvest v. roadless areas, local economy; (3) grazing v. local economy, wildlife, aquatic environment (fish); (4) transportation v. water quality; (5) private land development v. resource management. The Bear Lake Planning Unit contains 343,289 acres of national forest lands, State and private lands. (FS-R4-78-4.) Comments made by: DOI, USDA, EPA, DOE, State agencies, groups, individuals, and business. (EPA Order No. 81116.)

Beartooth Face Unit Plan, Montana, Wyoming, several counties, Montana and Wyoming, October 11: Proposed are the selection and implementation of a land management plan for the 239,680 acre Beartooth Face Planning Unit: Custer, Mont., Gallatin Mont., and Shoshone, Wyo., National Forests. Park County, Wyo., contains 10,934 acres of the planning unit and the remainder is in Carbon, Stillwater, Sweet Grass, and Park Counties, Mont. Five alternate plans are presently being considered. The preferred plan proposes to use both surface and subsurface resources, but to the extent possible, development would be balanced with protection of existing soil, air, water, visual, recreation, and wildlife values. (USDA-FS-ADM-FES-01-08-77-11.) Comments made by: DOI, DOE, EPA, USDA, State and local agencies, groups, individuals, and businesses. (EPA Order No. 81102.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Black Fox Station Unis 1 and 2, guaranteed loan, Rodgers County, Okla. October 12: This statement concerns the use of REA guaranteed loan funds by Western Farmers Electric Cooperative, of Anadarko, Okla. and Associated Electric Cooperative, Inc., to finance a 30.13 percent undivided ownership interest in units 1 and 2 of the Black Fox Station, Rodgers County, Okla., consisting of two boiling water reactors. Steam turbine generators would use this heat to provide 1,150 megawatts of electrical power capacity per unit. (USDA-REA-EIS-ADM-78-4-F.) Comments made by: USDA, EPA, DOI, State agencies, groups and individuals. (EPA Order No. 81110.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Atn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Manatee Harbor, Channel maintenance, Manatee County, Fla., October 12: Proposed is the maintenance of Manatee Harbor and Channel; the construction of a widened turning area at the intersection of the channel with the main Tampa Harbor Channel; and construction of a turning basin adjacent to the Port Manatee berthing area, part of an existing 60 acre island will be modified to form about 7 acres at about 2 feet mean low water to mitigate the loss of an equal area of sea-grassed bay bottom consequent to turning basin construction. The project will involve 164 acres for material fill area and is entirely located in Manatee County, Fla. (Jacksonville district). (EPA Order No. 81111.)

Large unnamed creek, Loves Park, Winnebago County, Ill., October 10: Proposed is a flood prevention plan for large unnamed creek in Loves Park, Winnebago County, Ill. The recommended plan consists of 15,500 L.F. of concrete and 2,400 L.F. of riprap channel improvements; use of 66 acres of existing gravel pits for ponding purposes with installation of a pumping station and a gravity outlet; removal of nine bridges; and construction of four new bridges. Alternatives include: (1) No action, (2) nonstructural solutions of flood plain evacuation, flood proofing, and flood insurance; and (3) structural measures of channel improvements, underground conduits, and reservoirs (Rock Island District). (EPA Order No. 81100.)

Final

Navigation season extension demonstration, fiscal year 1979: October 13: The proposed fiscal year 1979 navigation season extension demonstration program is part of an on-going investigation to demonstrate the practicability of certain enabling measures for extending the commercial navigation season on the Great Lakes-St. Lawrence Seaway system. This proposal covers only the demonstration of various methods needed to extend the navigation season and is not an environmental statement for the extension of the winter navigation season (Detroit District). Comments made by: DOI, DOT, USCG, USDA, FERC, DOE, DOC, EPA, State and local agencies, and groups. (EPA Order No. 81122.)

Final supplement

Channel/levee improvement, east fork Trinity River, Kaufman County, Tex., October 11: This supplemental statement updates information on the environmental statement relative to the increment I portion of the east fork channel and levee improvement of the authorized project, Lavon Reservoir enlargement and east fork channel and levee improvement. The final EIS for Lavon Dam and Reservoir modification and east fork channel improvement was filed with CEQ on March 29, 1971, and is considered inadequate by current standards. An updated EIS on the Lavon Dam and Reservoir was filed with CEQ on July 23, 1976. This proposal will improve channel and utilized excavated material to raise and strengthen associated levees to protect agricultural lands (Fort Worth District). Comments made by: EPA, USDA, DOT, DOI, HEW, DOE, State and local agencies, groups, and businesses. (EPA Order No. 81103.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Office of NEPA Affairs, Department of Energy, 1200 Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9760.

Draft

Coal conversion program, Brayton Point, Bristol County, Mass., October 13: Proposed is a notice of effectiveness to prohibit burning of gas or oil as the primary source of fuel at New England Power Co.'s Brayton Point generating station, Somerset, Bristol County, Mass., for units 1, 2, and 3. The notice of effectiveness would make effective the June 30, 1977, Energy Supply and Environmental Coordination Act prohibition order issued by FEA. The alternatives considered include: (1) Fuel mix, (2) alternate fuels, (3) early retirement, (4) no action. (DOE/EIS-0036-D.) (EPA Order No. 81123.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Alexandria Smith, Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, Wash. 98101, 206-399-5810.

Final

Sinclair inlet wastewater facilities, Kitsap County, Wash., October 11: Proposed is a sewerage facilities plan designed to provide a wastewater treatment and disposal system for the Sinclair inlet water resource inventory area No. 15 within Kitsap County, Wash. This statement identifies alternatives for providing wastewater facilities designed to meet residential and industrial needs as well as the maintenance of environmental quality. The study area covers approximately 100 square miles and has a population of 69,300. The majority of which is concentrated in the city of Bremerton (EPA-91019-77-047). Comments made by: AHP, COE, DOC, USDA, HUD, DOT, USN, DOI, State agencies, groups, individuals, and businesses. (EPA Order No. 81106.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-577-0405.

Final

Courthouse, Federal office building, Springfield, Hampden County, Mass., October 10: Proposed is the construction of a new courthouse and Federal office building in Springfield, Hampden County, Mass., by the General Services Administration. The proposed building will be multistory of reinforced concrete and/or structural steel frame. Interior parking will be provided for about 100 vehicles. The principal tenants in the building will be U.S. courts and related activity offices; the Departments of Treasury, HEW, Defense, and Veterans Administration. Space will be provided for other Federal agencies also. The proposed new building will be approximately 50,000 square feet to be acquired in the downtown area of Springfield. The facility will house about 372 employees. Comments made by: COE, DOC, EPA, HEW, HUD, DOI, DOT, NEA, SBA, State and local agencies, and businesses. (EPA Order No. 81099.)

V 4

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Depart-

FEDERAL HIGHWAY ADMINISTRATION

Draft

Gretna Fish Hatchery Road, Louisville

by: USDA, HEW, HUD, COE, EPA, DOT, DOI, State and local agencies, groups, and businesses. (EPA Order No. 81104.)

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1146]

V 43 / 207 OCT 25 78

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Toa Alta Heights development, Toa Alta, P.R., October 13: Proposed is the issuance of HUD home mortgage insurance for development of two sections of the Toa Alta Heights development, Toa Alta, P.R. The two sections involved, when completed, will provide 1,729 dwelling units and will involve 198.61 acres of land. Development will include both single and multufamily units, and community facilities. (EPA Order No. 81118.)

Final

Colony Creek Village, subdivision, Harris County, Tex., October 11: The proposed action is for the Department of Housing and Urban Development to accept for HUD-FHA mortgage insurance purposes, the proposed Colony Creek Village subdivision which is located in northwestern Harris County, Tex., about 20 miles northwest of downtown Houston. The 181.73 acre site is north of and adjacent to Louetta Road. When completed in 5 years, the subdivision will contain approximately 818 single family homes plus recreational facilitles to serve the subdivision (HUD-RO6-EIS-78-34-F). Comments made by: USDA, COE, EPA, DOI, DOT, HUD, State and local agencies. (EPA Order No. 81107.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

Coal resources development, south central Wyoming, several counties, Wyoming and Colorado, October 13: Proposed are three coal mining and reclamation plans and the issuance of rights-of-way necessary to develop coal mines in Sweetwater and Carbon Counties, Wyo. and in Routt and Moffat Counties, Colo. Right-of-way will be used for ancillary facilities related to the project, including: (1) Telephone, power, and two transmission lines; (2) one access and one haul road; (3) a water pipeline and tailing pond; and (4) a State highway. Surface ownership of these lands includes Federal, State, and private. (DES-78-44.) (EPA Order No. 81119.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Gretna Fish Hatchery Road, Louisville West, Sarpy County, Nebr., October 11: Proposed are two projects involving the improvement of approximately 11 miles of N-31 in Sarpy County, Nebr. The Gretna Fish Hatchery Road Project involves reconstruction of approximately 5 miles of N-31 from the south ramps of Gretna I-80 to the Schram Park area. The roadway will be a two-lane surfaced highway; will include two new bridges; and will involve relocation in the Schram Park area. The Louisville West project will involve construction of 6 miles of two-lane surfaced highway from the end of Gretna Fish Hatchery Road to the junction of N-31 and N-50 (FHWA-NEB-EIS-78-04-D). (EP A Order No. 81108.)

Final

I-10, 91st Avenue to the junction I-10, Phoenix, Maricopa County, Ariz., October 13: Proposed is the construction of a multilane, directionally-divided, controlled access highway facility for the purpose of connecting I-10 in the Phoenix Metropolitan Area of Maricopa County, Ariz. The proposed section would be a 15-mile, six- or eight-lane freeway extending east from 91st Avenue to the Maricopa Freeway near 20th Street. The I-10 route would follow a corridor approximately one-quarter mile south of McDowell Road from 91st Avenue east to the vicinity of 20th Street and then south to connect with Marlcopa Freeway (FHWA-AZ-EIS-76-1-F). Comments made by: DOT, DOI, EPA, HUD, AHP, COE, State and local agencies, groups, individuals, and businesses. (EPA Order No. 81124.)

Kuakini Highway realignment, Hawaii County, Hawaii, October 13: The proposed Kuakini Highway realignment project, FAP Route 11, is loeated in the North Kona District on the island and county of Hawaii, State of Hawaii. The project is 3.1 miles long, beginning at the intersection of Queen Kaahumanu Highway and Palani Road, and will terminate at the existing Kuakini Highway near the Kealakowaa Heiau. Project implementation will adversely affect the Great Wall of Kuakini and Kona Field system. An unspecified number of displacements will also result (FHWA-HI-EIS-76-01-F). Comments made by: DOI, DOC, AHP, HUD, EPA, HEW, DOT, USDA, State and local agencies, groups, and businesses. (EPA Order No. 81121.)

Dawson/McDowell/Cabarrus Streets—U.S. 70-401, Wake County, N.C., October 11: The proposed action is the improvement of traffic service in the south central portion of the Raleigh, N.C., urban area. The 3.4-mile project extends from the intersection of Dawson and McDowell Streets with Cabarrus Street south to U.S. 70-401, and between Saunders Street on the west and Wilmington Street on the east. Three alternatives are proposed to alleviate the existing traffic congestion and to accommodate traffic demand to the year 2000. Adverse impacts include increased noise and carbon monoxide levels, stream modification, and residential and business dislocation. (FHWA-NC-EIS-76-05-F). Comments made by: USDA, HEW, HUD, COE, EPA, DOT, DOI, State and local agencies, groups, and businesses. (EPA Order No. 81104.)

WA-90 junction WA-5 to vicinity junction WA-405, King County, Wash., October 13: proposed is the construction of an eight-lane interstate freeway (WA-90), extending from junction WA-5 to vicinity junction WA-405. Project length is 6.9 miles. Adverse effects include displacement of residences and businesses, the elimination of native vegetation, and the destruction of a small amount of wildlife. A 4(F) statement is included in reference to Sturgas Park, Judkins Playground and Luther Burbank Park (FHWA-EIS-75-05-F). Comments made by: USDA, DOC, DOD, COE, HEW, HUD, DOI, DOT, EPA, State and local agencies, groups, individuals, and businesses. (EPA Order No. 81120.)

Draft supplement

The Appalachian highway, GA-5, Gilmer County, Ga., October 13: This statement supplements a final EIS filed in April 1978, concerning construction of the Appalachian Highway in Georgia. The statement proposes new alignments for two sections on GA-5, of four-lane, class 1, rural free access highway in Gilmer County. The first section will be approximately 0.6 mile and will extend from 3 miles north of the Piekens/Gilmer County line to a point approximately 3.5 miles north of that line. The second section, a distanee of 1.8 miles, extending from 4 miles north of the Ellijay city limits to a point approximately 6 miles south of the Gilmer/Fannin County line (FHWA-GA-EIS-77-04-DS-2). (EPA Order No. 81115.)

OFFICIAL RETRACTION

It has come to EPA's attention that the following EIS was not distributed to the public at the same time the official filing was made by the originating Agency. Therefore, notice of availability is hereby republished. The official 30-day review period allocated to final EIS will hereby begin on the date stated below.

Contact: George R. Alexander, Jr., Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2000.

Final

Detroit water pollution control systems, Wayne, Oakland, and Macomb Counties, Mich., October 12: The proposed action involves Federal financial assistance for the upgrading and expansion of an existing regional wastewater treatment plant in the city of Detroit, Mich. The plant capacity would be expanded to treat an average daily flow of 600 MG with a 48-hour sustained peak flow of 1050 MGD. The plan also includes expansion of the associate collection system. Operation, maintenance, financial and management improvement changes will be incorporated as well as modifications to existing contracts and ordinances (EPA region 5). Comments made by: DOI, DOT, DOC, HEW, State and local agency, groups, individuals, and businesses. (EPA Order No. 81051.)

[FR Doc. 78-30188 Filed 10-24-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1146]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

OCTOBER 20, 1978.

Docket or RM No.	Rule No.	Subject	Date received
RM 3039	Sec. 73.202(b)	Request amendment FM Table of Assignments to reassign channel 289 from Catonsville, Md. to Baltimore, Md.	
		Filed by Lauren A. Colby, Attorney for Key Broadcasting Corp. (WKTK-FM).	Oct. 12, 1978
20735		Changes in the rules relating to noncommercial educational FM Broadcast Stations.	
		Filed by Robert L. Freedman, Attorney for Intercollegiate Broadcasting System, Inc.	Oct. 5, 1978
		Filed by William J. Byrnes and Ilene R. Price, Attorneys for Westchester Community College, (WARY-FM).	Oct. 6, 1978
		Filed by Sheldon Elliot Steinbach, Attorney for American Council on Education and Christine Young Topping, Attorney for National Association of Independent Colleges and Universities.	Oct. 12, 1978

NOTE: Oppositions to petitions for reconsideration must be filed within 15 days after publication of this public notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30094 Filed 10-24-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-41]

TRAILER MARINE TRANSPORT CORP.—PROPOSED REDUCED AND INITIAL THROUGH RATES AND PROVISIONS BETWEEN U.S. ATLANTIC AND GULF PORTS IN THE U.S. VIRGIN ISLANDS

Order of Investigation

Trailer Marine Transport Corp. (TMT) hs established a new through service in the Atlantic-Gulf Coast/Virgin Islands trade. Governing rates and provisions for this new service have been published in its Tariff FMC-F No. 2, which also apply between U.S. Atlantic and Gulf ports as named and ports in Puerto Rico, and become effective on various dates, the earliest of which is October 15, 1978. The new rate sections establish two separate columns of trailerload minimum weight rates stated in cents per hundred pounds. One column sets forth the rates for trailers not exceeding 20 feet, and the second sets forth the rates for trailers exceeding 20 feet.

International Marine Transport Serv- ices, Inc. (IMTS), filed a formal protest against TMT's proposed new provisions on August 10, 1978. IMTS asks that the proposed amendments be suspended and placed under investigation because they violate section 3 of the Intercoastal Shipping Act, 1933, and sections 16 First and 18(a) of the Shipping Act, 1916.

IMTS states that the new rates are offered by TMT through its wholly owned affiliate or subsidiary, Interisland Intermodal Lines, Inc. (IIL), and involve selected major moving commodities carried by IMTS and essential to its survival. IMTS contends that the high minimum weight applied regardless of trailer size makes it obvious that the proposed through rates are geared to attract high density cargo. IMTS argues that the rates for the smaller trailers are drastically lower than those applied to larger trailers; accordingly, they are neither just nor reasonable and are obviously noncompensatory.

A reply to protest was filed September 12, 1978. According to TMT, IMTS is under the misconception that TMT and IMTS are the only competitors in the United States/Virgin Islands trade. The proposed through rates are designed to be competitive with Tropical Shipping and Construction Co., Ltd. (TSC), a carrier operating ships between Florida ports and the U.S. Virgin Islands. TMT states that two 20-foot trailers occupy a 40-foot slot on the vessel and thus the revenue derived is compensatory.

We do not believe that a suspension of the proposed through rates for a new service which, although lower than the existing combination of local rates, only meet the level of a competing through service, is dictated in this instance.

TSC is the only carrier publishing through rates for this service and upon entering a new trade area any carrier obviously would meet the rates of its competition. To enter a new trade area with a rate level higher than the dominant carrier would leave the new carrier in a noncompetitive position to attract cargo.

While suspension of the proposed changes does not appear to be warranted, conditions surrounding the filed publications would appear to necessitate investigation.

It is our understanding that virtually all of the cargo in the Atlantic Gulf Coast/Virgin Islands trade is presently moving in 20-foot containers. It appears unlikely that this will change even though TMT has published rates which apply to cargo moving in containers exceeding 20 feet. These rates are considerably higher than TMT's rates which apply to containers not exceeding 20 feet. It would seem that no carefully shipper would utilize the higher rate structure. Assuming this to be the case, TMT's rate structure, that is based on containers not exceeding 20 feet should be designed to recover TMT's total costs.

We are instituting this proceeding in part to determine if there are any circumstances under which shippers would be required to accept a 40-foot container with its attendant higher rates. More importantly, we believe that the TMT's rates applying to containers not exceeding 20 feet should be investigated to insure that they are designed to recover total costs attributable to the carriage of this cargo.

It is the Commission's intention to expeditiously resolve the issues in this proceeding. An expedited procedure is herein ordered to enable the Commission to adhere to deadlines imposed by H.R. 6503 to the extent practicable. The procedural schedule set forth in H.R. 6503 has been extend by 60 days, in order to allow TMT, Hearing Counsel and any intervenors to prepare their direct cases.[1]

[1] In order to adhere strictly to the procedural timetable imposed by H.R. 6503 it will

Footnotes continued on next page

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TMT will be required to furnish to Hearing Counsel and any intervenors exhibits and direct testimony in support of the rate changes. Hearing Counsel and any intervenors will be required to file at a later date comparable information supporting their positions. Parties will provide each other with access to underlying material to their exhibits and statements unless the Administrative Law Judge directs for good cause shown that access to specific materials need not be granted. It is anticipated that this will obviate the need for lengthy discovery. After the parties exchange their direct testimony and underlying material, the Administrative Law Judge will convene a prehearing conference at which the parties will discuss issues, attempt to reach stipulations or settlements and submit recommendations identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate Order limiting the issues and establishing the procedure for their resolution. To the extent possible, evidentiary hearings, if such are necessary, shall be held in one continuous session and shall be completed and the record closed no later than February 20, 1979. The Initial Decision of the Administrative Law Judge shall be submitted in writing to the Commission on or before April 23, 1979, and the Commission will serve the final decision in this proceeding on or before June 25, 1979.

Now, therefore, *it is ordered*, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916 (46 U.S.C. 817, 821) and section 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 845a), an expedited investigation is hereby instituted into the lawfulness of the tariff matters listed in Appendix A for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, that Trailer Marine Transport Corp. be named Respondent in this proceeding;

It is further ordered, that this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge.

The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that Respondent serve Hearing Counsel and any intervenors with all exhibits and statements of direct testimony in support of the rate changes together with underlying material no later than November 22, 1978;

It is further ordered, that Hearing Counsel and any intervenors serve Respondent with all exhibits and statements of direct testimony in support of their positions together with underlying material no later than December 22, 1978;

It is further ordered, that upon service of their direct testimony, parties will provide each other with access to underlying materials unless the Administrative Law Judge directs for good cause shown that access to specific materials need not be granted;

It is further ordered, that the parties submit to the Administrative Law Judge, at a prehearing conference, recommendations identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order limiting the issues and establishing the procedure for their resolution;

It is further ordered, that copies of this Order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, that during the pendency of this investigation, TMT will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, that (1) a copy of this Order be forthwith served upon the Respondent and upon the Commission's Bureau of Hearing Counsel and published in the FEDERAL REGISTER, and (2) the Respondent and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A.—*Tariff FMC-F No. 2*

Page No.	Issued	Effective
Fourth revised p. 5	July 17, 1978	Oct. 15, 1978
Third revised p. 18	July 17, 1976	Do.
Second revised p. 40	July 17, 1978	Do.
Second revised p. 50	....do	Do.
Second revised p. 51	....do	Do.
First revised p. 78-A	Aug. 3, 1978	Do.
First revised p. 78-B	....do	Do.
First revised p. 78-C	....do	Do.
Original pp. 176 through 187	July 17, 1978	Do.
Third revised p. 50	Sept. 11, 1978	Oct. 16, 1978
Second revised p. 78-A	....do	Do.
Second revised p. 78-C	....do	Do.
First revised p. 184	....do	Do.
First revised p. 186	....do	Do.
Third revised p. 78-A	Sept. 27, 1978	Oct. 30, 1978
Third revised p. 78-C	....do	Do.
Second revised p. 184	....do	Do.

[FR Doc. 70-30052 Filed 10-24-78; 8:45 am]

Footnotes continued from last page

be necessary, in future proceedings, for the carrier to submit its written direct case (including underlying documents) concurrently with the rate increase. Complainants (including Hearing Counsel) will be required to submit their respective written direct cases (including underlying documents) on or shortly after the proposed effective date of the rates. The Commission's Rules of Practice and Procedure will be amended accordingly; but since the prescriptions of H.R. 6503 were not effective when the rates herein were filed, i.e., the written direct case of the carrier was not filed contemporaneously with the rate, the procedures outlined in this Order have been adjusted accordingly.

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 43 FR 41437 on September 18, 1978, that meetings of the Federal Prevailing Rate Advisory Committee would be held on October 5, October 12, and October 26, 1978. Notice is hereby given that the meeting scheduled for October 26 has been cancelled.

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

OCTOBER 24, 1978.

[FR Doc. 78-30352 Filed 10-24-78; 8:45 am]

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Program Liaison Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, sec. 10(a)(2)).

DATES: November 15, 1978, 9 a.m. to 10 p.m.; November 16, 1978, 9 a.m. to 2:30 p.m.

ADDRESS: Tucson Marriott Hotel, 180 West Broadway, Tucson, Ariz. 85701.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th Street NW., Washington, D.C. 20004, 202-376-8892.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee shall be open to the public.

The proposed agenda includes:

Reauthorization legislation.
Committee budget.
Council brochure and annual report.
December forums.
Community school legislation.
Tucson adult and community education visitation.
Liaison contact groups.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, Room 323, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004.

Signed at Washington, D.C., on October 19, 1973.

GARY A. EYRE,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 78-29978 Filed 10-24-78; 8:45 am]

[4110-08-M]

National Institutes of Health

AGING REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on December 4, 5, 1978, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9 a.m. to 10 a.m. on December 4, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 4, from 10 a.m. to adjournment on December 5, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Md., Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30070 Filed 10-24-78; 8:45 am]

[4110-08-M]

ANIMAL RESOURCES REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, November 9-10, 1978, at the Zoo Hospital of the San Diego Zoological Society, San Diego, Calif. 92112.

The meeting will be open to the public on November 9 from 8:30 a.m. to 12 noon, during which time there will be a brief staff presentation on the current status of the Animal Resources Program, and on November 10 from 9 to 12 noon, during which time there will be a program demonstration. The Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 9 from 1 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B13, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr Dennis O. Johnsen, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc 78-30064 Filed 10-24-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases, November 1, and 2.

1978, in Building 5, Room 216, and on November 3, 1978, in Building 31, Room 7A24, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public on November 1 from 9 a.m. to 10 a.m. for introductory remarks by the Director, NIAID, and discussion of the Institute's budget, personnel, permanent facilities, contracts, scientific programs, and plans of the Laboratory of Environmental Biophysics, Laboratory of Immunology, and Laboratory of Microbiology and Infectious Diseases.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 1, from 10 a.m. to adjournment, and on November 2 and 3, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Md., Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30069 Filed 10-24-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, November 16-17, 1978, in Building 31, Conference Room 8, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public on November 16 from 9 a.m. to 10 a.m. for introductory remarks by the Director, NICHHD, and discussion of the Institute's budget, personnel, permanent facilities, contracts, scientific programs, and plans of the Laboratory of Developmental Biology and Anomalies, Laboratory of Biochemical Genetics, Laboratory of Perinatal Physiology, Laboratory of Developmental Neurobiology, and Laboratory of Reproductive Biology.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 16, from 10 a.m. to adjournment, and on November 17, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Md., Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30068 Filed 10-24-78; 8:45 am]

[4110-08-M]

GENERAL RESEARCH SUPPORT REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, November 16-17, 1978, from 9

This meeting will be open to the public on November 30, 1978, from 7:30 p.m. to approximately 11 p.m., to review the Committee's policies and procedures. Attendance by the public will be limited to space available.

In accordance with the provisions

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1978, in Building 5, Room 216, and on November 3, 1978, in Building 31, Room 7A24, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on November 1 and 2 from 9 a.m. until recess. During this open session, the permanent staff of the Laboratory of Viral Diseases, the Laboratory of Streptococcal Diseases, and the DNA Recombinant Unit will present and discuss their immediate, past, and present research activities.

In accordance with the provisions set forth in Sections 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed to the public on November 3 from 9 a.m. to adjournment from the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personal qualifications and performance, and the competence of individual investigators.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md., telephone 301-496-5717, will provide summaries of the meetings and rosters of the Board member.

Dr. Kenneth W. Sell, Executive Secretary, Board of Scientific Counselors, NIAID, NIH, Building 5, Room 137, telephone 301-496-2144, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health.)

Dated: October 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30071 Filed 10-24-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS, NIEHS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, December 5, 6, and 7, 1978, Building 18 Conference Room, National Institute of Environmental Health Sciences, Research Triangle Park, N.C.

This meeting will be open to the public from 9 a.m. to 4 p.m. on December 5 and 6, for the purpose of discussing recent developments in the Institute's budget, personnel, permanent facilities, contracts, scientific programs, and plans of the Laboratory of Environmental Biophysics, Laboratory of Behavioral and Neurological Toxicology, and the Inhalation Toxicology Section, Environmental Biology and Chemistry Branch. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6) title 5, United States Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9 a.m. to adjournment on December 7 for the evaluation of the program of the Laboratory of Environmental Biophysics, Laboratory of Behavioral and Neurological Toxicology, and the Inhalation Toxicology Section, Environmental Biology and Chemistry Branch, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Acting Executive Secretary, Dr. David G. Hoel, Acting Scientific Director, National Institute of Environmental Health Sciences, Research Triangle Park, N.C. 27709, telephone 919-541-3205, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated: October 18, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30072 Filed 10-24-78; 8:45 am]

[4110-08-M]

CANCER RESEARCH MANPOWER REVIEW COMMITTEE

Renewal

The Director, National Institutes of Health, announces the renewal on October 13, 1978, of the Cancer Research Manpower Review Committee, under the authority of section 410A(a) of the Public Health Service Act (42 U.S.C. 286e). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

This committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, advice concerning review for merit of National Research Service Fellowship Awards. The committee will terminate October 13, 1980, unless renewed by appropriate action as authorized by law.

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30065 Filed 10-24-78; 8:45 am]

[4110-08-M]

CLINICAL TRIALS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, November 26-27, 1978, at the Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Md.

This meeting will be open to the public from 8 p.m. to 8:30 p.m. on November 26, 1978, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 26, 1978 from 8:30 p.m. to adjournment, and on November 27, 1978 from 8:30 a.m. to adjournment, for the review, discussion and evaluation of two individual grant applications. These applications and the discussion could reveal personal information concerning individuals associated with these applications.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A-03, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone 301-496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30069 Filed 10-24-78; 8:45 am]

[4110-08-M]

GENERAL RESEARCH SUPPORT REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the

General Research Support Review Committee, Division of Research Resources, November 16-17, 1978, from 9 a.m. to 5 p.m. in Building 31, Conference Room 9, National Institutes of Health, Bethesda, Md. 20014.

This meeting will be open to the public from 9 a.m. to 1:30 p.m. on November 16, 1978, to discuss administrative matters relating to the programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 16, 1978, from 1:30 p.m. to 5 p.m., and on November 17, 1978, from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications submitted on the Minority Biomedical Support Program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B13, Bethesda, Md. 20014, telephone 301-496-5545, will provide summaries of meetings and rosters of committee members.

Dr. Sidney A. McNairy, Jr., Executive Secretary of the General Research Support Review Committee, Building 31, Room 5B33, Bethesda, Md. 20014, telephone 301-496-6743 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.375, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30063 Filed 10-24-78; 8:45 am]

[4110-08-M]

HEART, LUNG, AND BLOOD RESEARCH REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, November 30, Maryland Room, Bethesda Holiday Inn, and December 1, 2, 1978, National Institutes of Health Building 31, Wing C, Conference Room 7, Bethesda, Md.

This meeting will be open to the public on November 30, 1978, from 7:30 p.m. to approximately 11 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 1, 1978 from 8:30 a.m. until the adjournment for the review, discussion and evaluation of individual grant applicatons. These applicatons and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur W. Merrick, Executive Secretary, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Md. 20014, phone 301-496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30067 Filed 10-24-78; 8:45 am]

[4110-08-M]

HEART, LUNG, AND BLOOD RESEARCH REVIEW COMMITTEE B

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, November 30, 1978, Maryland Room, Bethesda Holiday Inn, and December 1, 1978, Conference Room 9, Building 31, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on November 30, 1978 from 7:30 p.m. to approximately 11 p.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 1, 1978 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Henry G. Roscoe, Executive Secretary, NHLBI, NIH, Room 554, Westwood Building, Bethesda, Md. 20014, phone 301-496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, 13.839, National Institutes of Health.)

Dated: October 17, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30068 Filed 10-24-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER ADVISORY BOARD AND THE PRESIDENT'S CANCER PANEL

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), the Director, National Institutes of Health, announces the renewal of the following committees:

Committee	*Termination Date*
National Cancer Advisory Board	July 27, 1980.
President's Cancer Panel	July 27, 1980.

Authority for these committees will expire on the dates indicated, unless renewed by appropriate action as authorized by law.

Dated: October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30066 Filed 10-24-78; 8:45 am]

[4110-08-M]

RECOMBINANT DNA ADVISORY COMMITTEE

Renewal

The Director, National Institutes of Health, announces the renewal on June 30, 1978, of the Recombinant

DNA Advisory Committee, under the Authority of section 222 of the Public Health Service Act (42 U.S. Code 217a). Such advisory committees shall

Ms. Ronda Rice, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, N.C. 27709.

(Staff Model, see sec. 1310(b)(1) of the Public Health Service Act), 591 West Hollis Street, Nashua, N.H. 03060. Service area:
Communities of: Nashua, Amherst, Brook-

Los Angeles County:		
90601	91723	91765
90602	91724	91766
90606	91731	91767

2. Health Service Plan of Pennsylvania, 917 Schaff Building, 1505 Race Street, Philadelphia, Pa. 19102. Service area:

Avenue, Suite 1323, Chicago, Ill. 60601. Service area:
Change from: ZIP codes as follows:

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DNA Advisory Committee, under the Authority of section 222 of the Public Health Service Act (42 U.S. Code 217a). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

Authority for the above committee will expire on June 30, 1980, unless the Secretary formally determines that continuance is in the public interest.

Dated, October 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30062 Filed 10-24-78; 8:45 am]

[4110-08-M]

SUBCOMMITTEE ON ENVIRONMENTAL MUTAGENESIS OF THE DHEW COMMITTEE TO COORDINATE TOXICOLOGY AND RELATED PROGRAMS

Report

A report of the Subcommittee on Environmental Mutagenesis entitled "Approaches to Determining the Mutagenic Properties of Chemicals: Risk to Future Generations" was published in the Journal of Environmental Pathology and Toxicology 1: 301-352, 1977.

Notice is hereby given that reprints of the published report are available from:

Ms. Ronda Rice, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, N.C. 27709

The purpose of this report is to review existing techniques to determine the mutagenic properties of various chemicals and to explore the present state of the art of mutagenic testing.

Dated, October 14, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30074 Filed 10-24-78; 8:45 am]

[4110-08-M]

SUBCOMMITTEE ON INHALATION TOXICOLOGY OF THE DHEW COMMITTEE TO COORDINATE TOXICOLOGY AND RELATED PROGRAMS

Report

The report of the Subcommittee on Inhalation Toxicology was published in the Journal of Environmental Pathology and Toxicology 1: 353-381, 1977.

Notice is hereby given that reprints of the published report are available from:

Ms. Ronda Rice, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, N.C. 27709.

Based on an in-depth analysis of an 85 percent response to 81 letters of inquiry to academic institutions, government agencies and private organizations on the national needs in inhalation toxicology, it was concluded that:

1. Facilities for inhalation toxicology are not currently the major problem,

2. Manpower shortage is the most significant obstacle to expansion of needed programs, and

3. Methods development is essentially being ignored in favor of fundamental research on mechanisms and screening/testing programs.

The Subcommittee recommended that:

1. The Federal Government should stimulate and support an accelerated program to train inhalation toxicologists,

2. Government agencies should take the lead role in assuring methods development and protocol improvement for more efficient and effective safety assessment,

3. The private sector should conduct much of the screening/testing programs, and

4. A survey with periodic updating should be conducted by the Federal Government and a facilities roster of inhalation laboratories should be maintained.

Dated: October 14, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30073 Filed 10-24-78; 8:45 am]

[4110-85-M]

Public Health Service

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of August 1978, the following entities have been determined to be qualified health maintenance organizations (HMO's) under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

In addition, revised service areas are announced at the end of the list with respect to three previously qualified HMO's.

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

NAME, ADDRESS, SERVICE AREA, AND DATE OF QUALIFICATION

(Operational Qualified Health Maintenance Organizations: 42 CFR § 110.603(a))

1. Matthew Thornton Health Plan, Inc. (Staff Model, see sec. 1310(b)(1) of the Public Health Service Act), 591 West Hollis Street, Nashua, N.H. 03060. Service area: Communities of: Nashua, Amherst, Brookline, Hollis, Hudson, Litchfield, Londonderry, Lyndeboro, Mason, Merrimack, Milford, Mont Vernon, Pelham, Wilton, and Windham, N.H. Date of qualification: August 15, 1978.

2. Prepaid Health Care, Inc. (Staff Model, see sec. 1310(b)(1) of the Public Health Service Act), 1417 South Belcher Road, Clearwater, Fla. 33516. Service area: Pinellas County, Fla. Date of qualification: August 3, 1978. (Achieved preoperational qualification on Aug. 2, 1978.)

(Transitionally Qualified Health Maintenance Organizations: 42 CFR § 110.603(b))

3. Arizona Health Plan, Inc. (Medical Group Model, see sec. 1310(b)(1) of the Public Health Service Act), 4811 North Seventh Street, Phoenix, Ariz. 85014. Service area: Maricopa County and the unincorporated area of Pinal County, known as Apache Junction. Date of qualification: August 24, 1978.

4. ABC HMO, Inc. (Medical Group Model, see sec. 1310(b)(1) of the Public Health Service Act), 4747 North 22d Street, Phoenix, Ariz. 85016. Service area: Maricopa County and the unincorporated area of Pinal County known as Apache Junction. Date of qualification: August 3, 1978.

(Preoperational Qualified Health Maintenance Organization: 42 CFR § 110.603(c))

5. The Health Care Plan, Inc. (Staff Model, see sec. 1310(b)(1) of the Public Health Service Act), 664 Ellicott Square Building, Buffalo, N.Y. 14203. Service area: Erie County, N.Y. Date of qualification: August 31, 1978.

The following HMO's were determined to have been operationally qualified in the month of April:

1. Crossroads Health Plan (Individual Practice Association, see sec. 1310(b)(2)(A) of the Public Health Service Act), 141 South Harrison Street, East Orange, N.J. (city of Newark to be included beginning Nov. 1, 1978). Date of qualification: April 1, 1978. (Achieved preoperational qualification on Mar. 17, 1978 (43 FR 20560).)

2. Health Maintenance Organization of Baton Rouge, Inc. (Medical Group Model, see sec., 1310(b)(1) of the Public Health Service Act), 9151 Interline Avenue, Baton Rouge, La. 70609. Service area: Parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge, La. Date of qualification: April 3, 1978. (Achieved preoperational qualification on Mar. 13, 1978 (43 FR 20560).)

Revised Service Areas

Service areas listed in the annual cumulative list of qualified HMO's and published on April 7, 1978, in the FEDERAL REGISTER (43 FR 14908-13) are revised as follows:

1. Family Health Services, Inc., d.b.a General Medical Centers Health Plan, 300 South Park, Pomona, Calif. 91766. Service area:

Change from: Eastern Los Angeles County known as the San Gabriel and Pomona Valley area and the western part of San Bernardino County. All of this area lies within a 7-mile radius of a GMCHP medical office. The ZIP codes encompassed by the service area are as follows:

Los Angeles County:		
90601	91723	91765
90602	91724	91766
90606	91731	91767
90660	91732	91768
91006	91733	91770
91010	91740	91773
91016	91744	91780
91702	91745	91789
91706	91746	91790
91711	91748	91791
91722	91750	91792
San Bernardino County:		
91701	91762	
91710	91763	
91730	91764	
91761	91786	

Change to:

Los Angeles County:		
90022*	90706*	91711
90023*	90712*	91722
90031*	90713*	91723
90032*	90715*	91724
90033*	90716*	91731
90040*	90723*	91732
90058*	90803*	91733
90063*	90804*	91740
90201*	90805*	91744
90221*	90806*	91745
90240*	90807*	91746
90241*	90808*	91748
90242*	90814*	91750
90255*	90815*	91754*
90262*	90840*	91765
90270*	91001*	91766
90280*	91006	91767
90601	91010	91768
90602	91016	91770
90603*	91024*	91773
90604*	91030	91775*
90605*	91101*	91776*
90606	91104*	91780
90638*	91105*	91789
90640*	91106*	91790
90650*	91107*	91791
90660	91108*	91792
90670*	91702	91801*
90701*	91706	91803*
San Bernardino County:		
91701	91762	
91710	91763	
91730	91764	
91739*	91786	
91743*	92335*	
91761		
Riverside County*:		
91720	92503	
91752	92504	
91760	92505	
92370	92506	
92501	92509	
Orange County*:		
90620	92643	92701
90621	92644	92703
90623	92645	92704
90630	92646	92705
90631	92647	92706
90680	92648	92707
90720	92649	92708
90740	92655	92709
90742	92660	92710
90743	92665	92714
92621	92666	92715
92626	92667	92801
92627	92668	92802
92631	92669	92804
92632	92670	92805
92633	92676	92806
92635	92680	92807
92640	92683	
92641	92686	

Date of Qualification: Transitionally qualified—December 14, 1976.

2. Health Service Plan of Pennsylvania, 917 Schaff Building, 1505 Race Street, Philadelphia, Pa. 19102. Service area:

Change from: Philadelphia, Delaware, Montgomery, Bucks, Chester Counties, Pa.

Change to: ZIP codes in the States of:

New Jersey:		
08002	08043	08093
08003	08046	08101
08007	08049	08102
08008	08052	08103
08009	08057	08104
08012	08065	08105
08021	08066	08106
08029	08075	08107
08030	08078	08108
08033	08083	08109
08034	08084	08110
08035	08091	
Pennsylvania:		
18914	19067	19138
18925	19070	19139
18940	19072	19140
18954	19073	19141
18966	19074	19142
18974	19075	19143
18976	19076	19144
19001	19077	19145
19002	19078	19146
19003	19079	19147
19004	19081	19148
19006	19082	19149
19007	19083	19150
19008	19084	19151
19009	19085	19152
19010	19086	19153
19012	19087	19154
19013	19089	19174
19014	19090	19301
19015	19094	19312
19016	19095	19317
19017	19096	19319
19018	19101	19331
19020	19102	19333
19022	19103	19335
19023	19104	19341
19025	19105	19342
19026	19106	19345
19028	19107	19355
19029	19108	19357
19030	19109	19366
19031	19110	19373
19032	19111	19377
19033	19112	19380
19034	19113	19395
19035	19114	19401
19036	19115	19403
19037	19116	19405
19038	19117	19406
19039	19118	19407
19040	19119	19408
19041	19120	19409
19043	19121	19422
19044	19122	19425
19046	19123	19426
19047	19124	19428
19050	19125	19432
19052	19126	19444
19054	19127	19452
19055	19128	19454
19056	19129	19460
19057	19130	19462
19058	19131	19468
19060	19132	19477
19061	19133	19479
19063	19134	19481
19064	19135	19486
19065	19136	
19066	19137	

Date of Qualification: Operationally qualified—April 26, 1976.

3. HMO Illinois, Inc., 233 North Michigan Avenue, Suite 1323, Chicago, Ill. 60601. Service area:

Change from: ZIP codes as follows:

46303	46323	46402
46307	46324	46404
46311	46326	46406
46312	46327	46407
46319	46342	46408
46320	46373	46409
46321	46375	46410
46322	46394	
60004	60304	60603
60005	60305	60604
60007	60401	60605
60008	60402	60606
60010	60406	60607
60015	60409	60608
60016	60411	60609
60018	60415	60610
60022	60417	60611
60025	60419	60612
60026	60422	60613
60029	60423	60614
60043	60425	60615
60053	60426	60616
60056	60429	60617
60062	60430	60618
60067	60432	60619
60068	60438	60620
60069	60439	60621
60070	60441	60622
60076	60442	60623
60082	60443	60624
60090	60445	60625
60091	60448	60626
60093	60449	60627
60101	60451	60628
60103	60452	60629
60104	60453	60630
60106	60455	60631
60108	60456	60632
60120	60457	60633
60126	60458	60634
60130	60459	60635
60131	60461	60636
60137	60462	60637
60141	60463	60638
60143	60464	60639
60148	60465	60640
60153	60466	60641
60157	60468	60642
60160	60469	60643
60162	60471	60644
60163	60472	60645
60164	60473	60646
60165	60475	60647
60170	60476	60648
60171	60477	60649
60172	60480	60650
60176	60482	60651
60181	60501	60652
60185	60513	60653
60187	60514	60654
60191	60515	60655
60193	60521	60656
60194	60525	60657
60195	60534	60658
60201	60546	60659
60202	60558	60660
60203	60559	60666
60301	60601	
60302	60602	

Change to: Peoria, Tazewell, Fulton, Woodford Counties, Ill., and ZIP codes as follows:

46303	46323	46402
46307	46324	46404
46311	46326	46406
46312	46327	46407
46319	46342	46408
46320	46373	46409
46321	46375	46410
46322	46394	

60004	60302	60559
60005	60304	60601
60007	60305	60602

Files containing detailed information regarding qualified HMO's will be available for public inspection between

[4310-84-M]

UTAH

[4310-31-M]

DEPARTMENT OF THE INTERIOR

Mining Supervisor's Office, 126 Elk Street, Rock Springs, Wyo.; Office of the Regional Manager, Conservation Division, USGS, 7200 West Alameda

7, 1978, at Price, Utah. Hearings at all locations will start at 1 p.m. and 7 p.m. and will continue until all who wish to testify have been heard. Anyone wish-

V 4 3 / 2 0 7 0 C 2 5 7 8

60004	60302	60559
60005	60304	60601
60007	60305	60602
60008	60401	60603
60010	60402	60604
60015	60406	60605
60016	60109	60606
60018	60411	60607
60022	60415	60608
60025	60417	60609
60026	60419	60610
60029	60422	60611
60035*	60423	60612
60043	60425	60613
60053	60426	60614
60056	60429	60615
60062	60430	60616
60067	60432	60617
60068	60438	60618
60069	60439	60619
60070	60441	60620
60076	60442	60621
60082	60443	60622
60090	60445	60623
60091	60448	60624
60093	60449	60625
60101	60451	60626
60103	60452	60627
60104	60453	60628
60106	60455	60629
60108	60456	60630
60120	60457	60631
60126	60458	60632
60130	60459	60633
60131	60461	60634
60137	60462	60635
60141	60463	60636
60143	60464	60637
60148	60465	60638
60153	60466	60639
60157	60468	60640
60160	60469	60641
60162	60471	60642
60163	60472	60643
60164	60473	60644
60165	60475	60645
60170	60476	60646
60171	60477	60647
60172	60480	60648
60176	60482	60649
60181	60501	60650
60184*	60513	60651
60185	60514	60652
60187	60515	60653
60191	60521	60654
60193	60525	60655
60194	60534	60656
60195	60540*	60657
60201	60544*	60658
60202	60546	60659
60203	60555*	60660
60301	60558	60666

Date of qualification: Transitionally qualified—June 15, 1977 (inadvertently listed as operationally qualified—42 FR 38649-50).

* Added ZIP codes.

Files containing detailed information regarding qualified HMO's will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, Third Floor, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified HMO's should be sent to the same office.

Dated: October 19, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-29963 Filed 10-24-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

LIST OF RESTRICTED JOINT BIDDERS

Pursuant to the authority vested in the Director of the Bureau of Land Management by the provisions of 43 CFR 3302.3-2(a), the following companies shall be restricted from bidding jointly with any other company on this same list at Outer Continental Shelf oil and gas lease sales held during the bidding period of November 1, 1978, through April 30, 1979. BP Alaska Exploration Inc. and Sohio Natural Resources Co. are listed together as one Restricted Joint Bidder, and they may bid with each other, but not with any other company on this list.

Amoco Production Co.
BP Alaska Exploration Inc., and Sohio Natural Resources Co.
Chevron U.S.A. Inc.
Exxon Corp.
Gulf Oil Corp.
Mobil Oil Corp.
Shell Oil Co.
Standard Oil Co. of California
Texaco, Inc.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

[FR Doc. 78-30097 Filed 10-24-78; 8:45 am]

[4310-84-M]

UTAH

Wilderness Aspects; Public Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the following public meetings will be held to discuss wilderness aspects of roadless areas of 5,000 acres or more that would be crossed by proposed electrical transmission, railroad and pipeline routes for the proposed Intermountain Power Project: Delat—November 14, at 7:30 p.m. in the Delta High School auditorium; Cedar City—November 15, at 7:30 p.m. in the BLM Cedar City district office, 1579 North Main Street; Castle Dale—November 16, at 7:30 p.m. in the Emery County Courthouse; Salt Lake City—November 17, at 7 p.m. in room 1408 of the University Club Building, 136 East South Temple.

The meetings are being held to gain public input for evaluating wilderness aspects of the areas. Information gain from public input and wilderness inventories will be discussed in the draft environmental statement now being prepared by BLM on the proposed power project.

Public comments on the wilderness aspects of the areas will be accepted until December 18. Comments should be mailed to: BLM Utah State Director, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT:

Mr. Don Baxa, BLM Utah State Office, Salt Lake City, 801-524-4229.

Dated: October 16, 1978.

PAUL L. HOWARD,
State Director.

[FR Doc. 78-30099 Filed 10-24-78; 8:45 am]

[4310-31-M]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Int DES 78-46]

DEVELOPMENT OF COAL RESOURCES, CENTRAL UTAH

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft regional environmental impact statement on proposed coal development and associated activities in central Utah. The draft statement concerns a broad area of central Utah and includes the Book Cliffs, Wasatch Plateau, Salina Canyon, the western part of the Sego coal field, the Emery coal fields in east-central Utah, and the communities associated with these fields. The environmental statement is development is developed in two parts: An analysis of the cumulative impacts that would result from projected coal development in the region, and analyses of impacts that would result from specific mining and reclamation plans.

The major analysis in the cumulative statement is based on a projected regional coal production of 24 million tons per year (mty) by the year 1990. This includes full production from ten proposed mines and would supply the peak demand requirements of the proposed Intermountain Power project. Alternative production scenarios of 19 mty and 42 mty by 1990 are presented to to provide a basis for evaluating areas of environmental concern or impact sensitivity at lower and higher production levels. Seven applicants have submitted mining and reclamation plans for 10 proposed mines on existing leases in central Utah. The mines and applicants are the Deadman Canyon mine of AMCA Coal Leasing Inc., Skumpah Canyon mine of the Energy Reserves Group Inc., Mountain States No. 1 mine of the Mountain States Resources Co., Fish Creek and Dugout Canyon mines of the Pacific Gas and Electric Co., McKinnon No. 1 and No. 2 mines of Routt County Development, Ltd., B Canyon mine of the United States Steel Corp., Belina No. 2 and O'Connor mines of Valley Camp of Utah, Inc.

The draft environmental impact statement is available for public review in the U.S. Geological Survey (USGS) Library, 1526 Cole Boulevard, Golden, Colo.; the USGS Library, Room 4A100, 12201 Sunrise Valley Drive, Reston, Va.; USGS Area Mining Supervisor's Office, 8426 Federal Building, 125 South State Street, Salt Lake City, Utah; USGS District Mining Supervisor's Office, 126 Elk Street, Rock Springs, Wyo.; Office of the Regional Manager, Conservation Division, USGS, 7200 West Alameda Avenue, Lakewood, Colo.; Office of the State Director, Bureau of Land Management (BLM), University Club Building, 136 East South Temple, Salt Lake City, Utah; BLM Distict Office, Moab, Utah; BLM District Office, Richfield, Utah; BLM Price River Resource Area Office, Price, Utah; BLM Henry Mountain Resource Area Office, Hanksville, Utah; BLM Denver Service Center Library, Building 50, Federal Center, Denver, Colo.; Forest Supervisor's Office, USDA Forest Service (USFS), Manti-La Sal National Forest, 350 East Main Street, Price, Utah; USFS Ferron District Ranger, 50 South Main Street, Ferron, Utah; USFS Forest Supervisor, Fishlake National Forest, 170 North Main Street, Richfield, Utah; USFS Richfield District Ranger, 55 South First East, Richfield, Utah; USFS Teasdale District Ranger, Teasdale, Utah; USFS Loa District Ranger, Loa, Utah.

Copies will also be available for public review at the following libraries: Utah State University, Logan, Utah; University of Utah, Salt Lake City, Utah; Brigham Young University, Provo, Utah; Weber State College, Ogden, Utah; Southern Utah State College, Cedar City, Utah; Dixie College, St. George, Utah; Carbon College of Eastern Utah, Price, Utah; Sevier County Bookmobile, 83 East Lenter Street, Richfield, Utah; Price Public Library, 159 East Main Street, Price, Utah; Salt Lake City Public Library, 209 East 500 South, Salt Lake City, Utah; Salt Lake County Public Library, 2197 East 7000 South, Salt Lake City, Utah; Richfield Public Library, 83 East Center Street, Richfield, Utah; Carbon-Emery County Bookmobile, 159 East Main Street, Price, Utah; and Northern Arizona University Library, Flagstaff, Ariz.

A limited number of copies are available on request from the USGS Land Information and Analysis Office, Stop 701, Box 25046, Federal Center, Denver, Colo. 80225.

Written comments on the draft statement will be accepted until the close of business, December 26, 1978. All substantive comments received will be considered in preparing the final environmental statement on this proposal. Written comments should be addressed to Director, U.S. Geological Survey, National Center, Mail Stop 108, Reston, Va. 22092.

Notice is also given that oral and written comments will be received at public hearings scheduled on December 5, 1978, at the Salt Palace, Salt Lake City, Utah; on December 6, 1978, at Richfield, Utah; and on December 7, 1978, at Price, Utah. Hearings at all locations will start at 1 p.m. and 7 p.m. and will continue until all who wish to testify have been heard. Anyone wishing to make oral presentations at the hearings should submit their requests in writing at the hearings or by mail to the Federal Task Force Leader, U.S. Geological Survey, 350 South Main Street, Post Office Building, Salt Lake City, Utah 84101. Persons wishing to give oral comments are requested to limit their testimony to 10 minutes. Copies of complete oral statements and written comments presented at the hearings will be made part of the official record.

Dated: October 20, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary
of the Interior.

[FR Doc. 78-30053 Filed 10-24-78; 8:45 am]

[4310-10-M]

[Secretary's Order [3027]

INTERIM LEGISLATIVE AUTHORITY FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

This notice is issued in accordance with the provisions of 5 U.S.C. 552(a)(1). The Acting Secretary of the Interior has issued order No. 3027 dated September 29, 1978, to effect an interim reconstitution of the legislative authority of the government of the Trust Territory of the Pacific Islands (TTPI).

The order, which is published in its entirety below, provides interim arrangements for separate legislative authority for the TTPI districts that will become the Federated States of Micronesia, the Marshall Islands and Palau Districts. The concept of legislative and fiscal separation was discussed with members of the political status and transition commissions representing the central districts of the trust territory (the future Federated States of Micronesia) and the Marshall Islands District and the Palau District in Saipan during the week of September 18. These discussions continued through most of the week of September 25 prior to the issuance of the order. The political leadership of the legislative bodies were aware of changes in the legislative and fiscal structure of the trust territory contemplated by the order.

Further information regarding the order may be obtained from Mr. George Milner, Deputy Director, Office of Territorial Affairs, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-4736.

V 43 / 207 OCT 25 78

Dated: October 11, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY

ORDER NO. 3027

Subject: Interim transition to governments based on locally developed constitution—Trust Territory of the Pacific Islands.

Section 1 *Purpose.* The purpose of this order is to effect interim reconstitution of the legislative authority of the Government of the Trust Territory of the Pacific Islands; to provide for new interim legislative authority for the Districts that will become the Federated States of Micronesia (i.e.: Kosrae, Yap, Ponape, and Truk), the Marshall Islands and Palau Districts; to cancel the elections for the Congress of Micronesia scheduled for November 1978; to provide for the segregation of revenues and fiscal matters among the Marshall Islands District, Palau District, and the Districts that will become the Federated States of Micronesia; and to provide; that the High Commissioner shall initiate discussions with appropriate representatives for the purpose of reorganizing the Trust Territory Government to give appropriate effect to governments based on locally developed constitutions in the Marshall Islands, the Palau District, and the Districts which will comprise the Federated States of Micronesia.

Section 2 *Definitions.* For the purpose of this order, the terms belows shall have the following definitions unless the context clearly indicates otherwise:

a. "District" means any one of the chartered or administrative districts of the Trust Territory of the Pacfic Islands not including the Northern Mariana Islands;

b. "Trust Territory Legislature" means any one of the three legislative bodies reconstituted and given paramount local legislative authority pursuant to Section 3 of this order;

c. "Trust Territory statutory law" means the Trust Territory Code and all laws enacted by the Congress of Micronesia and approved by the High Commissioner as of the effective date of this order;

d. "Federated States of Micronesia" means the future political entity which will be comprised of the districts of Kosrae, Yap, Ponape, and Truk.

Section 3 *Legislative Authority.*

a. Except as provided in Section 4d. of this order, the legislative authority of the Government of the Trust Territory is hereby vested in three Trust Territory Legislatures. For the Districts of Kosrae, Yap, Ponape and Truk, this authority shall reside in the "Interim Congress of the Federated States of Micronesia," which shall consist of two houses, the Senate and the House of Representatives. For the District of Palau, this authority shall reside in the "Palau Legislature," which shall be organized according to the terms of the charter of the Palau Legislature in force on the effective date of this order. For the District of the Marshall Islands, this authority shall reside in the "Marshall Islands Nitijela," which shall be organized according to the terms of the charter of the Marshall Islands Legislature in force on the effective date of this order.

b. The authority of each of the three Trust Territory Legislatures shall be co-extensive; each shall enjoy the same relationship with the executive authority of the Government of the Trust Territory; but the authority and responsibility of each of the Trust Territory Legislatures shall not extend beyond the Districts which elect members to it.

c. Each of the Trust Territory Legislatures shall, as to their respective jurisdictions, succeed to the authority of the Congress of Micronesia. As of October 1, 1978, the Trust Territory Legislatures may meet in regular session.

Section 4 *Transition in Legislative Authority.*

a. The election of the Eighth Congress of Micronesia, scheduled for November 7, 1978, is hereby canceled.

b. (1) The members of the Seventh Congress of Micronesia representing the Districts that will constitute the Federated States of Micronesia shall constitute the Interim Congress of the Federated States of Micronesia. Vacancies in membership shall be filled in the same manner as provided in Part III, Section 21 of Secretarial Order 2918.

(2) The terms of the members of the Interim Congress of the Federated States of Micronesia shall extend until such time as the first Congress of the Federated States of Micronesia is elected and organized pursuant to the Constitution of the Federated States of Micronesia.

(3) Provision for election of the Congress of the Federated States of Micronesia not later than March 31, 1979, and organization of that Congress not later than May 15, 1979, shall be made by the Interim Congress of the Federated States of Micronesia.

c. The terms of the members of the Seventh Congress of Micronesia representing the Marshall Islands and the Palau Districts shall expire as provided in Section 4 d. of this order. The Nitijela and the Palau Legislature shall provide by law that such persons shall be members-at-large of their respective Trust Territory Legislatures. The terms of these members-at-large shall be determined by the Nitijela and the Palau Legislature respectively and their compensation shall be no less than that provided by law for the elected members of those Trust Territory Legislatures.

d. Notwithstanding any other provision of this order, the Seventh Congress of Micronesia shall retain its authority and responsibility under Trust Territory law relating to the July 12, 1978, referendum on the Constitution of the Federated States of Micronesia. The authority of the Congress to conduct legislative investigations as set forth in Title 2 of the Trust Territory Code shall remain in effect with respect to the referendum in all six administrative districts. This authority shall not extend beyond November 1, 1978, at which time the Seventh Congress of Micronesia shall be dissolved unless it is earlier dissolved by its own action. During the period of this continued legislative authority of the Seventh Congress of Micronesia, the provisions of the Trust Territory referendum law and the provisions of the Code relating to investigatory authority of the Congress may not be amended by any Trust Territory Legislature or the Congress of Micronesia.

e. The Seventh Congress of Micronesia shall also have the authority to consider and enact such legislation as the High Commissioner may submit relative to the implementation of Section 7 of this order. The terms of office of all members of the Seventh Congress of Micronesia shall expire upon the dissolution of that Congress.

Section 5 *Continuation of Laws.* Trust Territory statutory law shall continue in full force and effect, except as modified by this order, until and unless modified or repealed by appropriate action by any of the Trust Territory Legislatures for its respective jurisdiction. The term "Interim Congress of the Federated States of Micronesia," "Palau Legislature" or "Marshall Islands Nitijela" shall be substituted for the term "Congress of Micronesia" wherever the latter term appears in Trust Territory statutory law in its application to their respective jurisdictions.

Section 6 *Trust Territory-Wide Programs.* Trust Territory Social Security laws shall continue in effect on a Trust Territory-wide basis and Social Security taxes shall continue to be collected, deposited, and administered by the Trust Territory Social Security Fund.

Section 7 *Revenues.*

a. Except as provided by Section 6 of this order, effective October 1, 1978, all taxes, fees, interest, royalties, fines, licenses, and other government charges (hereinafter referred to as "revenues") collected pursuant to any provision of Trust Territory statutory law shall be deposited in full to the treasury of the Trust Territory Legislature having jurisdiction for the District of origin of such revenue, except in the case of those Districts under the legislative jurisdiction of the Interim Congress of the Federated States of Micronesia, in which case the revenues shall be distributed among the Interim Congress of the Federated States of Micronesia and its respective District legislatures in accordance with the provisions of appropriate Trust Territory statutory law.

b. The Revenue Division of the Government of the Trust Territory shall continue to have the authority and responsibility to collect revenues due pursuant to Trust Territory statutory law until such time as any one of the Trust Territory legislatures provides otherwise. During the period of such responsibility, the Revenue Division of the Government of the Trust Territory shall assess each Trust Territory legislature for the actual expense of revenue collection and attendant administrative expenses.

Section 8 *Trust Territory Headquarters.* The High Commissioner shall have the authority to hire such professional and administrative staff as may be necessary to carry out his duties and responsibilities. Reorganization of the Office of the High Commissioner and Trust Territory Government Headquarters as they exist on the effective date of this Order may be made by the High Commissioner including the establishment of new departments, bureaus, offices and lines of authority. Departments, bureau, and office subdivisions and lines of authority shall be set forth in a table of organization approved by the High Commissioner. Actions affecting Federal personnel are subject to the limitations contained in 205 DM 8.1C (6).

Section 9 *Government Reorganization.* Recognizing that this order is an interim step toward reorganization of the Government of the Trust Territory of the Pacific Islands in anticipation of the establishment of constitutional governments and the termination of the Trusteeship Agreement, the High Commissioner is directed to initiate consultations to prepare recommendations to the Secretary of the Interior for additional governmental reorganization giving effect to the maximum possible extent to developing constitutional arrangements consistent with the obligations of the High Commissioner, the Secretary of the Interior, and the United States Government under the Trusteeship Agreement, such laws of the United States as have been extended to the Trust Territory, and Executive Order 11021, as amended. Such consultations shall be completed as soon as practicable and should be completed by December 31, 1978, and recommendations forwarded to the Secretary of the Interior no later than January 5, 1979.

Section 10 *Superseded Authority and Effective Date.*

a. The provisions of Secretarial Order No. 2918, as amended, and other prior orders of the Secretary of the Interior, insofar as they are inconsistent with the provisions of this Order, are hereby superseded.

b. This Order takes effect on October 1, 1978. Its provisions will remain in effect until it is Amended, Superseded, or Revoked, whichever occurs first.

Dated: September 29, 1978.

JAMES A. JOSEPH,
Acting Secretary of the Interior.

[FR Doc. 78-29979 Filed 10-24-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-58]

CERTAIN FABRICATED STEEL PLATE PRODUCTS FROM JAPAN

Preliminary Conference

Notice is hereby given that a Preliminary Conference will be held in connection with the above styled investigation at 10 a.m. on Wednesday, November 1, in Room 610 Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on September 15, 1978 (43 FR 41299). The purposes of this conference are to review Discovery Statements, to set dates for the final prehearing conference and hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this notice upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued October 19, 1978.

JUDGE DONALD K. DUVALL,
Presiding Officer.

[FR Doc. 78-30179 Filed 10-24-78; 8:45 am]

[7020-02]

[AA1921-185]

NYLON YARN FROM FRANCE

Determination of No Injury or Likelihood Thereof

On July 18, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that nylon yarn from France is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on July 26, 1978, the Commission instituted investigation No. AA1921-185 under section 201(a) of said act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of Treasury's determination, the term "nylon yarn" refers to nylon yarn and grouped nylon filaments, not textured, provided for in items 309.3030, 309.3130, 310.0149, and 310.0249 of the Tariff Schedules of the United States Annotated (TSUSA).

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the FEDERAL REGISTER of August 1, 1978 (43 FR 33833). The public hearing was held in Washington, D.C., on August 29, 1978, and all persons requesting the opportunity to appear were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

DETERMINATION

On the basis of information developed in investigation No. AA1921-185, the Commission unanimously determined [1] that an industry in the United States is not being, and is not likely to be injured, and is not prevented from being established by reason of the importation of nylon yarn from France that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS BILL ALBERGER, GEORGE M. MOORE, AND CATHERINE BEDELL

In order for a Commissioner to make an affirmative determination in an investigation under the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established, and the injury or likelihood thereof must be by reason of imports at less than fair value (LTFV).

Determination. On the basis of information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured, and is not being prevented from being established [2] by reason of the importation of nylon yarn and grouped nylon filaments from France, which the Department of the Treasury (Treasury) has determined are being, or are likely to be sold at LTFV.

The imported article and the domestic industry. The subjects of this investigation are nylon yarn and grouped nylon filaments and includes all nylon yarn and grouped nylon filaments, [3] not textured. Nylon yarn and grouped nylon filaments are widely used in three major end use categories: industrial, carpet, and textile. We consider the relevant industry in this investigation to be those facilities in the United States devoted to the production of textile nylon yarn and grouped nylon filaments. At the present time, eight U.S. firms produce these articles.

LTFV sales. Treasury investigated imports during the period August 1, 1977, to January 31, 1978. The investigation was limited to Rhone Poulenc Textiles who is estimated to have accounted for 87 percent of all U.S. imports of nylon yarn and grouped nylon filaments from France. Comparisons were made on 83 percent of the sales from Rhone Roulenc to the United States. LTFV margins were found on 100 percent of the sales compared, with a weighted average margin of 22.4 percent.

The question of injury or likelihood by reason of LTFV sales U.S. imports and market share.—Total imports of textile nylon yarn increased by more than 75 percent between 1975 and 1976, more than 30 percent in 1977 and declined by more than 10 percent

[1] Chairman Parker, Vice Chairman Alberger, and Commissioners Moore and Bedell. Commissioner Stern had not yet assumed her duties as a Commissioner at the time that the determination was made.

[2] Prevention of the establishment of an industry is not an issue and will not be discussed further.

[3] For purposes of its investigation, Treasury defined "nylon yarn" as meaning nylon yarn and grouped nylon filaments, not textured, provided for in items 309.3030, 309.3130, 310.0149, and 310.0249 of the Tariff Schedules of the United States. The commission also has adopted this definition.

in the first 6 months of 1978 from the comparable period of 1977. Imports from France increased 6.2 percent in 1976, 28 percent in 1977, and then

Profits.—Net profits before taxes for the industry rose from $25.8 million in 1975 to $43.3 million in 1976, then fell off sharply in 1977 to $8.8 million al-

the two French exporters, SNIA Viscosa, S.A., has discontinued production of textile nylon yarn for the U.S. market, and Rhone Poulenc plans to

[7590-01-M]

NUCLEAR REGULATORY

I have determined in accordance with subsection 10(d) of Pub. L. 92-463 that it is necessary to close these ses-

hearing, November 29, 1978, in order to be considered by the Section 301 Committee. Interested persons are ad-

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in the first 6 months of 1978 from the comparable period of 1977. Imports from France increased 6.2 percent in 1976, 28 percent in 1977, and then dropped off by 50 percent in the first half of 1978. During the period 1975 to June 1978, imports from France constituted less than 20 percent of total imports. The French nylon yarn accounted for 1.5 percent of total U.S. consumption in 1975, 1.9 percent in 1977 and fell to 0.7 percent in January-June 1978.

U.S. producers' shipments.—Producers' shipments declined from 360.6 million pounds in 1975 to 341.4 million pounds in 1976, then recovered to 366.3 million pounds in 1977. During January-June 1978, domestic shipments have continued to climb to 11.2 million pounds ahead of the comparable period of 1977; an increase of 5.9 percent.

Capacity utilization.—U.S. producers' capacity utilization remained at approximately 80 percent from 1975 through 1977, and has risen to 86 percent in the first half of 1978.

U.S. exports.—U.S. exports of textile nylon yarn closely followed the fluctuations of U.S. producers' domestic shipments. Exports declined by 1.6 million pounds from 1975 to 1976, but then increased 2.9 million pounds to 9.6 million pounds in 1977. During the first half of 1978, exports have increased dramatically over the comparable period of 1977, indicating a growing demand for American yarns in foreign markets.

Inventories.—U.S. producers' inventories have increased from 4.3 percent of domestic shipments at the end of 1975 to 8.6 percent at the end of 1977 and 15.3 percent in the first half of 1978. The inventory turnover ratio dropped during this period but is expected to level off in 1978. The data on inventories and the inventory turnover ratio are affected by the inclusion of data from a particular domestic company experiencing production problems. The inventory turnover ratio is raised significantly when data from this company is excluded.

Consumption.—U.S. consumption declined 1.2 percent from 1975 to 1976, but increased in 1977 to 9 percent over 1976. Consumption has continued to grow in the first two quarters of 1978, increasing 2 percent over the same period in 1977. The low growth rate for the textile nylon yarn industry is due to a number of factors: it is a "mature" industry in which markets are fairly well defined, increased competition from polyester, and lastly, apparently some competition between types of nylon.

Employment.—Both employment and man-hours increased steadily from 1975 to 1977, and have remained level in the first half of 1978.

Profits.—Net profits before taxes for the industry rose from $25.8 million in 1975 to $43.3 million in 1976, then fell off sharply in 1977 to $8.8 million although net sales increased steadily throughout the period. Net profits for 1978 projected to an annual basis indicate an increase of 16 percent over 1977. A portion of the profit loss can be attributed to higher costs. However, in 1976, although expenses rose modestly, the manufacturers average price rises were 10 percent to more than 20 percent, suggesting that prices may have increased before higher expenses occurred, and profits were thereby increased. The low profits in 1977 can also be attributed to the failure of one producer to maintain its market share due to increased competition from another domestic producer, rather than competition from imports.

Prices.—The margin of underselling of imports from France rose steeply in 1976, then dropped in 1977 and 1978 from that reported in 1976. In one of the three representative denier yarns for which price data was collected, prices offered by importers of the French product were higher than those offered by domestic producers by margins ranging from 1 to 6 percent in the period July 1975 through December 1977.

Lost sales.—Of the eight domestic producers, three furnished specific information on lost sales to imports from France. It is apparent from information gathered by the Commission, that quality and availability of the French yarn, as well as the desire of purchasers to develop an alternate source of supply, were all more important factors that price in those instances where purchasers bought the French yarn. Most of those customers no longer buy the French yarn.

Likelihood.—Furthermore, there is no likelihood of injury to the domestic industry producing textile nylon yarn and grouped nylon filaments as a result of LTFV imports from France. Producers shipments, apparent U.S. consumption, capacity utilization net sales, and profits show healthy increases for January-June 1978 in comparison to the comparable period of 1977.

Evidence of anticipated growth in the domestic market for nylon yarn is the fact that a major new producer, Chevron Fibers Co., entered in 1976. Another indication of the improved outlook for the domestic industry is that one of the two largest producers of textile nylon yarn, Monsanto Textiles Co., recently announced price increases of 7 to 9 percent on its textile-denier nylon yarns effective October 1, 1978. In the first 6 months of 1978, imports of textile nylon yarn from France have dropped to 0.7 percent of apparent U.S. consumption. One of the two French exporters, SNIA Viscosa, S.A., has discontinued production of textile nylon yarn for the U.S. market, and Rhone Poulenc plans to gradually curtail its exports to the U.S. market and withdraw completely by 1981.

Summary.—Considering all of these economic factors, it is apparent that this industry is not injured or likely to be injured by reason of imports from France at LTFV. U.S. imports from France have been minimal and have decreased in the first half of 1978; domestic producers shipments have continued to climb since 1976; capacity utilization has risen; U.S. exports have increased dramatically since 1977; inventories have increased, but only due primarily to a domestic company experiencing production problems; employment and man-hours have increased; profits declined in 1977, but due primarily to a number of nonimport related factors; and the lost sales reported were not the result of price. Thus we have found in the negative.

By order of the Commission.

Issued: October 20, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-30178 Filed 10-24-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE, PLANNING, AND DESIGN ADVISORY PANEL

Canceled Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Architecture, Planning, and Design Advisory Panel to the National Council on the Arts which appeared in the FEDERAL REGISTER, Vol. 43, No. 195, p. 46390, Friday, October 6, 1978, has been canceled. The meeting was originally scheduled to meet November 2, 1978, from 9 a.m. to 5:30 p.m., and on November 3, 1978, from 9 a.m. to 5:30 p.m., in Room 1426, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operation, National Endowment for the Arts.

OCTOBER 23, 1978.

[FR Doc. 78-30100 Filed 10-24-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting With the Federal Republic of Germany Reactor Safety Committee (RSK)

In accordance with the purposes of sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), representatives of the Advisory Committee on Reactor Safeguards (ACRS) will meet with representatives of the Reactor Safety Committee (RSK), an advisory body to the regulatory agency for safety of nuclear installations of the Federal Republic of Germany on November 9-11, 1978. The meeting will be held in Room 1046, 1717 H Street NW., Washington, D.C. 20555.

Representatives of the ACRS, the RSK, and the Nuclear Regulatory Commission (NRC) Staff will meet to discuss reactor safety policy and practice in the United States and the Federal Republic of Germany.

The agenda for this meeting will be as follows:

NOVEMBER 9, 1978

8:30 a.m.-9:45 a.m.: Introduction (open).—Representatives of the ACRS and the RSK will present and discuss brief reports regarding the responsibilities and procedures of the respective bodies.

November 9, 1978 (10 a.m.-5 p.m.), November 10, 1978, and November 11, 1978 (closed).—Closed sessions will be held to discuss items related to nuclear plant and component design requirements, engineered safety features design and performance, risk assessment and related methodology, and application of safety research results and operating data to facility design and performance requirements.

Members of the ACRS and the RSK will discuss information considered confidential by the German Government and it will be provided only on the basis that it will be protected from public disclosure.

Procedures for the conduct of and participation in ACRS meetings were outlined in the FEDERAL REGISTER on October 4, 1978 (p. 45926). In accordance with these procedures, oral or written statements may be presented by members of the public. Questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

I have determined in accordance with subsection 10(d) of Pub. L. 92-463 that it is necessary to close these sessions to insure the security of information identified and supplied by a foreign government as confidential (5 U.S.C. 552b(c)(1)).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202-634-3265) between 8:15 a.m. and 5 p.m., Washington, D.C. time.

Dated: October 20, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-30206 Filed 10-24-78; 8:45 am]

[3190-01—M]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket 301-15]

CERTAIN TELEVISION LICENSES

Hearing

On August 29, 1978, the Chairman of Section 301 Committee received from certain U.S. television licensees a petition under section 301 of the Trade Act (19 U.S.C. 2411) alleging certain unfair trade practices by the Government of Canada. This petition was published in the FEDERAL REGISTER of Wednesday, September 6, 1978 (43 FR 39617). Petitioners have requested a public hearing on their complaint and in the above mentioned FEDERAL REGISTER notice, the date of November 29 was tentatively scheduled for that public hearing. Pursuant to this notice there will be a public hearing on the issues raised in the petition filed by certain U.S. television licensees. The hearing will be held on Wednesday, November 29, and if necessary will continue on Thursday, November 30, 1978. The hearing will be held at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C. Room 730, beginning at 10:30 a.m.

Requests to present oral testimony and accompanying briefs must be received in the Office of the Special Representative for Trade Negotiations on or before November 21, 1978. Written briefs from those persons not wishing to present oral testimony should be received in the Office of the Special Representative for Trade Negotiations on or before the date of the hearing, November 29, 1978, in order to be considered by the Section 301 Committee. Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all section 301 proceedings (15 CFR 2006 as amended by FEDERAL REGISTER notice of Tuesday, Oct. 18, 1977 p. 556711.) Please note that all communications to the Chairman of Section 301 Committee should be addressed to the Office of the Special Representative for Trade Negotiations, Room 715, 1800 G Street NW., Washington, D.C. 20506.

a. Submission of briefs and Requests to Present to Oral Testimony. Requests for oral testimony and submission of written Briefs should conform to the procedures set forth in 15 CFR 2006.6 and 2006.7 (found in the FEDERAL REGISTER of Aug. 28, 1978 p. 39497).

b. Rebuttal Briefs. In order to assure parties an opportunity to contest information provided by other interested parties in written briefs and oral testimony, rebuttal briefs may be filed by any party within 15 days after the transcript of the hearing becomes available.

c. Attendance at Hearings. The hearing will be open to the public.

SHIRLEY A. COFFIELD,
Chairman, 301 Committee, Office of the Special Representative for Trade Negotiations.

[FR Doc. 78-30081 Filed 10-24-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-381; Adm. Proceeding File No. 3-5540]

BLOCK ENGINEERING, INC.

Application and Opportunity for Hearing

OCTOBER 17, 1978.

In the matter of Block Engineering, Inc., file No. 81-381.

Notice is hereby given that Bio-Rad Laboratories, Inc. ("Bio-Rad") on behalf of Block Engineering, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirements to file reports pursuant to sections 13 and 15(d) of the Exchange Act.

The Applicant states, in part:

1. The Applicant is a Delaware corporation subject to the reporting provisions of sections 13 and 15(d) of the 1934 Act.

2. On July 26, 1978, New Block, Inc., a wholly owned subsidiary of Bio-Rad, merged with and into the Applicant.

3. Pursuant to the terms of this

Notice is hereby given that Farmers Telephone Co. ("Applicant") has filed an application pursuant to section

[8010-01-M]

[File No. 81-409; Administrative Proceeding

For the Commission, by the Division of Corporation Finance, pursuant to

[8010-01-M]

SECURITIES AND EXCHANGE

mary purpose of such measures has been to deter unfriendly takeovers by relying, for the most part, on the

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2. On July 26, 1978, New Block, Inc., a wholly owned subsidiary of Bio-Rad, merged with and into the Applicant.

3. Pursuant to the terms of this merger, all outstanding shares of Applicant's common stock not held by Bio-Rad and New Block were converted to rights to recieve $4.25 per share. Applicant's common stock was registered under 12(g) of the 1934 Act.

In the absence of an exemption, Applicant is required to file periodic reports pursuant to sections 13 and 15(d) of the 1934 act. Applicant believes that its requests for an order exempting it from the reporting requirements is appropriate in view of the fact that Applicant believes that the time, effort, and expense involved in preparation of additional periodic reports would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested person not later than November 13, 1978, may submit to the Commission in writing his views of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued or upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29988 Filed 10-24-78; 8:45 am]

[8010-01-M]

[File No. 81-293; Administrative Proceeding File No. 3-5444]

FARMERS TELEPHONE CO.

Application and Opportunity for Hearing

OCTOBER 17, 1978.

In the matter of Farmers Telephone Co., file No. 81-293.

Notice is hereby given that Farmers Telephone Co. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from the provisions of sections 12(g), 13, 14, and 16 of the 1934 Act.

The Applicant states, in part:

1. The operations of the Applicant are limited to Grant County, Wis.;

2. Practically all of Applicant's securities are owned by Wisconsin residents;

3. Applicant currently is required to meet the reporting and review requirements of the Wisconsin Public Service Commission;

4. Applicant's future offerings of equity securities will be restricted to Wisconsin residents; and

5. There is no active trading market for Applicant's debt or equity securities.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than November 13, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communications or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29989 Filed 10-24-78; 8:45 am]

[8010-01-M]

[File No. 81-409; Administrative Proceeding File No. 3-550]

GULF REPUBLIC FINANCIAL CORP.

Application and Opportunity for Hearing

OCTOBER 17, 1978.

In the matter of Gulf Republic Financial Corp., file No. 81-409.

Notice is hereby given that Gulf Republic Financial Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order granting Applicant an exemption from the provisions of section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On July 12, 1978, GRFC, a company wholly owned by Founders (a group consisting of Arnold M. Miller, William E. Wright, J. Livingtqn Kosberg, and Jerry E. Finger and certain members of trusts for their respective families), merged into Applicant. As a result of the merger, the shareholders of Applicant received $13 per share in cash for their stock and Applicant no longer has any publicly owned common stock. Founders is now the sole shareholder of Applicant.

2. The Applicant has filed with the Commission its proxy statement, dated June 3, 1978, containing audited financial statements for the year ended June 30, 1977, plus a consolidated summary of earnings of Applicant for the 5 years ended June 30, 1977.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than November 13, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for the request, and the issues of fact and law raised by the application which such person desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-29990 Filed 10-24-78; 8:45 am]

[8010-01-M]

[File No. 81-394; Administrative Proceeding File No. 3-5546]

MICHIGAN POWER CO.

Application and Opportunity for Hearing

OCTOBER 17, 1978.

In the matter of Michigan Power Co. file No. 81-394.

Notice is hereby given that Michigan Power Co. ("MPC") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting it from the periodic reporting requirements under sections 13(a) and 15(d) of the 1934 Act.

MPC's application discloses in part:

(1) On July 16, 1978, MPC redeemed its outstanding shares of cumulative preferred stock. As a result of such redemption, MPC no longer had any public security holders; and

(2) The Commission approved such redemption pursuant to section 11(e) of the Public Utility Holding Company Act (Holding Company Act Release No. 20569, dated June 1, 1978).

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than November 13, 1978, may submit to the Commission in writing his views or any substantital facts bearing on this application or the desireability of a hearing thereon. Any such communications or requests should be addressed: Secretary, Securities, and Exchange Commission, 500 North Capitol Street NW., Washington D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issures of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 78-29991 Filed 10-24-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15230]

DISCLOSURE IN PROXY AND INFORMATION STATEMENTS

Anti-Takeover or Similar Proposals

The Advisory Committee on Corporate Disclosure in its report urged the Commission staff to review closely proxy materials containing anti-takeover proposals in order to insure that there is adequate discussion of their disadvantages as well as advantages.[1] In february of 1978, the Commission responded with an indication that the suggestion would be implemented administratively and would be the subject of specific instructions to the staff of the Division of Corporate Finance.[2]

The Division is now making these instructions available to the public in the form of a statement of its views in order to assist registrants in preparing proxy or information statements which may contain such proposals for the upcoming proxy season. It should be noted, however, that these instructions have neither been reviewed nor approved by the Commission and therefore only reflect the views of the staff of the Division of Corporation Finance. The Division stresses, moreover, that these instructions are merely for the guidance of the staff and are subject to revision without formal notice. The Division also notes that the facts and circumstances underlying particular proxy or information statements or other filings must be given great weight and that the importance and effect of these instructions will vary as the context requires.

1. BACKGROUND

The increased use of tender offers to obtain corporate control has prompted many companies to consider defensive techniques to fend off hostile offers. In the past, these defensive measures have typically focused on actions taken on the eve of a tender offer or during a tender offer contest.[3] The primary purpose of such measures has been to deter unfriendly takeovers by relying, for the most part, on the single most effective weapon in the arsenal of the subject company—delay.[4] Recently, companies which view themselves as potential subject companies have given increased attention to other defensive measures, such as internal controls in the company's charter or bylaws. As with the delay techniques, the primary purpose of the defensive charter provisions is to deter unfriendly takeovers. Rather than using delay as the means to accomplish this purpose, these measures are designed to make the subject company unattractive as a potential target long before any specific tender offer is announced. By making a tender offer impracticable or by increasing the bidder's costs and likelihood of failure should an offer be made, these provisions are intended to cause a potential bidder to look elsewhere, rather than commence a tender offer for such a company.

Typically, a corporation proposing to adopt amendments to its charter or bylaws is required by State corporation law to submit the proposal to a shareholder vote.[5] In such cases, cor-

[1] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st sess., Nov. 3, 1977 ("Report"), at p. 39.

[2] Securities Act Release No. 5906 (Feb. 15, 1978).

[3] These measures include, but are not limited to the following:

(a) Repurchase its own securities, to make it less likely for the tender offeror to obtain control of the company;

(b) Induce friendly third parties to make open market purchases of the target company's securities;

(c) Announce dividend increases, or stock splits;

(d) Issue additional shares or classes of stock;

(e) Take steps to create an incompatibility between the target company and the tender offeror, for example, in inducing possible antitrust violations should the tender offer be successful;

(f) Arrange a defensive merger;

(g) Enter into restrictive loan agreements, with default to occur should the tender offer succeed;

(h) Institute litigation, challenging either directly or collaterally the conduct or effect of the tender offer;

(i) Arrange for cross or circular ownership of voting stock by parent and subsidiary corporations;

(j) Make the dismissal of directors expensive, by entering into costly employment contracts;

(k) Negotiate contracts—for example, labor, rent, loans or leases—which provide for acceleration, increase, or renegotiation of payment in the event of a change in management;

(l) Acquire other companies or accelerating the payment of outstanding debt for the purpose of spending access cash, thereby making the balance sheet of the target company less attractive to a potential offeror;

(m) Judicial action seeking a temporary or permanent injunction against the bidder alleging antitrust violations, inadequate disclosure and other securities laws violations; and

(n) Triggering the application of State anti-takeover statutes.

[4] Since time is of the essence to a bidder in tender offers, delay permits the subject company to prepare and consolidate an effective defense and to frustrate the bidder's efforts.

[5] A table listing a number of anti-takeover provisions, including novel measures, is appended to this release as Attachment A. This table is not intended to be an exclusive

Footnotes continued on next page

porations subject to, inter alia, section 12 of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-

advantages of the management's proposals.[6]

In view of this recommendation and the increased attention given to defen-

cross-references are suggested. If the statement contains more than one anti-takeover proposal, the disclosure of each should generally not be sepa-

ate, such disclosure should include statements that the overall effects of the proposal, if adopted, may (would) be to render more difficult or to dis-

de-list any stock which has unusual voting provisions that tender or nullify or restrict its voting.

g. Comparison of anti-takeover

holders to change the majority of directors even when the only reason for the change may be the performance of the present directors. The fact that

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porations subject to, inter alia, section 12 of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) are required to furnish either proxy materials or information statements to shareholders, pursuant to Regulation 14A (17 CFR 240.14a-1 to 240.14a-103) or Regulation 14C (17 CFR 240.14c-1 to 240.14c-101), respectively. Over the years, the Division has reviewed many proxy and information statements containing anti-takeover measures and has gained a great deal of experience in identifying issues, formulating comments and dealing with registrants and their counsel.

Since at least 1969, the Division has taken the position that when management sponsors anti-takeover proposals and other devices to insulate management from removal, the issuer's proxy material or information statements should disclose in a prominent place that the overall effect of the proposal is to render more difficult the accomplishment of mergers or the assumption of control by a principal stockholder, and thus to make difficult the removal of management. Moreover, the report recommended that the Commission staff should intensively review proxy materials containing anti-takeover proposals with a view to requiring more adequate and uniform disclosure of the advantages and disadvantages of the management's proposals.[6]

In view of this recommendation and the increased attention given to defensive measures, the Division wishes to advise registrants that the treatment of anti-takeover proposals in proxy materials or information statements will generally be reviewed for compliance with the position stated below.[7] It is hoped that this advance notice will facilitate the preparation of proxy materials or information statements for the upcoming proxy season.

II. Position of Division of Corporation Finance With Respect to Disclosure in Proxy or Information Statements Containing Anti-Takeover Proposals

The Division's review of proxy and information statements containing anit-takeover measures will continue to focus on three areas: the placement of the disclosure in the statement; the disclosure of anti-takeover proposals generally; and the disclosure of specific types of provisions being proposed.

A. PLACEMENT OF DISCLOSURE

If a proxy or information statement contains an anti-takeover proposal, it should be included in a list of all proposals in the proxy soliciting material or disclosed in the information statement. The listing should be placed in the notice or forepart of the materials. If more than one anti-takeover proposal is included, they should not be separated by unrelated proposals in the listing made in the notice of materials.

The disclosure concerning an anti-takeover proposal should be set forth in a prominent place in the proxy or information statement. All of the information which is related to the proposal should be set forth in one place in the materials. If disclosure in more than one place cannot be avoided, cross-references are suggested. If the statement contains more than one anti-takeover proposal, the disclosure of each should generally not be separated by unrelated information or other proposals in the statement.

B. CONTENT OF DISCLOSURE

1. *General issues.* Despite significant variations in the form and operation of anti-takeover proposals, there are several areas in which certain basic disclosures are generally applicable. These include:

a. The reason(s) for the proposal and the bases of such reason(s). The proxy or information should clearly indicate why management is proposing to amend the corporation's charter or bylaws. The term "bases" for the reasons means an explanation of the factors and/or principles supporting or serving as a foundation for the reason stated.

If the proposal is the result of management's knowledge of any specific effort to accumulate the issuer's securities or to obtain control of the issuer by means of a merger, tender offer, solicitation in opposition to management or otherwise, a description of any such effort should be included. If the measure is not the result of any specific effort, disclosure should be made to that effect and a statement included as to why, in the absence of such efforts, the measure is being proposed at this time.

Disclosure should also be made as to whether the corporation's charter or bylaws presently contain other provisions having an anti-takeover effect, whether the instant proposal is part of a plan by management to adopt a series of such amendments, and whether management presently intends to propose other anti-takeover measures in future proxy solicitations. If similar measures have been adopted, are being proposed or considered, the inter-relationship of the proposals/provisions should be discussed. A chart or table which would list charter or bylaw provisions that have already been adopted which can be used as defensive provisions may also be appropriate. This chart, among other things, may include disclosure concerning a class of authorized, but unissued, common or preferred securities with respect to which the board of directors retains the power to determine voting rights. Additionally, an indication should be made whether or not cumulative voting is provided under the corporation's charter or bylaws or pursuant to State law.

b. The overall effects of the proposal, if adopted. The impact of the proposed amendments upon management's tenure and upon any proposal to alter the structure of the corporation should be disclosed. If appropriate, such disclosure should include statements that the overall effects of the proposal, if adopted, may (would) be to render more difficult or to discourage a merger, tender offer or proxy contest, the assumption of control by a holder of a larger block of the corporation's secutrities and the removal of incumbent management. A statement that the proposal could make the accomplishment of a given transaction more difficult even if it is favorable to the interests of shareholders may be warranted. Thus, the disclosure should focus on the effects of making the removal of management more difficult even if such removal would be beneficial to shareholders generally, and the effect of limiting shareholder participation in certain transactions such as mergers or tender offers whether or not such transactions are favored by incumbent management.

c. the advantages and disadvantages of the proposal. Although this item may overlap disclosure of the effects of the transaction, information should be included concerning the advantages and disadvantages of the proposal both to incumbent management and to shareholders generally. For example, if one of the effects of the proposal would be to render the accomplishment of a tender offer more difficult, the disclosure could include statements to the effect that such a provision may be beneficial to management in a hostile tender offer and may have an adverse impact on shareholders who may want to participate in such a tender offer. The favorable aspects of the proposal, to either management or shareholders, should also be disclosed.

d. Disclosure of how the proposal will operate. Because of the complicated nature of many of these proposals, it may be beneficial to shareholders to include an explanation of the operation of the proposal, if adopted. In the past, examples of the operation of staggered boards have been disclosed. Accordingly, an explanation of the operation of the proposal(s) should also be included in the proxy or information statement. Such an explanation is itended to assist shareholders in their understanding of what they are being asked to vote in favor of.

e. Whether the proposal was the subject of a vote of the issuer's board of directors and, if so, the results of such vote. Additionally, consideration should also be given to identifying any dissenting directors and stating the reasons given for any such dissent if available.

f. Limitations on the adoption of such proposals. Disclosure should be included as to whether the rules or practices or any stock exchange on which the issuer's securities are listed reserve the right to refuse to list or to de-list any stock which has unusual voting provisions that tender or nullify or restrict its voting.

g. Comparison of anti-takeover measure with comparable provision under State corporation law. If the charter or by-law amendment pertains to a matter that is specifically addressed under State corporation law, a comparison of the provision of such State corporation statute with those of the instant proposal should be furnished. For example, if the defensive charter amendment concerns the vote necessary to approve an extraordinary corporate transaction such as a merger, the provision of the proposal, such as the minimum percentage required, should be compared with that under the State statute.

2. ISSUES INVOLVING SOME SPECIFIC ANTI-TAKEOVER PROPOSALS

Because of the varied nature of anti-takeover proposals, disclosure specifically applicable to the type of proposal should also be made. Where applicable, the disclosure should include the following:

a. *Supermajority* * *voting provisions.* One of the specific effects should be indicated to be that management may obtain a veto power over mergers regardless of whether the transaction is desired by or beneficial to a majority of the shareholders and thereby assists management in retaining their present positions. Another specific effect would be to give the holders of a minority of the total shares outstanding and entitled to vote a veto power over a merger which management and/or a majority of the shareholders may believe is desirable and beneficial. In these types of proposals, disclosure should be included of the aggregate percentage of outstanding voting securities beneficially owned by management, the board of directors and principal shareholders of the corporation (including any persons or groups of persons who have filed a Schedule 13D with the Commission). If a supermajority is not needed to repeal such a provision and/or a supermajority is not needed to adopt the provision, disclosure of the reasons should be made.

b. *Classification of directors to serve for staggered terms.* Unlike certain internal corporate defense measures, staggered board provisions affect every election of directors and are not triggered by the occurrence of a particular event such as a hostile merger. Thus, such systems of electing directors make it more difficult for shareholders to change the majority of directors even when the only reason for the change may be the performance of the present directors. The fact that the provisions, if adopted, would be applicable to every election of directors, rather than only an election occurring after a change in control of the issuer, should be disclosed. The number of annual meetings necessary to change the majority of the directors under the staggered system should be contrasted to the number of annual meetings necessary for change under the present system. If a purpose of the proposed amendment is to limit the voting power of a particular block of common stock or to frustrate accumulations of such blocks, appropriate disclosure should be made. If one of the reasons for the proposal is to insure the continuity of the Board of Directors and/or management, it is suggested that management be asked to disclose whether there have been any problems with respect to such continuity in the past and, if so, to furnish a description of them.

c. *Authorization of certain classes of common or preferred stock.* In certain circumstances, the authorization of classes of preferred or common stock with either unspecified voting rights or rights providing for the approval of extraordinary corporate transactions may be used to create voting impediments or to frustrate persons seeking to effect a merger or to otherwise gain control of the issuer. If used for such a purpose, disclosure should be included as to whether the securities could be privately placed and, if such placement is contemplated by the issuer, whether the purchasers have any affiliation with the issuer or any agreement or understanding as to the manner in which the securities are to be voted.

In certain instances, a proposal to increase the amount authorized of a class of voting securities may have an anti-takeover effect. If used for such a purpose, the considerations discussed above would be applicable. Moreover, such additional shares could be used to dilute the stock ownership of persons seeking to obtain control of the issuer. If the purpose for the increase in the authorization is stated to be the elimination of later delays associated with a stockholder vote on specific issuances, reference should be made to any stock exchange requirements calling for a stockholder vote on issuances of additional shares. Additionally, the number of shares unissued and not reserved for issuance should be stated.

Questions related to these staff instructions should be directed to Rowland Cook, 202-755-1750.

Footnotes continued from last page

listing of all such measures. Proxy materials or information statements may contain variations of the provisions listed or other proposals which may be or operate as defensive charter provisions but which may not be included in the table. For a detailed description of specific defensive charter amendments and these strategies generally, *see Cary, Corporations* 448 (1969 ed.); Aranow & Einhorn, *Tender Offers for Corporate Control* 219-276 (1973); Aranow, Einhorn & Berlstein, *Development in Tender Offers for Corporate Control* 193-206 (1977); Brown, *Corporation Defenses to Takeover Bids*, 44 Tul. L. Rev. 517 (1970); Cary, *Corporate Devices Used to Insulate Management from Attack*, 25 Bus. Law 339 (1970); Schmults and Kelly, *Cash Take-Over Bids—Defense Tactics*, 23 Bus. Law 115 (Nov. 1967); Bradshaw, *Defensive Tactics Employed By Incumbent Managements in Contesting Tender Offers*, 21 Stan L. Rev. 1104 (1969); Kennedy, *Defensive Takeover Procedures Since the Williams Act*, 19 Catholic U. L. Rev. 158 (1969); Mulaney, *Guarding against Takeovers—Defensive Charter Provisions*, 25 Bus. Law (July 1970); Hayes and Taussig, *Tactics of Cash Takeover Bids*, 45 Harv. Bus. Rev. 135, 142-147 (March-April 1967); Panel, *Defending Target Companies*, 32 Bus. Law 1349-1364 (May 1977); Panel, *Tender Offer Litigation*, 32 Bus. Law 1433-1458 (May 1977); Yoran, *Advanced Defensive Tactics Against Takeover Bids*, 21 Am. J. Comp. L. 541 (1973); "A Backfire from State Takeover Laws" *Business Week* 25 (Aug. 29, 1977), and *Wall Street Journal*, p. 10 (Aug. 29, 1977).

[6] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess., November 3, 1977, at D-39 and 415-416.

[7] In this regard, the Division has established a monitoring system which is mainly intended to quantify the information received via proxy materials. The specific purposes for the monitoring program are: (1) To evaluate the disclosure being made by companies proposing such measures; (2) to determine whether more specific disclosure requirements should be published concerning the purpose and/or effect of such proposals; and (3) to collect data on the frequency of use of such proposals which may serve as an empirical basis for congressional proposals or testimony, or rulemaking action by the Commission. The monitoring proram will involve both preliminary materials and definitives. It is presently anticipated that the program, which is already in operation, will continue beyond the upcoming proxy season.

* Supermajority means any percentage requirement that exceeds the comparable requirement under applicable State law. If the requirement under State law is 66⅔ percent to approve a merger, a supermajority provision would be any percentage in excess of the State requirement—such as 80 percent.

By the Division of Corporation Finance, pursuant to delegated authority.

executive officers of the issuer which cannot be abrogated or rescinded

[FR Doc. 78-30177 Filed 10-24-78; 8:45 am]

annual updating post-effective amendments to (a) financial statements, (b) material which has been underscored

BarChris Construction Corporation, et al., 283 F. Supp. 643 (D. S.D.N.Y. 1968).

The Commission finds that the proposed uniform extension of options trading hours is consistent with the re-

therefore, the Commission may initiate steps to eliminate such practices through the exercise of the Commis-

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By the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 13, 1978.

ATTACHMENT A.—Table Relating to Internal Corporate Controls or Antitakeover Measure Disclosed in Proxy or Information Statement

Defensive corporate charter amendments/provisions may include, but are not limited, to:

(1) Classification of directors or staggering of boards

(2) Provisions to abolish cumulative voting

(3) Provisions establishing supermajority approval requirements (for example, requiring an 80 percent favorable vote) for certain corporate transactions including, but not limited to, any proposed merger or sale of assets

(4) Provisions requiring a supermajority vote to cancel a supermajority provision as described in category 3 above, but not to adopt one

(5) Provisions requiring a supermajority vote to amend the corporate charter in any relevant respect

(6) Provisions which reduce the supermajority required for a merger to a leser majority unless the other party to the transaction is a "related corporation" (such as one owning more than 5 percent of any class of voting securities of the issuer) in which case a merger would require supermajority approval of the common stock as a class in addition to approval by the holders of the voting power to all securities of the issuer entitled to vote

(7) The creation of a class of equity securities either common or preferred to be placed privately; the favorable vote of which is necessary to approve any tender offer, merger, sale or exchange of assets or other extraordinary corporate transaction

(8) Provisions which prevent the removal of directors without cause or by a supermajority vote

(9) Provisions prohibiting the removal from office for any reason of a director elected for a term longer than one year, notwithstanding any change in control due to tender offers, mergers or other transactions

(10) Provisions prohibiting the calling of special shareholder meetings altogether or allowing them to be called only upon the request of a holder or holders of a supermajority of the shares outstanding

(11) Provisions establishing the maximum permissible number of directors

(12) Provisions providing for the election of stand-by successor directors at the same time as the regular directors, who will fill a position upon the death or resignation of a regular director

(13) Reincorporation of the issuer in a state with an anti-takeover statute

(14) Creation of an Employee Stock Ownership Plan which, because of its size, percentage of total outstanding securities of the issuer which it may own, voting or other provisions, may be used in defense in a contested takeover attempt

(15) Provisions requiring the consideration for any merger following a tender offer to be no less than the highest consideration offered pursuant to the tender offer

(16) Shareholder approval of long term "sweetheart" employment contracts with executive officers of the issuer which cannot be abrogated or rescinded

[FR Doc. 78-30177 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release Nos. 33-5988, 34-15246, IC-10447]

PROCESSING POST-EFFECTIVE AMENDMENTS AND PRELIMINARY PROXY MATERIAL FILED BY INVESTMENT COMPANIES

Announcement of New Procedures

AGENCY: Securities and Exchange Commission.

ACTION: Announcement of New Procedures.

SUMMARY: The Commission's Division of Investment Management, which processes filings of registered investment companies, has adopted procedures designed to reduce the time needed to process certain routine investment company filings. The procedures were adopted in response to a projected increase in the number of filings to be processed by the Division. Review of annual updating post-effective amendments normally will be limited to financial statements, material which has been underscored or otherwise marked to indicate textual changes, and areas in which recent developments suggest that changes in disclosure are likely to be appropriate. Review of preliminary proxy material containing no proposals other than those relating to the uncontested election of directors, the ratification of the selection of accountants, and the continuation of a current advisory contract normally will be limited to a determination that it contains only these proposals.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

W. Burrell Ellis, Assistant Director, 202-755-1190 or Anthony A. Vertuno, Special Counsel, 202-755-1192.

SUPPLEMENTARY INFORMATION: Consistent with its practice of publishing the views of its staff to assist issuers, their counsel and accountants, and other interested persons, the Commission has authorized the publication of this release which sets forth the Division of Investment Management's procedures henceforth applicable to certain investment company filings.

The Division, in order to reduce the time needed to process routine investment company filings, will adopt the following practices:

(1) Post-effective amendments to registration statements filed pursuant to the Securities Act of 1933 (15 U.S.C. 77a-1 et seq.) ("Securities Act"). The staff ordinarily will limit its review of annual updating post-effective amendments to (a) financial statements, (b) material which has been underscored or otherwise marked to indicate textual changes, and (c) areas in which recent developments suggest that changes in disclosure are likely to be appropriate.

(2) Preliminary proxy material filed pursuant to Securities Exchange Act Rule 14a-6 (17 CFR 240.14a-6). The staff ordinarily will limit its review of proxy statements which have no proposals other than those relating to the uncontested election of directors, the ratification of the selection of accountants, and the continuation of a current advisory contract to a determination that they contain no other proposals.

While these expediting procedures will be in effect generally, the staff may, at its discretion, increase its level of review with respect to individual filings. In this connection, it is important that persons making filings affected by the procedures described above should not assume that review has been completed without comment until ascertaining from the staff that there are no comments.

Any person making such a filing should comply with Securities Act Rule 472(a) (17 CFR 230.472(a)) and the note to Securities Exchange Act Rule 14a-6(a) requiring the marking of textual changes, and, in the letter transmitting the filing to the Commission, clearly indicate the extent and nature of changes from the last previous filing of the same kind and any problem areas to be called to the attention of the staff. A post-effective amendment that is the first filing of a registrant meeting the requirements of new Form N-1 (see Release No. 33-5964 (August 28, 1978) 43 FR 39548 (September 5, 1978)) should be marked to show textual changes from the last filing on Form S-5. The filing procedures for post-effective amendments discussed in Release 33-5738 (September 3, 1976), 41 FR 39012 (September 14, 1976), will remain in effect, and the continued cooperation of registrants is requested.

It is essential to the successful and continued employment of these procedures that registrants and their counsel act responsibly by preparing their filings so that they meet the required standards with the least necessity for staff review. Regardless of the procedure followed by the Division in its review of post-effective amendments and preliminary proxy material, registrants should be aware that the statutory burden of full disclosure is on the issuer, its affiliates, the underwriter, the accountants and others and that as a matter of law this burden cannot be shifted to the Commission or its staff. Attention is directed to *Escott* v. *BarChris Construction Corporation, et al.*, 283 F. Supp. 643 (D. S.D.N.Y. 1968).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 19, 1978.

[FR Doc. 78-30176 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 15241; SR-Amex-78-22, etc.]

AMERICAN STOCK EXCHANGE, INC., ET AL.

Filing of Proposed Rules Changes and Order Approving Proposed Rules Changes

OCTOBER 18, 1978.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, NY 10006; Chicago Board Options Exchange, Inc. La Salle at Jackson, Chicago, IL 60604; Midwest Stock Exchange, Inc. 120 South LaSalle Street, Chicago, IL 60603; Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, PA 19103; Pacific Stock Exchange Inc. 618 South Spring Street, Los Angeles, CA 90014, (SR-Amex-78-22), (SR-CBOE-78-30), (SR-MSE-78-26), (SR-PSE-78-17), (SR-Phlx-78-18).

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that the American Stock Exchange, Inc. ("Amex"); the Chicago Board Options Exchange, Inc. ("CBOE"); the Midwest Stock Exchange, Inc. ("MSE"); Pacific Stock Exchange Inc. ("PSE"); and the Philadelphia Stock Exchange, Inc. ("Phlx"), filed with the Commission copies of proposed rules changes which, for a four-month trial period, would extend the trading hours for options by 10 minutes until 4:10 p.m. (e.s.t.). The extension of the options trading hours will continue from October 23, 1978, through February 28, 1979. During the trial period, those exchanges which presently conduct daily closing rotations will not conduct daily closing rotations and have suspended their rules and procedures applicable thereto.[1]

The Commission finds that the proposed uniform extension of options trading hours is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, section 6 of the Act, which requires, among other things, that the rules of national securities exchanges be designed to promote just and equitable principles of trade; remove impediments to and perfect the mechanism of a free and open market and a national market system; protect investors and the public interest; and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission has approved the uniform extension of the options trading hours at this time, in lieu of daily closing rotations, in part because of its concern that the current prohibition against adjusting, canceling or replacing existing orders on the book, or entering new orders in the book during daily closing rotations may not be in the public interest or consistent with the protection of investors. The Commission also is concerned that the current disparity in closing procedures among the options exchanges may not be consistent with the maintenance of fair and orderly markets in exchange listed options or in the securities underlying such options. During this trial period, therefore, the Commission will seek to determine what daily options closing procedures on national securities exchanges would best serve the public interest and insure the maintenance of fair and orderly markets. In particular, during this 4-month period the Commission intends to address, and invites comment upon, the following issues:

(1) Whether daily closing rotations as currently conducted on the CBOE, MSE and PSE are in the public interest and consistent with the protection of investors;

(2) Whether there is a legitimate public interest to be served by permanently extending options trading hours beyond the close of the principal exchange markets in the underlying securities (4 p.m. (e.s.t.)); and

(3) Whether the purpose of the Act, and in particular the goal of maintaining fair and orderly markets in options and their underlying securities, would best be served by a uniform 4 p.m. (e.s.t.) close of options trading.

Since the proposed rules changes referenced above provide that the extension of exchanges' options trading hours is to continue for a 4-month period only, if the trail period is not extended the use of daily closing rotations may again begin on the CBOE, PSE, and MSE after that period. During the 4-month trial period, therefore, the Commission may initiate steps to eliminate such practices through the exercise of the Commission's broad rulemaking authority under the Act, particularly section 9 thereof, to mandate a uniform closing time and/or uniform closing procedures for all options exchanges.[2]

Each of the exchanges has agreed to monitor, during the 4-month trial period, the 10-minute extension of trading beyond 4 p.m. (e.s.t.), and will report the results of their monitoring efforts to the Commission.[3] At the end of this trial period, if the options exchanges seek Commission approval for a continuation of extended trading hours, either on a temporary or permanent basis, the Commission will expect the exchanges to demonstrate that such an extension is consistent with the purposes of the Act.

The Commission finds good cause for approving the proposed rules changes prior to the thirtieth day after the date of publication of notice of filing thereof. As noted above, the Commission is concerned that daily closing rotations as currently conducted, as well as the disparate closing procedures among the options exchanges, may not be in the public interest or consistent with the maintenance of fair and orderly markets. The Commission believes that the uniform extension of the options trading hours serves as an interim solution to the problems of nonuniform closing procedures and the resulting closing time disparities, and offers a 4-month period during which the Commission can explore the issues underlying its concerns. Further, the 4-month trial period will provide interested persons an opportunity to submit their views on the issues set forth above.

[1] A daily closing rotation is a procedure by which a board broker or order book official calls for bids and offers from the crowd for each option series in his or her assigned classes, one series at a time, after the close of trading. During the closing rotation, new orders may not be placed on the book nor may existing book orders be canceled, adjusted or replaced. Exchange members on the trading floor, however, may trade against the book. Amex and Phlx do not currently conduct daily closing rotations—options trading on Amex and Phlx ceases at 4 p.m. (e.s.t.). Thus, options trading on the CBOE, PSE and MSE, which conduct closing rotations after 4 p.m., currently continues after the close of options trading on the Amex and Phlx.

[2] The Commission also has authority pursuant to other sections of the Act to eliminate such practices.

[3] Among the factors which the exchanges will consider in monitoring the extension of trading hours are:

(1) The extent to which firms are permitting the entry of customers' orders after 4 p.m. (e.s.t.);

(2) The extent to which public news announcements made at or after 4 p.m. (e.s.t.) affect the options market;

(3) The extent to which agency orders and principal orders for options are executed during the last 10 minutes of trading;

(4) The volume of options transactions executed during the final 10 minutes of trading;

(5) The extent to which options trading after the close of the principal exchange markets in underlying securities enables the last quotation and/or last sale in the options market to reflect the last sale of the underlying stock; and

(6) The extent to which having the last sale and/or the last quotation in the options market reflect the last sale in the underlying security serves the public interest and to maintain fair and orderly markets in both options and their underlying securities.

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Publication of notice of the proposed rules changes is expected to be made in the FEDERAL REGISTER during the week of October 23, 1978. Interested persons are invited to submit written data, views and arguments concerning the proposed rules changes and the three issues listed above within 45 days from the date of publication of the submission in the FEDERAL REGISTER. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File Nos. SR-Amex-77-22; SR-CBOE-78-30; SR-MSE-78-26; SR-PSE-78-17; and SR-Ph 1x-78-18.

Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rules changes which are filed with the Commission, and all written communications relating to proposed rules changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rules changes referenced above be, and they are hereby, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30168 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 20734; 70-5513]

COLUMBIA GAS SYSTEM, INC. AND COLUMBIA ALASKAN GAS TRANSMISSION CORP.

Post-Effective Amendment Regarding Participation in Gas Pipeline Project

OCTOBER 18, 1978.

Notice is hereby given that Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Del. 19807, a registered holding company, and Columbia Alaskan Gas Transmission Corp. ("Columbia Alaskan"), 20 Montchanin Road, Wilmington, Del. 19807, a subsidiary of Columbia, have filed with this commission a post-effective amendment to the application in this proceeding pursuant to Sections 9, 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45(b)(1) and 50(a)(3) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated August 16, 1974 (HCAR No. 18534), Columbia Alaskan was authorized to participate in the Northern Border Pipeline Company General Partnership Agreement dated as of April 15, 1974 ("Northern Agreement"), which Columbia Alaskan had entered into along with five other companies. Columbia Alaskan now seeks approval of an agreement which substitutes a new partnership agreement for the Northern Agreement and gives Columbia Alaskan the option to become a member of such new partnership. The Northern Border project was organized to constitute and operate a natural gas pipeline representing the second leg of an overall project designed to bring substantial volumes of gas from the Arctic regions of Alaska and Canada down to markets in the lower forty-eight States of the United States, including those markets in Columbia's service area. The first leg of the project contemplates the transmission of gas from Purdhoe Bay, Alaska, to the Alaskan-Canadian border.

The second leg, the Northern Border Project, is intended to extend from a point on the United States Canadian border near Monchy, Saskatchewan, to a point near Dwight, Ill. Two of the parent companies of the six companies who were partners under the Northern Agreement, Northern Natural Gas Co. ("Northern Natural") and Panhandle Eastern Pipeline Company ("Panhandle") wish to construct and operate facilities from Monchy, Saskatchewan, to a point near Ventura, Iowa, in order to transport and deliver natural gas produced in the Province of Alberta, Canada, independent of any subsequent arrangements for the delivery of gas from Prudhoe Bay (this early construction is hereinafter referred to a "Prebuilding"). The other four partners under the Northern Agreement, including Columbia Alaskan, do not desire to participate in the Prebuilding but do wish to retain their option to join the project subsequent to the Prebuilding if and when pipeline facilites are built to transport gas from Prudhoe Bay to Monchy, and to expand the facilities from that point on to Dwight, Ill.

To effectuate the foregoing, all of the parties to the Northern Agreement have executed an Amendment and Agreement dated August 1, 1978, which effectively terminates the Northern Agreement and substitutes for it a substantially similar agreement called the Northern Border Pipeline Co. General Partnership Agreement, effective as March 9, 1978 ("Successor Partnership Agreement"). Simultaneously with execution of the successor Partnership Agreement, four companies, comprising Northern Plains Natural Gas Company and Pan Border Gas Co., two of the original signatories to the Northern Agreement and subsidiaries, respectively, of Northern Natural and Panhandle, and two new companies, Northwest border Pipeline Co., a subsidiary of Northwest Energy Corp., and United Mid-Continent Pipeline Co., a subsidiary of United Gas Pipe Line Co., have joined as partners in the new agreement. Under such agreement, if an when Prebuilding occurs, then at such time as the incremental pipeline facilities required to complete the overall Project for the transmission of gas from Prudhoe Bay to Dwight, Ill. are to constructed, Columbia Alaskan shall have the option to become a partner in the Successor Partnership Agreement, standing in place of the Northern Agreement.

In all other respects the proposed transactions remain the same. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30169 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 10446; 811-1756]

FUND FOR MUTUAL DEPOSITORS INC.

Filing of Application of the Act for an Order Declaring That Fund for Mutual Depositors Inc., Has Ceased To Be an Investment Company.

OCTOBER 19, 1978.

Notice is hereby given that Fund for Mutual Depositors Inc. ("Applicant"), 200 Park Avenue, New York, N.Y. 10017, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, filed an application on August 4, 1977, and an amendment thereto on August 21, 1978, pursuant to section 8(f) of the Act, for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant, a New York corporation, registered under the Act on November 6, 1968. The application states that on June 17, 1977, at its annual meeting of shareholders, holders of more than two-thirds of issued and outstanding shares of capital stock of the Applicant approved an Agreement and Plan of Reorganization (the "Agreement") which provided for the sale by the Applicant of substantially all of its assets to Scudder, Stevens & Clark Common Stock Fund, Inc. ("Scudder Fund"), a Massachusetts corporation and a diversified, open-end management investment company registered under the Act, in exchange for shares of the capital stock of Scudder Fund.

The application further states that the above sale of the Applicant's assets was consummated on June 29, 1977, and that pursuant to the Agreement, Scudder Fund issued 1,522,710 shares of its capital stock to the Applicant, which represented an exchange ratio of 0.8249482 of Scudder Fund stock for each share of the Applicant's stock. These Scudder Fund shares have been distributed to the shareholders of the Applicant on a pro-rata basis.

Furthermore, the Applicant states that on June 29, 1977, it filed an appropriate Certificate of Dissolution with the State of New York and that it is currently engaged in no business activity other than those procedures necessary for its dissolution and liquidation and is not and does not hold itself out as being engaged, and does not propose to engage, in the business of investing, re-investing, owning, holding or trading in securities or in the business of issuing face-amount certificates of the installment type or securities, and has no such certificates or securities outstanding. The Applicant specifically states that it currently has no assets other than certain litigation proceeds described below, no liabilities adequate provision for payment of which has not been made, and no pending administrative proceedings or litigation (other than the class action described below) outstanding.

Applicant finally asserts that it is a member of the class of plaintiffs in *In Re Pennsylvania Life Company Securities Litigation* (MDL Docket No. 183-R), a class action instituted in the United States District Court for the Central District of California ("District Court") on behalf of certain purchasers (the "Class") of the common stock of Pennsylvania Life Co. ("PLC"). In connection with the acquisition by Scudder Fund of substantially all the assets of Applicant, the Applicant retained all rights under its claim in the PLC litigation. Pursuant to the terms of a settlement approved by the District Court, the Applicant received in June 1978, $5,980 principal amount out of an aggregate of $3,400,000, of 10 percent debentures due April 29, 1997, created by PLC and distributed to members of the Class, as well as $607.53 of accrued interest thereon. The Applicant states that it intends to sell the debentures as soon as a sale may be arranged for fair value, and in any event prior to June 30, 1979. The Applicant asserts that, insofar as it has been able to determine, no public market for the debentures has yet developed; and based on this and other factors it does not anticipate realizing from the sale of the debentures anything materially in excess of their $5,980 face value. It further asserts that the cost of making a distribution of the proceeds from a sale of the debentures to the approximately 4,100 persons who were shareholders of the Applicant immediately prior to its dissolution would either exceed the amount available for distribution or account for so large a portion of the available amount as to cause the amount distributed to be *de minimis*. Therefore, the Applicant has decided to apply all proceeds from such sale for proper nonreorganization corporate purposes as it deems appropriate, including payment of taxes, expenses of preparing and filing Federal tax returns, expenses in connection with a final audit, ongoing regular operational expenses, and expenses incurred in connection with the recovery and disposition of the debentures.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that the be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneoulsy with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30170 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 20735; 70-6216]

MISSISSIPPI POWER CO.

Proposed Issuance and Sale of First Mortgage Bonds

OCTOBER 18, 1978.

Notice is hereby given that Mississippi Power Co. ("Mississippi"), P.O Box 4079, Gulfport, Miss. 39501, an electric utility subsidiary of the Southern Co., a registered holding company has filed an application with this Commission pursuant to the Public Utility

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Holding Company Act of 1935 ("Act"), designating sections 6(b) and 7 of the Act and Rule 50 promulgated thereun-

service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time

change to cover all notices published on or prior to the delivery date, rather than those published prior to that

tween the Commission and any person were considered and (with the exception of those statements or communi-

available to the public at the Commission's Public Reference Room.

The Commission finds that the pro-

Inc. ("SFI") is authorized to make borrowings from the Operating Companies, parent companies of SFI, to fi-

V 43/207 0C 25 78

Holding Company Act of 1935 ("Act"), designating sections 6(b) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Mississippi proposes to issue up to $10,000,000 principal amount of its first mortgage bonds of a series having a term of not less than five years nor more than 30 years ("new Bonds"), and to sell the new Bonds at competitive bidding for the best price obtainable but for a price to Mississippi of not less than 98 percent nor more than 101¾ percent of the principal amount thereof, plus accrued interest.

The new Bonds will be issued under the Indenture dated as of September 1, 1941, between Mississippi and Morgan Guaranty Trust Co. of New York, as Trustee, as heretofore supplemented by various indentures supplemental thereto, and as to be further supplemented by a Supplemental Indenture to be dated as of December 1, 1978.

It is difficult to determine, under present bond market conditions, whether it would be more advantageous to Mississippi to sell new Bonds having a 30-year or some shorter term. It is proposed, therefore, that Mississippi decide on the term of the new Bonds after the date of public invitation for proposals and then notify prospective bidders by telephone, confirmed in writing, of its decision, not less than 72 hours prior to the time of the bidding. Mississippi proposes to use the proceeds from the sale of the new Bonds, along with other funds, in financing its 1978 construction costs, estimated at July 1978, to be $42,597,000, and to reduce notes payable.

A statement of fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, no later than November 20, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that they be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30171 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 15243; SR-MSRB-78-10]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Amended Proposed Rule Change

OCTOBER 19, 1978.

On June 15, 1978, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. That proposed rule change was amended by the MSRB on August 25, 1978. The amended proposed rule change would alter the MSRB's interdealer uniform practice rule, MSRB rule G-12, to provide that delivery of municipal securities for which a notice of call has been published for less than the entire issue on or prior to the delivery date, as opposed to trade date, does not constitute good delivery unless the securities are identified as "called" at the time of trade.

Notice of the amended proposed rule change together with the terms of substance of the amended proposed rule change was given by publication of Commission Releases (Securities Exchange Act Release No. 14879 (June 22, 1978) and Securities Exchange Act Release No. 15137 (September 7, 1978)) and by publication in the FEDERAL REGISTER (43 FR 28275 and 43 FR 41110 (1978)). Although no comments with respect to the proposed rule change were received by the Commission, the MSRB received one comment letter. In response to that letter the MSRB amended the proposed rule change to cover all notices published on or prior to the delivery date, rather than those published prior to that date.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30172 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 15245; SR-NYSE-78-49]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

OCTOBER 19, 1978.

On August 21, 1978, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would amend NYSE rules 301 and 325 to permit a member, whose membership is financed by his member organization pursuant to an a-b-c agreement and who ceases to be associated with the financing member organization, to transact business as an individual member on the floor during any period allowed for the exercise of the following options. Upon termination of an a-b-c agreement, a member must: (a) Retain the membership and pay the member organization the amount necessary to purchase another membership; (b) sell the membership and pay the proceeds to the member organization; or (c) transfer the membership to a person designated by the member organization for a nominal consideration.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15130, September 6, 1978) and by publication in the FEDERAL REGISTER (43 FR 41116, September 14, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to registered national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30173 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 15244; SR-NYSE-78-47]

NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

OCTOBER 19, 1978.

On August 21, 1978, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10005, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would amend NYSE Rules 312 and 314 to extend the permitted period for retention of member organization status, following the death of the sole qualifying member, from 60 days to 90 days, and to expand the provisions which would be applicable in any situation where the sole qualifying member ceases to be associated with the member organization.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15125, September 1, 1978) and by publication in the FEDERAL REGISTER (43 FR 41116, September 14, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30174 Filed 10-24-78; 8:45 am]

[8010-01-M]

[Release No. 20736; 70-6055]

SYSTEM FUELS, INC., ET AL.

Post-Effective Amendments Regarding Financing Arrangements Related to the Purchase of Fuel by a Nonutility Subsidiary for Use by the Operating Companies

OCTOBER 19, 1978.

In the matter of System Fuels, Inc., 225 Baronne St., New Orleans, La. 70112; Arkansas Power & Light Co., First National Building, Little Rock, Ark. 72203; Louisiana Power & Light Co., 142 Delaronde St., New Orleans, La. 70174; Mississippi Power & Light Co., Electric Building, Jackson, Miss. 39205; New Orleans Public Service Inc., 317 Baronne St., New Orleans, La. 70112.

Notice is hereby given that Arkansas Power & Light Co. ("Arkansas"), Louisiana Power & Light Co. ("Louisiana"), Mississippi Power & Light Co. ("Mississippi"), and New Orleans Public Service Inc. ("NOPSI") (collectively referred to as "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("Middle South"), a registered holding company, and System Fuels, Inc. ("SFI"), a jointly-owned nonutility subsidiary company of the Operating Companies, have filed post-effective amendments to their declaration in this proceeding pursuant to sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 30, 1976, the Commission approved an extension of the period through December 31, 1977, during which System Fuels, Inc. ("SFI") is authorized to make borrowings from the Operating Companies, parent companies of SFI, to finance its fuel supply business. (HCAR No. 19835). In that proceeding, SFI committed itself to endeavor to obtain funds from external sources under arrangements advantageous to SFI and the Middle South Utilities System, in lieu of borrowing from the Operating Companies, to meet SFI's expenditure requirements.

By order dated November 7, 1977, the Commission authorized SFI to make borrowings, through the sale of bankers' acceptances under an Acceptance Facility Line of Credit Agreement ("Acceptance Agreement") with Citibank, N.A., New York, New York ("Bank"), to finance a portion of its requisite inventory of fuel oil through 1978. Pursuant to the Acceptance Agreement, SFI may borrow and reborrow through November 18, 1978, up to a maximum aggregate amount not to exceed at any one time outstanding the lesser of $25,000,000 or an amount equal to 50 percent of the fair market value of SFI's fuel oil inventory then in storage at specified locations (the "Acceptance Base"). As of September 30, 1978, SFI's borrowings from the Bank under the Acceptance Agreement aggregated $25,000,000.

To assure the availability to the Operating Companies and to Arkansas-Missouri Power Company, the other operating subsidiary of Middle South, of an adequate supply of fuel oil through 1979, SFI presently estimates that it will be necessary to maintain an inventory varying between 5,900,000 and 7,600,000 bbls., valued at as much as $83,700,000. Such requirements will vary because of seasonal factors, availability of natural gas and other changes in conditions. To finance a portion of its requisite inventory of fuel oil through 1979, SFI proposes to enter into an amendment of the Acceptance Agreement ("Amendment Agreement") which will provide for a 1-year extension, through November 18, 1979, of the period during which SFI may effect borrowings and reborrowings from the Bank thereunder.

The Amendment Agreement will provide for a modification of the provisions in the Acceptance Agreement relating to the rate at which the Bank will discount any Draft presented to it by SFI for acceptance so that the Bank will pay to SFI in immediately available funds on the date of such acceptance an amount equal to the face amount of such Draft less a discount equal to (a) the prevailing bid rate in effect in the bankers' acceptance market on the date of acceptance of such Draft for acceptances by the Bank of commercial drafts or bills ineligible for discount with Federal Re-

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serve Banks and having he same maturity as such Draft,. multiplied by (b) the face amount of such Draft; provided that if during the extended term of the Acceptance Agreement the Drafts to be accepted by the Bank thereunder are at any time deemed to be eligible for discount with Federal Reserve Banks, the discount rate will accordingly be premised upon that applicable to eligible acceptances.

The Amendment Agreement will also provide for a modification of the provisions in the Acceptance Agreement relating to the acceptance charge payable by SFI to the Bank with respect to Drafts accepted and discounted by the Bank so that SFI will pay to the Bank on the date of acceptance of any Draft an acceptance charge of 1.40 percent per annum of the face amount of such Draft for the period thereof. The acceptance charge specified in the Amendment Agreement may be adjusted (1), subject to any necessary approvals of the Commission under the Act, to reflect a change in the regulations adopted under the Federal Reserve Act mandating a change in the amount of reserves required to be maintained by the Bank with respect to obligations arising from the creation of bankers' acceptances which are ineligible for discount with Federal Reserve Banks, any such adjustment to be in such amount as SFI and the Bank shall thereafter agree upon, and (2) automatically from 1.40 to 1 percent per annum with respect to Drafts accepted and discounted by the Bank which are deemed eligible for discount with Federal Reserve Banks. Based upon the prevailing bid rate of 9.35 percent in effect as of October 16, 1978, for 90-day commercial drafts or bills ineligible for discount with Federal Reserve Banks, and after giving effect to the Acceptance Charge of 1.40 percent per annum payable as to Drafts of SFI accepted and discounted by the Bank, SFI estimates that its cost of money in respect of the proposed borrowings under the Acceptance Agreement, as amended by the Amendment Agreement, would be 10.97 percent per annum.

In all other respects the proposed transactions remain the same.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 13, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendments to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-30175 Filed 10-24-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0140]

DADELAND CAPITAL INVESTMENT CORP.

Issuance of License

On July 17, 1978, a Notice was published in the FEDERAL REGISTER (43 FR 30634) stating that an application had been filed by Dadeland Capital Investment Corp., 7545 North Kendall Drive, Miami, Fla. 33156, with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (SBIC).

Interested parties were given until the close of business August 1, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 04/04-0140 to Dadeland Capital Investment Corp., to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 18, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-30079 Filed 10-24-78; 8:45 am]

[8025-01-M]

[License No. 09/09-0210]

JERMYN VENTURE CAPITAL CORP.

Issuance of Small Business Investment Company License

On June 8, 1978, a notice of application for a license as a small business investment company was published in the FEDERAL REGISTER (Vol. 43, No. 111) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (specializing in the financing of the production and distribution of motion pictures) by Jermyn Venture Capital Corp., 190 North Canon Drive, Suite 400, Beverly Hills, Calif. 90210.

Interested parties were given until the close of business on June 23, 1978, to submit their comments. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and facts with regard thereto, SBA issued License No. 09/09-0210, to Jermyn Venture Capital Corp. on October 18, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 19, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-30077 Filed 10-24-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1536]

CALIFORNIA

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Orange County and adjacent counties within the State of California constitute a disaster area, because of damage resulting from landslides beginning about October 2, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 8, 1978, and for economic injury until the close of business on July 9, 1979, at:

Small Business Administration, District Office, 350 South Figueroa Street, 6th Floor, Los Angeles, Calif. 90071

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: October 17, 1978.

A. VERNON WEAVER,
Administrator.

[FR. Doc.78-29992 Filed 10-24-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1537]

ILLINOIS

Declaration of Disaster Loan Area

DeKalb and Kane counties and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by heavy rains and flash flooding which occurred on September 13-17, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 18, 1978, and for economic injury until the close of business on July 17, 1979, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Ill. 60604

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 17, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-29993 Filed 10-24-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL

Change of Meeting Date

The Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, Ind., has changed the date of its public meeting from 10:30 a.m. e.s.t., on Wednesday, November 15, 1978, to 10:30 a.m. e.s.t. on Thursday, November 16, 1978, in the Midtown Ramada, 1530 North Meridian Street, Indianapolis, Ind., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Robert J. Gastineau, Public Information Officer, U.S. Small Business Administration, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind. 46204, 317-331-7041.

Dated: OCTOBER 19, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-29994 Filed 10-24-78; 8:45 am]

REGION IX ADVISORY COUNCIL EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region IX Advisory Council Executive Board will hold a public meeting at 9:30 a.m., on Monday, November 20, 1978, at 450 Golden Gate Avenue, 15th Floor, Multi-Purpose Room 15347, San Francisco, Calif., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call JoAnn Semones, Regional Public Information Officer, U.S. Small Business Administration, 450 Golden Gate Avenue, 15th Floor, Box 36044, San Francisco, Calif. 94102, 415-556-0860.

Dated: October 19, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-29996 Filed 10-24-78; 8:45 am]

[8025-01-M]

REGION X ADVISORY COUNCIL EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region X Advisory Council Executive Board will hold a public meeting from 9 a.m. to 12:30 p.m. on Wednesday, November 15, 1978, in the Seattle-First Board Room, Dexter-Horton Building, Seattle, Wash., to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Larry C. Gourlie, Regional Director, U.S. Small Business Administration, Dexter-Horton Building, 5th Floor, 710 Second Avenue, Seattle, Wash. 98104, 206-399-5676.

Dated: October 19, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc 78-29995 Filed 10-24-78; 8:45 am]

[8025-01-M]

[License No. 03/03-0022]

SHARON SMALL BUSINESS INVESTMENT CO.

Application

Notice is hereby given that Sharon Small Business Investment Co. (SSBIC), 385 Shenango Avenue, Sharon, Pa. 16146, a Federal licensee under the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.), has filed an application with the Small Business Administration purusant to section 312 of the Act and covered by section 107.1004(b) (1) and (4) of the SBA's regulations governing small business investment companies (SBIC) (13 FR 107.1004 (1978)), for approval of a conflict of interest transaction falling within the scope of the above sections.

Subject to such approval SSBIC proposes to provide funds to Geneva Golden Dawn, Inc. (Geneva), 669 East Main Street, Geneva, Ohio 44041.

The proposed financing is brought within the purview of section 107.1004(b) (1) and (4) of the regulations because one of the principal stockholders of Geneva is a former employee of the parent company of the SBIC and therefore is considered an associate of SSBIC as defined by section 107.3 of the regulations. The individual involved is Mr. William F. Johnson.

The transaction also falls within section 107.1004(b)(4), in that the licensee's financing will provide funds, or release other funds, to discharge monetary obligations of Geneva to licensee's parent, as sublessee of real estate from it and the purchase of fixtures and equipment from the parent.

Notice is hereby given that any interested person may not, later than November 6, 1978, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 12, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-29917 Filed 10-24-78; 8:45 am]

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[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10 (a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the sixteenth meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on November 13-16, 1978.

The purpose of the meeting is to discuss: proposals for restructuring the JCAD monthly meetings; the implications for the BIFAD of the proposed establishment of an International Service for Agricultural Research by the Consultative group on International Agricultural Research (CGIAR); the development of a source book of American universities qualified to provide training in the different agricultural areas of specialization; and to consider other business brought before the Committee.

The JCAD will meet on November 13, 14, and 16 in the form of Regional Work Groups (RWGs): for Asia on November 13, 1978, from 10 a.m. to 4 p.m. in Room 206, Rosslyn Plaza Building, 1601 North Kent Street, Rosslyn, Va.; for Latin America on November 14, 1978, from 9:30 a.m. to 4 p.m. in Room 2242, New State Department Building; for Africa on November 16, 1978, from 9 a.m. to 1 p.m. in the Stockholm Room, Chase Park Plaza Hotel, 212 North Kings Highway, St. Louis, Mo.; and for the Near East on November 16, 1978, from 10 a.m. to 4 p.m. in Room 6484, New State Department Building. The JCAD meeting on November 15, 1978, will convene from 9:30 a.m. to 5 p.m. in the Stockholm Room of the Chase Park Plaza Hotel, 212 North Kings Highway, St. Louis, Mo. 63108. The entire four-day meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Carl E. Ferguson, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: October 18, 1978.

CARL E. FERGUSON,
A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-30103 Filed 10-24-78; 8:45 a.m.]

[4710-01-M]

Office of the Secretary

[Public Notice CM-8/119]

OVERSEAS SCHOOLS ADVISORY COUNCIL

Meeting

The Overseas Schools Advisory Council, Department of State, will hold its annual meeting on Thursday, December 14, 1978, 9:30 a.m., in Conference Room 1408, Department of State Building, Washington, D.C.

Agenda items scheduled for discussion are as follows:

I. Welcome and Introduction of Participants.

II. Greetings from the Department of State.

III. Report of Executive Committee Meeting of June 8, 1978.

IV. Results of Surveys and Reports Relating to Local Fund-Raising Activities Conducted by the Schools:

A. The Role of Fund-Raising Handbook in Planning and Conducting Fund-Raising Programs;

B. Requests and Recommendations for Additional Council Assistance; and

C. Regional School Associations Meetings and Activities.

V. Status Report and Review of Council's Fund-Raising Activities 1968-1978.

VI. Activities Relating to Council's Second Phase:

A. Letter to 1300 U.S. Corporations and Foundations, Enclosing Directory of American-Sponsored Overseas Schools, a Sample of Updated School Fact Sheets and a List of U.S. Firms Represented on School Boards; and

B. Annual Letter to Heads of U.S. Corporations and Foundations Regarding the Needs of the Overseas Schools and Advisability for Interested Participation of Their Overseas Employees in School Activities.

VII. Other Business.

For purposes of fulfilling building security, members of the public desiring to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703-235-9600, prior to December 14. The public may participate in discussion at the Chairman's instructions.

Dated: October 16, 1978.

ERNEST N. MANNINO,
Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 78-30102 Filed 10-24-78; 8:45 am]

[4710-01-M]

[Public Notice CM-8/121]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The Working Group on Radiocommunications of the Subcommittee on Safety of Life at Sea (SOLAS), a part of the Shipping Coordinating Committee, will conduct an open meeting at 1:30 p.m. on November 16, 1978, in Room 8442 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twentieth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London on March 26-30, 1979. In particular, the working group will discuss the following topics:

Survival craft radio equipment;
Operational requirements for future EPIRB's;
Operational standards for shipboard radio equipment; and
Maritime distress system.

Requests for further information should be directed to Lieutenant R. F. Carlson, U.S. Coast Guard (G-OTM/74), Washington, D.C. 20590, telephone 202-426-1345.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

OCTOBER 18, 1978.

[FR Doc. 78-30101 Filed 10-24-78; 8:45 am]

[4810-25-M]

DEPARTMENT OF THE TREASURY

MONETARY OFFICES

Financial Recordkeeping and Reporting of Currency and Foreign Transactions; Modification of Reporting Requirement

Notice is hereby given that a person who, under the provisions of 31 CFR 103.24, would otherwise be required to file a Treasury Department Form 90-22.1, Report of Foreign Bank and Financial Accounts, concerning his ownership or control over foreign financial accounts, need not make such a report if the accounts had an aggregate maximum value of $1,000 or less.

The above exemption from the reporting requirement is designed to reduce unnecessary paperwork occasioned by Federal reporting requirements, while insuring that the purpose and objectives of the statute are carried out. It is authorized by sections 241 and 242 of the Currency and Foreign Transactions Reporting Act, 84 Stat. 1124 and 31 CFR 103.45.

Dated: October 19, 1978.

BETTE B. ANDERSON,
Under Secretary.

[FR Doc. 78-30113 Filed 10-24-78; 8:45 am]

[4810-22-M]

Office of the Secretary

CERTAIN CARBON STEEL PLATES FROM VARIOUS COUNTRIES

Antidumping Proceeding Notice

AGENCY: Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that, pursuant to information developed under the "Trigger Price Mechanism" for certain steel mill products, an antidumping investigation is being initiated for the purpose of determining whether imports of carbon steel plates from various countries are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United Stetes are less than the prices in the home market.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald W. Elss, U.S. Treasury Department, Office of Tariff Affairs, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-8256.

SUPPLEMENTARY INFORMATION: On December 6, 1977, the President approved implementation by the Treasury Department of a "Trigger Price Mechanism" ("TPM") applicable to importations of certain steel mill products. As stated in the FEDERAL REGISTER of December 30, 1977 (42 FR 65214), the TPM consists of four major parts: (1) the establishment of trigger prices for steel mill products imported into the United States; (2) the use of a Special Summary Steel Invoice ("SSSI") applicable to imports of all steel mill products; (3) the continuous collection and analysis of data concerning (a) the cost of production and prices of steel mill products exported to the United States, and (b) the condition of the domestic steel industry; and (4) where appropriate, the expedited initiation and disposition of proceedings under the Antidumping Act of 1921 with respect to imports below the Trigger Prices.

The Trigger Price Mechanism is a monitoring device established by the Treasury Department to determine if basic steel mill products may be sold to the United States at less than fair value. Actual C.I.F. transaction prices on sales to the United States are compared to trigger prices established by the Treasury Department. Prices below the trigger prices are considered to represent potential sales at less than fair value since trigger prices reflect the estimated cost of production of the world's most efficient steel industry.

Information has been developed from analysis of the SSSI's submitted, indicating that imports of certain carbon steel plates, sold by the companies listed below, have been entering the Unites States at prices below the applicable "Trigger Prices". Such information indicates the possibility that the subject carbon steel plates are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.), by the following producers and/or sellers of this merchandise, and in those instances where the seller did not also produce the exported product, the manufacturers supplying the firms listed below:

Empresa Nacional Siderurgica, S.A.
Velasquez, 134
Madrid-6, Spain

"Stahlexport" Przedsiebiorstwoa
Handlu Zagranicznego
Katowice, Plebiscytowa 36
Poland

China Steel Corp.
(Taiwan)

The addresses listed above are for identification purposes only and do not necessarily reflect the countries from which those companies have made sales at less than "trigger prices". For purposes of this investigation, sales by those companies controlling, controlled by, or under the common ownership of each listed company in the same country, will be subject to any Finding of Dumping ultimately issued.

Customs' information indicates margins of dumping up to 48.5 percent based upon: the comparison of export prices to the U.S. with prices to third countries, as reflected by prices applicable to imports of this merchandise into the member states of the European Communities, for exports from Spain; and the comparison of export prices to the U.S. with the foreign market value, as reflected by prices applicable to this merchandise sold for export to the European Community by Spanish producers and set by the Commission of the European Communities for such imports, with respect to this merchandise imported from Poland. For this latter comparison of relevant pricing, Spain is considered to constitute a country at a comparable level of economic development within the meaning of § 153.7, Customs Regulations (19 CFR 153.7) as amended by 43 FR 35262, pertaining to merchandise from state-controlled-economy countries.

With respect to goods exported from the Republic of China, export prices to the United States were compared to the data developed under the Trigger Price Mechanism (TPM) for carbon steel plates contained in AISI category 5. Data regarding "trigger prices" for this product were utilized due to the lack of readily available data regarding Taiwanese home market prices, prices at which this product is sold to third countries by companies in Taiwan or the cost of producing carbon steel plate in Taiwan.

In establishing and administering the TPM, substantial evidence has been developed concerning injury and likelihood of injury to the United States steel industry from sales of foreign steel at less than its fair value. The sector of carbon steel plate seems particularly vulnerable. Domestic consumption increased in 1977 campared to 1976 by 10.3 percent, and in the first 8 months of 1978 by 21.5 percent compared to the same period in 1977. Based on U.S. Census statistics during those same time frames, imports have increased, respectively, 32.6 percent and 75.9 percent. During the first 8 months of 1978, total imports of carbon steel plate accounted for 24 percent of total U.S. domestic consumption. Evidence available indicates that imports from the three countries in which the above-named companies are situated, have increased their shares of this market in both absolute terms and in terms of market penetration. Imports from these companies, occurring at prices less than the relevant trigger prices have been significant, accounting for roughly 25 percent of total imports of this product from these three countries during the period May-August 1978. Accordingly, it has been determined that a preliminary referral to the International Trade Commission pursuant to section 201(c)(2) of the Antidumping Act is not required.

Having conducted a summary investigation pursuant to § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify information and to obtain the facts necessary to enable the Secre-

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tary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. The inquiry will be conducted on an expedited basis.

Standard questionnaires will be promptly presented by the Customs Service to all appropriate parties. Responses to those sections of the questionnaire relating primarily to price data (sections A-C) must be received by the Customs Service within 21 days from the date of presentation but in no case more than 26 days after the date of publication of this notice in the FEDERAL REGISTER. Where appropriate, responses to that section of the questionnaire relating primarily to cost of production data (section D) must be received by the Customs Service within 35 days from the date of presentation but in no case more than 41 days after the date of publication in the FEDERAL REGISTER. Any responses received after the above-cited deadlines will not be considered by the Secretary in making the Tentative Determination and may not be used in making the Final Determination.

All information submitted during this investigation for which confidential treatment is requested must be accompanied (unless § 153.22(a)(2) of the Customs Regulations is applicable) by a full and descriptive nonconfidential summary in accordance with § 153.22 of the Customs Regulations (19 CFR 153.22). All information or portions of confidential submissions which are not adequately summarized will not be considered by the Secretary in detemining the question of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 20, 1978.

[FR Doc. 78-30093 Filed 10-24-78; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 19]

DECISION-NOTICE

Correction

FR Doc. 78-22942, appearing at page 36557 in the issue of Thursday, August 17, is corrected as follows:

In MC 118922 (Sub-18F), second full paragraph, third column, page 36560, the seventh line should read, "to operate as a *contract carrier*, by".

[1505-01-M]

[Decisions Volume No. 30]

DECISION-NOTICE

Correction

In FR Doc. 78-26196 appearing at page 42060 in the issue of Tuesday, September 19, 1978, on page 42062, the 3d paragraph, the first line should read, "MC 104149 (Sub-205F), filed August [14, 1978 * * *]" instead of "MC 104140 (Sub-205F) [etc.]".

[1505-01-M]

[Notice No. 155]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

FR Doc. 78-24414, appearing at page 38773 in the issue of Wednesday, August 30, 1978, is corrected as follows:

1. In MC 107882 (Sub-42TA), first full paragraph, middle column, page 38774, the 11th line should read, "[Philadel-]phia, PA; Denver, CO: Stateline, Reno, NV;".

2. In MC 138438 (Sub-27TA), first full paragraph, second column, page 38775, the 11th line should read, "commercial zone to points in MD, VA, the District of Columbia".

[1505-01-M]

[Notice No. 172]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-27187, appearing at page 43808, in the issue of Wednesday, September 27, 1978, on page 43809, in the third coulumn, the first full paragraph should begin "MC 114045" instead of "MC 11445".

[7035-01-M]

[Notice No. 199]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 11, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 720 (Sub-57TA), filed August 15, 1978. Applicant: BIRD TRUCKING CO., INC., P.O. Box 227, Waupun, WI 53963. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk) from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI, to points in and east of ND, SD, NE, KS, OK, and TX. Restriction: Restricted to traffic originating at the named origin and destined to the named States. Authority sought for 180 days. Supporting shipper: Ore-Ida Foods, Inc., Owyhee Plaza, Boise, ID 83702. Send protests to: (District Supervisor) Mr. John Ryden, Interstate Commerce Commission, U.S. Federal Courthouse, 517 East Wisconsin, Room 619, Milwaukee, WI 53202.

MC 29568 (Sub-5TA), filed August 21, 1978. Applicant: ASSOCIATED TRANSFER & STORAGE CO., INC., 730 North Northlake Way, Seattle, WA 98103. Representative: Susan W. Carlson, Aiken, St. Louis & Siljeg, 1215 Norton Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone*, in sacks, from the port of entry of the international boundary line of the United States and Canada, at or near Porthill, ID, on

the one hand, and, on the other hand, Spokane, Tri Cities, Omak, Okanogan, Vancouver, Centralia, Olympia, and Seattle, WA, and Portland, Corvallis, Eugene, Springfield, Salem, and Klamath Falls, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chemical Distributors, Inc., P.O. Box 10763, Portland, OR 97210. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, ICC, 858 Federal Building, Seattle, WA 98174.

MC 48441 (Sub-24TA), filed August 25, 1978. Applicant: R. M. E. INC., P.O. Box 418, Streator, IL 61364. Representative: Mr. E. Stephin Heisley, 666 11th Street NW., No. 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers*, from facilities utilized by National Can Corp., at Oak Creek, WI, to points in the St. Louis, MO, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corp., 8101 West Higgins Road, Chicago, IL 60631. Send protests to: Lois Stahl, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 50866 (Sub-9TA), filed August 31, 1978. Applicant: BURLINGAME TRUCK LINE, INC., Rural Route No. 2, Scranton, KS 66537. Representative: Frederick W. Godderz, Ramskill & Godderz, First State Bank Building, Burlingame, KS 66413. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and feed ingredients* (except in bulk in tank vehicles), from Cozad, Darr, Dakota City, Kearney, Lexington, Orleans, Odessa, Superior, and York, NE, to all points and places in the State of KS; from North Platte, Fremont, Lincoln, Weeping Water, and Omaha, NE, to all points and places west of Kansas Hwy 14 in the State of KS; also from Kansas City, MO, and St. Joseph, MO, to all counties in the State of KS and all points and places therein except the following counties: Crawford, Cherokee, Franklin, Anderson, Linn, Miami, Nemaha, Brown, Atchison, Doniphan, Jackson, Labette, Montgomery, Wilson, Neosho, Woodson, Allen, Johnson, Wyandotte, Leavenworth, Jefferson, Douglas, Riley, Pottawatomie, Geary, Morris, Chase, Lyon, Osage, and Coffey Counties, KS, from Farmland Industries, Inc., plant in Kansas City, KS, to Gothenburg, NE, for 180 days. Supporting shipper: Farmland Industries, Inc., P.O. Box 7305, 3315 North Oak Trafficway, Kansas City, MO 64116. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 256 Federal Building and U.S. Courthouse, 444 Southeast Quincy, Topeka, KS 66683.

MC 82063 (Sub-91TA), filed September 1, 1978. Applicant: KLIPSCH HAULING CO., 10795 Watson Road, St. Louis, MO 63127. Representative: W. E. Klipsch, 10795 Watson Road, St. Louis, MO 63127. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Sedalia, MO, to all points in the United States except AK, HI, and points in the St. Louis, MO-East St. Louis, IL, commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Alcolac, Inc., 3440 Fairfield Road, Baltimore, MD. Send protests to: District Supervisor P. E. Binder, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

MC 84739 (Sub-28TA), filed August 14, 1978. Applicant: SEVERSON TRANSPORT, INC., 624 Albion Road, Edgerton, WI 53534. Representative: Ronald J. Mastej, 900 Guardian Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic*, except in bulk, from the facilities of Hammond Plastics Midwest, Inc., at or near Owensboro, KY, to points in IN, IL, MI, MN, OH, PA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hammond Plastics Midwest, Inc., P.O. Box 990, Owensboro, KY 42301. Send protests to: Ronald Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

MC 89153 (Sub-5TA), filed August 21, 1978. Applicant: GAYLE T. McGARRY, d.b.a. EAGLE TRANSFER & STORAGE CO., P.O. Box F, Lewison, ID 83501. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soft drinks* from Spokane, WA, to points in ID, MT, and OR. (2) *Empty cans* from Worland, WY, to Spokane, WA, for 180 days. Restriction: Restricted the transportation of traffic originating at or near destined to the facilities of Western Bottling Co., Spokane, WA. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Western Bottling Co., 4014 East Prague, Spokane, WA 99202. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, ICC, 858 Federal Building, Seattle, WA 98174.

MC 99427 (Sub-40TA), filed August 15, 1978. Applicant: ARIZONA TANK LINES, INC., P.O. Box 855, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Inspiration and Hayden, AZ, to Blue Water, NM, for 180 days. Supporting shipper: Carlyle Chemical, Suite 2905, Fourth National Bank Building, Sixth and Boulder Streets, Tulsa, OK 74119. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 105280 (Sub-3TA), filed August 15, 1978. Applicant: CHANDLER TRANSPORT SERVICE, INC., P.O. Box 309, Fleming, CO 80728. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products in packages or containers*, from El Dorado, KS to points in CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Getty Refining and Marketing Co., P.O. Box 1650, Tulsa, OK 74102. Send protests to: District Supervisor, Roger L. Buchanan, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 107403 (Sub-1111TA), filed August 21, 1978. Applicant: MATLOCK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr., 10 West Baltimore Avenue, Lansdowne, PA 19050. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone*, in bulk and bags, from Sylacauga, AL, to New Orleans, LA, and Sneads, FL: *Lime slury*, in bulk, in tank vehicles, from Sylacauga, AL, to Savannah, Augusta, and Macon, GA, and McGehee, AR, for 180 days. Supporting shipper: Sylacauga Calcuim Products Co., P.O. Box 330, Sylacauga, AL 35150. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 107496 (Sub-1155TA), filed August 15, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, 666 Grand Avenue, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregu-

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lar routes, transporting: *Propellants*, in bulk, in tank vehicles, from East Chicago, IN to Franklin, KY, and Butler, PA, for 180 days. Supporting

and those requiring special equipment. Serving Longview, Tylor, Gladewater, and Kilgore, TX as intermediate and off-route points to existing ...

Terminal Annex, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle,

Containers and container components, from the facilities of Blackhawk Molding Co., Inc. located in Addison, IL to

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Dallas, TX,

Inc., from Sikeston, MO to Evansville, IA, and Owensboro, KY, under a continuing contract or contracts with

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lar routes, transporting: *Propellants*, in bulk, in tank vehicles, from East Chicago, IN to Franklin, KY, and Butler, PA, for 180 days. Supporting shipper: Phillips Petroleum Co., 222 East Ogden, Hinsdale, IL 60521. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 108523 (Sub-8TA), filed September 1, 1978. Applicant: POLMAN TRANSFER, INC., Route 3, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pet foods* (except commodities in bulk) from Perham, MN to ports of entry on the United States-Canada boundary line at Portal, ND and Sweetgrass, MT for subsequent movement to points in the Provinces of Alberta and Saskatchewan, Canada, under a continuing contract or contracts with Tuffy's Division of Star Kist Foods, Inc., for 180 days. Supporting shipper: Tuffy's Division of Star Kist Foods, Inc., P.O. Box 190, Perham, MN 56573. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

MC 109064 (Sub-33TA), filed August 15, 1978. Applicant: TEX-O-KAN TRANSPORTATION CO., INC., 3310 East Loop 820, P.O. Box 8367, Fort Worth, TX 76112. Representative: George C. Jackson, 3301 East Loop 820, P.O. Box 8367, Fort Worth, TX 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc articles*, from Tarrant County, TX to points in Tulsa County, OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boyles Galvanizing Co., P.O. Box 187, Hurst, TX 76053. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 112713 (Sub-219TA), filed August 21, 1978. Applicant: YELLOW FREIGHT TYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: David B. Schneider, P.O. Box 7270, Shawnee Mission, KS 66207. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Serving Longview, Tylor, Gladewater, and Kilgore, TX as intermediate and off-route points to existing regular route authority, for 180 days. Supporting shipper: There are approximately 28 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, John V. Barry, Room 600, 911 Walnut, Kansas City, MO 64106.

MC 113024 (Sub-155TA), filed August 25, 1978. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 South Du Pont Highway, Smyrna, DE 19977. Representative: Samuel W. Earnshaw, Esq., 833 Washington Building, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clothing and dry goods, drugs, medicines, toilet preparations and articles, diaper liners, and materials and supplies* (except liquid commodities in tank vehicles), used in the manufacture and distribution thereof, between Dover, DE and Wilmington, MA, for the account of International Playtex, Inc., under a continuing contract or contracts with International Playtex Inc., for 90 days. Applicant has also filed an underlying ETA seeking up 90 days of operating authority. Supporting shipper: Mr. J. M. Harrison, Director of Traffic and Transportation, International Playtex, Inc., P.O. Box 631, Dover, DE 19901. Send protests to: Mr. W. L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 113624 (Sub-82TA), filed August 31, 1978. Applicant: WARD TRANSPORT, INC., P.O. Box 735, Pueblo, CO 81001. Representative: Leslie R. Kehl, 1660 Lincoln, Suite 1600, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Liquified petroleum gas*, in bulk from the facilities of Northwest Pipeline Co., Igancio, CO, to Cheyenne, WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Co., 600 South Cherry Street, Denver, CO 80222. Send protests to: District Supervisor, Herbert C. Ruoff, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-341TA), filed August 15, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, CO 80217. Representative: Howard Gore, 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, CO 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk in tank vehicles), from Laramie, WY, to El Paso, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Packers Cold Storage, Inc., 310 East Walnut, Fullerton, CA 92623. Send protests to: H. C. Ruoff, District Supervisor, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 117119 (Sub-701TA), filed August 31, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O Box 338, Willingboro, NJ 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, toilet preparations, and chemicals*, in vehicles equipped with mechanical refrigeration (except in bulk), from points in NY, NJ, MA, CT, to points in CA, WA, OR, NV, OK, TX, UT, MS, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Cyanamid Co., Wayne, NJ. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 118318 (Sub-35TA), filed September 1, 1978. Applicant: IDA-CAL FREIGHTLINES, INC., P.O. Drawer M, 419 West Karcher Road, Nampa, ID 83651. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by grocery and food business houses, and equipment, materials, and supplies*, used in the conduct of such business, from the facilities utilized by Boyle Midway at or near Los Angeles, CA, to points in Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah, and Weber Counties, UT for 180 days. Supporting shipper: Boyle Midway, 685 3rd Avenue, New York, NY, 10017. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 1471 Shoreline Drive, Suite 110, Boise, ID 83706.

MC 118989 (Sub-202TA), filed September 1, 1978. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Representative: Rolland K. Draves, 5223 South 9th Street, Milwaukee, WI 53221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and container components*, from the facilities of Blackhawk Molding Co., Inc. located in Addison, IL to various points in the United States, except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Blackhawk Molding Co., Inc., 109 Commercial Road, Addison, IL 60101. (David Anderson, Sales Manager). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 119422 (Sub-63TA), filed August 21, 1978. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th & Lincoln Streets, East St. Louis, IL 62204. Representative: Ernest A. Brooks II, Attorney, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compounding asphalt*, requiring heat in transit, in bulk, in tank vehicles from the facilities of Mobil Oil Corp. at Augusta, KS to points in MO, IL, OH, and MN for 180 days. Supporting shipper: Chris Proctor, Sr., Transportation Analyst, Mobil Oil Corp., 8350 North Central Expressway, Suite 522, Dallas, TX 75206. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 119632 (Sub-77TA), filed August 25, 1978. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Representative: John P. McMahon, Attorney at Law, George, Greek, King, McMahon & McConnaughey, 100 E. Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, (1) from Pittsburgh, PA to points in IL, IN, KY, MI, points in WV on and south of U.S. Hwy 50 not including Clarksburg, and those points in OH and south of I-70, and on and west of I-77, and (2) from Holland, MI to points in PA and west of U.S. Hwy 220, for 180 days. Supporting shipper: Heinz U.S.A., Division of, H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations-ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 119700 (Sub-43TA), filed August 31, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from Dallas, TX, to points in AR, CO, KS, LA, MO, MS, NM, and OK restricted to shipments originating at the plantsite of GAF Corp., for 180 days. Supporting shipper: GAF Corp., P.O. Box 5607, Dallas, TX 75222. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 123091 (Sub-24TA), filed September 1, 1978. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, OH 44403. Representative: James Duvall, 220 West Bridge Street, Dublin, OH 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, hardboard, particleboard, gypsumboard, molding, and accessories* used in the installation thereof. From the plant and storage facilities of Weyerhaeuser Co. located at Chesapeake, VA to IN (on and north of Interstate 70), IL, KY, NY (on and west of State Hwy 14), MI (Lower Peninsula), OH, PA (on and west of State Hwy 219), and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Co., 201 Dexter Street, West, Chesapeake, VA 23324. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland OH 44199.

MC 124211 (Sub-339TA), filed August 15, 1978. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, Downtown Station, Omaha, NE 68101. Representative: Thomas L. Hilt, P.O. Box 988 Downtown Station, Omaha, NE 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures, equipment, materials and supplies, and accessories* (except commodities in bulk) from Ogden, UT to CA, OR, WA, NM, AZ, ID, MT, CO, Broadview, IL, and Dayton, TN, for 180 days. Supporting shipper: J. L. Quinn, Traffic Manager, Elkay Manufacturing Co., 2700 South 17th Avenue, Broadview, IL. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 125544 (Sub-7TA), filed August 15, 1978. Applicant: LESTER M. HAYS, 803 West Mulberry, Carlinville, IL 62626. Representative: Robert T. Lawley, Attorney, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk cartons*, for the account of Prairie Farms Dairy, Inc., from Sikeston, MO to Evansville, IA, and Owensboro, KY, under a continuing contract or contracts with Prairie Farms Dairy, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: F. A. Gourly, Vice President-General Manager, Prairie Farms Dairy, Inc., P.O. Box 499, Carbondale, IL 62901. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 126542 (Sub-9TA), filed August 25, 1978. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, 200 Woodward Building, Birmingham, AL 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay in containers* from the facilities of Donoho Clay Co. in or near Anniston, AL to NY, PA, KY, MD, OH, IN, IL, MO, WI, IA, MI, TX, and WV. (2) On return materials, equipment and supplies from destination States to facilities of Donoho Clay in or near Anniston, AL, under a continuing contract or contracts with Donoho Clay Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Donoho Clay Co., P.O. Box 843, Anniston, AL. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, I.C.C., Room 1616, 2121 Building, Birmingham, AL 35203.

MC 128133 (Sub-22TA), filed August 31, 1978. Applicant: H. H. OMPTS, INC., Route 7, Box 295, Winchester, VA 22061. Representative: Jeremy Kahn, 733 Investment Building, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products*, from Strasburg, VA to points in MD, NJ, NC, PA and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Engelhard Minerals & Chemicals, Edison NJ 08817. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 133566 (Sub-122TA), filed August 25, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, One World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-*

products in vehicles equipped with mechanical refrigeration between the facilities of Lykes Bros., Inc., at or near

200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. Authority sought to operate

sentative: Edwin J. Simcox, Suite 800, 5 East Market Street, Indianapolis, IN

Northwest 3rd, Oklahoma City, OK 73102.

MC 139973 (Sub-50TA), filed August

19411 Londelius Street, Northridge, CA 91324. Send protests to: Herbert W. Allen, District Supervisor, Bureau

sor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

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products in vehicles equipped with mechanical refrigeration between the facilities of Lykes Bros., Inc., at or near Albany GA and points in the States of NJ, PA, NY, CT, MA, and OH, for 180 days. Supporting shipper: Lykes Bros., Inc., of Georgia, P.O. Box 427, Albany, GA 31702. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 134477 (Sub-266TA), filed August 15, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, (ECIB) from Oneida, NY to Mason City, IA, for 180 days. Supporting shipper: Fast Food Merchandisers, Inc., 1811 19th Street SW, Mason City, IA 50401. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135797 (Sub-142TA), filed August 21, 1978. Applicant: J. B. HUNT TRANSPORTING, INC., P.O. Box 200, Lowell, AR 72745. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of metal tool and utility boxes, tool chests, medical cabinets, benches, and shelves (except commodities in bulk) (A) From the facilities of Waterloo Industries, Inc., at Waterloo, IA; Sedalia, MO; Pocohantas and Walnut Ridge, AR; and the facilities of Lumidor Manufacturing, Inc. at Los Angeles, CA to points in the United States (except Alaska and Hawaii) (B) From Des Moines and Clarksville, IA; Jonesboro, AR; Independence, MO; Fort Wayne and Evansville, IA; Louisville, KY; Minneapolis, MN; Worchester, MA; Los Angeles, CA; Greenville, TN and points in IL to the facilities of Waterloo Industries, Inc., at Waterloo, IA; Sedalia, MO; and Pocohontas, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Waterloo Industries, Inc., P.O. Box 209, Waterloo, IA; 50704. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-143TA), filed August 21, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 200, Lowell, AR 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed* from Kansas City, MO to points in CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Carnation Co., 5045 Wilshire Boulevard, Los Angeles, CA 90036. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 136318 (Sub-53TA), filed August 25, 1978. Applicant: COYOTE TRUCK LINE, INC., 5367 West 86th Street, Indianapolis, IN 46268. Representative: John T. Wirth, 1600 Broadway, 2310 Colorado State Bank Building, Denver, CO 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furnishings*, from points in MS to the facilities of Montgomery Ward in Baltimore and Landover, MD. Restrictions (1) restricted to traffic destined to the facilities of Montgomery Ward, (2) restricted to traffic moving under a continuing contract or contracts with Montgomery Ward, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Montgomery Ward, 535 West Chicago Avenue, Chicago, IL 60671. Send protest to: Interstate Commerce Commission, District Supervisor, Terrell Price, 800 Briar Creek Road, Mart Office Building, Room CC516, Charlotte, NC 28205.

MC 136553 (Sub-64TA), filed August 15, 1978. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O' Lakes Agricultural Services Division at or near Mason City, IA to points in MN, NE, ND, SD, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Land O' Lakes Agricultural Services Division, 2827 8th Ave. S., Fort Dodge, IA 50501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 136635 (Sub-10TA), filed August 21, 1978. Applicant: UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN 46614. Representative: Edwin J. Simcox, Suite 800, 5 East Market Street, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt liquors* (Ale, Beers, Beer tonic, Porter, Stout or Nonintoxicating Cereal Beverage) from points in CO and MO, to points in Marion County IN, for 180 days. Restriction: Commodities set forth above are restricted to transportation in refrigerated or insulated van type equipment. Further, restricted to transportation destined to the facilities of Rocky Mountain Distributors, Inc., Indianapolis, IN. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rocky Mountain Distributors, Inc., 836 Broadripple Avenue, Indianapolis, IN 46220. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 139495 (Sub-377TA), filed August 21, 1978. Applicant: NATIONAL CARRIER, INC., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products* and (2) *materials, equipment and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk) (1) from the facilities of Union Camp Corp., at or near Tifton, GA, for 180 days. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 139923 (Sub-49TA), filed August 31, 1978. Applicant: MILLER TRUCKING CO., INC., P.O. Box D, Stroud, OK 74079. Representative: Stephen H. Loeb, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc Oxide and zinc dust* (except commodities in bulk), from the facilities of St. Joe Zinc Co. at or near Josephtown (Potter Township, Beaver County), PA to points in TX, restricted to the transportation of shipments originating at the named origins and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: St. Joe Zinc Co., Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office & Courthouse Building, 215 Northwest 3rd, Oklahoma City, OK 73102.

MC 139973 (Sub-50TA), filed August 14, 1978. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, 909 Brown Street, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities the transportation of which because of size or weight require the use of special equipment), from the facilities of Keystone Consolidated Industries, Inc. at or near Greenville, MS, to points in AZ and NM, for 180 days. Supporting shipper: Keystone Group, Keystone Consolidated Industries, Inc., Peoria, IL 61641. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 140596 (Sub-5TA), filed August 31, 1978. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, VT 05855. Representative: S. Arnold Smith, Craftsbury, VT 05826. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic parts for snowmobile machines and other vehicular and industrial equipment*, all on a priority basis with prior or subsequent movement by air, between the ports of entry on the International Boundary Line between the United States and Canada located at or near Derby Line and Beebe Plain, VT, on the one hand, and on the other, Logan International Airport at or near East Boston, MA, under a continuing contract or contracts with Provincial Production & Die, Inc., for 180 days. Supporting shipper: Provincial Production & Die, Inc., 1649 Belvedere South, Sherbrooke, PQ, Canada J1H 4E4. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 140612 (Sub-53TA), filed August 15, 1978. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour, P.O. Box 2207, Cedar Rapids, IA 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in or used by hardware stores*, (except commodities in bulk), from Northridge, CA to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, OH, KY, TN, MS, AL and GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Industries, Inc., 19411 Londelius Street, Northridge, CA 91324. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 140829 (Sub-136TA), filed August 31, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and advertising material and premiums;* (2) *Empty malt beverage containers, packaging material, pallets and scrap malt beverage containers and packing dunnage;* (1) from Golden, CO to points in IA and MO and (2) from points in IA and MO to Golden, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lou Bonner, Director of Transportation, Adolph Coors, Transportation Department, 204 Golden, CO 80401. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 10 North 14th St., Omaha, NE 68102.

MC 142559 (Sub-40TA), filed August 25, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Temporary authority for 180 days sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and marble chips* (1) from Lancaster, PA and Newton, NJ, to OH, IN, IL, MD, MI, NC, SC, VA, and WI; and (2) from Crestline, OH, to IN, IL, KY, MI, NC, PA, SC, TN, VA, and WI, for 180 days. Supporting shipper: Continental Peat Co., 2105 North McCord Road, Toledo, OH. Send protests to: Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143236 (Sub-18TA), filed August 25, 1978. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, South Kearny, NJ 07032. Representative: Jay Schiffres, 1001 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Photographic paper* between South Plainfield, NJ and points in IL, SC and FL. For 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mitsubishi International Wholesale Corp., 100 Wade Avenue, South Plainfield, NJ. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 144696 (Sub-1TA), filed August 25, 1978. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom Street, Zeeland, MI 49464. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 141, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* from Oceana County, Ironia County and Kent County, MI, to points in Salem, Glouster and Cumberland Counties, NJ, Kansas City, KS, and Chicago, IL, and their respective commercial zones, under a continuing contract or contracts with Seabrook Foods, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Seabrook Foods, Inc., 5118 East Clinton Way, Fresno, CA 93727. Send protests to: C. R. Flemming District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 144739 (Sub-1TA), filed August 21, 1978. Applicant: BOB's TRUCK SERVICE, INC., P.O. Box 528, Middletown, OH 45042. Representative: Paul F. Beery, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Iron and steel, and iron and steel articles*, from the plantsites of Blakes Steel Service, Inc., at Middletown, OH, and Worthington Industries, Inc., at Monroe, OH, to NC, SC, MS, AL, GA, and WV, for 180 days. Supporting shipper: Worthington Industries, Inc., Gene Spears, Traffic Manager, 350 Laughton Ave., Monroe, OH 45050. Blakes Steel Service Pat McGuire, Vice President, Box 466, 1211 Hook Drive, Middletown, OH 45042. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, ICC, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 145290TA, filed August 25, 1978. Applicant: JIM C. FLEMING, JR., P.O. Box 244, Ashland, VA 23005. Representative: Jim C. Fleming, Jr., P.O. Box 244, Ashland, VA 23005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Pallets, wooded, set-up, knocked down, pallet parts*, from Apple Grove, VA to points and places in NC, SC, GA, WV, OH, MI, MD, DE, PA, NY, NJ, CT, MA, NH, and DC, under a continuing contract or contracts with Dominion Pallet, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to

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90 days of operating authority. Supporting shipper: Dominion Pallet, Inc., Route 3, Mineral, VA 23117. Send protests to: District Supervisor Paul D.

for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 36

that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon*

from railroad station 42+44.5 feet to station 52+89 feet (the end of the Branch), a distance of 1044.5 feet in the city of Norfolk, Va. A certificate of

owning railroad, rather than by resorting to the much more costly alternative of constructing new trackage to connect the two ends of NW's line at

[7035-01--M]

[Disaster Relief Order No. 14 (Sub-No. 2)]

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90 days of operating authority. Supporting shipper: Dominion Pallet, Inc., Route 3, Mineral, VA 23117. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 145292TA, filed August 25, 1978. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chimney assemblies, gas vents and doors*, from Fredericksburg, VA and points in its commercial zone to points in AZ, CA, CO, GA, IL, ID, KS, LA, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, WA, MN, WY and FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Products Co., Inc. Charles R. Moore, Fredericksburg, VA 22401. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 145325TA filed August 31, 1978. Applicant: FINESSE EXPRESS, INC., 1303 Humbolt Street, Reno, NV 89509. Representative: Bennie D. Ferrari, P.O. Box Drawer B-F, Incline Village, NV 89450. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture* from the facility of Macy's Reno, NV store and Sparks, NV terminal to points in Placer El Dorado and Nevada Counties, CA, under a continuing contract or contracts with Macy's California, for 180 days. Supporting shipper: Macy's California, P.O. Box 7888, San Francisco, CA 94120. Send protests to: Interstate Commerce Commission, District Supervisor W. J. Huetig, 203 Federal Building, 705 North Plaza Street Carson City, NV 89701.

MC 1934 (Sub-40TA), filed August 25, 1978. Applicant: THE ARROW LINE, INC., 105 Cherry Street, East Hartford, CT 06108. Representative: Dominick T. Biseth 105 Cherry Street, East Harford, CT 06108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, when moving in the same vehicles with passengers in special round trip operations, during the respective racing seasons of each year at the race tracks specified, beginning and ending at East Hartford and Hartford, CT and extending to the sites of Aqueduct Race Track, New York, NY; Belmont Race Track, Belmont, NY; and Yonkers Raceway, Yonkers, NY, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 36 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC or copies thereof which may be examined at the field office named below. Send protests to: Mr. J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Room 324, Hartford, CT 06101.

MC 145293TA filed August 25, 1978. Applicant: CASINO LIMOUSINE SERVICES, INC., 610 Fifth Avenue, New York, NY 10020. Representative: Collister Johnson, Jr., Esq., Peabody, Rivlin, Lambert & Meyers, 1150 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passsengers, in special or charter operations, in roundtrip sightseeing and pleasure tours, not more than six (6) passengers (not including driver and children under 12) in same vehicle at any one time, from New York City, NY to points in ME, NH, VT, MA, CT, RI, NY, NJ, PA, DE, MD, DC, and VA under a continuing contract or contracts with Specmark, Inc., Merillon Travel Service, Inc., New York Produce Trade Association, Inc., Blum, Haimoff, Gersen, Lipson, Slavin & Szabad, Abbey Travel Service, Inc., for 180 days. Supporting shipper: Specmark, Inc., 3 Turf Louisiana, Roslyn Heights, NY, Merillon Travel Service, Inc., 509 Madison Avenue, New York, NY 10022, New York Produce Trade Association, Inc., 36A-37A NYC Terminal Market, Bronx, NY 10474, Blum, Haimoff, Gersen, Lipson, Slavin & Szabad, 270 Madison Avenue, New York, NY 10016, Abbey Travel Service, Inc., 501 Madison Avenue, New York, NY 10022.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-30159 Filed 10-24-78; 8:45 am]

[7035-01-M]

[Docket No. AB-1 (Sub-No. 64F)]

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Abandonment Near Faribault and Dundas in Rice County, Minn.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided September 29, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Co. of a portion of a line of railroad known as the Faribault-Dundas line, extending from C&NW milepost 45.8 near Faribault to milepost 55.7 near Dundas, a distance of 9.9 miles, located in Rice County, Minn. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago & North Western Transportation Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than November 9, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective December 11, 1978.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-30161 Filed 10-24-78; 8:45 am]

[7035-01-M]

[Docket No. AB-10 (Sub-No. 15F)]

NORFOLK & WESTERN RAILWAY CO.

Abandonment in the City of Norfolk, Va.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided September 29, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 ICC 584 (1978), the present and future public convenience and necessity permit the abandonment by the Norfolk & Western Railway Co. (NW) of a portion of its Knitting Mill Branch, Norfolk Division, extending from railroad station 42+44.5 feet to station 52+89 feet (the end of the Branch), a distance of 1044.5 feet in the city of Norfolk, Va. A certificate of public convenience and necessity permitting abandonment was issued to the Norfolk & Western Railway Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than November 9, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective December 11, 1978.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-30162 Filed 10-24-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28873]

NORFOLK & WESTERN RAILWAY CO. AND CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Coordination Project in the City of Albia, Monroe County, Iowa

Norfolk & Western Railway Co. (NW), 8 North Jefferson Street, Roanoke, Va. 24042, represented by R. Curtis Steele, Jr., assistant general attorney, Norfolk & Western Railway Co., Roanoke, Va. 24042, hereby give notice that on the 3d day of October 1978, it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for a decision seeking approval and authorization to purchase from Chicago & North Western Transportation Co. (C&NW) approximately 1,947 feet of trackage and a permanent easement over a strip of land approximately 30 feet extending from NW milepost 271.36 to NW milepost 271.73 in the city of Albia, Monroe County, Iowa.

The proposed transaction will permit Applicant to maintain the continuity of its line of railroad through Albia by acquiring trackage which would otherwise be retired by the owning railroad, rather than by resorting to the much more costly alternative of constructing new trackage to connect the two ends of NW's line at that city.

NW is currently operating three trains per week in each direction over the track pursuant to an 1899 trackage rights agreement between Iowa Central Railway Co. and Wabash Railroad Co., the predecessors in interest of C&NW and NW, respectively. No change in operations after the purchase is anticipated.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28873 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than December 11, 1978. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-30167 Filed 10-24-78; 8:45 am]

[7035-01--M]

[Disaster Relief Order No. 14 (Sub-No. 2)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Decision

Decided: October 20, 1978.

An application has been filed by the Southern Pacific Transportation Co. (SP) seeking authority under section 22 of the Interstate Commerce Act to publish allowances in order to provide reduced rates for persons who would normally ship via the Northwestern Pacific Railroal Co. (NWP) but cannot do so because of the effect of a fire in a tunnel on the NWP at mileage post 195 near Island Mountain, Calif.

It is ordered: The applicant is authorized to publish and file allowances to afford reduced rates under section 22 of the Interstate Commerce Act in the manner prescribed in section 6 upon not less than one day's notice and is authorized to publish in blanket supplements with relief from Rule 9(e) to do so in separate non-counting supplements, all the authority granted herein to expire with December 12, 1978.

The section of the United States and the class of persons entitled to such allowances are shippers of woodpulp from Fairhaven, Calif., on the NWP who, solely because of the fire in the tunnel, assume the cost of transporting woodpulp by highway to Richmond and Oakland, Calif., for loading onto railcars through covered facilities for protection from weather and impuritires and receivers of tank car products at Loleta, Calif., on the NWP which require heating to unload into tank trucks who, solely because of the fire in the tunnel, assume the cost of transporting the products by highway from Oakland, Calif., where heating facilities for unloading are available.

During the period in which any allowances authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under authority of this order.

Any tariffs or tariff provisions published under this authority shall make reference to this order by number and date.

Notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Acting Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register. Copies will also be mailed to

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the Chairman of the Traffic Executive Association—Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the Chairman of the Executive Committee, Western Railroad Traffic Association, Chicago, Ill., and the Vice President, Economics and Finance Department of the Association of American Railroads, Washington, D.C.

By the Commission, A. Daniel O'Neal, Chairman.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30158 Filed 10-24-78; 8:45 am]

[7035-01-M]

[Docket No. AB-20 (Sub-No. 1)]

TEXAS AND PACIFIC RAILWAY CO.

Abandonment Between Barnsdall and Pawhuska in Osage County, Okla.; [1]—Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by a decision entered on September 28, 1977, and the decision of the Commission, Division 1, served April 17, 1978, adopted the decision of the Administrative Law Judge entered on September 28, 1977, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 354 ICC 584 (1978), the present and future public convenience and necessity permit the abandonment by the Texas and Pacific Railway Co. of that line of that company extending from milepost 188 near Barnsdall, Okla., in a northwesterly direction to milepost 201, the end of that line at Pawhuska, Okla., a distance of 12.98 miles, in Osage County, Okla.

A certificate of abandonment will not be issued to the Texas and Pacific Railway Co. based on the above-described finding of abandonment until final determination of the proceeding by the United States Court of Appeals. During the interim, however, the procedures specified in section 1a (6) and (7) of the Act will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment 30 days after publication of this notice (November 24, 1978) unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However, as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30160 Filed 10-24-78; 8:45 am]

[1] This proceeding is pending review in the United States Court of Appeals for the Tenth Circuit, entitled *Pawhuska, et al. v. Interstate Commerce Commission*, No. 78-1364.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-170, Amdt. 2; Oct. 18, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion from the October 20, 1978, meeting.

TIME AND DATE: 1:30 p.m., October 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 11. Docket 30356, *Transcontinental Low-Fare Route Proceeding*, (Instructions to Staff) for information memo dated September 26, 1978.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The memorandum on the case prepared for the Board by OGC was necessarily developed on the basis of the proceeding record and follows, to some extent, traditional lines for considering the major issues of the need for service, carrier selection and other related materials. The Board does not have before it any presentation or explanation of the effect that the Airline Deregulation Act of 1978, apparently to become effective upon the President's signature, will have on this proceeding. Inasmuch as the new Act, with a new Declaration of Policy and substantially changed "Factors" for interstate transportation, will be in effect before the Board's opinion can be prepared and issued, the Board has voted that it is desirable and essential that it receive the staff's analysis and recommendations on the implementation of the new Act before reaching a final decision. Accordingly, the following Members have voted that agency business requires that item 11 be deleted from the October 20, 1978, meeting agenda and be deferred to a later Board meeting and that no earlier announcement of this change was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

[S-2138-78 Filed 10-23-78; 10:08 am]

[6320-01-M]

2

[M-170, Amdt. 3; Oct. 18, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 20, 1978, agenda.

TIME AND DATE: 1:30 p.m., October 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5a. Docket 33461, Application of Qantas Airways Ltd. for waiver of Part 212 to carry individually-waybilled cargo on seven passenger charters (Memo 8244, BIA, OGC, BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item is being added to the October 20, 1978, calendar because Qantas proposes to offer the service immediately. The first flight was scheduled for October 19 and the next is October 23. The staff circulated a memorandum and draft order to the Board on October 18 asking the Board to vote by notation. Because of the precedential and policy issues involved, the following Members voted instead to discuss the issues at the next Board meeting and, accordingly, determined that agency business requires the addition of this item to the October 20, 1978, agenda and that no earlier announcement of this addition was possible.

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2139-78 Filed 10-23-78; 10:08 am]

[6320-01-M]

3

[M-170, Amdt. 4; Oct. 19, 1978]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the October 20, 1978, agenda.

TIME AND DATE: 1:30 p.m., October 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15. Docket 30452, Application for prior approval of the Universal Air Travel Plan (UATP)—1976, Agreements CAB 26433 and 26433-A1, under section 412 of the act. UATP is a joint venture among some 200 air carriers and foreign air carriers establishing a commonly accepted credit card (Memo 8236, 8236-A, BPDA, OGC, BALJ).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Member Cohen has requested that item 15 be deleted from the October 20, 1978, agenda in order to provide him with more time to consider the alternative procedures proposed by the staff. Accordingly, the following Members have voted that agency business requires the deletion of item 15 and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by

these changes or the delayed receipt of our notices.

[S-2140-78 Filed 10-23-78; 10:08 am]

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

5. Docket No. 77-33: Agreement No. 10044-3: Modification of Pooling, Sailing, and Equal Access Agreement—U.S. Gulf Ports to Ports in Peru and Docket No. 77-34: Agreement No. 10044-4: Modification of Pooling, Sailing, and Equal Access Agreement—U.S. Gulf Ports to Ports in Ecuador.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda

B. The meeting will be open to the public at 11 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed pursuant to appendix A of the Corporation's bylaws should be directed to the Corporate Secretary at 202-383-3973.

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these changes or the delayed receipt of our notices.

[S-2140-78 Filed 10-23-78; 10:08 am]

[6320-01-M]

4

[M-172, Oct. 19, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 26, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Dockets 33093 and 32318, Domestic Cargo Rules and revised Air Freight Forwarder Rules (Instructions to Staff).
3. Docket 33201, Hughes Airwest's petition for an order to show cause why subpart (i) of the Proviso to Condition (4) of its Certificate for Route 76 should not be replaced with a general long-haul restriction on Los Angeles to San Francisco Service (Memo 8243, BPDA).
4. Docket 32621, Trans International Airlines, Inc.—Petition for reconsideration of Order 78-6-96 denying TIA an exemption to sell individually-ticketed seats on several transcontinental positioning flights (Memo 8002-B, BPDA, OGC).
5. Docket 30616, Super-Saver fares proposed by American Airlines, Petition for Reconsideration of Order 78-4-84 (Memo 6870-E, OGC, OEA).
6. Proposed Rule, extends policies adoted for domestic passenger fares to Mainland-Puerto Rico/Virgin Islands fares (Memo 7847-I, BPDA, OGC, OEA).
7. Docket 25474, Petitions for Reconsideration *Hawaii Fares Investigation*, and Proceedings on Remand in *Continental Air Line, Inc., v. CAB* (OGC).
8. Docket 24283, Air Carrier Reorganization Investigation, Order terminating investigation (OGC).
9. Docket 29880, Compensation of Participants in Board Proceedings (OGC).
10. Docket 27631, *Foremost International Tours v. Qantas Airways, Enforcement Proceeding*, Petition for review of an initial decision holding that Qantas' inclusive tour operation was not unlawful (Memo 8131-A, OGC).
11. Dockets 33283 and 33112, Application of Pan American World Airways, Inc.—Acquisition of control of , and merger with, National Airlines, Inc.; Texas International-National Acquisition Case—Motions of Pan American and Texas International to withhold information from public disclosure (OGC).
12. Dockets 29687 and 29758, Applications of Pan American and Trans World to renew their Bahrain exemption authority (BIA).
13. Docket 32724, Application of Trans World Airlines, Inc. for exemption to permit service between San Diego and London/Paris (BIA, BPDA, OGC).
14. Dockets 32833 and 32879, applications of Eastern and American for exemptions to perform nonstop New York-St. Maarten service pending completion of *Caribbean Area Service Investigation* (BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2141-78 Filed 10-23-78; 10:08 am]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 203, October 19, 1978, page 48812.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 19, 1978.

CHANGES IN THE MEETING: Delete from the agenda—Proliferation of interest rate futures contract.

[S-2137-78 Filed 10-23-78; 10:08 am]

[6730-01-M]

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49107, October 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 25, 1978.

CHANGES IN THE MEETING: Addition of the following item:

12. Proposed section 21 order in connection with the Ocean Shipping Act, 1978.

[S-2146-78 Filed 10-23-78; 3:55 pm]

[6730-01-M]

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 31, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. North Pacific Trade Study.
2. Agreement No 9981-7: Extension of the Far East Discussion Agreement.
3. Agreement No 10332: Space chartering agreement between NYK Line and Korea Marine Transport, Ltd.
4. Agreement No 9522-36: Modification of the Med-Gulf Conference Agreement to provide for permanent right of independent action.
5. Docket No. 77-33: Agreement No. 10044-3: Modification of Pooling, Sailing, and Equal Access Agreement—U.S. Gulf Ports to Ports in Peru and Docket No. 77-34: Agreement No. 10041-4: Modification of a Pooling, Sailing, and Equal Access Agreement—U.S. Atlantic Ports to Ports in Peru—Petitions for reversal of order of investigation.
6. Docket No. 74-12: Agreement No. 9939-1 (Modification and Extension of a Pooling, Sailing and Equal Access to Government Controlled Cargo Agreement)—Review of Order of Discontinuance.
7. Informal Docket No. 359(I): *Durite Corporation, Ltd. v. Sea-Land Service, Inc.*—Consideration of petition for reconsideration.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2147-78 Filed 10-23-78; 3:55 pm]

[6770-01-M]

8

[FCSC Meeting Notice No. 26-77]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings for the transaction of Commission business:

Date, Time, and Subject Matter

Wednesday, November 1, 1978, at 10:30 a.m.; Canceled.
Wednesday, November 8, 1978, at 10:30 a.m.; Canceled.
Wednesday, November 15, 1978, at 10:30 a.m.; Canceled.
Wednesday, November 22, 1978, at 10:30 a.m.; Canceled.
Wednesday, November 29, 1978, at 10:30 a.m.; Canceled.

Dated at Washington, D.C., on October 18, 1978.

F. T. MASTERSON,
Executive Director.

[S-2145-78 Filed 10-23-78; 3:28 pm]

[7020-02—M]

9

[USITC SE-78-54]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 31, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Bolts, nuts, and large screws of iron or steel (Inv. TA-201-37)—Vote on remedy, if necessary.
6. Skateboards (Inv. 337-TA-37)—Vote.
7. Luggage (Inv. 337-TA-39)—Vote.
9. Any items left over from previous agenda.

Portions closed to the public:

8. Status report on Investigation 332-101 (MTN Study) (if necessary).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2143-78 Filed 10-23-78; 3:15 pm]

10

NATIONAL RAILROAD PASSENGER CORPORATION.

In accordance with rule 4a. of appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on November 1, 1978.

A. The meeting will be held on Wednesday, November 1, 1978, in the Columbia A Room of the Hyatt Regency Hotel, 400 New Jersey Avenue NW., Washington, D.C., beginning at 10:15 a.m.

B. The meeting will be open to the public at 11 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

MEETING OF THE BOARD OF DIRECTORS, NOVEMBER 1, 1978

Closed session (10:15 a.m.)

1. Internal personnel matters.
2. Litigation matters.

Open session (11 a.m.)

3. Approval of minutes of regular meeting of September 27, 1978.
4. Commitment approval requests:
76-8-S1. Station improvements—St. Paul, Minn.
77-242-S2. Chicago, Ill., modernization of 12th and 16th Street Yards—Phase IIIA.
77-264-S1. Conversion of 27 SDP 40 F diesel locomotives.
79-1. Pollution control—Redondo, Calif.
79-2. Purchase of 10 new diesel locomotive.
5. Capital budget fiscal year 1979.
6. Resolution approving Pennsylvania liquor license.
7. Approval of Board meeting dates for 1979.
8. Board Committee reports: Equipment, Northeast Corridor Improvement Project, Organization and Compensation, and Planning and Finance.
9. President's report.
10. New business.
11. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to appendix A of the Corporation's bylaws should be directed to the Corporate Secretary at 202-383-3973.

Dated: October 20, 1978.

ELYSE G. WANDER,
Corporate Secretary.

[S-2142-78 Filed 10-23-78; 10:08 am]

[4410-01-M]

11

UNITED STATES PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Tuesday, October 31, 1978 at 9:30 a.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C. 20537.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 15 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-2144-78 Filed 10-23-78; 3:15 pm]

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WEDNESDAY, OCTOBER 25, 1978
PART II

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federal register

WEDNESDAY, OCTOBER 25, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

ABANDONED MINE LAND RECLAMATION PROGRAM

Final Rules

[4310-05-M]

Title 30—Mineral Resources

Final Rules	Proposed Rules
Part 872	Part 840
Part 874	Part 841
Part 877	Part 843

Part 879 contains procedures for the acquisition, management, and disposition of eligible land and water by the Office or a State or Indian tribe

posed Rules and these Final Rules. In this way it is hoped that the public will more readily understand the re-

3. Three commenters expressed concern over the definition of "expended," proposing that it be modified by

ent with other provisions of the Act and provides the Office with a more identifiable geographical area upon

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[4310-05-M]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER R—ABANDONED MINE LAND RECLAMATION

ABANDONED MINE LAND RECLAMATION PROGRAM PROVISIONS

Procedures and Requirements

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Final rules.

SUMMARY: The regulations added to this chapter by these Parts established the abandoned mine land reclamation program as required by the Surface Mining Control and Reclamation Act of 1977 (Act). The Act requires that regulations be promulgated for the abandoned mine land reclamation program, which incorporates the provisions of Title IV of the Act. The regulations establish procedures and requirements for the preparation, submission and approval of State and Indian programs, consisting of a plan and annual submissions of projects.

EFFECTIVE DATE: October 25, 1978, except for public record and report requirements which are subject to General Accounting Office approval and will be effective 45 days following publication (December 11, 1978), unless the General Accounting Office notifies the Office that it does not approve those requirements.

ADDRESSES: Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240, 202-343-4006.

FOR FURTHER INFORMATION CONTACT:

Richard Nalbandian, 202-343-4057.

SUPPLEMENTARY INFORMATION: Proposed rules were published in the FEDERAL REGISTER on April 26, 1978 (43 FR 17918) as 30 CFR Parts 840, 841, 843, 845, 848, 850, 852, and 855. In order to consolidate the rules for ease of reference and use, the Office of Surface Mining has been assigned a block of numbers to accommodate all the rules of the Office. The table below is provided to assist the public in comparing the proposed and final rules for Abandoned Mine Land Reclamation.

Final Rules	Proposed Rules
Part 870	Part 837 (Final 12/13/77)
Part 872	Part 840
Part 874	Part 841
Part 877	Part 843
Part 879	Part 845
Part 882	Part 848
Part 884	Part 850
Part 886	Part 852
Part 888	Part 855

The Surface Mining Control and Reclamation Act of 1977 (Act), Pub. L. 95-87, requires the Secretary of the Interior to publish regulations implementing and abandoned mine land reclamation program incorporating the provisions of Title IV of the Act. The regulations establish procedures and requirements for the preparation of State and Indian programs, consisting of a Reclamation Plan, annual submissions of projects and applications for annual grants. The additional parts to this chapter also include implementation of the Federal, State, and Indian Abandoned Mine Reclamation Funds; general reclamation objectives and requirements; conditions and procedures for entry on land study, exploration, reclamation and emergency reclamation work; requirements for acquisition, management and disposition of eligible land and water; authorization for reclamation on private land; and establishment of interim procedures for Indian reclamation projects.

These regulations are established pursuant to the authority of sections 201(c) and 412(a) of the Act, 91 Stat. 449, 466 (30 U.S.C. 1211, 1242). It should be noted that the regulations implementing the provisions of Title IV relating to the amount and collection of reclamation fees have already been promulgated in 30 CFR Part 837 on December 13, 1977 (42 FR 62713). In conformance with the new numbering system they are redesignated Part 870. A brief discussion of the parts and major sections of the final regulations follows.

Part 872 sets forth general responsibilities for administration of abandoned mine reclamation funds to finance the program. If defines the source and use of moneys deposited in the Funds and the responsibilities of Federal and State agencies and Indian tribes in the conduct of the programs.

Part 874 establishes requirements for the selection of work to be performed with moneys from the applicable Fund. It includes land and water eligibility requirements, reclamation project objectives, and project evaluation factors.

Part 877 sets forth procedures for entry on land by the Office, a State or Indian tribe under an approved Reclamation Plan to conduct studies or exploratory work to determine the existence of adverse effects of past coal mining practices, or to perform necessary reclamation work.

Part 879 contains procedures for the acquisition, management, and disposition of eligible land and water by the Office or a State or Indian tribe under an approved Reclamation Plan. This part also provides requirements for the collection and disposition of charges from the use or sale of acquired lands.

Part 882 authorized reclamation activity on private land after the procedures under Part 877 have been met. Sections 882.12-14 establish procedures for the recovery of the cost of reclamation on privately-owned land.

Part 884 establishes requirements and procedures for the preparation, submission and approval of State Reclamation Plans. Sections 884.15 and 16 contain provisions for amendments to State Plans or withdrawal or Plan approval.

Part 886 sets forth procedures for grants to States having an approved State Reclamation Plan for the reclamation of eligible land and water and for other activities necessary to carry out the Plan as approved. This part also contains provisions for the reduction or termination of grants under certain circumstances and requirements for the administration of the grants.

Part 888 establishes intermim procedures for conducting reclamation activities on Indian land in recognition of the unique status of Indian tribes under Title IV as a result of section 710 of the Act. This part is included to provide a method for beginning reclamation of Indian lands which are determined to be emergency or extreme danger situations or are at otherwise high priority for reclamation activities.

CONCURRENCES: The reporting requirements contained in these regulations require General Accounting Office review prior to their implementation.

BACKGROUND: The Surface Mining Control and Reclamation Act of 1977 was signed into law on August 3, 1977. Proposed rules implementing Title IV of the Act were published in the FEDERAL REGISTER on April 26, 1978 (43 FR 17918). Public hearings on the proposed rules were held on May 22, 1978, in Denver, Colo., May 25, 1978, in St. Louis, Mo., and June 1, 1978, in Washington, D.C. At the close of the comment period on June 26, 1978, 28 commenters had responded. The transcripts of the public hearings, and all written comments have been considered in the development of these final regulations.

Comments pertaining to each Part of this chapter have been summarized and are stated below, including explanations of all the significant changes that have been made between the Proposed Rules and these Final Rules. In this way it is hoped that the public will more readily understand the response to each comment and will, therefore, have a better understanding of the bases and purposes of the final regulations.

PART 872—ABANDONED MINE RECLAMATION FUNDS

Part 872 sets forth general responsibilities for administration of State and Indian Reclamation Programs, the Rural Lands Reclamation Program and reclamation activities to be carried out by the Office of Surface Mining Reclamation and Enforcement (Office). It provides definition of terms used in the Abandoned Mine Land Reclamation Programs. It also states the sources of revenue and authorized uses for Federal, State, and Indian Abandoned Mine Reclamation Funds.

1. Three comments were received in regard to coordination between State and Federal Program efforts suggesting rewording to emphasize the need for coordination among programs conducted with moneys from the Fund.

Response: The Office is in full agreement with the importance of close coordination between the programs. The Office has, therefore reworded § 872.4(b) (4) and (5) for clarification of Federal responsibilities and added § 872.4(c)(7) to emphasize the States coordination responsibilities under the Act.

2. Four comments were received concerning the definition of "Emergency" and "Extreme Danger." Most of the concern centered around the use of the word "considerable" in both definitions which was considered to be too arbitrary and left too much to conjecture.

Response: We concur in the commenters concerns and have made the changes necessary for clarification in accordance with the Act.

To reflect the unpredictable nature of an emergency, § 872.5(c) is changed to read "Emergency means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, and welfare of people before the danger can be abated under normal program operation procedures".

The word "considerable" in § 872.5(e) was changed to "substantial" as it was in (c) above because: The word "substantial" was used in the Act in the definition of "Imminent danger"; and because Blacks dictionary defines "considerable" as worthy of consideration—and being merely relative—whereas "substantial" is defined as something of real worth and importance—something worthwhile as distinguished from something without value or merely nominal.

3. Three commenters expressed concern over the definition of "expended," proposing that it be modified by adding the words "or obligated."

Response: In our view such a modification would dilute "expend" as used in section 402(g)(2) of the Act to an almost meaningless term. Experience has shown that such latitude promotes hasty last minute obligations rather than well planned programs efforts. The commonly accepted definition of "expend" is to pay out or distribute. Blacks law dictionary definition is "to pay out, use up, consume" and implies receiving something in return; whereas "obligate" is to bind or constrain. No change has been made.

4. Numerous comments were made proposing that funds be made available for the preparation of State Reclamation Plans.

Response: After a careful indepth review of sections 102 (g) and (h), 401(c), and 412(b) of the Act, we have concluded that funds may be made available for some specific elements of the planning phase. We have, therefore, modified the regulations by adding § 872.11(b)(5)(vi) to allow the Office to enter into a cooperative agreement with a State or Indian tribe to gather the data required to assemble a State or Indian plan as specified in § 884.13(f). This may be done only at the request of the Governor or Indian tribe and only with those funds allocated or available for allocation to the State or Indian tribe.

5. One comment was received regarding fees collected from Indian reservations and suggesting that use of such fees exclusively on the reservation seriously impairs the availability of funds to States that are dominated by reservations.

Response: For purposes of Title IV of the Act (sec. 405(k)) Indian tribes have the same status as States, subject to the limitations of section 710 of the Act and Part 888 of this subchapter. Funds collected from reservations are subject to the same procedures—allocations, grants to and withdrawals from the tribes—that are applicable to funds collected from States. However, because Title IV explicitly provides for the allocation of moneys collected on coal producing lands in which an Indian tribe has an interest, the Office must make the necessary allocation.

In this regard, it should be noted that the Office has deleted all references to the term "Indian reservation" in § 872.11 and replaced it with the term "Indian lands." This change was made as a result of a memorandum from the Associate Solicitor, Division of Indian Affairs in the Solicitor's Office which concluded that the legislative history required such a change. The change made is also more consistent with other provisions of the Act and provides the Office with a more identifiable geographical area upon which to base its allocations. No other change was made.

6. Four commenters suggested that work done by the Director on noncoal projects should be done at the request of the Governor of a State, since the work will be done using moneys allocated or available for allocation to States.

Response: That is the requirement in section 409(b) of the Act, the intent of the regulations and is covered under § 874.12(b)(2). For clarification we have made the appropriate change in § 872.11(5)(ii).

7. Twelve comments were directed to the withdrawal of State fund allocations and grants. They range from a suggestion for withdrawal after only 1 year to a suggestion for withdrawal after 3 years of only those funds that have not been obligated.

In addition, suggestions were made to assure expenditure of withdrawn allocations and grants in the States from which they were withdrawn. Suggestions were also made regarding rules for allocation of Federal expenditures.

Response: Section 402(g)(2) of the Act is quite clear in specifying that "if funds—have not been expended within 3 years after their allocation, they shall be available to expenditure in any eligible area as determined by the Secretary." Considerable safeguards are included in the regulations to protect the States from automatic or indiscriminate withdrawals, i.e. § 872.11(b)(2) provides that "allocations *may* be withdrawn" and requires a written finding of fact—similarly § 886.18(b) requires a written notice and an opportunity for consultation and remedial action before termination of a grant. Section 886.18(b) also provides for retention of any portion of a grant required to meet contractual commitments made prior to an effective termination date.

In conformance with the Act, the geographic allocation of Federal expenditures from the fund, including those withdrawn from State allocations and grants, will reflect both the area from which the revenue came and the national program needs. Information regarding such needs is being and will be collected from a wide variety of sources including reports from private citizens, States and the direct data collection efforts of the Office. It must also be emphasized that Federal expenditures are taken from the Abandoned Mine Reclamation Fund; therefore, all the provisions of Part 874, General Reclamation Requirements, apply equally to the Federal Reclamation Program. Projects carried out with the discretionary funds by the

Office must also be carried out in accordance witht the procedural requirements of Parts 872, 877, 879, and 882 of this subchapter. The regulations, as

agement in accordance with approved Federal practice under OMB Circular A-102. No changes are necessary.

quirements as stated in section 404 of the Act, apparently feeling that this indicated a de-emphasis of the priority assigned to coal mined lands by the

more closely the wording of the act and the intent of Congress.

Response: Our efforts to combine coal and non-coal priorities were ap-

consistency of the Rural Abandoned Mine Program with these regulations.

Response: As stated in section 874.2, the objectives of this Part are to estab-

phasized that Pub. L. 95-87 is an environmental act. Hazards to people and the environment are the overriding concerns rather than cost-benefit con-

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Office must also be carried out in accordance witht the procedural requirements of Parts 872, 877, 879, and 882 of this subchapter. The regulations, as written, are considered adequate for allocation of "discretionary" funds.

8. One comment was received regarding the deletion of the word "demonstration" in § 872.11(b)(5)(iii) and suggesting such deletion could change congressional intent.

Response: The word was inadvertently omitted in the proposed regulations. It has been added in the final regulations. (iii) now reads "* * * research, development, and demonstration projects," reflecting the common terminology in the scientific community.

9. Three suggestions were made suggesting that a provision be added to require withdrawal of funds transferred to the Secretary of Agriculture if not expended within 3 years.

Response. Under Federal budgeting procedures, funds will be transferred to Agriculture only in the amounts programed for use during a specific budget cycle. Provisions for withdrawal of funds are not required in these regulations since normal Federal accounting and budgeting procedures will achieve essentially the same results the commenters desired.

10. One commenter suggested making all of a State's allocation available on the date that a State's plan is approved.

Response: Allocations are technically available in their entirety upon approval of a State plan. They are available for appropriation by the Congress pursuant to section 401(d) of the Act and annual project requests may be made pursuant to section 405(f) of the Act. Grant applications may be submitted pursuant to § 886.15 of the regulations. We have requested appropriation of allocated funds for fiscal year 1979 based on our best estimate of the State plans and grant applications that will be submitted and approved during that period. If the number exceeds our expectations we are prepared to request supplemental appropriations to meet the need. This emphasizes the importance of the annual budget effort.

11. One commenter expressed concern that the application of OMB Circular A-102 in § 872.12 to management of the State Funds would discourage States from placing their own money in the accounts.

Response: We agree that it might serve as a deterrent for depositing other State money in the fund. We have provided the State the option of depositing other money in the account for their administrative convenience if they so desire. We have no alternative for management of the Fund which is established pursuant to section 401(a) of the Act, and which requires management in accordance with approved Federal practice under OMB Circular A-102. No changes are necessary.

PART 874—GENERAL RECLAMATION REQUIREMENTS

Part 874 sets forth requirements relating to eligibility, priorities, selection, and evaluation that are applicable to State, Indian and Rural Lands Reclamation Programs and reclamation activitles to be carried out directly by the Office. Consideration was given to including in this part standards for reclamation project operations comparable to the environmental performance standards for current coal mining operations. Such standards are not included at this time because a more extensive review is required to define specific national standards which are appropriate for the disparate reclamation activities to be conducted. Comments on the nature and content of standards which should be developed were requested and there were eleven such responses which are addressed in comment 17 below.

1. One commenter asked why the Rural Lands Reclamation Programs was mentioned in § 874.2, since proposed regulations for the program known as RAMP were published in the FEDERAL REGISTER in volume 43 at page 15312.

Response: No change to § 874.2 is needed. As stated in § 874.1, Scope, "This part establishes general requirements for the selection of work to be performed with moneys from the Abandoned Mine Reclamation Fund, * * *." The Rural Lands Reclamation Program (Rural Abandoned Mine Program or RAMP, as it has been named by the Soil Conservation Service) receives moneys from the Fund and is, therefore, subject to certain common conditions for the use of moneys from the Fund. The inclusion of such common conditions are intended to insure coordination and uniform management of programs carried out with the Fund, and have been carefully coordinated with the Soil Conservation Service.

2. Although no comment was received addressing this change, § 874.5 *Definitions* was added as a result of changes made in this Part that made it necessary to define the phrase "left or abandoned in either an unreclaimed or inadequately reclaimed condition." The definition reflects the language found in the Congressional Record at H.R. Rept. No. 2, 95th Cong., 1st sess. 140(1977).

3. Nine commenters suggested that the language of § 874.12 did not follow closely enough the wording of section 404 of the Act. In § 874.12(a) they objected specifically to the deletion of the word "coal" from the eligibility requirements as stated in section 404 of the Act, apparently feeling that this indicated a de-emphasis of the priority assigned to coal mined lands by the Act. Several also felt that the connecting words used between § 874.12(a) (1), (2), and (3) should also reflect the proper combinations of the requirements of the Act.

Response: The suggestions for insertion of the word "coal" in § 874.12(a) were not accepted. § 874.12(b) establishes eligibility requirements for reclamation of lands and water affected by past non-coal mining activities and incorporates the provisions of section 409 of the act. § 874.12(b), when read with § 874.12(a), establishes eligibility priorities consistent with both sections 404 and 409(c) of the act. Section 874.12(a) was, however, rewritten to reflect the proper combinations of the requirements of the act and to clarify the meaning of "continuing responsibility." Responsibility will be determined only by State Statutory law and will not include common law. In addition, the language was broadened to allow lands to remain eligible in the event a forfeited bond is insufficient to do an adequate job of reclamation. These changes reflect the best judgment of the Office regarding the intent of Congress gleaned from the act and the legislative history. The legislation did not specifically address the issues of common law responsibility or bond forfeiture and, as a result, the Office has made a judgment that will most likely result in accomplishing more reclamation activity than if lands subject to common law liability or under bond forfeitures had been excluded.

4. Three commenters suggested alternative or additional language for § 874.12(c), seeking to eliminate what they perceived as ambiguity or to set more flexible criteria for determining eligibility of proposed reclamation projects by deleting the phrase "beneficial use of land or water resources" and substituting the phrase "approved post-mining land use."

Response: The suggestions were not accepted. The language in § 874.12(c) was taken directly from section 102(h) of the act and provided sufficient latitude for selection of projects. However, the section has been moved in the final regulations and is now included in § 874.5(b).

5. Eight commenters recommended that the word "coal" be inserted in §§ 874.13 (a), (b), and (c) between the word "past" and the words "mining practices." They said that this is necessary to insure the observance of the priority to be given coal reclamation under the act. Two of these commenters further suggested that the work "coal" should be deleted from § 874.13(d), again in order to follow

more closely the wording of the act and the intent of Congress.

Response: Our efforts to combine coal and non-coal priorities were apparently difficult to understand. We have, therefore, accepted the recommendations to insert the word "coal", and have expanded the section to include the priorities established in section 409 (a) and (c), and 402(g)(2) of the act, respectively for non-coal mined lands. The suggestion to delete the word "coal" from § 874.13(d) was rejected because section 409(c) of the act sets forth a necessary action-oriented program which precludes "non-coal" from § 874.13 (d), (e) and (f) of the regulations. The changes are not substantive, but rather add language to clarify the intent of the rules.

6. One commenter recommended that development of land adversely affected by coal mining for housing of people who are disabled or dislocated as a result of coal mining be established as the sixth priority in § 874.13.

Response: The recommendation was not accepted. The section follows the priorities specified in the act. § 874.14(a)(3)(vi)(d) allows such benefits to be considered in evaluating proposed reclamation projects. Acquisition of land for housing is, in our view, dealt with by section 407(h) of the act as an authority rather than as a priority. We have treated it the same way in the regulations.

7. Two commenters asked for clarification of the exclusion of channelization under objective number three in section 403 of the act and objective (c) in § 874.13 of the regulations.

Response: No change to the regulation is needed. Section 403 of the act is construced to permit channelization necessary to meet objectives 1, 2, 4, 5, and 6 in section 403 of the act (objectives a, b, d, e, f, and g in § 874.13 of these regulations). That is, channelization is permitted in all cases except under section 403(3) and § 874.13(c), where it is specifically excluded by the act.

8. One comment noted that the notification and review requirements of OMB Circular A-95 are not addressed by the regulations.

Response: Section 886.15(a) has been rewritten to insure fulfilment of OMB Circular A-95 notification and review requirements. Such notification and review is required by Part 1 of the Circular itself. Furthermore, State and regional review insuring coordination of planning and implementation of projects involving public monies is simply a fundamental sound planning practice.

9. One commenter noted that § 874.14 does not recognize the unique requirements of section 406 of the act and the need for assurances on the consistency of the Rural Abandoned Mine Program with these regulations.

Response: As stated in section 874.2, the objectives of this Part are to establish conditions common to all programs. Likewise, § 874.11 specifies that the provisions of this Part apply to all projects. RAMP is included by reference because its funding comes from the Fund. Additional reference in § 874.14 is not necessary.

10. One commenter suggested adding an evaluation factor to § 874.14(a)(3) that specifically would consider erosion control and sediment reduction.

Response: The words "abatement of erosion and sedimentation," have been added to § 874.14(a)(3)(ii). This is justified since exacerbation of erosion and sedimentation is one of the major and most common environmental problems associated with abandoned mine lands. (See "Environmental Impact Statement, Rural Abandoned Mine Program," Soil Conservation Service, July 3, 1978, pp. 16, 18, 32, 36.)

11. One commenter suggested that § 874.14(a)(8) should emphasize that maintenance of the reclaimed area and post-reclamation management are essential factors upon which an evaluation should be based.

Response: The word "maintenance" has been added. It is obvious that maintenance will often be necessary to successful reclamation, e.g., irrigation may be required until self-supporting vegetation is established, or periodic dredging of a sedimentation pond or impoundment may be needed to insure adequate storage capacity.

12. One commenter suggested the addition of two new evaluation factors in subpart 874.14; one related to hazards that may be created by sealing abandoned underground openings adjacent to active mines and a second related to the need for local, State, Indian and Federal coordination where mines lie near or across jurisdictional boundaries.

Response: The first evaluation factor suggested was provided for by adding the words "or after" in § 874.14(a)(4). This gives sufficient latitude to consider such potential hazards. The second comment was not accepted, since such intergovernmental coordination is already considered in Part 872 of this subchapter.

13. One commenter felt that in § 874.14(a)(5) "costs of reclamation" and "economy and efficiency" were given too little consideration and suggested that more emphasis should be given to these criteria.

Response: The comment was not accepted. The commenter apparently believed that the evaluation factors are listed in order of weight or value assigned. This is not so. No values or priorities have yet been assigned to the factors. But in any case, it must be emphasized that Pub. L. 95-87 is an environmental act. Hazards to people and the environment are the overriding concerns rather than cost-benefit considerations.

14. One commenter asked the meaning of "future" in § 874.14(a)(6)(i) and of "special consideration" in § 874.14 (a)(6)(ii). Further, he asked what actions a State may take if no one has indicated an interest in resource recovery despite the presence of a major resource in a refuse site.

Response: The Office or State has flexibility in determining "future" as any time subsequent to the present. "Special consideration" means that the Office or State should carefully examine the site proposed for reclamation to determine if it is likely to be reminded in the near future, thereby negating the proposed reclamation work. The Office and the State have an obligation to insure for as long as possible the benefits derived from reclamation. Finally, the Office or State may recover the coal itself in the course of reclamation, or may otherwise reclaim the site if it so desires and if the project fulfills the other selection criteria.

15. One commenter suggested addition of the words "if *economical* to recover the resource" to § 874.14(a)(6)(ii).

Response: The comment was not accepted. The regulation simply requires consideration of the resource as one of the evaluation factors, not recovery of it. Sufficient latitude is given by the regulation to allow the recoverable coal resource either to be recovered as a part of the reclamation effort or foregone if necessary.

Finally, as a result of consultation with the U.S. Fish and Wildlife Service, § 874.14(a)(3)(ii) was changed to read "—quality, fish (and), wildlife, *and plant* habitat * * *" in order to be in accord with the requirements of the Endangered Species Act of 1973.

16. Eleven comments were received concerning the application of specific standards to reclamation work on abandoned mine lands. The comments ranged from proposing specific standards or areas for consideration to challenging the authority of the Office to promulgate such standards under Title IV.

Response: Each of the comments will be carefully considered in the development of reclamation standards for abandoned mine lands. Additional public comment and discussion will be invited and considered during the subsequent rulemaking. Proposed rules will be published, a formal comment period will be provded, and final regulations will be promulgated. A tenative schedule for this rulemaking will be published in the near future. However, until such rules are promulgated, the specific requirements for reclamation

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work will be considered on a case-by-case basis. The Office believes this will be an acceptable practice because the reclamation work done during this period will generally address only emergency or extreme danger situations.

However, the comment challenging the authority of the Office to establish standards does deserve a response at this time. Sections 201(c) and 412(a) of the act provide ample authority to promulgate necessary regulations for the implementation of the act. Furthermore, section 405 places an obligation on the Office to monitor the progress and quality of State reclamation programs. It is self-evident that in authorizing, funding, evaluating, or directly undertaking work under Title IV, the Office must establish certain minimum standards for the quality and acceptability of the work and upon which it may make a judgment about the progress and quality of work performed. Obviously, the Office must be able to judge whether the objectives in section 403 of the act are indeed being fulfilled.

Part 877—Rights of Entry

Part 877 establishes procedures for entry on private lands for purposes of study or exploratory work, and reclamation. The rules state a policy preference for entry under a written consent from the owner rather than under the police powers provided in sections 407 (a) and (b) and 410(b) of the act. When advance consent cannot be obtained, entry for study or exploration and reclamation is limited to those cases, or discovering those cases, where there is reason to believe that the adverse effects of past coal mining may be harmful to the public health, safety or general welfare. Notice requirements and procedures for certain wirtten findings are proposed for those cases when consent cannot be obtained.

1. There were 22 comments concerning the right of entry. Most of these comments related to § 877.11 concerning the legal description of the land. Most commenters were under the impression that a legal description would entail getting a metes and bounds description by a survey of the property. Others wanted to have only oral consent or just a handshake agreement to enter upon the property.

Response: We did not accept the suggestions for adoption of an oral consent or deletion of the legal description. It is extremely important to establish ownership and the specific nature of any agreement, in order to determine such things as land eligibility and liening requirements. The requirement for a legal description can be satisfied by using the description found in the county land records, tax maps or abstract of title, without employing the metes and bound method.

2. One commenter expressed the need for protection of the landowner from reclamation efforts that result in more hazardous conditions, and Federal responsibility for after-effects of emergency reclamation.

Response: Under the Anti-Deficiency, Act, 31 U.S.C. 665, *et seq*, the Federal Government is prohibited from entering into agreements to indemnify or hold harmless any landowner receiving assistance. The Office is, therefore, prohibited from making rules to provide for such indemnification. The Office intends, however, that all work will be performed according to the highest professional standards and approved work plans.

3. Under § 877.14 a number of commenter suggested that we add the word "state" after the word "Office".

Response: This section addresses provisions for emergency situations. Section 410 of the act only authorizes the Secretary to do emergency reclamation work. Moreover, section 405(d) specifically excludes States from engaging in emergency reclamation work under section 410. Therefore, the Office cannot accept this comment.

Part 879—Acquisition, Management, and Disposition of Lands and Water

Part 879 reflects several provisions of Title IV of the Act for acquisition, use and disposal of land and water. For the convenience of the public, the following table reflects the primary authority in the Act for selected provisions of this part.

Section of proposed rules	Section of the Act
879.11(a)	407(c) (1) and (2) and 407(f)
879.11(b)	407(c) (3) and 407(f)
879.11(c)	407(h)
879.11(d)180409(e)	
879.12(c)	407(c)
879.12 (d), (e), and (f)	407(d)
879.13	407(c) and 409(e)
879.14	407(f)
879.15	407(g)(2)
879.15 (b) and (c)	412(b)(2)
879.15 (d) and (e)	407 (e)
879.15(f)	407(h)
879.15(g)	407(g)(1)

Sections of the regulations not specifically identified in the above table, as well as some portions of the sections identified, are promulgated under section 412(a) of the Act, which allows the Secretary to promulgate rules that are necessary or expedient to implement or administer the provisions of Title IV.

OSM received 32 comments from 12 agencies and organizations in public hearings and letters. Six comments were editorial and eight recommended changes to clarify and enhance comprehension of the regulations. Several commenters applauded the expressed policy of the Office to restrict acquisition and condemnation of real property as much as possible and thereby use the Fund for reclaiming lands rather than acquiring lands. They further suggested that the acquisition of lesser interest in land (e.g., leases, easements) whenever possible to accomplish the reclamation work would avoid acquisition and a large inventory of real property that may not be productively utilized.

1. Three commenters recommended that we add "or lands necessary to abate pollution from past coal mining practices" after "Land adversely affected by past coal mining practices." in section 879.11(a).

Response: Section 404 of the Act clearly specifies that eligible lands are those lands which were mined for coal or directly affected by mining processes. Section 407(c) of the Act restricts purchase to adversely affected lands. Therefore, to the extent this addition is directed at purchasing nonaffected lands, the Office would be exceeding the scope of the Act to include it. This does not, however, prevent the placement of a treatment plant on other than abandoned mine land. It simply prevents the purchase of such land with money from the Fund.

2. The question was raised as to whether a State needs to have specific legislative authority to acquire land, condemn land or enter upon land by exercise of the police power. As an example, one State reclamation agency has authority to acquire property but does not have authority to (1) condemn property for reclamation, (2) levy liens for reclamation, or (3) exercise the police power to effect entry onto private lands. They raise the question as to whether the reclamation agency will need to ask the State legislature to provide the same authorities as provided in Pub. L. 95-87 in order for the State to have its reclamation plan approved.

Response. Section 405(d) of the Act requires that a State enact or already have in effect existing legislation to implement Pub. L. 95-87 in order to qualify for program approval. This is interpreted as requiring the State legislature to give or make available to the State reclamation agency comparable authority to that provided in Title IV of the Act, including the authority to condemn, enter and place liens. Guidelines for State statutes are being prepared at the present time and will be provided to the States upon completion.

3. One commenter recommended deletion of § 879.11(e) because it is overly restrictive and serves no overriding public interest. He cautioned that fragmented ownership should be avoided.

Response: The comment was not accepted. Section 407(c) of the Act provides for acquisition of only those interests in land or water necessary for reclamation or post-reclamation uses. Consequently, land acquisition will be the exception rather than the rule and limited by the scope of the project.

4. One commenter recommended the deletion of § 879.12, Procedures for Acquisition, to provide flexibility and recognition of differing standards for different States by inserting instead "The Office, State or Indian tribe which acquires land under this Part shall comply with the applicable relocation law, regulations and procedures specified by the Office, State or Indian tribe."

Response: The comment was rejected. Section 407(e) of the Act and other Federal regulations (OMB Circular A-102, 41 CFR 114-50-103) provide for accomplishing this as set out in the regulations of this section. The Office is legally bound to follow the regulations of the Department of Interior, the Department of Justice and the Office of Management and Budget.

5. Two commenters suggested that a State be allowed to waive user charges on acquired land.

Response: The comment was accepted. The language in § 879.14(b) was changed to include States and Indian tribes. User fees may be waived when determined to be in the public interest. When the use primarily benefits the health, safety, or environmental values of the greater community or area in which the land is located and such use will protect the land and improvements and will not result in a significant monetary gain or profit to the user, it may be considered to be in the public interest. A determination must be made as to whether the land use is in itself beneficial to the public, whether the cost of collecting fees would be excessive in terms of returns and whether user fees are required to offset maintenance costs. These are determinations that must be made locally; therefore, the States and Indian tribes are in the best position to make them on lands under their jurisdiction.

6. Several commenters objected to the fact that land use agreements and reverter provisions are provided for when reclaimed land is transferred to a State agency or political subdivision, but such restrictions are not provided for in the case of sales for industrial, commercial, residential or recreational development.

Response: Section 407(e) of the Act requires land use agreements and reverter provisions in transfers to State or local governments. General safeguards, applicable to all land disposals, are included in § 879.15 of the regulations to assure that disposition of land is not contrary to the purposes for or authority under which the acquisition was made.

7. One commenter objected to the fact that the State's preference right to purchase reclaimed land requires the State to pay fair market value or not less than the cost to the United States of the purchase and reclamation of the land.

Response: Section 407(e) of the Act sets forth this requirement. It should be noted that, alternatively, the State can also bid at public sale.

Part 882—Reclamation on Private Land

Part 882 states the authority of the Office, States and Indian tribes to perform reclamation on private lands. It establishes a requirement for appraisals of the land value before and after reclamation work consistent with uniform appraisal standards. The rules also establish conditions and procedures for the filing of liens on private property equal to the increase in fair market value that results from reclamation work under certain circumstances.

Thirty-seven comments were received from 17 commenters.

1. One commenter suggested that loans be made to private landowners for reclamation work and another commenter suggested that the landowner be sent a bill for reclamation costs.

Response: The comments were not accepted. The Act does not provide authority for those activities. Section 408 of the Act does, however, provide for the filing of liens in specific instances. Rules for filing liens are found in § 882.13 of the regulations.

2. One commenter recommended that the wording of the regulations be changed to specify that the lien shall not exceed the increase in the market value of the land and asked that we delete the requiremnt for a statement of moneys expended.

Response: We agree that the lien cannot exceed the difference between the pre-reclamation and post-reclamation appraised market values. The rule as proposed stated this concept in old § 848.12(a) now § 882.12(a). Section 408(a) of the Act requires that a statement of moneys expended for the reclamation work be filed along with the appraisals. No change was required.

3. One commenter was concerned that the provision for filing a lien within 6 months was not a sufficient time to evaluate the increase in market value of the reclaimed land.

Response: This provision for filing the lien within 6 months of completion of reclamation work is required by section 408(a) of the Act.

4. One commenter suggested that the regulations provide for an appraisal to be made by an independent appraiser and notarized rather than provide for following procedures of the Uniform Appraisal Standards handbook.

Response: The suggestion was accepted for appraisals made for the purpose of filing liens. This conforms more closely to the language of the Act. The requirement for following the Uniform Appraisal Standards handbook was, however, retained to meet the requirements placed on us by the Department of Interior regulations and requirements of the Department of Justice.

5. Eleven commenters objected to the word *shall* in describing when a lien is to be filed in § 882.13 of the regulations. The Act indicates *may* and all commenters favored *may*.

Response: The legislative history is clear that Congress intended that no windfall profits should inure to the benefit of private landowners as a result of reclamation work on their land. Both House Report No. 95-218 at page 139 and the Conference Report on the final bill at page 100 indicate that a lien should be used by either the State or the Secretary to recover the costs, up to the increase in fair market value, of reclaiming abandoned property. Therefore, the use of mandatory language in § 882.13(a) requiring the State, Office, or Indian tribe to place a lien on private property is justified.

However, there were three problems with proposed § 882.13(a)(3), which allowed the Director to waive a lien if he determined a lien would not be consistent with the purposes of the reclamation and the landowner dedicated the property for a valid public use for an appropriate period of time. First, that provision took the decision of waiver away from States or Indian tribes. If a waiver is justified, that decision should reside equally with States or Indian tribes because the Act itself states that "• • • the Secretary or the State, pursuant to an approved State program, shall itemize the monies so expended and may file a statement • • •. Such statement shall constitute a lien upon the said land." Section 408(a). Indian tribes are included because section 405(k) of the Act defines Indian tribes as "States" for purposes of Title IV.

Second, while the concept of a waiver provision is authorized by use of the discretionary word "may" in section 408(a), House Report No. 95-218 at page 139 is clear that Congress did not intend the use of any device which would, in effect, amortize the cost of the reclamation work over a period of time at the end of which the landowner would be released from all repayment obligations. The language in proposed § 882.13(a)(3) contravened the expressed intent not to amortize by suggesting the use of a dedication for a limited period of time.

Third, the waiver provision as written did not address those situations where it may be unfair to burden a private landowner with a lien. For instance, a landowner may have had his land reclaimed by the Office, State or Indian tribe and then sold the land to a third party. The landowner would not have received any benefit from the reclamation work and should not be required to repay the cost of reclamation. Therefore, the waiver provision was changed to allow the Director to waive a lien if he determines that the landowner did not receive any benefit from the reclamation work.

4. One commenter suggested that the regulations provide for an appraisal to be made by an independent appraiser and notarized rather than provide for following procedures of the Uniform Appraisal Standards handbook.

Response: The suggestion was accepted for appraisals made for the purpose of filing liens. This conforms more closely to the language of the Act. The requirement for following the Uniform Appraisal Standards handbook was, however, retained to meet the requirements placed on us by the Department of Interior regulations and requirements of the Department of Justice.

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10. One commenter suggested that wording be added to § 886.24 to make records available for public inspection.

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Third, the waiver provision as written did not address those situations where it may be unfair to burden a private landowner with a lien. For instance, if subsidence occurs on land recently purchased and the purchaser had no knowledge of the underground mine workings which were the cause of the subsidence, placing a lien on that property may result in the landowner paying twice. In fact, the value of his land may not increase over the amount he paid for the land only a short time before the property subsided. However, compared to the value of the land in a subisided condition, the reclaimed portion may be worth substantially more. In such a case, it is doubtful that a genuine windfall would result. Another example may be the case where reclamation work on an individual's land would actually produce far more benefit to the community at large, such as reclamation to correct acid drainage, siltation into streams, or aesthetic impacts. Such work may be deemed to be in the interests of the public health, safety or general welfare rather than viewed only in terms of the benefit to the individual landowner.

The facts and circumstances surrounding each such case, and others that may arise, must be examined to determine whether a lien is appropriate or necessary to protect the public from windfall profits inuring to the benefit of private landowners. The Office has, therefore, redrafted § 882.13(a)(3) to extend waiver authority to States and Indian tribes when the work performed is primarily for off-site benefits or is the result of unforeseen problems and will not result in a significant increase in value.

6. Thirteen commenters objected to the provision in subpart 882.14 for satisfaction of the lien within 5 years on the grounds that it will discourage program participation, create hardships on landowners and generally result in ill-will.

Response: These comments were generally accepted. There is nothing in the Act or the legislative history that requires satisfaction of a lien within a specified period of time. The Conference Report at page 100 does indicate that the Secretary or State is empowered to act to recover the costs of reclaiming privately owned lands. However, under an earlier House bill (H.R. 9725) it is clear that Congress contemplated satisfaction of liens at the time of sale. To more accurately reflect Congressional intent the Office has redrafted this section.

This rule is now written to exclude gratuitious and testate or intestate transfers, but it covers all other transfers where there is consideration involved. In other words, liens shall be fully or partially satisfied at the time of sale or exchange for other personal or real property. If partially satisfied, unsatisfied amounts will remain as a lien against the property. New paragraph (b) recognizes that there may be jurisdictions in which liens must be periodically renewed or otherwise maintained to remain effective and subject to satisfaction at the time specified under paragraph (a).

PART 884—STATE RECLAMATION PLANS

Part 884 establishes the procedures and requirements for the State plan required by section 405(b) of the Act. Such plans are required before the Office is authorized to make grants to the States for reclamation work. A State is not eligible to have a plan approved until it has an approved State regulatory program pursuant to section 503 of the Act and subchapter C of this chapter.

1. One commenter asked to have the regulations specify an exact length of time that the State plan covers.

Response: It is recognized that moneys will come into the Fund over a 15-year period. However, a State may elect in its Plan to include any or all of the various uses of the Fund and to address these uses in varying degrees, provided that first priority be given to correcting abandoned coal mine problems. If the magnitude of the problem is known and a reasonable method of solving it is presented, then the time frame of the plan need not be predetermined. We will, however, expect the States to present plans covering a reasonable future period, probably a minimum of 3 to 5 years, allowing appropriate adjustments State by State.

2. One commenter requested that the regulations be revised to reflect the desire that a State planning agency would be the most appropriate agency to be in charge of the State program.

Response: The Act is quite specific in saying that once the State has an approved plan, it has exclusive responsibility and authority to implement the provisions of the approved program. The Governor of the State may choose and so designate any competent agency of the State to carry out the program.

3. Two commenters requested that a State be given the opportunity to take corrective action to prevent withdrawal of Plan approval.

Response: The comments were accepted because it is desirable to provide a fast and informal means to prevent a State program from being interrupted or withdrawn. Section 884.16(b) has been changed to provide the opportunity for corrective action by allowing for consultation, a hearing if requested and performance of remedial action prior to the notice of withdrawal.

4. The question was asked whether the regulations allow a private citizen to submit a project directly to the Office of Surface Mining for funding if the project was previously submitted to and rejected by his State.

Response: Although the Act and the regulations strongly encourage citizens to work with an active State program, a private citizen can submit a proposed project to the Office for consideration provided it meets the reclamation requirements set forth in Part 874 of the regulations.

5. Numerous comments were received criticizing the amount of detail required in the State plan, especially the reclamation activities in § 884.13(f).

Response: The regulations, as proposed, require a general description of these reclamation activities. It was intended that the word "general" would convey the meaning that existing and readily available information would be gathered, analyzed, and summarized. The States must, however, present enough data to demonstrate to the Office and to the public that the plan represents a feasible and orderly approach to the required reclamation. It is recognized that additional information may have to be obtained in future years to either update the State plan or to fill in minor gaps. In view of the requirements in the Act to consider on-site and off-site local and regional impacts of past mining, it is felt that the information required is not excessive.

6. One commenter questioned the difference between the public involvement in § 884.13(c)(7) and § 884.13(e).

Response: Subsection 884.13(c)(7) requires the State to give a detailed description of the policies and procedures to be followed in the State Reclamation Program, i.e. operation of the program (which includes the original Plan, amendments and annual grants). Section 884.13(e) requires the State to give a detailed description of the extent of public involvement in the preparation of the proposed State Reclamation Plan. No changes were required.

PART 886—STATE RECLAMATION GRANTS

Part 886 includes procedures and requirements for annual grants to States to conduct reclamation activities under their approved Reclamation Plans. Grant applications will be approved by the Regional Directors of the office. The procedures for processing grant applications follow closely thje procedures for other grant programs administered by the Office with one major exception: Grant applications will be submitted according to the requirements of OMB Circular A-102 in the format for Federal Assistance Applications for Construction Programs. Limited variations to this format are provided.

1. Several commenters suggested that § 886.12(b) and § 886.15(b)(1) be expanded to clarify the administrative costs incurred in support of the State abandoned mine land program which can be included in the annual grant.

Response: These comments have been accepted. Since § 886.21(a) sets forth those costs which are allowable under section 401(2)(9) of the Act, it has been revised and referenced in §§ 886.12(b) and 886.15(b)(1).

2. Two comments were received requesting that the grant period set forth in section 886.13 be extended so that funding may be approved for the life of the proposed project.

Response: These comments were partially accepted. The grant will provide funding for both support of the State program and for individual projects as required in section 405(f) of Pub. L. 95-87 of the Act. Supportive costs, including administrative, are to be funded on an annual basis. However, individual projects applied for in any year may be funded for a maximum of 3 years. The regulations have been rewritten to provide this flexibility. The alternative for States to fund projects through sequential grants has been retained.

3. For §§ 886.15(c) and 886.17(c) one commenter suggested that if notification is not received within 30 days regarding whether or not the grant application is approved, the application should be deemed approved.

Response: The comment was rejected. The language of section 405(h) of the Act indicates grants should not be self-executing, but rather they require action by the Office on an annual basis. Section 405(i) of the Act requires monitoring of the program. Therefore, positive action is required to approve a grant. The language has been changed, however, to provide notification within 30 days regarding the status of the application.

Because of the concern over the funding for the life of the project, language has been added to § 886.15(b)(1) allowing funding for individual parts of multiphased projects. The information submitted with the individual project for which funding is being requested must include information on the overall magnitude, scope, and total cost of the entire project.

4. One commenter suggested that the requirements for notification of grant changes in section 886.17(b) should be deleted.

Response: This comment has been rejected since section 405(h) of the Act requires prior approval of both the plan and proposed projects. Changes in projects which require notice are set forth in OMB Circular A-102. Where the proposed changes exceed the limitations set forth therein, approval must be made to insure that the amendment proposals conform to the requirements of the approved plan.

5. For § 886.18(a)(3) one commenter suggested changing the authorization provided to the Regional Director for terminating, suspending or reducing grants so that he has discretionary authority on the action.

Response: This comment has been rejected since section 405(d) of the Act requires such action in cases of failure to implement, enforce or maintain an approved State regulatory program. However, the regulations do provide the retention of those funds that are necessary to meet contractual commitments made prior to the effective date of the termination to the extent such commitments cannot be reduced.

6. One commenter suggested that the 10-day minimum time limit for response upon notification of intent to reduce, suspend or terminate a grant in § 886.18(b)(1) be extended to 30 days.

Response: This comment was rejected. The language of this section conforms to the provisions of OMB Circular A-102. The time frame is considered sufficient for the agency to request the opportunity for consultation and remedial action prior to termination, suspension or reduction of the grant. It was noted that paragraphs (4) and (5) of § 886.18(b) were inconsistent; therefore, paragraph (5) was deleted and subsequent paragraphs renumbered accordingly.

7. Several commenters suggested that subpart 886.21 be reworded to clarify in what instances the 90 percent matching funds are applicable.

Response: These comments were accepted and § 886.21 was reworded so that it is clear that 90 percent matching funds apply only to the acquisition of land as set forth in section 407(e) of the Act.

8. For § 886.21 several commenters suggested that language be added to cover other administrative costs necessarily incurred in the program.

Response: Administrative costs are authorized by section 401(c)(9) of the Act. Section 886.21 has been reworded to allow for such costs. As a matter of policy, the Office will assign a lower priority to costs incurred from the operation and maintenance of treatment plants because of the increasing costs associated with permanent facilities.

9. One commenter suggested that the time required for the retention of records in § 886.24 be specified.

Response: This comment has not been accepted. The regulations reference OMB Circular A-102, Attachment C, which contains the specific retention requirements, setting the minimum at 3 years.

10. One commenter suggested that wording be added to § 886.24 to make records available for public inspection.

Response: This comment was not accepted since the regulations reference OMB Circular A-102, Attachment C, which specifies the requirements for availability of records to the public.

11. One comment suggested that the regulations should include grants to other Federal agencies, in addition to the Bureau of Indian Affairs, for reclamation of lands under their jurisdiction.

Response: The regulations are intended to include all eligible lands in the United States. The regulations specifically cover lands under the jurisdiction of States and Indian tribes because those lands are "private" lands as opposed to lands owned by the U.S. Funds may be transferred to other Federal agencies for reclamation of eligible lands if provided for in a cooperative agreement under section 412(b) of the Act.

PART 888—INDIAN RECLAMATION

Part 888 establishes special interim procedures for identifying and conducting needed reclamation work on Indian lands. Such procedures are necessary because the Act does not provide for Indian regulatory programs until a study of how Indian lands are to be regulated is completed (section 710 of the Act) and legislation providing for Indian regulation of these lands is enacted. Section 405(c) of the Act prohibits approval of funding of a State abandoned mine reclamation program unless the State has an approved State regulatory program. Section 405(k) of the Act requires that Indian tribes be considered as States for purposes of Title IV.

1. One comment was received expressing concern over the proposed regulations because they did not authorize Indian tribes to formally adopt reclamation plans. The commenter expressed the hope that the Office would complete the study under section 710 of the Act so that tribes would not be penalized for a long period of time.

Response: The Office lacks authority to approve or fund an Indian Reclamation Plan at this time because Indian tribes are not authorized to develop and get approval of a regulatory program; therefore, such authorization cannot be provided in these regulations.

The regulations authorize the Regional Directors of the Office to work with Indian tribes and to consult with the Bureau of Indian Affairs to develop plans for reclamation activities on Indian lands. Such a procedure is authorized by section 412(a) of the Act. No significant alternative has been identified other than deferral of

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Indian programs until the section 710 study is completed. Such an alternative might effectively preclude reclamation work on Indian lands and would be detrimental to developing a systematic approach for reclamation activities on Indian land during the development of the Abandoned Mine Land Program. Deferral of Indian programs at this time would also be in conflict with the overall structure of Title IV which anticipates Indian tribe participation at the same level as States, section 710 of the Act not to the contrary.

In this regard, Indian tribes were included in the drafting of Parts 872-888 in anticipation of specific legislative authority granting regulatory status to them. If the Congressional authorization is ultimately the same as for States, Part 888 may be deleted. If the authorization differs from that given States, Parts 872-888 can be appropriately amended and Part 888 may also be amended and expanded. It should be observed, however, that Parts 872-888 do not contain any independent authority for Indian tribes to act beyond that allowed by the Act. Part 888 is established to provide an administrative vehicle for the Office to begin necessary reclamation activities on Indian lands in accordance with Parts 872-888 when an Indian tribe desires such activity. The Office is making every effort to complete the study specified in section 710 of the Act as quickly as possible, providing for full participation of affected tribal groups.

INFORMATION COLLECTION PROVISIONS

A number of these regulations require the States and Indian tribes to collect, submit or retain certain information. By publication of these final regulations, this Department has determined that such information is necessary to the performance of its responsibilities under the Act and must be collected, submitted or retained. Accordingly, these requirements, included in regulation §§ 872.4(c), 872.11(b) (2) and (3), 872.12(a), 872.13(a), 877.13(c), 879.13, 879.14(b), 879.15 (a)(3) and (e)(1), 882.12, 882.13, 884.13, 884.15, 886.14, 886.15, 886.17(b), 886.18(c)(2), 886.19, 886.22, 886.23, and 886.24, are adopted, subject to review by the General Accounting Office, pursuant to 44 U.S.C. 3512, to insure that a minimum burden is imposed upon States or Indian tribes in the manner in which such information is proposed to be obtained. The specific reporting provisions in these regulations will be effective November 15, 1978, or on the date of GAO clearance, whichever is earlier.

DRAFTING INFORMATION

The principal authors of these regulations are Paul Reeves, Dan Jones, Ray Booker, Richard Nalbandian and Don O'Bryan, Office of Surface Mining Reclamation and Enforcement; and John Beattie, Office of the Solicitor.

Interested persons may examine the information, comments and legal opinions relied on by the authors during normal business hours in the Office of the Assistant Director, Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement.

Dated: October 18, 1978.

JOAN M. DAVENPORT,
Assistant Secretary—Energy and Minerals.

30 CFR Chapter VII is amended by adding a new Subchapter R to read as set forth above. Subchapter R consists of a new Part 870 which is redesignated from Part 837, and new Parts 872, 874, 877, 879, 882, 884, 886, and 888; the new Parts read as set forth below:

PART 837—[REDESIGNATED AS PART 870]

PART 870—[REDESIGNATED FROM PART 837]

PART 872—ABANDONED MINE RECLAMATION FUNDS

Sec.
872.1 Scope.
872.2 Objectives.
872.4 Responsibilities.
872.5 Definitions.
872.11 Abandoned Mine Reclamation Fund.
872.12 State Abandoned Mine Reclamation Funds.
872.13 Indian Abandoned Mine Reclamation Funds.

AUTHORITY: Secs. 102(g), 201(c), 401, 402(8) and 412, Pub. L. 95-87, 91 Stat. 449, 456, 458 and 466 (30 U.S.C. 1211, 1231, 1232, and 1242).

§ 872.1 Scope.

(a) This Part sets forth general responsibilities for administration of abandoned Mine Land Reclamation Programs and procedures for the Abandoned Mine Reclamation Funds to finance such programs.

(b) Included in this Part are general provisions describing—

(1) The source of money and use of such monies to administer the Abandoned Mine Land Reclamation Program; and

(2) The general responsibilities of agencies of the Federal Government, States, and Indian tribes in the conduct of the programs.

(c) Regulations for implementation of the Rural lands Rural Lands Reclamation Program are the responsibility of the Secretary of Agriculture. The Department of Agriculture has identified this program as the Rural abandoned Mine Program (RAMP).

§ 872.2 Objectives.

The objectives of this Part are to provide an overview of the Abandoned Mine Land Reclamation Program responsibilities and to provide detailed procedures for administration of State, Indian and Federal Abandoned Mine Land Reclamation Funds.

§ 872.4 Responsibilities.

(a) The Director, under the general direction of the Assistant Secretary, Energy and Minerals, is responsible for exercising the authority of the Secretary for administration of the Abandoned Mine Reclamation Fund and Abandoned Mine Land Reclamation Program.

(b) The regional Directors of the Office are responsible for—

(1) Conducting reclamation activities where work is performed by the Office using the funds available to the Secretary;

(2) Reviewing and approving annual submissions of project grant applications by States and Indian tribes under approved reclamation programs;

(3) Consulting with Indian tribes for which receipts to the Abandoned Mine Reclamation Fund are allocated to develop an orderly approach to reclamation until such time as the study required by section 710 of the Act is completed and authorities provided for Indian regulatory programs comparable to those of States under section 503 of the Act;

(4) Coordinating projects carried out by the Office with activities carried out under Rural Lands, State and Indian Reclamation Programs conducted with monies from the Fund; and

(5) Consulting with Federal and State agencies as necessary and developing cooperative agreements with the appropriate surface management agency when Federal lands are considered for inclusion in a Federal or State Reclamation Program.

(c) The States are responsible for—

(1) Preparing and submitting a State Reclamation Plan to the Director if the State elects to participate in the Abandoned Mine Land Reclamation Program;

(2) Establishing a State Abandoned Mine Reclamation Fund for use in conducting the State Reclamation Program;

(3) Submitting annual applications for grants, including descriptions of proposed projects;

(4) Submitting requests to the Regional Director for work to be done on noncoal mined lands;

(5) Submitting requests to the Regional Director for construction of specific facilities in communities impacted by coal development;

(6) Conducting reclamation work in accordance with grant agreements;

(7) Consulting with State and Federal agencies as necessary and developing cooperative agreements with the appropriate surface management agency when State or Federal lands

are considered for inclusion in a State Reclamation Program; and

(8) Submitting reports annually to the Regional Director describing progress on previously funded projects.

(d) The Secretary of Agriculture through the Soil Conservation Service is responsible for—

(1) Promulgating regulations for conducting the Rural Lands Reclamation Program;

(2) Submitting annual requests to the Director for allocation of moneys for use in the Rural Lands Reclamation Program;

(3) Submitting annual reports to the Director describing progress of work previously funded; and

(4) Coordinating the Rural Lands Reclamation Program with State and Indian Reclamation Programs and with reclamation activities conducted by the Office.

§ 872.5 Definitions.

(a) *The Abandoned Mine Reclamation Fund*, or *Fund* is a trust fund established on the books of the U.S. Treasury for the purpose of accumulating revenue designated for reclamation of abandoned mine lands and other activities authorized by Title IV of the Act.

(b) *Allocate* means the administrative identification in the records of the Office of moneys in the Fund for a specific purpose; e.g., identification of moneys for exclusive use by a State.

(c) *Emergency* means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures.

(d) *Expended* means that moneys have been paid out by a State or Indian tribe for work that has been accomplished or services rendered.

(e) *Extreme danger* means a condition that could reasonably be expected to cause substantial physical harm to persons property, or the environment and to which persons or improvements on real property are currently exposed.

(f) *Indian Abandoned Mine Reclamation Fund*, or *Indian Fund*, means a separate fund established by an Indian tribe for the purpose of accounting for moneys granted by the Director under an approved Indian Reclamation Program and other moneys authorized by these regulations to be deposited in the Indian Fund.

(g) *Indian reclamation program* means a program established by an Indian tribe in accordance with this chapter for reclamation of land and water adversely affected by past mining, including the reclamation plan and annual applications for grants under the plan.

(h) *Reclamation activities* means restoration, reclamation, abatement, control, or prevention of adverse effects of mining.

(i) *Reclamation plan* means a plan submitted and approved under 30 CFR Part 884.

(j) *State Abandoned Mine Reclamation Fund* or *State Fund*, means a separate fund established by a State for the purpose of accounting for moneys granted by the Director under an approved State Reclamation Program and other moneys authorized by these regulations to be deposited in the State Fund.

(k) *State reclamation program* means a program established by a State in accordance with this chapter for reclamation of land and water adversely affected by past mining, including the reclamation plan and annual applications for grants under the plan.

§ 872.11 Abandoned mine reclamation fund.

(a) Revenue to the Fund shall include—

(1) Reclamation fees collected under section 402 of the Act and 30 CFR Part 870;

(2) Amounts collected by the Office from charges for use of land acquired or reclaimed with moneys from the Fund under 30 CFR Part 879;

(3) Moneys recovered by the Office through satisfaction of liens filed against privately owned lands reclaimed with moneys from the Fund under 30 CFR Part 882;

(4) Moneys recovered by the Office from the sale of lands acquired with moneys from the Fund or by donation under 30 CFR Part 879; and

(5) Moneys donated to the Office for the purpose of abandoned mine land reclamation.

(b) Moneys deposited in the Fund and appropriated by the Congress shall be used for the following purpose—

(1) An amount not exceeding 10 percent of the reclamation fees collected each quarter, up to a maximum of $10,000,000 each year, shall be used to finance the Small Operator Assistance Program under 30 CFR Part 795.

(2) An amount equal to 50 percent of the reclamation fees collected from within a State shall be allocated at the end of the fiscal year in which they are collected for use in that State under an approved State Reclamation Plan. Reclamation fees collected from Indian lands shall not be included in the calculation of amounts to be allocated to a State. If a State advises the Office in writing that it does not intend to submit a State Reclamation Plan, no moneys shall be allocated to that State. Amounts allocated to a State that have not been granted to the State within 3 years from the date of allocation shall be available to the Director for other purposes under paragraph (b)(5) of this section. Amounts allocated and granted to the State that have not been expended within 3 years from the date of allocation may be withdrawn from the State if the Director finds in writing—

(i) That the amounts involved are not necessary to carry out the approved reclamation activities; or

(ii) That failure to expend is a result of avoidable delays in conducting approved reclamation activities.

(3) An amount equal to 50 percent of the reclamation fees collected from Indian lands shall be allocated to the Indian tribe having an interest in those lands at the end of the fiscal year in which they are collected for use by that tribe under an approved Indian Reclamation Plan. If an Indian tribe advises the Office in writing that it does not intend to submit an Indian Reclamation Plan, no moneys shall be allocated to that tribe. Amounts allocated to Indian lands that have not been granted to the Indian tribe within 3 years from the date of allocation shall be available to the Director for other purposes under paragraph (b)(5) of this section. Amounts allocated and granted to the Indian tribe that have not been expended within 3 years from the date of allocation may be withdrawn from the Indian tribe if the Director finds in writing—

(i) That the amounts involved are not necessary to carry out the approved reclamation activities; or

(ii) That failure to expend is a result of avoidable delays in conducting approved reclamation activities.

(4) An amount not exceeding 20 percent of the moneys deposited in the Fund annually may be transferred to the Secretary of Agriculture to carry out the Rural Lands Reclamation Program.

(5) All amounts not used for the above purposes shall be available to the Director for the following purposes—

(i) Acquisition, reclamation, and restoration of land and water resources adversely affected by past coal mining.

(ii) Filling of voids and sealing of tunnels, shafts, and entryways and the reclamation of the adverse surface impacts of underground or surface mining for other minerals and materials, including acquisition of land and water if required. This work shall be done only with those moneys allocated or available for allocation to a State or Indian lands under paragraphs (b) (2) or (3) of this section and at the request of the Governor of a State or the Indian tribe.

(iii) Studies by contract with public or private organizations to provide information, advice, or technical assistance, including research development,

(b) Revenue to the Indian Fund shall include—

(1) Amounts granted to the Indian tribe by the Office for purposes of

tinuing operations existed as of August 3, 1977, or, if a permit did exist on that date, but all mining processes had ceased, it has since lapsed and has

priority first. Preference among those projects competing for available resources shall be given to projects

proposed reclamation will be undertaken and to assign priorities to proposals intended to meet the same ob-

(5) The costs of reclamation. Consideration shall be given to both the economy and efficiency of the recla-

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(iii) Studies by contract with public or private organizations to provide information, advice, or technical assistance, including research, development, and demonstration projects.

(iv) Reclamation fee collection activities and other administrative expenses necessary to accomplish the purposes of Title IV of the Act.

(v) Reclamation grants to States or Indian tribes in excess of amounts provided under paragraph (b) (2) or (3) of this section.

(vi) Cooperative projects to compile information required for the preparation of State and Indian reclamation plans, as specified in Part 884.13(f) of this subchapter. This work shall be done only with those moneys allocated or available for allocation to a State or Indian tribe and at the request of the Governor of a State or the Indian tribe.

§ 872.12 State abandoned mine reclamation funds.

(a) An account to be known as the State Abandoned Mine Reclamation Fund shall be established in each State with an approved State Reclamation Plan. The State Fund shall be managed in accordance with Office of Management and Budget Circular No. A-102.

(b) Revenue to the State Fund shall include—

(1) Amounts granted to the State by the Office for purposes of conducting the approved State Reclamation Plan under 30 CFR Part 886.

(2) Moneys collected by the State from charges for uses of lands acquired or reclaimed with moneys from the State Fund under 30 CFR Part 879.

(3) Moneys recovered by the State through the satisfaction of liens filed against privately owned lands reclaimed with moneys from the State Fund under 30 CFR Part 882.

(4) Moneys recovered by the State from the sale of lands acquired with moneys from the State Fund under 30 CFR Part 879.

(5) Such other moneys as the State decides should be deposited in the State Fund for use in carrying out the State Reclamation Program.

(c) Moneys deposited in the State Fund shall be used to carry out the State Reclamation Plan approved under 30 CFR Part 884.

§ 872.13 Indian abandoned mine reclamation funds.

(a) An account to be known as the Indian Abandoned Mine Reclamation Fund shall be established by each Indian tribe with an approved Indian Reclamation Plan. The Indian Fund shall be managed in accordance with Office of Management and Budget Circular No. A-102.

(b) Revenue to the Indian Fund shall include—

(1) Amounts granted to the Indian tribe by the Office for purposes of conducting the approved Indian Reclamation Plan.

(2) Moneys collected by the Indian tribe from charges for uses of land acquired or reclaimed with moneys from the Indian Fund under 30 CFR Part 879.

(3) Moneys recovered by the Indian tribe through the satisfaction of liens filed against privately owned lands reclaimed with moneys from the Indian Fund under 30 CFR Part 882.

(4) Moneys recovered by the Indian tribe from the sale of lands acquired with moneys from the Indian Fund under 30 CFR Part 879.

(5) Such other moneys as the Indian tribe decides should be deposited in the Indian Fund for use in carrying out the Indian Reclamation Program.

(c) Moneys deposited in the Indian Fund shall be used to carry out reclamation activities under 30 CFR Part 888.

PART 874—GENERAL RECLAMATION REQUIREMENTS

Sec.
874.1 Scope.
874.2 Objectives.
874.5 Definitions.
874.11 Applicability.
874.12 Eligible land and water.
874.13 Reclamation objectives.
874.14 Reclamation project evaluation.

AUTHORITY: Secs. 201(c), 403, 404, 409, and 412(a), Pub. L. 95-87, 91 Stat. 449, 458, 459, 465, and 466 (30 U.S.C. 1211, 1233, 1234, 1239, and 1242).

§ 874.1 Scope.

This Part establishes general requirements for the selection of work to be performed with moneys from the Abandoned Mine Reclamation Fund, and State or Indian Abandoned Mine Reclamation Funds. It includes land and water eligibility requirements, reclamation project objectives and standards, and project selection and evaluation factors.

§ 874.2 Objectives.

The objectives of this Part are to establish conditions for the use of Abandoned Mine Reclamation Funds that are common to approved State and Indian Reclamation Programs, the Rural Lands Reclamation Program, and the reclamation activities conducted or funded directly by the Office.

§ 874.5 Definitions.

Left or abandoned in either an unreclaimed or inadequately reclaimed condition means lands and water:

(a) Where all mining processes ceased and no current permit for continuing operations existed as of August 3, 1977, or, if a permit did exist on that date, but all mining processes had ceased, it has since lapsed and has not been renewed or superseded by a new permit as of the date of the request for reclamation assistance; and

(b) Which continue, in their present condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public.

§ 874.11 Applicability.

The provisions of this Part apply to all reclamation projects to be carried out with money from the Fund or a State or Indian Fund as defined by Part 872 of this subchapter.

§ 874.12 Eligible lands and water.

(a) Lands and water are eligible for reclamation activities if:

(1) They were mined or affected by mining processes;

(2) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition; and

(3) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal Government, or the State as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys from the Fund may be sought under 30 CFR 886 and 888.

(b) Lands and water which were mined or affected by mining for minerals and materials other than coal shall be eligible for reclamation activities under a State or Indian Reclamation Program if the Director finds in writing that—

(1) The conditions of paragraph (a) of this section have been met;

(2) The reclamation has been requested by the Governor of the State or head of the tribal governing body;

(3) All reclamation with respect to abandoned coal mine land and water has been accomplished within the State or Indian lands in which they are located or the reclamation is necessary for the protection of the public health and safety; and

(4) Moneys allocated to the State or Indian tribe under § 872.11(b) (2) and (3) are available for the work.

§ 874.13 Reclamation objectives and priorities.

Reclamation projects shall meet one or more of the objectives stated in this section. The objectives are stated in the order of priority with the highest

priority first. Preference among those projects competing for available resources shall be given to projects meeting higher priority objectives.

(a) Protection of public health, safety, general welfare and property from extreme danger resulting from the adverse effects of past coal mining practices.

(b) Protection of public health, safety, and general welfare from adverse effects of past coal mining practices which do not constitute an extreme danger.

(c) Restoration of eligible land and water and the environment previously degraded by adverse effects of past coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.

(d) Research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques.

(e) Protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by past coal mining practices.

(f) Development of publicly owned land adversely affected by past coal mining practices, including land acquired under 30 CFR Part 879, for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

(g) Protection of the public from hazards endangering life and property resulting from the adverse effects of past noncoal mining practices. However, upon the request of the Governor of a State or head of an Indian tribe, such work may be under taken before the priorities related to past coal mining have been fulfilled.

(h) Protection of the public from hazards to health and safety from the adverse effects of past noncoal mining practices.

(i) Restoration of the environment degraded by the adverse effects of past noncoal mining.

(j) Construction of public facilities in communities impacted by coal development if the Governor of a State or head of an Indian tribe certifies that all other objectives of the fund have been met, the available impact funds are inadequate for such construction consistent with § 884.12(d) and the Director concurs.

§ 874.14 Reclamation project evaluation.

(a) Proposed reclamation projects and completed reclamation work shall be evaluated in terms of the factors stated in this section. The factors shall be used to determine whether or not proposed reclamation will be undertaken and to assign priorities to proposals intended to meet the same objective under § 874.13. Completed reclamation shall be evaluated in terms of the factors set forth below as a means of identifying conditions which should be avoided, corrected, or improved in plans for future reclamation work. The factors shall include—

(1) The need for reclamation work to accomplish one or more specific reclamation objectives as stated in § 874.13.

(2) The availability of technology to accomplish the reclamation work with reasonable assurance of success. In the case of research and demonstration projects, the research capability and plans shall provide reasonable assurance of beneficial results without residual adverse impacts.

(3) The specific benefits of reclamation which are desirable in the area in which the work will be carried out. Benefits to be considered include but are not limited to—

(i) Protection of human life, health, or safety.

(ii) Protection of the environment, including air and water quality, abatement of erosion and sedimentation, fish, wildlife, and plant habitat, visual beauty, historic or cultural resources and recreation resources.

(iii) Protection of public or private property.

(iv) Abatement of adverse social and economic impacts of past mining on persons or property including employment, income, and land values or uses, or assistance to persons disabled, displaced or dislocated by past mining practices.

(v) Improvement of environmental conditions which may be considered to generally enhance the quality of human life.

(vi) Improvement of the use of natural resources, including post-reclamation land uses which—

(*a*) Increase the productive capability of the land to be reclaimed.

(*b*) Enhance the use of surrounding lands consistent with existing land use plans.

(c) Provide for construction or enhancement of public facilities.

(*d*) Provide for residential, commercial, or industrial developments consistent with the needs and plans of the community in which the site is located.

(vii) Demonstration to the public and industry of methods and technologies which can be used to reclaim areas disturbed by mining.

(4) The acceptability of any additional adverse impacts to people or the environment that will occur during or after reclamation and of uncorrected conditions, if any, that will continue to exist after reclamation.

(5) The costs of reclamation. Consideration shall be given to both the economy and efficiency of the reclamation work and to the results obtained or expected as a result of reclamation.

(6) The availability of additional coal or other mineral or material resources within the project area which—

(i) Results in a reasonable probability that the desired reclamation will be accomplished during the process of future mining; or

(ii) Requires special consideration to assure that the resource is not lost as a result of reclamation and that the benefits of reclamation are not negated by subsequent, essential resource recovery operations.

(7) The acceptability of post-reclamation land uses in terms of compatibility with land uses in the surrounding area, consistency with applicable State, regional, and local land use plans and laws, and the needs and desires of the community in which the project is located.

(8) The probability of post-reclamation management, maintenance and control of the area consistent with the reclamation completed.

(b) States, Indian tribes, or Federal agencies administering reclamation programs and projects shall incorporate the evaluation factors stated in paragraph (a) into the procedures and processes for selecting projects in a manner which they deem appropriate. Additional factors may be developed to meet specific or unique needs. Specific values may be assigned to the factors stated in paragraph (a). All evaluation factors are subject to the plan approval process in 30 CFR Part 884.

PART 877—RIGHTS OF ENTRY

Sec.
877.1 Scope.
877.11 Consent to entry.
877.12 Entry for studies or exploration.
877.13 Entry and consent to reclaim.
877.14 Entry for emergency reclamation.

AUTHORITY: Secs. 201(c), 407 (a) and (b), 410 and 412(a), Pub. L. 95-87, 91 Stat. 449, 462, 463, and 466 (30 U.S.C. 1211, 1237, 1240, and 1242).

§ 877.1 Scope.

This part establishes procedures for entry to lands or property by the Office, or a State, or Indian tribe under an approved Reclamation Plan, for the purposes of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and for the purpose of performing reclamation work.

§ 877.11 Consent to entry.

The Office, State, or Indian tribe shall take all reasonable actions to

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obtain written consent from the owner of record of the land or property to be entered in advance of such entry. The consent shall be in the form of a signed statement by the owner of record or his authorized agent which, as a minimum, includes a legal description of the land to be entered, the projected nature of work to be performed on the lands and any special conditions for entry. The statement shall not include any commitment by the Office, State, or Indian tribe to perform reclamation work nor to compensate the owner for entry.

§ 877.12 Entry for studies or exploration.

(a) The Office, State, or Indian tribe or their agents, employees, or contractors, shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects.

(b) If the owner of the land to be entered under this section will not provide consent to entry, the Office, State, or Indian tribe shall give notice in writing to the owner of its intent to enter for purposes of study and exploration to determine the existence of adverse effects of past coal mining practices which may be harmful to the public health, safety, or general welfare. The notice shall be by mail, return receipt requested, to the owner, if known, and shall include a statement of the reasons why entry is believed necessary. If the owner is not known, or the current mailing address of the owner is not known, or the owner is not readily available, the notice shall be posted in one or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. Notice shall be given at least 30 days before entry.

(c) Entry required to investigate and explore reported emergency conditions will be governed by the provisions of § 877.14(c).

§ 877.13 Entry and consent to reclaim.

(a) The Office, State, or Indian tribe or their agents, employees, or contractors, may enter upon land to perform reclamation activities if the consent of the owner cannot be obtained.

(b) Prior to entry under this section, the Regional Director, State, or Indian tribe shall find in writing with supporting reasons that—

(1) Land or water resources have been adversely affected by past coal mining practices;

(2) The adverse effects are at a state where, in the interest of the public health, safety, or the general welfare, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) The owner of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices is not known or readily available; or

(4) The owner will not give permission for the Office, the State, or Indian tribe, their agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(c) The Regional Director, State, or Indian tribe shall give notice of its intent to enter for purposes of conducting reclamation at least 30 days before entry upon the property. The notice shall be in writing and shall be mailed, return receipt requested, to the owner, if known, with a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement of where the findings required by this section may be inspected or obtained.

§ 877.14 Entry for emergency reclamation.

(a) The Office, its agents, employees, or contractors shall have the right to enter upon any land where an emergency exists and on any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare.

(b) Prior to entry under this section, the Regional Director shall make a written finding with supporting reasons that—

(1) An emergency exists constituting a danger to the public health, safety, or general welfare;

(2) Emergency restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining is necessary and;

(3) No other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

(c) Notice to the owner shall not be required prior to entry for emergency reclamation. The Regional Director shall make reasonable efforts to notify such owner and obtain consent prior to entry consistent with the emergency conditions that exist. Written notice shall be given to the owner as soon after entry as practical. The notice shall be mailed, return receipt requested, to the owner, if known, and shall include a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted on the property entered in one or more places where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement that an emergency existed and where the findings required by this section may be inspected or obtained.

(d) The moneys expended for such work, and the benefits accruing to any such premises so entered, shall be chargeable against such land and shall mitigate or offset any claim in, or any action brought by any owner of any interest in such premises for any alleged damages as a result of the entry.

PART 879—ACQUISTION, MANAGEMENT AND DISPOSITION OF LANDS AND WATER

Sec.
879.1 Scope.
879.11 Land eligible for acquisition.
879.12 Procedures for acquisition.
879.13 Acceptance of gifts of land.
879.14 Management of acquired land.
879.15 Disposition of reclaimed land.

AUTHORITY: Sec. 201(c); 407 (c), (d), (e), (f), (g), and (h); and 412(a), Pub. L. 95-87, 91 Stat. 449, 463, 464, and 466 (30 U.S.C. 1211, 1237, and 1242).

§ 879.1 Scope.

This Part establishes procedures for acquisition, management, and disposition of eligible land and water for reclamation purposes by the Office or a State or Indian tribe under an approved Reclamation Plan. It also establishes requirements for the collection of charges for the use of acquired land and disposition of the proceeds from the use or sale of acquired land.

§ 879.11 Land eligible for acquisition.

(a) Land adversely affected by past coal mining practices may be acquired with moneys from the Fund by the Office or by a State or Indian tribe if approved in advance by the Office. Prior to approval of the acquisition of such land, the Regional Director shall find in writing that acquisition is necessary for successful reclamation and that—

(1) The acquired land will serve recreation, historic, conservation, and reclamation purposes or provide open space benefits after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; and

(2) Permanent facilities such as a mine drainage treatment plant or a re-

located stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(b) Coal refuse disposal sites and all coal refuse thereon may be acquired with moneys from the Fund by the Office or by a State or Indian tribe if approved in advance by the Office. Prior to approval of the acquisition of such sites, the Regional Director shall find in writing that the acquisition of such land is necessary for successful reclamation and will serve the purposes of the Abandoned Mine Land Reclamation Program or that public ownership is desirable to meet an emergency situation and prevent recurrence of adverse effects of past coal mining practices.

(c)(1) Land adversely affected by past mining practices may be acquired by the Office if the Director finds in writing that acquisition with moneys from the Fund is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for—

(i) Persons disabled as the result of employment in the mines or work incidental thereto;

(ii) Persons displaced by acquisition of land under these regulations;

(iii) Persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency for which the Regional Director has made the determination required by § 877.14;

(iv) Persons dislocated as the result of natural disasters or catastrophic failures from any cause.

(2) The Director may acquire such land in the name of the United States directly or through a State or Indian tribe, any department, agency, or instrumentality of a State or Indian tribe, or any public body or nonprofit organization designated by a State or Indian tribe.

(d) Land or interests in land needed to fill voids, seal abandoned tunnels, shafts, and entry ways or reclaim surface impacts of underground or surface mines may be acquired by the Office if the Director finds that acquisition is necessary under § 874.12(b).

(e) The Office, State or Indian tribe which acquires land under this part shall acquire only such interests in the land as are necessary for the reclamation work planned or the post-reclamation use of the land. Interests in improvements on the land, mineral rights, or associated water rights may be acquired if—

(1) The customary practices and laws of the State in which the land is located will not allow severance of such interests from the surface estate; or

(2) Such interests are necessary to the reclamation work planned or the post-reclamation use of the land; and

(3) Adequate written assurances cannot be obtained from the owner of the severed interest that future use of the severed interest will not be in conflict with the reclamation to be accomplished.

§ 879.12 Procedures for acquisition.

(a) An appraisal of the fair market value of all land or interest in land to be acquired shall be obtained from a professional appraiser by the Office, State, or Indian tribe. The appraisal shall state the fair market value of the land as adversely affected by past mining and shall otherwise conform to the requirements of the handbook on "Uniform Appraisal Standards for Federal Land Acquisitions" (Interagency Land Acquisition Conference 1973).

(b) When practical, acquisition shall be by purchase from a willing seller. The amount paid for interests acquired shall reflect the fair market value of the interests as adversely affected by past mining.

(c) When necessary, land or interests in land may be acquired by condemnation. Condemnation procedures shall not be started until all reasonable efforts have been made to purchase the land or interests in lands from a willing seller.

(d) The Office, State, or Indian tribe which acquires land under this part shall comply, at a minimum and to the extent applicable, with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et seq; 41 CFR Part 114-50; Solicitor of the Interior's regulations for Approval of Title to Lands and Condemnation, I SRM 6.1 et seq.; and regulations of the Attorney General under Order No. 440-70 dated October 2, 1970, establishing standards for title approval of lands to be acquired for Federal public purposes.

(e) Title to all interests in land acquired by the Office shall be in the name of the United States.

(f) Title to all interests in land acquired by a State shall be in the name of the State and shall be recorded in accordance with applicable State law and regulation.

(g) Title to all interests in land acquired by an Indian tribe shall, where authorized by law, be held in the name of the United States in trust for the benefit of that tribe and shall be recorded in the appropriate office of the Bureau of Indian Affairs. In absence of a trust authorization, title shall be held in the name of the tribe and shall be recorded in accordance with applicable law.

(h) Property acquired by the Office under this part shall be included in the Annual Report of Real Property which shall be compiled and filed in accordance with IPMR 114-3.2. The report shall include real property acquired by donation.

§ 879.13 Acceptance of gifts of land.

(a) The Director, in accordance with Department of Justice procedures for the acquisition of real property, or a State or Indian tribe under an approved Reclamation Plan, may accept donations of title to land or interest in land that is necessary for reclamation activities. A donation shall not be accepted if the terms or conditions of acceptance are inconsistent with the objectives or requirements of the program.

(b) Offers to make a gift of such land or interest in land shall be in writing and shall include—

(1) A statement of the interest which is being offered.

(2) A legal description of the land and a description of any improvements on it.

(3) A description of any limitations on the title or conditions as to the use or disposition of the land existing or to be imposed by the donor.

(4) A statement that—

(i) The offeror is the record owner of the interest being offered.

(ii) The interest offered is free and clear of all encumbrances except as clearly stated in the offer.

(iii) There are no adverse claims against the interest offered.

(iv) There are no unredeemed tax deeds outstanding against the interest offered.

(v) There is no continuing responsibility by the operator under State or Federal statutory law for reclamation.

(5) An itemization of any unpaid taxes or assessments levied, assessed or due which could operate as a lien on the interest offered.

(c) If the offer is accepted, a deed of conveyance shall be executed, acknowledged, and recorded. The deed shall state that it is made "as a gift under the Surface Mining Control and Reclamation Act of 1977." Title to donated land shall be in the name of the United States if the donation is to the Office or in the name of the State if the donation is to a State. Title to land donated to an Indian tribe shall, where authorized by law, be taken in the name of the United States in trust for the benefit of that tribe. In the absence of a trust authorization, title shall be taken in the name of the tribe.

§ 879.14 Management of acquired lands.

(a) Land acquired under this Part may be used pending disposition under § 879.15 for any lawful purpose that is not inconsistent with the reclamation

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activities and post-reclamation uses for which it was acquired.

(b) Any user of land acquired under this part shall be charged a use fee. The fee shall be determined on the basis of the fair market value of the benefits granted to the user, charges for comparable uses within the surrounding area, or the costs to the Office, State, or Indian tribe for providing the benefit, whichever is appropriate. The Regional Director, State, or Indian tribe may waive the fee if found in writing that such a waiver is in the public interest.

(c) All use fees collected shall be deposited in the appropriate Abandoned Mine Reclamation Fund in accordance with 30 CFR Part 872, unless previously appropriated or otherwise authorized by the Congress, State legislature, or tribal governing body for the specific purpose of operating and maintaining improvement of the land.

§ 879.15 Disposition of reclaimed lands.

(a) Prior to the disposition of any land acquired under this Part, the Regional Director, State, or Indian tribe which acquired the land shall—

(1) Publish a notice which describes the proposed disposition of the land in a newspaper of general circulation within the area where the land is located for a minimum of 4 successive weeks. The notice shall provide at least 30 days for public comment and state where copies of plans for disposition of the land may be obtained or reviewed and the address to which comments on the plans should be submitted. The notice shall also state that a public hearing will be held if requested by any person.

(2) Hold a public hearing if requested as a result of the public notice. The Regional Director, State, or Indian tribe may determine that a hearing is appropriate even if a request is not received. It shall be scheduled at a time and place that affords local citizens and governments the maximum opportunity to participate. The time and place of the hearing shall be announced in a newspaper of general circulation in the area in which the land is located at least 30 days before the hearing. All comments received at the hearing shall be recorded.

(3) Make a written finding that the proposed disposition is appropriate considering all comments received and consistent with any local, State, or Federal laws or regulations which apply.

(b) The Director may transfer the administrative responsibility for land acquired by the Office to any other Federal Department or agency, with or without cost to that Department or agency. The agreement, including amendments, under which a transfer is made shall specify—

(1) The purposes for which the land may be used which shall be consistent with the authorization under which the land was acquired; and

(2) That the administrative responsibility for the land shall revert to the Office if, at any time in the future, the Director finds that the land is not used for the purposes specified.

(c) A State or Indian tribe may transfer, with approval of the Regional Director, the administrative responsibility for land acquired under this part to any agency or political subdivision of the State or Indian tribe with or without cost to that agency. The agreement, including amendments, under which a transfer is made shall specify—

(1) The purposes for which the land may be used consistent with the authorization under which the land was acquired; and

(2) That the administrative responsibility for the land will revert to the State or Indian tribe which acquired the land if, at any time in the future, the land is not used for the purposes specified.

(d) A State or Indian tribe may, with approval by the Regional Director, transfer title to abandoned and unreclaimed land to the United States to be reclaimed and administered by the Office. The State or Indian tribe which transfers land to the Office under this paragraph shall have a preference right to purchase such land from the Office after reclamation is completed. The price to be paid by the State or Indian tribe shall be the fair market value of the land in its reclaimed condition less any portion of the land acquisition price paid by the State or Indian tribe.

(e) The Director may sell any land acquired and reclaimed under this Part except that acquired under § 879.11(c) to the State or local government within whose borders the land is located or to an Indian tribe if the land is within the exterior boundaries of an Indian reservation.

(1) Before reclaimed land is sold to a State, local government, or Indian tribe, the purchaser shall state in writing the public purposes for which the land is to be used. The public purpose shall be considered valid if it is authorized as a public function by appropriate State law or Indian tribal ordinance and is consistent with the conditions under which the land was acquired.

(2) The price to be paid by the State, local government, or Indian tribe shall be the fair market value of the land in its reclaimed condition. The land may be sold at a lower price negotiated by the Director, but the price shall not be less than the cost to the United States for acquiring and reclaiming the land.

(3) The sales agreement for land sold under this paragraph shall state valid public purposes for which the land may be used. If, at any time in the future, the land is not used for the purposes stated, all right and title to or interest in such land shall revert to the United States.

(f) The Director may transfer or sell land acquired under § 879.11(c), with or without monetary consideration, to any State or political subdivision of a State, to any Indian tribe, or to any person, firm, association or corporation.

(1) The transfer or sale shall not be made unless the Director finds in writing that the transfer or sale is an integral and necessary element of an economically feasible plan for the project for which the land was acquired.

(2) The price at which land is sold under paragraph (f) of this section shall be negotiated between the Director and the purchaser. The price maybe below the fair market value if economically necessary for the success of the project.

(3) If the price at which the land is sold is below the fair market value of the land, or if the land is transferred at no cost to the recipient, the recipient shall agree in advance that no portion of the difference between the amount paid and the fair market value will accrue as a profit, or as an offset to other business losses, to any private person, firm, association or corporation.

(4) The transfer or sales agreement for land disposed of under paragraph (f) of this section shall state the purposes for which the land was acquired and will be used. If, at any time in the future the land is not used for the purposes stated, all right, title and interest in such land shall revert to the United States.

(g) The Director, a State, or Indian tribe with the approval of the Regional Director may sell land acquired under this part by public sale if such land is suitable for industrial, commercial, residential, or recreational development and if such development is consistent with local, State, or Federal land use plans for the area in which the land is located.

(1) Land shall be sold by public sale only if it is found that retention by the Office, State, or Indian tribe, or disposal under other paragraphs of this section, is not in the public interest.

(2) Land shall be sold for not less than fair market value under a system of competitive bidding which includes at a minimum—

(i) Publication of a notice once a week for 4 weeks in a newspaper of general circulation in the locality in which the land is located. The notice shall describe the land to be sold, state the appraised value, state any restrictive covenants which will be a condition of the sale, and state the time and place of the sale.

(ii) Provisions for sealed bids to be submitted prior to the sale date followd by an oral auction open to the public.

(h) All moneys received from disposal of land under this Part shall be deposited in the appropriate Abandoned Mine Reclamation Fund in accordance with 30 CFR Part 872.

PART 882—RECLAMATION ON PRIVATE LAND

Sec.
882.1 Scope.
882.11 Operations on private land.
882.12 Appraisals.
882.13 Liens.
882.14 Satisfaction of liens.

AUTHORITY: Sec. 201(c), 407 (a) and (b), 408, 410 and 412(a), Pub. L. 95-87, 91 Stat. 449, 462, 463, 465, and 466 (U.S.C. 1211, 1237, 1238, 1240, and 1242).

§ 882.1 Scope.

This Part authorizes reclamation on private land and establishes procedures for recovery of the cost of reclamation activities conducted on privately owned land by the Office, State, or Indian tribe.

§ 882.11 Operations on private land.

Reclamation activities may be carried out on private land if a consent to enter is obtained under § 877.11, or if entry is required and made under §§ 877.13 or 877.14.

§ 882.12 Appraisals.

(a) A notarized appraisal of the fair market value of private land to be reclaimed shall be obtained by the Office, State, or Indian tribe from an independent professional appraiser. Such appraisal shall meet the quality of appraisal practices found in the handbook on "Uniform Appraisal Standards for Federal Land Acquisitions" (Interagency Land Acquisition Conference 1973). The appraisal shall be obtained before any reclamation activities are started, unless the work must start without delay to abate an emergency. If work must start because of an emergency, the appraisal shall be completed at the earliest practical time and before related nonemergency work is commenced. The appraisal shall state the fair market value of the land as adversely affected by past mining.

(b) An appraisal of the fair market value of all land reclaimed shall be obtained after all reclamation activities have been completed. The appraisal shall be obtained in accordance with paragraph (a) of this section and shall state the market value of the land as reclaimed.

(c) The landowner is to be provided with a statement of the increase in market value, an itemized statement of reclamation expenses and notice that a lien will or will not be filed in accordance with § 882.13.

(d) Appraisals for privately owned land which fall under § 882.13(a) (1), (2), and (3) may be obtained from either an independent or staff professional appraiser.

§ 882.13 Liens.

(a) The Regional Director, State, or Indian tribe which performs the reclamation work shall place a lien against land reclaimed if the reclamation results in an increase in the fair market value based on the appraisals obtained under § 882.12.

(1) A lien shall not be placed against the property of a surface owner who acquired title prior to May 2, 1977, and who did not consent to, participate in, or exercise control over the mining operation which necessitated the reclamation work.

(2) The Regional Director, State, or Indian tribe may waive the lien if the cost of filing it, including indirect costs to the Office, State, or Indian tribe, exceeds the increase in fair market value as a result of reclamation activities.

(3) The lien may be waived by the Regional Director, State or Indian tribe if the reclamation work performed on private land primarily benefits health, safety or environmental values of the greater community or area in which the land is located, or if reclamation is necessitated by an unforeseen occurrence and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the occurrence.

(b) If a lien is to be filed, the Office, State, or Indian tribe shall, within 6 months after completion of the reclamation work, file a statement in the office having responsibility under applicable law for recording judgments against land and for the lands to be liened. Such statement shall consist of an account of moneys expended for the reclamation work, together with notarized copies of the appraisals obtained under § 882.12. The amount reported to be the increase in value of the property shall constitute the amount of the lien recorded and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

(c) Within 60 days after the lien is filed the landowner may petition under local law to determine the increase in market value of the land as a result of reclamation work. Any aggrieved party may appeal in the manner provided by local law.

§ 882.14 Satisfaction of liens.

(a) A lien placed on private property shall be satisfied, to the extent of the value of the consideration received, at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property and shall be satisfied in accordance with this paragraph.

(b) The Office, State, or Indian tribe which files a lien on private property shall maintain or renew it from time to time as may be required under State or local law.

(c) Moneys derived from the satisfaction of liens established under this part shall be deposited in the appropriate Abandoned Mine Reclamation Fund.

PART 884—STATE RECLAMATION PLANS

Sec.
884.1 Scope.
884.2 Objectives.
884.11 State eligibility.
884.12 Activities eligible for inclusion in State Reclamation Plan.
884.13 Content of proposed State Reclamation Plan.
884.14 State Reclamation Plan approval.
884.15 State Reclamation Plan amendment.
884.16 Withdrawal of Plan approval.

AUTHORITY: Secs. 201(c), 402(g)(2), 403, 404, 405, 407, 409 and 412(a), Pub. L. 95-87, 91 Stat. 449, 458, 459, 462, 465, and 466 (30 U.S.C. 1211, 1232, 1233, 1234, 1235, 1237, 1239 and 1242).

§ 884.1 Scope.

This Part establishes the procedures and requirements for the preparation, submission and approval of State Reclamation Plans. A State must have an approved State Reclamation Plan to be eligible to administer a State Abandoned Mine Land Reclamation Program under this subchapter and to receive grants for abandoned mine land reclamation projects under 30 CFR Part 886.

§ 884.2 Objectives.

The objectives of this Part are to encourage maximum participation by the States in the reclamation of eligible land and water through effective use of moneys in the Abandoned Mine Reclamation Fund and to—

(a) Establish uniform guidelines and procedures for preparation and submission of proposed State Reclamation Plans; and

(b) Insure that State Reclamation Plans meet the requirements of Title IV of the Act.

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§ 884.11 State eligibility.

A State is eligible to submit a State Reclamation Plan if it has eligible land and water as defined in § 874.12 within its boundaries. A State is eligible for a State Reclamation Plan to be approved by the Director if it has an approved State regulatory program under section 503 of the Act and meets the other requirements of this Chapter and the Act.

§ 811.12 Activities eligible for inclusion in State reclamation plan.

The State Reclamation Plan may provide for any or all of the following activities—

(a) Acquisition and reclamation and restoration of land and water resources adversely affected by past coal mining practices in accordance with the reclamation objectives stated in § 874.13.

(b) Acquisition and filling of voids and sealing tunnels, shafts and entryways and the reclamation of the adverse surface impacts of underground or surface mining for minerals and materials other than coal. The plan shall not, however, provide for reclamation of such land with moneys from the State Fund until all reclamation with respect to coal mining has been accomplished or the Governor of the State has requested and the Director has determined that reclamation is necessary for the protection of the public health and safety under § 874.12(b).

(c) Acquisition of land which is an integral and necessary part of an economically feasible plan to construct or rehabilitate housing under § 879.11(c).

(d) Construction of specific public facilities in communities impacted by coal development. The plan shall not, however, provide for construction of such facilities with moneys from the State Fund until the Governor of the State has certified, and the Director has concurred, that—

(1) All reclamation with respect to past coal mining and with respect to the mining of other minerals and materials has been accomplished;

(2) The specific public facilities are required as a result of coal development; and

(3) Impact funds which may be available under the Federal Mineral Leasing Act of 1920, as amended, or the act of October 20, 1976, Pub. L. 94-565 (90 Stat. 2662) are inadequate for such construction.

§ 881.13 Content of proposed State reclamation plan.

Each proposed State Reclamation Plan shall be submitted to the Director in writing and shall include as a minimum the following information:

(a) A designation by the Governor of the State of the agency authorized to administer the State Reclamation Program and to receive and administer grants under 30 CFR Part 886.

(b) An opinion of the State's chief legal officer that the designated agency has the authority under State law to conduct the program in accordance with the requirements of Title IV of the act, the regulations of this subchapter and the State Reclamation Plan.

(c) A detailed description of the policies and procedures to be followed by the designated agency in conducting the reclamation program including, but not limited to—

(1) The goals and objectives of the State Reclamation Program;

(2) Reclamation project ranking and selection procedures;

(3) Policies regarding the coordination of reclamation work among the State Reclamation Program, the Rural Lands Reclamation Program administered by the Soil Conservation Service and the reclamation programs of any Indian tribes located within the State;

(4) Policies and procedures regarding land acquisition, management and disposal under 30 CFR Part 879.

(5) Policies and procedures regarding reclamation on private land under 30 CFR Part 882;

(6) Policies and procedures regarding rights of entry under 30 CFR Part 877; and

(7) Policies regarding public participation and involvement in the State Reclamation Program.

(d) A detailed description of the administrative and management structure to be used in conducting the reclamation program including, but not limited to—

(1) A description of the organization of the designated agency and of its relationship to other State organizations or officials which will participate in conducting or managing the State Reclamation Program.

(2) A description of personnel staffing policies which will govern the assignment of personnel to the State Reclamation Program.

(3) A description of the purchasing and procurement systems to be used by the agency. Such systems shall meet the requirements of Office of Management and Budget Circular No. A-102, Attachment O.

(4) A description of the accounting system to be used by the agency, including specific procedures for the operation of the State Fund required by § 872.12

(e) A detailed description of the extent of public involvement in the preparation of the proposed State Reclamation Plan. At a minimum, the public shall be given an opportunity to inspect and comment on the proposed plan in the counties having eligible land and water within their boundaries before it is submitted for approval. The comments shall be recorded and considered.

(f) A general description of the reclamation activities to be conducted under the State Reclamation Plan, including as a minimum—

(1) A general description of the known or suspected eligible land and water within the State which require reclamation, including a map showing their general location at a scale of 1:250,000 or larger;

(2) A general description of the problems occurring on the eligible land and water identified on the map and how the plan proposes to deal with each;

(3) A general description of how the land to be reclaimed and the proposed reclamation relates to the existing and planned uses of lands in surrounding areas;

(4) A table summarizing the quantities (e.g. acres, miles) of land and water affected by the problems identified under paragraph (f)(2) of this section and an estimate of the quantities proposed for reclamation during each year covered by the plan;

(5) A general narrative description of the social, economic and environmental conditions prevailing in the different geographic areas of the State where reclamation is planned including, but not limited to—

(i) The economic base;

(ii) The primary sociologic and demographic characteristics;

(iii) Significant esthetic, historic or cultural, and recreational values;

(iv) Hydrology, including any surface or underground water quality or quantity problems associated with past mining;

(v) Flora and fauna, including endangered or threatened plants, fish or wildlife and their habitats;

(vi) Underlying or adjacent beds of commercially mineable coal and other minerals and materials and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

§ 884.14 State reclamation plan approval.

(a) The Director shall approve, disapprove or otherwise act upon a State Reclamation Plan within 60 days after it is submitted or after a State Regulatory Program is approved, whichever is later. The Director shall not approve a State Reclamation Plan until he has—

(1) Held a public hearing on the plan within the State which submitted it. The Director may waive the public hearing if he finds that the State has given the public adequate notice and opportunity to comment in public hearings and that the record of such hearings does not reflect major unresolved controversies.

(2) Solicited and considered the views of other Federal agencies having an interest in the plan.

(3) Determined that the State has the legal authority, policies, and administrative structure necessary to carry out the proposed plan.

(4) Determined that the proposed plan meets all the requirements of this subchapter.

(5) Determined that the State has an approved State regulatory program.

(6) Determined that the proposed plan is in compliance with all applicable State and Federal laws and regulations.

(b) If the Director disapproves a proposed State reclamation plan, he shall advise the State in writing of the reasons for disapproval. The State may submit a revised proposed State Reclamation plan at any time under the procedures of this section.

§ 884.15 State Reclamation Plan amendment.

A State may, at any time, submit to the Director a proposed amendment or revision to its approved Plan. If the amendment or revision changes the objectives, scope or major policies followed by the State in the conduct of its reclamation program, the State shall include a description of the extent of public involvement in the preparation of the amendment or revision. The Director shall follow the procedures set out in § 884.14 in approving or disapproving an amendment or revision of a State Reclamation Plan.

§ 884.16 Withdrawal of plan approval.

(a) The Director shall withdraw approval of a State Reclamation Plan, in whole or in part, if he determines that—

(1) Approval of the State regulatory program has been withdrawn in whole or in part; or

(2) The State is not conducting the State reclamation program in accordance with the Plan or a Reclamation Program Grant Agreement.

(b) If the Director determines that plan approval should be withdrawn, he shall notify the State by mail, return receipt requested, of his proposed action. The notice shall state the reasons for the proposed action. Within 30 days the State must show cause why such action should not be taken. The Director shall afford the State an opportunity for consultation, including a hearing if requested by the State, and performance of remedial action prior to the notice of withdrawal of Reclamation Plan approval.

(c) The Director shall notify the State of his decision in writing. The decision of the Director shall be final.

PART 886—STATE RECLAMATION GRANTS

Sec.
886.1 Scope.
886.2 Objectives.
886.3 Authority.
886.4 [Reserved].
886.5 Definitions.
886.11 Eligibility for grants.
886.12 Coverage and amount of grants.
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886.21 Allowable costs.
886.22 Financial management.
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886.24 Records.
886.25 Disclosure of information.

AUTHORITY: SEC. 201(c), 401 (a) and (c), 402(g), and 412(a), Pub. L. 95-87, 91 Stat. 449, 456, 458, and 466 (30 U.S.C. 1211, 1231, 1232, and 1242).

§ 886.1 Scope.

This part set forth procedures for grants to States having an approved State Reclamation Plan for the reclamation of eligible land and water and for other activities necessary to carry out the plan as approved.

§ 886.2 Objectives.

The objectives of this part are to assure that adequate information is provided by the State to support its application for a grant and that funds granted to the State are handled in accordance with applicable Federal laws and regulations.

§ 886.3 Authority.

(a) The Regional Director is authorized to approve or disapprove applications for grants under this part if the totla amount of the grants does not exceed the moneys appropriated by the Congress and specifically allocated to the State under § 872.11(b)(2). The Regional Director is responsible for assuring that any required approvals by the Director are obtained before the grant is made.

(b) The Director is authorized to approve, or to authorize the Regional Director to approve, additional grants to a State from the moneys available to the Director under § 872.11(b)(5).

§ 886.5 Definitions.

Agency means the State agency designated by the Governor to administer the State reclamation program and to receive and administer grants under this part.

§ 886.11 Eligibility for grants.

A State is eligible for grants under this part if it has a State Reclamation Plan approved under 30 CFR 884.

§ 886.12 Coverage and amount of grant.

(a) An agency may use moneys granted under this part to administer the approved State reclamation program and to carry out the specific reclamation activities included in the plan and described in the annual grant agreement. The moneys may be used to cover direct costs to the agency for services and materials obtained from other State agencies or local governments if approved by the Regional Director.

(b) Grants shall be approved for 100 percent of the total agreed upon costs for reclamation of eligible land and water, construction of public facilities, program administration as specified in § 886.21 and the incremental cost of filling voids and sealing tunnels with waste from mine waste piles reworked for conservation purposes.

(c) Grants shall be approved for up to 90 percent of the total agreed upon costs for acquisition of land or interests in land and any mineral or water rights associated with the land. Grants for proposed reclamation projects on these lands shall be approved in accordance with § 886.12(b).

§ 886.13 Grant period.

The grant funding period shall not exceed 3 years. However, the grant period for administrative costs of the authorized agency shall be for 1 year.

§ 886.14 Submission of estimated annual budgets.

The agency shall cooperate with the Regional Director in the development of advance budget estimates for use by the Director in the preparation of his requests for appropriation of moneys from the Fund. The schedule for such estimates shall be determined by the Director on an annual basis.

§ 886.15 Grant application procedures.

(a) The agency shall submit its grant application to the Regional Director no later than July 1 for funding during the fiscal year commencing October 1. An application for funding during the fiscal year in which a State Reclamation Plan is approved may be submitted with the proposed Plan for approval when the Plan is approved. Office of Management and Budget Circular No. A-95 notification and review requirements shall be fulfilled for each project included in the grant application.

(b) The agency shall use the application format for Federal Assistance Application for Construction Programs and other procedures specified in Office of Management and Budget

Circular No. A-102, Attachment M. A preapplication is not required if the total of the grant requested is within the amounts allocated to the State

for overall administration of the grant, including use of funds and reporting.

(c) The Regional Director shall

tor may reduce, suspend, or terminate the grant.

(2) If an agency fails to expend moneys allocated and granted within 3

suspension, or reduction of the grant in writing by mail, return receipt requested.

(4) Upon termination, the agency

bursed according to Federal Management Circular 74-4.

(c) Costs must be in conformity with any limitations, conditions, or exclu-

size in acres, and any revenues derived from use of the land.

(4) For any permanent facilities acquired or constructed but not disposed

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Circular No. A-102, Attachment M. A preapplication is not required if the total of the grant requested is within the amounts allocated to the State under § 872.11(b)(2).

(1) Part I of the application shall be a single Standard Form 424 covering all administrative costs and projects included in the grant application. Section IV of the form shall include a listing of the individual projects to be funded. Those individual projects that are part of a multiphased project should include information relative to the scope, magnitude and total costs of the entire project proposed for funding. Program administration cost as specified in § 886.12(a) may be considered as a single project and identified as Program Administration Costs.

(2) Parts II, III, and IV of the application shall be completed for each individual project in accordance with Office of Management and Budget Circular No. A-102.

(i) Complete copies of plans and specifications for projects shall not be required before the grant is approved. The Regional Director may review such plans and specifications in the agency office or on the project site.

(ii) A description of the actual or planned public involvement in the decision to undertake the work, in the planning of the reclamation activities, and in the decision on how the land will be used after reclamation shall be included in part IV of the application.

(c) The Regional Director shall notify the agency of the status of the application within 30 days after receipt of a complete application. If the application is not approved, the Regional Director shall set forth in writing the reasons for disapproval and may propose modifications if appropriate. The agency may resubmit the application or appropriate revised portions of the application.

§ 886.16 Grant agreement.

(a) If the Regional Director approves an agency's grant application, the Regional Director shall prepare a grant agreement which includes—

(1) A statement of the work to be covered by the grant;

(2) A statement of the approvals of specific actions as required under this subchapter or of the conditions to be met before such approvals can be given if moneys are included in the grant for such actions;

(3) The amounts approved for each individual project included in the grant application; and

(4) Allowable transfers of funds to other State agencies.

(b) The Regional Director may allow an agency to assign functions and funds to other State agencies. The Regional Director shall require the grantee agency to retain responsibility for overall administration of the grant, including use of funds and reporting.

(c) The Regional Director shall transmit four copies of the grant agreement by mail, return receipt requested, or by hand to the agency for signature. The agency shall execute the grant agreement and return all copies within 3 weeks after receipt, or within an extension of time granted by the Regional Director.

(d) The Regional Director shall sign the agreement upon its return from the agency or when funds are available for the grants, whichever is later, and return one copy to the agency. The grant is effective and constitutes an obligation of Federal funds at the time the Regional Director signs the agreement.

(e) Neither the approval of the grant application nor the award of any grant shall commit or obligate the United States to award any continuation grant or to enter into any grant amendment, including grant increases to cover cost overruns.

§ 886.17 Grant amendments.

(a) A grant amendment is a written alteration of the amount, terms, conditions, budget, time, administrative, technical, financial or other provisions of the grant agreement, whether accomplished on the initiative of the agency or the Regional Director.

(b) The agency shall promptly notify the Regional Director in writing of events or proposed changes which may require a grant amendment. At a minimum, the agency shall notify the Regional Director in advance of—

(1) Planned changes in the scope or objective of any individual project, whether or not the change will result in a change in the total cost for the project.

(2) Changes will result in an increase or decrease in the total cost of any individual project of more than $5,000 or 5 percent of the budgeted amount, whichever is greater. Changes of lesser amounts may be made by the agency without advance notification or approval if the change can be made within the total grant to the agency and does not involve a change in the scope or objective of the projects involved.

(c) The Regional Director shall notify the agency of the status of each proposed amendment within 30 days of receipt thereof. The procedures of § 886.16 shall be followed.

§ 886.18 Grant reduction, suspension, and termination.

(a) Conditions for reduction, suspension, or termination.

(1) If an agency violates the terms of a grant agreement or an approved Reclamation Plan, the Regional Director may reduce, suspend, or terminate the grant.

(2) If an agency fails to expend moneys allocated and granted within 3 years from the date of allocations, the director may reduce the grant in accordance with § 872.11(b)(2) of this subchapter.

(3) If an agency fails to implement, enforce, or maintain an approved State regulatory program or any part thereof and, as a result, the administration and enforcement grant provided under Part 735 of this Chapter is terminated, the Regional Director shall terminate the grant awarded under this Part.

(4) If an agency is not in compliance with the following nondiscrimination provisions, the Regional Director shall terminate the grant—

(i) Title VI of the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 252 (42 U.S.C. 2000d-1). Nondiscrimination in federally assisted programs, which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations in 43 CFR Part 17.

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations in 41 CFR Part 60.

(iii) Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 355 (29 U.S.C. 794), as amended by Executive Order 11914, Nondiscrimination With Respect to the Handicapped in federally assisted programs.

(5) If an agency fails to enforce the financial interest provisions of Part 705 of this Chapter, the Regional Director shall terminate the grant.

(6) If an agency fails to submit reports required by this subchapter or Part 705 of this Chapter, the Regional Director shall terminate the grant.

(b) Grant reduction, suspension, and termination procedures.

(1) The Regional Director shall give at least 10 days written notice to the agency by mail, return receipt requested, of intent to reduce, suspend or terminate a grant. The Regional Director shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Regional Director shall afford the agency opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The Regional Director shall notify the agency of the termination, suspension, or reduction of the grant in writing by mail, return receipt requested.

(4) Upon termination, the agency shall refund or credit to the Fund that portion of the grant money paid or owed to the agency and allocated to the terminated portion of the grant. However, any portion of the grant that is required to meet contractual commitments made prior to the effective date of termination shall be retained by the agency.

(5) Upon notification of intent to terminate the grant the agency shall not make any new commitments without the approval of the Regional Director.

(6) The Regional Director may allow termination costs as determined by applicable Federal cost principles listed in Federal Management Circular 74-4.

(c) *Appeals.* (1) Within 30 days of the Regional Director's decision to reduce or terminate a grant, the agency may appeal the decision to the Director.

(2) The agency shall include in the appeal—

(i) A statement of the decision being appealed; and

(ii) The facts which the agency believes justify a reversal or modification of the decision.

(2) The Director shall act upon appeals within 30 days of their receipt. The decision of the Director shall be a final decision by the Department of the Interior.

§ 886.19 Audit.

The agency shall arrange for independent audit at least once every 2 years, pursuant to the requirements of Office of Management and Budget Circular No. A-102. The audit will be performed in accordance with the *Standards for Audit of Governmental Organizations, Programs, Activities, Functions* published by the Comptoller General of the United States and audit guides provided by the Department of the Interior.

§ 886.20 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property and related requirements contained in Office of Management and Budget Circular No. A-102.

§ 886.21 Allowable costs.

(a) Reclamation project costs which shall be allowed include actual costs of construction, operation and maintenance, planning and engineering, construction inspection, other necessary administrative costs and up to 90 percent of the costs of the acquisition of land.

(b) The Regional Director shall determine costs which may be reimbursed according to Federal Management Circular 74-4.

(c) Costs must be in conformity with any limitations, conditions, or exclusions set forth in the grant agreement.

(d) Costs must be allocated to the grant to the extent of benefit properly attributable to the period covered by the grant.

(e) Costs must not be allocated or included as a cost of any other federally assisted program.

§ 886.22 Financial management.

(a) The agency shall account for grant funds in accordance with requirements of Office of Management and Budget Circular No. A-102. Agencies shall use generally accepted accounting principles and practices, consistently applied. Accounting for grant funds must be accurate and current.

(b) The agency shall adequately safeguard all funds, property, and other assets and shall assure that they are used solely for authorized purposes.

(c) The agency shall provide a comparison of actual amounts spent with budgeted amounts for each grant.

(d) When advances are made by a letter-of-credit method, the agency shall make drawdowns from the U.S. Treasury through its commercial bank as closely as possible to the time of making the disbursements.

(e) The agency shall design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 886.23 Reports.

(a) The agency shall, for each grant made under this Part, submit annually to the Regional Director a Financial Status Report in accordance with Office of Management and Budget Circular No. A-102, Attachment H.

(b) The agency shall, in each year after the first grant, submit to the Regional Director, no later than September 1, a performance report prepared according to Office of Management and Budget Circular No. A-102, Attachment H. The report shall include—

(1) For each project previously funded and completed during the year, a brief description of the project and the type of reclamation performed, the project location, the landowner's name, the amounts of land or water reclaimed, and a summary of achieved benefits.

(2) For each project previously funded but not yet completed, a brief description of the project and the status of reclamation work, the project location, landowner's name, and a summary of expected benefits.

(3) For any land previously acquired but not disposed of, a statement of current or planned uses, location and size in acres, and any revenues derived from use of the land.

(4) For any permanent facilities acquired or constructed but not disposed of, a description of the facility and a statement of current or planned uses, location, and any revenues derived from the use of the facility.

(c) The reports required under this section shall reflect revenue deposited in the State Abandoned Mine Reclamation Fund under § 872.12.

§ 886.24 Records.

(a) The agency shall maintain complete records in accordance with Office of Management and Budget Circular No. A-102, Attachment C. This includes, but is not limited to, books, documents, maps, and other evidence and accounting procedures and practices, sufficient to reflect properly—

(1) The amount and disposition by the agency of all assistance received for the program.

(2) The total direct and indirect costs of the program for which the grant was awarded.

(b) Subgrantees and contractors, including contractors for professional services, shall maintain books, documents, papers, maps, and records which are pertinent to a specific grant award.

PART 888—INDIAN RECLAMATION PROGRAM

Sec.
888.1 Scope.
888.2 Objectives.
888.11 Interim procedures.

AUTHORITY: Secs. 201(c), 405(k), 412(a), and 710, Pub. L. 95-87, 91 Stat. 449, 460, 466, and 523 (30 U.S.C. 1211, 1235, 1242, and 1300).

§ 888.1 Scope.

This part is reserved for any additional or unique regulations that may be required as a result of the special study report submitted pursuant to section 710 of the Act and to achieve the purpose of the Act on Indian lands. Because of the special jurisdictional status of Indian lands, general responsibilities for administration of Indian Reclamation Programs are set forth on an interim basis.

§ 888.2 Objectives.

(a) The objectives of this part are to provide a temporary vehicle for mitigation of emergency situations or extreme danger situations arising from past mining practices and to begin reclamation of other areas determined to have high priority on Indian lands.

(b) Upon completion of the special study report and enactment of any required legislation, this Part will be either deleted and supplemented by the other Parts of this chapter dealing with State and Indian Abandoned Reclamation Programs or expanded as re-

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quired to achieve the purposes of the Act.

§ 888.11 Interim procedures.

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quired to achieve the purposes of the Act.

§ 888.11 Interim procedures.

(a) The Regional Director is authorized to receive proposals from Indian tribes for projects which should be carried out on Indian land and to carry out such projects pursuant to 30 CFR Parts 872 through 882.

(b) The Regional Director shall consult with the Indian tribe and the Bureau of Indian Affairs office having jurisdiction over the Indian land on all reclamation activities carried out on Indian land under this subchapter.

(c) If a proposal is made by an Indian tribe and approved by the Regional Director, the tribal governing body shall approve the project plans. The costs of the project may be charged against the money allocated to the Indian tribe under § 872.11(c)(3).

(d) Approved projects may be carried out directly by the Regional Director or through such arrangements as the Regional Director may make with the Bureau of Indian Affairs or other agencies.

[FR Doc. 78-30002 Filed 10-24-78; 8:45 am]

federal register

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PART III

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

REQUIREMENTS FOR PROVISIONS OF SERVICES TO PERSONS UNABLE TO PAY AND COMMUNITY SERVICES BY ASSISTED HEALTH CARE FACILITIES

Proposed Rulemaking; Public Hearing

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[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

[42 CFR Part 124]

REQUIREMENTS FOR PROVISION OF SERVICES TO PERSONS UNABLE TO PAY THEREFOR AND COMMUNITY SERVICE BY ASSISTED HEALTH CARE FACILITIES

Proposed Rulemaking

AGENCY: Public Health Service, HEW.

ACTION: Proposed rules and notice of public hearing.

SUMMARY: This notice proposes rules establishing requirements for health care facilities assisted by the Department of Health, Education, and Welfare under titles VI and XVI of the Public Health Service Act to fulfill assurances, given in their applications for assistance, that they will provide a community health service and a reasonable volume of services to persons unable to pay. The Department has become increasingly concerned that the regulations as currently in effect do not adequately assure compliance with the law. Conflicting concerns have been expressed by health care facilities and consumer advocacy groups, and those concerns have, in a number of cases, become the subject of litigation.

DATES: Comments must be received on or before December 26, 1978. A public hearing will be held on the proposed rules on December 5 and 6, 1978.

ADDRESSES: Wirtten comments and requests to testify at the public hearing should be sent to William T. Berry, Acting Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Room 6-50, Center Building No. 1, 3700 East-West Highway, Hyattsville, Md., 20782. Attention: Albert T. Billingslea. The public hearing will be held at the Department Auditorium, HEW North Building, 330 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William T. Berry, Acting Director, Division of Facilities Compliance, Bureau of Health Facilities Financing, Compliance, and Conversion, Room 6-50, Center Building No. 1, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-6893.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue regulations to implement the requirements of section 1602(6) of the Public Health Service Act (42 U.S.C. 300o—1(6)). That section requires the Secretary to prescribe:

> the general manner in which each entity which receives financial assistance under this title or has received financial assistance under this title or title VI shall be required to comply with the assurances required to be made at the time such assistance was received and the means by which such entity shall be required to demonstrate compliance with such assurances.

Subpart F below proposes requirements concerning the assurance that an assisted facility will provide a reasonable volume of services to persons unable to pay while subpart G proposes requirements concerning the assurance that an assisted facility will provide a community service.

The "uncompensated services" and "community service" requirements which currently apply to title VI-assisted facilities are set out at 42 CFR 53.111 and 53.113, respectively. The only regulations which have been issued to date relating to title XVI-assisted facilities (42 CFR part 124, subpart B) incorporate §§ 53.111 and 53.113 by reference.

BACKGROUND AND SUMMARY OF CURRENT RULES

Section 605(b)(3) of the act provides that as a condition of obtaining assistance under title VI, an applicant must give assurance that—

> "(1) The facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint." Section 603(e), PHS Act.

These provisions, known as the "community service" and "uncompensated services" assurances, respectively, have been part of title VI in substantially this form since it was enacted in 1946.

A UNCOMPENSATED SERVICES REGULATIONS

Before 1972, the regulatory standard of compliance with the statutory requirement for a reasonable volume of services to persons unable to pay was extremely general. In 1972, the Department undertook to define more specific compliance standards for the uncompensated services assurance. The regulations codified at 42 CFR 53.111 were accordingly issued in substantially their present form. 37 FR 14721 (July 22, 1972). Principally, the regulations provided for the following: Administration of assurance compliance by the title VI State agency, which was to set eligibility criteria for persons unable to pay and conduct a monitoring and enforcement program; definition of the volume of uncompensated services provided by a facility to persons unable to pay as the difference between the total amount charged such persons and the reasonable cost (as determined by the application of medicare cost principles) of the services provided to them; the period of compliance limited to 20 years for grants, and to the time the loan remains unpaid for loans and loan guarantees; two annual presumptive compliance options (the lesser of 3 percent of operating costs or 10 percent of title VI assistance and the "open door" option); exclusion from computation of uncompensated services those services for which a collection action (other than the rendition of bills) had been initiated against the patient; and exclusion from computation of uncompensated services those services for which payment was or could be obtained from a third party payor.

Following their issuance, several provisions of the uncompensated services regulations were challenged in court. The validity of the 20-year limitation and the 3 percent to 10 percent presumptive compliance option was repeatedly upheld. *Cook* v. *Ochsner Foundation Hospital*, 559 F. 2d 968 (5 Cir. 1977); *Lugo* v. *Simon*, 426 F. Supp. 28 (N.D. Ohio 1976); *Corum* v. *Beth Israel Medical Foundation*, 373 F. Supp. 550 (S.D.N.Y. 1974). The only major change to the 1972 uncompensated service regulations was made in 1975, as a result of the decision in *Corum* v. *Beth Israel Medical Center*, *supra*. That decision invalidated the billing provision of the regulation. The court stated that persons unable to pay should not have to incur liabilities for services in the hope of qualifying for free or below cost services, nor should facilities be able to meet their uncompensated services obligation simply by charging off bad debts against the obligation. Rather, a determination of inability to pay prior to provision of services was required if the services were to be counted toward fulfillment of the uncompensated services obligation. The regulations were accordingly amended on October 6, 1975 (40 FR 46203), to require determinations prior to service except in certain circumstances (emergencies, change in circumstances, false or erroneous information given by the patient). At the same time, a requirement that facilities post notice of their uncompensated services obligations was also added to the regulations. See §§ 53.111(f) (1) and (i).

Title VI has not been funded since fiscal year 1974. Instead, in January 1975, Congress enacted title XVI to replace the program of assistance under

title VI. Pub. L. 93-641, sec. 4. Like title VI-assisted applicants, title XVI-assisted applicants are required to give a uncompensated services assurance. The title XVI assurance requirement, however, reads as follows:

> "• • • [A]t all times after (the) application is approved • • • (ii) there will be made available in the facility or portion thereof to be constructed, modernized, or converted a reasonable volume of services to persons unable to pay therefor and the Secretary, in determining the reasonableness of the volume of services provided, shall take into consideration the extent to which compliance is feasible from a financial viewpoint." Section 1604(b)(1)(J), PHS Act.

There provisions of title XVI impact directly on facilities assisted under title VI: (1) Section 1602(6), set out above, which requires the Secretary to prescribe the general manner in which facilities aided under title VI shall be required to comply with the assurances, and the means by which compliance shall be demonstrated; (2) the next-to-last sentence of section 1602, which provides for periodic reporting on compliance by title VI and XVI-assisted facilities; and (3) section 1612(c), which provides that the Secretary shall periodically investigate and ascertain the compliance of title VI and XVI-assisted facilities with their assurances and take appropriate action to effect such compliance, including requesting the Attorney General to bring an action against the facility for specific performance of its assurance. Section 1612(c) also provides that any person may file a complaint with the Secretary charging noncompliance by a facility and, if the Secretary dismisses the complaint or the Attorney General has not brought an action against the facility within 6 months of when the complaint was filed, that person may bring an action against the facility to effect compliance.

As a result of the enactment of title XVI, there has been an increasingly heavy volume of administrative complaints filed under section 1612(c). Numerous investigations of facilities and decisions have been made by the Department. The revised regulations proposed by the Department in part reflect the knowledge acquired about the operation of the present assurances requirements as a result of those investigations.

B. COMMUNITY SERVICE REGULATIONS

As enacted in 1946, the title VI community service assurance provision read as follows:

> "the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant, without discrimination on account of race, creed or color, but an exception shall be made in cases where separate hospital facilities are provided for separate population groups if the [State] plan makes equitable provision on the basis of need for facilities and services of like quality for each group." Section 622(f)(1); Pub. L. 79-725 (1946).

In 1963, the "separate but equal" portion of the statute was declared unconstitutional, *Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F. 2d 959 (4 Cir. 1963), cert. den. 376 U.S. 938 (1964). Subsequently, and after enactment of title VI of the Civil Rights Act, Congress amended the community service language in 1964 by deleting both the "separate but equal" and the nondiscrimination provisions, resulting in the present language of the assurance. Pub. L. 88-443.

Like the original uncompensated services regulations, the community service regulations adopted subsequent to the 1964 amendment were extremely general. However, in 1974 the Secretary issued the more specific compliance standards presently codified in § 53.113 in response to the order in *Cook* v. *Ochsner Foundation Hospital*, 61 F.R.D. 354 (E.D. La. 1972). 39 FR 31766 (Aug. 30, 1974). That order directed the Secretary to require title VI-assisted facilities to participate in the medicaid program and refrain from excluding persons because they are medicaid recipients. Consistent with the *Cook* holding, the regulations were revised to require assisted facilities to participate in medicare and most other third party payment programs in addition to medicaid. The regulations also provided for the following: Administration of assurance compliance by the title VI State agency, which was to conduct a monitoring and enforcement program; a requirement that services be made available to all persons residing in the facility's territorial area, except that availability could be limited on the basis of age, medical indigency, or type or kind of medical or mental disability; and limitation of the community service obligation to 20 years for grants and the time the loan remained unpaid for loans and loan guarantees.

The validity of the 20-year limitation on the community service assurances was successfully challenged in two suits. *Cook* v. *Ochsner Foundation Hospital*, Civil No. 70-1969 (E.D. La. 1975), and *Lugo* v. *Simon*, *supra*. Both courts found no statutory basis for a durational limitation of the assurance. Consequently, the regulation was amended to delete the durational limitation. 42 FR 16780 (Mar. 30, 1977).

It should be noted that the provisions of title XVI described above which apply to title VI-assisted facilities (i.e., the requirement to issue regulations, the reporting requirement, the requirement for periodic investigation and the provision for administrative complaints and a private right of action) cover the community service assurance as well as the reasonable volume assurance.

The community service assurance provision which applies to title XVI-assisted facilities reads as follows:

> "• • • [A]t all times after (the title XVI) application is approved (i) the facility or portion thereof to be constructed, modernized, or converted will be made available to all persons residing or employed in the area served by the facility • • •" Section 1604(b)(1)(J), PHS Act.

II. SUMMARY OF PROPOSED RULES AND MAJOR ISSUES

While the regulations set forth below continue many policies of the present rules, they propose a number of policy changes which in the Department's judgment will improve the effectiveness of the assurance program. The most significant policy changes are summarized below, along with an explanation of the major implications of those changes for beneficiaries of the assurances and the assisted facilities. Public comment on the probable impact of these regulations, as well as suggestions for alternative policies, are solicited and welcomed. Public comment on the administration of the current regulations and any problems requiring the Department's attention will also be helpful. Any empirical data or personal experiences or observations that can be cited in support of positions taken in the public comments would be particularly useful, as would discussions of particular problems that specific provisions of the proposed rules may raise for facilities under State or local law.

A. UNCOMPENSATED SERVICES REGULATIONS—PROPOSED SUBPART F

Subpart F proposes requirements for how facilities assisted under titles VI and XVI of the Public Health Service Act are to comply with the assurance, given as a condition of assistance under those titles, that they would provide a reasonable volume of services to persons unable to pay. The proposed regulations would replace 42 CFR 53.111 and, while they are similar in some respects to § 53.111, they also differ in many respects. Like § 53.111, the proposed rules attempt to accomplish several related purposes. They seek to assure that: (1) Facilities provide the required amount of uncompensated services, (2) those services are provided to the persons who should get them, and (3) those services are distributed in a fair manner. The proposed rules establish those requirements which the Secretary believes are necessary to effect these general purposes. The most significant aspects of the proposed regulations are discussed below.

1. *Duration of obligation.* The proposed regulations establish require-

ments for facilities assisted under title VI of the Act and for facilities assisted under title XVI of the Act. The requirements applicable to the two types of facilities are, in general, the same for this purpose is proposed. See proposed § 124.512.

This centralization of administration of the assurances compliance program explains certain changes in the pro-

While this approach may result in some inequities, it is felt that inclusion of resources in the consideration of eligibility would be both extremely diffi-

need in areas where there have been sudden or severe changes in the local employment situation or other substantial economic problems. Facilities

approach has been repeatedly upheld by the courts as a reasonable interpretation of the statutory language. However, § 124.503 proposes several signifi-

Another option would be to estimate the total operating costs for the preceding year by assuming that the costs for the final two months after publica-

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ments for facilities assisted under title VI of the Act and for facilities assisted under title XVI of the Act. The requirements applicable to the two types of facilities are in general the same. However, it should be noted that the length of time the obligation under the assurance applies to a facility (see proposed § 124.501(b)) is different under the two programs. The durational limitation (20 years for grants, the time during which the loan remains unpaid for loans and loan guarantees) has been retained for title VI-assisted facilities. As noted above, this durational limitation has been repeatedly upheld by the courts and Congress did not amend it in enacting title XVI. There is no similar limitation for title XVI-assisted facilities, however, reflecting the requirement in section 1604(b)(1)(J) of the Act that both assurances must apply to those facilities "at all times after [the] application is approved."

2. *Federal administration.* Under 42 CFR 53.111, the uncompensated services assurance compliance program has been administered primarily by the State agencies designated under section 604(a) of the Act, with the Secretary's role in the process being relatively minor. Any State wishing to maintain a monitoring function consistent with nationally set standards established by the Secretary will be given the opportunity to do so, but the proposed regulations otherwise eliminate the role of the State agencies for both title VI and title XVI facilities, and place responsibility for administering the entire assurance compliance program squarely with the Secretary. This change reflects in part the congressional concern with the unevenness of enforcement of the assurance by the various State agencies (see S. Rep. No. 93-1285 at 61). In addition, the Secretary has concluded that direct administration of the entire assurances compliance program would generally promote the more efficient discharge of his new enforcement responsibilities under section 1612(c) of the Act. Moreover, since no funds are available under the statute for the administration of the assurances compliance program by the State agencies other than the funds available for all other administrative functions under titles XV (health planning) and XVI of the Act, the Secretary believes that not all States would devote sufficient resources to administering an assurance compliance program to insure adequate administration. This consideration likewise dictates Federal administration of the program. However, recognizing that some States may wish and be able to continue to assist the Secretary in administering the program, provision for an agreement between the Secretary and such States for this purpose is proposed. See proposed § 124.512.

This centralization of administration of the assurances compliance program explains certain changes in the program. The need to use the limited Federal resources most effectively and to assure consistent administration throughout the Department's 10 regions favors the choice of policy alternatives which minimize exceptions and the need for complex and individualized judgments and which simplify the processing of required information. This consideration thus in part explains the establishment of National, rather than State, standards of eligibility for uncompensated services (see proposed § 124.506), and the simplified procedure for setting a lower level of compliance (compare § 53.111(h) with proposed § 124.504).

3. *Eligibility criteria.* A major change in the assurances compliance program is the proposed adoption of Federal, rather than State, eligibility criteria. See proposed § 124.506(a). Under the current regulations, the States are required to set criteria in accordance with very general Federal guidelines. As a result, the actual eligibility criteria vary widely from State to State and may consider resources or high expenses in addition to gross income. The proposed criteria, by contrast, are uniform, and are based on the index used in numerous Department programs, the poverty income guidelines of the Community Services Administration.[1] Persons unable to pay are divided into two categories—those with incomes at or below the poverty income guidelines (category A) and those with incomes above the guidelines up to twice the guideline (category B). This two-tiered approach is consistent with the eligibility criteria in use in major health services programs of the Public Health Service. The criteria consider income only and do not consider resources.

[1]The current CSA poverty income levels are as follows:

COMMUNITY SERVICES ADMINISTRATION

POVERTY INCOME GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

	Nonfarm family	Farm family
Size of family unit:		
1	$3,140	$2,690
2	4,163	3,550
3	5,180	4,410
4	6,200	5,270
5	7,220	6,130
6	8,240	6,990

For family units with more than 6 members add $1,020 for each additional member in a nonfarm family and $860 for each additional member in a farm family.

While this approach may result in some inequities, it is felt that inclusion of resources in the consideration of eligibility would be both extremely difficult and expensive for facilities to administer and infeasible for the Secretary to monitor.

Proposed § 124.506(a) adds a new requirement related to the new eligibility criteria. Facilities are required to provide uncompensated services to category A persons without charge; uncompensated services to category B persons must be provided either without charge or in accordance with a schedule of charges reduced proportionally to income, at the option of the facility. This general approach is likewise consistent with the charging policies currently applicable in the health services programs referred to above.

Proposed § 124.506(b) sets forth two alternative methods for determining whether persons fall within category A or B. The facility must calculate annual income either by: (1) Multiplying the person's income for the previous three months by four, or (2) using the actual income for the preceding 12 months. The former method is proposed in order to allow facilities the option of providing uncompensated services to persons who have sustained severe but recent financial reverses, such as the recently unemployed. This option is proposed to help enable facilities to take account of community

POVERTY GUIDELINES FOR ALASKA

	Nonfarm family	Farm family
Size of family unit:		
1	$3,940	$3,380
2	5,210	4,450
3	6,480	5,520
4	7,750	6,590
5	8,020	7,860
6	10,290	8,730

For family units with more than 6 members add $1,270 for each additional member in a nonfarm family and $1,070 for each additional member in a farm family.

POVERTY GUIDELINES FOR HAWAII

	Nonfarm family	Farm family
Size of family unit:		
1	$3,620	$3,130
2	4,790	4,110
3	5,960	5,090
4	7,130	6,070
5	8,300	7,050
6	9,470	8,030

For family units with more than 6 members add $1,170 for each additional member in a nonfarm family and $980 for each additional member in a farm family.

SOURCE: 43 FR 14316 (Apr. 5, 1978). It should be noted that the CSA Poverty Income Guidelines are periodically revised. Under these regulations such revisions would automatically be incorporated into the eligibility criteria.

need in areas where there have been sudden or severe changes in the local employment situation or other substantial economic problems. Facilities are encouraged to take community preferences into consideration in determining which method of calculation of income they will use. While the choice of method is left up to the facility, once made, it must be used for the entire fiscal year for all persons requesting uncompensated services during the year. This latter requirement is proposed to ensure that the eligibility criteria are applied in an equitable manner by the facility.

The Secretary solicits comments on the ramifications of the above policies. He is particularly interested in information concerning the impact of the proposed income standards from region to region of the country (i.e., if they will be very restrictive in some areas and very inclusive in others because of relative income levels). He welcomes suggestions for alternative criteria, and particularly explanations of why those alternatives are superior. If there will be difficulty in applying the income criteria or using the required methods of calculating income, he would appreciate specific examples of such problems along with suggestions for improvement. If the requirement for providing services to category A persons without charge and to category B persons without or at a reduced charge will create problems under State or local law, citation to and explanation of such laws would be extremely helpful. Comments are also solicited on the option provided to applicants to provide free, rather than reduced cost, services to individuals in category B. Should the Secretary require that category B patients be charged so that more care is available for persons who are needier? In any case, should the Secretary prescribe the schedule of charges required to be used for Category B patients when charges will be made, or should he continue to leave the establishment of the schedule to the facilities?

4. *Compliance level.* Under the present regulations, facilities are in presumptive compliance with their reasonable volume obligation if they: (1) Provide a dollar level of uncompensated services at least equal to the lesser of 3 percent of their operating costs or 10 percent of the title VI assistance received, or (2) certify that they will not deny admission to persons on the basis of inability to pay and provide uncompensated services to all persons admitted who meet the State criteria for "persons unable to pay". Section 53.111(d). The latter option is known as the "open door option."

Proposed § 124.503 retains the concept of percentage compliance options of the present regulations, since this approach has been repeatedly upheld by the courts as a reasonable interpretation of the statutory language. However, § 124.503 proposes several significant policy changes. First, the "open door option" is eliminated. Experience with the present regulations has shown that its requirements are ill-understood by facilities and that this lack of understanding has resulted in denial of uncompensated services to persons who should have received them. Moreover, determining compliance with the option is extremely difficult. However, provision has been made to accommodate the needs of those facilities for whom the "open door option" was principally designed, i.e., facilities which—because of the socio-economic characteristics of their service areas—do not have a demand for uncompensated services sufficient to enable them to meet the 3 percent—10 percent compliance levels. See proposed § 124.504, which sets out the method by which facilities can obtain a reduction of the required level of compliance in cases of insufficient demand for uncompensated services.

Second, the definition of "operating costs," the base on which the 3 percent option is calculated, has been clarified. The term "operating costs" now refers to the total operating expenses reported on the audited annual financial statement required under § 124.510. Thus, the base on which the "3 percent" option is calculated is a clearly identifiable sum certain, which will enable all parties concerned—the Secretary, facilities and beneficiaries—to know readily what the required dollar volume to be met is for a given fiscal year. It is the Secretary's understanding that this change in definition in fact accords with how the same term in the present regulations has generally been interpreted. For this reason, it should not require a significant change in practice by facilities.

However, comments would be helpful with respect to one problem which arises under the 3 percent option because of the requirement that the level of uncompensated services to be provided must be published 60 days prior to the close of the fiscal year. See § 124.505(a)(1). Thus, the 3 percent option for any fiscal year is required to be based on operating costs "for the preceding fiscal year," yet that preceding year will not have ended by the date on which the compliance level must be published. One solution would be to base the calculation of operating costs on the most recent year for which a financial statement is available. This would mean, however that the uncompensated services obligation would be based on costs which are as much as 2 years behind the provision of the services.

Another option would be to estimate the total operating costs for the preceding year by assuming that the costs for the final two months after publication of the required notice will be proportionate to the costs in the first ten months (or equal to one-fifth of those costs).

Third, the base on which the 10 percent option is calculated has been changed in two ways. The first change is the inclusion in the base of so-called "supplemental" Federal assistance received in connection with the assisted project. The rationale for this change is that since the assurance was given with respect to the project as a whole (of which Title VI funded part and assistance under the supplementary programs funded part), the "Federal assistance" base should be expanded to reflect that fact. The second change is a provision for adjusting the base on which the 10 percent option is calculated to take account of inflation. Under the current version of the 10 percent option, while the dollar amount of uncompensated services to be provided remains the same each year, the actual volume of those services declines with inflation in the cost of health care. This change remedies that inequity. The national Consumer Price Index (CPI) figure for medical care is proposed as the inflation factor to be applied. The national, rather than local, figure is proposed to facilitate administration, since the CPI is computed only for a limited number of geographic areas. The medical care component of the CPI is proposed as the one most reasonably reflective of changes in the cost of medical facility care. The inflation factor will be used to calculate the scope of the uncompensated services obligation under the 10 percent option only in fiscal years following the effective date of the revised regulations, and will not be applied retrospectively to take into account inflation which occurred in years prior to 1979.

Finally, the proposed regulation provides that any amount by which a facility fails to meet the required annual level of compliance will be added to the subsequent fiscal year's compliance level, subject to the procedures for obtaining lower compliance levels and extensions of the time in which to make up the deficit. This requirement would apply to fiscal years subsequent to the effective date of these regulations, and is included to make sure that facilities provide the services which they assured would be provided.

While doing so is not required under proposed § 124.503, the Secretary urges facilities which have met their quotas to refer persons unable to pay to other facilities which have not met their quotas.

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There are several aspects of these proposed changes in policy on which the Secretary would particularly welcome comment. First, if there are valid reasons for retention of the open door option, what are they? Second, are there problems associated with including supplemental assistance in the base for calculation of the 10 percent option? Third, is the proposed method for adjusting the amount of Federal assistance to account for inflation equitable and workable? If alternatives are suggested, the Secretary would appreciate an explanation of how they would work in various areas of the country.

5. *Amounts to be credited.* The present regulations permit a facility to credit against its uncompensated services obligation no more than the amount by which the "reasonable cost" of services provided to a specific patient exceeds the amount actually charged the patient. "Reasonable cost" is to be determined under Medicare cost principles. Under Medicare cost principles, however, "reasonable cost" is not susceptible to computation on a current basis for specific patients. As a result, many facilities have simply aggregated their usual charges for services provided to beneficiaries of uncompensated services, and applied to that total the proportion of costs reimbursable under Medicare as a method of determining the total allowable uncompensated services provided. The Secretary believes that approach is generally satisfactory and wishes to avoid imposing unnecessary accounting burdens on facilities in order to determine compliance with their uncompensated services assurance. However, since there is a need to determine the amount to be credited against the quota for services to individual patients, the proposed regulations set forth a similar methodology for making that determination. See the definition of "allowable credit" in § 124.502.

It should be noted that, consistent with current regulations, the proposed regulations provide that the only amount which may be credited against the uncompensated services obligation is the allowable credit minus the amount actually charged the patient. Any amounts billed according to the schedule of charges established for Category B patients, to a patient determined to be eligible for reduced charge services which are not paid, may not be counted as uncompensated services. These amounts are bad debts and not uncompensated services.

6. *Lower level of compliance.* Proposed § 124.504 sets out a method for establishing a lower compliance level for facilities who request it. The basis for such a request may be that either (1) there is insufficient need in the facility's service area to permit it to meet the applicable compliance level under proposed § 124.503, or (2) the facility cannot afford to meet the applicable compliance level.

The proposed regulation provides that decisions on applications for lower compliance levels will be made by the Administrator of the Health Resources Administration and will not be further delegated by him without the Secretary's approval. The Secretary wishes to assure to the extent possible the uniform application of this exception to the compliance level, and therefore he intends to review the matter carefully before any further delegation will be authorized. Comments on the soundness of this administrative decision are requested.

Comments are also sought on whether the proposed criteria for granting a lower level should be made more specific. For example, should the requirement that a facility be unable to afford provision of uncompensated services at the required compliance level be defined as the likelihood of bankruptcy within some specific period (e.g., 2 years) if the level were met? Should factors for determining need in the facility's service area be spelled out, such as general income levels, medicaid or public assistance eligibility rates, or the availability of public or charity hospitals in the area? If more specific and additional criteria are suggested, a statement of why those criteria would be more appropriate than the ones proposed would be appreciated.

Comments are also sought on the proposed time frame and other requirements of the proposed procedure for obtaining a lower compliance level. Under the proposal, facilities must request a lower level of compliance for a year not less than 60 days before the close of the preceding fiscal year, and publish a notice of that request and notify the HSA. This period is intended to give the Secretary sufficient time to do a preliminary review of the request, and the public and the HSA sufficient time to begin preparation of any comments. An audited financial statement is required within 60 days of the close of the fiscal year. This period should give the facility enough time to obtain the audit while not unduly delaying a final determination. Public comments must be submitted within 150 days of the publication of the notice that a lower level is requested, which gives the public at least 30 days to review the audited financial statement. The Secretary's decision will be made no later than 60 days following receipt of the audited financial statement. This period of time is intended to assure a relatively prompt decision, while affording the public an adequate opportunity to comment. It should be noted that during the period in which a request for a lower level of compliance is pending, the applicant will be required to provide uncompensated services at the annual compliance level, not at the lower level requested. The applicant may then adjust the amount of uncompensated services to be provided throughout the remainder of the year if, following the Secretary's decision, the applicant is permitted to meet a level of compliance lower than the annual compliance level.

7. *Allocation of uncompensated services.* Proposed § 124.507 would require facilities to allocate their uncompensated services among persons unable to pay either on a first-come, first-served basis until the quota for the quarter is exhausted or in accordance with another plan of its own choosing. The option to use its own plan is available only if the facility publishes the plan, notifies and provides opportunity to comment to the local health systems agency, and if the plan itself provides for (1) some distribution of uncompensated services throughout the year, (2) some services to category A persons, and (3) provision of uncompensated services to any person who falls within the plan who requests them.

The present regulations contain no such requirement, and this laissez-faire approach has resulted in allegations of discrimination. Further, various groups have suggested that the Secretary require very specific types of allocation, such as requiring a facility to provide its uncompensated services equally among outpatient, inpatient and emergency services; to provide a specific dollar volume of inpatient services; to limit the services provided to those for which total cost is below a fixed dollar amount, such as $3,000; or to limit services to those involving catastrophic loss. Some of these suggestions have been based on the practice of some facilities of providing most or all of their free care on an outpatient or emergency basis, thus depriving financially eligible individuals of the opportunity to receive quality inpatient care. Others are based on a desire to have the limited amount of uncompensated services distributed to those most in need, or to as many persons as possible.

The Secretary has decided not to propose an inflexible allocation requirement, however, because any one allocation scheme may not be the most appropriate for all facilities and communities and administering compliance with it would be infeasible. However, the Secretary has concluded that requiring some method of allocation is necessary to prevent arbitrariness or discrimination in the distribution of uncompensated services, and to promote (but not require) planning for

community health needs. Thus, the alternatives proposed satisfy the need to assure some objective method of allocation, while giving facilities sufficient flexibility to take account of local and their own institutional needs.

It should be emphasized that the Secretary is *not* dictating how facilities allocate their uncompensated services. Rather, facilities are free, under § 124.507, to adopt their own plans as long as they meet the procedural and minimal substantive requirements of that section. All he is doing is requiring that they adopt a plan (which many facilities undoubtedly already do) or use the first-come, first-served alternative of § 124.507(b). Facilities which adopt their own plans are encouraged to cooperate with other facilities in their service area in devising their allocation plans, in order to best meet community needs. The local HSA can be helpful to the applicant in identifying community needs, and therefore the Secretary proposes to require facilities which adopt their own plans to give the HSA a chance to comment on the proposed allocation scheme. However, under either alternative, if a facility improperly denies a person uncompensated services who would have come within the allocation scheme, the facility must provide that person uncompensated services in order to be in compliance with its assurance, regardless of whether it has met its quota in the interim.

If these requirements will raise particular practical problems or problems under State or local law for facilities, the Secretary is interested in being so informed. Suggestions as to alternative approaches that might be workable or improvements of the above are also solicited.

8. *Notice requirements.* The proposed rules carry forward the existing notice requirements of the present regulations without substantial change. Compare §§ 53.111(h)(4) and (i) with proposed §§ 124.505(a) and (b), respectively. However, the standards for compliance with the posted notice provision have been clarified in these regulations by three additions. First, the proposed rules would require that the heading of the posted notice be legible to a person of normal vision from a distance of 15 feet. The present regulations contain no such explicit requirement, and site investigations have turned up cases where the notice is posted so as to be virtually unnoticeable (e.g., behind a door, on a 3"x5" card in small type). The proposed rule thus seeks to prevent such practices. Second, the term "multilingual" as applied to the community served by a facility has been defined, using the definition presently being applied in the Department's health planning programs. Third, if a facility has met is quota for the applicable time period, it would be required to post a notice to that effect; under the present regulations, such notice is optional.

One major change has been made in the overall structure of the notice requirements. Proposed § 124.505(c) requires facilities to give individual written notice of the availability of uncompensated services to each person seeking services. The notice must, among other things, state the eligibility and allocation criteria being applied and state that determination of whether the person will receive uncompensated services will be made promptly on request. This notice must be provided before service except in emergency cases. The new notice requirement is proposed as part of the general change in approach ot the prior determination requirement, summarized in the next section, and because experience has shown that posted notice alone is inadequate as the main vehicle for informing persons under stress, as those seeking medical care usually are. This requirement is also consistent with the recent decision in *Newsom v. Professional Adjustment Services*, 453 F. Supp. 401 (M.D. Tenn. 1978). Whether or not individual written notice must be required as suggested by the *Newsom* court, the Secretary believes that such a requirement will promote the proper administration of the statute.

The Secretary solicits suggestions for improving the proposed requirements. Specifically, is there other information which the individual written notice should contain? Should additional requirements be imposed for conveying the content of the individual written notice to persons who are illiterate or are no such additional requirements necessary? Is the definition of "multilingual" feasible to administer or are improvements needed? Although the Secretary believes that the requirement of providing individual written notice can readily be accommodated within the present admissions process of most facilities, he solicits comment on this question. Comments on the need for requiring posted notice of the availability of uncompensated services if individual notice is required are also solicited.

9. *Eligibility determination requirement.* Among the most significant changes proposed are the policies set forth in proposed § 124.508. That section is designed to replace the requirements presently set out at § 53.111(f)(1). The prior determination requirements of that section have been changed substantially, as discussed below.

As noted in section IA above, § 53.111(f)(1) was adopted to comply with the decision in *Corum v. Beth Israel Medical Center, supra.* Consistent with the *Corum* decision, that section requires facilities to make a determination of eligibility for uncompensated services prior to the provision of service unless one of the exceptions (emergency, change of circumstances, erroneous or incomplete information provided by the patient) applies. Site investigations over the past year suggest that this provision is not well understood by facilities. Monitoring compliance with it has also proved to be extremely difficult, since it is often hard to tell whether individual cases fall within the general rule or one of the exceptions, and documentation of the determinations made is frequently incomplete.

Thus, the Secretary has chosen another approach to satisfy the principles enunciated in *Corum.* Under the proposed rule, the determination of eligibility must be made promptly on request. See proposed § 124.508(a)(2). Since persons seeking services will be given individual notice as soon as they seek those services that uncompensated services are available and that they can get a prompt determination of their eligibility for uncompensated services (proposed § 124.506(c)), these provisions together will assure that anyone who intends to rely on the eligibility determination in incurring medical expenses will be able to get it before he or she incurs those expenses. Hence, the requirement is consistent with *Corum* while at the same time avoiding one of the more mechanistic results of the present requirement. Under the present regulations facilities which begin to provide services while processing paperwork for the determination are penalized even when a determination prior to service has not been requested, and perhaps is not even desired by the patient. In such a case, under the proposed rules, the determination must be made promptly, but not necessarily prior to service.

The elimination of the strict requirement of the current regulation that determinations of eligibility must be made prior to the provision of services does not authorize facilities to satisfy their uncompensated services obligation simply by charging off bad debts against it. Credit against the obligation is available only if the services are provided to persons who qualify under the eligibility criteria and allocation plan and if all other requirements of the subpart are met. Thus bad debts of persons who do not qualify under the eligibility criteria and allocation plan cannot be used to satisfy the obligation. The provision recognizes, however, that persons who do qualify for uncompensated services may not apply for them before services are provided. It thus gives the facilities sufficient flexibility to take this into account

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and gives those persons the chance to get a determination whenever they decide to apply. It should be stressed, though, that the determination must be made promptly whenever it is requested.

The rules also propose documentation requirements for the first time, to remedy the monitoring problems experienced under the present regulations. See proposed § 124.508(a)(1) (i) and (ii). In addition, they require that persons who request and are denied uncompensated services be given a written statement of why those services were denied. See proposed § 124.508(b). This latter requirement will, among other things, help assure that the eligibility and allocation criteria are being properly applied, since persons will have those criteria available to compare with the reasons for denial (see proposed § 124.505(c)(1)(ii)).

Proposed § 124.508(c) makes explicit what is implicit in § 53.111(f)(1), that facilities may verify eligibility information provided by the person seeking services. While facilities may choose to accept the information provided by the patient at face value, they are not required to do so. Requiring such verification is not proposed because the cost and difficulty involved may be unduly burdensome for some facilities (e.g., public health centers). However, the Secretary believes that it is completely consistent with the purpose of these regulations for facilities to seek to verify such information, so that the uncompensated services go only to those who are in fact eligible for them. However, it should be noted that facilities cannot use verification as a means of avoiding the "prompt determination" requirements of § 124.508(a)(2). Thus, these provisions together may mean that facilities will have to make prompt determinations which are conditioned on later verification. Under such an arrangement, where the determination was made that a person would get uncompensated services, that determination would remain unchanged, if the person provided accurate information. If he did not provide accurate information, the determination could be reversed.

The Secretary particularly solicits comment on the practical ramifications of the above proposals. The Secretary's objective is to assure that persons eligible for free care know that such care is available and obtain a timely determination of their eligibility by the facility. However, the Secretary wishes to accomplish this objective in the least burdensome manner for facilities. If the individual notice/determination requirements will on balance be more burdensome than the present posted notice/prior determination requirements, he would like such information. If improvements can be made to the process, particularly if there are better and less burdensome ways of assuring individual notice, they should be suggested. Estimates of the cost of the proposed system relative to the present system are also solicited. If verification procedures are likely to create problems for beneficiaries, he would appreciate being so advised.

10. *Reporting requirements.* The reporting requirements which apply to assisted facilities are set out at proposed § 124.510. The Secretary intends to minimize the paperwork burden on facilities by developing an assurance reporting form which would include the information need to review performance, rather than requiring facility's to submit financial statements and other data to the Secretary on a routine basis.[2] However, the underlizing statements and other data documents must be returned by the facility for 5 years to permit an investigation if analysis of the reporting forms, or complaints, suggests the needed for further review.

Proposed § 124.510(a)(2) also gives the Secretary general authority to request additional information relating to compliance. The section is purposely left general so as to enable the Secretary to request additional information from facilities where there appear to be significant compliance problems, while not requiring him to burden those facilities which do not appear to have significant compliance problems with such additional reporting.

II. *Investigations.* Proposed § 124.511(a)(1)(i) sets out a general provision for investigation, implementing the Secretary's new statutory authority under section 1612(c) of the Act (discussed in section IA above) periodically to investigate the compliance of assisted facilities. At present, the Secretary hopes to be able to implement this general authority by reviewing each year the annual submission of the facilities, discussed in the preceding paragraph, to ascertain compliance. Based on these reviews, complaints filed, and other information called to the Secretary's attention, it is the Secretary's intention to conduct in-depth investigations of those facilities which appear most likely to be out of compliance.

Proposed § 124.509(a)(1)(ii) spells out certain requirements for filing complaints of noncompliance with the Secretary under section 1612(c) of the Act. The purpose of the new requirements is to assure that the information necessary to investigate complaints is provided to the Secretary, in view of both the statutory 6-month period during which administrative enforcement takes precedence over private litigation, and the fact that the Department will be handling many complaints presently handled entirely by the State agencies as well as carrying out the periodic investigations described in the preceding paragraph. The Secretary does not intend by these requirements to erect barriers to the making of complaints, and Department officials will do their best to assure that incomplete complaints are completed as expeditiously as possible. The Secretary solicits comment on whether the proposed requirements will unduly burden beneficiaries and what, if any, improvements could be made.

One possible approach to resolving allegations of non-compliance with the uncompensated services or community service assurances would be to establish a procedure for third party mediation of disputes and fact-finding where mediation fails. A mediation/fact-finding process might facilitate a prompt resolution of complaints without the need for administrative or judicial adjudication and could free limited Department resources to concentrate on the most severe patterns of non-compliance. The Secretary would like comments on the efficacy of a mediation/fact-finding procedure and suggestions for a frame work for such a procedure. Questions that need to be explored include: should mediation be a voluntary procedure available to individuals denied service or should it be a prerequisite to the filing of a complaint under section 1612(c) of the Act?; should all facilities be required to establish a mediation or similar grievance procedure, or can a method be established to target such a requirement only on those facilities likely to have a substantial number of complaints filed against them?; should the Department establish a core of federally-trained mediators?; what costs may be involved, and to what extent can volunteers or salaried resources be authorized to reduce costs (e.g., community dispute centers, the local Bar Association, the Federal Mediation and Conciliation Service or similar State services might supply trained mediators without cost)?; and would a mediation process speed up resolution of disputes?

Finally, proposed § 124.511(a)(3) draws attention to the statutory provision of a private right of action to obtain compliance for persons who have filed a complaint with the Secretary under section 1612(c) of the Act.

[2] A copy of the most recent draft of a proposed reporting form, which has been widely circulated among the provider and legal services communities, is available from the Acting Director, Division of Facilities Compliance, at the address given above. It should be noted that the most recent draft will, of course, be changed to reflect any changes in policies adopted. Comments on the type of information which should be included on the form would be helpful.

Under this section, private individuals may bring an action to effectuate compliance with the uncompensated services or community service assurances only after the complaint has been dismissed by the Secretary or the Attorney General has not brought an action for compliance within 6 months. It is likely that limited Department resources will mean that many complaints will not be finally resolved within 6 months. Further, even when a departmental recommendation to the Attorney General can be completed in that period of time it will be extremely difficult for the civil action to be commenced in so short a timeframe. Therefore, the Secretary is considering the possibility of establishing a procedure under which complaints would be dismissed on the request of a complainant whenever the Secretary determines that he cannot resolve the complaint within the 6-month period. Once the complaint is dismissed a judicial action would be authorized. This procedure would free complainants to pursue judicial remedies where they believe that delay is causing them harm, while at the same time preserving for the Department the right to make an administrative decision where that is possible within the statutory period. Moreover, this procedure would maintain the right of those complainants who are willing to wait for an administrative decision, or who are unable to retain counsel to bring a court action, to obtain a decision from the Secretary. Comments would be helpful if they were directed to the desirability of such a procedure and to how the procedure might be designed.

12. *Enforcement.* Proposed § 124.511(b)(2) provides a major departure from the present requirements. The present regulations make no provision for application of a sanction by the Secretary against facilities found to be out of compliance, although there is provision for sanctions to be applied by the State agencies. However, this section provides that if the Secretary finds that a facility has not met its uncompensated services obligation for any year he will require it to make up that deficit whether or not the 20-year durational limitation on the uncompensated services obligation for Title VI assisted facilities otherwise would have expired. This remedial action is consistent with the requirement of § 124.503(b) that facilities make up any deficit discovered in their fulfillment of the required annual level of compliance. The provision does not impose any new burden on facilities. Rather, the Secretary is simply insisting that facilities in fact provide the volume of uncompensated services which they assured will be provided.

The Secretary believes that the deficit makeup requirement, which eliminates any advantage to a facility which does not meet its uncompensated services obligation, is a remedy which will be a deterrence to noncompliance. However, there might be other remedies which would be equally or more effective in deterring noncompliance, and he requests suggestions along this line.

The Secretary is concerned, as was the Congress, about allegations of substantial noncompliance with the uncompensated services assurance in past years. He has explored the possibility of including in the regulations a provision for adding to the required compliance level in future years amounts by which facilities have in the past failed to comply with their obligations. Any such deficit makeup requirement would necessarily be limited to fiscal years after 1971 because prior to 1972 no dollar volume requirements existed. See *Newsom, supra.*

The Secretary considered the possibility of applying makeup requirements retrospectively to years after 1971. The problem of establishing a uniform and equitable procedure for enforcing such requirements, however, were found to be severe. The Secretary was unable to design satisfactory resolutions of those problems. First, it appears not to be feasible to apply the requirement to facilities which elected the open door option. Under the open door option, facilities are not required to provide a specific dollar volume of uncompensated services. Hence, by definition, no dollar "deficit" can be calculated. While it could be argued that those facilities should be held to either the "3 percent" or "10 percent" level for those years, this option likewise does not appear viable. It would retroactively impose a requirement that does not presently exist and which some open door facilities could not have met (i.e., where there is not enough need for uncompensated services in the facility's service area to meet either the "3 percent" or "10 percent" level).

Second, the Secretary is concerned that many facilities may not have adequate records which would demonstrate compliance even if, in fact, the facility did comply with its assurance. Moreover, some States failed to develop specific criteria for eligibility for uncompensated services. Thus, even where records were maintained by facilities, there may be no clear test of eligibility against which compliance may be measured.

Third, noncompliance on the part of many facilities may have been the result of procedural violations (e.g., the prior written determination rule) whereas, in fact, the facility may have provided the appropriate dollar volume of uncompensated services to eligible individuals. In such a case, there would be no "deficit" for the facility to make up.

The Secretary, however, will consider proposals which might overcome the problems outlined above. It should be noted, however, that the Secretary feels that departmental resources can be most usefully concentrated on prospective compliance. Diversion of any substantial portion of those resources to deal with problems of past noncompliance which are fraught with legal and administration difficulties would, in the Secretary's view, detract from the main thrust of the enforcement effort and may therefore be counterproductive.

It should be emphasized that the Secretary's decision not to include a deficit makeup requirement for past noncompliance is not intended to compromise the rights of individuals who have been improperly denied uncompensated services. Those persons are, and will continue to be, free to pursue the legal remedies available to them.

13. *Nondiscrimination.* Finally, it should be noted that the nondiscrimination requirements of the community service regulations of course apply to the provision of uncompensated services. The community service requirements are discussed in section B, immediately following. In addition, a denial of uncompensated services on the basis of race, national origin, creed, or other ground unrelated to eligibility for services under the income criteria and allocation plan would violate the requirements pertaining to allocation of services in § 124.507.

B. COMMUNITY SERVICE REGULATIONS—PROPOSED SUBPART G

Subpart G proposes requirements for how facilities assisted under Titles VI and XVI of the Act are to comply with their community service assurances. The proposed regulations would replace 42 CFR 53.113.

The proposed community service regulations—like the proposed uncompensated services regulations discussed above—propose a changeover from State to Federal administration of the assurance program for the reasons discussed in section IIA2 above. The proposed reporting, investigation and enforcement provisions are substantially the same as those in proposed Subpart F. Hence, the considerations discussed in sections IIA10, 11, and 12 above likewise generally apply to proposed §§ 124.604 and 124.605 below.

1. *Duration of Obligation.* Like the present § 53.113(a), these rules make clear that there is no time limit to the community service obligation for either Title VI-assisted facilities or Title XVI-assisted facilities. See pro-

posed § 124.601. For Title VI facilities, this rule is consistent with the way the *Cook* and *Lugo* courts have read the statute. See the discussion at section IB above. For Title XVI facilities, this

of discrimination under Titles VI and XVI which also raise a question of compliance with other acts (such as the Civil Rights Act of 1964) will be in-

for admission. He is thus considering a specific prohibition of preadmission deposits, either under the community service assurance or the uncompensat-

or against any other class of persons for non-medically related reasons. Some types of information which the Secretary is considering collecting in-

through publication of the facility's proposed plan and notification of the

Persons or groups wishing to testify at the public hearing should make such request by writing to:

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posed § 124.601. For Title VI facilities, this rule is consistent with the way the *Cook* and *Lugo* courts have read the statute. See the discussion at section IB above. For Title XVI facilities, this rule is consistent with the "at all times" language of section 1604(b)(1)(J) of the Act.

2. *Nondiscrimination.* The main requirements for compliance with the community service obligation are set out in proposed § 124.603. Proposed § 124.603(b), which sets out the requirement for providing services to beneficiaries of governmental programs, is substantially the same as § 53.113(d)(2). Like the latter section, proposed § 124.603(b) follows the holdings in *Cook* and *Lugo, supra,* that discrimination against such beneficiaries is inherently inconsistent with the community service assurance. See the discussion at section IB above.

The language of proposed § 124.603(a) differs in many respects from the analogous provisions of the present regulations, § 53.113(d)(1). Some of the changes are proposed for purposes of clarity or to make explicit what is implicit in the present regulation. Under the present regulations, a facility can limit the available of its services only by age, medical indigency, or type of medical or mental disability (§ 53.113(d)(1)(ii)). Under the proposed regulations, essentially the same limitations on availability are permissible: Subject to the requirements of Subpart F for the provision of a reasonable volume of services to persons unable to pay for the services, a facility is not otherwise required to provide services to the medically indigent, and it is not required to make available a service not available in the facility. Thus, facilities which serve particular age groups (e.g., children's hospitals, geriatric facilities) or only special types of disabilities (e.g., mental facilities, eye-ear-nose clinics, orthopedic facilities) are not required by these regulations to become full-service hospitals.

Further, § 124.603(a) explicitly states that a facility may not discriminate in the provision of its services on the basis of race, creed, color, or national origin. This requirement was implicit in § 53.113(d)(1). As discussed in section IB above, similar nondiscrimination provisions were part of the statutory community service assurance language as originally enacted and were only removed (apparently as redundant) after the "separate but equal" provisions of the assurance were declared unconstitutional in 1963. The Department has determined that it ought to make explicit what has been implicit in the statute, so that neither facilities nor beneficiaries are unclear as to the scope of the obligation. As indicated in the next section, complaints of discrimination under Titles VI and XVI which also raise a question of compliance with other acts (such as the Civil Rights Act of 1964) will be investigated under those other acts.

Further explanation is needed, however, of the requirement that a facility may not discriminate on "any • • • ground unrelated to an individual's need for the service or the availability of the needed service in the facility". The regulations specifically provide that an applicant will be considered to be out of compliance with this requirement if it adopts an admissions policy which would have the effect of excluding persons on a ground other than need for the service or availability of the service. The Secretary is concerned, as a result of numerous complaints and charges by poor persons and minorities and their representatives, that some medical facility admissions policies (such as pre-admission deposit requirements and admission only through physicians with staff privileges) have served to limit access to those facilities by persons in need of their services and particularly by beneficiaries under governmental programs such as Medicaid. Thus, persons who do not have a family doctor who can arrange for hospital admission may be excluded despite their ability to pay or eligibility for free care. Similarly, a policy of admitting only patients referred by physicians with staff privileges has the effect of excluding Medicaid recipients, despite their source of payment and the facility's status as a Medicaid provider, if none of the physicians with staff privileges will accept Medicaid patients. The Secretary wishes to make clear that any such policy which has the effect of excluding persons from admission to a facility on grounds unrelated to the need for or availability of services will be considered a violation of the facility's community service assurance. The Secretary does not, however, purpose to prescribe specific admissions policies. There are different alternatives available to each facility, and so long as persons in the facility's area who are able to pay or eligible for uncompensated services are not excluded the facility is free to use any policies it finds appropriate. It is emphasized once again, however, that a facility which has met its uncompensated services obligations may deny services to persons who are unable to pay for them.

The Secretary is particularly concerned that the widespread requirement of substantial preadmission deposits may operate to exclude persons who would be able to pay or who would otherwise qualify for uncompensated services, simply because they are not able to come up with the necessary cash at the time of their need for admission. He is thus considering a specific prohibition of preadmission deposits, either under the community service assurance or the uncompensated services assurance, or both. The Secretary solicits comments on the practical ramifications of such a ban and on whether there are other solutions than those proposed to the problems of exclusionary practices outlined above.

The proposed rules do not define the term "area served" or "service area". However, it is recognized that some definition of the term is most likely necessary, since the community service obligation only applies within a facility's service area. The Secretary solicits comments on whether the regulations should define the term and, if so, how they should define it. One approach he is considering is using the facility service areas set out in the Title VI State plan or, after it is approved, the Title XVI State medical facilities plan. He requests suggestions on any problems this approach might have as well as other approaches to defining the term.

3. *Investigations and enforcement.* As noted above, the proposed procedures for investigations and filing of complaints with respect to the community service regulations are substantially similar to those of the proposed reasonable volume regulations. However, it is the Secretary's intention to delegate the job of investigating complaints of discrimination under the community services requirements to the Office for Civil Rights, since the Office has the trained staff experienced in such investigations. Where questions of compliance with Title VI of the Civil Rights Act, the Age Discrimination Act, or section 504 of the Rehabilitation Act of 1973 arise out of those investigations, the enforcement procedures and sanctions of those statutes will be applied. Where those investigaations demonstrate discrimination not covered by the Civil Rights Act, the Age Discrimination Act, or section 504, the Public Health Service will proceed under its authority. The Secretary solicits suggestions of other, more effective sanctions which he might adopt.

4. *Reporting requirements.* Reporting requirements which apply to assisted facilities are set out at proposed § 124.604. The Secretary intends to minimize the paperwork burden on facilities by developing one reporting form through which the Department may monitor compliance with both the community service and uncompensated services assurances. At a minimum, the Secretary will need to collect sufficient information to allow him to determine whether there are patterns or practices of discrimination against public program beneficiaries or against any other class of persons for non-medically related reasons. Some types of information which the Secretary is considering collecting include admissions or discharge data by race, and data indicating source of payment by patients. Suggestions for the least burdensome, most useful information which the Secretary should require to be reported to enable him to monitor compliance with the community service assurance are encouraged.

III. Regulatory Objectives and Strategy

The basic objective of these proposed regulations is to assure that the uncompensated and community services required by law are provided by facilities within the context of sound planning and management for the delivery of health care services. In preparing the proposed regulations, the Department took account of the dissatisfaction expressed by Congress and others with the way the uncompensated services and community service assurances have been implemented and monitored to date. After reviewing the situation carefully, the Secretary has determined that significant changes in administration such as those described above are needed to assure full compliance with the statutory requirements. However, in proposing these changes the Secretary has sought to hold to a minimum the administrative burdens imposed on facilities, in keeping with the President's policy of imposing on recipients of Federal funds only those burdens necessary for proper and efficient program implementation, and with the Secretary's Operation Common Sense Program.

For example, while the Secretary believes that some plan for the allocation of uncompensated services is needed to promote a fair and objective distribution of those services, he wished to provide facilities with maximum flexibility to devise their own plans. For this reason the regulations allow a facility either to adopt a service allocation plan providing all services on a first-come-first-served basis, allocated quarterly, or to adopt any other plan meeting minimal Federal standards which is believed appropriate under the particular local circumstances.

Furthermore, the regulations seek to encourage—but not mandate—the inclusion of uncompensated services as part of a comprehensive and integrated health planning process. For this reason the regulations require that the facility notify the local HSA of its proposed service allocation plan but do not require the HSA to take any specific action with respect to that plan. Local consumer's participation is likewise encouraged—but not mandated—through publication of the facility's proposed plan and notification of the HSA. To the extent that local officials, health care providers and consumers wish to develop a rational program for the distribution of the total amount of uncompensated services available to a community, these regulations seek to be supportive and not restrictive.

These regulations also seek to allow public officials, providers and consumers at the local level maximum flexibility to fashion their own approach which they believe is most appropriate to their needs, resources and circumstances consistent with broad national principles and Congressional mandates.

Finally, the regulations seek to assure compliance with the requirements of the law that the uncompensated and community services actually be delivered. For this reason patients seeking services must be individually notified of the availability of uncompensated services; annual reports of facility performance are required; unused, uncompensated services in 1 year must be carried over to the next year, and compliance investigations and field visits will be conducted by departmental officials.

As an aid to the fair, prompt and efficient settlement of disputes arising under these regulations, the Department is considering a mediation settlement process consistent with the requirements of the law. The disputes settlement process would not supplant the complaint and enforcement procedures but would seek to use the 180-day waiting period to resolve as many complaints as possible, making further adversarial procedures and litigation unnecessary.

Public comments are sought by the Department on the regulatory objectives and procedures as described above. How can the proposed procedures be improved to achieve the twin objectives of compliance and local discretion and flexibility? Would a mediation dispute settlement procedure aid in the achievement of compliance with these regulations?

IV. Procedures for Public Hearing

Because of the importance of the rules proposed below, the Secretary has decided to hold a hearing at which members of the public may testify on them. The hearing will be held on Tuesday, December 5, and Wednesday, December 6, at the Department auditorium, HEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201. The hearing will be held from 9 a.m. to 5 p.m. each day, with a 1-hour break in the middle of each day. Speakers will be allotted a maximum of 10 minutes to testify.

Persons or groups wishing to testify at the public hearing should make such request by writing to:

Mr. William T. Berry, Acting Director, Bureau of Health Facilities Financing, Compliance, and Conversion, Room 6-50 Center Bldg. No. 1, 3700 East-West Highway, Hyattsville, Md. 20782, Attention: Mr. Albert T. Billingslea.

The Department will notify persons and groups seeking to testify of the date and time they have been allotted. If the demand for time to testify exceeds the time available, the Department will make every effort to make a reasonable allocation of time available among the various points of view, and persons who are not allotted time will be so informed. Persons who testify are encouraged to submit written remarks for consideration along with their testimony. If time remains at the end of either scheduled day persons in the audience who have been allotted time will be given an opportunity to testify.

NOTE: The Assistant Secretary for Health has determined that a regulatory analysis as required by Executive Order No. 12044 is not required for these proposed regulations.

In consideration of the above, it is proposed to add new Subparts F and G to 42 CFR Part 124, to read as set forth below.

Dated: October 19, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: October 20, 1978.

HALE CHAMPION,
Acting Secretary.

1. A new Subpart F is added to 42 Code of Federal Regulations, Part 124, to read as follows:

Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable to Pay

Sec.
124.501 Applicability.
124.502 Definitions.
124.503 Compliance level.
124.504 Lower level of compliance.
124.505 Notice of availability of uncompensated services.
124.506 Eligibility criteria for identifying persons unable to pay.
124.507 Allocation of services.
124.508 Determinations of eligibility.
124.509 Exclusions from uncompensated services.
124.510 Reporting requirements.
124.511 Investigation and enforcement.
124.512 Agreements with State Agencies.

AUTHORITY.—Secs. 215, 1525, 1602(6), Public Health Service Act as amended; 58 Stat. 690, 88 Stat. 2249, 88 Stat. 2259; (42 U.S.C. 216, 300m-4, 3000-1(6)).

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Subpart F—Reasonable Volume of Uncompensated Services to Persons Unable to Pay

§ 124.501 Applicability.

(a) The provisions of this subpart apply to every applicant who has given an assurance that it will make available in the facility or portion thereof constructed, modernized or converted with Federal assistance under Title VI of the Public Health Service Act (42 U.S.C. 291 *et seq.*) or Title XVI of the Public Health Service Act (42 U.S.C. 300o *et seq.*) a reasonable volume of services to persons unable to pay therefor.

(b) The provisions of this subpart apply to applicants for the following periods:

(1) *Applicants assisted under Title VI of the Act.* The provisions of this subpart apply to applicants under Title VI of the Act for whichever of the following periods is applicable:

(i) Twenty years after the completion of construction, as determined by the Secretary in the case of a facility for which grant assistance under section 606 of the Act was paid. For purposes of this subsection, "completion of construction" means the date on which the Secretary determines the facility was opened for service, if available; if the opening date is not available, it means the date on which the final part of the applicant's application for assistance under Title VI of the Act was approved, if available; if the date of final approval is not available, it means whatever date the Secretary determines most reasonably approximates the date of final approval.

(ii) The period during which any amount of a direct loan under section 610 or section 623 of the Act or any amount of a loan with respect to which a guarantee and interest subsidy has been provided under section 623 of the Act remains unpaid in the case of a facility for which such a loan was made.

(2) *Applicants assisted under title XVI of the Act.* The provisions of this subpart apply to applicants under title XVI of the Act at all times following the Secretary's approval of the applicant's application for assistance under title XVI, except that if the facility does not at the time of such approval provide health services, the assurance applies at all times following the facility's initial provision of health services to patients, as determined by the Secretary.

§ 124.502 Definitions.

As used in this subpart—

"Act" means the Public Health Service Act, as amended.

"Allowable credit" for services provided to a specific patient means the facility's usual charge for those services, or the usual charge multiplied by the percentage which the total allowable cost determined for the facility's most recent fiscal year under Title XVIII of the Social Security Act (42 U.S.C. 1395) and Subpart D of the regulations thereunder (42 CFR 405.401 *et seq.*) bears to the facility's total patient revenues for the year, which is less.

"Applicant" means an applicant for and recipient of a grant, a direct loan, or a loan guarantee under Title VI or Title XVI of the Act.

"Complaint" means a written statement by or on behalf of a person claiming to be a person unable to pay, submitted to the Secretary in the form and manner and containing the information required under § 124.510 (a)(1)(ii).

"Federal assistance", for purposes of § 124.503, means assistance received by the applicant under Title VI or Title XVI of the Act and any assistance supplementary to that Title VI or Title XVI assistance received by the applicant under any of the following acts: The District of Columbia Medical Facilities Construction Act of 1968, 82 Stat. 631 (Pub. L. 90-457); the Public Works Acceleration Act of 1962 (42 U.S.C. 2641, *et seq.*); the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121, *et seq.*); the Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App.); the Local Public Works Capital Development and Investment Act of 1976 (Pub. L. 94-369). In the case of a loan guarantee with interest subsidy or a direct loan sold and guaranteed by the Secretary with an interest subsidy, the amount of Federal assistance under title VI or Title XVI, as applicable, shall be the total amount of the interest subsidy which the Secretary is, or will be, obligated to pay over the full life of the loan, as well as any other payments which the Secretary makes on behalf of the applicant in connection with the loan guarantee or the direct loan which has been sold.

"Fiscal year" means the applicant's fiscal year.

"Health Systems Agency" or "HSA" means an agency designated by the Secretary under section 1515 of the Act.

"Operating costs" for any fiscal year means the total operating expenses of a facility as set forth in the audited financial statement required by § 124.510(a)(1), minus the amount of reimbursement, if any, received (or if not received, claimed) under Titles XVIII and XIX of the Social Security Act.

"Persons unable to pay" means persons who meet the income criteria set out in § 124.506 of this subpart.

"Secretary" means the Secretary of Health, Education, and Welfare or any officer or employee of the Department of Health, Education, and Welfare to whom the authority concerned has been delegated.

"State agency" means the agency of a State designated by the Secretary as the State health planning and development agency under section 1521 of the Act.

"Uncompensated services" means services which are made available to persons unable to pay for them without charge or at a charge which is less than the allowable credit for such services. The amount of uncompensated services provided in a fiscal year is the total allowable credit for the services less the amount actually charged such persons for the services.

§ 124.503 Compliance level.

(a) *Annual level.* Except as provided in § 124.504 and § 124.511, an applicant assisted under title VI or XVI of the Act is in compliance with its assurance to provide a reasonable volume of services to persons unable to pay therefor for a fiscal year if, for the fiscal year, it provides on request uncompensated services in accordance with the requirements of this subpart at a level not less than the lesser of—

(1) Three percent of its operating costs for the preceding fiscal year, or

(2) Ten percent of all Federal assistance provided to or on behalf of the applicant, adjusted as follows: The amount of Federal assistance provided in any year shall be increased or decreased, as the case may be, by a percentage equal to the percentage change in the national Consumer Price Index for medical care between the year in which the assistance was provided or 1979, whichever is later, and the most recent year for which a published Index is available. For purposes of this paragraph, the total amount of the interest subsidy which the Secretary is obligated to pay over the life of a loan which is guaranteed or made and sold by the Secretary will be deemed to have been provided in the year in which the loan is made.

(b) *Deficit makeup.* If in any fiscal year a facility fails to meet its annual compliance level under paragraph (a) of this section, or under § 124.511, it shall make up that deficit in the following fiscal year unless an extension of time is granted under § 124.511(b)(3).

§ 124.504 Lower level of compliance.

(a) The Secretary may establish a level of compliance with this subpart for a fiscal year lower than the applicable compliance level of § 124.503 if he finds, in accordance with the applicable procedures of this section—

(1) That the applicant cannot reasonably be expected to meet the applicable compliance level because there is

insufficient need for uncompensated services in the area it serves; or

(2) That the applicant is financially unable to provide uncompensated services at the level required under § 124.503.

(b) A level of compliance for a fiscal year lower than that required by § 124.503 will not be established unless the following procedures are followed:

(1) Not later than 60 days before the close of the applicant's fiscal year, except for good cause shown, the applicant must submit to the Secretary a written request that the level of compliance applicable to it for the next fiscal year be lower than the applicable compliance level. The written request shall contain:

(i) A justification, supported by adequate documentation (including the most currently available financial data) of why granting the lower compliance level is warranted; and

(ii) The applicant's proposed budget for the next fiscal year.

(2) The applicant shall, not later than 60 days before the close of its fiscal year, publish in a newspaper of general circulation in the area served by the facility notice that it has applied to the Secretary for a lower level of compliance with the requirements of this subpart. It shall simultaneously provide a copy of such notice to the HSA for the area, which may hold a public hearing, comment to the Secretary on the level proposed, or take any other action it considers appropriate. The notice must contain the following:

(i) The amount of uncompensated services it proposes to provide in the next fiscal year;

(ii) The amount of uncompensated services it will have to provide under this subpart in the next fiscal year if a lower level of compliance is not established for the applicant under this section;

(iii) A statement that it will provide uncompensated services at the level set forth in subparagraph (2)(ii) of this paragraph until the required level of compliance is established by the Secretary under paragraph (b)(3) of this section;

(iv) A statement that any persons wishing to object to the applicant's request for a lower level of compliance may file written objections, along with any supporting materials, with the Secretary within 150 days of the date of publication of notice under this paragraph; and

(v) A statement that it will make available for inspection all materials submitted under subparagraphs (1) and (3) of this paragraph.

(3) Not more than 60 days after the close of the applicant's fiscal year the applicant shall submit to the Secretary in support of its request for a lower level of compliance, and simultaneously provide a copy to the HSA in the area, the audited financial statement which provided the basis for the report submitted under § 124.510(a).

(4) Not more than 120 days after the beginning of the applicant's current fiscal year, the Secretary will—

(i) Establish a level of compliance for the fiscal year which shall be equal to or as close to the level applicable to the applicant under § 124.503 as the Secretary finds is consistent with paragraph (a)(1) or (a)(2) of this section, as applicable; and

(ii) Notify the applicant in writing of the level of uncompensated services which has been established for the applicant for the fiscal year.

(5) Within 7 days of its receipt of notification by the Secretary under paragraph (b)(4)(ii) of this section the applicant shall publish in a newspaper of general circulation in the area it serves a notice of the level established by the Secretary for the facility for the fiscal year, and simultaneously provide a copy of the notice to the HSA for the area.

(6) From the beginning of the fiscal year for which the lower level is requested until the applicant receives notification from the Secretary under paragraph (b)(4)(ii) of this section, the applicant must provide uncompensated services at the compliance level required by § 124.503 or § 124.511.

(c) The authority to make determinations under this section will be delegated to the Administrator of the Health Resources Administration, and will not be further delegated without the approval of the Secretary.

§ 124.505 Notice of availability of uncompensated services.

(a) *Published notice.* (1) An applicant shall, no later than 60 days before the beginning of its fiscal year, publish in a newspaper of general circulation in the area it serves notice of the amount of uncompensated services which it will make available in the fiscal year, and the plan of allocation it proposes to adopt under either § 124.507(b) or § 124.507(c). It shall simultaneously provide a copy of such notice to the HSA for the area, which may hold a public hearing, comment to the applicant on the extent to which the plan will or will not meet community needs, or take any other action it considers appropriate. An applicant may revise the plan published under this paragraph based on comments received from the HSA or the public, and shall publish the plan as adopted, and simultaneously send a copy to the HSA for the area, at the beginning of the fiscal year.

(2) Where an applicant has applied for a level less than the annual compliance level for a fiscal year under § 124.504 it may include the information required by that section in the notice required by this paragraph.

(b) *Posted notice.* (1) The applicant shall post a notice in accordance with the following requirements:

(i) The notice shall be posted in appropriate areas of the facility (e.g., admissions office, business office, emergency department).

(ii) The notice shall be multilingual where the applicant serves a multilingual community. For purposes of this section, a community is multilingual if the "usual language of households" of 5 percent or more of its population, according to the most recent figures published by the Bureau of the Census, is other than English.

(iii) The notice must be printed and posted so that the heading is legible to a person with normal vision from a distance of 15 feet.

(iv) The notice shall contain substantially the following language:

FREE OR BELOW CHARGE CARE AVAILABLE

This (hospital, clinic, etc.) is required by law to give a reasonable amount of care at no charge or at less than full charge, to people who cannot afford to pay. If you feel you are not able to pay for all or part of the care you need, please contact (fill in office or person, and location) and ask for free or below charge care.

If you are not satisfied with the decision that is made in your case, you may complain to (fill in the name, title, and address of the Regional Health Administrator of the Department of Health, Education, and Welfare). If you decide to complain, your complaint must state your name and address (or the name and address of the person for whom you are writing), the name and address of the facility, the date on which the event you are complaining about occurred, and describe as precisely as you can why you think the facility's action or actions violate the law. You may be asked for further information by a representative of the Department of Health, Education, and Welfare. If you do not understand this complaint procedure, you may call the Department on the toll free number 800-638-0742 (Maryland residents: 800-492-0359).

(2) The applicant must, at its option, either—

(i) Add to the notice required by subparagraph (1) of this paragraph language stating that the facility's obligation is limited to a specified dollar volume of uncompensated services and that if the facility has, during a specified period (e.g., year, quarter, month), already provided a volume of uncompensated services sufficient to satisfy its obligation for the period, any person inquiring about such services will be given a written statement to that effect, which shall also state when additional uncompensated services will be available; or

(ii) When appropriate, post an additional notice stating that the facility's obligation has been satisfied for the current period and stating when addi-

tional uncompensated services will be available.

(c) *Individual notice.* (1) The applicant shall, in accordance with subparagraph (2) of this paragraph, provide

(b) In calculating annual income the applicant may use either of the following methods, as long as it uses the same method for all determinations

the date on which the determination was made, the income of the person unable to pay as determined in accordance with § 124.506, and the date on

for good cause shown, an applicant shall submit to the Secretary—

(1) A reporting form, prescribed by the Secretary, which will include the

comply with the requirements of this subpart.[1]

§ 124.511 Investigation and enforcement.

(2) If the Secretary finds, based on his investigation under paragraph (a) of this section, that an applicant did not in any fiscal year after (the effec-

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tional uncompensated services will be available.

(c) *Individual notice.* (1) The applicant shall, in accordance with subparagraph (2) of this paragraph, provide individual written notice of the availability of uncompensated services to each person who seeks services in the facility on behalf of himself or another. The notice must:

(i) Contain the information required by paragraph (b) of this section;

(ii) Set forth the criteria applied by the applicant for determining eligibility for uncompensated services (in accordance with the income criteria of § 124.506) and receipt of such services (in accordance with the allocation plan adopted under § 124.507);

(iii) State that the applicant will make on request a written determination of whether the person will receive uncompensated services and will promptly inform the person of the determination made.

(2) The individual written notice described in subparagraph (1) of this paragraph must be provided prior to the provision of services in all cases except where the emergency nature of the services provided makes such prior notice impracticable. If this exception applies, the written notice must be provided to next of kin or to the patient as soon as practicable, and in no event later than the first rendition of a bill for the services.

§ 124.506 Eligibility criteria for identifying persons unable to pay.

(a) For the purposes of this subpart, a person unable to pay for health services is a person who falls into either of the following categories:

(1) *Category A*—Persons whose individual or family incomes, as applicable, for the 12 months preceding the determination of eligibility are not more than the current poverty income guideline of the Community Services Administration (as set forth in 45 CFR 1060.2-1 et seq.) applicable to such individual or family. The applicant shall provide uncompensated services to those persons without charge.

(2) *Category B*—Persons whose individual or family incomes, as applicable, for the 12 months preceding the determination of eligibility are greater than the current poverty income guideline of the Community Services Administration (as set forth in 45 CFR 1060.2-1 et seq.) applicable to such individual or family but not more than twice such guideline. Services to such persons must be provided, at the option of the applicant, either without charge or in accordance with a schedule of charges for services reduced from the allowable credit for such services in proportion to the relative income of the persons in Category B.

(b) In calculating annual income the applicant may use either of the following methods, as long as it uses the same method for all determinations made throughout the entire fiscal year:

(1) Multiple by four the person's income for the 3 months preceding the determination of eligibility; or

(2) Use the person's actual income for the 12 months preceding the determination of eligibility.

§ 124.50 Allocation of services.

(a) An applicant must provide its uncompensated services in accordance with a plan which sets out a method by which the facility will distribute its uncompensated services amongst persons unable to pay. The plan specified in paragraph (b) of this section must be used, whether or not published as required by § 124.505, unless the applicant adopts a plan under paragraph (c) of this section and publishes that plan in accordance with § 124.505.

(b) Unless a plan is adopted under paragraph (c) of this section, an applicant shall divide the amount of its annual uncompensated service obligation under this subpart into four approximately equal quarterly allocations and provide all services of the facility to the eligible persons who first request such services, beginning with the first day of each quarter and continuing until the allocation for the quarter is exhausted.

(c) An applicant may adopt and use a plan for allocation of its uncompensated services other than that described in paragraph (b) of this section only if the plan provides—

(1) There will be some distribution of uncompensated services throughout the applicant's fiscal year (i.e., that not all uncompensated services will be provided in the first 6 months of the year);

(2) There will be some services provided without charge to individuals in income category A (§ 124.505(a)); and

(3) All persons coming within the plan will be provided uncompensated services until the applicant's obligation for the period has been satisfied.

§ 124.508 Determinations of eligibility.

(a) *Eligibility determination requirement.* (1) In determining the amount of uncompensated services provided by an applicant, there shall be included only those services provided to an individual with respect to whom the applicant has made a written determination of eligibility. A determination of eligibility will be considered to be a written determination within the meaning of this section only if it states that uncompensated services at no charge or at a specified charge less than the allowable credit for the services will be furnished the patient, and specifies the date on which the determination was made, the income of the person unable to pay as determined in accordance with § 124.506, and the date on which such services were or will be first provided to the patient.

(2) The determination of eligibility shall be made promptly on request and the determination, or a copy of it, shall be furnished to the patient promptly. The determination, or a copy of it, shall be retained by the applicant for 5 years.

(b) *Reasons for denial.* The applicant must provide each person who requests uncompensated services and is denied them, in whole or in part, a written statement of the reasons for such denial when the determination of ineligibility is made.

(c) *Verification.* The applicant may, as a condition to providing uncompensated services to any individual, require any information necessary to substantiate the individual's eligibility for such services, consistent with other applicable legal requirements.

§ 124.509 Exclusions from uncompensated services.

The following shall be excluded from the computation of uncompensated services provided by an applicant:

(a) Any amount which the applicant has received, or is entitled to receive, from a thrid party insurer or under a governmental program, except that if the person to whom the services were provided refused to take any reasonable action necessary to perfect his entitlement to those benefits, the facility may at its option count the services provided as uncompensated services.

(b) Any amount in excess of the payment which the applicant has received, or is entitled to receive, from a third party insurer or under a governmental program (e.g. medicare or medicaid) where the applicant has agreed or is otherwise required to accept such payment as payment in full for the services rendered;

(c) Any amount attributable to services provided 96 hours or more following notification of the applicant by a professional standards review organization that such services have been disapproved under section 1155(a)(1) of the Social Security Act (42 U.S.C. 1320c-4); and

(d) Any amounts for which reimbursement would be available under a governmental program (e.g. medicare or medicaid) in which the applicant, although eligible to do so, and required by § 124.603(b)(1)(ii) to do so, does not participate.

§ 124.510 Reporting requirements.

(a) Not later than 60 days after the close of its fiscal year, unless a longer period is approved by the Secretary for good cause shown, an applicant shall submit to the Secretary—

(1) A reporting form, prescribed by the Secretary, which will include the following information:

(i) The facility's budget for its current fiscal year, including the amount of uncompensated services which the applicant proposes to provide in the fiscal year;

(ii) The facility's operating expenses, total patient revenue, the amount claimed for reimbursement under Titles XVIII and XIX of the Social Security Act, and the amount of uncompensated services provided in the preceding fiscal year, based on an audited financial statement for that year, and the compliance option selected and the amount of uncompensated services required to have been provided in the preceding fiscal year under § 124.503, § 124.504 or § 124.511;

(iii) The date on which the notice required by § 124.505(a) was published and sent to the HSA for the area, and the name of the newspaper which printed the notice;

(iv) If the amount of uncompensated services provided by the applicant in the preceding fiscal year was lower than the level required for the applicant under, as applicable, § 124.503, § 124.504 or § 124.511, an explanation of why the required level of compliance was not met and an affirmative action plan for meeting the level of compliance for the current fiscal year required under § 124.503, § 124.504, or § 124.511, as applicable. The affirmative action plan shall provide for notice and outreach to encourage utilization of the uncompensated services, and shall provide for modifications, if appropriate, in the allocation plan; and

(v) Other information which may be prescribed by the Secretary.

(2) Such other information relating to its compliance with the requirements of this subpart as the Secretary may request in writing.

(b) The budget, audited financial statement, published notice, and any other documents from which the information required to be reported under paragraph (a) of this section was obtained, shall be made available to the public for inspection and retained by the applicant for 5 years. The applicant shall promptly provide such documents to the Secretary upon request.

(c) Not later than 10 days after service on it of a summons and/or complaint, the applicant shall notify the Regional Health Administrator for the Region of the Department of Health, Education, and Welfare in which it is located of any legal action brought against it alleging that it has failed to comply with the requirements of this subpart.[1]

§ 124.511 Investigation and enforcement.

(a) *Investigations.* (1) The Secretary will:

(i) Periodically investigate the compliance of applicants with the requirements of this subpart pursuant to the authority of section 1612(c) of the Act. Such investigations include, but are not limited to, investigations done in response to information received pursuant to § 124.510(a) which indicates that the applicant failed to meet the level of compliance applicable to it in the preceding fiscal year or otherwise with the requirements of this subpart.

(ii) Investigate the compliance of applicants with the requirements of this subpart in response to complaints properly submitted under section 1612(c) of the Act. A complaint will be considered to have been filed with the Secretary on the date on which the following information is received in the Office of the Regional Health Administrator for the Region of the Department of Health, Education, and Welfare in which the facility is located:

(A) The name and address of the person making the complaint or on whose behalf the complaint is made;

(B) The name and address of the facility;

(C) The date on which the event complained of occurred, and

(D) A statement of why the complainant considers the applicant's action or actions violate the requirements of this subpart.

(2) When the Secretary investigates an applicant under subparagraph (1) of this paragraph, the applicant shall make available to the Secretary any documents, records and other information concerning the facility's operations as they relate to the requirements of this subpart which he requests.

(3) Section 1612(c) of the Act provides that if the Secretary dismisses a complaint or the Attorney General has not brought an action for compliance within 6 months from the date on which the complaint is filed, the person filing it may bring a private action to effectuate compliance with the assurance.

(b) *Enforcement.* (1) If the Secretary finds, based on his investigation under paragraph (a) of this section, that an applicant did not comply with the requirements of this subpart he may take any action authorized by law, including but not limited to voluntary agreement or a request to the Attorney General to bring an action against the applicant for specific performance, to secure such compliance.

[1] The addresses of the Regional Offices of the Department of Health, Education, and Welfare are set out at 45 CFR 5.31.

(2) If the Secretary finds, based on his investigation under paragraph (a) of this section, that an applicant did not in any fiscal year after (the effective date of these regulations) meet the level of compliance required of it under this subpart, he—

(i) Will set a level of compliance for the applicant for the current fiscal year which shall be equal to the level applicable under § 124.503 plus the amount by which he finds that the applicant failed to meet the level of compliance applicable to it in such prior fiscal year, or he will add such amount to the level of compliance to be set for the next fiscal year, as he determines to be appropriate; and

(ii) Shall promptly notify the applicant in writing of such higher level. The applicant shall promptly publish in a newspaper of general circulation in the area served by it notice of the level established under this paragraph and shall promptly provide a copy of that notice to the HSA for the area.

(3) An applicant that receives a notice of a higher level of compliance under this paragraph may, within 20 days of receipt of such notice, request that the period within which the deficit must be made up, be extended, or, if subject to § 124.501(b)(1), that it be given a longer period than there provided to make up the deficit in services. If the request for an extension is approved by the Secretary, he may establish such deficit makeup period as he determines to be appropriate. If necessary, the period of applicability of this subpart shall be extended accordingly.

§ 124.512 Agreements with State agencies.

(a) Where the Secretary finds that it will promote the purposes of this subpart, he may enter into an agreement with a State agency able and willing to do so under which the State agency will assist him in the administration of this subpart in the State. The agreement shall provide that the State agency will provide the Secretary with such assistance as he may request in any one or more of the following areas, as set out in the agreement:

(1) Investigation of complaints submitted under section 1612(c) of the Act;

(2) Monitoring under section 1612(c) of the Act of the compliance of facilities within the State with the requirements of this subpart;

(3) Review of requests submitted by applicants within the State under § 124.504;

(4) Review of reports submitted under § 124.510

(b) A State agency may use funds received under section 1525 of the Act to pay for expenses incurred in the course of carrying out an agreement

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entered into under paragraph (a) of this section.

2. A new Subpart G is added to 42 Code of Federal Regulations, Part 124, to read as follows:

Subpart G—Community Service

Sec.
124.601 Applicability.
124.602 Definitions.
124.603 Provision of services.
124.604 Reporting requirements.
124.605 Investigation and enforcement.
124.606 Agreements with State agencies.

AUTHORITY: Secs. 215, 1525, 1602(6), Public Health Service Act as amended; 58 Stat. 690, 88 Stat. 2249, 88 Stat. 2259; 42 U.S.C. 216, 300m-4, 300o-1(6).

Subpart G—Community Service

§ 124.601 Applicability.

The provisions of this subpart apply to every applicant who has given an assurance that it will make the facility or portion thereof assisted under Title VI of the Public Health Service Act (42 U.S.C. 291 et seq.); or Title XVI of the Public Health Service Act (42 U.S.C. 300o et seq.) available to all persons residing (or employed, for Title XVI assisted applicants) in the territorial area it serves. This assurance is referred to herein as the "community service assurance."

§ 124.602 Definitions.

As used in this subpart, the following terms have the following meanings:

"Act" means the Public Health Service Act, as amended.

"Applicant" means an applicant for and recipient of a grant, a direct loan or a loan guarantee under Title VI or Title XVI of the Act.

"Community service" means the provision of health care services by a facility in accordance with the requirements of this subpart.

"Complaint" means a written statement submitted to the Secretary in the form and manner and containing the information prescribed under § 124.605(a)(1)(ii).

"Fiscal year" means the applicant's fiscal year.

"Secretary" means the Secretary of Health, Education, and Welfare or any officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"State Agency" means the agency of a State designated by the Secretary as the State health planning and development agency of the State under section 1521 of the Act.

§ 124.603 Provision of services.

In order to comply with its assurance that it would provide a community service, an applicant must:

(a) Make the services provided in the facility or portion thereof constructed, modernized, or converted with Federal assistance under Title VI or XVI of the Act available to all persons residing (and, in the case of applicants under Title XVI of the Act, employed) in the area served by the facility without discrimination on the ground of race, color, national origin, creed, or any other ground unrelated to an individual's need for the service or the availability of the needed service in the facility, except that an applicant may deny services to persons who are unable to pay for them after its uncompensated services obligation for the appropriate period has been satisfied. An applicant will be considered to be out of compliance with this requirement if it adopts an admissions policy which has the effect of excluding persons on a ground other than those permitted under the preceding sentence.

(b)(1) Make arrangements, if eligible to do so, for reimbursement for services with:

(i) Those principal State and local governmental third-party payors which provide reimbursement for services that is not less than the actual cost of such services as determined in accordance with accepted cost accounting principles; and

(ii) Federal governmental third-party programs, such as medicare and medicaid; and

(2) Take such additional steps as may be necessary to insure that admission to and services of the facility will be available to beneficiaries of the governmental programs specified in subparagraph (1) of this paragraph without discrimination or preference on account of their being such beneficiaries.

§ 124.604 Reporting requirements.

(a) Not later than 60 days after the close of its fiscal year, unless a longer period is approved by the Secretary for good cause shown, an applicant shall submit to the Secretary—

(1) A reporting form, prescribed by the Secretary, which will include the following information;

(i) The amount of reimbursement claimed by the applicant in the fiscal year pursuant to each arrangement it has with a third-party payor described in § 124.603(b)(1) as indicated on the applicant's audited financial statement for the preceding fiscal year; and

(ii) Other information which may be prescribed by the Secretary.

(2) Such other information relating to its compliance with the requirements of this subpart as the Secretary may request in writing.

(b) The audited financial statement, an any other documents from which the information required to be reported under paragraph (a) of this section was obtained shall be made available to the public for inspection and retained by the applicant for 5 years. The applicant shall provide such documents to the Secretary upon request.

(c) Not later than 10 days after service on it of a summons and/or complaint, the applicant shall notify the regional health administrator for the region of the Department of Health, Education, and Welfare in which it is located of any legal action brought against it to compel it to comply with the requirements of this subpart.[1]

§ 124.605 Investigation and enforcement.

(a) *Investigations.* (1) The Secretary will:

(i) Periodically investigate the compliance of applicants with the requirements of this subpart pursuant to the authority of section 1612(c) of the Act. Such investigations include, but are not limited to, investigations done in response to information received pursuant to § 124.604(a) which indicates that the applicant failed to comply with the requirements of this subpart in the preceding fiscal year.

(ii) Investigate the compliance of applicants with the requirements of this subpart in response to complaints properly submitted under section 1612(c) of the Act. A complaint shall include the information required by § 124.511(a)(1)(iii) and will be deemed to have been filed with the Secretary on the date on which that information is received in the office of the regional health administrator for the region of the Department of Health, Education, and Welfare in which the facility is located.

(2) When the Secretary investigates an applicant under subparagraph (1) of this paragraph, the applicant shall make available to the Secretary any documents, records, or other information concerning the facility's operations as they relate to the requirements of this subpart as he may request.

(3) Section 1612(c) of the Act provides that if the Secretary dismisses a complaint or the Attorney General has not brought an action for compliance within 6 months from the date on which the complaint is filed, the person filing it may bring a private action to effectuate compliance with the assurance.

(b) *Enforcement.* If the Secretary finds, based on his investigation under paragraph (a) of this section, that an applicant has limited the availability of its services in a manner proscribed by this subpart, he may, in addition to any other action which he is authorized to take in accordance with section 1612(c) of the act, establish an affirmative action plan for the facility which

[1] The addresses of the regional officers of the Department of Health, Education, and Welfare are set out at 45 CFR 5.31.

in his judgment is designed to insure that its services are made available in accordance with the requirements of this subpart.

§ 124.606 Agreements with State agencies.

(a) Where the Secretary finds that it will promote the purposes of this subpart, he may enter into an agreement with a State agency able and willing to do so under which the State agency will assist him in the administration of this subpart in the State. The agreement shall provide that the State agency will provide the Secretary with such assistance as he may request in any one or more of the following areas, as set out in the agreement:

(1) Investigation of complaints submitted under section 1612(c) of the Act;

(2) Monitoring under section 1612(c) of the Act of the compliance of facilities within the State with the requirements of this subpart;

(3) Review of reports submitted under § 124.604.

(b) A State agency may use funds received under section 1525 of the Act to pay for expenses incurred in the course of carrying out an agreement entered into under paragraph (a) of this section.

[FR Doc. 78-30197 Filed 10-24-78; 8:45 am]

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CSA	CSC		CSA	CSC
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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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To designate certain lands in the State of Wisconsin as wilderness. (Oct. 21, 1978; 92 Stat. 1648). Price: $.60.

H.R. 12250 ..... Pub. L. 95–495
To designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes. (Oct. 21, 1978; 92 Stat. 1649). Price: $.80.

S. 1081 ..... Pub. L. 95–496
To amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes. (Oct. 21, 1978; 92 Stat. 1660). Price: $.70.

H.R. 12051 ..... Pub. L. 95–497
Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions. (Oct. 21, 1978; 92 Stat. 1665). Price: $.70.

S. 2588 ..... Pub. L. 95–498
To declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands. (Oct. 21, 1978; 92 Stat. 1672). Price: $.70.

S. 2358 ..... Pub. L. 95–499
To declare that the United States holds in trust for the Pueblo of Zia certain public domain lands. (Oct. 21, 1978; 92 Stat. 1679). Price: $.60.

H.R. 8755 ..... Pub. L. 95–500
To make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes. (Oct. 21, 1978; 92 Stat. 1683). Price: $.60

H.R. 8533 ..... Pub. L. 95–502
To amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax. (Oct. 21, 1978; 92 Stat. 1693). Price: $.80.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02-M]

Title 7—Agriculture

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 1; Docket No. AO-14-A57]

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the order based on industry proposals considered at a public hearing held February 14-16, 1978. More than the required two-thirds of dairy farmers affected approved the order as amended.

The amended order changes milk prices throughout the production area to more closely relate the location value of milk to the costs incurred in transporting milk from farms and country plants to bottling plants in the major consuming centers of the market. The amended order reflects current marketing conditions and will insure orderly marketing in the area.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing, issued January 18, 1978, published January 23, 1978 (43 FR 3127).

Recommended decision, issued July 14, 1978, published July 20, 1978 (43 FR 31146).

Notice of extension of time for filing exceptions to the recommended decision, issued August 4, 1978, published August 10, 1978 (43 FR 35490).

Final decision, issued September 27, 1978, published October 2, 1978 (43 FR 45520).

FINDINGS AND DETERMINATIONS

The following findings and determinations are made for the order in this proceeding. They supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and affirmed, except where they may conflict with those set forth below.

(a) *Findings upon the basis of the hearing record.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New England marketing area. The hearing was held according to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the New England marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1001.43(c) is revised to read as follows:

§ 1001.43 Assignment of receipts to classes in general.

* * * * * *

(c) If receipts from more than one plant are to be assigned under a paragraph in § 1001.45 or § 1001.47, the receipts shall be assigned in sequence according to the zone locations of the plants, beginning with the plant in the lowest numbered zone for assignments to Class I milk and beginning with the plant in the highest numbered zone for assignments to Class II milk.

§ 1001.46 [Amended]

2. In § 1001.46(c), the words "zone nearest to Boston" are changed to read "lowest numbered zone".

§ 1001.47 [Amended]

3. In § 1001.47(a), the words "pool plants located outside the nearby plant zone" are changed to read "other pool plants".

§ 1001.50 [Amended]

4. In § 1001.50(a), the number "$2.58" is changed to "$2.42".

5. Section 1001.52 is revised to read as follows:

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§ 1001.52 Plant location adjustments.

The Class I and blended prices computed under §§ 1001.50 and 1001.61 shall be subject to plant location adjustments based upon the zone locations of plants. The zone location of any plant and the location adjustments applicable to each zone location shall be determined as specified in this section.

(a) Each plant that is located in the State of Rhode Island, the Massachusetts counties of Barnstable, Bristol, Dukes, Norfolk, Plymouth or Suffolk, or between Boston and Massachusetts highway route number 128 shall be in Zone 1.

(b) Each plant that is located in the Connecticut counties of Fairfield, Hartford, Litchfield, Middlesex (only the townships of Cromwell, Durham, Haddam, Middlefield, Middletown, or Portland), New Haven, or Tolland (only the townships of Ellington or Somers) shall be in Zone 7.

(c) Each plant that is located in the Massachusetts counties of Hampden (except the townships of Brimfield, Holland, Monson, Palmer, or Wales) or Hampshire (except the township of Ware) shall be in Zone 8.

(d) The zone location of each plant in the States of Connecticut or Massachusetts (except Berkshire County) that is outside the areas specified in paragraphs (a), (b) or (c) of this section shall be based upon its highway mileage distance to the nearer of Boston, Mass., or Providence, R.I. The distance for each plant shall be the mileage between the applicable basing point and the named point nearest to the plant, measured to the greatest extent possible over roads designated as principal roads, on the road maps specified in paragraph (e) of this section.

(e) The zone location of each plant that is outside the areas specified in paragraphs (a) through (d) of this section shall be based upon its highway mileage distance to Boston, Mass., as determined by use of Mileage Guide No. 11, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va. The mileages used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate State road maps, as published in the mileage guide. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located. The distance for each plant shall be the mileage between Boston and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Boston and that named point, computed as follows:

(1) Determine from the charts the mileage between Boston and each of the three key points nearest to the named point which are nearer to Boston than the named point; and

(2) For each of these key points, add to the result in paragraph (e)(1) of this section the mileage between the key point and the named point, measured to the greatest extent possible over roads designated as principal roads.

(f) Notwithstanding the provisions of paragraph (e) of this section, for any named point located in Maine, New Hampshire, Vermont, New York, or Berkshire County, Mass., determine the highway mileage distance between Boston and the named point by use of the appropriate State maps contained in Mileage Guide No. 7, issued by Household Goods Carriers' Bureau, Agent, Arlington, Va. Such distance shall be the lowest highway mileage between Boston and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more that 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located. The mileage so determined, or the mileage determined under paragraph (e) of this section, whichever is less, shall be considered to be the lowest highway mileage distance between Boston and the named point.

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

LOCATION ADJUSTMENTS FOR DETERMINATION OF ZONE PRICE

Distance to basing point (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
1 to 10	1	+50.0
11 to 20	2	+48.2
21 to 30	3	+46.4
31 to 40	4	+44.6
41 to 50	5	+42.8
51 to 60	6	+41.0
61 to 70	7	+39.2
71 to 80	8	+37.4
81 to 90	9	+35.6
91 to 100	10	+33.8
101 to 110	11	+32.0
111 to 120	12	+30.2
121 to 130	13	+28.4
131 to 140	14	+26.6
141 to 150	15	+10.8
151 to 160	16	+9.0
161 to 170	17	+7.2
171 to 180	18	+5.4
181 to 190	19	+3.6
191 to 200	20	+1.8
201 to 210	21	+0.0
211 to 220	22	−1.5
221 to 230	23	−3.0
231 to 240	24	−4.5
241 to 250	25	−6.0
251 to 260	26	−7.5
261 to 270	27	−9.0
271 to 280	28	−10.5
281 to 290	29	−12.0
291 to 300	30	−13.5
301 to 310	31	−15.0
311 to 320	32	−16.5
321 to 330	33	−18.0
331 to 340	34	−19.5
341 to 350	35	−21.0
351 to 360	36	−22.5
361 to 370	37	−24.0
371 to 380	38	−25.5
381 to 390	39	−27.0
391 to 400	40	−28.5
401 and over	[1]41	(1)

(1) Class I and blended price location adjustments applicable to plants located in subsequent zones shall be obtained by extending the table at the rate of 1.5 cents for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month.
[1]Includes 41 and over.

§ 1001.53 [Amended]

6. In § 1001.53(g), the words "zone nearest to Boston" are changed to read "lowest numbered zone".

§ 1001.73 [Amended]

7. In § 1001.73(d), the words "to a plant at which a lower blended price would apply under this order" are deleted.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Effective date: December 1, 1978.

Signed at Washington, D.C., on October 20, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-30268 Filed 10-25-78; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; Docket No. R-0175]

PART 226—TRUTH IN LENDING ACT

Massachusetts Exemption

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board exempts Federally-chartered credit unions having their main office, or office of charter, in Massachusetts, from some of the disclosure requirements of the Truth in Lending Act and Regulation Z. This exemption is based on an agreement between the Massachusetts Commissioner of Banks and the National Credit Union Administration.

EFFECTIVE DATE: November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Plows, Section Chief, Regulations Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3667.

SUPPLEMENTARY INFORMATION: (1) The Board has approved the application of the Commissioner of Banks for the Commonwealth of Massachusetts for an extension of Massachusetts' current exemption from the disclosure requirements of Chapter 2 of the Truth in Lending Act (15 U.S.C. 1601, 1631-1639) as implemented by Regulation Z (12 CFR Part 226). The application was filed pursuant to section 123 of the Federal act (15 U.S.C. 1633) and § 226.12 and Supplement II to Regulation Z (12 CFR 226.12).

(2) The Board's action has the effect of extending to Federally-chartered credit unions having their main office, or office of charter, in the Commonwealth the terms of Massachusetts' current exemption, as set forth in Supplement III to Regulation Z. This action is based on an agreement between the Massachusetts Commissioner of Banks and the National Credit Union Administration. Aside from the addition of Federally-chartered credit unions having their main office, or office of charter, in Massachusetts, this action does not alter or expand Massachusetts' current exemption as set forth in Supplement III.

(3) Notice of the Commissioner's application, affording an opportunity for interested parties to comment, was published in the FEDERAL REGISTER on August 14, 1978 (43 FR 36002). Having reviewed the proposed rule and the comments that were received, the Board has determined, pursuant to section 123 of the act and § 226.12 of Regulation Z, to grant the application. Accordingly, section (d) of Supplement III of Regulation Z is amended to read:

. . . . . .

(d) *Massachusetts:* Except as provided in § 226.12(c) and except for those transactions in which a Federally-chartered institution—other than a Federally-chartered credit union having its main office, or office of charter, within Massachusetts—is a creditor, the following classes of credit transactions within the Commonwealth of Massachusetts are hereby granted an exemption from the requirements of Chapter 2 of the Truth in Lending Act:

. . . . . .

By order of the Board of Governors, October 18, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-30264 Filed 10-25-78; 8:45 am]

[6210-01-M]

[Docket No. R-0184]

PART 262—RULES OF PROCEDURE

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Reconsideration of Certain Board Actions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate performance of certain of its functions, the Board of Governors has instituted a procedure by which requests for reconsideration of Board action on certain applications will receive prompt attention, and has delegated to its General Counsel the authority to determine whether or not reconsideration should be granted.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Associate General Counsel, 202-452-3274 or Bronwen M. Mason, Senior Attorney, 202-452-3564, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board has the authority under several statutes and regulations promulgated thereunder to require that companies make applications for the Board's prior approval of certain transactions involving banking organizations. The Board's rules of procedure presently provide that upon request the Board may reconsider its actions on applications under sections 3 and 4 of the Bank Holding Company Act and the Bank Merger Act, but do not specify a time period within which such a request is to be submitted or within which the Board will normally act on requests for reconsideration. In order to establish procedures to be followed by parties seeking reconsideration of Board action on applications the Board considers, and in order to insure that such requests for reconsideration are given prompt attention, the Board has, by the instant amendment, instituted procedures governing requests for reconsideration of Board actions with respect to certain applications.

The provisions of 5 U.S.C. 553 relating to notice and public participation and deferred effective date are not followed in connection with the adoption of these amendments because the rules involved herein are procedural in nature and do not constitute a substantive rule subject to the requirements of such section. The amendment is effective immediately.

In order to institute these procedures, 12 CFR Part 262 is amended by adding new § 262.3(i) by redesignating the subsequent sections accordingly and by withdrawing § 262.3(g)(5). The new § 262.3(i) is to read as follow:

§262.3 Applications.

. . . . . .

(i) *Reconsideration of certain Board actions.* The Board may reconsider any action taken by it on an application upon receipt by the Secretary of the Board of a written request for reconsideration from any party to such application, on or before the 15th day after the effective date of the Board's action. Such request should specify the reasons why the Board should reconsider its action, and present relevant facts that for good cause shown, were not previously presented to the Board. Within 10 days of receipt of such a request, the General Counsel, acting pursuant to delegated authority (12 CFR 265.2(b)(7)), shall determine whether or not the request for reconsideration should be granted, and shall notify all parties to the application orally by telephone of this determination within 10 days. Such notification will be confirmed promptly in writing. In the exercise of this authority, the General Counsel shall confer with the Directors of other interested Divisions of the Board or their designees. Notwithstanding the foregoing, the Board may, on its own motion if it deems reconsideration appropriate, elect to re-

consider its action with respect to any application, and the parties to such application shall be notified by the Secretary of the Board of its election

of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

tion that requests a hearing must include a statement of why a written presentation would not suffice in lieu

the 7th line, after the word "certificated", insert the word "ground".

(4) On page 46800, in the middle

800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION

tor, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment

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consider its action with respect to any application, and the parties to such application shall be notified by the Secretary of the Board of its election as provided above. If it is determined that the Board should reconsider its action with respect to an application, such action will be stayed and will not be final until the Board has acted on the application upon reconsideration. If appropriate, notice of reconsideration of an application will be published promptly in the FEDERAL REGISTER.

In addition, in order to accomplish the delegation provided for above, 12 CFR Part 265 is amended by adding § 265.2(b) (7) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * * *

(b) The General Counsel of the Board (or in the General Counsel's absence, the Acting General Counsel) is authorized:

* * * * * *

(7) pursuant to § 262.3 (h) of this chapter (Rules of Procedure) to determine whether or not to grant a request for reconsideration of any action taken by the Board with respect to an application as provided in that part.

Board of Governors of the Federal Reserve System, October 19, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.78-30265 Filed 10-25-78; 8:45 am]

[6210-01-M]

[Docket No. R-0184]

PART 262—RULES OF PROCEDURE

Submission of Comments on Applications and Requests for Hearing

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate performance of certain of its functions, the Board of Governors has instituted procedures to govern its consideration of comments and requests for hearing on certain applications required by law.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Associate General Counsel, 202-452-3274 or Bronwen M. Mason, Senior Attorney, 202-452-3564, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board has the authority under several statutes and regulations promulgated thereunder to require that companies make application for the Board's prior approval of certain transactions involving banking organizations. While the public, as well as certain supervisory agencies, have generally been afforded an opportunity to comment on certain applications, such comments have not been handled uniformly in the past, and consideration of untimely comments has often resulted in extraordinary delays in the processing of applications. In order to effectuate an orderly procedure for the processing of applications, and to insure that comments or requests for a hearing with respect to applications are handled in a uniform manner, the Board has, by the instant amendment, instituted procedures governing the consideration of comments and requests for hearing with respect to applications that it considers.

The provisions of 5 U.S.C. 553 relating to notice and public participation and deferred effective date are not followed in connection with the adoption of these amendments because the rules involved herein are procedural in nature and do not constitute a substantive rule subject to the requirements of such section. The amendment is effective immediately.

In order to institute these procedures, 12 CFR Part 262 is amended by adding new § 262.3(d) and redesignating the subsequent sections. The new § 262.3(d) is to read as follows:

§ 262.3 Applications.

* * * * * *

(d) *Submission of comments and requests for hearing.* The Board will consider a comment or request for hearing with respect to an application only if it is in writing and is sent to the Secretary of the Board or the appropriate Federal Reserve Bank on or before the date prescribed in the FEDERAL REGISTER notice with respect to applications filed under sections 3 or 4 of the Bank Holding Company Act or, in the case of other applications, the date specified in the newspaper notice with respect to such applications, or where no such date is prescribed, on or before the 13th day after the date such notice is first published. Similarly, the Board will consider comments on an application from the Attorney General or a banking supervisory authority to which notification of receipt of an application has been given, only if such comment is received by the Secretary of the Board within 30 days of the date of the letter giving such notification. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing. In every case where a timely comment or request for hearing is received as provided herein, a copy of such comment or request shall be forwarded promptly to the applicant for its response. The Board will consider the applicant's response only if it is in writing and sent to the Secretary of the Board on or before the 10th day after the date of the letter by which it is forwarded to the applicant. At the same time it transmits its response to the Board, the applicant should transmit a copy of its response to the person or supervisory authority making such comment or requesting a hearing. Notwithstanding the foregoing, the Board may, in its sole discretion and without notifying the parties, take into consideration the substance of comments with respect to an application, (but not requests for hearing) that are not received within the time periods provided herein.

Board of Governors of the Federal Reserve System, October 19, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-30267 Filed 10-25-78; 8:45 am]

[1505-01-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16097; Amdt. Nos. 121-147, 127-35, and Rev. of Part 135]

REGULATORY REVIEW PROGRAM; AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Correction

In FR Doc. 78-27489 appearing at page 46742 in the issue for Tuesday, October 10, 1978, make the following corrections:

(1) On page 46744, in the third column, in the paragraph under the heading "FLIGHT AND DUTY TIME REGULATIONS (PROPOSED SUBPART F)", in the 10th line, the notice number "87-3" should read "78-3".

(2) On page 46752, in the middle column, in the second full paragraph, the 18th line should read: "dence of operator cost impacts, the".

(3) On page 46776, in the middle column, in the first full paragraph, in the 7th line, after the word "certificated", insert the word "ground".

(4) On page 46800, in the middle column, in § 135.243(b)(2), in the third line, "1000 hours" should read "100 hours".

(5) On page 46814, in the first column, in § 135.439(a), in the third line, "135.427(1)" should read "§ 135.4271)".

(6) On page 46820, in the third column, above the signature, the incomplete sentence should read: "Issued in Washington, D.C., on September 26, 1978.".

NOTE.—On October 19, 1978 (43 FR 48653), the Office of the Federal Register published a correction which purported to correct a proposed amendment to 14 CFR Parts 1, 21, 23, and 135. The headings to this correction were completely in error. Therefore, the correction at 43 FR 48653 should be disregarded. Item 6 above contains the information which was intended for publication on October 19, 1978.

[4910-13-M]

[Docket No. 76-CE-24-AD; Amendment 39-3324]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 58P and 58PA Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule (Revision).

SUMMARY: This amendment revises Airworthiness Directive (AD) 76-17-02, Amendment No. 39-2697, applicable to Beech 58P and 58PA airplanes by referring to a later version of Beechcraft Service Instructions No. 0828-110, entering cutoff serial numbers in the applicablity statement and deleting the requirement for the 100-hour repetitive cabin window inspections for cracks after the window frame reinforcement has been installed. This revision will reduce the present burden on owners/operators of affected airplanes without compromising safety.

EFFECTIVE DATE: October 31, 1978.

ADDRESSES: Beechcraft Service Instructions No. 0828-110, Revision I, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the service instructions cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106 and Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: This amendment revises Amendment 39-2697 (41 FR 35059), AD 76-17-02, applicable to Beech Models 58P and 58PA airplanes, which currently requires reinforcement of one cabin window frame, on certain affected airplanes, within 125 hours time-in-service after August 24, 1976, and repetitive inspections of the window, on all 58P and 58PA model airplanes, for cracks each 100 hours time-in-service thereafter. AD 76-17-02 required repetitive inspections of the window after installation of the frame reinforcement because, at the time of issuance of the AD, there was no data available to confirm that the window frame reinforcement would prevent cracking of the window. Some operators have now accumulated 800 hours time-in-service on their airplanes since installation of the window frame reinforcement and no window cracks have been reported. This service history justifies deletion of the mandatory repetitive window inspections from the AD. Beech Aircraft Corp. has now issued Revision I to Beechcraft Service Instructions No. 0828-110 deleting the requirement for repetitive window inspections on all airplanes which have the window frame reinforcement installed.

Based on the foregoing, the FAA has determined that mandatory window inspections are no longer justified when the window frame reinforcement is installed. Therefore, the agency is revising Amendment 39-2697 by referring to Revision I of Beechcraft Service Instructions No. 0828-110, entering cutoff serial numbers in the applicability statement and deleting the requirement for repetitive window inspections after the window frame reinforcement is installed.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the FEDERAL REGISTER.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-2697 (41 FR 35059), AD 76-17-02, as follows:

(1) Delete the existing applicability statement and in its place add the following new applicability statement:

"Beech. Applies to Models 58P and 58PA (Serial No. TJ-2 through TJ-19, TJ-21 through TJ-45, TJ-47 through TJ-54, and TJ-56 through TJ 58) airplanes certificated in all categories."

(2) Delete the first paragraph of Paragraph A and add the following new first paragraph:

"A. On airplanes that do not have the window frame reinforcement installed, as defined in Beechcraft Service Instructions 0823-110, Revision I or later approved revisions, accomplish the following in accordance with said service instructions:"

(3) In Paragraph A.2. delete the words: "and thereafter comply with the inspection and, if necessary, the replacement requirements required by Paragraph B".

(4) Delete "Paragraph B" in its entirety.

(5) Delete "Paragraph C" and in its place add the following new Paragraph B:

"B. On airplanes that are flown unpressurized following discovery of a cracked window during any inspection required by Paragraph A of this Airworthiness Directive:

(1) Fabricate a placard worded as follows "Do Not Pressurize In Flight" and

(2) Install said placard near the cabin pressurization control switch, and

(3) Operate the aircraft in accordance with the placard until the cracked window is replaced."

(6) Delete "Paragraph D" in its entirety.

(7) Reletter "Paragraph E" as "Paragraph C".

This amendment becomes effective October 31, 1978.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); § 11.89 of the Federal Aviation Regulations (14 CFR § 11.89).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo. on October 16, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-30085 Filed 10-25-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-53; Amdt. 39-3323]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Models PA-38-112 and PA-38-112 (Military) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

Applies to Piper Model Pa-38-112, Serial Nos. 38-78A0001 through 38-78A0400 certificated in all categories.

To prevent possible binding of the rudder

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) to

Within 200 hours time in service or 3 months, whichever comes first, after the effective date of this AD, unless already accomplished, complete the following:

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe

[4910-13-M]

[Airspace Docket No. 78-NE-16]

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[4910-13-M]

[Docket No. 78-EA-53; Amdt. 39-3323]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-38-112 type airplanes and requires periodic inspection of the clearance for the rudder leading and fin trailing edges with eventual installation of a rudder kit or repair as applicable. This results from insufficient clearance between the rudder and fin. The amendment is necessary because of reports of excessive binding in the rudder controls requiring extensive effort to return the controls to neutral.

EFFECTIVE DATE: October 30, 1978. Compliance is in accordance with the directive.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745.

FOR FURTHER INFORMATION CONTACT:

C. Kallis, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of excessive binding in the rudder controls requiring extensive effort to return the controls to neutral. An inspection disclosed the lack of clearance between rudder and fin. Since the deficiency involved an immediate air safety problem, an emergency AD was transmitted under date of May 19, 1978, to all known owners of such airplanes. Since the issuance of the emergency AD, a permanent alteration has been devised and this is required by this AD to be incorporated within 50 hours in service. The air safety aspect still remains and thus notice and public procedure hereon are impractical and good cause exists for making this AD effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Applies to Piper Model Pa-38-112, Serial Nos. 38-78A0001 through 38-78A0400 certificated in all categories.

To prevent possible binding of the rudder or elevator in flight, accomplish the following:

(a) Applies to Model PA-38-112, Serial Nos. 38-78A0001 through 38-78A0215 and 38-78A0217 through 38-78A0226. Before further flight, unless already accomplished, and at intervals thereafter not to exceed 25 hours in service inspect for proper clearance between the rudder leading edge and fin trailing edge and repair in accordance with the "instructions": of Piper Service Bulletin Nos. 607 or 607A dated May 19, 1978, and June 2, 1978, or equivalent.

(b) Applies to Model PA-38-112, Serial Nos. 38-78A0001 through 38-78A0215, and 38-78A0217 through 38-78A0226. Within the next 50 hours in service after the effective date of this AD, unless already accomplished, install Piper Kit 763 872 Rudder Leading Edge Modification or equivalent. The inspections of (a) may be dispensed with upon incorporation of this modification.

(c) Applies to Model PA-38-112 Serial Nos. 38-78A0001 through 38-78A0400. Within the next 50 hours in service after the effective date of this AD, unless already accomplished, inspect and repair the elevator leading edge in accordance with the procedure under "instructions": of Part II of Piper Service Bulletin No. 607A dated June 2, 1978, or equivalent.

(d) Equivalent inspections, repairs and modifications must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) The affected airplanes may be flown in accordance with FAR 21.197 to a location where the AD compliance procedures can be accomplished.

(f) Upon submission of substantiating data through an FAA Maintenance Inspector, the compliance times specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective Date: This amendment is effective October 30, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

Issued in Jamaica, N.Y., on October 16, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-30088 Filed 10-25-78; 8:45 am]

[4910-13-M]

[Docket No. 78-NE-15; Amdt. 39-3322]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Models S-58BT, S-58DT, S-58ET, S-58FT, S-58HT, and S-58JT Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) to require the modification of the tail rotor control system and the tail rotor blades of Sikorsky S-58T series helicopters. This AD is to prevent possible tail rotor instability which could result in the loss of control of the helicopter.

DATES: Effective Date—November 30, 1978.

ADDRESSES: The applicable service bulletins may be obtained from Sikorsky Aircraft, Division of United Technologies Corp., Stratford, Conn. 06602. Copies of the service bulletins are contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

William E. Garlock, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Mass. 01803; telephone: 617-273-7336.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the installation of a tail rotor control system spring control rod and improved tail rotor abrasion strips on Sikorsky S-58T series helicopters was published in the FEDERAL REGISTER at 43 FR 32432. The proposal was prompted by reports of incidents where the tail rotor vibrated excessively (generally associated with approaches to landing) and reports of structural damage that indicated the occurrence of tail rotor instability. The development of tail rotor instability or the damage caused by this condition could result in the loss of control of the helicopter.

Interested persons have been afforded an opportunity to participate in making the amendment. No objections were received. Accordingly, the proposal is adopted without change.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by adding the following new airworthiness directive:

SIKORSKY AIRCRAFT. Applies to S-58BT, S-58DT, S-58ET, S-58FT, S-58HT, and S-58JT helicopters certificated in all categories.

To prevent possible tail rotor instability accomplish the following:

Within 200 hours time in service or 3 months, whichever comes first, after the effective date of this AD, unless already accomplished, complete the following:

(a) Install improved abrasion strips, Sikorsky Modification Kit 58070-10008-011, on tail rotor blades, P/Ns S1615-30100-3, -4, -7, -10, -11, -15, -16, -041, -042, and -043. This modification is covered by Sikorsky Service Bulletin No. 58B15-18.

(b) Install Sikorsky control rod assembly, P/N 58400-64010-101.

This modification is covered by Sikorsky Service Bulletin No. 58B40-5.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1665(c)); 14 CFR 11.89.)

Issued in Burlington, Mass., on October 13, 1978.

ROBERT E. WHITINGTON,
Director, New England Region.

[FR Doc. 78-30087 Filed 10-25-78; 8:45 am]

[4910-13-M]

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18423; Amdt. 39-3328]

PART 39—AIRWORTHINESS DIRECTIVES

Short Bros., Ltd.—Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of a one-way restrictor assembly in the nose landing gear retraction system on early production Short Bros., Ltd., SD3-30 airplanes with one of a new part number. Replacement of the restrictor is necessary to insure positive downlock of the nose landing gear. The AD is prompted by reports of failure of the original restrictor in service which could result in collapse of the nose landing gear on landing.

DATES: Effective November 13, 1978. Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service bulletin may be obtained from: Manager—Spares Support, Production Support Department, Short Bros., Ltd., P.O. Box 241—Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletin is contained in the rules docket for this amendment in Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There have been reports of inservice failure of restrictor, P/N SD3-73-1209, in the nose landing gear retracting system on early production Short Bros., Ltd., SD3-30 airplanes. Failure of the restrictor could result in collapse of the nose landing gear on landing. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued to require the replacement of the original restrictor with one of improved design, P/N HTE.9950 to insure positive downlock capability of the nose landing gear on Short Bros., Ltd., model SD3-30 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

SHORT BROS., LTD. Applies to Model SD3-30 airplanes, S/Nos. 3001, 3002, and 3010 through 3016, certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible collapse of the nose landing gear, prior to the accumulation of 50 landings after the effective date of this AD, replace restrictor assembly, P/N SD3-73-1209xA with a new restrictor assembly, P/N HTE.9950 in the nose landing gear "UP" line in accordance with section 2, "Accomplishment Instructions," and Figure 1 of Short Bros., Ltd., Service Bulletin SD3-32-44, dated July 7, 1978, or an FAA-approved equivalent.

This amendment becomes effective November 13, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Washington, D.C., on October 19, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-30262 Filed 10-25-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-NE-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Designation of the State of New Hampshire as a 1,200-foot transition area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the State of New Hampshire transition area by consolidating all existing 1,200-foot transition areas within the State and by converting a small segment of uncontrolled airspace into 1,200-foot transition area controlled airspace.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Air Traffic, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7285.

SUPPLEMENTARY INFORMATION: On September 14, 1978, the Federal Aviation Administration published a notice proposing to designate the entire State of New Hampshire as a 1,200-foot transition area; excluding designated 700-foot transition areas. Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 28, 1978, by adding the following:

NEW HAMPSHIRE

That airspace extending upward from 1,200-feet above the surface within the territorial boundaries of the State of New Hampshire, including offshore air space beginning at latitude 42°56'00" N., longitude 70°34'00" W.; to latitude 42°56'00" N., longitude 70°25'00" W.; to latitude 42°43'15" N., longitude 70°25'00" W., to latitude 42°41'20" N., longitude 70°30'00" W.; to latitude 42°52'00" N., longitude 70°45'00" W., then via State territorial boundaries to point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Mass., on October 17, 1978.

ROBERT E. WHITTINGTON,

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ods would have caused a loss of these services during certain time periods. Subsequent to the effective date of

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Issued in Aurora, Colo., on October 18, 1978.

M. M. MARTIN,

[7510-01-M]

Subpart 1214.6—Articles Authorized To Be Carried on Space Transportation System Flights

§ 1214.603 Approval and disposition of contents of the official flight kit.

(a) *Proposed contents.* Both the Di-

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Issued in Burlington, Mass., on October 17, 1978.

ROBERT E. WHITTINGTON,
Director,
New England Region.

[FR Doc. 78-30259 Filed 10-25-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-RM-27]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

Redesignation of Control Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the legal description of the Akron, Colo., Eagle, Colo., Rawlins, Wyo., and Cut Bank, Mont., control zone hours of operation. An amendment effective September 7, 1978, allowed for changing the hours of operation of the control zones by NOTAM because of anticipated shortage of personnel for short periods at these locations. The effectiveness of the control zones is dependent on weather and communications availability. Additional personnel resources have been identified negating the need for a contingency plan to NOTAM the control zone hours of operation. It was futher determined that issuance of a notice of proposed rulemaking for this amendment would be impractical and not within the public interest.

EFFECTIVE DATE: 0901 G.m.t., November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

The control zones at Akron, Colo., Eagle, Colo., Rawlins, Wyo., and Cut Bank, Mont., were amended effective September 7, 1978 (FR Vol. 43-37681), to allow for changing the hours of operation by NOTAM. This action was taken as a contingency because of anticipated shortage of personnel at these locations for short periods of time. Weather and communications are an integral requirement to support a control zone and the anticipated shortage of personnel for short periods would have caused a loss of these services during certain time periods. Subsequent to the effective date of the amendment, additional personnel resources have been identified negating the need for a contingency plan to NOTAM the control zone hours of operation.

RULE

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the control zones at Akron, Colo., Eagle, Colo., Rawlins, Wyo., and Cut Bank, Mont.

DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective November 2, 1978, as follows:

By amending subpart F, § 71.171 by deleting the following:

AKRON, COLO.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport Facility Directory.

EAGLE, COLO.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport Facility Directory.

RAWLINS, WYO.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport Facility Directory.

CUT BANK, MONT.

This control zone is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time, thereafter, will be continuously published in the Airport Facility Directory.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Excutive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on October 18, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-30260 Filed 10-25-78; 8:45 am]

[6320-01-M]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-155; Amdt No. 1]

PART 380—PUBLIC CHARTERS

Notice of Approval by the Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 10, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting and record-retention requirements contained in part 380—Public Charters. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated October 3, 1978.

DATES: Effective: October 10, 1978. Adopted: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NE., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 380 (43 FR 36611, August 18, 1978), of its Economic Regulations (14 CFR Part 380) by deleting the note currently shown at the end of Part 380 and substituting therefore the following:

NOTE.—The record-retention requirement contained in § 380.43 and the reporting requirement contained in § 380.50(c) have been approved by the U.S. General Accounting Office under No. B-180226 (RO558).

This amendment is issued under authority delegated from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30257 Filed 10-25-78; 8:45 am]

[7510-01-M]

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1214—SPACE TRANSPORTATION SYSTEM

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The regulations authorize each individual participating on a space transportation system flight to carry on the flight a personal preference kit. The kit consists of items to be given as momentos to the individual's relatives or close friends. The items carried are subject to restrictions as to their kind, number, and weight as well as to their use. Under no circumstances will commercialization of personal items flown be allowed or tolerated. For the first time individuals who are not NASA employees will have the opportunity to participate in space flights. The same restrictions apply to individuals participating on flights who are not NASA employees.

EFFECTIVE DATE: October 26, 1978.

ADDRESS: Office of General Counsel, Mail Code: GG-1, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Susan McGuire Smith, 202-755-3924.

SUPPLEMENTARY INFORMATION: On June 14, 1978, notice was published in the FEDERAL REGISTER (43 FR 25693) inviting public comments by July 15, 1978, on the proposed regulations on "Articles Authorized to be Carried on Space Transportation System Flights." For the first time, individuals who are not NASA employees will have the opportunity to participate in space flights. NASA will apply the same restrictions to these individuals as will apply to agency employees insofar as carrying personal items on a flight is concerned. These regulations generally are the same as those used internally in the past.

No substantive public comments were received on the proposal. Therefore, the regulation is adopted with a few technical changes as set forth below.

ROBERT A. FROSCH,
Administrator.

1. 14 CFR Part 1214 is amended by adding a new subpart 1214.6 reading as follows:

Subpart 1214.6—Articles Authorized To Be Carried on Space Transportation System Flights

Sec.
1214.600 Scope.
1214.601 Definitions.
1214.602 Policy.
1214.603 Approval and disposition of contents of the official flight kit.
1214.604 Policy on personal preference kits.
1214.605 Safety requirements.
1214.606 Procedures for approval of contents of personal preference kits.
1214.607 Preflight packaging and storage of kits.
1214.608 Public announcements of contents of kits.
1214.609 Disposition of kits after flight.
1214.610 Loss or theft.
1214.611 Applicability of this subpart.

AUTHORITY: Pub. L. 85-568, 72 Stat. 426, 42 U.S.C. 2473(c).

Subpart 1214.6—Articles Authorized To Be Carried on Space Transportation System Flights

§ 1214.600 Scope.

This subpart established policy, procedures, and responsibilities governing the selection, approval, packing, storage, post-flight disposition, and public announcement of articles authorized to be carried on space transportation system flights.

§ 1214.601 Definitions.

(a) The official flight kit contains selected items such as flags, patches, medallions, and other memorabilia to be presented to Government officials, Members of the Congress, and others who receive such awards as a result of individual contributions to the space program, as determined by the Administrator.

(b) The personal preference kit contains individual items of a personal nature selected by each individual who participates on a space transportation system flight.

(c) The flight crew consists of the commander, pilot, and mission specialist(s).

(d) A payload specialist is an individual selected to operate assigned payload elements on a specific space transportation system flight.

§ 1214.602 Policy.

Articles authorized to be carried on a space transportation system flight, other than articles related to the execution of a mission, are limited to those items approved by the Administrator for carrying in the official flight kit or a personal preference kit, in accordance with the requirements of this subpart.

§ 1214.603 Approval and disposition of contents of the official flight kit.

(a) *Proposed contents.* Both the Director, Johnson Space Center, and the program Associate Administrator responsible for payload mission management for a given flight shall suggest items for inclusion in the official flight kit to the associate administrator for space transportation systems.

(b) *Recommendation by Associate Administrator for Space Transportation Systems.* The Associate Administrator for Space Transportation Systems shall recommend to the Administrator a final list to be included in the official flight kit.

(c) *Disposition of kit.* Once the flight is completed the contents of the official flight kit shall be forwarded by the Director, Johnson Space Center, through the Associate Administrator for Space Transportation Systems, to the Administrator.

(d) *Approval authority.* The Administrator shall make all decisions concerning the contents and disposition of the official flight kit.

§ 1214.604 Policy on personal preference kits.

(a) *Purpose.* Each individual who participates on a flight, including flight crew members and payload specialists, shall be permitted to carry certain items of a personal nature in his/her personal preference kit on each space transportation system flight for use by him/her as personal gifts for immediate family and relatives (spouses, children, parents, inlaws, siblings) or close friends. No more than one article may be given to one individual.

(b) *Limit on number of items.* No more than 20 items will be included in the personal preference kit.

(c) *Weight limitations.* Each personal preference kit will be limited to 1.5 pounds which limitation may be reduced on a given flight because of overall weight considerations, if approved by the Associate Administrator for Space Transportation Systems upon the recommendation of the Director, Flight Operations, Johnson Space Center. Under no circumstances will an increase in the limitation be authorized.

(d) *Sale or commercial use prohibited.* Items carried in the personal preference kit shall not be sold or transferred for sale, or used, or transferred for economic gain or for any commercial or fund-raising purpose. Items will not be approved for carrying that by their nature may lend themselves to exploitation by the recipients, create problems with respect to good taste, or have a known or suspected commercial value, such as philatelic covers and coins.

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(e) *Certification required.* At the time a list of proposed contents is submitted, each individual desiring to carry a personal preference kit shall make the following written agreement:

In compliance with the requirements of 14 CFR 1214.6—Articles Authorized to be Carried on Space Transportation System Flights—I submit this certification along with my proposed list of items to be carried in my Personal Preference Kit on _____ (applicable flight).

1. I have read and understand the requirements of 14 CFR 1214.6 and agree to comply with those requirements.

2. My proposed list of items to be carried in my personal preference kit complies with the requirements.

3. Other than items approved by the Administrator for inclusion in my personal preference kit, I will carry no other items for use by myself or anyone else.

4. The items carried in my personal preference kit will be used as personal gifts. I will present no more than one item to an individual. The items will not be sold or transferred for sale, or used, or transferred for economic gain or for any commercial or fund-raising purpose.

5. I understand and agree that if I carry an item in violation of the requirements of 14 CFR 1214.6, that item will become the property of the U.S. Government, and that I may be subject to disciplinary or appropriate legal action.

6. I understand and agree that I assume the risk of loss for items carried in my kit, no matter what the cause.

_____
(Signature)

(f) *Violations.* Any item carried in violation of the requirements of this subpart shall become the property of the U.S. Government subject to applicable Federal laws and regulations.

(g) *Exceptions.* The Administrator may make exceptions to the policy of this section on personal preference kits by not permitting an individual to carry a preference kit. Flight crew members and payload specialists will not receive any U.S. Government or other property carried on the flight unless it is property contained in a personal preference kit.

§ 1214.605 Safety requirements.

Items included in the official flight-kit and personal preference kits shall meet the safety requirements of the NASA Headquarters document "Safety Policy and Requirements for Payloads Using the STS."

§ 1214.606 Procedures for approval of contents of personal preference kits.

(a) *Individual submits list.* At least 60 days before the scheduled launch date an individual desiring to carry a personal preference kit shall provide the Director, Flight Operations, Johnson Space Center, a list with the following information:

(1) A description of each item proposed to be included;

(2) The intended recipient of each item and his/her relationship;

(3) The certification required by § 1214.604(e).

In the case of a payload specialist, the list shall first be approved by the program Associate Administrator responsible for the payload mission management.

(b) *Action by Johnson Space Center.* The Director, Flight Operations, Johnson Space Center, shall review the lists for compliance with this subpart, and will submit them with weight data through the Director, Johnson Space Center, to the Associate Administrator for Space Transportation Systems, not later than 45 days before the scheduled launch date.

(c) *Action by headquarters.* The Associate Administrator for Space Transportation Systems shall submit the lists with his/her recommendation to the Administrator for approval. A final decision will be made not later than 30 days before the scheduled launch date.

(d) *Approved list.* A copy of each approved list, including the required certification, shall be provided to the individual requesting, as well as the Associate Administrator for External Relations, the Associate Administrator for Space Transportation Systems, the General Counsel and the Director, Johnson Space Center.

§ 1214.607 Preflight packaging and storage of kits.

The Director, Flight Operations, Johnson Space Center, shall:

(a) Insure that the official flight kit and the personal preference kits are packaged and sealed in the Director's presence and that the contents of each kit correspond with the lists approved by the Administrator;

(b) Verify that each kit meets the weight requirements of § 1214.604(c);

(c) Place the packed kits in bonded storage not less than 21 days before the scheduled launch date; and

(d) Certify in writing to the Associate Administrator for Space Transportation Systems, through the Director, Johnson Space Center, that the above actions have taken place.

§ 1214.608 Public announcements of contents of kits.

(a) *Official flight kit.* The contents of the official flight kit shall be announced in a NASA press release no later than 30 days after the flight has been completed.

(b) *Personal preference kits.* The contents of each personal preference kit shall be announced in a NASA press release no later than 30 days after the flight has been completed. At the request of the individual the contents of his/her kit may be announced sooner by NASA, but only after the contents of the kit have been approved by the Administrator.

(c) *Responsibility.* The Associate Administrator for External Relations is responsible for insuring that the required press releases are issued.

(d) *Inquiries before announcements.* The Director, Flight Operations, Johnson Space Center, will respond to all inquiries concerning the contents of the kits prior to the required press releases being issued.

§ 124.609 Disposition of kits after flight.

The Director, Flight Operations, Johnson Space Center, shall:

(a) Insure the removal and safekeeping of the kits following the flight;

(b) Return the personal preference kits to the individuals to whom they belong; and

(c) Forward the official flight kit as required by § 1214.603(c).

§ 1214.610 Loss or theft.

(a) *Responsibility.* Each individual who carries a personal preference kit assumes the risk of loss for that kit or any item in it, regardless of the cause. The National Aeronautics and Space Administration shall not be responsible for the loss, theft of, or damage to a personal preference kit.

(b) *Report of loss of theft.* Any NASA employee who becomes aware that an item contained in a personal preference kit or the official flight kit has been lost or is missing shall immediately notify the Inspections Division and the Installation Security Office.

§1214.611 Applicability of this subpart.

(a) *Acknowledgement of requirements.* When this subpart goes into effect, or upon his/her selection each individual shall sign an acknowledgement that he/she has read the subpart and will comply with its requirements, and provide the acknowledgement to the Director, Johnson Space Center.

(2) The acknowledgement required by this section shall be updated upon the assignment of an individual to a flight.

(3) Acknowledgements required by this section and made by individuals who are NASA employees, shall be retained in the individual's official personnel folder.

(4) Acknowledgements made by individuals who are not NASA employees shall be retained by the program Associate Administrator sponsoring their activities, or by the Associate Administrator for Space Transportation Systems, as appropriate.

(b) *Procedures required to bring non-NASA employees under this subpart.* (1) The requirements of this subpart will be made applicable to individuals who participate on a flight who are not NASA employees.

(2) The Associate Administrator for External Relations, the Associate Administrator for Space Transportation Systems, or the Director, Procurement Office, is responsible for insuring that individuals not employed by NASA are made subject to these requirements through the terms of the applicable interagency agreement, contract, or other agreement.

[FR Doc. 78-30235 Filed 10-25-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISION

[Docket No. C-2928]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Australian Land Title, Ltd., Et Al.

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Los Angles, Calif. seller of undivided interests in Australian land to cease advertising, selling, transferring or collecting payments on such land. Additionally, the firm would be required to return all payments received on or after July 1, 1977; pay property taxes and other charges levied against the tracts as they become due; and provide consumer redress to eligible parties.

DATES: Complaint and order issued September 14, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/P. Albert H. Kramer, Washington, D.C. 202-523-3727.

SUPPLEMENTARY INFORMATION: On Tuesday, May 2, 1978, there was published in the FEDERAL REGISTER, 43 FR 18685, a proposed consent agreement with analysis In the Matter of Australian Land Title, Ltd., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/of corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.90 History of product for offering; § 13.155 Prices; § 13.155-55 Government requirements; § 13.195 Safety; § 13.195-30 Investment; § 13.205 Scientific of other relevant facts; § 13.260 Terms and conditions; § 13.275 Undertaking, in general. Subpart—Corrective Actions and/or Requirements: 13.155-45 Maintain records; 13.155-55 Refunds, rebates and/or credits. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1650 History of product; § 13.1675 Law or legal requirements; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions; § 13.1765 Undertakings, in general. Prices: § 13.1815 Goverment requirements. Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1863 Limitations of product; § 13.1889 Risk of loss; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-30226 Filed 10-25-78; 8:45 am]

[1] Copies of the Complaint, and the Decision and Order are filed with the original document.

[4310-02-M]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—LAW AND ORDER

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

Listing of Courts of Indian Offenses

OCTOBER 16, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: There is a need to inform the public of which Indian reservations operate tribal courts and which operate Courts of Indian Offenses. To meet this need, the Bureau has compiled a complete list of all Courts of Indian Offenses. Future changes to the listing below will be done by an amending publication.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Patrick A. Hayes, Judicial Services Officer, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245, telephone 202-343-7885; or David C. Etheridge, Division of Indian Affairs, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240, telephone 202-343-6967.

SUPPLEMENTARY INFORMATION: This amendment provides a complete list of courts who derive the core of their substantive law from 25 CFR Part 11, and are known as Court of Indian Offenses (also known as CFR courts). In the future, Courts of Indian Offenses will be officially established or disestablished by amendments to 25 CFR 11.1(a).

The Couer d' Alene and Navajo Reservations now have tribal courts rather than CFR courts. For that reason, the special sections applicable to those tribes are deleted. Although the Hopi Reservation also has a tribal court, the tribe's attorney has asked that the special grazing regulations applicable to that reservation be retained. The CFR court for the Hoopa Reservation in California was established solely to enforce those regulations promulgated to regulate fishing activities on that reservation. This amendment is based on a notice of proposed rulemaking published in the FEDERAL REGISTER on February 9, 1978, at page 5528. Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented.

DISCUSSION OF COMMENTS

Comments were received from a few Indian tribes protesting their omission from, or inclusion in, the listing. Their comments have been accepted and investigated and the listing is revised accordingly. This amendment is made under the authority contained in 5 U.S.C. 301 and 25 U.S.C. 2 and delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 2. With the above revisions, §§ 11.1-11.87H of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations are amended to read as follows:

1. Section 11.1(a) of Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations is revised to read as follows:

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§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, § 11.1-11.87H apply to the following Indian reservations:

(1) Omaha (Nebraska).
(2) Flandreau (South Dakota).
(3) Yankton (South Dakota).
(4) Wind River (Wyoming).
(5) Menominee (Wisconsin).
(6) Isabella (Michigan).
(7) Sault Ste. Marie (Michigan).
(8) Boise Forte (Minnesota).
(9) Choctaw (Mississippi).
(10) Cocopah (Arizona).
(11) Fort Mojave (Arizona).
(12) Kaibab (Arizona).
(13) Yavapai-Prescott (Arizona).
(14) Fallon (Nevada).
(15) Goshute (Nevada).
(16) Lovelock (Nevada).
(17) Reno Sparks (Nevada).
(18) Te-Moak (Nevada).
(19) Walker River (Nevada).
(20) Washoe (Nevada).
(21) Winnemucca (Nevada).
(22) Yomba (Nevada).
(23) Kootenai (Idaho).
(24) Shoalwater Bay (Washington).
(25) Hopi (Arizona) (Tribal court enforcement of special grazing regulations).
(26) Hoopa (California) (Jurisdiction limited to special fishing regulations).

* * * * * *

2. The following sections as set forth below are deleted:

§§ 11.2CA, 11.3CA, 11.5CA, 11.6CA, 11.8CA, 11.22CA, 11.24CA, 11.25CA, 11.28CA, 11.30CA, 11.31CA, 11.33.CA, 11.37CA, 11.19CA, 11.52CA, 11.53CA, 11.63CA, 11.75CA, and 11.76CA [Reserved]

§ 11.77-11.87H [Amended]

3. The letter "N" is deleted from section numbers § 11.77NH-11.87NH so that these sections will not apply to the Navajo Reservation.

GEORGE V. GOODWIN,
Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 78-30289 Filed 10-25-78; 8:45 a.m.]

[8320-01-M]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

COLLEGIATE UNDERGRADUATE: CREDIT-HOUR BASIS

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The amended regulation is intended to make it easier for a school to get a nonaccredited course measured on a credit-hour basis for Veterans Administration purposes. Often graduates from a nonaccredited course of high quality are admitted without reservation to graduate or advanced professional programs offered by accredited colleges and universities. Previously, the Veterans Administration did not consider this in determining whether the course could be measured on a credit-hour basis for the purpose of determining the amount of educational assistance to be paid to eligible veterans and other eligible persons enrolled in the course. The amended regulation corrects this oversight.

EFFECTIVE DATE: October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: On page 37204 of the FEDERAL REGISTER of August 22, 1978, there was published a notice of proposed regulatory development to amend § 21.4272(b)(3) relating to measurement of nonaccredited courses on a credit-hour basis.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulation. No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

Approved: October 19, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

In § 21.4272, paragraph (b)(3) is revised to read as follows:

§ 21.4272 Collegiate undergraduate; credit-hour basis.

* * * * * *

(b) *Degree courses; nonaccredited.* * * *

(3) The school will furnish a letter from a State university or letters from three schools that are full members of a nationally recognized accrediting association. In each letter the State university or accredited school must certify either:

(i) That credits have been accepted on transfer at full value without reservation, in partial fulfillment of the requirements for a baccalaureate or higher degree for at least three students within the last 5 years, and that at least 40 percent of the subjects within each curriculum, for which credit-hour measurement is sought, has been accepted without reservation by the certifying State university or accredited school, or

(ii) That in the last 5 years at least three students, who have received a baccalaureate or higher degree as a result of having completed the nonaccredited course, have been admitted without reservation into a graduate or advanced professional program offered by the certifying State university or accredited school. (38 U.S.C. 1788(b))

* * * * * *

[FR Doc. 78-30290 Filed 10-25-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5651]

[Idaho 9790]

IDAHO

Revocation of Public Land Order No. 4416

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This document revokes Public Land Order No. 4416, May 16, 1968, which withdrew certain public lands in Idaho for use by the Forest Service, U.S. Department of Agriculture. This action will restore 80 acres of the land to the operation of public land laws generally, including the mining laws.

EFFECTIVE DATE: November 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Louis Bellesi, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4416 of May 16, 1968, which withdrew the following described public lands as an administrative site for use by the Forest Service, Department of Agriculture, is hereby revoked:

BOISE MERIDIAN

SODA SPRINGS ADMINISTRATIVE SITE

T. 8 S., R. 42 E.,
Sec. 28, E½SW¼.

The area described contains 80 acres in Caribou County.

2. At 10 a.m. on November 23, 1978, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 23, 1978, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 10 a.m. on November 23, 1978. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the state director, Bureau of Land Management, P.O. Box 042, Boise, Idaho 83724.

GUY R. MARTIN,
Assistant Secretary of the Interior.

OCTOBER 18, 1978.

[FR Doc. 78-30355 Filed 10-25-78; 8:45 am]

[4310-10-M]

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2437]

PART 3300—OUTER CONTINENTAL SHELF LEASING; GENERAL

Subpart 3308—Leasing Program

AGENCY: Office of Outer Continental Shelf Program Coordination.

ACTION: Final rule.

SUMMARY: The regulations which are being published today, pursuant to section 18(f) of the Outer Continental Shelf Lands Act, as amended, establish procedures to be followed in developing a 5-year Outer Continental Shelf oil and gas leasing program. The topics covered are: (1) Receipt and consideration of nominations; public notice and participation; (2) review by State and local governments; (3) periodic consultation with interested parties, and (4) consideration of coastal zone management programs. The procedures are applicable to the preparation of the oil and gas leasing program as required by section 18 of the Outer Continental Shelf Lands Act, as amended, and to any significant revision or reapproval of the leasing program.

DATE: This rule is effective October 26, 1978. Interested persons are invited to submit written comments, recommendations or objections with respect to this final rule prior to December 15, 1978.

ADDRESS: Send comments to: Director, Office of OCS Program Coordination, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240. Comments will be available for public review in room 4126 at the above address during regular business hours (9 a.m. to 5:30 p.m.), Monday through Friday.

FOR FURTHER INFORMATION, CONTACT:

Carolita Kallaur, Office of OCS Program Coordination, Office of the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240, phone No. 202-343-9314.

SUPPLEMENTARY INFORMATION: Based on the comments received and experience gained from implementation of the procedures, a determination will be made whether it is necessary to revise the regulations.

The leasing program shall consist of a planning schedule for proposed lease sales indicating the size, timing, and location of leasing activity for the 5-year period following its approval or reapproval and shall include estimates of the appropriations and staff required for the program. A timetable for the development of the first leasing program and a request for information appear today in the FEDERAL REGISTER.

In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. § 553(d)), the Secretary of the Interior had determined that it is in the public interest for these regulations to become effective as final regulations upon publication. This determination is based on the need to have regulations implementing the OCS Lands Act Amendments of 1978, effective as soon as possible after enactment in order to develop a proposed 5-year leasing program within the required 9-month period.

AUTHOR: Carolita Kallaur, Office of OCS Program Coordination, Office of the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240, phone No. 202-343-9314.

The Department of Interior has determined that publication of this document is not a major action significantly affecting the quality of the environment and does not require preparation of an Environmental Impact Statement under the National Environmental Policy Act of 1969. The Department has also determined that this document is not a significant regulatory action and does not require preparation of a regulatory analysis under Executive Order 12044.

Accordingly, under the authority of section 18(f) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1344), Part 3300, Group 3300, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended by adding a new subpart 3308 as set forth below:

Dated: October 19, 1978.

LARRY E. MEIEROTTO,
Deputy Secretary of the Interior.

Sec.
3308.0-1 Purpose.
3308.0-2 Authority.
3308.0-5 Definitions.
3308.1 Receipt and consideration of nominations; public notice and participation.
3308.2 Review by State and local governments.
3308.3 Periodic consultation with interested parties.
3308.4 Consideration of coastal zone management program.

§ 3308.01 Purpose.

The purpose of this subpart is to provide procedures for the development of a 5-year OCS leasing program. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which the Secretary of the Interior determines will best meet national energy needs for the 5-year period following its approval or reapproval and shall include estimates of the required appropriations and staff. This leasing program shall be prepared and maintained in a manner consistent with the principles of section 18(a) of the OCS Lands Act, as amended (43 U.S.C. 1344).

§ 3308.0-2 Authority.

Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1331 et. seq.).

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§ 3308.0-5 Definitions.

As used in this subpart, the term:

(a) "Affected State" and "affected States" means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, California, Oregon, Washington, and Alaska.

(b) "OCS" means Outer Continental Shelf.

(c) "Secretary" means the Secretary of the Interior.

§ 3308.1 Receipt and consideration of nominations; public notice and participation.

During preparation of a proposed 5-year leasing program, the Secretary shall invite and consider suggestions and relevant information for such program from Governors of affected States, local government, industry, other Federal agencies, including the Attorney General in consultation with the Federal Trade Commission, and all interested parties, including the general public. This request for information shall be issued as a notice in the FEDERAL REGISTER. Local governments wishing to respond to such request shall first submit their responses to the Governor of the State in which the local government is located.

The Secretary shall send letters to the Governors of the affected States requesting them to identify specific laws, goals, and policies which they believe should be considered by the Secretary in connection with the leasing program. The Secretary shall also request from the Secretary of Energy information on regional and national energy markets, on OCS production goals and on transportation networks.

§ 3308.2 Review by State and local governments.

(a) (1) The Secretary shall prepare a proposed leasing program. At least 60 days prior to publication of the proposed program in the FEDERAL REGISTER, a copy of the draft of the proposed program shall be forwarded to the Governor of each affected State for comment. The Governor may solicit comments from local governments in his or her State which the Governor determines will be affected by the proposed program.

(2) The Secretary shall reply in writing to any comment on the draft of the proposed program from the Governor of an affected State which is received at least 15 days prior to the submission of the proposed program to the Congress and publication in the FEDERAL REGISTER. All such correspondence between the Secretary and Governor of such State shall accompany the proposed program when it is submitted to the Congress.

(b) The proposed leasing program shall be submitted to the Governors of the affected States for review and comment at the time it is submitted to the Congress and the Attorney General and published in the FEDERAL REGISTER. The Governor of an affected State shall, upon request from any local government affected by the program, submit a copy of the proposed program to such local government. Comments and recommendations on any aspect of the proposed program may be submitted by a State or local government to the Secretary within 90 days after the date of its publication in the FEDERAL REGISTER. Comments and recommendations from local governments shall be submitted first to the Governor of the State in which the local government is located.

(c) At least 60 days prior to approving the final leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received on the proposed program. The Secretary shall indicate in each submission why any specific recommendation of the Attorney General or of a State or local government was not accepted.

§ 3308.3 Periodic consultation with interested parties.

The Secretary shall provide for periodic consultation with State and local governments, existing and potential oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in any activity in or on the OCS, including those involved in fish and shellfish recovery, and recreational activities. This consultation shall take place primarily through appropriate public notice as described in § 3308.1 and § 3308.2 and through the OCS Advisory Board and its committees, on a regional and national basis. Meetings of the OCS Advisory Board shall be held on specific issues as required by the Board's charter.

§ 3308.4 Consideration of coastal zone management program.

In the development of the leasing program, consideration shall be given to the coastal zone management program being developed or administered by an affected coastal State under section 305 or 306 of the Coastal Zone Management Act of 1972 as amended, (16 U.S.C. 1454, 1455). Information concerning the relationship between a State's coastal zone management program and OCS oil and gas activity shall be requested from the Governors of the affected coastal States and from the Secretary of Commerce prior to the development of the proposed leasing program at the time information is requested under § 3308.1 of this title.

[FR Doc. 78-30096 Filed 10-25-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. No. 1304-A]

PART 1033—CAR SERVICE

Distribution of Covered Hopper Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (service order No. 1304-A).

SUMMARY: Service order No. 1304 was issued directing that no common carrier by railroad shall permit the use in unit-grain train service of more than 20 percent of its ownership of jumbo covered hopper cars. Service order No. 1304-A vacates corrected service order No. 1304 because it is no longer needed.

DATE: Effective October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

Decided October 19, 1978.

Upon further consideration of corrected service order No. 1304 (43 FR 9281, 19048 and 29126), and good cause appearing therefor:

It is ordered,

Section 1033.1304 *Distribution of covered hopper cars* is vacated effective October 20, 1978.

(49 U.S.C. 1 (10-17).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30301 Filed 10-25-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

Opening of Certain National Wildlife Refuges in Arizona, California, New Mexico, Oklahoma, and Texas; Correction

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations; correction.

SUMMARY: The Fish and Wildlife Service is correcting a document relating to the opening to hunting of the Kofa National Wildlife Refuge in Arizona appearing at 43 FR 44538, September 28, 1978. The correction adds a special condition which is intended to make the upland game hunting regulation more effective.

FOR FURTHER INFORMATION CONTACT:

Kofa National Wildlife Refuge, P.O. Box 1032, Yuma, Ariz. 85464, telephone 602-261-2619. Quail, cottontails, coyotes, gray fox, and bobcat.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-27296 appearing at 43 FR 44538, September 28, 1978, the following correction should be made:

Under the heading "Arizona" which begins in the middle column, insert the following special condition (5) to appear at the top of the third column, second line:

§ 32.22 Special regulations: upland game: for individual wildlife refuge areas.

* * * * *

ARIZONA

* * * * *

(5) Possession of all rimfire firearms and ammunition on this refuge is prohibited.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

OCTOBER 18, 1978.

GORDON H. HANSEN,
Acting Regional Director,
Albuquerque, N. Mex.

[FR Doc. 78-30258 Filed 10-25-78; 8:45 am]

[4310-55-M]

PART 32—HUNTING

Opening of Bosque del Apache National Wildlife Refuge, N. Mex.

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of the Bosque del Apache National Wildlife Refuge, N. Mex., is compatible with the objectives for which this area was established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting season for migratory game birds.

EFFECTIVE DATES: November 25, 1978, through January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex., telephone 505-835-1828.

GENERAL CONDITIONS

Hunting on the refuge shall be in accordance with applicable State and Federal regulations. Special conditions applying to the refuge are listed on hunting leaflets available at the refuge headquarters or from the Area Office, U.S. Fish and Wildlife Service, 2953 West Indian School Road, Phoenix, Ariz. 85017.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, telephone 505-835-1828.

Snow blue and Ross's geese.

Special conditions: (1) Refuge hunting days will be November 25 through December 3, 1978, and December 27, 1978, through January 2, 1979. Shooting hours will be from sunrise until 10 a.m., local time. (2) For each day's hunt, each hunter will be limited to eight (8) steel (iron) shot shotshells. It will be illegal to possess any shells other than the eight (8) steel shotshells within the goose hunt area. (3) Hunters will be required to apply (by preseason application) for hunting dates. Applications are available from the New Mexico Department of Game and Fish, Bosque del Apache National Wildlife Refuge, and U.S. Fish and Wildlife Service's Regional Office, P.O. Box 1306, Albuquerque, N. Mex. 87103, telephone 505-766-2036. (4) Hunters may apply as a party of 1, 2, or 3 persons. If the application is for a party of less than three (3) persons, the blind vacancies may be filled from other applications, or by a daily drawing. No substitutions for an original applicant will be permitted. (5) A hunter's name may appear on only one application each season. If an applicant's name appears on more than one application, all applications containing his/her name will be voided. (6) Applicants may indicate up to four (4) choices of hunting days. All hunters will be limited to no more than two hunts by reservations. Only applications received at the refuge office before 10 a.m., October 2, 1978, will be accepted. (7) All successful applicants and those wishing to participate on a standby basis will have to have attended a snow goose hunter training program sponsored specifically for this hunt by the U.S. Fish and Wildlife Service. A passing score must be received on any test given at this program. Locations for programs to be presented will be contained in materials sent to successful hunt applicants and news releases sent to State news media. (8) Hunters selected to participate in each day's hunt will be assigned to their blinds by lot. (9) Hunting is permitted only from the assigned blinds, with no more than three (3) hunters per blind. Switching from assigned blinds is prohibited. (10) Each hunter will pay a special hunter service recreation fee of $3 on the day of the hunt. Holders of "Golden Age Passports" are entitled to a 50-percent discount on this $3 fee. (11) The daily bag limit will be four (4) of the permitted species, except that no more than one Ross's goose will be permitted in a daily bag. (12) Hunters will be permitted to use only snow goose decoys. (13) Hunters must check in through the middle refuge gate on New Mexico Highway 1, one and one-half (1½) miles south of the north boundary of the refuge. This gate is located on the east side of the A.T. & S.F. R.R. which parallels the highway. Check-in must be no later than 5 a.m., local time, on the day they are to hunt and must check out through the hunter check station by 11 a.m. of that same day. (14) Dogs are prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge

proposed rules

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The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927 (5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k, 668dd), sec. 2, 80 Stat. 926 (16 U.S.C. 668bb).)

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-197

GORDON H. HANSEN,
Acting Regional Director,
Albuquerque, N. Mex.

OCTOBER 17, 1978.

[FR Doc. 78-29998 Filed 10-25-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons on opportunity to participate in the rule making prior to the adoption of the final rules.

[6210-01-M]

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B; Docket No. R-0185]

EQUAL CREDIT OPPORTUNITY

Proposed Rulemaking

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rules.

SUMMARY: The Board proposes amendments to regulation B that would (1) bring within the scope of the regulation persons such as real estate brokers who select the creditor(s) to which a credit application will be submitted; (2) eliminate the exemption of business credit from the recordkeeping and notification requirements in certain transactions under $100,000; and (3) eliminate the exemption of business credit from the marital status information bar. The proposed amendment regarding business credit would also clarify the existing exemption as it applies to notification requirements.

DATE: Comments must be received on or before December 26, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All comments should refer to docket No. R-0185.

FOR FURTHER INFORMATION CONTACT:

Dolores S. Smith, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2412.

SUPPLEMENTARY INFORMATION:

1. CREDIT ARRANGERS

The Board's regulation B, which implements the Equal Credit Opportunity Act, applies to all persons who are creditors, as that term is defined by the regulation. The existing § 202.2(l) definition provides that a creditor is a person who in the ordinary course of business "regularly participates in the decision of whether or not to extend credit."

The staff of the Federal Trade Commission has urged the Board to amend that definition, to include persons who in the ordinary course of business regularly "arrange for the extension of credit." The FTC staff expresses concern that real estate brokers may not be covered by regulation B, since ostensibly they do not participate in the credit decision. The FTC staff points out that, by their participation in the credit application process, real estate brokers may nevertheless be in a position to influence the outcome. They cite a recent HUD report [1] in support of the proposition that discriminatory "steering" by real estate brokers is the cause of serve problems faced by members of minority groups in obtaining housing and that credit discrimination may exacerbate this problem. The FTC staff believes there is authority for making the regulation applicable to these persons based on the statutory definition of "creditor," which includes persons who regularly arrange for the extension of credit.

The proposed amendment would define "creditor," which includes persons who regularly arrange for the extension of credit.

The proposed amendment would define "creditor" in regulation B to include persons who in the ordinary course of business regularly arrange for the extension of credit. "Arrange for the extension of the credit" would mean to refer applicants to sources of credit, or to select the creditors to which applications are to be submitted. Under the proposed language, arrangers of credit would be subject to the basic antidiscrimination rules of regulation B. They would not be subject to its "mechanical" provisions, such as the notification and recordkeeping requirements and the rules concerning applications.

If this proposal were adopted, persons and organizations such as builders, auto dealers, and loan brokers would become creditors to the extent that they engage in referral activities. Groups that regularly refer persons to financing sources, such as neighborhood service centers or State departments of economic development, would also fall within the definition.

The Board invites comments on the following aspects of the proposal in particular:

1. Should arrangers who do not participate in the credit decision be subject to regulation B?

2. If so, should they be subject to provisions different from those proposed?

3. Should the text of the amendment be drawn more narrowly, and if so, how?

2. RECORDKEEPING AND NOTIFICATION REQUIREMENTS IN BUSINESS CREDIT TRANSACTIONS

The second and third proposals relate to the notification and record retention exemptions for business credit provided by Regulation B.

In a consumer credit transaction, a creditor must give the applicant notice of the action it takes and retain its records regarding the credit application for 25 months. Where adverse action occurs, creditors must provide written notice about an applicant's ECOA rights, together with a statement of the reasons or of the right to request the reasons for the denial.

Existing § 202.3(e) partially exempts business credit transactions from the record retention and adverse action requirements. That is, an applicant for business credit may request written notice of reasons for adverse action, but does not receive it automatically. Similarly, the business applicant can request to have the records of the transaction retained for 25 months. If there is no such request, the creditor may discard its records 90 days after it takes adverse action.

The Board has been urged to modify these regulatory exemptions. The FTC staff and the President's Interagency Task Force on Women Business Owners have expressed concern about enforcement of the ECOA in business credit transactions. The FTC staff and the Task Force contend that, without notification by the creditor, women and minority group members who own small businesses may not realize that the ECOA applies to business credit. When credit is denied, they may not know of their right to obtain the reasons for the denial. Thus, they may not protect their rights when unlawful discrimination occurs. In addition, the FTC relies on complaints to guide its enforcement efforts, and the FTC staff is concerned that applicants might not complain to the FTC or to other Federal enforcement agencies about discriminatory treatment. Record retention is similarly considered important to enforcement, in order that documentary evidence be

[1] "Housing Market Practices Survey," prepared jointly by the Department of Housing and Urban Development and the National Committee Against Discrimination, April 1978.

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available to both private litigants and enforcement agencies.

The proposed amendments would eliminate the business credit exemptions for notification and record-keeping in transactions involving direct loans where the total amount of credit extended by the creditor to the applicant is less than $100,000. In the case of an application, the amount of the loan applied for would be added to loans previously granted in determining whether the exception applies.

As proposed, the amendments regarding notification and record-keeping would affect identical classes of business credit transactions. They are, however, separate proposals and will be dealt with accordingly when the Board takes final action.

If these amendments are adopted, business creditors would be required to comply routinely with the notification and record-keeping provisions in transactions falling within the specified dollar cutoff. The proposal is limited to direct loans to avoid imposing record-keeping and notification requirements on suppliers, who may extend trade credit as an incident to their primary business.

The Board is particularly interested in comments on the following points:

1. What proportion of loan applications are made by business whose outstanding obligations to the creditor aggregate to $25,000 or less, and what proportion of these are declined? $50,000 or less? $75,000 or less? $100,000 or less?

2. What proportion of these businesses have a net worth of more than $100,000?

3. What would it cost to generate an adverse action notice regarding an application for a business loan?

4. When a business loan application is denied, what records do lenders normally retain, and for how long? When an application is granted, what records are retained?

5. What would the incremental cost be of retaining the records of business loan applications as necessary to comply with the proposed record-keeping requirements?

6. Is the $100,000 limitation in the proposal a reasonable criterion in terms of defining a class of businesses that may need additional protection under Regulation B; if not, what other criterion would be better?

3. CLARIFICATION OF NOTIFICATION REQUIREMENTS GENERALLY

Aside from the changes discussed above, the proposed amendment to § 202.3(e) would also clarify the notification responsibilities of creditors to whom the existing business credit exemption applies. Official Staff Interpretation EC-0009 states that, while the full notification requirements of § 202.9 do not apply automatically, a creditor nevertheless must give business applicants some notice, oral or written, of action taken regarding an application or existing account, within a reasonable time. Despite the issuance of this official staff interpretation, however, the Board's staff continues to receive questions on this matter. The Board proposes to amend the business credit provisions (see proposed § 202.3(e)(1)(ii)) so as to incorporate the substance of EC-0009.

4. MARTIAL STATUS INFORMATION BAR FOR BUSINESS CREDIT.

Under Regulation B, a creditor who receives an application for business credit is exempt from the restrictions on asking the applicant's martial status that apply in certain consumer credit applications. The Interagency Task Force on Women Business Owners expresses concern that this exemption is contrary to the congressional intent in enacting the ECOA. They believe it dilutes the protection of the ECOA for women business owners.

The proposed amendment would eliminate the exemption. Business credit would then be subject to all the same restrictions on solicitation of information as consumer credit.

The Board is particularly interested in comments addressing the following issues:

1. To what extent would changes in forms (such as application forms and financial statements) be required?

2. Should the exemption be eliminated only as to certain classes of business credit transactions, as is proposed regarding notification and recordkeeping; and if so, would the same criteria be appropriate?

3. What percentage of business credit applications is for credit to be secured by the owner's assets?

To aid in the consideration of these proposals by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. All such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 26, 1978. All material submitted should refer to docket No. R-0185. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

This notice is published pursuant to section 553(b) of Title 5 United States Code and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

Pursuant to the authority granted in section 703(a) of the ECOA (15 U.S.C. 1691b(a)), the Board proposes to amend Regulation B, 12 CFR part 202, as follows:

1. Section 202.2(1) would be amended to read:

§ 202.2 Definitions and rules of construction.

* * * * *

(l) *Creditor* means any person who in the ordinary course of business regularly participates in the decision of whether or not to extend credit. The term includes an assignee, transferee, or subrogee of an original creditor who so participates; but an assignee, transferee, subrogee, or other creditor is not a creditor regarding any violation of the Act or this part committed by the original or another creditor unless the assignee, transferee, subrogee, or other creditor knew or had reasonable notice of the act, policy, or practice that constituted the violation before its involvement with the credit transaction. The term also includes any person who in the ordinary course of business regularly arranges for the extension of credit but does not participate in the credit decision, except that such persons shall be exempt from the requirements of §§ 202.5(b) through (e) concerning applications, 202.9 relating to notifications, 202.10 relating to furnishing of credit information, 202.12 relating to record retention, and 202.13 relating to information for monitoring purposes. *Arrange for the extension of credit* means to refer applicants or prospective applicants to other creditors, or to select or offer to select creditors to which requests for credit may be made. The term creditor does not include a person whose only participation in a credit transaction involves honoring a credit card.

* * * * *

2. Section 202.3(e) would be amended by deleting paragraph (1), by renumbering existing paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively, and by revising the paragraphs renumbered (1) and (3):

§ 202.3 Special treatment for certain classes of transactions.

* * * * *

(e) *Business credit.* The following provisions of this part shall not apply to extensions of credit of the type described in subsection (a)(4):

(1) Section 202.9(a) relating to notifications, except that:

(i) This exemption is not available regarding applications for or existing extensions of direct loans where the aggregate of the amounts owed by the applicant to the creditor and any amount applied for is less than $100,000; and

(ii) In the case of any application or account where this exemption is available, the creditor nevertheless shall notify the applicant, orally or in writing, within a reasonable time of any action taken regarding the application or account; and if the applicant, within 30 days after a notification of adverse action is given, requests in writing the reasons for such action, the creditor shall furnish a written statement of specific reasons for the adverse action and the ECOA notice within 30 days of such a request, in accordance with § 202.9(b);

(2) Section 202.10 relating to furnishing of credit information; and

(3) Section 202.12(b) relating to record retention, except that:

(i) This exemption is not available regarding applications for or existing extensions of direct loans where the aggregate of the amounts owed by the applicant to the creditor and any amount applied for is less than $100,000; and

(ii) In the case of any application or account where this exemption is available, the creditor nevertheless shall comply with § 202.12(b) if the applicant, within 90 days after adverse action has been taken, requests in writing that the records relating to the application or account be retained.

* * * * *

By order of the Board of Governors, October 19, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-30266 Filed 10-25-78; 8:45 am]

DATES: Comments must be received on or before December 26, 1978.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No.—, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Manager—Spares and Support, Product Support Department, Short Brothers, Ltd., P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletin is contained in the Rules Docket, Rm 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There has been a report by the manufacturer that failure of the fuselage skin panel buttstraps on certain serial numbered Short Brothers Ltd. Model SD3-30 airplanes could occur if left in service beyond 10,000 flights. The life limit is established as a result of the discovery that certain early production airplanes had installed buttstraps of a material other than that specified. Since this condition exists on these serial numbered airplanes, an AD is being proposed which would require the replacement or reinforcement of the original fuselage skin panel buttstraps with an improved standard buttstrap installation before the accumulation of 10,000 flights.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

SHORT BROTHERS LTD. Applies to Model SD3-30 airplanes, S/Nos. SH 3004, 3005, 3006, 3007, and 3008, certificated in all categories.

Compliance is required prior to the accumulation of 10,000 flights, unless already accomplished.

To prevent failure of the fuselage skin panel buttstraps, accomplish the following:

(a) Replace or reinforce the original fuselage skin panel buttstraps in accordance with Section 2, "Accomplishment Instructions" of Short Brothers Ltd. Service Bulletin SD3-53-28, dated May 5, 1978, or an FAA-approved equivalent.

(b) For purposes of complying with this AD, a flight is defined as one takeoff and one landing.

(Secs. 313(a), 601, and 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9592; March 8, 1978).

Issued in Washington, D.C. on October 19, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-30261 Filed 10-25-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Adminstration

[14 CFR Part 39]

[Docket No. 18422]

AIRWORTHINESS DIRECTIVES

Short Brothers Ltd., Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive that would require replacement of life limited fuselage skin panel buttstraps on Short Brothers Ltd., Model SD3-30 airplanes. The proposed AD is prompted by a report that failure of the affected components could occur if left in service beyond 10,000 flights which could result in structural failure of the fuselage.

[4910-13-M]

[14 CFR 71]

[Airspace Docket No. 78-NE-19]

TRANSITION AREA

Alteration of Hartford, Conn., 700-Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to amend the Hartford, Conn., 700-foot transition so as to provide added protected airspace for aircraft executing two (2) new special MLS standard instrument approach procedures to runways 4 and 22, Rentchler Field, East Hartford, Conn.

DATES: Comments must be received on or before November 21, 1978.

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ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-19, 12 New England Executive Park, Burlington, Mass. 01803.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, ANE-7, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803; telephone 617-273-7295.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 78-NE-19, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before November 21, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of the Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8085. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Hartford, Conn., 700-foot transition area by adding additional controlled airspace to the northeast of Rentchler Field, a private airport. This action is needed to provide added controlled airspace for aircraft executing new special MLS runways 4 and 22 standard instrument approach procedures (SIAP) to serve Rentchler Field, East Hartford, Conn.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend the description of the Hartford, Conn., 700-foot transition area in § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by:

Deleting from the description, line 7, the words:

Within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles southeast of the NDB; within 2 miles each side of the centerline of runway 4 extending 10 miles from the end of the runway; within 2 miles each side of the centerline of runway 22 extended 10 miles from the end of the runway.

and substituting in lieu thereof the words:

Within 4.0 miles each side of runway 4 centerline extended from the 9-mile radius to 10 miles southwest of the runway threshold and within 4.5 miles each side of runway 22 centerline extended from the 9-mile radius to 10 miles northeast of the runway threshold; within 3.5 miles each side of a 130° bearing from the Brainard NDB extending from the NDB to 11.5 miles southeast of the NDB.

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; Mar. 8, 1978).

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a); and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Mass., on October 9, 1978.

ROBERT E. WHITTINGTON,
Director, New England Region.

[FR Doc.78-30086 Filed 10-25-78; 8:45 am]

[4910-13-M]

[14 CFR Parts 71 and 73]

[Airspace Docket No. 78-WA-171]

TEMPORARY RESTRICTED AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a temporary restricted area south of Fairbanks, Alaska, to contain a military joint readiness exercise called "JACK FROST 79." The proposed action would provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the restricted area during its proposed time of designation.

DATES: Comments must be received on or before November 24,1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 78-WA-17, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FUTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENT INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before November 24, 1978, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to § 71.151 of Part 71 and § 73.22 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to designate a temporary restricted area identified as R-2212 south of Fairbanks, Alaska, to contain a military joint readiness exercise called "JACK FROST 79." Since this restricted area would penetrate the continetal control area, it would be listed under § 71.151 to provide controlled airspace above 14,500 feet MSL. Training exercise JACK FROST 79 will involve a variety of missions including close air support, air interdiction, tactical reconnaissance, aerial resupply, and paradrops and aerial refueling. Total air traffic associated with this exercise is expected to total approximately 100 fixed wing and 150 helicopter sorties per day. The restricted area would be designated as joint use and nonparticipation flights would be authorized to penetrate the area when not in use by the using agency. The controlling agency for the proposed restricted area would be the FAA, Fairbanks Air Route Traffic Control Center.

The Department of Air Force, Alaskan Air Command, will serve as lead agency for purposes of compliance with the National Environmental Policy Act. Comments on any land use problems can be addressed to Maj. J. R. Davis, 907-752-5346, DOOS Headquarters, Alaskan Air Command, Elmendorf, Alaska 99506.

In addition to the rulemaking action proposing to establish R-2212, the FAA proposes nonrulemaking action which would establish a temporary MOA identified as FROSTY to contain a lesser concentration of aircraft including jet fighters primarily operating to and from the proposed restricted area. The temporary MOA would be established as follows:

FROSTY MOA

Boundaries. Beginning at Lat. 64°23'00"N., Long. 148°0700"W.; via the east bank of the Wood River to Lat. 64°15'30"N., Long. 147°45'00"W.; to Lat. 64°15'30"N., Long. 147°00'00"W.; to Lat. 64°23'00"N., Long. 147°00'00"W., via the west bank of the Tanana River to Lat. 64°16'30"N., Long. 146°43'00"W., via the east bank of the Little Delta River to Lat. 63°50'00"N., Long. 146°48'00"W., to Lat. 63°56'00"N., Long. 147°03'00"W., to Lat. 63°58'00"N., Long. 148°00'00"W., to point of beginning.

Altitudes. From 1,000 feet AGL to but not including FL 180.

Times of use. January 22, 1979, through February 7, 1979, from 0600 to 1800 local time, intermittent other times.

Controlling agency. Federal Aviation Administration, Anchorage ATRCC.

Scheduling agency. Alaskan Air Command, Elmendorf Air Force Base, Alaska.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.151 of Part 71 and § 73.22 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (43 FR 344 and 663) as follows:

In § 71.151 (43 FR 344), the following temporary restricted area is added during its time of designation:

R-2212 CLEAR CREEK, ALASKA

In § 73.22 (43FR 663), the following temporary restricted is added:

R-2212 CLEAR CREEK, ALASKA

Boundaries. Beginning at Lat. 64°41'00"N., Long. 147°55'00"W.; to Lat. 64°40'00"N., Long. 147°20'00"W.; via the west bank of the Tanana River to Lat. 64°23'00"N., Long. 147°00'00"W.; to Lat. 64°15'30"N., Long. 147°00'00"W.; to Lat. 64°15'30"N., Long. 147°45'00"W.; via the east bank of the Wood River to Lat. 64°23'00"N., Long. 148°07'00"W.; to point of beginning.

Designated altitudes. Surface to but not including Flight Level 200.

Time of designation. January 22, 1979, through February 7, 1979, continuous from 0600 to 1800 local time, intermittent other times.

Controlling agency. Federal Aviation Administration, Anchorage ARTCC.

Using agency. Alaskan Air Command, Elmendorf Air Force Base, Alaska.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. (6), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 23, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-30269 Filed 10-25-78; 8:45 am]

[4910-13-M]

[14 CFR Part 77]

[Docket No. 16920, Notice No. 78-9A]

OBJECTS AFFECTING NAVIGABLE AIRSPACE

Regulatory Review Program Conference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Agenda; Compilation of Proposals; and Announcement of Conference.

SUMMARY: This notice announces the availability of the agenda and compilation of proposals, and the location, times and date of the conference to consider proposals submitted in response to Notice 78-9 concerning the Part 77 Regulatory Review program.

DATE: The conference will be held December 4-8, 1978, in Washington, D.C.

ADDRESSES: Copies of agenda and compilation of proposals may be requested from: Federal Aviation Administration, Air Traffic Service, Airspace and Air Traffic Rules Division (AAT-200), 800 Independence Avenue SW., Washington, D.C. 20591. The review will be held in: Department of Transportation Conference Room 2230, 400 Seventh Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

O. E. Falsetti, Airspace Obstruction and Airports Branch (AAT-240) Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8777.

SUPPLEMENTARY INFORMATION

HISTORY

On June 16, 1977, the Federal Aviation Administration published Notice No. 77-7 in the FEDERAL REGISTER (42 FR 30643) inviting interested persons to submit proposals to amend part 77. On June 19, 1978, the Federal Aviation Administration published Notice No. 78-9 in the FEDERAL REGISTER (43 FR 26322) announcing a regulatory review program and inviting interested persons to submit proposals for a regulatory review conference concerning recommended amendments to part 77 of the Federal Aviation Regulations.

COMPILATION OF PROPOSALS

The FAA has prepared a compilation of proposals after reviewing and evaluating each proposal submitted by interested persons in response to the invitation in Notice No. 78-9. This compilation also contains FAA proposals for consideration during the regulatory review. The FAA hereby announces the availability of this compilation. A copy will be sent to each person who submitted a proposal in response to Notice Nos. 77-7 and 78-9. Any other persons desiring a copy of the compilation may request it by writing to the above address. It is expected the compilation will be mailed on or about November 3, 1978.

AGENDA

All proposals received were considered in preparing the agenda for the Part 77 Regulatory Review Confer-

ence. That agenda is included with the compilation.

LOCATION AND TIMES

Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5206.

course for British Airways is to file comments addressed to these issues. To allow interested persons to address the issues in light of our action here,

Aviation Act and part 223 of the Board's Economic Regulations, an airline receiving the benefits of free or reduced-rate transportation must be

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

In addition to the persons specified

William F. Adler, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-

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ence. That agenda is included with the compilation.

LOCATION AND TIMES

The review will be held in the Department of Transportation Conference Room 2230 at 400 Seventh Street SW., Washington, D.C. The conference hours on December 4 will be 9 a.m. to 4 p.m. For all other days the hours will be 8:30 a.m. to 4 p.m.

There will be no charge or other fee to attend or participate in the conference. All conference sessions will be open on a space available basis. All meetings will be tape recorded.

PROPOSED AND FINAL RULEMAKING

Orat and written presentations at the conference and written comments received during the periods June 16 to September 14, 1977, and June 19 to August 7, 1978, will be considered in developing any subsequent notices of proposed rulemaking issued in conjunction with the Part 77 Regulatory Review program.

(Secs. 104, 307, 313(a), and 1101, Federal Aviation Act of 1958 (49 U.S.C. subsections 1304, 1348, 1354(a), and 1501); sec. 6(c), Department of Transportation Act (49 U.S.C. Sec. 1655(c); and 14 CFR 11.45).)

Issued in Washington, D.C., on October 23, 1978.

B. KEITH POTTS,
Acting Chief,
Airspace and Air Traffic Rules Division, AAT-200.

[FR Doc. 77-30345 Filed 10-25-78; 8:45 am]

[6320-01-]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[EDR-347E/PDR-49E, Docket No. 32219, Dated: October 18, 1978]

U.S. CORPORATIONS WHICH DO NOT QUALIFY AS A "CITIZEN OF THE UNITED STATES"

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice denies the motion of British Airways for clarification of how the Board's tentative legal conclusion that U.S. corporations are citizens of the United States for purposes of section 408(a)(4) of the Federal Aviation Act would be applied to foreign governments if finalized, and extends the comment date until November 6

DATE: Comments by November 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald H. Horn, Routes Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5206.

SUPPLEMENTAL INFORMATION: By advance notice of proposed rulemaking (EDR-347/PDR-49, 43 FR 10938, March 16, 1978), the Civil Aeronautics Board gave notice of its tentative conclusion that U.S. corporations are citizens of the United States for purposes of section 408(a)(4) of the Federal Aviation Act. It requested comments on that tentative conclusion, including the nature and extent of the problems that might be created by finalizing that tentative conclusion, and what regulatory action might be taken to minimize them consistent with statutory objectives. Comments were requested to be filed by May 1, 1978. By a series of supplemental advance notices of proposed rulemaking, the date for the filing of comments has been extended until October 23, 1978 (EDR-347D/PDR-49D, 43 FR 41410, September 18, 1978).

On June 26, 1978, British Airways filed a motion for clarification and extension of time. It states that there are grounds for assuming that the Board intends to apply section 408(a)(4) to all acquisitions of U.S. corporations engaged in a phase of aeronautics by governments which control foreign air carriers. However, the Department of State's statement of further views suggests that the Board had not intended to extend the application of section 408(a)(4) to foreign government acquisitions of U.S. corporations engaged in a phase of aeronautics unrelated to commercial air services, such as the manufacture, distribution, sale, or purchase of aerospace products. British Airways asserts that the resulting confusion as to whether and/or how the Board intends to apply section 408(a)(4) to foreign governments controlling foreign air carriers makes it impossible to evaluate the impact of the proposed rulemaking. It, therefore, asks the Board to clarify the point and extend the comment time pending that clarification.

We have decided to deny the motion for clarification. British Airways states that our proposed legal conclusion can be interpreted in at least two ways, and requests that we clarify our interpretation. However, the issues in this rulemaking specifically include how section 408(a)(4) should properly be interpreted and, as to relationships which are covered, what means (including rules, reports, approvals, and disclaimers) should be employed to minimize regulatory requirements consistent with statutory objectives. Thus, British Airways is, in essence, requesting that we resolve, at the outset, issues that this rulemaking was designed to help us decide. The proper course for British Airways is to file comments addressed to these issues. To allow interested persons to address the issues in light of our action here, we will extend the comment date by two weeks.

Accordingly, British Airways' motion for clarification of EDR-347/PDR-49 is denied. Comments in this rulemaking are due by November 6, 1978.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-30298 Filed 10-25-78; 8:45 am]

[6320-01-M]

[14 CFR Part 223]

[EDR-364, Docket 33724, October 20, 1978]

INTRASTATE CARRIERS

Exemption for Air Carriers to Provide Free or Reduced-Rate Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under existing Board regulations, air carriers may provide free or reduced-rate transportation only to other "air carriers" within the meaning of the Act. Currently, intrastate carriers may not receive the benefits of this free and reduced-rate transportation unless exempted from section 403(b) of the Act. This notice proposes a blanket exemption allowing free or reduced-rate transportation to officers, directors, employees, and retirees (and their immediate families) of intrastate air carriers.

DATE: Comments by: December 26, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 33724, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Judith E. Retchin, Bureau of Pricing and Domestic Aviation, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-35009.

SUPPLEMENTARY INFORMATION: Under section 403(b) of the Federal Aviation Act and part 223 of the Board's Economic Regulations, an airline receiving the benefits of free or reduced-rate transportation must be an air carrier within the meaning of the Act.[1] Therefore, if an air carrier wishes to engage in reciprocal nonrevenue transportation with an intrastate carrier, the air carrier must be granted an exemption from section 403(b).

We anticipate many air carriers will seek exemptions under section 416(b). To obviate the necessity of applying for exemptions on an ad hoc basis and to free Board staff to concentrate on more pressing matters, we propose to grant a blanket exemption from section 403(b) to air carriers desirous of engaging in reciprocal free or reduced-rate transportation with intrastate carriers.

Under section 416(b), a blanket exemption is warranted because it would be a needless exercise and an undue burden to require air carriers to file pro forma requests for exemptions, when the Board has already indicated its willingness to grant these exemptions. The blanket exemption is in the public interest because it facilitates interlining, a statutory objective of section 404(a). Besides the statutory language in section 404(a) which encourages interlining, Congress recently enacted Pub. L. 95-163[2] which statutorily permits specified intrastate carriers to interline. In orders 78-3-63 and 78-3-137, the Board invited other intrastate carriers to seek exemption authority to carry interline traffic. In short, the Board believes interlining promotes the public interest, and free and reduced-rate transportation which facilitates interlining should be encouraged.

Besides facilitating interlining, free and reduced-rate transportation is consistent with the public interest in that it familiarizes airline employees with the services and facilities of other airlines, thus resulting in more knowledgeable travel advice and information from airline personnel; it promotes air transportation by building good will between the airlines; it bolsters the morale of airline employees; and it comports with out policy of permitting airlines greater flexibility in business decisions.

PROPOSED RULE

We propose to add a new subsection (i) to § 223.2 of the Board's Economic Regulations (14 CFR 223.2), to read as follows:

[1] By orders 76-8-80 and 77-1-139, the Board disapproved an agreement for reciprocal nonrevenue transportation between Continental and Air California, because Air California, an intrastate airline, did not come within the definition of air carrier.

[2] The applicable section of Pub. L. 95-163 is found in section 401(d)(4)(A) of the Act.

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

In addition to the persons specified in subparts B and C of this part:

. . . . . .

(i) Any air carrier is hereby exempted from section 403(b) of the Act and part 221 of the Board's Economic Regulations to the extent necessary to enable it to provide free or reduced-rate transportation to directors, officers, employees and retirees (and members of their immediate families) of intrastate carriers.

(Sections 204, 401, 403 and 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 754 as amended, 758 as amended, and 771; 49 U.S.C. 1324, 1371, 1373 and 1386.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30332 Filed 10-25-78; 8:45 am]

[6320-01-M]

[14 CFR Part 302]

[PDR-57, Docket 33723, October 20, 1978]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Applications for Route Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed amendments would require a motion to have a new route application consolidated with an earlier one to be made within 30 days of the filing date of the earlier one. It would also prohibit petitions for reconsideration asking for changes in the scope of route proceedings after instituting orders have been issued. The Board is proposing these amendments on its own initiative to reduce the time needed to complete route proceedings.

DATE: Comments by December 26, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 33093, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

William F. Adler, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5205.

SUPPLEMENTARY INFORMATION: In recent months, the Board's progress in reducing the time period between the filing of applications for route authority and the grant or denial of those applications has been impeded by the necessity to act on numerous requests to change the scope of recently instituted route proceedings. For example, if the Board, in response to an application, issues an order instituting an investigation into the need for service in markets A-B and A-C, a second applicant may then submit a petition for reconsideration to expand the case to include A-D and A-E. A third applicant may then seek the inclusion of the B-C and D-E markets, and a fourth may thereafter ask for the inclusion of consideration of beyond-market authority such as A-B-X or A-D-Y.

The task of determining the proper scope of route proceedings will remain, regardless of the timing of these requests. We have tentatively concluded, however, that these scoping decisions will be made easier if any requests to add markets or issues to the proceeding are made before an instituting order is issued.

To accomplish this, we first proposed to amend rule 908 of our rules of practice in economic proceedings to specify that motions to consolidate one route application with another must be filed within 30 days of the service date of the earlier one. We realize that this action may not completely solve the problem, since potential applicants will have the right, within 30 days after a second motion is filed, to seek consolidation of a third application with the second one, and so forth. In most instances, however, we believe that the major outlines of potential cases will be revealed by the time that the second or third "round" of pleadings has been received.

We propose to amend rule 37 of our rules of practice to provide that the Board will not consider requests to change the scope of a route proceeding after an instituting order has been issued. Thus, unless a petitioner can establish that there was a good reason why its request was not made sooner, in an accompanying motion to file an otherwise unauthorized document under rule 4, only one instituting order will be required to define each proceeding. We would also amend rule 12 (CFR 302.12) to make it clear that its general provisions are superseded, to the extent of any conflict, by the more specific provisions of rule 908.

These proposed rules represent only tentative conclusions as to how to

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solve this problem. We would like to receive other suggestions, instead of or in addition to these proposals, on how to reduce regulatory delays in the structuring of route investigations.

Accordingly, we propose to amend 14 CFR Part 302, Rules of Practice in Economic Proceedings, as follows:

1. In paragraph (b) of § 302.12, the phrase "and except as provided in Rule 908," would be added after the phrase "Unless the Board has provided otherwise in a particular proceeding,".

2. In paragraph (a) of § 302.27, the phrase "and except for petitions seeking changes in the scope of route proceedings as defined in instituting or scoping orders," would be added after the phrase "unless an order or a rule of the Board specifically provides otherwise,".

3. A new paragraph (g) would be added to § 302.908, to read as follows:

§ 302.908 Applications for new or modified certificated route authority.

* * * * *

(g) All motions seeking consolidation for hearing with another application must be filed within 30 days of the service date of the application with which consolidation is sought.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-30334 Filed 10-25-78; 8:45 am]

[6320-01-M]

[14 CFR Part 380]

[SPDR-50C; Special Regulations Docket 29165; Dated: October 19, 1978]

CONSUMER PROTECTIONS FOR CHARTER PARTICIPANT

Simplified Prospectus Filing Procedures

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: This action extends for 21 days the filing date for comments in a rulemaking proceeding regarding refund provisions and disclosure requirements in charter packages, and simplified prospectus filing procedures. This action was requested by Amexco and supported by the National Air Carrier Association.

DATES: Comments by November 13, 1978. Reply comments by November 28, 1978.

ADDRESSES: Comments should be sent to Docket 29165, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking SPDR-50B (43 FR 39807, September 7, 1978) the Board proposed to amend the Public Charter regulation (14 CFR Part 380) to entitle charter participants to refunds when there are major changes, and to establish new requirements for advertising and for contracts between tour operators and participants. The proposed amendment also would simplify procedures for filing prospectuses, and requested comments on requiring operators to obtain permits. The comment closing date was October 23, 1978.

American Express Co. (Amexco) has requested an extension of 21 days for filing comments. The request is supported by the National Air Carrier Association.

Amexco stated that its staff has undertaken an analysis and review of the cost impact of compliance with the proposed regulation and needs more time to complete it. Amexco further stated that an extension would be beneficial to many other persons, since the American Society of Travel Agents (ASTA) is having its annual meeting during the week immediately preceding the October 23 filing date. SPDR-50 is a likely topic of discussion there and the result would be that travel officers would be able to submit more informed responses to the proposal.

The supporting letter from NACA based its request on the complexity of the Board's proposal and the need to address the cost impact of each aspect of that proposal, as well as the reasons given in the Amexco request.

Upon consideration of the above, the undersigned finds good cause to grant the request for an extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to November 13, 1978, and the time for reply comments is extended to November 28, 1978. The Board intends to maintain the target date of January 15, 1979 for adoption of a final rule, so that the new rules can apply to participants in summer charters.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

RICHARD B. DYSON,
Associate General Counsel,
Rules Division.

[FR Doc. 78-30224 Filed 10-25-78; 8:45 am]

[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 7C]

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Optional Laboratory Accreditation Procedures Designed for Voluntary Standards Bodies in the Private Sector

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Proposed optional procedures for a National Voluntary Laboratory Accreditation Program (NVLAP) serving the needs of voluntary standards bodies in the private sector.

SUMMARY: The original NVLAP procedures (redesignated as Title 15, CFR Part 7A) place upon the Secretary of Commerce the responsibility for making a finding of need for a laboratory accreditation program after a request for such program serving a specific product has been received by the Secretary from any person (including associations, companies, societies, etc.). In addition, under those procedures, the Secretary is responsible for establishing a Criteria Committee to recommend general and specific criteria for use in accrediting laboratories which voluntarily seek such accreditation.

This document proposes optional NVLAP procedures to allow for more flexibility in the initiation of laboratory accreditation programs by relying upon the private sector, namely, certain voluntary standards bodies, to define a need for such programs and recommend criteria to the Secretary. Portions of the Original NVLAP procedures (redesignated Title 15, CFR Part 7A) dealing with promulgating proposed laboratory accreditation criteria for public comment, evaluating testing laboratories based upon a final criteria arrived at by considering the public comment, and appeals of actions remain essentially unchanged in these optional procedures.

DATES: Interested parties are requested to submit their comments not later than December 26, 1978. A request for an informal hearing may be made before November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTAL INFORMATION: In line with the Federal Government's general policy of relying upon the private sector to supply Government needs for goods and services, and of relying on voluntary standards whenever feasible and consistent with law and regulation pursuant to law, the Secretary proposes to rely on voluntary standards bodies in the private sector to articulate the need for laboratory accreditation programs and to recommend general and specific criteria compatible with such criteria promulgated under NVLAP Part 7A for accrediting laboratories. The original NVLAP procedures (which have been redesignated as Title 15, CFR Part 7A) remain applicable to serve any requestor and voluntary standards bodies in the private sector which may choose to use those procedures instead of the optional procedures described herein.

The original procedures for the operation of the national Voluntary Laboratory Accreditation Program (NVLAP) were published in the FEDERAL REGISTER (41 FR 8163-8168) on February 25, 1976. The goal of that program is to provide, in cooperation with the private sector, a national voluntary system to examine upon request the professional and technical competence of private and public testing laboratories that serve regulatory and nonregulatory product evaluation and certification needs. These original procedures require that the Secretary of Commerce make a preliminary finding of need for each laboratory accreditation program, obtain public comment on the preliminary finding and, where appropriate, make a final finding of need. Once the final finding of need has been established, general and specific criteria for accrediting laboratories are developed and recommended to the Secretary by a National Laboratory Accreditation Criteria Committee (NLACC) established for that purpose. The Secretary, after consideration of such recommendations, then publishes the proposed accreditation criteria in the FEDERAL REGISTER for public comment. After evaluation of such comment, the Secretary, where appropriate, will publish in the FEDERAL REGISTER the final accreditation criteria and a statement of fees to be charged applicants for accreditation, and will begin to evaluate and accredit testing laboratories which apply and which meet the requirements of those criteria.

The optional procedures proposed herein do not in any way affect the NVLAP operations under the original procedures. These optional procedures do, however, provide an alternative approach to establishing a NVLAP for use by voluntary standards bodies in the private sector should such bodies desire to use them in specific situations. Voluntary standards bodies are nongovernmental bodies which are broadly based, multimember, domestic, and multinational organizations including, for example, nonprofit organizations, industry associations, and professional technical societies which develop, establish, and coordinate voluntary standards.

This optional approach considerably shortens the time required to initiate a laboratory accreditation program under NVLAP by eliminating the time required by the Secretary to make a final finding of need for such program and eliminating the need to establish an independent criteria committee if the program is requested by a voluntary standards body in the private sector accompanied by recommended evaluation criteria compatible with criteria published under NVLAP Part 7A procedures. These optional procedures retain the provisions in the original NVLAP procedures which require that proposed evaluation criterial be published in the FEDERAL REGISTER and be subjected to public review and comment which must be taken into account in arriving at the final criteria for accrediting laboratories.

This optional approach also makes provision for payment of the actual or estimated cost of developing the NVLAP program requested by the voluntary standards body. The actual cost of examining the laboratories, however, will be charged to the laboratories actually accredited.

Regulatory analysis. President Carter's Executive Order 12044, "Improving Government Regulations," directs that a regulatory analysis be prepared for each significant regulation determined to have potential major economic consequences for the general economy, for individual industries, geographic regions, levels of government, or specific elements of the population. These proposed procedures would not in and of themselves have such major economic consequences. It is only in the implementation of these procedures by the development of a laboratory accreditation program for a given product that such economic consequences could be estimated.

Under these part 7C procedures, the request for a NVLAP program can only come from voluntary standards bodies, it is presumed that any potentially major economic consequences will be considered during deliberations of such voluntary standards body in arriving at the decision to request such a NVLAP. Since the requesting voluntary standards body must comply with due process provisions which provide for input from all affected parties, no regulatory analysis will be required under these part 7C procedures.

Request for comments. Interested persons desiring to comment on the proposed part 7C operational procedures set out below are invited to submit such comments, in four copies, on or before December 26, 1978, to the Assistant Secretary for Science and Technoloy, Department of Commerce, Room 3864, Main Commerce Building, Washington, D.C. 20230.

Any person desiring to express his or her views in an informal hearing relative to the mentioned preliminary finding of need shall notify the Assistant Secretary for Science and Technology at the address shown in the preceding paragraph of that desire in writing on or before November 15, 1978. Upon receipt of such requests, informal public hearings will be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate, such hearings may be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearing will be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be made of any oral presentation.

All written and oral comments and testimony that are furnished in response to the invitation made by this notice will also be made part of the public record and will be available for inspection and copying in the Department's Central Reference and Records Inspection Facility (CRRIF), Room 5317, Main Commerce, Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230.

Dated: October 20, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

Part 7C is added to Title 15 CFR to read as follows:

Sec.
7C.1 Purpose.
7C.2 Description and goal of program.
7C.3 Definitions.
7C.4 Request to accredit testing laboratories.
7C.5 Establishment of criteria with which to accredit laboratories.
7C.6 Establishment and functions of a National Laboratory Accreditation Criteria Committee.

7C.7 Development and recommendation of criteria for accrediting testing laboratories.
7C.8 Publication of proposed criteria.
7C.9 Coordination with Federal agencies.

accreditation system designed to serve national needs as they develop.

§ 7C.3 Definitions.

and generally expected of, such a laboratory serving the product under consideration. See in this connection § 7C.5(a).

agency its views relative to the Secretary's making a preliminary finding of need. If within thirty (30) days after receipt of the Secretary's solicitation

Committee thus established shall consist of a combination of Federal, State, and local government personnel and qualified representatives chosen from

clude but are not limited to the following:

(1) Be examined and audited initially and on a continuing basis:

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7C.7 Development and recommendation of criteria for accrediting testing laboratories.
7C.8 Publication of proposed criteria.
7C.9 Coordination with Federal agencies.
7C.10 Establishment of fees and charges.
7C.11 Participation of testing laboratories.
7C.12 Reference to accredited status.
7C.13 Revocation or termination of accreditation of a testing laboratory.
7C.14 Cessation of accreditations.
7C.15 Refund of fees and charges.
7C.16 Amendment or revision of criteria.
7C.17 User education and reports.
7C.18 Support function.

AUTHORITY: Sec. 2, 31 Stat. 1449, as amended; sec 1, 64 Stat. 371 (15 U.S.C. 272); Reorganization Plan No. 3 of 1946, part VI.

§ 7C.1 Purpose.

The purpose of this part is to establish procedures under which a National Voluntary Laboratory Accreditation Program (NVLAP) serving voluntary standards bodies in the private sector which determine that a need for such accreditation program exists will function.

§ 7C.2 Description and goal of program.

(a) This program extends the provisions of NVLAP (title 15 CFR Part 7A) to examine the professional and technical competence of testing laboratories that serve the public interest. Testing laboratories that meet the qualifications established pursuant to the procedures set out below would be accredited. This program will also require those testing laboratories wanting to maintain accredited status to undergo periodic checks and examinations. In conjunction with the NVLAP Part 7A program (part 7A is the redesignation of the original Part 7, CFR Title 15 titled, "Procedures for a National Voluntary Laboratory Accreditation Program," as published in the FEDERAL REGISTER, volume 41, No. 38, Wednesday, February 25, 1976 (pp. 8163-8168)), this part 7C program will seek, through coordination and consultation, to maximize benefits derived from other testing laboratory examination and accreditation activities. In this way, it is intended that the program will avoid duplication of other testing laboratory examination or accreditation programs conducted by the public and private sectors.

(b) The intended goal of this program is to simplify and shorten the NVLAP procedures, thereby serving the needs of industry and consumers in an even more timely basis by accrediting this Nation's testing laboratories when requested to do so by voluntary standards bodies in the private sector. Achievement of this goal would be attained by a uniformly acceptable base of clearly defined professional and technical competence in testing laboratories and by establishing a background of experience necessary to the orderly evolution of a laboratory accreditation system designed to serve national needs as they develop.

§ 7C.3 Definitions.

(a) The term "Secretary" means the Secretary of Commerce or the Secretary's designee.

(b) The term "voluntary standards bodies" refers to nongovernment bodies which are broadly based, multimember, domestic, and multinational organizations including, for example, nonprofit organizations, industry associations, and professional technical societies which develop, establish, or coordinate voluntary standards. To be eligible to request a NVLAP under these procedures, such voluntary standards bodies must comply with the conditions set out below:

(1) Public notice of meetings and other standards activities, including requests for NVLAP's is provided in an appropriate and timely fashion;

(2) Meetings are open and participation in standards activities is available to interested persons;

(3) Decisions reached by voluntary standards bodies in their standards activities represent substantial agreement;

(4) Prompt consideration is given to the expressed views and concerns of all interested parties;

(5) Adequate and impartial mechanisms for handling substantive and procedural complaints and appeals are in force;

(6) Appropriate records are maintained and official procedures of the standards body are published.

(c) The term "Product" includes the plural thereof and means a type or a category of manufactured goods, constructions, installations and natural and processed materials or those associated services whose characterization, classification or functional performance determination is specified by standards.

(d) The term "Criteria Committee" means a National Laboratory Accreditation Criteria Committee appointed by the Secretary under these procedures.

(e) The term "person" means associations, companies, corporations, educational institutions, firms, government agencies at the Federal, State and local level, partnerships, and societies, as well as divisions thereof, and individuals.

(f) The term "testing laboratory" means any "person" as defined above whose functions include testing, analyzing or inspecting "product," as defined above, and/or evaluating the designs or specifications of such "products" according to the requirements of applicable standards.

(g) The term "general criteria" means those characteristics of a testing laboratory commonly found in, and generally expected of, such a laboratory serving the product under consideration. See in this connection § 7C.5(a).

(h) The term "specific criteria" means those detailed requirements deemed essential to assuring an acceptable examination and evaluation of the testing function performed by a testing laboratory in performing specific tests related to identified standards for the product under consideration. See in this connection § 7C.5(a).

§ 7C.4 Request to accredit testing laboratories.

(a) Any voluntary standards body which has determined there is a need to accredit testing laboratories that test products using identical standards may request the Secretary to establish a NVLAP based on these part 7C procedures for use in helping to assure that such product meets the requirements of those identical standards.

(b) Such a request shall be in writing and will include the following:

(1) Identification of the product;

(2) Test of applicable standards;

(3) Text of test methods, if not included in the applicable standard identified in paragraph (b)(2) of this section; and

(4) Recommended general and specific criteria compatible with NVLAP part 7A criteria to be used in accreditation of test laboratories or a request for the establishment of a National Laboratory Accreditation Criteria Committee to develop and recommend such criteria to the Secretary.

(5) A statement of need identified under paragaraph (a) of this section for accrediting testing laboratories that serve the product identified in paragraph (b)(1) of this section and a list of users who committed themselves to make use of the program.

(6) A statement of willingness to support any necessary developmental aspects of the program with funding and personnel as agreed between the Secretary and the voluntary standards body.

(c) If on the basis of the information provided or because of the lack of funding and personnel from the requesting voluntary standards body the Secretary is unable to justify the establishment of a NVLAP under these part 7C procedures, the Secretary will decline to act further on the request. The Secretary shall in that event notify the requesting agency in writing within ten (10) working days after making a decision and shall state the reasons for so declining.

(d) If a request received under this section is believed to affect an existing or developing testing laboratory examination or accreditation program of a Federal regulatory agency, the Secretary shall seek from the head of such agency its views relative to the Secretary's making a preliminary finding of need. If within thirty (30) days after receipt of the Secretary's solicitation of views, of such extension of time as may be agreed to by the Secretary, the head of the affected Federal regulatory agency explains, in writing, his objections to the Secretary's making a preliminary finding of need, the Secretary shall cease to act further on the making of such finding. In that event, the Secretary shall notify the requestor of such objections and of his declination to act on the request pursuant to paragraph (c) of this section.

§ 7C.5 Establishment of criteria with which to accredit laboratories.

(a) Laboratories will be accredited on the basis of their conformance to general and specific accreditation criteria issued by the Secretary under these procedures. The general criteria will deal with those qualities which make for an effective testing laboratory. The specific criteria will be based on the requirements of the relevant standards and test methods involved.

(b) Laboratory accreditation criteria may be recommended to the Secretary by the requesting voluntary standards body, or may be developed by a National Laboratory Accreditation Criteria Committee described in the NVLAP procedures (newly redesignated § 7A.6) The choice of which approach to use will lie with the voluntary standards body requesting the program.

(c) The Secretary will decide, after consultation with the requesting voluntary standards body, on the precise language and format of the proposed general and specific criteria to be published by the Secretary in the FEDERAL REGISTER. In making the decision, the Secretary will consider:

(1) The needs and scope of the program of the requesting voluntary standards body;

(2) Compatibility with other criteria already established and being used in other NVLAP's; and

(3) The nature and content of other related laboratory accreditation programs that may be applicable to this specific request.

§ 7C.6 Establishment and functions of a National Laboratory Accreditation Criteria Committee.

(a) In those instances where a voluntary standards body declines to recommend laboratory accreditation criteria, the Secretary, will establish a National Laboratory Accreditation Criteria Committee in order to develop and recommend general and specific criteria for accrediting laboratories serving the product specified.

(b) Membership in each National Laboratory Accreditation Criteria Committee thus established shall consist of a combination of Federal, State, and local government personnel and qualified representatives chosen from among producers, users, consumers, testing laboratories, academia and general interest groups, in accordance with the relevant provisions of the NVLAP procedures (redesignated § 7A.6 of Part 7 CFR Title 15).

§ 7C.7 Development and recommendation of criteria for accrediting testing laboratories.

(a) The Secretary, the requesting voluntary standards body in those cases where it has elected to recommend general and specific criteria, or the Criteria Committee acting at the request of the Secretary in developing general and specific criteria to accredit testing laboratories that serve a specific product shall consider factors such as:

(1) For general criteria pertaining to testing laboratories:

(i) Organization;

(ii) Staff;

(iii) Physical plant;

(iv) Operational processes;

(v) Control procedures;

(vi) Quality assurance; and

(vii) Professional and ethical business practices, as appropriate.

(2) For specific criteria pertaining to testing laboratories:

(i) Personnel and equipment qualifications required of the testing laboratory function;

(ii) Requirements applicable to proficiency sample programs;

(iii) Application requirements;

(iv) Initial and periodic examination and audit procedures; and

(v) Professional and technical qualifications of personnel who examine testing laboratories.

(b) The general and specific criteria developed under this section for accrediting testing laboratories will be based upon criteria found in existing standards where such existing criteria are deemed appropriate and compatible with criteria developed under NVLAP part 7A procedures. Where appropriate existing criteria cannot be found, the requesting voluntary standards body, in those cases where it has elected to recommend general and specific criteria to the Secretary of the Criteria Committee, will, at the request of the Secretary, undertake to develop and recommend such appropriate general and specific criteria as may be needed.

(c) The criteria shall contain instructions for making application for accreditation by testing laboratories serving the product involved and shall require that each testing laboratory that desires to participate in this program must agree to conditions that include but are not limited to the following:

(1) Be examined and audited initially and on a continuing basis;

(2) Pay accreditation fees and charges; and

(3) Avoid reference by itself and forbid others utilizing the services of an accredited testing laboratory from referencing its accredited status in consumer media and in product advertising or on product labels, containers and packaging or the contents therein.

(d) The criteria shall contain a statement that compliance by testing laboratories with general and specific criteria and other conditions established by the Secretary and which are accredited by the Secretary under these procedures shall in no way relieve such laboratories from the necessity of also observing and being in compliance with any existing Federal, State and local statutes, ordinances, and regulations that may be applicable to the operation of such laboratories, including consumer protection and antitrust laws.

(e) In carrying out the activities authorized by this section:

(1) No action will be taken or criteria developed that would prohibit the accreditation of a testing laboratory solely on the basis of that laboratory's association or nonassociation with manufacturing, distributing or vending organizations, or because the testing laboratory is a foreign firm;

(2) No action will be taken under this program to develop a product standard or test method standard;

(3) No action will be taken under this program to modify a product standard or a test method standard where such a standard is in existence; and

(4) The Secretary, under this program, will not ask for or accept confidential business data, trade secrets or other proprietary information.

§ 7C.8 Publication of proposed criteria.

(a) Upon its development of the general and specific criteria for accrediting testing laboratories under § 7C.7, the requesting voluntary standards body, where it has elected to recommend general and specific criteria to the Secretary or the Criteria Committee, shall forward its recommendations for such criteria to the Secretary for consideration. The Secretary, after consideration of such recommendations, will publish in the FEDERAL REGISTER a notice giving the complete text of the proposed general and specific criteria, and inviting any interested persons to submit written comments on such proposed criteria within sixty (60) days after such publication in the FEDERAL REGISTER, unless another time limit is provided by the Secretary.

(b) Interested persons wanting to express their views in an informal hearing shall notify the Secretary in writ-

ficials within those agencies. The coordination efforts will include opportunities for representatives designated

and information contained therein, the Secretary shall, upon the acceptance thereof, notify the applicant test-

ceived. If the determination is not made within such time limit, the Secretary shall notify the applicant test-

within that thirty (30) day period, the Secretary's proposed revocation shall be stayed at least until the hearing is

tion of the denial thereof, the testing laboratory will be refunded such fees except for the application fee, if any,

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(b) Interested persons wanting to express their views in an informal hearing shall notify the Secretary in writing of that desire within twenty (20) days after such proposed criteria are published in the FEDERAL REGISTER. Upon receipt by the Secretary of such request, informal public hearings shall be held so as to give all interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to the opportunity to make written submissions. If deemed appropriate by the Secretary, such hearings will be held at two locations, one of which shall be east of the Mississippi River and the other west thereof. Notice of such hearings shall be published in the FEDERAL REGISTER at least twenty (20) days in advance thereof. A transcript will be kept of any oral presentation.

(1) All written and oral comments that are furnished in response to the invitation made by that notice will be filed in the Central Reference and Records Inspection Facility, room 5317, Department of Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230, and will be available for public inspection and copying at that location.

(c) The Secretary upon receipt of all written and oral comments will ask the requesting voluntary standards body in those cases where it has recommended general and specific criteria to the Secretary or the Criteria Committee, to conduct and return to the Secretary in writing, within a time period specified by the Secretary, its evaluation and recommendations with respect to such comments. After considering such evaluation and recommendations, the Secretary will prepare her evaluation and publish in the FEDERAL REGISTER a notice:

(1) Announcing the final general and specific criteria that testing laboratories must meet in order to be accredited and the date when such final criteria shall go into effect which shall not be less than sixty (60) days after the date of publication of such notice;

(2) Stating that the proposed general and specific criteria will be further developed before final publication; or

(3) Withdrawing the proposed general and specific criteria from further consideration.

§ 7C.9 Coordination with Federal agencies.

As a means of assuring effective and meaningful cooperation, input, and participation by those Federal agencies that have an interest in and may be impacted by the laboratory accreditation program carried out under these procedures, the Secretary shall undertake to communicate and consult with appropriate authoritative officials within those agencies. The coordination efforts will include opportunities for representatives designated by those agencies to serve on each Criteria Committee established by the Secretary in which those agencies have an interest.

§ 7C.10 Establishment of fees and charges.

(a) The Secretary in conjunction with the use of the working capital fund of the National Bureau of Standards, as authorized by section 12 of the Act of March 3, 1901, as amended (15 U.S.C. 278b), or any similar financial arrangement for this program, shall establish fees and charges for examining, accrediting, and auditing testing laboratories. The fees and charges established by the Secretary, which may be revised when the Secretary deems it appropriate to do so, shall be in amounts calculated to enable the self-sufficiency of this program. A separate notice will be published in the FEDERAL REGISTER simultaneously with the notice of proposed general and specific criteria referred to in § 7C.8(a). Such notice will set out a schedule of estimated fees and charges the Secretary proposes to establish. The notice would be furnished for information and guidance purposes only in order that the public may evaluate the proposed criteria in light of the expected fees to be charged.

(b) At such time as the Secretary publishes the notice announcing the final general and specific criteria referred to in § 7C.8(c)(1), the Secretary shall also simultaneously publish a separate notice in the FEDERAL REGISTER setting forth the final schedule of fees that will be charged testing laboratories that serve a specific product. The effective date of such final schedule of fees shall be the same as the date on which the final general and specific criteria are to take effect.

(c) Revisions, if any, to the fees and charges established by the Secretary under paragraph (b) of this section shall be published in subsequent FEDERAL REGISTER notices and shall take effect not less than thirty (30) days after the date of publication of such notice. Mention of such revisions shall also be published in the appropriate quarterly reports referred to in § 7C.17(a).

§ 7C.11 Participation of testing laboratories.

(a) Each testing laboratory serving a product for which final general and specific criteria have been promulgated under § 7C.8(c)(1), and desiring to be accredited under this program, will notify the Secretary of its desire pursuant to the provisions of such criteria.

(b) After receipt and evaluation of the testing laboratory's application and information contained therein, the Secretary shall, upon the acceptance thereof, notify the applicant testing laboratory and the National Bureau of Standards in writing of the specific applicable examination requirements for accreditation and the fees and charges for such examination and accreditation. If the application is not accepted, the Secretary shall notify the applicant testing laboratory of the reasons for rejection of its application, and such testing laboratory may reapply under § 7C.13(d) after correcting the deficiencies set out in the Secretary's notification of rejection. Alternatively, the applicant testing laboratory shall have thirty (30) days to request a hearing pursuant to 5 U.S.C. 556. In the event, however, that the applicant testing laboratory requests a hearing within that thirty (30) day period the Secretary's rejection shall be stayed until the hearing held pursuant to 5 U.S.C. 556.

(c) A testing laboratory desiring to be accredited under this program to serve the product identified by the Secretary under § 7C.4 of these procedures and in accordance with the standards and test methods identified therein must meet the general and specific criteria promulgated by the Secretary.

(d) Upon receipt by the National Bureau of Standards of the applicant testing laboratory's written response pertaining to the specific applicable examination requirements and of the fees and charges specified in paragraph (b) of this section, the National Bureau of Standards, on behalf of the Secretary, will arrange for by contract or will itself conduct, the examination in accordance with the examination requirements of the Secretary. In all cases where testing laboratories are examined, the National Bureau of Standards will assure that the personnel used by the contractor or by the National Bureau of Standards possess the professional and technical qualifications set out in the specific criteria promulgated under § 7C.8(c)(1). If the National Bureau of Standards conducts the examination, the resultant examination report will be forwarded to the Secretary. In cases where the examination report was prepared by a contractor, the National Bureau of Standards, before making payment thereunder or forwarding the report to the Secretary, will review the report to assure that the contract terms have been fulfilled.

(e) The Secretary, after reviewing the examination report furnished under paragraph (d) of this section, will make a determination granting or proposing to deny accreditation to the applicant testing laboratory, not later than twenty (20) working days following the date on which the report is received. If the determination is not made within such time limit, the Secretary shall notify the applicant testing laboratory in writing of the reasons for the delay. Upon making such determination, the Secretary will notify the testing laboratory in writing of its accreditation status. If the Secretary proposes to deny accreditation to an applicant testing laboratory, the notification will state the reasons for such proposed denial.

(f) If an applicant testing laboratory is notified by the Secretary of a proposal to deny accreditation, the testing laboratory shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed denial shall become final through the issuance of a written decision to the applicant in the event that the applicant does not appeal such notification by the end of that thirty (30) day period. In the event, however that the applicant testing laboratory requests a hearing within that thirty (30) day period, the Secretary's proposed denial shall be stayed until the hearing held pursuant to 5 U.S.C. 556.

§ 7C.12 Reference to accredited status.

Except as limited under § 7C.7 (c)(3), a testing laboratory accredited under this program may use the following statement on its letterheads and in professional, technical and trade publications: "Accredited by the Department of Commerce, National Laboratory Accreditation Program for (appropriate wording as authorized by the Secretary's notification under § 7C.11(e))."

§ 7C.13 Revocation or termination of accreditation of a testing laboratory.

(a) If the Secretary finds that a testing laboratory which has previously been accredited violated the terms of its accreditation or the provisions of these procedures, the Secretary, after consultation with such testing laboratory, shall notify that testing laboratory of the proposed revocation of its accreditation.

(b) Upon receipt of a notice from the Secretary of the proposed revocation, which notice shall set forth the reasons for such proposed revocation, the accredited testing laboratory shall have thirty (30) days from the date of receipt of such notification to request a hearing under the provisions of 5 U.S.C. 556. The Secretary's proposed revocation shall become final through the issuance of a written decision to the testing laboratory in the event that such testing laboratory does not appeal the proposed revocation within that thirty (30) day period. In the event, however, that the accredited testing laboratory requests a hearing within that thirty (30) day period, the Secretary's proposed revocation shall be stayed at least until the hearing is held pursuant to 5 U.S.C. 556.

(c) A testing laboratory may at any time terminate its participation and responsibilities under this NVLAP part 7C program or withdraw its application for accreditation by giving written notice to the Secretary. Upon receipt by the Secretary of such notice, the Secretary shall terminate further processing of the testing laboratory's application for accreditation. If such testing laboratory has been accredited, the Secretary shall terminate that testing laboratory's accreditation. The Secretary shall notify the testing laboratory that its accreditation has been terminated pursuant to its request.

(d) A testing laboratory whose application has been rejected or whose accreditation has been denied, revoked or terminated or which has withdrawn its application prior to being accredited may reapply for and be accredited if it meets the applicable general and specific criteria promulgated by the Secretary under § 7C.8(c)(1) and agrees also to meet the conditions set out under § 7C.7(c) and the provisions of § 7C.12.

§ 7C.14 Cessation of accreditations.

(a) The Secretary shall cease the accreditation of testing laboratories that serve a specific product if requested to do so by the voluntary standards body which requested the program and that body makes a determination that the program is no longer needed. Such request may not be made if the program has been in existence for less than one year after publication of the final accreditation criteria. The determination that the program is no longer needed shall be submitted to the secretary in writing and shall set forth the requesting agency's reasons for causing the Secretary to cease accreditation through this NVLAP. Termination of the program will occur sixty (60) days after the Secretary has published in the FEDERAL REGISTER a notice of such determination.

(b) If the Secretary ceases the accreditation of testing laboratories that serve a specific product as provided in this section, accreditation issued to all those testing laboratories serving the same specific product before termination of the program has occurred shall continue for the remainder of the period for which accreditation has been granted.

§ 7C.15 Refund of fees and charges.

(a) If a testing laboratory withdraws its application for accreditation after it has submitted the required examination fees and provides written notice to the Secretary of such withdrawal prior to the issuance of an accreditation of the denial thereof, the testing laboratory will be refunded such fees except for the application fee, if any, and for any other costs that have been incurred relative to its application.

(b) If a testing laboratory terminates its participation and responsibilities under this part 7C program at any time after it has been accredited or after it has been notified by the Secretary that it is not being accredited, no part of the fees and charges paid by the testing laboratory will be refunded.

(c) If the accreditation of a testing laboratory is revoked by the Secretary under § 7C.13, no part of the fees and charges paid by the testing laboratory will be refunded.

(d) If the secretary ceases the accreditation of testing laboratories that serve a specific product under § 7C.14 and withdraws the accreditation of a testing laboratory to test a specific product under that section, no part of the fees and charges paid by the testing laboratory will be refunded as the testing laboratory will have been allowed to continue its accreditation status for the period for which it had paid fees.

§ 7C.16 Amendment or revision of criteria.

The Secretary, the requesting voluntary standards body in those cases where it recommended general and specific criteria to the Secretary, or a Criteria Committee acting at the request of the Secretary, may undertake the development of amendments or revisions of any applicable general or specific criteria previously promulgated by the Secretary by following the same procedures pertaining to the original development of such criteria.

§ 7C.17 User education and reports.

(a) For each specific product for which a NVLAP part 7C accreditation exists, the Secretary will publish a quarterly report noting all actions regarding such matters as accreditations, revocations, the establishment of fees and charges, the promulgation of general and specific criteria and any amendments or revisions to such criteria. Such publications shall clearly state that testing laboratories accredited by the Secretary under these procedures are in no manner immune from the necessity of being in compliance with all legal obligations and responsibilities imposed by existing Federal, State, and local laws, ordinances, and regulations, including those related to consumer protection and antitrust prohibitions.

(b) The Secretary will also prepare an annual report summarizing all activities carried out under these procedures which shall include a listing of all testing laboratories accredited by

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the Secretary during the year to which the annual report relates.

(c) As a means of giving prompt notice to the public of accreditation action taken, the Secretary shall, in addition to the reports called for under this section, publish in the FEDERAL REGISTER all actions taken during the preceding month which grant, revoke, terminate or result in the withdrawal of the accreditation of a testing laboratory. Such notice shall include the name and address of the testing laboratory concerned, and a brief explanation of the action taken by the Secretary with respect to that laboratory.

§ 7C.18 Support function.

The Secretary is authorized to make provisions for administrative and technical support and staff services as may be needed to carry out this program. The Secretary is also authorized to negotiate for and use funds of the requesting voluntary standards body as such funds are authorized for use by the requesting voluntary standards body.

[FR Doc. 30204 Filed 10-25-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 146 and 150]

[CGD 76-170A]

MARINE CASUALTIES

Proposed Rules

Correction

In FR Doc. 78-29483 appearing at page 48982 in the issue for Thursday, October 19, 1978, first column, the DATE segment should read: "Comments should be received on or before December 4, 1978".

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 994-7; Docket No. DCO-78-29]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the Air Pollution Control District of Jefferson County to Rohm & Haas Kentucky, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the air pollution control district of Jefferson County to Rohm & Haas Kentucky, Inc. The order requires Rohm & Haas Kentucky, Inc., to bring air emissions from its boilers in Louisville, Ky., into compliance with certain regulations contained in the federally approved Kentucky State implementation plan (SIP) by December 31, 1978. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 27, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Leon Folsom, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, telephone 404-881-4298.

SUPPLEMENTARY INFORMATION: Rohm & Haas Kentucky, Inc., operates three (3) boilers at its facility in Louisville, Ky.

The order under consideration addresses particulate matter emissions from the three (3) boilers at the facility, which are subject to Jefferson County air pollution control regulation V, section 4(3)(a) and Kentucky air pollution control regulation 401 KAR 3:060, section 3(3)(d). These regulations limit the emissions of particulate matter, and are part of the federally approved Kentucky State implementation plan. The order requires final compliance with the regulation by December 31, 1978, through the implementation of the following schedule for the construction or installation of control equipment:

1. Completed—Complete general specifications for emission control equipment and submit to the air pollution control district of Jefferson County a control plan that describes at a minimum the steps to be taken to achieve compliance with the applicable sulfur dioxide emission limiting regulations.

2. June 30, 1978—Negotiate and sign necessary contracts for an emission control system.

3. July 30, 1978—Initiate onsite construction of modifications or installation of emission control equipment.

4. Oct. 31, 1978—Complete onsite construction or installation of emission control equipment.

5. Dec. 31, 1978—Complete performance testing and achieve compliance with all applicable particulate emission limiting regulations and certify such compliance to the air pollution control district of Jefferson County and EPA.

The source has consented to the terms of the order and has agreed to meet the order's increments during the period of this informal rulemaking. The source is required to submit monthly reports by the twentieth (20th) of the month, specific information on the progress toward each milestone in the above schedule. If any delay is anticipated in meeting said milestones, the company shall immediately notify the air pollution control district of Jefferson County in writing of the anticipated delay and reasons therefor. Notification of any anticipated delay shall not excuse the delay. In addition, the company shall submit, no later than five (5) days after the deadline for completing each milestone required by the above schedule, certification to the air pollution control officer whether such milestone has been met.

As an interim control measure, particulate emissions from the boilers shall not exceed 0.4 lbs. of particulate matter per million Btu's heat input based on an instantaneous 2-hour test. Furthermore, the company shall, by June 14, 1978, have equipment installed and operational on the boilers to monitor and record continuously visible emissions from the unit.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above reference order satisfies these requirements.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Kentucky SIP. Compliance with the proposed order will not exempt the company from the requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: October 4, 1978.

JOHN C. WHITE,
Regional Administrator,
Region IV.

AIR POLLUTION CONTROL DISTRICT OF JEFFERSON COUNTY

In the matter of Rohm & Haas Kentucky Inc.

DELAYED COMPLIANCE ORDER

This delayed compliance order is issued this date pursuant to KRS Chapter 77 and section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7413(d). This delayed compliance order contains a schedule and timetable for compliance, interim requirements, and emission monitoring and reporting requirements. Public notice and opportunity for a public hearing have been provided pursuant to KRS Chapter 77 and section 113(d)(1) of the Clean Air Act.

FINDINGS

Whereas, the Air Pollution Control District of Jefferson County finds that the Rohm & Haas Kentucky is operating its boilers at its plant in Jefferson County, Ky., in violation of Jefferson County regulations dealing with the control of particulate matter, from its boilers, respectively; and

Whereas, the Air Pollution Control District of Jefferson County finds that the Company is presently unable to comply with said regulations: *It is hereby ordered:*

I

ABATEMENT PROGRAM

That the attached appendix governing an abatement program is incorporated into and made a part of this delayed compliance order for the control of the specified pollutants at the Rohm & Haas Kentucky located in Jefferson County, Ky.

The appendix is designated as appendix A: Control of particulate emissions.

II

REPORTING—ADDRESSEES

That all submissions of source performance test results, reports and other items required by this delayed compliance order be made to the Air Pollution Control Officer of Jefferson County, 914 East Broadway, Louisville, Ky. 40204, with copies to the Director, Enforcement Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Ga. 30308 (hereinafter referred to as the "Director").

III

PROGRESS REPORTS AND MILESTONE CERTIFICATION

That the Company submit, no later than 20 days after the end of each month a monthly progress report for the emission point specified in part I. These reports shall contain specific information on the progress toward each milestone in part I. If any delay is anticipated in meeting said milestones, the Company shall immediately notify the Air Pollution Control District of Jefferson County in writing of the anticipated delay and reasons therefore. Notification of any anticipated delay shall not excuse the delay. In addition, the Company shall submit, no later than five (5) days after the deadline for completing each milestone required by part I, certification to the Air Pollution Control Officer whether such milestone has been met.

IV

INTERIM REQUIREMENTS

A. For the period during which this order is in effect, the Company shall at all times comply with the following interim emission limitations for the boilers which represent the best practicable system or systems of emission reduction:

Particulate emissions—0.4 pounds of particulate matter per million Btu's heat input based on an instantaneous 2-hour test.

If, at any time during the pendency of this order, the applicable interim particulate emission limitations are exceeded, the Company shall immediately take all actions necessary to minimize and/or abate such excess emissions and to prevent their recurrence; the Company shall notify the Air Pollution Control District of Jefferson County, but no later than 48 hours after the start of the occurrence, and the Company shall, within 10 days after the termination of each such occurrence, submit to the Air Pollution Control District a written report regarding the occurrence, which shall address the cause(s) of the occurrence and all the efforts the Company has taken to date concerning it.

B. In addition to the foregoing interim emission limitations, for the period during which this order is in effect, the Company shall take all necessary steps to comply with the applicable emission limitations contained in the State implementation plan insofar as the Company is able, and shall take all necessary precautions to insure that its emissions will not cause or contribute to a violation or violations of national ambient air quality standards.

C. Furthermore, the Company shall comply with any emergency requirements specified by the Air Pollution Control District of Jefferson County pursuant to KRS Chapter 77 and/or by EPA pursuant to section 303 of the Clean Air Act, 42 U.S.C. § 7603, to prevent an imminent and substantial endangerment to human health.

V

CONTINUOUS MONITORING

The Company shall, by June 14, 1978, have equipment installed and operational on the boilers to monitor and record continuously visible emissions from the unit.

VI

VIOLATION OF REQUIREMENTS

Violation of any requirement of this order shall result in immediate enforcement action by the Air Pollution Control District of Jefferson County pursuant to KRS Chapter 77 and/or by EPA pursuant to sections 113(d)(9), 113(b), and 113(c) of the Clearn Air Act.

VII

COMPLIANCE RESPONSIBILITY

Nothing herein shall relieve the source from complying with all other applicable Federal, State, local law or regulation.

VIII

NONCOMPLIANCE PENALTY

Failure of the Company to achieve compliance with any emission limitation, emission standard, or compliance schedule under the State implementation plan by July 1, 1979, or such later date as is provided in accordance with section 120(b)(3) of the Act shall subject the Company to an administratively assessed noncompliance penalty pursuant to the requirements of section 120 of the Act and any rules and regulations promulgated pursuant thereto, unless the Company is exempted by section 120(a)(2)(B) or (C) of the Act. In the event of such noncompliance, the Company will be formally notified of its noncompliance pursuant to section 120(b)(3) of the Act.

Dated: July 31, 1978.

SANTLEY L. CRAIG,
Chairman, Air Pollution Control
District of Jefferson County.

APPENDIX A—AIR POLLUTION CONTROL DISTRICT OF JEFFERSON COUNTY

DELAYED COMPLIANCE ORDER[1]

The Company shall complete the following acts with respect to the control of particulate emissions from the boilers at its plant in Jefferson County, Ky., on or before the dates specified:

1. Completed—Complete general specifications for emission control equipment and submit to the Air Pollution Control District of Jefferson County a control plan that describes at a minimum the steps to be taken to achieve compliance with the applicable sulfur dioxide emission limiting regulations.

2. June 30, 1978—Negotiate and sign necessary contracts for an emission control system.

3. July 30, 1978—Initiate onsite construction of modifications or installation of emission control equipment.

4. October 31, 1978—Complete onsite construction or installation of emission control equipment.

[1]This appendix is attached to and incorporated by reference into a delayed compliance order issued to Rohm & Haas Kentucky Inc., on July 31, 1978, pursuant to KRS Chapter 77 and sec. 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

5. December 31, 1978—Complete performance testing and achieve compliance with all applicable particulate emission limiting regulations and certify such compliance to the Air Pollution Control District of Jefferson

SUMMARY: In response to a petition filed by various religiously affiliated groups, including the office of communications of the United Church of

dramatizations concerning public issues.[1]

2. Turning to the first proposal, petitioners contend that broadcasters are

§ 73.670 of the Commission's rules. As proposed, a community service program is one presented on a sustaining basis and is supplied by or produced in

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5. December 31, 1978—Complete performance testing and achieve compliance with all applicable particulate emission limiting regulations and certify such compliance to the Air Pollution Control District of Jefferson County and EPA.

CONSENT[2]

The Rohm & Haas Kentucky Inc. acknowledges that the particulate matter, from its boilers located at its facility in Jefferson County, Ky., are in violation of the applicable emission limitations contained in the federally-approved State implementation plan. The Company has reviewed this delayed compliance order, believes it to be a reasonable and expeditious means to achieve compliance with the applicable particulate emission limiting regulations as contained in the federally-approved State implementation plan, and consents to all of the requirements and terms of this delayed compliance order.

Furthermore, the Company acknowledges the necessity of complying with the interim emission limitations and abatement procedures contained herein which are designed to ensure the attainment and maintenance of national ambient air quality standards for the specified pollutants and consents to said interim emission limitations and abatement procedures in order to protect the public health and welfare.

The Company hereby represents that it has full corporate authority and the neeessary corporate approval to enter into and peform in accordance with the terms and provisions of this delayed compliance order. The signatory below represents that he has the requisite corporate authority to execute this consent on behalf of the Company.

Dated: July 27, 1978.

E. T. SAUER,
Rohm & Haas Kentucky Inc.

[FR Doc. 78-30196 Filed 10-25-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 994-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the Air Pollution Control Board of the State of Indiana to Medora Brick Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Indiana Air Pollution Control Board to Medora Brick Co. The order requires the company to bring air emissions from its coal-fired kilns in Medora, Ind., into compliance with certain regulations contained in the federally approved Indiana State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before November 27, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Pierre Talbert, Attorney, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: Medora Brick Co. owns and operates a brick manufacturing plant at Medora, Ind. The order under consideration addresses emissions from four coal-fired kilns at the facility, which are subject to Indiana amended regulation APC-3 as approved at 40 FR 50032, October 28, 1975. The regulation sets standards for visible emissions of particulate matter and is part of the federally approved Indiana SIP. The order requires final compliance with the regulation by June 30, 1979, through installation of stoker-firing units on each of its four beehive kilns which are currently hand fired. The stoker-firing units are to be installed in the following manner: The first stoker-firing unit shall be operating by October 1, 1978; subsequent units are to be installed and operating by February 1, 1979, and June 1, 1979; the final unit is to be taken out of operation by June 1, 1979, and is not to be put back in operation until stoker firing is installed.

Because this order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Act. EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (sec. 304) would be similarly precluded. If approved, the order would also constitute an addition to the Indiana SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon,[1] and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (Apr. 2, 1975), will be withdrawn and replaced by a notice promulgating these new regulations.

(42 U.S.C. 7413, 7601.)

Dated: October 10, 1978.

JOHN MCGUIRE,
Regional Administrator,
Region V.

[FR Doc. 78-30195 Filed 10-25-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-335; RM-2709; FCC 78-724]

PROGRAM DEFINITIONS FOR COMMERCIAL BROADCAST STATIONS BY ADDING A NEW PROGRAM TYPE, "COMMUNITY SERVICE" PROGRAM AND EXPANDING THE "PUBLIC AFFAIRS" PROGRAM CATEGORY AND OTHER RELATED MATTERS

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

[2]This consent is hereby attached to and incorporated by reference into a delayed compliance order issued to the Rohm & Haas Kentucky Inc., on June —, 1978, pursuant to sec. 113(d) of the Clean Air Act, 42 U.S.C. 7413(d).

[1]Published at 43 FR 44522, Sept. 28, 1978.

SUMMARY: In response to a petition filed by various religiously affiliated groups, including the office of communications of the United Church of Christ, the Commission has decided to conduct an inquiry into the possible creation of a new, sustaining, program category, "Community Service" programs, and the enlargement of the definition of public affairs programming to include dramatizations produced on a sustaining basis. These proposals could involve changes in the Commission's rules and application forms. Through its proposal, petitioners seek to encourage the presentation of programs of a noncommercial community service character and of dramatizations concerning public issues.

DATES: Comments must be filed on or before December 26, 1978, and reply comments on or before January 25, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

MEMORANDUM OPINION AND ORDER AND NOTICE OF INQUIRY

Adopted: October 5, 1978.

Released: October 25, 1978.

By the Commission: Commissioner Lee concurring in the result.

In the matter of amendment of the Commission's rules concerning program definitions for commercial broadcast stations by adding a new program type, "Community Service" program and expanding the "Public Affairs" program category and other related matters, BC Docket No. 78-335, RM-2709.

1. On May 20, 1976, a petition for rulemaking and request for policy statement was filed by the Communications Committee of the United States Catholic Conference, the Communication Commission of the National Council of Churches of Christ in the U.S.A., the office of communication of the United Church of Christ, UNDA-USA, and 70 individual church communicators (hereinafter called "petitioners"). Comments both in support of and against the petition have been filed and will later be discussed. Briefly stated, the proposed rule changes concern (1) the creation of a new program type, entitled community service program, by which is meant noncommercial programs produced by or in conjunction wth nonprofit organizations and Government agencies and (2) the expansion of the definition of public affairs programing to include dramatizations concerning public issues.[1]

2. Turning to the first proposal, petitioners contend that broadcasters are not meeting their public service obligations since local government agencies and nonprofit organizations have little access to television broadcast facilities to foster their activities in serving the community. They assert that the broadcast time given to nonprofit groups gradually was diverted to commercial programing. Petitioners submit that it is the Commission's responsibility to see that commercial broadcast stations continue to provide adequate service to nonprofit groups. In this connection, the petition noted that in 1946, the Commission in a report entitled Public Service Responsibility of Broadcast Licensees (more commonly known as the Blue Book), stress the importance of sustaining (that is noncommercial) programs, among other reasons to meet the needs of nonprofit agencies and provide programs for significant minority tastes and interests. Although they disagree with it, petitioners point to the Report and Statement of Policy Re: Commission En Banc Programing Inquiry (hereafter called the 1960 Programing Statement), 44 F.C.C. 2303 (1960), where the Commission concluded that sponsored programs were as useful in meeting community needs as sustaining programs. The Commission stated that there was "* * * no public interest basis for distinguishing between sustaining and commercially sponsored programs in evaluating station performance."[2] In effect, petitioners question this conclusion by the Commission and ask the Commission to reevaluate it based on the experience gained since the 1960 Programing Statement was issued. It is their view that programs which serve the needs and purposes of nonprofit groups, such as cultural programs, generally have not attracted advertisers and as a consequence often have been neglected.

3. To remedy the situation described above, petitioners have proposed that a new program type, entitled community service program, be added to the program definitions for commercial television stations listed in note 1 of § 73.670 of the Commission's rules. As proposed, a community service program is one presented on a sustaining basis and is supplied by or produced in conjunction with a nonprofit organization having significant membership in the service area or a governmental agency serving the area. Petitioners believe that by amending the Commission's annual programing report form for commercial television licensees (form 303A) and license renewal application form for television stations (form 303) to reflect the time devoted by television licensees to community service programing, the Commission will indicate to licensees that by broadcasting such programing they will receive recognition in building a positive record for license renewal. Petitioners also suggest that the Commission issue a policy statement emphasizing the importance with which it views the broadcasting of community service programs in meeting a station's public service obligation. Finally, to encourage the production of public affairs programs cast in dramatic form, petitioners advocate that the definition of a public affairs program, as currently used by commercial television stations, be expanded to include this format. Petitioners propose that to qualify as a public affairs program, such dramatization must concern local, national or international public affairs and meet the criteria of a community service program, that is, be presented on a sustaining basis and be supplied by or produced in conjunction with a nonprofit organization or a governmental agency.

4. Several parties supported the proposal, but the only filing in favor of the petition which did significantly more than express support for the proposal was the formal comments jointly submitted by the Population Institute and the National Organization for Women (hereafter called "PI/NOW").[3] PI/NOW argue that the creation of a community service program category and the enlargement of the public affairs program definition to include dramatic presentations would serve the most fundamental policy underlying the structure of our present broadcast system, namely localism. They contend that not only would there be more local programing if the proposed rule changes were adopted, but programs which have not been presented because commercial sponsors have been unavailable would be available. Additionally, PI/NOW assert that the proposed definitional changes for a public affairs program to include dramatizations would open

[1]Public affairs programs presently are defined as follows: Public affairs programs are programs dealing with local, State, regional, national or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, editorials, political programs, documentaries, minidocumentaries, panels, roundtables, vignettes and extended coverage (whether live or recorded) of public events or proceedings, such as local council meetings, congressional hearings, and the like.

Revision of FCC form 303, FCC 76-264, 37 R.R. 2d 1, at 56 (1976).

[2]The 1960 Programing Statement, 44 F.C.C. 2303, at 2315.

[3]In addition to PI and NOW, formal comments in support of the petition were filed on behalf of the Public Media Center and the National Citizens Committee for Broadcasting.

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up that type of programing to a new format not considered by the Commission when it amended the public affairs definition in the proceeding revising the broadcast renewal application form, FCC form 303.[1] Furthermore, they argue that these changes should apply to commercial radio, as well as to commercial television.

5. Turning to those opposing the petition, CBS argues that not only have petitioners failed to show that the American viewing audience is presently receiving inadequately diversified program service, but that CBS' own study indicates just the opposite. Specifically, the network asserts that many advertisers are interested in and already do sponsor the type of programming which would be covered under the community service category. Consequently, CBS contends that there were more than sufficient grounds for the Commission to conclude that sustaining and commercially sponsored programs need not be distinguished in evaluating station performance. CBS further asserts that over 270 noncommercial television stations and over 890 noncommercial FM stations already broadcast many programs which fit that category.

6. ABC also opposes the petition, arguing that the proposed rulemaking would require television stations to afford special consideration to a particular type of program in a manner that would infringe upon programing judgments committed by statute, precedent and long-established Commission policy to the good faith discretion of individual licensees. Moreover, contends ABC, such rule changes would single out local nonprofit organizations and government agencies to receive favored treatment. ABC insists that only by happenstance would the needs of these groups coincide with the needs of the community at large. To the extent that such organizations represent significant groups in the community, states ABC, their views will be considered by the licensee when meeting his obligation to ascertain the needs of his community. Moreover, according to this network, such organizations have traditionally been consulted by broadcast licensees in carrying out their public interest responsibilities. Although the views of all such groups may not be reflected in specific programing, ABC contends that present procedures insure that over a period of time representative viewpoints will have the opportunity to be heard. It also states that the type of programing here proposed should and typically does play a part in the overall programing of most commercial television stations, whether on a sustaining or commercial basis. Furthermore, asserts ABC, the Commission, in the 1960 Programing Statement, made its own independent determination that sponsorship would foster rather than diminish the availability of cultural programing. Additionally, ABC opposes petitioners' proposal to enlarge the public affairs program definition to include dramatizations concerning public affairs as ill-advised, contending that petitioners have misconceived the basic nature of public affairs programing which is issue-oriented and not merely issue-related as would be the case if issues were addressed in a dramatic context. ABC asserts that to be properly characterized as a public affairs program, broadcast material must deal with or discuss a public issue in some substantial and direct manner.

7. We have examined the arguments made by both petitioners and opponents and conclude that proposing adoption of any rules or modification of any forms or issuance of any policy statement at this stage would be premature. The record does not provide an adequate basis for proposing the addition and/or expansion of program categories. However, it is apparent from the record that an inquiry is warranted. The question of whether a specific public interest is served by sustaining programing which cannot be served as well through sponsored programing has not been evaluated since the programing inquiry in 1960. Although the Commission was persuaded at that time that there was no public interest basis for distinguishing between sustaining and commercially sponsored programs, it noted that this observation did not relieve broadcasters from the responsibility of retaining flexibility to accommodate public needs.[5] Although we note that petitioners allege that licensees in fact have not met this responsibility and further, that programs serving the needs and purposes of nonprofit groups generally do not attract advertisers, our decision to begin this inquiry is not based on our having reached a like conclusion on this issue. Rather, we wish to explore this area and, among other things, determine to what extent these assertions are accurate. We invite the submission of any and all data in support of the views expressed by commenting parties.

8. As to the proposal itself, we invite parties to comment on whether a new program category, called community service, should be added to the program definitions[6] for commercial broadcast stations. If so, should it be necessary that a community service program be presented on a sustaining basis and be supplied by or produced in conjunction with a nonprofit organization having significant membership in the service area? Although petitioners proposed that the community service category only be added to the commercial television program definitions, we believe this inquiry should also deal with the appropriateness of adding such a category to the commercial radio program definitions. Only in this manner can we gather all the pertinent information necessary to decide what, if any, action should be taken in this regard.

9. We also need to consider if radio and television should be treated differently with respect to the addition of a community service category to program definitions, and commenters should indicate their views on this issue giving their reasons for their opinions. One point suggested by petitioners is not being made a part of this proceeding. The suggestion that sustaining programs produced by Government agencies should be included in the community service category would be an inappropriate one to pursue. Providing for Government programs on this basis might well be an improper intrusion into the sensitive are of programing, and it could pose first amendment difficulties as well. Since it is not a necessary part of this proposal, we have decided not to include it as a subject for inquiry. However, we do invite comments on whether the community service category should be defined further by subject matter. For instance, petitioners seek by the creation of a sustaining program category to encourage licensees to broadcast programs featuring local talent and cultural events. Should the community service category consist of only cultural programs to the exclusion of other programing such as sports? In fact, petitioners suggest such an exclusion, alleging that there are already sufficient inducements for the presentation of local athletic events.

10. There are a number of other matters which need to be considered in connection with this inquiry. For instance, what role does noncommercial educational radio and television play in contributing to the airing of cultural material such as that desired by petitioners, as well as in broadcasting programs for special groups like nonprofit organizations. Further, does the Commission's procedure for ascertaining and meeting community needs provide a vehicle for responding to the needs of nonprofit groups?[7]

[1] In the Matter of Revision of FCC Form 303, Application for Renewal of Broadcast Station License (hereafter called "Revision of FCC Form 303"), FCC 76-264, 37 R.R. 2d 1 (1976).

[5] The 1960 Programing Statement, 44 F.C.C. 2303, at 2315.

[6] These definitions are listed for television stations in § 73.670, n. 1, and for radio stations in §§ 73.112, n. 1 (AM) and 73.252, n. 1 (FM). As to noncommercial educational FM, program definitions are listed in section 73.582, n. 2.

[7] The commercial broadcast licensee, as part of its obligation to serve the public in-

Footnotes continued on next page

11. We also invite suggestions on how the community service proposal could be implemented. For example, which local agencies would be given access to commercial broadcast facilities and on what basis? Petitioners suggest that community service programing be aired during afternoon and evening hours. Commenters might wish to address themselves to the matter of encouraging the broadcast of such programs during those time periods. Petitioners also recommend that if a community service program falls within the category of news, public affairs, or other programing, the station should be credited with having aired programs in both categories. We invite comments on this suggestion as well. Finally, we invite comments on the economic implications of establishing such a sustaining program category.

12. As another matter for inquiry, we raise the question of whether it is in the public interest to expand the definition of a public affairs program for commercial radio and television stations to include dramatizations which concern local, national, and international public affairs and which meet the criteria of a community service program; that is, are presented on a sustaining basis and are produced in conjunction with or supplied by a nonprofit organization. Would such a change in definition encourage the broadcasting of dramatic programs concerning public issues? Further, in what if any ways would the proposed sustaining category serve the public better than dramatizations presented on a commercial basis. In this context, we raise for inquiry whether the public affairs definition should be modified in any other manner and if so in what way. Finally, all other suggestions and comments pertinent to the areas of inquiry raised in this notice are invited.

13. Because of our decision to conduct this inquiry, we also need to examine whether the license renewal application forms for commercial radio (form 303-R) and television (form 303) broadcast stations and the annual programing report (form 303-A) for television licensees should be modified to reflect time given to community service programing. As they now exist, these forms require information on the airing of programs during the composite week in three categories, "news," "public affairs" and "other," the last category being exclusive of entertainment, sports, and public service announcements.[8] Commenters might wish to address themselves to the question of whether a community service category reporting requirement would encourage the airing of such programing, and what effect such a requirement would have on broadcasters.

14. Based on the foregoing discussion, and pursuant to authority contained in sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, it is proposed to inquire into the matters set out above.

15. Pursuant to applicable procedures set forth in §§ 1.4, 1.46, and 1.415 of the Commission's rules, interested parties may file comments on or before December 26, 1978, and reply comments on or before January 25, 1979. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

16. In accordance with the provisions of §1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number, including the entire designation (BC docket No. 78-335) in the heading. All filings made in this proceeding will be made available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

17. *Accordingly, it is ordered*, That the petition for rulemaking and policy statement is granted as to the institution of a notice of inquiry and is denied in all other respects.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc.78-30295 Filed 10-25-78; 8:45 am]

Footnotes continued from last page

terest, convenience and necessity, is required to be conversant with and responsive to the problems, needs and interests of its community on a continuing basis. See Primer on Community Problems by Broadcast Renewal Applicants, 57 F.C.C. 2d 418 (1976).

[8] Although not considered programming, commercial broadcasters are required to provide a statistical report on the airing of public service announcements in their license renewal applications.

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-291]

PERSONAL ATTACKS AND APPLICABILITY OF THE FAIRNESS DOCTRINE TO SECTION 315 "USES"

Proposed Rulemaking and Inquiry; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This action corrects the text to § 73.1920 as set forth in appendix I to the notice of proposed rulemaking in BC docket No. 78-291, 43 FR 45899.

DATES: Comments must be received on or before December 15, 1978, and reply comments on or before January 16, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Milton O. Gross, Broadcast Bureau, 202-632-7586.

SUPPLEMENTARY INFORMATION:

Released: October 17, 1978.

In the matter of amendment of part 73 of the rules regarding personal attacks, and applicability of the fairness doctrine to section 315 "uses," BC docket No. 78-291.

1. In the above-captioned notice of proposed rulemaking and notice of inquiry (BC docket No. 78-291; FCC 78-639), text of the personal attack rule is appended to the document as appendix I.

2. Appendix I of the notices states the correct section number, "Section 73.1920," and the correct section title, "Personal Attacks," but uses the text from the former rule, § 73.123, Personal attacks; political editorials.

3. The correct text of the rule is attached below.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX I

§ 73.1920 Personal attacks.

(a) When, during the presentation of views on a controversial issue of public importance, an attack is made upon the honesty, character, integrity, or like pesonal qualities of an identified person or group, the licensee shall, within a reasonable time and in no event later than 1 week after the attack, transmit to the person or group attacked:

(1) Notification of the date, time, and identification of the broadcast;

(2) A script or tape (or an accurate summary if a script or tape is not available) of the attack; and

(3) An offer of a reasonable opportunity to respond over the licensee's facilities.

(b) The provisions of paragraph (a) of this section shall not be applicable:

(1) To attacks on foreign groups or foreign public figures;

(2) To personal attacks which are made by legally qualified candidates, their authorized spokesmen, or those associated with them in the campaign on other such candidates, their authorized spokesmen or pesons associated with the campaign; and

(3) To bona fide newseasts, bona fide news interviews, and on-the-spot coverage of a bona fide news event, in-

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cluding commentary or analysis contained in the foregoing programs.

(c) The provisions of paragraph (a) of this section shall be applicable to editorials of the licensee, except in the case of noncommercial educational stations since they are precluded from editorializing (Section 399(a), Communications Act).

[FR Doc. 78-30296 Filed 10-25-78; 8:45 am]

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Part 177]

[Docket No. HM-164; Advance Notice]

CARRIAGE BY PUBLIC HIGHWAY

Highway Routing of Radioactive Materials; Public Hearing

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of public hearing.

SUMMARY: This publication announces the scheduling of a public hearing for the purpose of receiving oral comments on matters concerning highway routing of radioactive materials which were opened for discussion in Docket HM-164, 43 FR 36492, August 17, 1978. This will be an informal rather than a judicial or evidentiary-type hearing and there will be no cross-examination of persons presenting statements.

DATES: The date of the hearing is November 29, 1978, from 9:30 a.m. to 5 p.m. Any person wishing to present an oral statement at the hearing should notify the Dockets Branch in writing prior to November 16, 1978.

ADDRESSES: The hearing will occur in the third floor auditorium of Federal Office Building 10 located at 800 Independence Avenue SW., Washington, D.C. Requests for time to make an oral presentation must be addressed to Dockets Branch, Information Services Division, Materials Transportation Bureau, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. Each request should identify the speaker and the length of the presentation, not to exceed 7 minutes.

FOR FURTHER INFORMATION, CONTACT:

Douglas A. Crockett, 202-426-2075.

SUPPLEMENTARY INFORMATION: On April 20, 1978, the MTB published an opinion (43 FR 16954) concerning the legal relationship between section 175.111 of the New York City health code and regulations issued by DOT under the Hazardous Materials Transportation Act (HMTA, Title I of Pub. L. 93-633). § 175.111 of the city's health code prohibits the transportation in or through the city of most commercial shipments of radioactive materials. The HMTA is the basic Federal legislation under which the transportation safety of hazardous materials, including radioactive materials, is regulated. In the opinion, MTB concluded that HMTA routing authority is sufficient to preempt State and local highway routing requirements (see HMTA, sections 105, 112; 49 U.S.C. 1804, 1811), but that because a routing requirement has not yet been established under the HMTA, that act does not at present preempt § 175.111 of the city's health code.

On August 17, 1978, the Materials Transportation Bureau (MTB) published Docket HM-164, an Advance Notice of Proposed Rulemaking. The purpose of the Advance Notice was to invite comment on the need, and possible methods for establishing routing requirements applicable to highway carriers of radioactive materials under the Hazardous Materials Transportation Act. The Advance Notice and this public hearing are intended to assist the MTB in deciding what Federal action may be justified in light of local ordinances which have been or may be enacted and which restrict or halt the movement of radioactive materials in some localities.

Copies of the Advance Notice of Proposed Rulemaking may be obtained from the Dockets Branch at the address given above. Written comments may still be submitted concerning the Advance Notice of Proposed Rulemaking if received by the Dockets Branch on or before January 1, 1979. Copies of oral statements should be submitted to the hearing officer at the time of the presentation.

AUTHORITY: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) of app. A to part 106.

Issued in Washington, D.C. on October 18, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-29970 Filed 10-25-78; 8:45 am]

[4910-60-M]

[49 CFR Part 195]

[Docket No. PS-53, Notice 2]

TRANSPORTATION OF LIQUIDS BY PIPELINE

Valve Spacing on Pipelines Carrying Highly Volatile Liquids

AGENCY: Materials Transportation Bureau.

ACTION: Extension of comment period.

SUMMARY: The Materials Transportation Bureau extends the period for comments on a proposed rule document published at 43 FR 39402, September 5, 1978. The extension is in response to a request by the American Petroleum Institute who argued the additional time was needed for completion of planned studies.

DATE: Comments must be received on or before January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

F. S. Robinson, 202-426-2082.

SUPPLEMENTARY INFORMATION: A written request for an extension of comment period from October 31, 1978, to December 31, 1978, was submitted by the American Petroleum Institute (API) on September 29, 1978. API argued that the requested time extension was necessary in order to (1) determine the effects of the new definition of "inhabited area" proposed for § 195.2, (2) conduct an extensive survey of hardware to automate sectionalizing valves, and (3) determine costs and benefits of the proposal.

At a meeting on October 5, 1978, called by the Materials Transportation Bureau (MTB) to learn more details about the requested extension, API requested that an extension be granted until January 31, 1979, to allow additional time for completion of planned studies.

MTB has considered this request in light of the urgency of the rulemaking proposal and the need to obtain additional information upon which to base a final decision in this proceeding. From the information API has submitted, it appears that the planned studies are reasonable and they would provide better background data than are now available for use in assessing the impact of the rulemaking proposal on the regulated industry. At the same time, because of the seriousness of the potential hazards to which the proposed rules are directed, MTB is mindful of the need for prompt action. Therefore, while some extension appears justified, the full period requested cannot be granted. Accordingly, the comment period is extended to January 15, 1979.

(Sec. 6, Pub. L. 89-670, 80 Stat. 437 (49 U.S.C 1655; 18 U.S.C 831-835); 49 CFR 1.53, App. A of Part 1, and App. A of Part 102.)

Issued in Washington, D.C., on October 18, 1978.

CESAR DE LEON,
Associate Director for Pipeline Safety Regulation.

[FR Doc. 78-29962 Filed 10-25-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON GRANTS, BENEFITS, AND CONTRACTS

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the meeting of the Committee on Grants, Benefits, and Contracts of the Administration Conference of the United States, scheduled (43 FR 43745) for October 25, 1978, in the library of the Administrative Conference, the Gelman Building, 2120 L Street NW., Suite 500, Washington, D.C., has been rescheduled for 1:45 p.m., November 2, 1978, at the same location.

The committee will meet to consider the comments on the report by Professor Peter W. Martin entitled "Procedures Used in Forming and Carrying out Federal-State Agreements under the Supplemental Security Income Program," and to put its imposed recommendations into final form.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The committee chairman, if he deems it appropriate may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting.

For further information concerning this meeting contact David B. H. Martin, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30302 Filed 10-25-78; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

GREYS-SALT RIVER PLANNING UNIT BRIDGER-TETON NATIONAL FOREST, LINCOLN COUNTY, WYO.

Extension of Review Period

The review period for the draft environmental statement and land management plan on the Greys-Salt River Planning Unit, Bridger-Teton National Forest, Wyo., has been extended. The new extension date is November 21, 1978; rather than October 20, 1978, as originally reported.

The Forest Service report number for these documents is USDA-FS-DES (Adm) R4-78-8.

Dated: October 18, 1978.

CLAUDE R. ELTON,
Acting Regional Forester, Intermountain Region.

[FR Doc. 78-30304 Filed 10-25-78; 8:45 am]

[3410-11-M]

GUADALUPE ESCARPMENT WILDERNESS PROPOSAL

Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a draft environmental statement for the Guadalupe Escarpment Wilderness Proposal on the Lincoln National Forest, USDA-FS-DES-03-03-79-01.

The environmental statement concerns a proposal that 21,000 acres of land in the Lincoln National Forest and 1,800 acres of adjacent land administered by the Bureau of Land Management be designated as wilderness by an Act of Congress and added to the National Wilderness Preservation System. Total area proposed for wilderness is 22,800 acres.

This draft environmental statement was transmitted to EPA on October 18, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service,
South Agriculture Bldg., Room 3210,
12th St. & Independence Ave., SW.,
Washington, D.C. 20013.

USDA, Forest Service,
Southwestern Region,
517 Gold Avenue, SW.,
Albuquerque, N. Mex. 87102.

Lincoln National Forest,
Federal Building, 11th & New York,
Alamogordo, N. Mex. 88310.

Single copies are available upon request to the Forest Supervisor, Lincoln National Forest, Federal Building, 11th & New York, Alamogordo, N. Mex. 88310. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the EPA guidelines.

Comments are invited from the public, State, and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to the Forest Supervisor, Lincoln National Forest, Federal Building, 11th & New York, Alamogordo, N. Mex. 88310. Comments must be received within 60 days from the date the statement was transmitted to EPA in order to be considered in the preparation of the final environmental statement.

ROBERT E. CAREY,
Acting Regional Forester, Region 3.

OCTOBER 81, 1978.

[FR Doc. 78-30303 Filed 10-25-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket 33136]

NORTH CENTRAL-SOUTHERN MERGER CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 14, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference

whether the normal cells can help save the mutant cells. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00005. Applicant: Department of Health, Education, and Welfare, NIH, Division of Cancer Biology and Diagnosis, NCI, Building 31,

structure of smooth muscle myosin filaments, primarily rabbit uterine myosin filaments. In addition, the article will be used in the following

Application received by Commissioner of Customs: October 4, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is in-

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For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on September 28, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 23, 1978.

JOSEPH J. SAUNDERS,
Administrative Law Judge.

[FR Doc. 78-30328 Filed 10-25-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

CHILDREN'S HOSPITAL MEDICAL CENTER ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 20, 1978.

Regulations (15 CFR 301.9) issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 79-00001. Applicant: Children's Hospital Medical Center, Department of Neuroscience, 300 Longwood Avenue, Boston, Mass. 02115. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for μm and thin sectioning of developing and adult brain and retina; in particular for studies of neurological mutant mice. The experiments include studying the ultrastructure of cells in mice that contain mixtures of normal and diseased cells. The objective of these studies is to determine in which cell type that mutant gene is acting and whether the normal cells can help save the mutant cells. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00002. Applicant: Hahnemann Medical College and Hospital, 230 North Broad Street, Philadelphia, Pa. 19102. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of biologic materials from humans suffering from a variety of diseases and from experimental animals which serve as animal models for diseases. In addition, the article will be used for training of medical students, cytotechnicians and residents in pathology, and residents from other subspecialties in the use and application of electron microscopy. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00003. Applicant: Providence Medical Center, Department of Pathology, 700 North East 47th Avenue, Portland, Oreg. 97213. Article: Electron Microscope, Model EM 9S-2 and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of human tissue, removed by biopsy, surgical operation or autopsy and submitted for pathological examination. Specimens of major interest are poorly differentiated neoplasms from several organs, kidney, skeletal and cardiac muscle, skin, blood, bone marrow, lymph nodes, and body fluids. In addition, the article will be used for educational purposes in the courses:

Introduction to Basic Electron Microscopic Technique,
Ultrastructural Alterations in Human Disease,
Advanced Electron Microscopic Technique—Independent Study.

Other courses or segments of conferences are based on data generated by the article during the above cited research. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00004. Applicant: College of Medicine and Dentistry of New Jersey-Rutgers Medical School, Department of Biochemistry, University Heights, Piscataway, N.J. 08854. Article: HF-Reaction Apparatus Type I and accessories. Manufacturer: Protein Research Foundation Peptide Institute, Japan. Intended use of article: The article is intended to be used to handle hydrogen fluoride and carry out chemical reactions which newly synthesized synthetic peptides are cleaved from either solid supports or from chemical groups which are used to block the peptide for various stages in the synthesis. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00005. Applicant: Department of Health, Education, and Welfare, NIH, Division of Cancer Biology and Diagnosis, NCI, Building 31, Room 3A-05, Bethesda, Md. 20014. Article: Gammacell 40—(small animal irraditor) with accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used in a variety of types of basic biomedical research, primarily involving investigation of immunologic functions of various types from the administration of relatively low doses (200-300 rads) which permits the transplantation of foreign neoplasms to lethal doses in the 800-900 rad range followed by the transplantation of hematopoietic cells. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00006. Applicant: DHEW, National Institutes of Health, Laboratory of Biophysics, IRP, NINCDS, Marine Biological Laboratory, L-320, Woods Hole, Mass. 02543. Article: Electron Microscope, Model EM 400 HMG and accessories. Manufacturer: Philips Electronics Instruments, NVD, the Netherlands. Intended use of article: The article is intended to be used in a variety of modes to study the fine structure of cell membranes and cytoplasmic macromolecular architecture, particularly in the newrons of a number of invertebrate and vertebrate species. In general, the main feature distinguishing the fine structure of neural material is its high degree of liability. Hence, there will be special emphasis on developing preservation techniques designed to minimize ultrastructural changes during fixation and subsequent processing for electron microscopy. Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00007. Applicant: University of Pennsylvania, School of Medicine, 36th and Hamilton Walk, Philadelphia, Pa. 19104 Article: Electron Microscope, Model EM 201C and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research involving the study of contractile proteins in muscle and non-muscle systems. In the latter, studies of the formation and orientation of actin filaments in relation to the state of motion of a specific portion of the cell are of greatest interest. Tissue culture cells, pollen cells, blood platelets and the slime mold will be used to study the changes in non-muscle acting filaments during various forms of cell motility. The formation of myosin filaments *in vitro* will be examined using vertebrate skeletal muscle. The interaction of the M-band proteins with synthetic myosin filaments will be pursued along with the structure of smooth muscle myosin filaments, primarily rabbit uterine myosin filaments. In addition, the article will be used in the following courses to give a cellular understanding of the structure of the body:

Histology, Neurobiology, Cell Differentiation, Tissue Interactions, Molecular Organization of Striate Myofibritis, Cell Motility and Membranes, Independent Study and Research.

Application received by Commissioner of Customs: October 3, 1978.

Docket No. 79-00008. Applicant: University of Michigan, Department of Medicine, 1405 East Ann Street, Ann Arber, Mich. 48109 Article: Scanning Microdensitometer, Model M85 and accessories. Manufacturer: Vickers Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used to quantitate the intensity of staining of gastric fundal parietal cells as an index of acid secretion. When the parietal tissue is subject to stimulation with various agents, an enzyme (carbonic anhydrase) is stimulated and catalyzes a reaction between water and carbon dioxide to form carbonic acid which then generates hydroxyl (OH) ions. Application received by Commissioner of Customs: October 4, 1978.

Docket No. 79-00009. Applicant: Iowa State University, Ames, Iowa 50011. Article: FX 90Q MHz Integrated Broadbad DQD FT NMR System and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to obtain the ^{13}C and ^{1}H NMR spectra of organic molecules most of which will be new compositions of matter. The majority of the experiments will be routine structural analysis. Kinetic experiments may be performed occasionally as well as studies of fluctional molecules as a function of temperature. One set of experiments is presently planned detecting CIDNP in a reaction which may proceed via a radical pair mechanism. The article will also be used to prepare postgraduate students for a career in research. Application received by Commissioner of Customs: October 4, 1978.

Docket No. 79-00010. Applicant: University of Nebraska, Department of Agronomy, Lincoln, Nebr. 68583. Article: 2KW X-ray Diffraction System, Model 2028 and accessories. Manufacturer: Rigaku Inc., Japan. Intended use of article: The article is intended to be used for studies involving weathering within, origin of, and classification of soils. Also, phenomena of cation exchange and forces holding certain elements within the soil will be studied. In addition, the article will be used in the course Soil Genesis and Classification in which is a study of origins, properties, and classification of soils for M.Sc. and Ph. D. students.

Application received by Commissioner of Customs: October 4, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30311 Filed 10-25-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF ILLINOIS MEDICAL CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an applicatin for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00193. Applicant: University of Illinois Medical Center, College of Medicine, 1853 West Polk Street, Chicago, Ill. 60612. Article: Nuclear Magnetic Resonance Spectrometer, Model CXP-180. Manufacturer: Bruker Physik, A.G., West Germany. Intended use of article: The article is intended to be used in studies of the conformation and molecular dynamics of hormones (peptide hormones), key neurotransmitters (e.g., acetycholine) and drug membrane interactions. The article will also be used in studies of metabolism in intact cells, in obtaining information regarding physiological processes at nerve endings (synaptosomes) and in studies of the binding of ligands to hemoproteins and the interrelation between the binding and the conformation. The experiments to be conducted will include: (a) Oxygen-17 chemical shift measurements in the presence of paramagnetic ion probes, (b) oxygen-17 nuclear relaxation measurements, (c) determination of carbon-13 chemical shift tensor components in the solid state of oligopeptides and peptide hormones by means of transfer of polarization from the protons spin system to the carbon-13 nuclei, and (d) deuterium NMR chemical shift and line shape analysis of deuterium labeled peptides. The article will also be used for training in a teaching program in Nuclear Magnetic Resonance and its applications.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket No. 77-00268 which was denied without prejudice to resubmission on November 30, 1977, for informational deficiencies. The foreign article provides the capability of wide spectral range for ^{17}oxygen (364 KHz) with its pulse width of three microseconds for a 90° pulse. The Department of Health, Education, and Welfare advises in its memorandum dated August 14, 1978, that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-30313 Filed 10-25-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF PUERTO RICO ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 20, 1978.

Regulations (15 CFR 301.9) issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in room 6886C of the Department of Commerce Building, 14th and

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Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 78-00358. Applicant: University of Puerto Rico, Mayaguez Campus, Mayaguez, P.R. 00708. Article: Centrifugal force apparatus and accessories. Manufacturer: Experimental Engineering Equipment Ltd., Canada. Intended use of article: The article is intended to be used for educational purposes in the course Engineering 242-Dynamics, Study of the Principles of Dynamics. Application received by Commissioner of Customs: October 3, 1978.

Docket No.: 78-00434. Applicant: National Eye Institute, Building 9, room 1E118, National Institutes of Health, Bethesda, Md. 20014. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in experiments concerned with understanding the functional organization of primate retina. These include identifying active and inactive synapses using ultrastructural characteristics and various histochemical procedures. Understanding the functional organization of primate retina at the cellular level will be valuable in understanding human visual functioning and malfunctioning, which for many retinal diseases has its origins at the cellular level. Application received by Commissioner of Customs: September 29, 1978.

Docket No.: 78-00436. Applicant: Veterans Administration Hospital, 3801 Miranda Avenue, Palo Alto, Calif. 94304. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of peripheral nerve, central white matter tracts and central neuropil as well as bony structures such as the labyrinth and spinal vertebrae. Experiments to be conducted will include ultrastructure and cytochemical studies on normal and pathological nerve cells, developmental studies on the nervous system and on muscle, and studies on membrane structure on both normal and pathological animals. Application received by Commissioner of Customs: September 29, 1978.

Docket No.: 78-00448. Applicant: Illinois Institute of Technology, 3300 South Federal, Chicago, Ill. 60616. Article: TEA-103-2 Multimode CO_2 Laser with accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the study of gases which absorb 9-11μ radiation produced by a CO_2 TEA laser and which have bond strengths less than about 60 kcal/mole. Experiments will be conducted to produce polyatomic free radicals under controlled conditions suitable for the study of their subsequent reactions. Application received by Commissioner of Customs: September 27, 1978.

Docket No.: 78-00450. Applicant: Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Md. 21205. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the study of the localization of cytoskeletal proteins in non-muscle cells by immunochemical electron microscopic methods. In particular, the investigation of the localization of the protein alpha-actinin with respect to the substructure of the brush border and junctional complex of epithelial cells. In addition, the article will be used to train people in basic electron microscopy techniques. Application received by Commissioner of Customs: September 29, 1978.

Docket No. 78-00451. Applicant: University of Rochester Nuclear Structure Research Laboratory, 271 East River Road, Rochester, N.Y. 14627. Article: Particle acceleration tube. Manufacturer: Dowlish Developments Ltd., United Kingdom. Intended Use of Article: The article is intended to be used to upgrade an existing Van de Graaf accelerator which is being used in a variety of nuclear studies. The projects being conducted will involve the following:

I. Light Ion Studies:
A. Multi-Step Processes in the Interpretation of the ^{28}Si(d, ^{3}He) ^{27}Al Reaction,
B. Study of the (^{3}He,n) and (^{3}He,p) Reactions on ^{27}Al and ^{29}Si to Analogue Final States,
C. Study of the ^{29}Si(d,py) Reaction, etc.
II. Heavy Ion Reactions:
A. The transition between Light- and Heavy-Ion Elastic Scattering,
B. Unnatural Parity Levels Populated in the ^{16}O(^{6}Li,d)^{20}Ne Reaction,
C. Further Attempts To Resolve the Double Near 6.3 MeV in ^{22}Ne in the Reaction ^{18}O(^{6}Li,d)^{22}Ne.
III. Measurement of Total Muon-Capture Rates in ^{232}Th, ^{235,238}U and ^{239}Pu.

Application Received by Commissioner of Customs: September 29, 1978.

Docket No. 78-00452. Applicant: University of Rochester Nuclear Structure Research Laboratory, 271 East River Road, Rochester, N.Y. 14627. Article: Particle Acceleration Tube, Manufacturer: Dowlish Developments Ltd., United Kingdom. Intended Use of Article: The article is intended to be used to upgrade an existing Van de Graaf accelerator which is being used in a variety of nuclear studies. The projects being conducted will involve the following:

I. Light Ion Studies:
A. Multi-Step Processes in the Interpretation of the ^{28}Si(d, ^{3}He) ^{27}Al Reaction,
B. Study of the (^{3}He,n) and (^{3}He,p) Reactions of ^{27}Al and ^{29}Si to Analogue Final States,
C. Study of the ^{29}Si(d,py) Reaction, etc.
II. Heavy Ion Reactions:
A. The transition between Light- and Heavy-Ion Elastic Scattering,
B. Unnatural Parity Levels Populated in the ^{16}O(^{6}Li,d) ^{20}Ne Reaction,
C. Further Attempts To Resolve the Double Near 6.3 MeV in ^{22}Ne in the Reaction ^{18}O(^{6}Li,d)^{22}Ne.
III. Measurement of Total Muon-Capture Rates in ^{232}Th, ^{235,238}U and ^{239}Pu.

Application Received by Commissioner of Customs: September 29, 1978.

Docket No. 78-00453. Applicant: Georgetown University Medical School, Department of Pathology, 3900 Reservoir Road Northwest, Washington, D.C. 20007. Article: Microlab automatic tissue processor. Manufacturer: Microlab Products, Canada. Intended Use of Article: the article is intended to be used during investigations of surgical and autopsy material and experimental animal model tissues for immuno-electron microscopic identification of tissue antigens. The article will also be used in the course Electron Microscopy in Pathology for educational purposes. Application Received by Commissioner of Customs: October 2, 1978.

Docket No. 78-00454. Applicant: Case Western Reserve University, Department of Pharmacology, 2119 Abington Road, Cleveland, Ohio 44106. Article: MS-3076 dual-beam mass Spectrometer and accessories. Manufacturer: AEI Scientific Appartus, Ltd., United Kingdom. Intended Use of Article: The article is intended to be used primarily for the study of drug metabolism as part of a comprehensive program for the study of parasitic diseases. Isolation of purified drug metabolites from biological sources will be followed by introduction of minute quantities of material into the source of the mass spectrometer either by direct insertion probe or via gas chromatography. The accurate mass information about the drug molecule, hopefully to determine its chemical structure. In addition, the article will be used to train graduate students pharmacology in utlization of the mass spectrometer data system. Application Received by Commissioner of Customs: October 3, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-30312 Filed 10-25-78; 8:45 am]

[3510-18-M]

Office of the Secretary

ADVISORY COMMITTEE ON FEDERAL POLICY ON INDUSTRIAL INNOVATION ADVISORY SUBCOMMITTEE ON PATENTS AND INFORMATION

Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Advisory Subcommittee on Patents and Information of the Advisory Committee on Federal Policy on Industrial Innovation will hold a series of four meetings with the following schedule:

Thursday, November 2, 1978, Room B-841.
Thursday, November 16, 1978, Room 6802.
Thursday, November 30, 1978, Room B-841
Wednesday, December 13, 1978, Room B-841.
Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

These meetings will start of 9:30 a.m. and will finish at 5 p.m.

The agenda for these meetings is as follows:

1. Review the work-to-date.
2. Develop the format and content of the final report.
3. At the final meeting (Dec. 13, 1978) the final report will be reviewed and approved.

The Advisory Subcommittee on Patents and Information was established to examine the impact of Federal patent and information policy on industrial innovations and to identity policy options that can be taken by the Federal Government to encourage industrial innovation with minimal negative effects on other important national goals.

The meetings will be open to public observation. A limited number of seats will be available to the public and press on a first-come, first-serve basis.

Copies of the minutes and materials distributed will be made available for reproduction, following certification by the subcommittee chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce, Central Reference and Records Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mr. John R. Heizer, Room 3868A, U.S. Department of Commerce, Washington, D.C., telephone 202-377-3648.

The department regrets that emergency circumstances have prevented us from giving at least 15 days advanced notice of the meeting on November 2, 1978. The work plan for the Domestic Policy Review on Industrial Innovation requires that the subcommittee produce a printed report of its recommendations by December 15, 1978. The four meetings specified in this notice are essential to the completion of the committee's work by that deadline. Earlier notice was not possible because appointment of members to the subcommittee was not completed until October 19, 1978, and it was necessary to await completion of such appointments before establishing a schedule for the meetings. The subcommittee's report will be subject to public review and criticism.

Dated: October 24, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-30473 Filed 10-25-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF SINGAPORE

Announcing Import Restraint Levels Under New Multifiber Agreement

OCTOBER 20, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for textile products in categories 347/348 (cotton trousers), 445/446 (wool sweaters), 604 (manmade fiber yarn), 638/639 (manmade fiber knit shirts and blouses), and 641 (manmade fiber blouses, not knit) from Singapore during the 12-month period beginning on January 1, 1978 and extending through December 31, 1978. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: The Governments of the United States and the Republic of Singapore exchanged notes dated September 21 and 22, 1978 establishing a new Bilateral Cotton, Wool, and Manmade Fiber Textile Agreement for the 4-year period beginning on January 1, 1978 and extending through December 31, 1981. Within the aggregate and group ceilings, levels of restraint have been established, among other categories, for cotton, wool, and manmade fiber textile products in categories 347/348, 445/446, 604, 638/639, and 641, produced or manufactured in Singapore and exported to the United States during the 12-month period which began on January 1, 1978 and extends through December 31, 1978. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawals from warehouse for consumption, of cotton, wool, and manmade fiber textile products in the foregoing categories to the designated amounts, pursuant to the new agreement. The levels of restraint have not been adjusted to account for imports during the period beginning on January 1, 1978 and extending through October 31, 1978. Imports during this period will be charged.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.
OCTOBER 20, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 1, 1978, and for the 12-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products exported from Singapore in the following categories, in excess of the designated 12-month levels of restraint:

Category	12-mo level of restraint [1]
347/348	500,000 doz. of which not more than 430,625 doz. shall be in category 347 and not more than 194,375 doz. shall be in category 348.
445/446	20,000 doz.
604	700,000 lb.

V 4

Category	12-mo level of restraint [1]
638/639	2,720,000 doz. of which not more than 340,000 doz. shall be in category 638.

[3510-25-M]

SOCIALIST REPUBLIC OF ROMANIA

ects the Commissioner of Customs to amend the previously established levels of restraint for Categories 334

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

Groups of the Committee on Unconventional Gas Sources of the National Petroleum Council will meet on Tuesday and Wednesday, November 14 and

Evaluation, 202-566-9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

V 43/208 OCT 26 78

Category	12-mo level of restraint [1]
638/639	2,720,000 doz. of which not more than 340,000 doz. shall be in category 638.
641	55,775 doz.

[1] The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1977.

In carrying out this directive entries of cotton, wool, and man-made fiber textile products in the foregoing categories, produced or manufactured in Singapore and exported to the United States prior to January 1, 1978, and entered on and after the effective date of this directive, shall not be charged against the levels of restraint established in this directive.

Cotton, wool, and man-made fiber textile products in the foregoing categories that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b), before the effective date of this directive, shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 21 and 22, 1978, between the Governments of the United States and the Republic of Singapore which provide, in part, that: (1) Within the aggregate and applicable group limits, specific limits and sublimits may be exceeded by designated percentages; (2) specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool, and man-made fiber textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-30294 Filed 10-25-78; 8:45 am]

[3510-25-M]

SOCIALIST REPUBLIC OF ROMANIA

Amending the Import Levels for Certain Cotton Apparel Products

OCTOBER 20, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the levels of restraint for imports of certain men's and boys' cotton coats and knit shirts in Categories 334 and 338 from Romania under the terms of the bilateral cotton textile agreement.(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: The Governments of the United States and the Socialist Republic of Romania have exchanged letters dated October 13 and 14, 1978, amending the Bilateral Cotton Textile Agreement of January 6 and 25, 1978, among other things, to increase the level of restraint for cottom textile products in Category 334 and decrease the level for cotton textile products in Category 338, produced or manufactured in Romania and exported to the United States during the 12-month period which began on January 1, 1978.

EFFECTIVE DATE: October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On March 31, 1978, there was published in the FEDERAL REGISTER (43 FR 13604), a letter dated March 28, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing import restraint levels for certain cotton textile products from Romania during the 12-month period which began on January 1, 1978, pursuant to the terms of the Bilateral Cotton Textile Agreement of January 6 and 25, 1978, between the Governments of the United States and the Socialist Republic of Romania. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amend the previously established levels of restraint for Categories 334 and 338 in accordance with the bilateral agreement, as amended.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

OCTOBER 20, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 6 and 25, 1978, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on October 26, 1978, the levels of restraint established in the directive of March 28, 1978 for Categories 334 and 338 as follows:

Category	Amended 12-mo level of restraint [1]
334	186,320 doz. of which not more than 36,320 doz. shall be in all T.S.U.S.A. numbers in the category except T.S.U.S.A. 380.0611.
338	300,000 doz. of which not more than 97,222 doz. shall be in T.S.U.S.A. Nos. 380.0028, 380.0029, 380.0651, and 380.0652.

[1] The amended levels of restraint have not been adjusted to account for any imports after Dec. 31, 1977.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This lettrer will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic business Development.

[FR Doc. 78-30293 Filed 10-25-78; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

COMMUNITY COLLEGE OF THE AIR FORCE (CCAF) ADVISORY COMMITTEE

Meeting

OCTOBER 19, 1978.

The Community College of the Air Force Advisory Committee will hold a meeting November 14, 1978, at 8:30 a.m. in the Daedalian Room of the Officers Club, Building 340, located at Sheppard Air Force Base, Wichita Falls, Tex.

The meeting is open to the public.

Agenda items include: State of the college, graduate study, 1-year certificates, articulation, changes in academic policies, move to Maxwell AFB.

For further information contact Maj. James H. Conely at 512-671-3632, Community College of the Air Force, Lackland AFB, Tex. 78236.

CAROL M. ROSE,
Air Force Alternate Federal Register Liaison Officer.

[FR Doc. 78-30233 Filed 10-25-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON STRATEGIC PLANNING EXPERIMENT IN THE MARITIME BALANCE AREA

Change in Meeting Site

The meeting site for the Defense Science Board Task Force on Strategic Planning Experiment in the Maritime Balance Area scheduled for a closed session on November 6, 1978, in Palo Alto, Calif., as published in the FEDERAL REGISTER (43 FR 47605, Oct. 16, 1978, FR Doc. 78-29129) has been changed to Washington, D.C. In all other respects, the original notice cited above remains the same.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

OCTOBER 23, 1978.

[FR Doc. 78-30330 Filed 10-25-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL COORDINATING SUBCOMMITTEE AND TASK GROUPS OF THE NPC COMMITTEE ON UNCONVENTIONAL GAS SOURCES

Meetings

Notice is hereby given that the Coordinating Subcommittee and Task Groups of the Committee on Unconventional Gas Sources of the National Petroleum Council will meet on Tuesday and Wednesday, November 14 and 15, 1978 at the following time and locations:

COORDINATING SUBCOMMITTEE

November 14, 1978, 2 p.m., NPC Conference Room, 1625 K Street NW., Washington, D.C.

AGENDA

1. Introductory remarks by Chairman and Government Co-chairman.
2. Discussion of scope of the NPC Study on Unconventional Gas Sources.
3. Discussion of the Study methodology to be employed by Coordinating Subcommittee.
4. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

TASK GROUPS

Coal Seams

November 14, 1978, 10 a.m., NPC Conference Room, 1625 K Street NW., Washington, D.C.

Geopressured Zones

November 15, 1978, 9 a.m., International Club, Scandinavian Room, 1800 K Street NW., Washington, D.C.

Tight Sands

November 15, 1978, 10 a.m., International Club, African Room, 1800 K Street NW., Washington, D.C.

Devonian Shale

November 15, 1978, 11 a.m., International Club, Tasterin Room, 1800 K Street NW., Washington, D.C.

The agenda for the Task Groups sessions is:

1. Introductory remarks by the Chairman and Government Co-chairman.
2. Discussion of scope of the assignment of the Task Group.
3. Discussion of the study methodology of the Task Group.
4. Discussion of the timetable of the Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Task Group.

The meetings are open to the public. The chairmen of the Coordinating Subcommittee and Task Groups are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee or Task Groups will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lucio D'Andrea, Office of Policy and Evaluation, 202-566-9482, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, Department of Energy, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., October 23, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-30263 Filed 10-25-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for August 1978

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: August 1978 entitlement notice.

SUMMARY: Under the Department of Energy's (DOE) domestic crude oil allocation (entitlements) program, this is the monthly entitlement notice which sets forth the entitlement purchase or sale requirements of domestic refiners for August 1978.

DATES: Payments for entitlements required to be purchased under this notice must be made by October 31, 1978. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by November 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas McIver (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street NW., Room 61281, Washington, D.C. 20461, 202-254-8660.

Fred Wolgel (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2454.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for August 1978 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported and the still[illegible]

number of entitlements for the month of August 1978 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that [illegible]

by the President on October 17, 1978, we have adopted amendments to the residual fuel oil provisions of the entitlements program. These amendments

	Volumes	Weighted average cost	Percent of total volumes*

V 4 3 / 2 0 8 0 C 2 6 7 8

Based on reports for August 1978 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the east coast market provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); September 1978 deliveries of crude oil for storage in the strategic petroleum reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for August 1978 is calculated to be 0.165475.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of August 1978, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to 0.165183 of a barrel of deemed old oil.

The issuance of entitlements for the month of August 1978 to refiners and other firms is set forth in the appendix to this notice. The appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of August 1978 is hereby fixed at $8.06, which is the exact differential as reported for the month of August between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of August 1978 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of August 1978 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of August 1978 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months of September 1975 through July 1978 pursuant to 10 CFR 211.67(j)(1).

The listing of refiners' old oil receipts contained in the appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the appendix identifies in a separate column labeled "Exceptions and Appeals" additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the August 1978 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to insure that Arizona Fuels is not relieved of its August 1978 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see entitlement notice for October 1977 (42 FR 64401, December 23, 1977).

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the U.S. Government for storage in the strategic petroleum reserve, the number of barrels sold to the Government totaled 7,112,825 barrels.

Pursuant to section 307 of the Act Making Appropriations for the Department of the Interior and Related Agencies for the Fiscal Year Ending September 30, 1979, which was signed by the President on October 17, 1978, we have adopted amendments to the residual fuel oil provisions of the entitlements program. These amendments basically provide that imports of residual fuel oil into the Bureau of Mines East Coast Refining District and the State of Michigan will be eligible to earn 50 percent of the per barrel crude oil entitlement value. Domestic refiners will receive 100 percent entitlement value for all barrels of domestically produced residual fuel oil sold into the east coast market (which, as defined, includes Michigan), unless such barrels are shipped in foreign flag tankers. In accord with the terms of the legislation, the amendments are being adopted effective for July 1978 crude oil runs to stills and imports of residual fuel oil. The listing contained in the appendix reflects the adjustments that are necessary to implement these amendments effective for July 1978. In particular, certain refiners that made adjustments to crude oil runs to stills pursuant to the provisions of § 211.67(d)(4) for July sales of residual fuel oil into the east coast market (the "reverse entitlements" provision) are granted compensating entitlement issuances in this notice. Importers of residual fuel oil are granted additional entitlement issuances for July 1978 imports of residual fuel oil into the east coast market (including the State of Michigan) to reflect the new 50-percent entitlement value for such imports. For a further discussion of these regulatory changes, reference should be made to the final rule implementing the statutory requirements.

For the month of August 1978, imports of residual fuel oil eligible for entitlements issuances totaled 31,741,122 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity
California lower tier crude oil	9,971,100	19
California upper tier crude oil	7,975,087	19

The total number of entitlements required to be purchased and sold under this notice is 21,302,304.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for August 1978, the pricing composition and weighted average costs thereof are as follows:

	Volumes	Weighted average cost	Percent of total volumes*
Lower tier	91,245,630	$5.98	18.3
Upper tier	91,529,682	12.71	18.3
Exempt domestic:			
Alaskan	39,148,647	12.90	7.8
Stripper	37,021,831	14.44	7.4
Naval petroleum reserve	2,878,709	13.51	.6
Total domestic	261,824,499	10.65	52.4
Total imported	237,438,315	14.46	47.6
Total reported crude oil receipts	499,262,814	12.46	100.0
Total reported crude oil runs to stills	504,568,443		

*Numbers may not add due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for August 1978 must be made by October 31, 1978.

On or prior to November 10, 1978, each firm which is required to purchase or sell entitlements for the month of August 1978 shall file with the DOE the monthly transaction reports specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of August. The monthly transaction report forms for the month of August have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by October 31, 1978, are requested to contact the ERA at 202-254-3336 to expedite consummation of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to October 31, 1978, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to subpart G, 10 CFR part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with subpart H of 10 CFR part 205. Any such appeal shall be filed on or before November 27, 1978.

Issued in Washington, D.C., on October 18, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[3128-01-C]

APPENDIX
ENTITLEMENTS FOR DOMESTIC CRUDE OIL
AUGUST 1978

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
=CONSOL'D=SALES	-172,763	0	0	0	0	0	172,763*
A=JOHNSON	0	177,663	4,445**	19,683	0	0	177,663
ALLIED	46,138	86,526	0	0	0	0	38,388
AMER=PETROFINA	879,884	919,872	192,423	0	0	0	39,988
AMERADA=HESS	1,076,388	2,721,282***	56,021**	98,619	0	0	1,644,896
ANGLO	3,289,288	5,853,981	7,059**	-180	0	3,555,287	0
ANCHOR	12,224	98,355	0	0	6,893	0	86,131
ARCO	3,232,151	3,963,841	8,557**	0	-29,197	0	731,691
ARIZONA	257,984	85,221	8,221	0	2,913	172,763	0
ASAMERA	84,843	134,590	0	0	0	0	49,747
ASHLAND	1,108,116	1,806,452	0	0	0	0	698,336
ASIATIC	0	431,259	120,577**	280,682	0	0	431,259
BASIN	248,867	207,455	0	0	79,703	37,412	0
BAYOU	11,156	50,599	0	0	0	0	39,443
BEACON	233,155	273,923	95,789	0	45,497	0	40,765
BELCHER	0	56,552	33,479**	47,073	0	0	80,552
BI=PETRO	4,991	143,663	0	0	0	0	139,512
BP=TRADING	0	323,296***	0	0	0	0	323,296
BRUIN	20,236	134,335	0	0	0	0	114,099
C&H	78	189	0	0	0	0	111
CALCASIEU	9,735	56,854	0	0	0	0	47,119
CALUMET	19,880	27,263	0	0	0	0	7,383
CANAL	66,524	72,978	0	0	0	0	6,454
CARTER	70,343	78,696	0	0	0	0	8,353
CASTLE	0	24,939	0	24,939	0	0	24,939
CENTRAL	0	21,300	0	21,300	0	0	21,300
CHANDLER	1,025,000	1,275,968	0	0	247,791	149,812	0
CHARTER	1,120,981	874,261	476,777	0	0	254,720	0
CHEVRON	5,841,887	6,520,095	49,864**	51,318	433,565	0	678,208
CIRILLI	0	42,333	12,153**	30,180	0	0	42,333
CITGO	1,779,982	1,107,131	0	0	0	672,851	0
CLAIBORNE	61,054	26,230	0	0	0	34,828	0
CLARK	184,281	607,749	0	0	0	0	423,468
COASTAL	238,395	1,243,292	20,008**	25,204	0	0	1,006,897

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
COLONIAL	0	60,760	7,573**	53,187	0	0	60,760
CONOCO	2,890,381	2,096,696	4,780**	49,400	167,763	594,265	0
CONSUMERS=POWER	0	138,255	66,539**	71,716	0	0	138,255
CORAL	0	254,286	0	0	0	0	254,286
CORCO	3,184	922,136	151,516****	219,275	2,979	0	978,953
CRA=FARMLAND	332,480	443,154	0	0	0	0	110,674
CROSS	47,375	95,726	0	0	0	0	48,351
CRUSA	278,833	552,397	0	0	0	0	261,564
CRYSTAL=OIL	191,828	153,900	0	0	0	37,928	0
CRYSTAL=REF	0	32,127	0	0	0	0	32,127
DELTA	106,611	314,985	0	0	0	0	208,374
DEMENNO	12,378	76,889	0	0	12,356	0	64,511
DETROIT=EDI	0	91,218	48,130**	43,088	0	0	91,218
DIAMOND	883,912	519,448	0	0	0	144,464	0
DILLMAN	0	2,707	0	0	0	0	2,707
DORCHESTER	2,222	573,236	341,288	0	0	0	571,014
DOW	43,321	31,567	0	0	0	11,753	0
E=SEABOARD	0	67,975	20,750**	47,225	0	0	67,975
ECO	84,549	95,231	0	0	28,306	0	10,682
EDDY	36,639	38,427	0	0	0	0	1,788
ELK	0	4,546	4,546**	0	0	0	4,546
ENERGY=CO-OP	0	691,323	0	0	0	0	691,323
ERICKSON	13,344	124,593	541**	0	0	0	111,199
EVANGELINE	31,783	35,910	0	0	0	0	4,127
EXXON	4,964,121	8,862,588***	479,539**	551,257	0	91,532	0
FZ=SERVE	5,592	39,205	0	0	0	0	33,613
FARMER=S	152,833	281,230	0	0	0	0	128,797
FLETCHER	23,019	176,393	0	0	4,474	0	153,374
FLINT	6,822	9,508	0	0	0	0	2,686
GARY	149,886	111,792	0	0	0	29,014	0
GETTY	951,499	930,109	0	0	0	51,390	0
GIANT	38,933	58,745	0	0	0	0	19,752
GLACIER=OIL	93,718	48,955	0	0	0	44,763	0
GLADIEUX	42,354	126,857	0	0	0	0	84,503

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
GLENRUCK	569	887	0	0	0	0	318
GOLDEN-EAGLE	0	140,205	0	0	0	0	140,205
GOLDEN-EAGLE-NY	0	24,029	1,763**	22,266	0	0	24,029
GOLDKING	91,256	124,989	0	0	0	0	33,733
GOUD-MOPE	27,914	247,989	0	0	0	0	220,075
GUAM	0	259,030	0	0	0	0	259,030
GULF	6,992,725	4,486,682	84,897**	38,151	61,914	2,512,643	0
GULF-STS	43,963	130,009	0	0	0	0	86,946
HIRI	0	394,624	14,555**	0	0	0	394,624
HOWELL	57,560	251,734	0	0	0	0	194,374
HUDSON-OIL	10,911	169,045	0	0	0	0	158,134
HUNT	157,120	260,333	0	0	0	0	103,213
HUSKY	579,728	579,728	290,127	0	7,991	0	0*****
INDEPENDENT-REF	443	124,191	0	0	0	0	123,748
INDIANA-FARM	18,964	190,185	0	0	0	0	171,221
IRVING	0	7,900	7,900**	0	0	0	7,900
J&W	56,147	35,589	0	0	0	14,558	0
KENCO	15,026	34,767	0	0	0	0	19,341
KENTUCKY	16,045	13,090	0	0	0	2,955	0
KERR	462,525	414,579	179,331	0	55,279	47,946	0
KERR-MCGEE	1,027,527	753,023	0	0	0	274,504	0
KOCH	201,453	671,102	9,285**	4,269	0	0	469,649
LAGLORIA	436,662	238,036	0	0	0	198,566	0
LAKESIDE	4,762	28,361	0	0	0	0	23,599
LAKETON	117,860	140,959	37,860	0	0	0	23,099
LITTLE-AMER	1,128,220	971,702	523,505	0	0	156,518	0
LOUISIANA-LAND	164,684	258,239	0	0	0	0	93,355
MACMILLAN	39,182	145,826	0	0	6,528	0	106,644
MARATHON	3,771,815	2,531,146	0	0	0	1,240,669	0
MARION	98,215	193,326	0	0	0	0	95,111
METROPOLITAN	0	89,073	29,623**	59,450	0	0	89,073
MID-AMER	43,911	32,568	0	0	0	51,343	0
MID-TEX	12,024	30,799	0	0	0	0	18,375
MOBIL	6,043,460	4,555,631	4,078**	0	470,974	1,487,869	0

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	EXCEPTIONS AND APPEALS	ENTITLEMENT POSITION ENTITLEMENTS PRODUCT	CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
MOBILE-BAY	0	122,728	0	0	0	0	122,728
MOHAWK	464,432	465,896	161,123	0	96,058	0	1,464
MONOCO	0	13,994	3,341**	10,653	0	0	13,994
MONSANTO	261,234	261,101	0	0	0	133	0
MORRISON	16,809	13,553	0	0	0	3,256	0
MOUNTAINFED	8,622	8,349	0	0	0	273	0
MT-AIRY	23,574	122,646	0	0	0	0	99,072
MURPHY	813,345	615,775	0	0	0	197,571	0
N-AMER-PETRO	81,842	182,751	0	0	18,061	0	100,909
NATL-COOP	247,335	341,255	0	0	0	0	93,920
NAVAJO	384,470	317,280	64,254	0	0	67,190	0
NEVADA	13,300	33,365	0	0	0	0	20,065
NEW-FOGINGTON	696,468	823,982	171,307	0	237,803	72,486	0
NEW-ENGL-PETRO	0	839,770	354,084**	485,686	0	0	839,770
NEWHALL	207,772	222,917	0	0	69,566	0	15,145
NORTHEAST-PETRO	0	20,473	4,896**	15,577	0	0	20,473
NORTHLAND	20,146	29,511	15,877	0	0	0	9,365
NORTHVILLE	0	16,626	16,626**	0	0	0	16,626
OKC	154,344	211,074	0	0	0	0	56,730
OKLA-REF	49,564	137,415	0	0	0	0	87,851
OXNARD	3,841	22,714	0	0	2,874	0	18,873
PACIFIC-NORTH	0	6,932	6,932	0	0	0	6,932
PENEX	0	367,062***	0	0	0	0	367,062
PENNZOIL	276,789	264,771	0	0	0	12,018	0
PESTER	82,361	190,805	0	0	0	0	108,425
PETRO-HEAT-PA	0	8,988	0	8,988	0	0	8,988
PHILLIPS	1,834,870	1,513,219	0	0	116	321,651	0
PHILLIPS-PR	0	202,841	0	202,841	0	0	202,841
PIONEER	43,927	53,971	0	0	0	0	10,044
PLACID	159,638	251,200	0	0	0	0	91,562
PLATEAU	128,443	158,201	0	0	0	0	29,758
POWERINE	307,709	375,296	0	0	102,433	0	67,587
PR-OLEFINS	0	9,078	0	9,078	0	0	9,078
PRIDE	59,992	131,115	0	0	0	0	71,123

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
PRINCETON	-820	64,417	0	0	0	0	65,237
QUAKER-ST	28,425	188,170	0	0	0	0	159,745
RANCHO-REF	0	11,215	0	0	0	0	11,215
RAYMAL	2,140	17,908	0	0	0	0	15,768
RICHARDS	354	64,261	0	0	0	0	63,907
RICO	0	17,518	7,468**	10,110	0	0	17,518
ROAD-OIL	0	3,028	0	0	0	0	3,028
ROCK-ISLAND	220,617	299,257	0	0	0	0	79,240
SABER-TEX	15,127	186,001	0	0	0	0	170,874
SABRE-CAL	59,529	105,895	0	0	22,028	0	46,366
SAGE-CREEK	2,297	3,888	0	0	0	0	1,591
SAN-JOAQUIN	365,093	366,212	70,876	0	138,036	0	1,119
SEARS	0	32,766	0	32,766	0	0	32,766
SEMINOLE	11,535	34,106	0	0	0	0	22,471
SENTRY	-2,089	122,981	0	0	0	0	125,070
SHELL	2,355,574	5,906,462	0	0	496,264	3,415,112	0
SHEPHERD	0	108,386	0	0	0	0	108,386
SIGNOR	11,637	109,940	0	0	0	0	98,303
SO-HAMPTON	74,997	122,935	0	0	0	0	47,938
SOHIO	1,312,270	2,394,863	52,467**	0	0	0	1,082,593
SOMERSET	32,288	49,597	0	0	0	0	17,391
SOUND	-20,067	33,718	0	0	-4,868	0	53,785
SOUTHERN-UNION	158,817	241,918	0	0	0	0	83,101
SOUTHLAND	450,412	318,932	121,838	0	0	131,480	0
SOUTHWESTERN	6,575	9,641	6,283	0	0	0	3,066
SPRAGUE	0	62,902	23,371**	39,591	0	0	62,962
STEUART	0	84,199	25,324**	58,875	0	0	84,199
SUNLAND	30,232	134,186	0	0	11,474	0	103,954
SUNOCO	4,006,594	2,860,968	18,950	0	0	1,145,626	0
SWANN	0	34,709	1,852**	32,857	0	0	34,709
T&S	46,535	90,207	0	0	0	0	43,672
TARRICONE	0	3,701	3,701**	0	0	0	3,701
TENNECO	857,112	472,000	0	0	7,769	385,112	0
TESORO	294,991	380,520	2,533**	0	30,794	0	175,539

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	********** TOTAL ISSUED	ENTITLEMENT POSITION EXCEPTIONS AND APPEALS	ENTITLEMENTS PRODUCT	ENTITLEMENTS CALIFORNIA	REQUIRED TO BUY	********** REQUIRED TO SELL
TEXACO	7,219,984	5,702,504	166,663**	307,204	130,837	1,517,480	0
TEXAS-AMERICAN	27,584	104,783	0	0	0	0	77,199
TEXAS-ASPH	15,521	37,947	0	0	0	0	22,426******
TEXAS-CITY	728,673	344,472	0	0	0	384,201	0
THAGARD	188,995	186,007	28,511	0	56,458	2,988	0
THRIFTWAY	26,693	45,812	0	0	0	0	19,119
THUNDERBIRD	76,916	126,120	0	0	0	0	49,204
TIPPERARY	53,745	75,482	0	0	0	0	21,737
TONKAWA	32,942	55,605	0	0	0	0	22,663
TOSCO	2,044,765	1,834,336	379,858	0	516,776	210,449	0
TOTAL-PETROLEUM	212,177	345,401	0	0	0	0	133,224
UCC-CARIBE	0	146,028	0	146,028	0	0	146,028
UNI-REF	312,930	125,466	0	0	0	187,464	0
UNION-OIL	3,782,465	2,444,399	0	4,137	258,223	1,338,066	0
UNION-PETRO	0	62,230	1,795**	60,435	0	0	62,230
UNTD-IND	0	4,503	0	0	0	0	4,503
UNTD-REF	72,051	274,122	0	0	0	0	202,071
US&SO-AMER	0	307,991***	0	0	0	0	307,991
US-OIL	16,211	177,384	0	0	4,736	0	161,173
USA-PETROCHEM	62,228	177,082	0	0	18,588	0	114,854
VAL-VERDE	164	1,434	0	0	0	0	1,270
VICKERS	164,582	370,129	0	0	0	0	205,547
WALLER	0	3,718	3,718**	0	0	0	3,718
WARRIOR	65,831	50,608	15,094	0	0	15,223	0
WEST-COAST	96,990	161,612	0	0	50,745	0	64,622
WESTERN	73,444	107,914	0	0	0	0	34,470
WINSTON	90,256	153,715	0	0	0	0	63,459
WIREBACK	0	773	0	0	0	0	773
WICO	67,620	142,429	0	0	18,505	0	74,809
WYATT	0	38,719	1,239**	37,480	0	0	38,719
WYOMING	42,453	145,251	0	0	0	0	102,798
YETTER	463	552	0	0	0	0	89
YOUNG	47,961	43,729	14,124	0	0	4,232	0
TOTAL	102,623,331	102,623,331	5,126,570	3,203,402	3,889,355	21,302,304	21,302,304

[3128-01-M]

DEPARTMENT OF ENERGY

NOTICES

1978. It involved an examination of product and nonproduct cost calculations for Four of Chevron's gas processing plants, Colonia Booster, quires that the cost calculation be based on actual gas volumes processed. OSC believes that Chevron's methodology may have resulted in significant

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* See discussion in Notice.

** Reflects adjustments for July data to incorporate amendments to residual fuel oil provisions. See discusstion in notice. The total number of additional entitlements issued to reflect these changes equals 1,784,656 entitlements.

*** Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.

**** Authorization to sell these entitlements is subject to conditions set forth in a DOE Decision and Order issued to Commonwealth Oil and Refining Company on March 20, 1978.

*****This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's Judgment in Husky Oil Co. v. DOE, et al., Civ. Action No. C77-190-B (D.Wyo., filed March 14, 1978), remanded ____ F.2d ____ (No. 10-18 TECA, August 10, 1978).

******This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[FR Doc. 78-30001 Filed 10-20-78; 12:08 pm]

[3128-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

STANDARD OIL CO. OF CALIFORNIA

Proposed Consent Order

I. Introduction

Pursuant to 10 CFR 205.199J, the Office of Special Counsel (OSC) of the Department of Energy (DOE) hereby gives notice of a consent order which was executed between Standard Oil Co. of California acting through Chevron, U.S.A., and the OSC on September 22, 1978. In accordance with that section, the OSC will receive comments with respect to this consent order. Although the consent order has been signed and tentatively accepted by OSC, the OSC may, after consideration of comments received, withdraw its acceptance and if appropriate, attempt to negotiate an alternative consent order.

II. The Consent Order

Pursuant to the authority promulgated in 10 CFR 205.199J, and section 301 of the Department of Energy Organization Act, 42 U.S.C. 1751, the Office of Special Counsel (OSC) of the Department of Energy (DOE) hereby enters into this consent order with Standard Oil Co. of California (SOCAL) through Chevron U.S.A., Inc. (Chevron). As of January 1, 1977, Chevron became the organization responsible for the domestic operations of SOCAL encompassed by this consent order.

Recently OSC conducted an examination of the books and records of Chevron, pursuant to its authority conferred by the Economic Stabilization Act of 1970, as amended, 12 U.S.C. 1904, note (Economic Stabilization Act) and the Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. 751 et seq. (Allocation Act). The examination conducted by OSC focused on Chevron's computation of product and nonproduct cost increases for natural gas liquids (NGL's) and natural gas liquid products (NGLP's) from Chevron-operated and interest-owned gas plants during the period from September 1, 1973 through December 31, 1976.

This consent order constitutes a resolution of the compliance matters arising from the aforementioned audit for the period September 1, 1973 through December 31, 1976.

Special Counsel's audit of Chevron's NGL processing activities was performed during January and February 1978. It involved an examination of product and nonproduct cost calculations for Four of Chevron's gas processing plants, Colonia Booster, Oxnard, Calif.; West Cameron, Cameron, La; Snyder, Scurry County, Tex.; and Swanson River, Soldotna, Alaska, in the months of November 1973, July and September 1974, February and September 1975, and January and December 1976. Review of these plants enabled OSC to identify errors in Chevron's increased cost calculation methodology as applied to all its gas plants.

Jurisdiction

The Office of Special Counsel was created by a delegation of authority from the Administrator of the Economic Regulatory Administration which was created by 206 of the Department of Energy Organization Act, 42 U.S.C. 7136. Consequently, OSC is empowered to conduct and conclude audits and proceedings concerning the DOE Mandatory Price and Allocation Regulations.

Facts

The stipulated facts upon which this consent order is based are contained in the following paragraphs numbered 1 through 13.

1. Chevron, a refiner as defined by CLC regulations 6 CFR 150.352 (31 FR 22536, August 22, 1973) and FEA regulations at 10 CFR 212.31 (39 FR 1924, January 15, 1974) and a gas plant owner-operator as defined under FEA regulations at 10 CFR 212.162 (39 FR 44407, December 24, 1974), produces and sells NGL's and NGLP's.

2. OSC alleges that Chevron's computation of increased product costs (natural gas shrinkage costs) considered only product cost increases and not net product cost increases. A net cost increase involves both increases and decreases in product costs since May 1973, but Chevron's computations eliminated all cost decreases in apparent violation of 6 CFR 150.350(e), 150.355(e); 10 CFR 212.83(c), 212.161(2), and 212.166(b).

3. Chevron's NGL cost computations included increased shrinkage costs for NGL's and NGLP's which were given in kind to unrelated third parties under terms of processing and/or fractionation agreements. OSC alleges that Chevron should have included in increased product costs only the increased costs for those NGL/NGLP's to which it retained title, and that Chevron's calculation method is in violation of 10 CFR 212.166(a).

4. Chevron used lease meters in some fields rather than plant inlet meters to determine the inlet measurement in the shrinkage cost calculation. OSC alleges Chevron's actions to be in violation of 10 CFR 212.166(b)(3) which requires that the cost calculation be based on actual gas volumes processed. OSC believes that Chevron's methodology may have resulted in significant overstatements of actual gas volumes processed for NGL.

5. Chevron residue gas prices utilized in shrinkage cost calculations for Louisiana gas plants included an increment for recoupment of severance taxes resulting in an overstatement of calculated increased shrinkage costs which OSC alleges to be in violation of 10 CFR 212.166.

6. Chevron's shrinkage cost calculations included volumes attributable to removal of carbon dioxide (CO_2) which OSC alleges to be in violation of 10 CFR 212.162 which provides that shrinkage cost is only attributable to that volume or quantity of gas lost due to removal of NGL's. Since CO_2 is not a natural gas liquid, it may not properly be considered in the calculation of natural gas shrinkage costs.

7. Chevron calculated shrinkage costs in some instances by multiplying the difference between the May 1973 residue gas price and the month of measurement residue gas price times the shrinkage volume. OSC alleges Chevron's actions to be in violation of 10 CFR 212.166(b)(3) and contrary to ruling 1975-18 "Computation of Increased Cost of Natural Gas Shrinkage," which provide that natural gas shrinkage increase is the difference between the May 15, 1973 shrinkage cost per volume of gas processed and the current month cost of shrinkage per volume of gas processed, multiplied by the volume of natural gas processed in the current month.

8. OSC alleges Chevron's shrinkage calculations were in violation of 10 CFR 212.162 in some instances due to calculation of the shrinkage value based on MCF's rather than the BTU's lost in the extraction process. 10 CFR 212.162 states that the shrinkage cost is to be calculated on the same basis the residue gas is sold. The Chevron calculations alleged to be in error were sales under FPC opinions which provided for MCF price adjustments based on BTU content of the residue gas. OSC considers that these provisions made the gas sale, in effect, a BTU sale and required a BTU shrinkage calculation.

9. OSC alleges that Chevron has not maintained DOE required accounting records at the plants formerly under the supervision of the California Co., a division of Chevron, in apparent violation of 10 CFR 212.126(b). Those records which were maintained which purported to support NGL cost pass throughs were found by OSC to differ substantially in dollar amount from the actual costs reported by Chevron for the California Co.

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10. Chevron did not calculate nonproduct cost increases on a rate per gallon basis which OSC alleges to be in violation of 10 CFR 212.165 and the class exception order covering the period prior to 1975 (2 FEA paragraph 84,901).

11. At certain of Chevron's gas processing plants (which extract NGL's but do not fractionate NGLP's), Chevron used the $.005 nonproduct cost limitation, rather than the $.00375 limitation which OSC alleges to be in violation of 10 CFR 212.165.

12. At one plant operated by Chevron it was noted that a commingled stream of natural gasoline and condensate was produced. No analysis of this commingled stream had ever been made which would permit identification of the respective quantities of natural gasoline and condensate contained in the mixed stream. It was further noted that plant fuel used in the condensate recovery operations could not be differentiated from plant fuel volumes used in NGL extraction and recovery. OSC alleges this to be in violation of 10 CFR 212.126(b).

13. Chevron, without admitting any noncompliance with, or violation of, any rule or regulation of the DOE, desires to resolve, pursuant to 10 CFR 205.199J, the dispute arising between itself and the OSC as a result of the matters described herein. OSC, by means of this consent order, desires to conclude the compliance proceedings arising from its NGL audit of Chevron. Therefore, Chevron and OSC have mutually determined to conclude these matters and agree to the terms and conditions specified herein.

Terms and Conditions

1. Chevron shall have 30 days from the effective date of this consent order or until November 30, 1978, which ever is later, to recompute and to provide to OSC its allowable increased shrinkage costs on a monthly basis for the periods of May 1973 and September 1, 1973 through December 31, 1976, incorporating therein the exceptions described in items one (1) through eleven (11) contained in the fact section herein. It is understood item twelve (12) is to be implemented prospectively and is to be implemented within 30 days from the effective date of this consent order or by November 30, 1978, whichever is later. In its recomputation Chevron shall adhere to 10 CFR Part 212, Subpart K and the clarification outlined in DOE ruling 1975-18 (2 FEG para. 16058). The following methodology shall be used by Chevron in the recomputation:

A. Chevron will determine and document any and all data necessary for the calculation of shrinkage which were not previously included in calculations of shrinkage by the firm. Such data shall include but shall not be limited to data for interest-owned gas plants and NGL's acquired from other firms through provisions of processing/fractionation agreements.

B. Chevron will review calculations of shrinkage for all Chevron-operated gas plants; for all plants operated by other firms which process Chevron gas and in which Chevron retains title to some or all of NGL's extracted; and for all NGL's acquired from other firms through processing and/or fractionation agreements. Chevron will make revised calculations for all plants which are not in full conformance with the provisions of this consent order. Chevron will make these calculations in accordance with one of the following three alternatives:

(1) Chevron shall make the calculations required by B. above for May 1973 and for each month of the period September 1973 through and including December 1976.

(2) Chevron shall make the calculations required by B. above for May and November 1973; for January, July, and September 1974; for February, June, and September 1975; and January, May, and December 1976.

Chevron shall then agree to extrapolate to determine the total net adjustment to costs for each of calendar years 1973-76 by the following method: Based on the results of the review of the test month or months in each calendar year period, it will be assumed that all other months in that calendar year period will be similarly over/understated and a percentage adjustment based on the test month/months reviewed will be applied to the cost pass through for the other months in each calendar year period. For example, if the recalculation of November 1973 shows the previously calculated and reported pass through for November 1973 to be overstated by 10 percent, then Chevron agrees that a 10 percent reduction will also be made to the reported NGL cost pass through for September, October, and December 1973. Similarly for each year of the 1974 through 1976 period, if a comparison of the sum of the recalculated shrinkage costs of the 3 test months with actual cost pass throughs for those months shows the pass through to be overstated by 10 percent, then the NGL shrinkage cost pass through for each month of that year will be reduced by 10 percent.

(3) Chevron may choose at its option to use either (1) or (2) above for any year of the audit period, 1973 through 1976. However, under either alternative all objections as stated in the facts section of this consent order must be complied with for the period being recomputed. For any year or years for which Chevron chooses to use option (2), all cost pass throughs as reported for months in that year will be adjusted based on the results of the recomputed test months in that calendar year.

C. The increased shrinkage cost calculations as required above shall take into account:

(1) The exclusion from the shrinkage volume of all non-NGL products or byproducts extracted such as helium, CO_2, sulphur, scrubber oil, and condensate.

(2) The exclusion of increased shrinkage costs associated with the ethane sales volume percentage computed in accordance with 10 CFR 212.167(a) for each month of the period subsequent to January 1974.

D. Chevron agrees to recalculate nonproduct costs on a per gallon basis in accordance with 2 FEA para. 84901 for the 1974 period and 10 CFR 212.165 for the period subsequent to 1974. Chevron agrees to provide special counsel with a summary of the revised calculations showing the recalculated amounts, previously claimed nonproduct costs and under or overcharges in a format similar to that to be provided for shrinkage costs.

Chevron will identify and document to the special counsel any and all instances during the period September 1, 1973 through December 31, 1973 where nonproduct costs were claimed and passed through. For the period January 1, 1974 to December 31, 1974 Chevron will identify all instances where nonproduct costs in excess of $.0025 per gallon were claimed and for the period January 1975 and thereafter Chevron will identify where nonproduct costs in excess of $.00375 per gallon were incurred and claimed on sales of unfractionated natural gas liquid streams. Further, for the same period, Chevron will identify and document nonproduct costs in excess of $.005 per gallon incurred and claimed from the sale of fractionated natural gas liquid products.

E. Attached herewith and hereby incorporated as a part of this consent order is a format of summary schedules for each month of the audit period September 1973 through December 1976. Chevron agrees to provide OSC with completed summary schedules for each audit period month in the manner as outlined in the attachment within 30 days following the effective date of this consent order or by November 30, 1978, whichever is later.

2. When all data and recomputations described herein are compiled and completed, a final certified summary shall be submitted to: Larry James, Manager, Dallas Branch Office, Natural Gas Liquids Audit Division, Office of Special Counsel, P.O. Box 35228, Dallas, Tex. 75235.

Additionally, Chevron shall make available to OSC at Chevron's offices all data, computations, and worksheets used in obtaining the results described in the final summary. OSC shall inspect, review, and test such recalculations and shall notify Chevron in writing as to whether OSC finds the recalculations are satisfactory under the terms of this consent order.

3. Chevron agrees to adjust its increased product costs according to the recalculations required by this consent order in each month of the period September 1973 through December 1976. Chevron further agrees to do the same with regard to its increased nonproduct costs for the period September 1973 through December 1976. Chevron will make the foregoing adjustments in accordance with instructions applicable to forms CLC-22, FEO-96, and P-110-M-1. Within 30 days of the effective date of this consent order or November 30, 1978, whichever is later, Chevron will file with OSC schedules in the form attached hereto detailing such adjustments. All adjustments to increased product and nonproduct costs in any 1 month shall be carried forward and reflected in Chevron's cost calculations in all subsequent months.

Upon 90 days prior notice in writing from the Director of Field Operations or his designee, Chevron shall incorporate such schedules prepared pursuant to this consent order and approved by the NGL Division of OSC into a CLC-22, FEO-96 or P-110 for the period September 1973 through December 1976. Such forms shall then be refiled to reflect the recomputed data for that particular month and accumulated data from the prior month's refiling.

4. OSC has determined that the alleged errors resolved by this consent order are subject to civil penalties as provided by 10 CFR § 205.203. Therefore, OSC and Chevron hereby agree that civil penalties are compromised in the amount of $25,000. Said compromise applies only to the issues discussed herein and is expressly limited to the period September 1973 through December 1976. Within 10 days from the effective date of this consent order, Chevron shall tender to DOE a certified check in that amount payable to the U.S. Treasury.

5. Satisfactory performance under this order by Chevron will constitute compliance with the regulations of DOE pertaining to Natural Gas Liquids from September 1973 through December 1976 provided, however, that OSC reserves the right to take further remedial action in this case if OSC determines that information upon which this order is based is materially erroneous or that the actions of Chevron, or its calculations and revised reports filed hereunder have not been undertaken in a manner consistent with the aforementioned terms and conditions of this order or with applicable DOE rules and regulations.

6. should the DOE take a position different from that upon which this consent order is based, as a result of an interpretation issued to Atlantic Richfield Oil Co. (ARCO) (see 43 FR 28518, June 30, 1978), OSC will deem, for the purpose of this consent order, only, and upon proper application to OSC by Chevron pursuant to 10 CFR Part 205, Subpart J (Modification and Rescission), such interpretation to be a "significantly changed circumstance" as that term is construed in 10 CFR 205.135(b). Chevron shall note in its application the specific differences between the ARCO interpretation and the position taken by OSC which Chevron believes warrants a modification or rescission of this consent order.

7. This order shall be a final order of the DOE having the same force and effect as a remedial order issued pursuant to 10 CFR 205.199B. In consideration of OSC's agreement to the terms of this consent order and in accordance with § 205.199J, Chevron hereby expressly waives its right to appeal or obtain judicial review of this order.

8. This consent order shall become effective upon publication of notice to that effect in the Federal Register. Prior to its effective date, the OSC will publish notice in the Federal Register pursuant to 10 CFR 205.199J(c) that it has entered into this consent order and will provide not less than 30 days for members of the public to submit written comments with respect to it. After expiration of the comment period and prior to the effecive date of this consent order, the OSC reserves the right to withdraw its consent to this order for any reason.

9. The provisions of 10 CFR 205.199J are applicable to this consent order and are incorporated by reference herein.

III. Submission of Written Comments

Interested persons are invited to comment on the consent order by submitting such comments in writing to Nick L. Kelly, Director, NGL Division, Office of Special Counsel, Department of Energy, P.O. Box 35228, Dallas, Tex. 75235.

Copies of this consent order may be received free of charge by written request to this same address or by calling 214-749-7727.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Standard Oil Co. of California Consent Order." All comments received by 4:30 p.m. c.s.t. on or before November 26, 1978 will be considered by the OSC in evaluating the consent order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Dated: October 20, 1978.

Paul L. Bloom,
Special Counsel for Compliance.

[FR Doc. 78-30198 Filed 10-25-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate of Change Pursuant to Purchased Gas Cost Adjustment Provision

October 19, 1978.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on October 10, 1978, tendered for filing Substitute 44th Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Algonquin Gas also indicates that the rate change is being filed to reflect a change in purchased gas costs to be paid by Algonquin Gas to its supplier, Texas Eastern Transmission Corp. ("Texas Eastern"), scheduled to be effective October 1, 1978. Algonquin Gas states that the underlying Texas Eastern filing modified Texas Eastern's rates filed under a general rate increase on August 31, 1978, in Docket No. RP78-87, to reflect the new cost allocation method prescribed by Opinion No. 21 issued August 9, 1978, in Texas Eastern's Docket No. RP74-41.

The proposed effective date of the revised tariff sheet is October 1, 1978, the scheduled effective date of Texas Eastern's rate increase, according to the filing.

Algonquin Gas noted that copies of this filing were served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure

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(18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in deter-

Petrofina for the sale of 50 percent of the production from well No. 1, we shall treat this amended petition as a new petition for special relief limited

issuance of this order or the date the proposed work is completed, whichever is later, subject to the conditions set forth in paragraphs (C), (D), and

Line No. and Item (a)	Amount (b)	Line No. and Item (a)	Amount (b)

tion customers have agreed to take over the service to these customers at the distribution companies' respective

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(18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30236 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-71]

AMERICAN PETROFINA CO. OF TEXAS, ET AL.

Order Granting Petition for Special Relief

OCTOBER 16, 1978.

By Order issued April 12, 1978, in Docket No. RI77-120, the Commission granted a petition of American Petrofina Co. of Texas, et al. (American Petrofina)[1] for special relief and authorized American Petrofina to collect a rate of 85.89 cents per Mcf at 15.025 psia for the sale of 50 percent of the production of gas from the state lease 2833 well No. 1, Lake Palourde Field, St. Martin Parish, La. to Texas Gas Transmission Corp. (Texas Gas).

In its petition for special relief in Docket No. RI77-120, American Petrofina proposed to rework well No. 1, in which it had a 50-percent-working interest. CNG Producing Co. (CNG), which owned the other 50 percent working interest in well No. 1, did not join in American Petrofina's petition for special relief in Docket No. RI77-120 and has elected not to participate in the workover of well No. 1. Under the contractual terms of the operating agreement between the working interest owners, American Petrofina is entitled, as a result of CNG's election not to participate, to receive CNG's share of the production of gas from well No. 1 until the proceeds from the production equal 200 percent of the costs of reworking the well plus 100 percent of the costs of operating the well during such period.

Because American Petrofina must now incur the additional cost relating to CNG's interest, it filed on June 15, 1978, an amended petition for special relief seeking authority to collect 85.89 cents per Mcf at 15.025 psia for the sale of the gas to be relinquished by CNG to American Petrofina for sale to Texas Gas. Because we have already issued an order in Docket No. RI77-120 granting special relief to American Petrofina for the sale of 50 percent of the production from well No. 1, we shall treat this amended petition as a new petition for special relief limited to the production of gas from well No. 1 being relinquished by CNG to American Petrofina.

American Petrofina is selling this gas under FERC Gas Rate Schedule No. 85 pursuant to a certificate issued in Docket No. CI66-1070. The present authorized rate for the sale of CNG's gas is 29.325 cents per Mcf at 15.025 psia.

Notice of American Petrofina's amended petition for special relief was issued on July 14, 1978, and subsequently published in the FEDERAL REGISTER. No petitions to intervene, notice of intervention, or protests in opposition were filed.

American Petrofina is selling this gas to Texas Gas under a contract dated November 20, 1958. In letters dated June 14, 1977, and August 17, 1978, Texas Gas stated it is willing to amend the pricing provision of the November 20, 1958, contract to a price found to be just and reasonable by the Commission.

STAFF'S COST STUDY

The Commission based its determination of the rate in Docket No. RI77-120 on American Petrofina's pro rata share of the workover costs and production expenses and its proportional entitlement to the gas produced. The Commission determined that a unit price of 85.89 cents per Mcf at 15.025 psia would allow American Petrofina to recover all the costs of production associated with the project, including a 15-percent rate of return. Staff has concluded that the unit price does not change if American Petrofina assumes CNG's share of the costs and expenses and is entitled to its share of the production.[2]

American Petrofina must collect the same unit price in order to recover all the costs of production associated with the project including a 15-percent rate of return. Therefore, staff concludes that the requested rate for special relief is cost supported.

The Commission finds: The petition for special relief of Petrofina meets the criteria set forth in § 2.76 of the Commission's general policy and interpretations.

The Commission orders: (A) The petition for special relief filed by American Petrofina is granted.

(B) American Petrofina is authorized to collect 85.89 cents per Mcf at 15.025 psia for the sale of gas from well No. 1 State lease 2833, Lake Palourde Field, St. Martin Parish, La. which is to be relinquished by CNG to American Petrofina for sale to Texas Gas effective upon either the date of issuance of this order or the date the proposed work is completed, whichever is later, subject to the conditions set forth in paragraphs (C), (D), and (E), below:

(C) Within 30 days of the date of this order, American Petrofina must file with the Commission an executed contract amendment relating to the acquisition of CNG Producing Co.'s working interest and payment of the approved rate;

(D) Within 30 days of the date of this order, American Petrofina must file with the Commission appropriate certificate and rate schedule amendments, and

(E) This authorization is conditioned that if the interest in the gas relinquished by CNG Producing Co. (under its contractual operating agreement with American Petrofina) reverts back to CNG, then the authorized rate for the sale of such gas, insofar as it relates to CNG's interest, will also revert back to 29.325 cents per Mcf at 15.025 psia.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*American Petrofina Co. of Texas et al., Docket No. RI78-71, Lake Palourde Field, La.*

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest volumes:	
2. Gas—Mcf at 15.025 psia[1]	500,000
3. Condensate—Bbl[2]	12,294
4. Cost of production:	
5. Return on rate base at 15 pct.[3]	$69,484
6. D.D. & A.[4]	172,454
7. Production expense[5]	221,816
8. Subtotal	463,754
9. Allocated to gas[6]	393,960
10. Regulatory expense[7]	500
11. Total cost of production	394,460
12. Unit cost of gas (cents per Mcf)	
13. Cost of production[8]	0.7889
14. Production tax	.0700
15. Total unit cost	.8589

[1] 1,000,000 Mcf times 0.50 net working interest.
[2] 24,589 bbl times 0.50 net working interest.
[3] Line 12 of sheet 3 times 0.15 times 3 yr. 8-mo project life.
[4] From line 6 of sheet 2.
[5] Based on production expense of $207,699 plus allocated abandonment expense of $14,117.
[6] Line 8 times line 12 of sheet 2.
[7] Line 2 times 0.1 cents per Mcf per opinion No. 749.
[8] Line 11 dividend by line 2

[Investment and allocation of costs]

Line No. and item (a)	Amount (b)
1. Investment	
2. Remaining net book	0

[1] The other parties to the special relief petition were ADA Land Co., Gulf Energy & Mineral—U.S. and M & C Oil Co.

[2] See app. A.

Line No. and item (a)	Amount (b)
3. Proposed additional investment	$213,100
4. Total investment	$213,100
5. Less salvage value	40,646
6. Depreciable investment	172,454
7. Depreciation per unit of production[1]	0.344908
8. Allocation of costs:[2]	
9. Gas—MMBtu[3]	562,000
10. Condensate—MMBtu[4]	99,582
11. Total—MMBtu	661,582
12. Percentage allocated to gas[5]	84.95

[1] Line 6 divided by 500,000 Mcf.
[2] Modified Btu method per opinion No. 749.
[3] 500,000 Mcf times 1.124 MMBtu/Mcf.
[4] 12,294 bbl times 5.4 MMBtu/bbl tmes 1.5 modifier.
[5] Line 9 divided by line 11.

American Petrofina Co. of Texas, et al., Docket No. RI78-71, Lake Palourde Field, La.

[Average investment and annual rate base]

Line No. and year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation[1] End of year investment (d)	(e)	Average investment[2] (f)
1. Average investment:					
2. 1977	88,608	$213,100	$30,562	$182,358	[3]$98,810
3. 1978	153,392	182,538	52,906	129,632	156,086
4. 1979	127,824	129,632	44,088	85,544	107,588
5. 1980	115,020	85,544	39,670	45,874	65,710
6. 1981	15,156	45,874	5,228	40,646	[4]7,210
7. Total	500,000		172,454		435,504
8. Average annual investment[5]					118,774
9. Annual rate base:					
10. Average annual investment					118,774
11. Average annual working capital allowance[6]					7,562
12. Average annual rate base					126,336

[1] Column (b) times line 7 of sheet 2.
[2] Column (c) plus column (e) divided by 2.
[3] Average investment of $197,820 adjusted for 6 mo.
[4] Average investment of $43,260 adjusted for 2 mo.
[5] Column (f) of line 7 divided by 3 yr. 8 mo project life.
[6] 0.125 times line 7 of sheet 1 divided by 3 yr. 8 mo project life.

[FR Doc. 78-30121 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-1]

CITIES SERVICE GAS CO.

Notice of Application

OCTOBER 19, 1978.

Take notice that on October 2, 1978, Cities Service Gas Co. (Applicant), P.O. Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP79-1 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the direct sale of natural gas to ninety-six (96) mainline domestic customers in the state of Kansas as set forth in the appendix hereto. Under Applicant's proposal, the sale of gas to these customers would be transferred to local distribution companies which, Applicant says, are willing and able to perform such service. Applicant's proposal is more fully set forth in the application which is on file with the Commission and is open to public inspection.

Applicant seeks authority to transfer eighty-five (85) customers to the Gas Service Co., eight (8) to Union Gas System, Inc., two (2) to the Kansas Public Service Co., and one (1) to Kansas Power and Light Co. Applicant says that these sales were made pursuant to right-of-way agreements and easements or to customers located adjacent to Applicant's pipeline system and at the time the sales were commenced, these customers were not within the local franchise area of any of Applicant's distribution customers. Applicant indicates that the distribution customers have agreed to take over the service to these customers at the distribution companies' respective resale rates. The distribution companies' requirements would be purchased from Applicant under its F-1 and F-2 Rate Schedules, it is said. Applicant states that the various distributors are willing to make the required applications to the Kansas Corporation Commission.

Applicant says that as a result of this proposal, no new facilities would be required, no facilities would be abandoned, and no service to customers would be terminated.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

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APPENDIX.—*Cities Service Gas Co., Location of Facilities*

KANSAS

Name of customer	Section	Township	Range	County
1. R. D. Clements	9	26	18	Allen.
2. W. A. Dickerson	33	26	18	Do.
3. Jerry Ellis	9	26	18	Do.
4. E. A. Geffert	32	25	18	Do.
5. Leslie Grennell	33	26	18	Do.
6. Mark Krone	26	26	18	Do.
7. J. B. Newman	4	26	18	Do.
8. Howard Russell	27	26	19	Do.
9. H. M. Spurgeon	18	24	18	Do.
10. Leroy Welcome	4	26	18	Do.
11. Charles Benjamine	2	21	19	Anderson.
12. Guy Brumfield	1	22	19	Do.
13. Dennis Calahan	36	20	19	Do.
14. George Gray	7	23	19	Do.
15. Kenny Kellstadt	34	21	19	Do.
16. Frank Miller	1	21	19	Do.
17. E. O. Nokes	1	22	19	Do.
18. W. T. Umbarger	36	20	19	Do.
19. Jacob Wismer	14	21	19	Do.
20. Caroline Wolken	11	21	19	Do.
21. Kenneth Wyatt	35	20	19	Do.
22. Raymond Zwiener	35	20	19	Do.
23. Kenneth Althouse	12	6	20	Do.
24. Gary Rucker	25	31	12	Barber.
25. Frank Draper	19	28	3	Butler.
26. Linda Arrington	25	32	10	Chautauqua.
27. F. J. Coyle	35	34	3	Cowley.
28. W. M. Ferguson	30	30	8	Do.
29. W. M. Ferguson	18	31	8	Do.
30. Elza Goodno	33	31	3	Do.
31. Billy Mitchell	34	34	3	Do.
32. Floyd Smith	34	34	3	Do.
33. Floyd Ashby	18	15	20	Douglas.
34. Arthur Heck	21	12	20	Do.
35. D. McCreath	14	12	19	Do.
36. David Schneider	10	24	32	Finney.
37. Marvel Livestock Co	8	27	24	Ford.
38. Jesse Wilcoxin	17	28	23	Do.
39. Guy E. Monroe	15	17	19	Franklin.
40. Homer Evans	34	29	38	Grant.
41. Robert Conard	30	28	28	Gray.
42. Lynn Sutton	23	28	27	Do.
43. Alex Vang	22	28	27	Do.
44. Phillip Patterson	13	34	9	Harper.
45. Jeff Hines	36	12	23	Johnson.
46. Darrell Webb	15	11	23	Do.
47. Warren Brensing	5	28	20	Kiowa.
48. Bill Merhoff	12	27	18	Do.
49. Earl Brecht	29	33	18	Labette.
50. Louis Leimkuhler	36	10	21	Leavenworth.
51. Eugene Poggemeyer	28	10	22	Do
52. Walter Scheller	30	10	22	Do.
53. Kenneth Hodges	33	19	12	Lyons.
54. Jim Brown	31	33	15	Montgomery.
55. Clarence Hattan	27	33	15	Do.
56. Gordon Barker	4	27	18	Neosho.
57. Otto Bright	5	27	18	Do.
58. Bob Bussman	36	27	17	Do.
59. Ed Bussman	36	27	17	Do.
60. John Caudell	5	27	18	Do.
61. Neal Ford	11	18	17	Do.
62. Roy Ford	8	27	18	Do.
63. W. L. Gilliland	8	27	18	Do.
64. M. H. Hanes	5	27	18	Do.
65. Harry Jackson	8	27	18	Do.
66. Martin McNamara	8	27	18	Do.
67. A. G. Nelson	5	27	18	Do.
68. H. B. Nelson	5	27	18	Do.
69. F. A. Prosser	1	28	17	Do.
70. Diana Remington	4	27	18	Do.
71. Dave Roseberry	9	27	18	Do.
72. Mrs. Lee Roseberry	4	27	18	Do.
73. Gary D. Scott	8	27	18	Do.
74. Frank Sinclair	5	27	18	Do.
75. Norman Tuttle	1	27	17	Do.
76. Edna Winder	8	27	18	Do.
77. Georgiana Woodman	9	27	18	Do.
78. Keith Doggett	19	26	15	Pratt.
79. Shelby Neeley	11	26	15	Do.
80. Ted Lindahl	26	24	9	Reno.
81. A. D. Clifton	35	19	8	Rice.
82. George Lee	12	33	34	Seward.
83. Glen Bauman	19	30	16	Wilson.
84. Orville Blankenship	19	30	16	Do.
85. Howard Brant	21	28	17	Do.
86. Wayne Cooper	19	30	16	Do.

APPENDIX.—*Cities Service Gas Co., Location of Facilities*—Continued

Name of customer	Section	Township	Range	County
87. Gustav Erickson	10	27	17	Do.
88. Bernard Hardin	22	28	17	Do.
89. Earl Klauman	22	28	17	Do.
90. Harold Lenon	18	30	16	Do.
91. Bill McMillen	22	28	17	Do.
92. Clyde Ramey	19	30	16	Do.
93. Pat Ramey	19	30	16	Do.
94. Ralph Ramey	19	30	16	Do.
95. John Sehoonver	19	30	16	Do.
96. Glen Thornton	19	30	16	Do.

[FR Doc. 78-30229 Filed 10-25-78; 8:45 am]

[8740-02-M]

[Docket No. CP79-21]

COLUMBIA GAS TRANSMISSION CORP.

Application

OCTOBER 19, 1978.

Take notice that on October 12, 1978, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, W.Va. 25325, filed in Docket No. CP79-21 an applicant pursuant to section 7 of the Natural Gas Act and section 157.7(g) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandoment, during the 12-month period commencing March 1, 1979, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment of facilities would not exceed $2,000,000, and that the cost of any single project would not exceed $500,000. Applicant indicates that it would finance such cost from funds generated from internal sources.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30237 Filed 10-25-78; 8:45 am]

[8740-02-M]

[Docket No. CP78-506]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

OCTOBER 18, 1978.

Take notice that on September 29, 1978, Consolidated Gas Supply Corp. (Consolidated), 445 West Main Street, Clarksburg, W.Va. 26301, and Texas Eastern Transmission Corp., (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001 (jointly referred to as Applicants), jointly filed in Docket No. CP78-506 an application, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to provide transportation and storage services for Columbia Gas Transmission Corp. (Columbia) and New Jersey Natural Gas Co. (NJN), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants state that by its order of September 7, 1978 in Docket No. CP78-506, the Commission granted Applicants temporary authorization to render transportation and storage services for Columbia and NJN subject to the condition that Applicants apply for permanent authorization for such services. Applicants state that the service for which they request authorization would entail the following: Texas Eastern would deliver up to 6 million dekatherms (dt) equivalent of natural gas to Consolidated for Columbia's account. This volume would be made available to Texas Eastern for delivery to Consolidated by Columbia's reducing the volumes of gas it receives from Texas Eastern in Texas Eastern's Rate Zone "C". The volumes delivered to Consolidated would then be injected into its storage facilities for Columbia's account, and would be withdrawn from storage during the 1978-79 winter heating season for redelivery to Texas Eastern and Columbia. It is stated that this service would be provided on an interruptible basis. It is further stated that the purpose of the proposed service is to enable Columbia to take all the volumes of gas which will be available to it up to October 31, 1978 inasmuch as Columbia's storage facilities are currently more than 10,000,000 Mcf above scheduled injection levels. Applicants state that Columbia has agreed to pay Applicants in accordance with the currently effective rates of each, which would

result in Consolidated receiving 30 cents per dt of gas injected for storage, and Texas Eastern receiving 7.08 cents

Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commis-

on file with the Commission and open to public inspection.

It is indicated that Fruehauf has

Rate Schedule T and set forth at proposed Original Sheet No. 17, Third Revised Volume No. of Consolidated's

sheets, to become effective October 1, 1978.

ORIGINAL VOLUME NO. 1

El Paso states that the above described PGAC tariff sheets provide for net PGAC adjustments for its East-of-

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result in Consolidated receiving 30 cents per dt of gas injected for storage, and Texas Eastern receiving 7.08 cents per dt equivalent for the volumes of gas which it transports on forward haul less 3 percent and 9.78 cents per dt equivalent for volumes of gas transported above the combined total of curtailment sales to Columbia under Texas Eastern's firm sales rate schedules. When Texas Eastern transports gas from Columbia on backhaul Columbia will pay $1,148.43 per day, and when the transportation on backhaul is to Columbia it will pay $1,351.10 per day.

The services for which Applicants request authorization to perform for NJN, it is stated, would entail the following: To enable NJN to receive gas purchased pursuant to an emergency gas purchase agreement with Louisiana Gas Intrastate, Inc., up to 1,000,000 dt. equivalent of natural gas would be delivered to Texas Gas Transmission Corp. in Louisiana for redelivery to Texas Eastern. Texas Eastern would transport such volumes for delivery to Consolidated for injection into storage for NJN's account. During the 1978-79 winter heating season equivalent volumes would be withdrawn from Consolidated's storage, transported by Texas Eastern and delivered to NJN. The service proposed would be provided on an interruptible basis. It is stated that the reason for the proposed arrangement is that NJN is in need of additional storage to offset critically low storage balances resulting from the past two winter seasons. It is further stated that the rates which would be paid by NJN would be 30 cents per dt equivalent injected into storage by Consolidated, and 22.21 cents per dt equivalent of gas transported by Texas Eastern to Consolidated less 3 percent, 34.12 cents per dt equivalent for gas transported above the combined total equivalent of sales to NJN under Texas Eastern's firm sales rate schedule. NJN would pay Texas Eastern 14.16 cents per dt equivalent of gas, less 3 percent, transported from Consolidated, and 19.56 cents per dt equivalent for gas transported above the total curtailment of sales to NJN under Texas Eastern's Rates Schedules TS-1 and ISS.

The services for Columbia for which Applicants seek authorization commenced on September 22, 1978, and the services for NJN for which Applicants seek authorization commenced on September 9, 1978, pursuant to the temporary authorization issued September 7, 1978 in the instant docket.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on it own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30238 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-14]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Application

OCTOBER 19, 1978.

Take notice that on October 10, 1978, Consolidated Gas Supply Corp. (Consolidated), 445 West Main Street, Clarksburg, W. Va. 26301, and Texas Eastern Transmission Corp. (Texas Eastern), P.O. Box 2521, Houston, Tex. 77001, (Applicants) filed in Docket No. CP79-14 a joint application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 400 dekatherms (dt) equivalent of natural gas per day for Fruehauf Corp. (Fruehauf), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Fruehauf has contracted the subject gas from Fruekel, Inc. (Fruekel), a wholly-owned subsidiary of Fruehauf, at a unit price of $1.95, which gas is produced from wells owned by Fruekel in Tuscarawas and Guernsey Counties, Ohio. Applicants are advised that Fruekel produced the subject gas for sale to Fruehauf only, and is, therefore, not available for sale to Applicants or any other interstate purchaser, it is said.

It is indicated that Fruehauf has requested Applicants and Columbia Gas Transmission Corp. (Columbia) to transport the gas. Consequently, Fruehauf has entered into agreements with Columbia, Texas Eastern and Consolidated dated May 1, April 28, and October 2, 1978, respectively to effect the transportation of the Fruekel gas from Ohio to New York. It is stated that pursuant to the May 1, 1978 agreement, Columbia would transport up to 400 dt of natural gas per day to Texas Eastern and pursuant to Texas Eastern's T3 Rate Schedule and the April 28, 1978 agreement, Texas Eastern would receive from Columbia at an existing interconnection between their respective pipeline systems near Lebanon, Ohio, and would transport for Fruehauf's account the subject gas for redelivery, less 3 percent for gas used in providing the proposed service, to Consolidated at an existing interconnection between their pipeline facilities near Oakford, Pa. In turn, Consolidated would, pursuant to its Rate Schedule T and the October 2, 1978 agreement, receive such quantities of natural gas and transport the gas for Fruehauf's account, less 4 percent, for delivery to Niagara Mohawk Power Corp. (Niagara), the sole supplier of gas to Fruehauf's plant in Utica, N.Y., at an existing point of delivery near Utica, N.Y., it is said. It is indicated that Niagara would then deliver the natural gas to Fruehauf's plant in Utica, N.Y., where the gas would be used to assist Fruehauf in obtaining gas for use in offsetting such curtailments as may be imposed on its Utica plant by Niagara during the 2-year term of this instant proposal. It is stated that the gas would be used for Priority 2 uses only.

The application states that Texas Eastern would charge Fruehauf a transportation rate pursuant to its TS Rate Schedule, which rate is currently 9.78 per dt, and that Consolidated would charge Fruehauf a transportation charge of 25.53 cents per dt, which rate is based on the average system-wide storage and zone transmission costs reflected in Consolidated's rate filing in Docket No. RP77-140, less fuel costs. This rate is the applicable rate under Consolidated's

Rate Schedule T and set forth at proposed Original Sheet No. 17, Third Revised Volume No. of Consolidated's Gas Tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30239 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP72-155 (PGA78-2) and RP78-18]

EL PASO NATURAL GAS CO.

Tariff Sheets Tender

OCTOBER 19, 1978.

Take notice that on October 13, 1978, El Paso Natural Gas Co. ("El Paso") tendered for filing, pursuant to part 154 of the Commission's regulations under the Natural Gas Act, the following substitute revised tariff sheets, to become effective October 1, 1978.

ORIGINAL VOLUME NO. 1

Second Substitute Twenty-second Revised Sheet No. 3-B.

THIRD REVISED VOLUME NO. 2

Second Substitute Twelfth Revised Sheet No. 1-D.

ORIGINAL VOLUME NO. 2A

Second Substitute Fourteenth Revised Sheet No. 1-C.
Second Substitute Tenth Revised Sheet No. 1-D.

El Paso states that by order issued September 29, 1978, in the captioned proceeding, the Commission, inter alia, accepted for filing and suspended for one (1) day the notice of change in rates for jurisdictional gas service[1] filed by El Paso on August 31, 1978, and permitted the increased rates to become effective October 2, 1978, subject to refund. El Paso states that said Commission order made effective as of October 2, 1978, tariff sheets reflecting El Paso's revised PGAC provision and settlement of issues as proposed under the stipulation and agreement dated June 23, 1978, at docket No. RP78-18[2] and the tariff sheet applicable to the PGAC-CHPG.

El Paso states that ordering paragraph (C) of such order provides that El Paso shall be permitted to file revised PGAC rates to become effective October 1, 1978, without refund obligation, excluding rate changes attributable to increases in the cost of gas purchased by El Paso from reversionary interest owners.[3] In accordance with ordering paragraph (C) of the Commission's September 29, 1978, order, El Paso is tendering the instant filing in order to submit substitute revised tariff sheets containing PGAC AND PGAC-CHPG rates to become effective October 1, 1978.

El Paso states that the above described PGAC tariff sheets provide for net PGAC adjustments for its East-of-California ("EOC") customers and its California customers of 10.73 cents per Mcf and 4.10 cents per Mcf, respectively, applicable to all rate schedules subject to the PGAC.[4] The said adjustments are 0.72 cent per Mcf and 0.84 cent per Mcf, respectively, below the net PGAC adjustment in settlement rates of 11.45 cents per Mcf and 4.94 cents per Mcf applicable to El Paso's EOC customers and California customers respectively, and suspended for one (1) day until October 2, 1978, by said order issued September 29, 1978, in the captioned proceeding.[5]

El Paso further states that the net PGAC-CHPG resulting from the elimination of reversionary interest owners' purchases, and reflected by the tendered Second Substitute Tenth Revised Sheet No. 1-D, is a net decrease of 25.4946 cents per Mcf below those rates in effect on September 30, 1978.[6] Said adjustment is 16.0478 cents per Mcf below the net decrease in PGAC-CHPG rates of 9.4468 cents per Mcf suspended for one (1) day until October 2, 1978, by said September 29, 1978, order.

El Paso respectfully requested that the substitute revised tariff sheets described above be accepted for filing and permitted to become effective as of October 1, 1978, the effective date provided by the Commission in said order issued September 29, 1978.

In addition, El Paso resubmitted the tariff sheets containing the PGAC and PGAC-CHPG rates made effective as of October 2, 1978, by the Commission's September 29, 1978, order. Said resubmitted tariff sheets are proposed to be effective October 2, 1978, and are identical to their counterpart sheets tendered by El Paso on August 31,

[1] Such service is rendered under rate schedules affected by and subject to Art. 19, Purchased Gas Cost Adjustment Provision ("PGAC"), contained in the general terms and conditions applicable to El Paso's FERC Gas Tariff, Original Vol. No. 1, Third Revised Vol. No. 2 and Original Vol. No. 2A, and under rate schedules affected by and subject to the PGAC-clean high pressure gas provision ("PGAC-CHPG") contained in El Paso's FERC Gas Tariff, Original Vol. No. 2A.

[2] By letter order dated Sept. 5, 1978, at docket No. RP78-18, the Commission approved such stipulation and agreement.

[3] Ordering paragraph (B) of such order issued Sept. 29, 1978, provides for further action by the Commission in the referenced proceeding upon final Supreme Court action on rehearing in *California v. Southland Royalty Company*. It is El Paso's understanding that the petition for rehearing in such case has been denied. Reversionary interest owners are the subject of the Commission's opinion No. 737, as amended, issued July 11, 1975, at docket Nos. CP75-209 and C175-594.

[4] The PGAC tendered sheets also reflect a revision in the 84.9134 cents per Mcf average purchased gas cost set forth on the tariff sheets effective Oct. 2, 1978, to 84.0459 cents per Mcf, as a result of the deletion of that portion of the reversionary interest owner purchases made at rates paid to the prior owners of such gas.

[5] Also included as a part of the current adjustment to El Paso's jurisdictional rates are a unit reduction of 0.05 cent per Mcf, a unit reduction of 3.55 cents per Mcf and a unit increase of 0.03 cent per Mcf, respectively, which rates reflect certain adjustment mechanisms designed to track variations in El Paso's costs attributable to advance payments, gas well royalties, and transportation costs, respectively, as such provisions are set forth in the stipulation and agreement dated June 23, 1978, at docket No. RP78-18.

[6] The PGAC-CHPG sheet also reflects a revision in the 73.5396 cent-per-Mcf weighed average purchased gas cost set forth on the counterpart tariff sheet tendered Aug. 31, 1978, to 64.3795 cents per Mcf as a result of the deletion of the increased costs of gas purchased from reversionary interest owners.

1978, except that such resubmitted sheets reflect the appropriate superseding pagination reference required as a result of the submittal of the

mission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commis-

the Commission and are available for public inspection.

KENNETH F. PLUMB,

[6740-02-M]

[Docket No. RP73-8]

said petition to amend should on or before November 13, 1978, file with the Federal Energy Regulatory Com-

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

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1978, except that such resubmitted sheets reflect the appropriate superseding pagination reference required as a result of the submittal of the tariff sheets tendered herewith to be effective as of October 1, 1978.

El Paso states that copies of the instant tender have been served upon all parties of record in docket Nos. RP72-155 (PGA78-2) and RP78-18 and, otherwise, upon all affected customers and interested State regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before October 30, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30240 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-16]

FITCHBURG GAS & ELECTRIC LIGHT CO.

Filing

OCTOBER 20, 1978.

Take notice that Fitchburg Gas & Electric Light Co. (Fitchburg) on October 12, 1978, tendered for filing as a rate schedule an electric generating capability sales agreement between Fitchburg and Reading Municipal Light Department (Reading). Fitchburg indicates that the agreement provides for the sale by Fitchburg to Reading of approximately 10.0 MW of electric generating capability.

Fitchburg proposes an effective date of November 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Fitchburg states that copies of this agreement have been sent to the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30241 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-22]

GEORGIA POWER CO.

Proposed Tariff Change

OCTOBER 19, 1978.

Take notice that Georgia Power Co. (Georgia Power), on October 10, 1978, tendered for filing Third Revised Sheet Nos. 11 to its FERC Electric Tariff, Original Volume No. 2 (partial requirements service). According to Georgia Power, the proposed change makes explicit the company's intention of recovering variable operation and maintenance expenses associated with providing partial requirements service in the energy charge pursuant to its rate schedule PR-3, the subject of docket No. ER78-166. Georgia Power states that based on the 12-month period ended February 28, 1979, and maintenance expenses to be collected from Georgia Power's partial requirements customers amounts to $9,798,717. Georgia Power requests an effective date of July 1, 1978, for the change, the same date that rate schedule PR-3 became effective subject to refund in docket No. ER78-166.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30242 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CP76-320]

NATURAL GAS PIPELINE CO.

Petition To Amend

OCTOBER 19, 1978.

Take notice that on October 12, 1978, Natural Gas Pipeline Co. of America (Petitioner), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP76-320 a petition to amend the order of January 13, 1977, issued in the instant docket (57 FPC ——) [1] pursuant to section 7(c) of the Natural Gas Act so as to authorize the operation of and transportation of increased deliveries through Petitioner's U-T offshore system (UTOS) interconnecting facilities from 196,640 Mcf, as previously authorized, to 482,259 Mcf of natural gas per day, all as more fully set forth in the petition on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of Janurary 13, 1977, Petitioner was authorized to construct and operate 3.3 miles of 24-inch pipeline to connect its existing onshore transmission system in Cameron Parish, La., to the northern terminus of the UTOS for the transportation of up to a maximum of 196,640 of natural gas per day. Said facilities were available for service in September, 1977, it is stated.

It is indicated that at the time that the instant application was filed, Petitioner had anticipated that UTOS would deliver natural gas at a minimum pressure of 916 psig which would allow Petitioner to transport up to 196,640 Mcf per day through this interconnect facility. Subsequently, Petitioner entered into a transportation agreement with UTOS dated December 1, 1977, which agreement provided for a minimum delivery pressure of 935 psig, it is said. Petitioner states that this higher delivery pressure would enable it to transport up to 482,259 Mcf per day through this facility without the construction and operation of any additional facilities. Petitioner asserts that in order to be able to accommodate the volumes which it is now obligated to transport for itself and others, it requires the modification to the capacity limitation as proposed herein.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30243 Filed 10-25-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. RP73-81]

NORTH PENN GAS CO.

Proposed Changes in FERC Gas Tariff

OCTOBER 19, 1978.

Take notice that North Penn Gas Co. (North Penn) on October 10, 1978, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause for rates to be effective September 1, 1978.

Substitute Fifty-seventh Revised Sheet No. PGA-1 is being filed in substitution for Fifty-seventh Revised Sheet No. PGA-1 filed September 5, 1978, for effectiveness September 1, 1978, and reflects the changes in supplier rates filed by Consolidated Gas Supply Corp. (Congas) on September 29, 1978, and Transcontinental Gas Pipe Line Corp. (Transco) September 15, 1978, both for effectiveness September 1, 1978.

Substitute Fifty-seventh Revised Sheet No. PGA-1 reflects a decrease of 0.026 cent per Mcf from the rates contained in Fifty-seventh Revised Sheet No. PGA-1.

On September 5, 1978, North Penn filed Fifty-eighth Revised Sheet No. PGA-1 to track the change in rates filed by Transco on August 1, 1978, for effectiveness September 2, 1978. Due to the uncertainty of the Commission's action regarding this filing, North Penn requests that it be permitted to withdraw Fifty-eighth Revised Sheet No. PGA-1 stating that North Penn will accumulate in its deferred account any change in rates the Commission permits Transco to put into effect September 2, 1978, and that it will track such increase in its next PGA filing.

North Penn requests a waiver of the Commission's rules and regulations, specifically § 154.22, Notice Requirements, or any other of the Commission's rules and regulations as may be deemed necessary to allow the revised rates to become effective as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers as well as interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30245 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-14]

NEW ENGLAND POWER POOL

Notice of Filing

OCTOBER 20, 1978.

Take notice that on October 10, 1978, New England Power Pool (NEPOOL) tendered for filing NEPOOL Power Pool Agreement, dated as of September 1, 1971, as amended, signature page executed by the town of Hull municipal lighting plant, proposed to become effective on October 1, 1977, and NEPOOL Power Pool Agreement, dated as of September 1, 1971, as amended, signature page executed by Massachusetts Municipal Wholesale Electric Co., proposed to become effective on November 18, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30244 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. RP75-3]

TRANSCONTINENTAL GAS PIPE LINE CO.

Filing of Pipeline Refund Reports and Refund Plans

OCTOBER 19, 1978.

Take notice that the pipeline listed in the appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 625 North Capitol Street NE., Washington, D.C. 20426, on or before November 3, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type of filing
Oct. 4, 1978	McCulloch Interstate	RP75-98	Report.
Oct. 5, 1978	Consolidated	RP72-157	Plan.
Oct. 10, 1978	do	RP72-157	Do.
Do	Texas Gas	G-2017	Report.

[FR Doc. 78-30230 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-24]

Upon consideration of the data submitted by Northern and Staff's analysis thereof, we conclude that the proposed rate is justified.

APPENDIX A.—*Northern Pump Co., Docket No. RI78-24, Becker No. 1 Gas Unit, Hugoton Field, Finney County, Kans.*

[Unit cost of gas]

[6740-02-M]

[Docket No. CP78-18]

serted that the proposed temporary exempt period is limited to a period not to extend more than the number

(18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropri-

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[6740-02-M]

[Docket No. RI78-24]

NORTHERN PUMP CO.

Order Granting Petition for Special Relief

OCTOBER 18, 1978.

On January 11, 1978, Northern Pump Co. (Northern) filed its original petition for special relief in Docket No. RI78-24. Northern sought authorization in its original petition for special relief to sell gas produced from the Becker Well No. 1, Hugoton Field, Finney County, Kans., to Northern Natural Gas Co. (Natural) at a total rate of 91.5494 cents per Mcf at 14.65 psia. Subsequently, Northern amended its original petition for special relief on May 22, 1978, requesting authorization to sell its gas at a lower total rate of 78.07 cents per Mcf. Northern owns 100 percent working interest in the subject gas.

On March 22, 1978, notice of Northern's original petition for special relief was issued. Notice of Northern's amended petition for special relief was issued on July 14, 1978. No protests or petitions to intervene were filed in response to either notice.

Northern is selling the subject gas pursuant to a small producer certificate issued in Docket No. CS71-22 at a contract rate of 17.9932 cents per Mcf.

Northern proposes to install a pumping unit and related equipment to effectively remove water accumulations and to continue production of the well. Northern estimates that the pumping unit, tubing, rods, sub-surface pump, other equipment and installation will cost $17,869. This additional equipment will enable Northern to produce an estimated 146,591 Mcf of remaining reserves over the next 10 years and 10 months, which otherwise would not be produced. On November 28, 1977, Northern and Natural amended their gas purchase contract to provide for a price of $1.25 per Mcf exclusive of Btu and production tax adjustment to cover the increased costs.

Staff has verified the data filed by Northern and determined that Northern's net book investment of $506, new equipment and installation expense of $17,869, and estimated production expenses of $51,421 over the remaining 10 years and 10 months life of the project, were reasonable.

These costs and the net working interest reserves of 106,785 Mcf of gas were used in a traditional cost study. The results of the study [1] indicate that a total rate of 78.07 cents per Mcf is required to allow Northern to recoup all costs associated with this project, including a 15 percent rate of return.

[1] See App. A, attached hereto.

Upon consideration of the data submitted by Northern and Staff's analysis thereof, we conclude that the proposed rate is justified.

The Commission finds:

(1) The petition for special relief filed by Northern meets the criteria set forth in section 2.76 of the Commission's Statements of General Policy and Interpretations.

(2) It is in the public interest to grant Northern's request for special relief.

The Commission orders:

(A) The petition for special relief of Northern is hereby granted.

(B) Northern is authorized to collect a total rate of 78.07 cents per Mcf at 14.65 psia for all gas produced from the Becker Well No. 1, Hugoton Field, Finney County, Kans., and sold to Northern effective on the date of the Commission order herein or date of completion of the installation of the proposed equipment, whichever is later, subject to the conditions set forth in paragraph (C) below.

(C) Within 30 days of the effective date specified above, Northern shall file a statement signed by Natural that the proposed work has been completed to Natural's satisfaction, and within 30 days of the date of the order herein file a notice of Independent Producer Rate change reflecting the above authorized rate.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Northern Pump Co., Docket No. RI78-24, Becker No. 1 Gas Unit, Hugoton Field, Finney County, Kans.*

[Unit cost of gas]

Line No. and item (a)	Amount (b)
1. Net working interest:	
2. Gas—Mcf at 14.65 psia [1]	106,785
3. Cost of production:	
4. Return on rate base [2]	$13,371
5. Depreciation expense [3]	18,375
6. Production expense [4]	51,421
7. Regulatory expense [5]	107
8. Total cost of production	83,274
9. Unit cost of gas (cents per Mcf):	
10. Cost of production [6]	0.7798
11. Production tax [7]	.09
12. Total unit cost	.7807

[1] Gross reserves of 146,591 Mcf times the net working interest of 72.845459 pct.
[2] Line 17 of sheet 3 times 15 pct times 10-yrs 10-mo productive life.
[3] Line 4 of sheet 2.
[4] Based on $3,972 operating costs per year, escalated by 5 pct per year for the first 5 yr. times a 10-yr 10-mo life.
[5] Line 2 times 0.1 cent per Mcf.
[6] Line 8 divided by line 2.
[7] Kansas production tax of 0.09 cent.

[Investments and allocation of costs]

Line No. and item (a)	Amount (b)
1. Investment:	
2. Remaining net book value	$506
3. Pump installation and additional investment	17,869
4. Total depreciable investment	18,375
5. Depreciation per unit of production [1]	0.1721

[1] Line 4 divided by 106,785 Mcf.

Northern Pump Co., Docket No. RI78-24, Becker No. 1 Gas Unit, Hugoton Field, Finney County, Kans.

[Average investment and annual rate base]

Line No.	Year (a)	Annual N.W.I. production (Mcf) (b)	Beginning of year investment (c)	Depreciation [1] (d)	End of year investment (e)	Average investment [2] (f)
1.	1	13,549	$18,375	$2,331	$16,044	$17,209
2.	2	13,549	16,044	2,331	13,713	14,729
3.	3	13,359	13,713	2,299	11,414	12,583
4.	4	12,105	11,414	2,083	9,331	10,373
5.	5	10,803	9,331	1,859	7,472	8,402
6.	6	9,640	7,472	1,659	5,813	6,642
7.	7	8,609	5,813	1,482	4,331	5,072
8.	8	7,684	4,331	1,322	3,009	3,670
9.	9	6,860	3,009	1,181	1,828	2,419
10.	10	6,129	1,828	1,054	774	1,301
11.	11 (10 mo)	4,498	774	774	0	323
12.	Total	106,785		18,375		82,703
13.	Average annual investment [3]					7,634
14.	Annual rate base:					
15.	Average annual investment					7,634
16.	Average annual working capital allowance [4]					594
17.	Total annual rate base					8,228

[1] Column (b) times line 5 of sheet 2.
[2] Column (c) plus column (e) divided by 2 for yr 1 through 10. Column (c) plus column (e) divided by 2 times 10/12 for yr 11.
[3] Column (f), line 12 divided by 10 yr, 10 mo productive life.
[4] 0.125 times line 6 of sheet 1 divided by 10 yr, 10 mo productive life.

[FR Doc. 78-30120 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-18]

OKLAHOMA NATURAL GAS CO.

Petition for Declaratory Order

OCTOBER 20, 1978.

Take notice that on October 10, 1978, Oklahoma Natural Gas Co. (Petitioner), 624 South Boston Avenue, Tulsa, Okla. 74119, filed in Docket No. CP79-18 a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order declaring that all facilities utilized and the transportation and exhange service rendered by Petitioner for United Gas Pipe Line Co. (United) and Phillips Petroleum Co. (Phillips) would remain exempted from jurisdiction of the Commission.

Petitioner states that it purchases, transports, produces, stores and distributes natural gas within the State of Oklahoma, and that it receives all of such natural gas within the State of Oklahoma for ultimate consumption within such State; its rates and services are fully regulated by the Corporation Commission of the State of Oklahoma. Accordingly, Petitioner is exempted from regulation by the Commission under the provision of section 1(c) of the Natural Gas Act, it is stated.

Petitioner indicates that Phillips has entered or will enter into a gas purchase contract with United for the purchase of natural gas produced in central Oklahoma for a term of approximately 2 years provided transportation of gas can be arranged. Petitioner proposes to accept delivery of the gas in Kingfisher County, Okla., at the outlet of the Kingfisher processing plant and also at the outlet of the Phillips Cimmaron plant in Oklahoma, and have the gas redelivered through ONG Western, Inc. (ONG Western) to Northern Natural Gas Co. for the account of United in Woodward County, Okla. It is stated that Oklahoma Natural and ONG Western would not charge any transportation fee for this delivery of gas.

Petitioner states that it is not willing, or able, to dedicate any of these facilities to long-term, certificated service in interstate commerce. However, Petitioner and ONG Western are willing to make capacity available for a temporary exempt service. It is asserted that the proposed temporary exempt period is limited to a period not to extend more than the number of years sought by Phillips in its limited term certificate application.

Petitioner asserts that since it cannot undertake the subject delivery and exchange without the requested waiver of jurisdiction, the temporary act or operation contemplated would not be performed at all unless the Commission exercises its exemption authority under section 7(c) of the Natural Gas Act and issue the requested declaratory order. Petitioner states that such order would advance the public interest in that it would permit badly needed supplies of natural gas to flow to interstate pipelines presently curtailing service to their customers without additional cost to them.

Consequently, Petitioner requests that the Commission issue a declaratory order declaring that: (1) The temporary exchange of natural gas for Phillips and United shall not exceed a period of the related limited term sale by Phillips to United; (2) the facilities and service that ONG and Western may utilize or render in providing this service would remain exempt from the Commission's jurisdiction; (3) Petition be exempted from any accounting and reporting requirements to the Commission other than reporting volumes exchanged; (4) the exchange be terminated without further action by Petitioner and without further order of the Commission at the end of said limited term sale; and (5) that the facilities of and the producer-suppliers remain exempt.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30246 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP63-1, et al.]

UNITED GAS PIPELINE CO.

Filing of Pipeline Refund Reports And Refund Plans

OCTOBER 18, 1978.

Take notice that the pipeline listed in the appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 2, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Company	Docket No	Type of filing
Aug. 31, 1978	United Gas	RP63-1	Plan
Sept. 1, 1978	Consolidated	RP72-157	Do
Sept. 6, 1978	do	RP72-157	Do.
Sept. 7, 1978	do	RP72-157	Do.
Do	do	RP72-157	Do.
Sept. 15, 1978	Midwestern	RP76-114	Report

[FR Doc. 78-30231 Filed 10-25-78; 8:45 am]

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[6740-02-M]

[Docket No. ER78-511]

PUBLIC SERVICE CO. OF OKLAHOMA

Order Accepting Rates for Filing, Suspending Rates, Granting Intervention, Establishing Procedures, and Making Summary Disposition

OCTOBER 12, 1978.

On July 28, 1978, the Public Service Co. of Oklahoma (PSO) tendered for filing Supplement No. 4 to FERC Rate Schedule Nos. 168-171, 188, 192, 193, and 195; Supplement No. 3 to FERC Rate Schedule Nos. 190, and 197-207; Supplement No. 2 to FERC Rate Schedule No. 189, and a Supplement to PSO's proposed agreement with the Southwestern Power Administration (SWPA). PSO indicates in the filing that the supplements reflect an across-the-board increase to all of the jurisdictional customers served under its RE-5 rate, or a variant thereof with respect to SWPA. The filing proposes to incease revenues by $3,009,446, based upon the 12-month period ending December 31, 1978.

Public notice of PSO's filing was issued on August 7, 1978, with any protests or petitions to intervene due on or before August 31, 1978. Two petitions for intervention were timely filed.[1] One petition was filed out-of-time.

A recital of the background of this filing is in order. On June 3, 1977, PSO submitted for filing on behalf of itself and Oklahoma Gas and Electric Co. (OGE), Notices of Cancellation of a Joint Interconnection Agreement with SWPA. This was designated Docket No. ER77-422. Under this Agreement, PSO and OGE had purchased power and energy from SWPA and supplied the full requirements of SWPA's preference customers for the account of SWPA since 1951. In exchange, PSO and OGE were entitled to purchase from SWPA each month an amount of hydroelectric peaking power and associated energy based upon the preference customers' demands. The Notice of Cancellation was suspended for 5 months and set for an expedited hearing. Subsequently, both PSO and OGE filed proposed Settlement Agreements with the Presiding Administrative Law Judge which were certified to the Commission on November 10, 1977. In addition to the two Settlement Agreements, both PSO and OGE filed with this Commission in Docket Nos. ER78-20 and ER78-49, respectively, rates for full-requirements service to SWPA's municipal preference customers in the event arrangements for service under the proposed Settlement Agreements could not be arranged before the effective date of the suspended Notice of Cancellation.

The Commission accepted the Settlement Agreements for filing, suspended them for 1 day, and made them effective subject to refund. It further directed PSO and OGE to file the rates contained in the Settlement Agreements along with appropriate cost support data in two new dockets—Docket Nos. ER78-67 and ER78-68, respectively. The Commission also found that acceptance of the Settlement Agreements eliminated the need for the full requirements rate filing in Docket Nos. ER78-20 and ER78-49. These filings were, therefore, allowed to be withdrawn.

The Commission then terminated the proceedings in Docket Nos. ER77-422, ER78-20, and ER78-49.[2]

Subsequently, OGE filed cost support data in Docket No. ER78-68, but increased the rates therein. This filing was designated Docket No. ER78-433 and suspended and consolidated with Docket No. ER78-68 for hearing. PSO made its cost support data filing in Docket No. ER78-67, and that data is now under Staff review.

The instant filing in Docket No. ER78-511 would supplement the Agreement reached with SWPA in Docket No. ER78-67 now pending. It would also increase the present rate to wholesale customers who receive service under PSO's RE-5 wholesale tariff. This includes 19 municipal customers and two rural electric cooperatives. The rates would be increased by approximately 16.4 percent, resulting in an earned rate of return of 10.38 percent.

On September 20, 1978, Mr. Ed Edmonson, of Muskogee, Okla., filed out of time, a petition to be heard in opposition to this proposed rate increase. He contends that PSO's present rates are more than sufficient to provide services to the public, including a fair rate of return to the Company's investors. He asserts that no increase is needed. Although Mr. Edmondson's Petition was filed late, we believe that this representation could be in the public interest. Consequently, we allow his intervention.

On July 31, 1978, the U.S. Department of Energy, on behalf of the Southwestern Power Administration, filed its Notice of Intervention and Motion For Suspension. The Secretary declares that SWPA markets power produced at federally-owned generating facilities to 11 municipalities, the U.S. Army's Ft. Sill, Okla., and the Federal Ammunition Department at McAlester, Okla.

A Protest, Petition to Intervent, and Motion for Maximum Suspension of The Public Service Co. of Oklahoma Wholesale Customer Group was timely filed by the Municipal Electric Systems of Oklahoma (MESO) on behalf of a number of municipalities,[3] Western Farmers' Electric Cooperative, and the KAMO Electric Cooperative, Inc. (Wholesale Customers). These parties protest and petition for leave to intervene and moved for the imposition of the maximum suspension of the proposed wholesale electric increase filed in the instant proceeding. The Petitioners contend that each of the members of the Wholesale Customers Group purchases power directly from PSO or is affected by the rates which PSO charges Southwestern Power Administration. These wholesale customers contend that the Company's proposed rate increase is patently excessive, and protests numerous elements of the Company's computations of expense requirements, cost of capital, capitalization, and rate base. Among the contested items is PSO's decision to include unamortized investment tax credits in the equity component of capital structure.

The Wholesale Customers also claim that the Company's forecasted equity capitalization is much too high, and they raise questions concerning the recovery of investment in the Davis-McCoy fuel subsidiary as fuel expenses, and certain construction work in progress included in rate base.

The Wholesale Customer's petition also alleges that the City of Pawhuska has a Mobile-Sierra type rate contract with PSO. Our investigation reveals that Pawhuska did in fact have a fixed rate contract at one time. However, by letters dated March 7, 1977, and May 2, 1977, PSO submitted to this Commission an agreement dated January 5, 1977, and executed by Pawhuska to run concurrently with the fixed rate contract until September 1, 1978, when the fixed rate contract terminated by its own terms. The January 5, 1977, agreement is now the effective rate schedule. It permits PSO to file for rate increases unilaterally. That agreement was accepted for filing by a letter from the Commission Secretary dated June 28, 1977.[4] Accordingly, we find no validity in the fixed rate allegation raised with respect to Pawhuska.

Subsequently, on September 21, 1978, Public Service of Oklahoma, the Western Farmers' Electric Cooperative, the Municipal Electric System of Oklahoma, the two Cooperatives, the municipalities and the Southwestern Power Administration filed a Joint Motion For Suspension Of Effective Date Of Proposed Rates with this Commission. The parties jointly moved that the Commission suspend the effective date for the rates proposed in PSO's filed from October 1, 1978 to January 1, 1979. They further stated that PSO and all intervenors have engaged in negotiations for settlement in all matters at issue in Docket No. ER78-511 and have reached an agreement in principal. As an integral part of such agreement in principal, the parties have further agreed that the effective date of such rate increase should be suspended until January 1, 1979, which would allow time for presentation to the Commission Staff, the Presiding Administrative Law Judge, and to the Commission a Stipulation and Agreement among PSO, its intervenors, and all affected in this proceeding provided for a settlement of the proposed increase in rates.

We note that PSO's case-in-chief assigned a portion of R&D contributions related to Liquid Metal Fast Breeder Reactor (LMFBR) research. It also failed to reduce the rate base by the amount of the accumulated provision for deferred Federal income taxes recorded in Account 281. The latter procedure is decidedly in conflict with several prior FERC decisions.[5] With respect to LMFBR, in *Carolina Power & Light Co.*, Opinion No. 19, we affirmed that part of the Initial Decision, in which the Presiding Administrative Law Judge removed LMFBR contributions from the wholesale customers' cost of service.[6] Accordingly, we believe it is appropriate to make summary disposition on these two issues based upon the established precedents. PSO shall file its cost of service support and rates to reflect these modifications.

We also find that PSO included Accumulated Deferred Investment Tax Credit (ADITC) in the common equity portion of its capitalization. This Commission has held several times previously that the return allowed on ADITC shall be measured by the overall rate of return rather than the higher common equity return.[7] Therefore, we shall summarily dispose of this issue and direct PSO to refile its capital structure and rates to reflect the Investment Tax Credit component consistent with the *Carolina Power & Light Co.* Opinion.

One other item comes to our attention, concerning the basis for functionalization of General Plant. In *Minnesota Power & Light Co.*, Opinion No. 20, issued on August 3, 1978, in Docket Nos. E-9499, et. al., we held that "General Plant as covered by accounts 389-399 in the Commission's Uniform System Of Accounts for Public Utilities and Licenses, should be properly allocated on the basis of labor costs", and that "the Company's plant allocation method is not reasonable." We also "requir(ed) that labor ratios be used in allocating general plant * * * in succeeding cases." In a subsequent order,[8] we indicated that the use of labor ratios in fuctionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that labor ratios are unreasonable as applied to the Company, not merely that its alternative method might be reasonable". PSO must sustain this same burden in the instant case.

Our review of the filing in the instant docket indicates that the proposed rate increases have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will accept Public Service Co.'s submittal for filing and suspend the proposed rate changes until January 1, 1979, when they will become effective subject to refund pursuant to the provisions of section 205(e) of the Federal Power Act. In taking this action, we are mindful of the Joint Motion and the settlement in principal reached by the parties in this proceeding.

We also find that participation of the intervenors in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Public Service Co. of Oklahoma.

(B) Pending such hearing and decision thereon, the rates proposed by Public Service Co. of Oklahoma are hereby accepted for filing and suspended and shall become effective on January 1, 1979, subject to refund.

(C) For good cause shown, the Secretary of the Department of Energy representing the Southwestern Power Administration, Mr. Ed Edmondson, the Municipal Electric Systems of Oklahoma on behalf of the Municipalities of Altus, Frederick, Cordell, Kaw City, Anadarko, South Coffeyville, Marlow, Pawhuska, Hominy, Copan, Manitou, Walters, Granite, El Dorado, Olustee, Commanche, Ryan, Wetumka, and Duncan, Okla. and the Western Farmers' Electric Cooperative and KAMO Electric Cooperative, Inc. are hereby permitted to intervene subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of these intervenors shall be limited to matters set forth in their petitions to intervene; *Provided, further,* That the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) Nothing contained herein shall be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commision, 825 North Capitol Street NE, Washington, D.C. 20426. Said Law Judge is authorized to establish procedures and to rule upon all motions (except motions to consolidate and sever and motions to dismiss) as provided for in the Commission's Rules and Practice and Procedure.

(F) The Staff shall serve top sheets in this proceeding on or before February 12, 1979.

(G) Based upon review of the facts concerning the allegation by the City of Pawhuska that Public Service Co. has violated the terms of a fixed rate contract in filing for this increase with respect to Pawhuska, no validity to this charge can be found. Accordingly, we dismiss this charge. It shall not be an isue in this contested proceeding.

(H) Summary disposition with respect to the treatment of deferred Federal income taxes recorded in Account 281, the treatment of Accumulated Deferred Investment Tax Credit, and the assignment of R. & D. contributions related to Liquid Metal Fast Breeder Reactor research is hereby ordered in accordance with the discus-

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[1] The filing was found deficient. A deficiency letter was forwarded by the Commission's Secretary to the PSO on August 25, 1978. The Company satisfied the deficiency on September 13, 1978.

[2] See the Commission Order issued November 30, 1977, in Docket Nos. ER77-422, ER78-20, and ER78-49.

[3] Altus, Frederick, Cordell, Kaw City, Anadarko, South Coffeyville, Marlow, Pahuska, Hominy, Copan, Manitou, Walters, Granite, El Dorado, Olustee, Comanche, Ryan, Wetumka, and Duncan, Okla.

[4] See Article VII of the FPC Rate Schedule No. 192 effective September 1, 1977, for specific language permitting unilateral filing.

[5] *Minnesota Power & Light Co.*, Opinion No. 12, issued April 14, 1978; see also *Carolina Power & Light Co.*, Opinion No. 19, issued August 2, 1978.

[6] See also *Connecticut Light & Power Co.*, Docket No. ER77-517, Order issued August 31, 1978.

[7] *Carolina Power & Light Co.*, Opinion No. 19, August 2, 1978 (mimeo, pp. 7-10). See also *Virginia Electric Power Co.*, Docket No. ER78-522, issued August 30, 1978, order suspending proposed rates.

[8] *Public Service Co. of Indiana*, issued August 25, 1978, in Docket No. ER78-513, Order Accepting Rates, Rejecting a Rate For Filing, Suspending Rate Increases, and Granting Summary Disposition.

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sion of the matters above. Public Service Co. of Oklahoma shall revise its cost of service study and its rates to reflect the elimination of these three items and submit such revised rates and cost of service to this Commission by January 1, 1978, unless settlement is reached by the parties beforehand, in which case the proposed settlement agreement shall reflect such changes.

(I) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A.—*Public Service Co. of Oklahoma*

[Docket No. ER78-511]

Dated: Undated.
Filed: July 28, 1978.

Supplement No.	Supersedes supplement No.	FPC rate schedule No.	Customer
4	3	168	City of Altus.
4	3	169	City of Frederick.
4	3	170	City of New Cordell.
4	3	171	City of Kaw City.
4	3	188	Anadarko Public Works Authority.
2	[1]	189	City of South Coffeyville.
3	2	190	City of Marlow.
4	3	192	City of Pawhuska.
4	3	193	City of Hominy.
4	3	195	City of Copan.
3	2	197	Western Farmers Electric Cooperative.
3	2	198	KAMO Electric Cooperative, Inc.
3	2	199	Town of Manitou.
3	2	200	City of Walters.
3	2	201	Town of Granite.
3	2	202	Town of Eldorado.
3	2	203	Town of Olustee.
3	2	204	City of Comanche.
3	2	205	Town of Ryan.
3	2	206	City of Wetumka.
3	2	207	City of Duncan.
1	—	196	Southwestern Power Administrating.

[1] As supplement.

[FR Doc. 78-30119 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-15]

TAMPA ELECTRIC CO.

Filing

OCTOBER 20, 1978.

Take notice that on October 12, 1978, Tampa Electric Co. (Tampa) tendered for filing an Agreement for Interchange Service between Ft. Pierce Utilities Authority (Ft. Pierce) and Tampa. Tampa requests that the Agreement be permitted to become effective on November 1, 1978, so that the economy interchange transactions between Tampa and Ft. Pierce may be initiated as soon as possible. Tampa requests waiver of the Commission's notice requirements to allow for such effective date.

Copies of the filing were served upon Ft. Pierce and the Florida Public Service Commission, according to Tampa.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30,1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party should file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-30247 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CI79-41]

TEXAS OIL & GAS CORP.

Petition for Order Enforcing Certificate Obligation

OCTOBER 18, 1978.

Take notice that Valley Gas Transmission Co., Inc. ("Valley") on October 12, 1978, submitted, pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure, a petition for an order enforcing the certificate obligation originally imposed in Docket No. CI60-554 on Christie, Mitchell, and Mitchell Co. That obligation, according to Valley, calls for the delivery to Valley of any and all natural gas produced from certain acreage in the Hinnant Field, Live Oak County, Tex., at depths down to and including 6,500 feet. Valley states that, to the best of its knowledge, no abandonment authorization has been sought or obtained to alter that obligation.

More specifically, Valley's petition asks the Commission to order Texas Oil & Gas Corp. (TXO), the present lessee of the acreage involved, to deliver any and all future production from the dedicated acreage to Valley and to pay back to Valley volumes equivalent to all gas producted from any wells on the dedicated acreage (from depths down to and including 6,500 feet) that has not been delivered to Valley since TXO acquired its interest in such acreage.

In view of the seriousness of the allegations contained in Valley's petition, a shortened time period will be prescribed for the filing of answers by TXO and all other interested persons.

Any person desiring to be heard or to protest said filing should file an answer with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 1.9 of the Commission's Rules of Practice and Procedure. (18 CFR 1.9). All such answers should be filed on or before October 25, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30248, Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-15]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

OCTOBER 20, 1978.

Take notice that on October 10, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP79-15 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 378 dekatherms (dt) equivalent of natural gas on an interruptible basis, all as more fullly set forth in the application of file with the Commission and open to public inspection.

Specifically, Applicant requests authorization to transport up to 378 dt equivalent per day on an interruptible basis for the account of Carolina Pipeline Co.; NCNG Exploration Corp., an affiliate of North Carolina Natural Gas Corp.; Philadelphia Electric Co.; Piedmont Exploration Co., Inc., an affiliate of Piedmont Natural Gas Co., Inc.; Tar Heel Energy Corp., an affiliate of Public Service Co., of North Carolina, Inc.; Owens-Corning Fiberglas Corp.; UCG Energy Corp., an affiliate of United Cities Gas Co., North and South Carolina Division; Rockingham Exploration Co., an affiliate of North Carolina Gas Service Division of Pennsylvania & Southern Gas Co., all of which Applicant maintains are existing customers of Applicant, or affiliates of such customers. Applicant states that the proposed transportation service would be rendered for such transportation customers, who have joined the Transmac Exploration and Development Program (Transmac), a joint venture exploration and development program formed to finance the search for and development of new natural gas reserves in onshore areas, and in non-Federal waters, in the Gulf Coast region, which received temporary authorization by order of December 21, 1977 in Docket No. CP77-421. Applicant further states that the transportation customers' participation in the Transmac joint venture entitles them to a proportionate share of the natural gas produced as a result of the project. It is stated that such a discovery has been developed in the Popcorn Bayou Field, Plaquemines Parish, La., and Applicant proposes to transport such customers' interests in the discovery to existing points of delivery to its customers.

It is stated that the gas would be delivered to Southern Natural Gas Co. (Southern), which has facilities adjacent to the Popcorn Bayou Field, and Southern would transport and redeliver the gas to Applicant at existing delivery points. Applicant states that it would initially charge 23.5 cents and 24 cents per dt equivalent for transportation service into its Rate Zones 2 and 3, respectively. Also, Applicant states that it would initially withhold 3.8 percent and 4.4 percent of the transportation volumes destined for delivery in its Rate Zones 2 and 3, respectively, for compressor fuel and line loss makeup.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission, or its designee, on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30249 Filed 10-25-78; 8:45 am]

[6740-02-M]

[Docket No. CP76-118]

U-T OFFSHORE SYSTEM

Application to Amend

OCTOBER 19, 1978

Take notice that on October 2, 1978, U-T Offshore System (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP76-118, [1] an application to amend further the order issued January 13, 1977 in said docket, as amended, pursuant to section 7(c) of the Natural Gas Act so as to authorize Applicant to transport (a) up to 730,000 Mcf per day of gas for its shippers on a firm basis, and (b) to the extent its existing facilities permit Applicant to do so, all gas its shippers are able to make available to it from High Island Offshore System (HIOS) on an interruptible overrun basis, all as more fully set forth in the application to amend which is on file with the Commission and open to public inspection.

Applicant states that on January 13, 1977, the Federal Power Commission issued an order in Docket No. CP76-118 granting it a certificate of public convenience and necessity (a) to construct, own and operate approximately 30 miles of 42-inch pipeline and appurtenant facilities extending from a point of interconnection with the HIOS system in West Cameron Block 167, offshore Louisiana, to a point of interconnection with the existing onshore facilities of Transcontinental Gas Pipe Line Corp. (Transco) near Johnson's Bayou, La., and (b) to transport up to 589,920 Mcf per day of natural gas for Natural Gas Pipeline Co. of America (Natural), Transco, and United Gas Pipe Line Co. (United). By order issued March 7, 1978, the Commission amended certain conditions contained in the January 13, 1977 order to provide for an interim rate and denied an application for rehearing filed by Applicant on February 14, 1977, and subsequently, on June 12, 1978, the Commission issued an order giving both HIOS and Applicant blanket authorization to transport, within the limits of their respective certificated capacities, natural gas for shippers not affiliated with HIOS or U-TOS, it is asserted.

It is stated that Applicant has executed transportation agreements with the following non-affiliated shippers: Columbia Gas Transmission Corp. (Columbia), Consolidated Gas Supply Corp. (Consolidated), Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), El Paso Natural Gas Co. (El Paso), Trunkline Gas Co. (Trunkline), Northern Natural Gas Co. (Northern) and National Fuel Gas Supply Corp. (National Fuel). It is further stated that the capacity requested in Applicant by its affiliated and nonaffiliated shippers exceeds 1,000,000 Mcf per day. However, it is said that due to the certificated capacity limitation of 589,920 Mcf per day contained in the Commission's June 12, 1978 order, all of the Applicant shippers have received smaller firm capacity entitlements (their "Currently Effective Contract Demands") under Paragraph 2.2 of their transportation agreements with Applicant than each of them requested originally. Moreover, it is said that as a result of the mechanics of Paragraph 2.2 of Applicant's transporta-

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

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tion agreements (which provisions are virtually identical to the provisions in Paragraph 2.2 of the HIOS transportation agreements, except for the "short haul" shipper situation on HIOS) and the different mix of shippers on the HIOS and Applicant systems, Applicant's shippers in HIOS have less firm capacity in Applicant than they have in HIOS, as shown by the following table:

[Mcf per day]

Applicant's shippers	HIOS Currently effective contract demands	Applicant Currently effective contract demands
Natural	131,800	107,041
Transco	131,800	107,041
United	143,800	107,041
Columbia	40,700	33,205
Consolidated	25,000	20,413
Tennessee	15,300	12,520
El Paso	17,600	15,786
Trunkline	133,400	108,869
Northern	88,600	73,486
National Fuel	5,500	4,518
Total	731,500	589,920

It is stated that the sum of the Currently Effective Contract Demands of Applicant's shippers in HIOS is 731,500 Mcf per day, while the sum of their Currently Effective Contract Demands from Applicant is only 589,920 Mcf per day. Thus, it is said, none of Applicant's shippers presently are able to transport through HIOS on a firm basis.

It is estimated that approximately 634,000 Mcf per day would be available for transportation through Applicant on a peak day in October 1978. It is said that this peak day volume is estimated to gradually increase to approximately 1,094,300 Mcf per day in October 1979, at which time Applicant plans to place additional onshore facilities in service that would enable Applicant to transport up to approximately 1,200,000 Mcf per day on a firm basis. It is further said that Applicant is now preparing an application for a certificate of public convenience and necessity covering these new onshore facilities, which application will be filed with the Commission in the near-term future.

Furthermore, it is said that, some of the shippers in HIOS would not be utilizing all of their Currently Effective Contract Demands in HIOS on a daily basis, as a result of the gradual build-up in deliverability as new fields are attached to the HIOS system, routine downtime due to normal pipeline and producer maintenance, well workovers, weather, and other delays. Consequently, it is further said that HIOS would from time to time have unused certificated capacity under contract to certain shippers, which can be made available to other HIOS shippers having gas in excess of their Currently Effective Contract Demands on a *pro rata*, interruptible basis. Many of these HIOS shippers are also Applicant's shippers, it is said.

It is said that the facilities of Applicant installed onshore at Johnson's Bayor, La., were designed to handle up to 600,000 Mcf per day of gas having an average liquid hydrocarbon content of 10 barrels per Mcf at a pressure of 850 psi and at a temperature of 120 degrees Fahrenheit. However, it is said that the gas transported through Applicant's system to date has had an average liquid hydrocarbon content of only about 2 barrels per Mcf. In addition, it is said, the gas temperature has been approximately 70 degrees Fahrenheit and the gas pressure has been about 1,050 psi. Finally it is further said that the gas delivered to Applicant has also contained less water vapor than expected, which has enabled Applicant to redeliver at its onshore terminus gas having an average water vapor content of only 3 pounds per Mcf.

Applicant, accordingly, it is said, without the installation of any new facilities, is presently capable of transporting and redelivering on a sustained basis all pipeline quality natural gas that its shippers are able to transport through HIOS within their Currently Effective Contract Demands.

Applicant submits that it should be permitted to transport, to the extent possible, all gas that its shippers make available to it from HIOS. On a firm basis, it is stated that this volume totals approximately 730,000 Mcf per day, after appropriate deductions for fuel and other uses on the HIOS sytem. Applicant's shippers' new Currently Effective Contract Demands would be as follows:

[*Mcf per day*]

Applicant shippers	Proposed currently effective contract demands
Natural	131,530
Transco	131,530
United	143,500
Columbia	40,620
Consolidated	24,950
Tennessee	15,270
El Paso	17,560
Trunkline	133,130
Northern	86,420
National Fuel	5,490
Total	730,000

Applicant also submits that it should be allowed to transport as much overrun gas as possible that its shippers are able to transport through the unused capacity on the HIOS system.

It is said that the transportation of these additional supplies of gas by Applicant would materially assist Applicant's shippers in meeting their customers' requirements, especially during the upcoming 1978-1979 winter heating season. It is further said that if the past two winters are any indication of the type of weather to be experienced this heating season, Applicant's shippers would need all of the additional volumes to be made available hereunder from the offshore Texas area to ameliorate severe curtailments of high priority consumers.

In light of the foregoing, it is said that Applicant seeks Commission authorization to transport, to the extent, its existing facilities permit, all gas that its shippers make available to it from HIOS. Moreover, it is further said that because of the faster buildup in production than previously anticipated, Applicant proposes to cease transportation service under its interim rate and to commence service under its permanent rates on November 1, 1978. Applicant would utilize the Commission's prescribed demand-commodity rate design. It is said that Applicant would increase its shippers' Currently Effective Contract Demands up to the levels shown above and Applicant would compute the demand component of its rate on the basis of the 730,000 Mcf per day figure.

Applicant presently estimates that some 239,805,000 Mcf of gas would be available for transportation through its system during the 12-month period, November 1, 1978 through October 31, 1979. It is said that Applicant proposes to utilize the 239,805,000 Mcf figure to compute the commodity component of its two-part rate. Applicant submits that such volume, which equates to a 90 percent load factor, is a realistic estimation of the volume that Applicant would transport during the 12-month period beginning November 1, 1978. It is said that aside from downtime attributable to normal pipeline maintenance and repair, underutilization of capacity can be caused by weather conditions, routine producer well workovers and scheduled maintenance and production schedule changes, delays in obtaining necessary production equipment and delays occasioned by failure to receive requisite governmental authorizations respecting producer and pipeline applications for certificates of public convenience and necessity. Finally, it is said that it is difficult for Applicant to forecast the volumes of gas, Natural, Trunkline, and other shippers may transport through Stingray Pipeline Co.'s facilities into HIOS and Applicant, given that gas apparently can physically flow either to or from the Stingray system across the High Island Block A-330 platform. Thus, it is said, Applicant is almost totally dependent upon the actions of and information furnished to it by others, the vast majority of whom shoulder no risk of capacity underutilization in Applicant.

It is said that utilizing 730,000 Mcf as the demand charge billing determinant and 239,805,000 Mcf as the commodity charge billing determinant, Applicant's demand and commodity rates during the period November 1, 1978 through October 31, 1979 will be 61 cents per Mcf and 1.72 cents per Mcf, respectively. These rates, it is said, of course, would be subject to refund, pending final resolution of the appropriate rate of return for Applicant.

It is stated that Applicant also requests Commission authorization to transport, on an interruptible overrun basis, all gas its shippers are able to transport through the HIOS system in excess of their Currently Effective Contract Demands, to the extent Applicant's existing facilities permit it to do so. It is further stated that this service, which is to be an interruptible overrun transportation service, would be provided to all of Applicant's shippers under a proposed new Rate Schedule I. Pursuant to Rate Schedule I, it is said that, Applicant would charge its shippers a rate for this overrun service equivalent to the proposed demand-commodity rate for regular service at a 100 percent load factor (3.73¢ per Mcf). It is said that Applicant would determine the revenues associated with the transportation of overrun gas under Rate Schedule I during the 12-month period commencing on November 1, 1978. It is further said that demand revenues received under Rate Schedule I attributable to overrun gas transported through temporary unused capacity under contract to Applicant's shippers would be distributed proportionately to shippers having such unused capacity, as a credit on their monthly billings within 45 days after the end of such 12-month period. It is said that as to demand revenues collected under Rate Schedule I that are not redistributed by Applicant to its shippers, Applicant proposes to credit such revenues to its reserve for depreciation, after appropriate allowance for income taxes.

It is said that in the event Applicant transports more than the estimated 239,805,000 Mcf during the 12-month period commencing November 1, 1978, Applicant would recompute its commodity rate on the basis of the larger volume and, if an overcollection has occurred, would, within 45 days after the end of such period, file with the Commission a report of such overcollection, together with supporting data. It is further said that Applicant proposes to credit such overcollection to its reserve for depreciation, after appropriate allowance for income taxes.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 78-30228 Filed 10-25-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 994-2]

POLYCHLORINATED BIPHENYLS

Notice of Approved PCB Disposal Facilities

On February 17, 1978, the U.S. Environmental Protection Agency published in the FEDERAL REGISTER the final rule for the "Disposal and Marking of Polychlorinated Biphenyls (PCB's)" (43 FR 7150). (This rule is required by sec. 6(e)(1) of the Toxic Substances Control Act (Pub. L. 94-469, 15 U.S.C. 2605(e)).)

Under this rule, disposal of many PCB's, as defined in the regulation, is prohibited subsequent to April 18, 1978, except at EPA approved facilities. All facility approvals will be granted in writing by the appropriate Regional Administrator in which the respective facility is located.

To date, the following facilities have been approved by EPA under the authority of §§ 761.40(d) and 761.41(c) of the PCB Disposal and Marking Regulation to dispose of PCB's:

EPA Region II (26 Federal Plaza, New York, N.Y. 10007).

1. *Facility:* General Electric Co., Silicone Products Division.

Facility address: 260 Hudson River Road, Waterford, N.Y. 12189.

Facility telephone number: 518-237-3330.

Type of facility approved: Incinerator.

Type of PCB waste handled: Approval allows G.E. to incinerate only those PCB wastes which are generated on-site, i.e., G.E. cannot accept PCB's for incineration from any other company or any other G.E. facility.

Expiration date of approval: September 1, 1981.

EPA regional office contact: Wayne Pierre.

EPA telephone number: 212-264-0505.

2. *Facility:* Newco Chemical Waste Systems, Inc.

Facility address: 4526 Royal Avenue, Niagara Falls, N.Y. 14303.

Facility telephone number: 716-285-6944.

Type of facility approved: Chemical waste landfill.

Type of PCB waste handled: Capacitors (small and large); properly drained transformers; contaminated soil, dirt, rags, and other debris; dredge spoils; municipal sludges; and properly drained containers (drums).

Expiration date of approval: August 18, 1981.[1]

EPA regional office contact: Wayne Pierre.

EPA telephone number: 212-264-0505.

3. *Facility:* SCA Chemical Services, Inc.

Facility address: 1550 Balmer Road, Model City, N.Y. 14107.

Facility telephone number: 716-754-8231.

Type of facility approved: Chemical waste landfill.

Type of PCB waste handled: Capacitors (small and large); properly drained transformers; contaminated soil, dirt, rags, and other debris; dredge spoils; municipal sludges; and properly drained containers (drums).

Expiration date of approval: October 2, 1981.[1]

EPA regional office contact: Wayne Pierre.

EPA telephone number: 212-264-0505.

EPA Region IV (345 Courtland Street, Northeast, Atlanta, Ga. 30308).

1. *Facility:* Waste Management of Alabama, Inc.

Facility address: P.O. Box 1200, Livingston, Ala. 35470.

Facility telephone number: 205-652-9529.

Type of facility approved: Chemical waste landfill.

Type of PCB waste handled: Capacitors (small and large); properly drained transformers; contaminated soil, dirt, rags, and other debris; dredge spoils; municipal sludges; and properly drained containers (drums).

Expiration date of approval: Open-ended.[1]

EPA regional office contact: Mr. James Scarbrough.

EPA telephone number: 404-881-3016.

EPA Region X (1200 Sixth Avenue, Seattle, Wash. 98101).

1. *Facility:* Chem-Nuclear Systems, Inc.

Facility address: P.O. Box 1269, Portland, Oreg. 97205, main office (site located in Arlington, Oreg.).

Facility telephone number: 503-223-1912.

Type of facility approved: Chemical waste landfill.

Type of PCB waste handled: Capacitors (small and large); properly drained transformers; contaminated soil, dirt, rags, asphalt, and other debris; and properly drained containers (drums).

[1] NOTE.—After Jan. 1, 1980, PCB capacitors and contaminated soils, rags, and other debris cannot be disposed of in chemical waste landfills. A special provision does permit, without time limits, the disposal in chemical waste landfills of contaminated soil and debris resulting from spills or from old disposal sites that predate the PCB regulations.

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Expiration date of approval: January 1, 1980.

EPA regional office contact: Mr. Roger Fuentes.

EPA telephone number: 206-442-1260

2. *Facility:* Wes-Con, Inc.

Facility address: P.O. Box 564, Twin Falls, Idaho 83301, main office (site located in Grand View, Idaho).

Facility telephone number: 208-734-7711.

Type of facility approved: Disposal in missile silos.

Type of PCB waste handled: Capacitors (small and large); properly drained transformers; contaminated soil, dirt, rags, asphalt, and other debris; and properly drained containers (drums).

Expiration date of approval: January 1, 1980.

EPA regional office contact: Mr. Roger Fuentes.

EPA telephone number: 206-442-1260.

Future notices, updating this list of approved facilities will be published in the FEDERAL REGISTER approximately every month. For further information on the EPA approval of these disposal facilities, please get in touch with the appropriate EPA Regional Office contact.

Dated: October 20, 1978.

STEFFEN W. PLEHN,
Deputy Assistant Administrator for Solid Waste.

[FR Doc. 78-30190 Filed 10-25-78; 8:45 am]

[6560-01-M]

[Dockets No. 401 et al.; FRL 994-4]

PESTICIDE PRODUCTS CONTAINING DIBROMOCHLOROPROPANE (DBCP)

Notice of Ojections and Request for Hearing

Notice is hereby given, pursuant to the Rules of Practice, 40 CFR 164.8 (1977), governing hearings under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq. (1976), that requests for a hearing and objections to the notice of intent to cancel the registration or change the classification of pesticide products containing dibromochloropropane, dated October 27, 1977 (42 FR 57545 (Nov. 3, 1977)), were filed by Shell Oil Co., Pineapple Growers Association of Hawaii and the State of Hawaii, and the Dow Chemical Co. These proceedings were consolidated and pursuant to the notice of intent to cancel or change classification, commencement of the evidentiary phase of the proceedings was postponed until completion of the RPAR review then in process and the filing and service of any amended notice of intent to cancel or change classification which may result therefrom.

An amended notice of intent to cancel, dated September 6, 1978, having now been issued and published, 43 FR 40911 (Sept. 13, 1978), requests for hearing and objections have also been filed by Amvac Chemical Corp. and Carlos Amaya, et al. These proceedings have been consolidated with the consolidated proceeding pending with respect to the original notice.

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk (A-110), Room 3708, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

GERALD HARWOOD,
Administrative Law Judge.

OCTOBER 20, 1978.

[FR Doc. 78-30191 Filed 10-25-78; 8:45 am]

[6560-01-M]

[FRL 994-1]

VARIANCES IN EFFLUENT GUIDELINES AND STANDARDS

Withdrawal of Interpretations

EPA has published best practicable technology (BPT) national effluent guidelines regulations for numerous industrial categories under sections 301 and 304 of the Clean Water Act. Included in the regulations for each industrial category is a "variance clause." This clause allows case-by-case redefinitions of BPT where one can show that certain plant-specific factors—such as age or size of the plant—are "fundamentally different" from the factors EPA considered in setting the national guidelines.

In interpretations published at 39 FR 28926 and 30073 (August 12 and 20, 1974), EPA stated that plant-specific compliance costs were not among the factors which could be considered under the BPT variance clause. These interpretations have, however, been superseded by EPA's decision *In the Matter of Louisiana-Pacific Corp. and Crown Simpson Pulp Co.*, 10 ERC 1841 (September 15, 1977).

As recently noted by the U.S. Court of Appeals for the D.C. Circuit, EPA's *Louisiana-Pacific* decision "seems significantly to have liberalized the Agency's approach to the variance provision." *Weyerhaeuser Co. v. Costle*, 11 ERC 2149, 2168 (D.C. Cir., September 5, 1978). In fact, EPA recently proposed for public comment its tentative formulations of how compliance costs should be considered in applying the variance clause.[1] See proposed 40 CFR 125.26(a), 43 FR 37133, August 21, 1978. (The deadline for public comments on this proposal has been extended to November 20, 1978. See 43 FR 47213, October 13, 1978.) More definitive guidance will be set forth in the final version of these regulations.

To clear up any lingering confusion as to the status of the interpretations of August 12 and 20, 1974, I am hereby formally withdrawing them. While EPA allows compliance costs to be considered under the BPT variance clause, it should be noted that EPA continues to believe that § 301(c) of the Clean Water Act (allowing waivers based upon plant-specific economic *capability* or "affordability") applies only to best available technology (BAT) limitations.

Thus a plant may be able to secure a BPT variance by showing that the plant's own compliance costs with the national guideline limitation would be *x* times greater than the compliance costs of the plants EPA considered in setting the national BPT limitation. A plant may not, however, secure a BPT variance by alleging that the plant's own financial status is such that it cannot afford to comply with the national BPT limitation.[2] The D.C. Circuit agreed with EPA's position on this point in the *Weyerhaeuser* decision cited above. See 11 ERC at 2166.

Dated: October 17, 1978.

JOAN Z. BERNSTEIN,
General Counsel.

[FR Doc. 78-30189 Filed 10-25-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 78-349, 78-350; File Nos. 21552-CD-P-78, 21000-CD-P-78]

KANKAKEE TELEPHONE ANSWERING SERVICE, INC., ET AL.

Designating Applications for Consolidated Hearing on Stated Issues, Memorandum Opinion, and Order

Adopted: October 18, 1978.

Released: October 26, 1978.

In re applications of Kankakee Telephone Answering Service, Inc., CC Docket No. 78-349, File No. 21552-CD-P-78, for a construction permit to establish additional one-way signaling facilities for Station KWH301 to operate on 158.70 MHz in the Domestic Public Land Mobile Radio Service at Kankakee, Ill.; Richard L. Adcock d.b.a. Dial-A-Page, CC Docket No. 78-350, File No. 21000-CD-P-78, for a construction permit to establish a new one-way signaling station to operate on 158.70 MHz in the Domestic Public Land Mobile Radio Service at Watseka, Ill.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, are the applications of Kankakee Telephone Answering Service, Inc. (Kankakee), File No. 21552-CD-P-78, for a Construction Permit to add the one-way signaling frequency 158.70 MHz to Station KWH301 at Kankakee, Ill., and the application of Richard L. Adcock d.b.a. Dial-A-Page, File No. 21000-CD-P-78, for a Construction Permit to establish a new one-way signaling station to operate on frequency 158.70 MHz at Watseka, Ill. These applications are electrically mutually exclusive.

2. Section 21.516 of the rules requires an applicant for an additional channel to submit with its application a traffic load study showing the present use of its existing facilities, and such other information as may justify its request. Normally, if the traffic load study shows sufficient congestion, we will grant an additional channel. Although Kankakee has submitted a traffic load study for its existing facilities, it acknowledges that the degree of loading it has shown would not warrant grant of an additional channel.[1] Instead, Kankakee argues that its proposed additional channel will be used to provide a new wide area service, that the wide area service it intends to provide is technically and operationally incompatible with its existing local service, and that, therefore, the loading of existing facilities is inapplicable to its present proposal. Kankakee further states that it is holding orders for wide area service for 50 paging units from new subscribers and that its existing subscribers have requested 25 units.

3. We find that Kankakee has failed to demonstrate a public need for its proposed facilities. As we have indicated, the usage of its existing channel will not warrant grant of an additional channel. Further, it is unclear how Kankakee intends to provide its wide area service in the greater Chicago area. The service area of its proposed facilities is approximately the same as its existing facilities; and, although Kankakee has apparently entered into an agreement with Beeper Call, Inc. (Beeper Call) and South Shore Radio Telephone, Inc. (South Shore)[2], who share 158.70 MHz facilities in the greater Chicago area, this agreement does not authorize Kankakee to provide service to its customers over the facilities of Beeper Call and South Shore. Rather, it appears that Kankakee has agreed to permit Beeper Call and South Shore to use Kankakee's proposed facilities to provide service to their customers in Kankakee, Ill., solely in exchange for Beeper Call's and South Shore's consent to Kankakee's proposal.[3] Accordingly, Kankakee has not shown how it will be able to provide its proposed wide area service. We further find that Kankakee's statement that its proposed service is operationally and technically incompatible with its existing facilities is vague and conclusory and cannot support grant of the instant application. Accordingly, we will specify disqualifying issues against Kankakee to determine the capacity and use of its existing facilities and whether it has adequately demonstrated a need for its proposed facilities.

4. Since the above-captioned applications are electrically mutually exclusive, a comparative hearing must be held to determine which applicant would better serve the public interest, convenience, and necessity. *Ashbacker v. FCC*, 326 U.S. 327 (1945). Except to the extent indicated in the following issues, we find the applicants to be legally, financially, technically and otherwise qualified to construct and operate the proposed facilities.

5. *Accordingly, it is ordered*, Pursuant to section 309(e) of the Communications Act of 1934, as amended, That the application of Kankakee Telephone Answering Service, Inc., File No. 32552-CD-P-78, and the application of Richard L. Adcock d.b.a. Dial-A-Page, File No. 21000-CD-P-78, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine in accordance with § 21.516 of the Commission's rules the nature and extent of services now rendered by Kankakee Telephone Answering Service, Inc. and the capacity of its existing facilities;

(b) To determine whether Kankakee Telephone Answering Service, Inc. has adequately demonstrated a public need for its proposed facilities;

(c) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(d) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective 43 dBu contours, based upon the standards set forth in § 21.504(a) of the Commission's rules,[4] and to determine the need for the proposed services in said areas; and

(e) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-referenced applications would best serve the public interest, convenience, and necessity.

6. *It is further ordered*, That, with respect to issues (a) and (b), the burden of proof and the burden of proceeding with the introduction of evidence are placed on Kankakee Telephone Answering Service, Inc.

7. *It is further ordered*, That, with respect to issues (c) and (d), the burden of proof and the burden of proceeding with the introduction of evidence are placed jointly on the applicants, and that the ultimate burden of proof with respect to issue (f) is placed jointly on the applicants.

8. *It is further ordered*, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

9. *It is further ordered*, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

10. *It is further ordered*, That the applicants may avail themselves of an opportunity to be heard by filing with the Commission, pursuant to § 1.221(c) of the rules, within 20 days of the release date hereof, a written notice stating an intention to appear on the date for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

LARRY F. DARBY,
Acting Chief, Common Carrier Bureau.

[FR Doc. 78-30291 Filed 10-25-78; 8:45 am]

[6712-01-M]

[SS Docket Nos. 78-318, 78-319; File Nos. 176-A-L-58, 221-A-L-88]

TRANS REGIONAL AIR AND CITY OF BIG SPRING

Order Designating Applications for Consolidated Hearing on States Issues; Correction

In re applications of Trans Regional Air, Big Spring, Tex., SS Docket No. 78-318, File No. 176-A-L-58; City of Big Spring, Big Spring, Tex., SS Docket No. 78-319, File No. 221-A-L-

[1] This proposal would not apply to the steam electric generating point source category. See proposed 40 CFR 125.25, 43 FR 37133, excluding guidelines under 40 CFR part 423 (steam electric). EPA recently published a separate variance clause for that category in response to a court order. 43 FR 44846, Sept. 29, 1978.

[2] This discussion does not apply to the steam electric generating point source category. See 43 FR 44846, Sept. 29, 1978.

[1] See Exhibit 5 to Kankakee's application. The traffic load study submitted by Kankakee shows an average transmitter use per hour of approximately 15 minutes. We find this insufficient loading to warrant grant of an additional channel.

[2] The copy of this agreement in the application was unexecuted.

[3] The operation of Kankakee's proposed facilities would not have been possible without such consent since, as determined under § 21.503 of the Rules, Kankakee's proposed facilities would cause harmful electrical interference to Beeper Call and South Shore. It thus appears that if Kankakee's facilities are authorized, it will have to time share with Beeper Call and South Shore.

[4] Section 21.504(a) of the Commission's rules and regulations describes a field strength contour of 43 decibels above 1 microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service. Propagation data set forth in § 21.504(b) are the proper bases for establishing the location of service contours (F50, 50) for the facilities involved in this proceeding.

78-318, File No. 176-A-L-58; City of Big Spring, Big Spring, Tex., SS Docket No. 78-319, File No. 221-A-L-

tary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 19, 1978.

pace of the preceding 3 months, and nonfarm payroll employment rose somewhat further. The unemployment rate declined from 6.2 to 5.9 percent, slightly below the

ing limit of its range, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Com-

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78-318, File No. 176-A-L-58; City of Big Spring, Big Spring, Tex., SS Docket No. 78-319, File No. 221-A-L-68; for an aeronautical advisory station to serve the Big Spring Municipal Airport, Big Spring, Tex.[1]

Released: October 18, 1978.

1. The Chief, Safety and Special Radio Services Bureau released an Order in this matter on October 5, 1978 (Mimeo 7930) which designated the applications of Trans Regional Air and the City of Big Spring for a consolidated hearing.

2. Since the release of that Order we have become aware of the following errors:

a. In paragraph 3, the word "exclusive" should be inserted between the words "mutually" and "with"; and

b. On page 47283, paragraph 4 should be numbered 5 and paragraph 5, should be numbered 6.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30292 Filed 10-25-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

JANADA BANCSHARES, INC.

Formation of Bank Holding Company

Janada Bancshares, Inc., St. Paul, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.5 percent of the voting shares of Liberty State Bank, St. Paul, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve bank, to be received not later than November 16, 1978.

Board of Governors of the Federal Reserve System, October 20, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30250 Filed 10-25-78; 8:45 am]

[6210-01-M]

MERCANTILE TEXAS CORP.

Acquisition of Bank

Mercantile Texas Corp., Dallas, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Citizens National Bank, Austin, Tex. The Factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 17, 1978.

Board of Governors of the Federal Reserve System, October 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30251 Filed 10-25-78; 8:45 am]

[6210-01-M]

MORRILL BANCSHARES, INC.

Formation of Bank Holding Company

Morrill Bancshares, Inc., Morrill, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88 percent of the voting shares of Morrill State Bank, Morrill, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve bank, to be received not later than November 10, 1978.

Board of Governors of the Federal Reserve System, October 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30252 Filed 10-25-78; 8:45 am]

[6210-01-M]

M.S.B. AGENCY, INC.

Formation of Bank Holding Company

M.S.B. Agency, Inc., St. Paul, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 percent or more of the voting shares of Minnesota State Bank of St. Paul, St. Paul, Minn. The factors that are considered in acting in the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 17, 1978.

Board of Governors of the Federal Reserve System, October 18, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30253 Filed 10-25-78; 8:45 am]

[6210-01-M]

ROSE BANCO, INC.

Formation of Bank Holding Company

Rose Banco, Inc., Roseville, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 82.1 percent or more of the voting shares of Roseville State Bank, Roseville, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve bank, to be received not later than November 17, 1978.

Board of Governors of the Federal Reserve System, October 20, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30254 Filed 10-25-78; 8:45 am]

[6210-01-M]

WYOMING NATIONAL CORP.

Acquisition of Bank

The Wyoming National Corp., Casper, Wyo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 85.8 percent of the voting shares of Wyoming National Bank of East Casper, Casper, Wyo., a proposed new bank. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 19, 1978.

Board of Governors of the Federal Reserve System, October 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30256 Filed 10-25-78; 8:45 am]

[1] See 43 FR 47282, Oct. 13, 1978.

[6210-01-M]

YELLOW MEDICINE BANCSHARES, INC.

Formation of Bank Holding Company

Yellow Medicine Bancshares, Inc., Granite Falls, Minn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92.3 percent of the voting shares of Yellow Medicine County Bank, Granite Falls, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 9, 1978.

Board of Governors of the Federal Reserve System, October 19, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-30255 Filed 10-25-78; 8:45 am]

[6210-01-M]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of September 19, 1978

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on September 19, 1978.[1]

The information reviewed at this meeting suggests that real output of goods and services has grown moderately in the current quarter, although the pace is somewhat below the average for the first two quarters of the year. In August the dollar value of total retail sales rose, after having declined in July, but remained close to the level reached in April. Industrial production continued to expand at about the moderate pace of the preceding 3 months, and nonfarm payroll employment rose somewhat further. The unemployment rate declined from 6.2 to 5.9 percent, slightly below the average rate in the first 7 months of the year. Since midyear average prices of goods and services have risen less rapidly than earlier, in large part because of declines in prices of foods. The advance in the index of average hourly earnings has been somewhat faster so far in 1978 than it had been on the average during 1977.

After a sharp decline in early August, the trade-weighted value of the dollar against major foreign currencies has recovered against a background of uncertain conditions in exchange markets. In late August it was announced that the U.S. trade deficit had increased sharply in July.

Growth in M-1 picked up in August to about the average rate in the first two quarters of the year. Inflows of the interest-bearing deposits included in M-2 and M-3 also accelerated somewhat, and expansion in the broader aggregates was relatively rapid. Short-term market interest rates have risen appreciably since mid-August, but longer-term rates generally have edged down further. On August 18 an increase in Federal Reserve discount rates from 7¼ to 7¾ percent was announced.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster monetary and financial conditions that will resist inflationary pressures while encouraging continued moderate economic expansion and contributing to a sustainable pattern of international transactions. At its meeting on July 18, 1978, the Committee agreed that these objectives would be furthered by growth of M-1, M-2, and M-3 from the second quarter of 1978 to the second quarter of 1979 at rates within ranges of 4 to 6½ percent, 6½ to 9 percent, and 7½ to 10 percent, respectively. The associated range for bank credit is 8½ to 11½ percent. These ranges are subject to reconsideration at any time as conditions warrant.

In the short run, the Committee seeks to achieve bank reserve and money market conditions that are broadly consistent with the longer-run ranges for monetary aggregates cited above, while giving due regard to developing conditions in domestic and international financial markets more generally. Early in the period until the next regular meeting, System open market operations shall be directed at attaining a weekly-average Federal funds rate slightly above the current level. Subsequently, operations shall be directed at maintaining the weekly-average Federal funds rate within the range of 8¼ to 8¾ percent. In deciding on the specific objective for the Federal funds rate the Manager shall be guided mainly by the relationship between the latest estimates of annual rates of growth in the September-October period of M-1 and M-2 and the following ranges of tolerance: 5 to 9 percent for M-1 and 6½ to 10½ percent for M-2. If, giving approximately equal weight to M-1 and M-2, their rates of growth appear to be significantly above or below the midpoints of the indicated ranges, the objective for the funds rate shall be raised or lowered in an orderly fashion within its range.

If the rates of growth in the aggregates appear to be above the upper limit or below the lower limit of the indicated ranges at a time when the objective for the funds rate has already been moved to the corresponding limit of its range, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, October 20, 1978.

MURRAY ALTMANN,
Secretary.

[FR Doc. 78-30316 Filed 10-25-78; 8:45 am]

[1] The Record of Policy Actions of the Committee for the meeting of September 19, 1978, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

[4110-39-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

UNSOLICITED PROPOSALS TO CONDUCT EDUCATIONAL RESEARCH AND DEVELOPMENT

Reminder of Closing Date for Receipt of Proposals and Notice of Change in Mailing Requirements

Under the authority provided in section 405 of the General Education Provisions Act (20 U.S.C. 1221c) and regulations published at 45 CFR 1403.6, the Institute has announced its interest in receiving unsolicited proposals to conduct educational research and development activities. While the majority of NIE funds are awarded through competitions basd upon Requests for Proposals and specific program grants announcements, the Institute also wishes to assist in the development of other outstanding projects relevant to NIE's mission. Consequently, the Institute encourages eligible persons and groups to originate unique ideas for improving education and to submit their ideas as unsolicited proposals.

Approximately 3 to 5 percent of the Institute's budget has been set aside in the current fiscal year to support unsolicited proposals. Proposals may be submitted at any time, but awards will usually be made twice a year in June/July and January/February based upon competitive reviews of proposals.

This notice is a reminder that October 31, 1978, is the next closing date for the receipt of unsolicited proposals.

The Institute is particularly interested in receiving proposals from minority group researchers, women researchers, and researchers from institutions which primarily serve minorities and women; teachers, school administrators, and others involved in education at the local level; and scholars from disciplines not normaly involved in educational research.

Under a new procedure a mailed proposal will be accepted for review if it is mailed on or before the closing date and the required proof of mailing is provided. Proof if mailing must consist of a legible U.S. Postal Service dated

postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date.

all persons wishing to attend should call for reservations by November 13, 1978, area code 202-724-0114 and speak with Mrs. Lisa Haywood.

respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; co-

framework of the Committee on Consumer Policy of the Organization for Economic Coordination and Development; and serves as focal point for liai-

ceed N. 44°23' W., 419.44 feet to a 1" I.P. located on the N-S centerline of the existing May Creek landing strip; thence N. 30°25' W., 3,200 feet along the extended N-S cen-

from that office upon payment of $1 per sheet.

4. A person or party who wishes to protest against the survey must file

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postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Proposal submitters should check with their local post office before relying on this method.

Submitters are encouraged to use registered or certified mail. Each late submitter will be notified that the proposal will not be consisdered in the current competition.

Additional information may be obtained from the Proposal Clearinghouse, National Institute of Education, Room 708, 1832 M Street, NW., Washington, D.C. 20208, 202-254-5600.

Dated: October 24, 1978.

JOHN W. CHRISTENSEN,
Associate Director for Administration, Management, and Budget.

[FR Doc. 78-30420 Filed 10-25-78; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Meeting

Notice is hereby given, pursuant to PL 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, November 17, and on Saturday, November 18, 1978. The meeting will be held on Friday from 9 a.m. until 5 p.m., and on Saturday from 9 a.m. until 1 p.m. The two-day meeting will be held at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting is to:

1. Review and comment on drafts of special reports on Migrant Education, Mandated Studies and Urban Education.

2. Hear reports from members who represented the Council at various conferences, and

3. Outline activities for upcoming meetings.

The entire meeting will be open to the public. Because of limited space, all persons wishing to attend should call for reservations by November 13, 1978, area code 202-724-0114 and speak with Mrs. Lisa Haywood.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on October 23, 1978.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 78-30329 Filed 10-25-78; 8:45 am]

[4110-12-M]

Office of the Secretary

U.S. OFFICE OF CONSUMER AFFAIRS

Statement of Organization, Functions, and Delegations of Authority

A. Chapter AW, (39 FR 34088, Sept. 23, 1974), of Part A of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, is amended to reflect a reorganization of the Office of Consumer Affairs and redesignation as the U.S. Office of Consumer Affairs (hereinafter referred to as US/OCA). The mission and functions of the U.S. Office of Consumer Affairs remain unchanged. The reorganization is designed to improve the overall efficiency in the conduct of activities. The revised Chapter reads as follows:

Section AW.00 Mission: The U.S. Office of Consumer Affairs executes the functions assigned by Executive Orders 11583 and 11566, serves as advisor to the Secretary on consumer-related policy and programs, advises the President on consumer affairs, and coordinates consumer functions in the Federal government.

Section AW.10 Organization: A. The Director of the U.S. Office of Consumer Affairs reports directly to the Secretary and directs and coordinates the activities of the U.S. Office of Consumer Affairs.

B. The U.S. Office of Consumer Affairs consists of the following components:

Office of the Director
General Counsel
Division of Consumer Organization
Division of Consumer Programs
Division of Consumer Information
Office of Management and Consumer Complaints

Section AW.20 Functions: A. *U.S. Office of Consumer Affairs.* (1) With respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; coordinate and review policies and programs; seek resolution of conflicts; advise and make recommendations to Federal agencies with respect to policy matters, the effectiveness of their programs and opérations, and the elimination of duplications; (2) assure that the interest of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest; (3) conduct investigations, conferences, and surveys concerning the needs, interests and problems of consumers, except that it shall, where feasible, avoid duplicating activities conducted by other Federal agencies; (4) submit recommendations to the President on how Federal programs and activities affecting consumers can be improved; (5) take action with respect to consumer complaints; (6) provide advice, assistance and continuing policy guidance to the Consumer Information Center and perform related responsibilities pertaining to consumer product information as set forth in Executive Order 11566; (7) encourage and coordinate the development of information of interest to consumers by Federal agencies and the publication and distribution of materials which will inform consumers of matters of interest to them in language which is readily understandable by the layman; (8) encourage and coordinate research conducted by Federal agencies leading to improved consumer products, services and consumer information; (9) encourage, initiate, coordinate, evaluate and participate in consumer education programs and consumer counseling programs; (10) encourage, cooperate with and assist State and local governments in the promotion and protection of consumer interests; and (11) cooperate with and encourage private enterprise in the promotion and protection of consumer interests.

B. *Office of the Director.* Directs and coordinates the activities of the U.S. Office of Consumer Affairs.

C. *General Counsel.* Participates in the design and enactment of the President's consumer legislative program, including preparation of Congressional testimony, and serving as Congressional liaison; prepares and reviews materials for presentation to Departments and Agencies; and provides all necessary legal services for US/OCA.

D. *Division of Consumer Organization.* Maintains liaison with the U.S. Congress, Federal, State, county and city officials responsible for consumer protection, and with representatives of other nations, particularly within the framework of the Committee on Consumer Policy of the Organization for Economic Coordination and Development; and serves as focal point for liaison with individual consumers and with national, State and local organizations which represent consumers and citizens.

E. *Division of Consumer Programs.* Monitors and evaluates ongoing programs and emerging issues in Fedcral agencies affecting consumers, with a view to determining the effectiveness of current and proposed programs; develops and implements new programs to insure that each agency of the Federal Government adequately responds to consumer needs in the development of policy, and provides adequate opportunities for consumer participation in the decisionmaking process; encourages private industry voluntarily to develop self-regulatory programs and adopts competitive policies and programs aimed at resolving complaints common to large numbers of consumers; and maintains liaison with trade associations and industry as necessary.

F. *Division of Consumer Information.* Is responsible for relations with the press and media; prepares speeches and articles and syndicated radio programs and a newspaper column; publishes a newsletter for consumers; and maintains liaison with Federal, State and local government officials responsible for consumer education.

G. *Office of Management and Consumer Complaints.* Recommends and applies administrative policy and procedures; is responsible for the activities of the United States Office of Consumer Affairs in the areas of annual budget, procurement, personnel and record keeping; and takes action with respect to consumer complaints and requests for information.

Dated: October 18, 1978.

LEONARD SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-30327 Filed 10-25-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Segregation of Lands

Notice is hereby given that pursuant to the act of May 24, 1928 (49 U.S.C. 211-214), the State of Alaska Department of Transportation and Public Facilities has applied for an airport lease for the following land:

ATTACHMENT

Commencing at USC & GS station, May 1953, which is located approximately 10 miles southeast of McCarthy, Alaska, proceed N. 44°23' W., 419.44 feet to a 1" I.P. located on the N-S centerline of the existing May Creek landing strip; thence N. 30°25' W., 3,200 feet along the extended N-S centerline of the said landing strip to corner No. 1 of tract II, the true point of beginning; thence N. 59°35' E., 1,000 feet to corner No. 2; thence S. 30°25' E., 9,600 feet to corner No. 3; thence S. 59°35' W., 2,000 feet to corner No. 4; thence N. 30°25' W., 9,600 feet to corner No. 5; thence N. 59°35' E., 1,000 feet to corner No. 1 of tract II, the true point of beginning.

This tract having an area of approximately 440.77 acres, more or less.

(The parcel described above is depicted as tract II on the State of Alaska, May Creek Airport property plan dated August 1959, revised through August 30, 1978.)

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the State Director, Alaska State Office, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

CURTIS V. MCVEE,
State Director.

[FR Doc. 78-30233 Filed 10-25-78; 8:45 am]

[4310-84-M]

[Group 597]

ARIZONA

Filing of Plat of Survey

OCTOBER 19, 1978.

1. The plat of survey described below will be officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Ariz., effective at 10 a.m., on December 5, 1978.

GILA AND SALT RIVER MERIDIAN

A dependent resurvey of a portion of the former boundary of the Fort Mohave Indian Reservation, portions of the subdivisional lines, and a portion of the former left bank of the Colorado River, T. 18 N., R. 22 W.

This plat was accepted July 27, 1978.

2. If protests against the survey, as shown on this plat, are received prior to the date of official filing, the filing will be stayed pending consideration of the protests. This plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

3. The plat will be placed in the open files of the Arizona State Office, Bureau of Land Management, 2400 Valley Bank Center, Phoenix, Ariz. 85073, and will be available to the public as a matter of information only. Copies of the plat may be obtained from that office upon payment of $1 per sheet.

4. A person or party who wishes to protest against the survey must file with the State Director, Bureau of Land Management, Phoenix, Ariz., a notice that he wishes to protest prior to the proposed official filing date given above. A statement of reasons for the protest may be filed with the notice of protest to the State Director or with the Director, Bureau of Land Management, Washington, D.C. 20240. The statement of reasons must be filed with the Director within 30 days after the proposed official file date.

ROBERT O. BUFFINGTON,
State Director.

[FR Doc. 78-30213 Filed 10-25-78; 8:45 am]

[4310-84-M]

[AR 04855]

ARIZONA

Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application filed by the Corps of Engineers, U.S. Army, Serial No. AR 04855, for withdrawal and reservation of lands was published as FEDERAL REGISTER document No. 60-999 in the issue for February 2, 1960. The applicant Agency has canceled its application insofar as it involves the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Subpart 2091.2-5(b)(1), such lands will be relieved of the segregative effect of the above-mentioned application at 10 a.m., on November 24, 1978. However, the lands herein involved are included in multiple use classification A 922 for the Fred Weiler Green Belt and will remain segregated as provided in the classification. A portion of the lands in T. 4 S., R. 7 W., are also withdrawn for powersite purposes by powersite classification order No. 402, dated June 6, 1949.

The lands involved in this notice of termination are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 4 S., R. 7 W.,
Sec. 19, SW¼, W½SW¼SE¼;
Sec. 29, W½SW¼, SW¼NE¼SW¼, W½SE¼SW¼;
Sec. 30, W½E½NE¼, W½E½, E½NW¼, E½SE¼;
Sec. 32, SW¼NW¼NE¼, S½SE¼NW¼NE¼, SW¼NE¼, S½SE¼NE¼, SE¼ NE¼NW¼ W½NE¼NW¼, W½NW¼, SE¼NW¼, E½SW¼;
Sec. 33, SW¼SW¼NW¼, S½SE¼SW¼NW¼, S½SW¼SE¼NW¼, W½SW¼, W½E½SW¼, S½NE¼SE¼SW¼, SE¼SE¼SW¼, SW¼SW¼SE¼;
T. 5 S., R. 7 W.,
Sec. 5, E½W½.

Dated: October 18, 1978.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land

[4310-84-M]

SALMON DISTRICT GRAZING ADVISORY BOARD

Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

[4310-84-M]

[Wyoming 65320]

WILLIAM S. GILMER,

across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

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Dated: October 18, 1978.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30212 Filed 10-25-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

BURLEY DISTRICT GRAZING ADVISORY BOARD

Changed Meeting

OCTOBER 19, 1978.

A notice of the Burley District Grazing Advisory Board meeting was published in the FEDERAL REGISTER, vol. 43, No. 185, Friday, September 22, 1978, on pages 43074 and 43075.

We would like to amend this notice by deleting the following from the agenda above item (5) on page 43075, "Bannock-Oneida grazing environmental statement;"

In place of the deletion we would like to add the following:

(4) A review of the current policy and program relating to allotment management plans;

NICK JAMES COZAKOS,
District Manager.

[FR Doc. 78-30305 Filed 10-25-78; 8:45 am]

[4310-84-M]

GRAND JUNCTION DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Grand Junction District Grazing Advisory Board will be held on December 12, 1978.

The meeting will begin at 9 a.m. in the Conference Room of the Bureau of Land Management Office at 50629 Highway 6 and 24 West, Glenwood Springs, Colo.

The agenda for the meeting will include: (1) A review of the new grazing regulations related to allotment management plans and range improvements; (2) expenditure of range betterment and advisory board funds for range improvements; (3) a status report on the Grand Junction Grazing Environmental Statement; (4) the implementation of allotment management plans in the Grand Junction Resource Area following completion of the environmental statement; (5) a discussion of the board's future involvement in allotment management plans and; (6) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on December 12, 1978, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colo. 81501, by December 5, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public imspection and reproduction (during regular business hours) within 30 days following the meeting.

ROBERT J. JUAREZ,
Acting District Manager.

[FR Doc. 78-30307 Filed 10-25-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[NM 34764]

NEW MEXICO

Application

OCTOBER 17, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for one 4-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 25 E.,
Sec. 1, lot 10.

This pipeline will convey natural gas across 0.109 mile of public land in Eddy County, N.M.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N.M. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30306 Filed 10-25-78; 8:45 am]

[4310-84-M]

SALMON DISTRICT GRAZING ADVISORY BOARD

Meeting; Correction

The notice of meeting published in the FEDERAL REGISTER, Thursday, September 21, 1978, page 42820, should be changed as follows:

Paragraph 3: Delete item (1) of the agenda, pertaining to a review of the Challis Supplemental ES proposed action.

Paragraph 4: This statement should be added as the second sentence: "Interested persons may make oral statements to the board beginning at 3:00 p.m. October 26, 1978."

Dated: October 18, 1978.

HARRY R. FINLAYSON,
District Manager.

[4310-84-M]

[W-65437]

WYOMING

Notice of Application

OCTOBER 17, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½ inch O.D. pipeline as an addition to their Big Piney gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 30 N., R. 113 W.,
Sec. 33, NE¼ and NE¼NW¼;
Sec. 34, W½NW¼.

The proposed pipeline will transport natural gas from a well located in the NE¼NW¼ of section 33 to a point of connection with an existing pipeline located in the NW¼NW¼ of section 34, T. 30 N. R. 113 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30215 Filed 10-25-78; 8:45 am]

[4310-84-M]

[W-65468]

WYOMING

Notice of Application

OCTOBER 17, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 8⅝- and 12¾-inch O.D. pipeline as an addition to their Moxa Arch gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 111 W.,
Sec. 8, W½W½;
Sec. 18, SE¼NE¼ and E½SE¼;
Sec. 20, W½W½.
T. 22 N., R. 111 W.,
Sec. 20, W½W½;
Sec. 32, W½W½.

The proposed 12¾-inch O.D. pipeline will extend from a point of connection with Northwest Pipeline Corp.'s trunk "A" pipeline located in the NW¼SW¼ of section 29, T. 21 N., R. 111 W., and will connect into the proposed 8⅝-inch O.D. pipeline at a point in the NW¼NW¼ of section 8, T. 21 N., R. 111 W., and will end at a point in the NW¼NW¼ of section 20, T. 22 N., R. 111 W., all within Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30216 Filed 10-25-78; 8:45 am]

[4310-84-M]

[Wyoming 65320]

WYOMING

Notice of Application

OCTOBER 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 26 N., R. 111 W.,
Sec. 18, lot 3, SW¼NE¼, SE¼NW¼ and NE¼SW¼.
T. 26 N., R. 112 W.,
Sec. 13, lot 3, N½SW¼, SE¼SW¼ AND W½SE¼;
Sec. 14, SW¼NE¼, S½NW¼ AND N½SE¼;
Sec. 15, E½NE¼.

The pipeline will transport natural gas produced from the East Steed Canyon No. 1 well located in the SW¼NE¼ section 18, T. 26 N., R. 111 W., to a point of connection with Northwest Pipeline Corp.'s existing pipeline in the NE¼NE¼ of section 15, T. 26 N., R. 112 W., in Lincoln County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30217 Filed 10-25-78; 8:45 am]

[4310-84-M]

[W-65470]

WYOMING

Application

OCTOBER 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 101 W.,
Sec. 4, SE¼.

The proposed pipeline will transport natural gas from the No. 4-1 Shiprock well located in the SE¼ of section 4, to a point of connection with existing facilities located in the NE¼ of section 3, all within T. 19 N., R. 101 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Mincrals Operations.

[FR Doc. 78-30218 Filed 10-25-78; 8:45 am]

[4310-84-M]

[W-65316]

WYOMING

Application

OCTOBER 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 6⅝-inch O.D. and a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 25 N., R. 110 W.,
Sec. 14, SW¼NE¼, NE¼SW¼, S½SW¼, and NW¼SE¼;
Sec. 22, E½NE¼ and SW¼NE¼;
Sec. 23, NW¼NW¼.

The pipelines will transport natural gas produced from the Federal No. 32-14 well located in the SW¼NE¼ of section 14 to a point of connection with Northwest Pipeline Corp.'s existing pipeline in the SW¼NE¼ of section 22 in T. 25 N., R. 110 W., 6th P.M., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments

[4310-84-M]

[W-65438]

The proposed pipeline will transport natural gas from a well located in the SE¼SW¼ of section 28 to a point of

Honolulu: Hawaii State Director's Office, National Park Service, 300 Ala Moana Boulevard, Box 50165, Honolulu, Hawaii 96850.

ments in writing to the Secretary by November 20, 1978.

For all comments in Alaska: Special Assistant to the Secretary, attention:

NPS, 143 South Third Street, Philadelphia, Pa. 19106.

NPS, 1709 Jackson Street, Omaha, Nebr. 68102.

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Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1859, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of lands and Minerals Operations.

[FR Doc. 78-30219 Filed 10-25-78; 8:45 am]

[4310-84-M]

[W-65436]

WYOMING

Application

OCTOBER 17, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline as an addition to their Big Piney gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 113 W.,
Sec. 5, NW¼SE¼.

The proposed pipeline will transport natural gas from the North Labarge unit No. 25-5 well to a point of connection with an existing pipeline all located within the NW¼SE¼ of section 5, T. 27 N., R. 113 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30220 Filed 10-25-78; 8:45 am]

[4310-84-M]

[W-65438]

WYOMING

Application

OCTOBER 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline as an addition to their Big Piney gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 113 W.,
Sec. 33, SE¼NW¼ and NE¼SW¼.

The proposed pipeline will transport natural gas from the BNG No. 103-33 well located in the NE¼SW¼ of section 33 to a point of connection with an existing pipeline located in the SE¼NW¼ of section 33, all within T. 28 N., R. 113 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-30221 Filed 10-25-78; 8:45 am]

[4310-84-M]

[W-65435]

WYOMING

Application

OCTOBER 16, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline as an addition to their Big Piney gathering system for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 30 N. R. 113 W.,
Sec. 28, SE¼SW¼ and SW¼SE¼.

The proposed pipeline will transport natural gas from a well located in the SE¼SW¼ of section 28 to a point of connection with an existing pipeline in the SW¼SE¼ of section 28, T. 30 N., R. 113 W., Sublette County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-30221 Filed 10-25-78; 8:45 am]

[4310-10-M]

Office of the Secretary

[INT DES 78-47]

ALASKA NATIONAL INTEREST LANDS PROPOSAL

Availability of Supplement to Final Environmental Statement

Notice is hereby given that the Department of the Interior is making available for public review and comment, a draft supplement to the environmental evaluation made in 1974 on the Alaska National Interest Lands proposed under section 17(d)(2) of the Alaska Native Claims Settlement Act of 1971. These actions were described in the final environmental impact statement issued in 1974 (28 volumes) and covering proposed legislative authorization to establish new units or expand existing units of the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System. This supplement updates that environmental statement and includes revisions due to new study information. It also assesses the potential impacts of alternatives not previously discussed in the original evaluation. Copies of this draft supplement will be mailed to recipients of the 1974 documents. Individual copies may be secured or examined upon request at the folowing Government offices.

Fairbanks: U.S. Fish and Wildlife Service, 1412 Airport Way, Fairbanks, Alaska 99701.

Anchorage: Special Assistant to the Secretary, Attention: Regional Environmental Officer, U.S. Department of the Interior, Office of the Secretary, Box 120, Anchorage, Alaska 99510

Juneau: U.S. Fish and Wildlife Service, Federal Building, Juneau, Alaska 99701.

Honolulu: Hawaii State Director's Office, National Park Service, 300 Ala Moana Boulevard, Box 50165, Honolulu, Hawaii 96850.

Seattle: Pacific Northwest Regional Office, National Park Service, 601 Fourth and Pike Building, Seattle, Wash. 98101.

Spokane: Mines and Minerals, Pacific Northwest Region, National Park Service, Room 580, U.S. Court House, West 920 Riverside, Spokane, Wash. 99201.

San Francisco: Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Los Angeles: Bureau of Land Management, Outer Continental Shelf Office, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

Denver: Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colo. 80225.

Albuquerque: Heritage Conservation and Recreation Service, 5000 Marble Avenue NE, Albuquerque, N. Mex. 87110.

Phoenix: Southern Arizona Group Office, National Park Service, 1115 North First Street, Phoenix, Ariz. 85004.

Billings: Bureau of Land Management, Granite Tower Building, 222 North 32d Street, Billings, Mont. 59101.

Salt Lake City: Assistant to the Regional Director (Utah), National Park Service, 125 South State Street, Room 2208, Salt Lake City, Utah 84138.

Dallas: U.S. Geological Survey, 1045 Federal Building, 1100 Commerce Street, Dallas, Tex. 75242.

Chicago: Federal Information Center, Room 250, 219 South Dearborn, Chicago, Ill.

Ann Arbor: Heritage Conservation and Recreation Service, Federal Building, Ann Arbor, Mich. 48107.

Omaha: Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.

St. Louis: Jefferson National Expansion Memorial, National Park Service, 11 North Fourth Street, St. Louis, Mo. 63102.

Minneapolis-St. Paul: U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 63102.

Philadelphia: Mid-Atlantic Regional Office, National Park Service, 143 South Third Street, Philadelphia, Pa. 19106.

Boston: U.S. Fish and Wildlife Service, One Gateway Center, Newton Corner, Mass. 02158.

New York: Bureau of Land Management, Outer Continental Shelf Office, Federal Building, 26 Federal Plaza, New York, N.Y. 10014.

Atlanta: Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

Louisville: Federal Information Center, 600 Federal Place, Louisville, Ky. 40202.

Memphis: U.S. Geological Survey, Water Resources Division, Federal Office Building, 167 North Main, Memphis, Tenn. 38103.

Miami: U.S. Geological Survey, Water Resources Division, 901 South Miami Avenue, Miami, Fla. 33130.

New Orleans: Bureau of Land Management, Outer Continental Shelf Office, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130.

Interested individuals, public and private organizations desiring to express their views on the draft supplemental statement should address comments in writing to the Secretary by November 20, 1978.

For all comments in Alaska: Special Assistant to the Secretary, attention: Regional Environmental Officer, U.S. Department of the Interior, Office of the Secretary, Box 120, Anchorage, Alaska 99510.

For comments in the rest of the United States: Alaska Task Force (TWE), NPS, DSC (National Park Service, Denver Service Center), P.O. Box 25287, Denver, Colo. 80225.

For reference to the earlier statement, interested readers in Alaska may view copies on file at the following Department of the Interior offices: Alaska Area Office, National Park Service, 540 West Fifth Avenue, Anchorage, Alaska; U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska; Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska; Bureau of Indian Affairs, Juneau, Alaska; and the Heritage Conservation and Recreation Service, 1011 East Tudor Road, Anchorage, Alaska; the Anchorage Higher Education Consortium Library, Anchorage, Alaska; the University of Alaska, Fairbanks, Alaska; and the Alaska State Library, Juneau.

Outside of Alaska the earlier documents may be viewed at both regional and Washington offices of the National Park Service, the U.S. Fish and Wildlife Service and the Heritage Conservation and Recreation Service.

U.S. Fish and Wildlife Service

USFWS, Department of the Interior, 18th and C Streets, Washington, D.C. 20240.
USFWS, P.O. Box 3737, Portland, Oreg. 97208.
USFWS, P.O. Box 1306, Albuquerque, N. Mex. 87103.
USFWS, Federal Building, Fort Snelling, Twin Cities, Minn.
USFWS, 10597 West Sixth Avenue, Lakewood, Colo. 80215.
USFWS, 17 Executive Park Drive NE., Atlanta, Ga. 30329.
USFWS, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Heritage Conservation and Recreation Service

HCRS, William J. Green Federal Office Building, Room 9310, 600 Arch Street, Philadelphia, Pa. 19106.
HCRS, 148 International Boulevard, Atlanta, Ga. 30303.
HCRS, Federal, Building, Ann Arbor, Mich. 48107.
HCRS, Denver Federal Center, P.O. Box 25387, Denver, Colo. 80225.
HCRS, 5000 Marble NE., Albuquerque, N. Mex. 87110.
HCRS, Federal Building, Room 990, 915 Second Avenue, Seattle, Wash. 98174.
HCRS, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

National Park Service

NPS, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.
NPS, 143 South Third Street, Philadelphia, Pa. 19106.
NPS, 1709 Jackson Street, Omaha, Nebr. 68102.
NPS, 15 State Street, Boston, Mass. 02109.
NPS, 601 Fourth and Pike Building, Seattle, Wash. 98101.
NPS, 655 Parfet Street, P.O. Box 25287, Denver, Colo. 80225.
NPS, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.
NPS, P.O. Box 728, Santa Fe, N. Mex. 87501.
NPS, 450 Golden Gate Avenue, Box 36063, San Francisco, Calif. 94102.

Libraries which received copies of the 1974 final environmental impact statement for Alaska National Interest Lands (Alaska d-2 lands) and which may be visited for their review are as follows:

Alabama

Auburn University, Ralph Brown, Draughon Library (1907), Auburn.
Birmingham Public Library (1895), Birmingham-Southern College Library (1932), Jefferson State Junior College, James B. Allen Library (1970), Samford University, Harwell G. Davis Library (1884), Birmingham.
University of Alabama, Huntsville Campus Library (1964), Huntsville.
University of South Alabama Library (1968), Mobile.
Auburn University at Montgomery Library (1971), Montgomery.
St. Bernard College Library (1962), St. Bernard.
Tuskegee Institute (1907), Tuskegee Institute.
University of Alabama, School of the Law Library (1967), University.

Alaska

Anchorage Higher Education Consortium Library, Anchorage.
University of Alaska, Elmer E. Rasmuson Library, College.
Alaska State Library, Juneau.
University of Alaska, Fairbanks.

Arizona

Northern Arizona University Library, Flagstaff.
Department of Library and Archives, Phoenix.
Phoenix Public Library, Phoenix.
Arizona State University Matthews Library, Tempe.
University of Arizona Library, Tucson.
Yuma City-County Library, Yuma.

Arkansas

Quachita Baptist University, Arkadelphia.
University of Arkansas Library, Fayetteville.
Little Rock Public Library, Little Rock.
University of Arkansas at Monticello Library, Monticello.
Arkansas State University, State College.

California

Arcadia Public Library, Arcadia.
Humboldt State College, Arcata.
University of California, General Library, Berkeley.
University of California, Law Library, Earl Warren Legal Center, Berkeley.
Carson Regional Library, Carson.
Chico State University Library, Chico.

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Pomona College Documents Collection, Honnold Library, Claremont.
Compton Library, Compton.
Culver City Library, Culver City.
University of California at Davis Library, Davis.
University of California at Davis, School of Law Library, Davis.
Gardena Public Library, Gardena.
California State College at Hayward Library, Hayward.
Huntington Park Library, San Antonio Region, Huntington Park.
University of California at Irvine Library, Irvine.
University of California, San Diego, University Library, La Jolla.
Angelo Iacoboni Public Library, Lakewood.
Lancaster Regional Library, Lancaster.
California State College at Long Beach Library, Long Beach.
California State College at Los Angeles, John F. Kennedy Memorial Library, Los Angeles.
Los Angeles Public Library, Los Angeles.
University of California at Los Angeles Library, Los Angeles.
University of Southern California Library, Los Angeles.
Department of the Interior, Geological Survey Library, Menlo Park.
Montebello Library, Montebello.
California State University at Northridge Library, Northridge.
Los Cerritos Regional Library, Norwalk.
Ontario City Library, Ontario.
Riverside Public Library, Riverside.
University of California Riverside Library, Riverside.
California State Library, Sacramento.
Sacramento State College Library, Sacramento.
San Bernardino County Free Library, San Bernardino.
San Diego State University, Love Library, San Diego.
San Diego Public Library, San Diego.
Palomar College Library, San Marcos.
Southeast University, School of Law Library, Los Angeles.
San Francisco Public Library, San Francisco.
San Francisco State College, Social Science and Business Library, San Francisco.
U.S. Court of Appeals for Ninth Circuit Library, San Francisco.
California State Polytechnic University Library, San Luis Obispo.
University of California at Santa Barbara Library, Santa Barbara.
University of Santa Clara, Orradre Library, Santa Clara.
University of California at Santa Cruz Library, Santa Cruz.
Santa Rosa-Sonoma County Public Library, Santa Rosa.
Stanford University Libraries, Stanford.
Valencia Regional Library, Valencia.
West Covina Library, West Covina.

Colorado

Adams State College Learning Resources Center, Alamosa.
University of Colorado Libraries, Boulder.
Colorado College, Charles Leaming Tutt Library, Colorado Springs.
University of Colorado, Colorado Springs Library, Colorado Springs.
Denver Public Library, Denver.
Regis College Dayton Memorial Library, Denver.
University of Denver, Penrose Library, Denver.
Colorado State University Library, Fort Collins.
Colorado School of Mines, Arthur Lakes Library, Golden.
Jefferson County Public Library, Bonfils-Stanton Regional Library, Golden.
University of Northern Colorado Library, Greeley.
Western State College, Leslie J. Savage Library, Gunnison.
University Southern Colorado Library, Pueblo.

Connecticut

Bridgeport Public Library, Bridgeport.
Western Connecticut State College, Ruth A. Haas Library, Danbury.
Connecticut State Library, Hartford.
Hartford Public Library, Hartford.
Trinity College Library, Hartford.
Central Connecticut State College, Elihu Burritt Library, New Britain.
Southern Connecticut State College Library, New Haven.
Yale University Library, New Haven.
University of Connecticut, Wilbur Cross Library, Storrs.

Delaware

University of Delaware, Morris Library, Newark.
Wilmington Institute and New Castle County Library, Wilmington.

District of Columbia

Department of Housing and Urban Development Library, Washington.
Department of the Interior Central Library, Washington.
General Accounting Office Library, Washington.
George Washington University Library, Washington.

Florida

Florida Atlantic University Library, Boca Raton.
University of Miami Library, Coral Gables.
Stetson University duPont-Ball Library, De Land.
University of Florida Libraries, Gainsville.
Florida International University Library, Miami.
Florida Agricuttural and Mechanical University, Coleman Memorial Library, Tallahassee.
Florida State University, R. M. Stozier Library, Tallahassee.
University of South Florida Library, Tampa.
Rollins College, Mills Memorial Library, Winter Park.

Georgia

University of Georgia Libraries, Athens.
Georgia Institute of Technology, Prince Gilbert Memorial Library, Atlanta.
Georgia State University Library, Atlanta.
Augusta College Library, Augusta.
Brunswick Public Library, Brunswick.
West Georgia College, Sanford Library, Carrollton.
De Kalb Community College-South Campus, Learning Resources Center, Decatur.
Mercer University Library, Macon.
Berry College, Memorial Library, Mount Berry.
Savannah Public and Chatham-Effingham Liberty Regional Library, Savannah.
Georgia Southern College, Rosenwald Library, Statesboro.

Hawaii

University of Hawaii Library, Honolulu.

Idaho

Unversity of Idaho Library, Moscow.
Idaho State University Library, Pocatello.

Illinois

Illinois Wesleyan University Libraries, Bloomington.
Southern Illinois University Library, Carbondale.
Shawnee Library System Carterville.
Eastern Illinois University, Booth Library, Charleston.
Chicago Public Library, Charleston.
Chicago State University Library, Charleston.
Field Museum of Natural History Library, Chicago.
John Crerar Library, Chicago.
Northeastern Illinois University Library, Chicago.
University of Chicago
University of Chicago Library, Chicago.
University of Illinois, Chicago Circle Campus Library, Chicago.
Northern Illinois University, Swen Franklin Parson Library, De Kalb.
Principia College, Marshall Brooks Library, Elsah.
Northwestern University Library, Evanston.
MacMurrary College, Henry Pfeiffer Library, Jacksonville.
Lake Forest College, Donnelley Library, Lake Forest.
Lewis University Library, Lockport.
Monmouth College Library, Monmouth.
Illinois State Library, Springfield.
University of Illinois Library, Urbana.
Illinois Valley Community College, Oglesby.

Indiana

Indiana University Library, Bloomington.
Indiana-Purdue Universities, Regional Campus Library, Fort Wayne.
Public Library of Fort Wayne and Allen County, Fort Wayne.
Indiana University, Northwest Campus Library, Gary.
De Pauw University, Roy O. West Library, Greencastle.
Hanover College Library, Hanover.
Indiana State Library, Indianapolis.
Purdue University Library, Lafayette.
Ball State University Library, Muncie.
University of Notre Dame, Memorial Library, Notre Dame.
St. Joseph's College Library, Rensselaer.
Earlham College, Lilly Library, Richmond.
Indiana University at South Bend Library, South Bend.
Indiana State University, Cunningham Memorial Library, Terre Haute.

Iowa

Iowa State University of Science and Technology Library, Ames.
University of Northern Iowa Library, Cedar Falls.
Free Public Library, Council Bluffs.
Drake University, Cowles Library, Des Moines.
Grinnell College, Burling Library, Grinnell.
University of Iowa Library, Iowa City.

Cornell College, Russell D. Cole Library, Mount Vernon.

Kansas

Kansas State Teachers College, William Allen White Library, Emporia.
Hutchinson Public Library, Hutchinson.
University of Kansas, Watson Library, Lawrence.
Kansas State University, Farrell Library, Manhattan.
Kansas Wesleyan University, Memorial Library, Salina.
Kansas State Library, Topeka.
Wichita State University Library, Wichita.

Kentucky

University of Kentucky, Margaret I. King Library, Lexington.
Louisville Free Public Library, Louisville.
University of Louisville, Belknap Campus Library, Louisville.
Kentucky Wesleyan College Library, Owensboro.
Eastern Kentucky University, John Grant Crabbe Library, Richmond.

Louisiana

Louisiana State University Law Library, Baton Rouge.
Louisiana State University Library, Baton Rouge.
Southern University Library, Baton Rouge.
Louisiana State University at Eunice, LeDoux Library, Eunice.
University of Southwestern Louisiana Library, Lafayette.
McNeese State University, Frazar Memorial Library, Lake Charles.
Northwestern State University, Watson Memorial Library, Natchitoches.
University of New Orleans Library, New Orleans.
Tulane University, Howard-Tilton Memorial Library, New Orleans.
Louisiana Technical University Library, Ruston.
Francis T. Nicholls State University, Leonidas Polk Library, Thibodaux.

Maine

Bowdoin College, Hawthorne-Longfellow Library, Brunswick.
Bates College Library, Lewiston.
University of Maine, Raymond H. Fogler Library, Orono.
Nasson College Library, Springvale.

Maryland

U.S. Naval Academy, Nimitz Library, Annapolis.
Enoch Pratt Free Library, Baltimore.
Johns Hopkins University, Milton S. Eisenhower Library, Baltimore.
University of Baltimore, Langsdale Library, Baltimore.
Department of Agriculture, National Agricultural Library, Beltsville.
University of Maryland, McKeldin LIbrary, College Park.
Naval Air Station Library, Patuxent River.
Western Maryland College Library, Westminster.

Massachusetts

University of Massachusetts, Goodell Library, Amherst.
Boston College, Bapst Library, Boston.
Boston Public Library, Boston.
Northeastern University, Dodge Library, Boston.
State Library of Massachusetts, Boston.
Harvard College Library, Cambridge.
Massachusetts Institute of Technology Libraries, Cambridge.
Lowell Technological Institute, Alumni Memorial Library, Lowell.
Tufts University Library, Medford.
Southeastern Massachusetts University Library, North Dartmouth.
Stonehill College, Cushing-Martin Library, North Easton.
Williams College Library, Williamstown.

Michigan

Albion College, Stockwell Memorial Library, Albion.
Grand Valley State College Library, Allendale.
Great Lakes Basin Commission Library, Ann Arbor.
University of Michigan, Harbor Hatcher Library, Ann Arbor.
Detroit Public Library, Detroit.
University of Detroit Library, Detroit.
Wayne State University, G. Flint Purdy Library, Detroit.
Michigan State University Law Library, East Lansing.
Michigan State University Library, East Lansing.
Grand Rapids Public Library, Grand Rapids.
Calvin College Library, Grand Rapids.
Michigan Technological University Library, Houghton.
Jackson Public Library, Jackson.
Western Michigan University, Dwight B. Waldo Library, Kalamazoo.
Michigan State Library, Lansing.
Northern Michigan University, Olsen Library, Marquette.
Central Michigan University Library, Mt. Pleasant.
Eastern Michigan University Library, Ypsilanti.

Minnesota

Bemidji State College, A.C. Clark Library, Bemidji.
Minneapolis Public Library, Minneapolis.
University of Minnesota, Wilson Library, Minneapolis.
Carleton College Library, Northfield.
St. Olaf College, Rolvaag Memorial Library, Northfield.
St. Cloud State College Library, St. Cloud.
Minnesota Historical Society Library, St. Paul.
St. Paul Public Library, St. Paul.
University of Minnesota, St. Paul Campus Library, St. Paul.
Stillwater Public Library, Stillwater.

Mississippi

Mississippi State College for Women, J. C. Fant Memorial Library, Columbus.
University of Southern Mississippi Library, Hattiesburg.
Mississippi State University, Mitchell Memorial Library, State College.
University of Mississippi Library, University.
University of Mississippi, School of Law Library, University.

Missouri

Southeast Missouri State College, Kent Library, Cape Girardeau.
University of Missouri Library, Columbia.
Kansas City Public Library, Kansas City.
University of Missouri at Kansas City Library, Kansas City.
University of Missouri at Rolla Library, Rolla.
St. Louis Public Library, St. Louis.
University of Missouri at St. Louis, Thomas Jefferson Library, St. Louis.
Southwest Missouri State College Library, Springfield.

Montana

Montana State University Library, Bozeman.
University of Montana Library, Missoula.

Nebraska

Nebraska Publications Clearinghouse, Nebraska Library Commission, Lincoln.
University of Nebraska, Don L. Love Memorial Library, Lincoln.
University of Nebraska at Omaha, Gene Eppley Library, Omaha.

Nevada

Nevada State Library, Carson City.
University of Nevada at Las Vegas, James R. Dickinson Library, Las Vegas.
University of Nevada Library, Reno.

New Hampshire

University of New Hampshire Library, Durham.
Franconia College Library, Franconia.
Dartmouth College Baker Library, Hanover.

New Jersey

Bayonne Free Public Library, Bayonne.
Free Public Library of Bloomfield, Bloomfield.
Rutgers University-Camden Library, Camden.
Glassboro State College, Savitz Learning Resource Center, Glassboro.
Free Public Library of Jersey City, Jersey City.
Drew University, Rose Memorial Library, Madison.
Ramapo College Library, Mahwah.
Burlington County Library, Mount Holly.
Rutgers University Library, New Brunswick.
Newark Public Library, Newark.
Stockton State College Library, Pomona.
Princeton University Library, Princeton.
Fairleigh Dickinson University, Messler Library, Rutherford.
Seton Hall University Library, South Orange.
Ocean County College Learning Resource Center, Toms River.
Trenton Free Public Library, Trenton.

New Mexico

University of New Mexico, Medical Sciences Library, Albuquerque.
University of New Mexico, Zimmerman Library, Alburquerque.
New Mexico Junior College Pannell Library, Hobbs.
New Mexico State University Library, Las Cruces.
New Mexico Highlands University, Donnelly Library, Las Vegas.
Eastern New Mexico University Library, Portales.
New Mexico State Library, Santa Fe.
Western New Mexico University, Miller Library, Silver City.

New York

New York State Library, Albany.

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State University of New York at Albany Library, Albany.
State University of New York at Binghamton Library, Binghamton.
State University of New York, Drake Memorial Library, Brockport.
Brooklyn Law School, Law Library, Brooklyn.
Brooklyn Public Library, Brooklyn.
Polytechnic Institute of Brooklyn, Spicer Library, Brooklyn.
Buffalo and Erie County Public Library, Buffalo.
State University of New York at Buffalo, Lockwood Memorial Library, Buffalo.
St. Lawrence University, Owen D. Young Library, Canton.
State University of New York, College at Cortland Memorial Library, Cortland.
State University Agricultural and Technical Institute at Farmingdale Library, Farmingdale.
Nassau Library System, Garden City.
State University College, Milne Library, Genesee.
C. W. Post College, B. Davis Schwartz Memorial Library, Greenvale.
Hofstra University Library, Hempstead.
Cornell University Library, Ithaca.
New York State Colleges of Agriculture and Home Economics, Albert R. Mann Library, Ithaca.
Queens Borough Public Library, Jamaica.
Fordham University Library, New York City.
New York Public Library (Astor Branch), New York City.
New York Public Library (Lenox Branch), New York City.
New York University Libraries, New York City.
New York University Law Library, New York City.
State University College, Penfield Library, Oswego.
State University College, Benjamin F. Feinberg Library, Plattsburgh.
Clarkson College of Technology, Harriet Call Burnap Memorial Library, Potsdam.
Northport Public Library, Northport.
Vassar College Library, Poughkeepsie.
Dutchess Community College State University of New York, Poughkeepsie.
State University of New York, College at Purchase Library, Purchase.
University of Rochester Library, Rochester.
Southampton College Library, Southampton.
State University of New York at Stony Brook Library, Stony Brook.
State University of New York at Syracuse, Syracuse.
Syracuse University Library, Syracuse.

North Carolina

Appalachian State University Library, Boone.
Campbell College, Carrie Rich Memorial Library, Buies Creek.
University of North Carolina Library, Chapel Hill.
University of North Carolina at Charlotte, Atkins Library, Charlotte.
Western Carolina University, Hunter Library, Cullowhee.
Davidson College, Hugh A. and Jane Grey Memorial Library, Davidson.
Duke University, William B. Perkins Library, Durham.
East Carolina University, J. Y. Joyner Library, Greenville.
North Carolina State University, D. H. Hill Library, Raleigh.
University of North Carolina, Carolina at Wilmington, William M. Randall Library, Wilmington.
Wake Forest University, Z. Smith Reynolds Library, Winston-Salem.

North Dakota

Fargo Public Library, Fargo.
North Dakota State University Library, Fargo.
University of North Dakota, Chester Fritz Library, Grand Forks.

Ohio

Ohio Northern University, J. P. Taggart Law Library, Ada.
Akron Public Library, Akron.
University of Akron Library, Akron.
Ashland College Library, Ashland.
Ohio University Library, Athens.
Bluffton College, Musselman Library, Bluffton.
Bowling Green State University Library, Bowling Green.
Public Library of Cinncinnati and Hamilton County, Cincinnati.
University of Cincinnati Library, Cincinnati.
Case Western Reserve University, Freiberger Library, Cleveland.
Cleveland Public Library, Cleveland.
Cleveland State University Library, Cleveland.
Ohio State University Library, Columbus.
Dayton and Montgomery County Public Library, Dayton.
Wright State University, Library, Dayton.
Kent State University Library, Kent.
Muskingum College Library, New Concord.
Oberlin College Library, Oberlin.
Miami University Alumni Library, Oxford.
College of Steubenville, Starvaggi Memorial Library, Steubenville.
Toledo-Lucas County Public Library, Toledo.
University of Toledo Library, Toledo.
College of Wooster, the Andrews Library, Wooster.

Oklahoma

East Central State College, Linscheid Library, Ada.
Northwestern State College Library, Alva.
Bethany Nazarene College, R. T. Williams Library, Bethany.
Central State University Library, Edmond.
University of Oklahoma Libraries, Norman.
Oklahoma Department of Libraries, Oklahoma City.
Oklahoma State University Library, Stillwater.
Northeastern State College, John Vaughan Library, Tahlequah.
University of Tulsa, McFarlin Library, Tulsa.

Oregon

Southern Oregon College Library, Ashland.
Oregon State University Library, Corvallis.
University of Oregon Library, Eugene.
Eastern Oregon College, Walter M. Pierce Library, La Grande.
Oregon College of Education Library, Monmouth.
Department of the Interior, Bonneville Power Administration Library, Portland.
Portland State University Library, Portland.
Oregon State Library, Salem.
Willamette University Library, Salem.

Pennsylvania

Lehigh University, Linderman Library, Bethlehem.
Dickinson College, Boyd Lee Spahr Library, Carlisle.
Thiel College, Langenheim Memorial Library, Greenville.
State Library of Pennsylvania, Harrisburg.
Hazleton Area Public Library, Hazleton.
Franklin and Marshall College, Fackenthal Library, Lancaster.
Mansfield State College Library, Mansfield.
Allegheny College, Reis Library, Meadville.
Millersville State College, Ganser Library, Millersville.
Drexel University Library, Philadelphia.
Free Library of Philadelphia, Philadelphia.
Temple University, Samuel Paley Library, Philadelphia.
La Roche College, John J. Wright Library, Pittsburgh.
University of Pittsburgh, Hillman Library, Pittsburgh.
Slippery Rock State College, Maltby Library, Slippery Rock.
Pennsylvania State University Library, University Park.
York Junior College Library, York.
Westmoreland County Community College, Learning Resource Center, Youngwood.

Puerto Rico

University of Puerto Rico, Mayaguez Campus Library, Mayaguez.

Rhode Island

University of Rhode Island Library, Kingston.
Brown University, John D. Rockefeller, Jr. Library, Providence.

South Carolina

Clemson University Library, Clemson.
South Carolina State Library, Columbia.
University of South Carolina Undergraduate Library, Columbia.

South Dakota

South Dakota State University, Lincoln Memorial Library, Brookings.
South Dakota School of Mines and Technology Library, Rapid City.
Sioux Falls Public Library, Sioux Falls.

Tennessee

Chattanooga Public Library, Chattanooga.
Tennessee Technological University, Jere Whitson Memorial Library, Cookeville.
East Tennessee State University, Sherrod Library, Johnson City.
University of Tennessee Library, Knoxville.
Memphis and Shelby County Public Library and Information Center, Memphis.
Morristown College, Carnegie Library, Morristown.
Middle Tennessee State University, Andrew L Todd Library, Murfreesboro.
Joint University Libraries, Nashville.
Tennessee State Library and Archives, State Library Division, Nashville.
University of the South, Jesse Ball duPont Library, Sewanee.

Texas

Hardins-Simmons University Library, Abilene.
Texas State Library, Austin.
University of Texas at Austin Library, Austin.
University of Texas, School of Law Library, Austin.

Lamar University Library, Beaumont.
Howard Payne College, Walker Memorial Library, Brownwood.
West Texas State University Library, Canyon.
Texas Agricultural and Mechanical University Library, College Station.
East Texas State University Library, Commerce.
Dallas Public Library, Dallas.
Southern Methodist University, Fondren Library, Dallas.
University of Texas at Dallas Library, Dallas.
North Texas State University Library, Denton.
El Paso Public Library, El Paso.
University of Texas at El Paso Library, El Paso.
Texas Christian University, Mary Couts Burnett Library, Fort Worth.
Houston Public Library, Houston.
University of Houston Library, Houston.
Sam Houston State University, Estill Library, Huntsville.
Texas Tech University Library, Lubbock.
Stephen F. Austin State University Library, Nacogdoches.
San Antonio College Library, San Antonio.
San Antonio Public Library, Business and Science Department, San Antonio.
Trinity University Library, San Antonio.
University of Texas at San Antonio Library, San Antonio.
Southwest Texas State University Library, San Marcos.
University of Houston, Victoria Center Library, Victoria.
Baylor University Library, Waco.

Utah

Snow College, Lucy A. Phillips Library, Ephraim.
Utah State University, Merrill Library and Learning Resource Center, Logan.
Weber State College Library, Ogden.
Brigham Young University Library, Provo.
University of Utah, Law Library, Salt Lake City.
University of Utah, Marriott Library, Salt Lake City.

Vermont

University of Vermont, Bailey Library, Burlington.

Virginia

Virginia Polytechnic Institute, Newman Library, Blacksburg.
University of Virginia, Alderman Library, Charlottesville.
George Mason College of the University of Virginia, Fenwick Library, Fairfax.
Hollins College, Fishburn Library, Hollins College.
Department of the Interior, Geological Survey Library, Reston.
Virginia Commonwealth University, James Branch Cabell Library, Richmond.
William and Mary College Library, Wiliamsburg.

Washington

Western Washington State College, Wilson Library, Bellingham.
Eastern Washington State College Library, Cheney.
Central Washington State College Library, Ellensburg.
Everett Public Library, Everett.
Washington State Library, Olympia.
Washington State University Library, Pullman.
Seattle Public Library, Seattle.
University of Washington Library, Seattle.
University of Washington School of Law Library, Seattle.
Spokane Public Library, Spokane.
Tacoma Public Library, Tacoma.
University of Puget Sound, Collins Memorial Library, Tacoma.
Whitman College, Penrose Memorial Library, Walla Walla.

West Virginia

Davis and Elkins College Library, Elkins.
Glenville State College, Robert F. Kidd Library, Glenville.
Marshall University Library, Huntington.
West Virginia University Library, Morgantown.

Wisconsin

Lawrence University, Seeley G. Mudd Library, Appleton.
Beloit College Libraries, Beloit.
University of Wisconsin, Eau Claire, William D. McIntyre Library, Eau Claire.
Fond du Lac Public Library, Fond du Lac.
University of Wisconsin at Green Bay Library, Green Bay.
University of Wisconsin, Memorial Library, Madison.
Wisconsin State Library, Madison.
Milwaukee Public Library, Milwaukee.
University of Wisconsin-Milwaukee Library, Milwaukee.
University of Wisconsin-Oshkosh, Forrest R. Polk Library, Oshkosh.
University of Wisconsin-Platteville, Elton S. Karrmann Library, Platteville.
University of Wisconsin-Stevens Point, Learning Resource Center, Stevens Point.
University of Wisconsin-Superior, Jim Dan Hill Library, Superior.
University of Wisconsin-Whitewater, Harold Andersen Library, Whitewater.

Wyoming

Wyoming Citizens Library, Buffalo.
Wyoming State Library, Cheyenne.
University of Wyoming, Coe Library, Laramie.

Canadian Libraries

University of British Columbia, Vancover 8, B.C., Canada.
University of Guelph, Guelph, Ontario, Canada NIG 2W1.
University of New Brunswick, Fredericton, N.B., Canada.
Arcadia University, Wolfville, Nova Scotia, Canada BOP 1X0.
University of Regina, Regina, Saskatchewan, Canada, S4S 0A2.
University Laval, Quebec, Quebec, Canada.
Boreal Institute for Northern Studies, University of Alberta, Edmonton, Canada T6G 2E9.

Dated: October 20, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-30115 Filed 10-25-78; 8:45 am]

[4310-10-M]

5-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM

Request for Comments

AGENCY: Office of Outer Continental Shelf Program Coordination.

ACTION: Notice of request for comment on 5-year Outer Continental Shelf oil and gas leasing program.

SUMMARY: Section 18 of the Outer Continental Shelf Lands Act, as amended, requires the Secretary of the Interior to prepare, periodically revise and maintain an oil and gas leasing program. The leasing program will consist of a schedule of proposed lease sales which the Secretary of the Interior determines will best meet national energy needs for the 5-year period following its approval. Suggestions and information are being requested to assist the Department of the Interior in the preparation of a proposed leasing program for the years mid-1980 through mid-1985.

DATES: Comments and information must be received on or before December 1, 1978.

ADDRESSES: Information should be submitted to Director, Office of OCS Program Coordination, Office of Assistant Secretary—Policy, Budget and Administration, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240. Envelopes or packets should be marked "Request for Comments on Five-Year Outer Continental Shelf Oil and Gas Leasing Program."

FOR FURTHER INFORMATION CONTACT:

Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-9314.

AUTHOR: Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Room 4126, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-9314.

SUPPLEMENTARY INFORMATION: Suggestions and information are requested from States, local governments, industry, other Federal agencies and all interested parties to assist the Department of the Interior in the preparation of a leasing program for the years mid-1980 through mid-1985. Suggestions and information from local governments must be first submitted to the Governor of the State in which the local government is located. (43 CFR 3308.1).

The leasing program will be prepared and maintained in a manner

consistent with the principles of section 18(a) of the OCS Lands Act, as amended (43 U.S.C. 1344).

The leasing schedule will provide

Area	Approximate location [1]
1. North Atlantic	North of 39° N. lat., east of 71° W. long.

A map of the 22 OCS areas is shown below.

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consistent with the principles of section 18(a) of the OCS Lands Act, as amended (43 U.S.C. 1344).

The leasing schedule will provide dates for possible Outer Continental Shelf sales to be held during the years mid-1980 through mid-1985. As part of this effort, the planning schedule issued by the Department of the Interior in August 1977, will be reviewed for necessary adjustments and continuity with the proposed 5-year leasing schedule and for conformance with the Outer Continental Shelf Lands Act, as amended.

The Outer Continental Shelf leasing schedule enables the Federal Government, the States, industry, and other interested parties to plan for their involvement in the steps leading to the consideration of lease sales. A decision on whether to proceed with specific sales on the schedule will be made only after all of the applicable requirements of the Outer Continental Shelf Lands Act, as amended, the National Environmental Policy Act, and other statutes have been met.

Oil and gas resources of the continental margin, including those beyond the 200-meter isobath, subject to jurisdiction of the United States are to be considered for possible leasing. Precise continental shelf boundaries between the United States and opposite or adjacent nations have not been determined in all cases. Accordingly, certain areas are or may be subject to negotiation or dispute. No decision has been made to undertake leasing in actual or potential disputed areas while efforts are being made to reach agreement with the nations concerned.

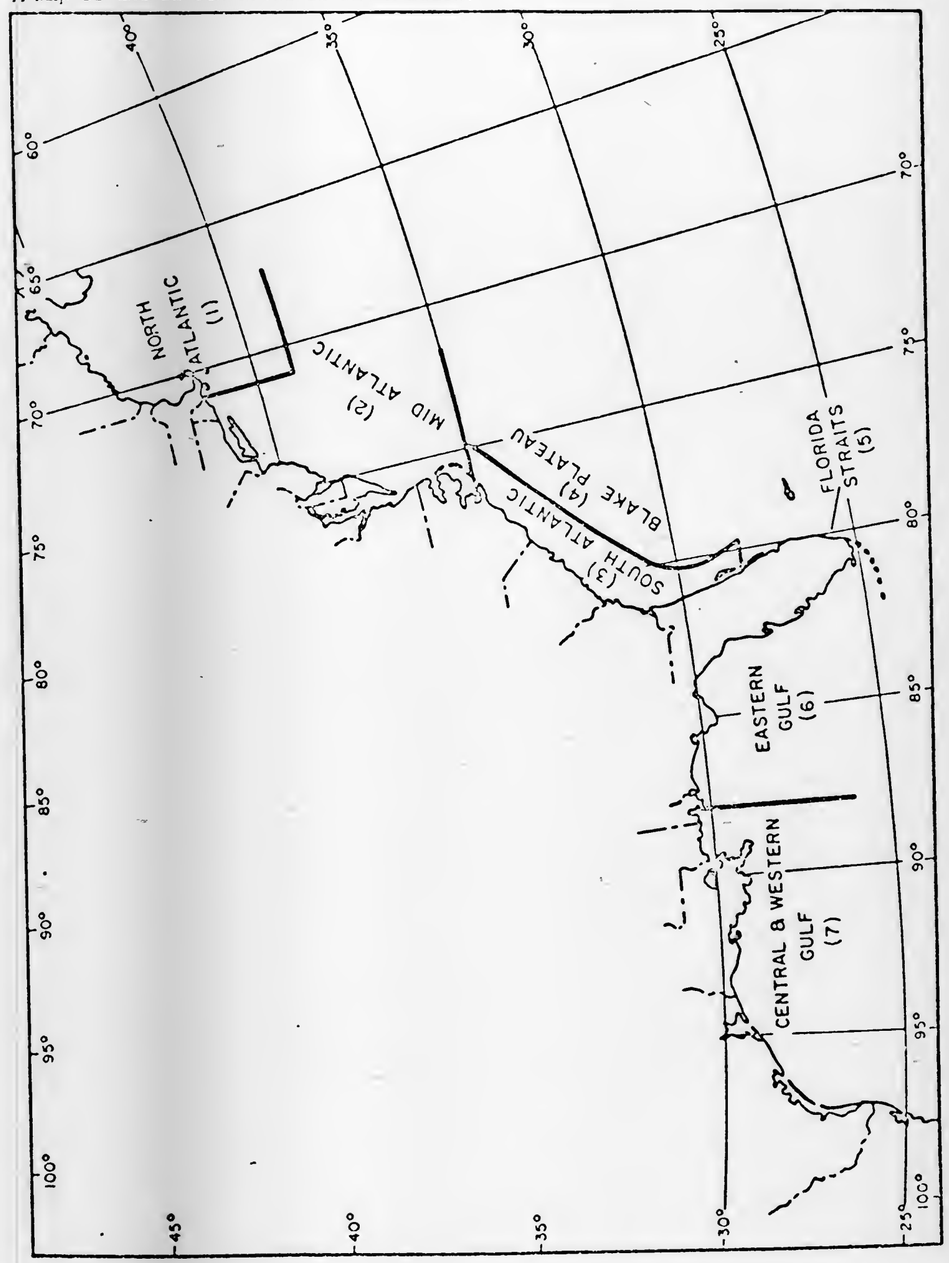
The areas to be commented on are as follows:

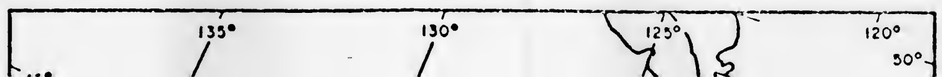
Area	Approximate location [1]
1. North Atlantic..	North of 39° N. lat., east of 71° W. long.
2. Mid-Atlantic.....	Between 35° N. lat. and 39° N. lat. with that portion north of 39° N. lat. west of 71° W. long.
3. South Atlantic..	Between 28° N. lat. and 35° N. lat. seaward to 200 m water depth.
4. Blake Plateau....	Between 28° N. lat. and 35° N. lat. seaward beyond 200 m water depth.
5. Florida Straits...	South of 28° N. lat.
6. Eastern gulf.....	East of 88° W. long.
7. Central and western gulf.	West of 88° to Mexican border.
8. Southern California.	South of 34° N. lat. to Mexican border.
9. Santa Barbara...	Santa Barbara Channel.
10. Central and northern California.	North of 34° N. lat. to the line of latitude west from the California-Oregon border (except Santa Barbara Channel).
11. Washington-Oregon.	North of area No. 10.
12. Cook Inlet.....	Lower Cook Inlet (south of 60° N. lat.) and Shelikof Strait.
13. Gulf of Alaska...	North of 56° N. lat., east of 150° W. long.
14. Kodiak.....	Between 150° W. and 156° W. long.
15. Southern Aleutian Shelf.	West of 156° W. long. and south of a line drawn through the Aleutian Island Chain.
16. Bristol Basin.....	East of 165° W. long.
17. St. George Basin.	South of 58° N. lat., west of 165° W. long.
18. Navarin Basin ...	Between 58° and 63° N. lat., west of 165° W. long.
19. Norton Basin.....	Between 63° and 66° N. lat.
20. Hope Basin	Between 66° and 69° N. lat.
21. Chukchi Sea.....	North of 69° N. lat., west of 160° W. long.
22. Beaufort Sea	East of 160° W. long.

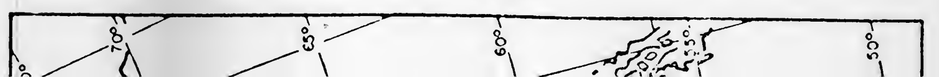
[1] The Government of the United States is engaging in consultations and negotiations with governments of neighboring countries concerning the delimitation of areas subject to their respective jurisdictions. The Department of State published in the Mar. 7, 1977, FEDERAL REGISTER at p. 12937, a notice of limits pursuant to the Fishery Conservation and Management Act of 1976.

Section 4(a)(2)(B) of the Outer Continental Shelf Lands Act, as amended, requires that within a year the President shall establish procedures for settling any outstanding interntional boundary disputes.

A map of the 22 OCS areas is shown below.







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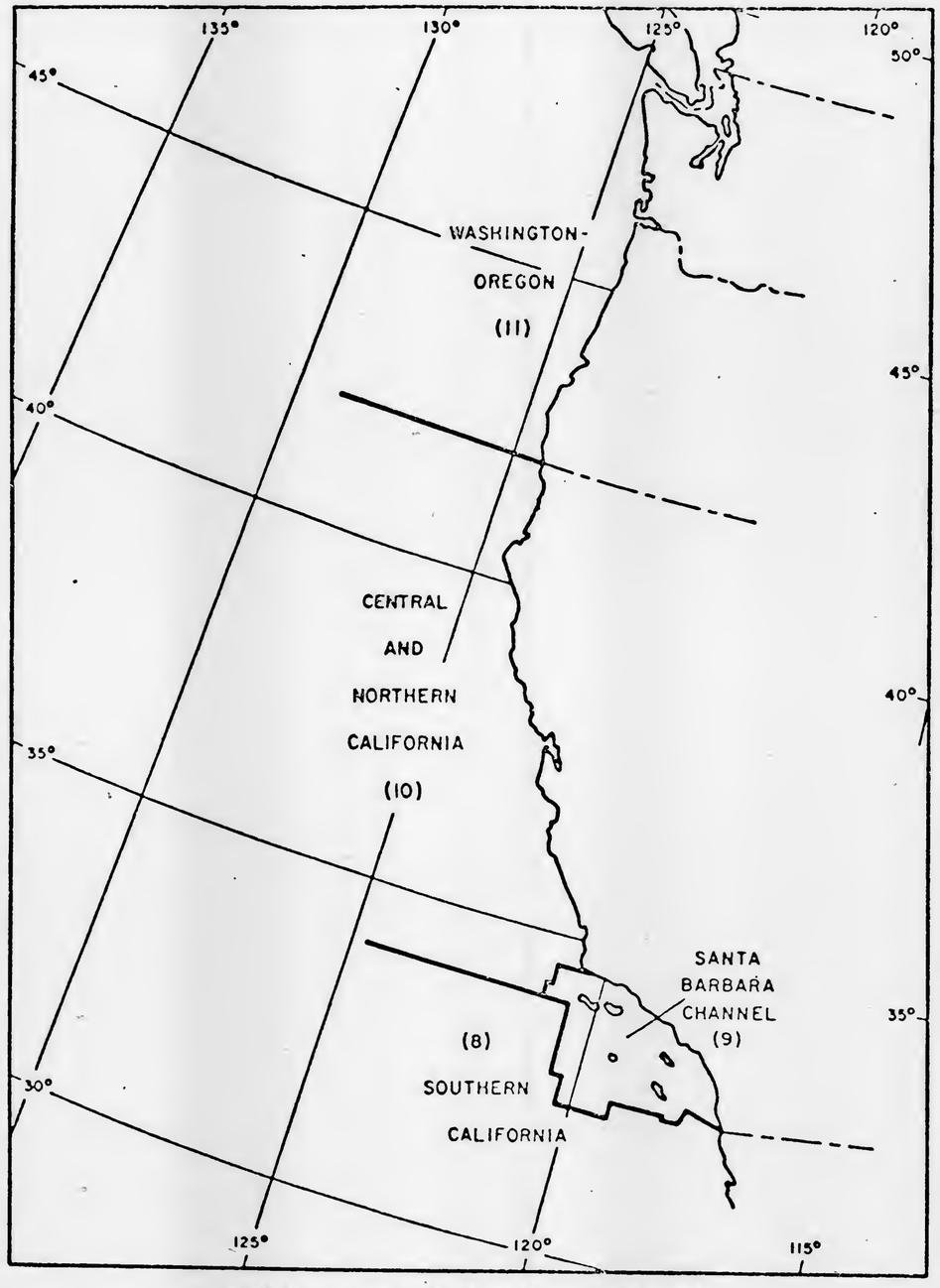

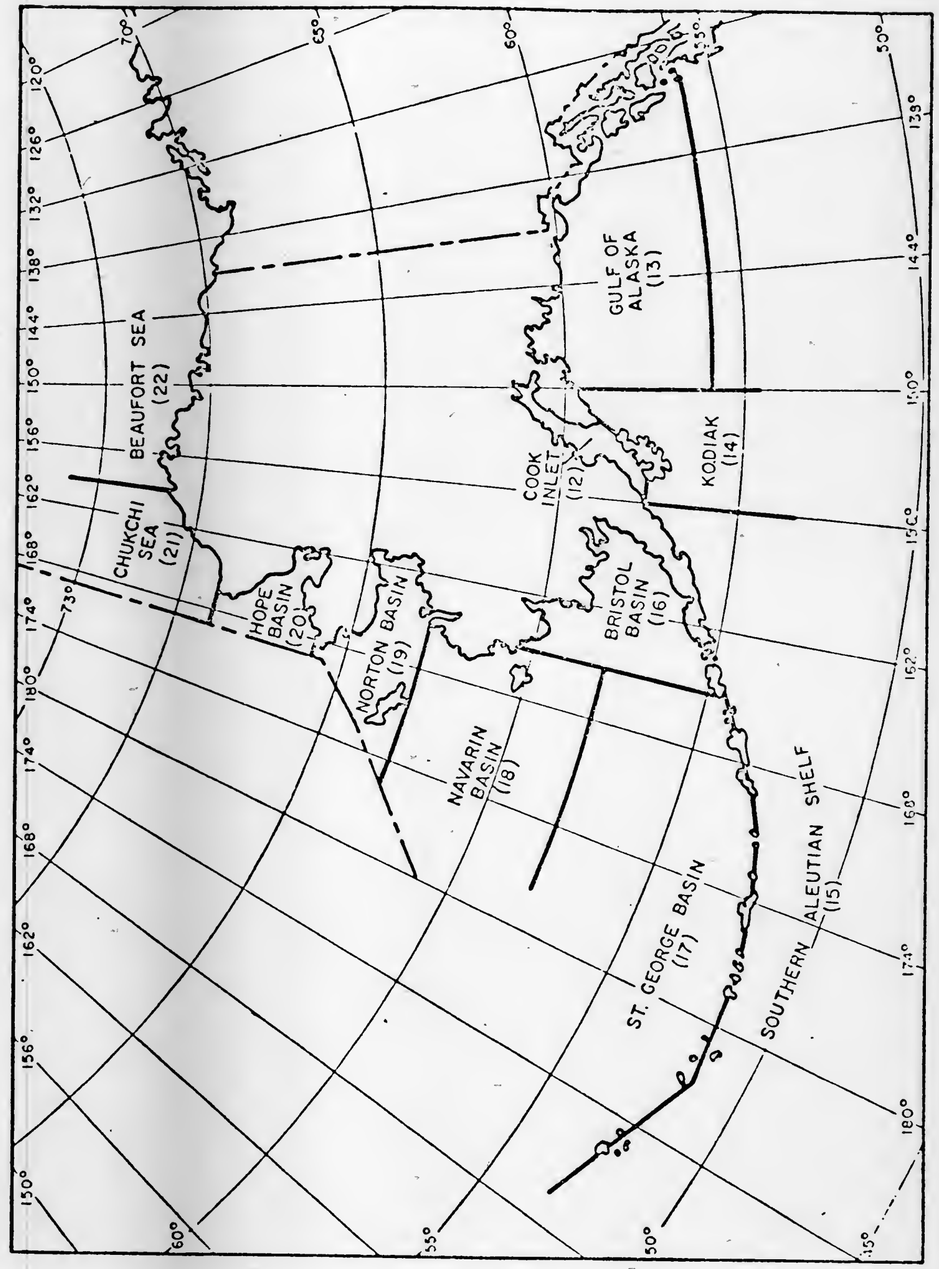

Information requested.

A. The following information is requested with respect to each area:

Carolita Kallaur, Office of OCS Program Coordination, Office of the Assistant Secretary for Policy, Budget

administered lands in the Josephine unit.

Copies of the final statement are available for inspection at the follow-

the Eastern Powder River Basin of Wyoming, and has made copies of the document available for public review

Management at the above address prior to close of business on November 24, 1978. Requests should identify the

Nora Van Burgh, Casper College Library, Casper, Wyo. 82601.

Mr. Jerome Frobom, Ms. Mary Sue Dara-

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Information requested.

A. The following information is requested with respect to each area:

(1) Existing information concerning geographical, geological, and ecological characteristics.

(2) Other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the OCS.

(3) Identification of areas of environmental sensitivity and marine productivity, including a ranking by area of the level of environmental sensitivity.

(4) Technological feasibility of conducting exploration and development within specified time periods.

(5) Estimated time periods required to achieve initial and peak production after a discovery is made.

(6) Ranking by order of oil and gas potential.

(7) Ranking by order of interest in exploration and development, including reasons for any possible differences in response to item (6) alone.

B. The following general information is requested:

Availability of transportation networks to bring oil and gas supplies to demand areas, both on a current and projected basis.

Dated: October 19, 1978.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

[FR Doc. 78-30233 Filed 10-25-78; 8:45 am]

[4310-10-M]

5-YEAR OUTER CONTINENTAL SHELF OIL AND GAS LEASING PROGRAM

Timetable for Development

AGENCY: Office of OCS Program Coordination.

ACTION: Notice to interested parties—timetable for development of 5-Year Outer Continental Self oil and gas leasing program.

SUMMARY: The Department of Interior is developing a 5-Year Outer Continental Shelf oil and gas leasing program as required by section 18 of the OCS Lands Act, as amended (43 U.S.C. 1331 et. seq.). Regulations on the leasing program and a request for information appear in the FEDERAL REGISTER today. This notice provides a timetable of the major steps to be followed in preparing the leasing program as an aid for those parties who will participate in the development of or will be affected by the leasing program.

FOR FURTHER INFORMATION CONTACT:

Carolita Kallaur, Office of OCS Program Coordination, Office of the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, room 4126, 18th and C Streets NW., Washington, D.C. 20240, phone 202-343-9314.

Author: Carolita Kallaur, Office of OCS Program Coordination, Office of the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, room 4126, 18th and C Streets NW., Washington, D.C. 20240, phone 202-343-9314.

ALAN D. POWERS,
Director, Office of OCS Program Coordination.

OCTOBER 19, 1978.

TIMETABLE OF MAJOR STEPS—5-YEAR OUTER CONTINENTAL SHELF LEASING PROGRAM

STEP AND APPROXIMATE DATE
1. Request for comments and information—notice in FEDERAL REGISTER, letters to Governors of affected States, and letters to relevant Federal agencies (43 CFR 3308.1), October 24, 1978.
2. Responses to request for comments and information, December 1, 1978.
3. Draft proposed program sent to Governors of affected States for comment (43 CFR 3308 2 (a)), March 2, 1979.
4. Responses from Governors on draft proposed program, April 17, 1979.
5. Publication of proposed program in FEDERAL REGISTER and transmittal to the Congress, the Attorney General, and the Governors of affected States for comment (43 CFR 3308.2(b)), June 5, 1979.
6. Comments from Governors and the Attorney General on proposed program, September 4, 1979.
7. Submission of proposed final leasing program to the President and the Congress (43 CFR 3308.2(c)), November 9, 1979.
8. Approval of final leasing program by the Secretary of the Interior and publication of the program in the FEDERAL REGISTER, January 15, 1980.

[FR Doc. 78-29986 Filed 10-25-78; 8:45 am]

[4310-84-M]

[INT FES 78-30]

OREGON

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)), the Bureau of Land Management, Department of the Interior, has prepared a final environmental statement for its proposed 10-year timber management plan for public lands administered by the BLM in the Josephine sustained yield unit, southwestern Oregon.

The statement is an assessment of the impact of a proposed annual harvest of 20.10 million cubic feet (approximately 103 million board feet Scribner log rule) of timber from BLM administered lands in the Josephine unit.

Copies of the final statement are available for inspection at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-4151.
Oregon State Office, Bureau of Land Management, Room 100, 729 Northeast Oregon Street, Portland, Oreg. 97208, telephone 503-234-3361, extension 4024.
Medford District Office, Bureau of Land Management, 310 West 6th Street, Medford, Oreg. 97501, telephone 503-779-2351.
Medford District Office, Bureau of Land Management, Grants Pass Information Office, Room 3, Post Office Building, Grants Pass, Oreg. 97526.

LIBRARIES

Josephine County Library, Illinois Valley Branch, Cave Junction, Oreg. 97523.
Curry Public Library, Colvin Street, Gold Beach, Oreg. 97444.
City of Glendale Library, Glendale, Oreg. 97442.
Douglas County Library, Courthouse, Roseburg, Oreg. 97470.
Medford Public Library, 413 West Main, Medford, Oreg. 97501.
Josephine County Library, 506 Northwest 5th, Grants Pass, Oreg. 97526.
University of Oregon Library, Eugene, Oreg. 97403.
Oregon State University Library, Corvallis, Oreg. 97331.
Multnomah County Library, 801 Southwest 10th, Portland, Oreg. 97204.

A limited number of single copies may be obtained from the Oregon State Director, Bureau of Land Management, the Office of Public Affairs, Bureau of Land Management (Washington, D.C.), and District Manager, Bureau of land Management, 310 West 6th Street, Medford, Oreg. Copies will also be available at the Bureau of Land Management, Grants Pass Information office, Room 3, Post Office Building, Grants Pass, Oreg.

Dated: October 23, 1978.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-30233 Filed 10-25-78; 8:45 am]

[4310-84-M]

[INT DES 78-48]

PROPOSED DEVELOPMENT OF COAL RESOURCES IN EASTERN POWDER RIVER BASIN OF WYOMING

Availability of Draft Environmental Statement and Holding of Public Hearings

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared an environmental statement on proposed development of coal resources in the Eastern Powder River Basin of Wyoming, and has made copies of the document available for public review and comment.

The draft statement analyzes environmental impacts that would result from development of one (1) site specific surface coal mine. The statement further analyzes the cumulative regional environmental impacts of proposed coal development and other regional development, and presents two additional regional coal development scenarios (low level and high level), for comparison with the most probable level (proposed actions).

Copies of the draft statement are available for inspection at the following locations (see attached list).

Single-copies of the draft statement can be obtained from the Team Leader, Bureau of Land Management, Eastern Powder River Basin Coal Environmental Statement, 951 Union Boulevard, Casper, Wyo., 82601; or the State Director (952), Bureau of Land Management, Wyoming State Office, 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyo., 82001.

Written comments on the draft environemental statement will be accepted on or before December 11, 1978. They are to be addressed to Julie Elfving, Team Leader, Bureau of Land management, Eastern Powder River Coal Environmental Statement, 951 Union Boulevard, Casper, Wyo., 82601.

Oral and written comments will also be received at public hearings as follows: November 28, 1978, Auditorium, Campbell County High School, 1000 Camel Drive, Gillette, Wyo., at 1:30 p.m. and 7:30 p.m.; November 29, 1978, Durham Hall in the Fine Arts Building, Casper College, 125 College Drive, Casper, Wyo. at 1:30 p.m. and 7:30 p.m.

Oral testimony of ten minutes duration will be accepted from each witness at the hearing, in lieu of written comments or in addition to any written comments submitted by such a witness. The 10-minute limitation will be strictly enforced by the presiding officer. Complete text of prepared speeches may be filed at the hearing whether or not the speaker has been able to finish with oral delivery in the allotted 10 minutes.

Speakers will be heard in their established order on the witness list. After the last listed witness has been heard, the presiding officer will consider the request of any other person present and wishing to testify. Only one witness will be allowed to represent the viewpoints of a single organization. However, any witness will be permitted to give germane testimony if offered as the views or opinions of a private citizen.

Written requests to testify orally should be received at the Casper District Office of the Bureau of Land Management at the above address prior to close of business on November 24, 1978. Requests should identify the organization represented, should be signed by the prospective witness, and should state the approximate time (afternoon or evening) for giving oral testimony. The cutoff date is necessary so that a witness list can be made available in the Casper District Office on the day before the public hearing.

Comments on the draft environmental statement, whether written or oral, will receive equal consideration in preparation of a final environmental statement.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of the Interior.

Buffalo Resource Area Office—BLM, P.O. Box 670, Buffalo, Wyo. 82834.
Casper District Office—BLM, 951 Union Boulevard, Casper, Wyo. 82601.
Kemmerer Resource Area Office—BLM, P.O. Box 632, Diamondville, Wyo. 82116.
Lander Resource Area Office—BLM, P.O. Box 589, Lander, Wyo. 82520.
Newcastle Resource Area Office—BLM, 214 West Main Street, Newcastle, Wyo. 82701.
BLM State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.
BLM State Office, P.O. Box 30157, Billings, Mont. 59107.
Pinedale Resource Area Office—BLM, P.O. Box 768, Mollyneux Building, Pinedale, Wyo. 82941.
Rawlins District Office—BLM, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82301.
Rock Springs District Office—BLM, P.O. Box 1869, Highway 187N, Rock Springs, Wyo. 82901.
Worland District Office—BLM, P.O. Box 119, 1700 Robertson Avenue, Worland, Wyo. 82401.
Bureau of Land Management Library, Building 50, Denver Federal Center, Denver, Colo. 80225.
BLM State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.
BLM State Office, P.O. Box 1449, Santa Fe, N. Mex. 87501.
Albany County Library, 405 Grand Avenue, Laramie, Wyo. 82070.
Carbon County Library Courthouse, Rawlins, Wyo. 82301.
Laramie County Library, 2800 Central Avenue, Cheyenne, Wyo. 82001.
Rock Springs Public Library, 400 "C" Street, Rock Springs, Wyo. 82901.
Sweetwater County Library, 177 North Center Street, Green River, Wyo. 82935.
Encampment Branch Library, Encampment, Wyo. 82325.
Saratoga Public Library, 104 West Elm, Saratoga, Wyo. 82331.
Western Wyoming Community College, Library, Rock Springs, Wyo. 82901.
Coe Library, University of Wyoming, University Station, Box 3334, Laramie, Wyo. 82070.
Nora Van Burgh, Casper College Library, Casper, Wyo. 82601.
Mr. Jerome Frobom, Ms. Mary Sue Daramus, Wyoming State Library, Government Publications, Supreme Court and State Library Building, Cheyenne, Wyo. 82002.

[FR Doc. 78-30233 Filed 10-25-78; 8:45 am]

[4310-55-M]

RAVALLI NATIONAL WILDLIFE REFUGE, MONT.

Name Change to Lee Metcalf National Wildlife Refuge

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice changes the name of the Ravalli National Wildlife Refuge in Montana to Lee Metcalf National Wildlife Refuge. This name change is made to honor the late Senator Lee Metcalf for his contribution to the National Wildlife Refuge System.

EFFECTIVE DATE: October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Walter R. McAllester, Chief, Division of Realty, Fish and Wildlife Service, phone number 202-343-4026.

SUPPLEMENTARY INFORMATION: The primary author of this notice is Robert R. Poinsett, Realty Specialist, Fish and Wildlife Service.

The Migratory Bird Conservation Commission at its meeting on May 23, 1978, requested the Secretary of the Interior to change the name of Ravalli National Wildlife Refuge to the Lee Metcalf National Wildlife Refuge, in profound appreciation for Senator Metcalf's contributions to the National Wildlife Refuge System and the conservation of the Nation's natural resources for the lasting benefit of the American people.

Senator Lee Metcalf of Montana had served with distinction and devotion on the Migratory Bird Conservation Commission from 1961 to 1975, thus establishing the unparalleled record of having attended without exception each of the 50 meetings held during his Commission membership. His membership coincided with a major, accelerated land acquisition program to preserve fast disappearing waterfowl habitat, and during this time the Commission approved the purchase of 525,000 acres of land and creation of 43 new waterfowl refuges, plus additions to many others.

Additionally, Senator Metcalf was a strong supporter of increased appropriations for refuge acquisitions. He

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sponsored legislation amending the Land and Water Conservation Fund Act, which broadened funding for refuge acquisition and will result in substantial additions to the National Wildlife Refuge System.

Through his deep interest and dedication, Senator Metcalf established himself as a true benefactor to the Nation's wildlife and to all who enjoy these irreplaceable treasures.

Upon publication of this notice, the Ravalli National Wildlife Refuge shall hereafter be known as the Lee Metcalf National Wildlife Refuge.

Dated: August 16, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-30300 Filed 10-25-78; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

PROPOSED CONSENT JUDGMENT IN ACTION TO ENJOIN DISCHARGE OF WATER POLLUTANTS

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *City of Lynn, Massachusetts, et al.*, Civil Action No. 76-2184-G, has been lodged with the District Court for the District of Massachusetts. It requires the city of Lynn to bring its sewage discharges into compliance with its previously issued NPDES permit in accordance with certain schedules or to pay $1,000 per day penalty for failing to do so. Although the schedules are contingent on certain State and Federal review and funding actions, it is estimated that the city of Lynn will be required to complete its secondary treatment facilities no later than February 1, 1982, and to abate all combined sewer overflows no later than June 1, 1984.

The Department of Justice will receive written comments relating to the proposed judgment for 30 days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to "*United States* v. *City of Lynn, Massachusetts, et al.*", D.J. Ref. No. 90-5-1-1-545.

The proposed decree may be examined at the office of the U.S. Attorney, 1107 John W. McCormack Post Office and Courthouse, Boston, Mass. 02109; at the Region I Office of the Environmental Protection Agency, Enforcement Division, 2103 John F. Kennedy Federal Building, Boston, Mass. 02203; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78—30223 Filed 10-25-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Orchestra Section) to the National Council on the Arts will be held on November 14, 1978, from 9:30 a.m. to 5:30 p.m.; November 15, 1978, from 9 a.m. to 5:30 p.m. November 16, 1978, from 9 a.m. to 4 p.m. in Columbia Plaza, Room 1422, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on November 14, 1978 from 9:30 a.m. to 4 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on November 14, 1978, from 4 p.m. to 5:30 p.m.; November 15, 1978, from 9 a.m. to 5:30 p.m.; November 16, 1978, from 9 a.m. to 4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 78-30234 Filed 10-25-78; 8:45]

[4910-58-M]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-43]

ACCIDENT DATA AND REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability

Annual Review of Aircraft Accident Data, U.S. Air Carrier Operations, 1977. Released October 17 by the National Transportation Safety Board, presents the record of aviation accidents in all operations of U.S. air carriers for last year. It includes an analysis by class of carrier and type of service in which the 1977 performances were compared with 5-year base-period averages.

A 10-year review, 1968 through 1977, of the certificated route carriers is presented for accident rates by aircraft make and model, types of accidents, phases of operation, causes or related factors, and a comparison between scheduled and nonscheduled revenue service. The appendixes of the review contain statistical tables which summarize the accidents, fatalities, and accident rates, as well as causal tables and accident reports in brief format. (Report No. NTS B-ARC-78-2)

Aircraft Accident Reports Brief Format, U.S. Civil Aviation, 1977. Also now available are Issues Nos. 2, 3, and 4 of the Safety Board reports, in computer printout format, on general aviation accidents selected at random which occurred during calendar year 1977. The brief format presents the facts, conditions, circumstances, and probable cause(s) for each accident reported. Additional statistical information in each of the three volumes is tabulated by type of accident, phase of operation, kind of flying, injury index, aircraft damage, conditions of light, pilot certificate, injuries, and causal factors.

Issue No. 2 (Report No. NTS B-BA-78-2) covers 887 accidents. The Safety Board's press release SB-88-39 for this issue provides a safety message for all general aviation pilots, citing as an illustration of the problem the Cessna 207 air taxi cargo accident which occurred at Atlanta, Ga., March 30, 1977. The probable cause of the crash, which killed the pilot and destroyed the Cessna, was inadequate preflight planning that resulted in an overloaded and out of balance airplane.

The board commented that it is essential for safe flight that an aircraft be loaded "within" its maximum gross weight limits and that its load, whether passengers or cargo, be distributed "within" its center of gravity limits. If these weight and balance limits are exceeded it will adversely affect aircraft performance and control. This is a fact of aeronautical life that should be understood by all pilots, the Board said. Weight and balance limitations, available for the pilot's immediate reference, are set forth in the flight manual that must be carried in every aircraft.

Nevertheless, the Board expressed its concern over the persistent reoccurrence of weight and balance type accidents in general aviation. The statistical dimension of this problem, over the 10-year period 1968 through 1977, as retrieved from the Board's accident data bank, reveals 442 weight and balance accidents. Of these, 176 were fatal accidents (39.8 percent), that resulted in 577 fatalities.

As an educational aid in correcting the situation, the Board urged general aviation pilots to send for the pamphlet on "Weight and Balance" (NTS B-PAM-74-1) available free from the Public Inquiry Section, National Transportation Safety Board, Washington, D.C. 20594. For a more detailed treatise on the subject, the Board recommended "The Pilot's Weight and Balance Handbook" (AC-91-23) issued by the Federal Aviation Administration, U.S. Department of Transportation, and for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at $1.25 per copy.

Issue No. 3 (Report No. NTS B-BA-78-3) covers 912 general aviation accidents, and Issue No. 4 (Report No. NTS B-BA-78-4) reports on 902 additional accidents. Issue No. 5, final volume of the brief format reports on 1977 accidents, is expected to be released in the near future.

NOTE: The brief reports of accidents in these publications contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 17 cents per page for printed matter, $5 per page for black-and-white photographs, and $4 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester is asked to provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issues Nos. 2, 3, and 4 of the brief format accident reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

AVIATION SAFETY RECOMMENDATIONS

A-78-75.—The Safety Board's concern about the removal of evidence on airport runways or taxiways after an aircraft accident was addressed in a recommendation letter issued on October 16 jointly to the American Association of Airport Executives and to the Airport Operators Council International, Inc. For example, following the Continental Airlines DC-10 accident at Los Angeles International Airport on March 1, 1978, and the Northwest Orient Airlines B-747F accident at John F. Kennedy International Airport, Jamaica, N.Y., on November 17, 1977, the runways were swept clean of debris. Both of these accidents resulted from tire failures, and the removal of evidence in cases such as these can adversely affect the Board's ability to determine failure sequences—vital parts of these investigations. Accordingly, both organizations were asked to—

> Advise member airport operators of the importance of preserving and documenting the location of accident debris in accordance with the provisions of 49 CFR 830.10 before debris is removed and before runways and taxiways are swept clean.

A-78-76.—The Safety board recommended on March 30, 1967, that the Federal Aviation Administration issue and Airworthiness Directive to require an internal inspection of the main integral fuel tanks on Piper PA-28 and PA-32 series airplanes for evidence of fuel-tank sealant (sloshing compound) deterioration. Those tanks found faulty were to be repaired or replaced before further passenger or commercial flights. The Safety Board further recommended that the inspection be required continually on all PA-28 and PA-32 series airplanes at appropriate intervals until a permanent solution to the peeling and flaking problem could be found.

In response to the Safety Board's recommendation Airworthiness Directive 67-26-3 was issued, calling for inspections of the fuel tanks and removal of loose sealant material in certain model PA-28 and PA-32 production aircraft. Since the manufacturer changed the compound used in subsequent models PA-28 and PA-32 production aircraft, only those with the older compound were affected by the AD. However, despite the change to a different sloshing compound, difficulties continued. A review of FAA Service Difficulty Reports from 1974 through 1977 disclosed 14 cases involving problems directly associated with fuel-tank sealant deterioration in Piper PA-28 and PA-32 aircraft. Seven of these cases involved loss of engine power either just after takeoff or during the final approach sequence; four resulted in serious accidents.

In view of these findings, the Safety Board on October 17 issued the following recommendation to the Federal Aviation Administration:

> Issue an Airworthiness Directive similar to AD 67-26-3 for all Piper PA-28 and PA-32 aircraft to require that the interior surfaces of both main fuel tanks are imspected for evidence of sealant deterioration. This inspection should be repeated at prescribed intervals to insure continued airworthiness of the aircraft until a permanent solution to the problem of fuel-tank sealant deterioration is resolved.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation

A-74-55—Letter of October 2 from the Federal Aviation Administration is in response to the Safety Board's August 4 inquiry about the status of this recommendation. A-74-55 called for installation of visual approach slope indicators (VASI) on all instrument landing system (ILS) runways with first priority given to runways where the slide slope is unusable below decision height and to those runways used by air carrier aircraft. The Board noted that FAA's August 8, 1974, response indicated that FAA agreed in principle with the recommendation but was giving priority to installing VASI on nonprecision runways.

FAA's latest response indicates that its policy of assigning the highest priority for VASI to nonprecision runways is unchaged. However, FAA says it has made significant progress toward fulfillment of the recommendation. At present, ther are 1,013 VASI installations on airports certificated for either full or limited air carrier operations. The FAA operates and maintains 526 of these 1,013 VASI's on runways used by air carriers. Also, VASI systems have been installed on 87 ILS runways, five of which have glide slope restrictions.

A-78-3—FAA's response of October 11 is in answer to the Safety Board's letter of September 19 commenting on FAA's initial response of May 5 (43 FR 25889, June 15, 1978). This recommendation asked FAA to establish a joint Government/industry committee to develop flight techniques for coping with inadvertent encounters with severe wind shear at low altitudes. The Board also made reference in its September 19 letter to recommendation A-76-76 asking FAA to evaluate all air carrier takeoff and climb procedures to determine whether different procedures can be developed to better enable flightcrews to cope with known or suspected low-altitude wind shear. FAA's reply to A-76-76 indicated belief that the best procedure possible is for crews to avoid such conditions.

FAA's May 5 response indicated that establishment of a joint Government/industry committee to develop wind shear flight techniques is not necessary at this time but did speak of revising Air Carrier Operations Bulletin 7-76-34 on low-level wind shear to insure that flightcrew members are provided with procedures, guidance, and training to enable them to deal

V 4

with the low-level wind shear problem. The Board noted that the intended June 1, 1978, issuance date of this Op-

ments maintain and operate under formal flight operations manuals.

In asking FAA to reconsider its posi-

Further, FAA notes that proposals to amend FAR §§ 23.137(b) and 23.1305 were discussed during the 1974 Bienni-

comments and analysis of materials assembled in connection with the proceeding will be transferred to UMTA

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

Sea's and former students and their employers. 2,150 responses; 122,560 hours

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with the low-level wind shear problem. The Board noted that the intended June 1, 1978, issuance date of this Operations Bulletin has not been met. The Board also questioned whether the techniques proposed by FAA via the Operations Bulletin without a thorough, well-documented, and highly visible development program would be endorsed and supported with adequate training programs by all operators.

The Board urged FAA to reconsider the priority presently assigned to this problem and to review the risks to the Government and to the aviation community in not pursuing this effort in greater depth. The Board's concern is based on the growing evidence which indicates flightcrews are on occasion confronted with unanticipated hazardous winds, and that the full performance capabilities of the aircraft involved are not being used. The Board noted that post-accident studies have shown that, in such circumstances, flight techniques could have been used that would have prevented most of these accidents.

In its October 11 response, FAA states that investigation into this area has developed a considerable amount of information on low level wind shear. In reviewing information for revising the Air Carrier Operations Bulletin 7-76-34, FAA concluded that the information should be made available to all aircraft operators. FAA has decided to publish the information concerning techniques for detecting and coping with low level wind shear in a form that is directed to all persons involved in flight operations. To accomplish industry-wide distribution, FAA has amended the Air Carrier Opratations Bulletin project to include revision of Advisory Circular 00-50, Low Level Wind Shear. FAA says that it has assigned this project the highest priority and will continue to seek technical support in its development from concerned individuals and organizations within the aviation industry. FAA expects to issue the revised Operations Bulletin and Advisory Circular in November.

A-78-30 through 32—FAA's letter of October 4 is in answer to the Safety Board's August 23 letter expressing concern at FAA's rejection of these recommendations as indicated in FAA's response of July 5 (see 43 FR 34222, August 3, 1978). The recommendations were issued after investigation of the September 22, 1976, crash of a Grumman Gulfstream II while making an instrument landing system approach to Ingalls Field Airport, Hot Springs, Va. The aircraft was operated by Johnson & Johnson, Inc., under 14 CFR Part 91 Subpart D. The recommendations would require that certain corporate/executive flight departments maintain and operate under formal flight operations manuals.

In asking FAA to reconsider its position, the Safety Board urged that, if regulatory action in this matter proves impractical, FAA initiate some alternate action such as issuing an operations alert bulletin directing field inspectors to encourage the establishment of flight manuals by the corporate/executive operators in their districts.

FAA's October 4 response states that its position of this matter is unchaged. FAA said, "We have reviewed all available information from which our position was established. We have been unable to find any evidence which would justify action to require certain corporate/executive flight departments to maintain and operate under formal flight operations manuals. In view of the excellent and steadily improving safety record of these operations, we do not believe that increasing the field inspector's activity in an advisory role is necessary at this time."

A-78-50—FAA's letter of October 2 is in response to the Safety Board's recommendation issued July 24 (43 FR 34221, August 3, 1978) after the Board reviewed the report and recommendations made by the FAA Special Certification Review Team on the Ted Smith Aerostar Model 600 series aircraft's fuel system, completed in August 1977. A-78-50 urged FAA to expedite the recommended actions to insure that necessary changes are implemented on production aircraft to solve the problem of fuel starvation.

In response, FAA reports that flight tests by the manufacturer in October 1977 revealed that negative tank pressure could not be maintained after brake release at takeoff and any vent valve closure caused by a slip or skid is transient and brief. FAA plans no action at this time to require vent valve replacement.

The October 2 letter also reports that an FAA flight test evaluation is in progress. It includes inflight engine restart, wing tank unavailable fuel quantities, reevaluation of the fuel quantity indicating system, effect of prolonged wing low flight on fuel feed from wing tanks, and the effect of nonsealing fuel tank filler caps on fuel feed. In addition, although one-way flapper-type check valves could be considered a product improvement, FAA says it does not believe that the absence of such valves was a casual factor in any incident involving a fuel feed deficiency. However, this item will be included in the FAA flight test evaluation. FAA expects to complete the evaluation and initiate any needed corrective action within the next 90 days.

Further, FAA notes that proposals to amend FAR §§ 23.137(b) and 23.1305 were discussed during the 1974 Biennial Airworthiness Review, but because of the many differences of opinion and unresolved issues, the proposals were deferred. FAA expects to include proposals to amend these paragraphs in a future airworthiness review; however, a schedule has not yet been established.

Railroad

R-73-23, R-73-30, and R-73-38—Letter of September 28 from the Federal Railroad Administration is in response to the Safety Board's inquiry of January 14 requesting certain data on implementation of these recommendations.

Recommendation R-73-23 resulted from investigation of the May 24, 1973, explosion of 12 carloads of bombs in a Southern Pacific Transportation Co. train near Benson, Ariz., and called for FRA to require the placement of a "spacer" car between cars transporting hazardous materials or munitions. On July 22, 1975, after FRA dissented with this recommendation, the Board suggested that FRA consider other alternatives to the "spacer principle," such as new loading arrangements. FRA advised on January 5, 1976, of a Department of Defense (DOD) bomb loading study and said it intended to use study results to determine need for any rail regulation. FRA reports that to date DOD has not furnished results of the study and has advised that study activity has been halted as a result of extensive litigation on the Roseville, Calif., bomb explosion of April 28, 1973.

FRA believes that the provisions of regulation 49 CFR 174.104(b)(10) are a safe alternative to "spacer" cars. Basically, this regulation requires all cars transporting class A explosives to be equipped with high friction composition brake shoes and metal sub-floors or metal spark shields. Also, FRA says that current loading requirements mandate careful shipper inspection, duly noted on the car "explosive" certificate with corresponding carrier inspection and concurrence noted on the same certificate.

Recommendation R-73-30, issued after investigation of the October 30, 1972, collision of Illinois Central Gulf Railroad's commuter trains in Chicago, Ill., called for a joint FRA/Urban Mass Transportation Administration study of the need to govern by special procedures or systems high-speed commuter train operation. In response to the Board's inquiry as to the status of the proposed rule on signal systems on commuter railroad and rapid transit lines, published in the FEDERAL REGISTER of May 2, 1975, FRA advises that comments and analysis of materials assembled in connection with the proceeding will be transferred to UMTA for appropriate action. This was done in view of the December 16, 1977, decision of the U.S. Court of Appeals for the Seventh Circuit that rapid transit systems are not railroads and therefore are not subject to compliance with FRA regulations. Also, the Department of Transportation has recently stated that UMTA has total responsibility in the rapid transit area.

Recommendation R-73-38, issued in connection with the investigation of the February 21, 1973, head-on collision of two trains in Taft, La., asked FRA to incorporate in the Federal regulations on operating practices requirements to govern the physical protection provided on main track to guard against unplanned and unauthorized movements onto the main track. FRA reports that following its 1976 analysis of the problem of providing protection against unauthorized movement into the main lines, FRA on January 27, 1977, published 49 CFR 218.35, Yard Limits, in the FEDERAL REGISTER. This regulation, FRA states, requires all railroads to adopt a uniform procedure to govern train operation within yard limits and establishes controls to coordinate train movements on yard tracks when such movements are required to enter the main track. It also provides for joint use of the main line by main line trains and yard movements, with the least restriction to either under the safest possible operating conditions.

FRA believes that, through its study of submissions made by all railroads in compliance with 49 CFR Part 217, Railroad Operating Rules and Practices, the railroads have adequate rules formulated to prevent the unauthorized entry of yard movement into the main track. Additionally, FRA states, the railroads are actively engaged in educating their employees on the requirements of such rules and monitoring them at regular intervals to ensure compliance.

NOTE.—The above notice summarizes Safety Board documents recently released and recommendation responses letters received. Single copies of the *Annual Review of Aircraft Accident Data, U.S. Air Carrier Operations, 1977*, are available without charge as long as supplies last. Copies of the Board's recommendation letters in their entirety and letters in response to recommendations may be obtained free of charge.

All requests for copies must be in writing, identified by report or recommendation number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the Annual Review and accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 23, 1978.

[FR Doc. 78-30310 Filed 10-25-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 19, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

U.S. Civil Service Commission
Application for Restoration of Survivor Annuity
BRI 46-360
On occasion
Survivors of former Federal employees, 4,000 responses; 1,000 hours
Marsha Traynham, 395-3773

Department of Health, Education, and Welfare
National Center for Education Statistics
Vocational Education Data System (VEDS)
NCES 2404-1, 2, 5, 6, 7, and 8
Annually
Sea's and former students and their employers, 2,150 responses; 122,560 hours
Laverne V. Collins, 395-3214

Department of Justice
Law Enforcement Assistance Administration
Status of Death Penalty Statutes Collection Form
NPS-8B and C (LEAA Series 3620)
Annually
State Attorneys General, 52 responses; 26 hours
Office of Federal Statistical Policy and Standard
Laverne V. Collins, 673-7956

REVISIONS

Department of Agriculture
Economics, Statistics, and Cooperatives Service
Sunflower Seed Crop Check Inquiry
Semiannually
Sunflower buyers and contractors, 738 responses; 192 hours
Ellett, C. A., 395-6132

Department of Commerce
National Oceanic and Atmospheric Administration
Dealer Purchase Forms
88-12, -43, -20, -29, -30, -142, and -154
Monthly
Firms that purchase fish and shellfish from commercial fishermen, 6,720 responses; 1,224 hours
C. Louis Kincannon, 395-3211

Department of Commerce
Bureau of Economic Analysis
Follow-up Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investment Abroad
BE-133B
Annually
Corporations having foreign affiliates, 300 responses; 300 hours
Office of Federal Statistical Policy and Standard
C. Louis Kincannon, 673-7956

Department of Commerce
National Bureau of Standards
Qualifications Inquiry—Research Scientist Position
NBS-271
On occasion
Scientific R. & D., 1,000 responses; 250 hours
C. Louis Kincannon, 395-3211

EXTENSION

Department of Commerce
Bureau of Census
Animal and Vegetable Fats and Oils (Consumption and Stock)
Monthly report of Consumers
M20M
Monthly
Consumers of fats and oils, 6,408 responses; 3,204 hours
C. Louis Kincannon, 395-3211

Department of Commerce
Bureau of Census

Iron and Steel Foundries (shipments and unfilled orders)
M 33 A

Cove at Jacksonville (Dame Point), Fla. The hearing was scheduled to be held at the Prudential Insurance Co.,

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA

emption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it

V 43 / 208 OCT 26 78

Iron and Steel Foundries (shipments and unfilled orders)
M 33 A
Monthly
Manufacturers of iron and steel castings, 7,800 responses; 2,600 hours
C. Louis Kincannon, 395-3211

Department of Commerce
Industry and Trade Administration
Application for Export License
Dib-622P
On occasion
Commercial exporters, 50,000 responses; 21,750 hours
C. Louis Kincannon, 395-3211

Department of Commerce
Bureau of Census
Pharmaceutical Preparations, Except Biologicals
MA-28G
Annually
Manufacturers of pharmaceutical preparations (manufacturers), 400 responses; 400 hours
Office of Federal Statistical Policy and Standard
C. Louis Kincannon, 673-7956

Department of Commerce
Bureau of Census
Fibrous Glass (Production and Shipments)
MA-32J
Annually
Manufacturers of fibrous glass, 33 responses; 17 hours
C. Louis Kincannon, 395-3211

Department of Justice
Immigration and Naturalization Service
Report of Medical Examination
CO-269
On occasion
Border Patrol Agent applicants, 1,500 responses; 6,000 hours
Laverne V. Collins, 395-3214

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-30227 Filed 10-25-78; 8:45 am]

[6820-97-M]

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Meeting

The first meeting of the Presidential Commission on World Hunger will be held on Monday, November 6, 1978, from 9:30 a.m. to 5 p.m. in Conference Room 1107 at the Department of State. Attendees will use the Diplomatic Entrance, 22d and C Streets NW.

The Commission was created by Executive Order 12078 on September 5, 1978. Under that order the Commission is to determine the basic causes of, and relationships between, domestic and international hunger and malnutrition; to identify and evaluate existing Federal and other programs and policies that have an impact on domestic and international hunger and malnutrition; to focus national and international attention on, and to improve understanding about, relationships between domestic and international hunger and malnutrition; to prepare reports which recommend policies, legislation or other actions to significantly reduce domestic and international hunger and malnutrition; to carry out educational and other activities designed to publicize such recommendations and assist in initial and substantive implementation of its recommendations.

The Commission membership is as follows:

Ambassador Sol M. Linowitz, Chairman.
Dr. Jean Mayer, Vice-Chairman, President of Tufts University.
Dr. Steven Muller, Vice-Chairman, President of Johns Hopkins University.
Dr. Norman Borlaug, International Maize and Wheat Improvement Center, Mexico.
Mr. D. W. Brooks, Former Chairman of the Board of the Gold Kist Corp.
Mr. Harry Chapin, Founder of World Hunger Year; Recording artist.
Mr. John Denver, Recording artist and television star; producer of movie "I Want to Live".
Hon. Robert Dole, U.S. Senate, Washington, D.C.
Dr. Walter Falcon, Director of the Stanford University Food Research Institute.
Hon. Benjamin Gilman, U.S. House of Representatives, Washington, D.C.
Hon. Patrick Leahy, U.S. Senate, Washington, D.C.
Ms. Bess Meyerson, Former Commissioner of Consumer Affairs for New York City.
Hon. Richard Nolan, U.S. House of Representatives, Washington, D.C.
Dr. Howard Schneider, Director of the Institute of Nutrition, Consolidated University of North Carolina.
Mr. Raymond Singletary, President of the Blakely Peanut Co.
Dr. Eugene Stockwell, National Council of the Churches of Christ in the United States of America.
Dr. Adele Smith Simmons, President, Hampshire College.
Dr. Clifton Wharton, Chancellor of the State University of New York.

The agenda for the November 6 meeting will be concerned with the organization of the Commission to carry out its mission, scheduling of work to be done through June 1979, designation of subcommittees, and other business as required.

The meeting will be open to observation by the public with 50 seats available by reservation. Requests for reservations should be made in person or by letter addressed to the Presidential Commission on World Hunger, 734 Jackson Place NW., Washington, D.C. 20006. Reservation requests must be made by Thursday, November 2, 1978.

Minutes of the Commission meeting will be available upon request 30 days after the meeting. In addition, copies of the meeting transcript will be maintained and available for public inspection and copying at actual cost at the Commission offices.

DANIEL E. SHAUGHNESSY,
Deputy Executive Director, Presidential Commission on World Hunger.

[FR Doc. 78-30232 Filed 10-25-78; 8:45 am]

[4710-08-M]

DEPARTMENT OF STATE

[Public Notice 639]

COMPULSORY LIABILITY INSURANCE FOR DIPLOMATS

Meeting

The Office of the Legal Adviser of the Department of State announces that a meeting will be held on Thursday, November 2, 1978, at 10 a.m. in the conference room of the Office of the Legal Adviser, Room 5519, Main State, 2201 C Street NW., Washington, D.C. 20520. The purpose of this meeting will be to discuss with representatives of the insurance industry the implementation of section 6 of the Diplomatic Relations Act of 1978, Pub. L. 95-393, 22 U.S.C. 254e, which directs the President to establish liability insurance requirements for diplomatic missions and for members of missions and their families. This meeting will be open to the public.

Requests for further information should be directed to Victor A. Vilaplana, Department of State, Office of the Legal Adviser, 2201 C Street NW., Washington, D.C. 20520, Phone: 202-632-2149.

Members of the public wishing to attend this meeting must contact Mr. Vilaplana in advance in order to arrange for entrance into the State Department Building.

Dated: October 28, 1978.

VICTOR A. VILAPLANA,
Special Assistant to the Legal Adviser.

[FR Doc. 78-30409 Filed 10-25-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-143]

PROPOSED BRIDGE ACROSS THE ST. JOHNS RIVER AND MILL COVE AT JACKSONVILLE (DAME POINT), FLA.

Public Hearing

The Coast Guard published notice in the FEDERAL REGISTER on September 21, 1978 (43 FR 42833), of a public hearing concerning a proposed bridge across the St. Johns River and Mill Cove at Jacksonville (Dame Point), Fla. The hearing was scheduled to be held at the Prudential Insurance Co., first floor auditorium, 841 Prudential Drive, Jacksonville, Fla., from 5:30 p.m. to 10:30 p.m. on Monday November 6, 1978 and Wednesday November 8, 1978.

The location of the public hearing has been changed. The new location is the Terry Parker High School, 7301 Parker School Road, Jacksonville, Fla. 32211.

The times and dates remain unchanged.

(Sec. 502, 60 Stat. 847, as amended (33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C)); 49 CFR 1.46(c)(10).)

Dated: October 23, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 78-30314 Filed 10-25-78; 8:45 am]

[4910-06-M]

Federal Railroad Administration

[FRA Waiver Petition Docket HS-78-8]

EAST JERSEY RAILROAD & TERMINAL CO.

Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the East Jersey Railroad & Terminal Co. (R.J.R. & T.) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the E.J.R. & T. be granted authority to permit certain employees to continuously remain on duty for in excess of 12 hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of 12 hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than 15 employees who are subject to the statute, to seek an exemption from this 12-hour limitation.

The E.J.R. & T. seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed 16 hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than 15 employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the docket number, docket No. HS-78-8, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 30, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 4406, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a); sec. 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C., on October 19, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-30199 Filed 10-25-78; 8:45 am]

[4910-06-M]

[FRA Waiver Petition Docket HS-78-7]

TEXAS SOUTH-EASTERN RAILROAD CO.

Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that the Texas South-Eastern Railroad (TSE) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the TSE be granted authority to permit certain employees to continuously remain on duty for in excess of 12 hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of 12 hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than 15 employees who are subject to the statute, to seek an exemption from this 12-hour limitation.

The TSE seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed 16 hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than 15 employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the docket number, docket No. HS-78-7, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. Communications received before November 30, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in room 4406, Trans Point Building, 2100 Second Street SW., Washingon, D.C. 20590.

(Sec. 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a); §1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C., on October 19, 1978.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 78-30200 Filed 10-25-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

CALENDAR OF MEETINGS OPEN TO THE PUBLIC

Below is a list of NHTSA-sponsored meetings which are planned for the next 2 years and in which public interest or participation is expected. The list, to be revised and republished periodically, is planning information published to inform interested persons of meetings in which they may wish to participate. Meeting dates and places, particularly those for meetings scheduled for the second year, can change as the dates are approached.

NOVEMBER 15-16, 1978

International Pedestrain Impact Injury Workshop, Washington, D.C.

Purpose: Active and interested researchers will be invited to present and discuss their efforts in the areas of:

a. Injury classification and severity ranking.

b. Accident conditions and characteristics.

V 4 3 / 2 0 8 0 C 2 6 7 8

c. Experimental techniques employed to study problems.

d. Vehicle modifications to mitigate injury hazards.

Coordinator: Dr. Rolf Eppinger, Office of Research and Development (NRD-12), 202-426-4875.

DECEMBER 11-13, 1978

Symposium on Motor Vehicle Fuel Economy Research: Contractors' Coordination Meeting, Washington, D.C.

Purpose: Progress reports on contracts which have been funded through the automotive fuel economy research program will be given. The presentations will explain how individual tasks fit into the research and rulemaking program as well as indicate the content and thrust of the automotive fuel economy research program.

Coordinator: Charles Gauthier, Office of Research and Development (NRD-13), 202-426-2957.

DECEMBER 13, 1978

NHTSA-Industry Technical Meeting, Ann Arbor, Mich.

Purpose: Written questions submitted to NHTSA from the public and industry on the agency's safety, bumper, and consumer information programs will be answered.

Coordinator: William H. Marsh, Executive Secretariat (NOA-10), 202-426-2872.

JANUARY 9-11, 1979

National Highway Safety Advisory Committee, Washington, D.C.

Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary, Department of Transportation, may be prepared.

Coordinator: Robert Doherty, Executive Secretariat (NOA-10), 202-426-2872.

FEBRUARY 21, 1979

NHTSA-Industry Technical Meeting, Ann Arbor, Mich.

Purpose: Written questions submitted to NHSTA from the public and industry on the agency's safety, bumper, and comsumer information programs will be answered.

Coordinator: William H. Marsh, Executive Secretariat (NOA-10), 202-426-2872.

EARLY 1979

Symposium on Commerical Truck Exposure Estimates, Washington, D.C.

Purpose: New and old techniques and methologies used in estimating the type and quantity of travel of commerical trucks will be discussed by persons directly involved. Through the exchange of ideas and review of the state-of-the-art, a basis for a national cooperative program to yield improved estimates is expected to emerge.

Coordinator: Ezio Cerrelli, Office of Research and Development (NRD-31), 202-426-1570.

MARCH 1979

"Wrecker" Workshop, Washington, D.C.

Purpose: Research results from validation and application of the "Wrecker" program used in analyzing vehicle side structures will be presented. "Wrecker" is a computer program to do finite element analysis of automobile structures under crash loadings. The word is a nickname, not a acronym.

Coordinator: William T. Hollowell, Office of Research and Development (NRD-12), 202-426-4862.

MARCH 1979

Symposium on Passenger Car Side Impact Protection: Contractors' Coordination Meeting, Washington, D.C.

Purpose: Research on improved occupant protection in side impacts will be given, and, dynamic compliance techniques for evaluating side structure will be discussed.

Coordinator: James R. Hackney, Office of Research and Development (NRD-12), 202-426-4862.

MARCH 1979

Public Hearing on the Proposed Light Truck Average Fuel Economy Standard for Model Years 1982-84, Washington, D.C.

Purpose: Public comments on the proposed fuel economy standard for light trucks and vans for model years 1982-84 will be received.

Coordinator: Glen Brammeler, Office of Rulemaking (NRM-21), 202-472-6902.

JUNE 1979

Seventh International Technical Conference on Experimental Safety Vehicles, Paris, France.

Purpose: Technical information on the development of experimental safety vehicles will be exchanged.

NOTE.—This meeting will be hosted by the French Government and French automotive industry. The United States is the lead country for the international program. By agreement with the United States, the Governments of France, Great Britain, West Germany, Italy, Sweden, and Japan develop experimental safety vehicles and related equipment and exchange the resulting technical information.

Coordinator: James C. Shively, Office of Research and Development (NRD-10), 202-426-1551.

JUNE 12-14, 1979

National Highway Safety Advisory Committee Meeting, Washington, D.C.

Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary, Department of Transportation, may be prepared.

Coordinator: Robert Doherty, Executive Secretariat (NOA-10), 202-426-2872.

SUMMER 1979

Traffic Safety Research Program Conference, Washington, D.C.

Purpose: NHTSA's priorities and plans for the traffic safety research (403) program, fiscal years 1979-84 will be discussed. Responses of the traffic safety community will be solicited.

Coordinator: Deborah Parker, Office of Plans and Programs (NPP-30), 202-426-1570.

NOVEMBER 1979

International Conference on Automotive Fuel Economy Research, Washington, D.C.

Purpose: Automotive fuel economy research and technology will be exchanged.

Coordinator: James C. Shively, Office of Research and Development (NRD-10), 202-426-1551.

APRIL 1980

Symposium on Vehicle Aggressivity and Compatibility, Washington, D.C.

Purpose: Research on vehicle aggressivity and improved compatibility will be presented. Techniques for testing compliance with vehicle compatibility requirements will be discussed.

Coordinator: James R. Hackney, Office of Research and Development (NRD-12), 202-426-4862.

NOVEMBER 1980

Symposium on Motor Vehicle Fuel Economy Research: Contractors' Coordination Meeting, Washington, D.C.

Purpose: Progress reports on the contracts which have been funded through the automotive fuel economy research program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the automotive fuel economy research program will be explained.

Coordinator: Charles Gauthier, Office of Research and Development (NRD-13), 202-426-2957.

Persons desiring additional information on a particular meeting may write or phone the coordinator indicated above.

Address for meeting coordinators:

Office of Plans and Programs: Office of Rulemaking; and, the Executive Secretariat are located at National Highway Traffic Safety Administration, DOT Headquarters Building, 400 Seventh Street SW., Washington, D.C. 20590.

Office of Research and Development is located at National Highway Traffic Safety Administration, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590.

Issued in Washington, D.C., on October 18, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-29860 Filed 10-25-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Volume No. 39]

DECISION-NOTICE

Decided: October 11, 1978.

The following applications are governed by Special Rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days arter the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, on or before November 27, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

H. G. HOMME, Jr.,
Acting Secretary.

MC 730 (Sub-418F), filed September 5, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94598. Representative: A. G. Krebs (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Coldwater, KS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or San Francisco, CA.)

MC 19193 (Sub-16F), filed August 3, 1978. Applicant: LAFFERTY TRUCKING CO, a corporation, 3703 Beale Avenue, Altoona, PA 16601. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used by grocery and food business houses, (a) between points in Jefferson County, OH, and Brooke, Doddridge, Hancock, Harrison, Lewis, Marshall, Ohio, Pleasants, Ritchie, Tyler, Upshur, Wetzel, and Wood Counties, WV, and (b) between points in Jefferson County, OH, and Brooke, Doddridge, Hancock, Harrison, Lewis, Marshall, Ohio, Pleasants, Ritchie, Tyler, Upshur, Wetzel, and Wood Counties, WV, on the one hand, and, on the other, points in Ashtabula, Columbiana, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Mahoning, Ottawa, Portage, Sandusky, Stark, Summit, and Trumbull Counties, OH, Garrett, Allegany, and Washington Counties, and Baltimore, MD, points in Greene, Washington, Fayette, Westmoreland, Armstrong, Clarion, Forest, Elk, McKean, Cameron, Clinton, Lycoming, Union, Snyder, Juniata, Perry, Dauphin, Cumberland, Franklin, Fulton, Bedford, Somerset, Cambria, Indiana, Jefferson, Clearfield, Centre, Blair, Huntingdon, and Mifflin Counties, PA, and Monongalia, Marion, Talyor, Preston, Barbour, Randolph, Tucker, Grant, Mineral, Hampshire, Morgan, and Hardy Counties, WV, under a continuing contract on contracts with The Great Atlantic & Pacific Tea Co., Inc., of Montvale, NJ. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 22195 (Sub-175F), filed August 29, 1978. Applicant: DAN DUGAN TRANSPORT CO., a corporation, 41st and Grange Avenue, Sioux Falls, SD 57105. Representative: F. Fred Fischer (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *residual fuel oil*, in bulk, in tank vehicles, from Williston, ND, to points in Clay County, MN. (Hearing site: St. Louis, MO, or Sioux Falls, SD.)

MC 23618 (Sub-36F), filed September 13, 1978. Applicant: McALISTER TRUCKING CO., a corporation, d.b.a. MATCO, P.O. Box 2377, Abilene, TX 79604. Representative: Lawrence A. Winkle, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from points in Eastland and Collin Counties, TX, to points in the United States (except TX, AK, and HI); and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Fort Worth, TX.)

MC 52858 (Sub-122F), filed August 23, 1978. Applicant: CONVOY CO., a corporation, 3900 Northwest Yeon Avenue, P.O. Box 10185, Portland, OR 97210. Representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA. 94111. To operate as a *common carrier*, by motor vehicle, over irreguar routes, transporting: *Automobiles and trucks* (except self-propelled vehicles weighing 15,000 pounds or more), in secondary movements, in truckaways service, between Minneapolis, MN, on the one hand, and, on the other, Dubuque, Mason City, and Waterloo, IA, and points in MN, ND, SD, and WI. (Hearing site: Portland, OR, or San Francisco, CA.)

NOTE.—The person or persons who it appears may be engaged in common control with another carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 55896 (Sub-88F), filed August 2, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Leatherboard and blue chrome splits*, from the facili-

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ties of (1) Eagle Ottawa Leather Co., at Grand Haven, MI, and (2) Whitehall Leather Co., at Whitehall, MI, to points in IL, IN, OH, and WI. (hearing site: Lansing, MI, or Chicago, IL.)

MC 59150 (Sub-137F), filed September 5, 1978. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL. 32207. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board and plywood*, from West Memphis, AR, to points in TN, NC, SC, GA, FL, AL, and MS. (Hearing site: Jacksonville, FL, or Memphis, TN.)

MC 67450 (Sub-69F), filed September 18, 1978. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 South Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cereal food fines and cereal offal*, in bulk, from Battle Creek, MI, to Portland, IN, Rolla, MO, Maspeth, NY, and Delavan, WI. (Hearing site: Chicago, IL.)

MC 67450 (Sub-70F), filed September 18, 1978. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 South Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gluten meal*, in bulk, from the facilities of Miles Laboratories, Inc., at Elkhart, IN, to points in IA, IL, IN, MI, OH, PA, and WI. (Hearing site: Chicago, IL.)

MC 69281 (Sub-45F), filed August 11, 1978. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, 698 Fairmount Avenue, Towson Plaza, Baltimore, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. To operate as a *common carrier*, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, and Hagerstown, MD, over Interstate Hwy 70, serving points in Frederick County, MD as intermediate and off-route points. (Hearing site: Washington, DC.)

MC 70903 (Sub-7F), filed August 28, 1978. Applicant: OKANOGAN-SEATTLE TRANSPORT CO., INC., P.O. Box 722, Ellensburg, WA 98926. Representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, fertilizer, and soap* (except commodities in bulk, in tank vehicles), from the facilities of U.S. Borax Co., at or near Boron, Southgate, and Wilmington, CA, to points on the international boundary line between the United States and Canada at or near Blaine, Sumas, and Oroville, WA. (Hearing site: Seattle, WA.)

MC 80443 (Sub-14F), filed August 16, 1978. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Park equipment, playground equipment, benches, tables, planters, litter receptacles, finished redwood products, and metal components*, from the facilities of Landscape Structures, Inc., at or near Delano, MN, to points in the United States (except AK, HI, and MN), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 85255 (Sub-62F), filed August 1, 1978. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, Seattle, WA 98124. Representative: Clyde H. MacIver, 1900 Peoples National Bank Building, 1415 Fifth Avenue, Seattle, WA, 98171. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper*, between Longview, WA, on the one hand, and, on the other, points in WA and OR. (Hearing site: Seattle or Olympia, WA.)

NOTE: The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 90870 (Sub-11F), filed September 18, 1978. Applicant: RIECHMANN ENTERPRISES, INC., a Missouri corporation, Route 2, P.O. Box 137, Alhambra, IL 62001. Representative: Patrick B. Northup, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain storage, drying, and handling equipment, iron and steel articles, and materials and supplies* used in the manufacture of grain storage, drying, and handling equipment, between Assumption, IL, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, LA, MS, MO, MI, OK, OH, TN, TX, and WI. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 98952 (Sub-56F), filed August 4, 1978. Applicant: GENERAL TRANSFER CO., a Delaware corporation, 2880 North Woodford Street, Decatur, IL 62526. Representative: Paul E. Steinhour, 918 East Capitol, Springfield, IL 62701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Termicold Corp., at or near Plover, WI, to points in MO, IL, IN, IA, KY, OH, MI, and TN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Springfield or Chicago, IL.)

MC 99427 (Sub-41F), filed August 21, 1978. Applicant: ARIZONA TANK LINES, INC., an Arizona corporation, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, from Inspiration and Hayden, AZ, to points in NM. (Hearing site: Kansas City, MO, or Des Moines, IA.)

MC 103051(Sub-450F), filed August 11, 1978. Applicant: FLEET TRANSPORT CO., INC., 934 44th Avenue North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alumina Hydrate*, in bags, from Campobello, SC, to Boston and Sharon, MA. (Hearing site: Nashville, TN, or Atlanta, GA.)

MC 105733(Sub-65F), filed August 22, 1978. Applicant: H.R. RITTER TRUCKING CO., INC., 928 East Hazelwood Avenue, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum and petroleum products*, in bulk, from Philadelphia, PA, to points in MA, ME, NH, RI, and VT. (Hearing site: Washington, DC)

MC 106401(Sub-50F), filed August 11, 1978. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, NC 28234. Representative: Thomas G. Sloan (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe and clay pipe*, and (2) *materials and equipment* used in the installation of the commodities named in (1) above, from the facilities of Can-Tex Industries, Division of Harsco Corp., at or near Mineral Wells, TX, to points in LA. (Hearing site: Dallas, TX, or Washington, DC.)

MC 106873(Sub-3F), filed August 23, 1978. Applicant: HEAVY HAULING, CO., INC., P.O. Box 327 Lewis and Clark Road, Astoria, OR 97103. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight requires the use of special equipment, and (2) *machinery, contractors' materials, and contractors' supplies* when moving in mixed loads with the commodities described in (1) above, between points in Multnomah, Washington, Yamhill, Clackamas, Polk, Marion, Lincoln, Benton, Linn, Lane, and Douglas Counties, OR, on the one hand, and on the other, points in WA. (Hearing site: Portland, OR.)

MC 108589 (Sub-13F), filed August 23, 1978. Applicant: EAGLE EXPRESS CO., a corporation, P.O. Box 680, Somerset, KY 42501. Representative: John M. Nader, Route 3, Box 4, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, and Lexington, KY, over Interstate Hwy 75, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Lexington or Louisville, KY.)

MC 110563 (Sub-238F), filed August 22, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *confectionery*, from Bethlehem, PA, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 111045 (Sub-156F), filed August 30, 1978. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: L. W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Port Everglades, Jacksonville, and Tampa, FL, to points in FL, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Tampa or Miami, FL.)

MC 111729 (Sub-744F), filed September 13, 1978. Applicant: PUROLATOR COURIER CORP., 333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between points in AR and TN, (b) between points in AR on the one hand, and, on the other, those points in MS on and north of U.S. Hwy 80, and (c) between those points in TN in and west of Montgomery, Dickson, Hickman, Lewis, and Lawrence Counties, on the one hand, and, on the other, points in MS on and north of U.S. Hwy 80, restricted (1) against the transportation of packages weighing more than 50 pounds, and (2) against the transportation of packages or articles weighing in the aggregate, more than 100 pounds from one consignor at one location, to one consignee at one location, in any one day. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in the proceeding.

MC 111812 (Sub-582F), filed August 4, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bags, envelopes, packets, pouches, wrappers, and bag ties*, from Sioux Falls, SD, to Baltimore, MD, Boston, MA, Detroit, MI, Cleveland, OH, Norfolk, VA, Philadelphia, PA, and South Plainfield, NJ. (Hearing site: Sioux Falls, SD.)

MC 114552 (Sub-175F), filed August 3, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Box 220, Newberry, SC 29108. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials* used in the installation of roofing and building materials (except commodities in bulk), from the facilities of Tamko Asphalt Products, Inc., at Tuscaloosa, AL, to points in AL, FL, GA, IL, KY, IN, OH, NC, SC, TN, VA, and WV; and (2) *paper, felt, building materials, roofing materials, and sheathing*, from the facilities of Tamko Asphalt Products, Inc., at Knoxville, TN, to points in AL, FL, GA, IL, KY, IN, OH, NC, SC, TN, VA, and WV. (Hearing site: Tuscaloosa, AL or Joplin, MO.)

MC 115162 (Sub-421F), filed July 24, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pond liners and accessories* used in the installation of pond liners (except commodities in bulk, in tank vehicles), from Mobile, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Mobile, AL, or Atlanta, GA.)

MC 115353 (Sub-31F), filed August 28, 1978. Applicant: LOUIS J. KENNEDY TRUCKING CO., a corporation, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay products and materials and supplies* used in the manufacture and distribution of clay products (except commodities in bulk), between points in Baldwin County, GA, on the one hand, and, on the other points in FL, under a continuing contract or contracts with Griffin Pipe Products Co., of Oak Brook, IL. (Hearing site: Chicago, IL.)

MC 115496 (Sub-100F), filed August 7, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and fiberboard*, from the facilities of Holly Hill Lumber Co., at Walterboro and Holly Hill, SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA, or Holly Hill, SC.)

MC 115730 (Sub-54F), filed August 31, 1978. Applicant: THE MICKOW CORP., and INDIANA CORP., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials*, (except commodities in bulk), from the facilities of Bird & Son, Inc., at or near Chicago, IL, to points in AR, KS, KY, IN, IA, MI, MN, MO, NE, ND, OH, OK, SD, TN, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 115826 (Sub-336F), filed August 7, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217.

Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: [illegible] L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building* [illegible]

5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Buffalo, NY.)

son, 280 National foundation Life Building, 3535 NW. 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle,

plicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by farm supply

and, on the other, points in the United States (except AK and HI), under a continuing contract with Continental Copper & Steel Industries, Inc., of

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Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beads and pulverized glass*, from the facilities of Potters Industries, Inc., at or near Brownwood, TX, to points in NE. (Hearing site: Dallas, TX, or Denver, CO.)

MC 115841 (Sub-643F), filed August 11, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* otherwise exempt from regulation under section 203(b)(3) of the Interstate Commerce Act, when moving in mixed loads with bananas, from Tampa, FL, and Charleston, SC, to points in GA, TN, KY, IL, IN, OH, MI, WI, MO, KS, NE, IA, and MN. (Hearing site: Miami, FL, or Washington, DC.)

MC 116048 (Sub-25F), filed September 13, 1978. Applicant: JAMES ELWOOD QUINN, INC., P.O. Box 236, Beulaville, NC 28518. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruit juice concentrate, canned and fresh fruit and vegetable juice, and canned, fresh, and frozen fruit sections and salads*, in containers, from points in FL, to the ports of entry on the international boundary line between the United States and Canada located in NY, VT, ME, and NH. Condition: Prior receipt from applicant of affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary.

MC 117119 (Sub-702F), filed September 13, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: M. M. Geffon, P.O. Box 338, Willingboro, NJ 08046. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds, washing compounds, and sodium bicarbonate* (except commodities in bulk), from the facilities of Church & Dwight Co., Inc., at Syracuse, NY, to points in IL and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Washington, DC.)

MC 117686 (Sub-218F), filed July 31, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building board, wall board, and insulating board*, and (2) *materials and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from the facilities of Armstrong Cork Co., at or near Pensacola, FL, to points in IA, KS, MI, MN, NE, ND, SD, and WI. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 118159 (Sub-291F), filed September 15, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers and distributors of marine engines, between Stillwater, OK, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC and TN, restricted to the transportation of traffic originating at or destined to Stillwater, OK. (Hearing site: Atlanta, GA.)

MC 119493 (Sub-230F), filed August 25, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper* and *paper products* (except commodities in bulk), from the facilities of International Paper Co., at or near Pittsburg, KS, to points in the United States (except AL and HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), in the reverse direction. (Hearing site: Kansas City, Mo, or Wichita, KS.)

MC 119493 (Sub-231F), filed August 25, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as applicant). To operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *flour, flour mixes, and ingredients* for flour and flour mixes, from Alton, IL, to points in AR, AL, IN, GA, FL, IA, IL, KS, KY, LA, MS, MO, NE, OK, OH, TN, TX, MI, MN, SD, WI, CO, NC, and SC, and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: St. Louis or Kansas City, Mo.)

MC 119630 (Sub-18F), filed August 31, 1978. Applicant: VAN TASSEL, INC., Fifth and Grand, Pittsburg, KS 66762. Representative: Dean Williamson, 280 National foundation Life Building, 3535 NW. 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *flooring, and materials and supplies* used in the installation of flooring, from White Lake, WI, and Ishpeming, MI, to points in CO, IL, IA, KS, MO, NE, OK, and TX. (Hearing site: Cincinnati, OH, or Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 119656 (Sub-45F), filed August 7, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *iron and steel articles*, between the facilities of Tollway Steel & Storage Corp., at Melrose Park, IL, on the one hand, and, on the other, points in AR, IA, KY, MI, MN, NE, OH, TN, and WI. (Hearing site: Chicago, IL.)

MC 119700 (Sub-45F), filed September 19, 1978. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Maverick Tube Corp., at or near Union, MO, to points in AL, AR, CO, IL, IN, KS, LA, MI, MN, MS, OH, OK, TX, and WI. (Hearing site: Kansas City or St. Louis, MO.)

MC 119789 (Sub-516F), filed September 13, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in vehicles equipped with mechanical refrigeration, from Austin, San Antonio, and Waco, TX, to points in AL. (Hearing site: New Orleans, LA, or Dallas, TX.)

MC 121663 (Sub-1F), filed August 24, 1978. Applicant: REFRIGERATED TRUCKING SERVICE, INC., 1502 Niagara Street, Buffalo, NY 14203. Representative: Robert D. Gunderman, 710 Statler Hilton, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring refrigeration, from Buffalo, NY, to points in Chautauqua, Erie, Monroe, and Niagara Counties, NY. Condition: The person or persons who appear to be engaged in common control must either file an application under section

5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Buffalo, NY.)

NOTE.—Applicant states that by this application it seeks to convert its certificate of registration MC 121663 to a certificate of public convenience and necessity. Issuance of a certificate is conditioned upon applicant's written request for cancellation of its certificate of registration in MC 121663.

MC 123613 (Sub-15F), filed August 28, 1973. Applicant: CLAREMONT MOTOR LINES, INC., P.O. Box 100, Claremont, NC 28610. Representative: Lester R. Gutman, 805 McLachlen Bank building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Catawba and Alexander Counties, NC, to points in AR, LA, TX, and OK. (Hearing site: Charlotte, NC.)

MC 123872 (Sub-90F), filed August 7, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk in tank vehicles), from points in WI. to points in GA, NC, SC, TN, and VA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Milwaukee or Madison, WI.)

NOTE.—Dual operations are at issue in this proceeding.

MC 124692 (Sub-220F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction, industrial*, and *farm machinery*, and *equipment;* and *parts and accessories* for construction, industrial, and farm machinery and equipment, (1) from the facilities of Donco Equipment Co., at Blue Springs, MO, to points in AR, CO, IA, IL, IN, KS, LA, MI, MN, NE, ND, OK, SD, TN, TX, WI, and WY, restricted to the transportation of traffic originating at the named origin, and (2) from points in CA, IL, IA, NE, PA, TX, and WI, to the facilities of Donco Equipment Co., at Blue Springs, MO, restricted to the transportation of traffic destined to the named destination. (Hearing site: Kansas City, MO.)

MC 124692 (Sub-217F), filed July 27, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by farm supply cooperatives (except foodstuffs, commodities in bulk, household goods as defined by the Commission, feed, feed ingredients, commodities which because of size and weight require the use of special equipment, agricultural machinery and implements other than hand, and agricultural tractors), between points in ID, MT, OR, UT, WA, and WY, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: St. Paul, MN.)

MC 124821 (Sub-37F), filed August 11, 1978. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* and *beverage preparations*, in containers, from the facilities of A. E. Staley Manufacturing Co., at or near North East, PA, to points in CT, DE, MD, MA, NH, ME, NJ, NY, PA, RI, VT, VA, WV, and DC. (Hearing site: Harrisburg, PA.)

MC 125470 (Sub-33F), filed August 24, 1978. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, and dicalcium phosphate*, (1) from the facilities of Kerford Limestone Co., and American Cynanamid Co., at or near Weeping Water, NE, to points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, LA, MN, MO, MT, NM, ND, OK, SD, TN, TX, UT, WI, and WY, and (2) from the facilities of Texasgulf, Inc., at or near Weeping Water, NE, to points in AZ, KS, LA, MO, NM, OK, TN, TX, and UT, restricted in (1) and (2) to the transportation of traffic originating at the named origin facilities. (Hearing site: Lincoln or Omaha, NE.)

MC 125535 (Sub-5F), filed August 31, 1978. Applicant: JOHN SHARP TRUCKING CO., INC., P.O. Box 834, Cherry Hill, NJ 08003. Representative: Donald S. Helm (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copper, copper products, and wire and cable*, and (2) *commodities* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between Phoenix, AZ, Atlanta, GA, Melrose Park, IL, Hillside and Linden, NJ, Greensboro, NC, Houston, TX, and West Jordon, UT, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract with Continental Copper & Steel Industries, Inc., of Cranford, NJ. (Hearing site: Washington, DC.)

MC 125708 (Sub-153F), filed September 14, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152d Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle,over irregular routes, transporting: *Iron and steel articles*, from the facilities of Armco, Inc., at Kansas City, MO, to points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, RI, SC, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 126133 (Sub-4F), filed August 24, 1978. Applicant: GENERAL LEASING, INC., 1620 South 15th Street, Prairie du Chien, WI 53821. Representative: Michael C. Varda, P.O. Box 2509, 121 South Pickney Street, Madison, WI 53701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, IL, to Prairie du Chien, WI, under a continuing contract with Quality Beverages of Wisconsin, Inc., of Prairie du Chien, WI (Hearing site; Madison, WI.)

MC 126118 (Sub-95F), filed September 14, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Wayne, IN, and New Orleans, LA, to points in TN and NC. (Hearing site: Raleigh or Greensboro, NC.)

NOTE.—Dual operations are involved in this proceeding.

MC 126118 (Sub-96F), filed September 15, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay and clay products* from Meigs, GA, to points in IA, IL, IN, KS, KY, MI, MN, MO, NE, OH, PA, and WI. (Hearing site: Philadelphia, PA, or Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 127303 (Sub-25F), filed August 24, 1978. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: Dwight L. Koerber, Jr., 805 McLachlen

Bank Building, 666 11th Street NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from La Crosse, WI, to destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 134922 (Sub-270F), filed July 21, 1978. Applicant: B. J. McADAMS, Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commod-*

handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is pres-

TN 37412. To operate as as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except commodities in

MC 138882 (Sub-126F), filed Augst 3, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative:

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Bank Building, 666 11th Street NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from La Crosse, WI, to Hannibal and Mexico, MO. (Hearing site: St. Louis, MO.)

MC 127840 (Sub-77F), filed September 18, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between Wichita, KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 128990 (Sub-3F), filed August 1, 1978. Applicant: McVEY TRUCKING, INC., R.R. 1, Oakwood, IL 61858. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Show and display tents, components for show and display tents, portable livestock stalls, tables, chairs, awnings and tarpaulins*, between points in AL, AR, CT, DE, FL, GA, IN, IL, IA, KY, LA, MA, MD, MI, MS, MO, MN, NY, NJ, NC, OH, PA, RI, SC, TN, TX, VA, WV, WI, and DC, under a continuing contract with Danville Tent & Awning Co., Inc., of Danville, IL. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 129150 (Sub-7F), filed August 22, 1978. Applicant: CIACCIA TRUCKING CO., INC., 106 Industrial Street, Rochester, NY 14606. Representative: Robert L. Boxer, 900 Midtown Tower, Rochester, NY 14604. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles*, from points in Monroe County, NY, to Peabody and Concord, MA, and Orlando, Lakeland, and Fort Lauderdale, FL. (Hearing site: Rochester or Syracuse, NY.)

MC 133689 (Sub-223F), filed September 11, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, and *floor sweeping compounds* (except commodities in bulk), from the facilities of Oil-Dri Corp. of America, at or near Ochlocknee, GA, to points in AR, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 134922 (Sub-270F), filed July 21, 1978. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire, cable*, and *cable-making compounds* (except commodities in bulk and those which because of size or weight require the use of special equipment), from North Brunswick, Paterson, and Passaic, NJ, to points in TX, CA, OR, and WA. Condition: Pursuant to the decision in MC 134922 (Sub-95 et al.), served September 7, 1978, this proceeding is being held open until such time as a determination of applicant's fitness has been made. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 134922 (Sub-271F), filed August 1, 1978. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ball bearings and pillow blocks* (except those commodities which because of size or weight require the use of special equipment), from Philadelphia, Kulpsville, Hanover, and Altoona, PA, Massillon, OH, and Hornell, NY, to points in CA, NV, OR, and TX. Condition: Pursuant to the decision in MC-134922 Sub 95, et al., served September 7, 1978, this proceeding is being held open until such time as a determination of appliant's fitness has been made. (Hearing Site: Philadelphia, PA, or Washington, DC.)

MC 135797 (Sub-135F), filed July 31, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry health products, pesticides, and feed supplements*, (2) *materials, equipment, and supplies* used in the manufacture and distribution of animal and poultry health products, pesticides, and feed supplements, from points in the United States (except AK and HI), to the facilities of Pfizer, Inc., at or near Lee's Summit, Mo, and (3) *advertising and advertising displays* between the facilities of Pfizer, Inc., at or near Lee's Summit, MO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Kansas City, MO.)

MC 135797 (Sub-138F), filed August 7, 1978. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by discount or variety stores (except commodities in bulk), (1) from points in AL, AZ, CA, CT, FL, GA, IA, IL, IN, MA, MI, MN, NC, NJ, NM, NY, OH, PA, SC, TX, VA, and WI, to the facilities of Wal-Mart Stores, Inc., at points in AR, IL, KS, KY, LA, MO, MS, OK, TN, and TX, and (2) from points in Benton and White Counties, AR, to points in AR, IL, KS, KY, LA, MO, MS, OK, TN, and TX, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Wal-Mart Stores, Inc., at the indicated origin or destination territories. (Hearing Site: Washington, DC, or Kansas City, MO.)

MC 135797 (Sub-141F), filed August 21, 1978. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of metal tool and utility boxes, tool chests, medical cabinets, benches and shelves (except commodities in bulk), between points in the United States (except AK and HI). Restriction: Restricted to the transportation of traffic originating at or destined to the facilities of Waterloo Industries, Inc., or Lumidor Manufacturing, Inc. (Hearing Site: Kansas City, MO, or Chicago, IL.)

MC 136817 (Sub-10F), filed June 19, 1978. Applicant: HUNTER BROKERAGE, INC., 805 32d Avenue, Council Bluffs, IA 51501. Representative: Kenneth J. Hunter (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *lumber and wood products*, from ports of entry on the international boundary line between the United States and Canada in MN and ND, to points in ND, SD, MN, WI, IA, NE, KS, IL, IN, OH, MO, KY, and TN, restricted to the transportation of traffic having a prior movement in foreign commerce and originating at the Province of MB, Canada, under a continuing contract with Northwood Building Materials, of Winnipeg, MB, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Omaha, NE or Fargo, ND.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to

handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 136899 (Sub-29F), filed September 11, 1978. Applicant: HIGGINS TRANSPORTATION LTD., P.O. Box 192, Richland Center, WI 53581. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, Wi 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *deicers*, and *such commodities* as are dealt in or used by lawn and garden supply houses; and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in St. Louis County, MN, on the one hand, and, on the other, points in the United States (except AK and HI), restricted against the transportation of commodities in bulk, in tank vehicles). (Hearing site: Madison, WI or St. Paul, MN.)

MC 138157 (Sub-80F), filed August 14, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., a California corporation d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Carpet strip, molding, staples, tools, nails, adhesives, sealants, solvents, stains, and wood preservatives;* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a) above, from the facilities of Roberts Consolidated Industries, in Los Angeles County, CA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138157 (Sub-82F), filed August 21, 1978. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, (except commodities in bulk), from the facilities of Texaco, Inc., in Jefferson County, TX, to points in GA, IL, IN, KY, OH, and TN. (Hearing site: Houston, TX.)

NOTE: Dual operations are at issue in this proceeding.

MC 138283 (Sub-7F), filed August 27, 1978. Applicant: DANA TRUCKING CORP., Round Lake, MN 56167. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cookies*, from the facilities of Interbake Foods, Inc., at or near North Sioux City, SD, to points in AL, FL, GA, and LA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cookies (except in bulk), in the reverse direction, under a continuing contract with Interbake Foods, Inc., of Richmond, VA. (Hearing site: Richmond, VA.)

MC 138553 (Sub-1F), filed August 29, 1978. Applicant: M. & M. GRAIN CO., a corporation, Box P, Business 71 South, Nevada, MO 64772. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, (1) from Little Rock and Searcy, AR, Belmond and Waterloo, IA, McCook and Norfolk, NE, Columbus, OH, Texarkana and Tyler, TX, and Muskego, WI, to Butler, MO, (2) from Butler, MO, to Phoenix, AZ, Woburn, MA, Hartland, ME, St. Paul, MN, Manchester and Penacook, NH, Buffalo, Gloversville and Johnstown, NY, and Memphis, TN, (3) from Columbus, OH, to Danversport, MN, Hartland, ME, and Milwaukee, WI, (4) from Great Bend, KS, to Los Angeles, CA, Manchester, NH, and Laredo, TX, and (5) from Muskego, WI, to Danversport, MA, and Laredo, TX. (Hearing site: Kansas City, MO.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 138773 (Sub-2F), filed August 23, 1978. Applicant: EAST SOUTH EXPRESS, INC., P.O. Box 13887, Roanoke, VA 24034. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric controllers and electric instruments*, the transportation of which because of size or weight requires the use of special equipment or special handling, from points in Roanoke County, VA, to points in CA, FL, GA, ID, MT, NV, NC, OR, SC, VA, UT, and WA. (Hearing site: Washington, DC.)

MC 138882 (Sub-126F), filed Augst 3, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquetts, hickory chips, barbeque articles, and fire place logs*, from Crossville, TN, to points in IN, OH, MI, IL, and WI. (Hearing site: Montgomery, AL or Louisville, KY.)

MC 138882 (Sub-133F), filed August 8, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Murphy and Wilmington, NC, Burkeville, Norfolk, and Danville, VA, Montgomery, Mobile, Selma, and Brewton, AL, Chatham, New Orleans, and Baton Rouge, LA, Lucedale and Collins, MS, Blountstown and Jacksonville, FL, Jackson, TN, Savannah, GA, and Charleston and Olar, SC, to points in NC, NY, VA, WV, TX, IL, VT, PA, MI, WI, MS, LA, KY, TN, IN, IA, AR, CA, UT, OH, AL, SC, FL, GA, and NH. (Hearing site: Montgomery, AL or Jackson, MS.)

MC 138882 (Sub-134F), filed August 8, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, from the facilities of the Celotex Corp., at Houston and San Antonio, TX, to points in CA, OR, WA, NV, UT, and ID. (Hearing site: Tampa, FL or Montgomery, AL.)

MC 138890 (Sub-12F), filed September 18, 1978. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foodstuffs* (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat byproducts*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in the United States (except AK, GA, HI, KY, NC, SC, TN, VA, and WV). (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 139336 (Sub-16F), filed June 6, 1978. Applicant: TRANSTATES, INC., 3216 East Westminster, Santa Ana, CA 92703. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite

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1890, Los Angeles, CA 90017. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass reinforcements*, from points in Wichita County, TX, to points in CA, OR, WA, ID, MT, WY, NV, UT, CO, AZ, and NM; (2) *polyester resins*, from Wilmington, DE, and Lynwood, CA, to points in the United States (except AK and HI); (3) *industrial fabrics, tapes, and fiberglass insulations*, from Altavista, VA, to points in CA, OR, WA, MT, WY, UT, AZ, NV, CO, NM, and ID; (4) *transverse and longitudinal reinforcements*, from points in Guadalupe County, TX, to points in CA, OR, WA, MT, WY, UT, AZ, NV, CO, NM, and ID; and (5) *catalysts*, from Marshall, TX, to points in CA, OR, WA, MT, WY, UT, AZ, NV, CO, NM, and ID. (Hearing site: Los Angeles, CA.)

MC 139495 (Sub-381F), filed August 28, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Union Camp Corp., at or near Tifton, GA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk), in the reserve direction. (Hearing site: Washington, DC.)

MC 139495 (Sub-383F), filed August 31, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by discount and variety stores, from North Bergen, NJ, to points in OK. (Hearing site: Washington, DC.)

MC 140231 (Sub-6F), filed August 11, 1978. Applicant: LUMBER DISTRIBUTORS, INC., Building 149 Marsh Street-Southside, Port Newark, NJ 07114. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and wood products*, between Mahwah, NJ, on the one hand, and, on the other, points in CT, DE, MD, NY, and PA. (Hearing site: New York, NY.)

MC 140241 (Sub-20F), filed August 9, 1978. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn mowers, tractor cabs, and parts* for lawn mowers and tractor cabs, from the facilities of Excel Industries, at or near Hesston, KS, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture of (1) above, in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 140273 (Sub-8F), filed August 21, 1978. Applicant: BUESING BROS. TRUCKING, INC., North 520 Tamarack, Long Lake, MN 55356. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, WI, ND, SD, and NE. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140546 (Sub-2F), filed August 1, 1978. Applicant: ROADHOUND TRUCK CO., a corporation, 811 West Hale Street, Osceola, AR 72370. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials*, from the facilities of Masonite Corp., at or near (a) Little Rock, AR, and (b) Meridian, MS, to points in AL, AR, FL, GA, IN, IL, IA, KS, KY, LA, MS, MO, NC, OK, SC, TN, TX, and VA, and (2) *materials and supplies* used in the manufacture, distribution, and sale of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Meridian, MS, or Little Rock, AR.)

MC 140859 (Sub-6F), filed September 11, 1978. Applicant: WESTERN KENTUCKY TRUCKING, INC., 1245 Center Street, Henderson, KY 42420. Representative: William P. Whitney, Jr., Suite 708, McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer ingredients and solutions*, in bulk, in tank vehicles, between the facilities of Circle O Farm Center in Crittenden County, KY, on the other hand, and, on the other, those points in IL on, south and east of a line beginning at the KY-IL State line and extending along U.S. Hwy 51 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the IL-IN State line, those in IN on, west and south of a line beginning at the IL-IN State line and extending along U.S. Hwy 40 to junction Interstate Hwy 65, then along Interstate Hwy 65 to the IN-KY State line, and those points in TN on, west, and north of a line beginning at the AL-TN State line and extending along Interstate Hwy 65 to junction Interstate Hwy 40, then along Interstate Hwy 40 to junction TN Hwy 20, then along TN Hwy 20 to the TN-MO State line. (Hearing site: Henderson, KY, or Evansville, IN.)

MC 141747 (Sub-5F), filed July 31, 1978. Applicant: DONALD ENGLE & JAMES ENGLE, a partnership, d.b.a. ENGLE BROTHERS FARMS, Rural Route 1, Rector, AR 72461. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Limestone*, from points in Butler, Scott, and Wayne Counties, MO, to points in AR, (2) *nitrogen, potash, and phosphate, in mixed grades, urea, nitrogen solution, and fertilizer grade ammonia nitrate*, from Hayti and Sikeston, MO, to points in AR, KY, IL, and TN, (3) *dry fertilizer*, in bulk, between Memphis, TN, and points in AL, AR, IL, IN, KY, LA, MI, MO, OK, and TX, and (4) *mixed fertilizer, fertilizer grade ammonium nitrate, urea, superphosphate, diammonium phosphate, and monoammonium phosphate*, from the facilities of Swift Agricultural Chemical Corp., at or near Memphis, TN, to points in AR and MS. (Hearing site: Memphis, TN, or Little Rock, AR.)

MC 141921 (Sub-17F), filed August 8, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Sioux City, IA, to points in CT, FL, GA, ME, MA, MD, NH, NJ, VT, RI, PA, NY, OH, DE, VA, WV, and DC. (Hearing site: Concord, NH.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142310 (Sub-5F), filed September 18, 1978. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)

Frozen foodstuffs (except commodities in bulk, in tank vehicles), and (2) *frozen meats and meat byproducts*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 142351 (Sub-6F), filed August 15, 1978. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jericho Turnpike, Commack, NY 11725. Representative: Nicholas P. Cerbini (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys and novelties*, from South Brunswick, NJ, to points in AL, AR, CA, FL, IL, IN, IA, KS, KY, LA, GA, MD, MA, MI, MN, MS, MO, NV, NH, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI, under a continuing contract with Dan Brechner Plush Toy Co., Inc., of New York, NY. (Hearing site: New York, NY.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142559 (Sub-50F), filed September 14, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by manufacturers of rubber and rubber products (except commodities in bulk), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of rubber and rubber products (except commodities in bulk), between Cedartown, Rockmart, and Cartersville, GA, and Decatur, Scottsboro, and Gadsden, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142559 (Sub-51F), filed September 11, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic flakes, plastic granules, plastic powder, and plastic articles* (except commodities in bulk), from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to the facilities of General Polymers of Michigan, Inc., at Dearborn and Warren, MI. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142672 (Sub-25F), filed August 7, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries, and portable battery chargers*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, from Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren, and Youngstown, OH, and Lexington, KY, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing Site: Cleveland, OH, or Little Rock, AR.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142897 (Sub-11F), filed August 18, 1978. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *contract carrier*, motor vehicle, over irregular routes, transporting: (1) (a) *Auto parts* (except commodities in bulk), and (b) *equipment and materials* used in the manufacture of auto parts (except commodities in bulk), between Toledo, OH, Pinola, IN, and Grand Haven, MI, on the one hand, and, on the other, points in WI, and (2) (a) *crated new furniture*, and (b) *materials and equipment* used in the manufacture of funiture (except commodities in bulk), between Stevens Point, WI, on the one hand, and, on the other, points in the United States (except AL, HI, and WI), under a continuing contract with Questor Corp. of Toledo, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 143830 (Sub-2F), filed September 7, 1978. Applicant: JAMES S. HELWIG & ALLEN L. GRIMLAND, d.b.a. H & G LEASING, a partnership, 6331 Melody Lane No. 1720, Dallas, TX 75231. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl floor covering*, from Trenton, NJ, and Marcus Hook, PA, to Houston and Irving, TX, under a continuing contract with L. D. Brinkman & Co., of Irving, TX. (Hearing site: Dallas, TX.)

MC 143846 (Sub-3F), filed June 13, 1978. Applicant: P. POSA, INC., 315 Feather Lane, Franklin Lakes, NJ 07417. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, cosmetics, and toilet articles*, from New York, NY, Glen Gardner, Totowa, and Rahway, NJ, and the facilities of Lanvin-Charles of the Ritz, Inc., at or near Holmdel, NJ, to points in AL, AR, AZ, CA, CO, FL, GA, IL, LA, NC, SC, TN, TX; and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from the destinations indicated in (1) above, to the facilities of Lanvin-Charles of the Ritz, Inc., at or near Holmdel, NJ, under a continuing contract in (1) and (2) above with Lanvin-Charles of the Ritz, Inc., of Holmdel, NY. (Hearing site: New York, NY.)

MC 144083 (Sub-6F), filed August 28, 1978. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone* and *crushed marble*, in bags, from points in Talladega County, AL, to points in AR, FL, KS, LA, MO, MS, OK, SC, TN, and TX. (Hearing site: Jackson, MS, or Birmingham, AL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144407 (Sub-4F), filed August 15, 1978. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cabinets and sink tops*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of AMPCO, Division of Chromalloy American Corp., at or near (a) Rosedale, MS and (b) Tyrone, PA, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, MI, MO, NJ, NY, OH, PA, RI, VA, WI, and WV. (Hearing site: Jackson, MS, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 144441F, filed August 11, 1978. Applicant: DERWOOD M. FOUST, d.b.a. ALTOONA EMERGENCY WRECKER SERVICE, 4035 Sixth Avenue, Altoona, PA 16602. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, and repossessed*

motor vehicles (except trailers designed to be drawn by passenger automobiles), and (2) *replacement vehicles* for the commodities named in (1) above, between points in Blair County, PA, on the one hand, and, on the other, those points in the United States in and east of WI, IA, MO, AR, and LA. (Hearing site: Altoona, PA, or Washington, DC.)

MC 144497 (Sub-1F), filed August 21, 1978. Applicant: JOHN DAVID WEBSTER, d.b.a. CENTRAL DISPATCH DISTRIBUTING, 1394 East Ninth, Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, from Bauxite, AR, Chicago Heights, IL, Highland, IN, South Shore, KY, Baltimore, MD, Kalamazoo, MI, St. Louis and Vandalia, MO, Sledge, MS, Niagara Falls, NY, Canal Winchester, Cincinnati, Oak Hill, Sugar Creek, and Woodville, OH, Port Kennedy and Zelienople, PA, and Greeneville and Paris, TN, to points in AZ, CA, NV, NM, and UT, under a continuing contract with the Pryor-Giggey Co., of Santa Fe Springs, CA. (Hearing site: Los Angeles, CA.)

MC 144499 (Sub-1F), filed August 27, 1978. Applicant: SIDNEY R. SAVAGE, INC., West Kingfield Road, Kingfield, ME 04947. Representative: Paul K. Marshall, P.O. Box 182, Kingfield, ME 04947. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, (1) from Strong, ME, to Chicago, IL, Atlanta, GA, Houston, TX, Milwaukee, WI, and Miami and Tampa, FL, and (2) from Kingfield, ME, to Cleveland, OH, under a continuing contract in (1) above with Strong Wood Products, of Strong, ME, and in (2) above with Joneco, Inc., of Kingfield, ME. (Hearing site: Portland, ME, or Boston, MA.)

MC 144503 (Sub-1F), filed August 21, 1978. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products and woodpulp*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in IL and MN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Atlanta, GA.)

MC 144503 (Sub-2F), filed August 25, 1978. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and pineapples*, from Tampa, FL, to points in AL, AR, GA, IN, IL, KY, IA, MN, MO, NC, MI, OK, NE, SC, OH, WI, TN, MS, and KS. (Hearing site: Atlanta, GA, or Miami, FL.)

MC 144790 (Sub-2F), filed September 5, 1978. Applicant: HOWARD HERLEE LISK, d.b.a. HOWARD LISK, Route 1, Box 166, Wadesboro, NC 28170. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from the facilities of Allen Steam Plant of Duke Power Co., at or near Belmont, NC, to the site of the Cherokee Nuclear Station of Duke Power Co., near Gaffney, SC. (Hearing site: Charlotte, NC.)

MC 144871 (Sub-1F), filed August 14, 1978. Applicant: DOYLE SMITH, d.b.a. DOYLE SMITH HAULING, Route 4, Box 432, Waycross, GA 31501. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clothing*, from Waycross, Rossville, Nichols, and Douglas, GA, to Clinton, NC, Seracus, NJ, and New York, NY, and (2) *materials and supplies* used in the manufacture of clothing, from Wilmington, NC, and Brooklyn, NY, to Waycross, GA, under a continuing contract in (1) and (2) above with Jana Lee, Inc., of New York, NY. (Hearing site: Jacksonville, FL or Atlanta, GA.)

MC 144946F, filed June 26, 1978, and previously noticed in the FEDERAL REGISTER issue of August 22, 1978. Applicant: BIG T TRUCK SERVICE, INC., 600 Crestmore Avenue, Dayton, OH 45417. Representative: David A. Turano, Suite 1800, 100 East Broad, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cosmetics, toilet articles, and equipment and supplies* used in the sale of cosmetics and toilet articles (except commodities in bulk), between the facilities of Avon Products, Inc., at or near Springdale, OH, on the one hand, and, on the other, Plainwell and Grand Rapids, MI, and Chamblee, GA, under a continuing contract with Avon Products, Inc., of Springdale, OH. (Hearing site: Columbus, OH or Washington, DC.)

NOTE.—The purpose of this republication is to show the correct commodity and territorial description.

MC 145050F, filed July 10, 1978. Applicant: POMONA PIPE PRODUCTS, division POMONA CORP., P.O. Box 20400, Greensboro, NC 27420. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel bars*, from Roanoke, VA, to points in Guilford and Forsyth Counties, NC, (2) *steel sheets and plates*, from Sparrows Point, MD, and Morrisville, PA, to Richmond, Roanoke, and Lynchburg, VA, and points in Guilford and Forsyth Counties, NC, and (3) *steel shapes*, from Bethlehem, PA, to Richmond, Roanoke, Lynchburg, VA, and points in Guilford and Forsyth Counties, NC, under a continuing contract with Carolina Steel Corp., of Greensboro, NC. (Hearing site: Greensboro, NC or Washington, DC.)

MC 145067 (Sub-2F), filed August 21, 1978. Applicant: LAWRENCE E. SPAIDE, INC., P.O. Box 111, Avoca, PA 18641. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane*, in bulk, from Watkins Glen, Harford Mills, Bath, and Selkirk, NY, Delaware City, DE, Eagle, Philadelphia, and Marcus Hook, PA, Perth Amboy and Westville, NJ, to points in DE, MA, NJ, NY, PA, and VA. (Hearing site: Scranton, PA.)

NOTE.—The certificate to be issued here shall be limited in points of time to a period expiring 5 years from the effective date thereof.

MC 145083F, filed July 17, 1978. Applicant: H & B EQUIPMENT COMPANY, INC., 7511 Rosedale Hwy., Bakersfield, CA 93308. Representative: Earl N. Miles, Jr., 3704 Candlewood Drive, Bakersfield, CA 93306. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are used in the establishment, maintenance, or dismantling of oil wells, gas wells, steam wells, water wells, pipe lines, refineries, cracking or casinghead plants, and (2) *construction equipment, construction materials, and farming equipment*, between points in Fresno, Kern, Kings, Monterey, San Luis Obispo, and Santa Barbara Counties, CA, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Bakersfield, CA.)

MC 145125 (Sub-2F), filed August 28, 1978. Applicant: LAUREL MOUNTAIN OVERLAND EXPRESS, INC., P.O. Box 327, Milroy, PA 17063. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass products, bronze products, copper products, and nickel products, and brass and copper alloys*, from

Reading and Ontelaunce, PA, to points in CA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: New York, NY.)

MC 145163 (Sub-1F), filed August 24, 1978. Applicant: DONALD MULDER d.b.a. MULDER TRUCKING, 1735 North 50th Street, Lincoln, NE 68504. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) (a) *Self-propelled vehicles, lawnmowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, and trailers*, and (b) *accessories, attachments, and parts* for the commodities named in (1)(a) above, from the facilities of OMC-Lincoln, division of Outboard Marine Corp., at Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) (a) and (b) above, from points in the United States (except AK, HI, and NE), to the facilities of OMC-Lincoln, division of Outboard Marine Corp., at Lincoln, NE, restricted in (1) (a) and (b) above to the transportation of traffic originating at the named origin, and in (2) above to the transportation of traffic destined to the named destination.

NOTE.—Dual operations may be at issue in this proceeding.

MC 145171F, filed August 11, 1978. Applicant: ROBERT D. ZARNDT TRUCKING, INC., Route 2, Box 330, Aurora, IL 60504. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Metal fences*, from the facilities of Master Fence Fittings, Inc., at Lombard, IL, to points in WI, MI, IN, and MN, and (b) *materials and supplies* used in the manufacture and distribution of metal fences, in the reverse direction, under a continuing contract in (1) above with Master Fence Fittings, Inc., of Lombard, IL, (2) (a) *hardboard, particleboard, and plywood*, from the facilities of Cardinal Industries, at or near Wheaton, IL, to points in IL, WI, IN, MI, OH, KY, TN, IA, GA, and AL, and (b) *materials and supplies* used in the manufacture and distribution of the commodities named in (2)(a) above, in the reverse direction, under a continuing contract in (2) above with Cardinal Industries, of Wheaton, IL; and (3) (a) *hardboard, particleboard, and plywood*, from the facilities of Laminite Plastics of Chicago, at Chicago, IL, to points in IL, IN, OH, MI, WI, IA, MN, and MO; and (b) *materials and supplies* used in the manufacture and distribution of the commodities named in (3)(a) above, in the reverse direction, under a continuing contract in (3) above with Laminite Plastics of Chicago, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 145201F, filed August 11, 1978. Applicant: JOHN MESZAROS, d.b.a. MID-JERSEY TRUCK RENTAL, 65 Loring Avenue, Edison, NJ 08817. Representative: Robert B. Pepper, 168 Woodbridge Avenue Highland Park, NJ 08904. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) (a) *paints, and floor coverings*, and (b) *materials and supplies* used in the installation of floor coverings, from New York, NY, and Salem, NJ, to points in CT, DE, MD, MA, NY, PA, RI, and VA, and (2) *materials and supplies* used in the manufacture and distribution of floor covering and paints (except commodities in bulk), in the reverse direction. (Hearing site: Newark, NJ.)

MC 145237F, filed August 21, 1978. Applicant: SCOTT TRUCK LINE, INC., a Nebraska corporation, 5280 Newport Street, Commerce City, CO 60521. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film, rubber film, plastic sheeting, and rubber sheeting*, from points in MA, NJ, OH and PA, to the facilities of Watersaver Co., Inc., at or near Denver, CO, under a continuing contract with Watersaver Co., Inc., of Denver, CO. (Hearing site: Denver, CO.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145360 F, filed September 11, 1978. Applicant: THOM'S TRANSPORT CO., INC., Box 405, Blackshear, GA 31516. Representative: Sol. H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Blackshear and Dudley, GA, and Maxville, FL, to points in AL, AR, FL, GA, IN, IL, KY, LA, MD, MO, MS, NC, OH, SC, TN, TX, VA, and WV. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

PROPERTY AUTHORITY

MC 1515 (Sub-252F), filed August 29, 1978. Applicant: GREYHOUND LINES, INC., a California corporation, Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, (1) between Hempstead and Bay Shore, NY: from Hempstead over NY Hwy 24 to junction Nassau County Road 4, then over Nassau County Road 4 to junction NY Hwy 27, then over NY Hwy 27 to Bay Shore, and return over the same route, (2) between Hempstead and Massapequa, NY: from Hempstead over NY Hwy 105 to junction NY Hwy 107, then over NY Hwy 107 to Massapequa, and return over the same route, (3) between junction Nassau County Road 4 and NY Hwy 24, and Smithtown, NY: from junction Nassau County Road 4 and NY Hwy 24 over NY Hwy 24 to junction NY Hwy 106, then over NY Hwy 106 to junction NY Hwy 495, then over NY Hwy 495 to junction NY Hwy 111, then over NY Hwy 111 to Smithtown, and return over the same route, (4) between junction NY Hwy 24 and NY Hwy 106, and junction NY Hwy 105 and NY Hwy 107: from junction NY Hwy 24 and NY Hwy 106 over NY Hwy 24 to junction NY Hwy 107, then over NY Hwy 107 to junction NY Hwy 105, and return over the same route, (5) between junction NY Hwy 106 and NY Hwy 495, and Smithtown, NY: from junction NY Hwy 106 and NY Hwy 495 over NY Hwy 106 to junction NY Hwy 25, then over NY Hwy 25 to Smithtown, and return over the same route, (6) between Hicksville, NY and junction Nassau County Road 12 and NY Hwy 25, over Nassau County Road 12, (7) between South Huntington, NY and junction NY Hwy 25 and NY Secondary Route 35: from South Huntington over NY Hwy 110 to Huntington Station, NY, then over unnumbered Hwy (Broadway Avenue), to junction NY Secondary Route 35, then over NY Secondary Route 35 to junction NY Hwy 25, and return over the same route, serving in (1) through (7) above, all intermediate points, and (8) between junction NY Hwy 106 and NY Hwy 495 and New York, NY, over NY Hwy 495, serving no intermediate points. (Hearing site: Hicksville and Bay Shore, NY.)

BROKER AUTHORITY

MC 130506F, filed July 13, 1978. Applicant: SEPTEMBER DAYS CLUB, a Division of DAYS INNS OF AMERICA, INC., 2751 Buford Highway, NE., Atlanta, GA 30324. Representative: Richard C. Glass (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Atlanta, GA, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, in one-way and round-trip tours, between points in the United States, including AK and HI. (Hearing site: Atlanta, GA.)

BROKER AUTHORITY

MC 130523F, filed August 24, 1978. Applicant: LEE'S WORLD OF

filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, on

service will be consistent with the public interest and the national transportation policy. Each applicant is fit,

Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Passadumkeag, ME, to

IL and OH: From Peoria over U.S. Hwy 150 to Danville, IL, then over U.S. Hwy 136 to Indianapolis, IN, then over U.S. Hwy 40 to Columbus, and

over irregular routes, transporting: (1) *Sheet steel containers and plastic containers*, from Picayune, MS, to points in LA and TX; and (2) *materials* used

V 4 3 1 2 0 8 C 2 6 7 8

BROKER AUTHORITY

MC 130523F, filed August 24, 1978. Applicant: LEE'S WORLD OF TRAVEL, US 98 and Co 32, Box 560, Point Clear, AL 46564. Representative: Lee Groves (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker* at Point Clear, AL, in arranging for the transportation by motor vehicle of: *Passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Baldwin County, AL, and extending to points in the United States (including AK and HI), and all ports of entry on the international boundary line between the United States and Canada, restricted to the transportation of traffic destined to points in the Provinces of BC, AB, ON, PQ, and NS, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with apprcpriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect. (Hearing site: Mobile or Montgomery, AL.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension New York, NY 54 MCC 291 (1954).

[FR Doc 78-30156 Filed 10-25-78; 8:45 am]

[7035-01-M]

[Decisions Volume No. 40]

DECISION-NOTICE

OCTOBER 16, 1978.

The following applications are governed by special rule 247 of the Commission's rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, on or before November 27, 1978, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to comform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, Review Board No. 1, members Carleton, Joyce, and Jones.

H. G. HOMME, Jr.,
Acting Secretary.

MC 531 (Sub-360F), filed August 14 1978. Applicant: YOUNGER BROS., INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Houston, Longview, Texas City, and Freeport, TX, to the ports of entry on international boundary line between the United States and the Republic of Mexico, at Laredo and Brownsville, TX, restricted to the transportation of traffic having a subsequent movement in foreign commerce. (Hearing site: Houston, TX.)

MC 2392 (Sub-116F), filed August 11, 1978. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the facilities of Chevron Chemical Co., near Friend, KS, to points in CO, NE, OK, TX, and WY. (Hearing site: Omaha, NE.)

MC 4941 (Sub-40F), filed August 14, 1978. Applicant: QUINN FREIGHT LINES, INC., 1093 Montello Road, Brockton, MA 02403. Representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02187. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Passadumkeag, ME, to points in DE, MD, NY, PA, and VA. (Hearing site: Boston, MA or Portland, ME.)

MC 4963 (Sub-61F), filed August 29, 1978. Applicant: ALLEGHANY CORP., d.b.a. JONES MOTOR, Bridge Street and Schuylkill Road, Spring City, PA 19475. Representative: Roland Rice, Suite 501, Perpetual Building, 1111 East Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), (1) between Akron and Toledo, OH, serving all intermediate points: From Akron over U.S. Hwy 224 to Tiffin, then over OH Hwy 18 to Fostoria, then over U.S. Hwy 23 to Toledo, and return over the same route; (2) between Akron and Shelby, OH, serving all intermediate points: From Akron over U.S. Hwy 224 to Lodi, then over U.S. Hwy 42 to Mansfield, then over OH Hwy 39 to Shelby, and return over the same route; (3) between Akron and Cincinnati, OH, serving all intermediate points: From Akron over U.S. Hwy 224, then over OH Hwy 585 to Wooster, then over OH Hwy 3 to Columbus, then over U.S. Hwy 40 to Lafayette, then over U.S. Hwy 42 to Cincinnati, and return over the same route; (4) between Akron and Cambridge, OH, serving all intermediate points: From Akron over OH Hwy 93 to Plainfield, then over OH Hwy 658 to Cambridge, and return over the same route; (5) between Tiffin, OH, and Peoria, IL, serving all intermediate points in IL and OH: From Tiffin over U.S. Hwy 224 to Huntington, IN, then over U.S. Hwy 24 to Peoria, and return over the same route; (6) between Dayton, OH, and Pittsburgh, PA, serving all intermediate points: From Dayton over OH Hwy 4 to junction U.S. Hwy 40 to Washington, PA, then over U.S. Hwy 19 to Pittsburgh, and return over the same route; (7) between Dayton and Cincinnati, OH, serving all intermediate points, over Interstate Hwy 75; (8) between Cincinnati, OH, and Winchester, VA, serving all intermediate points (except points in WV), over U.S. Hwy 50; (9) between Cambridge, OH, and Bluefield, VA, serving all intermediate points (except points in WV): From Cambridge over OH Hwy 821 to Marietta, then over unnumbered highway (formerly U.S. Hwy 21) to U.S. Hwy 21, then over U.S. 21 to Bluefield, and return over the same route; and (10) between Peoria, IL, and Columbus, OH, serving all intermediate points in IL and OH: From Peoria over U.S. Hwy 150 to Danville, IL, then over U.S. Hwy 136 to Indianapolis, IN, then over U.S. Hwy 40 to Columbus, and return over the same route, serving in connection with (1) through (10) points in OH as off-route points in connection with carrier's presently authorized regular-route operations. Conditions: (1) The regular route authority granted here shall not be severable, by sale or otherwise, from applicant's retained pertinent irregular-route authority; (2) applicant must request, in writing, the imposition of restrictions on its underlying irregular-route authority precluding service between any two points authorized to be served here pursuant to regular route authority. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—The purpose of this application is to convert a portion of applicant's existing irregular route authority to regular route authority.

MC 5470 (Sub-158F), filed September 20, 1978. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys*, in dump vehicles, from Detroit, MI, to points in OH, PA, and those in NY on and east of U.S. Hwy 15. (Hearing site: Washington, DC, or Buffalo, NY.)

MC 5470 (Sub-159F), filed September 20, 1978. Applicant: TAJON, INC., a Delaware corporation, R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron* from East Liverpool, OH, to points in IN. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 10875 (Sub-46F), filed August 31, 1978. Applicant: BRANCH MOTOR EXPRESS CO., a Pennsylvania corporation, 114 Fifth Avenue, New York, NY 10011. Representative: G. G. Heller (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, serving the facilities of Alabama Kraft Co., at or near Mahrt, AL, as an off-route point in connection with applicant's presently authorized regular-route operations. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 11207 (Sub-443F), filed August 22, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue West, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sheet steel containers and plastic containers*, from Picayune, MS, to points in LA and TX; and (2) *materials* used in the manufacture of commodities in (1) above, in the reverse direction. (Hearing site: Jacksonville, FL, or Birmingham, AL.)

MC 11207 (Sub-444F), filed August 22, 1978. Applicant: DEATON, INC., a Delaware corporation, 317 Avenue West, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and Steel articles* (except commodities which because of size or weight require the use of special equipment), from Hialeah, FL, to points in AL, AR, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: Miami, FL, or Washington, DC.)

MC 11220 (Sub-156F), filed July 3, 1978. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and automobiles), (1) between junction U.S. Hwy 67 and IL Hwy 267 at or near Godfrey, IL, and Macomb, IL, over U.S. Hwy 67, serving no intermediate points, and (2) between junction U.S. Hwy 67 and IL Hwy 9, and Monmouth, IL, over U.S. Hwy 67, serving no intermediate points, as alternate routes for operating convenience only, in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 11220 (Sub-157F), filed September 5, 1978. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment), between junction U.S. Hwy 41 and Interstate Hwy 64, and Louisville, KY, over Interstate Hwy 64, serving no intermediate points, as alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 15859 (Sub-10F), filed September 14, 1978. Applicant: THE HINE LINE, a corporation, 247 Emmett Street, Newark, NJ 07114. Representative: MOTOR EXPRESS CO., a corporation, 3321 Business, 141 South Sheboygan, WI 53081. Representative: William C. Dineen, Suite 412, Empire

Ogden over Interstate Hwy 80N to junction U.S. Hwy 97, then over U.S. Hwy 97 to Maryhill, and return over the same route, serving no intermedi-

Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

MC 99565 (Sub-17F), filed August 21, 1978. Applicant: FORE WAY EXPRESS, INC., 204 South Bellis Street,

To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in

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MC 15859 (Sub-10F), filed September 14, 1978. Applicant: THE HINE LINE, a corporation, 247 Emmett Street, Newark, NJ 07114. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and pelts*, between points in GA, IL, IN, IA, KS, KY, MA, ME, MD, MI, MN, MO, MS, ND, NH, NJ, NY, NC, OH, PA, SC, SD, TN, VA, VT, WV, and WI. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 35320 (Sub-157F), filled August 9, 1978. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between San Antonio and Laredo, TX, over Interstate Hwy 35, serving no intermediate points, and serving junction Interstate Hwy 35 and U.S. Hwy 57 and junction Interstate Hwy 35 and U.S. Hwy 83, for purposes of joinder only; (2) between junction Interstate Hwy 35 and U.S. Hwy 57, and junction Interstate Hwy 35 and U.S. Hwy 83, from junction Interstate Hwy 35 and U.S. Hwy 57 over U.S. Hwy 57 to Eagle Pass, then over U.S. Hwy 277 to Carrizo Springs, then over U.S. Hwy 83 to junction U.S. Hwy 83 and Interstate Hwy 35, serving Eagle Pass as an intermediate points, and serving La Pryor and the junctions of Interstate Hwy 35 and U.S. Hwy 57, and Interstate Hwy 35 and U.S. Hwy 83 for purposes of joinder only; (3) between San Antonio and La Pryor, TX, from San Antonio, over U.S. Hwy 90 to Uvalde, then over U.S. Hwy 83 to La Pryor, serving no intermediate points, and serving La Pryor for purposes of joinder only. (Hearing site: San Antonio or Dallas, TX.)

MC 36918 (Sub-9F), filed September 13, 1978. Applicant: FASTWAY TRANSPORTATION, INC., P.O. Box 383, 151 Morristown Road, Matawan, NJ 07747. Representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Highway 34, Colts Neck, NJ 07722. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass, food and beverage containers*, between the facilities of Midland Glass Co., Inc., at or near Cliffwood and Keasby, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NY, PA, RI, and VA. (Hearing site: Newark, NJ, or New York, NY.)

MC 40978 (Sub-41F), filed September 14, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business, 141 South Sheboygan, WI 53081. Representative: William C. Dineen, Suite 412, Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture and distribution of furniture (except commodities in bulk), from Aurora and Montgomery, IL, to the facilities of All-Steel, Inc., at West Hazleton, PA. (Hearing site: Chicago, IL.)

MC 48441 (Sub-18F), filed May 19, 1978 was previously and incorrectly noticed in the FR issue of August 17, 1978 as Sub-12F. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 666 Eleventh St. NW., No. 805, Washington, DC 20001.

NOTE.—The purpose of this republication is to indicate the carrier's correct Sub number.

MC 48441 (Sub-20F), filed July 18, 1978, and previously and incorrectly noticed in the FR issue of September 14, 1978 as Sub-14F. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001.

NOTE.—The purpose of this republication is to indicate the carrier's correct Sub number.

MC 52460 (Sub-221F), filed September 15, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Russellville and Searcy, AR, to points in AL, GA, KY, LA, MS, TN, TX, and those in FL on and west of FL Hwy 65, and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), in the reverse direction. (Hearing site: Tulsa, OK.)

MC 52709 (Sub-352F), filed September 22, 1978. Applicant: RINGSBY TRUCK LINES, INC., a Nebraska corporation, P.O. Box 7240, Denver, CO 80207. Representative: Robert P. Tyler (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Ogden, UT, and Maryhill, WA, from Ogden over Interstate Hwy 80N to junction U.S. Hwy 97, then over U.S. Hwy 97 to Maryhill, and return over the same route, serving no intermediate points, and serving junction of Interstate Hwy 15W and Interstate Hwy 80N, junction Interstate Hwy 80N and U.S. Hwy 395, junction Interstate Hwy 80N and Interstate Hwy 82, and Biggs, OR, for the purpose of joinder only, (2) between junction Interstate Hwy 80N and U.S. Hwy 395 and Prosser, WA, from junction Interstate Hwy 80N and U.S. Hwy 395, over U.S. Hwy 395 to junction U.S. Hwy 730, then over U.S. Hwy 730 to junction unnumbered hwy, near Umatilla, OR, then over unnumbered hwy to junction WA Hwy 14, then over WA Hwy 14 to junction WA Hwy 221, then over WA Hwy 221, to Prosser, WA, and return over the same route, serving no intermediate points, and serving the termini for purposes of joinder only, (3) between Prosser, WA, and junction Interstate Hwy 82 and Interstate Hwy 90, over Interstate Hwy 82, serving no intermediate points, and serving the termini for purposes of joinder only, (4) between Biggs and Portland, OR, over Interstate Hwy 80N, serving no intermediate points, and serving Biggs for purposes of joinder only, and (5) between junction U.S. Hwy 30N and Interstate Hwy 80, and junction Interstate Hwy 15W and Interstate Hwy 80N, from junction U.S. Hwy 30N and Interstate Hwy 80 over U.S. Hwy 30N to junction Interstate Hwy 15, then over Interstate Hwy 15 to junction Interstate Hwy 15W, then over Interstate Hwy 15W to junction Interstate Hwy 80N, and return over the same route, serving no intermediate points, and serving the termini for purposes of joinder only in routes (1) through (5) above, as alternate routes for operating convenience only in connection with carrier's otherwise authorized regular-route operations, restricted to the transportation of traffic moving to, from or through Denver CO or Cheyenne, WY. (Hearing site: Denver, CO, or Washington, DC.)

MC 55896 (Sub-84F), filed July 12, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobile parts, automobile body stampings, and automobile accessories;* and (2) *plastic articles and rubber articles*, from Marion, IN, to St. Louis, MO. (Hearing site: Indianapolis, IN.)

MC 56640 (Sub-43F), filed April 19, 1978. Applicant: DELTA LINES, INC., 333 Hegenberger Road, Oakland, CA 94621. Representative: Andrew J. Skaff, 600 Montgomery Street, San

Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium nitrate and ferro silicone*, in bags, between Indio and Eagle Mountain, CA, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: San Francisco or Los Angeles, CA.)

MC 61231 (Sub-127F), filed August 15, 1978. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: WILLIAM L. FAIRBANK, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, lumber products, and wood products*, from points in ID, MT, and WY, to points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI, and WY; and (2) *knocked down log homes*, from Hamilton, MT, to points in AZ, AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI, and WY. (Hearing site: Denver, CO or Billings, MT.)

MC 63792 (Sub-32F), filed August 8, 1978. Applicant: TOM HICKS TRANSFER CO., INC., 710 North Post Oak Road, Suite 525, Houston, TX 77022. Representative: C. W. Ferebee (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Jewett, TX, to points in AL, AR, LA, MS, and OK. (Hearing site: Dallas or Houston, TX.)

MC 78228 (Sub-91F), filed September 25, 1978. Applicant: J. MILLER EXPRESS, INC., an Ohio corporation, 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rolling mill rolls and rolling mill machinery;* and (2) *materials, equipment, and supplies* used in the manufacture of rolling mill rolls and rolling mill machinery, between Midland, New Castle, and Pittsburgh, PA, on the one hand, and, on the other, points in IL, IN, MI, and KY. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 89617 (Sub-20F), filed August 23, 1978. Applicant: LEWIS TRUCK LINES, INC., P.O. Box 1494, Conway, SC 29526. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling, composition board, and iron and steel articles*, from Charleston, SC, to points in FL, GA, NC, SC, TN, and VA. (Hearing site: Charleston or Columbia, SC.)

MC 99565 (Sub-17F), filed August 21, 1978. Applicant: FORE WAY EXPRESS, INC., 204 South Bellis Street, Wausau, WI 54401. Representative: Nancy J. Johnson, 4506 Regent Street, Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Milwaukee, WI, and Kalamazoo, MI, over Interstate Hwy 94, serving all intermediate points in MI only, (2) between Michiana and Grand Rapids, MI: from Michiana over U.S. Hwy 12 to junction U.S. Hwy 131, then over U.S. Hwy 131 to Grand Rapids, and return over the same route, serving all intermediate points, (3) between Niles and Three Rivers, MI, over MI Hwy 60, serving all intermediate points, (4) between Niles, MI and junction MI Hwy 51 and Interstate Hwy 94, over MI Hwy 51, serving all intermediate points, (5) Niles, MI and junction U.S. Hwy 33 and Interstate Hwy 196, over U.S. Hwy 33, serving all intermediate points, (6) between Holland, MI and junction MI Hwy 40 and U.S. Hwy 12, over MI Hwy 40, serving all intermediate points, (7) between Allegan and Plainwell, MI, over MI Hwy 89, serving all intermediate points, (8) between Kalamazoo and South Haven, MI, over MI Hwy 43, serving all intermediate points, (9) between Grand Rapids, MI and junction Interstate Hwy 94 and Interstate Hwy 196, over Interstate Hwy 196, serving all intermediate points, (10) between junction Interstate Hwy 94 and Interstate Hwy 294, near Deerfield, IL, and junction Interstate Hwy 94 and Interstate Hwy 294, near South Holland, IL, over Interstate Hwy 294, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's regular route operations, and (11) between junction Interstate Hwy 90 and Interstate Hwy 94, in Chicago, IL, and junction Interstate Hwy 90 and Interstate Hwy 94, near Gary, IN, over Interstate Hwy 90, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's regular route operations, serving in (1) through (9) above all off-route points in Berrien, Cass, and Van Buren Counties, MI, and those in St. Joseph County, MI, west of U.S. Hwy 131. (Hearing site: Appleton, WI and Kalamazoo, MI.)

MC 102567 (Sub-212F), filed August 25, 1978. Applicant: McNAIR TRANSPORT, INC., a Deleware corporation, 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 2040 North Loop West, Suite 208, Houston, TX 77018. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank and hopper-type vehicles, between the facilities of ERCO Industries, Inc., at or near Rilla, LA, and points in AL, AR, FL, GA, KY, MS, MO, NC, OK, SC, TN, TX, and VA. (Hearing site: Houston, TX or New Orleans, LA.)

MC 102616 (Sub-955F), filed August 9, 1978. Applicant: COASTAL TANK LINES, INC., a Deleware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, (1) from Niles and Youngstown, OH, to points in Venango County, PA, and (2) from Columbus and Sciotoville, OH, to points in KY and WV. (Hearing site: Columbus, OH or Chicago, IL.)

MC 102616 (Sub-956F), filed August 9, 1978. Applicant: COASTAL TANK LINES, INC., a Deleware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defoaming compounds*, in bulk, in tank vehicles, from Maple Shade, NJ, to Westernport, MD. (Hearing site: New York, NY or Washington, DC.)

MC 102616 (Sub-957F), filed August 11, 1978. Applicant: COASTAL TANK LINES, INC., a Delaware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum lubricating oil*, in bulk, in tank vehicles, from Detroit, MI, to West Leechburg, PA, and (2) *reclaimed oil*, in bulk, in tank vehicles, from Yorkville, OH, to Detroit, MI. (Hearing site: Philadelphia, PA or Columbus, OH.)

MC 103051 (Sub-451F), filed August 14, 1978. Applicant: FLEET TRANSPORT CO., INC., 934—44th Avenue North, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin sulfonate*, in bulk, in tank vehicles, from Stevenson, AL, to Walnut Ridge, AR. (Hearing site: Nashville, TN or Atlanta, Ga.)

MC 106398 (Sub-837F), filed September 21 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as appli-

cant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickup trucks and van conversions*, in secondary

U.S.A., in Columbia County, AR, to those points in the United States on and east of U.S. Hwy 85, and (b) from the facilities of Ethyl Corp., in Colum-

(1) above, between Spokane, WA, on the one hand, and, on the other, points in CA, ID, NV, and OR. (Hearing site: Spokane, WA or Seattle, WA.)

lar routes transporting: *Corrugated paper*, from Cleveland, TN, to points in AL and GA. (Hearing site: Atlanta, GA, or Washington, DC.)

less than 6 months prior to the expiration) applicant files a petition for permanent extension of the certificate showing that it has been in full com-

ME, to points in CA, TX, and those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic origi-

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cant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickup trucks and van conversions*, in secondary movements, from the facilities of Gladiator, Inc., at Elkhart, IN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

NOTE.—In view of the findings in MC 106398 (Sub-741), of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107295 (Sub-885F), filed September 1, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 41 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between the facilities of Hoover Universal, Wood Preserving Division, at or near Thomson, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 108341 (Sub-112F), filed August 14, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Jack F. Counts (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tunnel support systems, steel beams, structural steel plates, steel tank heads, nuts, bolts, machinery, and machine parts*, between the facilities of (1) Commercial Shearing, Inc., at Youngstown, OH, (2) Commercial Stamping & Forging, Inc., at Bedford Park, IL, (3) Gregory Galvanizing Co., at Canton, OH, (4) Young Galvanizing Co., at Pulaski, PA, (5) Dura Bond Corp., at Export, PA, and (6) Hanlon Gregory Co., at Pittsburgh, PA, on the one hand, and, on the other, those points in the United States in and east of NY, PA, WV, KY, MS, and LA (Hearing site: Washington, DC.)

MC 111170 (Sub-251F), filed September 15, 1978. Applicant: WHEELING PIPE LINE, INC., a Delaware corporation, P.O. Box 1718, El Dorado, AR 71730. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bromine*, in bulk, in tank vehicles, (a) from the facilities of Dow Chemical U.S.A., in Columbia County, AR, to those points in the United States on and east of U.S. Hwy 85, and (b) from the facilities of Ethyl Corp., in Columbia County, AR, to points in the United States (except AK and HI): and (2) *liquid chemicals* (except bromine), in bulk, in tank vehicles, from the facilities of Dow Chemical U.S.A., in Columbia County, AR, to Houston, TX, and points within a 50-mile radius thereof. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 111729 (Sub-745F), filed September 14, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies*, (except motion picture film used primarily for commercial theatre and television exhibition), between Springfield, MO, on the one hand, and, on the other Blytheville and Paragould, AR. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 111729 (Sub-746F), filed September 26, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in OK, restricted (1) against the transportation of packages weighing more than 50 pounds, and (2) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location, to one consignee at one location, in any one day. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 112989 (Sub-77F), filed September 15, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lighting fixtures, lighting equipment*, and *parts* for lighting fixtures and equipment, and (2) *materials and equipment* used in the manufacture and distribution of the commodities in (1) above, between Spokane, WA, on the one hand, and, on the other, points in CA, ID, NV, and OR. (Hearing site: Spokane, WA or Seattle, WA.)

MC 113459 (Sub-123F), filed September 18, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal working machinery*, and (2) *equipment, materials, and supplies* used in the manufacture of metal working machinery (except commodities in bulk), between Moundridge, KS, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Dallas, TX.)

MC 113459 (Sub-124F), filed September 25, 1978. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73109. Representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Hutchinson, KS, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 114045 (Sub-509F), filed August 28, 1978. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 6122, Dallas, TX 75261. Representative: J. B. Stuart (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hair care toiletries and personal care equipment*, between New York, NY, Lakewood, NJ, and Cheshire, CT, on the one hand, and, on the other, points in TX. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 115311 (Sub-298F), filed August 16, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, wood pulp, and pulpboard products*, from the facilities of Gulf States Paper Corp., at or near Demopolis and Maplesville, AL, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Montgomery or Birmingham, AL.)

MC 115311 (Sub-299F), filed August 16, 1978. Applicant: J & M Transportation Co., Inc., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Corrugated paper*, from Cleveland, TN, to points in AL and GA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 115826 (Sub 337F), filed August 11, 1978 Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, Co 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Nogales, AZ., to points in CO and NM. (Hearing site: Denver, CO.)

MC 116142 (Sub-27F), filed August 11, 1978. Applicant: BEVERAGE TRANSPORTATION, INC., 625 Eberts Lane, P.O. Box M-25, York, PA 17405. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facility of F & M Schaefer Brewing Co., at or near Fogelsville, PA, to points in NY, NJ, NC, VA, MD, and DC. (Hearing site: Washington, DC.)

MC 116519 (Sub-54F), filed September 13, 1978. Applicant: FREDERICK TRANSPORT LIMITED, Rural Route 6, Chatham, ON, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Building., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, irregular routes, transporting: *Lumber*, from ports of entry on the international boundary line between the United States and Canada in MI and NY, to point in the United States (except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY), restricted to the transportation of traffic moving in foreign commerce from the facilities used by Green Forest Lumber Limited and Marks Lumber Limited, in the Province of ON, Canada. (Hearing site: Washington, DC.)

MC 117940 (Sub-288F), filed August 31, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by discount and variety stores* (except foodstuffs and commodities in bulk), from the facilities of U.S. Packing and Shipping Co., at or near Jersey City, NJ, to points in AL and TN, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. Condition: In view of the findings in MC 117940 (Sub-86) the certificate issued here shall be limited in points of time to a period expiring 36 months from its date of issue unless, prior to its expiration (but not less than 6 months prior to the expiration) applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: New York, NY.)

MC 117730 (Sub-25F), filed September 13, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *petroleum products, vehicle body sealer, and sound deadener compound*, in containers, from the facilities of Quaker State Oil Refining Corp., at or near (1) Buffalo and North Tonawanda, NY, (2) Emlenton, Farmers Valley, and North Warren, PA, and (3) Congo and St. Marys, WV, to points in IL, IN, IA, MI, MO, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 117940 (Sub-289F), filed September 13, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by record and music stores*, from Somerset, MA, and points in NJ, NY, and PA, to the facilities of Pickwick International, at or near (a) Minneapolis, MN, and (b) Los Angeles, CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. Condition: In view of the findings in MC 117940 (Sub-86), the certificate issued here will be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: Minneapolis or St. Paul, MN.)

MC 117940 (Sub-291F), filed September 20, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, (except commodities in bulk), from the facilities of Boise Cascade Corp., at (1) Brownville, Beaver Falls, and Lowville, NY, (2) Brattleboro, VT, (3) West Dudley, MA, and (4) Rumford, ME, to points in CA, TX, and those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. Condition: In view of the findings in MC 117940 (Sub-86), the certificate issued here will be limited in point of time to a period expiring 3 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable rules and regulations. (Hearing site: Portland, OR.)

MC 118159 (Sub-273F), filed July 10, 1978, previously published in the FEDERAL REGISTER issue of August 17, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rubber articles, plastic articles, and rubber and plastic products*, from the facilities of Entek Corp. of America, at or near Irving, TX, to points in the United States (except AK and HI), and (2) *equipment, materials, and supplies* used in the manufacture and distribution of rubber and plastic articles (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

NOTE.—The purpose of this republication is to show the addition of supplies in part (2) above.

MC 119489 (Sub-52F), filed September 26, 1978. Applicant: PAUL ABLER, d.b.a. CENTRAL TRANSPORT CO., P.O. Box 249, Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from Cheyenne and Casper, WY, to points in NE. (Hearing site: Cheyenne or Casper, WY.)

MC 119631 (Sub-28F), filed August 2, 1978. Applicant: DEIOMA TRUCKING CO., a corporation, P.O. Box 3315, Mount Union Station, Alliance, OH 44601. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories and refractory products*, (1) from White Cloud, MI, to points in AL, IN, IL, IA, KS, KY, MN, MS, MO, TN, and WI, and (2) from Hammond and Gary, IN, and Rockdale, IL, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA,

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VT, WV, and DC. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 119656 (Sub-48F), filed August

MN, MO, NE, NY, OH, PA, WI, and WV. (Hearing site: Tampa, FL.)

MC 121569 (Sub-3F), filed Septem-

(20) Winter Haven and Dundee, over FL Hwy 542, (21) Haines City and junction FL Hwy 60 and the Kissimmee River, over FL Hwy 60, (22) Frost-

ton, over U.S. Hwy 27, (51) Cocoa and junction FL Hwys 50 and 520, over FL Hwy 520, (52) junction FL Hwys 24 and 121 and Williston, over FL Hwy

MC 123048 (Sub-413F), filed September 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406.

TN, those in KY on and west of U.S. Hwy 31E, and those in MO on and south of U.S. Hwy 66. (Hearing site: Memphis, TN.)

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VT, WV, and DC. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 119656 (Sub-48F), filed August 10, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the facilities of CertainTeed Corp., at or near Avery, OH, to the facilities of CertainTeed Corp., at or near Chicago Heights, IL. (Hearing site: Chicago, IL.)

MC 119741 (Sub-106F), filed August 14, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Freezer Queen Foods, Inc., at or near Buffalo, NY, to points in CO, IL, IN, IA, KS, MI, MN, MO, NE, OK, PA, and TX. (Hearing site: Buffalo, NY.)

MC 119789 (Sub-517F), filed September 19, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic*, in containers, from Compton, CA, to points in OR and WA. (Hearing site: Columbus, OH.)

MC 120761 (Sub-42F), filed August 16, 1978. Applicant: NEWMAN BROS. TRUCKING CO., a corporation, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Forth Worth, TX 76102. To operated as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except in bulk), from the facilities of Bird & Son, Inc., at Shreveport, LA, to points in TX, OK, and NM. (Hearing site: Washington, DC, or Dallas, TX.)

MC 121060 (Sub-78F), filed September 15, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Building, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, and materials and supplies* used in the manufacture and distribution of construction materials (except commodities in bulk), between the facilities of the Celotex Corp., at or near Wilmington, IL, on the one hand, and, on the other, points in IN, IA, KS, KY, MA, MI, MN, MO, NE, NY, OH, PA, WI, and WV. (Hearing site: Tampa, FL.)

MC 121569 (Sub-3F), filed September 13, 1978. Applicant: GATOR FREIGHTWAYS, INC., 114 West Madison Street, Starke, FL 32091. Representative: James E. Wharton, Suite 811, Metcall Building, 100 South Orange Avenue, Orlando, FL 32801.To operate as a *common carrier*, by motor vehicle, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the following points in FL, (1) Jacksonville and the FL-GA State line, over U.S. Hwy 17, (2) Jacksonville and Miami, over U.S. Hwy 1, (3) Bunnell and Flagler Beach, over FL Hwy 100, (4) Bunnell and Deland, from Bunnell over FL Hwy 11 to junction FL Hwy 55, then over FL Hwy 15 to Deland, and return over the same route, (5) West Palm Beach and junction FL Hwys 7 and 84, from West Palm Beach over FL Hwy 80 to junction FL Hwy 7, then over FL Hwy 7 to junction FL Hwy 84, and return over the same route, (6) Fort Lauderdale and Miami, from Fort Lauderdale over FL Hwy 84 to junction FL Hwy 7, then over FL Hwy 7 to Miami, and return over the same route, (7) Miami and Deerfield Beach, from Miami over FL Hwy 7 to FL Hwy 810, then over FL Hwy 810 to Deerfield Beach, and return over the same route, (8) Daytona Beach and St. Petersburg, over U.S. Hwy 92, (9) Tampa and St. Petersburg, from Tampa over FL Hwy 580 to junction U.S. Hwy 19, then our U.S. Hwy 19 to St. Petersburg, and return over the same route, (10) Orlando and Groveland, from Orlando over U.S. Hwy 441 to junction FL 19, then over FL Hwy 19 to junction FL Hwy 44, then over FL Hwy 44 to U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction FL Hwy 33, then over FL Hwy 33 to Groveland, and return over the same route, (11) Orlando and Groveland, over FL Hwy 50, (12) Orlando and Geneva, over FL Hwy 426, (13) Kissimmee and Melbourne over U.S. Hwy 192, (14) Haines City and Auburndale, from Haines City over FL Hwy 544 to junction FL Hwy 559, then over FL Hwy 559 to Auburndale, and return over the same route, (15) Lakeland and Haines City, from Lakeland over U.S. Hwy 98 to junction FL Hwy 60, then over FL Hwy 60 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Haines City, and return over the same route, (16) Tampa and Clearwater, over FL Hwy 60, (17) Tampa and junction U.S. Hwy 301 and FL Hwy 674, over U.S. Hwy 301, (18) Tampa and Sarasota over U.S. Hwy 41, (19) Haines City and Lake Placid, over FL Hwy 17, (20) Winter Haven and Dundee, over FL Hwy 542, (21) Haines City and junction FL Hwy 60 and the Kissimmee River, over FL Hwy 60, (22) Frostproof and Indian Lakes Estates, over FL Hwy 630, (23) Miami and Sarasota, over U.S. Hwy, (41), (24) Miami and Florida City, over U.S. Hwy 1, (25) Miami and junction FL Hwy 826 and U.S. Hwy 1, over FL Hwy 826, (26) Bartow and Punta Gorda, over U.S. Hwy 17, (27) Jacksonville and junction U.S. Hwy 90 and Interstate Hwy 75, over U.S. Hwy 90, (28) Newberry and the FL-GA State line, over U.S. Hwy 41, (30) Lake City and the junction of U.S. Hwy 441 and Interstate Hwy 10, over U.S. Hwy 441, (31) Branford and junction FL Hwy 18 and U.S. Hwy 301, from Branford over U.S. Hwy 27 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction FL Hwy 237, then over FL Hwy 237 to junction FL Hwy 235, then over FL Hwy 235 to Brooker, then over FL Hwy 18 to junction U.S. Hwy 301, and return over the same route, (32) junction FL Hwys 227 and 18 and junction U.S. Hwy 301 and FL Hwy 227, over FL Hwy 227, (33) Baldwin and junction U.S. Hwy 301 and FL Hwy 18, over U.S. Hwy 301, (34) Lake Wales and junction U.S. Hwys 98 and 27, from Lake Wales over alternate U.S. Hwy 27 to junction FL Hwy 630, then over FL Hwy 630 to junction U.S. Hwys 27 and 98, and return over the same route, (35) Tampa and Lake Wales, over FL Hwy 60, (36) Orlando and Gainesville, over U.S. Hwy 441, (36) Williston and Ocala, Over U.S. Hwy 27, serving all intermediate points on routes (1) through (37) above, inclusive, and all points in FL east of the Suwannee River, as off-route points, (38) Lebanon Station and Dunedin, over U.S. Hwy 19, (39) junction U.S. Hwy 19 and FL Hwy 50, and Brooksville, over FL Hwy 50, (40) junction U.S. Hwy 1 and FL Hwy AIA, near Jupiter and junction FL Hwys 809 and FL Hwy 80, from junction U.S. Hwy 1 and FL Hwy AIA over FL Hwy AIA to Lake Park, then over unnumbered highways to junction FL Hwy S809, then over FL Hwy S809 to junction FL Hwy 80, and return over the same route, (41) between junction FL Hwy 60 and the Kissimmee River and Vero Beach, over FL Hwy 60, (42) Jacksonville and De Land, over U.S. Hwy 17, (43) Bunnell and Lake City, over FL Hwy 100, (44) Holopaw and Miami, from Holopaw over U.S. Hwy 441 to Belle Glades, then over U.S. Hwy 27 to Miami, and return over the same route, (45) West Palm Beach and Belle Glade, over FL Hwy 80, (46) Tampa and Waldo, over U.S. Hwy 301, (47) Lakeland and junction U.S. Hwys 98 and 301, over U.S. Hwy 98, (48) Leesburg and Inverness, over FL Hwy 44, (49) Oyahumpka and Floral City, over FL Hwy 48, (50) Leesburg and Williston, over U.S. Hwy 27, (51) Cocoa and junction FL Hwys 50 and 520, over FL Hwy 520, (52) junction FL Hwys 24 and 121 and Williston, over FL Hwy 121, (53) Canal Point and junction U.S. Hwys 98 and 441, over U.S. Hwy 98, (54) Odeechobee and Sebring, from Okeechobee over U.S. Hwy 98 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction FL Hwy 17, then over FL Hwy 17 to Sebring, and return over the same route, (55) Avon Park and junction FL Hwy 64 and U.S. Hwy 301, over FL Hwy 64, (56) Stark and Tampa, over FL Hwy 24, (57) Miami and Parrish, from Miami over U.S. Hwy 41 to junction FL Hwy 29, then over FL Hwy 29 to FL Hwy 82, then over FL Hwy 82 to junction unnumbered highway, then over unnumbered highway, to Tice, then over FL Hwy 80 to junction FL Hwy 31, then over FL Hwy 31 to Arcadra, then over FL Hwy 675 to Parrish, (58) South Bay and Punta Gorda, from South Bay over FL Hwy 80 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction FL Hwy 74, then over FL Hwy 74 to Punta Gorda, and return over the same route, (59) junction U.S. Hwy 27 and FL Hwy 70, and junction FL Hwy 72 and U.S. Hwy 41, from junction U.S. Hwy 27 and FL Hwy 70 over FL Hwy 70 to Arcadia, then over FL Hwy 72 to junction U.S. Hwy 41, (60) Brooksville and Groveland, over FL Hwy 50, (61) Alachua and Tampa, over Interstate Hwy 75, (62) Tampa and St. Petersburg, over Interstate Hwy 275, (63) Tampa and Daytona, over Interstate Hwy 4, (64) Jacksonville and Miami, over Interstate Hwy 95, (65) Miami and junction FL turnpike and U.S. Hwy 301, over the FL Turnpike, (66) Orlando and Cape Canaveral, over FL Hwy 528, (67) Deerfield Beach and West Palm Beach, from Deerfield Beach over FL Hwy 808 to junction FL Hwy 809, then over FL Hwy 809 to West Palm Beach, and return over the same route, (68) Tampa and Plant City, over FL Hwy 574, (69) Okeechobee and Jupiter, from Okeechobee obver FL Hwy 710 to junction FL Hwy 706, then over FL Hwy 706 to Jupiter, and return over the same route, (70) between Indiantown and junction U.S. Hwy 1 and FL Hwy 710, over Hwy 710, (71) Naples and Miami, from Naples over FL Hwy 84 to junction Interstate Hwy 95, then over Insterstate Hwy 95 to Miami, (72) Jacksonville and junction Interstate Hwys 10 and 75, over Interstate Hwy 10, and (73) Alachua and the FL-GA State Line, over Interstate Hwy 75, routes (38) through (73) above, serving no intermediate points, as alternate routes for operating convenience only in connection with routes (1) through (37) above, serving junctions for purpose of joinder only. (Hearing site: Jacksonville or Orlando, FL.)

MC 123048 (Sub-413F), filed September 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021—21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of United States Steel Corp., at or near Gary, IN, and Joliet and South Chicago, IL, to points in IA and NE, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL or Washington, DC.)

MC 123392 (Sub-80F), filed August 10, 1978. Applicant: JACK B. KELLEY, INC., Route 1, Box 400, Amarillo, TX 79106. Representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, TX 78701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bromine), in bulk, in tank vehicles, from the plant site of Dow Chemical U.S.A., in Columbia County, AR, to points in IL, KS, KY, LA, MO, MS, OK, TN, and TX. (Hearing site: Dallas, TX or Oklahoma City, OK.)

MC 123819 (Sub-67F), filed September 26, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, and floor sweeping compounds*, except commodities in bulk), from Ripley, MS, to points in AL, AR, DE, FL, IL, IN, IA, KS, KY, LA, NY, NJ, OH, OK, MO, NC, SC, PA, TN, TX, and WV. (Hearing site: Memphis, TN.)

MC 123819 (Sub-68F), filed September 27, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *malt beverages*, from Memphis, TN, to points in AL, AR, LA, and MS. (Hearing site: New Orleans, LA.)

MC 123819 (Sub-69F), filed September 28, 1978. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, TN 38116. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail grocery houses, from the facilities of Southern States Distribution, Inc., at or near Memphis, TN, to points in AL, AR, LA, MS, FL, TN, those in KY on and west of U.S. Hwy 31E, and those in MO on and south of U.S. Hwy 66. (Hearing site: Memphis, TN.)

MC 124170 (Sub-104F), filed September 13, 1978. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas*, and (2) *agricultural commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle with bananas, from New York, NY, and Philadelphia, PA, to points in IL, IN, KY, OH, and PA. (Hearing site: New York, NY or Washington, DC.)

MC 124692 (Sub-235F), filed August 9, 1978. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and parts, materials, and accessories* for buildings, from Mazomanie, WI, to points in NE, CO, KS, WY, UT, and NV. (Hearing site: St. Paul, MN.)

MC 124711 (Sub-62F), filed August 17, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: Rufus H. Lawson, 2400 Northwest 23d Street, Oklahoma City, OK 73007. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid and zinc sulfate*, in bulk, in tank vehicles, from the facilities of National Zinc Co., at Bartlesville, OK, to points in IA, NE, KS, MO, AR, LA, and TX. (Hearing site: Kansas City, MO or Chicago, IL.)

MC 124839 (Sub-36F), filed September 22, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. To operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Wood chips;* (2) *paper, paper products, chemicals*, and *naval stores*, (except commodities in bulk); and (3) *materials and equipment* used in the manufacture of the commodities in (1) and (2) above, (except commodities in bulk), between points in AL, DE, FL, GA, IN, IL, KY, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, VA, and DC, under a continuing contract with Union Camp Corp., of Wayne, NJ. (Hearing site: Washington, DC.)

NOTE.—Issuance of a permit in this proceeding is subject to the prior or coinciden-

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tal cancellation of applicant's authority in MC 124839 (Sub-19).

MC 125368 (Sub-37F), filed September 11, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. BOX 26, Holly Ridge, NC 28445. Representative: Roland Lowell, Sixth Floor, United American Bank Building, Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products and merchandise* used in the manufacture and distribution of food products, between the facilities of Vlasic Foods, Inc., at Millsboro, DE, on the one hand, and, on the other, points in CT, FL, GA, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. (Hearing site: Washington, DC or Chicago, IL.)

MC 128279 (Sub-34F), filed September 25, 1978. Applicant: ARROW FREIGHTWAYS, INC., P.O. Box 25125, Albuquerque, NM 87125. Representative: Olif Q. Boyd (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Swimming pools*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of swimming pools, between the facilities of Pools Enterprises, Inc., doing business as Malibu Pools of New Mexico, Inc., at Albuquerque, NM, on the one hand, and, on the other, points in AZ, CA, CO, KS, NE, NM, OK, TX, UT, and WY. (Hearing site: Albuquerque, NM).

MC 129868 (Sub-3F), filed September 14, 1978. Applicant: FLATLAND FREIGHT DISTRIBUTORS, INC., 195 Lombardy Street, Brooklyn, NY 11222. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between New York, NY, on the one hand, and, on the other, points in NJ, those in Orange, Putnam, Rockland, and Westchester Counties, NY, and those in Fairfield County, CT, restricted to the transportation of traffic moving on bills of lading of freight forwarders and shippers' associations. (Hearing site: Washington, DC.)

MC 133119 (Sub-140F), filed September 25, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, dairy products*, and *articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Sioux City and Estherville, IA, to points in FL, GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL or Sioux Falls, SD.)

MC 133119 (Sub-141F), filed September 25, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed* (except commodities in bulk), from points in Otter Tail County, MN, to ports of entry on the international boundary line between the United States and Canada at or near Portal, ND, Sweetgrass, MT, and Blaine, WA, restricted to the transportation of traffic moving in foreign commerce to points in the Provinces of Alberta, British Columbia, and Saskatchewan, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Fargo, ND or Sioux City, IA.)

NOTE: The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 133119 (Sub-143F), filed September 26, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from points in Sweetwater County, WY, Bartow County, GA, and LaSalle and Peoria Counties, IL, to ports of entry on the international boundary line between the United States and Canada, at or near Noyes, MN, Pembina and Portal, ND, Sweetgrass, MT, and Blaine, WA, restricted to the transportation of traffic moving in foreign commerce to points in Manitoba, Saskatchewan, Alberta, and British Columbia, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Sioux Falls, SD or Minneapolis, MN.)

NOTE: The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled notice to interested parties of new requirements concerning applications for operating authority to handle traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 133219 (Sub-24F), filed September 26, 1978. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennett, NE 68317. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, from Falls City, NE, to points in IA, MO, and KS. (Hearing site: Lincoln, NE.)

MC 133689 (Sub-224F), filed September 19, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Distilled water, intravenous solution, and supplies* used in the administration and care of patients, from Rocky Mount, NC, and Altavista, VA, to points in IL, IA, OH, MO, and MN. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-225F), filed September 19, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by automotive service and supply dealers, (except commodities in bulk), between Delphos, OH, on the one hand, and, on the other, points in IA, KS, MN, MO, NE, ND, SD, and WI. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-227F), filed September 26, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by discount and department stores, (except commodities in bulk), from the facilities of Dayton-Hudson Corp., at Minneapolis, MN, to points in IL, IA, MO, NE, ND, SD, and WI, restricted to the transportation of traffic originating at the named origin. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-228F), filed September 26, 1978. Applicant: OVERLAND EXPRESS, INC. 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by discount and department stores, (except foodstuffs and commodities in bulk), and (2) *foodstuffs*, (except in bulk), in mixed loads with the commodities in (1) above, from points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, MO, OH, and TN, to points in MA and NH. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-229F), filed September 26, 1978. Applicant: OVERLAND EXPRESS, INC. 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, and display racks* used in the sale of toilet preparations, from Minneapolis, MN, to points in AL, CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and DC. (Hearing site: St. Paul, MN.)

MC 135399 (Sub-8F), filed September 18, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural mixtures of limestone* and *gypsum*, (except commodities in bulk), from points in Marion County, IA, to points in AR, LA, OK, and TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 135539 (Sub-18F), filed September 27, 1978. Applicant: FARM SERVICE & SUPPLIES, INC., P.O. Box 5351, Evansville, IN 47715. Representative: Robert J. Gill, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, feed ingredients, feed additives*, and *materials and supplies* used in the manufacture and distribution of animal feeds, (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK, HI, and IL), under a continuing contract with Kal Kan Foods, Inc., of Vernon, CA. (Hearing site: Springfield or Chicago, IL.)

MC 136268 (Sub-13F), filed September 18, 1978. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, posts, and ties*, between Janesville and Prairie du Chien, WI, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, MO, and OH. (Hearing site: Madison, WI, or Milwaukee, WI.)

MC 136268 (Sub-15F), filed September 25, 1978. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from St. Louis, MO, to points in WI. (Hearing site: Madison or Milwaukee, WI.)

MC 136315 (Sub-37F), filed September 1, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, (except in bulk, in tank vehicles), from the facilities of Elk Corp., at or near Tuscaloosa, AL, to points in AR, FL, GA, IN, KY, LA, MS, MO, OH, NC, SC, TN, TX, and VA. (Hearing site: Jackson, MS, or Birmingham, AL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 138875 (Sub-104F), filed September 1, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Foodways National, Inc., at or near Hartford and Wethersfield, CT, to points in AR, AZ, CA, CO, IA, ID, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NV, NY, NM, OH, OK, OR, PA, SD, TX, UT, WA, WI, and WY. (Hearing site: Boise, ID, or Washington, DC.)

MC 139420 (Sub-31F), filed March 31, 1978, previously noticed in the FEDERAL REGISTER issues of June 22, 1978, and August 31, 1978. Applicant: ART GREENBERG, d.b.a. GLACIER TRANSPORT, an individual, P.O. Box 428, Grand Forks, ND 58201. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Chef Pierre, Inc., at or near Forest, MS, to points in AZ, CA, CO, ID, IL, IN, IA, KY, MN, MT, NV, ND, SD, TN, UT, WA, WI, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Detroit, MI, or Chicago, IL.)

NOTE.—This republication adds NV as a destination State and the restriction.

MC 140025 (Sub-3F), filed August 31, 1978. Applicant: L & T, INC., 2650 West Beaver Street, Jacksonville, FL 32205. Representative: McCarthy Crenshaw, 1205 Universal Marion Building, 21 West Church Street, Jacksonville, FL 32202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, motor vehicles, and construction materials), in containers or trailers, having an immediately prior or subsequent movement by water, between points in the Jacksonville, FL, commercial zone. (Hearing site: Jacksonville or Tallahassee, FL.)

NOTE.—The person, or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 140205 (Sub-2F), filed September 1, 1978. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, IA 51249. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags*, from Sibley, IA, to points in CA, ID, KS, MO, MT, NE, OR, UT, and WA. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140278 (Sub-3F), filed September 13, 1978. Applicant: BEITZ WRECKER SERVICE, INC., Hwy 65, Redfield, AR 72132. Representative: Thomas J. Presson, Lot 27, River Bend Estates, Redfield, AR 72132.To oper-

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ate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disabled motor vehicles*, by use of wrecker equipment only, from points in AK, AZ, CA, CT, DE, ID, ME, MD, MA, MI, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OR, PA, RI, SD, UT, VT, WA, WI, and WY, to points in AR; and (2) *replacement vehicles for disabled motor vehicles*, by use of wrecker equipment only, in the reverse direction. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 140389 (Sub-36F), filed September 26, 1978. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. To operate as a *common carrier*, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between points in CA, OR, and WA, on the one hand, and, on the other, points in AL, FL, GA, KY, NC, SC, and TN, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: San Francisco, CA, and Atlanta, GA.)

MC 140709 (Sub-8F), filed September 19, 1978. Applicant: FANKHAUSER BROS., INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk, from Wichita, KS, to points in CO, NE, and OK. (Hearing site: Kansas City, MO.)

MC 140829 (Sub-137F), filed September 18, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Medical and surgical supplies, animal health care products, dry goods, industrial tape, and pipe coverings, and coatings* (except commodities in bulk, in tank vehicles), from Franklin, KY, Augusta, Athens, and Atlanta, GA, Bethune, SC, Walpole, Colrain, and Griswoldville, MA, and Windham, CT, to points in CA, CO, IA, IL, IN, KS, MN, MO, OK, TX, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-138F), filed September 18, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material* (except commodities in bulk, in tank vehicles), from Florence, MA, to points in CA, IL, MN, MO, OH, and WI. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-140F), filed September 15, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except in bulk, in tank vehicles), from Baltimore, MD, to points in AL, AZ, CO, LA, NM, TN, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-141F), filed September 15, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables*, from the facilities of Blue Bonnet Foods, Inc., at or near Monte Alto, TX, to points in AL, AR, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-142F), filed September 15, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and plastic articles* (except commodities in bulk, in tank vehicles), from Lawrence, MA, and Coldwater, MI, to points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI, WY, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 140829 (Sub-143F), filed September 15, 1978. Applicant: CARGO CONTRACT CARRIER CORP., a New Jersey corporation, P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products and plastic and plastic products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from the facilities of Continental Bondware, at (a) Fort Worth and Saginaw, TX, to points in FL, GA, LA, MS, NJ, NC, and SC, (b) Millville, NJ, to points in AL, FL, GA, LA, MS, NC, and SC, and (c) Chicago, IL, to points in IA and NE, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 141269 (Sub-1F), filed September 8, 1978. Applicant: CHAS. R. MORGAN, INC., 18574 South Highway 99E, Oregon City, OR 97045. Representative: Earle V. White, 2400 SW. Fourth Avenue, Portland, OR 97201. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products, paper laminated with plastic film, and plastic film*, from Clackamas, OR, to points in CA, under a continuing contract with Fortifiber Corp., of Clackamas, OR. (Hearing site: Portland, OR.)

MC 142059 (Sub-47F), filed September 25, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plant media mix, vermiculite products*, and *perlite* (except commodities in bulk), from De Kalb, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 142059 (Sub-48F), filed September 25, 1978. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products*, and *materials and equipment* used in the manufacture of aluminum and aluminum products (except commodities in bulk, in tank vehicles), between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 142189 (Sub-35F), filed September 26, 1978. Applicant: C. M. BURNS, d.b.a., WESTERN TRUCKING, 521 Lincoln Avenue, Baker, MT 59313. Representative: Michael R. Griffith, P.O. Box 980, Baker, MT 59313. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in IL, CO, and those in Lake and Porter Counties, IN, to points in ID, MT, ND, OR, SD, WA, and WY. (Hearing site: Billings, MT.)

MC 142431 (Sub-5F), filed August 15, 1978. Applicant: WAYMAR TRANSPORT CORP., 1755 SE. 108th Street, Runnells, IA 50237. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, and (2) *meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles and foodstuffs), from the facilities of Geo. A. Hormel & Co., (a) at Scottsbluff and Fremont, NE, and Ottumwa, IA, to points in CT, MA, NJ, NY, and PA, and (b) at Austin, MN, to points in CT, MA, ME, NH, NJ, NY, PA, RI, and VT, restricted to the transportation of traffic in (a) and (b) above originating at the above-named orgins and destined to the above-indicated destinations. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 142438 (Sub-2F), filed September 11, 1978. Applicant: MIDLAND CARRIERS, INC., R.D. 3, Alverton, PA 15612. Representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit outlet boxes*, (2) *structural braces and components* used in the installation of the commodities in (1) above, (3) *electrical plugs and receptacles, and parts for electrical plugs and receptacles*, and (4) *materials and containers* used in the manufacture and distribution of the commodities in (1), (2), and (3) above, (a) from the facilities of Midland-Ross Corp., Electrical Products Division, at or near Pittsburgh and Leetsdale, PA, to Athens, TN, (b) between Landisville and Blossburg, PA, on the one hand, and, on the other, Athens, TN, (c) between Piqua, OH, and Athens, TN, (d) between New Hyde Park, NY, on the one hand, and, on the other, Pittsburgh, PA, and Athens, TN, (e) between Johnstown, PA, and Sparrows Point, MD, on the one hand, and, on the other, Athens, TN, (f) between Goshen, IN, on the one hand, and, on the other, Pittsburgh, PA, Athens, TN, and Carteret, NJ, and (g) between Dallas, TX, on the one hand, and, on the other, Pittsburgh, PA, and Athens, TN, under continuing contracts in (1) through (4) above with Midland-Ross Corp., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 142508 (Sub-30F), filed September 21, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail grocery and food business houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Dry Storage Corp., at Chicago and Des Plaines, IL, to St. Louis, MO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site; Chicago, IL, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142508 (Sub-32F), filed September 25, 1978. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. To operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Land O'Frost, at Lansing, IL, and Hammond, IN, to points in AR and MO (except Springfield and Joplin); and (2) *such commodities* as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers, (except hides and commodities in bulk), between the facilities of Land O'Frost, Inc., at Searcy, AR, on the one hand, and, on the other, the facilities of Land O'Frost, Inc., at Lansing, IL, and Hammond, IN, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-57F), filed September 25, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk) between the facilities of Woldert Canning Co., at Lindale and Tyler, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142629 (Sub-2F), filed September 13, 1978. Applicant: ED HOPSON PRODUCE CO., INC., 211 Meadow Avenue, Oxford, AL 36201. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, and materials* used in the manufacture of carpets, from the facilities of Venture Carpets, at or near (1) Calhoun, GA, and Pawhuska, OK, to points in NV and CA, and (2) Calhoun, GA, to Pawhuska, OK, continuing contract or contracts with Venture Carpets, of Calhoun, GA. (Hearing site: Birmingham, AL, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 142998 (Sub-2F), filed September 18, 1978. Applicant: LAUGHLIN LINES, INC., P.O. Box 11886, Reno, NV 89510. Representative: Harley E. Laughlin, Suite 264, Airport Plaza, 1755 East Plumb Lane, Reno, NV 89502. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Ore-Ida Foods, Inc., at or near Ontario, OR, and Burley, ID, to points in AZ, CA, NV, and NM, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Reno, NV.)

MC 143591 (Sub-1F), filed August 14, 1978. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals* (except commodities in bulk, in tank vehicles), between points

in Lyon County, MN, on the one hand, and, on the other, points in IA and SD. (Hearing site: Minneapolis or St. Paul, MN.)

rier, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from the facilities of Continental Freezers of Illinois, at Chicago, IL, and Inc., at Vernon, Montebello, and Compton, CA, on the one hand, and, on the other, points in the United States (except AK and HI). Condition:

and 7, restricted against the transportation of traffic (a) originating at New York, NY, and destined to Newark, points in the United States (except AK and HI). (Hearing site: Helena, MT.)

of this notice. Such protests shall comply with special rule 247(e) of the Commission's general rules of practice

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in Lyon County, MN, on the one hand, and, on the other, points in IA and SD. (Hearing site: Minneapolis or St. Paul, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 144568 (Sub-1F) (correction), filed July 10, 1978, published in the FEDERAL REGISTER issue of August 17, 1978, and republished this issue. Applicant: S. W. TRANSPORT, INC., 800 Ouellette Street, Marieville, PQ, Canada JOL 1JO. Representative: Donald E. Cross, 918 16th Street NW., Washington, DC 20006. Authority granted to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bolts, nails, screws, nuts, washers, fasteners, wire, wire mesh, rods, bars, wire fabric, and fencing*, from Rouses Point, NY, to points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, ME, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, and WI, under continuing contracts with Sivaco Wire & Nail Co., and Industrial Fasteners, Ltd., of Marieville, PQ, Canada. (Hearing site: Montpelier or Burlington, VT.)

NOTE.—(1) Applicant shall conduct separately its for-hire carriage and other business operations, (2) it shall maintain separate accounts and records for each operation, and (3) it shall not transport property as both a private and for-hire carrier in the same vehicle at the same time, (4) the purpose of this republication is to show the State of WV in the territorial description which was omitted in the previous FEDERAL REGISTER publication.

MC 144698 (Sub-2F), filed September 20, 1978. Applicant: GAYLE A. GARNER, d.b.a. GARNER TRUCKING, 510 North Lennox, Casper, WY 82601. Representative: Gayle A. Garner (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials, building equipment, and building supplies*, (2) *steel buildings and parts for steel buildings*, and (3) *cranes, garbage disposals, and dump bodies*, between points in WY and MT, Galion and Canton, OH, Terre Haute, IN, Little Rock, AR, Galesburg, IL, Denver, CO, Visalia, CA, and Portland, OR, under continuing contracts in (1), (2), and (3) above with (a) Commercial Buiding Systems Corp., (b) Mr. Continuous R Co., and (c) Colman Equipment Co., all of Casper, WY. (Hearing site: Casper, WY, or Denver, CO.)

MC 145166F, filed August 9, 1978. Applicant: HILLTOP VAN & STORAGE CO., a corporation, 5178 Fisher Road, Columbus, OH 43228. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from the facilities of Continental Freezers of Illinois, at Chicago, IL, and (2) *foodstuffs* (except in bulk), from the facilities of U.S. Cold Storage, at Lyons, IL, to points in OH, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 145219 (Sub-1F), filed September 19, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Citrus products*, in cans, and citrus *byproducts, beverages, and beverage preparations*, from facilities of Tropicana Products, Inc., in Manatee and St. Lucie Counties, FL, to points in AL, GA, LA, MD, MS, NC, SC, TN, VA, and DC, and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 145359F, filed September 11, 1978. Applicant: THERMO TRANSPORT, INC., 156 East Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Such commodities* as are dealt in or used by restaurants, and (2) *commodities* otherwise exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities in (1) above, between Carpinteria, CA, and Florence, KY. (Hearing site: Indianapolis, IN, or Los Angeles, CA.)

Note.—Dual operations may be at issue in this proceeding.

MC 145399F, filed September 15, 1978. Applicant: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, (2) *meats, meat products, and meat byproducts* (except foodstuffs), and (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, (except hides and commodities in bulk), between the facilities of California Convenience Foods, Inc., at Vernon, Montebello, and Compton, CA, on the one hand, and, on the other, points in the United States (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of permit in MC 138549, issued August 12, 1977. (Hearing site: Los Angeles, CA.)

NOTE.—The purpose of this application is to convert contract carrier authority to common carrier authority.

MC 145399 (Sub-1F), filed September 15, 1978. Applicant: SHAY DISTRIBUTING CO., INC., P.O. Box 3557, Orange, CA 92665. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen fish*, when transported in mixed loads with otherwise authorized commodities, from points in CA, to points in the United States (except AK and HI). Condition: Any certificate issued in this proceeding is subject to prior or coincidental issuance of a certificate in MC 145399F. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 1515 (Sub-253F), filed August 29, 1978. Applicant: GREYHOUND LINES, INC., a California corporation, Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicles, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between junction Interstate Hwy 80 and CA Hwy 12, at or near Fairfield, CA, and Lodi, CA, over CA Hwy 12, serving all intermediate points. Restriction: No passengers will be transported to or from Travis Air Force Base, CA, or between Fairfield and Suisun City, CA. Condition: This authority shall be of no further force and effect upon termination of the carrier's contract with a Government agency to provide such service. (Hearing site: Rio Vista, CA.)

MC 1515 (Sub-25F), filed August 31, 1978. Applicant: GREYHOUND LINES, INC., a California corporation, Greyhound Tower, Phoenix, AZ 85077. Representative: W. L. McCracken (same address as applicant). To operate as a *common carrier*, by motor vehicle, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Lincoln Tunnel Interchange and Delaware Memorial Bridge Interchange, over the NJ Turnpike, serving the the intermediate points (1) between the Newark-Jersey City Interchange, and the New Brunswick Interchange, and (2) at Interchange Nos. 5 and 7, restricted against the transportation of traffic (a) originating at New York, NY, and destined to Newark, NJ, or originating at Newark, NJ, and destined to New York, NY, except on carrier's intercity operations which neither originate at nor are destined to points in NJ, and (b) from or to Interchange Nos. 5 and 7 of the NJ Turnpike, which originates at or is destined to Philadelphia, PA, or New York, NY. (Hearing site: Trenton, NJ.)

MC 61120 (Sub-21F), filed June 16, 1978, previously noticed in the FEDERAL REGISTER issue of September 5, 1978. Applicant: TEXAS, NEW MEXICO & OKLAHOMA COACHES, INC., 1313 13th Street, Lubbock, TX 79401. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, express, and newspapers*, in the same vehicles with passengers, between Sweetwater and Abilene, TX, over Interstate Hwy 20, serving no intermediate points. (Hearing site: Lubbock or Dallas, TX.)

NOTE.—This republication changes the commodity description by including express.

MC 109736 (Sub-41F), filed June 15, 1978. Applicant: CAPITOL BUS COMPANY d.b.a. CAPITOL TRAILWAYS, 1061 South Cameron Street, Harrisburg, PA 17104. Representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicles with passengers, in round trip, special, and charter operations, beginning and ending at points in the Borough of Chambersburg and Quincy Township (Franklin County), Silver Spring Township (Cumberland County), Susquehanna and Upper Paxton Townships (Dauphin County), Huhlenburg Township (Berks County), York Township (York County), and the city of Lancaster (Lancaster County), PA, and extending to the Mormon Temple, at Bethesda, MD. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 121695 (Sub-2F), filed August 17, 1978. Applicant: RIMROCK STAGES, INC., 1225 Dublin Street, Billings, MT 59101. Representative: William E. O'Leary, 631 Helena Avenue, Helena, MT 59601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter operations, beginning and ending at points in Lewis and Clark, Broadwater, Meagher, Golden Valley, and Wheatland Counties, MT, and extending to points in the United States (except AK and HI). (Hearing site: Helena, MT.)

[FR Doc. 78-30157 Filed 10-25-78; 8:45 am]

[1505-01-M]

[Decisions Volume No. 22]

DECISION-NOTICE

Correction

FR Doc. 78-23646, appearing at page 37792 in the issue of Thursday, August 24, 1978, is corrected as follows:

In MC 108341 (Sub-106F), first full paragraph, third column, page 37794, the third to last line should read, "[Ad-lison Steel, Inc., at or near (a) Albany, GA, and (b) Orlando, FL, to those points in the United States in and east of MN, IA,".

[1505-01-M]

[Notice No. 160]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

FR Doc. 78-25138, appearing at page 39905 in the issue of Thursday, September 7, 1978, is corrected as follows:

1. MC 117676 (Sub-7TA), last paragraph, middle column, page 39906, should have been designated as stated in this sentence.

2. MC 134286 (Sub-67TA), first full paragraph, first column, page 39907, should have been designated as stated in this sentence.

[7035-01-M]

OCTOBER 18, 1978.

[Volume No. 120]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS.

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g., M1F, M2F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247)* and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 77402 (M1F) (notice of filing of petition for modification of permit), filed September 1, 1978. Petitioner: HOWARD M. HOWES, INC., 108 East Market Street, Baltimore, OH 43105. Representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, OH 43220. Petitioner holds a motor *contract carrier* permit in MC 77402, issued January 8, 1951, which, as pertinent, authorizes transportation, over irregular routes: of (1) *Corrugated paper containers* and *corrugated paper* from Baltimore, OH to points in IN on and east of a line beginning at Michigan City and running in a southerly direction through LaFayette, Indianapolis, Seymour, and Sellersburg to the IN-KY State line at New Albany, and (2) *scrap paper* from the aforesaid IN area to Baltimore, OH. By the instant petition, petitioner seeks authority to render service of the same type between Baltimore, OH and all points in IN, service to be rendered under continuing contract or contracts with Crown Zellerbach Corp., of San Francisco, CA.

MC 77402 (Sub-4) (M1F) (notice of filing of petition for modification of permit), filed September 7, 1978. Petitioner: HOWARD M. HOWES, INC., 108 East Market Street, Baltimore, OH 43105. Representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, OH 43220. Petitioner holds a motor *contract carrier* permit in MC 77402, (Sub-4), issued February 26, 1973, which authorizes transportation, over irregular routes, of: (1) *corrugated paper containers* and *corrugated paper* from Baltimore, OH to points in that part of KY on and north of U.S. Hwy 60, (except Ashland, Maysville, and Louisville), and (2) *scrap paper* from the aforesaid KY points to Baltimore, OH. The operation authorized is restricted to service performed under continuing contract or contracts with Crown Zellerbach Corp., of San Francisco, CA. By the instant petition, petitioner seeks authority to render service of the same type between Baltimore, OH and all points in KY, service to be rendered, as at present, under continuing.

*Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

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contract or contracts with Crown Zellerbach Corp., of San Francisco, CA.

MC 117119 (Sub-195) and (Sub-265) (MIF) (notice of filing of petition for modification), filed August 31, 1978. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as petitioner). Petitioner holds a motor *common carrier* certificate in MC 117119 (Sub-195), issued September 3, 1965, authorizing transportation over irregular routes of: *Frozen foods* (except frozen meats) from Kansas City, KS to Gallipolis, OH and points in AL, GA, KY, NC, SC, VA, WV, and TN (except Memphis and points in the Memphis, TN commercial zone as defined by the Commission) and in MC 117119 (Sub-265), issued June 3, 1966, authorizing transportation over irregular routes of: *Frozen foods* (except frozen meats) from Kansas City, MO to points in DE, NJ, NY, MD, PA, and DC. By the instant petition, the petitioner seeks to modify the commodity description in both applications to *Foodstuffs* (except in bulk) in lieu of *Frozen foods* (except frozen meat). The certificates otherwise would remain the same.

MC 117676 (Sub-5 and 6) (MIF) (Notice of filing of petition to add an origin point to certificate), filed September 5, 1978. Petitioner: HERMS TRUCKING, INC., 620 Pear Street, Trenton, NJ 08648. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Petitioner holds motor *common carrier* certificates in MC 117676 (Sub-5 and 6) issued October 13, 1976 and April 28, 1978 repectively, authorizing transportation, as pertinent, over irregular routes (in Sub-5): *Pressed fireplace logs* and *sawdust* from the facilities of P & M Lumber Products, Inc., in Fairless Hills, PA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, and DC. Restriction: The operations authorized herein are restricted to traffic originating at the above-named origins and destined to the above-named destinations. And in (Sub-6): Irregular Routes: (1) *Pressed fireplace logs*, from the facilities of P & M Lumber Products, Inc., located in Falls Township, Bucks County, PA, to points in AL, FL, GA, IL, IN, KY, MI, OH, SC, TN and WV. (2) *Materials* used in the manufacture of pressed fireplace logs (except in bulk, in tank vehicles), from points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, OH, RI, VT, VA, and WV, to the facilities of P & M Lumber Products, Inc., located in Falls Township, Bucks County, PA. By the instant petition, petitioner seeks to modify the above authority by adding Trenton, NJ as an origin point (Sub-5) and as an origin point in part (1) (Sub-6), and as a destination point in part (2) in (Sub-6).

MC 133119 (Sub-104) (M1F) (Notice of filing of a petition to modify certificate), filed September 12, 1978. Petitioner: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds a motor *common carrier* certificate in MC 133119 (Sub-104), issued November 29, 1977, authorizing transportation, over irregular routes, of: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Meilman Food Industries, Inc., at or near Sioux Falls, SD, to points in CO, IA, KS, MN, and WI, restricted to the transportation of traffic originating at the above-named facilities and destined to the described destination States. By the instant petition, petitioner seeks to modify the above authority by deleting the language "the facilities of Meilman Food Industries, Inc., at or near", and modifying the restriction to restrict the transportation of traffic originating at the above-named orgins and destined to the described destination States.

MC 135649 (Sub-1) (M1F) (notice of filing of petition to modify territorial description), filed September 13, 1978. Petitioner: FRIEDERICH TRUCK SERVICE, INC., P.O. Box 86, O'Fallon, IL 62269. Representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Petitioner holds motor *contract carrier* permit in MC 135649 (Sub-1), issued August 31, 1976, authorizing transportation, over irregular routes, of: *Commodities* such as are dealt in by retail discount stores, between St. Louis, Springfield, Kansas City, and Independence, MO; Alton, Fairview Heights, Chicago, Peoria, Mount Prospect, Oakbrook Terrace and Matteson, IL; and Overland Park, KS. Restriction: The operations authorized herein are subject to the following condition: The authority granted herein is restricted against the transportation of shipments between points in the St. Louis, MO-East St. Louis, IL commercial zone, as defined by the Commission, and points in St. Clair County, IL. The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts with Venture Stores, Inc., a division of May Department Stores Co., of St. Ann MO. By the instant petition, petitioner seeks to include the additional points of Merrillville, IN and Davenport, IA, where contracting shipper recently opened retail discount stores.

MC 138345 (Sub-7) (M1F) (notice of filing petition to modify certificate), filed September 7, 1978. Petitioner: BASIL B. GORDON, d.b.a. VALLEY SPREADER CO., P.O. Box 673, Brawley, CA 92227. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Petitioner holds a motor *common carrier* certificate in MC 138345 (Sub-7), issued June 1, 1978, authorizing transportation over irregular routes of: *Dry fertilizer*, in bulk, from Brea, San Diego and points in Imperial Co., CA to points in Yuma, Mohave, Maricopa and Pinal Counties, AZ. By the instant petition, petitioner seeks deletion of the adjective dry so that if may transport both dry and liquid fertilizers, in bulk. The certificate, otherwise, would remain the same.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with special rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 41406 (Sub-59) (republication), filed December 27, 1977, published in the Federal Register issue of February 16, 1978, and republished this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, P.O. Box 2176, Hammond, IN 46323. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. A decision of the Commission, Review Board No. 3, decided September 1, 1978, and served October 10, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle,

over irregular routes, in the transportation of: *Agricultural implements*, from the facilities of John Deere Plow & Planter Works, at Moline, IL, to points in OH, PA, WV, MI, KY, MD, NY, NJ, DE, CT, RI, ME, MA, NH, VT, VA, and DC, restricted to the transportation of shipments originating at and destined to the named origins and destinations, that applicants is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

MC 63792 (Sub-28) (republication), filed September 6, 1977 published in the Federal Register issue of October 14, 1977, and republished this issue. Applicant: TOM HICKS TRANSFER CO., INC., P.O. Box 16006, Houston, TX 77002. Representative: C. W. Ferebee (same address as applicant). A decision of the Commission, division 2, decided September 25, 1978, and served October 2, 1978, finds that the present and future public convention and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1)(a) *Air pollution control equipment, heating and cooling equipment, pressure vessels, solid waste compactors and balers;* and (1)(b) *parts and accessories* for the commodities indicated in 1(a), from Houston, TX, to points in AL, AZ, AR, CO, FL, GA, ID, IL, IA, IN, KS, KY, LA, MT, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, SC, SD, TN, VA, WV, WI, WY, and UT; and (2) *materials, supplies and parts and equipment* used in the manufacture of air pollution control equipment, heating and cooling equipment, pressure vessels, solid waste compactors and balers, from the above-named destinations, to the above-named origin, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

MC 110012 (Sub-37) (republication), filed January 9, 1978, published in the Federal Register issue of March 2, 1978, and republished this issue. Applicant: ROY WIDENER MOTOR LINES, INC., P.O. Box 68, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. A decision of the Commission, Review Board No. 3, decided September 11, 1978, and served October 5, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value, and commodities which because of their size or weight require the use of special equipment), in containers or in trailers, and empty containers, between points in Cocke County, TN, on the one hand, and, on the other, Morristown, TN, restricted to the transportation of shipments having a prior or subsequent movement by rail, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity description.

MC 112713 (Sub-210F) (republication), filed February 27, 1978, published in the Federal Register issue of April 13, 1978, and republished this issue. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207. Representative: David B. Schneider (same address as applicant). A decision of the Commission, Review Board No. 3, decided August 25, 1978, and served September 18, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over regular routes, in the transportation of: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those of unusual value and those requiring special equipment), serving the facilities of Georgia Power Co. Nuclear Generating Plant, located in Burke County, GA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 126118 (Sub-36) (republication), filed March 7, 1977, published in the Federal Register issue of April 28, 1977, and republished this issue. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). A decision of the Commission, division 2, decided September 27, 1978, and served October 5, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Paper and paper products*, (1) from Erie and Lock Haven, PA, Indianapolis, IN, Oswego, NY, and points in MI, OH, and WI, to points in AR, FL, IA, KS, LA, MO, NE, ND, OK, TN, TX, UT, AL, CO, ID, KY, MN, MS, MT, NV, NM, SD, and WY; (2) from Mobile, AL, to points in AR, IA, KS, MO, NE, OK, MT, ID, NV, UT, WY, ND, SD, MN, CO, and NM; (3) from Hoquiam, WA, to points in ID, MT, NV, UT, and WY; (4) from Pinebluff, AR, to Kansas City, MO, and points in NE; and (5) from Portland, OR, to points in NE, restricted to traffic originating at the named origins and destined to the named destinations authorized above, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 136291 (Sub-6) M1 (republication of notice of filing petition for modification of permit), filed June 15, 1977, published in the Federal Register issue of August 4, 1977, and republished this issue. Petitioner: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 Northwest 82d Avenue, Miami, FL 33166. Representative: Francis W. McInery, 1000 Sixteenth Street NW., Washington, DC 20036. A decision of the Commission, Review Board No. 3, decided September 21, 1978, and served October 6, 1978, finds that the present and future public convenience and necessity require modification of permit MC 136291 (Sub-6), as corrected and reissued May 16, 1978, authorizing transportation over irregular routes, of: *Liquid argon, liquid nitrogen, and liquid oxygen*, in specially designed cryogenic vehicles provided and owned by shipper, from Gadsden and Huntsville, AL, to points in AR, FL, GA, LA, KY, MS, NC, SC, and TN, under a continuing contract or contracts with Union Carbide Corp. Petitioner will be consistent with the public interest and the national transportation policy, and is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the addition of Huntsville, AL as an origin point.

MC 138104 (Sub-53) (republication), filed January 19, 1978, published in the Federal Register issue of March 2, 1978, and republished this issue. Applicant: MOORE TRANSPORTA-

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TION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. A

test shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative

MC 25518 (Sub-20F), filed October 4, 1978. Applicant: JOHN BUNNING TRANSFER CO., INC., Box 128, Rock Springs, WY 82901. Representative:

61, serving all intermediate points. (Hearing site: Memphis, TN or Baton, Rouge, LA.)

Note.—This republication shows that

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TION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. A decision of the Commission, review Board No. 3, decided September 22, 1978, and served October 10, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *Construction materials* (except commodities in bulk), from the facilities of the Celotex Corp., at or near Texarkana, AR, to points in KS, AL, AR, FL, GA, LA, MS, MO, OK, TX, and NM; and (2) *materials and supplies* used in the manufacture and/or distribution of the commodities named in (1) above (except commodities in bulk), from points in the destination States named in (1) above, to the facilities of the Celotex Corp., at or near Texarkana, AR, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to add NM as an origin point in part (1) above, and modify the commodity description.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by special rule 247 of the Commission's general rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission decision which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MC 2226 (Sub-113F), (correction) filed April 14, 1978, and previously noticed in the FEDERAL REGISTER issue of July 27, 1978. Applicant: RED ARROW FREIGHT LINES, INC., 3901 Seguin Road, San Antonio, TX 78297. Representative: James M. Doherty, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk household goods as defined by the Commission, and those requiring the use of special equipment), from Laredo, TX, to Dallas and Houston, TX. (Hearing site: Hearing scheduled for October 31, 1978 (8 days) at 9:30 a.m. local time at the Hilton Inn, 1 South Main Avenue, Laredo, TX and continued to November 13, 1978 (1 week), at 9:30 a.m. local time, at the Sheraton Inn-Mockingbird, 1893 West Mockingbird Lane, Dallas, TX before Administrative Law Judge Joseph F. Walker.)

NOTE.—Applicant intends to tack the requested authority with authorized regular route authorities at Dallas, TX to provide service to various authorized points in TX, including Tyler, Kilgore, Fort. Worth and Burleson, TX as described in Sub-94, 100, 102 and 107; and at Houston, TX to provide service to various authorized regular route points in TX, including Conroe, Huntsville, Madisonville, Corsicana, Ennis, and Palestine, TX as described in Sub-94, 100, 102 and 107.

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MC 25518 (Sub-20F), filed October 4, 1978. Applicant: JOHN BUNNING TRANSFER CO., INC., Box 128, Rock Springs, WY 82901. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; (2) *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof; (3) *earth drilling machinery and equipment, and machinery, equipment, materials and supplies* and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; and (4) *commodities*, the transportation of which because of size or weight require the use of special equipment, and of related articles and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require special equipment, between those points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing: November 28, 1978 (3 weeks), at 9:30 a.m. local time, at Denver, CO, in a hearing room location to be later designated.)

MC 64832 (Sub-7F), filed April 10, 1978, and previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: MAGNOLIA TRUCK LINE, INC., 3097 Fontaine Road, Memphis, TN 38116. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Memphis, TN and Baton Rouge, LA, from Memphis, over Interstate Hwy 55 to junction Interstate Hwy 12, then over Interstate Hwy 12 to Baton Rouge, and return over the same route, serving Hammond, LA as an intermediate point; and (2) between Woodville, MS, and Baton Rouge, LA, over U.S. Hwy 61, serving all intermediate points. (Hearing site: Memphis, TN or Baton, Rouge, LA.)

NOTE.—This republication shows that regular-route authority is sought.

MC 109326 (Sub-114F), filed June 16, 1978, and previously noticed in the FEDERAL REGISTER issue of August 22, 1978. Applicant: C. & D. TRANSPORTATION CO., INC., P.O. Box 10506, New Orleans, LA 70121. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* and (2) *such other commodities as are dealt in by wholesale, retail, and chain grocery and food business houses*, and in connection therewith; (3) *equipment, materials, and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL.)

NOTE.—This republication conforms to applicant's request for authority.

MC 114552 (Sub-163F), filed June 6, 1978, and previously published in the FEDERAL REGISTER issue of August 10, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* (2) *such other commodities as are dealt in by wholesale and retail chain grocery houses*, and in connection therewith; and (3) *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL.)

NOTE.—This republication conforms to the applicant's request for authority.

MC 115022 (Sub-32F), filed April 14, 1978, and previously noticed in the FEDERAL REGISTER issue of August 10, 1978, and September 28, 1978. Applicant: CHAMBERLAIN MOBILE-HOME TRANSPORT, INC., 64 East Main Street, Thomaston, CT 06787. Representative: Bernard J. Hasson, Jr., 927 15th Street NW., Suite 306, Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Trailers*, designed to be drawn by passenger automobiles, in initial movements; and (b) *buildings in sections*, mounted on

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wheeled undercarriages, from origins which are points of manufacture or initial interstate shipping points, in AL, AZ, AR, CA, CO, FL, GA, IN, KS, LA, MD, MI, MS, MN, NE, NH, NM, NY, NC, OH, OK, OR, PA, SC, TN, TX, VA, and WI, to points in the United States, including AK but excluding HI. (Hearing site: Hartford, CT or Boston, MA.)

NOTE.—This republication more correctly states the nature of the authority sought by the applicant.

MC 121060 (Sub-65F), filed June 7, 1978, and previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs:* (2) *such other commodities as are dealt in by wholesale and retail chain and grocery houses*, and in connection therewith; and (3) *equipment, materials, and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL.)

NOTE.—This republication conforms to applicant's request for authority.

MC 126276 (Sub-198F), filed July 26, 1978. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by a producer and distributor of paper and plastic products* (except commodities in bulk and those which, because of size or weight, require the use of special equipment or handling), from Chicago, IL, to Forth Worth and Saginaw, TX, and Louisville, KY, under a continuing contract with the Continental Group, Inc., of New York, NY. (Hearing site: Chicago, IL.)

NOTE.—This application is subject to the Commission's favorable determination that applicant meets the definition of a contract carrier in the proceedings pending in MC 126276 (Sub-161), et al.

MC 138882 (Sub-95F), filed June 6, 1978, and previously published in the FEDERAL REGISTER issue of August 10, 1978. Applicant: WILEY SANDERS, INC., P.O. Box 707, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* (2) *such other commodities* as are dealt in by wholesale and retail chain and grocery houses, and in connection therewith; and (3) *equipment, materials and supplies* used in the conduct of such business (except in bulk), between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery, AL.)

NOTE.—This republication conforms to applicant's request for authority.

MC 143236 (Sub-16F), filed June 1, 1978, previously noticed in the FEDERAL REGISTER issue of July 6, 1978. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, Kearny, NJ 07032. Representative: Jay Schiffres, Suite 505, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold in toy stores, between the facilities of Toys "R" Us at those points in the United States in and east of MN, LA, NE, CO, OK, and TX, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, CO, OK, and TX. (Hearing site: November 13, 1978 (1 day), at 9:30 a.m. local time, at New York, NY, in a hearing room to be later designated.)

MC 144557, filed May 23, 1978, and previously noticed in the FEDERAL REGISTER issue of July 20, 1978. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs;* (2) *such other commodities* as are dealt in by wholesale and retail chain and grocery houses, and in connection therewith; and (3) *equipment, materials, and supplies* used in the conduct of such business, between the facilities of Hudson Industries, Inc., at Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Montgomery or Birmingham, AL.)

NOTE.—This republication conforms to applicant's request for authority.

MC 144584 (Sub-4F) (correction), filed April 10, 1978, previously noticed as MC 144585 (Sub-1F), in the FEDERAL REGISTER issue of July 27, 1978. Applicant: WASHINGTON-CALIFORNIA EXPRESS, INC., a Pennsylvania corporation, 919 McGarry Street, Los Angeles, CA 90021. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, including hollow mold chocolate and cough drops*, from the facilities used by Luden's, Inc., at or near Reading, PA, to AZ, CA, CO, ID, NV, OR, UT, and WA, under a continuing contract(s) with Luden's, Inc. (Hearing site: Washington, DC.)

NOTE.—Common control may be involved. The purpose of this republication is to indicate the correct docket number.

MC 144585 (Sub-2F), filed April 11, 1978. Applicant: SHANE TRANSPORTATION, INC., 403 Bank Street, Lodi, OH 44254. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire, wire products and materials and supplies used in the installation thereof (except commodities in bulk)*, from the facilities of Royal Wire Products, Inc., at or near North Royalton, OH, to points in the United States (except AK and HI). (Hearing site: Cleveland, OH.)

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to section 5(2) or 210a(b) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with special rule 240(c) or 240(d) of the Commission's general rules of practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MC-F-13647 (correction) (DALKE TRANSPORT, INC.—Purchase (Portion)—JERRY LIPPS, INC.), published in the July 27, 1978, issue of the FEDERAL REGISTER at page 32512. Prior notice indicated the vendor being Jerry Lines, Inc. and that should be corrected to read Jerry Lipps, Inc. Also a portion of the purchased authority was omitted and should be included. It reads as follows: *Plastic siding and plastic molding*, from Waco, TX, to points in AZ, CA, CO, NV, OK, and KS.

MC-F-13670F (correction) (WINTERS TRUCK LINES—Purchase (Portion)—ROCK ISLAND MOTOR TRANSIT CO.), published in the July 27, 1978, issue of the FEDERAL REGISTER, pages 32516 and 32517. Prior notice should read as follows: (1) Column 2, paragraph 1, line 16: "Marin" should be spelled "Marion". (2) Column 2, 5th line from the bottom: "Galhart" should be "Darhart". (3) Column 3, 7th line from the bottom: "and an off-route point in connection" should be "as an off-route point in connection".

MC-F-13688F (correction) (LONE STAR CARRIERS INC.—Purchase (Portion)—TASCO TRUCKING, INC.), published in the August 24, 1978, issue of the FEDERAL REGISTER on page 37807. Prior publication inadvertently published GA as a destination State two times and omitted the destination State of CA. Also omitted from the publication was a line that read as follows: "LONE STAR CARRIERS INC. is seeking temporary authority under section 210a(b) of the Act."

MC-F-13761F. To accomplish corporate simplification by the redistribution of authority through mergers and transfers, authority is sought for (a) the transfer to ALTRUK FREIGHT SYSTEMS INC. (MC 116544) of that portion of the authority of O.N.C Freight Systems of Oklahoma Inc. (MC 134308) pertaining to commodities moving in mechanically refrigerated equipment; and (b) the merger of O.N.C Freight Systems of Oklahoma Inc. (MC 134308) into O.N.C Freight Systems (MC 71459). Each of the applicants is under the common control of Rocor International and each has corporate offices at 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Joseph P. Ficurelli, P.O. Box 10280, Palo Alto, CA 94303. The operating rights sought to be transferred and merged are as follows: *General commodities*, with the usual exceptions, as a common carrier over regular routes, (1) between Oklahoma City, OK, and Forgan, OK, serving all intermediate points (except Bethany, Yukon, El Reno, Calumet, Karns, Geary, Watonga, Oakwood, and Seiling), and serving the off-route points of Okeene, Southard, Canton, Fairview, Mooreland, Buffalo, and Laverne, OK: From Oklahoma City over U.S. Hwy 270 to Forgan, and return over the same route; (2) between Oklahoma City, OK, and Richards Spur, OK, serving all intermediate points: From Oklahoma City over U.S. Hwy 62 to Richards Spur, and return over the same route; from Oklahoma City over U.S. Hwy 277 to Richards Spur, and return over the same route; from Oklahoma City over U.S. Hwy 62 to junction OK Hwy 8 east of Anadarko, OK, then over OK Hwy 8 to Cyril, then over OK Hwy 19 to junction U.S. Hwy 62 north of Apache, then over U.S. Hwy 62 to Richards Spur, and return over the same route; (3) between Oklahoma City, OK, and Richards Spur, OK, serving no intermediate points: From Oklahoma City over the H. E. Bailey Turnpike to Richards Spur, and return over the same route; (4) between Elmwood, OK, and Felt, OK, serving all intermediate points: From Elmwood over OK Hwy 3 to Felt, and return over the same route; (5) between Woodward, OK, and Fargo, OK, serving the off-route points of the Woodward Airport and the facilities of Woodward Manufacturing Co., at or near Woodward, OK: From Woodward over OK Hwy 15 to Fargo, and return over the same route; (6) between Woodward, OK, and Forgan, OK, serving the intermediate or off-route points of Rosston, Gate, and Knowles, OK: From Woodward over OK Hwy 3 to junction U.S. Hwy 183 at or near Fort Supply, OK, then over U.S. Hwy 183 to Buffalo, OK, and then over U.S. Hwy 64 to Forgan, and return over the same route; (7) between Forgan, OK, and Woodward, OK, serving the off-route points of Rosston, Gate, and Knowles, OK: From Forgan over U.S. Hwy 270 to Woodward, OK, and return over the same route; (8) between Woodward, OK, and Sharon, OK, serving no intermediate points: From Woodward over U.S. Hwy 270 to junction OK Hwy 34, and then over OK Hwy 34 to Sharon, and return over the same route; (9) between Buffalo, OK, and Coldwater, KS, serving all intermediate points, and the off-route points of Ashland and Protection, KS: From Buffalo over U.S. Hwy 183 to junction U.S. Hwy 160 near Sitka, KS, then over U.S. Hwys 160 and 183 to Coldwater, and return over the same route; (10) serving the Amoco gas processing plant located near Hitchcock, OK, as an off-route point in connection with carrier's regular route operations to serve Okeene, OK; and (11) serving the facilities of the Houston Chemical Co., near Woodward, OK, as an off-route point in connection with carrier's presently authorized regular-route operations between Woodward, and Oklahoma City, OK. O.N.C Freight Systems is authorized to operate as a common carrier in AZ, CA, CO, CT, DE, ID, IL, IN, IA, KS, ME, MD, MA, MN, MO, NB, NV, NH, NJ, NM, NY, OH, OK, OR, PA, RI, TX, UT, WA, WI, and WY, and Altruk Freight Systems Inc. is authorized to operate as a common carrier in all 48 States (except AK and HI). Application has not been filed for temporary authority under section 210a(b).

NOTE.—Control was granted by an order served June 28, 1977, in MC-F-12218.

MC-F-13762F. Authority sought for control by the SEIGLE'S EXPRESS, INC., foot of Pennsylvania Avenue, South Kearney, NJ 07032, of Weseon Transportation Co., Inc., Oak Tree Road, Palisades, NY, through ownership of stock and for acquistion by Richard Riley of control through the transaction. Attorneys for applicants: William W. Becker, 1819 H Street NW., Washington, DC 20006, and Leonard Reade, 666 Fifth Avenue, New York, NY. Authority to be controlled: (1) *General commodities*, except those of unusal value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between New York, NY, on the one hand, and, on the other, points in Westchester County, NY; and between points in Orange and Rockland Counties, NY, on the one hand, and, on the other, points in Bergen, Passaic, and Morris Counties, NJ; (2) *general commodities*, except those of unusual value, class A and B explosives, liquor, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a common carrier over irregular routes, between New York, NY, on the one hand, and, on the other points in Essex, Hudson, Union, Passaic, Bergen, Middlesex, Morris, Monmouth, and Somerset Counties, NJ; (3) *general commodities*, except those of unusual value, class A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a common carrier over regular routes, between Peekskill, NY, and Poughkeepsie, NY, serving the intermediate points of Fishkill, Wappingers Falls, Newbergh, Hughsonville, Cold Spring, Nelsonville, and Garrison, NY as follows: From Peekskill over U.S. Hwy 9 to Poughkeepsie, and return from Poughkeepsie over U.S. Hwy 9 to junction NY Hwy 9D, thence over NY Hwy 9D to Beacon, NY, then across the Hudson River to Newburgh, NY, then across the Hudson River to Beacon, NY, then over NY Hwy 9D to junction NY Hwy 406, then over NY Hwy 403 to junction U.S. Hwy 9, and then over U.S. Hwy 9 to Peekskill; (4) *general commodities*, except those of unusual value, class A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a common carrier over irregular routes between Peekskill, NY, and points in

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Westchester, Rockland, Putnam, Dutchess, and Orange Counties, NY, on the one hand, and, on the other, points in Passaic, Bergen, Hudson, Essex, Union, Morris, and Somerset Counties, NJ. Vendee is authorized to operate as a common carrier in the States of NY, NJ, and CT. Application has been filed for temporary authority under section 210a(b) of the Act. (Hearing site: New York, NY, or Washington, D.C.

NOTE.—MC 54200 (Sub-3F) is a directly related matter.

MC-F-13763F. Authority sought for purchase by CROWN TRANSPORT, INC., R.D. 2, Wampum, PA 16157, of a portion of the operating rights of Masterson Transfer Co., Inc., 3000 Pennsylvania Avenue, West Warren, PA 16365, and for acquisition by RTM Corp., Richard T. Murphy, P.O. Box 43010, St. Paul, MN 55164, of control of such rights through the transaction. Applicants' attorneys: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402, and Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. Operating rights sought to be purchased: Under MC 3246, issued August 21, 1973, irregular routes. *Machinery and machinery parts and such commodities as require specialized handling or rigging because of weight or size, and such materials and supplies usually transported in connection therewith,* from Warren, PA, to points in NJ, NY, and OH, with no transportation for compensation on return except as otherwise authorized; and machinery and machinery parts and such commodities requiring specialized handling or rigging because of size or weight, between Warren, PA, on the one hand, and, on the other, points in NJ, NY, MA, CT, RI, DE, MD, VA, WV, OH, IN, IL, MI, and DC, together with all operating rights pursuant to gateway letter notices applicable to the foregoing commodities and authority. Transferee holds authority to transport commodities which because of size or weight require special handling or the use of special equipment, self-propelled articles weighing 15,000 pounds, or more, related commodities, and construction materials and supplies, between or to or from all of the States embraced in transferor's authority and intends to tack its authority with the authority sought for purchase and eliminate gateways in the States of NY, PA, and OH. Application has not been filed for temporary authority under section 210a(b). (Hearing site: Washington, DC.)

NOTE.—MC 4484 (Sub-5F) is a directly related matter.

MC-F-13764F. (GENERAL CARTAGE COMPANY, INC.—purchase—MOTOR FREIGHT SERVICE, INC.), published in the October 19, 1978, issue of the FEDERAL REGISTER. Application filed October 12, 1978, for temporary authority under section 210a(b).

MC-F-13770F. Authority sought for purchase by COLUMBIA RIVER TRUCK COMPANY, INC., 502 Northwest Seventh, Camas, WA 99607, of the operating rights of Eathel W. Boys and Beula A. Boys, a partnership, d.b.a. Cooper Truck Lines, 758 C Street, Washougal, WA 98607, and for acquisition by Marjorie M. and Glenn D. Blake, both of 502 Northwest Seventh, Camas, WA 98607, and Gary Miller, Rainer National Bank, P.O. Box 3966, Seattle, WA 98124, of control of such rights through the transaction. Applicants' attorney: John A. Anderson, Suite 1440, 200 Market Building, Portland, OR 97201. Operating rights sought to be transferred: *General commodities,* except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier,* over regular routes, between Portland, OR, and Washougal, WA, from Portland over U.S. Hwy 99 to Vancouver, WA, then over U.S. Hwy 830 to Washougal, and return over the same route. Service is authorized to and from all intermediate points, and the off-route points of Orchards, Proebstel, Hockinson, and Fern Prairie, WA. *Agricultural commodities, bulk, cream, eggs, poultry, livestock, feed, building materials, and farm equipment and supplies,* over irregular routes, between Portland, OR, and Vancouver, WA, on the one hand, and, on the other, farms located in Clark County, WA. Transferee is authorized to operate as a *common carrier* in OR, and WA. Application has been filed for temporary authority under section 210a(b).

MC-F-13773F. Transferee: GREEN FIELD TRANSPORT, CO., INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Transferor: (B) Booth Transfer, Inc., 7800 K Street, Omaha, NE 68127, and (BB) Campbell Trucking, Inc., 7800 K Street, Omaha, NE 68127. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. Authority sought for control by Green Field Transport Co., Inc., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA, of (B) Booth Transfer, Inc., 7800 K Street, Omaha, NE 68127, and (BB) Campbell Trucking, Inc., 7800 K Street, Omaha, NE 68127, and for acquisition by R. D. McMahon of Fort Dodge, IA, of control of Booth Transfer, Inc., and Campbell Trucking, Inc., through the acquisition. Operating rights of Booth Transfer, Inc., sought to be controlled: *General commodities* (except those requiring special equipment and commodities in bulk), between Central City, NE and Lincoln, NE, between Central City, NE and Grand Island, NE, between Clarks, NE and Omaha, NE, and between points in two specified areas in NE. Operating rights of Campbell Trucking, Inc., sought to be controlled: *Livestock and agricultural commodities,* from Elwood, IA to Chicago, IL, *general commodities,* from Chicago, IL to Elwood, IA and return; *farm machinery and parts,* from East Moline, IL to Elwood, IA, and return; *livestock,* from Maquoketa, IA to Chicago, IL, and Milwaukee, WI, and points in those parts of Jackson and Clinton Counties, IA, within 15 miles of Maquoketa, IA, and from Maquoketa, IA to East St. Louis, IL, points in Lafayette and Grant Counties, WI, and points in that part of Henry County, IL, south of U.S. Hwy 34, and from Maquoketa, IA, to a specified area in IL; *feed, wire, twine, coal, windmills, and agricultural implements and parts,* from a specified area in IL to Maquoketa, IA, and points within 15 miles of Maquoketa, IA; *household goods,* as defined by the Commission and *emigrant movables,* between Elwood, IA, and points within 26 miles thereof, on the one hand, and, on the other, points in IL; *livestock, and agricultural commodities,* between Maquoketa, IA, on the one hand, and, on the other, points in IL, within 60 miles of Fulton, IL. Vendee is authorized to operate as a *common carrier* in IL, MO, NE, IA, KS, WI, MN, IN, OH, MI, CT, MD, MA, NJ, NY, PA, VA, WV, DC, KY, ND, SD, CO, DE, RI, OK, TX, ME, NH, and VT. Application has been filed for temporary authority under section 210a(b) of the Act.

MC-F-13775F. Authority sought for purchase by SMITH'S GENERAL TRUCKING CO., 14 Clyde Street, West Warwick, RI, of the operating rights of Atlantic Motor Express Co., d.b.a. Atlantic Motor Express, Seekonk, MA. Applicants' attorneys: Berndt W. Anderson, 10 Dorrance Street, Providence, RI 02903, John G. Coffey, Jr., 1015 Hospital Trust Building, Providence, R.I. 02903, and Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852. Operating rights sought to be transferred: *General commodities,* with the usual exceptions, as a *common carrier,* over regular routes, between Providence, RI and Norwich, CT, serving all intermediate points, from Providence over U.S. Hwy 1 via Wickford, RI, to Wakefield, RI (also from junction U.S. Hwy 1 and RI Hwy 1A, near Wickford, over RI Hwy 1A to Wakefield), then over U.S. Hwy 1 to New London, CT, and then over

CT Hwy 32 to Norwick and return over the same routes, serving the off-route points of West Warwick, RI and Noank and Montville, CT. From Providence over U.S. Hwy 1 to junction RI Hwy 102, then over RI Hwy 102 to junction RI Hwy 2, then over RI Hwy 2 to junction RI Hwy 138, then over RI Hwy 138 to junction RI Hwy 112, then over RI Hwy 112 to Carolina, RI, then over unnumbered highway via Alton and Bradford, RI to Westerly, RI (also from junction RI Hwys 2 to the RI-CT State line, then over CT Hwy 2 to Norwich and return over the same routes. Serving the off-route points of West Warwick and Shannock, RI, and Ledyard, CT. From Providence, over U.S. Hwy 1 to junction RI Hwy 102, then over RI Hwy 102 to junction RI Hwy 2, then over RI Hwy 2 to junction RI Hwy 138, then over RI Hwy 112, then over RI Hwy 112 to Carolina, RI, then over unnumbered highway via Alton Bradford, RI to Westerly, RI (also from junction RI Hwy 138 to Kingstown, RI, then over unnumbered highway to junction U.S. Hwy 1, then over RI Hwy 2 to RI-CT State line, then over CT Hwy 2 to Norwich, and return over the same routes. Serving the off-route points of West Warwick and Shannock, RI, and Ledyard, CT. From Providence over RI Hwy 3 to Westerly, RI, then over RI Hwy 2 to the RI-CT State line, then over CT Hwy 2 to junction Interstate Hwy 95 (formerly CT Hwy 84) then over Interstate Hwy 95 to Groton, CT, and then over CT Hwy 12 to Norwich and return over the same route. Serving the off-route point of Ledyard, CT. From Providence over U.S. Hwy 44 to Putnam, CT, then over CT Hwy 12 to Norwich and return over the same route. Serving the off-route points of Smithfield, RI; and Mechanicsville, Killingly, Sterling, Volunton, Glasgo, Taftville and Baltic, CT. From Providence over U.S. Hwy 6 via South Foster, RI to Danielson, CT, then over CT Hwy 12 to Central Village, CT (also from junction U.S. Hwy 6 and RI Hwy 102, near South Foster, over RI Hwy 102 to junction RI Hwy 14, then over RI Hwy 14 to the RI-CT State line, then over CT Hwy 14 to Central Village) and then over CT Hwy 12 to Norwich and return over the same route. Serving the off-route points of Sterling, Volunton, Glasgo, Taftville and Baltic, CT. Vendee is authorized to operate as a *common carrier* in RI, CT, and MA. Application has been filed for Temporary Authority under section 210a(b) of the Act.

MC-F-13776F. Authority sought for CRST, INC., 3930 16th Avenue SW., P.O. Box 68, Cedar Rapids, IA 52403 of a portion of the operating rights of Burmeyer Bros., Inc., 1342 North Howard Street, Philadelphia, PA 19122, and for acquisition of control of such rights by Harold A. Smith, Jr. and Miriam G. Smith, both of Cedar Rapids, IA 52403, through the purchase Representatives: Robert E. Konchar, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, IA 52406, and A. David Milner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Operating rights sought to be purchased: Regular Routes: *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment. To and from Niagara Falls, NY, and points in the Buffalo, NY commercial zone, as defined by the Commission, in connection with carrier's regular-route operations authorized in (B) herein. To and from points within 25 miles of Rochester, NY, as intermediate and off-route points in connection with carrier's regular-route operations authorized in (B) herein to and from Rochester. (B) Regular routes: *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Pittsburgh, PA, and Baltimore, MD, serving all intermediate points in Pennsylvania and Hagerstown and Frederick, MD: From Pittsburgh over U.S. Hwy 30 to Breezewood, PA, then over unnumbered highway (formerly portion PA Hwy 126) via Crystal Springs, PA, to junction PA Hwy 643, then over PA Hwy 643 to Warfordsburg, PA, then over U.S. Hwy 522 to Hancock, MD, then over U.S. Hwy 40 to Frederick, MD, then over MD Hwy 194 to junction MD Hwy 26, then over MD Hwy 26 to Baltimore, and return over the same route. Between Pittsburgh, PA, and Albany, NY, serving all intermediate points in NY and the off-route points of Fulton, Oakfield and Oswego, NY: From Pittsburgh over U.S. Hwy 19 to Erie, PA, then over U.S. Hwy 20 to Silver Creek, NY then over NY Hwy 5 to Batavia, NY, then over NY Hwy 33 to Rochester, NY, then over NY Hwy 31 to Weedsport, NY, then over NY Hwy 31B to junction NY Hwy 5 (near Elbridge, NY), then over NY Hwy 5 to Albany and return over the same route. Between Westfield, NY and Troy, NY, serving all intermediate points and the off-route point of Hammondsport, NY: From Westfield, over NY Hwy 17 to Binghamton, NY then over NY Hwy 7 to Troy, and return over the same route. Between Pittsburgh, PA and Chicago IL, serving no intermediate points. From Pittsburgh over PA Hwy 65 to Rochester, PA then over PA Hwy 51 to junction unnumbered highway (formerly portion PA Hwy 51) near Darlington, PA, then over unnumbered highway to junction PA Hwy 51, then over PA Hwy 51 to the PA-OH State line, then over OH Hwy 14 to junction OH Hwy 14A, then over OH Hwy 14A to Deerfield, OH, then over U.S. Hwy 224, to junction unnumbered highway (formerly portion U.S. Hwy 224) near Atwater, OH, then over unnumbered highway to junction U.S. Hwy 224, then over U.S Hwy 224 to Akron, OH, then over OH Hwy 18 to Norwalk, OH, then over U.S. Hwy 20 to junction unnumbered highway (formerly portion U.S. Hwy 20) then over unnumbered highway to Fremont, OH, then over U.S. Hwy 6 to junction OH Hwy 34, then over OH Hwy 34 to Byron, OH, then over unnumbered highway (formerly portion U.S. Hwy 6) to junction U.S. Hwy 6, then over U.S. Hwy 6 to Highlands, IN, then over U.S. Hwy 11 to Chicago, and return over the same route. Between Fremont, OH and Chicago, IL, for operating convenience only, serving no intermediate points: From Fremont over unnumbered highway (formerly portion U.S. Hwy 20) to junction U.S. Hwy 20, then over U.S. Hwy 20 to Perrysburg, OH, then over U.S. Hwy 25 to Toledo, OH, then over U.S. Hwy Bridge 20 to junction U.S. Hwy 20 (near Attawa Hills, OH), then over U.S. Hwy 20 to Chicago and return over the same route. Between Pittsburgh, PA and Chicago, IL, serving no intermediate points: From Pittsburgh over U.S. Hwy 30 to Mansfield, OH, then over U.S. Hwy 30N to Delphos, OH, then over U.S. Hwy 30 to Dyer, IN, then over Alternate U.S. Hwy 30 to Chicago and return over same route. Between Pittsburgh, PA and Deerfield, OH, for operating convenience only, serving no intermediate points: From Pittsburgh over PA Hwy 8 to Butler, PA, then over U.S. Hwy 422 to New Castle, PA, then over U.S. Hwy 224 to Deerfield and return over the same route. Between Akron, OH and Van Wert, OH, for operating convenience only, serving no intermediate points: From Akron over U.S. Hwy 224 to Van Wert and return over the same route. Between New York, NY, and Albany, NY, serving all intermediate points: From New York over U.S. Hwy 9 to Albany, and return over the same route. Restriction: No shipments shall be transported by said carrier between points in NY and NJ. Between Binghamton, NY, and Utica, NY, serving all intermediate points. From Binghamton, over NY Hwy 12 to Utica, and return over the same route. (C) Alternate routes for operating convenience only: Regular routes: *General commodities,* except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equip-

ment: Between Fremont, OH and Erie, PA, serving no intermediate points, nor the termini: From Fremont over U.S. Hwy 20 to Erie, and return over

Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Com-

by motor vehicle, over irregular routes, in the transportation of: *Household goods* as defined by the Commission, between points in NY,

ations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), and those

commodities in bulk, in tank vehicles), (a) between the facility of Phelps Dodge Copper Products Corp., at or near South Brunswick Township,

Waterbury, CT; (6) *salvaged, damaged,* or *returned shipments* of bronze, brass, copper, and nickel products, and *materials* and *supplies,* used in the manu-

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ment: Between Fremont, OH and Erie, PA, serving no intermediate points, nor the termini: From Fremont over U.S. Hwy 20 to Erie, and return over the same route. Restriction: The service authorized over the alternate route above is restricted to traffic originating at, or destined to points in the Chicago, IL, commercial zone, as defined by the Commission, on the one hand, and, on the other, points east of the PA-NY State line. Irregular routes: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: Between points in Oneida County, NY. Between points in Oneida County, on the one hand, and, on the other, Altmar, Syracuse, and Williamstown, NY. Any duplication of authority granted herein or to the extent that such authority duplicated any heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right. Irregular routes: *Aluminum and aluminum products* (except commodities which because of size or weight require the use of special equipment): Between Warren, OH, and Oswego, NY. Portion of certificate of public convenience and necessity issued by the Interstate Commerce Commission to Cross Transportation, Inc., under docket No. MC-40428, transferred to Burgmeyer Bros., Inc., pursuant to docket MC-F-11337 and not yet reissued in the name of the latter. Irregular routes: *General comodities*, except those of unusual value, and except classes A and B explosives, furs, alcoholic beverages, household goods as defined by the Commission, livestock, silk, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading: Between New York, NY, and points in Essex, Union, Hudson, and Passaic Counties, NJ, on the one hand, and, on the other, Baltimore, MD, and Washington, DC. Vendee is authorized to operate pursuant to Certificate MC-114273 and subs, as a *common carrier* in the States of CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, VA, VT, W.VA and WI. No duplicating authority will result from the application. Application has been filed for temporary authority under section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation resulting from approval of its application.

MC 4484 (Sub-5F), filed October 3, 1978. Applicant: CROWN TRANSPORT, INC., R.D. 2, Wampum, PA 16157. Representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Commodities* which because of size or weight require special handling or the use of special equipment, *self-propelled articles* each weighing more than 15,000 pounds, and *related machinery, tools, parts, and supplies* moving in connection therewith, and *construction materials and supplies*, and *machinery and machinery parts*, (1) between points in PA, OH, NY, and WV, on the one hand, and, on the other, points in NJ, NY, MA, CT, RI, DE, MD, VA, PA, WV, KY, OH, IN, IL, MI, and DC; (2) between MA, CT, RI, NJ, DE, MD, and VA, on the one hand, and, on the other, points in KY, IL, IN, and MI; (3) between points in KY, IL, IN, and MI; and (4) between points in MA, CT, RI, NJ, DE, MD, and VA. (Hearing site: Washington, DC.)

NOTE.—This application is a directly related gateway elimination application filed in connection with MC-F-13763F. The gateways to be eliminated are as follows: Parts (1) and (2) are Warren, PA, and points in NY and OH, and parts (3) and (4) are Warren, PA. MC-F-13763F is published in a previous section of this FEDERAL REGISTER issue.

MC 29904 (Sub-3F), filed October 10, 1978. Applicant: SUDDATH VAN LINES, INC., 525 Stevens Street, P.O. Box 6699, Jacksonville, FL 32205. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Household goods* as defined by the Commission, between points in NY, NJ, DE, MD, PA, WV, VA, NC, SC; GA, FL, AL, TN, KY, MS, LA, MO, IL, IN, MA, CT, RI, NH, VT, OH, and DC, on the one hand, and, on the other, points in AZ, CO, IA, NE, WI, CA, MN, NV, and UT. Gateways to be eliminated are as follows: Points in that part of NC east of U.S. Hwy 21. (Hearing site: Jacksonville, FL.)

NOTE.—This application is directly related to purchase application by Suddath Van Lines, Inc. of a portion of the operating authority of Plymouth Van Lines, Inc. MC-F-13679F is published in a previous section of this FEDERAL REGISTER issue. The purpose of this application is to eliminate the gateway as noted above.

MC 54200 (Sub-8F), filed October 2, 1978. Applicant: SEIGLE'S EXPRESS, INC., foot of Pennsylvania Avenue, South Kearney, NJ 07032. Representative: William W. Becker, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), between points in Westchester, Orange, and Rockland Counties, NY, on the one hand, and, on the other hand, points in Passaic, Bergen, Hudson, Essex, Union, Morris, and Somerset Counties, NJ; (2) *general commodities* (except those of unusual value, class A and B explosives, liquor, household goods as defined by the Commission, commodites in bulk, commodities requiring special equipment, between points in the New York, NY, commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), and those points in NJ and all of any; NJ municipality any part of which is within 5 miles of New York, NY, and points in Nassau County, NY, on the one hand, and, on the other points in Middlesex and Monmouth Counties, NJ, between points in Essex, Hudson, Union, Passaic, Bergen, and Morris Counties, NJ; (3) *general commodities* (except those of unusual value, class A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment), between Peekskill, NY, on the one hand, and, on the other, points in the New York, NY, commercial zone, as defined in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), and those points in NJ and all of any NJ municipality any part of which is within 5 miles of New York, NY, and points in Nassau County, NY, and points in Passaic, Bergen, Hudson, Essex, Union, Morris, and Somerset Counties, NJ; and (4) *business records and printed matter*, between Clinton, NJ, on the one hand, and, on the other, Peekskill, NY, and points in Monmouth, Passaic, Bergen, Hudson, Essex, Union, Morris, Somerset, and Middlesex Counties, NJ, and Nassau, Orange, Rockland, Westchester, Putnam, and Dutchess Counties, NY. (Hearing site: New York, NY, or Washington, DC.)

NOTE.—This application is filed as directly related application to finance proceeding docketed Mc-F-13762F. The purpose of this application is to permit tacking of irregular route authority to be acquired with authority of applicant and eliminate gateways of points in the New York, NY, commercial zone. MC-F-13762F is published in a previous section of this FEDERAL REGISTER issue.

MC 83217 (Sub-76F), filed September 27, 1978. Applicant: DAKOTA EXPRESS, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, building materials, malt beverages, paper products, and such commodities*, when moving in the same vehicle, at the same time with foodstuffs, (a) between points in MN, on the one hand, and, on the other, Sioux Falls, Gary, Brookings, Watertown, Egan, Lone Tree, Air Way Station, Trent, and Elkton, SD, and (b) between Sioux Falls, Egan, Lone Tree, Trent, Elkton, and Flandreau, SD, on the one hand, and, on the other, Gary, Brookings and Watertown, SD. (Hearing site: St. Paul, MN.)

NOTE.—The purpose of this application is to eliminate the gateway points of Flandreau, SD, and points in Lincoln County, MN, through the conversion of certain regular route authorities to irregular route authorities as outlined in the Commission's decision in MC-F-12411 served June 28, 1978. This application is directly related to MC-F-12411, published in the FEDERAL REGISTER issue of January 22, 1975.

MC 145512F, filed October 12, 1978. Applicant: LOZOWICK TRUCKING CO., INC., P.O. Box 292, Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Bronze, brass, copper,* and *nickel products*, and in connection therewith, *materials*, and *supplies*, used in the manufacture of such products (except commodities in bulk, in tank vehicles), (a) between the facility of Phelps Dodge Copper Products Corp., at or near South Brunswick Township, Middlesex County, NJ, and New York, NY, and (b) from the facility of Phelps Dodge Copper Products Corp., at or near South Brunswick Township, Middlesex County, NJ, to points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles thereof, and Bridgeport, New Haven, and Waterbury, CT; (2) *salvaged, damaged,* and *returned shipments* of the above-described commodities, from points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles thereof, and Bridgeport, New Haven, and Waterbury, CT, to the facility of the Phelps Dodge Copper Products Corp., at or near South Brunswick Township, Middlesex County, NJ; (3) *bronze, brass, copper,* and *nickel products*, and in connection therewith, *materials* and *supplies* used in the manufacture of such products, (a) between the facility of Phelps Dodge Copper Products Corp., at or near South Brunswick Township, Middlesex County, NJ, on the one hand, and, on the other, points in the NJ portion of the New York, NY, commercial zone, as defined by the Commission, (b) between the facility of Phelps Dodge Copper Products Corp., Elizabeth, NJ, and New York, NY, and (c) from the facility of Phelps Dodge Copper Products Corp., Elizabeth, NJ, to points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles thereof and Bridgeport, New Haven, and Westbury, CT; (4) *salvaged, damaged,* or *returned shipments* of the immediately above-described commodities, from points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles thereof, and Bridgeport, New Haven, and Waterbury, CT, to the facility of Phelps Dodge Copper Products Corp., at Elizabeth, NJ; (5) *bronze, brass, copper,* and *nickel products*, and in connection therewith, *materials* and *supplies*, used in the manufacture of such products; (a) between the facility of Phelps Dodge Copper Products Corp. at Bayway, NJ, and New York, NY, (b) from the facility of Phelps Dodge Copper Products Corp., Bayway, NJ, to points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles of Philadelphia, and Bridgeport, New Haven, and Waterbury, CT; (6) *salvaged, damaged,* or *returned shipments* of bronze, brass, copper, and nickel products, and *materials* and *supplies*, used in the manufacture of such products, from points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles of Philadelphia and Bridgeport, New Haven, and Waterbury, CT, to the facility of Phelps Dodge Copper Products Corp., at Bayway, NJ; (7) *merchandise*, such as is dealt in by persons engaged in the manufacture and sale of condiments and nonalcoholic and noncarbonated beverages, and in connection therewith, *materials, supplies,* and *equipment*, used in the conduct of such business (except commodities in bulk, in tank vehicles), between the facility of Allied Old English, Inc., at Newark, NJ, on the one hand, and, on the other, points in Nassau and Westchester Counties, NY, the points in the New York, NY, commercial zone, as defined by the Commission, and Philadelphia, PA; (8) *such merchandise* as is dealt in by wholesale and retail chain cigar and drug stores, and, in connection therewith, *equipment, materials,* and *supplies*, used in the conduct of such business, (a) between New York, NY, on the one hand, and, on the other, points in that part of NY on and north of a line beginning at Trenton, NJ, and extending along U.S. Hwy 206 (formerly portion NJ Hwy 37) to junction NJ Secondary Hwy 524 (formerly NJ Hwy 37), then along NJ Hwy 524 to junction NJ Secondary Hwy 539 (formerly NJ Hwy 37), then along NJ Secondary Hwy 539 to junction NJ Hwy 70 (formerly shown as NJ Hwy 37), then along NJ Hwy 70 to junction NJ Hwy 37, then along NJ Hwy 37 via Toms River, NJ, to the Atlantic Ocean, and (b) between New York, NY, and Nyack, NY. Restriction: The operations described in the two paragraphs next above are limited to a transportation service to be performed for persons who operate wholesale and retail chain cigar and drug stores, the business of which is the sale of the commodities dealt in by such stores for the transportation of the commodities indicated and in the manner specified. (9) *Aluminum products* and in connection therewith, *materials and supplies* used in the manufacture of such products (except commodities in bulk, in tank vehicles), (a) between the facilities of Phelps Dodge Copper Products Corp., Bayway, NJ, and the facility of the Phelps Dodge Copper Products Corp., at or near South Brunswick Township, Middlesex County, NJ, on the one hand, and, on the other, points in New York, NY, commercial zone, as defined by the Commission, and (b) from the facili-

ties of Phelps Dodge Copper Products Corp., Bayway, NJ, and the facility of the Phelps Dodge Copper Products Corp., at or near South Brunswick

5(2) finance proceeding docketed MC-F-13774F, published in a previous section of this FEDERAL REGISTER issue.

prise, TX, then over U.S. Hwy 84 to Rusk, TX, then over U.S. Hwy 69 to junction TX Hwy 21, then over TX Hwy 21 via Crockett, Bryan, and Bas-

over U.S. Hwy 15 to junction Interstate Hwy 83, then over Interstate Hwy 83 to junction Interstate Hwy

MOTOR CARRIERS OF PASSENGERS

MC 109736 (Deviation No. 10), CAPITOL BUS CO., 1061 South Cameron

other related matters shall be directed to the State Commission with which the application is filed and shall not

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ties of Phelps Dodge Copper Products Corp., Bayway, NJ, and the facility of the Phelps Dodge Copper Products Corp., at or near South Brunswick Township, Middlesex County, NJ, to points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NJ, Philadelphia, PA, and points in PA within 15 miles thereof, and Bridgeport, New Haven, and Waterbury, CT; (10) *salvaged, damaged, and returned shipments* of the above-described commodities, from the facilities of Phelps Dodge Copper Products Corp., points in Nassau, Suffolk, Westchester, Dutchess, Ulster, Sullivan, Rockland, and Orange Counties, NY, Philadelphia, PA, and points in PA within 15 miles thereof, and Bridgeport, New Haven, and Waterbury, CT, to Bayway, NJ, and the facility of the Phelps Dodge Copper Products Corp. at or near South Brunswick Township, Middlesex County, NJ; (11) *copper anodes, bars, billets, cathodes,* and *ingots,* from the facilities of Reading Metals Refining Corp., at Ontelaunee Township, PA, to points in the New York, NY, commercial zone, as defined by the Commission, and Middlesex and Union Counties, NJ; and (12) *scrap copper,* from points in the New York, NY, commercial zone, as defined by the commission, and Middlesex and Union Counties, NJ, to the facilities of Reading Metals Refining Corp., Ontelaunee Township, PA; (13) *copper* and *brass pipe,* and *copper* and *brass tubing,* from the facilities of Reading, PA, to points in Camden, Burlington, Ocean, Sussex, Hunterdon, Mercer, Monmouth, Middlesex, Morris, and Union Counties, NJ, and points in Nassau, Suffolk, and Westchester Counties, NY; (14) *returned shipments* of the above-specified commodities, from points in the above-described destination areas, to the facilities of Reading, PA; (15) *cable and wire,* from the facilities of Hatfield Wire & Cable Division of Continental Copper & Steel Industries, Inc., at Linden and Hillside, NJ, to New York, NY, and points in Westchester, Suffolk, and Nassau Counties, NY; and (16) *empty reels, returned, and salvaged cable or wire,* and *materials* and *supplies,* used in the manufacture of cable and wire (except in bulk), from New York, NY, and points in Westchester, Suffolk, and Nassau Counties, NY, to the facilities of Hatfield Wire & Cable Division of Continental Copper & Steel Industries, Inc., Linden and Hillside, NJ. Restriction: The foregoing authorities are restricted against joinder. (Hearing site: New York, NY, or Newark, NJ.)

NOTE.—The purpose of this application is to convert contract carrier permits to a certificate of public convenience and necessity, and is a directly related matter to section 5(2) finance proceeding docketed MC-F-13774F, published in a previous section of this FEDERAL REGISTER issue.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PROPERTY

MC 11220 (Deviation No. 35), (correction) GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, P.O. Box 59, Memphis, TN 38101, filed August 23, 1978, and published in the FEDERAL REGISTER issue of September 7, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *General commodities,* with certain exceptions, over a deviation route as follows: From St. Louis, MO, over Interstate Hwy 55 to junction IL Hwy 121, then over IL Hwy 121 to junction Interstate Hwy 74, then over Interstate Hwy 74 to Peoria, IL, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From St. Louis, MO, over U.S. Hwy 50 to Sandoval, IL, then over U.S. Hwy 51 to Bloomington, IL, then over U.S. Hwy 150 to Peoria, IL, and return over the same route. Restriction: Service authorized herein is restricted against the transportation of shipments originating at, destined to, or interlined with other carriers at St. Louis, MO, and points in the St. Louis, MO-East St. Louis, IL, commercial zone as defined by the Commission.

NOTE.—The purpose of this republication is to include restriction on service route which was inadvertently omitted.

MC 31389 (Deviation No. 10), McLEAN TRUCKING CO., 617 Waughtown Street, P.O. Box 213, Winston-Salem, NC 27102, filed September 27, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *General commodities,* with certain exceptions, over a deviation route as follows: From Carthage, TX, over TX Hwy 315 to Mount Enterprise, TX, then over U.S. Hwy 84 to Rusk, TX, then over U.S. Hwy 69 to junction TX Hwy 21, then over TX Hwy 21 via Crockett, Bryan, and Bastrop to junction Interstate Hwy 35, then over Interstate Hwy 35 to San Antonio, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Carthage, TX, over U.S. Hwy 59 to Houston, TX, then over U.S. Hwy 90 to San Antonio, TX, and return over the same route.

MC 59135 (Deviation No. 6), RED STAR EXPRESS LINES OF AUBURN, INC., d.b.a. RED STAR EXPRESS LINES, 24-50 Wright Avenue, Auburn, NY 13021, filed October 4, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *General commodities,* with certain exceptions, over a deviation route as follows: From Buffalo, NY over NY Hwy 130 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction NY Hwy 63, then over NY Hwy 63 to Dansville, NY, then over NY Hwy 36 to junction Interstate Hwy 390, then over Interstate Hwy 390 to junction NY Hwy 17, then over NY Hwy 17 to junction U.S. Hwy 15, then over U.S. Hwy 15 to junction Interstate Hwy 83, then over Interstate Hwy 83 to junction Interstate Hwy 695, then over Interstate Hwy 695 to Baltimore, MD and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Buffalo, NY over NY Hwy 5 to Dunkirk, NY, then over NY Hwy 60 to Jamestown, NY, then over NY Hwy 17 via East Randolph, West Salamanca, Olean, Wellsville, Andover, Painted Post, Horseheads, Big Flats, and Elmira, NY to Owego, NY, then over NY Hwy 17C to Binghamton, NY, then over NY Hwy 17 to the NY-NJ State line, then over NJ Hwy 17 to junction NJ Hwy 3 near Carlstadt, NJ, then over NJ Hwy 3 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Jersey City, NJ, then across the Hudson River to New York, NY, then over U.S. Hwy 1 to Philadelphia, PA, then over U.S. Hwy 1 to Baltimore, MD and return over the same route.

MC 59135 (Deviation No. 7), RED STAR EXPRESS LINES OF AUBURN, INC., d.b.a. RED STAR EXPRESS LINES, 24-50 Wright Avenue, Auburn, NY 13021, filed October 4, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *General commodities,* with certain exceptions, over a deviation route as follows: From Rochester, NY over NY Hwy 15 to junction Interstate Hwy 83, then over Interstate Hwy 83 to junction Interstate Hwy 695, then over Interstate Hwy 695 to Baltimore MD, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Rochester, NY over NY Hwy 31 to Pittsford, NY, then over NY Hwy 96 to junction NY Hwy 332, then over NY Hwy 332 to Canandaigua, NY, then over U.S. Hwy 20 to Auburn, NY, then over NY Hwy 5 to Syracuse, NY, then over U.S. Hwy 11 to Cortland, NY, then over U.S. Hwy 11 to Binghamton, NY, then over NY Hwy 17 to the NY-NJ State line, then over NJ Hwy 17 to junction NJ Hwy 3 near Carlstadt, NJ, then over NJ Hwy 3 to junction U.S. Hwy 9, then over U.S. Hwy 9 to Jersey City, NJ, then across the Hudson River to New York, NY, then over U.S. Hwy 1 to Philadelphia, PA, then over U.S. Hwy 1 to Baltimore, MD and return over the same route.

MC 112713 (Deviation No. 54), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207, filed September 29, 1978. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *General commodities,* with certain exceptions, over a deviation route as follows: From Athens, AL over Interstate Hwy 65 to Nashville, TN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Athens, AL over U.S. Hwy 72 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Nashville, TN and return over the same route.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will note operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there wil be no significant effect on either the quality of the human environment or energy policy and conservation.

MOTOR CARRIERS OF PASSENGERS

MC 109736 (Deviation No. 10), CAPITOL BUS CO., 1061 South Cameron Street, P.O. Box 3353, Harrisburg, PA 17105, filed September 19, 1978. Carrier's representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Carrier proposes to operate as a *common carrier,* by motor vehicle, of: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: From Harrisburg, PA over Interstate Hwy 83 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Scranton, PA, with the following access routes: (1) From junction Interstate Hwy 81 and PA Hwy 115, over PA Hwy 115 to Wilkes-Barre, PA; (2) From junction Interstate Hwy 81 and PA Hwy 93 over PA Hwy 93 to Hazleton, PA; and (3) from junction Interstate Hwys 81 and 83 over Interstate Hwy 81 to the Cameron Street exit (PA Hwy 230), then over PA Hwy 230 to the city of Harrisburg, PA and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Harrisburg, PA over U.S. Hwy 22 via Paxtonia, PA to the U.S. Military Reservation, Indiantown Gap, PA, then over PA Hwy 343 to Lickdale, PA, then over PA Hwy 72 to junction PA Hwy 443 near Greenpoint, PA, then over PA Hwy 443 to junction PA Hwy 83 east of Friedensburg, PA, then over PA Hwy 83 to junction U.S. Hwy 122, then over U.S. Hwy 122 to Frackville, PA, then over PA Hwy 142 to junction PA Hwy 924 north of Shenandoah, PA, then over PA Hwy 924 to Hazleton, PA, then over U.S. Hwy 309 via Ashley, PA to Wilkes-Barre, PA, then over unnumbered Hwy east of Susquehanna River to Pittston, PA, then over U.S. Hwy 11 via Dupont, PA to Scranton, PA, and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by special rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

South Carolina Docket 78-391-T (amendment), filed August 29, 1978. Applicant: SUPERIOR MOTOR EXPRESS, INC., P.O. Box 98, Gold Hill, NC 28071. Certificate of public convenience and necessity sought to operate a freight service, as follows: Transportation of: *Lumber, logs, poles, pilings, pulpwood, cores, crossties, slabs, fence posts, and chips,* between points and places within the State of South Carolina. (Hearing site: Date, time and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Box 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.)

NOTE.—The purpose of this publication is to amend the docket number as South Carolina in lieu of North Carolina. Intrastate, interstate and foreign commerce authority sought.

Texas Docket 002339A3A, filed September 29, 1978. Applicant: ALAMO EXPRESS, INC., 6013 Rittiman Plaza, San Antonio, TX 78218. Representative: Damon R. Capps, Suite 1230, Capital National Bank Building, Houston, TX 77002. Certificate of public convenience and necessity sought to operate a freight service, as follows: Transportation of: *General commodities,* (1) between Dallas, TX and San Antonio, TX, as follows: From Dallas, TX over Interstate Hwy 35E to the intersection of Interstate Hwy 35E and Interstate Hwy 35, then over Interstate Hwy 35 to San Antonio, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating at or destined to San Antonio, TX. (2) Between Fort Worth, TX and San Antonio, TX as follows: From Fort Worth, TX over Interstate Hwy 35W to the intersection of Interstate Hwy 35W and Interstate Hwy 35, then over Interstate Hwy 35 to San Antonio, TX, and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating at or

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destined to San Antonio, TX. (3) Between Dallas, TX and Houston, TX as follows: From Dallas, TX over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating at or destined to Houston, TX. (4) Between Fort Worth, TX and Houston, TX as follows: From Fort Worth, TX over U.S. Hwy 287 to the intersection of U.S. Hwy 287 and Interstate Hwy 45 then over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating or destined to Houston, TX. (5) Between Fort Worth, TX and Houston, TX as follows: From Fort Worth, TX over U.S. Hwy 80 to the intersection of U.S. Hwy 80 and Interstate Hwy 45 then over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating at or destined to Houston, TX and Victoria, TX as follows: From Fort Worth, TX over Interstate Hwy 35W to the intersection of Interstate Hwy 35W and Interstate Hwy 35 then over Interstate Hwy 35 to the intersection of Interstate Hwy 35 and U.S. Hwy 77 then over U.S. Hwy 77 to Victoria, TX and return serving no intermediate points and joining, tacking and coodinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized in interstate and foreign commerce under Docket MC 107727 and subs thereunder. (7) Between Dallas, TX and Victoria, TX as follows: From Dallas, TX over Interstate Hwy 35E to the intersection of Interstate 35E and Interstate 35 then over Interstate Hwy 35 to the intersection of Interstate Hwy 35 and U.S. Hwy 77, then over U.S. Hwy 77 to Victoria, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized in interstate and foreign commerce under Docket MC 107727 and subs thereunder. (8) Between Fort Worth and Houston, TX as follows: From Fort Worth, TX over the Dallas-Fort Worth Turnpike (IN 30) to the intersection of the IN 30 and Interstate Hwy 45 thence over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized in interstate and foreign commerce under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic destined to or originating at Houston, TX. Intrastate, interstate and foreign commerce authority sought. Hearing site: If uncontested, November 2, 1978, time and place not yet fixed. Requests for procedural information should be addressed to Texas Railroad Commission, P.O. Drawer 12967, Capitol Station, Austin, TX 78711, and should not be directed to the Interstate Commerce Commission.

Texas Docket 004442A1N, filed October 2, 1978. Applicant: CENTRAL EXPRESS INC., 5601 West Waco Drive, P.O. Box 238, Waco, TX 76703. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Certificate of public convenience and necessity sought to operate a freight service, over regular routes, as follows: Transportation of: *General commodities,* (1) between Houston, TX, and Brownsville, TX, as follows: From Houston, TX, over U.S. Hwy 59 to Victoria, TX, then over U.S. Hwy 77 to Brownsville, TX, and return over the same route, serving the termini and all intermediate points. (2) Between Houston, TX, and Corpus Christi, TX, as follows: From Houston TX, over TX Hwy 35 to Gregory, TX, then over U.S. Hwy 181 to Corpus Christi, TX, and return over the same route, serving the termini and all intermediate points and the off route points of Sweeny, TX, the sites of Amoco Chemicals Corp. and Monsanto Chemical Co. near Chocolate Bayou, TX. (3) Between Angleton, TX, and West Columbia, TX, as follows: From Angleton, TX, over TX Hwy 288 to junction of TX Hwy 36, then over TX Hwy 36 to Freeport, TX, then over TX Hwy 36 to West Columbia, TX, and retun over the same route, serving the termini and all intermediate points. (4) Between Addicks, TX, and junction of TX Hwy 6 and Interstate Hwy 45, as follows: From Addicks, TX, over TX Hwy 6 to junction of TX Hwy 6 and Interstate Hwy 45, and return over the same route, serving the termini and all intermediate points. (5) Between San Antonio, TX, and Corpus Christi, TX, as follows: From San Antonio, TX, over U.S. Hwy 181 and over Interstate Hwy 37 to Corpus Christi, TX, and return over the same route, serving the termini and all intermediate points. (6) Between San Antonio, TX, and Pharr, TX, as follows: From San Antonio, TX, over U.S. Hwy 281 to Pharr, TX, and return over the same route, serving the termini and all intermediate points. (7) Between Mission, TX, and Harlingen, TX, as follows: From Mission, TX, over U.S. Hwy 83 and U.S. Hwy BR 83 to Harlingen, TX, and return over the same route, serving the termini and all intermediate points. (8) Between Corpus Christi, TX, and Freer, TX, as follows: From Corpus Christi, TX, over TX Hwy 44 to Freer, TX, and return over the same route, serving the termini and all intermediate points. (9) Between San Diego, TX, and Hebbronville, TX, as follows: From San Diego, TX, over TX Hwy 359 to Hebbronville, TX, and return over the same route, serving the termini and all intermediate points. (10) Between Victoria, TX, and Kenedy, TX, as follows: From Victoria, TX, over U.S. Hwy 87 to Cuero, TX, then over TX Hwy 72 to Kenedy, TX, and return over the same route, serving the termini and all intermediate points. (11) Between Luling, TX, and Cuero, TX, as follows: From Luling, TX, over U.S. Hwy 183 to Cuero, TX, and return over the same route, serving the termini and all intermediate points. (12) Between Victoria, TX, and Seadrift, TX, as follows: From Victoria, TX, over TX Hwy 185 to Seadrift, TX, and return over the same route, serving the termini and all intermediate points. (13) Between Victoria, TX, and Port Lavaca, TX, as follows: From Victoria, TX, over U.S. Hwy 87 to Port Lavaca, TX, and return over the same route, serving the termini and all intermediate points. (14) Between Laredo, TX, and Riviera, TX, as follows: From Laredo, TX, over TX Hwy 359 to Hebbronville, TX, then over TX Hwy 285 to Riviera, TX, and return over the same route, serving the termini and all intermediate points. (15) Between Linn-San Manuel, TX, and Raymondville, TX, as follows: From Linn-San Manuel, TX, over TX Hwy 186 to Raymondville, TX, and return over the same route, serving the termini and all intermediate points. (16) Between Harlingen, TX, and Mission, TX, as follows: From Harlingen, TX, over TX Hwy 107 to Mission, TX, and return over the same route, serving the termini and all intermediate points. (17) Between Victoria, TX, and Giddings, TX, as follows: From Victoria, TX, over U.S. Hwy 77 to Giddings, TX, and return over the same route, serving the termini and all intermediate points. (18) Between Austin, TX, and the junction of TX Hwy 71 and TX Hwy 35 as follows: From Austin, TX, over TX Hwy 71 to junction of TX Hwy 35 and return over the same route, serving the termini and all intermediate points. (19) Between Houston, TX, and Luling, TX, as follows: From Houston, TX, over U.S. Hwy 90 and Interstate Hwy 10 to Luling, TX, and return over the same route, serving the termini and all intermediate points. (20) Between Houston, TX, and Sequin, TX, as follows: From Houston, TX, over alternate U.S. Hwy 90 to Sequin, TX, and return over the same route, serving the termini and all intermediate points. (21) Between Victoria, TX, and Laredo, TX, as follows: From Victoria, TX, over U.S. Hwy 59 to Laredo, TX, and return over the same route, serving the termini and all intermediate points. (22) Between Brownsville, TX, and Laredo, TX, and the off route point of Hidalgo, TX, as follows: From Brownsville, TX, over U.S. Hwy 281 to Pharr, TX, then over U.S. Hwy 83 to Laredo, TX, and return over the same route, serving the termini and all intermediate points and the off route point of Hidalgo, TX. (23) Between Corpus Christi, TX and the juntion of TX Hwy 9 and U.S. Hwy 281 as follows: From Corpus Christi, TX, over TX Hwy 9 and Interstate Hwy 37 to the junction of U.S. Hwy 281 and TX Hwy 9 and return over the same route, serving the termini and all intermediate points. (24) Between Beeville, TX, and Refugio, TX, as follows: From Beeville, TX, over TX Hwy 202 to Refugio, TX, and return over the same route, serving the termini and all intermediate points. (25) Between Alice, TX, and Skidmore, TX, as follows: From Alice, TX, over TX Hwy 359 to Skidmore, TX, and return over the same route, serving the termini and all intermediate points. (26) Between Raymondville, TX, and Harlingen, TX, as follows: From Raymondville, TX, over TX Hwy 186 to Port Mansfield, TX, then over TX Hwy 186 to the junction of TX FM Road 1420, then over TX FM Road 1420 to Harlingen, TX, and return over the same route, serving the termini and all intermediate points. (27) Between Hallettsville, TX, and Refugio, TX, as follows: From Hallettsville, TX, over alternate U.S. Hwy 77 to Refugio, TX, and return over the same route, serving the termini and all intermediate points. (28) Between Port Lavaca, TX, and Port O'Connor, TX, as follows: From Port Lavaca, TX, over TX Hwy 238 to Seadrift, TX, then over TX Hwy 185 to Port O'Connor, TX, and return over the same route, serving the termini and all intermediate points. (29) Between Indianola, TX, and the junction of TX Hwy 316 and TX Hwy 238 as follows: From Indianola, TX, over TX Hwy 316 to the junction of TX Hwy 238 and TX Hwy 316 and return over the same route, serving the termini and all intermediate points. (30) Between Sealy, TX,, and West Columbia, TX, as follows: From Sealy, TX, over TX Hwy 36 to West Columbia, TX, and return over the same route, serving the termini and all intermediate points. (31) Between Wallis, TX, and Matagorda, TX, as follows: From Wallis, TX, over TX Hwy 60 to Matgorda, TX, and return over the same route, serving the termini and all intermediate points, and the site of Celanese Chemical Co. near Wadsworth, TX. (32) Between Brownsville, TX, and Port Isabel, TX, as follows: From Brownsville, TX, over TX Hwy 48 to Port Isabel, and return over the same route, serving the termini and all intermediate points. (33) Between South Padre Island, TX, and junction TX Hwy 100 and U.S. Hwy 77 as follows: From South Padre Island, TX, over TX Hwy 100 to junction TX Hwy 100 and U.S. Hwy 77, and return over the same route, serving the termini and all intermediate points. (34) Between San Antonio, TX, and Zapata, TX, as follows: From San Antonio, TX, over TX Hwy 16 to Zapata, TX, and return over the same route, serving the termini and all intermediate points. (35) Between Houston, TX, and Angleton, TX, as follows: From Houston, TX, over TX Hwy 288 to Angleton, TX, and return over the same route, serving the termini and all intermediate points. (36) Between Hitchcock, TX, and Richwood, TX, as follows: From Hitchcock, TX, over TX FM Road 2004 to Richwood, TX, and return over the same route, serving the termini and all intermediate points. (37) Between Galveston, TX, and Brazoria, TX, as follows: From Galveston, TX, over TX FM Road 3005 to the intersection of TX Hwy 332, then over TX Hwy 332 to Brazoria, TX, and return over the same route, serving the termini and all intermediate points. (38) Between Freport, TX, and the Intersection of TX FM Road 523 and TX Hwy 332 as follows: From Freport, TX, over TX FM Road 523 to the intersection of TX Hwy 332 and return over the same route, serving the termini and all intermediate points. (39) Between Elgin, TX, and Yoakum, TX, as follows: From Elgin, TX, over TX Hwy 95 to Yoakum, TX, and return over the same route, serving the termini and all intermediate points. (40) Between Hockheim, TX, and Midfield, TX, as follows: From Hockheim, TX, over TX Hwy 111 to Midfield, TX, and return over the same route, serving the termini and all intermediate points. (41) Between the intersection of TX FM Road 1289 and TX Hwy 183 and the intersection of TX FM Road 1289 and TX Hwy 238 as follows: From the intersection of TX Hwy 183 and TX FM Road 1289 over TX FM Road 1289 to the intersection of TX Hwy 238 and TX FM Road 1289 and return over the same route, serving the termini and all intermediate points. (42) Between Eagle Pass, TX, and San Antonio, TX, as follows: From Eagle Pass, TX, over U.S. Hwy 277 to junction U.S. Hwy 57, then over U.S. Hwy 57 to junction Interstate Hwy 35, then over Interstate Hwy 35 to San Antonio, TX, and return over the same route, serving the termini and all intermediate points. (43) Between Eagle Pass, TX, and Laredo, TX, as follows: From Eagle Pass, TX, over U.S. Hwy 277 to junction U.S. Hwy 83, then over U.S. Hwy 83 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Laredo, TX, and return over the same route, serving the termini and all intermediate points. (44) Between Dilley, TX, and junction Interstate Hwy 35 and U.S. Hwy 83, as follows: From Dilley, TX, over Interstate Hwy 35 to junction Interstate Hwy 35 and U.S. Hwy 83 and return over the same route, serving the termini and all intermediate points. (45) Between Carrizo Springs, TX, and La Pryor, TX, as follows: From Carrizo Springs, TX, over U.S. Hwy 83 to La Pryor, TX, and return over the same route, serving the termini and all intermediate points. (46) Between Carrizo Springs, TX, and the junction of Interstate Hwy 35 and U.S. Hwy 57 as follows: From Carrizo Springs, TX, over TX Hwy 85 to Dilley, TX, then over U.S. Hwy 81 and Interstate Hwy 35 to junction of Interstate Hwy 35 and U.S. Hwy 57, and return over the same route, serving the termini and all intermediate points. (47) Between junction of U.S. Hwy 277 and TX FM Road 181 and junction TX FM Road 181 and U.S. Hwy 83 as follows: From junction U.S. Hwy 277 and TX FM Road 191 over TX FM Road 191 to junction TX FM Road 191 and U.S. Hwy 83, and return over the same route, serving the termini and all intermediate points. (48) Between Crystal City, TX, and Brundage, TX, as follows: Between Crystal City, TX, over TX FM Road 65, to Brundage, TX, and return over the same route, serving the termini and all intermediate points. (49) Between Freer, TX, and the junction of TX Hwy 44 and U.S. Hwy 83 as follows: From Freer, TX, over TX Hwy 44 to the junction of TX Hwy 44 and U.S. Hwy 83 and return over the same route, serving the termini and all intermediate points. (50) Between

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and

FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. Transferee presently holds authority in MC 126900

and one (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. State-

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44 to the junction of TX Hwy 44 and U.S. Hwy 83 and return over the same route, serving the termini and all intermediate points. (50) Between Fannin, TX, and the site of the Coleta Creek Power Station of Central Power & Light, as follows: From Fannin, TX, over TX FM Road 2987 to the site of the Coleta Creek Power Station of Central Power & Light, and return over the same route, serving the termini and all intermediate points. (51) Between Bay City, TX, and Wadsworth, TX, as follows: From Bay City, TX, over TX FM Road 2668 to junction TX FM Road 2668 and TX FM Road 521, then over TX FM Road 521 to Wadsworth, TX, and return over the same route, serving the termini and all intermediate points and the site of the South Texas Project of the Houston Lighting & Power Co. (52) Between Bruni, TX, and the site of Wyoming Mining & Minerals, as follows: From Bruni, TX, over TX FM Road 2050 to the junction to TX FM Road 2050 and an unnumbered county road, then over an unnumbered county road to the site of Wyoming Mining & Minerals and return over the same route, serving the termini and all intermediate points. (53) Between Falls City, TX, and Campbellton, TX, as follows: From Falls City, TX, over TX FM Road 791 to Campbellton, TX, and return over the same route, serving the termini and all intermediate points, and the site of the Pioneer Nuclear, Inc., and Continental Oil Co. Conquista project. (54) Between Kenedy, TX, and Three Rivers, TX, as follows: From Kenedy, TX, over TX Hwy 72 to Three Rivers, TX, and return over the same route, serving the termini and all intermediate points, and the site of Susquehanna Western. (Hearing site: If uncontested, November 2, 1978, time and place not yet fixed. Requests for procedural information should be addressed to Texas Railroad Commission, P.O. Drawer 12967, Capitol Station, Austin TX 78711, and should not be directed to the Interstate Commerce Commission.)

NOTE.—Applicant seeks no duplicate authority in intrastate or interstate or foreign commerce. Intrastate, interstate and foreign commerce sought.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30155 Filed 10-25-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241; Exemption No. 153]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

To all railroads:

It appearing, That the railroad named below owns numerous open hopper cars; that under present conditions there are surpluses of these cars on its lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, open hopper cars, described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 408, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "HM" or "HT", and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Upper Merion and Plymouth Railroad Co. Reporting Marks: UMP.

Effective October 6, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., October 5, 1978

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-30321 Filed 10-25-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 23, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA 43614, Traffic Executive Association-Eastern Railroads, Agent's No. E.R. 3075, rates on newsprint paper, from Trois Rivieres, Quebec, Canada, to Lake Worth and West Palm Beach, Fla., in Supp. 3 to Canadian Freight Association Tariff 760-A, ICC 489, to become effective November 25, 1978. Grounds for relief—water competition.

FSA 43615, Southwestern Freight Bureau, Agent's No. B-773, rates on newsprint paper and kindred or related articles, from Canadian stations to Southwestern Territory, in Supp. 80 to its Tariff 281-J, ICC 5231, to become effective November 7, 1978. Grounds for relief—market competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30317 Filed 10-25-78; 8:45 am]

[7035-01-M]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIER

Decision

OCTOBER 13, 1978.

Weather Shield Transportation, Ltd., (MC-141318), lessor, has filed an application for approval of contract carrier rental contract No. 4-8014 with Weather Shield Manufacturing, Inc. of Medford, Wis., lessee, under paragraph (b) of Part 1057.6 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

Findings:

1. The agreement does not require the lessee to assume exclusive possession of the equipment during the term of the lease.

2. The rental rate for the equipment is not competitive.

3. The lessee is not assuming the characteristic burdens of the transportation industry.

It is ordered: 1. The applicant's request for approval of the contract carrier rental contract No. 4-8014 is denied.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and W. F. Sibbald, Jr.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30320 Filed 10-25-78; 8:45 am]

[7035-01-M]

[Notice No. 121]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with

the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC-FC-77816, filed October 20, 1978. Transferee: CARTERHOUSE, INC., 129 Douglas Drive, South Meriden, CT 06450. Transferor: ESTELLE F. PALMER, Executrix of the Estate of Edward F. Palmer, d.b.a. PALMER BROTHERS, 153 Main Street, Ansonia, CT 06401. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate MC 22834 issued June 19, 1975, as follows: *Household goods* between points in CT, NY, MA, NJ, PA, RI, VT, NH, and ME; and *machinery* between Seymour and Ansonia, CT, on the one hand, and, on the other, Hope Valley and Woonsocket, RI, and points in a specified part of NY. Transferee presently holds no authority from this Commission. Application for temporary authority under section 210a(b) has not been filed.

MC-FC-77865, filed October 3, 1978. Transferee: ANTHONY D. FIAMINGO, d.b.a. FIAMINGO MOVING & STORAGE CO., R. D. No. 3, Box 678, Mansfield, PA 16933. Transferor: JOHN F. MURPHY, d.b.a. MURPHY TRUCKING CO., 33 Davenport Street, Hornell, NY 14843. Representative: Thomas F. X. Foley, Esq., State Hwy 34, Colts Neck, NJ 07722. Authority sought for purchase by transferee of operating rights of transferor as set forth in Certificate MC 35212 issued January 16, 1958, as follows: *Household goods.* between Hornell, NY, and points within 25 miles thereof on the one hand, and, on the other, points in New York; between Hornell, NY, and points within 50 miles thereof on the one hand, and, on the other, New York, NY, and points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC. Transferee presently holds authority in MC 126900 issued February 19, 1974. Temporary authority under section 210a(b) was granted October 12, 1978.

MC-FC-77883, filed September 26, 1978. Transferee: SILVER FLEET EXPRESS, INC., 4521 Rutledge Pike, Knoxville, TN 37914. Transferor: SKYLINE TRANSPORTATION, INC., P.O. Box 3569, 131 Quincy Avenue, Knoxville, TN 37917. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. Authority sought for acquisition by transferee, of a portion of the rights of transferor, as set forth in certificates MC 99208 (Sub Nos. 4, 10, 11, and 13), Issued April 30, 1969, October 9, 1975, July 8, 1975, and April 29, 1977, as follows: *General commodities* (with exceptions), over regular routes, between Knoxville and Maryville, TN, serving all intermediate points: From Knoxville over U.S. Hwy 129 to Maryville, and return over the same route; *General commodities* (with exceptions), over regular routes, between Knoxville, TN, and New Orleans, LA, serving no intermediate points: From Knoxville over U.S. Hwy 11 to New Orleans and return over the same route. *General commodities* (with exceptions), between Knoxville, TN, and Cincinnati, OH, serving no intermediate points: From Knoxville over TN Hwy 33 to junction U.S. Hwy 25-E at or near Tazewell, TN, then over U.S. Hwy 25-E to junction U.S. Hwy 25, then over 25 to access road and junction Interstate Hwy 75 at or near Corbin, KY, then over Interstate Hwy 75 to Cincinnati, and return over the same route. Transferee presently holds no authority from this Commission and application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30319 Filed 10-25-78; 8:45 am]

[7035-01-M]

[Notice No. 28]

SPECIAL PROPERTY BROKERS

OCTOBER 23, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods) between all points in the United States including AK and HI. Any interested person shall file an original and one (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-77-4, filed May 29, 1977. Applicant: L. B. TRANSPORT SERVICES, INC., 19114 Pioneer Boulevard, Cerritos, CA 90701. Representative: Miles L. Kavaller, 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212.

B-78-77, filed June 5, 1978. Applicant: RANGEN, INC., Route 4, Buhl, ID 83316. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111.

B-78-111, filed September 27, 1978. Applicant: WILSON'S CUSTOMS CLEARANCE, INC., One Exchange Place, Jersey City, NJ 07302. Representative: Joseph A. Cella (same address as applicant).

B-78-112, filed September 27, 1978. Applicant: WILSON'S AMERICAN CO., INC., One Exchange Place, Jersey City, NJ 07302. Representative: Frank Barth, One Exchange Place, Jersey City, NJ 07302.

B-78-113, filed September 28, 1978. Applicant: MALLET'S GATEWAY TERMINAL, INC., d.b.a. MALLET'S GATEWAY TERMINAL, INC., 2150 Roswell, Drive, Pittsburgh, PA 15201. Representative: Mervin Mallet (same address as applicant).

B-78-115, filed August 29, 1978. Applicant: DU-ALL, CONTAINER CARRIERS, CO., 23 Park Avenue, Nesconset, NY 11767. Representative: Michael W. LoBiondo (same address as applicant).

B-78-118, filed September 25, 1978. Applicant: DAVIS, SLOAT & NORWOOD, INC., 6700 Allied Way, Little Rock, AR 72209. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, AR 72201.

B-78-119, filed October 12, 1978. Applicant: LEYDEN CUSTOMS EXPEDITERS, INC., 1 World Trade Center, Suite 2661, New York, NY 10048.

B-78-120, filed October 6, 1978. Applicant: UNITED FREIGHT BROKERAGE, INC., 6600 South River Road, Hodgkins, IL 60525. Representative: Michael D. Danly, Suite 5000, One First National Plaza, Chicago, IL 60603.

B-78-122, filed October 12, 1978. Applicant: WILLIAM B. MEYER, INC., Long Beach Boulevard, Stratford, CT 06497. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-123, filed September 29, 1978. Applicant: W. R. ZANES & COMPANY OF LOUISIANA, INC., 223 Tchoupitoulas Street, New Orleans, LA 70130. Representative: William St. John, Jr. (same address as applicant).

B-78-124, filed October 17, 1978. Applicant: ALLIED TRUCKING SERVICE, INC., 11650 Court House Boulevard, Inver Grove Heights, MN 55075. Representative:

Robert C. Schlieske (same address as applicant).

B-78-125, filed October 17, 1978. Applicant: ARTHUR R. CLARK, Jr., d.b.a.

compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order re-

Elliott Co., Division of Carrier Corp., at Jeanette, PA.

The proceeding was handled under the modified procedure. Two protes-

the time was extended to October 26, 1976). Applicant's counsel requested

Applicant's rebuttal statement of March 10, 1976, contains a summary of

New Jersey—Maryland 228;
New York—Connecticut 0;
New York—Rhode Island 0;
New York—Massachusetts 0;

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Robert C. Schlieske (same address as applicant).

B-78-125, filed October 17, 1978. Applicant: ARTHUR R. CLARK, Jr., d.b.a. DONARC FOREIGN FREIGHT FORWARDING, 18409 Cedar Drive, Triangle, VA 22172. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30318 Filed 10-25-78; 8:45 am]

[7035-01-M]

[I.C.C. Order No. P-12]

PASSENGER TRAIN OPERATION

Decision

OCTOBER 3, 1978.

To: St. Louis Southwestern Railway Co.

The National Railroad Passenger Corp. (Amtrak) has established through passenger train service between Chicago, Ill., and Laredo, Tex. The operation of these trains requires the use of the tracks and other facilities of the Missouri Pacific Railroad Co. (MP) between St. Louis, Mo., and Laredo. A portion of these MP tracks between Knobel, Ark, and Corning, Ark., are temporarily out of service because of a derailment. An alternate route is available between these points via the lines of the St. Louis-San Francisco Railway Co. between Hoxie, Ark., and Jonesboro, Ark., thence via the St. Louis Southwestern between Jonesboro and Illmo, Mo., thence via the Missouri Pacific Railroad between Illmo and St. Louis, Mo. The use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562 (c)), the St. Louis Southwestern Railway Co. be, and it is hereby directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corp. between a connection with the St. Louis-San Francisco Railway at Jonesboro, Ark., and a connection with the Missouri Pacific at Illmo, Mo.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(d) *Effective date.* This order shall become effective at 1 p.m., c.d.t., October 3, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., c.d.t., October 5, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon the St. Louis Southwestern Railway Co. and upon the National Railroad Passenger Corp., and a copy of this order shall be filed with the Director, Office of the Federal Register.

INTERSTATE COMMERCE COMMISSION
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-30322 Filed 10-25-78; 8:45 am]

[7035-01-M]

[No. MC-134287 (Sub-No. 1)]

BELLEVUE TRUCKING CO.

Extension—Gateway Elimination (Warren, OH); Decision on Reconsideration

Decided: October 11, 1978.

This proceeding was reopened for further consideration on the present record in a decision of the Commission entered March 6, 1978. The reopening was subject to the approval of the U.S. Court of Appeals for the Sixth Circuit.

In an application filed June 6, 1975, Bellevue seeks a certificate of public convenience and necessity authorizing it to transport: (1) Machines, and (2) commodities the transportation of which, because of size or weight, require the use of special equipment (except boats) between points in New Jersey, New York, and Pennsylvania, within 200 miles of Newark, NJ, on the one hand, and, on the other, points in Connecticut, Rhode Island, Massachusetts, Delaware, and Maryland, within 200 miles of Newark, NJ, restricted against the transportation of traffic moving to or from the plantsite of the Elliott Co., Division of Carrier Corp., at Jeanette, PA.

The proceeding was handled under the modified procedure. Two protestants, Jetco, Inc., and Dallas and Mavis Forwarding Co., Inc., filed statements in opposition.

Review Board No. 1 granted authority as to specified commodities, from and to specified points. The proceeding later become administratively final and applicant instituted judicial proceedings before the Sixth Circuit Court of Appeals.

It is our intent, by reopening this case, to apply the standards set forth in *Groendyke Transport, Inc. Extension—Gateway Elimination,* 126 M.C.C. 571, 574-575 (1977).

This request for gateway elimination is somewhat novel in that applicant did not immediately file an application pursuant to the gateway elimination rules set forth at 49 CFR 1065. Apparently, unfortunate advice from counsel caused applicant to forego filing before the June 1974 deadline. Applicant has continued providing services pursuant to the 300-mile exemption contained in those rules. It now wishes to eliminate the gateways it must observe under the exemption.

PROCEDURAL MATTERS

Applicant has argued that, at a minimum, it should receive relief from the timely filing requirements in 49 CFR Part 1065 to the extent letter-notice authority would have been granted if it had made an earlier proper filing. As we have stated on prior occasions, the trucking industry was well aware of the adoption of the gateway elimination rules and a large number of carriers applied for, and received, both "G" and letter-notice authority. While relief has been granted in some cases by the courts where applicants did not have enough time to complete properly their presentation or where tardy filings were made, such is not the case here. Applicant waited a full year to make a filing and is properly foreclosed from pursuing letter-notice authority.

Applicant has also objected to the prior refusal of the Commission to consider its late-filed (by 2 days) petition for reconsideration, dated October 26, 1976. It should be noted that applicant received an extension of time for filing verified statements on November 19, 1975. A second extension was received on December 23, 1975. An extension of time was granted on February 26, 1976, for applicant's filing of a rebuttal statement. Division 1, in an order dated April 8, 1976, reopened the proceeding to allow acceptance of a late-filed verified statement. Applicant then received an extension of time to file its petition for reconsideration (originally due September 24, 1976,

the time was extended to October 26, 1976). Applicant's counsel requested the last extension due to press of work in other cases.

In its petition seeking a finding that an issue of general transportation importance was involved, applicant labeled the rejection of the petition for reconsideration as arbitrary and capricious. Applicant and its counsel have received numerous extensions from the Commission, one, in fact, after an original request had been denied (docket entry 24). Applicant has been treated with fairness in the procedural handling of this case. The petition at issue was dated and signed on the due date at Columbus, OH. Applicant and its counsel should be admonished for their persistent disregard of Commission filing deadlines. There is simply no equitable ground on which to allow this pleading into the case, and the earlier decisions to reject the petition were proper.

With these procedural matters ruled upon, we now proceed to the substantive merits of the case.

APPLICANT'S EVIDENCE

Applicant's traffic evidence is contained in its exhibits 10 through 13. Exhibit 10 covers 120 days selected from the period December 1973 through November 1974. Exhibit 11 covers 3 miscellaneous weeks during 1974. Exhibit 12 selects shipments from a 2-week period during 3 named months. Exhibit 13 duplicates some time periods previously covered, but includes 6 months during 1973 and 8 months during 1974. Because of this manner of random selection, it is difficult to get a precise reading of the actual time covered by the abstracts, but they cover about a one year period.

There are several errors in the abstracts. Six shipments listed in exhibit 10 (B161005, B5-1010, B5-1011, B5-1009, B5-1002, and 2601) are also listed in exhibit 13. They have been counted only once. Other shipments, such as Pro No. 2211 of exhibit 10, are not relevant.

The following numbers of shipments were transported between the described pairs of States below:

New Jersey—Connecticut 29;
New Jersey—Rhode Island 3;
New Jersey—Massachusetts 8;
New Jersey—Delaware 5;
New Jersey—Maryland 24;
New York—Connecticut 0;
New York—Rhode Island 0;
New York—Massachusetts 1;
New York—Delaware 1;
New York—Maryland 6;
Pennsylvania—Connecticut 5;
Pennsylvania—Rhode Island 1;
Pennsylvania—Massachusetts 8;
Pennsylvania—Delaware 15;
Pennsylvania—Maryland 23;

Applicant's rebuttal statement of March 10, 1976, contains a summary of the varied points served in each of the involved States. It has handled a wide range of size and weight commodities and machinery between these points.

The most pertinent supporting shipper evidence for applicant has been set forth in appendix A to this decision.

PROTESTANTS' EVIDENCE

Jetco holds authority to transport size and weight commodities between points in New Jersey, New York, and Pennsylvania, on the one hand, and, on the other, points in Delaware and Maryland. It also participates in joint-line service between points in New Jersey, New York, and Pennsylvania, on the one hand, and, on the other, points in Connecticut, Rhode Island, and Massachusetts. Its traffic abstracts cover portions of the involved States which are commensurate with applicant's request for authority within 200 miles of Newark, NJ. While Jetco does not indicate the exact carriers with which it offers a joint-line service, the evidence of these operations is so substantial that we believe they should be given substantial weight. Jetco also includes several freight bills for services rendered to a supporting shipper, but these services were not of a substantial nature. This service will be discussed in more detail below.

The 36-page exhibit of traffic submitted by Jetco contains about 461 shipments transported over about a 13-month period, which roughly corresponds in length to the time period covered in applicant's exhibits. Although differences in the actual scope of time differ to a partial extent, there is not such a deviation that we cannot make a meaningful comparative analysis. A small portion of the shipments handled by Jetco involve multiple loads. In a few cases, multiple destinations are listed, occasionally covering different States. To achieve consistency, where multiple loads were transported under one Pro No., it was counted as one shipment. Where multiple drop-offs were made to the same State, this was counted as one shipment. Only where drop-offs were made to points in different States was credit given for multiple shipments. This tabulation device has no effect on the ultimate decision.

Jetco contends there are freight bills at branch offices which would substantiate additional shipments, but inasmuch as these have not been presented, we cannot given them weight. The following numbers of shipments were made between pairs of States:

New Jersey—Connecticut 0;
New Jersey—Rhode Island 0;
New Jersey—Massachusetts 0;
New Jersey—Delaware 9;
New Jersey—Maryland 223;
New York—Connecticut 0;
New York—Rhode Island 0;
New York—Massachusetts 0;
New York—Delaware 2;
New York—Maryland 46;
Pennsylvania—Connecticut 11;
Pennsylvania—Rhode Island 0;
Pennsylvania—Massachusetts 2;
Pennsylvania—Delaware 87;
Pennsylvania—Maryland 79;

In the States where large concentrations of shipments exist, a predominance of shipments involved only a small number of points:

Baltimore, MD—Randolph, NJ 211;
Baltimore, MD—Coatesville, PA 39;
Coatesville, PA—Glasgow, DE 61;
Coatesville, PA—Middletown, DE 11;

Other traffic patterns that appear with some regularity as, for example, between Baltimore, MD, and various New York, New Jersey and Pennsylvania points, do not appear with as much frequency. It is plain that protestant's main traffic lanes involve traffic between the above-described pairs of points.

Protestant Dallas and Mavis holds authority to transport heavy machinery, structural steel, contractors' equipment, and size and weight commodities, between points in Connecticut, Massachusetts, Rhode Island, New York and New Jersey. Its specific interest involves the transportation of machines and commodities the transportation of which because of size or weight require the use of special equipment, between points in New York, on the one hand, and, on the other, points in Connecticut and Massachusetts (all within 200 miles of Newark). Its appendix C represents relevant shipments during the last quarter of 1975. It states that this list covers 77 percent of the possible shipments, and accounts for about $16,686 in revenue.

Protestant's appendix C lists 63 shipments. Of these, 34 were between New York and Connecticut points, and 29 between New York and Massachusetts points. New York points include Albany, Troy, Maybrook, Garden City, Sidney, Chester, and Farmingdale. Connecticut points include East Granby, Hartford, Southington, East Hartford, Bristol, Wallingford, New Haven, Danbury, and Newington. Massachusetts points include Somerville, Andover, Pittsfield, North Billerica, Newburyport, Charlestown, Agawam, Roxbury, and Haverhill.

ANALYSIS OF THE TRAFFIC EVIDENCE UNDER THE "GROENDYKE" CRITERIA

With these traffic figures outlined we can proceed to an analysis of the relative competitive positions of applicant and protestants, using the factors outlined in *Groendyke.*

In a proceeding to eliminate a gateway under the special rules promulgated in 49 CFR 1065, an applicant must establish (1) that it is transporting a

other commodities. Compare *C & H Transp. Co., Inc.—Pur.—Gulf Southwestern Transp.,* 90 MCC 636, 640-641 (1962). Therefore, we are more in-

proceeding, favor the case of applicant. The tacking of the involved authorities, and the resultant gateway operations appear to have been a nat-

transported any traffic between points, it has no claim to having been a carrier of substantial traffic. Applicant has an affirmative obligation to

portant to Jetco. Given applicant's lack of participation to any significant extent there, no award of authority should be forthcoming between the

restatement of the most pertinent shipper evidence is set forth in the appendix to this decision.

The review board in its August 18

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In a proceeding to eliminate a gateway under the special rules promulgated in 49 CFR 1065, an applicant must establish (1) that it is transporting a substantial volume of traffic from and to the points involved by operating in good faith through the gateway and, in so operating, is effectively and efficiently competing with the existing carriers, and (2) that the elimination of the gateway would not enable it to institute a new service, or a service so different from that presently provided as materially to improve its competitive position to the detriment of existing carriers.

A threshold question in any gateway elimination proceeding is whether the applicant has transported a substantial volume of traffic through the pertinent gateway. There is no mechanical test to determine this, see *Groendyke, supra*, at p. 575. Substantial participation in traffic is a relative test, and an applicant's participation must be evaluated in light of the circumstances surrounding each particular case. For example, in the past, we have considered the nature of the authority held by applicant, the type of commodities involved, the breadth and character of the points or territories served, the volumes transported by applicant in comparison to those transported by protestant, and the relative sizes of applicant and protestants.

The *Groendyke* test is a relative one. That means that a variety of factors must be weighed against each other. Generally, no one factor will be determinative of the issue of substantial traffic or effective competitiveness, although one or a few factors may stand out as especially significant. Our initial task will be to outline the most salient facts under each of the *Groendyke* criteria, and then evaluate their weight in the context of the proceeding.

NATURE OF THE AUTHORITY HELD BY APPLICANT

Applicant contends that service has historically been provided. While we have no evidence before us to assess historical operations, it is clear from the two separate underlying authorities that they are complementary in nature, having Newark as a common service point, with a 200-mile radius extending outward to the north and south from each separate authority. Tacking operations through the Newark gateway are clearly a logical and central part of Bellevue's certificated operations.

TYPE OF COMMODITIES INVOLVED

It has long been recognized within the trucking industry that size and weight commodities and machinery are not handled with the same repeat patterns and volume of shipments as other commodities. Compare *C & H Transp. Co., Inc.—Pur.—Gulf Southwestern Transp.*, 90 MCC 636, 640-641 (1962). Therefore, we are more inclined to accept as "substantial traffic" evidence of a somewhat sparser nature than we would, for example, if general commodities, or foodstuffs, or a similar classification were involved.

The fact that applicant is a specialized carrier aids its case. Obviously, all three carriers transport the same infrequently shipped commodities. But where an applicant has handled comparatively fewer shipments, it can rightfully argue several things. It can contend that within a limited time period covered by a traffic abstract, by chance, a small amount of the infrequently moving commodities was shipped. Or, there is the consideration that, unlike general commodities carriers, there are fewer carriers with the expertise or equipment to transport the size and weight commodities, and the demand for its services, however small, is a very real demand. Shippers simply do not have another means of transportation available to them. In the present situation, we are inclined to find that a smaller number of shipments represents a service needed by the public, given the specialized nature of the commodities shipped.

BREADTH AND CHARACTER OF THE TERRITORIES SERVED

The involved request for authority is relatively modest in size, although it does cover an area of one of the most heavily industrialized and populated sections of the United States. However, within the defined territory, several large industrial cities, such as Pittsburgh, PA, and Buffalo, NY, are not covered under the 200-mile radius. We do not find that the breadth and scope of the points to be served is either narrow, or excessively large, all things considered. Given these facts, this factor has a neutral effect in our overall test for substantial traffic.

SIZES OF THE PARTIES

Bellevue is a small carrier. During 1974, the last full year prior to the application, and roughly the time period within which it must prove its status as a substantial competitor over the Newark gateway, it generated total operating revenues of $516,628. It estimates that about 33 percent of its gross revenue comes from observance of its gateway operation. Jetco's operating revenue for the same period was about $1.7 million, roughly three times that of applicant. Dallas and Mavis was about $31 million, and about 60 times that of applicant's.

EVALUATION OF THESE FACTORS

A number of the factors, when analyzed under the factual context of this proceeding, favor the case of applicant. The tacking of the involved authorities, and the resultant gateway operations, appear to have been a natural outgrowth of the structure of its certificated operations. A substantial portion of its revenues came from tacking operations. The nature of the commodities are such that we would be more inclined to "give the benefit of the doubt" to an applicant, given the infrquent nature of this traffic. Finally, the relative sizes of the parties is important, since applicant's smaller size means that it need not present traffic evidence equal in size to protestants to make a case that it an effective competitor.

SYNTHESIS

At this step in our analysis, we have before us the traffic and evidentiary submissions by the parties, and have discussed the more significant facts of the case under the *Groendyke* case. The final step is to synthesize all this material. The comparison of traffic data will be performed first, discussing each protestant's interests separately. Any relevant shipper evidence will be discussed following this.

The most important fact in this case relating to Jetco's interests is that Jetco's traffic is concentrated in a few, narrowly defined areas, involving points which have not been served by applicant with any particularity (these are Baltimore and Randolph, Baltimore and Coatesville, Coatesville and Glascow, Coatesville and Middletown). Applicant will not receive any authority to serve those points, since it has not been a competitive factor between them. This denial of authority is warranted despite the other factors which have been cited in applicant's favor. Within the narrow traffic lanes described in this paragraph, applicant's small size, etc., will not overcome the massive traffic evidence of Jetco.

Another very important fact is the absence of traffic data between certain States, on the part of both applicant and Jetco. In these situations, *Groendyke* criteria are not examined. *Groendyke* is an aid in evaluating relative submittals. But a complete lack of participation does not put a party into even a relative position. Where a protestant has not transported any traffic between points in pairs of States, it has no competitive posture to protect. The only conclusion we can reach in those cases is that applicant, even if submitting evidence of only one shipment, is handling any existing shipper demand for service and its participation is substantial in comparison to Jetco. See *Incorporated Carriers, Ltd.—Gateway Elimination*, 128 MCC 810, 815 (1978). There were six pairings of States where this was true. However, where applicant has not transported any traffic between points, it has no claim to having been a carrier of substantial traffic. Applicant has an affirmative obligation to meet its burden of proof, coming forward with traffic data which would support its claim that it had operated over the involved gateways. No traffic evidence was submitted for the State pairs of New York-Connecticut and New York-Rhode Island.

Applicant, having transported some traffic between New Jersey and the States of Connecticut, Rhode Island, and Massachusetts, in contrast to Jetco's lack of participation, has met its burden of proof as to this protestant. The traffic carried by both parties between New Jersey and Delaware is roughly similar, and applicant has also met its burden with regard to that pair of States. Jetco had a large number of shipments between New Jersey and Maryland, but almost all were between Baltimore and Randolph. Except between those two points, applicant has been an effective competitor, and authority will be granted to that extent.

Applicant has submitted no traffic data for services between New York, on the one hand, and, on the other, points in Connecticut or Rhode Island. Additional analysis of the shipper evidence below will be required. The small number of shipments carried by both parties between New York and Delaware establishes a competitive relationship, and authority will be granted to applicant there. New York-Massachusetts will be discussed below in relation to Dallas and Mavis' opposition.

The relevance of the *Groendyke* criteria is most apparent between New York and Maryland. There, Jetco transported 46 shipments, to applicant's 6. Despite this seeming disparity, we find that applicant has been an effective competitor, and a grant of authority is warranted. We first note that both parties served a variety of points in both States. But considering applicant's small size, the importance of gateway operations to its overall operational structure, and the nature of the commodities, the 46 to 6 ratio is not one-sided.

Both parties transported a small number of shipments between Pennsylvania and Connecticut. Applicant provided the only evidence of a Pennsylvania-Rhode Island shipment. In these cases, a grant is warranted, given the relatively equal traffic in the former case, and the lack of Jetco traffic between the latter set of points.

Almost all the Jetco Pennsylvania-Delaware traffic was between three points while a large portion of its Pennsylvania-Maryland traffic was between specific points. As discussed, these well-defined traffic lanes are important to Jetco. Given applicant's lack of participation to any significant extent there, no award of authority should be forthcoming between the specific points. The grant of authority in the appendix will reflect these analyses.

Applicant's traffic submittals must also be examined in light of Dallas and Mavis' opposition. The relevant State pairs to which Dallas and Mavis has an interest are New York-Massachusetts, and New York-Connecticut. Applicant offered no evidence of a New York-Connecticut movement, and only one New York-Massachusetts movement. Dallas and Mavis transported a significant amount of traffic between varied points in these two States. The traffic exhibit of Dallas and Mavis suggests a continuing and varied pattern of traffic between points in these States. The *Groendyke* critera are helpful guides in evaluating relative relationships, but they cannot be used to bootstrap applicant's position where it has offered so little traffic evidence. No grant of authority is warranted between these two pairs of States based upon the examination of the traffic evidence alone.

Part (1) of the grant of authority in the appendix reflects our examination of the traffic evidence submitted by the parties. Applicant's case rests largely on its traffic evidence. The supporting shipper evidence is not important to most of the application, for the traffic evidence clearly indicates those points between which applicant was an effecitve competitor. But the shipper evidence is important as to those portions of the application which were not supported by substantial evidence.

The supporting shipper evidence will be viewed in two ways. First, we will attempt to establish to what extent these shippers relied upon applicant's past operations through its gateways. However, we are not tied to rigid classifications of theories under which an application is prosecuted. While this is essentially a gateway elimination proceeding, the public convenience and necessity standard requires that we look at the need for transportation service to the public apart from the theory of gateway elimination. Our second examinaion, then, will proceed upon the basis used in conventional OP-OR-9 applications.

The shipper evidence is imprecise as to the extent applicant's services were used under its gateway operations. Shippers merely state that applicant had been used. This is not sufficient to justify a grant of authority under a gateway elimination theory.

However, a grant of authority is warranted when examining the shipper evidence in light of traditional public convenience and necessity criteria. A restatement of the most pertinent shipper evidence is set forth in the appendix to this decision.

The review board, in its August 18, 1976, order, stated that the supporting firms have an existing need for some service. The review board then went on to note that protestants held some authority commensurate with these service needs. To the extent they were authorized to perform service, the grant of authority was reduced. The review board used the criterion that existing carriers normally should be affored the opportunity to transport all the traffic which they can handle economically and efficiently within their authorized territories before a new service will be allowed.

The latter statement has since been discredited as an oversimplification of the test first enunciated in *Pan American Bus Lines Operation*, 1 MCC 190 (1936), i.e., whether there is a public need for the proposed serivce, whether that need can and will be met by existing carriers, and whether the new operation proposed by applicant will impair the operations of existing carriers in a manner contrary to the public interest.

A major consideration is whether the advantages to those of the public using the proposed service outweigh the disadvantages, real or potential, to existing carriers that may result. *All American Bus Lines Inc., Common Carrier Application*, 18 MCC 755, 776-777 (1939). This balancing of benefits to the public against harm to existing motor carrier service was deemed to embody the concept of public convenience and necessity in the Supreme Court's decision in *Bowman Transp.* v. *Arkansas-Best Freight System*, 419 U.S. 481, 293, 298 (1974). It is not sufficient to determine only if existing service is adequate and to deny the application if it is, or to deny an application based solely on the protestants' general assertions that they can provide the proposed service. See *United States* v. *Dixie Express*, 389 U.S. 409 (1967). The benefit to the public of the availability of an application's service must be weighed against the real or potential adverse effect on existing carriers and the repercussions this may have on their service to the public.

With these factors in mind, we can evaluate the shipper related evidence. Dallas and Mavis states that Eastalco's traffic is not relevant to its interests. It does not mention whether it has ever handled the traffic of the remaining two shippers, and it is proper to infer that it has not.

Jetco states that it is eager to participate in services for Eastalco. It can make equipment available on very short notice. Eastlco has been solicited for over a year. Jetco submits copies of 10 billings reflecting traffic it has han-

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dled for this shipper. These show that shipments were transported to several locations during the latter part of January 1976. Jetco contends that it can provide service for Ametalco and Sumitomo at various origins, but it has not transported any traffic for these shippers within the scope of the application.

A careful weighing of the advantages which will accrue to the public, versus the real or potential adverse effects on existing carriers convinces us that the application should be granted to enable applicant to provide direct service for the three supporting shippers. Applicant has served these shippers in the past. The record is unclear as to the exact extent of this service, but the shippers have been happy with it. Applicant holds existing authority to serve these shippers within the confines of the 300-mile-tacking exemption, but a continuation of service under this exemption would not be in the public interest, since a more efficient, direct service would be available under the grant of authority. It is apparent that protestants cannot provide a wholly satisfactory service. Neither protestant can provide more than a portion of the service, since their authorizations to provide service are limited territorially. Two of the shippers stated a need for a carrier with broad service authorizations, since customer locations change.

We doubt that the protesting carriers will suffer adverse effects from the introduction of these direct services. Within the scope of this application, there is evidence of only one carrier, Jetco, having provided service previously to the shippers. That service had only recently been instituted, and obviously was not fo a magnitude or duration such that Jetco's operations or financial well-being were intimately tied to it. In fact, the public should benefit from the increased competition. This case involves commodities where transportation requires specialized equipment and trained personnel. When a shipper needs expeditious service, as has been stated here, on the whole it is more difficult to obtain where specialized equipment is involved. Surveying these factors, it is clear that a grant will result in advantages to the public in the form of a more efficient, direct service. There will be no discernible adverse effect on existing carriers, and a grant will introduce a more efficient service into a specialized area of transportation.

The grant of authority commensurate with the evidence submitted by the three supporting shippers is set forth at parts (2) through (4) of the grant of authority in the appendix.

Since the grants of authority in parts (2) through (4) exceed the 200-mile-radius limitation to some extent it is possible that other parties, who have relied upon notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority granted. A notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from date of such publication, during which period any party in interest may file an appropriate protest or other pleadings in opposition to parts (2) through (4) to the extent the grant exceeds the 200-mile radius of Newark, NJ.

To a partial extent, the grants of authority in parts (1) through (5) are duplicative. Clarity requires that these duplications be retained. We will add the usual nonduplicating language in the grants of authority so that only a single operating right is conferred.

The grant of authority originating from the gateway eliminations is phrased in the form of a mileage radius, owing to the form of the underlying authorities. Normally we do not employ such descriptions, but we are bound here by the joining of the previously issued certificates.

One additional point requires motion. Applicant performed tacking operations under the 300-mile exemption. It would not have been possible for it to serve, by tacking, all destinations from all origins using these authorities. For example, a destination near the 200-mile-radius line could not have been served from an origin near the 200-mile-radius line, since the movement would have been over 300 miles. However, it is clear that the entire territory could be served, and a substantial portion of the territory could be served from any one origin point. It would be logically impossible to frame a grant of authority completely within the 300-mile-exemption rule since an infinite number of combinations would exist as to lawful operations. The best course under these circumstances is to treat the application as requested, seeking radial authority within 200 miles of Newark, between the two sets of States.

FINDINGS

On reconsideration, we find that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, performing the service described in the appendix. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. An appropriate certificate should be granted. This decision will not significantly affect the quality of the human environment.

It is ordered: The prior orders in this case, to the extent they are inconsistent with this decision, are vacated and set aside.

Unless compliance is made by applicant with the requirements of sections 215, 217, and 221(c) of the Interstate Commerce Act and with the Commission's rules and regulations within 90 days after the service date of this decision, or within such additional time as may be authorized by the Commission, the grant of authority made in this decision will be void, and the application will stand denied.

By the Commission. Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp. Commissioner Stafford concurring in the result.

H. G. HOMME, Jr.,
Acting Secretary.

APPENDIX A

SHIPPER EVIDENCE

Eastalco Aluminum Co. operates a plant at or near Buckeyestown, MD. This aluminum reduction facility manufacturers T-ingots, slabs and billets. These, in turm, are shipped to mills and extrusion plants for further processing. Customers do not maintain large inventories, and expedited delivery is required. Fast delivery is also required because of competition with other companies. It gives post shipping points within the three destination States of NY, PA, and NJ, but points out that destinations vary quite often. Applicant has been used in the past with success.

Sumitomo Shoji America, Inc., is a Japanese trading company which imports steel, importing 100 to 1,000 tons at a time, from the ports of Philadelphia, PA, and New York, NY. Up to 40,000 tons are imported annually. It has shipped in the past to locations in CT and in MA. It is soliciting business in RI. Shipper cites the need for broad territorial authority, since customer locations change. It must have substantial amounts of flatbed equipment, because once the commodities are taken from the ocean vessel, Sumitomo has only 7 days to remove the commodities from the dock. It usually requires 1 to 3 days to load the trucks, so fast service is required. Applicant has been used with satisfaction in the past.

Ametalco, Inc., ships copper from Carteret, NJ, and Queens, NY, to named destinations in CT, MA, and RI at the rate of 2,700 tons annually. Lead and zinc are imported using ocean vessels which dock at Wilmington, DE, and Philadelphia. The lead and zinc go to CT points, while lead is shipped to PA. It has used applicant's services in the past.

APPENDIX B

SERVICES AUTHORIZED

(1)(a) Machines, and (b) commodities the transportation of which, because of size or weight, require the use of special equipment (except boats) between points in NJ, NY, and PA, on the one hand, and, on the other, points in CT, RI, MA, DE, and MD.

(2) Aluminum ingots, slabs, and billets, from the facilities of Eastalco Aluminum Co., at or near Buckeystown, MD, to points in PA, NY and NJ.

(3) Steel, from Philadelphia, PA, and New York, NY, to points in CT, MA and RI.

(4)(a) Copper, from Carteret, NJ, and Queens, NY, to points in CT, MA, and RI; (b) lead and zinc, from Wilmington, DE, and Philadelphia, PA, to points in CT and PA.

RESTRICTIONS AS TO PART (1)

1. Service is restricted to points within 200 miles of Newark, NJ.

2. Service is restricted against the transportation of traffic moving to or from the plantsite of the Elliott Co., Division of Carrier Corp., at Jeanette, PA.

3. Service is restricted against the transportation of traffic (a) between Baltimore, MD, on the one hand, and, on the other, Randolph, NJ and Coatesville, PA; and (b) between Coatesville, PA on the one hand, and, on the other, Glasgow and Middletown, DE.

4. Service is restricted against the transportation of traffic between points in NY, on the one hand, and, on the other, points in CT, MA, and RI.

RESTRICTIONS AS TO PARTS (2) THROUGH (4)

The grants of authority in Parts (2), (3), and (4) are restricted to the transportation of commodities requiring the use of special equipment.

The service authorizations in parts (2), (3), and (4) are subject to prior publication in the FEDERAL REGISTER of a notice of the authority actually granted by this decision.

CONDITIONS AS TO ALL PARTS

To the extent these grants of authority are duplicative, they shall be construed as conferring only a single operating right.

[FR Doc. 78-30325 Filed 10-25-78; 8:45 am]

[7035-01-M]

[Rule 19; Ex Parte No. 241; 51st Rev. Exemption No. 90]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

It appearing, That certain of the railroads named below own numerous 50-foot plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with car service rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing, That there are substantial shortages of 50-foot plain boxcars throughout the country; that the carriers identified in this exemption by the symbol (%) have 150% or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered, That, pursuant to the authority vested in me by car service rule 19, 50-foot plain boxcars described in the Official Railway Equipment Register, ICC-RER No. 408, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of car service rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Co.
Reporting Marks: AR
Atlanta & Saint Andrews Bay Railway Co.
Reporting Marks: ASBA
%The Baltimore & Ohio Railroad Co.
Reporting Marks: BO
%Bessemer & Lake Erie Railroad Co.
Reporting Marks: BLE
Camino, Placerville & Lake Tahoe Railroad Co.
Reporting Marks: CPLT
%The Chesapeake & Ohio Railway Co.
Reporting Marks: CO-PM
City of Prineville
Reporting Marks: COP
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP
%Consolidated Rail Corp.
Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC P&E-PAE-PC-PCA-PRR-RDG-TOC
%Delaware & Hudson Railway Co.
Reporting Marks: DH
Duluth, Missabe & Iron Range Railway Co.
Reporting Marks: DMIR
*East Camden & Highland Railroad Co.
Reporting Marks: EACH
%Florida East Coast Railway Co.
Reporting Marks: FEC
Genessee & Wyoming Railroad Co.
Reporting Marks: GNWR
%Grand Trunk Western Railroad Co.
Reporting Marks: GTW
Greenville & Northern Railway Co.
Reporting Marks: GRN
Lake Erie, Franklin & Clarion Railroad Co.
Reporting Marks: LEF
Lenawee County Railroad Co., Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Co.
Reporting Marks: LOAM
Louisville & Wadley Railway Co.
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Co.
Reporting Marks: LNAC
*McCloud River Railroad Co.
Reporting Marks: MR
Middletown & New Jersey Railway Co., Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Co.
Reporting Marks: BKTY-MKT
New Orleans Public Belt Railroad
Reporting Marks: NOPB
%Norfolk & Western Railway Co.
Reporting Marks: ACY-N&W-NKP-WAB
Pearl River Valley Railroad Co.
Reporting Marks: PRV
Peninsula Terminal Co.
Reporting Marks: PT
Providence & Worcester Co.
Reporting Marks: PW
Raritan River Rail Road Co.
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad co.
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
Tidewater Southern Railway Co.
Reporting Marks: TS
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Co.
Reporting Marks: WCTR
%Western Railway of Alabama
Reporting Marks: WA
Youngstown & Southern Railway Co.
Reporting Marks: YS
Yreka Western Railroad Co.
Reporting Marks: YW

*Addition.

Effective October 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., October 12, 1978.

INTERSTATE COMMERCE COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-30323 Filed 10-25-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter-Notices

OCTOBER 18, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's gateway elimination rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before November 6, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a common carrier, by motor vehicle, over irregular routes.

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MC 22182 (Sub-E1) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issues of February 13, 1975 and May 15, 1975, and par-

ter, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York

SC, GA, FL, and CT (points in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon,

VT on, east and south of a line beginning at the NY-VT State line, and extending along U.S. Hwy 7 to junction VT Hwy 100, then north along VT

letter-notice remains as previously published.

MC 115826 (Sub-E51), (correction),

then along U.S. Hwy 85 to junction U.S. Hwy 24, then along U.S. Hwy 24 to Limon, then along CO Hwy 71 to

V 43 / 208 OCT 26 78

MC 22182 (Sub-E1) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issues of February 13, 1975, and May 15, 1975, and partially republished, as corrected, this issue. Applicant: NU-CAR CARRIERS, P.O. Box 172, Bryn Mawr, PA 19010. Representative: Gerald K. Gimmel, 303 North Frederick Avenue, Gaithersburg, MD 20760. (F) *New automobiles and new trucks,* in truckaway and driveaway service, in initial and secondary movements, (1) from Detroit, MI, to points in ME, NH, VT, MA, and RI (points in NY and those in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*), (2) from Detroit, MI, to points in CT, points in that part of NY on, north and east of a line beginning at Lake Ontario and extending along NY Hwy 13 to junction U.S. Hwy 11, then along U.S. Hwy 11 to the Oswego-Onondaga County line, then along the Oswego-Onondaga County line to the Onondaga-Cayuga County line, then along the Onondaga-Cayuga County line to junction Interstate Hwy 90, then along Interstate Hwy 90 to junction NY Hwy 14, then along NY Hwy 14 to the Yates-Ontario County line, then along the Yates-Ontario County line to the Yates-Steuben County line, then along the Yates-Steuben County line to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NY-PA State line, points in NJ, DE, those in that part of NC in and east of Caswell, Alamance, Chatham, Lee, Harnett, Cumberland, and Robeson Counties, points in that part of SC on and east of Interstate Hwy 95, points in that part of GA on and east of Interstate Hwy 95, and points in that part of FL on and east of a line beginning at the FL-GA State line, and extending along Interstate Hwy 95 to junction FL Hwy A-1-A, then along FL Hwy A-1-A to junction U.S. Hwy 301, then along U.S. Hwy 301 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction FL Hwy 688, then along FL Hwy 688 to the Gulf of Mexico (points in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*); (H) *new automobiles and new trucks,* in truckaway and driveway service, in initial and secondary movements, (1) from Toledo, OH, to points in ME, NH, VT, MA, and RI (points in NY and those in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*), (2) from Toledo, OH, to points in CT, those in NY on and east of a line beginning at the United States-Canadian international boundary line and extending along U.S. Hwy 37 to junction NY Hwy 185, then along NY Hwy 185 to junction NY Hwy 26, then along NY Hwy 26 to junction NY Hwy 365, then along NY Hwy 365 to junction NY Hwy 5, then along NY Hwy 5 to junction NY Hwy 96, then along NY Hwy 96 to junction NY Hwy 414, then along NY Hwy 414 to junction NY Hwy 329, then along NY Hwy 329 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NY-PA State line, points in NJ, DE, those in NC on and east of a line beginning at the VA-NC State line, and extending along the Rockingham-Caswell County line to junction NC Hwy 87, then along NC Hwy 87 to junction Interstate Hwy 95, then along Interstate Hwy 95 to the NC-SC State line, and points in that part of SC on and east of a line beginning at the NC-SC State line, and extending along U.S. Hwy 501 to junction SC Hwy 41A, then along SC Hwy 41A to junction SC Hwy 41, then along SC Hwy 41 to junction U.S. Hwy 17, then along U.S. Hwy 17 to the SC-GA State line (points in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*); (J) *new automobiles and new trucks,* in truckaway and driveaway service, in initial and secondary movements, (1) from Buffalo, NY, to points in ME, those in that part of NH on and east of a line beginning at the ME-NH State line, and extending along U.S. Hwy 2 to junction NH Hwy 16, then along NH Hwy 16 to junction NH Hwy 28, then along NH Hwy 28 to junction U.S. Hwy 3, then along U.S. Hwy 3 to junction NH Hwy 111, then along NH Hwy 111 to the MA-NH State line, points in that part of MA on, east and south of a line beginning at the NH-MA State line, and extending along MA Hwy 111 to junction MA Hwy 225, then along MA Hwy 225 to junction MA Hwy 12, then along MA Hwy 12 to junction Interstate Hwy 90, then along Interstate Hwy 90 to the NY-MA State line, and points in RI (points in NY and those in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*), (2) from Buffalo, NY, to points in DE, NJ, NC, SC, GA, FL, and CT (points in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*); (L) *new automobiles and new trucks,* in truckaway and driveaway service, in initial and secondary movements, (1) from West Springfield, PA, to points in ME, NH, VT, MA, and RI (points in NY and those in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*), (2) from West Springfield, PA, to points in CT, NJ, DE, NC, SC, FL, and GA (except points in Whitfield, Catoosa, Walker, Dade, and Chattooga Counties, GA) (points in Berks, Bucks, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Schuylkill, and York Counties, PA*). Restriction: The operations authorized in (F) (1) and (2), (H) (1) and (2), (J) (1) and (2), (L) (1) and (2), and (M)(2) above (except truckaway service to and from points in CT, NY, NJ, DE, MA, RI, VT, NH, and ME, and except from Detroit, MI, in initial and secondary movements in driveaway service to points in NJ, CT, ME, MA, NH, RI, VT, and those points in NY on, east and south of a line beginning at the NY-PA State line, within the commercial zones of Hancock, NY, then along NY Hwy 17 to junction NY Hwy 30, then northeast along NY Hwy 30 to junction U.S. Route 20, then east along U.S. Route 20 to the city limits of Schenectady, NY, then north along NY Hwy 50 to junction U.S. Hwy 9, then north along U.S. Hwy 9 to junction NY Hwy 254, then east along NY Hwy 254 to junction U.S. Hwy 4, then north along U.S. Hwy 4 to Whitehall, NY, then to a point on the NY-VT State line within the commercial zone of Whitehall, NY, and except from Toledo, OH, to points in NJ, CT, ME, MA, NH, RI, those points in NY on, east and south of a line beginning at the NY-PA State line within the commercial zone of Hancock, NY, then along NY Hwy 17 to junction NY Hwy 30, then northeast along NY Hwy 30 to junction NY Hwy 7, then east along NY Hwy 7 to junction U.S. Hwy 20, then east along U.S. Hwy 20 to the city limits of Albany, NY, then from Albany north along U.S. Hwy 4 to the city limits of Troy, NY, then along NY Hwy 7 to junction at NY-VT State line at Lake Champlain and those points in

VT on, east and south of a line beginning at the NY-VT State line, and extending along U.S. Hwy 7 to junction VT Hwy 100, then north along VT Hwy 100 to junction VT Hwy 105, then along VT Hwy 105 to the international boundary line between United States and Canada), are restricted to shipments originating at points other than those in IN and MI or at Toledo, OH. The operations authorized in (M) above are restricted to the performance of through transportation of traffic from places of manufacture and assembly in Norfolk, VA. (Gateway eliminated: As noted by asterisks above.)

NOTE.—The purpose of this partial correction is to clarify the restrictions for the above-named sections. The remainder of this letter-notice remains as originally published.

MC 70015 (Sub-E37) (correction), filed June 6, 1974, published in the FEDERAL REGISTER issue of May 19, 1978, and republished, as corrected, this issue. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway, South Drive, Indianapolis, IN 46219. Representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on, east and north of a line beginning at the OH-IN State line, on the one hand, and, on the other, points in MO on and south of a line beginning at the Mississippi River, and extending along U.S. Hwy 60 to junction U.S. Hwy 66, then north and west along U.S. Hwy 66 to the Mississippi River (except points north of the Missouri River). (Gateways eliminated: Points in IN within 50 miles of Anderson, IN, and Cairo, IL.)

NOTE.—The purpose of this republication is to state the correct territorial description.

MC 96324 (Sub-E45) (correction), filed February 9, 1976, published in the FEDERAL REGISTER issue of September 11, 1978, and partially republished, as corrected, this issue. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. *Containers and closures for containers,* except commodities in bulk * * * (3) from points in Harrison, Doddridge, Ritchie, Tucker, Calhoun, Gilmer, and Lewis Counties, WV, to points in NJ, points in PA on and east of a line beginning at the PA-MD State line, and extending along U.S. Hwy 15 to the PA-NY State line. (Gateway eliminated: Points in WV within the commercial zone of Cumberland, MD.)

NOTE.—The purpose of this partial republication is to correct the territorial description in part (3). The remainder of this letter-notice remains as previously published.

MC 115826 (Sub-E51), (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of September 27, 1978, and republished, as corrected, this issue. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, DC 20036. *Meats, meat products, and meat byproducts and articles* distributed by meat packinghouses, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from those points in CO on, east and north of a line beginning at the CO-WY State line, and extending along U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to the western boundary of Larimer County, then along the western boundaries of Larimer and Boulder Counties to the northern boundary of Gilpin County to junction CO Hwy 119, then along CO Hwy 119 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the western boundary of Jefferson County, then along the western and southern boundaries of Jefferson County and the southern boundary of Douglas County to CO Hwy 67, then along CO Hwy 67 to Woodland Park, then along U.S. Hwy 24 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Pueblo, then east along U.S. Hwy 50 to the CO-KS State line, to those points in CA on and west of a line beginning at the United States-Mexican international boundary line and extending along CA Hwy 111, then along CA Hwy 111 to Indio, then along Interstate Hwy 10 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 66, then along U.S. Hwy 66 to Barstow, then along CA Hwy 58 to junction U.S. Hwy 395, then along U.S. Hwy 395 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the NV-CA State line. (Gateway eliminated: Denver, CO.)

NOTE.—The purpose of this republication is to state the correct territorial description.

MC 115826 (Sub-E76) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of September 27, 1978, and republished, as corrected, this issue. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, D.C. 20036. *Frozen fruits and vegetables,* from points in CO on and north and west of a line beginning at the CO-UT State line, and extending along U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 50 at Grand Junction, then along U.S. Hwy 50 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction U.S. Hwy 24, then along U.S. Hwy 24 to Limon, then along CO Hwy 71 to junction I Hwy 76, then along I Hwy 76 to junction U.S. Hwy 6 at or near Sterling, then along U.S. Hwy 6 to junction U.S. Hwy 138, then along U.S. Hwy 138 to junction CO Hwy 113, then along CO Hwy 113 to the NE-CO State line to Houston, TX. (Gateway eliminated: Denver, CO.)

NOTE.—The purpose of this republication is to clarify the territorial description.

MC 115826 (Sub-E80) (correction), filed December 15, 1977, published in the FEDERAL REGISTER issue of September 27, 1978, and republished, as corrected, this issue. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Termina, Denver, CO 80217. Representative: William N. Shawn, Suite 501, 1730 M Street NW., Washington, D.C. 20036. *Dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza, and pizza pie ingredients,* from points in CO beginning at the CO-WY State line, and extending along U.S. Hwy 287 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction U.S. Hwy 36, then along U.S. Hwy 36 to Boulder, then along CO Hwy 93 to Golden, then along CO Hwy 26 to junction Jefferson County Road 145, then along Jefferson County Road 145 to junction CO Hwy 74, then along CO Hwy 74 to junction CO Hwy 8, then along CO Hwy 8 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 121, then along CO Hwy 121 to junction CO Hwy 75, then along CO Hwy 75 to junction U.S. Hwy 85, then along U.S. Hwy 85 to Colorado Springs, then along U.S. Hwy 87 to junction I Hwy 225, then along I Hwy 225 to junction I Hwy 70, then along I Hwy 70 to junction I Hwy 270, then along I Hwy 270 to junction U.S. Hwy 85, then along U.S. Hwy 85 to junction at the CO-WY State line, to points in OK on and south and east of a line beginning at the MO-OK State line, and extending along I Hwy 44 to Oklahoma City, then along the H. E. Bailey Turnpike to Lawton, then along U.S. Hwy 62 to junction U.S. Hwy 283, then along U.S. Hwy 283 to the OK-TX State line; those points in TX on and south and east of a line beginning at the TX-OK State line, and extending along U.S. Hwy 277 to junction U.S. Hwy 20, then along U.S. Hwy 20 to junction I Hwy 10, then along I Hwy 10 to the NM-TX State line, except El Paso, TX; and those points in NM on and south and west of a line beginning at the NM-TX State line, and extending along I Hwy 10 to the NM-AZ State line, and Gallup, NM, except points in NM on U.S. Hwy 85. (Gateway eliminated: Denver, CO.)

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NOTE.—The purpose of this correction is to state the correct highway description.

MC 123407 (Sub-E454), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus, (same as above). *Composition building board and composition ceiling tile and supplies and accessories used in the installation thereof* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in AZ, CA, ID, NV, UT and WY, to points in the Upper Peninsula of MI. (Gateway eliminated: International Falls, MN.)

MC 123407 (Sub-E560), filed July 25,1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above) *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OK on and west of U.S. Hwy 81 to points in NY, NJ, RI, MA (except Barnstable County), CT, VT, NH, ME, points in MI on and north of a line beginning at Ludington extending along U.S. Hwy 10 to Bay City, then along the Saginaw River to Saginaw Bay, points in PA on and north of a line beginning at the OH-PA State line extending along I Hwy 80 to junction PA Hwy 93 then along PA Hwy 93 to junction PA Turnpike, then along the PA Turnpike to junction I Hwy 76, then along I Hwy 76 to junction PA Hwy 100, then along PA Hwy 100 to junction U.S. Hwy 202, then along U.S. Hwy 202 to the PA-DE State line. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E568), filed July 25,1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above) *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CA, NV and UT on and north of I Hwy 80 to points in MO, AR, LA, MS, AL, FL, GA, SC, TN, NC, KY, VA, WV, IN, OH, MI, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH and ME. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E580), filed July 25,1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above) *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KS on and west of U.S. Hwy 281 to points in PA, NJ, points in OH on and north of I Hwy 70, and points in IN on and north of a line beginning at the IN-IL State line extending along IN Hwy 2 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the IN-OH State line. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E584), filed July 25,1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above) *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in PA and NJ, to points in CO, NM, WY, and points in KS on and west of a line beginning at the KS-NE State line extending along U.S. Hwy 81 to junction I Hwy 70, then along I Hwy 70 to junction U.S. Hwy 156, then along U.S. Hwy 156 to junction U.S. Hwy 56, then along U.S. Hwy 56 to the KS-OK State line. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension Oilfield Commodities, 74 M.C.C. 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E588), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodties requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in WA to points in KS, points in OK on and east of OK Hwy 136, and points in TX on and east of a line extending along TX Hwy 136 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction U.S. Hwy 67, then along U.S. Hwy 67 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the U.S.-Mexico International Boundary line. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 M.C.C: 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E589), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in CA and NV on an north of I Hwy 80, to points in KS on and east of a line beginning at the KS-NE State line extending along U.S. Hwy 283 to junction U.S. Hwy 154, then along U.S. Hwy 154 to junction U.S. Hwy 54, then along U.S. Hwy 54 to junction I Hwy 35, then along I Hwy 35 to the KS-OK State line; points in OK on and east of a line beginning at the OK-KS State line extending along OK Hwy 34 to junction U.S. Hwy 183, then along U.S. Hwy 183 to junction I Hwy 40, then along I Hwy 40 to junction U.S. Hwy 81, then along U.S. Hwy 81 to the OK-TX State line; and points in TX on and east of a line beginning at the TX-OK State line extending along U.S. Hwy 81 to junction I Hwy 80, then along I Hwy 80 to junction I Hwy 45, then along I Hwy 45 to junction U.S. Hwy 190, then along U.S. Hwy 190 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction TX Hwy 87, then along TX Hwy 87 to the Gulf of Mexico. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment (b)

the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E592), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from Chicago, IL, to points in KS on and west of U.S. Hwy 286; points in OK on and west of a line beginning at the OK-KS State line extending along U.S. Hwy 183 to junction U.S. Hwy 281, then along U.S. Hwy 281 to the OK-TX State line; points in TX on, west and north of a line beginning at the TX-AR State line extending along U.S. Hwy 67 to junction U.S. Hwy 83, than along U.S. Hwy 83 to Junction U.S. Hwy Hwy. 62, then along U.S. 62 to the TX-OK State line; points in MT in and west of Hill Chouteau, Fergis, Musselshill, Rosebud, and Powder River Counties; and points in NM, CO and WY. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension—Oil field Commodities, 74 M.C.C. 459; and further restricted against the transportation of pipe incidental to, used in or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E594), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in VA and points in IN and OH on and south of I Hwy 80, to points in WY, CO and NM (except Lea, Chaves, and Eddy Counties). Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459, and further restricted against the transportation of pipe incidental to, used in or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment (b) the completion of holes or wells drilled (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E597), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in MO to points in WY. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with: (a) The transportation, installation, removal, operation, repair, servicing, maintenance and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E599), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Plastic pipe and plastic products* (except commodities in bulk and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in OR and ID to points in KS, OK, and TX on and east of a line beginning at the KS-NE State line extending along KS Hwy 25 to junction Interstate Hwy 70, then along Interstate Hwy 70 to junction U.S. Hwy 83, then along U.S. Hwy 83 to junction U.S. Hwy 84, then along U.S. Hwy 84 to junction U.S. Hwy 283, then along U.S. Hwy 283 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction Interstate Hwy 10, then along Interstate Hwy 10 to San Antonio, then along U.S. Hwy 281 to the TX-Mexico International Boundary line. Restriction: The authority granted herein is restricted against the transportation of oilfield commodities as described in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459, and further restricted against the transportation of pipe incidental to, used in, or in connection with: (a) The transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; (d) the injection or removal of commodities into or from holes or wells. (Gateway eliminated: Hastings, NE.)

MC 123407 (Sub-E631), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Building materials and materials* used in the installation and application of such commodities (except iron and steel, and commodities in bulk and commodities requiring special equipment) in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in WA, OR, ID, MI, OH, NY, PA, MD, DE, NJ, CT, RI, MA, VT, NH, ME, DC, and those points in WV on and east of Interstate Hwy 70, and those points in IN on and north of a line beginning at the IN-OH State line, and extending along Interstate Hwy 70 to junction Interstate Hwy 74, then along Interstate Hwy 74 to the IN-IL State line, to points in AR (except Arkadelphia and Hot Springs, AR, and except points in that part of northeast AR beginning at the MO-AR State line near Corning, AR, and extending along U.S. Hwy 67 to junction U.S. Hwy 270 near Malvern, AR, then along U.S. Hwy 270 to junction U.S. Hwy 79 near Pine Bluff, AR, then along U.S. Hwy 79 to the AR-TN State line near West Memphis, then along the AR-TN and AR-MO State lines to the point of beginning. (Gateway eliminated: Facilities of Certain-Teed Products at East St. Louis, IL.)

MC 123407 (Sub-E635), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Windows, doors, building woodwork, and materials and accessories* used in the installation thereof (except commodities in bulk and commodities because of size or weight require the use of special equipment or special handling) in containers or in

trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in

as above). *Cement curing compounds, paving joints, joint compounds, roofing cement and asphalt siding.* when

mediately prior or subsequent movement by water, or by water-rail, or by

as above). *Composition board, materials and accessories* used in the installation of composition board (except lumber) *and ceiling tile* (except com-

resentative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite char fireplace logs, lighter fluid and*

in the installation of composition board and ceiling tile (except lumber, comodities in bulk, and commodities

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trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OK, and KS, to points in MI, NY, VT, NH, ME, MA, CT, RI, and NJ, and those points in PA, OH, and IN on and north of Interstate Hwy 80. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E636), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories used in the installation of composition board (except lumber) and ceiling tile* (except commodities in bulk, and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OH, MI, PA, NY, VT, NH, ME, MA, CT, RI, and NJ, and those points in IN on and north of I Hwy 70, to points in CO. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E637), filed July 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories used in the installation of composition board (except lumber) and ceiling tile* (except commodities in bulk, and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in KY, SC, and NC, to points in WA, OR, ID, CA, NV, and UT. (Gateway eliminated: Dubuque, IA.)

as above). *Cement curing compounds, paving joints, joint compounds, roofing cement and asphalt siding.* when moving with foregoing commodities (except commodities in bulk, and commodities requiring special equipment) in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WA, to points in the United States in and east of MS, TN, KY, IN, and the Lower Peninsula of MI (except CT, CA, KY, NC, RI, SC, MA, VA, WV. (Gateway eliminated: and Elgin, IL.)

MC-123407 (Sub-E640), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Cement curing compounds, paving joints, joint compounds, roofing cement and asphalt siding,* when moving with the foregoing commodities (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in OR and ID to points in the U.S. in and east of MI, IN, KY, TN, and AL (except CT, GA, KY, NC, RI, SC, MA, VA, and WV). (Gateway eliminated: Elgin, IL.)

MC-123407 (Sub-E641), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same

MC-123407 (Sub-E643), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials*, used in the manufacture and distribution of windows, doors, building woodwork, and the materials and accessories used in the installation thereof (except commodities in bulk and commodities because of size or weight require the use of special equipment or special handling), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from those points in IN on and north of U.S. Hwy 30, to points in WA, OR, CA, ID, NV, UT, WY, CO, AZ, and NM. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E644); filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Materials* used in the manufacture and distribution of windows, doors, building woodwork, and the materials and accessories used in the installation thereof (except commodities in bulk and commodities because of size or weight require the use of spe-

as above). *Composition board, materials and accessories* used in the installation of composition board (except lumber) *and ceiling tile* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in UT, to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, WV, VA, NC, SC, and DC. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E648), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories* used in the installation of composition board (except lumber) *and ceiling tile* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WY, to points in ME, NH, VT, MA, RI, CT, NY, NJ, WV, MD, DE, VA, NC, SC, and DC. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E649), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Windows, doors, building woodwork and materials and accessories* used in the installation thereof (except commodities in bulk and com-

resentative: Richard L. Loftus (same as above). *Charcoal briquettes, lignite char fireplace logs, lighter fluid and barbeque grill base material* (except commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail, or by air, from points in WY (except Laramie, Albany, Platte and Goshen Counties), CA, NV, and UT, to points in MI, points in IN on and north of U.S. Hwy 30 (except Lake County), and points in OH on and north of a line beginning at the MI-OH State line, and extending along I Hwy 75 to junction U.S. Hwy 224, then along U.S. Hwy 224 to junction OH Hwy 83, then along OH Hwy 83 to junction U.S. Hwy 30, then along U.S. Hwy 30 to the OH-WV State line. (Gateway eliminated: facilities of Husky Briquetting Inc. at Isanti, MN.)

MC 123407 (Sub-E653), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Used construction forms* (except commodities requiring special equipment) in containers or in trailers having an immediately prior or subsequent movement by water, or by water-rail, or by air, between points in AL, points in TN west of I Hwy 24, and points in FL west of Jefferson County, on the one hand, and, on the other, points in WA, OR, ID, NV, UT, points in CA on and north of I Hwy 15 in-

in the installation of composition board and ceiling tile (except lumber, comodities in bulk, and commodities requiring special equipment), in containers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in OK, to points in ME, NH, VT, MA, RI, CT, NY,. and NJ (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E 657), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories* used in the installation of composition board and ceiling tile (except lumber, commodities in bulk and commodities requiring special equipment), in cbntainers or in trailers, having an immediately prior or subsequent movement by water, or by water-rail or by air, from points in KS, to points in Me, NH, VT, MA, Ri, CT, NY, and NJ. (Gateway eliminated: Dubuque, IA.)

MC 123407 (Sub-E 658), filed July 25, 1978. Applicant: SAWYER TRANSPORT INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Richard L. Loftus (same as above). *Composition board, materials and accessories* used in the installation of composition board and ceiling tile (except lumber, commodities in bulk and commodities requiring special equipment), in containers or in trailers, having an imme-

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destined to San Antonio, TX. (3) Between Dallas, TX and Houston, TX as follows: From Dallas, TX over Inter-

tersection of Interstate Hwy 35 and U.S. Hwy 77, then over U.S. Hwy 77 to Victoria, TX and return serving no in-

TX Hwy 36 to West Columbia, TX, and retun over the same route, serving the termini and all intermediate

lingen, TX, and Mission, TX, as follows: From Harlingen, TX, over TX Hwy 107 to Mission, TX, and return

mini and all intermediate points. (28) Between Port Lavaca, TX, and Port O'Connor, TX, as follows: From Port

the same route, serving the termini and all intermediate points. (40) Between Hockheim, TX, and Midfield,

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destined to San Antonio, TX. (3) Between Dallas, TX and Houston, TX as follows: From Dallas, TX over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating at or destined to Houston, TX. (4) Between Fort Worth, TX and Houston, TX as follows: From Fort Worth, TX over U.S. Hwy 287 to the intersection of U.S. Hwy 287 and Interstate Hwy 45 then over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to services authorized under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic originating or destined to Houston, TX. (5) Between Fort Worth, TX and Houston, TX as follows: From Fort Worth, TX

tersection of Interstate Hwy 35 and U.S. Hwy 77, then over U.S. Hwy 77 to Victoria, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized in interstate and foreign commerce under Docket MC 107727 and subs thereunder. (8) Between Fort Worth and Houston, TX as follows: From Fort Worth, TX over the Dallas-Fort Worth Turnpike (IN 30) to the intersection of the IN 30 and Interstate Hwy 45 thence over Interstate Hwy 45 to Houston, TX and return serving no intermediate points and joining, tacking and coordinating the proposed service with all services authorized in intrastate commerce pursuant to all services authorized under Certificate 002339 and in interstate and foreign commerce pursuant to all services authorized in interstate and foreign commerce under Docket MC 107727 and subs thereunder with the exception that no service is sought for traffic destined to or originating at Houston, TX. Intrastate, interstate and foreign commerce authority sought. Hearing site: If uncontested, November 2, 1978, time and place not

TX Hwy 36 to West Columbia, TX, and retun over the same route, serving the termini and all intermediate points. (4) Between Addicks, TX, and junction of TX Hwy 6 and Interstate Hwy 45, as follows: From Addicks, TX, over TX Hwy 6 to junction of TX Hwy 6 and Interstate Hwy 45, and return over the same route, serving the termini and all intermediate points. (5) Between San Antonio, TX, and Corpus Christi, TX, as follows: From San Antonio, TX, over U.S. Hwy 181 and over Interstate Hwy 37 to Corpus Christi, TX, and return over the same route, serving the termini and all intermediate points. (6) Between San Antonio, TX, and Pharr, TX, as follows: From San Antonio, TX, over U.S. Hwy 281 to Pharr, TX, and return over the same route, serving the termini and all intermediate points. (7) Between Mission, TX, and Harlingen, TX, as follows: From Mission, TX, over U.S. Hwy 83 and U.S. Hwy BR 83 to Harlingen, TX, and return over the same route, serving the termini and all intermediate points. (8) Between Corpus Christi, TX, and Freer, TX, as follows: From Corpus Christi, TX, over TX Hwy 44 to Freer, TX, and return over the same route, serving the termini and all intermediate points. (9) Between San Diego, TX, and Hebbronville, TX, as follows: From San Diego,

lingen, TX, and Mission, TX, as follows: From Harlingen, TX, over TX Hwy 107 to Mission, TX, and return over the same route, serving the termini and all intermediate points. (17) Between Victoria, TX, and Giddings, TX, as follows: From Victoria, TX, over U.S. Hwy 77 to Giddings, TX, and return over the same route, serving the termini and all intermediate points. (18) Between Austin, TX, and the junction of TX Hwy 71 and TX Hwy 35 as follows: From Austin, TX, over TX Hwy 71 to junction of TX Hwy 35 and return over the same route, serving the termini and all intermediate points. (19) Between Houston, TX, and Luling, TX, as follows: From Houston, TX, over U.S. Hwy 90 and Interstate Hwy 10 to Luling, TX, and return over the same route, serving the termini and all intermediate points. (20) Between Houston, TX, and Sequin, TX, as follows: From Houston, TX, over alternate U.S. Hwy 90 to Sequin, TX, and return over the same route, serving the termini and all intermediate points. (21) Between Victoria, TX, and Laredo, TX, as follows: From Victoria, TX, over U.S. Hwy 59 to Laredo, TX, and return over the same route, serving the termini and all intermediate points. (22) Between Brownsville, TX, and Laredo, TX, and the off route point of Hidalgo, TX, as follows: From Brownsville, TX, over

mini and all intermediate points. (28) Between Port Lavaca, TX, and Port O'Connor, TX, as follows: From Port Lavaca, TX, over TX Hwy 238 to Seadrift, TX, then over TX Hwy 185 to Port O'Connor, TX, and return over the same route, serving the termini and all intermediate points. (29) Between Indianola, TX, and the junction of TX Hwy 316 and TX Hwy 238 as follows: From Indianola, TX, over TX Hwy 316 to the junction of TX Hwy 238 and TX Hwy 316 and return over the same route, serving the termini and all intermediate points. (30) Between Sealy, TX., and West Columbia, TX, as follows: From Sealy, TX, over TX Hwy 36 to West Columbia, TX, and return over the same route, serving the termini and all intermediate points. (31) Between Wallis, TX, and Matagorda, TX, as follows: From Wallis, TX, over TX Hwy 60 to Matgorda, TX, and return over the same route, serving the termini and all intermediate points, and the site of Celanese Chemical Co. near Wadsworth, TX. (32) Between Brownsville, TX, and Port Isabel, TX, as follows: From Brownsville, TX, over TX Hwy 48 to Port Isabel, and return over the same route, serving the termini and all intermediate points. (33) Between South Padre Island, TX, and junction TX Hwy 100 and U.S. Hwy 77 as follows: From South Padre Island, TX, over

the same route, serving the termini and all intermediate points. (40) Between Hockheim, TX, and Midfield, TX, as follows: From Hockheim, TX, over TX Hwy 111 to Midfield, TX, and return over the same route, serving the termini and all intermediate points. (41) Between the intersection of TX FM Road 1289 and TX Hwy 183 and the intersection of TX FM Road 1289 and TX Hwy 238 as follows: From the intersection of TX Hwy 183 and TX FM Road 1289 over TX FM Road 1289 to the intersection of TX Hwy 238 and TX FM Road 1289 and return over the same route, serving the termini and all intermediate points. (42) Between Eagle Pass, TX, and San Antonio, TX, as follows: From Eagle Pass, TX, over U.S. Hwy 277 to junction U.S. Hwy 57, then over U.S. Hwy 57 to junction Interstate Hwy 35, then over Interstate Hwy 35 to San Antonio, TX, and return over the same route, serving the termini and all intermediate points. (43) Between Eagle Pass, TX, and Laredo, TX, as follows: From Eagle Pass, TX, over U.S. Hwy 277 to junction U.S. Hwy 83, then over U.S. Hwy 83 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Laredo, TX, and return over the same route, serving the termini and all intermediate points. (44) Between Dilley, TX, and junction Interstate

Australia, Fiji, and Papua-New Guinea; (2) Momorandum for Board action regarding Docket 26291, American Samoa's petition for immediate restoration of adequate air service; (3) Memorandum for Board action regarding Docket 31684, Application of Continental Air Lines, Inc. for renewal of its authority to postpone inauguration of service to American Samoa; (4) Docket 33461, Application of Qantas Airways Ltd. for waiver of part 212 to carry individually-waybilled cargo on seven passenger charters (Memo 8245, 8244, 8244-A).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Disposition of Dockets 26291, 31684, and 33461 will involve discussion of the Board's recommendations for strategy and positions to be taken by the United States in negotiations with New Zealand, Australia, Fiji, and Papua-New Guinea. Premature public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the U.S. Delegation to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature

meeting was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Member, Richard J. O'Meliaz Member, Elizabeth E. Bailey Member, Gloria Schaffer; and Member, Marvin S. Cohen.

Assistants To Board Members.—Mr. Elias Rodriguez, Mr. David M. Kirstein, Mr. Steve Lachter, and Mr. Sanford Rederer.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Office of the General Counsel.—Mr. Phil Bakes and Mr. Peter Schwartzkopf.

Bureau of Consumer Protection.—Mr. Rueben Robertson.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine and Ms. Barbara Clark.

Bureau of International Aviation.—Mr. Donald A. Farmer, Jr., Mr. Parlen McKenna, Mr. Ronald C. Miller, and Ms. Agnes M. Trainor.

Office of Community and Congressional Relations.—Mr. John Nammack.

Office of Economic Analysis.—Mr. Bob Frank and Mr. Richard Klem.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Mrs. Linda Senese.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c) (9)(B) and (10) and 14 CFR

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Discussion of this item will concern upcoming United States-United Kingdom consultations and positions to be taken by the United States. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies in the consultations could seriously compromise the ability of the United States Delegation to achieve a resolution which would be in the best interests of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Gloria Schaffer
Member, Marvin S. Cohen

The staff recommendation reflects information discussed at the interagency meeting held at the State Department on October 19. Consultations with the United Kingdom are scheduled to commence on October 30. Board comments on this position should be submitted to the Department as soon as possible in order to

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give them time to review our recommendation. Accordingly, the following Board Members have voted that agency business requires the addition of this item to the October 24, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Gloria Schaffer
Member, Marvin S. Cohen

PERSONS EXPECTED TO ATTEND

See M-173 dated October 20, 1978.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c) (9)(B) and (10) and 14 CFR 410b.5 (9)(B) and (10) and that the meeting may be closed to public observation.

PHILIP J. BAKES, Jr.,
General Counsel.

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2149-78 Filed 10-24-78; 10:28 am]

[6740-02-M]

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49411, published October 23, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 25, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-3. CP78-415, Northwest Pipeline Corp.

KENNETH F. PLUMB,
Secretary.

[S-2151-78 Filed 10-24-78; 1:14 pm]

[6720-01-M]

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 204, Page 49107, October 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 25, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting:

Merger, Maintenance of Branch Offices, Cancellation of Membership; and Insurance and Transfer of Stock Applications—Tri-County Savings & Loan Association, Hudson, Wis., into First Federal Savings & Loan Association of Eau Claire, Eau Claire, Wis.

No. 192, October 24, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[7545-01-M]

5

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 2:30 p.m., Tuesday, October 31, 1978.

PLACE: Board Conference Room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Consideration of recommendations of the ALJ Pipeline Committee.

CONTACT PERSON FOR MORE INFORMATION:

William A. Lubbers, Executive Secretary, Washington, D.C. 20570, telephone 202-254-9430.

Dated, Washington, D.C., October 24, 1978.

By direction of the Board:

GEORGE A. LEET,
Associate Executive Secretary, National Labor Relations Board.

[S-2152-78 Filed 8-24-78; 3:33 pm]

[3210-01-M]

6

OVERSEAS PRIVATE INVESTMENT CORPORATION.

TIME AND DATE: Meeting of the OPIC Board of Directors, Tuesday, October 31, 1978, at 9 a.m. (closed portion); 11 a.m. (open portion).

PLACE: Offices of the Corporation, seventh floor board room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

MATTERS TO BE CONSIDERED (Closed to the public 9 a.m. to 11 a.m.):

1. Personnel matters.
2. Human rights procedures.
3. Formulae for developing countries criteria.
4. Renegotiation of Lloyd's Reinsurance Agreement.
5. OPIC/IDCA.
6. Reinsurance proposal.
7. Claims report.
8. Information reports.

FURTHER MATTERS TO BE CONSIDERED (Open to the public 11 a.m.):

1. Approval of the minutes of the previous Board meeting.
2. Confirmation of Board meeting.
3. Personnel matters.
4. Report on Cooperative meetings.
5. Unaudited financial statements for years ended September 30, 1978 and 1977.
6. Information reports.

CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

ELIZABETH A. BURTON,
Corporate Secretary.

OCTOBER 24, 1978.

[S-2150-78 Filed 10-24-78; 11:34 am]

[8240-01-M]

7

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., November 2, 1978.

PLACE: Board Room, Room 2-500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.):

1. Consideration of internal personnel matters.
2. Review of ConRail Proprietary and financial information for monitoring and investment purposes.
3. Review of Delaware and Hudson Railway Co. proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Co. proprietary and financial information.
5. Litigation report.

Portions open to the public (11 a.m.):

6. Approval of minutes of the September 21, 1978, meeting of the Executive Committee of the Board of Directors and October 4, 1978 Board of Directors meeting.
7. Consideration of D&H requests.
8. Report on ConRail monitoring.
9. Consideration of ConRail drawdown request for November 1978.
10. Approval of representation budget.
11. Contract actions (extensions and approvals).

[S-2153-78 Filed 10-24-78; 3:33 pm]

federal register

THURSDAY, OCTOBER 26, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

FEDERAL COMMUNICATIONS COMMISSION

COMMERCIAL TELEVISION NETWORK PRACTICES

Further Notice of Inquiry

V 4 3 / 2 0 8 0 C 2 6 7 8

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21049; FCC 78-736]

COMMERCIAL TELEVISION NETWORK PRACTICES

Further Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Further Notice of Inquiry into Commercial Television Network Practices.

SUMMARY: The Further Notice of Inquiry incorporates by reference the initial Notice of Inquiry into Commercial Television Network Practices, adopted in January, 1977, 42 FR 4992, and reports the Commission's conclusions concerning the scope of the Inquiry, its specific goals, and the procedures which will be employed.

DATES: Comments in reply to the comments received in response to the initial Notice of Inquiry must be filed on or before December 1, 1978.

Comments on whether other areas of investigations should be undertaken, in addition to those identified in the Further Notice of Inquiry, must be filed on or before December 1, 1978. Reply comments must be filed on or before December 15, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Stanley M. Besen, Thomas G. Krattenmaker, Co-Directors, Network Inquiry Special Staff, 202-254-7030

Released: October 20, 1978.

Adopted: October 19, 1978.

In the matter of Commercial Television Network Practices, Docket No. 21049.

1. Further notice is hereby given of the issues to be addressed in the Commission's inquiry into commercial television network practices and policies regarding the acquistion and distribution of television programing.[1]

2. This Further Notice is based upon the Network Inquiry Special Staff's analyses of the responses received to the initial Notice of Inquiry before the proceeding was temporarily suspended and extensive reviews of the literature on television broadcasting. These reviews, which will continue, have examined the existing economic structure of the commercial television industry, the current and future technologies which help determine the shape of the industry, and the principal regulatory rules and doctrines that affect the commercial organization and practices of the industry. We are reporting here on our conclusions concerning the scope of the Inquiry, its specific goals, and the procedures which will be employed.

The Intitial Notice of Inquiry

3. The initial Notice of Inquiry, promulgated on January 26, 1977, was prompted by a concern that, in the two decades since completion of the latest comprehensive study of network practices (the "Barrow Report" of 1957), significant developments had occurred that warranted a new inquiry. Particular impetus was supplied both by a rulemaking petition filed by Westinghouse Broadcasting Co., Inc., which asserted that network dominance over licensee-affiliates had reached a critical stage, and by allegations contained in a civil antitrust complaint filed in 1974 by the Department of Justice, which charged each of the three major commercial networks with monopolizing and otherwise restraining trade in the program supply industry. The significance of the issues raised by the Notice was further heightened when the Motion Picture Association of America sought a declaratory ruling that many of the network practices described in the Notice and challenged by the Justice Department antitrust suit violated the Commission's rules which forbid the networks to obtain financial interests in programs produced by others. MPAA Petition in Docket 21049, June 1, 1977.

4. Dozens of interested parties filed responses to the Notice of Inquiry but before the date for filing reply comments, the inquiry was temporarily suspended on June 30, 1977.[2] Effective March 15, 1978 the Commission designated the Network Inquiry Special Staff and established the Special Staff as a separate organizational unit reporting directly to the Commission.[3]

5. Since the Notice of Inquiry was issued, the Department of Justice terminated its antitrust suit against NBC, with the entry of a consent decree on November 28, 1977.[4] The decree contains a number of provisions directly relevant to the subject matter of this Network Inquiry. A trial date for the ABC and CBS lawsuits has not yet been established.

6. The initial Notice not only identifies the network practices with which the Commission is concerned, but also restates the fundamental objective that must be served in examining these practices. The basic issue to be examined is whether the networks have engaged in practices that are anti-competitive or that hamper the independent judgment of affiliated stations. (Para. 14). The Commission's overriding concern is not with the financial strength or viability of any one licensee, network, or program supplier but "to protect the interest of the public in receiving the best possible programing service." (Para. 14). Thus, we specifically disclaimed any interest in the question whether payments by the networks to their affiliates or program suppliers are "fair" or "reasonable". (Para. 20, 23).

7. We then identified three types of network-affiliate practices for review. These are: (a) Previewing of network programs by affiliated stations; (b) clearance of network programs and expansion of network schedules; and (c) station compensation plans.

8. *Previewing of Network Programs by Affiliated Station.* The questions here are whether affiliates are adequately informed of the nature and content of forthcoming network programs, what prescreening facilities are available to them, what benefits accrue from providing licensees adequate previewing opportunities, and what costs or inconveniences might result from providing additional, or more timely, program information. (Para. 18).

9. *Clearance of Network Programs and Expansion of Network Schedules.* The Westinghouse petition observed that affiliated stations now fill a larger portion of their broadcast hours with network fare than was the case in 1960. The questions raised by the initial Notice are whether there has been in increase in network use of station time and, if so, whether these increased clearances are other than voluntary, manifest an undermining of licensee discretion, or detract from licensees' ability to serve their local communities. (Para. 16, 17).

10. *Station Compensation Plans.* Intimately bound up with the question of the expansion of network schedules is the question whether the networks' present station compensation plans are consistent with the Commission's established principle that no graduated payment plan is permissible if it has the effect of requiring affiliates to take the majority of their programing from the same network without regard

[1] This Further Notice does not supersede our initial Notice in this matter, *Commercial Television Network Practices*, Docket No. 21049, 62 FCC 2d 548 (1977). The initial Notice is hereby incorporated by reference. See 42 FR 34913, July 7, 1977.

[2] 67 FCC 2d 136 (1978).

[3] 43 FR 36444 (1978).

[4] A copy of the final version of this consent decree appears at 42 FR 24999 (1977). Many of the provisions of the consent decree do not become effective unless similar relief is obtained against ABC and CBS.

[5] Report on Chain Broadcasting, Docket No. 5060, May 1941.

to the merits of the programing offered. The initial Notice asks that this question be addressed in light of present compensation schemes. (Para. 19).

11. As the initial Notice recognizes, and as the Barrow Report and the Prime Time Access Rule demonstrate, one cannot separate network-affiliate relations from network practices with respect to program suppliers. Thus, the initial Notice observes that expansion of network schedules carried by affiliates will necessarily affect the supply and demand for syndicated programing. (Para. 17). Further, we noted that an expansion in the number of minutes of advertising per hour of network programing may affect the development of additional or specialized networks or other syndicated program offerings. (Para. 17). The Notice identifies for review six specific aspects of network-program supplier relations, many of which are also issues in the Justice Department antitrust action against the networks. These are: (a) Network interests in syndicated programs produced by independent suppliers; (b) network "in-house" production of entertainment programs; (c) contractual tying agreements relating to production facilities and program options; (d) exclusive exhibition rights for program pilots; (e) exhibition rights to network reruns; (f) relations between network owned and operated stations and program suppliers.

12. *Network Interests in Syndicated Programs Produced by Independent Suppliers.* Part of the consent decree entered against NBC in the Justice Department's antitrust litigation closely parallels the Commission's present rules which prohibit acquisition by the networks of interests in independent suppliers' production beyond the right to network exhibition. Accordingly, the initial Notice asks whether the present rules are adequate. (Para. 22.)

13. *Network "In-House" Production of Entertainment Programs.* The Justice Department has shown concern with the networks' abilities to produce programs themselves, arguing that this enhances the market power of the networks in their dealings with program suppliers. The NBC consent decree limits the amount of entertainment programing that network may produce internally, but does not completely ban the practice. The initial Notice asks whether the absence of any regulatory restriction on network in-house production "gives the networks an anticompetitive advantage over potential competitors" or "works to limit the supply of independently produced programs." (Para. 23.)

14. *Contractual Tying Agreements Relating to Production Facilities and Program Options.* This aspect of the initial notice asks whether the networks agree to purchase programs on condition that producers use network-owned production facilities or grant the network options on exhibition rights for several succeeding years. If so, there is the further question of whether such practices adversely affect competition in the market for television programing by limiting the range of alternatives available to program suppliers and the supply of programs available to local stations through the syndication market. (Para. 24, 25.) The NBC consent decree contains 15-year prohibitions on (a) tying the use of NBC production facilities to the purchase of a program for network exhibition; (b) entering contracts for longer than 1-year duration that permit an independent supplier to produce shows for NBC on NBC production facilities; and (c) acquiring options of more than 4 years for prime time programs.

15. *Exclusive Exhibition Rights for Program Pilots.* The initial Notice observes that each year the networks have usually purchased exhibition rights to more programs than they can use. The question posed is whether this practice unnecessarily limits the number of first-run programs available for syndication, and thus reduces the competition which the networks must face. (Para. 26.) The NBC consent decree contains a complicated formula restricting for 10 years the number of pilots NBC can purchase and retain without developing them into scheduled programs.

16. *Exhibition Rights to Network Reruns.* Under its consent decree, NBC is prevented for the next 10 years from negotiating for exhibition rights to rerun a program which has been originally broadcast in a preceding season at the same time it negotiates for rights to first-run exhibition of that program. The initial Notice inquires whether such a restriction is needed and how the acquisition of rights to reruns affects the supply of first-run and off-network programing available to local stations. (Para. 27.)

17. *Relations Between Network Owned and Operated Stations and Programs Suppliers.* Allegations in the Westinghouse petition led the Commission to inquire into the practices of the networks in acquiring programs for their owned and operated stations (O and O's). Our concern is whether the networks are able to exercise market power in their dealings with independent suppliers, even when programs are supplied for non-network exhibition, as in the prime time access period. The issues raised here are whether there is joint purchasing of programs by members of each network's O and O group, whether producers of first-run programs bought for the O and O's are required to use network-owned production facilities, and whether a contract for exhibition on an O and O group is a prerequisite for the success of a first-run program sold in the syndication market. (Para. 28.)

Scope of the Inquiry

18. This overview makes clear the two guiding principles which motivated us in issuing the initial Notice. First, in judging the performance of the industry, we are primarily concerned with "protect(ing) the interest of the public in receiving the best possible programing service • • •" (Para. 14). The economic well-being of networks, stations, or program suppliers is, thus, important only to the extent that it affects their ability to serve the public. Second, while a wide variety of specific practices is identified for analysis, we are centrally concerned about whether these practices enable the existing major commercial networks, in their relations with affiliates and program suppliers, to limit the opportunities for others to compete for station broadcast time and thereby to exert an anticompetitive influence upon the industry's behavior.

19. The concern that networks may seek to attain dominance by excluding competitors for station time is one which has engaged the Commission's attention for some time. It was in response to precisely the same concern, for example, that the Commission adopted the chain broadcasting rules,[5] the existing restrictions on station compensation plans,[6] and the prime time access rule.[7] In these cases, as with the present inquiry, the fundamental dilemma is the same. The major networks provide the advantages of bringing together large numbers of broadcast licensees and program producers in an efficient manner. This integration of functions

[5] CBS Network Compensation Plan, 24 RR 520a; 1 RR 2d 696 (1963).

[7] 47 CFR 73.658(k).

[6] It is often difficult to regulate commercial practices in order to affect industry performance. Firms that are subjects of the regulations are, by definition, being told to do that which they believe is contrary to their self-interest. Further, the regulation of one practice (e.g., station compensation plans) may be effectively avoided by alterations in another (e.g., the number of availabilities and adjacencies offered in network shows). For this reason, it is frequently preferable to adopt policies that protect or foster an industry structure that may obviate or reduce the need to supervise its practices. The Commission's decision in the common carrier area to allow relatively free entry into the provision of telephone terminal equipment is an example of an attempt to partially substitute structural policies for regulation of industry practices. See In the Matter of the Carterfone Device in Message Toll Service, 13 FCC 2d 420 (1968), reconsideration denied, 14 FCC 2d 571 (1968).

permits nationwide entertainment production of relatively low cost to each station. Yet as a result the networks may come to dominate the industry, overriding licensee discretion and foreclosing competitive opportunities. Alternatively have precluded producers, advertisers, or stations from reaching a national audience by means other than the major networks. Yet recent technological, economic, and legal de-

25. As a result of these developments, and others, it is now possible to conceive of a broadcasting system, for example, in which television licensees would be able to choose among pro-

tion of entertainment programs, ties between program purchases and use of network production facilities, long-term options on exhibition rights,

prehensive factfinding and analysis will be followed by an examination of alternative policies that may be open to the Commission in light of these

methods of previewing. Moreover, these practices interact with other aspects of the network-affiliate relationship, e.g., the determination of the

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permits nationwide entertainment production of relatively low cost to each station. Yet as a result the networks may come to dominate the industry, overriding licensee discretion and foreclosing alternative relationships between program suppliers and broadcasters.

20. Thus, the initial Notice of Inquiry should be understood as part of our continuing concern with the issues of network dominance and licensee discretion. We therefore intend to examine the extent to which the practices described reflect the exercise of market power on the part of the three existing networks, or contribute to the establishment of market power, and the extent to which they are simply efficient ways for the industry to operate.

21. However, we should not consider this issue without regard to the structure of the industry because the ability of firms to engage in anticompetitive practices may depend on the degree of industry concentration. Practices such as offering graduated compensation plans, expanding offerings to affiliates, producing entertainment programing "in-house," contracting for exclusive exhibition rights to pilots and reruns, obtaining 5-year options, and arranging O and O group buys may be of less concern if program suppliers or affiliates have alternative markets or sources of programs. And changes in the structure of the industry can also change its practices. If additional firms were to enter the business of networking, any practices which exist only in order to exploit market power may tend to erode.

22. The fact of the matter is, of course, that only three commercial networks now offer virtually full-time, nationwide, interconnected programing. It is in recognition of this fact that the chain broadcasting and similar rules were adopted. And it is because that concentration continues that the specific practices identified in the initial Notice deserve careful scrutiny. But future developments, some arising from changes in regulation and others stemming from market forces, may have the effect of altering the structure of the broadcasting industry and affecting the extent of concentration in networking.

23. In the past, it has been inconceivable that the issue of network dominance could be dealt with through structural policies rather than by a regulation of industry commercial practices.[8] A variety of factors effectively have precluded producers, advertisers, or stations from reaching a national audience by means other than the major networks. Yet recent technological, economic, and legal developments, some of which have occurred since issuance of the initial Notice, suggest that understanding the effects of the commercial practices of the existing networks requires a careful evaluation of the alternative means by which producers, advertisers, and stations may engage in national program distribution.

24. Without suggesting that the list is exhaustive, these developments include: (a) improvements in satellite technology together with the Commission's policies promoting entry into the provision of satellite services,[9] and the development of user-owned Earth stations;[10] (b) the development of the relatively low cost devices for recording and playback of television programs, including videocassettes, recorders, and videodiscs; (c) improvements in the design of television receivers, including effective implementation of the All-Channel Receiver Act,[11] click-tuning and the recently mandated reduction in the permitted noise figure of UHF tuners;[12] (d) substantial increases in the demand for television advertising which have resulted in large increases in advertising rates and in industry profits; (e) the overturning of the Commission's pay cable rules in *Home Box Office* v. *FCC*, 567 F. 2d 9 (D.C. Cir. 1977), cert. den., 434 U.S. 829 (1977); (f) the elimination of the Commission's leapfrogging rules for cable retransmission;[13] (g) increases in the amount and stability of funding for noncommercial educational television, the use of satellites to interconnect public television stations, and the development of the station program cooperative.

25. As a result of these developments, and others, it is now possible to conceive of a broadcasting system, for example, in which television licensees would be able to choose among programs from existing networks or new over-the-air networks or to engage in joint ventures directly with program suppliers. Similarly, program suppliers not only may have these new bidders for their wares, but also might sell programs for exhibition on many cable systems or noncommercial public stations, or distribute directly to viewers via cassettes or discs. In such a system, the effect of a 5-year option on a program series held by a network or a graduated affiliate compensation plan might be quite different than under present conditions. Producers and affiliates might be better able to resist the imposition of such terms, and networks should gain little competitive advantage from imposing them, unless they were efficient, since otherwise suppliers or stations might turn to other alternatives.

26. We do not mean to assert that any of these alternative forms of networking is certain to develop, or, if it did, would displace the existing networks or be beneficial to the public. Rather, our point is that each of these contentions ought to be a subject of study by the inquiry. To evaluate fully for the 1980's the central issue posed by the initial Notice—network dominance—one cannot take as given the exclusivity or immutability of the present form of networking.

27. For the Commission to be informed about its opportunities and prerogatives as the structure of the industry changes requires an understanding of the likelihood of future developments and their implications for Commission policymaking. Thus, while we intend to inquire in detail into the causes of the practices described in the initial Notice, we also intend to examine how these practices might be affected by the entry of new networks and whether these practices may serve to inhibit the ability of new networks to arise.

28. For these reasons this inquiry should be designed to provide information that will enable the Commission to address these general questions: (a) Given the present networking system, what role should the Commission play in regulating or overseeing the network-affiliate practices described in paragraphs 15-20 of the initial Notice: Previewing, expansion and clearance of network schedules, and station compensation plans? (b) Given the present networking system, what role should the Commission play in regulating or overseeing the network-supplier practices described in paragraphs 21-28 of the initial Notice: Network interest in syndicated programs, network production of entertainment programs, tie-ins between program purchases and use of network production facilities, long-term options on exhibition rights, duration of exclusive exhibition rights for program pilots, network negotiations for reruns, and network practices in acquiring programs for their O and O's? (c) What are the prospects for the development of additional networks, or additional forms of networking, within the existing advertiser-supported, local, over-the-air broadcasting system, and what are the implications of these developments for the answers given to a and b? (d) What are the prospects for the development of additional networks or additional forms of networking using new technologies or financing methods, and what are the implications for the answers given to a and b?

[8] It is often difficult to regulate commercial practices in order to affect industry performance. Firms that are subjects of the regulations are, by definition, being told to do that which they believe is contrary to their self-interest. Further, the regulation of one practice (e.g., station compensation plans) may be effectively avoided by alterations in another (e.g., the number of availabilities and adjacencies offered in network shows). For this reason, it is frequently preferable to adopt policies that protect or foster an industry structure that may obviate or reduce the need to supervise its practices. The Commission's decision in the common carrier area to allow relatively free entry into the provision of telephone terminal equipment is an example of an attempt to partially substitute structural policies for regulation of industry practices. See In the Matter of the Carterfone Device in Message Toll Service, 13 FCC 2d 420 (1968), reconsideration denied, 14 FCC 2d 571 (1968).

[9] Establishment of Domestic Communications-Satellite Facilities by Non-government Entities, Report and Order, 22 FCC 2d 86 (1970); Second Report and Order, 35 FCC 2d 844 (1972).

[10] Florida Cablevision, 54 FCC 2d 881 (1975); Public Broadcasting Service, 63 FCC 2d 707 (1977).

[11] 47 U.S.C. 303(s). Implementing regulations appear at 47 CFR 15.65 *et seq.*

[12] 43 FR 36096 (1978).

[13] Leapfrogging Rules—Cable Television, 57 FCC 2d 625 (1976).

SPECIFIC GOALS FOR THE INQUIRY

29. The four preceding questions will be addressed one at a time, in the order presented above. We believe that the completion of all of these tasks is essential to provide to the commission a comprehensive understanding of the problems faced in the regulation of network television.

30. As we indicated in the initial Notice, what is necessary in the first instance "is solely a fact gathering inquiry designed to provide the Commission with information necessary to a thorough understanding of television networking." (Para. 6.) Indeed, it is our desire to gain such an understanding that has led us to undertake the comprehensive analysis of network television which is described in detail below. However, we think the inquiry will be most useful to the Commission if it goes beyond a mere recitation of evidence. Therefore, the staff should use the evidence gathered to provide the Commission with factual analyses of the effects of policy alternatives the Commission confronts in regulating those practices identified for review in the initial Notice. Thus, for example, once the staff has gathered sufficient data to describe the networks' station compensation practices, it will then analyze the operation of those practices and identify the policy alternatives open to the Commission in overseeing them. The staff will then attempt to assess the likely effects of pursuing these alternatives on such matters as industry structure, profits, and programs. Interested parties will be apprised of the specific alternatives under review and will be invited to provide comments.[14]

31. A similar approach will be adopted with respect to the examination of the prospects for new networks. Comprehensive factfinding and analysis will be followed by an examination of alternative policies that may be open to the Commission in light of these prospects. This might include, for example, an analysis of policy alternatives in regulating cable networks or direct satellite broadcasting or pay television networks.

32. With the adoption of this Notice we are informing interested persons of the specific questions to which we seek answers. Certain aspects of these questions should be noted at the outset. First, while the list of research topics below is a comprehensive one, some topics that need detailed examination may emerge as the inquiry progresses. Second, the research carried out to address questions (a) and (b) set out in paragraph 28 above will take the structure of the television industry as given and will inquire into the extent of network market power within that system, the manner in which that power is exercised, and the effects, of the resulting practices. Research carried out to address questions (c) and (d) will focus more generally on the sources of market power. Third, the range of alternative policies which will be analyzed under questions (a) and (b) will be limited to those which attempt to change the behavior of the participants of the industry through the application of rules and sanctions. Later analyses will explore policies which affect the structure of the industry.

33. *Network-affiliate relations.* As discussed above, the initial Notice of Inquiry directs attention to three specific aspects of network-affiliate relations: Previewing, expansion of network offerings, and station compensation plans. The staff will conduct inquiries with respect to each of these practices. While the comments in response to the initial Notice provide some information on each of these practices, and while reply comments expected after the stay of this proceeding is lifted may well provide more, the staff will gather additional information on these practices by carrying out its own studies. Thus, we do not believe it would be necessary or useful to invite interested parties to submit fresh comments on these topics.

34. We do believe, however, that the analysis of previewing, expansion, and compensation will be better informed if accompanied by a more comprehensive inquiry into the nature of the network-affilicate relationship, because the particular practices singled out for study are each parts of a more general arrangement. Existing and alternative compensation plans surely have an effect on the extent of the network expansion and probable place at least some conditions on the extent and methods of previewing. Moreover, these practices interact with other aspects of the network-affiliate relationship, e.g., the determination of the network rate. To develop an adequate basis for analyzing the particular practices described in the Notice, the staff will conduct studies of three major topics: (a) Network-affiliate contracts; (b) determinants of station profitability; and (c) advertising markets.

35. Network-affiliate contracts—What do they provide? By what processes are they negotiated and administered? What causes those differences that occur among contracts? What is the effect of regulating compensation clauses without regulating other contract terms? How stable are the contracts? How frequently and for what reasons do affiliation turnovers occur?

36. Determinants of station profitability—What relationships exist between station types and levels of station profitability? In particular, to what extent and under what conditions is station profitability (either as a result of advertising revenue or of network compensation) affected by the presence or absence of network affiliation? What, if any relationship exists between network payments to program producers and network compensation plan levels?

37. Advertising markets—What are the determinants of the structure of advertising rates, especially of any differential between network advertising rates and national and local spot rates? How are contracts between advertisers and networks and between advertisers and stations negotiated and administered? What role do station representatives and advertising agencies play in these transactions?

38. *Network-supplier relations.* Again, the initial Notice of Inquiry describes a series of particular practices, each of which requires the same kind of analysis described above. The responses to these portions of the initial Notice have been sufficiently informative to permit the staff to determine what areas remain to be investigated. In this area, too, the particular questions can be best addressed within the context of a more general inquiry. For here, too, the practices discussed are components of an overall relationship that needs general understanding. Thus, the staff will also inquire into: (a) Network practices in program acquisition; (b) determinants of profitability of program production; and (c) the relationship between our financial interest and syndication rules and the Department of Justice network antitrust suit.

39. Network practices in program acquisition—How are network-supplier contracts negotiated and administered? What are the terms of "typical" contracts? What variations are there

[14] The manner in which opportunities for participation are being afforded in described in paragraphs 55-59 of this Further Notice.

in contract terms and what are their causes? How does the existence of alternative buyers of programs affect these contracts? What is the role played by long-term personal service

one of two forms. One would involve the creation of additional chains of stations linked together to provide nationwide full-time programming, much in the manner of the existing three

Group Ownership Rule,[17] which limits the total number of stations a firm may own, affect the prospects for entry of additional networks?

regulatory authority over this development?

54. Analysis of the preceding ques-

cific hypotheses, throughout its work, and will conduct legal analyses that carefully and fully explore the range

ceived in response to the January 26, 1977 Notice of Inquiry is lifted. Any interested person may file such reply

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in contract terms and what are their causes? How does the existence of alternative buyers of programs affect these contracts? What is the role played by long-term personal service contracts with the networks? What are the differences, if any, between the practices of the networks in acquiring programs to be shown in different time periods? What are the differences, if any, between the manner in which the networks acquire news and public affairs and entertainment programming? What explains these differences?

40. Determinants of profitability of program production—What are the determinants of profitability in the production of television programs, both network and syndicated? What are the risks and rates of return in television program production? How concentrated is the program supply industry and has the extent of concentration changed as a result of the imposition of the syndication, financial interest, and prime time access rules?[15] What, if any, entry barriers exist? What differences in costs are there in producing and distributing a program via syndication rather than through the existing network structures? What explains these differences?

41. Relationship between financial interest and syndication rules and the Department of Justice network anti-trust suit— The pendency of the anti-trust suit and the entry of the NBC consent decree raise a number of issues concerning the distribution of federal jurisdiction ober the network-supplier relationship. Were the practices described in the Department of Justice anti-trust lawsuit (and the initial Notice) already forbidden by a proper interpretation of the Commission's financial interest rules? Must the Commission enforce rules regulating network practices that are adopted by the judiciary at the conclusion of the pending anti-trust case? How do the FCC and the Justice Department coordinate their powers in this field, and how does this bear on the regulatory options open to the Commission?

42. Clearly, a major result of carrying out the analyses described in Paragraphs 35-37, 39, 40 above will be a better understanding of the profitability of television networking. By examing the economic relationship between the networks and their affiliated stations, on the one hand, and between the networks and program suppliers, on the other, we should obtain a more complete view of the determinants of the profitability of the existing networks. In this regard, we will be especially concerned with the extent to which such network profits reflect the exercise of market power.

43. *Prospects for additional over-the-air advertiser-supported networks.* Additional over-the-air, advertiser-supported television networks might take one of two forms. One would involve the creation of additional chains of stations linked together to provide nationwide full-time programming, much in the manner of the existing three national networks. The other would involve the formation of occasional or part-time networks which offer programs to their "affiliates" without the creation of new full-time station chains. To examine the prospects for such networks and the likely effects of their formation we will inquire into: (a) Interconnection rates; (b) spectrum allocation and channel assignments; (c) the "UHF handicap"; (d) ownership policies; (e) viewer and advertiser demand; and (f) occasional or part-time networks.[16]

44. Interconnection rates: levels and structures—How have developments in the area of satellite regulation (e.g., limited open entry, earth station ownership) affected the prospects for new networks, either occasional or full-time? What is the effect of the present differential between occasional and full-time video terrestrial interconnection rates?

45. Spectrum allocation and channel assignment—How have spectrum allocation decisions affected the conditions of entry for networks? Are there feasible alternative channel assignment plans that might better preserve local licensee discretion and reduce the opportunities for anti-competitive network behavior? How might changes in translator regulation affect these alternatives?

46. The "UHF handicap"—If UHF operated on a parity with VHF would opportunities for additional networks increase? What are the causes of the UHF handicap and how is that handicap likely to change in the 1980's? What are the costs and benefits of FCC rules mandating standards of receiver design and of government support for research on receiver technology? What are the costs and benefits of alternative rules regulating transmission quality (e.g., UHF transmitter power)?

47. Ownership policies—Is the opportunity to own and operate broadcast stations an important factor in the ability to compete fully in the provision of network services? Do either the Commission's top 50 Policy, which may inhibit the number of stations a firm may own in large markets, or its Group Ownership Rule,[17] which limits the total number of stations a firm may own, affect the prospects for entry of additional networks?

48. Viewer and advertiser demand—What are the prospects for the growth in demand for television advertising? How will existing networks adjust to any change, and how might other networking forms be affected by it? What is the value that viewers place on the ability to receive additional programs or networks?

49. Occasional or Part-Time Networks—What barriers, if any, exist to the formation of occasional or part-time networks? What are the costs of financing, interconnection, and negotiation with stations?

50. *Prospects for new networks employing different means of program delivery or financing.* New methods for delivering programs may heavily affect the extent of concentration in the television industry during the 1980's. Chief among these are cable, videocassettes and satellite-to-home broadcasting. Study of these topics is necessary to complete a rounded view of network behavior and prospects for the future.

51. Cable and pay television—What are the prospects for the development of networks which retransmit the programs of a single broadcast station to a large number of geographically separated cable systems? What are the prospects for other forms of cable networks which originate programs, either supported by advertisers or by viewer subscription fees? How are these prospects affected by the new Copyright Act,[18] the cable distant signal importation and exclusivity rules,[19] satellite earth station ownership rules, satellite entry policy, and the recent elimination of carriage restrictions on pay-cable? How would the emergence of cable-networks be affected by rules limiting either horizontal concentration or vertical integration in the cable industry? To what extent would cable networks be subject to FCC regulatory jurisdiction? What are the prospects for networks serving over-the-air subscription television stations?

52. Satellites—Is direct satellite-to-home broadcasting likely to be offered in the near term? If so, would such a technology offer room for greater network competion? Would the Commission have authority to regulate such a system beyond controlling rates and entry?

53. Videocassettes, recording systems and videodiscs—What are the economics of direct producer-to-viewer distribution? How, if at all, does this phenomenon differ materially from the function of networking? Has the FCC regulatory authority over this development?

54. Analysis of the preceding questions should provide the Commission a solid basis for assessing whether the existing commercial television networks will or could face substantial competition in the 1980's. We believe that whether other networks are likely to be technologically possible and economically viable is central to assessing the issue of network dominance, and that we are witnessing a period in which economic, technological and legal developments may necessitate a reevaluation of existing assumptions about the feasibility of new network forms.

Procedures

55. Some of the information necessary to analyze the issues described above is already available in public sources, such as the Commission's annual reports, which provides financial data on broadcast stations and networks; commercial sources, such as Broadcasting Yearbook and Advertising Age, which compile industry statistics; and in scholarly publications. Important unpublished data exist within the Commission, including the filings in the prime time access rule dockets (Nos. 12782 and 19622), station affiliation contracts, and individual station annual financial reports. In addition, the Justice Department network anti-trust litigation has generated substantial material on the program supply industry that is presently accessible or should become so as the case progresses. Interested parties have submitted data in response to the initial Notice of Inquiry and we expect that responses in other Commission proceedings also may yield useful information. The staff will utilize all these sources.

56. While much data will be drawn from these existing sources, we do anticipate that it will be necessary to acquire additional information from various participants in the industry. The staff will conduct field interviews and issue questionnaires when appropriate. While we hope that persons will cooperate voluntarily with the staff in its fact-gathering efforts, we hereby authorize designation of an administrative law judge to issue subpoenas under Section 403 of the communications Act. We do not, however, anticipate the need to hold public hearings in gathering data for the inquiry, since our concern is not with individual transactions or personal motivations, but rather with aggregate forms of industry behavior and the rules presently applicable thereto.

57. We have assembled a staff capable of carrying out an objective analysis of the issues raised above. The staff will use the methods of modern social science, formulating and testing specific hypotheses, throughout its work, and will conduct legal analyses that carefully and fully explore the range of available options and existing constraints. We urge that those responding to the inquiry do the same. Although little can be done to prevent parties from responding with general exhortations or policy analysis based on anecdotal or incidental occurrences, we intend to give little or no weight to such responses.

58. We believe the final report of the Network Inquiry can and should be written upon a record that is entirely open to public review. To this end, the staff has followed, and will continue to follow, the Commission's proposed exparte rules as though they were in fact applicable to a Notice of Inquiry proceeding.[20] The staff has kept and will continue to keep public logs of all contacts with interested parties. Most importantly, the staff will base its report entirely on materials that are publicly reviewable.[21] In this fashion, the full record will be accessible to anyone wishing to examine or challenge the staff's findings or policy analyses.

59. We expect the staff to draw on a wide range of sources of data. Although some interested persons will be likely to continue to submit materials, a danger exists that other groups, particularly those with more limited resources, will be unable to participate fully if we do no more than publish this Further Notice of Inquiry. To encourage wider participation and debate, and to produce a more detailed record for the Commission's review, as the staff completes research on the topics described above, it will issue preliminary reports of its findings. Interested persons will then be provided a resonable period of time to submit comments on these reports. The staff will analyze any comments received and only then prepare a final report for transmission to the Commission. This method is intended to enable interested parties to submit more precise, detailed, and informed responses to the matters upon which the inquiry will focus.

Directions to Interested Persons

60. Paragraphs 55 to 59 of this Further Notice describe the procedures the Network Inquiry Staff will follow in conducting the inquiry.

61. The suspension of time for filing reply comments to those comments received in response to the January 26, 1977 Notice of Inquiry is lifted. Any interested person may file such reply comments on or before December 1, 1978.

62. Paragraphs 33 to 53 of this Further Notice set out the scope of the research the Network Inquiry Special Staff will undertake. Public comments are invited on the question whether additional areas should be addressed. Any such comments should be filed on or before December 1, 1978, and reply comments should be filed on or before December 15, 1978. The Staff will analyze all relevant and timely comments to determine whether any additional areas of inquiry seem warranted. If so, the staff will prepare a report to the Commission describing any proposed changes. Persons filing reply comments pursuant to the preceding paragraph and comments prusuant to this paragraph may submit them together.

63. The Network Inquiry Special Staff will immediately commence research on the topics described in Paragraphs 33 to 42 of this Further Notice. Persons wishing to provide information or analysis to be considered by the staff in preparing its preliminary reports should do so promptly and in no event later than February 15, 1979. Once the necessary information has been gathered and analyzed, that information and the staff's preliminary reports will be released for public comment, with established dates for filing comments and reply comments. Information and analysis provided after February 15, 1979 but before the deadline for comments and reply comments will be taken into account in the final report on these issues.

64. Susbtantial research on the topics described in Paragraphs 43 to 53 will not commence immediately. Interested persons are nonetheless free to submit information or analysis on those topics at any time. Specific deadlines will be established at a later date for filing in time for consideration by the staff in preparing its preliminary reports.

65. In accordance with the provisions of § 1.419 of the rules, an original and 5 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Material filed will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

For information contact: Stanley M. Besen, Thomas G. Krattenmaker, Co-Directors, Network Inquiry Special Staff; 202-245-7030.

Federal Communications Commission,
William J., Tricarico,
Secretary.

[FR Doc. 78-30279 Filed 10-25-78; 8:45 am]

[15] 47 CFR 73.658(j), (k).

[16] The Commission has a number of ongoing proceedings which relate to some of the topics described here. See, for example, 43 FR 38436 (translator policy); AT&T Co., Long Lines Dept., 67 F.C.C. 2d 1134 (1978) (interconnection rates); 43 FR 17982 (1978) (Top 50 Policy); 65 F.C.C. 2d 9 (1977) (effects of cable on broadcasting). This inquiry is not intended to delay, or substitute for, these proceedings. Since it is solely concerned with networking, this inquiry should complement those other activities, but should and will not replace them.

[17] 12 RR ed 1501 (1968) (Top 50 Policy); 47 CFR 73.636(a)(2) (Group Ownership Rule).

[18] 17 U.S.C. 111 (1976).

[19] Cable Television Report and Order, 36 F.C.C. 2d 143 (1972).

[20] 43 FR 27868 (1978). The effect of this is that memoranda summarizing all substantive ex parte presentations will be filed in the public docket.

[21] Where evidence, such as individual station licensee financial reports, is gathered from confidential sources, the results of the staff's research will be reported in a way that does not disclose the identity of individuals or firms.

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federal register

THURSDAY, OCTOBER 26, 1978
PART III

ENVIRONMENTAL PROTECTION AGENCY

RESPONSE TO INTERAGENCY TESTING COMMITTEE RECOMMENDATIONS

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

by section 4(e)(1)(A) of TSCA, each of the 10 chemicals on the October 1977 priority list was designated for special consideration by EPA within 12

Before proposing section 4 test rules for the chemicals the ITC recommended, the Agency must review available information on those chemicals ac-

ority List should continue to be considered for section 4(a) rulemaking.

Although the Agency considers publication of this Notice to remove the

reaction products in drug products and medical devices and to establish maximum daily exposure levels from these items. EPA will consider this information in further

the need for testing requirements. EPA recognizes, as did the ITC, that certain members of a recommended category may already have been adequately tested for one

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 989-5]

RESPONSE TO INTERAGENCY TESTING COMMITTEE RECOMMENDATIONS

AGENCY: Environmental Protection Agency.

ACTION: Notice in response to Interagency Testing Committee recommendations.

SUMMARY: Section 4(e) of the Toxic Substances Control Act (TSCA) (90 Stat 2003, 15 U.S.C. 2601 et seq.) established an Interagency Testing Committee (ITC) to recommend to the Administrator of the Environmental Protection Agency (EPA) a priority list of chemicals to be considered for testing. TSCA requires EPA to respond to these recommendations within 1 year, either by initiating rulemaking proceedings under section 4(a) or by publishing in the FEDERAL REGISTER EPA's reasons for not taking this action.

On October 4, 1977, the ITC transmitted its initial priority list of recommendations to EPA. The Agency has initiated review and evaluation of the October 1977 recommendations. However, for the reasons discussed in this notice, EPA is not initiating section 4(a) rulemaking proceedings for these recommendations at this time.

FOR FURTHER INFORMATION CONTACT

John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 800-424-9065; in Washington, D.C. call 554-1404.

SUPPLEMENTARY INFORMATION:

BACKGROUND

TSCA established the ITC to recommend to the Administrator of EPA chemical substances and mixtures [1] for priority attention in developing test rules under section 4(a) of TSCA. The Act required the ITC to transmit its initial priority list to the Administrator by October 3, 1977, and to consider updating that list at least every 6 months thereafter.

The ITC's initial priority list of four individual chemicals and six categories of chemicals was transmitted to EPA on October 4, 1977, and subsequently published in the FEDERAL REGISTER (42 FR 55026, Oct. 12, 1977). As permitted by section 4(e)(1)(A) of TSCA, each of the 10 chemicals on the October 1977 priority list was designated for special consideration by EPA within 12 months. As a result, the Agency must respond to the ITC's recommendations within the 12-month period either by initiating a rulemaking action or by publishing EPA's reasons for not doing so. Although the ITC subsequently added other designated chemicals to the priority list (43 FR 16684, April 19, 1978), at this time the Agency is only required to respond to the recommendations on the October 1977 priority list. Those recommendations are summarized in the following table:

Substance or category	Testing recommended
Alkyl epoxides	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects, and epidemiological study.
Alkyl phthalates	Environmental effects.
Chlorinated benzenes, mono- and di-	Carcinogenicity, mutagenicity teratogenicity, other chronic effects, environmental effects and epidemiological study.
Chlorinated paraffins	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects.
Chloromethane	Carcinogenicity, mutagenicity, teratogenicity, and other chronic effects.
Cresols	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects.
Hexachloro-1,3-butadiene	Environmental effects.
Nitrobenzene	Carcinogenicity, mutagenicity, and environmental effects.
Toluene	Carcinogenicity, teratogenicity, other chronic effects, and epidemiological study.
Xylenes	Mutagenicity, teratogenicity, and epidemiological study.

EPA plans to propose standards for oncogenicity and chronic effects testing by late December 1978 and to propose chemicals to be tested for these effects shortly thereafter. In addition, development of test standards for several other effects is in progress.

STATEMENT OF REASONS

Within 1 year of a chemical's designation by the ITC, EPA must either initiate a rulemaking proceeding to require testing or publish the Agency's reasons for not doing so.

The Act does not specify which of several possible EPA actions would initiate a rulemaking proceeding for purposes of section 4(e). However, as a matter of policy, EPA plans to equate "initiating a rulemaking proceeding" with proposing a section 4(a) rule. For the reasons discussed below, the Agency is not initiating rulemaking at this time.

Before proposing section 4 test rules fof the chemicals the ITC recommended, the Agency must review available information on those chemicals according to the statutory prerequisites for testing prescribed by TSCA section 4(a). In addition, the Agency must prescribe appropriate standards for the conduct of the tests it requires. Although work is progressing on these facets of the rulemaking decision for the chemicals the ITC recommended, neither activity has been completed.

The findings required by section 4(a) to propose a test rule demand substantially more detailed information and evaluation than is required of the ITC in making its recommendations under section 4(e). For example, while the ITC may recommend a chemical without considering on-going studies, EPA must decide whether such studies are likely to provide adequate data for assessing risk before making section 4(a) findings.

EPA's evaluation of the ITC's recommendations, which is still in progress, includes review of (1) The ITC dossiers and their references, (2) studies and reports identified by an EPA supplementary literature search, and (3) the public comments in response to publication of the priority list in the FEDERAL REGISTER. Furthermore, EPA has promulgated a section 8(d) rule requiring the submission of unpublished health and safety studies for the Agency's use in its review of these chemicals (43 FR 30984, July 18, 1978). Those studies are still being received and will be evaluated before test rules are proposed.

In addition to this full review of the chemicals recommended by the ITC, EPA generally plans to prescribe test methodologies as a part of its test rules to insure that the test data will be reliable and meet the Agency's needs. Proposing specific test methods also should aid the public in commenting on the testing that EPA considers necessary to assess the risk of these chemicals. The test standards needed to implement the ITC's recommendations have not yet been completed.

Finally, proposing the first test rules under TSCA requires resolution of several basic scientific and policy questions. For example, decisions have to be made on when to test pure substances and when to require testing of commercial grades of chemicals that may contain byproducts, impurities, and additives. EPA has not yet completed its consideration of this and other issues related to section 4 rulemaking.

STATUS OF EPA'S EVALUATION

On the basis of its review thus far (as summarized in the Appendix to this Notice), EPA concludes that each of the 10 chemicals on the initial Priority List should continue to be considered for section 4(a) rulemaking.

Although the Agency considers publication of this Notice to remove the priority designation of the 10 chemicals on the October 1977 Priority List,[2] the chemicals retain high priority within EPA for further section 4(a) consideration. As the Agency's evaluation of the chemicals and its development of test standards are completed, EPA will propose test rules [3] for each of the chemicals and effects designated by the ITC that meet the requirements of section 4(a). Where EPA finds that existing information does not support the need for a test rule, the Agency will publish a Notice in the FEDERAL REGISTER stating in detail its reasons for not requiring testing.

Dated: October 10, 1978.

BARBARA BLUM,
Acting Administrator.

APPENDIX—EPA'S PRELIMINARY APPRAISAL OF THE ITC'S OCTOBER 1977 RECOMMENDATIONS

EPA's preliminary appraisals of the ITC's October 1977 recommendations are presented in this Appendix. In general, EPA feels that the testing recommended by the ITC for these chemicals seems appropriate. However, the Agency has not yet completed its evaluation of the recommendations or determined whether testing regulations for these chemicals should be proposed under section 4(a) of TSCA.

ALKYL EPOXIDES

The alkyl epoxides category includes all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups. The ITC has recommended testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects because the epoxy structure is a relatively reactive functional group that is believed to be the source of the carcinogenic and mutagenic activity already well characterized for several members of the category. Although the alkyl epoxides are generally used as intermediates, the ITC noted that the large production volumes of some members raise concern with respect to workplace exposure. The ITC recommended retrospective epidemiologic studies for the members with the highest exposure. The ITC also recommended environmental effects testing, expressing particular concern for alkyl epoxide reaction products.

SUPPLEMENTAL LITERATURE SEARCH

The ITC dossier did not report that EPA has published a notice of Rebuttable Presumption Against Registration for ethylene oxide, nor that the FDA has published a notice of intent to establish maximum residue limits for ethylene oxide and its major reaction products in drug products and medical devices and to establish maximum daily exposure levels from these items. EPA will consider this information in further evaluating the need for testing of ethylene oxide.

Only one study was found in the supplemental literature search that appeared to be pertinent to the ITC recommendations. Joyner (1964)[4] reported on the health records of 37 employees of an ethylene oxide manufacturing plant. This study will be further evaluated, with particular attention given to its relevance to the ITC recommendation for epidemiologic study.

PUBLIC COMMENTS

Comment 1: The estimated environmental release figures were questioned. The ITC dossier reports estimated annual environmental release rates of 98.8 million pounds for ethylene oxide and 40.8 million pounds for propylene oxide. For ethylene oxide, one commentor estimated that the total annual environmental release is less than 20 million pounds; another commentor placed it at 10-12 million pounds. For propylene oxide, one commentor estimated that less than 5 million pounds is released to the environment annually.

Response 1: The environmental release rate data presented in the ITC dossier are from the report "A Study of Industrial Data on Candidate Chemicals for Testing, Research Request No. 1" (EPA 560/5-77-006, August 1977) and reflect the application of estimated production-loss factors and dispersive-use factors to production and consumption of these compounds. These factors may overestimate the environmental losses of ethylene oxide and propylene oxide. Additional evaluation of environmental release data will be nesessary in developing any test rules for these compounds.

Comment 2: The occupational exposure population sizes presented in the dossier are overestimated.

Response 2: The NIOSH/NOHS data used in the dossier indicate that 165,000 and 264,000 persons are exposed occupationally to ethylene oxide and propylene oxide, respectively. The commentors' estimates of 110,000 to 115,000 for ethylene oxide do no differ greatly from the NOHS data; however, the commentors' estimates of 5000 to 8000 persons exposed occupationally to propylene oxide differ substantially from the NOHS data. Additional evaluation of the propylene oxide exposure potential will be necessary in developing any test rules.

Comment 3: The category name "alkyl epoxides" inaccurately defines the group of compounds in question because it does not, technically, include ethylene oxide. The commentor offers oxiranes, epoxyalkanes, alkylene oxides, and epoxides as alternatives.

Response 3: The commentor is correct. Technically, the category "alkyl epoxides" does not include ethylene oxide. The suggested alternatives "oxiranes" and "epoxides" describe a much larger class of compounds than intended. "Epoxy alkanes" and "alkylene oxides" both appear to be suitable alternatives and will be considered in developing any test rules for this class of compounds.

Note on Comments 4-7: These comments address specific alkyl epoxides for which ongoing studies or available data may obviate the need for testing requirements. EPA recognizes, as did the ITC, that certain members of a recommended category may already have been adequately tested for one or more of the effects of concern. In developing test rules, these cases will be examined in detail and, where available data (or tests in progress) are considered adequate, testing will not be required.

Comment 4: Studies are presently being conducted at the Carnegie—Mellon Institute that will provide an adequate characterization of the carcinogenicity, mutagenicity, teratogenicity, and other chronic effects of ethylene oxide, and therefore testing requirements for these effects are not necessary.

Response 4: The ITC was aware of these studies when making its recommendations. EPA will review in detail the protocols and any results from these studies when developing test rules for alkyl epoxides. If the effects of ethylene oxide are adequately determined in these studies, no further testing of ethylene oxide will be required for these effects.

Comment 5: Long-term studies planned at the Central Institute for Nutrition and Food Research will adequately characterize the carcinogenicity and other chronic effects of propylene oxide. Testing requirements for these effects will not be nesessary.

Response 5: It will be necessary for EPA to obtain the full protocols being employed in these studies in order to determine the adequacy of these tests. In further considering test rules EPA will evaluate the protocols and whatever preliminary results are available.

Comment 6: The mutagenicity and teratogenicity studies being conducted on ethylene oxide will serve as indicators of the need for testing propylene oxide for these effects.

Response 6: The results of the mutagenicity and teratogenicity studies on ethylene oxide will not be a strong factor in determining the need to test propylene oxide for these effects. It is well known that there can be vast differences between the effects of the first two members of an homologous series (e.g., methanol and ethanol).

Comment 7: Adequate data are available on the health and environmental effects of butylene oxide. Because of this and its low human and envoronmental exposure potential, testing requirements for butylene oxide are unnecessary.

Response 7: The available health and environmental effects data, as well as exposure aspects, will be considered in detail when considering any testing requirements for butylene oxide.

Comment 8: Epidemiological studies of ethylene oxide and propylene oxide in certain production and processing plants are unnecessary and impractical because medical surveillance indicates no unusual medical problems among employees; these employees do not constitute a suitable cohort, and surveys show ambient levels consistently within the TLV.

Response 8: The experience of these commentors will be useful in examining the need for and feasibility of epidemiological study of these, and perhaps other, alkyl epoxides. EPA will utilize whatever information is available on such workplace experience in considering epidemiological study testing requirements.

Comment 9: The alkyl epoxides will react to form glycols which are relatively non-

[1] TSCA's language is "chemical substance or mixture"; in 42 FR 55026, the ITC uses "substances and categories." The term "chemical(s)" is used in this notice to avoid confusion.

[2] That is, that they no longer occupy 10 of the 50 places on the Priority List reserved for chemicals designated for action by EPA within 12 months. However, the ITC may redesignate any of these chemicals if it so chooses.

[3] EPA expects to issue separate rules for various effects as the appropriate test standards are completed.

[4] Arch. Environ. Hlth. 8(5):700-710.

toxic, are rapidly biodegradable and do not bioaccumulate; any chlorohydrins formed would probably not persist. Further testing for environmental effects is unnecessary.

Response 9: Preliminary evaluation of the

The ITC dossier cites studies showing that diethyhexyl phthalate (a long-chain ester) in water was found to affect the reproduction of the waterflea *Daphnia magna*.

Although at some point in the develop-

genic [2] while another reported that it is not mutagenic.[3] Although on preliminary review these studies do not appear to have any impact on the ITC recommendation, they will be examined in more detail in con-

TLV's and because job mobility and workgroup size makes his employees an unsuitable cohort.

Response 4: The experience of this commentor may be useful in examining the

tainable in practice and because the ITC dossier refers to a study on a product of this composition).

Response 1: EPA agrees that creosote oil is chemically an ill-defined material and that the term has been applied to quite different materials, some of which may indeed have

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toxic, are rapidly biodegradable and do not bioaccumulate; any chlorohydrins formed would probably not persist. Further testing for environmental effects is unnecessary.

Response 9: Preliminary evaluation of the available literature indicates some merit in this comment. However, it does not appear that there are definitive data available on the formation and degradation of chlorohydrins, and testing may be necessary to determine if chlorohydrins from alkyl epoxides are an environmental concern.

PRELIMINARY APPRAISAL

The testing recommended by the ITC for this category of chemicals seems appropriate. However, further evaluation of ongoing, planned, and completed studies on specific alkyl epoxides (particularly on ethylene oxide and propylene oxide at Carnegie-Mellon Institute and the Central Institute for Nutrition and Food Research, respectively) will be necessary. Some of the recommended testing for certain members of the alkyl epoxides category may not be necessary if available data or studies in progress or planned are adequate. EPA will consider as alternative names for this category "epoxy alkanes" and "alkylene oxides".

ALKYL PHTHALATES (ALKYL ESTERS OF 1,2-BENZENEDICARBOXYLIC ACID)

The ITC recommended that all high production (e.g., 10 million lb/year or greater) alkyl phthalates be tested for environmental effects. This recommendation was based mainly on indications of their potential for environmental release, especially to the aquatic environment, on their environmental stability, and on the apparent toxicity of some phthalates to aquatic organisms.

SUPPLEMENTAL LITERATURE SEARCH

As a supplement to the ITC dossier, EPA has reviewed the information in the report "A Study of Industrial Data on Candidate Chemicals for Testing, Research Request No. 3" (EPA 560/5-78-002, June 1978). This document appeared to be more complete and more detailed than the ITC dossier. However, no studies were discussed in this report that suggest that the ITC's testing recommendations should be modified.

PUBLIC COMMENTS

Comment 1: The term "alkyl phthalates" inaccurately describes the class of compounds that the ITC is recommending for study. The term "dialkyl phthalates" is more accurate.

Response 1: EPA accepts this comment. It is clear that the ITC is in fact concerned with the dialkyl phthalates, and that its interest in monoalkyl phthalates is limited to their occurrence as metabolic or chemical degradation products of the dialkyl phthalates.

Comment 2: A distinction should be made between alkyl phthalates having an alkyl chain length of six or fewer carbon atoms and those with a chain length of more than six carbons.

Response 2: The implication of the comment is that the long-chain-length esters need not be tested for aquatic effects because they are insoluble in water and would float on the surface. Why these factors would make the long-chain alkyl phthalates devoid of aquatic effects worthy of concern was not substantiated by the commentor.

The ITC dossier cites studies showing that diethyhexyl phthalate (a long-chain ester) in water was found to affect the reproduction of the waterflea *Daphnia magna*.

Although at some point in the development of test rules it may be advantageous to make a distinction between alkyl phthalates of different chain lengths for specific testing requirements, there is no reason to make any distinction at this stage in considering the ITC recommendations.

Comment 3: There are inconsistencies between the production figures and the environmental release rates presented in the dossier. The release rate given for bis(2-ethylhexyl) phthalate is about 1.5 times the 1976 production value, and the release rate given for dibutyl phthalate is more than twice its 1976 production.

Response 3: The environmental release rates cited in the dossier are based on 1972 production data from the U.S. International Trade Commission. It is not appropriate to compare these release rates to 1976 production figures. The environmental release rates are consistent with the 1972 production data.

Comment 4: On-going and planned environmental studies at the University of Missouri on the alkyl phthalates make a testing rule unnecessary at this time.

Response 4: As test standards are developed for environmental effects testing, it will be possible to evaluate in detail the protocols being used in on-going and planned studies to determine whether they (and any results available from any of these studies) obviate the need for further testing. It is important to note that adequate environmental effects testing for one or more specific alkyl phthalates does not necessarily preclude the need for environmental effects testing of other alkyl phthalates.

PRELIMINARY APPRAISAL

The ITC's recommendation that all high production alkyl phthalates be tested for environmental effects seems appropriate. Additional evaluation of on-going and planned studies at the University of Missouri will be necessary to help determine whether specific tests for certain members are necessary.

EPA is also considering renaming this category "dialkyl phthalates," which is a more accurate description.

CHLORINATED BENZENES, MONO- AND DI-

This category, which consists of four structurally-related chemical substances, was recommended by the ITC for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects, and epidemiologic studies. The large production, widespread use, high release rate, and suspected persistence of the chlorinated benzenes were the primary considerations of the ITC in making these recommendations.

SUPPLEMENTAL LITERATURE SEARCH

Several articles were identified in the supplemental literature search which indicate that *p*-dichlorobenzene is mutagenic.[1] One study indicated that chlorobenzene is mutagenic[2] while another reported that it is not mutagenic.[3] Although on preliminary review these studies do not appear to have any impact on the ITC recommendation, they will be examined in more detail in considering mutagenicity testing requirements for these compounds.

With respect to environmental effects, a study was found which indicated that *o*-dichlorobenzene is lethal to phytoplankton at 1.3 p.p.m.;[4] another study showed that at 10 p.p.m. *o*-dichlorobenzene is comparatively harmless to clam larvae.[5] These studies do not suggest that environmental effects testing for *o*-dichlorobenzene is not needed, but they will aid in the design of any environmental effects testing scheme for this compound and, perhaps, for chlorinated benzenes as a category.

PUBLIC COMMENTS

Comment 1: Reasonable occupational exposure estimates are 10,000 persons for chlorobenzene and *o*-dichlorobenzene, and 5,000 persons for *p*-dichlorobenzene. The ITC dossier uses NIOSH/NOHS estimates of occupationally exposed populations of 1,093,000 persons for chlorobenzene, 1,978,000 persons for *o*-dichlorobenzene, and 540,000 persons for *p*-dichlorobenzene.

Response 1: Additional evaluation of the NOHS data base will be necessary to determine how well it defines the size of the occupationally exposed population. The commentor does not present any details on the basis for his estimates; these details will be sought and reviewed by EPA in considering these substances for testing.

Comment 2: m-Dichlorobenzene should be eliminated from consideration as a testing candidate because its production, environmental release, and exposure potential are low.

Response 2: While *m*-dichlorobenzene does appear to have the lowest exposure potential among the chlorinated benzenes, it has been detected in environmental samples (ground water, contaminated raw water, and drinking water). Whether or not exposure to *m*-dichlorobenzene is sufficiently low to obviate testing still needs to be determined.

Comment 3: On-going studies at the ICI Central Toxicology Laboratory will adequately characterize the mutagenicity, carcinogenicity, teratogenicity, and other chronic effects of *p*-dichlorobenzene, and therefore further testing is unnecessary. A proposed MCA study on the teratogenicity of chlorobenzene, *o*-dichlorobenzene, and *p*-dichlorobenzene makes a testing requirement for teratogenicity unnecessary.

Response 3: EPA will review in detail the protocols and any results from these planned and on-going studies when developing test rules. To the extent that these studies adequately characterize the effects of these substances, additional testing will not be required.

Comment 4: One producer commented that epidemiological study of chlorobenzene would not be necessary nor productive at his production site. This is based on having observed no unusual medical effects attributable to chlorobenzene exposure within the

[1] Sharma and Sakar (1957), Proc. Indian Acad. Sci., 45(B):288-293; Sharma and Bhattacharyya (1956), Cytologia, 21(4):353-360; Srivastava (1956), Cytologia, 31:166-171; Prasad and Pramer (1968), Genetics, 60:212-213.

[2] Prasad and Pramer (1968), Genetics, 60:212-213.

[3] Lyon (1975), Diss. Abstr., Int. B., 36:5537.

[4] Ukeles (1962), Appl. Microbiol., 10:532-537.

[5] Davis (1961), Comm. Fish. Rev., 23(12):8-23.

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TLV's and because job mobility and workgroup size makes his employees an unsuitable cohort.

Response 4: The experience of this commentor may be useful in examining the need for and feasibility of epidemiological study of the chlorobenzenes. EPA will utilize whatever information is available on such workplace experiences in considering epidemiological study testing requirements.

Comment 5: One commentor provided information on photodegradation, rates of volatilization from water, biodegradibility, and bioaccumulation potential of mono- and dichlorobenzenes. The commentor indicates that although the chlorobenzenes are released to the environment in large amounts, the compounds do not present an unreasonable risk, and therefore testing should not be required.

Response 5: The data presented by this commentor do not appear to provide a sufficient basis for precluding further consideration of environmental effects testing.

PRELIMINARY APPRAISAL

The testing recommended by the ITC on these chemicals seems generally appropriate, a possible exception being the recommendations for testing of *m*-dichlorobenzene. Because the exposure potential for *m*-dichlorobenzene appears to be lower than those of monochlorobenzene, *o*-dichlorobenzene, and *p*-dichlorobenzene, further investigation of the exposure and environmental release sources of *m*-dichlorobenzene is necessary to help determine whether testing this substance is warranted.

Also, studies in progress at the ICI Central Toxicology Laboratory on *p*-dichlorobenzene and proposed studies by the Manufacturing Chemists Association on monochlorobenzene, *o*-dichlorobenzene and *p*-dichlorobenzene need to be evaluated to determine whether they will be adequate to assess the risks of exposure to these compounds.

CHLORINATED PARAFFINS

This category is comprised of mixtures of the chlorination products of materials known commercially as paraffin oils or paraffin waxes, limited to those having a chlorine content of 35 percent through 64 percent by weight. These compounds were recommended by the ITC for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects testing. The large environmental release rate, their use in a wide variety of household and paint products, and the occurrence of residues in fish formed the rationale for the ITC recommendations.

Although some additional information was found in the supplemental literature search on the uptake of chlorinated paraffins from water, on neurotoxic effects in fish, and on acute mammalian toxicity, this information does not eliminate the testing needs identified by the ITC.

No comments were received on the ITC's testing recommendations for chlorinated paraffins.

PRELIMINARY APPRAISAL

The testing recommended by the ITC seems appropriate. Some additional consideration needs to be given to the definition of this category of substances. EPA is considering increasing the upper limit on chlorine content to 70 percent by weight because this is the maximum percentage attainable in practice and because the ITC dossier refers to a study on a product of this composition.

CHLOROMETHANE

The ITC recommended that carcinogenicity, mutagenicity, teratogenicity, and other chronic effects testing be required for chloromethane. Though it is used primarily as an intermediate, annual environmental release (over 15 million pounds) and the number of workers exposed (about 31,000) were considered significant by the ITC.

No significant new information was identified in the literature search performed on chloromethane.

One comment indicated that a testing program has been initiated at the Chemical Industry Institute of Toxicology to study the carcinogenicity, teratogenicity, mutagenicity, and other chronic effects of chloromethane in response to the ITC's recommendations.

EPA will review the protocols of these studies, and any available results, in detail and determine if these studies will adequately characterize these effects of chloromethane.

PRELIMINARY APPRAISAL

The testing recommended by the ITC seems appropriate. The studies initiated at the Chemical Industry Institute of Toxicology on chloromethane need to be evaluated to determine whether test rules are necessary.

CRESOLS

The ITC recommended that cresols be tested for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects. These recommendations were based largely on information indicating significant environmental, occupational, and general population exposure, as well as on testing in these areas having been inadequate.

SUPPLEMENTAL LITERATURE SEARCH

The major data sources reviewed as supplemental to the ITC dossier are an SRI report entitled "A Study of Industrial Data on Candidate Chemicals for Testing, Research Request No. 3" (EPA 560/5-78-002, June 1978) and the NIOSH "Criteria for a Recommended Standard-Occupational Exposure to Cresol" (DHEW Publication No. 78-13, February 1978). Some additional information was found in these documents regarding the uses of cresols and their chronic toxicity, environmental fate, and ecological toxicity.

PUBLIC COMMENTS

Comment 1: The dossier presents misleading information concerning creosote oil as a source of cresols. The coal tar distillate presently called creosote oil is not the same as the coal tar distillate known historically as creosote oil. Modern day creosote oil contains very little cresols, and therefore creosote oil (used in wood preservation) is not a source of cresols to the environment.

The non-intermediate, potentially dispersive uses of cresols account for only a small fraction of the approximately 100 million pounds per year of production; the environmental release of cresols is on the order of 3 to 5 million pounds per year, not 30-45 million pounds.

Response 1: EPA agrees that creosote oil is chemically an ill-defined material and that the term has been applied to quite different materials, some of which may indeed have little or no cresols present in them.

With respect to the environmental release associated with the use pattern of cresols, no additional clarifying information has yet been found in the literature.

Additional investigation of creosote oil as a source of cresols to the environment, as well as further investigation into the use pattern of cresols, will be necessary in considering test rules for cresols, perhaps most importantly with regard to the environmental effects testing.

Comment 2: The ITC dossier states that approximately 2 million persons (referenced to the NIOSH/NOHS data base) are occupationally exposed to cresols; NIOSH estimates the exposed population at 11,000, one producer estimates the exposed population at 40,000; and another producer estimates the exposed population at about 670,000.

Response 2: It is not clear how the figure of 2 million was arrived at in the NOHS study, and NIOSH does not indicate in its Criteria Document why its estimate of 11,000 differs so dramatically from the NOHS estimate. NIOSH does state that its estimate of 11,000 is low because it does not include workers exposed intermittently to cresol-containing degreasing agents. (The estimate of 670,000 included 627,000 such workers.)

Some additional effort is needed to define more clearly the size and nature of the population exposed occupationally to cresols. However, NIOSH also stated the need for cresols to be studied for long-term, low-level exposure effects, carcinogenicity, mutagenicity, and teratogenicity.

PRELIMINARY APPRAISAL

The basis for the ITC's testing recommendations for cresols included information indicating a high potential for enviromental release and human exposure. The ITC's recommendations to test for carcinogenicity, mutagenicity, teratogenicity, chronic toxicity, and environmental effects seem appropriate if substantial exposure to cresols occurs. However, the extent of exposure to cresols needs to be further evaluated. Specifically, EPA's preliminary review has found that the use pattern of cresols suggests a substantially lower environmental release rate than that cited in the ITC dossier. In addition, the occupationally exposed population may be much smaller than the estimate reported in the dossier. The occupationally exposed population, as well as the general populations exposed to cresols, needs to be more accurately identified.

HEXACHLORO-1,3-BUTADIENE

The ITC has recommended that hexachloro-1,3-butadiene be tested for environmental effects because of evidence of widespread distribution in the aquatic environment and reports of bioaccumulation in fish and other aquatic organisms.

The supplemental literature search uncovered some information on hexachloro-1,3-butadiene toxicity to aquatic organisms and soil microfauna, on environmental fate, and on environmental occurrence. None of these reports appear to eliminate the need for the environmental effects testing recommended by the ITC.

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No comments were received on the ITC's test in recommendations for hexachloro-1,3-butadiene.

PRELIMINARY APPRAISAL

The ITC's recommendation for environmental effects testing of hexachloro-1,3-butadiene seems appropriate.

NITROBENZENE

The ITC has recommended that nitrobenzene be tested for carcinogenicity, mutagenicity, and environmental effects because of its estimated annual release to the environment of 20 million pounds, its numerous dispersive uses, its ability to penetrate intact skin, and the efficiency of its absorption by inhalation.

SUPPLEMENTAL LITERATURE SEARCH

A number of articles on nitrobenzene not cited in the ITC dossier were found in the supplemental literature search. One article presented some additional data on the degradation of nitrobenzene, but the information is not considered sufficient to characterize its environmental fate.

PUBLIC COMMENTS

One comment indicated that there are test results which show that little bioaccumulation of nitrobenzene in fish has occurred. These data will need to be obtained and reviewed in detail in considering specific environmental effects testing requirements for nitrobenzene.

PRELIMINARY APPRAISAL

The ITC's recommendations for carcinogenicity, mutagenicity, and environmental effects testing of nitrobenzene seem appropriate.

TOLUENE

Over 1 million workers are thought to be exposed to toluene, which is produced in very large quantities, is used widely as a solvent and in many other ways, and has an estimated annual release rate of over 1 billion pounds. The ITC has recommended that toluene be tested for carcinogenicity, teratogenicity, and other chronic effects, and that an epidemiological study be performed on the human health effects of toluene.

SUPPLEMENTAL LITERATURE SEARCH

A number of articles were identified which presented some information on the carcinogenicity, teratogenicity, and chronic toxicity of toluene. However, the information obtained does not fill the data gaps reflected in the ITC testing recommendations.

PUBLIC COMMENTS

Comments were received which indicated that ongoing studies at the Chemical Industry Institute of Toxicology will provide information on the carcinogenicity and chronic effects, and that teratogenicity studies will follow.

EPA will review the protocols of these studies, and any available results, in detail and determine if these studies will adequately characterize these effects of toluene.

PRELIMINARY APPRAISAL

The ITC's recommendations for carcinogenicity, teratogenicity, and chronic toxicity testing of toluene seem appropriate, as does the ITC's recommendation of epidemiological study of toluene's effects on human health.

Studies in progress on carcinogencity and chronic toxicity, as well as planned studies on teratogenicity, need to be reviewed by EPA to determine whether they will adequately characerize toluene's potential to produce these effects.

XYLENES

Xylenes were recommended by the ITC for mutagenicity and teratogenicity testing, and for epidemiological study. The very large production volume and environmental release rate, the large occupationally exposed population, and widespread use in a variety of products resulting in general population exposure were noted in the ITC's recommendations.

SUPPLEMENTAL LITERATURE SEARCH

Two articles were identified in the supplemental literature search which presented some information on mutagenicity not given in the ITC dossier. However, neither study was adequate for drawing conclusions on the mutagenicity of xylenes.

PUBLIC COMMENTS

Comment 1: Initial testing should be focused on mixed xylenes rather than on testing the three xylene isomers separately. Negative results on mixed xylenes would indicate that no further testing of the individual xylenes is necessary; positive results would dictate further testing.

Response 1: EPA must, to require testing of a mixture under section 4(a), conclude that the effects of concern may not be reasonably and more efficiently determined or predicted by testing its components individually. EPA has not yet reached a conclusion on what to test in the case of xylenes. The main determinants will be the potential for additive, synergistic, or antagonistic effects and the pattern of exposure (i.e., as the mixture and as the individual xylene isomers). In addition, consideration will be given to the anticipated costs of testing the mixture versus testing the individual xylene isomers.

Comment 2: The usage of *m*-xylene (as the individual isomer) is less than 200 million pounds per year, and the production figure of 1,710 million pounds per year given in the dossier is inaccurate.

Response 2: The comment is accepted. The current production of *m*-xylene as the individual isomer appears to be about 100 million pounds per year.

PRELIMINARY APPRAISAL

The ITC's testing recommendations for xylene seem appropriate.

A critical question with respect to xylenes is whether to test the mixed xylenes, the individual isomers, or both. EPA has not yet made any judgment on this point.

[FR Doc. 78-30192 Filed 10-25-78; 8:45 am]

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federal register

THURSDAY, OCTOBER 26, 1978
PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

ENVIRONMENTAL PROTECTION AGENCY

federal register

TOXIC SUBSTANCES CONTROL

Proposed Implementation Approach; Request for Public Comment

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[65-60-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OTS-260001; FRL 990-7]

TOXIC SUBSTANCES CONTROL

Proposed Approach To Implementing the Toxic Substances Control Act; Request for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, request for public comments.

SUMMARY: This document outlines EPA's current approach to implementing the Toxic Substances Control Act (TSCA). The present approach has evolved over the past several months and will continually become more sophisticated as EPA gains experience and develops a comprehensive strategy for implementing TSCA. The purpose of this document is to share EPA's current approach and invite public comments.

DATES: Comments should be provided by December 20, 1978.

ADDRESS: Comments should be addressed to Attention: Joyce Barbour, Office of Toxic Substances, (TS-793), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Please mark comments with the identifying notation OTS-260001. All written comments will be available for public inspection in room 711, East Tower, from 9 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Ritch, Director, Office of Industry Assistance, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-554-1404 or 800-424-9065 (toll free).

Dated: October 16, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

PROPOSED APPROACH TO IMPLEMENTING THE TOXIC SUBSTANCES CONTROL ACT

Sec.

Purpose.
Initial implementation.
Organization and staff.
Determining priorities.
Hazard assessment process.
Testing.
Recordkeeping and reporting requirements.
Premanufacture notification.
Significant new use.
Regulatory actions under section 6.
Integrated approach to toxic substances.
International approaches to toxic substances.
Appendix: Organization chart.

PURPOSE

This document outlines EPA's current approach to implementing the Toxic Substances Control Act (TSCA). It sets forth the basic objectives for the early years of implementation, discusses major policy decisions already made by EPA, and identifies questions yet to be resolved.

The approach outlined here has evolved through several earlier drafts and will be succeeded by progressively more sophisticated versions as EPA gains experience and develops a comprehensive strategy for implementing TSCA. Furthermore, many issues are addressed only briefly in this presentation. Selected topics, such as unreasonable risk determinations under TSCA, will be covered in supplementary documents.

This document is primarily directed toward the people responsible for implementing TSCA and other Federal, State, and local programs concerned with controlling toxic substances. It is also intended for those with an informed interest in the matter, such as Members of Congress and their staff, and representatives of industry, labor, and public interest groups. It assumes general familiarity with TACA and with EPA activities so far, and focuses on important issues involved in implementing the Act.

INITIAL IMPLEMENTATION

Under the Toxic Substances Control Act, EPA is responsible for identifying chemical substances that present unreasonable risks to human health or the environment and for taking action to minimize the risks. To achieve TSCA's goals, EPA will concentrate in the early years of implementation on these objectives:

- Develop the necessary organization and staff.
- Define methods for assigning priority to chemical substances for investigation and regulation.
- Establish procedures for testing and evaluating chemical hazards.
- Initiate information gathering.
- Establish mechanisms for premanufacture notification of new chemical substances.
- Take selective regulatory actions.
- Develop a coherent agencywide approach to toxic substances.
- Work toward consistent international approaches to toxic substances control.

ORGANIZATION AND STAFF

The organization and staff to implement TSCA are almost entirely new. Unlike most other laws for which EPA is responsible, the predecessor program was extremely modest. When TSCA was enacted in October 1976, the toxic substances program had fewer than 50 people. To carry out the new responsibilities, a staff of 500 or more will be built up in the next few years. Recruiting and hiring a high-caliber staff with the necessary expertise is receiving high priority, and will require continuing time and effort.

DETERMINING PRIORITIES

The reach of the Toxic Substances Control Act is extremely broad. It encompasses some 70,000 chemical substances in commerce, not including thousands of others used for research and development. With the mandate to investigate risks from such a multitude of substances and to regulate where appropriate, EPA's actions must be selective. A major objective is to develop a system for assigning priority to chemical substances for investigation and regulatory action. Certain general principles will guide the process.

In all decisions under TSCA, the relative risk presented by a chemical substance will weigh heavily. Two principal factors define risk: Potential adverse effects and exposure. evaluation of a risk involves both policy and scientific considerations. For instance, assigning more or less importance to acute versus chronic effects raises basic policy questions. Potency—the magnitude of the probable effects that a substance will produce at various levels— and exposure both involve scientific determinations.

Taken together, the principal factors, potential effects and exposure, indicate the nature and degree of risk. To determine whether risks are "unreasonable" for purposes of actions under TSCA, EPA must consider another complex set of factors. Priority for taking action to reduce a risk may depend not only on the degree of risk but also on the magnitude of the social and economic costs and benefits of the action, and the effects of alternative substances which might be substituted for the substance in question. In general, good information on all the relevant factors will characterize substances which receive high priority for action. Yet, for some substances, the known severity of effects or the extent of estimated exposure may warrant a high priority for action despite uncertainties about other factors.

Priorities will also be affected by efficiency and resource considerations. A significant factor in EPA's decision to take action under TSCA will be the relative effectiveness of controlling the risk under TSCA, compared with some other legal authority. At the same time, EPA will explore alternatives to regulatory actions—measures, for example, which prompt industry to test substances or adopt appropriate

safeguards without mandatory requirements.

Priorities may be different for different activities. For example, limited knowledge about the effects of a chemical in high volume production might give the chemical a high priority for testing, but a low priority for control action. However, data developed under a testing requirement might lead to a decision to initiate control action. In some instances, if currently available data are inconclusive, limited regulatory action (such as labeling) might be taken, to warn of suspected hazards pending the collection of more definitive data.

EPA has already considered some kinds of effects to emphasize in setting priorities and has reached some working decisions. Some of the decisions are straight forward. For example, where acceptable tests for a particular effect are not available, EPA will not require testing. Other decisions are more complex.

In general, chemical substances suspected of producing chronic health effects will take higher priority than those with potential acute effects. The acute effects of chemical substances in commerce are better known and more easily controlled than are chronic or latent effects, which may appear after a long latency period or exposure over an extended period of time, and are thus much more difficult to identify.

Higher priority will be given to possible toxic effects that are irreversible or are slowly reversible and debilitating; included in these two categories are oncogenic, mutagenic, teratogenic, and neurotoxic effects. Consideration will also be given to cardiovascular, respiratory, immunological, dermatological, and reproductive effects. EPA will be more concerned with the severity and relative irreversibility of the effects than with which systems are affected.

In considering environmental effects, EPA will give high priority to substances which are both widely dispersed and also threaten human health (for example, through contamination of water supply), or else endanger commercially important species, or threaten to disrupt significant ecosystems. Toxic effects on individual plants or animals that do not threaten species populations or ecosystems will take lower priority. These criteria for determining priorities will be further developed and refined with experience.

HAZARD ASSESSMENT PROCESS

EPA has developed a multistage process for identifying substances of priority concern from among the tens of thousands of chemical substances under TSCA's purview. EPA will use these procedures to select the substances most likely to present unreasonable risks to human health or the environment. EPA will proceed step-by-step from initial selection of chemical substances for review, to a preliminary evaluation, to progressively more intensive assessments. Decisions will be made at the end of each stage whether to continue to the next. At the final stage there will be a detailed risk assessment adequate for initiating regulatory actions under TSCA or other relevant authorities.

Substances will first be selected on the basis of structure/activity correlations, biological activity, production volume, potential for environmental release and exposure, persistence, and other factors. On the basis of these criteria, EPA will score substances using a system based on that used by the Interagency Testing Committee.[1] In addition, candidates may come from several other sources, such as citizen's petitions, recommendations by other agencies, notices of substantial risk submitted under TSCA, monitoring data, or categories of particular concern (such as "flame retardants").

The initial evaluation will use readily available production, use, and effects data. It may prompt several possible actions: EPA may conduct a more thorough hazard assessment; develop additional information through reporting or testing requirements; refer the substance for further evaluation by other EPA programs or other Federal agencies; or designate the substance as "low priority." The results of the evaluation (reported in a Chemical Hazard Information Profile) and recommendations for action are then considered by an agencywide committee, the Toxic Substances Priorities Committee.[2]

Substances that EPA believes warrant further evaluation will undergo the next level of review. In addition to candidates selected from this process, EPA may select some from those reviewed by the Interagency Testing Committee or identified by review of substantial risk notices. During this phase, EPA will prepare a Chemical Source/Effects Report that summarizes the available effects data and analyzes possible sources of exposure associated with manufacturing, processing, distribution, use, and disposal. Preliminary control option papers will consider possible regulatory and nonregulatory measures. The Toxic Substances Priorities Committee will review these alternatives from the perspective of other EPA programs and authorities.

A decision to advance to the final assessment stage requires a commitment of substantial resources. In this final stage, EPA may conduct monitoring to develop or confirm estimates of exposure. The Office of Toxic Substances will prepare a Chemical Risk Evaluation Document that includes a detailed evaluation of effects and exposure data. Draft documents concerning the relative risks and benefits of the substance and possible actions will be circulated within EPA for review and comment. The Toxic Substances Priorities Committee will have an opportunity to discuss the options. After a decision that the risks should be addressed under TSCA or another of EPA's authorities, EPA's normal regulatory process will begin.

TESTING

One of the most important provisions of the Toxic Substances Control Act is the authority in section 4 to require manufacturers and processors to test chemical substances and mixtures for health and environmental effects. Very few substances have been tested for long-term or chronic effects. Additional testing of substances with potentially high exposure or those suspected of causing harmful effects will greatly help EPA to meet the objectives of TSCA.

As a first step, EPA is developing a series of test standards for different health and environmental effects. The standards will specify acceptable test protocols and methods for developing, analyzing and presenting test data. To the extent possible, these test standards will be consistent with those in the testing guidelines issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Because many substances have both pesticide and nonpesticide uses, discrepencies between the testing protocols required under TSCA and FIFRA could lead to costly duplication.[3]

The first standards will be to determine whether chemical substances are oncogens, or tumor-causing substances. The second standards will be for chronic effects on liver, kidney, reproductive, circulatory, and other organ systems. They will be followed by standards for acute and subchronic toxicity, chemical fate, and persistence. Further in the future, EPA will

[1] The Interagency Testing Committee, established by sec. 4(e) of TSCA, is responsible for recommending chemical substances for testing under sec. 4. In October 1977, the committee published their methods for selecting substances (42 FR 55026). The committee's work and relation to EPA are described in a following section.

[2] The composition and role of the Toxic Substances Priorities Committee are discussed in a later section.

[3] EPA is also working to insure that TSCA test standards are consistent with those of the Food and Drug Administration (FDA), Consumer Product Safety Commission (CPSC), Occupational Safety and Health Administration (OSHA), and other Federal agencies. This effort is primarily through the interagency regulatory liaison group (EPA, FDA, CPSC, and OSHA).

issue test standards for teratogenicity and reproductive effects, mutagenicity, and additional health and environmental effects.

and laboratories that will perform the testing. Industry's responsibility extends beyond minimal compliance with the testing requirements. EPA

reasons for not initiating rulemaking. Thus far, EPA has found that the October 1977 ITC recommendations seem appropriate. The initial testing rules

cation system could be used to gather data for hazard assessment, premanufacture notification, and other purposes. For screening substances for

Notices of substantial risk. Section 8(e) requires any person who manufactures, processes, or distributes a chemical substance in commerce to

that identity was entitled to confidential treatment.

Congress intended EPA to preserve confidentiality to the maximum

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issue test standards for teratogenicity and reproductive effects, mutagenicity, and additional health and environmental effects.

Specific test standards under TSCA depend in part upon the availability of well-validated test methods. For example, there are no generally accepted test methods for some environmental effects. Nor are there short-term predictive tests for most health and environmental effects. An important part of EPA's program will be to develop and validate urgently needed testing methods. EPA will monitor advances in the state-of-the-art and revise prescribed testing standards accordingly.

Wherever possible, EPA plans to develop a hierarchical or sequential approach to testing requirements. Under this approach requirements for higher-level tests (such as long-term testing for oncogenicity) will depend in part on the results of lower-level tests (such as mutagenic tests). This approach will be most successful when reliable shortterm, inexpensive predictive tests are available. If such tests do not exist, such factors as the chemical structure of a substance, physical, and chemical properties, preexisting toxicity data, or extent of exposure, may be used to trigger testing.

Measures to insure that tests are properly conducted and accurately reported are critical to the success of the testing program. Recent disclosures of inaccurate or fraudulent test data submitted to the Government underline the importance of quality control.

EPA is developing standards for quality assurance that will prescribe general procedures for conducting tests required by TSCA. The standards will address a variety of factors that could affect the quality of the test data, including the training and experience of laboratory personnel, the care, feeding, and examination of test animals, the condition of laboratory equipment, and pathology procedures. To the extent possible, the standards for quality assurance will be consistent with the good laboratory practices developed by the Food and Drug Administration (FDA).

Enforcement of the testing and quality assurance standards through selected laboratory inspections and data audits will be an important aspect of the testing program. Under an interagency agreement, FDA will frequently conduct laboratory inspections for purposes of TSCA. If a laboratory is not in compliance, EPA will not accept the test results. Records kept during the course of an experiment will frequently be compared with the reported results. EPA may also examine pathology slides of test animal tissues to evaluate the reported conclusions.

The success of the testing program rests largely with the chemical firms and laboratories that will perform the testing. Industry's responsibility extends beyond minimal compliance with the testing requirements. EPA expects that if an unanticipated adverse effect is observed, the responsible party will make further tests or analyses. Similarly, if a firm considers a recommended test method inappropriate for a certain substance, it should propose an alternative.

The selection of chemical substances to be subjected to test standards is another critical aspect of the testing program. Under TSCA, if a substance may present an unreasonable risk or is produced in substantial quantities and may have significant human or environmental exposure, testing may be required as necessary to evaluate its risks. EPA's systematic hazard assessment process, described in the previous section, will identify candidate substances for testing. Each candidate will be screened further on the basis of previously developed data, structure/activity correlations, production volume, use and exposure information, and other factors.

In addition to the substances identified through the hazard assessment process, the Interagency Testing Committee (ITC) comprised of representatives of eight Federal agencies, may recommend substances or classes of substances for testing. For substances designated by the Committee for special attention, the Administrator must either begin rulemaking to require testing or publish his reasons for not doing so within 12 months after receiving the Committee's recommendation.

To date, the Interagency Testing Committee has recommended 21 chemical substances and classes of substances, in three groups. All have been designated for priority attention by EPA. In October 1977, the Committee provided its first set of recommendations which are: Alkyl epoxides; alkyl phthalates; mono- and di-chlorinated benzenes; chlorinated paraffins; chloromethane; cresols; hexachloro-1,3-butadiene; nitrobenzene; toluene; and xylenes. The second set submitted in April 1978 included: Acrylamide; aryl phosphates; chlorinated naphthalenes; dichloromethane; halogenated alkyl epoxides; polychlorinated terphenyls; pyridine; and 1,1,1-trichloroethane. The latest recommendations were received in October 1978: Tri-, tetra-, and penta-chlorinated benzenes; 1,2 dichloropropane; and glycidol and its derivatives.

As required by TSCA, EPA responded to the ITC's first set of recommendations within 12 months. Because EPA had not yet completed its review of the recommended substances and the development of suitable test standards, EPA published a FEDERAL REGISTER notice in October 1978 stating its reasons for not initiating rulemaking. Thus far, EPA has found that the October 1977 ITC recommendations seem appropriate. The initial testing rules for oncogenicity will probably encompass many of the ITC candidates.

RECORDKEEPING AND REPORTING REQUIREMENTS

A principal aim of the information program under TSCA is to meet the needs of potential data users without requiring duplication or otherwise imposing unreasonable burdens on industry. As a first step, EPA is identifying the specific information needs within EPA and other Federal agencies. At the same time, EPA is surveying existing information-gathering programs to determine the most efficient means of obtaining the desired information. To the extent possible, reporting requirements will be consolidated. In addition, EPA will survey the industry's current systems and policies for recordkeeping to assess the likely impacts of different approaches. On the basis of these and other studies, a plan for implementing TSCA's information-gathering authorities will be prepared.

In gathering information under section 8(a) EPA will use modular reporting rules, which recognize that different degrees of specificity are appropriate for different purposes. Reporting use information in general categories (e.g., "solvents used in consumer products") rather than in terms of specific applications (e.g., "solvents used in consumer products for spot removal") may be adequate for some purposes such as selecting substances for preliminary screening. Substances undergoing further assessment may require more detailed information. Eventually, several levels of reporting requirements may be developed for various kinds of information.

A primary goal for the next few years is to develop a data base that will help identify substances that may present the greatest risks. The collection of data under the inventory reporting requirements of December 1977 was a first step. Reports submitted under these requirements include chemical identity, production, and plantsite information for an estimated 70,000 substances in commerce. As a next step, EPA plans to require general use information for substances produced in substantial quantities or for substances identified as potential candidates for hazard assessment.

A uniform system for identifying uses is critical to accurate reporting and systematic data retrieval and analysis under TSCA. On July 25, 1978, EPA published approximately 850 terms describing chemical uses, and invited public comment on the applicability, utility, and technical merit of the proposed terms. This use classification system could be used to gather data for hazard assessment, premanufacture notification, and other purposes. For screening substances for preliminary review, the 850 categories may be coalesced into a small number of broad categories. On the other hand, for purposes of regulatory actions EPA may define subcategories to obtain more explicit use information.

Definition of small manufacturers and processors. TSCA's section 8(a) provides that "small manufacturers and processors" are exempt from general reporting requirements except for information on chemical substances or mixtures subject to a proposed or final rule or order under TSCA. EPA is developing standards for determining which manufacturers and processors quality as "small."

Because the potential costs of different reporting requirements vary widely, EPA is seriously considering different standards for the "small manufacturer and processor" for different purposes. It is relatively inexpensive, for example, to supply data in broad production ranges or use categories for purposes of screening substances. On the other hand, it will be far more burdensome to report the extensive and precise information that may be necessary for specific regulatory purposes. EPA is currently analyzing available data and consulting with the Small Business Administration to determine whether different standards would be appropriate for successively more demanding requirements.

Selective approach to requirements. EPA intends to make selective use of reporting requirements. Before issuing a reporting requirement, EPA will determine what data are already available, and will direct most requirements to selected substances or categories. For example, EPA does not now intend to update the plantsite and production information collected for all substances under the initial reporting requirements. EPA needed this information to establish a profile of the chemical industry and to determine initial priorities based on production volumes and geographic considerations. As discussed above, EPA's next requirements under section 8(a) will concentrate on obtaining general use information for selected substances.

Compatible recordkeeping. EPA will encourage companies to design their recordkeeping systems to be compatible with the formats developed for TSCA, especially for health and safety data. Common formats will facilitiate analysis of information collected from a number of sources. In addition, EPA will prescribe a general format for keeping records of adverse effects under section 8(c).

Notices of substantial risk. Section 8(e) requires any person who manufactures, processes, or distributes a chemical substance in commerce to notify EPA immediately of "information which reasonably supports the conclusion" that such a substance "presents a substantial risk of injury to health or the environment." This provision was effective on January 1, 1977. In March 1978, EPA published a policy statement providing guidance for submission of 8(e) notices. The Agency had received approximately 240 notices by September 1978.

Each notice is reviewed as expeditiously as possible and any special problems are referred to the appropriate authority. The majority of notices so far have concerned workplace problems and have been referred to the Occupational Safety and Health Administration. Several notices have prompted evaluation under the hazard assessment process described earlier.

EPA's experience to date suggests certain problems. Of the major chemical companies that employ over 90 percent of the workers and conduct a substantial proportion of research on health and environmental effects, very few have submitted notices of substantial risks. The notices have generally lacked sufficient detail. In almost every case, EPA must contact the submitter for clarification or further information.

EPA is considering clarifying or revising the March policy statement, possibly giving examples of information that should be reported in contrast with examples of inappropriate notices. The revised statement would emphasize that people who submit notices should be prepared to furnish the necessary support data initially or upon request.

Confidentiality. There is an inherent tension in TSCA between requirements to make information available to the public and requirements to protect information entitled to confidential treatment. This conflict emerged first in the context of the inventory reporting regulations. Section 8(b) requires EPA to publish a list of each chemical substance manufactured or processed in the United States. The purpose of the list was twofold: To define "new chemical substances" for purposes of premanufacture notification under section 5(a) and to inform the public of the substances to which they may be exposed. Section 14, however, prohibits disclosure of any confidential business information exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)) except in specific circumstances. According to this provision, EPA could not publish in the inventory a chemical name that would reveal the specific chemical identity of a substance if that identity was entitled to confidential treatment.

Congress intended EPA to preserve confidentiality to the maximum extent practicable without impairing administration of TSCA. Under the inventory reporting regulations, EPA allowed manufacturers, importers, and processors to claim as confidential specific chemical identities. Instead of publishing an incomplete inventory, however, EPA will publish generic chemical names to reveal at least the types of confidential substances in commerce. In complying with the inventory reporting requirements, anyone claiming confidentiality for a chemical identity had to answer detailed questions on the adverse competitive effects of disclosure, the precautions taken to prevent disclosure, and other items. EPA will review these claims critically and will challenge any proposal for a generic chemical name that seems inappropriate.

These same issues will arise for premanufacture notifications submitted to the Agency. EPA is required to publish in the FEDERAL REGISTER notice of receipt of premanufacture notifications. EPA will protect the confidential identities of substances in these notices. In addition EPA will continue to add chemical substances to the inventory once they are manufactured for commercial purposes using the same approach adopted for compiling the initial inventory.

Section 14(b) explicitly provides for disclosure of health and safety studies, but allows for protection of confidential data whose release would disclose the processes used in manufacturing or processing the substance or portions of a mixture. In the premanufacture rulemaking, EPA will solicit comments on its proposed manner for handling specific chemical identities as part of health and safety studies under section 14(b).

Under the inventory reporting regulations, manufacturers were allowed to claim confidentiality for data such as the company name, site, and production quantities. These claims had to be substantiated at the time the information was submitted, but the requirements were less rig than for claims with respect to ci. nical identities. If the claims relating to company name, site, and production data are so numerous as to impair use of the data, EPA may require further substantiation for such claims.

To disclose as much useful information as possible to the public, EPA is developing procedures to aggregate or otherwise mask confidential production, plantsite, and other data. Even when specific production volumes are confidential, the aggregate production for a substance may not be. In devising formulas for masking confidential

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information. EPA is consulting the Bureau of the Census and the International Trade Commission which have procedures for this purpose.

tices, and chemical uses. For all substances, certain basic information will be required concerning chemical identity, projected uses and exposure, by-

substance. In addition to complex scientific issues, EPA must consider the impact on innovation. Few manufacturers are willing to invest in extensive

REGULATORY ACTIONS UNDER SECTION 6

TSCA provides unique authority to reach the critical aspects of most

to a category of chemical substances or mixtures. EPA may define categories in any reasonable way, except that

use its other authorities more effectively.

For example, data developed under

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information. EPA is consulting the Bureau of the Census and the International Trade Commission which have procedures for this purpose.

EPA has recently adopted final internal security procedures for physical handling of confidential data. The Toxic Substances Control Act Confidential Business Information Security Manual describes the procedures for transmission, receipt, storage, access, removal, and disposal of confidential information submitted to EPA, and the circumstances under which information may be disclosed to EPA's regional offices, laboratories, and other Federal agencies.

In addition, EPA amended its business confidentiality regulations (43 FR 39997, September 8, 1978). Among other things, these amendments bring these regulations in conformity with the procedures required by TSCA's section 14 for handling confidential business information. For example, EPA will notify affected businesses before disclosing confidential business information to the general public and when relevant in proceedings under various EPA statutes. In addition, EPA will notify affected businesses before disclosure to contractors, other Federal agencies, and congressional committees even though such advance notice is not legally required.

PREMANUFACTURE NOTIFICATION

Development of premanufacture notification requirements and implementation of the premanufacture review program is EPA's top priority TSCA activity for fiscal years 1978 and 1979. As provided in section 5, any person intending to manufacture or import a "new" chemical substance must submit a premanufacture notice at least 90 days before he intends to manufacture or import the substance for commercial purposes. Any chemical substance not included on the inventory of substances compiled under section 8(b) will be considered "new". EPA will publish the inventory in early 1979; the premanufacture notification requirements will be effective 30 days later.

EPA will soon propose rulemaking in the FEDERAL REGISTER for reporting "new" chemical substances under section 5. The premanufacture rules will govern notification procedures. Notice forms, an important part of the proposal, will also be published for comment. Testing protocols will not be part of the initial premanufacture proposal. Instead EPA will solicit comment on alternative approaches to testing guidance.

In developing its approach to implementing premanufacture notification, EPA must consider the enormous diversity among chemical substances, manufacturing and processing practices, and chemical uses. For all substances, certain basic information will be required concerning chemical identity, projected uses and exposure, byproducts, disposal methods, and a summary of the toxicity and other tests performed. EPA's evaluation of new substances will depend upon an assessment of their potential health and environmental effects and the potential exposure associated with the manufacture, processing, use, and disposal of the substance.

A manufacturer will also have an opportunity to explain why in his judgment there will be no unreasonable risk, taking into account economic, environmental, and health benefits associated with the substance as well as the nature of the substances for which it may be substituted. EPA will evaluate the notice on the basis not only of the information and justifications provided by the manufacturer, but also in light of available information on similar substances, exposures associated with comparable uses or control technologies, and other relevant factors.

An important aspect of this approach is to insure that the future manufacture and use of the substance do not result in unreasonable risks. For certain substances, EPA may require reporting of any use that would exceed certain conditions of exposure as a "significant new use" under section 5, as discussed below. EPA may frequently use section 6 to require that manufacturers notify employees and customers of the hazards presented by the substances and necessary precautions. A wide variety of other possible actions include adoption of workplace standards by the Occupational Safety and Health Administration.

Over the past several months, EPA has undertaken an intensive effort to develop guidelines for testing new chemical substances. The objective was to identify a relatively inexpensive test system that EPA would consider adequate for developing data on the physical and chemical properties, environmental fate characteristics, and health and ecological effects of new substances. While EPA will continue work on developing a testing program for new substances, the initial premanufacture package will not propose specific testing guidance. Instead, EPA will discuss a possible approach and alternatives and solicit public comment.

Development of testing guidance poses many difficult scientific, economic, and policy issues. Not all tests are appropriate for every chemical substance. The relevance of various tests will depend upon the structure, physical and chemical properties, results of acute and other preliminary tests, and the levels and types of exposure that may be associated with the substance. In addition to complex scientific issues, EPA must consider the impact on innovation. Few manufacturers are willing to invest in extensive testing of a substance if not justified by its potential commercial returns. At the same time, EPA must have adequate data to carry out its responsibilities under TSCA to assess the risks of substances submitted for premanufacture review. These and other issues will be discussed further in the proposed rules for premanufacture notification.

SIGNIFICANT NEW USE

Under section 5, EPA can designate certain uses of chemical substances as "significant new uses" and require notification before a substance is manufactured or processed for that use. This provision recognizes that the risk a substance presents is in large measure determined by its potential exposure. A highly toxic substance that is totally consumed in a closed reaction process can pose relatively little risk of injury. If it is produced in millions of pounds for use in a household product, however, the risks may be substantial.

By designating certain uses of a substance as "significant new uses", EPA will be able to review changes in exposure and prohibit those that may result in unacceptable risks. This is particularly important for following up new chemical substances after premanufacture review. If EPA reviews new substances on the basis of certain conditions of exposure, it may be very important to insure that the substance is not afterwards manufactured or processed for uses that would result in different exposures.

EPA is considering alternative definitions of "significant new uses." Some definitions may focus on particular substances or classes of substances and future uses that could result in potentially hazardous levels of exposure. Others may focus on "uses" broadly defined to include production volumes, distribution, disposal practices, and other factors. Application of any substance or broad categories of substances for designated "uses" would be considered "a significant new use."

EPA is investigating significant new use rules ranging from some very specific to quite general. General ones would apply to "substances (with generally similar toxic properties) for all uses which may result in (some mode of exposure) at (some levels related to the general toxicity) to (some population)". Decisions on significant new use rules must be made while keeping in mind the resources available to review the notices, the feasiblity and effectivness of alternative actions, competing priorities, and the importance of such rules in the overall strategy for reviewing chemical substances.

REGULATORY ACTIONS UNDER SECTION 6

TSCA provides unique authority to reach the critical aspects of most chemical problems. Other laws and regulatory authorities focus on chemical substances as they come out of an outfall pipe or stack, or as they are present in the workplace or in a consumer product. Congress anticipated that EPA under TSCA would take a preventive approach and control hazards at their origins. TSCA's authority extends to every facet of the chemical industry from research and product development, test marketing, manufacturing, processing, distribution, use, to disposal.

Armed with TSCA, EPA can address hazards that escape the reach of other laws. Sometimes regulations under media-specific laws have resulted in simply transferring problem chemicals from one medium, which is regulated, to another that is not (or not yet). Under TSCA, EPA can act to control the total risk from substance, in any medium or content.

EPA will initially emphasize control of known hazards posed by existing substances plus hazards identified in the premanufacture notification process for "new" substances. EPA's first action under TSCA was to promulgate regulations on the labeling and disposal of polychlorinated biphenyls (PCBs). The second phase of PCB regulations, implementing a ban on manufacture, processing, distribution, and use was formally proposed on June 7, 1978.

Last March, in a joint action with the Food and Drug Administration and the Consumer Product Safety Commission, EPA banned most aerosol uses of chlorofluorocarbons (CFC's). EPA is now investigating ways to further reduce CFC emissions, specifically from such nnonaerosol sources as air conditioners, refrigerators, solvents, and foam-blowing.

A number of well-recognized hazardous substances and alternative approaches to them are being evaluated. Among the substances are asbestos, cadmium, benzidine dyes, mercury, lead, arsenic, and trichloroethylene.

Considering the breadth of TSCA's mandate, a most significant activity is the development of a systematic approach for selecting substances for possible regulatory action. An earlier section described in some detail the hazard assessment process developed for this purpose. As EPA gains more knowledge about the effects and exposure of substances, this process will be refined.

EPA intends to make wide and varied use of categories under different sections of the Act. Section 26(c) provides that any authority under TSCA that applies to a chemical substance or mixture may also be applied to a category of chemical substances or mixtures. EPA may define categories in any reasonable way, except that substances cannot be treated categorically solely on the basis that they are "new".

EPA is considering the use of categories in developing a labeling requirement. At present few chemical substances are labeled with warnings to workers, consumers, and others on their chronic effects. EPA is now investigating Federal labeling requirements and existing practices in industry. Ideally, EPA could create under the auspices of TSCA a uniform system for labeling chemical hazards wherever they appear—in research laboratories, manufacturing sites, consumer products or wherever. The foundation of any labeling system is the classification of various levels of acute and chronic hazards. The categories evolving from this effort could affect many aspects of TSCA implementation, such as reporting requirements or priorities for hazard assessment.

EPA economists will carefully analyze the potential impacts of any action under TSCA. Because many chemical firms have very few employees, regulatory actions under TSCA will frequently affect small businesses. EPA and the Small Business Administration have discussed loans to help small manufacturers and processors bear the costs associated with TSCA requirements.

Ideally, the influence of TSCA implementation will go far beyond specific regulatory actions. Actions to prompt voluntary measures by industry will be a key element of EPA's strategy. Labeling requirements, for example, may significantly affect industry behavior. Public disclosure of the relative hazards of chemical products might also create a market demand for safer products.

Similarly, EPA hopes to raise awareness among chemical manufacturers, insurance companies, investors, and others that evaluating new products for their risks to human health and the environment is highly important. Using technology to reduce risks from chemical substances is a major feature of many environmental laws, including TSCA. EPA will work with the chemical industry to encourage technological solutions whenever appropriate, instead of imposing more costly restrictions under TSCA.

INTEGRATED APPROACH TO TOXIC SUBSTANCES

An integrated approach to toxic substances is a major Agency-wide objective. TSCA gives EPA this opportunity. It extends to all aspects of a substance's lifecycle and enables EPA to use its other authorities more effectively.

For example, data developed under the testing provisions of TSCA on the risks of pollutants in drinking water or in ambient air could provide the basis for actions under the Safe Drinking Water Act or Clean Air Act. Information on the effluent and emissions associated with the manufacture of new substances will come from premanufacture notification. If necessary, EPA could impose effluent limitations on a plant under the Clean Water Act to control discharge of toxic substances. Information on chemical wastes and disposal methods may prompt action under the Resource Conservation and Recovery Act.

As an element of a strategy for integrating control over toxic substances, EPA has established the Toxic Substances Priorities Committee. it is chaired by the Assistant Administrator for the Office of Toxic Substances and consists of high level representatives from all the other Assistant Administrators and the Office of General Counsel. Consistency in EPA's various actions to protect against the risks from substances in different media is a main concern of the Committee. TSCA, the Resource Conservation and Recovery Act, and amendments to the Clean Air and Clean Water Acts, are the source of many new EPA programs to deal with toxic substances. The Committee will guide appropriate regulatory actions under all these laws at an early stage. It will also serve to coordinate information collection and contractor efforts, and will identify gaps or duplication.

The EPA Regional Offices will play an essential role in linking existing programs under the Clean Air Act, Clean Water Act, other media-specific authorities with TSCA. The key to controlling toxic substances is integration, not the establishment of one more new "categorical" program under TSCA.

EPA envisions an ideal regional toxic substances program to include a broad range of activities: developing communication channels among EPA's single media programs; working with State agencies and other Federal regional programs; coordinating information exchange, monitoring and enforcement; creating procedures for systematic evaluation and response to chemical crises; assisting industry in complying with TSCA requirements; developing programs for greater public understanding of toxic substances problems; and identifying and analyzing regional toxic substances problems.

INTERNATIONAL APPROACHES TO TOXIC SUBSTANCES

Every aspect of TSCA has international ramifications. Actions affecting

manufacturers also apply to importers and thereby affect foreign chemical producers. Foreign governments and manufacturers have expressed particu-

tices and effective means of enforcing them. Also underway is an information exchange system for technical data and notices of administrative ac-

Review Division is responsible for reviewing new substances and significant new uses under section 5.

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manufacturers also apply to importers and thereby affect foreign chemical producers. Foreign governments and manufacturers have expressed particular interest in the approach EPA is taking toward "new" chemical substances. EPA has met with representatives of governments of the European Communities, Canada, and Japan, and others to discuss these requirements especially in relation to the other governments' approaches to "new" substances. The risks from many substances such as polychlorinated biphenyls and chlorofluorocarbons cannot be dealt with effectively by any one nation alone.

Several governments have recently enacted laws dealing with toxic substances and many others are considering legislation. Because most nations are in a formative stage of implementing their authorities, there is now a unique opportunity to develop consistent approaches and to avoid creation of unnecessary barriers to international trade. In April 1978, EPA participated in discussions at Stockholm, Sweden, with representatives of 16 nations and several international organizations concerned with toxic substances. The Stockholm delegates identified several priority areas for international initiative.

Many of the Stockholm concerns are addressed in the ambitious program of the Organization for Economic and Cooperative Development (OECD). These efforts include the development of consistent testing methods and standards for good laboratory practices and effective means of enforcing them. Also underway is an information exchange system for technical data and notices of administrative actions. Other experts are examining the legal and policy impediments to disclosure of health and safety data and methods for analyzing the economic impacts of regulatory actions. The United States is committed to such international harmonization efforts.

APPENDIX—ORGANIZATION OF THE OFFICE OF TOXIC SUBSTANCES

The chart below indicates the organization for the Office of Toxic Substances (OTS). The Assistant Administrator (AA) for Toxic Substances reports directly to the EPA Administrator. Under the AA, are four Deputy Assistant Administrators (DAA's). The DAA for pesticide programs is primarily responsible for implementing the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The other three DAA's are responsible for implementing the Toxic Substances Control Act (TSCA). Over the next few years, OTS will integrate many of the scientific, technical, and other support activities common to implementation of FIFRA and TSCA.

The following briefly describes the general functions of each of the three Deputy Assistant Administrators responsible for implementation of TSCA.

CHEMICAL CONTROL

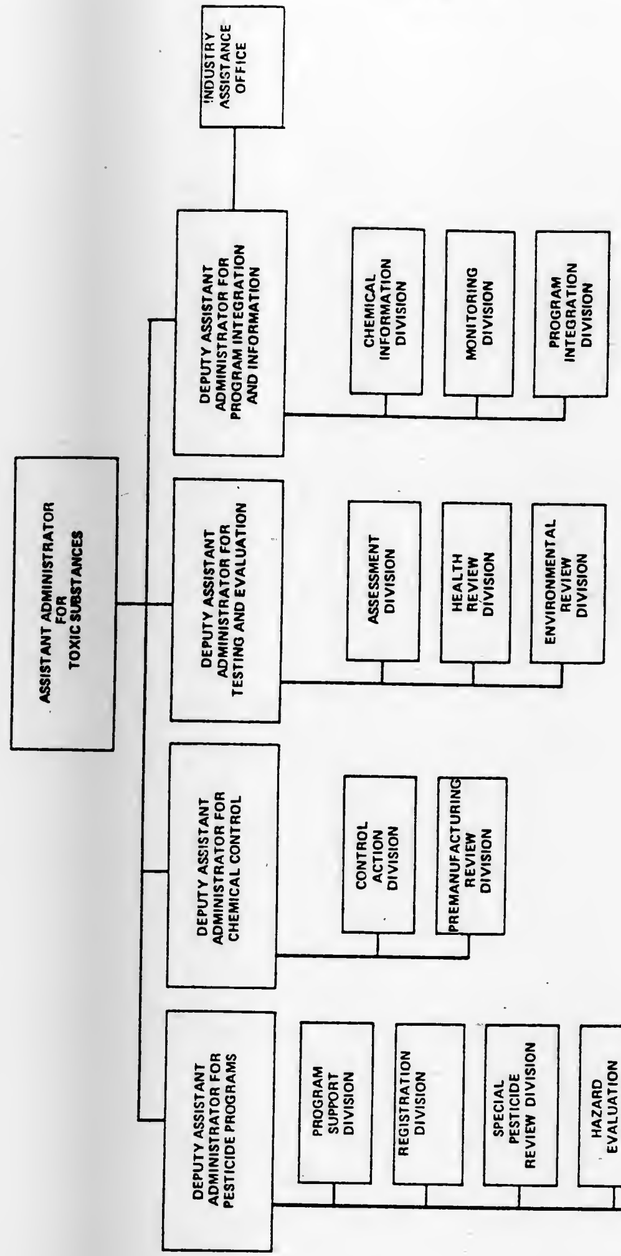
The Deputy Assistant Administrator for Chemical Control is responsible for the regulatory control program under sections 5 and 6 of TSCA. The Control Action Division determines whether risks posed by chemical substances to health or the environment are "unreasonable" and takes regulatory actions under section 6. The Premanufacture Review Division is responsible for reviewing new substances and significant new uses under section 5.

TESTING AND EVALUATION

The Deputy Assistant Administrator for Testing and Evaluation is responsible for identifying and evaluating hazards that chemical substances and mixtures may present to health and the environment. The Assessment Division is primarily responsible for the Hazard Assessment Process and for selecting substances to be tested under section 4. The Health Review Division develops testing standards for health effects and assesses risks to health. The Environmental Review Division develops testing standards for evaluating chemical fate, persistence, and environmental effects, and assesses environmental risks.

PROGRAM INTEGRATION AND INFORMATION

The Deputy Assistant Administrator for Program Integration and Information is responsible for promoting integration and coordination of toxic substances activities, and for information development and retrieval. The Industry Assistance Office is a focal point for communication with the industrial community concerning implementation of TSCA. The Chemical Information Division is responsible for implementing the reporting and recordkeeping rules and regulations under section 8 and for developing procedures for automated storage, retrieval, and processing of information. The Monitoring Division is responsible for environmental, human, animal, and biota monitoring and mass balance studies in support of OTS activities. The Program Integration Division is responsible for coordination of TSCA activities with other EPA programs, regional offices, Federal, State, and local agencies, and with foreign governments and organizations.



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federal register

THURSDAY, OCTOBER 26, 1978
PART V

CIVIL AERONAUTICS BOARD

AIR CARRIER

Preservation of Accounts, Records and Memoranda

V 43 / 208 OC 26 78

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 249]

nal paper form permanently or for a minimum number of years before microfilm copies can replace them. A significant change proposed by this rule

tions, names, and titles of the custodians.

RETENTION OF RECORDS DURING ENFORCEMENT PROCEEDINGS. THIRD-

years after the completion of each flight or series of flights: (1) All customer reservations records; (2) all contracts with individual tour partici-

carriers, and (5) clarify the regulation by rewriting it in plain English.

COMMENTS ON BURDEN

AUTHORITY: Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.

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[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 249]

[EDR-365, Docket 33725, Dated October 20, 1978]

PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS, AND MEMORANDUMS

Revision of Record-Retention Requirements and Reissuance of Part 249

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking would revise the Board's rule for the preservation of air carrier accounts, records, and memorandums. The rulemaking is designed to make the Board's record-retention requirements less burdensome and easier to understand and administer.

DATES: Comments by December 26, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 33725, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: The core of part 249 of the Board's economic regulations has not been revised in any major way since 1957. Since that time, there have been many developments in the technology for producing, retaining, and retrieving information.

We are, therefore, proposing to reissue part 249 so as to update the regulations to enable air carriers to take advantage of the modern recordkeeping systems that best suit their needs. We have also rewritten and reorganized the regulation to ease understanding and administration of the record-retention requirements.

The significant provisions of part 249 proposed by this rule are summarized below:

Provision for Transfer of Records to Microfilm

Under the current regulation, most records must be retained in their original paper form permanently or for a minimum number of years before microfilm copies can replace them. A significant change proposed by this rule is the provision that carriers would be allowed to replace paper documentation with microfilm copies at any time. We are proposing this change in the regulation because the many improvements in the quality and accessibility of microfilm copies of documents have made such copies an acceptable alternative to original paper records. This new provision would relieve carriers from unnecessary handling and storage of paper documents and result in a significant cost savings for the carriers.

Acceptance of Various Media Forms as Original Documents

The proposed rule would continue to provide that records originally created on nonreadable media such as magnetic tapes, discs, and punched cards are "original documents." It would also be made clear that carriers would not be required to create and store paper stock or microfilm copies of records initially prepared on nonreadable media solely to satisfy record retention requirements. However, if a carrier transferred a paper stock or microfilm record to nonreadable media, it would be required to retain a paper stock or microfilm copy until the prescribed retention period expires unless the Director, Bureau of Accounts and Statistics, authorizes earlier destruction.

Designation of Supervisory Officials and Provision for Indexing Records

The proposed rule also includes two provisions which relate to the administration of records and are designed to minimize the amount of time field auditors and investigators spend in locating needed records. Since time spent in locating records can add to the length of field examinations, both the Board and the carriers should benefit from these provisions.

First, each air carrier would be required to designate one or more of its personnel to be responsible for supervising its program for the preservation, storage, and authorized destruction of records. The carrier would be required to notify the Director, Bureau of Accounts and Statistics, of the name and address of the person(s) designated as the supervisory official and any later changes.

Second, each air carrier would be required to maintain, at its principal office, a comprehensive index of all records being preserved. The index should show the physical location of the various classes of records, the periods to which they relate, and the locations, names, and titles of the custodians.

Retention of Records During Enforcement Proceedings, Third-Party Complaint Cases, and Litigation in Federal Court

To assure the availability of relevant records when carriers are involved in outstanding enforcement proceedings, third-party complaint cases, or litigations in Federal court involving the carrier and the Board, we propose to add provisions in the regulation which would restrict the destruction of records that may be needed in these cases until the carrier receives, in response to its written application, formal authorization of record destruction from the Director, Bureau of Accounts and Statistics. Part 249 currently does not provide guidelines for the retention of records when carriers are involved in such cases, and consequently records can be disposed of after the expiration of their stated retention period even though they may still be needed for the disposition of a case.

Retention of Subsidy Records

We are proposing a retention period of 3 years for records needed to support the computation of subsidy mail pay under section 406 of the Federal Aviation Act. However, when the amount of compensation paid or due a carrier is subject to further review and disposition by the Board, the proposal would require the supporting records to be retained until the Director, Bureau of Accounts and Statistics, authorizes their destruction. Under the current regulation, carriers must retain monthly records of operations, pilots' flight logs, aircraft weight and balance reports, and passenger lists until the Board notifies them that the records may be destroyed. We believe that requiring carriers to retain these records for 3 years when there are no disputes will adequately serve the Board's needs and, at the same time, reduce the burden on the carriers.

Retention of Consumer Complaints

We are proposing to establish a provision in the regulation requiring certificated carriers to retain, for a period of 3 years, copies of all consumer complaints and a record of the action taken on each one. This should help the Board keep an accurate perception of the nature of consumer problems by periodically reviewing the complaints received by air carriers.

Retention of Additional Records by Charter Operators

We are proposing to require overseas military personnel charter operators and public charter operators to retain the following additional records for 2 years after the completion of each flight or series of flights: (1) All customer reservations records; (2) all contracts with individual tour participants; and (3) all bank statements and reconciliations for escrow bank accounts opened and maintained in accordance with Board regulations. These records are needed to aid the Board in its work with consumer-oriented litigation.

Elimination of Retention Requirements

The proposed rule would eliminate retention requirements for certain classes of records which are filed by carriers with the Board and other regulatory bodies. The records that would be deleted from the schedule of records for certificated air carriers are:

1. Certificates of public convenience and necessity issued by the Civil Aeronautics Board.
2. Letters of registration and exemptions to operate issued by the Civil Aeronautics Board.
3. Copies of formal orders of regulatory bodies served upon the air carrier.
4. Financial and statistical reports to the Civil Aeronautics Board and other regulatory bodies.
5. Tariffs, division sheets, classifications, and circulars relative to the transportation of persons and property.
6. Special or reduced-rate orders and supporting papers, covering the movement of persons and property.
7. Copies of concurrences and powers of attorney filed with regulatory bodies.

Additionally, the proposed rule does not contain retention requirements for airfreight forwarders and international airfreight forwarders since EDR-350, dated March 30, 1978, proposes the elimination of the current requirements.

Other Improvements in the Regulation

In an effort to make the Board's record-retention requirements less burdensome and easier to understand, we have taken a fresh look at the current regulation to determine what improvements could be made. As a result of our study, we are proposing to: (1) Standardize retention periods for similar types of records, (2) simplify and better arrange the schedule of records to be maintained by certificated air carriers, (3) extend the requirement that certificated carriers retain passenger lists for pro rata charter trips to all charter trips and, at the same time, reduce the retention period from 2 years to 1 year, (4) make part 249 a comprehensive listing of all record-retention requirements for all classes of carriers, and (5) clarify the regulation by rewriting it in plain English.

Comments on Burden

The Board has the responsibility to prescribe record-retention requirements to insure the availability of records for its purposes. We believe, however, that this can be done without imposing a significant burden on the carriers because carriers must retain records for other purposes in line with good management policy and to meet the requirements of other Government agencies. We have tried to design a record-retention system which satisfies the Board's needs and, in most cases, corresponds to a system that would meet the carriers' other needs. If any of the requirements included in this proposed rule significantly differ from the retention periods that would otherwise be followed, we would appreciate comments indicating the record-retention requirements which are out of line and the retention periods that would be more appropriate.

Proposed Rule

Accordingly, we propose to reissue part 249 of the economic regulations (14 CFR Part 249) to read as follows:

PART 249—PRESERVATION OF AIR CARRIER RECORDS

Subpart A—General Instructions

Sec.
249.1 Applicability.
249.2 Definitions.
249.3 Designation of supervisory official.
249.4 Index of records.
249.5 Preservation of records.
249.6 Photographic copies.
249.7 Storage of records.
249.8 Destruction of records.
249.9 Restrictions on record destruction.
249.10 Premature loss or destruction of records.
249.11 Carriers going out of business.
249.12 Waiver of requirements.
249.13 Effective date.

Subpart B—Preservation of Records by Carrier

249.20 Preservation of records by certificated air carriers.
249.21 Preservation of records by holders of foreign civil aircraft permits.
249.22 Preservation of records by foreign air carriers.
249.23 Preservation of records by foreign air carriers authorized to engage in charter transportation only.
249.24 Preservation of records by public charter operators and overseas military personnel charter operators.
249.25 Preservation of records by air taxi operators.

Subpart C—Regulations Relating to the Truth in Lending Act

249.30 Applicability.
249.31 Preservation and inspection of evidence of compliance.

AUTHORITY: Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.

Subpart A—General Instructions

§ 249.1 Applicability.

This part applies to:

(a) Air carriers, as defined in section 101(3) of the Act, that hold either certificates of public convenience and necessity or certificates for all-cargo air service.

(b) Foreign civil aircraft operators holding a permit issued under part 375 of the Board's special regulations authorizing navigation in the United States.

(c) Foreign air carriers, as defined in section 101(19) of the Act.

(d) Public charter operators, as defined in part 380 of this chapter.

(e) Overseas military personnel charter operators, as defined in part 372 of this chapter.

(f) Air taxi operators, as defined in part 298 of this chapter.

§ 249.2 Definitions.

For the purposes of this part:

"Authorized representatives of the Board" means any persons, including special agents and auditors, designated by the Board to perform inspections, audits, or examinations within the purview of the Board's authority.

"Certificated air carrier" means the holder of a certificate of public convenience and necessity issued by the Civil Aeronautics Board under section 401 of the Act or a certificate for all-cargo air service issued by the Civil Aeronautics Board under section 418 of the Act.

"Final adjudication" means the expiration date of the last possible period of review or reconsideration of a given case, by the Board or by a court, that is provided by applicable statute or regulation.

"Pending case" means any case that the Board is empowered to hear before its final adjudication.

"Records" include all documents that are related to, or constitute integral links in developing the history of, or facts regarding, financial transactions or physical operations of a particular segment, operating division, or entire system of the carrier's operations. The term includes any copy of initially prepared documents which bear approvals, comments, or notations which were added and are of significance to a full explanation of recorded facts or information. The term "records" means not only accounting records in a limited technical sense but all other evidentiary accounts of events such as memorandums, correspondence, working sheets, tabulating equipment listings, punched cards, computer-produced listings, microfilm, and magnetic storage media (i.e., mag-

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netic tapes, disks). The term "records" also means microform and/or tape reproductions of documents made as authorized by this subpart. In addition, the term "records" includes any of the above-described materials coming into the possession of the air carrier through merger, consolidation, succession, transfer, or other acquisition.

"Open mail rate period" means the time interval between the date of institution of a new mail rate proceeding or the start of service over a new route for which no mail rate has previously been fixed, and the date upon which a Board order setting the final mail rate becomes legally effective.

"Subsidy" means that portion of the mail rate established under section 406 of the Act, which is paid by the Board according to the provisions of section 406(c) of the Act.

"Supporting papers (records)" means any group of documentary papers, such as memorandums, correspondence, working sheets, etc., that assist in upholding the accuracy or clarity of related records.

§ 249.3 Designation of supervisory official.

Each carrier subject to the provisions of this part shall designate one or more persons with official responsibility to supervise the preservation, storage, and authorized destruction of records. The Board's Bureau of Accounts and Statistics shall be notified of the name and address of the person(s) initially designated and any later changes.

§ 249.4 Index of records.

At the location in the United States where the carrier maintains its detailed corporate, financial, and operating records, the records that are required by this part to be preserved shall be arranged, filed, and currently indexed so that they may be easily identified and made available upon request by authorized representatives of the Board. A master index shall also be available showing the physical location of the various classes of records, the periods to which they relate, and the locations, names, and titles of the custodians.

§ 249.5 Preservation of records.

(a) All records listed in §§ 249.20 through 249.24 may be preserved on either paper or nonerasable microfilm (see § 249.6). However, a paper or microfilm record need not be created to satisfy the requirements of this part if the record is initially prepared in a nonreadable medium such as punched cards, magnetic tapes, and disks. The records maintained in nonreadable media and the underlying data used in their preparation shall be preserved for the periods prescribed in §§ 249.20 through 249.24. In no case shall a paper or microfilm record be destroyed after transfer to a nonreadable medium before expiration of the prescribed periods of retention without the approval of the Director, Bureau of Accounts and Statistics (see § 249.9).

(b) Each record kept in a nonreadable medium shall be accompanied by a statement clearly indicating the type of data included in the record and certifying that the information contained in it is complete and accurate. This statement shall be executed by a person having personal knowledge of the facts contained in the records. The records shall be indexed and retained in such a manner so that they are easily accessible, and the carrier shall have the facilities available to locate, identify and reproduce the records in readable form without loss of clarity. Authorized representatives of the Board shall be given immediate access to the carrier's facilities upon request.

(c) If any record which must be retained under the provisions of §§ 249.20 through 249.24 is included as an exhibit to another document which must also be retained, the carrier need only keep in its files one copy of the record to satisfy these record-retention requirements. In these cases, the carrier should establish adequate cross-references to ease location of the record.

(d) The provisions in this part do not excuse noncompliance with requirements of any other governmental body, Federal or State, prescribing longer retention periods for any records.

§ 249.6 Photographic copies.

(a) Any record may be transferred to nonerasable microfilm (including microfiche, computer output microfilm, and aperture cards) at any time. Records so maintained on microfilm shall satisfy the minimum requirements listed in paragraphs (b) through (f) of this section.

(b) The microfilm shall be of a quality that can be easily read and that can be reproduced in paper similar in size to an original without loss of clarity or detail during the periods of the records are required to be retained in §§ 249.20 through 249.24.

(c) Microfilm records shall be indexed and retained in such a manner as will render them readily accessible, and the company shall have facilities available to locate, identify and read the microfilm and reproduce in paper form. Authorized representatives of the Board shall be given immediate access to these facilities upon request.

(d) Any significant characteristic, feature, or other attribute which microfilm will not preserve shall be clearly indicated at the beginning of each roll of film or series of microfilm records if applicable to all records on the roll or series, or on the individual record, as appropriate.

(e) The printed side of printed forms need not be microfilmed for each record if nothing has been added to the printed matter common to all such forms, but an identified specimen of the form shall be on the film for reference.

(f) Each roll of film or series of microfilm records shall include a microfilm of a certificate stating that the photographs are direct and facsimile reproductions of the original records and they have been made in accordance with prescribed regulations. Such a certificate shall be executed by a person having personal knowledge of these facts. Where the microfilm is computer output, the microfilm certificate shall state that the information is complete and accurate.

§ 249.7 Storage of records.

Each carrier shall provide reasonable protection from damage by fire, floods, and other hazards for records subject to the provisions of this part. Records shall also be safeguarded from deterioration from humidity, dryness, or lack of proper ventilation.

§ 249.8 Destruction of records.

(a) Upon the expiration of the period of preservation prescribed in this regulation, records may be destroyed at the option of the carrier.

(b) Unless otherwise specified, duplicate copies of records may be destroyed at any time if they contain no significant information not shown on the originals.

(c) The supervisory official specified in § 249.3 shall maintain a comprehensive list describing all records that have been destroyed following the expiration of the prescribed period of preservation. The list shall include the form numbers and descriptive titles of all records destroyed and the periods covered. The list shall be available for inspection in the office of the supervisory official and shall be in such detail that the destroyed records can be identified and the time, place, and method of destruction can be established.

§ 249.9 Restrictions on record destruction.

(a) Each carrier that has been named a party to a pending case arising under section 406 of the Act shall retain all records remaining in its custody as of the beginning of an "open mail rate period" until the occurrence of one of the following contingencies, whichever is first:

(i) Final adjudication of a Board order fixing the final mail compensation payable for services rendered during an "open mail rate period."

(ii) Receipt of a notice issued by the Director, Bureau of Accounts and Statistics, in response to a written application filed by the carrier, authorizing the destruction of specifically identified categories of records. An application should be filed when the carrier believes that certain categories of records are not relevant to the proper processing of a pending mail proceeding. The application should list those categories of records which the carrier wants to destroy and its reasons for believing that the records are not necessary or useful in determining its statutory mail pay.

(b) Each carrier shall preserve records supporting the computation of subsidy mail pay in accordance with the provisions of § 249.20 unless the carrier has been advised that these computations are subject to further review and disposition by the Board. When the Board is still reviewing the compensation amount after expiration of the normal retention period specified in § 249.20, these records must be retained until the carrier is notified by the Director, Bureau of Accounts and Statistics, that the records may be destroyed.

(c) Each carrier that has been named a party to an enforcement proceeding or against whom a third-party complaint has been filed shall retain all records relating to the case until the receipt of formal notification from the Director, Bureau of Accounts and Statistics, following a written application from the carrier, which authorizes the destruction of these records.

(d) Each carrier that has been named a party to a pending case which is not of a type discussed in paragraphs (a), (b), and (c) above, shall preserve all records according to the provisions of § 249.20 unless the Director, Bureau of Accounts and Statistics, notifies the carrier in writing that specific records shall be preserved until final adjudication of the pending case.

(e) Each carrier that is a party to litigation in a Federal court of which the Board is also a party shall retain all records relating to the case until the receipt of formal notification from the Director, Bureau of Accounts and Statistics, following a written application from the carrier, which authorizes the destruction of these records.

§ 249.10 Premature loss or destruction of records.

If records are destroyed or lost before the expiration of the prescribed retention period, a statement shall be prepared and submitted to the Director, Bureau of Accounts and Statistics, which lists, as accurately as possible, the unavailable records and describes the circumstances under which they became unavailable. This statement shall be certified by the supervisory official of the carrier specified in § 249.3.

§ 249.11 Carriers going out of business.

The records referred to in these regulations may be destroyed after the business is discontinued and the carrier is completely liquidated. The records may not be destroyed until dissolution is final and all transactions are completed. However, if a carrier is involved in litigation at the time of dissolution, it must retain all records until the litigation is concluded. When a carrier is merged with another company which is regulated by the Board, the successor company shall preserve records of the merged company in accordance with these regulations.

§ 249.12 Waiver of requirements.

A waiver from any provision of this regulation may be made by the Director, Bureau of Accounts and Statistics, upon the Director's own initiative or upon submission of a written request by a carrier or group of carriers. Each request for waiver shall demonstrate that unusual circumstances warrant a departure from prescribed retention periods, procedures, or techniques, or that compliance with the prescribed requirements would impose an unreasonable burden on the carrier, and that granting the waiver would be in the public interest.

§ 249.13 Effective date.

The retention requirements prescribed in this regulation shall be applicable to all records that were in the custody of any carrier subject to the provisions of this part on January 1, 1979, and to all records acquired after this date.

Subpart B—Preservation of Records by Carrier

§ 249.20 Preservation of records by certificated air carriers.

Each certificated air carrier shall retain its records according to the provisions of this section. Unless otherwise specified in the "Schedule of Records," each retention period shall begin on the date when the records are created or otherwise come into the possession of the carrier.

SCHEDULE OF RECORDS

A. ADMINISTRATIVE

1. Corporate—retain permanently:
1. Bonds or other long-term debt records:
(a) Bond indentures, underwriting, mortgage, and other long-term credit agreements.
(b) Stubs or similar records of bonds or other long-term debt issued.
(c) Records of interest paid and unpaid.
2. Capital stocks:
(a) Stubs or similar records of capital stock certificates.
(b) Detailed capital stock journals, ledgers, or their equivalents.
(c) Stock transfer registers.
3. Corporate organization:
(a) Charter or certificate of incorporation and any amendments.
(b) Legal documents in connection with mergers, consolidations, reorganizations, receiverships, and similar actions which affect the identity or organization of the company.
4. Data relating to the destruction of records as provided in this section; authorizations and certificates executed in connection with the reproduction or destruction of records.
5. General and subsidiary ledgers or their equivalents:
(a) General ledgers; subsidiary or auxiliary ledgers.
(b) Indexes to general and subsidiary ledgers.
6. Minutes of meetings:
(a) Meetings of stockholders and directors.
(b) Meetings of executive and other directors' committees.
II. General—retain for 3 years:
20. Accountant's and auditors' reports:
(a) Certifications and reports of all examinations and audits conducted by public and certified public accountants.
(b) Reports of examinations and audits conducted by internal auditors and others.
21. Superseded authorizations from regulatory bodies for issuance of securities including applications, reports, and supporting papers.
22. Bond and other long-term debt records:
(a) Closed bond subscription accounts.
(b) Subscription notices and requests for allotment.
(c) Canceled bonds, mortgages, notes, or other long-term debt and redeemed interest coupons.
(d) Papers pertaining to or supporting transfers of bonds.
23. Capital stock records:
(a) Canceled capital stock certificates.
(b) Subscription notices and requests for allotments.
(c) Papers pertaining to or supporting transfers of capital stock.
24. Contracts and agreements:
(a) Terminated operational, management, accounting, financial, and legal service contracts.
(b) Terminated contracts with other carriers for interchange of aircraft or other joint use of properties.
(c) Expired leases pertaining to rental of property to, or from, others.
(d) Terminated contracts and agreements with employees and associated companies for the purchase and sale of the carriers' own securities or those of associated companies, together with memorandums clarifying or explaining provisions of the contracts.
(e) Releases from direct or contingent liability arising out of action in tort.
(f) Card or book records of terminated contracts or agreements made.
(g) Contracts and agreements relating to purchase and to sale of real property and equipment.
(h) Terminated contracts and agreements with individual employees, labor unions, company unions, and other employee organizations relative to wage or salary rate, hours, and similar matters.
(i) Expired contracts for purchase of materials and supplies.
(j) Expired contracts covering risks of freight forwarders transportation and storage.

(k) Terminated charter and interline agreements.
(l) Complete files and related papers of contracts entered into by competitive bid-

62. Agents' balance sheets and supporting papers.
63. Detailed journals, vouchers, and ledgers or their equivalent for bonds or other

74. Schedules of recurring or standard journal entries and entry numbers.
75. Records of securities owned:
(a) Detailed ledgers and journals, or their

96. Maintenance service orders and repair orders for work which has been completed:
(a) Authorizations for expenditures for maintenance work to be covered by service or repair orders, including memorandums

D. REVENUES

1. General reports and documents—retain for 2 years:
150. Customers' guarantee deposits:

deemed appropriate. Those records listed below which are not situated in the United States shall be made available at a central location in the United

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(k) Terminated charter and interline agreements.

(l) Complete files and related papers of contracts entered into by competitive bidding under the provisions of section 10 of the Clayton Antitrust Act.

(m) Records relating to trade agreements as specified in § 225.10 of this subchapter.

25. Employees' welfare and pension records:

(a) Superseded retirement plans.

(b) Workmen's compensation accident reports.

(c) Employees' relief, health and hospital insurance records pertaining to other than the expenditure of funds.

26. Insurance coverage and claims records:

(a) Registers, cards, or other records of expired insurance policies showing coverage, premiums paid, good experience credits, and expiration dates.

(b) Expired insurance policies.

(c) Records of settled carrier losses and recoveries from insurance companies and supporting papers.

(d) Records, memorandums, and reports related to rejected or settled claims made against the carrier for loss, damage, personal injury, etc. (except claims for refund of transportation charges).

(e) Papers, reports, statements of witnesses, etc., necessary to support or reject claims against the carrier.

(f) Expired records of fidelity bonds of employees and others responsible for funds of the carrier.

27. Proxies and voting lists:

(a) Proxies of holders of voting securities.

(b) Lists of holders of voting securities represented at meetings.

28. Registration statements and other data filed with the Securities and Exchange Commission and supporting papers in connection with offerings of securities for sale to the public or the listing of securities on exchange.

29. Deeds and other title papers for property which has been disposed of.

30. Consumer complaints:

(a) Initial correspondence and record of action taken.

B. FINANCIAL

I. Primary financial records—retain for 10 years:

50. Journals and journal vouchers:

(a) General and subsidiary journals.

(b) Papers forming a part of, or necessary to explain, journal entries; entry numbers.

51. Voucher distribution registers or their equivalent.

II. General financial records—retain for 4 years:

60. Accounts receivables and payables:

(a) Traffic accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.

(b) General accounts receivable or payable, detailed journals and ledgers or their equivalents, together with supporting papers.

(c) Copies of invoices issued by the carrier which have been settled and all supporting papers.

(d) Copies of Postal Service Forms: Weekly Summary of Airmail Dispatch (No. 2729) and POD Airmail Exemption Record (No. 2734) supporting mail pay claims which have been settled.

61. Agents' remittance slips, bank deposit slips, and all supporting papers not provided for elsewhere.

62. Agents' balance sheets and supporting papers.

63. Detailed journals, vouchers, and ledgers or their equivalent for bonds or other long-term debt which have been redeemed.

64. Detailed capital stock subscription accounts and journals or their equivalent.

65. Deposits with bank record:

(a) Check stubs, bank deposit books, and copies of deposit slips supporting bank statements which have been reconciled.

(b) Statements from depositories showing the details of funds received, disbursed, and transferred.

(c) Check registers and other records of checks issued.

(d) Checks canceled by banks.

66. Depreciation allowances:

(a) Detailed records or analysis sheets segregating the depreciation allowances according to type and classification.

(b) Records supporting computations of all depreciation expense previously taken on property which is now retired, including such data as service life and salvage value.

(c) Detailed record of charges against depreciation allowances which were made during the life of property which is now retired.

67. Equipment maintenance allowances:

(a) Detailed records or analysis sheets segregating the maintenance allowances according to type and classification.

(b) Records supporting computations of maintenane expense, including such data as historical costs and engineering or other available studies.

(c) Detailed records of charges against maintenance allowances.

68. All papers supporting financial and statistical reports to the Civil Aeronautics Board and other regulatory bodies.

69. Statements of funds and deposits:

(a) Expired authorizations for transfer of funds from one depository to another.

(b) Reports and estimates of funds required for general and special purposes.

(c) Summaries and periodic statements of cash balances on hand and with depositories.

70. Material and supplies detailed journals, and ledgers or their equivalents together with supporting papers.

71. Payroll records:

(a) Payroll sheets, registers or their equivalents, of salaries and wages paid to individual officers and employees.

(b) Records showing the distribution to accounts and jobs of salaries and wages paid to officers and employees for each periodic payroll, and summaries of recapitulation statements of such distribution.

(c) Time and attendance cards.

(d) Paid checks, receipts for wages paid in cash, and other evidence of payments for services rendered by employees.

(e) Payroll authorizations, removal, adjustment notices.

72. Property and equipment journals, vouchers, and ledgers or their equivalents, together with supporting papers:

(a) For properties and equipment which had unit costs in excess of $10,000 which are now retired.

(b) Other properties and equipment.

73. Records of receipts and disbursements:

(a) Daily or other periodic statements or reports of receipts and disbursments of funds.

(b) Records or periodic statements of outstanding vouchers, checks, drafts, etc., issued and not presented.

74. Schedules of recurring or standard journal entries and entry numbers.

75. Records of securities owned:

(a) Detailed ledgers and journals, or their equivalents, of investments in securities held by the carrier or a custodian. The retention period shall begin upon the sale, redemption, or disposal of the security.

76. Taxes:

(a) Assessments against the carrier which have been settled:

(1) Copies of schedules and returns to taxing authorities and supporting working papers and records of appeals.

(2) Copies of taxing authorities termination reports.

(b) Taxes collected as agents:

(1) Copies of schedules and returns to taxing authorities and supporting working papers of settled accounts.

(2) Summaries of taxes paid.

(3) Filings with tax authorities to qualify employee benefit plans which are now discontinued.

77. Trial balance sheets of general and subsidiary ledgers.

78. Uncollectible accounts:

(a) Reports and statements showing age and status of accounts receivable.

(b) Authorizations for writing off accounts receivable.

79. Vouchers:

(a) Voucher indexes.

(b) Vouchers, expenditure authorizations, detailed distribution sheets, and other supporting papers, including original bills and invoices.

(c) Receipts for cash paid out.

C. OPERATIONS

I. Management—retain for 3 years:

90. Authorization for expenditures for new equipment, additions, modifications, and betterments, including related memorandums.

91. Approved authorizations for retirements of property.

92. Instructions to employees and others which have been superseded or expired:

(a) Bulletins or memoranda of general instructions issued by the carrier to employees pertaining to changes in accounting, engineering, operating, maintenance, and repair policies, methods, and procedures.

(b) Notices to employees on matters of discipline, deportment, and other similar subjects.

93. Internal administrative or operating reports:

(a) Annual financial, operating, and statistical reports regularly prepared in the course of business (and not used as a basis for entries to accounts of the carriers concerned) to show the results of operations and the financial condition of the carrier.

(b) Quarterly, monthly, or other periodic financial, operating and other statistical reports as above.

(c) All statistical reports not covered elsewhere in the regulation, prepared for internal administrative or operating purposes only and not used as a basis for entries to the accounts of the carrier.

94. Job and cost distribution cars.

95. Job or work orders for projects which have been completed or abandoned, including engineering records (maps, profiles, specifications, estimates of work; records of engineering studies, except maintenance studies; records pertaining to extensions, additions, and betterment projects).

96. Maintenance service orders and repair orders for work which has been completed:

(a) Authorizations for expenditures for maintenance work to be covered by service or repair orders, including memorandums showing the estimates of costs to be incurred.

(b) Service or repair orders.

(c) Summaries of expenditures on service and repair orders.

97. Superseded organization tables and charts and internal accounting manuals.

98. Purchases and stores:

(a) Purchase orders.

(b) Materials-distribution summaries.

(c) Requisitions for purchase orders.

(d) Inventories of materials and supplies:

(1) General inventories of materials and supplies on hand with records of adjustments of accounts to bring stores records into agreement with physical inventories.

(2) Superseded perpetual inventory records of materials and supplies received, issued, and on hand.

(e) Stores record of materials and supplies received.

(f) Stores requisitions.

99. Section 406 subsidy records:

(a) For each calendar year, all monthly records of operations, such as tabulations and summaries of miles flown and passenger-miles flown, pertaining to or part of operational records relevant to computation of subsidy mail pay.

(b) For each calendar year, all basic original documents, such as pilots' flight logs and passenger lists relevant to a determination of the validity of a carrier's operations described in item (a) above.

100. Tariffs and rates: Correspondence and working papers in connection with the making of rates and compilation of tariffs, classifications, division sheets, and circulars affecting the transportation of persons and property. The retention period for these records shall begin with the expiration or cancellation of the tariff.

II. Statistics—retain for 2 years:

120. Individual trip reports:

(a) Traffic data: Basic documents showing the number of passengers, and pounds of mail and property carried.

121. Records and reports relating to errors, oversales, irregularities, and delays in handling passengers, air express, and air freight.

122. Reservations reports and records:

(a) Cards and charts constituting original source of passengers' names, telephone numbers, etc.

(b) Telegrams and radio messages relating to the clearance of space, passenger dispatching, etc.

(c) Every statement of supporting information required by part 207 of this subchapter and proof of the commission paid to any travel agent by the carrier for each pro rata charter trip.

(d) Written confirmation and accompanying passenger list, and copy of request for this information in accordance with § 207.25 of this subchapter for certificated route air carriers and § 208.202b of this subchapter for supplemental air carriers.

123. System report of airplane movements by trip number showing arrivals, departures, delays and related information.

124. All documents which relate to the furnishing of transportation to candidates for political office or persons acting on their behalf which are required to be maintained following § 374a.7 of this subchapter.

D. REVENUES

I. General reports and documents—retain for 2 years:

150. Customers' guarantee deposits:

(a) Customers' deposit ledgers.

(b) Air travel card authorizations which have terminated.

(c) Receipts for one trip travel orders which have been accounted for.

151. Lost ticket memorandums, certification of loss and receipt for refund.

152. Perpetual inventory of ticket stock.

153. Requisitions and receipts for tickets furnished agents and ticket-selling employees.

154. Sales reports:

(a) Sales ticket or other similar reports from stations, offices and agents.

II. Primay revenue records—retain for 1 year:

160. Auditors' coupons.

161. Air waybills.

162. Flight coupons.

163. Ticket refund claims records and reports.

164. Authorizations, records, reports, registers, and supporting papers incident to the transportation of persons or property at free or reduced rates.

165. Names, addresses, and telephone numbers of all passengers transported on each charter trip.

E. MISCELLANEOUS—RETENTION PERIOD SHALL CORRESPOND TO THAT ITEM TO WHICH RELATED

170. Correspondence and related indexes, including interoffice memorandums and working papers supporting or relating to subjects covered by other items of these regulations where necessary to a proper explanation of the related subjects.

§ 249.21 Preservation of records by holders of foreign civil aircraft permits.

Each holder of a permit authorizing the navigation of foreign civil aircraft in the United States issued under part 375 of the Board's special regulations shall retain its records according to the provisions of this section. The following records shall be preserved for the retention periods specified below:

1. Retain for 1 year, copies of all cargo manifests, air waybills, invoices, and other documents covering cargo flights originating or terminating in the United States.

2. Retain for 6 months, lists of names and addresses of all passengers on charter flights originating or terminating in the United States.

§ 249.22 Preservation of records by foreign air carriers.

Every foreign air carrier, other than those foreign air carriers which are authorized to engage in charter transportation only, shall preserve the documents listed below for the duration of the respective retention periods. Those records listed below which are in the United States shall be made available upon request by an authorized representative of the Board. The representative shall be allowed to make any notes or copies that are deemed appropriate. Those records listed below which are not situated in the United States shall be made available at a central location in the United States within 48 hours after a written request has been received from the Director, Bureau of Accounts and Statistics.

1. Retain for 3 years:

(a) A record of all passes issued by the carrier under part 223 and used for free or reduced-rate transportation over its routes.

(b) All papers and correspondence relating to each freight loss or damage claim.

2. Retain for 2 years:

(a) Copies of all passengers lists, air waybills, invoices, and other traffic documents covering off-route charter trips performed under a statement of authorization.

(b) A copy of every contract for on-route charter flights originating or terminating in the United States, together with all traffic documents pertaining to the on-route charter.

(c) A record of the names, addresses, and telephone numbers of all passengers transported on each charter trip originating or terminating in the United States.

(d) All statements of supporting information and proof of the commission paid to any travel agent by the carrier for each charter trip originating or terminating in the United States.

(e) The written confirmation, and accompanying passenger list, received from another carrier required under subsection 212.25(b), and a copy of its written request, and accompanying passenger list, to another carrier for confirmation.

§ 249.23 Preservation of records by foreign air carriers authorized to engage in charter transportation only.

(a) Each foreign air carrier authorized under part 214 of the Economic regulations to engage in charter transportation only shall retain the following records for the retention periods prescribed below:

1. Retain for 3 years, a record for all passes inssued and used for free or reduced-rate transportation in the carrier's principal office.

2. Retain for 2 years:

(a) Every charter contract.[1]

(b) All passenger lists including those filed by charterers.[1]

(c) Proof of commission paid to any travel agent by the foreign air carrier.[1]

---

[1] Those records which are situated in the United States shall be made available upon request by an authorized representative of the Board. Those records which are not situated in the United States shall be made available at a central location in the United States within 48 hours after receipt of a written request from the Director, Bureau of Accounts and Statistics.

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(d) Every statement of supporting information.[1]

(e) The written confirmation, and accompanying passenger list, received from another carrier required under subsection 214.18(b).[1]

(b) Each foreign air carrier subject to part 214 of the economic regulations shall permit any authorized representative of the Board to make notes or copies of the above records as are considered appropriate.

§ 219.24 Preservation of records by overseas military personnel charter operators and public charter operators.

(a) Each operator authorized under parts 372 and 380 of the special regulations shall retain the following records for the retention periods specified below. The records shall be made available upon request of an authorized representative of the Board.

1. Retain for 2 years after completion of the flight or series of flights:

(a) All receipts and statements of travel agents and all other documents which evidence or reflect deposits made by each charter participant or which evidence or reflect refunds to charter participants.

[1]Those records which are situated in the United States shall be made available upon request by an authorized representative of the Board. Those records which are not situated in the United States shall be made available at a central location in the United States within 48 hours after receipt of a written request from the Director, Bureau of Accounts and Statistics.

(b) All receipts and statements of travel agents and all other documents which evidence or reflect commissions received, paid to, or deducted by travel agents in connection with the flight or series of flights.

(c) All statements, invoices, bills, and receipts from suppliers for furnishing of goods or services in connection with the tour or series of tours.

(d) All customer reservations records for each flight.

(e) All contracts with individual tour participants.

(f) All bank statements and reconciliations for escrow bank accounts opened and maintained in accordance with Board regulations.

§ 219.25 Preservation of records by air taxi operators.

(a) Each air taxi operator engaging in air transportation shall retain the following records for the retention periods specified below. The records shall be made available upon request of an authorized representative of the Board.

1. Retain for 3 years after expiration of policy:

(a) Evidence of liability insurance coverage with the attached standard endorsement at the principal place of business.

Subpart C—Regulations Relating to the Truth in Lending Act

§ 219.30 Applicability.

This subpart is applicable to all air carriers and foreign air carriers as defined in section 101 of the Federal Aviation Act of 1958, including, without limitation, direct carriers, air taxi operators authorized under part 298 of this chapter, indirect air carriers authorized under part 296 of this chapter, tour operators authorized under parts 372 and 380 of this chapter, and foreign air carriers holding permits to engage in indirect foreign air transportation issued under section 402 of the Act.

§ 219.31 Preservation and inspection of evidence of compliance.

Air carriers and foreign air carriers shall preserve evidence of compliance with the requirements imposed under regulation Z of the Board of Governors of the Federal Reserve System (12 CFR Part 226), implementing the provisions of Title I (Truth in Lending) and title V (General Provisions) of the Consumer Credit Protection Act, as amended (15 U.S.C 1601 et seq.) other than the advertising requirements under § 226.10 of regulation Z. This evidence shall be preserved for no less than 2 years after the date each disclosure is required to be made and shall be made available for inspection by authorized representatives of the Board.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30333 Filed 10-25-78; 8:45 am]

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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[*A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)*]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing Oct. 26, 1978]

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To amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district. (Oct. 24, 1978; 92 Stat. 1704) Price: $.60

S. 2493 ..... Pub. L. 95-504
Airline Deregulation Act of 1978. (Oct. 24, 1978; 92 Stat. 1705) Price: $1.80

H.R. 11658 ..... Pub. L. 95-505
To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel. (Oct. 24, 1978; 92 Stat. 1755) Price: $.60

H.R. 13767 ..... Pub. L. 95-506
To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies. (Oct. 24, 1978; 92 Stat. 1756) Price: $.60

H.R. 11318 ..... Pub. L. 95-507
To amend the Small Business Act and the Small Business Investment Act of 1958. (Oct. 24, 1978; 92 Stat. 1757) Price: $1.00

H.R. 12165 ..... Pub. L. 95-508
To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes. (Oct. 24, 1978; 92 Stat. 1774) Price: $.60

H.R. 11686 ..... Pub. L. 95-509
"Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979". (Oct. 24, 1978; 92 Stat. 1775) Price: $.70

H.R. 13418 ..... Pub. L. 95-510
To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes. (Oct. 24, 1978; 92 Stat. 1780) Price: $.60

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1207	46974
1249	46974
1252	46851

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177	50006
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195	46051, 50006
215	45414
218	45416, 46555
229	47579
393	46555
570	48669
1062	46053
1127	49825

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33	45869
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258	45869
351	47528
651	45872
652	46033

PROPOSED RULES:

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The title of the position, Confidential Secretary to the Assistant Secretary for International Affairs, is changed to Confidential Assistant (Secretary) to the Assistant Secretary for International Affairs because the title describes the duties of the postition more appropriately. Appointments may be made to this position without examination by the Civil Service Commission.

EFFECTIVE DATE: May 4, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3331(n)(1) is amended as set out below:

§ 213.3331 Department of Energy.

• • • • •

(n) *Office of the Assistant Secretary for International Affairs.*

(1) One confidential assistant (secretary) to the Assistant Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30183 Filed 10-26-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Energy, National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Energy and the National Foundation on the Arts and the Humanities because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission

EFFECTIVE DATE: September 16, 1978

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3331(i)(2) is added and 213.3382(p) is amended as set out below:

§ 213.3331 Department of Energy.

• • • • •

(i) *Office of the Assistant Secretary for Environment.* • • •

(2) One Staff Assistant to the Assistant Secretary.

• • • • •

§ 213.3382 National Foundation on the Arts and the Humanities.

• • • • •

(p) One policy and planning officer and one arts policy specialist to the Deputy Chairman, National Endowment for the Arts.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.78-30184 Filed 10-26-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C the position of Executive Assistant to the Secretary because it is confidential in nature. Appointments may be made to this position without examination by the Civil Service Commission. This amendment also revokes the Schedule C exception for the position of Staff Assistant to the Secretary.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3305(a)(47) is amended and (a)(81) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* • • •

(47) Two staff assistants to the Secretary.

• • • • •

(81) One executive assistant to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30187 Filed 10-26-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

National Endowment for the Humanities

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: This amends the description of the Schedule B, § 213.3282 (b)(19) exception which was incorrectly given in the document published in 43 FR 35645 of August 11, 1978.

EFFECTIVE DATE: August 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Tracy E. Spencer, 202-632-4533.

Accordingly, 5 CFR 213.3282(b)(19) should read as follows:

§213.3282 National Foundation on the Arts and the Humanities.

• • • • •

(b) *National Endowment for the Hu-*

[6325-01-M]

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* • • •

The committee met on October 24, use the resulting funds for its ex-

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

V43/209 OC 27 78

(b) *National Endowment for the Humanities.** * *

(19) Until September 30, 1980, one Special Assistant for Comparative Cultures, Office of the Chairman. Appointments under this authority may not exceed 4 years.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30185 Filed 10-26-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the National Foundation on the Arts and the Humanities because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission. This amendment also revokes two positions of Special Assistant to the Chairman of the National Endowment for the Humanities.

EFFECTIVE DATE: August 28, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3382 (w) and (x) are added and (e) is amended as set out below:

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(e) One Special Assistant to the Chairman of the National Endowment for the Humanities.

* * * * *

(w) One Assistant Chairman for Institutional Relations, National Endowment for the Humanities.

(x) One Congressional Liaison Officer, one Interagency Liaison Officer, and one Constituency Liaison Officer to the Assistant Chairman for Institutional Relations, National Endowment for the Humanities.

(5 U.S.C. 3301, 3302; E.O. 15077, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30186 Filed 10-26-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority for the Indian Claims Commission because the organization no longer exists.

EFFECTIVE DATE: October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3199(h) is revoked, as follows:

§ 213.3199 Temporary boards and commissions.

* * * * *

(h) [Revoked].

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30406 Filed 10-26-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the schedule C position of Director, Office of Congressional and Public Affairs to Director, Office of Governmental and Public Affairs and changes the location of the position so that it now reports to the Office of the Secretary.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION:

On position authority contact: Hugh A. Strehle, Civil Service Commission, 202-632-4625. On position content contact: Sylvester B. Pranger, Department of Agriculture, 202-447-3585.

Accordingly, 5 CFR 213.3313(a)(4) is added and (c)(9) is revoked as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.** * *

(4) Director, Office of Governmental and Public Affairs.

* * * * *

(c) *Office of the Deputy Secretary.* * * *

(9) [Revoked]

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30407 Filed 10-26-78; 8:45 am]

[3410-02-M]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 170]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 29-November 4, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 24, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good on 115's and larger and easier on 140's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effecuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.470 Lemon Regulation 170.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 29, 1978, through November 4, 1978, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated October 26, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-30687 Filed 10-26-78; 1:03 pm]

[3410-02-M]

PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $23,000 and a rate of assessment of 1½ cents ($0.015) per carton of lettuce for the functioning of the South Texas Lettuce Committee. This enables the committee to collect assessments from first handlers of lettuce grown in the Lower Rio Grande Valley in south Texas and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250; telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* The expenses and rate of assessment specified herein are found to tend to effectuate marketing agreement No. 144 and order No. 971 regulating the handling of lettuce grown in Cameron, Hidalgo, Starr, and Willacy Counties in Texas, and the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), under which the program operates.

These expenses and rate of assessment were recommended by the South Texas Lettuce Committee, established under the order and responsible for its local administration, in an open meeting on October 12, 1978, in McAllen, Tex. All interested persons were given an opportunity to submit information and views on the expenses and assessment rate at this meeting. No objections were offered.

It is further found that it is infeasible and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). This is because the order requires that the rate of assessment for a particular fiscal period shall apply to all lettuce from the beginning of such period.

The regulation is as follows:

§ 971.218 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1979, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate amount to $23,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be 1½ cents ($0.015) per carton of assessable lettuce handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 971.43(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: October 23, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-30414 Filed 10-26-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md. Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Escambia, Jackson, Washington Counties in Florida.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21

V

and add such areas to the list desig-

Edwards, Effingham, Fayette, Ford, Frank-

shall, McCook, McPherson, Meade, Mel-

Talladege, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle,

ington, Wayne, Weakley, White, Williamson, Wilson.

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and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(1): Jefferson County in Illinois; Osborne, Seward, Woodson Counties in Kansas.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified brucellosis-free areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific counties within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Jefferson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpini, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Franklin, Holmes, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Johnson, Kane, Kankakee, Kendall, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Decatur, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Logan, Marion, Marshall, Meade, Mitchell, Ness, Norton, Osborne, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Seward, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Trego, Wallace, Washington, Wichita, Woodson, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Dodge, Douglas, Perkins, Thurston.

New Mexico. Catron, Colfax, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance, Union.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Cambell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davision, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Cubierson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified certified brucellosis Areas.

The Following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific counties within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengol Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter,

Talladege, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Asheley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafeyette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Woodruff, Yell.

Colorado. Mesa.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Escambia, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jackson, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia, Washington.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bonneville, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Jo Daviess, Knox, Massac.

Iowa. Adams, Appanoose, Guthrie, Page, Ringgold, Taylor, Wayne.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Crawford, Dickinson, Elk, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Ottawa, Reno, Rice, Russell, Sedgwick, Stafford, Sumner, Wabaunsee, Wilson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, Eddy, Lea, Mora, Quay, Roosevelt, San Miguel, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp Carson, Cass, Castro, Chambers, Cherokee Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Milis, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Garfield.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific counties within States.*

Florida. Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to

be of maximum benefit to persons subject to the restrictions which are re-

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION

(2) inerting of containment will not likely be needed for plants with large

LOCA is 5 times the amount calculated in accordance with § 50.46 or is the

gas control systems. However, the NRC believes that the change is neces-

the United States Code, the following amendments to title 10, chapter I, Code of Federal Regulations, part 50,

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be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-30090 Filed 10-26-78; 8:45 am]

[1505-01-M]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS, ORGANISMS, AND VECTORS

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

Correction

In FR Doc. 78-25857 appearing at page 41185 in the issue for Friday, September 15, 1978, make the following changes:

1. On page 41186, second column, second line of § 113.123(b)(5), "the" should be changed to "a".

2. On page 41187, second column, sixth line of § 113.140(c)(4)(v), "now" should be changed to "show".

[7590-01-M]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Standards for Combustible Gas Control Systems

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to clarify the Commission's position on its general design criterion regarding the Containment Design Basis and to provide a new section specifying the standards for combustible gas control systems.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

James A. Norberg, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-443-5921.

SUPPLEMENTARY INFORMATION: On October 21, 1976, the Nuclear Regulatory Commission (NRC), published the notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 46167). Interested persons were invited to comment on the proposed rule by December 23, 1976. The notice concerned proposed amendments to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to require the applicant or licensee to show that during the time period immediately following a postulated loss-of-coolant accident (LOCA) but prior to effective operation of the combustible gas control system, either: (1) An uncontrolled hydrogen-oxygen recombination would not take place in the containment; or (2) the plant could withstand the consequences of uncontrolled hydrogen-oxygen recombination without loss of safety function. If neither of these conditions can be shown, the containment shall be provided with an inerted atmosphere in order to provide protection against hydrogen burning and explosions during this time period. Standards for combustible gas control systems also were included in the proposed amendments.

It should be noted that under either the proposed rule or the final rule (1) inerting of containment will not likely be required for plants with small containment volume (Mark I and II Boiling Water Reactors) if the licensee or applicant can show that the calculated metal-water reaction will be well within the acceptance criteria for emergency core cooling systems and (2) inerting of containment will not likely be needed for plants with large containment volume (Pressurized Water Reactors and Mark III Boiling Water Reactors) as long as ECCS acceptance criteria are met. The NRC staff has estimated that for all except two of the plants currently operating or under construction inerting containment would not be needed under this rule.

Fifteen interested persons submitted comments regarding the proposed amendments. The letters generally included numerous specific comments, but the most frequent comments could be roughly divided into three categories:

1. This inerting rule poses risks to plant personnel safety, reduces the number of unscheduled visual inspections, and increases plant operating cost.

2. The rule is too conservative in defining the amount of metal-water reaction.

3. The containment air dilution system requirement of the rule should be clarified and the manner in which the NRC will implement the rule should be clarified.

Copies of the comments may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555. A summary of the NRC's response to these comments is presented below.

1. The risks to plant personnel and reduced inspection capability accociated with inerting the containment were carefully considered and discussed in the notice of proposed rulemaking. The NRC concluded that the risk to plant personnel of an inerted plant would be small provided that special procedures and personnel safety precautions are taken. The NRC also concluded that, on the inspection issue, inerting does not necessarily cause a reduction in the number of unscheduled visual inspections. Even assuming that a reduction in the number of unscheduled visual inspections does occur, such reduction does not adversely affect the protection of public health and safety since an adequate program of scheduled inspections can be maintained to insure safe operation of the plant. The NRC position on additional cost associated with requiring inerting is that the cost associated with inerting and de-inerting activities would be insignificant.

2. The NRC agrees that the proposed rule contains conservatisms, but disagrees that the rule is too conservative in defining the amount of metal-water reaction that must be assumed. It should be noted that in the proposed rule the amount of metal-water reaction assumed to occur after a

LOCA is 5 times the amount calculated in accordance with § 50.46 or is the amount that would result from cladding surfaces surrounding the fuel to a depth of 0.00023 inch (0.0058 mm), whichever amount is greater. Therefore, the amount of metal-water reaction assumed in the proposed rule is less conservative for certain plants when compared with the 5 percent previously assumed by NRC. The detailed technical discussion for making this revision was presented in the notice of proposed rulemaking (41 FR 46167). In short, the factor of 5 or 0.00023-inch (0.0058 mm) depth number is based on an engineering judgment that this method provides a sufficient margin for the purpose of containment design. It is assumed for conservatism that the emergency core cooling does not fail completely but that its performance is degraded to such an extent that a small fraction of the core becomes overheated. This could be caused by conservatively assuming the existence of a hot-spot effect of assumed coolant flow starvation resulting from (1) delivery of less-than-planned cooling to a localized area and (2) local flow blockage that might be associated with excessive fuel deformation, partial core support failure, etc. While such conditions are not assumed to lead to core meltdown, they are assumed to result in additional hydrogen production above that calculated by Appendix K, "ECCS Evaluational Models."

Currently NRC conducts several Loss-of-Coolant Accident/Emergency Core Cooling System (LOCA/ECCS) experimental verification and code development programs that have the potential for establishing the amount of conservatism in metal-water reaction. Pending further progress on the present LOCA/ECCS programs, the NRC has concluded at this time that no further consideration need be given to this matter.

3. Comments regarding clarification of the rule have been incorporated in the final rule but have not significantly changed the position expressed by the NRC in the proposed rule.

One commenter opposed adoption of the rule. This commenter believed that the change was unnecessary, because General Design Criteria 41, 42, 43, and 50 of Appendix A to 10 CFR Part 50 impose the requirements for combustible gas control, and revised Regulatory Guide 1.7,[1] "Control of Combustible Gas Concentrations in Containment Following a Loss-of-Coolant Accident," will provide adequate criteria and guidelines for combustible gas control systems. However, the NRC believes that the change is necessary because (1) General Design Criterion 41 states that containment atmosphere cleanup systems must be provided as necessary, but it is not specific in defining the types of cleanup systems (e.g., a combustible gas control system), (2) the method and basis for the calculation of hydrogen after a LOCA should be established, (3) the degraded ECCS operation is subject to many different interpretations if not specifically defined, (4) publishing a final rule would resolve a complex technical issue that was raised on inerting by the Atomic Safety and Licensing Appeal Board during the Vermont Yankee licensing proceeding, and (5) the rule has set forth limits of domain within which potential hydrogen explosion is possible as a result of degradation, but not total failure, of emergency core cooling functioning. The rule would thus provide guidance to future designers, who could design their plants to avoid the range of hydrogen concentrations that could have potential for explosion.

Assumptions acceptable to the NRC staff for evaluating and designing a combustible gas control system are presented in Revision 2 of Regulatory Guide 1.7. Regulatory Guide 1.7 (originally Safety Guide 7) was published in March 1971. Revision 1 to this guide was published in September 1976. After consideration of the comments received on the guide, Revision 2 to this guide is now being published.

Revision 2 to Regulatory Guide 1.7 is essentially the same as in Revision 1 with minor clarifying changes. Some concerns were raised in the guide about the meaning of partial burning of hydrogen in the containment. For hydrogen concentrations in the range of 4 to 6 volume percent, partial burning of the hydrogen above 4 volume percent may occur. However, in this range of 4 to 6 volume percent, the rate of flame propagation is less than the rate of rise of the flammable mixture. Therefore, the flame can propagate upward, but not horizontally or downward. In this case, only a fraction of hydrogen will burn in the containment, and complete combustion will not occur until the hydrogen concentration is increased above 6 volume percent.

Interested persons were invited to submit written comments by December 20, 1976, for consideration in connection with the proposed amendments. After consideration of the comments received and other factors involved, the Commission has adopted the amendments as set forth below.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to title 10, chapter I, Code of Federal Regulations, part 50, are published as a document subject to codification.

[1] Copies of the Revision 2 to Regulatory Guide 1.7 may be obtained by written request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Appendix A [Amended]

1. In 10 CFR Part 50, Appendix A—Criterion 50 is amended to read as follows:

CRITERION 50—CONTAINMENT DESIGN BASIS

The reactor containment structure, including access openings, penetrations, and the containment heat removal system, shall be designed so that the containment structure and its internal compartments can accommodate, without exceeding the design leakage rate and with sufficient margin, the calculated pressure and temperature conditions resulting from any loss-of-coolant accident. This margin shall reflect consideration of (1) the effects of potential energy sources that have not been included in the determination of the peak conditions, such as energy in steam generators and, as required by § 50.44, energy from metal-water and other chemical reactions that may result from degradation, but not total failure, of emergency core cooling functioning; (2) the limited experience and experimental data available for defining accident phenomena and containment responses; and (3) the conservatism of the calculational model and input parameters.

2. A new § 50.44 is added to 10 CFR Part 50 to read as follows:

§ 50.44 Standards for combustible gas control system in light water cooled power reactors.

(a) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy cladding, shall, as provided in paragraphs (b) through (d) of this section, include means for control of hydrogen gas that may be generated, following a postulated loss-of-coolant accident (LOCA), by (1) metal-water reaction involving the fuel cladding and the reactor coolant, (2) radiolytic decomposition of the reactor coolant, and (3) corrosion of metals.

(b) Each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy cladding shall be provided with the capability for (1) measuring the hydrogen concentration in the containment, (2) insuring a mixed atmosphere in the containment, and (3) controlling combustible gas concentrations in the containment following a postulated LOCA.

(c) For each boiling or pressurized light-water nuclear power reactor fueled with oxide pellets within cylindrical zircaloy cladding, it shall be shown that during the time period following a postulated LOCA but prior to effective operation of the combustible gas control system, either: (1) An uncontrolled hydrogen-oxygen recombination would not take place in the con-

tainment; or (2) the plant could withstand the consequences of uncon-

population zone outer boundary from purging and the postulated LOCA cal-

not postulated to be sufficient to cause core meltdown.

compensating bumped passengers to include in any advertisement the fact

and would have the responsibility to insure that travel agents authorized to sell air transportation for it give the

tices, and we believe the scales incline in favor of the former.

In adopting FR-1050, the Board

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tainment; or (2) the plant could withstand the consequences of uncontrolled hydrogen-oxygen recombination without loss of safety function. If neither of these conditions can be shown, the containment shall be provided with an inerted atmosphere or an oxygen deficient condition in order to provide protection against hydrogen burning and explosions during this time period.

(d)(1) For facilities that are in compliance with § 50.46(b), the amount of hydrogen contributed by core metal-water reaction (percentage of fuel cladding that reacts with water), as a result of degradation, but not total failure, of emergency core cooling functioning shall be assumed either to be five times the total amount of hydrogen calculated in demonstrating compliance with § 50.46(b)(3), or to be the amount that would result from reaction of all the metal in the outside surfaces of the cladding cylinders surrounding the fuel (excluding the cladding surrounding the plenum volume) to a depth of 0.00023 inch (0.0058 mm), whichever amount is greater. A time period of 2 minutes shall be used as the interval after the postulated LOCA over which the metal-water reaction occurs. (2) For facilities as to which no evaluation of compliance in accordance with § 50.46(b) has been submitted and evaluated, the amounts of hydrogen so contributed shall be assumed to be that amount resulting from the reaction of 5 percent of the mass of metal in the cladding cylinders surrounding the fuel, excluding the cladding surrounding the plenum volume.

(e) For facilities whose notice of hearing on the application for a construction permit was published on or after November 5, 1970, purging and/or repressurization shall not be the primary means for controlling combustible gases following a LOCA. However, the capability for controlled purging shall be provided. For these facilities, the primary means for controlling combustible gases following a LOCA shall consist of a combustible gas control system, such as recombiners, that does not result in a singificant release from containment.

(f) For facilities with respect to which the notice of hearing on the application for a construction permit was published between December 22, 1968, and November 5, 1970, if the incremental radiation dose from purging (and repressurization if a repressurization system is provided) occurring at all points beyond the exclusion area boundary after a postulated LOCA calculated in accordance with § 100.11(a)(2) of this chapter is less than 2.5 rem to the whole body and less than 30 rem to the thyroid, and if the combined radiation dose at the low population zone outer boundary from purging and the postulated LOCA calculated in accordance with § 100.11(a)(2) of this chapter is less than 25 rem to the whole body and less than 300 rem to the thyroid, only a purging system is necessary, provided that the purging system and any filtration system associated with it are designed to conform with the general requirements of Criteria 41, 42, and 43 of Appendix A to this part. Otherwise the facility shall be provided with another type of combustible gas control system (a repressurization system is acceptable) designed to conform with the general requirements of Criteria 41, 42, and 43 of Appendix A to this part. If a purge system is used as part of the repressurization system, the purge system shall be designed to conform with the general requirements of Criteria 41, 42, and 43 of Appendix A to this part. The containment shall not be repressurized beyond 50 percent of the containment design pressure.

(g) For facilities with respect to which the notice of hearing on the application for a construction permit was published on or before December 22, 1968, if the combined radiation dose at the low population zone outer boundary from purging (and repressurization if a repressurization system is provided) and the postulated LOCA calculated in accordance with § 100.11(a)(2) of this chapter is less than 25 rem to the whole body and less than 300 rem to the thyroid, only a purging system is necessary, provided that the purging system and any filtration system associated with it are designed to conform with the general requirements of Criteria 41, 42, and 43 of Appendix A to this part. Otherwise, the facility shall be provided with another type of combustible gas control system (a repressurization system is acceptable) designed to conform with the general requirements of Criteria 41, 42, and 43 of Appendix A to this part. If a purge system is used as part of the repressurization system, it shall be designed to conform with the general requirements of Criteria 41, 42, and 43 of Appendix A to this part. The containment shall not be repressurized beyond 50 percent of the containment design pressure.

(h) As used in this section:

(1) Degradation, but not total failure, of emergency core cooling functioning means that the performance of the emergency core cooling system is postulated, for purposes of design of the combustible gas control system, not to meet the acceptance criteria in § 50.46 and that there could be localized clad melting and metal-water reaction to the extent postulated in paragraph (d) of this section. The degree of performance degradation is not postulated to be sufficient to cause core meltdown.

(2) A combustible gas control system is a system that operates after a LOCA to maintain the concentrations of combustible gases within the containment, such as hydrogen, below flammability limits. Combustible gas control systems are of two types: (i) Systems that allow controlled release from containment, through filters if necessary, such as purging systems and repressurization systems, and (ii) systems that do not result in a significant release from containment such as recombiners.

(3) A purging system is a system for the controlled release of the containment atmosphere to the environment through filters if needed.

(4) A repressurization system is a system used to dilute the concentration of combustible gas within containment by adding inert gas or air to the containment. Dilution of the combustible gas results in a delay in time until a flammable concentration is reached and permits fission product decay. Operation is limited to a containment repressurization to 50 percent of the containment design pressure. A purging system is normally part of the repressurization system.

(Sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841).)

Dated at Washington, D.C. this 23d day of October 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-30373 Filed 10-26-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-1078, Amdt. 11]

PART 250—OVERSALES

Advertising Disclosure of Noncompliance With Oversale Rules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 20, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board is adopting a rule requiring U.S. carriers, operating internationally, and foreign route air carriers that have not filed tariffs implementing the Board's new rules for

compensating bumped passengers to include in any advertisement the fact that they have not conformed to U.S. Government rules for consumer protection on oversold flights.

DATES: Effective: November 11, 1978. Adopted: October 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Jacob Goldberg, Trial Attorney, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5019.

SUPPLEMENTARY INFORMATION: By ER-1050 (43 FR 2477, June 5, 1978), the Board revised part 250 of its rules for the protection of passengers on oversold flights (14 CFR Part 250). The principal requirements of the new rules are: Air carriers must (1) minimize the number of passengers involuntarily denied boarding, by, among other things, requesting volunteers for denied boarding before bumping any passengers against their will; (2) pay increased levels of compensation to involuntarily bumped passengers; and (3) give greater public notice of the boarding procedures used by carriers in the event of overbooked flights. Carriers were required to file tariffs implementing the rules by July 20, 1978, and the rules became effective on September 3, 1978.[1]

By Notice of proposed rulemaking, EDR-363 (43 FR 39806, Sept. 7, 1978), docket 33348, the Board stated that a number of carriers engaged in foreign air transportation, particularly foreign air carriers, had not filed the tariff rules required by the revised part 250. Accordingly, the Board proposed to add a new § 250.12 to its overbooking rules, requiring every carrier engaged in foreign air transportation that does not have on file the requisite tariff rules to include prominently and clearly in any advertisement placed in any printed publication, or on radio or television circulated, heard or carried in the United States, its territories, and possessions, a statement that the carrier does not conform to U.S. Government rules for consumer protection on oversold flights. Additionally, each such carrier would be required to include the same notice with each ticket sold by it or its agents in the United States, its territories and possessions; and would have the responsibility to insure that travel agents authorized to sell air transportation for it give the same notice.

Comments on EDR-363 have been filed by seven foreign air carriers,[2] Aviation Consumer Action Project (ACAP), and the Department of State. After considering these comments, we have decided to make the proposed rule final.

ACAP generally supports the proposed rule. The comment from the State Department includes a diplomatic note from the British Government objecting to EDR-363 on the ground that Bermuda II [3] prohibits the Board from requiring British air carriers to file any particular form of tariff.[4] The State Department agrees with this interpretation of Bermuda II, but expressly refrains from acknowledging that the requirement of EDR-363 constitutes a tariff under that agreement. The State Department does agree that a rule along the lines proposed would be in the public interest. The foreign carriers generally contend that they have complied with part 250 by filing tariffs effective as of September 3, 1978, covering flights departing from the United States for foreign countries; but they state that flights departing foreign countries for the United States are subject to the denied boarding tariffs or rules of the foreign country only. They add that their governments object to the extraterritorial effect of part 250, and that some of the governments have delivered diplomatic notes to the Department of State requesting consultations.

The Board rejected similar contentions when part 250 was first given extraterritorial effect by ER-880, August 13, 1974 (39 FR 38087); and again by ER-1050. The Board made it plain in ER-880 that part 250 would also extend to confirmed reserved space, verified in the United States, for a passenger inbound on a foreign air carrier to the United States from a foreign country:

> The reasons why persons whose inbound trips to the United States have been confirmed in the United States should be protected, even though utilizing a foreign air carrier, far outweigh the cost and inconvenience alleged by some of the foreign air carriers. For the most part, we are balancing the interests of United States nationals utilizing confirmed round trip bookings as against foreign air carriers which have complete control of their own reservation practices, and we believe the scales incline in favor of the former.

In adopting ER-1050, the Board reaffirmed that its overbooking rules "should be given the same extraterritorial application as our existing oversale regulations:"

> • • • the arguments now raised in opposition to applying our oversale regulations to international operations are essentially the same as those raised and rejected when part 250 was first given extraterritorial effect, in order to extend an umbrella of protection to U.S. travelers abroad. (Footnote omitted.)

These same foreign air carriers have been complying with part 250 since 1975,[5] thus indicating that compliance does not present the kinds of difficulties that they are now alleging.

We do not reach the question of whether Bermuda II or other bilaterals allow the Board unilaterally to require the filing of any particular tariff. Like all sovereign states,[6] the United States has the power to regulate its marketplace to eliminate practices unfair to consumers making purchases in it, to provide consumers with information adequate to support intelligent choices, and to require foreign sellers who wish to do business in the market to conform to domestic laws. The relevant sections of our act give this responsibility in air transportation markets to the Board. Our laws make no distinction in this respect between inbound and outbound international transportation, nor is one required. Part 250 is designed to protect consumers from unfair reservations practices.

Beyond these considerations, the disclosure rule we are adopting here regulates conduct in the U.S. marketplace only and is designed to afford consumers there adequate notice with respect to sales and service practices of considerable importance to them. We do not read Bermuda II or other bilateral agreements as preventing the Board from applying consumer protection rules in foreign air transportation as defined in our statutes, and we do not consider part 250 to be a tariff matter within the context of Bermuda II or other bilaterals. And we cannot accept the contention that regulating advertising and sales practices within the United States to insure adequate disclosure to consumers (an activity undertaken by domestic authorities in most if not all of the home States of the complaining airlines)[7] is any more precluded by bilateral tariff agree-

[1] By order 78-9-6, Sept. 1, 1978, the Board waived the requirements, until further order of the Board, of § 250.3(b) of part 250 dealing with the tariff filing of boarding priority rules and criteria. The same order waived for a period of 30 days the requirements of part 250 insofar as they apply on flights from a foreign point to a point in the United States, provided that any carrier availing itself of this waiver continue to apply the provisions of part 250 in effect on Sept. 2, 1978.

[2] Air Canada (joined by CPAir), Air France, Alitalia, British Airways, British Caledonian, Lufthansa, and Swissair.

[3] United States-United Kingdom Air Services Agreement of July 23, 1977.

[4] The State Department also has delivered a note from the Embassy of Switzerland objecting to the proposed rule on the principal ground that the Board has no authority to impose tariff regulations unilaterally.

[5] See ER-890, Dec. 17, 1974 (39 FR 44197), which extended the effective date of ER-880 to Mar. 1, 1975.

[6] See, for example, *British Airways Board v. Taylor*, 1 All England Law Reports 65 (1976).

[7] See, for example Trade Descriptions Act 1968, sec. 14 (United Kingdom); Combines Investigation Act, sec. 36 (Canada).

ments than are laws respecting commercial credit transactions, consumer fraud, or racial discrimination, in

in overbooking, which results in the "bumping" of passengers who have been led to believe that they have a

250.12 Public disclosure of noncompliance with rules for consumer protection on oversold flights

in that position. The new § 140.13 will authorize the election by the Commission of one of its members, at any time

Federal Regulations as set forth below.

FOR FURTHER INFORMATION CONTACT:

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ments than are laws respecting commercial credit transactions, consumer fraud, or racial discrimination in sales.[8]

Several carriers raise section 1102[9] of the act as a barrier. A similar contention was rejected by the Board in ER-880:

> Similarly, the argument that the extension of part 250 to foreign air carriers would unilaterally alter various bilateral agreements in contravention of section 1102 cannot be accepted.
>
> . . . . .
>
> While the agreements do not contemplate unilateral alterations in the air transport rights bargained for and agreed upon, they do contemplate that such rights be exercised in accordance with nondiscriminatory laws and rules applicable to all air carriers, whether foreign or domestic. Neither the bilaterals nor section 1102 have been breached.

The issue here, however, is how to fashion a remedy to be applied to those carriers which have failed to conform to ER-1050. Turning to the specific rule proposed by EDR-363, several of the carriers contend that section 411 of the Act entitles them to a hearing, and that the Board must issue a cease and desist order before imposing such remedial action. The reliance on section 411 is misplaced. This rulemaking is not a proceeding to determine if a carrier is engaged in unfair or deceptive practices or unfair methods of competition. It was only when we discovered that many carriers engaged in foreign air transportation had failed to conform to ER-1050 that we decided to issue the proposed rule.[10] The problem here requires use of rulemaking procedures; which have general applicability, and not independent enforcement procedures for action against one carrier.

Finally, turning to the specific remedy, several of the foreign air carriers complain that requiring notice of noncompliance is disproportionate to the problem sought to be alleviated. These carriers do, however, advertise in the United States, urging the public to make reservations for confirmed space. At the same time, they engage in overbooking, which results in the "bumping" of passengers who have been led to believe that they have a confirmed seat on the flight of their choice, and have made arrangements on that assumption. Although ER-1050 did not prohibit overbooking altogether, it did attempt to ameliorate the often severe effect of that practice on some travelers. Inasmuch as these foreign air carriers use the newpapers, radio, and television in the Untied States to advertise their services, it is only fair that the same media be used to add the further fact that if a confirmed passenger is bumped, the protection and remedies afforded by part 250 may not be available because of the carrier's failure to conform to part 250. They also argue that the notice required by EDR-363 goes beyond "corrective advertising."[11] The argument that "corrective advertising" can be required only to correct previous false and misleading statements stretches form over substance. At the very least, the Board can require "corrective advertising" to be carried alongside the very advertisement that, without the corrections, would be false and misleading.

Since as part 250 is now effective, and given the widespread publicity and public information about the denied boarding compensation rules, passengers can be expected to rely on carrier observance of Board regulations established for their protection. To avoid surprise and confusion on their part, and to avoid their being misled, we consider it necessary to require nonconforming carriers to so notify consumers in the advertisements by which they solicit the patronage of the public.

As we stated in EDR-363, since the revised part 250 is now effective, it is important to alert the traveling public as to the actual reservations and boarding practices prevailing in the industry. We therefore gave notice in EDR-363 of our intent to make the final rule effective upon adoption. We continue to believe that an early effective date is in the public interest, but we have decided to allow 15 days so that affected carriers will have time to change their advertising in accordance with this rule. Therefore, we find good cause that the rule may become effective 15 days after publication in the FEDERAL REGISTER.

Accordingly, part 250 of the Board's Economic Regulations (14 CFR 250) is amended as follows:

1. We amend the table of contents by adding a new § 250.12 identified to read:

Sec.

. . . . .

250.12 Public disclosure of noncompliance with rules for consumer protection on oversold flights.

2. We add a new § 250.12 to read:

§ 250.12 Public disclosure of noncompliance with rules for consumer protection on oversold flights.

(a) Every carrier engaged in foreign air transportation the does not have on file with the Board tariffs conforming with §§ 250.3 and 250.4 shall include prominently and clearly in any advertisement placed in any printed publication, or on radio or television circulated, heard, or carried in the United States, its territories and possessions, the following statement:

> We do not conform to U.S. Government rules for consumer protection on oversold flights.

(b) Each such carrier shall include with each ticket sold by it or its agents in the United States, its territories, and possessions that notice set forth in paragraph (a) of this section. This statement shall be printed on a separate piece of paper and inserted with the ticket in the ticket envelope.

(c) It shall be the responsibility of each such carrier to insure that travel agents authorized to sell air transportation for that carrier comply with the provisions of paragraph (b) of this section.

(Secs. 204, 403, 404, 411, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, 760, and 769 (49 U.S.C. 1324, 1373, 1374, and 1381).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30482 Filed 10-26-78; 8:45 am]

[6351-01-M]

Title 17—Commodities and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

Vacancy in Position of Chairman

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is adding a new section to subpart B, part 140, title 17 of the Code of Federal Regulations.

Currently, the Commission has no policy concerning who shall exercise the Chairman's administrative authority in the event that a vacancy exists in that position. The new § 140.13 will authorize the election by the Commission of one of its members, at any time that a vacancy exists, to exercise the executive and administrative functions of the Commission that would otherwise be exercised by a Chairman in accordance with section 2(a)(6) of the Commodity Exchange Act, as amended.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Nancy A. Petranto, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-7588.

SUPPLEMENTARY INFORMATION: On July 7, 1976, the Commission adopted subpart B, 17 CFR part 140, consisting of § 140.10, setting forth the general statutory composition of the Commission, and § 140.11, providing, in the absence of a quorum of the Commission, that the senior member of the Commission present in Washington, D.C., at the time an emergency situation arises may act on behalf of the Commission. 41 FR 28473 et seq. (July 12, 1976). Neither of these provisions, however, address the question who shall perform the day-to-day administrative and executive functions of the Commission when a vacancy exists in the chairmanship of the Commission.

The new § 140.13, which will be effective immediately upon publication, provides that at any time that a vacancy exists in the position of Chairman, the members of the Commission shall elect a member to serve as acting Chairman to exercise the administrative and executive functions of the Commission that would otherwise be exercised by a Chairman in accordance with section 2(a)(6) of the Commodity Exchange Act, as amended. If the President should appoint a new Chairman from among the existing members of the Commission, however, the rule will further provide that that Commissioner shall serve as acting Chairman until such time as his appointment as Chairman has been confirmed or rejected by the Senate.

The Commission finds that the foregoing action relates solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Pursuant to authority contained in section 2a(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4(a)(j) (1976), the Commodity Futures Trading Commission hereby adopts a new § 140.13 of subpart B of part 140 of chapter I of title 17 of the Code of Federal Regulations as set forth below.

§ 140.13 Vacancy in position of Chairman.

At any time that a vacancy exists in the position of Chairman of the Commission the remaining members of the Commission shall elect a member to serve as acting Chairman who shall exercise the executive and administrative functions of the Commission that would otherwise be exercised by a Chairman in accordance with section 2(a)(6) of the Commodity Exchange Act, as amended, until a new Chairman has been appointed by the President and confirmed by the Senate: *Provided, however,* That if the President shall appoint a new Chairman from among the existing members of the Commission, that Commissioner shall serve as acting Chairman for these purposes until such time as his appointment as Chairman has been confirmed or rejected by the Senate.

Issued in Washington, D.C., on October 24, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-30370 Filed 10-26-78; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION

PART 154—RATE SCHEDULES AND TARIFFS

Modification of Purchased Gas Cost Adjustment Clause Regulations

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule (order No. 13 issued in docket No. R-406).

SUMMARY: This order amends the Federal Energy Regulatory Commission's purchased gas cost adjustment (PGA) clause regulations to limit to two a year the number of purchased gas cost adjustment rate filings an interstate pipeline may make and to allow these pipelines to accrue and collect carrying charges on amounts carried in their deferred purchased gas cost accounts. The number and frequency of PGA filings caused by constantly rising costs have reached such magnitude that they impose an undue financial and administrative burden on all affected parties. The rule is intended to relieve that burden.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles E. Bullock, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4232.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 154.38(d) of title 18 of the Code of Federal Regulations (CFR), permits natural gas pipeline companies to include a purchased gas adjustment provision (PGA clause) in their FERC gas tariffs under certain specified conditions. The Federal Power Commission (FPC) initially decided to permit PGA clauses in order to avoid frequent consideration of rate increase filings caused by constantly rising costs of purchased gas. It now appears that the number and frequency of PGA filings have reached such magnitude that they impose an undue financial and administrative burden upon the pipeline companies, their customers, the staff of the Federal Energy Regulatory Commission (Commission), the State commissions, and the ultimate consumers.

On May 10, 1976, the FPC[1] issued a notice of proposed rulemaking, docket No. R-406, which proposed to limit the number of filings of future PGA clause rate changes to two per year, and prescribe semiannual filing dates for each pipeline company. The proposal was intended to relieve all affected parties of the tremendous burden created by the current system of PGA filings. Recognizing that the semiannual limitation would force pipeline companies to carry larger balances of deferred purchased gas costs, the Commission also indicated that it would consider rate base treatment or carrying charges for the deferred amounts.

In response to requests for reconsideration of the assigned dates, a conference was held on January 11, 1977. A revised schedule of semiannual effective dates was established.[2] On April 26, 1977, a notice for further comments was issued. Comments were due by May 11, 1977. Nine parties filed comments at that time.

SUMMARY OF COMMENTS

A total of 47 parties filed comments to the notice of proposed rulemaking and the notice for further comments. All but a few supported the limitation

[1] In fact, the Board's earlier rulemaking in ER-987 (42 FR 12420), amending pt. 221 to require disclosure to consumers of overbooking practices for persons buying tickets in the United States, received support from many foreign air carriers operating in U.S. air transportation, including more than one of the carriers objecting here.

[9] Sec. 1102 in pertinent part provides that in exercising its powers, the Board shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement with any foreign country.

[10] It should be noted that EDR-363 applies to both U.S. flag carriers and foreign air carriers engaged in foreign air transportation.

[11] Citing *Warner Lambert Co. v. F.T.C.*, 562F. 2d 749 (CADC 1977).

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission" when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] See new § 154.38(d)(4)(iv)(*a*).

to two filings per year. More than half of the commentators that expressed

pipelines should make extra efforts to provide information on proposed rate

Additionally, the 1977 form 2's of the 18 largest companies indicate re-

creasing its outlay for income taxes when the Account 191 balances are

ers. The companies will not be required to file semiannual PGA rate

more than 30 days lapses, Indiana Gas states that it is forced by State re-

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to two filings per year. More than half of the commentators that expressed support for the proposal indicated, however, that they could not support it unless carrying charges for the deferred balances were allowed. Most of the commentators further indicated that:

(1) Carrying charges rather than rate base treatment should be adoped for any deferred balance; and

(2) Exceptions from the semiannual filing limitation should be allowed so that purchasing pipelines can simultaneously track general section 4(e) filings of their pipeline suppliers and changes in the cost of Canadian gas.

The Interstate Natural Gas Association of America (INGAA) supports carrying charges over rate base treatment for the following reasons:

(1) A carrying charge is fair because it is computed on the actual deferred balance;

(2) The pipeline is protected because it receives reimbursement for the substantial carrying costs it incurs;

(3) The pipeline customers are protected because the carrying charge is computed on the actual amount carried and the customers receive credit for interest if overcollections result;

(4) This method is easier to administer.

INGAA opposes rate base treatment because of the difficulty in accurately projecting the balance in the deferred account and the regulatory lag involved.

Many commentators suggested specific methods of allowing carrying charge rates. The suggestions included allowing carrying charges equal to:

(1) The rate of return included in the effective rate of the pipeline;

(2) The short-term borrowing rate available to the pipeline in the then current borrowing market; or

(3) The interest rate on amounts to be refunded that is prescribed by the Commission.

The American Public Gas Association (APGA) favored the two filings per year proposal but opposed any form of relief on the deferred balances. APGA argues that PGA clauses deviate from the general ratemaking principle that a utility not be permitted to reflect an increase in one item of cost without reviewing that utility's other costs and its total revenues. Thus, APGA states the "two a year" proprosal should be adopted because it limits the alleged deviation of the PGA clause from the aforementioned ratemaking principle. However, for the same reason (i.e., the deviation), APGA argues that carrying charges should not be adopted because they further aggravate the problems purportedly caused by PGA clauses.

The notice of proposed rulemaking included a suggestion that supplier pipelines should make extra efforts to provide information on proposed rate levels to their purchasers who must make concurrent PGA filings. One commentator expressed the opinion that this suggestion should be incorporated as a requirement.

The proposal was opposed by one commentator. That commentator stated that implementation of the proposal would concentrate purchased gas costs during certain periods and cause an intensified impact on the consumer. The commentator also states the proposal would result in an inequitable distribution of costs among customers since the proposal would allow the gas to be used in one season and paid for in the next. Finally, the commentator states that the proposal would create a financial burden on intermediate pipelines.

Several commentators originally expressed concern with the suggested schedule of effective dates. The January 11, 1977, conference was held in response to this concern and a revised schedule was subsequently adopted to incorporate the suggestions made in the meeting.

Findings of the Commission

The Commission finds that due to the higher number of PGA filings it is receiving and processing, pipeline companies should be limited to two PGA filings annually, pursuant to the attached schedule in appendix A, and that carrying charges should be allowed. The Commission is not persuaded that implementation of this rule will result in inequitable distribution of purchased gas costs among a pipeline's customers. To the contrary, by reducing the number of PGA filings the rule should tend to result in a more equitable distribution of costs.

The parties' argument that carrying charges are preferable to rate base treatment of the deferred account are persuasive. While the Commission has allowed a number of pipeline companies carrying charges, these were allowed only in individual rate cases where a strong showing was made in support thereof. The support included a showing of large and recurring deferred balances. The Commission's experience gained during the 6 years PGA clauses have been permitted in pipeline company tariffs indicates that carrying charges should be provided for deferred purchased gas balances for all interstate pipelines. For example, deferred purchased gas costs recorded by major class A and B companies at the end of calendar year 1972 through 1976 are as follows: (1) 1972—$29,470,000; (2) 1973—$137,244,000; (3) 1974—$226,434,000; (4) 1975—$116,956,000; and (5) 1976—$570,050,000.[3]

Additionally, the 1977 form 2's of the 18 largest companies indicate recorded deferred purchased gas cost balances at December 31, 1977, of $558 million. The rapid buildup in these balances over the 6-year period, especially balances in excess of one-half billion dollars the last 2 years, indicates a substantial economic burden on the industry. Fairness dictates that some form of compensation be permitted on the deferred balances. The carrying charges shall be limited to the charge prescribed for interest on refunds under § 154.67(c).

In response to the APGA comments discussed previously, neither the PGA clause itself nor the carrying charge proposal violates the principle that rate adjustments must be premised upon a showing that all costs rather than just one item of cost justify the rate adjustment.[4] For example, § 154.38(d)(4)(vi) requires a cost of service review of the pipeline's overall rates at least every 3 years. In addition, given the large increases in purchased gas costs which have flowed through the various PGA clauses since 1972, it is very probable that, absent the PGA clause, this Commission's dockets would have been clogged with numerous general section 4 pipeline rate filings made pursuant to § 154.63 as pipelines attempted to protect themselves against possible undercollections due to increasing purchased gas costs. Thus, contrary to the implication contained in APGA's comments, PGA clauses have been of benefit to pipelines and consumers. However, in spite of the PGA clause's avowed purpose to insure dollar for dollar collection of PGA costs, pipelines have experienced large amounts of undercollections being accrued in the deferred account which are recoverable, after a delay, by way of subsequent surcharges. Given the benefits of the PGA to all concerned, and given the financial problems that could result to pipelines as their balances increase due to changes in purchase pattern, as well as the impact of the "two a year" proposal adopted in this order, we find again that the carrying charges proposed in this order are sound regulatory practice and should be adopted.

The Commission recognizes that the deferral of purchased gas cost creates a timing difference between the period during which the gas cost enters into the determination of taxable income and the period during which the cost enters into the determination of pretax book income. This timing difference has the effect of reducing a company's net outlays for unrecovered gas costs when the Account 191 balances are positive and conversely increasing its outlay for income taxes when the Account 191 balances are negative. Accordingly, in compliance with the provisions of FPC Orders 530 (40 FR 26987) and 530B, we shall therefore require that in order for a company to be eligible for carrying charges, the company adopt the principles of interperiod income tax allocation in connection with balances recorded in the unrecovered purchased gas cost account with the resulting tax effects to be recorded in Account 283, Accumulated deferred income taxes—Other, or Account 190, Accumulated deferred income taxes, as appropriate, in accordance with the provisions of those accounts (18 CFR Parts 201 and 204). The carrying charges shall be computed monthly on the net balances in Account 191 and the related amounts in Account 283 or 190 as appropriate as of the end of the immediately preceding month.

The Commission also finds that there should be no exceptions to the two PGA filings per year limitation. Allowing exceptions would increase the frequency of PGA filings and would reduce the effectiveness of this rulemaking. While some cash-flow problems may occur to those companies carrying large deferred balances, the implementation of carrying charges should effectively compensate pipelines for the time value of the amounts carried in the deferred account and thus protect the financial integrity of the pipeline. It is appropriate, at this point, to refer to a proposed rulemaking, in docket No. RM79-1 (published elsewhere in today's issue) which, if adopted, would require pipelines to elect to reflect changes in purchased gas costs either through a PGA clause, or through general rate filings made pursuant to § 154.63. The purpose of the proposal is to limit the ways that purchased gas costs can be recovered. If a pipeline elects to adopt or maintain a PGA clause, it will be precluded from reflecting changes in purchased gas costs in a general rate adjustment filing pursuant to § 154.63. The election will be for 3 years unless the pipeline can demonstrate good cause, as described more fully in the notice, to justify the grant of a waiver of the PGA clause election by the Commission.

There are five pipeline companies which file annual PGA rate adjustments.[5] Currently they are permitted to file annually and to reflect those supplier rate changes for the forthcoming year that are already known. This procedure was permitted in order to facilitate the recovery of purchased gas costs by the distribution customers. The companies will not be required to file semiannual PGA rate changes but will be allowed to continue annual adjustments, as provided in their present tariffs, provided that they make no more than two PGA filings a year. These companies will be allowed carrying charges consistent with the regulation.

For the smooth and effective execution of this order, it is necessary that supplier pipelines provide information concerning their proposed adjustments to their purchasers who must make concurrent PGA filings. Such information should be provided at least 15 days prior to the filing date of the purchasing pipeline. The Commission intends to monitor the practices of pipelines in this regard, and, if it finds the information is not provided in a timely manner, the Commission will initiate a rulemaking procedure prescribing the necessary procedures for providing the information.

To avoid possible complications for the affected pipelines, this rulemaking will become effective on January 1, 1979. Therefore, pipelines must file tariff sheets conforming their existing PGA clauses to these regulations on or before December 1, 1978, to become effective no earlier than and no later than January 1, 1979. After January 1, 1979, pipelines will not be permitted to reflect changes in purchased gas costs through PGA clauses unless they have PGA clauses in effect which conform to the provisions of the amendments promulgated in this order. Finally, pipelines shall also revise the effective dates for other approved rate adjustment provisions to comply with the PGA effective dates prescribed by this order.

Miscellaneous Comment

A few comments expressed concern about coordination between the Commission adjustment procedures and various states' adjustment procedures. The State of Kansas and the Public Service Co. of Colorado requested that the Commission refrain from granting retroactive approvals. In Kansas, it is alleged, a retroactive approval can cause distribution companies employing cycle billing to absorb the wholesale rate changes, sometimes only temporarily, since the State Corporation Commission requires FERC approval before a wholesale rate increase may be passed on to consumers. The Public Utility Co. of Colorado does not allow rate changes to become effective retroactively. Thus, it is stated, where a retroactive rate increase is approved by the FERC, the distribution company is forced to absorb it. Indiana Gas Co., Inc. (Indiana Gas) requested the Commission to adopt the policy of suspending PGA filings whenever action cannot be taken within 30 days. When more than 30 days lapses, Indiana Gas states that it is forced by State requirements to absorb the costs that arise between the effective date of the filing and the date of FERC approval.

This Commmission shares the concern of these parties that adequate notice be given to distributors who must pass on FERC—approved purchased gas costs. In view of this, the Commission shall grant waiver of the 30 day notice requirement for all section 4 rate filings, including PGA filings, only where the pipeline has carried the burden of demonstrating good cause for such waiver.

The following suggestions were also made by various commentators:

(1) Offset the amounts in the carrying charges with the amounts which are subject to refund.

(2) Suspend the semiannual PGA filings due date when an adjustment falls within a test period contained in a pipeline's general rate increase.

(3) Exclude additional companies from the effect of the rulemaking.

In regard to No. 1 above, the suggestion assumes on its face that pipeline companies are not entitled to any funds collected subject to refund. This is an incorrect assumption and the Commission declines to adopt this suggestion. In regard to No. 2 above, the cost of purchased gas constitutes the largest single component of a pipeline company's cost of service and any deferral of a justified filing would unduly penalize the company and create administrative burdens upon its customers. For this reason, the Commission declines to adopt this suggestion. In regard to No. 3 above, the notice of proposed rulemaking recognized that certain pipeline companies already had effective PGA clauses that were consistent with the purpose of the proposal and suggested that such clauses should not be affected by this rulemaking. Finally, the Commission shall not adopt the suggestion to exclude more companies from the effect of this rulemaking.

Summary of the Amendments

Section 154.38(d)(4)(iv)(*a*) requires purchased gas adjustments to be filed semiannually and on the dates specified in this order.

Section 154.38(d)(4)(iv)(*b*) allows carrying charges on all balances in Account 191, provided the company adopts the principles of interperiod income tax allocation in connection with the balances recorded in the unrecovered purchased gas cost account. Carrying charges shall be equal to the current rate of interest on pipeline refunds established by the Commission.

Section 154.38(d)(4)(viii) requires the pipelines to file tariff sheets to conform their existing PGA clauses on or before December 1, 1978. These

[3] Statistics of Interstate Natural Gas Pipeline Cos. 1976, p. 28.

[4] See order No. 452 (issued April 14, 1972, in docket No. R-406).

[5] Colorado Interstate, Kansas-Nebraska, Northern Natural Gas, Inter City, and Northern Natural (Peoples Division).

tariff sheets will become effective no

North Penn Gas Co.
Panhandle Eastern Pipe Line Co.

Account 191 if the ending balance in Account 191 for the month is positive

been determined that exports of carbon steelplate and high strength

of a revocation order by the Commissioner of Customs, are hereby waived.

The regulations at 20 CFR § 704.101, § 704.201, § 704.301, and § 704.401 are

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tariff sheets will become effective no earlier than nor no later than January 1, 1979. After January 1, 1979, changes in purchased gas costs cannot be tracked under PGA clauses unless the effective PGA clause conforms with these amendments.

(Natural Gas Act (15 U.S.C. 717c, g, i and o), Administrative Procedure Act (5 U.S.C. 553), Department of Energy Organization Act, (42 U.S.C. 7101, et seq.), and E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 154, chapter I of Title 18, the Code of Federal Regulations is amended as set forth below, to become effective January 1, 1979.

By the Commission.

KENNETH F. PLUMB,
Secretary.

1. Section 154 is amended in subparagraph (4) paragraph (d) by revising subdivision (iv) and by adding a new clause (viii) to read as follows:

§ 151.38 Composition of rate schedule.

* * * * *

(d) *Statement of rate.* * * *
(4) * * *
(iv) * * *

(*a*) Rate changes which reflect both the current cost of purchased gas and a revised surcharge to clear the amounts accrued in the deferred account for both producer and pipeline suppliers shall be computed and filed not more frequently than semiannually. The PGA clause shall specify dates of adjustment as follows:

JANUARY 1, AND JULY 1

Alabama-Tennessee Natural Gas Co.
East Tennessee Natural Gas Co.
Chattanooga Gas Co., a Division of Jupiter Industries, Inc.
Granite State Gas Transmission, Inc.
Midwestern Gas Transmission Co.
Sea Robin Pipeline Co.
Southern Natural Gas Co.
South Georgia Natural Gas Co.
Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.
Tennessee Natural Gas Lines, Inc.
United Gas Pipe Line Co.
Distrigas of Massachusetts Corp.
Gas Gathering Corp.

FEBRUARY 1, AND AUGUST 1

Lawrenceburg Gas Transmission Corp.
Mid Louisiana Gas Co.
National Fuel Gas Supply Corp.
Texas Eastern Transmission Corp.
Texas Gas Transmission Corp.
Utah Gas Service Co.
Western Gas Interstate Co.

MARCH 1, AND SEPTEMBER 1

Algonquin Gas Transmission Co.
Columbia Gas Transmission Corp.
Consolidated Gas Supply Corp.
Eastern Shore Natural Gas Co.
Mississippi River Transmission Corp.
Natural Gas Pipeline Co. of America.
North Penn Gas Co.
Panhandle Eastern Pipe Line Co.
Transcontinental Gas Pipe Line Corp.
Trunkline Gas Co.

APRIL 1, AND OCTOBER 1

Arkansas Louisiana Gas Co.
El Paso Natural Gas Co.
Florida Gas Transmission Co.
Mountain Fuel Supply Co.
Northwest Pipeline Corp.
Oklahoma Natural Gas Gathering Corp.
Pacific Interstate Transmission Co.
Raton Natural Gas Co.
Southwest Gas Corp.
Transwestern Pipeline Co.

APRIL 23, AND OCTOBER 23

Cities Service Gas Co.
Commercial Pipeline Co., Inc.

MAY 1, AND NOVEMBER 1

Kentucky-West Virginia Gas Co.
McCulloch Interstate Gas Co.
Michigan Wisconsin Pipe Line Co.
Montana-Dakota Utilities Co.
Valley Gas Transmission, Inc.
Great Lakes Gas Transmission Co.

OCTOBER 1

Colorado Interstate Gas Co.
Northern Natural Gas Co. (Peoples Division)

NOVEMBER 1

Inter-City Minnesota Pipelines Ltd., Inc.

JUNE 1, AND DECEMBER 1

Louisiana-Nevada Transit Co.
Mountain Fuel Resources, Inc.
South Texas Natural Gas Gathering Co.
Western Transmission Corp.
Texas Gas Pipe Line Corp.

DECEMBER 1

Kansas-Nebraska Natural Gas Co.

DECEMBER 27

Northern Natural Gas Co.

(*b*) To assure recovery of all purchased gas costs, the Commission has prescribed a deferred purchased gas cost account, "Account 191, Unrecovered Purchased Gas Costs," 18 CFR Part 201, Balance Sheet Accounts, 191 and "Account 731.1, Purchased Gas Cost Adjustments," 18 CFR Part 201, Balance Sheet Accounts, 731.1. Pipelines using deferred accounting procedures shall be subject to the provisions of these accounts. In order to qualify for carrying charges, the company is required to adopt the principles of interperiod income tax allocation in connection with the balances recorded in the unrecovered purchased gas cost account.

(*c*) Carrying charges shall be computed based on the ending balances in Account 191, exclusive of accumulated interest each month. Interest will not be compounded. The rate for computation of carrying charges shall be the current rate of interest on pipeline refunds established by the Commission. Carrying charges shall be debited to Account 191 if the ending balance in Account 191 for the month is positive and shall be credited to Account 191 if the ending balance is negative. The carrying charges shall be computed monthly on the net balances in Account No. 191 and the related amounts in Account Nos. 283 or 190, as appropriate, as of the end of the immediately preceding month.

* * * * *

(viii) Pipelines must file tariff sheets pursuant to this part to conform their existing PGA clauss on or before December 1, 1978, which shall become effective as of January 1, 1979. After January 1, 1979, a pipeline shall not be permitted to track changes in purchased gas costs under a PGA clause unless the PGA clause in effect at that time conforms to the rule promulgated in Order No. 13.

[FR Doc. 78-30431 Filed 10-26-78; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-408]

PART 159—LIQUIDATION OF DUTIES

Carbon Steelplate and High Strength Steelplate From Mexico—Revocation of Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Revocation of countervailing duty determination.

SUMMARY: This notice is to advise the public that the countervailing duty determination on carbon steelplate and high strength steelplate from Mexico is being revoked because the subsidies paid to exporters of this merchandise have been eliminated and there is no likelihood of resumption.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, U.S. Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2323.

SUPPLEMENTARY INFORMATION: A notice entitled "Countervailing Duties—Carbon Steelplate and High Strength Steelplate from Mexico," T.D. 76-7, was published in the FEDERAL REGISTER of January 7, 1976 (41 FR 1273). The notice stated that it had been determined that exports of carbon steelplate and high strength steelplate from Mexico were subject to bounties or grants, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), by virtue of the freight rate rebate provided to Mexican steel manufacturers who shipped to geographical zones along border areas. Virtually all such shipments were destined for export; therefore, the rebate was determined to constitute a bounty or grant. Accordingly, imports of carbon steelplate and high strength steelplate from Mexico were subject to countervailing duties.

Concurrent with the above determination, a notice entitled "Waiver of Countervailing Duties," T.D. 76-8, concerning the subject merchandise was published in the FEDERAL REGISTER (41 FR 1273).

Treasury has been informed that the reduced freight rates for the subject merchandise have been ended. Accordingly, it is determined that a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), is no longer being paid or bestowed upon the manufacture, production, or exportation of carbon steelplate and high strength steelplate from Mexico, and that there is no likelihood of resumption of the payment or bestowal of a bounty or grant on such merchandise.

T.D. 76-7 is hereby revoked with respect to all entries of dutiable carbon steelplate and high strength steelplate from Mexico which have not been liquidated, or the liquidation of which has not become final, on or after October 27, 1978. Customs officers will be instructed to proceed with liquidation of all such entries without regard to countervailing duties.

The table in § 159.47(f) of the Customs regulations (19 CFR 159.47(f)), is amended by deleting from the column headed "Country," the name "Mexico"; from the column headed "Commodity," the words "Carbon steel and high strength steelplate"; from the column headed "Treasury Decision," the numbers "76-7" and "76-8"; and from the column headed "Action," the words "Bounty declared-rate" and "Imposition of countervailing duties waived." (R.S. 251, sections 303, as amended, 624, 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624.)

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs regulations (19 CFR 159.47), insofar as they pertain to the issuance of a revocation order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 23, 1978.

[FR Doc. 78-30467 Filed 10-26-78; 8:45 am]

[4510-27-M]

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 702—ADMINISTRATION AND PROCEDURES

Office of Workers' Compensation Programs; Longshoremen's and Harbor Workers' Compensation

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: One new compensation district is added and the boundaries of another are altered for the purpose of better serving the public and for improved administration of the Longshoremen's and Harbor Workers' Compensation Act.

DATE: This admendment shall be effective October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

John D. Stocker, Associate Director for Longshore and Harbor Workers' Compensation, U.S. Department of Labor, Washington, D.C. 202-523-8721

SUPPLEMENTARY INFORMATION: This document changes compensation districts under § 702.101 of part 702, title 20 of the Code of Federal Regulations, establishing compensation districts pursuant to section 39(b) of the Longshoremen's and Harbor Workers' Compensation Act and its extensions.

The boundaries of the existing district 13 are revised as follows: That part of the State of California north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the States of Arizona and Nevada. The headquarters city remains San Francisco. District 18 is established and is comprised of that part of the State of California south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino. The headquarters city is Long Beach.

The regulations at 20 CFR § 704.101, § 704.201, § 704.301, and § 704.401 are unchanged by this amendment. The authority for issuance of this part is revised to reflect a new delegation of authority.

Accordingly part 702 is amended as follows:

1. The authority for the issuance of this part is revised to read as follows:

AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 42 U.S.C. 1651 et seq; 36 D.C. Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order 16-75, 40 FR 55913, Employment Standards Order 78-1, September 28, 1978.

2. Section 702.101 is amended as follows:

§ 702.101 Establishment of compensation districts

* * * * *

District No. 13. Comprises the States of Arizona, Nevada, and that part of the State of California north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernadino; with headquarters at San Francisco, Calif.
District No. 14.* * *
District No. 15.* * *
District No. 16. [Reserved.]
District No. 17. [Reserved.]
District No. 18. Comiprises that part of the State of California south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernadino; with headquarters in Long Beach, Calif.

Signed at Washington, D.C., this 20th day of October 1978.

DONALD ELISBURG,
Assistant Secretary for Employment Standards.

[FR Doc. 78-30470 Filed 10-26-78; 8:45 am]

[4510-27-M]

SUBCHAPTER B—FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, AS AMENDED

PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED

Black Lung Benefits Program

AGENCY: Employment Standards Administration, Department of Labor.

ACTION: Amendment to regulations.

SUMMARY: On August 18, 1978, in FR Document 78-23004, standards for processing, adjudication, and payment of claims for benefits under the Black Lung Benefits program were published in the FEDERAL REGISTER. The Department of Labor has been advised that part B miner-beneficiaries (the miner is receiving compensation benefits from the Social Security Administration) have failed to file claims for part

C medical benefits with the Labor Department. Part B miner-beneficiaries

§ 725.308 Time limits for filing claims.

[Docket No. R-78-535]

§ 201.9 Refinancing.
(a) * * *

industry (Pub. L. 94-29, 89 Stat. 140); and permits the subject of an identifi-

PART 16—PRODUCTION OF DISCLOSURE OF MATERIAL OR INFORMA-

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C medical benefits with the Labor Department. Part B miner-beneficiaries were advised by the Department of Health, Education, and Welfare on May 3 and 4, 1978, that they had the right to file for part C benefits. As there seems to be a misunderstanding among the claimant population regarding their rights to claim benefits, the Department is amending § 725.308(b) and § 725.701A(a). There was a 6-month limitation on filing claims under part C for medical benefits. This rule extends the time period until June 30, 1979.

EFFECTIVE DATE: This amendment is effective on October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert B. Dorsey, Chief, Branch of Claims Determination, Division of Coal Mine Workers' Compensation, U.S. Department of Labor, Room C-3526, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-6727.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare notified all part B miner-beneficiaries of their right to file claims for part C medical benefits on May 3 and 4, 1978. The Department of Labor has been advised that many part B miner-beneficiaries have failed to file claims under section 11 of the Black Lung Benefits Reform Act of 1977 because they believe that an adverse decision on their claim for medical benefits may result in a termination of the right to continuing compensation benefits under part B of title IV of the Act. Although a part B miner-beneficiary's continued entitlement to such benefits cannot and will not be affected in any way by a decision on the claim for part C medical benefits, experience to date, as well as the review of materials circulated prior to the August 18, 1978, publication of the final regulations governing the processing of such claims, indicates that a misunderstanding does exist among the claimant population.

To insure that no otherwise eligible miner is deprived of the right to seek medical benefits, I find that it is in the public interest to amend the provisions of §§ 725.308(b) and 725.701A(a) to provide that claims for medical benefits under section 11 of the Reform Act may be filed up to and including June 30, 1979. I further find that since the current 6-month period will expire on or about November 3, 1978, that notice and public procedure on this amendment to the rules are contrary to the public interest.

Accordingly, 20 CFR Part 725 is amended as follows:

1. Paragraph (b) of § 725.308 is revised to read as follows:

§ 725.308 Time limits for filing claims.

• • • • •

(b) A miner who is receiving benefits under part B of title IV of the Act and who is notified by HEW of the right to seek medical benefits, may file a claim for medical benefits under part C of title IV of the Act and this part. The Secretary of Health, Education, and Welfare is required to notify each miner receiving benefits under part B of this right. Notwithstanding the provisions of paragraph (a) of this section, a miner notified of his or her rights under this paragraph may file a claim under this part on or before June 30, 1979. Any claim filed after that date shall be untimely unless the time for filing has been enlarged for good cause shown.

• • • • •

2. Paragraph (a) of § 725.701A is revised to read as follows:

§ 725.701A Claims for medical benefits only under section 11 of the Reform Act.

(a) Section 11 of the Reform Act directs the Secretary of Health, Education, and Welfare to notify each miner receiving benefits under part B of title IV of the Act that he or she may file a claim for medical treatment benefits described in this subpart. Section 725.308(b) of this subpart provides that a claim for medical treatment benefits shall be filed on or before June 30, 1979, unless the period is enlarged for good cause shown. This section sets forth the rules governing the processing, adjudication, and payment of claims filed under section 11.

• • • • •

Signed this 24th day of October 1978, at Washington, D.C.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-30632 Filed 10-26-78; 9:22 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-535]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Refinancing of Loans

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: These rules would extend the maximum permissible repayment terms for property improvement loans that are refinanced. They would permit certain refinanced obligations (primarily loans made for the improvement or rehabilitation of single family homes) to have a term of up to 15 years and 32 days provided that the new obligation would not mature later than 25 years from the date of the original obligation. The maximum term for other types of loans refinanced would be 12 years and 32 days provided that the new obligation would not mature later than 22 years from the date of the original obligation. The purpose of the rule is to implement Title III of the Housing and Community Development Act of 1977, section 306(a)(2).

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William B. Stansbery, Director, Title I Loan Insurance Division, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-8686.

SUPPLEMENTARY INFORMATION: On May 23, 1978 at 43 FR 22059, the Department published proposed amendments to 24 CFR 201.9 to assist homeowners who due to changed circumstances are unable to make loan payments they originally contracted for. Refinancing enables such homeowners to lower their payments by lengthening the term of the loans. One comment was received, which was favorable.

A Finding of Inapplicability with respect to the Environmental Impact has been prepared in accordance with HUD Handbook 1390.1. Copies of the Finding are available for inspection during business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, the Department amends 24 CFR 201.9 as follows:

§ 201.9 Refinancing.

(a) • • •

(b) *Maximum maturity.* (1) A Class 1(a) loan may be refinanced for an additional period not in excess of 15 years and 32 days from the date of the refinancing, except that the term of the new note shall not extend beyond 25 years from the date of the original note.

(2) A Class 1(b) or 2 loan may be refinanced for an additional period not in excess of 12 years and 32 days from the date of the refinancing, except that the term of the new note shall not extend beyond 22 years from the date of the original obligation.

(3) A Class 2(b) loan secured by a first mortgage, first deed of trust, or other security instrument constituting a first lien upon the improved property may be refinanced for an additional period not in excess of 15 years and 32 days from the date of the refinancing, except that the term of the new note shall not extend beyond 25 years from the date of the original obligation.

(4) A new note combining any of the above classes of loans shall not have a term in excess of the loan having the shortest permissible maturity.

(c) • • •

• • • • •

(Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246, (12 U.S.C. 1703 as amended).)

Issued at Washington, D.C., October 16, 1978.

MORTON BARUCH,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 78-30371 Filed 10-26-78; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 805-78]

FEDERAL BUREAU OF INVESTIGATION

Identification Records; Miscellaneous Amendments

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This document makes technical changes to the Department of Justice regulations. The amendments concern procedures for the exchange of identification records with the banking community (Pub. L. 92-544, 86 Stat. 1115); authorize the Federal Bureau of Investigation (FBI) to exchange records with the securities industry (Pub. L. 94-29, 89 Stat. 140); and permits the subject of an identification record to challenge the accuracy or completeness of his record by writing directly to the FBI (*Tarlton* v. *Saxbe*, 407 F. Supp. 1083 (D.D.C. 1976)).

EFFECTIVE DATE: October 17, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Mintz, Assistant Director, Legal Counsel Division, Federal Bureau of Investigation, Washington, D.C. 20535, 202-324-5018.

By virtue of the authority vested in me by 28 U.S.C. 509, 5 U.S.C. 301 and 552, parts 0, 16, 20 and 50 of Chapter I, Title 28, Code of Federal Regulations are amended as follows:

1. Subpart P of part 0 is amended by revising paragraphs (b) and (j) of § 0.85 to read as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

§ 0.85 General functions.

• • • • •

(b) Conduct the acquisition, collection, exchange, classification, and preservation of identification records, including personal fingerprints voluntarily submitted, on a mutually beneficial basis, from law enforcement and other governmental agencies; provide expert testimony in Federal or local courts as to fingerprint examinations; and provide identification assistance in disasters and in missing-persons type cases, including those from insurance companies.

• • • • •

(j) Exercise the power and authority vested in the Attorney General by section 201 of the Department of Justice Appropriation Act, 1973, Pub. L. 92-544, 86 Stat. 1115, to approve and conduct exchanges of identification records with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions and, if authorized by State statute and approved by the Attorney General, to officials of State and local governments for purposes of employment and licensing; and exercise the power and authority vested in the Attorney General by section 14(f)(2), Pub. L. 94-29, 89 Stat. 140, to approve and conduct exchanges of identification records with certain segments of the securities industry.

PART 16—PRODUCTION OF DISCLOSURE OF MATERIAL OR INFORMATION

2. Subpart C of part 16 is amended by revising §§ 16.32 and 16.34 to read as follows:

§ 16.32 Procedure to obtain an identification record.

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to the FBI, Identification Division, Washington, D.C. 20537, or may present his written request in person during regular business hours to the FBI Identification Division, Room 11262, J. Edgar Hoover Building, Tenth Street and Pennsylvania Avenue NW., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-inked fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

§ 16.34 Procedure to obtain change, correction or updating of identification records.

If, after reviewing his identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his challenge as to the accuracy or completeness of any entry on his record to the Assistant Director of the FBI Identification Division, Washington, D.C. 20537. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency.

PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS

3. Subpart C of part 20 is amended by revising paragraph (b) of § 20.34 to read as follows:

§ 20.34 Individual's right to access criminal history record information.

• • • • •

(b) If, after reviewing his identification record, the subject thereof believes that it is incorrect or incomplete

in any respect and wishes changes, corrections or updating of the alleged deficiency, he should make application

[4510-29-M]

Title 29—Labor

pants, beneficiaries, or fiduciaries of the plan so request in writing in a manner prescribed by the Secretary,

pursuant to authority provided in sections 502(b)(2) and 505 of the Act (29 U.S.C. 1132(b)(2) and 1135).

PART 128—TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN

were sent to present C Series reporters for their comments. In addition, there is good cause to make the amendments

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in any respect and wishes changes, corrections or updating of the alleged deficiency, he should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his challenge as to the accuracy or completeness of any entry on his record to the Assistant Director of the FBI Identification Division, Washington, D.C. 20537. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. If the contributing agency corrects the record, it shall promptly notify the FBI and, upon receipt of such a notification, the FBI will make any changes necessary in accordance with the correction supplied by the contributor of the original information.

PART 50—STATEMENTS OF POLICY

4. Part 50 is amended by revising paragraph (b) of § 50.12 to read as follows:

§ 50.12 Exchange of FBI identification records.

* * * * *

(b) The Director of the FBI is authorized by 28 CFR 0.85(j) to approve procedures relating to the exchange of identification records to federally chartered or insured banking institutions, officials of State and local governments for purposes of employment and licensing, and to certain segments of the securities industry. Under this authority, effective July 1, 1974, the FBI Identification Division will not include arrest data more than 1-year old not accompanied by dispositions in identification records exchanged with banking institutions, certain segments of the securities industry, and State and local agencies for employment and licensing purposes. The 1-year provision will provide the time necessary for the adjudication of most offenses. This procedural change in policy is being placed in effect to reduce possible denials of employment opportunities or licensing privileges to individuals as a result of the dissemination of identification records not containing final dispositional data concerning criminal charges brought against such individuals.

Dated: October 17, 1978.

GRIFFIN B. BELL,
Attorney General.

[FR Doc. 78-30421 Filed 10-26-78; 8:45 am]

[4510-29-M]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS, DEPARTMENT OF LABOR

SUBCHAPTER G—ADMINISTRATION AND ENFORCEMENT UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2560—RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT

Regulation Governing Requests by Participants, Beneficiaries, or Fiduciaries for the Secretary of Labor to Exercise Certain Enforcement Authority

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: This document announces the adoption of a final regulation which sets forth the procedure for participants, beneficiaries, or fiduciaries of certain employee benefit plans to request the Secretary of Labor to exercise his authority to enforce certain provisions of the Employee Retirement Income Security Act of 1974 (the Act). The regulation will affect participants, beneficiaries, and fiduciaries of employee benefit plans subject to Title I of the Act and qualified under certain provisions of the Internal Revenue Code of 1954.

DATES: Effective from January 1, 1975.

FOR FURTHER INFORMATION CONTACT:

Robert R. Bitticks, Office of the Solicitor, Plan Benefits Security Division, Room C-4508, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8620 (not a toll free number).

SUPPLEMENTARY INFORMATION: Under the Act, the Secretary of Labor (the Secretary) has primary responsibility for civil enforcement of Title I. However, section 502(b) of the Act provides that with regard to a violation of, or the enforcement of, parts 2 and 3 of Title I (concerning minimum standards for participation, vesting, benefit accrual, and funding), the Secretary may exercise his civil enforcement authority under section 502(a)(5) of the Act with respect to certain employee benefit plans qualified under the Internal Revenue Code of 1954 (or with respect to which an application to so qualify has been filed and has not been finally determined) only if requested by the Secretary of the Treasury or if one or more participants, beneficiaries, or fiduciaries of the plan so request in writing in a manner prescribed by the Secretary. Under section 502(b), the Secretary may exercise civil enforcement authority under section 502(a)(5) pursuant to such requests with respect to the types of plans described only if he determines that such violation affects, or such enforcement is necessary to protect, claims of participants or beneficiaries under the plan.

On April 25, 1978, the Department of Labor (Department) published in the FEDERAL REGISTER [1] an interim regulation § 2560.502-1, effective retroactively from January 1, 1975. The interim regulation was also proposed for permanent adoption and public comments were solicited.

The interim regulation prescribes the manner in which requests for enforcement pursuant to section 502(b)(2) of the Act are to be made and considered. It provides that such requests shall be in writing, and shall contain information from which the participant, beneficiary, or fiduciary and the plan can be identified. It also provides that such requests will be considered filed if they are directed to and received by any office or official of the Department, or if they are referred to and received by any such office or official by any party to whom the request is directed.

One letter of comment on the interim regulation was received by the Department, and no public hearing was requested or held. The commentator argues that the content of a request for enforcement which is required by the interim regulation does not provide sufficient information for the Secretary to determine whether enforcement proceedings should be commenced, and suggests that more specific information should be required. The commentator suggests that, if more detailed information is not required, unfounded requests might be filed.

After consideration of the comment received, the Department has decided to adopt the interim regulation as a final regulation without change. The Department recognizes that there will undoubtedly be requests filed under the regulation which do not contain enough information to permit a determination as to whether enforcement action should be commenced, and that in such cases further inquiry by the Department will be necessary. However, the Department believes that any burden which such inquiries might involve is justified by the benefit of minimizing impediments to communication with the Department regarding allegations of violations of the Act.

STATUTORY AUTHORITY: The final regulation contained in this document is adopted pursuant to authority provided in sections 502(b)(2) and 505 of the Act (29 U.S.C. 1132(b)(2) and 1135).

In consideration of the matters discussed above, Chapter XXV of Title 29 of the Code of Federal Regulations is hereby amended, effective January 1, 1975, by adding a new § 2560.502-1 to read as follows:

§ 2560.502-1 **Requests for enforcement pursuant to section 502(b)(2).**

(a) *Form, content and filing.*—All requests by participants, beneficiaries, and fiduciaries for the Secretary of Labor to exercise his enforcement authority pursuant to section 502(a)(5), 29 U.S.C. 1132(a)(5), with respect to a violation of, or the enforcement of, parts 2 and 3 of Title I of the Employee Retirement Income Security Act of 1974 (the Act) shall be in writing and shall contain information sufficient to form a basis for identifying the participant, beneficiary, or fiduciary and the plan involved. All such requests shall be considered filed if they are directed to and received by any office or official of the Department of Labor or referred to and received by any such office or official by any party to whom such writing is directed.

(b) *Consideration.*—The Secretary of Labor retains discretion to determine whether any enforcement proceeding should be commenced in the case of any request received pursuant to paragraph (a) of this section, and he may, but shall not be required to, exercise his authority pursuant to section 502(a)(5) of the Act only if he determines that such violation affects, or such enforcement is necessary to protect claims of participants or beneficiaries to benefits under the plan.

(Secs. 502(b)(2), 505, Pub. L. 93-406, 88 Stat. 829, 891, 894 (29 U.S.C. 1132(b)(2) and 1135).)

Signed at Washington, D.C., this 20th day of October 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-30078 Filed 10-20-78; 2:04 pm]

[1] 43 FR 17470.

[4810-25-M]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 128—TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Form Revisions

AGENCY: Department of the Treasury.

ACTION: Form revisions.

SUMMARY: The Department of the Treasury herewith promulates amendments to the Treasury international capital reporting requirements. Treasury International Capital (TIC) forms C-1/2 and C-3 are being replaced by new forms which will greatly improve the value of the reports for analysis of international financial developments and the data will relate more usefully to information reported by banks in the United States on other TIC forms.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gary A. Lee, Manager, Treasury International Capital Reporting System, Office of Statistical Reports. Department of the Treasury, Room 905, Global Building, Washington, D.C. 20220, 202-376-0692.

SUPPLEMENTARY INFORMATION: The principal features of the new Treasury nonbanking forms are:

(1) Separation of the financial liabilities and claims of reporting firms from their commercial liabilities and claims.

(2) Adoption of time remaining to maturity as the basis of the maturity analysis of claims and liabilities, instead of the present original maturity basis.

(3) Simplification of the monthly form to require only a single figure.

(4) Reduction of the reporting burden by:

(a) raising the level of the reporting exemption on the monthly form from $2 million to $10 million and allowing the application of the current $2 million exemption level on the quarterly form to financial and commercial items separately;

(b) elimination of geographical detail on the monthly form;

(c) substantial reduction in maturity analysis detail by requiring a maturity breakdown of grand totals only rather than country by country as presently required.

The Department finds that notice and public procedures under the provisions of 5 U.S.C. 553 are not necessary in this case, since the amendments pertain only to rules of agency procedure and serve generally to reduce the reporting burden upon the public. Moreover, drafts of the new forms were sent to present C Series reporters for their comments. In addition, there is good cause to make the amendments effective immediately on October 27, 1978. The amendments shall apply to all reports filed as of December 31, 1978 and for any period ending after December 31, 1978. For reports filed as of December 31, 1978 only, reporters shall file both the old and new monthly forms.

Primary author: Mr. John G. Murphy, Jr., Attorney/Advisor, Office of the General Counsel, Department of the Treasury, Room 2014, Main Treasury Building, Pennsylvania Avenue at 15th Street NW., Washington, D.C. 20220, 202-566-8184.

The text of the amendments is as follows:

1. Section 128.15 is amended to read as follows:

§ 128.15 **International Capital Form CM: Dollar deposit and certificate of deposit claims on banks abroad.**

On this form exporters, importers, industrial and commercial concerns and other nonbanking persons in the United States are required to report monthly, as of the last business day of the month, to the Federal Reserve Bank of New York their U.S. dollar deposit and certificate of deposit claims on banks located abroad held in their name or held for their account in banks abroad by U.S. or foreign custodians.

2. Section 128.16 is amended to read as follows:

§ 128.16 **International Capital Form CQ-1: Financial liabilities to, and claims on, unaffiliated "foreigners."**

On this form exporters, importers, industrial and commercial concerns and other nonbanking persons in the United States are required to report quarterly as of the last business day of each March, June, September and December, to the Federal Reserve Bank of New York their financial liabilities to, and claims on, unaffiliated "foreigners" acquired or held, either in the United States or abroad, by reporters for their own account or for the account of others.

3. Section 128.16a is added to read as follows:

§ 128.16a **International Capital Form CQ-2: Commercial liabilities to, and claims on, unaffiliated "foreigners."**

On this form exporters, importers, industrial and commercial concerns and other nonbanking persons in the United States are required to report quarterly as of the last business day of

each March, June, September and December, to the Federal Reserve Bank of New York their commercial liabi-

bananas. The amendment to the regulations was requested by BASF Wyandotte Corp. This rule establishes a

Part 180, Subpart C, is amended by adding the new § 180.372 containing a tolerance for residues of 2,6-dimethyl-

is essentially the same as that contained in FPMR temporary regula-

required for the purpose and use for which it was originally acquired is a

Administration (CDSDE), Washington, D.C. 20405.

6. Section 101-36.304(b) is revised to

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each March, June, September and December, to the Federal Reserve Bank of New York their commercial liabilities to, and claims on, unaffiliated "foreigners" acquired or held either in the United States or abroad, by reporters for their own account or for the account of others.

4. Section 128.16b is added to read as follows:

§ 128.16b **International Capital Form CQ-1(A): Financial liabilities to, and claims on, unaffiliated "foreigners." (Short form.)**

This form may be filed in lieu of Form CQ-1 by reporters who have reportable items for only a few countries or geographical areas.

5. Section 128.16c is added to read as follows:

§ 128.16c **International Capital Form CQ-2(A): Commercial liabilities to, and claims on, unaffiliated "foreigners." (Short form.)**

This form may be filed in lieu of Form CQ-2 by reporters who have reportable items for only a few countries or geographical areas.

(Sec. 5, Pub. L. 6591, 40 Stat. 415, 12 U.S.C. 95a, 50 U.S.C. App. 5 as amended; Sec. 8, Pub. L. 79171, 59 Stat. 515, 22 U.S.C. 286f; Sec. 4, Pub. L. 94472, 90 Stat. 2059, 22 U.S.C. 8103; E.O. 6560, Jan. 15, 1934; E.O. 10033, 14 FR 561, 3 CFR, 1949–1953 Comp.; E.O. 11961, January 9, 1977, 42 FR 4321, as amended.)

Dated: October 20, 1978.

DANIEL H. BRILL,
Assistant Secretary for Economic Policy.

[FR Doc. 78-30512 Filed 10-26-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 995-3; PP 6E1670/R162]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2,6-Dimethyl-4-Tridecylmorpholine

AGENCY: Office of Pesticide programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide 2,6-dimethyl-4-tridecylmorpholine on bananas. The amendment to the regulations was requested by BASF Wyandotte Corp. This rule establishes a maximum permissible level for residues of 2,6-dimethyl-4-tridecylmorpholine on bananas.

EFFECTIVE DATE: Effective on October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Mountforth, Acting Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, EPA, 202-426-2454.

SUPPLEMENTARY INFORMATION: On May 26, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 22751), in response to a pesticide petition (PP 6E1670), submitted to the Agency by BASF Wyandotte Corp., 100 Cherry Hill Road, P.O. Box 181, Parsippany, N.J. 07054.

This petition proposed that 40 CFR 180.372 be amended by the establishment of a tolerance for residues of the fungicide 2,6-dimethyl-4-tridecylmorpholine in or on the raw agricultural commodity bananas at 0.1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking. The compound has been removed from the list of Rebuttable Presumption Against Registration (RPAR) candidates after a review by the Special Pesticide Review Division.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.372 should be adopted without change, and it has been concluded that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before November 27, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must state the issue for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on October 27, 1978, Part 180 is amended by adding a new section as set forth below.

Dated: October 20, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(e) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Part 180, Subpart C, is amended by adding the new § 180.372 containing a tolerance for residues of 2,6-dimethyl-4-tridecylmorpholine on bananas to read as follows:

§ 180.372 **2,6-dimethyl-4-tridecylmorpholine; tolerances for residues.**

A tolerance is established for residues of the fungicide 2,6-dimethyl-4-tridecylmorpholine in or on the following raw agricultural commodity:

Commodity:	*Parts per million*
Bananas	0.1

[FR Doc. 78-30337 Filed 10-26-78; 8:45 am]

[6820-25-M]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

[FPMR Amendment F-34]

PART 101-36—ADP MANAGEMENT

Reutilization of Automatic Data Processing Equipment (ADPE) and Supplies

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Final rule.

SUMMARY: GSA is changing its ADPE regulations by incorporating provisions that were transmitted by two temporary regulations and by implementing Pub. L. 94-519. These changes are intended to insure that Government agencies use their ADPE to obtain maximum benefits from the equipment.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

I. S. Bayol, Excess Equipment Section, Equipment Control Branch, Agency Services Division, Office of Agency Services and Procurement, General Services Administration, Washington, D.C. 20405, 202-566-1284.

SUPPLEMENTAL INFORMATION: This regulation codifies FPMR Temporary Regulation E-49, "Acquisition of exchange/sale automatic data processing equipment (ADPE) through the ADP Fund," and FPMR Temporary Regulation E-50, "Care and management of excess automatic data processing equipment (ADPE)." The information contained in this regulation

is essentially the same as that contained in FPMR temporary regulations E-49 and E-50. Only six letters were received commenting on the temporary regulations, and these comments were reconciled. In addition, this regulation makes some editorial changes and adds to the FPMR the requirements of Pub. L. 94-519 with regard to excess ADPE.

The table of contents for part 101-36 is amended by adding the following entries:

Sec.
101-36.301-18 Project grants.
101-36.301-19 Grants.
101-36.309-5 Use of the ADP Fund for acquisition of exchange/sale ADPE.
101-36.310-1 Use of excess ADPE on cost-reimbursement type contracts.
101-36.310-2 Use of excess ADPE on grants: Eligibility.
101-36.310-3 Use of excess ADPE on project grants: Federal and project grantee responsibility.
101-36.4702-4 Annual reporting requirements.

Subpart 101-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

1. Section 101-36.301-1(d) is revised to read as follows:

§ 101-36.301-1 **Automatic data processing equipment.**

• • • • •

(d) ADP supplies such as but not limited to electronic data processing tapes, canisters, reels, control panels and wires, cabinets, tape storage, and safes and racks peculiar to ADP operations.

2. Sections 101-36.301-18 and 101-36.301-19 are added to read as follows:

§ 101-36.301-18 **Project grants.**

The term "project grants" means grants made to specific institutions and organizations for a specific purpose with established costs and termination dates.

§ 101-36.301-19 **Grants.**

The term "grants" means grants-in-aid. Grants-in-aid are grants or subsidies from public resources in aid of public undertakings.

3. Section 101-36.302 is amended by revising paragraph (b) and adding paragraphs (d) and (e) to read as follows:

§ 101-36.302 **Reassignment of ADPE within Federal agencies.**

• • • • •

(b) The reassignment of Government-leased ADPE that has not been declared excess and that is no longer required for the purpose and use for which it was originally acquired is a sole source procurement action and, therefore, must be accomplished as specified in regulations governing sole source procurements.

• • • • •

(d) Reassignment of ADPE to Federal agency grantees shall not be made until Federal requirements are determined in accordance with this subpart 101-36.3 and § 101-36.4702.

(e) The use of ADPE for maintenance by redundancy (backup) or cannibalization for a parts source of supply shall not be made until Federal requirements are determined in accordance with this subpart 101-36.3 and § 101-36.4702.

4. Section 101-36.303 is revised to read as follows:

§ 101-36.303 **Reutilization of excess ADPE.**

The primary source of supply for meeting ADPE requirements is excess. To obtain maximum reutilization and to minimize the procurements of new ADPE, excess and exchange/sale ADPE shall be made available for transfer to other Federal agencies in accordance with the provisions of this subpart 101-36.3. Any need for excess ADPE expressed by a Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed ownership Government corporations, shall take precedence over disposal, provided such need is made known to GSA prior to shipment or delivery in case of donation or prior to removal of the property for Government control in case of sale.

5. Section 101-36.303-1 is revised to read as follows:

§ 101-36.303-1 **Designation of agency ADPE point of contract.**

(a) Each agency head shall designate an agency ADPE point of contract to promote the maximum reutilization of excess ADPE, to provide proper coordination on an interagency basis, and to insure the excess ADPE is acquired in accordance with agency plans and program efforts. The name, address, and phone number of this individual shall be submitted promptly after designation to General Services Administration (CDSDE), Washington, D.C. 20405.

(b) To provide guidance to GSA concerning excess property management by agencies, each agency ADPE point of contact shall provide to GSA a copy of each agency implementing regulations for excess ADPE and each current change. Copies of regulations shall be submitted to General Services Administration (CDSDE), Washington, D.C. 20405.

6. Section 101-36.304(b) is revised to read as follows:

§ 101-36.304 **Availability list.**

• • • • •

(b) Requests for additions, changes, and deletions to the mailing list for the availability list shall be made to the General Services Administration (CDSDE), Washington, D.C. 20405. Agencies sponsoring contractors or grantees, when forwarding requests for distribution of the availability list to such contractors or grantees, shall include the appropriate grant or contract number in their request.

• • • • •

7. Section 101-36.306 is amended by revising the introductory paragraph and paragraphs (a), (b), (c), and (d) to read as follows:

§ 101-36.306 **Requests for transfer of excess ADPE or exchange/sale ADPE**

Requests for transfer of excess ADPE or reimbursable transfer of exchange/sale ADPE between Federal agencies shall be accomplished by completing an SF 122, Transfer Order Excess Personal Property. The SF 122 shall contain the name and telephone number (commercial and FTS) of the agency official to be contracted regarding transportation details.

(a) The SF 122 (illustrated at § 101-36.4901-122) shall be signed by an authorized official of the requesting agency when the ADPE is to be used by the agency or by a Federal contractor or grantee of the agency. All standard forms 122 furnished by a Federal agency for excess or exchange/sale ADPE to be used by the agency or by Federal contractors shall provide the contract number under which the excess or exchange/sale ADPE is to be acquired and the expiration date of the contract. All standard forms 122 furnishing excess ADPE to project grantees shall affirm that the transfer is requested for use by a project grantee in accordance with this subpart 101-36.3 and shall include the name of the project grantee, the grant number, the scheduled date of grant termination, and the purpose of the transfer. If a transfer is being requested pursuant to § 101-36.310-2(e), the transfer order shall certify that, upon transfer of the ADPE, the granting agency will deposit to miscellaneous receipts in the U.S. Treasury an amount equal to 25 percent of the original acquisition cost (as documented by GSA) less the cost of care and handling.

(b) When excess owned ADPE is to be used for maintenance by redundancy or cannibalization for a parts source

of supply, a statement to indicate such use shall be included on the SF 122.

ADPE over the allowable free rental period in the applicable contract. Any

§ 101-36.309-5 **Use of the ADP Fund for acquistion of exchange/sale ADPE.**

cost-reimbursement type contracts, grants, and project grants.

may be transferred under section 608 of the Foreign Assistance Act of 1961,

§ 101-36.310-3 **Use of excess ADPE on project grants: Federal and project**

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of supply, a statement to indicate such use shall be included on the SF 122. When title to excess owned ADPE is to be vested in a Federal grantee or title is to otherwise pass from the Federal Government, a statement to indicate this fact shall be included on the SF 122. Title will not be transferred unless such a statement is included. Preference will be given to Federal agency requests and to requests which will retain title in the Federal Government.

(c) An SF 122 used for requesting excess leased or exchange/sale ADPE shall contain a statement to indicate either that the requested equipment represents the least overall cost or that a sole source determination has been made and documented. In either case, if the equipment cost exceeds the dollar threshold established in subpart 1-4.11, then a delegation of procurement authority is required. Federal agency requests for the provision of excess to satisfy contractor requirements will be considered secondary to Federal agency requirements.

(d) The original and four copies of the SF 122 shall be submitted for approval to the General Services Administration (CDSDE), Washington, D.C. 20405.

* * * * *

8. Section 101-36.307(a) is revised to read as follows:

§ 101-36.307 Care and handling of excess or exchange/sale ADPE.

(a) The reporting or holding agency shall be responsible for and bear the costs of care and handling of excess or exchange/sale ADPE pending disposition. In cases where reported Government-owned excess ADPE has potential for replacement of leased ADPE, GSA will require the holding activity to obtain a certificate of maintenance acceptability or an estimate to refurbish. If the holding agency has allowed the maintenance contract on ADPE to lapse and/or allowed the warehousing of ADPE and if subsequent refurbishment for purposes of reutilization is required, the holding agency shall be responsible for those refurbishment charges. Only direct costs incurred incident to a transfer (such as packing, loading, and transporting) shall be borne by the requesting agency when billed by the holding agency. Overhead or administrative costs, equipment disconnect charges, and other costs not directly related to and resulting solely from requests for transfer shall not be included. The requesting agency shall be responsible for any movement or temporary storage required after the date the transfer is approved; transportation of ADPE to the requesting agency; and rental costs, if any, for excess leased ADPE over the allowable free rental period in the applicable contract. Any question or controversy regarding responsibility for costs shall be referred for resolution to the General Services Administration (CDSDE), Washington, D.C. 20405. The holding agency is not required to retain excess leased ADPE in a lease status when the reporting requirements of § 101-36.4702 have been satisfied.

* * * * *

9. Section 101-36.309(b) is revised to read as follows:

§ 101-36.309 Use of the ADP Fund.

* * * * *

(b) When excess leased ADPE with purchase option credits or exchange/sale ADPE can satisfy agency data processing requirements, GSA will consider using the ADP Fund to purchase the equipment for the requesting agency.

10. Section 101-36.309-3 is revised to read as follows:

§ 101-36.309-3 Transfer of ADP Fund equipment.

In followup to a telephone reservation of ADP Fund equipment, the requesting agency shall submit a letter of commitment to the General Services Administration (CDSDE), Washington, D.C. 20405. This letter shall include the lease term and the dollar amount of the lease agreement (as discussed), the agency point of contact (with address and telephone number), the shipping address and instructions, and the applicable agency appropriation symbol. GSA then will prepare the SF 122, Transfer Order Excess Personal Property, to initiate equipment shipment and will submit the lease agreement and the approved SF 122 to the requesting agency's designated official.

11. Section 101-36.309-4(a) is revised to read as follows:

§ 101-36.309-4 Guarantee of ADP Fund equipment.

(a) Agencies participating in the leaseback program shall pay charges for transportation of the equipment to the designated site(s); obtain an estimate of refurbishment to bring the ADP Fund equipment up to maintenance standards; and, within 6 months of the date that GSA sends the ADP Fund lease, forward the estimate of refurbishment to the General Services Administration (CDSDE), Washington, D.C. 20405.

* * * * *

12. Section 101-36.309-5 is added to read as follows:

§ 101-36.309-5 Use of the ADP Fund for acquistion of exchange/sale ADPE.

(a) A Federal agency may seek use of the ADP Fund if it determines that the acquisition is economically advisable and the following requirements are met and can be certified:

(1) Subpart 101-35.2 (formerly FMC 74-5), § 101-36.403, FPMR Temporary Regulation E-42, and subpart 1-4.11 have been complied with.

(2) The agency does not have funds programed, nor can it reprogram funds for this purpose.

(3) The agency cannot divert funds planned for other ADPE procurements with lesser rates of return, if any, for this purpose.

(4) The proposed acquisition of a new system is consistent with the agency's presently authorized programs, and the need for the ADPE has been approved by OMB. (For purposes of this paragraph, a "new system" is defined as any acquisition other than purchase of presently installed ADPE with like equipment.)

(5) When the procurement action involves purchase of like equipment to replace installed systems, a study shall be made to determine that there is a continued economic justification for in-house ADPE as opposed to alternate sources such as the use of other agency equipment or commercial service bureaus. Agency studies should be consistent with the guidelines of OMB Circular A-76. As required, GSA will forward the agency certification to OMB.

(b) In followup to a telephone reservation (see § 101-36.305) on exchange/sale ADPE proposed to be acquired through the ADP Fund, the requesting agency shall submit a letter of intent to the General Services Administration (CDSDE), Washington, D.C. 20405. This letter shall include the projected period of equipment use; the requested terms of reimbursement, e.g., quarterly reimbursement for 3 years; the agency point of contact (with address and telephone number); and the shipping address, instructions, and fund citations for transportation and ADP Fund reimbursement. In addition, there shall be certifications which specify the Federal agency's compliance with the conditions listed in paragraph (a) of this section.

(c) The use of the ADP Fund for the acquisition of exchange/sale ADPE must be approved by GSA.

13. Section 101-36.310 is revised and §§ 101-36.310-1, 101-36.310-2, and 101-36.310-3 are added to read as follows:

§ 101-36.310 Use of excess ADPE on cost-reimbursement type contracts and project grants.

This section provides policies and procedures for use of excess ADPE on cost-reimbursement type contracts, grants, and project grants.

§ 101-36.310-1 Use of excess ADPE on cost-reimbursment type contracts.

(a) Federal contractor requirements will be considered secondary to Federal agency requirements.

(b) Excess ADPE can be used to reduce the Government's contract costs and shall be considered by Federal agencies in their cost-reimbursement type contracts. For the purpose of this section, the term "cost-reimbursement type contract" means a type of contract providing for payment to the contractor of allowable costs incurred in the performance of the contract. The use of excess ADPE instead of payment offsets allowable costs and thereby reduces the total cost of the contract.

(c) If a contract provides for the use of excess ADPE, it shall also include adequate safeguards to insure the authorized use, maintenance, and return to Government custody of Government-furnished property. Accountability for such property shall be in accordance with contractual and agency procedures. Records shall be subject to audit by the contracting Federal agency and by the General Accounting Office.

(d) If a determination is made by the contracting Federal agency that the use of excess ADPE will result in a reduction of the contract cost to the Government or in an enhancement of the product or benefit of the contract, excess ADPE may be furnished to a contractor in accordance with § 101-36.306. The transfer order must certify the cost reduction or product enhancement and shall be executed by an authorized official of the contacting agency and forwarded to the General Services Administration (CDSDE), Washington, D.C. 20405.

(e) Generally, title to Government-furnished excess property remains vested in the Government; however, certain Federal agencies have specific statutory authority to vest title in contractors. When competing Federal requests are made on an item of excess ADPE, GSA will give the lowest priority to a request which vests title in the contractor.

(f) Upon expiration of a contract, Government-furnished ADPE may be reassigned to other Federal activities within the agency or to its cost-reimbursement type contractors.

§ 101-36.310-2 Use of excess ADPE on grants: Eligibility.

Federal agencies are prohibited from obtaining excess ADPE to furnish to their grantees, except as follows:

(a) Excess ADPE which GSA determines is not needed for donation under subparts 101-44.2 and 101-44.4, may be transferred under section 608 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2358).

(b) Excess ADPE may be furnished through the U.S. Forest Service under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a) for use in connection with cooperative State forest-fire-control programs, provided that title to the ADPE is retained in the Government.

(c) Excess ADPE may be furnished in connection with grants to Indian tribes (as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c))). Title may be vested in the grantee pursuant to specific statutory authority only.

(d) Excess scientific equipment (which includes ADPE as defined by § 101-36.301-1) may be transferred pursuant to section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e)).

(e) Excess ADPE may be otherwise transferred with title by Federal agencies to their project grantees only when all the following conditions apply:

(1) The non-Federal recipient is an institution or organization which is either a public agency as defined in § 101-44.001-10 or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and

(2) The property will be furnished to the non-Federal recipient for use in connection with a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination date, and

(3) Authorization for the project grantee to use excess property is contained in the grant document, and

(4) A determination has been made by the sponsoring Federal agency that the acquisition will result in a reduction of cost to the Government or in enhancement of the product or benefit from the grant, and

(5) The property will not be stockpiled by the project grantee but will be placed into use within a reasonable period of time (as determined by the granting agency) following acquisition, and

(6) The transfer of ADPE will be accomplished in accordance with § 101-36.306 and approved by an authorized Federal official of the granting agency, and

(7) The sponsoring Federal agency deposits in miscellaneous receipts of the U.S. Treasury an amount equal to 25 percent of the original acquisition cost (as documented by GSA) less the costs of care and handling.

§ 101-36.310-3 Use of excess ADPE on project grants: Federal and project grantee responsibility.

The use of excess ADPE furnished to project grantees as provided in § 101-36.310-2 (d) and (e) is also subject to the following provisions:

(a) Grantee accountability for and disposal of such ADPE shall be governed by procedures established by the granting agency.

(b) Federal granting agencies shall limit the amount (in terms of original acquisition cost) of excess personal property transferred to a project grantee to the dollar value of the grant. Transfers in excess of this amount shall be fully justified. Federal approval or disapproval shall be made at a level above the project officer administering the grant.

(c) Federal granting agencies shall insure that provisions for use, maintenance, and return to Government custody or other disposal procedures for excess ADPE are included in the grant document.

(d) Federal grantor agencies shall develop and maintain procedures for the prevention or detection of situations involving the nonuse, improper use, or unauthorized disposal or destruction of excess ADPE loaned to or vested in grantees. This responsibility shall include compliance reviews, field inspections, and other enforcement procedures to monitor such property.

(e) Federal grantor agencies shall include the following information in their grant recordkeeping systems:

(1) The number of grantees using excess property;

(2) Total dollar value of property loaned to or vested in all grantees;

(3) Dollar value of property loaned to or vested in each grantee;

(4) Acquisition cost of loaned or vested items;

(5) Dollar value of each grant;

(6) Percentage of acquisition cost of loaned or vested excess property to the dollar value of each grant; and

(7) Date(s) of grant termination.

NOTE.—Records are subject to audit by the Federal granting agency and by the General Accounting Office.

(f) Except when specifically authorized by statute to vest title in the grantee, Federal agencies, upon termination of a project grant in whole or in part, shall reassign Government-furnished ADPE to other Federal activities within the agency or to its cost-reimbursement type contractors. If no reassignment is made, the ADPE shall be reported as excess by the agency to GSA in accordance with § 101-36.4702 and held by the grantee in accordance with §§ 101-36.307 and 101-36.308.

(g) Property obtained by a Federal agency from excess sources for other

purposes shall not subsequently be furnished to a project grantee. (See

on the utilization and disposal of all personal property.

U.S.C. 2010). The implementation of the authorities vested in the Adminis-

hicle class submitted by executive agencies to GSA on or before Decem-

ministration (A), Washington, D.C. 20405, and shall state the reasons sup-

(7) Rubber or vinyl floor covering, front and rear;

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purposes shall not subsequently be furnished to a project grantee. (See § 101-36.302(d).)

Subpart 101-36.47—Reports

14. Section 101-36.4702 is amended by revising the introductory paragraph to read as follows:

§ 101-36.4702 Reporting excess or exchange/sale ADPE.

Excess ADPE or exchange/sale ADPE shall be reported on an original and four copies of SF 120, Report of Excess Personal Property (illustrated at § 101-36.4901-120), and when necessary, SF 120A, Continuation Sheet (Report of Excess Personal Property). The SF 120 shall be submitted to the General Services Administration (CDSDE), Washington, D.C. 20405, by the holding agency at least 90 calendar days before the anticipated release date as determined by the holding agency. This report is exempt from reports control in accordance with subpart 101-11.11. ADPE in the hands of Government contractors may be reported on an appropriate contractor inventory appended to an SF 120 provided the reporting format includes an adequate commercial description and other appropriate data required by paragraph (a) of this section.

. . . . .

15. Section 101-36.4702-2(a) is revised to read as follows:

§ 101-36.4702-2 Withdrawal of reports of excess or exchange/sale ADPE.

(a) A written request (letter or amended SF 120) for the withdrawal of ADPE previously reported on an SF 120 will normally be approved by GSA only if received within 15 workdays from the date the SF 120 was received by GSA. This request shall reference the assigned GSA case number and provide a statement which indicates the specific use to be made of the withdrawn equipment. Examples of specific use are contained in § 101-36.303 2(a)(2). Disposition of property shall not be made until after approval of withdrawal is received from GSA. GSA will not approve the withdrawal of equipment for cannibalization or maintenance by redundancy until it is first determined that there is not a more ecomonical use within the Government.

. . . . .

16. Section 101-36.4702-4 is added to read as follows:

§ 101-36.4702-4 Annual reporting requirements.

Subpart 101-43.47 provides guidance on the annual reporting requirements on the utilization and disposal of all personal property.

Subpart 101-36.49—Illustrations of Forms

Section 101-36.4901-120 (a) and (b) are revised to change the GSA correspondence symbol from CDP to CDSDE and to change the FSC group number from 74 to 70.

§ 101-36.4901-120 Standard form 120, Report of Excess Personal Property.

NOTE.—The form illustrated in § 101-36.4901-120 (a) and (b) is filed as part of the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 466 (c).)

Dated: October 11, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-30494 Filed 10-26-78; 8:45 am]

[6820-24-M]

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amendment G-47]

PART 101-38—MOTOR EQUIPMENT MANAGEMENT

Acquisition of Fuel-Efficient Passenger Automobiles

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation establishes policy and procedures governing the acquisition of fuel-efficient passenger automobiles by executive agencies. This regulation supersedes and cancels FPMR Temporary Regulation G-32 and incorporates its provisions into the permanent regulations.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John I. Tait, Director, Regulations and Management Control Division, Office of the Executive Director, Federal Supply Service, General Services Administration, Washington, D.C. 20406, 703-557-1914.

SUPPLEMENTARY INFORMATION:

a. Title III of the Energy Policy and Conservation Act added title V, Improving Automotive Efficiency, to the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.). Executive Order 11912, dated April 13, 1976, designated and empowered the Administrator of General Services to perform the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). The implementation of the authorities vested in the Administrator by Executive Order 11912 was accomplished by the issuance of FPMR Temporary Regulation G-28, dated October 1, 1976, for fiscal year 1977.

b. Subsequent to the issuance of FPMR Temporary Regulation G-28, Executive Order 12003, dated July 20, 1977, was issued, which provided additional requirements to those already established by the documents cited above. This necessitated the issuance of FPMR Temporary Regulation G-32, dated October 20, 1977, which superseded FPMR Temporary Regulation G-28 and established policy and procedures governing the acquisition of passenger automobiles by executive agencies for fiscal year 1978.

c. FPMR Temporary Regulation G-32 (42 FR 56982, October 31, 1977) is canceled and deleted from the appendix at the end of subchapter G in 41 CFR chapter 101.

The table of contents for part 101-38 is amended to add §§ 101-38.1306, 101-38.1306-1, 101-38.1306-2, and 101-38.1306-3 as follows:

101-38.1306 Acquisition of fuel-efficient passenger automobiles.
101-38.1306-1 Definitions.
101-38.1306-2 Agency forecasts of planned acquisitions.
101-38.1306-3 GSA assistance.

Subpart 101-38.13—Energy Conservation in Motor Vehicle Management

Sections 101-38.1306, 101-38.1306-1, 101-38.1306-2, and 101-38.1306-3 are added to read as follows:

§ 101-38.1306 Acquisition of fuel-efficient passenger automobiles.

This section sets forth policy and procedures governing the acquisition of fuel-efficient passenger automobiles by executive agencies and provides for the administration of a consolidated Federal fleet plan for use in monitoring those acquisitions. The authority for this § 101-38.1306 derives from Executive Order 11912, dated April 13, 1976, and Executive Order 12003, dated July 20, 1977, which designate and empower the Administrator of General Services to perform without approval, ratification, or other action by the President the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010).

(a) In compliance with Executive Orders 11912 and 12003, GSA administers a consolidated Federal fleet plan for passenger automobiles acquired by executive agencies. The plan is based on forecasts of total passenger automobile acquisition requirements by vehicle class submitted by executive agencies to GSA on or before December 1 of each fiscal year. This forecast will serve as substantiation that each agency's acquisition plan is in conformance with the act; i.e., the agency plan will result in the achievement of the fleet average fuel economy prescribed for the applicable fiscal year. GSA will administer the plan by maintaining a master record of the miles per gallon rating for passenger automobiles actually acquired by each agency during the fiscal year. Periodically, each agency will be furnished a listing of automobiles acquired with the cumulative fleet average fuel economy attained to compare with its forecast. This will enable an agency to adjust future vehicle acquisitions, when necessary, to comply with the act by the end of the fiscal year.

The Federal fleet plan will enable GSA to predict the total fleet average fuel economy to be achieved by all executive agencies prior to the end of the fiscal year and to provide management assistance to agencies, when necessary, to insure compliance with the act. Forecasts of planned acquisitions shall be forwarded to the General Services Administration (FZ), Washington, D.C. 20406, not later than December 1st of each fiscal year, in accordance with the requirements set forth in § 101-38.1306-2. Interagency report control number 0162-GSA-AN has been assigned to this requested forecast.

(b) All passenger automobiles acquired by executive agencies must achieve the fleet average fuel economy set forth below for the appropriate fiscal year, and, except as provided in subparagraph (c) of this section, each vehicle acquired must meet or exceed the average fuel economy standard also set forth below. The applicable fleet average fuel economy objectives and average fuel economy standards by fiscal year are as follows:

Miles per gallon

Fiscal year	Average fuel economy standard[1]	Fleet average fuel economy[2]
1978	18.0	20.0
1979	19.0	22.0
1980	20.0	24.0
1981	22.0	26.0
1982	24.0	28.0
1983	26.0	30.0
1984	27.0	31.0
1985	27.5	31.5

[1] Established by section 502 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 902, 15 U.S.C. 2002) and the Secretary of Transportation.
[2] Established by Executive Order 12003.

(c) An agency may request exemptions from the provisions of this § 101-38.1306 for individual passenger automobiles used for special purposes. These requests shall be submitted in writing to the General Services Administration (A), Washington, D.C. 20405, and shall state the reasons supporting the proposed acquisition of a passenger automobile which does not meet the fuel economy standard. The Administrator of General Services will review the request and, with the concurrence of the Secretary of Energy, determine if the request is appropriate. The requesting agency will be informed of the determination. Automobiles exempted under the provisions of this § 101-38.1306(c) shall be included in the calculation of an agency's fleet average fuel economy.

(d) The provisions of this subpart are not applicable to passenger automobiles designed to perform combat-related missions for the U.S. Armed Forces or designed to be used in law enforcement or emergency rescue work.

§ 101-38.1306-1 Definitions.

As used in §§ 101-38.1306, 101-38.1306-1, 101-38.1306-2, and 101-38.1306-3, the following terms shall have the stated meanings:

(a) "Executive agency" means an executive department, a Government corporation, or an independent establishment.

(b) "Fleet average fuel economy" means the total number of passenger automobiles acquired during a fiscal year by executive agencies (excluding passenger automobiles designed to perform combat-related missions for the U.S. Armed Forces or designed to be used in law enforcement work or emergency rescue work) divided by a sum of terms, each term of which is a fraction created by dividing the number of passenger automobiles so acquired of a given model type by the fuel economy of that model type.

(c) "Passenger automobile designed to be used in law enforcement work" means an automobile which is specifically approved in an agency's appropriation act or certified by the head of an agency for use in law enforcement work. For automobiles so certified, the following heaviest duty components available shall be ordered for the model automobile being acquired:

(1) Chassis frame, body mounts, and chassis components (i.e., radiator, fan blades, battery, alternator, starter, transmission, coolers, etc.);

(2) Suspension (springs, shock absorbers, wheels, and stabilizer bar(s));

(3) Power disc/drum brakes and linings;

(4) Inside hood latch release (if applicable for model acquired);

(5) Transmission low gear lockout (if available for model acquired);

(6) At least the next higher cubic inch displacement (CID) engine than is standard for the automobile concerned;

(7) Rubber or vinyl floor covering, front and rear;

(8) Seat assemblies;

(9) Vinyl interior upholstery and trim;

(10) 120 mph speedometer (head calibrated to 2 percent accuracy); and

(11) Police-pursuit-type tires.

When a law enforcement agency does not need automobiles equipped with the above components because of its mission requirements, then items (1) through (6) constitute the minimum requirements for an automobile designed to be used in law enforcement work. Additionally, the agency shall certify that this automobile is being used for law enforcement work and items (7) through (11) were not ordered for reasons related to the intended use of the automobile; e.g., surveillance work.

§ 101-38.1306-2 Agency forecasts of planned acquisitions.

(a) Executive agencies shall furnish to the General Services Administration (FZ), Washington, D.C. 20406, automobile acquisition requirements for each fiscal year based on the combined city/highway mileage ratings for passenger automobiles (for 49 States and California vehicles) developed by the Environmental Protection Agency (EPA). The forecast shall be submitted to GSA by December 1 of each fiscal year. GSA will publish information concerning the EPA mileage ratings, a sample agency forecast, and the miles per gallon ratings to be used for the forecast in a bulletin (FPMR) each year in sufficient time to enable agencies to plan the acquisitions and to prepare the forecasts. Agencies not planning any of these acquisitions (purchases or commercial leases) or those that satisfy the total motor vehicle requirements through the GSA Interagency Motor Pool System shall furnish a negative forecast.

(b) The forecast of the total agency passenger automobile acquisition requirements shall include automobiles to be procured or leased in the coterminous United States, Alaska, Hawaii, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the Canal Zone. The forecast shall not include passenger automobiles (1) procured or leased and to be used outside the foregoing area, (2) designed to perform combat-related missions for the Armed Forces, or (3) designed to be used in law enforcement work or emergency rescue work.

(c) Requisitions for passenger automobiles sent to GSA for procurement action but for which a contract is not effected during the same fiscal year the requisitions are submitted shall be included in the acquisition forecast for the following fiscal year.

(d) When a passenger automobile lease contains an option to renew and

[4110-85-M]

Title 42—Public Health

cordingly, the interim final regulations, published at 43 FR 6020, Febru-

The statutory authority of the Secretary to donate surplus personal prop-

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

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(d) When a passenger automobile lease contains an option to renew and the option is exercised, that renewal action shall be included in the forecast as a new acquisition.

(e) In order to maintain a master record of all leased passenger automobiles, agencies shall forward to the General Services Administration (FZ), Washington, D.C. 20406, copies of all agreements for the leasing of passenger automobiles for a period of 60 continuous days or more, including agreements to renew existing leases. When the lease agreement does not provide the following information, it shall be submitted as an attachment to the lease.

(1) Year.
(2) Make.
(3) Model.
(4) Transmission type (if manual, number of forward speeds).
(5) Cubic inch displacement.
(6) Fuel system (fuel injection or carburetor (number of barrels)).
(7) If leased in California.

(f) Submission of requisitions for procurement or requests for authority to lease passenger automobiles which, in the opinion of GSA, will result in noncompliance with the fleet average fuel economy by the end of the fiscal year may result in requisitions being held in abeyance pending adjustment to the agency's acquisition plan.

(g) Requisitions submitted to GSA for passenger automobiles shall be in conformance with the requirements of § 101-26.501 and this subpart 101-38.13.

§ 101-38.1306-3 GSA assistance.

(a) GSA will furnish each agency a list showing the status of passenger automobiles acquired with the fleet average fuel economy achieved, to enable the agency to determine the extent to which it is in conformance with the forecast originally submitted to GSA. This listing will enable an agency to make any necessary adjustments to its acquisition plan to ensure that its fleet average fuel economy is achieved for the applicable fiscal year.

(b) Agencies may request GSA assistance when preparing the forecasts of passenger automobile acquisition requirements by contacting the General Services Administration (FZM), Washington, D.C. 20406.

(Section 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: October 11, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc 78 30483 Filed 10-26-78; 8:45 am]

[4110-85-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER J—HEALTH CARE DELIVERY SYSTEMS

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: Interim regulations regarding Federal financial assistance for health maintenance organizations (HMO's) were published on February 10, 1978. Those regulations expanded and clarified the requirements of the existing regulations with respect to entities requesting Federal financial assistance for feasibility surveys, planning and initial development, and initial operating costs of health maintenance organizations. Federal financial assistance for grant and loan support for the development and initial operating costs of health maintenance organizations is authorized under title XIII of the Public Health Service Act, "Health Maintenance Organizations" (42 U.S.C. 300e et seq.) as amended by the Health Maintenance Organization Amendments of 1976 (Pub. L. 94-460). This document announces the adoption of final regulations.

EFFECTIVE DATE: These regulations are effective on October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard R. Veit, Director, Office of Health Maintenance Organizations, 12420 Parklawn Drive, Park Building, Room 3-30, Rockville, Md. 20857, 301-443-4106.

SUPPLEMENTARY INFORMATION: On February 10, 1978, there were published in the FEDERAL REGISTER (43 FR 6020-27) interim regulations governing the provision of Federal financial assistance to HMO's under title XIII of the Public Health Service Act, as amended. These regulations included the following subparts of part 110 of title 42, Code of Federal Regulations:

Subpart C—Grants for Feasibility Surveys;
Subpart D—Grants and Loan Guarantees for Planning and Initial Development Costs; and
Subpart E—Loans and Loan Guarantees for Initial Operating Costs.

Interested persons were invited to submit written comments, suggestions, or objections to these regulations by April 11, 1978, and the public was advised that the regulations would be revised if warranted by the comments received.

One comment was received on these regulations. The commenter proposed that § 110.404(c), setting forth project elements for initial development projects, be revised to require that an applicant provide evidence that "Free Standing, Outpatient Ambulatory Surgical Centers" intend to provide basic health services to the proposed HMO, as well as the providers already listed in that section. The Secretary has rejected this suggestion because he believes that the present requirement is adequate with respect to grant or loan guarantee applications for initial development projects. The present requirement set forth at § 110.404(c) is that the applicant provide—

Evidence from physicians and from one or more hospitals indicating that they intend to become providers of basic health services for the proposed health maintenance organization:

(1) In the case of an individual practice association-type health maintenance organization, there must be such evidence from a number of physicians adequate to serve the proposed enrollment; and

(2) In the case of a nonindividual practice association-type health maintenance organization, there must be such evidence from at least three physicians, indicating that they are willing to be employed by or to contract with the proposed health maintenance organization.

In publishing the interim regulations on February 10, 1978, the Department inadvertently failed to revise one provision regarding eligibility of for-profit entities for loan guarantees for planning and initial development projects. Sections 1304 and 1305 of the Public Health Service Act provide that for-profit entities are eligible for loan guarantee assistance if they will serve medically underserved populations, but these sections do not specify the proportion of the HMO's enrollment that this underserved population must be. While the eligibility provision for loan guarantees for initial operating costs under section 1305 was revised to reduce from 30 percent to 10 percent the projected members of the HMO who must be from medically underserved populations (see § 110.503(b)(2)), the comparable eligibility provision for loan guarantees for planning and initial development projects under section 1304 (§ 110.402(b)(2)(ii)) was inadvertently left at 30 percent. In order to have uniform eligibility provisions, and because no public comments objecting to the 10-percent level in § 110.503(b)(2) were received, the Secretary has decided to amend this provision regarding planning and initial development projects to conform to the 10-percent requirement of the initial operating costs provision. This section has also been revised for greater clarity. Accordingly, the interim final regulations, published at 43 FR 6020, February 10, 1978, are adopted as final regulations with the following revision:

Section 110.402(b)(2)(ii) is revised to read as follows:

§ 110.402 Eligibility.

. . . . . .

(b) . . .
(2) . . .

(ii) In the case of private entities (other than nonprofit private entities), guarantees may be made pursuant to section 1304 of the Act and the regulations of subpart B of this part and this subpart to eligible applicants. The guarantees shall be for the payment of the principal of and the interest on loans for planning or initial development projects for (A) the establishment of health maintenance organizations, or (B) the significant expansion of health maintenance organizations. For any of these projects, at least 10 percent of the projected members of the health maintenance organization must be from medically underserved populations.

Dated: September 18, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: October 18, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-30412 Filed 10-26-78; 8:45 am]

[4110-12-M]

Title 45—Public Welfare

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 13—ALLOCATION AND UTILIZATION OF SURPLUS PERSONAL PROPERTY FOR EDUCATIONAL, PUBLIC HEALTH, AND CIVIL DEFENSE PURPOSES

PART 14—MINIMUM STANDARDS OF OPERATION FOR STATE AGENCIES FOR SURPLUS PROPERTY

Rescission of Parts

AGENCY: HEW.

ACTION: Repeal of regulations.

SUMMARY: This action repeals 45 CFR Parts 13 and 14, "Allocation and Utilization of Surplus Personal Property for Educational, Public Health, and Civil Defense Purposes," and "Minimum Standards of Operation for State Agencies for Surplus Property." The statutory authority of the Secretary to donate surplus personal property was terminated on October 17, 1977, by Pub. L. 94-519.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

C. A. Patterson, Director, Office of Real Property, Office of Facilities Engineering, Department of Health, Education, and Welfare, Room 4624, 330 Independence Avenue SW., Washington, D.C. 20201, 202-245-1900.

SUPPLEMENTAL INFORMATION: 45 CFR Parts 13 and 14 prescribed basic procedures, terms and conditions, and operating standards for the donation of Federal surplus personal property for educational, public health, and civil defense purposes as authorized by section 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484). Pub. L. 94-519, effective October 17, 1977, amended the Federal Property and Administrative Services Act of 1949 to provide that the General Services Administration, rather than the Department of Health, Education, and Welfare, would administer the donation of personal property, and to expand eligibility to include any public agency for use in carrying out or promoting a broad array of public purposes. The Administrator of General Services has issued regulations at 41 CFR 10-44 concerning its donation procedures.

The repeal of parts 13 and 14 reflects the change made by Pub. L. 94-519, therefore, no notice of proposed rulemaking was provided.

Parts 13 and 14 of title 45 of the Code of Federal Regulations are deleted.

Dated: September 14, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

Approved: October 18, 1978.

JOSEPH A. CALIFANO, JR.,
Secretary.

[FR Doc. 78-30411 Filed 10-26-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1343]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago & North Western Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (service order No. 1343).

SUMMARY: The line of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (MILW) between Clinton, Iowa, and Tama, Iowa, is deteriorated and is in need of rehabilitation because of track conditions. Service order No. 1343 authorizes the MILW to operate over tracks of the Chicago & North Western Transportation Co. (CNW) between Clinton, Iowa, and Tama, Iowa; between Otis, Iowa, and Cedar Rapids, Iowa; and between Beverly, Iowa, and Cedar Rapids, Iowa. This order will permit continued through service between Clinton, Iowa, and Tama, Iowa, and continued service to Cedar Rapids.

DATES: Effective 12:01 a.m., October 25, 1978; expires 11:59 p.m., December 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

Decided October 23, 1978.

The line of the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (MILW) between Clinton, Iowa, and Tama, Iowa, has deteriorated, and the line is in need of rehabilitation. Traffic moving over this line is subject to delays on account of the poor condition of the track. These delays are causing the loss of utilization of badly needed freight cars. An alternate route is available over tracks of the Chicago & North Western Transportation Co. (CNW).

The MILW has requested and the CNW has agreed to use by MILW of CNW parallel track between Clinton, Iowa, and Tama, Iowa, in order to continue service to shippers in western Iowa. MILW plans to file an application for abandonment of its line between Green Island, Iowa, and Tama,

Iowa, when operations commence be-

(f) *Expiration date.* The provisions

FOR FURTHER INFORMATION

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Iowa, when operations commence between Clinton and Tama over the CNW. MILW has requested and CNW has agreed to use by MILW of 3.8 miles of CNW track from Otis, Iowa, to Cedar Rapids, Iowa, in order to have acess to MILW's trainyard, and of 1.8 miles of CNW track from Beverly, Iowa, to Cedar Rapids, Iowa, to have access to MILW's trainyard and to serve various industries. MILW plans to file an application for permanent authority to operate over these tracks.

It is the opinion of the Commission that an emergency exists requiring operation of MILW trains over these tracks of the CNW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered,

Section 1033.1343 Service order No. 1343. Chicago, Milwaukee, St. Paul & Pacific Railroad Co. authorized to operate over tracks of Chicago & North Western Transportation Co. (a) The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (MILW) is authorized to operate over tracks of the Chicago & North Western Transportation Co. (CNW) between milepost 0.1 at Clinton, Iowa, and milepost 133.2 at Tama, Iowa, a distance of approximately 133.1 miles; between milepost 77.8 at Otis, Iowa, and milepost 81.6 at Cedar Rapids, Iowa, a distance of approximately 3.8 miles; and between milepost 86.1 at Beverly, Iowa, and milepost 84.3 at Cedar Rapids, Iowa, a distance of approximately 1.8 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the MILW over tracks of the CNW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MILW over the tracks of the CNW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) Nothing in this order shall be deemed to prejudge the decisions of the Commission in the applications of the MILW seeking permanent authority to operate over these tracks of the CNW.

(e) *Effective date.* This order shall become effective at 12:01 a.m., October 25, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30481, Filed 10-26-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of DeSoto National Wildlife Refuge, Nebr., to Muzzleloader Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to muzzleloader deer hunting of the DeSoto National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 16, 1978 through December 20, 1978, both dates inclusive.

FOR FURTHER INFORMATION CONTACT:

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R-1, Box 114, Missouri Valley, Iowa 51555, telephone AC 712-642-4121.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Muzzleloader hunting of deer on the DeSoto National Wildlife Refuge, Nebr., is permitted only on the area designated by signs as being open to hunting. This area contains approximately 3,350 acres.

All hunting shall be in accordance with applicable State regulations subject to the following conditions:

1. A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid permit will be allowed to enter the open area;

2. Muzzleloader rifles are the only weapons allowed and deer are the only legal wildlife species that may be taken during the hunt;

3. Discharging firearms from or across all roads open to vehicle traffic, including adjacent rights-of-way, is prohibited;

4. Parking is restricted to designated parking areas and road shoulders of unpaved roads. Parking on shoulders of paved roads is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

(Sec. 2, 33 Stat. 614, as amended; sec. 5, 43 Stat. 651; sec. 5, 45 Stat. 449; sec. 10, 45 Stat. 1224; sec. 4, 48 Stat. 402, as amended; sec. 4, 48 Stat. 451, as amended; sec. 2, 48 Stat. 1270; sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.)

NOTE: The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 20, 1978.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc. 78-30374 Filed 10-26-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 230]

NONFOOD ASSISTANCE PROGRAM

Change of Title of Program to Food Service Equipment Assistance Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Nonfood Assistance Program regulations to change the title of the Program to "Food Service Equipment Assistance Program" and to bring the regulations into conformance with Pub. L. 95-166 which contains several provisions designed to encourage the onsite preparation of hot meals. To accomplish this objective the regulations are being amended to: (a) Change the types of schools eligible to recieve reserved funds to include schools without facilities to prepare and cook hot meals; (b) extend the reserve provision for 3 years; (c) give priority in the use of unreserved funds to schools without a food service, schools without the facilities to prepare and cool hot meals or receive hot meals, and schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals and; (d) provide food service equipment purchased with food service equipment assistance funds to public or private nonprofit institutions for use in providing food service to children attending schools eligible for food service equipment assistance funds. Additional technical changes are being made for clarification.

DATES: Comments just be postmarked on or before December 22, 1978 to be assured of consideration.

ADDRESS: Send comments to Margaret O'K. Glavin, Acting Director, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Acting Director, School Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, 202-447-8130. All written submissions received pursuant to this notice will be made available for public inspection in room 4300B, Auditors Building School Programs Division, Food and Nutrition Service, during regular business hours (8:30 am to 5 pm) (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION:

CHANGE OF PROGRAM TITLE

Section 3 of Pub. L. 95-166 amended the National School Lunch Act and the Child Nutrition Act of 1966 to change the title of the Nonfood Assistance Program to Food Service Equipment Assistance Program. Such change in the regulations would make the title more descriptive of the type of services offered to schools through this Program.

USE OF RESERVED FUNDS

Section 4 of Pub. L. 95-166 amended section 5 of the Child Nutrition Act of 1966 to encourage and give strong preference to the onsite preparation of hot meals. Prior to the enactment of Pub. L. 95-166, one-third of the funds appropriated for the Nonfood Assistance Program was reserved to assist schools without a food service program and schools without the facilities to prepare or receive hot meals meeting requirements of the National School Lunch Program or the School Breakfast Program. ("reserved funds"). Pub. L. 95-166 extends this reserve provision for 3 years and changes the types of schools eligible to receive reserved food service equipment assistance funds to include "schools without facilities to prepare and cook hot meals". The proposed regulations would define schools without facilities to prepare and cook hot meals as schools whose food service equipment is limited to the service of cold meals only and schools that can only heat frozen or chilled individual preportioned meals. The proposed regulations would address the intent of the legislation that schools without facilities to prepare and cook hot meals or receive hot meals be eligible for reserved funds. Such schools may use the reserved funds only to convert to a food service operation that has facilities to prepare and cook hot meals or receive hot meals. Reserved funds cannot be used to purchase or rent equipment for the continuation or expansion of an ongoing food service operation which lacks facilities to prepare and cook hot meals or receive hot meals.

USE OF UNRESERVED FUNDS

Unreserved funds may be used in any school eligible for food service equipment assistance funds. Generally, such funds are used to purchase food service equipment needed to maintain or expand existing school food service operations. These proposed regulations would implement the provision of Pub. L. 95-166 that unreserved funds be distributed to schools on a priority basis. Funds would be made available in the following order: (1) Schools without a food service, (2) schools without the facilities to prepare and cook hot meals or receive hot meals and, (3) schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals.

Schools without the facilities to prepare and cook hot meals or receive hot meals may receive unreserved funds on a priority basis only to convert to a food service operation that has facilities to prepare and cook hot meals or receive hot meals. If funds remain for distribution after satisfying the needs of the schools in the three (3) priority categories, such funds may be used for the purchase or rental of equipment to maintain or expand existing food service operations.

EXPANDED USE OF FOOD SERVICE EQUIPMENT ASSISTANCE FUNDS

Also, as a result of the new legislation, the proposed regulations would expand the use of food service equipment assistance funds to certain public or private nonprofit institutions which do not themselves participate in the school nutrition programs. In circumstances where schools are unable to establish a food service program that has the facilities to prepare and cook hot meals or receive hot meals, the school may contract with such an institution to provide meals to children attending such schools. Equipment acquired with food service equipment assistance funds may be used to equip the food service operations of the institution. For example, if a school is without a food service program and eligible for food service

equipment assistance funds, but lacks space to install a kitchen, the school

4. In § 230.2, a new paragraph (n-1) is added and paragraph (ee) is revised

for further apportionment among the remaining States in the manner and

Authorities or from other State or local sources and payments made by

public or private nonprofit institutions under the conditions prescribed in

program funds. State agencies and School Food Authorities may follow their own

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equipment assistance funds, but lacks space to install a kitchen, the school may contract with a community center to provide meals to its children. The school may equip the community center's kitchen with equipment purchased with food service equipment assistance funds. However, there are several restrictions to this provision namely; (1) The school must retain legal title to the equipment and (2) if reserved funds are used, the institution would otherwise have been without food service equipment.

OTHER LEGISLATIVE CHANGES

The legislation also requires other changes in the operation of the Program. These include the Secretary's approval of the State's criteria for determining especially needy schools under the Food Service Equipment Assistant Program and deleting the section pertaining to the disposition of equipment in private schools.

In order to effect the former change, the proposed rule would require State agencies and FNSROs, as applicable, to include their criteria for especially needy schools in the State Plan of Child Nutrition Operations.

Under the current legislation, reserved funds are reapportioned as reserved funds as many times per fiscal year as the Secretary determines a reapportionment is necessary. The proposed rule would change this provision to allow only one reapportionment of reserved funds as reserved funds per fiscal year. Any funds remaining in that fiscal year would be reapportioned as unreserved funds.

Currently, the property management requirements in the regulations require different procedures for the disposition of personal property in public and private schools. These proposed regulations would require private school property to be disposed of in the same manner as public school property. This is in accordance with OMB Circular No. A-102 and Pub. L. 95-166.

Accordingly, part 230 would be amended as follows:

1. The title "Nonfood Assistance Program" is deleted each time such title appears in this part and the title "Food Service Equipment Assistance Program" is inserted in lieu thereof.

2. The phrase "nonfood assistance" is deleted each time such phrase appears in this part and the phrase "food service equipment assistance" is inserted in lieu thereof.

3. The phrase "prepare or receive hot meals" is deleted each time such phrase appears in this part and the phrase "prepare and cook hot meals or receive hot meals" is inserted in lieu thereof.

4. In § 230.2, a new paragraph (n-1) is added and paragraph (ee) is revised to read as follows:

§ 230.2 Definitions.

. . . . . .

(n-1) "Frozen or chilled individual preportioned meal" means a preportioned combination of foods meeting the National School Lunch Program or School Breakfast Program requirements that are received chilled or frozen at the school to be served as an individual meal. Such meal may be packaged in one or more containers and may require heating at the school prior to serving.

. . . . . .

(ee) "School without facilities to prepare and cook hot meals or receive hot meals" means a school that lacks adequate facilities to prepare, cook, and serve hot meals onsite which meet the requirements of the National School Lunch and School Breakfast Programs and also lacks facilities to receive meals hot and serve them hot when such meals are available from a kitchen operated by the School Food Authority. A school that lacks the facilities to prepare, cook, and serve hot meals onsite or to receive meals hot and serve them hot, and that receives chilled or frozen meals that are not cooked onsite but are delivered to the school and heated at the school, shall be considered a "school without facilities to prepare and cook hot meals or receive hot meals."

. . . . . .

5. In § 230.4, paragraph (b) is deleted and paragraphs (c), (d) and (e) are revised and redesignated as (b), (c), and (d).

§ 230.4 Apportionment of funds to States.

. . . . . .

(b) For the fiscal years ending September 30, 1979, and September 30, 1980, 33⅓ percent of the funds appropriated for food service equipment assistance under the Act shall be apportioned among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service and in schools without the facilities to prepare and cook hot meals or receive hot meals to the number of children in all States enrolled in schools without a food service and in schools without the facilities to prepare and cook hot meals or receive hot meals.

(c) If any State agency, or FNSRO, where applicable, cannot use all the funds apportioned to it under paragraph (a) or (b) of this section, it shall release such funds to the Department for further apportionment among the remaining States in the manner and for the purpose of the respective initial apportionment: Provided, however, That no further apportionment shall be made if the Department determines that the amount of such funds is too small to make a further apportionment. If funds apportioned under paragraph (b) of this section remain unused after one reapportionment of these funds as reserved funds the Secretary shall immediately apportion such funds among the States as unreserved funds in accordance with the provisions of paragraph (a) of this section.

(d) A share of the Program funds apportioned to any State in accordance with paragraph (a) or (b) of this section shall be withheld by FNS for schools of that State if the State agency is prohibited by law from administering the Program with respect to such schools. The amount withheld from the funds apportioned under paragraph (a) of this section shall bear the same ratio to such apportioned funds as the number of lunches, meeting the requirements of § 210.10 of Part 210 of this chapter and served in such schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld, bears to the total number of such lunches served in all schools within such State in such preceding fiscal year. The amount withheld under paragraph (b) of this section shall bear the same ratio to such funds as the number of children, enrolled in such State in such schools without a food service and without the facilities to prepare and cook hot meals or receive hot meals, bears to the total number of children enrolled in such State in such fiscal year, in all schools without a food service and without the facilities to prepare and cook hot meals or receive hot meals.

6. In § 230.7, paragraph (a) is revised to read as follows:

§ 230.7 Matching of funds.

(a) During any fiscal year, payments made by FNS to each State agency and payments made by FNSRO to School Food Authorities shall be upon the condition that at least one-fourth of the cost of the equipment financed under this subsection shall be borne by funds from sources within the State: Provided, however, That payments used to assist schools that are especially needy, as determined by criteria established by the State agency, or FNSRO where applicable, and approved by the Secretary, shall not be so matched. Payments made by FNS to a State agency may be matched, where matching is required, either by the respective recipient School Food Authorities or from other State or local sources and payments made by FNSRO to a School Food Authority may be matched either by the recipient School Food Authority or from other funds available to such School Food Authorities within the State in which the Program is administered by FNS.

. . . . . .

7. In § 230.8, the paragraph is designated as paragraph (a) and the last sentence is deleted and new paragraphs (b), (c), (d), and (e) are added to read as follows:

§ 230.8 Use of funds.

. . . . . .

(b) Funds apportioned under paragraph (a) of § 230.4 may be used to reimburse School Food Authorities of any eligible school. However, States shall use their share of unreserved funds as described under paragraph (a) of § 230.4 by giving priority to three (3) types of schools in the following order: (1) Schools without a food service, (2) schools without the facilities to prepare and cook hot meals or receive hot meals, and (3) schools having equipment that is so antiquated or impaired as to endanger the continuation of an adequate food service program or the ability to prepare and cook hot meals. After making funds available to such schools, the State shall make the remaining funds available to schools with a food service and with the facilities to prepare and cook hot meals or receive hot meals for the purpose of purchasing or renting needed replacement equipment.

(c) States shall use their share of reserved funds as described under paragraph (b) of § 230.4 to reimburse School Food Authorities of schools without a food service and School Food Authorities of schools without the facilities to prepare and cook hot meals or receive hot meals. In schools without the facilities to prepare and cook hot meals or receive hot meals reserved funds may be used only to convert to a food service operation that has facilities to prepare and cook hot meals or receive hot meals. In such schools, reserved funds cannot be used to purchase or rent equipment for the continuance or expansion of an ongoing food service operation which lacks the facilities to prepare and cook hot meals or receive hot meals. This restriction does not apply to schools without a food service, although the provisions of paragraph (d) of this section are applicable to schools without a food service.

(d) Food service equipment assistance funds shall be used only for facilities that enable schools or local public or private nonprofit institutions under the conditions prescribed in paragraph (e) of this section to prepare and cook hot meals or receive hot meals at the school or institution unless the School Food Authority can demonstrate to the satisfaction of the State agency or FNSRO where applicable, that an alternate method of meal preparation is necessary for the introduction or continued existence of the school lunch or breakfast programs in the schools or to improve the consumption of food or the participation of eligible children in the programs.

(e) If a School Food Authority authorized to receive funds under this section cannot establish a food service program of hot meals prepared and cooked by the school, or received by the school, and the School Food Authority enters into an agreement with a public or private nonprofit institution to provide lunches or breakfasts meeting program nutritional requirements for children attending the school, the funds provided under this section may be used for food service equipment to be located at such institution, if the school retains legal title to such food service equipment and if, in the case of funds made available under § 230.4(b), the institution would otherwise be without food service equipment.

8. In § 230.12, a new paragraph (i) is added to read as follows:

§ 230.12 Special responsibilities.

. . . . . .

(i) In accordance with the State Plan of Child Nutrition Operations submitted under § 210.4 (a) the State agency, or FNSRO where applicable, shall include the criteria for especially needy schools under the Food Service Equipment Assistance Program. Such criteria shall include as a minimum, the percentage of enrolled children eligible for free and reduced price meals. The percentage shall not be established at a level to exclude all or nearly all schools in the State.

9. In § 230.16 the title of the paragraph (b)(3) is amended to read "Disposition"; paragraph (b)(4) is deleted; paragraph (b)(5) is redesignated as paragraph (b) (4); and paragraphs (a) and (c) are amended to read as follows:

§ 230.16 Property management requirements.

(a) *General purpose and scope.* This section prescribes policies and procedures governing title, use, and disposition of personal property obtained by a State agency or School Food Authority for eligible schools, whose cost was borne in whole or in part with Food Service Equipment Assistance Program funds. State agencies and School Food Authorities may follow their own property management policies and procedures provided they observe the requirements of this section.

. . . . . .

(c) *Expendable personal property.* The State agency or School Food Authority may at its option either retain or sell items of expendable personal property on hand when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies). Compensation to the Department or State agency, as applicable, is required if the aggregate fair market value of all expendable personal property on hand acquired under the grant or contract exceeds $1,000 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original property to the current fair market value of items retained and to the sale proceeds of items sold.

. . . . . .

(Catalog of Federal Domestic Assistance No. 10.554, National Archives Reference Services.)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 20, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 78-30413 Filed 10-26-78; 8:45 am]

[1505-01-M]

Agricultural Marketing Service

[7 CFR Part 1135]

[Docket No AO-380]

MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

Hearing on Proposed Marketing Agreement and Order

Correction

In FR Doc. 78-29966, appearing at page 49704 in the issue for Tuesday, October 24, 1978, make the following changes:

1. In the preamble under the heading "DATE:", delete the words "Comments due on:".

2. In the preamble under the heading "ADDRESS:", delete the words "Send comments to:".

[3410-15-M]

1:407-1. A copy of the proposed revision of REA Bulletin 107-1:407-1 may

Done at Washington, D.C., on October 25, 1978.

SUPPLEMENTARY INFORMATION:

Done at Washington, D.C., on October 19, 1978.

an explanation thereof, having been filed with and provisionally accepted

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[3410-15-M]

Rural Electrification Administration

[7 CFR Part 1701]

DATA PROCESSING SYSTEMS

Proposed Revision of REA Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 107-1:407-1 to increase the amount borrowers may spend for data processing equipment without prior REA approval from $25,000 to $50,000; to incorporate earlier recommendations dated March 5, 1973, regarding the need for backup in the event of disaster; and to change REA's recommendations regarding lease versus purchase of computer equipment.

REA is changing its recommendations regarding lease versus purchase because in recent years the computer industry has changed its marketing strategy to encourage purchase. Lease expense often exceeds purchase costs in 3 years. REA wants to give borrowers more freedom to manage; therefore, the amount borrowers can spend for data processing equipment was increased. The increase in the amount borrowers can spend will also result in fewer requests to REA for approval to use general funds to purchase data processing equipment.

DATE: Public comments must be received by REA no later than December 26, 1978.

ADDRESS: Persons interested in the revised bulletin may submit written data, views, or comments to the Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3342, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Electric Borrowers' Management Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Frederick M. Lewis, Systems Analyst, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3849, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-5986.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 107-1:407-1. A copy of the proposed revision of REA Bulletin 107-1:407-1 may be secured in person or by written request from the Director, Electric Borrowers' Management Division.

Dated: October 20, 1978.

ROBERT W. FERAGEN,
Acting Administrator.

[FR Doc. 78-30415 Filed 10-26-78; 8:45 am]

[3410-37-M]

Food Safety and Quality Service

[9 CFR Parts 317 and 381]

MEAT OR POULTRY PRODUCTS

Availability of Net Weight Study and Reopening of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule: Notice of availability of study and reopening of comment period.

SUMMARY: On December 2, 1977, the Department published in the FEDERAL REGISTER (42 FR 61279) a proposal containing uniform requirements and compliance procedures for label statements of net quantity of contents for meat and poultry products. The comment period was to end March 2, 1978, but later was extended to June 2, 1978 (43 FR 8807). In order to make an informed decision on the proposed rule, the Department contracted for a study to determine the economic impact of the prosposal on consumers. The study is available to the public and comments on this study are solicited. Therefore, the comment period on the proposed rules is reopened until December 26, 1978, for the limited purpose of obtaining public comment on the study.

DATES: Comments must be received on or before December 26, 1978.

ADDRESSES: Copies of the study may be obtained by contacting: Executive Secretariat, Attn: Ann Langlois, Room 3167, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2142. Send written comments to Ann Langlois, Executive Secretariat, Room 3167, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Michael Rose, Acting Chief Staff Officer, Processed Products Inspection Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3840.

Done at Washington, D.C., on October 25, 1978.

JOSEPH A. POWERS,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-30526 Filed 10-26-78; 8:45 am]

[3410-37-M]

[9 CFR Part 381]

CHARGES FOR INSPECTION FOR PURPOSES OF EXPORT CERTIFICATION

Clarification

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: As the result of a 1975 amendment to § 381.37(c) of the poultry products inspection regulations (9 CFR 381.37(c)), exporters of poultry products shall be provided inspection service, without charge, for up to 8 consecutive hours per shift during the basic workweek. However, § 381.105(a) of the regulations (9 CFR 381.105(a)), which applies to inspection for purposes of export certification, requires such inspection service to be performed only at official establishments. When taken together, these regulations appear to permit free inspection service, for purposes of export certification, only if the poultry products to be exported are presented for inspection at official establishments. This is contrary to the intent of § 381.37(c), as amended. This document proposes the deletion of the portion of the export certification regulation that, in effect, restricts the provision of free inspection service for such purposes to those inspections performed at official establishments.

DATES: Comments must be received on or before December 26, 1978.

ADDRESS: Written comments to: Executive Secretariat, Attention: Ann Langlois, U.S. Department of Agriculture, Room 3167, South Agriculture Building, Washington, D.C. 20250. Oral comments to: Dr. A. V. Giesemann 202-447-3219. (For additional information on comments, see supplementary information.)

FOR FURTHER INFORMATION CONTACT:

Dr. A. V. Giesemann, Acting Chief Staff Officer, Inspection Standards and Regulations Staff, Technical Services, Food Safety and Quality Service, U.S. Department of Agriculture, Room 4444, South Building, Washington, D.C. 20250, 202-447-3219.

SUPPLEMENTARY INFORMATION:

COMMENTS

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the office of the Executive Secretariat. Comments should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Dr. Giesemann so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

BACKGROUND

This document, in effect, proposes a clarification. As a result of a 1975 amendment to § 381.37(c) of the poultry products inspection regulations (9 CFR 381.37(c)), poultry exporters are now furnished free inspection service for up to 8 consecutive hours per shift during the basic workweek. (see 40 FR 45798). Prior to the amendment, exporters had been required to pay for all inspection services provided. The change in policy was intentional, and fully, though briefly discussed in the rulemaking. However, § 381.105(a) of the regulations (9 CFR 381.105(a)), currently limits inspection, for purposes of export certification, to the products presented for inspection at official establishments. When the two regulations are taken together, they could be constituted as limiting the provision of free inspection service, for purposes of export certification, to the products that are presented for inspection at official establishments. Since this is not the intention of § 381.37(c), as amended, this document proposes the deletion of the portion of the export certification regulation (9 CFR 381.105) which, in effect, limits the provision of free inspection service for such purposes to those inspections performed at official establishments.

§ 381.105 [Amended]

Accordingly, the Federal poultry products inspection regulations (9 CFR 381.1 et seq.) would be amended to delete the proviso in the first sentence of § 381.105(a).

NOTE.—The Department of Agriculture has determined that this regulation does not have major economic consequences requiring preparation of a regulatory analysis in accordance with section 3 of Executive Order 12044 (March 24, 1978).

Done at Washington, D.C., on October 19, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-30089 Filed 10-26-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 761 0003]

NEW JERSEY PEST CONTROL ASSOCIATION, INC.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a West Orange, N.J., trade association, representing a number of dealers and suppliers of past control goods and services, to cease denying membership to bona fide dealers and suppliers; establishing or maintaining prices or conditions of sale for goods and services; interfering with advertising media; or attempting by any other means to fix prices and eliminate competition in relevant markets. The association would be further required to eliminate timely from its charter and bylaws any provision which is contrary to the terms from its charter and bylaws any provision which is contrary to the terms of the order, and to maintain specified records for a 3-year period.

DATE: Comments must be received on or before December 26, 1978.

ADDRESS: Comments should be directed to Office of the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Leroy Richie, Director, New York Regional Office, Federal Trade Commission, 2243-EB Federal Building 26 Federal Plaza, New York, N.Y. 10007, 212-264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

In the matter of New Jersey Pest Control Association, Inc., a corporation, file No. 7610003, agreement containing consent order to cease and desist.

The Federal Trade Commission having initiated an investigation of certain acts and practices of New Jersey Pest Control Association, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed, by and between New Jersey Pest Control Association, Inc., by its duly authorized officer, and its attorneys, and ocunsel for the Federal Trade Commission that:

1. Proposed respondent New Jersey Pest Control Association, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 475 Prospect Avenue, West Orange, N.J.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose

facts or considerations which indicate that the order contained in the agree-

in, or carrying out any agreement, understanding, or combination, express

It is further ordered, That respondent shall within thirty (30) days of

days after service upon it of this order, file with the Commission a report, in

maintaining, or aiding their members to act together to initiate or maintain:

Proposed Rulemaking Which Would Require Interstate Natural Gas Pipelines To Elect To

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facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or to contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and it understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondent New Jersey Pest Control Association, Inc., a nonprofit corporation, and its officers, directors, agents, representatives, employees, successors, and assigns, directly or indirectly, through any corporation, subsidiary, division, committee, or other device, in connection with respondent association's business, or with the offering for sale, sale, distribution, or promotion of pest control goods or services, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended, shall forthwith cease and desist from entering into, cooperating in, or carrying out any agreement, understanding, or combination, express or implied, or unilaterally to do, adopt or perform any of the following acts, policies, or practices:

1. Failing to grant equal, uniform, and nondiscriminatory membership upon written application therefor, to any dealer in pest control goods or services actually doing business within the territorial limits served by respondent association; except that this order paragraph shall not prohibit the respondent from denying membership to an applicant who has not complied with State or Federal laws pertaining to qualification for the practice of pest control within the territorial limits served by respondent association.

2. Fixing, maintaining, establishing, setting, or attempting to fix, maintain, establish, or set, prices, terms, or conditions of sale or price floors or minimum charges to consumers for pest control goods or services.

3. Eliminating or attempting to eliminate the granting or offering of discounts, or the advertisement of prices or discounts.

4. Requesting, suggesting, encouraging, requiring, or demanding the reporting to respondent of dealers believed to be engaged in price cutting, or believed to be engaged in the granting, offering, or advertisement of price cuts or discounts.

5. Requesting, suggesting, requiring, demanding, or prevailing upon any advertising medium to refuse, condition, qualify, or change advertising placed or sought to be placed by any dealer in pest control goods or services, because such dealer is not a member of respondent, or because such advertising contains representations relating to prices, terms, or conditions of sale not approved by respondent or any member of the respondent; except that this paragraph shall not be construed in such a way as to prohibit the respondent from informing advertising media that a firm is representing itself to be a member of respondent or is using respondent's logo when, in fact, such firm is not a member of respondent.

6. Restricting or preventing, or attempting to restrict or prevent, dealers in pest control goods or services from carrying on lawful courses of action, and engaging in trade and commerce by lawful methods of their own choosing.

7. Eliminating or attempting to eliminate competition between or among dealers in pest control goods and services.

8. Requiring or requesting members of, or applicants for, membership in respondent to submit or disclose prior, current, or planned advertising, or prior, current, or planned prices.

It is further ordered, That respondent shall within thirty (30) days of the effective date of this order:

(1) Advise in writing and by mail all dealers in pest control services discovered through the best efforts of respondent to be doing business within the territorial limits served by respondent, that all dealers so engaged, and complying with State and Federal laws pertaining to qualification for engaging in pest control services within such territorial limits, are eligible to join respondent association on equal, uniform, and nondiscriminatory terms.

(2) Mail a copy of this order to each dealer in pest control services discovered through the best efforts of respondent to be doing business within the territorial limits served by respondent.

It is further ordered, That immediately upon completion of the above mailings, respondent obtain from the person actually performing the required mailing of each notice and order, an affidavit verifying the mailing of each such document, and specifying the particular business entity and address to which each such document had been mailed.

It is further ordered, That respondent shall within thirty (30) days after the date of service of this order, amend its charter, bylaws, rules, and regulations by eliminating therefrom any provision which is contrary to or inconsistent with any provision of this order, and that respondent shall thereafter require as a condition of membership that all present and future members of respondent act in accordance with the provisions of this order.

It is further ordered, That respondent shall keep full and complete records relating to the following and shall retain the same for 3 years:

(a) Standards for admission to and retention of membership in the respondent;

(b) All denials of membership in the respondent;

(c) All expulsions or withdrawals from, or nonrenewals of membership in the respondent;

(d) All correspondence and minutes, formal or informal, kept by or on behalf of the respondent and its committees.

It is further ordered, That respondent trade association notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it complied with this order including copies of all affidavits required by this order to be obtained by the respondent.

NEW JERSEY PEST CONTROL ASSOCIATION, INC. DOCKET NO. ——

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from New Jersey Pest Control Association, Inc.

The proposed consent order and material submitted by New Jersey Pest Control Association, Inc. to the Commission that is reasonably related to the merits of the order and is not exempt from disclosure under the Freedom of Information Act have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The New Jersey Pest Control Association, Inc., a New Jersey coporation, is a trade association representing a number of pest control dealers serving the New Jersey residential and commercial markets for pest control goods and services designed to eliminate insects and rodents, and several suppliers to the trade.

The complaint, in brief, alleges that the above association, along with others, including certain of its members, has violated section 5 of the Federal Trade Commission Act by:

1. Denying and restricting membership in such association by means of arbitrary rules and standards, thereby refusing the substantial competitive advantages of such membership to bona fide dealers in pest control goods and services;

2. Conspiring and combining to maintain price floors and higher prices for pest control goods and services; and to prevent price cutting and discounting by such means as encouraging the reporting of offers of discounts and through intimidation;

3. Denying full access to advertising media by prevailing upon such media to refuse, condition, qualify, or change advertising sought to be placed for such reasons as that such advertising contains prices, terms, or conditions of sale not approved by such association or its members.

The consent order is designed to protect consumers and competitors by preventing respondent from initiating, maintaining, or aiding their members to act together to initiate or maintain:

1. Practices resulting in the unfair exclusion of qualified and bona fide pest control dealers from the advantages of full and unrestricted membership in respondent association;

2. Practices having the purpose or effect of fixing or raising prices for pest control goods or services, such as attempts to eliminate the advertisement of discounts or to encourage the reporting of dealers believed to be making or advertising discounts; or

3. Practices designed to influence advertising media to refuse, condition, qualify, or change advertising sought to be placed by a pest control dealer because such dealer is not a member of respondent, or because such advertising contains prices, terms, or conditions of sale not approved by respondent or a member of the respondent.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-30479 Filed 10-26-78; 8:45 am]

[1505-01-M]

[16 CFR Part 419]

GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES

Proposed Amendment of Trade Regulation Rule To Modify Hiatus Provision

Correction

In FR Doc. 78-29487 appearing at page 48654 in the issue for Thursday, October 19, 1978, on page 48654, in the third column, the telephone number under "FOR FURTHER INFORMATION CONTACT" should read "216-522-4207."

On page 48656, in the second column, in the third line under section F, "witnessed" should read "witnesses"; and in the tenth line, "of" should read "or".

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Part 154]

RATE SCHEDULES AND TARIFFS

Proposed Rulemaking Which Would Require Interstate Natural Gas Pipelines To Elect To Use Either a Purchased Gas Cost Adjustment Clause, or General Rate Cases, To Reflect in Its Rates Changes In Purchased Gas Costs

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking in docket No. RM79-1.

SUMMARY: The notice of proposed rulemaking, if adopted by the Federal Energy Regulatory Commission, would require interstate natural gas pipelines subject to the Commission's rate jurisdiction to elect every 3 years whether to recover changes in purchased gas costs through purchased gas cost adjustment clauses or general rate case filings.

It is the Commission's goal to reduce the time and effort spent reviewing filings to recover purchased gas costs either through general section 4 rate cases filed pursuant to § 154.63 or through PGA clause rate filings. It is also the goal of the Commission to reduce the burden upon pipeline companies by reducing the number of filings which they must prepare and prosecute, as well as to provide more rate stability for distributors and ultimate consumers of natural gas.

DATES: Comments are due on or before November 20, 1978.

ADDRESS: Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Charles E. Bullock, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4232.

The Federal Energy Regulatory Commission (the Commission) hereby gives notices that it proposes to adopt a regulation requiring jurisdictional pipeline companies to elect, on a 3-year basis beginning in 1979, whether to reflect changes in the purchased gas costs as defined by § 154.38(d)(4) of the regulations through purchase gas adjustment (PGA) clauses or through general rate filings made pursuant to 18 CFR § 154.63. Data, views, comments, and suggestions on the matter are invited in order to assist the Commission in its review of the proposal. The Commission requests discussion of the merits of the proposal and al-

ternative means, if any, of realizing its purpose.

PGA clause. At the end of the 3 years, if the pipeline had not made a filing to

comments shall be placed in the Commission's public files and will be avail-

election for an additional 3 years, subject to § 154.38(d)(4)(vi). If a company

clauses conforming to section 154.38(d)(4) of the regulations shall

In the event adjustments are made to the volumes of gas taken from any source

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ternative means, if any, of realizing its purpose.

BACKGROUND

It is the Commission's goal to reduce the time and effort spent reviewing filings to recover purchased gas costs either through general section 4 rate cases filed pursuant to § 154.63 or through PGA clause rate filings. It is also the goal of the Commission to reduce the burden upon pipeline companies by reducing the number of filings which they must prepare and prosecute, as well as to provide more rate stability for distributors and ultimate consumers of natural gas.

This goal was in part implemented by Commission order No. 13, issued October 18, 1978, in docket No. R-406, published also in today's issue which limits to two the number of PGA filings that a pipeline may make in a year and specifies the dates on which the filings are made. However, even though the purpose of order No. 13 is to reduce the number of PGA filings, that goal may not be realized if the pipelines respond to that order by including changes in purchased gas costs in general section 4 rate filings made pursuant to § 154.63 and by increasing the frequency of such filings. The purpose of this proposal is to avoid substitution of general section 4 rate filings for PGA filings.

A pipeline can recover changes in purchased gas costs in a timely manner either through adoption of PGA procedures or section 4 procedures. Reliance on both are necessary only in cases where a pipeline company seeks to recover purchased gas costs that may not be included in PGA clauses, such as liquefied natural gas (LNG) or synthetic natural gas (SNG), and where a pipeline company can demonstrate to the Commission that it is (1) unable to arrange for financing of the balances being carried in the deferred account, or (2) is unable to earn its allowed rate of return because there is such a significant difference between the costs of financing the deferred amounts and the carrying charges allowed by the Commission.

Pursuant to this proposal, pipeline companies would be precluded for 3 years from including in section 4(e) rate filings pursuant to § 154.63 changes in purchased gas costs, except in certain specified circumstances, if they have elected to adopt or maintain a PGA clause.

SUMMARY OF THE PROPOSAL

Under the proposal, pipeline companies electing to adopt or maintain PGA clauses would be precluded from including changes in purchased gas costs in general section 4 rate cases, filed pursuant to § 154.63, for a period of 3 years from the date of electing a PGA clause. At the end of the 3 years, if the pipeline had not made a filing to the contrary with the Commission, it would be deemed to have elected to renew its election for an additional 3 years, subject to the provisions of § 154.38(d)(4)(vi). However, when a company could demonstrate to the Commission that it (1) is unable to arrange for the financing of the balances being carried in the deferred account, or (2) is unable to earn its allowed rate of return because there is a significant difference between the costs of financing the deferred amounts and the carrying charges allowed by the Commission, it could request a waiver of the PGA clause election to include in a general section 4(e) rate filing made pursuant to § 154.63, changes in purchased gas costs, as well as changes in other items of cost.

Under the proposal, as under the Commission's present regulations, PGA treatment (§ 154.38) would be applicable only to purchased gas costs as defined by § 154.38(d)(4). The costs of other purchased gas, such as LNG and SNG, cannot, under the present or the proposed regulations, be recovered through a PGA clause except where a company has obtained a waiver of the PGA regulations to allow recovery of these costs through the PGA clause. Thus where a waiver has not been obtained, the company would continue to use section 4 procedures pursuant to § 154.63 to collect those costs in its rates. When a company that had elected PGA procedures made a general section 4 rate filing to recover changes in other costs of operations, including the costs of LNG or SNG, the company would use the unit purchased gas cost reflected in its then effective PGA adjustment. In the section 4 proceeding, the company or any other party would be permitted to place in issue the appropriate volume of purchased gas.

Conforming amendments to § 154.63 have also been proposed.

PUBLIC COMMENT PROCEDURES

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 20, 1978. Each person submitting a comment should include his name and address, identify the notice (docket No. RM79-1), and give reasons for any recommendations. An original and 14 conformed copies should be filed with the Secretary of the Commission. Comments should indicate the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. Written comments shall be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

(Natural Gas Act, as amended, 15 U.S.C. § 717 et seq., Department of Energy Organization Act, Pub. L. 95-91, E. O. 12009, 42 FR 46267.)

In consideration of the foregoing, it is proposed to amend part 154, chapter I of title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

1. Section 154.38 is amended in paragraph (d) by revising the introductory language in subparagraph (4) to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(d) *Statement of rate.* * * *

(4) A natural gas pipeline company may elect to submit a purchased gas cost adjustment clause (PGA clause) to flow through changes in its cost of purchased gas.[1] Natural gas pipeline companies shall elect on a 3-year basis as of January 1, 1979, whether to recover all changes in purchased gas costs through general rate change filings or to recover changes in purchased gas costs through the PGA provisions. If a company elects to adopt or maintain a PGA clause § 154.38(4) shall be applicable. If a company elects to recover all changes in purchased gas costs through general rate changes filings made pursuant to § 154.63 of this part, such election shall be effective for 3 years, during which time the company may not adopt a PGA clause. At the end of the 3 years if the pipeline has not made a filing with the Commission to the contrary, the pipeline shall be deemed to have elected to renew its PGA clause

[1] For the purposes of this paragraph, purchased gas cost represents the cost of wellhead purchases, field line purchases, plant outlet purchases, transmission line purchases, and pipeline production from leases acquired on and after Oct. 7, 1969. Nonconcurrent exchange transactions may be reflected as a cost of purchased gas. If a company has underground storage, the cost of purchased gas included in accounts 800, 801, 802, 803, and where applicable, account 806, shall be debited or credited to reflect the net injections or withdrawals from underground storage. This adjustment shall be prorated between pipeline and producer supply. New pipeline supplies (contractual daily delivery obligations) and liquefied natural gas, synthetic natural gas, and gas from coal gasification shall not be reflected in a PGA clause without prior Commission approval.

election for an additional 3 years, subject to § 154.38(d)(4)(vi). If a company elects to adopt a PGA clause it may not include changes in purchased gas costs covered by the PGA clause in a general section 4 rate case filed pursuant to § 154.63 unless the commission has granted a waiver of the pipeline's election. To receive a waiver, the pipeline must demonstrate that it is unable to arrange for financing of the balances being carried in the deferred account, or is unable to earn its allowed rate of return because there is a significant difference between the costs of financing the deferred amounts and the carrying charges allowed by the Commission. No PGA clause shall become effective until approved by the Commission. No request for approval of a PGA clause will be considered by the Commission unless the proposed PGA clause indicates the following terms and conditions:

* * * * *

2. Section 154.63 is amended by revising subparagraphs (3) and (4) of paragraph (b) and by revising schedule H(1)-3 of paragraph (f) to read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(b) *Material to be submitted.* * * *

(3) *Major rate increase.* Class A companies (as defined in Subchapter F, Uniform System of Accounts for Natural Gas Companies, of this chapter) shall submit, in addition to the material required by subparagraph (1) of this paragraph, statements A to M inclusive and O and P described in paragraph (f) of this section. Class B, C, and D companies, defined as above, shall file only statements L, M, N, O, and P. Statement P, which is required to be submitted by all classes of companies, may be furnished not later than 15 days after the date of the filing. A natural gas company filing another major increase in rates or charges within a period of 12 months after the date of filing of statements A through M and O and P or after the end of the test period used therein including the period of adjustments shown on statements A through M may submit for such other increase statements L, M, and N in lieu of statements A through M if the proposed new rate increase is filed to compensate only for an increase in the cost of purchased gas and there has been no material change in the company's facilities, sales volumes, and cost of service other than cost of purchased gas since such prior rate increase was filed. However, pipelines with Commission approved PGA clauses conforming to section 154.38(d)(4) of the regulations shall not be permitted to include changes in purchased gas costs in filings made pursuant to this subparagraph unless they have received a waiver of their PGA election pursuant to § 154.38(d)(4). Pipelines with Commission-approved PGA clauses making filings pursuant to this subparagraph shall reflect the unit cost of purchased gas costs as of the pipeline's latest Commission-approved PGA rate adjustment, unless the pipeline has received a waiver of its PGA election pursuant to § 154.38(d)(4).

(4) *Minor rate increase or rate decrease.* Only statements L through N need be filed in addition to the material required by subparagraph (1) of this paragraph. (Statements L through N are not required to make effective rate changes or tariff provisions ordered by the Commission.) A pipeline with an effective Commission-approved PGA clause conforming to § 154.38(d)(4) shall not be permitted to include changes in purchased gas costs in rate filings made pursuant to this subparagraph unless the pipeline has received a waiver of its PGA election pursuant to § 154.38(d)(4). A pipeline with an effective Commission-approved PGA clause shall reflect in any filing made pursuant to this subparagraph the unit cost of purchased gas cost as of the pipeline's latest Commission-approved PGA rate adjustment, unless the pipeline has received a waiver of its PGA election pursuant to § 154.38(d)(4).

* * * * *

(g) *Description of statements.* * * *

Schedule H(1)-3, a schedule showing either: (a) In the case of a pipeline which has a Commission-approved PGA clause in its tariff, its unit cost of purchased gas as set forth in the pipeline's latest Commission-approved PGA rate adjustment. However, the pipeline may adjust its purchased gas volumes as provided in (b) hereof; or (b) in the case of a pipeline which does not have a Commission-approved PGA clause in its tariff or in the case of a pipeline which has a Commission-approved PGA clause but obtains a waiver of its PGA clause election pursuant to § 154.38(d)(4), the total annual cost of gas purchased for the 12 months of actual experience, the adjustments thereto, and the total adjusted cost for test period, with the data grouped by States and producing areas and detailed by contract or rate schedule designation, field, volumes in Mcf at a common pressure base and price in total for the contracts or rate schedules under which actual or adjusted volumes exceed 1,000,000 Mcf annually. Field purchases under rate schedules where the actual or adjusted volumes are less than 1,000,000 Mcf annually may be grouped by field or producing area. Purchases from pipelines in any volume shall be shown in full detail by rate schedule including splits between demand and commodity charges.

In the event adjustments are made to the volumes of gas taken from any source during the 12 months of actual experience, a detailed explanation and data in support of the adjusted volumes shall be furnished. No adjustments are to be made to reflect the attachment of new gas supplies unless both the filing company and the supplier have each obtained the required permanent or temporary certificates of public convenience and necessity and the necessary facilities by both are or will have been in operation during the test period.

In the event the adjustments to volume aggregate more than 10 percent of the total volume of gas purchased during the 12 months of actual experience, and are due to change in gas purchase pattern or additional gas supply, the minimum take-or-pay-for quantities for each source of supply, applicable at the end of the test year period, and the reasons for making such adjustments shall be submitted.

If the company purchases and sell gas under exchange agreements, the method of recording on books, total gross volumes exchanged, net dollar amounts involved and details of each major exchange shall be submitted.

[FR Doc. 78-30432 Filed 10-26-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182 and 184]

[Docket No. 78N-0213]

TOCOPHEROLS AND DERIVATIVES

Proposed Affirmation of Gras Status for Certain Tocopherols and Removal of Certain Others From Gras Status as Direct Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of *dl*-α-tocopherol, mixed tocopherol concentrate, *d*-α-tocopheryl acid succinate, *d*-α-tocopheryl acetate, and *dl*-α-tocopheryl acetate as direct human food ingredients and to remove *d*-α-tocopherol and *d*-α-tocopheryl acetate concentrate from GRAS status as direct human food ingredients. The safety of these ingredients has been evaluated under a comprehensive safety review being conducted by the agency. The proposal would list *dl*-α-tocopherol, mixed tocopherol concentrate, *d*-α-tocopheryl acid succinate, *d*-α-tocopheryl acetate, and *dl*-α-tocopheryl acetate as direct food substances affirmed as GRAS.

DATES: Comments by December 26, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and

Drug Administration, Room 4-65, 5600

TER of November 20, 1959 (24 FR 9368) and subsequently recodified and in-

added tocopherols in ingested foods may not necessarily be absorbed by the intestine

rate of change of *dl*-α-tocoquinone to tocopheronolactone in comparison with *dl*-α-tocopherol, the authors suggested that the

radioactivity was present in the pituitary, heart, liver, kidney, fat, testes, and skin. Radioactivity was present 88 days after dosing

150 to 600 mg per day α-tocopherol resulted in decreased urinary excretion of thiamine by rats:

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Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: A comprehensive safety review of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction is being conducted by the Food and Drug Administration (FDA). The Commissioner of Food and Drugs has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of *d*-α-tocopherol, *dl*-α-tocopherol, mixed tocopherol concentrate, *d*-α-tocopheryl acid succinate, *d*-α-tocopheryl acetate, *dl*-α-tocopheryl acetate, and *d*-α-tocopheryl acetate concentrate has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of *dl*-α-tocopherol, mixed tocopherol concentrate, *d*-α-tocopheryl acid succinate, *d*-α-tocopheryl acetate, and *dl*-α-tocopheryl acetate as direct human food ingredients and to remove *d*-α-tocopherol and *d*-α-tocopheryl acetate concentrate from GRAS status as direct human food ingredients.

The tocopherols are a group of chemically related, lipid-soluble substances that possess vitamin E activity. Eight *d*-form tocopherols occur naturally in many plant and animal tissues. The tocopherols are present in vegetable oils, cereals, nuts, and leafy vegetables. Vegetable oils are the most important sources. Wheat germ and cotton seed oils contain *d*-α-tocopherol as the major tocopherol. This form is the most widely distributed, the most effective antioxidant of the naturally occuring forms, and the most potent vitamin E compound.

Commercially, *d*-α-tocopherol and mixed tocopherol concentrate (consisting mostly of *d*-α-tocopherol and small amounts of beta, gamma, and delta tocopherols) are isolated from edible vegetable oils. *d*-α-tocopheryl acetate concentrate (also called *d*-α-tocopheryl acetate preparation), *d*-α-tocopheryl acetate, and *d*-α-tocopheryl acid succinate are synthesized from *d*-α-tocopherol, while *dl*-α-tocopherol, and *dl*-α-tocopheryl, acetate are synthesized from other starting materials. Varying degrees of purity of these products can be obtained by distillation.

Tocopherols are listed as GRAS in § 182.3890 (21 CFR 182.3890) for use as chemical preservatives, under a regulation published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368) and subsequently recodified, and in § 182.5890 (21 CFR 182.5890) for use as nutrients and/or dietary supplements, under a regulation published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938) and subsequently recodified. Alpha-tocopherol acetate is listed in § 182.5892 (21 CFR 182.5892) as GRAS for use as a nutrient and/or dietary supplement, under a regulation published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). Tocopherols also are prior-sanctioned for use in food as antioxidants at 0.03 percent.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which tocopherols and certain derivatives were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to these ingredients. The total amount of tocopherols and their derivatives used in food in 1970 was reported to be 157 pounds of *dl*-α-tocopherol, 617 pounds of mixed tocopherol concentrate, 55 pounds of *d*-α-tocopheryl acid succinate, 18,000 pounds of *d*-α-tocopheryl acetate, and 79,000 pounds of *dl*-α-tocopheryl acetate. No food use data were reported for *d*-α-tocopherol or *d*-α-tocopheryl acetate concentrate (*d*-α-tocopheryl acetate preparation).

Tocopherols and derivatives have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 2,691 abstracts on tocopherols and derivatives was reviewed and 86 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Not all ingested tocopherols in raw foods are available for absorption. Numerous studies have shown that the Vitamin E activity of tocopherols in foods may be destroyed by cooking. Commercial processing and storage result in relatively larger losses of tocopherols than those resulting from ordinary cooking. Thus, both naturally occurring and added tocopherols in ingested foods may not necessarily be absorbed by the intestine.

According to Horwitt, there is no significant difference in the rate at which the several tocopherols are absorbed from the intestine. The tocopheryl acetate derivatives are partially hydrolysed by intestinal esterases and absorbed; they are also partialy absorbed as intact esters. Pearson and Barnes observed that α- and δ-tocopherols are absorbed more rapidly than the β- or γ-forms. They injected 600 to 800 μg of each tocopherol in 0.2 ml glycerol trioleate into isolated intestinal loops of female hooded rats. After 6 hours, absorption of the α-, β-, γ-, and δ-tocopherols was 32, 18, 1.8, and 30 percent, respectively.

The importance of bile in the absorption of tocopherols from the intestinal tract has not been clearly established. Although it was reported that bile promotes absorption of *dl*-α-tocopheryl acetate in the rat, Greaves and Schmidt, and Sternberg and Pascoe-Dawson presented data that did not support this view. Weber *et al.* observed that the oral administration of *d*-α-tocopherol and *l*-α-tocopherol in a 1:1 ratio resulted in a 55 percent greater absorption of each than when fed singly. In addition, they found that *l*-α-tocopherol is absorbed and excreted more rapidly than *d*-α-tocopherol. In the rat, α-tocopherol absorption is mainly via lymphatic pathways and by the portal vein. Based on studies with dogs fed several tocopherols, Kaludin suggested that β-, γ-, and δ-tocopherols are converted to α-tocopherol in the body. However, Dju *et al.* found no evidence for conversion of either γ- or δ-tocopherols to α-tocopherol in laying hens fed either isomer.

In man, physiologically active amounts of tocopherols are readily absorbed in the gastrointestinal tract and distributed throughout the body tissues. Depending upon the amount ingested, a significant amount may be excreted unchanged in the feces. For example, Schmandke *et al.* reported the following data on absorption of *dl*-α-tocopherol in thirty 18 to 34 year old men:

Oral dose (mg)	Percent absorbed (24 hours)
10	96.9 ± 13.0
30	87.3 ± 13.5
50	72.6 ± 11.6
100	81.5 ± 6.1
500	67.6 ± 19.4
1500	70.3 ± 27.9
2000	55.2 ± 28.8

Following the oral administration of 0.5, 1.0, 1.5, and 2.0 g of *dl*-α-tocopherol to healthy male test subjects, Schmandke recovered from the urine 3.11, 12.32, 8.18, and 9.31 mg, respectively, of the compound in the form of tocopheronolactone. Simon et al. have reported that the oral administration of 3 to 5 g of *dl*-α-tocopherol to human subjects resulted in two metabolites, mainly conjugated 2(3-OH-4-CH_3-5-carboxy-pentyl)-3,5,6-trimethylbenzoquinone and its gamma lactone.

After oral administration of 1 g *dl*-α-tocopherol to healthy men, Schmandke and Schmidt found that about 40 percent is absorbed and that 6 percent of the absorbed tocopherol is reduced to tocopheronolactone; of 1 g of orally administered *dl*-α-tocoquinone, about 75 percent is absorbed and 1.8 percent of that absorbed is reduced to tocopheronolactone. On the basis of the low

rate of change of *dl*-α-tocoquinone to tocopheronolactone in comparison with *dl*-α-tocopherol, the authors suggested that the mechanism of α-tocopherol catabolism is by way of α-tocoquinone to tocopheronolactone in man.

In subjects receiving oral doses of 2.0 g α-tocopherol or α-tocopheryl acetate, Gounelle et al. found that α-tocopherol is more readily absorbed than the acetate form and that peak blood levels for both forms occurred at 6 hours after ingestion and absorption.

In man, bile appears to be involved in the absorption of tocopherols; normally, at least 50 percent of the oral dose is absorbed, and the remainder is excreted unchanged in the feces. In addition, limited breakdown results in production of urinary metabolites. MacMahon and Neal administered oral doses of tritium-labeled-α-tocopherol to seven fasted normal subjects and found that 55 to 79 percent of the dose was absorbed and 3 to 16 percent of the total radioactivity was recovered from the urine in 3 days. Peak plasma levels were reached in 5 to 9 hours; and they calculated that the metabolic half-life was 53 hours. Radioactivity in the blood plasma was almost all associated with free α-tocopherol. These investigators also observed relatively poorer absorption of tocopherol in patients with malabsorption problems, biliary obstruction, steatorrhea, and gastrectomies than that in normal subjects. In another study, Kelleher et al. found essentially similar patterns of absorption in 50 fasting subjects given tritium-labeled-*dl*-α-tocopherol orally. Six to twelve hours after administration, absorption was 72 percent; after 6 to 12 days, less than 6 percent of the activity was recovered in the urine and 80 percent was found in the plasma as unchanged α-tocopherol. Subjects with steatorrhea absorbed less (59 percent) than those without steatorrhea (72 percent).

Blomstrand and Foresgren fed two patients with cannulated thoracic ducts a formula meal with doses of several tritium-labeled derivatives of tocopherol and then analyzed lymphatic lipids serially for up to 24 hours. Absorption of the tocopherols was 21 to 91 percent of the administered dose within 24 hours. Peak absorption occurred 2 to 8 hours after dosing; the major portion of the recovered radioactivity was located in the chylomicrons. These investigators concluded that tocopherol and tocopheramine are absorbed via the lymphatic pathway in man, and enter the thoracic duct intact; but that the acetate derivative is split after absorption and is recovered as tocopherol. They concluded that ingestion of a diet high in polyunsaturated fatty acids increases the requirement for vitamin E and could result in a deficiency state.

In some premature infants, fat-soluble forms of α-tocopherol acetate are poorly absorbed. Hemolytic anemia has been described in premature infants receiving commercially prepared formulas containing iron and high concentrations of polyunsaturated fatty acids. The anemia responds to treatment with water-soluble forms of tocopherols.

The distribution of α-tocopherol in the rat was determined with both carbon-14 labeled and unlabeled *dl*-α-tocopherol administered orally. A rapid uptake by the liver was noted (maximum after 4 hours); however, redistribution in the body occurred rapidly. The highest concentration of radioactivity was found in the adrenal glands and high radioactivity was present in the pituitary, heart, liver, kidney, fat, testes, and skin. Radioactivity was present 88 days after dosing with the highest activity in the brain. The percentage intracellular distribution of radioactivity 24 hours after the oral administration of α-[5-methyl-^{14} C] tocopherol in the spleen has been reported to be: Mitochondria, 59 percent; microsomes, 19 percent; supernatant, 12 percent. In the liver, distribution was as follows: Mitochondria, 12 percent; microsomes, 44 percent; supernatant, 31 percent; and nuclei, 14 percent. Krishnamurthy and Bieri administered carbon-14-labeled α-tocopherol orally to rats (and chickens) and reported that α-tocopherol in rat liver and intestinal mucosal cells was distributed 50 to 60 percent in mitochondria and 15 to 20 percent in the microsomal and supernatant fractions. They observed that in the plasma, tocopherols appeared in neutral fat and were bound to globulins. Presumably, the distribution of tocopherols in body tissues of other mammals would be similar to that found in the rat.

The metabolic roles and activities of tocopherols have been studied extensively. It is recognized that vitamin E is associated closely with lipids throughout the body, stabilizing highly unsaturated fatty acids within the cell and cell membrane against oxidation. Noguchi et al. have suggested that the tocopherols appear to prevent exudative diathesis by neutralizing free radicals within lipid membrances, thereby preventing a chain-reactive autooxidation of capillary membrane lipids. Chow et al. concluded that dietary tocopherols may protect erythrocytes against oxidative stress (lipid peroxidation) by regulating the level of reduced glutathione via an effect on the enzyme, glutathione peroxidase.

When administered in relatively small doses the following metabolic effects have been reported:

- Ingestion of 0.12 ml of a 10-mg-per-g solution of tocopherol (type unspecified) by young chicks resulted in increased agglutinin and complement titers as well as enhanced phagocytic activity of the leucocytes; and
- Injection of 10 mg per day of α-tocopherol for 7 days into female golden hamsters (route unspecified) after ovariectomy produced estro-progesterone effects;
- A dose of 0.15 mg per rat per day for 10 days depressed the "anticoagulative system activity."

With relatively larger amounts, the following observations have been reported from several animal studies:

- Inclusion of 100 mg per day of α-tocopheryl acetate in the diet of male albino rats resulted in increased concentrations of adenosine di- and triphosphate and coenzyme A in the liver;
- Administration (route not specified) of 150 to 600 mg per day α-tocopherol resulted in decreased urinary excretion of thiamine by rats;
- Supplementation of daily rations of vitamin E deficient male albino rats with 25, 50, or 100 mg per day of vitamin E (not otherwise identified) for 22 days produced increased concentrations of copper and calcium in the liver, muscle and bone. At the lowest dose, there was a decrease in concentration of iron in liver and muscle; with the intermediate dose, the decrease in concentration of iron in the liver was accompanied by an increase in muscle and bone content. With the largest dose there was an increase in concentration of iron in the liver and muscle but a decrease in bone;
- Feeding male albino rats a ration with 100 mg α-tocopheryl acetate per rat per day for 8 days increased the phospholipids as well as total and esterified cholesterol found in liver homogenates of the experimental but not the control animals;
- Dietary supplementation with 150 mg per rat per week of vitamin E concentrate (34 percent mixed tocopherols) administered orally by syringe in ethyl laurate solution for 20 to 27 weeks, resulted in localized sclerosis and deposition of cholesterol in the aorta which were prevented by high dietary cholesterol and bile salt.

The number of controlled investigations of the metabolic effects of large doses of tocopherol to human subjects is limited. Baroni and Casa reported that a single intramuscular injection of 300-mg α-tocopherol in 10 subjects decreased the basal metabolic rate; prolonged administration of 300-mg α-tocopherol by intramuscular injection on alternate days for 4 weeks to 7 patients with elevated basal metabolic rates produced decreases in basal metabolic rates. Oral administration of 100 mg α-tocopherol acetate to 12 subjects each day for 10 days resulted in greater plasma levels of phospholipids, total cholesterol, and α_2-globulins, but a decrease in plasma amino acid levels. Prosperi, and Feruglio and Petrin have reported shorter blood coagulation times following single oral doses of 100 mg α-tocopherol.

The scientific literature on the effects of vitamin E administered orally or ingested in diets at various dosages is extensive. In general, these reports document alterations in several parameters of growth, development, and metabolism. The majority of the effects are elicited at dosage levels that exceed by severalfold, the normal daily intake levels. The deviations from the expected norm are eliminated by cessation of dosing with vitamin E.

The LD_{50} values for acute oral toxicity of the tocopherols are relatively high (table below). In addition to these data, Demole determined that frogs, rabbits, cats, dogs, and monkeys can tolerate without apparent toxic signs, oral doses of 200 mg per kg *dl*-α-tocopherol or tocopheryl acetate.

ACUTE TOCICITY OF TOCOPHEROLS

Substance	Species	Route	LD_{50} mg/kg
Vitamin E, injectable	Mouse	i.m	> 250
	rat (adult)	i.m	> 250
		i.p	> 2000
	rabbit	i.m	> 50
dl-α-Tocopherol	mouse	i.p	> 2000
		s.c	> 2000
		oral	> 4000
	rat (neonate)	oral	> 4000
	rat (adult)	i.p	1480
		oral	> 4000

ACUTE TOCICITY OF TOCOPHEROLS

No reports of controlled long-term studies on the possible toxicity of tocopherols to

ciency appeared to decreased incidence in this susceptible mouse strain.

Several investigators have fed or injected

The Select Committee concludes that no evidence in the available information on tocopherols and α-toco-

tate concentrate, be removed from the GRAS list because evidence of use was not reported during the National

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ACUTE TOCICITY OF TOCOPHEROLS

Substance	Species	Route	LD_{50} mg/kg
	rabbit	oral	>2000
dl-α-Tocopheryl acetate	mouse	i.p	>2000
		s.c	>2000
		oral	>4000
	rat (neonate)	oral	>4000
	rat (adult)	i.p	840
		oral	>4000
	rabbit	oral	>2000

Demole also observed that mice exhibited no adverse effects from oral doses of 50 g per kg of either *dl*-α-tocopherol or its acetate ester. Male rats tolerated daily doses of 1.0 g per kg *dl*-α-tocopherol or *dl*-α- acetate for 10 days while female rats tolerate 0.5 g per kg of either form without toxic effects. Male and female rats received a total does of 4.0 g per kg of either *dl*-α-tocopherol or its acetate by stomach tube over a period of 2 months without any adverse health effects. Den Tonkelaar et al. observed that male and female Wistar rats exhibited no adverse effects from a 15-percent lard diet containing 20 to 40 mg per kg (0.002 percent and 0.004 percent in the diet) α-tocopherol over 13 weeks.

On the other hand, Ichihara has reported that daily intramuscular administration of 10 mg *dl*-α-tocopherol acetate for 20 days in mice resulted in enlargement of the testicular interstitial cells and marked enlargement of smooth endoplasmic reticulum. Huter reported that the oral administration of 5.5 to 12.5 mg tocopherol acetate per kg body weight per day for 1 to 3 months resulted in highly active but normal thyroid glands in female rabbits, and abnormal changes in weight and volume as well as enhanced epithelial cell proliferation in the thyroid glands of male rabbits.

Costa et al. gave guinea pigs α-tocopherol at approximately 13 mg per kg per day by mouth for 10 days. All treated animals developed hyperemia of the thyroid and greater iodine uptake but no other adverse effects were reported. In a series of studies with guinea pigs weighing 250 to 300 g, Prosperi and Borselli found that intramuscular injection of vitamin E (presumably *dl*-α-tocopheryl acetate) in adult guinea pigs produced the following effects:

- 364 mg per kg per day for 10 days: Increase in body weight and no demonstrable pathology;
- 727 mg per kg per day for 10 days: Lesser increase in body weight but histologically evident degenerative changes in hepatic and myocardial cells;
- 1,091 or 1,454 mg per kg (single injection): Elicited similar evidence of myocardial, hepatic, and neural pathology; and,
- 4,363 mg per kg (single injection): Resulted in roughened fur, hyperemia of spleen, and hyperplasia of interfascicular endothelia and Kupfer cells of the liver.

In another series of experiments, Prosperi and Borselli observed morphological and histological degeneration of cells in tissues of several endocrine glands of guinea pigs following intramuscular injection of *dl*-α-tocopheryl acetate at 1,091 mg per kg for 3 days followed by 727 mg per kg for 2 days. Stimulation of mitotic activity in testicular and ovarian cells was also noted.

Excessive intake of tocopherols leads to hypervitaminosis E in several animal species. Conditions described as hypervitaminosis E have been reported in guinea pigs, hamsters, rats, and chicks. Some of the effects reported include changes in estrus cycle (length of phases, periodicity in rats), degenerative lesions of liver and myocardium (following intramuscular administration in guinea pigs). In these instances, the doses used to elicit the effects described are in the range of 1 g per kg body weight.

The oral administration of 296 g *dl*-α-tocopheryl acetate to one human subject over a period of 93 days resulted in gastrointestinal distress and muscle weakness which disappeared when the treatment was stopped. Greenblatt fed six male subjects 667 mg per kg *d*-α-tocopheryl acetate daily for 1 month. No adverse effects were noted but serum cholesterol was lowered. The oral administration of 0.67 ot 0.84 mg per kg of α-tocopheryl acetate each day for 9 to 10 days to 26 patients resulted in higher blood tocopherol levels and an increase in thyroid uptake of iodine.

Adult humans have tolerated oral doses of 1 g per day of vitamin E for months, or larger doses for shorter periods with no undesirable effects. Welch treated 67 patients with lupus erythematosus with preparations of pantothenic acid and *dl*-α-tocopheryl acetate for periods up to 3 years. Patients received doses of the tocopherol as high as 33 mg per kg per day over this period with no adverse effects beyond transient nausea and gastric distress. Similar massive dosages (up to 33 mg per kg per day) of the vitamin E preparation were also administered to 154 patients with diseases other than lupus and no complications were reported.

There is no convincing evidence that high intake of tocopherols leads to hypervitaminosis E in humans; similarly, physiological benefits from the addition of large amounts of vitamin E to the diet have not been demonstrated. Horwitt and Mason have stated, "No state or syndrome of hypervitaminosis E has been described, nor is there evidence that tocopherols per se exert any deleterious effect in animals or man." Recently, Alfin-Slater reported that a hypervitaminosis E is only a possibility in those patients who are ingesting very large amounts of vitamin E (over 400 mg per day) for long periods of time. Cohen reported that ingestion of 564 mg of α-tocopherol daily for 7 days resulted in fatigue, malaise, and loss of energy. The clinical symptoms disappeared when the treatment was withdrawn. He suggested that patients with "fatigue" who were consuming large doses of vitamin E might exhibit similar symptoms because of the vitamin intake. In view of the estimated average daily adult intake of all tocopherols added to foods (0.6 mg), the probability of reaching intake levels in excess of 400 mg per day is extremely remote.

No reports of controlled long-term studies on the possible toxicity of tocopherols to man have come to the attention of the Select Committee.

Telford et al. administered total doses of 1.0 g per kg *dl*-α-tocopheryl acetate, in the diet to pregnant Walter Reed-Carsworth Farms rats for 20 days during gestation. Similar experiments were run using 350 mg and 1.0 g per kg *d*-γ-tocopherol. Based on fetal resorption data, they concluded that both maternally administered compounds reduced the frequency of resorption below that in the control animals except for 14.0 percent reabsorptions with the *dl*-α-tocopheryl acetate administered at 500 mg per kg. In studies with other animals, the daily subcutaneous administration of 75 mg *dl*-α-tocopherol acetate to male adult hamsters for 8 to 30 days resulted in significantly lower testicular weights than those of control animals, a transitional disruption in spermatogenesis, but no alteration in testicular endocrine function. The addition of *dl*-α-tocopherol to the feed (20 mg per lb) of Broad-Breasted Bronze turkey hens resulted in a slight increase in hatchability. The parenteral administration of a total dose of 3,000 mg of *dl*-α-tocopherol over a 10-week period to male and female chicks resulted in inhibited growth, including delay of sexual maturity in males, but not in females.

Using normal adolescent schoolgirls as subjects, Winkler observed that the oral administration of 30 mg of α-tocopherol daily for one or two menstrual cycles, resulted in an increase in urinary hormone excretion. He suggested that these latter effects may involve the anterior pituitary.

The Select Committee has not found any specific tests of mutagenic activity of the several tocopherols that are generally recognized as safe. However, tests with plant material suggest that vitamin E may protect meristematic cells from radiation damage.

The administration of oral doses up to 1,600 mg per kg body weight of *dl*-α-tocopherol acetate immediately after conception to mice and rats for 10 days, to hamsters for 5 days, and to rabbits for 13 days had no discernible effects on nidation or on maternal or fetal survival. However in the tests with pregnant rabbits at 0, 16.0, 74.3, 345.0, and 1,600.0 mg per kg, 1 of the 16 animals in the control group died; 2 of 16 died at the 16 mg per kg level; 3 of 20 at the 74.3 mg per kg level died; 2 of 18 receiving 345.0 mg per kg died; and 6 of 19 died at the highest dosage level. Soliman has reported that simultaneous injection of 0.1 g α-tocopherol diminishes the teratogenic effects of vitamin A palmitate (250,000 I.U.) in rats. Reid has reported that *dl*-α-tocopheryl acetate failed to demonstrate a significant increase in the occurrence of abnormalities in the avian embryo teratology test series at doses from 16.0 to 120.0 mg per kg.

Telford measured the growth of lung tumors in mice at three levels of *d*-α-tocopherol in the diet. The tumors were induced in susceptible mice (Bar Harbour hereditary lung tumor strain) with 1.0 mg of the carcinogen, 1, 2, 5, 6-dibenzanthrene. At 7 months, mice on a stock diet and on a diet to which 2.0 mg of d-α-tocopherol was added every other day, had 91 percent and 100 percent tumors, respectively. Mice on a diet deficient in *d*-α-tocopherol had 71 percent tumors. Telford indicated that the incidence of lung tumors was greatest in the hypervitaminosis groups and that vitamin E deficiency appeared to decreased incidence in this susceptible mouse strain.

Several investigators have fed or injected mice or rats with various doses of α-tocopherol, *dl*-α-tocopherol, of *dl*-α-tocopheryl acetate and have reported no tumor formation or increased incidence of tumors. Furthermore, the addition of α-tocopherol to the laboratory chow diet of mice at 0.67 g per kg of diet appreciably inhibited the carcinogenic effect of methylcholanthrene. The addition of vitamin E (5 percent w/w) to the diet of mice did not affect their response to 3,4,9,10-dibenzpyrene. There was neither significant decrease in body weight nor in average tumor incidence; there was no significant increase in average time to tumor-induced death.

In studies of dermal carcinogenicity, the painting of 10 percent *dl*-α-tocopherol solution in sesame oil on the depilated skin of adult mate mice, three times per week for 8 weeks did not elicit any observable effects whereas no growth of hair, thickening and callosity of the skin, as well as papilloma were reported in positive controls treated with benzpyrene in benzene. In a companion study, some of the mice that were exposed to benzpyrene were treated with a daily dose of 10 mg *dl*-α-tocopherol per os for one month. There were no differences observed between animals that received α-tocopherol and those that did not. α-Tocopherol (60 mg per week for 39 to 41 days, per os) did not affect the rate of growth of sarcomas following subcutaneous administration of 1 percent benzpyrene. However, the intraperitoneal administration of α-tocopherol or its acetate (seven doses, 400 mg per kg each) retarded growth of transplanted tumors and prolonged survival of rats. The addition of tocopherols to croton oil decreased the tumor promoting effects of croton oil with respect to tumor initiation by 7,12-dimethylbenzanthracene.

Tuberculin-type sensitization has been demonstrated in guinea pigs with *d*-α-tocopherol and *dl*-α-tocopherol.

Qualified scientists of the Select Committee have evaluated all available safety information on tocopherols and derivatives. It is the opinion of the Select Committee that:

Tocopherols are a natural constituent of many foods. The average daily dietary intake of tocopherols in the United States is approximately 5 to 20 mg. The quantity of tocopherols added to foods as antioxidants is estimated to be equivalent to an average adult daily intake of 0.6 mg.

The several tocopherols used in foods as antioxidants are readily absorbed and metabolized. They are relatively nontoxic. LD_{50} values for acute oral toxicity of several animal species are in excess of 2,000 mg per kg. Hypervitaminosis E has been reported in humans only at oral dosage levels in excess of 400 mg per day. Investigations on mutagenic, carcinogenic, and teratogenic effects of tocopherols have not revealed any deleterious or pathologic alterations, although some reproductive system effects have been observed in young animals fed or administered dosage levels that exceed by manyfold, the quantities added to food or present in the daily diet.

The Select Committee concludes that no evidence in the available information on tocopherols and α-tocopheryl acetate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when those substances are used at current levels or at levels that might reasonably be expected in the future. Based upon his own evaluation of all available information on tocopherols and certain derivatives, the Commissioner agrees with this conclusion. The Commissioner therefore believes that no change in the current GRAS status of *dl*-α-tocopherol, mixed tocopherol concentrate, *d*-α-tocopheryl acid succinate, *d*-α-tocopheryl acetate, and *dl*-α-tocopheryl acetate is justified.

However, the Commissioner also proposes that *d*-α-tocopherol and *d*-α-tocopheryl acetate concentrate (*d*-α-tocopheryl acetate preparation) be removed from GRAS status as direct human food ingredients because no evidence indicates they are used in food. In previous GRAS affirmation proposals, it was emphasized that use information (food to which the ingredient is added, the intended technical effect, and the level of addition) is very important in assessing the safety of food ingredients. Because this information is not available, affirming these ingredients as GRAS for direct use in food would not appear to be appropriate. Furthermore, on April 13, 1973 (38 FR 9310), the Commissioner proposed that a number of compounds, including *d*-α-tocopheryl acetate concentrate, be removed from the GRAS list because evidence of use was not reported during the National Academy of Sciences/National Research Council (NAS/NRC) survey of food manufacturers. In response to this proposal, several manufacturers reported that *d*-α-tocopheryl acetate concentrate is used in vitamin and mineral supplements, including tablet, capsule, liquid, and other forms not simulating or represented as conventional food. The present use of *d*-α-tocopheryl acetate concentrate in these vitamin and mineral supplements will not be affected by this proposal. Vitamins and minerals used to formulate dietary supplements will be addressed in a separate agency action. Although *d*-α-tocopherol and *d*-α-tocopheryl acetate concentrate are being proposed for removal from GRAS status as substances added to food, future consideration will be granted provided use information cited above is submitted as comments on this proposal during the comment period, or a petition is submitted in accordance with § 170.35 or 171.1 (21 CFR 170.35 or 171.1).

Copies of the scientific literature review on tocopherols, the teratogenic evaluation of *dl*-α-tocopheryl acetate, and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price [1]
Tocopherols (scientific literature review)	PB-221-237	A11	$9.50
dl-α-tocopheryl acetate (teratogenic evaluation)	PB-223-809/AS	A03	4.50
Tocopherols and α-tocopheryl acetate (select committee report).	PB 262-653/AS	A03	4.50

[1] Price subject to change

This proposed action does not affect the present use of *d*-α-tocopherol, *dl*-α-tocopherol, mixed tocopherol concentrate, *d*-α-tocopheryl acid succinate, *d*-α-tocopheryl acetate, *dl*-α-tocopheryl acetate, and *d*-α-tocpheryl acetate concentrate (*d*-α-tocopheryl acetate preparation) for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788, as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.3890 [Deleted]

1. By deleting § 182.3890 Tocopherols.

§ 182.5890 [Deleted]

2. By deleting § 182.5890 Tocopherols.

§ 182.5892 [Deleted]

3. By deleting § 182.5892 α-Tocopherol acetate.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS

(c) The ingredient is used as a nutrient supplement as defined in

ent from those proposed herein. Any person who intends to assert or rely on

SUMMARY: Technical information or comments are solicited on the pro-

The proposed base (100-year) flood elevations for selected locations are:

[4210-01-M]

[24 CFR Part 1917]

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PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. By adding new §§ 184.1891, 184.1894, 184.1896, 184.1897, and 184.1899 to read as follows:

§ 184.1891 *dl-α*-Tocopherol.

(a) *dl-α*-Tocopherol ($C_{29}H_{50}O_2$, CAS Reg. No. 364-50-1) is a form of vitamin E. It occurs as a yellow to amber, nearly odorless, viscous oil. It is synthesized from trimethylhydroquinone and isophytol.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972).[1]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.00001 percent or less for milk products as defined in § 179.3(n)(31) of this chapter.

§ 184.1894 Mixed tocopherol concentrate.

(a) Mixed tocopherol concentrate contains *d-α*-tocopherol and varying amounts of beta, gamma, and delta tocopherols. It is isolated from edible vegetable oils and concentrated by molecular distillation.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972)[1] as amended by the first supplement (1974).[1]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter, and as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food and infant food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.00004 percent for nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter, 0.06 percent for herbs, seeds, spices, seasonings, blends, extracts, and flavorings as defined in § 170.3(n)(26) of this chapter, and 0.00002 percent for milk products as defined in § 170.3(n)(31) of this chapter, and 0.002 percent for infant formulas.

§ 184.1896 *d-α*-Tocopheryl acetate.

(a) *d-α*-Tocopheryl acetate ($C_{31}H_{52}O_3$, CAS Reg. No. 58-95-7) is prepared from *d-α*-tocopherol and acetic anhydride, and separated by distillation.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972).[1]

[1]Copies may be obtained from National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20037.

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food and infant food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.001 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter, 0.006 percent for milk products as defined in § 170.3(n)(31) of this chapter, 0.005 percent for poultry products as defined in § 170.3(n)(34) of this chapter, 0.002 percent for soup and soup mixes as defined in § 170.3(n)(40) of this chapter, and 0.13 percent for infant formulas.

§ 184.1897189*dl-α*-Tocopheryl acetate.

(a) *dl-α*-Tocopheryl acetate ($C_{31}H_{52}O_3$, CAS Reg. No. 54-22-8) is prepared from *dl-α*-tocopherol and acetic anhydride, and separated by distillation.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972).[1]

(c) The ingredient is used as an antioxidant as defined in § 170.3(o)(3) of this chapter, as as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.013 percent for breakfast cereals as defined in § 170.3(n)(4) of this chapter and for dairy product analogs as defined in § 170.3(n)(10) of this chapter, 0.06 percent for herbs, seeds, spices, seasonings, blends, extracts, and flavorings as defined in § 170.3(n)(26) of this chapter, and 0.0014 percent for milk products as defined in § 170.3(n)(31) of this chapter.

§ 184.1899 *d-α*-Tocopheryl acid succinate.

(a) *d-α*-Tocopheryl acid succinate ($C_{33}H_{54}O_5$, CAS Reg. No. 4345-03-3) is prepared by treating *d-α*-tocopherol with succinic anhydride dissolved in pyridine.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972).[1]

(c) The ingredient is used as a nutrient supplement as defined in § 170.3(o)(20) of this chapter.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1), at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.04 percent for baked goods as defined in § 170.3(n)(1) of this chapter.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

NOTE.—Incorporations by reference were approved by the Director of the Office of the Federal Register on July 10, 1973, and June 27, 1977, and are on file in the Federal Register Library.

Dated: October 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30225 Filed 10-26-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4699]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Flint, Genesee County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Flint, Genesee County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, 1490 South Dye Road, Flint, Mich. Send comments to: Mr. Ray Flavin, Township Supervisor, Township of Flint, 1490 South Dye Road, Flint, Mich. 48504.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Flint, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flint River	At downstream corporate limit.	690
	950 feet downstream of Hartshorn drain confluence.	696
	Just downstream of Ballenger Hwy.	702
Swartz Creek	Just upstream of Ballenger Hwy at downstream corporate limit.	737
	Just upstream of Interstate 75.	741
	Just upstream of Claude Rd.	743
	4,300 feet upstream of Claude Rd..	746
	730 feet downstream of Interstate 69.	751
	Just downstream of Bristol Rd.	752
	4,100 feet downstream of Maple Ave.	758
	Just downstream of Maple Ave.	761
West Branch Swartz Creek.	At confluence with Swartz Creek.	751
	Just upstream of Bristol Rd.	752
	Just upstream of Dye Rd.	756
	Just upstream of Golf Course dam.	758
	1,550 feet downstream of Interstate 69.	761
	Just downstream of Elms Rd.	764
Hartshorn drain	At confluence with Flint River.	696
	980 feet downstream of Linden Rd.	696
	160 feet downstream of Pasadena Ave.	707
	Just downstream of Pasadena Ave.	707
Carman Creek	Just upstream of Hemphill Rd.	755
	1,350 feet upstream of Hemphill Rd.	756
	Just downstream of Penton Rd.	759
Massmore Cronk drain.	Just upstream of Elms Rd.	740
	Just upstream of Calkins Rd.	750
	Just upstream of Yorkshire Rd.	753
	Just upstream of West Court St.	759
	150 feet upstream of Corunna Rd.	761
	2,560 feet upstream of Corunna Rd.	763

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30003 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4700]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pontiac, Oakland County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Pontiac, Oakland County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Community Development Department, 91 North Saginaw Street, Pontiac, Mich. Send comments to: The Honorable Wallace F. Holland, Mayor, City of Pontiac, 450 Wide Track Drive East, Pontiac, Mich. 48058.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Pontiac, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain manage-

Source of flooding	Location	Elevation in feet, national geodetic vertical datum

ACTION: Proposed rule.

FOR FURTHER INFORMATION CONTACT:

posed elevations will also be used to calculate the appropriate flood insur-

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stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinton River drain No. 2.	East corporate limit	870
	At State Hwy 59	871
	At transition structure	874
	Just upstream of East Blvd.	888
	Just downstream Paddock St.	889
	Just upstream Paddock St.	894
	Culvert for Clinton River drain No. 1.	895
Clinton River Drain No. 3.	Inlet to Clinton River drain No. 1.	911
	Just downstream Grand Trunk Western Ry.	914
	Just upstream Grand Trunk Western Ry.	915
	Just downstream Gillespie Ave.	917
	Just upstream Crystal Lake Dam.	919
Clinton River	Just downstream Grand Trunk Western.	922
	Just upstream Thomas Rd.	925
	Just downstream Orchard Lake Rd.	926
	Just upstream Dawson's Mill Pond Dam.	931
	Just downstream Telegraph Rd (Northbound).	931
	Just upstream Telegraph Rd (Southbound).	931
Galloway Creek	East corporate limits at Galloway Lake.	910
	Just downstream Perry St.	914
	Just upstream Perry St.	916
	Just downstream Walton Blvd.	921
	Just upstream Walton Blvd.	923
	At Footbridge, 1,100 feet upstream Stirling Ave.	926
	Private Drive 1,100 feet downstream Collier Rd.	927
	Just downstream Collier Rd.	935
	Just upstream Collier Rd.	938
	West Pontiac City/Township corporate limit.	940
	Just downstream road to Woodchipper.	941
	Just upstream road to Woodchipper.	944
	West corporate limits	944
Galloway Ditch	Confluence with Galloway Creek.	923
	1,000 feet upstream confluence with Galloway Creek.	924
	1,550 feet upstream confluence with Galloway Creek.	927
	Just downstream Giddings Rd.	929
	Just upstream Giddings Rd.	932
	Private Drive 1,500 feet upstream Giddings Rd.	933
	Northeast corporate limit.	933

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30004 Filed 10-26-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4701]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Shelby, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Shelby, Macomb County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, 52700 Van Dyke, Utica, Mich. Send comments to: Mr. Harvey Hansen, Township Supervisor, Township of Shelby, 52700 Van Dyke, Utica, Mich. 48087.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Shelby, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinton River	Southeast corporate limit.	632
	1 mile upstream of southeast corporate limit.	633
	1.5 miles upstream of southeast corporate limit.	635
	1.35 miles downstream of Ryan Road.	640
	0.83 mile downstream of Ryan Road.	643
	0.31 mile downstream of Ryan Road.	648
	Just downstream of Ryan Road.	652
	0.05 mile upstream of Ryan Road.	655
	1.1 miles upstream of Ryan Road.	661
	0.75 mile downstream of southwest corporate limit.	663
	0.26 mile downstream of southwest corporate limit.	672
	At southwest corporate limit.	676

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinton River Middle Branch.	Just upstream of Hayes Road.	627
	2,600 feet upstream of Hayes Road.	631
	2,100 feet downstream of Schoenherr Road.	634
	150 feet upstream of Schoenherr Road.	639
	2,900 feet upstream of Schoenherr Road.	642
	At Jewell Road	648
	1,300 feet downstream of Michigan 53.	651
	At Michigan 53	654
	Just downstream of Bellman Road.	656
	Just upstream of Bellman Road.	658
	500 feet upstream of 25 Mile Road.	659
	900 feet downstream of Van Dyke Road.	661
	Just upstream of Van Dyke Road.	663
	1,500 feet downstream of Ruann Drive.	666
	Just upstream of Ruann Drive.	671
	At 24 Mile Road	675
	1,100 feet upstream of 24 Mile Road.	676
	Just upstream of Mound Road.	683
	1,400 feet upstream of Mound Road.	684
	1,300 feet downstream of Shelby Road.	691
	Just upstream of Shelby Road.	700
	1,900 feet upstream of Shelby Road.	703
	At Blue Ridge Drive	714
Newland drain	At the confluence with Chestnut Lake.	725
	At 24 Mile Road	726
	100 feet upstream of Grand Trunk Western Railroad.	733
	1,100 feet downstream of northern corporate limit.	738
	At northern corporate limit.	741

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30005 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4702]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Southfield, Oakland County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Southfield, Oakland County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 26000 Evergreen Road, Southfield, Mich. Send comments to: Honorable Donald Fracassi, Mayor, City of Southfield, City Hall, 26000 Evergreen Road, Southfield, Mich. 48076.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Southfield, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Main River Rouge	Eight Mile Rd. (westbound)—50 ft*.	628
	Beech Road Bridge (First Crossing)—56 ft*.	630
	Nine Mile Bridge—20 ft*	632
	Beech Road Bridge (Second Crossing)—50 ft*.	636
	Ten Mile Road Bridge—50 ft*.	642
	Telegraph Road Bridge—20 ft*.	643
	Franlin Rd.—50 ft*	646
	Southeast Bound Northwestern Highway Bridge—40 ft*.	649
	Northwest Bound Northwestern Hwy—40 ft*.	653
	Twelve Mile Road Bridge—30 ft*.	659
Evan Ditch	Dam Plum Hollow Golf Club—90 ft*.	632
	Nine Mile Road Bridge—50 ft*.	633
	Lasher Road Bridge—20 ft*.	645
	Ten Mile Road Bridge—60 ft*.	658
Tamarack Drain	Tamarack Trail—90 ft*	648
	Michigan Division State Highways—retention pond outlet—70 ft*.	662
Carpenter Branch.	Nine Mile Road Bridge—80 ft*.	632
	Lake Ravness St.—40 ft*	645
	Carpenter Lake Dam—40 ft*.	661
Farmington Branch.	Nine Mile Road Bridge—50 ft*.	632
Pebble Creek	Ten Mile Road Bridge—50 ft*.	643
	Eleven Mile Road—80 ft*.	667
	South Bound Interstate 696—30 ft*.	687
Franklin Branch	Twelve Mile Road Bridge—50 ft*.	661

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30006 Filed 10-26-78; 8:45 am]

[4210-01-M]

may at any time enact stricter require-

flood plain management measures

Source of flooding	Location	Elevation in feet, national

wood, Box 907, Greenwood, Miss. 38930.

[4210-01-M]

[24 CFR Part 1917]

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4703]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Adams, Mower County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Adams, Mower County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Adams, Minn. Send comments to: The Honorable Paul Winkels, Mayor, City of Adams, Adams City Hall, P.O. Box G, Adams, Minn. 55909.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Adams, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Cedar River.	At western corporate limit.	1,271
	Just downstream of County Hwy. 7.	1,276
	Just upstream of County Hwy. 7.	1,278
	Just downstream of Chicago, Milwaukee, St. Paul, & Pacific RR.	1,281
	At eastern corporate limit.	1,283
Little Cedar River Middle Branch.	At confluence with Little Cedar River.	1,273
	Just downstream of Chicago, Milwaukee, St. Paul, & Pacific RR.	1,274
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific RR.	1,275
	1575 ft upstream of Chicago, Milwaukee, St. Paul & Pacific RR.	1,278
	At northern corporate limit.	1,282

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30007 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4704]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Windom, Cottonwood County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Windom, Cottonwood County, Minn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 444 Ninth Street, Windom, Minn. Send comments to: Honorable Wes Lee, Mayor, City of Windom, P.O. Box 38, Windom, Minn. 56101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Windom, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork Des Moines River.	Chicago & Northwestern RR.	1,350
	State Hwy. 60 and U.S. Hwy. 71.	1,352
	Dam at Island Park	1,353
	Sixth St. Bridge	1,353
	Confluence with Perkins Creek.	1,355
	Upstream corporate limits.	1,357
Perkins Creek	River Rd.	1,355
	Sixth Ave. Bridge	1,355
	Fourth Ave. Bridge	1,356
	U.S. Hwy. 71	1,359
	Upstream corporate limits.	1,365

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30008 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4705]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Greenwood, Leflore County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Greenwood, Leflore County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Church and Main Streets, Greenwood, Miss. Send comments to: Honorable Louis Fancher, Mayor, City of Greenwood, Box 907, Greenwood, Miss. 38930.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Greenwood, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Yazoo and Tallahatchie Rivers.	Fort Pemberton Cutoff (downstream crossing).	130
	Grand Blvd. Bridge	131
Walker Lake Canal.	Airport	124
	Sycamore St	125
	Illinois Central Gulf RR Spur—50 ft upstream of centerline.	127
Craig Canal	U.S. Hwy. 82	126

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 12, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-30009 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4706]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of McComb, Pike County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of McComb, Pike County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Building Inspector, City Hall, P.O. Drawer H, McComb, Miss. 39648. Send comments to: Mayor John S. Thompson, City Hall, P.O. Drawer H, McComb, Miss. 39648.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of McComb, Pike County, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

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stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Tangipahoa River.	Just upstream of Delaware Ave.	390
	Approximately 70 ft downstream of Smithdale Rd.	400
Town Creek	Approximately 80 ft upstream U.S. Hwy 98.	376
	Ave. A extended	384
	Just downstream of Pearl River Ave.	394
Stream A	Just upstream Wilson Ave.	382
	Just downstream of Locust Ave.	387

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30010 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4707]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Belton, Cass County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Belton, Cass County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Belton, Mo. Send comments to: Hon. Billy G. Holder, Mayor, city of Belton, 506 Maln Street, Belton, Mo. 64012.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Belton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Oil Creek	Northern corporate limit.	975
	1750 ft downstream of 162d St.	995
	Upstream side of 162d St.	1,006
	Upstream side of 163d St.	1,009
	Upstream side of East Outer Rd.	1,011
	2,200 ft upstream of East Outer Rd.	1,024
West Fork East Creek.	Southern corporate limit.	974
	Upstream side of Cambridge Rd.	987
	Downstream side of Cleveland Avenue at southwestern corporate limit.	999

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30011 Filed 10-26-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4708]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Grain Valley, Jackson County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Grain Valley, Jackson County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Grain Valley, Mo. Send comments to: The Honorable John G. Young, Mayor, City of Grain Valley, 111 West Front Street, Grain Valley, Mo. 64029.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Grain Valley, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The prpposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blue Branch	Just upstream of Main St.	778
	Just upstream of State Route AA.	792
	Upstream corporate limits.	794
Yennie Avenue draln.	Downstream corporate limits.	774
	Approximately 1,900 feet upstream of Illinois Central Gulf RR.	780
	Just upstream of Main St.	782
	Just upstream Gregg St.	785
	Just upstream of Capelle St.	788
	Just upstream of Yennie Ave.	792
Snl-a-Bar Creek	Downstream corporate limits.	772
	Just upstream of Illinois Central Gulf RR.	775
	Upstream corporate limits.	776

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30012 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4709]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Missouri City, Clay County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Missouri City, Clay County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the mayor's home, Missouri City, Mo. Send comments to: The Honorable John E. Turner, Mayor, City of Missouri City, City Hall, Missouri City, Mo. 64072.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Missouri City, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Downstream corporate limit extended.	725
	Intersection of Broadway and Water Street extended.	726
	0.5 mile upstream from River Mile Marker 345.0.	727
	At River Mile Marker 346.0.	728

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30013 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4710]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Oak Grove, Jackson County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Oak Grove, Jackson County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures

that the community is required to either adopt or show evidence of being

755-5581 or toll-free line 800-424-8872.

Source of flooding	Location	Elevation in feet, national

Source of flooding	Location	Elevation in feet, national

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that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Oak Grove, Mo. Send comments to: The Honorable Beryl S. Webb, Mayor, city of Oak Grove, 1208 Broadway, Oak Grove, Mo. 64075.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Oak Grove, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Horseshoe Creek tributary.	At county boundary.....	784
	870 feet upstream of county boundary.	784
	At corporate limits, 0.39 mile upstream of county boundary.	793
	At corporate limits, 0.70 mile upstream of county boundary.	805
	1.0 mile upstream of county boundary.	816

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-30014 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4711]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Salem, Dent County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Salem, Dent County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 3rd and Washington, Salem, Mo. Send comments to: The Honorable Lewis E. Roberts, Mayor, City of Salem, City Hall, 3rd and Washington, Salem, Mo. 65560.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Salem, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Drainage ditch No. 1.	Downstream corporate limit.	1,129
	Just upstream of Rolla St.	1,146
	Just upstream of Center St.	1,158
Spring Creek.....	Downstream corporate limit.	1,126
	Upstream side of State Hwy 19.	1,127
	Just upstream of Dents Ford Rd.	1,128
	Upstream corporate limit.	1,130
Town Branch.....	Downstream corporate limit.	1,125
	250 ft downstream of Missouri Hwy.	1,125
	Just downstream of Missouri Hwy 19.	1,130
	550 ft upstream of Missouri Hwy 19.	1,132
	Downstream side of Rolla St.	1,139
	100 ft upstream of Rolla St.	1,144
	50 ft downstream of Second St.	1,148
	100 ft upstream of Second St.	1,150
	50 ft upstream of Center St.	1,152

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	580 ft upstream of Center St.	1,153
	Just downstream of Franklin St.	1,160

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30015 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4712]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Willow Springs, Howell County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Willow Springs, Howell County, Mo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 123 East 2d Street, Willow Springs, Mo. Send comments to: The Honorable A. J. Bray, Mayor, City of Willow Springs, 123 East 2d Street, City Hall, Willow Springs, Mo. 65793.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Willow Springs, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Eleven Point River.	Southeast corporate limit.	1,222
	100 feet downstream of St. Louis-San Francisco Railroad bridge.	1,227
	100 feet upstream of St. Louis-San Francisco Railroad bridge.	1,235
	Just upstream of Cherry Street.	1,236
	Just upstream of Harris Street.	1,241
	Just downstream of Pine Grove Road.	1,251
	Just upstream of St. Louis-San Francisco Railroad bridge north of Pine Grove Road.	1,258
	200 feet upstream of St. Louis-San Francisco Railroad bridge.	1,263
	Just downstream of Old Springfield Road bridge.	1,265
	1,100 feet upstream of Old Springfield Road bridge.	1,269
	North corporate limits ...	1,286
Drainage ditch No. 1.	Mouth at Eleven Point River.	1,238
	Just downstream of Fisk Street.	1,243
	West corporate limit.....	1,255
Drainage ditch No. 2.	100 feet upstream of mouth at drainage ditch No. 1.	1,238
	50 feet upstream of Hill Avenue bridge.	1,242
	Just downstream of State Highway 137.	1,242
Drainage ditch No. 3.	Southeast corporate limit.	1,230
	Southeast corporate limit.	1,252

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30016 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4713]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bellevue, Sarpy County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city or Bellevue, Sarpy County, Nebra. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Planning Department, Bellevue, Nebr. Send comments to: The Honorable Robert M. Haworth, Mayor, City of Bellevue, 210 West Mission Street, Bellevue, Nebr. 68005

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, Room 5270, 451 Seventh Street

gation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

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ministrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Bellevue, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Downstream extraterritorial limit.	968
	Just upstream State Hwy 370.	971
	Upstream county boundary.	978
Papillion Creek	Downstream extraterritorial limit.	973
	Just upstream Missouri Pacific RR.	976
	Just upstream Capehart Rd.	985
	Just downstream of confluence of west branch Papillion Creek.	991
Big Papillion Creek.	1.5 mi upstream of confluence of west branch Papillion Creek.	998
West Branch Papillion Creek.	0.5 mi upstream of 36th St.	995
Mud Creek	200 ft upstream of Union Pacific RR. (north crossing).	1,004
	150 ft upstream of Cornhusker Dr.	1,019
	Just upstream of Kasper St.	1,031
	Just downstream of Childs Rd.	1,039
	Just upstream of Brewster Rd.	1,045
	Just upstream of Chandler Rd.	1,054
	County boundary	1,060
Betz Road Ditch	Just upstream of Fort Cook Rd.	999
	Just upstream of State Hwy 370.	1,017
	Just downstream of Englewood Dr.	1,017
	Just upstream of Lloyd St.	1,040
	Just upstream of Galvin Rd.	1,053
	600 ft upstream of Harvel Rd.	1,060
	Just upstream of Lincoln Rd.	1,073
	Just upstream of Harvel Rd.	1,075
Squaw Creek	Mouth at Big Papillion Creek.	997
	Just upstream of Cornhusker Dr.	1,018
	Upstream limit of study (3,300 ft south of Chandler Rd.).	1,037

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30017 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4714]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of DeSoto, Johnson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of DeSoto, Johnson County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 108 West Second Street, DeSoto, Kans. Send comments to: The Honorable Albert J. Jenks, Mayor, City of DeSoto, 108 West Second Street, P.O. Box C, City Hall, DeSoto, Kans. 66018.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of DeSoto, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kansas River	At the confluence of Kill Creek.	790
	1,980 ft upstream of Wyandotte St.	791
	4,750 ft upstream of Wyandotte St.	793
Kill Creek	Mouth at Kansas River	790
	2 mi upstream of the mouth at Kansas River.	791
	Upstream corporate limit.	792

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30018 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4715]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Central City, Merrick County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Central City, Merrick County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 1608 16th Street, Central City, Nebr. Send comments to: The Honorable Robert J. Lambe, Mayor, City of Central City, City Hall, 1608 16th Street, Central City, Nebr. 68826.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Central City, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Warm Slough	4,000 ft downstream of U.S. Hwy 30.	1,685
	Upstream side of U.S. Hwy 30.	1,690
	Upstream side of Union Pacific RR.	1,692
	Upstream side of Burlington Northern RR.	1,694
	Upstream side of 19th Ave.	1,697
	1,500 ft upstream of 13th St.	1,700
	Upstream side of Fairground Rd.	1,702
	3,500 ft upstream of Fairground Rd.	1,705
	5,800 ft upstream of Fairground Rd.	1,707
Trouble Creek	Upstream side of Union Pacific RR.	1,690
	Upstream side of Burlington Northern RR.	1,694
	Upstream side of A Ave.	1,697
	Upstream side of F Ave.	1,700
	800 ft downstream of Fairground Rd.	1,702
	2,000 ft upstream of Fairground Rd.	1,706
	Upstream side of County Rd.	1,709
	2,500 ft upstream of County Rd.	1,709
Platte River	2,500 ft upstream of Union Pacific RR.	1,691
	4,000 ft downstream of Burlington Northern RR.	1,695
	1,500 ft downstream of Burlington Northern RR.	1,698

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30019 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4716]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Elkhorn, Douglas County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Elkhorn, Douglas County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 401 Glenn Street, Elkhorn, Nebr. Send comments to: The Honorable William Kohlhaase, Mayor, City of Elkhorn, City Hall, 401 Glenn Street, Elkhorn, Nebr. 68022.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Elkhorn, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

[4210-01-M]

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	Downstream extraterritorial limit.	968
	Just upstream State Hwy 370.	971
	Upstream county boundary.	978
Papillion Creek	Downstream extraterritorial limit.	973
	Just upstream Missouri Pacific RR.	976
	Just upstream Capehart Rd.	985
	Just downstream of confluence of west branch Papillion Creek.	991
Big Papillion Creek.	1.5 mi upstream of confluence of west branch Papillion Creek.	998
West Branch Papillion Creek.	0.5 mi upstream of 36th St.	995
Mud Creek	200 ft upstream of Union Pacific RR. (north crossing).	1,004
	150 ft upstream of Cornhusker Dr.	1,019
	Just upstream of Kasper St.	1,031
	Just downstream of Childs Rd.	1,039
	Just upstream of Brewster Rd.	1,045
	Just upstream of Chandler Rd.	1,054
Betz Road Ditch	County boundary	1,060
	Just upstream of Fort Cook Rd.	999
	Just upstream of State Hwy 370.	1,017
	Just downstream of Englewood Dr.	1,017
	Just upstream of Lloyd St.	1,040
	Just upstream of Galvin Rd.	1,053
	600 ft upstream of Harvel Rd.	1,060
	Just upstream of Lincoln Rd.	1,073
	Just upstream of Harvel Rd.	1,075
Squaw Creek	Mouth at Big Papillion Creek.	997
	Just upstream of Cornhusker Dr.	1,018
	Upstream limit of study (3,300 ft south of Chandler Rd.).	1,037

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30017 Filed 10-26-78; 8:45 am]

ADDRESS: Comments and suggestions should be sent to the Area Realty Officer, Bureau of Indian Affairs, Aberdeen Area Office, 115 4th Avenue SE., Aberdeen, South Dakota 57401.

changes in this subsection are editorial in nature. For purposes of leasing, land acquired in U.S. Title for a specific tribe or individual Indian will be considered tribal land. Land acquired in fee title will be considered individual land. Section 131.5(b) provides that the Secretary may grant approval to a legal representative to act on behalf of such persons as required under § 131.5(b) of these pro-

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quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Papillion Creek	About 100 ft downstream of 192d St	1,135
	Just upstream of Park Rd and Union Pacific RR	1,140
	Just downstream of Union Pacific RR (about 800 ft downstream of State St)	1,152
	Just upstream of State St	1,161
	Just upstream of Main St	1,165
	About 740 ft upstream of Main St	1,166
	Just upstream of Union Pacific RR	1,170
	At western corporate limits	1,172
	Just upstream of Maple St	1,183
	About 1,200 ft upstream of County Rd 80	1,196
Elkhorn River	About 4,500 ft downstream of Union Pacific RR.	1,121
	Just downstream of Union Pacific RR	1,122
	Just upstream of Union Pacific RR.	1,124
	1,800 ft downstream of State Hwy 64	1,124

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001 4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78 30020 Filed 10-26-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4717]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of South Sioux City, Dakota County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of South Sioux City, Dakota County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, South Sioux City, Nebr. Send comments to: The Honorable Keith Ferris, Mayor, City of South Sioux City, 1615 Dakota Avenue, South Sioux City, Nebr. 68776.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755 5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of South Sioux City, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missour River	Southern extraterritorial limits.	1,083
	2,700 ft upstream of southern extraterritorial limits.	1,084
	Eastern corporate limit	1,088
	1,500 ft upstream of Dakota Ave	1,090
	Northwestern extraterritorial limits.	1,092

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78 30021 Filed 10-26 78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 131]

LEASING AND PERMITTING

OCTOBER 6, 1978.

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed revision.

SUMMARY: The Bureau of Indian Affairs is proposing to revise part 131 of title 25 of the Code of Federal Regulations dealing with leasing and permitting of Indian lands. It is proposed to reorganize part 131 into three new subheadings: (1) How To Acquire Leases, (2) Special Provisions and Requirements of Leases, and (3) Special Provisions for Specific Reservations. These revisions will facilitate the use of the regulations for easier reference.

DATE: Comments and suggestions on the proposed regulations should be submitted on or before December 26, 1978.

ADDRESS: Comments and suggestions should be sent to the Area Realty Officer, Bureau of Indian Affairs, Minneapolis Area Office, 831 Second Avenue South, Minneapolis, Minn. 55402.

FOR FURTHER INFORMATION CONTACT:

Robert H. Schoewe, Area Realty Officer, Bureau of Indian Affairs, Minneapolis Area Office, 831 Second Avenue South, Minneapolis, Minn. 55402, telephone 612-725-2914.

SUPPLEMENTARY INFORMATION: The primary author of this document is: Robert H. Schoewe, Area Realty Officer, Bureau of Indian Affairs, Minneapolis Area Office, 831 Second Avenue South, Minneapolis, Minn. 55402, telephone 612-725-2914. The proposed changes are the result of designation as one of the Bureau of Indian Affairs 10 major management improvement projects. A subtask force for revision of part 131 appointed by the Commissioner of Indian Affairs met in Portland, Oreg., on July 13-15, 1976.

Section 131.5 Special Requirements and Provisions covered many unrelated subjects. These have been made into separate subject sections to facilitate reference and use.

Sections 129.3 and 129.4 were previously in a part of CFR on Inclusion of Liens in Patents and Instruments Executed. These should properly appear in leasing regulations and were incorporated in the new regulations on irrigated land leases in § 131.21.

Sections 131.16 and 131.18 pertaining to the Fort Belknap Reservation and Colorado River Reservation have been deemed as "sunset regulations." They are eliminated as obsolete and are eliminated from the proposed draft of regulations.

A cross-reference paragraph was also added to make it easier to locate regulations on grazing, permits, traders' licenses, and archaeological activity regulations. Specific changes in current regulations are as follows:

§ 131.1 DEFINITIONS.

(a) No change.

(b) Has been revised for clarification only.

(c) This definition has been revised by deleting the language which limits the definition of tribal land reserved for Indian Bureau administrative purposes to that which is not immediately needed for such purposes. Certain land in administrative reserve may be needed for that purpose and yet should be leased for purposes not inconsistent with the purpose of the reserve. That portion of this subsection dealing with the granting of leases on assigned tribal land has been revised and moved to § 131.5. The other changes in this subsection are editorial in nature. For purposes of leasing, land acquired in U.S. Title for a specifically defined group of Indians is also included as tribal land. This should clarify leasing done for residential and other purposes for groups such as the Mdwakanton Sioux in Minnesota and similar situations.

(d) This definition has been revised to provide that Government land includes all land under the jurisdiction of the Bureau of Indian Affairs except tribal and individually owned land.

(e) "Permit" has been redefined from a privilege revocable at will to a privilege revocable after written notice. It is believed a period of 10- or 30-day notice requirement can be inserted in each permit as its purpose requires. A revocation at will could be inequitable to a permittee.

§ 131.2 PURPOSE AND SCOPE OF REGULATIONS

This is a new section which briefly describes the purpose of this part and the scope of activities which these regulations cover. Section 131.19—Grazing units excepted was moved to this section for cross-reference purposes.

§ 131.3 APPROVAL

The requirement that all leases made pursuant to this part are subject to written approval of the Secretary has been placed at the forefront to emphasize the need and importance of the Secretary's action to approve. The wording of § 131.5(a) is changed to delete the words, "in the form approved by the Secretary" to "in an acceptable form," because his action in approving the lease does in effect approve the form of a lease and clarifies the idea that the form may vary in content. The new section also removes a conflict between former § 131.15 by addition of the words, "except as otherwise provided in §§ 131.30 and 131.33." Competent Crow Indians may lease the trust lands of their minor children for farming and grazing purposes without secretarial approval. Certain leases made by the Tulalip Tribe may also be made without secretarial approval.

"Cross-reference" has been inserted between § 131.3 and § 131.4.

§ 131.4 GRANTS OF LEASES BY SECRETARY

This section was formerly numbered § 131.2 and has been revised to give the Secretary authority to grant leases on individually owned lands on behalf of minors and on behalf of persons under legal disability without regard to whether such persons may have legally appointed representatives. This provision gives the Secretary the authority to act on behalf of persons under legal disability if he chooses not to grant approval to a legal representative to act on behalf of such persons as required under § 131.5(b) of these proposed regulations.

Consideration was given to revision of part 131.4(a)(4) to require a fractional interest owner who is using trust land to pay the fair market value to other coowners that are unwilling to waive or take less than fair market value. This is a serious problem in many locations. Due to the present wording of the law, Act of July 8, 1940 (25 U.S.C. 380), authority is given to the Secretary to lease only in the absence of use by an heir. Change is needed either through new legislation or alternative methods of dealing with the problem. The possibility of partitionment under the Act of May 18, 1916 (25 U.S.C. 378), should be explored in cases where the user owner would benefit by sole ownership of his fractional interest.

§ 131.5 GRANTS OF LEASES BY OWNERS OR THEIR REPRESENTATIVES

Former § 131.3 has been revised to require prior written approval of the Secretary for legally appointed representatives of Indians, under legal disability, to represent such Indians in matters pertaining to leasing and permitting under this part. The reference to assignments of tribal land found in former § 131.1(c) is incorporated in this section under subsection (a). The wording has been changed slightly for clarification.

§ 131.6 USE OF LAND OF MINORS

This section was formerly numbered § 131.4 and has been rewritten to add the word "parent" in lieu of legal guardian. The phrase now includes all persons who may have custody of or be caring for a minor child, as the legal guardian would be in effect acting in loco parentis. The inclusion of legal guardian would be a repetition and would serve no useful purpose in the regulations.

§ 131.7 NEGOTIATION OF LEASES

Only minor changes have been made in § 131.6 of existing regulations. References to other sections have been changed to correspond with the appropriate sections in the proposed regulations. Under § 131.7(a), the word "execute" has been changed to bring this section in accord with § 131.5(a) of the proposed regulations. Section 131.7(b) has been revised to clarify the intent to cover unitized leases, as well as leases of a single individually owned tract or tribal tract.

§ 131.8 ADVERTISEMENT

Section 131.7 has been changed to drop the reference to permit, since by definition § 131.1(e) the term "lease"

includes permit. Reference to adver-

rated into each lease which provides

for a term not to exceed 25 years

complexes potentially involving hun-

lations in § 131.13(a) and duplicates

Section 131.18 of existing regula-

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includes permit. Reference to advertisement on grants of lease by the Secretary has been deleted as confusing to § 131.7(c). Advertisement is thereby required where fair market value is not reached and optional in cases where fair market value can be obtained.

Sections 131.9, 131.10, and 131.11 are reserved for future use if and when needed.

§ 131.12 Rental Requirements

This is a new section which brings together all rental requirements under one section. It includes §§ 131.5(b)(1), 131.5(b)(2), 131.5(b)(3) and a portion of § 131.5(e). Section 131.12(a) is a rewrite of § 131.5(b)(1) with the added provision that an adult Indian owner can lease to a coowner of a particular parcel of land or to someone with whom a special relationship exists with or without rental consideration. A coowner could participate under such a lease in various housing programs. Further, a lease which may be granted at less than fair market rent could provide an incentive for a coowner who is using the land at the expense of the other coowners to enter into a lease for the purpose of formalizing his right to exclusive use of the land. The leasehold interest thus created could also enable the lessee to participate in any beneficial programs open to other landowners and lessees. A coowner with formalized right to use the land would be encouraged to protect and improve the land. The final requirement of § 131.5(e) is also included in § 131.12(d).

§ 131.13 Bonds and Insurance

This is a new section which combines §§ 131.5(c) and 131.5(d) of the present regulations with two changes. Consideration was given to require a corporate surety bond unless otherwise provided. The bonds may take the form of cash deposits, building loan agreements or escrow for construction funding or an overall corporate surety bond. The manual should cover the advise necessary on the form of bonds stressing advantages of corporate sureties. The other change is made in § 131.5(c)(1) to eliminate the qualification that rental bond not be required if the lease contract provides for the annual rental to be paid in advance. We believe that under many circumstances rental bonds should be required even though the annual rental is paid in advance.

§ 131.14 Mandatory Provisions

This is proposed as a new section to replace § 131.5(g) for the purpose of focusing attention on the provisions which must be incorporated into each lease. Added to the existing § 131.5(g)(2) is language to be incorporated into each lease which provides clearly that the powers, duties, and responsibilities of the Secretary end with the termination of Federal trust and his responsibilities for enforcing compliance with the covenants of the lease shall be assumed by the lessor.

§ 131.15 Special Limitations

This new section contains all of § 131.5(e) of the existing regulations except the last two sentences.

§ 131.16 Duration of Leases

This section is essentially a rewrite of § 131.8 of the existing regulations. The purpose of these changes and additions is as follows:

(1) The first paragraph of § 131.8 provides for periodic review of rental payable under the lease, with certain exceptions, at not less than 5-year intervals. It is proposed to amend this section to add leases of less than 10 years, including any renewal term, and those residential leases designated by the Secretary to the class of leases for which rental adjustment will not be mandatory. The ambiguous term, "at not less than 5-year intervals," is to be deleted. The proposal also includes language which would delineate alternative purposes which rental adjustments may be intended to achieve. One purpose would be to preserve the purchasing power of the contract rent.

The alternative purpose would be to make it possible for the landowner to benefit from increases in the fair annual rental value of the leased premises, exclusive of lessee constructed improvements and changes in highest and best use of the property. However, if the parties to the lease so agree in the lease, improvements or changes in highest and best use could be considered in rental adjustments. Language has also been added contemplating rental adjustment provisions which do not require negotiations or subsequent agreement, such as by the use of a formula or index.

The provision under this new § 131.16(2) which exempts those residential leases designated by the Secretary, from periodic rental adjustments, is designed to overcome certain objections of other Government agencies which may make, insure, or guarantee loans to individual members of tribes or to tribal housing authorities.

(2) Further amendments to section 1 of the Act of August 9, 1955 (69 Stat. 539), as amend (25 U.S.C. 415), were incorporated in 131.16(a) by insertion of the added reservations to those for which authority has been granted to make leases for terms up to 99 years. The names of States in which reservations are located have been deleted except where legally necessary.

(3) Subsection 131.8(b) is rewritten as § 131.16(b). This covers leases made for a term not to exceed 25 years where the lessee is required to make a substantial investment in improvements to the land or for the production of specialized crops. Under certain circumstances a substantial investment in improvements to the land is required in order to produce other than specialized crops. Under other circumstances a substantial investment is required to bring the crop into production. Where a substantial investment is not required, leases for dryfarming are limited to 5 years and leases for irrigated farming are limited to 10 years.

(4) Subsection 131.8(2)(e) which limits leases granted by the Secretary on behalf of the undetermined heirs of a decedent's estate to a term of 2 years has been eliminated. Under certain circumstances this limitation makes it very difficult to keep such land under lease. Failure to keep the land under lease could result in damage to the land.

§ 131.17 Sublease, Assignments, Amendments, and Encumbrances

This new section is a rewrite of § 131.12 of the existing regulations. The purpose of those proposed amendments and additions is as follows:

(1) It is proposed to delete the language which limits the purpose for which a leasehold estate may be encumbered to that of borrowing capital for the development and improvement of the leased premises. The existing language of this section is so restrictive that it prevents many transactions which are common in the commercial real estate market. Construction financing cannot be converted to permanent financing. When a developer constructs improvements with his own cash, he cannot subsequently borrow money on the security of the improved leasehold to recover this cash. A purchaser of a leasehold cannot finance the purchase by encumbering the leasehold. These restrictions seriously affect the value of trust land and make it much more difficult to lease such land.

(2) The revised regulations would provide that, with the consent of the lessor and the Secretary, a lease could contain a provision which would allow the lessee to encumber the leasehold in accordance with the provisions written into the lease. This could make it possible to encumber the leasehold without approval of the Secretary of the Interior. The requirement that encumbrances of the leasehold be approved by the Secretary is appropriate in most situations such as commercial, industrial, hotel, apartment, and many recreational uses. However, in residential type leases the approval requirement can be unduly burdensome. This is particularly true in large residential

complexes potentially involving hundreds of homes. Whether the Secretary should approve encumbrances should be included as a lease stipulation rather than a part of the regulation.

(3) This new section also provides that leases of tribal land to tribal members or to tribal housing authorities for the purpose of providing housing for Indians and where a lending institution or an agency of the United States makes, insures, or guarantees a loan, may be assigned by the lessee without approval and such leases may not be canceled or terminated during the period that a loan, loan insurance, or loan guarantee is in effect without the approval of the lender or the agency which has made, insured, or guaranteed the loan. The provision is designed to satisfy certain objections of other Government agencies which may make, insure, or guarantee such loans.

§ 131.18 Unitization of Land for Leasing and Owner's Representatives

Subsection (a) was § 131.10 in the existing regulations. Subsection (b) is another proposed provision that will make it possible, with the consent of the Secretary and lessors, to provide in a lease for the landowners to designate from among themselves a group to represent the whole. We have found that the administration of long-term unitized leases that require lessors determinations, consents, or approvals becomes very difficult and this difficulty will increase as ownership becomes more fractionated through heirship.

§ 131.19 Environmental Consideration

Provisions of the National Environmental Policy Act were added to the former language of § 131.11 to include environmental consideration requirements to soil and land conservation plans for farming and grazing leases.

§ 131.20 Ownership of Improvements

This section replaces § 131.9 of the existing regulations. The only change is the requirement that the lease provide that the lessee shall restore the premises if he is allowed to remove any improvements. This requirement has been lacking in some leases and has worked to the detriment of the landowner.

§ 131.21 Irrigation Project Leases

Section (a) was added to part 131 from existing regulations where it appeared as § 129.3. It covers the need for project engineers to review irrigable land in a proposed lease to determine feasibility of the delivery of water. Section (b) was in existing regulations in § 131.13(a) and duplicates § 129.4 as to payment of irrigation charges. By including the applicable parts of irrigation regulations in part 131, an effort is being made to eliminate part 129.

§ 131.22 Payment of Fees

One of the proposed changes in the existing regulations as appears in § 131.13(b) is to increase the fee schedule in § 131.22(a) to a maximum fee of $500 by doubling the rental categories for each percentage rate charged. This is supported by the increasing values of rentals charged and costs of employees doing the same work as when the present regulation fee schedule was established. It is also proposed that instead of a minimum fee charge of $2 that any fee less than $5 be waived as it is more costly to the Government to process the collection than a fee of less than $5 will return. These charges should increase revenue and decrease costs of collection.

In § 131.22(b) the previous wording "the fee shall be calculated on the basis of the guaranteed annual rental" is changed to read, "the fee shall be calculated on the basis of one year's maximum guaranteed annual rental." Some of the larger development leases, where lessees are allowed longer development periods, are written with a step rental schedule which does not begin at the full annual rental. This will clarify the fact that the lease fees shall be based on the highest guaranteed rent due under the lease.

Section 131.22(c) was added to clarify the authority to waive fees where changes were made for the lessor's benefit, where the action required did not justify a fee to be paid or where circumstances in a given area were unique and justification was acceptable for a reduction or waiver of the fee charged.

131.23 Violation of Leases

This was in existing regulations in § 131.14 and was rewritten with minor revisions. Where leases make specific provisions covering procedures for default, the lease terms govern. The provision to exempt certain leases from cancellation which is found in the last sentence of existing regulations at § 131.14 is provided for in § 131.17(d) of these proposed regulations.

Special Provisions for Specific Reservations

Section 131.15 has been renumbered § 131.30 with only minor changes for clarification.

Section 131.16 of existing regulations is eliminated as no longer needed.

Section 131.17 is renumbered § 131.31.

Section 131.18 of existing regulations is eliminated as no longer needed.

Section 131.20 is renumbered § 131.32.

Section 131.33 of the proposed regulations is added to include the Tulalip Reservation in accordance with the provisions of the Act of August 9, 1955 as amended by the Act of June 2, 1970 (84 Stat. 302).

PART 131—LEASING AND PERMITTING

Sec.
131.1 Definitions.
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131.4 Grants of leases by Secretary.
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131.12 Rental requirements.
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131.16 Duration of leases.
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131.18 Unitization of land for leasing and owner's representatives.
131.19 Environmental considerations.
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131.21 Irrigation project leases.
131.22 Payment of fees.
131.23 Violations of leases.
131.24-131.29 [Reserved].

Special Provisions for Specific Reservations

131.30 Crow Reservation.
131.31 Cabazon, Augustine, and Torres Martinez Reservations, California.
131.32 San Xavier and Salt River Pima-Maricopa Reservations.
131.33 Tulalip Reservation.

AUTHORITY: 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply Section 3, 26 Stat. 795; Section 1, 28 Stat. 305, Sections 1, 2, 31 Stat. 229, 246, Sections 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, Section 4, 36 Stat. 856, Section 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, Section 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, Section 17, 988, 48 Stat. 984, 49 Stat. 115, 1135, Section 55, 49 Stat. 781, Section 3, 49 Stat. 1967, 54 Stat 745, 1057, 60 Stat. 308, Sections 1, 2, 60 Stat. 962, Section 5, 64 Stat. 46, Sections 1, 2, 4, 5, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968, 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403-403a, 403b, 403c, 413, 415-415a, 415b, 415e, 415d, 477, 635.

§ 131.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative acting under delegated authority.

(b) "Individually owned land" means

§ 131.3 Approval.

fiduciaries appointed by a State court or by a tribal court operating under an

§§ 131.9—131.11 [Reserved].

Special Provisions and Requirements

§ 131.14 Mandatory provisions.

(a) All leases issued under this part

(b) No lease shall be entered into more than 12 months prior to the

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(b) "Individually owned land" means land, or any interest in land, the title to which is vested in the United States in trust for an individual Indian or Indians, and land, or any interest in land, the title to which is vested in an individual Indian or Indians subject to restrictions on alienation or encumbrance without the consent or approval of the Secretary.

(c) "Tribal land" means land, or any interest in land, the title to which is vested in the United States in trust for a tribe, band, community, group or pueblo of Indians and land, or any interest in land, the title to which is vested with a tribe, band, community, group or pueblo of Indians subject to restrictions on alienation or encumbrance without the consent or approval of the United States. "Tribal land" includes such lands that have been assigned to individual members of the tribe, land reserved for Indian Bureau administrative purposes, and land, or any interest therein, the title to which is vested in the United States in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477). For the purposes of this part, lands acquired by the United States for the use and benefit of specified groups of Indians are included as tribal lands.

(d) "Government land" means all land and interests therein under the jurisdiction of the Bureau of Indian Affairs except individually owned and tribal land.

(e) "Permit" means a privilege, revocable by written notice at the discretion of the Secretary, to enter on and use a specified tract of land for a specified purpose. The terms "lease", "lessor", and "lessee" when used in this part include, when applicable, "permit", "permitter", and "permittee", respectively.

§ 131.2 Purpose and scope of regulations.

(a) Except as otherwise provided in § 1.2 of this chapter, the regulations in this part 131 prescribe the procedures, terms, and conditions under which leases and permits of tribal land, individually owned land and Government land may be granted.

(b) The regulations contained in this part 131 do not cover the granting of leases and permits for the extraction of minerals from tribal land or individually owned land. For regulations pertaining to mineral leases and permits see subchapter P-Q-*Lands; Subsurface Estates and Resources* of this title 25.

(c) *Grazing units excepted.* Grazing permits on tribal or individually owned lands or Government lands within range units established pursuant to part 151 of this chapter, *General Grazing Regulations*, shall not be granted under this part 131.

§ 131.3 Approval.

All leases made pursuant to the regulations in this part, except as otherwise provided in §§ 131.30 and 131.33, shall be in an acceptable form and subject to the written approval of the Secretary.

How To Acquire Leases

CROSS REFERENCE: For regulations pertaining to concession permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects, see 25 CFR 203; for licenses to trade with Indians and prohibitions and limitations relating to employees of the U.S. Government, including those of Indian blood, in matters of trade with Indians and leasing restricted Indian land, see 25 CFR 251 and 25 CFR 252; for regulations pertaining to grazing permits, see 25 CFR 151, 25 CFR 152, and 25 CFR 153; for regulations pertaining to permits for the excavation of ruins and archaeological sites and the gathering of objects of antiquity, see 25 CFR 132.

§ 131.4 Grants of leases by Secretary.

(a) The Secretary may grant leases on individually owned land on behalf of: (1) Adults under legal disability, without regard to whether such persons may have legally appointed representatives; (2) orphaned minors who have no persons standing in loco parentis, without regard to whether such minors may have legally appointed representatives; (3) the undetermined heirs of a decedent's estate; (4) the heirs or devisees to individually owned land who have not been able during a 3-month period to agree upon a lease by reason of the number of heirs, their absence from the reservation, or for other cause; provided, that the land is not in use by any of the heirs or devisees; (5) Indians who have given the Secretary written authority to execute leases on their behalf.

(b) The Secretary may grant leases on the individually owned land of Indians whose whereabouts are unknown, on such terms as are necessary to protect and preserve such property.

(c) The Secretary may grant permits on Government land.

§ 131.5 Grants of leases by owners or their representatives.

(a) The following may grant leases subject to the approval of the leases by the Secretary: (1) Adults, other than those under legal disability, on behalf of themselves and/or their minor children and on behalf of minor children to whom they stand in loco parentis without regard to whether any such minor children may have legally appointed representatives, except in those cases where the Secretary has granted authority to a legal representative pursuant to paragraph (b) of this section; (2) subject to the provisions of paragraph (b) of this section, guardians, conservators or other fiduciaries appointed by a State court or by a tribal court operating under an approved constitution or law and order code; and (3) tribes, tribal corporations, or Indian cooperatives acting through their appropriate officials; provided, however, that leases on tribal lands assigned to members of the tribe may be granted by the assignee and the tribe acting jointly, unless the terms of the assignment specifically allow the assignee to grant a lease on the assigned land without tribal consent, approval or other participation, in which case leases may be granted by the assignee alone.

(b) No legally appointed representative of an Indian under legal disability shall have any authority to negotiate or otherwise participate in transactions under this part without the prior written approval of the Secretary. In granting any such approval, the Secretary may impose any limitations, conditions, or restrictions as he may deem appropriate. Written approval of the Secretary must be secured prior to payment of any fees or other compensation claimed by legal representatives for services performed under this part.

§ 131.6 Use of land of minors.

The natural parent, or other person standing in loco parentis of minor children who has the care and custody of such children, may use the individually owned land of such children during the period of minority without charge for the use of the land if such use will enable such person to engage in a business or other enterprise which will be beneficial to such minor children.

§ 131.7 Negotiation of leases.

(a) Leases of individually owned land or tribal land may be negotiated by those owners or their representatives who may grant leases pursuant to § 131.5.

(b) Where the owners of a majority land interest or their representatives who may grant leases under § 131.5 have negotiated a lease which includes one or more parcels of tribal or individually owned land and is satisfactory to the Secretary, he may join in the execution of the lease and, thereby commit the interests of those persons in whose behalf he is authorized to grant lease under § 131.4(a) (1), (2), (3), and (5).

(c) Where the Secretary may grant leases under § 131.4, he may negotiate leases when in his judgment the fair annual rental can thus be obtained.

§ 131.8 Advertisement.

Except as otherwise provided in this part the Secretary shall advertise land for lease. All advertisements of individually owned lands for lease will call for sealed bids and will not offer preference rights.

§§ 131.9—131.11 [Reserved].

Special Provisions and Requirements

§ 131.12 Rental requirements.

Except as otherwise provided in this part, no lease shall be approved or granted at less than the present fair annual rental.

(a) An adult Indian owner of trust or restricted land may lease his land for religious, educational, recreational, or other public purposes to religious organizations or to agencies of the Federal, State, or local governments at a nominal rental. Such adult Indian may lease land with or without rental consideration, to his spouse, brother, sister, lineal ancestor, lineal descendent, co-owner or, where such a special relationship exists, between the lessee and the lessor that in the opinion of the Secretary approval is warranted.

(b) In the discretion of the Secretary, tribal land may be leased at a nominal rental for religious, educational, recreational, or other public purposes to religious organizations or to agencies of Federal, State, or local governments; for purposes of subsidization for the benefit of the tribe; and for homesite purposes to tribal members provided the land is not commercial or industrial in character.

(c) Leases may be granted or approved by the Secretary at less than the fair annual rental when in his judgment such action would be in the best interest of the landowners.

(d) Except with the approval of the Secretary, or as so provided in the lease, no rent or other consideration for the use of the land leased shall be paid or collected more than 60 days in advance of the due date. The lease contract shall contain provisions specifying the dates rents shall become due and payable.

§ 131.13 Bonds and insurance.

(a) Unless otherwise provided by the Secretary, a satisfactory surety bond will be required in an amount that will reasonably assure performance of the contractual obligations under the lease. Such bond may be for the purpose of guaranteeing:

(1) Not less than 1 year's rental.

(2) The estimated construction cost of any improvement to be placed on the land by the lessee.

(3) An amount estimated to be adequate to insure compliance with any additional contractual obligations.

(b) The lessee shall be required to provide insurance in an amount adequate to protect all insurable improvements on the leased premises; the lessee shall also be required to furnish appropriate liability insurance, and such other insurance necessary to protect the lessor's interests.

§ 131.14 Mandatory provisions.

(a) All leases issued under this part shall contain the following provisions.

(1) While the leased premises are in trust or restricted status, all of the lessee's obligations under this lease, and the obligations of his sureties, are to the United States as well as to the owner of the land.

(2) Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. In the event of such termination, all powers, duties, or other functions of the Secretary of the Interior or his authorized representative shall terminate, and the responsibilities for enforcing compliance with the covenants of this lease including those of the Secretary shall be assumed by the lessor, or successors in interest. The owners of the land and the lessee and his sureties shall be notified of any such change in the status of the land.

(3) The lessee agrees that he will not use or cause to be used any part of the leased premises for any unlawful conduct or purpose.

(b) Leases granted or approved under this part shall contain provisions as to whether payment of rentals is to be made direct to the owner of the land or his representative or to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

(c) Leases granted or approved under this part on individually owned lands which provide for payment of rental direct to the owner or his representative shall contain the following provisions:

(1) In the event of the death of the owner during the term of this lease and while the leased premises are in trust or restricted status, all rentals remaining due or payable to the decedent of his representative under the provisions of this lease shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

(2) While the leased premises are in trust or restricted status, the Secretary may in his discretion suspend the direct rental payment provisions of this lease in which event the rentals shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

§ 131.15 Special limitations.

(a) No lease shall provide the lessee a preference right to future leases nor shall any lease contain provisions for renewal, except as otherwise provided in this part.

(b) No lease shall be entered into more than 12 months prior to the commencement of the term of the lease.

§ 131.16 Duration of leases.

Leases granted or approved under this part shall be limited to the minimum duration, commensurate with the purpose of the lease, that will allow the highest economic return to the owner consistent with prudent management and conservation practices, and except as otherwise provided in this part shall not exceed the number of years provided in this section. All leases for terms in excess of 10 years including any renewal term shall provide for periodic adjustment of the rental consideration except for (1) those leases authorized by § 131.12 (a) and (b); (2) those residential leases designated by the Secretary; and (3) leases, the consideration for which is based primarily on percentages of income produced from the land. Such adjustment may be for the purpose of maintaining the relative purchasing power of the rent contracted for in the lease, and/or for the purpose of allowing the landowner to benefit from increases in the value of the leased premises. Unless otherwise provided in the lease, any adjustment made for the latter purpose shall be subject to acceptance and approval by the Secretary and shall exclude improvements or developments accomplished by the lessee or the contributive value of such improvements and shall not be based on a highest and best use different from that to which the premises are committed by the lease.

(a) Leases for public, religious, educational, recreational, residential or business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed 25 years, except such leases of land located outside the boundaries of Indian reservations in the State of New Mexico, and leases of land on the Agua Caliente (Palm Springs) Reservation, the Hollywood (Dania) Reservation, the Swinomish Indian Reservation, the Southern Ute Reservation, the Fort Mojave Reservation, the Burns Paiute Reservation, the Coeur d'Alene Indian Reservation, the Kalispel Indian Reservation, the Pueblo of Cochiti, the Pueblo of Pojoaque, the Pueblo of Tesuque, the Pueblo of Zuni, the Hualapai Reservation, the Spokane Reservation, the San Carlos Apache Reservation, Yavapai Prescott Community Reservation, the Pyramid Lake Reservation, the Gila River Reservation, the Soboba Indian Reservation, the Tulalip Indian Reservation, the Navajo Reservation, the Colorado River Reservation, and lands on the Salt River and the San Xavier Reser-

vations, as stated in § 131.32, which leases may be made for terms of not to

and will assume in writing all the obligations thereunder.

sideration has been given to the relationship between the use of the leased

(a) Except where all or any part of the expenses of the work are paid from tribal funds, in which event an

force and effect, and demand all money due on the lease. The notice of cancellation shall inform the lessee of

petuate their leaseholds and the protection of the statutory limitations as to terms would be destroyed. There-

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vations, as stated in § 131.32, which leases may be made for terms of not to exceed 99 years, including any renewal option.

(b) Leases for farming purposes which require a substantial investment in the improvement of the land/or substantial investment for the production of specialized crops may be made for a term not to exceed 25 years. To determine whether a long-term farming lease is justified, it is necessary to give consideration to the nature of the crop to be grown, including the feasibility of growing the proposed crop. The amount or substantiality of the investment, and the necessity of such investment in order to grow the proposed crop, are also elements to consider in evaluating the term of the proposed lease.

(c) Grazing leases which require substantial development of improvement of the land shall not exceed 10 years.

(d) Except for those leases granted pursuant to § 131.16 (b) and (c), farming or grazing leases shall not exceed 5 years for grazing or dry farm land or 10 years for irrigated land.

§ 131.17 Subleases, assignments, amendments, and encumbrances.

(a) Except as otherwise provided in this section, a sublease, assignment, amendment, or encumbrance of any lease issued under this part may be made only with the approval of the Secretary and the written consent of all parties to such lease.

(b) With the consent of the lessor and the Secretary, the lease may contain provisions authorizing the lessee to sublease the premises, in whole or in part, assign subleases and encumber subleases, without further approval. Such subleases, assignments, or encumbrances shall not serve to relieve the sublessor from any liability nor diminish any supervisory authority of the Secretary provided for under the approved lease.

(c) With the consent of the lessor and the Secretary, the lease may contain provisions authorizing the lessee to encumber his leasehold interest in the premises in accordance with said provisions. The encumbrance instrument must be approved by the Secretary. If a sale of foreclosure under an encumbrance occurs and the encumbrancer is the purchaser, he may assign the leasehold without the approval of the Secretary or the consent of the other parties to the lease, provided, however, that the assignee accepts and agrees in writing to be bound by all terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required, and such purchaser will be bound by the terms of the lease and will assume in writing all the obligations thereunder.

(d) With the consent of the Secretary, leases to individual members of the tribe or to tribal housing authorities for Indian homesite purposes, may contain provisions permitting the assignment of the lease without further consent or approval where a lending institution or an agency of the United States makes, insures, or guarantees a loan to an individual member of the tribe or to a tribal housing authority for the purpose of providing funds for the construction of housing for Indians on the leased premises; provided, the leasehold has been pledged as security for the loan and the lender has obtained the leasehold by foreclosure or otherwise. Such leases may also contain provisions permitting the lessee to assign the lease without further consent or approval, and to prohibit the cancellation or termination of the lease during the period that a loan, loan insurance, or loan guarantee is in effect without the approval of the lender or the agency of the United States which has made, insured, or guaranteed the loan for the construction of housing on the leased premises.

(e) The written consent of the surety or surities, unless waived by the bond, shall be secured in cases of any sublease, assignment, amendment or encumbrance of any lease issued under this part.

§ 131.18 Unitization of land for leasing and owners representatives.

(a) Where it appears advantageous to the owners and advantageous to the operation of the land, a single lease contract may include more than one parcel of land in separate ownerships, tribal or individual, provided the statutory authorities and other applicable requirements of this part are observed.

(b) With the consent of the lessor and the Secretary a provision may be included in the lease authorizing the landowners to designate from among themselves a group, the size and composition of which shall be determined by the lessors, to represent all of the owners. This group may be empowered to exercise any rights or discretions or make any determinations, consents, or approvals on behalf of the lessors, including consents to modifications or amendments of the lease, except that any such modification or amendment may not provide for reductions in guaranteed minimum rentals, percentage rentals, or participation of the parties in rentals, or changes in the term or surrender of the lease.

§ 131.19 Environmental considerations.

(a) Prior to approval of any lease or extension of an existing lease pursuant to this part, the Secretary shall first satisfy himself that adequate consideration has been given to the relationship between the use of the leased lands and the use of neighboring lands; the height, quality, and safety of any structures or other facilities to be constructed on such lands; the availability of police and fire protection and other services; the availability of judicial forms for all criminal and civil causes arising on the leased lands; and the effect on the environment of the uses to which the leased lands will be subject.

(b) Farming and grazing operations conducted under leases granted or approved under this part shall be conducted in accordance with recognized principles of good practices and prudent management. Land use stipulations or conservation plans necessary to define such use shall be made a part of the lease.

§ 131.20 Ownership of improvement.

Improvements placed on the leased land shall become the property of the lessor unless specifically excepted therefrom under the terms of the lease. The lease shall specify the maximum time allowed for removal of any improvements so excepted and require restoration of the premises by the lessee.

§ 131.21 Irrigation project leases.

(a) Prior to leasing irrigable lands within an irrigation project, the Superintendent shall present to the project engineer lists containing descriptions of the lands involved for confirmation as to the irrigable acreage and as to whether the lands are, in fact, irrigable under existing works. Strict compliance with this section is necessary to avoid errors.

(b) Except as provided in part 221 of this chapter, any lease covering lands within an irrigation project or drainage district shall require the lessee to pay annually on or before the due date, during the term of the lease and in the amounts determined, all charges assessed against such lands. Such charges shall be in addition to the rental payments prescribed in the lease. All payments of such charges and penalties shall be made to the official designated in the lease to receive such payments.

§ 131.22 Payment of fees.

Unless otherwise provided in this part, or by the Secretary, fees shall be based upon 1 year's rental payable under the lease and shall be collected from the lessee for each lease, sublease, assignment, transfer, renewal, extension, modification, or other instrument requested by lessee and issued in connection with the leasing of restricted lands under the regulations in this part.

(a) Except where all or any part of the expenses of the work are paid from tribal funds, in which event an additional or alternate schedule of fees to be credited to the tribe may be established subject to the approval of the Secretary, the fee to be paid shall be as follows:

Rental:	*Percent*
On the first $1,000	3.0
On the next $9,000	2.0
On the next $10,000	1.0
On all rental above $20,000	0.5

In no event shall the fee exceed $500. Any fee calculated at less than $5 shall be waived.

(b) In the case of percentage rental leases, the fee shall be calculated on the basis of 1 year's maximum guaranteed annual rental. Where rental consists of stated annual cash rental in addition to percentage rental, the estimated revenue anticipated from the percentage rental shall be mutually agreed upon solely for the purpose of fixing the fee. The fee to be collected in case of crop-share or other special consideration leases or permits shall be based on an estimate of the cash rental value of the acreage, or the estimated value of the lessor's share of the crops. No fees so collected shall be refunded.

(c) Lease fees charged may be reduced to a nominal amount, or waived, if the Secretary determines circumstances justify such action.

§ 131.23 Violation of leases.

If the Secretary determines that a lessee has defaulted in the payment of money or has breached any other covenant or condition of the lease, he shall, by certified mail, send a written notice to the lessee setting forth in detail the nature of the alleged default or breach. The surety or sureties shall be sent a copy of each such notice. The notice shall be mailed to the lessee at the address specified in the lease or to such other address that lessee may have furnished to the Secretary in writing.

The lessee shall have a period of 10 days subsequent to the date notice was received within which to cure the default or breach or to convince the Secretary that a default or breach does not in fact exist. If the breach is of a nature that cannot be cured in 10 days, the Secretary may, in his discretion, allow an additional period of time for the necessary curative action. The lessee must commence the action necessary to cure the default or breach and diligently proceed to its completion within the time allowed. If the default or breach is not corrected within the time allowed, the Secretary shall have the right to forthwith notify the lessee and surety or sureties in writing that the lease is terminated, after which the lease shall be of no further force and effect, and demand all money due on the lease. The notice of cancellation shall inform the lessee of his right to appeal pursuant to part 2 of this chapter. If the lease provides different remedies for default by a lessee, the provisions of the lease shall govern.

§§ 131.24—131.27 [Reserved]

SPECIAL PROVISIONS FOR SPECIFIC RESERVATIONS

§ 131.30 Crow Reservation.

(a) Notwithstanding the regulations in other sections of this part 131, Crow Indians classified as competent under the Act of June 4, 1920 (41 Stat. 751), as amended, may lease their trust lands and the trust lands of their minor children for farming or grazing purposes without the approval of the Secretary pursuant to the Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80). However, at their election Crow Indians classified as competent may authorize the Secretary to lease, or assist in the leasing of such lands, and an appropriate notice of such action shall be made a matter of record. When this election is exercised, the general regulations contained in this part 131 shall be applicable. Approval of the Secretary is required on leases signed by Crow Indians not classified as competent or made on inherited or devised trust lands owned by more than five competent devisees or heirs.

(b) The Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80), provides that no lease for farming or grazing purposes shall be made for a period longer than 5 years, except irrigable lands under the Big Horn Canal project which may be leased for periods of 10 years. No such lease shall provide the lessee a preference right to future leases which, if exercised, would extend the total period of encumbrance beyond the 5 or 10 years authorized by law.

(c) All leases entered into by Crow Indians classified as competent, under the above-cited special statutes, must be recorded at the Crow Agency. Such recording shall constitute notice to all persons. Under these special statutes, Crow Indians classified as competent are free to lease their property within certain limitations. The 5-year (10-year in the case of lands under the Big Horn Canal project) limitation is intended to afford a protection to the Indians. The essence of this protection is the right to deal with the property free, clear, and unencumbered at intervals at least as frequent as those provided by law. If leasses are able to obtain new leases long before the termination of existing leases, they are in a position to set their own terms. In these circumstances lesses could perpetuate their leaseholds and the protection of the statutory limitations as to terms would be destroyed. Therefore, in implementation of the foregoing interpretation, any lease which, on its face, in violation of statutory limitations or requirements, and any grazing lease executed more than 12 months, and any farming lease executed more than 18 months, prior to the commencement of the term thereof or any lease which purports to cancel an existing lease with the same lessee as of a future date and take effect upon such cancellation will not be recorded. Under a Crow tribal program, approved by the Department of the Interior, competent Crow Indians may, under certain circumstances, enter into agreements which require that, for a specified term, their leases be approved by the Secretary. Information concerning whether a competent Crow Indian has executed such an instrument is available at the office of the Superintendent of the Crow Agency, Bureau of Indian Affairs, Crow Agency, Montana. Any lease entered into with a competent Crow Indian during the time such instrument is in effect and which is not in accordance with such instrument will be returned without recordation.

(d) Where any of the following conditions are found to exist, leases will be recorded but the lessee and lessor will be notified upon discovery of the conditions: (1) The lease in single or counterpart form has not been executed by all owners of the land described in the lease; (2) there is, of record, a lease on the land for all or a part of the same term; (3) the lease does not contain stipulations requiring sound land utilization plans and conservation practices; or (4) there are other deficiencies such as, but not limited to, erroneous land descriptions, and alterations which are not clearly endorsed by the lessor.

(e) Any adult Crow Indian classified as competent shall have the full responsibility for obtaining compliance with the terms of any lease made by him pursuant to this section without secretarial approval. This shall not preclude action by the Secretary to assure conservation and protection of these trust lands.

(f) Leases made by competent Crow Indians shall be subject to the right to issue permits and leases to prospect for, develop, and mine oil, gas, and other minerals, and to grant rights-of-way and easements, in accordance with applicable law and regulations. In the issuance or granting of such permits, leases, rights-of-way, or easements, due consideration will be given to the interests of lessees and to the adjustment of any damages to such interests. In the event of a dispute as to the amount of such damage, the

matter will be referred to the Secre-

term of a farming lease that requires

tions previously approved by the Secretary of the Interior (84 Stat. 302).

Butte County Air Pollution Control District, 316 Nelson Ave., Oroville, Calif.

Siskiyou County Air Pollution Control District, 525 South Foothill Dr., Yreka, Calif.

burning regulations. These exemptions are based on economic loss, pest

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matter will be referred to the Secretary whose determination will be final as to the amount of said damage.

§ 131.31 Cabazon, Augustine, and Torres-Martinez Reservation, Calif.

(a) Upon a determination by the Secretary that the owner or owners are not making beneficial use thereof, individually owned lands on the Cabazon, Augustine, and Torres-Martinez Indian Reservations which are or may be irrigated from distribution facilities administered by the Coachella Valley County Water District in Riverside County, Calif., may be leased by the Secretary in accordance with the regulations in this part for the benefit of the owner or owners.

(b) All leases granted or approved on tribal or individually owned lands of the Cabazon, Augustine, and Torres-Martinez Indian Reservations shall be filed for record in the office of the county recorder of the county in which the land is located, the cost thereof to be paid by the lessee. A copy of each such lease shall be filed by the lessee with the Coachella Valley County Water District or such other irrigation or water district within which the leased lands are located. All such leases shall include a provision that the lessee, in addition to the rentals provided for in the lease, shall pay all irrigation charges properly assessed against the land which become payable during the term of the lease. Act of August 23, 1950 (64 Stat. 470); Act of August 28, 1958 (72 Stat. 968).

§ 131.32 San Xavier and Salt River Pima-Maricopa Reservations.

(a) *Purpose and scope.* The Act of November 2, 1966 (80 Stat. 1112; 25 U.S.C. 416-416j), provides statutory authority for long-term leasing on San Xavier and Salt River Pima-Maricopa Reservations, Ariz., in addition to that contained in the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415). When leases are made under the 1955 Act, the regulations in § 131.1 through § 131.8 and § 131.12 through § 131.23 apply. The purpose of this § 131.32 is to provide regulations for implementation of the 1966 Act. The 1966 Act does not apply to leases made for purposes that are subject to the laws governing mining leases on Indian lands.

(b) *Duration of leases.* Leases made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes may be made for terms of not to exceed 99 years. The term of a grazing lease shall not exceed 10 years; the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed 10 years; and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed 25 years. No lease shall contain an option to renew which extends the total term beyond the maximum term permitted by this section.

(c) *Required covenant and enforcement thereof.* Every lease under the 1966 Act shall contain a covenant on the part of the lessee that he will not commit or permit on the leased premises any act that causes waste or a nuisance or which creates a hazard to health of persons or to property wherever such persons or property may be.

(d) *Notification regarding leasing proposals.* If the secretary determines that a proposed lease to be made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes will substantially affect the governmental interest of a municipality contiguous to the San Xavier Reservation or the Salt River Pima-Maricopa Reservation as the case may be, he shall notify the appropriate authority of such municipality of the pendency of the proposed lease. The Secretary may, in his discretion, furnish such municipality with an outline of the major provisions of the lease which affects its governmental interests and shall consider any comments on the terms of the lease affecting the municipality, or on the absence of such terms from the lease, that the authorities may offer. The notice to the authorities of the municipality shall set forth a reasonable period, not to exceed 30 days, within which any such comments shall be submitted.

(e) *Applicability of other regulations.* The regulations of § 131.1 through § 131.8 and § 131.12 through § 131.23 shall apply to leases made under the 1966 Act except where such regulations are inconsistent with this § 131.32.

(f) *Mission San Xavier del Bac.* Nothing in the 1966 Act authorizes development that would detract from the scenic, historic, and religious values of the Mission San Xavier del Bac owned by the Franciscan Order of Friars Minor and located on the San Xavier Reservation.

§ 131.33 Tulalip Reservation.

Any lease by the Tulalip Tribes under the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), except a lease for the exploitation of any natural resource, shall not require the approval of the secretary of the Interior: (1) If the term of the lease does not exceed 15 years, with no option to renew, or (2) if the term of the lease does not exceed 30 years, with no option to renew, and the lease is executed pursuant to tribal regulations previously approved by the Secretary of the Interior (84 Stat. 302).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

RICK LAVIS,
Deputy Assistant Secretary—Indian Affairs.

[FR Doc 78-30472 Filed 10-26-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 52]

[FRL 995-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revisions: Agricultural Burning Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to disapprove parts of the agricultural and open burning regulations of 37 air pollution control districts (APCD) in California which were submitted to EPA by the California Air Resources Board as revisions to the California State Implementation Plan (SIP). Some regulations have been previously approved as a part of the applicable SIP and this notice proposes to rescind the previous approvals. Others were recently submitted or previously not acted upon. In addition, parts of the State law, previously approved as part of the applicable SIP dealing with agricultural burning, are proposed to be rescinded from the SIP. The intended effect of this proposal is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to December 26, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA region IX office at the above address and at the following locations:

Amador County Air Pollution Control District, 810 Court St., Jackson, Calif. 95642.

Butte County Air Pollution Control District, 316 Nelson Ave., Oroville, Calif. 95965.
Calaveras County Air Pollution Control District, Government Center, San Andreas, Calif. 95249.
Colusa County Air Pollution Control District, 751 Fremont St., Colusa, Calif. 95932.
El Dorado County Air Pollution Control District, 2850 Cold Springs Rd., Placerville, Calif. 95667.
Great Basin Unified Air Pollution Control District, 873 North Main St., Suite 213, Bishop, Calif. 93514.
Humboldt County Air Pollution Control District, 5600 South Broadway, Eureka, Calif. 95501.
Imperial County Air Pollution Control District, 940 West Main St., El Centro, Calif. 92243.
Kern County Air Pollution Control District, P.O. Box 997, 1700 Flower St., Bakersfield, Calif. 93302.
Kings County Air Pollution Control District, 1197 Berry Lane, Hanford, Calif. 93230.
Lake County Air Pollution Control District, 255 North Forbes St., Lakeport, Calif. 95453.
Lassen County Air Pollution Control District, 175 Russell Ave., Susanville, Calif. 96130.
Los Angeles County-South Coast Air Quality Management District, 9420 Telstar Ave., El Monte, Calif. 91731.
Mariposa County Health Department, P.O. Box 5, Mariposa, Calif. 95338.
Merced County Department of Public Health, 210 East 13th St., Merced, Calif. 95340.
Modoc County Air Pollution Control District, 202 West Fourth St., Alturas, Calif. 96101.
Monterey Bay Unified Air Pollution Control District, 1270 Natividad Rd., Salinas, Calif. 93901.
Nevada County Air Pollution Control District, 201 Church St., Nevada City, Calif. 95959.
Northern Sonoma County Air Pollution Control District, 421 March Ave., Healdsburg, Calif. 95448.
Orange County-South Coast Air Quality Management District, 9420 Telstar Ave., El Monte, Calif. 91731.
Placer County Air Pollution Control District, 11421 B Ave., Auburn, Calif. 95603.
Plumas County Air Pollution Control District, P.O. Box 480, Quincy, Calif. 95971.
Riverside County-South Coast Air Quality Management District, 9420 Telstar Ave., El Monte, Calif. 91731.
Sacramento County Air Pollution Control District, 3701 Branch Center Rd., Sacramento, Calif. 95827.
San Diego County Air Pollution Control District, 9150 Chesapeake Dr., San Diego, Calif. 92123
San Luis Obispo County Air Pollution Control District, County Airport, Edna Rd., San Luis Obispo, Calif. 93401.
Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, Calif. 93110.
Shasta County Air Pollution Control District, 1855 Placer St., Redding, Calif. 96001.
Sierra County Air Pollution Control Board, County Courthouse, Downieville, Calif. 95936.
Siskiyou County Air Pollution Control District, 525 South Foothill Dr., Yreka, Calif. 96097.
Stanislaus County Air Pollution Control District, 1213 14th St., Suite 3, Modesto, Calif. 95354.
Sutter County Air Pollution Control District, 142 Garden Highway, Yuba City Calif. 95991.
Tehama County Air Pollution Control District, 1760 Walnut St., Red Bluff, Calif. 96080.
Tuolumne County Air Pollution Control District, 9 North Washington St., Sonora, Calif. 95370.
Ventura County Air Pollution Control District, 625 East Santa Clara St., Ventura, Calif. 93001
Yolo-Solano County Air Pollution Control District, 323 1st St., Box 1006, Woodland, Calif. 95695.
Yuba County Air Pollution Control District, 1429 I St., Marysville, Calif. 95901.
California Air Resources Board, 1102 Q St., P.O. 2815, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: This notice proposes to disapprove portions of the agricultural and open burning regulations of various APCD's in the State of California.

BACKGROUND

Open burning is prohibited in California with certain exceptions, including agricultural burning. The State regulates agricultural burning by designating burn and no-burn days. Burning is not permitted on designated no-burn days except when a special permit for such is issued by the APCD.

Agricultural burning includes open outdoor fires used in agricultural operations in the growing of crops or raising of fowl or animals, open outdoor fires used in forest management, range improvement, the improvement of land for wildlife and game habitat, and disease or pest prevention.

Other allowable open burning includes the burning of nonindustrial wood wastes, prevention of a fire hazard, instruction of public employees in the methods of fighting fire, and the setting of backfires necessary to save lives or valuable property.

Permits for agricultural and open burning are issued by the APCD and in some cases, by the fire protection agency having jurisdiction in the area, or by the agency designated by the State to issue such permits. Fees may be collected for these permits. Reports of permits issued on no-burn days are submitted to the State.

The APCD allows certain exemptions to the "no-burn" day requirements of the agricultural and open burning regulations. These exemptions are based on economic loss, pest disease and damage, seasonal range improvement, elevation above mean sea level, and in some cases, by the discretion of the APCD. These exemptions are regulated by the use of a special permit obtained from the APCD.

Exemptions to the visible emission rule are also allowed for open burning. These include open outdoor fires used for recreational purposes or for cooking food, agricultural operations, the use of other equipment in agricultural operations, and smoke or fires that result from acts of God.

Some of the above exemptions have the potential to cause or contribute to the exceedance of the national ambient air quality standards (NAAQS). Section 110(a)(2)(B) of the Clean Air Act specifies that the SIP must provide for the attainment and maintenance of the NAAQS. Therefore, no exemption can be approved without a control strategy demonstration or the use of safeguards to show that the exemption will not interfere with the attainment and maintenance of the NAAQS.

The rules listed below do not include adequate assurances that they will not interfere with the attainment and maintenance of the NAAQS.

PROPOSED ACTION

EPA is proposing to disapprove rules concerning economic exceptions to the agricultural and open burning regulations because they allow the APCD to use unlimited discretion in granting special permits and they do not include adequate assurances that they would not cause or contribute to the exceedance of the NAAQS. The exceptions are inconsistent with Section 110(a)(2)(B) and have the potential to make the burning prohibitions unenforceable.

However, if an economic exception rule includes adequate assurances that the exception would not cause or contribute to the exceedance of the NAAQS, the rule would be approvable under section 110(a)(2)(B) and (a)(3). These assurances might include a control strategy demonstration, tonnage/acreage limitations, certification of need by the county agricultural specialist, and minimum ventilation factors (mixing heights and wind speeds). The burden is on the proponent of a revision to a SIP to demonstrate that it will not interfere with the attainment and maintenance of the NAAQS.

EPA is also proposing to disapprove rules concerning the exemption of "other equipment in agricultural operations" from the visible emission prohibitions. These rules allow exemptions from the visible emission rules. The term "other equipment" is not defined in the rules and regulations and

the exemption could be interpreted to exempt stationary sources to which

11. Lake County APCD Part V(1)(D)(6), Prohibitions and Stand-

23. Riverside County APCD Rule 55(e), Exceptions, submitted on Febru-

34. Tuolumne County APCD Rule 402-A(f), Exceptions; and Rule

Dated: October 23, 1978.

SHEILA M. PRINDIVILLE,

(same address as above) 215-597-7915.

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the exemption could be interpreted to exempt stationary sources to which the visible emission rule applies. Since the exemption could render the visible emission rule unenforceable, it should be disapproved.

In addition, the corresponding State laws are being disapproved for the reasons mentioned above.

It is the purpose of this notice to propose disapproval of the following APCD rules:

1. Amador County APCD Regulation V, Rule 4(G), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

2. Butte County APCD Rule 3-15, Special Permit, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

3. Calaveras County APCD Rule 203(G), Exceptions; and Rule 307(A)(1), Exceptions to Rule 306, both submitted on July 22, 1975, and previously approved under 40 CFR 52.223 (42 FR 42219). Rule 416.1(III)(A), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

4. Colusa County APCD Rule 4.4(f), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

5. El Dorado County APCD Rule 51(e), Exceptions to Rule 50; and Rule 60(c), Exceptions to Rule 59; submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Rule 203(g), Exceptions; and Rule 217-51(E), Exceptions to Rule 217-50; submitted on November 4, 1977.

6. Great Basin Valley Unified APCD Rule 405(E), Exceptions; and Rule 408(A), Burning of Agricultural Wastes, submitted on April 21, 1976, and previously approved under 40 CFR 52.223 (42 FR 28883).

7. Humboldt County APCD Rule 55(e), Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

8. Imperial County APCD Rule 148(F), Miscellaneous Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Rule 402(E), Exceptions, submitted on November 4, 1977.

9. Kern County APCD Rule 402(e), Exceptions; and Rule 417(h)(III)(A), Exceptions; both submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

10. Kings County APCD Rule 402(e), Exceptions; and Rule 417(III)(A), Exceptions; both submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812). Rule 402(e), Exceptions, submitted on November 4, 1977.

11. Lake County APCD Part V(1)(D)(6), Prohibitions and Standards—Exclusions, submitted on October 23, 1974, and previously approved under 40 CFR 52.223 (42 FR 42219). Rule 402(F), Exclusions, submitted on February 10, 1977.

12. Lassen County APCD Rule 4:5(d), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812). Appendix A—Implementation Plan for Agricultural Burning—Exceptions (D), submitted on July 25, 1973, and previously approved under 40 CFR 52.223 (42 FR 42219).

13. Los Angeles County APCD Rule 55(e), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

14. Mariposa County APCD Rule 4.3(f), Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Rule 203(g), Exceptions; and Rule 307(A)(1), Exceptions to Rule 306; both submitted on January 10, 1975.

15. Merced County APCD Rule 416.1(c)(1), Agricultural Burning; and Rule 402(e), Exceptions, both submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

16. Modoc County APCD Rule 3:5(d), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812). Rule 5:2, Burning Permits—Exceptions (D), submitted on July 25, 1973, and previously approved under 40 CFR 52.223 (42 FR 42219).

17. Monterey Bay Unified APCD Rule 405(e), Exceptions, submitted on October 23, 1974, and previously approved under 40 CFR 52.223 (42 FR 56605).

18. Nevada County APCD Rule 55(d), Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Rule 203(g), Exceptions, submitted on April 10, 1975.

19. Northern Sonoma County APCD Rule 51(e), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

20. Orange County APCD Rule 55(f), Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

21. Placer County APCD Rule 55(d), Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Rule 203(g), Exceptions, submitted on October 13, 1977.

22. Plumas County APCD Rule 55(e), Exceptions, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812). Rule 203(G), Exceptions, submitted on June 6, 1977.

23. Riverside County APCD Rule 55(e), Exceptions, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

24. Sacramento County APCD Rule 96 (a), Emergency Permits, submitted on February 10, 1976, and previously approved under 40 CFR 52.223 (42 FR 42219).

25. San Diego County APCD Rule 102(c), Open Fires, Western Section; Rule 103(c), Open Fires, Eastern Section; and Rule 109(a) Temporary Suspension Permits; submitted on July 25, 1973, and previously approved under 40 CFR 52.223 (42 FR 23805).

26. San Luis Obispo County APCD Rule 502(J)(1-2), Agricultural Burning, submitted on November 10, 1976.

27. Santa Barbara County APCD Rule 22(e), Exceptions; Rule 40(4)(a), Agricultural Burning; and Rule 42, Burning Permit for Non-Burn Days; submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

28. Shasta County APCD Rule 2:6(i)(b)(iii)(c); (1)(c)(vii); and (5)(a); Agricultural Burning, submitted on October 13, 1977. The October 13, 1977, submittal supersedes the July 19, 1974 submittal.

29. Sierra County APCD Rule 203(g), Exceptions; and Rule 307(A)(1), Exceptions to Rule 306; submitted on January 10, 1975, and previously approved under 40 CFR 52.223 (42 FR 42219). Rule 203(G), Exceptions; and Rule 307(A)(1), Exemption to Rule 306, submitted on June 6, 1977.

30. Siskiyou County APCD Rule 4.1-1(B)(3), Exceptions to Visible Emissions Section 24242, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Implementation Plan for Agricultural Burning—Exceptions (D) submitted on July 22, 1973, and previously approved under 40 CFR 52.223 (42 FR 42219).

31. Stanislaus County APCD Rule 402(e), Exceptions, submitted on July 19, 1974, and previously approved under 40 CFR 52.223 (42 FR 42219). Rule 416.1(c)(1), Agricultural Burning, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

32. Sutter County APCD Rule 4.5, Standards for Granting Applications, submitted on July 25, 1973, and previously approved under 40 CFR 52.223 (42 FR 8377).

33. Tehama County APCD Rule 4.1, Visible Emissions—Exceptions (f), submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842). Rule 3.10, Burning on No-Burn Days, submitted on July 22, 1973, and previously approved under 40 CFR 52.223 (42 FR 42219).

34. Tuolumne County APCD Rule 402-A(f), Exceptions; and Rule 417(h)(III)(A), Exceptions; submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812). Rule 203(g), Exceptions; and Rule 307(A)(1), Exceptions to Rule 306; submitted on July 22, 1975.

35. Ventura County APCD Rule 24(A)(5), Exemptions from Emission Standards, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

36. Yolo-Solano APCD Rule 4.5, Standards for Granting Applications, submitted on February 21, 1972, and previously approved under 40 CFR 52.2223 (37 FR 10842). Rule 6.5(a), Standards for Granting Applications, submitted on June 22, 1978.

37. Yuba County APCD Rule 2.1(e), Exceptions to Rule 2; Agricultural Burning Regulations, Section 2(D)—Permits; and Section 4(A)—Exceptions; submitted on July 22, 1973, and previously approved under 40 cFR 52.223 (42 FR 42219).

38. California Air Resources Board Part 2, Health and Safety Code 39442(c); 24251(c); Part 1, Health and Safety Code 39299.2; submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

The proposed actions would further restrict agricultural and open burning; however, they would not prohibit such burning in California. Burning would continue to be allowed on designated burn days and such burning is not subject to visible emission limitations.

This rulemaking action would restrict burning on days when the predicted air quality is approaching or exceeding the NAAQS and it would assure that stationary sources continue to be subject to the visible emission rule.

The proposed disapprovals are necessary to make the SIP consistent with section 110 of the Clean Air Act and to insure the attainment and maintenance of the NAAQS.

The Regional Administrator hereby issues this notice setting forth these rules and regulations, as proposed rulemaking and advised the public that interested persons may participate by submitting written comments to the region IX office. Comments received on or before December 26, 1978, will be considered. Comments received will be available for public inspection at the EPA region IX office and the EPA Public Information Reference Unit.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: October 23, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-30341 Filed 10-26-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 994-5]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by the State of Maryland to Glidden Pigments Group of SCM Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the State of Maryland to the Glidden Pigments Group of SCM Corp. The order requires the company to bring air emissions from its batch attack vessels and chloride processing plant at 3901 Glidden Road, Baltimore into compliance with certain regulations contained in the federally-approved Maryland State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on the proposed approval of the order as a delayed compliance Order.

DATE: Written comments must be received on or before November 27, 1978.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas W. Shiland, 3EN12 (same address as above) 215-597-7915.

SUPPLEMENTARY INFORMATION: The Glidden-Pigments Group of SCM Corp. operates two titanium dioxide producing plants at 3901 Glidden Road, Baltimore. The order under consideration addresses emissions from the batch attach vessels and chloride processing plant at the facility, which are subject to Maryland Regulations 10.03.38.02A (visible emissions), 10.03.38.03E (particulate emissions). The regulations limit the emission of particulate matter, and are part of the federally approved Maryland State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979 through addition of control equipment on the batch attach vessels and the upgrading of equipment on the chloride plant. The company has met all interim compliance dates thus far.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Maryland SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: October 13, 1978.

JACK J. SCHRAMM,
Regional Administrator,
Region III.

[FR Doc. 78-30194 Filed 10-26-78; 8:45 am]

[6560-01-M]

Fremont Street, San Francisco, Calif. 94105, telephone 415-556-6150.

the State of California has been provided pursuant to section 113(d)(1) of the Act.

reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA

SUMMARY: EPA proposes to issue an administrative order to the Phillips Petroleum Co. (Phillips). The order re-

lemaking. The source has satisfied the first increment contained in the order.

The proposed order satisfies the ap-

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[6560-01-M]

[40 CFR Part 65]

[FRL 995-8; Docket No. 9-78-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Southern Pacific Pipe Lines, Inc., Chico, Calif.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Southern Pacific Pipe Lines, Inc. The order requires the company to bring air emissions from its gasoline storage tanks in Chico, Calif., into compliance with certain federally promulgated regulations in the California State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by June 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before November 27, 1978, and requests for a public hearing must be received on or before November 13, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 30 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

William M. Thurston, Chief, Case Development Section, Air and Hazardous Materials Branch, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-6150.

SUPPLEMENTARY INFORMATION: Southern Pacific Pipe Lines, Inc., operates a bulk gasoline dispensing terminal at Chico, Calif. The proposed order addresses emissions from gasoline storage tanks at this facility, which are subject to 40 CFR 52.255, Gasoline transfer vapor control. This regulation limits the emissions of hydrocarbons, and is a federally promulgated regulation in the California State Implementation Plan. The order requires final compliance with the regulation by June 1, 1979, and the source has consented to its terms. Southern Pacific Pipe Lines, Inc., has already submitted the progress report required in section I, increment A of the proposed order.

The proposed order satisfied the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (sec. 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7691)

Dated: October 18, 1978.

FRANK M. COVINGTON,
Acting Regional Administrator, Environmental Protection Agency, Region IX.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.90, Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act, to reflect approval of the following order:

[Order No. 9-78-6]

In the matter of Southern Pacific Pipe Lines, Inc., Chico, Calif., proceeding under section 113(d), Clean Air Act, as amended.

The following order is issued pursuant to section 113(d)(1) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (hereinafter referred to as the "Act"). This order contains a schedule for compliance and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of California has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

On March 17, 1978, the U.S. Environmental Protection Agency (EPA) issued a notice of violation, pursuant to section 113(a)(1) of the Act, to Southern Pacific Pipe Lines, Inc., upon a finding that gasoline storage tanks No. CH 5 and No. CH 16 at the Chico Calif., facility are in violation of 40 CFR 52.255, a part of the applicable California Implementation Plan as defined in section 110(d) of the Act. This finding was based upon an inspection conducted by EPA personnel on November 17 and 18, 1977.

Said violation has extended beyond the 30th day after issuance of the March 17, 1978, notice of violation. The continuing violation was documented at a May 5, 1978, conference during which representatives of Southern Pacific Pipe Lines, Inc. stated that the excessive roof gaps on gasoline storage tanks No. CH 5 and No. CH 16 had not been eliminated. Southern Pacific Pipe Lines, Inc. is presently unable to comply with the requirements of 40 CFR 52.255.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

I. That Southern Pacific Pipe Lines, Inc. will comply with the California Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein for gasoline storage tanks No. CH 5 and No. CH 16 at the Chico facility.

A. October 1, 1978—Provide to EPA a progress report on the study being conducted to demonstrate the equivalency of the Company's tank seals with the requirements of the California Air Resources Board.

B. January 1, 1979—Submit a final control plan to achieve compliance with 40 CFR 52.255.

C. April 1, 1979—Initiate onsite construction or installation of emission control equipment.

D. June 1, 1979—Complete construction and achieve final compliance with 40 CFR 52.255.

II. That no interim requirements, as described in section 113(d)(7) of the Act, are reasonable and practicable.

III. That Southern Pacific Pipe Lines, Inc is not relieved by this order from compliance with any requirements imposed by the applicable State implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That Southern Pacific Pipe Lines, Inc. shall comply with the following reporting requirements on or before the dates specified below:

A. No later than 5 days after the date for achievement of an incremental step or final compliance specified in this order, Southern Pacific Pipe Lines, Inc. shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this order, Southern Pacific Pipe Lines, Inc. shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

B. All submittals and notifications to EPA pursuant to this order shall be made to the Director, Enforcement Division, EPA, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

V. Nothing herein shall affect the responsibility of Southern Pacific Pipe Lines, Inc. to comply with State, local, or other Federal regulations.

VI. Southern Pacific Pipe Lines, Inc. is hereby notified that your failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, Southern Pacific Pipe Lines, Inc. will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator determines on the record, after notice and hearing, that an inability to comply with 40 CFR 52.255 no longer exists.

VIII. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of 40 CFR 52.255 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

IX. This order is effective October 27, 1978.

CONSENT PROVISION

Southern Pacific Pipe Lines, Inc. acknowledges that its Chico, Calif., facility is in violation of 40 CFR 52.255. Furthermore, Southern Pacific Pipe Lines, Inc. has reviewed this order, believes it to be a reasonable means to attain compliance with 40 CFR 52.255, and consents to the terms of the order.

Dated: Los Angeles, August 22, 1978.

B. K. SMITH,
President, Southern Pacific Pipe Lines, Inc.

[FR Doc. 78-30342 Filed 10-26-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 996-1; Docket No. VII-78-DCO-13]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Phillips Petroleum Co. Fluid Catolytic Crocking Unit, Kansas City, Kans.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to the Phillips Petroleum Co. (Phillips). The order requires the company to bring air emissions from its fluid catalytic cracking unit in Kansas City, Kans., into compliance with certain regulations contained in the federally approved Kansas State implementation plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before November 27, 1978, and requests for a public hearing must be received on or before November 13, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Henry F. Rompage, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION: Phillips operates a refinery at Kansas City, Kans. The proposed order addresses emissions from the fluid catalytic cracking unit at this facility, which are subject to Kansas air pollution emission control regulation 28-19-20, particulate emissions limitations, and 28-19-50, opacity requirements. These regulations limit the emissions of particulates, and are part of the federally approved Kansas State implementation plan. The order requires final compliance with the regulation by July 1, 1979, and the source has consented to its terms. The source has agreed to meet the order's increments during the period of this informal rulemaking. The source has satisfied the first increment contained in the order.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601.)

Dated: October 19, 1978.

DAVID R. ALEXANDER,
Acting Regional Administrator, Region VII.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the tile in § 65.210 to reflect approval of the following delayed compliance order:

[Docket No. VII-78-DCO-13]

In the matter of Phillips Petroleum Co., Kansas City, Kans., docket No. VII-78-DCO-13.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This order contains a schedule for compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and 30 days notice to the State of Kansas have been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

On March 9, 1978, the U.S. Environmental Protection Agency (EPA) inspected the Phillips Petroleum Co. (Phillips) Kansas City, Kans. refinery. The inspection revealed the fluid catalytic cracking unit (FCCU) was possibly operating in violation of Kansas air pollution emission control regulations 28-19-20 and 28-19-50, a part of the Kansas State implementation plan. On April 13, 1978, EPA issued a section 114 order to Phillips to conduct performance tests on the FCCU to determine compliance with regulation 28-19-20. Phillips attempted performance tests but did not successfully complete the tests. Phillips acknowledged on July 13, 1978, the tests as run indicated the FCCU was operating in violation of regulation 28-19-20. At EPA's request, Phillips submitted plans to install controls to bring

the FCCU into compliance. The schedule has been determined to be expeditious.

1, 1979, (or other applicable date specified in accordance with section 120(a)(2)(B) of the

posed order would establish an expeditious schedule requiring final compli-

issued, source compliance with its terms would preclude further EPA en-

pursuant to section 113(a)(1) of the Act, to the CertainTeed Corp., a Maryland corpora-

D. Complete construction—February 1, 1979.

E. Remove 201 and 202 Superfine Furnace

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the FCCU into compliance. The schedule has been determined to be expeditious.

ORDER

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is expeditious as practicable, and that the terms of this order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

I. That Phillips Petroleum Co., Kansas refinery will comply with the Kansas implementation plan regulations in accordance with the following schedule on or before the dates specified therein.

A. Fluid catalytic cracking unit (FCCU)

1. October 1, 1978—Issue purchase order for new cyclones for the FCCU regenerator.

2. November 15, 1978—Issue all purchase orders for all necessary materials and equipment.

3. May 1, 1979—Initiate installation and construction of pollution control equipment.

4. July 1, 1979—Complete installation and construction of pollution control equipment.

5. July 1, 1979—Achieve and demonstrate final compliance with regulations 28-19-20 and 28-19-50.

II. That Phillips shall comply with the following interim requirements which are determined to be the best reasonable and practicable interim system of emission (taking into account the requirement for which compliance is ordered in section I, above), and are necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with regulations 28-19-20 and 28-19-50, insofar as Phillips is able to comply during the period this order is in effect:

1. The particulate emissions from the FCCU shall not exceed 350 pounds per hour.

2. The opacity of emissions from the FCCU shall not exceed 50 percent. Exception: Once every 4 hours, for 30 minutes during the soot blowing sequence, opacity of emissions shall not exceed 60 percent.

III. That Phillips is not relieved by this order from compliance with any requirements imposed by the applicable State implementation plan, EPA, and/or the courts pursuant to section 303 during any period of imminent and substantial endangerment to the health of persons.

IV. That Phillips shall comply with the following reporting requirements on or before the dates specified below:

REPORTING REQUIREMENTS

1. No later than 5 days after any date for achievement of an incremental step or final compliance, specified in this order, Phillips shall notify EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay it anticipated in meeting any requirement of this order, Phillips shall immediately notify EPA in writing of the anticipated delay and reasons therefor. Notification to EPA of any anticipated delay does not excuse the delay.

2. All submittals and notifications to EPA pursuant to this order shall be made to Director, Enforcement Division, EPA, Region VII, 1735 Baltimore, Kansas City, Mo. 64108.

V. Nothing herein affect the responsibility of Phillips to comply with State or local regulations.

VI. Phillips is hereby notified that your failure to achieve final compliance by July 1, 1979, (or other applicable date specified in accordance with section 120(a)(2)(B) of the Act) will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, Phillips will be formerly notified, pursuant to section 120(b)(3) and any regulative promulgated thereunder, of its noncompliance.

VII. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator (or his delegatee, as appropriate) determines on the record, after notice and hearing, that an inability to comply with regulations 28-19-20 and 28-19-50 no longer exists.

VIII. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of regulations 28-19-20 and 28-19-50 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

IX. This order is effective immediately.

Date ———— ————————————

Administrator or Delegatee, U.S. Environmental Protection Agency.

WAIVER

Phillips Petroleum Co., by the duly authorized undersigned, stipulates that the fluid catalytic cracking unit is in violation of Kansas regulations 28-19-20 and 28-19-50, consents to the terms of the order, and hereby waives any and all rights under any provision of law to challenge this order.

Date: ———— ————————————

Phillips Petroleum Co.

[FR Doc. 78-30343 Filed 10-26-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 996-3]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for Knauf Fiber Glass GmbH, Shelbyville, Ind.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Knauf Fiber Glass GmbH. The order requires the company to bring air emissions from its fiber glass manufacturing plant in Shelbyville, Ind., into compliance with certain regulations contained in the federally-approved Indiana State Implementation Plan (SIP). Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (the Act) for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATES: Written comments must be received on or before November 27, 1978, and requests for a public hearing must be received on or before November 13, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after 21 days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSEES: Comments and requests for a public hearing should be submitted to James O. McDonald, Director, Enforcement Division, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Louise Gross, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604, or telephone at 312-353-2082.

SUPPLEMENTARY INFORMATION: Knauf Fiber Glass operates a fiber glass manufacturing plant at Shelbyville, Ind. The proposed order addresses emissions from its 201 and 202 Superfine Furnace and Forming operations, its 601 Rotary Furnace and Forming Machine and its two Manual Pipe Insulation Curing Ovens at this facility, which are subject to Indiana Air Pollution Control Regulations APC-3 and APC-5. APC-3 sets opacity standards while APC-5 limits the emissions of particulate matter. Both regulations are part of the federally-approved State Implementation Plan. The order requires final compliance with the regulations by July 1, 1979, and the source has consented to its terms. The source has agreed to meet the order's increments during the period of this informal rulemaking. Emission monitoring and reporting are also required.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air Act. If the order is

issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulations covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of an order under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.)

(42 U.S.C. 7413, 7601.)

Dated: October 10, 1978.

JOHN MCGUIRE,
Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending the table in § 65.190, *Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act,* to reflect approval of the following order:

[Order No. EPA-5-78-A-]

KNAUF FIBER GLASS GMBH SHELBYVILLE, IND.

PROCEEDING UNDER SECTION 113(d) OF THE CLEAN AIR ACT, AS AMENDED—ORDER

The following ORDER is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq. (the "Act"). Public notice, opportunity for public hearing and 30 days notice to the State of Indiana have been provided pursuant to section 113(d)(1) of the Act. This order contains a schedule for compliance, emission monitoring requirements and reporting requirements. Final compliance is required as expeditiously as practicable, but not later than July 1, 1979.

On September 29, 1977, Dale S. Bryson, Acting Director, Enforcement Division, Region V, U.S. Environmental Protection Agency ("U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of the U.S. EPA, issued a notice of violation, pursuant to section 113(a)(1) of the Act, to the CertainTeed Corp., a Maryland corporation with corporate headquarters at Valley Forge, Pa., upon a finding that the Corporation's fiber glass manufacturing plant in Shelbyville, Ind., was in violation of the applicable Indiana Implementation Plan, as defined in section 110(d) of the Act. The notice cited CertainTeed for violation of Indiana regulation APC-3 ("APC-3") at the 601 Forming Machine and Manual Pipe Insulation Curing Oven and violation of Indiana regulation APC-5 ("APC-5") at the six furnaces and six forming operations, as demonstrated by visible emissions observations and information submitted to U.S. EPA by CertainTeed, pursuant to section 114 of the Act.

On October 28, 1977, a meeting was held at CertainTeed's request to discuss the notice of violation. At that time, CertainTeed indicated that it was involved in an antitrust proceeding, as a result of which CertainTeed had been ordered to divest itself of the Shelbyville plant as a going concern.

On December 19, 1977, and January 5, 1978, Mr. Thies Knauf, now the President of Knauf Fiber Glass, met with U.S. EPA enforcement personnel, as a prospective purchaser, for the purpose of discussing the violations cited in the September 29, 1977, notice of violation and the general requirements of the Act.

On January 16, 1978, Knauf Fiber Glass GmbH ("Knauf") acquired ownership of the Shelbyville facility pursuant to the order of the U.S. District Court for the Eastern District of Pennsylvania in the antitrust proceeding referred to above and captioned *United States of America v. CertainTeed Products Corporation and PPG Industries, Inc.*, Civil Action No. 74-47 (E.D. Pa.). Knauf was not affiliated with CertainTeed at that time nor is it presently so affiliated.

On March 16, 1978, U.S. EPA inspected the Shelbyville plant and discussed compliance with Knauf's management. On April 6, 1978, Knauf representatives again met with U.S. EPA to discuss a compliance program. Because Knauf determined that it could not bring all of the sources cited in the September 29, 1977, notice of violation into compliance with the applicable regulations by July 1, 1979, both U.S. EPA and Knauf agreed to pursue the issuance of an order under section 113(a) of the Act as to those sources which Knauf could bring into compliance by July 1, 1979.

After a thorough investigation of all relevant facts, it is determined that Knauf is presently unable to comply with the Indiana Implementation Plan, that the schedule for compliance set forth in the order is as expeditious as practicable and that the terms of this order comply with section 113(d) of the Act. *Therefore, it is hereby ordered,* That:

1. Knauf shall achieve compliance with APC-5 at its fiberglass manufacturing plant 201 and 202 Superfine Furnaces and Forming operations in accordance with the following schedule:

A. Submit preliminary plans and specifications for construction of 603 Superfine electric melt furnace, 603 Superfine Forming Machine and necessary pollution control equipment—July 1, 1978.

B. Award final contracts—August 15, 1978.

C. Commence construction—November 1, 1978.

D. Complete construction—February 1, 1979.

E. Remove 201 and 202 Superfine Furnace and Forming operations and demonstrate compliance with APC-5—July 1, 1979.

11. Knauf shall achieve compliance with APC-3 and APC-5 at its fiberglass manufacturing plant 601 Rotary Furnace and Forming Machine in accordance with the following schedule:

A. Submit preliminary plans and specifications for conversion of 601 Rotary Furnace and 601 Rotary Forming to utilize electric melt and for necessary pollution control equipment—July 31, 1978.

B. Award final contracts—September 15, 1978.

C. Commence construction—March 1, 1979.

D. Complete construction—June 1, 1979.

E. Demonstrate compliance with APC-3 and APC-5-July 1, 1979.

III. Knauf shall achieve compliance with APC-3 at its two fiber glass manufacturing plant Manual Pipe Insulation Curing Ovens in accordance with the following schedule:

A. Submit preliminary plans and specifications for emission control devices—July 31, 1978.

B. Award final contracts—September 15, 1978.

C. Commence construction—January 1, 1979.

D. Complete construction—April 1, 1979.

E. Demonstrate compliance with APC-3—July 1, 1979.

IV. Knauf shall achieve and demonstrate final compliance with APC-5 at its fiber glass manufacturing plant 201 and 202 Superfine Furnaces and Forming Machines (to be redesignated 603) by July 1, 1979. Knauf shall achieve and demonstrate final compliance with APC-3 at its two fiber glass manufacturing plant Manual Pipe Insulation Curing Ovens by July 1, 1979. Knauf shall achieve and demonstrate final compliance with APC-3 and APC-5 at its 601 Rotary Furnace and Forming Machine by July 1, 1979.

V. Pursuant to sections 113(d)(1)(C) and 114(a) of the Act, Knauf shall install continuous monitoring systems for the measurement of opacity for Rotary Forming Machine, 603, Rotary Forming Machine 601 and the Manual Pipe Curing Ovens. These continuous monitoring systems shall be installed, calibrated, maintained and operated in accordance with the procedures set forth in appendix B of 40 CFR Part 60 and shall be properly calibrated and operational upon the achievement of final compliance. Thereafter, Knauf shall submit a written report of excess emissions for each calendar quarter, including the nature and cause of excess emissions, if known, and corrective action taken. This summary shall consist of the magnitude in actual percent opacity of all 6-minute averages of opacity greater than 40 percent for each hour of operation of the facility. Average values may be obtained by integration over 6-minutes or by arithmetically averaging a minimum of four equally space, instantaneous, opacity measurements per minute. All records produced by the continuous monitoring systems shall be retained by Knauf for a period of not less than 2 years and made available for inspection by U.S. EPA or its agent upon request. Malfunctions or periods in which the continuous monitoring system is not in operation shall be reported immediately, along with proposed corrective action.

In the alternative, Knauf may demonstrate to the U.S. EPA that the emission

[6560-01-M]

ing will begin at 9 a.m. and the meeting will begin at 9:30 a.m.

cause of a number of typographic and editorial errors which affect the sub-

Effluent limitations

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In the alternative, Knauf may demonstrate to the U.S. EPA that the emission monitoring system provided in 40 CFR Part 60 is not feasible in light of the control equipment ultimately chosen. In such case, Knauf shall provide and alternatie method of continuous monitoring, approved by U.S. EPA, to assure proper operation of the control equipment at all time.

VI Pursuant to section 113(d)(7) of the Act, it has been determined that during the period in which this order is in effect, no interim requirements, are reasonable and practicable.

VII. Knauf shall submit reports to the U.S. EPA detailing progress made with respect to each requirement of this order. Such reports shall be submitted within ten (10) days of the completion of such requirement. In addition, no later than July 1, 1979, the Company shall certify to the U.S. EPA that each of the sources required to comply with APC-3 and/or APC-5 is in final compliance with the appropriate regulation(s).

VIII. All submissions and notifications to the U.S. EPA pursuant to this order shall be made to the Chief, Air Compliance Section, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

IX. Nothing in this order shall be construed as a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, section 303 of the Act, 42 U.S.C. Section 7603.

X. Knauf is hereby notified that its failure to achieve compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, Knauf will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

XI. This order is effective upon FEDERAL REGISTER promulgation.

Date———— ————————————

Administrator or Delegate
U.S. Environmental Protection Agency.

Knauf has reviewed this order and believes it to be a reasonable means by which the sources at its fiber glass insulation manufacturing facility mentioned therein can achieve final compliance with Indiana regulations APC-3 and/or APC-5 according to the terms of the order. Knauf stipulates as to the correctness of all facts stated above except insofar as paragraph IX of the order is deemed a statement of fact, and consents to the requirements and terms of this order, but reserves the right to dispute in any forum the applicability of the noncompliance penalty provisions of section 120 to its Shelbyville sources. Knauf waives its right to notice of violation under section 113(a)(1) of the Clean Air Act as to the violations to be corrected by the terms of this order.

Date———— ————————————

Knauf Fiber Glass GmbH

[FR Doc 78-30344 Filed 10-26-78; 8:45 am]

[6560-01-M]

[40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 426, 427, 432]

[FRL 995-5]

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitations Guidelines; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules. The Agency has received numerous requests for an extension of the comment period on the above proposed rules published in the August 23, 1978, FEDERAL REGISTER (43 FR 37570-37607). The Agency is extending the comment period 45 days to December 7, 1978. All comments must be received on or before this date.

DATE: Comments must be received on or before December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen W. Leduc, Water Economics Branch (WH-586), U.S. EPA, 401 M Street SW., Washington, D.C. 20460, phone: 202-426-2617.

OCTOBER 23, 1978.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

[FR Doc. 78-30339 Filed 10-26-78; 8:45 am]

[6560-01-M]

[40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 426, 427, 432]

[FRL 995-6]

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitations Guidelines; Public Comment Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of comment meeting on proposed rules.

SUMMARY: The Environmental Protection Agency will hold a public meeting on November 27, 1978 in Washington, D.C., to hear public comment on its August 23, 1978, proposed rules implementing section 304(b)(4)(B) of the Clean Water Act ("Best Conventional Pollutant Control Technology").

DATES: Hearing date: November 27, 1978.

ADDRESS: The time and location of the hearing is: November 27, 1978, EPA Headquarters, Rooms 3906 and 3908, 401 M Street SW., Washington, D.C. 20460. Registration for the meeting will begin at 9 a.m. and the meeting will begin at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT:

Allen W. Leduc, Water Economic Branch (WH-586), U.S. EPA, 401 M Street SW., Washington, D.C. 20460, phone: 202-426-2617.

SUPPLEMENTARY INFORMATION: Section 304(b)(4)(B) of the Clean Water Act was adopted by Congress in 1977. This section establishes a new level of technology based effluent limitations, Best Conventional Pollutant Control Technology (BCT). The BCT limitations are in lieu of the 1983 Best Available Technology Economically Achievable (BAT) requirement and therefore will represent the control of all conventional pollutants beyond the 1977 levels of control established under Best Practicable Control Technology Currently Available (BPT) technology limitations. Unlike the former BAT limitations, the BCT limits must also pass a test of reasonableness, defined in the preamble of the proposed rules published in the August 23, 1978, FEDERAL REGISTER (43 FR 37570-37607). Comments have been solicited on the methodology the Agency has chosen to determine reasonableness and the resulting proposed determinations.

The purpose of the meeting announced today is to clarify comments received during the comment period. In order to insure a meaningful dialogue at this meeting, the Agency requests that:

1. The participants submit written comments prior to the meeting date (November 27, 1978) so that they may be reviewed by EPA staff and the meeting panel.

2. Participants bring with them any technical or other staff who assisted them in preparing their comments to respond to any questions which may be posed by the panel.

3. Criticism of the proposed methodology and rules be accompanied by constructive suggestions on how the methodology could be changed within legal, technical practical, and other constraints.

Comments received at the meeting will be considered in the development of the final methodology and rules.

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

OCTOBER 23, 1978.

[FR Doc. 78-30340 Filed 10-26-78; 8:45 am]

[6560-01-M]

[40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 426, 427, 432]

[FRL 995-4]

BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY

Reasonableness of Existing Effluent Limitations Guidelines; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules.

SUMMARY: EPA issues a corrections document for proposed rules published in the FEDERAL REGISTER on August 23, 1978, at 43 FR 37570 because of a number of typographic and editorial errors which affect the substantive content of the regulations proposed.

FOR FURTHER INFORMATION CONTACT:

Mr. Allen W. Leduc, Water Economics Branch (WH-586), EPA, 401 M Street SW., Washington, D.C. 20460, phone 202-426-2617.

SUPPLEMENTARY INFORMATION: FR Doc. 78-23254, published August 23, 1978, contained a number of typographic errors which do not affect the determinations of reasonableness but affect the substantive content of the proposed rules. Those errors should be corrected as follows:

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Page	Column	Line(s)	Error	Change to read
37571	2	53	"30 parts per million"	"25 parts per million"
37572	2	45	"(20,000 gallons per day)"	"(10,000 gallons per day)"
37593	1	10	"=1.86 million pounds"	"=1.186 million pounds"
37597	1	22-23	"Under a BPT and BAT limitation of zero discharge".	"under equal BPT and BAT limitations"
37597	1	24-27	"BCT limitation be zero discharge; The BAT zero discharge control is also being retained because it controls toxic and nonconventional pollutants.".	"BCT limitation in these subcategories be equal to their BPT and BAT limitation."

II

The Best Available Technology Economically Achievable (BAT) limitations for the Steamed and Canned Oyster Procession subcategory of the Canned and Preserved Seafood Processing point source category (§ 408.273) were redesignated as § 408.277 (page 37580, column 1). The first paragraph of this new section should be changed to read as follows:

§ 408.277 [Amended]

Except for those steamed and canned oyster processing facilities which utilize air flotation treatment systems to meet the shrimp processing effluent limitations guidelines under § 408.117, 408.127, or § 408.137 and for which effluent limitations should be derived on a case-by-case basis, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

* * * * *

The BAT conventional pollutant limitation in the Renderer subcategory (§ 432.103) of the Meat Products Point Source Category were found to be reasonable. However, the limitations appearing in the FEDERAL REGISTER under this subcategory are not correct. These limitations were in effect up to October 6, 1977, but were revised at that time. The following corrections should be made in the revisions of the BAT regulations of the Renderer subcategory found on pages 37589 and 37590 in §§ 432.103 and 432.107(a):

12. Section 432.103 of the Renderers Subcategory is proposed to be amended as follows:

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
Ammonia	0.14	0.07
	English units (pounds per 1,000 lb of raw material	
Ammonia	0.14	0.07

* * * * *

13. A new § 432.107 for the Renderer Subcategory is added as follows:

§ 432.107 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best conventional pollutant control technology:

Effluent characteristics	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of raw material)	
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
pH	Within the range 6.0 to 9.0	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	
	English units (pounds per 1,000 lb. of raw material)	
BOD5	0.18	0.09
TSS	0.22	0.11
Oil and grease	0.10	0.05
pH	Within the range 6.0 to 9.0	
Fecal coliforms	Maximum at any time 400 mpn/100 ml.	

* * * * *

THOMAS C. JORLING,
Assistant Administrator for Water and Waste Management.

OCTOBER 23, 1978.

[FR Doc. 78-30338 Filed 10-26-78; 8:45 am]

problem. It states that if it gets what it requests, "TXIA will willingly accept a subsidy free rate." If the sus-

As the carrier notes, the Board has not emphasized subsidy reduction in recent decisions to award new routes

ue to sustain itself. Its operations have been rationalized; its management has

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order 78-10-94; Docket 33172]

ALLEGHENY AIRLINES, INC.

Certificate for Route 97 So as To Redesignate Liberty-Monticello as Catskills/Sullivan County; Order To Show Couse

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of October 1978.

On August 8, 1978, Allegheny Airlines filed a motion requesting the issuance of an order to show cause why its certificate for Route 97 should not be amended to redesignate the intermediate point Liberty-Monticello as Catskills/Sullivan County.

No answers to the motion have been filed.

We tentatively conclude that Allegheny's request should be granted, on the basis of the tentative findings below.

The Sullivan County International Airport serves the resort area popularly known as the "Catskills" (Catskill Mountains), and designation of the point as Liberty-Monticello may cause confusion for those seeking to travel by air to the Catskills region. Redesignation would better describe the area served, and thus reduce the potential for confusion, without affecting Allegheny's authority and certificate obligations.[1] Further, Allegheny seeks the change at the request of local civic parties.

We will give interested persons 14 days from the service date of this order to show cause why we should not make final our tentative findings and conclusion. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why it is necessary, and what it could establish that cannot be established by written pleadings. We will not entertain general, vague, or unsupported objections. Answers shall be filed within 7 days of the due date for objections.

Accordingly,

1. We direct all interested persons to show cause why we should not issue an order amending the certificate of public convenience and necessity of Allegheny Airlines, for Route 97, to redesignate the intermediate point Liberty-Monticello as Catskills/Sullivan County (to be served through Sullivan County International Airport);

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file no later than November 7, 1978, and serve upon all persons listed in paragraph 5, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Answers shall be due no later than November 14, 1978;

3. If timely and properly supported objections are filed, we will give full consideration to the matters and issues raised by the objections before taking further action;

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and proceed to enter an order in accordance with the tentative findings and conclusions set forth here:

5. We will serve this order upon Allegheny Airlines, Inc.; Ransome Air, Inc.; the U.S. Postal Service; attorney for the county of Sullivan, N.Y.; the Sullivan County Airport Commission; New York State Department of Transportation; Sullivan County Government Center; the mayors of Liberty and Monticello, N.Y.; the Governor of the State of New York; and the Director of Airport Services, Federal Aviation Administration.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

PHYLLIS T. KAYLOR,
Secretary

[FR Doc. 78-30474 Filed 10-26-78; 8:45 am]

[1] By order 78-2-7 Ransome Air, Inc., has been operating replacement service for Allegheny since Mar. 17, 1978. It has referred to the point as "Catskills/Sullivan County" in its published timetables and the Official Airline Guide has also used this designation in referring to the point.

[2] All members concurred.

[6320-01-M]

[Order 78-10-97; Dockets 33094 and 32484]

TEXAS INTERNATIONAL AIRLINES, INC., SYSTEM MAIL RATES

Investigation of the Local Service Class Subsidy Rate; Class Rate IX Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of October 1978.

The Board, by show cause order 78-7-135, July 25, 1978, tentatively established a final subidy-free mail rate for Texas International Airlines, Inc. (TXI), effective on and after July 1, 1978. On August 28, 1978, TXI filed a document entitled "Comments of Texas International Airlines, Inc. on Show Cause Order 78-7-135." In this document, TXI objects to the proposed subsidy-free rate because it is required to provide service to points that are eligible for subsidy and which TXI alleges continue to generate losses. TXI also states that if the Board authorizes its suspension at Carlsbad, Clovis, and Hobbs, N. Mex., in docket 32901 and authorizes it permissive authority to suspend at Texarkana and Laredo, Tex., plus Hot Springs, Ark., in docket 33302,[1] it will willingly accept the proposed subsidy-free mail rate.

In support of its position, TXI states that the Board no longer awards new routes with the aim of reducing subsidy. Referring to its request for permissive authority, it asserts:

> If subsidy is not available to support service on the subsidy eligible system, support must come from other profitable operations or from TXIA's shareholders. If the shareholders have no say through management as to whether such service should be continued, it is unfair and probably illegal to require them to bear the burden.

It also maintains that the trend toward multiple, permissive route awards to increase competition will—if the concept works—eliminate the availability of excess profits to offset against losses elsewhere on a carrier's system.

TXI stresses that suspension of the three points in New Mexico and a grant of permissive authority to suspend services at the three Texas and Arkansas points will minimize the problem. It states that if it gets what it requests, "TXIA will willingly accept a subsidy-free rate." If the suspension authority is not granted, TXI indicates it will persist in objecting to a subsidy-free rate.

To support its objection, TXI alleges that the Board did not examine its earnings over a representative period before finding that it had no need for subsidy. In addition, it maintains that its investment base is depleted because of losses experienced in earlier periods under what it characterizes as "inadequate" class subsidy rates. Finally, TXI disputes the way the financial results for the year ended March 31, 1978, were adjusted to account for economic savings resulting from suspension or deletion of points.

Upon review we find that TXI's objection raises no issues of material fact. Instead it merely states disagreements with subsidy policies of the Board and with the Board's interpretation of section 406 of the Federal Aviation Act (the Act). We, therefore, affirm the conclusions and findings stated in order 78-7-135. To dispell any doubts about our position, however, we will respond to TXI's comments.

First, we find that the additional permissive and suspension authority it requests is outside the scope of this case, as the memorandum filed by three New Mexico communities correctly points out.[2] Furthermore, the Board reached its decision on the basis only of the suspensions of points that actually occurred up to March 31, 1978.

In carrying out its responsibilities under the Act—to determine when a carrier is self-sufficient, or when it has shown enough potential for self-sufficient operation that it no longer requires subsidy support—the Board must evaluate its need in terms of the results of its overall operations. Therefore, in reaching our decision to remove TXI from subsidy, we need not determine that each individual market it may operate has achieved profitability.[3]

[1] TXI filed for the permissive authority to suspend at Texarkana, Laredo, and Hot Springs on Aug. 28, 1978, the same date it filed comments on order 78-7-135.

[2] On Sept. 6, 1978, the New Mexico cities of Carlsbad, Clovis, and Hobbs filed a memorandum regarding TXI's attempt to gain additional suspension authority. The New Mexico communities' response, being, in effect, an answer to an answer, is clearly prohibited by rule 6(b) of the Board's rules of practice and is not provided for under rules 302 or 305(c). However, the memorandum was accompanied by a "contingent motion" for leave to file an otherwise unauthorized document. This motion will be granted and the memorandum is accepted as such.

[3] The Supreme Court has stated, "The Act • • • poses as the initial question for the Board whether the financial condition of the carrier is such that it needs a subsidy or has no need for one • • • an air carrier's subsidy need is an amount which • • • will enable it to meet and maintain the objectives of the Act." It also stated: "The 'need' of the carrier is measured by the entirety of its operations, not by the losses of one division or department." *Delta Air Lines, Inc.* v. *Summerfield*, 347 U.S. 74 (1954)

As the carrier notes, the Board has not emphasized subsidy reduction in recent decisions to award new routes. Nevertheless, the taxpayers are entitled to realize the mature fruits of the Board's past route policies.

The major purpose of the route-strengthening program (in effect to varying degrees for more than a decade, beginning in the mid 1960's) was to give the local service carriers relatively dense, long-haul routes and to use any excess profits from their operation to reduce subsidy. The carriers were well aware of that objective and willingly accepted the new authority on those terms. TXI has now seen its profitability enhanced to the point of self-sufficiency, partly because of these route awards, yet it wants to retain all of the benefits. Because the Board has a duty to protect the interests of taxpayers, as well as those of consumers and air carriers, we have determined that TXI should be able to operate on its own—even though there may be some losing operations remaining in its system. Our treatment of TXI is fully consistent with similar actions involving other carriers.

TXI asserts that the Board did not consider its operations over a representative period before concluding that it should no longer receive subsidy. The main thrust of its argument is that it experienced a high rate of return only in the latest yearend period; [4] for the first 8 of the last 10 years it experienced losses before subsidy.

We concluded in order 78-7-135 that only the most recent periods are pertinent to judging TXI's current and future subsidy needs. The dramatic and fundamental changes made by the carrier's new management in the last few years have made TXI into a completely different carrier. Furthermore, the sheer magnitude of TXI's earnings growth distinguishes this case from the norm.

In TXI we observed over roughly a 3-year period—the emergence of a carrier from a near-bankrupt state to one with excellent recorded earnings and rates of return on investment. As we noted in order 78-7-135, there is every reason to believe that TXI can continue to sustain itself. Its operations have been rationalized; its management has demonstrated initiative and skill; and it operates in an area that has experienced (and continues to experience) greater-than-average economic growth. In addition, it has received new route authority which adds to the size of its system and to its operating flexibility. While the authority may not be exclusive (in keeping with our goal of greater reliance on market competition), we are confident that an aggressive carrier like TXI will fully exploit all of its potentially profitable opportunities.

The continued improvement in the company's financial situation in the second quarter of calendar 1978 provides additional confirmation of our conclusion that it is self-sufficient. TXI's operating profit (before subsidy and with no ratemaking adjustments) was $3,352,000 for the quarter ended June 30, 1978, up from $167,000 in the same quarter of 1977. For the 12 months ended June 30, 1978, TXI's unadjusted operating profit (before subsidy) was $9,650,000, compared with an operating loss of $906,000 for the same period a year earlier. TXI's rate of return on investment (also before subsidy and with no ratemaking adjustments) was approximately 18 percent for the 12 months ended June 1978.

The claim that TXI's investment base is depleted because of the inadequacy of past class rates is at odds with the philosophy underlying section 406 subsidy and the class-rate system. Class subsidy rates are based on the average performance of members of the class. The total amount of subsidy is designed to be adequate for the class as a whole, but the class rate system does not guarantee that the indicated need of each of the individual members will be met. Class subsidy rates are designed to provide incentives for individual carriers to do better than the class average. When during the life of a rate a member performs better than average, it is rewarded by receiving more than its indicated need. Conversely, when a carrier performs worse than average, it will not have its need fully covered. Any subsidy shortfall experienced by TXI in recent years occurred mainly because it did not operate as well as the average carrier, not because the class rates were inadequate for the overall class. (TXI has made no showing that the subsidy rates were inadequate for the entire class.)

The function of subsidy is to provide financial nurture until a carrier reaches the threshold of maturity. This principle was eloquently stated by the Court of Appeals for the District of Columbia in *Trans World Airlines, Inc.* v. *C.A.B.*,[5] a relatively recent case, where the court said:

[4] for the first 8 of the last 10 years it experienced losses before subsidy.

[5] 385 F. 2d 648 (1967).

• • • The Board considered that the 'need' of the carrier is a need to survive

10 one-way annual flights without prior Board approval; however, we specifically retain the option to suppress

permits, were discussed by the two Governments during the charter negotiations, but the United Kingdom de-

6. The public interest does not require an oral hearing;

7. The grant of a permit to the appli-

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• • • The Board considered that the "need" of the carrier is a need to survive through the development period, and not a "need" to attain self-sufficiency with the same kind of accrual reserves that a conservative management might have tucked away in capital accounts during prosperous years • • •

We note that during the 12 months ended June 30, 1978, TXI's stockholder equity increased from approximately $8 million to $32 million, mainly as a result of a stock issue. This demonstrates that TXI is able to attract capital in the open market. It has made no showing that any alleged capital depletion has impaired its ability to fulfill its certificate obligations.

The economic savings adjustment was used by the Board in order 78-7-135 to remove from TXI's year ended March 31, 1978, financial results certain costs associated with operations which were suspended or deleted during the period from April 1, 1976, through March 31, 1978.[6] TXI claims that it is not correct to use such an adjustment in determining the individual need of a carrier for any past period or for the purpose of determining the eligibility of any carrier for inclusion in a new class rate. We do not agree. We are not in this case trying to determine a past-period need for TXI. TXI was on a closed rate and was paid its full subsidy rate during the year ended March 31, 1978. The costs of services which the carrier has discontinued and will not be offering in the future do not help us answer the question, "Will TXI need subsidy in the future?"

This is a technical subsidy rate adjustment. If we had made the adjustment using a different methodology—or if we had made no adjustment at all—our decision would have been the same: TXI's overall system no longer has a subsidy need.

Accordingly, under the Federal Aviation Act of 1958, as amended, particularly sections 204(a), 406, 407(a), and 1002(b):

1. Effective today, we make final our tentative findings and conclusions set forth in order 78-7-135;

2. We grant leave to Carlsbad, Clovis, and Hobbs, N. Mex., to file an otherwise unauthorized document; and

3. We will serve a copy of this order on Texas International Airlines, Inc., and the Postmaster General.

[6]The method, which was employed in class rate VIII, assumes that upon suspending service, certain cost savings are not realized until 1 year later. Thus, some savings associated with suspensions which occurred during the year ended Mar. 31, 1977, were not realized until sometime during the year ended Mar. 31, 1978. (This approach is based on adoption of proposals by Airwest and Southern made during the conception of class rate VII.)

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30477 Filed 10-26-78; 8:45 am]

[6320-01-M]

[Order 78-10-86; Docket 32689]

TRADEWINDS AIRWAYS, LTD.

Application for Issuance of a Foreign Air Carrier Permit; Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of October 1978.

By application filed May 17, 1978, Tradewinds Airways Ltd. (Tradewinds) requests a foreign air carrier permit to engage in charter foreign air transportation of property between (1) any point or points in the United Kingdom and any point or points in the United States, and (2) between any point or points in any territory under the sovereignty, suzerainty, protection, jurisdiction, or trusteeship of the United Kingdom and any point or points in the United States.[1] On June 20, 1978, Tradewinds filed a motion for an order to show cause why its application should not be granted without an oral hearing. No objections have been filed to the application or motion.

The applicant has been named by the United Kingdom as a charter-designated airline pursuant to the amendments to the Air Service Agreement concluded by an exchange of diplomatic notes on April 25, 1978, between the United States and the United Kingdom. As we noted in Order 78-7-15, these amendmends liberalize the applicable charter rules between the United States and the United Kingdom for both passenger and cargo services and provide for the continuation of negotiations to further liberalize the cargo charter rules.

In support of its application, Tradewinds alleges that it is a corporation organized under the laws of the United Kingdom with all its shares held by subsidiaries of Lonrho Ltd., a publicly held United Kingdom corporation;[2] that it has engaged in airfreight transportation to the Far East, Middle East, and Africa since 1969; that it maintains its aircraft pursuant to standards prescribed by the British Civil Aviation Authority;[3] that its operating authority has never been suspended, revoked, or otherwise terminated since it inaugurated services;[4] that it has always been able to meet its financial and transportation obligations; that it currently operates six freighter aircraft;[5] and that it maintains worldwide liability insurance coverage on each aircraft in addition to third-party liability insurance.

The applicant estimates that it will perform 400 annual charters using B-707 aircraft and 100 charters using CL-44 equipment for the first year of operation to the United States. It predicts that it will move approximately 18,500 tons of cargo which should generate approximately $22,500,000 of revenue for its first-year operations.

Upon consideration of the pleadings and all relevant facts, we have tentatively decided to grant the requested authority and also additional charter authority provided for in the agreement. We will also grant limited Fifth Freedom authority qualified by operational limitations, as specified.

The amended charter provisions of the agreement permit United Kingdom charter-designated airlines to serve intermediate and beyond points when operating between U.S. and U.K. points, restricted only by a 2-day stopover requirement in the United Kingdom for all traffic originating in the United States and stopping over at any point outside the United States and the United Kingdom.[6] Although the applicant has not requested this intermediate/beyond authority, we have tentatively decided to grant it because of our desire to implement the United States-United Kingdom charter provisions to the fullest extent possible. We believe that an award of maximum charter authority will afford the applicant increased operational flexibility and permit a more efficient allocation of carrier resources.

We have further tentatively decided to grant the applicant operating rights between United Kingdom territories and the United States and non-United Kingdom points and the United States (Fifth Freedom) even though not encompassed within the scope of the agreement. This is similar to our award in order 78-7-164 to IAS Cargo Airlines.[7] The applicant may conduct

[7]All members concurred except Members Schaffer and Cohen who did not participate.

[1]The applicant requested a waiver from pt. 312 of the Board's procedural regulations. We will deny the motion.

[2]Sunbreaks, Ltd. and African Investments Trust Co., Ltd., wholly owned subsidiaries of Lonrho, Ltd., hold 100 percent of the shares of the applicant.

[3]The United Kingdom is a signatory to the Convention on International Civil Aviation.

[4]The applicant's safety record is marred by only one accident in 1974 where no injuries were reported and no safety regulations apparently violated.

[5]All craft are either leased or subject to purchase-installment contracts.

[6]Art. 14(3) of the United States-United Kingdom Air Services Agreement as amended by the Apr. 25, 1978, exchange of diplomatic notes.

[7]In order 78-7-164, Aug. 1, 1978, the Board granted to International Aviation

Footnotes continued on next page

10 one-way annual flights without prior Board approval; however, we specifically retain the option to approve additional flights or to disapprove those now authorized if found to be inconsistent with the public interest. Since we anticipate that the majority of Tradewinds' operations will be conducted between the United States and the United Kingdom, we believe the limitation is broad enough to cover most Fifth Freedom and territorial flights that the carrier is likely to operate. Our decision here is motivated by a dual desire to minimize the Board's administrative burden in processing individual charter carrier requests, which has traditionally required either permit amendments or Board waivers, and to encourage further relaxation of charter restrictions on the part of the United Kingdom. Even though the United Kingdom does not afford U.S. carriers reciprocal authority for Fifth Freedom flights without prior approval, we tentatively find our grant of authority to be in the public interest.

Similar to our recent award to IAS we shall authorize split-cargo charter operations only for those operations covered by the agreement.[8] In refusing to award this authority for operations not covered by the agreement, we note that no U.S. carrier or foreign carrier operating charters originating or destined for the United States holds authority to engaged in split cargo operations. We would be inclined to award this authority when U.S. carriers are permitted to also participate. Until that time, we conclude that it would not be in the public interest to grant this economic benefit.

While we wish to accord the widest latitude to the United Kingdom carriers for all of the reasons explicated above, we are mindful of the necessity to balance exchanges or reciprocal rights upon which an international aeronautical system is predicated. We have therefore tentatively decided to refuse "Quantas privileges" to the applicant.[9] These stopover rights, generally inherent in all foreign air carrier permits, were discussed by the two Governments during the charter negotiations, but the United Kingdom declined to grant stopover rights to U.S. carriers operating within the United Kingdom. We find it contrary to the public interest to award this valuable but discretionary privilege when it is not reciprocally granted to our own carriers.

Finally, we note that the name of the applicant is similar to another foreign air carrier, Tradewinds Aviation, Ltd., operating between the United States and Canada.[10] Although it is conceivable public confusion could occur due to name similarity, we believe that the disparity in geographic market operations and size of operations mitigates against this possibility. We shall, however, reserve the right to impose any additional description upon the applicant's name should we discover that confusion has in fact occurred.

In view of the foregoing and all the facts of record, we tentatively find and conclude that:

1. Tradewinds Airways, Ltd., is fit, willing, and able to perform properly the foreign air transportation described in its specimen permit and to adhere to the provisions of the Act and the rules, regulations, and requirements of the Board;

2. Tradewinds Airways, Ltd., is substantially owned and effectively controlled by citizens of the United Kingdom;

3. It is in the public interest to issue a foreign air carrier permit in the form of the attached specimen permit to Tradewinds Airways, Ltd., authorizing the carrier to engage in charter foreign air transportation of property;

4. The public interest requires that the exercise of the privileges granted by this permit should be subject to the terms, conditions, and limitations prescribed there, and such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

5. The holder shall conduct split-cargo charters only to the extent authorized in the United States-United Kingdom Air Service Agreement which currently limits such carriers to "specialist cargo flights" originating in either the United States or United Kingdom and "other cargo flights" originating in the United Kingdom: *Provided*, That the Board may grant split-cargo authority for operations not encompassed within the agreement if it is found to be in the public interest and Board regulations authorize split-cargo charters for U.S. carriers;

6. The public interest does not require an oral hearing;

7. The grant of a permit to the applicant is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(2) of the National Environmental Policy Act of 1969, and will not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975 (EPACA), as defined in subsection 313.4(a)(1) of the Board's economic regulations; [11]

8. A waiver of part 312 of the Board's procedural regulations should not be granted; and

9. Except to the extent granted, the application of Tradewinds Airways Ltd. in docket 32689 should be denied.

Therefore:

1. We direct all interested persons to show cause why the Board should not make final the tentative findings and conclusions stated here, and why a foreign air carrier permit in the form of the attached specimen permit should not, subject to the approval of the President, pursuant to section 801 of the Act, be issued to Tradewinds Airways Ltd.;

2. We shall require any interested person having objections to the issuance of an order making final the tentative findings and conclusions or to the issuance of the proposed foreign air carrier permit, to file with the Board and serve on the persons named in parargraph 5 below on or before November 8, 1978, a statement of objections, specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and any evidence expected to be relied upon in support of the statement of objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish that could not also be established in written pleadings;

3. If timely and properly supported objections are filed, we shall accord full consideration to the matters or issues raised before further action is taken by the Board; *Provided, however*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in the order if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing; [12]

4. In the event no objections are filed, we shall consider all further pro-

Footnotes continued from last page

Services, Ltd. (U.K.) d.b.a. IAS Cargo Airlines Fifth Freedom and United Kingdom territorial authority to and from the United States for up to 10 annual flights without prior Board approval.

[8]See annex 4(2)(b) (ii) and (iii) of the Air Services Agreement as amended by the Apr. 25, 1978, exchange of diplomatic notes, authorizing split cargo flights for United Kingdom charter-designated airlines operating "specialist cargo flights" originating in either the United States or United Kingdom and "other cargo flights" originating in the United Kingdom.

[9]The Quantas doctrine permits foreign air carriers to transport between U.S. points, traffic from online stopovers when such traffic is incident to foreign air transportation, 29 CAB 33, Apr. 6, 1959.

[10]Tradewinds Aviation, Ltd., conducts charter operations using small aircraft between the United States and Canada.

[11]Tradewinds has submitted sufficient environmental information to satisfy the requirements of pt. 312 and pt. 313 of the Board's procedural regulations.

[12]Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

cedural steps to have been waived, and we shall direct the Secretary to enter

apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff

or agreement, or amendment, which shall have the effect of eliminating any of the

conditions resulting from the increases in its average passenger haul and air-

ever, even if the service is or becomes unprofitable, the carrier is free, under

We shall publish this order in the FEDERAL REGISTER.

cedural steps to have been waived, and we shall direct the Secretary to enter an order which (1) shall make final the tentative findings and conclusions here, and subject to the approval of the President, (2) shall issue a foreign air carrier permit to the applicant in the specimen form attached; and

5. We direct this order to be served upon Tradewinds Airways Ltd., Tradewinds Aviation, Ltd., the Ambassador of Great Britain and Northern Ireland in Washington, D.C., and the Departments of State and Transportation.

We shall publish this order in the FEDERAL REGISTER and transmit it to the President.

By the Civil Aeronautics Board. [13]

PHYLLIS T. KAYLOR,
Secretary.

[Specimen Permit]

CIVIL AERONAUTICS BOARD

PERMIT TO FOREIGN AIR CARRIER

Tradewinds Airways Ltd. is authorized, subject to the provisions set forth below, the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations of the Board, to engage in charter foreign air transportation of property as follows:

1. Between any point or points in the United Kingdon [1] and any point of points in the United States, either directly or via intermediate points or to beyond points in other countries, with or without stopovers.

2. Between any point or points in the United States and any point or points not in the United Kingdom or the United States.

This permit shall be subject to the following terms, conditions, and limitations:

(1) The exercise of authority granted by paragraph 1 above shall be limited to charter transportation beginning in the United States or the United Kingdom. When the charter transportation thereunder originates in the United States and the traffic stops over at any point or points outside the United Kingdom, it shall also stopover in the United Kingdon for at least 2 consecutive nights unless the Board has granted a specific authorization in advance to shorten or eliminate the United Kingdon stopover.

(2) The exercise of authority granted by paragraph 2 above shall be limited to 10 one-way flights within any calendar year: *Provided*, That the Board may, without hearing, authorize additional flights if it finds such authorization to be in the public interest and may disapprove any authorized flights if it finds such flights to be contrary to the public interest.

(3) The initial tariff filed by the holder shall not set forth rates, fares, and charges lower than those in effect for any U.S. air carrier in the same foreign air transportation; however, this limitation shall not apply to a tariff filed after the initial tariff regardless of whether this subsequent tariff is effective before or after the introduction of the authorized service.

(4) The Board may, by order or regulation and without hearing, require advance approval of individual charter trips conducted by the holder under the authority granted by this permit, if it finds such action to be required by the public interest.

(5) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of the United Kingdom for British international air service, and shall not provide foreign air transportation under this permit unless it holds a currently effective authorization from the Government of the United Kingdon for such operations.

(6) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against it in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of its operations under this permit.

(7) The holder shall not provide foreign air transportation under this permit unless (1) there is in effect third-party liability insurance in the amount of $1 million or more to meet potential liability claims which may arise in connection with its operations under this permit; (2) there is in effect minimum liability insurance coverage for bodily injury or death in the amount of $75,000 for each person required to accompany cargo; and (3) unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the names and addresses of the member insurers.

(8) The holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relative to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments for such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

(10) The holder shall not allow traffic originating at, destined for, or stopping at one U.S. point to also stop over or terminate at another U.S. point: *Provided*, That the Board may, without hearing authorize this prohibited transportation if it finds such transportation to be in the public interest.

(11) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective to which the United States and the United Kingdon shall be parties.

(12) This permit shall be effective on ————. Unless otherwise terminated at any earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment, which shall have the effect of eliminating any of the service authorized by this permit from the service which may be operated by airlines designated for charter service by the Government of the United Kingdom (or in the event of elimination of any part of the authorized service, the authority granted shall terminate to the extent of such elimination); or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of the United Kingdon in lieu of the holder; or (3) upon the termination or expiration of the Air Services Agreement, or any part thereof, between the Governments of the United States and the United Kingdom (Bermuda II), as amended; however, clause (3) of this paragraph shall not apply if, prior to the occurrence of the event specified in clause (3), the operation of cargo charter service becomes the subject of any treaty, convention, or agreement to which the United States and the United Kingdon are or shall have become parties.

The Civil Aeronautics Board, through its Secretary, has executed this permit and affixed its seal on ————.

————,
Secretary.

Issuance of this permit to the holder approved by the President of the United States on ———— in ————.

[FR Doc. 78-30476 Filed 10-26-78; 8:45 am]

[13] All members concurred.

[1] For the purposes of this permit, "United Kingdom" shall mean the United Kingdom of Great Britain and Northern Ireland, but not any territory outside the British Isles under the sovereignty, protection, jurisdiction, or trusteeship of the Government of the United Kingdom.

[6320-01-M]

[Order 78-10-96; Docket 31593]

WIEN AIR ALASKA, INC.

Certificates of Public Convenience and Necessity (Anchorage/Fairbanks-Chicago (Midway Airport; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of October, 1978.

On July 20, 1978, Wien Air Alaska filed a motion for show cause or other expedited procedures on its application to amend its certificate to authorize it to provide "low-fare, high-density, no-frills" air transportation of persons, property and mail between the coterminal points of Anchorage and Fairbanks, Alaska, and the terminal point in Chicago, Ill. (to be served through the Midway Airport).

Wien plans to provide one daily roundtrip with B-737 equipment with a fuel stop at Calgary or Edmonton. It recites the public benefits resulting from implementation of its proposal, including new single-plane service between Midway and Anchorage/Fairbanks,[1] single carrier service to other points on its system, furtherance of our objective of expanding service to Midway, improved connecting possibilities from Alaska to the new certificated services at Midway, fare benefits to passengers, and improved operating conditions resulting from the increases in its average passenger haul and aircraft hop. Wien also claims that it will carry 48,851 passengers and achieve a $1.5 million operating profit, with diversion insufficient to impair Northwest's certificate obligations.

[1] Wien has not proposed any Fairbanks-Chicago service. See appendix A to Wien's motion.

An answer in opposition was filed by Northwest Airlines. It argues that we should first resolve some of the pending States-Alaska route and rate investigations; the market is small and more than adequately served for its size (93,180 O. & D. plus connecting passengers for calendar year 1977); Wien's proposed service is inferior to the existing service; Wien's forecast is overly optimistic; and Wien's fare proposal is not a significant improvement over existing discount fares.

We have tentatively concluded, on the basis of the tentative findings below, that the public convenience and necessity require the amendment of Wien's certificate to add Anchorage/Fairbanks-Chicago (Midway) authority, as a separate segment on a permissive, category II subsidy-ineligible basis. We also tentatively find that Wien is fit, willing, and able to perform the air transportation it proposes and to conform to the provisions of the Act and to our rules, regulations, and requirements. Finally, we find that our proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, or a major Federal action under the Energy Policy and Conservation Act.

Wien's application falls within the class of cases that can be handled by show-cause procedures, because of the absence of any material, determative issue of fact requiring resolution in a formal evidentiary proceeding.[2]

Grant of authority requested by Wien will make possible competitive service in the Anchorage-Chicago market and greater utilization of underutilized Midway Airport.[3] The carrier estimates that the net operating profit of its proposed service will be $1.5 million in the first year of service.[4] We need not find, however, that its precise proposal here, or any other specific service pattern, can in fact be profitably operated. If the proposal or a variation can be operated on a profitable basis, service is likely to be provided, and we are persuaded that this has been plausibly shown here.[5] However, even if the service is or becomes unprofitable, the carrier is free, under permissive authority, to cease serving markets. We are satisifed that nothing developed in an oral evidentiary hearing would reverse this conclusion. Furthermore, we find that the grant of this authority will not threaten the ability of any carrier to perform its certificate obligations or necessarily result in the termination of essential services that cannot be replaced by another carrier.

We will give interested persons 30 days from the date of service of this order to show cause why these tentative findings and conclusions should not be made final; replies will be due within 10 days thereafter. We expect that objections will be supported by detailed economic or legal arguments. If an oral evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary, and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague or unsupported objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated here and amending Wien's certificate to add a new segment authorizing scheduled air transportation of persons, property and mail between the coterminal points Anchorage and Fairbanks, Alaska, and the terminal point Chicago, Ill. (Midway Airport);

2. We require any interested persons having objections to the issuance of an order making final the proposed findings, conclusions and the certificate amendments no later than November 24, 1978, to file with us and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support its objections; answers to objections shall be filed no later than December 4, 1978;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues before further action is taken; [6]

4. If no one files objections to any part of this order, we will consider all further procedural steps relating to such part or parts waived, and the case submitted to us for further action; and

5. We will serve a copy of this order upon all persons named in the service list of docket 31593.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30475 Filed 10-26-78; 8:45 am]

[2] See order 78-4-69, April 14, 1978, made final by order 78-8-97, Aug. 17, 1978.

[3] Wien's proposal would add a daily Anchorage-Midway one-stop B-737 roundtrip to Northwest's existing 3 daily one-stop DC-10 roundtrips and a B-747 nonstop roundtrip operated two days a week, all of which serve O'Hare Airport.

[4] Wien's appendix B.

[5] As noted in order 78-4-69, our conclusion that Wien has made a plausible showing that service can be profitably provided is not an element of our tentative findings of public convenience and necessity, but rather or our determination to process the application now.

[6] Since provision is made for filing objections, we will not entertain petitions for reconsideration.

[7] All members concurred.

[3510-25-M]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 138]

CITY OF BATTLE CREEK, MICH.

Resolution and Order Approving Application for a Foreign-Trade Zone in Battle Creek, Mich.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 19, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the city of Battle Creek, Mich., filed with the Foreign-Trade Zones Board (the Board) on May 10, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Battle Creek, within the Battle Creek Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN BATTLE CREEK, MICH.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

[2] All members concurred.

Whereas, the city of Battle Creek

this 19th day of October 1978, pursu-

GRANT

The Grantee shall allow officers and

public to avoid premature disclosure in

Patent Application 889,795: Single Blade Proximity Probe, filed March 23, 1978.

V 4 3 / 2 0 9 0 C 2 7 7 8

Whereas, the city of Battle Creek (the Grantee) had made application (filed May 10, 1978) in due and proper form to the Board requesting the establishment, operation, and maintenance of a foreign-trade zone in Battle Creek, Mich., within the Battle Creek Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisifed;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 43, at the location mentioned above and more particularly described on the maps and drawings accompanying the application in exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 19th day of October 1978, pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
SIDNEY HARMAN,
Acting Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-30417 Filed 10-26-78; 8:45 am]

[3510-25]

[Order No. 139]

DEPARTMENT OF LABOR AND INDUSTRY OF STATE OF NEW JERSEY

Resolution and Order Approving Application for a Foreign-Trade Zone in the Township of Mt. Olive, Morris County, N.J., and a Temporary Subzone Site in the Township of Woodbridge, Middlesex County, N.J.

Proceedings of the foreign-trade zones board, washington, d.c.

RESOLUTION AND ORDER

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 19, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter hereby orders:

After consideration of the application of the Department of Labor and Industry of the State of New Jersey, filed with the Foreign-Trade Zones Board (the Board) by its Office of International Trade on May 26, 1978, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in the Township of Mt. Olive, Morris County, N.J., and a 2-year temporary subzone in the Township of Woodbridge, Middlesex County, N.J., both sites being adjacent to the Newark Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves an industrial park type general-purpose zone that envisages the possible construction of buildings by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to § 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary for approval prior to the commencement of any manufacturing operations within the zone sites. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

GRANT

TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE IN THE TOWNSHIP OF MT. OLIVE, MORRIS COUNTY, N.J., AND A TEMPORARY SUBZONE SITE IN THE TOWNSHIP OF WOODBRIDGE, MIDDLESEX COUNTY, N.J.

Whereas, by an act of Congress approved June 19, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Department of Labor and Industry of the State of New Jersey (the Grantee) has made application through its Office of International Trade (filed May 26, 1978) in due and proper form to the Board requesting the establishment, operation, and maintenance of a general-purpose foreign-trade zone in the Township of Mt. Olive, Morris County, N.J., and a temporary subzone site in the Township of Woodbridge, Middlesex County, N.J., both sites being adjacent to the Newark Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the grantee the privilege of establishing, operating, and maintaining a general-purpose foreign-trade zone, designated on the records of the Board as Zone No. 44, and a special-purpose temporary subzone, designated as Temporary Subzone No. 44A, for a period of two years, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operations of the zone and temporary subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone and the special-purpose subzone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone or subzone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone sites, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 19th day of October pursuant to Order of the Board.

FOREIGN-TRADE ZONES BOARD,
SIDNEY HARMAN,
Acting Chairman and Executive Officer.

Attest:

JOHN J. DAPONTE,
Executive Secretary.

[FR Doc. 78-30418 Filed 10-26-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, OFFICE OF THE JUDGE ADVOCATE GENERAL, PATENT DIVISION/RM 2C-455, PENTAGON, WASHINGTON, D.C. 20314

Patent 4,050,009: Spectrometer for External Detection of Magnetic and Related Double Resonance, filed January 9, 1976, patented September 20, 1977. Not available NTIS.

Patent 4,050,494: Anti-Rotation Lock for Fastener Bolt, filed June 18, 1976, patented September 27, 1977. Not available NTIS.

Patent 4,051,405: Method for Controlling Low-Energy High Current Density Electron Beams, filed September 10, 1975, patented September 27, 1977. Not available NTIS.

Patent 4,051,449: Time Frequency Diversity System, filed October 12, 1976, patented September 27, 1977. Not available NTIS.

Patent 4,051,465: Ferroelectric Ceramic Devices, filed December 16, 1974, patented September 27, 1977. Not available NTIS.

Patent 4,051,475: Radio Receiver Isolation System, filed July 21, 1976, patented September 27, 1977. Not available NTIS.

Patent 4,051,480: Conformal Edge-Slot Radiators, filed October 27, 1976, patented September 27, 1977. Not available NTIS.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 HALF STREET SW., WASHINGTON, D.C. 20324

Patent Application 816,223: Procedure for Removing Aluminum from an Al-Al3Ni Two-Phase Matrix, filed July 15, 1977.

Patent Application 882,525: Single Axis Resonator for Laser, filed March 1, 1978.

Patent Application 882,527: Grease Compositions, filed March 1, 1978.

Patent Application 884,881: A Method for the Deagglomeration of Aluminum Powder, filed March 9, 1978.

Patent Application 864,682: High Power Hybrid Switch, filed March 9, 1978.

Patent Application 886,307: Method of Evaluating Magnetic Fields in Parts during Magnetic Particle Inspection, filed March 13, 1978.

Patent Application 888,810: Tunable Bandpass Ring Filter, filed March 21, 1978.

Patent Application 888,812: A Correction System for Photomultiplier Tube Nonlinearity, filed March 21, 1978.

Patent Application 888,813: Fluorine Generator for Chemical Lasers, filed March 21, 1978.

Patent Application 889,468: Cylinder Support Assembly, filed March 23, 1978.

Patent Application 889,469: Amplifier-Oscillator Frequency Multiplier Apparatus, filed March 23, 1978.

Patent Application 889,795: Single Blade Proximity Probe, filed March 23, 1978.

Patent Application 891,798: Interface Shear Transducer, filed March 30, 1978.

Patent Application 891,878: Dual Connector for Coupling Coaxial Circuits to Overlay Stripline Circuits, filed March 30, 1978.

Patent Application 896,831: Digital Level Detector Apparatus, filed April 17, 1978.

Patent Application 898,047: Automatic Bias Adjustment Circuit for a Successive Ranged Analog/Digital Converter, filed April 20, 1978.

Patent Application 898,049: Multiple Shock Aerodynamic Window, filed April 20, 1978.

Patent Application 898,069: Ejector Ramjet with Turbojet Fuel Rich Gas Generator, filed April 20, 1978.

U.S. DEPARTMENT OF AGRICULTURE, RESEARCH AGREEMENTS AND PATENT BRANCH, GENERAL SERVICES DIVISION/FEDERAL BUILDING, AGRICULTURAL RESEARCH SERVICE, HYATTSVILLE, MD. 20782

Patent Application 798,723: Solar Heated and Cooled Dwelling, filed May 19, 1977.

Patent Application 860,832: Cross-Protective Fowl Cholera Bacterins, filed February 24, 1978.

Patent Application 882,063: Catching Surface Seal and Rotating Trunk Seal for a Continuous Tree Crop Harvester, filed February 26, 1978.

Patent Application 891,955: Method of Increasing the Yield of Hydrocarbons from Plants, filed March 31, 1978.

Patent Application 908,601: Production of High-Pyruvate Xanthan Gum on Synthetic Medium, filed May 23, 1978.

Patent 4,082,814: Growth Inhibitors for Mosquito Larvae, filed April 27, 1976, patented April 4, 1978. Not available NTIS.

Patent 4,083,816: Acetoxymethyl Derivatives of Polyunsaturated Fatty Triglycerides as Primary Plasticizers for Polyvinylchloride, filed June 25, 1976, patented April 11, 1978. Not available NTIS.

U.S. DEPARTMENT OF ENERGY, ASSISTANT GENERAL COUNSEL FOR PATENTS, WASHINGTON, D.C. 20545

Patent 4,007,729: Means of Increasing Efficiency of CPC Solar Energy Collector, filed June 27, 1975, patented February 15, 1977. Not available NTIS.

Patent 4,030,834: Dynamic Multistation Photometer, filed April 8, 1976, patented June 21, 1977. Not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, NATIONAL INSTITUTES OF HEALTH, CHIEF, PATENT BRANCH, WESTWOOD BUILDING, BETHESDA, MD. 20014

Patent Application 775,800: Nucleic Acid Crosslinking Agent and Affinity Inactivation of Nucleic Acids Therewith, filed March 9, 1977.

Patent Application 880,425: Flask and Apparatus for Producing High-Purity Water, filed March 29, 1976.

U.S. DEPARTMENT OF THE NAVY, ASSISTANT CHIEF FOR PATENTS, OFFICE OF NAVAL RESEARCH, CODE 302, ARLINGTON, VA. 22217

AD D004, 948 6 Solid State LED Display Device, filed September 8, 1977. Not available NTIS.

Patent Application 818,787: An Ultrafast Scanning Spectrophotometer, filed July 25, 1977.

Patent Application 843,002: New Polymeric

[3510-22-M]

SUPPLEMENTARY INFORMATION:

[3128-01-M]

GAS PIPELINE TASK GROUP

WESTERN LNG TERMINAL ASSOCIATES, ET AL., AND PACIFIC ALASKA LNG ASSOCIATES, ET

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Patent Application 843,002: New Polymeric Membrane Composites Useful as Battery Separators, filed October 17, 1977.

Patent Application 846,231: Material Scanning Apparatus, filed October 27, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, ASSISTANT GENERAL COUNSEL FOR PATENT MATTERS, NASA CODE GP-2, WASHINGTON, D.C. 20546

Patent 4,084,132: Swept Group Delay Measurement, filed November 24, 1976, patented April 11, 1978. Not available NTIS.

[FR Doc. 78-30428 Filed 10-26-78; 8:45 am]

[3510-13-M]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARD

Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw voluntary product standard PS 35-70, "Poly(Vinylidene Fluoride) (PVF2) Plastic Lined Steel Pipe and Fittings."

This withdrawal action is being proposed for the reason that PS 35-70 is adequately covered by the American Society for Testing and Materials' standard ANSI/ASTM F 491-77, "Standard Specification for Poly(Vinylidene Fluoride) (PVDF) Plastic-Lined Ferrous Metal Pipe and Fittings," and duplication is inappropriate and not in the public interest.

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to Standards Development Services, National Bureau of Standards, Washington, D.C. 20234, on or before November 27, 1978. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: October 23, 1978.

THOMAS A. DILLON,
Acting Director.

[FR Doc. 78-30356 Filed 10-26-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

PACIFIC FISHERY MANAGEMENT COUNCIL'S BILLFISH ADVISORY SUBPANEL AND PLAN DEVELOPMENT TEAM

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended meeting notice.

SUMMARY: The Billfish Advisory Subpanel and Plan Development Team of the Pacific Fishery Management Council established by section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has changed its meeting date (43 FR 47602 dated October 16, 1978.)

DATES: The meeting will convene at 10 a.m. on Friday, December 1, 1978, and adjourn at 5 p.m.

ADDRESS: The meeting will take place at the California Fish and Game Office located 350 South Golden Shores, Long Beach, Calif.

FOR FURTHER INFORMATION CONTACT:

Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 Southwest Mill Street, Second Floor, Portland, Oreg. 97201, telephone 503-221-6352.

Dated: October 23, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 30354 Filed 10-26-78; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1978 a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 27, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On July 28, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 32851) of proposed addition to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby added to Procurement List 1978:

Class 8415

Apron, Food Handler's (IB), 8415-01-045-0587.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-30419 Filed 10-26-78; 8:45 am]

[3810-70-M]

DEPARTMENT OF DEFENSE

Office of the Secretary

ORGANIZATION OF THE JOINT CHIEFS OF STAFF; DEFENSE INTELLIGENCE SCHOOL PANEL OF THE NATIONAL DEFENSE UNIVERSITY AND THE DEFENSE INTELLIGENCE SCHOOL

Meeting

Pursuant to the provisions of subsection (d) section 10 of Pub. L. 42-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a partially closed meeting of the Defense Intelligence School panel of the Board of Visitors of the National Defense University and the Defense Intelligence School will be held onsite at the school in Washington, D.C., on November 29, 30 and December 1, 1978.

Morning sessions on November 29, 30 and December 1, 1978, will be devoted to the discussion of classified information as defined in section 552b(c)(1), title 5 of the United States Code and will therefore be closed to the public. Subject matter will be concerned with specialized instructional requirements and related curricula content. To reserve space for open sessions, interested persons should phone 433-3802, Dr. DeGross, Defense Intelligence School, Washington, D.C. 20374.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

OCTOBER 23, 1978.

[FR Doc. 78-30367 Filed 10-26-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, COORDINATING SUBCOMMITTEE AND TASK GROUPS OF THE SUBCOMMITTEE ON PETROLEUM INVENTORIES AND STORAGE AND TRANSPORTATION CAPACITIES

Meetings

Notice is hereby given that the Coordinating Subcommittee on Petroleum Inventories and Storage and Transportation Capacities of the National Petroleum Council will meet on November 14, 1978. In addition, the Petroleum Pipeline Task Group will meet on November 1, 1978, the Gas Petroleum Pipeline Task Group will meet on November 1, 1978, the Gas Pipeline Task Group will meet on November 8, 1978, and the Inventory and Storage Task Group will meet on November 14, 1978.

The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. The Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will make an analysis of the Petroleum inventories, and storage and transportation capacities of the United States, and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by task groups whose efforts will be coordinated by the Coordinating Subcommittee.

The second meeting of the Coordinating Subcommittee of the Subcommittee on Petroleum Inventories and Storage and Transportation Capacities will meet on Tuesday, November 14, 1978 at 1:30 p.m. in Dining Room Number Five, Third Floor, Conrad Hilton Hotel, 720 South Michigan Avenue, Chicago, Ill. Its tentative agenda is as follows:

(1) Introductory remarks by R. Scott VanDyke, Chairman.
(2) Remarks by Mario Cardullo, Government Co-Chairman.
(3) Discussion of scope of the assignment of the Coordinating Subcommittee.
(4) Discussion of study methodology of the Coordinating Subcommittee.
(5) Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The task groups will meet at the following times and locations.

PETROLEUM PIPELINE TASK GROUP

Wednesday, November 1, 1978, starting at 8:30 a.m. in the 14th Floor Conference Room, Sun Building, 907 Detroit Avenue, Tulsa, Okla.

GAS PIPELINE TASK GROUP

Wednesday, November 8, 1978, starting at 12:30 p.m. in the Illinois Room, Marriott Hotel, Kansas City International Airport, Kansas City, Mo.

INVENTORY AND STORAGE TASK GROUP

Tuesday, November 14, 1978, at 11:00 a.m. in Dining Room Number Five, Third Floor, Conrad Hilton Hotel, 720 South Michigan Avenue, Chicago, Ill.

The agenda for each of these task groups will be as follows:

1. Introductory remarks.
2. Discussion of scope of the assignment of the task group.
3. Discussion of the study methodology of the task group.
4. Discussion of any other matters pertinent to the overall assignment of the task group.

The meetings are open to the public. The chairmen of the Coordinating Subcommittee and task groups are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee or task groups will be permitted to do so, either before or after the meeting but not later than December 15, 1978. Members of the public who wish to make oral statements should inform Dr. Erik A. Svenson, Office of Policy and Evaluation, 202-376-1846, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C. on October 24, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-30357 Filed 10-26-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket Nos. CP75-83-2, CP75-140]

WESTERN LNG TERMINAL ASSOCIATES, ET AL., AND PACIFIC ALASKA LNG ASSOCIATES, ET AL.

Availability of Final Environmental Impact Statement

OCTOBER 24, 1978.

Notice is hereby given in the above dockets that on or about October 27, 1978, as required by section 2.82(b) of the Commission's Rules of Practice and Procedures (18 CFR 2.82(b)), a final environmental impact statement (FEIS) prepared by the staff of the Federal Energy Regulatory Commission was made available. The FEIS deals with the applications filed by Pacific Alaska LNG Associates (Pacific Alaska) in Docket No. CP75-140 et al., for a certificate of public convenience and necessity authorizing, pursuant to section 7(c) of the Natural Gas Act, the construction and operation of facilities to collect and liquefy natural gas; the transportation of liquefied natural gas (LNG) in interstate commerce; and the sale of natural gas to Southern California Gas Co. and Pacific Gas & Electric Co. Natural gas would be purchased from gas fields in the Cook Inlet region of Alaska and transported through a proposed 6- through 24-inch diameter 291.6-mile pipeline network to a proposed LNG plant in the Nikiski industrial complex, 9 miles north of Kenai, Alaska. The proposed LNG plant would consist of two gas liquefaction trains, two 550,000-barrel LNG storage tanks, a marine terminal, a construction dock and haul road, and other appurtenant facilities. Two 130,000-cubic meter LNG vessels would be constructed to carry LNG by sea from Nikiski to Western LNG Terminal Associates' (Western) proposed receiving terminal at Point Conception, Calif. The receiving terminal is proposed in Docket No. CP75-83-2, et al. The applicants seek a certificate of public convenience and necessity authorizing, pursuant to section 7(c) of the Natural Gas Act, the construction and operation of an LNG terminal facility, which would unload, store, revaporize, and send out LNG delivered by oceangoing tankers to Point Conception from Pacific Alaska's proposed liquefaction and storage facility near Kenai, Alaska, as well as tankers from the Republic of Indonesia for Pacific Indonesia LNG Co. Western proposes to construct and operate two 550,000-barrel LNG storage tanks, nine seawater vaporizers, three gas-fired peaking vaporizers, a marine terminal capable of berthing and unloading LNG tankers with a capacity up to 130,000 cubic meters, and other appurtenant facilities. The proposed Point Conception facility would reva-

porize LNG at an average plant output

duce from separate formations. However,

uids processed at the Lapeyrouse plant were

10 CFR, Part 212, Subpart D. The exception, if granted, would permit the firm to sell a portion of the crude oil produced from

Piedmont Natural Gas Co., Greenville, S.C., DES-0098, DST-0098, propane

effort to comply with the price regulations during the period for which Quincy seeks

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porize LNG at an average plant output rate of 900 million cfd with additional peaking capacity of 300 million cfd. Revaporized gas would be transported through a proposed 112.4-mile long, 34-inch diameter pipeline to Gosford, near Bakersfield, where the pipeline would join with existing gas transmission facilities owned and operated by Pacific Gas & Electric Co.

All comments received on the draft environment impact statement (DEIS) are included in volume III of the FEIS. The DEIS was circulated on April 21, 1978.

This FEIS has been circulated to Federal, State, and local agencies, local libraries, and all parties to the proceeding. The FEIS has been placed in the public files of the Commission and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and at its regional office located at 555 Battery Street, San Francisco, Calif. 94111. Copies of the FEIS are available in limited quantities from the Commission's Office of Public Information.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30527 Filed 10-26-78; 8:45 am]

[3128-01-M]

Office of Hearings and Appeals

ISSUANCE OF DECISIONS AND ORDERS

Week of August 28 Through September 1, 1978

Notice is hereby given that during the week of August 28 through September 1, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEAL

Rickelson Oil & Gas Co., Tulsa, Okla., DRA-0187, crude oil

Rickelson Oil & Gas Co. (Rickelson) appealed from a supplemental remedial order issued to it by DOE region V on May 4, 1978. The supplemental remedial order related to a previous remedial order in which the Regional Office concluded that Rickelson had sold crude oil produced from 10 properties at unlawful prices. After considering Rickelson's appeal of the previous remedial order the DOE rejected the firm's argument that in determining the number of wells on its properties it should be permitted to include injection wells and to count as two wells its single wells which produce from separate formations. However, the DOE remanded the order to the Regional Office for further findings as to the actual physical well count on two of the leases involved. *Rickelson Oil & Gas Co.*, 1 DOE Par. 80,191 (January 30, 1978). The supplemental remedial order was issued pursuant to the January 30, 1978, decision and order and contained further findings as directed by that determination. In considering the appeal of the supplemental order, the DOE noted that Rickelson did not challenge the new findings made in that order but merely questioned whether the conclusions reached in the January 30, 1978, determination regarding injection wells and separate formations applied to the two leases which were the subject of remand. The DOE determined that these conclusions did apply to the two leases. Consequently, Rickelson's appeal was denied.

REQUESTS FOR EXCEPTION

Kenard D. Brown, Casper, Wyo., DEE-0658, crude oil

Kenard D. Brown filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted producers of crude oil which purchased the economizer pump, a new type of downhole device invented by Mr. Brown, to sell all of the crude oil they produced at prices in excess of the lower tier ceiling price. In considering Brown's application for exception, the DOE determined that Brown had not submitted data which would enable the DOE to determine whether increased prices were necessary or appropriate to reimburse Brown for the actual costs he would incur in manufacturing and installing the economizer pump. The DOE further determined that Brown had failed to demonstrate that he was experiencing a hardship, inequity or unfair distribution of burdens as a result of the application to him of any provision of the DOE regulations, or that national energy policies favoring the use of more efficient and effective energy production techniques would be frustrated in the absence of the exception relief he requested. The DOE also found that Congress itself had authorized the DOE to provide exception relief to parties only as might be necessary to prevent special hardship, inequity or unfair distribution, and that despite Brown's argument to the contrary, these criteria had to be used to evaluate the merits of Brown's application. Brown's request for exception relief was therefore denied.

William V. Conover, Dallas, Tex., DEE-1340, natural gas

William V. Conover filed an application for exception from the provisions of 10 CFR 212.165 which, if granted, would permit Conover to increase the selling prices of natural gas liquid products at its Lapeyrouse plant in order to reflect the firm's nonproduct cost increases. On July 24, 1978, the DOE issued a proposed decision and order to Conover which determined that the firm's application for exception be granted. On August 2, 1978, Conover filed a notice of objection to the proposed decision and order in which it corrected information which had formed the basis for the proposed decision and order. In its original submission, Conover indicated that the natural gas liquids processed at the Lapeyrouse plant were not fractionated into natural gas liquid products. However, in its notice of objection, Conover indicated that the natural gas liquids processed at the Lapeyrouse plant were in fact fractionated for sale as natural gas liquid products. On the basis of this corrected information, the DOE determined that the level of exception relief granted in the proposed decision should be reduced from $0.02058 per gallon to $0.01933 per gallon, in accordance with the provisions of 10 CFR, Part 212, Subpart K.

Keener Oil Co., Tulsa, Okla., FEE-4110, crude oil

The Keener Oil Co. filed and application for exception for 10 CFR 212.72 which, if granted, would have permitted the firm to recertify the base production control levels (BPCL's) of 17 crude oil producing properties which it operates. Under the relevant provisions of section 212.72, a producer must certify to each purchaser the number of barrels of lower tier and upper tier crude oil within the 2-month period immediately following the month in which that crude oil is produced and sold. On March 25, 1977, the Deputy Regional Administrator of FEA region VI issued a notice of probable violation (NOPV) to Keener which alleged that the firm had sold crude oil from three properties at prices which exceeded the maximum levels permitted under the applicable regulations. On April 29, 1977, the region issued a remedial order requiring Keener to refund these overcharges. The NOPV and remedial order alleged that the firm misinterpreted the term "produced and sold" as used in the regulations and consequently miscalculated its BPCL for that property. In its application for exception, Keener stated that it made the same error in its calculations of the BPCL's of 16 other properties but that these miscalculations resulted in undercharges instead of overcharges. Keener therefore sought retroactive exception relief from the 2-month certification limitation in section 212.72 which would enable it to recompute the BPCL on these other properties and sell additional quantities of crude oil at upper tier price levels. The firm contended that it would be grossly inequitable not to permit it to recover the undercharges which it made as a result of the same type of error which caused it to make overcharges. However, the DOE noted that Keener had not claimed that its inability to recertify certain crude oil sales transactions which took place nearly 4 years ago is causing it to experience a serious financial hardship. In addition, Keener did not demonstrate that compelling reasons exist which would justify granting retroactive relief from the provisions of section 212.72. As a result, the DOE concluded that Keener has failed to satisfy the criteria for granting retroactive exception relief. Furthermore, the DOE had already considered an appeal filed by Keener from the April 29, 1977 remedial order, and concluded that the remedial order should be remanded to the region for a determination as to whether the firm should be permitted to offset its undercharges against the overcharges. *Keener Oil Co.*, 2 DOE Par. —— (July 26, 1978). Since such an offset would eliminate any inequity which is present under the factual circumstances of this case, the DOE concluded that retroactive exception relief would be inappropriate. Accordingly, Keener's application for exception was denied.

Phillips Petroleum Co., Bartlesville, Okla., DEE-1012, DEE-1013, crude oil

The Phillips Petroleum Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception, if granted, would permit the firm to sell a portion of the crude oil produced from the Yount "B" and Holder "B" Leases, located in Oklahoma County, Okla., at upper tier ceiling prices. In considering the exception application, the DOE found that Phillips' operating costs had increased to a point where the firm no longer had an economic incentive to continue the production of crude oil from the Holder "B" and Yount "B" Leases. The DOE also determined that if Phillips abandoned its operations at the Holder "B" and Yount "B" leases, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the DOE determined that Phillips should be permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Holder "B" lease for the benefit of the working interest owners at upper tier ceiling prices and 54.95 percent of the crude oil produced from the Yount "B" lease for the benefit of the working interest owners at upper tier ceiling prices.

W. B. Osborn, Jr., San Antonio, Tex., DEE-0049, crude oil

W. B. Osborn, Jr., filed an application for exception from the provisions of 10 CFR Part 212, Subpart D, which if granted, would permit the firm to sell the crude oil which it produces from the Reed E&F lease at prices which exceed the lower tier ceiling price levels specified in 10 CFR 212.73. In support of its exception application, Osborn asserted that the Reed E&F lease should qualify as a stripper well because the property's average daily production rate per well is less than 10 barrels when calculated on the basis of the injection wells and the producing wells on the lease. In considering Osborn's application, the DOE determined that under the provisions of ruling 1974-29, injection wells will not be included for the purpose of calculating a property's average daily production rate per well. In addition, the DOE determined that Osborn had not provided substantial and convincing evidence that the application of DOE price regulations resulted in a serious hardship or gross inequity for the firm. Accordingly, the firm's exception request was denied.

REQUESTS FOR STAY

Cooper & Brain, Inc., and Robert E. Brain, Wilmington, Calif., DES-1405, crude oil

Cooper & Brain, Inc. and Robert E. Brain filed an application for stay of a compliance proceeding which was initiated by DOE region IX pending a final determination of an application for exception which they filed on July 5, 1978. DOE region IX has issued a notice of probable violation to Cooper & Brain on February 14, 1978, which alleged that they had improperly certified their Brea Canyon fee lease as a stripper well property for 1974. Cooper & Brain claimed that they would incur an irreparable injury if a stay of the compliance proceeding were denied and they were forced to pursue both proceedings simultaneously. In considering the request, the DOE found that Cooper & Brain failed to submit any evidence which demonstrated that the expenses of defending themselves at this stage of the compliance proceeding would be so great as to result in an irreparable injury. The application for stay was therefore denied.

Piedmont Natural Gas Co., Greenville, S.C., DES-0098, DST-0098, propane

The Piedmont Natural Gas Co. filed an application for stay and application for temporary stay. These stay requests, if granted, would permit Piedmont to acquire and use surplus supplies of domestic propane for the purpose of enriching the BTU value of the natural gas which it distributes in Greenville and Spartanburg, S.C. These stays were sought pending final consideration by the DOE Economic Regulatory Administration of a submission by Piedmont entitled "Petition for Waiver of Acquisition and Use Limitations, Application for Exception, Application for Adjustment of Base Period Volumes." In considering the requests, the DOE observed that it had rejected a prior stay application in which Piedmont had sought identical interim relief. However, the DOE also noted that in the present stay proceeding Piedmont and the ERA had furnished additional information which established a sufficient evidentiary basis for the approval of stay relief. In particular, the DOE found that the DOE Office of Environment had to assess the environmental consequences of the relief sought in the Piedmont petition before the ERA would be able to issue a decision. In addition, it appeared from the Piedmont submission that the firm did not delay in filing its petition with the ERA. The DOE also concluded that the use of propane to stabilize the Btu value of Piedmont's gas supplies represents the only interim solution to the problem of excessive Btu oscillation. Finally, the DOE determined that certain customers of Piedmont would sustain an irreparable injury in the absence of immediate stay relief. Accordingly, the DOE determined that Piedmont should be accorded some measure of stay relief. However since several important issues raised by the petition were not fully considered in the stay proceeding, the DOE determined that the stay relief to be granted to Piedmont should not remain in effect for a substantial period of time. On the basis of these considerations, the DOE determined that Piedmont should be permitted to purchase and use 6,769,900 gallons of surplus domestic propane for the purpose of stabilizing the Btu value of its gas supplies until October 1, 1978.

MOTIONS FOR EVIDENTIARY HEARING

Quincy Oil, Inc., Taunton Municipal Lighting Plant, Quincy, Mass., Taunton, Mass., DRH-0447, DRH-0007, fuel oil

Quincy Oil, Inc., and Taunton Municipal Lighting Plant filed motions for evidentiary hearing in connection with the DOE's consideration of their Statements of Objections to a Proposed decision and order that the DOE issued to Quincy. In the proposed decision and order, the DOE tentatively concluded that Quincy's application for exception from the provisions of 10 CFR 212.93, as interpreted by FEA ruling 1977-5, should be granted in part. In the present decision and order, the DOE considered Quincy's request for an opportunity to present evidence in support of its assertions that the DOE erred in its calculations of Quincy's nonproduct costs incurred in connection with its sale of No. 6 fuel oil to Taunton, and in adjusting Quincy's profits by disallowing certain payments made by the firm to its parent corporation. The DOE also considered Taunton's request for an opportunity to present evidence in support of its assertion that Quincy did not make a good faith effort to comply with the price regulations during the period for which Quincy seeks exception relief. The DOE dismissed Taunton's requests for an evidentiary hearing with respect to several issues that essentially constituted requests for information, noting that Taunton will receive the information it sought pursuant to a protective order and joint agreement for discovery entered into by the parties and approved by the DOE. With respect to the three issues that the DOE considered on the merits, the DOE noted that in determining whether a motion for evidentiary hearing should be granted, it would consider the probative value of the evidence that a firm intends to present at an evidentiary hearing, the time and expense involved in holding an evidentiary hearing, and the likelihood that the evidence can be presented satisfactorily through a process other than an evidentiary hearing.

The DOE determined that in view of the fact that Taunton will have access to financial data regarding the issue of Quincy's nonproduct costs and will be able therefore to cross-examine Quincy's witnesses who testify in this respect, the presentation of this testimonial evidence was appropriate. The DOE noted that Quincy previously had submitted documentary evidence concerning this issue and that the testimony of Quincy's officials may enhance the probative value of that evidence, for similar reasons, the DOE concluded that Quincy should be permitted to present testimonial evidence with respect to how its profits should be calculated. The DOE emphasized that the resolution of these two issues may hinge on the credibility of the testimony of Quincy's officials and that an evidentiary hearing was the appropriate vehicle for making such a determination.

Finally, the DOE noted that the issue Quincy's alleged lack of good faith in complying with DOE price regulations is relevant to the determination of the appropriate standards to be applied in determining whether Quincy's applications for exception should be granted. The DOE previously determined that Quincy's request for a retroactive exception should be evaluated on the basis of the less rigorous standards applicable to requests for prospective exceptions because regulated firms, including Quincy, may have experienced difficulties in construing the applicable price regulations. The DOE determined that a finding that Quincy acted in bad faith may lead it to reexamine the appropriate standards applicable to that exception request. The DOE determined further that the issue of good faith raises questions of state of mind, which are not suitable to disposition on the basis of documentary proof. The DOE therefore concluded that Taunton's request to present testimonial evidence on the good faith issue should be granted.

DISMISSAL

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the DOE procedural regulations:

Whaleco Fuel Corp., Inc., Brooklyn, N.Y., DPI-0013

Copies of the full text of these decisions and orders are available in the

Public Docket Room of the Office of Hearings and Appeals, Room B-120,

REQUESTS FOR EXCEPTION

Bright & Co., Dallas, Tex., DXE-0237, crude

the exception relief previously granted to Great Southern and would permit the firm

REMEDIAL ORDER

Pennco Oil, Inc., Baton Rouge, La., DRO-

CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell

land had not made a showing that it would be irreparably injured in the absence of the

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Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

OCTOBER 19, 1978.

[FR Doc. 70-30358 Filed 10-26-78; 8:45 am]

[3128-01-M]

ISSUANCE OF DECISIONS AND ORDERS

Week of September 5 Through September 8, 1978

Notice is hereby given that during the week of September 5 through September 8, 1978, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

APPEAL

Viersen & Cochran, Tulsa, Okla., DFA-0202, Freedom of Information

Viersen & Cochran (Viersen) appealed from a denial by the Information Access Officer of a request for information which the firm submitted under the Freedom of Information Act (FOIA). In its appeal, Viersen requested that the DOE order the release of two documents which were withheld from the firm on the grounds that they are intraagency memoranda which are exempt from mandatory public disclosure under the provisions of 5 U.S.C. 552(b)(5). In considering the appeal, the DOE found that the documents generally analyze and make recommendations concerning the application of the stripper well property exemption to condensate production and that the material was predecisional in nature. The DOE therefore determined that the material which was withheld is precisely the type of information which exemption 5 of the FOIA was designed to protect from disclosure and that the release of the material would not be in the public interest. The DOE determined, however, that portions of both documents could be released to Viersen since they contain purely factual material which could be easily segregated from the policy analysis and recommendatory portions of the documents. The Viersen appeal was therefore granted in part and denied in part.

REQUESTS FOR EXCEPTION

Bright & Co., Dallas, Tex., DXE-0237, crude oil

Bright & Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell additional quantities of crude oil from the O. S. Petty No. 1 well at upper tier ceiling prices to supplement the exception relief granted in *Bright & Schiff*, 5 FEA par. 83,172 (June 8, 1977). In its exception application, Bright stated that the relief granted in the June 8 decision is insufficient to alleviate the gross inequity which was found to exist. In considering the request, the DOE determined that the actual capital investment necessary to repair the Petty well was substantially greater than the amount which was originally projected by the firm. As a result of this forecasting error, the DOE concluded that if Bright were to continue to produce crude oil from the Petty well, the revenues which it would realize from the sale of the crude oil would not afford the firm a 15 percent return on its investment. Exception relief was therefore approved which permits the firm to sell an additional portion of the crude oil produced for the benefit of the working interest owners of the Petty well at upper tier and market prices.

Gas Engine & Compressor Service Inc., Longview, Tex., FEE-4046, Natural Gas Liquids

On January 27, 1978 the DOE issued a proposed decision and order to Gas Engine and Compressor Service, Inc. (Gas Engine). In that determination the DOE proposed to deny the firm's request that 42 gas wells which it owns and operates be classified as stripper well properties. The DOE noted that it had previously determined that condensate produced from gas wells would not be regarded as "crude oil" for purposes of determining a property's eligibility for stripper well status. The DOE also proposed to deny the firm's request to retroactively charge prices for natural gas liquids that exceed the maximum levels specified in 10 CFR, Part 212, Subpart K. The DOE determined that Gas Engine had not demonstrated that it would experience a serious financial hardship in the absence of exception relief of this type. On April 7, 1978 the firm filed a statement of objections in which it contended that the DOE erred in determining whether the firm was experiencing a serious financial hardship by considering its entire petroleum related operations. Gas Engine argued that the DOE should have considered only the firm's natural gas liquids operations. The DOE rejected this contention, stating that it has been the consistent policy of the DOE to consider claims of serious hardship by examining the entire petroleum related operations of the firm requesting exception relief. The DOE noted that since a firm may maintain an unprofitable segment of its operations in order to obtain other collateral benefits, an analysis only of the unprofitable segment could be misleading. Accordingly, Gas Engine's application for exception was denied.

Great Southern Oil & Gas Co., Inc., Lafayette, La., DXE-1466, crude oil

Great Southern Oil & Gas Co., Inc. (Great Southern) filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of the exception relief previously granted to Great Southern and would permit the firm to sell a portion of the crude oil produced from the Castille RA Sua Breaux No. 1 well at upper tier ceiling prices. In considering the Great Southern exception request, the DOE found that Great Southern continued to incur increased operating expenses at the Castille well and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue the production of crude oil from the property. In view of this determination and on the basis of the operating data which Great Southern submitted for the most recently completed fiscal period, the DOE concluded that further exception relief should be granted to the extent that Great Southern be permitted to sell 95.30 percent of the crude oil produced from the Castille well for the benefit of the working interest owners at upper tier ceiling prices.

Keener Oil Co., Tulsa, Okla., DEE-1407, crude oil

The Keener Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would result in an extension of exception relief previously granted and permit Keener to continue to sell a portion of the crude oil produced from the No. 1 well on the Lizzie-Orwig lease in Seminole County, Okla., at upper tier ceiling prices. In considering the exception request, the DOE found that Keener had continued to incur increased operating costs in connection with the No. 1 well and that, in the absence of continued exception relief, Keener would lack an economic incentive to produce crude oil from the property. On the basis of the financial data which Keener had provided for the most recent 6 month period, the DOE granted exception relief which permitted Keener to sell at upper tier prices 39.06 percent of the crude oil produced from the No. 1 well for the benefit of the working interest owners.

Koch Exploration Co., Wichita, Kans., DXE-1427, DXE-1428, crude oil

The Koch Exploration Co. filed two applications for exception from the provisions of 10 CFR, Part 212, Subpart D. The requests, if granted, would result in the extension of exception relief previously granted to the firm and would permit it to sell at upper tier selling prices certain quantities of the crude oil produced from the Sink Draw No. 1 lease and the Cedar Rim No. 3 lease, located in Duchesne County, Utah. In considering the Koch exception requests, the DOE found that the firm had continued to experience operating losses at the two leases. The DOE also found that Koch would have no economic incentive to continue its operations at the two leases unless the type of exception relief previously granted were extended for an additional 6-month period. On the basis of these findings and Koch's operating data, Koch was permitted to sell at upper tier prices 81.18 percent of the crude oil produced from the Sink Draw No. 1 lease and 100 percent of the crude oil produced from the Cedar Rim No. 3 lease for the benefit of the working interest owners through February 28, 1979.

Marathon Oil Co., Findlay, Ohio, DEE-0996, crude oil.

The Marathon Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from two properties situated on the Canal Field located in Kern County, Calif., at upper tier ceiling prices. In considering the exception request, the DOE determined that Marathon is currently incurring an operating loss on each barrel of crude oil that it produces from the middle Stevens and the upper Stevens properties. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the ceiling price rule with respect to the middle Stevens and the upper Stevens properties constitutes a gross inequity to Marathon. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed 6-month fiscal period, Marathon was granted exception relief which permits the firm to sell at upper tier ceiling prices 80.66 percent of the crude oil produced for the benefit of the working interest owners from the middle Stevens property and 78.4 percent of the crude oil produced for the benefit of the working interest owners from the upper Stevens property during the next 6 months.

Union Oil Co. of California, Los Angeles, Calif., FEE-4411, residual fuel oil

The Union Oil Co. of California filed an application for exception from the provisions of 10 CFR 211.67 (the entitlements program). If the request were granted, Union would be relieved of that portion of its entitlement purchase obligation which is attributable to section 211.67(a)(3), the regulatory provision granting 30 percent of the crude oil entitlement value to imports of residual fuel oil into the east coast market ("product entitlements"). In addition, Union requested that it be excepted from the provisions of section 211.67(d)(4) under which a domestic refiner selling residual fuel oil in the east coast market loses 50 percent of the applicable crude oil entitlement value for each barrel of residual fuel oil sold in excess of the first 5,000 barrels per day ("reverse entitlements"). Union also requested an exception from the provisions of special rule No. 8, which granted product entitlements to imports of middle distillate heating oils into the east coast market during the months of February and March 1977. In its application, Union contended that each of these aspects of the entitlements program violated the provisions of article I, section 9, clause 6 of the U.S. Constitution which states that "no preference shall be given by any Regulation of Commerce or Revenue to the Ports of any state over those of another. . . ." In considering the firm's request, the DOE noted that the same argument which Union advanced had been previously considered and ultimately rejected by the U.S. District Court for the District of Columbia in *Consumers Power Co. v. FEA*, — F. Supp. — (D.D.C. 1977). The DOE therefore concluded that the court's decision in that case was dispositive of the Union exception application as well. The application for exception was accordingly denied.

REMEDIAL ORDER

Pennco Oil, Inc., Baton Rouge, La., DRO-0021, crude oil

Pennco Oil, Inc. filed a statement of objections to a proposed remedial order which the DOE region VI issued to the firm on February 27, 1978. In the proposed remedial order, the Regional Office found that during the month of December 1973 and the period from February through December 1975, Pennco sold crude oil at unlawful price levels. On the basis of this finding, the Regional Office determined that Pennco should be required to refund $20,623.89 in overcharges plus interest. Subsequent to the filing of its statement of objections, Pennco indicated that it was willing to comply with the refund provisions set forth in the proposed remedial order. Under these circumstances, the DOE determined the proposed remedial order should be issued as a final remedial order.

REQUESTS FOR STAY

Mid-America Refining Co., Inc., Chanute, Kans., DES-0099, crude oil

Mid-America Refining Co., Inc. (Mid-America) requested that its obligations under 10 CFR 211.67 (the entitlements program) be stayed during August 1978 and subsequent months pending a determination on the merits of an application for exception which the firm had filed. In considering the Mid-America request, the DOE noted that in two previous proceedings the agency had denied similar requests by Mid-America for a stay of its obligation to purchase entitlements during July 1978, *Mid-America Refining Co., Inc.*, 2 DOE Par. — (1978); *Mid-America Refining Co., Inc.*, 2 DOE Par. — (1978). In addition, the DOE noted that the arguments which Mid-America presented in its current application were virtually indistinguishable from those which had been fully considered and rejected by the DOE in the two prior stay proceedings. Since Mid-America had presented no material which would show that the prior determinations were erroneous in any aspect, the Mid-America request for stay was denied.

Northland Oil & Refining Co., Tulsa, Okla., DES-0096, crude oil

The Northland Oil & Refining Co. requested that its obligations under the provisions of 10 CFR 211.67 (the entitlements program) be stayed for the month of August 1978 pending a final determination of an application for exception which the firm had filed. In considering the request, the DOE observed that in view of the agency's ability to adjust Northland's entitlements position in subsequent months, the firm could be compensated for any entitlements purchase which it makes in excess of the level which the DOE ultimately determines is appropriate. In addition, the DOE found that Northland had not submitted any financial material which demonstrated that it could not meet its entitlement purchase obligation. The DOE therefore concluded that Northland had not made a showing that it would be irreparably injured in the absence of the requested stay. Similarly, the DOE concluded that Northland had failed to make a showing that it would be desirable for public policy reasons to grant a stay of the firm's August 1978 entitlement purchase obligation. Northland's stay request was therefore denied.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

OCTOBER 19, 1978.

[FR Doc 78-30359 Filed 10-26-78; 8:45 am]

[3128-01-M]

CASES FILED WITH THE OFFICE OF HEARINGS AND APPEALS

Week of September 29 Through October 6, 1978

Notice is hereby given that during the week of September 29 through October 6, 1078, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

OCTOBER 19, 1978.

List of Cases Received by the Office of Hearings and Appeals

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 29 through Oct. 6, 1978]

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List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 29 through Oct. 6, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 29, 1978	Southland Oil Co./VSG Corp., Jackson, Miss.	DEE-1903	Exception from the entitlements program. If granted: Southland Oil Co./VGS Corp. would be granted an exception from the provisions of 10 CFR 211.67 with respect to its entitlements purchase obligations after Dec. 1, 1978.
Oct. 2, 1978	Archie M. Damon Enco Service Station, Houston, Tex.	DEE-1906	Exception to the reporting requirements. If granted: Archie M. Damon Enco Service Station would not be required to file form EIA-79, (Monthly Motor Gasoline Service Station Survey.)
Do	Beacon Oil Co., Hanford, Calif	DXE-1909	Extension of relief granted in *Beacon Oil Company*, 2 DOE Par. —— (Aug. 3, 1978). If granted: Beacon Oil Co. would be granted continued exception relief from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	Cory's Gasoline Stations, Inc., Mesa, Ariz	DEE-1908	Exception to the reporting requirements. If granted: Cory's Gasoline Stations, Inc., would not be required to file form EIA-79, (Monthly Motor Gasoline Service Station Survey.)
Do	DiCarlo Service Station, Schenectady, N.Y.	DEE-1949	Exception to the reporting requirements. If granted: DiCarlo Service Station would not be required to file form EIA-79. (Monthly Motor Gasoline Service Station Survey.)
Do	Equipment, Inc., Lafayette, La	DRH-0121	Request for evidentiary hearing. If granted: An evidentiary hearing would be convened with respect to the statement of objections to a proposed remedial order issued on Sept. 20, 1978.
Do	Estate of William Herbert, Hunt, Dallas, Tex.	DRD-0112	Motion for discovery. If granted: Discovery would be granted with respect to objections to a proposed remedial order issued to the William Herber Hunt Trust Estate on Aug. 31, 1978.
Do	Kern County Refinery, Inc., Bakersfield, Calif.	DXE-1904	Exception from the entitlements program. If granted: Kern County Refinery, Inc., would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlements purchase obligations for the period Dec. 1, 1978, through May 31, 1979.
Do	Mohawk Petroleum Corp., Inc., Los Angeles, Calif.	DXE-1905	Extension of relief granted in *Mohawk Petroleum Corporation, Inc.*, 2 DOE Par. —— (Aug. 8, 1978). If granted: Mohawk Petroleum Corp., Inc., would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlements purchase obligations.
Do	Navajo Refining Co., Washington, D.C	DXE-1937	Extension of relief granted in *Navajo Refining Company*, 2 DOE Par. —— (July 28, 1978). If granted: Navajo Refining Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	Petrochemical Energy Group, Washington, D.C.	DEA-0227	Appeal of an allocation order. If granted: The Aug. 24, 1978, allocation order would be remanded to the Economic Regulatory Administration with instructions to deny any present allocation of naphtha to Baltimore Gas & Electric Co.
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-1907	Price exception (sec. 212.73). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Arnston lease, located in Divide County, N. Dak., at upper tier ceiling prices.
Do	Standard Oil Co. of California, San Francisco, Calif.	DEE-1911 through DEE-1918.	Price exception (sec. 212.165). If granted: Standard Oil Co. of California would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the 1-C, Arco-Calidon, Carpinteria, Colonial Booster, Hagood, Hunt Beach, Lost Hills, and Union plants.
Do	Standard Oil Co. of California, San Francisco, Calif.	DXE-1919 through DXE-1935.	Extension of relief granted in *Standard Oil Co. of California*, case No. FXE-3974 (decided Apr. 29, 1977) (unreported decision); case No. FXE-3990 (decided Apr. 4, 1978) (unreported decision); Case Nos. DXE-0459 through DXE-0461, DXE-0464 through DXE-0466, DXE-0468 through DXE-0470, DXE-0472, DXE-0473, DXE-0475, DXE-0478 (decided Apr. 25, 1978) (unreported decisions); case Nos. DXE-0474, DXE-0476 (decided May 3, 1978) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Gaviota, Getty-Cymric, Greeley, Inglewood, Kermit, KNDGP, Lapeyrouse, Marathon, McKittrick, Murphy Coyote, No. Tejon, Red Wash, S.E. Marietta, Swanson River, Torrance, Yates, and 32-Z plants.
Do	Standard Oil Co. (Indiana), Chicago, Ill	DEA-0226	Appeal of adjustment dismissal. If granted: The July 20, 1978, order issued to Amoco by the ERA Office of Fuels Regulations would be rescinded and Amoco would be permitted to base its interaffiliate transfer prices for Trinidad crude oil on a reference crude oil other than that established by the DOE under the provisions of 10 CFR 212.84.
Oct. 3, 1978	Chevron, U.S.A., San Francisco, Calif	DEE-1939	Price exception (sec. 212.73). If granted: Chevron, U.S.A., would be permitted to sell the crude oil produced from the State lease PRC 3150, undesignated pool Carpinteria field, located in Santa Barbara County, Calif., at upper tier ceiling prices.
Do	Farmers Union Central Exchange, Inc., Washington, D.C.	DEE-1938	Price exception (sec. 212.83). If granted: Farmers Union Central Exchange, Inc., would be permitted to compute its crude oil cost increases on a rolling average basis.
Do	Lunday-Thagard Oil Co., South Gate, Calif.	DXE-1936	Exception from the entitlements program. If granted: Lunday-Thagard Oil Co. would be granted continued exception relief from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	TOSCO Corp., Washington, D.C	DXE-1910	Extension of relief granted in *TOSCO Corporation*, 1 DOE Par. 80, 193 (Feb. 1, 1978). If granted: The TOSCO Corp. would be granted an extension of the exception relief approved in the Feb. 1, 1978, decision and would be permitted to adjust its May 15, 1973, prices for sales of gasoline to its reseller and wholesale rack classes of purchaser.
Oct. 4, 1978	Amber Fuel Oil, Inc., Miami Beach, Fla	DEE-1942	Exception to the reporting requirements. If granted: Amber Fuel Oil, Inc., would no longer be required to submit reports concerning No. 2 fuel oil to the Department of Energy.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 29 through Oct. 6, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Cologne Production Co., San Antonio, Tex	DXE-1946	Extension of relief granted in *Cologne Production Company*, 1 DOE Par. 81,114 (Apr. 21, 1978). If granted: Cologne Production Co. would be permitted to sell the crude oil produced from the Algoa Oil Unit 4-2 and Algoa Unit 6 located in Galveston County, Tex., at upper tier ceiling prices.
Do	Commonwealth Oil Refining Co., Washington, D.C.	DEX-0114	Supplemental Order in *Commonwealth Oil Refining Co.*, 1 DOE Par. 82,551 (Mar. 20, 1978). If granted: The DOE's decision and order issued Mar. 20, 1978, would be altered so that the restrictions placed on Commonwealth Oil Refining Co.'s sales of additional entitlements would be modified.
Do	Corpus Christi Management Co., Corpus Christi, Tex.	DRH-0123, DRD-0123.	Motion for evidentiary hearing. Motion for Discovery. If granted: Corpus Christi Management Co. would receive documents relating to DOE litigation in the Federal court and would be granted an evidentiary hearing for the purpose of presenting oral testimony to support its objections to a proposed remedial order issued to the firm on Aug. 30, 1978.
Do	Getty Oil Co., Los Angeles, Calif	DSG-0034	Petition for special redress. If granted: Getty Oil Co. would be permitted to increase its current maximum permissible selling prices for motor gasoline to recoup revenues lost as a result of compliance with a remedial order which was later rescinded.
Do	Husky Oil Co. of Delaware, Denver, Colo	DEX-0112	Supplemental Order to *Husky Oil Co.*, 5 FEA Par. 80,649 (June 2, 1977). If granted: The decision and order (Case No. FXA-1162) issued to Husky Oil Co. of Delaware on June 2, 1978, would be rescinded and the firm would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	Kirkwood Oil & Gas, Casper, Wyo	DRX-0111	Supplemental Order in *Kirkwood Oil & Gas*, 2 DOE Par. —— (Aug. 14, 1978). If granted: The DOE's decision and order of Aug. 14, 1978, would be modified and the period in which the regional office must issue a revised remedial order would be lengthened.
Do	Perrault Production Co., Tulsa, Okla	DXE-1943	Extension of relief granted in *Perrault Production Company*, 2 DOE Par. —— (July 12, 1978). If granted: Perrault Production Co. would be permitted to sell the crude oil produced from Varnum lease, located in Seminole County, Okla., at upper tier ceiling prices.
Do	Bob A. Smith, Ventura, Calif	DEE-1944	Price exception (sec. 212.93). If granted: Bob A. Smith would be permitted to resell contaminated crude oil after processing at prices in excess of applicable ceiling prices.
Do	Sun Company, Inc., Dallas, Tex	DXE-1945	Extension of relief granted in *Sun Company, Inc.*, case No. DXE-0917 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Newhall plant.
Do	Taunton Municipal Lighting Plant, Washington, D.C.	DED-0006	Request for discovery. If granted: Taunton Municipal Lighting Plant would be granted discovery with respect to certain documents of Quincy Oil, Inc., regarding its statement of objections to the proposed decision and order.
Do	Texas City Refining, Inc., Washington, D.C.	DES-0105	Request for stay. If granted: Texas City Refining, Inc., would receive a stay of the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations for the period of September through November 1978.
Oct. 5, 1978	Andrews, Kurth, Campbell, & Jones, Washington, D.C.	DFA-0228	Appeal of an information request denial. If granted: The DOE's Aug. 14, 1978, information request denial would be rescinded and Andrews, Kurth, Campbell, & Jones would be granted access to certain DOE documents relating to ruling 1977-5 (the transaction ruling).
Do	Gulf Oil Corp., Houston, Tex	DEE-1941	Price exception (sec. 212.73). If granted: Gulf Oil Corp. would be permitted to sell the crude oil produced from the Mattie White, et al. "C" lease at upper tier ceiling prices.
Oct. 6, 1978	Lunday-Thagard Oil Co., South Gate, Calif.	DEX-0113	Supplemental order. If granted: The DOE would review the entitlements exception relief granted to Lunday-Thagard Oil Co. during its 1977 and 1978 fiscal years in order to determine whether the level of relief accorded the firm was appropriate.

Remedial Orders, Notices of Objection Received

Date	Name and location of applicant	Case No.
Oct. 2, 1978	Equipment, Inc., Lafayette, La	DRO-0121
Oct. 4, 1978	Research Enterprises, New Orleans, La	DRO-0122
Do	Corpus Christi Management Co., Corpus Christi, Tex	DRO-0123
Do	Karchmer Pipe & Supply Co., Washington, D.C	DRO-0106

Notices of Objection Received

Oct. 3, 1978	Little America Refining Co., Washington, D.C	DXE-1465
Oct. 4, 1978	DeMenno Resources, Inc., Los Angeles, Calif	DEE-0965
Oct. 5, 1978	Charter Oil Co., Washington, D.C	DXE-1398

[FR Doc. 78-30360 Filed 10-26-78; 8:45 am]

[6560-01-M]

Environmental Protection Agency, Region II, 26 Federal Plaza, Room 1013, New York, N.Y. 10007, (212) 264-2525.

Interested persons may submit written comments on the proposed permit to the Regional Administrator at the above address within 30 days of the date of this notice. Comments should identify the permit number and the name of the applicant. All comments received within the 30-day period will be considered in the formulation of the Regional Administrator's determination regarding issuance of the permit. Any person who submits comments may request a public hearing. Such requests must state the nature of the issues proposed to be raised at the hearing. The Regional Administrator will hold a public hearing whenever he finds, on the basis of requests, a significant degree of public interest in the proposed permit. Public notice of any hearing will be given at least 30 days in advance of the hearing.

Any person who submits comments or requests a hearing will be notified of the Regional Administrator's final decision on the permit. Any person who is dissatisfied with the Regional Administrator's decision may request a review of that decision by the Administrator of EPA. Such requests must be made within 30 days of the Regional Administrator's decision and must state the reasons why review is requested.

Dated: October 20, 1978.

JOHN T. ROCK,
Acting Regional Administrator.

[FR Doc. 78-30361 Filed 10-26-78; 8:45 am]

or suspended for failure of a licensee to maintain a valid bond on file.

It is ordered, That the certificate of financial responsibility issued to Caesar Bathe, Eileen Guenter Marcus, Inc., be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER.

By the Commission.

SEAL

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-30362 Filed 10-26-78; 8:45 am]

passengers or other persons on voyages to or from U.S. ports. These persons must present to the U.S. Customs

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 995-2]

PLANT CLOSINGS ATTRIBUTABLE TO ENVIRONMENTAL REGULATIONS

Request for Information

The U.S. Environmental Protection Agency (EPA) is attempting to identify all industrial closings that have resulted from Federal, State, or local pollution control regulations. The EPA promptly transmits this information to the U.S. Department of Labor so that adverse employment effects can be minimized. This interagency reporting system is known as the Economic Dislocation Early Warning System (EDEWS). The information generated by the EDEWS is also essential in evaluating the effects of pollution control regulations on specific industries.

EPA is aware that plant closings generally result from a combination of factors, one of which may be the requirement to comply with environmental regulations. Because of the complexity of the subject and the unique circumstance of each decision to close a plant, EPA is not attempting to set forth guidelines as to what, in its view, may constitute a plant closing attributable to regulations for environmental protection. EPA would like to hear from any firm which has closed or plans to close a facility where inability to meet pollution control regulations is a substantial factor. The EPA would also appreciate any information regarding such situations from sources other than the firms themselves.

Please mail or phone the firm's name and address to the EPA contact in the appropriate region listed below.

Dated: October 23, 1978.

WILLIAM DRAYTON, JR.,
Assistant Administrator for Planning and Management.

ECONOMIC DISLOCATION EARLY WARNING SYSTEM

EPA REGIONAL REPRESENTATIVES

Ms. Mary Vance, Enforcement Division, U.S. Environmental Protection Agency, Region I, Room 2103, John F. Kennedy Building, Boston, Mass. 02203, 617-223-3479.
Ms. Cathy Callahan, Chief, Planning and Evaluation, Management Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 1013, New York, N.Y. 10007, 212-264-3052.
Mr. Fred Knapp, Management Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pa. 19106, 215-597-9217.
Mr. Alan W. McCluney, Jr., Program Planning, Development, and Evaluation, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-3776.
Ms. MaryLu Lageman, Program Development Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, 312-353-2043.
Mr. Henry Holman, Chief, Planning, Budgeting and Evaluation Branch, U.S. Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, Tex. 75270, 214-729-2702.
Mr. Ray Hurley, Management Division, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore Street, Kansas City, Mo. 64108, 816-758-5825.
Mr. Duane Traylor, Management Division, U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Suite 900, Denver, Colo. 80203, 303-837-2351.
Mr. Clyde Eller, Enforcement Division, U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, Calif. 94111, 415-556-0102.
Mr. Jim Sweeney, Permits Branch, Enforcement Division, U.S. Environmental Protection Agency, Region X, 1200 6th Avenue, Seattle, Wash. 98101, 202-442-1270.

[FR Doc. 78-30335 Filed 10-26-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1473]

BALTIMORE INTERNATIONAL TRANSPORT, INC.

Order of Revocation

The bond issued in favor of Baltimore International Transport, Inc., 503 East Patapsco Avenue, Baltimore, Md. 21225, FMC No. 1473, was cancelled effective September 13, 1978.

By letter dated August 17, 1978, Baltimore International Transport, Inc., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1473 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Baltimore International Transport, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1473 be and is hereby revoked effective September 13, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1473, issued to Baltimore International Transport, Inc., be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Baltimore International Transport, Inc.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-30424 Filed 10-26-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 983]

M. A. GRASER-ROTHE, EILEEN GUENTHER, D.B.A.

Order of Revocation

The bond issued in favor of M.A. Graser-Rothe, Eileen Guenther, d.b.a. 553 Old State Road No. 3, Alexander, Ky. 41001 (FMC No. 983) was cancelled effective October 8, 1978.

By letter dated September 25, 1978, M.A. Graser-Rothe, Eileen Guenther d.b.a. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 983 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

M.A. Graser-Rothe, Eileen Guenter d.b.a. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), § 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 983 be and is hereby revoked effective October 8, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License No. 983 issued to M.A. Graser-Rothe, Eileen Guenther, d.b.a., be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon M.A. Graser-Rothe, Eileen Guenther, d.b.a.

ROBERT G. DREW,
Director Bureau of Certification and Licensing.

[FR Doc. 78-30423 Filed 10-26-78; 8:45 am]

[6730-01-M]

[Independent Ocean Freight Forwarder License No. 1815]

SCHLEY SHIPPING CO., INC.

Order of Revocation

The bond issued in favor of Schley Shipping Co., Inc., 172-76 Baisley Boulevard, Jamaica, N.Y. 11434, FMC No. 1815, was canceled effective September 6, 1978.

By letter dated August 14, 1978, Schley Shipping Co., Inc., was advised by the Federal Maritime Commission that Independent Oceean Freight Forwarder License No. 1815 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Schley Shipping Co., Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(d) dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1815 be and is hereby revoked effective September 6, 1978.

It is further ordered, That Independent Ocean Freight Forwarder License No 1815 issued to Schley Shipping Co., Inc., be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order by published in the FEDERAL REGISTER and served upon Schley Shipping Co., Inc.

ROBERT G. DREW,
Director, Bureau of Certification and Licensing.

[FR Doc. 78-30425 Filed 10-26-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on October 18, 1978 (FMC), and October 19, 1978 (FMC and NRC). See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before November 14, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL MARITIME COMMISSION

The FMC requests an extension without change clearance of General Order 20, 46 CFR 540, Security for the Protection of the Public and Form 131, Application for Certificate of Financial Responsibility. The rules in general order 20 provide procedures whereby persons in the United States who arrange, offer, advertise, or provide passage on a vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports shall establish their financial responsibility or, in lieu thereof, file a bond or other security to meet liabilities for nonperformance of voyage, or for injury or death to passengers or other persons on voyages to or from U.S. ports. These persons must present to the U.S. Customs officials for clearance from a U.S. port, a certificate of financial responsibility (casualty) and/or a certificate of financial responsibility (performance), each of which certifies that the necessary level of financial responsibility has been established.

An application form, FMC 131, along with acceptable evidence of financial responsibility must be submitted to FMC to obtain a certificate of casualty and/or performance. Material changes to the application or supporting data must be filed with FMC within 5 days after the occurrence of the changes.

General order 20 requires certificants to report terminations, cancellations, or renewals of insurance in writing; furnish written designations of legal agents; file evidence of charter arrangements with FMC, provide notification of arrangements for which the certificant does not assume financial responsibility, and submit semiannual statements of changes in applications or supporting documents within 30 days after the close of the 6-month period being reported; negative reports must be submitted also. Self-insurers must file quarterly balance sheets, statements of income and surplus, statements of book value or current market value of assets located in the United States credit rating reports and lists of contractual requirements relating to maintenance of working capital and net worth.

FMC estimates respondents number approximately 75 and that reporting burden averages 6 hours for a new or amended application, 30 minutes to 3 hours for semiannual statements or negative reports, 2 hours for material changes in applications filed 5 days after change, 10 hours for terminations, cancellations, or renewals of insurance in writing, 7 hours for self-insurer reports, 1 hour for designations of legal agents, 2 hours for evidence of charter arrangements, and 2 hours for notification of arrangements for which certificants do not assume financial responsibility.

The FMC requests clearance for revision of self-policing reports as required by 46 CFR 528 (general order 7). Carriers subject to this part must submit a self-policing report each January 31 and July 31. The reports will cover all policing activities, including investigations and adjudications conducted during the preceding 6 months, the action taken in all investigations, and the nature of any violations found and sanctions imposed. A negative report is to be filed if there are no allegations of breach, investigations, or final actions to report. There are approximately 100 carriers subject to this part. Conferences must establish

self-policing systems which include the retention of independent self-po-

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* Pursuant to the au-

c. This authority shall be exercised in accordance with the policies, proce-

[6820-28-M]

Meeting on Gonococcal Infections

Dates: November 9-10, 1978.

rial vaccines and bacterial antigens with "No U.S. Standard of Potency."

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self-policing systems which include the retention of independent self-policing authorities and impartial arbitrators, and must describe the system so established in their agreements. Conference agreements must include provisions that authorize self-policing authorities to investigate all allegations of breach, audit carrier records, and compile and retain records of their activities for 5 years. Conferences desiring an exemption from the requirement that they retain an independent self-policing authority may petition FMC for an exemption. FMC estimates the one-time burden for each conference to amend its existing agreements to comply with this part will average 1 hour. FMC estimates that approximately 10 carriers will petition for an exemption with a one-time burden of 1 hour per request. The annual respondent burden for filing the semiannual self-policing reports is estimated to average 4 hours per respondent.

NUCLEAR REGULATORY COMMISSION

The NRC requests clearance of an extension without change of Form 482, Registration Certificate—Medical Use of Byproduct Material Under General License. 10 CFR 35.31 establishes a general license authorizing physicians to use certain quantities of byproduct material for specified diagnostic tests. Prior to using byproduct material under the general license the physician must file form 482 and receive from NRC a validated copy of form 482 with a registration number assigned. NRC estimates that respondents number approximately 200 annually and that respondent burden averages 5 minutes per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-30369 Filed 10-26-78; 8:45 am]

[6820-24-M]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-473]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjunction with the Administrator of General Services to represent the interests of the executive agencies of the Federal Government in a proceeding before the Florida Public Service Commission involving the Florida Power & Light Co.'s surcharge for franchise fees.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Florida Public Service Commission involving the, Florida Power & Light Co.'s surcharge for franchise fees.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

DATED: OCTOBER 10, 1978.

[FR Doc. 78-30361 Filed 10-26-78; 8:45 am]

[6820-38-M]

[Federal Property Management Regs.; Temporary Reg. F-474]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjunction with the Administrator of General Services to represent the interests of the executive agencies of the Federal Government in a rate-making proceeding before the Idaho Public Utilities Commission involving the Mountain States Telephone & Telegraph Co. (Idaho).

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Idaho Public Utilities Commission involving the application of Mountain States Telephone & Telegraph Co. (Idaho) for increased rates and charges.

b. The Secretary of Defense may redelegatge this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

OCTOBER 10, 1978.

[FR Doc. 78-30362 Filed 10-26-78; 8:45 am]

[6820-38-M]

[Federal Property Management Regs.; Temporary Reg. F-475]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense in conjuection with the Administrator of General Services, to represent the interests of the executive agencies of the Federal Government in a rate-making proceeding before the South Carolina Public Service Commission involving the Southern Bell Telephone Co.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense in conjunction with the General Services Administration to represent the consumer interests of the executive agencies of the Federal Government before the South Carolina Public Service Commission involving the application of Southern Bell Telephone Co. for a general rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

OCTOBER 10, 1978.

[FR Doc. 78-30363 Filed 10-26-78; 8:45 am]

[6820-28-M]

National Archives and Records Service

ARCHIVES ADVISORY COUNCIL

Meeting

Notice is hereby given that the National Archives Advisory Council will meet at the time and place indicated below. Anyone interested in attending, or who wishes additional information, should contact the person shown below.

NATIONAL ARCHIVES ADVISORY COUNCIL

Meeting Dates: November 30-December 2, 1978; November 30: 7 p.m. to 10 p.m.; December 1: 9 a.m. to 5 p.m.; December 2: 9 a.m. to adjournment.
Place: Room 410, National Archives and Records Service, 8th and Pennsylvania Avenue NW., Washington, D.C. 20408.
Agenda: Implementation of Preservation Report, Accessioning and Processing Priorities, and the National Historical Publications and Records Commission.
For further information contact: Robert Brookhart, General Services Administration (NS), Washington, D.C. 20408, 202-523-3013.

Issued in Washington, D.C., on October 17, 1978.

JAMES E. O'NEILL,
Deputy Archivist of the United States.

[FR Doc. 78-30364 Filed 10-26-78; 8:45 am]

[4110-86-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

TUBERCULOSIS THERAPY AND GONOCOCCAL INFECTIONS

Open Meetings

The following meetings will be convened by the Center for Disease Control and will be open to the public for observation and participation, limited only by the space available:

Meeting on Tuberculosis Therapy

Dates: November 7-8, 1978.
Time: 9 a.m.
Place: Room 165, Building 6, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333.
Purpose: To review tuberculosis short-course therapy study data and discuss the need for and nature of additional data to be gathered.
Additional information may be obtained from: Dr. Dixie E. Snider, Jr., Chief, Research and Development Branch, Tuberculosis Control Division, Bureau of State Services, Center for Disease Control, Room 222, Building 6, 1600 Clifton Road NE., Atlanta, Ga. 30333, telephones: FTS: 236-3956; commercial: 404-329-3956.

Meeting on Gonococcal Infections

Dates: November 9-10, 1978.
Time: 8:10 a.m.
Place: Room 207, Building 1, Center for Disease Control, 1600 Clifton Road NE., Atlanta, Ga. 30333.
Purpose: To discuss Public Health Service-recommended treatment regimens for gonococcal infections.
Additional information may be obtained from: Dr. Ronald K. St. John, Deputy Director, Venereal Disease Control Division, Bureau of State Services, Center for Disease Control, Room 3043, Building 1, 1600 Clifton Road NE., Atlanta, Ga. 30333, telephones: FTS: 236-3935; commercial: 404-329-3935.

Dated: October 20, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-30430 Filed 10-26-78; 8:45 am]

[4110-03-M]

Food and Drug Administration

[Docket No. 77N-0091]

BACTERIAL VACCINES AND BACTERIAL ANTIGENS WITH NO U.S. STANDARD OF POTENCY

Revocation of Licenses and Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing revocations of licenses and a reclassification concerning bacterial vaccines and bacterial antigens with "No U.S. Standard of Potency" manufactured by six licensees. These actions result from manufacturers' response or failure to respond to an earlier notice of opportunity for a hearing.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Joe Holloway, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: In a proposal published in the FEDERAL REGISTER of November 8, 1977 (42 FR 58266), the Commissioner announced his intention to revoke the license(s) for certain bacterial vaccines and bacterial antigens with "No U.S. Standard of Potency" classified as categories II and IIIB, under §§ 601.5(b) and 601.25(f) (21 CFR 601.5(b) and 601.25(f)), based on the recommendations of the panel on review of bacterial vaccines and bacterial antigens with "No U.S. Standard of Potency." The Commissioner agreed with the panel's recommendations and adopted them as the grounds for revocation.

THE PRODUCTS

After publication of the panel's report, a notice of opportunity for a hearing was published in the FEDERAL REGISTER of December 9, 1977 (42 FR 62162) on a proposal by the Commissioner to revoke categories II and IIIB product licenses as follows:

(1) Category II. Biological products determined to be unsafe or ineffective or to be misbranded and which should not continue in interstate commerce. Bacterial Vaccine Diagnostics and Bacterial Vaccine T-50 made from *Streptococcus pyogenes* type L-8 or by prescription (Hollister-Stier, Division of Cutter Laboratories, License No. 8).

(2) Category IIIB. Biological products for which available data are insufficient to classify their safety and effectiveness and which should not continue in interstate commerce. Mixed Respiratory Bacteria (Center Laboratories, Inc., License No. 193); Staphage Lysate (SPL), type I, and types I and III combined, for Staphylococcal Disease (Delmont Laboratories, Inc., License No. 299); Pooled Stock B.A.C. No. 1, Pooled Stock B.A.C. No. 2, Gram-Negative B.A.C. and Pooled Skin B.A.C. (Hoffmann Laboratories, Inc., License No. 283); Bacterial Vaccines for Treatment (Special Mixtures) (Hollister-Stier, Division of Cutter Laboratories, License No. 8); PIROMEN (Pseudomonas polysaccharide) (Travenol Laboratories, Inc., License No. 140); V-677 Streptococcus Vaccines (Intravenous) (Eli Lilly and Co., License No. 56).

ACTION

The manufacturers' responses to the notice of opportunity for a hearing concerning the above products and the Commissioner's action concerning their responses are as follows:

The following firms did not request a hearing concerning their products:

(1) Hollister-Stier, Division of Cutter Laboratories, Inc., for Bacterial Vaccine Diagnostics, Bacterial Vaccine T-50, and Bacterial Vaccines for Treatment (Special Mixtures);

(2) Center Laboratories, Inc., for Mixed Respiratory Bacteria;

(3) Travenol Laboratories, Inc., for PIROMEN (Pseudomonas polysaccharide); and

(4)Eli Lilly and Co., for V-677 Streptococcus Vaccines (Intravenous).

The Commissioner has received numerous letters from patients and doctors expressing concern over the recommendation to revoke the license for the manufacture of V-677, Streptococcus Vaccines (Intravenous). Most letters provided testimonials in support of the effectiveness of the V-677 prod-

Shipment in interstate commerce by the manufacturer of a product after

[4110-03-M]

1978 (43 FR 17055), the Commissioner of Food and Drugs issued a notice ad-

viewed by the panel on Review of Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" (Docket No. 77N-0091) as follows: (1) *Actinobacillus equuli*, (2) *Bacteroides melaninogenicus*, (3) *Brucella abortus*, (4) *Corynebacterium equi*, (5) *Corynebacterium pyogenes*, (6) *Erysipelothrix rhusiopathiae*, (7) *Escherichia coli*, (8) *Haemophilus pleuropneumoniae*, (9) *Pasteurella haemolytica*, (10) *Pasteurella multocida*, (11) *Pasteurella tularensis*, (12) *Proteus vulgaris*, (13) *Pseudomonas aeruginosa*, (14) *Salmonella abortivoequina*, (15) *Salmonella abortusbovis*, (16) *Salmonella choleraesuis*, (17) *Salmonella dublin*, (18) *Salmonella enteritidis*, (19) *Salmonella typhimurium*, (20) *Staphylococcus aureus*, (21) *Streptococcus agalactiae*, (22) *Streptococcus equi*, (23) *Streptococcus faecalis*, (24) *Streptococcus pneumoniae*, (25) *Streptococcus zooepidemicus*, (26) *Vibrio fetus*.

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ters provided testimonials in support of the effectiveness of the V-677 product for the treatment of arthritis. Some letters requested a formal hearing.

The Commissioner recognizes the concern and the sense of frustration some patients must feel regarding the proposed revocation. However, the law provides that the safety and effectiveness of biological drugs must be established by scientifically sound evidence. The expert panel evaluated all the bacterial vaccines, using the same criteria to establish safety and effectiveness. These standards are set forth in the regulation that established the biological review (see 21 CFR 601.25(d)). The data submitted by Eli Lilly and Co. did not satisfy the criteria, and the panel and the Commissioner concluded that V-677 should be removed from the market pending the results of scientific studies to establish its safety and effectiveness. In addition, the testimonials submitted by individuals do not satisfy the statutory standard and do not support approval of a biological drug (see *Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973)).

Several persons who commented expressed a willingness to volunteer for testing of V-677. Persons who wish to participate in investigational new drug (IND) clinical trials of V-677 or who are otherwise interested in the availability of this product should contact manufacturers or other organizations concerning the possible submission of an IND for V-677 or similar products.

The Commissioner advises that a hearing may be requested only by a manufacturer whose license is the subject of the proposed revocation. If a hearing is requested by the manufacturer and granted, any person desiring to participate in the hearing may do so (see § 12.45 (21 CFR 12.45)). However, if a licensee is given the opportunity to request a hearing but fails to demonstrate an interest in continuing to market the product by not requesting a hearing or submitting data, there is no hearing in which to participate. The December notice provides that the failure of a licensee to request a hearing constitutes an election not to avail itself of the opportunity. Under the biologics law, section 351 of the Public Health Service Act (42 U.S.C. 262), no product can be lawfully marketed except by a person holding an unrevoked license. Although anyone can apply for licensure, patients and/or doctors cannot compel a licensee to continue to produce or to take any particular action to protect its license. For this reason, the Commissioner is obliged to deny requests for a hearing from patients.

Further response to comments concerning V-677 and other products reviewed by the panel on Review of Bacterial Vaccines and Bacterial Antigens with "No U.S. Standard of Potency" will be included in the final order soon to be published, respecting the November 8, 1977 proposal.

The following firms requested hearings:

(1) Hoffmann Laboratories requested a hearing and presented data concerning its Bacterial Antigen Complexes, License No. 283. However, Hoffmann Laboratories subsequently requested that its establishment license and product licenses to manufacture the six Bacterial Antigen Complexes reviewed by the panel and four other products not reviewed by the panel be revoked. The request for license revocation constitutes a withdrawal of the request for a hearing, and consideration of the data is unnecessary.

(2) Delmont Laboratories, Inc., requested a hearing and submitted data and information in support of its Staphage Lysate (SPL) type I, and types I and III combined, License No. 299. The Commissioner concludes that these data would not only justify a hearing but are adequate to justify reclassification at this time. The Commissioner finds that the potential benefits outweigh the potential risk in use of the product. Therefore, Staphage Lysate (SPL) type I, and types I and III combined, for Staphylococcal Disease (bacterial antigen made from staphylococcus) are reclassified from category IIIB to category IIIA (biological products for which available data are insuffient to classify their safety and effectiveness but which may remain in interstate commerce pending completion of testing). Because no hearing is necessary for a category IIIA product, the December notice is withdrawn for the product.

Accordingly, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)); §§ 314.200, 601.5(b), and 601.25(f) and (g) (21 CFR 314.200, 601.5(b), and 601.25(f) and (g)); the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the following product licenses are revoked:

(a) Hollister-Stier, Division of Cutter Laboratories, for the manufacture of Bacterial Vaccine Diagnostics (bacterial vaccines for diagnostic use containing (1) *Aerobacter aerogenes*, (2) *Corynebacterium pseudodiphthe-riticum*, (3) *Diplococcus pneumoniae*, mixed, (4) *Escherichia coli*, (5) *Gaffkya tetragena*, (6) *Hemophilus influenzae*, (7) *Hemophilus pertussis*, (8) *Klebsiella pneumoniae*, (9) *Neisseria catarrhalis*, (10) *Proteus vulgaris*, (11) *Pseudomonas aeruginosa*, (12) *Salmonella enteritidis*, (13) *Salmonella paratyphi*, (14) *Salmonella schottmulleri*, (15) *Salmonella typhosa*, (16) *Shigella dysenteriae*, (17) *Shigella flexneri*, (18) *Streptococcus fecalis*, *pyogenese*, *viridans*, and *nonhemolyticus*, (19) *Staphylococcus albus*, and (20) *Staphylococcus aureus*), License No. 8; Bacterial Vaccines for Treatment (Special Mixtures containing one or more of the following organisms: (1) *Aerobacter aerogenes*, (2) *Corynebacterium pseudodiphthe-riticum*, (3) *Corynebacterium (propionibacterium) acnes*, (4) *Corynebacterium xerosis*, (5) *Escherichia coli*, (6) *Gaffkya tetragena*, (7) *Hemophilus pertussis*, (8) *Proteus vulgaris*, (9) *Pseudomonas aeruginosa*, (10) *Salmonella enteritidis* (this organism was inadvertently omitted when the notice of opportunity for a hearing was published), (11) *Shigella paradysenteriae* (Type Y), (12) *Salmonella paratyphi*, (13) *Salmonella schottmiilleri*, (14) *Salmonella typhosa*, (15) *Shigella dysenteriae*, (16) *Shigella flexneri*, and (17) *Streptococcus fecalis* (*Staphylococcus albus* and *aureus* were incorrectly listed for this product when the proposal and the notice of opportunity for a hearing were published)), License No. 8; Bacterial Vaccine T-50 (made from *Streptococcus pyogenes* type L-8 or by prescription), License No. 8;

(b) Center Laboratories, Inc., for the manufacture of Mixed Respiratory Bacteria (made from (1) *Staphylococcus aureus* and *albus*, (2) *Streptococcus mitis* and *salivarius*, (3) *Streptococcus pyogenes*, Group A, (4) *Diplococcus pneumoniae*, I, II, and III, (5) *Klebsiella pneumoniae*, two strains, (6) *Neisseria catarrhalis*) License No. 193;

(c) Eli Lilly and Co., for the manufacture of V-677 Streptococcus Vaccines (Intravenous), License No. 56;

(d) Travenol Laboratories, Inc., for the manufacturte of PIROMEN (Pseudomonas polysaccharide), License No. 140; and

(e) Hoffmann Laboratories, Inc., for the manufacture of Pooled Stock B.A.C. No. 1 (bacterial antigens made from (1) *Diplococcus pneumoniae*, (2) Streptococcus species, (3) Staphylococcus species, (4) *Neisseria catarrhalis*, (5) *Escherichia coli*, (6) *Hemophilus influenzae*), Pooled Stock B.A.C. No. 2 (bacterial antigens made from (1) *Diplococcus pneumoniae*, (2) *Klebsiella pneumoniae*, (3) Streptococcus species, (4) *Pseudomonas aeruginosa*, (5) *Escherichia coli*, and (6) *Aerobacter aerogenes*) and Gram-negative B.A.C. (bacterial antigens made from (1) *Pseudomonas aeruginosa*, (2) *Escherichia coli*, (3) *Aerobacter aerogenes*), Pooled Skin B.A.C. (bacterial antigens made from (1) Staphylococcus species and (2) *Proteus vulgaris*), License No. 283.

Shipment in interstate commerce by the manufacturer of a product after the effective date of revocation constitutes a violation of the Public Health Service Act. The Commissioner advises that those products for which licenses are herein revoked do not constitute a danger to public health and those lots that have already been sold and delivered may be resold through their expiration dates.

All data and information not prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, that have been used by the Commissioner in reaching this decision, may be seen in the office of the Hearing Clerk between 9 a.m. and 4. p.m., Monday through Friday.

Effective date. These actions are effective October 27, 1978.

Dated: October 19, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-30350 Filed 10-26-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0378]

GRAS SAFETY REVIEW OF MANGANESE SALTS

Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: In response to several requests, the Food and Drug Administration (FDA) announces a public hearing concerning the safety of manganese salts. The hearing will enable those parties who have so requested to present data, information, and views as part of the agency's review to determine whether the salts are generally recognized as safe (GRAS) or subject to a prior sanction.

DATE: The hearing will be held November 6, 1978.

ADDRESS: The hearing will be held in the Lee Building, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750; or
George W. Irving, Jr., Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014, 301-530-7033.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of April 21, 1978 (43 FR 17055), the Commissioner of Food and Drugs issued a notice advising the public that an opportunity would be provided for the oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereafter referred to as the Select Committee), concerning the safety of manganese salts and silicates and the Select Committee's tentative determination of whether or not they are GRAS or subject to a prior sanction.

A written statement on silicates was submitted by the PQ Corp., P.O. Box 258, Lafayette Hill, Pa. 19444, in lieu of an oral presentation at a public hearing. No requests for a public hearing were received. Accordingly, no hearing will be held on silicates.

The Select Committee received requests for a public hearing on manganese salts from the American Feed Manufacturers Association, Inc., 1701 North Fort Myer Drive, Arlington, Va. 22209; Southeastern Minerals, Inc., Bainbridge, Ga. 31717; and Chemetals Corp., 711 Pittman Road, Baltimore, Md. 21226 (formerly a division of Diamond Shamrock Corp., 1110 Superior Avenue, Cleveland, Ohio 44114). No other requests were received for a hearing on manganese salts.

Under the procedures set forth in the April 21, 1978, notice, announcement is hereby made that a hearing on manganese salts will be held at 9 a.m., on November 6, 1978, in the Lee Building, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014. Those who have requested to make oral presentations will be expected to complete their presentations within the period indicated and in accordance with the following schedule:

1. American Feed Manufacturers Association, Inc., and Southeastern Minerals, Inc.: Mr. L. H. Boyd and/or A. Poitevint will make a joint presentation for both corporations—30 minutes.

2. Chemetals Corp.: Dr. Dennis DeCraene—15 minutes.

The hearing will be chaired by a member of the Select Committee and will be transcribed by a reporting service. A transcript of the hearing will be placed on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: October 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30353 Filed 10-26-78; 8:45 am]

[4110-03-M]

[Docket No. 78M-0260]

LOMBART LENSES LTD.

Premarket Approval of Amsof Soft Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Amsof (deltafilicon A) Soft Contact Lens sponsored by Lombart Lenses Ltd. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notifed the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 27, 1978.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Lombart Lenses Ltd., Norfolk, Va. 23501, submitted an application for premarket approval of the Amsof (deltafilicon A) Soft Contact Lens to FDA on April 6, 1977. The application was reviewed by the Ophthalmology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On June 30, 1978, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments), soft contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), soft contact lenses are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the FEDERAL REGISTER of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to assure continuation of premarket

approval requirements for class III devices formerly regarded as new drugs.

[4110-03-M]

REGISTER of October 28, 1977 (42 FR 56800) on a proposal by the Commis-

314.200), 601.5(b), and 601.25 (f) and (g), and the authority delegated to

of Health Resources, are reclassified from category IIIB into category IIIA.

new drug application (NDA 17-554) for the Softcon (vifilicon A) Corrective

V 4 3 / 2 0 9 OC 27 78

approval requirements for class III devices formerly regarded as new drugs.

A detailed summary of the information on which the agency's approval is based is available upon request from the Hearing Clerk (address above). Requests should be identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document.

OPPORTUNITY FOR ADMINISTRATIVE REVIEW

Section 515(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(g)) authorizes any interested person to petition for administrative review of the FDA decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and the agency's action by an independent advisory committee of experts. A petition shall be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition shall designate the form of review that the petitioner requests (hearing or independent advisory committee) and shall be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or deny the petition by a notice published in the FEDERAL REGISTER. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before November 27, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Hearing Clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 17, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-29980 Filed 10-26-78; 8:45 am]

[4110-03-M]

[Docket Nos. 77N-0295 through 77N-0299]

SKIN TEST ANTIGENS

Revocations of Licenses, Reclassifications, and Withdrawal of Notice of Opportunity for Hearings

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Commissioner of Food and Drugs announces revocations of licenses, reclassification decisions, and a withdrawal of a notice of opportunity for hearing concerning skin test antigen products manufactured by three licensees. These actions result from manufacturers' responses to an earlier notice of opportunity for hearing.

EFFECTIVE DATE: October 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: In a proposal published in the FEDERAL REGISTER of September 30, 1977 (42 FR 52674), the Commissioner announced his intention to revoke under §§ 601.5(b) and 601.25(f) (21 CFR 601.5(b) and 601.25(f)) the license(s) for skin test antigens classified as categories II and IIIB, based upon the recommendation of the Panel on Review of Skin Test Antigens (the Panel). The Commissioner agreed with the Panel's recommendation and adopted it as the ground for revocation. Two skin test antigens were placed in catetory II (products found unsafe, ineffective, or misbranded that should not continue to be distributed in interstate commerce), and 10 skin test antigens were placed in category IIIB (products for which available data are insufficient to classify their safety and effectiveness and which should not continue to be distributed in interstate commerce during the development of such data, if any).

The Commissioner found no need to implement license revocation proceedings for the 2 products listed in category II and for 2 of the 10 products listed in category IIIB because, at the request of the licensees, the product licenses in question were revoked before publication of a notice of opportunity for hearing.

THE PRODUCTS

After publication of the Panel's report, a notice of opportunity for hearing was published in the FEDERAL REGISTER of October 28, 1977 (42 FR 56800) on a proposal by the Commissioner to revoke the following remaining eight category IIIB licenses:

Diphtheria Toxin for Schick Test and Tuberculin, Old (Parke, Davis & Co. (docket No. 77N-0295)) and Lymphogranuloma Venereum Antigen (E. R. Squibb & Sons, Inc. (docket No. 77N-0296)), on the grounds that available data are insufficient to classify their safety and effectiveness (§ 601.25(f)(3)) and that the manufacture of these products has been discontinued to the extent that a meaningful inspection cannot be made (§§ 601.25(f)(3) and 601.5(b)(2)); and Mumps Skin Test Antigen (Eli Lilly & Co. (docket No. 77N-0297)), Schick Test Control and Diphtheria Toxin for Schick Test (Texas Department of Health Resources (docket No. 77N-0298)), Tuberculin, Old (Eli Lilly & Co. (docket No. 77N-0297)), and Tuberculin, Old (Massachusetts Public Health Biologics Laboratories (docket No. 77N-0299)), on the ground that available data are insufficient to classify their safety and effectiveness (§ 601.25(f)(3)).

After publication of the notice of opportunity for hearing, product licenses for Diphtheria Toxin for Schick Test and Tuberculin, Old (Parke, Davis & Co.), and Tuberculin, Old (Massachusetts Public Health Biologics Laboratories), were revoked at the request of the manufacturers.

ACTIONS

The manufacturers' responses to the notice of opportunity for hearing concerning the remaining five products and the Commissioner's actions concerning their responses are as follows:

Eli Lilly & Co., Greenfield Laboratories, Box 708, Greenfield, Ind. 46140, did not request a hearing for Tuberculin, Old. This licensee did request a hearing for Mumps Skin Test Antigen and submitted data in support of its request.

E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903, did not request a hearing for Lymphogranuloma Venereum Antigen.

Under the notice of opportunity for hearing, a licensee's failure to request a hearing constitutes a waiver of the opportunity for hearing and of any contentions concerning the legal status of the product at issue. The notice also stipulated that a request could not rest on allegations but must set forth "specific facts showing that there is a genuine and substantial issue of fact" requiring a hearing. If no such facts are presented, "the Commissioner will enter summary judgment against the licensee."

Accordingly, under section 351 of the Public Health Service Act (42 U.S.C. 262), §§ 314.200 (21 CFR 314.200), 601.5(b), and 601.25 (f) and (g), and the authority delegated to him (21 CFR 5.1), the Commissioner revokes the product license issued to: (1) Eli Lilly & Co., for the manufacture of Tuberculin, Old, and (2) E. R. Squibb & Sons, Inc., for the manufacture of Lymphogranuloma Venereum Antigen. The Commissioner advises that Tuberculin, Old does not constitute a danger to public health and those lots that have already been sold and delivered by Eli Lilly & Co. may be resold through their expiration dates. E. R. Squibb & Sons, Inc. has discontinued manufacture of Lymphogranuloma Venereum Antigen. The last lot of manufactured Lymphogranuloma Venereum Antigen has passed its expiration date and that product is no longer available.

The Commissioner finds that Mumps Skin Test Antigen manufactured by Eli Lilly & Co. is misbranded for its current labeled use in detecting immunity to mumps. However, the Panel noted the widespread use and apparent value of the product for the purpose of ascertaining immunocompetence and recommended that additional data be submitted to demonstrate the product's safety and effectiveness for this use. Eli Lilly & Co. has submitted data in support of use for testing immunocompetence. The Commissioner has reviewed the data and finds that they justify permitting the product to remain on the market pending the development of additional data, assuming that, within 30 days from the date of this notice, Eli Lilly & Co. submits a license amendment incorporating the recent data and proposing labeling changes consistent with the new indication for use, and submits a commitment to undertake additional studies as required by § 601.25(h)(1) (21 CFR 601.25(h)(1)). Therefore, the Commissioner will hold in abeyance a ruling on Eli Lilly & Co.'s request for a hearing. If an amendment is submitted and approved, no hearing will be necessary.

In its response to the notice, Texas Department of Health Resources, 1100 West 49th Street, Austin, Tex. 75201, stated that it had modified the manufacturing procedures for Schick Test Control and Diphtheria Toxin for Schick Test, submitted new data to justify reclassification, and requested a hearing. The Commissioner finds that the data and manufacturing information justify reclassification of both products into category IIIA. Therefore, no hearing is necessary and the Commissioner withdraws the notice of opportunity for hearing Concerning Texas Department of Health Resources. Schick Test Control and Diphtheria Toxin for Schick Test, manufactured by Texas Department of Health Resources, are reclassified from category IIIB into category IIIA.

All data and information used by the Commissioner in reaching the decisions concerning Eli Lilly & Co. and Texas Department of Health Resources and not prohibited from public disclosure under section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) or 18 U.S.C. 1905 may be seen in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: These actions are effective October 27, 1978.

Dated: October 19, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 30349 Filed 10-26-78; 8:45 am]

[4110-03-M]

[Docket No. 78M-0259]

WARNER-LAMBERT CO.

Premarket Appoval of Softcon Corrective Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Softcon (vifilicon A) Corrective Hydrophilic Contact Lens sponsored by Warner-Lambert Co. After reviewing the Ophthalmology Device Classification Panel's recommendation, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by November 27, 1978.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be addressed to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Keith Lusted, Bureau of Medical Devices (HFK-402), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: The sponsor, Warner-Lambert Co., Morris Plains, N.J. 07950, submitted a new drug application (NDA 17-554) for the Softcon (vifilicon A) Corrective Hydrophilic Contact Lens to FDA on December 18, 1973. The application called for a lens disinfection regimen that FDA considered unacceptable. On October 26, 1977, the sponsor resubmitted the application, which included a provision for use of a chemical disinfection system approved by FDA and marketed for use with other lenses. The resubmitted application was reviewed by the Ophthalmology Device Classification Panel, an FDA advisory committee, which recommended approval of the application. On June 30, 1978, FDA approved the application by a letter to the sponsor from the Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments), soft contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), soft contact lenses are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the FEDERAL REGISTER of December 16, 1977 (42 FR 63472), the amendment provide transitional provisions to assure continuation of premarket approval requirements for class III devices formerly regarded as new drugs.

A detailed summary of the information on which FDA's approval is based is available upon request from the hearing clerk (address above). Requests should be identified with the name of the device and the hearing clerk docket number found in brackets in the heading of this document.

OPPORTUNITY FOR ADMINISTRATIVE REVIEW

Section 515(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(g)) authorizes any interested person to petition for administrative review of the FDA decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR Part 12) of the FDA administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition shall be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petition shall designate the form of review that the petitioner requests (hearing or independent advisory committee) and shall be accompanied by supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing any petition, FDA will decide whether to grant or

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deny the petition by a notice published in the FEDERAL REGISTER. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may at any time on or before November 27, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of each petition and supporting data and information, identified with the name of the device and the hearing clerk docket number found in brackets in the heading of this document. Received petitions may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 17, 1978.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 78-29981 Filed 10-26-78; 8:45 am]

[4410-24-M]

Office of Education

TITLE I, ELEMENTARY AND SECONDARY EDUCATION ACT

Interpretation

AGENCY: Office of Education, HEW.

ACTION: Interpretation of Title I, ESEA requirements for the establishment of parent advisory councils and the selection of their members.

SUMMARY: The Commissioner of Education is issuing this interpretation to clarify the requirements for "parent advisory councils" under Title I of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241e(a)(14)). This interpretation clarifies the responsibilities of the participating local educational agencies to establish advisory councils and the rights of parents to select the advisory council members. While the Education Amendments of 1978 include some new provisions concerning parent advisory councils, those provisions do not conflict with the basic principle (as stated in this interpretation) that local educational agencies may not impose any restrictions on the authority of eligible parents to select advisory council members other than those restrictions contained in the Title I statute and regulation.

EFFECTIVE DATE: This interpretation is expected to take effect 45 days after it is transmitted to Congress. Interpretations are transmitted to Congress several days before they are published in the FEDERAL REGISTER. However, the effective date is changed by statute if Congress disapproves the interpretation or takes certain types of adjournments. If you want to know the exact effective date of this interpretation, call or write Dr. John F. Staehle at the address provided below.

In conducting the next parent advisory selections, local educational agencies must ensure that all persons serving as parent advisory council members are selected in a manner that is fully consistent with this intepretation. In the interim, if any present member of a parent advisory council was selected through a process that was inconsistent with this interpretation, the local educational agency must (within a reasonable period of time) hold a special selection to correct the inconsistency. Such a special selection must give all persons who were improperly excluded from consideration for selection as council members an opportunity to be considered for selection. In any event, all persons who are serving as parent advisory council members during fiscal year 1980 must have been selected in a manner that is fully consistent with this interpretation.

FOR FURTHER INFORMATION CONTACT:

Dr. John F. Staehle, Division of Education for the Disadvantaged, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3642C, ROB-3), Washington, D.C. 20202, telephone 202-245-2720.

BACKGROUND

In general, local educational agencies receive grants under Title I to support programs that contribute particularly to meeting the special educational needs of educationally deprived children in school attendance areas with high concentrations of children from low-income families. The Commissioner makes payments to State educational agencies according to a formula based upon the number of low-income children living in the school districts of each State. Local educational agencies then apply to the State for Title I grants. A participating State educational agency must provide an assurance to the Commissioner that it will approve only those Title I projects that meet the Title I requirements and that Title I obligations will be enforced. One of those requirements is that the local educational agency must establish a district-wide Title I advisory council and, in most cases, advisory councils in each of the schools that serve an attendance area that has been designated as a Title I project area.

Under Section 141(a)(14) of the Title I statute (20 U.S.C. 241e(a)(14)) each of these advisory councils:

(A) has as a majority of its members parents of the children to be served, (B) is composed of members selected by the parents in each school attendance area, (C) has been given the responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and (D) is provided by such agency in accordance with regulations of the Commissioner, with access to appropriate information concerning such program and projects.

Under § 116a.25(d) of the Title I regulation (45 CFR 116a.25(d)), the local educational agency is responsible for establishing appropriate procedures for the nomination and selection of parents and other persons for service on advisory councils. It states:

(d) Procedure for selection. The local educational agency, after consultation with the district advisory council, shall establish appropriate procedures for the nomination and selection of parents eligible under paragraph (c) and other persons for service on district, intermediate and school advisory councils. Such procedures shall include provision for affording timely and adequate notice to the parents and the general public in the agency's school district (or in the appropriate school attendance area in the case of a school council) of the time, place, and method whereby such selection would be made. The local educational agency shall take appropriate measures, such as the publication of the notice in a language other than English, to insure that adequate notice is provided for parents in an area where the dominant language is other than English. Upon the selection of members of the council, the names of all members of such council shall be made available to the public through appropriate notices and continue to be available upon request. Members of an advisory council shall be residents of the school district, and members of a school council shall reside in the attendance area of that school.

In some cases, local educational agencies have gone beyond their procedural responsibilities and have imposed unauthorized qualifications for advisory council membership. The only authorized limitations on eligibility for advisory council membership are that: (1) a majority of each council's members be parents of the children to be served (20 U.S.C. 241e (a)(14)(A)); and (2) the members of each district advisory council must be residents of the school district and the members of each school advisory council must reside in the attendance area of the school (45 CFR 116a.25(d)). The absence of any other restrictions on council membership is in keeping with the basic statutory requirement, in 20 U.S.C. 241e(a)(14)(B), that the members of councils be "• • • selected by the parents in each school attendance area • • •." This requirement clearly prohibits selection by any other methods, such as appointment by a local educational agency.

The Commissioner is providing the following interpretation in response to numerous inquiries about the responsibilities of local educational agencies to establish advisory councils and the rights of parents to select the advisory council members. The need for guidance on these matters also became apparent during the course of litigation in *Alexander* v. *Califano*, No. C-76-1982-WWS (N.D. Calif.).

INTERPRETATION

The Commissioner issues the following interpretation:

The statutory and regulatory responsibility to establish advisory councils does not give local educational agencies the right to limit the freedom of eligible parents to select the advisory councils members, except by requiring that the majority of members of each council be parents of the children to be served and that the members of each district advisory council must be residents of the school district and the members of each school advisory council must reside in the attendance area of the school. The Title I statute and regulation do not authorize any other restrictions on the rights of eligible parents in Title I project areas to select the members of their advisory councils. For example, local educational agencies are not authorized to restrict the number of terms individual parents may serve, to prevent a husband and wife from serving on the same council, or to prevent school employees who are otherwise qualified from being selected as members of councils. In keeping with the unrestricted choice of parents to choose their council members, those same council members must not be restricted in their choice of officers.

(20 U.S.C. 241e(a)(14).)

(Catalog of Federal Domestic Assistance No. 13.428 Educationally Deprived Children-Local Educational Agencies.)

Dated: October 23, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-30466 Filed 10-26-78; 8:45 am]

[4110-83-M]

Health Resources Administration

COOPERATIVE HEALTH STATISTICS ADVISORY COMMITTEE

Filing of Annual Reports of Federal Advisory Committees

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the annual report for the following Health Resource Administration Federal Advisory Committee has been filed with the Library of Congress: Cooperative Health Statistics Advisory Committee.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, North Building, Room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791. Copies may be obtained from Mr. James A. Smith, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Dated: October 20, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-30429 Filed 10-26-78; 8:45 am]

[4110-07-M]

Social Security Administration

ADVISORY COUNCIL ON SOCIAL SECURITY

Public Meetings

AGENCY: Advisory Council on Social Security, HEW.

ACTION: Notice is hereby given, pursuant to Pub. L. 92-463, that the Advisory Council on Social Security, established pursuant to section 706 of the Social Security Act, as amended, will meet on Monday, November 20, 1978, from 9 a.m. to 5 p.m. in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

There will be a meeting of the Advisory Council's panel of actuaries and economists on Tuesday, November 21, 1978, from 9 a.m. to 12 p.m. in Room 507A, Hubert H. Humphrey Building. The panel will continue its review of the economic and actuarial assumptions used in social security cost projections.

These meetings are open to the public.

Individuals and groups who wish to have their interest in the social security program taken into account by the Council may submit written comments, views, or suggestions to Mr. Lawrence H. Thompson.

FOR FURTHER INFORMATION CONTACT:

Mr. Lawrence H. Thompson, Executive Director of the Advisory Council, P.O. Box 17054, Baltimore, Md. 21235. Telephone inquiries should be directed to Mr. Edward F. Moore, telephone 301-594-3171.

(Catalog of Federal Domestic Assistance Program Nos. 13.800-13.807, Social Security Program.)

LAWRENCE H. THOMPSON,
Executive Director, Advisory Council on Social Security.

[FR Doc. 78-30465 Filed 10-26-78; 8:45 am]

[4110-08-M]

National Institutes of Health

BIOASSAY OF ALLYL CHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability of Report

Allyl chloride (CAS 107-05-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of technical-grade allyl chloride (3-chloropropene) was conducted using Osborne-Mendel rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the synthesis of other chemicals. Allyl chloride in corn oil was administered by gavage to two groups of each species for 5 days a week for 78 weeks, followed by observation periods of 30 to 33 weeks for the rats and 14 weeks for the mice.

Under the conditions of this bioassay no convincing evidence was presented for the carcinogenicity of allyl chloride in Osborne-Mendel rats of either sex. The results are suggestive that allyl chloride is carcinogenic in male and female B6C3F1 mice since the compound, when administered by gavage, caused a low incidence of neoplastic and nonneoplastic lesions of the forestomach.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-30056 Filed 10-26-78; 8:45 am]

[4110-08-M]

in the feed, at either of two concentrations, to groups of 50 male and 50

[4310-70-M]

DEPARTMENT OF THE INTERIOR

tion at the corporation's business office located ½ mile off N.C. 12 in

not have to contact the hearing officer in advance. Duplicate written com-

of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Atten-

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[4110-08-M]

BIOASSAY OF CUPFERRON FOR POSSIBLE CARCINOGENICITY

Availability of Report

Cupferron (CAS 135-20-6) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of cupferron for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an analytical reagent. Cupferron was administered in the feed, at either of two concentrations, to groups of 49 or 50 male and 50 female animals of each species.

Under the conditions of this bioassay cupferron was carcinogenic in Fischer 344 rats, causing hemangiosarcomas, hepatocellular carcinomas, and squamous-cell carcinomas of the forestomach in males and females as well as carcinomas of the auditory sebaceous gland in females. The chemical was also carcinogenic in B6C3F1 mice, causing hemangiosarcomas in males and hepatocellular carcinomas, carcinomas of the auditory sebaceous gland, a combination of hemangiosarcomas and hemangiomas, and adenomas of the Harderian gland in females.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30055 Filed 10-26-78; 8:45 am]

[4110-08-M]

BIOASSAY OF 1-PHENYL-2-THIOUREA FOR POSSIBLE CARCINOGENICITY

Availability of Report

1-Phenyl-2-thiourea (CAS 103-85-5) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 1-phenyl-2-thiourea for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include limited use as a rat killer and use in research for testing the sense of taste. 1-Phenyl-2-thiourea was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, 1-phenyl-2-thiourea was not carcinogenic to Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-30057 Filed 10-26-78; 8:45 am]

[4110-08-M]

BIOASSAY OF FORMULATED FENAMINOSULF FOR POSSIBLE CARCINOGENICITY

Availability of Report

Formulated fenaminosulf (CAS140-56-7) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of formulated fenaminosulf for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a fungicide. Fenaminosulf was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, dietary administration of formulated fenaminosulf was not carcinogenic in either Fischer 344 rats or B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

FR Doc. 78-30054 Filed 10-26-78; 8:45 am]

[4310-70-M]

DEPARTMENT OF THE INTERIOR

National Park Service

MOUNT RUSHMORE NATIONAL MEMORIAL, S. DAK.

Environmental Review for the Draft General Management Plan, Negative Declaration

In compliance with the National Environmental Policy Act of 1969, the National Park Service has prepared an environmental review based on an assessment of the alternatives for the General Management Plan for Mount Rushmore National Memorial, S. Dak. On the basis of the environmental review, the National Park Service has concluded that an environmental impact statement is not needed.

The environmental assessment and review are on file and available for inspection upon request at the Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, P.O. Box 25287, Denver, Colo. 80225, and at the Superintendent's Office, Mount Rushmore National Memorial, Keystone, S. Dak. 57751, for 30 days from the date of this notice. The assessment considers the nature of the resources, available alternatives, their impacts, mitigating values, adverse effects, a brief description of the alternative selected as the proposed action, and additional considerations that provide a basis for the conclusion that an environmental statement is not needed.

Anyone desiring to comment on the proposed action, the environmental assessment, or the environmental review should put the comments in writing and send them to the Regional Director at the above address during the 30-day review period.

The National Park Service intends to proceed with the draft general management plan at the end of the 30-day review period.

Dated: September 25, 1978.

JAMES B. THOMPSON,
Acting Regional Director,
Rocky Mountain Region.

[FR Doc. 78-30346 Filed 10-26-78; 8:45 am]

[4310-70-M]

CAPE HATTERAS NATIONAL SEASHORE

Special Use Permit Applications

PUBLIC HEARINGS TO BE HELD BY CAPE HATTERAS ELECTRIC MEMBERSHIP CORPORATION REGARDING APPLICATION FOR SPECIAL USE PERMIT FOR POWER TRANSMISSION LINE UPGRADING.

An environmental assessment examining the impacts of a proposal to upgrade the power transmission capability of the Cape Hatteras Electric Membership Corp. is available for inspection at the corporation's business office located ½ mile off N.C. 12 in Buxton, N.C. Interested persons also may receive a mailed synopsis of the proposal by writing or phoning Mr. Zane L. Gray, Manager, Cape Hatteras Electric Membership Corp., Buxton, N.C. 27920, telephone 919-995-2331. In addition, public hearings have been scheduled by the Cape Hatteras Electric Membership Corp. for the Federal Courtroom, Post Office Building, Second and Market Streets, Washington, N.C. on Wednesday, November 8 at 10 a.m. and for the Marine Resources Center, Roanoke Island, Manteo, N.C. on Thursday, November 9 at 10 a.m.

The corporation's description of the proposal is as follows:

The Cape Hatteras Electric Membership Corp. proposes to upgrade 15.9 miles of 34.5 kilovolt transmission line to 115 kilovolt transmission line. The proposed facilities include the construction of 2.5 miles of single concrete pole and foundation transmission line towers extending from the existing meter point with Virginia Electric and Power Co. on the north side of Oregon Inlet, across Oregon Inlet and along a path parallel to, and 500 feet west of, the Herbert C. Bonner Bridge.

The proposed facilities also include the upgrading of 13.4 miles of existing transmission line extending from the south side of Oregon Inlet to the Village of Rodanthe by adding new poles adjacent to existing poles and converting the pole top assemblies to enable the transmission of higher voltage.

The Cape Hatteras Electric Membership Corp. also proposes, by 1985, to upgrade the existing 23 miles of 34.5 kilovolt transmission line from Rodanthe to Buxton to 115 kilovolt capacity and, by 1987, to convert the existing take-off and metering structure on Bodie Island (north of Oregon Inlet) and the substations at Rodanthe, Avon and Buxton to 115 kilovolt capacity.

The corporation has asked the National Park Service for a Special Use Permit because some of the proposed upgrading would occur within the boundaries of Cape Hatteras National Seashore. The National Park Service has advised Cape Hatteras Electric Membership Corp. that the Service will not consider the application for a permit until the public has a chance to comment and until the National Park Service has thoroughly reviewed those comments.

Written and oral comment will be solicited at the hearings and, in addition, written comments will be received at the Cape Hatterras Electric Membership Corp. business office for 30 days following the last hearing. Persons wishing to testify at the hearings do not have to contact the hearing officer in advance. Duplicate written comments may be sent to the National Park Service, if this is desired. The address is: Superintendent, Cape Hatteras National Seashore, Manteo, N.C. 27954, telephone 919-473-2111.

Dated: October 17, 1978.

NEAL G. GUSE, Jr.,
Acting Regional Director,
Southeast Region

[FR Doc. 78-30347 Filed 10-26-78; 8:45 am]

[4510-29-M]
[4830-01-M]

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Proposed Exemption for Certain Transactions Involving Pension Trust Fund for Operating Engineers (Local 3) (Application No. D-729)

AGENCIES: Department of Labor, Department of the Treasury/Internal Revenue Service.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (the Agencies) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the purchase of lots pursuant to purchase-money financing, and long-term mortgage financing of improved real estate in the Rancho Murieta planned unit development, which transactions between the Pension Trust Fund for Operating Engineers (the Plan) or Rancho Murieta Properties Inc. (RMPI) and other persons otherwise would be prohibited because of provisions of the Act and the Code. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, RMPI, and any other person participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 27, 1978.

ADDRESS: All written comments and requests for a hearing (at least six copies) should be sent to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-729. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216, and at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Stephen Elkins of the Department of Labor, 202-523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of a proposed exemption from the restrictions of section 406(a)(1) and section 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A), 4975(c)(1)(B), 4975(c)(1)(C), and 4975(c)(1)(D) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 404(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

SUMMARY OF FACTS AND REPRESENTATIONS

The Plan is a multiemployer pension benefit plan for members of Local Union No. 3 of the International Union of Operating Engineers (Local 3). The Plan is governed by a board of trustees and Bank of America N.T. & S.A. (B.A.) is corporate cotrustee for the Plan. Among the assets of the Plan is a planned-unit residential housing development known as Rancho Murieta, consisting of 3,500 acres, which is located near Sacramento, Calif. The Rancho Murieta Development comprises 10 percent of the Plan's assets.

RMPI was formed by the Plan for the purpose of developing and marketing the homesites within Rancho Murieta. Accordingly, the Plan transferred $100,000 cash to RMPI and title to approximately 2,200 acres of land in return for 100 percent of RMPI's stock. Sales of lots within Rancho Murieta result in title passing from RMPI to each purchaser. The Plan has retained title to the remaining 1,300 acres in Rancho Murieta, and uses the land for purposes directly related to the planned unit development. The corporate directors of RMPI are the same individuals who serve as trustees for the Plan. Ray D. Henderson & Associates was retained

by RMPI to manage the properties

participants and beneficiaries, and protective of the rights of participants

Signed at Washington, D.C., this 23d day of October, 1978.

in 1976 to $85 million in 1977. U.S. imports increased from $46.6 million in the first 6 months of 1977 to $57.9 mil-

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by RMPI to manage the properties within Rancho Murieta. Henderson has created an affiliate, Murieta Sales Corp., which acts as exclusive broker for sales of lots in Rancho Murieta.

The Plan is involved in two types of loan transactions with respect to homesites sold and marketed within Rancho Murieta. The first type involves purchase money mortgages on unimproved lots; the second type involves mortgage loans to finance the construction of dwelling units on already purchased lots or the purchase of completed dwellings on builder-purchased lots.

Sales of unimproved lots in Rancho Murieta ordinarily are pursuant to purchase money mortgages, executed by the purchaser in favor of RMPI. Subject to a credit review by B.A., the mortgage loans are subsequently purchased by B.A. on behalf of the Plan from RMPI pursuant to a formal agreement to do so. The Bank of California services such purchase money mortgages.

Pursuant to a formal agreement with the Wells Fargo Bank, the Plan is also obligated to purchase certain mortgage loans, secured by improved property within Rancho Murieta. Such loans ordinarily arise as a consequence of the purchaser of an unimproved lot desiring to have a dwelling unit constructed upon his property within Rancho Murieta. Wells Fargo Bank provides construction financing for such dwelling unit, after appraisal of the property as it will be improved and an examination of the credit of the titleholder. The determinations of Wells Fargo Bank are reviewed by El Dorado Savings & Loan Association (El Dorado), an unrelated party, and by C. W. Sweeny & Co. (Sweeny), which is the fund manager for the Plan. Subject to a favorable determination by all parties, B.A. as trustee on behalf of the Plan agrees with Wells Fargo Bank to purchase the mortgage loan which Wells Fargo Bank then originates with respect to the titleholder, disbursing the funds as construction proceeds. The purchase money mortgage securing the unimproved property is retired before the permanent mortgage financing is closed. Wells Fargo Bank services the mortgage loans which are sold to the Plan. First American Title Co. provides escrow and recordation services pursuant to all the transactions.

The Plan also may provide permanent financing pursuant to mortgage loans on improved property within Rancho Murieta purchased from a builder who already has constructed a dwelling unit on a lot. The same appraisals and credit checks are required in such transactions as is the case where the titleholder seeks his own construction financing. Subject to a favorable determination by all the parties of the creditworthiness of the purchaser, B.A. as trustee on behalf of the Plan agrees to purchase the mortgage loan which Wells Fargo Bank originates.

Under the lending criteria established by B. A., RMPI, and Wells Fargo, loans ordinarily are not made for amounts greater than 80 percent of the purchase price with respect to purchase money mortgages on sales of unimproved lots, nor generally for amounts greater than 80 percent of either projected construction costs or appraised fair market value or selling price with respect to mortgage loans secured by improved property. In certain cases, such loans may be made for up to 90 percent of the appraisal value if the borrower obtains and pays the initial premium of a Mortgage Guaranty Insurance policy issued by Mortgage Guaranty Insurance Co., or other similar insurer approved by B. A., on 90 percent of the appraisal value, and if the interest rate payable is at least 8¾ percent annum on such 90 percent loan.

The unimproved lots are put on the market in batches or units. Prior to offering a unit of lots for sale, the floor price of each lot is determined by the RMPI and the Plan trustees on the basis of market considerations. Lots may be sold for more than the floor prices depending on subsequent market demand.

The proposed exemption, if granted, would allow persons who are parties in interest and disqualified persons with respect to the Plan to purchase lots within Rancho Murieta, and to execute purchase money mortgages securing such lots in favor of RMPI, in the same manner as such transactions are carried out with persons who are unrelated to the Plan. Also, the exemption would allow permanent mortgage financing to be carried out with respect to parties in interest and disqualified persons in the same manner as it is done with respect to persons who are unrelated to the Plan. Any such sales and financing would be upon the same terms, for the same price, pursuant to the same conditions, subject to the same determinations, and in all respects, would be no different from the manner in which such transactions are carried out with persons who are unrelated to the Plan.

Applicants asserted that many parties-in-interest and disqualified persons, including contributing employers and union members who for the most part have little or no direct contact with marketing of lots or unit housing construction within rancho Murieta, have expressed interest in purchasing homesites there. Applicants assert that the proposed exemption would be in the interests of the Plan and its participants and beneficiaries because it enlarges the potential group of homesite buyers, thus enabling the Plan sooner to achieve full return on its investments. Applicants assert that the exemption would be protective of participants' and beneficiaries' interests and rights because of the safeguards structured into the loan process arising from specific credit criteria and the several stages of loan application review that are employed. Finally, the exemption would be administratively feasible because the sales and loan mechanisms are already in operation and are structured in such a way as to preclude different treatment of parties in interest to the Plan compared to unrelated purchasers and borrowers.

NOTICE TO INTERESTED PERSONS

Notice of the proposed exemption will be provided to all participating employers and employer associations by mailing such notice to such persons' places of business. Notice to participants and beneficiaries of the Plan will be accomplished by publication in the Engineering News, the official publication of Local 3. Also, the notice of the proposed exemption will be posted on a bulletin board in the Job Placements Center of Local 3 for a period of 30 days following publication in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; not does it affect the requirements of section 401(a) of the Code that the Plan must operate for the exclusive benefit of employees of the employers maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(a)(2), section 406 (b)(1) or (b)(3) of the Act, and section 4975(c)(1) (E) and (F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Agencies must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARING REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the addresses set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Agencies are considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 and Rev. Proc. 75-26. If the exemption is granted, the restrictions of section 406(a)(1) and section 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1)(A), 4975(c)(1)(B), 4975(c)(1)(C), and 4975(c)(1)(D) of the code, shall not apply to sales of lots within Rancho Murieta, to purchase-money financing of such lot sales, and to permanent mortgage financing of improved real property within Rancho Murieta, when any such transaction is between the Plan and any person who is a party in interest or disqualified person with respect to the Plan, provided that any such transaction is upon the same terms, for the same price, pursuant to the same conditions, and subject to the same determinations as such transaction would be if it were with a person who was unrelated to the Plan.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 23d day of October, 1978.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

FRED J. OCHS.
Director, Employee Plans, Internal Revenue Service.

[FR Doc. 30351 Filed 10-26-78; 8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-3822]

ACME HAMILTON MANUFACTURING CORP., TRENTON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3822: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 5, 1978, which was filed by the United Rubber Workers on behalf of workers and former workers producing conveyor belts, hose and rubber sheeting at Acme Hamilton Manufacturing Corp., Trenton, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Acme Hamilton Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

U.S. imports of rubber and plastic hose and belting increased in value from $61 million in 1975 to $67 million in 1976 to $85 million in 1977. U.S. imports increased from $46.6 million in the first 6 months of 1977 to $57.9 million in the first 6 months of 1978. The ratio of U.S. imports of domestic production decreased from 5 percent in 1975 to 4.9 percent in 1976, then increased to 5.8 percent in 1977. The ratio of U.S. imports to domestic production increased from 6.3 percent in the first 6 months of 1977 to 7.1 percent in the first 6 months of 1978.

Customers surveyed who account for a significant proportion of Acme-Hamilton's sales of rubber products including hose and belts indicated that most do not import rubber products. Customers who decreased purchases from Acme Hamilton and increased import purchases in 1977 accounted for a very small percentage of Acme Hamilton's total sales decrease in 1977.

CONCLUSION

After careful review, I determine that all employees of the Acme Hamilton Manufacturing Corp., Trenton, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30433 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3611]

ALPO COAT, INC., HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3611: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' overcoats and some raincoats at Alpo Coat, Inc., Hoboken, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alpo Coat, Inc., its customers (manufacturers), customers of the manufacturers, the

U.S. Department of Commerce, the U.S. International Trade Commission,

The Notice of Investigation was published in the FEDERAL REGISTER on

Signed at Washington, D.C., this 17th day of October 1978.

in August 1978 the firm began importing finished balls from Haiti.

sistance, each of the group eligibility

The investigation was initiated on May 23, 1978 in response to a worker

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U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the manufacturers for which Alpo Coat, Inc., worked in 1976 and 1977. None of the manufacturers surveyed purchased imported ladies' coats or raincoats or used foreign contractors. One manufacturer who reduced purchases form Alpo Coat experienced a decline in sales of ladies' coats and raincoats. This manufacturer, however, represented a negligible portion of Alpo Coat's sales in 1977 and in 1978.

CONCLUSION

After careful review, I determine that all workers of Alpo Coat, Inc., Hoboken, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23d day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30434 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3581]

ALPS COAT, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3581: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Alps Coat, Inc., Paterson, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alps Coat, Inc., its customers (manufacturers), customers of the manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

Alps Coat, Inc., produced ladies' coats for only one manufacturer. This manufacturer did not purchase imported ladies' coats during the period under consideration. Purchases from Alps Coat were reduced as the manufacturer's sales of ladies' coats declined. Customers of the manufacturer were surveyed regarding their purchases of ladies' coats. Customers representing a significant portion of the manufacturer's sales in 1976 and 1977 decreased purchases from the manufacturer and increased purchases of imported ladies' coats in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Alps Coat, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of Alps Coat, Inc., Paterson, N.J., who become totally or partially separated from employment on or after April 25, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30435 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-4002]

AMF INC., HOFRAN DIVISION, TAMPA, FLA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4002: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 27, 1978 which was filed by the Retail, Wholesale, and Department Store Union on behalf of workers and former workers producing leather covered and rubber covered baseballs and softballs at the Hofran Division of AMF Inc., Tampa, Fla. The investigation revealed that the Hofran Division was also engaged in the production of synthetic covered baseballs and softballs.

The notice of investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Hofran Division of AMF Inc., its customers, other manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

United States imports of baseballs and softballs increased from 22,071 thousand units in 1975, to 27,714 thousand units in 1976, and to 30,336 thousand units in 1977

Imports relative to production increased from 439.1 percent in 1975, to 468.2 percent in 1976, and 703.0 percent in 1977.

Layoffs of workers from the Hofran Division were due in part to lost sales resulting from increased import competition, and in part from an increase in the value of work performed by Hofran's offshore contractors relative to Hofran's sales increased in the first three quarters of 1978 compared to the same period in 1977. Furthermore,

in August 1978 the firm began importing finished balls from Haiti.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather covered, rubber covered, and synthetic covered baseballs and softballs produced at the Hofran Division of AMF Inc., Tampa, Fla., contributed importantly to the decline in sales of production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Hofran Division of AMF Inc., Tampa, Fla., who became totally or partially separated from employment on or after July 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30436 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3812]

ARTHUR WINER, INC., GARY, IND., AND PETERSBURG, VA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3812: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 5, 1978 in response to a worker petition received on May 25, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's dress slacks at Arthur Winer, Inc., Gary, Ind. The investigation was expanded to include the Petersburg, Va. plant of Arthur Winer, Inc.

The Notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498-26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Arthur Winer, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all the requirements have been met.

U.S. imports of men's and boys' dress and sport trousers and shorts increased absolutely in 1976 from 1975, in 1977 from 1976, and increased in the first quarter of 1978 compared to the first quarter of 1977. The ratio of imports to domestic production was 40.9 percent in 1976 and 38.0 percent in 1977.

A survey of the customers of Arthur Winer indicated that customers of Arthur Winer, Inc. increased purchases of imports and decreased purchases from the subject firm in 1977 compared to 1976.

On March 26, 1976 the Department issued a certification of eligibility to apply for adjustment assistance applicable to all workers of Arthur Winer, Inc., Gary, Ind. (TA-W-735). That certification remained in effect until March 26, 1978—2 years from its date of issuance.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress slacks produced at Arthur Winer, Inc., Gary, Ind. and Petersburg, Va. contributed importantly to the decline in sales or production and to the total or partial separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Arthur Winer, Inc., Gary, Ind. who became totally or partially separated from employment on or after March 26, 1978, and all workers of Arthur Winer, Inc., Petersburg, Va., who became totally or partially separated from employment on or after May 18, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30437 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3743]

BIG YANK CORP., TYRONE, PA.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3743: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 23, 1978 in response to a worker petition received on May 15, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's work pants and shirts at the Tyrone, Pa. plant of Big Yank Corp.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-4). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Big Yank Corp., its customers, the National Cotton Council of America, the American Textile Manufacturers' Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing work shirts, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of some customers of Big Yank Corp. was conducted by the Department. The survey indicated that customers who had reduced purchases of work shirts from Big Yank did not increase purchases of imported work shirts in the period 1976 through March 1978.

With respect to workers producing work pants, all of the group eligibility requirements of section 222 of the Act have been met.

U.S. imports of men's and boys' woven cotton and man-made fiber work trousers and one-piece suits increased from 9.2 million units in 1976 to 50.6 million units in 1977, and increased from 23.4 million units in the first quarter of 1977 to 28.9 million units in the first quarter of 1978. The ratio of imports to domestic production inceased from 2.9 percent in 1976 to 15.4 percent in 1977.

The Department's survey of Big Yank Corp.'s coustomers indicated that some customers had reduced purchases of imported work pants from Big Yank and increased purchases of imported work pants in 1977 compared to 1976.

CONCLUSIONS

Council of America, industry analysts, and Department files.

TA-W-3292: investigation regarding certification of eligibility to apply for

[4510-28-M]

plant of Cleaners Hanger Co. are denied eligibility to apply for adjust-

Imports of pocket knives by Cooper-Wiss increased from 1976 to 1977, and again increased during the first 6

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CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with work pants produced at the Tyrone, Pa. plant of Big Yank Corp. contributed importantly to the decline in sales or production and to the total or partial separations of workers at that plant. In accordance with the provisons of the act, I make the following certification:

All workers engaged in employment related to the production of work pants at the Tyrone, Pa. plant of Big Yank Corp. who became totally or partially separated from employment on or after May 11, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in employment related to the production of work shirts at the Tyrone, Pa. plant of Big Yank Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30438 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3662]

C & M COAT CO., INC., UNION CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3662: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at C & M Coat Co., Inc., Union City, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of C & M Coat Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which C & M Coat Co., Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases of ladies' coats from C & M Coat Co., Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in the first quarter of 1977 reduced purchases of ladies' coats from C & M Coat Co., Inc. and increased purchases of imported ladies' coats in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at C & M Coat Co., Inc., Union City, N.J. contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of C & M Coat Co., Union City, N.J. who became totally or partially separated from employment on or after April 25, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30439 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3292]

CAMBRIDGE TAILORING CO., BALTIMORE, MD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3292: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 2, 1978 in response to a worker petition received on February 21, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's tailored clothing at the Cambridge Tailoring Co., Baltimore, Md.

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Cambridge Tailoring Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Cambridge Tailoring Co. is a manufacturer of men's custom-tailored suits. The suits are produced by Cambridge Tailoring for its customers which are retail custom tailor shops. A survey of these tailor shops revealed that virtually all sold only custom-made suits and did not fit customers for imported suits during the period 1975 through 1977.

CONCLUSION

After careful review I determine that all workers at the Cambridge Tailoring Co., Baltimore, Md. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30440 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-4004]

CLEANERS HANGER CO., PUEBLO, COLO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4004: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 27, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel wire and rod products at Cleaner & Hanger Co., Brenham, Tex. The investigation revealed that the correct name of the firm is Cleaners Hanger Co., and that the petition in fact applied to former workers producing wire coat hangers at the Pueblo, Colo. plant of Cleaners Hanger Co.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-35131). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Cleaners Hanger Co., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The closure of the Pueblo, Colo. plant of Cleaners Hanger Co. resulted from a decision by firm officials to transfer production to a newly-established company plant in Brenham, Tex., which is closer to the firm's market as well as its suppliers. Total sales by Cleaners Hanger Co., including sales of hangers produced at all seven of the firm's plants, increased in quantity and value in 1977 compared to 1976 and in the first 8 months of 1978 compared to the same period in 1977. Company sales continued to increase following the closure of the Pueblo plant in May 1978.

CONCLUSION

After careful review, I determine that all workers of the Pueblo, Colo. plant of Cleaners Hanger Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30441 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3294]

COOPER-WISS (FORMERLY J. WISS & SONS CO.), MAPLEWOOD DIVISION, MAPLEWOOD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3294: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 2, 1978 in response to a worker petition received on February 24, 1978 which was filed by Local 262 of the AFL-CIO on behalf of workers and former workers producing scissors, knives, metal masters, snips, shears, pinking shears, and garden tools at the Newark Division and Maplewood Division of Cooper-Wiss (formerly J. Wiss & Sons Co). This investigation was concerned with the Maplewood Division, Maplewood, N.J. A separate investigation was instituted to cover the Newark Division (see TA-W-3293).

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Copper-Wiss, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

United States imports of pocket knives increased from 8.5 million units in 1976 to 9.7 million units in 1977, and increased from 3.5 million units during the first 3 months of 1978 compared with 2.0 million units for the same period in 1977. The imports to domestic production ratio for pocket knives increased from 46.2 percent in 1976 to 50.1 percent in 1977.

Imports of pocket knives by Cooper-Wiss increased from 1976 to 1977, and again increased during the first 6 months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pocket knives produced at the Maplewood Division of Cooper-Wiss (formerly J. Wiss & Sons), Maplewood, N.J., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Maplewood Division of Cooper-Wiss (formerly J. Wiss & Sons Co.), Maplewood, N.J. who became totally or partially separated from employment on or after December 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30443 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3293]

COOPER-WISS (FORMERLY J. WISS & SONS CO.), NEWARK DIVISION, NEWARK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3293: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 2, 1978 in response to a worker petition received on February 24, 1978 which was filed by Local 262 of the AFL-CIO on behalf of workers and former workers producing scissors, knives, metal masters, snips, shears, pinking shears and garden tools at the Newark Division and Maplewood Division of Cooper-Wiss (formerly J. Wiss & Sons Co.), N.J. This investigation was concerned with the Newark Division, Newark, N.J. A separate investigation was instituted to cover the Maplewood Division (see TA-W-3294).

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11276). No public hearing was requested and none was held.

The information upon which the determination was made was obtained

principally from officials of Cooper-

sistance as prescribed in section 222

Stanley Blacker, Inc. The results of this survey indicated only relatively

requirements of section 222 of the Act must be met. Without regard to

March 14, 1978 (43 FR 10650). No public hearing was requested and none

and Atomic Workers Union on behalf of workers and former workers pro-

ducing anhydrous ammonia at the

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principally from officials of Cooper-Wiss, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

Employment of production workers increased in 1977 compared to 1976 and remained constant in 1978 compared to 1977. Average quarterly employment increased in every quarter compared to the same quarter of the previous year beginning with all of 1977 through the first quarter of 1978. Average weekly hours followed a trend similar to employment. There have been no significant partial separations of workers in 1977 and 1978.

Cooper-Wiss announced that during the second quarter of 1978, shutdown and relocation procedures would begin at the Newark Division of Cooper-Wiss, Newark, N.J. to a company plant in Georgia.

CONCLUSIONS

After careful review I determine that all workers of the Newark Division of Cooper-Wiss (formerly J. Wiss & Sons Co.), Newark, N. J. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed in Washington, D.C. this 20th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30442 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3352, 3355, and 3356]

COORDINATED TROUSERS, INC. (TA-W-3352), PATGAT CLOTHES, INC. (TA-W-3355), STANLEY BLACKER, INC. (TA-W-3356), PHILADELPHIA, PA.

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3352, 3355, and 3356: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigations were intitiated on March 15, 1978 in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing tailored clothing at Stanley Blacker, Inc. (TA-W-3356); Patgat Clothes, Inc. (TA-W-3355); and Coordinated Trousers, Inc. (TA-W-3352). All three firms are or were located at the same address in Philadelphia.

Workers at these firms were certified eligible to apply for trade adjustment assistance on January 27, 1976 as a result of an earlier petition and subsequent investigation (TA-W-248). That certification expired on January 27, 1978.

The Notice of Investigations was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14774 and 14775). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Stanley Blacker, Inc., its customers, Patgat Clothes, Inc. and Coordinated Trousers, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make and affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any other criteria have been met, the following criterion has not been met

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Stanley Blacker, Inc. is a manufacturer producing various men's and women's fine clothing. Patgat Clothes, Inc. and Coordinated Trousers, Inc. were exclusive contractors for Stanley Blacker, Inc. and all have the same ownership.

Evidence developed during the course of the investigation revealed that imports of men's and boys' tailored suits decreased to 1,913,000 units in the first 6 months of 1978 compared to 2,400,000 in the first 6 months of 1977. Imports of men's and boys' tailored dress coats and sportcoats decreased to 3,237,000 units in the first 6 months of 1978 compared to 3,537,000 units in the first 6 months of 1977. These items make up the majority of production at the subject firms.

In addition, the Department conducted a survey of some customers of Stanley Blacker, Inc. The results of this survey indicated only relatively minor influence of imports of men's and boys' tailored clothing. Only two customers had increased purchases of imports during the same period they were decreasing purchases from Stanley Blacker. These two customers accounted for a small percentage of Stanley Blacker's sales. The majority of firms indicated that imported products had not affected their purchases from domestic producers.

CONCLUSION

After careful review I determine that all workers of the Philadelphia, Pa. plants of Stanley Blacker, Inc.; Patgat Clothes, Inc.; and Coordinated Trousers, Inc. are denied eligibility to apply for trade adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30444 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3172]

DIRZIS PRODUCTS CO., INC., RICHMOND HILLS, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3172: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's and boys' tailored clothing at Dirzis Products Co., Inc., Richmond Hill, N.Y. During the course of the investigation, it was established that the company also produces ladies' vests and blazers.

The Notice of Investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained upon information obtained principally from officials of Dirzis Products Co., Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

On April 19, 1976, the employees of Dirzis Products Company, Inc. were certified as eligible to apply for trade adjustment assistance (TA-W-621). This certification expired on April 19, 1978. Employment of workers at Dirzis Products Co., Inc. increased since the expiration of the original certification. The average number of workers and average weekly hours worked in the second and third quarters of 1978 increased when compared with the same quarters of 1977. There is no immediate threat of total or partial separation to the workers of Dirzis Products.

CONCLUSION

After careful review, I determine that all workers at Dirzis Products Co., Inc., Richmond Hill, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30445 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3229]

DOVER CONVEYOR & EQUIPMENT CO., INC., MIDVALE, OHIO, GNADENHUTTEN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA—W—3229: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 23, 1978 in response to a worker petition received on February 7, 1978 which was filed on behalf of workers and former workers producing mine conveyors and other types of equipment at the Midvale, Ohio plant of Dover Conveyor & Equipment Co., Inc. The investigation revealed that the plant primarily produces mine conveyors, mine hoists and parts for them and that it also owns and operates a plant at Gnadenhutten, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Dover Conveyor & Equipment Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirments of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales of production.

Industry sources indicate that U.S. imports of mine conveyors and mine hoists are negligible.

The Department surveyed some of the customers of Dover Conveyor & Equipment Co. the survey indicated that none of the customers purchased imported mine conveyors, mine hoists or bucket elevators. Customers also indicated that they were unaware of any import influence in this market.

CONCLUSION

After careful review, I determine that all workers at the Midvale and Gnadenhutten, Ohio plants of Dover Conveyor & Equipment Co., Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30446 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-4026]

FARMLAND INDUSTRIES, INC., FORT DODGE, IOWA

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4026: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 2, 1978 in response to a worker petition received on July 28, 1978 which was filed by the Oil Chemical and Atomic Workers Union on behalf of workers and former workers producing anhydrous ammonia at the Fort Dodge, Iowa plant of Farmland Industries, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Farmland Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of anhydrous ammonia increased from 730,000 tons in 1976 to 1,078,000 tons in 1977. Imports decreased to 590,000 tons in the first 6 months of 1978 compared to 614,000 tons for the same 1977 period. The ratio of imports to domestic production increased from 4.3 percent in 1976 to 6.2 percent in 1977 and decreased to 6.9 percent in the first six months of 1978 compared to 7.2 percent for the same 1977 period.

The Department conducted a survey of some of the customers purchasing anhydrous ammonia from the Fort Dodge, Iowa plant of Farmland Industries, Inc. accounting for a substantial portion of sales in 1977. Most respondents indicated that they did not purchase imported anhydrous ammonia in 1977 or in the first half of 1978.

CONCLUSION

After careful review, I determine that all workers of the Fort Dodge, Iowa plant of Farmland Industries, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30447 Filed 10-26-78; 8:45 am]

[4510-28-M]

CONCLUSION

The Department surveyed the manufacturers for which Marie Coats

separations, or threat thereof, and to the absolute decline in sales or production.

Signed at Washington, D.C., this 20th day of October 1978.

Hoboken, N.J. are denied eligibility to apply for adjustment assistance under

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[TA-W-2933]

INTERLAKE, INC., RIVERDALE, ILL.

Negative Determination Regading Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2933: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 17, 1978 in response to a worker petition received on December 19, 1977 which was filed by the United Steelworkers of American on Behalf of workers and former workers producing flat rolled products, packaging materials and all other steel products at the Riverdale, Ill. plant of Interlake, Inc. The investigation revealed that the plant produces hot and cold rolled steel sheet and strip, and packaging material which consists primarily of metallic strapping.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4696). No public hearing was requested and none was held.

On October 21, 1977, the Department denied the workers of the Riverdale, Ill. plant of Interlake, Inc. eligibility to apply for adjustment assistance (TA-W-1475).

The determination was based upon information obtained principally from officials of Interlake, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility of apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers employed at the Riverdale, Ill. plant of Interlake, Inc. increased in 1977 compared to 1976, and increased in the first 8 months of 1978 compared to the same period of 1978. Average weekly hours worked per employee did not change significantly during this period. There is no immediate threat of separation to workers at the Riverdale plant.

CONCLUSION

After careful review, I determine that all workers of the Riverdale, Ill, plant of Interlake, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30448 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3640]

MARIE COATS AND SUITS, INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3640: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former worker producing ladies' coats and suits at Marie Coats and Suits, Inc., Passaic, N.J. During the course of the investigation it was revealed that workers at Marie Coats produce women's coats and blazers.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Marie Coats and Suits, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed the manufacturers for which Marie Coats worked in 1976, 1977 and the first 5 months of 1978. None of these manufacturers reduced purchases from the subject firm and increased purchases of imported women's coats and blazers during the period under investigation. These manufacturers increased sales during this period.

CONCLUSION

After careful review, I determine that all workers of the Passaic, N.J. plant of Marie Coats and Suits, Inc. be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30449 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-2927]

NELLY DON, INC., NEVADA, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2927: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 12, 1978 in response to a worker petition received on December 29, 1977, which was filed on behalf of workers and former workers producing ladies' dresses and sportswear at Nelly Don, Inc., Nevada, Mo.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Nelly Don, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's skirts decreased from 791 thousand dozen in 1976 to 654 thousand dozen in 1977. During the first quarter of 1978 imports increased to 296 thousand dozen from 103 thousand dozen in the same quarter of 1977. The ratio of imports to domestic production decreased from 14.2 percent in 1976 to 10.5 percent in 1977.

U.S. imports of women's, misses' and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. During the first quarter of 1978 imports decreased 3.0 percent compared to the same quarter of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 11,040 thousand dozen in 1976 to 11,622 thousand dozen in 1977. During the first quarter of 1978 imports increased to 4,545 thousand dozen compared to 3,374 thousand dozen for the same quarter of 1977. The ratio of imports to domestic production increased from 36.8 percent in 1976 to 38.0 percent in 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased from 30,273 thousand dozen in 1976 to 30,849 thousand dozen in 1977. During the first quarter of 1978 imports increased to 10,186 thousand dozen from 8,280 thousand dozen the same quarter of 1977. The ratio of imports to domestic production decreased from 70.3 percent in 1976 to 69.7 percent in 1977.

U.S. imports of women's, misses' and children's dresses decreased from 1,614 thousand dozen in 1976 to 1,420 thousand dozen in 1977. During the first quarter of 1978 imports increased to 403 thousand dozen from 371 thousand dozen the same quarter of 1977. The ratio of imports to domestic production decreased from 8.0 percent in 1976 and to 6.7 percent in 1977.

A survey of Nelly Don's customers in 1976 and 1977 revealed that most customers did not purchase imported women's skirts, jackets, slacks, blouses or dresses.

CONCLUSION

After careful review, I determine that all workers of Nelly Don, Inc., Nevada, Mo., be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30450 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3625]

RAIN ROSE, INC., HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3625: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at Rain Rose, Inc., Hoboken, N.J. The investigation revealed that Rain Rose also produced ladies' winter coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rain Rose, Incorporated, its customers (manufacturers), industry analysts, Department files, the U.S. International Trade Commission, and the U.S. Department of Commerce.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the one manufacturer for whom Rain Rose, Inc. worked in 1976 and 1977. That manufacturer did not purchase imports of ladies' coats or rainwear or use foreign contractors during this period. Sales of the manufacturer increased from 1976 to 1977.

CONCLUSION

After careful review, I determine that all workers of Rain Rose, Inc., Hoboken, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30456 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3570]

RAYMOND INTERNATIONAL, INC., METAL PRODUCTS FACILITY, BALTIMORE, MD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3570: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 19, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel construction pilings at the Metal Products Facility, Raymond International, Inc., Baltimore, Md.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068-21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Raymond International, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of major bids lost by Raymond International on steel piling projects revealed no projects in which imported pilings were used in favor of pilings produced by the Metal Products Facility of Raymond International.

CONCLUSION

After careful review, I determine that all workers of the Riverdale, Ill. plant of Interlake, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30448 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3640]

MARIE COATS AND SUITS, INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3640: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former worker producing ladies' coats and suits at Marie Coats and Suits, Inc., Passaic, N.J. During the course of the investigation it was revealed that workers at Marie Coats produce women's coats and blazers.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Marie Coats and Suits, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed the manufacturers for which Marie Coats worked in 1976, 1977 and the first 5 months of 1978. None of these manufacturers reduced purchases from the subject firm and increased purchases of imported women's coats and blazers during the period under investigation. These manufacturers increased sales during this period.

CONCLUSION

After careful review, I determine that all workers of the Passaic, N.J. plant of Marie Coats and Suits, Inc. be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30449 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-2927]

NELLY DON, INC., NEVADA, MO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2927: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 12, 1978 in response to a worker petition received on December 29, 1977, which was filed on behalf of workers and former workers producing ladies' dresses and sportswear at Nelly Don, Inc., Nevada, Mo.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Nelly Don, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's skirts decreased from 791 thousand dozen in 1976 to 654 thousand dozen in 1977. During the first quarter of 1978 imports increased to 296 thousand dozen from 103 thousand dozen in the same quarter of 1977. The ratio of imports to domestic production decreased from 14.2 percent in 1976 to 10.5 percent in 1977.

U.S. imports of women's, misses' and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. During the first quarter of 1978 imports decreased 3.0 percent compared to the same quarter of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 11,040 thousand dozen in 1976 to 11,622 thousand dozen in 1977. During the first quarter of 1978 imports increased to 4,545 thousand dozen compared to 3,374 thousand dozen for the same quarter of 1977. The ratio of imports to domestic production increased from 36.8 percent in 1976 to 38.0 percent in 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased from 30,273 thousand dozen in 1976 to 30,849 thousand dozen in 1977. During the first quarter of 1978 imports increased to 10,186 thousand dozen from 8,280 thousand dozen the same quarter of 1977. The ratio of imports to domestic production decreased from 70.3 percent in 1976 to 69.7 percent in 1977.

U.S. imports of women's, misses' and children's dresses decreased from 1,614 thousand dozen in 1976 to 1,420 thousand dozen in 1977. During the first quarter of 1978 imports increased to 403 thousand dozen from 371 thousand dozen the same quarter of 1977. The ratio of imports to domestic production decreased from 8.0 percent in 1976 and to 6.7 percent in 1977.

A survey of Nelly Don's customers in 1976 and 1977 revealed that most customers did not purchase imported women's skirts, jackets, slacks, blouses or dresses.

CONCLUSION

After careful review, I determine that all workers of Nelly Don, Inc., Nevada, Mo., be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30450 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3625]

RAIN ROSE, INC., HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3625: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at Rain Rose, Inc., Hoboken, N.J. The investigation revealed that Rain Rose also produced ladies' winter coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rain Rose, Incorporated, its customers (manufacturers), industry analysts, Department files, the U.S. International Trade Commission, and the U.S. Department of Commerce.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the one manufacturer for whom Rain Rose, Inc. worked in 1976 and 1977. That manufacturer did not purchase imports of ladies' coats or rainwear or use foreign contractors during this period. Sales of the manufacturer increased from 1976 to 1977.

CONCLUSION

After careful review, I determine that all workers of Rain Rose, Inc., Hoboken, N.J. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30456 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3570]

RAYMOND INTERNATIONAL, INC., METAL PRODUCTS FACILITY, BALTIMORE, MD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3570: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 19, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel construction pilings at the Metal Products Facility, Raymond International, Inc., Baltimore, Md.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068-21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Raymond International, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of major bids lost by Raymond International on steel piling projects revealed no projects in which imported pilings were used in favor of pilings produced by the Metal Products Facility of Raymond International.

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CONCLUSION

After careful review, I determine that workers of Metal Products Facility, Raymond International, Inc., Baltimore, Md. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc 78-30457 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3795]

SHUTZER INDUSTRIES INC., LAWRENCE, MASS.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3795: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 31, 1978 in response to a worker petition received on May 15, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of leather coats at the Lawrence, Mass. plant of Shutzer Industries, Inc. During the course of the investigation, it was established that the petition was filed on behalf of those workers at the Lawrence, Mass plant of Shutzer Industries, Inc. who are engaged in employment related solely to the production of leather coats by Shutzer Manufacturing Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Shutzer Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. With respect to workers engaged in employment related to the production of outerwear and sportswear (excluding leather coats), without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed during the course of the investigation revealed that employment at Shutzer Industries Inc. increased 6 percent in 1977 compared to 1976 and increased 9.6 percent during the first half of 1978 compared to the first half of 1977. Weekly hours worked remained relatively stable. There is no immediate threat of separations to workers of Shutzer Industries.

With respect to workers engaged in employment related to the production of leather coats, all of the group eligibility requirements of section 222 of the act have been met.

U.S. Imports of leather coats and jackets increased from $177.8 million in 1976 to $186.4 million in 1977. Imports for the first quarter of 1978 were $37.2 million but a change in the recording method prevents a meaningful year-to-prior-year comparison. The ratio of imports to domestic production decreased from 96.3 percent in 1976 to 85.3 percent in 1977.

The petition was filed on behalf of workers who were salaried supervisors of Shutzer Manufacturing Co., Inc. but who were paid by Shutzer Industries Inc. Shutzer Manufacturing Co., Inc. produces leather coats and is an independent affiliate of Shutzer Industries Inc. In a determination (TA-W-2278) issued on February 21, 1978, workers producing leather coats at Shutzer Manufacturing Co., Inc. of Lawrence, Mass. were certified eligible to apply for adjustment assistance benefits. Salaried workers of Shutzer Industries Inc. who were engaged in employment related to the production of leather coats at Shutzer Manufacturing Co., Inc. were laid off but did not receive benefits under the certification in TA-W-2278.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with leather coats produced at the Shutzer Manufacturing Co., Lawrence, Mass. affiliate plant of Shutzer Industries Inc. contributed importantly to the decline in production and to the total or partial separations of workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of leather coats at the Shutzer Manufacturing Lawrence, Mass affiliate plant of Shutzer Industries Inc. who became totally or partially separated from employment on or after May 12, 1977 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

I further determine that workers at Shutzer Industries Inc. engaged in employment not related to the production of leather outerwear and sportswear are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 19th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30458 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3868]

SPN SPORTSWEAR CO., INC., MOUNT PLEASANT, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3868: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 15, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's sportswear and dresses at SPN Sportswear Co., Inc., Mount Pleasant, Pa. The investigation revealed that the plant primarily produces women's sportswear and dresses.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of SPN Sportswear Co., Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers increased from 1976 to 1977 and increased in the first half of 1978 compared to the same period of 1977. Employment increased every quarter from the second quarter of 1977 to the second quarter of 1978 compared to the same quarter of the previous year. There were no significant partial separations in 1977. Average hours per worker increased in the first half of 1978 compared to the same period of 1977. There is no immediate threat of separation to workers of SPN Sportswear Co.

CONCLUSION

After careful review, I determine that all workers of SPN Sportswear Co., Inc., Mount Pleasant, Pa., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed in Washington, D.C. this 19th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30459 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3877]

STAR SPORTSWEAR MANUFACTURING CORP., LYNN, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3877: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 20, 1978, in response to a worker petition received on June 19,. 1978, which was filed on behalf of workers and former workers producing men's leather outerwear at Star Sportswear Manufacturing Corp., Lynn, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

On July 21, 1976, the Department certified the workers of Star Sportswear Manufacturing Corp., Lynn, Mass., eligible to apply for adjustment assistance (TA-W-694). The certification expired on July 21, 1978.

The information upon which the determination was made was obtained principally from officials of Star Sportswear Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of such firm or subdivision have decreased absolutely.

The Department's investigation revealed that both sales and production of leather coats increased in terms of quantity and value in the first 8 months of 1978 compared to the same period of 1977.

CONCLUSION

After careful review, I determine that all workers of Star Sportswear Manufacturing Corp., Lynn, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30460 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3645]

VAL JON CORP., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3645: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' winter coats at the Val Jon Corp., Passaic, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Val Jon Corp., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the manufacturers for which Val Jon worked in 1976, 1977, and the first 5 months of 1978. The manufacturers who reduced purchases from Val Jon experienced increased sales of ladies' coats during the period under consideration. None of these manufacturers imported women's coats in 1977 or in the first quarter of 1978.

CONCLUSION

After careful review, I determine that all workers of Val Jon Corp., Passaic, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of October, 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30461 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-3770]

VICTORIA FASHION, INC., SPRINGFIELD, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3770: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978, in response to a worker petition received on May 16, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's apparel at Victoria Fashion, Inc., Springfield, Mass. The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The information upon which the determination was made was obtained

principally from officials of Victoria Fashion, its customers, the U.S. De-

ion, Inc., Springfield, Mass., are denied eligibility to apply for adjustment as-

quarter of 1978. U.S. imports of women's, misses', and children's coats

Youngstown Sheet and Tube Co. located in East Chicago, Ind.

of tin plate increased to 9.3 percent in 1977 compared to 6.4 for 1976.

[4510-28-M]

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principally from officials of Victoria Fashion, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirments of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales of production.

Imports of women's and misses' dresses decreased 11 percent from 1976 to 1977. The ratio of imports to domestic production declined from 4.6 percent in 1976 to 4.0 percent in 1977.

Imports of women's, misses', and children's skirts declined 17 percent from 1976 to 1977. The ratio of imports to domestic production declined from 14.2 percent in 1976 to 10.5 percent in 1977.

Imports of women's, misses', and children's suits declined 6 percent from 1976 to 1977. The ratio of imports to domestic production declined from 11.4 percent in 1976 to 10.5 percent in 1977.

Imports of women's, misses', and children's coats and jackets increased 21 percent from 1976 to 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

Imports of women's, misses', and children's blouses and shirts increased 2 percent from 1976 to 1977. The ratio of imports to domestic production declined from 70.3 percent in 1976 to 69.7 percent in 1977.

Victoria Fashion was primarily engaged in the production of ladies' suits and dresses during 1976 and in the first quarter of 1977. All of these garments were produced under contract to one manufacturer during this time. The manufacturer which employed Victoria during 1976 discontinued the contract because that manufacturer began production at its own plant in 1977. That same manufacturer did not use foreign contractors, nor did it import directly, at any time during the survey period, from 1976 through March, 1978.

Victoria subsequently has worked for different manufacturers since that time. These manufacturers did not purchase imported clothing during the survey period.

Conclusion

After careful review, I determine that all workers at the Victoria Fashion, Inc., Springfield, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30462 Filed 10-26-78; 8:45 am]

[4510-28-M]

[TA-W-2917]

WAY MANUFACTURING CO., ROCKLAND, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2917: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 11, 1978, in response to a worker petition received on December 19, 1977, which was filed on behalf of workers and former workers producing women's sportswear at Way Manufacturing Co., Rockland, Mass. The investigation revealed that women's slacks, skirts, and blazers are produced.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Way Manufacturing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's slacks increased from 11,040 thousand dozen in 1976 to 11,622 thousand dozen in 1977 and from 3,374 thousand dozen in the first quarter of 1977 to 4,545 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 36.8 percent in 1976 to 38.0 percent in 1977. U.S. imports of women's, misses', and children's skirts decreased from 791 thousand dozen in 1976 to 654 thousand dozen in 1977 and increased from 103 thousand dozen in the first quarter of 1977 to 296 thousand dozen in the first quarter of 1978. U.S. imports of women's, misses', and children's coats and jackets, which includes blazers, increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977. Imports decreased from 590 thousand in the first 3 months of 1977 to 572 thousand in the same period in 1978.

The Department conducted a survey of customers of Way Manufacturing Co. who had decreased purchases from 1976 to 1977. Respondents indicated that they had increased purchases of imported women's slacks, skirts, and blazers.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's slacks, skirts, and blazers produced at Way Manufacturing Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certifications:

All workers of Way Manufacturing Company, Rockland, Massachusetts, who became totally or partially separated from employment on or after April 8, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23d day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30464 Filed 10-26-78; 8:45 am]

[4510-28]

[TA-W-3067]

YOUNGSTOWN SHEET & TUBE CO., INDIANA HARBOR WORKS, EAST CHICAGO, IND.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3067: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation ws initiated on February 6, 1978 in response to a worker petition received on January 17, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing tin mill products, hot and cold rolled carbon steel sheet and strip, galvanized sheet and steel bar and bar products at the Indiana Harbor Works of Youngstown Sheet and Tube Co. located in East Chicago, Ind.

On November 8, 1977 the Department issued a Certification of Eligibility to Apply for Adjustment Assistance (TA-W-1463) for all workers engaged in employment related to the production of steel plate and pipe and tubing at the East Chicago, Indiana plant of Youngstown Sheet and Tube Co. who became totally or partially separated from employment on or after November 1, 1975.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Youngstown Sheet and Tube Co., its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirments of section 222 of the Act must be met. With respect to workers producing galvanized steel sheet, steel bar and bar products, and hot and cold rolled carbon steel sheet and strip, without regard to whether any of the other criteria have been met the following criterion has not been met:

That sales or production, or both, of the firm or appropriate subdivision have decreased absolutely.

The investigation revealed that company sales and production of galvanized carbon steel sheets increased in terms of both quantity and value in each successive quarter of 1977 compared to he same quarter of 1976 and in the first quarter of 1978 compared to the first quarter of 1977.

Company sales and production of hot rolled carbon steel sheet and strip increased in terms of both quantity and value in 1977 compared to 1976 and in the first quarter of 1978 compared to the first quarter of 1977.

The petitioner's plant has not produced bar or bar products since January 1976. Section 223(b)(1) of the Trade Act of 1974 states that a certification shall not apply to workers separated more than 1 year before the date of the petition. The effective date of the petition was January 16, 1978.

With respect to workers producing tin mill products and metallurgical coke, all of the group eligibility requirements of section 222 of the Act have been met.

U.S. imports of tin plate were 407.1 thousand tons in 1975 and 309.3 thousand tons in 1976. In 1977 imports increased to 444.1 thousand tons. The ratio of imports to domestic shipments of tin plate increased to 9.3 percent in 1977 compared to 6.4 for 1976.

U.S. imports fo metallurgical coke were 1,819 thousand short tons in 1975 and 1,311 thousand short tons in 1976. Imports increased to 1,829 thousand short tons in 1977, and in the first quarter of 1978 imports increased to 457 thousand short tons compared to 113 thousand short tons in the first quarter of 1977. The ratio of imports to domestic shipments increased to 3.42 percent in 1977 compared to 2.25 percent in 1976 and increased to 5.03 percent in the first quarter of 1978 compared to 0.84 percent in the first quarter of 1977.

Customers surveyed by the Department increased imports of tin products while decreasing purchases of the same from Youngstown Sheet and Tube Co. in 1977 compared to 1976 and in the first quarter of 1978 compared to the same quarter of 1977. Several customers indicated that imports of tin products have affected U.S. markets in terms of price, supply, production, and profitability.

Company imports of metallurgical coke increased in 1977 compared to 1976.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tin mill products and metallurgical coke produced at the Indiana Harbor Works of Youngstown Sheet and Tube Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Indiana Harbor Works of Youngstown Sheet and Tube Co. located in East Chicago, Ind. engaged in employment related to the production of tin mill products and metallurgical coke who became totally or partially separated from employment on or after January 16, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of galvanized carbon steel sheet and hot and cold rolled carbon steel sheet and strip are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 23rd day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30463 Filed 10-26-78; 8:45 am]

[4510-28-M]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221 (a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a signlficant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1978

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of October 1978

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

[4510-28-M]

to an absolute decline in sales or production, or both, of such firm or subdirector, Office of Trade Adjustment Assistance, at the address shown below,

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APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aberdeen Sportswear) ACTWU	Trenton, N.J	Oct. 11, 1978	Oct. 5, 1978	TA-W-4, 258	Leather jackets for men and a few ladies.
B-W Footwear Co., Inc. (workers)	Haverhill, Mass	Oct. 11, 1978	Sept. 29, 1978	TA-W-4, 259	Stitching of men's shoes.
Imperial Reading Corp. (company)	Piney Flats, Tenn	Oct. 12, 1978	Oct. 2, 1978	TA-W-4, 260	Boys's jeans.
Jersey Fashion, Inc. (workers)	Jersey City, N.J	Oct. 4, 1978	do	TA-W-4, 261	Cutting materials for childrens's and ladies' coats.
Pittsburgh Hat & Cap Co. (workers)	Pittsburgh, Pa	Oct. 12, 1978	Sept. 19, 1978	TA-W-4, 262	Baseball caps.
Tennessee Handbags, Inc. (workers)	Dandridge, Tenn	Oct. 11, 1978	Oct. 6, 1978	TA-W-4, 263	Ladies' handbags.
Texaco, Inc., Pittsburgh Division office (workers).	Coraopolis, Pa	do	Oct. 5, 1978	TA-W-, 264	Sales Office.

[FR Doc. 78-29957 Filed 10-26-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Pillow Co., Inc. (company)	Lowell, Mass	Sept. 18, 1978	Sept. 11, 1978	TA-W-4,163	Down-filled outerwear (jackets, vests, parkas, etc.) for men and women.
Bendix Corp., Abrasives Division (UAW).	Jackson, Mich	Sept. 15, 1978	do	TA-W-4,164	Grinding wheels.
Brentwood Fabrics Corp. (company)	New York, N.Y	Sept. 14, 1978	Sept. 8, 1978	TA-W-4,165	Dyeing, finishing, and printing, etc. of gray goods (textile converters).
Genesco, Inc., General Shoe Division (company).	Carthage, Tenn	Sept. 13, 1978	Sept. 11, 1978	TA-W-4,166	Footwear for men, women, and children.
Do	Smithville, Tenn	do	do	TA-W-4,167	Do.
Do	McMinnville, Tenn	do	do	TA-W-4,168	Do.
Do	Tullahoma Tenn	do	do	TA-W-4,169	Do.
Do	Cowan, Tenn	do	do	TA-W-4,170	Do.
Do	Gallatin, Tenn	do	do	TA-W-4,171	Do.
Do	Lewisburg, Tenn	do	do	TA-W-4,172	Do.
Do	Pulaski, Tenn	do	do	TA-W-4,173	Do.
Do	Chapel Hill, Tenn	do	do	TA-W-4,174	Shipping the finished product (shoes) to the customers.
Do	Fayetteville, Tenn	do	do	TA-W-4,175	Do.
Do	Waynesboro, Tenn	do	do	TA-W-4,176	Footwear for men, women, and children.
Do	Hohenwald, Tenn	do	do	TA-W-4,177	Do.
Do	Centerville, Tenn	do	do	TA-W-4,178	Do.
Do	Camden, Tenn	do	do	TA-W-4,179	Do.
Do	(Genesco Park) Nashville, Tenn.	do	do	TA-W-4,180	Houses the administrative staff.
Genesco, Inc., General Shoe Division, J. & M. Shoe Plant (company).	Nashville, Tenn	do	do	TA-W-4,181	Footwear for men, women, and children.
Intercontinental Petroleum Corp., Inc. (company).	Houston, Tex	do	do	TA-W-4,182	Crude oil.
Rite Coat, Inc. (workers)	Copiague, N.Y	Sept. 15, 1978	Sept. 4, 1978	TA-W-4,183	Contractor of ladies' rainwear and winter coats.

[FR Doc. 78-29958 Filed 10-26-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cool-Ray, Inc., (workers)	Chelsea, Mass	Oct. 13, 1978	Oct. 10, 1978	TA-W-4,265	Purchase frames, shape lenses and assembles sunglasses.
Defiance Bleachery Corp	Barrowsville, Mass	Oct. 16, 1978	Oct. 12, 1978	TA-W-4,266	Textile dyeing and finishing.
Mildrum Manufacturing Co. (workers).	East Berlin, Conn	Oct. 12, 1978	Oct. 3, 1978	TA-W-4,267	Fishing rod tops and guides and some brazing.
Rockwell International Corp.—Admiral Group, Detroit Sales & Service Office (workers).	Detroit, Mich	Oct. 13, 1978	Oct. 9, 1978	TA-W-4,268	Selling and servicing televisions, refrigerators and freezers to distributors and large department stores.
The Bunker Hill Co., Electrolytic Zinc Plant (workers).	Kellogg, Idaho	Oct. 3, 1978	Sept. 11, 1978	TA-W-4,269	Refine zinc metal and zinc alloys.
Trio Casuals Ltd. (ILGWU)	New York, N.Y	Oct. 11, 1978	Oct. 9, 1978	TA-W-4,270	Ladies' skirts, pants, playsuits, jumpers, etc.
United States Stove Co. (Foundry) (International Molders & Allied Workers Union).	South Pittsburg, Tenn	Oct. 17, 1978	Oct. 5, 1978	TA-W-4,271	Castings for coal and wood stoves.

[FR Doc. 78-29959 Filed 10-26-78; 8:45 am]

[4510-30-M]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942 (b).

The act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services

or facilities in the area, when there is not sufficient demand for such goods,

[4510-43-M]

Name of applicant and Principal product or

The substance of Petitioner's statement is as follows:

Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va.

less than same measure of protection than afforded miners by the standard:

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or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 week of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 23d day of October 1978

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 20, 1978

Name of applicant and location of enterprise	Principal product or activity
Three Handles Auto/Truck Plaza, Inc., Lancaster County, Pa.	Full service auto/truck plaza
R/S Truck Body Co., Inc., Campbellsville, and Allen, Ky.	Manufacture of truck bodies
Brad Ragan, Inc., Spruce Pine, N.C.	Replacing, retreading, and repairing tires for off-the-road vehicles, trucks and buses
Midtown Inc., Somerset, Ky.	Health services
Mid-Florida Mining Co., Inc., Lowell, Fla.	Production of dried fuller's earth and green clay
Warren Seibert, Yellville, Ark.	Manufacture of multiple drilling and tapping spindles and components
H.F.E., Inc., Fort Collins, Colo.	Manufacture of farm equipment

[Fr Doc 78-30315 Filed 10-26-78; 8:45am]

[4510-30-M]

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH (SPEDY) REALLOCATION

Reallocation of the Virginia Balance-of-State Supplemental Allocation

In accordance with 29 CFR 97.11(b) and 29 CFR 98.11(d), on August 11, 1978, the Employment and Training Administration, with the concurrence of the Governor of Virginia, reallocated $596,872 of the Virginia balance-of-State supplemental allocation under the summer program for economically disadvantaged youth (SPEDY), title III of the Comprehensive Employment and Training Act (CETA) of 1973, as amended.

The reallocation was made to the following CETA prime sponsors:

Richmond Area Manpower Planning System (RAMPS) Consortium, Va.	$125,000
Arlington County, Va	15,000
Fairfax County, Va	80,000
Southeastern Tidewater Area Manpower Authority (STAMA) Consortium, Va.	50,000
Henrico-Chesterfield-Hanover CETA Consortium, Va.	50,000
Peninsula Office of Manpower Programs (POMPS) Consortium, Va.	40,000
State of West Virginia	236,872

This reallocation was made in order to better utilize these funds within the summer period for employment of economically disadvantaged youth.

Any questions or comments regarding this reallocation should be addressed to Mr. Robert Taggart, Department of Labor, Office of Youth Programs, 601 D Street NW., Room 6000, Washington, D.C. 20213.

Signed this 13th day of October 1978.

ROBERT TAGGART,
Administrator, Office of Youth Programs.

[FR Doc. 78-30451 Filed 10-26-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-46-M]

FORT DODGE CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Fort Dodge Corp., 522 South 22d Street, Box "W," Fort Dodge, Iowa 50501, has filed a petition to modify the application of 30 CFR 57.4-52 (gasoline), to its Fort Dodge Limestone Mine, located in Webster County, Iowa, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Petitioner requests permission for gasoline powered service vehicles owned by equipment service companies, electricians, and explosive dealers to enter the above mine on an occasional basis when their services are needed.

(2) The mine has only a single inclined roadway large enough to accommodate vehicular traffic. Other openings are for ventilation and escape only.

(3) Petitioner anticipates that no more than one or two gasoline powered service truck trips per week will be necessary.

(4) No gasoline is carried into or stored in the mine by Petitioner.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 27, 1978. Comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 19, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-30454 Filed 10-26-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-108-C]

VALLEY CAMP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Valley Camp Coal Co., No. 3 mine, P.O. Box 218, Triadelphia, W. Va. 26059, has filed a petition to modify the application of 30 CFR 75.1403-8 (track haulage roads), to its No. 3 mine located in Triadelphia, Ohio County, W. Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Two sections of track haulage road are concerned. One has a roof support system of posts and timber, most of which have been in place in excess of 40 years. The other has the entire roof, ribs, and coal seam completely sealed with bolted wire covered with cement (gunite). The seal prevents decay from air and moisture and thus provides protection from roof and rib falls.

(2) There are presently 25 locations where the clearance on the "clearance side" is less than 24 inches and 4 locations on the "tight side" where the clearance is less than 6 inches.

(3) To widen the ribs in the gunite section, the seal provided by the gunite would have to be broken. Air and moisture could then seep into the roof, ribs, and coal seam initiating decay. The risk of roof and rib falls would be increased unnecessarily and unreasonably.

(4) Poor roof conditions exist in the post and timbered section. The actual support function served by each individual post is unknown and unpredictable. Construction to widen the haulage road in those areas could be hazardous and weaken the roof support system.

(5) The time involved in correcting the specified areas would result in more exposure of miners to hazards than would ever be involved for the remainder of the life of the mine under present conditions.

(6) Petitioner requests modification of the standard to allow for clearances of less than 24 inches on the "clearance side" and 6 inches on the "tight side" from the farthest projections of normal traffic in certain areas of No. 3 mine. These areas are more particularly described as starting from "B Face Pump House up to and including all the areas to the outby end of No. 3 Passway Switch" and are more specifically set forth in a map provided by Petitioner. The modification would be contingent upon Petitioner establishing the following safeguards to guarantee no less than the same measure of protection as that afforded miners by the standard:

(a) The required clearance space of 24 inches from the farthest projection of moving equipment shall be kept free of all obstructions, and where the required 24 inches of clearance space is not available, the clearance space available shall be kept free of all obstructions.

(b) Luminous signs designating "Danger—Close Clearance" shall be posted at the outby and inby ends of the affected area.

(c) When workers are assigned to travel or perform work along this haulage road, the person in charge of transportation shall assure that all persons operating haulage equipment shall be made aware of the location of such workers.

(d) When workers are required to perform any work along this haulage road, luminous signs indicating "Men Working Ahead" shall be posted at the outby and inby ends and all equipment shall be operated at slow speed through the area.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before November 27, 1978. Comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 18, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-30452 Filed 10-26-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-99—C]

VALLEY CAMP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Valley Camp Coal Co., No. 3 mine, P.O. Box 218, Triadelphia, W. Va. 26059, has filed a petition to modify the application of 30 CFR 75.1403-9 (shelter holes) to its No. 3 mine located in Ohio County, W. Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Two sections of track haulage road are concerned. One has a roof support system of posts and timber, most of which have been in place in excess of 40 years. The other has the entire roof, ribs, and coal seam completely sealed with bolted wire covered with cement (gunite). The seal prevents decay from air and moisture and thus provides protection from roof and rib falls.

(2) Construction of shelter holes in the gunite section would break the seal provided by the gunite. Air and moisture would cause a decay process extending beyond the immediate site of the shelter. The risk of roof and rib falls would be unnecessarily and unreasonably increased.

(3) Poor roof conditions exist in the post and timbered section. The actual support function served by each individual post is unknown and unpredictable. Construction of shelter holes could be hazardous and weaken the roof support system. Rehabilitation of crosscuts to the depth required of a shelter hole would be similarly hazardous.

(4) In the gunite section, crosscut rehabilitation would require moving ventilation stoppages and adversely disrupt and alter the ventilation system for the entire mine.

(5) The time involved in constructing the shelter holes at the required intervals would result in more exposure of miners to hazards than would ever be involved for the remainder of the life of the mine under the present conditions.

(6) In the alternative, Petitioner requests modification of the standard to permit shelter holes at intervals of more than 105 feet in certain areas of No. 3 mine. These areas are more particularly described as starting from "300 feet inby M, north up to and including all the areas to the outby end of the supply track near the rotary dump" and are more specifically set forth in a map provided by Petitioner. The modification would be contingent upon Petitioner establishing the following safeguards to guarantee no less than same measure of protection than afforded miners by the standard:

(a) Luminous signs, stating that persons are not to enter this area on foot unless permission is granted by the dispatcher, shall be posted at the inby and outby ends of the affected area. Telephones shall be located at the track entrances to the affected area.

(b) All designated shelter holes in the affected area shall be located at the track entrances to the affected area.

(c) All designated shelter holes in the affected area shall be marked with luminous signs, electric lights, or reflectors.

(d) All designated shelter holes shall be kept free of refuse and other obstruction.

(e) Workers required to do any work along this track shall be provided with radio or telephone communications so that they may be notified of approaching haulage equipment. Upon arrival at the worksite, the workers shall locate a shelter hole where they may take refuge when haulage equipment is entering the area.

(f) The dispatcher shall notify all haulage equipment operators of the location of work crews along the affected area.

(g) Blinker lights, red or yellow, and a sign, "caution men working" shall be posted at the inby and outby ends of the work area. Haulage equipment passing through the area should travel at a slow rate of speed.

(h) The above provisions shall be posted at the inby and outby approaches to the area.

REQUEST FOR COMMENT

Persons interested in this petition may furnish written comments on or before November 27, 1978. Comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: October 18, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-30453 Filed 10-26-78; 8:45 am]

[7537-01-M]

NATIONAL ENDOWMENT ON THE ARTS AND THE HUMANITIES

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held on November 13, 1978, from 1 p.m. to 4 p.m., in Room 1125, of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting will be open to the public on a space available basis. Accommodations are limited. Interested

persons may submit written state-

The topics of discussion will be policy

dowment for the Arts, Washington,

Further, public disclosure of proposals not approved for funding could

nificantly frustrate implementation of proposed agency action.

[7710-12-M]

POSTAL SERVICE

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persons may submit written statements to the panel.

The agenda for this meeting will include evaluation of graphics materials of the Department of Labor.

Further information with reference to this meeting can be obtained from Mr. Jerome Perlmutter, Coordinator of Federal Graphics, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-4286.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-30308 Filed 10-26-78; 8:45 am]

[7537-01-M]

MEDIA ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Media Arts Advisory Panel to the National Council on the Arts will be held November 16, 1978, from 9 a.m. to 5:45 p.m., in room 1426 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be policy and guidelines.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

OCTOBER 23, 1978.

[FR Doc. 78-30366 Filed 10-26-78; 8:45 am]

[7537-01-M]

MUSIC ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Choral Section) to the National Council in the Arts will be held on November 10, 1978, from 9 a.m. to 5 p.m.; November 11, 1978, from 9 a.m. to 5 p.m., in the Choral Rehearsal Room, Orchestra Hall, 720 Michigan Avenue, Chicago, Ill.

A portion of this meeting will be open to the public on November 10, 1978, from 9 a.m. to 5 p.m., and on November 11, 1978, from 9 a.m. to 2 p.m. The topics of discussion will be policy and guidelines.

The remaining sessions of this meeting on November 11, 1978, from 2 p.m. to 5 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-30309 Filed 10-26-78; 8:45 am]

[7537-01-M]

VISUAL ARTS (CRAFTSMEN'S FELLOWSHIPS) ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts (Craftsmen's Fellowships) Advisory Panel to the National Council on the Arts will be held on November 15, 1978, from 9 a.m. to 5:30 p.m., in Room 1426 of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 78-30365 Filed 10-26-78; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEES

Public Disclosure of Information and Activities

The National Endowment for the Arts utilizes advice and recommendations of advisory committees, including the National Council on the Arts, in carrying out many of its functions and activities.

The Federal Advisory Committee Act, as amended (Pub. L. 92-463) governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise and assist the Federal Government. Section 10 of the act specifies that department and agency heads shall make adequate provisions for participation by the public in the activities of advisory committees, except to the extent a determination is made in writing by the department or agency head that a portion of an advisory committee meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.

It is the policy of the National Endowment for the Arts to make the fullest possible disclosure of records to the public, limited only by obligations of confidentiality and administrative necessity. Consistent with this policy, all endowment advisory committee meetings except for limited portions dealing with the review, discussion, evaluation, and/or ranking of grant applications and contract proposals will be open to the public. The reasons for this determination are as follows:

Information and data are furnished to the Endowment by grant applicants with assurance that such information will be treated on a confidential basis and not disclosed to the public. This information may include such matters as details relating to the type of design or work to be performed, adequacy of the applicant's facilities, competence of the applicant's or contractor's staff, proposed budget, and other material which would not otherwise be disclosed. If the process were not to continue on a confidential basis, grant applicants and potential contractors would not supply sufficiently detailed information so essential for complete and effective review of their proposals.

Further, public disclosure of proposals not approved for funding could subject unsuccessful grant applicants to embarrassment and might adversely influence or prejudice the decisions of other funding sources in connection with their review of similar proposals.

Endowment consultant-experts are chosen from among persons recognized for their expertise in the arts. These experts review and evaluate applications for financial assistance submitted to the Endowment by their peers and colleagues in the respective cultural fields. As a result, public participation in panel meetings involving application review undoubtedly would effect a consultant-expert's willingness to express his or her full and frank opinion regarding the merits of the proposed project or activity. Also, such participation could result in consultant-experts being subjected to attempts by potential grantees to influence final funding decisions. Accordingly, the Endowment's capacity effectively to carry out its statutory mandate and maintain the highest possible standards of quality with respect to funding decisions would be seriously impaired by its inability to conduct the grant review process in a confidential atmosphere conducive to the candid and honest exchange of ideas. Thus, such public participation would be likely to significantly frustrate implementation of proposed agency actions, i.e., proposed funding decisions.

Finally, disclosure of preliminary funding recommendations could result in premature reliance on such information to the applicant's financial detriment, since such recommendations are not binding on the Chairman of the Endowment.

Consequently, in the interest of meeting our obligations of confidentiality in reference to matters submitted as part of grant applications and contract proposals, and in order to encourage and insure, for the benefit of the Government's review and evaluation process, candid and uninhibited expression of views concerning the merits of grant applications and contract proposals:

It is hereby determined in accordance with the provisions of section 10(d) of the act that the disclosure of information regarding the review, discussion, and evaluation of grant applications and contract proposals, as outlined herein is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action.

Therefore, in light of the above, I have determined that meetings or portions thereof, of all Endowment advisory committees, including the National Council on the Arts, devoted to review, discussion, evaluation, and/or ranking of grant applications, and contract proposals may be closed to the public in accordance with subsection (c) (4), (6), and 9(B) of section 552b of title 5, United States Code.

The Executive Secretary of each such committee shall prepare a summary of any meeting or portion thereof not open to the public within three (3) business days following the conclusion of the meeting of the National Council on the Arts. Such summaries shall be consistent with the considerations which justified the closing of the meeting.

All other advisory committee meetings shall be open to the public unless the Chairman of the National Endowment for the Arts or his designee determines otherwise in accordance with section 10(d) of the act.

The Director, Council and Panel Operations, shall be responsible for publication in the FEDERAL REGISTER or, as appropriate, in local media, of a notice of all advisory committee meetings. Such notice shall be published in advance of the meetings and contain:

(1) Name of the committee and its purpose;

(2) Date and time of the meeting, and, if the meeting is open to the public, its location and agenda; and

(3) A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect.

The Director, Council and Panel Operations, is designated as the person from whom rosters or lists of committee members may be obtained and from whom minutes of open meetings or open portions thereof may be requested.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory committees which are open to the public.

Members of the public attending a meeting will be permitted to participate in the committee's discussion at the discretion of the chairman of the committee, if the chairman is a full-time Federal employee; if the chairman is not a full-time Federal employee then public participation, will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting in compliance with the order.

LIVINGSTON L. BIDDLE, JR.,
Chairman,
National Endowment for the Arts.

[FR Doc. 78-30426 Filed 10-26-78; 8:45 am]

[7710-12-M]

POSTAL SERVICE

RESTRICTIONS ON PRIVATE CARRIAGE OF LETTERS

Test of Alternate Procedures for the Payment of Postage on Certain Letters Carried Privately

The Private Express Statutes and regulations, 39 CFR parts 310 and 320, permit letters to be carried privately if postage is paid and other technical requirements are met, including that the cover must be addressed, sealed, and dated, and the stamps must be placed on it and canceled in ink. 39 CFR § 310.2(b). These requirements provide an objective means of verifying that the private carriage of letters does not cause the Postal Service to lose revenue to which it is entitled.

Over the years, the Postal Service has occasionally been asked whether it would consider collecting postage through a system that involves varying one or more of the requirements in 39 CFR § 310.2(b) so as to be more convenient for businesses. In the past, the Postal Service has considered that the advantages of holding to the requirements of the law and current regulations outweighed the advantages of pursuing change. The Postal Service now believes, however, that it would be useful to test some alternative systems to gain experience as to their feasibility.

We think the most useful approach to the test would be to develop alternate systems through discussions with shippers, reflected in written agreements of some kind, tailored to the perceived need. We hesitate at this time to prescribe a standard format for such an agreement, though the format for such an agreement could well be an outgrowth of the experience gained under this test. Any agreement would, however, be drafted to accomplish these goals: (1) To provide for adequate audit and inspection to assure that full postage is paid; (2) to be as convenient as possible for the businesses involved; and (3) to keep administrative expenses to a minimum.

In approximately 1 year from October 26, 1978, the Postal Service will publish a report on the results of the test. The report may recommend that the test be extended for an additional period of time, or it may recommend some final action. During the test period, firms wishing to approach the Postal Service about varying the procedures in 39 CFR 310.2(b) are invited to do so, recognizing, however, that resources available to manage and evaluate the test are sufficient to accommodate only a limited number of variations progressing during the test period. If more requests come in than can be handled, some requests will

have to be denied pending completion of the experiment. Requests should be

[7035-01-M]

INTERSTATE COMMERCE

through September 1, 1978, for the Islands of Agrihan, Alamagan, and

1979 (5 days), at Lansing, Mich., in a hearing room to be later designated.

MC 25869 (Sub-139F), Notle Bros. Truck

days), at Portland, Oreg., in a hearing room to be later designated.

MC 128527 (Sub-112F), May Trucking Co.,

regarding these hearings should be addressed to:

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have to be denied pending completion of the experiment. Requests should be directed to the Assistant General Counsel, Opinions Division, U.S. Postal Service, Washington, D.C. 20260.

(39 U.S.C. 401, 404, 601-606; 18 U.S.C. 1693-1699, 1724.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-30495 Filed 10-26-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0203]

GREAT AMERICAN CAPITAL INVESTORS, INC.

Issuance of a License To Operate as a Small Business Investment Company

On June 8, 1978, a notice was published in the FEDERAL REGISTER (43 FR 24927) stating that an application had been filed by Great American Capital Investors, Inc., 1006 Holliday Street, Wichita Falls, Tex. 76301, with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business June 23, 1978, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued license No. 06/06-0203 on October 11, 1978, to Great American Capital Investors, Inc. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 19, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-30486 Filed 10-26-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1519, Amdt. No. 1]

NORTHERN MARIANA ISLANDS OF THE PACIFIC

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 39880) is amended in accordance with the President's declaration of August 18, 1978, to include another tropical storm (Typhoon Faye) which occurred on August 29, 1978 through September 1, 1978, for the Islands of Agrihan, Alamagan, and Pagan, Commonwealth of the Northern Mariana Islands of the Pacific, and extending the filing date for physical damage until the close of business on November 9, 1978, and for economic injury until the close of business on June 8, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 25, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-30485 Filed 10-26-78; 8:45 am]

[8025-01-M]

SYRACUSE-BASED CARRIER CORP. AND UNITED TECHNOLOGIES CORP.

Hearing

Pursuant to statutory authority set forth in section 634d of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esq., with the approval of the Administrator of the Small Business Administration, A. Vernon Weaver, will conduct public hearings in Syracuse, N.Y., on November 2 and December 1, 1978, and on January 11, 1979, on the proposed takeover of the Syracuse-based Carrier Corp. by the United Technologies Corp. of Hartford, Conn. The hearings will convene on each date at 10 a.m. (e.s.t.) at Room C215, U.S. Court House, 100 South Clinton Street, Syracuse, N.Y.

Purpose of hearing: The Office of the Chief Counsel for Advocacy will (1) evaluate the impact of the proposed takeover on the small business community of Central New York State, and (2) examine the adequacy of current Federal policy covering mergers and takeovers by and between large U.S. corporations.

Witnesses: On November 2, 1978, witnesses will be drawn primarily from concerned members of the Greater Syracuse business and civic community. On December 1, 1978, Federal, State, regional, and local government officials along with economic experts from the private sector will appear as witnesses. On January 11, 1979, representatives of the United Technologies Corp. and the Carrier Corp. will be given an opportunity to discuss the proposed takeover and its effects on the local community and other matters raised during the course of the hearings.

The hearing is open to the public. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during, or after the hearings. All communications or inquiries regarding these hearings should be addressed to:

Jere Glover, Esq., Deputy Chief Counsel, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6808.

For the Chief Counsel for Advocacy.

JERE GLOVER,
Deputy Chief Counsel.

OCTOBER 24, 1978.

[FR Doc. 78-30484 Filed 10-26-78; 8:45 am]

[8410-01-M]

WATER RESOURCES COUNCIL

PRINCIPLES AND STANDARDS FOR PLANNING WATER AND RELATED LAND RESOURCES

Change in Discount Rate

Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 7⅞ percent for the period October 1, 1978 through and including September 30, 1979.

The rate has been computed in accordance with Chapter IV, D., "The Discount Rate" in the "Standards for Planning Water and Related Land Resources" of the Water Resources Council, as amended (39 FR 29242), and is to be used by all Federal agencies in plan formulation and evaluation of water and related land resources projects for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

The Department of the Treasury on October 19, 1978 informed the Water Resources Council pursuant to chapter IV, D., (b) that the interest rate would be 7⅝ percent based upon the formula set forth in chapter IV, D., (a): "* * * the average yield during the preceding Fiscal Year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity * * *." However, chapter IV, D., (a) further provides "* * * that in no event shall the rate be raised or lowered more than one-quarter of 1 percent for any year." Since the rate in fiscal year 1978 was 6⅝ percent (42 FR 58232), the rate for fiscal year 1979 is 6⅞ percent.

Dated: October 24, 1978.

LEO M. EISEL,
Director.

[FR Doc. 78-30408 Filed 10-26-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 733]

ASSIGNMENT OF HEARINGS

OCTOBER 24, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 107839 (Sub-176F), Denver-Albuquerque Motor Transport, Inc., now assigned for hearing on November 13, 1978, at Tampa, Fla., will be held at the Post Office, Annex Building, 415 Zack Street.

MC 25798 (Sub-317F), Clay Hyder Trucking Lines, Inc., now assigned for hearing on November 15, 1978, at Tampa, Fla., will be held at the Post Office, Annex Building, 415 Zack Street.

MC 107107 (Sub-465), Alterman Transport Lines, Inc., now assigned for hearing on November 20, 1978, at Howard Johnson's Plaza, 200 Southeast Second Avenue, Miami, Fla.

MC 41406 (Sub-68F), Artim Transportation System, Inc., now being assigned for hearing on January 10, 1979 (3 days), at Detroit, Mich., in a hearing room to be later designated.

MC 112304 (Sub-131F), Ace Doran Hauling & Rigging Co., MC 120257 (Sub-42), K. L. Breeden & Sons, Inc., MC 136828 (Sub-19), Cook Transports, Inc., MC 136828 (Sub-20), Cook Transports, Inc., now being assigned for hearing on January 9, 1979 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

MC 43963 (Sub-16F), Chief Truck Lines, Inc., now being assigned for hearing on January 10, 1979 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

MC 138882 (Sub-30), Wiley Sanders, Inc., now being assigned for hearing on January 11, 1979 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

MC 10150, Victory Freight Lines, Inc.—investigation and revocation of certificates, now being assigned for hearing on January 12, 1979 (1 day), at Birmingham, Ala., in a hearing room to be later designated.

MC 119777 (Sub-350F), Ligon Specialized Hauler, Inc., now being assigned for hearing on January 15, 1979 (2 days), at Brimingham, Ala., in a hearing room to be later designated.

MC 126305 (Sub-92F), Boyd Bros. Transportation Co., Inc., now being assigned for hearing on January 17, 1979 (3 days), at Birmingham, Ala., in a hearing room to be later designated.

MC 109173 (Sub-4F), Delta Bus Co., now being assigned for hearing on January 15, 1979 (5 days), at Lansing, Mich., in a hearing room to be later designated.

MC 25869 (Sub-139F), Notle Bros. Truck Line, Inc., now being assigned for hearing on January 9, 1979 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 144209 (Sub-3F), Erwin Trucking, Inc., now being assigned for hearing on January 11, 1979 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 125951 (Sub-28F) Silvey Refrigerated Carriers, Inc., now being assigned for hearing on January 15, 1979 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 125951 (Sub-27F) Silvey Refrigerated Carriers, Inc., now being assigned for hearing on January 16, 1979 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 114632 (Sub-160F), Apple Lines, Inc., now being assigned for hearing on January 18, 1979 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 139482 (Sub-57F), New Ulm Freight Lines, Inc., now being assigned for hearing on November 27, 1978 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 144464F, United States Student Travel Service, Inc., d.b.a., Travelon Tours, now being assigned for hearing on November 28, 1978 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 114457 (Sub-400F), Dart Transit Co., now being assigned for hearing on November 30, 1978 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 114273 (Sub-362F), CRST, Inc., now being assigned for hearing on January 9, 1979 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 114273 (Sub-325F), CRST, Inc., now being assigned for hearing on January 11, 1979 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 115331 (Sub-457F), Truck Transport Inc., now being assigned for hearing on January 15, 1979 (5 days), at Chicago, Ill., in a hearing room to be later designated.

MC 139584 (Sub-15F), John Busch, now being assigned for hearing January 25, 1979, at New York, N.Y. (2 days), in a hearing room to be later designated.

MC 138328 (Sub-60F), Clarence L. Werner, d.b.a. Werner Enterprises, now assigned for hearing January 23, 1979 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 140024 (Sub-99F), J. B. Montgomery, Inc., now being assigned January 22, 1979 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 123681 (Sub-34F), Widing Transportation, Inc., now assigned January 15, 1979, at Portland, Oreg. (5 days), in a hearing room to be later designated.

MC 106497 (Sub-155F), Parkhill Truck Co., now assigned January 15, 1979 (5 days), in Boise, Idaho, in a hearing room to be later designated.

MC 111302 (Sub-122F), Highway Transport, Inc., now assigned January 10, 1979, at Washington, D.C., at the offices of the Interstate Commerce Commission.

MC 101134 (Sub-8F), Aro Coaches, Inc., now being assigned January 10, 1979 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 140186 (Sub-26F), Tiger Transportation, Inc., now assigned January 9, 1979 (4 days), at Portland, Oreg., in a hearing room to be later designated.

MC 128527 (Sub-112F), May Trucking Co., now assigned January 9, 1979 (2 days), at Boise, Idaho, in a hearing room to be later designated.

MC 144640F, Agricultural Services Association, Inc., now assigned January 9, 1979 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 144473 (Sub-1F), Dorval Corp., now assigned January 8, 1979 (2 days), at New York, N.Y., in a hearing room to be later designated.

MC 140024 (Sub-98F), J. B. Montgomery, Inc., now assigned January 8, 1979 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 1745 (Sub-8F), Interstate Van Lines, Inc., now assigned December 18, 1978, at Washington, D.C., at the offices of the Interstate Commerce Commission.

MC 103066 (Sub-66F), Stone Trucking Co., now assigned December 4, 1978, for prehearing conference at Washington, D.C., at the offices of the Interstate Commerce Commission.

MC 124083 (Sub-58F), Skinner Motor Express, Inc., now assigned December 4, 1978, at Washington, D.C., for prehearing conference at the offices of the Interstate Commerce Commission.

MC 129704 (Sub-2F), Clarence B. Blankenship, d.b.a. Troy Cab Co., now assigned November 28, 1978, at Washington, D.C., for prehearing conference at the offices of the Interstate Commerce Commission.

MC-F-13298, D.C. joint venture—noncarrier—control—Skyline Transport Inc., now assigned November 27, 1978, at Washington, D.C., and will be held at the offices of the Interstate Commerce Commission.

MC 119789 (Sub-437F), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on January 23, 1979 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 113678 (Sub-728F), Curtis Inc., now being assigned for hearing on January 24, 1979 (1 day), at Omaha, Nebr., in a hearing room to be later designated.

MC 126118 (Sub-No. 72F), Crete Carrier Corp., now being assigned for hearing on January 25, 1979 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC F-13562, Nolte Bros. Truck Line, Inc.—control and merger—Nebraska Overland Express, Inc., now being assigned for hearing on January 29, 1979 (2 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 111320 (Sub-69), Keen Transport, Inc., now being assigned for hearing on January 31, 1979 (3 days), at Omaha, Nebr., in a hearing room to be later designated.

MC 144400F, Bi-Rite Auto Transport, Inc., now assigned for hearing on November 28, 1978, at San Francisco, Calif., will be held in room 102, 555 Battery Street.

MC 115826 (Sub-306F), W. J. Digby, Inc., now assigned for hearing on November 20, 1978, at Chicago, Ill., will be held in Room 572, Everett McKinley Kirksen Building, 219 South Dearborn Street.

MC 134922 (Sub-259F), B. J. McAdams, Inc., now assigned for hearing on November 21, 1978, at Chicago, Ill., will be held in Room 572, Everett McKinley Dirksen Building, 210 South Dearborn Street.

MC 142299 (Sub-2), Truck Rail Truck Service Co., Inc., now assigned for hearing on

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November 13, 1978, at Chicago Ill., will be held in Room 572, Everett McKinley Dirksen Building, 219 South Dearborn Street

assigned for hearing on January 23, 1979, (1 day), at Kansas City, Mo., in a hearing room to be later designated.

September 15, 1978 on page 41330, second column, fifteenth line of MC 120279 (Sub-9TA), "NE" should read

sunshine act meetings

V 43 209 0 C 27 78

November 13, 1978, at Chicago Ill., will be held in Room 572, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 107818 (Sub-90F), Greenstein Trucking Co., now being assigned for hearing on January 10, 1979 (3 days), at Milwaukee, Wis., in a hearing room to be later designated.

MC 138144 (Sub-28F), Fred Olson Co., Inc., now being assigned for hearing on January 15, 1979 (5 days), at Milwaukee, Wis., in a hearing room to be later designated.

MC 140024 (Sub-97F), J. B. Montgomery, Inc., now assigned January 11, 1979, at New York, N.Y. (2 days), in a hearing room to be later designated.

MC 144158 (Sub-1), Caldweel School & Charter Bus Co., Inc., now being assigned January 11, 1979 (2 days), at Boise, Idaho, in a hearing room to be later designated.

MC 144624F, American-Strevell Transport, Inc., now being assigned for hearing on January 23, 1979 (1 day), at Salt Lake, City, Utah, in a hearing room to be later designated.

MC 113678 (Sub-742F), Curtis, Inc., now being assigned for hearing on January 24, 1979 (3 days), at Salt Lake City, Utah, in a hearing room to be later designated.

MC 106644 (Sub-254F), Superior Trucking Co., Inc., now being assigned for hearing on January 29, 1979 (1 day), at Portland, Oreg., in a hearing room to be later designated.

MC 114211 (Sub-346F), Warren Transport, Inc., now being assigned for hearing on January 30, 1979 (1 day), at Portland, Oreg., in a hearing room to be later designated.

MC 32882 (Sub-92F), Mitchell Bros. Truck Lines, now being assigned for hearing on January 31, 1979 (3 days), at Portland, Oreg., in a hearing room to be later designated.

MC 144541, Baldwin Leasing Co., Inc., now being assigned for hearing on December 4, 1978 (9 days), at Mobile, Ala., in a hearing room to be later designated.

MC-F-13434, Central Transfer Co.—purchase (portion)—Robert Emanuel and Margaret Emanuel, d.b.a. Emanuel's Express and 1403 (Sub-4), Central Transfer Co., now being assigned for continued hearing on November 7, 1978 (2 days), at New York, N.Y., and continued to November 9, 1978 (1 day), at Philadelphia, Pa., in hearing rooms to be later designated.

MC 119988 (Sub-138F), Great Western Trucking Co., Inc., MC 134755 (Sub-144F), Charter Express, Inc., MC 141912 (Sub-9F), Tollie Freightways, Inc., now being assigned for hearing on January 23, 1979, (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC 139495 (Sub-355F), National Carriers, Inc., now being assigned for hearing on January 24, 1979 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 119176 (Sub-19), the Squaw Transit Co., now being assigned for hearing on January 29, 1979 (5 days), at Kansas City, Mo., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30469 Filed 10-26-78; 8:45 am]

[7035-01-M]

[Notice No. 122]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 27, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132.

MC-FC-77888. By application filed October 16, 1978, MID-CITIES DELIVERY, INC., 324 Michigan, St. Joseph, MO 64505, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 210a(b). The transfer to Mid-Cities Delivery, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30468 Filed 10-26-78; 8:45 am]

[1505-01-M]

[Notice No. 166]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-25906 appearing at page 41329 in the issue for Friday, September 15, 1978 on page 41330, second column, fifteenth line of MC 120279 (Sub-9TA), "NE" should read "NV".

[1505-01-M]

[Notice No. 173]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-27186 appearing at page 43805 in the issue for Wednesday, September 27, 1978, on page 43807, second column, "MC 13947 (Sub-5TA)" should read "MC 139457 (Sub-5TA)".

[1515-01-M]

[Notice No. 172]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-27187 appearing at page 43808 in the issue for Wednesday, September 27, 1978, on page 43809, third column, "MC 11445 (Sub-505TA)" should read "MC 114045 (Sub-505TA)".

[1505-01-M]

[Notice No. 168]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 78-26189 appearing at page 41458 in the issue for Monday, September 18, 1978, on page 41459, second column, twelfth line of MC 126899 (Sub-121TA), "MI" should read "MS".

sunshine act meetings

This section of the Federal Register contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-173, Amdt. 2; Oct. 24, 1978]

CIVIL AERONAUTICS BOARD.

Notice of change of time.

TIME AND DATE: 2 p.m., October 24, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (1) Recommended position for negotiations with New Zealand, Australia, Fiji and Papua-New Guinea; (2) Memorandum for Board action regarding Docket 26291, American Samoa's Petition for Immediate Restoration of Adequate Air Service; (3) Memorandum for Board action regarding Docket 31684, Application of Continental Air Lines, Inc., for renewal of its authority to postpone inauguration of service to American Samoa; (4) Docket 33461, Application of Qantas Airways, Ltd., for waiver of part 212 to carry individually-waybilled cargo on seven passenger charters; (5) Recommended Board position for United States-United Kingdom consultations in Washington beginning October 30, 1978 (Memo 8245, 8244, 8244-A).

STATUS: Closed.

PERSONS TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: See M-173 and 173, Admt. 1 for reason for closing, persons expected to attend and the General Counsel's Certification.

[S-2174-78 Filed 10-25-78; 3:42 pm]

[6320-01-M]

2

[M-170, Amdt. 5; Oct. 23, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items to the October 20, 1978, agenda.

TIME AND DATE: 1:30 p.m., October 20, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1a. Processing of applications for unused authority and the Airline Deregulation Act.

5a. Docket 33461, Application of Qantas Airways, Ltd., for waiver of Part 212 to carry individually-waybilled cargo on seven passenger charters (Memo 8244, 8244-A, BIA, OGC, BPDA).

13a. Docket 33712, Petition of Seaboard World Airlines requesting Board to issue immediate order temporarily restraining Tiger International from acquiring additional stock of Seaboard (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: There has been widespread public attention given to the queue of persons waiting to submit applications for unused operating authority. At its October 20, 1978, the Board noted that because the new bill is ambiguous, the applications will be taken the day following the President's signing of the Airline Deregulation Act of 1978. Additionally, the Board asked its staff to prepare an analysis of the new bill for future public meeting. Item 5a was deleted from the October 20, 1978, agenda because subject matter is related to negotiations (see M-173 issued October 20). In order to dispose of this matter as expeditiously as possible, item 13a was added to the October 20 agenda. Accordingly, the following Members voted on October 20, 1978, that agency business requires the addition of items 1a and 13a and the deletion of item 5a on the October 20 agenda and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2156-78 Filed 10-25-78; 11:00 am]

[1410-01-M]

3

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: Thursday, November 9, 1978, 10 a.m.

PLACE: 1111 20th Street NW., Room 458, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Fiscal year 1980 budget request.
2. Agency Rules of Procedure.
3. Agency Code of Ethics.
4. Request of the Amusement and Music Operators Association for reconsideration of regulation for access to phonorecord players (jukeboxes), (43 FR 40498), postponement of effective date, and for extension of filing deadline.
5. Jukebox location listings and the Freedom of Information Act.
   a. Request of the Amusement and Music Operators Association that jukebox location listings be exempted from disclosure under the Freedom of Information Act.
   b. Consideration of Tribunal's jurisdiction to attach protective safeguards to disclosure of location listings to copyright owners.
   c. Consideration of Tribunal's jurisdiction to restrict disclosure of location listings to copyright owners.
6. Request of Broadcast Music, Inc., for further consideration of regulations concerning claims to jukebox royalties (43 FR 40501).
7. Preliminary consideration of methodology for distribution of cable television royalties.
8. Report of the Committee on Taping concerning the Committee's research procedures.

CONTACT: Thomas C. Brennan,

Issued: October 23, 1978.

Issued: October 24, 1978.

Clearing, Chicago, Ill. (Memorandum dated September 8, 1978).

Applications for Federal deposit insurance:

The Midland State Bank, a proposed new bank to be located at U.S. Highway

notes as an addition to capital; and for advance consent to retire capital notes.

V 43 / 209 0 C 27 78

CONTACT: Thomas C. Brennan, Chairman, 202-653-5175.

THOMAS C. BRENNAN,
Chairman.

[S-2155-78 Filed 10-25-78; 11:00 am]

[6570-06-M]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, October 31, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Two proposed contracts for financial management requirements.
2. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretarial, at 202-634-6748.

The notice issued October 24, 1978.

[S-2160-78 Filed 10-25-78; 11:52 am]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, October 23, 1978.

PLACE: Defense Communications Agency, Arlington, Va.

STATUS: Closed Commission meeting.

MATTER TO BE CONSIDERED: Top Secret briefing of the Commission by the Department of Defense (DOD) relating to the Commission's reconsideration of its report, order and third statement of policy and guidelines in Docket No. 18875, released December 23, 1977.

Issued: October 23, 1978.

[S-2170-78 Filed 10-25-78; 3:37 pm]

[6712-01-M]

6

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Special open Commission meeting, Wednesday, October 24, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: The meeting on the following subject has been deleted and rescheduled to be considered as part of the regular open meeting, November 2, 1978, starting at 9:30 a.m.

Agenda, Item No., and Subject

Cable Television—2—Joint petition for reconsideration of Arlington Telecommunications Corp. d.b.a. Artec, Arlington County, Va.

CONTACT PERSON FOR MORE INFORMATION:

FCC Public Information Officer, telephone 202-632-7260.

Issued: October 24, 1978.

[S-2171-78 Filed 10-25-78; 3:37 pm]

[6712-01-M]

7

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Special open Commission meeting, Wednesday, October 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

CHANGES IN THE MEETING: The meeting on the following subject has been canceled and rescheduled to follow the regular open meeting for November 14, 1978. Notice will be given at a later date.

Agenda, Item No., and Subject

Common Carrier—3—Modification of depreciation rates for C. & P. of Virginia and New England Telephone Co.

CONTACT PERSON FOR MORE INFORMATION:

FCC Public Information Officer, telephone 202-632-7260.

Issued: October 24, 1978.

[S—2172-78 Filed 10-25-78; 3:37 pm]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 31, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Broadcast—1—Report and Order in Docket No. 21474 concerning broadcast equal employment opportunity rules and forms as they apply to minorities and women. Minority Ownership Task Force will report on the recommendations made at the Minority Ownership Conference April 1977.
Broadcast—2—Notice of inquiry on part-time minority programing.
Broadcast—3—Petition for reconsideration of the Commission's Report and Order in Docket No. 21352 (Public Notice of Intent to Sell Broadcast Station).
Broadcast—4—Minority buyers listing.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: October 24, 1978.

[S-2173-78 Filed 10-25-78; 3:37 pm]

[6714-01-M]

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., October 30, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.
Recommendation regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent:
Case No. 43,685-L—Bank of Pine Apple, Pine Apple, Ala.
Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:
Sidley & Austin, Chicago, Ill., in connection with the liquidation of State Bank of Clearing, Chicago, Ill. (Memorandum dated September 8, 1978).
Cooley, Shrair, Alpert & Labovitz, P.C., Springfield, Mass., in connection with the liquidation of Chicopee Bank & Trust Co., Chicopee, Mass. (Memorandum dated September 19, 1978).
Sahn, Shapiro & Epstein, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York (Memorandum dated September 20, 1978).
Schneider, Smeltz, Huston & Bissell, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio (memorandum dated August 31, 1978).
J. Randolph Pelzer, P.A., North Charleston, S.C., in connection with the liquidation of American Bank & Trust, Orangeburg, S.C. (Memorandum dated September 15, 1978).
Recommendation with respect to the amendment of the Corporation's rules and regulations:
Memorandum and resolution proposing amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," to establish certain interest-rate limitations on savings accounts from which funds may be automatically transferred to the depositor's checking account.
Memorandum proposing the adoption of a Corporation policy for the acquisition of supplies and services.
Memorandum proposing certain transactions in Government securities.
Memorandum proposing the acquisition of additional space for the expansion of the New York Regional Office.
Memorandum proposing the appointment of an agent for service of process in the State of Hawaii.
Reports of committees and officers:
Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to the authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.
Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Hoyle L. Robinson, Assistant Executive Secretary, 202-389-4425.

[S-2161-78] Filed 10-25-78; 11:52 am]

[6714-01-M]

10

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., October 30, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:
The Midland State Bank, a proposed new bank to be located at U.S. Highway 231 and County Road 59, Midland City, Ala., for Federal deposit insurance.
Peoples Bank of St. Augustine, a proposed new bank to be located along the west side of U.S. Highway 1, at the west end of State Road 312, Unincorporated St. Johns County (P.O. St. Augustine), Fla., for Federal deposit insurance.
Metro Bank, a proposed new bank to be located at 3701 LaForce Boulevard, Midland Regional Air Terminal, Midland, Tex., for Federal deposit insurance.
Bank of Pasadena, a proposed new bank to be located at 3933 Fairmont Parkway, Pasadena, Tex., for Federal deposit insurance.
Application for consent to change a main office location:
The Estes Park Bank, Estes Park, Colo., for consent to relocate its main office from 101 West Elkhorn Avenue to 363 East Elkhorn Avenue, both locations within Estes Park, Colo.
Requests pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:
Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).
Application for consent to merge and establish branches:
The New York Bank for Savings, New York (Manhattan), N.Y., an insured mutual savings bank, for consent to merge under its charter and title with First Chartered Savings & Loan Association, Port Jervis, N.Y., an insured mutual savings and loan association, and for consent to establish the six offices of First Chartered Savings & Loan Association as branches of the resultant bank.
Application for consent to merge, establish branches, and redesignate the main office location:
The Exchange Bank of Central Florida, Haines City, Fla., an insured State nonmember bank, for consent to merge with the Exchange National Bank of Winter Haven, Winter Haven, Fla., under the charter of the applicant and with the title of "Exchange Bank of Polk County;" for consent to establish the three existing offices of the other bank as branches of the resultant bank; and for consent to redesignate the present main office of the Exchange Bank of Winter Haven as the main office of the resultant bank.
Application for consent to merge, to redesignate the main office location, to establish a branch, and to issue and retire capital:
Peoples Bank of Hawk Point, Hawk Point, Mo., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Peoples Bank of Lincoln County," with Citizens Bank of Troy, Troy, Mo., also an insured State nonmember bank; for consent to redesignate its main office location to the present site of the existing main office of Citizens Bank of Troy; for consent to establish the present office of Peoples Bank of Hawk point as a branch of the resultant bank; for consent to issue capital notes as an addition to capital; and for advance consent to retire capital notes.
Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 43,668-L—American Bank & Trust, Orangeburg, S.C.
Case No. 43,669-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tenn.
Case No. 43,675-L—Franklin National Bank, New York, N.Y.
Case No. 43,679-L—The Bank of Bloomfield, Bloomfield, N.J.
Case No. 43,682-L—Birmingham Bloomfield Bank, Birmingham, Mich.
Case No. 43,683-L—Birmingham Bloomfield Bank, Birmingham, Mich.
Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:
Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).
Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, seperations, removals, etc.:
Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Hoyle L. Robinson, Assistant Executive Secretary, 202-389-4425.

[S-2162-78 Filed 10-25-78; 11:52 am]

[6740-02-M]

11

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49411, published October 23, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., October 25, 1978.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CAG-8. R-389-B, Transco Exploration Co. R-389-B, C & K Petroleum, Inc.

KENNETH F. PLUMB,
Secretary.

[S-2159-78 Filed 10-25-78; 11:00 am]

[6740-02-M]

CI-1. Docket No. RI76-126, Energy Development Corp.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

Board of Governors of the Federal Reserve System.

statements in nonadjudicative proceedings (see documents CO2-B-207 and GC-B-218).
8. Any items left over from previous

MATTERS TO BE CONSIDERED:

Thursday, October 26—1:30 p.m.

V 43 / 209 0 C 278 7 8

[6740-02-M]

12

OCTOBER 25, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 3 p.m., October 25, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Initiation of private investigation.

CONTACT PERSON FOR INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2164-78 Filed 10-25-78; 2:53 pm]

[6740-02-M]

13

OCTOBER 25, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., November 1, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—204TH MEETING, NOVEMBER 1, 1978, REGULAR MEETING

CAG-1. Docket No. CP78-469, Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Michigan Wisconsin Pipe Line Co.
CAG-2. Docket No., RP75-8 (PGA Nos. 79-1 and 79-1A), Commercial Pipeline Co., Inc.
CAG-3. Docket No. RP78-62, Panhandle Eastern Pipe Line Co.
CAG-4. Docket Nos. CI78-1176, et al., Transco Exploration Co. et al.
CAG-5. Docket No. CP76-490, Transcontinental Gas Pipe Line Corp.
CP-1. Docket No. RP77-35, Senator Howard Metzenbaum, Complainant, v. Columbia Gas Transmission Corp., Defendant.
CP-2. Docket Nos. RP47-50-1, RP74-50-2, RP74-50-3, RP74-50-4, Florida Gas Transmission Co. (Basic Magnesia, Inc., et al.)
CP-3. Docket No. CP78-470, CP78-471, CP78-472, and CP78-477, Transcontinental Gas Pipe Line Corp.
CI-1. Docket No. RI76-126, Energy Development Corp.

MISCELLANEOUS AGENDA—204TH MEETING, NOVEMBER 1, 1978, REGULAR MEETING

M-1. Docket No. RM78-17, Procedures for review by the Federal Energy Regulatory Commission of adjustment request denials by the Secretary of Energy.

POWER AGENDA—204TH MEETING, NOVEMBER 1, 1978, REGULAR MEETING

CAP-1. Docket No. ER79-9, Public Service Electric & Gas Co.
CAP-2. Docket No. ER79-10, Oklahoma Gas & Electric Co.
CAP-3. Docket No. ER79-11, Oklahoma Gas & Electric Co.
CAP-4. Docket No. ER76-149 and E-9537, Public Service Co. of Indiana, Inc.
ER-1. Docket No. ER78-522, Virginia Electric & Power Co.
P-1. Project No. 2863, City of Holyoke, Mass.

KENNETH F. PLUMB, *Secretary.*

[S-2168-78 Filed 10-25-78; 3:31 pm]

[6720-01-M]

14

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 204, Page 49107, October 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 25, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

CHANGES IN THE MEETING: The following item has been withdrawn from the agenda for the open meeting. It will now be considered at the closed meeting immediately following it:

Change of Office Location Application—Highland Federal Savings & Loan Association of Cincinnati, Cincinnati, Ohio.

No. 193, October 25, 1978.

RONALD A. SNIDER, *Assistant Secretary.*

[S-2169-78 Filed 10-25-78; 3:33 pm]

[6735-01-M]

15

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

OCTOBER 25, 1978.

TIME AND DATE: 10 a.m., October 31, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following petition for discretionary review: Wolf Creek Collieries, PIKE 78-70-P.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Philip Paschall, 202-653-5610.

JEROME R. WALDIE, *Chairman, Federal Mine Safety and Health Review Commission.*

[S-2175-78 Filed 10-25-78; 3:48 pm]

[6210-01-M]

16

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, November 1, 1978. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed extension and revision of the Domestic Finance Company Reports of Consolidated Assets and Liabilities (FR 248 and FR 248-A).
2. Proposed revisions in the condition and Income Reports required of Edge corporations and the foreign branches and foreign subsidiaries of U.S. commercial banks.
3. Request for a determination concerning classification of funds as time deposits under Regulation Q (Interest on Deposits) in the absence of a written agreement between the depositor and the bank.

DISCUSSION AGENDA

1. Request for a determination under Regulations D (Reserve Requirements) and Q (Interest on Deposits) concerning the issuance of securities backed by pools of conventional mortgages.
2. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by writing to: Freedom of Information Office,

Board of Governors of the Federal Reserve System.

Closed portion:

1. Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on Friday, October 27, 1978).
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: October 25, 1978.

GRIFFITH L. GARWOOD, *Deputy Secretary of the Board.*

[S-2158 Filed 10-25-78; 11:00 am]

[6750-01-M]

17

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Tuesday, November 7, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Proposed Rule and Staff Report on Standards and Certification.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information: 202-523-3830; Recorded message: 202-523-3806.

[S-2157-78 Filed 10-25-78; 11:00 am]

[7020-02-M]

18

[USITC SE-78-55]

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Thursday, November 9, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Clothespins (Inv. TA-201-36)—Briefing and vote on injury.
7. Proposed amendment of Commission Rules to require the filing of prehearing statements in nonadjudicative proceedings (see documents CO2-B-207 and GC-B-218).
8. Any items left over from previous agenda.

Portions closed to the public:

6. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2167-78 Filed 10-25-78; 3:31 pm]

[4110-39-M]

19

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: November 3, 1978—9:30 a.m.-3 p.m.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Approve minutes of September 15, 1978 meeting (9:30 a.m.-9:35 a.m.).
2. Director's General Report (9:35 a.m.-10:15 a.m.).
3. Status of legislation affecting NIE (10:15 a.m.-11:45 a.m.).
4. Status of NIE relationships with educational laboratories and research and development centers and report on work of panel for review of laboratorics and centers (10:45 a.m.-11:45 a.m.).
5. Fiscal year 1979 budget (11:45 a.m.-12 noon).
6. Review and Reports Committee (1 p.m.-2 p.m.): Status of review process and status of 1978 annual report.
7. Report on the NIE Vocational Education Study (2 p.m.—Adjournment).

PERSON TO CONTACT FOR INFORMATION:

Ella L. Jones, Administrative Coordinator, Telephone 202-254-7900 or 254-6948.

PETER H. GERBER, *Chief, Policy and Administrative Coordination, National Council on Educational Research.*

[S-2163-78 Filed 10-25-78; 12:15 pm]

[7590-01-M]

20

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: October 26 and 27, 1978.

PLACE: Commissioners Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Thursday, October 26—1:30 p.m.

1. Briefing on Licensee Performance Appraisal System (Approx. 1 hr.) (Public meeting.)
2. Briefing on Reactor Licensing Schedules (Approx. 1 hr.) (Public meeting.)
3. Affirmation Items (Approx. 10 min.) (Tentative.) (Public meeting.)
   a. Reduction of fees under FOIA (postponed from Oct. 19, 1978)
   b. Licensing of geologic high-level waste repositories
   c. Rulemaking to improve powerplant licensing
   d. Reducing occupational radiation exposures

Friday, October 27—9:30 a.m.

1. Discussion of review of ALAB-489 and 500; offshore power systems (Approx. 1 hr.) (Public meeting.) (Tentative.)
2. Discussion of review of staff motion to withdraw its petition for review of ALAB-399, and review of ALAB-487, Consolidated Edison of New York, and related matters (Approx. 1 hr.) (Closed—Exemption 10.) (Tentative.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

ROGER M. TWEED, *Office of the Secretary.*

[S-2165-78 Filed 10-25-78; 2:53 pm]

[7590-01-M]

21

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, October 31, 1978.

PLACE: Chairman's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tuesday, October 31—3:00 p.m.

1. Discussion of EDO Testimony of July-August 1977 (Approx. 1 hr.) (Closed—Exemption 6).
2. Discussion of Personnel Matter (Approx. 1 hr.) (Closed—Exemption 6).

ADDITIONAL INFORMATION: Meetings announced as tentative for *Friday, October 27* (Offshore Power Systems and Consolidated Edison of New York) are *postponed* to a date to be announced.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE, *Office of the Secretary.*

[S-2166-78 Filed 10-25-78; 2:53 pm]

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FRIDAY, OCTOBER 27, 1978
PART II

V 43 / 209 OC 27 78

federal register

FRIDAY, OCTOBER 27, 1978
PART II

DEPARTMENT OF DEFENSE

Department of the Air Force

PRIVACY ACT OF 1974

Systems of Records; Deletions, Amendments, and Additions

[3910-01-M]

F01101 OOJUBJA

System name: Personnel Management Information System (42 FR 50709).

F03501 22 ALSA

System name: AAC Quality Force Record System (42 FR 50863).

Reason: This system has been incorporated into F05001 AFSS A. Training Summaries appearing in the added systems notices in this

V 43 / 209 OCT 27 78

[3910-01-M]

DEPARTMENT OF DEFENSE
DEPARTMENT OF THE AIR FORCE
PRIVACY ACT OF 1974
Notice of Systems of Records
Deletions, Amendments, Additions.

Agency: Department of the Air Force (AF).

Action: Deletions, amendments, and additions to Air Force systems of records.

Summary: The Air Force is deleting 42, amending 8 and adding 2 systems of records to its inventory of records subject to the Privacy Act of 1974.

Dates: The amendments and additions shall be effective as proposed without further notice on November 27, 1978, unless comments are received on or before November 27, 1978, which would result in a contrary determination and require republication for further comments.

Address: Any public comments, including written data, views or arguments concerning the amendments and additions should be addressed to:

The Air Force Privacy Office (HQ USAF/DADMP)
Directorate of Administration
Headquarters United States Air Force
Bolling AFB, Washington, D.C. 20330

For further information contact:

Mr. Jon E. Updike
HQ USAF/DADMP
Bolling AFB, Washington, D.C. 20330
Telephone 202-767-4545

Supplementary information: The Air Force systems of records inventory subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 have been published in the Federal Register as follows:

FR Doc. 77-23132 (42 FR 41468) August 17, 1977;
FR Doc. 77-28255 (42 FR 50785) September 28, 1977;
FR Doc. 78-25819 (43 FR 42436) September 20, 1978;
FR Doc. 78-28090 (43 FR 46063) October 5, 1978.

The proposed amendments and additions are not deemed to be within the purview of the provisions of 5 U.S.C. 552a(o) of the Privacy Act which requires submission of a new or altered system report in accordance with Office of Management and Budget (OMB) guidance set forth in the Federal Register (40 FR 45877) on October 3, 1975.

October 18, 1978.

Maurice W. Roche,
Director, Correspondence Directives,
Washington Headquarters Services,
Department of Defense.

Note: Added systems appear later in this document.

DELETIONS

F01001 OJDJDBA

System name: National Agency Check Status (42 FR 50780).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F01001 OKPNQSB

System name: Air Force Reserve Officer Training Corps Evaluation Information Record Files (42 FR 50791).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F01001 OTRDRDA

System name: Minutes of 354 TFW Quality Review Committee (42 FR 50792).

Reason: This system is included in F03505 DPMAO A, Unfavorable Information Files (UIFs) (42 FR 50889).

F01101 OJ DP A

System name: Senior Officer Management Offices Files (42 FR 50795).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F01101 OOJUBJA

System name: Personnel Management Information System (42 FR 50799).

Reason: This system is included in F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F01101 OUJCGJC

System name: Career Development Course Enrollees (42 FR 50800).

Reason: This notice has been merged with F01101 OUJCGJA, Career Development Graduates Historical Roster published under Amendments in this Federal Register.

F01101 02 ALSC

System name: Inspection Augmentor Data (42 FR 50800).

Reason: These records are covered by F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F01102 SGAS E

System name: Personnel Locator Cards (42 FR 50804).

Reason: This system is identical with F01102 DAYX A, Base, Unit and Organizational Military and Civilian Locator Files (42 FR 50800).

F01102 OJ DP B

System name: Personnel Locator Roster (42 FR 50807).

Reason: This system is included in F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F01102 OJ DP C

System name: Recruiter Manning Personnel Listing (42 FR 50807).

Reason: This system is included in F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F02701 06SCEY

System name: Air Force Audit Agency (AFAA) Management Information System—Plan File (42 FR 50813).

Reason: These Records contain no personal information.

F03004 OTMUHJB

System name: Officer Promotion Eligibility Report (42 FR 50831).

Reason: This system is included in F03508 DPMAJAA, Officer Promotion and Appointments (42 FR 50894).

F03004 OSGHLNC

System name: Disaster Teams and Training (42 FR 50831).

Reason: This system is identical with F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F03501 DPG

System name: Accounting for Personal Money Allowances (PMA) (42 FR 58196).

Reason: The system was never established.

F03501 OJ DP D

System name: Key Personnel Status Report (42 FR 50854).

Reason: This system is included in F01102 DAYX A, Base, Unit and Organizational Military and Civilian Locator File (42 FR 50800).

F03501 OJ JA A

System name: Record of Individual Counseling (42 FR 50854).

Reason: This system is included in F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator File (42 FR 50800).

F3501 OOVDYDA

System name: Informational Personnel Records (42 FR 50857).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F93501 05HCHLG

System name: Air Intelligence Manpower Management System (AIMMS) (42 FR 50858).

Reason: These records are covered by F01102 DAYX A, Base, Unit and Organizational Military and Civilian Locator Files (42 FR 50800).

F03501 22 ALSA

System name: AAC Quality Force Record System (42 FR 50863).

Reason: These records are covered by F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F03501 22 ALSB

System name: Alaskan Air Command (AAC) Quality Force Record (42 FR 50863).

Reason: These records are covered by F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F03501 22 ALSC

System name: AAC Quality Force Record System (42 FR 50864).

Reason: These records are covered by F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F03501AOSPCZPB

System name: Drug/Alcohol Intake Interview and Checklist (42 FR 50864).

Reason: This record is part of the F03001 OCGBUZA, Drug/Alcohol Abuse Control Case File (42 FR 50815) and amended in this Federal Register.

F03501FOSSGBPB

System name: Senior Officer Information File (42 FR 50866).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F03504AOSSGBPA

System name: Personnel Selected for Relocation (42 FR 50888).

Reason: This system is covered by F03504 DPM A, Relocation Preparation Project Folders (43 FR 16903).

F03505 DPMJA C

System name: Line of Duty Determinations and Investigations (42 FR 50890).

Reason: This system is no longer maintained.

F03505 OSSZDTA

System name: Personnel Quality Control Report (42 FR 50891).

Reason: These are summary sheets included in F03505 DPMAO A, Unfavorable Information Files (UIFs) (42 FR 50889).

F04501 02SCEYA

System name: Military Personnel Folders (42 FR 50910).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F04501 07YLNGA

System name: Reserve Officer/Airman Personnel Data Card (42 FR 50910).

Reason: This system is included in F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F05001 OSGHLNF

System name: Aircrew Positive Control Study Record (42 FR 50917).

Reason: This system is covered by F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F05001 OUJCGJA

System name: Training Summaries Graduation Roster (42 FR 50918).

Reason: This system has been incorporated into F05001 AFSS A, Training Summaries appearing in the added systems notices in this Federal Register.

F05001 OUJCGJB

System name: Training Summaries Entering Class Roster (42 FR 50918).

Reason: This system has been incorporated into F05001 AFSS A, Training Summaries appearing in the added systems notices in this Federal Register.

F05001 OUJCGJC

System name: Training Summaries Alphabetically Roster (42 FR 50919).

Reason: This systems has been incorporated into F05001 AFSS A, Training Summaries appearing in the added systems notices in this Federal Register.

F05001 OUJCGJD

System name: Training Summaries Class Roster (42 FR 50919).

Reason: This system has been incorporated into F05001 AFSS A, Training Summaries appearing in the added systems notices in this Federal Register.

F05001 22 ALSA

System name: Aircrew Intelligence Training Report (42 FR 50921).

Reason: These records are covered by F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F05001 22 ALSB

System name: Operations Training Records (42 FR 50921).

Reason: These records are covered by F03501 DP 3, Unit Assigned Personnel Information File (42 FR 50839).

F05302 OBXQPCC

System name: Active Cadet Counseling File (42 FR 50938).

Reason: These records are part of F03502 OBXQPCC, Cadet Personnel Records System and do not form a separate system of records. See 42 FR 50875.

F11101 OUMCBVB

System name: Judge Advocate Command Roster (42 FR 50955).

Reason: This system is included in F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F012501 02 ALSA

System name: Reporting Crimes and Serious Incidents (42 FR 50966).

Reason: These records are identical to those covered by F12501 SPO H, Serious Incident Reports (42 FR 50965).

F12503 02 ALSD

System name: Trailer Lot Registration (42 FR 50969).

Reason: These records are covered by F01102 DAYX A, Base, Unit and Organizational Military and Civilian Personnel Locator Files (42 FR 50800).

F16201 OSPCZPC

System name: Periodic Occupation Vision Record (42 FR 50982).

Reason: This record is part of F16805 ASGHB R, Health and Outpatient Record listed in 42 FR 50987.

F17801 OJ RS A

System name: Recruiting Advertising Evaluation (RAE) System E806 (42 FR 51014).

Reason: This notice is being republished under the same identifier in the added systems in this Federal Register in order to provide more detail on the system.

F90001 ORKNMDA

System name: Individual Decorations Approved or Disapproved (42 FR 51035).

Reason: This system is included in F90001 DPMSAAB, Military Decorations (42 FR 51035).

AMENDMENTS

Following the identification code of the record systems and the specific changes made therein, the complete revised record systems, as amended, are published in their entirety.

F01101 OUJCGJA

System name: Career Development Graduates Historical Roster (42 FR 50799).

Changes:

System name: Add "/Course Enrollees."

System location: Change Zip Code to "76903."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: At "and to identify persons currently enrolled in course."

F01102 DAYX A

System name: Base, Unit and Organizational Military and Civilian Personnel Locator Files (43 FR 42437).

Changes:

Categories of individuals covered by the system: Change "Air Force Reserve Personnel" to "Air Force Reserve and National Guard Personnel."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Change "Maintained on computer printouts" to "maintained on computer and computer products."

F03001 JALA A

F17802XOOTAYZM

dence address and residence telephone number, and similiar type personnel data determined to be necessary by the local authority.

Authority for maintenance of the system: Executive Order 11222, 'Prescribing Standards of Ethical Conduct for Government Officers

V 43/209 0C 27 78

F03001 JALA A

System name: Confidential Statement of Employment and Financial Interest (42 FR 50814).

Change:

Categories of individuals covered by the system: Delete entire entry and substitute, "Air Force personnel paid at a level of the Executive Schedule in subchapter II of Chapter 53 of Title 5, USC; Air Force General Officers and civilian officers and employees in pay grades GS-16 to GS-18; Commanders and Vice Commanders of Divisions and Wings; Base and Deputy Base Commanders of major installations; all Air Force personnel with a grade or rank of GS-13 or above or Lieutenant Colonel and above or at a comparable pay level under another authority, whose basic duties and responsibilities require the exercise of judgment on Government decision making or taking action on (1) the administering or monitoring of grants or subsidies, (2) contracting or procurement, (3) auditing, or (4) any other government activity in which the final decision or action has a significant economic impact on the interest of any nonfederal enterprise."

This change corrects defects in wording of the existing notice and makes no change in the categories of individuals.

F03001 OCGBUZA

System name: Drug/Alcohol Abuse Control Case Files (43 FR 42438).

Changes:

Categories of records in the system: Delete all after "indicating" and substitute, "whether a determination has been made as to entry into the rehabilitation and, if entered, progress of individuals toward rehabilitation."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Delete first sentence and substitute, "To determine whether an individual is to be entered in a rehabilitation program, and to document progress of individuals in a program."

Retention and disposal: On line 1 after "phase," add "or other termination" and after "rehabilitation," add "or three months after determination is made not to enter the individual in rehabilitation."

System manager(s) and address: Add "Subordinate systems managers are: (1) Director of Personnel at each major command and (2) Chief of Social Actions at Air Force installations for systems operated at each level."

Notification procedure: In the last line, change "counselor" to "drug/alcohol specialist."

F03502 OBXQPCB

System name: Cadet Personnel Records System (42 FR 50875).

Changes:

Categories of records in the system: Delete all after "documents" in line 2.

System manager(s) and address: Add "and Director of Admissions and Registrar, United States Air Force Academy, CO 80840."

F11101 OSPCZPA

System name: Military Justice Administration (42 FR 50954).

Changes:

Categories of individuals covered by the system: Delete entry and substitute, "All Air Force active duty personnel nominated to serve on general court martial."

System manager(s) and address: Change zip code to "92518." Changes are to correct errors.

F17730 OEACYVA

System name: Joint Uniform Military Pay System (JUMPS) (43 FR 42466).

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: "The name, rank and social security number of each member of the Armed Services on active duty may be disclosed as a routine use to the Department of Health, Education and Welfare (DHEW). This information shall be extracted from systems of records used for making payments to military personnel on active duty. This information may be submitted to the Inspector General of DHEW upon request of that department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC)."

F17802XOOTAYZM

System name: Personnel Cost Accounting System (PCAS) (42 FR 51015).

Changes:

System location: Delete entire entry and substitute, "Air Force Data Services Center (AFDSC), Pentagon, Washington, DC 20330. Air Force Data Systems Design Center (AFDSDC), Gunter AFS, AL 36114."

Categories of individuals covered by the system: Delete entire entry and substitute, "Air Force active duty military personnel and civilian employees assigned at each location."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: At the end of the first sentence, add "and in the Air Force Data Systems Design Center." Delete remainder of entry.

Retrievability: Delete, "Filed by Military Service Number."

System manager(s) and address: Add, "Commander, Air Force Data Systems Design Center, Gunter AFS, AL 36114."

[3910-01-F]

F01101 0UJCGJA

System name: 01101 0UJCGJA Career Development Graduates Historical Roster/Course Enrollees

System location: United States Air Force School of Applied Cryptologic Science (USAFSACS) Goodfellow Air Force Base TX 76903

Categories of individuals covered by the system: Army, Navy and Marine Corps active duty military personnel. Air Force active duty officer personnel. Air Force active duty enlisted personnel.

Categories of records in the system: Machine data record.

Authority for maintenance of the system: 10 United States Code 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by USAFSACS to identify graduates over a six-month period and to identify persons currently enrolled in course.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer paper printouts.

Retrievability: Filed by Name. Filed by Social Security Number (SSN).

Safeguards: Records are accessed by custodian of the record system. Records are controlled by computer system software.

Retention and disposal: Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address: USAFSACS.

Notification procedure: Requests from individuals should be addressed to the Systems Manager.

Record access procedures: Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information obtained from automated system interfaces.

Systems exempted from certain provisions of the act: NONE

F01102 DAYX A

System name: 01102 DAYX A Base, Unit, and Organizational Military and Civilian Personnel Locator Files

System location: At Headquarters, United States Air Force, and at Air Force Installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

Categories of individuals covered by the system: Air Force active duty military personnel; Air Force Reserve and National Guard Personnel; Air Force civilian employees; dependents may be included at the option of the installation, unit, or organization.

Categories of records in the system: Cards or listings may contain the individuals name, grade, military service identification number, social security number, duty location, office telephone number, residence address and residence telephone number, and similiar type personnel data determined to be necessary by the local authority.

Authority for maintenance of the system: 44 USC 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to locate personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation, office, base, unit, function, and/or organization in response to specific inquiries from official government activities for the conduct of business. Files are used locally to locate and administer programs and personnel.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on paper records in card or form media in visible file binders/cabinets card files or on computer and computer products.

Retrievability: Filed by Name.

Safeguards: Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

Retention and disposal: Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address: Primary location: Director of Administration, Headquarters, US Air Force, Washington, DC Decentralized Location: Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Notification procedure: Requests from individuals should be addressed to the Systems Manager. Individual must furnish full name and the names of Air Force installation, unit and organization, office, or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

Record access procedures: Individual can obtain assistance in gaining access from the Systems Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information obtained from automated system interfaces or from individuals or personnel records.

Systems exempted from certain provisions of the act: NONE

F03001 JALA A

System name: 03001 JALA A Confidential Statement of Employment and Financial Interest

System location: Office of the General Counsel, Office of the Secretary of the Air Force, Washington D.C. 20330 Headquarters United States Air Force, Washington DC 20330. Headquarters of major commands and at all levels down to and including Air Force installations.

Categories of individuals covered by the system: Air Force personnel paid at a level of the Executive Schedule in subchapter II of Chapter 53 of Title 5, USC; Air Force General Officers and civilian officers and employees in pay grades GS-16 to GS-18; Commanders and Vice Commanders of Divisions and Wings; Base and Deputy Base Commanders of major installations; all Air Force personnel with a grade or rank of GS-13 or above or Lieutenant Colonel and above or at a comparable pay level under another authority, whose basic duties and responsibilities require the exercise of judgment on Government decision making or taking action on (1) the administering or monitoring of grants or subsidies, (2) contracting or procurement, (3) auditing, or (4) any other government activity in which the final decision or action has a significant economic impact on the interest of any non-federal enterprise.

Categories of records in the system: Contains the title of the individual's position, date of appointment in present position, agency and major organization segment of the position, employment and financial interests, creditors, interest in real property, and a list of persons from whom information can be obtained concerning the individual's financial situation.

Authority for maintenance of the system: Executive Order 11222, 'Prescribing Standards of Ethical Conduct for Government Officers and Employees.'

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The review of the statements by the individual's supervisor and deputy counselor.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by year.

Safeguards: Stored in locked metal safes.

Retention and disposal: Retained up to two years after the individual has left employment destroyed by tearing into pieces, shredding, pulping, macerating or burning.

System manager(s) and address: The Assistant General Counsel (Personnel) The Judge Advocate General, Headquarters United States Air Force.

Notification procedure: Requests from individuals should be addressed to the Systems Manager.

Record access procedures: Individual can obtain assistance from the Systems Manager.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information is obtained from the individual or from personnel designated by the individual.

Systems exempted from certain provisions of the act: NONE

F03001 0CGBUZA

System name: 03001 0CGBUZA Drug/Alcohol Abuse Control Case Files

System location: At servicing Air Force (AF) installation social actions office. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Categories of individuals covered by the system: Air Force active duty military personnel and dependents, Air Force civilian employees, and Air Force Reserve personnel, who are enrolled in a drug/alcohol rehabilitation program.

Categories of records in the system: As a minimum, the file contains forms and commander's letters documenting date and means of identification, categorizing type of abuse and indicating whether a determination has been made as to entry into the rehabilitation and, if entered, progress of individuals toward rehabilitation.

Authority for maintenance of the system: Section 408, drug-abuse office and treatment act of 1972 (Public Law 92-255; 21 United States Code 1175).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To determine whether an individual is to be entered in a rehabilitation program, and to document progress of individuals in a program. Those authorized to review, handle, or have access to the file are social actions and medical personnel directly engaged in rehabilitation of a person. Veterans Administration (VA) treatment personnel in cases of members transferred directly to VA in active duty status, official members of rehabilitation evaluation group, Commanders in member's chain of command, and persons authorized by Public Law 92-255, section 408(b)21 United States Code 1175(b). The file is used to develop a treatment regimem, to assist rehabilitation evaluation group make decisions for rehabilition program dispositions, and to prepare recurring reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders.

Retrievability: Filed by Name by other identification number or system identifier.

Safeguards: Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets safes and controlled by personnel screening.

Retention and disposal: Destroy one year after completion of follow on phase or other termination and after rehabilitation, or three months after determination is made not to enter the individual in rehabilitation by tearing into pieces, shredding, pulping, macerating, or burning, unless needed as background for case files supporting a separation action or other actions under directives, in which case,

disposition will be the same as the file which they support. Files at George AFB, CA and Nellis AFB, NV will be retained for one year

Categories of records in the system: Court martial member experience statement.

non-government debts, and correspondence pertaining to all of the above. Inquiries files, personal financial records and sundry lists,

Notification procedure: Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303)

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disposition will be the same as the file which they support. Files at George AFB, CA and Nellis AFB, NV will be retained for one year after completion of rehabilitation, permanent change of station or separation or 31 Dec 79, whichever is later.

System manager(s) and address: Deputy Chief of Staff Personnel, Headquarters United States Air Force. Subordinate systems managers are: (1) Director of Personnel at each major command and (2) Chief of Social Actions at Air Force installations for systems operated at each level.

Notification procedure: Chief, Social Actions servicing AF installation. Requests to determine existence of a file should include full name, grade, and unit of assignment. Personal visit proof of identity requires full name and possession of Department of Defense (DD) Form, 2 AF, Armed Forces Identification Card; DD Form 1173, Uniformed Services Identification and Privilege Card; or driver's license and personal recognition of drug/alcohol specialist.

Record access procedures: Chief social actions servicing AF installation. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information obtained from medical institutions, personnel records, individual.

Systems exempted from certain provisions of the act: NONE

F03502 OBXQPCB

System name: 03502 OBXQPCB Cadet Personnel Records System

System location: United States Air Force Academy, USAF Academy CO 80840.

Categories of individuals covered by the system: Air Force Academy cadets.

Categories of records in the system: This record system contains both Military Personnel documents and Counselling documents.

Authority for maintenance of the system: 44 USC 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For use in controlling and regulating a cadet during his time at the USAF Academy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in visible file binders/cabinets.

Retrievability: Filed by Name.

Safeguards: Records are stored in locked cabinets or rooms.

Retention and disposal: These records are stored for one year after graduation, then merged with the Master Cadet Personnel Records maintained by Registrar, Cadet Records Section, USAF Academy, CO 80840.

System manager(s) and address: Commandant of Cadets, and Director of Admissions and Registrar, United States Air Force Academy, CO 80840.

Notification procedure: See Exemption

Record access procedures: See Exemption

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: See Exemption

Systems exempted from certain provisions of the act: Parts of this system may be exempt under 5 U.S.C. 552a (j) or (k), as applicable. For additional information, contact the Systems Manager.

F11101 0SPCZPA

System name: 11101 0SPCZPA Military Justice Administration

System location: Beale Air Force Base CA 95903, Castle Air Force Base CA 95342, Davis Monthan Air Force Base AZ 85707, Dyess Air Force Base TX 79607, Ellsworth Air Force Base SD 57706, Fairchild Air Force Base WA 99011, Francis E Warren Air Force Base WY 82001, Grand Forks Air Force Base ND 58205, Malmstrom Air Force Base MT 59402, March Air Force Base CA 92508, Minot Air Force Base ND 58705, 6 Strategic Wing APO Seattle 98737, 320 Bombardment Wing Mather Air Force Base CA 95655, 916 Air Refueling Squadron Travis Air Force Base CA 94535, 55 Strategic Reconnaissance Wing Offutt Air Force Base NE 68113, 4300 Air Base Squadron Glasgow Air Force Base MT 59231.

Categories of individuals covered by the system: All Air Force active duty personnel nominated to serve on general court martials.

Categories of records in the system: Court martial member experience statement.

Authority for maintenance of the system: 10 United States Code 8012

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Commanders to select court martial members.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in card files.

Retrievability: Filed by Name.

Safeguards: Records are accessed by custodian of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

Retention and disposal: Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address: Headquarters 15 Air Force Staff Judge Advocate, March Air Force Base CA 92518.

Notification procedure: Addressed to unit Staff Judge Advocate.

Record access procedures: Gain assistance from unit Staff Judge Advocate.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Individual.

Systems exempted from certain provisions of the act: NONE

F11730 0EACYVA

System name: 17730 0EACYVA Joint uniform military pay system (JUMPS)

System location: Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279. Air Force Military Personnel Center, Randolph Air Force Base, TX 78148. consolidated base personnel offices at Air Force installations. accounting and finance offices at Air Force bases. At Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114 (for research and test only), Denver Federal Archives and Records Center, Denver, CO 80225 (storage), Records Center Annex GSA, PO Box 141, Neosho, MO 64850 (back-up storage). Information pertaining to geographically dispersed elements of the record system (CBPO's and AFO's) may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice.

Categories of individuals covered by the system: Air Force active duty military personnel and dependents. Retired Air Force military personnel. Separated Air Force military personnel, individuals to whom active duty military personnel authorize a direct payment of a portion of their pay, and Officers of the Air Reserve and Air National Guard on extended active duty.

Categories of records in the system: Military pay records and files including but not limited to; master military pay accounts, immediate access storage, six-months history, leave and earnings statements, federal insurance contribution act tax and federal income tax withholding contained on magnetic tape, magnetic discs, microfilm, microfiche and computer printed formats; pay authorization control files, central pay authorization file, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical, dental, veterinary and optometry; special pay such as foreign duty, proficiency, hostile fire and diving duty; status adjustments relating to entrance on active duty, absent-without-leave, confinement, desertion, sick or injured, leave, mentally incompetent, missing, interned, permanent change of station, promotions and demotions; separation, reenlistment, reenlistment bonus; incentive pay such as flying duty, stress duty, demolition duty, parachute jumping duty and submarine duty; allowances, such as basic allowance for subsistence, basic allowance for quarters, family separation allowances, overseas station allowances, clothing monetary allowance; separation payments, death gratuities, time-in-service; allotments of pay; checks-to-banks; federal and state withholding taxes; court-martial sentences and non-judicial punishment; indebtedness resulting from but not limited to overpayment of pay and allowances and allotments, other debts to United States, certain

non-government debts, and correspondence pertaining to all of the above. Inquiries files, personal financial records and sundry lists, reports and rosters including but not limited to Internal Revenue reports, state tax reports, Veterans Administration reports, Social Security Administration reports, and Treasury reports.

Authority for maintenance of the system: 37 USC 101 et seq.; 10 USC 265,8033,8496; 10 USC 9837 (d); 32 USC 708; E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The purposes of these records are to accurately and timely pay members of the Air Force, provide members periodic comprehensive statements of their accounts, and to respond to inquiries concerning their accounts at any time. US Air Force components such as Headquarters, Air Force Accounting and Finance Center, Major Commands and Air Force installations use these records to determine pay due military members, to verify pay affecting information, to collect overpayments made to military members, to provide accrual accounting for each covered entitlement of military pay and allowances, and to provide fund manager reports, internal manager reports and external reports. Other users include but are not limited to other components of Department of Defense such as Army and Navy which may pay Air Force members and initiate claims; other federal agencies such as the Internal Revenue Service for tax information on members, Social Security Administration for information regarding Federal Insurance Contribution Act tax deducted from members, Veterans Administration for information regarding premiums on serviceman's group life insurance, the General Accounting Office for audits, opinions, and fact-finding information, state and local governments for tax and welfare information, US and state courts for civil litigation and criminal prosecution purposes, members of Congress for complaints from constituents and for inquiries not generated by constituents, insurance companies for allotments made to them by military members, financial institutions for deposits (checks-to-banks) and/or payments, the American Red Cross and the Air Force Aid Society. Records may be disclosed to law enforcement agencies such as but not limited to office of Special Investigations, United States Air Force; Federal Bureau of Investigation; city and state authorities for violations of law, for investigation and possible criminal prosecution, civil court action or regulatory processes. Disclosures made pursuant to the Freedom of Information Act. Disclosures to the Department of Justice for criminal prosecution, civil litigation, or for investigatory purposes. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. The Air Force Aid Society uses this information to determine needs of a member or his dependents in emergency situations and for verification of loan applications. The name, rank and social security number of each member of the Armed Services on active duty may be disclosed as a routine use to the Department of Health, Education and Welfare (DHEW). This information shall be extracted from systems of records used for making paymentto military personnel on active duty. This information may be sumbitted to the Inspector General of DHEW upon request of that department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in file folders/ note books/binders/bisible file binders/cabinets/card files, computer magnetic tapes and maintained on computer paper printouts, and on roll mircrofilm and microfiche.

Retrievability: Filed by Name, Social Security Number (SSN), or Military Service Number.

Safeguards: Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/ locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

Retention and disposal: local retention varies from 3 to 6 years. At expiration of local retention, records are either destroyed by tearing, shredding, pulping, macerating or burning or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center for varying retention periods up to 56 years. Destroyed by shredding. Back-up records for emergency reconstruction in the event of primary record destruction are retained by the Federal Records Center Annex GSA at Neosho MO. Destruction is by shredding.

System manager(s) and address: Comptroller of the Air Force, Headquarters United States Air Force.

Notification procedure: Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO, 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

Record access procedures: Request from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, Colorado, 80279 Denver, CO, 80279, telephone (303) 320-7553. the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, social security account number, military status, duty status or place of employment or other information verifiable from the record itself.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information obtained from financial institutions, automated system interfaces, a state or local government, source documents (such as reports) prepared on behalf of the Air Force by boards, committees, panels, auditors, and so forth, military pay information originating from telephone inquiries telegraph messages and correspondence information from federal agencies and other DoD components and information from Air Force installations, Major Commands and USAF Headquarters.

Systems exempted from certain provisions of the act: NONE

F17802X0OTAYZM

System name: 17802X0OTAYZM Personnel Cost Accounting System (PCAS)

System location: Air Force Data Services Center (AFDSC), Pentagon, Washington, DC 20330. Air Force Data Systems Design Center (AFDSDC), Gunter AFS, AL 36114.

Categories of individuals covered by the system: Air Force active duty military personnel and civilian employees assigned at each location.

Categories of records in the system: Records amount of time spent on various projects/tasks, administrative duties, leave, Temporary Duty(tdy), leave without pay(LWOP) and clerical time. Also records overtime and compensator time.

Authority for maintenance of the system: 10USC 8012

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The PCAS system was established to provide information for management about manpower utilization in the Air Force Data Services Center. Anticipated users of the PCAS system: Commander, Air Force Data Services Center. Directors and Division Chiefs, Air Force Data Services Center. Functional analysts assigned to the office of Plans and Management, Air Force Data Services Center. Specific uses of the PCAS data by all AFDSC management personnel and by the Commander include: Monitoring of manpower resources expended in support of automatic data processing (ADP) projects. Determining and validating requirements for additional manpower. Examining distribution of workload among the AFDSC directorates.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on disks or drums. Maintained on computer paper printouts.

Retrievability: Filed by Social Security Number (SSAN). Filed by Military Service Number.

Safeguards: Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system software.

Retention and disposal: Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

System manager(s) and address: Commander, Air Force Data Services Center, Pentagon, Washington, D.C. 20330. Chief, Management Information Team, AFDSC, Pentagon, Washington, D.C. 20330.

Notification procedure: Requests from individuals should be addressed to the Systems Manager.

Record access procedures: Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the

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Record access procedures: Individual can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information obtained from the individual.

Systems exempted from certain provisions of the act: NONE

[3910-01-M]

ADDITIONS

Notice is given that the system of records notices listed below are added. These notices are published to more clearly describe Air Force records and replace other notices deleted above. Since these notices do not create any new records or change any individual rights, they are not subject to Office of Management and Budget (OMB) reporting requirements as set forth in the Federal Register (40 FR 45877) on October 3, 1975.

F05001 AFSS A

System name: Training summaries.

Insert: Before system F05001 SAFOI B.

Reason: Notice combines and better describes a single system of files formerly listed under F05001 OUJCGJA, F05001 OUJCGJB, F05001 OUGCGJC and F05001 OUJCGJP.

F05001 AFFS A

System name: Training summaries.

System location: United States Air Force School of Applied Cryptologic Sciences (USAFSACS) to Goodfellow Air Force Base TX, 76903.

Categories of individuals covered by the system: Air Force, Navy and Marine Corps active duty military personnel.

Categories of records in the system: IBM cards containing names, course, entering date, grades.

Authority for maintenance of the system: 10 U.S.C. 8012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used by Security Service training groups Divisions and Security Service personnel to identify and schedule students on a weekly basis.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer and computer products.

Retrievability: Filed by Name and Social Security Number (SSN).

Safeguards: Records are accessed by custodian of the record system and controlled by computer system software.

Retention and disposal: Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

System manager(s) and address: United States Air Force School of Applied Cryptologic Science, Goodfellow Air Force Base, TX 76901.

Notification procedure: Requests from individuals should be addressed to the Systems Manager.

Record access procedures: Individuals can obtain assistance in gaining access from the Systems Manager.

Contesting record procedures: The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

Record source categories: Information obtained from automated system interfaces.

Systems exempted from certain provisions of the act: None.

F17801 OJ RS A

System name: Recruiting Advertising Evaluation.

Insert: Before system F17801 OKPNQSA.

Reason: Notice is being extensively edited for increased clarity, accuracy and detail.

F17801 OJ RS A

System name: Recruiting Advertising Evaluation (RAE).

System location: Air Force Opportunity Center (AFOC) (Duties of this Center are performed by a civilian contractor who is engaged by the Air Force to provide lead fullfillment services to Headquarters, United States Air Force Recruiting Service, Randolph AFB, TX 78148. Location depends on the contractor.

Categories of individuals covered by the system: Respondents to United States Air Force Recruiting Service advertisements and referrals made by active duty military personnel, retired military personnel and Air Force civilian employees.

Categories of records in the system: Respondent's inquiry record containing name, Social Security Number, address, date of birth, sex, telephone number, advertising medium, recruiting program in which interested, and source of referral, including name and Air Force base assigned. Recruiter contact records containing success of contact efforts, reason for not contacting, how contact was made, confirmation of educational level, qualification of individual and status of individual.

Authority for maintenance of the system: 10 U.S.C. 503 and E.O. 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The contractor fullfills requests from respondents for information about the Air Force and notifies appropriate recruiting activities of respondent's interest. Contractor develops statistical summaries which are used by USAF Recruiting Service to evaluate the effectiveness of the advertising and referral program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retention and disposal: Contractor retains at the AFOC for two years, then destroys. HQ USAF Recruiting Service retains on computer paper printouts for 60 days, then destroys. Subordinate recruiting activities retains for one year after final follow up action is complete, then destroys.

System manager(s) and address: Director, Marketing and Analysis, USAF Recruiting Service, Randolph AFB, TX 78148.

Record source categories: Requests/responses from public media advertising and referrals from Air Force active duty and retired military personnel and civilian employees.

Systems exempted from certain provisions of the act: None.

[FR Doc. 78-30091 Filed 10-26-78; 8:45 am]

federal register

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PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

subsequent to its publication date shall be made a part of every contract

terminations, Washington, D.C. 20210. The cause for not utilizing the rule-

[4510-27-C]

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[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechinics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the grographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATION TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama—AL78-1004, February 3, 1978.
Arizona—AZ78-5114, August 11, 1978; AZ78-5115, AZ78-5116, July 28, 1978.
Connecticut—CT78-3055, CT78-3056, July 28, 1978.
Idaho—ID78-5120, September 8, 1978.
Nevada—NV78-5010, March 10, 1978; NV78-5124, September 15, 1978.
New Jersey—NJ78-3009, April 21, 1978; NJ78-3047, June 16, 1978.
Ohio—OH78-2056, May 12, 1978.
Pennsylvania—PA78-3045, May 12, 1978; PA78-3066, September 22, 1978.
Tennessee—TN78-1049, May 19, 1978.
Texas—TX78-4034, TX78-4038, April 14, 1978; TX78-4081, August 18, 1978; TX78-4083, TX78-4088, August 25, 1978; TX78-4091, September 15, 1978; TX78-4094, TX78-4095, September 22, 1978.
Utah—UT8-5128, October 6, 1978.
Virginia—VA78-3061, September 15, 1978.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas decisions numbers are in parentheses folllowing the numbers of the decisions being superseded.

Georgia—GA78-1050(GA78-1092), May 26, 1978.
Illinois—IL78-2028(IL78-2113), IL78-2036(IL78-2123), IL78-2039(IL78-2126), IL78-20-40(IL78-2127), IL78-2041(IL78-2128), March 17, 1978; IL78-2042(IL78-2138), March 24, 1978.
Minnesota—MN78-2118(MN78-2150), MN78-2119(MN78-2150), October 13, 1978.
Nevada—NV78-5011(NV78-5129), March 17, 1978.
New York—NY78-3001(NY78-3079), February 3, 1978.
Pennsylvania—PA77-3060(PA78-3090), May 20, 1977.
Wisconsin—WI77-2092(WI78-2146), June 24, 1977; WI77-2111(WI78-2130), September 23, 1977; WI77-2117(WI78-2131), WI77-2118(WI78-2134), WI77-2120(WI78-2135), WI77-2121(WI78-2136), WI77-2122(WI78-2137), August 19, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 20th day of October 1978.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[4510-27-C]

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AZ78-5115 - Mod. #3 (43 FR 33018 - July 28, 1978) Maricopa County, Arizona					
Changes:					
Roofers	$10.16	.845	.20		.02
Truck Drivers:					
Group 1	8.52	.92	.98		.08
Group 2	8.65	.92	.98		.08
Group 3	8.87	.92	.98		.08
Group 4	9.22	.92	.98		.08
Group 5	9.38	.92	.98		.08
Group 5-A	9.56	.92	.98		.08
Group 6	9.70	.92	.98		.08
Group 7	10.11	.92	.98		.08
Group 8	10.625	.92	.98		.08
Group 8-A	11.28	.92	.98		.08
Group 8-B	10.97	.92	.98		.08
Group 8-C	9.08	.92	.98		.08
DECISION #AZ78-5114 - Mod. #3 (43 FR 35628 - August 11, 1978) Statewide Arizona					
Changes:					
Roofers (Phoenix Area):	$10.16	.845	.20		.02
Roofers and waterproofers	N Area				
Truck Drivers:	$10.52				
Group 1	10.275	.92	.98		.08
Group 2	10.495	.92	.98		.08
Group 3	10.845	.92	.98		.08
Group 4	11.005	.92	.98		.08
Group 5	11.185	.92	.98		.08
Group 5-A	11.325	.92	.98		.08
Group 6	11.735	.92	.98		.08
Group 7	12.25	.92	.98		.08
Group 8	12.905	.92	.98		.08
Group 8-A	12.595	.92	.98		.08
Group 8-B	10.705	.92	.98		.08
Group 8-C	9.08				

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL78-1004 - Mod. # 2 (43 FR-4807 February 3, 1978) Colbert and Lauderdale Counties Alabama					
Changes:					
Cement masons:					
Cement masons	8.41	.25			.05
Power tool operators	8.66	.25			.05
Electricians:					
Electricians	10.60	.50	3%+.45		11
Cable splicers	10.85	.50	3%+.45		11
Painters:					
Commercial	8.25	.40	.25		.05
Industrial	9.00	.40	.25		.05
Plasterers	8.66	.25			

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AR78-5001 (43 FR 33018 - July 28, 1978) Benton and Washington Counties Arkansas					
Changes:					
Boilermakers	$10.16	.845	.20		.02
Bricklayers, Stonemasons, Tile Setters	8.52	.92	.98		.08
Carpenters:					
Carpenters	8.65	.92	.98		.08
Millwrights	8.87	.92	.98		.08
Cement Masons	9.22	.92	.98		.08
Electricians	9.38	.92	.98		.08
Glaziers	9.56	.92	.98		.08
Laborers:					
Unskilled	9.70	.92	.98		.08
Mason Tenders	10.11	.92	.98		.08
Plasterers	10.625	.92	.98		.08
Power Equipment Operators:					
Group 1	11.28	.92	.98		.08
Group 2	10.97	.92	.98		.08
Group 3	9.08	.92	.98		.08
Plumbers and Pipefitters	10.705	.92	.98		.08
Roofers	8.45	.92	.98		.08
Sheet Metal Workers	10.16	.845	.20		.02
Truck Drivers:					
Group 1	8.52	.92	.98		.08
Group 2	8.65	.92	.98		.08
Group 3	8.87	.92	.98		.08
Group 4	9.22	.92	.98		.08
Group 5	9.38	.92	.98		.08
Group 5-A	9.56	.92	.98		.08
Group 6	9.70	.92	.98		.08
Group 7	10.11	.92	.98		.08
Group 8	10.625	.92	.98		.08
Group 8-A	11.28	.92	.98		.08
Group 8-B	10.97	.92	.98		.08
Group 8-C	9.08	.92	.98		.08

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # CA78-3001 (43 FR 33018 - July 28, 1978) Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara Counties California					
Changes:					
Boilermakers	$10.16	.845	.20		.02
Bricklayers, Stonemasons, Tile Setters	8.52	.92	.98		.08
Carpenters:					
Carpenters	8.65	.92	.98		.08
Millwrights	8.87	.92	.98		.08
Cement Masons	9.22	.92	.98		.08
Electricians	9.38	.92	.98		.08
Glaziers	9.56	.92	.98		.08
Laborers:					
Unskilled	9.70	.92	.98		.08
Mason Tenders	10.11	.92	.98		.08
Plasterers	10.625	.92	.98		.08
Power Equipment Operators:					
Group 1	11.28	.92	.98		.08
Group 2	10.97	.92	.98		.08
Group 3	9.08	.92	.98		.08
Plumbers and Pipefitters	10.705	.92	.98		.08
Roofers	8.45	.92	.98		.08
Sheet Metal Workers	10.16	.845	.20		.02
Truck Drivers:					
Group 1	8.52	.92	.98		.08
Group 2	8.65	.92	.98		.08
Group 3	8.87	.92	.98		.08
Group 4	9.22	.92	.98		.08
Group 5	9.38	.92	.98		.08
Group 5-A	9.56	.92	.98		.08
Group 6	9.70	.92	.98		.08
Group 7	10.11	.92	.98		.08
Group 8	10.625	.92	.98		.08
Group 8-A	11.28	.92	.98		.08
Group 8-B	10.97	.92	.98		.08
Group 8-C	9.08	.92	.98		.08

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AZ78-5116 - Mod. #3 (43 FR 33014 - July 28, 1978) Pima County, Arizona					
Change:					
Truck Drivers:					
Group 1	$8.52	.92	.98		.08
Group 2	8.65	.92	.98		.08
Group 3	8.87	.92	.98		.08
Group 4	9.22	.92	.98		.08
Group 5	9.38	.92	.98		.08
Group 5-A	9.56	.92	.98		.08
Group 6	9.70	.92	.98		.08
Group 7	10.11	.92	.98		.08
Group 8	10.625	.92	.98		.08
Group 8-A	11.28	.92	.98		.08
Group 8-B	10.97	.92	.98		.08
Group 8-C	9.08	.92	.98		.08
DECISION #CT78-3055 - MOD. #8 (43 FR 33023 - July 28, 1978) Fairfield, Litchfield and Windham Counties, Connecticut					
CHANGE					
Truck Drivers: (Heavy & Highway Construction)					
Class 4	$ 8.06	.74	.725	a	
Class 5	8.16	.74	.725	a	
Class 6	8.21	.74	.725	a	
DECISION #CT78-3056 - MOD. #6 (43 FR 33030 - July 28, 1978) Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut					
CHANGE:					
Truck Drivers: (Heavy & Highway Construction)					
Class 4	8.06	.74	.725	a	
Class 5	8.16	.74	.725	a	
Class 6	8.21	.74	.725	a	

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #ID78-5120 - Mod. #1 (43 FR 40176 - September 8, 1978) Statewide Idaho					
Change:					
Electricians:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Electricians	$14.12	.83	3% + .40		.02
Cable Splicers	14.52	.83	3% + .40		.02
Painters:					
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties:					
Brush; Roller, Perfataper	9.36	.47	.50		.005
Structural Steel; Swing Stage; Spray	9.81	.47	.50		.005
Roofers:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:					
Roofers; Kettlemen	6.90	.65	.30	.50	
Roofers working with coal tar and pitch products	11.60	.65	.30	.50	

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #ID78-5120 (Cont'd):					
Change (Cont'd):					
Roofers (Cont'd):					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, Teton Counties	$9.60	.65	.40		
Sheet Metal Workers:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton Counties	11.22	.87	.47		.09
DECISION #NV78-5010 - Mod. #3 (43 FR 10229 - March 10, 1978) Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Carpenters:					
Carpenters	$11.99	.85	$1.10	.80	.03
Floor layers	12.015	.85	1.10	.80	.03
Millwrights	12.49	.85	1.10	.80	.03
Cement Masons:					
Cement Masons	9.40	1.00	1.00	2.00	.08
Floor Finishing Machine	9.75	1.00	1.00	2.00	.08
Electricians:					
Electricians; Equipment Operators; Linemen	13.87	.98	3% + 1.30		.05
Cable Splicers	14.20	.98	3% + 1.30		.05
Groundman	11.23	.98	3% + 1.30		.05
Elevator Constructor:					
Elevator Constructor	13.41	.745	.56	3% + a	.025
Elevator Constructor Helper	9.39	.745	.56	3% + a	.025
Elevator Constructor Helper (Prob.)	6.705				
Plumbers; Steamfitters	12.63	1.25	2.32	2.00	.08

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV78-5124 - Mod. #1 (43 FR 41351 - September 15, 1978) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change:					
Bricklayers; Stonemasons:					
Remaining Counties and Nye County (north of Hwy. #6)	$12.25	.95	.60		.01
Carpenters:					
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Carpenters	10.65	.70	1.36	1.00	.05
Floor layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	10.80	.70	1.36	1.00	.05
Piledrivermen	10.90	.70	1.36	1.00	.05
Millwrights	11.25	.70	1.36	1.00	.05
Drywall Installers:					
Statewide except the Counties of Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6)	10.90	.70	1.36	1.00	.05

DECISION #NJ78-3009 - Mod. #5
(42 FR 17223 - April 21, 1978)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	12.18	8%	20%+.25	10%	.02
Boilermakers Helpers	11.65	8%	20%+.25	10%	.02
Bricklayers, Stone Masons, Cement Masons, & Plasterers:					
Zone 3	11.60	.84	.90		.02
Zone 6	11.40	1.00	.85		.02
Carpenters, Insulators, & Millwrights:					
Zone 1	11.16	.90	1.40		.02
Electricians & Cable Splicers:					
Zone 7	13.52	7%	3%+.70		
Zone 11	13.22	7%	3%+1.47		.02
Laborers, Building Construction:					
Zone 7					
Common Laborers	7.15	.80	.80	1.00	.07
Zone 10					
Laborers, wrecking, demolition, Concrete Mixers, w/o Hoppers, Drill Runners, Jackhammers, Mason Tenders, Mortar Mixers, Excavation & Foundations, Scaffold Builders, Carpenter Tenders, & Grading for Concrete	8.70	.50	.50		.07
Zone 11					
Laborers, Air Tool Operators (Jackhammer, Vibrator), Mason Tenders, Mortar Mixers, Plasterer Tenders, Pipelayers, Wreckers & Excavation	8.55	.65	.50		.07
Zone 15					
Common Laborers	8.00	.85	.85		.07
Zone 16					
Common Laborers, Air Tool Operators, Mason Tenders, Plasterer Tenders, and Mortar Mixers	8.10	.75	.85		.07
Laborers - Asphalt Construction:					
Zone 1					
Street:					
Head Raker	8.55	.81	.79	e	.10
Rakers & Screed men	8.40	.81	.79	e	.10

DECISION #NJ78-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers - Asphalt Construction: (Cont'd)					
Zone 1					
Street: (cont'd)					
Tampers, Smoother, Kettlemen, Painters, Top Shovelers, & Roller Boys	8.15	.81	.79	e	.10
Plant:					
Scale Mixer & Burner Men	8.40	.81	.79	e	.10
Feeders & Dust Men	8.15	.81	.79	e	.10
Line Construction:					
Zone 2					
Linemen and Equipment Operators	13.70	7%	9%		3/4%
Cable Splicers	14.77	7%	9%		3/4%
Groundmen	9.59	7%	9%		3/4%
Zone 7					
Linemen & Equipment Operators	13.52	7%	3%+.70		3/4%
Groundmen & LIne Truck Operators	11.97	7%	3%+.70		3/4%
Zone 9					
Linemen & Equipment Operators	13.335	7%	3%+.70		3/4%
Groundmen	11.475	7%	3%+.70		3/4%
Zone 10					
Linemen & Cable Splicers	13.22	7%	3%+1.47		3/4%
Groundmen	12.37	7%	3%+1.47		3/4%
Zone 11					
Linemen & Cable Splicers	13.22	7%	3%+.90		3/4%
Groundmen	12.37	7%	3%+.90		3/4%
Zone 13					
Linemen, Line Truck Operators, Equipment Operators, and Cable splicers	11.80	7%	3%+ 1.00		3/4%
Groundmen	7.08	7%	3%+1.00		3/4%
Zone 14					
Linemen, Line Truck Operators, Equipment Operator, Cable Splicer	11.80	7%	3%+.70		3/4%
Groundmen	7.08	7%	3%+.70		3/4%

DECISION #NJ78-3009

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Zone 4					
Group 1 - Interior industrial and commercial work, paperhangers, tapers, coverers, spacklers, preparatory and cleaning work	10.30	.90	1.75	.50	
Group 2 - Extension ladder work (36' or over), scaffold work, and boatswain chair	11.45	.90	1.75	.50	
Group 3 - Structural steel, tanks, bridges, towers, smokestacks, radio towers, TV Towers, flagpoles (steel or wood), fire escapes, cable work, and hazardous work	11.45	.90	1.75	.50	
Group 4 - Sandblasting & spraying	12.00	.90	1.75	.50	
Group 5 - High rise apartments repainting	8.50	.90	1.75	.50	
Roofers:					
Zone 2					
Composition, Waterproofing, Slate & Asphalt Shingle	11.62	1.33	.80		
Sheet Metal Workers:					
Middlesex County	11.81	6%	5%+.11	8%	.03
Morris, Somerset, Sussex, & Union Counties	11.65	1.10	1.35		.12
Hunterdon County	11.41	i+1.33	.80		.03

DECISION #NJ78-3047 - Mod. #3
(43 FR-26235 - June 16, 1978)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drop:					
Lathers: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, & Salem Counties					
Add:					
Lathers:					
Burlington, Camden, Gloucester Mercer, Monmouth, Ocean, & Salem Counties	$11.40	.15	.40		.02
Lathers:					
Atlantic, Cape May and Cumberland Counties	11.75				
Marble Finishers:					
Camden, Gloucester, and Salem Counties	7.84	1.25	1.50		
Terrazzo Finishers:					
Camden, Gloucester, and Salem Counties	7.82	1.25	1.50		
Tile Finishers:					
Camden, Gloucester, and Salem Counties	7.61	1.25	1.50		
Change:					
Carpenters, Millwrights, & Insulators:					
Zone 4	11.35	.70	1.40		.02
Sheet Metal Workers:					
Zone 2	11.81	6%	5%+.11	8%	.03
Zone 3	11.41	s+1.33	.80		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H &.W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. OH78-2056 - MOD. #3 (43 FR 20673 - May 12, 1978) Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fairfield, Fayette, Franklin, Gallia, Geauga, Greene, Hamilton, Highland, Lawrence, Licking, Madison, Meigs, Miami, Montgomery, Muskingum, Perry, Pickaway, Pike, Preble, Ross, Scioto, Shelby, Union & Warren Counties, Ohio					
Change:					
Carpenters; Millwrights; Pile-drivermen; & Soft Floor Layers:					
Adams, Fayette, Gallia, Highland, Lawrence, Meigs, Pike, Ross, & Scioto Counties:					
Carpenters; Soft Floor Layers	$ 9.24	.55	1.00		.03
Piledrivermen	9.53	.55	1.00		.03
Brown, Butler, Clermont, Clinton, Hamilton, & Warren Counties					
Millwrights	12.09	.55	1.10		.10
Soft Floor Layers	10.25	.60	.65		.05
Champaign, Clark, Delaware, Fairfield, Franklin, Licking, Madison, Muskingum, Perry, Pickaway, & Union Counties:					
Carpenters	10.79	.58	.85		.04
Millwrights	11.44	.58	.85		.04
Piledrivermen	11.44	.58	.85		.04
Soft Floor Layers	10.79	.58	.85		.04
Darke, Greene, Miami, Montgomery, Preble, & Shelby Counties:					
Carpenters; Piledrivermen	10.95	.80	1.10		.07
Millwrights	10.86	.80	1.00		.07
Soft Floor Layers	9.80	.80	.80		.07
Geauga County:					
Millwrights	12.60	.85	1.52		.03

DECISION #PA78-3045 - Mod. # 4
(43 FR 20714 - May 12, 1978)
Lackswanna, Susquehanna, Wayne, and Wyoming Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers	$10.00	.65	.85		
Plumbers	11.24	.80	1.25		.05

DECISION #PA78-3066 - Mod. # 1
(43 FR 43228 - Sept., 22, 1978)
Columbia, Montour & Snyder Counties, Pennsylvania

Change:					
Laborers					
Zone 1					
Class I	7.44	.45	.75		
Class II	7.54	.45	.75		
Class III	7.84	.45	.75		
Class IV	7.69	.45	.75		
Glaziers:					
Zone 1	10.00	.65	.85		

DECISION NO. TN78-1049 - Mod. #1
(43 FR 21829 - May 19, 1978)
Statewide, Tennesaee

CHANGE:					
Electricians:					
Shelby County	$10.93	.75	3% + .50		½ of 1%
All Remaining Counties	7.26				

DECISION #TX78-4034 - Mod. #2 (43 FR 16121 - April 14, 1978) Cameron, Hidalgo, Starr & Willacy Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Plumbers & pipefitters	$ 8.55	.55	.20		.05
DECISION #TX78-4038 - Mod. #4 (43 FR 16129 - April 14, 1978) Harrison County, Texas					
Change:					
Electricians: Electricians	9.80	.60	3%		1/4%
Cable splicers	10.15	.60	3%		1/4%
DECISION #TX78-4081 - Mod. #4 (43 FR 36851 - August 18, 1978) Bexar County, Texas					
Change Modification #1 in the Federal Register of October 20, 1978 to read Modification #3					
DECISION #TX78-4083 - Mod. #4 (43 FR 38279 - August 25, 1978) El Paso County, Texas					
Omit:					
Glaziers	7.29	.30	.10		.02
Roofers: Roofers, waterproofers & pipewrappers	7.00				
DECISION #TX78-4088 - Mod. #3 (43 FR 38287 - August 25, 1978) Wichita County, Texas					
Omit:					
Plumbers & pipefitters-Zone 1	10.30	.45	.65		.02
Zone 2	10.80	.45	.65		.02
Zone 3	11.10	.45	.65		.02
Zone 4	11.40	.45	.65		.02
Zone 5	11.70	.45	.65		.02
Add:					
Plumbers & pipefitters:					
Zone 1 - Within 25 miles of Wichita Falls City limits	10.30	.45	.65		.02
Zone 2 - Over 25 miles from Wichita Falls City limits	10.80	.45	.65		.02

DECISION #TX78-4091 - Mod. #1 (43 FR 41365 - September 15, 1978) Gregg County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians: Electricians	$ 9.80	.60	3%		1/4%
Cable splicers	10.15	.60	3%		1/4%
DECISION #TX78-4085 - Mod. #2 (43 FR 43241 - September 22, 1978) Ector & Midland Cos., Texas					
Change:					
Plumbers & pipefitters-Zone 1	9.41		.44		.02
Zone 2	9.51		.44		.02
Zone 3	9.61		.44		.02
Zone 4	9.91		.44		.02
DECISION #TX78-4094 - Mod. #1 (43 FR 43233 - September 22, 1978) Statewide Texas					
Change:					
Area Covered by Various Zones					
Zone 4 -Brewster, Culberson, El Paso*, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell Cos.					
Description of Work: Heavy, Water & Sewer Lines & Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes & garden type appartments up to & including 4 stories).					
*Not to be used for Heavy Construction & Utilities Incidental to General Building Construction in El Paso County					
DECISION NO. 78-VA-3061 - Mod. #1 (43 FR 41366 - September 15, 1978) Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Loudoun, Louisa, Madison, Orange, Prince William and Rappahannock Counties, Virginia					
Omit:					
Form Setter Road Shovel Operator (over 1 yard)					

MODIFICATIONS P. 15

DECISION #UT78-5128 - Mod. #1
(43 FR 46480 - October 6, 1978)
Statewide Utah

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Plumbers; Pipefitters	$11.50	.66	$1.00		.06

SUPERSEDEAS DECISION

STATE: GEORGIA — COUNTIES: DEKALB & FULTON
DECISION NUMBER: GA78-1092 — DATE: DATE OF PUBLICATION
Supersedes Decision No. GA78-1050, dated May 26, 1978, in 43 FR 22865.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION (does not include Sewer & Water Lines Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICK MASONS	$ 9.60	.55	.50		.05
CARPENTERS	9.65	.50	.45		.02
CEMENT MASONS/FINISHERS	8.95	.40	.55		
ELECTRICIANS	11.15	9%	11%		½ of 1%
IRONWORKERS	9.60	.65	.57		.07
LABORERS:					
Unskilled	6.40	.25	.33		.05
Air tool operators (air, electric or gas powered, such as jackhammer, paving breaker, tampers, vibrator, spade, chipping hammer & barco tamp), & pipelayers	6.62	.25	.33		.05
PAINTERS:					
Brush & Roller	9.45	.55	.75		.05
Spray	10.45	.55	.75		.05
PILEDRIVERMEN	9.80	.50	.45		.02
PLUMBERS & PIPEFITTERS	11.15	.65	.50		.11
SHEET METAL WORKERS	10.20	.50	.81		.06
TRUCK DRIVERS	6.13				
WATERPROOFERS (ROOFERS)	7.45	.30	.20		
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Backhoe	9.10	.50	.75		.07
Bulldozer	8.75	.50	.75		.07
Crane	9.10	.50	.75		.07
Front end loader	8.75	.50	.75		.07
Mechanic	9.10	.50	.75		.07
Motor grader	8.75	.50	.75		.07
Pump	6.53	.50	.75		.07

SUPERSEDEAS DECISION

STATE: Illinois — COUNTIES: Cristian, DeWitt, Macon, Macoupin, Moultrie, Piatt, and Shelby
DECISION NUMBER: IL78-2113 — DATE: Date of Publication
Supersedes Decision No. IL78-2028 dated March 17, 1978, in 43 FR 11401
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and gräden type apartments up to and including 4 stories.)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS:					
DeWitt County	11.45	.95	1.00		.03
Remainder of Counties	11.45	.95	1.20		.03
BRICKLAYERS and STONEMASONS:					
Macoupin County:					
East ½ of County, including Gillespie, Benld, Mt. Olive and Stauton	10.45	.70	.75	1.00	
Balance of the County	10.80	.50	.52		.02
Christian County	10.75	.50	1.00		.02
DeWitt County	11.50	.70	.80		
Macon, Moultrie, Piatt and Shelby Cos.	11.40	.60	1.00		.005
CARPENTERS:					
Macoupin County:					
S.W. Corner of the County Carpenters, Soft Floor Layers, Millwrights and Piledrivermen	11.985	.60	.80		
Girard and North thereof Carpenters and Soft Floor Layers	11.45	.55	.55		.06
Millwrights and Piledrivermen	11.95	.55	.55		.06
Remainder of the County Carpenters, Soft Floor Layers, Millwrights and Pilderivermen	11.985	.60	.80		
Shelby County, Remainder of Moultrie County, Millerville, Rosamond, Radford and Pana in Christian County Carpenters and Soft Floor Layers	12.325	.55	.30		.07
Millwrights and Piledrivermen	12.825	.55	.30		.07
Remainder of Christian County Carpenters, Piledrivermen and Soft Floor Layers	6.90	.40	.30		
Millwrights	7.40	.40	.30		
DeWitt County Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05

DECISION NUMBER: IL78-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd) Macon County, Moultrie County: (Bethany, Okaw River, Lovington, Williamsbury, Lake City and all Areas north; Piatt County: (Cisco, Bement, Allerton Park and all Areas south therof: Carpenters and Soft Floor Layers	$11.935	.60	.65		.06
Millwrights & Piledrivermen	12.835	.60	.65		.06
Remainder of Piatt County:					
Carpenters and Soft Floor Layers	11.665	.45	1.00		.13
Millwrights and Piledrivermen	12.165	.45	1.00		.13
CEMENT MASONS:					
Macoupin County	11.555	.90	.62		.02
Macon County, Christina County: (Norhtern part-south to a line running east and west established north of Humphrey and including Stonington); Shelby County: (Northern part including Moweaqua); Moultrie County: (Northeastern part including Lovington) Piatt County: (Southern portion) DeWitt County: (Southern half of County, including Clinton	12.05	.60	.425		
Remainder of DeWitt County	12.53	.55			.10
Remainder of Moultrie and Shelby Counties	12.01				
Remainder of Christian County	11.20		.65		
Norhtern half of Piatt County	12.575	.45	.25		.025
ELECTRICIANS:					
Macoupin County:					
Athenville, Scottville, Girard and Areas north therof	12.37	.50	3%+.60		.1 of 1%
Remainder of County	12.73	4%	3%+.65	6%	.25%

DECISION NO. 1L78-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Macon and Christian Counties; DeWitt County (Townships of Wapella, Barnett, Clintonia, Harp, DeWitt, Turnbridge, Texas, Creek and Nixon); Piatt County: (Goose Creek, Willow Branch, Cerro Gordo, Bement and Unity); Shelby County: (Townships of Moweaqua, Penn, Flat Branch, Pickaway, Todds Point, Rural, Ridge, Okaw, Tower Hill, Rose, Shelbyville, Oconee, Cold Spring, Lakewood, Clarkburg, Herrick, Dry Point and Holland); Moultrie County: (Townships of Dora, Lovington, Marrowbone and Sullivan at the Illinois Masonic Home and Farm in East Nelson	$12.60	.50	3%+.40		.35%
Remainder of Moultrie and Shelby Counties	12.60	.50	3%+.40		.35%
Remainder of DeWitt County	11.95	.50	3%+.55		.002
Remainder of Piatt County	12.45	.50	3%+.40		.3%
IRONWORKERS:					
Macoupin County:					
Northern part of County	11.75	.55	1.05		.08
Southern part of County	12.10	.55	1.05		
Moultrie, Piatt, DeWitt (Eastern half of County) Macon (East of Decatur) Shelby (Eastern half of County)	11.55	.65	1.00		.08
Christian County, DeWitt (Western half of County) Macon (Remainder of County)	11.75	.55	1.05		.08

DECISION NO. 1L78-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Macoupin County:					
Carlinville and Vicinity:					
Common	$11.60		.20		.035
All Brick and Plaster Mason Tender	12.10		.20		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.85		.20		.035
Dynamite Men	13.20		.20		.035
Gillespie and Vicinity:					
Common	11.40		.40		.035
All Brick and Plaster Mason Tender	11.90		.40		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.65		.40		.035
Dynamite Men	13.00		.40		.035
Mt. Olive and Vicinity:					
Common	11.50		.30		.035
All Brick and Plaster Mason Tender	12.00		.30		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.75		.30		.035
Dynamite Men	13.10		.30		.035
Shipman and Vicinity:					
Common	11.35		.45		.035
All Brick and Plaster Mason Tender	11.85		.45		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.60		.45		.035
Dynamite Men	12.95		.45		.035
Staunton and Vicinity:					
Common	11.20		.30		.035
All Brick and Plaster Mason Tender	11.70		.30		.035
Workmen cutting and burning w/a torch; Men working on the bottom of sewer trenches, etc.	11.45		.30		.035
Dynamite Men	12.80		.30		.035

DECISION NO. IL78-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (CONT'D)					
Shelby County:					
Unskilled	$10.60	.35	.40		.035
Semi-Skilled	10.80	.35	.40		.035
Skilled	10.95	.35	.40		.035
Christian County:					
Unskilled	9.59	.45	.40		.035
Semi-Skilled	9.79	.45	.40		.035
Skilled	9.94	.45	.40		.035
Macon County & the Western ½ of Moultrie County:					
Unskilled	10.50	.35	.50		.035
Semi-Skilled	10.70	.35	.50		.035
Skilled	10.85	.35	.50		.035
Ivesdale & South Thereof in Piatt County & all area east of Rt. #21 in Moultrie County					
Unskilled	10.30	.45	.60		.035
Semi-Skilled	10.50	.45	.60		.035
Skilled	10.65	.45	.60		.035
DeWitt County & the Remainder of Piatt County					
Unskilled	10.75	.30	.30		.035
Semi-Skilled	10.95	.30	.30		.035
Skilled	11.10	.30	.30		.035

DECISION NO. IL78-2 113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
Macoupin County:					
Norhtern part of County	$12.30				
Southern part of County	12.835			.65	.01
Christian County	12.30				
Piatt County	11.49	.45	.40		.01
PAINTERS:					
Macoupin County:					
Commercial	11.05	.55	.35		
Industrial & Tapers	11.30	.55	.35		
Christian County					
Brush and Roller	10.15	.55	.50		
Spray	10.65	.55	.50		
Macon, Shelby, Moultrie and Piatt & DeWitt Counties					
Brush and Roller	11.00	.50	.40		
Spray over Quart Cup	11.75	.50	.40		
PLASTERERS:					
Macoupin County: (Carlinville and Vicinity)	10.80	.50	.52		.02
Macon County, Christian County: (Northern part - south to a line running east and west established north of Humphrey and including Stonington); Shelby County: (Northern part including Moweaqua) Moultrie County: (Northeastern part including Lovington); Piatt County; (Southern portion); DeWitt County: (Southern half including Clinton)	12.27	.60	.425		.01
Remainder of Moultrie and Shelby Counties	11.10				.01
Southern half of Christian County	11.20		.65		
Northern half of Piatt County	11.915	.45			.025
Remainder of DeWitt County	13.05				.01

DECISION NO. IL78-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS and STEAMFITTERS:					
Macoupin County:					
North of Route #108	$12.43	.35	.88		.07
South of Route #108	13.20	.48	.96		.05
Macoo; DeWitt; Moultrie Counties; Townships of Pana, Assumption and Radford in Christian County; West of Route #105 in Piatt County	13.00	.35	1.00		.15
Shelby County; (East of Route #105) in Piatt County	12.15	.35	1.15		.12
Remainder of Christian County	12.43	.35	.88		.07
ROOFERS:					
Macoupin County:					
Northern half of County:					
Composition	12.93	.70			
Slate, Tile and Precast Slab	12.93	.70			
Southern half of County	10.95	.67	.55		.03
Macon; Shelby; Moultrie; DeWitt County: (Southern half of County, including Clinton); Christian County: (Townships of Assumption, Pinkle, Dollville, Mt. Auburn, Millville, Oshbernville, Owaneea, Pana, Radford, Rosamond, Stonington, Velma, Vanderville, Willeys	12.08	.30	.30		.02
Piatt County	12.39	.70	.45		.03
SHEET METAL WORKERS:					
Macoupin County	10.68	.25	.25	6%	.02
Macon, Christian, DeWitt Counties	10.91	3%+.50	.78		.07
Moultrie; Piatt and Shelby Counties	11.94	3%+.60	.67		.16
SPRINKLER FITTERS	12.10	.75	1.05		.08
TILE-TERRAZZO-MARBLE WORKERS:					
Macoupin County:					
Marble Setters	10.45				
Tile and Terrazzo Workers	9.95	.50	.75	1.00	
Macon and Shelby Counties	11.10	.60	.50		.005
Christian County	10.45	.70	.75	1.00	
DeWitt County	11.50	.70	.80		
Piatt County	11.10	.60	.50		.005
WELDER - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. IL78-2113 ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: MOULTRIE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$11.60	.55	.75		.13
CLASS II	11.55	.55	.75		.13
CLASS III	11.35	.55	.75		.13
CLASS IV	7.35	.55	.75		.13

POWER EQUIPMENT OPERATORS:

CLASS I: Master Mechanic

CLASS II: Utility Operator

CLASS III: Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mechanica, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on Asphalt, Large rollers & rollers on asphalt, Gravel Macadam & Brick surface, Ross carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Hetherington paver operator, Farm tractor with ½ yard bucket and/or backhoe attachment, Trench machines cutting over 24," Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmoblies, Euclid loader, Soil cement machine, Mixers 14S capcaity or less, Trench Machine cutting 24" & under, Backfiller, Elevating machine, Power Blade, Asphalt Plant Engineer, Well drilling Machines, Paint Machine, Pipe Cleaning Machine, Pipe wrapping machine, Pipe Bending Machine, Apsco paver, Boring Machine, w/o winch, Head equipment, Greasers, Barber Green Loaders, Formless paver, Farm Tractor with less than half-yard bucket and other attachments except backhoe, Well Point System

CLASS IV: Power Sub-Grader, Bull Float, Form Grader, Finishing machine, Pavement breaker, Rock Crushers, One drum machine, air compreasor less than 20 cu.ft. capacity, Concrete pump, Gunnite machine, Air Tuggers, Truck crane drivers, House Elevators when used for temporary heat, Small rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill, Fexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distributor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self Propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser

DECISION NO. IL78-2113 ILL-2-PEO-1-2-3

POWER EQUIPMENT OPERATORS: MACOUPIN COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.52	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.97	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2drum or more (where oiler or firemen is not required) Hydrualic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas) concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, Drills (other than derrick type) 1-dum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Straight tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25', conveyors (1), distribution pors., on trucks, siphones or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags).

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
- a. Engineers operating under air pressure
- b. Engineers operating in air over 10 lbs pressure
- c. Oilers operating under air pressure
- d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL78-2113 ILL-5-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CLASS I	$11.90	.55	.65		.05
CLASS II	10.45	.55	.65		.05
CLASS III	9.35	.55	.65		.05

POWER EQUIPMENT OPERATORS:

CLASS I - Asphalt screed man, Aspoo concrete spreaders, Asphalt pavers, Asphalt rollers on bituminous concrete, athey loaders, backfillers, crane type, backhoes, cableways, cherry pickers, claim shell, C.N.E. & similar type autograde formless paver, autograde placer & finisher, concrete breakers, concrete plant operators, concrete pumps, cranes, derrick, derriok boats, draglines, earth augeror boring machines, levating graders singeers on dredge, gravel processing machines, high list or fork lists, hoist w/two drums or two or more loadlines locomotives (all) mechanics, motar graders or auto patrols, operators or levelman on dredges, operators power boat, operators pug mill (asphalt plants), orange pesls, overhead cranes, paving mixers, piledrivers, pipe wrapping & painting machines, push dozers, or push cats, rock crushers, rose carriers or similar machines, scoops, skimmer, 2 cu. yd. capacity & under, sheep foot foller (self propelled) shovels, skimmer scoops, test holedrilling machines, tower cranes, tower machines, tower mixers, track type and loaders, track type fork lists or high lifts, track jacks & tamper, tractor, sideboom, trenching machine, ditching machine, tunnelluggers, wheel type end loaders, winch cat, scoops, all or tournapull.

CLASS II - Asphalt boosters & heaters, asphalt distributors, asphalt plant fireman, oiler on 2 paving mixers when used in tandem boom or winch truck, building elevator, bull floats or flexplanes, concrete finishing machines, concrete saws, self propeller, concrete saws, self propeller, concrete spreader machines, gravel or stone spreader, power operated, head equipment greaser, hoist automatic, hoist w/1 drum & 1 load line, mud jacks, post holediggers, mechanical, road or street sweeper-self propelled, seaman tiller, straw machine, vibratory compactor, well drill machines scissors hoist.

CLASS III - Air compressor*, air compressors, truck or self-propelled, asphalt plant engineers, bulk cement batching plants, conveyors,* concrete mixers (except plant, paver, tower) firemen, generators*, greasers, helper on single paving mixer, light plants*, mechanic helpers, mechanical heaters*, oilers, power from graders, power sub-graders, pug mills, when used for other than asphalt operation, rollers (except bituminous concrete) tractors w/o power attachments regardless of size of type) truck crane oiler & driver 1 (man), water pumps*, welding machines (one 300 amp. or over*)* welding machines*

*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS. WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT.

DECISION NO IL78-2113

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportaion purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

STATE: Illinois

COUNTIES: Henderson, Henry, Knox Mercer, Rock Island, Stark & Warrer

DECISION NO. IL78-2123

DATE: Date of Publication

Supersedes Decision No. IL78-2036, dated March 17, 1978, in 43 FR 11415

DESCRIPTION PO WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Stark County	$ 13.01	.91	.99		.05
Remainder of Counties	12.07	.45	.85		.10
BOILERMAKERS	11.45	.95	1.00		.03
BRICKLAYERS:					
Rock Island and Mercer Counties					
Bricklayers and Stonemasons	11.35	.55	1.00		.04
Marble, Tile, Terrazzo Workers	11.00	.40	1.00		
Plasterers	13.00				
Henry County					
Bricklayers, Stonemasons and Plasterers	12.10		.75		
Stark County					
Bricklayers and Stonemasons	12.10		.75		
Plasterers	11.20	.80	.90		.03
Marble, Tile, Terrazzo Workers	11.45	.70	1.00		.01
Marble and Tile Finishers	11.00	.60	.25		
Terrazzo Finishers and Floor Machine Operator	11.13	.60	.25		
Knox and Warren Counties					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Cleaners, Caulkers	11.70	.70	1.00		.01
Henderson County					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Cleaners, Caulkers	11.70	.70	1.00		.01
Marble, Tile, Terrazzo Workers	11.45	.70	1.00		.01
Marble and Tile Finishers	11.00	.60	.25		
Terrazzo Helpers and Floor Machine Operator	11.13	.60	.25		
CARPENTERS:					
Stark County					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05
Knox, Henderson and Warren cos.					
Carpenters and Soft Floor Layers	12.01	.40	.50		.05
Millwrights and Piledrivermen	12.51	.40	.50		.05

DECISION NO. IL78-2123

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Rock Island, Henry & Mercer Cos					
Carpenters & Soft Floor Layers	11.11	.60	.90		.06
Piledrivermen	10.71	.45	.70		.04
Millwrights	12.60	.60	1.00		.25
CEMENT MASONS:					
Rock Island, Mercer, & Eastern Half of Henry Co.	11.12	.70	.60		
Stark Co. and Remainder of Henry County	11.65		.75		
Knox and Warren Counties					
Cement Masons & Plasterers	11.80	.50	.25		
Henderson County					
Cement Masons:					
Northern half of Co.	11.12	.70	.60		
Central & Southern half of County	11.15				
Plasterers:					
Northern half of County	12.00				
Central & Southern half of County	10.78				
ELECTRICIANS:					
Knox, Henderson, Warren Cos. Townships of Ohio Grove, North Henderson & Suez in Mercer County	12.06	.40	3%+.75		3/4%
Stark Co.; Townships of Essex, Valley & West Jersey	12.32	.50	3%+.75		1%
Henry Co: (Townships of Annawan, Burna, Cambridge, Galva, Kewanee, Weller & Westerfield & the remainder of Stark Co.	12.30	.50	3%+.30		.25%
Rock Island and Remainder of Henry County & Mercer cos.	12.09	.55	7.5%		.03
ELEVATOR CONSTRUCTORS:					
Rock Island, Mercer, Henry and Knox Counties					
Constuctors	10.41	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Stark County	11.53	.55	.45		.01
Remainder of counties	10.59	.70	1.00		.02

DECISION NO. IL78-2123

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Mercer, Henderson, Warren & all areas west & southwest of Galesburg	11.50	.55	.90		.06
Stark Co. and all area south and east of Galesburg in Knox County	11.975	.65	.925		
Rock Island and Henry Counties; & within Galesburg & all area north of City in Knox County	12.97	.65	.375		.11
LABORERS:					
Stark County - Western ½					
Unskilled	9.84	.40	.60		.035
Semi-Skilled	10.04	.40	.60		.035
Skilled	10.24	.40	.60		.035
Eastern half of Stark County					
Unskilled	10.07	.40	.60		.035
Semi-Skilled	10.27	.40	.60		.035
Skilled	10.47	.40	.60		.035
LATHERS:					
Knox County	11.75				.01
Stark County	11.92	.40	.40		.01
Rock Island, Mercer & Henry Counties	11.55		.20		.01
PAINTERS:					
Rock Island, Henry, Mercer, Henderson, Stark and Warren Counties; West of Line extending from N. E. corner to S.W. corner of Knox County					
Brush and Roller	10.27	.45	.65		.18
Spray and Structural Steel	10.77	.45	.65		.18
Remainder of Knox County					
Brush and Paperhangers	9.50	.55	.15		
Structural steel	9.75	.55	.15		
PLASTERERS:					
Stark County	11.20	.80	.90		.03
Rock Island and Mercer counties	13.00				
PLUMBERS & STEAMFITTERS:					
Stark County	12.70	.51	1.05		.15
Remainder of Counties	11.75	.54	1.29		.17

DECISION NO. IL78-2123

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
STARK County	12.00	.70	.40		.025
Rock Island, Henry & Mercer Counties	12.65	.65	.80		
Remainder of Counties	10.20				
SHEET METAL WORKERS:					
Stark County	11.24	.65	.99		.06
Henderson County	10.41	.45	.44		.10
Remainder of Counties	10.66	.45	.44		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; D-Independence Day; D-Labor;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six Paid Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay credit for employee who has worked in business more than 5 years. Employer conbtributes 2% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.

DECISION NO. IL78-2123

ILL-81-LAB-1-2-3

LABORERS: ROCK ISLAND &MERCER COUNTIES	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILELED	$ 9.72	.40	1.00		.035
SEMI-SKILLED	9.97	.40	1.00		.035
SKILLED	10.22	.40	1.00		.035

UNSKILLED - Common Laborer, Carpenter tender, Rod & chain Man, Flagman, GRavel Boxmen, Dumpmen & spotters, Form handlers, Material handlers, Fencing laborers Cleaning lumber, Material checkers, Dispatchers, Lanscapers, Unloading Explosives, Laying of sod, Planting of Trees, Removal of trees, Asphalt Plant Laborers, Wrecking laborers, Writers of scale tickets, Scaleman (Permanent-Potable or Temporary Plant), deck hand.

SEMI-SKILLED - Laying & Jointing of telephone conduit, darco & jackahmmer operator, Mechanical tamper and air space, wagon & hand drill, Vibrator operator, Operator on Power tools used under the jurisdiction of laborers, Cement Jumper; Puddler, form Setter Helpers, Power & Hand saw (when clearing timber), center strip, Reinforcing in Concrete, Wire mesh, Concrete sAw, Mortar mixer, Prime mover or any mechanical devise taking the place of concrete buggy or wheelbarrow, Sand point setter, asphalt kettelman, Mastic asphalt mixerman or other preparations used on joints, sheeting hammer divers (2-Men) Back up man or joint man with pipelayers, laborer in ditch or tunnel on sewer and water main & telephone conduit Gas Distribution Men, Pipe Setters on Laterals, drain Tiles, Culvert Pipe, & storm Sewer connections to Catch basins, Manholes or Maine line, Handling of Materials treated with oil, coreosote, asphalt and/or any foreign material harmful to skin or clothing, Chloride handlers, the unlaoding & laborers w/steel workers and Re-bard, Tunnel helpers in free air, Batch Dumpers, Tank cleaners, cofferdam workers, bankmen on floating plant

SKILLED - String (1-man), Head form setter, Dynamite man, Asphalt raker, Tunnel Miner, Pipelayer on sewer & water, Gunnite Nozzle man, Welders, Cutters, Burners & torchman, Screedman on Asphalt Pavers, Lutemen, Curb Asphalt machine operator, Laser beam operator, concrete burning machine operator, coring machine operators, Head Brade man

DECISION NO. IL78-2123

LABORERS: HENRY COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	$ 9.84	.45	.60		.035
SEMI-SKILLED	10.04	.45	.60		.035
SKILLED	10.24	.45	.60		.035
KNOX, HENDERSON & WARREN COS.					
UNSKILLED	10.07	.45	.60		.035
SEMI-SKILLED	10.27	.45	.60		.035
SKILLED	10.47	.45	.60		.035

UNSKILLED - Common laborer, carpenter tenders, tool cribmen, firemen or salamander tenders, flagmen, gravel box men, dumpmen & spotters, form handlers, fencing laborers, cleaning lumber, pitmen, material checkers, dispatchers, landscapers, unloading explosives, laying of sod, planting of trees, asphalt plant laborers, wrecking laborers, writer of scale tickets, fire shop laborers, fireproofing laborers, janitors, wrecking-dismantling building, wallmen & housemovers, driving of stakes, stringlines for all machinery

SEMI-SKILLED - Handling of materialst reated withoil, creosote, asphalt or any foreign material, track laborers, cement handlers, chloride handlers, the unloading and laborers w/steel workers & rebars, concrete workers (wet), tunnel helpers in free air, batch dumpers, mason & plasterer tenders & material wheelers, kettlemen & tarmen; tank cleaners, plastic installer, scaffold workers, material, buggies or motorized unit used for wet concrete or handling of building materials, laborers w/dewatering systems, all sewer workers plus depth, rod of chainmen with land surveyors, vibrator operators, mortar mixer operator, cement silica, clay, fly ash, lime & plasters, handlers (bulk or bag), cofferdam workers plus depth, (on concrete paving) placing cutting & trying or reinforcing, deck hand & shore laborers, bankmen on floating plant, asphalt workers w/machine, asphalt raker, grader checker

SKILLED - Dynamite men or blasters, caisson workers plus depth, gunnite nozzle men, leadmen on sewer work, welders, cutters, burners, trochmen, chain saw operator, aackhammer & drill operators, layout man, steel form setters (Street & hgihway); air tamping hammerman, signal man on crane, concrete saw operator, screenman on asphalt paver, laborers tendingm achins w/hot materials are used, multiple concrete duct-leadmen, lutemen, crib asphalt machine operator, ready-mix scalemen, portable or temporary plant, laborers handling materplate or similar materials, laser veam operaTOR, coring machine operator

DECISION NO. IL78-2123

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS KNOX, HENDERSON, WARREN, STARK COUNTIES; & EASTERN ½ of HENRY CO.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$12.22	.45	.80		.05
GROUP 2	12.02	.45	.80		.05
GROUP 3	11.645	.45	.80		.05
GROUP 4	11.30	.45	.80		.05
GROUP 5	10.76	.45	.80		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot after 80 feet or boom including jib, overhead cranes, gradall, cherry pickers (and similar types over 15 ton lifting capacity (require oiler), mechanics, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant operators and plant engineers, 3 drum hoist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oilers, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types), motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered aa cranes, casiason rigs (require oilers) dozer, tourna-dozer, work boats, roas carrier and helicopter

GROUP 2 - Trench machine, pumpcrete-belt crete-squeeze-screw-type pumps and gypsum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for eachs coop over one scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm types w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, formless finishing machine, jeeps w.ditching machine or other attachments, tuneluger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil testing and similar types), requiring oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type, 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators Chicago boom, boring machine and pipe jacking, machine hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D and similar types

DECISION NO. IL78-2123

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling roller, center stripper, cement finishing machines, barber greene or similar loaders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pulling power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - Air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-air wirhout attachmants, curb machines, truck crane oilers, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo and similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel,f orm grader, pump 1 or 2, generator (1) or (2), weldingmachine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity), bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL78-2123

ILL-15-PBO-1-2-3

POWER EQUIPMENT OPERATORS: ROCK ISLAND, MERCER & WESTER ½ OF HENRY COUNTY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	11.80	.65	.80		.08
CLASS 2	11.80	.65	.80		.08
CLASS 3	10.40	.65	.80		.08
CLASS 4	10.40	.65	.80		.08
CLASS 5	9.35	.65	.80		.08

CLASS 1 - Crane, shovel, clamshell, dragline, backhoe, derrick, towe crane, cableway, concrete spreader (servicing two pavers), asphalt spreader, asphalt mixer plant engineer, dipper operator, dipper dredge craneman, dual purpose truck (boom o winch), leverman or engineman (Hydraulic dredge), mechanic, paving mixer with tower attached (two operators required), pile driver, boom tractor, stationary, portable or floating mixing plant, trenching machine, cleaning and priming machine, endloader (one half cubic yard or over, on basement excavation work), backfiller, (throw bucket), locomotive engineer, Qualified welder, tow or push boat concrete paver, seaman Trav-L-Plant or similar machine, CMI autograder or similar machine, slip form paver, caisson augering machine, mucking, asphalt heater-planer unit hydraulic cranes, mine hoists

CLASS 2 - Athey, Barber-Green, euclid or hasis loader, asphalt pus mill, fireman and driver, concrete pump, concrete spreader (servicing one paver), bulldozer, endloader (other than mentioned above), forklift, elevating grader, group equipment greaser, letournapull and similar machine, DW-10, straddle carrier, hyster winch and similar machines, motor patrol, power blade push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachment, roller on asphalt or blacktop, single drum hoists, Jaeger mix and place machine, pipe bending machine, welding machines (3 or 4), fuller kenyon cement pump or similar machines, automatic cement and gravel batch plants (one stop set-up), Seaman pulvi-mixer or similar machines, propelled sheep foot roller or compactor (used in conjunction with a grading spread), aephalt spreader screed operator apsco spreader or similar machine, slusher, forklift (over 6,000 lb. cap. or working at heights above 28 ft.) conveyors

DECISION NO. IL78-2123

POWER EQUIPMENT OPERATORS: (CONT'D)

CLASS 3 - Asphalt booster, fireman and pump operator at asphalt plant, compressor (500 cu. ft. and over), concrete finishing machine, form grader with roller on earth, mixers (3 bag to 16E), power operated bull float, tractor without power attachment, Dope not (agitating motor), dope chop machine, distributor (back end), flexplane or similar machines, portable machine fireman, Hydrohammer, power winch on paving work, self-propelled roller or compactor (other than provided for above), pump operator crusher operator, trench machine (40 H.P. and under), power sub grader (on forms), or similar machines, Forklift (6000 or less cap.) Gypsum pump, conveyor over 20 H.P.

CLASS 4 - Air compressor (275 c.f.m. or over) driver on truck crane or similar machines, light plant, mixers (1 or 2 bags), power batching machine (cement auger or conveyor), boiler (engineer or fireman, water pumps, welding machine, mechanical broom, automatic cement and gravel batch plants (two or three stop set-up), small backhoes or endloaders-self-propelled curing machine

DECISION NO. IL78-2123

ILL-82-TD-1-2-2

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site, Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons, A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transpotation purposes, fork lifts over 6,000 lb. capacity, winch trucks, 4-axle combination units, ticket writers

GROUP III - 2,3 or 4 axle trucks hauling 16 tons or more, driers on oil distributores, water pulls, mehcanics & working foreman, 5-axle or more combination units, dispatchers

FOOTNOTES

a. Per week per employee

SUPERSEDEAS DECISION

STATE: Illinois
COUNTIES: See Below
DECISION NUMBER: IL78-2126
DATE: Date of Publication
Supersedes Decision No. IL78-2039, dated March 17, 1978, in 43 FR 11427
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTIES: Boone, Carroll, DeKalb JoDaviess, Lee, Ogle, Stephenson, Whiteside & Winnebago

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Boone, Ogle, Stephenson & Winnebago Counties	$11.15	.70	.80	1.00	.04
Carroll, JoDaviess & Whiteside Counties	12.07	.45	.85		.10
BOILERMAKERS:					
Boone, Ogle & Winnebago Cos.	13.05	1.05+.40	1.00	5%	.03
Remainder of Counties	11.45	.95	1.00		.03
BRICKLAYERS & STONEMASONS:					
Boone, Ogle, Winnebago, Carroll, JoDaviess, Stephenson, Lee & Whiteside Counties	11.55	.55	.60		
DeKalb County	12.03	.75	.70		
CARPENTERS:					
Stephenson County:					
Carpenters & Soft Floor Layers	10.93	.55	.75		
Millwrights	11.90	.55	.75		
Winnebago & Boone Counties:					
Carpenters & Piledrivermen & Soft Floor Layers	11.05	.55	1.00		
Millwrights	11.65	.55	1.20		
Carroll & JoDaviess Counties:					
Carpenters & Soft Floor Layers	10.93	.55	.75		
Millwrights	11.90	.55	.75		
Whiteside (all areas east of Hwy. #78) co., & Ogle (Twps. of Mount Maryland, Forreston, Harper, Haldane, Buffalo, Brookville, Adeline, Lightsville & Baileyville) Co:					
Carpenters & Soft Floor Layers	10.93	.55	.75		
Millwrights	11.90	.55	.75		
Piledrivermen	10.30	.45	.70		.04
Whiteside co. (all areas west of Hwy. #78)					
Carpentes & Soft Floor Layers	11.11	.60	.90		.06
Millwrights	11.90	.55	.75		
Piledrivermen	12.60	.60	1.00		.25

DECISION NO. IL78-2126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CARPENTERS (CONT'D)					
DeKalb Co., Ogle (East of Hwy. #15 incl. Rochelle City) Co., Lee (Eastern ½ of Co., incl. Roxbury & Compton) Co:					
Carpenters & Soft Floor Layers	11.78	.75	.62		.01
Millwrights & Piledrivermen	12.03	.75	.62		.01
Remainder of Lee & Ogle Cos:					
Carpenters & Soft Floor Layers	12.30	.45			
Millwrights & Piledrivermen	12.80	.45			
CEMENT MASONS:					
Boone & Winnebago Counties	10.98	.55	.80		
DeKalb county	12.10	.75	.80		
Whiteside (Erie & Area S.W. thereof) County	10.37	.50	.60		
Carroll, JoDaviess, Lee, Ogle Stephenson & Remainder of Whiteside County	10.70	.55	1.00		
ELECTRICIANS:					
Boone, Dekalb, Winnebago, Stephenson, Ogle, Lee, JoDaviess (Warren, Rush, Nora, Stockton, Wards, Grove, Pleasant Valley, Berrenman Twps.) Co; Carroll (Cherry Grove, Shannon, Rock Creek, Lima, Wysox, Elkhorn, Grove Twps.) Co: Whiteside (Genesee, Jordan, Hopkins, Sterling, Hume, Montgomery, Tampico, Hahnaman Twps.) Co.	12.28	.50	3%+.60		4%
JoDaviess (Savanna Ordinance Depot) Co., Carroll (Cities of Chadwick), Mt. Carroll, Savanna & Tompson) Co; & Remainder of Whiteside Co.	12.09	.55	7.5%		.03
Remainder of JoDaviess County	11.50	.65	3%+.35		3/4%
ELEVATOR CONSTRUCTORS:					
DeKlab County:					
Constructors	12.455	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				

DECISION NO. IL78-2126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS (CONT'D)					
Carroll & Whiteside Counties:					
Constructors	10.41	.495	.32		.02
Helpers	70%JR	.495	.32		.02
Helpers (Prob.)	50%JR				
Remainder of Counties:					
Constructors	11.42	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
Helpers (Prob.)	50%JR				
GLAZIERS:					
DeKalb (Lee, Watermon, Hinckley & South Thereof) Co.	9.65			.65	
Winnebago, Boone, Lee (Eastern ½ of Co.) Co., Remainder of DeKalb County	8.90	.37	.20	.74	.02
Carroll, JoDaviess, Stephenson, Whiteside Co., Lee (Western ½ of County incl. Dixon) County	10.59	.70	1.00		.02
IRONWORKERS:					
DeKalb (S.E. 2/3 of Co., incl. Sycamore of DeKalb)	13.65	.75	.525		.08
Carroll (Vicinity of Savanna & Thompson) Co; JoDaviess (E. Dubuque, Galena, Hanover & Vic) Co; & Remainder of Whiteside County	12.97	.65	.375		.11
Boone, Winnebago, Stephenson, Lee, Sterling & West Sterling Co.; Remainder of Carroll, JoDaviess & Dekalb Counties	12.50	.75	.375		.10
LABORERS:					
Boone County:					
Laborers	9.20	.57	1.10		
Power Vibrator	9.30	.57	1.10		
Mortar Men	9.35	.57	1.10		
Plasterer Tenders and Hod Carriers	9.45	.57	1.10		

DECISION NO. IL78-2126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
MARBLE-TILE-TERRAZZO WORKERS:					
Carroll, Boone, DeKalb, Stephenson, Ogle & Winnebago Counties	10.70	.55	.50		
PAINTERS:					
DeKalb County:					
Brush, Spray, & Drywall Taper	9.34	.60	.70		.06
Carroll, Lee, Ogle, Whiteside Counties:					
Brush	9.00				
Spray, Structural Steel, Sandblast	9.35				
JoDaviess County:					
Brush & Roller	8.40		.30		
Spray, Structural Steel, Sandblast	8.95		.30		
Winnebago, Boone & Stephenson Counties:					
Brush & Roller	10.95	.55			
Structural Steel & Sandblast	11.20	.55			
Spray	11.50	.55			
PLASTERERS:					
DeKalb County	11.62	.75	.50		
Boone & Winnebago Counties	10.53	.55	.75		
Whiteside (Erie & Area S. W. thereof) co.	12.00				
Carroll, JoDaviess, Lee, Stephenson Cos; & Remainder of Whiteside County	10.65	.55	1.00		.01
PLUMBERS & STEAMFITTERS:					
DeKalb County	12.55	.57	.95		.10
Whiteside, Lee, Carroll (West of Rt. #78 excluding Mt. Carroll by 1 mile outside the city limits continuing North of Rt. #78) Co; JoDaviess (South line of Co., then west to the River 1 mile north of Blanding Co;) Savanna Ordnance Depot	11.75	.54	1.29		.17
Boone, Ogle, Stephenson, Winnebago, Carroll (to Rt. #78 incl. Mt. Carroll) Co; Remainder of JoDaviess County	11.55	.45	.60		.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
DeKalb (Eastern ½ of Co., Incl. Sycamore, DeKalb & Waterman) County	12.58	.85	.70		.02
Boone, Carroll, JoDaviess, Lee, Ogle Stephenson, Winnebago, Whiteside (Cities or Rock Falls, Sterling & W. Sterling County, DeKalb (Western ½ of county);					
Composition-Slate & Tile	12.20	.55			
Remainder of Whiteside County:					
Flat Slate-Tile-Damp-Waterproof	12.65	.65	.80		
SHEET METAL WORKERS:					
Boone, DeKalb, Lee, Ogle, Whiteside, Winnebago, Carroll (Eastern ½ of County) and			.88	.50	.06
JoDaviess & Stephenson Counties	11.23	.55	.88	.50	.06
Carroll County (Western ½ of Co.)	10.66	.45	.44		.10
SPRINKLER FITTERS	12.10	.75	1.05		.08
TRUCK DRIVERS:					
Boone,Stephenson, Winnebago Cos., Carroll (North of Rt. #72 & East of Rt. #78) Co; JoDaviess (East of Rt. #78 except City of Stockton) County:					
2-3 Axles Trucks	10.50	.55	1.00		
4 Axle Trucks	10.65	.55	1.00		
5 Axle Trucks	10.85	.55	1.00		
6 Axle Trucks	11.05	.55	1.00		
DeKalb County; East of Rt. #51 in Lee & Ogle counties:					
2-3 Axles Trucks	10.65	d29.00	d33.00		
4 Axle Trucks	10.80	d29.00	d33.00		
5 Axle Trucks	11.00	d29.00	d33.00		
6 Axle Trucks	11.20	d29.00	d33.00		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

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PAID HOLIDAYS (WHERE APPLICABLE)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Day After Thanksgiving; G- Christmas Day

FOOTNOTES:

a. 7 paid holidays; A through G

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays; A through F plus Washington's Birthday & Good Friday & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the Holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Per week, Per Employee

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ILL-101-LAB-1-2-3

LABORERS:

REMAINDER OF COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	9.80	.55	.60		.035
CLASS II	10.75	.55	.60		.035
CLASS III	11.70	.55	.60		.035

CLASS I - Common Laborers, Carpenter Tenders, Tool Cribmen, Fireman or Salamander Tenders, Flagmen, Gravel Box Men, Dumpmen & Spotters, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit men, Material Checkers, Dispatchers, Lanscapers, Unloading explosives, Laying of sod, Planting of trees, Removal, of Trees, Asphalt Plant Laborers, Wrecking Laborers, Writer of Scale Tickets, Fire Shop Laborers, Fireproofing Laborers, Janitors, Driving of Stakes, Stringlines for all machienry, Rod & Chainmen with Technical Engineers, with Land Surveyors, Asphalt Workers with Machine & Layers, Grade Checker, Signal Man on Crane, Coring Machine Operator, concrete Workers (wet), On Concrete Paving, Placing, cutting and Tying or Reinforcing Steel Form Setters-Street and Highway.

CLASS II - Scaffold Workers, Handling of materials treated with any foreign matter harmful to skin or clothing, Bulk Cement Handlers, Unloading of Rebars, Tunnel Helpers in Free Air, Batch Dumpers, Mason Tenders, Kettle and Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies of Motorized Unit used for wet concrete or handling of Building Materials, Vibrator Opeators, Mortar Mixer Operators, Cement Silica, Clay Fly Ash, Line & Plasters, Handlers (Bulk or Bag) Deck Hand, Dredge Hand & Shore Laborers, Bankmen on Floating Plant, Power Tools, Material Selector (Firebrick or Castable Material) Chain saw Operators, Air Tamping Hammerman, concrete Saw Operator, Front End Man on Chip Spreader, Luteman, Asphalt Raker

CLASS III - J ckhammer and Drill Operators, Laborers with De-Watering Systems, Bottom Sewer Workers Plus depth, cofferdam workers plus depth, Caisson workers plus depth, Gunntie Nozzle Men, Leadman on Sewer Work, Welders, Cutters, Burners and Trochmen, Layout Man and/or Tile Layer, Screenman on Asphalt Pavers, Laborers Tending Masons with Hot Material, Multiple concrete Duct-Leadman, Curb Asphalt Machine Operator, Ready-Mix Scalemen, Permanant, Portable or Temporary Plant, Laser Beam Operator, Concrete Burning Machine Operator, Underpinning and Shoring of Building, Pump Men

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ILL-12-PEO-1

POWER EQUIPMENT OPERATORS:

BOONE, CARROLL, DEKLAB, JODAVIESS LEE, OGLE, STEPHENSON, WINNEBAGO & EASTERN ½ OF WHITESIDE COUNTY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	12.55	1.00	1.00	.50	.05
CLASS II	11.25	1.00	1.00	.50	.05
CLASS III	10.10	1.00	1.00	.50	.05
CLASS IV	8.85	1.00	1.00	.50	.05

CLASS I - Asphalt plant, asphalt spreader, auto-grad, batch plant, Benoto (requires two engineers), boiler & throttle valve, caisson rigs, central redi-mix plant, combination backhoe front end-loader machine, compressor & throttle valve, concrete breaker (truck mounted), conveyor, concrete paver, concrete placer, concrete tower, cranes (all), derricks (all), grader, elevating, grouting machines, highlift shovels or front endlaoder 2½ yd. & over, hoists, one, two & three drum, hoists, two & three, drum, hoists, two tugger one floor, hydraulic boom trucks, locomotives (all), mechanic, motor patrol, pile drivers & skid rig, post-hole digger, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), pumpcretes, squeeze cretes - screw types pumps, Gysum bulker & pump, rock drill (self-propelled), rock drill (truck mounted), scoops - tractor drawn, slip form paver, straddle buggies, tournapull, tractor with boom & side boom, trenching machines

CLASS II - Boilers, bulldzoers, brrom all power propelled, concrete mixer (2 bag & over), conveyor portable, fork lift truck greaser engineer, highlift shovels or front endloaders under 2½ yd., hoists, automatic hoists, all elevators, hoists, tuggers single drum, rillers, all steam generators, stone crushers, tractors all winch trucks with "A" frame

CLASS III - Air compressor - small 150 & under (1) to 5 not to exceed a total of 300 ft.), Air compressor - large over 150, combination - small equipment opr., generators under & over 50 KW heaters, mechanical pumps over 3" (1 to 3 not to exceed a total of 300 ft.) pumps, well points, welding machines (2 through 5), winches 4 small electric drill winches

DECISION NO. IL78-2126

POWER EQUIPMENT OPERATORS:

WESTERN ½ OF WHITESIDE COUNTY

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	11.80	.65	.70		.08
CLASS 2	11.80	.65	.70		.08
CLASS 3	10.40	.65	.70		.08
CLASS 4	10.40	.65	.70		.08
CLASS 5	12.65	.65	.70		.08

CLASS 1 - Crnae, shovel clamshell, dragline, backhoe, derrick, tower crane, cableway, concrete spreader (servicing two pavers), asphalt spreader, asphalt mixer plant engineer, dipper operator, dipper dredge craneman, dual purposetruck (boom or winch), leverman or engineman (Hydrualic dredge), mechanic, paving mixer with tower attached (two operators required), pile driver, boom tractor, stationary, portable or floating mixing plant, trenching machine cleaning and proming machine, endloader (one half cubic yard or over, on basement excavation work), backfiller (throw bucket), locomotive engineer, qualified welder, tow or push boat concrete paver, seaman Trav-L- Plant or similar machines, CMI autograder or similar machine, slip form pver, caisson augering machine, mucking, asphalt heater-palner unit hydraulic cranes, Mine hoists

CLASS 2 - Athey, Barber-Green, euclid or hasis loader, asphalt pug mill fireman and drier, concrete pump, concrete spreader (servicing one paver), bulldozer, endloader (other than mentiond above), forklift, elevating grader, group equipment greaser, letourneapull and similar machine, DW-10, straddle carrier, hyster winch and similar machines, motor patrol, power blade push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachment, roller on asphalt or blacktop, single drum hoist, Jaeger mix and place machine, pipe bending machine, welding machines (3 or 4), fuller kenyon cement pump or similar machines, automatic cement and gravel batch plants (one stop set-up), Seaman pulvi-mixer or similar machines, propelled sheep foot roller or compactor (used in conjunction with a grading spread), asphalt spreader screed operator apsco spreader or similar machine, slusher, forklift (over 6,000 lb. cap. or working at heights above 28 ft.) conveyors

DECISION NO. IL78-2126

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS 3 - Asphalt booster, fireman and pump operator at asphalt plant, compressor (500 cu. ft. and over) concrete finishing machine, form grader with roller on earth, mixers (3 bag to 16E), power operated bull float, tractor without power attachment, Dope pot (agitating motor), Dope chop machine, distributor (back end), Flecplane or similar machines, portable machine fireman, Hydrohammer, power winch on paving work, self-propelled roller or compactor (other than provided for above), pump operator crusher operator, trench machine (40 H.P. and under), power sub grader (on forms), or similar machines, Forklift (6000 or less cap.) Gysum pump, conveyor over 20 H.P.

CLASS 4 - Air compressor (275 c.f.m. or over) driver on truck crane or similar machines, light plant, mixers (1 or 2 bags), power batching machine (cement auger or conveyor), boiler (engineer or fireman, water pumps, welding machine, mechanical broom, automatic cement and gravel batch plants (two or three stop set-up), small backhoes or endloaders) self-propelled curing machine

CLASS 5 - Oiler, mechani's helper, water pump (pumping water to paver), mechanical heater (other than steam boiler) belt machine, small putboard motor boat

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Bond, Calhoun, Clinton, Greene, Jersey, Monroe, Montgomery, Randolph & Washington

DECISION NUMBER: IL78-2127

DATE: Date of Publication

Supersedes Decision No. IL78-2040, dated March 17, 1978 in 43 FR 11432

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.63	.80	.97		
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS:					
Montgomery County					
Bricklayers, Stonemasons, Cement Masons, Plasterers, Marble-Tile-Terrazzo Workers, Pointers-Caulkers-Cleaners					
Hillsboro & East Thereof	10.45	.70	.75		
Remainder of County	11.78	.70	.75		
Washington County					
South of Hoyleton Road					
Bricklayers, Stonemasons, Cement Blocklayers, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulkers	9.95	.55	.40		
Bond & Clinton Cos., & Remainder of Washington County					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers Cement Blocklayers, Pointers, Cleaners-Caulkers	10.70	.35	.50		
Calhoun & Jersey Counties					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers	11.78	.70	.75		
Greene County					
Bricklayers, Stonemasons, Plasterers, Blocklayers, Marble-Tile-Terrazzo Workers, Pointers-Caulkers-Cleaners	10.80	.50	.52		.02
Randolph County					
Bricklayers, Stonemasons, Terrazzo Workers, Tile Setters	9.95	.55	.40		
Monrne County					
Bricklayers, Stonemasons, Marble-Tile-Terrazzo Workers, Pointers-Cleaners-Caulkers	11.00		.30	1.00	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Monroe, Randolph, Clinton & Washington Counties					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	$11.11	.60	.90		.06
Montgomery County					
Waggoner, Standard City & North thereof					
Carpenters & Soft Floor Layers	11.45	.55	.55		.06
Millwrights & Piledrivermen	11.95	.55	.55		.06
Remainder of County					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	11.985	.60	.80		
Greene County					
Whitehall & North Thereof					
Carpenters & Soft Floor Layers	10.40	.55	.25		.02
Millwrights	10.65	.55	.25		.02
Piledrivermen	10.90	.55	.25		.02
Bond, Calhoun & Jersey Cos.,					
South of Apple Creek in Greene County					
Carpenters, Soft Floor Layers, Millwrights & Piledrivermen	11.985	.60	.80		
CEMENT MASONS:					
Randolph County					
Cement Masons & Plasterers	9.65	.30			
Greene County					
Cement Masons	10.555	.50	.52		.02
Clinton County					
Carlyle & East Thereof					
Cement Masons	10.75				.01
Calhoun, Jersey, Monroe, Bond, & Remainder of Clinton County					
Cement Masons	11.555	.90	.62		
ELECTRICIANS:					
Portion East of Butler Grove, Grisham, Hillsboro & Raymond Twps. in Montgomery County	12.60	.50	3%+.40		.35%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
N. W. Part of Montgomery County Monroe County, Red Bud Twp. in Randolph Co., Western ½ of Bond County, Venedy Twp. in Washington County, Remainder of Clinton & Montgomery Counties	$12.37	.50	3%+.60		.1 of 1%
Huey, Hoffman & Vicinity in Clinton County., Eastern ½ of Bond County & Remainder of Randolph & Washington Counties	12.73	4%	3%+.65	6%	.25%
Calhoun, Jersey & Greene Cos.	12.50	.40	13%		1%
IRONWORKERS:	12.35	.50	3%+1.00	6%	.3 of 1%
Bond, Clinton, Calhoun, Jersey, Monroe, Washington & Randolph Cos., Litchfield, Hillsboro & South Thereof in Montgomery Co.	12.10	.55	1.05		
Greene Co; & Remainder of Montgomery County	11.75	.55	1.05		.08
LABORERS:					
Clinton County					
Trenton & Vicinity					
Common	10.70	.50	.60		.035
Brick & Plaster Mason Tenders	11.20	.50	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	10.95	.50	.60		.035
Dynamite Men	12.30	.50	.60		.035
Carlyle & Vicinity					
Common	10.60	.60	.60		.035
Brick & Plaster Mason Tenders	11.10	.60	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	10.85	.60	.60		.035
Dynamite Men	12.20	.60	.60		.035
New Baden & Vicinity					
Laborers	10.45		.60		.035
Brick Mason Tenders & Mortar Mixers	10.95		.60		.035
Cutting & Burning w/a Torch: Chain Saws	10.70		.60		.035
Plaster Tenders	10.95		.60		.035

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Montgomery County					
Hillsboro & Vicinity					
Common	$10.70	.50	.60		.035
Brick & Plaster Mason Tenders	11.20	.50	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	10.95	.50	.60		.035
Dynamite Men	12.30	.50	.60		.035
Litchfield & Vicinity					
Common	11.20		.60		.035
Brick & Plaster Mason Tenders	11.70		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.45		.60		.035
Dynamite Men	12.80		.60		.035
Monroe County					
Common	10.00	.30	.25		
Air-Tool Opr., & Bottom Men on Sewer Trenches	10.25	.30	.25		
Mason & Plasterer Tenders; Dynamite Men	10.50	.30	.25		
Greene County					
Common	11.20		.60		.035
Brick & Plaster Mason Tenders	11.70		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.45		.60		.035
Dynamite Men	12.80		.60		.035
Calhoun County					
Common	11.60		.20		.035
Brick & Plaster Mason Tenders	12.10		.20		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.85		.20		.035
Dynamite Men	13.20		.20		.035
Washington County					
Ashley & Vicinity					
Common	11.40		.40		.035
Brick & Plaster Mason Tenders	11.90		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.60		.40		.035
Dynamite Men	13.00		.40		.035

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Washington County (Cont'd)					
Vicinity of Nashville & Okawville					
Common	$11.20		.60		.035
Brick & Plaster Mason Tenders	11.70		.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.45		.60		.035
Dynamite Men	12.80		.60		.035
Bond County					
Vicinity of Greenville					
Common	11.50		.40		.035
Brick & Plaster Mason Tenders	12.00		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.75		.40		.035
Dynamite Men	13.10		.40		.035
Vicinity of Sorento					
Common	11.55		.40		.035
Brick & Plaster Mason Tenders	12.05		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.80		.40		.035
Dynamite Men	13.15		.40		.035
Pochontas & Vicinity					
Common	11.40		.40		.035
Brick & Plaster Mason Tenders	11.90		.40		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.60		.40		.035
Dynamite Men	13.00		.40		.035
Jersey County					
Common	11.55		.25		.035
Brick & Plaster Mason Tenders	12.05		.25		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	11.90		.25		.035
Dynamite Men	13.15		.25		.035

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Randolph County					
Chester & Vicinity					
Common	$10.20	.60	1.00		.035
Brick & Plaster Mason Tenders	10.70	.60	1.00		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	10.45	.60	1.00		.035
Dynamite Men	11.80	.60	1.00		.035
Sparta & Vicinity					
Common	10.70	.50	.60		.035
Brick & Plaster Mason Tenders	11.20	.50	.60		.035
Cutting & Burning w/a Torch & Working on the Bottom of Sewer Trenches, etc.	10.95	.50	.60		.035
Dynamite Men	12.30	.50	.60		.035
LATHERS:					
Montgomery Co., & the Northern ½ of Greene County	12.30				
Bond & Washington Counties	11.35				
Southern ½ of Greene County & Remainder of Counties	12.835			.65	.01
PAINTERS:					
Randolph County					
Commercial	9.00				
Industrial	10.90				
Remainder of Counties					
Commercial	11.05	.55	.35		
Industrial	11.30	.55	.35		
PLASTERERS:					
Bond, Washington, Calhoun, Clinton, Monroe & Jersey Cos.	12.94				
PLUMBERS & STEAMFITTERS:					
Randolph County	12.70	.30	.90		.08
Hillsboro & North Thereof in Montgomery County	12.43	.35	.88		.07
Valmeyer & Vicinity in Monroe County; Bond, Greene, Jersey, Calhoun Counties; South & West of Route #127 in Montgomery Co.	13.20	.48	.96		.05

DECISION NO. IL78-2127

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Washington County	$ 8.75	.60			
Montgomery County	12.93	.70			
Remainder of Counties:					
Roffers	10.95	.67	.55		.03
Kettlemen	8.75	.67	.55		.03
SHEET METAL WORKERS:					
Calhoun County	10.11	.45	.44		.10
Remainder of Counties	11.23	.55	.40	6%	.02
SPRINKLER FITTERS	12.10	.75	1.05		.08

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.52	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.97	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

POWER EQUIPMENT OPERATORS:

GROUP I Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., ditching machines or backfillers (requiring oilers), dredges, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or fireman is required), hoists-2 drum or more (where oiler or firemen is not required) Hydraulic backhoes, ditching machines or backfiller (not requiring oilers) Cherry pickers, overhead cranes, roller (Steam or gas) concrete pavers,excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and boat oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machines, Drills (other than derrick type) 1-drum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jets (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Straight tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal floats, boats oprs., (under 25', conveyors (1), distribution oprs., on trucks, siphones or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III Firemen and asphalt spreader oilers

GROUP IV Heavy equipment oilers (truck cranes, dredges, monigans, large cranes, etc.

GROUP V Oilers

GROUP VI
a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs pressure

DECISION NO. IL78-2127

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposed; Fork lifts over 6,000 lb. capacity, winch trucks; 4-axle combination units; ticket writers

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: ILLINOIS COUNTIES: See Below
DECISION NUMBER: IL78-2128 DATE: Date of Publication
Supersedeas Decision No. IL78-2041, dated March 17, 1978 in 43 FR 11436
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTIES: Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Fayette County	$12.63	.80	.97		
Clark, Douglas & Edgar Counties	12.15	.50	1.20		.01
Remainder of Counties	11.30	.45	.60		.03
BOILERMAKERS	11.45	.95	1.20		.03
BRICKLAYERS					
Fayette County:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers-Caulkers-Cleaners-Marble-Tile-Terrazzo Workers	11.78	.70	.75		
Coles & Cumberland Cos; Arcola & South Thereof in Douglas County:					
Bricklayers & Stonemasons	11.70	.45	.50		.05
Edgar Co; & North of Arcola in Douglas County:					
Bricklayers & Stonemasons	11.70	.45	.50		.05
Remainder of Counties:					
Bricklayers, Stonemasons, Blocklayers, Pointer-Caulker, Cleaners-Marble-Tile-Terrazzo Workers	10.95		.50		
CARPENTERS:					
Fayette, Clay, Richland & Wabash Cos; Southeastern Part of Edwards County					
Carpenters, Piledrivermen & Soft Floor Layers	10.06	.50	.50		.03
Millwrights	10.41	.50	.50		.03
Crawford & Lawrence Cos; Eastern ½ of Jasper County:					
Carpenters & Soft Floor Layers	10.67	.57	.50		
Millwrights & Piledrivermen	11.07	.57	.50		
Wayne Co.; Northeastern & Western ½ of Edwards County:					
Carpenters, Piledrivermen & Soft Floor Layers	10.11	.45	.50		.02
Millwrights	10.46	.45	.50		.02

DECISION NO. IL78-2128

CARPENTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Coles, Clark, Cumberland, Edgar, Effingham Cos; Western ½ of Jasper Co., & Southern part of Douglas County:					
Carpenters & Soft Floor Layers	$12.325	.55	.30		.07
Millwrights & Piledrivermen	12.825	.45	.30		.07
Northern part of Douglas Co., including Tuscola & Newman:					
Carpenters & Soft Floor Layers	11.665	.45	1.00		.13
Millwrights & Piledrivermen	12.165	.45	1.00		.13
CEMENT MASONS & PLASTERERS					
Northern Part of Fayette Co.					
Cement Masons & Plasterers	11.20		.65		
Remainder of Fayette Co.					
Cement Masons	10.75				.01
Clark, Edgar & Richland Cos:					
Cement Masons & Plasterers	9.50			.50	.01
Crawford, Lawrence & Wabash Cos					
Cement Masons & Plasterers	9.35	.70	.80		
Clay, Edwards & Jasper Cos; & Remainder of Wayne County:					
Cement Masons & Plasterers	10.85				
Coles, Cumberland & Effingham Cos; & Southern part of Douglas County:					
Cement Masons	12.01				
Plasterers	11.10				.01
Northern part of Douglas County including Tuscola & Newman:					
Cement Masons	12.575	.45	.25		.025
Plasterers	11.915	.45			.025
S.W. Corner of Wayne County:					
Cement Mason & Plasterers	10.70				
ELECTRICIANS:					
Wabash County	13.05	.50	3%		4%
Coles & Cumberland Cos; Southern ½ of Douglas Co; Twps. of Bishop, Douglas, Lucas, Moccasin, St. Francis, Summit and Teutopols in Effingham County	12.60	.50	3%+.40		.35%
Edwards, Wayne & Clay Cos; & Remainder of Effingham & Fayette Counties	12.50	.40	13%		1%

DECISION NO. IL78-2128

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Northern ½ of Douglas County					
Twps. of Banner & Liberty in Effingham Co; Twps. of Hurrican, S. Hurricane, Ramsey, Bowling Green, Carson & Loudon in Fayette County	12.60	.50	3%+.40		.35%
Remainder of Counties	12.50	.40	13%		1%
GLAZIERS:					
Fayette County	11.53	.55	.55		
Coles & Douglas	10.39	.45	.50		.01
Clark & Edgar Counties	12.39				
Edwards, Lawrence, Wabash & Wayne Counties	10.105	.48	.50		.25
IRONWORKERS:					
Coles, Cumberland, Douglas & Edgar Counties	10.80	.65	1.00		.08
Avena & North thereof in Fayette County & Remainder of Effingham County	11.10	.55	.90		.08
Fayette Co., (Southern ½ below Brownstown)	12.10	.55	1.05		
Clark, Jasper, Crawford Cos; Northern ½ of Lawrence Co., North of Olney in Richland Co. Dexter & East thereof in Effingham Co; Remainder of Clay County	11.30	.90	2.05		.10
LABORERS:					
Coles & Cumberland Counties:					
Unskilled	10.40	.55	.40		.035
Semi-Skilled	10.60	.55	.40		.035
Skilled	10.75	.55	.40		.035

DECISION NO. IL78-2128

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clark, Douglas & Edgar Counties:					
Unskilled	$10.30	.45	.60		.035
Semi-Skilled	10.50	.45	.60		.035
Skilled	10.65	.45	.60		.035
Remainder of Counties	8.60	.40	.30		.035
LATHERS:					
Richland County	12.835			.65	.01
Fayette County	12.30				
Effingham County	11.00				
Coles, Crawford, Douglas & Edgar	11.49	.45	.40		.01
PAINTERS:					
Fayette County:					
Commercial	11.05	.55	.35		
Industrial	11.30	.55	.35		
Edwards & Wayne Counties:					
Brush & Roller	8.45				
Clay County:					
Brush	8.00				
Roller	9.25				
Wabash County:					
Brush	8.10				
Roller	8.35				
Crawford, Jasper, Effingham, Lawrence & Richland Cos:					
Commercial & Industrial	9.80	.45			
Remainder of Counties	10.77	.55	.40		.04
PLUMBERS & STEAMFITTERS:					
Clay & Fayette Counties	13.00	1.20	1.40		.15
Edwards & Wabash Counties	13.575	.50	.90		.06
Lawrence & Wayne Counties	12.55	.50	.55		.08
Clark, Crawford, Edgar & Richland Counties	12.95	.50	1.00		.10
Remainder of Counties	12.15	.35	1.15		.12

DECISION NO. IL78-2128

ROOFERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette County:					
Roofers	$10.95	.67	.55		.03
Kettlemen	8.75	.67	.55		.03
Edwards & Wabash Counties:					
Composition	10.63	.60	.50		
Slate & Tile	10.88	.60	.50		
Richland & Wayne Counties	8.75	.60			
Clay, Effingham & Jasper Cos:					
Roofers	12.08	.30	.30		.02
Coles, Cumberland & Douglas Cos:					
Roofres	12.39	.70	.45		.03
Remainder of Counties	9.70	.40	.20		
SHEET METAL WORKERS:					
Crawford County	12.78	.40+a	.83		.07
Clark, Cloes, Cumberland, Edgar & Douglas Counties	11.94	.60+a	.67		.16
Remainder of Counties	11.23	.55	.40	6%	.02
SPRINKLER FITTERS	12.10	.75	1.05		.08
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

a. 3% of gross earning to SASMI

DECISION NO. IL78-2128

ILL -2-PEO-1-2-3

POWER EQUIPMENT OPERATORS: FAYETTE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	11.52	.87	1.51		.05
GROUP II	10.19	.87	1.51		.05
GROUP III	9.54	.87	1.51		.05
GROUP IV	9.44	.87	1.51		.05
GROUP V	9.19	.87	1.51		.05
GROUP VI					
a.	13.67	.87	1.51		.05
b.	13.97	.87	1.51		.05
c.	11.29	.87	1.51		.05
d.	11.79	.87	1.51		.05

GROUP I - Cranes, draglines, shovels, skimmer scoops, clamshells or derrick boats, pile drivers, crane-type backhoes, asphalt plant opers. plant opers., dtiching machines or backfiller (requiring oilers), dredge, asphalt spreading machines, heavy duty mechanic, ass't. master mechanic, all locomotives, cableways or tower machines, hoists 2 drum or more (where oiler or firemen is required), hoists-2 drum or more *where oiler or firemen is not required) Hydraulic backhoes, ditching machines or backfiller (not concrete pavers, excavators, concrete breakers, concrete pumps, bulk cement plants, cement pumps, derrick-type drills, mixers (over 3 bags) and broad oprs., (25' & over), Motor graders or pushcats, scoops or tournapulls, Bulldozers, endloaders or fork-lifts, power blade or elevating graders, winch cats, boom tractors, and pipe wrapping or painting machiens, Drills (other than derrick type) 1-drum-hoists, mud jacks, mixers (2 or 3 bags), conveyors (2), air compressors (2), water pumps regardless of size (2), welding machines (2) siphons or jet (2), winch heads or apparatuses (2) and light plants (2), Mixers (under 2 bags), all tractors regardless of size (Straight tractor only), firemen on stationary boilers, automatic elevators, form grading machines, finishing machines, power-sub-grader or ribbon machine, longitudinal, flats, boats oprs., (under 25', conveyors (1), distribution oprs., on trucks, siphons or jets (1) winch heads or apparatuses (1), light plant (1) mixers (under 2 bags)

GROUP II - Air Compressor (1), water pumps regardless of size (1) welding machines (1)

GROUP III - Firemen and asphalt spreader oiler

GROUP IV - Heavy equipment oilers (trucks, cranes, dredges, monigans, large cranes, etc.

GROUP V - Oilers

GROUP VI - a. Engineers operating under air pressure
b. Engineers operating in air over 10 lbs. pressure
c. Oilers operating under air pressure
d. Oilers operating in air over 10 lbs. pressure

DECISION NO. IL78-2128

ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS: Remainder of Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.60	.55	.75		.13
CLASS II	11.55	.55	.75		.13
CLASS III	11.35	.55	.75		.13
CLASS IV	7.35	.55	.75		.13

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with skip, tournamixer, Two Drum Machine, One Drum Hoists with tower or boom, cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large rollers on Earth, rollers on Asphalt Mix, Ross Carriers or similar Machine Gravel, Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge engineer or Dredge Operator, Central Mix Plant Engineer. CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engineer or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Pickers, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Backfiller, Elevating Machine, Power Balde, Drilling Machines, incl. Well Testing, Caissons, Shaft or any similar type drilling machines, Motor Driven Paint Machine, Pipe Cleaning Machine, Pipe Wrapping Mahcine, Pipe Bending Machine, Apsco Paver, Boring Machine, (Head Equipment Greaser), Barber-Greene Loaders, Formless Paver, (Well Point System). Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float finishing Machine, Self-Propelled Pavment Breaker (Backhoe attahced), Lull (or aimilar type machine), Two Air Compressors, Compresaors hooked in Manifold, Overhead crane chip Spreader, Mud Cat, Sull-Air

DECISION NO. IL78-2128

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', curbing Machine, One Drum Machines without mower or Boom, Air Tugger, Self Propelled concrete Saw, Machine Mounted Post Hole Digger, two to four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop curb Machine, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machine, House Elevators when used for hoisting Material, engine Tenders, Fireman, Wagon Drill, Flex Plane, conveyor, Siphons and Pulsometer, Switchman, Fireman on Pain Pots, Fireman on asphalt Plants, Distributor Operator on Trucks, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle Valve, Farm Tractor

DECISION NO. IL78-2128

ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.125	.65	a31.00		
GROUP II	10.525	.65	a31.00		
GROUP III	10.725	.65	a31.00		

TRUCK DRIVERS

GROUP I: - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity

GROUP II: - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units;

GROUP III: - 2,3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributores, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Illinois

COUNTIES: Boone, DeKalb, Dupage, Kane, Kendall, Lake, McHenry and Will

DECISION NUMBER: IL78-2138

DATE: Date of Publication

Supersedes Decision No. IL78-2042, dated March 24, 1978, in 43 FR 12538

DESCRIPTION OF WORK: Heavy and Highway Construction

ILL-HH-1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Carpenters					
Dupage & Lake Cos.	$11.50	.98	1.08		.08
Will County	11.43	.70	.85		
Remainder of Counties	11.78	.75	.62		.01
Piledrivermen					
Dupage & Lake Cos.	11.50	.98	1.08		.08
Will County	11.43	.70	.85		
Remainder of Counties	12.03	.75	.62		.01
CEMENT MASONS:					
Boone County	10.98	.55	.80		
DuPage County	10.90	.68	.70		.06
Kane, Kendall, McHenry and DeKalb Cos.	12.15	.70	.70 .80		.06
Lake County	11.75	.85	1.05		
Will County	11.02	.65	1.28		.05
ELECTRICIANS:					
Boone and DeKalb Counties	12.28	.50	3%+.60		½%
DuPage County	13.20	5%	9%	8%	.5%
Kendall County; Townships of Aurora, Sugar Grove, Big Rock, Kaneville, Blackberry, Batavia, Geneva and the City of St. Charles in Kane County; Sandwich Township in DeKalb County	13.80	5%	11%		½ of 1%
McHenry County; Kane County: (that portion North of St. Charles, Geneva and Blackberry Townships) excluding St. Charles School for Boys; Townships of Hamhsire, Rutland, Dundee, Burlington, Plato, Elgin, Virgin and Compton	13.95	5%	11%		.5 of 1%
Lake County	13.54	.65	3%+1.00		½ of 1%
Will County	13.93	.88	3%+.70		.2 of 1%
IRONWORKERS:					
Boone County; DeKalb County, (excluding S.E. 2/3, including Sycamore and DeKalb) and the N.W. half of McHenry County	12.50	.75	.375		

DECISION NO. IL78-2138

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS: (Cont'd)					
Kane County; DeKalb County (S.E. 2/3, including Sycamore and DeKalb), DuPage County, (excluding Argonne and Vicinity) the Northern half of Kendall County; and the S.E. ¼ of McHenry County	$13.65	.75	.525		.08
Lake County; Hebron and Woodstock and E. thereof in McHenry County	12.30	1.24	1.87		.10
Will County; Argonne and Vicinity in DuPage County; and southern half of Kendall County	12.00	2.65	.525		.02
LABORERS:					
DeKalb County:					
Common, Landscaping and Carpenter Tenders	9.80	.55	.60		.035
Mortar Mixers, Mason and Plasterer Tenders, Vibrator Operator	10.75	.55	.60		.035
Bottom Sewer Workers, Jackhammer Operator, Cofferdam, Caisson Workers, Gunnite Nozzleman	11.70	.55	.60		.035
LINEMEN:					
Boone, DeKalb. DuPage, Kane, Kendall, Lake and McHenry Cos.					
Linemen, Crane Operator (15 ton or over); Digger Operator	12.83	.45	3%		.50%
Equipment Operator	10.92	.45	3%		.50%
Truck Driver	8.70	.45	3%		.50%
Groundman	8.41	.45	3%		.50%
Will County:					
Linemen and Equipment Operators	12.47	.50	3%+.50		.2%
Cable Splicers	13.83	.50	3%+.50		.2 of 1%

DECISION NO. IL78-2138

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Kane, Kendall, DeKalb, DuPage and McHenry Counties:					
Brush and Spray	$ 9.34	.60	.70		.06
Lake County:					
Brush	10.20	.575	.65		.013
Boone County:					
Brush and Roller	10.95	.55			
Open Structural and Sandblasting	11.20	.55			
Spray	11.50	.55			
Will County:					
Brush	10.45	.76	.55		.04
Bridges:					
Butt Plates and Handrails	11.45	.76	.55		.04
W/Superstructures	11.45	.76	.55		.04
WO/Superstructures	10.95	.76	.55		.04
TRUCK DRIVERS:					
Boone County:					
2-3 Axle Trucks	10.50	.55	1.00		
4 Axle Trucks	10.65	.55	1.00		
5 Axle Trucks	10.85	.55	1.00		
6 Axle Trucks	11.05	.55	1.00		
Remainder of District #1:					
2-3 Axle Trucks	10.65	a29.00	a33.00		
4 Axle Trucks	10.80	a29.00	a33.00		
5 Axle Trucks	11.00	a29.00	a33.00		
6 Axle Trucks	11.20	a29.00	a33.00		

FOOTNOTES:
a. Per week per employee

DECISION NO. IL78-2138

ILL-3-LAB-2-3

LABORERS: Boone, Kane, Kendall & McHenry	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1					
Common Laborers, Asphalt Laborers & Helpers, Asphalt Plant Laborers, Stripping Laborers, Concrete Saw, Self-Propelled Saw, Laser Beam	$ 9.20	.57	1.10		
CLASS 2					
Air Tampers & Vibrators	9.25	.57	1.10		
CLASS 3					
Mortar Concrete Mixers	9.30	.57	1.10		
CLASS 4					
Stringline & Form Setters, Torchman, Sheeting & Cribbing Men, Black Top Rackers, Lutemen, Machine Screwmen	9.35	.57	1.10		
CLASS 5					
Chain Saw Men, Jackhammermen, Drillmen, Concrete Breaker, Air Spade, Dynamite Handlers (Helpers)	9.45	.57	1.10		
CLASS 6					
Tunnel Men, Tile Layers & Bottom Men	9.55	.57	1.10		
CLASS 7					
Caisson Diggers, Dynamiters	9.70	.57	1.10		

DECISION NO IL78-2138

ILL-9-LAB-1-2-3

LABORERS: DUPAGE & WILL COUNTIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1					
Common Laborers, Plasterer Laborers, Pumps for DeWatering & other Unclassified Laborers	$ 9.20	.57	1.10		
CLASS 2					
Cement Gun Laborers	9.275	.57	1.10		
CLASS 3					
Scaffold Laborers & Chimney Laborers over 40'	9.30	.57	1.10		
CLASS 4					
Windlass & Cement Gun Nozzle Laborers - Gunnite	9.30	.57	1.10		
CLASS 5					
Stone Handlers & Derrickmen	9.40	.57	1.10		
CLASS 6					
Jackhammermen	9.425	.57	1.10		
CLASS 7					
Concrete Vibrator, Plumbers' Laborer & Chain Saw Operator	9.45	.57	1.10		
CLASS 8					
Firebrick & Boiler Setters' Laborers	9.52	.57	1.10		
CLASS 9					
Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	9.55	.57	1.10		
CLASS 10					
Boiler Setter Plastic Laborers	9.65	.57	1.10		
CLASS 11					
Jackhammer on Firebrick Only	9.755	.57	1.10		

DECISION NO. IL78-2138

ILL-49A-LAB-2-3

LABORERS: LAKE COUNTY SEWER & WATER MAIN EXTENSIONS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1					
General Laborers; Top Laborers & Flagmen	$8.55	.57	1.10		
CLASS 2					
Second Bottom Men	8.775	.57	1.10		
CLASS 3					
Well Point System-Jackhammer Men (Tampers & Vibrators) Bottom Men, Pipelayers on Drains & Pipelayer Men; All Tunnel Work	8.90	.57	1.10		
LABORERS: STREET PAVING & GRADE SEPARATION					
CLASS 1					
General, Asphalt & Asphalt Plant Laborers; Flagmen	8.55	.57	1.10		
CLASS 2					
Laborers on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmen, Mitre 8 Spreaders	8.825	.57	1.10		
CLASS 3					
Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw	8.90	.57	1.10		

DECISION NO. IL78-2138

ILL-10-PEO-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
CLASS I	$12.20	1.00	1.00	.50	.05
CLASS II	11.65	1.00	1.00	.50	.05
CLASS III	10.90	1.00	1.00	.50	.05
CLASS IV	9.80	1.00	1.00	.50	.05
CLASS V	8.80	1.00	1.00	.50	.05

POWER EQUIPMENT OPERATORS:

CLASS I Asphalt plant, asphalt heater & planer combination, asphalt spreader, autograde, belt loader, caisson rigs, central redimix plant, concrete breaker (truck mounted), concrete conveyor, concrete paver over 27E cu. ft., concrete placer, concrete tube float, cranes, all attachments, cranes, Linden, Peco & machines of a like nature, derricks, traveling, dredges, euclid loader, elevating type, gradall, & machines of a like nature, derricks, all, derrick boats, derricks, travelling, dredges, euclid loader, elevating type, gradall, and machines of a like nature, grader, elevating hoists, 1,2 & 3 drum, locomotives, all, mucking machine, 1 cu. yd. & over, mucking machine, under 1 cu. yd., piledrivers & skid rig, pre-stress machine, pump cretes dual ram (requiring frequent lubrication & water), rock drill crane type, slip form paver, straddle buggies, tractor w/boom, tractaire w/ attachments, trenching machine, underground boring &/or mining machine under 5 ft., wheel exactor widener (Apsco)

CLASS II Mechanic-welder, batch plant, bituminous mixer, bulldozer, combination backhoe front endloader machine, concrete breaker or hydro-hammer, concrete grinding machine, concrete mixer or paver 7S Series to & including 27 cu. ft., concrete spreader, concrete curing machine, burlap machine, belting machine & sealing machine, finishing machine, concrete grader, motor patrol auto patrol, form grader, pull grader, subgrader, highlift shovels or front endloader, hydraulic boom trucks (all attachments), locomotives, dinky, pump cretes; Squeeze cretes; screw type pumps Gypsum bulker & pump, rock drill (self-propelled), roto-tiller, seaman, etc. self-propelled scoops; tractor drawn, self-propelled compactor, spreader, chipstone, etc., scraper, tank car heater, tractor, push, pulling sheeps foot, disc., compactor, etc. tug boats

DECISION NO IL78-2138

POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III Boilers, boiler & throttle valve, brooms, all power propelled, cement supply tendor, compressor & throttle valve, concrete mixer (2 bags & over) conveyor, portable, fireman on boiler, forklift trucks, greaser engineer, grouting machine hoists, automatic, hoists, all elevators, hoists, tugger, single drum, jeep diggers, pipe power saw, concrete, power-driven, pug mills, rollers, all, steam generators, stone crushers, stump machine, winch trucks with "A" frame, work boats, tamper, form motor driven

CLASS IV Air Compressors, all, generators, heaters, mechanical, light plants, all (1 through 5), pumps, all, pumps well points, tractaire, welding machines (2 through 6)

CLASS V Oilers

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Blue Earth, Fairbault, Freeborn & Mower

DECISION NUMBER: MN78-2150

DATE: Date of Publication

Supersedes Decision NO. MN78-2118, dated October 13, 1978 in 43 FR 47431

DESCRIPTION OF WORK: Building Construction (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Blue Earth County					
Bricklayers, Stonemasons & Blocklayers	9.855	.50	.51	.61	
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon & the City of Blooming Prairie:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	10.575	.50	.25		
Fairbault & Remainder of Freeborn County					
Bricklayers, Stonemasons, Tuck-Pointers & Blocklayers	10.18	.57	.25		
CARPENTERS:					
Building:					
Blue Earth County					
N. W. Portion of County	10.20				
Remainder of County	10.90	.50			.02
Freeborn & Fairbault Counties					
Carpenters, Millwrights & Piledrivermen	10.12				
Mower County					
Carpenters & Piledrivermen	10.12				
Site Preparation, Excavating & Incidential Paving					
Blue Earth County	7.32	.30			
Fairbault, Freeborn & Mower Cos.	8.48				
CEMENT MASONS & PLASTERERS:					
Building:					
Blue Earth County					
Cement Masons	10.10				
Plasterers	9.40				
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon:					
Cement Masons & Plasterers	9.35	.50	.25		

DECISION NO. MN78-2150

CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault Co., & Remainder of Freeborn No.:					
Cement Masons & Plasterers	$ 9.28	.57	.25		
Site preparation, Excavation & Incidential Paving					
Blue Earth County	10.10				
Fairbault Co.; Freeborn Co: (West of a line running North & South from Geneva to Gordonsville)	9.43	.42	.25		
Mower Co. & Remainder of Freeborn County	9.50	.35	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	8.45	7½%	6%	10%	1%
Jobs within a 5 mile radius of Mankato $50,000 & over	10.60	7½%	6%	10%	1%
Freeborn & Mower Counties $75,000 or more	10.65	.60	3%	6%	.25%
$75,000 or less & Residential	8.52	.60	3%	6%	.25%
ELEVATOR CONSTRUCTORS:					
Blue Earth County					
Constructors	10.87	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Blue Earth County	8.20				
Remainder of Counties	10.00				
IRONWORKERS	11.65	.75	.60		.04
LABORERS: Building					
General Laborers & Carp. Tender	8.50	.20	.15		
Mason tenders & Vibrator Oprs.	8.60	.20	.15		
Mortar Mixers	8.65	.20	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	10.355	.555	.33		
Terrazzo Workers	10.79	.64	.25		
Tile Setters	10.75	.62	.50		
Marble Setters' Finishers	9.35	.37	.50		
Tile Setters Finishers	9.90	.62	.50		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Mower County					
Brush	$ 9.50	.37	.25		.08
Spray	10.00	.37	.25		.08
Remainder of Counties					
Brush	9.90	.60	.15		.11
Spray	10.40	.60	.15		.11
Structural Steel	10.90	.60	.15		.11
PLUMBERS & STEAMFITTERS:					
Blue Earth County	11.72	.53			.05
Remainder of Counties	11.61	.30	.20		.02
ROOFERS:					
Mower County	9.62		.20		
Remainder of Counties	9.95	.55			
SHEET METAL WORKERS	10.74	.52	.33		
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	8.50				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 8% BHR for over 5 years service & 6% BHR for under 5 years aervice as Vacation Pay. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day and Day after Thanksgiving

DECISION NO. MN78-2150

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod; Sod Layer & Nurseryman, Stonemason Tender.

CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster, Power Buggy; Tunnel Laborer (Atomspheric Pressure).

CLASS 3 - Bituminous Tamper

CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam

CLASS 5 - Leadman

CLASS 6 - Nozzle (Gunnite)

CLASS 7 - Pipelayer (Sewer, Water & Gas)

CLASS 8 - Powderman

DECISION NO. MN78-2150

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumperete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN78-2150

MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	10.25	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge Oper. (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing earthwork & bituminous, Locamotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumperete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Straddle carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic

DECISION NO. MN78-2150

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrc , gunite op. gunall, lead greader on truck or rack, loaderop., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2150

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault County					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & powet operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelle Packer; Slurry Operator; Single Axle Trucks.

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DECISION NO. MN78-2150

MINN-7-TD

TRUCKD RIVERS: SITE PREPARATION, EXCAVATING & INCIDENTIAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelle Packer; Slurry Operator; Single Axle Trucks.

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DECISION NO. MN78-2150

MINN-55-TD

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota
DECISION NUMBER: MN78-2151
COUNTIES: Benton, Sherburne & Stearns
DATE: Date of Publication
Supersedes Decision No. MN78-2119, dated October 13, 1978, in 43 FR 47438
DESCRIPTION OF WORK: Building (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.40		.25	1.00	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co.					
Carpenters, Millwirghts & Piledrivermen	10.46	.65	.50	.50	.02
Soft Floor Layers	10.10	.61	.54	.45	.02
Cities of Little Rock & Skaja in Benton County					
Carpenters	9.35				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	10.08			.75	
Soft Floor Layers	7.50				
Site Preparation, Excavation & Incidential Paving					
Sherburn Co.; Northern Bondary of T-34-N & East of the Western Boundary of R-27-W	8.21	.40	.30	.50	.02
Benton Co., Stearns Co. (East of A North-South Line Drawn from the intersection of Stearns, Todd & Morrison Cos.) & the remainder of Sherburne Co.	7.47			.75	
Remainder of Stearns County	7.62				
CEMENT MASONS:					
Building Construction					
Benton & Stearns Counties					
Cement masons & Plasterers	9.55		.25	.35	
Sherburne County					
Cement Masons	10.13	.60	.60		
Plasterers	10.00	.70	.25	.65	.01
Site Prepatation, Excavation & Incidential Paving					
Sherburne County	10.13	.60	.60		
Benton & Stearns Counties	9.90			.25	

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DECISION NO. MN78- 2151

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake inSherburne County:					
Jobs under $50,000	8.45	7½%	6%	10%	1½%
Jobs over $50,000	10.60	7½%	6%	10%	1½%
Remainder of Sherburne County	11.20	5 3/4%	5 7/8%	11½%	3/8%
GLAZIERS	10.03	.40			
IRONWORKERS	11.65	.75	.60		.04
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	8.30	.20	.15		
Power Buggy Operators	8.35	.20	.15		
Mortar Mixers; Plasterer Tenders	8.40	.20	.15		
Jackhammer Men	8.45	.20	.15		
Underground; Caisson; Cofferdam & Tunnel work	8.55	.20	.15		
Dynamite Men	8.60	.20	.15		
Sherburne County:					
Common, Carpenter Tender	8.30	.45	.45	.40	
Wrecking & demolition	8.40	.45	.45	.40	
Vibrator Opr; Jackhammermen; Mortar Mixers	8.45	.45	.45	.40	
Underground Work	8.55	.45	.45	.40	
Pipelayers	8.60	.45	.45	.40	
Caisson Work - Underpinning	8.65	.45	.45	.40	
Dynamite Men	9.005	.45	.45	.40	
LATHERS:					
Benton & Stearns Counties	10.19	.50	.65	.01	
MARBLE SETTERS	10.355	.555	.33		

DECISION NO. MN78-2151

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	$10.08	.55		.25	.09
Spray, Structural Steel & Sandblasting	10.68	.55		.25	.09
Benton, & Stearns Counties & the Remainder of Sherburne County:					
Residential	8.50			3%	
Brush	7.90			3%	
Structural Steel	8.40			3%	
Spray	8.90			3%	
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	10.39	.38	.50	1.35	.05
Steamfitters Eastern ½ of County	10.39	.38	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co:					
Plumbers & Steamfitters	11.82	.53	.50		.06
ROOFERS:					
Roofers	8.90	.64	.25		.03
SHEET METAL WORKERS	11.52	.52	.31		.08
SPRINKLER FITTERS	11.93	.75	1.05		
TRUCK DRIVERS - Building	8.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MN78-2151

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
LABORERS					
Sherburne County					
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Oher work more than 8' below level of manual work Open ditch Work

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LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

DECISION NO. MN78-2151

MINN-11-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	$ 8.15	.55	.35	.40	
CLASS 2	8.20	.55	.35	.40	
CLASS 3	8.25	.55	.35	.40	
CLASS 4	8.30	.55	.35	.40	
CLASS 5	8.40	.55	.35	.40	
CLASS 6	8.70	.55	.35	.40	
CLASS 7	8.75	.55	.35	.40	
CLASS 8	8.80	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers

CLASS 2 - Form Setter (Municipal Type Curb & Sidewald, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)

CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

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MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Cunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

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MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS: Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP 1	$14.75	.55	.50		.05
GROUP 2	11.46	.55	.50		.05
GROUP 3	11.15	.55	.50		.05
GROUP 4	11.02	.55	.50		.05
GROUP 5	10.93	.55	.50		.05
GROUP 6	10.15	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Oredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mech. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic
GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)
GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.: (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	9.85	.55	.50		.05
GROUP 7	9.45	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping

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(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd)

machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

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MINN-7-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remainder of Benton & Stearns Cos.					
GROUP 1	$14.00	.55	.50		.05
GROUP 2	9.82	.55	.50		.05
GROUP 3	9.32	.55	.50		.05
GROUP 4	9.18	.55	.50		.05
GROUP 5	9.10	.55	.50		.05
GROUP 6	8.57	.55	.50		.05
GROUP 7	8.17	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

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POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trencning machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISIN NO. MN78-2151

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
GROUP 1	$ 9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelle Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2151

MINN-5-TD

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
Benton & Stearns Counties					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Nevada COUNTY: Washoe
DECISION NUMBER: NV78-5129 DATE: Date of Publication
Supersedes Decision No. NV78-5011 dated March 17, 1978, in 43 FR 11441
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 13.00	$1.02	$ 1.20		.07
BOILERMAKERS	13.625	1.075	1.00	.75	.02
BRICKLAYERS; Stonemasons	12.25	.95	.60		.01
BRICK HOD CARRIERS:					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	9.60	.50	.90		.05
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	10.50	.50	.90		.05
CARPENTERS	8.52	.70	1.36	1.00	.05
CEMENT MASONS:					
Lake Tahoe Area:					
Cement Masons	10.80	.70	1.00	1.35	.05
Mastic, Magnesite and all Composition Masons	11.05	.70	1.00	1.35	.05
Troweling Machine; Grinder Operator and Kelly Float	11.30	.70	1.00	1.35	.05
Remainder of Washoe County:					
Cement Masons	9.35	.70	1.00	1.35	.05
Mastic, Magnesite and all Composition Masons	9.60	.70	1.00	1.35	.05
Troweling Machine; Grinder Operator and Kelly Float	9.85	.70	1.00	1.35	.05
DRYWALL INSTALLERS	10.90	.70	1.36	1.00	.05
ELECTRICIANS:					
Washoe County, does not include Lake Tahoe Area:					
Electricians; Technicians	14.18	.99	3%+1.22		.08
Cable Splicers	15.60	.99	3%+1.22		.08
Lake Tahoe Area:					
Electricians; Technicians	15.18	.99	3%+1.22		.08
Cable Splicers	16.60	.99	3%+1.22		.08
ELEVATOR CONSTRUCTORS	14.82	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	10.37	.745	.56	3%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	7.41				
GLAZIERS	11.22	.58	1.50	1.25	
IRONWORKERS:					
Fence Erectors	10.66	1.24	2.22	1.46	.06
Ornamental; Reinforcing; Structural	11.55	1.24	2.22	1.46	.06
MARBLE MASONS	11.45	.50	.60		.01
MARBLE, TERRAZZO, TILE SETTERS HELPERS	6.87	.50	.60		.01

DECISION NO. NV78-5129 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush and Roller	$ 12.70	.70	.75		
Brush-swing stage, up to 40 ft.; Brush-steel; Sandblaster	12.95	.70	.75		
Spray; Taper; Paperhangers	13.20	.70	.75		
Spray-swing stage, up to 40 ft.; Spray-steel	13.45	.70	.75		
PLASTER HOD CARRIERS:					
Plaster Hod Carriers serving Plasterers	10.95	.95	1.05		
Plaster Hod Carriers working on any type of gun	11.55	.95	1.05		
PLASTERERS	11.22	.70	1.00		.03
PLUMBERS; Steamfitters	11.74	.73	.90	1.95	.10
ROOFERS	11.60	.70	.50		.02
SHEET METAL WORKERS:					
Residential construction not over 3 stories in height, where each individual family apartment is individually conditioned by a separate and independent unit or system	8.98	1.04	2.13		.05
All other residential construction	11.22	1.04	2.13		.05
SOFT FLOOR LAYERS	11.48	.70	.20	.28	
SPRINKLER FITTERS	15.50	.75	1.05		.08
TERRAZZO WORKERS; TILE SETTERS	11.45	.50	.60		.01

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

DECISION NO. NV78-5129 Page 3

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1: In Washoe County, the area within 5 road miles of the following communities - Carson City, Lovelock; also area within 10 road miles of Reno, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; Also the area of Stead Air Force Base:					
Group 1	$ 8.40	.95	$ 1.05		.10
Group 2	8.50	.95	1.05		.10
Group 3	8.65	.95	1.05		.10
Group 4	8.90	.95	1.05		.10
Group 5	9.20	.95	1.05		.10
Group 6-A	9.20	.95	1.05		.10
Group 6-B	8.90	.95	1.05		.10
Group 6-C	8.55	.95	1.05		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities named in Zone 1:					
Group 1	9.00	.95	1.05		.10
Group 2	9.10	.95	1.05		.10
Group 3	9.25	.95	1.05		.10
Group 4	9.50	.95	1.05		.10
Group 5	9.80	.95	1.05		.10
Group 6-A	9.80	.95	1.05		.10
Group 6-B	9.50	.95	1.05		.10
Group 6-C	9.15	.95	1.05		.10

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 9.20	.95	$ 1.05		.10
Group 2	9.30	.95	1.05		.10
Group 3	9.45	.95	1.05		.10
Group 4	9.70	.95	1.05		.10
Group 5	10.00	.95	1.05		.10
Group 6-A	10.00	.95	1.05		.10
Group 6-B	9.70	.95	1.05		.10
Group 6-C	9.35	.95	1.05		.10
Zone 4: Area over 40 road miles from the communities named in Zone 1:					
Group 1	9.90	.95	1.05		.10
Group 2	10.00	.95	1.05		.10
Group 3	10.15	.95	1.05		.10
Group 4	10.40	.95	1.05		.10
Group 5	10.70	.95	1.05		.10
Group 6-A	10.70	.95	1.05		.10
Group 6-B	10.40	.95	1.05		.10
Group 6-C	10.05	.95	1.05		.10

LABORERS

Group 1: All cleanup work of debris, grounds, and buildings including Brushloader and windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler; Flagman

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) - all concrete work not listed in Group 3; Crusher or Grizzly Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) - handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete; Railroad Trackmen (maintenance, repair or builders); Sloper; Semi-skilled Wreckers (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete Mixer under 1/2 yards; Concrete Pan Work (breadpan type), (handling, cleaning, stripping); Concrete Saw, Shipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Lagging, Trench Jacking, hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Drillers' Helper, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Workers (wet or dry); Pipe Wrapper, Kettleman, Potman, and Men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5); Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete wet or dry; Rototiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures

Group 4: Burning and Welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline or conduit; Asphalt Rakers

Group 5: Blasters and Powdermen, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS: (Except Piledriving and Steel Erection)	Basic Hourly Rates Area 1	Basic Hourly Rates Area 2	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1-A	$ 9.68	$10.83	$ 1.98	$ 2.35	$ 1.17	.10
Group 2	10.08	11.23	1.98	2.35	1.17	.10
Group 3	10.29	11.44	1.98	2.35	1.17	.10
Group 4	10.85	12.00	1.98	2.35	1.17	.10
Group 5	11.08	12.23	1.98	2.35	1.17	.10
Group 6	11.21	12.36	1.98	2.35	1.17	.10
Group 7	11.39	12.54	1.98	2.35	1.17	.10
Group 8	11.81	12.96	1.98	2.35	1.17	.10
Group 9	12.04	13.19	1.98	2.35	1.17	.10
Group 10	12.29	13.44	1.98	2.35	1.17	.10
Group 10-A	12.42	13.57	1.98	2.35	1.17	.10
Group 11	12.60	13.75	1.98	2.35	1.17	.10
Group 11-A	13.77	14.92	1.98	2.35	1.17	.10

SEE "AREA DEFINITIONS' Following TRUCK DRIVERS

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1-A: Assistant to Engineer, including Brakeman, Deckhand, Fireman, Oiler, Partsman (heavy duty repair shops parts room when needed), Switchman, Tar pot Fireman; Boiler Tender

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot Fireman (power agitated)

Group 3: Box Operator (Bunker); Concrete Curing Machines (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 H.W.); Fireman, Hot Plant, Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete plant); Motorman; Rotomist; Screedman (except Asphaltic or concrete paving); Oiler (truck crane); Rodman or Chainman; Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper Multi-purpose; Boxman (asphalt plant); Concrete Mixer, Skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumperete Guns; Elevator and Material Hoist (1 drum); Screedman (Barber-Greene and similar) (asphaltic or concrete paving); Shuttle Car; Signalman

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Maginnis International Pull Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb Gutter Machine (concrete or asphalt); Power Jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary Pipe Wrapping, Cleaning and Bending Machine; Pavement Breaker or Tamper (with or without compressor combination); Pavement Breaker, truck mounted, with compressor combination; Small Rubber-tired Tractors; Self-propelled Tape Machine; Auger type drilling equipment up to and including 30 ft. depth digging capacity m.r.c.

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Generators; Grade Setters; Grade Checker; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (Pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plant; Self-propelled Boom type lifting device (center mount)(10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Truck type loader; Welding Machines (gasoline or diesel); Roller (asphalt); Instrument Man; Auger type drilling equipment over 30 ft. depth capacity m.r.c.

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Dozer; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy Duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired Earthmoving equipment (up to and including 35 cu. yds. "struck" m.r.c) (Euclids, T-Pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with Dozer; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber tire) or similar equipment; Tractor; Tractor drawn scraper; Tractor mounted Compressor Drill Combination; Trenching Machine (over 3ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600 B Rock Cutter

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (gunnite); Lull Hi-Lift (20 ft. or over); Mucking Machine; Tractor with boom (D-6 or larger); Track Laying type Earth Moving Machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 10: Boom type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple Engine Earth Moving Machines (Euclid, Dozers, etc.); Pre-stress Wire Wrapping Machine; Rubber-tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (Re-claim Station); Single Engine Scraper (over 35 cu. yds.); Train Loading Station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with sloping attachments (JEFFCO or similar); Chief of Party

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); CMI dual lane auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Backfiller; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multi-engine Earthmoving Equipment (up to and including 75 cu. yds. "struck" m.r.c.); Power Shovels, Clamshells, Draglines, Backhoes, Gradeall (over 1 yd. and up to and including 7 cu. yds. m.r.c); Self-propelled Compactor (with multiple propulsion power units); Single Engine rubber-tired Earth-moving Machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loaders (over 12 cu. yds.); Multi-engine Earth-moving Equipment (over 75 cu. yds. "struck" m.r.c); Operator of Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. m.r.c.); Remote-controlled Earth-moving Equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS (Cont'd) Steel Erection	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 10.19	$ 1.98	$ 2.35	$1.17	.10
Group 2	10.60	1.98	2.35	1.17	.10
Group 3	11.69	1.98	2.35	1.17	.10
Group 4	11.84	1.98	2.35	1.17	.10
Group 4-A	12.15	1.98	2.35	1.17	.10
Group 5	12.67	1.98	2.35	1.17	.10
Group 6	13.11	1.98	2.35	1.17	.10
Group 6-A	13.72	1.98	2.35	1.17	.10
Group 7	14.81	1.98	2.35	1.17	.10

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Group 1: Oiler

Group 2: Compressor Operator; Generaror, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (Structural steel or tank erection only)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman-Welder

Group 5: Boom Truck or Dual Purpose A-frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton m.r.c. or less); Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less m.r.c.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons m.r.c.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd) Piledriving	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.68	$ 1.98	$ 2.35	$1.17	.10
Group 1-A	10.05	1.98	2.35	1.17	.10
Group 1-B	10.28	1.98	2.35	1.17	.10
Group 2-A	10.28	1.98	2.35	1.17	.10
Group 2-B	11.10	1.98	2.35	1.17	.10
Group 3	11.42	1.98	2.35	1.17	.10
Group 3-A	11.86	1.98	2.35	1.17	.10
Group 4	12.43	1.98	2.35	1.17	.10
Group 5	12.61	1.98	2.35	1.17	.10
Group 6	13.77	1.98	2.35	1.17	.10

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled boom-type Lifting Device (center mount) (10 ton capacity or less m.r.c.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type Lifting Device (center mount) (Over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered crawler, or Universal type driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 12 tons)

TRUCK DRIVERS	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP (single or multiple units including semis, double and transfer units; Dumpcrete and bulk cement Spreaders:						
Under 4 yards	$ 9.60	$10.75	.91	.65		.05
4 yds. and under 8 yds.	9.80	10.95	.91	.65		.05
8 yds. and under 18 yds.	10.00	11.15	.91	.65		.05
18 yds. and under 35 yds.	10.15	11.30	.91	.65		.05
35 yds. and under 60 yds.	10.40	11.55	.91	.65		.05
60 yds. and under 75 yds.	10.55	11.70	.91	.65		.05
75 yds. and under 100 yds.	10.70	11.85	.91	.65		.05
100 yds. and over	10.85	12.00	.91	.65		.05
TRANSIT MIX:						
Under 8 yards	10.00	11.15	.91	.65		.05
8 yds. and including 12 yds.	10.10	11.25	.91	.65		.05
Over 12 yards	10.30	11.45	.91	.65		.05
WATER TRUCKS & Jetting Trucks:						
Up to 2,500 gallons	9.80	10.95	.91	.65		.05
2,500 gals. and over	10.00	11.15	.91	.65		.05
DW 20's and 21's and other similar Cat type; Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank, or other misc. trailers (except as defined under dump trucks)	10.25	11.40	.91	.65		.05
FLATRACK; Industrial Lift with Mechanical Tailgate:						
Single unit - 2 axle	9.80	10.95	.91	.65		.05
Single unit - 3 axle	9.90	11.05	.91	.65		.05

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUS AND MANHAUL DRIVERS, Single unit; Pickup:						
Up to 18,000 pounds	$ 9.65	$10.80	.91	.65		.05
18,000 pounds and over	9.75	10.90	.91	.65		.05
WINCH TRUCKS, A-Frame:						
Under 18,000 pounds	9.75	10.90	.91	.65		.05
18,000 pounds and over	9.85	11.00	.91	.65		.05
HEAVY DUTY TRANSPORT (highbed); Heavy Duty transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	10.15	11.30	.91	.65		.05
BOOTMAN, combination; Bootman and Road Oiler	10.05	11.20	.91	.65		.05
ROAD OIL TRUCKS OR BOOTMEN; Fuel Drivers; Fuel Man and Fuel Island Man	9.75	10.90	.91	.65		.05
HELICOPTER PILOT (when transporting men or materials)	10.55	11.70	.91	.65		.05
LIFT JITNEYS And FORK LIFTS	9.85	11.00	.91	.65		.05
WAREHOUSE CLERK	9.80	10.95	.91	.65		.05
TIRE REPAIRMAN	10.00	11.15	.91	.65		.05
TRUCK REPAIRMAN	10.30	11.45	.91	.65		.05

TRUCK DRIVERS "See AREA DEFINITION" following this page.

AREA DEFINITIONS
Power Equipment Operators and Truck Drivers
WASHOE COUNTY

AREA 1: All of Northern Nevada within the following lines:

Commencing at the N.W. corner of Township 22N, Range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence Easterly to the N.E. corner of Township 22N, Range 22E;
Thence Southerly to the N.E. corner of Township 20N, Range 22E;
Thence Easterly to the N.W. corner of Township 20N, Range 26E;
Thence Northerly to the N.W. corner of Township 22N, Range 26E;
Thence Easterly to the N.W. corner of Township 22N, Range 26E;
Thence Northerly to the N.W. corner of Township 30N, Range 29E;
Thence Easterly to the N.E. corner of Township 30N, Range 33E;
Thence Southerly to the S.E. corner of Township 24N, Range 33E;
Thence Westerly to the S.E. corner of Township 24N, Range 31E;
Thence Southerly to the S.E. corner of Township 16N, Range 31E;
Thence Westerly to the S.E. corner of Township 24N, Range 31E;
Thence Southerly to the S.E. corner of Township 16N, Range 31E;
Thence Westerly to the S.E. corner of Township 24N, Range 31E;
Thence Southerly to the S.E. corner of Township 15N, Range 30E;
Thence Westerly to the S.E. corner of Township 15N, Range 27E;
Thence Southerly to the S.E. corner of Township 14N, Range 27E;
Thence Westerly to the S.E. corner of Township 14N, Range 23E;
Thence Southerly to the S.E. corner of Township 13N, Range 23E;
Thence Westerly to the S.E. corner of Township 13N, Range 22E;
Thence Southerly to the N.E. corner of Township 10N, Range 22E;
Thence Easterly to the N.E. corner of Township 10N, Range 23E;
Thence Southerly along the Easterly line of Range 23E to the intersection of the California-Nevada Border;
Thence North-Westerly, then Northerly following the California-Nevada Border to the point of beginning.

AREA 1 also includes that portion of Northern Nevada included within the following line:

Commencing at the S.W. corner of Township 37N, Range 52E;
Thence Easterly to the S.E. corner of Township 37N, Range 52E;
Thence Northerly to the N.E. corner of Township 37N, Range 52E;
Thence Easterly to the N.E. corner of Township 37n, Range 58E;
Thence Southerly to the S.W. corner of Township 37N, Range 58E;
Thence Easterly to the S.E. corner of Township 37N, Range 58E;
Thence Southerly to the N.E. corner of Township 31N, Range 58E;
Thence Westerly to the N.W. corner of Township 31N, Range 58E;
Thence Southerly to the S.W. corner of Township 31N, Range 58E;
Thence Westerly to the S.E. corner of Township 31N, Range 52E;
Thence Northerly to the N.E. corner of Township 31N, Range 52E;
Thence Westerly to the S.E. corner of Township 32N, Range 51E;
Thence Northerly to the point of beginning.

AREA 2: All areas not included within Area 1 as defined above.

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTIES: NASSAU AND SUFFOLK
DECISION NO.: NY78-3079 DATE: DATE OF PUBLICATION
Supersedes Decision No. NY78-3001 dated February 3, 1978 in 43 FR 4820
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Conditioning Mechanic	$ 8.78	a	.60	b	
Asbestos Workers	12.38	1.02	1.82		
Boilermakers	13.19	.5%	15%	7%	.02
Bricklayers:					
Bricklayers	11.04	1.48	3.38	.30	.01
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	9.15	1.13	1.33		
Carpenters:					
Nassau County (Except that part south of the Southern State Parkway, West of Seaford Creek-also Smithtown, Islip Island on the east. Long Island Sound on the north, and Middle Island Railroad track on the south):					
Building	11.35	1.40	1.39	.65	.06
Heavy and Highway	11.40	1.40	1.39	.85	.06
Nassau County (Remainder of County):					
Building, Heavy, Highway	11.80	1.50	1.78	.85+c	.04
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	9.41	1.35	.49	.25+c	.04
Suffolk County:					
Building	11.35	1.18	1.56	.90	.06
Heavy and Highway	11.40	1.18	1.56	.90	.06
Cement Masons	11.70	1.74	1.19		.03
Divers	14.14	1.50	1.78	.93	.04

DECISION NO. NY78-3079	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drywall Plasterers:					
Building	10.10	1.75		1.35	.01
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	7.17	2.30			
Electricians and Linemen	12.45	7%+.76	15%	6%	5/8%
Elevator Constructors	11.52	.745	.35+d	e+f	.02
Elevator Constructors Helpers	8.64	.745	.35+d	e+f	.02
Elevator Constructors Helpers Probationary	5.76				
Elevator Constructors Repair	9.70	.745	.32+d	e+f	.02
Elevator Constructors Repair Helpers	7.275	.745	.32+d	e+f	.02
Elevator Constructors Modernization	10.55	.745	.32+d	e+f	.02
Elevator Constructors Modernization Helpers	7.91	.745	.32+d	e+f	.02
Glaziers	11.20	.66	1.66	.67	.01
Ironworkers, Ornamental Finisher	10.33	1.48	2.55	.78	.09
Ironworkers, Structural	11.50	1.55	3.00	1.60+g	.06
Ironworkers, Reinforcing	10.75	1.325	1.985	.75+h	.03
Laborers, Building	9.55	1.14	1.03	.84	
Lathers, Metallic	10.79	1.325	1.985	.75+h	.03
Lathers, Nail-On	11.35	.94	.20		
Leadburners	10.75	.40	.25	i	.01
Marble Carvers	10.15	1.13	1.19	j	
Marble Cutters and Setters	10.00	1.13	1.19	j	
Marble Sawers, Rubbers and Polishers	9.77	1.13	1.19	j	
Marble Finishers, Crane Operators and Derrickmen	8.28	1.13	1.19	j	
Millwrights	11.80	1.50	1.78	.85+c	.04
Painters:					
Suffolk County:					
Brush and Drywall Finishers	9.20	3.00	.60		.18
Structural Steel	11.60	3.00	.60		.18
Spray and Scaffold	10.40	3.00	.60		.18

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DECISION NO. NY78-3079	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters: (Cont'd):					
Nassau County:					
Inwood, Lawrence, Cedarhurst, Woodmere, Hewlett, Hewlett Bay, Hewlett Neck, Hewlett Park, East Rockaway, part of Oceanside, part of Lynbrook, part of Rockville Center, Atlantic Beach, Long Beach, Lido Beach, Point Lookout, Gibson and part of Valley Stream:					
Painters	10.04	9½%	9½%+k	3%	
Spray and Scaffold	12.19	9½%	9½%+k	3%	
Fire Escapes	11.48	9½%	9½%+k	3%	
West of Port Washington Blvd. and north on the shore and west of Long Beach Road and south of Sunrise Highway on the South Shore:					
Structural Steel	11.68	11%	14%		
Structural Steel Spray	12.68	11%	14%		
Remainder of County:					
Painters	8.91	1.29	1.60	.50	.03
Paperhangers	10.23	10%	18%		
Piledrivers and Dockbuilders	11.70	1.50	1.78	.91+c	.04
Plumbers:					
Nassau County:					
Building, Heavy and Highway Jobbing (repairs to present plumbing systems that does not change the existing roughing or any other minor alterations job where the change to the existing roughing does not have a labor cost in excess of $1,500,000)	11.25	.90	1.24	1.10	.25
	8.00	.66	.86	.75	.15
Suffolk County:					
Building, Heavy and Highway	10.85	1.47	1.95	1.30	.235
Pointers, Caulkers and Cleaners:					
Pointers, Caulkers and Cleaners	10.17	1.10	1.87		.05
Sandblasters	11.27	1.10	1.87		.05
Steamcleaners	10.42	1.10	1.87		.05

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DECISION NO. NY78-3079	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Composition, Damp and Waterproofers	10.20	1.01	2.28	1.50	.01
Slate and Tile	11.07	.55	1.40	2.00	
Sheet Metal Workers	12.135	3%+.90	4%+1.20	3%+.75	1%+.03
Sprinkler Fitter and Steamfitters	11.83	2.75	1.12	1.00	.07
Stone Derrickmen and Riggers	12.12	.98	1.01		.01
Stonemasons	11.00	.50	1.00		
Terrazzo Finisher	9.84	1.21	1.50		
Terrazzo Finisher Machine Operator	9.99	1.21	1.50		
Terrazzo Workers	11.18	1.21	1.50		
Tile Setters	10.60	1.15	.75		
Tile Setters Finishers	9.31	.68	.77	.50	
Truck Drivers:					
Building:					
Ready-mix concrete, Sand Gravel, Asphalt and Bulk Cement	8.87	1.2125	1.8525	1+m	
Euclids and Turnapulls	8.725	1.2125	1.8525	1+m	
Heavy:					
Euclids and Turnapulls	8.825	1.2125	1.8525	1+m	
High-Rise:					
Truck Drivers	9.44	1.2125	1.8525	1+m	
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. NY78-3079

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $102.83 per month to Health and Welfare.

b. For 0-6 months of service one week paid vacation; 6-12 months service 2 weeks paid vacation.

c. Employees employed on the last working day before Christmas Day and New Years Day and who report to work on such days shall receive 3 hours pay without working the afternoon.

d. Employer contributes $8.00 per day to Annuity Fund.

e. Paid Holidays: A through F, Lincoln's Birthday, Washington's Birthday, Columbus Day, Armistice Day and Election Day.

f. Employer contributes 6.4% of basic hourly rate for 5 years or more of service or 4.2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

g. Paid Holidays: Christmas Eve and New Years Eve: If employee works a full ½ day on the working day immediately preceeding Christmas Day and New Years Day, they shall receive a full day's pay.

h. Work on Christmas Eve and New Years Eve shall terminate at noon, but employees will receive a full day's pay.

i. Paid Holidays; A through F, Washington's Birthday, Good Friday and Christmas Eve providing the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regularly scheduled work days immediately preceeding and following the holiday.

j. Paid Holiday: ½ day's pay for Labor Day.

k. Employer contributes $5.00 per day to an Annuity Fund.

l. Employer contributes $4.00 per day to a Security Benefit Fund.

m. For each 15 days worked with the contract year an employee will receive one day's vacation with pay, with a maximum vacation of 3 weeks per year.

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DECISION NO. NY78-3079 Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Concrete and curb form setters, asphalt rakers	$ 8.50	10%	13%	.75+a	
Asphalt workers and roller boys, asphalt top shovelers and smoothers, asphalt tampers	8.30	10%	13%	.75+a	
Jackhammers, and drill men, hoppermen, carpenters' tenders, pipe jointers and setters, concrete laborers (structures), stone spreading laborers, trackmen, grading and excavating laborers, yard laborers, puddlers on concrete pavement, laborers (other than above) on concrete pavement, asphalt plant (batcher and hopper men), all other unskilled laborers	7.90	10%	13%	.75+a	

Paid Holidays:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shows up the scheduled day before and the schedule day after the holiday.

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DECISION NO. NY78-3079

Building Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt spreader	$12.08	8%+.05	1.90	a	.15
Backhoe, dragline, gradall, piledriver, shovel	12.355	8%+.05	1.90	a	.15
Batching plant (on site of job), power winch (used for stone or steel), power winch truck mounted (used for stone or steel), pump (concrete)	12.255	8%+.05	1.90	a	.15
Bending machine, generator (small), vibrator (1 to 5), dinky locomotive	10.905	8%+.05	1.90	a	.15
Boiler, bulldozer, compressor (on crane) compressor (pile-work), compressor (stone setting), concrete breaker, conveyor, generator (pilework), loading machine (front end), maintenance engineer, mechanical compactors (machine drawn), powerhouse, power winch truck mounted (used for other than steel or stone), pulvi-mixer, power winch (used for other than stone or steel), pump (double action disphragm), pump (gypsum), pump (hydraulic pump (jet), pump (single action - 1 to 3), pump (well point), welding and burning, welding machine (pilework)	11.905	8%+.05	1.90	a	.15
Boom truck, crane (crawler or truck), conveyor-multi, plant engineer, stone spreader (self-propelled)	12.105	8%+.05	1.90	a	.15
Compressor, compressor (2 or more in battery), generator, mulch machine, pin puller, portable heaters, pump (4 inch or over), tract tamper (2 engineers each), welding machine	11.655	8%+.05	1.90	a	.15

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DECISION NO. NY78-3079

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators: (Cont'd)					
Crane and boom truck (setting structural or stone)	12.48	8%+.05	1.90	a	.15
Bulldozer (use for excavation), fireman, loading machine, power-boom, scoop (carry-all scrapper) vac-all	11.53	8%+.05	1.90	a	.15
CMI or maxim spreader, concrete spreader, derrick, sideboom tractor	12.405	8%+.05	1.90	a	.15
Compressor (structural steel)	12.055	8%+.05	1.90	a	.15
Concrete saw or cutter, mixer (with skip), mixer (2 small, with or without skip), pump (up to 3 inches), tractor caterpiller or wheel	11.155	8%+.05	1.90	a	.15
Crane with clam shell bucket	12.355	8%+.05	1.90	a	.15
Crane, crawler or truck:					
Boom lengths of 100' (including jib) but less than 150'	12.605	8%+.05	1.90	a	.15
Boom lengths of 150' (including jib) but less than 250'	12.855	8%+.05	1.90	a	.15
Boom lengths of 250' (including jib) but less than 350'	13.105	8%+.05	1.90	a	.15
Boom lengths of 350'	13.605	8%+.05	1.90	a	.15
Curb machine (asphalt or concrete), curing machine, pump (submersible), tower crane maintenance man	11.85	8%+.05	1.90	a	.15
Dredge	12.23	8%+.05	1.90	a	.15
Elevator, forklift, hoist (1 drum)	12.28	8%+.05	1.90	a	.15
Forklift (walk-behind, power operated	12.07	8%+.05	1.90	a	.15
Grader	11.68	8%+.05	1.90	a	.15
Hoist (2 and drum)	12.42	8%+.05	1.90	a	.15
Hoist (multiple platform)	14.95	8%+.05	1.90	a	.15
Mechanical compactors (hand operated), trench machine (hand)	10.53	8%+.05	1.90	a	.15
Hoist tandem platform	13.33	8%+.05	1.90	a	.15

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators: (Cont'd):					
Hydra-hammer, ridge cutter	11.07	8%+.05	1.90	a	.15
Lead engineer	13.555	8%+.05	1.90	a	.15
Loading machine (with capacity of 10 yds or over)	11.78	8%+.05	1.90	a	.15
Oiler, stump chipper	10.555	8%+.05	1.90	a	.15
Power buggies	10.78	8%+.05	1.90	a	.15
Roller, trench machine	12.155	8%+.05	1.90	a	.15
Scoop, carry-all, scraper in tandem	12.53	8%+.05	1.90	a	.15
Sideboom tractor (used in tank work)	12.51	8%+.05	1.90	a	.15
Striping machine	11.58	8%+.05	1.90	a	.15
Tank work	12.38	8%+.05	1.90	a	.15
Tower crane (engineer)	12.85	8%+.05	1.90	a	.15
Tower crane (oiler)	10.405	8%+.05	1.90	a	.15
Welding machine, structural steel	12.13	8%+.05	1.90	a	.15

PAID HOLIDAY:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F; Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day and Veterans' Day.

b. Basic hourly rate include $1.00 Vacation fund.

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DECISION NO. NY78-3079

Heavy and Highway Construction	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt spreader, boom truck, boring machine (other than post holes), CMI or maxim spreader, crane (crawler or truck), conveyor (multi), plant engineer, concrete spreader, sideboom tractor, stone spreader, (self-propelled), cherry picker	12.08	8%+.05	1.90	a	.15
Backhoe, crane (stone setting), crane (structural steel), dragline, gradall, piledriver, road paver, shovel	12.45	8%+.05	1.90	a	.15
Batching plant (on site of job), crane (on barge), derrick, sideboom tractor (used in tank work), tank work	12.305	8%+.05	1.90	a	.15
Bending machine, mechanical compactors (hand operated), pump (centrifugal, up to 3 inches), trench machine (hand)	9.83	8%+.05	1.90	a	.15
Boiler	11.58	8%+.05	1.90	a	.15
Boring machine (post holes)	12.02	8%+.05	1.90	a	.15
Bulldozer, concrete finishing machine, conveyor, curb machine (asphalt or concrete), curing machine, dinky locomotive, fireman, forklift, hoist (1 drum), loading machine, maintenance engineer, pulvi-mixer, pump (4 inches or over), pump (hydraulic), pump (jet), pump (submersible), pump (well point), roller (5 ton and over), scoop (carryall, scraper), maintenance man (tower crane), vac-all, welding and burning	11.27	8%+.05	1.90	a	.15

DECISION NO. NY78-3079 Power Equipment Operators (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Compressor (on crane), generator (pile work), welding machine (pile work), power winch (used for other than stone or structural steel), power house, loading machine (front end), compressor (pile work), power winch (truck mounted, used for other than stone or steel), hoist (2 drum)	11.805	8%+.05	1.90	a	.15
Compressor (2 or more in battery)	11.50	8%+.05	1.90	a	.15
Compressor (stone setting), compressor (structural steel), welding machine (structural steel)	11.965	8%+.05	1.90	a	.15
Compressor, mulch machine, pin puller, pump (double action diaphragm), pump (gypsum), pump (single action 1 to 3), striping machine, welding machine	10.895	8%+.05	1.90	a	.15
Loading machine, with bucket capacity of 10 yards or over	11.52	8%+.05	1.90	a	.15
Concrete breaker, concrete saw or cutter, forklift (walk-behind, power operated), hydra hammer, mixer (with skip), mixer (2 small with or without skips), mixer (2 bag or over with or without skip), power buggies, power grinders, ridge cutter	10.15	8%+.05	1.90	a	.15
Dredge	11.915	8%+.05	1.90	a	.15
Generator	11.19	8%+.05	1.90	a	.15
Generator (small)	9.865	8%+.05	1.90	a	.15
Grader	11.485	8%+.05	1.90	a	.15
Hoist (3 drum), power winch (truck mounted, used for stone or steel), power winch (used for stone setting and structural steel), trench machine	12.295	8%+.05	1.90	a	.15
Lead engineer	14.08	8%+.05	1.90	a	.15

DECISION NO. NY78-3079 Power Equipment Operators (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mechanic	9.88	8%+.05	1.90	a	.15
Mechanic helper	9.54	8%+.05	1.90	a	.15
Mechanical compactors (machine drawn), roller (over 5 tons)	11.62	8%+.05	1.90	a	.15
Oiler, root cutter, stump chipper, tower crane (oiler), track tamper (2 engineers, each)	9.85	8%+.05	1.90	a	.15
Portable heaters	11.445	8%+.05	1.90	a	.15
Powerbroom	10.325	8%+.05	1.90	a	.15
Pump (concrete)	11.54	8%+.05	1.90	a	.15
Scoop (carry-all, scraper in tandem), tower crane (engineer)	12.605	8%+.05	1.90	a	.15
Tractor (caterpilla or wheel)	9.655	8%+.05	1.90	a	.15

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Memeorial Day; Independence Day; Labor Day; Columbus Day; Election Day; Veterans' Day; Thanksgiving Day and Christmas Day provided employee is employed the day before and after the holiday.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniate, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York

DECISION NO. PA78-3090 DATE: Date of Publication

Supersedes Decision No. PA77-3060, dated May 20, 1977, in 42 FR 26179.

DESCRIPTION OF WORK: Heavy and Highway Construction.

HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters/Piledrivermen	$ 9.47	.50	.55		
Ironworkers: Structural, Ornamental & Reinforcing: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	11.28	.84	1.36		.03
Laborers: Asphalt tampers, concrete pitmen, puddlers & rubbers, Highway guard rail, right of way and property line fence, Highway slab reinforcing placers, laborers, landscape, planters, seeders and arborists, magazine tenders, railroad trackmen & signalman, leaser beam men (pipe laying, paving machine)	8.06	.35	.20		
Pneumatic and electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward chain saws, pipelayers, (non-metalic), asphalt rake, lute or screed men, concrete blockers	8.26	.35	.20		
Caisson-open air-below 8 feet, cofferdam open air-below 8 feet where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, form setters (road) wagon drill, diamond point drill, gunite nozzle operators	8.61	.35	.20		
Blasters	8.84	.35	.20		

DECISION NO. PA78-3090	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Free Air Tunnels and Rock Shafts					
Outside laborers in conjunction tunnels & rock shafts	8.70	.35	.20		
Chuck tenders, muckers, nippers, miners' & drillers helpers, inside laborers	8.99	.35	.20		
Miners, drillers, blasters, pneumatic schield operators, lining, spotting & timers workmen, reinforcing steel placers, bonding, aligning and securing and concrete surfacers	9.47	.35	.20		
Line Construction: Adams, Cumberland, Dauphin, Juniata, Perry & York Counties, Pennsylvania					
Journeymen Lineman	10.76	.45	3%		.053
Experienced Winch Truck	7.49	.45	3%		.037
2nd. 1000 Hrs.	7.30	.45	3%		.036
1st. 1000 Hrs.	7.12	.45	3%		.035
Experienced Truck Driver	6.94	.45	3%		.034
2nd. 1000 Hrs.	6.76	.45	3%		.033
1st. 1000 Hrs.	6.58	.45	3%		.032
Experienced Groundman	6.40	.45	3%		.032
2nd. 1000 Hrs.	6.21	.45	3%		.031
1st. 1000 Hrs.	6.03	.45	3%		.030
Easton, Northampton County					
Journeyman Lineman	12.43	.45	.124		.062
Experienced Winch Truck	8.66	.45	.086		.043
2nd 1000 hrs.	8.45	.45	.084		.042
1st 1000 hrs.	8.24	.45	.082		.041
Experienced Truck Driver	8.03	.45	.080		.040
2nd 1000 hrs.	7.82	.45	.078		.039
1st 1000 hrs.	7.61	.45	.076		.038
Experienced Groundman	7.40	.45	.074		.037
2nd 1000 hrs.	7.19	.45	.071		.035
1st 1000 hrs.	6.98	.45	.069		.034

DECISION NO. PA78-3090	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction (Con't)					
Berks, Lancaster, Lebanon and Lehigh Counties					
Journeyman Lineman	11.46	.45	.114		.057
Experienced Winch Truck	7.98	.45	.079		.039
2nd 1000 hrs.	7.78	.45	.077		.038
1st 1000 hrs.	7.59	.45	.075		.037
Experienced Truck Driver	7.40	.45	.074		.037
2nd 1000 hrs.	7.20	.45	.072		.036
1st. 1000 hrs.	7.01	.45	.70		.035
Experienced Groundman	6.82	.45	.068		.034
2nd 1000 hrs.	6.62	.45	.066		.033
1st 1000 hrs.	6.43	.45	.064		.032
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming Counties, Pa.					
Journeyman Lineman	10.80	.50	.32		.08
Experience Winch Truck	7.59	.50	.22		.05
2nd 6 Months	7.41	.50	.22		.05
1st 6 Months	7.21	.50	.21		.05
Experienced Winch Truck	7.43	.50	.22		.05
2nd 6 Months	7.21	.50	.21		.05
1st 6 Months	7.04	.50	.21		.05
Experienced Groundman	7.26	.50	.22		.05
2nd 6 Months	7.04	.50	.21		.05
1st 6 Months	6.82	.50	.20		.05

DECISION NO. PA78-3090	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators Heavy Construction					
GROUP 1	12.44	7%	10.3%	a	1.8%
GROUP 2	12.15	7%	10.3%	a	1.8%
GROUP 3	11.28	7%	10.3%	a	1.8%
GROUP 4	10.51	7%	10.3%	a	1.8%
GROUP 5	10.04	7%	10.3%	a	1.8%
GROUP 6	9.13	7%	10.3%	a	1.8%
GROUP 7	12.69	7%	10.3%	a	1.8%
GROUP 7-A	12.94	7%	10.3%	a	1.8%
GROUP 7-B	13.18	7%	10.3%	a	1.8%

GROUP 1: Machines doing hood work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

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GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas, provided the employee works the day before and after the holiday.

DECISION NO. PA78-3090	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators Highway Construction					
GROUP 1	10.84	7%	10.3%		1.8%
GROUP 2	10.00	7%	10.3%		1.8%
GROUP 3	9.49	7%	10.3%		1.8%
GROUP 4	9.05	7%	10.3%		1.8%
GROUP 5	8.50	7%	10.3%		1.8%
GROUP 6	11.09	7%	10.3%		1.8%
GROUP 6-A	11.34	7%	10.3%		1.8%
GROUP 6-B	11.59	7%	10.3%		1.8%

GROUP 1: Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, braglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, pavers 21E and over, gradalls, all front end loaders, 4 cu. yds. and over, tandem scrapers, pippin type backhoes, boat captains, batch plant with mixer, drill, self contained (drillmaster type), CM1 autograde, machines similar to above

GROUP 2: Conveyor loader (EUC Type), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, bulldozers and tractors, asphalt plant engineers, rollers (high grade finishing), all loaders under 4 cu. yds, mechanic-welders, motor patrols, machines similar to above

GROUP 3: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, ditch witch type trencher, road finishing machines, concrete breaking machines, rollers, seaman Pulverizing mixer, power boom, seeding spreader, fireman - (for power equipment), conveyor loaders other than EUC type, conveyors, machines similar to above

GROUP 4: Fireman

GROUP 5: Oilers and deck hands

GROUP 6: On all machines with booms (including jibs, masts, leads, etc.) 100 ft. and over

GROUP 6-A: 150 ft. and over

GROUP 6-B: 200 ft. and over

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
CLASS I					
Helper, stake body truck (single axle), dumpster	$ 8.97				
CLASS II					
Dump trucks, tandem & batch trucks, semi-trailers, agitator mixer trucks, ready mix and dumpcrete type vehicles, asphalt distributors, farm tractor when used for transportation stake body truck (tandem)	9.04				
CLASS III					
Euclid type, off-highway equipment back or belly dump truck and double hitched equipment, straddle (ross) carrier, low-bed trailers	9.53				
WELDERS - Rate for Craft					

STATE: Wisconsin — COUNTIES: Milwaukee, Ozaukee, Waukesha and Washington

DECISION NUMBER: WI78-2146 — DATE: Date of Publication

Supersedes Decision No. WI77-2092, dated June 24, 1977 in 42 FR 32511

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (Including Residential Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	11.90	.85	.90	1.00	.07
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons	11.41	1.12	1.10		
CARPENTERS:					
Carpenters	11.17	.90	.90	.51	.07
Millwrights	11.86	.90	.90	.51	.07
Piledrivermen	11.75	.90	.90	.51	.07
CEMENT MASONS	10.55	1.15	.90	.51	
ELECTRICIANS	12.00	1.00	.71	1.20	1%
ELEVATOR CONSTRUCTORS	11.715	.895	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	8.61	.895	.56	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	11.19	.92	.70	.50	
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.96	1.20	.90	1.19	.15
LATHERS	10.28	1.00	.90	.91	.03
LINE CONSTRUCTION:					
Linemen	9.97	.45	7%		.5%
Heavy Equipment Operator	6.97	.45	7%		.5%
Light Equipment Operator	7.98	.45	7%		.5%
Heavy Groundman - Truck Driver	6.98	.45	7%		.5%
Light Groundman - Truck Driver	6.48	.45	7%		.5%
Groundman	5.48	.45	7%		.5%
PAINTERS:					
Brush	10.00	1.06	.90	.50	.02
Swing Stage, up to 80 ft.	10.15	1.06	.90	.50	.02
Structural Steel	10.35	1.06	.90	.50	.02
Spray and Sandblasting	10.35	1.06	.90	.50	.02
Wing stage, 80 ft. and over	10.25	1.06	.90	.50	.02
PLASTERERS	9.56	1.00	.80	.76	
PLUMBERS & GASFITTERS	11.82	1.05	1.10	.56	.10

DECISION NO. W178-2146

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Mastic Work:					
Spreaders	$10.90	1.10	.90	.51	
Rubbers and Kettlemen	10.70	1.10	.90	.51	
Additional Help	10.36	1.10	.90	.51	
Tower Work:					
Without swings	10.85	1.10	.90	.51	
With swing or bos'n chair	11.15	1.10	.90	.51	
Slate, Tile and Transite Work:					
Roofers	10.85	1.10	.90	.51	
Composition, damp and waterproof roofers	10.70	1.10	.90	.51	
SHEET METAL WORKERS	11.30	1.19c	1.23	.75	.04
SOFT FLOOR LAYERS	10.58	.90	.90	.51+a	.06
SPRINKLER FITTERS	12.65	.75	1.05		.02
STEAM FITTERS	11.67	1.34	.90	.65	.12
TERRAZZO WORKERS	10.78	1.07	.90		
TERRAZZO FINISHER	10.57	.30	.90	.65	
TILE SETTERS	11.00	.95	.90		
TILE FINISHER	9.55	.30	.90	.65	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;					

FOOTNOTE:

a. Holiday: A through F

b. Employer contributes $.98 per hour to regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes $.74 per hour to regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Inaludes $.03 per hour SMACNA Fund

DECISION NO. WI78-2146

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
General Laborers, Form Stripper Concrete Worker, Mason tender	$ 9.79	.90	.90	.51	
Scaffold Builder, Pitman or Dumpman, Building Wrecker, Hod Carrier, Mortar Mixer, Vibrator Operator, Kettleman, Air Spade Operator	9.90	.90	.90	.51	
Barco Tamper, Jackhammer Operator Sheeting Driver, Gunnite Man Concrete Buster	10.01	.90	.90	.51	
Topman on Chimney (up to 50')	9.90	.90	.90	.51	
Nozzleman	10.30	.90	.90	.51	
Plasterer Laborer	9.90	.90	.90	.51	
Topman (addirional 50 ft.)	10.15	.90	.90	.51	
Caisson worker	10.45	.90	.90	.51	
Caisson Worker - Top Man	10.10	.90	.90	.51	
Bridge, Road and Railway Construction:					
General Laborer	9.19	.90	.90	.51	
Vibrator, Pitman, and Dumpman	9.25	.90	.90	.51	
Bullfloat, strikeoff Man, Puddler, Cement Dumper	9.30	.90	.90	.51	
Formsetter	9.47	.90	.90	.51	

DECISION NO. WI78-2146

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, shovels, draglines, backhoes, clamshells, derricks, caisson rigs, pile driver, skid rigs, derrick operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

GROUP II - Material hoists, tractor or truck mounted hydraulic backhoe tractor or truck mounted hydraulic crane (5 tons or under),Manhoist, tractor (over 40 h.p.), bulldozer (over h.p.), endloader (over 40 h.p.), Forklift (25' and over), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder, bituminous plant and paver operator, roller (over 5 tons), rotary drill operator and blaster, trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, backfiller, concrete auto breaker (large), concrete finishing machine (road type), roller (rubber tire), concrete batch hopper, concrete conveyor systems, concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), trencher (chain type paving bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactOrs (riding type), assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), boats, safety work, barges and launch)

GROUP V - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole diggers, stone crushers and screening plants, fireman (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15KW, pumps over 3", Augers (vertical and horizontal), Combinations small equipment operator; air, electric hydraulic jacks (slip form), compressors (under 300 CFM), welding machines, heaters (mechanical), prestress machines, bobcats, generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greader, boiler operators (temporary heat), Rotary drill helper, conveyor, forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Green and Rock
DECISION NUMBER WI78-2130 DATE: Date of Publication
Supersedes Decision No. WI77-2111, dated September 23, 1977 in 42 FR 48727
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.15	.70	.80	1.00	.04
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.63	.75	.70		
CARPENTERS	10.90	.50	.60		.10
Millwrights	11.42	.50	.60		.10
Piledrivermen	11.05	.50	.60		.10
Soft Floor Layers	10.90	.50	.60		.10
CEMENT MASONS	10.00	.80	.75		
ELECTRICIANS	11.35	.50	3%	7%	.50%
ELEVATOR CONSTRUCTORS:					
Southern portion of County	11.42	.745	.35	a&b	.02
Nothern portion of County	10.69	.745	.56	a&b	.025
Elevator constructors' helpers:					
Southern portion of County	7.99	.745	.35	a&b	.02
Northern portion of County	7.48	.745	.35	a&b	.025
Elevator Constructors helpers (prob.)	50%JR				
GLAZIERS:					
Northern 2/3 of County	9.30	.55	.50	.40	.01
Southern 1/3 of County	9.71	.44	.25	1.20	
IRONWORKERS (all):					
Vic. Edgerton, Milton, Poolville, & Evansville	11.52	.65	.375		.055
Vic. of Janesville, Shopiers	12.60	.65	.375		.10
LATHERS					
Eastern ½	10.10	.55	.45		.01
Southerwestern portion	10.29	.40	.45		.04
Remainder of County	9.65	.45	.20	.50	.01
LINE CONSTRUCTION:					
Linemen	9.97	.45	7%		
Heavy Equipment Operator	8.97	.45	7%		
Light Equipment Operator	7.98	.45	7%		
Heavy Groundman - Truck Driver	6.98	.45	7%		
Light Groundman - Truck Driver	6.48	.45	7%		
Groundman	5.48	.45	7%		
PAINTERS:					
Brush	9.86	.70	.30	.30	
Structural Steel (brush)	10.01	.70	.30	.30	

DECISION NO. WI78-2130

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONT'D)					
Spray	$10.26	.70	.30	.30	
Swing Stage	9.86	.70	.30	.30	
PLASTERERS	10.10	.75	.80		
PLUMBERS & STEAMFITTERS	12.36	.50	.55		.06
ROOFERS	12.20	.55			
SHEET METAL WORKERS	11.97	.75	.54		.03
TILE SETTERS	10.63	.75	.70		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS: A-New Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Six Paid holidays : A through F.

b. Employer contributes 8% of regular hourly rate for vacation pay credit for employee who has worked in business more than 5 years, and 6% for employee who has worked in the business less than 5 years

c. Paid Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immeidately preceding and following the holidays.

d. Includes 1.5% holiday pay.

e. Additional payment of 4 hours per month and .03 per hour weekly for employee who has worked less than 5 years. 6-2/3 hours per month for 5 years or more.

DECISION NO. WI78-2130

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS BUILDING CONSTRUCTION					
General laborers, concrete laborers, building wrecker, form strippers, concrete saw and power buggy operatOR mortarmixer, power rammer, vibrator operator, Air chisel operator (over 18 lbs.), chipping hammer operator (over 18 lbs.), fork lift operator railroad tampler plaster mixer and concrete pump hose por. (1 man)	8.68	.30	.25		.02
Mason tender	8.83	.30	.25		.02
Pneumatic hammer (60 lbs. or over Manf. Specifications)	8.68	.30	.25		.02
BITUMINOUS PAVING LABORERS:	8.93	.30	.25		.02
General Laborer	8.68	.30	.25		.02
Raker and luteman	8.78	.30	.25		.02

DECISION NO. WI78-2130

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTIES: Green Lake, Marquette, Waupaca, Waushara, & Winnebago

DECISION NUMBER WI78-2131 DATE: Date of Publication

Supersedes Decision WI77-2117, dated August 19, 1977 in 42 FR 42172

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.81	.70	.50	.65	.05
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.95	.65	.40		.02
CARPENTERS	9.92	.50	.60		.05
CEMENT MASONS	9.45	.65	.40		.02
ELECTRICIANS	11.83	.60	3%		
ELEVATOR CONSTRUCTORS:					
Constructors	10.69	.745	.35	a+b	.02
Helpers	7.48	.745	.35	a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Extreme east part of Co. Inc. Lake Winnebago, Menasha & Neenah	10.96	1.20	.90	1.19	.15
Remainder of County	11.27	.75	.525		.055
LATHERS	11.25	.55	.65	.50	.01
MILLWRIGHTS	10.32	.50	.60		.05
PAINTERS:					
Brush & Structural Steel	9.25	.75	.25		.03
Paperhanging	9.25	.75	.25		.03
Spray & Sandblasting	9.75	.75	.25		.03
PILEDRIVERMEN	10.32	.50	.60		.05
PLASTERERS	9.95	.65	.40		.02
PLUMBERS AND STEAMFITTERS:					
Townships of Menasha & Neemah	9.94	.82	1.00	.80	.04
Remainder of County	10.68	.80	1.10	.80	.01
ROOFERS	8.03	.65	.50		
SHEET METAL WORKERS	9.87	.60	.44	1.10	.02
SOFT FLOOR LAYERS	9.92	.50	.60		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
TERRAZZO WORKERS	9.95	.65	.40		.02
TILE SETTERS	9.95	.65	.40		.02

DECISION NO. WI78-2131 71 - Wisconsin

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years, and 6% of regular rate for employee who has worked less than 5 years.

e. Includes .04 holidays pay.

DECISION NO. WI78-2131 Wisconsin 15 - Lab

BUILDING CONSTRUCTION

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 8.35	.45	.40		.02
CLASS II	8.40	.45	.40		.02
CLASS III	8.55	.45	.40		.02

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dumpmen, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pump and nozzle man, bituminous worker.

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter-helper, core drill operator

CLASS III - Jackhammer operator, drill, gunnitemen, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator jumping jack, terrazzo worker, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector bituminous raker and luteman

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DECISION NO. WI-78-2131

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Juneau
DECISION NUMBER: WI78-2134 DATE: Date of Publication
Supersedes Decision No. WI77-2118, dated August 19, 1977 in 42 FR 42174
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

29-Wisconsin

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.15	.70	.80	1.00	.04
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.15	.75	.35		
CARPENTERS:					
So. of Hwy. #21 & E. of County Trunk #80					
Carpenters	10.27	.50	.60		.05
Millwrights	10.67	.50	.60		.05
Piledrivermen	10.67	.50	.60		.05
Soft Floor layers	10.27	.50	.60		.05
Camp Douglas, Huster, Elroy & Vic.:					
Carpenters	9.92	.50	.60		.05
Millwrights	10.32	.50	.60		.05
Piledrivermen	10.32	.50	.60		.05
Soft floor layers	9.92	.50	.60		.05
N.E. section of Co. above Camp Douglas					
Carpenters	9.92	.50	.60		.05
Millwrights & Piledrivermen	10.32	.50	.60		.05
CEMENT MASONS	9.18	.45	.25		
ELECTRICIANS	11.15	.65	3%		
ELEVATOR CONSTRUCTORS (Western ½ of Co.)	10.87	.745	.35	a+b	.02
Elevator Constructors' Helpers (Western ½)	7.61	.745	.35	a+b	.02
Elevator Consructors' Helpers (Prob.)	50%JR				
Elevator Constructors (Eastern ½ of Co.)	10.69	.745	.56	a+b	.02
Elevator Constructors' Helpers	7.48	.745	.56	a+b	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
GLAZIERS	9.30	.55	.50	.45	.01
IRONWORKERS, Structural, ornamental & Reinforcing	11.52	.65	.375		.055
LATHERS	9.65	.45	.20	.50	.03
PAINTERS:					
Brush	8.43		.45		
Structural Steel	8.70		.45		
Swing stage, bos'n chair	8.75		.45		
Spray	9.12		.45		

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DECISION NO. WI78-2134

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	9.55				
PLUMBERS & STEAMFITTERS	11.85	.55	.60		.05
ROOFERS	9.00				
SHEET METAL WORKERS	10.08	.75	.55		.04
TILE SETTERS	8.70	.40	.25		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 2 years

b. Holidays: A through F

d. Employee with 1 year's service - 1 week paid vacation; 3 year's service 2 week paid vacation; 10 year's service - 3 weeks & 20 year's or more service - 4 weeks.

e. Holidays: A through F, providing employee works one year, and the day before and after the holiday. With one year of service employee also received a one-week paid vacation.

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DECISION NO. WI78-2134 Wisconsin 16 LAB L

LABORERS (BUILDING CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	7.83	.30	.25		.02
GROUP II	7.98	.30	.25		.02
GROUP III	8.08	.30	.25		.02
GROUP IV	8.38	.30	.25		.02
GROUP V	7.50	.30	.25		.02

GROUP I - Building laborers, caisson top men helpers, cement & concrete workers, hand handling of pre-cast concrete decking products, wire, ironworker & blacksmith laborers, wreckers & house movers, form oiler, form cleaner, concrete, dump men, pit men, signal, scaffold builder, clean-up work, railroad work, material conveyor, roofers hoist, powered sweeper, power buggie operation for concrete, tile & Terrazzo worker, for stripper
GROUP II - Drill, jackhammer & all types vibrators, hand carrier hod, handling hot tar & asphalt, kettlemen, mortar & plaster mixer, fork lift operator (masonry work), plaster & concrete pump, roofers, welder & torch work, nozzle man, gunnite man, creosote worker, sandblaster, concrete planer, concrete saw, mudjack, side grinders, wire brushers, roto hammers, air spades & other similar pieces of equipment (gas, electric or air)
GROUP III - Swinging scaffold & chimney work up to 40' above solid-base structure
GROUP IV - Drill operators (tunnel and caisson), tunnel and sewer miners
GROUP V - Flagmen, watchmen & waterboys

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DECISION NO. WI78-2134

WIS 1 PEO

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Kenosha
DECISION NUMBER: WI78-2135 DATE: Date of Publication
Supersedes Decision No. WI77-2120 dated August 19, 1977 in 42 FR 42176
DESCRIPTION OF WORK: Building Construction (Including Residential)

30 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.15	.70	.80	1.00	.04
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	11.25	.60	.60	.50	.05
CARPENTERS	10.90	.50	.85		.05
CEMENT MASONS (BUILDING)	9.21	.60	.85	.50	
ELECTRICIANS	12.75	.51	3%	.45	3/4%
ELEVATOR CONSTRUCTORS:					
Constructors	11.715	.745	.35	a+b	.02
Helpers	8.20	.745	.35	a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural & Ornamental & reinforcing	10.96	1.20	.90	1.19	.15
MILLWRIGHTS	11.16	.50	.85		.05
LATHERS					
PAINTERS:					
Brush & Roller	9.775	.50	.60		
Structural Steel	9.925	.50	.60		
Spray	10.52	.50	.60		
Swing Stage	9.975	.50	.60		
PILEDRIVERMEN	10.98	.50	.85		.05
PLASTERERS	9.70	.60	.85		
PLUMBERS & STEAMFITTERS	11.60	.80	.87	.95	.02
ROOFERS	10.62	.60	.35		
SOFT FLOOR LAYERS-Resilient floor layers	10.90	.50	.85		.05
TERRAZZO WORKERS	10.78	1.07	.90		.05
TILE SETTERS	9.78	.60	.60	.50	.05
SHEET METAL WORKERS	11.05	.60	.88	1.25	.06
Welders - receive rate prescribed for operation to which welding is incidental.					

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DECISION NO. WI78-2135

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holiday, A through F

b. Employer contributes 8% of regular hourly rate to Vacaitpn Pay credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years

c. Holidays: A through F plus Christmas Eve, the day after Thanskgiving and Good Friday.

Wisconsin 20 - LAB-1

BUILDING CONSTRUCTION LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers, Mason Tenders	$ 8.10	.50	.70	.70	
Plaster tender	8.25	.50	.70	.70	
Air, electric & gas tool operator	8.40	.50	.70	.70	
Jack hammer, fork lift, buggies	8.80	.50	.70	.70	

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DECISION NO. WI78-2135

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, skid rigs, derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p.), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, safety Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3" Augers (vertical and horizontal), combination small equipment operator, Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: WISCONSIN — COUNTIES: La Crosse, Monroe & Vernon
DECISION NUMBER WI78-2136 — DATE: Date of Publication
Supersedes Decision No. WI77-2121, dated August 19, 1977 in 42 FR 42178
DESCRIPTION OF WORK: Building Construction and Residential Construction in Lacrosse County Only.

32 - Wisconsin A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.15	.70	.80	1.00	.05
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & STONMASNS	10.15	.75	.35		
CARPENTERS:					
Carpenters	9.92	.50	.60		.05
Millwrights & Piledrivermen	10.32	.50	.60		.05
Carpenters (Residential)	5.92	.50	.30		.05
CEMENT MASONS	9.18	.45	.25		
ELECTRICIANS	11.15	.65	3%		
ELEVATOR CONSTRUCTORS:					
Constructors	10.87	.745	.35	a&b	.02
Helpers	7.61	.745	.35	a&b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	9.30	.55	.50	.45	.02
IRONWORKERS (all but N.W. corner of Co.):					
Structural, ornamental & reinforcing	11.27	.75	.525		.055
LATHERS	9.55		.15		.01
PAINTERS:					
Brush	8.43		.45		
Structural Steel	8.70		.45		
Swing Stage	8.75		.45		
Spray and Sandblasting	9.12		.45		
PLASTERERS	9.55				
PLUMBERS:					
Plumbers & Steamfitters	11.85	.55	.60		.05
ROOFERS:					
Roofers	9.97				
SHEET METAL WORKERS	10.08	.75	.55		.04
SOFT FLOOR LAYERS	8.30				
TERRAZZO WORKERS & TILE SETTERS	8.70	.40	.25		

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DECISION NO. WI78-2136

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Building	$ 8.02	e			
Dump truck drivers on excava. & grading	7.37	e			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays; A through F.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 6% of rate for employee who has worked less than 5 years.

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immdiately

d. Holidays: A through f, providing employee works one year, and the day before and after the holiday. With one year of service employee also receives a one-week paid vavation.

e. $64.00 a month welfare.

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DECISION NO. WI78-2136

Wisconsin 16 LAB

LABORERS (BUILDING CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	7.83	.30	.25		.02
GROUP II	7.98	.30	.25		.02
GROUP III	8.08	.30	.25		.02
GROUP IV	8.38	.30	.25		.02
GROUP V	7.50	.30	.25		

GROUP I - Building laborers, caisson top men helpers, cement & concrete workers, handling of pre-cast concrete decking products, wire ironworkers & blacksmith laborers, wreckers & house movers, form oiler, form cleaner, concrete, dump men, pit men, signal men, scaffold builder, clean-up work, railroad work, material conveyor, roofers hoist, powered sweeper, power buggie operation for concrete, tile & terrazzo laborer, form stripper
GROUP II - Drill, jackhammer & all types vibrators, hand carrier hod, operator (masonry work), plaster & concrete pump, roofers, welders & torch work, nozzle man, gunnite man, creosote worker, sandblaster, concrete planer, concrete saw mudjack, side grinders, wire brushers, roto hammers, air spades & other similar pieces of equipment (gas, electric or air)
GROUP III - Swinging scaffold & chimney work up to 40' above solid-base structure
GROUP IV - Drill operators (tunnel and caisson), tunnel and sewer miners
GROUP V - Flagmen, watchmen & waterboys

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DECISION NO. WI78-2136

WIS 1 PEO

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor
GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)
GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)
GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type), Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)
GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)
GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, Boiler operators (temporary heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Langlade, Lincoln & Marathon

DECISION NO.: WI78-2137

DATE: Date of Publication

Supersedes Decision No. WI77-2122, dated August 19, 1977 in 42 FR 42180

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

37 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.81	.70	.50	.65+c	.05
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.05	.65	.30		.04
CARPENTERS	9.92	.50	.60		.05
Millwrights & Piledrivermen	10.32	.50	.60		.05
CEMENT MASONS	9.55	.65	.30		.04
ELECTRICIANS	10.88	.50	3%	8%	1/8%
ELEVATOR CONSTRUCTORS:					
Constructors	10.765	.745	.35	a+b	.02
Helpers	7.535	.745	.35	a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental and Reinforcing	11.27	.75	.525		.055
LABORERS:					
Laborers	8.35	.45	.40		.02
Air tool op. (jackhammer, vibrator)	8.55	.45	.40		.02
Mason tender, Concrete worker & Mortar mixers	8.40	.45	.40		.02
Building wrecker, form stripper and scaffold builder	8.35	.45	.40		.02
Kettle, concrete buster & gunnite men	8.55	.45	.40		.02
LATHERS (Southeastern corner of County)	8.77	.55	.65	.50	.03
Lathers (Western ½ of County)	10.00				
Lathers (Remainder of County)	9.24	.75		.75	.03
PAINTERS:					
Brush	9.50		.50		
Spray & Structural steel	10.00		.50		
PLASTERERS	10.05	.65	.30		.02
PLUMBERS	11.51	.50	.30	b	
ROOFERS	9.00				
SHEET METAL WORKERS	11.26	.75	.55		.04
SOFT FLOOR LAYERS - Resilient floor layers	9.92	.50	.60		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
STEAMFITTERS	11.51	.50	.30	b	
TERRAZZO WORKERS	9.80	.65	.30		.04
TILE SETTERS	9.80	.65	.30		.04

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DECISION NO. WI78-2137 37 - Wisconsin

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 8% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years. Employer contributes 6% of regularhourly rate to vacation pay credit for employee who has worked in business less than 5 years.

b. Holidays: A through F

c. Includes .15 Holiday pay.

PAGE 3

DECISION NO. WI78-2137

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.70		.10
GROUP II	10.42	.75	.70		.10
GROUP III	10.12	.75	.70		.10
GROUP IV	10.02	.75	.70		.10
GROUP V	9.81	.75	.70		.10
GROUP VI	9.57	.75	.70		.10

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson rigs, Pile driver, Skid rigs, Derrick operator and traveling crane (Bridge type), Concrete paver (over 27E), Concrete spreader and distributor

GROUP II - Material hoists, Tractor or truck mounted hydraulic Backhoe Tractor or truck mounted hydraulic crane (5 tons or under), Manhoist, tractor (over 40 h.p), Bulldozer (over h.p.), Endloader (over 40 h.p.), Forklift (25' and over), Motor patrol, Scraper operator, Sideboom, Straddle carrier, Mechanic and welder, Bituminous plant and paver operator, Roller (over 5 tons), Rotary drill operator and blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, Backfiller, Concrete auto breaker (large), Concrete finishing machine (Road type), Roller (rubber tire), Concrete batch hopper, Concrete conveyor systems, Concrete mixers (14S or over), Screw type pumps, and gypsum pumps, Tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactors riding type),Assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), Boats, Safety, Work, Barges and launch)

GROUP V - Shouldering machine operator, Screed operator, Farm or industrial tractor mounted equipment, Post hole diggers, Stone crushers and Screening plants, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination small equipment operator; Air, electric Hydraulic jacks (slip form), Compressors (under 300 CFM); Welding machines, Heaters (mechanical), Prestress machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric),Oiler and greaser, Boiler operators (temporaty heat), Rotary drill helpers, Conveyor, Forklift (12' and under)

[FR Doc. 78-30154 Filed 10-26-78; 8:45 am]

V 43 / 209 OC 27 78

federal register

FRIDAY, OCTOBER 27, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

MEDICARE AND MEDICAID HOSPICE PROJECTS

Announcements of Projects

[4110-35-M]

DEPARTMENT OF HEALTH,

pice care are equivalent in medical efficacy to services provided in and institutional setting, and that the in-home

9. Determine changes in the health care delivery system due to the availability of the hospice service to medi-

granted to successful respondents to permit payment for hospice services to patients with a life expectancy of 6

fied professional after the death of a hospice patient.

h. Waiver of restrictions on reim-

days of admission to the inpatient hospice.

d. Beneficiaries must give informed

V 43 / 209 OCT 27 78

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

MEDICARE AND MEDICAID HOSPICE PROJECTS

Announcement of Projects

The Office of Policy, Planning, and Research (OPPR) of the Health Care Financing Administration (HCFA) announces its intention to conduct demonstration projects with organizations providing hospice services. Applications for participation may be made by agencies and facilities which provide hospice home care only or both hospice home care and inpatient care. The demonstration projects will allow coverage and reimbursement for hospice services provided to medicare beneficiaries. (These projects will be conducted under section 402 of the Social Security Amendments of 1967, as amended by section 222(b) of Pub. L. No. 92-603.)

State medicaid agencies are invited to apply to HCFA to conduct demonstration projects under section 1115 of the Social Security Act, which would involve specific hospice programs. These applications would include requests for waivers necessary to provide similar benefits for medicaid beneficiaries.

PURPOSE

The goal of hospice care is to help terminally ill patients continue life with minimal disruption in routine activity, including working and remaining in the family environment. Hospice uses a multidisciplinary approach to delivering social, psychological, medical, and spiritual services through the use of a broad spectrum of professional and voluntary care givers with a goal of making the patient as physically and emotionally comfortable as possible. Integral to the hospice concept is the philosophy that pain is preventable and can be controlled through the use of drugs.

The hospice experience in the United States has placed emphasis on home care. It offers physician services, specialized nursing services, and other forms of care in the home in order to enable the terminally ill patient to remain at home in the company of family and friends as long as possible. Inpatient hospice settings have been utilized primarily where there is no one in the patient's home to assist in the care of the patient, the patient's pain and symptoms must be closely monitored in order to be controlled, or the family needs a rest from the tedium and stress in caring for the patient (respite care).

It has been hypothesized that in-home services provided through hospice care are equivalent in medical efficacy to services provided in and institutional setting, and that the in-home services can be provided at a substantially lower cost. And further, that where hospice services are provided in an inpatient setting, the costs of such care may be less than the average pe diem cost of a hospital.

The medicare and medicaid programs do not currently recognize a hospice as a separate category of provider, although some hospices are participating in these programs within existing provider classifications (e.g., hospital, skilled nursing facility, and home health agency). Some hospice services such as bereavement visits to the patient's family and drugs given in the home setting are not reimbursable under medicare.

State medicaid programs have different coverage for hospital, nursing home and home health services, and many do not cover certain services integral to hospice care.

The purpose of this invitation is to solicit demonstration sites where hospice services will be provided to medicare and medicaid beneficiaries and reimbursed by the medicare and medicaid programs. Central to these demonstrations will be an independent evaluation in order to assist HEW in making policy decisions regarding coverage of hospice services.

OBJECTIVES OF THE DEMONSTRATIONS AND EVALUATION

Among the specific objectives of conducting these demonstrations are the following:

1. Identify the levels of care and range of services provided by hospices in the home and inpatient settings.

2. Evaluate hospice services in various settings as an alternative service and delivery system for the care of the terminally ill.

3. Evaluate the comparative costs of hospice services provided in the home and inpatient settings and in various organizational hospice modes.

4. Develop standards regarding appropriateness and quality of care for hospice home care and hospice inpatient programs.

5. Identify alternate reimbursement methods for hospice services (e.g., cost, capitation, prospective rate).

6. Access the appropriate role of PSRO and other utilization review mechanisms.

7. Compare and assess the service provided under the hospice program to those in hospital and skilled nursing facilities for comparable diseases and prognoses.

8. Determine the extent to which the utilization of hospice services might affect overall costs of the medicare and medicaid programs as well as costs of other providers.

9. Determine changes in the health care delivery system due to the availability of the hospice service to medicare and medicaid beneficiaries in terms of:

a. Accessibility, availability and utilization of other components of the service area's health care delivery system;

b. The Demand for in-home and inpatient hospice care; and

c. Financial, or revenue problems, if any, encountered by the hospice before, during, and after the demonstration project.

10. Record patient, family, and physician attitudes toward hospice services.

The evaluation of the demonstrations will be conducted by an independent evaluator to be selected by HCFA.

GENERAL POLICY CONSIDERATIONS

1. *Eligible hospices.* For purposes of this invitation and participation in the demonstration, an organization must demonstrate to HCFA that it meets all of the following conditions:

(a) Offers a program with the following characteristics:

The patient and family comprise the unit of care;

Emphasis is placed on symptom control;

There is overall physician direction of the program;

Comprehensive services are provided by an interdisciplinary team with emphasis on round-the-clock availability of medical and nursing skills;

Volunteers comprise an integral part of the team of care givers; and

Care of the family extends through the bereavement period.

(b) Currently has the capability of providing: (i) Home health care services (hospice home care program) or (ii) home health care services and the capability of providing institutional services which may substitute for acute hospital care (inpatient hospice or hospice unit); and

(c) Is: (i) Certified as a home health agency and participates in Medicare (and medicaid where the hospice proposes to serve medicaid patients) or (ii) has contractual arrangements with a participating home health agency(ies) to provide home health services covered by Medicare (and medicaid, where appropriate).

The hospice must provide services directly or under arrangements with providers of service participating in the Medicare/Medicaid programs. Services provided under arrangements will be billed to the program by the hospice.

2. *Waiver of statutory and regulatory requirements.* Waivers of medicare coverage and reimbursement requirements and exclusions will be granted to successful respondents to permit payment for hospice services to patients with a life expectancy of 6 months or less. Respondents may also propose alternate reimbursement methods. Payment under medicaid will be made based on requests by State agencies for waivers under its medicaid program.

A hospice responding to this invitation will have to delineate all of the services which it will provide to the patients participating in the demonstration, and to the extent possible, identify those statutory and regulatory requirements that will need to be waived. Waivers should be requested only to allow medicare/medicaid coverage of those services which the hospice provides directly or under contractual arrangements.

The following examples of medicare requirements and exclusions are provided for the information of potential respondents. Contact should be made with the Medicaid State agency regarding waivers of medicaid requirements.

Medicare waivers for in-home hospice services may include:

a. Waiver of the "home-bound" requirement for home health services.

b. Waiver of the exclusion of drugs and biologicals provided in the home. Palliative drugs medically recognized and accepted will be reimbursed by the medicare program. HCFA will determine on an individual hospice basis whether coverage and reimbursement will extend to prescription drugs such as antiemetics, antidepressants, and steroids.

c. Waiver of the "skilled nursing requirement" so that payment will be made for services which are considered a custodial level of care.

d. Waiver of the requirement for a new plan of treatment upon a patient's discharge following reinstitutionalization. Because some hospice patients will be institutionalized to stabilize their conditions, the current medicare requirement that a new plan of treatment be established at each discharge may be waived.

e. Waiver of the current limits of 100 home health visits allowed under part A of medicare. Coverage of in-home hospice services may be expanded under part A of the medicare home health benefit with no numerical limits.

f. Waivers of the medicare provisions relating to a 3-day prior hospital stay, establishment of a plan of treatment by a physician within 14 days of discharge from a hospital or SNF and treatment for a condition treated in the hospital or SNF.

g. Waiver of exclusion of reimbursement for bereavement counseling to the family by a nurse or other qualified professional after the death of a hospice patient.

h. Waiver of restrictions on reimbursement for visits by psychologists, psychiatrists, and other qualified professionals made to the hospice patient and family.

i. Waiver of restrictions on reimbursement for visits made by the hospice team to hospice patients who have been reinstitutionalized.

j. Waiver of applicable coinsurance and deductibles for hospice services which are approved during the demonstration.

k. Waiver of the current medicare cost reimbursement principles for hospice services if respondent proposes and HCFA accepts an alternative reimbursement system (e.g., capitation, prospective rates, etc.).

l. Waiver of the requirement that a patient must be in need of skilled nursing care, physical therapy, or speech therapy in order to utilize home health benefits.

Medicare waivers for inpatient hospice services may include:

a. Waiver of current medicare cost reimbursement principles for services provided by hospitals and skilled nursing facilities (SNF's) if a respondent proposes and HCFA accepts an alternative reimbursement system.

b. Waiver of the level of care requirements which must be satisified before a patient can receive covered hospital or SNF services.

c. Waivers of the medicare requirements for a 3-day prior hospital stay, transfer within 14 days of discharge from a hospital, and treatment for a condition treated in the hospital.

d. Waiver of the current limits on hospital and SNF days, scope and duration of benefits such that limits on the stay in a hospital-hospice and SNF-hospice will not be applied.

e. Waiver of deductible and coinsurance for a patient admitted to an institutional hospice.

f. Waiver of the limitations of the "benefit period" for admission to and coverage of services provided by institutional hospices.

3. *Conditions for payment.* The following requirements must be met before payment may be made for medicare or medicaid beneficiaries:

a. Beneficiaries must have a life expectancy of less than 6 months as certified by a physician who has treated the patient or can be shown to have complete knowledge of the patient's medical status.

b. The hospice home care program must assure that a primary care person is available on an "around the clock" basis. (This can be a family member, friend, or hired help.)

c. Plans of treatment must be established within 3 days of admission to the home care hospice and within 2 days of admission to the inpatient hospice.

d. Beneficiaries must give informed consent, in writing, to the hospice plan of treatment.

4. *Method of reimbursement.* Reimbursement of hospice services will be made on a cost related basis following medicare principles of reimbursement for hospitals, SNF's and home health agencies, unless other specific reimbursements methods have been proposed and accepted. However, the cost for any capital expenditure (as defined in section 1122(g) of the Social Security Act) will not be recognized as a reasonable cost in determining reimbursement for demonstration project services, when such expenditures are initiated subsequent to agreement with the hospice program to participate in the project.

The respondent is encouraged to propose an alternative reimbursement system, e.g., a propective system or a capitation rate per month, or for total hospice care. (If the hospice proposal is deemed acceptable by HCFA, except that HCFA denies use of the proposed reimbursement system, HCFA reserves the right to offer such respondent reimbursement under the "reasonable cost" basis.) The method of reimbursement proposed by the State in its application for coverage of hospice inhome and inpatient services provided to medicaid recipients must be approved by HCFA.

Special project funds other than for the delivery of hospice services are not available under this announcement. Applicants interested in project grant funds for research or data collection activities are referred to the HCFA announcement of research and demonstrations grants which appeared in the FEDERAL REGISTER on April 13, 1978.

5. *Operational procedures.* Phase I of the demonstration activity will be a 3- to 6-month developmental period. Phase II will be a 24-month-demonstration period. Phass III will be a 3-month-close-out period.

HCFA will reimburse for hospice services provided to a beneficiary who lives longer than 6 months after the beneficiary becomes a hospice patient. Coverage and reimbursement will extend beyond the 24-month-demonstration period for those beneficiaries admitted to the hospice program on or before the end of the 24-month-demonstration period who have been admitted pursuant to the demonstration criteria.

All hospice medicare demonstration claims shall be submitted to and processed by an intermediary to be selected by HCFA. Upon determination that a patient is eligible for hospice services, all bills for hospice care provided to the patient and family, on an inpatient or home basis and whether the

care is provided by the hospice or by a certified provider with which the hospice has arrangements to provide cer-

and information collected in the course of the demonstration and evaluation. In recognition of the need to

Item	Description	Quantity	Date
	activities and		

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care is provided by the hospice or by a certified provider with which the hospice has arrangements to provide certain services to hospice patients shall be submitted to and processed by the specified intermediary.

For purposes of this project, all successful applicants will be required to sign a provider agreement pursuant to section 1866 of the Social Security Act.

For the purposes of Medicaid participation, the Health Care Financing Administration encourages hospices to work with their State medicaid agency to submit an application for a "waiver-only" demonstration project pursuant to section 1115(a) of the Social Security Act. We would expect that such medicaid applications would include the same scope of services and reimbursement methods proposed for medicare.

Responsibilities of Successful Respondents

1. *Data collection.* Participating hospices must agree to collect and provide information to HCFA or its agent for each patient participating in the demonstration. The data will include but will not be limited to: Source of patient referral; date of admission to hospice; length of time a patient is in hospice care; patient disposition when leaving hospice (e.g., death, admission to hospital, nursing home); place and date of patient's death; relationship of principal care giver in home; types and volume of services per visit/per day of inpatient hospice care; categories and specialities of personnel involved in providing services; and drug(s) provided and dosage(s).

In addition, HCFA or its agent will specify specific cost reporting requirements. Hospices which participate in the medicare and medicaid programs to provide other than hospice services must be able to maintain separate cost accounting records for their hospice program.

The participating hospices must provide data as requested by HCFA and the independent evaluator on a regular basis which will be specified during phase I. These reports include but are not limited to the reports listed below.

The project participants must make available to the HCFA evaluator all data, records, and reports of the hospice.

The responses received from all hospices in answer to this invitation will be made available to the independent evaluator. In the case of nonselected hospices, information in their responses may be used in a limited manner in the final evaluation report to describe the hospice approach to health care delivery.

HCFA is committed to protecting the confidentiality of patient records and information collected in the course of the demonstration and evaluation. In recognition of the need to protect patient privacy, all reports prepared during the project will primarily contain summary data only, and patients' names, addresses, social security numbers, or other patient-identifying information will not appear in any report. Individual case data will not be reported, except where appropriate approvals have been obtained from the individuals involved; otherwise, data will only appear in aggregate form combining the information from many cases or respondents.

2. *Reports.* The successful respondents shall be required to submit the following items, subject to the Project Officer's approval:

Item	Description	Quantity	Date
1	Phase I (3 to 6 mo) monthly status report summarizing project activities. Any deviations from original time table shall be included.	10 copies (3-6 mo status reports are required).	Not later than 15 calendar days after the end of each reporting calendar month.
2	Phase II (24-mo) semiannual reports summarizing project activities for the 6-mo period. Problems, suggested resolutions, agenda and minutes of all project-related meetings shall be included. Data requested above are to be included. The Project Officer may request additional reporting data.	10 copies (2 semiannual reports are required).	Not later than 15 calendar days after the end of each reporting quarter.
3	Phase II annual report (1st yr) containing a detailed summary of the reporting year's experience, data tabulations, observations, and suggestions for operational changes.	20 copies (1 annual report is required).	Not later than 90 calendar days after the end of the first reporting year
4	Phase III final report containing background information description of objectives, purposes and scope of the project for the 1st and 2d yr of the project; description of experimental activities and significant events; and other appropriate information and observations.	25 copies.....	Not later than 90 days after the end of the 2d yr
5	Working papers related to issues pertaining to the experiment.	As required by the project officer.	

Application Procedures

1. *Application forms.* A standard application kit has been developed for the HCFA research and demonstration program. The standard application consists of several parts, some of which will not be required for purposes of the hospice demonstration. However, respondents will be asked to provide information about their individual hospice program. Hospice programs interested in participating in these projects should request the application kits and guidance for completion of the forms from:

Health Care Financing Administration, Project Grants Branch, 4200-C, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone 202-245-0671.

The hospice program application to HCFA will be for medicare purposes. The State medicaid agency must submit a separate application to HCFA for medicaid purposes. (This requirement is necessitated by the separate and distinct authorities for demonstration activity and reimbursement under the two programs.)

2. *Closing dates and times.* In order to be considered under this invitation for participation in a demonstration project, applications from hospice programs must be received by the Project Grants Branch (at the address shown above) not later than 3 p.m. local time, Monday, January 15, 1979. Applications from medicaid State agencies must be received by the Project Grants Branch not later than 3 p.m. local time, Monday, January 29, 1979. Applications received after these cutoff dates will not be considered unless they were sent by registered or certified mail 5 working days in advance of the specified dates. The postmark on the package will establish the date the application was mailed.

(Section 402 of the Social Security Amendments of 1967, as amended by section 222(b) of Pub. L. 92-603; section 1115(a) of the Social Security Act.) (42 U.S.C. 1315.)

Dated: October 24, 1978.

William D. Fullerton,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-30416 Filed 10-26-78; 8:15 am]

Federal Register

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PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF LABOR

Employment and Training Administration

FISCAL YEAR 1979 VETERANS PREFERENCE INDICATORS OF COMPLIANCE LEVELS

[4510-30-M]

DEPARTMENT OF LABOR

of compliance, respectively. 20 CFR 653.230(a) states:

To help in determining whether the

mation regarding methodology for determining values is available upon request from Mr. Rell (See, FOR FUR-

the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with

Veteran applicants placed/veteran applicants=(see list below for State values).

(v) A minimum of (individual State

cants shall be inactivated with some reportable service.

Veteran applicants inactivated with some service/veteran applicants=(see list below

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[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 653]

FISCAL YEAR 1979 VETERANS PREFERENCE INDICATORS OF COMPLIANCE LEVELS

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration of the Department of Labor is proposing to update the levels for the veterans preference indicators of compliance for fiscal year 1979 as it is required to do on an annual basis by its regulations. The veterans preference indicators of compliance are used by the Department to monitor State employment service agencies to insure that veteran applicants receive priority service as required by 38 U.S.C. Chapters 41 and 42 and by 20 CFR Part 653, Subpart C. In addition, some revision in definitions of veterans of the Vietnam era is proposed.

DATES: Comments due November 27, 1978.

ADDRESSES: Comments on the proposed rule should be sent to: William B. Lewis, Administrator, U.S. Employment Service, Room 8000, 601 D Street NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Peter Rell, Director, Office of Program Review, U.S. Employment Service, Room 8324, 601 D Street NW., Washington, D.C. 20213, 202-376-6914.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Chapters 41 and 42 of Title 38 U.S. Code, provide for job counseling, training and placement services for veterans. The Secretary issued regulations to implement 38 U.S.C. Chapters 41 and 42 on November 2, 1976 at 41 FR 48250. The Department published proposed regulations for the fiscal year 1978 veterans indicators of compliance levels on August 26, 1977, at 42 FR 43201. Comments from interested persons were received, reviewed and incorporated, as appropriate, into the final fiscal year 1978 indicator values, which were published on March 3, 1978, at 43 FR 9092. Technical corrections to the final rule were published on March 28, 1978, at 43 FR 12855. The regulations are found at 20 CFR Part 653, Subpart C. Sections 653.221-226 and 653.230 of that subpart set forth standards of performance governing State agency services to veterans and veterans preference indicators of compliance, respectively. 20 CFR 653.230(a) states:

To help in determining whether the standards of performance set forth in sections 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

20 CFR 653.230(c) states in pertinent part:

Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

20 CFR 653.230(e) states:

ETA shall establish numerical values for the veteran preference indicators of compliance for each Federal fiscal year for: (1) Veterans vesus nonveterans; (2) veterans of the Vietnam era versus nonveterans; and (3) disabled veterans versus nonveterans.

INDICATORS OF COMPLIANCE

In accordance with 20 CFR 653.230(a) (c) and (e), historical experience for each State agency and influence of factors outside of each State agency's control were used to identify the fiscal year 1979 veterans preference indicators and propose appropriate numerical values for each indicator. Historical performance data reviewed covered 6 months of fiscal year 1978 as well as fiscal year 1977 and fiscal year 1976. In addtion to historical data and external factors, the fiscal year 1979 compliance indicators reflect the opinions and comments received from interested persons throughout this fiscal year on the appropriateness of the current set of compliance indicators.

Based on these factors, ETA proposes the following changes to the veterans indicators of compliance:

1. Revise the floors (minimums) for each State's level of expected accomplishment for applicants "placed" and "inactivated with some reportable service." These revisions are based on past performance and the influence of external factors.

2. Establish a floor for each State's level of expected accomplishment for reportable service for "job development." With the addition of recent data, regression analysis has shown that external factors significantly influence this indicator.

3. Establish floor and preference levels for the "referred to training" indicators, based on newly available statistical data.

The proposed floor level for "counseling" and all preference levels other than "referred to training" are unchanged from fiscal year 1978. Information regarding methodology for determining values is available upon request from Mr. Rell (See. FOR FURTHER INFORMATION CONTACT section. above).

DEFINITIONAL CHANGES

One of the goals of the Department of Labor is to work toward consistent definitions between programs operated under the Employment and Training Administration. Where possible, administrative action is being taken to achieve this consistency.

An amendment to the existing definition of "veteran of the Vietnam era" is being proposed as part of the effort toward this goal. This amendment removes the qualifier that veterans of the Vietnam era must have been separated or discharged within the last 48 months. In addition, a new term, "recently separated veteran of the Vietnam era" is being added. This new term, will, in effect, have the same definition as "veteran of the Vietnam era" had during fiscal year 1978 but it will be limited in its application to the indicator having to do with the Federal contractor job listing program described at section 653.230(i) of this subpart.

Accordingly, 20 CFR 653, Subpart C is amended to read as follows:

PART 653—SERVICES OF THE EMPLOYMENT SERVICE SYSTEM

Subpart C—Services for Veterans

§ 653.201 [Amended]

1. A new definition is inserted alphabetically to read as follows:

"Recently separated veteran of the Vietnam era" means a "veteran of the Vietnam era" who was discharged or released from active duty within 48 months of his/her application for employment.

2. The definition for "veteran of the Vietnam era" is amended to read as follows:

"Veteran of the Vietnam era" means a person who: (1) Served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era (August 5, 1964, through May 7, 1975) and was discharged or released therefrom with other than a dishonorable discharge; or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

3. The wording of § 653.230 is amended to read as follows:

§ 653.230 Veterans preference indicators of compliance.

(a) To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "nonveteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors.

(1) The floor levels shall be stated as the ratio of veteran individuals served to the number of veterans applying for service, rather than the number of veterans served, to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods, and locations. The floor levels of accomplishment for fiscal year 1978 shall be as follows:

(i) A minimum of 6 percent of those veterans applying for service shall be counseled.

Veterans counseled/veteran applicants=6 percent.

(ii) A minimum of 1.5 percent of all veteran applicants shall be referred to in training.

Veterans referred to training/veteran applicants=1.5 percent.

(iii) A minimum of (individual State values) percent of all veteran applicants shall be provided job development.

Veteran applicant job development contacts/veteran applicants=(see list below for State values).

(iv) A minimum of (individual State values) percent of all veteran applicants shall be placed in jobs.

Veteran applicants placed/veteran applicants=(see list below for State values).

(v) A minimum of (individual State values) percent of all veteran applicants shall be inactivated with some reportable service.

Veteran applicants inactivated with some service/veteran applicants=(see list below for State values).

	(iii) Job development	(iv) Placed	(v) Inactivated with some reportable service
	Percent	*Percent*	*Percent*
Region I (Boston):			
Connecticut	10	14	35
Maine	13	24	45
Massachusetts	6	19	47
New Hampshire	2	24	39
Rhode Island	13	24	47
Vermont	1	24	53
Region II (New York):			
New Jersey	11	22	45
New York	6	22	33
Puerto Rico	1	23	60
Virgin Islands			
Region III (Philadelphia):			
Delaware	5	14	37
District of Columbia	13	24	45
Maryland	7	20	44
Pennsylvania	8	19	39
Virginia	7	22	50
West Virginia	1	23	40
Region IV (Atlanta):			
Alabama	6	24	53
Florida	10	24	60
Georgia	13	24	58
Kentucky	6	23	55
Mississippi	13	24	60
North Carolina	13	23	54
South Carolina	13	22	44
Tennessee	13	23	59
Region V (Chicago):			
Illinois	8	18	42
Indiana	1	19	42
Michigan	1	16	34
Minnesota	13	24	50
Ohio	2	18	39
Wisconsin	11	24	43
Region VI (Dallas):			
Arkansas	13	24	60
Louisiana	7	24	58
New Mexico	1	24	60
Oklahoma	11	24	60
Texas	9	24	60
Region VII (Kansas City):			
Iowa	13	24	51
Kansas	13	24	55
Missouri	9	24	49
Nebraska	13	24	60
Region VIII (Denver):			
Colorado	5	24	42
Montana	8	24	60
North Dakota	13	24	60
South Dakota	13	24	60
Utah	9	24	52
Wyoming	1	24	60
Region IX (San Francisco):			
Arizona	1	24	59
California	3	23	51
Guam			
Hawaii	1	24	57
Nevada	7	23	44
Region X (Seattle):			
Alaska	13	24	44
Idaho	3	24	58
Oregon	1	24	46
Washington	1	24	43

(2) Only after a State agency meets three of its five expected levels of accomplishment—one of which must be the floor level for placement—shall the veterans' indicators be applied.

(d) The ETA shall compare the level of State agency services for veterans versus that for nonveterans by examining rates of service rather than the numbers of persons served to compensate for the differing sizes of comparison groups and to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. In addition, the two groups, veterans and

nonveterans, shall be compared after adjustments for demographic and other appropriate characteristics to

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100

ments to paragraphs (f)-(i) of this section.

(k)(1) State agency performance

agencies shall be required to provide documentary evidence to the ETA that their failure is based on good

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nonveterans, shall be compared after adjustments for demographic and other appropriate characteristics to make them as comparable as possible within the limitations of available data systems.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

(1) Veterans versus nonveterans;

(2) Veterans of the Vietnam era versus nonveterans; and

(3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be stated as follows:

(1) The ratio of veteran applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 25 percent.

Veterans' counseled/veteran applicants ÷ nonveterans counseled/nonveteran applicants − 1.00 = 25 percent.

(2) The ratio of veteran applicants referred to training to the total number of veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 20 percent.

Veterans referred to training/veteran applicants ÷ nonveterans referred to training/nonveterans applicants − 1.00 = 20 percent.

(3) The ratio of job development contacts made for veterans to the total number of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 50 percent.

Job development contacts for veterans/veteran applicants ÷ job development contacts for nonveterans/nonveteran applicants − 1.00 = 50 percent.

(4) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 10 percent.

Veteran placed/veteran applicants ÷ nonveterans placed/nonveteran applicants − 1.00 = 10 percent.

(5) The ratio of veteran applicants inactivated with some service to the total number of veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least 15 percent.

Veterans inactivated with some service/veteran applicants ÷ nonveterans inactivated with some service/nonveteran applicants − 1.00 = 15 percent.

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 35 percent.

Vietnam-era veterans counseled/Vietnam-era veteran applicants ÷ nonveterans counseled/nonveteran applicants − 1.00 = 35 percent.

(2) The ratio of Vietnam-era veteran applicants referred to training to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 30 percent.

Vietnam-era veterans referred to training/Vietnam-era veteran applicants ÷ nonveterans referred to training/nonveteran applicants − 1.00 = 30 percent.

(3) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 60 percent.

Job development contacts for Vietnam-era veterans/Vietnam-era veteran applicants ÷ job development contacts for nonveterans/nonveteran applicants − 1.00 = 60 percent.

(4) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 15 percent.

Vietnam-era veterans placed/Vietnam-era veteran applicants ÷ nonveterans placed/nonveteran applicants − 1.00 = 15 percent.

(5) The ratio of Vietnam-era veteran applicants inactivated with some service to the total number of Vietnam-era veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least 20 percent.

Vietnam-era veterans inactivated with some service/Vietnam-era veteran applicants ÷ nonveterans inactivated with some service/nonveteran applicants − 1.00 = 20 percent.

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least 100 percent.

Disabled veterans counseled/disabled veteran applicants ÷ nonveterans counseled/nonveteran applicants − 1.00 = 100 percent.

(2) The ratio of disabled veteran applicants referred to training to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least 40 percent.

Disabled veterans referred to training/disabled veteran applicants ÷ nonveterans referred to training/nonveteran applicants − 1.00 = 40 percent.

(3) The ratio of job development made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least 75 percent.

Job development contacts for disabled veterans/disabled veteran applicants ÷ job development nonveterans/nonveteran applicants − 1.00 = 75 percent.

(4) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least 20 percent.

Disabled veterans placed/disabled veteran applicants ÷ nonveterans placed/nonveteran applicants − 1.00 = 20 percent.

(5) The ratio of disabled veteran applicants inactivated with some service to the total number of disabled veteran applicants shall exceed the ratio of nonveterans inactivated with some service to the total number of nonveteran applicants by at least 25 percent.

Disabled veterans inactivated with some service/disabled veteran applicants ÷ nonveterans inactivated with some service/nonveteran applicants − 1.00 = 25 percent.

(i) The veterans preference indicator of compliance for State agency action under the mandatory job listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of recently separated veterans of the Vietnam era and special disabled veterans placed in job openings listed pursuant to the Federal Contractor Job Listing Program to total number of individuals placed in those job openings shall exceed 7 percent.

(j) Following analysis of the past fiscal year's accomplishments, the numerical value for each of the veterans preference compliance indicators for the next fiscal year will be published in the FEDERAL REGISTER as amendments to paragraphs (f)-(i) of this section.

(k)(1) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular operational planning and review system (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. In order to meet the indicators of compliance, a State agency must:

(i) Meet the placement and any two of the remaining four floor levels of accomplishment at paragraph (c) of this section; and

(ii) Meet 10 of the 19 veterans preference indicators of compliance at paragraphs (f)-(i) of this section, giving each of the three placement indicators double weight.

(2) ETA shall consider failure to meet either of these conditions as evidence that the state agency is not complying with the performance standards at § 653.221-226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA, pursuant to subpart H of part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to subpart H of part 658 of this chapter.

(3) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to subpart H of part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

Signed at Washington, D.C. this 19th of October, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-30471 Filed 10-26-78; 8:45 am]

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PART VI

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PART VI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

MANDATORY PETROLEUM PRICE REGULATIONS

Amendment to Allow Refiners To Allocate Increased Cost to Gasoline on a Greater Than Pro Rata Volumetric Basis

[3128-01-M]

Title 10—Energy

CHAPTER XX—DEPARTMENT OF ENERGY

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendment to Allow Refiners To Allocate Increased Cost to Gasoline on a Greater Than Pro Rata Volumetric Basis

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Final rule.

SUMMARY: This amendment to the Mandatory Petroleum Price Regulations allows refiners to allocate increased cost to gasoline on a greater than pro rata volumetric basis. The amendment is necessary to encourage refiners to produce gasoline rather than other petroleum products. The amendment is intended to increase the production of gasoline.

DATES: Effective October 27, 1978. Comments must be received on or before November 27, 1978.

ADDRESS: Comments should be addressed to: Department of Energy, Office of General Counsel, Docket No. ERA-R-78-40, 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-264-7200;

Department of Energy, Office of General Counsel, Docket No. ERA-R-78-40, 1000 Independence Avenue SW., Room 6B-222, Washington, D.C. 20585, 202-252-6736.

FOR FURTHER INFORMATION CONTACT:

Robert Bernstein (Office of General Counsel), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-264-7200;

Thomas Dukes (Office of General Counsel), 1000 Independence Avenue SW., Room 6B-222, Washington, D.C. 20585, 202-252-6736.

SUPPLEMENTARY INFORMATION: On September 1, 1976 (41 FR 30096, July 22, 1976), the regulations permitted the reallocation to gasoline of in-

be greater than the percentage of gasoline in a refiner's output and would vary for differing refinery yields of

vestment in new gasoline production facilities, especially those for unleaded gasoline. Moreover, since refiners are

and have determined to adopt the second and fourth alternatives proposed by FEA on February 11, 1977

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[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

[Docket No. ERA-R-77-3]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendment To Allow Refiners To Allocate Increased Costs to Gasoline on a Greater Than Pro Rata Volumetric Basis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts amendments to the mandatory petroleum price regulations which will permit refiners to allocate increased costs to gasoline on a greater than pro rata volumetric basis. These amendments are being issued as an interim measure, pending decontrol of gasoline, to reform certain aspects of the current regulatory framework which could prohibit full pass through to gasoline of actual increased costs associated with gasoline, to promote investment in new facilities for the production of gasoline, especially unleaded gasoline, and to facilitate the transition of gasoline from a controlled to a decontrolled environment. In addition to issuing these amendments, ERA is requesting comments on whether the present regulations and the amendments adopted provide sufficient incentive for refinery investment.

DATES: Effective December 1, 1978. Written comments by February 15, 1979, 4:30 p.m.

ADDRESS: All comments to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-77-3, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202-634-2170;

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-264-7200;

Ben McRae (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Amendments adopted.
III. Additional comments requested.
IV. Other matters.

I. Background

The pricing regulations applicable to refiners generally provide that the maximum allowable price for a product is the sum of the weighted average price at which the product was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus allowable increased costs incurred between the month of measurement and the month of May 1973. The regulations specify the method of calculation of such increased costs, both product and nonproduct, and the method of their allocation to the prices of all products (or product categories) in a refiner's product mix.

Under the regulations, a refiner's total increased costs of crude oil and increased nonproduct costs are allocated among gasoline and other products based on the relative volumes of such products refined from crude oil in the month of measurement. However, because of the relatively more sophisticated refining processes necessary to produce gasoline, the portions of increased crude oil and nonproduct costs associated with refining gasoline are for most refiners actually greater than the percentage of a refiner's volumetric output of gasoline. In order to increase the yield of gasoline, refiners may purchase and refine higher-priced light gravity crude oil, thereby incurring higher increased product costs that are not attributable to products other than gasoline. Moreover, refining nonproduct costs and the cost of facilities for production of gasoline, particularly unleaded gasoline, are generally higher than for production of other heavier products. Indeed, in order to meet the lead phasedown and other Clean Air Act requirements with respect to the gasoline pool needed to satisfy gasoline demand, refiners are incurring substantial increased costs. For example, increased severity of reforming and use of new catalysts to improve octane required to produce unleaded gasoline adds substantially to refiner costs.

Prior to the decontrol of residual fuel oil on June 1, 1976 (41 FR 13896, April 1, 1976), of middle distillates on July 1, 1976 (41 FR 24516, June 16, 1976), and of naphtha, gas oil, lubricants and certain other products on September 1, 1976 (41 FR 30096, July 22, 1976), the regulations permitted the reallocation to gasoline of increased costs initially allocated to these other controlled products but not recovered in the prices charged for these products. The ability to reallocate increased costs from other controlled products to gasoline permitted prices that corresponded with the historical pattern of higher prices for gasoline relative to other petroleum products to reflect the generally higher costs of refining gasoline. Data obtained from the thirty largest refiners for the period March 1975 through May 1976, during which time all major refined products were controlled, indicate that refiners utilized the ability to reallocate costs from other products to gasoline to a significant degree. Present regulations continue to allow costs to be reallocated from other controlled products to gasoline, but since most products other than gasoline are now decontrolled, the opportunity to allocate more than a pro rata volumetric share of costs to gasoline is severely limited.

On February 11, 1977, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking and public hearing (42 FR 9675, February 17, 1977) on changes in the refiner price regulations to provide the pricing flexibility refiners possessed prior to the earlier decontrol amendments by permitting the allocation of increased costs to gasoline on a greater than pro rata volumetric basis, so that market prices for refined products could remain in their traditional relationship which reflected the generally higher costs of refining gasoline. Four alternative amendments to the refiner price regulations to accomplish this result were proposed: The first would have permitted the reallocation to gasoline of the actual amounts of increased costs that would be allocated on a pro rata basis to exempt products but not recovered through sales of such products; the second would have permitted the allocation to gasoline of 110 percent of the amount of increased costs of crude oil that could be allocated to gasoline on a pro rata volumetric basis; the third would have permitted each refiner to reallocate to gasoline the same additional percentage of increased costs which that refiner reallocated to gasoline from other covered products during the base year May 1975 through April 1976; and the fourth proposed three alternative mechanisms to permit the allocation to gasoline of a more appropriate proportion of increased nonproduct costs. One of the options under the fourth alternative was use of a formula to allocate to gasoline a fraction of total increased nonproduct costs. Under the formula, the fraction would be greater than the percentage of gasoline in a refiner's output and would vary for differing refinery yields of gasoline to allow a greater allocation for refiners with higher gasoline yields.

A public hearing was held on the proposal on March 24-25, 1977 in Washington, D.C. and written comments were received. The majority of the comments recommended that total refinery costs, rather than only product or only nonproduct costs, should be reallocated. However, most refiners were critical of the specific alernative proposals to reallocate total refinery costs. Refiners stated that implementation of the first alternative noted above would violate the spirit of deregulation, because refiners would be required to calculate the amounts of increased costs allocable on a pro rata basis to and recovered in the sales of exempted products as if these products were still subject to price controls. Refiners noted, moreover, that the first alternative would restrain prices of decontrolled products. Nearly all the refiners also argued that the third alternative would be inappropriate since the market conditions which led to refiners' reallocation decisions in 1975 would not be relevant in 1977 or thereafter.

Many refiners recommended the adoption of both alternatives two and four, so that they would have the opportunity to reallocate all refinery costs. Some refiners argued, moreover, that 115 percent of increased product costs determined on a pro rata volumetric basis, rather than 110 percent, should be reallocated to gasoline.

Prior to its expiration on September 30, 1977, FEA took no action on the proposal to allow the reallocation of increased costs to gasoline on a greater than pro rata volumetric basis. DOE (which, effective October 1, 1977, assumed the functions of FEA) has continued consideration of this proposal under section 705 of the Department of Energy Organization Act (Pub. L. 95-91).

II. Amendments Adopted

Because of the pro rata volumetric allocation provisions, we believe that the current price regulations prevent most refiners from recovering fully the actual increased costs attributable to the production of gasoline. Refiners that purchase more expensive higher yield crude oils in order to increase their yield of gasoline and refiners that have invested in sophisticated production facilities to increase the yield and octane of gasoline may be especially penalized. This situation could discourage gasoline production and investment in new gasoline production facilities, especially those for unleaded gasoline. Moreover, since refiners are able to recover some of the increased costs actually attributable to the production of gasoline only in the prices they charge for exempt products, consumers of those other products, including home heating oil and fuel oil for electric utilities, may have to bear the burden of some of the increased costs of gasoline. Therefore, we are hereby amending the refiner price regulations to allow the allocation to gasoline of increased costs on a greater than pro rata volumetric basis. We have evaluated the alternative proposed amendments in light of the comments received and current conditions and have determined to adopt the second and fourth alternatives proposed by FEA on February 11, 1977.

The amendments adopted today will permit a refiner to allocate to gasoline as much as 110 percent of the amount of increased crude oil costs attributable to gasoline on a pro rata volumetric basis, which are determined by multiplying the refiner's total increased crude oil costs by the ratio of the volume of gasoline refined to the total volume of all products refined.

In addition, the amendments will permit a refiner to allocate to gasoline increased nonproduct costs on a greater than pro rata volumetric basis up to an amount determined in accordance with the following formula:

$$\text{Maximum fraction allocable to gasoline} = 1 - \left(1 - \frac{\text{Volume of gasoline refined}}{\text{Volume of all products refined}}\right)^2$$

The following are examples of fractions of increased nonproduct costs which may be allocated to gasoline under this formula:

Ratio of volume of gasoline to total volume of all products	Fraction of total increased nonproduct costs which may be allocated to gasoline
0	0
.10	.19
.20	.36
.30	.51
.40	.64
.50	.75
.60	.84
.70	.91
1.00	1.00

The amendments will grant refiners more flexibility to allocate to gasoline those increased costs actually attributable to the production of gasoline.

To the extent that increased crude oil and nonproduct costs allocated to gasoline under these amendments are not recovered in the current month, they may be banked for future recovery as provided in the pricing regulations.

III. Additional Comments Requested

Although we believe that these amendments will assign increased crude oil and nonproduct costs to gasoline in a manner more closely reflecting the actual relative costs of refining gasoline, this rulemaking will be continued for the purpose of receiving additional comments on these amendments and the need, if any, for further changes in the regulations to promote investment by refiners in production facitities, especially those for unleaded gasoline.

We specifically request comments on whether refiners' May 15, 1973 unit profit margins, which arguably have been eroded by inflation, are currently insufficient to generate capital to modernize or expand refineries. We are particularly interested in factual data that would support regulatory changes in this area, and examples of any investments that were planned but have not been implemented because of the present regulatory limitations. We also request comments on whether the regulations should be amended to provide specific rules for the treatment of investments made with internally generated or borrowed funds and whether, in light of the amendments adopted today, there in any continuing need to amend the regulations to provide for the recovery of a fair rate of return on refinery investment. Comments supporting amendments to allow recovery of a rate of return should address the manner in which the regulations should so provide.

Comments will be received until February 15, 1979. You should submit 15 copies of your comments to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-773, 2000 M Street NW., Washington, D.C.

[1] Editorial note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

20461. All comments received by DOE will be available for public inspection

Issued in Washington, D.C., October 22, 1978.

(II) Beginning not later than March 1, 1977 or, at the option of each refiner, beginning as of any month price thereto but not

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20461. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday.

Any information or data considered by you to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 204.9 (f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination. While we anticipate that we will proceed with the decontrol of gasoline prices in the near future, thus making further changes in the refiner price regulations relating to gasoline unnecessary for the immediate future, we nevertheless will consider comments received in connection with our continuing consideration of the proposed standby product price and allocation regulations (43 FR 29565, July 10, 1978) that would be used in the event of a major crude oil or product supply interruption.

IV. Other Matters

In adopting this rule, we have considered, in accordance with Executive Order 12044, the economic impact of our action. We have prepared a regulatory analysis of this amendment. Copies may be obtained from the ERA, Office of Public Information, 2000 M Street NW., Room B-110, Washington, D.C., 20461, 202-634-2170.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, part 212 of chapter II of title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1978.

Issued in Washington, D.C., October 22, 1978.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Section 212.83(c)(2)(iii)(C) is amended in the definition of "A_i" to read as follows:

§ 212.83 Price rule.

* * * * * * *

(c) *Allocation of increased costs.* * * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(C) *The "A" factor.*

$$A_i = A_i^t + A_i^s + A_i^r$$

"A_i" is, for i=1, i=2, i=3, and i=4, the sum of the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 in the period "t." "A_i" also includes the increased costs of crude oil and purchased products attributable to the covered product or products of the type "i" incurred through December 31, 1975 and not passed through as of January 31, 1976, and not recovered in sales of that product through the period "t". Notwithstanding the foregoing provisions of this paragraph, for the product i=3, "A_i" shall be at least 100% (one hundred percent) of "A_i^t", plus the sum of "A_i^s" and "A_i^r"; but may, at the option of the refiner concerned, be up to 110% (one hundred ten percent) of "A_i^t", plus the sum of "A_i^s" and "A_i^r".

2. Section 212.83(c)(2)(iii)(E) is amended by amending paragraph (II) of the definition of "N_i^t" and adding a new paragraph (III) to the definition of "N_i^t" to read as follows:

§ 212.83 Price rule.

* * * * * * *

(e) *Allocation of increased costs.* * * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(E) *The "N" factor.* * * *

(II) Beginning not later than March 1, 1977 or, at the option of each refiner, beginning as of any month price thereto but not before June 1, 1976, and until December 1, 1978 but not thereafter:

$$N_i^t = E^t \left(\frac{R_i^t}{R^t} \right) + F_i^t$$

(III) Beginning December 1, 1978:

(aa) For i=3:

$$N_i^t = E^t(U_i^t) + F_i^t$$

(bb) For i=1, i=2, and i=4:

$$N_i^t = E^t(1-U_i^t)\left(\frac{R_i^t}{R^t - R_{i=3}^t} \right) + F_i^t$$

* * * * * * *

3. Section 212.83(c)(2)(iii)(E) is amended by inserting a new definition of "$R_{i=3}^t$" and a new definition of "U_i^t" between the definition of "R^t" and the definition of "E_n^t" to read as follows:

§ 212.83 Price rule.

* * * * * * *

(c) *Allocation of increased costs.* * * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(E) *The "N" factor.* * * *

$R_{i=3}^t$ = The total volume of gasoline (i=3) refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives, in the period "t".

U_i^t = The fraction of the total increased nonproduct costs (excluding marketing cost increase) allocated to gasoline by the refiner in the period "t". "U_i^t" shall be no less than

$$\frac{\left(\frac{R_{i=3}^t}{R^t} \right)}{1-\left(1-\frac{R_{i=3}^t}{R^t}\right)^2}$$

* * * * * * *

[FR Doc. 78-30427 Filed 10-25-78; 10:31 am]

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PART VII

DEPARTMENT OF INTERIOR

Bureau of Reclamation

FLOODPLAINS AND WETLANDS PROTECTION

[4310-09-M]

DEPARTMENT OF THE INTERIOR

distribution system loan programs of the Bureau of Reclamation.

missioner's office, Bureau of Reclamation, will be necessary.

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PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Interior Department, Bureau of Land Management	Sept. 28	44798
Commerce Department, Office of the Secretary	Sept. 29	45284
Transportation Department, Office of the Secretary	Sept. 29	45285
Nuclear Regulatory Commission	Oct. 6	46499
Interior Department, Heritage Conservation and Recreation Service	Oct. 13	47449
Small Business Administration	Oct. 20	49237

[4310-09-M]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

FLOOD PLAINS AND WETLANDS EXECUTIVE ORDERS

Notice of Draft Procedures

AGENCY: Bureau of Reclamation, Department of the Interior.

SUMMARY: The Bureau of Reclamation is making available for public review and comment the procedures it will use to implement Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands. The Bureau will consider comments from the public and other governmental agencies when finalizing its procedures.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: All comments should be sent to the Bureau of Reclamation, Director, Planning Policy Staff, 18th and C Streets NW., Washington, D.C. 20240. Comments will be available for public review in room 7453 at the above address from 7:45 a.m. to 4:15 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. James D. Ellingboe, 202-343-4787.

SUPPLEMENTARY INFORMATION: The U.S. Water Resources Council's Floodplain Management Guidelines for Implementing Executive Order 11988 (43 FR 6063, February 10, 1978) provides basic implementation guidelines. The Department of the Interior's draft procedures incorporate the Water Resources Council's guidelines and make them specific to the various programs of the Bureau of Reclamation.

BUREAU OF RECLAMATION COMPLIANCE WITH EXECUTIVE ORDERS 11988 (FLOODPLAIN MANAGEMENT) AND 11990 (PROTECTION OF WETLANDS)

This notice provides the Bureau of Reclamation's proposed procedures to implement Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands) hereinafter referred to as Orders. Both Orders required all Federal agencies to review their activities, procedures, and rules and regulations. These procedures are in accordance with the Water Resources Council Floodplain Management Guidelines (43 FR 6030) and the Department of the Interior's Interim Guidelines (43 FR 112—June 9, 1978). The Orders pertain to the planning, design, construction, operation, and maintenance programs and the small projects and distribution system loan programs of the Bureau of Reclamation.

The proposed procedures to implement the Orders are applicable to all Bureau of Reclamation actions. The basic objective of the Reclamation program is the development and conservation of water and related land resources. In accomplishing this objective, the Bureau assists the States, local governments, and other Federal agencies to stabilize and stimulate regional and local economics, enhance and protect the environment, and improve the quality of life in the 17 contiguous Western States and Hawaii. Under the Reclamation program procedures and guidelines, all actions that are undertaken are in accordance with but not limited to the previously mentioned Orders and Guidelines and the following:

A. Unified National Program for Floodplain Management, Water Resources Council, 1976
B. Executive Order 11514, Protection and Enhancement of Environmental Quality
C. Office of Management and Budget OMB Circular A-95.

Policy. The Bureau of Reclamation has a general mandate and broad responsibility for development, management and protection of the water and related land resources of the 17 Western States and Hawaii, their streams, wetlands, and floodplains. The policy of the Bureau of Reclamation is to exercise leadership and take action to avoid the adverse impacts associated with occupancy and modification of floodplains and wetlands and to avoid direct and indirect support of development wherever there is a practicable alternative. It is also the Bureau of Reclamation's policy to reduce the risk of flood loss; minimize the impact of floods on human health, safety, and welfare to the extent possible, and protect wetlands consistent with the Bureau's given authorities and missions.

A. To the extent practical the Bureau of Reclamation will integrate floodplain management and wetland protection requirements into its programs and will utilize existing consultation, planning, and decision processes. All Bureau of Reclamation offices will systematically review pertinent rules, regulations, and procedures to implement the requirements of the executive order insuring provisions to update procedures as necessary.

B. The Water Resources Council Guidelines for implementing the Floodplain Order are the basic guidance for interpretation of that Order and conduct of the floodplain management planning and decision process. Where deviation from the Water Resources Council guidelines is deemed necessary, concurrence with the Commissioner's office, Bureau of Reclamation, will be necessary.

The Bureau of Reclamation will adhere to the methods, standards, and definitions of terms as set forth in the Water Resources Council guidelines and incorporate them into the multiobjective planning guidelines as discussed in the Principles and Standards.

The existing Bureau of Reclamation legislative review process will be utilized in uncovering new opportunities for incorporation of floodplain management concepts into Bureau programs.

C. The definition of wetlands as contained in the Water Resources Council guidelines addresses natural conditions such as swamps, marshes, bogs, and similar areas; however, they could be interpreted to include canals, seeps, reservoirs, drains and other conditions resulting from features of water control projects.

D. The Bureau of Reclamation:

(1) Will continue to utilize technical consultation with the Water Resources Council, Council on Environmental Quality, Federal Insurance Administration, Fish and Wildlife Service, Corps of Engineers, and other institutions with expertise in the natural and beneficial values of floodplains and wetlands, through existing planning procedures.

(2) Will review its programs for applicability of the Orders and apply the Orders to their respective areas of responsibilities as discussed below. This list is not intended to be all inclusive.

(a) Planning and designing new project facilities;

(b) Modifying existing Bureau of Reclamation project facilities or in constructing new ones;

(c) Acquiring, managing, and disposing of Federal lands for project facilities;

(d) Carrying out and influencing programs involving land use and water planning and development; and

(e) Administer construction and rehabilitation programs supported or assisted by Federal grants, loans, or other forms of financial assistance.

(3) Will furnish with all requests for new authorizations or appropriations (for proposals to be located in floodplains and wetlands) a statement that the proposal is in accord with the Orders.

(4) Will be responsible for assuring compliance with the public information and other procedural requirements of the Orders.

(5) Will be responsible for all activities and compliance under the Orders including preparation of the statement of findings.

(6) Will utilize existing procedures so that documentation and specific analysis of actions and examples of re-

sponses to the Orders will be available for future reports to the Water Resources Council.

E. The Bureau of Reclamation will:

(1) Avoid to the extent possible the long and short term adverse impacts associated with the destruction of wetlands and avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

(2) Before taking an action, determine whether the proposed action will be located in a wetland. If the proposed action is located in a floodplain or wetland the Bureau will undertake early public review including any public meetings if appropriate.

(3) Identify and evaluate practicable alternatives to locating in wetlands, including alternative sites, modifications, or deferral of action.

(4) Identify the impact of the proposed action on wetlands and the impact of wetland destruction on the natural and beneficial values protected by floodplain management.

(5) Minimize the destruction, loss or degradation of wetlands.

(6) Preserve and enhance the natural and beneficial values of wetlands.

(7) Reevaluate the proposed action to determine first, if it is still practicable in light of exposure to flood hazards, extent of adverse effects on wetlands, and other factors such as public benefits; and second, if modification is required to minimize potential harm to or within the floodplain and wetlands.

(8) Circulate, summarize, and respond to comments on the final environmental impact statement for proposed actions in floodplains or wetlands.

(9) Ensure that the decision making officer reviews the proposed action's compliance with the Orders.

(10) Take appropriate action to restore and preserve the natural and beneficial values of floodplains and wetlands when possible.

F. Bureau of Reclamation Procedures for Implementing Executive Orders 11988 and 11990.

(1) Floodplain Management Procedures.

(a) Bureau of Reclamation Actions in Floodplains.

(i) Identify and evaluate practicable alternatives to locating in floodplains, including alternative sites, modifications, or deferral of action.

(ii) Identify the impact of the proposed action on floodplains and the impact of floodplain development on the natural and beneficial values protected by floodplain management.

(iii) Minimize the destruction, loss or degradation of floodplains.

(iv) Preserve and enhance the natural and beneficial values of floodplains.

(v) Reevaluate the proposed action to determine first, if it is still practicable in light of exposure to flood hazards, extent of adverse effects on floodplains, and other factors such as public benefits; and second, if modification is required to minimize potential harm to or within the floodplain.

(vi) Circulate, summarize, and respond to comments on the final environmental impact statement for proposed actions in floodplains.

(vii) Ensure that the decision making officer reviews the proposed action's compliance with the Orders.

(viii) Take appropriate action to restore and preserve the natural and beneficial values of floodplains when possible.

(b) Bureau of Reclamation Actions Affecting Floodplains.

(i) Determine whether the proposed action will affect or be affected by a floodplain.

(ii) Consider alternatives to avoid adverse effects and incompatible development in floodplains. If the only practicable alternative requires siting in a floodplain, minimize harm to or within the floodplain.

(iii) Prepare a floodplain assessment and statement of findings for proposed actions which will affect floodplains.

(iv) Provide for early public review of proposals for actions in floodplains, including any public meetings if appropriate.

(v) Circulate, summarize, and respond to comments on the final environmental impact statement for proposed actions affecting floodplains.

(vi) Ensure that the decision making officer reviews the proposed action's compliance with the Orders.

(vii) Take appropriate action to restore and preserve the natural and beneficial values of floodplains when possible.

(2) Wetland Protection Procedures.

(a) Bureau of Reclamation Actions in Wetlands.

(i) Avoid to the extent possible the long and short term adverse impacts associated with the destruction of wetlands and avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

(ii) Identify and evaluate practicable alternatives to locating in wetlands, including alternative sites, modifications, or deferral of action.

(iii) Identify the impact of the proposed action on wetlands and the impact of wetland destruction on the natural and beneficial values protected by floodplain management.

(iv) Minimize the destruction, loss or degradation of wetlands.

(v) Preserve and enhance the natural and beneficial values of wetlands.

(vi) Reevaluate the proposed action to determine first, if it is still practicable in light of exposure to flood hazards, extent of adverse effects on wetlands, and other factors such as public benefits; and second, if modification is required to minimize potential harm to or within the floodplain and wetlands.

(vii) Circulate, summarize, and respond to comments on the final environmental impact statement for proposed actions in floodplains or wetlands.

(viii) Ensure that the decision making officer reviews the proposed action's compliance with the Orders.

(ix) Take appropriate action to restore and preserve the natural and beneficial values of floodplains and wetlands when possible.

(b) Bureau of Reclamation Actions Affecting Wetlands.

(i) Determine whether the proposed action will affect or be affected by a wetland.

(ii) Consider alternatives to avoid adverse effects and incompatible development in wetlands. If the only practicable alternative requires siting in a wetland, minimize harm to or within the wetland.

(iii) Prepare a wetland assessment and statement of findings for proposed actions which will affect wetlands.

(iv) Provide for early public review of proposals for actions in wetlands, including any public meetings if appropriate.

(v) Circulate, summarize, and respond to comments on the final environmental impact statement for proposed actions affecting wetlands.

(vi) Ensure that the decision making officer reviews the proposed action's compliance with the Orders.

(vii) Take appropriate action to restore and preserve the natural and beneficial values of wetlands when possible.

Dated: October 20, 1978.

JAMES G. WATT,
Commissioner of Reclamation.

FRIDAY, OCTOBER 27, 1978
PART VIII

V 43 / 209 OCT 27 78

sponses to the Orders will be available for future reports to the Water Resources Council. In the evaluation of the potential effects of any actions we may take in a floodplain or wetland, the Bureau will consider the factors discussed in detail in Part II of the Water Resources Council guidelines.

Reporting requirements. If there is no practicable alternative to locating an action in the floodplain or wetlands, a report of this finding will be made using existing planning and National Environmental Policy Act of 1969 procedures. An early public review of plans is required whenever an action is proposed. This public review should be accomplished under the existing Bureau of Reclamation reporting procedures. The following information is required by Executive Order 11988 and shall be included in existing reporting requirements, as appropriate, for general investigation studies, projects in design and construction stages, studies under special authorities, and activities under the operations and maintenance program; and apply to both floodplains and wetlands:

A. If there is no practicable alternative to locating an action in a floodplain or wetland, a public notice shall be prepared and circulated to the general public and affected agencies. The notice shall include the following:

(1) A description of why the action must be located in a floodplain or wetland;

(2) a description of significant facts considered in making the determination to locate in a floodplain or wetland, including alternative sites and actions considered and any tradeoffs that were made; and

(3) a statement indicating whether the proposal conforms to applicable State or local floodplain or wetland protection standards. The public notice issued upon completion of a study action, review of an environmental statement for a proposed action, or its equivalent will serve as the means to satisfy these requirements of the Order.

B. If the notice is not provided by another process, a separate notice, not to exceed three pages in length, including a location map, will be provided to State and areawide A-95 Clearinghouse for the geographic area affected, when an action is to be located in a floodplain or wetland.

C. New authorizations for construction starts transmitted to the Office of Management and Budget shall provide information on whether a proposed action will be located in a floodplain or wetland. If the proposed action is located in a floodplain or wetland the transmittal to the Office of Management and Budget shall provide information on compliance with the Orders. Support documents shall include statements on whether the action affects the natural and beneficial values of a floodplain or wetland; steps taken to minimize potential harm to or within a floodplain or wetland caused by the action; and steps taken to restore and preserve the natural and beneficial floodplain or wetland values.

Public involvement. To insure that adequate information and opportunities are provided early in the decisionmaking process to allow the public to participate effectively in floodplain or wetland management decisions, a public involvement program shall:

(1) Include as broad an audience as appropriate;

(2) Provide continuous interaction and involvement opportunities for the public during the decisionmaking process;

(3) Provide information which promotes the fullest understanding of the proposed action; and

(4) Provide timely opportunities for all segments of the public to affect an action or plan before alternative actions have been precluded. The public in the affected area shall be advised early, through the public participation process, whenever a proposed plan will result in action in the base floodplain or wetland. In addition to existing Water Resources Council and National Environmental Policy Act of 1969 public involvement processes, the Bureau of Reclamation will continue to use other public information methods such as news releases, newsletters, and public meetings to inform the interested public.

Applications to Bureau of Reclamation's program. The provisions of Executive Order 11990 shall be implemented not later than 90 days after the departmental guidelines are published or November 30, 1978, whichever comes first. The Orders do not apply to projects or programs for which draft or final environmental impact statements have been filed prior to October 1, 1977, nor to projects currently under construction nor for which construction funding was approved in the fiscal year 1979 program.

A. Planning studies. At the earliest stages of planning, the policy and procedures of these guidelines shall be incorporated in the multiobjective planning process to a scope and level appropriate for appraisal, feasibility, and definite plan studies. For those studies for which reports have been completed and forwarded to the Commissioner of Reclamation, supplemental information concerning implementation of the Executive Orders shall be provided.

B. Design and construction. Assistant Commissioner—Engineering and Research shall insure that projects in the design and construction stage comply with the intent and objectives of the orders as set forth in these guidelines.

C. Operation and maintenance activities. The policies and procedures of the guidelines are applicable to operation and maintenance activities of the Bureau of Reclamation. Regional Directors shall insure that projects operated and maintained within their jurisdiction comply with the policies and procedures set forth in these guidelines.

(1) When considering a request for the lease, rental, purchase, or any other short- or long-term use of Reclamation land by a non-Federal public or private entity, the potential effects on any floodplain or wetland area resulting from the proposed use of the land must be evaluated to determine if the proposal would or could encourage modification or development which could lead to human habitation or excessive degradation of the floodplain or wetland area.

(2) When proposing to convey right or title to Reclamation lands within a floodplain or wetland to a non-federal public on private entity, Reclamation shall:

(a) Reference in the conveying document those uses that are restricted under identified Federal, State, or local floodplain or wetland regulations; and

(b) Attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successors, except where prohibited by law; or

(c) Withhold such properties from conveyance;

(d) For recreation or other public use areas located in a floodplain or wetland, the Bureau of Reclamation shall mark on structures and other appropriate areas conspicuous delineation of past and probable flood heights.

Dated: October 25, 1978.

R. KEITH HIGGINSON,
Commissioner of Reclamation.

[FR Doc. 78-30609 Filed 10-26-78; 8:45 am]

federal register

FRIDAY, OCTOBER 27, 1978
PART VIII

THE NATIONAL ARCHIVES OF THE UNITED STATES 1934

DEPARTMENT OF THE TREASURY

Customs Service

NON-RUBBER FOOTWEAR FROM HONG KONG

Final Administrative Action Pursuant to Executive Order 11846

[4810-22-M]

footwear from Hong Kong only where such footwear are accompanied by a valid certificate of Hong Kong origin

the United States, prior to November 27, 1978, and entered or withdrawn from warehouse for consumption into

As you know, it was decided by the interagency committee to initiate consultations with the Government of Hong Kong, as provided for in paragraph 4(b) of proclamation

V 43/209 OC 27 78

[4810-22-M]

[T. D. 78-409]

DEPARTMENT OF THE TREASURY

Customs Service

NON-RUBBER FOOTWEAR FROM HONG KONG

Administrative Action Pursuant to E.O. 11846

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final administrative action pursuant to Executive Order 11846.

SUMMARY: This notice is to advise the public that the U.S. Government will accept entry of nonrubber footwear from Hong Kong only where accompanied by valid certification of Hong Kong origin. The Government of Hong Kong is establishing a certification system for verifying the Hong Kong origin of nonrubber footwear exports to the United States. Consultations between the Governments of Hong Kong and the United States have resulted in these administrative actions to be undertaken by both Governments. These actions impose no quantitative limitations on such imports. The purpose of these actions is to prevent disruption of the effectiveness of recently negotiated nonrubber footwear orderly marketing agreements between the United States and the Republics of China and Korea.

EFFECTIVE DATE: November 27, 1978.

FOR FURTHER INFORMATION CONTACT:

David Ramsay, Special Operations Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-2957.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Subsequent to the negotiation of orderly marketing agreements concluded with the Republics of China and Korea in June of 1977, relating to imports of nonrubber footwear from those countries, imports of such footwear from Hong Kong increased sharply. In order to insure the effectiveness of the aforementioned agreements, consultations were undertaken between the United States and Hong Kong.

As a result of these consultations, certain administrative actions are to be taken by each country regarding such specified nonrubber footwear. The Government of Hong Kong is establishing a certification system for verifying the Hong Kong origin of nonrubber footwear exports to the United States. The United States will accept entry of specified nonrubber footwear from Hong Kong only where such footwear are accompanied by a valid certificate of Hong Kong origin and when such products meet all other U.S. entry requirements. No quantitative limitations are being imposed as part of this administrative action.

Pursuant to the authority of section 203 (g)(2) of the Trade Act of 1974 (19 U.S.C. 2253(g)(2)), section 5(b) of Executive Order 11846 (dated March 27, 1975) and section (3) of Presidential Proclamation 4510 (dated June 22, 1977), the U.S. Customs Service has been directed to implement the above-described administrative action. A copy of the directive from the special representative for trade negotiations is appended.

Because this rulemaking implements agency action as authorized by statute (section 203(g)(2)), and Executive Order (E.O. 11846), and requires no public initiative, notice and public procedure thereon is found to be impracticable and unnecessary.

DRAFTING INFORMATION

The principal author of this document was Michael Lublinski, Office of the Chief Counsel, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

ACTION

Entries of nonrubber footwear, as designated in annex A (appended), which are exported from Hong Kong on or after November 27, 1978, may not be entered, or withdrawn from warehouse for consumption into the United States unless accompanied by a valid certificate of Hong Kong origin, issued by the appropriate Hong Kong authorities, as designated in annex B (appended). The statement "* * * made in Hong Kong," which appears on the certificate of Hong Kong origin, means that the certifying official in Hong Kong is satisfied that the requirements of the Government of Hong Kong have been met.

A valid certificate of Hong Kong origin will consist of the original copy, properly signed and certified in any one of seven formats, as designated in annex C (appended). It is noted, however, that the aforementioned certificates (printed in black) should not be confused with a similar certificate of "Hong Kong Origin-Processing" (printed in blue), which certificate is not acceptable as to this administrative action.

Excepted from the provisions of this notice are footwear having an aggregate value of not over $100 in any shipment imported for the personal use of an importer, and footwear manufactured in Hong Kong which are exported, either directly or indirectly, to the United States, prior to November 27, 1978, and entered or withdrawn from warehouse for consumption into the United States before February 1, 1979.

Importers whose shipments of nonrubber footwear are denied entry because they are not accompanied by a valid certificate of Hong Kong origin, and which otherwise are believed to qualify for entry under the certification criteria established by the Government of Hong Kong, may request valid certification to be supplied by the manufacturer/exporter in Hong Kong.

Subject to subsequent modification or termination, this administrative action shall be in effect until June 30, 1981. There is appended a copy of the draft letters exchanged between the Governments of the United States and Hong Kong embodying descriptions and understandings with respect to administrative actions to be taken by each Government regarding nonrubber footwear.

AUTHORITY

This action is undertaken pursuant to the authority vested in the Secretary of the Treasury, by section (3) of Presidential Proclamation 4510 (dated June 22, 1977), to issue rules and regulations governing the entry, or withdrawal from warehouse, for consumption in the United States of certain nonrubber footwear articles which are the product of countries not subject to the orderly marketing agreements now in effect on these products.

DONALD W. LEWIS,
Acting Commissioner of Customs.

Approved: October 25, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

APPENDIX I

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS
Washington, October 15, 1978.

Hon. W. MICHAEL BLUMENTHAL,
Secretary of the Treasury,
Washington, D.C.

DEAR SECRETARY BLUMENTHAL: Pursuant to Executive Order 11846 and Presidential Proclamation 4510 of June 24, 1977, the Secretary of the Treasury is authorized to issue regulations pursuant to section 203(g)(2) of the Trade Act 1974 (19 U.S.C. 2253(g)(2) governing entry or withdrawal from warehouse for consumption of certain nonrubber footwear articles which are the product of countries not subject to the orderly marketing agreements now in effect on those products.

This authority is to be exercised upon direction by the special representative for trade negotiations in consultation with representatives of member agencies of the Trade Policy Staff Committee.

As you know, it was decided by the interagency committee to initiate consultations with the Government of Hong Kong, as provided for in paragraph 4(b) of proclamation 4510. As a result of those consultations, the U.S. Government will accept entry of specified nonrubber footwear from Hong Kong only where such footwear are accompanied by a valid certificate of Hong Kong origin and when such products meet all other U.S. entry requirements. This action is to be implemented pursuant to 203(g)(2) of the Trade Act, which requires regulations to be issued by the Department of the Treasury.

Since these actions are to be implemented no later than November 15, 1978, the regulations should be published in the FEDERAL REGISTER no later than Monday, October 9, in order to give the public, the trade, and customs field offices sufficient notice.

Attached is a copy of an exchange of letters with the Government of Hong Kong setting forth the administrative actions to be taken by each Government. The Department of Commerce supplied technical information and assistance in preparing these administrative guidelines and can therefore be called upon, as provided in Executive Order 11846, to assist in the preparation of the required 203(g)(2) regulations.

Sincerely,
ROBERT S. STRAUSS

Secretary, JUANITA KREPS.
Commissioner, ROBERT CHASEN.

APPENDIX II

ANNEX A: PRODUCT COVERAGE

The following items from the Tariff Schedules of the United States Annotated (as revised Jan. 1, 1978) are covered by the United States administrative arrangements:

Footwear provided for in items 700.05 through 700.85 inclusive (except items 700.51, 700.52, 700.53, 700.54, 700.60, 700.75, and disposable footwear designed for one-time use provided for in item 700.85) of the Tariff Schedules of the United States (TSUS).

ANNEX B: ORGANIZATIONS APPROVED FOR THE ISSUE OF CERTIFICATES OF ORIGIN

(1) Trade Industry and Customs Department.
(2) Hongkong General Chamber of Commerce.
(3) Indian Chamber of Commerce, Hongkong.
(4) Chinese Manufacturers' Association of Hongkong.
(5) Federation of Hongkong Industries (2 formats).
(6) Chinese General Chamber of Commerce.

[4810-22-C]

EXPORTER (Full Name & Address)

ORIGINAL

EXPORTER (Full Name & Address)

[4810-22-C]

EXPORTER (Full Name & Address) ANNEX C	*Certificate No.*
CONSIGNEE (If required)	GOVERNMENT OF HONG KONG CERTIFICATE OF HONG KONG ORIGIN

Carrier	Port of Loading	Date of Departure (on or about)	Country of Destination
Port of Discharge	Final Destination. If on Carriage		Factory Number

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight (in words and figures)	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

CUSTOMS & INDUSTRY DEPT. — DATE OF ISSUE -2 X 78 — HONG KONG

DIRECTOR OF TRADE INDUSTRY & CUSTOMS
by Director of Commerce and Industry

ORIGINAL

EXPORTER (Full Name & Address)	*Certificate No.*
CONSIGNEE (If required)	ISSUED BY THE HONG KONG GENERAL CHAMBER OF COMMERCE *Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923.* CERTIFICATE OF HONG KONG ORIGIN

Carrier	Port of Loading	Date of Departure (on or about)	Country of Destination
Port of Discharge	Final Destination. If on Carriage		Factory Number

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight (in words and figures)	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

FOR THE HONG KONG GENERAL CHAMBER OF COMMERCE

EXPORTER (Full Name & Address)	*Certificate No.*
CONSIGNEE (If required)	GOVERNMENT OF HONG KONG CERTIFICATE OF HONG KONG ORIGIN

Carrier	Port of Loading	Date of Departure (on or about)	Country of Destination
Port of Discharge	Final Destination. If on Carriage		Factory Number

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight (in words and figures)	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

CUSTOMS & INDUSTRY DEPT. — DATE OF ISSUE -2 X 78 — HONG KONG

DIRECTOR OF TRADE INDUSTRY & CUSTOMS
by Director of Commerce and Industry

EXPORTER (FULL NAME & ADDRESS)	*Certificate No.*
CONSIGNEE (If required)	ISSUED BY THE HONG KONG GENERAL CHAMBER OF COMMERCE *Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923.* CERTIFICATE OF HONG KONG ORIGIN

Carrier	Port of Loading	Date of Departure (on or about)	Country of Destination
Port of Discharge	Final Destination. If on Carriage		Factory Number

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight (in words and figures)	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

FOR THE HONG KONG GENERAL CHAMBER OF COMMERCE

V 43/209 0 C 27 7 8

V 43/209 0 C 27 7 8

EXPORTER (Full Name & Address)

CONSIGNEE (If required)

Certificate No.

ISSUED BY

THE INDIAN CHAMBER OF COMMERCE HONG KONG

Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923

CERTIFICATE OF HONG KONG ORIGIN

ORIGINAL

Carrier	Port of Loading	Date of Departure	Country of Destination
Port of Discharge	Final Destination. If on Carriage	(on or about)	Factory Number

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight (in words and figures)	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

THE INDIAN CHAMBER OF COMMERCE HONG KONG

FOR THE INDIAN CHAMBER OF COMMERCE HONG KONG

DATE Secretary

EXPORTER (FULL NAME & ADDRESS)

CONSIGNEE (IF REQUIRED)

CERTIFICATE NO.

DATE OF ISSUE

THE CHINESE MANUFACTURERS' ASSOCIATION OF HONG KONG

Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923

CERTIFICATE OF HONG KONG ORIGIN

CARRIER	PORT OF LOADING	DATE OF DEPARTURE	COUNTRY OF DESTINATION
PORT OF DISCHARGE	FINAL DESTN. IF ON CARRIAGE	(on or about)	FACTORY NUMBER

MARK(S) & NUMBER(S)	NUMBER AND TYPE OF PACKAGES & DESCRIPTION OF GOODS	QUANTITY OR WEIGHT (in words and figures)	BRAND NAMES OR LABELS (if any)
	SPEC...		

I HEREBY CERTIFY THAT THE GOODS DESCRIBED ABOVE WERE MADE IN HONG KONG

for President of
THE CHINESE MANUFACTURERS' ASSOCIATION OF HONG KONG

Certificate No.

EXPORTER (Full Name & Address)

V 43/209 OC 27 78

Certificate No.

CONSIGNEE (If required)

FEDERATION OF HONG KONG INDUSTRIES

Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923

CERTIFICATE OF HONG KONG ORIGIN

ORIGINAL

Carrier	Port of Loading	Date of Departure	Country of Destination
Port of Discharge	Final Destination. If on Carriage	(on or about)	Factory Number

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight (in words and figures)	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

EXPORTER (Full Name & Address)

CONSIGNEE (If required)

ORIGINAL

FEDERATION OF HONG KONG INDUSTRIES

Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923

Date of issue

Carrier	Sea / Airport of Loading HONG KONG	Date of Departure	Country of Destination
Port of Discharge	Final Destn. (If on Carriage)	(on or about)	

Mark(s) & Number(s)	Number and Type of Packages & Description of Goods	Quantity or Weight	Brand Names or Labels (if any)
	SPECIMEN		

I hereby certify that the goods described above were made in Hong Kong.

Director. **Federation of Hong Kong Industries**

EXPORTER (FULL NAME & ADDRESS)

[4810-22-M]

APPENDIX III

LETTERS ON ADMINISTRATION BY UNITED

unaccompanied by valid Certificates of Hong Kong Origin.

5. It is the understanding of the Government of Hong Kong that nothing in these

ment of the United States of America with respect to the subjects contained therein.

In order to administer efficiently the above mentioned agreements which ac-

V 43/209 OCT 27 78

EXPORTER (FULL NAME & ADDRESS)

ORIGINAL

CONSIGNEE (IF REQUIRED)

ISSUED BY
香港中華總商會
THE CHINESE GENERAL CHAMBER OF COMMERCE
HONG KONG

Approved and designated as an issuing authority by the Hong Kong Government under the Customs Formalities Convention of 1923.

CERTIFICATE NUMBER

CARRIER	FROM	DATE OF DEPARTURE (ON OR ABOUT)	COUNTRY OF DESTINATION
PORT OF DISCHARGE	HONG KONG		

MARK(S) & NUMBER(S)	NUMBER & TYPE OF PACKAGES & DESCRIPTION OF GOODS	WEIGHT OR QUANTITY	BRAND NAMES OR LABELS
	SPECIMEN		

I HEREBY CERTIFY THAT THE GOODS DESCRIBED ABOVE WERE MADE IN HONG KONG.

FOR THE CHINESE GENERAL CHAMBER OF COMMERCE HONG KONG

[4810-22-M]

APPENDIX III

LETTERS ON ADMINISTRATION BY UNITED STATES AND HONG KONG CONCERNING CERTAIN NONRUBBER FOOTWEAR

The following letters have been exchanged between the Government of the United States and the Government of Hong Kong setting forth the respective administrative actions to be taken by each country with regard to certain specified nonrubber footwear and setting forth certain cooperative efforts to assure effective administration of each system. The U.S. action is being taken pursuant to section 203(g)(2) of the Trade Act (19 U.S.C. 2253(g)(2)) and Presidential Proclamation No. 4510, dated June 22, 1977.

Draft—Hong Kong Letter

DEAR ——:I attach a copy of an Order made on (date) under (instrument). The effect of this Order is to require all footwear exported from Hong Kong to be subject to licensing except for goods which are in transit.

2. Following consultations between representatives of the Government of Hong Kong and the Government of the United States in Hong Kong in August, and in Washington in September 1978,

having regard to the agreements which the Government of the United States has entered into with certain countries on trade in nonrubber footwear,

in view of the concern expressed by the Government of the United States regarding increased exports of such products from Hong Kong to the United States,

in view of the traditional role of Hong Kong as an entrepot,

in view of the need to distinguish between nonrubber footwear which meets the origin criteria of the Government of Hong Kong and other exports from Hong Kong of nonrubber footwear,

the Government of Hong Kong has decided to introduce by October 15, 1978, if possible, but not later than November 1, 1978, as a condition for the issue of a licence of export to the United States of the nonrubber footwear listed in Annex I of Hong Kong origin as defined in Annex II that exporters shall obtain a Certificate of Hong Kong Origin issued by the competent authorities in Hong Kong. These authorities are listed in Annex III.

3. The Certificate of Hong Kong Origin will be in the form set out in Annex IV. The words "Made in Hong Kong" which appear in the Certificate of Hong Kong Origin mean that all the manufacturing processes listed in Annex II have been carried out in Hong Kong and the officer authorized to sign the Certificate of Hong Kong Origin has satisfied himself to this effect.

4. It is the understanding of the Government of Hong Kong that the U.S. authorities will accept entry of all such products when accompanied by a valid Certificate of Hong Kong Origin issued by the competent authorities in Hong Kong as earlier discussed and as elaborated in your letter to the Government of Hong Kong of today's date and when other appropriate U.S. entry requirements are met. Procedures will be introduced where the facts allow, to provide for the issue or reissue of Certificates of Hong Kong Origin in cases where such certificates are lost or shipments are otherwise unaccompanied by valid Certificates of Hong Kong Origin.

5. It is the understanding of the Government of Hong Kong that nothing in these administrative arrangements shall preclude either government from exercising its GATT rights. Should either government contemplate exercising its GATT rights, it shall afford full opportunity to the other for prior consultation. In critical circumstances where delay would cause damage difficult to repair, GATT rights may be exercised provisionally without prior consultations on the condition that consultations shall be effected immediately after taking the action.

6. In any consultations, the Governments of the United States and Hong Kong shall seek mutually acceptable arrangements to meet the concerns of the United States.

7. Notwithstanding paragraph 5 above, the Government of Hong Kong will not demur should the Government of the United States, in order to maintain the effectiveness of its agreements with certain other countries, which would otherwise be disrupted, deny entry of imports from Hong Kong of the nonrubber footwear listed in annex I of your letter of today's date when such products are not accompanied by a valid Certificate of Hong Kong Origin.

8. It is the understanding of the Government of Hong Kong that either Government may request consultations to meet the concerns of either Government at any time on any matters arising from these arrangements.

9. The Government of Hong Kong understands that these arrangements will be reviewed by both Governments no later than 30 June 1979.

10. The Government of Hong Kong understands that these arrangements shall remain in force until 30 June 1981 unless earlier modified or terminated after consultations and without objection by either party, or unless terminated by either party on giving 60 days prior written notice to the other party.

11. This letter and your letter of today's date on behalf of the Government of the United States, shall constitute an understanding between the Governments of the United States and Hong Kong with regard to the administrative actions set forth in these letters.

12. Accept, Sir, the renewal of my highest consideration.

Yours sincerely,

Draft—United States Letter

DEAR ——: This is to acknowledge your letter of today's date detailing measures to be taken by the Government of Hong Kong with respect to certain nonrubber footwear, which reads as follows:

(Text of the Government of Hong Kong letter to be inserted)

The Government of the United States of America appreciates the decision by the Government of Hong Kong to take these administrative actions, to help assure that present agreements covering trade in nonrubber footwear between the Government of the United States of America and certain other governments, implemented pursuant to Presidential Proclamation 4510 on June 22, 1977, do not become ineffective. Further, the Government of the United States of America agrees that the understandings set forth in your letter of today's date correspond to the understandings of the Government of the United States of America with respect to the subjects contained therein.

In order to administer efficiently the above mentioned agreements, which account for a major part of U.S. imports of the articles covered by the agreements, the President has delegated to the Special Representative for Trade Negotiations the authority found in U.S. statutes, to initiate consultations with countries from which imports have increased and which may be threatening the effectiveness of the agreements and to take action under U.S. law to provide for the issuing of regulations affecting entry, or withdrawal from warehouse for consumption, of such articles (19 U.S.C. 2253(g)(2).

Accordingly and following consultation with the Government of Hong Kong, the Government of the United States of America will take the following administrative actions pursuant to U.S. statutes.

A. The United States authorities shall accept entry of nonrubber footwear products when accompanied by a valid certificate of Hong Kong origin issued by the competent authorities in Hong Kong, and when such products meet all other U.S. entry requirements.

B. The United States authorities may deny entry to imports of the nonrubber footwear listed in annex I of this letter when such products are not accompanied by a valid certificate of Hong Kong origin.

Such nonrubber footwear exported [1] from Hong Kong to the United States on or after November 15, 1978 will require a valid certificate of Hong Kong origin (in the form set out in annex IV of the letter of today's date of the Government of Hong Kong) in order to permit entry or withdrawal from warehouse for consumption in the United States.

Nonrubber footwear exported [1] From Hong Kong to the United States prior to November 15, 1978 will not be allowed entry or withdrawal from warehouse for consumption in the United States after January 31, 1979 without a valid certificate of Hong Kong origin.

C. These U.S. administrative actions will be in effect until June 30, 1981, unless earlier modified or terminated in accordance with the understanding recorded in this letter and your letter of today's date.

This letter and your letter of today's date quoted above constitutes an understanding between our two Governments with regard to the administrative actions set forth in these letters.

Accept, Sir, the renewal of my highest consideration.

Yours sincerely, ————

ANNEX I—PRODUCT COVERAGE

The following items from the Tariff Schedules of the United States Annotated (as revised January 1, 1978) are covered by the U.S. administrative arrangements:

Footwear provided for in items 700.05 through 700.85 inclusive (except items 700.51, 700.52, 700.53, 700.54, 700.60, 700.75, and disposable footwear designed for one-time use provided for in item 700.85) of the Tariff Schedules of the United States (TSUS).

[FR Doc. 78-30626 Filed 10-26-78; 8:45 am]

[1] The date on which goods are "exported" shall be the date on which the export carrier last departs Hong Kong.

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PART IX

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FRIDAY, OCTOBER 27, 1978
PART IX

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

SURFACE COAL MINING AND RECLAMATION OPERATIONS; PERMANENT REGULATORY PROGRAM

Extension of Time for Filing Comments and Announcement of Public Hearing

[4310-05-M]

DEPARTMENT OF THE INTERIOR

the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977, 43 FR 41662,

Janiak, H. K. 1977b. Purification of waters from strip lignite mines. Poltegor, Wroclaw, Poland.
Sidio, A. D., and Mackenthun, K. M. 1963.

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[4310-05-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Chapter VII]

SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM

Public Hearing and Extension of Time for Filing Comments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Announcement of public hearing and extension of time to file comments on proposed rules, regulatory analysis and draft environmental impact statement.

SUMMARY: This announcement schedules an additional public hearing on the proposed rules for the permanent regulatory program and extends the time by which comments on the proposed rules, regulatory analysis and draft environmental impact statement must be received.

DATES: The public hearing will be held November 22, 1978. Comments will be accepted on the draft environmental impact statement until 5 p.m., November 27, 1978. Comments will be accepted on the proposed rules and regulatory analysis until 5 p.m., November 27, 1978.

ADDRESSES: Written comments must be mailed to the Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044; or be hand delivered to: Office of Surface Mining, Room 120, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240. The hearing will be held at the Department of the Interior Auditorium, 18th and C Streets NW., Washington D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ron Drake, Special Assistant to the Director, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, 202-343-5371.

SUPPLEMENTARY INFORMATION: On September 18, 1978, the Office published proposed rules to implement the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977, 43 FR 41662, September 18, 1978. In the preamble to the proposed rules and in the draft environmental impact statement the Office listed all technical literature and other source material considered in developing the proposed rules. The Office has determined that not all the technical literature listed was available for public perusal during the week of October 16, 1978, in Room 120, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C.

As of Friday, October 27, 1978, all the technical literature and other source material which the Office relies upon as support for the proposed rules, regulatory analysis, and draft environmental impact statement will be assembled in Room 120, U.S. Department of the Interior, South Building. To assure at least a full 30-day comment period and public hearing on the source material supporting the proposed rules, regulatory analysis and draft environmental impact statement the Office has decided to extend the comment period until no later than 5 p.m. on November 27, 1978. The Office will also conduct one additional public hearing in Washington, D.C. on November 22, 1978, at 9:30 a.m., Department of the Interior Auditorium, 18th and C Streets NW., Washington, D.C. 20240. Persons wishing to testify at that hearing should contact Pat Foulk, 202-343-4953, to schedule a time for their statement. The public hearing will follow the same procedures as outlined for public hearings in the September 18, 1978 FEDERAL REGISTER notice at 43 FR 41662-41663.

This notice also extends the November 17, 1978, date for public comments on the draft programmatic environmental impact statement previously identified in FEDERAL REGISTER notices of October 4, 1978 (43 FR 45886-45887), and October 23, 1978 (43 FR 49361), to November 27, 1978 by no later than 5 p.m.

The following literature listed in the preamble to the proposed rules and draft environmental impact statement is deleted from such documents:

Dean, D. C., and Havens, R. 1971. Vegetative stabilization of mill tailings using municipal and mineral wastes. Presented at the Environmental Quality Conference for the Extraction Industries, American Institute of Mining Engineers, Washington, D.C., June 7-9.

Janiak, H. K. 1977b. Purification of waters from strip lignite mines. Poltegor, Wroclaw, Poland.

Sidio, A. D., and Mackenthun, K. M. 1963. Report on pollution of the interstate waters of the Monongahela River system. U.S. Department of Health, Education, and Welfare, Public Health Service, R. A. Taft Sanitary Engineering Center, Cincinnati, Ohio.

Karplus, W. J. 1958. Analog simulation-solution of field problems. McGraw-Hill, New York, N.Y. Part 2.

McKee, C., Fischer, D. D., Jacobsen, R. J., Weh, T., and Drever, J. 1978. Ground water problems associated with licensing of in-situ uranium and coal gasification operations. Proc. of 4th Annual Coal Conversion Symposium, Steamboat Springs, Colo., July 17-20, 1978, U.S. Department of Energy. (Lawrence Livermore Laboratory.)

Meade, S. W., Ganow, H. C., and Whang, T. T. 1973. Ground water and subsidence investigation of the LLL in situ coal gasification experiments. Proceedings of 4th Annual Coal Conversion Symposium, Steamboat Springs, Colo., July 17-20, 1978, U.S. Department of Energy, Lawrence Livermore Laboratory. (In print.)

Moser, P. J. 1971. Aesthetic and ecological disharmonies of highways. Elsevier Publishing Co., Amsterdam, Holland.

North Dakota State University, 1972. Mine land reclamation. Agriculture Experiment Station. Farm Research, vol. 34, No. 3, pp. 35-37.

Prickett, T. A., and Lonnquist, C. G. 1971. Selected digital computer techniques for groundwater resource evaluation. Illinois State Water Survey, Urbana.

Rausch, D. L. and Heinemann, H. G. 1975. Controlling reservoir trap efficiency. Transactions American Society for Agricultural Engineers, vol. 18, No. 6, pp. 1105-1113.

Russell, H. H. 1964. Control of gob pile fires by injection of finely divided material. Final Progress Report, BCR Report L-148, submitted to Penn Coal Research Board, Department of Mines and Mineral Industries, Commonwealth of Pennsylvania, December, 35 pages.

Sowolile, D. 1966. Soil erosion of slopes of waste dumps by water. Land Reclam. Res. Sta., Ostrava, Uhli No. 12, 452-453, NCB Trans. A. 2615.

Struthers, P. H. 1962. Mineral salts absorption in plants. International Press, N.Y.

Tung, H. S. 1975. Impacts of contour mining on streamflow—A case study in New River Basin Tennessee. University of Tennessee, Doctorial thesis, Knoxville, Tenn.

Permit Regulations for Process Discharges/In-Situ Mining, Land Quality Department, Department of Environmental Quality, Cheyenne, Wyo.

Date: October 25, 1978.

JOAN M. DAVENPORT,
Assistant Secretary,
Energy and Minerals.

[FR Doc. 78-30627 Filed 10-26-78; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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S. 3412 ..... Pub. L. 95-512
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H.J. Res. 1147 ..... Pub. L. 95-513
Authorizing and requesting the President to designate the seven-day period beginning on May 28, 1979, as "Vietnam Veterans Week". (Oct. 25, 1978; 92 Stat. 1802). Price: $.60.

H.R. 10587 ..... Pub. L. 95-514
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H.R. 10161 ..... Pub. L. 95-516
For the relief of Eastern Telephone Supply and Manufacturing, Incorporated, and other matters. (Oct. 25, 1978; 92 Stat. 1816). Price: $.60.

H.R. 11945 ..... Pub. L. 95-517
To authorize the Secretary of the Army to return to the Federal Republic of Germany ten paintings of the German Navy seized by the United States Army at the end of World War II. (Oct. 25, 1978; 92 Stat. 1817). Price: $.60.

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S. 1626 ..... Pub. L. 95-519
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H.R. 5029 ..... Pub. L. 95-520
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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[3410-05-M]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 4]

PART 1435—SUGAR

Subpart—Price Support Loan Program for 1977 Crop Sugar beets and Sugarcane

RELOCATING 1977 CROP LOAN SUGAR

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions under which the cost of relocating 1977 crop loan sugar may be borne by the Commodity Credit Corporation (CCC).

CCC will reimburse processors for their cost of transferring 1977 crop loan sugar, intended for forfeiture, to alternate storage space when the present storage space is needed for storage of 1978 crop sugar. The alternate storage space must be (1) arranged for by the processor; (2) determined by CCC to be safe for the storage of loan sugar; (3) available to CCC, under terms acceptable to CCC, for the storage of CCC owned sugar upon maturity of the loan; (4) not needed for the storage of the 1978 crop of sugar; and (5) located, to the extent possible, between the production and marketing areas for such sugar. Such relocation must be made prior to the loan maturity date. The processor must reimburse CCC for relocation costs paid by CCC, plus interest thereon, with respect to any quantity of loan sugar subsequently redeemed.

EFFECTIVE DATE: September 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Laurence E. Ackland, ASCS, PSD, 202-447-5647, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 902 of the Food and Agriculture Act of 1977 (Pub. L. 95-113, 91 Stat. 949, effective October 1, 1977) amended section 201 of the Agricultural Act of 1949 to provide that the price of the 1977 and 1978 crops of sugar beets and sugarcane shall be supported through loans or purchases with respect to the processed products thereof.

On November 11, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 58734) implementing a program effective as of November 8, 1977, to support prices in the marketplace for producers of 1977 crop sugar beets and sugarcane through nonrecourse loans made to sugar processors. The price support loan program for the 1977 crop was amended on May 17, 1978 (43 FR 21317), on August 23, 1978 (43 FR 37419), and on August 30, 1978 (43 FR 38686).

Florida and Texas processors who have put 1977 crop raw cane sugar under loan have done so to the maximum possible extent of their existing physical storage capacity. Loan sugar presently in storage totals about 330,000 tons in Florida and 50,000 tons in Texas. None of the 1977 crop loans will mature before November 30, 1978, and most will mature by March 31, 1979. With the harvest of the 1978 sugarcane crop due to begin in early November, Florida and Texas processors have become increasingly concerned about storage space for new crop sugar.

Indications are that, because of low prices and a lack of market opportunity, about 250,000 tons of Florida loan sugar and 50,000 tons of Texas loan sugar will not be redeemed by existing maturity dates. About 100,000 tons of refined beet sugar is in the same category, but the storage problem is not believed to be as critical in the beet area.

The regulations permit CCC to take delivery at processor's place of storage of unredeemed sugar upon maturity of loans. No additional outlays are incurred when CCC assumes costs of relocating sugar intended to be forfeited since such sugar would have to be moved from processor storage at CCC expense when forfeited. By assuming such costs prior to loan maturity, CCC outlays will only be incurred at an earlier date.

The need in certain areas for storage space for the 1978 crop of sugar became so pressing that it was determined the implementation of this action did not permit compliance with applicable rulemaking requirements.

In accordance with Executive Order 12044, dated March 23, 1978, a final impact analysis of this action has been prepared. An approved final Impact Analysis is available from Laurence E. Ackland, rrom 5761, South Building, USDA, Washington, D.C. 20250.

Accordingly, 7 CFR 1435.22 is amended by redesignating paragraph (a) as paragraph (a)(1) and by adding a new paragraph (a)(2) to read as follows:

. . . . . .

§ 1435.22 **Loan Maintenance and liquidation.**

(a)(1) *Maintenance of the commodity under loan.* • • •

(a)(2) *Relocation of loan sugar intended for forfeiture.* A processor may, with prior approval of the loan-making office, relocate sugar under loan, which is in storage space needed for the storage of 1978 crop sugar, to other eligible storage space not needed for the storage of 1978 crop sugar. In addition to the requirements of § 1435.19(d), the eligibility of such alternate space shall depend upon the ability of CCC to enter into a contract permitting the storage of sugar in the same space subsequent to loan maturity of the sugar to be relocated to such space. To the extent possible, such storage space must be located between the production and marketing areas for the sugar relocated. For that portion of the quantity of loan sugar which the processor declares an intention to forfeit on maturity of the loan and which is relocated in accordance with the above conditions, CCC shall pay the loading-out, transportation, and loading-in expenses incurred by the processor in the relocation of such sugar: *Provided, however,* That such expenses, plus interest thereon at 6 percent per annum, must be repaid to CCC by the processor for any relocated sugar upon its redemption from loan.

. . . . . .

(Secs. 201, 401 *et seq.*, Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 *et seq*))

arcane; and (2) establishes differential loan rates for both offshore and mainland sugar based on the estimated

upward adjustments in both the sugar-beet parity price (from the estimated $45.40 per net ton to $47.10) and the

loan rate for beet sugar processors located in the Eastern area, plus an additional premium for packaged sugar under loan. One other respondent sup-

tion area to destination representative of the true value of the sugar to the Commodity Credit Corporation (CCC) in the event of takeover? The Depart-

that final announcement of the 1978 crop support prices and loan rates will not be unduly delayed. Accordingly, it is hereby determined that any further

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(Secs. 201, 401 *et seq.*, Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 *et seq.*))

NOTE.—It is hereby certified that a regulatory analysis of this action has been prepared in accordance with Executive Order 12044.

Signed at Washington, D.C., on October 24, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-30504 Filed 10-25-78; 10:57 am]

[3410-05-M]

[Amdt. 3]

PART 1435—SUGAR

Subpart—Price Support Loan Program for 1978 Crop Sugar Beets and Sugarcane

ESTABLISHMENT OF LOCATION DIFFERENTIALS

AGENCY: Commodity Credit Corp., USDA.

ACTION: Final rule.

SUMMARY: On June 7, 1978, there was published in the FEDERAL REGISTER (43 FR 24663) a final rule setting forth the terms and conditions under which prices to domestic producers of 1978 crop sugar beets and sugarcane would be supported. The sugar beet and sugarcane support prices and the basic loan rates for refined beet sugar and raw cane sugar established in the rule were based on "estimated" July 1978 parity. The Department stated upon issuance of the rule that after announcement of July parity prices the support prices and loan rates would be increased if necessary to achieve the statutory minimum support level of 52.5 percent of parity.

The rule also established differential loan rates for sugar produced and stored in Hawaii and Puerto Rico. The locational discounts to be applied to the basic loan rate for cane sugar, raw value, were based on the estimated ocean freight and shore risk, marine and war risk insurance charges from Hawaii or Puerto Rico to the processor's normal market outlet on the mainland. At the same time, the Department stated that it was also giving consideration to establishing location differentials with respect to the loan rates for sugar produced on the mainland, and solicited views, data and recommendations on how it might be done.

This amendment to the final rule (1) increases the support prices for sugar beets and sugarcane and the basic loan rates for refined beet sugar and cane sugar, raw value, to reflect 52.5 percent of the announced July 1978 parity prices for sugar beets and sugarcane; and (2) establishes differential loan rates for both offshore and mainland sugar based on the estimated average costs of transporting sugar from the processing region to destination.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Laurence E. Ackland, ASCS, PSD, 202-447-5647, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 902 of the Food and Agriculture Act of 1977 (Pub. L. 95-1113, 91 Stat. 949, effective October 1, 1977) amended section 201 of the Agricultural Act of 1949 to provide that the price of the 1977 and 1978 crops of sugar beets and sugarcane shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 65 percent nor less than 52.5 percent of the parity price therefor. Section 201 also directs the Secretary of Agriculture, in carrying out the program, to establish minimum wage rates for agricultural employees engaged in the production of sugar crops.

On November 11, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 58734) implementing a program effective as of November 8, 1977, to support prices in the marketplace for producers of 1977 crop sugar beets and sugarcane through loans made to sugar processors. The price support loan program for the 1977 crop was amended on May 17, 1977 (43 FR 21317), on August 23, 1978 (43 FR 37419), and on August 30, 1978 (43 FR 38686).

A final rule implementing a price support loan program for the 1978 crop of sugar beets and sugarcane was published in the FEDERAL REGISTER on June 7, 1978 (43 FR 24663). Amendments to the 1978 crop program were published on August 23, 1978 (43 FR 37419) and on August 30, 1978 (43 FR 38686).

On January 10, 1978, a final rule was published in the FEDERAL REGISTER (43 FR 1476) establishing minimum wage rates for fieldworkers engaged on and after November 8, 1977, in the production, cultivation, and harvesting of the 1977 and 1978 crops of sugar beets and sugarcane.

The support prices per net ton of sugar beets and sugarcane and the basic loan rates for refined beet sugar and raw cane sugar, as established in the regulations governing the 1978 crop program, were based upon an estimate of what 52.5 percent of parity would be as of July 1978. A July survey by the USDA Economics, Statistics, and Cooperatives Service of prices received for 1977 crop sugar beets and sugarcane resulted in upward adjustments in both the sugarbeet parity price (from the estimated $45.40 per net ton to $47.10) and the sugarcane parity price (from the estimated $35.70 per net ton to $35.90). Parity prices based on data for July 1978 were published in *Agricultural Prices* on July 31, 1978.

At 52.5 percent of parity, the average support price per net ton of sugar beets is $24.73. For sugarcane, an average price of $18.85 per net ton is equal to the statutory minimum support level. After deducting 57 cents per net ton from the sugarcane support price to reflect the value of molasses (computed on the basis of average USDA quoted molasses prices at New Orleans for the time span of 1975 through the first seven months of 1978, less appropriate discounts), and applying appropriate pricing and quality factors, a basic loan rate of 14.73 cents per pound for cane sugar, raw value, was computed as necessary to achieve 52.5 percent of parity to sugarcane producers. The basic loan rate for refined beet sugar of 16.99 cents per pound is a function of the raw cane sugar loan rate—14.73 cents per pound times 1.10 (the historical relationship between refined beet sugar net selling prices and raw cane sugar prices) plus .79 cent per pound for fixed marketing expenses.

The initial regulations with respect to the 1978 crop sugar loan program established differential loan rates for sugar stored in Puerto Rico and Hawaii based on the estimated cost of ocean transport and marine risk insurance. The basic loan rate for raw sugar stored on the mainland was set at 14.65 cents per pound, with that rate to be discounted 0.46 cent (to 14.19 cents per pound) for sugar stored in Hawaii and 1.29 cents (to 13.36 cents per pound) for sugar stored in Puerto Rico. At the same time, the Department stated that it was also giving consideration to establishing locational differentials for sugar produced on the mainland. The public was invited to submit comments and recommendations on the matter of differential loan rates, and producers and processors were encouraged to submit data to document historic differences in the market prices of sugar at the various producing and processing locations.

The Department received 12 responses to its request for comments and recommendations. None of the respondents submitted data to support their recommendations, except for one or two specific examples to illustrate the recommendations made. Of the total, seven were opposed and four were in support of location differentials. One of the four in support, an association of sugar beet producers and processors, recommended a premium

loan rate for beet sugar processors located in the Eastern area, plus an additional premium for packaged sugar under loan. One other respondent supported differential loan rates provided that loans be supplemented with direct payments equal to the cost of shipping and handling. Those opposed to differentials (one cooperative refiner and six sugar processors) stated legal objections, considerations of equity, and the likelihood that their ability to pay producers would suffer. In general, users and refiners recommended discounts equal to freight expense, while processors were opposed.

One of the respondents classified as being in opposition did not take a direct stand against location differentials but stated an awareness of the philosophy behind the establishment of differentials for sugar stored offshore and reasoned that sugar produced and marketed in Puerto Rico should be eligible for the full basic loan rate since transportation and insurance costs for delivery to the mainland would not be incurred. The respondent said that the following two categories of sugar in Puerto Rico should not be subject to a location discount: (1) Sugar already marketed under contract for future delivery to a purchaser on the Island, and (2) sugar to be sold for local consumption on a demand basis to independent distributors. This sugar would be used as loan collateral with redemption taking place as delivery occurred. This recommendation has not been adopted. Since it would be the processors' intention to redeem the entire quantity of such sugar placed under loan, the Department believes it to be of no substantial consequence to the processor if the loan rate is discounted. If the full basic loan rate was provided there would be no assurance to CCC that the processor would not forfeit a portion of the collateral, particularly with respect to the second category of sugar.

The recommendation that a premium loan rate be provided for packaged beet sugar has also not been adopted. The Department feels that the processor has the opportunity to use either bulk or bagged sugar as collateral for a loan and should not receive a premium just because bagged sugar is placed under loan.

In considering the recommendations and available data, the Department felt that the decision on whether to adopt loan rates incorporating location differentials turned on two questions. First, is it the intent to support the price to producers equally at every factory, or to vary that support with differentials consistent with normal market values? Second, are differential loan rates based on the costs of transporting sugar from the production area to destination representative of the true value of the sugar to the Commodity Credit Corporation (CCC) in the event of takeover? The Department believes that the price support program is intended to support producers' prices consistent with historical market values. This is consistent with most other commodity programs. It also reduces the probability of CCC takeover in areas where the cost of transporting sugar to market is quite high. This was the basis of the Department's initial decision to establish location differentials for sugar stored offshore.

The CCC is similarly affected by sugar stored on the mainland. The regulations as originally issued would encourage processors with high delivery costs to forfeit sugar even though the effective market price was equal to the national average loan rate plus accrued interest. In explanation of the previous statement, it is important to note that when a processor markets his sugar he incurs costs associated with delivery to the buyer. If the processor "markets" his sugar to CCC (forfeits the loan collateral), he avoids those costs. The Department believes that the processor will consider that in his decision to forfeit or redeem, and that unless loan rates incorporating location differentials are established the processor will make a decision that takes into account only his location, all other conditions being equal.

Accordingly, it is hereby determined that differential loan rates which are based on the estimated average costs of transporting sugar from the processing region to destination, should be established for all sugar offered for loan. Since processors must, on weighted average, be provided the basic loan rate of 16.99 cents for refined beet sugar or 14.73 cents for cane sugar, raw value, if the statutory minimum support level of 52.5 percent of parity is to be achieved, the loan rate established by this amendment for each location is equal to the applicable basic loan rate plus the weighted national average, cost of transporting sugar to destination (computed separately for refined beet sugar and raw cane sugar) less the average cost of transporting as computed for the processing region. Producers as a group will achieve the minimum support price of $24.73 per net ton of sugar beets or $18.85 per net ton of sugarcane, although some will receive more and others less depending on locational loan rates and traditional sharing relationships between processors and producers.

Some loans on 1978 crop sugar have already been made, and additional requests are expected in the future. In view of this situation, it is essential that these actions be implemented so that final announcement of the 1978 crop support prices and loan rates will not be unduly delayed. Accordingly, it is hereby determined that any further compliance with applicable proposed rulemaking requirements is impracticable and contrary to the public interest.

In accordance with Executive Order 12044, dated March 23, 1978, a final impact analysis of this action has been prepared. An approved final impact analysis is available from Laurence E. Ackland, Room 5761, South Building, USDA, Washington, D.C. 20250.

Accordingly, 7 CFR Part 1435 is amended as follows:

Subpart—Price Support Loan Program for 1978 Crop Sugar Beets and Sugarcane

1. By revising paragraphs (c) and (d) of § 1435.37 to read as follows:

§ 1435.37 Level and method of support and loan rates.

* * * * *

(c) *Loan rates.* The basic (weighted average) loan rates for the 1978 crop shall be 16.99 cents per pound for refined beet sugar and 14.73 cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in cane syrup and edible molasses.

(d) *Locational differentials.* (1) The loan rate applicable to eligible sugar shall be the rate specified in subparagraphs (2) and (3) of this paragraph for the region in which such sugar was processed: *Provided*, That in the case of refined or specialty sugar made from raw cane sugar which would otherwise be eligible for loan except that it is no longer in its raw form, the loan rate shall be the appropriate regional loan rate applied to the cane sugar, raw value, equivalent of the refined or specialty sugar. Such sugar must have been manufactured by a cane sugar refining facility that is cooperatively owned by its raw cane sugar processors or by a processor of sugarcane who is also a refiner.

(2) The processing regions and applicable loan rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio	17.68
2—Minnesota and the eastern half of North Dakota	16.89
3—Northeastern quarter of Colorado; northwestern quarter of Kansas; Nebraska, and the southeastern quarter of Wyoming.	16.48
4—Southeastern quarter of Colorado, and Texas	17.08
5—Montana and the northwestern quarter of Wyoming.	16.59
6—That part of Idaho east of the eastern boundary of Owyhee county and of such boundary extended northward; and Utah	16.67

Region number and description	Cents per pound

Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board

DATES: Effective date November 6, 1978. Compliance schedule—As prescribed in the body of the AD.

fleet the changes included in revision II of service instructions No. 0334-152, the manufacturer discovered that

Model	Serial No.
65-90, 65-A90, B90, C90.	LJ-1 through LJ-797.
E90	LW-1 through LW-297.

and visually inspect for the words "Corrosion Proofed" ink stamped near the center of the rods. If the words "Corrosion Proofed" are ink stamped on a rod, no fur-

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Region number and description	Cents per pound
7—That part of Idaho west of the eastern boundary of Owyhee county and of such boundary extended northward; Oregon; and Washington.	16.76
8—Arizona and California	17.39

(3) The processing regions and applicable loan rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but placed under loan on the mainland of the United States the applicable loan rate shall be 14.73 cents per pound:

Region	Cents per pound
Florida	14.98
Louisiana	15.04
Texas	14.66
Hawaii	14.66
Puerto Rico	13.44

2. By revising paragraph (b) of § 1435.38 to read as follows:

§ 1435.38 Eligibility requirements.

* * * * *

(b) Eligible processors for the 1978 crop are those who pay to all eligible producers who deliver to them for processing sugar beets and sugarcane of average quality in the following locations, not less than:

(1) For sugar beets in the regions described in paragraph (d)(2) of § 1435.37, the following rates per net ton:

Region 1, $23.51.
Region 2, $24.86.
Region 3, $24.26.
Region 4, $25.14.
Region 5, $24.42.
Region 6, $24.54.
Region 7, $24.67.
Region 8, $25.60.

(2) For sugarcane in Florida, $20.36 per net ton;

(3) For sugarcane in Louisiana, $17.57 per net ton;

(4) For sugarcane in Texas, the amount determined by multiplying 8.796 cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane;

(5) For sugarcane in Hawaii, where the delivery point is at the mill, the amount determined by multiplying 9.6756 cents times the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer; and

(6) For sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico:

Provided, however, That the foregoing prices may be adjusted for sugar beets or sugarcane of nonaverage quality on the method agreed upon by the producer and processor, subject to prior approval of the Executive Vice President, CCC, or his designee.

* * * * *

(Secs. 201, 401 et seq. Agricultural Act of 1949, as amended (7 U.S.C. 1446, 1421 et seq))

NOTE.—It is hereby certified that a regulatory analysis of this action has been prepared in accordance with Executive Order 12044.

Signed at Washington, D.C., on October 24, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-30505 Filed 10-25-78; 10:57 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-CE-19-AD; Amdt. 39-3329]

PART 39—AIRWORTHINESS DIRECTIVES

Beech 50, 65, 70, 90, 99, and 100 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, supersedure of existing Airworthiness Directive.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Beech 50, 65, 70, 90, 99, and 100 series airplanes, which supersedes AD 70-18-02. The new AD requires a one-time visual inspection of certain elevator control push rods for bends, nicks, cracks or corrosion; a dye penetrant inspection for cracks; and application of an internal corrosion preventative treatment to untreated rods. These requirements will alleviate the need for AD 70-18-02. Approximately 510 additional airplanes not presently covered by AD 70-18-02 are added to the applicability statement of this AD. This action will assure continued structural integrity of elevator control push rods and preclude possible failures which would have an adverse effect on aircraft controllability.

DATES: Effective date November 6, 1978. Compliance schedule—As prescribed in the body of the AD.

ADDRESS: Beechcraft Service Instructions No. 0334-152, Revision III, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corp., Commercial Service Department, 9709 East Central, Wichita, Kans. 67201. A copy of the service instructions cited above is contained in the Rules Docket, Office of the Regional Counsel, room 1558, 601 East 12th Street, Kansas City, Mo. 64106 and at room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: Amendment 39-907 (35 FR 305) as amended by amendments 39-1074 (35 FR 13722-13723) and 39-1879 (39 FR 21120), AD 70-18-02, currently requires repetitive inspections of elevator control push rods on certain Beech 50, 65, 70, and 90 series airplanes for bends, nicks, cracks or corrosion in accordance with Beechcraft Service Instructions 0334-152, Revision I.

Subsequent to the issuance of AD 70-18-02, it was determined that the elevator control push rod cracks are caused by corrosion inside the control rod tubes. The manufacturer has now begun applying a corrosion preventative treatment to the inside of current production rods. This treatment eliminates the internal corrosion problem and negates the need for mandatory repetitive inspections to assure continued structural integrity of the elevator control push rods. Also, subsequent to the issuance of AD 70-18-02, the manufacturer ascertained that certain 99 and 100 series airplanes, which are not affected by AD 70-18-02, have similar elevator control push rods that are susceptible to internal corrosion. To correct this problem on in-service airplanes, the manufacturer issued Beechcraft Service Instructions Number 0334-152, Revision II, superseding revision I of the same service instructions. Revision II recommended a one-time inspection and corrosion treatment for elevator control push rods on all airplanes currently affected by AD 70-18-02 plus certain Beech 99 and 100 series airplanes. In addition, revision II included cutoff serial numbers for various models of airplanes delivered with elevator control push rods that do not have the corrosion preventative treatment. Before AD 70-18-02 could be amended to reflect the changes included in revision II of service instructions No. 0334-152, the manufacturer discovered that some airplanes were delivered with elevator control push rods that were identified as having received the corrosion preventative treatment when in fact they had not. As a result, Beechcraft Service Instructions No. 0334-152, Revision III, has now been issued to correct this problem. The repetitive inspections recommended by revision I of Beechcraft Service Instructions No. 0334-152, and made mandatory by AD 70-18-02, are no longer required after accomplishment of the inspection and corrosion preventative treatment recommended by revision III of the service instructions.

Accordingly, the FAA has decided to supersede AD 70-18-02 with a new AD applicable to certain Beech 50, 65, 70, 90, 99, and 100 series airplanes making compliance with the recommendations in Beechcraft Service Instructions No. 0334-152, Revision III mandatory.

Since this AD is in part relieving in nature and since a situation exists that requires the expeditious adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the administrator, § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BEECH. Applies to the following models and serial number airplanes, certificated in all categories:

Model	Serial No.
50	H-1 through H-11.
B50, C50	CH-12 through CH-360.
D50, D50A, D50B, D50C and D50E.	DH-1 through DH-347.
E50	EH-1 through EH-70.
F50	FH-71 through FH-93, FH-95, FH-96.
G50	GH-94, GH-97 through GH-119.
H50	HH-120 through HH-149.
J50	JH-150 through JH-176.
65, A65, A65-8200	L-1, L-2, L-6, LF-7, LF-8, LC-1 through LC-335.
70	LB-1 through LB-35.
65-80, 65-A80, 65-A80-8800, 65-B80.	LD-1 through LD-511.
65-88	LP-1 through LP-28, LP-30 through LP-47.

Model	Serial No.
65-90, 65-A90, B90, C90.	LJ-1 through LJ-797.
E90	LW-1 through LW-297.
99, 99A, A99A, B99	U-1 through U-164.
100, A100	B-1 through B-247.
B100	BE-1 through BE-55.

COMPLIANCE: Required as indicated unless already accomplished.

To prevent partial loss of elevator control due to possible failure of elevator control push rods, in accordance with instructions set forth herein and in Beechcraft Service Instructions No. 0334-152, Revision III, or later approved revisions, accomplish the following:

(A) On the following airplanes:

Model	Serial No.
50	H-1 through H-11.
B50 and C50	CH-12 through CH-360.
D50, D50A, D50B, D50C, and D50E.	DH-1 through DH-347.
E50	EH-1 through EH-70.
F50	FH-71 through FH-93, FH-95 and FH-96.
G50	GH-94 and GH-97 through GH-119.
H50	HH-120 through HH-149.
J50	JH-150 through JH-176.
65, A65 and A65-8200.	L-1, L-2, L-6, LF-7, LP-8 and LC-1 through LC-335.
70	LB-1 through LB-35.
65-80, 65-A80, 65-A80-8800 and 65-B80.	LD-1 through LD-511.
65-88	LP-1 through LP-28 and LP-30 through LP-47.
65-90, 65-A90, B90 and C90.	LJ-1 through LJ-716.
E90	LW-1 through LW-222.
99, 99A, A99A and B99.	U-1 through U-164.
100, A100	B-1 through B-233.
B100	BE-1 through BE-23.

Upon the accumulation of 1,050 hours total time-in-service for airplanes with less than 1,000 hours total time-in-service on the effective date of this AD,

Within 50 hours time-in-service after the effective date of this AD, for airplanes with more than 1,000 hours total time-in-service on the effective date of this AD, that have not complied with AD 70-18-02, or

Within 500 hours time-in-service after the last inspection in accordance with AD 70-18-02, for airplanes with more than 1,000 hours total time-in-service that have complied with AD 70-18-02:

1. Review the airplane maintenance records for entries showing that Beechcraft Service Instructions No. 0334-152, Revision II, has been complied with. If revision II of the service instructions has not been complied with, accomplish paragraph (A)2 of this AD. If revision II of the service instructions has been complied with, accomplish paragraph (A)3 of this AD within an additional 100 hours time-in-service after this finding.

2. Gain access to the elevator control push rods (reference figures I and II of this AD) and visually inspect for the words "Corrosion Proofed" ink stamped near the center of the rods. If the words "Corrosion Proofed" are ink stamped on a rod, no further action on that rod is required by this AD. If the words "Corrosion Proofed" are not ink stamped on the rods, remove the elevator control push rods, clean, dye penetrant and visually inspect, check for bows, apply corrosion preventative treatment, identify and reinstall, all in accordance with Part I of Beechcraft Service Instructions No. 0334-152, Revision III, or later approved revisions.

3. Gain access to the elevator control push rods (reference figures I and II of this AD) and visually inspect for the words "Corrosion Proofed" ink stamped near the center of each rod. If the words "Corrosion Proofed" are ink stamped on a rod, then no further action on that rod is required by this AD. If the words "Corrosion Proofed" are not ink stamped on any rod and new rods were not installed during compliance with revision II of the service instructions, paint a black stripe around the center of each rod in accordance with Part II of Beechcraft Service Instructions No. 0334-152, Revision III, or later approved revisions. If any new rods were installed during compliance with revision II of the service instructions and the new rods are not ink stamped "Corrosion Proofed", on each new rod so installed, remove the elevator control push rod, disassemble, inspect for corrosion preventative treatment and alignment, and if not found accomplished, apply the corrosion preventative treatment, identify, reassemble and reinstall, all in accordance with Part III of Beechcraft Service Instructions No. 0334-152, Revision III, or later approved revisions.

(B) On the following airplanes:

Model	Serial No.
C90	LJ-717 through LJ-797.
E90	LW-223 through LW-297.
A100	B-234 through B-247.
B100	BE-24 through BE-55.

Within 100 hours time-in-service after the effective date of this AD:

1. Gain access to the elevator control push rods (reference figures I and II of this AD) and visually inspect for the words "Corrosion Proofed" ink stamped near the center of the rods. If the words "Corrosion Proofed" are ink stamped on a rod, no further action on that rod is required by this AD. If the words "Corrosion Proofed" are not ink stamped on the rods, remove the elevator control push rod tubes, disassemble, inspect for corrosion preventative treatment and alignment, and if not found accomplished, apply the corrosion preventative treatment, identify, reassemble and reinstall, all in accordance with Part III of Beechcraft Service Instructions No. 0334-152, Revision III, or later approved revisions.

V 4 3 / 2 1 0 0 C 3 0 7 8

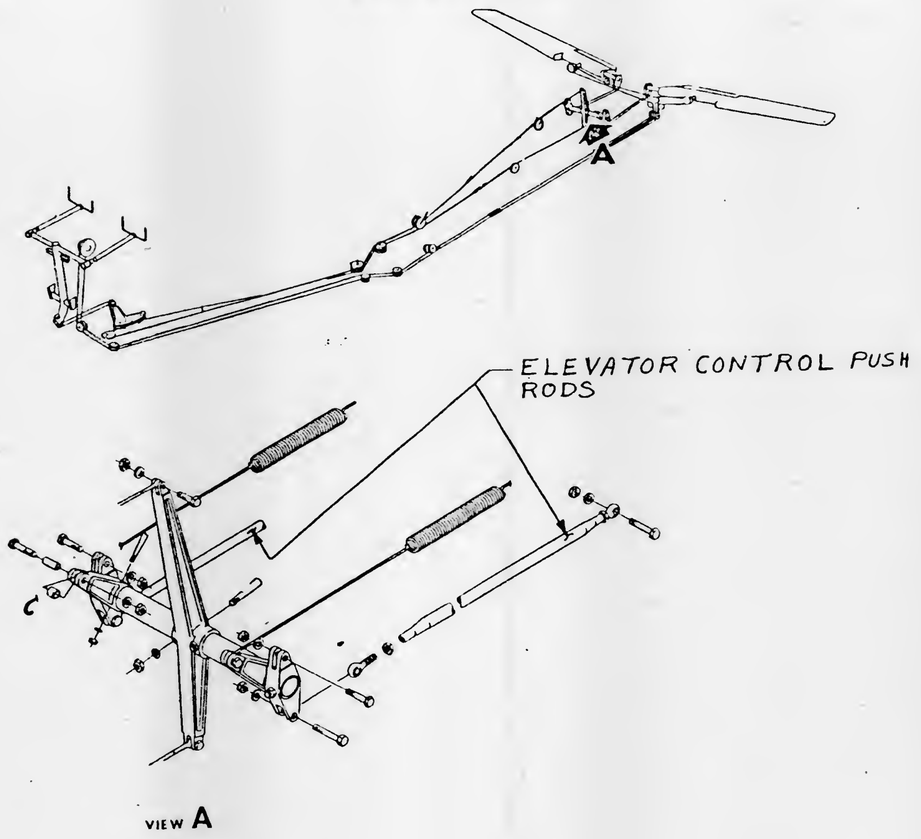

FIGURE I

TYPICAL 50, 65, 70, 80, 88 AND 90 SERIES

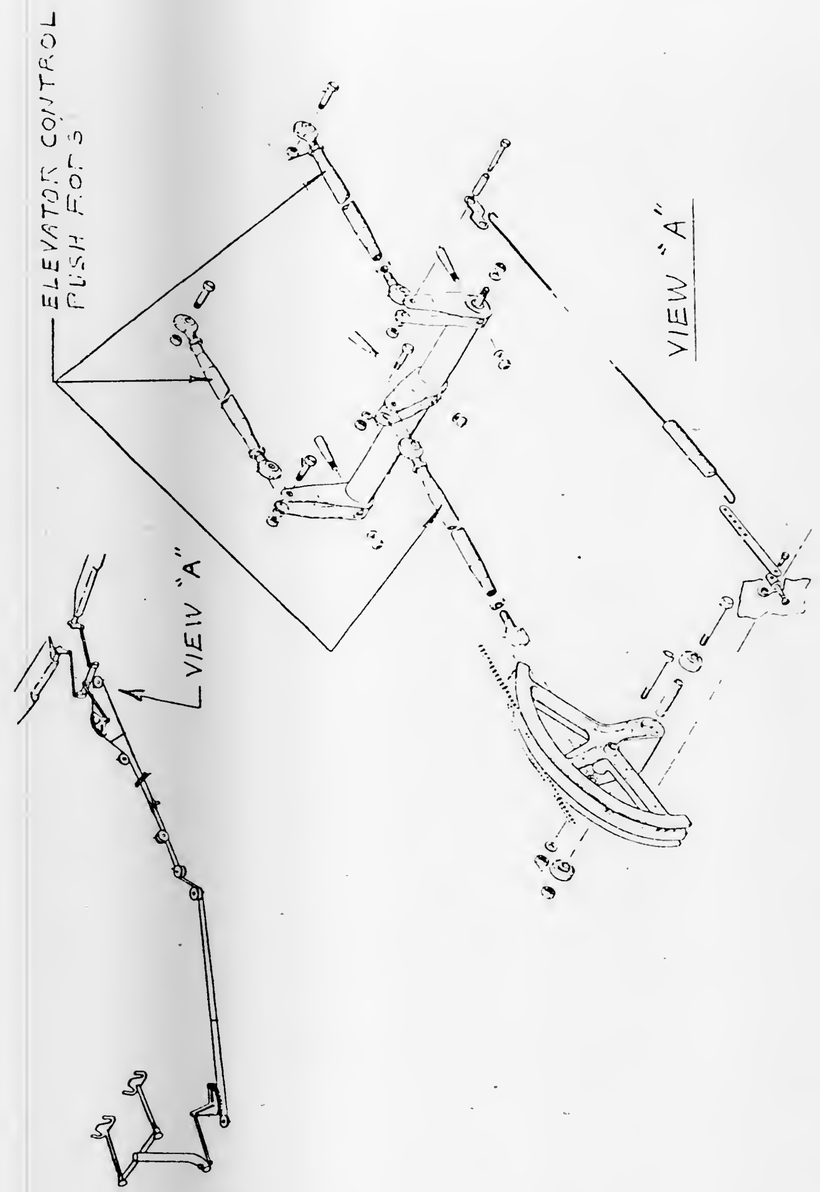

FIGURE II

TYPICAL 99 AND 100 SERIES

(C) On all airplanes affected by this AD, replace any elevator control push rods found cracked or otherwise unserviceable

and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone

[4910-13-M]

SUPPLEMENTARY INFORMATION: Interested persons were invited to participate in the making of this rule by

failing resulting in loss of engine control. Although none of the failures have been so severe as to result in loss

Issued in Seattle, Wash., on October 18, 1978.

C. B. WALK, JR.,

V 43/210 OCT 30 78

(C) On all airplanes affected by this AD, replace any elevator control push rods found cracked or otherwise unserviceable during any inspection required by this AD with serviceable rods that comply with the requirements of this AD prior to returning the airplane to service.

(D) Any equivalent means of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 70-18-02, Amendment 39-907 (35 FR 305) as amended by Amendments 39-1074 (35 FR 13722 and 13723) and 39-1879 (39 FR 21120). This amendment becomes effective November 6, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89, Federal Aviation Regulations (14 CFR 11.89).

NOTE.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Mo. on October 20, 1978.

WM. JACK SASSER,
Acting Director, Central Region.

[FR Doc. 78-30570 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-77, Amdt. 39-3326]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to General Dynamics (Convair) 340, 440, 640, 580 type airplanes altered by STC SA896EA, emergency exit window interior trim panel, and requires replacement or removal of the trim panel so as to prevent entrapment of the operator's hand during release of the window.

EFFECTIVE DATE: November 1, 1978. Compliance is required within the next 10 hours in service.

ADDRESSES: Service bulletins may be acquired from the manufacturer at Magee Plastics Co./Magee Systems Co., 535 Rochester Road, Pittsburgh, Pa. 15237.

FOR FURTHER INFORMATION CONTACT:

M. Schoenberger, Aircraft Modification Section, AEA-219, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3348.

SUPPLEMENTARY INFORMATION: During removal of the emergency window exit, the trim panel can shift upward making it difficult to extricate the hand from the latch access area.

Since this is a condition existing in airplanes of the referenced type design, an AD is being issued which will require replacement or removal of the trim panel. Since this deficiency concerns emergency exit from an airplane, safety is affected so that notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

GENERAL DYNAMICS. Applies to models 340 and 440 airplanes, including those modified for turbopropeller power in accordance with STC SA1096WE and SA4-1100, which have been modified to incorporate interiors in accordance with STC SA896EA, certificated in all categories.

Compliance required as indicated.

To assure release of the operator's hand after removal of the emergency exit window, accomplish the following:

a. Within the next 10 hours in service after the effective date of this airworthiness directive, unless previously accomplished, remove the emergency exit interior trim panel Magee Plastic Co., P/N 9675-WPE. If a replacement trim panel is installed, it must be P/N 9675-WPE-1 or an equivalent approved by the Chief, Engineering and Manufacturing Branch/FAA, Eastern Region.

b. Special flight permits may be issued in accordance with FAR 21.197 to authorize operation of the aircraft to a base for the accomplishment of the modifications required by this AD.

NOTE.—Magee Plastics Co. Service Letter dated Aug. 11, 1978, entitled "Magee Mashell Interior Kit for the Convair Part No. 96123-STC SA896EA" pertains to this subject.

Effective date: This amendment is effective November 1, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Jamaica, N.Y., on October 18, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-30568 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Docket No. 78-NW-17-AD, Amdt. 39-3327]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Model UH-12D, UH-12E Helicopters Soloy Turbine Conversions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive which requires that the integrated collective and N_2 engine control system on Hiller UH-12D and UH-12E helicopters which have been turbine converted by supplemental type certificates SH177WE or SH178WE respectively, be modified to allow full movement of the collective control in the event that the N_2 engine control cable or its associated linkage becomes jammed.

There have been cases where N_2 engine control cable icing has resulted in the loss of collective control movement. These cases resulted in the issuance of telegraphic AD 76-20-06 (Amendment 39-2740, 41 FR 44153) on September 8, 1976. Although AD 76-20-06 required modification of the powerplant cable assemblies to prevent jamming due to icing, it has been determined that the cables can jam from other causes. This airworthiness directive will result in the ability to enter into autorotation in the event the N_2 engine control system becomes jammed due to any cause. In addition, to reduce the likelihood of engine cable jamming which results in the loss of engine control, this airworthiness directive requires certain N_1 and N_2 engine control cable assemblies which have exhibited an excessive in-service failure rate to be replaced with assemblies shown to be more reliable.

DATES: Effective date November 30, 1978. Compliance date on or before January 1, 1979.

ADDRESSES: The Soloy Service Bulletin specified in this directive may be obtained upon request to Soloy Conversions, Ltd., P.O. Box 60, Chehalis, Wash. 98532. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION CONTACT:

James R. Haynes, Airframe Section, ANW-212, or Daniel I. Cheney, Propulsion Section, ANW-214, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Interested persons were invited to participate in the making of this rule by notice of proposed rulemaking issued on July 17, 1978 (43 FR 32432). No comments were received on the proposal by September 1, 1978, which was the close of the comment period. The notice of proposed rulemaking proposed modification of the collective and N_2 engine control system to achieve full collective movement in the event of a jammed N_2 engine control system.

The normal reaction to these types of failures is rapid entry into autorotation which may not be possible with the current design. In addition, the FAA has determined that certain N_1 and N_2 engine control assemblies are unsafe, since they exhibited an unacceptably high rate of jamming or otherwise failing, resulting in inability to continue powered flight.

Since these conditions are likely to exist on other helicopters of the same type design, this airworthiness directive requires modification of the integrated collective and N_2 engine control system and replacement of certain N_1 and N_2 engine control cable assemblies, unless already accomplished on Hiller UH-12D and UH-12E helicopters that have been turbine converted in accordance with supplemental type certificates SH177WE or SH178WE respectively.

These problems with collective isolation and control cable reliability do not exist on Hiller UH-12D and UH-12E helicopters that have not been turbine converted.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HILLER AVIATION: Applies to Model UH-12D and UH-12E helicopters, including the UH-12E 4-place configurations, which have been converted to turbine power in accordance with Soloy Conversions, Ltd., STC Nos. SH177WE and SH178WE respectively, certificated in all categories. Compliance required on or before January 1, 1979.

Since the proposal was issued, Soloy Conversions, Ltd., has developed a modification, consisting of an isolation device, which will achieve the results stated in the proposal. FAA has determined the modification is an acceptable means of compliance, and it is included in the airworthiness directive.

During the comment period, it was determined that another related problem existed concerning reliability of both the N_1 and N_2 cable assemblies supplied by a certain manufacturer. There have been numerous cases of these cables jamming or otherwise failing resulting in loss of engine control. Although none of the failures have been so severe as to result in loss of collective control, the loss of engine control is considered to be an unsafe condition. Since Soloy Conversions is providing new, more reliable, cables available in the same modification kit and service bulletin as the isolation device, it was determined to be in the public interest to prescribe replacement of these suspect N_1 and N_2 engine control cables under the same airworthiness directive action rather than issuing a separate airworthiness directive for the cable replacements.

The FAA has determined that the collective and N_2 control system design on Hiller Model UH-12D and UH-12E helicopters, as modified by supplemental type certificates SH177WE or SH178WE respectively, is unsafe, since a jammed N_2 engine control assembly would prevent entry into autorotation. A jammed N_2 control could result from icing, powerplant fire, cable lockout, or mechanical failure of the fuel control mechanism.

To prevent loss of flight control or engine control, accomplish the following:

(a) Modify the integrated collective and N_2 engine control system in accordance with Soloy Conversions, Ltd., Service Bulletin 06-560 dated October 6, 1978, or later FAA approved revision.

(b) Unless already accomplished, remove from service certain N_1 and N_2 engine control cables as identified in Soloy Conversions, Ltd., Service Bulletin 06-560 dated October 6, 1978, or later FAA approved revisions. Install replacement cables in accordance with the same bulletin.

(c) An equivalent modification may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Northwest Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received this document from the manufacturer, may obtain copies upon request to Soloy Conversions, Ltd., P.O. Box 60, Chehalis, Wash. 98532. This document may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective November 30, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89).)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Seattle, Wash., on October 18, 1978.

C. B. WALK, JR.,
Director,
Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 78-30569 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Docket No. 78-EA-62, Amdt. 39-3325]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends airworthiness directive (AD) 76-06-09 applicable to Piper PA-31P type airplanes, and requires additional serial numbered airplanes to be subject to the AD and substitutes another permanent alteration which permits cessation of the 50-hour inspection.

EFFECTIVE DATE: October 31, 1978. Compliance is required within 50 hours in service.

ADDRESSES: Piper service bulletins may be acquired from the manufacturer at Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pa. 17745.

FOR FURTHER INFORMATION CONTACT:

P. Perrotta, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: Recent reports have indicated that the replacement design V-band coupling specified in the AD has not given satisfactory service whereas the Piper one-piece clamp coupling was a better substitute. AD 76-06-09 is being amended so as to delete the present paragraph (d) and substitute the one piece coupling as an alternative and also to cover additional aircraft.

Since the incorporation of additional aircraft has an effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Avi-

ation Regulations (14 CFR 39.13) is amended, by amending AD 76-06-09, as follows:

Issued in Jamaica, New York, on October 16, 1978.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

for the protection of aircraft executing instrument approach procedures to the Clarendon Municipal Airport utilizing the nondirectional radio

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

V 43/210 OC 30 78

ation Regulations (14 CFR 39.13) is amended, by amending AD 76-06-09, as follows:

PROPOSED REVISION TO AD 76-06-09—PIPER (REFERENCE AMENDMENT 39-2559, EFFECTIVE MARCH 31, 1976)

Revise applicability statement of paragraph (a) to read:

On airplanes serial Nos. 31P-1 through 31P-7730003 within 50 hours after the effective date of this amendment, and every 50 hours thereafter * * *

Revise paragraph (d) to read:

On airplanes serial Nos. 31P-1 through 31P-7730003 the repetitive inspections of paragraph (a) shall be accomplished until the replacement one-piece turbine tailpipe clamp coupling P/N 556053 is installed in accordance with the "Instructions" sheet in Piper Service Bulletin No. 534 and vibration isolators installed in accordance with Piper Service Bulletin No. 492.

NOTE.—When replacing the turbine tailpipe clamp coupling, preload the tailpipe against the turbine flange as specified in Piper Service Bulletin Nos. 534 and 462A.

Effective date: This amendment is effective October 31, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Jamaica, N.Y., on October 17, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 78-30567 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-SO-63]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Greeneville, Tenn., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Greeneville, Tenn., transition area, by deleting holding pattern airspace northeast of the Greene County nondirectional radio beacon. The need for protected airspace in this quadrant no longer exists.

EFFECTIVE DATE: November 15, 1978.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: This alteration deletes holding pattern airspace northeast of the Greene County nondirectional radio beacon. The standard instrument approach procedure for which airspace was necessary has been canceled. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

ADOPTION OF AMENDMENT

Accordingly, part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective November 15, 1978, as hereinafter set forth:

In subpart G, § 71.181 (43 FR 440), the Greeneville, Tenn., transition area is amended as follows:

* * * that airspace extending upward from 700 feet above the surface within a 9-mile radius of Greeneville Municipal Airport (lat. 36°11'30" N., long. 82°49'01" W.); excluding the portion within the Tri-City, Tenn., transition area * * *.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on October 19, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-30572 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-EA-80]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AISPACE, AND REPORTING POINTS

Alteration of Terminal Control Area: New York, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will amend the area's description by reincorporating a small area in area A and J of the New York terminal control area. This alteration results from an error which occurred when docket No. 78-EA-8 was published, altering the terminal area. At that time, the small area, the subject of this docket, was inadvertently deleted.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

M. Rosen, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The rule is minor in nature and does not impose any additional burden on any person. In view of the foregoing, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart K of part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, October 30, 1978, as follows:

1. Amend § 71.401 of part 71, Federal Aviation Regulations, as follows:

NEW YORK, N.Y. TERMINAL CONTROL AREA

AREA A

In the text, delete "thence direct to the intersection of the Clearview Expressway and the LaGuardia 093° radial; direct to the southern edge of Bowne Park, direct to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 340° radial 9 mile DME fix; direct to the JFK VORTAC 341° radial 10 mile DME fix; thence direct to the point of beginning "and substitute therefor, "thence westerly to the intersection of the Clearview Expressway with a line extending from the LaGuardia 093° radial 6 mile DME fix to the southern edge of Bowne Park; thence to the southern edge of Leavitts Park; thence direct to the JFK VORTAC 340° radial 9 mile DME fix; direct to the JFK VORTAC 341° radial 10 mile DME fix; thence direct to the point of beginning.".

AREA J

In the text, delete "thence easterly to the intersection of LaGuarida 093° radial with the Clearview Expressway, thence northerly along the Clearview Expressway to the north stanchion of the Throgs Neck Bridge." and substitute therefor, "thence easterly to the intersection of the Clearview Expressway with a line extending from the south edge of Bowne Park to the LaGuardia 093° radial 6 mile DME fix; thence northerly along the Clearview Expressway to the north stanchion of the Throgs Neck Bridge.".

(Secs. 307(a), 313(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

Issued in Jamaica, New York, on October 16, 1978.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 78-30573 Filed 10-27-78 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-ASW-38]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Clarendon, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Clarendon, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Clarendon Municipal Airport. The circumstance which created the need for the action was a requirement to provide capability for flight under instrument flight rules (IFR) procedures to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 24, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 37705) stating that the Federal Aviation Administration proposed to designate the Clarendon, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Clarendon, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Clarendon Municipal Airport utilizing the nondirectional radio beacon (NDB).

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the following transition area is added:

CLARENDON, TEX.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Clarendon Municipal Airport (lat. 34°54'34" N., long. 100°52'20" W.), and within 3.5 miles each side of the 209° bearing from the NDB (lat. 34°54'37" N., long. 100°52'03" W.), extending from the 5.5 mile radius area to 11.5 miles southwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582, March 3, 1978).

Issued in Fort Worth, Tex., on October 18, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-30574 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-ASW-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Crosbyton, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Crosbyton, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Crosbyton Municipal Airport. The circumstance which created the need for the action is the establishment of a navigational aid (NDB) at the airport to provide capability for flight under instrument weather conditions to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 24, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 37707) stating that the Federal Aviation Administration proposed to designate the Crosbyton, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received and one commentor objected to the proposal.

DISCUSSION OF COMMENTS

The Department of Air Force representative objected to the proposed rule. The commentor expressed concern because of the effect the proposal may have on Olive Branch IFR military training route (OE-55) and future plans to convert the OB-55 route to an IFR military training route (IR). Instrument flight rules (IFR) traffic in controlled airspace will be separated by the appropriate air traffic control facility. Military flights on the OB-55 can be conducted under visual flight rules (VFR) only when weather conditions are equal to or better than 3,000' ceiling and 5 miles' visibility. Under these conditions, both civil and military aircraft are governed by the "see and be seen" concept in accordance with Federal Aviation Regulations. The Federal Aviation Administration has determined that any effect will be minimal. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Crosbyton, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Crosbyton Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part

V

71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows.

tension 302.

SUPPLEMENTARY INFORMATION:

[4910-13-M]

[Airspace Docket No. 78-ASW-41]

al Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., De-

scription of Restricted Area R-2507. An error in the description of the subdivisions was made and this action cor-

The correction is effective October 30, 1978.

FOR FURTHER INFORMATION

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71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows.

In subpart G, § 71.181 (43 FR 440), the following transition area is added:

CROSBYTON, TEX.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Crosbyton Municipal Airport (lat. 33°37'30" N., long. 101°14'30" W.), and 3.5 miles each side of the 189° bearing from the Crosbyton NDB (lat. 33°37'25" N., long. 101°14'17" W.), extending from the 7-mile radius to 11.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and critieria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on October 19, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-30576 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-ASW-39]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Jonesboro, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at Jonesboro, La. The intended effect of the action is to realign controlled airspace for aircraft executing instrument approach procedures to the Jonesboro Municipal Airport. The circumstances which created the need for the action were relocation of the Jonesboro navigational aid (NDB) located on the airport and realignment of instrument approach procedures designated on the facility.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On August 24, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 37706) stating that the Federal Aviation Administration proposed to alter the Jonesboro, La., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR part 71) alters the Jonesboro, La., transition area. This action realigns controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument procedures established for the Jonesboro Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows.

In subpart G, § 71.181 (43 FR 440), Jonesboro, La., transition area is as follows:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jonesboro Municipal Airport, Jonesboro, La. (lat. 32°12'10" N., long. 92°44'10" W.) and within 3.5 miles each side of the 202° bearing from the Jonesboro NDB (lat 32°12'10" N., long. 92 43'45" W.) extending from the 6.5-mile radius area to 12 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (49 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on October 18, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-30575 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-ASW-41]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Levelland, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Levelland, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing instrument procedures to the Levelland Municipal Airport, Levelland, Tex. The circumstance which created the need for the action is the scheduled establishment of a navigational aid (NDB) at the airport to provide capability for flight under instrument weather conditions to the airport.

EFFECTIVE DATE: December 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Ken Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: On August 24, 1978, a notice of proposed rulemaking was published in the FEDERAL REGISTER (43 FR 37708) stating that the Federal Aviation Administration proposed to designate the Levelland, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

THE RULE

This amendment to subpart G of part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Levelland, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument procedures at the Levelland Municipal Airport.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, subpart G of part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., December 28, 1978, as follows:

In subpart G, § 71.181 (43 FR 440), the Levelland, Tex., transition area is added as follows:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Levelland Municipal Airport (lat. 33°33'32" N., long. 102°22'20" W.), and within 3.5 miles each side of the 170° bearing from the Levelland NDB (lat. 33°33'20" N., long. 102°22'29" W.), extending from the 7-mile radius to 11.5 miles southwest of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978).

Issued in Fort Worth, Tex., on October 18, 1978.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc. 78-30571 Filed 10-27-78; 8:45 am]

[4910-13-M]

[Airspace Docket No. 78-WE-16]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of September 11, 1978, (43 FR 40215) the alteration of Restricted Area R-2507, Chocolate Mountains, Calif., was incorrectly specified as being subdivided into R-2507A and R-2507B. This action corrects that error by changing R-2507A to R-2507 North and R-2507B to R-2507 South.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8525.

SUPPLEMENTARY INFORMATION: FEDERAL REGISTER Document 78-25440 was published on September 11, 1978, (43 FR 40215) and amended the description of Restricted Area R-2507. An error in the description of the subdivisions was made and this action corrects that mistake.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 78-25440 as published in the FEDERAL REGISTER on September 11, 1978, (43 FR 40215) is amended as follows:

"R-2507A Chocolate Mountains, Calif." is deleted and "R-2507 North Chocolate Mountains, Calif." is substituted therefor.

"R-2507B Chocolate Mountains, Calif." is deleted and "R-2507 North Chocolate Mountains, Calif." is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 26, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-30682 Filed 10-27-78; 8:45 am]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Extension of Effective Date; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Correction and renumbering of rule.

SUMMARY: The Commission renumbers sections of the safety standard for architectural glazing materials so that the effective date provisions appear in one section of the standard. The Commission also corrects an error in date and section references appearing in the effective date provisions.

EFFECTIVE DATE: The effective date provisions are presently in effect. The correction is effective October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Allen Brauninger, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6629.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 6, 1977, the Commission issued a safety standard for architectural glazing materials (16 CFR Part 1201). In the FEDERAL REGISTERS of June 20, 1977 (42 FR 31164), December 7, 1977 (42 FR 61859), and June 22, 1978 (43 FR 26699), the Commission amended the effective date of the standard as it applies to glazing material that complies with the voluntary industry glazing standard ANSI Z97.1. In issuing the amendment of December 7, 1977, the amendment was inadvertently included as part of § 1201.2 of the standard § 1201.2(e)), which contains definitions used in the standard, rather than in § 1201.7, which concerns the effective date of the standard. Moreover, when the amendments published in the FEDERAL REGISTER of December 7 were codified in the Code of Federal Regulations (CFR), subsection numbers different from those appearing in the FEDERAL REGISTER were used.[1] In referring to the corrections discussed below, the CFR citations are used since the CFR is the official codification of rules issued by the Commission. So that the public can better understand the various effective dates of the glazing standard, the Commission is republishing below the various effective dates contained in the standard. In addition, the Commission is transferring the effective dates included in § 1201.2 to § 1201.7.

In addition to the foregoing, a member of the glazing industry has pointed out to the Commission that the amendment of December 7, 1977 contains two errors. In 16 CFR 1201.2(f), the date December 3, 1977 should be July 5, 1978. The December 3 date is incorrect because 16 CFR 1201.2(e) allows laminated glass manufactured on or after July 6, 1977 through December 3, 1977, to be incorporated into category II products through July 5, 1978 under the conditions specified. The purpose of 16 CFR 1201.2(f) is to allow those products manufactured through July 5, 1978, with glazing manufactured between July 6, 1977 and December 3, 1977, to

[1] In the FEDERAL REGISTER of Dec. 20, 1977, the amendments appeared as § 1201.2 (d) and (e) of the standard. These provisions were subsequently codified as § 1201.2 (e) and (f) of the Code of Federal Regulations.

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be sold without restriction. The date December 3, 1977 should be July 5, 1978 in order to accomplish that pur-

1978 incorporating glazing material in accordance with § 1201.7(b), may be distributed and sold without restric-

joint industry plan governing the consolidated transaction reporting system declared effective by the Commission

Optional methods of establishing the prearranged employment offer are permitted.

umentary evidence required to establish eligibility for a visa.

(Sec. 104, 66 Stat. 174 (8 U.S.C. 1104).)

Technical Support—Room 6282, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5880 (this is not a toll-free number).

V 4 3 / 2 1 0 C 3 0 7 8

be sold without restriction. The date December 3, 1977 should be July 5, 1978 in order to accomplish that purpose.

The industry member also pointed out that in 16 CFR 1201.2(f), the reference to 16 CFR 1201.7(d) should be 1201.2(e). The Commission has considered these suggested corrections and has determined that the changes are appropriate.

Accordingly, 16 CFR Part 1201 is amended as follows:

§ 1201.2 [Amended]

Section 1201.2 (e) and (f) are deleted.

Section 1201.7 is revised to read as follows:

§ 1201.7 Effective date.

The effective date of this part 1201 shall be July 6, 1977 except:

(a) For glazing materials used in doors or other assemblies subject to this part 1201 and intended to retard the passage of fire when such doors or other assemblies are required by a Federal, State, or local or municipal fire ordinance, the effective date shall be January 6, 1980.

(b) Architectural glazing materials manufactured before July 6, 1977 may be incorporated into architectural products listed in § 1201.1(a) through July 5, 1978 if:

(1) The architectural glazing material conforms to ANSI Z97.1-1972 or 1975, and

(2) The architectural glazing material is permanently labeled to indicate it conforms to ANSI Z97.1-1972 or 1975 or is accompanied by a certificate certifying conformance to ANSI Z97.1-1972 or 1975.

(c) Tempered glass manufactured before July 6, 1977 may be incorporated into architectural products listed in § 1201.1(a) through July 5, 1981 if:

(1) The tempered glass conforms to ANSI Z97.1-1972 or 1975; and

(2) The tempered glass is permanently labeled to indicate it conforms to ANSI Z97.1-1972 or 1975 or is accompanied by a certificate certifying conformance to ANSI Z97.1-1972 or 1975.

(d) Laminated glass manufactured on or after July 6, 1977 through December 3, 1977 may be incorporated into category II products as defined in § 1201.2(a)(4) through July 5, 1978 if:

(1) The laminated glass conforms to ANSI Z97.1-1972 or 1975; and

(2) The laminated glass is permanently labeled to indicate that it conforms to ANSI Z97.1-1972 or 1975 or is accompanied by a certificate in accordance with section 14(a) of the CPSA certifying conformance to ANSI Z97.1-1972 or 1975.

(e) Architectural products manufactured between July 6, 1977 and July 5, 1978 incorporating glazing material in accordance with § 1201.7(b), may be distributed and sold without restriction.

(f) Architectural products manufactured between July 6, 1977 and July 5, 1981 incorporating tempered glass in accordance with § 1201.7(c), may be distributed and sold without restriction.

(g) Architectural products identified in § 1201.2(a)(4) manufactured between July 6, 1977 and July 5, 1978 incorporating laminated glass in accordance with § 1201.7(d) may be distributed and sold without restriction.

Dated: October 25, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-30622 Filed 10-27-78; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15249]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations governing delegation of authority to delegate authority to the Director of the Division of Market Regulation to approve amendments to the joint industry plan governing the consolidated transaction reporting system declared effective by the Commission on May 10, 1974, pursuant to such rule.

Accordingly, 17 CFR 200.30-3 is amended by adding a new paragraph (a)(28) as follows:

§ 200.30-3 **Delegation of authority to Director of Division of Market Regulation.**

• • • • •

(a) • • •

(28) To approve amendments to the joint industry plan governing the consolidated transaction reporting system declared effective by the Commission on May 10, 1974, pursuant to rule 17a-15.

• • • • •

The Commission finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), that the foregoing amendment relates solely to agency organization, procedure or practice and that notice and procedure pursuant to the Administrative Procedure Act are therefore not necessary and that such amendment shall be adopted, effective immediately.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30564 Filed 10-27-78; 8:45 am]

[4710-06-M]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER E—VISAS

[Dept. Reg. 108.758]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Optional Methods of Establishing Prearranged Employment Offer

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department's regulations regarding aliens ineligible to receive visas are amended to remove the requirement that an offer of prearranged employment presented to establish an alien's eligibility under the public charge provisions of the law (section 212(a)(15) of the Immigration and Nationality Act) must be made on a form prescribed by the Department. Optional methods of establishing the prearranged employment offer are permitted.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald M. Brown 202-632-1983.

SUPPLEMENTARY INFORMATION:

The mandatory use of a prescribed form to confirm an offer of prearranged employment of an alien has proven to be unduly restrictive and the form has not accomplished its intended purpose of minimizing spurious employment offers. This amendment will afford an alien the option of using the prescribed form or any other document which confirms the essential elements of the employment offer and has been similarly executed.

In § 42.91(a), paragraph (a)(15)(ii) is amended to read as follows:

§ 42.91 **Aliens ineligible to receive visas.**

(a) • • •

(15) *Public charge.* (i) • • •

(ii) **An alien relying on an offer of prearranged employment to establish eligibility under section 212(a)(15) of the Act, other than an offer of employment certified by the Department of Labor pursuant to section 212(a)(14) of the Act, must establish the offer of employment on a form prescribed for that purpose by the Department or by some other document which confirms the essential elements of the employment offer. Any document presented to confirm the employment officer must be sworn to and subscribed to before a notary public by the employer or an authorized employee or agent of the employer. The signer's printed name and position or other relationship with the employer must accompany the signature.**

• • • • •

Compliance with the provisions of section 533 of title 5 of the United States Code (80 Stat. 383) as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment relieves a restriction on the type of documentary evidence required to establish eligibility for a visa.

(Sec. 104, 66 Stat. 174 (8 U.S.C. 1104).)

Dated: October 13, 1978.

HUME A. HORAN,
Acting Assistant Secretary for Consular Affairs.

[FR Doc. 78-30602 Filed 10-27-78; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-583]

PART 841—PUBLIC HOUSING PROGRAM; DEVELOPMENT PHASE

Appendix A—Prototype Cost Limits for Low Income Housing—Region IX, California

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: On June 22, 1978, the Department published a revised schedule A, "Prototype Cost Limits for Low-Income Housing," to Part 841. Revisions are necessary after consideration of subsequent factual data for detached and semidetached dwellings in four northern California prototype areas; after consideration of additional data justifying establishment of complete schedules for two new prototype areas, Eureka and Santa Rosa; and to correct an omission for the Oakland-Marin prototype area.

DATES: Effective Date: October 30, 1978. Comment due date: All comments received on or before November 29, 1978, will be considered.

ADDRESSES: Send comments to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack R. VanNess, Chief, Construction Cost Branch, Office of Technical Support—Room 6282, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5880 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

These cost limits established pursuant to section 6(b) of the U.S. Housing Act of 1937, represent per unit cost schedules for low-income public housing and are required to be published at least annually in the FEDERAL REGISTER.

Section 6(b) of the Act provides that prototype cost shall be effective on the date of publication in the FEDERAL REGISTER. However, timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969, has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address specified above.

Accordingly, 24 CFR, Part 841, Appendix A, Prototype Cost Limits for Low-Income Housing, is amended as follows:

1. At 43 FR 27046, revise the prototype per unit cost schedule for detached and semidetached dwellings as shown on the prototype per unit cost schedules, Region IX, San Francisco, Fresno, Modesto and San Jose, Calif.

2. At 43 FR 27046, revise the prototype per unit cost schedules for detached and semidetached, row, walkup, and elevator dwellings as shown on the prototype per unit cost schedules, Region IX, Oakland-Marin, Calif.

3. At 43 FR 27046, add prototype per unit cost schedules for detached and semidetached, row, walkup, and elevator dwellings, Region IX, Eureka and Santa Rosa, Calif.

(Sec. 7(d), Department of HUD Act, (42 U.S.C. 3535(d)); sec. 6(b), U.S. Housing Act of 1937 (42 U.S.C. 1437(d)).

Issued at Washington, D.C., on October 26, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

REGION IX 5

REGION IX 6

REGION IX 5

San Francisco	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	22,300	26,900	33,300	39,600	47,750	53,100	55,500
Row Dwellings							
Walk-Up							
Elevator-Structure							

Fresno	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,000	21,400	26,600	31,600	38,200	42,400	44,400
Row Dwellings							
Walk-Up							
Elevator-Structure							

Modesto	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,900	22,850	28,100	33,400	40,300	44,750	46,900
Row Dwellings							
Walk-Up							
Elevator-Structure							

Oakland-Marin	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	19,200	23,200	28,500	33,950	40,850	45,450	47,550
Row Dwellings	16,100	19,350	23,950	28,450	34,150	38,100	39,800
Walk-Up	16,450	20,350	25,800	30,500	35,400	39,000	40,800
Elevator-Structure	28,550	33,250	41,950				

San Jose	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,450	20,900	25,850	30,800	37,100	41,350	43,200
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION IX 6

Eureka	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	19,450	23,300	28,850	34,350	41,400	46,100	48,200
Row Dwellings	14,850	18,000	22,100	26,400	31,650	35,350	36,850
Walk-Up	15,250	18,900	23,950	28,250	32,800	36,100	37,800
Elevator-Structure	26,550	30,750	38,800				

Santa Rosa	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,600	22,300	27,550	32,850	39,550	44,100	46,100
Row Dwellings	14,850	18,000	22,100	26,400	31,650	35,350	36,850
Walk-Up	15,250	18,900	23,950	28,250	32,800	36,100	37,800
Elevator-Structure	26,550	30,750	38,800				

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

[FR Doc. 78-30720 Filed 10-27-78; 8:45 am]

[4210-01-M]

in the office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451

who already possess a certification from the organization provided:

(i) The certification is reasonable

attempting to comply with the program's legislative requirements.

EFFECTIVE DATE: October 30, 1978.

period under the revised rule, the day of application is the first day counted in calculating the waiting period.

The Department has determined

with respect to the property shall be effective as of the time title to the property is transferred to the purchas-er when:

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[4210-01-M]

[Docket No. R-78-582]

PART 867—PHA-OWNED PROJECTS—PERSONNEL POLICIES AND COMPENSATION

Regulation Change for Certification of Housing Managers

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This amendment (1) clarifies the criteria by which HUD approves organizations which may certify individuals as housing managers or assistant housing managers; (2) specifies the conditions under which certificates issued by an organization before it was approved by HUD may be considered as meeting HUD certificate requirements; and (3) extends the deadline by which housing managers of 75 or more dwelling units must receive HUD approved certification.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne Hunter, Office of Assisted Housing Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6460 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Under the present rule, § 867.303 describes the process by which an organization may become an approved certifying organization.

Section 867.303 of the present rule on certification of housing managers describes procedures for (a) approval of certifying organizations; (b) describes the role of the HUD Certification Review Committee; (c) details the process for notification of denial of certifying organization approval; (d) sets forth periodic review of HUD approvals; (e) provides for publication of names and standards and criteria of approved certifying organizations; (f) establishes standards and criteria used for evaluation of information submitted by an organization applying for approved certifying organization status and (g) provides for incorporation and recognition of persons holding certificates issued prior to the HUD-approved certification program.

The Department of Housing and Urban Development has determined that an environmental impact statement is not required with respect to this rule. A copy of the finding of inapplicability is available for public inspection during regular business hours in the office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

This regulation extends the deadline by which housing managers of 75 or more dwelling units must receive HUD approved certification. The current deadline is January 1, 1979. Housing managers not certified after this date, if the deadline is not extended, may not have their salary considered an eligible operating expenditure for purposes of calculating HUD operating subsidy. In addition, private certifying organizations have already expended great effort and expense in preparation for seeking certification under this revised regulation. Accordingly, the Department has determined that notice and public comment with respect to this regulation are contrary to the public interest, and that good cause exists for making this regulation effective immediately.

Accordingly, the Department amends Chapter VIII of Title 24 of the Code of Federal Regulations by amending §§ 867.303 (f) and (g) and 867.304 (a) as follows:

§ 867.303 HUD approval of certifying organizations.

* * * * *

(f) *Criteria and standards.* (1) All criteria and standards for qualifying for certification shall be reasonably related to job requirements.

(2) The assessment methodology used to determine whether an individual is qualified for certification (e.g., written examination) shall be based on and relate to a valid analysis of the tasks performed by housing managers and shall be fair, objective, and free of ethnic and cultural bias. HUD approval of assessment methodology may be granted on the basis of a written statement by an organization or individual acceptable to HUD as being qualified in the field of assessment methodology.

(3) As an alternative to an assessment methodology, an approved certifying organization may issue a certification solely on the basis of satisfactory on-the-job performance in the housing management field for not less than 4 years. However, such certification shall be valid only if granted prior to January 1, 1981.

(g) *Incorporation of former certificate holders into HUD approved certification program.* (1) Immediately upon receiving notification from HUD that its application to become an approved certifying organization has been approved and no longer than 60 days following that notification, an approved certifying organization may submit to HUD a list of all individuals who already possess a certification from the organization provided:

(i) The certification is reasonable evidence that the certificate holder is qualified as a housing manager; and

(ii) The certification is currently recognized by the approved certifying organization at the time the list of names is tendered to HUD.

(2) Upon receiving this list, HUD will notify the approved certifying organization that the certifications issued to the listed individuals may be considered as satisfying the certification requirements of this part.

§ 867.304 **Requirement for certification.**

(a) *Housing managers of 75 or more units.* Subject to paragraph (c) of this section as of January 1, 1981, any person employed as a housing manager of 75 or more dwelling units shall be required to have certification as a housing manager from an approved certifying organization.

* * * * *

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d); sec. 6(c)(4), United States Housing Act of 1937, as amended (42 U.S.C. 1437d); sec. 201(b), Housing and Community Development Act of 1974 (42 U.S.C. 1437 note).)

Issued at Washington, D.C., October 26, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 78-30721 Filed 10-27-78; 8:45 am]

[4210-01-M]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-78-577]

PART 1911—INSURANCE COVERAGE AND RATES

Waiting Period—Standard Flood Insurance Policy

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: This rule shortens the waiting period before which flood insurance coverage becomes effective under the Standard Flood Insurance Policy. The present rule provides for a 15-day waiting period which tends to delay and disrupt conventional, VA, and FHA mortgage closings by lenders attempting to comply with the program's legislative requirements.

EFFECTIVE DATE: October 30, 1978.

COMMENTS DUE: November 29, 1978.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll-free line, 800-424-8872, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Act, the Federal Insurance Administrator is revising § 1911.11 of part 1911 of title 24 of the Code of Regulations to shorten the waiting period before which flood insurance coverage becomes effective under the Standard Flood Insurance Policy.

Under the present rule, there is no waiting period for new or added coverage during the initial 30 days of community eligibility in both the emergency and regular programs. Following this 30-day period, however, there is a 15-day waiting period beginning on the date the flood insurance is applied for before coverage is effective. The revised rule shortens the waiting period so that flood insurance benefits can be made available as soon as possible after the flood insurance policy application has been made. Also, under present procedures, where ownership of insured property is transferred, the new owner must arrange beforehand for an assignment of the previous owner's flood insurance for the coverage to continue uninterrupted. If, instead, the new owner applies for a new policy, or seeks additional coverage, under the present rule he must wait 15 days for coverage to become effective. This procedure delays mortgage closings by lenders attempting to comply with the flood insurance purchase requirements of section 102 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234). The lender's alternative—closing the loan without the property being insured, is in conflict with sound lending practices. The amendment also addresses this problem by making the coverage effective when the ownership of the property changes hands.

In addition, a rule is being established under which the time of 12:01 a.m. on the day after the date of the application for flood insurance constitutes, where there is no waiting period or change of ownership to insurable property involved, the time at which flood insurance coverage becomes effective. Where there is a waiting period under the revised rule, the day of application is the first day counted in calculating the waiting period.

The Department has determined that notice and public procedure are contrary to the public interest since the primary purpose of the program is to reduce Federal disaster relief expenditures through the insurance mechanism and sound flood plain management, and because of the importance to the consumer of the new benefits being provided. Since the rule relieves a restriction, this amendment is being made effective upon publication. However, interested persons are invited to submit comments with respect to this amendment and all such comments will be considered before a final rule becomes effective. Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410. All comments should be received by the Rules Docket Clerk on or before November 29, 1978. Copies of all comments received will be available for inspection and copying at the above address.

The Department has determined that an environmental impact statement is not required for this rule. A copy of the finding of inapplicability is available for inspection at the above address.

Accordingly, 24 CFR Part 1911 is amended as follows:

PART 1911—INSURANCE COVERAGE AND RATES

Section 1911.11 is revised to read as follows:

Section 1911.11, "Adding coverage while policy is in force" is amended to read as follows:

§ 1911.11 **Effective date and time of coverage under the Standard Flood Insurance Policy.**

(a) The effective date and time of any new or added or increase in the amount of flood insurance coverage shall be 12:01 a.m. of the day following the application date and the presentment of payment of premium in the following cases:

(1) During the 30-day period which follows a community's initial eligibility for flood insurance under the emergency program;

(2) During the 30-day period which follows a community's initial eligibility for flood insurance under the regular program;

(3) At any time as to any application for additional coverage or increased limits made in connection with a policy then in force.

(b) Where title to property is conveyed, any new or added coverage or increase in the amount of coverage with respect to the property shall be effective as of the time title to the property is transferred to the purchaser when:

(1) The flood insurance policy is applied for and the presentment of payment of premium is made at or prior to the transfer of title; or

(2) The existing flood insurance policy on the property was assigned to the purchaser at or before the transfer of title to the property.

(c) Except as provided by (a) or (b) the effective date and time of any new policy shall be 12:01 a.m. (local time) on the 5th calendar day after the application date and the presentment of payment of premium; for example, a flood insurance policy applied for with the payment of the premium on April 1 to cover property located in a community that has been participating in the program longer than 30 days will become effective at 12:01 a.m. on April 6.

(d) Adding new coverage or increasing the amount of coverage in force is permitted during the term of any policy. The additional premium for any new coverage or increase in the amount of coverage shall be calculated pro rata in accordance with the rates currently in force, with a minimum premium of $4.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator (43 FR 7719, February 24, 1978).)

Issued at Washington, D.C., October 25, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30629 Filed 10-27-78; 8:45 am]

[4210-01-M]

SUBCHAPTER C—FEDERAL CRIME INSURANCE PROGRAM

[Docket No. R-78-5801

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO AGENTS

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Citizens of Virgin Islands

AGENCY: Federal Insurance Administration, HUD

ACTION: Final Rule.

SUMMARY: This rule will extend to the citizens of the Virgin Islands eligibility to purchase Federal crime insurance policies against burglary and robbery losses under the Federal crime insurance program. The rule also provides for a technical revision of the

eligible for the sale of crime insurance, or continued to be eligible for such sale. Because the increased availability

Issued at Washington, D.C., October 26, 1978.

GLORIA M. JIMENEZ,

days but within 300 days after the alleged act of discrimination. However,

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 997-3; PP 7E1974/R179]

Such objections should be submitted and should specify both the provisions of the regulation deemed to be objec-

V 43/210 OC 30 78

bery losses under the Federal crime insurance program. The rule also provides for a technical revision of the regulatory provision which designates Safety Management Institute, Federal Crime Insurance as the servicing company for the program.

DATES: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator, for Urban Property Insurance—Riot and Crime, 451 Seventh Street SW., Washington, D.C. 20410, telephone 755-6555.

SUPPLEMENTARY INFORMATION: This action is being taken under the authority of 12 U.S.C. 1749bbb-10a on the basis of evidence obtained through a continuing review of the market availability situation in each of the several States and particularly upon the conclusions and recommendations of the Insurance Commissioner and the Legislature of the Virgin Islands who requested that their citizens be made eligible for Federal crime insurance.

The Federal crime insurance program commenced operation in August 1971 and approximately 50,000 policies are currently in force in the District of Columbia, Puerto Rico, and 22 States eligible for Federal crime insurance. The program enables residents and businesses to obtain affordable policies of burglary and robbery insurance which will not be cancelled or nonrenewed because of losses. Applicants are required to meet minimum protective device requirements designed to reduce their vulnerability to crime losses. Since 1971, the program has grown from the District of Columbia, and nine States to a current total of the District of Columbia, Puerto Rico, and 22 States. The Insurance Commissioner and the Legislature of the Virgin Islands, after considering the insurance needs of their citizens have requested that their citizens be made eligible to purchase Federal crime insurance. With the addition of this territory, the Federal crime insurance program will be available to residents and businesses in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and 22 States. Accordingly, on the basis of the Administrator's continuing review of the crime insurance availability situation, and on the basis of findings and recommendations by the Commissioners of Insurance and Governors, it has been determined that a critical market unavailability situation exists in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands and States set forth in revised § 1931.1 and that as of the effective date of this regulation, October 30, 1978 these jurisdictions will be made eligible for the sale of crime insurance, or continued to be eligible for such sale. Because the increased availability of Federal crime insurance is beneficial to the public, and has no adverse affect upon any person, it is unnecessary to provide for notice and public procedure, and good cause exists for making these amendments effective on October 30, 1978. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

1. Section 1930.6 is revised to read as follows:

§ 1930.6 Name and address of servicing company

The following company has been designated to act as servicing company for the Federal crime insurance program: Safety Management Institute, Federal Crime Insurance, P.O. Box 41033, Washington, D.C. 20014. SMI's toll-free number is 800-638-8780. In Washington, D.C. metropolitan area call 652-2637. In Maryland, outside the Washington, D.C. metropolitan area, and in Puerto Rico and the Virgin Islands call collect, 301-652-2637.

2. Paragraph (b) of § 1931.1 is revised to read as follows:

§ 1931.1 Jurisdictions eligible for sale of crime insurance.

. . . . . .

(b) On the basis of the information available, the Administrator has determined that the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and the States set forth in this paragraph have an unresolved critical market availability situation that requires the operation of the Federal crime insurance program therein as of October 30, 1978. Accordingly, the program is in operation in the following jurisdictions:

Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, Tennessee, Virgin Islands, and Virginia.

. . . . . .

(Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); sec. 1103, 82 Stat. 466, 12 U.S.C. 1749bbb-17)

Issued at Washington, D.C., October 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30718 Filed 10-30-78; 8:45 am]

[6570-06-M]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURAL REGULATIONS

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission published its procedural regulations in final form on September 22, 1977, 42 FR 47828, and republished them with minor amendments because of organizational changes on October 14, 1977, 42 FR 55388. In reviewing those regulations it has come to the attention of the Commission that the substance of § 1601.12(b)(1)(v)(A) of the previous regulations, 40 FR 3210N, January 20, 1975, was not explicitly carried over to the current § 1601.13(d)(2). This omission is corrected with the subject amendment.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2254, EEOC, 2401 E Street NW., Washington, D.C. 20506, 202-634-6595.

SUPPLEMENTARY INFORMATION: This amendment corrects the omission of the substance of the previous § 1601.12(b)(1)(v)(A) from the present § 1601.13(d)(2). It explicitly apprises the public of the Commission's policy of accepting for jurisdictional purposes charges of discrimination when filed more than 180 days after but within 300 days after the alleged act of discrimination where there exists a State or local agency, as described in section 706(c) of title VII, 42 U.S.C. 2000e-5(c), in the jurisdiction where the charge arises. Section 1601.12(b)(1)(v)(A) had been upheld in *Doski* v. *M. Goldseker Co.*, 539 F. 2d 1326 (4th Cir. 1976), 12 E.P.D. para. 11,051, 12 F.E.P. Cases 1751; and *Williamson* v. *Chevron Research Co.*, —— F. Supp. —— (D. Calif. 1976), 12 F.E.P. Cases 95. The amendment signifies no change in Commission policy. Section 1601.13 (d)(2)(iii) presumed the acceptance of all charges filed more than 180 days but within 300 days after the alleged act of discrimination. However, it was felt that this presumption might not be clear and that the public might therefore be misled.

Accordingly, § 1601.13(d)(2) of the Commission's procedural regulations, 42 FR 55390, is hereby amended to insert after § 1601.13(d)(2)(ii) a new subsection (d)(2)(iii) as set forth below.

Current § 1601.13(d)(2)(iii) and (d)(2)(iv) are hereby redesignated §§ 1601.13(d)(2) (iv) and (v). This amendment is effective October 30, 1978, since it is not a significant regulation and does not require regulatory analysis under E.O. 12044.

Signed at Washington, D.C., this 24th day of October 1978.

For the Commission,

ELEANOR HOLMES NORTON,
Chair.

In § 1601.13(d), paragraph (d)(2)(iii) and (d)(2)(iv) are redesignated as (d)(2)(iv) and (d)(2)(v), and a new paragraph (d)(2)(iii) is added to read as follows:

§ 1601.13 Filing; deferrals to State and local agencies.

. . . . . .

(d) * * *
(2) * * *
(i) * * *
(ii) * * *

(iii) Where the document is submitted to the Commission more than 180 days from the date of the alleged violation but within 300 days and within the period of limitation of the appropriate 706 agency, the Commission shall process the document in accordance with paragraph (d)(1) of this section and shall assume jurisdiction 60 (or where appropriate, 120) days after the 706 agency proceedings have been commenced, except that where the Commission is earlier notified of the termination of the State proceedings, it shall immediately assume jurisdiction upon receipt of such notice.

(iv) * * *
(v) * * *

[FR Doc. 78-30618 Filed 10-27-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 997-3; PP 7E1974/R179]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Carbaryl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of carbaryl on chestnuts. The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of carbaryl on chestnuts.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

SUPPLEMENTARY INFORMATION: On August 14, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 35963) in response to a pesticide petition (PP 7E1974) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the U.S. Department of Agriculture. This petition proposed that 40 CFR 180.169 be amended by the establishment of a tolerance for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as carbaryl, in or on the raw agricultural commodity chestnuts at 1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.169 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, by November 29, 1978, file written objections with the Hearing Clerk, Environmental Protection Agency, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on October 30, 1978, part 180, subpart C, § 180.169 is amended by adding a tolerance for residues of carbaryl on chestnuts at 1 ppm as set forth below.

Dated October 23, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Part 180, subpart C, § 180.169 is amended by alphabetically inserting the tolerance of 1 ppm on chestnuts in the table to read as follows:

§ 180.169 Carbaryl; Tolerance for residues.

. . . . . .

Commodity:	Parts per million
. . . . .	
Chestnuts	1
. . . . .	

[FR Doc. 78-30493 Filed 10-27-78; 8:45 am]

[4310-10-M]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-3—PROCUREMENT BY NEGOTIATION

PART 14-63—AUDIT

Determinations and Findings and Audit of Proposals

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule makes amendments to the Interior Procurement Regulations and implements recent changes to the Federal Procurement Regulations concerning preaward audit of contract proposals.

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, 202-343-5914.

SUPPLEMENTARY INFORMATION:

under the current rules it is unclear whether the time limit is 30 or 45 service of the initial decision" which appears at the end thereof.

3. Parts 211, 212, 213, 214, and 215 are revised to read as set forth below.

FRANK PRESS,

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William Opdyke, 202-343-5914.

SUPPLEMENTARY INFORMATION: The primary author of this rule is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 202-343-5914.

NOTE.—The Department of the Interior has determined that this document does not contain a major rule requiring preparation of an inflation impact statement under Executive Order 11821 or OMB Circular A-107.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, the amendments contained herein are entirely administrative in nature. Therefore, the public rulemaking process is waived.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR is amended as stated below.

Dated: October 19, 1978.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Subpart 14-3.3—Determinations, Findings, and Authorities

1. Section 14-3.305-51 is amended by deleting "(g) [Reserved]"; by adding paragraph (g) and by revising paragraph (i). As amended, paragraphs (g) and (i) read as follows:

§ 14-3.305-51 Summary of required determinations and findings.

. . . . . .

(g) *Other types of contracts.* The use of a time and materials contract or a labor-hour contract pursuant to §§ 1-3.406-1 and 1-3.406-2 of this title requires a determination and findings signed by the contracting officer.

. . . . . .

(i) *Waiver of audit of proposals.* The determination and findings required to waive the audit of proposals pursuant to § 1-3.809(b) of this title will be signed by the contracting officer.

. . . . . .

Subpart 14-63.1—Audit of Contractor's Records

2. Section 14-63.103 is amended by revising paragraphs (a) and (e) to read as follows:

§ 14-63.103 Requirements.

(a) A preaward audit of proposals shall be made as required by § 1-3.809 of this title, for each negotiated contract and modification which is firm fixed-price or fixed-price with economic adjustment where the cost to the government exceeds or may exceed $100,000 or negotiated contract and modification of any other type where the cost to the Government exceeds or may exceed $250,000.

. . . . . .

(e) Contracts and contract modifications aggregating more than the amounts stated in paragraph (a) of this § 14-63.103 shall not be divided into separate transactions to avoid the audit requirements.

3. At the end of paragraph (c) of § 14-63.103, the words "Office of Management Services" are amended to read "Office of Administrative and Management Policy."

4. In the first line of paragraph (d) of § 14-63.103, the phrase "of the clause § 14-63.104-1" is amended to read "of the clause in § 14-63.104-1."

[FR Doc. 78-30638 Filed 10-27-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5652; C-24228]

COLORADO

Modification of Public Land Orders No. 1637 and No. 1800

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: Modification of PLO's No. 1637 and No. 1800 to permit an exchange of certain national forest lands. The lands remain withdrawn under the mining laws (30 U.S.C., Ch. 2).

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Keith Corrigall, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Orders No. 1637 and No. 1800 of May 16, 1958, and February 19, 1959, respectively, which withdrew certain public lands within the Arapaho National Forest from all forms of appropriation under the public land laws, including the mining laws, are hereby modified to delete the following words: "From all forms of appropriation under the public land laws, including," so far as they relate to the following described lands:

ARAPAHO NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Snake River Campground

T. 5 S., R 76 W.,
Sec. 18, S½SE¼SW¼;
Sec. 19, NW¼NW¼NE¼, N½SW¼NW¼NE¼, N½NE¼NW¼, NE¼NW¼NW¼,SE¼NW¼NW¼, SW¼NE¼NW¼, SE¼NE¼NW¼ (EXCEPTING THOSE PORTIONS WITHIN HES No. 110).
Containing 81.50 acres, more or less.

Tenderfoot Campground

T. 5 S., R. 77 W.,
Sec. 13, S½S½SW¼, W½SW¼SW¼SE¼ (EXCEPTING THAT PORTION WITHIN HES No. 110);
Sec. 24, N½N½NW¼, SE¼NE¼NW¼, N½NE¼SE¼NW¼, W½W½NW¼NE¼, NW¼NW¼SW¼NE¼ (EXCEPTING THOSE PORTIONS WITHIN HES No. 110).
Containing 109 acres, more or less.

The above described lands aggregate 190.50 acres in Summit County.

2. Effective immediately the above described lands shall be open to applications for the disposal of the lands under the General Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands remain withdrawn under the mining laws, 30 U.S.C., Ch. 2.

GUY R. MARTIN,
Assistant Secretary of the Interior.

OCTOBER 24, 1978.

[FR Doc. 78-30625 Filed 10-27-78; 8:45 am]

[6730-01-M]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 26]

PART 502—RULES OF PRACTICE AND PROCEDURE

Time for Review by the Commission in Absence of Exceptions or Appeal

AGENCY: Federal Maritime Commission.

ACTION: Final rules.

SUMMARY: The rules of practice and procedure are amended to eliminate the current confusion regarding the time within which the Commission on its own initiative may determine to review initial decisions or orders of dismissal of administrative law judges or settlement officers in agency proceedings. The change is necessary because

under the current rules it is unclear whether the time limit is 30 or 45 days. These amendments clearly establish the period as 30 days.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission recently published amendments to its rules of practice regarding time limits for filing of exceptions or appeal of decisions of the administrative law judges and of settlement officers, and review by the Commission in the absence of such filings (43 FR 33721; August 1, 1978). The Commission provided therein that review by the Commission in the absence of exceptions or appeal *shall not be accomplished* unless such review is requested by an individual Commissioner within 30 days of the decision or order (emphasis ours). Any such request would be sufficient to bring the matter before the Commission. The amendment further stated that decisions of the administrative law judge or settlement officer would become the decision of the Commission in the absence of exceptions or appeal unless within 45 days the Commission decides on its own motion to review the decision.

These two provisions are inconsistent and confusing. One would limit accomplishment of review to actions of the Commission taken within 30 days and the other would seem to permit review upon an action taken within 45 days. In order to rectify this confusion appropriate changes are hereby being made in the Commission's rules of practice to prescribe 30 days as the time within which such determinations to review may be accomplished.

Therefore, pursuant to section 43 of the Shipping Act, 1916 (46 U.S.C. 841a) and 5 U.S.C. 553, part 502 of title 46 CFR is amended as follows:

1. The fourth sentence of paragraph (a) of § 502.227 is revised to read: "Whenever the officer who presided at the reception of the evidence, or other qualified officer, makes an initial decision, such decision shall become the decision of the Commission 30 days after date of service thereof (and the Secretary shall so notify the parties), unless within such 30-day period, or greater time as enlarged by the Commission for good cause shown, request for review is made in exceptions filed or a determination to review is made by the Commission on its own initiative."

2. The last sentence of paragraph (a) of § 502.227 is amended by deleting the phrase "within 45 days after date of service of the initial decision" which appears at the end thereof.

3. Paragraph (c) of § 502.227 is amended by changing all references to "45 days" to read "30 days."

4. The reference in the second sentence of § 502.304(g) to "45 days" is amended to read "30 days."

5. The reference in § 502.318 to "45 days" is amended to read "30 days."

Effective date: Notice, opportunity to comment on these amendments and delayed effective date are not necessary because the amendments involve internal agency procedural matters. The amendments shall be effective October 30, 1978, and will apply to initial decisions, settlement officer decisions, and orders of dismissal served after that date.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-30620 Filed 10-27-78; 8:45 am]

[7555-02-M]

Title 47—Telecommunications

CHAPTER II—NATIONAL SECURITY AND EMERGENCY PREPAREDNESS TELECOMMUNICATIONS

ESTABLISHMENT OF NEW CHAPTER

AGENCY: Office of Science and Technology Policy.

ACTION: Notice of Amendments.

SUMMARY: Executive Order 12046 (March 29, 1978, 43 FR 13349 et seq.) abolished the Office of Telecommunications Policy (OTP) and transferred certain telecommunications emergency preparedness responsibilities to the National Security Council (NSC) and to the Director, Office of Science and Technology Policy (OSTP). These amendments to 47 CFR Chapter II document the transfer of telecommunications responsibilities.

DATES: Effective Date: March 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Wayne G. Kay, 395-3272.

AMENDMENTS

1. Chapter II is retitled to read as set forth above, consisting of Parts 201 through 215.

PARTS 201—210 [RESERVED]

2. Parts 201 and 202 are revoked. Parts 201 through 210 are reserved.

3. Parts 211, 212, 213, 214, and 215 are revised to read as set forth below.

FRANK PRESS,
Director, Office of Science and Technology Policy.

PART 211—EMERGENCY RESTORATION PRIORITY PROCEDURES FOR TELECOMMUNICATIONS SERVICES

Sec.
211.0 Purpose.
211.1 Authority.
211.2 Definitions.
211.3 Scope and coverage.
211.4 Policy.
211.5 Priorities.
211.6 Submission and processing of restoration priority requests.
211.7 Obligation of carriers.

AUTHORITY: 84 Stat. 2083 and Executive Order 12046, FR 43, 13349 et seq., March 29, 1978.

§ 211.0 Purpose.

This part establishes policies and procedures under which government and private entities will be furnished restoration priorities to insure that leased intercity private line telecommunications services vital to the national interest will be maintained during the continuance of a war in which the United States is engaged. It supersedes the Director of Telecommunications Management Order of January 15, 1967 (32 FR 791, 47 CFR 201), which is hereby canceled. To assure the effective ability to implement its provisions, and also in order that government and industry resources may be used effectively under all conditions ranging from national emergencies to international crises, including nuclear attack, a single set of rules and procedures is essential, and they must be applied on a day-to-day basis so that the priorities they establish can be implemented at once when the occasion arises. As provided for in Part 18 of Executive Order 11490, as amended (3 CFR, 1966-1970 Comp., p. 820), policies, plans, and procedures developed pursuant to that Executive order shall be in consonance with the plans and policies contained in this part.

§ 211.1 Authority.

(a) Authority to direct priorities for the restoration of communications services in national emergencies is vested in the President, including authority conferred by section 103 of the National Security Act of 1947, as amended (50 U.S.C. 404), section 101 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2070), section 201 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281), section 1 of Reorganization Plan No. 1 of 1958, as amended (3

CFR, 1954-1958 Comp., p. 447), and section 606 of the Federal Communi-

dum of August 21, 1963, "Establishment of a National Communications

insofar as necessary to restore services of higher priority."

or immediately necessary to maintain the internal security of the United

(1) Insure performance of critical logistic functions, public utility services, and administrative-military support

cases the justification for restoration priorities will contain a validation statement from the Government

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CFR, 1954-1958 Comp., p. 447), and section 606 of the Federal Communications Act of 1934, as amended. (47 U.S.C. 606).

(b) Authority to develop plans policies, and procedures for the establishment of such restoration priorities has been delegated to the National Security Council, by Executive Orders 11051, 11490, and by the President's Memorandum of August 21, 1963 (28 FR 9413, 3 CFR Part 858 (1959-63 comp.)), all as amended by Executive Order 12046, (FR 43, 13349 et seq).

§ 211.2 Definitions.

The following definitions apply herein:

(a) "Communications common carrier" or "carrier" means any person engaged in communications common carriage for hire, in intrastate, interstate, or international telecommunications.

(b) "Circuit" means a carrier's specific designation of the overall facilities provided between, and including, terminals for furnishing service. When service involves network switching, "circuit" includes those circuits between subscriber premises and switching centers (access lines) and those between switching centers (trunks).

(c) "Station" means transmitting or receiving equipment or combination transmitting and receiving equipment, at any location, on any premise, connected for private line service.

(d) "Private line service" means leased intercity private line service provided by carriers for intercity domestic and international communications over integrated communications pathways, and includes interexchange facilities, local channels, and station equipment which may be integral components of such communications service.

(e) "Restoration" means the recommencement of service by patching, rerouting, substitution of component parts, and other means, as determined necessary by a carrier.

(f) "Government" means Federal, foreign, State, county, municipal, and other local government agencies. Specific qualifications will be supplied whenever reference to a particular level of government is intended, e.g., "Federal Government," "State government." "Foreign Government" includes coalitions of governments secured by treaty, including NATO, SEATO, OAS, UN, and associations of governments or government agencies, including the Pan American Union, International Postal Union, and International Monetary Fund. "Quasi-government" includes eleemosynary relief organizations, such as the Red Cross organizations.

(g) "National Communications System (NCS)" means that system established by the President's Memorandum of August 21, 1963, "Establishment of a National Communications System" (28 FR 9413, 3 CFR, 1959-1963 Comp., p. 858).

(h) "Executive Agent" means the Executive Agent of the National Communications System.

(i) "Commission" means the Federal Communications Commission.

§ 211.3 Scope and coverage.

(a) The priority system and procedures established by this part are applicable to:

(1) U.S. domestic leased intercity private line services, including private line switched network services;

(2) U.S. international leased private line services to the point of foreign entry;

(3) Foreign extensions of U.S. international leased private line services to the extent possible through agreement between U.S. carriers and foreign correspondents;

(4) International leased private line services terminating in or transiting the United States;

(5) Federal Government-owned and leased circuits.

(b) The priority system and procedures established by this part are not applicable to operational circuits or order wires of the carriers needed for circuit reactivation and maintenance purposes, which shall have priority of restoration over all other circuits and shall be exempt from interruption for the purpose of restoring priority services.

§ 211.4 Policy.

During the continuance of a war in which the United States is engaged and when the provisions of this part are invoked, all communications common carriers shall comply with the following principles insofar as possible:

(a) Whenever necessary to maintain or restore a service having a designated priority, services having lower priority, lower subpriority, or no priority, will be interrupted in the reverse order of priority starting with nonpriority services.

(b) When services are interrupted to restore priority services, carriers will endeavor if feasible to notify users of the reason for the preemption.

(c) When public correspondence circuits are needed to satisfy requirements for priority services, idle circuits will be selected first. A minimum number of public correspondence circuits shall at all times be kept available so as to provide for the transmission of precedence-type messages and calls.

(d) Communications common carriers will not interrupt conversations having priority classification except insofar as necessary to restore services of higher priority.

(e) It is recognized that as a practical matter in providing for the maintenance or restoration of a priority service or services operating within a multiple circuit-type facility (such as a carrier band, cable, or multiplex system), lower priority, lower subpriority, or nonpriority services on paralleled channels within a band or system may be restored concurrently with higher priority services. Such reactivation shall not, however, interfere with the expedited restoration of other priority services.

(f) The Executive Agent is authorized to instruct the carriers on the percentage of government-switched network internachine trunks to be restored to provide capacity for priority access line traffic.

(g) The carriers are authorized to honor NCS-certified priorities from other authorized carriers for leased facilities.

(h) The carriers are authorized to honor restoration priorities certified by the Executive Agent.

(i) To ensure the effectiveness of the system of restoration priorities established by this part it is essential that rigorous standards be applied. Users are requested and directed to examine their private line service requirements in light of the criteria specified in this part and with regard to the availability of alternate communications facilities such as public correspondence message services, and Government-owned emergency communications systems.

§ 211.5 Priorities.

There are hereby established four levels of restoration priority. Within each level, subpriorities may be established by the Executive Agent, with the concurrence of the National Security Council, for both government and nongovernment services. The subpriority categories currently in use, which have been established by the Executive Agent will remain in effect until modified. Compatibility of subcategories applicable to government and nongovernment users is essential to achieve the objective of a single restoration priority system.

(a) *Priority 1.* Priority 1 shall be the highest level of restoration priority, and shall be afforded only to Federal and Foreign Government private line services, and to Industrial/Commercial services which are designated for prearranged voluntary participation with the Federal Government in a national emergency. Circuit requirements in this level of priority shall be limited to those essential to national survival if nuclear attack occurs for:

(1) Obtaining or disseminating critical intelligence concerning the attack,

or immediately necessary to maintain the internal security of the United States;

(2) Conducting diplomatic negotiations critical to the arresting or limiting of hostilities;

(3) Executing military command and control functions essential to defense and retaliation;

(4) Giving warning to the U.S. population;

(5) Maintaining Federal Government functions essential to national survival under nuclear attack conditions.

(b) *Priority 2.* Priority 2 shall be the second highest level of restoration priority, and shall be afforded only to Federal and Foreign Government private line services, and to Industrial/Commercial services which are designated for prearranged voluntary participation with the Federal Government in a national emergency. Circuit requirements in this level shall be limited to those essential, at a time when nuclear attack threatens, to maintain an optimum defense posture and to give civil alert to the U.S. population. These are circuit requirements whose unavailability would present serious danger of:

(1) Reducing significantly the preparedness of U.S. defense and retaliatory forces;

(2) Affecting adversely the ability of the United States to conduct critical preattack diplomatic negotiations to reduce or limit the threat of war;

(3) Interfering with the effectual direction of the U.S. population in the interest of civil defense and survival;

(4) Weakening U.S. capability to accomplish critical national internal security functions;

(5) Inhibiting the provision of essential Federal Government functions necessary to meet a preattack situation.

(c) *Priority 3.* Priority 3 shall be the third highest level of restoration priority and shall be afforded to government, quasi-government, and Industrial/Commercial private line services: *Provided, however,* That Priority 3 will be afforded circuits serving Industrial/Commercial, State, county, municipal, and quasi-state and local government agencies only where, during an emergency, at least one station in the circuit (or in connected circuits if switched service is involved) will be manned continually, or where such circuits are automated and will be under constant surveillance from a remote location. Circuit requirements in this level shall be limited to those necessary for U.S. military defense and diplomacy, for law and order, and for national health and safety in a national emergency involving heightened possibility of hostilities. These are circuit requirements needed to:

(1) Insure performance of critical logistic functions, public utility services, and administrative-military support functions;

(2) Inform key diplomatic posts of the situation and of U.S. intentions:

(3) Secure and disseminate urgent intelligence;

(4) Distribute essential food and other supplies critical to health;

(5) Provide for critical damage control functions;

(6) Provide for hospitalization:

(7) Continue critical Government functions:

(8) Provide transportation for the foregoing activities.

(d) *Priority 4.* Priority 4 shall be the fourth highest restoration priority and shall be afforded to government, quasi-government, and Industrial/Commercial private line services: *Provided, however,* That Priority 4 will be afforded circuits serving Industrial/Commercial, State, county, municipal, and quasi-state and local government agencies only where, during an emergency, at least one station in the circuit (or in connected circuits if switched service is involved) will be manned continually, or where such circuits are automated and will be under constant surveillance from a remote location. Circuit requirements in this level shall be limited to those necessary for the maintenance of the public welfare and the national economy in a situation short of nuclear attack, or during reconstitution after attack. These include circuit requirements needed to continue the more important financial, economic, health, and safety activities of the Nation.

§ 211.6 Submission and processing of restoration priority requests.

(a) Except as otherwise provided below, all requests for restoration priority assignments will be submitted to the Executive Agent in the format prescribed by him for processing and certification.

(b) Priority 3 and 4 applications from county and municipal governments, quasi-state and local government agencies and private entities shall be forwarded to the Federal Communications Commission for its approval and for certification to the carriers. These submissions will be in the form prescribed by the Commission.

(c) Industrial/Commercial entities designated for prearranged voluntary participation with the Federal Government in a national emergency should submit separate applications to the Commission when requesting the assignment of priorities in category 1 or 2. Such assignments will require the approval of the National Security Council in order to continue to be effective during a war emergency. In all cases the justification for restoration priorities will contain a validation statement from the Government agency with whom participation is prearranged.

(d) Requests for restoration priority assignments made by Foreign Government agencies, except for NATO, NATO national military authority, and such other requests as the Executive Agent may be designated, will be submitted to the Department of State for initial evaluation and review. The Department will forward to the Executive Agent for processing and approval such of these requests as it finds acceptable.

(e) Requests for restoration priority assignments made by NATO, NATO national military authority, and such other requests as the Executive Agent may designate, will be forwarded through established Allied Long Lines Agency (ALLA) channels to the Secretary of Defense. The Secretary will forward to the Executive Agent for processing and approval such of these requests as he finds acceptable pursuant to approved NATO/U.S. procedures.

(f) Requests for temporary upgrading of restoration priority assignments occasioned by special critical conditions, including natural disasters, heightened diplomatic and political tenseness, and tracking and control of manned space operations, may be submitted to the Executive Agent together with such information as he may require for expedited processing decision.

(g) All assignments, denials and changes of restoration priorities and subpriorities are subject to review and modification by the National Security Council.

(h) When requesting service from the carriers the user must include the certified restoration priority on the service authorization.

§ 211.7 Obligation of carriers.

(a) During the continuance of a war in which the United States is engaged, and when the provisions of this part are invoked, all carriers shall accord restoration priority assignments certified pursuant to this part priority over all other circuits.

(b) To promote the national interest and defense preparedness, carriers shall:

(1) Maintain such records of restoration priority assignments certified pursuant to this part as may be necessary to enable prompt implementation;

(2) Enter into agreements, to the extent possible, with their foreign correspondents to effect restoration of the foreign portion of leased international services in accordance with this part;

(3) Notify the Executive Agent of foreign correspondent procedures affecting Federal Government services that are not reasonably consistent with the priority requirements of this part.

PART 212—PROCEDURES FOR OBTAINING INTERNATIONAL TELECOMMUNICATION SERVICE FOR USE DURING A NATIONAL EMERGENCY

Sec.
212.0 Authority.
212.1 Purpose.
212.2 Scope.
212.3 Circuit restoration procedures.
212.4 Responsibilities.
212.5 Other requirements.
212.6 Coordination of requirements.
212.7 Implementation.

AUTHORITY: E.O. 10995, E.O. 11084, 3 CFR 1959-1963 Comp., pp. 535 and 719; Memorandum of Aug. 21, 1963, 3 CFR 1959-1963 Comp., p. 858, E.O. 12046, 43 FR 12349, Mar. 29, 1978.

§ 212.0 Authority.

(a) Authority to prescribe procedures for obtaining telecommunication resources during an emergency is contained in Executive Order 12046 (FR 43, 13349 et seq.), and the President's National Communications Memorandum of August 21, 1963 (28 FR 9413, 3 CFR, 1959-1963 Comp., p. 858).

(b) These procedures are applicable to the communications common carriers and non-Federal Government users under the President's authority contained in subsection 606(a) of the Communications Act of 1934, as amended. The authority under subsection 606(a) has been delegated by Executive Order 12046 to the Director of the Office of Science and Technology Policy. This authority may be exercised only during the continuance of a war in which the United States is engaged.

§ 212.1 Purpose.

The purpose of this part is to replace Annex 2 of EMO 3000.1, 32A CFR, Chap. I, and to provide specific guidance to Government and private entities who may have new requirements for international telecommunication service during national emergencies.

§ 212.2 Scope.

The procedures in this part provide guidance for the submission of emergency requirements for telecommunication channels between the United States and overseas or foreign points. Guidance on this subject was previously contained in Annex 2 of DMO 3000.1 and Mobilization Plan IX-3. Mobilization Plan IX-3 has been canceled.

§ 212.3 Circuit restoration procedures.

The restoration priority procedures for these emergency requirements shall be in accordance with the order entitled "Priority System for the Use and Restoration of Leased Intercity Private Line Services During Emergency Conditions," FCC Order 67-51.

§ 212.4 Responsibilities.

(a) Executive departments and agencies of the United States, whether or not components of the National Communications System (NCS), shall submit their international emergency telecommunications requirements to the Executive Agent, National Communications System, for coordination and consolidation of mobilization requirements.

(b) The Department of Defense shall coordinate NATO requirements in consonance with approved NATO/U.S. procedures for subsequent processing by the Executive Agent, National Communications System.

(c) The Department of State shall coordinate and approve foreign government circuit requirements and then forward them to the Executive Agent, NCS, for further processing.

§ 212.5 Other requirements.

Those entities, other than Executive department and agencies of the United States, having need for emergency international telecommunication service shall present their requirements to the Federal Communications Commission (FCC).

§ 212.6 Coordination of requirements.

(a) The NCS and FCC shall meet periodically to review the total mobilization requirements and to evaluate the impact of these requirements upon the common carriers' capability. If the situation develops in which emergency requirements cannot be provided by the communications common carriers, the Executive Agent, NCS, or the FCC, as appropriate, shall immediately notify the Director of the Office of Telecommunications Policy of that situation.

(b) The Director of the Office of Science and Technology Policy will assume the responsibility for coordinating and integrating mobilization requirements which are presented to him, making use of the knowledge, information, and advice of the FCC. These requirements shall be evaluated with due regard to facilities which must remain under the control of the commercial companies and those which must be generally available to the public and the Government.

§ 212.7 Implementation.

Executive departments and agencies of the United States are authorized to issue such additional orders as are necessary to effect implementation of this part.

PART 213—GOVERNMENT AND PUBLIC CORRESPONDENCE TELECOMMUNICATIONS PRECEDENCE SYSTEM

Sec.
213.0 Authority.
213.1 Background and purpose.
213.2 Scope.
213.3 Cancellation.
213.4 Definitions.
213.5 Precedence designators.
213.6 Criteria.
213.7 Policies.
213.8 Implementation.

AUTHORITY: Sec. 606, 48 Stat. 1104; 47 U.S.C. 606, E.O. 10705, 3 CFR, 1954-1958 Comp. E.O. 10995, 3 CFR, 1959-1963 Comp., President's Memorandum of August 21, 1963; 3 CFR, 1959-1963 Comp., p. 858; E.O. 12046, 43 FR 13349, Mar. 29, 1978.

§ 213.0 Authority.

(a) The voice and message precedence procedures for departments and agencies of the Federal Government prescribed by this part are prescribed pursuant to Executive Order No. 12046 (43 FR 13349 et. seq.) and the President's Memorandum of August 21, 1963, which established the National Communications System (28 FR 9413; 3 CFR, 1959-1963 Comp., p. 858).

(b) The procedures applicable to communications common carriers and non-Federal Government users prescribed by this part are prescribed by authority conferred upon the President by subsection 606(a) of the Communications Act of 1934, as amended, and delegated to the National Security Council by Executive Order 12046. That authority under section 606(a) may be exercised only during the continuance of a war in which the United States is engaged.

§ 213.1 Background and purpose.

(a) The National Security Council and the Federal Communications Commission have agreed upon a precedence system for the expeditious handling of messages and calls transmitted over Government and public correspondence facilities in all types of situations from peacetime to massive nuclear attack. Effectuation of that system requires that the Director issue a circular and that the Commission concurrently issue an order prescribing the standards, procedures, policies, and regulations that together, constitute this single integrated precedence system.

(b) In conformity with that agreement the National Security Council is issuing this circular the purpose of which is to prescribe, on behalf of the President, that part of those standards, procedures, policies, and regulations which are within the cognizance of the NSC.

No significance should be attached to the fact that slightly different terms are used in this circular from those used in the companion order of the FCC. Those differences result from differences in terms in the basic legal authorities of the Director and the Commission rather than from an intent to denote a distinction in purpose or effect.

§ 213.2 Scope.

The precedence system contained herein is applicable to:

(a) Users of Government service facilities, whether owned or leased.

(b) Users of public correspondence service facilities of the communication common carriers, to U.S. domestic and international communication common carriers, and to the extent possible by agreement between the latter and their foreign correspondents.

§ 213.3 Cancellation.

This circular cancels:

(a) Attachments A and B to Annex 3 of DMO 3000.1, dated November 8, 1963 (28 FR 12273).

(b) That portion of the memorandum of the Special Assistant to the President for Telecommunications, dated August 27, 1964, pertaining to message precedences.

§ 213.4 Definitions.

As used herein:

(a) Public correspondence services means those services offered to the general public for communications between all points served by a carrier or by interconnected carriers on a nonexclusive message by message or call by call basis, as differentiated from leased private line services.

(b) The term "precedence" means the order in which messages and calls are processed. Transmission of information and call completion is therefore to be accomplished in the order required by the precedence designator. Any such properly categorized communications precede noncategorized communications.

(c) The term "Government" where used alone means Federal, foreign, State, county, or municipal government agencies. Specific reference will be made whenever it is intended to apply to less than the whole, e.g., "State Government," "Federal Government," etc.

(d) The term "Foreign Government" includes those foreign diplomatic and consular establishments and those coalitions or associations of governments such as NATO, SEATO, OAS, UN, and associations of governments or governmental agencies such as Pan American Union, International Postal Union, International Monetary Fund, and similar organizations.

(e) The term "message" means a written or other form of record communication prepared for transmission and delivery at the destination.

(f) The term "call" means a request from a user for a connection to another station whether for telephone or record communication.

§ 213.5 Precedence designators.

(a) The following precedence designators are available for Government and public correspondence users:

Federal Government	*Domestic public correspondence and international telephone calls*
Flash	Flash emergency.
Immediate	Immediate emergency.
Priority	Priority emergency.
Routine	(No domestic equivalent.)

(b) Government and non-Government users of public correspondence services will handle their international messages in accordance with current ITU Telegraph Regulations. Government users should note that, generally, the only precedence designator available for their use for international messages sent over public correspondence circuits is Etat Priorite. The ITU Regulations do not contain precedence designators which equate to Flash, Immediate, or Priority. Accordingly, Government messages whether Flash, Immediate, or Priority precedence when sent over international public correspondence circuits will be handled as Etat Priorite messages. Thus, Priority messages will receive the same treatment in transmission and processing as Immediate or Flash messages. Conversely, Etat Priorite messages received in the United States shall be transmitted and processed in the order of receipt, to the extent possible. The precedence designator available for non-Government users of public correspondence services is Urgent. The Urgent designator is limited for use only during wartime conditions, as declared pursuant to section 606 of the Communications Act of 1934.

(c) Domestic and International U.S. common carriers, insofar as practicable by agreement with their foreign correspondents, shall endeavor to arrange the proper level of precedence handling of international messages and calls originating, terminating in, or transiting the United States: *Provided, however,* That insofar as international messages are concerned the level of precedence shall be consistent with the International Telecommunication Conventions and regulations thereunder.

(d) The Government designators shall be used throughout the Federal Government. All messages and telephone calls sent via public correspondence services shall use domestic or international public correspondence designators as appropriate. Thus, the responsibility is on Government and public correspondence users to recognize and use the appropriate designators when using public correspondence services.

(e) On international telephone calls the carrier's operator will convert to the appropriate international designator.

§ 213.6 Criteria.

(a) *Flash, Flash Emergency.* (1) This is the highest order of precedence and shall be strictly limited to Federal and Foreign Government agencies.

(2) Flash, or Flash Emergency telephone calls or messages shall be handled in the order received and ahead of all calls or messages except as indicated for international messages in ITU Regulations. When necessary to obtain a circuit for a Flash, or Flash Emergency call any call in progress of a lesser precedence will be interrupted, if feasible. Any message of a lesser precedence in the process of transmission will be halted, if feasible, to clear the channel for the Flash or Flash Emergency transmission. Flash or Flash Emergency precedence shall be reserved for calls and messages having an immediate bearing on:

(i) Command and control of military forces essential to defense and retaliation.

(ii) Critical intelligence essential to national survival.

(iii) Conduct of diplomatic negotiations critical to the arresting or limiting of hostilities.

(iv) Dissemination of critical civil alert information essential to national survival.

(v) Continuity of Federal governmental functions essential to national survival.

(vi) Fulfillment of critical U.S. internal security functions essential to national survival.

(vii) Catastrophic events of national or international significance, such as Presidential Action Notices essential to national survival during attack or preattack conditions.

(b) *Immediate, Immediate Emergency, Urgent.* Immediate, Immediate Emergency, or Urgent telephone calls or messages shall be handled as fast as possible and ahead of all other calls or messages except those having a higher precedence. Any message or call of a lower precedence in the process of transmission will be halted, if feasible, to clear the channel for this transmission. It will be reserved generally for calls or messages pertaining to:

(1) Situations which gravely affect the security of national and allied

(15) Arranging minimum transportation for accomplishing the aforesaid functions

ernment activities brought to the attention of the communication common

AUTHORITY: 84 Stat. 2083 and E.O. 12046 (43 FR 13349 et seq., Mar. 29, 1978.)

may otherwise be modified or revoked by the Director in the national interest;

Director, OSTP, will review such applications, accomplish the necessary additional coordination insofar as

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(1) Situations which gravely affect the security of national and allied forces.

(2) Reconstitution of forces in a postattack period.

(3) Intelligence essential to national security.

(4) Conduct of diplomatic negotiations to reduce or limit the threat of war.

(5) Implementation of Federal Government actions essential to national survival.

(6) Situations which gravely affect the internal security of the United States.

(7) Civil defense actions concerning direction of our population and its survival.

(8) Disasters or events of extensive seriousness having an immediate and detrimental effect on the welfare of the population.

(9) Vital information having an immediate effect on aircraft, spacecraft, or missile operations.

(c) *Priority, Priority Emergency, Urgent.* Priority, Priority Emergency, or Urgent messages and calls shall take precedence over messages or calls designated "Routine," or in the case of common carriers, over all nonprecedence traffic. Priority, Priority Emergency, or Urgent precedence is generally reserved for calls or messages which require expeditious action. Examples are calls or messages pertaining to:

(1) Information on locations where attack is impending or where fire or air support will soon be placed.

(2) Air-ground integrated operations.

(3) Important intelligence.

(4) Important diplomatic information.

(5) Important information concerning the launch, operation, or recovery of spacecraft or missiles.

(6) Movement of naval, air, and ground forces.

(7) Coordination between governmental agencies concerning the performance of emergency preparedness functions.

(8) Major civil aircraft accidents.

(9) Maintaining the public health, safety, and the welfare of our population.

(10) Critical logistic functions, provisions of critical public utility services, and administrative military support functions.

(11) Distributing essential food and supplies critical to health.

(12) Accomplishing tasks necessary to insure critical damage control functions.

(13) Preparations for adequate hospitalization.

(14) Continuity of critical Government functions.

(15) Arranging minimum transportation for accomplishing the aforesaid functions.

(16) Continuing or reestablishing our more important financial, economic, health, and safety activities. Producing, procuring, and distributing food materials and supplies which are considered necessary to the immediate support of a war effort, the national defense, or for expediting the means of meeting the effects of natural disasters.

(17) Prompt delivery of information by press representatives to news media organizations and newspapers covering news of national or widespread disasters.

(d) *Routine; no domestic equivalent.* Routine precedence designation applies to those normal day-to-day communications which require rapid transmission by telephone or message, but do not require urgent or preferential handling.

§ 213.7 Policies.

(a) Calls and messages in each precedence classification above shall have no precedence over others within the same classification, except where, within the same classification, they cannot be handled simultaneously. Then, they shall be handled in the order of their receipt.

(b) Individuals whose requirements qualify them to use the precedence system share the responsibility for insuring its effectiveness. Users must familiarize themselves with the purposes to be served by the use of each precedence designator. It must be remembered that the entire system will operate successfully only if the use of the precedence designator is limited strictly to the intended purposes. Each user must consider whether each message or call requires any special precedence and exercise care not to specify a higher precedence than circumstances require.

(c) For public correspondence message services, the domestic or international precedence designators shall be shown in full by the sender as the first word preceding the name of the addressee.

(d) For public correspondence call services, the user should first attempt to complete the call in the normal manner. In the event the user is unable to complete the call and the type of communication falls within one of the precedence categories listed herein, the call should be filed with an operator for completion and the user must specify the required precedence handling by stating that this is a Flash Emergency, Immediate Emergency, or Priority Emergency call, whichever the case may be.

(e) Any apparent misuse of precedence indicators by non-Federal Government activities brought to the attention of the communication common carriers shall be referred to the FCC on an after-the-fact basis.

(f) Any apparent misuse by Federal Government activities brought to the attention of the communication common carriers shall be referred to the Executive Agent, National Communications System. The Executive Agent will refer any matter which cannot be resolved with the cognizant Government activity to the National Security Council, for decision.

(g) It is essential to provide public message and call capability for the transmission of military, governmental, and essential non-Government precedence messages and calls. Private line services for military, governmental, and other essential users are protected under a Priority System for Intercity Private Line Services promulgated by the FCC (FCC Order 67-51) and the National Security Council. However, during national emergencies, military, governmental, and other essential users will have additional requirements for prompt completion of precedence traffic over public correspondence communication common carrier facilities. Therefore, notwithstanding the provisions of the above-described Priority System for Intercity Private Line Services, communication common carriers shall have available a minimum number of public correspondence circuits at all times so as to provide for the transmission of precedence type messages and calls. Normally, the communication common carriers shall use their judgment in determining this minimum number of circuits required for public correspondence precedence traffic. However, the authority is reserved to the National Security Council or the Federal Communications Commission, as appropriate to the time and situation, to revise the decisions of the carriers respecting the allocation of circuits, and to resolve any questions which are referred to them by the carriers or the users.

§ 213.8 Implementation.

Federal departments and agencies are authorized to issue such additional orders as are necessary to effect implementation of this circular.

PART 214—PROCEDURES FOR THE USE AND COORDINATION OF THE RADIO SPECTRUM DURING A NATIONAL EMERGENCY

Sec.
214.0 Authority.
214.1 Purpose.
214.2 Scope.
214.3 Assumptions.
214.4 Planned actions.
214.5 Responsibilities.
214.6 Postattack procedures and actions.

AUTHORITY: 84 Stat. 2083 and E.O. 12046 (43 FR 13349 et seq., Mar. 29, 1978.)

§ 214.0 Authority.

The provisions of this Part 214 are issued pursuant to Reorganization Plan No. 1 of 1970, 84 Stat. 2083, and Executive Order 12046 (43 FR 13349 et seq.). This Part 214 replaces Annex 1 of DMO 3000.1, dated November 8, 1963. (28 FR 12273).

§ 214.1 Purpose.

The purpose of this part is to provide guidance for the use of the radio spectrum in a period of war, or a threat of war, or a state of public peril or disaster or other national emergency.

§ 214.2 Scope.

This part covers procedures for the use of radio frequencies upon proclamation by the President that there exists war, or a threat of war or a state of public peril or disaster or other national emergency or in order to preserve the neutrality of the United States. These procedures will be applied in the coordination, application for, and assignment of radio frequencies upon order of the Director, OSTP. These procedures are intended to be consistent with the provisions and procedures contained in emergency plans for use of the radio spectrum.

§ 214.3 Assumptions.

When the provisions of this part become operative, Presidential emergency authority, including Executive Order 11490, 12046 (3 CFR, 1966-1970 Comp., p. 820), and other emergency plans regarding the allocation and use of national resources will be in effect. In a postattack period, the Director, OSTP, will have authority to make new or revised assignments of radio frequencies in accordance with authority delegated by the President.

§ 214.4 Planned actions.

(a) Whenever it is determined necessary to exercise, in whole or in part, the President's emergency authority over telecommunications, the Director, OSTP, will exercise that authority as specified in Executive Order 12046. FR 43, 13349 et seq.

(b) In this connection, and concurrently with the war or national emergency proclamation by the President, the Director will:

(1) Authorize the continuance in force of all outstanding frequency authorizations issued by the Director, OSTP, and the Federal Communications Commission (FCC), except as those authorization may be modified by emergency plans for use of the radio spectrum and except as they may otherwise be modified or revoked by the Director in the national interest;

(2) Redelegate to the Secretary of Defense authority necessary to control the use of the radio spectrum in areas of active combat, where such control is necessary to the support of U.S. military operations;

(3) Close all non-Government radio stations in the international broadcasting service as defined in the FCC rules and regulations, except those carrying or scheduled to carry U.S. Government-controlled radio broadcasts;

(4) Close all amateur radio stations, except those operating as a part of the Radio Amateur Civil Emergency Service (RACES).

§ 214.5 Responsibilities.

(a) The Director, OSTP, will issue such policy guidance, rules, regulations, procedures, and directives as may be necessary to assure effective frequency usage during war or national emergency conditions.

(b) The FCC shall issue appropriate rules, regulations, orders, and instructions and take such other actions not inconsistent with the actions of the Director, OSTP, as may be necessary to ensure the immediate availability of the frequencies and facilities between 10 and 25,000 kHz provided for in emergency plans for use of the radio spectrum.

(c) The FCC shall assist the Director in the preparation of emergency plans pursuant to Part 18, Executive Order 11490 (3 CFR, 1966-1970 Comp., p. 820).

(d) Each Federal Government agency concerned shall develop and be prepared to implement its own plans, and shall make necessary preemergency arrangments with non-Government entities for the provision of desired facilities or services, all subject to the guidance and control of the Director.

§ 214.6 Postattack procedures and actions.

(a) The frequency management staff supporting the Director, OSTP, will be comprised of predesignated personnel from the frequency management staffs of the government user agencies and the FCC, will have proceeded to the OSTP relocation site in accordance with alerting orders in force.

(b) Government agencies having need for new radio frequency assignments or for modification of existing assignments involving a change in the frequency usage pattern shall unless otherwise provided submit applications therefor to the Director, OSTP, by whatever means of communication are available and appropriate, together with a statement of any preapplication coordination accomplished. The Director, OSTP, will review such applications, accomplish the necessary additional coordination insofar as practicable, consider all pertinent views and comments, and grant or deny, as he shall determine, the assignment of such frequencies. All concerned will be informed promptly of his decisions.

(c) Non-Government entities having need for new radio frequency assignments or for modifications of existing assignments will continue to submit applications therefor to the FCC, or in accordance with FCC instructions. Such applications shall be coordinated with the Director, OSTP, and granted subject to the approval of the Director, OSTP, or his delegate.

(d) All changes of radio frequency usage within U.S. military theaters of operation will be coordinated with the Director, OSTP, where harmful interference is likely.

(e) Where submission to the Director, OSTP, is impracticable, the applicant shall:

(1) Consult emergency plans for use of the radio spectrum and the Frequency Assignment Lists;

(2) Accomplish such coordination as appropriate and possible;

(3) Act in such manner as to have a minimum impact upon established services, accepting the responsibility entailed in taking the temporary action required;

(4) Advise the Director, OSTP, as soon as possible of the action taken, and submit an application for retroactive approval.

PART 215—FEDERAL GOVERNMENT FOCAL POINT FOR ELECTROMAGNETIC PULSE (EMP) INFORMATION

Sec.
215.0 Purpose and authority.
215.1 Background.
215.2 Assignment of responsibilities.

AUTHORITY: 84 Stat. 2083, and E.O. 12046, 43 FR 13349, March 29, 1978.

§ 215.0 Purpose and authority.

The purpose of this part is to designate a focal point within the Federal Government for electromagnetic pulse (EMP) information concerning telecommunications. It is issued pursuant to the authority of Reorganization Plan No. 1 of 1970, 84 Stat. 2083, Executive Order 12046 (43 FR 13349 et seq.) and the President's memorandum of August 21, 1963, "establishment of a National Communications System." (28 FR 9413, 3 CFR, 1959-1963 Comp., p. 858).

§ 215.1 Background.

(a) The nuclear electromagnetic pulse (EMP) is part of the complex environment produced by nuclear explo-

sions. It consists of transient voltages and currents which can cause malfunctioning and serious damage to electri-

were previously added and which provided a time extension for using the

§§ 395.8 and 395.9 [Amended]

2. Sections 395.8(u) and 395.9(x) of

motive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington,

system, to be furnished under the standard, specifically states that the C grade indicates a level of performance

Therefore, the burden of adding the specific UTQG grades for the particular tire classification should be mini-

V 4 3 / 2 1 0 C 3 0 7 8 0 C

sions. It consists of transient voltages and currents which can cause malfunctioning and serious damage to electrical and electronic equipment.

(b) The Defense Nuclear Agency (DNA) is the overall technical coordinator for the Army, Navy, Air Force, and DOE laboratories on matters concerning nuclear weapons, nuclear weapons effects, and nuclear weapons testing. It acts as the focal point between the service laboratories and other agencies. The Defense Communications Agency (DCA) maintains a data base for telecommunications for the National Communications System (NCS) and provides a capability for conducting telecommunications survivability studies for civil and military departments and agencies.

(c) In order to disseminate among affected Federal agencies information concerning the telecommunications effects of EMP and available protective measures, and in order to avoid duplication of research efforts, it is desirable to designate a focal point within the Federal Government for telecommunications EMP matters.

§ 215.2 Assignment of responsibilities.

The Executive Agent, NCS, shall be the focal point within the Federal Government for all EMP technical data and studies concerning telecommunications. It shall provide such data and the results of such studies to all appropriate agencies requesting them. It shall coordinate and approve EMP telecommunications tests and studies, and shall keep the National Security Council informed regarding such tests and studies being conducted and planned.

[FR Doc. 78-30649 Filed 10-27-78; 8:45 am]

[4910-22-M]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[BMCS Docket No. MC-69-2, Admt. No. 78-2]

PART 395—HOURS OF SERVICE OF DRIVERS

Driver's Daily Log and Multiday Log, Extension of Use

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment deletes sections of the Federal Motor Carrier Safety Regulations (FMCSR) which were previously added and which provided a time extension for using the driver's daily log and multiday log forms. Action is taken because the Office of Management and Budget (OMB) has authorized the use of these forms for a short term and may continue extending this authorization in the future. This amendment provides information on the current status of these forms.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, 202-426-9767; Mr. Gerald Tierney, Office of Chief Counsel, 202-426-0346, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) has advised the Department of Transportation that driver's daily log (form MCS-139 and 139A) have been authorized for continued use through June 1979. Further extensions may continue to be granted, provided the Bureau meets certain requirements as specified by OMB. Therefore, sections 395.8(u) and 395.9(x) of the Federal Motor Carrier Safety Regulations are being deleted to eliminate the necessity of future rulemaking, should OMB grant further extensions.

Because this action is procedural in nature and contains no substantive changes, notice and comments are unnecessary.

Accordingly, 49 CFR chapter III is amended as follows:

1. Section 395.8 is amended by revising paragraph (a) to delete reference to paragraph (u).

§ 395.8 Driver's daily log.

(a) Except as provided in § 895.9 and paragraph (t) of this section, every motor carrier shall require that a driver's daily log, form MCS-59, shall be made in duplicate by every driver used by the carrier and every driver who operates a motor vehicle shall make such a log. Failure to make logs, failure to make required entries therein, falsification of entries, or failure to preserve logs shall make both the driver and the carrier liable to prosecution. Driver's logs shall be prepared and retained in accordance with the provisions of paragraphs (b) through (s) of this section.

* * * * *

§§ 395.8 and 395.9 [Amended]

2. Sections 395.8(u) and 395.9(x) of the FMCSR are being deleted.

NOTE: The Federal Highway Administration has determined that this doument does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

(49 U.S.C. 304; 49 CFR 1.48, 301.60.)

Issued on October 19, 1978.

KENNETH L. PIERSON,
Acting Director,
Bureau of Motor Carrier Safety.

[FR Doc. 78-30621 Filed 10-27-78; 8:45 am]

[4910-59-M]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket 71-18, Notice 11; Docket 25, Notice 27]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

PART 575—CONSUMER INFORMATION REGULATIONS

Uniform Tire Quality Grading and Temperature for Tire Testing

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This notice amends the uniform tire quality grading (UTQG) standards to revise the grading symbols used to indicate traction grades and responds to a petition for reconsideration of the effective dates for the information requirement regarding first purchasers of motor vehicles. The notice, further, responds to petitions for reconsideration submitted by the Rubber Manufacturers Association and the Goodyear Tire & Rubber Co., regarding an amendment of the tire testing temperature employed in the UTQG regulation and the non-passenger-car tire safety standard, which established a single test temperature for the performance requirements of the two standards. The notice also withdraws a NHTSA proposal to modify the tread label requirements of the uniform tire quality grading standard. These actions are intended to aid consumer understanding of the UTQG grading system and facilitate industry tire testing.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. F. Cecil Brenner, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: On July 17, 1978 (43 FR 30542), NHTSA republished the UTQG standards (49 CFR 575.104) to assist the consumer in the informed purchase of passenger car tires. (Docket No. 25, notice 24.) The standard requires that manufacturers and brand name owners provide simple comparative data on tire performance, which can be considered by purchasers in selecting between competing tire lines. Concurrently, with issuance of the final rule, the agency proposed modifications of the standard's provisions relating to traction grading symbols and tread labels (43 FR 30586; July 17, 1978).

TRACTION GRADING SYMBOLS

The notice of proposed rulemaking (43 FR 30586), issued concurrently with the republished final rule, proposed revision of the symbols used to denote tire traction grades. The agency invited comment on the use of an A, B, C hierarchy of traction grades in place of the **, *, 0 system now required by paragraph (d)(2)(ii).

The Automobile Club of New York commented that the proposed traction grading symbols would be "far more meaningful to consumers" than the asterisks and zeros used in the existing regulation. The National Tire Dealers & Retreaders Association viewed the letter grading proposal as an improvement, and, in response to notice 24, the Metropolitan Dade County, Fla., Office of the Consumer Advocate approved of an A, B, C grading system as falling within the experience of all consumers.

The only negative comment came from Atlas Supply Co. which expressed concern that, if consumers are warned, as to the rule requires, that tires with a C traction grade may have poor traction performance, they may assume that a C temperature resistance grade likewise denotes poor temperature resistance qualities. Atlas recommended that the lowest traction grade be abolished completely and that only the symbols A and B be used to represent traction grades.

In fact, the agency is currently considering promulgation of a tire traction safety standard which would set a minimum performance level such that tires falling within the lowest UTQG traction performance grade would not comply with the safety standard (43 FR 11100; Mar. 16, 1978, and 38 FR 31841; Nov. 19, 1973). Pending issuance of such a standard, however, consumers should not be mislead as to the nature of the C temperature grade, since the explanation of the grading system, to be furnished under the standard, specifically states that the C grade indicates a level of performance which meets the applicable Federal safety standard.

The agency has concluded that the A, B, C grading symbols for traction performance will be an aid to consumer understanding of the UTQG system due to the general familiarity with letter grading systems and the hierarchy inherently associated with these symbols. Consumer comprehension of the grading system will also be improved by eliminating the need to use three different sets of symbols. The symbols A, B, and C are, therefore, adopted to represent traction grades under the UTQG standard.

TREAD LABEL REQUIREMENTS

The existing UTQG regulation provides that each passenger car tire, other than one sold as original equipment on a new vehicle, shall have affixed to its tread surface a label indicating the specific treadwear, traction, and temperature grades for that tire, as well as a general explanation of the grading system. In its July 17, 1978, notice of proposed rulemaking (43 FR 30586), the agency proposed to amend section 575.104(d)(1)(i)(B) of the standard, to require only general grading information on the tread label, while retaining a separate requirement that specific grades be molded on the tire sidewall. The tread label would have been modified to include a statement referring the consumer to the tire sidewall for the actual grades of the particular tire. The notice also proposed that specific tire grades be supplied, at the manufacturer's option, on either tread labels or on the sidewall during the 6-month period prior to the effective dates of the molding requirement.

In commenting on the notice, Goodyear argued that provision of specific grading information on the tread label would not be feasible and would add to the cost of implementation of the standard. American Motors Corp. commented that provision of specific grades in two places would be redundant and an unnecessary expense.

However, Michael Peskoe, an individual involved in early development of the standard, argued that the tread labeling requirement is not redundant, since tire sidewall molding was intended primarily to supply a permanent record of the tire grades, to be considered when replacing the tires, rather than to convey information to the prospective purchaser. He also stated that, with regard to cost and feasibility considerations, tire specific identification labels, bearing information such as tire line and size, are already in widespread use within the industry to aid in the distribution of tires. Therefore, the burden of adding the specific UTQG grades for the particular tire classification should be minimal.

The Automobile Club of New York and Mr. Peskoe commented that provisions of specific tire grades only on the sidewall would hinder use of the information in the situation, common in tire dealerships and service stations, where tires are displayed on racks, sidewall to sidewall. Tires would have to be removed from the display rack before the grades molded on the sidewall could be observed. The problem would be compounded where the purchaser wishes to compare the grades on several tires.

While NHTSA is concerned with keeping the cost of the UTQG regulation at a minimum, existing tire labeling and marketing practices lead the agency to the conclusion that tread labels containing specific tire grading information should continue to be required for replacement tires. The agency had earlier determined that identification of specific tire grades on tread labels is feasible and involves a very limited cost to manufacturers and consumers. Tire-specific tread labels have been demonstrated to be an integral and necessary part of the regulation's plan for getting useful information to tire purchasers. The proposal to require only general grading information on tire tread labels is, therefore, withdrawn.

EFFECTIVE DATES FOR POINT OF SALE INFORMATION

Notice 24, set March 1, 1979, in the case of bias-ply tires and September 1, 1979, in the case of bias-belted tires, as effective dates for all UTQG requirements except the molding requirements of paragraph (D)(1)(i)(A). The molding requirements applicable to bias and bias-belted tires were made effective September 1, 1979, and March 1, 1980, respectively.

The purpose of this delayed phasein schedule for tire sidewall molding is to provide manufacturers with extra time to prepare new tire molds containing grading information. However, the delay in effective dates for tire molding had the unintended effect of creating a 6-month interval between the time vehicle manufacturers must provide point of sale information on tire quality grading to prospective purchasers, and first purchasers of motor vehicles (49 CFR 575.104(d)(1) (ii) and (iii)) and the date on which grading information actually must appear on the tires sold. In the case of information to be furnished to first purchasers under paragraph (d)(1)(iii), potential for confusion exists since consumers will be referred to the tire sidewall for specific tire grades, when in many cases, molds will not yet have been

modified for the tire lines being supplied.

turers Association (RMA) and The Goodyear Tire & Rubber Co., reco-

temperatures ranging from 95° F to subzero conditions. The RMA petition

2. Paragraphs (d)(1)(iii), (g)(2) and (g)(5) of 49 CFR 575.104 are revised to

The program official and lawyer principally responsible for the devel-

Periodic reevaluation of the U.S. capacity will be required to determine what portions of the reserves are required by the U.S. or

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modified for the tire lines being supplied.

To correct this situation, American Motors Corp. has petitioned NHTSA to reconsider the effective dates for paragraph (d)(1)(iii). American Motors has recommended that the effective dates for paragraph (d)(1)(iii) be amended to correspond to those of paragraph (d)(1)(i)(A), the molding requirement. The agency has already recognized the difficulties involved in providing specific grades for original equipment tires through the use of tread labels (39 FR 1037; Jan. 4, 1974), or point of sale information (43 FR 30547; July 17, 1978). To better coordinate the availability of specific tire grading information on tire molds and the provision of explanatory information through vehicle owner's manuals, American Motors' petition for reconsideration is granted. The effective dates for paragraph (d)(1)(iii) are changed to September 1, 1979, for bias-ply tires and March 1, 1980, for bias-belted tires.

Paragraph (d)(1)(ii) of the regulation requires that vehicle and tire manufacturers furnish to prospective purchasers an explanation of the UTQG grading system. Although this provision also takes effect 6 months prior to the tire molding requirements, the agency has concluded that no corresponding change in effective dates is necessary. Paragraph (d)(1)(ii) provides for the availability of valuable information to prospective tire purchasers, since specific grading information will be available on replacement tires sold during the 6-month phasein period. Further, the paragraph contains no potentially confusing reference to the tire sidewall as does paragraph (d)(1)(iii). Prospective vehicle purchasers who obtain the information prior to the sidewall molding effective dates will be given the opportunity to familiarize themselves in advance with the new grading system.

TEMPERATURE FOR TIRE TESTING

On March 3, 1977 (42 FR 12207), NHTSA proposed to amend Standard No. 119, New Pneumatic Tires for Vehicles Other Than Passenger Cars (49 CFR 571.119), and the UTQG Standards to establish the same ambient temperature for tire testing in both standards, to allow more efficient use of tire test facilities. The notice proposed "any temperature up to 95° F" and "100±5° F" as alternative means of phrasing the new, identical test temperature.

After consideration of comments, the agency determined that the ambient test temperature should be expressed as "any temperature up to 95°F" (43 FR 30541; July 17, 1978). NHTSA received petitions for reconsideration from the Rubber Manufacturers Association (RMA) and The Goodyear Tire & Rubber Co., recommending that the test temperatures for standard No. 119 and the UTQG regulation include tolerances and be specified as "100° F±5° F." As NHTSA has frequently stated in past notices on these and other standards (e.g., 40 FR 47141; October 8, 1975), such a recommendation reflects a misunderstanding of the legal nature of motor vehicle standards. NHTSA standards are not instructions to test engineers, but performance levels that vehicles and equipment must be capable of meeting. The use of a tolerance range in this context is confusing since it creates ambiguity as to the performance level required.

Establishment of a precise performance requirement, expressed without a tolerance, still recognizes that measurement techniques cannot be controlled perfectly. Given a specified performance level, manufacturer's can design their tests to assure compliance in at least two ways: (1) By using a test procedure that conforms so closely to the specified measurement that no significant variations could occur, or (2) by determining which side of the specified level is adverse to the product being tested, and targeting test conditions so that any deviation will occur on the adverse side. In this case, a tire manufacturer may use an ambient temperature slightly above 95° F to demonstrate, through adverse conditions, that its tire would comply at the specified temperature.

In its petition for reconsideration, Goodyear commented that all test laboratories should employ the same ambient temperature conditions. However, such uniformity is not advantageous in a regulatory context, since government compliance testing and manufacturers' laboratory evaluations are undertaken for different purposes.

Goodyear also argued that a fixed 95° F test temperature and a "100±5° F" tolerance range to not establish "in effect the same test temperature", as stated in the agency's July 17, 1978, notice (43 FR 30541). A fixed 95° F requirement is, in fact, from the manufacturers' prospective, identical to a "100±5° F" provision, since, given a controlled variation in test conditions of 5° F in either direction from the target temperature, manufacturers seeking to assure compliance with a 95° F requirement will set their test target temperature at 100° F. For these reasons, the petitioners' recommendation of a "160±5° F" test temperature is rejected.

The RMA and Goodyear petitions noted that the open-ended nature of the requirement "any temperature up to 95° F" appeared to require that tires be capable of attaining specified performance levels when tested at temperatures ranging from 95° F to subzero conditions. The RMA petition stated as its primary concern the possibility, under the UTQG system, that a tire could be conditioned at a higher temperature than that at which it is tested for temperature resistance. Such inconsistency could, the RMA suggested, result in the tire being underinflated during testing.

The agency has concluded that the ambient temperature specification "at 95° F" more accurately describes the fixed temperature which the agency intended to establish than does the open-ended provision "any temperature up to 95° F." Standard No. 119 and the UTQG Standards are, therefore, amended by substitution of a fixed temperature requirement of 95° in place of "any temperature up to 95° F."

To the extent that the RMA and Goodyear petitions for reconsideration are to granted by this amendment, the petitions are denied.

In accordance with departmental policy encouraging analysis of the impact of regulatory actions upon the public and private sector, the agency has determined that these actions will have no appreciable negative impact on safety. Since the modification of effective dates relieves a restriction, and the change in grading symbols will result in no new burdens, no additional costs will be imposed on manufacturers or the consumer. Withdrawal of the trend labeling proposal imposes no new costs not contemplated in issuance of the UTQG standards. The new temperature phraseology has absolutely no effect on the tire performance requirements, but will eliminate any possible ambiguity in the standards' meaning. For these reasons, the agency hereby finds that this notice does not have significant impact for purposes of the internal review.

Effective date: In view of the need for a fixed temperature requirement to allow tire performance testing to proceed, and the ongoing preparation by the industry for implementation of the UTQG system, the agency finds that an immediate effective date for the amendments to standard No. 119 and the UTQG regulation is in the public interest.

In consideration of the foregoing, the following amendments are made in parts 571 and 575 of Title 49, Code of Federal Regulations:

§ 575.104 [Amended]

1. Paragraphs (d)(2)(ii), (d)(2)(ii)(A), (d)(2)(ii)(B), and (d)(2)(ii)(C), and figures 1 and 2 of 49 CFR 575.104 are amended by substitution of the letters "A", "B", and "C" in place of the symbols "**", "*", and "0", respectively, wherever they appear.

2. Paragraphs (d)(1)(iii), (g)(2) and (g)(5) of 49 CFR 575.104 are revised to read as follows:

§ 575.104 Uniform tire quality grading standards.

(d) * * * (1) * * *

(iii) In the case of information required in accordance with § 575.6(a) to be furnished to the first purchaser of a new motor vehicle, other than a motor vehicle equipped with bias-ply tires manufactured prior to September 1, 1979, and a motor vehicle equipped with bias-belted tires manufactured prior to March 1, 1980, each manufacturer of motor vehicles shall as part of the information list all possible grades for traction and temperature resistance and restate verbatim the explanation for each performance area specified in figure 2. The information need not be in the format of figure 2, but it must contain a statement referring the reader to the tire sidewall for the specific tire grades for the tires with which the vehicle is equipped.

. . . . .

(g) * * *

(2) Condition the tire-rim assembly to a temperature of 95° F for at least 3 hours.

. . . . .

(5) During the test, including the pressure measurements specified in paragraphs (g)(1) and (g)(3) of this section, maintain the temperature of the ambient air, as measured 12 inches from the edge of the rim flange at any point on the circumference on either side of the tire at 95° F. Locate the temperature sensor so that its readings are not affected by heat radiation, drafts, variations in the temperature of the surrounding air, or guards or other devices.

. . . . .

§ 571.119 [Amended]

4. Paragraph S7.1.2. of 49 CFR 571.119 is amended to read as follows:

. . . . .

S7.1.2 The tire must be capable of meeting the requirements of S7.2 and S7.4 when conditioned to a temperature of 95° F for 3 hours before the test is conducted, and with an ambient temperature maintained at 95° F during all phases of testing. The tire must be capable of meeting the requirements of S7.3 when conditioned at a temperature of 70° F for 3 hours before the test is conducted.

. . . . .

The program official and lawyer principally responsible for the development of this rulemaking document are Dr. F. Cecil Brenner and Richard Hipolit, respectively.

(Sec. 103, 112, 119, 201, 203, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1421, 1423); delegation of authority at 49 CFR 1.50).)

Issued on October 23, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-30368 Filed 10-24-78; 12:18 pm]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER VI—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Incremental Apportionment of Total Allowable Level of Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to regulations.

SUMMARY: Under the provisions of the preliminary management plan (PMP) for trawl fisheries and herring gillnet fishery of the eastern Bering Sea and Northeast Pacific, the National Marine Fisheries Service will continually monitor U.S. fisheries, periodically reevaluate U.S. processing and catching capacities and make appropriate changes. This amendment revises the total allowable level of foreign fishing for Pacific cod and sablefish in the Bering Sea. The effect of the amendment will be to make available the surpluses of U.S. capacity estimates to foreign nations desiring additional fishery allocations.

EFFECTIVE DATE: October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: On September 6, 1977, the National Marine Fisheries Service (NMFS) published a notice of availability of a supplement to the final environmental impact statement for the preliminary fishery management plan for the trawl fisheries and herring gillnet fishery of the eastern Bering Sea and Northeast Pacific (PMP) (42 FR 9298), which in section 2.3.1.1 stated that:

Periodic reevaluation of the U.S. capacity will be required to determine what portions of the reserves are required by the U.S. or what portions of the reserves and the stated U.S. capacities are surplus to U.S. needs. The NMFS will continually monitor U.S. fisheries, periodically reevaluate U.S. processing and catching capacities, and make appropriate changes in U.S. capacities, appropriate distribution of reserves, and appropriate increases in TALFF's. Notice of the incremental apportionments of the reserve between U.S. capacities and TALFF's will be published in the FEDERAL REGISTER within 7 days after the end of March, June, August, and October. Those publications will provide the mechanism for the Secretary of State to allocate to foreign nations those portions of U.S. capacities and reserves surplus to U.S. needs.

The Director of the Alaska regional office has reassessed the U.S. capacity to harvest sablefish and Pacific cod and has determined that domestic fishermen will harvest only 200 mt of sablefish and 1,000 mt of cod in the eastern Bering Sea and Northeast Pacific fisheries. In keeping with the intent of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), as amended (FCMA), the resulting surpluses of U.S. capacity estimates should be made available to foreign nations desiring additional fishery allocations.

The Assistant Administrator for Fisheries (Assistant Administrator), for good cause, has determined: (1) That the U.S. capacity estimate of sablefish in the eastern Bering Sea and Northeast Pacific is reduced from 600 mt to 200 mt, and the resulting surplus of 400 mt of the sablefish reserve is added to the TALFF, and (2) that the U.S. capacity estimate of Pacific cod in the eastern Bering Sea, and Northeast Pacific is reduced from 1,500 mt to 1,000 mt, and the resulting surplus of 500 mt of the Pacific cod reserve is added to the TALFF.

Accordingly, the PMP is (further) amended as follows:

1. The original sablefish TALFF of 5,000 mt which appeared in table 18 (42 FR 9325), on February 15, 1977, for areas I, II, and III combined, was reduced to 2,400 mt with a 600 mt reserve in the supplemental environmental impact statement (42 FR 60945) on November 30, 1977. That 600 mt reserve is hereby reduced to 200 mt, and the TALFF for sablefish in areas I, II, and III combined is increased to 2,800 mt.

2. The original Pacific cod TALFF of 58,000 mt which also appeared in table 18 was reduced to 56,500 mt with a 1,500 mt reserve on November 30, 1977. That 1,500 mt reserve is hereby reduced to 1,000 mt, and the TALFF for Pacific cod is increased to 57,000 mt.

This amendment does not modify the optimum yield for those species established in the PMP, nor does it ad-

versely affect the conservation of the resource.

Notice of this amendment was pub-

1. These changes should have no impact on the U.S. sablefish or Pacific cod fisheries or on future supplies of

the adjusted quarterly surf clam quota (387,834 bushels) established by § 652.6(a) of the regulations was taken

quarter (July 1 through September 30), was not harvested.

652.6(a)(2) authorizes the Regional Director to add the amount of shortfall to the next succeeding quarter.

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versely affect the conservation of the resource.

Notice of this amendment was published in the FEDERAL REGISTER on October 5, 1978 (43 FR 46054), and public comments were invited until October 15, 1978. No comments were received on the proposed amendment. This action involves no change in the optimum yield of species caught in the trawl fisheries and herring gillnet fishery of the eastern Bering Sea and Northeast Pacific and is consistent with the PMP for those fisheries.

The Assistant Administrator has determined that: (1) Because no preparation on the part of foreign fishermen is required to take advantage of the liberalized regulations, and (2) because without quick action the increased TALFF's may be unutilized or underutilized, and (3) because this action is not controversial, the 30-day waiting period required by the Administrative Procedure Act should be waived. The Assistant Administrator also finds:

1. These changes should have no impact on the U.S. sablefish or Pacific cod fisheries or on future supplies of these species;

2. This action does not require the preparation of an economic impact analysis under Executive Orders 11821 and 11949, and OMB Circular A-107; and

3. This action does not require a regulatory impact analysis. The Assistant Administrator has approved this document pursuant to delegation of authority from the Secretary.

Signed in Washington, D.C., this 23d day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

§ 611.20 [Amended]

Amend 50 CFR 611.20(c) by revising Table I as follows:

Lines 24 and 31 are revised to read:

Species code	"Species"	"Ocean area"	"Amend TALFF (mt)"
006	Cod, Pacific	Aleutians and Bering Sea	57,000
007	Sablefish	Bering Sea	2,800

§ 611.93 [Amended]

Amend 50 CFR 611.93(b) by revising Table I as follows:

1. In column one, bottom line, add words "and revised" between the words "initial" and "TALFF."

2. In column seven headed "Sablefish, Areas I-III" strike "2,400," substitute "2,800."

In column nine headed "Pacific Cod," strike "56,500," substitute "57,000."

(16 U.S.C. 1801 et seq.)

[FR Doc. 78-30524 Filed 10-27-78; 8:45 am]

[3510-22-M]

PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

Adjustment to Effort Restrictions

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of reduction of fishing time per week.

SUMMARY: This document is notice that 50 percent of the quota of surf clams for the fourth quarter of 1978 has been taken. Consequently, beginning October 30, 1978, all vessels engaging in the surf clam fishery in the fishery conservation zone will be restricted to 24 hours fishing time per week until December 31, 1978.

EFFECTIVE DATE: 12.01 (0001 hours), October 30, 1978, through 12 midnight (2400 hours), December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Regulations were published on February 17, 1978 (43 FR 6952), implementing the surf clam and ocean quahog fishery management plan. Section 652.7(a)(3) of those regulations provides that when 50 percent of the allowable quarterly quota of surf clams has been taken, the Regional Director, if he determines that the quarterly quota probably will be exceeded, may reduce the number of days per week during which fishing for surf clams will be permitted during that quarter. This reduction becomes effective upon publication in the FEDERAL REGISTER by the Assistant Administrator pursuant to § 672.7(a)(s) of the regulations. Accordingly, notice is hereby given that available information indicates that 50 percent (193,917 bushels) of the adjusted quarterly surf clam quota (387,834 bushels) established by § 652.6(a) of the regulations was taken by the end of the fishing day on October 25, 1978. The Regional Director has determined that the quota established for surf clams landed from the fishery conservation zone (FCZ) during the fourth quarter of 1978 (387,834 bushels) will be exceeded if the present level of effort continues for the remainder of the quarter. To reduce the likelihood that the quota will be exceeded during this period, or that a lengthy closure of the fishery would be required, vessels harvesting surf clams from the FCZ will be permitted to fish for surf clams only 24 hours per week beginning 12:01 (0001 hours), October 30, 1978. Vessels will be allowed to fish for surf clams during the periods indicated on their letter of authorization.

In light of the public comments received on this issue both in writing and expressed to the Regional Director, and the conservation needs of the surf clam stocks, the Assistant Administrator for Fisheries has determined that notice and public comment on the subject rulemaking is unnecessary, impractical, and contrary to the public interest.

Signed in Washington, D.C., on this the 24th day of October 1978.

(16 U.S.C. et seq. 1801.)

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-30525 Filed 10-27-78; 8:45 am]

[3510-22-M]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

Adjustment of Quota

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Surf Clam Quota Adjustment.

SUMMARY: This notice revises the fourth quarter surf clam quota by increasing it. The increase of 37,834 bushels is made possible because the entire surf clam quota for the third quarter (July 1 through September 30), was not harvested.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone; 617-281-3600.

SUPPLEMENTARY INFORMATION: The surf clam quota of 523,394 bushels established for the third quarter of 1978 (July 1 through September 30) was not completely harvested. The Regional Director has determined that 485,560 bushels of surf clams were taken during the third quarter, creating a surplus of 37,834 bushels. Section 652.6(a)(2) authorizes the Regional Director to add the amount of shortfall to the next succeeding quarter.

Therefore, this regulation amends the quota of 350,000 bushels established for the fourth quarter of 1978 (October 1 through December 31), by adding 37,834 bushels. Pursuant to § 652.6(a)(2), the Assistant Administrator for Fisheries is publishing this adjustment of the fourth quarter quota.

Signed in Washington, D.C., this the 24th day of October 1978.

(16 U.S.C. 1801 et seq.)

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-30604 Filed 10-27-78; 8:45 am]

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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6720-01—M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 563]

[No. 78-561]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Amendment Relating to Restrictions on Real Property Transactions With Affiliated Persons

OCTOBER 25, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The proposed amendment would provide an exception to the current restrictions on real property transactions between FSLIC-insured institutions and affiliated persons. The exception would allow an insured institution or its subsidiary to sell a single-family dwelling to an affiliated person for use as his/her personal residence.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments available for the public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. 202-377-6440.

SUPPLEMENTARY INFORMATION: Section 563.41 of the regulations for the Federal Home Loan Bank System (12 CFR 563.41) currently prohibits an insured institution or its subsidiary from selling any interest in real property to an affiliated person. This regulation operates to prevent the conflict of interest and potential for abuse inherent in an insider's purchase of real porperty from an insured institution.

There is, however, a recurring sale situation in which the potential for harm from insider advantage appears slight; the current regulation, in this specific situation, extends protection where none appears necesssary or warranted. The proposed exception, closely aligned with those governing loans to affiliated persons, would remove this unnecessary restriction.

Therefore, the Bank Board proposes to except from the regulation cases involving the sale of real property to an affiliated person where the purchaser intends to use the property as his or her personal residence and the terms of sale are identical to those offered to the general public.

Accordingly, the Bank Board hereby proposes to amend §§ 563.41(b) and 563.45, form AR, item 6(e), Instruction 4 of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation to read as set forth below.

1. Amend § 563.41(b) by adding new paragraph (5) as follows:

§ 563.41 Restrictions on real property transactions with affiliated persons.

. . . . . .

(b) *Restrictions.* * * *

. . . . . .

(5) a sale to an affiliated person of real eastate for use as a single family dwelling owned and occupied by the affiliated person as his/her principal residence, if the terms of sale are identical to those offered to the general public.

2. Amend § 563.45, form AR, item 6(e), instruction 4 by adding new paragraph (f) as follows:

§ 563.45 Disclosure.

. . . . . .

Form AR (Annual Report Form)

. . . . . .

Item 6

(e) *Transactions where certain persons have a material interest.*

. . . . . .

4. No information need be given in answer to this item as to any transaction where

. . . . . .

(f) The transaction involves a sale to an affiliated person of real estate for use as a single-family dwelling owned and occupied by the affiliated person as his/her personal residence, in accordance with § 563.45(b)(5).

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat 736, as amended (12 U.S.C. 1425(a), 1437). Sec. 5 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943-48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-30624 Filed 10-27-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 18425]

AIRWORTHINESS DIRECTIVES

Short Brothers Ltd. Model SD3-30 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an Airworthiness Directive (AD) that would require replacement of life limited wing flap control rods on Short Bros. Ltd. Model SD3-30 airplanes. The manufacturer's fatigue testing program has established that failure of the control rods could occur if they are left in service beyond 10,000 flights. Failure of the rod could result in loss of aircraft control.

DATES: Comments must be received on or before December 29, 1978.

ADDRESSES: Send comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24) Docket No. 18425, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Manager—Spares Support, Production Support Department, Short Bros. Ltd., P.O. Box 241—Airport Road, Belfast BT3 9DZ, Northern Ireland.

A copy of the service bulletin is contained in the Rules Docket, room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

The FAA has determined that failure of the flap control rods, part Nos. SD3-45-1853 and SD3-45-1855 could occur on early production Short Bros. Ltd. Model SD3-30 airplanes if they are left in service beyond 10,000 flights. The life-limit has been established by the manufacturer as a part of its continuing fatigue testing program. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being proposed which would require replacement of the original flap control rods with new rods of the same part number prior to accumulating 10,000 flights.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

SHORT BROS. LTD. Applies to all Model SD3-30 airplanes, certificated in all categories.

Compliance is required prior to the accumulation of 10,000 flights or prior to the accumulation of 25 flights after the effective date of this AD, whichever occurs later, unless already accomplished; and thereafter at intervals not to exceed 10,000 flights.

To prevent fatigue failure of the flap control rods, replace flap control rods, part Nos. SD3-45-1853 and SD3-1855 located immediately aft of wing center section rear spar and part of inner flap mechanism, with new rods of identical part numbers in accordance with section 2, "Accomplishment Instructions" of Short Bros. Ltd. Service Bulletin SD3-27-14, dated April 28, 1978, or an FAA-approved equivalent. For purposes of complying with this AD, a flight is defined as one takeoff and one landing.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582, March 8, 1978).

Issued in Washington, D.C., on October 20, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-30566 Filed 10-27-78; 8:45 am]

[4910-13-M]

[14 CFR Part 75]

[Airspace Docket No. 78-SO-49] [1]

RESCISSION OF JET ROUTES

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to rescind J-81 which extends from Miami, Fla., to Orlando, Fla., and to realign a segment of J-20 to extend from Orlando to Fort Lauderdale, Fla., via the INT of Orlando 154° T and M and Fort Lauderdale 339° T and M radials. This action will eliminate a jet route that is no longer required and will designate a radar vector route as a jet route, thus reducing chart clutter and possible confusion in the use of the radar vector route.

DATES: Comments must be received on or before November 29, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 78-SO-49, P.O. Box 20636, Atlanta, Ga. 30320. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

[1] Map filed as part of original.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before November 29, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interest in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign J-20 from Orlando to Fort Lauderdale via the INT of Orlando 154° and Fort Lauderdale 339° radials, and to rescind J-81 which extends from Miami to Orlando. The route from Orlando to Fort Lauderdale via the BOYEL INT is presently used as a vector route. By designating this route as a jet route, the communication and flight planning time will be reduced. J-81 is no longer required. Rescission of J-81 will help to reduce chart clutter.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (43 FR 714) as follows:

Under jet route No. 20, all after "Orlando, Fla., 306° radials; Orlando;" is deleted and

"INT Orlando 154° and Fort Lauderdale, Fla., 339° radials to Fort Lauderdale." is substituted therefor.

(Secs. 307(a), 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a), 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582, March 8, 1978).

Issued in Washington, D.C., on October 20, 1978.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 78-30567 Filed 10-27-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 782 3107]

Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: This consent agreement would prohibit, among other things, a Pittsburgh, Pa. vocational school from misrepresenting the nature of its courses, the employment opportunities available to graduates, the amount of income graduates can expect to earn, and the school's relationship with the armed forces. The school would also be required to maintain records to substantiate claims it makes about its courses.

DATE: Comments must be received on or before December 29, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Klurfeld, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1526.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, as amended; 15 U.S.C. 46, and section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint which the agreement would settle.

Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice, 16 CFR 4.9(b)(14). Comments should be addressed to the Office of the Secretary, Federal Trade Commission, Washington, D.C. 20580.

Agreement Containing Consent Order To Cease and Desist

In the matter of Pittsburgh Technical Institute, Inc., a corporation.

The agreement hereinafter set forth, by and between Pittsburgh Technical Institute, Inc., a corporation, by its duly authorized officer, hereinafter sometimes referred to as proposed respondent, and its attorney, and counsel for the Federal Trade Commission, hereinafter sometimes referred to as complaint counsel, is entered into for the purpose of settling the matters alleged in the complaint issued by the Federal Trade Commission on August 31, 1978.

It is understood that proposed respondent enters into this agreement for settlement purposes only and does not admit that it has violated the law as alleged in the complaint.

It is further understood that this agreement is subject to the approval of the Federal Trade Commission. Proposed respondent understands that once the agreement is approved, it will be served upon it by the Commission and that thereafter the Commission may issue its decision containing the following order to cease and desist in disposition of the proceeding. Proposed respondent waives any right it may have to any other procedural steps in this matter, including the right to a hearing upon the allegations in the complaint.

Proposed respondent agrees that the record herein shall consist of the complaint and this agreement. This agreement will not become part of the record unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the complaint, will thereupon be put on the public record and will be placed on the Commission's public record for a period of sixty (60) days, and such acceptance may be withdrawn by the Commission before decision and notice of order issuance in accordance with § 2.34 of the Commission's Rules of Practice. If the Commission accepts this agreement, the Commission may, without further notice to proposed respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. The Complaint may be used in construing the terms of the Order, and no

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"INT Orlando 154° and Fort Lauderdale, Fla., 339° radials to Fort Lauderdale," is substituted therefor.

Jet route No. 81, title and text is deleted.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65.)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under the procedures and criteria prescribed by Executive Order 12044 and implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on October 23, 1978.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-30565 Filed 10-27-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[Docket No. 9078]

NATIONAL SYSTEMS CORP. AND NORTH AMERICAN CORRESPONDENCE SCHOOLS, T/A NORTH AMERICAN SCHOOL OF CONSERVATION, ETC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would dismiss the complaint against National Systems Corp. and individually named corporate officers, and require North American Correspondence Schools, a Newport, Calif. firm offering correspondence courses in various fields, to cease misrepresenting enrollment prerequisites; school accreditation; testimonials; and the potential earnings, employment opportunities, and demand for its graduates. Prior to contracting, customers would have to be furnished with information regarding the employment success of former students; informed of their right to cancellation and refund; and provided with a seven-day colling-off period. The order would additionally require the company to make restitution to former eligible students, in a specified manner; maintain records; and institute a surveillance program designed to ensure compliance with the terms of the order.

DATE: Comments must be received on or before December 26, 1978.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Harvey Saferstein, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Boulevard, Los Angeles, Calif. 90024, 213-824-7575.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or veiws will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(140)).

In the matter of National Systems Corp., a corporation, North American Correspondence Schools, a corporation doing business as North American School of Conservation, North American School of Advertising, North American School of Drafting, North American School of Travel, North American School of Systems and Procedures, North American School of Recreation and Park Management, North American School of Surveying and Mapping, North American School of Accounting, North American School of Motorcycle Repair, North American School of Hotel-Motel Management, and John J. McNaughton, individually and as chairman of the board of directors of National Systems Corp., Maurice H. Sherman, individually and as an officer of North American Correspondence Schools, Eugene Auerbach and Richard C. Parsons, individually and as employees of North American Correspondence Schools, and Wallace O. Laub, individually and as a member of the board of directors of North American Correspondence Schools.

AGREEMENT CONTAINING ORDER TO CEASE AND DESIST

The Agreement herein, by and between North American Correspondence Schools, a corporation doing business as North American School of Conservation, North American School of Advertising, North American School of Drafting, North American School of Travel, North American School of Systems and Procedures, North American School of Recreation and Park Management, North American School of Surveying and Mapping, North American School of Accounting, North American School of Motorcycle Repair, and North American School of Hotel-Motel Management ("respondent"); and counsel for the Federal Trade Commission (the "Commission"), is entered into in accordance with the Commission's rules governing consent order procedure.

1. Respondent has been served with a copy of the Complaint in this proceeding, together with a form of Order.

2. Respondent admits all the jurisdictional facts set forth in said Complaint.

3. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement.

4. This Agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission, it, together with a copy of the Complaint issued herein, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the Order contained in the Agreement is inappropriate, improper, or inadequate.

5. This Agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the Complaint.

6. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to respondent, issue its Decision containing the following Order to Cease and Desist in disposition of the proceeding and make information public in respect to the Complaint, the Answer filed thereto, and this Decision. When so entered, the Order to Cease and Desist shall have the same force and effect and may be altered, modified or set aside in the same manner within the same time provided by statute for other Orders. The

Order shall become final upon service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

7. Respondent has read the Complaint and Order herein, and understands that once the Order has been issued, it will be required to file one or more compliance reports that it has fully complied with the Order, and that it may be liable for a civil penalty in the amount provided by law for each violation of the Order after it becomes final.

8. It is agreed that the relief set forth herein fully satisfies any claims which the Commission has against North American Correspondence Schools under §§ 5 and 19 of the Federal Trade Commission Act, as amended, arising out of the acts and practices alleged in the Complaint. By its final acceptance of this Agreement, with such modifications, if any, which the parties may agree upon prior to said final acceptance, the Commission waives its right to commence a civil action under § 19 of the Federal Trade Commission Act, as amended, with respect to the acts and practices of North American Correspondence Schools alleged in the Commission's Complaint.

9. It is agreed that the Complaint will be dismissed with respect to: National Systems Corp., a corporation; John J. McNaughton, individually and as chairman of the board of directors of National Systems Corp.; Maurice H. Sherman, individually and as an officer of North American Correspondence Schools; Eugene Auerbach and Richard C. Parsons, individually and as employees of North Anmerican Correspondence Schools; and Wallace O. Laub, individually and as a member of the board of directors of North American Correspondence Schools.

ORDER I

It is ordered, That respondent North American Correspondence Schools (hereinafter "respondent"), a corporation and a subsidiary of National Systems Corp., doing business as North American School of Conservation, North American School of Advertising, North American School of Drafting, North American School of Travel, North American School of Systems and Procedures, North American School of Recreation and Park Management, North American School of Surveying and Mapping, North American School of Accounting, North American School of Motorcycle Repair, and North American School of Hotel-Motel Management, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promoting, offering for sale, sale or distribution of courses of instruction in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Representing, orally, visually, in writing or in any other manner, directly or by implication that:

(a) There is a need or demand of any size, proportion or magnitude for persons completing any of the courses offered by respondent in the field of conservation or any other field, or otherwise representing that opportunities for employment, or opportunities of any size, figure or number are available to such persons, or that persons completing any such courses will or may earn any specified amount of money, or otherwise representing by any means the prospective earnings of such persons, unless respondent possesses, and relies upon at the time such representation is made, a reasonable basis for such representation, which may consist of a statistically valid and reliable survey, a reliable study, a government or industry publication or other data or material which would be relied upon by an individual generally recognized as qualified as an expert on the subject matter pertaining to the representation in question.

(b) Completion of respondent's courses of instruction in conservation by itself will enable a person to secure employment in conservation from government agencies or private institutions, associations or groups; or, misrepresenting in any manner the importance or significance of any of the courses offered by respondent for qualifying any person for employment in any field with any firms.

(c) Graduates of respondent's conservation courses qualify for employment in conservation of a kind normally requiring a junior or senior college degree; or, misrepresenting in any manner that persons completing any of the courses offered by respondent will qualify for employment of a kind normally requiring a junior or senior college degree.

(d) Graduates of respondent's conservation courses qualify for employment in conservation irrespective of age, physical fitness, formal educational training or job experience; or, misrepresenting in any manner the employment qualifications for conservation or any other field.

(e) Respondent's School of Conservation, or any other school of respondent, is an accredited institution of higher learning, or that credits therefrom are transferable to accredited institutions of higher learning, unless such is the case.

(f) Respondent's courses of instruction in conservation, or in any other field, are approved or recommended by any persons, groups, or organizations knowledgeable in the field of conservation, or in any other field, unless said persons, groups, or organizations have in fact aproved or recommended such courses.

2. Representing orally, visually, in writing or in any other manner, including but not limited to the use of photographs or testimonials, the positions or salaries obtained by graduates of respondent's courses, or the employers who have hired such graduates, unless respondent possesses and relies upon at the time such representation is made, a reasonable basis for such representation, which may consist of a statistically valid and reliable survey, a reliable study, a government or industry publication or other data or material which would be relied upon by an individual generally recognized as qualified as an expert on the subject matter pertaining to the representation in question.

3. Altering or omitting any part of the text of a testimonial used in respondent's advertising in a manner which is likely to deceive members of the public as to the benefits to be obtained from any of the courses offered by respondent; or, misrepresenting in any manner the content of any testimonial used by respondent in any of its advertising.

4. Failing to state, clearly and conspicuously, in conjunction with any testimonial used in respondent's advertising, that it has been solicited, or it required, as part of the course work, or that the entity giving such testimonial has received remuneration therefor, when such is the case.

5. Failing to obtain, at least twenty-four (24) hours prior to an interview or visit in the home or residence of a prospective student, the prospective student's consent to an interview or visit in her (his) home; failing to disclose to said prospective student, at the outset of any telephone call or other contact intended to solicit her (his) consent to an interview or visit in her (his) home, that the purpose of the contact is to request an opportunity to interview or visit the prospective student at her (his) home, and that the purpose of such interview or visit would be to sell an enrollment in one of the courses of instruction offered by respondent.

6. Failing to disclose, in writing, clearly and conspicuously, prior to the signing of any contract, to any prospective student of any course of instruction offered by respondent, the following information in the format prescribed in Appendix A:

(a) the percentage of graduates from respondent's course available for employment and employed in the field to which the course relates, as shown by respondent's most recent survey conducted in the manner required or approved by the Veterans Administration (VA) pursuant to 38 U.S.C. §§ 1673 and 1723, as amended, and all applicable regulations and circulars; and

(b) the percentage of students in respondent's course during the time period covered by the VA survey used as the basis for the disclosure required by subparagraph (a) of this Paragraph who, after having commenced the course, cancelled their enrollment or were terminated by respondent before completion of the course.

Provided, however, That this Paragraph shall be inapplicable:

to North American Correspondence Schools at [address] not later than midnight of the

statement within ten (10) days. At the expiration of this ten (10) day period the school

ceived in the manner, or by the acts and practices, prohibited by this

offered by respondent herein is discussed or solicited in such person's home or residence a 5" x 7" card com-

ploma) and paid in full the tuition for the course, or (2) cancelled the course or was terminated by the school (for

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Provided, however, That this Paragraph shall be inapplicable:

(a) to any school newly established by respondent in a metropolitan area or county, whichever is larger, where it previously did not operate a school, until such time as the school has graduated the number of students sufficient to conduct a valid survey under the applicable VA regulations and circulars and has conducted such a survey at the earliest possible time; or

(b) to any course newly introduced by respondent, until such time as the course has graduated the number of students sufficient to conduct a valid survey under the applicable VA regulations and circulars and has conducted such a survey at the earliest possible time; or

(c) to any school or course of instruction whose advertising or marketing does not entail employment or earnings claims.

However, in the instance of (a) and (b) above, the following statement, and no other, shall be made in lieu of the Appendix A Disclosure Form required by this Paragraph:

DISCLOSURE NOTICE

This school [or course, as the case may be] has not been in operation long enough to indicate what, if any, actual employment or salary may result upon graduation from this school [course].

7. (a) Contracting for the sale of any course of instruction in the form of a sales contract or any other agreement which does not contain in close proximity to the space reserved in the contract for the signature of the prospective student, in a clear and concise manner, and in type that is readable and conspicuous and not smaller than the majority of type used on the enrollment form, the following statement:

You may cancel this transaction at any time prior to midnight of the seventh (7th) calendar day after the date you sign this contract. See enclosed notice of cancellation form for an explanation of this right.

(b) Failing to furnish each prospective student, at the time she (he) is furnished the enrollment enclosed immediately after the enrollment contract, containing the following information and statements:

NOTICE OF CANCELLATION

You may cancel this transaction, without any penalty or obligation, within seven (7) calendar days from the date you sign the enrollment application.

If you cancel, any payments made by you under the contract or sale, and any note or other evidence of indebtedness executed by you will be returned within seven (7) calendar days following receipt by the school of your cancellation notice, and any security interest arising out of the transaction will be canceled. If you cancel, the school may ask that you return any materials delivered to you as part of the course, at the school's expense and risk.

To cancel this transaction, sign, date and mail or deliver this cancellation notice or any other written notice, or send a telegram to North American Correspondence Schools at [address] not later than midnight of the seventh (7th) calendar day after you sign the enrollment application. I hereby cancel this transaction.

.....
(Date)

.....
(Student's signature)

(c) Where a sales representative is involved in the enrollment process, failing to inform orally each prospective student of her (his) right to cancel at the time she (he) signs a contract or agreement for the sale of any course of instruction.

(d) Misrepresenting in any manner the prospective student's right to cancel.

(e) Failing or refusing to honor any valid notice of cancellation by a prospective student and, within seven (7) calendar days after the receipt of such notice, to: (i) refund all payments made under the contract or sale and return any check not cashed or deposited; (ii) return any goods or property traded in, in substantially as good condition as when received by respondent; (iii) cancel and return any note or other evidence of indebtedness executed by the prospective student in connection with the contract or sale.

(f) During the cancellation period described herein, respondent shall not initiate oral contacts with such contracting persons other than contacts permitted by this Paragraph, and such contracting persons shall not receive any written materials from respondent before expiration of the cancellation period.

(g) Provided, however, that the above statement and cancellation notice may be omitted from enrollment contracts signed during or following an interview or sales presentation in a person's home or residence by a sales representative if, in such circumstances, respondent complies with Paragraph I(8) of this Order.

8. Failing to mail, by certified mail return receipt requested, to each person who signs an enrollment contract during or immediately following an interview or sales presentation in her (his) home or residence by a sales representative, a form in duplicate, printed in bold face type of at least ten (10) points and containing the following language:

AFFIRMATION STATEMENT

The enrollment contract that you have signed with North American School of ——— on [date] to enroll in [name of course] is not effective or valid unless you first sign this statement and mail it to the school within ten (10) days from the time that you received this statement. You are free to cancel your enrollment and receive a full refund of any moneys you have paid to the school by not signing or mailing this statement within ten (10) days. At the expiration of this ten (10) day period the school has ten (10) business days to send you your refund (if any) and to cancel and return to you any evidence of indebtedness that you signed. However, if you want to enroll in the school, you should sign your name below and mail this statement to the school within ten (10) days. Keep the duplicate copy for your own records.

I want to enroll in the North American School of ———.

.....
(Date)

.....
(Signature)

9. Failing to inform orally each person interviewed or visited at home or in such person's residence by a sales representative, in the course of any such interview or visit, that any enrollment contract signed by such person will not be effective or valid unless and until that person signs and mails an Affirmation Statement that she (he) will receive from the school in the mail, and that she (he) is free to cancel the contract by simply not mailing the affirmation Statement back to the school within ten (10) days of its receipt.

10. Treating any enrollment contract signed during or immediately following an interview or sales presentation in a person's home or residence by a sales representative as effective or valid, or sending course materials to any such person, unless and until the Affirmation Statement described in Paragraph I(8) of this Order is signed and mailed within the prescribed affirmation period; failing to treat any such contract for which an Affirmation Statement is not signed and mailed within the affirmation period as null and void; and failing within ten (10) business days of the expiration of the affirmation period, to return all moneys received, and to cancel and return all evidence of indebtedness, relating to any such unaffirmed contract.

11. Representing orally through sales representatives that respondent accepts only qualified candidates for enrollment in its conservation courses; or misrepresenting in any manner the prerequisites or qualifications for enrollment in any of the courses of instruction offered by respondent.

12. Representing orally through sales representatives that respondent's qualification questionnaire is utilized to determine a prospective student's enrollment qualifications; or misrepresenting in any manner the purpose or use of respondent's qualification questionnaire.

13. Furnishing or otherwise placing in the hands of others the means and instrumentalities by and through which the public may be misled or deceived in the manner, or by the acts and practices, prohibited by this Order.

II

1. *It is further ordered,* That:

(a) Respondent herein deliver a copy of this Decision and Order to each of its sales representatives, and to all personnel having oral contact with prospective students of the courses offered by respondent or otherwise directly engaged in the promotion, offering for sale, sale or distribution of any course of instruction included within the scope of this Order;

(b) Respondent herein provide each person so described in subparagraph (a) of this Paragraph with a form returnable to the respondent clearly stating her (his) intention to conform her (his) business practices to the requirements of this Order; retain said statement during the period said person is so engaged; and make said statement available to the Commission's staff for inspection and copying upon request;

(c) Respondent herein inform each person described in subparagraph (a) of this Paragraph that respondent will not use or engage, or will terminate the use or engagement of, any such person unless such person agrees to and does file notice with the respondent that she (he) will conform to the provisions contained in this Order;

(d) If a person described in subparagrah (a) of this Paragraph will not agree to file the notice set forth in subparagraph (b) above with the respondent and conform to the provisions of this Order, the respondent shall not use or engage or continue the use or engagement of such person to promote, offer for sale, sell or distribute any course of instruction included within the scope of this Order;

(e) Respondent herein inform the persons described in subparagraph (a) above that the respondent is obligated by this Order to discontinue dealing with or to terminate the use or engagement of persons who continue on their own the deceptive acts or practices prohibited by this Order;

(f) Respondent herein institute a program of continuing surveillance designed to reveal whether the business practices of each said person described in subparagraph (a) above conform to the requirements of this Order;

(g) Respondent herein discontinue dealing with or terminate the use or engagement of any person described in subparagraph (a) above, who continues on her (his) own any act or practice prohibited by this Order as revealed by the aforesaid program of surveillance;

(h) Respondent herein maintain files containing all inquiries or complaints from any source relating to acts or practices prohibited by this Order, for a period of two (2) years after their receipt, and that such files be made available for examination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondent's business for inspection and copying.

2. *It is further ordered,* That respondent herein present to each interested applicant or prospective student immediately prior to the commencement of any interview or sales presentation during which the purchase of or enrollment in any course of instruction offered by respondent herein is discussed or solicited in such person's home or residence, a 5" x 7" card containing only the following language:

"You will be talking to a salesperson."

3. *It is further ordered,* That respondent forthwith distribute a copy of this Order to each of its operating divisions.

4. *It is further ordered,* That respondent shall, for a period of twenty (20) years following the effective date of this Order, notify the Commission at least thirty (30) days prior to any proposed change in the corporate structure of respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respondent which may affect compliance obligations arising out of this Order.

5. *It is further ordered,* That should the Federal Trade Commission promulgate a Trade Regulation Rule governing the advertising or promotion of educational courses of instruction subject to this Order, provisions of this Order relating to practices, requirements or prohibitions covered by such a Rule shall automatically be replaced by the provisions of such a Rule relating to the same kind of practices, requirements or prohibitions, to the extent covered by such provisions, and any such replacement provisions of the Rule shall be incorporated in this Order, on the date such Rule becomes effective; but shall remain so incorporated only as long as the Rule remains effective. If such replacement provisions of the Rule should be rescinded or otherwise invalidated, the original provisions of the Order herein shall then become effective.

III

It is further ordered, That:

1. Within twenty-one (21) days after the date this Order is served on respondent (hereinafter "date of service"), respondent shall employ an independent contractor (hereinafter "contractor") acceptable to the Commission.

2. Within thirty (30) days after the date of service, respondent shall compile and give to the contractor a list containing the information described in this paragraph. For each person (a) whose enrollment application was accepted and registered by respondent for any of respondent's conservation courses (whether consisting of one hundred and fifty (150) or one hundred (100) lessons; hereinafter "the course") from March 26, 1973, through March 25, 1976, inclusive; and, (b) who, on or before June 30, 1977, either (1) completed all the lessons is the course (but need not have submitted the final examination or received a diploma) and paid in full the tuition for the course, or (2) cancelled the course or was terminated by the school (for academic reasons or because of lack of communication from the student for two hundred and twenty (220) days) after having completed at least ten (10) examinations in the course and paid at least the pro rata portion of the tuition attributable to ten (10) examinations (hereinafter "student"), respondent shall provide the following information:

(a) Name;

(b) Last known home address;

(c) Name and address of the nearest relative of the student, or if no such address appears in respondent's files relating to such student, then the student's last known business address if such information is contained in respondent's files relating to such student;

(d) Date student's enrollment application was accepted and registered by respondent;

(e) Date student completed the course (but need not have submitted a final examination or received a diploma) or date she (he) canceled the course or was terminated by respondent for academic reasons or for failure to communicate with respondent for two hundred and twenty (220) days;

(f) Total tuition paid by or for the student to respondent;

(g) Total amount of any tuition refund (s) paid by respondent to the student;

(h) Total amount of any deficiency in the student's pro rata tuition payments; and

(i) If known, the total amount of tuition paid on behalf of, or reimbursed to, the student by any government agency or department (other than the Veterans Administration), or any private business or other organization.

3. On the sixtieth (60th) day after the date of service, the contractor shall send, via first class mail, to each student at her (his) last known home address (as it appears in the section of the list referred to in Paragraph III (2) (b) of this Order) an envelope which bears the contractor's return address and contains:

(a) A copy of the letter and the Eligibility Questionnaire (hereinafter "questionnaire") in the language, manner, and form shown in Appendices B and C respectively; and

(b) A first class postage-prepaid envelope addressed to the contractor.

4. With respect to each student whose mailed inquiry (as described in Paragraph III (3)) is returned to the contractor undelivered or from whom no response has been received within one hundred and five (105) days after the date of service, then, within one hundred and ten (110) days after the date of service, the contractor shall do either of the following:

(a) Solicit a more recent address by sending via first class mail to the name and address of the student's nearest relative shown on the list referred to in Paragraph III (2), an envelope which bears the contractor's return address and contains both a letter in the language, manner, and form shown in Appendix D and a first-class, postage-pre-

paid envelope addressed to the contractor; if informed of an address more recent than

to the Commission a copy of each completed questionnaire in the con-

application for employment, and can reasonably identify the agency or employer to

ity of a student's responses to the questionnaire pursuant to the guide-

tains a letter in the language, manner, and form shown in Appendix G and a copy of this Order to the last known

2. In addition to all other reports required by this Order, respondent shall file with the Commission within sixty

paid envelope addressed to the contractor; if informed of an address more recent than the address referred to in Paragraph III(2), then within five (5) business days of receiving said address, the contractor shall send, via first class mail, to the student at said address, an envelope bearing the contractor's return address and containing the same letter, questionnaire, and return envelope referred to in Paragraph III(3) of this Order; or

(b) if there is no name or address of a relative on the list referred to in Paragraph III(2), send via first class mail to the student's last known business address if and as it appears on said list an envelope bearing the contractor's return address and containing the same letter, questionnaire, and return envelope that were previously mailed to the student's home address.

5. (a) On the one hundred and fifth (105th) day after the date of service, the contractor shall transmit to the Commission a list containing the name of each student whose envelope is returned to the contractor, or from whom no response has been received within one hundred and five (105) days after the date of service, and for whom neither a business address nor a relative's address appears on the list referred to in Paragraph III(2) of this Order;

(b) The Commission shall have up to one hundred and forty-five (145) days from the date of service to obtain and transmit to the contractor more recent addresses for the students whose names appear on the list described in Paragraph III(5)(a) of this Order;

(c) With respect to each student for whom a more recent address is transmitted to the contractor by the Commission pursuant to the provisions of Paragraph III(5)(b) of this Order, the contractor shall, on the one hundred and fiftieth (150) day after the date of service, send, via first class mail, an envelope which bears the contractor's return address and contains the questionnaire, letter, and return envelope described in Paragraph III(3) (a) and (b) of this Order.

6. If a student marks more than one answer to questions 2 and/or 4 (see appendix C) when at least one answer would be a qualifying answer and the other a disqualifying answer under the eligibility criteria enumerated in Paragraph III(8)(a-e) in this Order, and if the student is not disqualified on the basis of an answer to any other question, the contractor within five (5) days shall send to such student via first class mail an envelope bearing the contractor's return address and containing: A Letter as depicted in Appendix E; an unmarked copy of the question(s) to which the student had given inconsistent answers; and a first-class, postage-prepaid envelope addressed to the contractor.

7. On the two hundredth (200th) day after the date of service, the contractor shall transmit to respondent and to the Commission a copy of each completed questionnaire in the contractor's possession, custody, or control. No student whose questionnaire is received by the contractor after that day will be considered for eligibility.

8. Within two hundred and ten (210) days after the date of service, the contractor shall make an initial determination of those students who are "eligible class members" pursuant to the criteria enumerated in this Paragraph, Paragraph 9 and the guidelines set forth in Appendix H of this Order, and shall transmit to the respondent and to the Commission a list of the names of students who are eligible class members and the most current address for each such student known to the contractor. An "eligible class member" is defined as that person:

(a) Whose enrollment application was accepted and registered by respondent between March 26, 1973, and March 25, 1976, inclusive;

(b) Who enrolled in the course to enable her (him) to get a job in the conservation or ecology field;

(c) Who failed to obtain employment in the conservation or ecology field (1) within two (2) years after completing or terminating the course, or (2) by the date of receipt of the questionnaire, whichever is earlier;

(d) Who has demonstrated her (his) eligibility by her (his) responses to the questionnaire and any subsequent questionnaire or inquiry mailed by the contractor pursuant to the provisions of this Order; and the contractor has received all such responses before two hundred (200) days after the date of service; and

(e) Who falls into one of the following groups:

(1) That person who completed all the lessons in the course (but may not have submitted the final examination or been issued a diploma) and paid in full the tuition for the course on or before June 30, 1977, and made three (3) "meaningful attempts" (as defined in Paragraph 9) to find a job in the conservation or ecology field at least one (1) of which was either a written application for a job or a personal visit to an agency or employer for the purpose of finding a job; or

(2) That person who cancelled her (his) enrollment in the course or was terminated by respondent (for academic reasons or because of lack of any communication from the student for two hundred and twenty (220) days) and made at least two (2) "meaningful attempts" (as defined in Paragraph 9) to find a job in the conservation or ecology field.

9. For the purposes of Paragraph III(8)(e) (1) and (2), a "meaningful attempt" to find a job in the conservation or ecology field is one in which the student:

(a) Filed a written application for employment with an agency or other employer in the conservation or ecology field, and can reasonably identify the agency or employer to which, and the approximate date on which, application was made;

(b) Wrote to an agency or employer in the conservation or ecology field to inquire about employment but did not file a written application for employment, and can reasonably identify the agency or employer to which, and the approximate date on which, the inquiry was sent;

(c) Contacted the North American School of Conservation for assistance in getting a job in the conservation or ecology field;

(d) Telephoned an employer in the conservation or ecology field to inquire about the availability of a conservation or ecology job but failed to apply for a conservation or ecology job because (1) she (he) was ineligible to apply, (2) she (he) chose not to apply because the salary was too low, or (3) she (he) was advised that no jobs were available; and can reasonably identify the agency or employer contacted and the approximate date of the contact; or

(e) Personally visited an employer in the conservation or ecology field to inquire about the availability of a conservation or ecology job but failed to apply for a conservation or ecology job because (1) she (he) was ineligible to apply, (2) she (he) chose not to apply because the salary was too low, or (3) she (he) was advised that no jobs were available; and can reasonably identify the agency or employer contacted, the person to whom she (he) spoke (name, position, title, or description), and the approximate date of the contact.

10. Within two hundred and forty (240) days after the date of service, respondent shall present to the contractor any challenge respondent may wish to make to the contractor's initial determinations of eligibility, and respondent shall present to the contractor simultaneously with its challenge any substantiating materials in its possession, custody, or control. On the same day that respondent presents its challenges to the contractor, it shall transmit copies of all challenges and substantiating materials constituting said presentation to the Commission.

11. (a) Within two hundred and seventy (270) days after the date of service, the contractor shall, after considering all of respondent's challenges to the contractor's initial determinations of eligibility, make its final determinations of those students who are eligible class members. Also within two hundred and seventy (270) days after the date of service, the contractor shall notify respondent and the Commission simultaneously of said final determinations by transmitting to each of them a list of the names and most current addresses of students who are eligible class members, a report explaining the basis for upholding or denying any challenge(s) and copies of all materials considered by the contractor in upholding or denying any challenge.

(b) In resolving disputes about whether particular students are eligible class members, the contractor shall consider all evidence presented to it that bears on the appropriateness and reasonableness of the contractor's interpretation of responses to the questionnaire and all evidence presented to it that bears on the accuracy or veracity of a student's responses to the questionnaire pursuant to the guidelines set forth in Appendix H of this Order. The contractor's decision in upholding or denying any challenge shall be fair and impartial. No financial or other material benefit shall accrue to the contractor contingent upon the nature of the outcome of her (his) decision.

12. Within two hundred and eighty (280) days after the date of service, respondent shall file, under Rule 3.61(d) of the Commission's rules of practice, a written request for advice as to whether the contractor's final determinations of eligible class members comply with the terms of this Order. The Commission shall render its advice to respondent within three hundred and forty (340) days after the date of service.

13. Within three hundred and sixty-five (365) days after the date of service, respondent shall send, via registered mail, return receipt requested, an envelope to each of the eligible class members at the address on the list prepared by the contractor pursuant to Paragraph III(11)(a) of this Order containing a letter in the language, manner, and form shown in Appendix F and:

(a) In the case of a student who has completed all the lessons in the course (but may not have submitted the final examination or been issued a diploma) and paid in full the tuition for the course, on or before June 30, 1977, a check for the lesser of the following amounts:

(1) Two hundred dollars ($200.00);

(2) The amount by which the tuition paid by or for the student exceeds the amount paid on behalf of, or reimbursed to, the student by any government agency or department (other than the Veterans Administration) or any private business or other organization (excluding loans); or

(b) In the case of a student whose enrollment has been cancelled or terminated as described in Paragraph III(8)(e)(2) of this Order, a check for the lesser of the following amounts:

(1) One hundred dollars ($100.00);

(2) The amount by which the tuition paid by or for the student exceeds the amount paid on behalf of, or reimbursed to, the student by any government agency or department (other than the Veterans Administration) or any private business or other organization:

provided, however, that if the student had not paid for all of the lessons completed prior to cancellation or termination of her (his) enrollment, the pro rata cost of the lessons she (he) completed but for which she (he) had not paid will be deducted from the refund to which she (he) is otherwise entitled.

14. On the same day that respondent mails envelopes containing refund checks to eligible class members, pursuant to Paragraph III(13) of this Order, respondent shall send, via first class mail, an envelope which bears respondent's return address and contains a letter in the language, manner, and form shown in Appendix G and a copy of this Order to the last known home address of each student who was determined on the basis of her (his) returned questionnaire to be ineligible for a refund under Part III of this Order.

15. On the four hundred and twenty-fifth (425th) day after the date of service, respondent shall file with the Commission a report in writing setting forth the manner and form in which it has complied with Part III of this Order. This report shall contain a listing of the names, addresses, and refund amounts of those eligible class members whose refund checks were returned by the United States Postal Service.

16. The Federal Trade Commission shall have one hundred and eighty (180) days from the date of receipt of the report described in Paragraph III(15) of this Order to locate such eligible class members and to notify respondent of such members' most recent addresses, if found.

17. Within five (5) days of receiving the notification referred to in Paragraph III(16) of this Order, respondent shall send, via registered mail, return receipt requested, an envelope to each of the eligible class members whom the Federal Trade Commission has located, at the address found by the Commission, which bears respondent's return address and contains the letter and check referred to in Paragraph III(13) of this Order.

18. Any administrative costs incurred by respondent in carrying out the provisions of this Part III, including the cost of employing the contractor, shall be borne by respondent.

19. If any duty required to be performed on a certain day under Part III of this Order falls upon a non-business day, the respondent herein shall perform such duty on the next following business day.

IV

It is further ordered, That:

1. Respondent shall maintain records and documents for two (2) years after the filing of the report referred to in Paragraph III(15) of this Order, which demonstrate that respondent has complied with Part III of this Order, and shall further maintain all documents and other materials relied upon in compliance with Parts I and II of this Order for a period of two (2) years following the last date such documents and materials were relied upon. Such records, documents and materials demonstrating compliance with this Order shall be made available for inspection and copying by the Commission during normal business hours.

2. In addition to all other reports required by this Order, respondent shall file with the Commission within sixty (60) days after sevice upon it of this Order, a report, in writing, setting forth in detail the manner and form in which it has complied with Parts I and II of this Order.

Signed this——day of———1977.

———————,

NORTH AMERICAN CORRESPONDENCE SCHOOLS.

APPENDIX A

DISCLOSURE FORM

(Name of School)

EMPLOYMENT AND COMPLETION RECORD FOR (NAME OF COURSE) FOR THE PERIOD OF (DATE) TO (DATE)

1. (Name of school) recently conducted a survey, pursuant to regulations of the Veterans Administration,* of students who graduated from the (name of course) between (date) and (date). (Number) questionnaires were mailed; (number) were returned. The survey shows that among the graduates who responded to the questionnaire, (percentage of graduates available for employment actually obtained jobs in the (name of field) or a related field.

2. (Percentage) of the students who enrolled in (name of course) between (date) and (date) completed the course; (percentage) of the students who enrolled in that period cancelled their enrollment or were terminated by the school before completion of the course; (percentage) of the students who enrolled in that period are still studying the course.

APPENDIX B

(Name)
(Address)

DEAR (Name): In settlement of a proceeding brought by the United States Federal Trade Commission, North American Correspondence Schools has agreed to a Consent Order. Under that Order, North American is undertaking to make tuition adjustments for some former students of its Conservation course, if they meet certain requirements.The purpose of the enclosed questionnaire is to help determine your eligibility for such an adjustment.

You are under no obligation to fill out or send in this questionnaire. You must return this questionnaire, however, if you wish to have your eligibility determined. You may already have received and sent in other questionnaires relating to the Conservation course Those questionnaires were used for other purposes and do not contain sufficient information to determine your eligibility.

DIRECTIONS: Please read each question carefully and mark or fill in the appropriate spaces on the questionnaire enclosed. After you have answered every applicable question, take the questionnaire to a notary public. Sign and swear to the affidavit in the presence of the notary public, who will then notarize it. If you do not live within twenty-five (25) miles of a notary public, you may sign and swear,to the affirmation

*[The following disclaimer shall be inserted if the course has not been approved by the Veterans Administration: "This course is not approved for veterans benefits."]

before three persons who are not related to you and who are at least eighteen (18) years

——Other (please explain):

Name, title, position or description of person you spoke with:

However, if there is not a Notary Public within twenty-five (25) miles of the place you live, you may sign the Affirmation in

APPENDIX D

(Name)
(Address)

adjustment for certain former students in its Conservation courses.

The Order of the Commission contains the provisions identifying the class of per-

before three persons who are not related to you and who are at least eighteen (18) years of age, each of whom must attest that he or she has witnessed your signing of the Affirmation statement.

If you decide to send in this questionnaire, you must follow the directions and answer all questions which apply to you completely and truthfully to the best of your knowledge. Questionnaires which are incomplete or improperly filled out could result in the loss of eligibility. Please keep in mind that you can be exposed to criminal penalties if you knowingly give false information.

Please return the completed, signed, and notarized (or witnessed) questionnaire in the enclosed stamped addressed envelope. You should fill out and mail in this questionnaire no later than [insert day 30 days after contractor mailed questionnaire]. If you should misplace the envelope provided, please mail your questionnaire to [insert contractor's name and address].

APPENDIX C

ELIGIBILITY QUESTIONNAIRE

Please type or carefully print your answers.

_____

Name Address

1. Did you enroll in the North American School of Conservation? ——Yes ——No

2. What was the MOST IMPORTANT reason why you enrolled? (MARK ONE BOX ONLY. Be sure to read all of the alternatives below before marking *the one* that applies to you.)

——Primarily to increase my knowledge and further my education.
——Primarily to enable me to get a job in the conservation or ecology field.
——Primarily to get a promotion in my present job.
——Primarily to help me decide if I wanted to go into the conservation or ecology field.
——Primarily to enhance my enjoyment of the outdoors.
——Other (please explain)
_____
_____
_____

3. Generally speaking, were you satisfied with the course? ——Yes ——No ——Somewhat satisfied, but not entirely.

4. If you *completed* the course, skip this question. If you did *not* complete the course, please give the MOST IMPORTANT reason why you did not complete the course. (MARK ONE BOX ONLY. Be sure to read all of the alternatives below before marking *the* one that applies to you.)

——Primarily because I could no longer afford the course for financial reasons.
——Primarily because I changed my career goal.
——Primarily because I became convinced that the course would not help me get a job in the conservation or ecology field.
——Primarily because I did not have enough time to study or I found the course materials too difficult.
——Primarily because I was drafted or enlisted in the military service.
——Primarily because I went to college or other schooling.
——Primarily because I married, started a family, or stopped taking the course for other personal reasons, such as illness or relocation.
——Other (please explain):
_____
_____
_____

5. Did you try to get a job in the conservation or ecology field? ——Yes ——No (If no, skip to question 8.)

6. (a) Please list as many agencies or employers that you can recall where you filled out or submitted a *written application* for employment in the conservation or ecology field and the approximate date of your application. (If you need more space, please use the back of this page or add more pages.)

Agency or Employer and Approximate Date

_____
_____
_____

(b) Please list as many agencies or employers that you can recall you *wrote to* about employment in the conservation or ecology field, but to which you did *not* make written application for a job. *Also,* please give the approximate date when you wrote, and a brief summary of the reply you received. (If you need more space, please use the back of this page or add more pages.)

Agency or Employer: _____
Approximate Date: _____
The reply I received was: _____
_____
_____
Agency or Employer: _____
Approximate Date: _____
The reply I received was: _____
_____
_____
Agency or Employer: _____
Approximate Date: _____
The reply I received was: _____
_____
_____

(c) Please list as many agencies or employers that you can recall you *personally visited* to seek employment in the conservation or ecology field and the approximate date that you visited. *Also,* please identify the person you spoke with and give a brief summary of what happened. Tell what questions you asked and what you were told. (If you need more space, please use the back of this page or add more pages.)

Agency or Employer: _____
Approximate Date: _____
Name, title, position, or description of person you spoke with: _____
_____
The questions I asked and the answers I received were: _____
_____
_____
Agency or Employer: _____
Approximate Date: _____

Name, title, position or description of person you spoke with: _____
_____
The questions I asked and the answers I received were: _____
_____
_____
Agency or Employer: _____
Approximate Date: _____
Name, title, position or description of person you spoke with: _____
_____
The questions I asked and the answers I received were: _____
_____
_____

(d) Please list as many agencies or employers that you can recall you *telephoned* with regard to employment in the conservation or ecology field and the approximate date that you telephoned. *Also,* please give a brief summary of what happened. Tell what questions you asked and what you were told. (If you need more space, please use the back of this page or add more pages.)

Agency or Employer: _____
Approximate Date: _____
The questions I asked and the answers I received were: _____
_____
_____
Agency or Employer: _____
Approximate Date: _____
The questions I asked and the answers I received were: _____
_____
_____
Agency or Employer: _____
Approximate Date: _____
The questions I asked and the answers I received were:
_____
_____

(e) Did you contact North American School of Conservation for assistance in getting a job? ——Yes ——No
If yes, approximately when? _____

7. Did you get a job in the conservation or ecology field within 2 years of completing or dropping out of the course? ——Yes ——No

8. (a) Did any private business or other organization, or any government agency or department other than the Veterans Administration, pay any of the tuition for the course in which you enrolled? (Do not include any loan which you have repaid, are repaying, or are obligated to repay.) ——Yes ——No

(b) If yes, how much of your tuition was paid by each private business, or organization, or government agency or department? (Do not include any loan which you have repaid, are repaying, or are obligated to repay.) Amount $_____

In order for you to be eligible for any tuition adjustment, you must, after completing the questionnaire, sign the following Affidavit in the presence of a Notary Public. However, if there is not a Notary Public within twenty-five (25) miles of the place you live, you may sign the Affirmation in the presence of three (3) witnesses who are not related to you and who are eighteen (18) years of age or older.

Also, in order for you to be eligible for any tuition adjustment, you must mail us the completed questionnaire promptly. Please mail the questionnaire by [insert date 30 days after contractor mailed questionnaire]. If you misplace the enclosed postage-prepaid envelope, you should mail the completed questionnaire to [insert contractor's name and address].

WARNING: It is a federal crime for anyone to knowingly and willfully make a false, fictitious, or fraudulent statement or representation in any matter within the jurisdiction of any department or agency of the United States. (18 U.S.C. 1001.)

AFFIDAVIT

I hereby affirm that I am the person to whom this questionnaire was sent and that I have answered the above questions completely and truthfully, to the best of my knowledge.

.....
Signature

Subscribed and sworn to before me this——day of——,—.

.....
Notary Public

My commission expires: _____

If and only if you live more than 25 miles away from a Notary Public, you may sign this before 3 witnesses other than your spouse or relative; but all 3 witnesses must fill in the blanks below.

AFFIRMATION

I hereby affirm that I am the person to whom this questionnaire was sent and that I have answered the above questions completely and truthfully, to the best of my knowledge.

.....
Signature

We affirm that we witnessed

.....
(name of student)

sign the above statement; that we are not related to

.....
(name of student)

by blood or marriage; that we are each at least eighteen (18) years of age; and that we hereby sign our names as attesting witnesses.

1. _____
Signature
_____ _____
Address Date
2. _____
Signature
_____ _____
Address Date
3. _____
Signature
_____ _____
Address Date

APPENDIX D

(Name)
(Address)

DEAR (Name): Pursuant to an Order of the Federal Trade Commission, agreed to by this company, you are requested to provide us with the last known address of [insert name of student].

It is believed that this person was a student in the North American School of Conservation between 1973 and 1976. The Federal Trade Commission has determined that it is necessary to collect information from certain North American Conservation students to implement the terms of an Order which, among other things, requires the company to make tuition adjustments for certain students, possibly including the person named above.

If you know the current address of the person named above, please write it in the place provided at the bottom of this page and return it to us in the enclosed postage prepaid envelope as soon as possible, but *not later than* [insert date representing the one hundred and thirtieth (130) day after the date of service].

Your cooperation will be appreciated.

Sincerely,

.....
(current address of person listed above)

APPENDIX E

(Name)
(Address)

DEAR (Name): This letter relates to the questionnaire about your enrollment in the North American School of Conservation which you recently returned to us. We cannot evaluate your response because you marked more than one answer to Question[s] [2 and/or 4]. In order for us to evaluate your response you must return the enclosed copy of Question[s] [2 and/or 4] with ONLY ONE answer marked under [that, those] question[s]. You may not receive a tuition adjustment unless you mark ONLY ONE answer to [the, each] question.

Select the ONE answer for Question(s) [2 and/or 4] that best applies to you. You are reminded that your answer[s] must be truthful to the best of your knowledge. Although your response to this inquiry need not be notarized or witnessed, you can be subjected to the same criminal penalties for an untruthful answer as you would be for untruthful answers to the Eligibility Questionnaire itself.

Your answer, on the enclosed copy of Question[s] [2 and/or 4] must be mailed to us not later than [insert date representing the earlier of the twenty-first (21st) day after contractor mails this letter or the one hundred and ninetieth (190) day after the date of service]. If you misplace the enclosed postage-prepaid envelope, mail your answer[s] in an envelope addressed to [independent contractor's address].

By _____
Enclosures.

APPENDIX F

(Name)
(Address)

DEAR (Name): Persuant to a Consent Order issued by the Federal Trade Commission, the North American School of Conservation has agreed to make a partial tuition adjustment for certain former students in its Conservation courses.

The Order of the Commission contains the provisions identifying the class of persons eligible for adjustments, and the procedures for making adjustments. (You may obtain a copy of the Order without charge by writing to the Federal Trade Commission, Public Reference Branch, Room 130, Washington, D.C. 20580. Refer to National Systems Corp., et al., Docket No. 9078.)

In accordance with the provisions of the Order, it has been determined that you are entitled to a tuition adjustment of $———. A check for this amount is enclosed.

NORTH AMERICAN SCHOOL OF CONSERVATION.
By_____.

APPENDIX G

IMPORTANT NOTICE

Pursuant to an Order of the Federal Trade Commission issued on ———, the North American School of Conservation agreed to make a partial tuition adjustment for certain former students in its Conservation courses. The Order of the Commission contains provisions identifying the class of persons eligible for adjustments and the procedures for making adjustments.

In accordance with Part III of the Order, it has been determined, based upon your responses to the "Eligibility Questionnaire," that you are not eligible for an adjustment. A copy of this Order is enclosed.

NORTH AMERICAN SCHOOL OF CONSERVATION.
By_____.

APPENDIX H

INSTRUCTIONS TO INDEPENDENT CONTRACTOR

Respondent North American Correspondence Schools (NACS) shall require the independent contractor referred to in Part III of the Order to comply with the following instructions:

Determination of Eligible Class Members

The contractor shall receive the responses to the Appendix C Eligibility Questionnaire. From these responses, the contractor will determine all eligible class members, and, supplemented by NACS's records, the amount of refund to which each member is entitled, pursuant to the terms of Part III of this Order. All references regarding question numbers refer to the questions on the Appendix C Eligibility Questionnaire.

a. Vocational Intent Requirement. By checking the second response to question 2, the respondent to the questionnaire shall have met the requirement that she (he) enrolled in a NACS conservation course to enable her (him) to get a job in the conservation or ecology field. The contractor shall evaluate any answers to the sixth response to question 2 in order to make a reasonable determination as to whether the respondent to the questionnaire met this requirement. If the respondent to the questionnaire checks two or more responses, one of which is a qualifying answer and one or more others is (are) disqualifying answer(s), and the respondent is not disqualified on the basis of an answer to any other question, then the contractor shall follow the procedure set forth in Paragraph III(6) of the Order. That is, within five (5) days after receiving the questionnaire, the contractor

shall send, via first class mail, an envelope to the student, bearing the contractor's

but failed to apply for a conservation or ecology job because (1) she (he) was ineligi-

ducted from the refund to which she (he) would otherwise be entitled.

The proposed Consent Order has been placed on the public record for 60 days for

such refunds, the student must also complete an eligibility questionnaire and have:

FOR FURTHER INFORMATION CONTACT:

V 43/210 OCT 30 78

shall send, via first class mail, an envelope to the student bearing the contractor's return address and containing (a) a letter in the language, manner and form shown in Appendix E to the Order; (b) a copy, from an unanswered questionnaire, of that question or those questions to which the student had given inconsistent answers in her (his) first response; and (c) a first class postage-prepaid envelope addressed to the contractor.

b. Question 3. The contractor shall ignore the answers to question 3 in her (his) initial determination of eligibility.

c. Dropouts. Question 4 is to be answered only by those who did not complete NACS's conservation course. By checking the third response to question 4, the respondent to the questionnaire shall have met the requirement that the reason for not completing the course was that she (he) did not believe the course would help in getting employment in the conservation or ecology field. The contractor shall evaluate any answers to the eighth response to question 4 in order to make a reasonable determination as to whether the respondent to the questionnaire met this requirement. If the respondent to the questionnaire checks a qualifying answer and one or more disqualifying answer(s), but is not otherwise disqualified on the basis of an answer to any other question, then the contractor shall follow the procedure set forth in Paragraph III(6) of the Order. That is, within five (5) days after receiving the questionnaire, the contractor shall send, via first class mail to the student, an envelope bearing the contractor's return address and containing (a) a letter in the language, manner and form shown in Appendix E to the Order; (b) a copy, from an unanswered questionnaire, of that question or those questions to which the student had given inconsistent answers in her (his) first response; and (c) a first class postage-prepaid envelope addressed to the contractor.

d. Meaningful Attempts To Find a Job. Those who completed NACS's course in conservation must have made three meaningful attempts to find a job in conservation or ecology at least one of which was either a written application or a personal visit. Those who did not complete said course must have made two meaningful attempts. An attempt may be made in person, in writing, or by telephone. A "yes" answer to question 6(e) establishes the fact of one meaningful attempt. In determining whether any other action or effort constitutes a meaningful attempt, the contractor shall be governed by the criteria set forth in Paragraph III(9) of the Order. That is, a meaningful attempt is one in which the student:

(a) Filed a written application for employment with an agency or other employer in the conservation or ecology field, and can reasonably identify the agency or employer to which, and the approximate date on which, application was made;

(b) Wrote to an agency or employer in the conservation or ecology field to inquire about employment, and can reasonably identify the agency or employer to which, and the approximate date on which, the inquiry was sent;

(c) Contacted the North American School of Conservation for assistance in getting a job in the conservation or ecology field;

(d) Telephoned an employer in the conservation or ecology field to inquire about the availability of a conservation or ecology job but failed to apply for a conservation or ecology job because (1) she (he) was ineligible to apply, (2) she (he) chose not to apply because the salary was too low, or (3) she (he) was advised that no jobs were available; and can reasonably identify the agency or employer contacted and the approximate date of the contact; or

(e) Personally visited an employer in the conservation or ecology field to inquire about the availability of a conservation or ecology job but failed to apply for a conservation or ecology job because (1) she (he) was ineligible to apply, (2) she (he) chose not to apply because the salary was too low, or (3) she (he) was advised that no jobs were available; and can reasonably identify the agency or employer contacted, the person to whom she (he) spoke (name, position, title or description), and the approximate date of the contact.

A student who completed the course must have provided a total of at least three (3) acceptable responses under these criteria to questions 6(a) through 6(e) of the Eligibility Questionnaire, of which at least one (1) must have been an acceptable response under these criteria to question 6(a) or 6(c).

A student who did not complete the course must have made two (2) meaningful attempts to find a job; thus, such student must have provided a total of at least two (2) acceptable responses under these criteria to questions 6(a) through 6(e) of the questionnaire.

e. Obtained Employment. A student who obtained employment in the conservation or ecology field within two (2) years after completing, cancelling or being terminated from the course is not eligible for a tuition refund. Therefore, any student who answered "yes" to question 7 shall be deemed ineligible.

f. Out-of-Pocket Payments for Tuition. In determining the amount of refund to which an eligible class member is entitled, the contractor shall be guided by the provisions of Paragraph III(13) of the Order. Where an eligible class member's tuition was paid by a private business or organization or by a state or federal agency (other than the Veterans Administration) in whole or in part, that member shall not receive an amount greater than the amount not paid for by such business, organization or agency. To determine the amount of such tuition assistance an eligible class member received, the contractor shall contact NACS for any records it may have indicating the nature and amount of such assistance. If NACS does not have such records, then the contractor may refer to the response to question 8 of the questionnaire in determining the amount to be paid to the eligible class members.

If NACS's records indicate that an eligible class member had not paid for all of the lessons completed prior to cancellation or termination of her (his) enrollment, the contractor shall deduct from the refund to which the student is otherwise entitled the pro rata cost for the lessons she (he) competed but for which she (he) had not paid. Thus, for example, if a student had enrolled in the one hundred (100) lesson course with a total tuition cost of five hundred dollars ($500.00), and had completed sixty (60) lessons (for which the pro rata cost would be $300.00), but paid only two hundred and fifty dollars ($250.00) in tuition, that student would have fifty dollars ($50.00) deducted from the refund to which she (he) would otherwise be entitled.

g. Affidavit and Affirmation Forms. If a questionnaire is not properly sworn or witnessed, the contractor shall photostat and promptly return the original questionnaire to the respondent of the questionnaire along with new Affidavit and Affirmation forms and the following notice:

"We are returning your questionnaire because you did not properly sign it. Enclosed is a new Affidavit which you must sign before a notary public. *But* if you live more than twenty-five (25) miles from the nearest notary public, then sign the enclosed Affirmation before three witnesses (spouse and relatives don't count). Please sign the proper form and mail it along with the questionnaire within 2 weeks to (*name and address*). If you fail to do so, you will be ineligible for a tuition adjustment."

If respondent challenges the eligibility of a student initially determined to be eligible on the ground that the student signed before three witnessess rather than before a notary public notwithstanding the fact that the student lives within twenty-five (25) miles of a notary public, and respondent furnishes evidence that the student in fact lives within twenty-five (25) miles of a notary public, the contractor shall photostat and promptly return the original questionnaire to the student along with a new Affidavit and the following notice:

"We are returning the questionnaire because you did not properly sign it. Since you live within twenty-five (25) miles of a notary public, you should have signed the Affidavit before a notary public rather than the Affirmation before three witnesses. Enclosed is a new Affidavit which you must sign before a notary public. Please sign it and mail it along with the questionnaire within 2 weeks to (*name and address*). If you fail to do, you will be ineligible for a tutition adjustment."

h. Resolution of challenges. In resolving challenges to the contractor's initial determinations of eligibility, the contractor shall be governed by the provisions of Part III(11)(b) of the Order. That is, the contractor shall consider all evidence presented to it that bears on the appropriateness and reasonableness of the contractor's interpretation of responses to the questionnaire and all evidence presented to it that bears on the accuracy or veracity of a student's responses to the questionnaire. Such evidence may include, inter alia, (1) evidence that the student has answered a question on the questionnaire in a manner inconsistent with the student's answer or answers to a previous questionnaire or inquiry, (2) evidence that the student did not in fact file a written application or otherwise contact an agency or employer listed on the questionnaire, and (iii) the student's failure to have the questionnaire notarized or affirmed in compliance with the questionnaire's instructions. The contractor's decision in upholding or denying any challenge shall be fair and impartial. No financial or other material benefit shall accrue to the contractor contingent upon the nature of the outcome of her (his) decision.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an Agreement to a proposed Consent Order from North American Correspondence Schools.

The proposed Consent Order has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

THE COMPLAINT

The Complaint named as respondents National Systems Corp., North American Correspondence Schools, John T. McNaughton, Maurice H. Sherman, Eugene Auerbach, Richard C. Parsons, and Wallace O. Laub, all doing business in Newport Beach, Calif. It alleged that respondents violated section 5 of the Federal Trade Commission Act in connection with the offering for sale of vocational school correspondence courses by misrepresenting the availability of and the demand for jobs in the fields for which respondents purport to train their students; the potential salary range and entry level of available jobs; and the purpose of the sales persons' calls or solicitations. In addition, the Complaint alleged that respondents failed to disclose such material facts as the schools' dropout and job placement rate.

THE PROPOSED CONSENT ORDER

The proposed Consent Order prohibits North American Correspondence Schools alone from representing without substantiation: That there is a need or demand for persons completing any of respondent's courses; that opportunities for employment of any size are available to such persons; or that persons completing any such courses will or may earn any specified amount of money. It also prohibits respondent from making any representations about the salaries or positions obtained by graduates of respondent's courses, unless respondent possesses and relies upon a reasonable basis for the representations. The proposed Consent Order further prohibits respondent from misrepresenting: The value of any of respondent's courses in qualifying any person for employment in any field; the employment qualifications for conservation or any other field; the content of any testimonial used by respondent in any of its advertising; the prerequisites or qualifications for enrollment in any of respondent's courses; the purpose or use of respondent's qualification questionnaire; and the opportunities of persons completing any of respondent's courses in obtaining employment normally requiring a junior or senior college degree.

In addition, respondent may not represent that credits from its schools are transferrable to accredited institutions of higher learning, unless such is the case. Respondent is also required to: State that any testimonial was solicited, required, or paid for, when such is the case; obtain, at least 24 hours in advance, a prospective student's consent to a sales interview; disclose information about the employment of graduates; and provide each student with a cancellation notice and a cooling-off period.

Finally, the proposed Order requires that respondent pay restitution to eligible students who enrolled in respondent's North American School of Conservation between March 26, 1973 and March 25, 1976 and who either graduated or dropped out by June 30, 1977. Qualified graduates are entitled to $200 each; drop-outs, $100. To be eligible for such refunds, the student must also complete an eligibility questionnaire and have:

(1) After paying in full and completing all the course lessons, made three "meaningful attempts" (as defined in the Order) to find a job in the conservation or ecology field, at least one of which was either a written job application or a personal visit to an agency or employer for the purpose of finding a job; or

(2) After completing at least 10 examinations and paying a pro rata portion of the tuition, canceled her (his) enrollment in the course (or had her (his) enrollment terminated by respondent) and made at least two "meaningful attempts" to find a job in the conservation or ecology field.

The purpose of this analysis is to facilitate public comment on the proposed Order and it is not intended to constitute an official interpretation of the Agreement and proposed Order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-30523 Filed 10-27-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4669]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Minnehaha County, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Minnehaha County, S. Dak. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the lobby of the Courthouse, Minnehaha County, S. Dak. Send comments to: Mr. Nils Aspaas, Chairman of the County Board of Commissioners of Minnehaha County, Dakota State Bank, Baltic, S. Dak. 57003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Minnehaha County, S. Dak. in accordance with section 119 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Sioux River	Downstream State Route 38.	1,289
	U.S. Route 16	1,293
	Chicago Northwestern RR. bridge.	1,301
	Burlington Northern RR. bridge.	1,307
	County Route 121	1,310
	State Route 38A	1,431
	Interstate Route 90	1,433
	County Route 130	1,440
Skunk Creek	U.S. Route 29	1,419
	Marion Rd	1,425
	U.S. Route 16	1,432
	County Route 139	1,442
	County Route 142	1,447

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

(Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

ACTION: Proposed rule.

SUMMARY: Technical information or

The proposed base (100-year) flood elevations for selected locations are:

tional flood insurance program (NFIP).

Source of flooding	Location	Elevation in feet,

Issued: October 10, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30040 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4670]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bruceville-Eddy, McLennan County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Bruceville-Eddy, McLennan County, Tex.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Bruceville-Eddy Fire Department, Bruceville-Eddy, Tex.

Send comments to: Hon. Richard Relyea, Mayor of Bruceville-Eddy, P.O. Box 9, Eddy, Tex. 76524.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Bruceville-Eddy, McLennan County, Tex. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hoolia Creek	Upstream corporate limits.	687
	West frontage road (upstream).	667
	Downstream corporate limits.	667
Tributary to Hoolia Creek.	Upstream corporate limits.	677
	West frontage road (upstream).	673
	East frontage road (upstream).	672
	Old farm to Market Road 107 (upstream).	666
Tributary to Hoolia Creek.	Downstream corporate limits.	653
South Cow Bayou, Lusk Branch.	Upstream corporate limits.	583
	Centerline of Soil Conservation Service structure No. 5 (upstream).	583

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: OCTOBER 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30041 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4671]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Lehi, Utah County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Lehi, Utah County, Utah.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 51 North Center, Lehi, Utah. Send comments to: Hon. Kenneth Blaine Singleton, Mayor, city of Lehi, City Hall, 51 North Center, Lehi, Utah 84043.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Lehi, Utah, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry creek	300 West—80 ft*.	4,560
	200 West—50 ft*.	4,563
	400 North—50 ft*.	4,564
	100 West—70 ft*.	4,566
	500 North—90 ft*.	4,567
	600 North—90 ft*.	4,570
	U.S. Highway 91—40 ft*	4,581
	Union Pacific RR. Culvert—30 ft*	4,567
	Interstate 15—50 ft*.	4,593
	Frontage road—50 ft*.	4,594
Waste ditch diversion	Denver & Rio Grande RR.—50 ft*.	4,551
	400 West—50 ft*.	4,557
	300 West—70 ft*.	4,561
	200 West—30 ft*.	4,567
	600 North—59 ft*.	4,569
	U.S. Highway 91—50 ft*.	4,581

Source of flooding	Location	Depth, in ft above ground
Dry creek	At intersection of 200 East and 950 North (shallow flooding).	1
	At intersection of 200 East and Union Pacific RR. (shallow flooding)	1

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30042 Filed 10-27-78; 8:45 am]

[4210-01—M]

[24 CFR Part 1917]

[Docket No. FI-4672]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Windsor, Windsor County, Vt.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Windsor, Windsor County, Vt. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, 147 Main Street, Windsor, Vt. Send comments to: Mr. Raymond Morris, Chairman, Board of Selectmen, Town of Windsor, Town Office, 147 Main Street, Windsor, Vt. 05089.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Windsor, Vt. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	Central Vermont RR.—100 ft*.	324
	Cornish covered bridge—100 ft*.	324
Mill Brook	Central Vermont RR bridge—20 ft*	324
	Broken dam 340 ft upstream of Main St.—50 ft**	330
	20 ft*	341
	1st crossing Union St.—30 ft*	345
	2d crossing Union St.—20 ft*	349
	Mill pond dam—50 ft**	351
	Mill pond dam—20 ft*	387

*Upstream of centerline.
**Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30043 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4673]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hopewell, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hopewell, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Hopewell Muncipal Building, 300 North Main Street, Hopewell, Va. 23860. Send comments to: Mr. Clinton Strong, City Manager of Hopewell, 300

North Main Street, Hopewell, Va. 23860.

[4210-01-M]

[24 CFR Part 1917]

may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

are available for review at Town Hall, Winlock, Wash. Send comments to:

V 4 3 / 2 1 0 0 0 C 3 0 0 7 8

North Main Street, Hopewell, Va. 23860.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hopewell, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Appomattox River	Confluence with James River.	8
	Upstream corporate limits.	8
Bailey Creek	Confluence with James River.	8
	Confluence with Cattail Creek.	11
	State Route 156 (upstream).	18
	Confluence with Southerly Run.	35
Bullhill Run	Confluence with Cabin Creek.	27
	Woodside Ct. extended	65
Cabin Creek	Confluence with Appomattox River.	8
	River Rd.	26
	Jackson Farm Rd.	47
	Norfolk & Western Ry. (upstream).	74
Cattail Creek	Confluence with Bailey Creek.	10
	Winston Churchill Dr (State Route 156) (upstream).	24

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30044 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4674]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Scottsville, Albemarle County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Scottsville, Albemarle County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Scottsville Municipal Building, Scottsville, Va. 24590. Send comments to: Hon. Raymond Thacker, Mayor of Scottsville, P.O. Box 132, Scottsville, Va. 24590.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Scottsville, Albermarle County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
James River	Downstream corporate limit.	282
	Confluence of Mink Creek.	285
	Virginia Route 20	286
	Upstream corporate limit.	296
Mink Creek	Chesapeake & Ohio Ry.	285
	Main St.	285
	Jackson St.	285
	Building.	285
	Tributary to Mink Creek.	285

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30045 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4675]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Mesa, Franklin County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Mesa, Franklin County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Mesa, Wash. Send comments to: Hon. Floyd Vandiver, Mayor of Mesa, P.O. Box 146, Mesa, Wash. 99343.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Mesa, Franklin County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Esquatzel Coulee	South corporate limit	676
	Columbia St.	677
	Judson St. (extended)	678
	North corporate limit	680

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued October 12, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30046 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4676]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Winlock, Lewis County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Winlock, Lewis County, Wash. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Winlock, Wash. Send comments to: Hon. H. Brown, Mayor, Town of Winlock, P.O. Box 7, Winlock, Wash. 98596.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Winlock, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Olequa Creek	Winlock-Vader Rd.—50 ft*.	271
	Walnut Ave.—70 ft*	279
	Fir St.—70 ft*	282

* Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bear Creek	Upstream corporate limit	1,000
	Confluence of Tributary No. 1	1,000
	Confluence of Tributary No. 2	1,000
	Confluence of Tributary No. 3	1,000
	Downstream corporate limit	1,000
Tributary No. 1	Confluence with Bear Creek	1,000
	Upstream corporate limit	1,000
Tributary No. 2	Confluence with Bear Creek	1,000
	Upstream corporate limit	1,000
Tributary No. 3	Confluence with Bear Creek	1,000
	Upstream corporate limit	1,000

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128), and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

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Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30047 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4677]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Argyle, Lafayette County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Argyle, Lafayette County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Clerk's Office, Argyle, Wis. Send comments to: The Honorable Robert Wenger, Village President, Village of Argyle, P.O. Box 246, Argyle, Wis. 53504.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Argyle, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Pecatonica River.	About 680 ft downstream of southern corporate limits.	799
	250 ft upstream of Milwaukee St.	800
	100 ft upstream of western corporate limits.	801

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128); and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30048 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4678]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Baraboo, Sauk County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Baraboo, Sauk County, Wis.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, Baraboo City Hall, 135 Fourth Street, Baraboo, Wis.

Send comments to: The Hon. E. A. Madalon, Mayor, City of Baraboo, Baraboo City Hall, 135 Fourth Street, Baraboo, Wis. 54913.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Baraboo, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Baraboo River	At eastern corporate limits.	818
	At Manchester St	819
	Just downstream of waterworks dam.	822
	Just upstream of waterworks dam.	825
	Just upstream of Circus World Museum Bridge.	827
	Just downstream of Oak St. dam.	830
	Just upstream of Oak St. dam.	834
	At South Boulevard Broadway.	835
	Just upstream of Second Ave.	838
	160 ft downstream of western corporate limits.	843
	Just downstream of Shaw St.	846

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30049 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4679]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Blanchardville, Iowa County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Blanchardville, Iowa County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Blanchardville, Wis. Send comments to: The Honorable Roy Kundert, Village President, Village of Blanchardville, Village Hall, Blanchardville, Wis. 53516.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Blanchardville, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Pecatonica River.	Eastern corporate limit	821
	Downstream side of Main Street Bridge	821
	Upstream side of dam	824
	Western corporate limit	825
Blue Mounds Branch.	Water St	820
	Northern corporate limit.	820

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30050 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4680]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Casco, Kewaunee County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Casco, Kewaunee County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Casco, Wis. Send comments to: The Honorable Rudy Hanamann, Village President, Village of Casco, Village Hall, Casco, Wis. 54205.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Casco, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fox River	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000
	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30051 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4681]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Cazenovia, Sauk County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Cazenovia, Sauk County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Clerk's Office, Cazenovia, Wis. Send comments to: The Honorable Ralph Hoffman, Village President, Village of Cazenovia, Village Hall, Cazenovia, Wis. 53924.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Cazenovia, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Cazenovia	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000
	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30052 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4682]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Cedarburg, Ozaukee County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Cedarburg, Ozaukee County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Clerk's Office, Cedarburg, Wis. Send comments to: The Honorable Robert Hintz, Village President, Village of Cedarburg, Village Hall, Cedarburg, Wis. 53012.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Cedarburg, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cedar Creek	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000
	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30053 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4683]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Cleveland, Manitowoc County, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Cleveland, Manitowoc County, Wis. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Clerk's Office, Cleveland, Wis. Send comments to: The Honorable Ralph Kaiser, Village President, Village of Cleveland, Village Hall, Cleveland, Wis. 53015.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Cleveland, Wis., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000
	Just downstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just upstream of Chicago, Milwaukee, St. Paul & Pacific Railroad.	1,000
	Just downstream of Wisconsin Central Railroad.	1,000
	Just upstream of Wisconsin Central Railroad.	1,000
	Just downstream of Main St.	1,000
	Just upstream of Main St.	1,000

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30054 Filed 10-27-78; 8:45 am]

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quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Casro Creek	Western corporate limit	706
	Just downstream from Church Ave.	710
	Just upstream from Church Ave.	713
	Just downstream from Ahnapee & Western RR.	714
	Northern corporate limit.	719

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30951 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4681]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Winkelman, Gila County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Winkelman, Gila County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Winkelman, Ariz. Send comments to: Hon. Richard Copetillo, Mayor, Town of Winkelman, Town Hall, P.O. Box 386, Winkelman, Ariz. 85292.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Winkelman, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gila River	Intersection of Front St. and Hewes Ave	1,934
	Intersection of 2d St. and Stevenson Ave.	1,938
	Intersection of 6th St. and Valencia Ave.	1,942

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30022 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4682]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Yountville, Napa County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Yountville, Napa County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Yountville, Calif. Send comments to: Hon. Joseph Chavoen, Mayor, City of Yountville, P.O. Box 2590, Yountville, Calif. 94599.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Yountville, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National

Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Napa River	Yountville Crossroads—100 ft upstream of centerline.	98

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30023 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4683]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hayden, Gila County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Hayden, Gila County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 520 Ray Avenue, Hayden, Ariz. Send comments to: Hon. Carmelita Hart, Mayor, Town of Hayden, Box B, Hayden, Ariz. 85234.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Hayden, Airz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gila River	Along Golf Course Rd. (600 ft from eastern corporate limits).	1,928

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30024 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4684]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Middlebury, New Haven County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Middlebury, New Haven County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Town Clerk's Office, Middlebury, Conn. Send comments to: Mr. William Longo, First Selectmen, Town of Middlebury, Town Hall, 1212 Whittemore, Middlebury, Conn. 06762.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Middlebury, Conn., in accordance with section 110 of the Flood Disaster Protection Act

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of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Long Swamp Brook	State Highway 188—20 ft*	386
	Porter Ave.—20 ft*	425
	Brook Lane—40 ft*	435
	Dirt Rd.—20 FT	438
	State Highway 64—20 FT*.	440
	Park Entrance—20 ft*	441
	Kelly Rd.—40 ft*	481
Wooster Brook	Bradleyville Rd.—20 ft*.	376
	Interstate Highway 84—265 ft*.	403
Hop Brook	Interstate Highway 84—40 ft*.	375
	Shadduck Rd.—20 ft*	383
	State Highway 188—20 ft*.	388
	Access Rd.—30 ft*	459
	Tucker Hill Rd—20 ft*	460
	State Highway 64—20 ft*.	462
	Breakneck Hill Rd.—40 ft*.	508
	Dirt Rd. (1st crossing)—20 ft*.	527
	Watertown Rd.—30 ft*	539
	Ravenwood Dr.—20 ft*	549
	Dirt Rd. (2d crossing)—20 ft*.	560

*Upstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: OCTOBER 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30025 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4685]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Chickamauga, Walker County, Ga.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Chickamauga, Walker County, Ga. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 240 Cove Road, Chickamauga, Ga. Send comments to: Hon. Frank Pierce, Mayor, City of Chickamauga, P.O. Box 68, Chickamauga, Ga. 30707.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Chickamauga, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coke Oven Branch.	Wilder Rd—30 ft*	726
	Southern RR.—50 ft*	733
	Thomas Ave.—50 ft*	734
	Georgia Highway 341—50 ft*.	738
Unnamed tributary No. 1 (Coke Oven Branch).	Private road No. 1—20 ft*.	756
	Private road No. 2—20 ft*.	756
	Private road No. 3—20 ft*.	756
Unnamed tributary No. 2 (Coke Oven Branch).	Confluence with Coke Oven Branch—20 ft*.	742
Crawfish Spring Lake.	Southern RR.—80ft**	725

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30026 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4686]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Audubon, Audubon County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Audubon, Audubon County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Audubon, Iowa. Send comments to: The Honorable Jay Dee Mindenhall, Mayor, City of Audubon, 1004 Grandview Drive, Audubon, Iowa 50025.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Audubon, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bluegrass Creek	1,800 ft downstream from Southside Ave.	1,286
	Just downstream from Southside Ave.	1,289
	100 ft upstrem from Southside Ave.	1,290
	Just upstream from Market St.	1,291
	Just upstream from Chicago Rock Island & Pacific RR.	1,292
	Just downstream from South St.	1,296
	Just upstream from West Broadway St.	1,299
	Northwestern corporate limits.	1,305

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30027 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4687]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Cambridge, Story County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Cambridge, Story County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Cambridge, Iowa. Send comments to: Hon. Donald Wilson, Mayor of Cambridge, P.O. Box 583, Cambridge, Iowa 50046.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Cambridge, Story County, Iowa in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Skunk River.	Downstream corporate limits.	849
	Confluence of Ballard Creek.	851
	County Trunk E63 bridge.	852
	Upstream corporate limits.	853

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30028 Filed 10-27-78; 8:45 am]

[4210-01-M]

ments on its own, or pursuant to policies established by other Federal, show evidence of being already in effect in order to qualify or remain

listed below for selected locations in the city of Linwood, Leavenworth

Source of flooding	Location	Elevation in feet, national

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[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4688]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Clive, Polk County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Clive, Polk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Clive, Iowa. Send comments to: Mr. Tom Reinhard, City Administrator, City of Clive, City Hall, Clive, Iowa 50053.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Clive, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entitles. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Walnut Creek	Just upstream of 73 St	832
	Just downstream of Chicago, Milwaukee & St. Paul RR.	833
	Just upstream of Chicago, Milwaukee & St. Paul RR.	835
	Just downstream of 86th St.	837
	Just stream of 86th St	839
	4,400 ft upstream of 86th St.	841
	1,600 ft upstream of 100th St.	854
	Just downstream of 114th St.	861
	West corporate limits	864
North Walnut Creek.	450 ft downstream of University Ave.	833
	Just upstream of University Ave.	834
	At North corporate limits.	837

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30029 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4689]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Ida Grove, Ida County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Ida Grove, Ida County, Iowa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Ida Grove, Iowa.

Send comments to: The Honorable Theodore E. Murphy, Mayor, City of Ida Grove, 301 Main Street, Ida Grove, Iowa 51445.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Ida Grove, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Maple River	Western corporate limits.	1,214
	400 ft downstream of U.S. Highway 59 and State Highway 175.	1,215
	50 ft upstream of U.S. Highway 59 and State Highway 175.	1,216
	1,400 ft upstream of U.S. Highway 59 and State Highway 185.	1,218
	3,000 ft upstream of U.S. Highway 59 and State Highway 175.	1,220
	Northern corporate limits.	1,222
Badger Creek	Western corporate limits.	1,214
	Downstream side of Rohwer St.	1,221
	30 ft upstream from 5th St.	1,228
	Upstream side of 7th St.	1,232
	Upstream side of South Main St.	1,236
	Southern corporate limits.	1,247
	1,250 ft upstream of southern corporate limits at limit of flooding in community.	1,252
Odebolt Creek	Western corporate limit	1,215
	Upstream side of Moorehead Ave.	1,218
	Upstream side of Washington St.	1,220
	1,630 ft upstream of Washington St.	1,222
	Just upstream of golf course footbridge.	1,226
	200 ft upstream of country road.	1,228
	470 ft downstream of Chicago & Northwestern.	1,230
	Southeastern corporate limits.	1,234

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30030 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4690]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Linwood, Leavenworth County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Linwood, Leavenworth County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Linwood, Kans. Send comments to: The Honorable Ronald Smith, Mayor, City of Linwood, Box 146, Linwood, Kans. 66052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Linwood, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stranger Creek	1,600 ft downstream of Bridge St. at southeastern corporate limits.	796
	1,500 ft upstream of Bridge St.	797
	2,600 ft upstream of Bridge St. at northern corporate limits.	798

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30031 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4691]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Friendsville, Garrett County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Friendsville, Garrett County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Friendsville Library, Friendsville, Md. Send comments to: Hon. Carol Rush, Mayor of Friendsville, Friendsville, Md. 21531.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-

listed below for selected locations in the town of Midland, Allegany County, Md. These base (100-year)

Source of flooding	Location	Elevation in feet, national geodetic vertical

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations

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ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Friendsville, Garrett County, Md. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youghiogheny River	Downstream corporate limits.	1,470
	Upstream of confluence with Bear Creek.	1,470
	2,700 ft upstream of confluence with Bear Creek.	1,479
	Upstream side of confluence with Minnow Creek.	1,483
	Upstream side of Maple St.	1,484
	Upstream side of U.S. Route 43.	1,492
	Upstream side of U.S Route 42.	[illegible]
Minnow Creek	Downstream confluence with Youghiogheny River.	1,485
	Upstream side of Water St.	1,487
	Upstream side of Blane Franz Rd.	1,505
Bear Creek	Downstream limit of study and confluence with Youghiogheny River.	1,470
	Upstream side of 2d Ave	1,496
	Upstream side of Old Selbysport Rd.	1,504
	Upstream side of U.S. Route 48.	1,523
	Upstream side of Maple St.	1,532

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 78-30032 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4692]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Emmitsburg, Frederick County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Emmitsburg, Frederick County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Emmitsburg Town Hall, Main Street, Emmitsburg, Md. 21727. Send comments to: Hon. Gene Myers, Mayor of Emmitsburg, Main Street, Emmitsburg, Md. 21727.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Emmitsburg, Frederick County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flat Run	Upstream corporate limits.	391
	Downstream corporate limits.	387
	U.S. Route 15 (upstream).	385
Tributary A to Flat Run.	Upstream corporate limits.	
	Irishtown Rd. (upstream).	410
	Downstream corporate limits.	395

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 78-30033 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4693]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Midland, Allegany County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the town of Midland, Allegany County, Md. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Midland Post Office, Midland, Md. Send comments to: Hon. Richard Blair, Mayor of Midland, P.O. Box 5, Midland, Md. 21542.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Midland, Allegany County, Md., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Georges Creek	Corporate limits—downstream.	1,663
	250 ft upstream of corporate limits.	1,667
	950 ft upstream corporate limits.	1,673
	2,300 ft upstream of corporate limits.	1,685
	Union St.—downstream	1,688
	Union St.—upstream	1,691
	CONRAIL—upstream	1,699
	Confluence of Neff Run.	1,699
	Church St.—downstream.	1,699
	Church St.—upstream	1,702
Neff Run	Confluence with Georges Run.	1,699
	Main St. (culvert)	1,708
	New Rd. (culvert)	1,709
	400 ft upstream of New Rd. (culvert).	1,717
	800 ft upstream of New Rd. (culvert).	1,724
	1,300 ft upstream of New Rd. (culvert) at the corporate limits.	1,734

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 78-30034 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4694]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Clinton, Macomb County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Clinton, Macomb County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Clinton Township Hall, 1129 South Gratiot Avenue, Mount Clemens, Mich. Send comments to: Mr. Kenneth Bobcean, Township Supervisor, Township of Clinton, Clinton Township Hall, 1129 South Gratiot Avenue, Mount Clemens, Mich. 48043.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Clinton, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinton River	Southern corporate limit.	581
	At confluence of Clinton River spillway.	584
	At Grand Trunk Western RR.	589
	Just upstream of Moravian Dr.	593
	At confluence of Clinton River North Branch	593
	Just upstream of Garfield Rd.	600
	At Hayes Rd	602

the flood-prone areas and the proposed base (100-year) flood elevations

posed base (100-year) flood elevations are available for review at City Hall, Mayor's Office, Holyoke, Mass. Send

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

tions for the town of Easthampton, in accordance with section 110 of the Flood Disaster Protection Act of 1973

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clinton River Spillway	East corporate limit	581
	At Harper Ave	583
	At confluence of Clinton River.	584
Clinton River North Branch	Just upstream of Cass Ave.	594
	Just upstream of Little Rd.	596
	Just downstream of Hall Rd.	597
Clinton River Middle Branch	At Heydenreich Rd	594
	At Hall Rd	595
Miller Drain	At Heydenreich Rd	594
	At Hall Rd	594
Harrington Drain	At Harrington Blvd	591
	Just upstream of Metropolitan Parkway	598
	At Kelly Rd	600
	Just upstream of Babcean Rd.	606
	At 15 Mile Rd	607
Red Run Drain	At west corporate limit	602
	Just upstream of Nunneley Dr	605

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (35 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30039 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4695]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Hudson, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Hudson, Middlesex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Hudson, Mass. Send comments to: Mr. George McGee, Chairman of the Board of Selectmen of Hudson, Hudson Town Hall, Hudson, Mass. 01749.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Hudson, Middlesex County, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River	Upstream corporate limits	214
	Chapin Rd. (upstream)	211
	Confluence of Hoe Brook	209
	Houghton St. (upstream)	206
	Broad St. (upstream)	204
	Main St. (upstream)	201
	Cox St. (upstream)	200
	Downstream corporate limits.	196
Assabet Branch No. 3	Mary Chris Rd. (upstream).	201
	Cox St. (upstream)	204
Assabet Branch No. 4	Downstream corporate limits	193
	Boston & Maine RR. (upstream)	207
Fort Meadow Brook	Fort Meadow Reservoir	236
	Causeway St. (upstream).	236
	Shay St. (upstream)	201
	Lewis St. (upstream)	196
	Chestnut St. (upstream)	187
	Main St. (upstream)	185
Hog Brook	Confluence with Assabet River	209
	River St. (upstream)	213
	1,600 ft above River St	221
	2,000 ft above River St	235
Danforth Brook	Confluence with Assabet River	206
	Ansley St. (upstream)	220
	Packard St. (upstream)	222
	Lois St. (upstream)	226
	Lincoln St. (upstream)	248
	Upstream corporate limits.	264

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30038 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4696]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Holyoke, Hampden County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Holyoke, Hampden County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Mayor's Office, Holyoke, Mass. Send comments to: Hon. Ernest E. Proulx, Mayor, City of Holyoke, City Hall, Holyoke, Mass. 01040.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Holyoke, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Boston & Maine RR.—100 ft*.	68
	State Route 116 bridge—100 ft*.	73
	U.S. Route 202 bridge—100 ft*.	112
Tannery Brook	Meadowbrook Rd.—70 ft**.	286
	Meadowbrook Rd.—20 ft*.	292
	Access Rd.—20 ft*	295
	Knox Rd.—70 ft*	313
Broad Brook (lower)	Rock Valley Rd.—20 ft*.	227
	Southampton Rd.—100 ft**.	232
	Southampton Rd.—20 ft*.	236
	Ross Rd.—20 ft*	238
	Keys Rd.—20 ft*	244
Broad Brook	Footbridge—20 ft*	474

*Upstream of centerline.
**Downstream of centerline.

posed base (100-year) flood elevations are available for review at City Hall, Mayor's Office, Holyoke, Mass. Send comments to: Hon. Ernest E. Proulx, Mayor, City of Holyoke, City Hall, Holyoke, Mass. 01040.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Holyoke, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Upstream corporate limit.	123
	Downstream corporate limit.	123
Connecticut River Oxbow	At confluence with Connecticut River.	123
	Upstream corporate limit.	123
Manhan River	At the confluence with Connecticut River Oxbow.	123
	132 ft downstream of Mill St. dam.	125
	60 ft upstream of Mill St. dam.	134
	0.5 mi downstream of Glendale St.	137
	Just downstream of Glendale St.	140
	Just upstream of Glendale St.	142
	Upstream corporate limit.	144
Lower Mill Pond	At the confluence with Manhan River.	123
	Just downstream of Ferry St. dam.	123
	Just upstream of Ferry St. dam.	132
	Just downstream of Liberty St.	133
	Just downstream of Cottage St.	138
	Just upstream of Cottage St. dam.	157
Nashawannuck Pond	Just upstream of Cottage St. dam.	157
	At the confluence with Broad Brook.	157
Broad Brook	0.41 mi upstream of the confluence with Nashawannuck Pond.	157
	0.61 mi downstream of Hendrick St.	161

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30037 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4697]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Easthampton, Hampshire County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Easthampton, Hampshire County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 43 Main Street, Easthampton, Mass. Send comments to: The Honorable Robert Conner, Chairman, Board of Selectmen, Town of Easthampton, Town Hall, 43 Main Street, Easthampton, Mass. 01027.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Easthampton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River	Upstream corporate limit.	123
	Downstream corporate limit.	123
Connecticut River Oxbow	At confluence with Connecticut River.	123
	Upstream corporate limit.	123
Manhan River	At the confluence with Connecticut River Oxbow.	123
	132 ft downstream of Mill St. dam.	125
	60 ft upstream of Mill St. dam.	134
	0.5 mi downstream of Glendale St.	137
	Just downstream of Glendale St.	140
	Just upstream of Glendale St.	142
	Upstream corporate limit.	144
Lower Mill Pond	At the confluence with Manhan River.	123
	Just downstream of Ferry St. dam.	123
	Just upstream of Ferry St. dam.	132
	Just downstream of Liberty St.	133
	Just downstream of Cottage St.	138
	Just upstream of Cottage St. dam.	157
Nashawannuck Pond	Just upstream of Cottage St. dam.	157
	At the confluence with Broad Brook.	157
Broad Brook	0.41 mi upstream of the confluence with Nashawannuck Pond.	157
	0.61 mi downstream of Hendrick St.	161

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Assabet River	Upstream corporate limits	214
	Chapin Rd. (upstream)	211
	Confluence of Hoe Brook	209
	Houghton St. (upstream)	206
	Broad St. (upstream)	204
	Main St. (upstream)	201
	Cox St. (upstream)	200
	Downstream corporate limits.	196
Assabet Branch No. 3	Mary Chris Rd. (upstream).	201
	Cox St. (upstream)	204
Assabet Branch No. 4	Downstream corporate limits	193

DATE: The period for comment will be ninety (90) days following the

forcement, Region V, 1823 Stout Street, Denver, Colo. 80202.

ACTION: Announcement of time and place of public hearing.

SUMMARY: Notice is hereby given

[3510-22-M]

DEPARTMENT OF COMMERCE

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	0.1 mi downstream of Hendrick St.	172
	1,220 ft downstream of Hendrick St.	175
	1,320 ft upstream of Hendrick St.	178
	2,745 ft downstream of Hendrick St.	183
Hannum Brook	At confluence with Manhan River	138
	0.08 mi downstream of West St.	139
	Just downstream of West St.	141
	Just upstream of West St.	144
North Branch Manhan River	At the confluence with Manhan River.	142
	0.6 mi upstream of Pomeroy Meadow Rd.	144
	0.45 mi downstream of Torrey Rd.	158
	Just downstream of Torrey Rd.	183
	Just upstream of Torrey Rd.	185
Basset's Brook	At the confluence with Manhan River.	135
	Just downstream of West St. dam.	135

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30036 Filed 10-27-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4698]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Chelmsford, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Chelmsford, Middlesex County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 1 North Road, Chelmsford, Mass. Send comments to: Mr. William R. Murphy, Chairman, Board of Selectmen, Town of Chelmsford, Town Hall, 1 North Road, Chelmsford, Mass. 01824.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Chelmsford, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
River Meadow Brook.	U.S. Route 3*	103
	Billerica Rd.-50 ft**	108
	Power line access road-50 ft*.	113
Beaver Brook	Confluence with River Meadow Brook.	111
	Summer St.*	121
	State Route 4-100 ft**	126
Putnam Brook	Confluence with River Meadow Brook	111
	Boston Rd.-20 ft**	127
	Hall Rd.-20 ft**	136
Merrimack River	Confluence with Deep Brook	102
Stony Brook	Middlesex Rd.*	102
	U.S. Route 3*	105
	Meadowbrook Rd.*	109
Hales Brook	Interstate Highway 495 (upstream culvert)*	101
	Riverneck Rd.-80 ft**	106
Concord River	Downstream corporate limits.	106

* At centerline
** Upstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30035 Filed 10-27-78; 8:45 am]

[4310-05-M]

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[30 CFR Part 715]

SURFACE COAL MINING AND RECLAMATION OPERATIONS

Appendix—Alluvial Valley Floors Technical Guidelines

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for the submission of comments specified in the notice published August 25, 1978 (43 FR 38035), proposing technical guidelines for preliminary identification of alluvial valley floors. The comment period expired on October 23, 1978. Requests for an extension were received from the public at a hearing regarding the proposed guidelines held on October 13, 1978, in Denver, Colo. This extension of 9 days will permit the preparation and submission of more detailed comments by interested members of the public.

DATE: Comments must be received on or before November 1, 1978.

ADDRESS: Comments should be sent to the Regional Director, Office of Surface Mining Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colo. 80202.

FOR FURTHER INFORMATION CONTACT:

John Hardaway, Office of Surface Mining Reclamation and Enforcement, Region V, 1823 Stout Street, Denver, Colo. 80202, 303-837-5511.

Dated: October 23, 1978.

WALTER N. HEINE, P.E.,
Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 78-30522 Filed 10-27-78; 8:45 am]

[1410-01-M]

COPYRIGHT ROYALTY TRIBUNAL

[37 CFR Part 301]

AGENCY RULES OF PROCEDURE

Proposed Rules; Correction

AGENCY: Copyright Royalty Tribunal.

ACTION: Proposed rule; correction.

SUMMARY: In FEDERAL REGISTER Doc. 78-29871 at pages 49318 to 49326 in the issue of Monday, October 23, the FEDERAL REGISTER revised the numbering system of the proposed rules of procedure of the Copyright Royalty Tribunal, but did not make conforming changes in the supplementary information provided by the Tribunal. Therefore, the references in the second column on page 49318 to §§ 301.56, 301.58, 301.64, and 301.66 should have read §§ 301.66, 301.68, 301.74, and 301.76. The reference to §§ 301.56 and 301.64 should have read §§ 301.66 and 301.74.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Brennan, Chairman, Copyright Royalty Tribunal, 202-653-5175.

THOMAS C. BRENNAN,
Chairman.

[FR Doc. 78-30509 Filed 10-27-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 996-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Montana Sulfur Oxides Control Strategy; Announcement of Public Hearing

AGENCY: Environmental Protection Agency.

ACTION: Announcement of time and place of public hearing.

SUMMARY: Notice is hereby given that a public hearing to receive comments on regulations proposed to correct deficiencies in Montana's Implementation Plan will be held on Wednesday, November 29, 1978, at 9 a.m. in the Civic Center auditorium, 1340 Harrison Avenue, Butte, Mont. Copies of the proposed regulations (43 FR 40240, Sept. 11, 1978), are available by writing: EPA, Air and Hazardous Materials Division, 1860 Lincoln Street, Denver, Colo. 80295. The docket (8A-78-2) in this matter is available for inspection at the above address as well as EPA Headquarters, Central Docket Section, 401 M Street SW., Washington, D.C. 20460. Written comments may also be submitted in advance of the hearing to: EPA Hearing Officer, Office of Regional Counsel, 1860 Lincoln Street, Denver, Colo. 80295.

DATE: Written comments should be submitted on or before December 15, 1978. A public hearing on the proposed action will be held on Wednesday, November 29, 1978, at 9 a.m.

ADDRESSES: Written comments should be sent to: Regional Administrator, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Suite 900, Denver, Colo. 80295. A public hearing on the proposed regulation will be held at the Civic Center auditorium, 1340 Harrison Avenue, Butte, Mont.

FOR FURTHER INFORMATION CONTACT:

Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street. Denver, Colo. 80295, 303-837-3471.

Dated: October 13, 1978.

ALAN MERSON,
Region VIII, Regional Administrator, U.S. Environmental Protection Agency.

[FR Doc. 78-30492 Filed 10-27-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

FOREIGN FISHING

Proposed Increase of Optimum Yield and Incremental Apportionment of Total Allowable Level

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of proposed amendment to regulations.

SUMMARY: Foreign fishermen did not harvest their total allocations of certain species allocated to them by the preliminary fishery management plan for the trawl fisheries and herring gillnet fishery of the eastern and Bering Sea and northeast Pacific (PMP) (42 FR 9298). Consequently, the Director of the Alaska Regional Office (Regional Director) has determined that, as a result of the underutilization, the optimum yields (OY's) of those species can be increased. The Regional Director has determined further that the increased OY should be apportioned between the total allowable level of foreign fishing (TALFF) and reserves.

DATES: Comments are invited until November 9, 1978.

ADDRESS: Send comments to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C., 20235. Please mark "Bering Sea" on outside of envelope.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone: 907-586-7221.

SUPPLEMENTARY INFORMATION: The 1977 PMP for trawl fisheries in the Bering Sea (42 FR 9298) established TALFF's for 1977. The amended PMP for 1978 was developed in late 1977, on the assumption that the 1977 TALFF's would be fully utilized. However, this did not occur for all species. The following table depicts the extent of underharvesting in 1977:

[Metric tons]

Species	TALFF	Foreign catch[1]	Unharvested TALFF
Yellowfin sole	106,000	60,000	46,000
"Other flounders"	105,000	60,600	45,000
Pacific cod	56,500	31,500	25,000
Squid	10,000	8,400	1,600
"Other species (areas I, II, and III)	59,600	44,200	15,400

[1] Based on "best blend" estimates. TALFF's for other target species were almost completely taken.

Those species were underharvested in 1977, although biological data col-

[In metric tons]

"Species code"	"Species"	"Ocean area"	"Amended TALFF(mt)"

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Those species were underharvested in 1977, although biological data collected by the National Marine Fisheries Service indicates that the stocks could have been fished at a higher level. Consequently, the Regional Director proposes that the 1978 OY's be adjusted to reflect the underharvest, natural mortality, increase in weight of fish, and uncertainty as follows:

[In metric tons]

Species	OY increase
Yellowfin sole	20,000
"Other" flounders	20,000
Pacific cod	12,500
Squid	800
"Other" species (areas I, II, and III)	7,000

It is proposed that the increase in OY be apportioned among the TALFF, U.S. capacity, and reserves in the following manner:

[Metric tons]

Species	OY increase	TALFF increase	Reserve increase	U.S. capacity increase
Yellowfin sole	20,000	0	20,000	0
"Other" flounders	20,000	410	19,590	0
Pacific cod	12,500	1,570	10,930	0
Squid	800	170	630	0
"Other" species (areas I, II, and III)	7,000	0	7,000	0

Several factors support the proposed division of the OY increase. First, most of the reserve will not be taken, either by domestic or foreign fishermen. Most of the fishing in the Bering Sea is for pollock. Last year, although foreign fishermen harvested their full allocation of pollock, they generally harvested other species only incidental to the pollock fishery. The same situation is expected to occur this year. Thus, although large amounts of reserves are available, foreign fishermen are not expected to utilize them fully. U.S. harvest of these species is not anticipated. Although the reserves will probably go unused, their establishment will provide the National Marine Fisheries Service with some flexibility should other nations need additional allocations in order to harvest present allocations of primary target species.

The Assistant Administrator for Fisheries has determined that the 30-day "cooling-off period" required by the Administrative Procedure Act can be waived for the following reasons:

1. Discussion of the management plans for the Bering Sea groundfish fishery was on the public meeting notice (43 FR 30594) for the August 25-26 meeting of the North Pacific Fishery Management Council (Council).

2. This item was discussed at the public meeting of the Council on August 25-26.

3. This action will not disadvantage any party. The environmental impact is considered negligible and a "Negative Declaration" of environmental impact has been filed.

4. No time is required to adjust to the revised regulations that will result from this action.

Consequently, the Assistant Administrator has determined that this action be filed with the FEDERAL REGISTER as proposed regulations with a 15-day comment period.

Signed at Washington, D.C. this the 24th day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

§ 611.20 [Amended]

It is proposed to amend 50 CFR 611.20(c) by revising table I as follows:

1. Lines 24, 25, 33, 34, 36, and 37 as revised to read:

"Species code"	"Species"	"Ocean area"	"Amended TALFF(mt)"
006	Cod, Pacific	Aleutians and Bering Sea	[4]58,570
003	Flounders, other than yellowtail sole.	do	[5]139,410
002	Sole, yellowtail	Aleutians and Bering Sea	[6]106,000
001	Squid	do	[7]10,170
099	Other species	do	[8]93,600
080, 081, and 099	Armorheads, alfonsins, and other groundfish.	do	[9]2,000101

2. Footnotes 4+ are revised as follows:

[4]Does not include 11,930 metric tons held in reserve.
[5]Does not include 19,590 metric tons held in reserve.
[6]Does not include 20,000 metric tons held in reserve.
[7]Does not include 630 metric tons held in reserve.
[8]Does not include 7,000 metric tons held in reserve.
[9]The TALFF for armorheads, alfonsins, and other groundfish resources is subject to additional restrictions on total effort by foreign fishing vessels. No more than 50 vessel days of trawling and 50 vessel days of bottom longlining will be allowed in this fishery.

§ 611.93 [Amended]

Amend 50 CFR 611.93(b) by revising table I as follows:

1. In column 1, bottom line, add words "and revised" between the words "initial" and "TALFF."

2. In column 4 headed "Other flounders," strike "105,000," and substitute "139,410."

3. In column 9 headed "Pacific cod," strike "56,500," and substitute "58,070."

4. In column 12 headed "Squid," strike "10,000," and substitute "10,170."

[FR Doc. 78-30517 Filed 10-27-78; 8:45 am]

[3510-22-M]

[50 CFR Parts 611 and 672]

GROUNDFISH OF THE GULF OF ALASKA

Fishery Management Plan Amendment; Proposed Implementary Regulations; Correction

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Correction to proposed rules.

SUMMARY: On October 6, 1978, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (43 FR 46349), which would amend the Groundfish of the Gulf of Alaska management plan by increasing the quantity of certain species of fish in the "Joint-Venture" reserve. A table reflecting that change was inadvertently omitted by NOAA. That table is included in this correction.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Rietze, Regional Director, Alaska Regional Office, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99807, telephone: 907-586-7221.

SUPPLEMENTARY INFORMATION: Table 64 which appears in the FMP for Groundfish of the Gulf of Alaska on page 186 of the plan is amended. The amended table should be inserted on 43 FR 46351, between Table 62 which appears at the top of that page, and the amendments to the proposed regulations which appear in the middle of that page.

Signed in Washington, D.C., this the 24th day of October 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

Change Figures in Table 64 to read as follows:

[3510-22-M]

[50 CFR Part 675]

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Change Figures in Table 64 to read as follows:

Table 64 -- OY1/ /Reserve 3/ /DAH/FAC2/ Schedule, By Area (1000's mt)

Species		Shumagin	Chirikof	Kodiak	Yakutat	Southeast	Total
Pollock	OY	57.0	54.4	40.3	12.5	4.1	168.8
	Reserve	45.2	43.1	32.4	9.9	3.2	133.8
	DAH	4.8	4.6	3.4	1.1	0.3	14.2
	FAC	7.0	6.7	5.0	1.5	0.6	20.8
Cod	OY	9.6	4.1	15.3	4.3	1.5	34.8
	Reserve	2.73	1.15	4.42	1.27	0.43	10.0
	DAH	4.3	1.8	6.8	1.9	0.7	15.5
	FAC	2.57	1.15	4.08	1.13	0.37	9.3
Flounders	OY	10.4	2.7	12.0	6.4	2.0	33.5
	Reserve	3.0	0.8	3.5	1.8	0.6	9.7
	DAH	2.2	0.6	2.6	1.4	0.4	7.2
	FAC	5.2	1.3	5.9	3.2	1.0	16.6
Pacific Ocean Perch	OY	2.7	2.7	5.2	7.9	6.5	25.0
	Reserve	0.9	0.9	1.6	2.5	2.0	7.9
	DAH	0.1	0.1	0.2	0.4	0.3	1.1
	FAC	1.7	1.7	3.3	5.1	4.1	16.0
Other rockfish	OY	0.3	0.2	0.6	3.4	3.1	7.6
	Reserve	0.1	0.1	0.3	1.6	1.4	3.5
	DAH	0.1	Trace	0.2	0.9	0.8	2.0
	FAC	0.1	0.1	0.1	0.9	0.9	2.1
Sablefish	OY	2.1	1.4	2.4	3.4	3.7	13.0
	Reserve	0.6	0.4	0.7	1.1	1.2	4.1
	DAH	0.1	Trace	0.1	0.8	3.0	4.0
	FAC	0.8	0.5	0.9	1.3	0	4.9
Atka mackerel	OY	4.4	3.6	15.8	1.0	0	24.8
	Reserve	1.0	0.8	3.5	0.2	0	5.5
	DAH	0	0	0	0	0	00.0
	FAC	3.4	2.8	12.3	0.8	0	19.3
Squid	OY	0.4	0.4	0.4	0.4	0.4	2.0
	Reserve	0.2	0.2	0.2	0.2	0.1	0.9
	DAH	0	0	0	0	0	00.0
	FAC	0.2	0.2	0.2	0.2	0.3	1.1
Other species	OY	4.4	3.6	5.0	2.1	1.1	16.2
	Reserve	1.3	1.0	1.5	0.6	0.3	4.7
	DAH	0.1	0.1	0.2	0.1	Trace	0.5
	FAC	3.0	2.4	3.4	1.4	0.8	11.0

1/ Based on percentages shown in Table 63.
2/ Initial FAC; may be larger as reserve is apportioned during year.
3/ Includes additional reserve for possible use in joint ventures.

[FR Doc. 78-30480 Filed 10-27-78; 8:45 am]

[3510-22-M]

[50 CFR Part 675]

DRAFT FISHERY MANAGEMENT PLAN FOR HALIBUT OFF THE COAST OF ALASKA

Cancellation of Public Hearings

AGENCY: National Oceanic and Atmospheric Adminstration/Commerce.

ACTION: Cancellation of public meeting.

SUMMARY: The public hearing on the draft environmental impact statement and fishery management plan which was scheduled for October 25, 1978, in Petersburg, Alaska, has been canceled (43 FR 46054, Oct. 5, 1978).

FOR FURTHER INFORMATION CONTACT:

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

Dated: October 24, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

[FR Doc. 78-30644 Filed 10-26-78; 8:45 am]

notices

Dated at Washington, D.C., October 25, 1978.

[3510-17-M]

Office of the Secretary

tary for Administration is designated as the principal energy conservation officer for the Department of Com-

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01-M]

ACTION

COMPETITIVE NATIONAL VISTA GRANTS

Proposed Procedures

AGENCY: ACTION.

ACTION: Amendment to Proposed Notice of Competitive National VISTA Grants published October 5, 1978, at 43 FR 46153.

SUMMARY: The proposed notice set forth the competitive procedures under which applications for national VISTA grants will be accepted and reviewed in fiscal year 1979. It provided that to be eligible for consideration, an application must be prepared and submitted in accordance with the announcement and with forms, instructions, and program guidelines contained in the national VISTA grant application kit which was to be available on or after October 16, 1978. This amendment changes that date to November 13, 1978.

The notice also provided that applications are due by close of business December 16, 1978. This amendment changes that date to January 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Ms. Diana London, VISTA, 806 Connecticut Avenue NW., Washington, D.C. 20525, 202-254-5195.

SAM BROWN,
Director.

[FR Doc. 78-30623 Filed 10-27-78; 8:45 am]

[6110-01-M]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY DECISIONAL PROCESSES

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, scheduled (43 FR 47586) for October 31, 1978, in the office of Ginsburg, Feldman & Bress, 1700 Pennsylvania Avenue NW., Suite 300, Washington, D.C., has been rescheduled for 10 a.m., Wednesday, November 1, 1978, at the same location.

The Committee will meet to discuss its draft recommendation based on Prof. Michael Baram's study of the use of cost-benefit analysis in Federal regulation.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least 2 days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during, or after the meeting.

For further information concerning this meeting contact David M. Pritzker, 202-254-7065. Minutes of the meeting will be available on request.

Dated: October 24, 1978.

RICHARD K. BERG,
Executive Secretary.

[FR Doc. 78-30508 Filed 10-27-78; 8:45 am]

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agriculture Marketing Service

PACKERS AND STOCKYARDS: ST. JOHNS HORSE AUCTION, ASHLEY, MICHIGAN, ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marking Service, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MI—144: St. Johns Horse Auction, Ashley, Mich.
MI—143: Fenton Horse Sales, Inc., Fenton, Mich.
NC—150: Ashe Stockyards Co., Inc., Jefferson, N.C.
OK—198: Erin Springs Livestock Auction, Erin Springs, Okla.
TX—316: San Saba Cattle Auction, Inc., San Saba, Tex.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, by November 29, 1978.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 24th day of October, 1978.

EDWARD L. THOMPSON,
Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc. 78-30519 Filed 10-27-78; 8:45 am]

[6355-01-M]

COMMISSION ON CIVIL RIGHTS

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a Planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission will convene at 12:30 p.m. and will end at 2:30 p.m. on November 14, 1978, in the USCCR Conference Room, 1121 Vermont avenue, N.W., Washington, D.C. 20425.

Persons wishing to attend this open meeting should contact the committee chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning for fiscal year 1981 activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 25, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-30617 Filed 10-27-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee of the New England Fishery Management Council, established under section 302(g) (Pub. L. 94-265), will meet to discuss: (1) Review of development of groundfish management plan; (2) review of Scallop MP development; (3) review of New England groundfish vessel census; (4) role of S. & S. Committee; and (5) other business as necessary.

DATES: The meeting will convene at 9:30 a.m. on Tuesday, November 14, 1978, and adjourn at approximately 4:30 p.m. The meeting may be extended or shortened depending on the progress of the agenda. The meeting is open to the public.

ADDRESS: The meeting will take place at the Carriage House, Woods Hole Oceanographic Institution, Woods Hole, Mass.

FOR FURTHER INFORMATION CONTACT:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, telephone: 617-535-5450.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the executive director.

Dated: October 24, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-30510 Filed 10-27-78; 8:45 am]

[3510-17-M]

Office of the Secretary

SEA GRANT REVIEW PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. APP., and the Office of Management and Budget Circular A-63 of March 1974, the Secretary of Commerce has determined that the renewal of the Sea Grant Review Panel is in the public interest in connection with the performance of duties imposed on the Department by law.

The Panel was first chartered in December 1976. Its purpose was to advise the Secretary of Commerce on broad policy with respect to the establishment and operation of a national network of sea grant colleges and programs.

The Panel's advice has been useful to the Office of Sea Program on: (1) Institutional programs and major individual project proposals for support and (2) plans and policies governing execution of the national sea grant program. The statutory Sea Grant Review Panel will continue to review and advise the Secretary with respect to: (1) Contracts and grants; (2) national sea grant projects; (3) sea grant colleges and regional consortia, (4) sea grant fellowships; and (5) such other matters as the Secretary refers to it for review and advice.

The Panel will also continue with a balanced representation of 15 members. The Chairperson will be elected from the membership. The Panel will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Panel's revised charter will be filed with appropriate committees of the Congress, and the Library of Congress.

Inquiries or comments may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

Dated: October 20, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc. 78-30552 Filed 10-27-78; 8:45 am]

[3510-17-M]

ASSISTANT SECRETARY FOR ADMINISTRATION

Appointment of Principal Conservation Officer

Pursuant to section 656 of the Department of Energy Organization Act (Pub. L. 95-91), the Assistant Secretary for Administration is designated as the principal energy conservation officer for the Department of Commerce.

For further information contact: David Larkin, Deputy Director for Program Development, Office of the Secretary, Main Commerce Building, Room 6414, Washington, D.C. 20230. Telephone 202-377-3891.

Dated: October 16, 1978.

JUANITA M. KREPS,
Secretary of Commerce.

[FR Doc. 78-30326 Filed 10-27-78; 8:45 am]

[3510-17-M]

ADVISORY COMMITTEE ON FEDERAL POLICY ON INDUSTRIAL INNOVATION, ET AL.

Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Advisory Subcommittee on Federal Procurement and Direct Support of R. & D. the Advisory Subcommittee on Regulation of Industry Structure and Competition, and the Public Interest Advisory Subcommittee will each hold a series of four meetings between November 1, 1978 and December 15, 1978. The exact time and place for each of these meetings have not yet been set because the subcommittees have not yet been organized. We are giving notice of these meetings now, however, because it may be necessary to hold one or more of these meetings within less than fifteen days from the date upon which a subcommittee is organized.

The work plan for the Domestic Policy Review on Industrial Innovation contains deadlines that require the subcommittees to begin their work promptly. For example, each of the first two subcommittees named above must produce a printed report of its recommendations by December 15, 1978. Once the time and place for the meeting of a subcommittee have been set, this information will be available from Mr. John R. Heiser, Room 3868A, U.S. Department of Commerce Building, Washington, D.C., telephone 202-377-3648. In addition we expect to publish in the FEDERAL REGISTER notices supplementary to this one specifying the time and place of subcommittee meetings as they are set. We expect all of these subcommittees to be organized by November 3, 1978.

The Advisory Subcommittees on Federal Procurement and Direct Support of R. & D., and on Regulation of Industry Structure and Competition, were established to examine the impact of Federal policy in each of the

above areas on industrial innovation and to identify and evaluate policy op-

tact the Scientific Advisory Board Secretariat at 202-697-4648.

grieved party within the time period specified in the regulations, the party

ral gas processors will be permitted to pass through automatically most of their increased non-product costs incurred in the

[6740-02-M]

[Docket No. ER79-251

Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance

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above areas on industrial innovation and to identify and evaluate policy options.

The Public Interest Advisory Subcommittee was established to examine the impact of Federal policy on industrial innovation from the point of view of the general public and to review the reports produced by the following five Advisory Subcommittees:

Advisory Subcommittee on Economic and Trade Policy.
Advisory Subcommittee on Environment, Health, and Safety Regulations.
Advisory Subcommittee on Federal Procurement and Direct Support of R. & D..
Advisory Subcommittee on Patents and Information.
Advisory Subcommittee on Regulation of Industry Structure and Competition.

The agenda for each of these meetings is:
1. Refine the scope of work.
2. Discuss the views and orientation of the subcommittee members.
3. Define the final report.

The meetings will be open to public observation. A limited number of seats will be available to the public and press on a first-come, first-serve basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the Subcommittee Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce, Central Reference and Records Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mr. John R. Heizer, Room 3868A, U.S. Department of Commerce, Washington, D.C., telephone 202-377-3648.

Dated: October 26, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc 78-30739 Filed 10-27-78 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

OCTOBER 24, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee on Applications of Heavy-Lift Air Vehicles will meet on November 20 and 21, 1978 at the Pentagon, Washington, D.C. The purpose of the meeting is to assess capabilities and potential of heavy lift air technology for potential military applications. The committee will meet from 9 a.m. to 5 p.m. each day.

This meeting will be open to the public. For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-30553 Filed 10-27-78; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

OCTOBER 20, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee of Space Defense will meet on November 14 and 15, 1978 at the Pentagon, Washington, D.C. The purpose of the meeting is to review the space defense technology options. The Committee will meet from 9 a.m. to 4:30 p.m. each day.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-30554 Filed 10-27-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF HEARINGS AND APPEALS

October 2 Through October 6, 1978

Notice is hereby given that during the period October 2 through October 6, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except federal holidays.

MELVIN GOLDSTEIN,
Director, Office of Hearings and Appeals.

OCTOBER 24, 1978.

PROPOSED DECISIONS AND ORDERS

C.L. Morris, Inc., Oil City, La., DEE—0032, crude oil

On October 4, 1977, C.L. Morris, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart O. The Application for Exception, if granted, would permit C.L. Morris to sell the crude oil produced from the Fred K. Conn Lease located in Catahoula Parish, La. at exempt prices. On October 1, 1973, the Department of Energy issued a Proposed Decision and Order denying the Application for Exception.

Mid-Michigan Truck Services, Inc., Kalamazoo, Mich., DXE—1147, motor gasoline

Mid-Michigan Truck Services, Inc. filed an Application for exception from the provisions of 10 CFR 211.25. The exception request, if granted, would permit Mid-Michigan to receive refined petroleum products directly from the Gulf Oil Corp. rather than through Gulf's designated substitute supplier, the Bestrom Oil Corp. On October 5, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Forty-seven petitioners, various cities and States, natural gas liquids and natural gas liquid products

Forty-seven petitioners filed a total of 307 individual Applications for Exception from the provisions of 10 CFR 212.165 in which they requested an extension of exception relief previously granted to those firms for individual gas processing plants. The exception relief which had previously been approved was scheduled to expire on or before September 30, 1978. On September 21, 1978, the DOE published amendments to 10 CFR 212.165. 43 Fed. Reg. 42984 (September 21, 1978). These amendments become effective on November 1, 1978, and provide that natural gas processors will be permitted to pass through automatically most of their increased non-product costs incurred in the production of natural gas liquids and natural gas liquid products at natural gas processing plants. In view of the regulatory change the DOE determined that a continuation of exception relief for those firms will not be necessary after October 31, 1978. However, the DOE determined that a limited extension of exceptions that expire on September 30, 1978, should be approved for the period of one month prior to the effect date of the amended regulation. Consequently, the DOE issued a Proposed Decision and Order with respect to each of the petitioners' natural gas processing plants which extended, for the period October 1 through October 31, 1978, the exception relief that was most recently granted to each of the petitioners.

[FR Doc 78-30601 Filed 10-27-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. ES79-51]

BALTIMORE GAS & ELECTRIC CO.

Notice of Application

OCTOBER 20, 1978.

Take notice that on October 16, 1978, Baltimore Gas & Electric Co. (applicant), a corporation organized under the laws of the State of Maryland, with its principal business office at Baltimore, Md., and is qualified to do business in the States of Maryland and the Commonwealth of Pennsylvania, filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $200 million of unsecured promissory notes and commercial paper.

Proceeds from the borrowings will be used to provide funds for current corporate transactions and to provide interim funds for its construction program, which is expected to total $173 million in 1979 and $180 million in 1980.

Any person desiring to be heard or to make any protest with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before November 3, 1978. The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30536 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-25]

CENTRAL LOUISIANA ELECTRIC CO., INC.

Notice of Proposed Surplus Capacity Sale

OCTOBER 23, 1978.

Take notice that on October 16, 1978, Central Louisiana Electric Co., Inc. (CLECO) tendered for filing a Letter Agreement dated September 20, 1978 covering the sale of 100 MW of surplus capacity to Gulf States Utilities Co. (GSU) for twelve (12) months beginning November 15, 1978. CLECO states that GSU desires to purchase this capacity for its system needs and CLECO agrees to provide this capacity and that the Agreement will be beneficial to both systems. CLECO further states that deliveries will be made over existing interconnection facilities.

According to CLECO copies of this filing have been sent to GSU.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30538 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-171]

CENTRAL MAINE POWER CO.

Notice of Filing

OCTOBER 20, 1978.

Take notice that Central Maine Power Co. (Central Maine) on October 13, 1978, tendered for filing a rate schedule, capacity and related energy by Central Maine to Public Service Co. of New Hampshire (Public Service). Central Maine states that said sale is for a period commencing on the date of commercial operating of William F. Wyman Unit No. 4, scheduled for November 15, 1978 through Octover 31, 1979.

According to Central Maine a copy of the filing was served on Public Service and the Maine Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30537 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-20]

THE CONNECTICUT LIGHT & POWER CO.

Notice of Application

OCTOBER 20, 1978.

Take notice tht on October 13, 1978, the Connecticut Light & Power Co. (CL&P) tendered for filing a proposed rate schedule with respect to Transmission Agreement dated September 1, 1978 between (1) Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Co. (WMECO) and (2) Holyoke Gas & Electric Department (HG&E).

CL&P states that the transmission Agreement provides for a transmission service to HG&E during the period from November 1, 1978 to October 31, 1981.

CL&P further states that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the NU system determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which HG&E is entitled to receive.

CL&P requests an effective date of November 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be con-

sidered by the Commission in determining the appropriate action to be

[6740-02-M]

The proposed changes were desirable by the parties to assure adequate

ered by it in determining the appropriate action to be taken but will not serve to make the protestants parties

addition the tendered rate schedules were proposed to become applicable to the then existing individual contracts

customers, and $435,000 under Rate Schedule WSM to the municipal customers based on a test period for the

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sidered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30539 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-19]

CONSUMERS POWER CO.

Notice of Filing

OCTOBER 20, 1978.

Take notice that on October 13, 1978, Consumers Power Co. (Consumers Power) tendered for filing an amendment (denoted Supplemental Agreement No. 10 and Supplement H) to an existing Interconnection Agreement, as amended, between Consumers Power and Northern Michigan Electric Cooperative, Inc., Wolverine Electric Cooperative, Inc., the City of Grand Haven, Mich., and the City of Traverse City, Mich. (MMCPP members).

Consumers Power requests an effective date of November 1, 1973, and therefore requests waiver of the Commission's notice requirements.

Consumers Power states that Supplement Agreement No. 10 and Supplement H provide for the transmission by Consumers Power, when conditions on Consumers Power's system permit, of 10 megawatts of capacity and associated energy provided by the Detroit Edison Co. to the MMCPP members.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30540 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-3]

DELMARVA POWER & LIGHT CO.

Notice of Application

OCTOBER 20, 1978.

Take notice that on October 10, 1978, Delmarva Power & Light Co. (Applicant), incorporated under the laws of the State of Delaware, with its principal business office at Wilmington, Del., and is qualified to do business in the States of New Jersey, Pennsylvania and Maryland, filed an application pursuant to section 204 of the Federal Power Act, seeking authorization to issue up to $63 million of unsecured promissory notes and commercial paper from time to time prior to December 31, 1979, with a final maturity date of not later than December 31, 1980.

The short-term debt will be used to provide funds for interim financing of its construction program and other corporate purposes.

Any person desiring to be heard or to make any protest with reference to said Application should on or before November 1, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30541 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-24]

THE DETROIT EDISON CO.

Notice of Proposed Tariff Change

OCTOBER 23, 1978.

Take notice that The Detroit Edison Co. on October 17, 1978, tendered for filing an Interconnection Agreement between the City of Detroit and The Detroit Edison Co. Detroit Edison indicates that the agreement replaced in its entirety an interconnection agreement dated July 1, 1939, amended May 4, 1959 between the parties. The agreement is being tendered for filing at this time so that it may serve as a basis for comparison with a new agreement dated October 1, 1978, tendered for filing with this Commission on September 1, 1978 being Docket No. ER78-612, according to Detroit Edison.

Detroit Edison requests waiver of the Commission's notice requirements to allow for an effective date of October 1, 1971.

The proposed changes were desirable by the parties to assure adequate and fair compensation for services rendered and to encourage the availability of the full range of services, according to Detroit Edison.

Any person desiring to be heard or to protest said Agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30542 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-82]

EDWIN L. COX

Notice of Amended Petition for Special Relief

OCTOBER 20, 1978.

Take notice that on July 14, 1978, as amended October 2, 1978, Edwin L. Cox (Petitioner), 3800 First National Bank Building, Dallas, Tex. 75202, filed a petition for special relief in Docket No. RI78-82 pursuant to § 2.76 of the Commission's Rules. Petitioner now seeks authorization to charge $1.68 per Mcf (Petitioner's original request was for $1.80 per Mcf) for the sale of gas to Southern Natural Gas Company from the Bradish Johnson No. 5 Unit Well in the Magnolia Field, Plaquemine Parish, La. Petitioner states that this well commenced the production of dry gas in 1967 and ceased production in 1969. Petitioner estimates that by performing a workover on the well an additional 211,000 Mcf of gas can be produced, however, it is not economically feasible at the current contract price for the gas produced.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 14, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30543 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER76-816]

GULF STATES UTILITIES CO.

Order Approving Settlement Subject to Condition

Issued October 20, 1978.

On March 13, 1978, Gulf States Utilities Co. (Gulf States) filed with the Federal Energy Regulatory Commission [1] a Motion to Certify Settlement Agreement and Record to the Commission in the above designated docket. On March 16, 1978, the Presiding Administrative Law Judge certified the Settlement Agreement and the Record to the Commission for its consideration and determination.

Notice of the proposed settlement was issued on March 24, 1978, with comments due by April 14, 1978. On April 14, 1978, staff filed comments in support of the settlement. However, staff noted that certain language in the Availability/Applicability sections should be excluded from the rate schedules since these provisions may be unduly restrictive, anticompetitive and contrary to the public interest, the Commission approves the agreement subject to condition for the reasons set forth below.

On July 29, 1976, Gulf States tendered for filing Rate Schedule WSM "Other Electric Corporation for Resale," proposing an increase in rates for certain municipal customers,[2] and rate schedule WSC "Wholesale Power to Rural Electric Distribution Cooperatives" proposing an increase in rates for certain cooperative customers.[3] In addition the tendered rate schedules were proposed to become applicable to the then existing individual contracts between Gulf States and the members of the Sam Rayburn Dam Electric Cooperative Inc. (Sam Dam), although no service was being rendered under these contracts.[4]

Gulf States further proposed that Rate Schedule WSC superseded the existing contract between Gulf States and Cajun Electric Power Cooperative (CEPCO). Although CEPCO was not receiving power under their existing contract with Gulf States, it was estimated that the CEPCO points of delivery served by Gulf States would require power in excess of CEPCO's own generation in 1978.

By Order issued August 31, 1976, the Commission rejected application of the proposed Rate Schedule WSC to the existing coniracts between Gulf States and Sam Houston Electric Cooperative, and between Gulf States and Jasper-Newton Electric Cooperative, as these contracts did not permit unilateral rate changes. The Commission accepted for filing the proposed Rate Schedule WSM to become effective subject to refund as to certain municipals on December 1, 1976, and accepted for filing the proposed Rate Schedule WSC for certain cooperative customers to become effective on September 2, 1976, subject to refund. The proposed rates were set for hearing.

Staff served Top Sheets on March 15, 1977, and settlement conferences were held. Testimony and exhibits were served by all parties and the hearing was set for November 8, 1977. Further negotiations on the morning of the hearing produced the settlement.

SETTLEMENT

The proposed settlement in Docket No. ER76-816 provides for a revenue level consistent with the cost of service in staff's revised Top Sheet and provides for an increase in resale revenues of $319,925 under Rate Schedule WSC to the rural electric cooperative customers, and $435,000 under Rate Schedule WSM to the municipal customers based on a test period for the 12 months ending December 31, 1975. The agreement provides for refunds to municipal customers for amounts collected over and above settlement rates, and allows the proposed rate increase as filed to the cooperative customers. The settlement rates would not result in an earned rate of return exceeding staff's recommended rate of 8.92 percent overall including 13.90 percent on common equity based on a common equity ratio of 33.17 percent.

The agreement further provides for a moratorium on increases in rates prior to April 1, 1979. Gulf States agrees that it will not use the Tax Adjustment Clause in Rate Schedules WSM and WSC as a basis for a change in rates absent a filing pursuant to § 35.13 of the Commission's rules and regulations. As noted in staff's comments filed April 17, 1978, the proposed Settlement Agreement includes language which restricts the customers' ability to resell power and energy furnished by Gulf States. Staff believes the language contained in the Availability/Applicability clauses may be unduly restrictive, anticompetitive, and contrary to the public interest.

DISCUSSION

We find that the settlement agreement between Gulf States and the named parties, in its totality, is neither unduly preferential nor unduly advantageous, and it establishes a just and reasonable rate level. Accordingly, the settlement should be accepted.

The only point of contention concerns the resale restrictions the settlement places upon the customers of Gulf States. The provisions in question read as follows:

SCHEDULE WSC WHOLESALE POWER TO RURAL ELECTRIC DESTRIBUTION COOPERATIVES

Availability

Availability in the territory in which Gulf States operates to Rural Electric Distribution Coooperatives for resale solely to ultimate consumers. Service under this schedule is subject to the terms and conditions specified in the Agreement for Electric Service to Rural Cooperatives to which this schedule is attached and made a part thereof. The charges specified in this Schedule shall apply separately to service supplied at each point of delivery.

SCHEDULE WSM OTHER ELECTRIC CORPORATIONS FOR RESALE

Applicability

This rate is applicable under the regular terms and conditions of the company to other electric corporations who contrast for electric service to be used for resale to ultimate consumers.

This Commission's predecessor traditionally looked with disfavor upon

[1] This proceeding was commenced before the FPC. By the joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to Oct. 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] Rate Schedule WSM-Municipal Customers: Towns of Eeath, Rayne, Gueydan, Kaplan, Abbeville, St. Martinsville, Welsh, New Roads, Louisiana; Cities of Caldwell, and Newton, Texas; and Kirbyville Light & Power Co.

[3] Rate Schedule WSC-Cooperative Customers; Mid-South Electric Cooperative Association; Houston County Electric Co-op, Inc., and Cajun Electric Power Cooperative, Inc.

[4] The members of the Sam Rayburn Dam Electric Cooperative, Inc are as follows: The town of Vinton, La., the cities of Livingston, Jasper, and Liberty, Tex.; Sam Houston, and Jasper-Newton Electric Coopecatives. By order issued July 26, 1977 in Docket Nos. ER76-816 and ER77-375 Notices of Cancellation of the individual contracts with the Sam Dam Members were accepted and effective on the dates shown in the attachment to said order. Since the effective dates of termination have passed, the aforementioned Sam Dam members are, at present, served by Sam Dam through its contract with Gulf States. The Sam Dam-Gulf States contract was approved by the Commission by order issued May 5, 1977, Docket E-8121 and by its terms extends the Sam Dam-Gulf States power supply arrangement until 1980. See Gulf States Utilities Co. FPC No. 98

resale restrictions in wholesale contracts and rate schedule tariffs. *Cincinnati Gas and Electric Company*, Docket No. E-9126, Opinion No. 83, issued October 6, 1978, at p. 5. The anticompetitive effect of resale prohibitions is of course not conclusive under the Federal Power Act. It remains, however, a factor to be considered in determining whether a proposed rate is just and reasonable. *Id.* at p. 6. Gulf States' legitimate need for orderly power supply planning, we will delete the restrictions.[7] However, recognizing

State commission within whose jurisdiction the wholesale customers distribute and sell electric energy at

[6740-02-M]

[Docket Nos. CS72-421, et al.]

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to

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resale restrictions in wholesale contracts and rate schedule tariffs. *Cincinnati Gas and Electric Company*, Docket Nos. E-8885 and E-8546, Order issued September 5, 1975;[4] *Wisconsin Power & Light Company*, 49 FPC 645 (1973); *Mississippi Power Company*, 45 FPC 269 (1971), *Georgia Power Company*, 35 FPC 436 (1966).

This Commission, like its predecessor, has the responsibility to consider antitrust policy in exercising its regulatory authority, including its examination of rates, terms and conditions for wholesale electric service. *Gulf States Utilities Company* v. *FPC*, 411 U.S. 747, 760-762 (1973). Gulf States' Applicability/Availability clause on its face prevents further wholesaling of power and energy purchased under the respective rate schedules. This gives Gulf States the power to eliminate or inhibit its bulk power customers as potential competitors of Gulf States for further wholesale sales. The Commission will not give its imprimatur to the proposed acquisition of market power.[5]

We do not find in the regulatory scheme under the Federal Power Act any public policy basis for allowing public utilities to employ tariff provisions to foreclose wholesale competition between a supplier like Gulf States and its bulk power purchasers. To the contrary, competition where feasible complements the regulatory scheme. According to the Supreme Court in *Otter Tail Power Co.* v. *United States*, "the history of Part II of the Federal Power Act indicates an overriding policy of maintaining competition to the maximum extent possible consistent with the public interest." 410 U.S. 366, at 374 (1973). It is axiomatic that competition creates pressure on electric utilities to reduce their costs and increase their efficiency in power supply production and marketing. This downward pressure on costs supports our direct regulation of rates to the ultimate benefit of consumers of electricity.

[4] The anticompetitive effect is similar to that of a market division or allocation of customers between competitors—conduct which the Supreme Court has held to violate the antitrust laws. *United States* v. *Topco Associates, Inc.*, 405 U.S. 596, 606-612 (1972). The situation here differs substantially from that in *Continental T.V., Inc.* v. *GTE Sylvania Inc.*, 433 U.S. 36 (1977), where the Court held that the imposition of resale restrictions by manufacturers on distributors of their products could be reasonable and procompetitive in some circumstances. In that case, Sylvania argued that restraining competition among its retail franchisees in sales of Sylvania television sets promoted more significant competition between Sylvania and other television brands. No such redeeming procompetitive virtues warrant the imposition of explicit resale prohibitions by electric wholesalers; there are no brand names to be promoted or brand reputations to be protected here.

The anticompetitive effect of resale prohibitions is of course not conclusive under the Federal Power Act. It remains for us to consider whether such prohibitions serve some significant regulatory purpose which cannot be achieved by a less anticompetitive method and which would render them in the public interest notwithstanding that desirable competition is impaired.

In this connection, we recognize that electric utilities must plan and construct sufficient generation and transmission to meet their future power supply requirements in an orderly fashion. Proper system planning requires utilities like Gulf States to commit to building necessary facilities well in advance of the time such facilities are needed actually to serve loads, and the utilities have an important interest in projecting their load growth and requirements as accurately as possible. Resale restrictions of the sort Gulf States has prescribed do serve this interest; they insure that the loads of wholesale customers will not vary by virtue of those customers adding or losing wholesale customers of their own. These restrictions are, however, an unnecessarily blunt device for this purpose, given their apparent anticompetitive effect and the availability of other, well-established ways for utilities to regulate their loads without impairing competition.[6]

We hold, therefore, that direct resale restrictions, such as the ones here, imposed by power suppliers on their wholesale customers are unreasonable and unjust. Moreover, we conclude that any such restrictions are so devoid of redeeming value in light of the availability of other well-established means of accomplishing the legitimate purposes of regulated utilities that they should be declared per se unlawful in this and all other cases in which the issue may be presented. The public interest does not require and should not tolerate any further record inquiry of this issue. By our action today we announce to all persons interested in our proceedings that we intend to consistently apply the precedent established in this case to strike down any similar resale restrictions presented for our approval.

Accordingly, we will direct Gulf States to remove the offending resale restrictions.[7] However, recognizing Gulf States' legitimate need for orderly power supply planning, we will declare these restrictive provisions null and void and of no legal effect ninety (90) days from the date of issuance of this order. This time period will permit Gulf States to refile substitute tariff provisions appropriate for system planning purposes.

The Commission finds: The settlement agreement filed in this docket on March 13, 1978, by Gulf States Utilities Co., as conditioned herein, is just and reasonable and should be approved and made effective as hereinafter ordered.

The Commission orders: (A) The settlement agreement filed with the Commission in this proceeding on March 13, 1978, as conditioned herein, is incorporated by reference, approved and made effective as of September 2, 1976, for Rate Schedule WSC, and as of December 1, 1976, for Rate Schedule WSM.

(B) Within 99 days of the date of issuance of this order, Gulf States Utilities Co. Shall file revised rate schedules excluding the restrictive language from the "Availability" section of Rate Schedule WSC, and from the "Applicability" section of Rate Schedule WSM. This order is without prejudice to Gulf States to file within that 90 day period appropriate tariff provisions in accordance with the discussion in the body of the order. Such refiling shall be subject to Commission review and approval.

(C) Within 30 days of the filing of the revised Rate Schedules WSC and WSM, Gulf States Utilities Co. shall refund all excess amounts collected over and above the rates stated in the settlement agreement with interest at 9 percent per annum.

(D) Within 15 days after refunds are made, Gulf States Utilities Co. shall file a compliance report with the Commission showing monthly billing determinants and revenues under prior, present, and settlement rates. The compliance report shall show the monthly settlement rate increase, the monthly revenue refund, and the monthly computation, together with a summary of such information for the total refund period. A copy of the report shall also be furnished each

[5] For example, utilities commonly include contractual provisions for obtaining timely notice of customers' increased and decreased requirements. A related concern—that a member of a wholesale class might gain a resale customer whose usage would make it inappropriate for the wholesale customer to continue to be served at the class rates—can similarly be accommodated by permitting Gulf States and other such wholesalers to include in their rate schedules appropriate language describing the class on the basis of such criteria as kW load, load factors etc.

[6] We note that the contract between Gulf States and the Intervenor Sam Dam (Gulf States Utilities Co. Rate Schedule FPC No. 98, SR-2) contains equally restrictive resale provisions as Rate Schedules WSM and WSC. Our announcement of the per se rule today renders such provisions unenforceable. (On Sept. 1, 1976, Sam Dam petitioned to intervene in the instant docket on behalf of its members whose individual contracts with Gulf States were affected by Gulf States' initial rate application in ER76-816. Sam Dam was granted intervention by Order issued Nov. 8, 1976.)

State commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail as well as to each affected customers.

(E) Insofar as this order accepts the settlement agreement filed with the Commission in this proceeding, it is without prejudice to any finding or order which has been made or which may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff or any party or person affected by this order in any proceeding now pending or hereafter instituted by or against Gulf States Utilities Co. or any other person or party.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30544 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ID-1460]

JOHN T. NEWTON

Notice of Filing

OCTOBER 20, 1978

Take notice that on October 2, 1978, John T. Newton (Applicant), filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Secretary, and Director, Kentucky Utilities Co., Public Utility and Senior Vice President, Secretary, and Director, Old Dominion Power Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 13, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30545 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket Nos. CS72-421, et al.]

McFARLANE OIL CO., INC. (McFARLANE OPERATING CO., INC., ET AL.)

Notice of Applications for "Small Producer" Certificates [1]

OCTOBER 20, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Name, Filing Date, and Docket Number

McFarlane Oil Co., Inc. (McFarlane Operating Co., Inc.), P.O. Box 359, Tyler, Tex. 75701, April 13, 1978,[2] CS72-421.

James P. Evans, Jr. (James P. Evans, Jr., and William J. Evans), 1300 Beck Building, Shreveport, La. 71101, April 11, 1978,[3] CS73-338.

R. James Stillings, d.b.a. Gastill Co. and Stillings Petroleum Corp., P.O. Box 7629, 2240 East 49th Street, Tulsa, Okla. 74105, April 17, 1978,[3] CS72-611.

[FR Doc. 78-30562 Filed 10-27-78; 8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[2] Being noticed to reflect name change.

[3] Being noticed to show request by William S. Evans to have his own small producer certificate, which was filed in Docket No. CS78-381, thus necessitating the deletion of his name as certificate co-holder, in Docket No. CS73-338.

[4] Being noticed to include a corporation 76 percent owned by R. James Stillings as certificate co-holder.

[6740-02-M]

[Docket No. RP73-14 (PGA78-2) (DCA78-1)]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Certification of Stipulation and Agreement

OCTOBER 23, 1978.

Take notice that on September 14, 1978, Presiding Administrative Law Judge Samuel Kanell certified to the Commission a stipulation and agreement in this docket. If approved, the settlement will resolve all issues in this proceeding.

Any person desiring to be heard or to protest the proposed settlement should file comments with the Federal Energy Regulatory Commission, 325 North Capitol Street NE., Washington, D.C. 20426, on or before November 3, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken upon the settlement. Copies of the settlement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30546 Filed 10-27-78; 8:45 am]

[6740-02-M]

In its Motion, City requests "(1) a clarification of whether the Commission actually intended an unprecedented

Providing for Hearing" in this docket. Because of the lateness of City's June

the merits of the alleged price squeeze and were more appropriate for resolution through discovery and hearing.

questing expansion of the proceeding to include price squeeze was properly directed to the Commission. The Pre-

The remaining question is whether we should modify our June 19 order by granting City's requests that we reject

V 43 / 210 OCT 30 78

[6740-02-M]

[Docket No. ER79-23]

MISSISSIPPI POWER & LIGHT CO.

Notice of Filing

OCTOBER 20, 1978.

Take notice that on October 13, 1978, Mississippi Power & Light Co. (Mississippi) tendered for filing an Agreement for Purchase of Power. Mississippi states that the Agreement provides for the sale of electric energy by Mississippi to Southwest Mississippi Electric Power Association (Southwest), to be delivered to a point near Brookhaven, Miss.

Mississippi further states that the Agreement is filed to supersede the present Agreement for Purchase of Power at the same delivery point, designated as FERC Rate Schedule No. 189.

Mississippi indicates that the date of service under the proposed Agreement is to be November 15, 1978, but requests that the filing be accepted on the date that initial service is actually rendered.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30548 Filed 10-27-78, 8:45 am]

[6740-02-M]

[Docket No. ER78-338]

MISSOURI POWER & LIGHT CO.

Order Amending Prior Order, Denying Request for Rejection of Filing, and Denying Request for Imposition of Mobile-Sierra Standard of Proof

OCTOBER 23, 1978.

On September 7 1978, the City of Marceline, Mo. (City) filed a Motion for Expedited Commission Action on the City's June 28, 1978, Petition for Reconsideration. City's June 28 Petition requested reconsideration of our June 19, 1978, order in this proceeding. In its Motion, City requests "(1) a clarification of whether the Commission actually intended an unprecedented denial of City's request for rehearing by Commission failure to act within 30 days of filing, and (2) expedited disposition of the matters raised by City's June 28 filing." Our review indicates that our June 19 order needs no clarification and warrants no modification to reflect matters raised in City's June 28 Petition or its September 7 Motion. A brief outline of the procedural background leading to our decision in this proceeding is set forth below.

BACKGROUND

On May 19, 1978, Missouri Power & Light Co. (MP&L) tendered for filing proposed, revised rates applicable to six of its wholesale municipal customers [1] including the City of Marceline, Mo. Notice of filing was issued on May 26, 1978, with comments, protests, or petitions to intervene due on or before June 5, 1978. No timely filings were filed in response to the foregoing Notice. However, City filed a late Motion to Reject, Protest and Petition to Intervene on June 19, 1978. To date, the matters raised in this filing with the exception of City's request for intervenor status have not yet been ruled upon.

In its June 19 filing City requested that MP&L's May 19 filing be rejected for failure to conform to the due process notice requirements of 18 CFR § 35.8(a), or in the alternative, that the effective date of MP&L's filing be deferred until a final Commission determination of the justness and reasonableness to the rates proposed for City. City also requestd that the Commission require MP&L to meet the *Sierra-Mobile* [2] standard of proof before allowing the proposed rates to go into effect. In making the foregoing request, City acknowledges that the Federal Power Commission in Docket No. ER76-539 [3] held that language in the MP&L/City contract, which is currently effective and applicable to the instant filing, did not require that the *Sierra-Mobile* burden be met before rates could be changed prospectively.

On June 19, 1978, we issued an "Order Accepting for Filing, Suspending Rate Increases, Establishing 206(a) Proceedings, Ordering the Filing of Previously-Unfiled Agreements and Providing for Hearing" in this docket. Because of the lateness of City's June 19 Petition to Intervene, we could not have considered the arguments raised therein in that order. However, we ordered that the proposed rates applicable to City be deferred until we made a final determination of their justness and reasonableness pursuant ot section 206 of the Act.

On June 28, 1978, City filed a Petition for Reconsideration of our June 19 Order requesting that we modify that order to reflect the arguments and requests contained in City's June 19 late-filed petition. In support thereof, City cited Federal Power Commission orders of June 9, 1975 in Docket No. E-8570, *Southern California Edison Co.* and of December 22, 1975, in Docket No. ER 76-83, *Ohio Power Co.* [4] City restated its position that it failed to respond to our May 26, 1978, Notice of Filing in a timely fashion because MP&L failed to notify City as required by 18 CFR 35.8(a).

On July 5, 1978, MP&L filed a response to City's June 19 Motion to Reject, Protest, and Petition to Intervene. Therein, MP&L vigorously denied that City never received a timely notice of its filing and attached a copy of an affidavit of personal service mane by an employee of MP&L on the city manager of City on May 11,1978, to support its denial. MP&L agrees with the portion of our June 19 order requiring a final order after a section 206 investigation and hearing, prior to allowing the proposed rates applicable to City to go into effect. MP&L opposes City's request that it be required to meet a *Sierra-Mobile* standard of proof before being allowed to collect proposed rates from City prospectively, and cites the Federal Power Commission's order of June 4, 1976, in Docket No. ER76-539, *Missouri Power & Light Co.* for support.

On July 7, 1978, City filed a Supplemental Petition to Intervene requesting that the Commission modify its June 19 order to permit investigation of an alleged price squeeze in accordance with the requirements of Order No. 563.[5] On July 25, 1978, MP&L filed a response to City's Supplemental Petition incorporating therein by reference the objections contained in its July 5 Response to City's original, late-filed Petition To Intervene and further objecting to City's request to expand the scope of the proceeding to include price squeeze. On August 4, 1978, City filed an answer to MP&L's July 25 filing arguing that its price squeeze allegations were well-founded, and the MP&L's objections went to the merits of the alleged price squeeze and were more appropriate for resolution through discovery and hearing.

On September 7, 1978, the Presiding Administrative Law Judge issued an order "Granting Supplemental Petition for Leave to Intervene on Price Squeeze Issue," holding that City had met the requirements of 18 CFR 2.17 and that MP&L's objections as to price squeeze were premature.

On September 7, 1978, City filed the instant Motion for Expedited Commission Action on City's June 28, 1978, Petition for Reconsideration, therein restating its prior requests that MP&L's May 19 filing be rejected and that the Commission modify its June 19 order to impose the more stringent *Mobile-Sierra* burden of proof standard for determining the validity of a section 206 rate change to the City. City states that it filed the Motion pursuant to the direction of the Presiding Administrative Law Judge and that a grant of its June 28, 1978, Petition for Reconsideration establishing a *Mobile-Sierra* standard of proof could moot MP&L's filed case and the hearing schedule established by the Presiding Judge.

DISCUSSION

Our review of all the filings of MP&L and City to date indicates that two basic issues remain unresolved: Whether City's June 28 Petition for Reconsideration is properly before us in light of City's late-filed Petition to Intervene and, if so, whether we should modify our June 19 order to reflect City's requests that we reject MP&L's May 19 filing, that we impose a *Mobile-Sierra* burden of proof standard to gauge a section 206 rate change to City in this proceeding, or that we expand the scope of the proceeding to investigate an alleged price squeeze.

On August 14, 1978, we amended our regulations [6] to authorize designated presiding administrative law judges to act on petitions to intervene in pending proceedings for the sake of administrative efficiency. We note that prior to the Presiding Administrative Law Judge's September 7 order in this proceeding granting City's supplemental petition to intervene, City did not formally enjoy the status of an intervenor. Consequently, City's July 7 Supplemental Petition to Intervene requesting expansion of the proceeding to include price squeeze was properly directed to the Commission. The Presiding Administrative Law Judge's September 7 order granting City's Supplemental Petition exceeded his authority to the extent of allowing price squeeze to become an issue in this proceeding without action by us. Our June 19, 1978, order does not discuss price squeeze nor does it establish Order No. 563 procedures. Nevertheless, the Presiding Judge has set Order No. 563 procedures and cost-of-service discovery procedures, having found the City has met the pleading requirements of Order No. 563.

Our August 14, 1978, order establishing certain delegations was not intended to give presiding administrative law judges the authority to expand the scope of a pending proceeding by the process of granting petitions to intervene. The part of the August 14 order dealing with petitions to intervene gave presiding judges the authority only to permit interventions on those matters already at issue in the proceeding. Only the Commission can grant leave to expand the scope of a proceeding.

We believe it is in the public interest to authorize the investigation of the price squeeze issue in this proceeding. Accordingly, we shall amend our June 19 order to include the price squeeze issue and to authorize the implementation of Order No. 563 procedures. The portion of City's June 19, 1978, Petition requesting status as an intervenor not having been acted upon until September 7, 1978, the arguments and requests pertaining to City's request for rejection of MP&L's filing and for imposition of the *Mobile-Sierra* standard of proof, as set forth in City's June 19 and June 28 filings, were not properly before us until September 7, 1978, on which date the thirty (30) days referred to in 18 CFR 1.12(e) began to run on City's request that we modify our June 19 order.

In light of the foregoing, City's implication that our inaction to date on its June 28 Petition for Reconsideration may have constituted "unprecedented denial of City's request for rehearing by Commission failure to act within thirty (30) days of filing" is misplaced. Only a party to a proceeding has standing to file a Motion for Reconsideration of a Commission order pursuant to 18 CFR 1.12, and City did not obtain such standing until September 7, 1978, the same day it filed its Motion for Expedited Commission Action.

Since City's September 7 Motion incorporated by reference its June 28 Petition for Reconsideration, we find that the arguments and requests contained in the June 28 Petition are now properly before us for resolution.[7] The remaining question is whether we should modify our June 19 order by granting City's requests that we reject MP&L's May 19 filing and impose the *Mobile-Sierra* standard of proof.

The filings indicate a dispute between MP&L and City regarding whether City received adequate notice of MP&L's May 19 submittal to satisfy due process requirements. Although not conclusive, we find persuasive for the purpose of continuing to accept MP&L's filing, the affidavit of personal service attached to MP&L's July 5 Response to City's original late-filed Petition to Intervene. We note that City is an intervenor in this proceeding with full opportunity to protect its rights in hearing. City's request for rejection of MP&L's filing and for modification of our June 19 order to reflect such rejection must be denied.

The sole remaining issue is whether City's request that the *Mobile-Sierra* standard of proof be imosed in this proceeding should be granted. We find that it should not.

In our order of June 19, 1978, we note that in Docket No. ER76-539, MP&L sought to increase rates under the currently effective MP&L/City electric service contract, and our predecessor, the Federal Power Commission, held that proposed rates to City could not become effective until a final Commission order determined that section 206 requirements had been met.[7] The FPC made it clear that under the language of the MP&L/City contract, the *Mobile-Sierra* standard of proof was not applicable. MP&L is correct to point out that City addresses the same contract language in this docket to which the *Mobile-Sierra* standard was determined to be not applicable in Docket No. ER76-539.

City admits in its June 19, 1978, Petition that the FPC held that language in the City/MP&L contract only permits a change prospectively in City's rates upon a final Commission order applying section 206 standards. However, City asserts that the FPC was in error in Docket No. ER76-539 and, in effect, requests that we reconsider the FPC's prior determination. MP&L agrees that it can increase rates to City only prospectively, but objects to City's request that a stringent *Mobile-Sierra* burden be imposed.

Our review of City's Application for Rehearing of the FPC's April 26, 1976, order in Docket No. ER76-539, MP&L's Answer thereto, and the FPC's June 4, 1976, order granting City's Application, indicates that City did not address the issue of burden of proof standards in a section 206 pro-

[1] Cities of Centralia, Kahoka, Linneus, Marceline, Owensville, and Perry, all located in Missouri.

[2] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra Pacific Power Co.*, 35 U.S. 348, 355 (1956).

[3] *Missouri Power & Light Co.*, "Order Granting Petition for Rehearing and Amending Prior Order," issued June 4, 1976, Docket No. ER76-539.

[4] Because of our determination herein that the contenis of City's June 28 Petition are properly before us, we need not address these orders.

[5] 18 CFR 2.17.

[6] Order issued August 14, 1978, in Docket No. RM78-19, amended 18 CFR 1.8(a)(2) to allow participation in a proceeding as an intervenor "upon petition to intervene, by order of the Commission, the Secretary where an administrative law judge has not been designated, or the designated presiding administrative law judge in the proceeding". As a result the Presiding Judge's September 7, 1978, order granting City's Supplemental Petition to Intervene granted City status as an intervenor in this proceeding as of that date.

[7] On October 11, 1978, under signature of the Secretary of the Commission, we issued a Notice of Intent to Act on City's September 7, 1978, Motion.

[7] See Orders issued on April 26, 1976, and on June 4, 1976, in Docket No. ER76-539, *Missouri Power & Light Co.*

ceeding in that docket but merely argued successfully that MP&L did

contract upon a finding by the Commission that proposed rates are just

compensate Missouri primarily for increases in its cost of power.

Copies of this filing are on file with the Commission and are available for

Anyone desiring to be heard or to make any protest about this applica-

[6740-02-M]

[Docket No. CP78-453]

V 43/210 0 C 30 78

ceeding in that docket but merely argued successfully that MP&L did not have the right to file unilaterally for a rate schedule change under section 205 of the Act. The FPC agreed with City, but adopted "as the burden of proof the just and reasonable standard of section 206 of the Federal Power Act rather than the *Mobile-Sierra* Standard [Footnote omitted]." City did not object to the FPC's adoption of section 206 standards in Docket No. ER76-539, but does object to our adoption of them in this proceeding.

Our review of the arguments raised by City to support its request that we modify our June 19 order to impose a *Mobile-Sierra* standard of proof indicates that they must be rejected. City asserts that section 1 of its contract with MP&L[8] is "in pertinent part identical" to language in section 12 of the 1948 Contract between Pacific Gas and Electric Co. (PG&E) and the Sierra Pacific Power Co.[9] under which language the Supreme Court imposed a heavy *Sierra* burden of proof. MP&L correctly points out that the language in section 1 of the Marceline Contract and the language in section 12 of the 1948 PG&E/Sierra Pacific contract are not identical. MP&L refers to the controlling legal principle cited in *Richmond Power & Light Co.* v. *FPC*, 81 F. 2d 490, 493 (1973); *cert. denied, sub nom. Indiana & Michigan Electric Co.* v. *FPC*, 414 U.S. 1068 (1975) to support its position:

> The rule of *Sierra, Mobile* and *Memphis* is refreshingly simple: The contract between the parties governs the legality of the filing. Rate filings consistent with contractual obligations are valid; rate filings inconsistent with contractual obligations are invalid.

Accordingly, our review indicates, and MP&L correctly asserts, that section 1 of MP&L's contract with City contemplates that rate changes would be permitted during the life of the contract upon a finding by the Commission that proposed rates are just and reasonable. Nowhere in City's June 19 late-filed Petition or in its June 28 Motion for Reconsideration does City refer to language in the City/MP&L contract which precludes a rate change under section 206 of the Act. Such a failure is fatal to City's request for imposition of a *Mobile-Sierra* burden in this proceeding.

Our finding that the language of the MP&L/City contract does not preclude a rate change pursuant to section 206 of the Act is consistent with precedent.[10]

The Commission orders:

(A) Our order of June 19, 1978, in this docket is hereby amended to authorize the investigation of the price squeeze issue and the implementation of Order No. 563 procedures.

(B) City's request that we modify our June 19, 1978, order in this docket by rejecting MP&L's May 19, 1978, submittal for failure to meet due process notice requirements, is hereby rejected.

(C) City's request that we modify our June 19, 1978, order in this docket to reflect the imposition of a *Mobile-Sierra* burden of proof standard prior to authorizing the use of proposed rates applicable to City, is hereby denied.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30547 Filed 10-27-78; 8:45 am]

[8] 1. Company shall supply and Customer shall accept and pay for all electric energy it may require for the operation of its water works and other municipal requirements, street lighting system, and for distribution and sale to its electrical customers, at the rates and charges applicable to the two types of service hereby offered. The rates to be charged by the Company under this agreement shall be in accordance with the attached rate schedules marked Exhibit A and Exhibit B; *provided, however that said rates may be changed during the term of the contract but only with the approval of the appropriate regulatory agency having jurisdiction.*" (*Emphasis added.*)

[9] 12. This agreement shall become effective as of January 1, 1948, upon the procurement of an order by the Public Utilities Commission of the State of California authorizing the parties hereto to carry out the terms and conditions hereof. This agreement shall at all times be subject to such changes and/or modifications as said Commission may from time to time direct in the exercise of its jurisdiction."

[10] See *Appalachian Power Co.*, Docket Nos. ER76-799, ER76-800, order issued November 8, 1976, and *Louisiana Power & Light Co.*, Docket No. ER77-533, order issued September 30, 1977, wherein the FPC held that contractual phrases providing for rate changes only with the "approval" of the appropriate jurisdictional agency, prohibit a section 205 filing, but permit application under section 206 to set just and reasonable rates prospectively without having to meet the heavy *Sierra* standard.

[6740-02-M]

[Docket No. ER79-21]

MISSOURI UTILITIES CO.

Notice of Proposed Change in Rates

OCTOBER 23, 1978.

Take notice that on October 13, 1978, Missouri Utilities Co. (Missouri), tendered for filing a change in rates applicable to electric service rendered to its Central Missouri wholesale customers. Missouri indicates that these changes in rates are proposed to become effective as of November 16, 1978. Missouri further indicates that the proposed changes in rates are to compensate Missouri primarily for increases in its cost of power.

Missouri states that its current wholesale rates in Central Missouri are deficient by $160,239 annually based on sales volumes set forth in the statements accompanying its Notice of Change in Rates.

Copies of the proposed rate schedules and their revenue effect have been served upon the Missouri Utilities Co. wholesale customer, the City of California, affected by this filing, according to Missouri.

Any person desiring to be heard or to protest said notice should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules and Regulations (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30528 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-26]

NIAGARA MOHAWK POWER CORP.

Notice of Filing

OCTOBER 23, 1978.

Take notice that Niagara Mohawk Power Corp. on October 17, 1978, tendered for filing a letter agreement dated July 24, 1978, with New York State Electric & Gas Corp. Niagara Mohawk requests waiver of the Commission's notice requirements to allow for effective dates of April 1, 1977 and April 1, 1978, for the two proposed revisions comprising this filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30529 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER77-530]

OHIO EDISON CO.

Notice of Certification

OCTOBER 23, 1978.

Take notice that Presiding Administrative Law Judge, George P. Lewnes, on September 1, 1978, certified to the Commission an executed settlement agreement in the above-noted docket.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, on or before November 13, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30530 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Project No. 1934]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Application for Use of Public Lands

OCTOBER 20, 1978.

Take notice that on May 12, 1978, an application was filed with the Federal Energy Regulatory Commission by the Southern California Edison Co. (correspondence to: D. J. Lowerison, Jr., Southern California Edison Co., P.O. Box 410, 100 Long Beach Boulevard, Long Beach, Calif. 90801), for use of public lands on the Mill and Mountain Creeks Project (Project No. 1934), located in San Bernardino County, Calif. and in the San Bernardino National Forest.

Applicant proposes to grant a 25-foot wide easement over project lands to the San Bernardino Valley Municipal Water District (District), to permit the District to construct and operate an underground pipeline. The pipeline would divert up to 4 cfs of water from the Mill Creek Nos. 2 and 3 Powerhouse tailrace to the three Yucaipa Lakes and for the irrigation of the Yucaipa Lakes Regional Park. Approximately 0.25 acre of project lands in section 13, T. 1 S, R. 2 W, S. B. B. & M. would be affected by the easement.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 14, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30531 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. RP77-31]

SOUTHERN NATURAL GAS CO.

Notice of Filing of Amendment to Stipulation and Agreement

OCTOBER 20, 1978.

Take notice that on September 20, 1978, Southern Natural Gas Co. filed with the Commission and the Presiding Administrative Law Judge William L. Ellis, an amendment to the stipulation and agreement previously certified to the Commission in this docket on May 18, 1978. The amendment modifies paragraph 8, Article II, of the original stipulation and agreement and pertains solely to the treatment of interperiod Federal income taxes.

Any person desiring to be heard or to protest the amendment to the proposed settlement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before November 3, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken upon the settlement. Copies of the amendment are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30532 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-453]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 19, 1978.

Take notice that on July 31, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-453, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation on an interruptible basis of up to 30,000 dekatherms (dt) equivalent of natural gas per day for a limited term of 1 year from date of first delivery for Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Tennessee would purchase natural gas produced in Ship Shoal Block 246A, offshore Louisiana, and deliver a scheduled daily delivery quantity of up to 30,000 dt into Applicant's Southeast Louisiana Gathering System at Ship Shoal Block 246B. Pursuant to a transportation agreement with Tennessee, Applicant proposes to receive the subject gas for Tennessee's account at the Block 246B location and transport and deliver a thermally equivalent quantity of gas, less 1.2 percent for gas lost and unaccounted for and fuel, and less reduction in volume and Btu content due to processing, if any, to Tennessee at existing points of interconnection between Transco's and Applicant's systems in Louisiana and Texas.

Applicant states that it would charge Tennessee for the proposed transportation service, an initial rate of 15.25 cents per dt transported and delivered to Tennessee, and 13.15 cents per dt for shrinkage, fuel and gas lost due to processing at the Shell Oil Co. North Terrebonne Gas Processing Plant (Terrebonne Plant), on Applicant's Southeast Louisiana Gathering System.

The application indicates that during the 1-year term proposed, Tennessee would make other arrangements to receive this gas into its system on a long term basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10), and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by

it in determining the appropriate action to be taken but will not serve to

[3123-01-M]

obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to

59101, telephone 406-657-6533, and announce their intention to participate. Written comments from those unable

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr. Executive

V 43/210 OCT 30 78

it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30533 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-18]

UNION ELECTRIC CO.

Notice of Proposed Revised Service Schedule

OCTOBER 20, 1978.

Take notice that on October 13, 1978, Union Electric Co. (Union) tendered for filing First Amendment, First Revised Exhibits I and II, and First Revised Service Schedules A, G, and H to the Interchange Agreement dated April 11, 1977 between Union, Arkansas-Missouri Power Co., and Associated Electric Cooperative, Inc.

Union indicates that said revisions provide for certain changes in facilities to be installed under the Interchange Agreement and for revisions in certain rates under said Interchange Agreement.

Union requests a proposed effective date of September 15, 1978, and therefore requests waiver of the commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-30534 Filed 10-27-78; 8:45 am]

[6740-02-M]

[Docket Nos. ER76-399 and ER76-393]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Notice of Filing

OCTOBER 23, 1978.

Take notice that Wisconsin Electric Power Co. on August 28, 1978, tendered for filing, in anticipation of a Commission order directing that refunds be made to the City of Kauhauma, the computation of refunds. The Company states that it anticipates such an order by the Commission in response to a remand from the District of Columbia Court of Appeals directing the Commission to "direct Wisconsin Michigan to refund promptly to the City all revenues attributable to the amount of the proposed increase collected prior to final approval."

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before November 9, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUME,
Secretary

[FR Doc. 78-30535 Filed 10-27-78; 8:45 am]

[3123-01-M]

Western Area Power Administration

MILES CITY-BAKER-HETTINGER-NEW UNDERWOOD 230 KV TRANSMISSION LINE, MONTANA-NORTH DAKOTA-SOUTH DAKOTA

Draft Environmental Impact Statement; Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of public hearings on draft environmental impact statement on 230 kV transmission line.

SUMMARY: Notice is hereby given that the Western Area Power Administration, Department of Energy, has issued a draft environmental impact statement on a proposed 230 kV transmission line from Miles City-Baker, Mont., through Hettinger, N. Dak., to New Underwood, S. Dak. This EIS is issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969.

Public comments will be received respectively on the draft environmental impact statement at public hearings to be held on the dates and at the locations specified in the text of this notice.

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Energy has prepared a draft environmental statement for the Miles City-Baker-Hettinger-New Underwood 230 kV transmission line. This statement (DOE/EIS-0025-D) was transmitted to the Environmental Protection Agency on August 31, 1978, and was made available to the public on September 27, 1978.

The statement concerns construction of a 528-kilometer (328-mile) 230 kV transmission line from Miles City, Mont., east to Hettinger, N. Dak., and south to New Underwood, S. Dak. The line is needed to provide additional high-voltage transmission capacity in the area to improve power system stability, to improve reliability of service to existing loads, and to provide increased capability to serve future load growth in the area.

Public hearings will be held on the following dates at the locations indicated below.

HEARING DATE, TIME, AND LOCATION

November 14, 1978, 2 p.m., Room 106, Community College, Miles City, Mont.
November 15, 1978, 2 p.m., Hettinger Armory, Hettinger, N. Dak.
November 16, 1978, 10 a.m., Grand Electric Cooperative Building, Bison, S. Dak.

The hearings are to receive views and comments from interested organizations or individuals relating to the environmental impacts of this line. Oral statements at the hearing will be limited to a period of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible, and any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his or her name will be recalled at the end of the scheduled speakers. Request for scheduled presentation will be accepted up to 4:30 p.m., November 8, 1978, and any subsequent request will be handled on a first-come-first-serve basis following the scheduled presentation.

Copies of the draft environmental impact statement have previously been furnished to concerned State, Federal, and local agencies with environmental expertise, environmental organizations, and other interested members of the public.

Copies have been sent to the county commissioners in the following eight counties:

Custer County, Mont.
Fallon County, Mont.
Adams County, N. Dak.
Bowman County, N. Dak.
Slope County, N. Dak.
Meade County, S. Dak.
Pennington, S. Dak.
Perkins, S. Dak.

Copies are available for public inspection at public libraries in the following cities:

Mile City, Mont.
Baker, Mont.
Amidon, N. Dak.
Rapid City, S. Dak.
Bowman, N. Dak.
Hettinger, N. Dak.
Bison, S. Dak.
Sturgis, S. Dak.

Copies of the draft envrionmental impact statement are available at DOE public document rooms located at: Library, DOE, Room 1223, 20 Massachusetts Avenue NW., Washington, D.C.; DOE, Room GA 152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

A limited number of single copies are available for distribution by contacting the Billings Area Manager, Jim Davies, Western Area Power Administration, P.O. Box EGY, Billings, Mont. 59101.

Questions concerning the draft EIS may be addressed to Mr. Jim Davies, Billings Area Manager at Billings, Mont., post office box address above.

Organizations or individuals desiring to present their statements at the hearing should contact Jim Davies, Area Manager, Western Area Power Administration, Department of Energy, P.O. Box EGY, Billings, Mont. 59101, telephone 406-657-6533, and announce their intention to participate. Written comments from those unable to attend and from those willing to supplement their oral presentation at the hearing should be sent on or before November 22, 1978, so that they can be included in the hearing record.

FOR FURTHER INFORMATION CONTACT:

Mr. James Davies, Area Manager, Western Area Power Administration, Department of Energy, P.O. Box EGY, Billings, Mont. 59101, 406-657-6533 (FTS) 585-6533.

Issued in Washington, D.C., October 26, 1978.

WILLIAM P. DAVIS,
Deputy Director of Adminstration.

[FR Doc. 78-30791 Filed 10-27-78; 9:01 am]

[1505-01-M]

Federal Energy Regulatory Commission

PIPELINES

Tentative Valuations

Correction

In FR Doc. 78-28694 appearing at page 47000 in the issue Thursday, October 12, 1978, make the following changes:

(1) In the second column, the address of the Kenai Pipe Line Co. should read "• • • 575 Market St., San Francisco, Calif. 94105."

(2) The Valuation Docket No. PV for Mobil Pipe Line Co. now reading "131" should read "1311".

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 996-7; OPP-00079]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Open Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Wednesday and Thursday, November 15 and 16, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766), Room 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under section 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Completion of Panel review of FIFRA section 6(b) action on Amitraz (BAAM) products;

2. A briefing will be given to the Panel by EPA on decision options under consideration by the Agency to conclude RPAR (Rebuttable Presumption Against Registration) action on Pronamide products;

3. Completion of Panel review of topics continued from previous meeting; and

4. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit a summary no later than November 9, 1978.

Individuals who wish to file written statements are advised to submit statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

STATUTORY AUTHORITY: Section 25(d) of FIFRA, as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.) and Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770).

Dated: October 23, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-30487 Filed 10-27-78; 8:45 am]

[6560-01-M]

[FRL 997-2 OPP-180244]

occur in poultry tissues or eggs. The requested use will add only an insignificant amount of thiabendazole to

sugar beets through regular channels if the fungal disease is likely to continue to be a pest of sugar beets in Idaho;

for more than 75 days could be seriously affected. Fungal deterioration results in loss of processed sugar, loss

3. A maximum of 250 gallons of the product may be applied;

[6560-01-M]

[FRL 996-5]

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[6560-01-M]

[FRL 997-2 OPP-180244]

IDAHO STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Thiabendazole To Control Fungi in Stored Sugar Beets

The Environmental Protection Agency (EPA) has granted a specific exemption to the Idaho State Department of Agriculture (hereafter referred to as the "Applicant") for postharvest application of thiabendazole to control various fungi threatening 50,000 tons of sugar beets in storage areas in Idaho. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, about 50,000 tons of sugar beets could become infested with various fungi such as *Penicillium, Botrytis, Phoma,* and others. These fungi cause deterioration while the beets are in storage, resulting in a decline of the sugar content of the beets. These fungal diseases occur naturally in sugar beets; however, only those beets to be stored for more that 75 days could be seriously affected.

There are no registered alternative pesticides that can be applied as a post-harvest treatment to control fungal deterioration in sugar beets. The logistics and economics of the processing equipment made immediate processing of the beets infeasible.

The Applicant proposed to use Mertect 340-F, EPA Reg. No. 618-75; this product is already registered for preharvest field use on sugar beets to control *Cercospora* Leaf Spot. The rate of application is 42 ounce Mertect 340-F added to 100 gallons of water per 1 ton of sugar beets. The maximum amount of the product that could be used would be 165 gallons on 50,000 tons of sugar beets. Applications will be made by trained employees of the Utah and Idaho Sugar Co. The estimated economic loss without this treatment is $150,000.

Permanent pesticide tolerances of 0.25 ppm on sugar beets and 10 ppm on sugar beet tops have been established (40 CFR 180.242). Existing milk and meat tolerance should be adequate to cover the proposed use and no detectable residues are expected to occur in poultry tissues or eggs. The requested use will add only an insignificant amount of thiabendazole to the human diet. Based on an existing registered product of field application of thiabendazole to sugar beets, no serious adverse effects on the environment are expected.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of various fungi has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control the fungi on stored sugar beets in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic losses may result if the various fungi are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The thiabendazole product Mertect 340-F, EPA Reg. No. 618-75, will be used;

2. The rate of application will not exceed 0.42 ounces of the product per 1 gallon of water per 1 ton of sugar beets;

3. A maximum of 165 gallons of the product may be applied;

4. A maximum of 50,000 tons of sugar beets may be treated;

5. All applications will be made in storage areas under the control of the Utah and Idaho Sugar Co.;

6. All applications will be made by trained personnel of the Utah and Idaho Sugar Co.;

7. The Applicant is responsible for insuring that all the provisions of this specific exemption are met, and must submit a report to EPA summarizing the results of this program by August 1979;

8. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

9. The EPA shall be immediately informed of any adverse effects resulting from use of thiabendazole in connection with this exemption;

10. This exemption is not a modification of any NPDES permits issued to the Utah and Idaho Sugar Co. and does not constitute a waiver of State or Federal discharge limitations. The Utah and Idaho Sugar Co. is required to contact the Idaho State Department of Ecology for possible amendments to NPDES permits;

11. The State of Idaho and concerned growers must seek the establishment of permanent tolerances for sugar beets through regular channels if the fungal disease is likely to continue to be a pest of sugar beets in Idaho; and

12. A thiabendazole residue level not exceeding 6 ppm in or on sugar beets has been determined to be adequate to protect the public health. Permanent tolerances for residues of thiabendazole and its metabolite 5-hydroxy-thiabendazole in meat and milk will not be exceeded as a result of this use. Secondary residues in poultry and eggs are expected to be below detectable levels. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.)

Dated: OCTOBER 23, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-30489 Filed 10-27-78; 8:45 am]

[6560-01-M]

[FRL 997-1; OPP-180243]

MICHIGAN STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Thiabendazole To Control Fungi in Stored Sugar Beets

The Environmental Protection Agency (EPA) has granted a specific exemption to the Michigan State Department of Agriculture (hereafter referred to as the "Applicant") for postharvest application of thiabendazole to control various fungi threatening 65,000 tons of sugar beets in storage areas in Michigan. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain informtion required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, about 65,000 tons of sugar beets could become infested with various fungi such as *Penicillium, Botrytis, Phoma,* and others. These fungi cause deterioration while the beets are in storage, resulting in a decline of the sugar content of the beets. These fungal diseases occur naturally in sugar beets; however, only those beets to be stored for more than 75 days could be seriously affected. Fungal deterioration results in loss of processed sugar, loss of stored beets, and causes filter fouling which increases discharges of suspended solids and decreased sugar recovery. The Applicant anticipates that without a means of controlling the fungi, a monetary loss of up to $150,000 could result.

There are no registered alternative pesticides that can be applied as postharvest treatment to control fungal deterioration in sugar beets. The logistics and economics of the processing equipment made immediate processing of the beets unfeasible.

The Applicant proposed to use Mertect 340-F, EPA Reg. No. 618-75; this product is already registered for preharvest field use on sugar beets to control *Cercospora* leaf spot. The rate of application is 42 ounces Mertect 340-F added to 100 gallons of water; one gallon of this suspension will be applied to one ton of sugar beets. The maximum amount of the product that could be used would be 205 gallons on 65,000 tons of sugar beets. Applications will be made by a State-certified commercial applicator.

Permanent pesticide tolerances of 0.25 p.p.m. on sugar beets and 10.0 p.p.m. on sugar beet tops have been established (40 CFR 180.242). Existing milk and meat tolerances should be adequate to cover this use. The requested use will add only an insignificant amount of thiabendazole to the human diet. Based on an existing registered product for field application of thiabendazole to sugar beets, no serious adverse effects on the environment are expected.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of various fungi has occurred or is about to occur; (b) there is no pesticide presently registered and available for use to control the fungi on stored sugar beets in Michigan; (c) there are no alterntive means of control, taking into account the efficacy and hazard; (d) significant economic losses may result if the various fungi are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The thiabendazole product Mertect 340-F, EPA Reg. No. 618-75, will be used;

2. The rate of application will not exceed 0.42 ounces per one gallon of water per one ton of sugar beets;

3. A maximum of 250 gallons of the product may be applied;

4. A maximum of 65,000 tons of sugar beets may be treated;

5. All applications will be made in storage areas under the control of the Monitor Sugar Co.;

6. Application will be made by a State-certified commercial applicator;

7. The Applicant is responsible for insuring that all the provisions of this specific exemption are met, and must submit a report to EPA summarizing the results of this program by August 1979;

8. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

9. The EPA shall be immediately informed of any adverse effects resulting from use of tiabendazole in connection with this exemption;

10. This exemption is not a modification of any NPDES permits issued to Monitor Sugar Co. and does not constitute a waiver of State or Federal discharge limitations. Monitor Sugar Co. is required to contact the Michigan Department of Natural Resources for possible amendments to NPDES permits;

11. Michigan and concerned growers must pursue the establishment of a permanent tolerance on sugar beets through normal channels. if the fungal disease is likely to continue to be a pest.

12. Effluent from the processing plant will be monitored for residues of thiabendazole. Data from these tests will be submitted to EPA by October 1979; and

13. A thiabendazole residue level not exceeding six p.p.m. in or on sugar beets, has been determined to be adequate to protect the public health. Permanent tolerances for residues of thiabendazole and its metabolite 5-hydroxy-thiabendazole in meat and milk will not be exceeded by this use. Secondary residuc in poultry and eggs are expected to be below detectable levels. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: October 23, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-30490 Filed 10-27-78; 8:45 am]

[6560-01-M]

[FRL 996-5]

STATUS OF TOXIC SUBSTANCES CONTROL ACT'S SECTION 8(e), SUBSTANTIAL RISK REPORTING

Public Participation Meeting; Request for Meeting Discussion Issues To Be Submitted In Advance

AGENCY: Environmental Protection Agency.

ACTION: Notice of public participation meeting; request for discussion issues to be submitted by the public in advance of the meeting.

PURPOSE: In the March 16, 1978 FEDERAL REGISTER (43 FR 11110), EPA published their "Statement of Interpretation and Enforcement Policy" concerning "Substantial Risk Notification under section 8(e) of the Toxic Substances Control Act." Since the publication of the policy statement, approximately 150 notices have been received. The Agency believes an open meeting to discuss section 8(e)'s implementation status would be beneficial to all interested parties.

DATE/LOCATION/TIME: The meeting will be held from 10 a.m. until 4 p.m. on December 7, 1978, at the Skyline Inn, Hall of States Room, 10 I Street SW., Washington, D.C.

MEETING FORMAT: A panel of EPA members will present a status report on section 8(e)'s implementation. The panel members will then conduct a discussion centered around the issues and questions submitted in advance by the public, concerning substantial risk notices. The meeting format will be informal, in order to generate a constructive discussion of section 8(e).

DISCUSSION ISSUES FOR THE MEETING SUBMITTED IN ADVANCE: Persons interested in submitting discussion issues and questions concerning TSCA substantial risk reporting should do so no later than November 22, 1978. EPA will respond at the meeting to all questions that it judges to be of interest to industry and public participants concerned with section 8(e) implementation. The questions, themselves, should preferably refer to specific problems or issues that persons have encountered in interpreting the meaning of the policy statement. Where possible, a hypothetical situation or reference to an existing section 8(e) notice should be submitted to illustrate the question.

ALL QUESTION SUBMISSIONS SHOULD BE SENT TO: Charles M. Auer, Assessment Division (TS-792), Office of Toxic Substances, U.S. EPA, 401 M Street SW., Washington D.C. 20460.

FOR FURTHER INFORMATION:

Call the Industry Assistance Office:

processing equipment made immediate processing of the beets infeasible.

maintain a record of all application sites in their respective States;

[6712-01-M]

FEDERAL COMMUNICATIONS

posed in General Docket No. 78-316 are due by November 8, 1978. In addition to the general areas in which

2. Administrative Matters.
3. Discussion on Petition to Amend By Laws, Article IV, Section 1.

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FOR FURTHER INFORMATION:

Call the Industry Assistance Office: Toll-free number 800-424-9065; persons in Washington, D.C., area are to call 554-1404.

Dated: October 23, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-30488 Filed 10-27-78; 8:45 am]

[6560-01-M]

[FRL 996-8; OPP-180242]

UTAH AND WASHINGTON DEPARTMENTS OF AGRICULTURE

Issuance of Specific Exemptions To Use Thiabendazole To Control Fungi in Stored Sugar Beets

The Environmental Protection Agency (EPA) has granted specific exemptions to the Utah and Washington Departments of Agriculture (hereafter referred to as the "Applicants") for post-harvest application of thiabendazole to control various fungi threatening 50,000 tons of sugar beets in Utah and 500,000 tons of sugar beets in storage areas in Washington. These exemptions were granted in accordance with, and are subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the applications on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicants, sugar beets awaiting processing could become infested with various fungi, such as *Penicillium, Botrytis, Fusarium, Phoma,* and others, which cause deterioration while the beets are in storage, resulting in a decline of the sugar content of the beets. These fungal diseases occur naturally in sugar beets; however, only those beets to be stored for more than 75 days could be seriously affected. Fungal deterioration results in loss of processed sugar, loss of stored beets, and causes filter fouling which increases discharges of suspended solids and decreases sugar recovery. The Applicants anticipate that without this treatment, losses could run as high as $150,000 in Utah and $1,500,000 in Washington.

There are no registered alternative pesticides that can be applied as a post-harvest treatment to control fungal deterioration in sugar beets. The logistics and economics of the processing equipment made immediate processing of the beets infeasible.

The Applicants proposed to use Mertect 340-F, EPA Reg. No. 618-75; this product is already registered for preharvest field use on sugar beets to control *Cercospora* leaf spot. The rate of application is 0.42 ounces Mertect 340-F added to sufficient water to treat one ton of sugar beets. The maximum amount of the product that would be used would be 175 gallons in Utah and an estimated 1,667 gallons in Washington. Applications will be made by employees of the Utah and Idaho Sugar Co. who have been trained to use the specialized equipment on the beet dump piling machinery.

Permanent pesticide tolerances of 0.25 p.p.m. on sugar beets, and 10.0 p.p.m. on sugar beet tops from preharvest use have been established. Existing milk and meat tolerances should be adequate to cover this use. The requested use will add only an insignificant amount of thiabendazole to the human diet. Based on an existing registered product for field application of thiabendazole to sugar beets, no serious adverse effects on the environment are expected.

After reviewing the applications and other available information EPA determined that: (a) Pest outbreaks of various fungi have occurred or are about to occur; (b) there is no pesticide presently registered and available for use to control the fungi on stored sugar beets in Utah and Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic losses may result if the various fungi are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until December 31, 1978, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The thiabendazole product Mertect 340-F, EPA Reg. No. 618-75 will be used;

2. The rate of application will not exceed 42 ounces of the product in 100 gallons of water per 100 tons of sugar beets;

3. A maximum of 175 gallons of the product in Utah and 1,667 gallons in Washington may be applied;

4. A maximum of 50,000 tons of sugar beets in Utah and 500,000 tons in Washington may be treated;

5. All applications will be made in storage areas under the control of the Utah and Idaho Sugar Co. in the sugar beet growing areas in Utah and in central Washington. The Applicants will maintain a record of all application sites in their respective States;

6. All applications will be made by employees of the Utah and Idaho Sugar Co., who have been trained to the specialized equipment on the beet dump piling machinery, and under the direct supervision of a State-certified applicator;

7. The Applicants are responsible for insuring that all the provisions of these specific exemptions are met in their respective States and each must submit a report to EPA summarizing the results of these programs by August 1979;

8. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

9. The EPA shall be immediately informed of any adverse effects resulting from use of thiabendazole in connection with these exemptions;

10. These exemptions are not modifications of any NPDES permits issued to the Utah and Idaho Sugar Co. and do not constitute a waiver of State or Federal discharge limitations. The Utah and Idaho Sugar Co. is required to contact the Utah State Department of Agriculture in that State and the Washington State Department of Ecology in Washington, for possible amendments to NPDES permits;

11. Effluent from the processing plant will be monitored for residues of thiabendazole. Data from these tests will be submitted to EPA by August 1979;

12. Thiabendazole residue levels not exceeding 6 p.p.m. in or on sugar beets, 50 p.p.m. for sugar beet pulp, and 40 p.p.m. for sugar beet molasses have been determined to be adequate to protect the public health. A residue level of 40 p.p.m. for sugar beet molasses will not result in significant residues in poultry or eggs. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare has been advised of this action; and

13. Washington State and concerned growers are urged to pursue the establishment of a permanent tolerance for this use of thiabendazole through regular channels, if the fungal disease is likely to continue to be a pest of sugar beets.

STATUTORY AUTHORITY: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: October 23, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-30491 Filed 10-27-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

BROADCAST SERVICE WORKING GROUP 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Schedule of Meeting

OCTOBER 19, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of the following meeting for November 1978.

WARC-79 INTERNATIONAL BROADCASTING SERVICE GROUP

Tuesday, November 28, 1978, 2:30 p.m.-4:30 p.m., Room A110, (FCC Annex) 1229 20th Street NW., Washington, D.C., Chairman: Stanley Leinwoll, FCC Liaison: Darrell E. Bauguess.

The Agenda will be as follows:

1. Call to order and announcements by the Chairman.
2. Approval of Minutes of previous meeting.
3. Discussion of results of SPM.
4. Report and discussion of meeting with International Broadcasters in Geneva, Switzerland.
5. Reports from Task Groups.
6. Further discussion.
7. Next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the general public.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30607 Filed 10-27-78; 8:45 am]

[6712-01-M]

FEE REFUND PROGRAM

Commission Staff To Hold Public Meeting

OCTOBER 19, 1978.

The FCC has announced that members of the Commission's staff who are responsible for implementing its Over-$20 Fee Refund Program will hold a public meeting on November 1, 1978 beginning at 1:30 p.m. in the General Services Administration auditorium at 18th and F Streets NW., Washington, D.C.

The purpose of the meeting is to discuss, generally, the Over-$20 Fee Refund Program which the Commission outlined in its Notice of Inquiry in General Docket No. 78-316 (FCC 78-695, released October 6, 1978), to discuss the design of the refund system, to answer questions, and to entertain recommendations for changes in the refund program. There will be no discussion regarding a future Commission fee schedule or refund of fees of $20 and less.

Written comments regarding the Over-$20 Fee Refund Program, proposed in General Docket No. 78-316 are due by November 8, 1978. In addition to the general areas in which comments were sought by the October 6 Notice of Inquiry, individuals and businesses who may be entitled to refunds under this program are specifically requested to provide the Commission, in their written comments, with information as to the nature and extent of the recordkeeping and reporting burdens that will be created by the proposed Fee Refund Claim Form. (The proposed Fee Refund Claim Form was shown as Attachment B to the October 6 Notice of Inquiry, which is printed at 43 FR 46658-46692 (October 10, 1978).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30606 Filed 10-27-78; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

SPECIAL COMMITTEE NO. 73, "MINIMUM PERFORMANCE STANDARDS (MPS), MARINE OMEGA RECEIVING EQUIPMENT"

Notice of 4th Meeting. Tuesday, November 14, 1978, 9:30 a.m. Conference Room, Maritime Institute of Technology & Graduate Studies (MITAGS), 5700 Hammonds Ferry Road, Linthicum Heights, Md. 21090.

AGENDA

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Reports of Working Groups.
4. Discussion of Response of Manufacturers and Users to request for comments on Regulations and Requirements Affecting MPS.
5. Discussion on User Surveys.

M. H. Carpenter, Co-Chairman, CDR T. P. Nolan, Co-Chairman, Maritime Institute of Technology & Graduate Studies, Linthicum Heights, Md. 21090, Phone: 301-636-5700.

EXECUTIVE COMMITTEE MEETING

The next Executive Committee Meeting will be on Thursday, November 16, at 9:30 a.m. in Conference Room 7200, Nassif Building, 400 Seventh Street SW. (at D Street), Washington, D.C.

AGENDA

1. Call to Order.
2. Administrative Matters.
3. Discussion on Petition to Amend By Laws, Article IV, Section 1.
4. Discussion on Resolution to Amend Constitution, Article VI, Section 8.
5. Acceptance of FY-78 Audit Report.
6. New business.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: 202-632-6490).

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30608 Filed 10-27-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; Chicago, Ill.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 15, 1978 in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the act.

A copy of any comments should also be forwarded to the party filing the

agreements and the statement should indicate that this has been done.

ports of the United States, pursuant to the terms and conditions thereof. Significantly, the Agreement would provide: (1) that the

National Center for Education Statistics on the collection of information

1979. Encouraged by the Education Amendments of 1976, 10 States estab-

The information collected from the Institute's proposed application form will be used to evaluate the museums

survey will be edited and reformated for inclusion in a catalog of adult education projects. The catalog, then, as

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agreements and the statement should indicate that this has been done.

Agreement No.: T-3734.

Filing Party: Mr. Neal M. Mayer, Coles and Goertner, 1000 Connecticut Avenue NW., Washington, D.C. 20036.

Summary: Agreement No. T-3734, between North Carolina State Ports Authority (Port) and Seatrain Transportation, Inc. (Seatrain), provides for Seatrain's use of 6.325 acres of land, together with a building at Wilmington Port Terminal, and preferential use of: (1) Berths 7 and 8 on two consecutive preferential days; (2) a gantry crane of at least 40-ton capacity; and (3) a truck scale. As compensation, Seatrain will pay Port $55,120 per annum land rental and $4,190.70 per annum building rental. In addition, Seatrain will pay Port Wharfage, subject to a guaranteed minimum of 100,000 tons per contract year, and dockage at rates as set forth in the agreement. Seatrain will pay Port $200 a month for the preferential use of the truck scale. This agreement supersedes FMC Agreement No. T-3384, between the Port and Seatrain Lines, Inc., approved by the Commission January 25, 1977.

Agreement No.: T-3736.

Filing Party: Maxim M. Cohen, General Manager, Chicago Regional Port District, Butler Drive-Lake Calumet Harbor, Chicago, Ill. 60633.

Summary: Agreement No. T-3736, between Chicago Regional Port District (Port) and Ceres Terminals, Inc. (Ceres), provides for the 5-year lease of certain premises including Transit Shed No. 3 at lake Calumet, Chicago, Ill., to be used for the purpose of operating ship, barge, railroad and truck terminal, warehouse, and for the handling of goods and merchandise as well as commercial or industrial activities. As compensation, Ceres will pay Port $68,460 per annum, fifty percent of the net storage revenues derived from the usage of the open space, not to exceed $5,000 per annum, plus regular posted Harbor dockage and wharfage charges.

Agreement No. 8660-9.

Filing Party: Eliot J. Halperin, Esquire, Graham & James, 1050 17th Street NW., Washington, D.C. 20036.

Summary: Agreement No. 8660-9 modifies the basic agreement of the Latin America/Pacific Coast Conference to provide for the appointment of an independent policing authority as enforcement authority for self-policing.

Agreement No. 10160-1.

Filing Party: Jerzy Rozanski, Vice-President Traffic and Container Operations, Gdynia America Line, Inc., General Agents, One World Trade Center Suite 3557, New York, N.Y. 10048.

Summary: Agreement No. 10160-1 would extend the duration of the Polarctic Joint Service Agreement for 3 years, to and including December 15, 1981. Agreement No. 10160 is presently set to expire with December 15, 1978.

Agreement No. 10355.

Filing Party: Elmer C. Maddy, Esq., Kirlin, Campbell & Keating, One Twenty Broadway, New York, N.Y. 10005.

Summary: Agreement No. 10355, between The Bank & Savill Line Ltd. (B & S) and The Shipping Corp. of New Zealand Ltd. (SCNZ) or New Zealand Line Ltd., provides for the operation of a cargo service in the trade between Australasia, The Pacific Islands, The Caribbean, Central and South America and Mexico and Atlantic and Gulf ports of the United States, pursuant to the terms and conditions thereof. Significantly, the Agreement would provide: (1) that the parties may include in their future service as many as three container vessels and four breakbulb vessels; (2) for the scheduling of containership sailings at regular intervals as warranted, supplemented by conventional sailings as necessary; (3) that B & S shall be appointed managing agents of the service, general agents of the service in the United States, and established agencies of B & S, including SCNZ in New Zealand, are to be used; (4) for the apportionment of net revenues or deficiencies among the parties; (5) that the parties shall, from time to time, agree upon sailing programmes for their vessels; (6) for the acquisition of any additional vessels deemed necessary by charter or purchase; (7) for the submission to the Commission of an annual revenue tonnage report; and (8) for an initial period of effectiveness of 5 years.

Agreement No. 10356.

Filing Party: Frank J. Fagan, Vice President, Dart Containerline, Container Services Division, Five World Trade Center, New York, N.Y. 10048.

Summary: Agreement No. 10356, a cooperative working agreement filed on behalf of Orient Overseas Container Line Ltd. and Dart Containerline Co. Ltd., entitled *Equipment Interchange and Lease Basic Agreement* would permit the parties to lease cargo containers and/or related equipment between them in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-30610 Filed 10-27-78; 8:45 am]

[4110-89-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The Institute of Museum Services and the U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before November 29, 1978, and should be addressed to Administrator, National Center for Education Statistics, attention: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: October 25, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. Title of Proposed Activity: Guarantee Agency Loan Information For Preparing Guaranteed Student Loan Program Budget.

2. Agency/Bureau/Office: Office of Education, Bureau of Student Financial Aid, Guaranteed Student Loan Program.

3. Agency Form Number: OE-671.

4. Legislative Authority for This Activity: Sec. 428 (A)(b)(3).

Each supplemental Guaranty agreement entered into under subsection (a) . . . "shall provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports; . . ." (P.L. 89-329 as amended by P.L. 94-482-20 U.S.C. 1078—1)

5. Voluntary/Obligatory Nature of Response: Obligatory.

6. How Information To Be Collected Will Be Used: The budget data obtained directly from each Guaranteed Agency will be used by the Guaranteed Student Loan Program in preparing accurate and timely projected budget estimates. New loan volume in the Guarantee Agency Program increased 14 percent from fiscal years 1975-1977, and is expected to increase approximately 60 percent from 1977 to 1979. Encouraged by the Education Amendments of 1976, 10 States established insurance programs during fiscal year 1977-1978, and an additional eight State agencies are anticipated to be created during 1979.

7. Data Acquisition Plan: a. Method of collection, Mail (There may also be telephonic inquiries for vertification purposes). b. Time of Collection, January or February. c. Frequency, Annually.

8. Respondent: a. Type, State Institutions (Guarantee Agencies). b. Number, 36 (current). c. Estimated average man-hours per respondent: 1.2 hours.

9. Information To Be Collected: For the current and next four (4) Federal Fiscal years, a. The number and dollar amount of guaranteed student loans committed and disbursed. b. Number of defaults claims. c. Amounts recovered. d. Request for loan advances and administrative cost allowance.

[FR Doc. 78-30520 Filed 10-27-78; 8:45 am]

Description of a Proposed Collection of Information and Data Acquisition Activity

1. Title of Proposed Activity: Proposal Application Form.

2. Agency/Bureau/Office: Department of Health, Education and Welfare/Office of the Assistant Secretary for Education/Institute of Museum Services.

3. Agency Form Number: IMS-102/IMS-103.

4. Legislative Authority for This Activity: Museum Services Act—Title II of the Arts, Humanities and Cultural Affairs Act of 1976. P.L. 94-462. Section 206. (a) The Director . . . is authorized to make grants to museums to increase and improve museum services . . . (20 U.S.C. 965).

5. Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

6 How Information Collected Will Be Used: Through the Institute of Museum Services, discretionary grant program funds are provided to museums for general operating support and special project support. The proposed application forms for the March 9, 1979 deadline requesting general and budgetary information have been developed to simplify the application process for the museum applicant and to expedite the Institute's review process.

Because of the unique nature of the Institute's grant program—one of the few programs that provide general dollars for operating expenses—the financial information needed for an effective grant review must contain data on the total operating budget of the museum, in addition to reflecting its long-range fiscal and program plans.

The information collected from the Institute's proposed application form will be used to evaluate the museums eligible for support during the March deadline. The museum applicants will be reviewed in relation to the Institute's published guidelines for its 1979 grants program determined by the National Museum Services Board, the Policy-making arm of the Institute.

Each question contained in the application form corresponds directly with the IMS published criteria for evaluation and is essential for a thorough review of each museum's operation. In addition, the Institute is requiring its grantees to notify us of any grants pending before other Federal agencies in an attempt to avoid duplication of funding efforts.

7. Data Acquisition Plan: a. Method of collection, Mail. b. Time of collection, March, 1979. c. Frequency, Annually.

8. Respondents: a. Type, Public or private non-profit museums. b. Number, 3,000. c. Estimated average man-hours per respondent, 3 hours.

9. Information To Be Collected: 1. A summary of the museums history and purpose. 2. A summary of the organizational structure and staff size of museum. 3. A summary of the size, type and quality of a museum's collection. 4. A summary of the curatorial and educational activities of the museum. 5. A summary of community outreach programs of the museum. 6. A copy of the museum's long-range financial and program development. 7. A complete detailed budget of the museum applicant.

Description of Proposed Collection of Information and Data Acquisition Activity

1. Title of Proposed Activity: Adult Education Clearinghouse.

2. Agency/Bureau/Office: U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Adult Education.

3. Agency Form Number: OE 560.

4. Legislative Authority for This Activity: "Sec. 309A. The Commissioner shall establish and operate a clearinghouse on adult education, which shall collect and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section." (20 U.S.C. 1208-1; P.L. 93-380).

5. Voluntary/Obligation Nature of Response: Voluntary.

6. How Information Collected Will Be Used: Data collected through the survey will be edited and reformated for inclusion in a catalog of adult education projects. The catalog, then, as an information product, represents a subset of a continuously growing adult education data base. The catalog and survey will provide the mechanism for the production of a data base that can be used for measuring program progress from a Federal viewpoint. Additionally, the information can be used by the Adult Education State Directors as a basis for reducing 306/309 project duplication, identifying areas of over or underemphasis, and measuring progress toward fulfilling the needs of priority target groups of adult education and manpower programs. Utilization of the results of the special demonstration and training projects, and the information exchange among practitioners in the field will ultimately lead to improved practices, products, and programs. This process will create a feedback loop which allows for interstate information exchange and the development of a data base.

7. Data Acquisition Plan: a. Method of collection, Mail. b. Time of collection, Fall, 1979-1985. c. Frequency, Annually.

8. Respondents: a. Type: Individuals (Directors of Adult Education Section 306(a)(4) and 309 projects operated in colleges and universities, local educational agencies, nonprofit organizations, and by individuals.) b. Number: 400. c. Estimated average man-hours per respondent: .5.

9. Information To Be Collected: Each respondent will provide a summary of their project which includes title, contact, objectives, description, evaluation, target audience, and products.

[4110-08-M]

National Institutes of Health

ETHICS ADVISORY BOARD

Meeting and Public Hearing

Notice is hereby given that the Ethics Advisory Board will hold a series of public hearings on the subject of human in vitro fertilization. These hearings will provide an opportunity for interested members of the public to express their opinions to the Board regarding the legal, ethical, scientific, and social issues surrounding DHEW support of research and therapeutic applications of in vitro fertilization in humans. The hearings will be open to the public subject to the limitations of available space. They will be held at the following times and locations:

ATLANTA, GA.

December 1, 1978; 12 noon to 9 p.m., Federal

any time and will be distributed to all members of the Board.

cross regional lines or are national in scope;

[4110-12-M]

[4210-01-M]

DEPARTMENT OF HOUSING AND

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

WILLIAM H. WILCOX,

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ATLANTA, GA.

December 1, 1978; 12 noon to 9 p.m., Federal Office Building, 275 Peachtree Street, NE., Room 556, Atlanta, Ga. *Submission date:* November 24, 1978.

DALLAS, TEX.

December 11, 1978; 12 noon to 4 p.m.; 6 p.m. to 9 p.m., 1 Main Place, Community Room, B-1 Level, Dallas, Tex. *Submission date:* December 4, 1978.

DENVER, COLO.

December 8, 1978; 12 noon to 4 p.m.; 6 p.m. to 9 p.m., 1961 Stout Street, Room 1083, Denver, Colo. *Submission date:* December 1, 1978.

DETROIT, MICH.

December 5, 1978; 1 p.m. to 9 p.m., Cobo Hall, Room 3186, 1 Washington Boulevard, Detroit, Mich. *Submission date: November 28, 1978.*

KANSAS CITY, MO.

December 4, 1978; 1 p.m. to 9 p.m., 601 East 12th Street, Room 140, Kansas City, Mo. *Submission date:* November 27, 1978.

NEW YORK CITY, N.Y.

December 15, 1978; 1 p.m. to 8 p.m., Federal Building, Room 305, 26 Federal Plaza, New York City, N.Y. *Submission date:* December 8, 1978.

PHILADELPHIA, PA.

December 6, 1978; 1 p.m. to 9 p.m., Holiday Inn, 36th and Chestnut Street, Philadelphia, Pa. *Submission date:* November 29, 1978.

SAN FRANCISCO, CALIF.

November 14, 1978; 12 Noon to 4 p.m., 6 p.m. to 9 p.m., Larkin Hall, San Francisco Civic Center, 99 Grove Street, San Francisco, Calif. *Submission date:* November 7, 1978.

SEATTLE, WASH.

November 9, 1978; 4:30 p.m. to 9 p.m., Federal Building, Rooms 370-380, 915 2d Avenue, Seattle, Wash. *Submission date:* November 1, 1978

Any one wishing to speak at one of the hearings must receive prior approval from the Board and submit one written copy of testimony at the hearing. In order to be considered for approval, requests to speak at a particular hearing must be received no later than the submission date listed for that hearing, and should include the following information: Name of person wishing to testify, professional affiliation (if any), the hearing at which testimony will be given, a brief summary of the testimony (which should be limited to 5 minutes), and an address and telephone number at which the requestor may be reached during business hours. Requests should be submitted to the Ethics Advisory Board, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016. Written materials of any length may be submitted for the record at any time and will be distributed to all members of the Board.

On November 10 and 11, 1978 the Ethics Advisory Board will hold a regularly scheduled meeting in rooms 370-380, Federal Building, 915 2d Avenue, Seattle, Wash. The meeting will begin at 9 a.m. on both days and be open to the public subject to limitations of available space. The agenda for the meeting will include discussion of the legal, ethical, scientific and social issues surrounding DHEW support of human in vitro fertilization and review of an application for departmental support of research involving fetoscopy.

Requests to testify or for information should be directed to Dr. Charles R. McCarthy, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016, telephone, 301-496-7776.

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-30646 Filed 10-27-78; 8:45 am]

[4110-12-M]

Office of the Secretary

OFFICE OF THE INSPECTOR GENERAL

Statement of Organization, Functions, Delegations of Authority

Part AF of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to clarify the responsibilities of the Office of the Assistant Inspector General for Investigations.

SECTION 1. Section AF.20D.2.a.(ii) of part AF is amended to read as follows:

(ii) Implements guidelines and policies for the detection and investigation of actual or suspected criminal activity *or wrongdoing* by departmental grantees or contractors or by departmental employees in the performance of their official duties; (underscored language is new, modifying language published in 42 FR 17532; April 1, 1977).

SEC. 2. Section AF.20D.2. of part AF is amended by adding at the end thereof the following new paragraph:

(e) The Division of Special Assignments (AFEC):

(i) Is responsible for conducting criminal investigations of unusual complexity or which have multiregion or national implications and highly sensitive noncriminal investigations involving Department personnel, contractors, and grantees; for pursuing the civil and administrative aspects of criminal cases after resolution of the criminal charges; and for developing strategies, priorities and tactics for the investigation of criminal cases that cross regional lines or are national in scope;

(ii) Develops methods and techniques for the investigation and identification of the more sophisticated and complex fraud cases in the white collar crime area;

(iii) Assists the Assistant Inspector General for Investigations and the Special Agents-in-Charge in establishing and maintaining effective liaison and coordination of investigative and prosecutive efforts with all Federal prosecutive and investigative offices in connection with law enforcement planning in the areas of program fraud and other forms of white collar crime and which have national or multiregion implications;

(iv) Advises the Assistant Inspector General for Investigations in the identification of and formulation of proposed solutions of management problems identified during multiregion or national investigations;

(v) Participates in the investigation of allegations involving the more complex conflict of interest and employee misconduct cases;

(vi) Assists in the design and implementation of programs to train personnel of AFE and other offices in the Department that have investigative responsibilities (these programs will relate principally to the criminal law and procedures relative to investigations); and

(vii) Provides legal advice and assistance relating to criminal law to the Assistant Inspector General for Investigations in connection with the investigations which are assigned to the Division.

SEC. 3. Prior Statement of Organization, Functions, and Delegations of Authority. To the extent inconsistent with this statement, all previous statements of organization, functions, and delegations of authority, as well as currently applicable chapters of the Department's Organizational Manual are hereby suspended by this statement, except that all delegations in effect immediately prior to the effective date of this statement shall continue in effect until new delegations are made.

SEC. 4. Effective Date. This Statement shall be effective on October 20, 1978.

Dated: October 20, 1978.

WILFORD J. FORBUSH,
Acting Assistant Secretary for
Management and Budget.

[FR Doc. 78-30612 Filed 10-27-78; 8:45 am]

[4110-12-M]

OFFICE OF PROGRAM INTEGRITY

Statement of Organization, Functions, and Delegations of Authority

This notice amends the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Office of the Secretary, by revising Chapter AMM, Office of Management Analysis and Systems (OMAS), (42 FR 36312-13, July 14, 1977 and 43 FR 43389, Sept. 25, 1978) to establish an Office of Program Integrity. This office will report directly to the Deputy Assistant Secretary for Management Analysis and Systems. It will assist in setting up and operating a management system to measure the results of the Department's initiatives to improve the integrity of HEW programs by eliminating fraud, abuse, and errors.

To provide for the Office of Program Integrity, the functional statement for the immediate office of the Office of Management Analysis and Systems, as stated in AMM.20A, henceforth will contain the following additional functional assignment:

(3) Through the Office of Program Integrity: (a) Provides the Secretary, the Assistant Secretary for Management and Budget and other key officials with advice and assistance in the planning, implementation, and operation of a management system for achieving and measuring results from the Department's initiatives to improve the integrity of HEW programs by eliminating fraud, abuse, and errors; (b) administers HEW's program integrity reporting and tracking system and provides the Secretary with periodic assessments of agency integrity objectives, progress against those objectives, results of these efforts, and other program integrity activities; (c) furnishes advice and assistance to the principal operating components in designing and establishing quality control systems for improving the integrity of program activities; and (d) provides assistance and guidance to principal operating components to insure followup by them of the Inspector General findings through the medium of program integrity and quality control activities and systems.

Dated: October 18, 1978.

WILFORD J. FORBUSH,
Acting Assistant Secretary for
Management and Budget.

[FR Doc 78-30611 Filed 10-27-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-648; FDAA-566-DR]

CALIFORNIA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FDAA-566-DR), dated October 9, 1978, and related determinations.

DATED: October 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Judy Barrows, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development, Delegation of Authority, docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on October 9, 1978, the President declared a major disaster as follows:

I have determined that the damage in the city of Laguna Beach, Orange County, in the State of California resulting from landslides beginning about October 2, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of California.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Robert C. Stevens, FDAA Region IX, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area to have been adversely affected by this declared major disaster.

The City of Laguna Beach (Orange County).

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

WILLIAM H. WILCOX,
Federal Disaster
Assistance Administration.

[FR Doc. 78-30518 Filed 10-27-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 18923]

FLORIDA

Filing of Plat of Survey

OCTOBER 27, 1978.

1. The supplemental plat of survey of lands described below, accepted on January 3, 1978, will be officially filed in this office effective at 10 a.m. on November 30, 1978.

TALLAHASSEE MERIDIAN

T. 3 S., R. 11 E.,
Lot 8, Section 31, containing 3.00 acres.

2. This supplemental plat was prepared to return as surveyed and provide an acreage and designation for a small parcel of land shown east of the Suwannee River on the plat of section 31, T. 3 S., R. 11 E., Tallahassee Meridian, approved in February 1826.

3. Lot 8 is over 50 percent upland in character within the interpretation of the Swampland Act of September 28, 1850.

4. Except for valid existing rights, this land will not be subject to application, petition, location, selection or any other type of appropriation under any public law, including the mining and mineral leasing laws, until a further order is issued.

5. All inquiries relating to these lands should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Md. 20910.

LANE J. BOWMAN,
Acting Director,
Eastern States.

[FR Doc. 78-30555 Filed 10-27-78; 8:45 am]

[4310-31-M]

Geological Survey

ADVISORY COMMITTEE ON WATER DATA FOR PUBLIC USE

Meeting

Pursuant to Pub. L. 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Advisory Committee on Water Data for Public Use will be held November 14-16, 1978, at the Hotel Utah in Salt Lake City,

Utah. The Committee is made up of representatives of water-resources or-

tion 8A of the Mineral Leasing Act of February 25, 1920, as added by section

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[6820-35-M]

NASA plans to respond to the subcommittee's recommendations on NASA's

Pursuant to carrying out its statutory duties, the Panel reviews, evaluates,

publishing this list in the FEDERAL REGISTER is to inform the public.

V 43/210 OCT 30 78

Utah. The Committee is made up of representatives of water-resources oriented groups, including national, State, and regional organizations, professional and technical societies, and the academic community. Its principal responsibility is to represent the interests of the non-Federal community on plans, policies, and procedures related to water-data programs. The Director of the U.S. Geological Survey is chairman of the Committee.

The meeting will convene at 8:30 a.m. on Tuesday, November 14. Featured items on the Tuesday morning agenda include: (1) A review of the progress made over the past year in the implementation of Office of Management and Budget Circular A-67, which provides guidelines for the coordination of water-data acquisition activities of Federal agencies; (2) a progress report on the Federal interagency project to develop the *National Handbook of Recommended Methods for Water Data Acquisition;* (3) a report of progress in the Geological Survey's program of regional aquifer systems analysis and river-quality assessment; (4) the increasing need for "real-time" water data; and (5) a report of the activities of the U.S. Council on Environmental Quality's Task Force on Environmental Data and Monitoring. A field trip to points of hydrologic and geologic interest in the Salt Lake City area is scheduled for Tuesday afternoon. Wednesday, November 15, is set aside for three concurrent working group sessions on ground-water quality and quantity data, recommended methods for water-data acquisition, and urban water-data needs. On Thursday morning, November 16, the working group reports will be presented and other business will be discussed. The meeting will be adjourned about noon on November 16.

Persons wishing to attend the meeting or desiring more information on the meeting should contact R. H. Langford, Chief, Office of Water Data Coordination, U.S. Geological Survey, 417 National Center, Reston, Va. 22092.

HENRY W. COULTER,
Acting Director.

[FR Doc. 78-30549 Filed 10-27-78; 8:45 am]

[4310-31-M]

KNOWN RECOVERABLE COAL RESOURCE AREA

Gallup, N. Mex.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and section 8A of the Mineral Leasing Act of February 25, 1920, as added by section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, Aug. 4, 1976), Federal lands within the State of New Mexico have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date and total acreage involved are as follows:

(31) NEW MEXICO

Gallup (New Mexico) Known Recoverable Coal Resource Area; February 14, 1978; 182,067 acres.

A diagram showing the boundaries of the area classified has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: October 18, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-30556 Filed 10-27-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated July 28, 1978, and published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35124) Applied Science Laboratories, Inc., Brush Valley Road, Oak Hall, Pa. 16827, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug and schedule

D-lysergic acid methylpropylamide (7328)—I.
Mescaline (7381)—I.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: October 24, 1978.

PETER B. BENSINGER,
Administrator.

[FR Doc. 78-30603 Filed 10-27-78; 8:45 am]

[6820-35-M]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

OCTOBER 25, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat 378, 42 U.S.C. 2996-29961, as amended, Pub. L. 95-222 (Dec. 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project.

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southern Tier Legal Services in Corning, N.Y., to serve Steuben, Allegany, and Cattaraugus counties. Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, New York Regional Office, 10 East 30th Street, New York, N.Y. 10016.

THOMAS EHRLICH,
President.

[FR Doc. 78-30513 Filed 10-27-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-53]

NASA ADVISORY COUNCIL (NAC) SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The Ad Hoc Informal Advisory Subcommittee on Geodynamics and Geology of the NAC-STAAC will meet on November 15 and 16, 1978, from 8:30 a.m. to 4:30 p.m. at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting at 8:30 a.m. on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This subcommittee, comprised of nine members of the NAC-STAAC including the subcommittee chairman, Dr. Michael Chinnery, will review the current and planned 5-year program in geology and discuss the future direction of this program. In addition, NASA plans to respond to the subcommittee's recommendations on NASA's Geodynamics Program which was discussed at the previous meeting.

NOVEMBER 15, 1978

TIME AND TOPIC

8:30 a.m.: Chairman's remarks.
9 a.m.: Overview of NASA's resource observation program.
9:30 a.m.: NASA's response to subcommittee's recommendations.
10:15 a.m.: Five-Year Plan goals and objectives.
11:15 a.m.: Discussion.
1:30 p.m.: Global geology, geophysics, and geodynamics.
3:30 p.m.: Discussion.
4:30 p.m.: Adjourn.

NOVEMBER 16, 1978

TIME AND TOPIC

8:30 a.m.: USDI roles and missions of the U.S. Geological Survey.
9:30 a.m.: Nonrenewable resources.
11:30 a.m.: Discussion.
1:30 p.m.: Program funding requirements.
2 p.m.: Discussion of issues.
3 p.m.: Summary and recommendations.
4 p.m.: Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C., 202-755-8601.

Dated: October 24, 1978.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

[FR Doc. 78-30583 Filed 10-27-78; 8:45 am]

[7510-52-M]

[Notice 78-52]

NASA AEROSPACE SAFETY ADVISORY PANEL

Meeting

The Aerospace Safety Advisory Panel will meet on November 30, 1978, in Room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. The Panel will present its annual report to the Administrator and Deputy Administrator. The meeting is open to the public and will begin at 1 p.m. and continue until 2:30 p.m. The seating capacity of the room is about 40 persons, including members and other participants. Visitors will be requested to sign a visitor's register.

The panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request."

Pursuant to carrying out its statutory duties, the Panel reviews, evaluates, and advises on those program activities, systems, procedures and management policies that contribute to risk and provide identification and assessment of these for management. Priority is given to those programs that involve the safety of manned flight.

Chairman of the Panel is Mr. Herbert E. Grier. The contact for further information is Carl R. Praktish, Executive Secretary, Aerospace Safety Advisory Panel, 400 Maryland Avenue SW., Washington, D.C. 20546. Phone, area code 202, 755-8380.

Dated: October 24, 1978.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

[FR Doc. 78-30582 Filed 10-27-78; 8:45 am]

[4410-01-M]

NATIONAL COMMISSION FOR THE REVIEW OF ANTITRUST LAWS AND PROCEDURES

CONTEMPLATION OF CLOSING THE RECORD

In accordance with Executive Order 12022 and section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), the National Commission for the Review of Antitrust Laws and Procedures (hereinafter "Commission"), has held public hearings and has received statements from interested persons on the subjects enumerated in the aforesaid Executive order. Notice is hereby given, in contemplation of closing the record of the Commission, that fifty (50) copies of any additional written statements by interested persons must be transmitted to the Commission office (Attention: Ms. Deana Harvell), Room 7315, Department of Justice Building, 10th Street and Pennsylvania Avenue NW., Washington, D.C. 20530, no later than November 15, 1978.

Dated: October 25, 1978.

WENDELL B. ALCORN, Jr.,
Special Counsel.

[FR Doc 78-30613 Filed 10-27-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 23, 1978 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Tertiary Enhanced Recovery Program Application
ERA-93
On occasion
Petroleum Producers Owning Tertiary Projects, 100 responses; 16,000 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare)
Uniform Bill Questionnaire
HCFA-79
On occasion
Small and Large Hospitals, 50 responses; 250 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research
Survey of Mortgage Lenders
Annually
Persons Who Make Lending Decisions Re Selected Neighborhoods, 75 responses; 75 hours
Caywood, D. P., 395-3443

Policy Development and Research
Survey of Neighborhood Multipurpose Centers
Annually
Managers of Facilities in Selected Neighborhoods, 75 responses; 75 hours
Caywood, D. P., 395-3443

Policy Development and Research
Survey of Owners and Managers of Rental Property

Annually
Owners or Managers of Substantial

DEPARTMENT OF AGRICULTURE

[8010-01-M]

rities and Exchange Commission a proposed rule change as follows:

lar instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from

options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same

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Annually
Owners or Managers of Substantial Numbers of Property in Selected Neighborhoods and Cities, 75 responses; 75 hours
Caywood, D. P., 395-3443

Policy Development and Research
Survey of Services and Facilities for the Elderly
Annually
Managers of Facilities in Selected Neighborhoods, 75 responses; 75 hours
Caywood, D. P., 395-3443

Policy Development and Research
Survey of Recreational Services and Facilities
Annually
Managers of Facilities in Selected Neighborhoods, 75 responses; 75 hours
Caywood, D. P., 395-3443

Policy Development and Research
Survey of Child Care Services and Facilities
Annually
Managers of Facilities in Selected Neighborhoods, 75 responses; 1 hour
Caywood, D. P., 395-3443

DEPARTMENT OF LABOR

Employment and Training Administration
Rearranged Work Schedules Studies (Parts A & B)
MT-287, A & B
Single-time
Employees on Rearranged Work Schedules, 94,015 responses; 277 hours
Strasser, A., 395-6132

DEPARTMENT OF TRANSPORTATION

Departmental and Other
Survey to Determine Pre-DWI Behavior
Single-time
Male Drivers 16-24 years old, 500 responses; 225 hours
Strasser, A., 395-6132

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

National Emissions Data System (NEDS) Input Data Forms
EPA(DUR), 219, 220, 243
Semi-annually
55 State Air Pollution Control Agencies, 110 responses; 2,750 hours
Ellett, C. A., 395-6132

VETERANS ADMINISTRATION

Application for Educational Assistance
22-5490
On occasion
Child of Veteran, 12,000 responses; 3,000 hours
Caywood, D. P., 395-3443

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service
Animal Welfare
Other (See SF-83)
Animal Dealers and Exhibitors and Research Facilities
Ellett, C.A. 395-6132.

Office of General Sales Manager
Sales of Agricultural Commodities for Export
OGSM 97, 98, 99, & 100
Other (See SF-83)
Exporters of Agricultural Commodities, 27,840 responses; 69,600 hours
Ellett, C. A., 395-6132

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service
Hospital Discharge Survey
Annually
National Sample of Short-stay Hospitals, 220,000 responses; 14,667 hours
Richard Eisinger, 395-3214

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Supplementary Information to Ann.
WA-807, EWA-407
On occasion
Applicants for Federal employment, 2,500 responses; 1,250 hours
Marsha Traynham, 395-3773

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development
Annual Report on Post-employment Services
OHDRSA 32
Annually
State VR agency, 84 responses; 200 hours
Reese, B. F., 395-3211

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
Civil Rights Data Report
Annually
Airport sponsors subject to 49 CFR Part 21 Regulations, 1,957 responses; 5,871 hours
Strasser, A., 395-6132

BRENDA A. MAYBERRY,
Acting Budget and Management Officer.

[FR Doc. 78-30584 Filed 10-27-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15252]

AMERICAN STOCK EXCHANGE, INC., ET AL.

Commission Action Declaring Effective an Amendment to the Consolidated Tape Plan

OCTOBER 20, 1978.

The Securities and Exchange Commission announced that it has sent to the sponsors of the joint industry plan filed pursuant to Rule 17a-15 under the Securities Exchange Act of 1934, and declared effective as of May 17, 1974, a letter declaring an amendment to the plan effective as of October 20, 1978. The amendment establishes a procedure for storing and reporting last sale information received by the processor of the plan during a regulatory halt.

The text of the letter follows:

AMERICAN STOCK EXCHANGE, INC.
MIDWEST STOCK EXCHANGE, INC.
NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
NEW YORK STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE, INC.
PHILADELPHIA STOCK EXCHANGE, INC.

DEAR SIRS: This is in response to the filing by you on July 21, 1977, of an amendment to the joint industry plan (the "Plan") filed pursuant to Rule 17a-15 under the Securities Exchange Act of 1934 (the "Act") and declared effective by the Commission as of May 17, 1974, establishing a procedure for storing and reporting last sale information received by the processor of the Plan during a regulatory halt.

After a review of the amendment to the Plan, the Commission is of the view that the amendment represents an appropriate method for the reporting of last sale information received by the processor of the Plan during a regulatory halt. Therefore, having due regard for the maintenance of fair and orderly markets, the public interest and the protection of investors, the Commission has declared the amendment effective as of the date of this letter.

By the Commission.

Sincerely yours,

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30496 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 34-15255; File No. SR-Amex-78-21]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 20, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. ("Amex") proposes to amend Exchange Rule 991 by deleting present Rule 991 in its entirety and proposes to adopt a new Rule 991. The text of the proposed rule is set forth below (brackets indicate deletions; italics indicate new material):

SALES COMMUNICATIONS

Rule 991. *(a) Approval by Registered Options Principal. All advertisements and sales literature issued by a member or member organization pertaining to options shall be approved in advance by a general partner or officer of the member organization who is a Registered Options Principal, and copies thereof, together with the names of the persons who prepared the material and, in the case of sales literature, the source of any recommendations contained therein shall be retained by the member or member organization and be kept readily available for examination by the Exchange for a period of 3 years.*

(b) Standards of Approval. No advertisement or sales literature shall be approved under paragraph (a) of this Rule which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) contains hedge clauses or disclaimers which are not easily identifiable, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) otherwise fails to meet the standards prescribed by Paragraph 9495 of the Exchange Rules;

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of section 10 of said Act.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval by a Registered Options Principal required by paragraph (a) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Legal and Regulatory Policy Division of the Exchange at least 10 days prior to use (or such shorter period as the Department may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made and further, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements submitted to and approved by another self-regulatory organization having identical requirements regarding approval of advertisements pursuant to an arrangement approved by the Exchange;

(ii) Advertisements in which the only reference to options is contained in a listing of the services of a member organization; and

(iii) Advertisements approved within the last 6 months.

(d) Except as otherwise provided in the "Commentary" hereunder, no written materials respecting options may be disseminated to any person without prior or contemporaneous dissemination to such person of a current prospectus of the Options Clearing Corp.

(e) Definitions.—For purposes of this rule, the following definitions shall apply:

(i) The term "advertisement" shall include any material that reaches a mass audience through public media such as newspapers, periodicals magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through letters designed for customer mailing not accompanied or preceded by a current prospectus of the Options Clearing Corp.

(ii) The term "sales literature" shall include any communication for distribution to customers or the public (or which may be made accessible to customers or the public) which contains any analysis, report, recommendation, opinion, prediction or comment with respect to options, underlying securities or market conditions, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures, or similar such events, or any exchange-produced materials pertaining to options.

Commentary • • •

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any advertisement or sales literature which purports to discuss the uses or advantages of options. In the preparation of communications respecting options, the following guideines should be observed:

A. Any statement referring to the opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss," should be balanced by a statement such as "Of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for most investors, or for small investors. Indeed, it is strongly suggested that there be included in all literature discussing the use of options a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisements pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a prospectus of the Options Clearing Corp.) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this rule shall state the name and address of the person from whom a current prospectus of the Options Clearing Corp. may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is the Options Clearing Corp. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of the Options Clearing Corp., including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any State law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows pointers, multiple and combined logos and unusual type spaces and lettering as well as attention getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of performance figures, including annualized rates of return, are not permitted in any advertisement pertaining to options.

.03 Sales literature pertaining to options must be preceded or accompa-

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

membership for necessary prepublication approval (see Rule 991(c)); and (3)

the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies

reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as fore-

mailing not accompanied or preceded by a current prospectus of The Options Clearing Corporation.

V 43/210 OC 30 78

.03 Sales literature pertaining to options must be preceded or accompanied by a current prospectus of the Options Clearing Corp. and shall conform to the following standards:

A. Such literature may contain project performance figures (including projected annualized rates of return in connection with covered call option writing programs) provided that:

(i) No suggestion of certainty of future performance is made;

(ii) Parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) Commissions, transaction costs, and interest charges (if applicable with regard to margin transactions) are included in all calculations; and such returns are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(iv) Any assumptions made in such calculations are clearly identified (e.g., "assume option expires," "assume option unexercised," "assume options exercised," etc.); and

(v) Further provided, in the case of literature relating to annualized rates of return, that such returns are not calculated on any more than four (4) consecutive 3-month option periods; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated.

B. Sales literature featuring records and statistics concerning past recommendations shall include the date of each initial recommendation, the price(s) of such security at that date and at the end of the period when liquidation of the security position(s) was suggested, and the trend of the market during that period. Records and statistics must be confined to a specific "universe," e.g., (i) the work of one research analyst for a period of at least 1 year; (ii) the work of an entire firm for a period of at least 1 year; (iii) the results of all accounts under management for a period of at least 1 year; or (iv) some other clearly definable area which can be fully isolated and circumscribed. All such sales literature shall state that the results presented should not and cannot be viewed as an indicator of future performance.

C. All sales literature shall state that supporting documentation for any claims, comparisons, recommendations, statistics, or other technical data will be supplied upon request.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to amend Exchange Rule 991 (concerning advertisements, market letters, and sales literature relating to options) to conform with similar proposals of other options exchanges and to reflect uniform policies and standards applicable to options sales communications directed to public investors by Exchange members and members organizations.

As used herein, communications with the public involving options include, in a broad sense, both advertisements and sales literature (as those terms are defined in paragraph (e) of proposed Rule 991). Basically, a communication which meets the standards of an advertisement may be disseminated to the public without a prospectus; sales literature, however, must be preceded or accompanied by a prospectus.

The proposed rule sets forth the several procedures and standards which member firms must follow in preparing (and obtaining approval, where required) options related advertisements and sales literature. In part, the rule incorporates traditional standards of truthfulness and good taste required of nonoptions marketing material and clarifies certain specific requirements pertaining to exchange-traded options.

While all options exchanges presently have rules similar to Exchange Rule 991, the exchanges have sought to further refine such rules in light of experiences gained since the establishment of their respective options program. In recognition of the need for uniformity in the area of communications with the public relating to exchange-traded options, representatives of the Amex, CBOE, Midwest, Pacific, and Philadelphia Exchanges have conducted during the past several months an in-depth review of present rules. Two of the objectives of the review were: (i) To prepare rule changes which would reflect uniform policies and standards applicable to communications with the public concerning options; and (ii) to prepare an industry-wide publication which would amplify on such rules and assist firms in their preparation of such communications.

In addition to retaining certain specific requirements (such as OCC prospectus availability) and general requirements (such as general standards of truthfulness and good taste discussed above), the proposed rule seeks to: (i) Expand the definitions of the terms "advertising" and "sales literature" (see Rule 991(e)); (2) eliminate, in the case of dual members, the need for approvals of advertisements by more than one exchange and permit a firm to submit advertisements to any one exchange in which it maintains a membership for necessary prepublication approval (see Rule 991(c)); and (3) establish uniform standards to be used in discussion of rates of return, annualized returns, recommendations and performance figures (see Rules 991.02 and 991.03).

Following Commission approval of the proposed rule change, the options exchanges intend to jointly publish a booklet, tentatively entitled. Guidelines for Options Communications, which is designed to assist member firms maintain proper standards in their preparation of communications with the public. The booklet will also serve to explain and amplify upon exchange rules relating to option sales communications and insure a uniform reference source applicable to all firms who communicate with the public respecting options.

The basis for the proposed rule change is found in section 6(b)(5) of the Act which provides, in pertinent part, that Exchange rules be designed to promote just and equitable principles of trade and protect investors and the public interest.

No written comments were solicited or received from Exchange members, participants or others in connection with the proposed rule change. Some dual member organizations, however, have orally indicated that, in certain respects, present rules lack specific standards which the exchanges will employ in approving and commenting upon options-related advertisements and sales literature. They have cited instances when identical advertisements submitted to more than one options exchange have received varying (and sometime inconsistent) comments which resulted in delays in obtaining publication approvals.

The proposed rule change will not impose any burden on competition.

On or before December 4, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned, self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Initiate proceeding to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written date, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at

the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 29, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30501 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 34-15254; File No. SR-CBOE-1978-26]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 8, 1978 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Brackets indicate deletions: italics indicate new material)

SALES COMMUNICATIONS

Rule 9.21. *(a) Approval by Registered Options Principal. All advertisements and sales literature issued by a member or member organization pertaining to options shall be approved in advance by a general partner or officer of the member organization who is a Registered Options Principal, and copies thereof, together with the names of the persons who prepared the material and, in the case of sales literature, the source of any recommendation contained therein shall be retained by the member or member organization and be kept readily available for examination by the Exchange for a period of three years.*

(b) Standards of Approval. No advertisement or sales literature shall be approved under paragraph (a) of this Rule which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) contains hedge clauses or disclaimers which are not easily identifiable, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste, judgment and truthfulness common to the securities industry;

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval by a Registered Options Principal required by paragraph (a) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Department of Sales Practice Complaince of the Exchange at least ten days prior to use (or such shorter period as the Department may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made and further, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements submitted to and approved by another self-regulatory organization having identical requirements regarding approval of advertisements pursuant to an arrangement approved by the Exchange;

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization; and

(iii) advertisements approved within the last six months.

(d) Except as otherwise provided in the Interpretations and Policies hereunder, no written materials respecting options may be disseminated to any person without prior or contemporaneous dissemination to such person of a current prospectus of the Options Clearing Corporation.

(e) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) The term "advertisement" shall include any material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through letters designed for customer mailing not accompanied or preceded by a current prospectus of The Options Clearing Corporation.

(ii) The term "sales literature" shall include any communication for distribution to customers or the public (or which may be made accessible to customers or the public) which contains any analysis, report, recommendation, opinion, prediction or comment with respect to options, underlying securities or market conditions, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any exchange-produced.

Interpretations and Policies • • •

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any advertisement or sales literature which purports to discuss the uses or advantages of options. In the preparation of communications respecting options, the following guidelines should be observed:

A. Any statement referring to the opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss", should be balanced by a statement such as "Of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for most investors, or for small investors. Indeed, it is strongly suggested that there be included in all literature discussing the use of options a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisements pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a propsectus of The Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus of the Options

Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

achieved only if the parameters described can be duplicated.

B. Sales literature featuring records

proval required by paragraph (a) of

following characteristics: (i) The advertisement should state the name and

C. Until the existence of the Exchange's secondary market has been demonstrated by experience, Chicago

Two of the objectives of the review were: (i) to prepare rule changes which would reflect uniform policies

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Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is The Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of The Options Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any state law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type spaces and lettering as well as attention getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of performance figures, including annualized rates of return, are not permitted in any advertisement pertaining to options.

.03 Sales literature pertaining to options must be preceded or accompanied by a current prospectus of The Options Clearing Corporation and shall conform to the following standards:

A. Such literature may contain projected performance figures (including projected annualized rates of return in connection with covered call option writing programs) provided that:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) commissions, transaction costs and interest charges (if applicable with regard to margin transactions) are included in all calculations; and such returns are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(iv) any assumptions made in such calculations are clearly identified (e.g., "assume option expires", "assume option unexercised", "assume options exercised," etc.); and

(v) further provided, in the case of literature relating to annualized rates of return, that such returns are not calculated on any more than four (4) consecutive 3-month option periods; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated.

B. Sales literature featuring records and statistics concerning past recommendations shall include the date of each initial recommendation, the price(s) of such security at that date and at the end of the period when liquidation of the security position(s) was suggested, and the trend of the market during that period. Records and statistics must be confined to a specific "universe", e.g., (i) the work of one research analyst for a period of at least one year; (ii) the work of an entire firm for a period of at least one year; (iii) the results of all accounts under management for a period of at least 1 year; or (iv) some other clearly definable area which can be fully isolated and circumscribed. All such sales literature shall state that the results presented should not and cannot be viewed as an indicator of future performance.

C. All sales literature shall state that supporting documentation for any claims, comparisons, recommendations, statistics or other technical data, will be supplied upon request.

[Advertisements, Market Letters and Sales Literature

Rule 9.21 (a) Approval by Registered Options Principal. All advertisements, market letters and sales literature issued by a member organization pertaining to options shall be approved in advance by a Registered Options Principal who is an officer or partner of the member organization, and copies thereof together with the names of persons approving their issuance, the names of persons who prepared the material and the source or any recommendations contained therein shall be retained by the member organization and be readily available for examination by the Exchange for a period of three years.

(b) Standards of Approval. No advertisement, sales literature or market letter shall be approved under paragraph (a) of this Rule which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) fails to meet general standards of good taste and judgement common to the securities industry;

(iv) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(c) Exchange Approval Required for Advertisements. In addition to the approval required by paragraph (a) of this Rule, every advertisement of a member organization pertaining to options shall be submitted to the Department of Compliance of the Exchange at least ten days prior to use (of such shorter period as the Department may allow in particular instances) and, if expressly disapproved by the Exchange, shall be withheld or withdrawn from circulation until changes specified by the Exchange have been made and the advertisement re-submitted for Exchange approval.

(d) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) advertisements include any material for use in any newspaper or magazine or other public media or by radio, telephone recording, motion picture or television.

(ii) sales literature and market letters include any communication for distribution to customers or the public which contains any analysis, report, recommendation, opinion, prediction or comment with respect to options, underlying securities, or market conditions.

. . . Interpretation and Policies:

.01 In addition to adhering to the general standards of truthfulness and good taste prescribed by Rule 9.21, the advertisements, market letters and sales literature of Exchange members covering Chicago Board Options should reflect the following factors.

I. Chicago Board Options are securities registered under the Securities Act of 1933, and they are the subject of a currently effective registration statement. Section 5 of the Securities Act prohibits the use of any written material or radio or television advertisements (or other material constituting a "prospectus" as defined in the Act) relating to a registered security unless certain conditions are met. With respect to advertisements and sales literature covering Chicago Board Options, the following rules must be observed:

A. Except as provided in paragraph B below, no written material with respect to Chicago Board Options may be sent to any person unless prior to or at the same time with the written material a current Options Prospectus was sent to such person.

B. Advertisements may be used (and copies of the advertisements may be sent to persons who have not received a prospectus) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to Chicago Board Options. Under Rule 134, advertisements are limited to general descriptions of the security being offered and of its issurer. In the case of Chicago Board Options, advertisements under this Rule must have the following characteristics: (i) The advertisement should state the name and address of the person from whom a current Options Prospectus may be obtained (this would usually be the member sponsoring the advertisement); (ii) The text of the advertisement may contain a brief description of Chicago Board Options, including a statement that the issuer of every Chicago Board Option is the Chicago Board Options Exchange Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the Exchange and the Clearing Corporation, including a discussion of how the price of an Option is determined on the Exchange's trading floor; (iii) The advertisement may include any statement or legend required by any state law or administrative authority; (iv) Advertising designs and devices including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.

II. There are special risks attendant to options transactions and certain options transactions involve complex investment strategies. These factors should be reflected in any communication (including advertising, sales literature and similar material) which purport to include any discussion of the uses or advantages of Chicago Board Options. Although it is up to each member in preparing its communications concerning Chicago Board Options to take into consideration these factors, the following points of particular importance are presented for the general guidance of members in this regard:

A. Any statement referring to the opportunities or advantages presented by Chicago Board Options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as, "With options, an investor has an opportunity to earn profits while limiting his risk of loss," should be balanced by a statement such as, "Of course, an options investor may lose the entire amount committed to options in a relative short period of time."

B. It should not be suggested that options are suitable for most investors, or for small investors. Indeed, it is strongly suggested that there be included in all Chicago Board Options literature discussing the uses of options a warning to the effect that options are not for everybody.

C. Until the existence of the Exchange's secondary market has been demonstrated by experience, Chicago Board Options literature should reflect the untried nature of this aspect of the Exchange. Accordingly, statements suggesting the certain availability of the Exchange's secondary market should not be made. Instead, any reference to the secondary market should be expressed in such terms as, "The Exchange's secondary market is intended to provide a means for the liquidation of positions in options", or, "If the price of the underlying stock goes down the holder of a Chicago Board Option may be able to realize any remaining value of the Option by selling it in the secondary market". (Italics used for illustrative purposes only).]

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to amend Exchange Rule 9.21 (concerning advertisements, market letters and sales literature relating to options) to conform with similar proposals of other options exchanges and to reflect uniform policies and standards applicable to options sales communications directed to public investors by Exchange members and member organization.

As used herein, communications with the public involving options include, in a broad sense, both advertisements and sales literature (as those terms are defined in paragraph (e) of proposed Rule 9.21). Basically, a communication which meets the standards of an advertisement may be disseminated to the public without a prospectus; sales literature, however, must be preceded or accompanied by a prospectus.

The proposed rule sets forth the several procedures and standards which member firms must follow in preparing (and obtaining approval, where required) of options related advertisements and sales literature. In part, the rule incorporates traditional standards of truthfulness and good taste required of non-options marketing material and clarifies certain specific requirements pertaining to exchange-traded options.

While all options exchanges presently have rules similar to Exchange Rule 9.21, the exchanges have sought to further refine such rules in light of experiences gained since the establishment of their respective options programs. In recognition of the need for uniformity in the area of communications with the public relating to exchange-traded options, representatives of the Amex, CBOE, Midwest, Pacific and Philadelphia Exchanges have conducted during the past several months an in-depth review of present rules. Two of the objectives of the review were: (i) to prepare rule changes which would reflect uniform policies and standards applicable to communications with the public concerning options; and (ii) to prepare an industry-wide publication which would amplify on such rules and assist firms in their preparation of such communications.

In addition to retaining certain specific requirements (such as general standards of truthfulness and good taste discussed above), the proposed rule seeks to: (1) expand the definitions of the terms "advertising" and "sales literature" (see Rule 9.21(e); (2) eliminate, in the case of dual members, the need for approval of advertisements by more than one exchange and permit a firm to submit advertisements to any one exchange in which it maintains a membership for necessary prepublication approval (see Rule 9.21 (c); and (3) establish uniform standards to be used in discussion of rates of return, annualized returns, recommendations and performance figures (see Rule 9.21.02 and Rule 9.21.03).

Following Commission approval of the proposed rule change, the options exchanges intend to jointly publish a booklet, tentatively entitled Guidelines for Options Communications (see draft of booklet attached as exhibit 2) which is designed to assist member firms in maintaining proper standards in their preparation of communications with the public. The booklet will also serve to explain and amplify upon exchange rules relating to option sales communications and ensure a uniform reference source applicable to all firms who communicate with the public respecting options.

The basis for the proposed rule change is found in Section 6(b)(5) of the Act which provides, in pertinent part, that exchange rules be designed to promote just and equitable principles of trade and protect investors and the public interest.

No written comments were solicited or received from Exchange members, participants or others in connection with the proposed rule change. Some dual member organizations, however, have orally indicated that, in certain respects, present rules lack specific standards which the exchanges will employ in approving and commenting upon options-related advertisements and sales literature. They have cited instances where identical advertisements submitted to more than one options exchange have received varying (and sometime inconsistent) comments which resulted in delays in obtaining publication approval.

The proposed rule change will not impose any burden on competition.

On or before December 4, 1978, or within such longer period (i) as the Commission may designate up to 90

days of such date if it finds such longer period to be appropriate and

THE CHAIRMAN OF THE BOARD CONSTITUTION

CHAIRMAN OF THE EXECUTIVE COMMITTEE CONSTITUTION

tive Committee to the prohibition against dealing in options traded on the Exchange as well as against dealing in securities un-

would be determined by the Board. This proposal contrasts with the present means of electing a Board Chair-

The final purpose of this proposed rules change is the modification of the composition of the Board. As de-

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days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 29, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30502 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 34-15261; File No. SR-CBOE-1978-29]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on October 13, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed change requires a number of technical changes in CBOE's Constitution and Rules. Set forth below is a description of such changes:

THE CHAIRMAN OF THE BOARD

CONSTITUTION

1. Section 3.2 *Annual Election Meeting.* This proposed change deletes the provision which refers to electing the Chairman and Vice Chairman of the Board.

2. Section 4.3 *Nominating Procedure.* This proposed modification also deletes the requirement to nominate a Chairman and Vice Chairman of the Board.

3. Section 5.3 *Counting of Ballots.* This proposed amendment deletes language which relates to the membership election of Chairman and Vice Chairman of the Board. In addition it deletes the requirement that one of the off-floor directors be a member, which change when it had been approved by the membership some months ago in section 6.1 of the Constitution was not made to this section.

4. Section 6.3 *Resignation, Disqualification and Removal of Directors.* The proposed change to this section relates to the substitution of the Chairman of the Board for the President as one of the persons to whom a director may tender his resignation.

5. Section 7.2 *The Executive Committee.* This change will specifically provide that the Chairman of the Board, Chairman of the Executive Committee, the President and at least four other directors be designated voting members of the Executive Committee.

6. Section 8.1 *Designation; Number; Election.* This new section completely replaces the old section 8.1 and specifies that (a) the Chairman of the Board be elected by a two-thirds affirmative vote of the directors, which directors may prescribe his duties and tenure of office, (b) officers, other than the Chairman of the Executive Committee shall be appointed by the Chairman of the Board, subject to the Board's approval and (c) certain offices may not be held by the same person.

7. Section 8.2 *Chairman of the Board of Directors.* This new section replaces a portion of the provisions of Section 8.3 and describes the position and responsibilities of the Chairman of the Board.

8. Section 8.7 *Removals.* This section replaces part of old section 8.2 which has been deleted and sets forth the required votes by the Board of Directors to remove the Chairman of the Board (two-thirds), the Chairman of the Executive Committee (two-thirds) and the President (two-thirds). It also sets forth the board's ability to remove any other officers when the best interests of the Exchange would be served thereby.

9. Sections 8.8 *Vice President;* 8.9 *Secretary;* 8.10 *Treasurer.* These sections reflect the replacement of the President by the Chairman of the Board as the person in addition to the Board which can prescribe the duties of the above described officers.

10. Section 11.3 *Departments.* This section replaces the President with the Chairman of the Board as the individual able to authorize Exchange departments, subject to Board approval.

RULES

11. Rules 2.15 *Departments of the Exchange.* This change provides that the Chairman of the Board, not the President, shall be the head of the Executive Department.

CHAIRMAN OF THE EXECUTIVE COMMITTEE

CONSTITUTION

1. Section 3.4 *Special Meetings.* This proposal substitutes the Chairman of the Executive Committee for the President as one of the officers who can call a Special Meeting of Members.

2. Section 4.1 *Nominating Committee.* This modification provides that the Chairman of the Executive Committee and not the Chairman of the Board shall choose, subject to Board approval, the seventh member of the Nominating Committee for a 1-year term.

3. Section 4.2 *Nominating Committee Vacancies.* This proposal allows the Chairman of the Executive Committee instead of the Board Chairman to fill vacancies on the nominating Committee subject to Board approval.

4. Section 5.1 *Election Committee.* This proposal empowers the Chairman of the Executive Committee to appoint the Election Committee instead of the Chairman of the Board.

5. Section 6.7 *Special Meetings.* This modification provides that the Chairman of the Executive Committee in addition to the Chairman of the Board can call a Special Meeting of Directors.

6. Section 7.1 *Designation of Committees.* This modification replaces the Chairman of the Board with the Chairman of the Executive Committee as the individual responsible for designating members of Exchange Committees.

7. Section 7.3 *The Appeals Committee.* This proposal substitutes the Chairman of the Executive Committee for the Chairman of the Board as the person responsible for designating the Chairman of the Appeals Committee.

8. Section 7.4 *Appeals Committee Vacancies.* This amendment requires that the Chairman of the Executive Committee instead of the Board Chairman select those persons to fill vacancies on the Appeals Committee.

9. Section 8.1 *Designation; Number; Election.* This new section additionally provides that the Chairman of the Executive Committee be a director who owns or directly controls his own membership and shall be elected each year by an affirmative vote of the majority of the members of the Board of Directors.

10. Section 8.3 *Chairman of the Executive Committee.* This new section replaces old section 8.3 and provides that the Chairman of the Executive Committee shall also function as the Vice Chairman of the Board. In addition, it sets forth the functions and responsibilities of such member officer.

11. Section 8.4 *Acting Chairman.* This new section provides, in the event there is a vacancy in both the office of Chairman of the Board and that of the Chairman of the Executive Committee, the means by which an Acting Chairman is to be chosen.

12. Section 8.5 *Vacancy In Office of Chairman of Executive Committee.* This section specifies the means by which the Board shall choose a new Chairman of the Executive Committee if such office becomes vacant prior to the end of the incumbent's term and the qualifications of such replacement.

13. Section 11.4 *Officers and Employees Restricted.* This amendment sets forth an exception for the Chairman of the Executive Committee to the prohibition against dealing in options traded on the Exchange as well as against dealing in securities underlying such options.

RULES

14. Rule 2.1 *Establishment of Committees.* This proposed change requires the Chairman of the Executive Committee to appoint, subject to Board approval, the members of Exchange Committees.

15. Rule 2.23 *Liability for Payment.* This proposed modification empowers the Chairman of the Executive Committee to suspend members for nonpayment of dues, fees, charges, etc.

16. Rule 16.1 *Summary Suspension.* This proposal replaces the President with the Chairman of the Executive Committee as one of the persons having powers of summary suspension.

THE PRESIDENT

CONSTITUTION

1. Section 6.6 *President.* This new section replaces old section 8.4 in its entirety, and provides that the President shall be the Chief Operating Officer of the Exchange. This section also sets forth the responsibilities of the President.

COMPOSITION OF THE BOARD

CONSTITUTION

1. Section 6.1 *Number, Election and Term of Office of Directors.* These changes relate to the deletion of the membership election of the Vice Chairman position, the increase in public directors from three to four, the change in the term of office of public directors from 3 years to 2 years and the specification that off-floor directors shall be employed by member organizations which primarily conduct a nonmember public customer business.

2. Section 6.4 *Filling of Vacancies.* This section provides that vacancies in elected director positions may be filled by an affirmative vote of a majority of directors, and that a vacancy in the office of an appointed director shall be filled by the Chairman of the Board with the approval of the Board.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purposes of this rules change are (1) to better define the respective responsibilities and roles of the Chairman of the Board and the President and their means of selection, (2) to set forth the means of selection and the scope of the responsibilities of the Chairman of the Executive Committee; and (3) to modify the composition of the Board by the addition of one more public director and by the specification that the member organizations whose executive officers occupy six places on the Board of Directors be organizations which are primarily engaged in doing a public customer business.

With respect to the first purpose set forth above, it is proposed that the Exchange's Chairman of the Board become a full-time chief executive officer, selected by the Board. The duration of his term and his compensation would be determined by the Board. This proposal contrasts with the present means of electing a Board Chairman from among the membership for a 1-year term. The duties of the senior full-time staff official would be comprised of those chief executive responsibilities presently undertaken by the Board Chairman (an exception would be the appointive powers of Board Chairman which would be transferred to the Chairman of the Executive Committee, see below), and by the President, who presently functions as the Chief Executive Officer. This change will create a greater degree of governmental continuity at the Chairman level. This is believed to be desirable to strengthen the Exchange's administrative effectiveness and to strengthen the confidence of its members, the financial community and the investing public in the Exchange's conduct of its affairs. The remaining portion of this first modification to the Exchange's administrative structure pertains to the Office of the President. It is proposed that the President act as the Chief Operating Officer of the Exchange. His responsibilities would be primarily administrative; however, he would retain his positions as a member of the Board of Directors and of the Executive Committee.

The second purpose of this rules change deals with the selection and responsibilities of the Chairman of the Executive Committee. Since the Board Chairman's position is to be filled by a nonmember on a full-time basis, the position of Chairman of the Executive Committee was designated as the principal Exchange member position. In order to maintain member involvement and representation on the senior management level of the Exchange, the responsibilities of the person holding this office would include: (1) Functioning as Vice Chairman in case of the absence of or inability to act as the Board Chairman or a vacancy in the Office of Chairman of the Board; (2) selection with Board approval, the chairmen and members of all standing committees and the coordinating of all committee actions; and (3) functioning as Chairman of the Executive Committee. In contrast with the present election by the membership of a Vice Chairman of the Board for a 1-year term, the Chairman of the Executive Committee would be selected by the Board from the Board's elected member directors who own or control their own memberships for a 1-year term. This method of selection should serve to foster a complementary working relationship between the senior staff official (Board Chairman) and the senior member director (Chairman of the Executive Committee).

The final purpose of this proposed rules change is the modification of the composition of the Board. As described in the chart set forth below, the Board is now comprised of 21 persons, which include a Chairman, Vice Chairman, and 15 directors each separately elected from among the membership, a President and three public directors. As mentioned above, the position of Vice Chairman is proposed to be absorbed into the position of Chairman of the Executive Committee, which latter position would then be filled by the Board from among the 15 elected directors. Consequently, this change would eliminate the separately elected position of Vice Chairman with the result of reducing the total number of Board members to 20 from 21. Therefore, in order to restore the Board to the level of 21 persons it is proposed to add 1 more public director for a total of 4. It is also proposed that two public directors be appointed each year for 2-year terms instead of one public director appointed each year for a 3-year term. It is believed that enlarged public representation can make a meaningful contribution to the Board's effectiveness.

Present	*Proposed*
1 Chairman of the Board elected by the membership.	1 Chairman of the Board selected by the Board.
1 Vice Chairman of the Board elected by the membership.	Chairman of the Executive Committee/ Vice Chairman of the Board chosen by the Board from among the 15 elected directors.
1 President selected by the Board.	1 President selected by the Board.
	4 Public directors selected by Chairman of the Board and approved by the Board.
3 Public directors selected by the President and approved by the Board.	6 Floor members* elected by the membership.
6 Floor members* elected by the membership.	6 Off-Floor executive officers* of member firms elected by the membership.
6 Off-Floor executive officers* of member firms elected by the membership.	3 Members who function in any capacity elected by the membership
3 Members who function in any capacity elected by the membership..	
21	21.

*See Section 6.1 of the Exchange Constitution for description of these categories.

The other modification of the Board's composition is the proposed requirement that the six Board members employed by member organizations (two elected each year for 3-year terms) be associated with organizations which are primarliy engaged in doing a public customer business. As now specified, the executive officers of such member organizations do not have to be members themselves (see SR-CBOE-1978-19), and such individuals may not be primarily engaged in

business on the Exchange floor. However, an executive officer of any

filing with respect to the foregoing and all written submissions will be

Pursuant to the procedure which would be formally established by the

such last sale reports will be preceded on the consolidated tape by an indica-

began a phased implementation of the ITS.[7]

The amendments to the Plan are in-

identifiers for less than all market centers reporting transactions in the consolidated system would be discrimi-

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business on the Exchange floor. However, an executive officer of any member firm, without regard to the type of business such firm conducts, could now be elected to fill one of these six Board seats. The proposed rule change would assure that those six places on the Board which are reserved for member firm executives are filled by executive officers of organizations whose primary business is acting on behalf of public customers purchasing securities as demonstrated by the totality of an organization's business activities. This proposal will foster a more balanced representation of those member firms responsible for the transmission of public customer orders to the Exchange for excution. Those firms which do not meet the public customer business criteria set forth above will continue to have the same opportuntity as presently exists to seek representation on the Board, for 3 of the 15 member places on the Board may be held by individual members or nominees of member organizations without regard to the type of business conducted by the individual or the organization.

The basis for the proposed rules change is found in section 6(b)(3) of the act which provides for the fair representation of its members in the administration of its affairs and the selection of its directors and that one or more directors be representative of investors. Moreover, section 6(b)(5) of the act is also applicable, for the modifications in the administration of the Exhange as proposed herein will operate to promote just and equitable principles of trade, and protect investors and the public interest.

Comments have been solicited from members pursuant to a Special Meeting of the Membership on October 4, 1978 which resulted in 797 votes in favor of these proposed changes and 94 votes against.

These proposed rules changes do not impose any burden upon competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 20, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30578 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 15253; File No. S7-433]

CONSOLIDATED TAPE ASSOCIATION

Receipt of Amendments to Plan

OCTOBER 20, 1978.

The Consolidated Tape Association (the "CTA") has submitted to the Commission proposed amendments to various sections of the joint industry plan (the "Plan") filed with and declared effective pursuant to Rule 17a-15 [17 CFR 240.17a-15] under the Securities Exchange Act of 1934 (the "Act") governing the consolidated transaction reporting system ("consolidated system"). The Commission is soliciting comments with respect to the proposed amendments.

I. AMENDMENT SUBMITTED ON JANUARY 12, 1978

On January 12, 1978, the CTA submitted to the Commission, and on June 15, 1978, the CTA resubmitted to the Commission, a proposed amendment to section X(a) of the Plan which would establish procedures to be followed in recommending dissemination on a current and continuous basis, of last sale reports for any security eligible for reporting in the consolidated system ("Eligible Security") which is the subject of a regulatory halt.[1] The Plan does not presently contain such a procedure. The procedure to be established by the amendment has been implemented by the Plan participants with the informal concurrence of the Commission's staff.

Pursuant to the procedure which would be formally established by the amendment, the primary market must promptly notify the processor of the Plan when it determines that adequate publication or disclosure of information has occurred so as to permit termination of a regulatory halt (the "First Notice"). No sooner than 15 minutes after receipt of the First Notice, the processor must inlcude on the consolidated tape any indication of interest, or other message, received from the primary market, any other participant or any "other reporting party"[2] which is a national securities exchange, relating to the Eligible Security. In the event that the primary market has caused the processor to include an indication of interest on the consolidated tape with respect to the affected Eligible Security within the 30-minute period (the "Notice Period") following receipt of the First Notice, the processor is required to recommence real time dissemination of last sale reports which are received from any participant or other reporting party which is an exchange after the conclusion of the Notice Period. However, in the event that the primary market does not transmit such an indication of interest to the processor within the Notice Period, the primary market is required to cause the processor to include an administrative message on the consolidated tape within 5 minutes after the expiration of the Notice Period. The administrative message will, in most instances, announce that unusual market conditions exist on the primary market, such as a large influx of orders or an order imbalance in the affected Eligible Security. In such event, the processor is required to recommence real time dissemination of last sale reports in the affected Eligible Security 5 minutes after the printing of the administrative message. Alternatively, the administrative message may announce a continuation of the regulatory halt, in which case dissemination will not recommence until a new first Notice and Notice Period have occurred.

The amendment also includes certain technical modifications to section X(a) of the Plan. It provides that Plan participants may communicate by telephone with the primary market during a regulatory halt to determine the rationale for such halt; however, such communications are required to be kept confidential. In addition, the proposed amendment clarifies the procedures to be followed by the processor in the daily reporting of last sale reports received during a regulatory halt.[3] The amendment provides that

[1] Section X(a) contemplates the announcement of a regulatory halt when the primary market has determined (i) that there are matters relating to an Eligible Security or the issuer thereof which have not been adequately disclosed to the public or (ii) that there are regulatory problems relating to an Eligible Security which should be clarified before trading is permitted to continue.

[2] An "other reporting party" reports last sale transactions in the same manner as Plan participants. However, such an entity has no voting rights under the Plan.

[3] On this date, the Commission has declared effective an amendment to the Plan

Footnotes continued on next page

such last sale reports will be preceded on the consolidated tape by an indication that a regulatory halt is, or was, in effect on the primary market, and the reason for the halt.

II. FIRST AMENDMENT SUBMITTED ON APRIL 5, 1978

On April 5, 1978, the CTA submitted to the Commission a proposed amendment to section XI(c) of the Plan which would reduce charges to vendors for access to the Network A high speed line.[4] If the vendor accesses the Network A high speed line directly the charge would be reduced from $750 to $500 per month. If the vendor accessses the Network A high speed line via another vendor the charge would be reduced from $500 to $250 per month. The reduction in these charges, which reflects decreasing costs to the CTA of disseminating last sale information through the Network A high speed line, was implemented, effective January 1, 1978.

III. SECOND AMENDMENT SUBMITTED ON APRIL 5, 1978

On April 5, 1978, the CTA submitted to the Commission, and on April 25, 1978, the CTA resubmitted to the Commission, proposed amendments to sections V(e), VIII(f), XI(a)(ii) and XI(b)(ii) of the Plan. These amendments have been proposed by the CTA in connection with the implementation of the Intermarket Trading System ("ITS"), a market linkage system providing facilities and procedures for (i) rapid and efficient routing of orders and administrative messages between and among the participants, and (ii) participation, under certain conditions, by all participants in opening transactions in the primary market. The ITS is being implemented pursuant to a plan ("ITS Plan") filed with the Commission on March 9, 1978, by the NYSE, the American Stock Exchange, Inc. ("Amex"), Boston Stock Exchange, Inc., Pacific Stock Exchange, Inc., and Philadelphia Stock Exchange, Inc. On April 14, 1978, the Commission issued an order ("Approval Order") temporarily approving the ITS Plan for a period not to exceed 120 days, pending solicitation of public comment and final consideration of the ITS Plan under Section 11A (a)(3)(B) of the Act,[5] and on April 17, 1978, the participants began a phased implementation of the ITS.[7]

The amendments to the Plan are intended to comply with the terms of a Commission order ("Exemptive Order") issued simultaneously with the Approval Order, granting exemptions from Rule 17a-15 under the Act for a period of 120 days or until the Commission took final action with respect to the ITS Plan, whichever occurred first.[7] The Exemptive Order [8] was issued in response to a request by the participants in the ITS that, in conjunction with the implementation of ITS, the Commission either amend Rule 17a-15 under the Act or issue an exemptive order pursuant to paragraph (h) of the Rule, to permit the dissemination of last sale reports on moving ticker displays without any indication of the market of execution of all transactions effected in any market center which was scheduled to participate or was participating in the ITS (including transactions not effected through, and securities not traded in, that system).[9] In the Exemptive Order, the Commission stated its findings that

> no significant deprivation of market information would occur if moving tickers were permitted to display last sale reports without any market identification.[10]

In addition, the Commission noted that deletion of market identifiers would eliminate reporting disparities between the "primary" exchange markets and other market centers and might avoid tape delays. Therefore, the Commission determined that, during the 120-day period for which temporary ITS approval had been granted, it was not necessary in the public interest or for the protection of investors that last sale reports in eligible securities be accompanied by market identifiers when disseminated in moving ticker displays.

However, the Commission also noted that, in its view, removal of market identifiers for less than all market centers reporting transactions in the consolidated system would be discriminatory and anticompetitive as to those market centers not participating in ITS. Accordingly, although the Commission granted the relief requested (by permitting the CTA and the Securities Industry Automation Corp., the processor of the consolidated system, to report transactions effected in market centers which had agreed to participate in the ITS without market identifiers for dissemination on moving ticker displays), that relief was conditioned on the prompt removal as soon as technically feasible of such identifiers on moving ticker displays for all transactions as to which last sale information is reported in the consolidated system, regardless of the market of execution.[11] The proposed amendments to the Plan are designed to effectuate the terms of the Exemptive Order and otherwise accommodate the implementation of the ITS.

A. AMENDMENT TO SECTION V(e)

Requirements with respect to market identification are currently contained in both section V(e) [12] and VIII(f) of the Plan. The amendments to section V(e) of the Plan would generally consolidate and clarify [13] these requirements and would also include the following substantive changes.

1. *Deletion of market identifier from moving tickers.* The amendment would revise the terms of the Plan to provide that, commencing upon the approval of the ITS Plan by the Commission, all transactions effected in any market center participating in the ITS Plan will be disseminated for moving ticker purposes without market identification. In addition, the amendment would require the deletion of market identifiers from moving ticker displays with respect to all transactions, including those effected in market centers not participating in the ITS Plan, as soon as technically possible.[14]

Footnotes continued from last page

which would establish a procedure for storing and reporting last sale information received by the processor of the Plan during a regulatory halt. Securities Exchange Act Release No. 15252 (Oct. 20, 1978).

[4] Network A disseminates last sale reports of transactions executed in all reporting markets for securities listed on the New York Stock Exchange, Inc. ("NYSE").

[5] See Securities Exchange Act Release No. 14661 (Apr. 14, 1978), 43 FR 17419.

[6] On August 11, 1978, the Commission issued an order extending the Commission's temporary approval of the ITS Plan for an additional 12 months. See Securities Exchange Act Release No. 15058 (Aug. 11, 1978).

[7] See Securities Exchange Act Release No. 14662 (Apr. 14, 1978), 43 FR 17422.

[8] On August 11, 1978, the Commission also issued an order extending the Commission's temporary exemptions from Rule 17a-15 for an additional 12 months. See Securities Exchange Act Release No. 15059 (Aug. 11, 1978).

[9] Rule 17a-15(b) currently provides that: "[e]ach composite tape or interrogation system, in displaying last sale reports, shall identify the marketplace where each transaction was executed." The Rule defines the term "composite tape" to mean a "moving, real-time last sale reporting system."

[10] Exemptive Order, *supra* note 7, 43 FR 17422.

[11] As of April 24, 1978, market identifiers were deleted from moving ticker displays with respect to all transactions, including those effected in market centers not participating in the ITS.

[12] Section V(e) currently sets forth market identification requirements for moving ticker displays. Pursuant to this section, any moving ticker display must indicate the market of execution for each last sale report transmitted for ticker display purposes, except that transactions occurring on the NYSE or Amex are to be "identified" by the absence of any market identifier.

[13] Section VIII(f) of the Plan sets forth market identification requirements with respect to last sale reports disseminated by means of high-speed data transmission lines and displayed on interrogation devices. These requirements are identical to requirements for ticker displays.

[14] Based upon the Approval Order, the CTA has implemented this amendment to

Footnotes continued on next page

2. *Market identification of ITS transactions.* The amendment would

C. AMENDMENTS TO SECTIONS XI(a)(ii) AND XI(b)(ii)

program charges. However, the first amendment would not effect access

does not have any impact on, and is wholly independent of, the provisions

conditions the Applicant was unable to sell any of its shares pursuant to the

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

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2. *Market identification of ITS transactions.* The amendment would also set forth provisions with respect to market identification of last sale reports effected through the ITS and displayed on interrogation devices. Pursuant to the amendment, last sale reports effected through the operation of ITS would, when transmitted by means of the high-speed line and displayed on interrogation devices, be accompanied by an alphabetic symbol identifying the market in which the ITS transaction was received and accepted.[15] However, the amendment would provide that, as soon as possible, such last sale reports would be accompanied by a symbol or symbols identifying both the market in which the seller was located and the market in which the buyer was located at the time of the ITS transaction.

B. AMENDMENT OF SECTION VIII(f)

Section VIII(f) currently requires that, except to the extent permited by an effective exemption from Rule 17a-15, interrogation devices displaying last sale reports with respect to any Eligible Security must be capable of displaying the most recent last sale report with respect to such security, as disseminated by the processor of the system, accompanied by an identifier as to the market of execution. The amendment would add a new provision to section VIII(f) to permit deletion of market identifiers from consolidated last sale displays (but not individual market displays) available through vendor interrogation devises. Pursuant to the proposed amendment, any interrogation device may be programed in such a fashion that, when queried by the easiest access routine, it will display the most recent sale price (together with the open, high, and low prices) in a particular security without regard to the market in which the sale took place and without identifying the market.[16]

C. AMENDMENTS TO SECTIONS XI(a)(ii) AND XI(b)(ii)

To clarify procedures for allocation of income and expenses associated with the dissemination of last sale reports in the consolidated system, the CTA has proposed amendments to sections XI(a)(ii) and XI(b)(ii) of the Plan which would provide that transactions effected through the ITS would be deemed to have been reported to the processor of the system by the party which supplied the sell side of the transaction.

IV. AMENDMENT SUBMITTED ON SEPTEMBER 5, 1978

On September 5, 1978, the CTA submitted to the Commission several proposed amendments to section XI of the Plan. The amendments are intended to reduce the costs of the regional exchanges which are Plan participants or other reporting parties.

The first of the amendments ("first amendment"), a new paragraph to section XI (c), would eliminate or reduce certain of the charges imposed by the CTA on participants or other reporting parties which are national securities exchanges ("CTA exchanges") for receipt of consolidated last sale information with respect to Eligible Securities. This provision has been implemented by the CTA, effective retroactive to August 1, 1978.

The CTA currently imposes three types of charges on vendors and their subscribers for receipt of last sale information. These charges consist of (i) access charges to cover the cost of operation of the high-speed data transmission lines over which last sale information is transmitted to interrogation devices; (ii) display charges based upon the number of moving tickers and interrogation devices operated by the recipient; and (iii) computer program charges for the right to process last sale information for a variety of purposes. Prior to the implementation of the first amendment, certain of these charges were imposed on CTA exchanges. Display charges related to the use of moving tickers an interrogation devices were imposed on all of such exchanges, and access charges and computer program charges were imposed on certain of such exchanges.

The first amendment would eliminate or reduce certain of these charges. Display charges related to the use of interrogation devices would be eliminated and display charges related to the use of moving tickers would be reduced to a level which would reimburse the CTA for its costs in providing these facilities. The first amendment would also eliminate computer program charges. However, the first amendment would not effect access charges.

The first amendment provides that the elimination of display charges related to the use of interrogation devices and the reduction of display charges related to the use of moving tickers would, however, be conditioned on the participant or other reporting party being subject to, and not in breach of, a contract with the NYSE or the Amex which would require that (i) the consolidated last sale information may be furnished only at premises occupied solely by the Plan participant or other reporting party, or on the trading floor(s) of the participant or other reporting party; (ii) the consolidated last sale information may be used by the participant or the other reporting party solely for regulatory and surveillance purposes or for other purposes specifically approved by the CTA; and (iii) the consolidated last sale information may not be retransmitted from, or otherwise made available to, any person not located within or on such premises or trading floor(s).

The second of the amendments ("second amendment"), a new subsection (d) to section XI, would permit any of the CTA exchanges to enter into an agreement with the Plan processor to use the high-speed line by which the processor disseminates last sale information to vendors for the purpose of disseminating last sale information relating to transactions in securities other than Eligible Securities. No agreement of the type contemplated by the second amendment has as yet been executed.

Currently, the CTA exchanges, at their own expense, transmit to vendors and other persons over high-speed lines last sale information with respect to securities listed solely on regional exchanges which are not Eligible Securities ("regionally listed securities"). The second amendment would permit regional exchanges to report last sale information with respect to regionally listed securities through the facilities of the CTA rather than through existing facilities. The regional exchanges have indicated that the reporting of last sale information with respect to regionally listed securities through the facilities of the CTA may be more efficient and less costly than current methods.

The second amendment provides that a CTA exchange may not enter into the type of agreement contemplated by its terms unless (i) the agreement does not interfere with the implementation of, operations under, and rights and obligations created by, the Plan, and contracts made, and the exercise of authority delegated, pursuant to the Plan; and (ii) the agreement

Footnotes continued from last page

the Plan. All such market identifiers were deleted from moving tickers with respect to ITS participants as of April 17, 1978, and with respect to all last sale reports disseminated in the consolidated system as of April 24, 1978. *See* note 11, *supra.* On this date the Commission is proposing to amend Rule 17a-15 to require the deletion of market identifiers from moving ticker displays. *See* Securities Exchange Act Release No. 15251 (Oct. 20, 1978).

[15] This aspect of the amendment to the Plan has been implemented by the CTA Plan participants with the informal concurrence of the Commission's staff.

[16] The deletion of market identifiers from consolidated last sale displays available on interrogation devices would require an amendment to or exemption from Rule 17a-15 under the Act. On this date the Commission has published for comment proposed Rule 11Ac1-2 under the Act, which would require the deletion of market identifiers from consolidated last sale displays. See Securities Exchange Act Release No. 15251 (Oct. 20, 1978).

does not have any impact on, and is wholly independent of, the provisions of section XI of the Plan and the computations under such section.

V. REQUEST FOR COMMENT

In order to assist the Commission in determining whether to approve the proposed amendments, interested persons are invited to submit their views and comments on these proposals in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 29, 1978. In particular, the Commission is interested in receiving comments concerning the deletion of market identifiers from moving ticker displays and consolidated displays available through vendor interrogation devices. The amendments to the Plan will be available for public inspection in the Commission's public reference room. All such communications should refer to File No. S7-433.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30497 Filed 10-27-78; 8:45 am]

[8510-01-M]

[Rel. No. 10449]

MONEY POOLERS INCOME TRUST

Filing of Application

OCTOBER 23, 1978.

Notice is hereby given, that Money Poolers Income Trust ("Applicant"), 518 Beach 140th Street, New York, N.Y. 11694, 811-2523, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on November 28, 1977, and an amendment thereto on September 25, 1978, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant, organized under the laws of the State of New York, registered under the Act on September 19, 1974. On the same date it filed a registration statement (File No. 2-54403) under the Securities Act of 1933 for the public offer and sale of shares of its capital stock. This registration statement was declared effective on November 25, 1975; however, no shares were ever sold to the public and thus no shares are currently outstanding. The application states that because of economic conditions the Applicant was unable to sell any of its shares pursuant to the public offering.

The application further states that at a special meeting of Applicant's board of trustees held on July 5, 1977, the trustees determined that Applicant should cease to be an investment company and that an application should be filed with the Commission seeking an order of the Commission terminating the Applicant's registration under the Act.

Applicant represents that it has no unpaid expenses or claims against it and that it is not a party to any litigation or administrative proceedings, that no shares have been sold, no assets have been transferred to a separate trust, and that there are no outstanding subscriptions for sale of shares. It also states that steps will be taken upon the receipt of the requested order of the Commission to liquidate and dissolve the trust pursuant to the laws of the State of New York.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which order may be subject to appropriate conditions, and upon effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than November 16, 1978 at 5:30 p.m., submit to the Commission in writing a request for hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of any attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30577 Filed 10/27/78; 8:45 am]

[8010-01-M]

[Release No. 34-15257; File No. SR-MSRB-78-12]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on October 10, 1978 the abovementioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule changes as follows:

STATMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes would effect the following changes in rule G-8:

(1) Subparagraph (E) of rule G-8(a)(xi), which requires municipal securities brokers and municipal securities dealers to maintain a record of the name and address of the employer of each customer, would be deleted.

(2) Subparagraph (I) of rule G-8(a)(xi), which requires municipal securities brokers and municipal securities dealers to maintain a record of whether a customer is employed by another broker, dealer or municipal securities dealer, would be modified to provide that when a customer is so employed the record must also contain the name of his employer.

(3) The proposed rules changes would also make certain related technical changes, including the redesignation of the subparagraphs following subparagraph (E) to reflect its deletion. The text of the proposed rule changes appears below.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

Rule G-8(a)(xi) currently requires municipal securities brokers and municipal securities dealers to obtain certain basic information from each customer. The Board explained in its initial rule filing relating to rule G-8 (File No. SR-MSRB-76-4) that such information is "necessary to identify the customer, establish the customer's creditworthiness and authority to effect transactions, and demonstrate adequate internal supervision of the

account." On reconsideration of subparagraph (E) of rule G-8(a)(xi), the Board rules G-26 and G-27 will require municipal securities brokers and

On or before December 4, 1978, or within such longer period (i) as the

ties representative introducing the account and signature of a municipal se-

filed with the Commission (File No. SR-MSRB-77-12). The general pur-

ject to section (a) of this rule unless such broker, dealer, or municipal secu-

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account." On reconsideration of subparagraph (E) of rule G-8(a)(xi), the Board has determined that the information required to be obtained under the subparagraph imposes an unnecessary burden on municipal securities brokers and municipal securities dealers and therefore should be deleted from rule G-8. The Board believes that the deletion of the subparagraph will not contravene any of the purposes for requiring customer account information to be obtained and, to the extent that information required by the subparagraph may otherwise be relevant, other Board rules negate the need for it.

The Board's reconsideration of subparagraph (E) was prompted by recent comments received from several members of the municipal securities industry who indicated that they have encountered difficulty in complying with the subparagraph. One of the reasons cited for this difficulty is that information as to the name and address of the customer's employer is not required under the rules of any other self-regulatory organization or the Commission. Accordingly, such information may not be obtained at the time accounts are opened for customers who intend to trade only in corporate securities. Securities firms therefore have to establish special office and recordkeeping procedures to obtain the required information in the event a municipal securities transaction is ever effected for such accounts.

As indicated above, the Board believes that the deletion of subparagraph (E) will not contravene the stated purposes for requiring municipal securities brokers and municipal securities dealers to obtain customer account information. The information required by subparagraph (E) is not necessary to identify the customer since other provisions of rule G-8(a)(xi) accomplish this purpose more directly, and such information is not pertinent to the matter of whether a customer is authorized to effect transactions. Nor does information as to the name and address of a customer's employer provide meaningful information with respect to a customer's creditworthiness. Such information provides little insight, if any, with respect to a customer's financial resources or prospects. Further, to the extent that information regarding a customer's occupation may be tangentially relevant to this question, the Board notes that subparagraph (D) of rule G-8(a)(xi) requires municipal securities brokers and municipal securities dealers to obtain information regarding the occupation of each customer. Adequate internal supervision of customer accounts will not be affected by the deletion of subparagraph (E). In this regard, the Board notes that proposed Board rules G-26 and G-27 will require municipal securities brokers and municipal securities dealers to implement strict supervisory control over customer accounts and transactions in such accounts.

The Board also notes that proposed rule G-19 on suitability of recommendations imposes an affirmative obligation on municipal securities brokers and municipal securities dealers to obtain the necessary information in order to make a determination that a recommendation is suitable for a customer. Accordingly, although the specific identity of a customer's employer may not generally be relevant for such a determination, a municipal securities broker or municipal securities dealer would be required by this rule to obtain such information in those cases in which it may be relevant.

Information concerning a customer's employer will be relevant in the situation in which a customer is employed by another broker, dealer or municipal securities dealer. In such circumstances, a record of the identity of the employer will be necessary for the purpose of compliance with the Board's proposed rule G-28, relating to transactions with employees and partners of other municipal securities professionals. Accordingly, the Board has determined to amend subparagraph G-8(a)(xi)(I) (to be redesignated G-8(a)(xi)(H)) to require the recordation of the identity of an employer if the customer is employed by another broker, dealer or municipal securities dealer.

Basis Under the Act for Proposed Rule Changes

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(G) of the Securities Exchange Act of 1934, as amended (the "Act"), which requires and empowers the Board to adopt rules prescribing the records to be made and kept by municipal securities brokers and municipal securities dealers and the periods for which such records shall be preserved.

Comments Received From Members, Participants, or Others on Proposed Rule Changes

Comments were not solicited or received on the proposed rule changes. However, as noted above, the Board received comments from industry members critical of the requirement to obtain for each customer the name and address of the customer's employer.

Burden on Competition

The Board is of the opinion that the proposed rule changes will not impose any burden on competition.

On or before December 4, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 21, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

October 20, 1978.

Text of Proposed Rule Changes [1]

Rule G-8; Books and Records to be Made by Municipal Securities Brokers and Municipal Securities Dealers.

(a) Description of Books and Records Required to be Made. Except as otherwise specifically indicated in this rule, every municipal securities broker and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such municipal securities broker or municipal securities dealer:

(i) through (x) No change.

(xi) Customer Account Information. A record for each customer, other than an institutional account, setting forth the following information to the extent applicable to such customer:

(A) through (D) No change.

[(E) name and address of employer;]

(E)[(F)] name and address of beneficial owner or owners of such account if other than the customer and transactions are to be confirmed to such owner or owners;

(F)[(G)] signature of municipal securities representative or general securities representative introducing the account and signature of a municipal securities principal or general securities principal indicating acceptance of the account;

(G)[(H)] with respect to discretionary accounts, customer's written authorization to exercise discretionary power or authority with respect to the account, written approval of municipal securities principal who supervises the account, and written approval of municipal securities principal with respect to each transaction in the account, indicating the time and date of approval;

(H)[(I)] whether customer is employed by another broker, dealer, or municipal securities dealer *and, if so, the name of his employer;* and

(I)[(J)] in connection with the hypothecation of the customer's securities, the written authorization of, or the notice provided to, the customer in accordance with Commission rules 8c-1 and 15c2-1.

For purposes of this subparagraph, the terms "general securities representative" and "general securities principal" shall mean such persons as so defined by the rules of a national securities exchange or registered securities association. For purposes of this subparagraph, the term "institutional account" shall mean the account of an investment company as defined in section 3(a) of the Investment Company Act of 1940, a bank, an insurance company, or any other institutional type account. Anything in this subparagraph to the contrary notwithstanding, every municipal securities broker and municipal securities dealer shall maintain a record of the information required by items (A), (C), *(F)*, (G), [(H)] and *(I)*[(J)] of this subparagraph with respect to each customer which is an institutional account.

(xii) No change.

(b) through (g) No change.

October 20, 1978.

[FR Doc. 78-30581 Filed 10-27-78; 8:45 am]

[1] Italics indicate new language; brackets indicate deletions.

[8010-01-M]

[Release No. 15248; SR-MSRB-77-12]

MUNICIPAL SECURITIES RULEMAKING BOARD

Filing of Amended Proposed Rule Change by the Municipal Securities Rulemaking Board and Order Approving That Rule Change

October 19, 1978.

The Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, submitted on October 17, 1978, an amended proposed rule change under Rule 19b-4 amending proposed rule G-28, which was filed as part of a series of proposed rules and rule amendments previously filed with the Commission (File No. SR-MSRB-77-12). The general purpose of that series is to codify basic standards of fair and ethical business conduct for municipal securities professionals. The Commission today approved, with the exception of the proposed amendment to rule D-8, and proposed rules G-23 and G-28, that series of proposed rules and rule amendments (Securities Exchange Act Release No. 15247 (Oct. 19, 1978)).[1] Proposed rule G-28 was originally filed with the Commission on September 20, 1977 (Securities Exchange Act Release No. 13987 (Sept. 22, 1977), 42 FR 49856 (Sept. 28, 1977)), and previously was amended on February 28, 1978 (Securities Exchange Act Release No. 14519 (Mar. 2, 1978), 43 FR 9672 (Mar. 9, 1978)). Proposed rule G-28 establishes procedures for municipal securities professionals which are opening and maintaining accounts for employees and partners of other municipal securities professionals (or for their spouses or minor children) or effecting transactions in such accounts. The amendment would modify proposed rule G-28 to make it applicable only in the case where the municipal securities professional knows that a customer is an employee or partner or another municipal securities broker or municipal securities dealer, or that the customer is the spouse or minor child of such a person.

The text of proposed rule G-28, as amended, is as follows:

Rule G-28—Transactions With Employees and Partners of Other Municipal Securities Professionals

(a) *Account instructions.* No broker, dealer, or municipal securities dealer shall open or maintain an account in which transactions in municipal securities may be effected for a customer who such broker, dealer, or municipal securities dealers knows is employed by, or the partner of, another municipal securities broker or municipal securities dealer, or for or on behalf of the spouse or minor child of such a person, unless such broker, dealer, or municipal securities dealer first gives written notice with respect to the opening and maintenance of such account to the municipal securities broker or municipal securities dealer by whom such person is employed or of whom such person is a partner.

(b) *Account transactions.* No broker, dealer, or municipal securities dealer shall effect a transaction in municipal securities with or for an account subject to section (a) of this rule unless such broker, dealer, or municipal securities dealer:

(i) Sends simultaneously to the employing municipal securities broker or municipal securities dealer a duplicate copy of each confirmation sent to the customer, and

(ii) Acts in accordance with any written instructions which may be provided to the broker, dealer or municipal securities dealer by an employing municipal securities broker or municipal securities dealer with respect to transactions effected with or for such account.

(c) *Effectiveness.* The requirements of this rule shall become effective on December 18, 1978.

The Commission finds that the proposed rule, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder. In addition, the Commission finds good cause for approving the proposed rule prior to the thirtieth day after the date of publication of notice of filing of the amendment to the proposed rule. The proposed rule is one of a series of fair practice rules, the majority of which were approved by the Commission earlier today. Approval by this order of proposed rule G-28, will permit brokers, dealers, and municipal securities dealers to implement procedures for compliance with proposed rule G-28 and the other fair practice rules at the same time.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change on or before November 20, 1978. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-77-12.

Copies of the submission and all subsequent amendments, and copies of all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of section 552 of Title 5, United States Code, will be available for inspection and copying at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organization.

[1] The Commission deferred for future consideration the proposed amendment to rule D-8, the definition of "bank dealers," which would exclude the fiduciary activities of a bank municipal securities dealer from the scope of MSRB regulation, and proposed rule G-23, which concerns the activities of financial advisors.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the

above-mentioned proposed rule changes be, and they hereby are, ap-

dual listing would fragment the market for such stock.

been mailed. The amount of such late charge shall be fixed from time to time

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule, as amended, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30499 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 15247; SR-MSRB-77-12]

MUNICIPAL SECURITIES RULEMAKING BOARD

Order Approving Proposed Rule Changes

On September 20, 1977, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue NW., Washington, D.C. 20036, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder (17 CFR 240.19b-4), a series of 17 proposed rules collectively referred to as the MSRB proposed rules of fair practice. The MSRB filing also included three proposed definitional rules and two proposed amendments to rules currently in effect.

The MSRB's proposed fair practice rules represent a first attempt to codify basic standards of fair and ethical conduct for brokers, dealers, municipal securities dealers, and their associated persons in the municipal securities business. Pursuant to this objective, the proposed omnibus fair practice rule (proposed Rule G-17) would establish the general standard for conduct of a municipal securities business, requiring a municipal securities professional to deal fairly with all persons and not to engage in any deceptive, dishonest, or unfair practice. The other proposed fair practice rules would provide, in essence, an elaboration upon this general standard, by establishing guidelines for particular subject matters such as the suitability of recommendations and transactions, professional advertising, the administration of discretionary and other customer accounts, supervision of employees, the determination of prices and commissions for municipal securities, disclosures in connection with new issue municipal securities, and advertisements of such securities.

The proposed definitional rules which the MSRB included in its filing would define the terms "customer," "discretionary account," and "associated person." The proposed definitions would apply to all MSRB rules, not merely the proposed fair practice rules. The two proposed amendments to current rules would (i) amend the definition of "bank dealer" in MSRB Rule D-8 to exclude from regulation by the MSRB the fiduciary activities of bank municipal securities dealers, except as otherwise explicitly provided by an MSRB rule, and (ii) amend MSRB Rule G-13 concerning quotations to provide that no municipal securities broker or municipal securities dealer shall knowingly misrepresent a quotation relating to municipal securities made by any other broker, dealer, or municipal securities dealer.

The MSRB filed substantive amendments to certain of the proposed rule changes on February 28, 1978, June 30, 1978, and August 23, 1978. Notice of the proposed rule changes, and their amendments, together with the terms of substance thereof, was given by publication of Commission releases (Securities Exchange Act Release Nos. 13987 (Sept. 22, 1977), 14519 (Mar. 2, 1978), 14943 (July 7, 1978), and 15138 (Sept. 7, 1978)) and by publication in the FEDERAL REGISTER (42 FR 49856 (Sept. 28, 1977), 43 FR 9672 (Mar. 9, 1978), 43 FR 30379 (July 14, 1978), and 43 FR 41111 (Sept. 15, 12978)). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered by the Commission and were made available to the public at the Commission's Public Reference Room (File No. SR-MSRB-77-12).

The Commission finds that proposed Rules G-17 through G-22, G-24 through G-27, G-29 through G-33, D-9 through D-11, and the proposed amendment to Rule G-13 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, and in particular, the requirements of section 15B and the rules and regulations thereunder.[1]

Commission approval of a proposed rule change is based on the limited finding that such proposal is consistent with the Act. Accordingly, the Commission does not necessarily view the formulation of any particular proposed rule change approved by this order as the best formulation for purposes of meeting the MSRB's statutory mandate to propose and adopt rules that shall "be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, * * * and, in general, to protect investors and the public interest * * *."[2] In particular, the Commission intends to consider whether additional disclosure concerning underwriting arrangements should be required. Furthermore, although the Commission views the proposed rules of fair practice approved by this order as a worthwhile initial step towards codifying basic standards of fair and ethical conduct for municipal securities professionals, the Commission understands that the MSRB will continue to study whether it is necessary or appropriate to develop additional rules of fair practice.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the

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[1] In order to avoid any misinterpretation, it is necessary to clarify the manner in which proposed Rules D-11 and G-18 approved by this order would operate.

Proposed Rule D-11 is a definitional rule which, in general, provides that unless the context otherwise requires or a rule of the MSRB otherwise specifically provides, the terms "broker," "dealer," "municipal securities broker," "municipal securities dealer," and "bank dealer" shall be deemed to include their respective associated persons. Proposed Rule D-11, in its present form, could have an unintended result if applied to associated persons in situations where they perform functions other than those of a broker, dealer, or municipal securities dealer. The MSRB staff has indicated to the Commission staff that it will recommend that the MSRB amend proposed Rule D-11 to clarify that the rule refers to associated persons only to the extent such associated persons are performing, either with or for the municipal securities professional with which they are associated, "municipal securities dealer activities," as defined in Rule G-1(b) of the Board. Although Rule G-1(b) refers to "dealer activities," it includes activities performed by municipal securities brokers and has been used by the MSRB as a general description of the activities of a municipal securities professional. *See* MSRB Rule G-3(a)(i). The Commission is of the opinion that such an amendment would clarify the scope of proposed Rule D-11.

Proposed Rule G-18 requires that a municipal securities professional acting as agent shall make a reasonable effort to obtain a price for the customer that is fair and reasonable. The MSRB has indicated that such a professional may utilize the services of a "broker's broker" to obtain the fair and reasonable price for his customer (File No. SR-MSRB-77-12, p. 9 (Sept. 20, 1977)). It should be noted, however, that if a municipal securities professional uses the services of a "broker's broker," although the rule does not require him to duplicate the efforts of the municipal securities professional, he continues to have a duty to assure that a reasonble effort has been made to obtain a fair and reasonable price. The MSRB has interpreted proposed Rule G-18 to require a municipal securities professional acting as agent for a customer exercise the same high degree of care as the professional would if acting for its own account (File No. SR-MSRB-77-12, p. 8 (Sept. 20, 1977)). Furthermore, common law agency principles would not be effected by Commission approval of MSRB proposed Rule G-18, but would continue to apply to a municipal securities professional acting as agent for a customer (section 28(a) of the Act). Those principles impose a duty upon the agent to obtain the best price discoverable in the exercise of reasonable diligence (*Securities and Exchange Commission, Report of Special Study of Securities Markets,* H. Doc. No. 95, Pt. 2, 88th Cong., 1st Sess. 623, n. 223 (1963)).

[2] Section 15B(b)(2)(C) of the Act.

above-mentioned proposed rule changes be, and they hereby are, approved.

The Commission has determined to defer consideration of the proposed amendment to Rule D-8, the definition of "bank dealer," which would exclude the fiduciary activities of a bank from the scope of MSRB regulation, proposed Rule G-23, which concerns the activities of financial advisors, and proposed Rule G-28, which concerns transactions with employees and partners of other municipal securities professionals.[3]

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30500 Filed 10-27-78; 8:45 am]

[8010-01-M]

[File No. 1-4511]

PACIFIC NORTHWEST BELL TELEPHONE CO.

Application to Withdraw From Listing and Registration

OCTOBER 23, 1978.

The above-named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Pacific Northwest Bell Telephone Co. (the "Company") has been listed for trading on the Amex since September 14, 1961. On February 17, 1978, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"). In making the decision to withdraw its common stock from listing and registration on the Amex, the company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The amex has posed no objection in this matter.

Any interested person may, on or before November 24, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-30498 Filed 10-26-78; 8:45 am]

[8010-01-M]

[Release No. 34-15256; File No. SR-SCCP-78-4]

STOCK CLEARING CORP. OF PHILADELPHIA

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

The Stock Clearing Corp. of Philadelphia ("SCCP") proposes a new Rule 25 and supplementary material establishing a late charge to be imposed by SCCP on clearing members for delinquent payment of dues, fees, fines, or other charges owed SCCP. The text of the proposed rule and supplementary material follows (italics indicate new material):

Rule 25. There shall be imposed upon any clearing member using the facilities or services of the Clearing Corporation, or enjoying any of the privileges therein, a late charge until payment is received of dues, fees, fines, or other charges imposed by the Clearing Corporation and not paid within thirty (30) days after notice thereof has been mailed. The amount of such late charge shall be fixed from time to time by the Board of Directors. If any clearing member shall fail to pay such dues, fees, fines, or other charge, including late charges, within ninety (90) days after notice thereof has been mailed, the Controller shall so notify the Board of Directors which shall take such action as it may deem appropriate.

** * * Supplementary Material*

The amount of the late charge authorized by Rule 25 has been established at the rate of one percent (1%) per month.

BASIS AND PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule is to promote efficiency of operation and adequate cash flow for provision of services in a membership organization.

The proposed rule is consistent with the requirement that clearing agency rules provide for equitable allocation of reasonable dues, fees, and other charges among participating members. Delinquent members should not expect to be subsidized indirectly by SCCP and other members whose payments are timely.

SCCP believes that the late charge is an equitable allocation made to encourage uniformity in timely payment. The period allowed for timely payment and the rate of the delinquent charge are in line with standard commercial usage.

No comments have been solicited or received by SCCP regarding the proposed rule change.

SCCP believes that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-

[3] The proposed amendment to Rule D-8 raises considerations which have not yet been resolved. Proposed Rule G-23 was recently amended by the MSRB, and the MSRB has requested that the Commission defer consideration of that rule so that action on the other rules filed will not be delayed pending analysis by the Commission and its staff of whatever comments are received with respect to the amendment. Proposed Rule G-28 was amended by an MSRB filing of October 17, 1978, and today was approved by the Commission in a separate release (Securities Exchange Act Release No. 15246 (Oct. 19, 1978)).

regulatory organization. All submissions should refer to the file number

shall not be registered as a national securities association unless the Com-

For the Commission, by the Division of Market Regulation, pursuant to del-

[4710-01-M]

DEPARTMENT OF STATE

Dated: October 20, 1978.

RICHARD H. HOWARTH,
Chairman,

Pending appointment of an Assistant Secretary for International Narcotics Matters, the functions delegated

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regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 20, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30503 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 34-15258; File No. SR-NASD-78-12]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 25, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF NASD'S PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to Schedule D of Article XVI of the bylaws of the National Association of Securities Dealers, Inc. Part IV of Schedule D shall be amended by the addition of section H as follows (new material is italicized):

H. Late Fees.

All NASDAQ Service Charges which are past due for 60 days or more shall be subject to a late fee of 10 percent of the amount past due.

NASD'S STATEMENT ON PURPOSE OF PROPOSED RULE CHANGE

A small number of NASDAQ subscribers fail to make payment in a timely manner. Such failure leads to additional costs for followup procedures and other collection efforts. The Association does not believe that the costs of such collection efforts should continue to be borne by all NASDAQ subscribers, but should be borne by those subscribers who caused them. The proposed amendment establishing a 10 percent late fee on accounts past due 60 days or more is intended to recover the costs of the followup procedures and collection efforts.

NASD'S STATEMENT ON BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b)(5) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

NASD'S STATEMENT ON COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Article XVI, section 3 of the Association's bylaws provides that membership approval of a change in schedule D is not necessary. However, comments from the membership were solicited. Of four comments received, three were unqualifiedly favorable. The fourth comment was generally favorable but indicated some reservation with respect to assessing the late fee on bona fide disputed items. The Association will not assess a late fee in the case of a bona fide dispute.

NASD'S STATEMENT ON BURDEN ON COMPETITION

The Association believes this proposal will not impose a burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the abovementioned self-regulatory organization consents, the Commission will: (a) By order approve such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 14, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30579 Filed 10-27-78; 8:45 am]

[8010-01-M]

[Release No. 34-15259; File No. SR-NASD-78-15]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

On September 25, 1978, the National Association of Securities Dealers, Inc. ("NASD"), rescinded a rule which had become effective upon filing (SR-NASD-78-9 filed July 25, 1978) pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934 and which had increased the variable portion of its annual membership assessment. It simultaneously submitted a new proposal (SR-NASD-78-15) identical in substance to the one submitted as File No. SR-NASD-78-9. That proposal became effective upon filing pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934. Thus, the Commission may summarily abrogate it on or before November 24, 1978.

Publication of the original submission was made in 43 FR 37046 (August 21, 1978). Interested persons are invited to submit written data, views and arguments concerning the new submission on or before November 14, 1978. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NASD-78-15.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the NASD.

For the Commission by the division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30580 Filed 10-27-78; 8:45 am]

[4710-01-M]

DEPARTMENT OF STATE

[Public Notice 637; Delegation of Authority No. 120-2]

ASSISTANT SECRETARY FOR ADMINISTRATION

Delegation of Authority

By virtue of the authority vested in me by section 4 of the Act of May 26, 1949 (63 Stat. 111, 22 U.S.C. 2658), as amended, State Department Delegation of Authority No. 120 of October 30, 1969 (Public Notice No. 318, 34 FR 18095) is amended as follows:

1. The phrase "heretofore reserved to or performed by the Deputy Under Secretary for Administration" in paragraph 2 is deleted;

2. The phrase "Deputy Under Secretary for Administration" is amended to read "Under Secretary for Management" each time it appears.

Dated: October 12, 1978,

CYRUS R. VANCE,
Secretary of State.

[FR Doc. 78-30557 Filed 10-27-78; 8:45 am]

[4710-07-M]

[Public Notice CM-8/122]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on November 20, 1978 at 10 a.m. in room 856 of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, data, videotex, maritime mobile and leased channel services in order to develop U.S. positions to be taken at international CCITT meetings to be held in December 1978 and during 1979, in Geneva, Switzerland.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Richard H. Howarth, State Department, Washington, D.C. 20520, telephone 202-632-1007.

Dated: October 20, 1978.

RICHARD H. HOWARTH,
Chairman,
U.S. CCITT National Committee.

[FR Doc. 78-30559 Filed 10-27-78; 8:45 am]

[4710-01-M]

[Public Notice 636; Delegation of Authority No. 104-12]

ASSISTANT SECRETARY FOR INTERNATIONAL NARCOTICS MATTERS

Delegation of Authority

By virtue of the authority vested in me by section 621(a) of the Foreign Assistance Act of 1961, as amended (75 Stat. 445, 22 U.S.C. 2381), and by section 4 of the Act of May 26, 1949, as amended (63 Stat. 111, 22 U.S.C. 2658), State Department Delegation of Authority No. 104 of November 3, 1961 (26 FR 10608), as heretofore amended, is hereby further amended as follows:

Section 6(b)(5) is amended to read as follows:

"(5) To the Assistant Secretary for International Narcotics Matters:

"(A) Those functions conferred upon the President by section 481 of the Act, together with all those authorities contained in the Act, to the extent necessary or appropriate to accomplish the purposes of Section 481 of the Act: *Provided:* That Department of State procurement for the international narcotics control program shall be carried out in accordance with Department of State Procurement Regulations (41 CFR Chapter 6).

"(B) Those functions conferred upon the Secretary of State by the determination of the President pursuant to section 604(a) of the Act, dated October 18, 1961 (26 FR 10543), and by section 4 of Executive Order 11223 of May 12, 1965 (30 FR 6635).

"(C) The functions of negotiating, concluding and terminating international agreements relating to international narcotics control programs subject to the concurrences required by the State Department Circular 175 Procedure."

This delegation of authority supersedes and cancels Delegation of Authority No. 104-9 of November 16, 1973 (Public Notice 408, 38 FR 34130): *Provided:* That all determinations, authorizations, regulations, rulings, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

Pending appointment of an Assistant Secretary for International Narcotics Matters, the functions delegated herein may be performed by the Senior Advisor for International Narcotics Matters.

Dated: October 12, 1978.

CYRUS R. VANCE,
Secretary of State.

[FR Doc. 78-30558 Filed 10-27-78; 8:45 am]

[4910-13-M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT TRAFFIC CONTROL TOWER AT PATRICK HENRY INTERNATIONAL AIRPORT, NEWPORT NEWS, VA.

Reduced Hours of Operation

Notice is hereby given that the Airport Traffic Control Tower at Patrick Henry International Airport, Newport News, Va., will reduce its hours of operation effective December 31, 1978. Hours of operations will be at 7 a.m. to midnight daily.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354.)

Issued in New York, N.Y., on October 20, 1978.

IRVING MARK,
Acting Regional Director.

[FR Doc. 78-30521 Filed 10-27-78; 8:45 am]

[4910-22-M]

Federal Highway Administration

[FHWA Docket No. 76-9]

BAYONNE BRIDGE, GOETHALS BRIDGE, GEORGE WASHINGTON BRIDGE, AND OUTERBRIDGE CROSSING TOLLS

Order of the Administrator

The Federal Highway Administrator in his order of August 9, 1977, directed the Port Authority of New York and New Jersey (PANYNJ) "to prepare and submit to the Administrator and all parties a comprehensive feasibility study and recommendations for peak-hour charges and the impact that carpooling and commuter discounts have upon congestion" within one year of the date of the final order, November 7, 1977.

The PANYNJ on September 20, 1978, requested an extension of the time to file this feasibility study to January 30, 1979. The request of PANYNJ which states its reasons for the extension was served on all parties of record, and the Administrator by order of September 28, 1978, served notice on all parties for objections to the extension of time for filing this study to be filed with the Administra-

tor by close of business October 13, 1978.

ington, D.C. 20590, telephone 202-426-2872.

but does not significantly alter the closing procedures.

ST. LAMBERT-IROQUOIS SEGMENT

Unique ice conditions are encoun-

[8320-01-M]

VETERANS ADMINISTRATION

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

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tor by close of business October 13, 1978.

The Administrator has received only one comment on his order of September 28, 1978, and that was from the Environmental Defense Fund stating no objections to the granting of this extension. The Fund indicated that its primary interest in the study is not that it be completed by a specific date, but that it be as comprehensive, well-designed and scientifically reliable as possible.

Wherefore, the Administrator finds that there are no objections to the granting of this extension and the Administrator's decision of August 9, 1977, is hereby amended to direct that the feasibility study for peak-hour charges and the impact that carpooling and commuter discounts have upon congestion shall be filed with the Administrator by January 30, 1979. All other portions of the August 9, 1977, and November 7, 1977, orders shall remain in full force and effect.

Issued this 19th day of October 1978, in Washington, D.C.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc 78-30560 Filed 10-27-78; 8:45 am]

[4910-59-M]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Highway Safety Advisory Committee's Highway Safety Data Task Force. This meeting will take place on November 15 and 16 starting at 9 a.m. in room 6200 of the Department of Transportation Headquarters Building.

The Task Force will hear briefings from NHTSA and FHWA on the need for data, its sources and quality, and data systems presently in operation or planned to collect that data.

Attendance is open to the interested public, but limited to the space available. With the approval of the chairperson, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate Department of Transportation officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C. 20590, telephone 202-426-2872.

Issued in Washington, D.C., on October 23, 1978.

WM. H. MARSH,
Executive Secretary.

[FR Doc. 78-30405 Filed 10-27-78; 8:45 am]

[4910-61-M]

St. Lawrence Seaway Development Corporation

PROCEDURES FOR CLOSING OF 1978 NAVIGATION SEASON

On April 4, 1978, the St. Lawrence Seaway Development Corporation published in the FEDERAL REGISTER (43 FR 14197) proposed procedures to be implemented during the closing of the 1978 navigation season on the Montreal-Lake Ontario section of the St. Lawrence Seaway. The public was invited to submit comments on those procedures by April 15, 1978. Subsequently, it was decided, after consultation with the Canadian St. Lawrence Seaway Authority, to extend the comment period to May 1, 1978 (43 FR 17089). On August 1, 1978, Seaway Notice Affecting Navigation No. 20 of 1978 was distributed to mariners describing the procedures finally adopted.

The purpose of announcing the closing procedures is to provide for a more orderly end to the navigation season on the St. Lawrence Seaway than has been effected over the past several years and to minimize the operating difficulties and uncertainties encountered both by users of the system and the Seaway entities of the United States and Canada. Additionally, it is hoped that by being made aware of the closing procedures, vessel operators and owners will schedule their end-of-season transits so as to avoid the very real possibility of being trapped in the Seaway system throughout the winter.

Several comments were received in response to the proposed closing procedures. These were jointly reviewed by the Seaway Corporation and the St. Lawrence Seaway Authority of Canada. The procedures have also been discussed with representatives of affected segments of the vessel industry. As a result of the Seaway entities' joint review and discussions with industry representatives, the procedures have been revised as follows:

(1) The reference to December 17 as the official closing date of the Seaway system has been eliminated as it resulted in some confusion.

(2) The identification of the reporting point for vessels transiting downbound has been changed from "CIP Whaleback" to "CIP Crossover Island." This reflects a recent change in Seaway communication procedures but does not significantly alter the closing procedures.

(3) The dollar amounts of the operational surcharge to be assessed those vessels reporting after December 15 at the designated call-in points, and which are able to complete their transits, have been reduced from $25,000 for each day late in reporting with a $100,000 maximum surcharge to $20,000 a day with an $80,000 maximum.

(4) The restrictions dealing with vessel dimensions, draft and horsepower have been substantially revised from those proposed on April 4. Such restrictions will now become effective December 7 rather than December 5 and will be somewhat less stringent than those originally considered. More stringent restrictions will, however, be in effect for transits on and after December 12.

(5) A provision has been added to the procedures which requires that each vessel have sufficient aft draft to fully submerge its propeller.

The closing procedures are being established in the United States by the St. Lawrence Seaway Development Corporation pursuant to authority contained in the Act of May 13, 1954 (33 U.S.C. 981-988).

To provide for an orderly end to the 1978 navigation season for the Montreal-Lake Ontario section, the following procedures are established:

1. Upbound vessels transiting into the Great Lakes and wishing to return downbound through St. Lambert Lock will be accepted for transit at CIP 15, Welland Canal up to 2400 hours, December 6, 1978.

2. Downbound vessels will be accepted for transit at CIP Crossover Island up to 2400 hours, December 15, 1978.

3. Upbound vessels will be accepted for transit at Cap St. Michel up to 2400 hours, December 15, 1978.

4. Vessels which have complied with these call-in procedures will be cleared through the system, operating conditions permitting.

5. Vessels which have not reported at the designated call-in points at Crossover Island and Cap St. Michel may be allowed to transit if, in the sole judgment of the Seaway entities, such transits can be permitted. If such transits are allowed, these transit privileges will be assessed an operational surcharge for the transit as follows:

For vessels reporting on: December 16, 1978, $20,000; December 17, 1978, $40,000; December 18, 1978, $60,000; December 19, 1978; and thereafter, $80,000.

The Seaway entities, in their discretion, may adjust the above dates and corresponding surcharges should circumstances within their operational control so require.

ST. LAMBERT-IROQUOIS SEGMENT

Unique ice conditions are encountered in the St. Lambert-Iroquois Segment. The limits of this Segment are defined as CIP 2 (upbound) and Cardinal (downbound). To reduce the problem of lengthy delays caused by vessels operating in ice, the following restrictions, if necessary, will apply during the 1978 navigation season:

1. From 0001 hours on December 7, vessels in the following categories will not be accepted for transit between St. Lambert and Iroquois Locks:

UPBOUND

(a) Vessels with a power-to-length ratio of less than 20:1 (kW/meter).
(b) Vessels with a forward draft of less than 40 dm.

DOWNBOUND

(a) Vessels with a power-to-length ratio of less than 15:1 (kW/meter).
(b) Vessels with a minimum forward draft of less than 20 dm.

2. From 0001 hours on December 12, vessels in the following categories will not be accepted for transit between St. Lambert and Iroquois Locks:

UPBOUND

(a) Vessels with a power-to-length ratio of less than 24:1 (kW/meter).
(b) Vessels with a forward draft of less than 50 dm.

DOWNBOUND

(a) Vessels with a power-to-length ratio of less than 15:1 (kW/meter).
(b) Vessels with a forward draft of less than 25 dm.

In all cases, the aft draft is to be sufficient to have the propeller fully submerged.

NOTES.—(i) The above draft limitations do not apply to tugs.

(ii) For determining the power-to-length ratio, the information contained in the Lloyd's Registry will be used.

(iii) Vessel operators may utilize a tug of about 3,000 HP to augment the power of a vessel. In calculating the vessel's power-to-length ratio, 50 percent of the tug's horsepower can be added to the vessel's power.

Operators are reminded that the above restrictions are minimum and do not assure transit, and that the Seaway entities will adjust the restrictions as ice conditions may dictate.

Dated: October 24, 1978.

D. W. OBERLIN,
Administrator, St. Lawrence Seaway Development Corporation.

[FR Doc. 78-30550 Filed 10-27-78; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 27, 1978, at 1 p.m., the Veterans Administation Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tenn., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in National School of Business, Inc., 1412 South Lee Highway, Cleveland, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: October 23, 1978.

R. S. BIELAK,
Director, VA Regional Office, 110 9th Avenue, South, Nashville, Tenn.

[FR Doc. 78-30561 Filed 10-27-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 25, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43616, Southwestern Freight Bureau, Agent's No. B-774, rates on ethylene glycol, from Port Neches, Tex., to Forster, S.C., in supplemental 2 to its Tariff 11-J, ICC 5348, to become effective December 1, 1978. Grounds for relief—market competition.

FSA No. 43617, Lykes Bros. Steamship Co., Inc., No. 7, intermodal rates on general commodities, between European, African, Mediterranean, Middle, and Far Eastern ports, and Pacific Northwestern ports in the United States, via U.S. Gulf coast ports, in its Tariffs 1, 2, 3, 4, 7, and 8, ICC Nos. 1, 2, 3, 4, 7, and 8, respectively, to become effective November 24, 1978. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30614 Filed 10-27-78; 8:45 am]

[7035-01-M]

MINIMIZE DISRUPTIONS OR TEMPORARY SUSPENSION OF RAIL OPERATIONS WHEN SEVERE WINTER STORMS OCCUR

Informal Public Conference

AGENCY: Interstate Commerce Commission.

ACTION: Informal Public Conference to be held by the Bureau of Operations, November 8, 1978, Conrad Hilton Hotel, Chicago, Ill., 9 a.m., in the Waldorf Room.

SUMMARY: Informal Conference will bring together shippers, receivers of freight, railroads, State officials, and representatives of Federal agencies to discuss what plans can be made to minimize disruptions or temporary suspensions of rail operations when severe winter storms occur.

FOR FURTHER INFORMATION CONTACT:

William J. Love, Assistant to the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7614.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30619 Filed 10-27-78; 8:45 am]

[1505-01-M]

[Vol. No. 107]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-21410, appearing at page 34258 in the issue of Thursday, August 3, 1978, is corrected as follows:

1. MC 106963 (Sub-1F), second full paragraph, middle column, page 34260, should be designated as set out at the beginning of this sentence.

[7035-01-M]

TRANSPORTATION OF HOUSEHOLD GOODS BY MOTOR COMMON CARRIERS

Informal Conference

AGENCY: Interstate Commerce Commission

ACTION: Notice that the Commission intends to conduct an informal confer-

ence with motor common carriers of household goods in interstate or for-

SUPPLEMENTARY STATEMENT

The announcement set forth above does

called for redemption shall cease on the date of redemption specified in the

the amount may not exceed $1,000,000.

will be paid on all of the securities. Based on such interest rate, the price

(b) Wednesday, November 8, 1978, if the check is drawn on a bank in an-

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ence with motor common carriers of household goods in interstate or foreign commerce on October 30, 1978.

SUMMARY: This notice is to inform the public that the Interstate Commerce Commission will conduct an informal conference with motor common carriers of household goods subject to the jurisdiction of the Commission. The agenda for the conference includes; estimating accuracy; the Commission's use of the media; weighing of household goods shipments and ethical practices; deregulation of government traffic; the financial stability of movers, and the industry's future which, in turn, includes need for current triangular structure, reasonable dispatch, paperwork burden, sub 8 compliance and other deregulation efforts.

FOR FURTHER INFORMATION CONTACT:

Joel E. Burns, Director, Bureau of Operations, Room 7115, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, 202-275-7849.

Peter M. Shannon, Director, Bureau of Investigations and Enforcement, Room 7417, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, 202-275-7594.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-30615 Filed 10-27-78; 8:45 am]

[4810-40-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular: Public Debt Series—No. 24-78]

TREASURY NOTES OF SERIES U-1980

Interest Rate

October 25, 1978.

The Secretary of the Treasury announced on October 24, 1978, that the interest rate on the notes designated Series U-1980, described in Department Circular—Public Debt Series—No. 24-78, dated October 18, 1978, will be 8⅞ percent. Interest on the notes will be payable at the rate of 8⅞ percent per annum.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regualtions.

[FR Doc. 78-30551 Filed 10-27-78; 8:45 am]

[4810-40-M]

Office of the Secretary

[Department Circular Public Debt Series No. 27-78]

TREASURY BONDS

Series 2003-2008

Washington, October 26, 1978.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,750,000,000 of the United States securities, designated Treasury Bonds of 2003-2008 (CUSIP No. 912810 CE 6). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1978, and will bear interest from that date, payable on a semiannual basis on May 15, 1979, each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature on November 15, 2008, but may be redeemed at the option of the United States on and after November 15, 2003, in whole or in part, at par and accrued interest on any interest payment date or dates, on 4 months' notice of call given in such manner as the Secretary of the Treasury shall prescribe. In case of partial call, the securities to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. Interest on the securities called for redemption shall cease on the date of redemption specified in the notice of call.

2.2 The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, November 2, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, November 1, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and

the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a one-eighth of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicant when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, November 15, 1978, at the Federal Reserve bank or branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, November 9, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, November 8, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of te face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to Federal Reserve bank or branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve bank or branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be re-

turned at the risk and expense of the

ties. Additional amounts may also be

on the tender form in lieu of a specified yield. No bidder may submit more

close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That rate of interest

case of the Bureau of the Public Debt), or

(b) Wednesday, November 8, 1978, if

The interim certificates must be returned at the risk and expense of the holder.

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turned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

Treasury Securities—Treasury Announces Auction of 3½-Year Notes, 10-Year Notes, and 30-Year Bonds

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-30824 Filed 10-27-78; 10:42 am]

[4810-40-M]

[Department Circular Public Debt Series—No. 26-78]

TREASURY NOTES OF NOVEMBER 15, 1988

Series B-1988

Washington, October 26, 1978.

1. Invitation For Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of United States securities, designated Treasury Notes of November 15, 1988, Series B-1988 (CUSIP No. 912827 JE 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated November 15, 1978, and will bear interest from that date, payable on a semiannual basis on May 15, 1979, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 1988, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve banks and branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 1, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 31, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a one-eighth of 1 percent increment, which results in an equivalent average accepted price

close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, November 15, 1978, at the Federal Reserve bank or branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, November 9, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, November 8, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve bank or branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve bank or branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,
Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-30823 Filed 10-27-78; 8:45 am]

[4810-40-M]

[Department Circular, Public Debt Series—No. 25-78]

TREASURY NOTES OF MAY 15, 1982

Series K-1982

Washington, October 26, 1978.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,500,000,000 of U.S. securities, designated Treasury notes of May 15, 1982, series K-1982 (CUSIP No. 912827 JD 5). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve banks as agents of

foreign and international monetary authorities.

not be accepted unless they are payable at the applicable Federal Reserve

coupon form are desired, the assignment should be to "The Secretary of

ed by the Secretary of the Treasury, to issue such notices as may be neces-

V 4 3 / 2 1 0 0 C 3 0 7 8

foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated November 15, 1978, and will bear interest from that date, payable on a semiannual basis on May 15, 1979, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature May 15, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing U.S. securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve banks and branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., e.s.t., Tuesday, October 31, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, October 30, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same condlitions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are definded as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of one-eighth of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. RESERVATION

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, November 15, 1978, at the Federal Reserve bank or branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, November 9, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, November 8, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forefeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve bank or branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve bank or branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Fiscal Assistant Secretary.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 78-30822 Filed 10-27-78; 10:42 am]

[1505-01-M]

WATER RESOURCES COUNCIL

PRINCIPLES AND STANDARDS FOR PLANNING WATER AND RELATED LAND RESOURCES

Change in Discount Rate

Correction

In FR Doc. 78-30408 appearing at page 50276 in the issue for Friday, October 27, 1978, in the first paragraph of the document, the interest rate referred to as "• • • 7⅜ percent" should have read "• • • 6⅞ percent • • •".

sunshine act meetings

552b(c)(9)(B) and 10 and 14 CFR Section 410b.5(9)(B) and (10) and that the

TIME AND DATE: 2 p.m., November 1, 1978.

[6820-12-M]

V 43/210 OC 30 78

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

[M-172, Amdt. 4, Oct. 26, 1978]

CIVIL AERONAUTICS BOARD.

Notice of change of time.

TIME: 10:30 a.m., October 26, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: See M-172.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2184-78 Filed 10-26-78; 4:33 pm]

[6320-01-M]

2

[M-174, Oct. 25, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., November 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Oral Argument: Docket 21670, Frontier Airlines, Inc., subsidy mail rates.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary. 202-673-5068.

[S-2185 Filed 10-26-78; 4:33 pm]

[6320-01-M]

3

[M-172, Amdt. 3; Oct. 25, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 26, 1978, agenda.

TIME AND DATE: 10 a.m., October 26, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3a. Docket 26291, Petition for immediate restoration of adequate air service for American Samoa (Memo 7651-D, BPDA, BIA, BCP, OCCR, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Board in its closed meeting on October 24, 1978, voted to add this item to the October 26, 1978, agenda in order to hold discussion of adequacy aspects in public session as soon as possible. Accordingly, the following Members voted on October 24, 1978, that agency business requires the addition of item 3a to the October 26, 1978, agenda and that no earlier announcement of this addition was possible:

Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

All amemdments to previously announced agendas are publicly posted at the Board's offices, sent to the FEDERAL REGISTER for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2186-78 Filed 10-26-78; 4:33 pm]

[6320-01-M]

4

[M-173, Amdt. 3, Oct. 24, 1978]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 24, 1978, agenda.

TIME AND DATE: 2 p.m., October 24, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (6) BIA briefing concerning ongoing consultations with the Netherlands and proposed ad referendum agreement with Peru.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This meeting will concern the Board's view about implementation of U.S. policies in Dutch and Peruvian negotiations. Public disclosure, particularly to foreign governments with whom the United States is or will be negotiating, of the opinions, evaluations, and strategies of the Board and its staff could seriously compromise the ability of the U.S. Delegations to achieve agreements which would be in the best interests of the United States. Accordingly, the following Members have voted that public observation of this item would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting on this item will be closed.

Chairman, Alfred E. Kahn
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

On Saturday, October 21, 1978, negotiations with Peru were recessed. The Department of State orally requested the Board's views on the next steps the United States should take with respect to these negotiations as soon as possible in order that the Department of State may quickly respond to the Peruvian Government. The Director of BIA received a phone call from the U.S. Delegation Chairman to the Dutch negotiations in the Hague on October 24. The chairman requested the Board's views on the course of action that should be taken with respect to these negotiations prior to the next session on the morning of October 25. Accordingly, the following Members have voted that agency business requires the addition of this item to the October 24, 1978, agenda and that no earlier announcement of this addition was possible:

Chairman, Alfred E. Kahn
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member, Marvin S. Cohen

PERSONS EXPECTED TO ATTEND

See M-173 dated 10-20-78.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 10 and 14 CFR Section 410b.5(9)(B) and (10) and that the meeting may be closed to public observation.

PHILIP J. BAKES, Jr.,
General Counsel.

All amendments to previously announced agendas are publicly posted at the Board's offices, sent to the Federal Register for publication, and mailed to parties to docketed cases affected by the change. We regret any inconvenience that may be caused by these changes or the delayed receipt of our notices.

[S-2187-78 Filed 10-26-78; 4:33 pm]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 31, 1978, and continuation on November 1, 1978, if necessary.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Dealer options.
Final rule for dealer options reporting requirements.
White Weld petition for exemption from suspension.
Resolution of issues relating to the pilot program for commodity options on domestic boards of trades.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2183-78 Filed 10-26-78; 4:33 pm]

[6351-01-M]

6

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 206, October 24, 1978, page 49603.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., October 27, 1978.

CHANGES IN THE MEETING: The meeting has been postponed until October 30, 1978, at 11 a.m.

[S-2182-78 Filed 10-26-78; 4:33 pm]

[6351-01-M]

7

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2 p.m., November 1, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2181-78 Filed 10-26-78; 4:33 pm]

[6715-01-M]

8

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, November 1, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

DATE AND TIME: Thursday, November 2, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Audit policy.
Legal authority for bookkeeping and reporting manual for Presidential candidates.
Earmarked contributions.
Appropriations and budget.
Presidential campaign disclosure form (if not concluded October 26.)
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administative matters.

Portions of the meeting closed to the public:

Any matters not concluded on November 1, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2176-78 Filed 10-26-78; 8:45 am]

[6820-12-M]

9

OCTOBER 26, 1978.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: Wednesday, October 25, 1978, 11 a.m.

PLACE: Room 610, 1730 K Street NW., Washington, D.C. 20006.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTER CONSIDERED: Grundy Mining Co., 78-3424 (6th Cir. filed August 3, 1978). This meeting involved the Commission's participation in a civil action.

VOTE: Voting to close the meeting: Commissioners Waldie (Chairman), Jestrab, Lawson, and Nease. It was determined by this vote that Commission business required that this meeting be closed. Further, the Commission members voted to hold the meeting immediately on the basis that agency business so required and to issue public notice as soon as practicable.

ATTENDANCE: Present at the meeting were: Commissioners Waldie (Chairman), Jestrab, Lawson, and Nease; Al Treherne; Robert Phares; Mary Masulla; General Counsel Robert Pleasure; and Gerry Dixon, Secretary.

CONTACT PERSON FOR MORE INFORMATION:

Office of Executive Director, 202-653-5644.

CERTIFICATION OF CLOSED MEETING

The General Counsel, in accordance with section 3(f)(1) of the Government in the Sunshine Act (5 U.S.C. 552b(f)(1)), hereby certifies that the Commission meeting of October 25, 1978, at which the Commission discussed a civil action (Grundy Mining Co., No. 78-3424 6th Cir. filed August 3, 1978) was properly closed to the public on the basis of the exemption set forth in 5 U.S.C. 552b(c)(10).

ROBERT PLEASURE,
General Counsel.

OCTOBER 26, 1978.

[S-2188-78 Filed 10-26-78; 4:33 pm]

[6210-01-M]

10

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49108, October 20, 1978.

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PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 25, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees. (This matter was originally announced for a meeting on Friday, October 27, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 25, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2178-78 Filed 10-26-78; 9:05 am]

[8010-01-M]

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49109, October 20, 1978.

STATUS: Open meeting; closed meeting.

DATE AND TIME: Wednesday, October 25, 1978, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

The following item will not be considered by the Commission at the open meeting scheduled for Wednesday, October 25, 1978, at 10 a.m., but has been rescheduled for consideration on Wednesday, November 1, 1978:

Consideration of whether or not to approve proposed rules submitted by the Securities Investor Protection Corporation setting forth requirements for the closeout or completion of open contractual commitments. For further information, please contact Linda Kurjan at 202-755-7470.

The following items will be considered by the Commission at a closed meeting scheduled for Wednesday, October 25, 1978, immediately following the 10 a.m. open meeting:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal order.
Other litigation matters.
Subpena enforcement actions.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402 (a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

OCTOBER 24, 1978.

[S-2179-78 Filed 10-26-78; 9:54 am]

[8010-01-M]

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 30, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, November 1, 1978, at 10 a.m. Closed meetings will be held on Tuesday, October 31, 1978, at 10 a.m., and on Wednesday, November 1, 1978, immediately following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 31, 1978, at 10 a.m., will be:

Access to investigative files by Federal, State or self-regulatory authorities.
Formal order of investigation.
Freedom of Information Act appeal.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Order compelling testimony.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Other litigation matters.

The subject matter of the open meeting scheduled for Wednesday, November 1, 1978, at 10 a.m., will be:

1. Consideration of the application of John R. Patterson asking permission for him to become associated with Offerman & Co., Inc., a registered broker-dealer, as a registered representative in a nonsupervisory, nonproprietary capacity with adequate supervision. For further information, please contact David P. Tennant at 202-376-2036.

2. Consideration of an application filed by Claremont Capitol Corp., a nondiversified closed-end, management investment company registered under the Investment Company Act of 1940 (the "Act"), and Mr. Allen H. Parkinson, the Chairman of the Board of Infoton, Inc., pursuant to section 17(b) of the Act requesting an order of the Commission exempting the proposed sale by Claremont to Mr. Parkinson of 237,500 shares of common stock of Infoton at approximately $0.63 per share from the provisions of section 17(a) of the Act. For further information, please contact Glen A. Payne at 202-755-1739.

3. Consideration of whether or not the Commission should: (1) Issue notice of an application filed by Foster Management Co. for an order pursuant to section 206A of the Investment Advisers Act of 1940 and (2) authorize its Secretary to issue an order "By the Commission" granting the application, if no requests for a hearing are received. For further information, please contact Mark J. Mackey at 202-755-1547.

4. Consideration of the issuance of an interpretative release reflecting the views of its Division of Investment Management with respect to rule 13f-1 and related form 13F under the Securities Exchange Act of 1934. For further information, please contact Mark J. Mackey at 202-755-1547.

5. Consideration of whether or not to adopt an amendment to rule 6 of the Commission's Rules of Practice to specify which persons should receive notice of Commission stop order proceedings. For further information, please contact Linda Griggs at 202-755-1803.

6. Consideration of a proposed release announcing (1) the adoption of revised guidelines for the disclosure of projections of future economic performance, and (2) the proposal of rules that would provide a "safe-harbor" from the liability provisions of the Federal securities laws for projections that are prepared with a reasonable basis and disclosed in good faith. For further information, please contact Steven J. Paggioli at 202-376-8090.

7. Consideration of whether or not to approve proposed amendments to rules relating to the form of filings received by the Commission under the Federal securities laws whereby all such filings will be numbered sequentially from the first page of the filing through the last page of any exhibit or attachment thereto. For further information, please contact Roderic L. Woodson at 202-523-5530.

The subject matter of the closed meeting scheduled for Wednesday, November 1, 1978, immediately following the 10 a.m. open meeting, will be:

Litigation matters.
Freedom of Information Act appeal.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Beverly C. Rubman at 202-755-1103.

OCTOBER 25, 1978.

[S-2180-78 Filed 10-26-78; 9:54 am]

[8120-01-M]

13

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Wednesday, November 1, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED: Program to assist small independent coal operators.

MATTERS FOR ACTION:

CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Renewal of personal service contract with Butler-Arde', Inc., Englewood Cliffs, N.J.—Office of Engineering Design and Construction.

2. Renewal of personal service contract with CDI Corp., Philadelphia, Pa.—Office of Engineering Design and Construction.

PURCHASE AWARDS

1. Req. No. 152083—Boiler tubing for Kingston Steam Plant.

2. Req. No. 823525—6,900-volt recirculating pump swichgear for Hartsville and Phipps Bend Nuclear Plants.

3. Amendment to Contract 77X36-547338-6 with Caterpillar Tractor Co., Peoria, Ill., for indefinite quantity term contract for genuine Caterpillar tractor and engine parts for any TVA project or warehouse.

POWER ITEMS

1. Bill of sale and quitclaim deed to the city of Florence, Ala., covering conveyance of 4.3-mile section of TVA's deenergized Wilson-Colbert 161-kV Line.

2. Lease and amendatory agreement with Cumberland Electric Membership Corp.—TVA's Dover and Ocana Substations.

3. New power contract with Texas Eastern Transmission Corp.

4. Sale of TVA's interest in certain uranium properties in Black Hills, Wyo., area at public auction.

REAL PROPERTY TRANSACTIONS

1. Filing of condemnation suit.

2. Grant of permanent easement for an outfall line to the town of Jasper, Tenn., affecting 0.03 acre of Guntersville Reservoir land—tract XTCR-1268.

UNCLASSIFIED

1. Expenditure of TVA funds for meals and similar provisions in connection with visits to TVA by certain individuals and groups.

2. Supplemental agreement between TVA and Meigs County Board of Education for education mitigation in the Watts Bar Nuclear Plant area.

3. Supplemental agreement among TVA, Tennessee Department of Education, and local school systems in the Hartsville Nuclear Plants project area.

4. Settlement of civil action for breach of contract pending in United States District Court—*TVA v. Oneida Fuel & Coal, Inc., et al.*

Dated: October 25, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or member of his staff can respond to requests for information about this meeting. Call 613-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-2177-78 Filed 10-26-78; 8:45 a.m.]

MONDAY, OCTOBER 30, 1978
PART II

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federal register

MONDAY, OCTOBER 30, 1978
PART II

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRWORTHINESS REVIEW PROGRAM AMENDMENT NO. 7

Airframe Amendments; Final Rule

[4910-13-M]

Title 14—Aeronautics and Space

and Notice 75-31 published in the FEDERAL REGISTER on July 11, 1975 (40 FR 29410).

flaps or flap structure attributed to head-on gusts and the proposal would increase the power-off flap loads. The

such as temperature and humidity, expected in service.

Two commentators, while agreeing

§ 23.629(a) which states, "It must be shown by any one of the methods specified in paragraphs (b), (c), or (d)

plicable either to the structural vibration modes, as intended, or to the airplane itself. The proposal is revised for

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[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket Nos. 14324, 14606, 14625, 14685, and 14779; Amdt. Nos. 23-23; 25-46; 27-16; 29-17; and 121-149]

AIRWORTHINESS REVIEW PROGRAM AMENDMENT NO. 7

Airframe Amendments; Final Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments to the Federal Aviation Regulations is to update and improve the airframe and crashworthiness standards applicable to the type certification of aircraft, and to make related changes to the operating rules contained in Part 121. These amendments are part of the Airworthiness Review Program.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Adolfo O. Astorga, Airworthiness Review Branch (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8714.

SUPPLEMENTARY INFORMATION: These amendments are the seventh in a series of amendments to be issued as part of the Airworthiness Review Program. The following amendments have previously been issued as part of this Airworthiness Review Program:

Title—FR citation

Form number and clarifying revisions (40 FR 2576; Jan. 14, 1975).
Rotorcraft anticollision light standards (41 FR 5290; Feb. 5, 1976).
Miscellaneous amendments (41 FR 55454; Dec. 20, 1976).
Powerplant amendments (42 FR 15034; Mar. 17, 1977).
Equipment and systems amendments (42 FR 36960; July 18, 1977).
Flight amendments (43 FR 2302; Jan. 16, 1978).

The amendments now being issued are based on five Notices of Proposed Rulemaking—Notice 75-10, published in the FEDERAL REGISTER on March 7, 1975 (40 FR 10802); Notice 75-19 published in the FEDERAL REGISTER on May 19, 1975 (40 FR 21866); Notice 75-23 published in the FEDERAL REGISTER on May 27, 1975 (40 FR 23048); Notice 75-26 published in the FEDERAL REGISTER on June 10, 1975 (40 FR 24802); and Notice 75-31 published in the FEDERAL REGISTER on July 11, 1975 (40 FR 29410).

The amendments based on Notice 75-10 were deferred in the series of amendments titled "Miscellaneous Amendments" so that they could be considered with the final disposition of certain proposals in Notices 75-23, 75-26, and 75-31. The amendments based on Notice 75-19 were deferred in the series of amendments titled "Powerplant Amendments" so that they could be considered with the final disposition of certain proposals in Notice 75-31. The amendments based on Notice 75-23, including the related amendments based on Notice 75-10, were deferred in the series of amendments titled "Equipment and Systems Amendments" for further consideration and review.

The amendments based on Notice 75-31, and the related amendments based on Notices 75-10, and 75-19, implement the rotorcraft proposals or parallel proposals for the other aircraft airworthiness Parts. These proposals were brought forward for consideration with the final disposition of the proposals in Notice 75-26 in order to dispose of all the outstanding rotorcraft proposals and allow the announcement of a rotorcraft regulatory review. The discussions of the comments received for the deferred proposals from Notice 75-10 are included under the heading of the related proposals from Notices 75-23, 75-26, and 75-31. The discussions of the comments received for the deferred proposals from Notice 75-19 are included under the heading of the related proposals from Notice 75-31.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matter presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review within the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and the reasons for them are the same as those contained in Notices 75-10, 75-19, 75-23, 75-26, and 75-31.

DISCUSSION OF COMMENTS

The following discussion is keyed to like-numbered proposals contained in Notices 75-23, 75-26, and 75-31, and is presented in the same order as the corresponding amendments to be found in the rules portion of this document.

Proposal 7-1. One commentator recommended that the 25 feet per second head-on gust requirement in proposed § 23.345(c) be deleted because there had been no recorded failures of any flaps or flap structure attributed to head-on gusts and the proposal would increase the power-off flap loads. The FAA believes that a majority of the recorded flap and flap support structural failures resulted from head-on gusts. The amendment to § 23.345(c) is adopted without substantive change.

Based on the comments received and upon further review within the FAA, the proposal for new § 23.345(f) is withdrawn.

Proposal 7-2. One commentator objected to the proposal to amend § 23.561(b)(2) to require a 3.0g rearward ultimate inertial load for seat attachment design. The commentator stated that it is unreasonable to expect rearward inertia forces that are twice the sideward and equal to upward inertia forces. Upon further review, the FAA believes that it does not have enough information at this time to specify the minimum value to be used as a rearward ultimate inertia force. The proposal is withdrawn. However, the proposal to add a new § 23.785(h) concerning seat track retention is adopted. See Proposal 7-11.

Proposal 7-3. Several commentators objected to the proposal to amend § 23.603 and to similar proposals to amend §§ 25.603, 27.603, and 29.603. These proposals would require the applicant to show that the materials used for safety-critical parts will maintain their design properties throughout their service lives, taking into consideration the environmental considerations expected in service. The commentators stated that there is no satisfactory means of showing compliance for many materials. The limiting factors in achieving this objective were stated to be as follows: (1) A complete definition of the operating environment; (2) an understanding of interactive effects; and (3) test methods which correlate with service. After consideration of the comments received, and after further review of the materials used on modern aircraft, the FAA agrees that there may be significant difficulties in developing means to show compliance with the proposed amendments. The FAA believes, however, that the design characteristics of some materials used on aircraft may be affected by environmental conditions and that, where such materials are used in safety-critical parts, the effects of the environment upon them must be considered. The FAA further believes that the term "environmental conditions" should be clarified.

Accordingly, the proposals to add new §§ 23.603(a)(3), 25.603(c), 27.603(c), and 29.603(c) are revised to require only that the suitability and durability of materials used for safety-critical parts must take into account the effects of environmental conditions,

such as temperature and humidity, expected in service.

Two commentators, while agreeing with the proposal for § 25.603, stated that the proposed requirement should apply also to fabrication methods. The FAA does not have any information at this time to indicate that the change recommended by these commentators is necessary, and the commentators did not provide any. These commentators also suggested that the term "design values" be substituted for the proposed term "design properties" to let the designer anticipate deterioration. The FAA believes that the change suggested by these commentators is unnecessary in view of the revision made in the rule as adopted.

Two commentators stated that the proposal for § 27.603(c) is not needed since the proposed requirements appear to be covered in present §27.609. The FAAS does not agree. Section 27.609 requires that each part of the structure must be protected from deterioration or loss of strength in service due to any cause, including weathering, corrosion, and abrasion, and it further requires provisions for ventilation and drainage where necessary for protection. Proposed new § 27.603(c) is concerned with the suitability of materials which may undergo changes in design characteristics, regardless of the degree of protection that is provided them.

One commentator objected to the proposal for § 27.603, stating that the subject material is adequately covered in §§ 27.613 and 27.619. The FAA does not agree. The practical effect of § 27.613 is to require that the effects of temperature on certain allowable stresses be considered where thermal effects are significant under normal operating conditions. Section 27.619 requires that special factors of safety be applied for each part of the structure whose strength is uncertain, likely to deteriorate in service before normal replacement, or subject to appreciable variability because of uncertainties in manufacturing processes or inspection methods. The FAA believes that §§ 27.613 and 27.619 do not specifically provide for the long-term behavior of certain modern construction materials and that the proposals to amend §§ 23.603, 25.603, 27.603, and 29.603 are necessary.

Proposal 7-4. For comments concering the subject matter of the proposal to amend § 23.605, see Proposal 7-29. The proposal is adopted without substantive change.

Proposal 7-5. No unfavorable comments were received on the proposal to amend § 23.613(c). Accordingly, the proposal is adopted without substantive change.

Proposal 7-6. One commentator objected to the wording of proposed § 23.629(a) which states, "It must be shown by any one of the methods specified in paragraphs (b), (c), or (d) of this section that the airplane is free from flutter * * *" The commentator recommended that proposed § 23.629(a) be revised to clarify that combinations of the methods in proposed §§ 23.629 (b), (c), and (d) may be used to show freedom from flutter. The FAA agrees, and the proposal is revised accordingly. The commentator also recommended that proposed § 23.629(a) be revised to clarify that the flutter substantiation requirements of proposed § 23.629 are not applicable to minor structural items such as fairings, lights, and antennas which will not affect safety of flight. The FAA does not agree. The FAA believes that flutter in minor structural items can have an adverse effect upon safety of flight.

One commentator questioned who decides which of the methods specified in paragraphs (b), (c), or (d) are to be applied. The applicant can select any one of the methods specified in paragraphs (b), (c), or (d), or a combination of these methods.

One commentator objected to the requirement in proposed § 23.629(a)(1) that adequate tolerances must be established for quantities which affect flutter, including speed, damping, mass balance, and control system stiffness. The commentator stated that all quantities which affect flutter may not be significant and recommended that proposed § 23.629(a)(1) be reworded to state "those quantities or parameters that would significantly degrade the critical flutter speed are to be considered and pertinent tolerances established where necessary." The FAA believes that all quantities which affect flutter should be considered. However, the use of the word "adequate" indicates that the tolerance to be established will vary, depending on the significance of the quantity considered. Proposed § 23.629(a)(1) is adopted without substantive change.

Two commentators objected to the requirement in proposed § 23.629(a)(2) that natural frequencies of main structural components be determined by vibration tests. It was stated that this proposed change would impose a burden in the case of simple aircraft meeting the requirements of proposed § 23.629(d), and it was recommended that the words "or other approved methods" be reinstated. Upon further review, the FAA believes that the current requirement of "vibration tests or other approved methods" has provided satisfactory results in the past. Proposed § 23.629(a)(2) is revised accordingly.

The FAA believes that the intent of proposed § 23.629(b) may be unclear, since the term "stability" may be applicable either to the structural vibration modes, as intended, or to the airplane itself. The proposal is revised for clarity.

One commentator objected to the wording of proposed § 23.629(c)(1) that "proper and adequate attempts to induce flutter have been made." The commentator stated that this might be interpreted to allow pilot control impulse of the controls and this would not necessarily excite high frequency modes which may exist. The FAA believes that the wording as proposed is adequate. The proposed requirement to develop a vibratory response of the structure during the test will indicate the attempts to induce flutter, and the adequacy of the excitation can be evaluated by reference to the data record. Proposed § 23.629(c) is adopted without substantive change.

One commentator recommended the deletion of proposed § 23.629(d), which allows the use of Airframe and Engineering Report No. 45 in showing the airplane to be free from flutter but submitted no justification for the deletion. Since this report has been used for years with satisfactory results, the FAA believes that this alternative procedure, as revised and set forth in proposed § 23.629(d), should be continued.

One commentator recommended that proposed § 23.629(d)(3)(iii) be revised to state whether a trim-adjustable stabilizer would qualify as a fixed stabilizer. The FAA does not believe that any revision is necessary. The "degree of fixity" governs whether a trim-adjustable stabilizer can be considered a fixed stabilizer in regard to the use of Report No. 45. Some designs may have a high enough "degree of fixity" to allow treatment as fixed stabilizers, while others do not. Accordingly, § 23.629(d)(3)(iii) is adopted without substantive change.

One commentator objected to the proposed § 23.629(f) which would require that the airplane be free from flutter, control reversal, and divergence after the failure of any single element in the primary control system, any tab control system, or any flutter damper. The commentator stated that this requirement would add weight and cost, particularly in light single engine aircraft, since it would require that virtually all primary control systems, tab control systems, and flutter dampers be made fail-safe. The FAA believes this comment has merit, and proposed paragraph (f) is revised to require that airplanes that meet the criteria of paragraphs (d)(1) through (d)(3) of § 23.629 need to be shown to be free from flutter, control reversal, and divergence with a failure of any single element in the tab control system only. The FAA believes that the requirements of Report No. 45 satisfactorily consider

the failure of any single element in the primary flight control system, and flutter dampers are not appropriate

Proposal 7-10. Two commentators questioned the benefit of the ski shock absorption test in proposed §§ 23.737

to justify imposing such a regulation. This commentator further suggested

Proposal 5-18. One commentator objected to the proposal to amend § 23.1545, contending that it would

5-24, 5-58, and 5-41, respectively). Other related proposals affecting §§ 25.1329, 27.1329, and 29.1329 were

tion requirements set forth in § 23.1337(b)(1).

Accordingly, proposed § 23.1585(e) is

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the failure of any single element in the primary flight control system, and flutter dampers are not appropriate for airplanes designed to the requirements of Report No. 45. Further, tab control systems, which have been a significant cause of flutter problems, can be designed to prevent flutter after the failure of any single element by balancing or by structural fail-safe means with a minimum cost and weight increase. The FAA further believes that, for airplanes having a configuration or operating speed that does not meet the criteria of paragraphs (d) (1), (2), and (3), the requirement for considering single element failures should be applied to the primary flight control system, any tab control system, and any flutter damper. The FAA believes that for current complex, high-speed designs, the proposed flutter requirements can be met with minimum cost and effects by use of the current state-of-the-art methods of balancing and structural fail-safe features.

One commentator agreed in principle with the proposal to revise § 23.629, but stated that suitable methods of compliance should be specified. The FAA does not believe the rule needs further change but will consider the issuance of guidance material as to applicable means of compliance.

Proposal 7-7. One commentator objected to the proposed amendment to § 23.677 concerning an aural warning device for certain longitudinal trim systems. The device would provide an aural warning when the horizontal stabilizer trim is in transit due to trim system operation or when the power or thrust controls are advanced to the takeoff position with the stabilizer trim set in a position outside the approved range for takeoff. The commentator stated that the warning would tend to be ignored in a cockpit environment which already contains many aural warnings. The commentator also objected to the cost and complexity that this requirement would add. The FAA agrees, and the proposal to add a new § 23.677(d) is withdrawn.

Proposal 7-8. No unfavorable comments were received on the proposal to amend § 23.701. However, after further review, the FAA believes that the proposed change is not appropriate and is not needed for Part 23 airplanes. The proposal is withdrawn.

Proposal 7-9. No unfavorable comments were received on the proposal to amend § 23.723(a) which would allow the use of analysis to supplement tests to substantiate landing load factors. However, the FAA has revised the proposal based on comments received on Proposal 7-34. See Proposal 7-34.

Proposal 7-10. Two commentators questioned the benefit of the ski shock absorption test in proposed §§ 23.737 and 25.737. The commentators noted that the conditions which may cause ski failure in service do not correspond to the conditions of the proposed shock absorption test. Based upon these comments and upon further review within the FAA, the FAA believes that it does not have enough information at this time to specify requirements for ski shock absorption tests and the proposals are withdrawn.

Proposal 7-11. No unfavorable comments were received on the proposal to add a new § 23.785(h). Accordingly, the proposal is adopted without substantive change. The proposal as adopted is redesignated as § 23.785(l) in view of the adoption of §§ 23.785 (h), (i), (j), and (k) by Amendment 23-19 (42 FR 30601; June 16, 1977).

Proposal 7-12. No unfavorable comments were received on the proposal to add a new § 23.853(e). However, to insure consistent interpretation, the applicable portions of Appendix F to Part 25 are set forth in a new Appendix F to Part 23, and the corresponding reference in the proposal is revised accordingly.

In addition, the FAA believes that the proposed requirement for a vertical self-extinguishing test may be unduly restrictive for electrical wire and cable insulation and for certain small parts. An exception is therefore provided for these items.

Proposal 7-13. One commentator agreed with the intent of the proposal to add a new § 23.863, but stated that without appropriate explanatory material, the proposed rule could be applied in a manner beyond the limits of cost and engineering practicality for many general aviation airplanes. The FAA will consider the issuance of appropriate guidance material. The proposal is adopted without substantive change.

Proposal 7-14. No unfavorable comments were received on the proposal to revise § 23.1307(a). However, a commentator suggested that a provision be added to allow the type design to include a seat or other facility (such as a stretcher) that is intended to be occupied on takeoff, during flight and on landing. The FAA believes that Part 23 airplanes utilized for a special purpose should be allowed to have installed berths, such as those approved under § 23.785, as well as approved seats. Proposed § 23.1307(a) is revised accordingly.

Proposals 5-7, 5-24, 5-41, 5-58, 2-84, 2-129, and 2-184. Proposal 5-7 of Airworthiness Review Notice No. 5 (Notice 75-23), to amend § 23.1329 is similar to proposals to amend §§ 25.1329 and 29.1329 and to the proposal to add a new § 27.1311 (Proposals 5-24, 5-58, and 5-41, respectively). Other related proposals affecting §§ 25.1329, 27.1329, and 29.1329 were included in Airworthiness Review Notice No. 2 (Notice 75-10) as Proposals 2-84, 2-129, and 2-184, respectively, and their disposition was deferred for consideration with Proposals 5-24, 5-41, and 5-58, respectively.

Several commentators objected to the above proposals. After consideration of the comments received, and after further review, the FAA believes that except for proposed §§ 23.1311(h) and 25.1329(h) of Proposals 5-7 and 5-24 respectively, which are discussed below, Proposals 2-84, 2-129, 2-184, 5-41, and 5-58 and the remainder of Proposals 5-7 and 5-24 are premature, and they are withdrawn.

One commentator objected to the language "means independent of the mode selector switch" in proposed § 23.1311(h) on the ground that it would require separation of the mode selector from the mode indicator, constituting an unnecessary and burdensome restriction for single and two-axis automatic pilot systems. The FAA believes, after further consideration, that the need to provide reliable mode selection information to the pilot exists only when the automatic pilot system can be coupled to airborne navigation equipment such as VOR and ILS (localizer and glide slope). Accordingly, the proposal is revised to incorporate that qualification.

Several commentators stated that the proposed requirement attempts to provide design details instead of stating the intent, which tends to retard advances in technology, and that it does not take into account modern panels which incorporate illuminated mode indications that give positive indication of the selected mode but are not "independent" of the mode selector switch. The FAA agrees that the proposed requirement is unnecessarily restrictive, and the proposals are revised to specify that selector switch position is not acceptable as a means of indication instead of requiring the means of indication to be independent of the selector switch.

Commentators objected to the phrase "and the availability status of each alternative system" in proposed §§ 23.1311(h) and 25.1329(h), contending that compliance may not be possible for some systems, and that even when possible, the added complexity would reduce reliability and create confusion in the cockpit. The FAA agrees, and the phrase is deleted.

One commentator suggested that proposed § 23.1311(h) be revised to require that the mode selector indication for the automatic pilot system differ from that for the flight director system. The FAA does not have sufficient information at the present time

to justify imposing such a regulation. This commentator further suggested that when automatic pilot mode selection indication is provided for both pilot and copilot, those indications must agree. This would merely require that both mode selection indications be correct, and the FAA does not believe that the revision suggested by the commentator is necessary.

In view of the withdrawal of the proposals to redesignate § 23.1329 as § 23.1311 and to add a new § 23.1311(g), proposed § 23.1311(h) is redesignated § 23.1329(g) and is adopted with the revisions discussed above. Proposed § 25.1329(h) (Proposal 5-24) is adopted with the revision discussed above for § 23.1311(h).

Proposal 7-15. Several commentators objected to the wording "the highest loads expected in service under any loading condition" in the proposals to revise §§ 23.1413(a), 25.1413(b), 27.1413(a), and 29.1413 which would broaden the rated strength requirements for safety belts and harnesses. The commentators contended that this wording was unreasonable, vague, and would be difficult to administer. The FAA believes that research and development work in the area of full scale dynamic testing of airplanes and mathematical modeling of the man-seat combination is needed to develop a more definitive standard. The proposed revisions of §§ 23.1413(a), 25.1413(b), 27.1413(a), and 29.1413 are withdrawn.

Proposal 7-16. One commentator objected to the proposal to add a new § 23.1416 which would add pneumatic de-icer boot system requirements. The commentator stated that the words "any forseeable" in paragraph (b) are too broad and suggested that the nominal system operating parameters for each component should be used as a basis for establishing a factor of the nominal as design limit. The FAA disagrees that a factor is appropriate but agrees that the criteria should be revised. Accordingly, the words "any foreseeable" in proposed § 23.1416 are deleted and the words "any normal" are inserted in their place. The same commentator objected to the wording of proposed § 23.1416(c) on the ground that it could be interpreted to mean a pressure gauge would be required in the cockpit. The commentator recommended revising paragraph (c) to require that means be provided to indicate to the flight crew that the pneumatic de-icer boot system is receiving adequate pressure during the inflation cycle. The FAA agrees. This revision would make it clear that the use of pressure switches and indicator lights would be allowed in lieu of a pressure gauge. The proposal is revised accordingly.

Proposal 5-18. One commentator objected to the proposal to amend § 23.1545, contending that it would result in an unwarranted economic burden on aircraft owners. The FAA does not agree. The proposed requirement that the airspeed indicator be marked according to indicated airspeed is necessary to provide a more useful airspeed reference for operation of the airplane. In addition, the FAA does not believe that the proposed requirement would result in an appreciable increase in cost to aircraft owners compared to the current requirements.

Another commentator (who concurred with the proposed revision of § 23.1545) stated that the amount of information required on the airspeed indicator is reaching the point where confusion may be a factor, and that the reference to radials and arcs in § 23.1545 apparently prohibits the use of linear (horizontal or vertical) gauges. The FAA recognizes that indicator markings, if excessive, may cause confusion but believes that the proposed marking requirements are well within safe limits. With respect to linear-scale gauges, it is not the intent of the proposal to prohibit their use. The proposal, as well as present § 23.1545, describes marking for circular airspeed indicators since current airspeed indicators are circular. Analogous markings could be devised for linear-scale instruments and approved under airplane type certification equivalent safety provisions. Accordingly, the proposal to amend § 23.1545 is adopted without substantive change.

Proposal 8-22. For a comment related to proposed § 23.1557(f), see Proposal 8-24. The proposal is revised for the reasons discussed in Proposal 8-24.

Proposal 8-23. No unfavorable comments were received on the proposal to delete § 23.1583(i). Accordingly, the proposal is adopted without substantive change.

Proposal 8-24. Proposed §§ 23.1585(e) and (f), together with Proposal 8-23 for § 23.1583, would transfer information concerning the meaning of the zero fuel indication from the operating limitations section to the operating procedures section of the Airplane Flight Manual. One commentator stated that any reference to "fuel remaining" when the fuel quantity indicator reads "zero" invites pilot error or misinterpretation. The FAA does not agree. The reference to "fuel remaining" appears in the current rule, and the FAA does not have any information at this time to indicate that it has resulted in pilot error or misinterpretation. However, after further review, the FAA believes that the information that is required to be furnished under proposed § 23.1585(e) should be clarified in view of the fuel gauge calibration requirements set forth in § 23.1337(b)(1).

Accordingly, proposed § 23.1585(e) is revised by adding the language "in level flight" so that the section reads in part "* * * when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be safely used in flight". Similar revisions are made to proposed §§ 25.1585(d), 27.1585(d), and 29.1585(d). Proposed §§ 23.1585(f), 25.1585(e), 27.1585(e), and 29.1585(e) are adopted without substantive change.

In view of the adoption of new §§ 23.1585(e), 27.1585 (c), and (d), and 29.1585 (c) and (d) in Airworthiness Review Amendment 6 (43 FR 2302; January 16, 1978), proposed §§ 23.1585 (e) and (f), 27.1585 (d) and (e), and 29.1585 (d) and (e) are redesignated and adopted as §§ 23.1585 (f) and (g), 27.1585 (e) and (f), and 29.1585 (e) and (f), respectively.

Proposal 7-17. The proposed amendment to § 25.305(d) and the proposed new Appendix G to Part 25 (Proposal 7-55) are being deferred until final rule making action is taken with respect to Airworthiness Review Notice No. 8 (Notice 75-31; 40 FR 29410; July 11, 1975).

Proposal 7-18. One commentator suggested that proposed § 25.331(a)(4) be revised to allow the trim system to operate at its maximum rate with normal aerodynamic load instead of requiring the flight test trim conditions specified in § 25.255. The FAA believes that there is insufficient data for rulemaking action to make the suggested revision. Another commentator recommended that proposed § 25.331(a)(4) be revised to exclude the effect of out-of-trim conditions as a consideration for the accelerated pitching conditions of proposed § 25.331(c) but retained for the zero pitching acceleration conditions of proposed § 25.331(c). The FAA disagrees. Out-of-trim conditions may exist in zero pitching acceleration maneuvers as well as in accelerated pitching maneuvers and should be considered in both cases. Section 25.331(a)(4) is amended as proposed.

One commentator suggested that proposed § 25.331(c)(1) be revised to clarify the type of pitching parameter to be considered, and to allow for the optional use of transient rigid body response for airplane loads. The FAA agrees. The use of transient rigid body response will yield conservative, but easier-to-calculate loads. The proposal is revised to allow for the use of transient rigid body response and to clarify the type of pitching parameter to be considered.

The same commentator suggested that proposed § 25.331(c) be revised to state that airplane loads which occur

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subsequent to the occurrence of maximum positive pitching acceleration

and also stated that it does not define the control movement to be considered

investigated under § 25.473. The FAA believes that the suggested rewording

specific proposal is needed. The proposal to revise § 25.491 is withdrawn.

a test program requirement since this would require specific FAA approval

clarification would result from the recommended revision. The proposal is adopted without substantive change.

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subsequent to the occurrence of maximum positive pitching acceleration need not be considered. The FAA disagrees. The commentator did not submit, and the FAA is not aware of, time-history data that shows that the transient down tail load will always reach its peak value at the same time that the elevator surface reaches its maximum prescribed throw and that the pitching acceleration will also always reach a maximum in the nose-up direction at the same time.

The same commentator further suggested that proposed § 25.331(c)(1) be revised to make the requirements applicable to configurations with conventional trailing-edge elevator controls, and that configurations using an all-movable horizontal stabilizer should be designed to the specified control displacements of current § 23.531(c)(3). The commentator stated that applying the proposed requirements to configurations using an all-movable horizontal stabilizer for primary pitching control results in an entirely different type of loading condition than was originally intended for elevator-controlled airplanes. This results, the commentator stated, from the fact that all-movable stabilizers have much lower rate capabilities than elevators; approximately 6 degrees per second for all-movable stabilizers versus 30 to 40 degrees per second for elevators. The FAA does not have sufficient data to support the distinction suggested by the commentator.

Another commentator objected to combining the requirements for "checked maneuver at speeds between V_A and V_D" and the requirements for "specified control displacement" in proposed § 25.331(c)(2). This commentator stated that he is not aware of any evidence that the present required levels of pitching acceleration have resulted in unsafe designs, and that the design requirement should involve either the use of rational time history analyses or, alternatively, the use of the present acceleration criteria. The proposal to amend § 25.331(c)(2) contains the current requirements except that a rational pitching motion-time profile is required rather than optional. The present acceleration criteria were derived from the behavior of airplanes much older than, and different from, those of current design. The FAA does not have enough information regarding the conservatism these criteria provide for modern designs. However, since the rational time history analysis method does consider the behavior of the modern airplanes, that method is specified.

Two commentators stated that proposed § 25.331(c)(2) is not clear with respect to whether pitching accelerations greater than the values quoted in the formula are to be used for design, and also stated that it does not define the control movement to be considered nor state whether the limit load factor must be reached. In addition to proposed § 25.331, the strength criteria contained in other sections of the Subpart must be considered in establishing structural design criteria. With respect to control movement and load factor, the FAA does not have any information at this time which would indicate that specific constraints on control movement or load factor are necessary.

The proposal to amend § 25.331 is adopted with the revisions discussed above.

Proposal 7-19. Several commentators, including the initial public proponent, objected to the proposal to add a new § 25.341(d) to require the empennage to be designed for gusts which are not purely vertical or lateral in direction. The commentators referred to existing conservatisms in the rules which have resulted in satisfactory service experience to date, and stated the need for further review and evaluation. The FAA, upon further review, believes that there is insufficient data to substantiate the need for the additional requirement at this time. The proposal to add a new § 25.341(d) is withdrawn.

Proposal 7-20. One commentator objected to deletion of the words "as speed brakes" in the proposal to amend § 25.345(c). The commentator stated that the removal of the words "as speed brakes" would increase structural weight, not only in the flaps, but also in the wings and horizontal tail. The FAA agrees that airplane loads, and weight, may increase as a result of this proposed amendment. However, the FAA believes that an airplane should be designed for any condition in which the airplane is normally operated. Airplanes are now commonly flown in en route conditions with flaps deployed for purposes other than as speed brakes, and the airplane structure should be designed for the appropriate loads regardless of the operational reason. Another commentator objected to the deletion of the words "as speed brakes" on the ground that removal would leave unanswered questions on flaps up-down cycling, gust encounters, upsets, and overspeed. The FAA does not have any information at this time which indicates that additional requirements related to these factors are necessary. The amendment to § 25.345(c), is adopted as proposed.

Two commentators suggested rewording the proposed new § 25.345(d) by replacing the word "landing" with the word "maneuvering" to make it clear that the proposed requirement is not intended as an additional landing condition to be investigated under § 25.473. The FAA believes that the suggested rewording would lead to a possible misunderstanding due to altitude effects which may result in a more severe load being applied to the airplane. The intent of the proposal is to provide an additional landing condition to be investigated, but not under § 25.473, at maximum takeoff weight with a maneuvering load factor of 1.5g and the flaps and similar high lift devices in the landing configuration. Accordingly, the proposed new § 25.345(d) is adopted without substantive change.

Proposal 7-21. Several commentators stated tht the proposal for § 25.351(a), which would extend the upper limit of the speed range specified in current § 25.351(a) from V_A to V_D, is unduly severe and recommended that the pilot's maximum rudder pedal force be 300 pounds from V_{MC} to V_A and 200 pounds from V_C/M_C to V_D/M_D with linear variation between V_A and V_C/M_C. In addition, one commentator stated that the proposed extension of the upper limit of the speed range would penalize aircraft utilizing manual control systems. The commentator further stated that reducing rudder control force at the higher speeds would be consistent with probable operational practice. The FAA believes that the capability of current jet transports for high rudder forces throughout the design envelope has resulted in a high degree of structural integrity during recovery maneuvers, and that this capability must be ensured in future designs. The proposal to amend § 25.351(a) is adopted without substantive change.

Proposal 7-22. Two commentators expressed a need for clarification of the terms "sudden engine stoppage" as used in the proposal to amend § 25.361(b) and "torque for maximum continuous take-off power" as used in the proposed lead-in of § 25.361(c). Actually the word "take-off" did not appear in Notice 75-26. However, since both terms occur in the current rule and were used in the same sense in the proposal, the FAA does not believe further clarification is needed. Accordingly, the proposal is adopted without substantive change.

Proposal 7-23. All of the comments received in response to proposed § 25.491 either questioned the definition of the words "roughest runway and taxiway profiles to be expected in normal operations", or questioned the means of showing compliance. Two commentators stated that the costs of conducting dynamic analyses are high and that the proposal would cause an unjustified economic penalty by requiring dynamic analyses whether needed for a particular configuration or not. The FAA agrees that a more

specific proposal is needed. The proposal to revise § 25.491 is withdrawn.

Proposal 7-24. Although no unfavorable comments were received on the proposed new § 25.499(e), two commentators stated that some factor above the nominal values of torque and static reaction is needed to cover possible increases of loads. The FAA does not believe at this time that a factor for nose gear loads due to steering is needed. Accordingly, the proposal is adopted without substantive change.

Proposal 7-25. One commentator objected to the 1.5g rearward ultimate inertia force requirement of the proposed § 25.561(b)(3)(v) because of inadequate substantiation. The commentator stated that the current research on crashworthiness should be completed before the proposal is finalized. After consideration of this comment, and after further review, the FAA agrees that the proposal to add a new § 25.561(b)(3)(v) is premature, and it is withdrawn.

After consideration of the comments received on the proposal to add a new § 25.561(d) concerning structural crashworthiness requirements for certain multi-deck airplanes, and after further review, the FAA believes that it does not have enough information to set forth a rule of general applicability at this time. Accordingly, the proposal to add a new § 25.561(d) is withdrawn.

Proposal 7-26. After consideration of the comments received on the proposal to add a new § 25.563(b), concerning structural ditching requirements for certain multi-deck airplanes, and after further review, the FAA believes that it does not now have enough information to set forth a general standard which would be appropriate for both partial and full multi-deck configurations. The proposal to add a new § 25.563(b) is withdrawn.

Proposal 7-27. The proposal to revise § 25.571(c)(1), concerning fatigue requirements, is withdrawn in view of the separate rulemaking action that has been initiated to consider the fatigue requirements for transport category airplanes (see Notice 77-15; 42 FR 41236; Aug. 15, 1977).

Proposal 7-28. For comments related to the proposal to add a new § 25.603(c), see Proposal 7-3.

Proposal 7-29. One commentator objected to the proposed amendment to § 25.605(b) which would require that new aircraft fabrication methods be substantiated by a test program. The commentator stated that, to meet current § 25.605, manufacturers presently conduct many tests before new fabrication methods are used, especially where the airworthiness of the airplane is involved. The commentator felt that the present regulations are adequate and questioned the need for a test program requirement since this would require specific FAA approval of the test program. Such approval, the commentator stated, would only increase the expense and require additional time to coordinate. The FAA does not agree that current § 25.605 is adequate. Current § 25.605 requires only that the processes requiring close control to produce a consistently sound structure be performed under an approved process specification. The FAA believes that the proposed rule is necessary to insure that all new aircraft fabrication methods are tested to determine their soundness. In addition, the manfuacturers who currently perform an adequate test program should have no difficulty in meeting the proposed requirement. The proposal to amend § 25.605 is adopted without substantive change.

Proposal 7-30. No unfavorable comments were received on the proposal to amend § 25.613(e). Accordingly, the proposal is adopted without substantive change.

Proposal 7-31. One commentator recommended that the proposed amendment to § 25.629(d)(1)(ii) be revised to include the words "affecting divergence or flutter". The FAA does not believe the change is needed since words to this effect are used in the lead-in of present § 25.629(d)(1).

One commentator objected to the requirement in proposed § 25.629(d)(1)(ii) that freedom from flutter or divergence be shown for any combination of failures not shown to be extremely improbable. The commentator stated that the cost would far outweigh any theoretical improvement to safety over what is presently provided. The FAA disagrees. Service experience has shown that combinations of failures can be expected and, therefore, unless combinations of failures are shown to be extremely improbable, they must be considered in design for freedom from flutter and divergence.

One commentator recommeded that the proposed § 25.629(d)(4)(vi) requirement for consideration of any single failure in any flutter damper system be revised to exclude active control systems for damping and apply only to flutter dampers connected to a control surface. The FAA disagrees. Failures in all flutter damping systems must be considered if the freedom-from-flutter requirement of § 25.629(d)(1) is to be demonstrated. The proposal is adopted without substantive change.

Proposal 7-32. One commentator on the proposed amendment to § 25.697(b), concerning lift and drag device controls, recommended that the word "inadvertent" in both sentences of the proposal be replaced with the word "unintentional" or "unintended". The FAA does not believe that a clarification would result from the recommended revision. The proposal is adopted without substantive change.

Proposal 7-33. One commentator objected to proposed § 25.701(a) which would provide for the use of equally reliable means instead of a mechanical interconnection for the synchronization of flaps on opposite sides of an airplane. The commentator questioned what would be as reliable as mechanical interconnection. The FAA believes that there are devices which are available or may become available that are at least as reliable as a mechanical system in this application and would be acceptable alternatives. However, to clarify the intent of the proposed rule, the proposal is revised to read "approved equivalent means" instead of "equally reliable means".

Proposal 7-34. One commentator recommended that proposed § 25.723(a) be revised to state that the analysis which may be used to substantiate landing gear limit load factors for increases in takeoff and landing weights must be based on identical landing gear systems. The commentator expressed the opinion that the use of the word "similar" might cause confusion and allow deviations from the original intent that the analysis must be based on landing gear tests conducted on a landing gear system with identical, not similar, energy absorption characteristics. The FAA agrees, and the proposal is revised accordingly.

Proposal 7-35. For a discussion of the withdrawal of proposed § 25.737, see proposal 7-10.

Proposal 7-36. One commentator opposed the proposal to add a new § 25.773(d) to add markers or other guides to enable pilots to position themselves for optimum outside visibility and instrument scan. The commentator stated that he knew of no airplane that has a position for maximum outside visibility that coincides with optimum eye position for instrument scan. Another commentator concurred with the proposal but recommended that it be revised to clarify that the optimum "combination" of outside visibility and instrument scan is sought. The FAA agrees that what is intended is an optimum combination, and proposed new § 25.773(d) is revised accordingly.

Proposal 7-37. No unfavorable comments were received on the proposal to amend § 25.777. Accordingly, the proposal is adopted without substantive change.

Proposal 7-38. Several commentators objected to the requirements of proposed new § 25.789(b) that would require each major galley component, including serving carts, drawers, and compartments, to have a placard indicating its maximum load. The com-

mentators stated that drawers and compartments are designed for

FAA believes that the proposal may be misconstrued, since certain operating

posal in the manner suggested by these commentators. One commenta-

more megaphones simultaneously during the demonstration could confuse and misdirect evacuees. The FAA

seat required by present § 25.807(a)(7)(vi) must be a flight attendant seat which complies with the

warranted. The FAA believes that the evaluation of slide designs during airplane type certification does establish

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mentators stated that drawers and compartments are designed for weights that can reasonably be expected in service. Two commentators stated that placarding galley components would not increase the level of safety for the occupants of the airplane, and would not guarantee adherence to the indicated maximum load during operation. Based on these comments, and upon further review within the FAA, the proposed new § 25.789(b) is withdrawn.

No unfavorable comments were received on proposed new § 25.789(c). Accordingly, the proposal is adopted without substantive change and redesignated as § 25.789(b).

Proposals 7-39 and 7-79. Numerous commentators objected to Proposal 7-39 to add a new § 25.802 to establish standards for evacuation alarm systems, and to Proposal 7-79 to add a new § 121.292 to require that evacuation alarm systems be installed on all passenger-carrying airplanes. After considering the comments received, and after further review, the FAA believes that rulemaking on the subject of evacuation alarm systems in passenger-carrying airplanes is premature. Accordingly, the proposals to add new §§ 25.802 and 121.292 are withdrawn.

Proposal 7-40. Proposed § 25.803(c) would replace the present emergency evacuation demonstration conditions with conditions which satisfy both Part 25 and Part 121, thus providing for one demonstration that serves both airworthiness and operational requirements. One commentator stated that the aircraft manufacturer should not be the sole demonstrator of emergency evacuations and recommended that more than one demonstration be required to rule out a "long shot" success. The commentator did not present any data to show that additional demonstrations by persons other than the manufacturer are needed. The FAA believes that demonstrations made under the prescribed conditions and using the prescribed procedures will yield comparable results, and that the manufacturer is competent to conduct such demonstrations.

Two commentators objected to proposed § 25.803(c)(4) which would require that the airplane's normal electrical power sources be de-energized and stated that the existing wording "using only the emergency lighting system" is preferred. The FAA agrees and § 25.803(c)(4) is revised to state that only the airplane's emergency lighting system may provide illumination, except as noted in paragraph (c)(1).

No unfavorable comments were received on proposal § 25.803(c)(5), to require that all emergency equipment must be installed in accordance with §§ 25.1411 and 25.1415. However the FAA believes that the proposal may be misconstrued, since certain operating rules of the chapter also state emergency equipment installation requirements. Proposed § 23.803(c)(5) is revised to specify that all emergency equipment that is required for the planned operation of the airplane must be installed.

A statement of required crewmember qualifications was inadvertently omitted from proposal § 25.803(c). Present Part 121 App. D paragraph (a)(12) states a requirement for a regularly scheduled line crew, and present § 25.803(c)(6) states a requirement merely for persons who have knowledge of the exits and emergency equipment. The FAA believes that the training and knowledge levels associated with a regularly scheduled line crew are appropriate for any demonstration that is conducted for the introduction of a type and model of airplane into passenger-carrying operations, whether the demonstration is conducted for compliance with Part 121 alone or for dual compliance with Parts 25 and 121. Accordingly, the crew requirements of present part 121 App. D paragraph (a)(12) are set forth as new § 25.803 (c)(7)(i). The crew requirements of present § 25.803(c)(6) have been shown adequate for airplane type certification under Part 25. These requirements are set forth in a new § 25.803 (c)(7)(ii) to provide for situations where separate demonstrations of compliance with type certification and operating rules may be necessary or appropriate.

One commentator suggested deletion of the requirements of §§ 25.803(c)(7)(ii) and (c)(7)(iii) requiring at least 5 percent of passengers be over the age of 60 and 5-10 percent be children under the age of 12 years. The FAA believes that age distribution should be considered in the selection of test subjects, and that the proposed requirements are realistic in terms of the age distribution of airline passengers. The proposed §§ 25.803(c)(7)(ii) and (c)(7)(iii) are adopted without substantive change. One commentator requested that, due to laws governing employment and insurance for persons under 18 years of age, § 25.803(c)(7)(iii) be modified to provide an equivalency by adding the words "or at least 5 percent, but not more than 10 percent must be adults between the ages of 50 to 60 years of age." A second commentator suggested essentially the same wording, citing data showing comparable evacuation times for persons under 12 and in the 50 to 59 age group and relating one instance where this equivalency was allowed during evacuation testing. The FAA does not now have enough information on evacuation times for the various age groups to revise the proposal in the manner suggested by these commentators. One commentator recommended that proposed § 25.803(c)(7)(iv) be modified to require the three life-size dolls to have height and weight equivalent to a child. The FAA believes the terms "life-size" and "simulate live infants" adequately express this intent. The proposed § 25.803(c)(7)(iv) is adopted without substantive change.

One commentator stated that reference to the words "crewmembers, mechanics, and training personnel" in § 25.803(c)(7)(v) is only appropriate if tests are being conducted by the operator rather than the manufacturer. The FAA disagrees since such training personnel are also employed by the manufacturer. Accordingly, §25.803(c)(7)(v) is adopted as proposed.

One commentator suggested that the carry-on baggage, blanket, and pillow requirements of § 25.803(c)(10) be deleted since there would be a reduced risk of injury during the test without significant effect on the results. The FAA does not agree since such items are intended to help simulate actual emergency evacuation conditions and might significantly affect the results of an evacuation test. Proposed § 25.803(c)(10) is adopted without substantive change.

One commentator suggested that § 25.803(c)(12) should state that no "prior" indication may be given of the exits to be used and that the word "advised" is more appropriate in § 25.803(c)(14) than the word "warned". The FAA agrees with both clarifications and the amendments are revised accordingly.

Although no adverse comments were received on the proposed requirements for multi-deck airplanes in § 25.803(c)(16), the FAA believes that it does not now have enough information to establish comprehensive evacuation criteria for multi-deck airplanes and the multi-deck requirements of § 25.803(c)(16) are deleted.

One commentator objected to the requirement in proposed § 25.803(c)(18) that all the emergency equipment that is normally available, including slides, ropes, lights, and megaphones, must be fully utilized during the demonstration. The commentator stated that the utilization of ropes and megaphones places an undue and unrealistic burden on the evacuation demonstration. The commentator believes that the use of ropes at over-wing exits introduces the hazard of tripping and entanglement, and could result in a reduced evacuation flow rate, and that the use of megaphones limits the ability of the flight attendant to effect rapid egress of participants by denying the use of one hand and by restricting the line of vision. The commentator also objected that the use of two or

more megaphones simultaneously during the demonstration could confuse and misdirect evacuees. The FAA recognizes that certain items of emergency equipment are installed for purposes other than evacuating occupants from an airplane after an aborted takeoff and that a need to control the use of communications devices may exist. These factors should be considered in each applicant's approved procedures. Proposed § 25.803(c)(18) is amended to state that the applicant's approved procedures must be fully used during the demonstration.

Several commentators objected to the proposed amendment to § 25.803(d) which would allow analysis in showing that the airplane is capable of being evacuated within 90 seconds. One commentator stated that analysis alone is an incomplete means of showing compliance and should not be allowed. Another commentator stated that extrapolations based on analytical testing have no practical relation to actual conditions which occur in accidents and in evacuation demonstrations. The FAA agrees that the limitations on the use of analytical procedures should be made clear. The requirement that the Administrator find the analysis data acceptable was intended to preclude approvals which might be based on insufficient test data, such as in the case of a completely new airplane model or a model which has major changes or a considerably larger passenger capacity than a previously approved model.

Accordingly, § 25.803(d) is revised to clarify the intent.

No unfavorable comments were received regarding proposed §§ 25.803 (c)(1), (c)(2), (c)(3), (c)(6), (c)(7)(i), (c)(8), (c)(9), (c)(11), (c)(13), (c)(15), and (c)(17). Accordingly, these proposals are adopted without substantive change.

It should be noted that the deletion of several proposed paragraphs and the insertion of a new § 25.803(c)(7) has required the redesignation of the adopted paragraphs.

The proposal to revise §§ 25.803 (c) and (d) is adopted with the changes discussed above.

Proposal 7-41. One commentator objected to the proposal to revise § 25.807(a)(7)(vi), stating that a flight attendant seat can be so mounted relative to an exit or to other seats that the flight attendant's access to the exit itself is restricted. The commentator recommended that the proposal be revised to specify that forward facing seats be placed aft of the emergency exit, and aft-facing seats be placed forward of the emergency exit, so that no flight attendant is seated with the attendant's back to the exit. The intent of the proposals to revise § 25.807(a)(7)(vi) is to specify that the seat required by present § 25.807(a)(7)(vi) must be a flight attendant seat which complies with the requirements of §§ 25.785 (h) and (i). The FAA is not aware of any unsatisfactory service history with respect to the orientation of seats provided in accordance with present § 25.807(a)(7)(vi), and the commentator did not provide any information which would indicate that a problem exists. The FAA believes that revising the proposal in the manner suggested by the commentator would unduly restrict design. Accordingly, the proposal is adopted without substantive change.

Proposed § 25.807(c)(7) is based on the existing special conditions developed for the current wide body jet airplanes. Based on the comments received, and upon further review within the FAA, the FAA believes that it does not have enough information to adopt a rule of general applicability to multi-deck airplanes at this time. Proposed § 25.807(c)(7) is withdrawn.

Proposal 7-42. Several commentators objected to proposed new § 25.809(f)(1)(iv) which would require that the emergency exit means to assist the occupants in descending to the ground be usable without outside assistance in 25-knot winds. One commentator stated that the proposed section was not clear with respect to whether deployment into a 25-knot wind was required in addition to operation in 25-knot winds after deployment. Proposed § 25.809(f)(1)(iv) is revised to state the requirement more clearly. Another commentator proposed that the weight of one person on the device be allowed to ground it to make it usable. The FAA agrees that the assistance of one person should be allowed. Proposed § 25.809(f)(1)(iv) is revised accordingly. In response to another comment questioning the state-of-the-art, the FAA believes that the proposed requirement, as revised to allow the assistance of one person after deployment, is within the state-of-the-art.

Another commentator stated that the provision concerning wind force direction in proposed § 25.809(f)(1)(iv) was vague. The FAA disagrees since the critical wind direction may vary for each assisting means and the applicant must demonstrate which direction is most critical.

Several commentators objected to the 98 percent reliability requirement in proposed new § 25.809(f)(1)(v) as being difficult to interpret given a relatively small sample size and indicated that tests conducted on new designs may not adequately represent the reliability level in service. Another commentator stated that the reliability requirements in proposed § 25.809(f)(1)(v) were excessive and unwarranted. The FAA believes that the evaluation of slide designs during airplane type certification does establish a level of in-service performance if the slides are maintained properly. The FAA agrees, however, that the amount of testing that would be required to obtain data for the proposed determination of 98 percent reliability may be excessive for the systems under consideration. A more direct testing method, requiring fewer tests, has been found to provide an acceptable measure of egress system reliability in recent airplane type certifications. Proposed § 25.809(f)(1)(v) is revised to specify the use that method.

One commentator asked how the inertial forces specified in proposed § 25.809(f)(i)(v) would be applied. In practice, this has been done by applying equivalent static loads. (Clearly, test methods will have to be developed for dynamic testing if future designs indicate a need for it.) This commentator also asked whether the last sentence of proposed § 25.809(f)(i)(v) is necessary. The FAA believes that with the test method specified, the testing series must be restarted following failure to ensure that the reliability assessment is valid. The last sentence of § 25.809(f)(i)(v) has been rewritten to make this clear.

Proposal 7-43. One commentator objected to proposed § 25.811(e), stating that the present operating instructions have historically proven adequate to open doors and that there is no need for the additional requirements. The FAA does not agree and believes that the need for the proposed requirements has been established by recent adverse service experience.

One commentator questioned whether proposed § 25.811(e)(2) is applicable to Type II exits. The FAA is unaware of any need for extending this requirement to Type II exits at this time. Consistent with the proposal, the requirement applies only to Type A and Type I exits.

One commentator recommended that proposed §§ 25.811 (e)(2)(i), (e)(2)(ii), and (e)(3) be revised to require that a minimum brightness remain after a substantial amount of weathering in service. The FAA believes that a requirement for a minimum brightness belongs in the operating rules and that it is correctly stated in § 121.310(e)(2) of the Federal Aviation regulations.

Another commentator suggested that the alternative requirements for Type I and Type A passenger exit operating handles set forth in proposed § 25.811(e)(2) (i) and (ii) be made applicable to Type III exit operating handles. The FAA does not agree. The alternative provisions referred to are allowed for Type I and Type A exits be-

cause a specified level of illumination must be provided at these exits. How-

posal 7-81 for § 121.310(1) is revised to require flashlight stowage provisions

the suggested revision is unnecessary. The same wording is used in current

ods to prevent hot gas reverse flow, which would provide at least an equiv-

preted the proposal to apply to both the APUs which are installed in the

is a controlling factor in extinguishing a fire within that fire zone. No accept-

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cause a specified level of illumination must be provided at these exits. However, since illumination levels are not specified for all Type III exit installations, a self-illuminated operating handle must be provided.

One commentator objected to the proposed ±0.5-inch tolerance for the location of the projected point of the arrow for rotary handle markings. The commentator indicated that current door rigging variations cannot always meet the proposed tolerance. The FAA agrees. To allow for rigging variations, proposed § 25.811(e)(4)(ii) is revised to require that centerline of the exit handle be within ±1-inch of the projected point of the arrow when the handle has reached full travel and has released the locking mechanism.

One comment on proposed § 25.811(e)(4)(ii) suggested that no marking is a substitute for having a door mechanism designed so that it is unmistakable when full travel of the mechanism has been reached. It is not clear what the commentator is recommending. However, the proposal requires marking of the handle position at the full travel limit, after the locking mechanism has been released. Since persons unfamiliar with the mechanism may be required to operate it in an emergency, the marking is needed to insure that they move the handle to full travel against any resistance which may be felt.

Proposed § 25.811(e) is adopted with the revision discussed above. In addition, several nonsubstantive changes have been made for clarity.

Proposal 7-44. No unfavorable comments were received on the proposal to amend § 25.812(e). Accordingly, the proposal is adopted without substantive change.

Two commentators questioned proposed §§ 25.812 (f) and (g) to provide emergency lighting coverage with the airplane in abnormal attitudes. One of the commentators contended that present standards have historically provided satisfactory lighting and that a "battery of lights" would be necessary to comply with the proposal. Based on the comments received, and after further review within the FAA, the proposed changes to §§ 25.812 (f) and (g) are withdrawn.

Several commentators objected to the proposal to add a new § 25.812(1). One commentator stated that the meaning of "high intensity" is subject to broad interpretation and that a flashlight could provide an acceptable level of illumination. Current § 121.549(b) provides for a readily available flashlight for each crewmember, and the FAA believes that the intent of the proposal can be met by specifying an accessible flashlight storage means. The proposal to add a new § 25.812(1) is withdrawn and Proposal 7-81 for § 121.310(1) is revised to require flashlight stowage provisions that are readily accessible from each flight attendant seat and to allow 2 years for compliance.

Proposal 7-45. One commentator objected to the proposal to revise § 25.813(c)(1) to add a requirement that "there must be no interference in opening the exit." The commentator considered this proposal to be interpretive material better suited for Advisory Circular action and stated it was not clear. The FAA disagrees. Many emergency exits need more clearance than the projected exit opening to prevent interference when opening the exit, and this proposal would make it clear that adequate clearance is required. The commentator suggested adding after the word "protrusions" the words "to prevent exit door ready removal" in § 25.813(c)(1). The FAA does not believe proposed § 25.813(c)(1) needs clarification, and the suggested wording could lead to misinterpretations.

Another commentator recommended that the requirement of § 25.813(c)(1) be applied to airplanes having 9 to 19 passenger seats. The FAA disagrees. Current requirements of § 25.813(c)(2) consider emergency exit access for airplanes having 19 or less passengers. Service experience has shown no need to change the requirements of § 25.813(c)(2).

After consideration of the comments received, and after further review, the FAA believes that proposed § 25.813(g) to establish material and systems requirements and proposed §§ 25.813 (h) and (i) to establish passageway design requirements are premature, and they are withdrawn.

Proposal 7-46. In view of the amendment of § 25.831 by Airworthiness Review Amendment No. 5 (42 FR 36960; July 18, 1977), the FAA believes that proposed § 25.831(g) is not necessary and it is withdrawn.

Proposal 7-47. No unfavorable comments were received on the proposal to amend § 25.863. One commentator asked for an explanation of the means to show compliance with the proposed requirements of paragraph (d). The areas where flammable fluids or vapors could escape by the leakage of a fluid system must be identified and defined as part of type design data submitted by the applicant for type certification. The proposal is adopted without substantive change.

Proposal 8-43. One commentator contended that proposed § 25.901(d) will be difficult to administer because the term "applicable provisions of this subpart" will not be consistently interpreted. The commentator suggested that the applicable provisions be clearly defined. The FAA does not agree with the commentator and believes the suggested revision is unnecessary. The same wording is used in current § 25.901(b)(1) with respect to propulsion powerplant installations, and has been administered without difficulty.

One commentator suggested that only those auxiliary power units (APU) that are classed as essential power units need to meet the applicable provisions of the subpart. Several other commentators suggested that the applicable provisions should be clearly defined to differentiate between essential and nonessential APU installations. The FAA does not agree with these comments. The FAA believes that appropriate requirements for safety must be applied to all APU installations. No justification has been shown for the operation of a nonessential or a ground operation only APU at a safety level that is different from that which is required for an essential APU.

The proposal is adopted without substantive change.

Proposal 8-46 and 3-35. Disposition of Proposal 3-35 to amend § 25.1103 (Notice 75-19) was deferred so that it could be considered in connection with Proposal 8-46. One commentator on Proposal 3-35 suggested that the proposed revision to § 25.1103(d), concerning ducts other than induction system ducts, be placed in a separate section of Part 25. The FAA believes that it is more appropriate to include the requirement in § 25.1103 and to expand the heading of that section to include a reference to air duct systems. Proposal 3-35 is adopted without substantive change. However, § 25.1103(d) as adopted reflects a change proposed by Proposal 8-46. With respect to Proposal 8-46, one commentator suggested that the phrase "unless it can be shown that a duct failure will not result in an additional fire hazard" be added to proposed § 25.1103(b). The FAA does not believe that the suggested condition could be met. The ducts under consideration are those which are contained within fire zones, including the auxiliary power unit fire zone. Duct failures in such areas could allow fire to spread, possible outside the fire zone, or could reduce the effectiveness of installed fire-extinguishing systems.

Several commentators suggested that it would be difficult to establish the "sufficient distance upstream of the auxiliary power unit compartment" specified in proposed § 25.1103(e). The FAA believes that the proposed standard is appropriate. In this instance, a more definitive standard, taking into account all of the factors that might be involved, would tend to restrict design flexibility unnecessarily.

One commentator objected to proposed § 25.1103(e), contending that its language precluded the use of methods to prevent hot gas reverse flow, which would provide at least an equivalent level of safety. The FAA knows of no practical method other than fireproofing to prevent hot gas reverse flow in induction system ducts. If such a method were developed, the applicant could apply for its approval under the "equivalent safety" provisions of § 21.21(b)(1). This commentator also contended that if proposed § 25.1103(f) is met, it is unrealistic to consider a fire caused by hot gas reverse flow burning in the air induction system. The commentator suggested, instead, a requirement to determine the maximum intake duct temperature that could occur under hot gas reverse flow conditions and to use a duct material that can resist these temperatures. The commentator apparently misinterpreted the proposal. Proposed § 25.1103(e) requires that certain portions of each auxiliary power unit induction system duct be fireproof, and proposed § 25.1103(f) states heat tolerance requirements for those portions of the induction system other than those which are specifically required to be fireproof. However, the FAA believes the proposed language may be unclear. Therefore, that portion of § 25.1103(f) which states requirements for the heat tolerance of materials be revised to clarify the applicability and is moved to § 25.1103(e).

Two commentators suggested that proposed § 25.1103(f) be revised to allow the use of materials that may absorb or trap non-hazardous quantities of flammable fluids (or flammable fluids that could present a hazard to the aircraft). These commentators contended that proposed § 25.1103(f) would prevent the use of certain sound suppression materials that trap small quantities of fluids. The FAA agrees and § 25.1103(f) is revised accordingly.

One commentator suggested that an acceptable alternative to compliance with proposed § 25.1103(f) would be to show that any fire which may occur is contained within the induction system. The FAA does not believe that it would be possible to contain a fire in the induction system since the induction system is a passage which is open at both ends.

Substantively identical revisions are made to Proposal 8-73 for § 29.1103.

Proposal 8-47. Two commentators on proposed § 25.1142 stated that there was no need for starting control on the flight deck for auxiliary power units (APU) that are operable only on the ground. The FAA believes that any APU installed on the airplane, whether or not intended only for ground use, should be able to be operated by the flight crew since its improper operation or malfunction could affect the safety of the aircraft. The commentators appear to have interpreted the proposal to apply to both the APUs which are installed in the airplane and to those stationary, portable, or mobile units which are external to the airplane and are considered to be ground support equipment. The proposal is therefore revised to clarify that it is applicable only to installed APUs.

One commentator stated that APU and engine standards in Part 25 should be separated to insure consistent administration. The FAA does not agree with this commentator, and believes the suggested revision is unnecessary. The APU and engine standards in Part 25 have been administered without difficulty for years.

Another commentator stated that the proposal should be revised to differentiate between essential and nonessential APUs. For a discussion of this comment, see Proposal 8-43.

Proposals 8-49 and 3-41. Disposition of Proposal 3-41 to amend § 25.1195(b) (Notice 75-19) was deferred so that it could be considered in connection with Proposal 8-49. One commentator objected to Proposal 3-41 and suggested that it be revised to read "* * * all extinguishers are not required to crossfeed all engines, but two shots to each engine are required." The proposal deletes the last sentence of present § 25.1195(b) to avoid the possible interpretation that a particular discharge must be directable to every fire zone. Such an arrangement would be acceptable, but individual systems which have a dual discharge capability may be confined to serve a particular fire zone. The proposal is considered equivalent to the wording preferred by this commentator.

Another commentator stated that the proposal does not meet the intent of the explanation unless the last sentence of present § 25.1195(b) is deleted. The proposal includes this deletion. This commentator further stated that the proposed wording contradicts the exemptions allowed by § 25.1195(a). The FAA does not agree. Section 25.1195(b) applies only to non-excepted fire zones. Proposal 3-41 to amend § 25.1195(b) is adopted without substantive change.

One commentator objected to the requirement in Proposal 8-49 for § 25.1195(b) that the test fully simulate actual critical airflow conditions, stating that there should be provisions in the regulations to allow the use of test results and analysis to show compliance. Another commentator objected to the proposal because it does not allow demonstration of compliance by a combination of analysis and analogy with similar engine installations that have been subjected to full scale fire tests. The FAA does not agree with these comments. Distribution of the extinguishing agent within a fire zone is a controlling factor in extinguishing a fire within that fire zone. No acceptable procedure has been found to demonstrate extinguishing agent concentration by analysis, or by reference to tests or service experience on similar powerplant installations, or by reference to tests conducted under conditions other than those encountered in service. Compliance with proposal § 25.1195(b) must be based on actual or simulated flight tests which fully provide the critical airflow conditions to be encountered in flight.

One commentator objected to the words "under critical airflow conditions," "any fire," and "preventing reignition" as meaningless when engine breakup or cowling damage occurs. A second commentator objected to the proposal because no hole size is specified. However, the proposal is based on the assumption that the fire zones under consideration remain intact, with no engine breakup or cowling damage and with only those holes that are present during normal operation. Therefore, no damage factors are specified.

Several commentators objected to the words "and preventing reignition" for the reason that there is no practical way to determine compliance unless the fire and potential reignition sources are defined. These commentators suggested that this requirement should be changed to "and minimize the probability of reignition." The FAA agrees that the language "and preventing reignition" may imply that extinguishing agent concentration must be maintained indefinitely. The FAA believes that this is beyond the present state-of-the-art, and the proposal is revised in the manner suggested by these commentators. Three of these commentators further objected to the proposed requirement for an extinguishing agent concentration capable of "extinguishing any fire" in a fire zone because there is no practical way to determine compliance unless the fire is defined. The FAA agrees, and the proposal is revised to incorporate the words "extinguishing fires" to be consistent with the provisions of present § 25.1195(b).

One commentator stated that the use of full-scale fire tests, evidence of similar powerplant configurations, and analysis were proposed as part of Airworthiness Review Notice No. 3 (Notice 75-19; 40 FR 21868; May 19, 1975) to show compliance with the requirements of §§ 25.1181 through 25.1203, and that this proposal is in conflict with Notice 75-19. The proposal in Notice 75-19 to which the commentator refers has been adopted as § 25.1207 (Airworthiness Review Amendment No. 4, effective May 2, 1977). Section 25.1207, as adopted, provides for those cases when tests are

specifically required. However, in light of the adoption of proposed

cated adjacent to a floor level exit may be required to use the public ad-

cannot be used. However, after consideration of the comments received, and

to auxiliary power units (APU) that do not meet the requirements of TSO-

Proposal 7-57. For comments related to the proposal to amend § 27.605, see Proposal 7-29.

torcraft. The commentators stated that these proposed requirements are not reasonable for normal category ro-

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specifically required. However, in light of the adoption of proposed § 25.1195(b), the FAA believes that § 25.1207 could be confusing and it is revised for clarity. Additionally, this commentator stated that the method of demonstrating satisfactory fire extinguishing capability should be by agreement between the manufacturer and the certificating authority. The FAA does not agree. Objective rules are needed to ensure that a consistent level of safety is maintained.

One commentator stated that the proposal refers to critical airflow conditions while the explanation refers to flight conditions, which are not necessarily the same thing. The FAA agrees that clarification is necessary. The proposal is revised to specify critical airflow conditions in flight.

Proposal 8-49 to amend § 25.1195(b) is adopted with the revisions discussed above. Similar revisions are also made in connection with Proposal 8-75 for § 29.1195(d).

Proposal 7-48. No unfavorable comments were received on the proposal to amend § 25.1307(a). Accordingly, the proposal is adopted without substantive change.

Proposal 5-24. For comments related to the proposal to revise § 25.1329(b), see Proposal 5-7.

Proposal 7-49. One commentator suggested deletion of the words "Such as automatic life raft releases" from proposed § 25.1411(a)(1) since they imply that the requirement is intended to apply only to equipment for ground emergency use. The FAA agrees. This implication is not intended, and the proposal is revised in the manner suggested by this commentator.

Several commentators objected to proposed § 25.1411(a)(2) and to its companion proposal for § 121.309(a)(2) (Proposal 7-80) regarding accessibility of standard emergency equipment to flight attendants. In light of the comments received, and after further review, the FAA believes that it should not be required that safety equipment such as fire extinguishers, portable oxygen bottles, and first aid kits be positioned adjacent to each flight attendant seat and be readily accessible to the seated flight attendant. From a safety standpoint, it is not essential that this equipment be used from a seated position, and from a practical standpoint it would be difficult to provide for the installation of the equipment in the confined areas proposed. Safety equipment should be installed in accessible areas of the aircraft where it would be available during an emergency. However, the FAA believes that when a public address system is provided in compliance with the operating rules of this chapter, the flight attendant seated in any of the seats located adjacent to a floor level exit may be required to use the public address system. Therefore, at least one public address system microphone intended for flight attendant use should be positioned at each floor level exit and be readily accessible to a flight attendant seated in any seat adjacent to the exit. The proposal to amend § 25.1411(a)(2) is revised accordingly. The proposal for § 121.309(a)(2) is revised in a substantively identical manner and is adopted as part of § 121.318(b), which is concerned with public address systems.

One commentator objected to the proposed requirement in § 25.1411 (a)(2) that "no equipment may be located as to adversely affect the safety of the flight attendant under any condition," stating that compliance would be clearly impossible to achieve. The FAA agrees that the proposed requirement may be too restrictive and it is deleted.

No unfavorable comments were received on the proposal to add a new § 25.1411(b)(3). The FAA believes that the requirements to identify the contents of storage compartments and containers are adequately covered in § 25.1541(c). The proposal for § 25.1411(b)(3) is withdrawn.

No unfavorable comments were received on the proposal to amend § 25.1411(d) and it is adopted without substantive change.

Two commentators objected to the proposal to add a new § 25.1411(h) which would require that emergency equipment be clearly marked to indicate its method of operation if it is not obvious. The commentator objected to passengers operating emergency equipment without assistance from flight attendants and also pointed out that current § 25.1561 already requires the marking of safety equipment as to its method of operation. After further review, the FAA believes that although crewmembers are not always available, the current marking instructions set forth in § 25.1561 cover passenger use. Proposed new § 25.1411(h) is withdrawn.

Proposal 7-50. The proposal to amend § 25.1413(b) is withdrawn. For comments related to the withdrawal, see Proposal 7-15.

Proposal 7-51. Two commentators objected to the proposal to add a new § 25.1415(b)(4), which would require that one-half of the non-portable rafts be considered unusable for ditching. The commentators stated that the requirement that one-half of the rafts be considered unusable is unrealistic. The FAA does not agree since a nonportable raft, or a raft which by design cannot be used at other than its primary exit, may not be operable if that exit malfunctions or if ditching conditions are such that that exit cannot be used. However, after consideration of the comments received, and after further review, the FAA believes that it does not have enough information to prescribe a rule of general applicability for the design of ditching provisions which incorporate non-portable rafts. Accordingly, proposed new § 25.1415(b)(4) is withdrawn. The FAA believes that with the withdrawal of proposed § 25.1415(b)(4), the reference to portable rafts that is contained in proposed § 25.1415(b)(3) may be interpreted as allowing the use of nonportable rafts. This effect is not intended, and proposed new § 25.1415(b)(3) is withdrawn.

Several commentators objected to the proposal to add a new § 25.1415(b)(5), which would require that means be provided to assist the airplane's occupants in boarding the rafts from the airplane without entering the water. The commentators contended that for certain sea conditions no means has been demonstrated for boarding rafts from airplanes without the possibility of the occupants entering the water. The FAA agrees and proposed new § 25.1415(b)(5) is withdrawn.

Proposal 7-52. No unfavorable comments were received on the proposal to add a new § 25.1416 which adds pneumatic de-icer systems requirements. However, the FAA has revised the proposal based on the comments received on Proposal 7-16. See Proposal 7-16.

Proposal 7-53. Several commentators recommended revisions to the proposal to add a new § 25.1423 which would establish intercommunication equipment requirements for multideck airplanes. One commentator recommended that the lead-in paragraph be revised to make the requirements applicable to airplanes with adjacent occupiable decks or compartments (excluding lavatories) and that the intercommunication and the two-way alert means be required between each occupiable deck or compartment and the flight deck. The same commentator recommended that the intercommunication system and the two-way alert means be capable of providing crewmembers on all decks or occupiable compartments an immediate indication of an emergency situation on any deck or occupiable compartment (excluding lavatories). In the light of the comments received, and after further review, the FAA believes that it does not now have enough information to specify intercommunication equipment requirements appropriate for all transport category airplanes. The proposal to add a new § 25.1423 is withdrawn.

Proposal 8-57. One commentator suggested that proposed new § 25.1522 be revised so that it would also apply

to auxiliary power units (APU) that do not meet the requirements of TSO-C77, (§ 37.183). The FAA does not agree. The proposal recognizes that operating limitations established under a TSO do not have to be reestablished as a part of airplane type certification. However, an airplane type certificate applicant would have to develop appropriate operating limitations during the airplane type certification for any installed APU not manufactured under the provisions of a TSO. Such APU operating limitations would then become part of the aircraft type design. The proposal has no applicability in the situation discussed by the commentator.

Another commentator, while agreeing with the proposal, suggested that proposed § 25.1522 be revised to require also that each APU meet the requirements of TSO-C77. The FAA does not agree. TSO-C77 is applicable only to gas turbine powered APU's. The suggested revision would require that APU's other than gas turbine units be manufactured to the standards which are appropriate to, and established only for, the manufacture of gas turbine auxiliary power units.

The proposal is adopted without substantive change.

Proposal 7-54. One commentator objected to the proposal to amend § 25.1561(c) which makes clear that the removal of required emergency equipment from the stowage provisions be "easy." The commentator suggested replacement of the word "facilitate" between the words "and" and "removal" with the words "provide easy accessibility and rapid" in § 25.1561(c). The FAA does not believe that the recommended revision is necessary to accomplish the intent of the proposal and the proposal is adopted without substantive change.

Proposal 8-60. No unfavorable comments were received on the proposal to delete § 25.1583(g). Accordingly, the proposal is adopted without substantive change.

Proposal 8-61. For a comment related to the proposal to amend § 25.1585, see Proposal 8-24. Proposed § 25.1585(d) is revised for reasons stated in the discussion of Proposal 8-24. Proposed § 25.1585(e) is adopted without substantive change.

Proposal 7-55. For a discussion of the deferral of the proposal to add a new Appendix G to Part 25, see Proposal 7-17.

Proposal 8-63. No unfavorable comments were received on the proposal to revise § 27.79(b)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 7-56. For comments related to the proposal to add a new § 27.603(c), see Proposal 7-3.

Proposal 7-57. For comments related to the proposal to amend § 27.605, see Proposal 7-29.

Proposal 7-58. One commentator apparently misunderstood the proposed addition to the lead-in of § 27.613(d). The commentator stated that the proposal did not change the current rule. However, the proposal would add the words "or other values approved by the Administrator." to the lead-in. With this change, the Administrator may allow the applicant greater flexibility in the selection of design values. The proposal is adopted without substantive change.

Proposal 7-59. Several commentators objected to the proposed amendments of §§ 27.671 and 29.671 on the ground that they would require extensive redundancy in the mechanical portion of the flight control system and require that the rotorcraft be capable of continued safe flight and landing if all engines fail. The commentators stressed that no current state-of-the-art designs can meet the proposed requirements and that redundancy may cause less reliable structure as a result of extreme complexity. One commentator stated that adequate safety can be achieved by proper design and fatique testing and analysis. After consideration of the comments received, and after further review, the FAA believes that it does not have enough information at this time to set forth an appropriate general standard for control system performance following failure or malfunction. The proposed changes to §§ 27.671 and 29.671 are withdrawn.

Proposal 7-60. No unfavorable comments were received on the proposal to revise § 27.675(d)(1). Accordingly, the proposal is adopted without substantive change.

Proposal 7-61. The proposed deletions of §§ 27.695 and 29.695 are related to the proposed revisions of §§ 27.671 and 29.671. In consideration of the withdrawal of the proposed revision of §§ 27.671 and 29.671, the proposed deletions of §§ 27.695 and 29.695 are withdrawn. See Proposal 7-59.

Proposal 7-62. Several commentators objected to the requirement in proposed §§ 27.737 and 29.737 that compliance with shock absorption tests must be demonstrated with ski components installed on rotorcraft. The commentators emphasized that the design of helicopter landing gear, such as standard skid designs, is such that ski installations will not generally change energy absorption characteristics. The FAA agrees. The proposals to amend §§ 27.737 and 29.737 are withdrawn.

Proposal 7-63. Several commentators objected to the proposed amendment to § 27.853 which would impose certain of the compartment interior fire protection requirements for transport category airplanes on normal category rotorcraft. The commentators stated that these proposed requirements are not reasonable for normal category rotorcraft and are more severe and more restrictive than the current requirements for normal category airplanes. The FAA agrees, and the proposal to amend § 27.853 is withdrawn.

Proposal 7-64. Two commentators objected to the proposal to add a new § 27.863 that would require protection from a flammable fluid or vapor fire outside the engine compartment. The commentators stated that the small, unsophisticated fluid carrying systems in normal category rotorcraft make this an unnecessary and expensive compliance item without increasing safety. The FAA disagrees. The agency believes that the smaller and less complex fluid carrying systems will be able to meet this requirement with correspondingly small and simple means. The proposal is adopted without substantive change. Also see the comments for Proposals 7-47 and 7-75.

Proposal 7-65. The proposal to amend § 27.1413(a) is withdrawn. For comments related to the withdrawal, see Proposal 7-15.

Proposal 7-66. Several commentators objected to the proposals to add new §§ 27.1463 and 29.1463 to require a means to prevent persons from inadvertently contacting the tail rotor of a rotorcraft. The comment was made that the only practical way to prevent a person from contacting a tail rotor is to make it physically impossible for the person to reach the tail rotor. This could be accomplished by raising the tail rotor or by using shrouds and screens. On smaller rotorcraft shrouds and screens would have to be used to prevent tail rotor contact by a person since it would be impossible to raise the tail rotor sufficiently. It was contended that providing a shroud and screen of sufficient strength and rigidity to accomplish its purpose, without itself causing a hazard due to deformations to be expected in service, would add excessive weight in a weight critical area of many rotorcraft designs. The FAA agrees with these comments and after further consideration the proposals to add new §§ 27.1463 and 29.1463 are withdrawn.

Proposals 5-51 and 5-65. Two commentators objected to proposed §§ 27.1545(a) and 29.1545(a) on the ground that these provisions are appropriate only to fixed-wing aircraft. Apparently these commentators construed the reference to paragraph (b) in proposed §§ 27.1545(a) and 29.1545(a) as referring to the markings specified in proposed § 23.1545(b). However, the paragraph (b) that is referred to in proposed § 27.1545(a) is current § 27.1545(b), and the paragraph referred to in proposed § 29.1545(a) is current § 29.1545(b).

Sections 27.1545(b) and 29.1545(b) have not been changed. Accordingly,

Proposal 7-68. For comments concerning the subject matter of the pro-

Also see the discussion of Proposals 7-47 and 7-64.

limit and that output is not directly controlled by the pilot under normal

For reasons that are stated in the discussion of Proposal 8-47, proposed

quire a demonstration upon a major change in cabin interior configuration

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Sections 27.1545(b) and 29.1545(b) have not been changed. Accordingly, the proposals to revise §§ 27.1545(a) and 29.1545(a) are adopted without substantive change.

Proposal 8-65. No unfavorable comments were received on the proposal to delete § 27.1583(f). Accordingly, the proposal is adopted without substantive change.

Proposal 8-66. No unfavorable comments were received on the proposal to amend § 27.1585; however, proposed § 27.1585(d) is revised for reasons stated in the discussion of Proposal 8-24. Proposed § 27.1585(e) is adopted without substantive change. In view of the adoption of new §§ 27.1585 (c) and (d) in Airworthiness Review Amendment No. 6 (42 FR 2302; January 16, 1978), proposed §§ 27.1585 (d) and (e) are redesignated and adopted as §§ 27.1585 (e) and (f), respectively.

Proposal 8-68. In the proposed amendment of § 29.75, one commentator objected to the use of the 50-foot height criterion for the determination of Category A landing distance. The commentator suggested a rewording that was identical to the proposal except that the 50-foot height criterion would be replaced by a requirement that the approach flight path cross the edge of the heliport at an altitude of 25 feet or less. According to the commentator, the 50-foot altitude criterion is inconsistent with past practices of some certification programs and there has been no adverse experience with the use of a 25-foot altitude "window." The FAA does not agree with the commentator. The FAA is aware of only one instance in which a 25-foot height criterion was used. In that instance, a 25-foot height was specified for landing operations to be conducted on a 2,300-foot runway. The FAA is not aware of any certification experience involving the use of a range of altitudes over the edge of the heliport (the "altitude window" concept) in the determination of Category A landing distances.

The commentator also suggested that the Category A performance requirements should be edited as a group and put into language which is understandable to people who work with helicopters. However, the commentator did not make any specific recommendations, and the FAA has no information which would indicate that Category A performance requirements are difficult to understand.

The proposal to amend § 29.75 is adopted without substantive change.

Proposal 7-67. For comments related to the proposal to add a new § 29.603(c), see Proposal 7-3. Section 29.603(c), as adopted, differs from the proposal for the reasons discussed in Proposal 7-3.

Proposal 7-68. For comments concerning the subject matter of the proposal to amend § 29.605, see Proposal 7-29. The proposal is adopted without substantive change.

Proposal 7-69. No unfavorable comments were received on the proposal to amend § 29.613(d). Accordingly, the proposal is adopted without substantive change.

Proposal 7-70. The proposal to amend § 29.671 is withdrawn. For a discussion of the withdrawal, see Proposal 7-59.

Proposal 7-71. No unfavorable comments were received on the proposal to amend § 29.675(d)(1). Accordingly, the proposal is adopted without substantive change.

Proposal 7-72. The proposal to delete § 29.695 is withdrawn. For discussion related to the withdrawal, see Proposal 7-61.

Proposal 7-73. The proposal to amend § 29.737 is withdrawn. For discussion related to the withdrawal, see Proposal 7-62.

Proposal 7-74. Several commentators objected to the proposal to amend § 29.853, which would impose certain of the compartment interior fire protection requirements for transport category airplanes on transport category rotorcraft. The commentators cited the favorable service experience to date, the smaller cabins of transport category rotorcraft relative to transport category airplanes, the ability of helicopters to land quickly, and the fact that helicopter cabins are not pressurized, as reasons not to impose transport category airplane requirements on transport category rotorcraft. The FAA disagrees. The service experience cited is based on the relatively small current civil fleet of transport category rotorcraft. However, the current fleet is increasing in size both with respect to the number of rotorcraft and with respect to the size of rotorcraft.

In response to another comment, proposed § 29.853(a) has been further revised to set forth the applicable requirements contained in §§ 25.853 (a) and (b) rather than cross referencing those regulations.

However, the cross-reference to Appendix F of Part 25 for test procedures has been retained. See also the discussion of Proposal 7-12.

Proposal 7-75. Two commentators objected to the proposal to revise § 29.863 on the ground that the present regulations provide an adequate level of safety without adding unnecessary cost to the certification program. The FAA believes that the proposed requirements are necessary to insure protection from a flammable fluid or vapor fire. The proposal is adopted without substantive change. Also see the discussion of Proposals 7-47 and 7-64.

Proposal 8-69. No unfavorable comments were received on the proposal to amend § 29.901. For comments related to the like proposal to amend § 25.901, see Proposal 8-43. The proposal is adopted without substantive change.

Proposal 8-70. One commentator objected to the requirements in proposed § 29.923(a) that the tests be conducted on the rotorcraft and that the test torque be absorbed by the actual rotors to be installed. This commentator stated that the testing of larger drive systems while installed on the rotorcraft is impractical and, in some cases, unconservative in view of the manner in which the rotorcraft must be attached to the ground to absorb the powers involved. Another commentator also objected to the requirement that the 200-hour test be conducted on the rotorcraft. This commentator stated that for conventional rotorcraft with anti-torque tail rotors, or those with contra-rotating rotors, the test purpose could be fulfilled by conducting the test on a suitable rig, if it can be demonstrated that the distortion and vibration conditions are the same as those met on the rotorcraft. The requirements to which these commentators objected are contained in present § 29.923 and were merely restated for clarity in the proposal. Further, the FAA believes these requirements are necessary to insure the validity of the test results.

One commentator suggested that for clarity § 29.923(a) should read "• • • for at least 200 hours plus any extra time required to meet paragraphs (b)(2) and (k) of this section where more than two engines are fitted in the rotorcraft." The FAA believes that the applicability of §§ 29.923 (b)(2)(ii) and (k)(2) to multi-engine rotorcraft is clearly stated and that the revision suggested by this commentator is unnecessary.

The proposal to amend § 29.923 is adopted without substantive change.

Proposals 8-71 and 2-164. Disposition of Proposal 2-164 to amend § 29.927 (Notice 75-10, 40 FR 10802; March 7, 1975) was deferred so that it could be considered in connection with Proposal 8-71. One commentator on Proposal 2-164 to amend § 29.927(b)(2) questioned whether due consideration had been given to the 30-minute emergency power rating when establishing the 15-minute time requirement for the torque transmission test. The 30-minute rating is substantiated by the endurance testing specified in proposed § 29.923, while the proposed 15-minute time requirement is associated with testing which must be done if turbine engine output can exceed the highest engine or transmission torque

limit and that output is not directly controlled by the pilot under normal operating conditions. The highest engine or transmission torque limit is usually associated with takeoff torque, and the 15-minute test would be done at a torque level substantially higher than that associated with the 30-minute rating. The FAA therefore believes that due consideration has been given to the 30-minute ratings, and Proposal 2-164 is adopted without substantive change.

One commentator on Proposal 8-71 agreed with the concept that the overspeed test should be a "proof" test, but questioned the use of maximum continuous speed as a datum. The commentator stated that the use of 120 percent of maximum continuous speed would be acceptable provided this value is at least equal to 105 percent of rotor never-exceed speed and 115 percent of takeoff speed. Maximum continuous speed is used as a reference speed in other required testing of the rotor drive system, and the FAA believes it is appropriate to retain it for consistency. Further, the FAA does not have any information at the present time to indicate that the additional requirements recommended by the commentator are necessary.

One commentator objected to the provisions "After completion of the 200-hour, tie-down test and without intervening major disassembly" in proposed § 29.927(d). The FAA agrees that this provision is inappropriate. The intent of the proposal was to dissociate the overspeed test from the 200-hour, tie-down test since the tests are unrelated. The proposal is revised by striking the words "After completion of the 200-hour, tie-down test and without intervening major disassembly."

Proposal 8-72. No unfavorable comments were received on the proposal to amend § 29.1091 and it is adopted as proposed.

Proposal 8-73. For comment related to the proposal to revise § 29.1103, see Proposal 8-46. The proposal is revised for the reasons discussed in Proposal 8-46.

Proposal 8-74. One commentator objected to the requirement in proposed § 29.1142 that controllability from the flight deck must be provided for auxiliary power units (APU), contending that nonessential APUs should be excluded from the requirement. The FAA does not agree. The commentator has not presented any reason to justify distinguishing between APUs on the basis of the essential or nonessential nature of the services provided by the APU. The FAA believes the flight crew should be provided a means to control an emergency involving any installed auxiliary power unit.

For reasons that are stated in the discussion of Proposal 8-47, proposed § 29.1142 is revised by inserting the word "installed" between the words "each" and "auxiliary."

Proposal 8-75. For comments related to a proposal similar to the proposal for § 29.1195(d), see Proposal 8-49. Section 29.1195(d), as adopted, differs from the proposal for the reasons discussed in Proposal 8-49.

Proposal 7-76. The proposal to amend § 29.1413 is withdrawn. For a discussion of the withdrawal, see Proposal 7-15.

Proposal 7-77. The proposal to add a new § 29.1463 is withdrawn. For a discussion of the withdrawal, see Proposal 7-66.

Proposal 8-76. No unfavorable comments were received on the proposal to add a new § 29.1522. For comments related to the proposal to add a new like section under Part 25, see Proposal 8-57. The proposal to add new § 29.1522 is adopted without substantive change.

Proposal 5-65. For comments related to the proposal to revise § 29.1545(a), see Proposal 5-51. The proposal is adopted without substantive change.

Proposal 8-78. No unfavorable comments were received on the proposal to delete § 29.1583(g). Accordingly, the proposal is adopted without substantive change.

Proposal 8-79. No unfavorable comments were received on the proposal to amend § 29.1585; however, proposed § 29.1585(d) is revised for reasons stated in the discussion of Proposal 8-24. Proposed § 29.1585(e) is adopted without substantive change. In view of the adoption of new §§ 29.1585 (c) and (d) in Airworthiness Review Amendment No. 6 (43 FR 2302; January 16, 1978), proposed §§ 29.1585 (d) and (e) are redesignated and adopted as §§ 29.1585 (e) and (f), respectively.

Proposal 7-78. One commentator suggested that the proposal to amend § 121.291 be revised to allow an air carrier to utilize the results of an evacuation demonstration conducted by another air carrier to eliminate the need for an additional demonstration. The purpose of the proposed amendment to § 121.291 and the related proposals to revise § 25.803(c) (Proposal 7-40) and to delete paragraph (a) of Appendix D to Part 121 (Proposal 7-84) is to specify conditions for an emergency evacuation demonstration to be conducted during type certification, which meets both airworthiness and operational needs. The FAA does not believe that any further relaxation of the current requirement that a Part 121 operator conduct a demonstration in addition to that conducted during type certification of the airplane, is justified. This commentator also recommended revising the proposal to require a demonstration upon a major change in cabin interior configuration that significantly affects the emergency evacuation duties of crewmembers. The FAA believes that present § 121.291(a)(2) adequately provides for the situation described by the commentator.

One commentator suggested that paragraph (a) of Appendix D to Part 121 be retained since there are certain difference in wording between that paragraph and § 25.803(c) which would be inappropriate. After consideration of this comment, and upon further review, the FAA agrees that paragraph (a) of Appendix D Part 121 contains certain requirements for emergency equipment installation, for seating density and arrangement, and for crewmember qualifications which are appropriate to an emergency evacuation demonstration conducted by an operator and which should be retained. Proposal 7-84 to delete paragraph (a) of Appendix D is withdrawn, and the reference to that paragraph which appears in present § 121.291(a) is retained.

Proposal 7-79. The proposal to add a new § 121.292 is withdrawn. For a discussion of comments related to the proposal, see Proposal 7-39.

Proposal 7-80. For discussion concerning the revision of the proposal for § 121.309(a)(2), see Proposal 7-49. Since provisions for a public address system and its use are currently provided under § 121.318, the FAA believes that substance of the proposed § 121.309(a)(2), as revised, is more appropriately stated in § 121.318, and that section is revised accordingly. The provision for a delayed effective date has been retained but extended to 2 years.

The proposal to add a new § 121.309(a)(3) is withdrawn since the proposed requirements are adequately covered in § 121.309(b)(4).

While no unfavorable comments were received on the proposal to amend § 121.309(b)(3), upon further review the FAA believes that the current requirement adequately covers identification and marking of equipment operation. Accordingly, the proposal is withdrawn.

Proposal 7-81. Several commentators objected to the proposal to amend § 121.310(a), which would require that existing aircraft comply with the emergency evacuation slide requirements in proposed § 25.809(f)(1) within 2 years of the effective date of this amendment. The commentators stated that 2 years would not be enough time to develop and test emergency evacuation slides complying with proposed § 25.809(f)(1) and to retrofit them to existing aircraft. One commentator further objected that the design development and testing needed would con-

stitute an undue burden for the operator, and that there is no assurance

passenger capacity might have its raft requirements satisfied with three rafts

(3) Take into account the effects of environmental conditions, such as

(3) A proper margin of damping exists at V_D; and

analysis based on tests conducted on a landing gear system with identical

equipment, and malfunctioning of protective devices.

(4) Means available for controlling

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stitute an undue burden for the operator, and that there is no assurance that the proposed criteria could be applied retroactively to all airplanes. The FAA agrees, and the proposal to amend § 121.310(a) is withdrawn.

One commentator stated that the requirement in proposed new § 121.310(d)(4), that each emergency light have a cockpit control device with "on", "off," and "armed" positions 1 year after the effective date of the amendment, may be too restrictive, particularly for large fleet operators. Upon further consideration, the FAA believes the retrofit requirement should be extended to two years. Proposed new § 121.310(d)(4) is revised accordingly.

For a discussion of the revision to proposed § 121.310(1), see Proposal 7-44.

Proposal 7-82. One commentator objected to the proposal to revise § 121.319(b)(1) to require two-way communication between the pilot compartment and all the galleys and other flight attendant stations on the ground that the proposed requirement would result in unnecessary redundancy and would not be cost effective. The commentator agreed with a requirement for interphones for only those galleys physically isolated from the passenger compartment. Two other commentators stated that adequate communication could be provided without interphones at each flight attendant station and galley because of the close proximity of some flight attendant stations to galleys. Another commentator suggested that the interphone be required only at required flight attendant stations. The FAA agrees that the intent of the proposal can be accomplished without requiring a means of communication to all galleys and other flight attendant stations. Accordingly, the proposal is revised to require a means of two-way communication between the pilot compartment and each galley which is located on other than the main passenger deck level and each passenger compartment.

One commentator stated that the installation of the proposed two-way communication system would require the modification of aircraft and therefore requested a delayed effective date. The FAA agrees and the proposal is revised to provide 2 years for compliance with the new requirement.

Additionally, §§ 121.313 (b)(3), (b)(4), and (b)(5) are revised for consistency with the proposal for § 121.319(b)(1) by deleting the words "the passenger compartment" and substituting the words "each passenger compartment" in their place.

Proposal 7-83. One commentator stated that under the proposed rule it is conceivable that an aircraft of 300 passenger capacity might have its raft requirements satisfied with three rafts of 100 person capacity each, and considered such compliance to be impractical from the standpoint of passenger flow, urgency of evacuation at the time of ditching, and the number of exits available to those surviving passengers. The commentator recommended that the minimum number of life rafts be equivalent to the number of exits for launching of life rafts and for exiting of passengers of the ditched aircraft. The FAA does not have sufficient information at the present time to justify requiring more life rafts than would be required by proposed § 121.339(a)(2).

One commentator recommended that the proposal to amend § 121.339(a)(2) be revised to use the wording in § 25.1415(b)(1). The FAA agrees. The proposed amendment to § 121.339(a)(2) was intended to update it to agree with the requirements of § 25.1415(b)(1). The proposal is revised accordingly.

Proposal 7-84. The proposal to delete paragraph (a) of Appendix D to Part 121 is withdrawn. For discussion of the withdrawal, see Proposal 7-78.

Adoption of the Amendments

Accordingly, Parts 23, 25, 27, 29, and 121 of the Federal Aviation Regulations (14 CFR Parts 23, 25, 27, 29, and 121), are amended as follows, effective December 1, 1978.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By revising § 23.345(c) to read as follows:

§ 23.345 High lift devices.

• • • • • •

(c) In designing the flaps and supporting structures, the following must be accounted for:

(1) A head-on gust having a velocity of 25 feet per second (EAS).

(2) The slipstream effects specified in § 23.457(b).

2. By deleting the word "be" and the dash at the end of the lead-in of § 23.603(a) and inserting in their place a dash; by inserting the word "Be" at the beginning of § 23.603(a)(1) and deleting the word "and" at the end of § 23.603(a)(1); by deleting the period at the end of § 23.603(a)(2) and inserting a semicolon and the word "and" in its place; and by adding a new § 23.603(a)(3) to read as follows:

§ 23.603 Materials and workmanship.

(a) • • •

(3) Take into account the effects of environmental conditions, such as temperature and humidity, expected in service.

• • • • • •

3. By redesignating § 23.605 as § 23.605(a) and adding a new § 23.605(b) to read as follows:

§ 23.605 Fabrication methods.

• • • • • •

(b) Each new aircraft fabrication method must be substantiated by a test program.

4. By revising the lead-in of § 23.613(c) to read as follows:

§ 23.613 Material strength properties and design values.

• • • • • •

(c) Design values must be those contained in the following publications (obtainable from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402) or other values approved by the Administrator:

• • • • • •

5. By revising § 23.629 to read as follows:

§ 23.629 Flutter.

(a) It must be shown by one of the methods specified in paragraph (b), (c), or (d) of this section, or a combination of these methods, that the airplane is free from flutter, control reversal, and divergence for any condition of operation within the limit V-n envelope, and at all speeds up to the speed specified for the selected method. In addition—

(1) Adequate tolerances must be established for quantities which affect flutter, including speed, damping, mass balance, and control system stiffness; and

(2) The natural frequencies of main structural components must be determined by vibration tests or other approved methods.

(b) A rational analysis may be used to show that the airplane is free from flutter, control reversal, and divergence if the analysis shows freedom from flutter for all speeds up to $1.2V_D$.

(c) Flight flutter tests may be used to show that the airplane is free from flutter, control reversal, and divergence if it is shown by these tests that—

(1) Proper and adequate attempts to induce flutter have been made within the speed range up to V_D;

(2) The vibratory response of the structure during the test indicates freedom from flutter;

(3) A proper margin of damping exists at V_D; and

(4) There is no large and rapid reduction in damping as V_D is approached.

(d) Compliance with the rigidity and mass balance criteria (pages 4-12), in Airframe and Equipment Engineering Report No. 45 (as corrected) "Simplified Flutter Prevention Criteria" (published by the Federal Aviation Administration) may be accomplished to show that the airplane is free from flutter, control reversal, or divergence if—

(1) V for the airplane is less than 260 knots (EAS) at altitudes below 14,000 feet and less than Mach 0.6 at altitudes at and above 14,000 feet,

(2) The wing and aileron flutter prevention criteria, as represented by the wing torsional stiffness and aileron balance criteria, are limited in use to airplanes without large mass concentrations (such as engines, floats, or fuel tanks in outer wing panels) along the wing span, and

(3) The airplane—

(i) Does not have a T-tail or boom tail,

(ii) Does not have unusual mass distributions or other unconventional design features that affect the applicability of the criteria, and

(iii) Has fixed-fin and fixed-stabilizer surfaces.

(e) For multiengine turbopropeller powered airplanes, the dynamic evaluation must include—

(1) Whirl mode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces, and

(2) Engine-propeller-nacelle stiffness and damping variations appropriate to the particular configuration.

(f) Freedom from flutter, control reversal, and divergence up to V_D/M_D must be shown as follows:

(1) For airplanes that meet the criteria of paragraphs (d)(1) through (d)(3) of this section, after the failure, malfunction, or disconnection of any single element in any tab control system.

(2) For airplanes other than those described in paragraph (f)(1) of this section, after the failure, malfunction, or disconnection of any single element in the primary flight control system, any tab control system, or any flutter damper.

6. By revising § 23.723(a) to read as follows:

§ 23.723 Shock absorption tests.

(a) It must be shown that the limit load factors selected for design in accordance with § 23.473 for takeoff and landing weights, respectively, will not be exceeded. This must be shown by energy absorption tests except that analysis based on tests conducted on a landing gear system with identical energy absorption characteristics may be used for increases in previously approved takeoff and landing weights.

• • • • •

7. By adding a new § 23.785(1) to read as follows:

§ 23.785 Seats and berths.

• • • • •

(1) Each seat track must be fitted with stops to prevent the seat from sliding off the track.

8. By adding a new § 23.853(e) to read as follows;

§ 23.853 Compartment interiors.

• • • • •

(e) Airplane materials located on the cabin side of the firewall must be self-extinguishing or be located at such a distance from the firewall, or otherwise protected, so that ignition will not occur if the firewall is subjected to a flame temperature of not less than 2,000 degrees F for 15 minutes. For self-extinguishing materials (except electrical wire and cable insulation and small parts that the Administrator finds would not contribute significantly to the propagation of a fire), a vertical self-extinguishing test must be conducted in accordance with Appendix F of this part or an equivalent method approved by the Administrator. The average burn length of the material may not exceed 6 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the material test specimen may not continue to flame for more than an average of 3 seconds after falling.

9. By adding a new § 23.863 to read as follows.

§ 23.863 Flammable fluid fire protection.

(a) In each area where flammable fluids or vapors might escape by leakage of a fluid system, there must be means to minimize the probability of ignition of the fluids and vapors, and the resultant hazard if ignition does occur.

(b) Compliance with paragraph (a) of this section must be shown by analysis or tests, and the following factors must be considered:

(1) Possible sources and paths of fluid leakage, and means of detecting leakage.

(2) Flammability characteristics of fluids, including effects of any combustible or absorbing materials.

(3) Possible ignition sources, including electrical faults, overheating of equipment, and malfunctioning of protective devices.

(4) Means available for controlling or extinguishing a fire, such as stopping flow of fluids, shutting down equipment, fireproof containment, or use of extinguishing agents.

(5) Ability of airplane components that are critical to safety of flight to withstand fire and heat.

(c) If action by the flight crew is required to prevent or counteract a fluid fire (e.g. equipment shutdown or actuation of a fire extinguisher), quick acting means must be provided to alert the crew.

(d) Each area where flammable fluids or vapors might escape by leakage of a fluid system must be identified and defined.

10. By revising § 23.1307(a) to read as follows:

§ 23.1307 Miscellaneous equipment.

(a) There must be an approved seat or berth for each occupant.

• • • • • •

11. By adding a new § 23.1329(g) to read as follows:

§ 23.1329 Automatic pilot system.

• • • • • •

(g) If the automatic pilot system can be coupled to airborne navigation equipment, means must be provided to indicate to the flight crew the current mode of operation. Selector switch position is not acceptable as a means of indication.

12. By adding a new § 23.1416 to read as follows:

§ 23.1416 Pneumatic de-icer boot system.

If certification with ice protection provisions is desired and a pneumatic de-icer boot system is installed—

(a) The system must meet the requirements specified in § 23.1419.

(b) The system and its components must be designed to perform their intended function under any normal system operating temperature or pressure, and

(c) Means to indicate to the flight crew that the pneumatic de-icer boot system is receiving adequate pressure and is functioning normally must be provided.

13. By revising §§ 23.1545(a) and 23.1545(b)(5), and by adding a new § 23.1545(b)(6), to read as follows:

§ 23.1545 Airspeed indicator.

(a) Each airspeed indicator must be marked as specified in paragraph (b) of this section, with the marks located at the corresponding indicated airspeeds.

(b) • • •

(5) For the one-engine-inoperative best rate of climb speed, V_y, a blue

(b) *Specimen configuration.* Materials must be tested either as a section cut from a

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT

19. By striking the words "as speed brakes" from the lead-in of § 25.345(c):

23. By deleting the word "and" at the end of § 25.603(a); by deleting the

shown to be satisfactory in the flutter and divergence investigations.

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(5) For the one-engine-inoperative best rate of climb speed, V_y, a blue sector extending from the V_y speed at sea level to the V_y speed at—

(i) An altitude of 5,000 feet, if the one-engine-inoperative best rate of climb at that altitude is less than 100 feet per minute, or

(ii) The highest 1,000-foot altitude (at or above 5,000 feet) at which the one-engine-inoperative best rate of climb is 100 feet per minute or more.

Each side of the sector must be labeled to show the altitude for the corresponding V_y.

(6) For the minimum control speed (one-engine-inoperative), V_{mc}', a red radial line.

* * * * *

14. By adding a new § 23.1557(f) to read as follows:

§ 23.1557 Miscellaneous markings and placards.

* * * * *

(f) *Unusable fuel.* If the unusable fuel supply in any tank exceeds five percent of the tank capacity, or one gallon, whichever is greater, a placard must be installed next to the fuel quantity indicator for that tank, stating that the fuel remaining when the quantity indicator reads "zero" in level flight cannot be used safely in flight.

§ 23.1583 [Amended]

15. By deleting § 23.1583(i) and marking it "[Reserved]".

16. By adding new §§ 23.1585(f) and (g) to read as follows:

§ 23.1585. Operating procedures.

* * * * *

(f) If the unusable fuel supply in any tank exceeds 5 percent of the tank capacity, or 1 gallon, whichever is greater, information must be furnished which indicates that when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(g) Information on the total quantity of usable fuel for each fuel tank must be furnished.

17. By adding a new Appendix F to Part 23 to read as follows:

APPENDIX F

An acceptable Test Procedure for Self-Extinguishing Materials for showing compliance with § 23.853(e).

(a) *Conditioning.* Specimens must be conditioned to 70 degrees F, plus or minus 5 degrees, and at 50 percent plus or minus 5 percent relative humidity until moisture equilibrium is reached or for 24 hours. Only one specimen at a time may be removed from the conditioning environment immediately before subjecting it to the flame.

(b) *Specimen configuration.* Materials must be tested either as a section cut from a fabricated part as installed in the airplane or as a specimen simulating a cut section, such as a specimen cut from a flat sheet of the material or a model of the fabricated part. The specimen may be cut from any location in a fabricated part; however, fabricated units, such as sandwich panels, may not be separated for test. The specimen thickness must be no thicker than the minimum thickness to be qualified for use in the airplane, except that thick foam parts must be tested in ½-inch thickness. In the case of fabrics, both the warp and fill direction of the weave must be tested to determine the most critical flammability conditions. When performing the test prescribed in paragraph (d) of this appendix, the specimen must be mounted in a metal frame so that: (1) The two long edges and the upper edge are held securely; (2) the exposed area of the specimen is at least 2 inches wide and 12 inches long, unless the actual size used in the airplane is smaller; and (3) the edge to which the burner flame is applied must not consist of the finished or protected edge of the specimen but must be representative of the actual cross section of the material or part installed in the airplane.

(c) *Apparatus.* Except as provided in paragraph (e) of this appendix, tests must be conducted in a draft-free cabinet in accordance with Federal Test Method Standard 191 Method 5903 (revised Method 5902) which is available from the General Services Administration, Business Service Center, Region 3, Seventh and D Streets SW., Washington, D.C. 20407, or with some other approved equivalent method. Specimens which are too large for the cabinet must be tested in similar draft-free conditions.

(d) *Vertical test.* A minimum of three specimens must be tested and the results averaged. For fabrics, the direction of weave corresponding to the most critical flammability conditions must be parallel to the longest dimension. Each specimen must be supported vertically. The specimen must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1,550 degrees F. The lower edge of the specimen must be three-fourths inch above the top edge of the burner. The flame must be applied to the center line of the lower edge of the specimen. The flame must be applied for 60 seconds and then removed. Flame time, burn length, and flaming time of drippings, if any, must be recorded. The burn length determined in accordance with paragraph (e) of this appendix must be measured to the nearest one-tenth inch.

(e) *Burn length.* Burn length is the distance from the original edge to the farthest evidence of damage to the test specimen due to flame impingement, including areas of partial or complete consumption, charring, or embrittlement, but not including areas sooted, stained, warped, or discolored, nor areas where material has shrunk or melted away from the heat source.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

18. By deleting § 25.331(c)(3) and marking it "[Reserved]," revising §§ 25.331(c)(1) and (c)(2), and adding a sentence to the end of § 25.331(a)(4) to read as follows.

§ 25.331 General.

(a) * * *

(4) * * *. The in-trim and out-of-trim flight conditions specified in § 25.255 must be considered.

* * * * *

(c) * * *

(1) *Maximum elevator displacement at V_A.* The airplane is assumed to be flying in steady level flight (point A_1, § 25.333(b)) and, except as limited by pilot effort in accordance with § 25.397(b), the pitching control is suddenly moved to obtain extreme positive pitching acceleration (nose up). The dynamic response or, at the option of the applicant, the transient rigid body response of the airplane, must be taken into account in determining the tail load. Airplane loads which occur subsequent to the normal acceleration at the center of gravity exceeding the maximum positive limit maneuvering load factor, n, need not be considered.

(2) *Specified control displacement.* A checked maneuver, based on a rational pitching control motion vs. time profile, must be established in which the design limit load factor specified in § 25.337 will not be exceeded. Unless lesser values cannot be exceeded, the airplane response must result in pitching accelerations not less than the following.

(i) A positive pitching acceleration (nose up) is assumed to be reached concurrently with the airplane load factor of 1.0 (Points A to D, § 25.333(b)). The positive acceleration must be equal to at least

$$39n/V(n-1.5), \text{ (Radians/Sec.}^2\text{)}$$

where—

n is the positive load factor at the speed under consideration, and V is the airplane equivalent speed in knots.

(ii) A negative pitching acceleration (nose down) is assumed to be reached concurrently with the positive maneuvering load factor (points A to D, § 25.333(b)). The negative pitching acceleration must be equal to at least

$$-26n/V(n-1.5), \text{ (Radians/Sec.}^2\text{)}$$

where—

n is the positive load factor at the speed under consideration; and V is the airplane equivalent speed in knots.

* * * * *

19. By striking the words "as speed brakes" from the lead-in of § 25.345(c); and by adding a new § 25.345(d) to read as follows:

§ 25.345 High lift devices.

* * * * *

(d) The airplane must be designed for landing at the maximum takeoff weight with a maneuvering load factor of 1.5g and the flaps and similar high lift devices in the landing configuration.

§ 25.351 [Amended]

20. By striking the symbol "V_A" in the lead-in of § 25.351(a) and replacing it with the symbol "V_D".

21. By striking the words "The limit engine torque" in § 25.361(a)(1) and replacing them with the words "A limit engine torque"; by striking the words "The limit engine torque corresponding to maximum continuous power and propeller speed" in § 25.361(a)(2) and replacing them with the words "A limit engine torque as specified in § 25.361(c)"; by striking the words "the limit engine torque" in § 25.361(a)(3) and replacing them with the words "a limit engine torque"; and by revising § 25.361(b) and the lead-in of § 25.361(c) to read as follows:

§ 25.361 Engine torque.

* * * * *

(b) For turbine engine installations, the engine mounts and supporting structure must be designed to withstand each of the following:

(1) A limit engine torque load imposed by sudden engine stoppage due to malfunction or structural failure (such as compressor jamming).

(2) A limit engine torque load imposed by the maximum acceleration of the engine.

(c) The limit engine torque to be considered under paragraph (a)(2) of this section must be obtained by multiplying the mean torque for maximum continuous power by a factor of—

* * * * *

22. By adding a new § 25.499(e) to read as follows:

§ 25.499 Nose-wheel yaw.

* * * * *

(e) With the airplane at design ramp weight, and the nose gear in any steerable position, the combined application of full normal steering torque and a vertical force equal to the maximum static reaction on the nose gear must be considered in designing the nose gear, its attaching structure, and the forward fuselage structure.

23. By deleting the word "and" at the end of § 25.603(a); by deleting the period at the end of § 25.603(b) and inserting a semicolon and the word "and" in its place; and by adding a new § 25.603(c) to read as follows:

§ 25.603 Materials.

* * * * *

(c) Take into account the effects of environmental conditions, such as temperature and humidity, expected in service.

24. By redesignating § 25.605 as § 25.605(a) and by adding a new § 25.605(b) to read as follows:

§ 25.605 Fabrication methods.

* * * * *

(b) Each new aircraft fabrication method must be substantiated by a test program.

25. By revising the lead-in of § 25.613(e) to read as follows:

§ 25.613 Material strength properties and design values.

* * * * *

(e) Design values must be those contained in the following publications (obtainable from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402) or other values approved by the Administrator:

* * * * *

26. By revising §§ 25.629 (d)(1), (d)(4)(v), and (d)(4)(vi) to read as follows:

§ 25.629 Flutter, deformation, and fail-safe criteria.

* * * * *

(d) * * *

(1) It must be shown, by analysis or tests, that the airplane is free from such flutter or divergence that would preclude safe flight, at any speed up to V_D, after each of the following:

(i) Each of the failures, malfunctions, or adverse conditions listed in subparagraph (4) of this paragraph.

(ii) Any other combination of failures not shown to be extremely improbable.

* * * * *

(4) * * *

(v) Failure of each principal structural element selected for compliance with § 25.571(b). Safety following a failure may be substantiated by showing that losses in rigidity or changes in frequency, mode shape, or damping are within the parameter variations shown to be satisfactory in the flutter and divergence investigations.

(vi) Any single failure or malfunction, or combinations thereof, in the flight control system considered under §§ 25.671, 25.672, and 25.1309, and any single failure in any flutter damper system. Investigation of forced structural vibration other than flutter, resulting from failures, malfunctions, or adverse conditions in the automatic flight control system may be limited to airspeeds up to V_C.

27. By revising § 25.697(b) to read as follows:

§ 25.697 Lift and drag devices, controls.

* * * * *

(b) Each lift and drag device control must be designed and located to make inadvertent operation improbable. Lift and drag devices intended for ground operation only must have means to prevent the inadvertent operation of their controls in flight if that operation could be hazardous.

* * * * *

28. By revising § 25.701(a) to read as follows:

§ 25.701 Flap interconnection.

(a) Unless the airplane has safe flight characteristics with the flaps retracted on one side and extended on the other, the motion of flaps on opposite sides of the plane of symmetry must be synchronized by a mechanical interconnection or approved equivalent means.

* * * * *

29. By revising § 25.723(a) to read as follows:

§ 25.723 Shock absorption tests.

(a) It must be shown that the limit load factors selected for design in accordance with § 25.473 for takeoff and landing weights, respectively, will not be exceeded. This must be shown by energy absorption tests except that analysis based on tests conducted on a landing gear system with identical energy absorption characteristics may be used for increases in previously approved takeoff and landing weights.

* * * * *

30. By adding a new § 25.773(d) to read as follows:

§ 25.773 Pilot compartment view.

* * * * *

(d) Fixed markers or other guides must be installed at each pilot station to enable the pilots to position themselves in their seats for an optimum

combination of outside visibility and instrument scan. If lighted markers or

part of the airplane's emergency evacuation equipment may be used to aid

of the particluar exits to be used in the demonstration.

plane equivalent to that which would be obtained by actual demonstration.

(i) Be self-illuminated with an initial brightness of at least 160 microlamberts; or (ii) Be conspicuously located

§ 25.813 Emergency exit access.

* * * * *

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combination of outside visibility and instrument scan. If lighted markers or guides are used they must comply with the requirements specified in § 25.1381.

§ 25.777 [Amended]

31. By deleting the measurement "6'0"" from § 25.777(c) and replacing it with the measurement "6'3""; by deleting the word "belt" in § 25.777(c) and replacing it with the words "belt and shoulder harness (if provided)"; and by deleting the word "belts" in § 25.777(f) and replacing it with the words "belt and shoulder harness (if provided)".

32. By amending § 25.789 by inserting the words "or galley" after the words "crew compartment" and redesignating the paragraph as paragraph (a), and by revising the title and adding a new paragraph (b) to read as follows:

§ 25.789 Retention of items of mass in passenger and crew compartments and galleys.

• • • • •

(b) Each interphone restraint system must be designed so that when subjected to the load factors specified in § 25.561(b)(3), the interphone will remain in its stowed position.

33. By revising §§ 25.803(c) and (d) to read as follows:

§ 25.803 Emergency evacuation.

• • • • •

(c) Except as provided in paragraph (d) of this section, for airplanes having a seating capacity or more than 44 passengers, it must be shown by actual demonstration that the maximum seating capacity, including the number of crewmembers required by the operating rules for which certification is requested, can be evacuated from the airplane to the ground within 90 seconds. The demonstration must be conducted under the following conditions:

(1) It must be conducted either during the dark of the night or during daylight with the dark of the night simulated. If the demonstration is conducted indoors during daylight hours, it must be conducted with each window covered and each door closed to minimize the daylight effect. Illumination on the floor or ground may be used, but it must be kept low and shielded against shining into the airplane's windows or doors.

(2) The airplane must be in a normal attitude with landing gear extended.

(3) Stands or ramps may be used for descent from the wing to the ground, and safety equipment such as mats or inverted life rafts may be placed on the floor or ground to protect participants. No other equipment that is not part of the airplane's emergency evacuation equipment may be used to aid the participants in reaching the ground.

(4) Except as provided in paragraph (c)(1) of this section, only the airplane's emergency lighting system may provide illumination.

(5) All emergency equipment required for the planned operation of the airplane must be installed.

(6) Each external door and exit, and each internal door or curtain, must be in the takeoff configuration.

(7) Each crewmember must be seated in the normally assigned seat for takeoff and must remain in that seat until receiving the signal for commencement of the demonstration. Each crewmember must be—

(i) For compliance with this section or § 121.291 of this chapter, a member of a regularly scheduled line crew, or

(ii) For compliance with this section, a person having knowledge of the operation of exits and emergency equipment.

(8) A representative passenger load of persons in normal health must be used as follows:

(i) At least 30 percent must be females.

(ii) At least 5 percent must be over 60 years of age with a proportionate number of females.

(iii) At least 5 percent but not more than 10 percent, must be children under 12 years of age, prorated through that age group.

(iv) Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger.

(v) Crewmembers, mechanics, and training personnel, who maintain or operate the airplane in the normal course of their duties, may not be used as passengers.

(9) No passenger may be assigned a specific seat except as the Administrator may require. Except as required by paragraph (c)(12) of this section, no employee of the applicant may be seated next to an emergency exit.

(10) Seat belts and shoulder harnesses (as required) must be fastened.

(11) Before the start of the demonstration approximately one-half of the total average amount of carry-on baggage, blankets, pillows, and other similar articles must be distributed at several locations in the aisles and emergency exits access ways to create minor obstructions.

(12) Each crewmember must be seated in his normally assigned seat for takeoff and must remain in that seat until receiving the signal for commencement of the demonstration.

(13) No prior indication may be given to any crewmember or passenger of the particluar exits to be used in the demonstration.

(14) The applicant may not practice, rehearse, or describe the demonstration for the participants nor may any participant have taken part in this type of demonstration within the preceding 6 months.

(15) The pretakeoff passenger briefing required by § 121.571 of this chapter may be given. The passengers may also be advised to follow directions of crewmembers, but not be instructed on the procedures to be followed in the demonstration.

(16) If safety equipment as allowed by paragraph (c)(3) of this section is provided, either all passenger and cockpit windows must be blacked out or all of the emergency exits must have safety equipment in order to prevent disclosure of the available emergency exits.

(17) Not more than 50 percent of the emergency exits in the sides of the fuselage of an airplane that meet all of the requirements applicable to the required emergency exits for that airplane may be used for the demonstration. Exits that are not to be used in the demonstration must have the exit handle deactivated or must be indicated by red lights, red tape, or other acceptable means, placed outside the exits to indicate fire or other reason why they are unusable. The exits to be used must be representative of all of the emergency exits on the airplane and must be designated by the applicant, subject to approval by the Administrator. At least one floor level exit must be used.

(18) All evacuees, except those using an over-the-wing exit, must leave the airplane by a means provided as part of the airplane's equipment.

(19) The applicant's approved procedures must be fully utilized during the demonstration.

(20) The evacuation time period is completed when the last occupant has evacuated the airplane and is on the ground. Provided that the acceptance rate of the stand or ramp is no greater than the acceptance rate of the means available on the airplane for descent from the wing during an actual crash situation, evacuees using stands or ramps allowed by paragraph (c)(3) of this section are considered to be on the ground when they are on the stand or ramp.

(d) A combination of analysis and tests may be used to show that the airplane is capable of being evacuated within 90 seconds under the conditions specified in § 25.803(c) of this section if the Administrator finds that the combination of analysis and tests will provide data with respect to the emergency evacuation capability of the airplane equivalent to that which would be obtained by actual demonstration.

• • • • •

34. By revising § 25.807(a)(7)(vi) to read as follows:

§ 25.807 Passenger emergency exits.

(a) • • •

(7) • • •

(vi) There must be at least one flight attendant seat, which meets the requirements of §§ 25.785 (h) and (i), adjacent to each such exit.

• • • • •

35. By adding new §§ 25.809 (f)(1)(iv) and (f)(1)(v) to read as follows:

§ 25.809 Emergency exit arrangement.

• • • • •

(f) • • •

(1) • • •

(iv) It must have the capability, in 25-knot winds directed from the most critical angle, to deploy and, with the assistance of only one person, to remain usable after full deployment to evacuate occupants safely to the ground.

(v) For each system installation (mockup or airplane installed), five consecutive deployment and inflation tests must be conducted (per exit) without failure, and at least three tests of each such five-test series must be conducted using a single representative sample of the device. The sample devices must be deployed and inflated by the system's primary means after being subjected to the inertia forces specified in § 25.561(b). If any part of the system fails or does not function properly during the required tests, the cause of the failure or malfunction must be corrected by positive means and after that the full series of five consecutive deployment and inflation tests must be conducted without failure.

• • • • •

36. By revising § 25.811(e) to read as follows:

§ 25.811 Emergency exit marking.

• • • • •

(e) The location of the operating handle and instructions for opening exits from the inside of the airplane must be shown in the following manner.

(1) Each passenger emergency exit must have, on or near the exit, a marking that is readable from a distance of 30 inches.

(2) Each Type I and Type A passenger emergency exit operating handle must—

(i) Be self-illuminated with an initial brightness of at least 160 microlamberts; or (ii) Be conspicuously located and well illuminated by the emergency lighting even in conditions of occupant crowding at the exit.

(3) Each Type III passenger emergency exit operating handle must be self-illuminated with an initial brightness of at least 160 microlamberts. If the operating handle is covered, self-illuminated cover removal instructions having an initial brightness of at least 160 microlamberts must also be provided.

(4) Each Type A, Type I, and Type II passenger emergency exit with a locking mechanism released by rotary motion of the handle must be marked—

(i) With a red arrow, with a shaft at least three-fourths of an inch wide and a head twice the width of the shaft, extending along at least 70 degrees of arc at a radius approximately equal to three-fourths of the handle length.

(ii) So that the centerline of the exit handle is within ±1 inch of the projected point of the arrow when the handle has reached full travel and has released the locking mechanism, and

(iii) With the word "open" in red letters 1 inch high, placed horizontally near the head of the arrow.

• • • • •

37. By deleting the parenthetical expression in § 25.812(e)(1) and by revising §§ 25.812 (e)(2) and (e)(3) to read as follows:

§ 25.812 Emergency lighting.

• • • • •

(e) • • •

(2) There must be a flight crew warning light which illuminates when power is on in the airplane and the emergency lighting control device is not armed.

(3) The cockpit control device must have an "on," "off," and "armed" position so that when armed in the cockpit or turned on at either the cockpit or flight attendant station the lights will either light or remain lighted upon interruption (except an interruption caused by a transverse vertical separation of the fuselage during crash landing) of the airplane's normal electric power. There must be a means to safeguard against inadvertent operation of the control device from the "armed" or "on" positions.

• • • • •

38. By revising § 25.813(c)(1) to read as follows:

§ 25.813 Emergency exit access.

• • • • •

(c) • • •

(1) For airplanes that have a passenger seating configuration, excluding pilot's seats, of 20 or more, the projected opening of the exit provided may not be obstructed and there must be no interference in opening the exit by seats, berths, or other protrusions (including seatbacks in any position) for a distance from that exit not less than the width of the narrowest passenger seat installed on the airplane.

• • • • •

39. By revising § 25.863(a) and adding a new § 25.863(d) to read as follows:

§ 25.863 Flammable fluid fire protection.

(a) In each area where flammable fluids or vapors might escape by leakage of a fluid system, there must be means to minimize the probability of ignition of the fluids and vapors, and the resultant hazards if ignition does occur.

• • • • •

(d) Each area where flammable fluids or vapors might escape by leakage of a fluid system must be identified and defined.

40. By adding a new § 25.901(d) to read as follows:

25.901 Installation.

• • • • •

(d) Each auxiliary power unit installation must meet the applicable provisions of this subpart.

41. By revising the heading of § 25.1103, by revising §§ 25.1103 (a), (b)(2), and (d), and by adding new §§ 25.1103 (e) and (f), to read as follows:

§ 25.1103 Induction system ducts and air duct systems.

(a) Each induction system duct upstream of the first stage of the engine supercharger and of the auxiliary power unit compressor must have a drain to prevent the hazardous accumulation of fuel and moisture in the ground attitude. No drain may discharge where it might cause a fire hazard.

(b) • • •

(2) Fire resistant if it is in any fire zone for which a fire-extinguishing system is required, except that ducts for auxiliary power units must be fireproof within the auxiliary power unit fire zone.

• • • • •

(d) For turbine engine and auxiliary power unit bleed air duct systems, no hazard may result if a duct failure

§§ 25.1181 through 25.1203 must be shown by a full scale fire test or by one or more of the following methods:

(a) The system must meet the requirements specified in § 25.1419,

(b) The system and its components

period at the end of § 27.603(b) and inserting a semicolon and the word "and" in its place; and by adding a new

(2) Flammability characteristics of fluids, including effects of any combustible or absorbing materials.

(6) The horizontal distance required to land and come to a complete stop (or to a speed of approximately three

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(d) For turbine engine and auxiliary power unit bleed air duct systems, no hazard may result if a duct failure occurs at any point between the air duct source and the airplane unit served by the air.

(e) Each auxiliary power unit induction system duct must be fireproof for a sufficient distance upstream of the auxiliary power unit compartment to prevent hot gas reverse flow from burning through auxiliary power unit ducts and entering any other compartment or area of the airplane in which a hazard would be created resulting from the entry of hot gases. The materials used to form the remainder of the induction system duct and plenum chamber of the auxiliary power unit must be capable of resisting the maximum heat conditions likely to occur.

(f) Each auxiliary power unit induction system duct must be constructed of materials that will not absorb or trap hazardous quantities of flammable fluids that could be ignited in the event of a surge or reverse flow condition.

42. By adding a new § 25.1142 to read as follows:

§ 25.1142 Auxiliary power unit controls.

Means must be provided on the flight deck for starting, stopping, and emergency shutdown of each installed auxiliary power unit.

43. By revising § 25.1195(b) to read as follows:

§ 25.1195 Fire extinguishing systems.

* * * * *

(b) The fire extinguishing system, the quantity of the extinguishing agent, the rate of discharge, and the discharge distribution must be adequate to extinguish fires. It must be shown by either actual or simulated flights tests that under critical airflow conditions in flight the discharge of the extinguishing agent in each designated fire zone specified in paragraph (a) of this section will provide an agent concentration capable of extinguishing fires in that zone and of minimizing the probability of reignition. An individual "one-shot" system may be used for auxiliary power units, fuel burning heaters, and other combustion equipment. For each other designated fire zone, two discharges must be provided each of which produces adequate agent concentration.

* * * * *

44. By revising § 25.1207 to read as follows:

§ 25.1207 Compliance.

Unless otherwise specified, compliance with the requirements of §§ 25.1181 through 25.1203 must be shown by a full scale fire test or by one or more of the following methods:

(a) Tests of similar powerplant configurations;

(b) Tests of components;

(c) Service experience of aircraft with similar powerplant configurations;

(d) Analysis.

§ 25.1307 [Amended]

45. By striking the words "and safety belt," from § 25.1307(a).

46. By adding a new § 25.1329(h) to read as follows:

§ 25.1329 Automatic pilot system.

* * * * *

(h) If the automatic pilot system can be coupled to airborne navigation equipment, means must be provided to indicate to the flight crew the current mode of operation. Selector switch position is not acceptable as a means of indication.

47. By revising §§ 25.1411 (a) and (d) to read as follows:

§ 25.1411 General.

(a) *Accessibility.* (1) Required safety equipment to be used by the crew in an emergency must be readily accessible.

(2) At least one public address system microphone intended for flight attendant use must be positioned at each floor level exit in a passenger compartment and be readily accessible to a flight attendant seated in any seat adjacent to that exit.

* * * * *

(d) *Liferafts.* (1) The stowage provisions for the liferafts described in § 25.1415 must accommodate enough rafts for the maximum number of occupants for which certification for ditching is requested.

(2) Liferafts must be stowed near exits through which the rafts can be launched during an unplanned ditching.

(3) Rafts automatically or remotely released outside the airplane must be attached to the airplane by means of the static line prescribed in § 25.1415.

(4) The stowage provisions for each portable liferaft must allow rapid detachment and removal of the raft for use at other than the intended exits.

* * * * *

48. By adding a new § 25.1416 to read as follows:

§ 25.1416 Pneumatic de-icer boot system.

If certification with ice protection provisions is desired and a pnuematic de-icer boot system is installed—

(a) The system must meet the requirements specified in § 25.1419,

(b) The system and its components must be designed to perform their intended function under any normal system operating temperature or pressure, and

(c) Means to indicate to the flight crew that the pneumatic de-icer boot system is receiving adequate pressure and is functioning normally must be provided.

49. By adding a new § 25.1522 to read as follows:

§ 25.1522 Auxiliary power unit limitations.

If an auxiliary power unit that meets the requirements of TSO-C77 (§ 37.183) is installed in the airplane, the limitations established for that auxiliary power unit under the TSO, including the categories of operation, must be specified as operating limitations for the airplane.

§ 25.1561 [Amended]

50. By inserting the words "the easy" between the words "facilitate" and "removal" in § 25.1561(c).

§ 25.1583 [Amended]

51. By deleting § 25.1583(g) and marking it "[Reserved]".

52. By adding new §§ 25.1585 (d) and (e) to read as follows:

§ 25.1585 Operating procedures.

* * * * *

(d) Information must be furnished which indicates that when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(e) Information on the total quantity of usable fuel for each fuel tank must be furnished.

PART 27—AIRWORTHINESS STANDARDS. NORMAL CATEGORY ROTORCRAFT

53. By revising § 27.79(b)(2) to read as follows:

§ 27.79 Limiting height-speed envelope.

* * * * *

(b) * * *

(2) For multiengine helicopters, one engine inoperative (where engine isolation features insure continued operation of the remaining engines), and the remaining engines at the greatest power for which certification is requested, and

* * * * *

54. By deleting the word "and" at the end of § 27.603(a); by deleting the period at the end of § 27.603(b) and inserting a semicolon and the word "and" in its place; and by adding a new § 27.603(c) to read as follows.

§ 27.603 Materials.

* * * * *

(c) Take into account the effects of environmental conditions, such as temperature and humidity, expected in service.

55. By redesignating § 27.605 as § 27.605(a) and adding a new § 27.605(b) to read as follows:

§ 27.605 Fabrication methods.

* * * * *

(b) Each new aircraft fabrication method must be substantiated by a test program.

56. By revising the lead-in of § 27.613(d) to read as follows:

§ 27.613 Material strength properties and design values.

* * * * *

(d) Design values must be those contained in the following publications (available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402) or other values approved by the Administrator:

* * * * *

57. By revising § 27.675(d)(1) to read as follows:

§ 27.675 Stops.

* * * * *

(d) * * *

(1) Stops that are appropriate to the blade design must be provided to limit travel of the blade about its hinge points; and

* * * * *

58. By adding a new § 27.863 to read as follows:

§ 27.863 Flammable fluid fire protection.

(a) In each area where flammable fluids or vapors might escape by leakage of a fluid system, there must be means to minimize the probability of ignition of the fluids and vapors, and the resultant hazards if ignition does occur.

(b) Compliance with paragraph (a) of this section must be shown by analysis or tests, and the following factors must be considered:

(1) Possible sources and paths of fluid leakage, and means of detecting leakage.

(2) Flammability characteristics of fluids, including effects of any combustible or absorbing materials.

(3) Possible ignition sources, including electrical faults, overheating of equipment, and malfunctioning of protective devices.

(4) Means available for controlling or extinguishing a fire, such as stopping flow of fluids, shutting down equipment, fireproof containment, or use of extinguishing agents.

(5) Ability of rotorcraft components that are critical to safety of flight to withstand fire and heat.

(c) If action by the flight crew is required to prevent or counteract a fluid fire (e.g. equipment shutdown or actuation of a fire extinguisher) quick acting means must be provided to alert the crew.

(d) Each area where flammable fluids or vapors might escape by leakage of a fluid system must be identified and defined.

59. By revising § 27.1545(a) to read as follows:

§ 27.1545 Airspeed indicator.

(a) Each airspeed indicator must be marked as specified in paragraph (b) of this section, with the marks located at the corresponding indicated airspeeds.

* * * * *

§ 27.1583 [Amended]

60. By deleting § 27.1583(f) and marking it "[Reserved]".

61. By adding new §§ 27.1585 (e) and (f) to read as follows:

§ 27.1585 Operating procedures

* * * * *

(e) If the unusable fuel supply in any tank exceeds five percent of the tank capacity, or one gallon, whichever is greater, information must be furnished which indicates that when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(f) Information on the total quantity of usable fuel for each fuel tank must be furnished.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

61. By deleting the period at the end of § 29.75(b)(5) and inserting a semicolon and the word "and" in its place; and by adding a new § 29.75(b)(6) and revising §§ 29.75 (c)(2)(i) and (c)(2)(ii) to read as follows:

§ 29.75 Landing.

* * * * *

(b) * * *

(6) The horizontal distance required to land and come to a complete stop (or to a speed of approximately three knots for water landings), from a point 50 feet above the landing surface, must be determined from the approach and landing paths established in accordance with paragraphs (b)(2) through (b)(4) of this section.

(c) * * *

(2) * * *

(i) Paragraph (c)(1) of this section; or

(ii) Paragraphs (b)(2) through (b)(6) of this section.

63. By deleting the word "and" at the end of § 29.603(a); by deleting the period at the end of § 29.603(b) and inserting a semicolon and the word "and" in its place; and by adding a new § 29.603(c) to read as follows:

§ 29.603 Materials.

* * * * *

(c) Take into account the effects of environmental conditions, such as temperature and humidity, expected in service.

64. By redesignating § 29.605 as § 29.605(a) and adding a new § 29.605(b) to read as follows:

§ 29.605 Fabrication methods.

* * * * *

(b) Each new aircraft fabrication method must be substantiated by a test program.

65. By revising the lead-in of § 29.613(d) to read as follows:

§ 29.613 Material strength properties and design values.

* * * * *

(d) Design values must be those contained in the following publications (available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402) or other values approved by the Administrator:

* * * * *

66. By revising § 29.675(d)(1) to read as follows:

§ 29.675 Stops.

* * * * *

(d) * * *

(1) Stops that are appropriate to the blade design must be provided to limit travel of the blade about its hinge points; and

* * * * *

67. By deleting § 29.853(b) and by marking it "[Reserved]" and by revising § 29.853(a) to read as follows:

§ 29.853 Compartment interiors.

(a) Each compartment must meet the applicable requirements of Part 25 of this chapter, or other approved equivalent methods.

(1) Except for electrical wiring interconnection systems, electrical wire and cable installations in compartments to which crew or passengers have access in flight must comply with the applicable portions of § 25.869(a)(4) and § 25.1359(d) of this chapter.

(2) Each electrical wire interconnection system in any compartment to which crew or passengers have access in flight must comply with § 25.1359(d) of this chapter.

(3) Each material must meet the applicable test criteria prescribed in Part 25 of this chapter.

70. By deleting § 29.923(1) and marking it "[Reserved]", by revising

(c) *Endurance tests, maximum continuous run.* Three hours of continuous operation at the torque corresponding to the maximum continuous power rating of the engine, at the maximum continuous speed recommended for the engine. The clutch must be engaged throughout the test. In each clutch engagement, the shaft on the driven side of the clutch must be accelerated from rest to the maximum speed throughout the test. In each clutch engagement, the shaft on the driven side of the clutch must be accelerated from rest to the maximum torque attainable under probable operating conditions, assuming that torque limiting devices,

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67. By deleting § 29.853(b) and by marking it "[Reserved]" and by revising § 29.853(a) to read as follows:

§ 29.853 Compartment interiors.

* * * * *

(a) The materials (including finishes or decorative surfaces applied to the materials) must meet the following test criteria as applicable:

(1) Interior ceiling panels, interior wall panels, partitions, galley structure, large cabinet walls, structural flooring, and materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps) must be self-extinguishing when tested vertically in accordance with the applicable portions of Appendix F of Part 25 of this chapter, or other approved equivalent methods. The average burn length may not exceed 6 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 3 seconds after falling.

(2) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and nondecorative coated fabrics, leather, trays and galley furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting, joint and edge covering, cargo compartment liners, insulation blankets, cargo covers, and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing) that are constructed of materials not covered in paragraph (a)(3) of this section, must be self extinguishing when tested vertically in accordance with the applicable portion of Appendix F of Part 25 of this chapter, or other approved equivalent methods. The average burn length may not exceed 8 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

(3) Acrylic windows and signs, parts constructed in whole or in part of elastometric materials, edge lighted instrument assemblies consisting of two or more instruments in a common housing, seat belts, shoulder harnesses, and cargo and baggage tiedown equipment, including containers, bins, pallets, etc., used in passenger or crew compartments, may not have an average burn rate greater than 2.5 inches per minute when tested horizontally in accordance with the applicable portions of Appendix F of Part 25 of this chapter, or other approved equivalent methods.

(4) Except for electrical wire and cable insulation, and for small parts (such as knobs, handles, rollers, fasteners, clips, grommets, rub strips, pulleys, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, materials in items not specified in paragraphs (a)(1), (a)(2), or (a)(3) of this section may not have a burn rate greater than 4 inches per minute when tested horizontally in accordance with the applicable portions of appendix F of part 25 of this chapter, or other approved equivalent methods.

* * * * *

68. By amending § 29.863 to read as follows:

§ 29.863 Flammable fluid fire protection.

(a) In each area where flammable fluids or vapors might escape by leakage of a fluid system, there must be means to minimize the probability of ignition of the fluids and vapors, and the resultant hazards if ignition does occur.

(b) Compliance with paragraph (a) of this section must be shown by analysis or tests, and the following factors must be considered:

(1) Possible sources and paths of fluid leakage, and means of detecting leakage.

(2) Flammability characteristics of fluids, including effects of any combustible or absorbing materials.

(3) Possible ignition sources, including electrical faults, overheating of equipment, and malfunctioning of protective devices.

(4) Means available for controlling or extinguishing a fire, such as stopping flow of fluids, shutting down equipment, fireproof containment, or use of extinguishing agents.

(5) Ability of rotorcraft components that are critical to safety of flight to withstand fire and heat.

(c) If action by the flight crew is required to prevent or counteract a fluid fire (e.g. equipment shutdown or actuation of a fire extinguisher), quick acting means must be provided to alert the crew.

(d) Each area where flammable fluids or vapors might escape by leakage of a fluid system must be identified and defined.

69. By adding a new § 29.901(d) to read as follows:

§ 29.901 Installation.

* * * * *

(d) Each auxiliary power unit installation must meet the applicable provisions of this subpart.

70. By deleting § 29.923(1) and marking it "[Reserved]", by revising §§ 29.923(a), (b), (c), (d), (e), (f), (h), (j), and (k), and by adding new § 29.923(o) to read as follows:

§ 29.923 Rotor drive system and control mechanism tests.

(a) *Endurance tests, general.* Each rotor drive system and rotor control mechanism must be tested, as prescribed in paragraphs (b) through (n) of this section, for at least 200 hours plus the time required to meet paragraphs (b)(2) and (k) of this section. These tests must be conducted as follows:

(1) Ten-hour test cycles must be used.

(2) The tests must be conducted on the rotorcraft.

(3) The test torque must be—

(i) Determined by the powerplant limitations; and

(ii) Absorbed by the actual rotors to be installed.

(b) *Endurance tests, takeoff torque run.* The takeoff torque run endurance test must be conducted as follows:

(1) Except as prescribed in paragraph (b)(2) of this section, the takeoff torque run must consist of 1 hour of alternate runs of 5 minutes at the torque corresponding to takeoff power and speed, and 5 minutes at as low an engine idle speed as practicable. The engine must be declutched from the rotor drive system, and the rotor brake, if furnished and so intended, must be applied during the first minute of the idle run. During the remaining 4 minutes of the idle run, the clutch must be engaged so that the engine drives the rotors at the minimum practical r.p.m. Acceleration of the engine and the rotor drive system must be done at the maximum rate. When declutching the engine, it must be decelerated rapidly enough to allow the operation of the overrunning clutch.

(2) For helicopters for which the use of 2½-minute power is requested, the takeoff torque run must be conducted as prescribed in paragraph (b)(1) of this section, except for the third and sixth run for which the torque corresponding to takeoff power and speed is prescribed in that paragraph. For these two takeoff torque runs, the following apply.

(i) Each run must consist of at least one period of 2½ minutes with the torque corresponding to takeoff power and speed on all engines.

(ii) Each run must consist of at least one period, for each engine in sequence, during which that engine simulates a power failure and the remaining engines are run at the torque corresponding to 2½-minute power and speed for 2½ minutes.

(c) *Endurance tests, maximum continuous run.* Three hours of continuous operation at the torque corresponding to maximum continuous power and speed must be conducted as follows:

(1) The main rotor controls must be operated at a minimum of 15 times each hour through the main rotor pitch positions of maximum vertical thrust, maximum forward thrust component, maximum aft thrust component, maximum left thrust component, and maximum right thrust component, except that the control movements need not produce loads or blade flapping motion exceeding the maximum loads of motions encountered in flight.

(2) The directional controls must be operated at a minimum of 15 times each hour through the control extremes of maximum right turning torque, neutral torque as required by the power applied to the main rotor, and maximum left turning torque.

(3) Each maximum control position must be held for at least 10 seconds, and the rate of change of control position must be at least as rapid as that for normal operation.

(d) *Endurance tests; 90 percent of maximum continuous run.* One hour of continuous operation at the torque corresponding to 90 percent of maximum continuous power must be conducted at maximum continuous speed.

(e) *Endurance tests; 80 percent of maximum continuous run.* One hour of continuous operation must be conducted at the torque corresponding to 80 percent of maximum continuous power and minimum speed intended for this power.

(f) *Endurance tests; 60 percent of maximum continuous run.* Two hours, or, for helicopters for which the use of 30-minute power is requested, 1 hour of continuous operation at the torque corresponding to 60 percent of maximum continuous power must be conducted at the minimum rotational speed intended for this power.

* * * * *

(h) *Endurance tests; overspeed run.* One hour of continuous operation must be conducted at the torque corresponding to maximum continuous power and at the maximum rotational speed expected in service, assuming that speed and torque limiting devices, if any, function properly.

* * * * *

(j) *Endurance tests, clutch and brake engagements.* A total of at least 400 clutch and brake engagements, including the engagements of paragraph (b) of this section, must be made during the takeoff torque runs and, if necessary, at each change of torque and speed throughout the test. In each clutch engagement, the shaft on the driven side of the clutch must be accelerated from rest. The clutch engagements must be accomplished at the speed and by the method prescribed by the applicant. During deceleration after each clutch engagement, the engines must be stopped rapidly enough to allow the engines to be automatically disengaged from the rotors and rotor drives. If a rotor brake is installed for stopping the rotor, the clutch, during brake engagements, must be disengaged above 40 percent of maximum continuous rotor speed and the rotors allowed to decelerate to 40 percent of maximum continuous rotor speed, at which time the rotor brake must be applied. If the clutch design does not allow stopping the rotors with the engine running, or if no clutch is provided, the engine must be stopped before each application of the rotor brake, and then immediately be started after the rotors stop.

(k) *Endurance tests, 30-minute torque run.* For helicopters for which the use of 30-minute power is requested, a run at the torque corresponding to 30-minute power and speed must be conducted as follows:

(1) For each engine, in sequence, that engine must be inoperative and the remaining engines must be run for a 30-minute period.

(2) The number of periods prescribed in paragraph (k)(1) of this section may not be less than the number of engines, nor may it be less than two.

* * * * *

(o) Each part tested as prescribed in this section must be in a serviceable condition at the end of the tests. No intervening disassembly which might affect test results may be conducted.

71. By revising § 29.927(b), and adding new §§ 29.927 (d) and (e) to read as follows:

§ 29.927 Additional tests.

* * * * *

(b) If turbine engine torque output to the transmission can exceed the highest engine or transmission torque limit, and that output is not directly controlled by the pilot under normal operating conditions (such as where the primary engine power control is accomplished through the flight control), the following test must be made:

(1) Under conditions associated with all engines operating, make 200 applications, for 10 seconds each, of torque that is at least equal to the lesser of—

(i) The maximum torque used in meeting § 29.923 plus 10 percent; or

(ii) The maximum torque attainable under probable operating conditions, assuming that torque limiting devices, if any, function properly.

(2) For multiengine rotorcraft under conditions associated with each engine, in turn, becoming inoperative, apply to the remaining transmission torque inputs the maximum torque attainable under probable operating conditions, assuming that torque limiting devices, if any, function properly. Each transmission input must be tested at this maximum torque for at least fifteen minutes.

* * * * *

(d) *Overspeed test.* The rotor drive system must be subjected to 50 overspeed runs, each 30±3 seconds in duration at a speed of at least 120 percent of maximum continuous speed. These runs must be conducted as follows:

(1) Overspeed runs must be alternated with stabilizing runs of from 1 to 5 minutes duration each at 60 to 80 percent of maximum continuous speed.

(2) Acceleration and deceleration must be accomplished in a period not longer than 10- seconds, and the time for changing speeds may not be deducted from the specified time for the overspeed runs.

(3) Overspeed runs must be made with the rotors in the flattest pitch for smooth operation.

(e) The tests prescribed in paragraphs (b) and (d) of this section must be conducted on the rotorcraft and the torque must be absorbed by the rotors to be installed, except that other ground or flight test facilities with other appropriate methods of torque absorption may be used if the conditions of support and vibration closely simulate the conditions that would exist during a test on the rotorcraft.

72. By revising §§ 29.1091 (a), (b), and (f)(1) to read as follows:

§ 29.1091 Air induction.

(a) The air induction system for each engine and auxiliary power unit must supply the air required by that engine and auxiliary power unit under the operating conditions for which certification is requested.

(b) Each engine and auxiliary power unit air induction system must provide air for proper fuel metering and mixture distribution with the induction system valves in any position.

* * * * *

(f) For turbine engine powered rotorcraft and rotorcraft incorporating auxiliary power units—

(1) There must be means to prevent hazardous quantities of fuel leakage or overflow from drains, vents, or other components of flammable fluid sys-

tems from entering the engine or auxiliary power unit intake system; and

flight the discharge of the extinguishing agent in each designated fire zone will provide an agent concentration ca-

§ 121.291 Demonstration of emergency evacuation procedures.

(ii) Each galley located on other than the main passenger deck level.

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tems from entering the engine or auxiliary power unit intake system; and

. . . . . .

73. By revising the heading and paragraphs (a) and (d) of § 29.1103, and by adding new § 29.1103(e) and (f), to read as follows:

§ 29.1103 Induction systems ducts and air duct systems.

(a) Each induction system duct upstream of the first stage of the engine supercharger and of the auxiliary power unit compressor must have a drain to prevent the hazardous accumulation of fuel and moisture in the ground attitude. No drain may discharge where it might cause a fire hazard.

. . . . . .

(d) Each duct within any fire zone for which a fire-extinguishing system is required must be at least—

(1) Fireproof, if it passes through any firewall; or

(2) Fire resistant, for other ducts, except that ducts for auxiliary power units must be fireproof within the auxiliary power unit fire zone.

(e) Each auxiliary power unit induction system duct must be fireproof for a sufficient distance upstream of the auxiliary power unit compartment to prevent hot gas reverse flow from burning through auxiliary power unit ducts and entering any other compartment or area of the rotorcraft in which a hazard would be created resulting from the entry of hot gases. The materials used to form the remainder of the induction system duct and plenum chamber of the auxiliary power unit must be capable of resisting the maximum heat conditions likely to occur.

(f) Each auxiliary power unit induction system duct must be constructed of materials that will not absorb or trap hazardous quantities of flammable fluids that could be ignited in the event of a surge or reverse flow condition.

74. By adding a new § 29.1142 to read as follows:

§ 29.1142 Auxiliary power unit controls.

Means must be provided on the flight deck for starting, stopping, and emergency shutdown of each installed auxiliary power unit.

75. By adding a new § 29.1195(d) to read as follows:

§ 29.1195 Fire extinguishing systems.

. . . . . .

(d) It must be shown by either actual or simulated flight tests that under critical airflow conditions in flight the discharge of the extinguishing agent in each designated fire zone will provide an agent concentration capable of extinguishing fires in that zone and of minimizing the probability of reignition.

76. By adding a new § 29.1522 to read as follows:

§ 29.1522 Auxiliary power unit limitations.

If an auxiliary power unit that meets the requirements of TSO-C77 is installed in the rotorcraft, the limitations established for that auxiliary power unit under the TSO including the categories of operation must be specified as operating limitations for the rotorcraft.

77. By revising § 29.1545(a) to read as follows:

§ 29.1545 Airspeed indicator.

(a) Each airspeed indicater must be marked as specified in paragraph (b) of this section, with the marks located at the corresponding indicated airspeeds.

. . . . . .

§ 29.1583 [Amended]

78. By deleting § 29.1583(g) and marking it "[Reserved]".

79. By adding new §§ 29.1585(e) and (f) to read as follows:

§ 29.1585 Operating procedures.

. . . . . .

(e) If the unusable fuel supply in any tank exceeds 5 percent of the tank capacity, or 1 gallon, whichever is greater, information must be furnished which indicates that when the fuel quantity indicator reads "zero" in level flight, any fuel remaining in the fuel tank cannot be used safely in flight.

(f) Information on the total quantity of usable fuel for each fuel tank must be furnished.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

80. By revising § 121.291(a) by inserting at the beginning a phrase that reads "For airplanes that were not shown to be in compliance with § 25.803(c)(7)(i) of this chapter in effect on December 1, 1978, during type certification," and by adding a new § 121.291(c) to read as follows:

§ 121.291 Demonstration of emergency evacuation procedures.

. . . . . .

(c) For airplanes that were shown to be in compliance with § 25.803(c)(7)(i) of this chapter in effect on December 1, 1978, during type certification, the operator must show that its emergency evacuation procedures and the training provided its crewmembers with respect to those procedures will provide emergency evacuation results equivalent to those obtained under § 25.803(c) of this chapter during airplane type certification.

81. By adding new §§ 121.310(d)(4) and 121.310(l) to read as follows:

§ 121.310 Additional emergency equipment.

. . . . . .

(d) * * *

(4) After December 1, 1980, each light must have a cockpit control device that has an "on", "off", and "armed" position.

. . . . . .

(l) *Portable lights.* After December 1, 1980, no person may operate a passenger-carrying airplane unless it is equipped with flashlight stowage provisions accessible from each flight attendant seat.

82. By revising § 121.318(b)(2) to read as follows:

§ 121.318 Public address system.

. . . . . .

(b) * * *

(2) It must be accesssible for use from at least one normal flight attendant station in the passenger compartment, and, after December 1, 1980, at least one public address system microphone intended for flight attendant use must be positioned at each floor level exit in a passenger compartment and be readily accessible to a flight attendant seated in any seat adjacent to that exit.

. . . . . .

83. By revising §§ 121.319 (b)(1), (b)(3), (b)(4), and (b)(5)(i) to read as follows:

§ 121.319 Crewmember interphone system.

. . . . . .

(b) * * *

(1) After December 1, 1980, it must provide a means of two-way communication between the pilot compartment and—

(i) Each passenger compartment; and

(ii) Each galley located on other than the main passenger deck level.

. . . . . .

(3) It must be accessible for use from at least one normal flight attendant station in each passenger compartment;

(4) It must be capable of operation within 10 seconds by a flight attendant at those stations in each passenger compartment from which its use is accessible; and

(5) * * *

(i) It must be accessible for use at enough flight attendant stations so that all floor level emergency exits in each passenger compartment are observable from one or more of those stations so equipped;

. . . . . .

84. By adding a sentence to § 121.339(a)(2) to read as follows:

§ 121.339 Emergency equipment for extended over-water operations.

(a) * * *

(2) * * * Unless excess rafts of enough capacity are provided, the bouyancy and seating capacity beyond the rated capacity of the rafts must accommodate all occupants of the airplane in the event of a loss of one raft of the largest rated capacity.

. . . . . .

(Secs. 313(a), 601, 603, 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 20, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-30348 Filed 10-27-78; 8:45 am]

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federal register

MONDAY, OCTOBER 30, 1978
PART III

SECURITIES AND EXCHANGE COMMISSION

■

COLLECTION, DISSEMINATION, AND DISPLAY OF TRANSACTION REPORTS AND QUOTATION INFORMATION

Proposed Rulemaking

V 43/210 0 C 30 78

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-15250; File No. S7-758]

COLLECTION AND DISSEMINATION OF TRANSACTION REPORTS

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Commission proposes to amend its rule governing the collection and dissemination of transaction reports and last sale data in listed securities. The proposal, if adopted, would restate that rule in reversed format, would add explicit procedures for amending transaction reporting plans filed with and declared effective by the Commission pursuant to the rule and would provide that no national securities exchange may prohibit retransmission of the entire data stream of transaction reports on a current and continuous basis for the purpose of creating a moving ticker display.

DATES: Comments should be submitted on or before December 15, 1978.

ADDRESSES: Persons wishing to submit written views data and arguments should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to file No. 758 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Brandon Becker, Division of Market Regulation, Securities and Exchange Commission, Room 303, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8748.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has proposed to amend rule 17a-15 (17 CFR 240.17a-15) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) (the "Act") which currently governs the manner of collection and dissemination of last sale information with respect to securities listed or admitted to unlisted trading privileges on national securities exchanges ("exchanges"). The proposed amendments would restate the rule in a revised format, redesignate the rule 11Aa3-1 under the Act (17 CFR 240.11Aa3-1), add explicit procedures governing the amendment of transaction reporting plans filed with and declared effective by the Commission pursuant to the rule and would provide that no exchange or national securities association ("association") may prohibit retransmission of the entire data stream of transaction reports contained in the consolidated transaction reporting system ("consolidated system") on a current and continuous basis for the purpose of creating a continuous moving ticker display ("moving ticker"). In addition, those provisions of rule 17a-15 which currently govern the display of last sale reports would be relocated in a separate rule (proposed rule 11Ac1-2) being proposed simultaneously with these proposed amendments, which would set forth further requirements specifying the manner in which price and volume information with respect to completed securities transactions ("transaction reports"), data contained in transaction reports ("last sale data") and quotation information are displayed by vendors of market information.[1]

I. Background

The concept of a consolidated transaction reporting system, presenting last sale data from all markets in a single data stream, was first proposed by the Commission in its February 2, 1972, Statement on the Future Structure of the Securities Markets.[2] Soon after the release of that statement, the Commission published rule 17a-15 for comment.[3] Following the initial comment period, the rule was republished for further comment in August, 1972,[4] and adopted in November of that year.[5] The rule as adopted required every exchange and association, and every broker-dealer who was not an exchange or association member and who effected transactions in listed securities which were not reported by an exchange or association pursuant to the rule, to file with the Commission a plan providing for the collection, processing and dissemination of last sale reports in securities registered or admitted to unlisted trading privileges on an exchange. The rule also provided that, after a certain date, no exchange, association or broker-dealer subject to its provisions could make available last sale data on a current and continuing basis except pursuant to such a plan declared effective by the Commission.

After some delay,[6] the New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. ("Amex"), Midwest Stock Exchange, ("MSE"), Pacific Stock Exchange, Inc. ("PSE"), PBW Stock Exchange, Inc. (predecessor to the Philadelphia Stock Exchange, Inc.) ("Phlx") and the National Association of Securities Dealers, Inc. ("NASD") filed a joint industry plan (the "Joint Industry Plan" or the "Plan") with the Commission on March 2, 1973.[7] The Commission solicited public comment on the Plan,[8] twice published its own comments [9] and declared the Plan effective in May 1974.[10]

The Plan provided for the creation of an unincorporated association called the Consolidated Tape Association ("CTA") to administer the Plan and the employment of the Securities Industry Automation Corp. ("SIAC") as the initial processor of the consolidated system contemplated by the Plan. A pilot phase of the consolidated system in a limited number of securities began operation on October 18, 1974, and, on July 16, 1975, network A [11] was fully implemented on a

[1] See Securities Exchange Act release No. 15251 (Oct. 20, 1978) (the "Proposed Rule 11Ac1-2 Release").

[2] 37 FR 5286.

[3] Securities Exchange Act release No. 9530 (Mar. 8, 1972), 37 FR 5761. See Commission file No. S7-433.

[4] Securities Exchange Act release No. 9731 (Aug. 14, 1972), (the "Second Proposal Release") 37 FR 19148.

[5] Securities Exchange Act release No. 9850 (Nov. 8, 1972), (the "Adopting Release") 37 FR 24172.

[6] See Securities Exchange Act release Nos. 9924 (Jan. 3, 1973) and 9981 (Feb. 2, 1973), 38 FR 1121 and 3591.

[7] The Boston Stock Exchange, Inc. ("BSE"), Cincinnati Stock Exchange ("CSE"), Detroit Stock Exchange, ("DSE") (which ceased operations on June 30, 1976) and Institutional Networks Corp. ("Instinet") subsequently filed plans with the Commission. These plans were declared effective by the Commission upon the condition that each entity operate under the Plan as "other reporting parties." Securities Exchange Act release No. 11255 (Feb. 18, 1975), 40 FR 8397.

The Intermountain and Spokane Stock Exchanges have been granted exemptions from the reporting requirements of the rule. Securities Exchange Act release Nos. 11385 (Apr. 30, 1975) and 14651 (Apr. 11, 1978), 40 FR 19888 and 43 FR 16582.

[8] Securities Exchange Act release No. 10026 (Mar. 5, 1973), 38 FR 6443.

[9] Securities Exchange Act release Nos. 10218 (June 13, 1973) (the "First Plan Release") and 10671 (Mar. 8, 1974) (the "Second Plan Release"), 38 FR 15999 and 39 FR 10034.

[10] Securities Exchange Act release No. 10787 (May 10, 1974) (the "Approval Release"), 39 FR 17799.

[11] The Plan provides that the consolidated system consist of two discrete data streams, network A and network B. Network A reports transactions in securities listed on the NYSE and network B reports transactions in securities listed or admitted to unlisted trading privileges on the Amex as well as certain securities traded on participating regional exchanges. See note 63 infra for a description of the particular securities included within the system.

low speed basis.[12] After several postponements,[13] the entire system became fully operational on April 30, 1976.

In the interest of assuring that the consolidated system commence operations without undue delay, the Commission approved the Plan and the implementation of the system without having fully resolved certain isssues relating to the Plan. For example, during the comment period following the filing of the Plan, the Commission raised concerns regarding Plan amendment procedures which were not adequately addressed in the Plan.[14] In addition, as a result of its review of the operation of the consolidated system over the past 2 years, the Commission believes that certain adjustments are necessary to conform the operation of the system with the Commission's overall efforts to facilitate the establishment of a national market system.[15]

II. Proposed Rule 11Aa3-1

Proposed rule 11Aa3-1 constitutes a restatement and amendment of those portions of rule 17a-15 which deal with the filing and approval of transaction reporting plans. The proposed amendment retains the basic regulatory approach of rule 17a-15; it would require all exchanges and associations and non-member brokers or dealers trading in reported securities to file plans for collecting, processing and making available transaction reports in reported securities. Since the proposal would amend rule 17a-15, any plans previously filed and declared effective under that rule, any amendments thereto and any Commission action with respect to such plans or amendments would remain in effect without further action by the Commission.[16]

The proposed amendment differs from the existing rule in two respects. First, the proposal sets forth procedures for amending transaction reporting plans filed under the rule. Second, the proposal contains a provision which would preclude any transaction reporting plan from prohibiting retransmission of the entire data stream of transaction reports for purposes of providing a moving ticker display. In addition to these substantive distinctions, proposed rule 11Aa3-1 has been drafted to reflect changes in the Act resulting from the Securities Act Amendments of 1975 (the "1975 amendments").[17]

A. The 1975 Amendments

Rule 17a-15 was proposed and adopted in 1972 under section 17 of the Act pursuant to authority granted in sections 10(b), 15(c), 17(a) and 23(a) of the Act.[18] Prior to the adoption of the 1974 amendments, there existed some controversy as to the Commission's authority under the Act to require the implementation of the consolidated system or to regulate the manner in which vendors of market information disseminated and displayed transaction reports.[19]

The legislative history of the 1975 amendments indicates that the amendments were in part designed to eliminate any uncertainty over the Commission's regulatory power with respect to the dissemination of last sale or quotation information. The Senate Committee on Banking, Housing, and Urban Affairs, in its Report to Accompany S. 249,[20] stated that:

> arguments about the SEC's authority are not in the best interest of investors or the industry, for they can only result in substantial delays in implementing the communications systems necessary for the national market system. S. 249 is designed to make the SEC's authority over such systems and the operations of a national market system clear.[21]

Because the 1975 amendments now place explicit Commission authority to regulate the consolidated system in section 11A of the Act, the Commission has determined, in conjunction with its consideration of ways of improving the operation of the consolidated system, to propose its amendments to rule 17a-15 under section 11A of the Act as well as the other sections of the Act previously cited as authority for that rule, and to renumber the rule under that section.

In addition to consolidating and explicitly stating the Commission's power to regulate the dissemination and use of last sale and quotation information, the 1975 amendments also include certain provisions which render portions of rule 17a-15 either unnecessary or inappropriate. For example, rule 17a-15, as amended in 1974,[22] contains procedures permitting any person who is denied or limited access to last sale reports disseminated pursuant to an effective plan to appeal such action to the Commission.[23] This provision is redundant and in some technical respects inconsistent with the extensive procedures set forth in section 11A(a)(5) of the Act which govern denial or limitation of access by registered securities information processors.[24] Similarly, rule 17a-15 indirectly imposes certain minimal display standards on vendors of market information by requiring that any plan filed pursuant to the Rule impose these display standards on vendors. This indirect procedure was used because, prior to the adoption of the 1975 amendments, the Commission did not directly regulate securities information processors. However, section 11A(c)(1) now provides the Commission with plenary authority to regulate the manner in which vendors display transaction reports.[25] In addition, rule 17a-15 is limited in its application to "securities registered or admitted to unlisted trading privileges on an exchange," [26] whereas section 11A(a)(2) permits the Commission to designate any security (other than an exempted

[12] Prior to Apr. 30, 1976, all last sale data was disseminated over low speed data transmission lines at 900 characters per minute, the rate at which characters are displayed on moving ticker displays. Since Apr. 30, 1976, last sale data with respect to both network A and network B securities has also been disseminated over high speed data transmission lines; interrogation devices which are supplied data over these lines remain current notwithstanding delays in the low speed lines. See note 55.

[13] See Securities Exchange Act release No. 11273 (Mar. 3 1975), 40 FR 11389.

[14] See the First Plan Release, supra note 9, at 2-3, 38 FR 15999 and the Second Plan Release, supra note 9, at 2-3, 39 FR 10034.

[15] On January 26, 1978, the Commission issued a statement setting forth its views as to those initiatives which should be taken over the next year to facilitate the establishment of a national market system. One of the initiatives discussed in that statement was the consideration of certain changes in the consolidated system. See Securities Exchange Act release No. 14416 (Jan. 26, 1978) (the "Market Structure Statement"), 43 FR 4354.

[16] However, those provisions of the Plan prohibiting retransmission of data for purposes of creating a moving ticker display would be modified by paragraph (e) of proposed rule 11Aa3-1.

[17] Pub. L. 94-29 (June 4, 1975).

[18] See the adopting release, supra note 5, at 2, 37 FR 24173.

[19] Certain exchanges, in responding to the proposal of the rule, challenged the Commission's authority to adopt the rule under the provisions of the Act cited by the Commission; they argued that the Commission's sole authority over last sale reports, at that time, rested in section 19(b) of the Act and, therefore, the consolidated system would be required to be implemented pursuant to the procedures set forth in that section of the Act.

[20] S. 249 contained provisions which were the basis for section 11A of the Act.

[21] Senate Committee on Banking, Housing, and Urban Affairs, Report to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st sess. 3 (1975) (the "Senate Report"), at 9.

[22] See Securities Exchange Act release No. 11097 (Nov. 13, 1974), 39 FR 40941.

[23] See rule 17a-15(i).

[24] For example, section 11A(b)(5)(A) of the Act is substantively identical to rule 17a-15(i) (1) and (2) with the exception that the statute requires registered securities information processors to file initially with the Commission a notice of denial and also permits the Commission to grant stays summarily. However, because the provisions of rule 17a-15(i) are somewhat broader in scope than the provisions of section 11A(b)(5), these procedures have been retained in the proposal in modified form.

[25] See section 11A(c)(1) (A) AND (B). These display requirements, currently contained in rule 17A-15, would be relocated in proposed rule 11Ac1-2 which is being proposed simultaneously with these amendments. See proposed rule 11Ac1-2 release, supra note 1.

[26] Rule 17a-15(a).

security) as qualified for trading in the national market system.[27] Pro-

ceipt of transaction reports on moving ticker displays are collected; (ii) transaction reports which are transmitted

rate inquiry, through an interrogation device to which data was supplied over

CTA, the CTA would be forced to increase its general level of charges which might threaten the entire fi-

2. *Reuters' request.* In March 1976, the Commission published for public comment a letter received from Reu-

prohibition contained in the Plan prior to the market structure statement, in which the Commission stated

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security) as qualified for trading in the national market system.[27] Proposed rule 11Aa3-1 has been revised to reflect these and other changes in the regulatory structure of the Act.

II. RETRANSMISSION

The term "retransmission" refers to the communications process by which the entire data stream of transaction reports disseminated through the consolidated system would be received by a vendor and retransmitted to its subscribers as a moving ticker display.[28] While rule 17a-15 does not address retransmission, the Joint Industry Plan provides:

Vendors will not be permitted to retransmit on a continuous basis the consolidated last sale prices received by them, except as may be incidental to the operation of approved interrogation devices or display devices.[29]

The Commission believes that the retransmission prohibition may have an anticompetitive impact on vendors of securities information which is not necessary or appropriate in furtherance of the purposes of the Act. Accordingly, the Commission has proposed to include a provision in rule 11Aa3-1 which would eliminate the retransmission prohibition contained in the Plan as of March 1, 1979.[30] However, in order to assure the continued availability of transaction information in accordance with the objectives of the Act, the Commission proposes to permit any exchange, association or person authorized to implement or administer a plan under the rule to condition retransmission upon appropriate undertakings by a vendor to assure that (i) subscriber charges for the receipt of transaction reports on moving ticker displays are collected; (ii) transaction reports which are retransmitted for display in moving tickers are displayed at substantially the same rate and time as reports directly disseminated by the exchange, association or plan processor; and (iii) the vendor maintains procedures and facilities sufficient to ensure the accurate and reliable display of transaction reports.

1. *Background.* Prior to the implementation of the consolidated system, the NYSE and Amex each operated and maintained a nationwide network of telecommunication lines leased from Western Union ("ticker network") supplying, on an exclusive basis, all last sale data displayed on moving tickers. Securities information processors were permitted to use this information to create a data base from which subscribers could, upon separate inquiry, recall market information over the vendor's proprietary communication lines for display in interrogation devices. However, the exchanges required that any moving ticker, whether displayed in an interrogation device or on a separate wall unit, be supplied data directly from the ticker network.

Vendors of securities information were not then required to pay the NYSE or Amex for the receipt of last sale data displayed on moving tickers or through interrogation devices;[31] however, subscribers of the vendors were required to pay a fee directly to the NYSE and Amex in addition to the charges imposed by vendors for particular display units.[32] Prior to 1968, the exchanges' fee were assessed on a geographic basis, according to the distance of the subscriber from New York City. However, in 1968, this practice was altered to provide that exchange fees be imposed on a geographically uniform basis throughout the United States. Fees were assessed for each display device[33] and were based upon the amount of equipment and services provided by the exchanges. The highest fee was for receipt of last sale reports through a ticker tape device furnished by an exchange (with data supplied through the ticker network); a lesser charge was imposed if last sale reports were to be displayed on a moving ticker leased from a vendor either on a separate wall unit or through an interrogation device (with data supplied through the ticker network); the smallest charge was for the receipt of transaction information, upon separate inquiry, through an interrogation device to which data was supplied over the vendor's proprietary transmission lines.[34]

In response to the publication of both proposed versions of rule 17a-15, the Commission received commentary[35] requesting that the exchanges be permitted to maintain their uniform charges and that the rule specifically include a retransmission prohibition in order to assure the collection of these fees and thereby the viability of the ticker network. In the second proposal of the rule and in the version adopted, the Commission included a provision expressly permitting the maintenance of this fee structure. Rule 17a-15(f) provides:

Nothing in this section shall preclude any exchange or association, separately or jointly: (1) From imposing reasonable, uniform charges (irrespective of geographic location) for distribution of last sale reports; nor (2) from requiring any vendor which distributes or displays last sale reports to make the last sale reports it distributes or displays available to all qualified subcribers throughout the continental United States and to impose uniform charges on its subscribers (irrespective of geographic location).

While declining to include a retransmission prohibition in the rule, the Commission did not raise any objection to its inclusion in the Plan:

In not objecting to the Plan's limitations on retransmission, the Commission recognized that the principal effect of this provision would be to maintain in the self-regulatory bodies (through the CTA) the control that the primary exchanges currently exercise over their own ticker distribution networks. Independent vendors would be able to engage in the distribution of last sale data via monitoring or interrogation devices and to market equipment for the display of data via a ticker; however, they would not be permitted to distribute a continuous stream of data for ticker display purposes. This function would remain the sole prerogative of the CTA.[36]

In support of its retransmission position, the Commission identified four potentially harmful effects from eliminating the prohibition. First, it was felt that the loss of geographically uniform charges for ticker information, because vendors would be free to charge rates differing from the CTA's for supplying ticker displays, could impede the dissemination of last sale data to distant locations, thereby having anticompetitive effects on brokers in those areas. Second, because vendors would presumably concentrate their marketing efforts on easily accessible urban areas thereby leaving distribution to remote areas to the

[27] See market structure statement, supra note 15, at 45 46, 43 FR 4360-61.

[28] The term "retransmission" as used in this release should not be confused with the use of that term in the Commission's recent proceedings *In the Matter of Bunker Ramo Corporation, GTE Information Systems Incorporated* and *Options Price Reporting Authority* announced in Securities Exchange Act Release no. 14784 (May 19, 1978), 43 FR 22469. In that proceeding, the term "retransmission" referred to a feature provided by the processor for the Options Price Reporting Authority whereby a vendor can identify and recapture messages which have not been sent properly as a result of a malfunction in the processor's computer or transmission facilities or which, while transmitted by the central processor, have (1) been lost or garbled through interference on the communications circuit, or (2) not been received properly as a result of a breakdown in the vendor's equipment. Id. n. 3.

[29] Section VIII(a) and (b) of the Plan. See section V(c) of the Plan which provides that last sale information made available to vendors by the processor shall be "for the purpose of servicing approved interrogation devices * * * and not for the purposes of furnishing a ticker display."

[30] See proposed rule 11Aa3-1(e).

[31] Currently, vendors are required to pay the CTA for the receipt of data over high speed data transmission lines.

[32] Persons wishing to receive an actual printed ticker tape could, however, lease the printer directly from the NYSE or Amex.

[33] However, charges were reduced for multiple devices at a single location.

[34] If an interrogation device was capable of displaying a moving ticker two fees were assessed: One for the moving ticker and one for the interrogation device itself.

[35] See file No. S7-433.

[36] Second Plan Release, supra note 9, at 8-9.

CTA, the CTA would be forced to increase its general level of charges which might threaten the entire financial viability of the ticker network.[37] Third, concerns were raised that there might be a deterioration of ticker reliability because vendors might not maintain sufficient back-up systems. Finally, retransmission would result in the loss of direct regulatory oversight by the Commission because vendors were not then subject to its express regulation.[38]

The Commission also considered the possible anticompetitive effects on vendors of retaining the retransmission prohibition. While recognizing that competition in the distribution of ticker information might lower subscriber costs, particularly in metropolitan areas, the Commission concluded that the "widespread availability of ticker services is more important to the public interest than selective price cutting." [39] Moreover, the Commission expressed confidence that the prohibition would not impair competition among vendors in the types of ticker services offered:

The vendors would still be free to develop new and better interrogation and monitoring devices and to continue to upgrade the variety of software packages available in conjunction with this type of service. Even in the market for ticker services alone, there is no restriction on the competitive marketing of various kinds of devices which may be used to display the ticker nor on various ways of presenting it, such as selective tickers.[40]

The Plan thus continued the historical control enjoyed by the NYSE and Amex over the distribution of last sale reports by transferring control of the ticker network to the CTA. As a result, although vendors receive transaction reports on a current basis over high speed data transmission lines for use, in response to specific inquiry, on their interrogation devices,[41] every moving ticker in the country [42] is supplied data over the low speed data transmission lines constituting the ticker network. The Plan also retains the geographically uniform fee structure permitted by rule 17a-15 which has provided substantial revenue to the CTA.[43]

[37] See discussion infra.

[38] Id. at 9-10.

[39] Id. at 10.

[40] Id.

[41] Due to the use of high speed data transmission lines implemented as part of the consolidated system, this data remains current even when the ticker network, which uses low speed lines, is late. See note 12 supra.

[42] The CTA indicates that there are presently in service approximately 15,000 network A and 8,000 network B moving tickers, as compared with more than 45,000 interrogation devices (some of which display moving tickers and hence are counted twice).

[43] For the fiscal year ended December 31, 1977, aggregate CTA ticker network revenue was approximately $4,260,000 for network A and $1,725,000 for network B. Operating expenses for the ticker networked (e.g., maintenance of the low speed data transmission lines) were approximately $1,900,000 and $1,130,000, respectively, for the same period.

2. *Reuters' request.* In March 1976, the Commission published for public comment a letter received from Reuters Ltd. ("Reuters") requesting that the Commission modify or eliminate the retransmission prohibition contained in the Joint Industry Plan to enable Reuters to market a new moving ticker display device called the "Monitor." [44] Reuters proposed to service the device solely with information received from the CTA over high speed data transmission lines and transmitted to subscribers over its proprietary communications network.[45] This procedure would permit the creation of a moving ticker in a novel format [46] from information received over high speed data transmission lines rather than linking the device directly to the CTA ticker network and would thereby permit creation of a moving ticker display which is not subject to the same delays as the ticker network.[47] The CTA and certain vendors submitted written comments in response to the Commission's request for comment.[48]

Following expiration of the formal comment period, representatives of Reuters and the CTA held extensive discussions concerning those circumstances under which the CTA might permit Reuters to retransmit. In August 1976, the CTA solicited further comment from vendors,[49] and, on August 18, 1976, the Legal and Policy Committee of the CTA considered and rejected the Reuters request. No further action was taken by the Commission with respect to the retransmission prohibition contained in the Plan prior to the market structure statement, in which the Commission stated that it would reconsider retransmission at this time.

In conjunction with its proposed amendments to rule 17a-15, the Commission believes that it is appropriate to reexamine the retransmission prohibition. In addition to the various policy matters considered at the time of the adoption of rule 17a-15 and the approval of the Plan, the 1975 amendments expressly extended the authority of the Commission to assure that market information is made available by exchanges, associations and persons acting on their behalf in a manner which is consistent with the Act, including the development of a national market system.[50]

The statutory scheme set forth in section 11A of the Act contemplates that exclusive processors such as the CTA may exercise exclusive control over collecting and processing certain securities information. However, the Act further contemplates that exclusive processors will function as neutral suppliers of that information to competing vendors for distribution to subscribers.[51] The continued existence of the CTA's control over the CTA ticker network may thus be inconsistent with the balance sought by the Act between the potential for efficiency derived from centralized data collection and the need for competition in the distribution of securities information.

2. *Summary of comments.* In response to the Reuters Release, the Commission received comment letters from Reuters, the four principal vendors of moving ticker displays and from the CTA. Commentary focused on the anticompetitive effects of the prohibition and its continued validity under the Act, as well as the need to maintain the current financial arrangements and operational integrity of the network. The Commission has carefully considered these comments and, in proposing an end to the retransmission prohibition, has included certain conditions intended to respond to these concerns.

In its initial request that the Commission reexamine the retransmission prohibition, Reuters argued that the prohibition was anticompetitive in nature and inconsistent with the Act:

[44] See Securities Exchange Act Release Nos. 12162 (Mar. 3, 1976) ("Reuter release") and 12138 (Apr. 6, 1976), 41 FR 10499 and 41 FR 15924. See Commission file No. S7-620.

[45] Because the Monitor would only receive information from a single data source, it would not require duplicative computer hardware necessary to read both Reuters' data transmission and the ticker network.

[46] The moving ticker which Reuters proposed to make available on the Monitor was a so-called "cascading" ticker; i.e., each transaction report would be displayed horizontally and would move down the screen, rather than across. Use of this format would permit Reuters to include additional information with each transaction report, such as a more complete description of the security and net price change. Although a similar display might be created from ticker network data, if each display device were programmed to retrieve additional data from the vendor's proprietary data base, this procedure would be significantly more costly than permitting centralized processing at the vendor's data base center with a single communications line to each display device.

[47] See note 55, infra.

[48] See file No. S7-620.

[49] See Id.

[50] See, e.g., sections 11A(b)(5) and 11A(c)(1) of the Act. The CTA and SIAC, the processor for the Plan, are each "exclusive processors" registered with the Commission. The terms "exclusive processor" and "securities information processor," the statutory designation for vendors, are defined in section 3(a)(22) of the Act. In addition, section 23(a)(2) of the Act specifically requires that the Commission balance the anticompetitive impact of its regulatory proposals against the regulatory purposes of the Act.

[51] See Senate Report, supra note 21, at 11-12.

Requiring Reuters to utilize (the ticker network) as existing vendors do makes it necessary for Reuters to develop at great

the ticker network were to be discontinued.[54] Finally, some commentators asserted that making a moving ticker

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[54] If an interrogation device was capable of displaying a moving ticker two fees were assessed: One for the moving ticker and one for the interrogation device itself.

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[56] Second Plan Release, supra note 9, at 8-9.

centralized processing by vendors to create those displays.[56]

However, the Commission continues

would not alter the current CTA revenue stream.[60] In addition, the rule would permit the CTA to assure, by

suant to section 11A(a)(2) of the Act and as to which transaction reports are required to be collected, processed,

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Requiring Reuters to utilize (the ticker network) as existing vendors do makes it necessary for Reuters to develop at great cost, and for subscribers to take at a higher price, otherwise completely unnecessary additional equipment to be attached to the Monitor receiver * * *. The effect of the retransmission prohibitions is to protect the few existing vendors which utilize (the ticker network) provided by the CTA against the development of new and more efficient forms of competition—to maintain them in a virtual monopoly position [52]

Reuters pointed out that in the 1975 amendments the Congress had charged the SEC with an explicit and pervasive obligation to eliminate all present and future competitive restraints that could not be justified by the purposes of the Exchange Act. The Commission was directed to remove existing burdens on competition and to refrain from imposing, or permitting to be imposed, any new regulatory burden "not necessary or appropriate in furtherance of the purposes of the Exchange Act [53]

Reuters concluded by noting that all of the concerns previously raised by the Commission as a basis for permitting the retransmission prohibition were addressed and alleviated by its proposed Monitor system.

In response to the Reuters release, certain vendors and the CTA responded to the asserted anticompetitive effects of the prohibition against retransmission. First, these commentators rejected the notion that the retransmission prohibition was anticompetitive. According to these commentators, the ability of all vendors to receive transaction data upon equal terms permitted fair and open competition and sufficiently allowed vendors to compete and innovate in the manner of display of this information. These commentators argued, in effect, that the 1975 amendments do not require competition in the dissemination of market information to vendors and specifically contemplate that an exclusive processor might perform this function. In addition, these commentators argued that removal of the retransmission prohibition may have certain anticompetitive effects. It was asserted that, since Reuters would be the only vendor immediately capable of utilizing high speed data transmission for purposes of creating a moving ticker, it would be at a technological advantage with respect to the other vendors. Furthermore, it was argued that permitting vendors to act as integrated moving ticker processors would put other vendors who only market moving ticker display devices at an economic disadvantage, especially if the ticker network were to be discontinued.[54] Finally, some commentators asserted that making a moving ticker available only in conjunction with other services provided on an interrogation device constituted a tie-in arrangement which was inconsistent with basic antitrust principles and, therefore, with the Act.

Apart from arguments regarding the anticompetitive nature of the retransmission prohibition, most commentary concerned the continued financial integrity of the ticker network if vendors were permitted to retransmit transaction data. Commentators argued that the ticker network would be destroyed if retransmission were allowed because vendors would capture the more lucrative urban ticker business through differential pricing, thereby raising rates for subscribers in remote areas. Additionally, certain vendors questioned the negative impact upon competition among vendors if subscribers who received moving ticker displays consisting of retransmitted data were to pay less than subscribers who received a display of data transmitted over the ticker network.

Commentators also expressed concerns about certain operational aspects concerning retransmission. First, the CTA and certain vendors questioned the reliability of vendor proprietary transmission lines and whether there were in existence sufficient backup facilities (including both computers and data transmission lines) to assure uninterrupted service. Second, vendors expressed concern regarding the uniformity of data presentation. Because of the unitary nature of the ticker network, all moving tickers receive last sale data at the same time in the same format, including the deletion of certain information during periods of active trading. Some commentators noted that retransmission might alter this synchronization by permitting a vendor receiving information over high speed data transmission lines to display that information on a moving ticker prior to the display of that information on a moving ticker fed by the low speed ticker network, and including material which was deleted from the ticker network.[55] Additionally, despite the 1975 amendments, some commentators questioned the ability of the Commission to regulate these matters adequately absent the registration of vendors under section 11A of the Act.

Finally, certain commentators discussed the usefulness of the ticker network in the current environment in which the same information is available, without delay, by means of high speed data transmission lines. The CTA argued that maintenance of the ticker network is necessary, in addition to its utility in providing broad dissemination of market information, to preserve the complete and official record of all transaction data. To the contrary, one vendor argued that the ticker network is redundant and is no longer the official record of trading since transaction reports are logged by SIAC at the time they are received, not at the time they are displayed on moving tickers. This vendor argued that ultimately the ticker network should be entirely replaced by the high speed data transmission system which is not subject to delays and provides information to all display devices at the same time.

4. *Proposal.* After consideration of these comments, the Commission has initially determined that the prohibition against retransmission may have anticompetitive effects which are not necessary or appropriate in furtherance of the purposes of the Act. The prohibition, in effect, requires that vendors providing interrogation devices which also display a moving ticker pay for the maintenance of duplicative and redundant data transmission lines and receptor mechanisms. Additionally, the prohibitions may impede development of innovative moving ticker displays by requiring decentralized processing by vendors to create those displays.[56]

However, the Commission continues to believe that the ticker network is an important mechanism for dissemination of market information and should be retained. It provides a means whereby investors, brokers, and dealers can obtain current last sale data at a reasonable price. Furthermore, through its geographically uniform fee structure, the ticker network assures that this important market information is disseminated to remote areas of the country at costs which are not prohibitive.[57] Therefore, the Commission believes that removal of the retransmission prohibition should be accompanied by measures designed to assure the continued viability of the ticker network.

The Commission proposes to permit a vendor to use its proprietary communications network, through which the vendor presently services subscriber interrogation devices, to transmit ticker information to subscribers. The ticker information would be in any CTA-approved format; [58] however, the CTA would be permitted to charge each subscriber receiving moving ticker information retransmitted by a vendor the same fee paid by subscribers to the CTA ticker network. Accordingly, vendors would be provided with improved competitive opportunities with respect to the provisions of moving ticker displays by permitting increased communications flexibility and more varied ticker formats.[59] However, all subscribers, whatever their source of moving ticker information, could be required by the CTA to pay a uniform access charge for that information. Therefore, the proposed rule would not alter the current CTA revenue stream.[60] In addition, the rule would permit the CTA to assure, by amendment to the joint industry plan, that any vendor providing retransmission services does so accurately and reliably and that the display of the entire data stream of transaction reports is substantially synchronized.[61]

C. DESCRIPTION OF PROPOSED RULE 11Aa3-1

Proposed rule 11Aa3-1 retains the basic regulatory approach of rule 17a-15; however, it is potentially broader in its scope, applying to transaction reports [62] in "reported securities," i.e., any securities or class of securites with respect to which transaction reports are required to be disseminated pursuant to the joint industry plan [63] (or any other transaction reporting plan declared effective by the Commission) as well as any other security or class of securities designated by the Commission as a "qualified security" pursuant to section 11A(a)(2) of the Act and as to which transaction reports are required to be collected, processed, and made available pursuant to the rule. [64] The proposal requires every exchange to file a transaction reporting plan [65] with the Commission with respect to transactions in all reported securities effected through the facilities of such exchange. [66] Similarly, every association whose members effect over-the-counter transactions in reported securites and every nonmember broker or dealer who effects transactions in reported securites which are not otherwise reported and made available in accordance with the Rule must file transaction reporting plans. [67] Since the proposal represents an amendment to rule 17a-15, it will not be necessary for the sponsors of the joint industry plan or any other plan, or amendment thereto, filed with and declared effective by the Commission pursuant to rule 17a-15 to refile plans with the Commission for approval under rule 11Aa3-1. [68]

The proposal retains the requirement contained in rule 17a-15 that any plan filed thereunder include copies of all governing documents relating to any entity (including a transaction reporting association [69] like the CTA) authorized to implement or adminster the plan and specify: (1) The manner of collecting, processing, and disseminating transaction reports, (2) applicable standards and methods assuring promptness of reporting, accuracy, and completeness of transaction

[52] Reuters release, supra note 44, 41 FR at 10500 and 10502.

[53] Committee of Conference, Report to Accompany S. 249, H.R. Rep. No 94-249, 94th Cong., 1st Sess. 94 (1975). See Reuters release, supra note 44, 41 FR at 10501-2.

[54] In this connection, one vendor requested that the Commission, if it were to permit retransmission, require that vendors make this information available to other vendors through a standard computer interface at reasonable charges.

[55] The ticker network provides information to moving tickers at the rate of 900 characters per minute, the maximum speed at which a linear wall display of this information would be legible. As a result of this speed limitation, during periods of active trading complete transaction reports may not be disseminated without considerable delay. Therefore, the CTA has adopted procedures whereby, during periods of active trading, certain information, such as the volume of a transaction, is deleted from the ticker network (but not the high speed data transmission line). Despite these measures, the ticker network often reports transactions several minutes after they are reported on the high speed lines. It has been argued that the flexibility of interrogation device cathode ray tube terminals would permit a vendor creating a moving ticker from the high speed lines to avoid these delays or at least include deleted information without incurring further delays. In addition, the CTA has approved for usage certain types of moving tickers which display only transaction reports with respect to selected securities. Since these "selective" moving tickers are required to be supplied data from the ticker network, they are subject to the same delays and deletions as are moving tickers displaying transaction reports for all securities on that network. If vendors were permitted to retransmit data to create a selective moving ticker, such a display would not be delayed even if data were displayed at 900 characters per minute. See note 12, supra.

[56] For example, a vendor could not create a selective moving ticker at its central data base center but would be required instead to have data selection occur in each of its receptor devices connected to the CTA ticker network. Similarly, a vendor proposing to provide a cascading moving ticker would be required to program each interrogation device to recall data from the vendor's central data base rather than creating a single centralized data stream.

[57] See note 60, infra.

[58] The CTA, through its contracts with vendors, retains the power to approve the display format of any moving ticker or interrogation device. We understand that the CTA has never disapproved a proposed display format.

[59] For example a vendor may provide a "selective" ticker of transaction reports for only certain specified securities which would be less subject to delay than such a display created from the ticker network. Together with the opportunity to provide ticker formats adapted to the particular needs of subscribers, vendors may achieve certain technical economies resulting from not having to accommodate the CTA ticker network feed, thereby possibly reducing the costs to subscribers of leasing retransmitted displays from vendors.

[60] While this may alleviate the concern that competitive pricing would eventually lead to the demise of the CTA network, it may also be criticized because vendor subscribers would be receiving no separate service from the CTA and, accordingly, would be subsidizing all other persons receiving information by means of the ticker network. The Commission wishes to specifically solicit comment on the necessity of this subsidy.

[61] The Commission understands that vendors may program their interrogation devices to display transaction reports at approximately the same rate as the moving ticker. However, due to the use of deletion modes on the ticker network (see note 55, supra), it may not be feasible during periods of active trading for vendors to display retransmitted data at precisely the same time as the ticker network. In addition, a vendor providing a selective moving ticker may provide transaction reports at the same rate as the entire moving ticker while a vendor receiving such data over the ticker network would, in effect, be displaying data at a slower rate.

[62] The term "transaction report" is defined in paragraph (a)(1) of the proposal as a report containing the price and volume associated with a completed transaction involving the purchase or sale of a security ("transaction") and is used in lieu of the term "last sale report" which is employed in Rule 17a-15.

[63] The joint industry plan requires dissemination of transaction reports in "eligible securities" which are defined as all stocks and long-term warants listed or admitted to unlisted trading privileges on the NYSE or Amex on the date of full implementation of the consolidated system (Apr. 30, 1976), all stocks and long-term warrants listed or admitted to unlisted trading privileges on any other exchange which, on Apr. 30, 1976, met either NYSE or Amex listing standards, all stocks and long-term warrants listed or admitted to unlisted trading privileges on any exchange after Apr. 30, 1976, and which substantially meets either NYSE or AMEX listing standards and any right to acquire an eligible security which is traded on the same exhange as the eligible security.

[64] Proposed rule 11Aa3-1(a)(4).

[65] The term "transaction reporting plan" is defined in par. (a)(2) of the proposal as any plan for collecting, processing, and making available transaction reports with respect to transactions in reported securities filed with the Commission and meeting the requirements of the rule. Rule 17a-15 does not specifically define the term "plan;" however, it requires the filing of a plan "for the dissemination of information required to be reported pursuant to this section." See Rule 17a-15(a).

[66] Proposed rule 11Aa3-1(b)(1). This requirement is currently contained in rule 17a-15(a).

[67] Proposed rule 11A-301(b) (1) and (2). This rquirement is currently contained in rule 17a-15 (a) and (b).

[68] Similarly, any exemptions granted pursuant to rule 17a-15(h) or any existing Commission interpretation of rule 17a—15, to the extent relevant, would remain in effect. See Securities Exchange Act Release No. 11317 (Mar. 26, 1975), 40 FR 15461. See also Securities Exchange Act Release Nos. 11385 (Apr. 30, 1975) and 14651 (Apr. 11, 1978), 40 FR 19888 and 43 FR 16582.

[69] The term "transaction reporting association" is defined in par. (a)(5) of the proposal as any person authorized to implement or administer any transaction reporting plan on behalf of persons acting jointly in filing, amending, implementing or administering a transaction reporting plan. See proposed rule 11A-3-1(a)(3) which would specifically permit such joint action.

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reports, and (3) rules or procedures designed to assure that transaction re-

plan [76] to assure that: (i) Charges imposed upn vendors and their subscrib-

in which market information vendors display transaction reports have been

(1) The term "transaction report" shall mean a report containing the

curities effected through its facilities, and every association shall, with re-

pose of, and the basis under the Act for, such amendment.

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reports, and (3) rules or procedures designed to assure that transaction reports will not be disseminated in a fraudulent or manipulative nammer.[70] In addition, the current rule and the proposal both require a statement regarding the terms of access to information made available pursuant to plan although the proposal would require a more specific statement which should conform to the general standards set forth in section 11A(b) of the Act.[71] The proposal would also require that a transaction reporting plan specify broker-dealer reporting requirements and the manner in which transaction reports will be consolidated to assure that the single data stream contemplated by the rule is achieved.[72]

Proposed rule 11Aa3-1 differs from rule 17a-15 in two principal respects. First, unlike rule 17a-15, proposed rule 11Aa3-1 explicitly sets forth the manner in which any effective transaction reporting plan may be amended. The proposal requires that any proposed amendment to a plan be filed with the Commission, noticed for public comment and approved by the Commission prior to effectiveness.[73] However, if the Commission finds that the proposed amendment is of a technical or ministerial nature, or if such action is necessary or appropriate in the public interest, for the the protection of investors or the maintenance of fair and orderly markets, to facilitate the establishment of a national market system or otherwise in furtherance of the purposes of the Act, the proposal would permit the Commission to declare an amendment effective on a temporary basis not to exceed 120 days, upon publication of notice of such amendment.[74]

The proposal would also differ from rule 17a-15 in specfically adressing retransmission. The rule would provide that, on and after March 1, 1979, no exchange or association may prohibit, condition, or otherwise limit retransmission of the entire data stream of transaction reports on a current and continuous basis for the purpose of creating a moving ticker display.[75] The rule would, however, permit an exchange or association to condition retransmission by provisions included in an effective transaction reporting plan[76] to assure that: (i) Charges imposed upn vendors and their subscribers which are otherwise permitted by the rule[77] are collected, (ii) transaction reports available on a moving ticker via retransmission are displayed at substantially the same rate as transaction reports available through the ticker network,[78] and (iii) any vendor which retransmits transaction reports maintain procedures and facilities to insure the accurate and reliable display of such reports.

In addition, the proposal would amend rule 17a-15 in certain technical respects, including the following:

(1) The proposal would prohibit any broker or dealer from effecting transactions in (or inducing or attempting to induce the purchase or sale of) any reported security without disseminating transaction reports with respect to such transaction.[79] Rule 17a-15 does not explicitly contain any similar prohibition but does require the filing of plans achieving this same result prior to February 26, 1973. Proposed rule 11Aa3-1 is designed to maintain the requirement that all exchanges, associations and nonmember brokers and dealers file plans; therefore, it contains this prohibition which, in effect, would require the filing of a transaction reporting plan as a condition precedent to trading in a reported security.[80]

(2) Paragraph (i) of rule 17a-15, which sets forth procedures governing appeals to the Commission by persons who are denied or limited access to last sale reports, has been amended to apply only in those instances in which section 11A(b) of the Act would not govern appeal procedures.[81]

(3) The provisions of rule 17a-15 which indirectly prescribe the manner in which market information vendors display transaction reports have been incorporated into proposed rule 11Ac1-2 which is being proposed simultaneously with this proposal.[82]

Finally, the Commission notes that the provisions of rule 17a-15(f), which explicitly permit self-regulatory organizations to charge geographically uniform fees[83] for the receipt of transaction reports, have been retained in rule 11Aa3-1. However, we wish to emphasize that the retention of these provisions is only meant to reflect the Commission's current neutrality on this issue.[84]

III. Text of Proposed Amendment

The Securities and Exchange Commission hereby proposes to amend rule 17a-15 under the Act (17 CFR 240.17a-15) and to redesignate it as rule 11Aa3-1 under the Act (17 CFR 240.11Aa3-1) pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and particularly sections 2, 3, 6, 9, 10, 11A, 15, 15A, 17, and 23 thereof (15 U.S.C. 78b. 78c, 78f, 78i, 78j, 78k-1, 78o, 78o-3, 78g, and 78w).

§ 240.11Aa3-1 Dissemination of transaction reports with respect to transactions in reported securities.

(a) *Definitions.* For purposes of this section:

(1) The term "transaction report" shall mean a report containing the price and volume associated with a completed transaction involving the purchase or sale of a security ("transaction").

(2) The term "transaction reporting plan" shall mean any plan for collecting, processing, and making available transaction reports with respect to transactions in reported securities filed with the Commission pursuant to, and meeting the requirements of, this section.

(3) The term "effective transaction reporting plan" shall mean any transaction reporting plan approved by the Commission pursuant to this section.

(4) The term "reported security" shall mean (i) any security or class of securities designated as "qualified securities" by the Commission pursuant to section 11A(a)(2) of the Act and for which transaction reports are required to be collected, processed, and made available pursuant to this section; and (ii) any other security or class of securities for which transaction reports are required to be collected, processed, and made available pursuant to any effective transaction reporting plan.

(5) The term "transaction reporting association" shall mean any person authorized to implement or administer any transaction reporting plan on behalf of persons acting jointly under paragraph (b) of this section.

(6) The term "plan processor" shall mean any national securities exchange ("exchange"), national securities association ("association") or securities information processor acting as an exclusive processor with respect to any transaction reporting plan.

(7) The term "interrogation device" shall mean any securities information retrieval system capable of making available transaction reports or last sale data, upon inquiry, on a current basis on a terminal or other display device, or by any other means.

(8) The term "moving ticker" shall mean any continuous real-time moving display of transaction reports whether made available on a discrete display unit or included on an interrogation device.

(9) The term "vendor" shall mean any securities information processor engaged in the business of disseminating transaction reports with respect to transactions in reported securities to brokers or dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device.

(10) The term "last sale data" shall mean any price or volume data contained in a transaction report.

(b) *Filing of transaction reporting plans.* (1) Every exchange shall, with respect to transactions in reported securities effected through its facilities, and every association shall, with respect to transactions in reported securities effected by its members otherwise than on an exchange, file with the Commission a transaction reporting plan.

(2) Every broker or dealer who is not a member of an exchange or association and who effects transactions in any reported security (a "nonmember broker or dealer") shall file with the Commission a transaction reporting plan with respect to such transactions unless transaction reports with respect to such transactions are collected, processed, and made available by an exchange or association pursuant to an effective transaction reporting plan.

(3) All exchanges, associations, and nonmember brokers and dealers are authorized to act jointly in filing a transaction reporting plan or any amendment thereto, or implementing or administering an effective transaction reporting plan.

(4) Every transaction reporting plan filed pursuant to this section shall include copies of all governing or constituent documents relating to any transaction reporting association or other entity which may be established to implement or administer the plan and shall specify, at a minimum:

(i) Reporting requirements with respect to transactions in reported securities for any broker or dealer subject to the plan;

(ii) The manner of collecting, processing, sequencing, and disseminating transaction reports;

(iii) The manner of consolidating such transaction reports with transaction reports from other exchanges, associations, and nonmember brokers and dealers;

(iv) The applicable standards and methods which will be utilized to insure promptness of reporting, and accuracy and completeness of transaction reports;

(v) Any rules or procedures which may be adopted to insure that transaction reports or last sale data will not be disseminated in a fraudulent or manipulative manner; and

(vi) Specific terms of access to transaction reports disseminated pursuant to the plan.

Each such plan shall also provide that transaction reports made available to any vendor for display on an interrogation device identify the marketplace where each transaction was executed.

(5) Any person or persons who have filed a transaction reporting plan which has been approved by the Commission pursuant to this section may propose an amendment to such plan by filing the form of such proposed amendment with the Commission, together with a statement of the purpose of, and the basis under the Act for, such amendment.

(c) *Effectiveness of transaction reporting plans.* (1) The Commission shall publish notice of the filing of any transaction reporting plan, or any proposed amendment to any effective transaction reporting plan ("proposed amendment"), together with the terms of substance in the filing or a description of the subjects and issues involved, and shall provide interested persons an opportunity to submit written comments.

(2) No transaction reporting plan filed pursuant to this section, or amendment to an effective transaction reporting plan, shall become effective unless the Commission, having due regard for the public interest, the protection of investors, the maintenace of fair and orderly markets, and the need to remove impediments to, and perfect the mechanisms of, a national market system shall, after appropriate notice and opportunity for comment, by order approve such plan or amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate.

(3) Notwithstanding the provisions of paragraph (c)(2) of this section, a proposed amendment may be put into effect upon publication of notice of such amendment, on a temporary basis not to exceed 120 days, if the Commission finds that (i) such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to facilitate the establishment of a national market system or otherwise in furtherance of the purposes of the Act, or (ii) the proposed amendment involves only technical or ministerial matters.

(d) *Prohibitions and reporting requirements.* (1) No broker or dealer may effect any transaction in, or induce or attempt to induce the purchase or sale of, any reported security;

(i) On or through the facilities of an exchange unless transaction reports with respect to transactions in such reported security effected on or through such exchange facilities are required to be reported pursuant to and effective transaction reporting plan; or

(ii) Otherwise than on an exchange unless transaction reports with respect to transactions in such reported security effected otherwise than on an exchange by such broker or dealer are required to be reported pursuant to an effective transaction reporting plan.

(2) No exchange or member thereof shall make available, on a current and continuing basis, transactions reports with respect to transactions in any reported security effected through the facilities of such exchange except pursuant to an effective transaction reporting plan filed by such exchange

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[70] Proposed rule 11Aa3-1(b)(4) (ii), (iv), and (v); rule 17a-15(b)(a) (2) and (3).

[71] Proposed rule 11Aa3-1(b)(4)(vi); rule 17a-15(b)(4).

[72] Proposed rule 11Aa3-1(b)(4) (i) and (iii).

[73] Proposed rule 11Aa3-1 (b)(5), and (c)(1), and (2).

[74] Proposed Rule 11Aa3-1(c)(3). Cf. sec. 19(b)(3) of the Act.

[75] Proposed rule 11Aa3-1(e). While the proposal would not require that the participants of the CTA amend the joint industry plan, it would render the retransmission provisions of the plan inoperative.

[76] An "effective transaction reporting plan" is defined in par. (a)(3) of the rule as any transaction reporting plan approved by the Commission pursuant to the rule.

[77] See proposed rule 11Aa3-1(f).

[78] Although such a condition would permit substantial synchronization of moving tickers displaying the entire data stream of transaction reports, "selective" tickers displaying retransmitted transaction reports at 900 characters per minute might display those reports prior to the time they are displayed on moving tickers supplied data via the ticker network.

[79] Proposed rule 11Aa3-1(d)(2).

[80] The proposal also retains those provisions of rule 17a-15 which prohibit an exchange, association, or member thereof from making available transaction reports with respect to transactions in reported securities except pursuant to an effective transaction reporting plan and which require every broker or dealer who is an exchange or association member to promptly transmit to such exchange or association all information required by an effective transaction reporting plan. See proposed rule 11Aa3-1(d) (2), (3), and (4), and rule 17a-15 (a) and (d).

[81] Proposed rule 11Aa3-1(g).

[82] See rule 17a-15(b) and proposed rule 11Ac1-2 release, supra note 1. Proposed rule 11Aa3-1 would, however, still require that any transaction reporting plan filed pursuant to the rule provide that transaction reports made available to any vendor for purposes of display on interrogation devices be accompanied by a market identifier.

[83] This provision of rule 17a-15 requires continuation of the practice of geographically uniform pricing with respect to supplying last sale data through moving ticker displays which was established 1968. See discussion infra. To the extent that commentators believe that, either in connection with the Commission's proposed amendments to rule 17a-15 permitting retransmission, or otherwise, uniform geographic pricing imposes burdens on competition which are not necessary or appropriate in furtherance of the purposes of the Act, such commentators should provide the commission with the basis for that belief including an indication of those cost factors (other than the cost of obtaining current last sale data) which would justify the alteration of such a rate structure. Persons favoring elimination of geographically uniform pricing for either self-regulatory organizations or vendors should also provide estimates of the costs of providing subscribers with last sale information in various parts of the country.

[84] Although a similar provision contained in the initial proposed version of rule 11Ac1-1 under the Act was eliminated from the rule, as adopted, that action also reflected the Commission's neutrality. See Securities Exchange Act Release Nos. 13626 (June 14, 1977), and 14415 (Jan. 26, 1978), 42 FR 32418 and 43 FR 4342.

(either individually or jointly with other persons)

vendor which distributes or displays transaction reports to make the trans-

on specified terms and conditions, any

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posed rule would impose further requirements specifying the manner in which transaction reports, data con-

ments added section 11A(c)(1) of the Act, which provides:

No self-regulatory organization, member

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(either individually or jointly with other persons).

(3) No association or member thereof shall make available, on a current and continuing basis, transaction reports with respect to transactions in any reported security effected by a member of such association otherwise than on an exchange except pursuant to an effective transaction reporting plan filed by such association (either individually or jointly with other persons).

(4) Every broker or dealer who is a member of an exchange or association shall promptly transmit to the exchange or association of which it is a member all information required by any effective transaction reporting plan filed by such exchange or association (either individually or jointly with other exchanges and/or associations).

(e) *Retransmission of transaction reports.* On and after March 1, 1979, notwithstanding any provision of any effective transaction reporting plan, no exchange or association may, either individually or jointly, by rule, stated policy or practice, transaction reporting plan or otherwise, prohibit, condition or otherwise limit, directly or indirectly, the ability of any securities information processor to retransmit, for display in moving tickers, transaction reports made available pursuant to any effective transaction reporting plan: *Providing, however,* That an exchange or association may, by means of an effective transaction reporting plan, condition such retransmission upon appropriate undertakings by securities information processors to assure that (1) any charges for the distribution of transaction reports in moving tickers permitted by paragraph (f)(i) of this section are collected, (2) transaction reports which are retransmitted for display in moving tickers are displayed at substantially the same rate as reports distributed for display in moving tickers directly by a plan processor, and (3) any securities information processor which retransmits transaction reports for display in moving tickers maintains procedures and facilities sufficient to insure that such display is accurate and reliable.

(f) *Availability and charges.* Nothing in this section shall preclude any exchanges or association, separately or jointly, pursuant to the terms of an effective transaction reporting plan: (1) From imposing reasonable, uniform charges (irrespective of geographic location) for distribution of transaction reports; nor (2) from requiring any vendor which distributes or displays transaction reports to make the transaction reports it distributes or displays available to all qualified subscribers throughout the continental United States and to impose uniform charges on its subscribers (irrespective of geographic location).

(g) *Appeals.* The Commission may entertain appeals in connection with the operation of any effective transaction reporting plan as follows:

(1) Any action taken or failure to act by any person in connection with an effective transaction reporting plan (other than a prohibition or limitation of access reviewable by the Commission pursuant to section 11A(b)(5) or section 19(d) of the Act) shall be subject to review by the Commission, on its own motion or upon application by any person aggrieved thereby (including but not limited to exchanges, associations, brokers, dealers, issuers, vendors, and other users of transaction reports), filed within 30 days after such action or failure to act or within such longer period as the Commission may determine.

(2) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of any such action unless the Commission determines otherwise, after notice and opportunity for hearing on the question of a stay (which hearing may consist only of affidavits or oral arguments).

(3) In any proceedings for review, if the Commission, after appropriate notice and opportunity for hearing, and upon consideration of any proceedings conducted in connection with such action or failure to act and such other evidence as it deems relevant, determines that the action or failure to act is in accord with the applicable provisions of such plan and is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system, the Commission shall dismiss the proceeding. Otherwise, the Commission shall require such action with respect to the matter reviewed as the Commission deems appropriate in accordance with the public interest and the protection of investors and consistent with such plan, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(h) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any exchange, association, broker, dealer or specified reported security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

IV. Effects on Competition and Request for Public Comment

Section 23(a)(2) of the Act requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such regulation and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has discussed in some detail the competitive impact of the retransmission prohibition and the Commission's proposal to end the prohibition and has, as a preliminary matter, determined that the perceived anticompetitive effects of the proposal is outweighed by the regulatory purposes to be achieved by the proposals. The Commission's mandate under section 11A(a) of the Act to facilitate the establishment of a national market system and its authority granted under section 11A(c) to assure prompt, accurate, reliable and fair collection, processing distribution and publication of last sale information in a fair and useful format would appear to be significantly furthered by the adoption of these proposals. However, in addressing the regulatory proposals discussed in this release, commentators should specifically address the competitive impact of this regulation so that the Commission may further evaluate its proposals in the light of section 23(a)(2).

Interested persons are invited to submit written presentations of views, data and arguments concerning the proposed rule 11Aa3-1 under the Act and the issues discussed above. Persons wishing to make such submissions should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than December 15, 1978. All submissions should refer to file No. 758, and will be available for public inspection at the Commission's Public Reference Room, Room 6106, 1100 L Street NW., Washington, D.C.

By the Commission.

George A. Fitzsimmons,
Secretary.

October 20, 1978.

[FR Doc. 78-30506 Filed 10-27-78; 8:45 am]

[8010-01-M]

[17 CFR Part 240]

[Release No. 34-15251; File No. S7-759]

DISSEMINATION AND DISPLAY OF TRANSACTION REPORTS AND QUOTATION INFORMATION

Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission proposes to adopt a rule which is designed to improve the manner in which transaction reports and quotation information are displayed by vendors of securities information. In connection with this proposal, the Commission has withdrawn a portion of a prior interpretive release which has permitted display of transaction reports in a manner which would be inconsistent with the proposed rule.

DATES: Comments should be submitted on or before December 15, 1978.

ADDRESSES: Persons wishing to submit written views, data and arguments should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to file No. S7-759 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Andre Weiss, Division of Market Regulation, Securities and Exchange Commission, Room 303, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8970.

SUPPLEMENTARY INFORMATION: The Securities Exchange Commission announced today that it has proposed rule 11Ac1-2 (17 CFR 240.11Ac1-2) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1978)) (the "Act") which is designed to improve the manner in which price and volume data with respect to completed securities transactions ("transaction reports") and bids, offers and quotation sizes ("quotation information") are displayed by vendors of securities information.

Proposed rule 11Ac1-2 would contain those provisions currently governing the display of last sale reports which are contained in rule 17a-15 (17 CFR 240.17a-15) the Commission's rule governing the collection, processing and dissemination of last sale reports in listed securities.[1] In addition, the proposed rule would impose further requirements specifying the manner in which transaction reports, data contained in transaction reports ("last sale data") and quotation information are displayed by vendors of market information. In particular, the rule would require that (i) transaction reports or last sale data made available on a consolidated basis on continuous moving ticker displays ("moving tickers") or by means of securities information retrieval systems ("interrogation devices") be reported without identification as to the market place of execution; (ii) consolidated displays of transaction reports, last sale data and quotation information available on interrogation devices be retrievable in response to an inquiry which is simpler or more prominent[2] than the inquiry used to retrieve individual market last sale or quotation information;[3] (iii) all individual market displays of transaction reports, last sale data and quotation information available on interrogation devices be retrievable in response to equally complex inquiries; (iv) consolidated displays of last sale data available on interrogation devices contain all categories of market information retrievable with respect to any display of last sale data from any individual market; (v) monitoring services available on interrogation devices which dynamically update last sale data with respect to selected securities on an individual market basis also be available on a consolidated basis; (vi) vendors displaying quotation information on interrogation devices with respect to any equity security make available a consolidated best bid and offer derived from quotations from all reporting market centers; and (vii) no vendor may provide any representative bid or offer with respect to any equity security.

[1] Simultaneously with this proposal, the Commission is proposing amendments to rule 17a-15 which, among other things, would redesignate the rule as rule 11Aa3-1 and would delete these display requirements from that rule. See Securities Exchange Act release No. 15250 (Oct. 20, 1978) ("Proposed Rule 11Aa3-1 Release").

[2] See discussion infra.

[3] In connection with this proposal, the Commission has withdrawn a portion of a prior interpretive release (Securities Exchange Act Release No. 11317 (Mar. 28, 1975) (the "Interpretive Release"), 40 FR 15461, which had permitted the display of transaction reports in a manner which would be prohibited by this provision and which the Commission now believes is inconsistent with the development of a national market system.

I. Background

The Securities Acts Amendments of 1975 ("1975 Amendments") granted the Commission broad authority to regulate the manner in which vendors of market information display transaction reports and quotation information. In particular, the 1975 Amendments added section 11A(c)(1) of the Act, which provides:

> No self-regulatory organization, member thereof, securities information processor, broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for or transactions in any security other than an exempted security, to assist, participate in, or coordinate the distribution or publication of such information, or to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any such security in contravention of such rules or regulations as the Commission shall prescribe as necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of this title to * * *
>
> (B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in such securities and the fairness and usefulness of the form and content of such information.

Until this time, the Commission has given vendors broad latitude regarding the manner in which they display market information, including transaction and quotation information. The results achieved in this unregulated environment have been mixed; although some progress has been made to assure that market information is made available to brokers, dealers, and investors in a nondiscriminatory manner, the Commission is also aware that some practices have continued or arisen which tend to impede the availability of important market information.[4] Furthermore, the Commission's experience in attempting to rectify certain of these perceived difficulties through informal means has indicated an unwillingness on the part of certain vendors to alter voluntarily the manner in which they currently display market information unless the Commission were to establish mandatory, industrywide minimum display criteria. For these reasons, the Commission is at this time proposing rule 11Ac1-2 under the Act. This rule would set forth comprehensive requirements governing the manner in which vendors display transaction reports in securities with respect to which transaction reports are disseminated pursuant to proposed rule 11Aa3-1 (current rule 17a-15) ("reported securities") and quotation information with respect to certain equity securities.

II. Availability of Consolidated Market Information

In its January 1978 statement concerning those steps which should be taken during 1978 to facilitate the establishment of a national market system, the Commission indicated that it was particularly concerned about

[4] See discussion infra.

the manner in which vendors of market information provide for the recall of consolidated last sale data

The Commission concluded by noting its intention to rescind its prior interpretation at this time

information by the simplest and most prominent form of interrogation re-

the Commission so that the basis for its claims may be evaluated.

ed securities) on an individual market basis.[14] Commentators, especially certain regional exchanges and third

subject of extensive debate. While the New York Stock Exchange ("NYSE") and the American Stock Exchange

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the manner in which vendors of market information provide for the recall of consolidated last sale data with respect to reported securities on interrogation devices.[5] Vendors currently provide primary market transaction information in response to an inquiry consisting of the letter or combination of letters (the "consolidated system symbol") used to identify the particular security involved in the consolidated transaction reporting system ("consolidated system") followed by a single information request key. However, in most cases, additional letters or symbols must be used to recall consolidated transaction information from any market center other than the primary market.[6]

To date, this practice has been permitted by the Commission pursuant to an interpretation of rule 17a-15, issued in March 1975,[7] in which the Commission stated that:

> vendors may use the consolidated tape ticker symbol (the old NYSE symbol in the case of a NYSE listed security) to interrogate for last sale information from the NYSE and some other symbol to interrogate for consolidated data. However, any symbol which differs from the consolidated tape symbol which is used to interrogate for consolidated data must be simple and easy for brokers and dealers to use.[8]

The Commission indicated in the market structure statement that it had reconsidered that interpretation in light of its experience with the consolidated system and no longer believed that vendors should be permitted to provide consolidated last sale data in response to any inquiry which was more complex that the inquiry required to recall the last sale data from the primary market. The Commission stated that this practice:

> discourages use of consolidated information, has anticompetitive consequences for markets as to which last sale data may be recalled only by relatively more difficult and time consuming interrogation routines, and impedes progress toward a national market system. Consequently, the Commission believes vendors would modify their systems promptly to confide use of consolidated system symbols in their interrogation and display devices to the recall of consolidated last sale data.[9]

The Commission concluded by noting its intention to rescind its prior interpretation at this time.

In response to this discussion in the market structure statement, two vendors of market information informally contacted the staff of the Commission indicating their willingness to voluntarily change the manner in which consolidated market information is recalled on their interrogation devices. However, both vendors expressed concern that voluntary compliance by less than all vendors would place those complying at a competitive disadvantage.[10] A third vendor has refused to advise the Commission's staff whether it will change the manner in which consolidated market information is recalled on its interrogation devices. This vendor has indicated that such a change would entail considerable programing and systems changes at a significant expense to it; however, it has not furnished any cost estimates or other data substantiating its assertion or which would permit the Commission to evaluate this claim.

Discussions with these vendors have led the Commission to conclude that an unregulated environment may not provide a sufficient impetus for vendors to change voluntarily the manner in which they display market information. To the contrary, it appears that customer pressure may actually influence vendors to retain and create displays which highlight (both in terms of format and ease of access) primary market transaction and quotation data. Therefore, the Commission is at this time proposing display requirements in rule 11Ac1-2 which are designed to assure that vendors provide consolidated market data in an easily accessible and useful format. The rule would address three distinct aspects of the manner in which consolidated market data is displayed: (i) Ease of access to transaction and quotation information; (ii) comparability of individual market and consolidated transaction data; and (iii) comparability of individual market and consolidated monitoring services.

In response to the Commission's concerns raised in the market structure statement regarding ease of access to consolidated market data, the rule would require that, on and after March 1, 1979, vendors who provide on an interrogation device transaction reports or quotation information with respect to a particular reported security from an individual market center also provide on that device consolidated transaction reports and quotation information by the simplest and most prominent form of interrogation request.[11] The proposal does not explicitly require vendors to program these interrogation devices to access consolidated transaction reports and quotation information with consolidated system symbols for reported securities because we understand that in most cases vendors currently use these symbols. Furthermore, we understand that use of the consolidated system symbol for the remaining small number of securities (primarily preferred stocks) would require significant programing changes. The Commission expects that vendors will continue to use the consolidated system symbol to recall last sale and quotation information with respect to reported securities wherever possible and is interested in receiving comments as to whether a Commission requirement to that effect is necessary.

In addition, the rule would require that all individual market displays of transaction reports or quotation information be available in response, to equally complex inquiries. The Commission believes that the alternative possibilities, in which primary market information will be available in response to a significantly easier request than market information from regional exchanges and the third market, is discriminatory and anticompetitive. The Commission is aware, however, that one vendor has asserted that equalization of the inquiry routines for all individual market displays will entail significant expense. Therefore, the Commission is specifically requesting comment on the feasibility of this portion of its proposal. In particular, if any vendor believes that equalization of the inquiry routines for all individual market displays will impose significant costs which are not justified by the Commission's regulatory concerns, such securities information processor should provide sufficient information (including detailed cost estimates)[12] to

[5] Securities Exchange Act release No. 14416 (Jan. 26, 1978) ("Market Structure Statement") at 41-44, 43 FR 4360.

[6] One type of interrogation device currently in use provides consolidated and primary market transaction information by the same number of key strokes; however, it has been asserted that the location and label of the particular keys used to recall primary market last sale data are significantly more prominent than the keys used to recall consolidated data. See note 11 infra.

[7] Interpretive release, supra note 3, at 5, 40 FR at 15461.

[8] Id. at 5, 40 FR at 15462.

[9] Market structure statement, supra note 5, at 43, 43 FR at 4360.

[10] This argument is apparently based on an assumption that subscribers of market information vendors would prefer to obtain primary market last sale data by the easiest inquiry. Such an assumption reinforces the Commission's belief that this practice should be terminated.

[11] The rule would require that consolidated market data for a particular security be retrievable by a request involving no greater number of key strokes than is required to access individual market center data with respect to that security; however, because the Commission is also concerned that, if consolidated and primary market transaction and quotation information are available in response to equally complex retrieval instruction, the location and prominence of the particular keys used to recall primary market information may discourage recall of consolidated data, the rule would require that in such an event the key to access consolidated data be more prominent. See discussion infra and note 6 supra.

[12] See rule 24-2 under the Act (17 CFR 240.24b-2) which sets forth procedures for requesting confidential treatment of any statement, correspondence, notice or other document filed with the Commission pursuant to the Act. See also rule 80 of the Com-

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the Commission so that the basis for its claims may be evaluated.

The Commission also remains concerned that, to some extent, brokers do not request consolidated displays on their interrogation devices because there is significantly less information contained on consolidated displays than is contained on individual market displays. For example, the display of primary market information provided on a vendor's interrogation device might include last sale, open, high, low, previous close, bid, offer, volume and net change, whereas the consolidated last sale display available on that interrogation device might only include consolidated last sale, open, high, low, volume and net change thus excluding previous close, bid and offer. In our view, the omission from a consolidated last sale display of market data which is provided on an individual market display may cause the consolidated display to be less useful and informative to investors and market professionals. Therefore, in order to help assure the use of consolidated market data, in conjunction with the rule's requirements concerning the ease of access to such data, rule 11 Ac1-2 would require that the consolidated last sale display available on an interrogation device contain the same market data as is available on any individual market last sale display. Because such a requirement may entail significant systems changes by certain vendors, the Commission is especially interested in receiving commentary on the cost of compliance with such a requirement and the extent to which vendors believe that certain of their existing systems should receive exemptive relief from such a provision, if adopted.

Finally, rule 11Ac1-2 contains provisions designed to assure that consolidated last sale data is used in connection with market monitor services provided by vendors. In 1975, the Commission issued an interpretation of rule 17a-15 which currently permits vendors to provide monitoring services (i.e., dynamically up-dated interrogation device displays of transactions reports in preselected securities) on an individual market basis.[13] However, the Commission at that time also indicated that it would not interpret rule 17a-15 to permit vendors to provide selective moving tickers (i.e., a moving ticker display of transactions in selected securities) on an individual market basis.[14] Commentators, especially certain regional exchanges and third market makers, have maintained that monitoring services available on interrogation devices are similar to selective moving ticker displays, and therefore, these commentators argue, the Commission should only permit interrogation device monitoring services to be offered on a consolidated basis. Although the Commission is unable to conclude, at this time, that interrogation device monitoring services must be provided exclusively on a consolidated basis, we recognize the argument that these services should be provided in a manner which is consistent with requirements for display of other types of transaction data. Therefore, the Commission proposes to require that any vendor who provides a monitoring service with respect to a reported security on an individual market basis also provide such monitoring service for such security on a consolidated basis.

The Commission is not, however, at this time proposing identical display requirements for monitoring services and selective tickers.[15] It has tentatively reached this conclusion because there arguably are differences in the display capabilities (and therefore use by the brokerage industry) of selective tickers and monitoring services which would warrant disparate treatment by the Commission. It would appear that the selective moving ticker is primarily used by brokers to obtain a feel for the market (generally or with respect to a large sampling of securities) and is not used to specifically monitor (or continuously display) transaction reports with respect to a limited number of securities so as to directly affect trading decisions in those securities. Therefore, it may be argued that the differences in design and use of these display devices warrant a limited disparity in the display requirements imposed upon vendors marketing these devices. The Commission is specifically requesting comment on these views and would be especially interested in receiving arguments concerning the advisability of imposing identical display requirements on monitoring services and selective tickers.

III. Market Identification

The issue of whether transactions reported in the consolidated system should be accompanied by an indication of the market of execution ("market identifier") has been the subject of extensive debate. While the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex") have consistently supported the concept of market identification, the regional exchanges and certain third market makers have opposed inclusion of identifiers as an anticompetitive device designed to preserve the concept of a primary market.

In response to the initial publication of proposed rule 17a-15, a number of regional exchanges submitted comments which opposed any market identification in the consolidated system, including on interrogation device displays. The Pacific Stock Exchange ("PSE") termed market designation a form of advertising that serves to perpetuate the historical competitive advantages of the NYSE and the Amex without conveying any useful information to the public. The Detroit Stock Exchange (which has since ceased operations) and the National Association of Securities Dealers ("NASD") argued that designation of markets would only serve to continue the concept of a primary market as opposed to other market centers. The Midwest Stock Exchange ("MSE") recommended that the Commission go beyond a ban on market designation and adopt measures to replace the separate NYSE ticker and stock tables with a "true composite tape and tables." Only the NYSE, the Amex and one vendor, Ultronics (now GTE Information Services), supported the market identifier concept.[16]

Prior to republication of the proposed rule, the Commission's Advisory Committee on Market Disclosure[17] issued its "Report on a Composite Transaction Reporting System."[18] In that report, the Committee recommended that both moving ticker displays and interrogation devices include a market identifier. In this regard, the Advisory Committee report stated as follows:

> In determining that identification of market place is desirable we are persuaded that until regulation in all marketplaces is appropriately equal for the protection of the public interest the public is entitled to know where the activity in a particular stock is occurring and under what regulatory conditions a transaction is taking place.[19]

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mission's rules of organization; conduct and ethics; and information and requests (17 CFR 200.80) which states that the Commission will generally not publish, make available to any person, or disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

[13] Interpretive Release, supra note 3, at 3, 40 FR at 15462.

[14] See id. at 6, 40 FR at 1546.

[15] The Commission could achieve identical display requirements either by permitting selective tickers to display transaction reports on an individual market basis or by requiring monitoring services to display transaction reports exclusively on a consolidated basis.

[16] See file No. S7-433

[17] This committee was one of three advisory committees established by the Commission following issuance of the Commission's Statement on the Future Structure of the Securities Markets, 37 FR 5286 (1972).

[18] Report to the Securities and Exchange Commission by the Advisory Committee on Market Disclosure on a Composite Transaction Reporting System, July 17, 1972 (the "Advisory Committee Report").

[19] Id. at 6. One member of the Committee dissented from this view on the grounds that to disclose the marketplace would discriminate against third market dealers and

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As a result of the Advisory Committee Report, proposed rule 17a-15 was republished for comment in August 1972 containing an explicit requirement that transactions reported pursuant to the rule's provisions be identified as to market of execution.[20] Comments received from the NASD and the regional exchanges in response to the republished rule reiterated their opposition to market identifiers.

Rule 17a-15, as finally adopted, contained a provision requiring market identification on both moving tickers and interrogation devices. Paragraph (b) of the rule provides that

> [each] composite tape or interrogation system, in displaying last sale reports, shall identify the marketplace where each transaction was executed.[21]

In conformity with this requirement, the joint industry plan filed with and declared effective by the Commission pursuant to Rule 17a-15 (the "Plan" or "Joint Industry Plan") also contains provisions requiring market identification.[22] The Plan currently provides that moving ticker displays, whether provided in conjunction with interrogation devices or on discrete wall-mounted units, are required to identify transaction reports emanating from markets other than the NYSE and Amex by an ampersand followed by a single alphabetic character identifying the market of execution.[23] However, the Plan contemplates that transactions occurring on the NYSE or the Amex are to be "identified" by the absence of any identifier.[24] The Plan also requires interrogation devices marketed by each of the vendors to identify transaction reports from all market centers, including the primary exchanges. Vendors currently achieve this identification by use of a single numeric or alphabetic symbol denoting the market of execution.

Subsequent to the implementation of the consolidated system in June 1975, the regional exchanges and Weeden & Co., Inc. ("Weeden") continued to urge deletion of market identifiers.[25] However, no action was taken to address these concerns until, on March 5, 1978, the NYSE, Amex, PSE, Boston Stock Exchange ("BSE") and Philadelphia Stock Exchange ("Phlx") jointly filed with the Commission a "Plan Submitted to the Securities and Exchange Commission for the Purpose of Creating and Operating an Intermarket Communications linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934" ("ITS Plan").[26] The ITS Plan contemplates implementation of an Intermarket Trading System ("ITS") linking the participating exchanges and providing facilities and procedures for (i) rapid and efficient routing of orders and administrative messages between and among the participants, and (ii) participation, under certain conditions, by all participating exchanges in opening transactions in the primary market.[27] In connection with implementation of the ITS Plan, the participants requested that the Commission either amend Rule 17a-15 under the Act or issue an exemptive order pursuant to paragraph (h) of that Rule to permit the deletion of market identifiers from moving ticker displays for all transactions effected in any market center participating in the ITS (including transactions not effected through, and securities not traded in, the system). The participants also requested relief from Rule 17a-15 to permit vendors discretion to delete market identifiers from all consolidated last sale displays on interrogation devices.

In response to this request, on April 14, 1978, the Commission issued conditional exemptions to the Consolidated Tape Association ("CTA"), which administers the Joint Plan and the consolidated system, and the Securities Industry Automation Corp. ("SIAC"), the processor of the consolidated system, from the market identification requirements of Rule 17a-15 insofar as such requirements apply to moving ticker displays.[28] However, the Commission also noted that, in its view, removal of market identifiers for only those market centers participating in ITS would be discriminatory and anticompetitive as to those market centers whose transactions would continue to be reported with identifiers. Accordingly, the Commission granted a temporary[29] exemption ("temporary exemption") from Rule 17a-15 conditioned upon the removal, as soon as technically feasible, of market identifiers on moving ticker displays for all transactions as to which last sale information is reported in the consolidated system, regardless of the market of execution.[30] The Commission also at that time requested comment with respect to this exemption.

In response to this action, identifiers were removed from moving ticker displays with respect to ITS participants on April 17, 1978, and with respect to all market centers on April 24, 1978. In addition, on April 25, 1978, the participants to the Joint Industry Plan submitted an amendment to the Plan requiring the deletion of market identifiers on moving ticker displays in accordance with the Exemptive Order. Simultaneously with the issuance of this release, the Commission is also providing public notice of this proposed amendment to the Plan and in that notice specifically requesting public comment on this change in the manner of display of transaction reports.[31]

In granting the temporary exemption, the Commission noted that, in its view, although last sale information as to individual market centers is valuable to brokers and investors, the most important sources of this information for such persons are not moving ticker displays but rather vendor interrogation devices, newspapers, and various trade periodicals (*e.g.*, the "Fitch Sheets" [32]):

> Since the proposed deletion of market identifiers would not involve deleting this information from the high speed data transmission line used to provide last sale data for these other sources, the Commission believes that no significant deprivation of market information would occur if moving tickers were permitted to display last sale reports without any market identification.[33]

In addition, the Commission cited two beneficial results which might flow from removal of market identifiers from moving ticker displays. First, deletion of market identifiers would eliminate reporting disparities between the primary exchange markets and other market centers. Such a result is consistent with the underlying purpose of the consolidated system—that the mechanism for disseminating transaction reports in multiply-traded securities not discriminate with respect to, or exclude, transaction reports based upon the market of execution. Second, since tape delays are a function of the number of characters which must be displayed in connection with each transaction, deletion of market identifiers may lessen tape delays (particularly during periods of heavy trading, such as between 10 to 11 a.m. e.s.t.) by reducing the number of characters necessary to report transactions from other than the primary markets. Therefore, the Commission determined that it was not necessary in the public interest or for the protection of investors that, during the limited period the ITS was authorized to operate, last sale reports in securities eligible for reporting in the consolidated system be accompanied by market identifiers when disseminated on moving ticker displays.

In response to the temporary exemption, the Commission has received some limited commentary generally opposing deletion of market identifiers from moving ticker displays because removal no longer permits identification of trades which are "out of sequence." In our view, most of these letters do not directly address the questions presented by removal of market identifiers since the identifiers do not indicate late reports or reports which are necessarily out of sequence. In view of this limited commentary received in response to the temporary exemption and for the reasons stated in the Exemptive Order, the Commission has determined to include in proposed Rule 11Ac1-2 a provision requiring the removal of market identifiers on moving ticker displays. However, the Commission is specifically requesting comment on the effects of removal of market identifiers. The Commission is particularly interested in receiving views as to whether the temporary exemption has achieved the two perceived benefits which the Commission noted in the Exemptive Order or whether, to the contrary, investors and market professionals believe that the loss of market information resulting from removal represents a decrease in the availability of important market information.

Similarly, proposed Rule 11Ac1-2 also contains a provision which would require the elimination of market identifiers from consolidated displays of transaction reports available through interrogation devices. Although the Commission does not believe that progress towards a national market system currently justifies total elimination of market identifiers (such that interrogation devices would be incapable of displaying last sale data from individual market centers),[34] elimination of market identifiers from consolidated displays available on interrogation devices may further the Commission's overall national market system objectives. First, the elimination of the market identifier on interrogation device consolidated displays would be consistent with and designed to achieve certain of the same results as removal of identifiers from the moving ticker displays. Representatives of the regional exchanges and the third market have long argued that market identifiers, whether on moving ticker displays or interrogation devices, contribute to the dominance of the primary market and permit brokers to disregard transaction reports from other than the primary market. Although the Commission has no evidence that this phenomenon in fact occurs, it may be that removal of identifiers from moving ticker displays would not result in a material loss of important information to brokers and investors and may achieve certain national market system objectives by equalizing perceptions as to the "legitimacy" of transactions in different market centers. To the extent removal of market identifiers from the moving ticker achieves this result, elimination of market identifiers on interrogation device consolidated displays would appear to be a necessary corollary action designed to achieve this same end.

Furthermore, with the effectiveness of Rule 11Ac1-1 under the Act and the resultant dissemination of firm quotations from all market centers, the Commission believes that market identification on interrogation device consolidated displays may be of reduced importance. Historically, last sale reports have been the most significant form of market data both to investors and market professionals. Therefore, prior to the adoption of Rule 11Ac1-1, the inclusion of market identifiers on interrogation devices seemed necessary to make such displays valuable to brokers wishing to identify the source of trading activity and, as a corollary matter, useful, as an advertising medium, for markets other than the primary market. However, the Commission believes that the general availability of firm quotations in multiply-traded securities will significantly reduce the value of last sale information to brokers and dealers and eventually assure that quotation information will be a primary tool for order routing decisions. Therefore, the Commission believes that, since all vendor interrogation devices currently, or in the near future, will include consolidated quotation displays with market identifiers, such market identification for last sale reports may no longer be necessary.

Finally, the elimination of market identifiers for transaction reports on consolidated displays may prompt or enable vendors to make these displays more useful and complete. Proposed rule 11Ac1-2 would require that vendors enhance their consolidated displays by including the same information contained on individual market displays. One of the justifications raised by certain vendors for not including more information in their consolidated displays is that the market identifier necessarily requires exclusion of certain other data.[35] Therefore, the Commission believes that elimination of market identifiers on consolidated displays should lead to the improvement and further use of these displays.

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regional exchanges by exposing their positions and, by maintaining the "primacy" of the NYSE as the Nation's leading marketplace, might also discourage certain investors from trading in the third market and on regional exchanges for fear that they would be criticized simply for not going to the NYSE, even if the price they obtained were competitive. The dissenter also felt that if marketplace were to be disclosed, all dealer trades should be identified, including the names of the individual market makers and block positioners. Id.

[20] See Securities Exchange Act release No. 9731 (Aug. 14, 1972), 37 FR 19148.

[21] Rule 17a-15(b).

[22] Joint Industry Plan, Sections V (e) and VIII (f). However, the participants to the Plan have filed amendments to the Plan altering these requirements and, in fact, market identifiers have been removed from moving ticker displays. *See* discussion *infra*.

[23] The market identifiers previously in use were Boston Stock Exchange: B; Cincinnati Stock Exchange:C; Midwest Stock Exchange:M; National Association of Securities Dealers:T; Pacific Stock Exchange:P; Philadelphia Stock Exchange:X; and Institutional Networks Corp.:O.

[24] The disparity in identification treatment between the NYSE and Amex and regional markets has been rationalized as a means of avoiding additional tape delays.

[25] *See* letter from Edward W. Wedbush, Chairman of the Board, PSE, to the Honorable Robert Eckhardt, Chairman, Subcommittee on Consumer Protection and Finance, and the Honorable John E. Moss, Chairman, Subcommittee on Oversight, July 6, 1977; letter from Kenneth I. Rosenblum, Senior Vice President and Counsel, MSE to Douglas Scarff, Assistant Director, Division of Market Regulation, Dec. 8, 1977; letter from Donald E. Weeden, Weeden & Co. Inc., to Harold Williams, Chairman, Jan. 13, 1978, in File No. S7-433.

[26] *See* Securities Exchange Act Release Nos. 14661 (Apr. 14, 1978) and 15058 (Aug. 11, 1978) 43 FR 17419 and 43 FR 36732.

[27] The ITS also contemplates the display of composite quotation information on the floors or each of the participating exchanges so that brokers on participating exchanges will be able to determine readily the best bid and offer for a particular multiply-traded security available from any participant.

[28] *See* Securities Exchange Act Release No. 14662 (Apr. 14, 1978) (the "Exemptive Order"), 43 FR 17422.

[29] The exemption was to continue in effect until such time as the Commission took final action with respect to the ITS participants' request that the Commission issue an order pursuant to section 11A(a)(3)(B) of the act with respect to the planning, development, operation or regulation of ITS in accordance with the ITS Plan, or 120 days from the date of the order, whichever occurred first. *Id.* at 8, 43 FR at 17423. On Aug. 10, 1978, the Commission extended its temporary approval of the ITS Plan for a period of 12 months from the date of that order. *See* Securities Exchange Act Release No. 15058 (Aug. 11, 1978), 43 FR 26732. Simultaneously, the Commission extended the exemption from Rule 17a-15 for a 12-month period pending the outcome of this rulemaking proceeding. Securities Exchange Act Release No. 15059 (Aug. 11, 1978), 43 FR 36736.

[30] Exemptive Order, *supra* note 28, at 7, 43 FR at 17423.

[31] The proposed amendment would also permit deletion of identifiers on the consolidated display of transaction reports available through interrogation devices. However, such a change in the manner of display of transaction reports on interrogation devices would require an appropriate exemption from Rule 17a-15 or an amendment to the Rule as is proposed here.

[32] Fitch, *Stock Sales*.

[33] Exemptive Order, *supra* note 28, at 5, 43 FR at 17423.

[34] If the CTA and SIAC were permitted to eliminate market identifiers from all transaction reports disseminated to vendors, it would be impossible for vendors to create individual market center data bases from which to recall individual market last sale data.

[35] Most vendor interrogation devices are capable of displaying only a limited number of different characters of information. The inclusion of a market identifier for last sale data on certain interrogation devices necessarily requires exclusion of other relevant data.

Since, on balance, the Commission believes that market identification

ments formulated by the Commission. For example, it appears that prior to the effec-

example, one vendor who had previ-

requesting that commentators indicate which of these two formulas would be

There are three types of NASDAQ services, denoted "Level 1," "Level 2,"

istered market makers,[17] displays the same information as Level 2 and also

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Since, on balance, the Commission believes that market identification may no longer be necessary on interrogation device consolidated displays, proposed rule 11Ac1-2 contains a provision which would require its removal. However, the Commission would be particularly interested in receiving comment as to the necessity of this prohibition. As an alternative, the Commission is considering deletion of any market identification requirement with respect to interrogation device consolidated displays, thereby permitting each vendor to determine whether to include such an identifier. In addition, the Commission is specifically requesting that commentators address whether deletion of market identifiers results in a material loss of important information to broker-dealers and investors with respect to their trading decisions and to self-regulatory organizations in attempting to fulfill their surveillance obligations.[36] The Commission is especially concerned that the omission of market identifiers may significantly impede the ability of these persons to determine the location of trading activity reported on consolidated displays.

IV. Consolidated Quotation Information

On August 1, 1978, rule 11Ac1-1 under the Act became effective. The rule requires every exchange and association to establish [37] and maintain procedures and mechanisms for collecting, processing, and making available to vendors bids, offers, quotation sizes, and aggregate quotation sizes ("quotation information") in reported securities. The rule does not, however, impose any obligations on vendors to display quotation information which is made available in accordance with the rule. In the quotation release, the Commission explained its rationale for not imposing such obligations on vendors at that time:

> [T]he Commission believes that adequate dissemination of quotation information will be achieved without specific vendor requirements formulated by the Commission. For example, it appears that prior to the effective date of the rule, at lease one securities information system will be providing a montage of quotations (including sizes) from all market centers in all multiply traded reported securities. Additionally, the Commission believes that competitive pressures will assure that each of the other vendors will eventually implement similar services or, at least, a best bid and asked display. The Commission will continue to monitor vendor progress in providing quotation information in a comprehensive and nondiscriminatory manner and will reconsider its decision not to impose obligations on vendors if competitive pressures do not assure adequate dissemination and display of this information.[38]

In keeping with these statements, since the adoption of rule 11Ac1-1, the Commission's staff has monitored the progress of vendors in developing quotation displays. Perhaps the most significant step taken to date to enable vendors to display quotations has been the implementation of a plan pursuant to which participating self-regulatory organizations are making available quotation information to vendors in a single data stream. On July 25, 1978, the NYSE and Amex jointly filed a "Plan For the Purpose of Implementing Rule 11Ac1-1 under the Securities Exchange Act of 1934" ("CQ Plan") with the Commission contemplating the formation of the CQ Operating Committee similar in concept to the CTA and (i) establishing joint procedures to govern the collection, processing, and dissemination of quotation information by participating market centers; (ii) providing for selection and evaluation of an exclusive processor to collect quotation information from participating market centers and make that information available to quotation vendors; and (iii) establishing fees relating to the receipt of quotation information. On July 27, 1978, the Commission issued a temporary order, pursuant to section 11A(a)(3)(B) of the Act, approving the CQ Plan for a period of 180 days and noting that "the consolidated quotation data stream contemplated by the [CQ Plan] may provide an appropriate basis for the creation of a composite quotation system—an essential element of a national market system * * *." [39] Since that time the BSE, MSE, and PSE have signed the CQ Plan and the NASD has indicated its intention to join under certain circumstances.

The implementation of the CQ Plan and the effectiveness of rule 11Ac1-1 have also facilitated significant improvements in the quotation displays made available by certain vendors. For example, one vendor who had previously offered a composite best bid and asked quotation display with size from only a limited number of markets, has made necessary programing changes to include in its calculations quotations from all markets disseminating quotations pursuant to the CQ Plan as well as the CSE. Similarly, another vendor which had previously provided a montage display of quotations without size from a limited number of market centers has expanded that display to include quotations and sizes from all market centers making available quotations through the CQ Plan.

Discussions between the Commission's staff and each of the major vendors of market information have indicated that most vendors are in the process of further enhancing their quotation display facilities. However, these discussions have also indicated a hesitancy on the part of at least certain vendors to expend the capital necessary to develop composite quotation displays without some indication from the Commission as to the nature of an acceptable display. These discussions have convinced the Commission that further development in the display of quotation information may, in fact, be impeded because the Commission has not specified minimum display requirements with respect to quotations. Therefore, the Commission is at this time proposing that Rule 11Ac1-2 include minimum quotation display requirements. The rule would require that every vendor making available quotations in reported securities provide, at a minimum, a consolidated quotation display indicating the highest bid and lowest offer, with size, from any market center making available quotations in accordance with Rule 11Ac1-1, and an identifier indicating the market or markets responsible for such bid or offer.[40] The rule would also specify the manner of calculating the best bid and offer in the event that more than one market center were making available bids or offers at the same price. The rule as proposed sets forth two alternative formulas for determining the best bid or offer. One formula would require selection of the best bid or offer first on the basis of price (*i.e.*, the highest bid or lowest offer), then on the basis of time of receipt by the vendor (*i.e.*, the first bid or offer received at such price), then on the basis of the largest size. The other formula would require selection of the best bid or offer first on the basis of price, then on the basis of largest size, then on the basis of time.[41] The Commission is specifically

[36] Although the rule would not prohibit a self-regulatory organization from operating or maintaining a display of consolidated transaction reports with market identifiers, most self-regulatory organizations receive last sale data from vendors who would be precluded from disseminating this information to their other subscribers. It may be that the cost of providing consolidated last sale displays with market identifiers exclusively to self-regulatory organizations would be significant. In that event, the Commission is requesting that commentators discuss whether market identifiers are necessary to assure proper surveillance and provide estimates of the cost of obtaining that data.

[37] *See* Securities Exchange Act Release Nos. 14415 (Jan. 26, 1978) (the "Quotation Release") and 14711 (Apr. 27, 1978) 43 FR 4342 and 43 FR 18556.

[38] Quotation Release, *supra* note 37 at 37-38, 43 FR at 4347. (footnote omitted).

[39] Securities Exchange Act Release No. 15009 (July 28, 1978) at 18, 43 FR 34851, 34856.

[40] Such a display would also have to be available by means of the simplest and most prominent form of inquiry. *See* discussion *supra*.

[41] This formula is currently used by participants in the ITS for display on their floors.

requesting that commentators indicate which of these two formulas would be preferable or whether, as an alternative, the Commission should permit vendors to calculate the best bid and offer in either fashion, provided that the method of calculation is clearly disclosed to subscribers.

The rule would also permit vendors to display a montage of quotations and quotation sizes: *Provided*, That quotation information from every market center is displayed separately other than third market quotations which may be represented by a single bid and offer identified by market maker representing the highest bid and lowest offer of all third market makers. In addressing this aspect of the rule, commentators may wish to address whether the Commission should specify the exact nature of any quotation montage if a vendor also provides a consolidated best bid and offer display and, in particular, whether the rule should continue to preclude vendors from providing hybrid montage and best bid and offer displays other than as specified with respect to third market quotations.[42] Additionally, commentators may wish to comment on the rule's requirement that vendors provide a best bid and offer display notwithstanding the fact that they provide a complete montage.

V. Unlisted Securities and Representative Bid and Offer

In formulating minimum display requirements applicable to vendors who make available quotation information in reported securities, the Commission has also examined the manner of display of real-time quotations for unlisted ("OTC") securities. The only quotation vendor now disseminating such quotations is NASDAQ, Inc., the wholly owned subsidiary of the NASD, which operates the National Association of Securities Dealers Automated Quotation ("NASDAQ") system.[43] Although only a small portion of OTC securities are included in the NASDAQ system,[44] trading in those securities accounts for an overwhelming percentage of both the dollar value and share volume of trading in the OTC market.

There are three types of NASDAQ services, denoted "Level 1," "Level 2," and "Level 3," available to NASDAQ subscribers. Level 1, which is used primarily by registered representatives of broker-dealer firms does not display the actual quotations of specified market makers. It displays, instead, for each security quoted in the NASDAQ system, a single "representative bid and ask" quotation ("RBA") consisting of the median bid price and (approximately) the median offer price of all registered market makers[45] who have entered quotations for that security into the NASDAQ system.[46] Level 2, which is generally used by traders and large institutional investors, displays, in a montage, with respect to each security quoted in the NASDAQ system, the bid and offer prices of each registered market maker who enters quotations for that security into the NASDAQ system. Level 3, which is available only to registered market makers,[47] displays the same information as Level 2 and also permits market makers to enter and update bid and offer quotations.[48]

When the NASDAQ system was being developed in the late 1960's, the NASD advised the Commission that it expected that Level 1 service would be used primarily be retail salesmen. It expected, therefore, that retail customers probably would not be advised of the actual quotation information displayed on Level 2 and 3 terminals, but would be quoted the price information immediately available to the registered representatives with whom they dealt, *i.e.*, the information displayed on Level 1. When informed of the NASD's plan to display "representative" quotations on Level 1,[49] the Commission questioned the usefulness of "median" information to retail customers and suggested that a more meaningful display for Level 1 might be the highest market maker bid price and the lowest market maker offer price ("best bid and offer"). The Commission indicated that, in its view, a quotation consisting of the best bid and offer would be more accurate, as a reflection of the prevailing market for a security, than a median quotation. However, in recognition of the potential of the NASDAQ system to improve the quality of the OTC market, the Commission deferred to the NASD and did not raise any objection at that time to the display of the RBA on Level 1. The Commission did, however, indicate to the NASD that this question could be more fruitfully explored after some experience had been gained with the operation of the NASDAQ system and that it might re-examine this issue after the system became operational. The NASDAQ system has been in operation for 7 years, and the Commission believes that it is now appropriate to re-examine the considerations which initially led it to permit the display of RBA on Level 1.

Information supplied by the NASD and representatives of the securities industry indicates that broker-dealer firms tend to supply their registered representatives who deal with the public with Level 1 service exclusively.[50] Level 2 and 3 services are generally maintained by broker-dealer firms

[42] For example, the rule would prohibit a vendor from providing a display showing the bid, offer and quotation size with respect to a particular security from the NYSE and the PSE while showing only the best bid and offer, with size and market identifier, from all other reporting markets.

[43] The NASD owns NASDAQ, Inc. and rules relating to the operation of the system appear as Schedule D of the NASD's Bylaws. NASDAQ, Inc. is registered with the Commission, pursuant to section 11A(b)(3) of the Act, as an exclusive processor.

[44] For its securities to be eligible for inclusion in the NASDAQ system, an issuer must have at least $1,000,000 in total assets and $500,000 in net assets, a minimum of 100,000 shares outstanding, and a minimum of 300 shareholders of record. NASD Bylaws, Schedule D, Part II. B and C. In addition, the issuer must pay an issuer quotation fee if it wishes to have its securities quoted in the system. *Id.* at Part V.

"Anyone wishing to make a market in a NASDAQ-quoted security and to have his quotations for that security displayed on NASDAQ terminals is required to be an NASD member and to register with the NASD as a market maker. Registered market makers are subject to various obligations and restrictions set forth in the NASD's Bylaws. *See* NASD Bylaws, Schedule D at Part IC3.

[45] The nature of the RBA is described in the design specifications of the NASDAQ system as follows:

> Representative Bid and Ask—The representative bid for a NASDAQ security is the median of all bids entered into the NASDAQ system by registered NASDAQ market makers. The representative ask for a NASDAQ security is the figure determined by adding the median of all spreads to the representative bid (a spread is the difference between the bid and ask of registered NASDAQ market makers).
>
> When there is an even number of quotes for a security, the median values are determined by rounding down both the bid and the spread.

Computation of the RBA may be illustrated as follows:

XYZ Corp. Market Maker	Bid	Ask	Spread
1	16¼	16½	¼
2	15	16½	1½
3	16	16¾	¾
4	16	16¾	¾
5	15¾	16¾	1
6	15¼	16½	1¼

Although there is an even number of bids, it makes no difference whether No. 3 or No. 4 is used as the median; either way the median bid is 16. However, the median spread could be either ½ or ¾. Following the practice of rounding down (set forth in the NASDAQ design specifications quoted above), ¾ is chosen. Therefore, the ask side of the RBA is 16¾. Thus, although the highest bid and lowest asked price displayed on Levels 2 and 3 would be 16¼ to 16½, if market maker No. 1 did not enter a quotation, the RBA would simply be 16 (the median bid) 16½ (the median bid plus the median spreak of ½).

[46] NASD Bylaws, Schedule D, at Part IC2.

[47] The same computer hardware is used for Levels 2 and 3. Certain keys are adjusted to permit the entry of quotations if the subscriber is a registered market maker.

[48] The Level 1 display initially proposed by the NASD was somewhat different from the RBA display now in use. The NASD's intial proposal was to display on Level 1, with respect to each security quoted in the NASDAQ system, the median of all bid prices and the median of all asked prices for that security entered into the system.

[49] The cost of Level 1 service, which is made available via interrogation devices provided by vendors other than NASDAQ, Inc., is significantly lower than the cost of Level 2 or Level 3 service. See NASD By-Laws, Schedule D, Part IV.

in their trading rooms for use in connection with trading and market-

included within the "net" price.[54] In addition, retail customers who are not

Accordingly, the Commission has included in proposed rule 11Ac1-2 provi-

quotation information [59] in subject securities which are defined to include all reported securities as well as any

rule would continue to require [66] that any vendor making available on an interrogation device last sale data with

security, all of the same market data that is available on any individual market display.[70] Thus, for example, if

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in their trading rooms for use in connection with trading and market-making activities. Because registered representatives of the larger wirehouses cannot for practical reasons communicate orally with the trading rooms of their firms on a continuous basis to obtain real-time quotations, retail customers of these firms generally do not have access to the information provided by Level 2 and 3 services. Moreover, many smaller, nonclearing firms do not subscribe to Level 2 or Level 3 service and thus are only able to supply their customers with information available on Level 1.[51] Therefore, since most retail customers generally cannot obtain real-time quotations for NASDAQ securities other than through the registered representatives with whom they deal, the practical effect of displaying the RBA on Level 1 is that the vast majority of retail customers are informed only of the RBA.

The Commission believes that the behavior of some broker-dealers in executing their customers' orders may be affected by the knowledge that their customers do not have access to the best bid and offer then available. For example, some commentators have noted that certain broker-dealers execute customers' orders at the RBA displayed on Level 1 without first attempting to obtain more favorable executions. Furthermore, at the Commission's hearings in August 1977 considering the amendment of off-board trading rules ("off-board hearings"),[52] one commentator stated that an integrated firm may deal with its own retail customers at the RBA quoted on Level 1 despite the fact that the firm's quotations, as a marketmaker in NASDAQ, were at a better price.[53]

The Commission believes that it is only feasible for a customer to police his broker's efforts to obtain best execution if he receives information as to the best bid or offer available at the time he places an order to buy or sell a NASDAQ-quoted security. A retail customer who is informed only of the RBA at that time cannot properly evaluate the quality of execution and price of services rendered by the broker-dealer handling his order. This is particularly true when a broker-dealer had executed an order as principal and has confirmed the transaction "net" to the customer because there is currently no required disclosure of the amount of retail markup or markdown included within the "net" price.[54] In addition, retail customers who are not knowledgeable about the operation of the over-the-counter markets may believe that the RBA quotation they generally receive for a NASDAQ-quoted security actually is the best bid or offer available for that security.

The Commission is aware that a broker-dealer who has executed a customer's order at a price other than the best bid or offer may have had justifiable reasons for doing so (e.g., the best bid or offer may not have been firm for the size of the customer's order; the cost of execution and clearing with the market-maker responsible for the best bid or offer might off-set the price advantages to the customer; or the broker might have reason to believe it imprudent to deal with the dealer responsible for the best quotation). We are also aware that, in such circumstances, a customer's knowledge of the best bid or offer might necessitate as an explanation by the executing broker-dealer of the facts and circumstances underlying his decision to execute the order at a price inferior to the best bid or offer. However, it would not appear that providing such an explanation would constitute an unduly heavy burden. Moreover, the Commission believes that the benefits to be achieved by dissemination of the best bid or offer would justify the imposition of such a burden. Therefore, the Commission tentatively concluded that there is no valid regulatory purpose for denying this important market information to public investors.

Accordingly, the Commission has included in proposed rule 11Ac1-2 provisions requiring that every interrogation device providing quotation information with respect to OTC equity securities display, a minimum, the highest bid and the lowest offer for each such security. Proposed rule 11Ac1-2 would also prohibit the display of any representative bid or offer for a security—i.e., any price for a security which is the mean, median, mode, or weighted average of two or more bids or offers or is the result of some other mathematical calculation based on the bid or offer of one or more market-makers.[55]

In publishing these proposals, the Commission in particular seeks comment on the perceived effects of this regulation on the over-the-counter market. It has been asserted on various occasions that, possibly because of inherent differences between dealer and auction markets, some innovations which improve the quality and efficiency of the markets for securities which are suitable for auction-type trading would have a deleterious effect on over-the-counter markets for other types of securities. For example, during the off-board hearings, the NASD suggested that last sale reporting of transactions in OTC securities might discourage market-making in those securities, thus decreasing liquidity in the over-the-counter market.[56] It also implied that the display of best bid and ask prices on Level 1 of NASDAQ would have similar effects.[57] In commenting on the provisions of rule 11Ac1-2 which are applicable to securities other than reported securities, persons should specifically address these concerns.

VI. Description of Proposed Rule 11Ac1-2

Proposed Rule 11Ac1-2 would set forth comprehensive requirements with respect to the display of transaction reports and last sale data in reported securities [58] and quotations and

[51] As of Dec. 30, 1977, the combined total of Level 2 and Level 3 subscribers was 499, and the approximate number of Level 1 subscribers was 1,900. NASD, "The NASDAQ/OTC Market Fact Book 1977," at 3.

[52] See Securities Exchange Act Release No. 13662 (June 23, 1977), 42 FR 33510.

[53] Prepared statement of the Midwest Stock Exchange, Inc., Aug. 4, 1977, at 47, in File No. 4-180.

[54] Securities Exchange Act Rule 15c1-4 (17 CFR 240. 15c1-4) requires a broker-dealer executing a customer's order as agent to provide the customer with written notification of the amount of any commission or other remuneration received by the broker-dealer in connection with the transaction. The rule does not, however, currently impose a similar requirement on a broker-dealer executing a customer's order as principal. The Commission has, however, included in its recently adopted amendments to Rule 10b-10 a requirement that broker-dealers disclose their markups or markdowns to customers when engaging in so-called "riskless principal" transactions (i.e., when buying a security, as principal, from a marketmaker and reselling to the customer at a higher price including a markup (or at a lower price including a markdown in the case of an order to sell). Securities Exchange Act Release No. 15219 (Oct. 6, 1978) 43 FR 47485. Broker-dealers would not, however, be required to disclose their markup or markdown when acting as a market-maker or engaging in "risk" principal transactions (a transaction in which a broker-dealer sells securities to a customer out of its bona fide inventory or takes a customer's securities into its bona fide inventory). Presumably, most broker-dealers executing customer orders in this manner would continue to advise their customers only of "net" prices; i.e., including any markup or markdown.

[55] Because the display of representative quotation information for reported securities might possibly produce some of the same ill effects flowing from the RBA with respect to OTC securities—and, indeed, might counteract some of the benefits sought to be achieved through the adoption of rules 11Ac1-1 and 11Ac1-2—the prohibition against dissemination of representative quotations would apply to reported securities as well as to OTC securities.

[56] In the matter of off-board trading rules, Securities and Exchange Commission File No. 4-180, transcript pp. 1044-46, Aug. 16, 1977.

[57] Id. at 1046.

[58] The terms "transaction reports," "last sale data," and "reported securities" are defined in paragraph (a)(1) of the proposal to have the same meaning as provided in Rule 11Ac3-1. See Rule 11Aa3-1 release at note 62, supra.

quotation information [59] in subject securities which are defined to include all reported securities as well as any other equity security as to which transaction reports, last sale data or quotation information is disseminated through an electronic interdealer quotation system owned and operated, either directly or indirectly, by an association.[60]

The rule would apply to any vendor, i.e., any securities information processor or self-regulatory organization engaged in the business of disseminating transaction reports, last sale data or quotation information with respect to any subject security to brokers or dealers on a real-time or other current and continuing basis through an electronic communications network (such as the ticker network), moving ticker or interrogation device.[61] However, the rule specifically excludes from this definition any securities information processor or exchange when disseminating market information on the floor of an exchange,[62] thereby permitting an exchange to make available to its members market information for trading and surveillance purposes which would otherwise be precluded by the rule. The rule would also prohibit any broker or dealer from operating or maintaining any display of market data which a vendor would be precluded from making available.[63]

A. Last Sale Data

With respect to the display of transaction reports and last sale data, the rule would maintain certain display requirements currently contained in rule 17a-15.[64] Specifically, it would require that no moving ticker display exclude transaction reports on the basis of the market of execution.[65] In addition, the rule would continue to require [66] that any vendor making available on an interrogation device last sale data with respect to a particular reported security, also make available on that device, a consolidated last sale display with respect to that security.[67] The consolidated last sale display would be required to include the price of the most recent transaction report for that security reported by any market center pursuant to an effective transaction reporting plan as well as the volume of that transaction report or the cumulative volume of all transaction reports for that security reported pursuant to an effective transaction reporting plan during the trading day.[68]

In addition to the display requirements contained in rule 17a-15, the rule would impose, effective as of March 1, 1979, additional display requirements with respect to last sale data which are designed to assure the availability and comparability of consolidated last sale data. The rule would require that the consolidated last sale display available on an interrogation device be available by means of the simplest and most prominent retrieval instructions.[69] Thus, it would no longer be permissible for a vendor to provide last sale data from an individual market center in response to an inquiry consisting of the consolidated system symbol plus a request or transmit key while providing consolidated last sale data in response to an inquiry consisting of the consolidated system symbol, an additional key plus the request or transmit key. In addition, if a vendor were to provide both the consolidated last sale display and an individual market center display in response to an inquiry consisting of an equal number of key strokes, the request key used to obtain the consolidated display must be more prominent (in terms of its label, location, size, or a combination of these or other factors) than the key used to obtain individual market last sale data.

In addition to assuring that consolidated last sale data is available on an interrogation device by means of easiest access, the rule would also require that vendors provide consolidated market data and monitoring services on their interrogation devices which are comparable to the data and services available on an individual market basis. The rule would require vendors to provide, on the consolidated last sale display for a particular reported security, all of the same market data that is available on any individual market display.[70] Thus, for example, if a vendor made available an individual market display for a particular reported security which included last sale, bid, offer, open, high, low, close, volume, price earnings ratio, dividend rate, and time of last news, the consolidated last sale display for that security would be required to contain all of the same data on a consolidated basis, where applicable. In addition, the rule would require that any vendor providing a market minder [71] with respect to any reported security based upon transaction reports from an individual market also provide that same market minder service for that security on a consolidated basis.[72]

The rule would also contain provisions which are designed to assure that transaction reports and last sale data from individual market centers are available on a nondiscriminatory basis. First, on and after March 1, 1979, vendors would be precluded from identifying the market of execution of transactions reports or last sale data displayed on either moving tickers or the consolidated last sale display available on an interrogation device.[73] Second, vendors would be required to equalize access to last sale data from individual market centers available on their interrogation devices. The rule would require that any vendor providing last sale displays from more than one individual market center, make all such displays available in response to an equal number of key strokes.[74] Therefore, after March 1, 1979, it would no longer be permissible for a vendor to provide "primary" market last sale data in response to an inquiry consisting of the consolidated system symbol and a request key while providing last sale data, for example, from a regional exchange in response to an inquiry consisting of the consolidated system symbol, a market designation and a request key.

B. Quotation Information

With respect to the display of quotation information, the rule would set forth certain minimum display requirements, effective as of March 1, 1979, which are designed to assure the availability of bids; offers, quotation sizes and aggregate quotation sizes made available pursuant to rule

[59] The terms "quotations" and "quotation information" are defined in paragraph (a)(3) of the rule. With respect to reported securities, these terms mean bids, offers, quotation sizes and aggregate quotation sizes as defined in Rule 11Ac1-1. With respect to any other subject security, these terms are defined as the most recent bid price or offer price of an over-the-counter market maker disseminated through an electronic interdealer quotation system owned and operated, directly or indirectly, by an association. An "over-the-counter market maker" is defined in paragraph (a)(13) of the rule as any broker or dealer who is authorized by an association which owns and operates, directly or indirectly, an electronic interdealer quotation system to disseminate quotations through that system in a particular security and who makes such quotations available through that system on a regular and continuous basis.

[60] Proposed Rule 11Ac1-2(a)(2). At present the only such inter-dealer quotation system is NASDAQ. See note —— supra.

[61] Proposed Rule 11Ac1-2(a)(12).

[62] Id.

[63] Proposed Rule 11Ac1-2(e).

[64] Proposed rule 11Ac1-2(b)(2)(iv).

[65] The Commission's current interpretation of rule 17a-15 requires vendors to provide such a display. See the Interpretative Release, supra note 3 at 6, 40 FR at 15463.

[66] Proposed rule 11Ac1-2(b)(2)(i).

[67] Id. See proposed rule 11Ac1-2(a)(7) which defines the term "consolidated price."

[68] Id. See proposed rule 11Ac1-2(a)(8) which defines the term "consolidated volume."

[69] Id.

[70] Proposed rule 11Ac1-2(b)(2)(v).

[71] The term "market minder" is defined in paragraph (a)(18) of the rule as any service provided by a vendor on an interrogation device (other than a moving ticker display) which permits monitoring, on a dynamic basis in a single display, of transaction reports or last sale data with respect to two or more reported securities.

[72] Proposed rule 11Ac1-2(b)(2)(vi).

[73] Proposed rule 11Ac1-2(b)(2)(iii).

[74] Proposed rule 11Ac1-2(b)(2)(ii).

11Ac1-1 and quotation information displayed in an interdealer quotation system (such as NASDAQ) which is

would first rank bids or offers at identical prices by size (i.e., The bid or offer with the largest quotation size or

last sale data and quotation information, it would permit (and in certain cases require) a vendor to combine the

(2) The term "subject security" shall mean—

(i) Any reported security; and

rived therefrom, based on transaction reports from a single market center effecting transactions in such security,

available by any market center pursuant to § 240.11Ac1-1 (Rule 11Ac1-1 under the Act): *Provided, however,*

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11Ac1-1 and quotation information displayed in an interdealer quotation system (such as NASDAQ) which is owned and operated by an association. The rule would require that any vendor which displays quotation information with respect to a particular subject security on an interrogation device also make available on that device a consolidated quotation display with respect to that security.[75] The consolidated display would be required to be available by means of an access inquiry involving a lesser number of key strokes than is used to obtain quotation information from any individual market center and would be required to display (i) the highest bid and lowest offer from any market center making available quotation information for that security,[76] (ii) an identifier indicating the market center responsible for that best bid and best offer, and (iii) in the case of a reported security, the quotation size or aggregate quotation size associated with that bid and offer.[77]

The rule would also set forth the manner of calculating the best bid and offer.[78] As published, the rule sets forth two alternative formulas for determining the best bid or offer. Both formulas require the use of price as the first factor for determining the best bid or offer, i.e., the best bid would be the bid which is highest in price and the best offer would be the offer which is lowest in price. However, the formulas would differ in terms of the manner of selecting between two or more bids or offers at identical prices. One formula would require selection of the best bid or offer first on the basis of time, i.e., the bid or offer received earliest in time by the vendor would be the best.[79] The other formula would first rank bids or offers at identical prices by size (i.e., The bid or offer with the largest quotation size or aggregate quotation size would be the best) and then, as between bids or offers at identical prices with identical sizes, on the basis of time. The Commission currently contemplates selecting one of these formulas for inclusion in the rule rather than permitting each vendor to select from alternative formulas set forth in the rule.[80]

The rule would also permit vendors to make available quotation information (including size)[81] with respect to individual market centers on their interrogation devices either upon separate inquiry (provided that inquiry access routines for all market centers contain an equal number of key strokes) or in a montage.[82] The quotation montage would be required to state separately the quotation of every market center, except, in the case of a montage of quotations with respect to a reported security, all third market maker quotations could be consolidated into a best third market bid with size and best third market offer with size,[83] each identified by the particular third market maker responsible for the bid or offer.[84]

Finally, the rule would preclude any vendor from displaying a representative bid or offer with respect to a subject security; that is, the rule would prohibit any vendor from displaying any bid or offer which is, or is derived from, the mean, median, mode, or weighted average of two or more bids or offers, or which is calculated by adding to or subtracting from an actual bid or offer a commission, commission equivalent, markup, or differential.

C. JOINT DISPLAY OF LAST SALE AND QUOTATION INFORMATION

Although the rule specifies separate minimum display requirements for last sale data and quotation information, it would permit (and in certain cases require) a vendor to combine the consolidated last sale display and consolidated quotation display available on an interrogation device. The rule explicitly permits such a joint display in paragraph (d). However, if a vendor provides both the most recent transaction report and quotation for a security from a particular market center on a single interrogation device display, paragraph (b)(2)(v) of the rule would require that vendor to combine the consolidated last sale and consolidated quotation display with respect to that security. The rule does not expressly prohibit a vendor from combining, on a single display, consolidated and individual market center market information; however, such a combination would be precluded by the access provisions of the rule which do not prmit access to individual market center information by means of the same number of key strokes (or prominence of request key) as are used to access consolidated information. In particular, we are interested in receiving data from the self-regulatory organizations, CTA, the participants in the CQ Plan and SIAC as to the cost of collecting, processing, and making available this type of market information. We are also interested in receiving an explanation of the rationale behind the computer use charges and the CQ Plan charges and a reconciliation of those charges with the purposes of the Act. Finally, the Commission would appreciate comments regarding the advisability of retaining display charges levied directly on vendor subscribers and whether these charges would be more appropriately assessed on vendors either as a single charge or on a per display basis.

VII. TEXT OF PROPOSED RULES

The Securities and Exchange Commission hereby proposes Rule 11Ac1-2 (17 CFR 240.11Ac1-2) pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and particularly sections, 2, 3, 6, 9, 10, 11A, 15, 15A, 17, and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k-1, 78o, 78o-3, 78q, and 78w).

§ 240.11Ac1-2 Display of transaction reports and quotation information.

(a) *Definitions.* For purposes of this section—

(1) The terms "reported security," "transaction report," "effective transaction reporting plan," "nonmember broker or dealer," "moving ticker," and "last sale data" shall have the meaning provided in § 240.11Aa3-1 (Rule 11Aa3-1 under the Act).

[75] Proposed rule 11Ac1-2(c)(2)(i).

[76] This requirement is identical to the rule's access requirement with respect to last sale data.

[77] With respect to reported securities, a vendor would be required to include quotations from all market centers making available quotations in accordance with rule 11Ac1-1. With respect to all other subject securities, a vendor would be required to include quotations from all over-the-counter market makers, i.e., all broker-dealers making available quotations in subject securities in an electronic interdealer quotation system such as NASDAQ. Proposed rule 11Ac1-2 (a)(6)(ii), (a)(13) and (a)(14).

[78] Proposed rule 11Ac1-2(c)(2)(i).

[79] The rule would not specify the manner of determining when a bid or offer is received. The Commission is aware that SIAC currently calculates the best bid and offer of ITS participants for use in ITS by use of an algorithm which deems any change of price or size data as an entirely new bid and offer. Thus, if a market center had made available a quotation consisting of a bid of 20 with a size of 400 and an offer of 20¼ and a size of 200 and the market center changed its bid size to 500 shares, SIAC, upon receiving this change, would assume that the market center had entered an entirely new bid and offer. The market center would thus lose whatever time priority it had established. One vendor proposing to provide its subscribers with a best bid and offer composite quotation display has indicated that it is considering an algorithm which would change time priority for a particular bid (or offer) only when the price of that bid (or offer) has changed. The Commission solicits comments on these alternative methods of determining time priority of quotations. In particular, commentators should address whether the rule should specify the method of calculating time priority and if so, what method should be used.

[80] See discussion, supra.

[81] The rule would require that every quotation with respect to a reported security include a quotation size or aggregate quotation size. Proposed rule 11Ac1-2(c)(2)(iv).

[82] Proposed rule 11Ac1-2(c)(2)(ii).

[83] The rule would require that the calculation of the best third market bid and offer be based upon the same formula as is used to calculate the best bid and offer from all reporting markets.

[84] Proposed rule 11Ac1-2(c)(2)(iii).

(2) The term "subject security" shall mean—

(i) Any reported security; and

(ii) Any other equity security as to which transaction reports, last sale data or quotation information is disseminated through an electronic interdealer quotation system owned and operated, directly or indirectly, by a national securities association ("association").

(3) The terms "quotations" and "quotation information" shall mean bids, offers and, where applicable, quotation sizes and aggregate quotation sizes.

(4) The terms "bid" and "offer" shall—

(i) In the case of a reported security, have the meaning provided in § 240.11Ac1-1 (Rule 11Ac1-1 under the Act); and

(ii) In the case of any subject security other than a reported security, mean the most recent bid price or offer price of an over-the-counter market maker disseminated through an electronic interdealer quotation system owned and operated, directly or indirectly, by an association.

(5) The terms "quotation size," "aggregate quotation size," "third market maker" and "make available" shall have the meaning provided in § 240.11Ac1-1 (Rule 11Ac1-1 under the Act).

(6) The term "consolidated display" shall mean, with respect to a particular reported security—

(i) Any display of last sale data for such security, or information derived therefrom, based on transaction reports from all market centers effecting transactions in such security; and

(ii) Any display of quotation information for that security based on quotations from all market centers making available such information for that security.

(7) The term "consolidated price," when used with respect to a particular reported security, shall mean the price of the most recent transaction report for that security reported pursuant to an effective transaction reporting plan.

(8) The term "consolidated volume," when used with respect to a particular reported security, shall mean—

(i) The volume of the most recent transaction report for that security reported pursuant to an effective transaction reporting plan, or

(ii) The cumulative volume of all transaction reports for that security reported pursuant to an effective transaction reporting plan during the trading day.

(9) The term "individual market center last sale display" shall mean, with respect to a particular reported security, any display of last sale data for such security, or information derived therefrom, based on transaction reports from a single market center effecting transactions in such security, but shall not include any moving ticker or market minder.

(10) The term "individual market center quotation display" shall mean, with respect to a particular subject security, any display of quotation information for that security based on quotations from a particular market center disseminating such information for that security.

(11) The term "interrogation device" shall mean any securities information retrieval system capable of making available transaction reports, last sale data or quotation information, upon inquiry, on a current basis on a terminal or other display device or by any other means.

(12) The term "vendor" shall mean any securities information processor or self-regulatory organization engaged in the business of disseminating transaction reports, last sale data or quotation information with respect to subject securities to brokers or dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device: *Provided, however,* That no securities information processor or national securities exchange ("exchange") shall be deemed to be a vendor with respect to the dissemination of transaction reports, last sale data, or quotation information on the trading floor of an exchange.

(13) The term "over-the-counter market maker" shall mean, with respect to any subject security other than a reported security, any broker or dealer who is authorized by any association which owns and operates, directly or indirectly, an electronic interdealer quotation system to disseminate through that system quotations in such security, and who makes those quotations available through the system on a regular and continuous basis.

(14) The term "market center" shall mean—

(i) With respect to a reported security, any exchange or third market maker which effects transactions in such security and which collects, processes, and makes available transaction reports with respect to transactions in such security on a current basis pursuant to § 240.11Aa3-1 (Rule 11Aa3-1 under the Act); and

(ii) With respect to a subject security other than a reported security, any person acting in the capacity of an over-the-counter market maker.

(15) The terms "best bid" and "best offer" shall mean—

(i) With respect to quotations for a reported security, the highest bid or lowest offer for that security made available by any market center pursuant to § 240.11Ac1-1 (Rule 11Ac1-1 under the Act): *Provided, however,* That in the event two or more market centers make available identical bids or offers for a reported security, the best bid or best offer (as the case may be) shall be computed by ranking all such identical bids or offers (as the case may be) (first by time (giving the highest ranking to the bid or offer received first in time), then by size (giving the highest ranking to the bid or offer associated with the largest size), (first by size (giving the highest ranking to the bid or offer associated with the largest size), then by time (giving the highest ranking to the bid or offer received first in time)); and

(ii) With respect to quotations for a subject security other than a reported security, the highest bid or lowest offer (as the case may be) disseminated by an over-the-counter market maker in an electronic inter-dealer quotation system owned and operated, directly or indirectly, by an association.

(16) The term "moving ticker" shall mean any continuous real-time moving display of transaction reports, whether made available on a discrete display unit or otherwise, or included on an interrogation device.

(17) The term "quotation montage" shall mean, with respect to a particular subject security, a display on an interrogation device which disseminates simultaneously quotations from all market centers disseminating quotation information with respect to that security.

(18) The term "market minder" shall mean any service provided by a vendor on an interrogation device (other than a moving ticker) which permits monitoring, on a dynamic basis in a single display, of transaction reports or last sale data with respect to two or more reported securities.

(19) The term "representative bid or offer" shall mean any number representing a bid price or an offer price (as the case may be) for a particular subject security which is (i) the mean, median, mode or weighted average of two or more bids or offers of market centers disseminating quotation information with respect to such security, (ii) calculated with reference to or derived from any such mean, median, mode or weighted average, or (iii) calculated by adding to or subtracting from the bid or offer of any market center disseminating quotations with respect to such security any number representing a commission, commission equivalent, mark-up or differential.

(b) *Display requirements for transaction reports and last sale data.* (1) No vendor shall distribute, publish, display or otherwise make available to

brokers and dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device, any quotation information with respect to a subject security unless such vendor makes available to brokers and dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device, the consolidated last sale display for that security.

(ii) No vendor may provide any particular subject security for any market center making available quotation information for such security;

dealer, or specified subject security if the Commission determines that such action is necessary or appropriate in the public interest, for the protection of investors, or to maintain fair and orderly markets, after considering the competitive impact against the regulatory benefits gained in terms of furthering the purtation information and to assure the broad dissemination of accurate and

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brokers and dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device, transaction reports or last sale data in contravention of the provisions of this section.

(2) On and after March 1, 1979, the following requirements shall be applicable to the display of transaction reports or last sale data with respect to reported securities:

(i) If last sale data with respect to a particular reported security is made available by a vendor on an interrogation device, such vendor shall make available on that device a consolidated display of last sale data for such security which shall include, at a minimum, the consolidated price and the consolidated volume for such security (the "consolidated last sale display"). Such consolidated last sale display shall be accessed by means of retrieval instructions involving a number of key strokes which is fewer than the number of strokes required to access any individual market center last sale display made available on that device for such security: *Provided, however,* That notwithstanding the above requirement, a vendor may make available on that device both the consolidated last sale display and any individual market center last sale displays made available for such security by means of retrieval instructions involving an equal number of key strokes if the information request or transmit key for the consolidated last sale display is the most prominent.

(ii) Subject to the provisions of paragraph (b)(2)(i) of this section, a vendor may make available on an interrogation device an individual market center last sale display for a particular reported security for any market center effecting transactions in such security: *Provided, however,* That all individual market center last sale displays for that security which are made available on that device shall be accessed by means of retrieval instructions involving an equal number of key strokes.

(iii) No moving ticker or consolidated last sale display shall identify the market center in which a particular transaction in a reported security has been executed.

(iv) No moving ticker or consolidated last sale display shall exclude any transaction report or last sale data based upon the market center in which a transaction has been executed.

(v) No vendor may provide any category of market information (including quotation information) in an individual market center last sale display for a particular subject security unless that category of information is also provided, on a consolidated basis, in the consolidated last sale display for that security.

(vi) No vendor may provide any market minder with respect to any reported security based on transaction reports from a single market center unless such vendor also provides a market minder for such security based on transaction reports from all market centers reporting transactions in that security pursuant to an effective transaction reporting plan.

(c) *Display requirements for quotation information.* (1) No vendor shall distribute, publish, display, or otherwise make available to brokers and dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker, or interrogation device, quotation information with respect to subject securities in contravention of the provisions of this section.

(2) On and after march 1, 1979, the following requirements shall be applicable to the display of quotation information with respect to subject securities:

(i) If quotation information with respect to a particular subject security is made available by a vendor on an interrogation device, such vendor shall make available on that device a consolidated display of quotation information for such security which shall include, at a minimum, the best bid and best offer for such security and, in the case of a reported security, (A) an identifier indicating the market center making available such best bid and the market center making available such best offer, and (B) the quotation size or aggregate quotation size associated with such best bid and the quotation size or aggregate quotation size associated with such best offer (the "consolidated quotation display"). Such consolidated quotation display shall be accessed by means of retrieval instructions involving a number of key strokes which is fewer than the number of strokes required to access any individual market center quotation display made available on that device by such vendors for such security: *Provided, however.* That, notwithstanding the above requirement, a vendor may make available on that device both the consolidated quotation display and any individual market center quotation display made available for such security by means of retrieval instructions involving an equal number of key strokes if the information request or transmit key for the consolidated quotation display is the most prominent.

(ii) Subject to the provisions of subparagraph (c)(2)(i) of this section, a vendor may make available on an interrogation device, (A) an individual market center quotation display for a particular subject security for any market center making available quotation information for such security: *Provided, however,* That all individual market center quotation displays for that security which are made available on that device shall be accessed by means of retrieval instructions involving an equal number of key strokes, or (B) either separately or as part of the consolidated quotation display, a quotation montage for that security.

(iii) No consolidated quotation display or quotation montage made available on an interrogation device shall exclude any quotation information based upon the market center making available such information: *Provided, however,* That for purposes of making available the consolidated quotation display or a quotation montage for any reported security, quotation information from all market centers which are third market makers may be consolidated to derive a best bid and offer for all such market centers if such interrogation device is capable of displaying, either separately or as part of the consolidated quotation display or quotation montage, (A) an identifier indicating the market center making available such best bid and the market center making available such best offer, and (B) the quotation size associated with such best bid and the quotation size associated with such best offer.

(iv) Each individual market center quotation display or quotation montage for a particular reported security shall include the quotation size or aggregate quotation size associated with each bid or offer disseminated as part of such display or montage.

(v) No vendor may provide on any interrogation device a representative bid or offer with respect to any subject security.

(d) *Joint display of transaction reports and quotation information.* Subject to the provisions of paragraphs (b)(2)(i) and (c)(2)(i) of this section regarding the means of access to consolidated last sale displays and consolidated quotation displays, a vendor may combine the consolidated last sale display and the consolidated quotation display for a particular subject security.

(e) *Applicability to brokers and dealers.* No broker or dealer may operate or maintain any display of transaction reports, last sale data or quotation information which would not be permitted to be made available by a vendor under paragraph (b) or (c) of this section.

(f) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, an securities information processor, self regulatory organization, broker dealer, or specified subject security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(Secs. 2, 3, 6, 9, 15, 17, 23, Pub. L. 78-291, 48 Stat. 881, 882, 885, 889, 891, 895, 897, 901, as amended by secs. 2, 3, 4, 11, 14, 18, Pub. L. 94-29, 89 Stat. 97, 104, 121, 137, 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); Sec. 1, Pub. L. 75-719, 52 Stat. 1070, as amended by sec. 12, Pub. L. 94-29, 89 Stat. 127-131 (15 U.S.C. 78o-3, as amended by Pub. L. 94-29 (June 4, 1974)); sec. 7, Pub. L. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1).)

VIII. Withdrawal of Prior Interpretation

The Securities and Exchange Commission hereby withdraws its Interpretive Response to Question 9 set forth in Securities Exchange Act Release No. 11317, 40 FR 15461, 15462.

IX. Effects on Competition and Request for Public Comment

Section 23(a)(2) of the Act requires the Commission, in adopting rules under the Act, to consider the anti-competitive effects of such regulation and to balance any anti-competitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has, as an initial matter, examined the proposals announced in this Release in light of the standards cited in section 23(a)(2) and is aware that certain of these proposals might be deemed to affect the ability of vendors to compete. The minimum display requirements set forth in rule 11Ac1-2 prohibit a vendor from presenting certain types of displays and require (under certain circumstances) other types of displays thereby precluding vendors from competing in terms of making available these prescribed displays. Moreover, we understand that the cost of compliance with rule 11Ac1-2 may, in some instances, be considered to have an impact on competition between existing vendors as well as on persons seeking to enter into that field. However, as a preliminary matter, we believe that these and the other perceived anti-competitive effects of these proposals are far outweighed by the regulatory purposes to be achieved by the proposals. The Commission's mandate under section 11A(a) of the Act to facilitate the establishment of a national market system and its authority granted under section 11A(c) to prevent the dissemination of fraudulent, deceptive or manipulative transaction and quotation information and to assure the broad dissemination of accurate and reliable last sale and quotation data in a fair and useful format would appear to be significantly furthered by the adoption of these proposals. However, in addressing the regulatory proposals discussion in this Release, commentators should specifically address the competitive impact of this regulation so that the Commission may further evaluate its proposals in the light of section 23(a)(2).

Interested persons are invited to submit written presentations of views, data and arguments concerning the proposed rule 11Ac1-2 under the Act and the issues discussed above. Persons wishing to make such submissions should file ten copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than December 15, 1978. All submissions should refer to File No. SF-759, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 20, 1978.

[FR Doc. 78-30507 Filed 10-27-78; 8:45 am]

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MONDAY, OCTOBER 30, 1978

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Federal Register

MONDAY, OCTOBER 30, 1978
PART IV

ENVIRONMENTAL PROTECTION AGENCY

TOXIC SUBSTANCES CONTROL ACT

Third Report of the Interagency Testing Committee; Receipt of Report and Request for Comments

V 43/210 OC 30 78

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 995-1]

THIRD REPORT OF THE INTERAGENCY TESTING COMMITTEE

Receipt of the Report and Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: This Notice requests comments on recent additions to the Interagency Testing Committee's Priority List of chemical substances recommended for testing under the Toxic Substances Control Act.

SUMMARY: The Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act (TSCA) has transmitted its Third Report to the Administrator of the Environmental Protection Agency (EPA). This Report revises and updates the Committee's Priority List of chemicals. The Report identifies those additional chemical substances the Committee is recommending to EPA for priority consideration for promulgation of test rules under section 4 of the act.

The Third Report is being published with this Notice. The Agency invites interested persons to submit comments on the Report.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4 of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Section 4(e) of TSCA establishes an Interagency Testing Committee to make recommendations of chemical substances to the Administrator of EPA to be given priority consideration for test rules under section 4. The Committee's recommendations are set forth in the form of a Priority List. Up to 50 of the chemical substances on the Priority List may be designated by the Committee for which EPA must within 12 months of designation initiate rulemaking to require testing or publish in the FEDERAL REGISTER its reasons for not doing so.

The Committee's initial recommendations to the Priority List, of four substances and six categories of substances, were published in the FEDERAL REGISTER on October 12, 1977 (42 FR 55026). Revisions to that list appeared in the Committee's Second Report and were published in the FEDERAL REGISTER on April 19, 1978 (43 FR 16684). Those revisions were the addition of four substances and four categories of substances to the Priority List.

In its Third Report, the Committee is recommending the addition of one chemical substance and two categories of chemical substances to the Priority List.

These three additions have also been designated by the Committee for EPA to initiate rulemaking within 12 months or publish its reasons for not doing so.

AVAILABILITY

The Committee's Third Report appears in the FEDERAL REGISTER following this notice.

The information dossiers used by the Committee in developing the recommendations presented in the Third Report will be transmitted by the Committee to EPA in the next few weeks.

Copies of the Third Report and/or dossiers are available from: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), EPA, 401 M Street SW., Washington, D.C. 20460. Call toll free 800-424-9065; in Washington, D.C., call 554-1404.

REQUEST FOR COMMENTS

EPA invites interested persons to submit comments on the Committee's new recommendations. In view of the October 1979 statutory deadline for initiating rulemaking (or publishing reasons for not doing so), the Agency requests that comments be submitted no later than March 30, 1979.

Comments should bear the identifying notation OTS-040005 and should be submitted to Joyce Barbour, Document Control Officer, Chemical Information Division, Office of Toxic Substances (TS-793), Room 711-A, EPA, 401 M Street SW., Washington, D.C. 20460. All written comments will be available for public inspection in Room 711, East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Dated: October 23, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

THIRD REPORT OF THE TSCA INTERAGENCY TESTING COMMITTEE TO THE ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

OCTOBER 1978.

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TSCA INTERAGENCY TESTING COMMITTEE

STATUTORY MEMBER AGENCIES

Council on Environmental Quality: Carroll Leslie Bastian; Nathan J. Kareh, Alternate.

Department of Commerce: Orville E. Paynter; Bernard Greifer, Alternate.

Environmental Protection Agency: Warren R. Muir; Joseph J. Merenda, Alternate.

National Cancer Institute: James M. Sontag.

National Institute of Environmental Health Sciences: Hans L. Falk; Warren T. Piver, Alternate.

National Institute for Occupational Safety and Health: Jean G. French, Vice Chairperson; Vera W. Hudson, Alternate.

National Science Foundation: Marvin E. Stephenson, Chairperson; Carter Schuth, Alternate.

Occupational Safety and Health Administration: Joseph K. Wagoner; Fred W. Clayton, Alternate.

LIAISON AGENCIES

Consumer Product Safety Commission: Joseph McLaughlin.

Department of Defense: Seymour L. Friess.

Department of the Interior: Charles R. Walker.

Food and Drug Administration: Allen H. Heim; Winston deMonsabert.

COMMITTEE STAFF

Executive Secretary: Carol A. Mapes.
Secretary: Madye B. Cole.

ACKNOWLEDGMENTS

The Committee members acknowledge the support and invaluable contributions of the many individuals and groups who have significantly aided us in our work. These include:

The Federal agencies who have cooperated by providing support through the liaison members;

Clement Associates, Inc., technical support contractor;

The U.S. Environmental Protection Agency (EPA) for funding the technical support contract and the National Institute for Occupational Safety and Health, the Council on Environmental Quality, and the National Cancer Institute for assisting in the funding;

Former liaison member Robert Hehir, Consumer Product Safety Commission;

Former EPA staff member Donald G. Barnes, Office of Toxic Substances;

EPA staff members who assisted the Committee in a variety of activities, in particular: John W. Lyon, Office of the General Counsel; Ralph C. Northrop, Jr., Office of Toxic Substances; and Amy Rispin, Office of Toxic Substances;

The numerous experts who prepared presentations and material for the Committee;

The industries that responded to the Contractor's request for information on specific chemical substances and categories; and

The many individuals and organizations who responded to the Committee's previous reports.

SUMMARY

A major section (Sec. 4) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469) provides for the testing of chemicals in commerce which may pose an unreasonable risk to human health or the environment. This section of the Act also provides for establishment of a Committee, composed of representatives from eight designated Federal agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes such revisions in the Section 4(e) Priority List as it determines to be necessary and transmits them to the Administrator, at least every 6 months.

As a result of its deliberations during the past six months, the Committee is revising the TSCA Section 4(e) Priority List by the addition of one individual substance and two categories of substances. Each of these new recommendations is being designated by the Committee for action by EPA within 12 months. The Committee considers these additions to be of the same priority as the previous entries. The chemical substance and categories being added to the Priority List are presented alphabetically, together with the types of studies recommended, as follows:

Substance or category	Recommended studies
Chlorinated Benzenes, Tri-, Tetra- and Penta-	Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, environmental effects, and epidemiology
1,2-Dichloropropane	Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, environmental effects, and epidemiology
Glycidol and its derivatives	Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, and epidemiology

Information dossiers on these new entries will be forwarded to the EPA Administrator at the earliest practicable date.

THIRD REPORT OF THE TSCA INTERAGENCY TESTING COMMITTEE TO THE ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

OCTOBER 1978.

CHAPTER 1. INTRODUCTION

1.1 Background

The Interagency Testing Committee (Committee) was established under Section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469). The specific mandate of the Committee is to identify and recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemical substances or mixtures in commerce which should be tested to determine their potential hazard to human health and/or the environment. The Act specifies that the Committee's recommendations to the Administrator will be in the form of a list (sec. 4(e) Priority List) to be published in the FEDERAL REGISTER. The Committee also is directed to make such revisions in the list as it determines to be necessary and transmit them to the Administrator, at least every 6 months after submission of its initial list.

The Committee has eight statutory members appointed by the Federal agencies identified for membership in Section 4(e)(2)(A) of the Act as well as a number of alternate members as permitted by Section 4(e)(2)(B)(i). In addition, the Committee has invited several other Federal agencies with programs related to the control of toxic substances to designate liaison representatives to participate in its meetings. The current Committee members, alternates, and liaison representatives are identified in the front of this report.

1.2 Previous reports

In July 1977, the Committee published a Preliminary List of 330 chemical substances and categories which it had identified for further consideration (Reference No. 1). Using previously described techniques (Reference No. 2), the Committee ultimately identified approximately 80 chemical substances and categories for detailed review and requested its technical contractor to prepare dossiers on selected chemicals and categories. The review of these dossiers, combined with the knowledge and professional judgment of the Committee members, formed the basis for the Committee's initial recommendations to the EPA Administrator (Reference No. 2) and subsequent additions to the Section 4(e) Priority List (Reference No. 3).

1.3 Committee activities during this reporting period

During the past six months, the Committee completed a detailed review of all chemicals and categories selected for dossier preparation as well as the review of a number of additional chemicals, with the following exceptions: (a) Those chemical substances and categories for which dossiers are being prepared and will be reviewed prior to the Committee's April, 1979, report; and (b) those chemicals whose further consideration has been deferred pending receipt of additional information.

1.4 Future committee activities

The Committee is currently updating its Master File of chemicals. This effort will be followed by a selection of chemicals and scoring procedures similar to those described in previous Committee reports (Reference Nos. 2 and 3). These procedures will provide one method for identifying additional chemicals for detailed review and, simultaneously, will enable a periodic re-evaluation of those chemicals which have been reviewed, but not selected for inclusion in the section 4(e) Priority List.

CHAPTER 2. AVAILABILITY OF TESTING FACILITIES AND PERSONNEL

The Committee again emphasizes its concerns about the National capability for conducting long-term tests of biological effects, as expressed in its second report to the EPA Administrator (Reference No. 3). As previously stated, the Committee's paramount concern is for the availability of adequately trained personnel. The Committee, therefore, reiterates its belief that the Civil Service Commission could do much to stimulate interest in professions such as toxicology, pathology, epidemiology, and related environmental and occupational health specialties by creating series and registers for these professions.

- The Committee supports current efforts by the Environmental Protection Agency to initiate the establishment of a Civil Service Commission series for toxicologists.
- The Committee again recommends a National survey to assess the future availability of personnel and testing facilities.
- The Committee again recommends that this survey also determine the adequacy of the supply of test organisms for assessing specific health and environmental effects.

To determine whether the number of personnel and facilities are adequate to meet the predicted needs of TSCA/EPA, there also must be some assessment of the TSCA testing requirements in relation to those of other Federal agencies and the private sector.

- The predicted competition for these facilities by users from the Federal and private sectors might be partially alleviated if some short-term, national-testing-priority scheme were developed to enable the most crucial needs to be met as additional personnel and facilities are developed.

CHAPTER 3—RECOMMENDATIONS OF THE COMMITTEE

3.1 Chemical substances and categories recommended for testing

The Interagency Testing Committee is revising the TSCA section 4(e) priority list by the addition of one individual substance and two categories of substances for which testing is recommended. These chemicals were selected after consideration of the factors identified in TSCA section 4(e)(1)(A), other relevant factors identified by the Committee, and the knowledge and professional judgment of Committee members. The recommended studies deemed appropriate for determining the potential hazard(s) of each new entry and the reasons for such recommendations are described in section 3.3 of this report. As in the case of the Committee's previous recommendations, each chemical substance and category is being designated by the Committee for action by EPA within 12 months.

Table 1 presents the complete section 4(e) priority list including the date by which the EPA Administrator must take action on each entry. As in previous Committee reports (Reference Nos. 2 and 3), the entries are listed alphabetically. The Committee considers each of its new entries to the list to be of equal importance. Therefore, each of these new entries should be given the same priority for purposes of initiating action as required under TSCA section 4(e). Unless stated otherwise, the chemical substance recommended for testing is the product to which the population is exposed.

3.2 Designated substances on which studies are planned or ongoing

TABLE 1—THE TSCA SECTION 4(e) PRIORITY LIST, ARRANGED ALPHABETICALLY

Substance or category	Recommended studies	Date
Chlorinated Benzenes, Tri-, Tetra- and Penta-	Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, environmental effects, and epidemiology	10/30/79
1,2-Dichloropropane	Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, environmental effects, and epidemiology	10/30/79
Glycidol and its derivatives	Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, and epidemiology	10/30/79

or ongoing studies. If the details of a study are know and its conclusions imminent, the Committee may delay con-

3.2 Designated substances on which studies are planned or ongoing

The Committee is aware that it has added to the section 4(e) priority list certain chemical substances which are either currently under study or have been selected for study by other groups. Such studies may concern one or more of the effects for which the Committee has recommended testing. Set forth below is the Committee's reasoning for its past and future designation of such substances.

The Committee generally does not regard knowledge that studies are planned or ongoing as a sufficient basis to defer consideration of a substance for designation for the effect under investigation or for any other effect. The Committee's judgment as to whether a substance has been adequately tested for health and environmental effects must rest with the data that are presently available. Such data do not exist for planned studies and may be in various stages of generation for ongoing studies. In addition, the Committee is unable to predict if an ongoing study would be successfully concluded (i.e., disease, toxicity, or other unforeseen events may cause a study to be aborted). Whenever they have been identified, planned and ongoing studies are noted in the dossiers on designated substances.

TABLE 1—THE TSCA SECTION 4(e) PRIORITY LIST, ARRANGED ALPHABETICALLY

Chemical substance or category	Designated for action by
Acrylamide	April 1979.
Alkyl epoxides	October 1978.
Alkyl phthalates	October 1978.
Aryl phosphates	April 1979.
Chlorinated benzenes, mono- and di-	October 1978.
Chlorinated benzenes, tri-, tetra- and penta-	October 1979.
Chlorinated naphthalenes	April 1979.
Chlorinated paraffins	October 1978.
Chloromethane	October 1978.
Cresols	October 1978.
Dichloromethane	April 1979.
1,2-Dichloropropane	October 1979.
Glycidol and its derivatives	October 1979.
Halogenated alkyl epoxides	April 1979.
Hexachloro-1,3-butadiene	October 1978.
Nitrobenzene	October 1978.
Polychlorinated terphenyls	April 1979.
Pyridine	April 1979.
Toluene	October 1978.
1,1,1-Trichloroethane	April 1979.
Xylenes	October 1978.

The above statement does not mean that the Committee's consideration of substances will never include planned or ongoing studies. If the details of a study are know and its conclusions imminent, the Committee may delay considering the substance until the results become available. When the Committee considers that a chemical substance is under sufficient assessment by other groups, it may defer consideration of the substance. Because the Committee recognizes that each case must be judged individually, it has not establish formal criteria regarding the impact that planned or ongoing studies may have on its recommendations.

3.3 Reasons for Recommending Testing of the Additional Substances and Categories

Table 2 summarizes the studies recommended for each additional entry on the section 4(e) priority list. As directed by TSCA section 4(e)(1)(B) the Committee also is presenting its reasons for recommending specific types of studies. In addition to the rationales presented herein, supporting dossiers of information are being finalized and will be transmitted to the Administrator, EPA, at the earliest practicable date.

Table 2. Summary of Recommended Studies

Substance or Category	Carcinogenicity	Mutagenicity	Teratogenicity	Other* Toxic Effects	Environmental Effects	Epidemiology
1. Chlorinated Benzenes, Tri-, Tetra- and Penta-	X	X	X	X[a]	X	X
2. 1,2-Dichloropropane	X	X	X	X[b]	X	X
3. Glycidol and Its Derivatives	X	X	X	X[c]		X

*The systems of particular concern are as follows: a) neurological and hematopoietic; b) reproductive and neurological; and c) reproductive.

3.3.A Chlorinated benzenes, tri-, tetra- and penta-

Recommended studies: Carcinogenicity,

on wild and domestic birds and mammals, fish, amphibians, reptiles, invertebrates, plants and algae. Since residues have been

production and behavior; and effects on soil invertebrates and terrestrial insects.

Epidemiology: There is no information

REFERENCES

1. *Preliminary List of Chemical Substances for Further Evaluation.* Toxic sub-

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3.3.A Chlorinated benzenes, tri-, tetra- and penta-

Recommended studies: Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, environmental effects, and epidemiology.

Category identification: This category consists of: 1,2,3-trichlorobenzene (CAS No. 87-61-6); 1,2,4-trichlorobenzene (CAS No. 120-82-1); 1,3,5-trichlorobenzene (CAS No. 108-70-3); 1,2,3,4-tetrachlorobenzene (CAS No. 634-66-2); 1,2,3,5-tetrachlorobenzene (CAS No. 634-90-2); 1,2,4,5-tetrachlorobenzene (CAS No. 95-94-3); and pentachlorobenzene (CAS No. 608-93-5).

Reasons for Recommendations. *Production, release, and exposure*—Although the Committee was not able to obtain accurate production, environmental release, and worker exposure figures, one source suggests that over 1 million workers are exposed to trichlorobenzenes. The Committee also judges that a variety of sources are responsible for the observed contamination of air, water, soil and food chains by chlorinated benzenes. Possible sources of contamination include the use of chlorobenzenes as chemical intermediates and solvents in the manufacture of dyes, lubricants and pesticides as well as other uses such as transformer oils. Recent decreases in the use of polychlorinated biphenyls may result in an increase usage of trichlorobenzenes as transformer oils. Chlorinated benzenes are also present as contaminants in and degradation products of pesticides and occur in chlorinated municipal, agricultural and industrial effluents. The predicted partition coefficients of chlorobenzenes suggest that they may accumulate in biological systems. The high probability for exposure to the human population and environment of these relatively persistent and toxic substances in emphasized in the following recommendations.

Carcinogenicity: No carcinogenicity studies on tri-, tetra- and pentachlorobenzenes were found in the searched literature, although hexachlorobenzene is a demonstrated animal carcinogen. The Committee, therefore, recommends that tests be conducted to assess the carcinogenic potential of these chemicals.

Mutagenicity: Although a single mutagenicity study for 1,2,4-trichlorobenzene was negative, additional testing is needed to assess the mutagenix potential of the chlorobenzenes.

Teratogenicity: Pentachlorobenzene administered to pregnant rats reduced the mean number of live fetuses per litter and increased the incidence of sternal defects and extra ribs. Studies are recommended to assess the teratogenic potential of the chlorobenzenes.

Other toxic effects: Degeneration of liver cells and hepatic porphyria have been observed in rodents exposed to chlorobenzenes. Dose-related increases in liver to body weight ratios in highly porphyric rats were accompanied by the induction of hepatic microsomal enzymes. Monkeys given high doses of 1,2,4-trichlorobenzene showed severe weight loss and fine tremors. Guinea pigs given high doses of chlorobenzenes have been reported to convulse and die. The Committee recommends testing, with emphasis on the neurological and hematopoietic systems, to further assess the toxic effects of the chlorobenzenes.

Environmental effects: There is a paucity of information on the acute and chronic effects of tri-, tetra- and pentachlorobenzenes on wild and domestic birds and mammals, fish, amphibians, reptiles, invertebrates, plants and algae. Since residues have been detected in aquatic situations, particular emphasis should be placed on long-term environmental studies in freshwater and marine environments with concern for the biological significance of residues and effects on reproduction, behavior and survival of fish, fish-eating birds and mammals, and food chain organisms.

Epidemiology: Since the nature of human exposure to chlorobenzenes is extremely broad, the Committee believes that epidemiological studies may be important in assessing the effects of long-term exposure to chlorobenzenes.

3.3.B 1,2-dichloropropane

Recommended studies: Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, environmental effects, and epidemiology.

Substance identification: CAS No. 78-87-5.

Reasons for recommendations. *Production, release, and exposure*—1,2-dichloropropane is produced in large quantities with a production rate in 1976 of 71 million pounds. Because of its widespread use as a solvent, as well as a multiplicity of other uses, 1,2-dichloropropane has a potentially high occupational exposure (over 1 million workers). Its potential use in many consumer products also may lead to wide general exposure. Little is known about the release rate of 1,2-dichloropropane into the environment.

Carcinogenicity: The testing carried out thus far on the carcinogenicity of 1,2-dichloropropane is insufficient to allow an appropriate appraisal of its carcinogenicity. The Committee, therefore, recommends that additional carcinogenicity studies be conducted.

Mutagenicity: Although positive mutagenicity tests have been reported in *Salmonella typhimurium* and in *Aspergillus nedulans* for dichloropropane, the isomer was not specified. The Committee recommends that mutagenicity testing be done specifically on 1,2-dichloropropane.

Teratogenicity: Because no information on the teratogenicity of 1,2-dichloropropane was found in the searched literature, the Committee recommends that teratogenicity tests be conducted.

Other toxic effects: Fatty degeneration of the liver and kidney and necrosis of the adrenals have been observed in experimental animals following acute, high-level exposures to 1,2-dichloropropane. Although one low-level exposure study has been reported, it is considered to be inadequate to assess the chronic effects of 1,2-dichloropropane. Since this compound is structurally similar to 1,2-dibromo-3-chloropropane, the Committee recommends that particular emphasis be placed on the reproductive and neurological effects of this chemical.

Environmental effects: In view of its volatility and high specific gravity, the ecological impact of 1,2-dichloropropane may be localized to those environments receiving continuous exposure associated with this chemical's use and disposal. The potential for bioaccumulation suggests the need for further testing to determine the biological significance of exposure to wild and domestic birds, mammals, fish, and invertebrates. Specific areas of environmental concern include: Chronic toxicity to fish and invertebrates; effects on avian and mammalian reproduction and behavior; and effects on soil invertebrates and terrestrial insects.

Epidemiology: There is no information available on chronic effects in humans exposed to 1,2-dichloropropane over an extended period of time. Because of the potentially widespread exposure, epidemiological studies may be particularly important in assessing the human health effects of 1,2-dichloropropane.

3.3.C Glycidol and Its Derivatives

Recommended studies: Carcinogenicity, mutagenicity, teratogenicity, other toxic effects, and epidemiology.

Category identification: This category consists of glycidol (CAS No. 556-52-5) and its derivatives. Example chemicals in this category are glycidyl acrylate (CAS No. 106-90-1), glycidyl methacrylate (CAS No. 106-91-2), allyl glycidyl ether (CAS No. 106-92-3), n-butyl glycidyl ether (CAS No. 2426-08-6), para-cresyl glycidyl ether (CAS No. 2186-24-5), phenyl glycidyl ether (CAS No. 122-60-1), and the diglycidyl ether of bisphenol A (CAS No. 1675-54-3).

Reasons for recommendations.

Production, release, and exposure—Most of these commercially significant chemicals have annual production volumes in excess of 1,000 pounds (1976). Although exposure estimates are not available for all the chemicals in this category; NIOSH estimates that 105,000, 118,000, and 105,000 workers are exposed to glycidol, glycidyl ethers, and glycidyl methacrylate, respectively.

Carcinogenicity: Although glycidol and glycidyl methacrylate have been tested for carcinogenicity, neither meets current testing standards. In view of the potential alkylating properties of glycidol and its derivatives and the demonstrated carcinogenicity of certain members of this category (e.g., diglycidyl resorcinol ether and glycidyl oleate), the Committee recommends carcinogenicity studies.

Mutagenicity: Since glycidol, allyl glycidyl ether, n-butyl glycidyl ether, and phenyl glycidyl ether have been reported to be mutagenic in several assay systems, the mutagenic potential of other category members should be determined.

Teratogenicity: With the exception of negative test results on phenyl glycidyl ether, the teratogenic potentials of these compounds have not been evaluated. The Committee, therefore, recommends studies to evaluate the teratogenic potential of other Compounds in this category.

Other toxic effects: Most of these chemicals are skin and eye irritants, while some induce sensitization and cross-sensitization reactions in exposed workers. A diversity of toxic effects also has been observed in experimental animals following administration of these compounds. The most frequently observed effects are CNS depression, incoordination and ataxia, although some of these compounds reportedly induce testicular atrophy and temporary sterility in rats. Adverse effects on the kidneys, liver, pancreas, and adrenals also have been observed in experimental animals. The Committee, therefore, recommends studies to evaluate the toxicity of these chemicals. The reproductive system is of particular interest.

Epidemiology: Epidemiology studies should be conducted to assess the extent of human health effects.

REFERENCES

1. *Preliminary List of Chemical Substances for Further Evaluation*, Toxic substances Control Act Interagency Testing Committee, July 1977.

2. *Initial Report to the Administrator, Environmental Protection Agency*, TSCA Interagency Testing Committee, October 1, 1977. Published in the FEDERAL REGISTER, Vol. 42, No. 197, Wednesday, October 12, 1977, pp. 55026-55080. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560-10-78/001, January 1978.

3. *Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency*, TSCA Interagency Testing Committee, April 1978. Published in the FEDERAL REGISTER, Vol. 43, No. 76, Wednesday, April 19, 1978, pp. 16684-16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA-560-10-78/002, July 1978.

[FR Doc. 78-30336 Filed 10-27-78; 8:45 am]

MONDAY, OCTOBER 30, 1978
PART V

V 43/210 OC 30 0 78

federal register

MONDAY, OCTOBER 30, 1978
PART V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS

Final Rule

[4210-01-M]

Title 24—Housing and Urban

derly housing goals under the HAP's without having adequately served handicapped persons. In preparing

house for review was not adopted since it is beyond the scope of these regulations.

applies to the establishment of the 3-year goals and not to each specific application. Another commenter suggest-

ulations are intended to minimize the number and frequency of need for HAP amendments in any local govern-

need, they may be considered for inclusion. Two commenters questioned the validity of the Census data utilized

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[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-529]

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS

Final Rule

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: HUD is adopting for immediate effect revised regulations on reviewing applications for assisted housing and allocating housing assistance.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Anthony Freedman, Office of Policy Development and Evaluation, Department of Housing and Urban Development, Room 9158, 451 Seventh Street SW., Washington, D.C. 20410. Telephone 202-755-7330. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On April 24, 1978, the Department of Housing and Urban Development (HUD) published proposed amendments (43 FR 17448) to subparts A through D of Part 891, Chapter VIII, 24 CFR. Interested parties were given until May 24, 1978, to submit written comments. All comments received with respect to the proposed rules were given due consideration. As a result of the comments received, a number of changes have been made to the proposed regulations. The revisions and comment disposition are discussed below. Subparts E and F will be revised at a later date for consistency.

Definitions

In response to a comment from a nonprofit organization, the definition of applications for section 202 projects has been revised to refer to "elderly and handicapped." This is consistent with the community development block grant (CDBG) regulations (43 FR 8434) and gives recognition to the fact that handicapped needs are separate and distinct from those of the elderly.

One problem which has appeared in connection with approving applications for housing for the handicapped is that communities have met their elderly housing goals under the HAP's without having adequately served handicapped persons. In preparing HAP's, communities have been advised that the needs of the nonelderly handicapped should not necessarily be considered to be met or addressed even though the category covering both elderly and handicapped may have been served disproportionately when compared to family and large family housing goals. In preparing their HAP's, communities are encouraged to develop a separate narrative section on the housing needs of the nonelderly handicapped and to note goals which are set for the handicapped separately from those set for the elderly. A definition for Federal fiscal year has been added.

Other minor changes have been made in the definitions to reflect recent programmatical and organizational changes within the Department.

General Applicability

Some comments questioned the exclusion from consideration of small projects involving 12 or fewer units and housing in new communities where the Secretary determines they are necessary. Both of these exclusions are statutory and are, therefore, not subject to change. In addition, one comment suggested that language be provided to allow for local government review if the size of a project decreased by more than 12 units, since provision is made for reviews when the project increases in the same fashion. Since the primary purpose of the review is to ascertain housing assistance plan (HAP) consistency, it is considered that the outcome of the review would not be changed if the project only decreased in size. Therefore, this comment was not adopted. One commenter requested that the preamble include clarification for the field offices and local governing bodies concerning which HAP is applicable for fiscal year 1979 allocations. Therefore, we have added the following:

For the purpose of allocation of fiscal year 1979 housing funds and the review and comment for consistency of housing proposals generated by that allocation, all fiscal year 1978 community development block grant housing assistance plans are subject to this part including where appropriate: (1) Annual housing action plans for transition year housing assistance plans (§ 570.306(a)(4)); and (2) housing assistance plans for small cities CDBG recipients (24 CFR 570, Subpart F) approved under fiscal year 1978 community development block grant funding.

In response to a comment the local government is required to submit comments to the clearinghouse. A comment suggesting new or amended HAP's be sent to the A-95 clearinghouse for review was not adopted since it is beyond the scope of these regulations.

Local Review and Comment

One comment suggested that opportunity for local reviews be required after the formal submission of an application to HUD even if previous comments were submitted. This comment has been followed. It is considered that the best interests of the Department and the local government will be served if the formal 30-day comment period is observed. However, local government comments may still be submitted at the beginning of the comment period to save processing time.

Two commenters requested a clarification of policy with respect to changes in HAP's during processing. The determination of whether the new or amended HAP will be used has been left to the discretion of the field office, taking into consideration local government comments. See § 891.203(b).

Local Government Response

Comments were received from a variety of municipal and regional organizations raising questions regarding the limits established for local government objections, Specific areas for objections have been purposely limited by the Department in order to insure that the comments will be constructive and contribute to expeditious processing of the applications. However, the local government may object if the housing is "inconsistent with any other limiting factors set forth in the HAP." See § 891.204(b)(3).

Two commenters indicated that specific sites within the general locations may be inappropriate for various reasons (e.g., inconsistent with the locality's adopted general plan relating to zoning). Issues beyond those related to HAP consistency are addressed in detail during the project review by the Field Office. One commenter objected that the limitation to sites within the general locations was unduly restrictive for applications for housing for the handicapped. Although the comment was fully considered, it was not adopted. General locations for housing in the approved HAP's must include a sufficient number of sites to insure competitive proposals within the locality. It is considered that through the normal requirements for general locations approved in a HAP that these areas would not be restrictive to any type of housing, including housing for the handicapped.

One commenter suggested that these provisions be clarified to incorporate the 15 percent minimum housing goal requirement of § 570.306. This suggestion was not adopted since the 15 percent minimum housing goal only

applies to the establishment of the 3-year goals and not to each specific application. Another commenter suggested that an objection be included relating to applications which exceed the 1-year goal. This suggestion was also not adopted since it is contrary to the intention of the revised regulations which do not restrict variations from one year goals.

A few commenters requested clarification of the "expressly excluded" phrase, including one who recommended that the provision be clarified to indicate that arbitrary program exclusions would not be allowed. In recognition of the noted confusion, this factor has been eliminated as a basis for objection. It is covered in concept since an express exclusion in the HAP would be a limiting factor under § 891.204(b)(3).

HAP Variations

One commenter suggested that local government should have complete discretion as to when HAP goals should be amended. HAP amendments are necessary before applications which exceed the 3-year goals by more than 20 percent may be approved. This is considered reasonable and should not place an unnecessary burden on the local government. See § 891.206.

One commenter suggested that the Chief Executive should be informed by official notification when an application or applications would exceed the 3-year HAP goals. Provision for this procedure was already made in § 891.202(b)(2).

One commenter indicated that the references to housing type and household type were confusing and suggested that the basis of comparison should only be by housing type. Proportionality of goals by household type is a specific requirement for the preparation of the HAP. Proportionality by housing type, on the other hand, is not required in the HAP preparation, but rather a directive by the Department to utilize the assisted housing funds in a manner consistent with the resulting proportions by housing types in prepared HAPs.

One commenter inquired whether a field office manager may approve applications exceeding goals by 20 percent or less if the locality does not object. As detailed in § 891.206(a), field office managers may not approve such applications unless the local government provides a written statement in accordance with § 891.204(a) and the application meets the appropriate criteria.

One commenter indicated that some plans allow for a goal adjustment process short of a formal HAP amendment and suggested that the 20 percent provision should not override such local provisions. The present regulations are intended to minimize the number and frequency of need for HAP amendments in any local government. To the extent they are applicable, they should be adhered to in every locality with an approved HAP.

Two commenters noted that the language in § 891.206(b) might be construed as precluding the necessity to follow the formal HAP amendment procedures. In consideration of this comment, the language of this section has been clarified.

Notifications of HUD Determination

One commenter suggested that inclusion of a provision for notifying an applicant when HAP problems arise, and the designation of an appropriate appeal mechanism. All decisions of the field offices may be appealed through appropriate channels to headquarters, if necessary.

Need for Housing Assistance

One commenter suggested that the determination regarding the availability of adequate public facilities and services under subpart C should be a requirement in areas with HAP's as well as those without. The requirement is statutorily imposed for areas without HAP's in recognition of the likelihood that the application for housing assistance was not anticipated by the local government. On the other hand, in areas with HAP's it is presumed that the adequacy of public facilities and services is taken into consideration during the normal course of planning and goal establishment.

Lower Income Housing Needs Determination

Several commenters representing a cross section of public and private interest groups wrote with suggestions and/or requested clarification of the procedures relative to the determination of housing needs under § 891.402. One commenter suggested that the age of housing should be included in the criteria. The Department has explored this option in the past and has determined that its inclusion would provide an undesirable distortion to the results. The age of the house does not conclusively indicate a housing need. Therefore, this comment has not been adopted. One commenter suggested that the language in the regulations be modified to read, "and other, objectively measurable conditions." As worded the language is as stated in the statute. However, it is not considered to preclude the use of other factors. In fact the present formula includes the factors listed, in addition to a factor for a rent/income ratio. To the extent that the factors are based on data available for the entire nation and have a direct correlation to housing need, they may be considered for inclusion. Two commenters questioned the validity of the Census data utilized in the allocation process. Althouth the age of the data is subject to question, these are the only data that are available on a national basis. Population data becomes available more frequently and is updated accordingly.

Two commenters requested clarification of the high cost adjustment relative to the provision of housing among field office jurisdictions. Data for this survey is derived from a uniform survey of construction costs conducted by each field office on an annual basis.

One commenter suggested that the determination of the lower-income housing needs and the initial allocation to areas and localities is contradictory to the purpose and intent of AHOP's. It is essential that the initial determination and allocation be based on a comparative assessment using nationally available data. Only a few areas actually have an approved AHOP. Thus after the initial determination of need is made in allocating contract authority, field office managers may, pursuant to § 891.404(a)(2), make an adjustment of not more than 15 percent to reflect differing needs and goals in HAP's, State housing plans and approved AHOP's.

Allocation to HUD Offices

The regulations have been modified to resolve the issue which arises each year regarding how much of the available funds will be allocated on a "fair share" basis. The additional wording in § 891.403 specifies that contract authority assigned for a specific purpose from the headquarters reserve is not available for "fair share" allocation when carried over into the next fiscal year. The two most notable programs subject to this provision are the neighborhood strategy area (NSA) and AHOP programs.

Two commenters requested clarification of the basis for allocating funds directly to the field office. This provision was made to give headquarters the means to expedite the allocation process when the time to accomplish specific objectives is shorter than desirable, and reflects the recent HUD field reorganization.

One commenter suggested that some provision should be made for a locality to update goals using local data such as waiting lists for assisted housing. Goals in a HAP are based on the housing needs of the community. The needs of the community may be based on data derived on a national basis such as the decennial census, or locally generated data, subject to the review and approval of the local field office. However, in general, data based on waiting lists for assisted housing would not be acceptable since they fre-

quently include persons who are ineligible for the program, deceased, live in another jurisdiction, already reside in

throughout the country, it is not possible to assure that each locality will receive housing assistance in amounts

not be spread over other counties. A third commenter suggested that careful reviews be required to insure suffi-

gestion has been adopted in all appropriate sections of the final rule.

One commenter suggested a revision

Need for Immediate Effect

The Department has determined that these regulations must be pub-

891.302 Finding of need of housing assistance.
891.303 Notification of local government.
891.304 Review and comment period.

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quently include persons who are ineligible for the program, deceased, live in another jurisdiction, already reside in assisted housing, etc.

ALLOCATION TO AREAS AND LOCALITIES

Two significant revisions have been made to § 891.404(a)(4). These modifications were made after considering all comments received, previous departmental performance and an assessment of new requirements based on new programs and recent restructuring of the organization. (1) Approved AHOP's must be designated as separate allocation areas. (2) Formula entitlement block grant recipients may be established as separate allocation areas where the amount of the allocation is sufficient to achieve proportionality over a 3-year period and to provide feasible projects.

Several commenters requested further clarification of the role of the various regional, State, and areawide (AHOP) plans in establishing relative needs. It is essential that national data derived from the same source be utilized in determining the needs for lower income housing assistance under this part. Census data, albeit several years old, are the only source that fulfills the requirement. Regional and State plans even in the aggregate only cover a small geographic area and therefore are used on an adjustment basis only and at the discretion of the field office manager. Clarifying language has been added to § 891.404(a)(4) to require that approved AHOP's be used as the basis for the distribution of all contract authority within allocation areas with approved AHOP's and the allocation of contract authority by housing type and household type in those areas.

One commenter requested an exception for the section 202 program from the requirement that allocation areas be identical for all housing programs. This comment also reflects congressional concern that section 202 invitations be broad enough to support economically feasible projects. In view of the concerns expressed, appropriate language has been included to permit aggregation of allocation areas for the section 202 program.

One commenter suggested a revision in the regulations to require the Department to deliver housing in proportion to HAP goals and of a type specific in the HAP. The Department's allocation process reflects the implementation of legislation, requiring certain aspects of the process to be initiated at headquarters. After provisions are made for the set-asides established by Congress, every attempt is made at the field office level to distribute contract authority for programs that will be in concert with local HAP's. Because of the wide variance of needs and goals throughout the country, it is not possible to assure that each locality will receive housing assistance in amounts and types specified in the HAP.

One commenter suggested a requirement to use State housing plans to adjust the county housing needs percentage. Although not a requirement, there is a provision in § 891.404(a)(4) for this type of adjustment at the discretion of the field office. In view of the number of plans which exist, their varying quality, and the fact that some have overlapping jurisdictions, the current provision is considered appropriate.

One commenter suggested that the allocation of housing resources should be based on the community's needs rather than the goals. The present allocation system is already based on the needs of the community. See § 891.404(a).

One commenter suggested the elimination of the limitation on the size of the adjustment in the housing needs percentage on the grounds that it is an unnecessarily restrictive requirement which would result in an unfair distribution of contract authority. This adjustment provides the field office some flexibility to allow for variations to reflect local HAP plans, State and regional plans and the need to promote spatial deconcentration. The adjustment reflects HUD's commitment to support as much as possible the plans prepared by local and State governments, and regional planning organizations. The 15 percent limitation has been eliminated in the case of approved AHOP's. Field office managers may request waivers of this section where it is felt that the 15 percent limitation is too restrictive.

One commenter requested clarification of the term "other relevant considerations" in § 891.404(a)(3). This phrase would include such considerations as the management capability of the housing authority as well as the status of previously approved programs. Since the considerations will vary with the individual circumstances, it is considered appropriate to be left to the discretion of the field office manager.

One commenter suggested a revision in the allocation procedure to recognize programs that are unworkable in an area. This comment received careful consideration but was not adopted in the final rule. The determination that a program is unworkable in a given area is considered a rare exception, can be taken care of under current procedures, and need not be included in the regulations.

One commenter suggested that a designated portion of the allocation area be set-aside for each county in a SMSA. Another commenter suggested that the needs of one county should not be spread over other counties. A third commenter suggested that careful reviews be required to insure sufficient funds in allocation areas for economically feasible projects. Although a housing needs percentage is developed for each county in the county under the allocation system, it is often necessary to combine two or more localities into one allocation area in order to assure an economically feasible project. The needs of the localities are not combined; rather the contract authority is combined. Each application submitted in response to a HUD invitation must be in accordance with the approved HAP of the locality in which the project will be located. The necessity to have sufficient authority to support economically feasible projects is adequately addressed in § 891.404(d).

Numerous comments were received from representatives of regional, state and local government offices as well as profit and nonprofit organizations addressing the allocation procedures at the field office level. The transition to an allocation system based on 3-year HAP goals is expected to provide more flexibility for local governments in meeting their HAP goals on a proportional basis. In response to some of the specific concerns raised in the comments, clarifying language has been provided. The most significant clarification addresses certain limitations that may arise in some allocation areas regarding goal performance because of the necessity to insure economically feasible proposals. Allocated units are required to be proportional by housing type and by household type within each tenure type (a recent modification to provide consistency with § 570.306(c)(1) of the block grant regulation (43 FR 8434)), except that adjustments are made to reflect the remaining unsatisfied goals identified in individual HAPs during the second and third year of the 3-year period.

In response to a suggestion for Housing Finance Development Agency (HFDA) input into the actual allocation of units, the Department considers it important for the housing industry to be prepared to respond to goals identified in approved HAP's. However, in view of the time constraints on the allocation process and the divergent capacities of the HFDA's, no requirement is made for such input into preparation of the plan; however, the field office manager must discuss the plan and coordinate with the HFDA (§ 891.4.4(e)).

A one word revision recommended by a comment involved the substitution of the word "underserved" for the word "unserved" in reference to household types for which 3-year goals have not been satisfied. This suggestion has been adopted in all appropriate sections of the final rule.

One commenter suggested a revision to show an additional purpose of establishing allocation areas as providing a broader geographical choice of housing opportunities for low-income families and minorities. Although the Department acknowledges that there are additional objectives to be met through the provision of housing assistance, it is considered unnecessary to include them in this section of the regulation. The provision of a broader geographical choice is a review responsibility of the field office when considering local HAP's for approval.

One commenter suggested that a provision be made for consultation with localities prior to field office allocations and that the time period to complete the field office actions be extended to 45 days. The Department recognizes the advantage of consulting with localities in preparation of allocation plans; therefore, language has been added to § 891.4 to provide for consultation with central cities that are separate allocation areas in the preparation of the plan for those areas. However, the time period for field office actions has not been extended.

In response to a commenter who questioned the need for state set-asides, it should be noted that set-asides are established by the Department in order to meet national objectives. Compensating allowances are made by the Department for areas without the agencies (e.g., HFDA's) or the programs (e.g. FmHA, Indian Housing, etc.) designated for set-asides.

Several commenters indicated that any reallocation from the targeted field office should be done only as a last resort. Although this was the intention of the reallocation procedures, additional language was added in § 891.405 to permit the provision of housing assistance to localities within the allocation area that have already met their housing goals, as a last step prior to reallocation. Once commenter suggested more field office flexibility to transfer funds from one allocation area to another. A second commenter recommended local input prior to fund reallocation. Within the guidelines established in the regulations the field office already has the flexibility to transfer funds. It is also considered that the field office carefully evaluated the fund assignment prior to the initial allocation and the decision to reallocate should not be arbitrary. When it is anticipated that the field office will maintain contact with the local government regarding the utilization of funds, no requirement will be made, rather it will be at the discretion of the field office manager.

NEED FOR IMMEDIATE EFFECT

The Department has determined that these regulations must be published for immediate effect in order to assure that housing assistance for fiscal year 1979 is provided in a manner consistent with new Department policies and regulations concerning housing assistance plans, consultation and cooperation with local governments, the provision of block grant assistance, the needs of the nonelderly handicapped and the expansion of housing opportunities. In order to meet the fiscal year 1979 goals and deadlines, HUD must immediately commence the allocation process in accordance with the provisions of this rule. Therefore, any delay in the effective date of the regulations will seriously hamper the Department's ability to operate its assisted housing programs efficiently in fiscal year 1979, and lead to increased project costs.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the office of the rules docket clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Issued at Washington, D.C., October 25, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing.
Federal Housing Commissioner.

Accordingly, 24 CFR, Part 891 is revised to read as follows:

PART 891—REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATIONS OF HOUSING ASSISTANCE FUNDS

Subpart A—General Provisions

Sec.
891.101 Applicability and scope.
891.102 Definitions.

Subpart B—Applications for Housing Assistance in Areas with Housing Assistance Plans

891.201 General.
891.202 Notification of local government.
891.203 Review and comment period.
891.204 Local government response.
891.205 HUD review of applications for housing assistance.
891.206 Variation from HAP goals.
891.207 Notifications of HUD determination.

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

891.301 General.
891.302 Finding of need of housing assistance.
891.303 Notification of local government.
891.304 Review and comment period.
891.305 HUD review of applications for housing assistance.

Subpart D—Allocation of Contract and Budget Authority for Housing Assistance

891.401 General.
891.402 Determinations of lower-income housing needs.
891.403 Allocation to HUD offices.
891.404 Allocation to areas and localities.
891.405 Reallocation of uncommitted contract authority.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (45 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 891.101 Applicability and scope.

(a) These policies and procedures apply to the allocation of loan and contract authority and the review and approval of applications for housing assistance under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), sections 235 and 236 of the National Housing Act (12 U.S.C. 1715z, 1715z-1), section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), and section 202 of the Housing Act of 1959 (12 U.S.C. 1701q). These provisions do not apply to applications for public housing modernization or operating subsidy assistance, or to applications for converting section 23 leased housing projects either to the section 8 housing assistance payments program or to the public housing program.

(b) This part covers the policies and procedures relating to the role and responsibilities of HUD and local governments, under section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), in reviewing and making determinations with respect to applications for housing assistance made available under the housing programs specified in paragraph (a) of this section.

(c) The determinations to be made by the local government and HUD, with respect to applications for housing assistance, and HUD allocations of contract authority in proportion to the HAP goals for housing type and by household type within each tenure type shall be based on the applicable 3-year HAP period. The applicable HAP period will begin on the first day of the Federal fiscal year succeeding the approval of the HAP by HUD. Where no 3-year HAP is available, the current annual goal (e.g., small cities, single purpose HAP) will be used.

§ 891.102 Definitions.

Act. The Housing and Community Development Act of 1974.

AHOP. See areawide housing opportunity plan.

(e) *Section 8 housing assistance payments program—special allocations.* (1) An application containing the ele-

Areawide housing opportunity plan (AHOP). A plan to implement activi-

capped, (2) family, and (3) large family.

Housing assistance plan (HAP). (a)

thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the

household type of more than 12 units, and (3) does not change the proposed location.

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AHOP. See areawide housing opportunity plan.

Allocation area. A municipality, county, or group of contiguous municipalities or counties or Indian areas identified by the field office or in an approved AHOP for the purpose of allocating housing assistance to support economically feasible housing projects.

Application for housing assistance. For the purpose of this part, the following definitions establish the documentation which constitutes an application for housing assistance within the meaning of section 213 of the Act.

(a) *Section 8 new construction and substantial rehabilitation.* A preliminary proposal containing the elements listed in § 880.205 of the regulations governing the section 8 housing assistance payments program—new construction (24 CFR Part 880) or the elements listed in § 881.205 of the regulations governing the section 8 housing assistance payments program—substantial rehabilitation (24 CFR Part 881).

(b) *Section 8 existing housing.* An application containing the elements listed in § 882.204 of the regulations governing the section 8 housing assistance payments program—existing housing (24 CFR Part 882) submitted by a public housing agency (PHA), including a State housing finance and development agency (HFDA). In cases where no PHA has been organized or where the PHA is unable or unwilling to implement the program, HUD's determination to administer a section 8 existing housing program shall be considered an application for purposes of this part.

(c) *Section 8 housing finance and development agencies—new construction and substantial rehabilitation projects from set-aside.* A housing finance and development agency's application for assignment of a portion of its set-aside to a specific project (form HUD 52516), if a specific site is designated. If the site is not designated, the new construction or substantial rehabilitation proposal designating the site that is submitted by the HFDA. See the regulations governing the section 8 housing assistance payments program—State housing finance and development agencies (24 CFR Part 883 Subparts A-D).

(d) *Section 8/Farmers Home Administration—new construction set-aside.* A proposal submitted by the Farmers Home Administration (FmHA), Department of Agriculture, pursuant to the regulations governing the section 8 housing assistance payments program, new construction set-aside for section 515 rural rental housing projects (24 CFR Part 883, Subparts G-H).

(e) *Section 8 housing assistance payments program—special allocations.* (1) An application containing the elements listed in § 886.105 of the regulations governing the section 8 housing assistance payments program—additional assistance program for projects with HUD-insured and HUD-held mortgages (24 CFR Part 886, Subpart A).

(2) A preliminary proposal containing the elements listed in § 886.207 of the regulations governing the section 8 housing assistance payments program—additional assistance program for the disposition of HUD-owned projects (24 CFR Part 886, Subpart B).

(3) The identification of projects meeting the eligibility criteria described in § 886.304 of the regulations governing the section 8 housing assistance payments program—section 8 existing housing assistance program for the disposition of HUD-owned projects (24 CFR Part 886, Subpart C).

(f) *Public housing (including Indian public housing).* If a specific site is designated, an application for a public housing program reservation, for the construction or acquisition of housing, submitted by a PHA (24 CFR Part 841) or Indian housing authority (24 CFR Part 805) or, if the site is not designated, either the preliminary site report submitted by the PHA or the development program identifying the proposed neighborhoods for property acquisition as specified in the applicable program regulations.

(g) *Section 235 mortgage insurance and assistance payments for homeownership and project rehabilitation.* A request for preliminary reservation of contract authority submitted by a builder or seller.

(h) *Section 236 mortgage insurance and interest reduction payments for rental projects.* The first application for project mortgage insurance either for site appraisal and market analysis (SAMA), conditional commitment, or firm commitment.

(i) *Section 101 rent supplement payments.* The first application for project mortgage insurance, either for SAMA, conditional commitment, or firm commitment which will utilize rent supplement payments.

(j) *Section 202 housing for the elderly and handicapped.* An application containing the elements listed in § 885.210 of the regulations governing loans for housing for the elderly or handicapped (24 CFR Part 885).

Approved areawide housing opportunity plan (approved AHOP). An areawide housing opportunity plan approved by HUD in accordance with subpart E to serve, to the extent practicable, as the basis for the distribution of all contract authority allocated by HUD within the plan area pursuant to subpart D.

Areawide housing opportunity plan (AHOP). A plan to implement activities developed by an APO and participating jurisdictions pursuant to subpart E, and approved by HUD, which specifically addresses areawide housing assistance needs and goals in accordance with program objective.

AHOP area. The entire jurisdiction of an APO which has prepared and received approval of an AHOP.

AHOP program objective (program objective). To encourage, facilitate, and provide a broader geographical choice of housing opportunities for lower-income households (with particular attention to families and large families) outside areas and jurisdictions containing undue concentrations of low income or minority households.

Areawide planning organization (APO). An organization authorized by law or local agreement to undertake planning under section 701 of the Housing Act of 1954 (40 U.S.C. 461) and/or OMB Circular A-95 either for a multi-county area (including county-municipality combinations) or for a single county whose boundaries are coterminous with a designated SMSA.

Budget authority. The amount authorized by Congress to obligate the Federal Government by contract under the various assisted housing programs, with the result that the budget authority limits the maximum amount payable over the maximum term of the contracts.

Chief executive officer of a unit of general local government (chief executive officer). The elected official or the legally designated official who has the primary legal responsibility for the conduct of a unit of general local government's affairs. Examples of the "Chief Executive Officer" of a unit of local government are the elected mayor of a municipality; the elected county executive of a county; the chairman of a county commission or board in a county that has no elected county executive; the official designated as the executive pursuant to law by the governing body of the unit of local government; and the chairman, governor, chief, or president of an Indian tribe or Alaskan native village.

Contract authority. The maximum amount authorized for annual payments under the assistance contracts.

Federal fiscal year (fiscal year). The official operating period of the Federal Government, beginning on October 1 and ending on September 30, as established by the Congress of the United States.

Field office manager. (a) Area office managers, and (b) those service office supervisors who have been delegated the responsibility of managers under the assisted housing programs.

Household type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family.

Housing assistance plan (HAP). (a) A local housing assistance plan approved by HUD meeting the requirements of § 570.306 of the community development block grant regulations (24 CFR Part 570).

(b) A local housing assistance plan approved by HUD meeting the requirements of § 570.306 submitted by a local government not participating in the block grant program.

Housing program. One or more of the assisted housing programs listed in § 891.101(a).

Housing type. The three housing types are new construction, rehabilitation, and existing housing.

HUD. The Department of Housing and Urban Development.

Loan authority. The loans authorized for payment for all eligible costs relating to planning and development of a public housing or section 202 project.

Metropolitan area. A standard metropolitan statistical area (SMSA) as established by the Department of Commerce.

New communities. HUD approved new community developments under title IV of the Housing and Urban Development Act of 1968 (42 U.S.C. 3901) or title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501).

Participating jurisdiction. A jurisdiction (including a county or other unit of local government) within an AHOP area, with which the APO (or a county, in accordance with § 891.504(a)) has reached agreement on numerical or percentage goals for the distribution of contract authority and on activities for the implementation of the AHOP.

Program objective. See areawide housing opportunity plan program objective.

Recipient jurisdiction. Any jurisdiction (whether or not it is a participating jurisdiction) recommended by the APO in accordance with § 891.605(h) and designated by the field office to receive contract authority made available by a special allocation pursuant to subpart F.

SMSA. See metropolitan area.

Special allocation. An allocation of contract and budget authority for housing assistance made available pursuant to subpart F.

Tenure type. The two tenure types are owners and renters.

Unit of general local government (local government). Any city, county, town, township, parish, village, or other general purpose political subdivision of a State, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; the Trust Territory of the Pacific Islands; Commonwealth of the Northern Marianas, and Indian tribes, bands, groups, and nations, including Alaska Indians, Aleuts, Eskimos and any Alaskan native village of the United States. Such terms also include a State or local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), a community association or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501) or title IV of the Housing and Urban Development Act of 1968 (942 U.S.C. 3901).

Subpart B—Applications for Housing Assistance in Areas With Housing Assistance Plans

§ 891.201 General.

This subpart establishes the policies and procedures governing reviews and determinations pursuant to section 213 (a) and (b) of the Act with respect to applications for housing assistance, under the programs identified in § 891.101(a), to be provided in areas for which a HAP is applicable. This subpart does not apply to the following applications for housing assistance, and the field office is not required to submit these applications for local government review and comment:

(a) Applications for assistance involving 12 or fewer units in a single project or development.

(b) Applications for assistance with respect to housing in new community developments which the Secretary determines is necessary to meet the housing requirements in the developments.

(c) Applications for assistance with respect to housing financed by loans or loan guarantees from a State or agency thereof (including loans which also have Federal mortgage insurance or co-insurance), unless the local government in which the assistance is to be provided objects in its HAP to the exemption. Where the local government does not object in its HAP to the exemption under this paragraph, the policies and procedures governing reviews, determinations and local government comments shall be in accordance with subpart C.

(d) Applications amending previously approved applications, which initially were submitted for local government review and comments, if the amended application (1) does not increase the number of units by more than 12, (2) does not cause a change in household type of more than 12 units, and (3) does not change the proposed location.

§ 891.202 Notification of local government.

(a) The field office shall notify the chief executive officer of the local government having a HAP, no later than 10 working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing), that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration. Simultaneous with the notification of the chief executive officer the field office shall also notify the A-95 clearinghouse and initiate the A-95 review process for determining consistency with state areawide and local comprehensive planning and other coordination matters.

(1) When the application is for housing assistance in an area which is covered by more than one HAP (e.g., a municipality which has a HAP located in a county which also has a HAP covering the municipality), the field office shall notify each chief executive officer.

(2) When the application is for housing assistance in several non-overlapping political jurisdictions (e.g., a scattered site project), the field office shall notify the chief executive officer of each local government having a HAP. If such application is also for housing assistance in a jurisdiction for which a HAP is not applicable, the notification shall also be in accordance with subpart C.

(3) For a section 8 existing housing application, submitted pursuant to 24 CFR part 882, the field office shall notify the chief executive officers of the localities identified in the application for existing housing as primary areas from which households to be assisted will be drawn.

(b) The notification to the chief executive officer shall:

(1) Indicate that the field office has received and is considering an application for housing assistance, identify the housing program, the housing type, the number of units by bedroom size and household type, and the proposed location(s).

(2) Indicate whether the number of units by housing type or household type exceeds the number of units in the 3-year HAP goals. In such instances, the notification letter shall indicate that the field office cannot consider the application for approval unless the requirements of § 891.206 are satisfied by the chief executive officer.

(3) Indicate that any objection to the approval of the application, based on inconsistency with the approved

HAP, must be received within 30 calendar days from the date of the field office letter.

sistent with the applicable HAP, the field office may be notified in writing of this determination by the chief executive officer on behalf of the local government and

ment, including comments submitted by the chief executive officer on

plications previously approved or to be approved simultaneously, exceeds the

exceed the 3-year HAP goals by more than 20 percent, must receive and ap-

overcrowding, housing vacancies, amount of substandard housing, or

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HAP, must be received within 30 calendar days from the date of the field office letter.

(4) Invite the submission of any other comments, which are relevant to a determination by the field office, concerning approval of the proposed housing assistance (e.g., comments on the site; whether the project is approvable under local codes and zoning ordinances).

(5) Indicate that any objections or comments should be sent by the chief executive officer to the appropriate A-95 clearinghouse simultaneously with, or prior to, the submission to the field office.

§ 891.204 Review and comment period.

(a) The chief executive officer shall have a 30 calendar day comment period, beginning on the date of the notification letter described in § 891.202, to submit a written objection to the field office's approval of the application on the ground that it is inconsistent with the local government's HAP, and the reasons for the objection. The field office manager shall consider the comment period closed for that local government when the written objection or other comments pursuant to this subpart are received. In no case shall the field office be obligated to consider subsequent or revised objections unless the initial response indicated that additional comments would be provided and such comments are received prior to the expiration of the 30-day comment period.

(b) Section 202, section 8 and public housing applications submitted in response to an invitation, notification of fund availability (NOFA) or notification of housing assistance availability (NOHAA) shall be reviewed for consistency with the HAP on which the invitation or notification was based. If a HAP was not in effect at the time that the invitation or notification was issued, the field office shall not be required to review the applications for consistency with any subsequently approved HAP. However, where a new or amended HAP is approved prior to approval the chief executive officer may indicate that special circumstances require its consideration in the review of application(s) received. These special circumstances shall be specified in the written local government determination, and the field office shall make an independent determination as to whether or not consideration of the new or amended HAP is in the best public interest.

§ 891.204 Local government response.

(a) *No objection.* If the local government determines that it does not want to object to the application on the ground that the application is inconsistent with the applicable HAP, the field office may be notified in writing of this determination by the chief executive officer at any time within the 30-day comment period.

(1) In addition, the chief executive officer may submit, on behalf of the local government, in writing and within the 30-day period, other comments on the application which are relevant to a determination by the Field Office concerning the proposed housing assistance.

(2) If an application for housing assistance exceeds the total number of units for the specified housing type or household type by no more than twenty percent and there is no objection to the approval of such application, the chief executive officer should submit, on behalf of the local government, the written statement required by § 891.206(a).

(b) *Objection.* The chief executive officer, on behalf of the local government, may submit within the 30-day comment period a written objection to the approval of an application for housing assistance on the ground that the application is inconsistent with the applicable HAP, and the reasons for the objection. The objections may be based on one or more of the following:

(1) The proposed number of dwelling units exceeds the 3-year HAP goal by housing type or by household type within either tenure type.

(2) The proposed location of newly constructed or substantially rehabilitated units is not within the general locations specified in the applicable HAP, and is objectionable to the local government for specified reasons.

(3) The proposed housing assistance is inconsistent with any other limiting factors set forth in the HAP.

(c) *No response.* The local government may choose not to comment with respect to an application for housing assistance.

§ 891.205 HUD review of applications for housing assistance.

(a) *Review period.* The field office shall review each application for housing assistance to determine if it is consistent or inconsistent with the applicable HAP for the area in which the proposed housing is to be located. The field office determination shall be completed within 30 calendar days after the close of the comment period specified in § 891.203(a) or within 30 calendar days after the receipt of the comments of the local government, whichever is earlier.

(b) *Review process.* 1The field office finding of consistency or inconsistency shall be based on the information provided in the HAP, the application for housing assistance, and an analysis of the comments of the local government, including comments submitted by the chief executive officer on behalf of the local government and the A-95 clearinghouse on planning consistency and coordination.

(1) HUD review when response indicates no objection. The field office may approve the application unless it makes an independent determination that it is inconsistent with the applicable HAP. The field office shall give consideration to other comments provided by the local government, if any, which are relevant to a determination concerning approval of the application for housing assistance.

(2) HUD review when objections are received. The field office shall concur in an objection by the local government unless it makes an independent determination of consistency, based on substantial evidence, that the application is consistent with the applicable HAP.

(3) HUD review when no response is received. The field office may approve the application unless it makes an independent determination that it is inconsistent with the applicable HAP.

(c) *Review factors.* The field office determination shall be based on the factors set forth in § 891.204(b) and any comments submitted by the chief executive officer on behalf of the local government. In addition, the determination shall be considered in accordance with the following requirements and procedures:

(1) The field office shall not approve an application which exceeds the total number of units by housing type or household type in the 3-year HAP goals by–20 percent or less unless the local government provides a written statement in accordance with § 891.206(a) except as provided in § 891.206(c). Accordingly, if no response has been received during the 3 day comment period and the field office has determined that the application is otherwise approvable, the chief executive officer shall be advised of this determination and shall also be advised that unless the required written statement is received within 10 calendar days, the application will not be approved.

(2) The field office shall not approve an application which exceeds the total number of units by housing type or by household type within either tenure type in the 3-year HAP goal by more than 20 percent unless the local government submits and the field office approves an amended HAP as required by § 891.206(b) except as provided in § 891.206(c).

(3) Although a specific application may be determined consistent on the basis of the review factors, the field office shall not approve the application: (i) If the application, taken into consideration together with other applications previously approved or to be approved simultaneously, exceeds the total number of units in the 3-year HAP goal for the number of units by housing type or by household type within either tenure type unless the local government has submitted a written statement or HAP amendment as required by § 891.206, or except as provided in § 891.206(c). (ii) If the application, together with previously approved applications, would make it unlikely that the housing assistance applications approved during the 3-year period would be proportionate to the 3-year HAP goal by household type. In making this determination, the field office shall give consideration to the anticipated allocation of housing assistance during the balance of the applicable 3-year HAP period.

(4) Notwithstanding the other provisions of this subpart, in the case of a local government required to emphasize a particular household type pursuant to § 570.306(c)(1)(B), the field office shall not approve an application which exceeds the HAP goals for other household types until that requirement is met.

§ 891.206 Variation from HAP goals.

The field office shall not approve an application for housing assistance which, together with previously approved applications, would exceed the total number of units in the applicable 3-year HAP goals by housing type or household type unless the following conditions are satisfied:

(a) *Applications which exceed the 3-year HAP goals by no more than 20 percent.* The field office, prior to approving an application which would exceed the 3-year HAP goals by no more than 20 percent, must receive a written statement from the chief executive officer, on behalf of the local government, indicating that: (1) There is a need for the housing assistance proposed, (2) there are or will be available in the area sufficient public facilities and services to serve the units proposed (this finding is not required with respect to an application for section 8 existing housing), and (3) there is no objection to the approval of such application for housing assistance. The field office manager shall not approve any such application unless approval is necessary: (i) To obtain a project of feasible size and type, (ii) to meet urgent unforeseen needs (e.g., displacement due to natural disasters), or (iii) to utilize residual contract authority after applications have been selected for funding, and unless approval will not create a disproportionate distribution by household type.

(b) *Applications which exceed the 3-year HAP goals by more than 20 percent.* The field office manager, prior to approving an application which would exceed the 3-year HAP goals by more than 20 percent, must receive and approve a HAP amendment submitted in accordance with § 570.312(b).

(c) *Applications under 24 CFR Part 886.* Applications for section 8 assistance pursuant to 24 CFR, Subparts A, B, and C, may be approved without regard to variations from 3-year HAP goals. However, all other requirements and restrictions in the HAP shall apply (e.g., general location).

§ 891.207 Notifications of HUD determination.

The field office shall notify the chief executive officer and the applicant in writing of the finding made with respect to the consistency or inconsistency of the application with the HAP. The notification shall be made within 30 calendar days after the close of the comment period indicating the reasons for the determination and, as appropriate, state that the field office will, or will not, continue to process the application for housing assistance. In the event an objection is received during the comment period, this notification shall be made within 30 calendar days of receipt of the objection.

Subpart C—Applications for Housing Assistance in Areas Without Housing Assistance Plans

§ 891.301 General.

This subpart establishes the policies and procedures governing reviews and determinations, pursuant to section 213(c) of the Act, with respect to applications for housing assistance, under the programs identified in § 891.101(a), to be provided in areas for which a HAP is not applicable and to HFDA applications where the local government does not object in its HAP to exemption for these applications (see § 891.201(c)).

§ 891.302 Finding of need for housing assistance.

With respect to each application for housing assistance to be provided in an area which does not have a HAP, the field office is required to make a determination as to whether there is a need for such housing and whether there is or will be available in the area public facilities and services adequate to serve the proposed housing.

(a) The initial determination of need for housing assistance within an allocation area is made as part of the allocation process pursuant to § 891.404. In making this determination, the field office shall give consideration to the contents of any applicable State housing plan or AHOP proposing housing assistance in the area as well as generally available data with respect to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to lower income housing needs.

(b) Prior to making a determination with regard to a specific application, the field office shall give the local government in which the proposed assistance is to be provided an opportunity to provide comments, during a 30 calendar day period, concerning the need for housing assistance and the adequacy of public facilities and services. If the local government finding is negative, it must be accompanied by supporting evidence.

§ 891.303 Notification of local government.

(a) The field office shall notify the chief executive officer no later than 10 working days after receipt (or completion of any preliminary review and determination that the application is acceptable for further processing) that an application for housing assistance to be provided in that jurisdiction has been received and is under consideration. Simultaneous with the notification to the chief executive officer, the field office shall notify the A-95 clearinghouse and initiate the A-95 review process for determining consistency with State, areawide, and local comprehensive planning and other coordination matters.

(1) When the application is for housing assistance in newly constructed or rehabilitated housing within the overlapping jurisdictions of more than one local government (e.g., a municipality which is also within a county), the field office shall notify the chief executive officer of each local government.

(2) When the application is for housing assistance in newly constructed or rehabilitated housing within several nonoverlapping political jurisdictions (e.g., a scattered site project), the field office shall notify the chief executive officer of each local government where housing assistance is proposed. If such application is also for housing assistance in a jurisdiction for which a HAP is applicable, notification shall also be given in accordance with subpart B.

(3) For section 8 existing housing applications, submitted pursuant to 24 CFR Part 882, Subparts A and B, the field office shall notify the chief executive officers of the localities identified in the application for existing housing as primary areas from which households to be assisted will be drawn.

(b) The notification to the chief executive officer shall:

(1) Indicate that the field office has received and is considering an application for housing assistance, identify

the housing program, the housing type, the number of units by bedroom size and household type, and the pro-

Subpart D—Allocation of Contract and Budget Authority for Housing

tary for Housing shall consider contract and budget authority to be reserved for the purpose of this subpart

the allocations from the Assistant Secretary for Housing.

tions in an AHOP, shall be established as separate allocation areas if the amount of contract authority would

type within the 3-year goals. The determination, however, of the number of units for a specific allocation area

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the housing program, the housing type, the number of units by bedroom size and household type, and the proposed location(s).

(2) Invite the submission, within a period of 30 calendar days from the date of the field office letter, of a statement on behalf of the local government concerning the need for housing assistance and the adequacy of public facilities and services and any other comments which are relevant to a determination by the field office concerning the proposed housing assistance (e.g., comments on the site; whether the project is approvable under local codes and zoning ordinances).

(3) Request that any comments be sent by the chief executive officer to the appropriate A-95 clearinghouse simultaneously with, or prior to, the submission to the field office.

§ 891.304 Review and comment period.

The chief executive officer shall have a 30 calendar day comment period, beginning on the date of the notification letter described in § 891.303, to submit written comments relevant to a determination by the field office concerning the approval of an application for housing assistance. The field office shall consider the comment period closed when the written comments are received. In no case shall the field office manager be obligated to consider subsequent or revised comments unless the initial response indicated that additional comments would be provided and comments are received prior to the expiration of the 30-day comment period.

§ 891.305 HUD review of applications for housing assistance.

(a) The field office shall not approve an application for housing assistance prior to either: (1) Receipt of comments pursuant to § 891.304, or (2) expiration of the 30-day comment period, whichever occurs earlier.

(b) In determining whether an application will be approved, the field office shall consider the comments provided by the local government including comments submitted by the chief executive officer on behalf of the local government and the A-95 clearinghouse on planning consistency and coordination. The field office shall make an independent determination as to whether there is a need for housing assistance and whether the facilities and services are adequate before approving the application.

(c) The field office shall promptly notify both the chief executive officer, the applicant of the HUD determination with respect to the approval or disapproval of the application for housing assistance.

Subpart D—Allocation of Contract and Budget Authority for Housing Assistance

§ 891.401 General.

This subpart establishes the policies and procedures governing the allocation of contract authority, pursuant to section 213(d) of the Act, for housing assistance under the programs identified in § 891.101(a). It describes, in sequence, the actions to be taken in allocating contract authority by the Assistant Secretary for Housing to the regional administrators or directly to the field office managers, by the regional administrators to the field office managers, and by the field office managers to allocation areas within their jurisdiction. The references to allocations of contract authority in this subpart are also applicable to loan authority for the section 202 program.

§ 891.402 Determinations of lower-income housing needs.

(a) Prior to allocating contract and budget authority for the housing assistance programs identified in § 891.101(a), the Assistant Secretary for Policy Development and Research shall determine the relative need by program type for lower-income housing assistance in each HUD field office jurisdiction. The determination of housing needs shall be based, so far as practicable, on the most recent national census data available relating to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, or other objectively measurable conditions pertaining to lower-income housing needs. The actual statistical data elements used in determining housing needs for a specific housing program may be modified to meet the objectives of that program by taking into consideration the age, income, or other relevant characteristics of the prospective program participants.

(b) The Assistant Secretary for Policy, Development, and Research on the basis of paragraph (a) of this section shall develop a separate housing needs percentage for each field office jurisdiction. This housing needs percentage shall be adjusted to reflect the relative cost of providing housing among field office jurisdictions.

§ 891.403 Allocation to HUD offices.

(a) The Assistant Secretary for Housing shall determine the amount of contract and budget authority to be allocated by considering as available any unreserved contract and budget authority from prior fiscal years, as well as any newly appropriated contract and budget authority, for each housing program. The Assistant Secretary for Housing shall consider contract and budget authority to be reserved for the purpose of this subpart when the field office manager has reserved the authority under the appropriate program regulations. Contract authority assigned by the Assistant Secretary for Housing from the reserve under paragraph (b) of this section for a particular purpose (e.g., AHOP's) but not reserved as of the end of the fiscal year may be reassigned to field offices without regard to the fair share formula.

(b) A portion of the contract and related budget authority available during any fiscal year for the housing programs listed in § 891.101(a), not to exceed 20 percent of the available contract authority on an aggregate basis, may be retained by the Assistant Secretary for Housing for subequent allocations to specific areas and communities. Such contract authority and the applicable budget authority may be used for:

(1) Housing needs which were unforeseeable or could not practicably be measured by the formula described in § 891.402, such as natural disaster and relocation needs.

(2) Activities designed to meet lower-income housing needs as described in HAP's submitted by local governments or combinations of such units of local government, including but not limited to, activities carried out under AHOP's pursuant to subparts E and F.

(3) Applications for assistance with respect to housing in new communities.

(4) Alternative methods for meeting lower-income housing needs or implementing innovative housing programs.

(5) Housing needs of community development block grant recipients whose application approval has been conditioned or otherwise sanctioned on improved HAP performance.

(c) Contract authority, excluding that set-aside pursuant to § 891.403(b), shall be allocated, so far as practicable, for each housing program in accordance with § 891.402. Of these amounts at least 20 percent, but not more than 25 percent, shall be allocated on a nationwide basis for use in nonmetropolitan areas. However, the allocation of the field office will be based upon the proportion of nonmetropolitan housing needs within the field office jurisdiction, rather than the nationwide ratio.

(d) The Assistant Secretary for Housing may allocate contract authority to the regional administrators, or directly to the field managers. If the contract authority is allocated to the regional administrator, the regional administrator shall suballocate all the authority to the field office managers within 15 working days from receipt of the allocations from the Assistant Secretary for Housing.

(e) The total amount of contract authority to be suballocated to each field office manager shall reflect: (1) The housing needs percentages developed in accordance with § 891.402, (2) the amount of budget authority required for each housing program, and (3) the proportions by housing type reflected in the annual housing action program.

§ 891.404 Allocation to areas and localities.

(a) In establishing the amount of contract authority to be allocated to allocation areas within their jurisdiction the Field Office shall:

(1) Develop for each county, a separate housing needs percentage based on the criteria set forth in § 891.402.

(2) Multiply the amount of contract authority allocated to the field office for a specific housing program by the housing needs percentage developed pursuant to paragraph (a)(1), of this section. In the case of a county in a SMSA, the percentage shall be applied to the contract authority allocated for use in metropolitan areas, and for a county not in an SMSA, the percentage shall be applied to the contract authority allocated for use in nonmetropolitan areas. The field office may, for the section 8 and public housing programs (excluding Indian public housing), apply the housing needs percentage to the combined contract authority (metropolitan or nonmetropolitan, whichever is applicable) for both housing programs. In such instances, the ultimate use of contract authority for either section 8 or public housing in each county shall be determined by the field office on the basis of HAP's, community needs and housing strategy, and other relevant considerations.

(3) Establish regional or other allocation areas, such as SMSA's or groups of rural counties, broad enough to support economically feasible housing programs. Allocation area boundaries shall be identical for all housing programs except that where "fair share" of section 202 loan authority to an allocation area is insufficient for a feasible project size, two or more entire allocation areas may be combined into a separate section 202 allocation area for the sole purpose of advertising for applications for section 202 fund reservations. In establishing allocation areas, consideration should be given to State, county and other planning district boundaries, topographical barriers, and established community patterns as well as housing plans developed by an HFDA, and approved AHOP's developed by an APO. Each approved AHOP area shall be established as a separate allocation area. In addition, SMSA central cities, except those which are participating jurisdictions in an AHOP, shall be established as separate allocation areas if the amount of contract authority would be sufficient to achieve feasible projects and meet housing type and household type goals over a 3-year period. The field office may also establish any formula entitlement block grant recipient, including an urban county, as a separate allocation area where the above feasiblity test can be met.

(4) Adjust if necessary the housing needs percentage developed for each county within the allocation area to reflect housing needs and goals set forth in HAP's, and State housing plans. The housing needs percentage shall be adjusted by not more than 15 percent. However, in areas with an approved AHOP, the AHOP shall serve as the basis for the distribution of all contract authority allocated within the AHOP area, and the 15 percent limitation shall not apply.

(b) After the effective date of this subpart, priority shall be given to the extent practicable to targeting, within allocation areas, the allocation of contract authority to localities which have previously been underfunded relative to their needs and the funding of the needs of other localities in that allocation area.

(c)(1) When the amount of contract authority for each allocation area has been established, the field office shall develop a matrix indicating a distribution of units by housing type and household type within tenure type. This allocation plan shall be prepared for each allocation area using housing assistance plans, approved areawide housing opportunity plans, and data developed in the field for units of general local government not having a housing opportunity plan. For those central cities and other entitlement recipients which are established as separate allocation areas under paragraph (a)(4) of this section, the field office shall consult with the chief executive officer or his representative in the preparation of the allocation plan. To the maximum extent practicable, the number of units in the allocation plan shall be proportionate by housing type and household type within each tenure type to the 3-year goals in the annual housing action program identified in HAP's and goals in AHOP's prepared pursuant to subpart E and approved by HUD. For those allocation areas with an approved AHOP under the provisions of subpart E, the approved AHOP shall serve, to the extent practicable, as the basis for allocation of contract authority by housing type and household type.

(2) In some allocation areas, project feasibility and the amount of the allocation may limit the utilization of the annual allocation to only one housing type within the 3-year goals. The determination, however, of the number of units for a specific allocation area must take into consideration the proportion of units previously approved by household type. If as a result of this consideration, the field office finds that the proposed allocation would make it unlikely that the housing assistance provided in the 3-year period would be proportionate to the 3-year HAP goal, contract authority shall be made available in such allocation areas only for those household types that have been underserved during the applicable period. Consideration must also be given to the amount of budget authority available to ensure the feasibility of approving applications for housing assistance.

(d) Where contract authority allocated to an allocation area pursuant to paragraph (a) of this section is not adequate for a feasible project, the field office may either: (1) Divert the contract authority from such allocation area and use it in another, (2) allocate additional contract authority from another allocation area so sufficient authority is available for a feasible project or (3) combine allocation areas. Future allocations shall be adjusted to reflect these actions.

(e) The Assistant Secretary for Housing may direct that contract authority be set aside for use by an HFDA or in conjunction with the FmHA program. In such instances, the field office shall meet with the officials from HFDA or FmHA to reach agreement on their participation in the allocation plan which has been developed in compliance with paragraphs (a) and (d) of this section. The field office shall assure that the total contract authority planned for an allocation area by the HFDA, FmHA, and HUD will provide for units by housing type and household type as reflected in applicable HAP's or AHOP's and be consistent with allocation plans. If agreement cannot be reached, the field office manager shall notify the Regional Administrator, who shall resolve the differences in a manner consistent with the requirements of this paragraph. The Regional Administrator shall coordinate the use of any HFDA or FmHA set-aside when more than one field office jurisdiction is involved.

(f) The field office manager shall determine the number of units by housing program, housing type and household type for which HUD will invite applications, after considering to what extent the goals for an allocation area will be met by the HFDA or FmHA.

(g) The field office managers shall complete the actions set forth in paragraphs (a) through (f) of this section within 30 days from receipt of their suballocations.

(h) The field office manager shall make public as soon as possible:

ing changes in housing type) for those household types that have been un-

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(h) The field office manager shall make public as soon as possible:

(1) The total contract authority allocated to the field office for SMSA's and non-SMSA's for each housing program;

(2) The initial distribution of authority to each allocation area;

(3) The approximate number of newly constructed, rehabilitated and existing units such authority could support;

(4) The amount of any HFDA or FmHA set-aside; and

(5) A tentative schedule for inviting the submission of applications in each allocation area.

(i) If application for housing assistance are not received in proportion to the housing types identified in the field office allocation plan, the field office shall make every effort to encourage the submission of applications for those housing types that have not been used. If applications for existing units would not use the contract authority designated for the existing housing program, such contract authority shall be used for inviting new construction or substantial rehabilitation applications within the same allocation area to meet underserved household type goals. If applications for new construction or substantial rehabilitation would not use the available contract authority, such contract authority shall be moved between those two housing types and, if sufficient applications are still not forthcoming, shall be reallocated to another allocation area pursuant to § 891.405.

(j) If applications for housing assistance are not received in proportion to household types identified in the field office allocation plan, the field office shall make every effort to encourage the submission of applications (including changes in housing type) for those household types that have been underserved. If approvable applications are still not forthcoming, housing assistance may be provided to localities within the allocation area that have already met their goals in a proportionate manner. Any contract authority remaining after pursuing these alternatives shall be reallocated to another allocation area pursuant to § 891.405. Reallocations shall be consistent with the objectives of this § 891.404.

§ 891.405 Reallocation of uncommitted contract authority.

(a) If the field office manager determines that the allocation of contract or budget authority for a particular allocation area is not likely to be used during the fiscal year, the authority may be reallocated in the same fiscal year to another area where it is likely to be used.

(b) If the Regional Administrator or Assistant Secretary for Housing determines that the allocation of contract or budget authority suballocated to a field office is not likely to be used during the fiscal year, the authority may be reallocated in the same fiscal year to another field office where it is likely to be used.

(c) Only the Assistant Secretary for Housing may reallocate contract authority among Regional Administrators.

(d) In addition to meeting the requirements of § 891.403(c) any reallocations made pursuant to this paragraph must be consistent with the allocation of contract authority for a specific housing program, any established set-asides and HAP requirements and conditions as well as any additional requirements established by the Assistant Secretary for Housing.

[FR Doc. 78-30628 Filed 10-27-78; 8:45 am]

federal register

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PART VI

ADVISORY COUNCIL ON HISTORIC PRESERVATION

PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

[4310-10-M]

Title 36—Parks, Forests, and Public

ry Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

section 800.6 and that in those instances where a State Historic Preservation Officer fails to sign a Memoran-

gate adverse effects. Comments are particularly requested on this subsection.

ments for informational purposes only and will not be codified in the *Code of Federal Regulations*. Changes or additions to this section will be published

SUPPLEMENTARY GUIDELINES

I. Criteria for the National Register of Historic Places.
II. Documentation for determination of no

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[4310-10-M]

Title 36—Parks, Forests, and Public Property

CHAPTER VIII—ADVISORY COUNCIL ON HISTORIC PRESERVATION

PART 800—PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Amendments to existing regulations

AGENCY: Advisory Council on Historic Preservation.

ACTION: Amendments to regulations and supplementary information.

SUMMARY: The Advisory Council on Historic Preservation is amending its current regulations to reflect changes and additions to its authorities and its experience in working with these regulations since 1974. These regulations implement the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment" (36 FR 8921, 16 U.S.C. 470), and the President's Memorandum on Environmental Quality and Water Resources Management, July 12, 1978.

The 1976 amendments (Pub. L. 94-422) to the National Preservation Historic Act established the Council as an independent agency of the United States; extended the Council's protective responsibilities under Section 106 of the Act to properties "eligible for inclusion" in the National Register of Historic Places; enlarged membership on the Council to include the Secretary of State; the Secretary of Defense; the Secretary of Health, Education, and Welfare; the President of the National Conference of State Historic Preservation Officers; the Chairman of the Federal Council on the Arts and Humanities; the Chairman of the Council on Environmental Quality; and the Architect of the Capitol; and gave the Council rulemaking authority.

These regulations set forth certain steps for Federal agencies to follow to fulfill their responsibilities under Section 106 of the National Historic Preservation Act, Sections 1(3) and 2(b) of Executive Order 11593, and the President's Memorandum on Environmental Quality. The regulations are also intended as a guide for the development of agencies' internal procedures that, under Section 1(3) of Executive Order 11593, are required to be developed in consultation with the Council.

DATE: Comments must be received on or before November 29, 1978.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

John Fowler, Director, Office of Intergovernmental Programs and Planning, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, D.C. 20005, 202-254-3495.

SUPPLEMENTARY INFORMATION: The Council is publishing these proposed amendments to its regulations for public review and comment. The amendments refine and clarify the way Federal agencies can get the Council's comments on proposed Federal, federally assisted and licensed undertakings that affect historic properties which the Secretary of the Interior lists in or determines to be eligible for listing in the National Register of Historic Places. These amendments reflect the methods to simplify the Council's commenting process that have been developed in the last 4 years.

While the major procedural steps in the Council's process are basically the same, there are several substantive amendments that will make the process for getting the Council's comments easier and faster. In addition, the existing regulations have been reorganized. Sections 800.4-7 deal with "Site-Specific Undertakings" and § 800.8-9 deal with "Non Site-Specific Undertakings." Other major changes are:

1. Section 800.4(a), *Identification of Historic and Cultural Properties.* This section has been reorganized to clarify existing provisions related to agency responsibilities for identifying and evaluating historic and cultural properties that may be affected by a Federal, federally assisted or licensed undertaking.

2. Section 800.4(b), *Determinations of No Effect.* This section has been modified to stipulate the manner in which the Council may question an agency's finding that an undertaking will not affect any historic or cultural properties. Previously, this provision was contained in section 800.7.

3. Section 800.5, *State Historic Preservation Officer Responsibilities.* This section is new. It provides that State Historic Preservation Officers should respond within 15 working days to requests for opinions concerning the significance of identified properties and the effect of a proposed action on such properties. If the State Historic Preservation Officer does not respond within 30 working days, concurrence with the agency's views will be presumed. In addition, this Section provides that the State Historic Preservation Officer will normally be a part of the consultation process described in section 800.6 and that in those instances where a State Historic Preservation Officer fails to sign a Memorandum of Agreement detailing measures to avoid or mitigate adverse effects on National Register or eligible properties, the Council and the agency will not be precluded from concluding such an Agreement. We believe that this section will expedite the commenting process by setting definite time limits for important parts of the process and by reducing the possibility for any continuing uncertainty about the views of a State Historic Preservation Officer.

4. Section 800.6(a), *Response to Determinations of No Adverse Effect.* The time period for Council review of agency determinations that an undertaking will not adversely affect a National Register or eligible property has been reduced. The Executive Director would have 30 days to object after receipt of an adequately documentated determination. Current regulations allow for a 45-day review period.

5. Section 800.6(a)(2) is new. This provision allows the Executive Director to condition acceptance of a no adverse effect determination. If the agency accepts the conditions, the Executive Director will not object to the determination. The Council believes that this provision will simplify and significantly speed up the process of getting the Council's comments.

6. Section 800.6(d), *Memorandum of Agreement.* This provision allows the Agency Official to prepare a proposal specifying the measures to avoid or mitigate adverse impacts that were agreed upon by the agency, the State Historic Preservation Officer, and the Council in a consultation. The proposal, with the written concurrence of the State Historic Preservation Officer, would be sent to the Executive Director for inclusion in a Memorandum of Agreement that would then be sent directly to the Chairman for approval. The current regulations require the Executive Director to prepare a Memorandum of Agreement, to circulate it to the agency and the State Historic Preservation Officer for signature, and then send it to the Chairman. This revision will speed up the Council's commenting process.

7. Section 800.6(e), *Council Meetings.* Subsection (e)(2) is new and would allow the Chairman to appoint a panel of 5 Council members to consider an undertaking instead of having the full Council meet to consider it. A panel meeting will generally be held within 30 days of its appointment by the Chairman. This provision will allow the Council membership to respond more quickly when the agency, the State Historic Preservation Officer, and the Executive Director fail to agree on alternatives to avoid or mitigate adverse effects. Comments are particularly requested on this subsection.

8. Section 800.7, *Resources Discovered During Construction.* This is a new section. It sets up an expedited process for obtaining the Council's comments when a previously unidentified historic or cultural property is discovered after construction has actually started. This section deals with a problem that was not previously considered in the regulations and it will greatly expedite the compliance process in such instances. Comments are particularly invited on this Section.

9. Sections 800.8 and 800.9 are new and concern non-site-specific undertakings. These Sections allow the Council to execute Programmatic Memoranda of Agreement with agencies when there is a class, a program, or a series of undertakings which would otherwise require the Council to review many similar individual actions. In instances where a Programmatic Memorandum of Agreement can be reached, there will be a substantial reduction in paper work and processing time for the Council, other Federal agencies, and State Historic Preservation Officers.

10. Section 800.10, *Coordination with the National Environmental Policy Act.* This section specifies how agencies should coordinate their separate responsibilities under the National Historic Preservation Act and the National Environmental Policy Act. The Section describes how the Council's comments should be included in draft and final environmental impact statements. Currently, a discussion of these responsibilities is contained in section 800.2 of the existing regulations.

11. Sections 800.11 and 800.12 concern the responsibility of Federal agencies to develop procedures to protect historic and cultural resources under the authorities of Executive Order 11593 and the Presidential Memorandum on Environmental Quality.

12. Section 800.14, *Investigation of Threats to Historic Properties.* This section is new. It provides that the Executive Director may investigate threats to historic properties resulting from an undertaking that may have a Federal involvement but for which the Council has not been provided an opportunity to comment.

13. The Supplementary Guidelines published with these proposed amendments are designed to help Federal agencies and State Historic Preservation Officers in meeting their responsibilities under the regulations. The various guidelines set forth decisions of the Executive Director and may be modified from time to time. They are published with the proposed amendments for informational purposes only and will not be codified in the *Code of Federal Regulations.* Changes or additions to this section will be published in the FEDERAL REGISTER. The Council welcomes comments on all of its Supplementary Guidelines. The National Register Criteria (Supplementary Guideline I) were codified by the Secretary of the Interior in 36 CFR Part 60 and are only included for informational purposes.

The Council has determined that an economic impact statement pursuant to Executive Orders 11821 and 11949 is not required since these are amendments to existing regulations and do not constitute a major regulatory proposal.

The Council has determined that these amendments are not significant regulations within the meaning of Executive Order 12044 and consequently do not require a regulatory analysis. The purpose of these amendments is to simplify existing procedures and to clarify language in conformance with the goals enunciated by Executive Order 12044.

The Council has determined that an Environmental Impact Statement under the National Environmental Policy Act is not required.

ROBERT R. GARVEY, JR.,
Executive Director.

OCTOBER 25, 1978.

36 CFR is amended by revising Part 800 to read as follows:

PART 800—PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Sec.

800.1 Purpose and authorities.
800.2 Definitions.
800.3 Criteria of effect and adverse effect.

SITE-SPECIFIC UNDERTAKINGS

800.4 Federal agency responsibilities.
800.5 State historic preservation officer responsibilities.
800.6 Council comments.
800.7 Resources discovered during construction.

NON-SITE-SPECIFIC UNDERTAKINGS

800.8 Application.
800.9 Council comments.

FEDERAL PROGRAM COORDINATION

800.10 Coordination with the National Environmental Policy Act (42 U.S.C. 4321 et seq.).
800.11 Coordination with section 1(3) of Executive Order 11593.
800.12 Coordination with the Presidential Memorandum on Environmental Quality and Water Resources Management.

OTHER PROVISIONS

800.13 Other powers of the Council.
800.14 Investigation of threats to historic properties.
800.15 Reports to the Council.

SUPPLEMENTARY GUIDELINES

I. Criteria for the National Register of Historic Places.
II. Documentation for determination of no adverse effect.
III. Determinations of adverse effect and no adverse effect for archeological resources.
IV. Preliminary case reports.

AUTHORITY: Pub. L. 89-665, 80 Stat. 915 (16 U.S.C. 470); Pub. L. 94-422, 90 Stat. 1320 (16 U.S.C. 470l); E.O. 11593, 3 CFR 1971 Comp., p. 154; Presidential Memorandum on Environmental Quality and Water Resources.

§ 800.1 Purpose and authorities.

(a) The National Historic Preservation Act of 1966, as amended, established the Advisory Council on Historic Preservation as an independent agency of the United States to advise the President and the Congress on matters involving historic preservation, to coordinate Federal historic preservation activities, and to protect designated historic properties threatened by Federal action. Its members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Commerce, the Administrator of General Services, the Secretary of the Treasury, the Attorney General, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of State, the Secretary of Defense, the Secretary of Health, Education, and Welfare, the Chairman of the Council on Environmental Quality, the Chairman of the Federal Council on the Arts and Humanities, the Architect of the Capitol, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, and 12 citizen members appointed for 5-year terms by the President on the basis of their interest and experience in the matters to be considered by the Council.

(b) The Council protects properties of historical, architectural, archeological, and cultural significance at the national, State, and local levels by reviewing and commenting on Federal, federally assisted, and federally licensed undertakings affecting properties included in or determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places in accordance with the following authorities:

(1) *Section 106 of the National Historic Preservation Act.* Section 106 requires that Federal, federally assisted, and federally licensed undertakings affecting properties included in or eligible for inclusion in the National Register of Historic Places be submitted by a Federal agency to the Council for review and comment prior to the agency's approval of any such undertaking.

(2) *Section 1(3) of Executive Order 11593, May 13, 1971, "Protection and*

(1) Recommendations or favorable reports relating to legislation, including requests for appropriations. The

(i) "Agency Official" means the head of the Federal agency having responsibility for the undertaking, or a desig-

(3) Introduction of visual, audible, or atomspheric elements that are out of character with the property or alter-

tified, and evaluated, the agency official shall follow the provisions of 36 CFR 63 to determine if any, in fact,

(2) Submit a preliminary case report,
(3) Notify the State historic preservation officer of this request, and

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(2) *Section 1(3) of Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment."* Section 1(3) requires that Federal agencies, in consultation with the Council, establish procedures for their plans and programs to further the preservation and enhancement of nonfederally owned historic and cultural properties.

(3) *Section 2(b) of Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment."* Federal agencies are required by section 2(a) of the Executive order to locate, inventory, and nominate properties under their jurisdiction or control to the National Register. Until such processes are complete, Federal agencies must submit proposals for the transfer, sale, demolition, or substantial alteration of federally owned properties eligible for inclusion in the National Register to the Council for review and comment. Federal agencies must continue to comply with section 2(b) review requirements, even after the initial inventory is complete, when they obtain jurisdiction or control over additional properties that may be eligible for inclusion in the National Register.

(4) *The President's memorandum on environmental quality and water resources management.* The Memorandum directs the Council to issue final regulations under the National Historic Preservation Act by March 1, 1979, and further directs Federal agencies with water resource responsibilities and programs to publish procedures implementing the Act not later than 3 months after promulgation of final regulations by the Council. Federal agencies procedures are to be reviewed and, if they are consistent with the Council's regulations, approved by the Council within 60 days and published in final form.

§ 800.2. Definitions.

As used in these regulations:

(a) "National Historic Preservation Act" means Pub. L. 89-665, approved October 15, 1966, an "Act to establish a program for the preservation of additional historic properties throughout the Nation and for other purposes" (80 Stat. 915, 16 U.S.C. 470; as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976)), hereinafter referred to as "the Act."

(b) "Executive Order" means Executive Order 11593, May 13, 1971, "Protection and Enhancement of the Cultural Environment" (36 FR 8921, 16 U.S.C. 470).

(c) "Undertaking" means any Federal action, activity, or program, or the approval, sanction, assistance, or support of any other action, activity or program, including but not limited to:

(1) Recommendations or favorable reports relating to legislation, including requests for appropriations. The requirement for following these procedures applies to both agency recommendations on their own proposals for legislation and agency reports on legislation initiated elsewhere. In the latter case, only the agency that has primary responsibility for the subject matter involved will comply with these procedures.

(2) New and continuing projects and program activities (or elements of such activities not previously considered under these regulations) directly undertaken by Federal agencies; or supported in whole or in part through Federal contracts, grants, subsidies, loans, loan guarantees, or other forms of funding assistance; or involving a Federal lease, permit, license, certificate, approval, letter of permission, or other form of entitlement; or approval of State plans pursuant to Federal legislation.

(3) The making, modification, or establishment of regulations, rules, procedures, planning guidelines, and program policy guidelines.

(d) "National Register" means the National Register of Historic Places. It is a register of districts, sites, buildings, structures, and objects of national, State, or local significance in American history, architecture, archeology, and culture that is expanded and maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and section 101(a)(1) of the National Historic Preservation Act. The National Register is published in its entirety in the FEDERAL REGISTER each year in February. Addenda are usually published on the first Tuesday of each month.

(e) "National Register property" means a district, site, building, structure, or object included in the National Register.

(f) "Eligible property" means any district, site, building, structure, or object which the Secretary of the Interior determines is likely to meet the National Register criteria (36 CFR 63). As these determinations are made, a listing is published in the FEDERAL REGISTER as a supplement to the National Register.

(g) "National Register Criteria" means the criteria established by the Secretary of the Interior to evaluate properties to determine whether they are eligible for inclusion in the National Register (36 CFR Part 60).

(h) "Decision" means the exercise of or the opportunity to exercise discretionary authority by a Federal agency at any stage of an undertaking where alterations might be made in the undertaking to modify its impact upon historic and cultural properties.

(i) "Agency Official" means the head of the Federal agency having responsibility for the undertaking, or a designee legally authorized to act for the Agency Official.

(j) "Council" means the Advisory Council on Historic Preservation as established by title II of the Act.

(k) "Chairman" means the Chairman of the Advisory Council on Historic Preservation or a member designated to act in his place.

(l) "Executive Director" means the Executive Director of the Advisory Council on Historic Preservation as established by section 205 of the Act, or a designee legally authorized to act for the Executive Director.

(m) "State Historic Preservation Officer" means the official or his designated representative who is responsible for administering the Act within their jurisdictions. These officers are appointed pursuant to 36 CFR 60.5 by the Governors of the 50 States, Guam, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Mayor of the District of Columbia.

(n) "Secretary" means the Secretary of the Interior, or his designee authorized to carry out the responsibilities of the Secretary of the Interior under the Act or Executive Order 11593.

(o) "Area of the undertaking's potential environmental impact" means that area within which direct, indirect, and secondary impacts on historic and cultural properties could reasonably be expected to occur.

§ 800.3 Criteria of effect and adverse effect.

The following criteria shall be used to determine whether an undertaking has an effect or an adverse effect in accordance with these regulations. The Executive Director may issue further guidance to interpret and apply these criteria.

(a) *Criteria of effect.* A Federal, federally assisted, or federally licensed undertaking shall be considered to have an effect on a National Register or eligible property (districts, sites, buildings, structures, and objects) whenever any condition of the undertaking causes or may cause any change, beneficial or adverse, in the quality of the historical, architectural, archeological, or cultural characteristics that qualify the property for inclusion in the National Register or its setting.

(b) *Criteria of adverse effect.* Generally, adverse effects occur under conditions which include but are not limited to:

(1) Destruction or alteration of all or part of a property;

(2) Isolation from or alteration of its surrounding environment;

(3) Introduction of visual, audible, or atomspheric elements that are out of character with the property or alter its setting;

(4) Transfer or sale of a federally owned property without adequate conditions or rectrictions regarding preservation, maintenance, or use; and

(5) Neglect of a property resulting in its deterioration or destruction.

SITE-SPECIFIC UNDERTAKINGS

§ 800.4 Federal agency responsibilities.

As early as possible before an agency makes a final decision concerning an undertaking and in any event prior to taking any action that would foreclose alternatives or the Council's ability to comment, the agency official shall take the following sequential steps to comply with the requirements of section 106 of the National Historic Preservation Act and section 2(b) of Executive Order 11593.

(a) *Identification of historic and cultural properties.* At the earliest stage of planning or consideration of an undertaking, including comprehensive or areawide planning in which a site-specific undertaking may be proposed, the agency official shall identify or cause to be identified properties located within the area of the undertaking's potential environmental impact that are included in, have been determined eligible for inclusion in, or may be eligible for inclusion in the National Register.

(1) The Agency Offical should consult the National Register, including monthly supplements, to identify properties already included in or determined by the Secretary to be eligible for inclusion in the National Register.

(2) The Agency Offical shall consult with the appropriate State historic preservation officer and the Secretary to determine what actions are necessary to identify properties that may be eligible for inclusion in the National Register. A professional survey of the environmental impact area or parts of the area may be required if the area has not previously been adequately surveyed. The agency official shall apply the National Register criteria to all properties that may possess any historical, architectural, archeological, or cultural value located within the area of the undertaking's potential environmental impact. If there is any question about whether a property possesses such values, the agency official shall refer the matter to the Secretary for a determination of eligibility in accordance with 36 CFR 63. Whenever a State historic preservation officer finds that a property may meet National Register criteria, the agency official shall request a determination of eligibility from the Secretary. Once properties are found, identified, and evaluated, the agency official shall follow the provisions of 36 CFR 63 to determine if any, in fact, are eligible for inclusion in the National Register. This step should be completed prior to requesting the Council's comments pursuant to these regulations. The Secretary's opinion respecting the eligibility of a property for inclusion in the National Register shall be conclusive for the purposes of these regulations.

(b) *Determination of effect.* For each National Register or National Register eligible property that is located within the area of the undertaking's potential environmental impact, the agency official, in consultation with the State historic preservation officer, shall apply the criteria of effect, set forth in § 800.3(a), to determing whether the undertaking will have an effect upon the historic, architectural, archeological, or cultural characteristics of the property that qualified it to meet National Register criteria.

(1) *No effect.* If the agency official and the State historic preservation officer agree that the undertaking will not affect these characteristics, the undertaking may proceed. The agency official shall keep adequate documentation of each determination of no effect, which shall be available for public inspection. If an objection is made to a no effect determination, the Executive Director may review the determination and make a final decision on whether there is an effect or not.

(2) *Effect determined.* If the agency official, the State historic preservation officer, or the Executive Director find that the undertaking will have an effect upon these characteristics, the agency official, in consultation with the State historic preservation officer, shall apply the criteria of adverse effect, set forth in § 800.3(b), to determine whether the effect of the undertaking may be adverse.

(c) *Determinations of no adverse effect.* If the agency official finds the effect on the historical, architectural, archeological, or cultural characteristics of the property not to be adverse, the agency official shall forward adequate documentation of the determination, including written evidence of the views of the State historic preservation officer, to the Executive Director for review in accordance with § 800.6.

(d) *Adverse effect determination.* If the agency official finds the effect on the historical, architectural, archeological, or cultural characteristics of the property to be adverse, or if the Executive Director does not accept an agency official's determination of no adverse effect pursuant to review under § 800.6, the agency official shall:

(1) Request, in writing, the comments of the Council,

(2) Submit a preliminary case report,

(3) Notify the State historic preservation officer of this request, and

(4) Proceed with the consultation process set forth in § 800.6.

Until the Council issues its comments under these regulations, the agency official shall take no action on the proposed undertaking that could result in an adverse effect with respect to a National Register or National Register eligible property or that could foreclose the Council's consideration of alternatives to avoid, mitigate, or minimize the adverse effect.

§ 800.5 State historic preservation officer responsibilities.

(a) Unless a longer time is established by the agency official, State historic preservation officers should respond in writing within 15 working days to adequately documented agency requests pursuant to § 800.4.

(b) Should a State historic preservation officer fail to respond to an agency official's request under § 800.4 within 30 days, such action shall evidence the State historic preservation officer's concurrence with the views of the agency official.

(c) The State historic preservation officer should participate in the consultation process under § 800.6 whenever it concerns an undertaking located within his jurisdiction. The State historic preservation officer, with the agency official and the Executive Director, should be a signatory to any Memorandum of Agreement executed under § 800.6(d) of these regulations.

(d) Failure of a State historic preservation officer to execute a Memorandum of Agreement within 30 days without notifying the Executive Director and the agency official that the State historic preservation officer disagrees with the terms of the agreement shall not preclude the Executive Director and the agency official from concluding the agreement and having it ratified by the Chairman in accordance with § 800.6(d)(2).

§ 800.6 Council comments.

The following subsections specify how the Council will respond to Federal agency requests for the Council's comments required to satisfy an agency's responsibilities under section 106 of the Act and section 2(b) of the Executive Order.

(a) *Response to determinations of no adverse effect.* (1) Upon receipt of a determination of no adverse effect from an agency official, the Executive Director will review the determination and supporting documentation. Unless the Executive Director objects to the determination within 30 days after receipt of an adequately documented determination, the agency official will be considered to have satisfied the agen-

cy's responsibilities under section 106 of the Act, section 2(b) of Executive Order 11593, and these regulations, the agency official shall conduct an on-site inspection.

(3) *Public information meeting.* At take no action with respect to the undertaking that could result in an adverse effect on the National Register

(4) *Amendment of a memorandum of agreement.* If a Federal agency cannot carry out the terms of a Memorandum full Council will consider an undertaking at the next regularly scheduled meeting and no less than 60 days from make a written appeal to the Chairman to have the matter considered by the full Council at its next regularly

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cy's responsibilities under section 106 of the Act, section 2(b) of Executive Order 11593, and these regulations, and may proceed with the undertaking.

(2) If the Executive Director objects to the determination, the Executive Director may specify conditions which will eliminate the objection. If the agency official accepts the conditions in writing, the conditions will be incorporated into the agency's determination and the Executive Director's objection will be withdrawn. The agency official then will be considered to have satisfied the agency's responsibilities under section 106 of the Act, section 2(b) of the Executive Order, and these regulations, and may proceed with the undertaking.

(3) If the agency official does not accept the Executive Director's conditions or if the Executive Director objects without specifying conditions, the agency official shall request the Executive Director to initiate the consultation process pursuant to § 800.6. Until the agency official has received the Council's comments, the agency official shall take no action with respect to the undertaking that could result in an adverse effect on the National Register or eligible property or that would foreclose the Council's consideration of alternatives that could avoid, mitigate, or minimize any adverse effect.

(b) *Response to determination of adverse effect.* Upon receipt of a request for Council comments pursuant to § 800.4(d), or if the Executive Director's objections to a determination of no adverse effect have not been eliminated pursuant to § 800.6(a), the Executive Director shall acknowledge the request and initiate the consultation process.

(c) *Consultation process.* The agency official, the State Historic Preservation Officer, and the Executive Director shall be the consulting parties to consider feasible and prudent alternatives to the undertaking that could avoid, mitigate, or minimize adverse effects on a National Register or National Register eligible property. Grantees, permittees, licensees, or other parties in interest, and representatives of National, State, or local units of government and public and private organizations, may be invited by the consulting parties to participate in the consultation process.

(1) *Preliminary case report.* The Executive Director shall specify the contents of the report that shall be submitted by the agency official to the Council. The agency official also shall provide a copy of the report to the State historic preservation officer and make it available for public inspection.

(2) *On-site inspection.* At the request of any of the consulting parties, the agency official shall conduct an on-site inspection.

(3) *Public information meeting.* At the request of any of the consulting parties, the Executive Director shall conduct a meeting open to the public. The consulting parties and representatives of National, State, or local units of government, representatives of public or private organizations, and interested citizens may receive information and express their views on the undertaking, its effects on historic and cultural properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties. The agency official shall provide adequate facilities for the meeting and shall afford appropriate notice to the public, generally at least 2 weeks in advance of the meeting.

(4) *Consideration of alternatives.* Upon review of the proposed undertaking the consulting parties shall determine whether there are feasible and prudent alternatives to avoid the adverse effects on the National Register or eligible property. If the consulting parties cannot agree on such an alternative, they shall determine if there are alternatives that could satisfactorily mitigate the adverse effects.

(5) *Avoidance or satisfactory mitigation of adverse effect.* If the consulting parties agree upon a feasible and prudent alternative to avoid or satisfactorily mitigate the adverse effects of the undertaking on the National Register or eligible property, they shall execute a Memorandum of Agreement in accordance with § 800.6(d) specifying how the undertaking will proceed to avoid or mitigate the adverse effect.

(6) *Acceptance of adverse effect.* If the consulting parties determine that there are no feasible and prudent alternatives that could avoid or satisfactorily mitigate the adverse effects and agree that it is in the public interest to proceed with the proposed undertaking, they shall execute a Memorandum of Agreement in accordance with § 800.6(d) acknowledging this determination and specifying any measures to minimize the adverse effects that shall be taken before the undertaking proceeds.

(7) *Failure to agree.* Upon the failure of consulting parties to find an unanimously agree upon the terms for a Memorandum of Agreement, the Executive Director shall notify the Chairman of the failure of the consulting parties to reach agreement and shall recommend whether or not the matter should be scheduled for consideration at a Council meeting. The agency official and the State historic preservation officer shall be notified of the Executive Director's recommendation. Upon notification of the recommendation, the agency official shall take no action with respect to the undertaking that could result in an adverse effect on the National Register or eligible property, or that would foreclose the Council's consideration of alternatives that could avoid, mitigate, or minimize the adverse effects until the Council has transmitted its comments to the agency official or the Chairman has given written notice to the agency official that the undertaking will not be considered at a Council meeting.

(d) *Memorandum of Agreement.* (1) *Preparation of Memorandum of Agreement.* It shall be the responsibility of the Executive Director to prepare each Memorandum of Agreement required under these regulations. Unless otherwise requested by the Executive Director, the agency official shall prepare a proposal for inclusion in the agreement that details the actions agreed upon by the consulting parties to be taken to avoid, satisfactorily mitigate, or minimize the adverse effects on the property. The State historic preservation officer's written concurrence shall be included in this proposal by the agency official. The Executive Director shall prepare the required agreement and send it to the Chairman for ratification pursuant to § 800.6(d)(2). The Executive Director may return the proposal to the agency official or submit to the agency official and the State historic preservation officer an agreement revising the proposal if it does not satisfactorily represent the consensus of the consulting parties.

(2) *Review of memorandum of agreement.* Upon receipt of an executed Memorandum of Agreement, the Chairman shall institute a 30-day review period. Unless the Chairman notifies the agency official that the matter has been placed on the agenda for consideration at a Council meeting, the agreement shall become final when signed by the Chairman or upon the expiration of the 30-day review period with no action taken. Notice of executed Memoranda of Agreement shall be published in the FEDERAL REGISTER monthly.

(3) *Effect of memorandum of agreement.* Agreements duly executed in accordance with these regulations shall constitute the comments of the council and shall evidence satisfaction of the Federal agency's responsibilities for the proposed undertaking under section 106 of the Act, section 2(b) of the Executive Order, and these regulations. Failure to carry out the terms of a Memorandum of Agreement is a violation of section 106 and section 2(b) requirements and requires that the Federal agency again request the Council's comments in accordance with these regulations.

(4) *Amendment of a memorandum of agreement.* If a Federal agency cannot carry out the terms of a Memorandum of Agreement or believes that changes are necessary, the agency official shall immediately request an amendment of the agreement. Amendments will be executed in the same manner as the original agreement.

(e) *Council meetings.* The Council does not hold formal administrative hearings to consider comments under these regulations. Reports and statements will be presented to the Council in open session in accordance with a prearranged agenda. Regular meetings of the Council generally occur quarterly.

(1) *Response to recommendation for consideration at Council meeting.* Upon receipt of a notice and recommendation from the Executive Director concerning consideration of the proposed undertaking at a Council meeting, the Chairman shall determine within 10 working days whether or not the undertaking will be considered and shall notify the Executive Director, the agency official, and the State historic preservation officer of his decision. The agency official and the State historic preservation officer shall provide such reports and information as may be required to assist the Chairman in this determination.

If the Chairman decides against consideration of the undertaking at a Council meeting, he will submit a written summary of the undertaking, any recommendations for action by the Federal agency, and his decision to each member of the Council. If a majority of the Council objects to this action within 10 working days of the Chairman's decision, the undertaking will be scheduled for consideration at a Council meeting. If a majority of the Council has no objection, the Chairman shall notify the agency official in writing at the end of the 10-day period that the undertaking may proceed. Such notice will evidence satisfaction of the Federal agency's responsibilities under section 106 of the Act, section 2(b) of the Executive Order, and these regulations.

(2) *Decision to consider the undertaking.* When the Council will consider an undertaking at a meeting, the Chairman shall either designate five members as a panel to hear the matter on behalf of the full Council, or schedule the matter for consideration by the full Council. The panel shall consist of three members appointed by the President, one as Chairman; and two Federal members, neither of whom shall represent the Federal agency involved in the undertaking. The panel will meet to consider the undertaking within 30 days of the Chairman's decision unless the agency official agrees to a longer time. The full Council will consider an undertaking at the next regularly scheduled meeting and no less than 60 days from the date of the Chairman's decision. In exceptional cases the Chairman may schedule the matter for consideration at a special meeting of the full Council to be held less than 60 days from the date of the Decision. Prior to any panel or full Council consideration of a matter, the Chairman will notify the agency official and the State historic preservation officer of the date on which the undertaking will be considered and direct the Executive Director to prepare a case report including reports from the agency official and the State historic preservation officer. (See § 800.15.) Reports required from the agency official and the State historic preservation officer must be received by the Executive Director at least 2 weeks before any meeting. Failure to submit such reports may result in postponement of the meeting.

(3) *Meeting notice.* Two weeks notice of all meetings involving Council consideration of Federal undertakings in accordance with these regulations shall be given by publication in the FEDERAL REGISTER.

(4) *Statements to the Council.* An agenda shall provide for oral statements from the Executive Director; the referring agency official; the applicant or potential recipient, when appropriate; the State historic preservation officer; representatives of national, State, or local units of government, and public and private organizations and individuals. Parties wishing to make oral statements should submit written statements of position to the Executive Director at least 2 weeks before the meeting.

(5) *Comments of the Council.* The written comments of the Council will be issued within 2 weeks after a meeting. Comments shall be made to the head of the Federal agency requesting comment or having responsibility for the undertaking and shall be evidence that the agency has satisfied its responsibilities for the proposed undertaking under section 106 of the Act, section 2(b) of the Executive Order, and these regulations. Immediately after the comments are made to the Federal agency, the comments of the Council will be forwarded to the President and Congress as a special report under authority of section 202(b) of the Act and published in the FEDERAL REGISTER. Comments shall be available to the public upon receipt of the comments by the head of the Federal agency.

(6) *Review of panel decision.* (i) Within 10 working days after issuance of comments by a panel the agency official, the State historic preservation officer, or the Executive Director may make a written appeal to the Chairman to have the matter considered by the full Council at its next regularly scheduled meeting or, in exceptional circumstances, at a special meeting. The Chairman will notify the requesting party of his decision within 10 working days.

(ii) If the proposed undertaking was considered by a panel and the agency is not going to follow the panel's comments, the agency official shall provide written notice of the decision to the Council at least 45 days before taking action. The Chairman may then schedule consideration of the matter before the full Council within 30 days of receipt of such notice. In the interim period the agency official shall take no action with respect to the proposed undertaking that would result in an adverse effect on the National Register or eligible property or foreclose the Council's consideration of alternatives that could avoid, mitigate, or minimize the adverse effect.

(7) *Report of agency action in response to Council comments.* When the Council's commenting process is complete and a final decision regarding the proposed undertaking is reached by the Federal agency, the agency official shall submit a written report to the Council describing the actions taken by the Federal agency subsequent to the Council's comments; the actions taken by other parties pursuant to the actions of the Federal agency; and the ultimate effect that such actions will have on the National Register or eligible property. If necessary, the Council may request supplementary reports.

(8) *Continuing review jurisdiction.* When the Council has commented upon an undertaking such as a comprehensive or area-wide plan that will require subsequent site-specific undertakings by the Federal agency, the Council's comment or approval extends only to the undertaking as reviewed. The Agency Official shall ensure that subsequent actions related to the undertaking that have not been considered by the Council will be submitted to the Council for review in accordance with these regulations.

§ 800.7 Resources discovered during construction.

(a) *Federal agency responsibilities.* If a Federal agency has previously met its responsibilities under section 106 of the Act, section 2 of the Executive Order, these regulations, and the National Environmental Policy Act, including the completion of a professionally adequate survey within the undertaking's area of potential environmental impact, and an agency official finds or is notified after construction has started that an undertaking will have an effect on a previously un-

identified property that may be eligible for inclusion in the National Register, or a National Register or eligible

(e) Emergency programs that would not permit compliance with these regulations in the normal time period at

section 106 of the Act, section 1(3) and 2(b) of the Executive Order, and these regulations for all undertakings car-

during initial environmental assessments that are undertaken to meet the requirements of NEPA and agency

implement these regulations as required by the Presidential Memorandum on Environmental Quality and

ing. Federal agencies should respond to these inquiries within 30 days.

§ 800.15 Reports to the Council

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identified property that may be eligible for inclusion in the National Register, or a National Register or eligible property, the agency official shall take the following steps:

(1) Cease those work activities that may adversely affect the property;

(2) In accordance with the Historic and Archeological Data Preservation Act (16 U.S.C. 469(a)), immediately notify the Secretary and provide such information as is available on the property;

(3) If the Secretary advises the agency official that the adverse effects on the property and the significance of the property require consultation with the Council to determine an appropriate course of action, or if the agency official and the Secretary cannot agree on whether or how the adverse effects should be mitigated, the agency official shall request the comments of the Council in accordance with these regulations.

(b) *Council comments.* Within 30 days of receipt of a request for comments from an agency official under this section, the Executive Director, with the concurrence of the Chairman, shall transmit comments on behalf of the Council to the agency official or the Chairman shall schedule a meeting of the Council, in accordance with § 800.6(e), within 45 days of receipt of the request for comments.

NONSITE SPECIFIC UNDERTAKINGS

§ 800.8 Application.

At the request of an agency official, the Council will consider execution of a Programmatic Memorandum of Agreement to fulfill an agency's responsibilities under section 106 of the Act and sections 1(3) and 2(b) of the Executive Order for a particular program or class of undertakings that would otherwise require numerous individual requests for comments under these regulations. The Executive Director shall make a determination as to whether a Programmatic Memorandum of Agreement may be used in the following situations:

(a) Programs or undertakings, including legislative proposals, policies, and rules and regulations, that will have an effect on undefined or unspecified National Register or eligible properties.

(b) Undertakings that are repetitive in nature and have essentially the same effect on National Register or eligible properties.

(c) Comprehensive or area-wide planning undertakings that do not provide for site-specific undertakings at the time of their development.

(d) Programs that are designed to further the preservation and enhancement of National Register or eligible properties.

(e) Emergency programs that would not permit compliance with these regulations in the normal time period at the time of the undertaking.

(f) Federal or federally approved plans that provide a basis for non-Federal undertakings that may have an effect on National Register or eligible properties.

(g) Other programs, classes, or series of undertakings that the Executive Director determines are appropriate for consideration under this section.

§ 800.9 Council comments.

(a) *Consultation process.* Upon determination by the Executive Director that a Programmatic Memorandum of Agreement is appropriate, the agency official and the Executive Director shall consult to develop a Programmatic Memorandum of Agreement. The Executive Director may invite other parties to participate in the consultation and may hold a public information meeting on the proposed Agreement.

(b) *Programmatic Memorandum of Agreement.* (1) *Preparation of the agreement.* It shall be the responsibility of the Executive Director to prepare each agreement. At least 30 days prior to execution of an agreement the Council shall publish the proposed agreement in the FEDERAL REGISTER and invite comments from Federal, State, and local agencies and the public.

(2) *Execution of the agreement.* After consideration of comments received and completion of any necessary revisions, the consulting parties shall sign the agreement and the Executive Director shall send it to the Chairman for ratification.

(3) *Chairman's approval.* Upon receipt of an executed agreement, the Chairman shall institute a 30-day review period. At the end of 30 days, the Chairman shall take one of the following actions:

(i) Ratify the agreement, at which time it will take effect.

(ii) Return the agreement to the Executive Director with instructions for modifications of the agreement before resubmission.

(iii) Place the agreement on the agenda of the next regularly scheduled Council meeting for approval by the full Council.

(iv) Submit the agreement by mail for approval by the full Council.

(v) Disapprove the agreement.

(4) *Effect of the agreement.* The execution and approval of a Programmatic Memorandum of Agreement shall constitute the comments of the Council on all individual undertakings carried out pursuant to the terms of the agreement and, unless otherwise provided by the agreement, shall satisfy the agency's responsibilities under section 106 of the Act, section 1(3) and 2(b) of the Executive Order, and these regulations for all undertakings carried out in accordance with the agreement.

(5) *Notice.* Notice of an executed agreement shall be published in the FEDERAL REGISTER and copies shall be available for public inspection from the consulting parties.

FEDERAL PROGRAM COORDINATION

§ 800.10 Coordination with the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

Section 101(b)(4) of the National Environmental Policy Act (NEPA) declares that one objective of the national environmental policy is to "preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice." In order to meet this objective, Federal agencies should coordinate NEPA compliance with the separate responsibilities of the National Historic Preservation Act and Executive Order 11593 to insure that historic and cultural properties are given proper consideration in the preparation of environmental assessments and environmental impact statements. Agency obligations pursuant to the National Historic Preservation Act and Executive Order 11593 are independent from NEPA requirements and must be complied with even when an environmental impact statement is not required. Where both NEPA and the National Historic Preservation Act or Executive Order 11593 are applicable, the Council on Environmental Quality, in its proposed National Environmental Policy Act-Regulations (43 FR 25230), directs that compliance with 102(2)(C) of NEPA shall, to the maximum extent possible, be combined with other statutory obligations—such as the National Historic Preservation Act and Executive Order 11593—to yield a single document which meets all applicable requirements. Circulation of a draft environmental impact statement for comment pursuant to section 102(2)(C) of NEPA is not a request for Council comments under these regulations and is not in and of itself sufficient to fulfill a Federal agency's responsibilities under Section 106 of the Act or section 2(b) of the Executive Order. To coordinate the independent responsibilities of the Act and NEPA, Federal agencies should undertake, to the fullest extent possible, compliance with these regulations whenever National Register or eligible properties may be affected by an undertaking.

(a) Federal agencies should initiate compliance with Section 106 of the Act and the Executive Order in accordance with these regulations during initial environmental assessments that are undertaken to meet the requirements of NEPA and agency environmental procedures. Identification of National Register properties, eligible properties, or properties that may be eligible for the National Register should be carried out in accordance with § 800.4 of these regulations. Potential effects should then be evaluated in accordance with the Criteria of Effect and Adverse Effect in § 800.3 of these regulations so that the environmental assessment or draft environmental impact statement will fully describe any National Register or eligible properties within the area of the undertaking's potential environmental impact and the nature of the undertaking's effect on them.

(b) If evaluation of the effect resulted in a determination of no effect or no adverse effect under § 800.4, that finding, along with any Council's comments, should be included in the environmental assessment or the draft environmental impact statement.

(c) If evaluation of the effect resulted in a determination of adverse effect, that finding and a copy of the agency's request for the Council's comments in accordance with § 800.4(d)(1) of these regulations should be included in the environmental assessment or the draft environmental impact statement. If available, a copy of the Council's comments shall be incorporated into the environmental assessment or the draft environmental impact statement.

(d) Environmental impact statements for undertakings that affect National Register or eligible properties must evidence compliance with section 106 of the Act and the Executive Order, as set forth in these regulations, in order for the statement to be considered adequate by the Council. Comments of the Council obtained pursuant to these regulations shall be incorporated into the final environmental impact statement.

§ 800.11 Coordination with section 1(3) of Executive Order 11593.

Agencies shall consult with the Council and establish procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archeological significance.

§ 800.12 Coordination with the Presidential Memorandum on Environmental Quality and Water Resources Management.

Agencies with water resources responsibilities shall, not later than 3 months after publication of these regulations as finally adopted in the FEDERAL REGISTER, publish procedures to implement these regulations as required by the Presidential Memorandum on Environmental Quality and Water Resources Management. Each agency shall consult with the Council while developing its procedures and shall provide an opportunity for public review and comment on their proposed regulations. Agency procedures shall be effective when the Chairman approves them as conforming to the Presidential Memorandum and these regulations. Agency procedures must at a minimum include acceptable measures to prevent or mitigate losses of historic or cultural resources and provisions to insure that all projects not yet constructed will comply with these regulations. Additionally, such procedures shall prescribe a clear way to identify funding for environmental mitigation in an agency's appropriation requests. The procedures shall be approved by the Chairman of the Council within 60 days if they are consistent with these regulations. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are also encouraged to publish explanatory guidance for the procedures.

OTHER PROVISIONS

§ 800.13 Other powers of the Council.

(a) *Comment or report upon non-Federal undertaking.* The Council will exercise the broader advisory powers, vested by section 202(a)(1) of the Act, to recommend measures concerning a non-Federal undertaking that will adversely affect a National Register or eligible property:

(1) Upon request from the President of the United States, the President of the U.S. Senate, or the Speaker of the House of Representatives, or

(2) When agreed upon by a majority vote of the members of the Council.

(b) *Comment or report upon Federal undertakings in special circumstances.* The Council will exercise its authority to comment to Federal agencies under these regulations in certain special situations even though written notice that an undertaking will have an adverse effect has not been received.

§ 800.14 Investigation of threats to historic properties.

The Council is frequently advised by State historic preservation officers and others of undertakings that threaten National Register or eligible properties, or properties that may be eligible for the National Register, that may or may not involve a Federal agency. In order to protect historic properties the Executive Director investigates these matters, generally by writing to the Federal agency that appears to be involved in the undertaking. Federal agencies should respond to these inquiries within 30 days.

§ 800.15 Reports to the Council.

(a) In order to meet responsibilities under these regulations, the Council prescribes that certain reports be made available to it and accepts reports and statement from other interested parties. The content of required reports is set forth below. Generally, the requirements elaborate the principles contained in the Criteria of Effect and in the Criteria of Adverse Effect. The Council recognizes that the Act requires that historic and cultural properties should be preserved "as a living part of our community life and development." Consequently, in arriving at final comments, the Council considers those elements in an undertaking that have relevance beyond historical and cultural concerns. To assist it in weighing the public interest, the Council welcomes information not only bearing upon physical, sensory, or esthetic effects but also information concerning economic, social, and other benefits or detriments that will result from the undertaking.

(b) *Reports for Council meeting.* Consideration of an undertaking by either the full Council or a panel pursuant to section 800.6 is based on reports from the Executive Director, the agency official, the State historic preservation officer, and others. These reports consist of the following:

(1) *Executive Director's report.* The report from the Executive Director will include a verification of the legal and historical status of the property; an assessment of the historical, architectural, archeological, or cultural significance of the property; a statement indicating the special value of features to be most affected by the undertaking; an evaluation of the total effect of the undertaking upon the property; a critcal review of any known feasible and prudent alternatives and recommendations to remove or mitigate the adverse effect.

(2) *Agency official's report.* (i) The report from the agency official requesting comments will include a general discussion and chronology of the proposed undertaking; when appropriate, an account of the steps taken to comply with section 102(2)(A) of National Environmental Policy Act (NEPA); an evaluation of the effect of the undertaking upon the property, with particular reference to the impact on the historic, architectural, archeological, and cultural values; steps taken or proposed by the agency to take into account, avoid, or mitigate adverse effects of the undertaking; a thorough discussion of alternate courses of action; and, if applicable and available, a copy of the draft environmental statement prepared in com-

pliance with section 102(2)(C) of NEPA.

SUPPLEMENTARY GUIDELINES I

CRITERIA FOR THE NATIONAL REGISTER OF

tures, or from association with historic events:

ties are eligible for the National Register because they have "yielded, or may be likely to yield, information impor-

place for public understanding and enjoyment;

(b) Above and beyond its scientific

Subpart B: *Professional standards for data recovery programs.* (1) Data recovery should be conducted in ac-

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pliance with section 102(2)(C) of NEPA.

(ii) A report by any applicant or potential recipient when the Council considers comments upon an application for a contract, grant, subsidy, loan, or other form of funding assistance, or an application for a Federal lease, permit, license, certificate, or other entitlement for use. Arrangements for the submission and presentation of reports by applicants or potential recipients shall be made through the agency official having jurisdiction in the matter.

(3) *Other Federal agency reports.* A report from any other Federal agency having under consideration an undertaking that will concurrently or ultimately affect the property, including a general description and chronology of that undertaking and discussion of the relation between that undertaking and the undertaking being considered by the Council.

(4) *State historic preservation officer's report.* A report from the State historic preservation officer will include an assessment of the significance of the property; an identification of features of special value; an evaluation of the effect of the undertaking upon the property and its specific components; an evaluation of known alternate courses of action; a discussion of present or proposed participation of State and local agencies or organizations in preserving or assisting in preserving the property; an indication of the support or opposition of units of government and public and private agencies and organizations within the State; and the recommendation of his office.

(5) *Other reports.* Other pertinent reports, statements, correspondence, transcripts, minutes, and documents received by the Council from any and all parties, public or private. Reports submitted pursuant to this section should be received by the Council at least 2 weeks prior to a Council meeting.

(c) *Coordination of case reports and statements.* In considerations involving more than one Federal department, either directly or indirectly, the agency official requesting comment shall act as a coordinator in arranging for a full assessment and discussion of all interdepartmental facets of the problem and prepare a record of such coordination to be made available to the Council. At the request of the Council, the State historic preservation officer shall notify appropriate governmental units and public and private organizations within the State of the pending consideration of the undertaking by the Council, and coordinate the presentation of written statements to the Council.

SUPPLEMENTARY GUIDELINES I

CRITERIA FOR THE NATIONAL REGISTER OF HISTORIC PLACES

The following are the criteria established by the Secretary of the Interior for use in evaluating and determining the eligibility of properties for listing in the National Register. They are included in this publication for informational purposes.

National Register Criteria for Evaluation (36 CFR Part 60.6). "The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling, and association and:

"(a) That are associated with events that have made a significant contribution to the broad patterns of our history; or

"(b) That are associated with the lives of persons significant in our past; or

"(c) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

"(d) That have yielded, or may be likely to yield, information important in prehistory or history.

"*Criteria considerations.* Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

"(a) A religious property deriving primary significance from architectural or artistic distinction or, historical importance;

"(b) A building or structure removed from its original location but which is the surviving structure most importantly associated with a historic person or event;

"(c) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life;

"(d) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

"(e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

"(f) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance;

"(g) A property achieving significance within the past 50 years if it is of exceptional importance."

SUPPLEMENTARY GUIDELINES II

DOCUMENTATION FOR DETERMINATION OF NO ADVERSE EFFECT

Adequate documentation of a Federal agency's Determination of No Adverse Effect pursuant to § 800.4 should include the following information:

(1) A description of the agency's involvement with the proposed undertaking with legal citations of the agency's program authority and applicable implementing regulations, procedures, and guidelines;

(2) A description of the proposed undertaking including, as appropriate, photographs, maps, drawings, and specifications, etc. (In the case of restoration and rehabilitation proposals, the best available drawings and specifications should be provided);

(3) A list of National Register properties, eligible properties, or properties that may be eligible for inclusion in the National Register that will be affected by the undertaking, including a description of the property's physical appearance and significance;

(4) A brief statement explaining why each of the Criteria of Adverse Effect (36 CFR Part 800.3(b)) was found inapplicable;

(5) Written views of the State Historic Preservation Officer concerning the determination of no adverse effect;

(6) An estimate of the cost of the undertaking, identifying Federal and non-Federal shares.

SUPPLEMENTARY GUIDELINES III

DETERMINATIONS OF ADVERSE EFFECT AND NO ADVERSE EFFECT FOR ARCHEOLOGICAL RESOURCES

The following provides supplementary guidance to assist Federal agencies in making Determinations of Adverse Effect and No Adverse Effect for National Register and eligible properties that are significant primarily as archeological resources in accordance with the Council's regulations for the "Protection of Historic and Cultural Properties" (36 CFR Part 800).

In accordance with the National Register criteria, archeological properties are eligible for the National Register because they have "yielded, or may be likely to yield, information important in prehistory or history" (36 CFR Part 60).

Part I: *Policy.* Disturbance of resources eligible under this criterion should be avoided.

(1) Data recovery may be appropriate, however, when properties are primarily significant for the data they contain and when this data can be retrieved in accordance with professional standards.

(2) The goal of archeological data recovery must be to obtain the greatest amount of archeological data for the least amount of archeological resource destruction.

In-place preservation of archeological resources should be examined as a cost-effective alternative to data recovery.

(4) Methods destructive of data or injurious to the natural features of the property should not be employed if nondestructive methods are feasible.

Where a Federal undertaking (as defined in § 800.2) may involve the recovery of data from an archeological property on or eligible for inclusion in the National Register, the Agency Official should take the following steps to decide whether a Determination of No Adverse Effect can be made:

The Agency Official, in consultation with the State Historic Preservation Officer (SHPO), should apply the criteria set forth in Part II below. If the criteria are met, the Agency Official May make a Determination of No Adverse Effect for any data recovery program conducted in accordance with the requirements set forth in Part III below. Documentation that the criteria and requirements set forth in Parts II and III below have been met, along with the written comments of the SHPO, shall be forwarded to the Council for review in accordance with § 800.6.

If the criteria are not met, the Agency Official should request the comments of the Council in accordance with § 800.4.

Part II: *Criteria.* (1) The property is not a National Historic Landmark, a National Historic Site in non-Federal ownership, or a property of national historical significance so designated within the National Park System.

(2) The SHPO has determined that in-place preservation of the property is not necessary to fulfill purposes set forth in the State Historic Preservation Plan.

(3) The SHPO and the Agency Official agree that:

(a) The property (including properties that are subsidiary elements in a larger property defined in Criterion 1) has minimal value as an exhibit in place for public understanding and enjoyment;

(b) Above and beyond its scientific value, the property is not known to have historic or cultural significance to a community, ethnic, or social group that would be impaired by the retrieval of data;

(c) Currently available technology is such that the significant information contained in the property can be retrieved.

(4) Adequate funds and time have been committed to adequately retrieve the data.

Part III: *Data recovery requirements.* (1) Data recovery will be conducted under the supervision of an archeologist who meets the qualifications under Subpart A.

(2) Data recovery will be conducted in accordance with the standards set forth in Subpart B.

(3) A date has been set for the submission of a final report to the Agency Official.

(4) Plans have been made for disposition of the material recovered after it has been analyzed in accordance with Subpart C.

(5) Documentation of the condition and significance of the property after data recovery will be provided by the Agency Official to the SHPO and the National Register for appropriate action, including nomination, boundary change, or removal of National Register or eligibility status in accordance with the National Register's procedures (36 CFR 60.16).

Subpart A: *Qualifications for supervisory archeologist.* Minimum professional qualifications for a Supervisory Archeologist are graduate degrees in archeology, anthropology, or a closely related field, or equivalent training accepted for accreditation purposes by the Society of Professional Archeologists and the following:

(1) At least 16 months of professional experience or specialized training in archeology field, laboratory, or library research, including at least 4 months of experience in general North American archeology and at least 6 months of field experience in a supervisory role.

(2) A demonstrated ability to carry research to completion, usually evidenced by timely completion of a thesis, research reports, or similar documents.

For work involving prehistoric archeology, a Supervisory Archeologist should have at least one year's experience in research concerning archeological resources of the prehistoric period.

For work involving historic archeology, a Supervisory Archeologist should have at least 1 year's experience in research concerning archeological resources of the historic period.

Subpart B: *Professional standards for data recovery programs.* (1) Data recovery should be conducted in accordance with a recovery plan that includes a professionally acceptable research design:

(a) The plan should reflect a familiarity with previous relevant research and be prepared or approved by the Supervisory Archeologist.

(b) The plan should include a definite set of research questions, taking into account relevant previous research, to be answered in analysis of the data to be recovered;

(c) The plan should provide for recovery of a usable sample of data on those significant research topics that can reasonably be addressed.

(d) The plan should specify and justify the methods and techniques to be used for recovery of the data contained in the property.

(2) The plan should provide for adequate personnel, facilities, and equipment.

(3) The plan should insure that full, accurate and intelligible records are made and maintained of all field observations and operations.

(4) The plan should include adequate provisions for modification of the plan to cope with unforeseen discoveries or other unexpected circumstances.

(5) The plan should provide for distributing program results to at least the following: the SHPO, the State archivist, the State archeologist, the Departmental Consulting Archeologist of the Department of the Interior, and the Chairman, Department of Anthropology, Smithsonian Instituion.

Subpart C: *Treatment of recovered materials.* The recommended professional treatment of recovered materials is curation and storage of the artifacts at an institution that can properly insure their preservation and that will make them available for research and public view. If such materials are not in Federal ownership, the consent of the owner must be obtained, in accordance with applicable law, concerning the disposition of the materials after completion of the report.

SUPPLEMENTARY GUIDELINES IV

PRELIMINARY CASE REPORTS

Preliminary case reports should be submitted with a request for comments pursuant to § 800.4 and should include the following information:

(1) A description of the agency's involvement with the proposed undertaking with legal citations of the agency's program authority and applicable implementing regulations, procedures and guidelines.

(2) The status of this project in the agency's approval process.

(3) The status of this project in the agency's National Environmental

Policy Act compliance process and the target date for completion of all environmental responsibilities.

MONDAY, OCTOBER 30, 1978
PART VII

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Policy Act compliance process and the target date for completion of all environmental responsibilities.

(4) A description of the proposed undertaking including, as appropriate, photographs, maps, drawings, and specifications, etc. (In the case of restoration and rehabilitation proposals, the best available drawings and specifications should be provided),

(5) A description of the properties included or eligible for inclusion in the National Register affected by the undertaking, identifying the significant features of the properties,

(6) A statement of which Criteria of Adverse Effect apply (36 CFR 800.3),

(7) Written views of the State Historic Preservation Officer concerning the effect on the property,

(8) The views of other Federal agencies, State and local governments, and other groups or individuals, when known,

(9) A description and analysis of alternatives that would avoid the adverse effects,

(10) A description and analysis of alternatives that would mitigate the adverse effects,

(11) An estimate of the cost of the undertaking, identifying Federal and non-federal shares.

[FR Doc. 78-30665 Filed 10-27-78; 8:45 am]

federal register

MONDAY, OCTOBER 30, 1978
PART VII

DEPARTMENT OF ENERGY

PASSTHROUGH BY SERVICE STATION OPERATORS OF COSTS FOR VAPOR RECOVERY SYSTEMS AND INCREASED SERVICE STATION RENTS

Amendments to Mandatory Petroleum Price Regulations

[3128-01-M]

Title 10—Energy

Chuck Boehl (Office of Regulations and Emergency Planning) Economic Regulatory Administration, 2000 M

of a cent-per-gallon rate (for example, 2 cents per gallon of gasoline sold), and in such cases it was this rate

2d 1243, enjoined FEA from enforcing its rent regulations against Shell on the ground that those regulations, as

ulations relating to the passthrough of the costs associated with the purchase and installation of vapor recovery

erty is not expressed on a cent-per-gallon basis, it must be converted to a cent-per-gallon basis for purposes of

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[3128-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

(Docket No. ERA-R-77-15)

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendment to Permit the Passthrough by Service Station Operators of Costs for Vapor Recovery Systems and Increased Service Station Rents

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts amendments to the Mandatory Petroleum Price Regulations that will permit retailers to pass through in the prices of motor gasoline the costs of vapor recovery systems and increased service station rents, without continuing to be subject to the current 3-cent-per-gallon limitation on the recovery of nonproduct costs. These amendments are being issued as an interim measure, pending decontrol of gasoline, to reform certain aspects of the current regulatory framework which limit the ability of service station operators to price gasoline in accordance with actual increased costs and to facilitate the transition of the gasoline market from a controlled to a decontrolled environment. In addition to issuing these amendments, ERA is requesting comments on whether the present regulations with respect to resellers and retailers of gasoline permit an adequate recovery of increased nonproduct costs.

DATES: Effective December 1, 1978. Comments by February 15, 1979, 4:30 p.m.

ADDRESS: All comments to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-77-15, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Chuck Boehl (Office of Regulations and Emergency Planning) Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Ben McRae (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Amendments adopted: A. Increased rents, and B. Vapor recovery system costs.
III. Additional comments requested.
IV. Additional matters.

I. Background

Under the price rules applicable to resellers and retailers of motor gasoline, such firms are, in general, allowed to charge for each grade of gasoline an amount equal to the price charged by the firm on May 15, 1973, to the same class of purchaser plus increased product costs. In addition, in January and February of 1974, the Federal Energy Administration (FEA), a predecessor agency to DOE, issued regulations that allow retailers to increase their prices by up to 3 additional cents per gallon to cover actual nonproduct cost increases subsequent to May 15, 1973. A similar 3-cent-per-gallon increased marketing cost figure was allowed for refiners' retail sales.

The 3-cent-per-gallon increased nonprofit cost passthrough limitation was intended to allow dealers to recover nonproduct cost increases incurred by them, and was FEA's then-current estimate of the amount of nonproduct cost increases incurred by retail dealers (plus an indeterminate amount designed to offset at least a portion of dealers' reductions in revenue as a result of their reduction in volumes of gasoline sold during the 1973-74 embargo). While vapor recovery system costs are nonproduct costs of the type that are allowed under the rule, such systems were not generally required of retail dealers until 1975. At this time, the ERA believes that there is a need to allow a cost passthrough for this factor without regard to the 3-cent-per-gallon nonproduct cost ceiling established by FEA in 1974. Also, we perceive the same need with regard to a factor for increased service station rents. This is because, prior to November 11, 1975, FEA and its predecessor agencies regulated, in conjunction with the regulation of gasoline prices, the rents that supplier/lessors could charge their dealers. Applicable regulations generally provided that gasoline service station rents were frozen at the "base rent" level (the rent charged under contract terms prevailing on May 15, 1973). Often those contract terms stated a base rent in terms of a cent-per-gallon rate (for example, 2 cents per gallon of gasoline sold), and in such cases it was this rate which was frozen under applicable regulations rather than an absolute dollar rental amount.

This system of rent control was begun by the Cost of Living Council on August 19, 1973, and, pursuant to the Council's broad authority under the Economic Stabilization Act of 1971 (Pub. L. 92-210), applied initially to all leased real property used in the retailing of gasoline. When the Economic Stabilization Act expired on April 30, 1974, the Federal Energy Office (FEO), as successor to the Council, narrowed the scope of these regulations to conform with the price control authority under the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, EPAA), so that, beginning May 1, 1974, rent controls applied only in those cases in which both the lessor and lessee of the real property in question were subject to the petroleum price regulations as refiners, resellers, reseller-retailers, or retailers of covered products. Although the EPAA did not provide express authority to regulate service station rents, FEO and FEA took the position that, due to the direct and inextricable relationship between the prices charged to dealers for gasoline and their service station rents, it was necessary to continue to regulate rents charged by suppliers in order to carry out effectively the EPAA mandate to allocate refined petroleum products at equitable prices.

On September 30, 1975, FEA issued proposed amendments to the rent regulations (40 FR 47147, October 8, 1975) which, if adopted, would have, among other things, provided for limited rent increases by (1) permitting the base rent to be increased in those cases in which a temporary rent modification agreement was in effect on May 15, 1973, and the circumstances which gave rise to that modification no longer exist, and (2) permitting the lessor to recover increased costs relating to the rental of real property by increasing the rent above the base rent, while permitting the lessee to pass through rent increases above the base rent as a nonproduct cost increase not subject to the cent-per-gallon maximum otherwise applicable to nonproduct cost increases under 10 CFR 212.93(b). In addition, FEA at that time requested comment on how costs related to installation of environmentally mandated vapor recovery equipment were being handled as between lessors and lessees, with a view toward possible modification of the rent increase proposal to take into account these special costs.

On November 11, 1975, the Temporary Emergency Court of Appeals, in the case of *Shell Oil Co.* v. *FEA*, 527 F. 2d 1243, enjoined FEA from enforcing its rent regulations against Shell on the ground that those regulations, as applied to rentals charged by Shell, were beyond the scope of FEA's statutory authority. In reaching this decision, the court commented that FEA possessed regulatory authority outside its rent regulations to deal effectively with the possibility of gasoline price increases "hidden" in rent increases. The court stated that, "in any instance in which FEA believes a lessor who supplies gasoline to its lessee has raised its rents as a means of obtaining a higher price for its gasoline than would otherwise be allowed * * *," FEA could take action under 10 CFR 210.62(c), a general provision which prohibits "[a]ny practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter * * *."

FEA subsequently revoked its rent regulations, effective November 11, 1975, the date of the *Shell* decision (40 FR 60036, December 31, 1975), in view of the decision in the *Shell* case and in order to assure the equal application of that decision to all firms. At the same time, FEA withdrew the rulemaking then pending concerning rent increases under the rent regulations, except for that portion of the rulemaking which related to the possible amendment of the regulations to permit the passthrough of those costs associated with vapor recovery equipment. FEA also at that time called for public participation in the development of "rent guidelines" to aid FEA in determining what rent increases and rental practices might be construed by FEA as constituting a means to obtain prices higher than those permitted under the regulations in violation of 10 CFR 210.62(c).

On April 26, 1977, FEA withdrew its proposal for the development of "rent guidelines" (42 FR 22374, May 3, 1977). Within the same notice, FEA proposed to permit retail gasoline dealers to pass through increased rental charges without regard to the 3-cent-per-gallon maximum authorized under § 212.93(b)(1). This proposal was intended to help ease the burden on retail dealers subject to Subpart F of the price regulations, who had incurred substantially increased rental rates over the past year or more with no corresponding increase in the maximum amount permitted to be charged to reflect non-product cost increases. FEA also proposed to extend this relief to refiners with company-owned retail outlets by a parallel amendment to the 3-cent-per-gallon maximum increased marketing costs authorized for refiner-retailers under § 212.83(c)(2)(iii)(E). At the same time, FEA announced the continued consideration of the possible amendment of the regulations relating to the passthrough of the costs associated with the purchase and installation of vapor recovery equipment.

A public hearing was held in Washington, D.C., on June 21, 1977. Witnesses and written comments on the proposal supported permitting a passthrough of the increased costs under consideration. Prior to its expiration on September 30, 1977, FEA took no action on the proposals to allow the separate passthrough of vapor recovery system costs and increased rental charges. DOE (which effective October 1, 1977, assumed the functions of FEA) has continued consideration of the proposals under section 705 of the Department of Energy Organization Act (Pub. L. 95-91).

II. Amendments Adopted

Gasoline decontrol is still a primary objective of ERA that will be accomplished as soon as possible. However, because of the inequity resulting from the present regulatory constraint upon retail dealers' passing through additional costs of complying with recently imposed environmental controls and rent increases that may be imposed upon them by their suppliers, we are hereby adopting amendments to permit retail gasoline dealers and refiners which operate service stations to pass through in their gasoline prices the nonproduct costs incurred since May 15, 1973, with respect to vapor recovery systems and increased service station rental costs since May 1973, without regard to the 3-cent-per-gallon limitations on the passthrough of retailer's other nonproduct marketing cost increases set forth in §§ 212.93(b) and 212.83(c)(2)(iii)(E). Any costs recovered under these amendments for increased rents and vapor recovery systems will not also be recoverable as part of the 3-cent-per-gallon allowance for actual other nonproduct and marketing cost increases.

A. Increased Rents

Under these amendments, the increased rental costs that will be permitted to be passed through separately will be only the increased rental costs incurred on or after November 1, 1978. These increased rental costs will be expressed as the difference between the rent for a particular service station property, expressed on a cent-per-gallon basis, paid in the month preceding the current month and the month of May 1973. Therefore, in December 1978, the first month that these costs may be separately reflected in gasoline sales, refiners' or resellers' maximum permissible prices may include a factor for increased rental costs incurred in November 1978.

If any portion of the increased rental payments for a particular property is not expressed on a cent-per-gallon basis, it must be converted to a cent-per-gallon basis for purposes of computing the increase. Thus, for example, if a service station operator paid rent of $1,500 and sold 100,000 gallons of gasoline in May 1973 and paid $2,500 rent and sold 125,000 gallons of gasoline in November 1978, the operator's rental cost for May 1973 would be converted to 1.5 cents per gallon, and its rent for November 1978 would be converted to 2 cents per gallon. The rental cost increase of 0.5 cent per gallon would be added to the operator's December 1978 maximum permissible gasoline prices.

To be eligible for passthrough under the amendments adopted today, the increased rent must be paid in an arm's length transaction to a lessor that is not directly controlled by the lessee or by any firm which directly or indirectly controls the lessee.

B. Vapor Recovery System Costs

Also, the amendments will permit service station operators to pass through unrecovered costs incurred since May 15, 1973, with respect to the purchase and installation of gasoline vapor recovery systems. To be eligible for such separate recovery, the costs must be incurred with respect to a system owned by the service station operator and required by a Federal, State, or local governmental authority.

The amendment provides that the cost incurred with respect to a vapor recovery system may be recovered in 1 month or may be prorated over a period of months. Each seller will be required to establish an accounting method by which vapor recovery costs shall be recovered. Once the method is established, the seller will apply the method consistently over the chosen period for the recovery of costs. However, a seller will not be permitted to recover in sales of gasoline a total amount attributable to such costs which exceeds the seller's actual vapor recovery system cost. In any one month, the portion of vapor recovery system costs that are available for recovery in that month shall be applied equally to, and will be deemed to have been recovered on, each gallon of gasoline sold. Thus, no amount of the portion of vapor recovery costs prorated by the seller to a specific month may be used to justify prices in a subsequent month.

For example, if a service station operator purchased and installed in 1976 a vapor recovery system for $10,000, the cost of which has not been recovered to date as a nonproduct or marketing cost, the service station operator may pass through in its sales of gasoline $10,000 attributable to such unrecovered costs. The seller may pass

[1] Editorial Note: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

through the $10,000 in gasoline sales in 1 month as a current expense or may prorate the recovery over a

rather than rented, by resellers or retailers, should be included. In addition, we request that commenters

Issued in Washington, D.C., October 22, 1978.

David J. Bardin,

charged for gasoline pursuant to this part (including paragraphs (I) and (II) (aa) of this definition) by an amount

took title to the product it distributes and were a seller subject to § 212.93(b).

N_i = the total increased non-prod-

shall be applied equally to, and shall be deemed to have been recovered on, each gallon of gasoline sold and for purposes of § 212.83(f) shall be deemed

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through the $10,000 in gasoline sales in 1 month as a current expense or may prorate the recovery over a longer period, for instance, 20 months. If the operator chooses to pass through $500 in a particular month and in that month expects to sell 100,000 gallons of gasoline, it may increase its maximum permissible price by 0.5 cent for each gallon of gasoline sold. In such a situation the operator will be deemed to recover the 0.5 cent per gallon for vapor recovery system costs on every gallon of gasoline that it sells.

Section 212.83(f) provides for refiners a sequence of recovery for crude oil costs, purchased product costs, and nonproduct costs. It does not specify a sequence of recovery for specific nonproduct cost items. Such a sequence is necessary with respect to vapor recovery costs which are deemed to be recovered in the month in which they are made available for recovery. To the extent that these costs are deemed recovered, they will not be bankable for future recovery as refiners' other nonproduct costs are. If these costs are required to be recovered before refiners' other nonproduct costs, the costs which are deemed to be recovered will more likely correspond to those costs actually recovered. Therefore, the amendments specify that refiners' vapor recovery costs will be deemed to have been recovered before any other nonproduct costs.

III. Additional Comments Requested

Although we believe the amendments issued today will more equitably allow for recovery of service station operators' increased nonproduct costs, this rulemaking will be continued for the purpose of receiving additional comments on the amendments adopted today and the need, if any, for further increases in the allowance for nonproduct costs permitted resellers and retailers of gasoline.

In particular, we specifically request comments on whether, in lieu of allowing retailers to pass through the actual amount of rent increases and vapor recovery system costs, we should allow a specific cent-per-gallon increase limitation for all retailers that is higher than the present 3 cents per gallon to permit the passthrough of costs for vapor recovery systems and increased rents. Those favoring such an approach are urged to provide data to be used in the determination of such a maximum.

Comments, supported by factual information to the extent possible, are also requested on the adequacy of current nonproduct marketing cost ceilings for retailers, resellers, and refiners. Reference to property taxes and other cost increases applicable to reseller or retail properties owned, rather than rented, by resellers or retailers, should be included. In addition, we request that commenters identify for us any other inequities or other problems that may be created by the present price rules applicable to resellers and retailers and the marketing costs of refiners.

Comments will be received until February 15, 1979. You should submit 15 copies of your comments to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-77-15, 2000 M Street NW., Washington, D.C. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by you to be confidental must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 204.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination. While the issues addressed in the comments would not be immediately applicable if motor gasoline is decontrolled, the comments received will nevertheless be considered in the context of our pending proposal on standby product allocation and price regulations (43 FR 29565, July 10, 1978) which would be implemented in the event of a major refined product or crude oil supply interruption.

IV. Additional Matters

In adopting this rule, ERA has considered in accordance with Executive Order 12044, the economic impact of its action. We have prepared a regulatory analysis of these amendments. Copies may be obtained from the ERA, Office of Public Information, 2000 M Street NW., Room B-110, Washington, D.C. 20461, 202-632-2170.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1978.

Issued in Washington, D.C., October 22, 1978.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Section 212.83(c)(2)(iii)(E) is amended by adding a definition of "F_i^t" at the end of the "N" factor to read as follows:

§ 212.83 Price rule.

* * * * * * *

(c) *Allocation of increased costs.* * * *

(2) *Formulae.* * * *

(iii) *Definitions.* * * *

(E) *The "N" factor.* * * *

F_i^t = the marketing cost increase and is the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May 1973. "Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products provided that such costs are included only to the extent that they are so attributable under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices, in computing increased product costs, or in computing other increased non-product costs. A refiner must prepare a schedule itemizing the principal costs included in this category and describing the accounting procedures by which they are calculated. The amount of marketing cost increase which may be applied to compute maximum allowable prices for covered products is, however, limited to the extent that such marketing cost increases may:

(I) Allow an increase in the prices of No. 2 heating oil and No. 2-D diesel fuel above the prices otherwise permitted to be charged for such products pursuant to the provisions of this part by an amount not in excess of one cent per gallon with respect to retail sales and one-half cent per gallon with respect to all other sales; and

(II) (aa) Allow an increase in the price of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to this part by an amount equal to increased rental cost (as defined in § 212.92), plus vapor recovery system cost (as set forth in § 212.92) plus, an amount not in excess of three cents per gallon (for marketing costs not otherwise recoverable under this subpart) with respect to all retail sales; and

(bb) Allow an increase in the price of gasoline, during the 360-day period commencing November 19, 1975, above the prices otherwise permitted to be charged for gasoline pursuant to this part (including paragraphs (I) and (II) (aa) of this definition) by an amount not in excess of two cents per gallon in retail sales in Alaska; and

(III) Allow an increase in the prices of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to the provisions of this part by an amount not in excess of three-quarter cent per gallon with respect to all sales other than retail sales; and

(IV) Allow an increase in the prices of middle distillates above the prices otherwise permitted to be charged for middle distillates pursuant to the provisions of this part (including the foregoing paragraph (I) of this definition) by an amount not in excess of one cent per gallon with respect to retail sales and not in excess of one-quarter cent per gallon with respect to all other sales, except that, with respect to retail sales of aviation fuels by fixed base operators after November 30, 1975, allow an increase in the amount otherwise permitted to be charged for that item pursuant to the provisions of this part by an amount not to exceed 4 cents per gallon; and

(V) Allow an increase in the prices of residual fuel oil above the prices otherwise permitted to be charged for residual fuel oil pursuant to the provisions of this part by an amount not in excess of three-fourths cent per gallon with respect to retail sales and one-fourth cent per gallon with respect to all other sales; and

(VI) Allow an increase in the price of propane, in sales after September 30, 1975, above the prices otherwise permitted to be charged for propane pursuant to the provisions of this part by an amount not in excess of three cents per gallon with respect to all retail sales except those to the petrochemicals industry, to public utilities, and to synthetic natural gas plants; 1 cent per gallon with respect to retail sales to the petrochemicals industry, to public utilities, and to natural gas plants and one-half cent per gallon with respect to all other sales; and

(VII) Reflect the total dollar amount of non-product costs attributable to includable amounts of commissions incurred during the period "t" beginning with January 1, 1976 with respect to sales through consignee-agents of the covered product or products of the type "i". The includable amount of commission incurred with respect to each item sold through each consignee-agent is the dollar amount per unit of volume by which the commission in the period "t" exceeds the commission in effect on May 15, 1973: *Provided*, That the includable amount shall be an amount reasonably intended to cover increased non-product costs of the consignee-agent, and that it shall not exceed the amount of the non-product cost price increase that would be permitted if the consignee-agent took title to the product it distributes and were a seller subject to § 212.93(b).

N_i^t = the total increased non-product costs attributable to the specific covered product or products of the type "i" computed under "N_i" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t".

N_i^r = the total increased non-product costs attributable to the specific covered product or products of the type "i" computed under "N_i" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t".

* * * * * *

2. Section 212.92 is amended by adding, in appropriate alphabetical order, definitions of "increased rental cost" and "vapor recovery system cost" to read as follows:

§ 212.92 Definitions.

* * * * * *

"Increased rental cost "means the rent, in terms of cents per gallon, with respect to that portion of real property leased for purposes of retail gasoline sales, paid to an independent lessor for the calendar month preceding the calendar month in which gasoline is sold minus the rent, stated in terms of cents per gallon, with respect to the same real property leased for purposes of retail gasoline sales, paid to an independent lessor for the month of May 1973. For purposes of this paragraph, "independent lessor" means a lessor which is not directly or indirectly controlled by the lessee concerned or by any firm which directly or indirectly controls that lessee.

* * * * * *

"Vapor recovery system cost" means the unrecovered installation and purchase cost incurred by the seller since May 15, 1973 with respect to a gasoline vapor recovery system required by a Federal, State, or local governmental authority. For purposes of this paragraph, the cost incurred with respect to a vapor recovery system may be recovered in one month or may be prorated over a period of months. Each seller will be required to establish an accounting method by which vapor recovery costs shall be recovered. Once the method is established, the seller will apply the method consistently over the period for the recovery of costs. A seller may not recover in sales of gasoline a total amount attributable to such costs which exceeds the seller's actual vapor recovery system cost. In any one month, the portion of vapor recovery system costs that are available for recovery in that month shall be applied equally to, and shall be deemed to have been recovered on, each gallon of gasoline sold and for purposes of § 212.83(f) shall be deemed to have been recovered before all other non-product costs.

3. Section 212.93 is amended by revising paragraphs (b)(1)(i) and (b)(1)(ii)(A) and by adding new paragraphs (b)(1)(ii)(C) and (b)(1)(ii)(D) to read as follows:

§ 212.93 Price rule.

* * * * * *

(b) * * *

(1) With respect to No. 2 oils and gasoline: (i) In retail sales, a seller may charge 1 cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section, and, with respect to all other sales a seller may charge one-half cent per gallon in excess of the amount otherwise permitted to be charged for that item pursuant to the provisions of this section to reflect non-product cost increases that the seller incurred after May 15, 1973. *Provided*, That, subsequent to December 1, 1978, such non-product cost increases shall not include those costs that are or could have been recovered under either subparagraph (1)(ii)(C) or subparagraph (1)(ii)(D) of this paragraph (b).

(ii)(A) Beginning with March 1974, in all retail sales of gasoline, a seller may charge two cents per gallon of gasoline in excess of the amount otherwise permitted to be charged for that item pursuant to this section, including paragraph (b)(1)(i) of this section, to reflect increases in non-product costs incurred by the seller concerned since May 15, 1973. *Provided*, That, subsequent to December 1, 1978, such non-product cost increases shall not include those non-product costs that are or could have been recovered under either subparagraph (1)(ii)(C) or subparagraph (1)(ii)(D) of this paragraph (b).

* * * * * *

(C) Beginning December 1, 1978, in retail sales of gasoline, a seller may charge an amount in excess of the price otherwise permitted to be charged for that item pursuant to this section (including subparagraphs (1)(i) and (1)(ii)(A) of this paragraph (b)), which reflects increased rental costs not otherwise recovered.

(D) Beginning December 1, 1978, in retail sales of gasoline, a seller may charge an amount in excess of the price otherwise permitted to be charged for that item pursuant to this section (including subparagraphs (1)(i) and (1)(ii)(A) and (C) of this paragraph (b)), which reflects a portion of vapor recovery system cost as set forth in § 212.92 not otherwise recovered.

[FR Doc. 78-30686 Filed 10-26-78; 12:30 pm]

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MONDAY, OCTOBER 30, 1978
PART VIII

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federal register

MONDAY, OCTOBER 30, 1978
PART VIII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

URBAN DEVELOPMENT ACTION GRANTS

Interim Rules

[4210-01-M]

Title 24—Department of Housing and

MINIMUM STANDARDS OF PHYSICAL AND ECONOMIC DISTRESS

Section 570.452, which contains the procedures and that good cause exists for making these rules effective upon publication. However, interested per-

Section 570.455 is amended to read as follows:

awarded an urban development action grant.

EFFECTIVE DATE: October 30, 1978.

ment, 451 Seventh Street SW., Washington, D.C. 20410. Copies of comments received will be available for in-

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[4210-01-M]

Title 24—Department of Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-578]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart G—Urban Development Action Grants

INTERIM RULE

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: This rule provides for a change in the method used by the Department for establishing the minimal standards of physical and economic distress for Action Grant applications and explains HUD policy respecting cities which become ineligible for participation in the Action Grant program by virtue of the use of updated data to determine physical and economic distress.

EFFECTIVE DATE: October 30, 1978.

COMMENTS DUE: November 29, 1978.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the headings, and give the reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT:

Sarah Underwood, Office of Action Grant, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6540.

SUPPLEMENTAL INFORMATION: On January 10, 1978 (43 FR 1602) the Department published final regulations governing the Urban Development Action Grant program.

MINIMUM STANDARDS OF PHYSICAL AND ECONOMIC DISTRESS

Section 570.452, which contains the eligibility requirements for the program, included specific reference to minimum standards of physical and economic distress for fiscal year 1978. In order to avoid constant changes in the regulations, the Department will in the future publish the exact standards which cities must meet in notice form as new data becomes available. Section 570.452 is being changed to delete the minimum standards for fiscal year 1978.

INELIGIBILITY RESULTING FROM DATA CHANGE

In addition, new language is added as § 570.452(c) to describe procedures for handling cities which will become ineligible because of changes in data used to determine the minimum standards of physical and economic distress. The reason for this change is that HUD recognizes the long lead time required for preparation of applications and wishes to protect those cities which are proceeding in good faith. The section formerly numbered § 570.452(c), Results in Providing Housing, has been renumbered as § 570.452(d).

WAIVER OF ELIGIBILITY SUBMISSION DATES

Finally, § 570.455(a) adopts a more flexible approach by the Department in making determinations of eligibility in compelling cases subsequent to 60 days prior to the beginning of the month in which the applicant's first application is to be submitted. The general rule already contained in the regulations, and one based on fairness and administrative convenience, adheres to fixed application submission deadlines and also requires submission of requests for determinations of eligibility at least 60 days prior to the beginning of such month. The present change clarifies the availability of the Secretary's waiver authority under § 570.4 in cases in which the objectives of Subpart G to promote a responsive action program would be frustrated by rigid adherence to this eligibility submission deadline. The present rule addresses only minimum distress standards for fiscal year 1978. This interim regulation provides for necessary standards with respect to fiscal year 1979. In addition the rule would add urgently needed criteria for unemployment data as part of the eligibility requirements under the application. The administration of the program for this fiscal year depends upon the immediate effect of this rule. Accordingly, the Assistant Secretary for CPD has determined that it is impracticable to follow notice of proposed rulemaking procedures and that good cause exists for making these rules effective upon publication. However, interested persons are invited to participate in the making of the final rule by providing written comments. All comments received by November 29, 1978, will be considered in the development of the final rule. Such comments should be filed with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Copies of comments received will be available for inspection and copying at that address. The Department has determined that an environmental impact statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Accordingly, §§ 570.452 and 570.455, 24 CFR Part 570, Subpart G are amended to read as follows:

Section 570.452 (b) (1)(ii) and (c) are amended to read as follows:

§ 570.452 Eligible applicants.

(a) • • •

(b) *Minimum standards of physical and economic distress*—(1) *Metropolitan cities and urban counties* • • •

(ii) Applicants which are metropolitan cities and urban counties must meet three of the six minimum standards of physical and economic distress, based on data for the community as a whole, which HUD will, from time to time, issue in notice form. The HUD notice will establish minimum levels which applicant must meet in the following areas:

(A) Age of housing.
(B) Per capita income.
(C) Population lag/decline.
(D) Unemployment.
(E) Job lag/decline.
(F) Poverty.

If the applicant's percentage of poverty is less than one-half of the HUD established standard, the applicant must meet four of the six factors.

• • • • •

(c) Cities which cease to meet the minimum standards of physical and economic distress by virtue of a change in the data used by HUD, will be permitted to submit an application during the two quarters following the change in the data. HUD will continue to consider those applications which have been submitted and are under review prior to a change in the minimum standards which otherwise make them ineligible.

(d) *Results in providing housing.* • • •

Section 570.455 is amended to read as follows:

§ 570.455 Actions which must be taken prior to submission for an application.

(a) *Determination of eligibility.* In order to provide applicants with a full competitive opportunity to qualify for assistance under this subpart, applicants shall request a determination from the HUD area office on their eligibility to apply for assistance prior to submitting an application. The request for determination shall be submitted on Standard Form 424 as modified by HUD. Small cities (excluding towns and townships) which intend to apply during May 1978, must request a determination of eligibility from the appropriate HUD area office no later than April 14, 1978. Towns and townships will be advised of submission deadlines at a later date in conjunction with notifications of potential eligibility. All potential applicants (except those which have previously been notified of their eligibility) which intend to apply during July 1978, or thereafter, must request a determination of eligibility at least 60 days (or at such later time as authorized by the Secretary pursuant to § 570.4) prior to the beginning of the month in which the applicant's first application is expected to be submitted.

• • • • • •

Issued at Washington, D.C., October 25, 1978.

(Title I, Housing and Community Development Act of 1974 (42 USC 5601 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

ROBERT C. EMBRY, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 78-30630 Filed 10-27-78; 8:45 am]

[4210-01-M]

[Docket No. R-78-579]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Subpart G—Urban Development Action Grants

INTERIM RULE

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: The purpose of this rule is to provide the reporting requirements which were reserved in § 570.459(d) for cities which have been awarded an urban development action grant.

EFFECTIVE DATE: October 30, 1978. Comments due: November 29, 1978.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by docket number indicated by the headings, and give the reasons for any recommendation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above. The proposal may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT:

Sarah Underwood, Office of Action Grants, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6540.

SUPPLEMENTAL INFORMATION: On January 10, 1978 (43 FR 1602) the Department published final regulations governing the urban development action grant program. Section 570.459(d), which contains the reporting requirements for cities having been awarded an urban development action grant, was reserved. Because the Department has no method for monitoring the implementation of a city's project, it is necessary to make provisions for those cities having been awarded an urban development action grant, was reserved. Because the Department has no method for monitoring the implementation of a city's project, it is necessary to make provisions for those cities having been awarded grants to inform HUD of the project's status.

This interim rule provides urgently needed data for accurately determining the status of projects and is required in order to fulfill congressional reporting requirements. This rule therefore must be published for immediate effect. Accordingly, the Assistant Secretary for Community Planning and Development has determined that it is impracticable to follow notice of proposed rulemaking procedures and that good cause exists for making these rules effective upon publication. However, interested persons are invited to participate in the making of the final rule by providing written comments. All comments received by November 29, 1978, will be considered in the development of the final rule. Such comments should be filed with the Rules Docket Clerk, Office of General Counsel, room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Copies of comments received will be available for inspection and copying at that address.

The Department has determined that an environmental impact statement is not required with respect to this rule. A copy of the finding of inapplicability is available for inspection in the office of the Rules Docket Clerk, room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, § 570.459(d) 24 CFR Part 570, Subpart G, is amended to read as follows:

§ 570.459 Post-approval requirements.

(d) *Reporting requirements.* Commencing upon the date the applicant's grant award is announced by HUD, applicants shall submit quarterly progress reports as specified by the Secretary to HUD. Copies of the reports shall be submitted to the HUD area office and simultaneously to the office of action grants in headquarters no more than 10 days following the end of each calendar quarter. Effective immediately, and until such time as further detailed reporting requirements are specified, the following information is to be provided:

(1) Prior to removal of contract conditions. Describe in detail each step the applicant has taken to secure the documentation needed to satisfy the conditions contained in the grant contract. Also, describe those steps which remain to be taken and provide a schedule for their accomplishment. If problems have been encountered and the project is falling behind the schedules included in the application and the grant contract, describe the nature of the problems, the steps being taken to resolve them, and estimate the time which will be required to overcome the problems.

(2) If the contract conditions have been removed. Describe in detail the status of implementation of the project including the status of construction contracts, plans and specifications and actual construction. Also, include the amount of funding which has been obligated and the amount drawn down. If problems have been encountered and the project is falling behind the schedules included in the application and in the grant contract, describe the nature of the problems, the steps being taken to resolve them, and estimate the time which will be required to overcome the problems.

(Sec. 7(d), of the HUD Act (U.S.C. 3535(d).)

Issued at Washington, D.C., October 25, 1978.

ROBERT C. EMBRY, Jr.
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-30631 Filed 10-27-78; 8:45 am]

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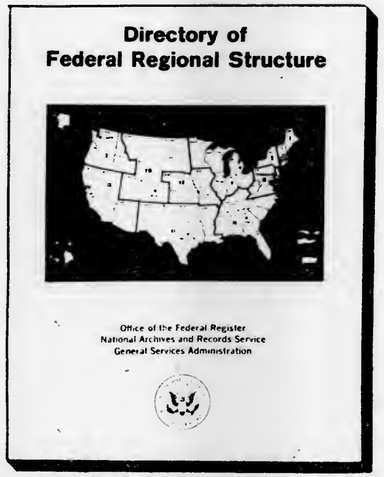

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01-M]

Title 5—Adminstrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Opportunities To Register To Enroll and Change Enrollment; Open Season

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment provides for a Federal employees health benefits (FEHB) program open season from November 13 through December 8, 1978, and in all future years from Monday of the second full workweek in November through Friday of the first full workweek in December.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward G. Borchers, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance, and Occupational Health, Room 4334, 1900 E Street NW., Washington, D.C. 20415, 202-632-4684.

SUPPLEMENTAL INFORMATION: On Tuesday, August 8, 1978, there was published in the FEDERAL REGISTER (43 FR 35046) proposed rulemaking explaining the proposed amendment regarding the 1978 and all future open seasons and giving all interested parties an opportunity to submit comments.

Of 15 comments received, all favored the proposed 1978 open season dates and all but one favored having future open seasons as proposed. The opposing commenter suggested that future open seasons should be held for the entire month of November, in lieu of the 4-workweek period proposed by the Commission. The commenter believes that since many Postal Service employees are required to work overtime on weekends after the Thanksgiving holiday, these employees may not have sufficient time to study the health plan brochures during the last part of open season (the first week in December). We believe, however, that our proposal allows all employees sufficient time to study materials and make a decision. As a result, we have not adopted this suggestion.

Accordingly, § 890.301(d)(1) of Part 890, Title 5, Code of Federal Regulations is revised, as set out in the following:

§ 890.301 Opportunities to register to enroll and change enrollments.

* * * * *

(d) *Open season.* (1) An open season will be held from November 13, 1978, through December 8, 1978, and in all future years from the Monday of the second full workweek in November through the Friday of the first full workweek in December, as announced by the Civil Service Commission. During this open season:

(i) An unenrolled employee may register to be enrolled;

(ii) An enrolled employee or annuitant may change to another plan, another option, from self only to self and family, or any combination of these changes.

* * * * *

(5 U.S.C. 8913)

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-30511 Filed 10-30-78; 8:45 am]

[3410-34-M]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Border Ports, Seaports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which establishes charges for overtime work at border ports, seaports, and airports. Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends the regulation entitled, "Overtime Work at Border Ports, Seaports, and Airports," by increasing the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), and Executive Order 12087 dated October 7, 1978.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

E. E. Crooks, 301-436-8249.

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airport and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), § 354.1 of part 354, title 7, Code of Federal Regulations, the first sentence of § 354.1(a) is amended as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and subchapter D of chapter I, title 9 CFR, who requires the services of an employee of the plant protection and quarantine programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or

overtime service request the plant protection and quarantine program in-

Done at Washington, D.C. this 27th day of October 1978.

§ 97.2 Administrative instructions prescribing commuted traveltime.

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Interpretation § 226.904 of regulation Z, published by the Board together with the amendment, provides,

creditors may but need not use, the Board finds that publication of the

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overtime service request the plant protection and quarantine program inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $22.28 per man-hour per employee on a Sunday and at the rate of $14.76 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $19.44 and for work performed outside of the regularly established hours of service for holiday or any other period will be $11.96 per hour, which charges exclude administrative overhead costs.

* * * * *

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of Pub. L. 94-353, 90 Stat. 882) (49 U.S.C. 1741).)

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE: The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821, as amended, and OMB Circular A-107.

Done at Washington, D.C. this 27th day of October 1978.

T. D. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-30907 Filed 10-30-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PROUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. H. L. Arnold, USDA, APHIS, VS, Federal Building, Room 867, Hyattsville, Md. 20782, 301-436-8684.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1978 ed.), as amended May 5, 1978 (43 FR 19350), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective list therein as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

OUTSIDE METROPOLITAN AREA

ONE HOUR

Add: Bradley Field, Hartford, Conn. (served from Ashford, Conn.).

TWO HOURS

Add: Bradley Field, Hartford, Conn. (served from Harwinton, Conn.).

THREE HOURS

Add: Bradley Field, Hartford, Conn. (served from Stockbridge, Mass., and East Brookfield, Mass.).

FOUR HOURS

Add: Bradley Field, Hartford, Conn. (served from East Providence, R.I.).

* * * * *

(64 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of October 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-30756 Filed 10-30-78; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Right of Rescission

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board hereby adopts an amendment to interpretation § 226.904 of regulation Z concerning disclosures which creditors may use to satisfy certain requirements of the regulation in connection with open end credit plans secured by consumer's residences. Specifically, the amendment modifies the sample disclosure which creditors may use to advise consumers of their rights when a change in the underlying terms of such a credit plan is proposed by a creditor. The amended disclosure is intended to emphasize these rights of the consumer. However, use by a creditor of the disclosure as originally promulgated by the Board shall not constitute a violation of the regulation.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3867.

SUPPLEMENTARY INFORMATION: On August 3, 1978, the Board published (43 FR 34111) an amendment to regulation Z, § 226.9(g)(6) of the regulation, creating an exception to the rescission provisions of the regulation for individual transactions under certain open end credit accounts secured by consumers' residences. Under the terms of that amendment, consumers would not have the right to cancel each individual transaction on such accounts, provided that the specific requirements of the amendment are met.

The amendment provides, among other things, that a creditor may not change the underlying terms of an open end account secured by a customer's home without affording the customer an opportunity to refuse the change in terms. If the customer refuses the proposed change in terms, the creditor need not extend any further credit on the account; however, the customer retains the right to continue to repay any existing obligation on the account under the then existing terms of the account. The amendment requires that a creditor that proposes to change the terms of a customer's account disclose these rights to the customer.

Interpretation § 226.904 of regulation Z, published by the Board together with the amendment, provides, among other things, a sample disclosure which creditors may use to satisfy, as to form and content, the amendment's disclosure requirements in connection with a proposed change in terms. For convenient reference, that sample disclosure is reproduced below:

Section 226.9(g)(6)(iii) (Change in Terms)

NOTICE TO CUSTOMER REQUIRED BY FEDERAL LAW:

(Name of creditor) ————————————

Intends to change the terms of your open end credit account which is secured by your home. You have a right to refuse to accept this change in terms. If you refuse this change in terms, we have the right to refuse to extend any further credit on your open end account and may require you to repay any existing obligation on your account under the present terms of the account. You may exercise your right to refuse the change in terms within three business days of (date disclosure delivered to customer) ———————— by notifying us at (address of creditor's place of business) ———————— by mail or telegram sent not later than midnight of (date) ————————. You may also use any other form of written notice to refuse the change in terms if it is delivered to the above address not later than that time. This notice may be used for that purpose by dating and signing below.

I hereby refuse the change in the terms of my account.

(date) ————————————————————

————————————————————
(customer's signature)

It has been suggested to the Board that the foregoing disclosure, specifically the third sentence thereof, may not sufficiently inform consumers of the rights which they have in the event of a proposed change in terms of open end credit accounts secured by their homes and, further, that the impression may be created that the right to pay any existing obligation without the change in terms is, in fact, a penalty to consumers who refuse such a change.

The Board believes that it may benefit consumers to modify the disclosure set forth above to further emphasize consumers' rights in connection with changes in the terms of open end accounts secured by their homes and to avoid any implication that these rights constitute a penalty. However, by amending the disclosure, the Board does not intend that use of the disclosure as originally published shall constitute a violation of regulation Z.

Inasmuch as the following amendment to interpretation § 226.904 constitutes an interpretive rule within the meaning of 5 U.S.C. § 553 (1976), and, further, because the amendment provides only a sample disclosure which creditors may but need not use, the Board finds that publication of the amendment for public comment prior to final adoption and a delay in the effective date of the amendment are unnecessary.

Accordingly, pursuant to the authority granted in 15 U.S.C. 1604 (1976), the Board hereby amends official Board interpretation of regulation Z, 12 CFR 226.904, effective immediately, by deleting the third sentence of the disclosure captioned "Section 226.9(g)(6)(iii) (Change in terms)" which reads, "If you refuse this change in terms, we have the right to refuse to extend any further credit on your account and may require you to repay any existing obligation on your account under the present terms of the account" and substituting therefor "If you refuse this change in terms, you have the right to continue to repay your existing obligation under the present terms of the account. However, we would then have the right to refuse to extend any further credit, except pursuant to these new terms", so that the disclosure reads as follows:

Section 226.9(g)(6)(iii) (Change in Terms)

NOTICE TO CUSTOMER REQUIRED BY FEDERAL LAW:

(Name of Creditor) ————————————

Intends to change the terms of your open end credit account which is secured by your home. You have a right to refuse to accept this change in terms. If you refuse this change in terms, you have the right to continue to repay your existing obligation under the present terms of the account. However, we would then have the right to refuse to extend any further credit, except pursuant to these new terms. You may exercise your right to refuse the change in terms within three business days of (date disclosure delivered to customer) ———————— by notifying us at (address of creditor's place of business) ———————— by mail or telegram sent not later than midnight of (date) ————————. You may also use any other form of written notice to refuse the change in terms if it is delivered to the above address not later than that time. This notice may be used for that purpose by dating and signing below.

I hereby refuse the change in the terms of my account.

(date) ————————————————————

————————————————————
(customer's signature)

By order of the Board of Govenors, October 23, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-30730 Filed 10-30-78; 8:45 am]

[7510-01-M]

§ 1209.301 Authority.

(a) The Act of August 28, 1958 (50

§ 1209.305 Legal advice and assistance.

The General Counsel of NASA shall

ment agencies in the deterrence of vehicle theft.

ments, extra costs, and delays. Moreover, the largest of such carriers described in detail the degree of surveil-

buses, motorcycles, special purpose vehicles, self-propelled farm machinery,

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[7510-01-M]

Title 14—Aeronautics and Space

CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1209—BOARDS AND COMMITTEES

Subpart 3—Contract Adjustment Board

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration, is amending its regulation to reflect a change in the cite to the NASA Management Instruction which sets forth the standards and procedures governing requests for extraordinary contractual adjustments, the expansion of the Board from three to five members, and deletion of an obsolete title, "Director of Business Administration."

EFFECTIVE DATE: October 31, 1978.

ADDRESS: Contract Adjustment Board, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Helen S. Kupperman, Contract Adjustment Board, 202-755-3927.

SUPPLEMENTARY INFORMATION: The proposed changes will conform the regulation with the way the Board is actually organized and understood by the general public. Since this regulation involves administrative procedural matters it has been determined that no public comment period is required.

Subpart 1209.3 is revised as follows:

Subpart 1209.3—Contract Adjustment Board

Sec.
1209.300 Scope.
1209.301 Authority.
1209.302 Establishment of Board.
1209.303 Function of Board.
1209.304 Membership.
1209.305 Legal advice and assistance.

AUTHORITY: Pub. L. 85-804 and 42 U.S.C. 2473(c)(1).

Subpart 1209.3—Contract Adjustment Board

§ 1209.300 Scope.

This subpart continues in effect the Contract Adjustment Board (hereinafter referred to as "the Board") to consider and dispose of requests for extraordinary contractual adjustments by contractors of the National Aeronautics and Space Administration (hereinafter referred to as NASA).

§ 1209.301 Authority.

(a) The Act of August 28, 1958 (50 U.S.C. 1431-35), (hereinafter referred to as "the Act") empowers the President to authorize departments and agencies exercising functions in connection with the national defense to enter into contracts or into amendments or modifications of contracts and to make advance payments, without regard to other provisions of law relating to the making, performance, amendment, or modification of contracts, whenever the President deems that such action would facilitate the national defense.

(b) Executive Order No. 10789, dated November 14, 1958 (23 FR 8897), authorizes the Administrator, NASA, to exercise the authority conferred by the Act and to prescribe regulations for the carrying out of such authority.

(c) NASA Procurement Regulation, Part 17 (41 CFR Chapter 18), establishes standards and procedures for the disposition of requests for extraordinary contractual adjustments by NASA contractors.

§ 1209.302 Establishment of Board.

The Board was established on May 15, 1961, was continued in effect by NASA Management Issuances (NMI) 1152.5, dated October 25, 1963, NMI 1152.5A, dated October 8, 1971, and NMI 1152.5B, dated February 20, 1976, and is further continued in effect by this regulation.

(a) The Board is authorized to act for an exercise the authority of the Administrator in cases involving request by NASA contractors for extraordinary contractual adjustments under the Act. Such authority will be exercised in accordance with the standards and procedures established by the Administrator, subject to such limitations as the Administrator may prescribe.

(b) The Board shall have the power to approve, authorize or direct any action, including the modification or release of any obligations, and to make all determinations and findings, which are necessary or appropriate for the conduct of its functions, and may adopt such rules of procedure as it considers desirable.

(c) The concurring vote of a majority of the total Board membership shall constitute an action of the Board. Decisions of the Board shall be final but the Board may reconsider and modify, correct or reverse any Board decision previously made.

§ 1209.304 Membership.

The Board will consist of a chairperson and four other members, all of whom shall be appointed by the Administrator.

§ 1209.305 Legal advice and assistance.

The General Counsel of NASA shall provide the Board with all necessary legal advice and assistance.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 78-30645 Filed 10-30-78; 8:45 am]

[3510-07-M]

Title 15—Commerce and Foreign Trade

CHAPTER I—BUREAU OF THE CENSUS, DEPARTMENT OF COMMERCE

PART 30—FOREIGN TRADE STATISTICS

Exports of Used Vehicles

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Foreign Trade Statistics Regulations to provide that for a period of 6 months, for exports of used vehicles from the United States (including vehicles shipped to Puerto Rico), the exporter or his agent must present the Shipper's Export Declaration bearing that vehicle's identification number to Customs at least 48 hours in advance of exportation; and that carriers may not depart with used vehicles unless and until a copy of the Shipper's Export Declaration approved by Customs has been delivered to the carrier.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Emanuel A. Lipscomb, Chief, Foreign Trade Division, Bureau of the Census, Washington, D.C. 20233, 301-763-5342.

SUPPLEMENTARY INFORMATION: On February 24, 1978, a notice of proposed rulemaking was published (43 FR 3510-07) to amend the Foreign Trade Statistics Regulations to provide that for a period of 6 months, for exports of used vehicles from the United States to all destinations, the required Shipper's Export Declaration must show that vehicle's identification number and be presented to Customs by the exporter or his agent at least 48 hours in advance of exportation. The summary information in the notice further provided that carriers must submit such declarations to Customs prior to the departure of such carriers. The sole purpose of this proposed amendment was to assist law enforcement agencies in the deterrence of vehicle theft.

A total of 12 letters of comment was received in response to the proposed changes. Five letters of comment were received from law enforcement agencies, and all were in favor of the proposal. The remaining letters of comments were from carriers, carrier associations, and agents, and expressed objections to the proposals.

DISCUSSION OF MAJOR COMMENTS: Objection was expressed to the wording of proposed § 30.42(c) that "Failure of the exporter (or his agent, including the carrier) to provide Customs at least 48 hours prior • • •," since in those cases where the carrier acts as agent of the exporter, the phrase "exporter or his agent" would render "including the carrier" superfluous. This wording has been changed to eliminate any inference that it is the carrier's responsibility (as carrier) to present the Shipper's Export Declaration to Customs 48 hours in advance of exportation.

In addition, objection was expressed to the proposed requirement, indicated in the summary but not addressed in the amended regulations, that in addition to the exporter's (or his agent's) having to present the Shipper's Export Declaration to Customs for approval at least 48 hours in advance of exportation, the carrier would have to present the Shipper's Export Declaration to Customs prior to exportation of the used vehicle, instead of with the vessel's complete manifest as is normally done. It was argued that no useful purpose would be served by this requirement. The Bureau of the Census agrees. Since in accordance with proposed § 30.42(b) "• • • carriers may not export used vehicles from the United States until *the required Shipper's Export Declaration bearing the notation of its prior receipt by Customs has been received by the carrier*" (italics added), there appears to be no reason to require the carrier to resubmit the declaration in advance of shipment. Since the proposed regulations never carried the stipulation that the carrier file the approved copy of the Shipper's Export Declaration with Customs prior to exportation, no change in the wording of the proposed regulations is required.

Carriers in the United States to Puerto Rico trade objected to the proposal in its entirety. Shipments of used autos to Puerto Rico are handled primarily by only three or four carriers and, in many cases, Shipper's Export Declarations are prepared by the carriers on behalf of their clients. If advance presentation of the Shipper's Export Declaration should be required, it was argued that serious problems would be encountered in storage facilities, scheduling shipments, extra costs, and delays. Moreover, the largest of such carriers described in detail the degree of surveillance already being exercised by that company to avoid exportation of stolen vehicles; e.g., it already furnishes the Federal Bureau of Investigation a list of the vehicle identification numbers prior to exportation; it compares reported vehicle identification numbers with actual vehicle identification numbers and notifies Customs of any discrepancies; etc.

In view of the nature of the objections submitted by the carriers in the United States to Puerto Rico trade, and the limited number of carriers involved, and since Puerto Rico is subject to U.S. jurisdiction, the Bureau of the Census has concluded that where carriers of merchandise from the United States to Puerto Rico make satisfactory arrangements to inform Customs of the vehicle identification numbers of used vehicles scheduled for exportation sufficiently in advance of actual exportation to permit Customs to query its stolen vehicle list and detain any vehicles determined to be stolen, the proposed new rules would be unduly onerous with respect to shipments from the United States to Puerto Rico and may, therefore, be waived by the Foreign Trade Division of the Bureau of the Census. Accordingly, a new sentence is being added to § 30.42 to provide for the granting of exemptions from the new requirements for shipments from the United States to Puerto Rico.

To effect these changes in reporting requirements, the Foreign Trade Statistics Regulations (15 CFR Part 30) are amended as set forth below.

These regulations are to be issued under the authority of Title 13, United States Code, section 302; and 5 U.S.C. 301; Reorganization Plan No. 5 of 1950, Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 FR 42765.

1. Section 30.7 is amended by the addition of the following sentence, immediately after the first sentence, and preceding the present parenthetical sentence.

§ 30.7 Information required on Shipper's Export Declarations.

• • • (See § 30.42 for additional information required for a limited time on Shipper's Export Declarations covering the exportation of used vehicles to foreign countries.) • • •

2. A new § 30.42 is added to read as follows:

§ 30.42 Special temporary requirements for the exportation of used motor vehicles.

Shipper's Export Declarations covering exports of used motor vehicles, including automobiles, trucks, tractors, buses, motorcycles, special purpose vehicles, self-propelled farm machinery, self-propelled construction equipment, self-propelled special use equipment, and other similar vehicles are subject to the following special provisions:

(a) When a used motor vehicle as defined above is to be exported from the United States to a foreign country, or shipped from the United States to Puerto Rico, exporters (or their agents) shall show on the Shipper's Export Declaration required under these regulations, under the description of commodities, that vehicle's identification number.

(b) Shipper's Export Declarations covering the exportation of used vehicles shall be presented to Customs at the port of exportation at least 48 hours prior to exportation by the exporter (or his agent). One copy of the Shipper's Export Declaration, presented to Customs by the exporter (or his agent), bearing a notation of its prior receipt by Customs, must be delivered to the exporting carrier prior to exportation; and, notwithstanding the provisions of § 30.24 of these regulations relating to the delayed filing of Shipper's Export Declarations and manifests, carriers may not transport used vehicles from the United States until the required Shipper's Export Declaration bearing the notation of its prior receipt by Customs has been received by the carrier.

(c) Failure of the exporter (or his agent) to provide Customs, at least 48 hours prior to exportation, a copy of the required Shipper's Export Declaration containing the vehicle identification number of the used vehicle to be exported shall result in the detention of such vehicle by Customs until there is compliance with the above requirements.

(d) Where carriers of merchandise from the United States to Puerto Rico make satisfactory arrangements to inform Customs of the vehicle identification numbers of used vehicles scheduled for exportation sufficiently in advance of actual exportation to permit Customs to query its stolen vehicle list and detain any vehicles determined to be stolen, such carriers may inform the Foreign Trade Division of the Bureau of the Census of the details of such arrangements and may request waiver of the provisions of § 30.42(a)-(c).

(e) The provisions of § 30.42 shall be effective for a period of six (6) months

only from the effective date of these regulations.

ment. Interested parties were given sixty (60) days in which to submit

sion in the Customs Regulations was inadvertently omitted. The following

(HFD-140), Food and Drug Administration, Department of Health, Edu-

Commissioner (21 CFR 5.1), Part 446 is amended as follows:

closing of civil claims. This directive lodges settlement authority in U.S. at-

V 4 3 / 2 1 1 0 C 3 1 7 8

only from the effective date of these regulations.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

I concur:

RICHARD J. DAVIS,
Assistant Secretary,
Department of the Treasury.

[FR Doc. 78-30727 Filed 10-30-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2930]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

John Hancock Mutual Life Insurance Co., et al.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, these four (4) consent orders, among other things, require four (4) Boston, Mass., insurance companies to cease interlocking directors by allowing any individual to sit on their boards who is simultaneously sitting on the board of any of the other boards or of any other competitive firms. The consent orders additionally require the companies to initiate prescribed procedures designed to eliminate interlocking directorates, and to submit detailed compliance reports to the Commission annually for a 5-year period.

DATES: Complaint and order issued September 19, 1978.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580, 202-523-3601.

SUPPLEMENTARY INFORMATION: On Tuesday, July 11, 1978, there was published in the FEDERAL REGISTER, 43 FR 29797, a proposed consent agreement with analysis in the matter of John Hancock Mutual Life Insurance Co., a corporation; Liberty Mutual Insurance Co., a corporation; New England Mutual Life Insurance Co., a corporation; and State Mutual Life Assurance Co. of America, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Interlocking Directorates Unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45); sec. 8, 38 Stat. 732; 49 Stat. 717 (15 U.S.C. 19).)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-30713 Filed 10-30-78; 8:45 am]

[1] Copies of the complaint, and the decision and order filed with the original document.

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-181]

PART 159—LIQUIDATION OF DUTIES

Certain Fish From Canada; Correction of Notice of Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Correction of notice of final countervailing duty determination.

SUMMARY: This notice is to inform the public that a technical correction is being made in the notice of final countervailing duty determination regarding certain fish from Canada.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles F. Goldsmith, Economist, Office of Tariff Affairs, Department of the Treasury, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-2323.

SUPPLEMENTARY INFORMATION: On June 16, 1978, a notice of "Final Countervailing Duty Determination" concerning fish from Canada, T.D. 78-181, was published in the FEDERAL REGISTER (43 FR 25996). A waiver was concurrently granted.

In that final determination, a statement directing publication of the decision in the Customs Regulations was inadvertently omitted. The following paragraph should have appeared in that notice:

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Canada under the commodity heading "Fish," the number "78-181" in the column headed "Treasury Decision"; and in the column headed "Action," the words "Bounty declared-rate." (R.S. 251, sections 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049; 19 U.S.C. 66, 1303, as amended, 1624).

Consequently, this entry will immediately precede the entry for certain fish from Canada which was added as a result of T.D. 78-182.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 25, 1978.

[FR Doc. 78-30724 Filed 10-30-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 78N-0123]

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

Concentrated Liquid Dosage Forms of Tetracycline; Revocation of Provisions for Certification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracycline which are labeled and formulated specifically for pediatric use. Less concentrated syrups and suspensions of tetracyclines, 25 milligrams per milliliter (mg/ml) or less, will continue to be certified because of the need for these products in certain geriatric patients, in patients who cannot swallow solid dosage forms, and in children for whom other antibiotics are not likely to be effective or are contraindicated.

EFFECTIVE DATE: January 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Merle L. Gibson, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 19, 1978 (43 FR 21694), the Commissioner of Food and Drugs proposed to amend the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracyclines which are labeled and formulated specifically for pediatric use. This action was taken because new evidence revealed continued extensive prescribing of concentrated liquid dosage forms specifically formulated for children, from infancy to the age of 8 years, despite known adverse reactions in this age group. Interested persons were invited to submit comments by July 18, 1978. Comments were received from consumers, pharmacists, dentists, physicians, nurses, and professional associations.

The agency received comments objecting to the proposal from persons who interpreted the proposal as intending to remove all liquid dosage forms of tetracycline from the market. These comments stressed that there is a demonstrated need for liquid dosage forms of tetracycline in certain patients who are unable to ingest solid dosage forms and in those few children for whom other antibiotics are not likely to be effective or are contraindicated.

The Commissioner believes the objecting comments misunderstood the proposal, which acknowledged the need for less concentrated syrups and suspensions (25 mg/ml or less) and proposed to revoke only the provisions for certification of the concentrated liquid dosage forms that are labeled and formulated specifically for children. The Commissioner considers the final rule, which is adopted as proposed, as responsive to the objecting comments, because the less concentrated liquid dosage forms will continue to be available.

The remainder of the comments were in agreement with the proposal.

All outstanding certificates of certification or release of batches of tetracycline concentrated syrups and suspensions formulated specifically for pediatric use are revoked on the effective date of this final rule. Recall will be requested to the retail level for all products covered by these certificates. Holders of the certificates will be notified by letter of the revocations of the certificates and of the details of the recall request.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 446 is amended as follows:

1. In § 446.115a, the second sentence of paragraph (a)(1) is revised to read as follows:

§ 446.115a Demeclocycline oral suspension.

(a) * * *

(1) * * * Each milliliter contains demeclocycline equivalent to 15 milligrams of demeclocycline hydrochloride. * * *

* * * * *

2. In § 446.166, the third sentence of paragraph (a)(1) is revised to read as follows:

§ 446.166 Oxytetracycline calcium oral suspension.

(a) * * *

(1) * * * Each milliliter contains a quantity of oxytetracycline calcium equivalent to 25 milligrams of oxytetracycline. * * *

* * * * *

Effective date. This regulation is effective January 2, 1979.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: October 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30516 Filed 10-30-78; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Criminal Division Directive No. 2]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart Y—Authority To Compromise and Close Civil Claims and Responsibility for Judgments, Fines, Penalties, and Forfeitures.

APPENDIX TO SUBPART Y—REDELEGATIONS OF AUTHORITY TO U.S. ATTORNEYS, DEPUTY ASSISTANT ATTORNEYS GENERAL, AND SECTION CHIEFS IN CRIMINAL DIVISION CASES

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Criminal Division Directive supersedes Criminal Division Directive No. 1, regarding redelegation of the Assistant Attorney General's authority with respect to compromise of civil penalties and forfeitures and closing of civil claims. This directive lodges settlement authority in U.S. attorneys in cases falling within certain monetary limitations and redelegates the remainder of the Assistant Attorney General's authority to Deputy Assistant Attorneys General and to Section Chiefs.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald B. Nicholson, attorney, Government Regulations and Labor Section, Criminal Division, Department of Justice, Washington, D.C. 20530, 202-739-2694.

By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations as amended, particularly §§ 0.160, 0.162, 0.164, and 0.168, it is hereby ordered that Criminal Division Directive No. 1 (29 FR 7383, June 6, 1964) is deleted and is superseded by the following:

(a) Each U.S. attorney is authorized to accept or reject offers in compromise of claims in behalf of the United States in all cases in which the difference between the gross amount of the original claim (or the forfeiture value of the merchandise claimed) and the proposed settlement does not exceed $60,000, and of claims against the United States in all cases, or in administrative actions to settle, in which the amount of the proposed settlement does not exceed $60,000, and to close (other than by compromise or by entry of judgment) civil claims asserted by the United States in all cases in which the gross amount of the original claim or the forfeiture value of the merchandise claimed does not exceed $60,000 except:

(1) when, for any reason, the compromise or closing of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims which, when added to the claim in question, total more than the respective amounts designated above, or

(2) when the U.S. attorney is of the opinion that because of a question of law or policy presented, or for any other reason, the matter should receive the personnel attention of the Assistant Attorney General.

(b) Notwithstanding the provisions of this Directive, the Assistant Attorney General of the Criminal Division may delegate to U.S. attorneys authority to compromise or close other cases, including those involving amounts greater than as set forth in paragraph (a) above, and up to the maximum limit of his authority, where the circumstances warrant such delegation.

(c) All other authority delegated to me by §§ 0.160, 0.162, and 0.164 of title 28 of the Code of Federal Regulations not falling within the limitations of

paragraph (a) above is hereby redele-

[4510-43-M]

ments governing the correction of errors in applications for recordation

ing the comments received in response to the advance notice, on October 11,

cate; and overpayment of an $8 fee where only a $4 fee is required. The

4. By adding a new paragraph (4) to § 201.16(c) to read as follows:

V 4 3 / 2 1 1 0 C 3 1 7 8 V

paragraph (a) above is hereby redelegated to Section Chiefs in the Criminal Division, except that when a Section Chief is of the opinion that because of a question of law or policy presented, or for any other reason, the matter should receive the personal attention of a Deputy Assistant Attorney General or the Assistant Attorney General, he shall refer the matter to the appropriate Deputy Assistant Attorney General or to the Assistant Attorney General.

(d) Notwithstanding any of the above redelegations, when the agency or agencies involved have objected in writing to the proposed closing or dismissal of a case, or to the acceptance or rejection of an offer in compromise, and the matter cannot be resolved below the Assistant Attorney General level, it must be decided by the Assistant Attorney General.

Dated: October 16, 197[redacted]

PHILIP B. HEYMANN,
Assistant Attorney General, Criminal Division.

Approved:

MICHAEL J. EGAN,
Associate Attorney General.

[FR Doc. 78-30639 Filed 10-30-78; 8:45 am]

[1505-01-M]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

Part 70—Mandatory Health Standards—Underground Coal Mines

Noise Dosimeters

Correction

In FR Doc. 78-25640, erroneously published as FR Doc. 78-35640, appearing at page 40760 in the issue for Tuesday, September 12, 1978 make the following change:

In the third column of page 40761, § 70.506, paragraph (d)(3)(ii) should read as follows:

"(ii) Comparison of the dosimeter, at 1000Hz, with a laboratory type condensor microphone of known sensitivity, and"

[4510-43-M]

PART 70—MANDATORY HEALTH STANDARDS—UNDERGROUND COAL MINES

PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES

Noise Dosimeters

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Correction.

SUMMARY: In the FEDERAL REGISTER of September 12, 1978, MSHA published a final rule on amendments to 30 CFR Part 70 to permit the use of noise dosimeters to measure noise exposure in coal mines. This document corrects typographical errors in the text of the final rule, FR Doc. 78-25640, erroneously published as FR Doc. 78-35640.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Lamonica, Chief, Division of Health, Coal Mine Safety and Health, Mine Safety and Health Administration, Ballston Tower No. 3, Room 830, 4015 Wilson Boulevard, Arlington, Va. 22203, phone 703-235-1358.

On page 40760, in the middle column, in the last paragraph, in lines 12 and 21 of that paragraph "RI 1072" is corrected to read "IR 1072".

Dated: October 26, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-30821 Filed 10-30-78; 8:45 am]

[1410-03-M]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-4A]

PART 201—GENERAL PROVISIONS

Recordation and Certification of Coin-Operated Phonorecord Players

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting final amendments to § 201.16 of our regulations. The effects of the amendments are: To establish requirements governing the correction of errors in applications for recordation of coin-operated phonorecord players and in related certificates; to clarify our examination of applications and our treatment of certain time limits imposed by the Copyright Act in connection with the recordation of coin-operated phonorecord players; to modify the requirement for the "full address" of an operator of coin-operated phonorecord players to include post office boxes in certain cases; and to make other technical amendments.

DATE: The final regulations are effective on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Susan Aramayo, Chief, Licensing Division, U.S. Copyright Office, Library of Congress, Washington, D.C. 20557, 703-557-1397.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 116 establishes conditions under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. Section 116 establishes general rules governing the conditions of the compulsory license for coin-operated phonorecord players, and requires the Register of Copyrights to prescribe regulations governing compulsory license applications and the certificates to be affixed to licensed phonorecord players.

Section 116 also sets forth certain time limitations in connection with applications for recordation of jukeboxes: For jukeboxes already in use on January 1, 1978, the application was to be submitted between January 1, 1978, and January 31, 1978; for jukeboxes put into use after January 1, 1978, the application must be submitted before or within 1 month after the date performances are first made available on that player; and for jukeboxes previously recorded in the Copyright Office the application must be submitted between January 1 and January 31 of each succeeding year that the machine is in use. In addition, as an exception to the requirement that applications are to be accompanied by a royalty fee of $8 per player, the statute provides that, if performances "are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year" is $4.

On March 30, 1977, we published in the FEDERAL REGISTER (42 FR 16838) an advance notice of proposed rulemaking in this matter. After considering the comments received in response to the advance notice, on October 11, 1977, we published a proposed regulation (42 FR 54840) and, on October 25, 1977, we held a public hearing on the proposal. After considering the comments made at the hearing and in supplemental filings, on December 20, 1977, we published (42 FR 63779) final regulations implementing section 116. In the light of our experience since January of this year, on August 23, 1978, we adopted interim amendments to the regulations (43 FR 37451). The amendments are fully discussed in the preamble to our notice of August 23, 1978; in summary:

1. We amended § 201.16(b)(1)(ii) to provide that, after consultation with postal officials, we will accept a post office box or similar designation as a jukebox operator's "address" in special cases where no better address for the operator's place of business is possible.

2. We amended § 201.16(c) to state our general operating principle in examining applications for recordation of jukeboxes: We will require the correction of errors appearing on the face of the application, but will generally not go beyond the information in the document itself. This amendment also makes clear that the issuance of a jukebox certificate by the Copyright Office shall not be considered "a determination that the application was properly prepared or that all of the requirements to qualify for a compulsory license have been satisfied."

3. We added a new paragraph (f) to § 201.16 to explain our handling of the time limitations established in the statute for the filing of applications for recordation of jukeboxes and the payment of royalty fees. This amendment: (a) States the general rule that the Copyright Office will not inquire into the timeliness of applications and will accept late filings where a proper fee is paid, for whatever effect a court may accord to such filings; (b) requires that applications filed before June 1 of a particular year and accompanied by $4 fees for listed players be supplemented by a statement that the players will not be put into use until after July 1 of that year; and (c) makes clear that applications filed after July 1 of a particular year and accompanied by $8 fees will be considered by the Copyright Office to cover players first put into use before that date.

4. We added a new paragraph (g) to § 201.16 to deal with situations where jukebox operators discover errors in their applications or certificates. This amendment specifies that corrections (and consequent refunds) will be made after the issuance of certificates in four cases: The duplicate listing of players; the entry of certain erroneous information in the application; Copyright Office error in issuing a certificate; and overpayment of an $8 fee where only a $4 fee is required. The amendment also establishes specific conditions under which corrections and refunds will be made in these cases.

5. We amended § 201.16(b)(2)(i) to require that applications for players that lack serial numbers must give the model number of the player only where that number is known to the operator.

6. We made a technical amendment to § 201.16(d) to correct a typographical error.

Members of the public were given until October 11, 1978, to comment on the interim amendments. One comment, from the American Society of Composers, Authors and Publishers (ASCAP), was received. That comment "fully support[ed]" the interim amendments.

The interim amendments as published on August 23, 1978, are adopted as final and are set forth below.

Dated: October 24, 1978.

BARBARA RINGER,
Register of Copyrights.

DANIEL J. BOORSTIN,
The Librarian of Congress.

FINAL AMENDMENTS

Part 201 of 37 CFR Chapter II is amended:

§ 201.16 [Amended]

1. By revising § 201.16(b)(1)(ii) (as adopted on Jan. 1, 1978) to read as follows:

• • • • • •

(b) • • •
(1) • • •

(ii) The full address of the operator's place of business, including a specific number and street name or rural route. A post office box number or similar designation will not generally be accepted. The Copyright Office will accept a post office box number or similar designation in special cases if, after consulting with officials of the U.S. Postal Service, the Office concludes that no better address for the operator's place of business is possible.

• • • • • •

2. By adding the words "if known;" following the phrase "Its model number" in § 201.16(b)(2)(i).

3. By correcting the phrase "a statement in accordance with section 1746 or title 28 of the United States Code, and signed • • •" in § 201.16(d) to read "a statement in accordance with section 1746 of title 28 of the United States Code, made and signed • • •."

4. By adding a new paragraph (4) to § 201.16(c) to read as follows:

• • • • • •

(c) *Certificate.* • • •

• • • • • •

(4) The Copyright Office will advise jukebox operators of errors or omissions appearing on the face of forms submitted to it, and will require that any such obvious errors or omissions (including errors in the calculation of fees) be corrected before certificates will be issued. However, the issuance of a certificate by the Copyright Office shall establish only the fact, date of issuance, and date of expiration of the certificate; it shall in no case be considered a determination that the application form was properly prepared or that all of the requirements to qualify for a compulsory license have been satisfied.

• • • • • •

5. By adding new paragraphs (f) and (g) to § 201.16 to read as follows:

• • • • • •

(f) *Time limitations.* (1) The Copyright Office may, when it considers it reasonable and appropriate, advise applicants of the time limitations governing the filing of applications and amount of royalty fees as set forth in 17 U.S.C. 116. However, except as set forth in paragraph (f)(2) of this section, the Office will normally not inquire into the date on which performances were actually made available on particular phonorecord players identified in the application or whether such players were previously recorded in the Copyright Office. In the following cases, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the late filing, and shall have only such effect as may be attributed to it by a court of competent jurisdiction: (i) Where, on the date the application covering a particular phonorecord player was received in the Copyright Office, performances had been first made available on that player more than 1 month earlier; and (ii) where, in 1979 and thereafter, a particular phonorecord player had been recorded in the Copyright Office during the previous calendar year, but the application is received after January 31 of the year in question.

(2) In the case of an application that is received in the Copyright Office before June 1 of a particular year, and that is accompanied by a fee of $4 for each player identified in the application, the Copyright Office will not

issue certificates unless the application is accompanied or supplemented

graph (b)(2) of this section. In any such case the Copyright Office will

quest, if it is received in the Copyright Office within the required 30-day

fied check, cashier's check, or money order in the following amount: (A) In

Plan (SIP). Scott Paper Co.'s compli-

ance with the order will preclude suits

the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to

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issue certificates unless the application is accompanied or supplemented by a statement that performances will not be made available on such players until after July 1 of that year. The statement shall be in the form of a letter addressed to the Licensing Division of the Copyright Office, and shall be signed by the operator named in the application or the duly authorized agent of that operator. If a business entity is the operator, the signature or name shall be that of an officer if the entity is a corporation, or a partner if the entity is a partnership, and shall be accompanied by the organizational title of that person. The statement shall, for all purposes including section 116(b)(1)(B) of title 17 of the United States Code, be considered a part of the application. The statement described in this paragraph shall not be required in the case of applications covering a particular year received in the Copyright Office after June 1 of that year. In any case, if performances are actually made available for the first time on any players covered by $4 fees on or before July 1 of that year, the Office's acceptance of the application and issuance of a certificate is not to be considered as relieving the operator from any legal consequences arising from the failure to pay the correct fee, and shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(3) If an application received in the Copyright Office after July 1 of any year is accompanied by a royalty fee of $8 for each player identified, the Copyright Office will assume without further inquiry that the application pertains to players on which performances were made available for the first time on or before July 1 of that year.

(g) *Corrections and refunds.* (1) Upon compliance with the procedures and within the time limits set forth in paragraph (g)(3) of this section, corrections to applications for recordation of coin-operated phonorecord players will be made, and corrected certificates and refunds will be issued, in the following cases:

(i) Where the same player, identified by the same serial number or other identifying information, is listed more than once in the same application, or in two or more applications filed during the same year by or on behalf of the same operator. In these cases the operator named in the application shall be entitled to a refund of any duplicate fee paid;

(ii) Where any of the following information was incorrect at the time the application was signed: (A) The operator's name or address; (B) the serial number or name of the manufacturer of a player; or (C) the identifying information required by paragraph (b)(2) of this section. In any such case the Copyright Office will issue a new certificate containing the correct information. Each corrected certificate will be identified by a double asterisk following the name of the manufacturer.

(iii) Where an application contains information that was correct at the time the application was signed but, as the result of Copyright Office error, the certificate contains incorrect information. In this case the Copyright Office will issue a new certificate containing the correct information; and

(iv) Where an application was accompanied by payment of an $8 fee for each phonorecord player listed but, with respect to one or more such players, performances were actually made available for the first time after July 1 of the year in which the application was filed. In this case the operator named in the application shall be entitled to a refund of any excess fee paid and the Copyright Office will issue a new certificate for each player subject to the $4 fee.

(2) Corrected certificates or refunds will not be issued after the issuance of original certificates in the following cases:

(i) Where the application was correct on the date on which the application was signed, but changes (for example, a change in the operator's name or address, or the sale or destruction of a player) took place later;

(ii) Where the application identified one or more players that the operator named in the application never owned or operated, or did not own or operate at the time the application was signed, or where, before the application was signed, an identified player had been destroyed or otherwise rendered permanently incapable of being repaired; or

(iii) In any other case not specifically mentioned in paragraph (g)(1) of this section.

(3) Requests for corrections and refunds in the cases mentioned in paragraph (g)(1) of this section shall be made to the Licensing Division of the Copyright Office, and shall meet the following conditions:

(i) The request must be in writing, must be clearly identifiable as a request for a correction or refund, and, except in the cases described in paragraph (g)(1)(iii) of this section, must be received in the Copyright Office with the appropriate fee, certificate or certificates, and affidavit (where required) before the expiration of 30 days from the date on which the original certificate was issued by the Copyright Office. A request made by telephone or by telegraphic or similar unsigned communication, will be considered to meet this requirement, if it clearly identifies the basis of the request, if it is received in the Copyright Office within the required 30-day period, and if a written request meeting all the conditions of this paragraph (g)(3) of this section is also received in the Copyright Office within 14 days after the end of such 30-day period.

(ii) The original application pertaining to each correction must be sufficiently identified in the request so that it can be readily located in the records of the Copyright Office.

(iii) The original certificate pertaining to each correction or refund must be returned to the Copyright Office within the time period prescribed by paragraph (g)(3)(i) of this section. No request will be processed until the applicable certificate is returned; and

(iv) The request must contain a clear statement of the facts on which it is based, in accordance with the following requirements:

(A) In the case of duplicate listings (paragraph (g)(1)(i)) a precise and accurate identification of the particular player or players must be given.

(B) In the case of incorrect information given in the application (paragraph (g)(1)(ii) of this section) the request must clearly identify the erroneous information and provide the correct information.

(C) In the case of a certificate that contains erroneous information resulting from Copyright Office error (paragraph (g)(1)(iii) of this section) the error must be clearly indicated.

(D) In the case of overpayment within the meaning of paragraph (g)(1)(iv) of this section, the request must be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, made and signed by the operator named in the application of the duly authorized agent of that operator in accordance with paragraph (b)(1)(vi) of this section. The affidavit or statement shall: aver that performances of nondramatic musical works were actually made available on the particular phonorecord player(s) for the first time after July 1 of the year covered by the application; Give the exact date, including month, day, and year on which such performances were first made available and the location where that event took place; specifically identify the particular phonorecord player(s) involved by the same identifying information as given in the application; and include a brief explanation of the reason for the original submission of a $8 fee for those players.

(v) In those cases where corrections or refunds are to be made under paragraph (g)(1) of this section, the request must be accompanied by a certified check, cashier's check, or money order in the following amount: (A) In the case of a duplicate listing (paragraph (g)(1)(i) of this section): $4 for each application involved; (B) in the case of an error in the operator's name or address (paragraph (g)(1)(ii)(A)) or overpayment within the meaning of paragraph (g)(1)(iv) of this section: $4 for each separate original application pertaining to the certificates to be corrected; and (C) in the case of an error in the serial number or name of the manufacturer of the player, or other identifying information (paragraph (g)(1)(ii) (B) and (C) of this section): $4 for each separate certificate to be corrected. No request will be processed until the appropriate fee is received; and

(vi) The request must be signed by the operator named in the application, or the duly authorized agent of the operator, in accordance with paragraph (b)(1)(vi) of this section.

(4) Each request for correction or refund will be made part of the original application in the records of the Copyright Office. Nothing contained in this paragraph (g) shall be considered to relieve the operator from its full obligations under title 17 of the United States Code, including penalties for affixing a certificate to a player other than the one it covers.

(17 U.S.C. 116, 702, 708.)

[FR Doc. 78-30753 Filed 10-30-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 960-2]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Scott Paper Co., Everett, Wash.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to the Scott Paper Co. The order requires the company to bring air emissions from its sulfite pulp mill at Everett, Wash., into compliance with certain regulations contained in the federally-approved Washington State Implementation Plan (SIP). Scott Paper Co.'s compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation(s) of the SIP regulations covered by the order.

DATE: This rule takes effect on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr Kenneth Brooks, EPA Region 10, 1200 Sixth Avenue M/S 513, Seattle, Wash. 98101 or telephone 206-399-1387.

SUPPLEMENTARY INFORMATION: On June 9, 1978 the Regional Administrator of EPA's region 10 office published in the FEDERAL REGISTER (43 FR 25147) a notice setting out the provisions of a proposed delayed compliance order for Scott Paper Co. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments or requests for a public hearing were received in response to the proposed notice.

Therefore, a delayed compliance order effective this date is issued to Scott Paper Co. by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Scott Paper Co. on a schedule to bring its sulfite pulp mill at Everett, Wash., into compliance as expeditiously as practicable with Washington Administrative Code (WAC) 18-04-070 and PSAPCA Regulation I, a part of the federally-approved Washington State Implementation Plan. Scott Paper Co. is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If conditions of the order are met, it will permit Scott Paper Co. to delay compliance with the SIP regulations covered by the order until July 1, 1979.

Compliance with the order by Scott Paper Co. will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order and for violations of the regulations covered by the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determined that Scott Paper Co. is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(a) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Scott Paper Co. on a schedule for compliance with the Washington State Implementation Plan.

AUTHORITY: 42 U.S.C. 7413(d), 7601.

Dated: October 24, 1978.

BARBARA BLUM,
Acting Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

1. By adding § 65.521 to read as follows:

Subpart WW—Washington

§ 65.521 EPA Approval of State delayed compliance orders issued to major stationary sources.

The State orders identified below have been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for approval of the order under section 113(d) of the Act.

Source	Location	Order No.	SIP regulation(s) involved	Date of adoption	Final compliance date
Scott Paper Co.....	Everett, Wash.....	WO2	WAC 18-04-070, PSAPCA Reg. 1.	Mar. 9, 1978.....	July 1, 1979.

[FR Doc. 78-30633 Filed 10-30-78; 8:45 am]

[6560-01-M]

ington State implementation plan. Georgia-Pacific Corp. is unable to

EPA has determined that the order

§ 6-1.104 Applicability.

the International Narcotics Control Program, implementing authorities

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

V 43/211 OCT 31 78

[6560-01-M]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Georgia-Pacific Corp., Bellingham, Wash.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of EPA issues a delayed compliance order to the Georgia-Pacific Corp. The order requires the company to bring air emissions from its sulfite pulp mill at Bellingham, Wash. into compliance with certain regulations contained in the federally approved Washington State implementation plan (SIP). Georgia-Pacific Corp.'s compliance with the order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violation of the SIP regulations covered by the order.

DATE: This rule takes effect on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Kenneth Brooks, EPA Region X, 1200 Sixth Avenue, M/S 513, Seattle, Wash. 98101 or telephone 206-399-1387.

SUPPLEMENTARY INFORMATION: On May 31, 1978, the Regional Administrator of EPA's region X office published in the FEDERAL REGISTER (43 FR 23615) a notice setting out the provisions of a proposed delayed compliance order for Georgia-Pacific Corp. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed order. No public comments or requests for a public hearing were received in response to the proposal notice.

Therefore, a delayed compliance order effective this date is issued to Georgia-Pacific Corp. by the Administrator of EPA pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The order places Georgia-Pacific Corp. on a schedule to bring its sulfite pulp mill at Bellingham, Wash. into compliance as expeditiously as practicable with Washington Administrative Code 18-04-070(3) and NWAPA Regulation: Section 451—Emission of Air Contaminants; Visual Standard and Section 455—Emission of Particulate Matter, a part of the federally approved Washington State implementation plan. Georgia-Pacific Corp. is unable to immediately comply with these regulations. The order also imposes interim requirements which meet sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the order are met, it will permit Georgia-Pacific Corp. to delay compliance with the SIP regulations covered by the order until June 30, 1979.

Compliance with the order by Georgia-Pacific Corp. will preclude Federal enforcement action under section 113 of the Act for violations of the SIP regulations covered by the order. Citizen suits under section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the order, and for violations of the regulation covered by the order which occurred before the order was issued by EPA or after the order is terminated. If the Administrator determined that Georgia-Pacific Corp. is in violation of a requirement contained in the order, one or more of the actions required by section 113(d)(a) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under section 307(b) of the Act.

EPA has determined that the order shall be effective upon publication of this notice because of the need to immediately place Georgia-Pacific Corp. on a schedule for compliance with the Washington State implementation plan. (Authority: 42 U.S.C. 7413(d), 7601).

Dated: October 24, 1978.

BARBARA BLUM,
Acting Administrator.

In consideration of the foregoing, chapter 1 of title 40 of the Code of Federal Regulations is amended as follows:

1. By adding § 65.521 to read as follows:

Subpart WW—Washington

§ 65.521 EPA approval of State delayed compliance orders issued to major stationary sources.

The State orders identified below have been approved by the Administrator in accordance with section 113(d)(2) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for approval of the order under section 113(d) of the Act..

Source	Location	Order No.	SIP regulation involved	Date of adoption	Final compliance date
Georgia-Pacific	Bellingham, Wash.	WO1	WAC 18-04-070(3).	Dec. 14, 1977	June 3, 1979.

[FR Doc. 78-30634 Filed 10-30-78; 8:45 am]

[4710-05-M]

Title 41—Public Contracts and Property Management

CHAPTER 6—DEPARTMENT OF STATE

[Dept. Reg. 108.757]

PART 6-1—GENERAL

PART 6-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

International Narcotics Control Program Procurement

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This amendment to the Department of State procurement regulations incorporates regulations and procedures for procurement under the International Narcotics Control Program as authorized by section 481 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291), and delegates authority for such procurement.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry M. Hite, 703-235-9529.

SUPPLEMENTARY INFORMATION: Effective October 1, 1978, procurement support for the International Narcotics Control Program, formerly administered by the Agency for International development, is transferred to the Department of State. Since procurement under this program is authorized by the Foreign Assistance Act, this amendment will permit utilization of Agency for International Development Regulations (chapter 7 of this title) which prescribe procedures for procurement under the act.

Accordingly, subpart 6-1.1 is amended, and a new part 6-4 is added in chapter 6 of title 41 of the Code of Federal Regulations as follows:

1. In subpart 6-1.1, § 6-1.104 is amended by revising paragraph (a) to read as follows:

§ 6-1.104 Applicability.

(a) The DOSPR and the FPR apply to all procurement of personal property and nonpersonal services (including construction) by the Department of State both within and outside the United States except procurement which is exempt from the Federal Property and Administrative Services Act of 1949, as amended (see 40 U.S.C. 474). Procurement under the International Narcotics Control Program is specifically governed by part 6-4 of this chapter.

• • • • •

2. A new part 6-4 is added to read as follows:

PART 6-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 6-4.50—International Narcotics Control Program Procurement

Sec.
6-4.5000 Scope.
6-4.5001 Applicability.
6-4.5002 Procurement authority.
6-4.5003 Interim regulations.
6-4.5004 Procedures.

AUTHORITY: Sec. 621(a), 75 Stat. 445, 22 U.S.C. 2381(a); Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); Sec. 4, 63 Stat. 111, 22 U.S.C. 2658, as amended.

Subpart 6-4.50—International Narcotics Control Program Procurement

§ 6-4.5000 Scope.

This subpart incorporates by reference regulations and procedures for procurement under the International Narcotics Control Program authorized by section 481 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291), and delegates authority for such procurement.

§ 6-4.5001 Applicability.

The provisions of this subpart apply to procurement under the International Narcotics Control Program both within and outside the United States.

§ 6-4.5002 Procurement authority.

The Chief, Supply and Transportation Division, is designated the chief officer responsible for procurement for the International Narcotics Control Program. In this capacity, this officer has the specific authority to enter into and administer contracts. Unless otherwise directed by the Secretary of State or provided for in the regulations of the Department, this officer shall also provide policy direction and prescribe or approve standards, procedures, and internal instructions for the award and administration of contracts both within and outside the United States, including contracts with individuals for personal services abroad. To accomplish the purposes of the International Narcotics Control Program, implementing authorities contained in the Foreign Assistance Act of 1961, as amended, and in sections 1, 2, and 3 of Executive Order No. 11223 of May 12, 1965 may be utilized to the extent this officer deems necessary or appropriate in the performance of the procurement function. Authority to perform functions under this chapter may be redelegated to subordinate personnel and, on a case-by-case basis, to technically qualified personnel of the Foreign Service located at posts overseas.

§ 6-4.5003 Interim regulations.

The Chief, Supply and Transportation Division, is authorized and empowered to utilize those provisions of chapter 7 of this title (included herein by reference), Agency for International Development Procurement Regulations, including any amendments thereto, which this officer deems necessary and appropriate to accomplish the purposes of procurement under the International Narcotics Control Program.

§ 6-4.5004 Procedures.

Internal instructions will be issued to redesignate counterpart Department of State functions, offices, and positions in lieu of those designated in the Agency for International Development procurement regulations (chapter 7 of this title). Any further implementation material may also be included in such instructions.

(Sec. 621(a), 75 Stat. 445, 22 U.S.C. 2381(a); Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); Sec. 4, 63 Stat. 111, 22 U.S.C. 2658, as amended.)

Dated: October 12, 1978..

CYRUS R. VANCE,
Secretary of State.

[FR Doc. 78-30763 Filed 10-30-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-681]

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and TV Broadcasting; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This action corrects § 73.1225, changed by order published in the FEDERAL REGISTER on October 4, 1978, as 43 FR 45842.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Steve Crane, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Released: October 24, 1978.

In the above captioned *Order*, FCC 78-681, appearing in the FEDERAL REGISTER October 4, 1978, at 43 FR 45842, § 73.1225(c) (2)(iii) and (3) follow § 73.1226 erroneously.

Subdivision "(iii) Chief operator agreements and contracts with first-class operators employed part-time for maintenance duties." and subparagraph "(3) *For TV Stations.* (i) Program, operating and maintenance logs." appear at the end of § 73.1226 in error and should appear at the end of § 73.1225.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30755 Filed 10-30-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[Docket No. 36483]

PART 1200—GENERAL ACCOUNTING REGULATIONS UNDER THE INTERSTATE COMMERCE ACT

Correction

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published June 19, 1978, 43 FR 26313, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 20, 320, 913, and 1012.)

Companies; Part 1240—Classes of Carriers; Part 1241—Annual, Special or

verently omitted. This document is being published to show the proper ci-

proposed rules

(49 U.S.C. 20, 320, 913, and 1012.)

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30782 Filed 10-30-78; 8:45 am]

[7035-01-M]

ACCOUNTING FOR CHARITABLE CONTRIBUTIONS

MISCELLANEOUS CHANGES TO REGULATIONS; CORRECTION

In the matter of Part 1201—Railroad Companies, Subpart A—Uniform System of Accounts for Railroad Companies; Part 1202—Uniform System of Accounts for Electric Railways; Part 1205—Uniform System of Accounts for Refrigerator Car Lines; Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers; Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property; Part 1208—Uniform System of Accounts for Maritime Carriers; Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers; Part 1210—Uniform System of Accounts for Freight Forwarders.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published December 23, 1977, 42 FR 64350, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 12, 20, 304, 913, and 1012.)

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30783 Filed 10-30-78; 8:45 am]

[7035-01-M]

[No. 36730]

DESIGNATING A CLASS III RAILROAD FOR ACCOUNTING AND REPORTING PURPOSES; CORRECTION

In the matter of Part 1201A—Uniform System of Accounts for Railroad Companies; Part 1202—Electric Railways; Part 1205—Refrigerator Car Lines; Part 1206—Common and Contract Motor Carriers of Passengers; Part 1207—Class I and Class II Common and Contract Motor Carriers of Property; Part 1208—Maritime Carriers; Part 1209—Inland and Coastal Waterways Carriers; Part 1210—Freight Forwarders; Part 1211—Rate Bureaus.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published August 23, 1978, 43 FR 47455, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 12, 20, 304, 913, and 1012.)

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30781 Filed 10-30-78; 8:45 am]

[7035-01-M]

[Docket No. 36923]

UNIFORM SYSTEM OF ACCOUNTS

Accounting for Prior Period Adjustments; Correction

In the matter of Part 1201A—Railroad Companies; Part 1202—Electric Railways; Part 1205—Refrigerator Car Lines; Part 1206—Common and Contract Motor Carriers of Passengers; Part 1207—Class I and Class II Common and Contract Motor Carriers of Property; Part 1208—Maritime Carriers; Part 1209—Inland and Coastal Waterways Carriers; Part 1210—Freight Forwarders; Part 1211—Rate Bureaus.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published October 27, 1977, 42 FR 56610, the authority citation was inadvertently omitted. This document is being published to show the proper citation.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 12, 20, 304, 913, and 1012.)

H. G. HOMME, Jr.,
Acting Secretary.

FR Doc. 78-30779 Filed 10-30-78; 8:45 am]

[7035-01-M]

[No. 36604]

ACCOUNTING FOR LEASES; CORRECTION

In the matter of appendix A, Part 1201A—Uniform System of Accounts for Railroad Companies; Appendix B, Part 1201A—Uniform System of Accounts for Railroad Companies; Appendix C, Part 1202—Uniform System of Accounts for Electric Railways; Appendix E, Part 1205—Uniform System of Accounts for Refrigerator Car Lines; Appendix F, Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers; Appendix G, Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Propety; Appendix H, Part 1208—Uniform System of Accounts for Maritime Carriers; Appendix I, Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers; Appendix J, Part 1210—Uniform System of Accounts for Freight Forwarders.

AGENCY: Interstate Commerce Commission.

ACTION: Rule correction.

SUMMARY: In the above proceeding, published October 27, 1977, 42 FR 56610, the authority citation was inadvertently omitted. This document is being published to show the proper authority citation.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., Chief, Section of Accounting, telephone 202-275-7448.

SUPPLEMENTARY INFORMATION: The proper authority citation for the above is:

(49 U.S.C. 12, 20, 304, 913, and 1012.)

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30780 Filed 10-30-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-382]

MELONS GROWN IN SOUTH TEXAS

Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and notice of hearing.

SUMMARY: A public hearing will be held beginning 9 a.m. on November 28, 1978, at the Hidalgo County Courthouse, 100 North Closner Street, Edinburg, Tex. 78539, regarding a proposed marketing agreement and order for melons grown in south Texas.

The public hearing is for the purpose of:

(a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth;

(b) Determining whether the handling of melons grown in the proposed production area is in the current of interstate or foreign commerce or directly burdens, obstructs or affects interstate or foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of such melons; and

(d) Determining whether the proposed marketing agreement and order or appropriate modification thereof will tend to effectuate the declared policy of the act.

DATES: Hearing begins November 28, 1978.

ADDRESS: Hearing will be held at: Auditorium of the Hidalgo County Courthouse, 100 North Closner Street, Edinburg, Tex. 78539.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, phone 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposed marketing agreement and order, the provisions of which are as follows, were submitted with a request for a hearing thereon by the South Texas Melon Steering Committee. The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

DEFINITIONS

§ .1 *Secretary.*

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ .2 *Act.*

"Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

§ .3 *Person.*

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ .4 *Production area.*

"Production area" means the counties of Bee, Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Live Oak, McMullen, Nueces, Refugio, San Patricio, Starr, Webb, Willacy, and Zapata in the State of Texas.

§ .5 *Melons.*

"Melons" means all varieties of *Cucumis melo*, commonly called muskmelons and including but not limited to varieties *reticulatus* and *inodorus*, grown in the production area. Such varieties include cantaloupes, honeydew and honey ball melons. Watermelons (*Citrullus* vulgaris) are not included in the foregoing definition.

§ .6 *Handler.*

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of melons owned by another person) who handles melons or causes melons to be handled.

§ .7 *Handle.*

"Handle" or "ship" means to harvest, grade, package, sell, transport, or in any other way to place melons grown in the production area, or cause such melons to be placed, in the current of commerce within the production area or between the production area and any point outside thereof. Such term shall not include the transportation, sale, or delivery within the production area of field-run melons to a person for the purpose of having such melons prepared for market.

§ .8 *Grower.*

"Grower" is synonymous with "producer" and means any person engaged in a proprietary capacity in the production of melons for market.

§ .9 *Committee.*

"Committee" means the South Texas Melon Committee established pursuant to § .22.

§ .10 *Fiscal period.*

"Fiscal period" means the annual period beginning and ending on such dates as may be approved by the Secretary pursuant to recommendations of the committee.

§ .11 *Grade, size, and maturity.*

"Grade," "size," and "maturity" mean, respectively, any of the officially established grade, size, or maturity definitions as set forth in the U.S. Standards for Grades of Cantaloupes (§§ 2851.475-2851.494(c) of this title) or U.S. Standards for Grades of Honey Dew and Honey Ball Type Mellons (§§ 2851.3740-2851.3749 of this title), including amendments, modifications, or variations thereof, or, such other grades, sizes, and maturities as may be recommended by the committee and approved by the Secretary.

§ .12 *Grading.*

"Grading" is synonymous with "preparing melons for commercial market" and means sorting or separation of melons into grades, sizes, maturities, or packs, or any combination thereof, for handling.

§ .13 *Pack.*

"Pack" means a quantity of melons

if he handles melons, shall be eligible for selection as a grower member on

(a) Shifts in melon acreage within the districts and within the production

subsidiaries, affiliates, and representatives in designating nominees for com-

tion, but such selection shall be made on the basis of representation pro-

violation of the provisions of this part; and

(d) To recommend to the Secretary

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§ .13 *Pack.*

"Pack" means a quantity of melons specified by grade, size, weight, or count, or by type or conditions of container, or any combination of these recommended by the committee and approved by the Secretary.

§ .14 *Container.*

"Container" means any carton, crate, box, bag, hamper, pallet bin, package, basket, bulk load, or any other type of receptacle used in handiing melons.

§ .15 *Varieties.*

"Varieties" means and includes all classifications, subdividions, or types of melons according to those definitive characteristics now and hereinafter recognized by the U.S. Department of Agriculture or recommended by the committee, and approved by the Secretary.

§ .16 *Export.*

"Export" means shipment of melons to any destination which is not within the 48 contiguous States, or the District of Columbia, of the United States.

§ .17 *District.*

"District" means each of the geographic divisions of the production area initially established pursuant to § .24 or as reestablished pursuant to § .25.

§ .18 *Part and subpart.*

"Part" means the Order Regulating the Handling of Melons in South Texas and all rules and regulations, and supplementary orders issued thereunder. The aforesaid Order Regulating the Handling of Melons Grown in South Texas shall be a "subpart" of such "part."

COMMITTEE

§ .22 *Establishment and membership.*

(a) There is hereby established a South Texas Melon Committee, consisting of ten (10) members, to administer the terms and provisions of this part. Six members shall be growers, three members shall be handlers, and one shall be a public member. Each shall have an alternate who shall have the same qualifications as the member.

(b) Each member, other than the public member, shall be an individual who is, prior to his selection and during his term of office (1) a resident of the production area, and (2) a grower or handler, or an officer or employee of a grower or handler, or of growers' cooperative marketing organization.

(c) Five members shall be growers from district 1 and one members shall be a grower from district 2. No person, if he handles melons, shall be eligible for selection as a grower member on the committee unless at least 100 percent of the melons handled by him during the fiscal period immediately preceding his proposed selection to the committee were his own production, or unless such person is an officer or employee of a growers' cooperative marketing association. Three members shall be handlers from district 1.

(d) The public member and alternate shall be a resident of the production area and be neither a grower nor a handler and shall have no direct financial interest in the commercial production, financing, buying, packing or marketing of melons, except as a consumer, nor shall such person be a director, officer or employee of any firm so engaged.

§ .23 *Term of office.*

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of committee members and their respective alternates shall be for 2 years and shall begin as of March 1 and end the last day of February or for such other 2-year period as the committee may recommend and the Secretary approve. The terms shall be so determined that approximately one-half of the total committee membership shall terminate each year. Members and alternates shall serve in such capacity for the portion of the term of office for which they are selected and have qualified, and until their respective successors are selected and have qualified;

(b) The term of office of the initial members and alternates shall begin on the effective date of this subpart. Approximately one-half the initial committee members and alternates shall serve for a 1 year term.

§ .24 *Districts.*

To determine a basis for selecting committee members, the following districts of the production area are hereby initially established:

District No. 1: (Lower Valley) the counties of Cameron, Hidalgo, Starr, Brooks, Kleberg, Jim Hogg, Kenedy, and Willacy in the State of Texas.

District No. 2: (Laredo) the counties of Zapata, Webb, Duval, Jim Wells, Nueces, San Patricio, La Salle, McMullen, Live Oak, Bee, and Refugio in the State of Texas.

§ .25 *Redistricting.*

The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to:

(a) Shifts in melon acreage within the districts and within the production area during recent years;

(b) The importance of new production in its relation to existing districts;

(c) The equitable relationship of committee membership and districts; and

(d) Other relevant factors. No change in districting or in apportionment of members within districts may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than 6 months prior to such date.

§ .26 *Nominations.*

(a) Initial members. For nominations to the initial committee, the meeting or meetings may be sponsored by the U.S. Department of Agriculture or by any agency or group requested to do so by the Department. The nominations, resulting from these meetings, for each of the six initial grower and three initial handler members of the committee, together with nomination for the initial alternate members for each position shall be submitted to the Secretary prior to the effective date of this subpart. In the event nominations for initial members and alternate members of the committee are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § .22.

(b) Successor members. (1) The committee shall hold or cause to be held, not later than January 15 of each year, or such other date as may be specified by the Secretary, a meeting or meetings of growers and handlers in each district for the purpose of designating at least one nominee for each position as member and for each position as alternate member of the committee which is vacant, or which is about to become vacant;

(2) The names of nominees shall be supplied to the Secretary at such time and in such manner and form as he may prescribe;

(3) Only growers may participate in designating grower nominees and only handlers may participate in designating handler nominees to the committee;

(4) Only growers and handlers who are present at such nomination meetings, or represented at such meetings by a duly authorized employee, may participate in the nomination and election of nominees for members and their alternates.

(c) Each person, whether grower or handler, is entitled to cast only one vote on behalf of himself, his agents,

subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote shall be construed to permit a voter to cast one vote for each position to be filled;

(d) The public member and alternate member shall be nominated by the members of the committee. The public member and alternate member shall not be growers or handlers, or employees of growers or handlers. The committee shall recommend rules for receiving names of persons to be considered for nomination to the public member and alternate positions. Rules shall also be recommended for establishing eligibillty of persons nominated to the public member and alternate positions. The persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15, or such other date recommended by the committee and approved by the Secretary, of the years the terms expire together with information deemed pertinent by the committee or as requested by the Secretary. The names of the nominees for the initial public member and alternate shall be submitted to the Secretary not later than 90 days after the first regular meeting of the initial South Texas Melon Committee.

§ .27 *Selection.*

Committee members and alternates shall be selected by the Secretary on the basis of representation provided for in § .22 from nominations made pursuant to § .26.

§ .28 *Failure to nominate.*

If nominations, including initial nominations, are not made within the time and manner prescribed in § .26, the Secretary may, without regard to nominations, select the members and alternates on the basis of the representation provided for in § .22.

§ .29 *Acceptance.*

Any person selected by the Secretary as member or as an alternate member of the committee shall, prior to serving as such, qualify by filing a written acceptance with the Secretary within the time period specified by the Secretary.

§ .30 *Vacancies.*

To fill committee vacancies, the Secretary may select members or alternates from nominees on the latest nomination reports or from nominations made in the manner specified in § .26 or from other eligible persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the vacancy may be filled without regard to nomination, but such selection shall be made on the basis of representation provided for in § .22.

§ .31 *Alternate member.*

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence or when designated to do so by such member. In the event both a member of the committee and his alternate are unable to attend a commmittee meeting, the member or his alternate or the committee, in that order, may designate another alternate from the same district and the same group (handler or grower) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ .32 *Procedure.*

(a) Seven members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee actions.

(b) In assembled meetings all votes shall be cast in person. However, the committee may provide for meetings by telephone, telegraph, or other means of communication and any vote cast at such meetings shall be promptly confirmed in writing and recorded in the minutes of each meeting so as to reflect how each member voted.

§ .33 *Expenses and compensation.*

Members and alternates, when serving as members of the committee, shall serve without compensation but shall be reimbursed for such expenses authorized by the committee and necessarily incurred by them in attending committee meetings and in the performance of their duties under this part: *Provided*, That the committee at its discretion may request the attendance of one or more alternates at any or all meetings notwithstanding the expected or actual presence of the respective members and may pay expenses as aforesaid.

§ .34 *Power.*

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ .35 *Duties.*

The committee shall have, among others, the following duties:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees, and to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary, and to recommend nominees for the public member and alternate;

(b) To act as intermediary between the Secretary and any grower or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to melons;

(f) To recommend research projects to the Secretary in accordance with this part;

(g) To notify handlers of each meeting of the committee to consider recommendations for regulations and of all regulatory actions taken which might affect growers or handlers and to provide such notification to producers through appropriate news releases or such other means as may be available to the committee;

(h) To give the Secretary the same notice of meetings of the committee and its subcommittee as is given to its members;

(i) To prepare a marketing policy;

(j) To recommend marketing regulations to the Secretary;

(k) To recommend rules and procedures for, and to make determination in connection with appropriate safeguards;

(l) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary.

(m) Prior to or at the beginning of each fiscal period, to prepare a budget or anticipated expenses for such fiscal period, together with a report thereon;

(n) To prepare periodic statements of the financial operations of the com-

mittee and to make copies of each such statement available to producers

§ .42 *Assessments.*

(a) The funds to cover the commit-

is responsible, and shall execute such assignments and other instruments as

applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from

packs of melons differently for different varieties, for different districts, for different markets, for different con-

Service and are covered by a valid inspection certificate, except when re-

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mittee and to make copies of each such statement available to producers and handlers for examination at the office of the committee;

(o) To prepare and forward to the Secretary, prior to the last day of each fiscal period, an annual report, and make a copy available to each handler and grower who requests it. This annual report shall contain at least:

(1) A complete review of the regulatory operations during the fiscal period.

(2) An appraisal of the effect of such regulatory operations upon the melon industry; and

(3) Any recommendations for changes in the program.

(p) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period and at such other times as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by growers and handlers; and

(q) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper activities and objectives under this part.

EXPENSES AND ASSESSMENTS

§ .40 *Expenses.*

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred during each fiscal period by the committee for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each first handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of melons handled by him as the first handler thereof during a fiscal period and the total quantity of melons so handled by all handlers as first handlers thereof during such fiscal period.

§ .41 *Budget.*

Prior to or at the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ .42 *Assessments.*

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles melons shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses;

(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information;

(c) At any time during or after a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment in conformance with § .41. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the assessment rate. Such increase shall be applicable to all melons which were handled by each first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative;

(e) To provide funds for the administration of the provisions of this part the committee may accept the payment of assessments in advance;

(f) If a handler does not pay his assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest charge at rates prescribed by the committee with the approval of the Secretary.

§ .43 *Accounting.*

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part. At the end of the fiscal period an annual financial audit shall be conducted by a competent accountant and two copies sent to the Secretary;

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds, and property (including but not limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in the successor, the committee, or person designated by the Secretary, the right to all such property and funds and all claims vested in such person;

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect, and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

§ .44 *Excess funds.*

(a) If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of any such assessments which represent payments by the handler in excess of his pro rata share, shall be credited with such refund against his operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established, except funds in the reserve shall not exceed approximately two fiscal periods' expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. Any funds remaining after termination should be refunded to handlers on a pro rata basis. If it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate;

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided for in subparagraph (1) of this paragraph, it shall be refunded proportionately to the handlers from whom collected, except any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

RESEARCH AND DEVELOPMENT

§ .48 *Research and development.*

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of melons. The expenses of such projects shall be paid from funds collected pursuant to § .42.

REGULATIONS

§ .50 *Marketing policy.*

(a) Prior to or at the same time initial recommendations in any fiscal period are made pursuant to § .51, and as the Secretary may require, the committee shall prepare a marketing policy statement. Notice of such marketing policy shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be submitted to the Secretary and shall be available at the committee office to all interested parties;

(b) Marketing policy statements relating to recommendations for regulations shall give appropriate consideration to melon supplies for the remainder of the season, with special consideration to:

(1) Estimates of total supplies including grade, size, and quality thereof, in the production area;

(2) Estimates of supplies of melons in competing areas;

(3) Estimates of supplies of other competing commodities;

(4) Market prices by grades, sizes, containers, and packs;

(5) Anticipated marketing problems;

(6) Level and trend of consumer income; and

(7) Other relevant factors.

§ .51 *Issuance of regulations.*

(a) The Secretary shall limit by regulation the handling of melons when he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations would tend to effectuate the declared policy of the act.

(b) Such regulations may:

(1) Limit the handling of particular grades, sizes, maturities, qualities, or packs, or any combination thereof, of any or all varieties of melons during any period;

(2) Limit the handling of particular grades, sizes, naturities, qualities, or packs of melons differently for different varieties, for different districts, for different markets, for different containers, or any combination of the foregoing, during any period;

(3) Fix the size, capacity, weight, dimension, or pack of the container, or containers, which may be used in the packaging or handling of melons, including appropriate container markings to identify the contents thereof.

(c) The regulations or any portions of such regulations issued hereunder may be amended, modified, suspended, or terminated by the Secretary whenever it is determined:

(1) That such action is warranted upon recommendation of the committee or other available information;

(2) That such action is essential to provide relief from inspection, assessment, or regulations under paragraph (b) of this section for minimum quantities less than customary commercial transactions; or

(3) That regulations issued hereunder obstruct or no longer tend to effectuate the declared policy of the act.

§ .54 *Handling for special purposes.*

Regulations in effect pursuant to § .42, § .52, or § .60 may be modified, suspended, or terminated by the Secretary, upon recommendation of the committee, to facilitate handling of melons for: (a) Relief or charity, (b) experimental purposes, (c) exports, and (d) other special purposes, which may be recommended by the committee and approved by the Secretary.

§ .55 *Safeguards.*

The committee, with the approval of the Secretary, may establish, through rules and regulations, the requirements with respect to proof that shipments made pursuant to § .54 were handled and used for the purpose stated.

§ .56 *Notification of regulation.*

The Secretary shall promptly notify the committee of regulations issued and of any modification, suspension, or termination thereof. The committee shall give notice thereof to all handlers of melons in the production area. In addition, the committee shall make the information available to growers through appropriate news releases or such other means as may be available.

INSPECTION

§ .60 *Inspection and certification.*

(a) Whenever the handling of melons is regulated pursuant to § .52 or at other times when recommended by the committee and approved by the Secretary, no handler shall handle melons unless they are inspected by an authorized representative of the Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to § .52(c), or § .54, or paragraph (b) of this section. The cost of such inspection shall be borne by the applicant.

(b) Regrading, resorting, repacking any lot of melons, or breaking any lot (without continuing identification of applicable inspection or subcertification thereof) shall invalidate any applicable inspection certificate insofar as the requirements of this section are concerned. No handler shall handle melons after a lot has been broken, regraded, repacked, or resorted, or in any other way additionally prepared for market, unless such melons are inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, repacked, or broken lots of melons may be modified, suspended or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When melons are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the Inspection Service.

(e) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of melons by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or such other documents as may be required by the committee. Such certificates or documents shall be surrendered to proper authorities at such time and in such manner as may be designated by the committee, with the approval of the Secretary.

REPORTS

§ .80 *Reports.*

Upon request of the committee, made with the approval of the Secretary, each handler shall furnish to the committee, in such manner and form and at such time as it may prescribe, such reports and other information as may be necessary for the committee to perform its duties under this part.

(a) Such reports may include, but are not necessarily limited to, the following:

(1) The number of acres of melons and the approximate dates planted, for all melons which will be handled by each handler;

(2) The quantities of melons received by a handler;

(3) Identification certificates relating to the melons which were handled pursuant to § .52 or § .54 or

ance therewith prior to such disapproval by the Secretary.

tions imposed upon the members of the committee and upon the said trustees.

person, circumstance, or thing, shall not be affected thereby.

ACTION: Public Hearing On Proposed Rulemaking.

SUMMARY: The hearing is being held

spect to the economic and marketing conditions which relate to the proposed marketing agreement and order,

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(3) Identification certificates relating to the melons which were handled pursuant to § .52 or § .54 or both.

(b) All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to the handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to the prohibition of disclosure of individual handlers' identities or operations.

(c) Each handler shall maintain for at least 2 succeeding years such records and documents on melons received by him as may be necessary to verify reports submitted to the committee pursuant to this section.

(d) For the purpose of assuring compliance with recordkeeping requfrements and certifying reports of handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are located, and where melons are handled, and at any time during reasonable business hours shall be permitted to inspect such handler's premises and examine any and all records of such persons with respect to matters within the purview of this part.

(e) Any person filing a report, record, or application that is willfully misrepresented shall be subject to the legal penalties for such misrepresentation of Government reports.

COMPLIANCE

§ .81 *Compliance.*

Except as provided in this subpart, no handler shall handle melons, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle melons except in conformity with the provisions of this part.

MISCELLANEOUS PROVISIONS

§ .82 *Right of the Secretary.*

The members of the committee (including successors and alternates) and any agents or employees appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decisions, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ .83 *Effective Time.*

The provisions of this subpart or any amendment thereto shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ .84 *Termination.*

(a) The Secretary shall, whenever he finds that any or all provisions of this subpart obstruct or do not tend to effectuate the declared policy of this act, terminate or suspend the operation of this subpart of such provision thereof.

(b) The Secretary shall terminate the provisions of this subpart at the end of the then current fiscal period whenever he finds that such termination is favored by a majority of the growers who, during a representative period determined by the Secretary, have been engaged in the production for market of melons within the production area: *Provided*, That such majority has during such representative period, produced for market more than 50 percent of the volume of such melons produced for market.

(c) The provisions for this subpart shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ .85 *Proceedings after Termination.*

(a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as joint trustees for the purpose of setting the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such persons as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ .86 *Effect of Termination of Amendments.*

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart, or (b) release or extinguish any violation of this subpart or any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ .87 *Duration of Immunities.*

The benefits, privileges and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ .88 *Agents.*

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ .89 *Derogation.*

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ .90 *Personal Liability.*

No member or alternate member of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others in any way whatever, to any handler or to any person for errors in judgment, mistakes or other acts, either of commission or omission, as such member, alternate, agent or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ .91 *Separability.*

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ .92 *Amendments.*

Amendments to this subpart may be proposed from time to time, by the committee or by the Secretary.

§ .93 *Counterparts.*

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ .94 *Additional parties.*

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ .95 *Order with marketing agreement.*

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of melons in the same manner as is provided for in this agreement.

Copies of this notice may be obtained from the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, or from "Marketing Field Office, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture" at the following address: 320 North Main, Room A-103, McAllen, Tex. 78501.

Signed at Washington, D.C., on October 26, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-30729 Filed 10-30-78; 8:45 am]

[3410-02-M]

[7 CFR Ch. IX]

[Docket No. AO-381]

APPLES GROWN IN STATES OF CONNECTICUT, MAINE, MASSACHUSETTS, NEW HAMPSHIRE, RHODE ISLAND, AND VERMONT

Hearing on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public Hearing On Proposed Rulemaking.

SUMMARY: The hearing is being held to consider a proposed marketing agreement and order regulating the handling of apples grown in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The principal provisions to be considered are: (1) The establishment of a committee of New England apple growers and handlers to assist the Secretary of Agriculture in administering the proposed marketing agreement and order program, (2) authorization for the committee to conduct marketing research and market development programs, including paid advertising, and to collect assessments from apple handlers to cover the costs of the program, and (3) authorization for maturity regulations, establishing maturity dates for individual apple varieties.

DATES: The hearing will be held beginning on December 4 and 7, 1978, at two locations listed under addresses below.

ADDRESSES: The hearing will be held beginning in the Hampden Improvement League Building, Exposition Grounds, 1499 Memorial Avenue, West Springfield, Massachusetts and continuing in the Hilton Auditorium, Blaisdell Building, Rockingham Nursing Home, North Road, Brentwood, New Hampshire.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held beginning at West Springfield, Mass., on December 4, 1978, at 11 a.m., local time in the Hampden Improvement League Building, Exposition Grounds, 1499 Memorial Avenue and continuing at Brentwood (Epping), N.H. on December 7, 1978, at 9:30 a.m., local time, in the Hilton Auditorium, Blaisdell Building, Rockingham Nursing Home, North Road, with respect to a proposed marketing agreement and order regulating the handling of apples grown in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The public hearing is for the purpose of: (a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth;

(b) Determining whether the handling of apples grown in the proposed production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of such apples; and

(d) Determining whether the proposed marketing agreement and order or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

The New England Apple Marketing Order Study Committee submitted, and requested the hearing on, the proposed marketing agreement and order, the provisions of which are as follows (the sections identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed marketing order):

DEFINITIONS

§ .1 *Secretary.*

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in this stead.

§ .2 *Act.*

"Act" means public Act No. 10 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (46 Stat. 31, as amended; 7 U.S.C. 601-674).

§ .3 *Person*

"Person" Means an individual, partnership, corporation, association, or any other business unit.

§ .4 *Production area.*

"Production area" means the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

§ .5 *Apple(s).*

"Apple(s)" means all of the varieties grown in the production area classified botanically as malus sylvestris (Malus communis) and Malus pumila (Pyrus Malus), with the exception of crabapples.

§ .6 *Varieties.*

"Varieties" means and includes all classifications or subdivisions of apples.

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§ .7 *Fiscal period.*

"Fiscal period" is synonymous with

ADMINISTRATIVE BODY

§ .20 *Establishment and membership.*

they are selected and have qualified and until their respective successors

preceding fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a

(c) To make and adopt rules and regulations to effectuate the terms and

(o) To give the Secretary the same notice of meetings of the committee as is given to its members.

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§ .7 *Fiscal period.*

"Fiscal period" is synonymous with fiscal year and means the 12-month period beginning on July 1 on one year and ending on the last day of June of the following or such other period as the committee, with the approval of the Secretary, may prescribe.

§ .8 *Committee.*

"Committee" means the New England Apple Administrative Committee established pursuant to § .20.

§ .9 *Grower.*

"Grower" is synonymous with "producer" and means any person who produces apples for market, and who has a proprietary interest therein.

§ .10 *Handler.*

"Handler" is synonmous with "shipper" and means any person who first sells or handles apples or first causes apples to be handled, or sold.

§ .11 *Handle.*

"Handle" or "ship" are synonmous and mean to sell, consign, deliver, or transport apples, or cause apples to be sold, consigned, delivered, or transported within the production area or between the production area and any point outside thereof: *Provided,* that such term shall not include: (1) a contract or common carrier transporting apples owned by another person, or (2) the transportation of apples from the location where grown, to a packing house, or storage facility within the production area or to such other points as the committee may prescribe with approval of the Secretary for the purpose of storing, or having the apples prepared for market.

§ .12 *District.*

"District" means the applicable one of the following described subdivisions of the production area:

(a) "District 1" shall include the State of Maine;

(b) "District 2" shall include the State of New Hampshire;

(c) "District 3" shall include the State of Vermont;

(d) "District 4" shall include the State of Massachusetts;

(e) "District 5" shall include the States of Connecticut and Rhode Island.

§ .13 *Container.*

"Container" means any box, bag, crate, basket, carton, package, bulk carton, or bin, or any other type of receptacle used in packaging or handling of apples.

§ .14 *First sale unit.*

"First sale unit" means approximately 40 pounds of apples in any container or containers or in bulk.

ADMINISTRATIVE BODY

§ .20 *Establishment and membership.*

There is hereby established a New England Apple Committee consisting of fourteen (14) members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he or she is an alternate. Ten (10) of the members and their respective alternates shall be growers and are referred to as "grower" members of the committee. Each of the five (5) districts shall each be represented by two (2) grower members and their respective alternates: *Provided,* That each shall be a producer of apples in his or her respective district; and *Provided further,* that one grower member or alternate representing "District 5" shall be from the State of Rhode Island, Four (4) members and their respective alternates shall be handlers or employees of handlers and are referred to as "handler" members of the Committee. Handler members and alternates shall be selected from the production area at large; *Provided,* That not more than two shall be from one district. The Committee shall be increased by one public member and respective alternate nominated by the Committee and selected by the Secretary. The Committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the public member and alternate.

§ .21 *Term of office.*

(a) The term of office of each member and alternate member of the Committee shall be for 3 fiscal periods: *Provided,* That the initial term of office of one grower member and alternate member of the Committee from each district shall be for 3 years beginning July 1 and ending on the third succeeding June 30. The initial term of office of one grower member and alternate member from each District shall be for 2 years beginning July 1 and ending on the second succeeding June 30. The initial term of office of two handler members and alternate members shall be for 3 years beginning July 1 and ending on the third succeeding June 30. The initial term of office of the other two handler members and alternate members shall be for 2 years beginning and ending on the dates herein prescribed. (Determination of length of term of initial members shall be by lot). No member may serve more than two successive terms. The Committee, with the approval of the Secretary, may change the term of office of members and alternate members.

(b) Members and alternate members shall serve in such capacities for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ .22 *Nomination.*

(a) *Initial members.* Nominations for each of the initial members of the Committee, together with nominations for the initial alternate members for each position, may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of a meeting of handlers, and meetings of growers in each district. Such nominations, if made, shall be filed with the Secretary no later than the effective date of this part. In the event nominations for the initial members are not filed pursuant to, and within the time specified in this section, the Secretary may select such initial members and alternate members without regard to nominations, but selection shall be on the basis of the representation provided for in § .20.

(b) *Successor members.* (1) The Committee shall hold or cause to be held, not later than May 15, in the year in which nominations are to be made, a meeting of growers in each district and a meeting of handlers for the purpose of designating nominees for successor members and alternate members of the committee, which shall be publicized and open to all growers and handlers. At each meeting, a chairman and a secretary shall be selected by persons eligible to participate therein. The chairman shall announce at the meeting the number of votes cast for each person nominated for member or alternate member and shall submit promptly to the committee a complete report concerning such meeting. The committee shall, in turn, promptly submit a copy of each such report to the Secretary. (2) Only growers, including duly authorized officers or employees of growers, who are present at such nomination meetings may participate in the nomination and election of nominees for grower members and their alternates. Each grower shall be entitled to cast only one vote for each nominee to be elected in the district which the grower produces apples. No grower shall participate in the election of nominees in more than one district in any one fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler but not as both. (3) Only handlers, including duly authorized officers or employees of handlers, who are present at such nomination meetings may participate in the nomination and election of nominees for handler members and their alternates. Each handler shall be entitled to cast only one vote, which vote shall be weighted by the volume of apples handled by such handler during the

preceding fiscal year. If a person is both a grower and a handler of apples, such person may vote either as a grower or as a handler but not as both.

§ .23 *Selection.*

From the nominations made pursuant to § .22, or from other qualified persons, the Secretary shall select the 10 grower members of the committee, the four handler members of the committee, and an alternate for each such member.

§ .24 *Failure to nominate.*

If nominations are not made within the time and in the manner prescribed in § .22, the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § .20.

§ .25 *Acceptance.*

Any person selected by the Secretary as a member or as an alternate member of the committee shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

§ .26 *Vacancies.*

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate of the committee to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor for the unexpired term of such member or alternate member of the committee shall be nominated and selected in the manner specified in § .22 and § .23. If the names of nominees to fill any such vacancy are not made available to the Secretary within a reasonable time after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § .20.

§ .27 *Alternate members.*

An alternate member of the committee, during the absence or at the request of the member shall act in the place and stead of such member and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act until a successor for such member is selected and has qualified.

§ .30 *Powers.*

The Committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this part;

(c) To make and adopt rules and regulations to effectuate the terms and provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ .31 *Duties.*

The Committee shall have, among others, the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers; and to select subcommittees, and define the duties of each;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties and procedures of each;

(c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the Committee and which shall be subject to examination by the Secretary;

(e) To prepare a statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To require adequate fidelity bonds for all persons handling funds;

(g) To cause its books to be audited by a competent public accountant at least once each fiscal year, and at such other times as the Secretary may request;

(h) To act as intermediary between the Secretary and any grower or handler;

(i) To provide an adequate system for estimating the total season crop of apples and to make such determinations, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(j) To investigate the growing, handling, and marketing conditions with respect to apples, and to assemble data in connection therewith;

(k) To engage in such research relating to improved packaging and/or to the determination of maturity, grade and condition standards for apples as may be approved by the Secretary;

(l) To contract with appropriate parties for the purpose of conducting production and marketing research programs, including paid advertising, promotion, and publicity for apples;

(m) To submit to the Secretary such available information, including verified reports, as he may request;

(n) To notify producers and handlers of meetings of the committee; and

(o) To give the Secretary the same notice of meetings of the committee as is given to its members.

§ .32 *Procedure.*

(a) Eight members of the Committee, six of whom shall be grower members including alternates acting for members, shall constitute a quorum; and any action of the committee shall require at least eight concurring grower and/or handler votes.

(b) The Committee may vote by telegraph, telephone, or other means of communication, and any vote so cast shall be confirmed promptly in writing: *Provided,* That, if an assembled meeting is held, all votes shall be cast in person.

§ .33 *Expenses and compensation.*

The members of the Committee and alternates when acting as members, or when requested by the Committee to attend a Committee meeting or to perform another Committee function shall serve without compensation; but shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

§ .34 *Annual report.*

The Committee shall, as soon as practicable after the end of the fiscal year, prepare and mail an annual report to the Secretary and make a copy available to each handler and grower who requests a copy of the report. This annual report shall contain at least: (a) A review of the operations during the fiscal year; (b) a summary of marketing research and development, promotion and advertising activities, if any; and (c) any recommendations for changes in the program.

EXPENSES AND ASSESSMENTS

§ .40 *Expenses.*

The Committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year.

§ .41 *Assessments.*

(a) Each person who first handled apples shall, with respect to the apples so handled by him, pay to the committee upon demand such person's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of apples handled by him as the first handler thereof during the

applicable fiscal year and the total quantity of apples so handled by all persons during the same fiscal year.

years, an operating monetary reserve in an amount not to exceed approxi-

tions be accompanied by a certification by the intended purchaser or re-

committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary. Copies

apples or of apples received and disposed of by him, if applicable, as may be necessary to verify the reports sub-

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever

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applicable fiscal year and the total quantity of apples so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary, shall fix the rate of assessment not to exceed 5 cents per first sale unit or equivalent in any container or containers to be paid by each such person. At any time during or after the fiscal year, the Secretary may, subject to the limitations of this paragraph, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. A higher rate of assessment may be established but first must be approved by grower referendum. Such assessments shall be applied to all apples handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part during the fiscal year before sufficient operating income is available from assessments, the committee may accept the payment of assessments in advance and may also borrow money for such purpose.

(c) The committee shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the committee. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the committee shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the committee, with the approval of the Secretary.

§ .42 *Accounting.*

(a) If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, such excess shall be accounted for as follows:

(1) Except as provided in subparagraphs (2) and (3) of this paragraph, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands payment thereof, in which event it shall be paid to him: *Provided*, That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations of such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years, an operating monetary reserve in an amount not to exceed approximately 1 fiscal year's operational expenses. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses pursuant to § .40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and claims vested in such member pursuant to this part.

§ .43 *Exemptions.*

(a) The committee may, with the approval of the Secretary, relieve from any or all requirements established under this part, the handling of apples for such specified purposes (including shipments to facilitate the conduct of marketing research and development projects established pursuant to< § 0.45), or in such minimum quantities or types of shipments, as may be prescribed.

(b) Except as otherwise provided in this section, any person may, without regard to the provisions of § .41, handle apples he or she produces: (1) in quantities not exceeding 250 first sale units in any fiscal period; (2) for processing and juice; (3) in gift packages; (4) for distribution by relief agencies.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent aples handled under provisions of this section from entering into channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include requirements that handlers shall file applications and receive approval from the committee for authorization to handle apples pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the apples will not be used for any purpose not authorized by this section.

RESEARCH AND MARKET DEVELOPMENT

§ .45 *Production Research, Marketing Research, and Market Development.*

(a) The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of apples. Such projects may provide for any form of marketing promotion, including paid advertising. The expenses of such projects shall be paid by funds collected pursuant to § .41.

(b) The committee, with the approval of the Secretary, may contract with any person or persons to carry out advertising, promotion, and publicity programs. No advertising, promotion or publicity programs shall be conducted with reference to any particular private brand or trade name and no such program shall disparage the quality, value, sale or use of any other agricultural commodity. The expenses of such programs shall be paid by funds collected pursuant to § .41.

§ .50 *Marketing Policy.*

(a) Each season prior to making any recommendations pursuant to §§ .41 and .52, the committee shall submit to the Secretary a report setting forth its marketing policy for the season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of apples within the production area;

(2) The estimated utilization of the crop, showing the quantity and percentages of the crop expected to be marketed through fresh fruit channels; the quantity and percent of the crop expected to be utilized in processed products; and storage information;

(3) Available supplies of competitive apples from outside the production area, and other competitive fruit;

(4) Other factors having a bearing on the marketing of apples;

(5) The type of maturity regulations expected to be recommended during the season; and

(6) The type of research and market development projects expected to be recommended during the season and the effect on utilization.

(b) In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this section. The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers. The committee shall announce the contents of each marketing policy report, including each revised marketing policy report.

MATURITY REGULATIONS

§ .51 *Recommendations for regulations.*

(a) Whenever the committee deems it advisable to regulate the handling of any variety or varieties of apples in the manner provided in § .52, it shall so recommend to the Secretary.

(b) All meetings of the committee held for the purpose of formulating recommendations for regulations shall be open to growers and handlers. The committee shall give notice of each such meeting to growers and handlers by mailing a notice to each grower and handler who has filed his address with the committee and requested such notice.

§ .52 *Issuance of regulations.*

(a) The Secretary shall regulate, in the manner specified in this section, the handling of apples whenever he finds, from the recommendations and information submitted by the committee that such regulations will tend to effectuate the declared policy of the act. Such regulations may: Prohibit, prior to such date as shall be specified, the handling of any variety or varieties of apples grown in any District which do not meet such maturity standards as shall be prescribed.

(b) The committee shall be informed immediately of any such regulations issued by the Secretary and the committee shall promptly give notice thereof to growers and handlers.

REPORTS

§ .60 *Reports.*

(a) Each grower shall furnish to the committee, at such times and for such periods as the committee may designate, reports covering the production, utilization, and disposition of his or her crop, to the extent necessary for the committee to perform its functions.

(b) Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering, to the extent necessary for the committee to perform its functions, all shipments of apples.

(c) Each grower and handler shall maintain for at least two succeeding fiscal years, such records of the production, utilization and disposition of apples or of apples received and disposed of by him, if applicable, as may be necessary to verify the reports submitted to the committee pursuant to this section.

(d) All reports and records submitted by growers and handlers pursuant to the provisions of this section shall be received by, and at all times be in custody of, one or more designated employees of the committee. No such employee shall disclose to any person, other than the Secretary upon request therefor, data or information obtained or extracted from such reports and records which might affect the trade position, financial condition, or business operation of the particular grower or handler from whom received: *Provided*, That such data and information may be combined, and made available to any person in the form of general reports in which the identities of the individual furnishing the information is not disclosed and may be revealed to any extent necessary to effect compliance with the provisions of this part and the regulations issued thereunder.

MISCELLANEOUS PROVISIONS

§ .61 *Compliance.*

Except as provided in this part, no person shall handle apples except in conformity with the provisions of this part and the regulations issued thereunder.

§ .62 *Right of the Secretary.*

The members of the committee (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ .63 *Effective time.*

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare above his signature and shall continue in force until terminated in one of the ways specified in § .64.

§ .64 *Termination.*

(a) The Secretary may at any time terminate the provisions of the part by giving at least 1 day's notice by means of a press release or in any other manner in which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this part whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers voting in such referendum: *Provided*, That such majority has, during a representative period determined by the Secretary, produced more than 50 percent of the volume of the apples which were produced within the production area for shipment. Such termination shall become effective on the first day of July subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall, as soon as practicable after the close of the fifth fiscal year following the effective date of this part, conduct a referendum, to ascertain whether continuance of this part is favored by the growers. The Secretary shall terminate the provisions of this part if he finds by such referendum, as provided in paragraph (c) of this section, that termination is favored by growers.

(e) Upon petition and recommendation of 25 percent of the growers of record, the Secretary shall be referendum determine whether termination of this part is favored by growers, but such action shall be effected only if the petition is submitted for validation by the committee on or before December 15 of the current fiscal year. To determine by such referendum whether termination is favored by producers, the required persentages set forth in the act with respect to producer approval of the issuance of a marketing order shall be used.

(f) The provisions of this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ .65 *Proceedings after termination.*

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustee of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said Trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the Trustees, to such persons as the Secretary may direct; and (3) upon the request of the Secretary, execute such

assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the

willful misconduct, or gross negli-

ACTION: Notice of Proposed Rulemaking.

ment wishes to challenge certain population or per capita income estimates prepared by the Bureau of the Census.

In consideration of the foregoing, it is proposed that a new part 90 be added to 15 CFR in the manner set

capita income figure prepared to update earlier census figures.

(f) "State" includes the District of Columbia.

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assignments or other instruments necessary or appropriate to vest in such person, full title and right to all of the funds, property, and claims vested in the committee or the Trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the Trustees.

§ .66 *Effect of termination or amendment.*

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) effect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ .67 *Duration of immunities.*

The benefits; privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ .68 *Agents.*

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ .69 *Derogation.*

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ .70 *Personal liability.*

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ .71 *Separability.*

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ .72 *Amendments.*

Amendments to this subpart may be proposed from time to time, by the committee or by the Secretary.

§ .73 *Counterparts.*

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ .74 *Additional parties.*

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ .75 *Order with marketing agreement.*

Each signatory handler hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of apples in the same manner as is provided for in this agreement. * * *

Copies of this notice may be obtained from the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250.

Dated: October 26, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-30726 Filed 10-30-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[PDR-57, Docket 33723, October 20, 1978]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Applications for Route Authority; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document corrects a previously proposed rulemaking document. These proposed amendments would require a motion to have a new route application consolidated with an earlier one to be made within 30 days of the filing date of the earlier one. It would also prohibit petitions for reconsideration asking for changes in the scope of route proceedings after instituting orders have been issued. The Board is proposing these amendments on its own initiative to reduce the time needed to complete route proceedings.

DATES: Comments by: December 26, 1978.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 33723, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

William F. Adler, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5205.

SUPPLEMENTARY INFORMATION: The docket number under the address heading was incorrect in the rule published in 43 FR 49993, October 26, 1978. Comments should be sent to Docket 33723.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-30757 Filed 10-30-78; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

[15 CFR Part 90]

CERTAIN POPULATION AND PER CAPITA INCOME ESTIMATES

Challenge Procedures

AGENCY: Bureau of the Census.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to establish standard procedures to be followed in the event that a State or unit of local government wishes to challenge certain population or per capita income estimates prepared by the Bureau of the Census. The proposed rule is needed to formalize procedures which were previously followed informally and to extend to the State or unit of local government the right to a hearing prior to a final determination of the challenged estimate by the Director of the Census Bureau. In addition to this notice in the FEDERAL REGISTER, States and units of local government are being informed of this proposed rule through notification in the Census Bureau publication, "Data User News," advance notice to the National League of Cities and the National Association of Counties, and advance notice to the members of the Federal-State Cooperative Program for Local Population Estimates in each State.

DATE: Comments must be received on or before January 2, 1978.

ADDRESSES: Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to: Director, Bureau of the Census, Washington, D.C. 20233.

Comments received on or before January 2, 1978, will be considered before final action is taken on this proposal. Copies of all written comments will be available for examination by interested persons at: The Census Library, Room 2471, FB No. 3, Suitland, Md. 20233.

The proposal may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT:

Daniel B. Levine, Associate Director for Demographic Fields, Bureau of the Census, Room 2061, FB No. 3, Washington, D.C. 20233, 301-763-5167.

SUPPLEMENTARY INFORMATION: This proposed rule would provide a two-part procedure for States and units of local government wishing to challenge the population or per capita income estimates (or both) of the Bureau. Under this proposal the State or unit of local government would initiate the procedure by writing the Bureau of the Census. The Bureau would receive and review any evidence and attempt to resolve the challenge informally, through letters and telephone calls.

If the challenge is unable to be resolved informally, the State or unit of local government would be given the opportunity of proceeding formally. A hearing officer would be appointed by the Census Director to review the data and to receive any further evidence, atempt to resolve the matter, and conduct a hearing if the State or unit of local government so requests.

In consideration of the foregoing, it is proposed that a new part 90 be added to 15 CFR in the manner set forth below.

PART 90—PROCEDURE FOR CHALLENGING CERTAIN POPULATION AND INCOME ESTIMATES

Sec.
90.1 Scope and applicability.
90.2 Policy of the Bureau of the Census.
90.3 Definitions.
90.4 General.
90.5 When challenge may be filed.
90.6 Where to file challenge.
90.7 Evidence required.
90.8 Review of challenge.
90.9 When formal procedure may be invoked.
90.10 Form of formal challenge and time limit for filing.
90.11 Appointment of hearing officer.
90.12 Qualifications of hearing officer.
90.13 Offer of hearing.
90.14 Hearing.
90.15 Decision by Director.
90.16 Notification of adjustment.

AUTHORITY: 13 U.S.C. 4.

§ 90.1 Scope and applicability.

These rules prescribe the administrative procedure available to States and units of local government to challenge the current estimates of population or per capita income developed by the Bureau of the Census.

§ 90.2 Policy of the Bureau of the Census.

It is the policy of the Bureau of the Census to provide the most accurate population and per capita income estimates possible given the constraints of time, money, and available statistical techniques. It is also the policy of the Bureau to provide States and units of local government the opportunity to challenge these estimates and to present probative evidence relating to the accuracy of the estimates.

§ 90.3 Definitions.

As used in this part (except where the context clearly indicates otherwise) the following definitions shall apply:

(a) "Bureau" means the Bureau of the Census, Department of Commerce.

(b) "Challenge" means, in accordance with this part, the process of objecting to or calling into question the Bureau's population or per capita income estimates of a State or unit of local government by that State or unit of local government.

(c) "Director" means Director of the Bureau of the Census, or an individual designated by the Director to perform under this part.

(d) "Entitlement period" is used consistently with the definition of the term in Pub. L. 92-512, section 141, as amended (31 U.S.C. 1261).

(e) "Estimate" means a statistically derived intercensal population or per capita income figure prepared to update earlier census figures.

(f) "State" includes the District of Columbia.

(g) "Unit of local government" means the government of a county, municipality, township, place, or other minor civil division, which is a unit of general government below the State.

§ 90.4 General.

This part provides a procedure for a State or unit of local government to challenge the population or per capita income estimates of the Bureau. The Bureau shall receive these challenges and attempt to resolve them informally with the locality. If the challenge is not resolved informally, the challenging State or unit of local government may then, at its option, proceed formally.

§ 90.5 When challenge may be filed.

A challenge to the population or per capita income estimates pertaining to a particular entitlement period may be filed any time up to 180 days after the beginning of the General Revenue Sharing (Pub. L. 92-512) initial entitlement period for which the estimates are issued. A challenge to an estimate may also be filed any time up to 180 days from the date the Bureau, on its own initiative, revises that estimate. If, however, a State or unit of local government has sufficiently meritorious reason for not filing in a timely manner, the Bureau has the discretion to accept the challenge.

§ 90.6 Where to file challenge.

A challenge must be in writing and is to be filed with the Chief, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Washington, D.C. 20233.

§ 90.7 Evidence required.

The challenging State or unit of local government shall provide whatever evidence it has relative to the challenge at the time the challenge is filed. The Bureau may request further evidence.

§ 90.8 Review of challenge.

The Chief, Population Division, Bureau of the Census, or the Chief's designee shall review the challenge and the evidence supporting the challenge and shall attempt to resolve the challenge.

§ 90.9 When formal procedure may be invoked.

In the event the Chief, Population Division, is unable to resolve the challenge to the satisfaction of the challenging State or unit of local government, the challenging State or unit of local government shall be informed in

writing of the reasons for the outcome and of its right to proceed formally.

(c) The rule of evidence will not be strictly enforced but irrelevant and unduly repetitious testimony shall be

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[6750-01-M]

FEDERAL TRADE COMMISSION

which falls to comply with the terms of the order."

CAROL M. THOMAS,
Secretary.

ments the Commission's inspection powers over books and records required to be kept by the Act and Commission regulations. Such books and

five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open

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writing of the reasons for the outcome and of its right to proceed formally.

§ 90.10 Form of formal challenge and time limit for filing.

The formal challenge shall be in writing and may be mailed or hand delivered to the Director, Bureau of the Census, Washington, D.C. 20233. The formal challenge shall include a list indicating the material submitted to the Chief, Population Division, during the informal stage, and shall include any additional relevant material it chooses to submit. The formal challenge shall be filed within 30 days of the date the State or unit of local government receives notification by certified mail (return receipt requested) of its right to proceed formally. If, however, a State or unit of local government has a sufficiently meritorious reason for not filing in a timely manner, the Bureau has the discretion to accept the formal challenge.

§ 90.11 Appointment of hearing officer.

Upon receipt of a formal challenge filed in accordance with this part, the Director will appoint a hearing officer to receive written and oral evidence.

§ 90.12 Qualifications of hearing officer.

The hearing officer, a person not involved in the preparation of the estimates being challenged, shall be appointed by the Director from a roster of employees of the Bureau of the Census who have been approved in advance by the Assistant Secretary for Administration, Department of Commerce.

§ 90.13 Offer of hearing.

The hearing officer shall receive the formal challenge and shall notify the State or unit of local government in writing of (a) its right to a hearing prior to the development of a recommended decision for the consideration of the Director; and (b) its right to the development of a recommended decision for the consideration of the Director without a hearing. If the State or unit of local government requests that a hearing be conducted, the hearing officer shall establish the date, time, and meeting place for the hearing.

§ 90.14 Hearing.

(a) The hearing shall be conducted by the same hearing officer who collected the documentary evidence, if possible, and shall be held at Bureau of the Census headquarters in Suitland, Md., unless the Director determines that the hearing should be held elsewhere.

(b) The hearing shall be conducted in a manner so as to bring out the pertinent facts relating to the challenge.

(c) The rule of evidence will not be strictly enforced but irrelevant and unduly repetitious testimony shall be excluded.

(d) Cross-examination of all witnesses is permitted and all testimony shall be received under oath or affirmation.

(e) the hearing officer shall have the authority to: (1) Administer oaths or affirmations, (2) rule on the admissibility of evidence, (3) limit the number of witnesses, (4) exclude any person from the hearing room for contumacious conduct or misbehavior that obstructs the hearing, (5) perform other such acts as are necessary or appreprate to the efficient conduct of any proceeding; and (6) make initial findings, analyses, and recommendations.

(f) The hearing shall be electronically recorded but no written record will be prepared unless the Bureau so orders or unless the challenging locality desires one in whole or part and pays the costs of such a written record, or the apportioned costs should the Bureau also desire a written record.

(g) The hearing officer shall prepare findings, analyses, and recommendations and shall transmit them along with all documentary evidence received and the tape or written record (if any) of the hearing to the Director.

§ 90.15 Decision by Director.

Upon receiving the material specified in § 90.14(g), the Director shall (a) review the findings and recommendations of the hearing officer, and (b) prepare and transmit a letter to the challenging State or unit of local government stating the decision and the reasons therefor. A copy of the hearing officer's findings, analyses, and recommendations shall also be transmitted to the challenging State or unit of local government, and is otherwise publicly available. This decision is final for the Department of Commerce.

§ 90.16 Notification of adjustment.

In the event that the Director finds that the population or per capita income estimate should be adjusted, the Bureau shall promptly inform the appropriate governmental agencies of the revision.

Dated: October 26, 1978.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-30775 Filed 10-30-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781-0024]

AMERICAN SOCIETY OF ANESTHESIOLOGISTS, INC.

Consent Agreement With Analysis To Aid Public Comment; Correction

AGENCY: Federal Trade Commission.

ACTION: Correction.

SUMMARY: This document corrects a Commission document previously published in the FEDERAL REGISTER on Wednesday, October 11, 1978. The language of the "Summary" of the original document misstated certain provisions of the Commission's proposed order.

DATE: The correction is effective on October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Gregory E. Hales, SSR-I-512, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580; 202-724-1184.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-28588, appearing in FEDERAL REGISTER issue for Wednesday, October 11, 1978, 43 FR 46856, the language of the "Summary" of the document misstated certain provisions of the proposed order. Therefore, the following language is to be substituted for the previously published "Summary":

"In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Park Ridge, Ill., medical society, composed mainly of physicians who have limited their professional activities to the practice of anesthesiology, to cease restraining or impeding anesthesiologists from engaging in the practice of anesthesiology on other than a fee-for-service basis, to cease including statements relating to compensation arrangements in membership documents, and to cease conditioning membership privileges on compensation arrangements. The society would be further required to delete from its files any record of disciplinary sanctions imposed upon members for engaging in practice on other than a fee-for-service arrangement and to advise affected parties of such deletion. Additionally, the society would be required to revoke the charter of any component society which fails to comply with the terms of the order."

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-30778 Filed 10-30-78; 8:45 am]

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Proposed Rule Requiring That Records Subject to Inspection, and Copies Thereof, Be Provided to the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission is proposing to adopt an amendment to its recordkeeping requirements expressly entitling its representatives to remove temporarily and reproduce any books and records required to be kept and subject to inspection under the Commodity Exchange Act as amended ("Act"),[1] unless copies of such are furnished to the Commission's representative as and when requested.

The Commission has been informed that some confusion exists regarding the procedure pursuant to which Commission staff may obtain books and records or copies thereof to facilitate completion of inspections conducted under the Act. The regulation is intended to clarify this procedure, to set forth expressly the obligations of those persons required to keep books and records pursuant to the Act and Commission regulations, and to facilitate implementation of the broad statutory inspection authority given the Commission.[2]

DATES: Comments must be received on or before November 30, 1978.

ADDRESS: Comments on the proposed amendment should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Eric Vinson, Esq., Contract Markets Section, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. 202-254-8955.

SUPPLEMENTARY INFORMATION: Section 1.31 of the Commission's regulations, 17 CFR 1.31 (1977), implements the Commission's inspection powers over books and records required to be kept by the Act and Commission regulations. Such books and records are required to be kept readily accessible to facilitate inspection by Commission staff in the exercise of Commission regulatory functions. However, the ability to reproduce or copy information quickly is often an essential requirement for the effective, complete and thorough inspection of business records. Moreover, providing copies to Commission staff may reduce the burden and inconvenience, on the person required to keep records, of having Commission staff work with original business records for prolonged periods.

Accordingly, the Commission is proposing to supplement rule § 1.31 by clarifying the procedure Commission staff uses to conduct inspections. The requirement that persons required to keep records must immediately provide copies at their own expense is consistent with the existing provision in § 1.31(c)(3).

Although it is not anticipated that many instances will arise where further access to the original records will be necessary once copies are provided, the proposed amendment expressly provides that the obligation to keep records readily accessible for inspection does not cease after copies are provided. Of course, the copies provided must be true and accurate copies of the originals, and additional inspection may be required to verify that this is so.

The Commission also wishes to emphasize that the procedures covered by regulation 1.31 do not affect the obligations of any person to produce books, records or other documents through the exercise of Commission subpoena power during the course of a formal investigation.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. All comments submitted will be available, both before and after the closing date, for inspection in the Office of the Secretariat.

The amendment is proposed under the authority of sections 4, 4g, 4i, 5, 5a, 8a, 7 U.S.C. 6, 6g, 6i, 7, 7a, 12a (1976), as amended by Pub. L. 95-405, September 30, 1978, 92 Stat. 865 et seq. In consideration of the foregoing, it is proposed to amend Chapter I of Title 17 of the Code of Federal Regulations by amending § 1.31 as set forth below (paragraph (a)(2) is new language):

§ 1.31 Books and records; keeping and inspection.

(a)(1) All books and records required to be kept by the Act or by these regulations shall be kept for a period of five years from the date thereof and shall be readily accessible during the first 2 years of the 5-year period. All such books and records shall be open to inspection by any representative of the Commission or the United States Department of Justice.

(2) Without limiting the provisions of paragraph (c) of this section, to facilitate effective completion of such inspections, any representative of the Commission may obtain and/or remove temporarily such books and records for reproduction, unless the person required to keep such books and records immediately provides copies thereof, at his own expense, and continues to keep the original books and records readily accessible for inspection in accordance with this section.

(b) Reproductions on microfilm may be substituted for hard copy as follows:

(1) Computer, accounting machine or business machine generated records may be immediately produced or reproduced on microfilm and kept in that form; other records may be immediately produced or reproduced on microfilm and kept in that form if prepared by any means from source documents which are retained in hard copy form for two years as provided in paragraph (b)(2) of this section;

(2) For all other books and records, microfilm reproductions thereof may be substituted for the hard copy for the final 3 years of the 5-year period.

(c) If such microfilm substitution for hard copy is made, the person required to keep such records shall:

(1) At all times have available for examination of his records facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange, index and file the films in such a manner as to permit the immediate location of any particular record; and

(3) Be ready at all times to provide, and immediately provide, at the expense of the person required to keep such records, any facsimile enlargement of such records which any representative of the Commission or United States Department of Justice may request.

Issued in Washington, D.C., on October 26, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-30728 Filed 10-30-78; 8:45 am]

[1] 7 U.S.C. 1 et seq. (1976) as amended by Pub. L. 95-405, September 30, 1978, 92 Stat. 865 et seq.

[2] Sections 4, 4g, 4i, 5, 5a of the Act.

[4110-07-M]

DEPARTMENT OF HEALTH,

MEDICAL DEVICES

Proposed Procedures for Development of

mation proposal for certain red and brown algae for an additional 120 days, to January 31, 1979. The exten-

plain management measures that the community is required to either adopt or show evidence of being already in

Source of flooding	Location	Elevation in feet, national geodetic

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[4110-07-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Annual Wage Reporting

AGENCY: Social Security Administration, HEW.

ACTION: Extension of Comment Period.

SUMMARY: This Notice extends the period for comments to the Notice of Proposed Rule Making (NPRM) published in the FEDERAL REGISTER on August 9, 1978 (43 FR 35344). The NPRM concerned a change in the wage reporting requirements for State and local governments. The NPRM would change the reporting frequency from quarterly to annual.

Several persons have requested an extension of the time for submitting comments on the proposed rules. They believe that a 60-day comment period is inadequate in view of the importance of these proposed rules. The Department of Health, Education, and Welfare has therefore decided to extend the comment period an additional 60 days.

DATE: Comments concerning the NPRM will now be considered if received on or before December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Armand Esposito, Legal Assistant, Office of Policy and Regulations, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-6697.

Dated: September 25, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: October 26, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc. 78-30810 Filed 10-30-78; 8:45 am]

[4110-03-M]

Food and Drug Administration

[21 CFR Parts 16, 20, 809, 861]

[Docket No. 78N-0002]

MEDICAL DEVICES

Proposed Procedures for Development of Standards; Extension of Comment Period

AGENCY: Food and Drug Adminstration.

ACTION: Extension of comment period.

SUMMARY: In response to a written request, the agency is extending the comment period on proposed procedures for the development of medical device performance standards.

DATE: The deadline for written comments is extended to November 30, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857

FOR FURTHER INFORMATION CONTACT:

James McCue, Bureau of Medical Devices (HFK-305), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7222.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 25, 1978 (43 FR 32264), the Food and Drug Administration (FDA) proposed procedures for the initiation, development, establishment, amendment, and revocation of performance standards for medical devices. These procedures would implement section 514 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d). The deadline for written comments was September 25, 1978.

The Food and Drug Administration has received a written request for an extension of the comment period, and the Commissioner of Food and Drugs has determined that it is appropriate to extend the period for comment on the proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 513, 514, 701, 52 Stat. 1049-1051 as amended, 1055-1056 as amended, 90 Stat. 540-552 (21 U.S.C. 351, 352, 360c, 360d, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner hereby grants an extension of the comment period until November 30, 1978.

Interested persons may, on or before November 30, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room, 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30514 Filed 10-25-78; 11:39 am]

[4110-03-M]

[21 CFR Parts 182, 184]

[Docket No. 77N-0037]

CERTAIN RED AND BROWN ALGAE

Affirmation of GRAS Status as Direct Human Food Ingredients; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period.

SUMMARY: This document extends the comment period on the Food and Drug Administration (FDA) proposal to affirm the generally recognized as safe (GRAS) status of certain red and brown algae as direct human food ingredients. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by January 31, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER August 4, 1978 (43 FR 34500), the Commissioner of Food and Drugs proposed to affirm the generally recognized as safe (GRAS) status of a brown alga, *Macrocystis pyrifera*, as a direct human food ingredient. Interested persons were invited to submit comments on the proposal by October 3, 1978.

On October 2, 1978, a letter was received from Japan Food Corp. This letter requested an extension of the comment period for the GRAS affirmation proposal for certain red and brown algae for an additional 120 days, to January 31, 1979. The extension was requested to allow sufficient time for Japan Food Corp. to prepare comments on the proposed rule.

The Commissioner has decided that the opportunity to comment on GRAS affirmation proposals is an important part of the GRAS review process, that an extension of the comment period for this proposal would be appropriate, and that the additional time should be extended to all interested parties.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated in 21 CFR 5.1, the Commissioner extends the comment period for the GRAS affirmation proposal for certain red and brown algae for an additional 120 days.

Accordingly, interested persons may, on or before January 31, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the Commissioner's proposal. The envelope containing the comments should be prominently marked "Red and Brown Algae." Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30515 Filed 10-30-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4718]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for City of Valley, Douglas County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Valley, Douglas County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 210 North Locust, Valley, Nebr. Send comments to: Hon. Carroll L. Smith, mayor, city of Valley, City Hall, 210 North Locust, Valley, Nebr. 68064.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Valley, Nebr., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elkhorn River.....	Southeast section of zoning limits bounded by County Road 96 and Union Pacific Railroad.	1,130

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30270 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4719]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for City of Gloucester, Camden County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Gloucester, Camden County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Gloucester City Municipal Building, 512 Monmouth Street, Gloucester, N.J. Send comments to: Hon. William E. Gartland, mayor, city of Gloucester, Gloucester City Municipal Building, 512 Monmouth Street, Gloucester, N.J. 08030.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-

[4210-01-M]

[24 CFR Part 1917]

stringent in their flood plain management requirements. The community may at any time enact stricter require-

plain management measures that the community is required to either adopt

Source of flooding	Location	Elevation in feet national geodetic

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

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ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Gloucester, N.J. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Whitman Bridge*	10
Newton Creek	Interstate 676*	10
South Branch Newton Creek.	North-South Freeway*	10
Little Timber Creek.	Broadway*	10

*Centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30271 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4720]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Town of New Castle, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of New Castle, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the town clerk's office, New Castle, N.Y. Send comments to: Mr. Charles G. Banks, Jr., Town Supervisor of New Castle, 200 South Greeley Avenue, Chappaqua, N.Y. 10514.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of New Castle, Westchester County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saw Mill River	Downstream Corporate Limits.	309
	Saw Mill River Parkway	312
	New York Route 120	346
	Private Driveway	365
Gedney Brook	Downstream Corporate Limits.	267
	Millwood Road	309
	Swimming Pool Culvert	323
	Woodmill Road	409
Kisco River	Confluence with New Croton Reservoir.	199
	Lake Road	199
	Nitra Road	215
	Millwood	281
	Upstream Corporate Limits.	284
Branch 2, Kisco River.	Downstream Corporate Limits.	343
	Horseshoe Road	347
	Daly Cross Road	349
	Kathleen Lane	349

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30272 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4721]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hilliard, Franklin County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hilliard, Franklin County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the 3800 Municipal Square, Hilliard, Ohio. Send comments to: The Honorable Roger Reynolds, Mayor, City of Hilliard, 3800 Municipal Square, Hilliard, Ohio 43026.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hilliard, Franklin County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Clover Groff Ditch.	South corporate limits	937
	Just downstream of Scioto Darby Creek Rd.	940
Hayden Run	East corporate limit	909
	640 ft upstream of Avery Rd.	910
	1,400 ft upstream of Avery Rd.	912
Tudor Ditch	100 ft upstream of east corporate limit.	870
	50 ft upstream of Parkway Lane.	875
	940 ft upstream of Parkway Lane.	880
	Just downstream of Conrail.	889
Hamilton Ditch	East corporate limit	869
	100 ft downstream of Lyman Dr.	876
	800 ft upstream of Lyman Dr.	884
	Just downstream of ConRail.	898
	Just upstream of ConRail.	902
	Just downstream of Leap Rd.	903
	Just upstream of Leap Rd.	907
	1,670 ft upstream of Leap Rd.	912

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30273 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4722]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of East Hanover, Lebanon County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of East Hanover, Lebanon County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Old Route 22, East Hanover, Pa. Send comments to: Mr. Henry W. Shuey Chairman of the Board of Supervisors of East Hanover, P.O. Box 68, Ono, Pa. 17077.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of East Hanover, Lebanon County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swatara Creek	Downstream limit of detailed study (3,450 ft downstream of Legislative Route 38004 Bridge).	395
	Legislative Route 38004 (upstream).	397

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Whitman Bridge*	10
Newton Creek	Interstate 676*	10
South Branch Newton Creek.	North-South Freeway*	10
Little Timber Creek.	Broadway*	10

*Centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30271 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4720]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Town of New Castle, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of New Castle, Westchester County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the town clerk's office, New Castle, N.Y. Send comments to: Mr. Charles G. Banks, Jr., Town Supervisor of New Castle, 200 South Greeley Avenue, Chappaqua, N.Y. 10514.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of New Castle, Westchester County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saw Mill River	Downstream Corporate Limits.	309
	Saw Mill River Parkway	312
	New York Route 120	346
	Private Driveway	365
Gedney Brook	Downstream Corporate Limits.	267
	Millwood Road	309
	Swimming Pool Culvert	323
	Woodmill Road	409
Kisco River	Confluence with New Croton Reservoir.	199
	Lake Road	199
	Nitra Road	215
	Millwood	281
	Upstream Corporate Limits.	284
Branch 2, Kisco River.	Downstream Corporate Limits.	343
	Horseshoe Road	347
	Daly Cross Road	349
	Kathleen Lane	349

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30272 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4721]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Hilliard, Franklin County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Hilliard, Franklin County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the 3800 Municipal Square, Hilliard, Ohio. Send comments to: The Honorable Roger Reynolds, Mayor, City of Hilliard, 3800 Municipal Square, Hilliard, Ohio 43026.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Hilliard, Franklin County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Legislative Route 38060 (upstream).	399
	Upstream corporate limits.	401

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30274 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4723]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of East Petersburg, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of East Petersburg, Lancaster County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mrs. Mary Rose Turnpaugh, 6040 Main Street, East Petersburg, Pa. Send comments to: Mr. A. W. Kenlin, president of the borough, Council of East Petersburg, Box 34, East Petersburg, Pa. 17520.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of East Petersburg, Lancaster County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Conestoga Creek.	Manheim Pike (upstream).	317
	Petersburg Rd (upstream).	329
	Upstream-most corporate limits.	336

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30275 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4724]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Hellertown, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Hellertown, Northampton County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough hall, Hellertown, Pa. Send comments to: Hon. Emerson J. Mills, mayor of Hellertown, 685 Main Street, Hellertown, Pa. 18055.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Hellertown, Northhampton County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saucon Creek	Corporate limits (downstream).	259
	Friendensville Rd. (upstream).	277
	Walnut St. (upstream)	284
	ConRail (downstream of tracks).	291
	ConRail (upstream of tracks).	296
	Corporate limits (upstream).	298
Silver Creek	ConRail tracks (downstream).	277
	ConRail tracks (upstream).	278
	Front St.	279
	Harris St. (downstream).	280
	Harris St. (upstream)	281
	Main St. (upstream)	284
	Northampton Ave. (upstream).	290
	Delaware Ave	293

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30276 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4725]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Howe, Perry County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Howe, Perry County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the township municipal building, Howe, Pa. Send comments to: Mr. Gilbert Little, Chairman of the Board of Supervisors of Howe, Newport, Pa. 17074.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Howe, Perry County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Juniata River	Downstream corporate limits.	378
	Confluence of Howe Run.	381
	State Route 34 upstream.	395
	Upstream corporate limits.	399

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30277 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4726]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Latrobe, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Latrobe, Westmoreland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the secretary, 321 Thompson Street, Latrobe, Pa.15650. Send comments to: Mr. Howard J. Barnhart, Director of Administrators of Latrobe, 321 Thompson Street, Latrobe, Pa. 15650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

[4210-01-M]

flood elevations are the basis for the flood plain management measures that the community is required to

Source of flooding	Location	Elevation in feet, national

listed below for selected locations in the township of Middle Paxton, Dauphin County, Pa. These base (100-

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Latrobe, Westmoreland County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Loyalhanna Lake upstream reservoir.	Ligonier St. bridge	970
	Washington St. extended.	970
Loyalhanna Creek	Ligonier St. bridge 100' north of Buttonwood St..	973
	ConRail overpass (upstream side).	979
	Lloyd Ave. (State Route 981 upstream side).	982
	ConRail spur at Legion-Kenner Park.	986
	Mission Rd. bridge	998
	Easton Rd. (State Route 982).	1,003

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30278 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4727]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Little Mahanoy, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Little Mahanoy, Northumberland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the residence of Mr. Carl Keller, R.D. 1, Dornsife, Pa. Send comments to: Mr. Lester Howerter, Chairman of the township of Little Mahanoy, R.D. 1, Shamokan, Pa. 17872.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Little Mahanoy, Northumberland County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Mahanoy Creek	State Route 225 (downstream).	497
	State Route 225 (upstream).	499
	7,900 ft upstream of State Route 225.	511
	Confluence of Zerbe Run/township Route 405.	518
Zerbe Run	Mahanoy Rd.	518
	Private Rd (3,575 ft upstream of Mahanoy Rd).	532
	Mine Dump Road/township Route 409.	549
	3,500 ft upstream of Mine Dump Road/township Route 409.	568
	7,500 ft upstream of Mine Dump Road/township Route 409.	605

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30279 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4728]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Manheim, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Manheim, Lancaster County, Pa. These base (100-year)

flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the municipal building, 1821 Municipal Drive, Lancaster, Pa. 17601. Send comments to: Mr. Jay Gregg, Township Manager of Manheim, 1821 Municipal Drive, Lancaster, Pa. 17601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Manheim, Lancaster County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Conestoga Creek.	Farmingdale Rd. (upstream).	299
	Harrisburg Pike (upstream).	300
	Shreiner Station Rd. (upstream).	302
	Flory Bros. Mill Rd. (upstream).	310
	Manheim Pike (upstream).	319
	Buch Ave. (upstream)	324
	Petersburg Rd. (upstream).	329
	Quarry Rd. (upstream)	344
Tributary No. 1	Confluence with Little Conestoga Creek.	296
	Harrisburg Pike (upstream).	307
Tributary No. 2	Confluence with Little Conestoga Creek.	301
	Route 72 (upstream)	314
	Route 283 (upstream)	316
Conestoga River	Water treatment plant service bridge.	272
	Route 30 (upstream)	274
	Pine Dr. (upstream)	278
	New Holland Pike (upstream).	280
	Confluence of Little Run.	290
	Bushong Rd. (upstream)	295
Tributary No. 3	Downstream corporate limits.	271
	Sunnybrook Dr. (upstream).	287
	New Holland Pike (upstream).	289
Landis Run	Confluence with Conestoga River.	279
	Butter Rd. 1,000 ft. above New Holland Pike (upstream).	294
	Route 222 (upstream)	311
	Oregon Pike (upstream).	326
Lititz Run	Old Route 222 (upstream).	290
	Route 722 (upstream)	299

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30280 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4729]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Middle Paxton, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Middle Paxton, Dauphin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the township office, Middle Paxton, Pa. Send comments to: Mr. Daniel Ludwig, Chairman of the Board of Supervisors of Middle Paxton, P.O. Box 187, R.D. 2, Dauphin, Pa. 17018.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Middle Paxton, Dauphin County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Elevation in feet,

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance

Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section

[4210-01-M]

[24 CFR Part 1917]

ment requirements. The community may at any time enact stricter requirements on its own, or pursuant to poli-

are available for review at the borough Hall, Sharon Hill, Pa. 19079. Send comments to: Mr. Roscoe R. Woodrow, President of the Council of Sharon

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Confluence of Clark Creek.	339
	Confluence of Cove Creek.	349
Fishing Creek East.	U.S. Route 22/322	328
	ConRail	345
	State Route 443 (Fishing Creek Rd.).	389
	Piney La	394
	State Route 443 (Fishing Creek Rd.) 300 ft upstream of Piney La.	400
	Getcel driveway	406
	Mobile Home Park Rd	424
	Back Hoe Rd	438
	Glen Hills Swim Club Rd.	446
	Footbridge 1,800 ft downstream of wooden bridge.	453
	State Route 443 (Fishing Creek Rd. 400 ft upstream of wooden bridge.	462
	Moore Rd	469
	Dirt road 2,200 ft upstream of Moore Rd.	478
	Snyder's Acres Rd	494
	Upper Creek dirt road 2,400 ft upstream of Snyders Acres Rd.	500
	Tree Farm Rd	515
	Ramsey Rd	522
	Hedrick Rd	529
Clark Creek	Confluence with Susquehanna River.	339
	Red Hill Rd	339
	Extension of private road off of T537—800 yds upstream of T537 intersection with McKelvey Rd.	362
	T437 extended	372
	Pa. Route 225	393
	Way Rd	392
	Access Rd	398
	Pine Rd	407
	Old Pa. Route 325	415
	Pa. Route 325, 2,300 ft upstream of old Pa. Route 325.	422
	Dirt road off of Route 325, 1,200 ft upstream of Pa. Route 325.	425
	Dirt road off Route 325, 800 yds downstream of Safety Rd.	449
	Safety Rd	454
Stony Creek	Confluence with Susquehanna River.	333
	State Route 22/322	342
	Stony Creek Reservoir Dam.	346
	Private road, 2,200 ft downstream of Singer Lane.	356
	Singer Lane	366
	Wynn Rd	374
	House Rd	380
	Down Creek footbridge 1,100 ft upstream of House Rd.	383
	Dangerous Bridge Rd	391
	Upper Creek dirt road; 100 ft upstream of Lower Creek dirt road and 2,500 ft downstream from Posted Rd.	403
	Posted Rd	412

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30281 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4730]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Bourough of Pine Grove, Schuylkill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Pine Grove, Schuylkill County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Pine Grove, Pa. Send comments to: Mr. Frank R. Winsheimer, President of the Council of Pine Grove, 119 Walnut Street, Pine Grove, Pa. 17963.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Pine Grove, Schuylkill County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Swatara Creek	Corporate limits (upstream).	530
	Confluence of Wide Wake Creek.	518
	ConRail 10 ft downstream from confluence of Wide Wake Creek.	515
	Confluence with Daubert Creek.	514
	Wood St. (upstream)	507
	Corporate limits (downstream).	501
Wide Wake Creek	Corporate limits (upstream).	531
	Tulpehocken St. (upstream).	521
	ConRail 200 ft downstream from Tulpehocken St. (upstream).	521
	Confluence with Swatara Creek.	518

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30282 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4731]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Sewickley, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Sewickley, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the municipal building, Sewickley, Pa. Send comments to: Honorable William Gourley, Jr. Mayor of Sewickley, 230 Thorn Street, Sewickley, Pa. 15143.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Sewickley, Allegheny County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Downstream corporate limits.	715
	Upstream corporate limits.	716

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30283 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4732]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Sharon Hill, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Sharon Hill, Delaware County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough Hall, Sharon Hill, Pa. 19079. Send comments to: Mr. Roscoe R. Woodrow, President of the Council of Sharon Hill, 1319 Spring Street, Sharon Hill, Pa. 19079.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Sharon Hill, Delaware County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Darby Creek	Upstream of Amtrak Bridge, 800 ft downstream of corporate limits.	22
	Upstream of Conrail Bridge for track from S. S. Kresge Plant.	20
	At confluence of Cobbs Creek.	19
Hermesprota Creek.	Upstream corporate limits.	56
	Upstream of ConRail Bridge.	50
	Upstream of Elmwood Ave.	44
	Downstream corporate limits.	40

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30284 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4733]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Borough of Sharon Hill, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Sharon Hill, Delaware County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the borough Hall, Sharon Hill, Pa. 19079. Send comments to: Mr. Roscoe R. Woodrow, President of the Council of Sharon Hill, 1319 Spring Street, Sharon Hill, Pa. 19079.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Sharon Hill, Delaware County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Darby Creek	Upstream of Amtrak Bridge, 800 ft downstream of corporate limits.	22
	Upstream of Conrail Bridge for track from S. S. Kresge Plant.	20
	At confluence of Cobbs Creek.	19
Hermesprota Creek.	Upstream corporate limits.	56
	Upstream of ConRail Bridge.	50
	Upstream of Elmwood Ave.	44
	Downstream corporate limits.	40

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Darby Creek	Upstream of Amtrak Bridge, 800 ft downstream of corporate limits.	22
	Upstream of Conrail Bridge for track from S. S. Kresge Plant.	20
	At confluence of Cobbs Creek.	19
Hermesprota Creek.	Upstream corporate limits.	56
	Upstream of ConRail Bridge.	50
	Upstream of Elmwood Ave.	44
	Downstream corporate limits.	40

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30285 Filed 10-30-78; 8:45 am]

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(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Adminstrator.

[FR Doc. 78-30284 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4733]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township or Tremont, Schuylkill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Tremont, Schuylkill County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of Mr. Gerald Workman, Chairman of Tremont, R.D. 4, Pine Grove, Pa. 17963. Send comments to: Mr. Gerald Workman, Chairman of the Township of Tremont, R.D. 4, Pine Grove, Pa. 17963

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Tremont, Schuylkill County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vetical datum
Swatara Creek	Corporate limits (downstream).	613
	Legislative Route 53029	630
	1,160 ft upstream of Legislative Route 53029.	637
	Confluence of Black Creek.	669
	1,000 ft upstream of confluence of Black Creek.	672
	4,500 ft upstream of confluence of Black Creek.	718

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30285 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4734]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Turbot, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Turbot, Northumberland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Turbot Township Building, Broadway Road, R.D. 3, Milton, Pa. 17847. Send comments to: Mr. William Vogle, Chairman of Turbot, R.D. 2, Box 289, Milton, Pa. 17847

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Turbot, Northumberland County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Interstate Route 80 (upstream).	473
Limestone Run	State Route 147 (downstream).	478
	Township Route 583 (upstream).	490
	Hoy Rd. (upstream)	502
	Legislative Route 49056 (upstream).	508
	Township Route 549 (upstream).	516
Tributary No. 1 to Limestone Run.	Township Route 577 (upstream).	
	Upstream of State Route 254.	484
Muddy Run	State Route 405 (upstream).	472
	State Route 147 (upstream).	472
	L.R. 49059 (upstream)	486
	Township Rd. 591 (upstream).	493

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 10, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30286 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4735]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of Upper Paxton, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Upper Paxton, Dauphin County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Upper Paxton, Pa. Send comments to: Mr. Marvin Adams, Chairman of the Township of Upper Paxton, 208 Maple Street, Millersburg, Pennsylvania 17061.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Upper Paxton, Dauphin County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Confluence of Wiconisco Creek.	384
	Confluence of Shippens Run.	385
	Confluence of Barger Run.	390
	Tributary No. 37 to Susquehanna River	392
	Confluence of Mahantango Creek	404
Wiconisco Creek	Confluence with Susquehanna River.	384
	Pennsylvania Route 147 (Market St.).	392
	Confluence of Little Wiconisco Creek Wiconisco Rd.	402
	Township Route 406	426
Tributary No. 1 to Wiconisco Creek.	Township Route 466	448
	Confluence with Wiconisco Creek State St.	400
	Wiconisco St	432
Little Wiconisco Creek.		401
	Pennsylvania Route 209	420
Mahantango Creek.	Confluence with Susquehanna River.	404
	Pennsylvania Route 147	404
	Township Route 302 bridge.	420

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Fedaral Insurance Administrator.

[FR Doc. 78-30287 Filed 10-30-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4736]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for Township of West Hempfield, Lancaster Country, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of West Hempfield, Lancaster County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the

2700.34 Hearings before the Commission or members thereof.

AUTHORITY: Secs. 105 and 113, Federal

of a miner under sections 105(c) and 111, 30 U.S.C. 815(c) and 821, an affected miner or his representative who

that the pertinent mine has products that enter commerce, or has operations or products which affect com-

place Interim Rules published on March 10, 1978, in the FEDERAL REGIS-

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DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the municipal building, 3401 Marietta Avenue, Lancaster, Pa. 17601. Send comments to: Mr. Frank R. Burkhart, Secretary of West Hempfield, 1030 Silver Springs Road, Lancaster, Pa. 17601

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of West Hempfield, Lancaster County, Pa. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Strickler Run	11,000 ft. above mouth	311
	Franklin Rd. (upstream)	287
	downstream corporate limits.	265
North Branch	Oswego Drive (upstream).	298
Strickler Run	Confluence with Strickler Run.	276
Chickies Creek	Chiques Rd.	340
	Siegrist Rd. (upstream)	307
	Valley Rd. (upstream)	297
West Branch	Donnerville Rd. (upstream).	396
Little Conestoga Creek.	downstream corporate limits.	383

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

Issued: October 16, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-30288 Filed 10-30-78; 8:45 am]

[6735-01-M]

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2700]

PROCEDURAL RULES

Proposed Rulemaking

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Mine Safety and Health Review Commission proposes to issue its Rules of Procedure by which interested parties may participate in the proceedings of the Commission. The Commission is mandated by the Federal Mine Safety and Health Act of 1977 to prescribe rules of procedure for review of cases. The proposed rules are intended to afford simple procedures, to dispense with unnecessary papers, and to be brief.

DATES: Written views and data may be filed until November 30, 1978.

ADDRESS: Address all comments to: Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT:

Robert Pleasure, General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006. Phone, 202-653-5610.

SUPPLEMENTARY INFORMATION: The Federal Mine Safety and Health Review Commission proposes to adopt the following rules pursuant to section 113(d)(2) of the Federal Mine Safety and Health Act of 1977 (the Act) 83 Stat. 742, 30 U.S.C. 801-960. They replace Interim Rules published on March 10, 1978, in the FEDERAL REGISTER at 43 FR 10320. Although notice and opportunity for public comment are not required, the Commission has determined that it is in the public interest to invite the participation of the general public in the formulation of significant Commission rules and believes that seeking public comment at an early date is in keeping with the spirit of Executive Order 12044, "Improving Government Regulations," published in the FEDERAL REGISTER on March 24, 1978.

Persons accepting the Commission's invitation to comment on the proposed Rules of Procedure are requested to read the proposed rules in association with the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801-960 (the Act), and pertinent provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, and particularly 5 U.S.C. 554, "Adjudications." The Commission, in drafting the proposed Rules of Procedure, has sought to avoid unnecessary repetition of provisions already prescribed by statute.

JEROME R. WALDIE,
Chairman, Federal Mine Safety and Health Review Commission.

Under the authority of sections 105 and 113 of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 (30 U.S.C. 815 and 823), the Commission proposes that 29 CFR part 2700 be amended to read as follows:

Subpart A—General Provisions

Sec.
2700.1 Scope; rules of construction.
2700.2 Definitions.
2700.3 Parties and representatives.
2700.4 Papers, responses, statements of affirmative defenses, answers to complaints.
2700.5 Amendments to papers.
2700.6 Filing of papers.
2700.7 Service of papers.
2700.8 Computation of time.

Subpart B—Hearings

2700.10 Docketing; assignment of judge.
2700.11 Discovery.
2700.12 Expedited proceedings.
2700.13 Authority and duty of judges.
2700.14 Decision of the judge.

Subpart C—Review by the Commission

2700.20 Petitions for discretionary review.
2700.21 Interlocutory review.
2700.22 Briefs before the Commission.
2700.23 Review by a panel of the Commissioners.
2700.24 Oral argument before the Commission.

Subpart D—Miscellaneous

2700.30 Special circumstances; wavier of rules.
2700.31 Settlement.
2700.32 Ex parte communications.
2700.33 Relief from final orders of the Commission.

2700.34 Hearings before the Commission or members thereof.

AUTHORITY: Secs. 105 and 113, Federal Mine Safety and Health Act of 1977, Pub. L. 95-164 (30 U.S.C. 815 and 823).

Subpart A—General Provisions

§ 2700.1 **Scope; rules of construction.**

(a) These rules govern all proceedings before the Commission and its judges.

(b) These rules shall be construed to afford expeditious, fair, and inexpensive procedures to all parties.

(c) Unless the context indicates differently, words importing the singular also import the plural and vice versa. Words importing the masculine gender also import the feminine and vice versa.

(d) On any procedural question not regulated by the act, these Procedural Rules, or the Administrative Procedure Act (particularly 5 U.S.C. 554 and 556), the Commission or any judge shall be guided to the extent practicable by any pertinent provisions of the Federal Rules of Civil Procedure or Federal Rules of Evidence as appropriate; except that hearsay evidence shall be admissible, in the discretion of the presiding judge or Commission, whether the declarant is available or unavailable, if the evidence is of the type that the presiding judge or Commission finds offers assurances of accuracy.

§ 2700.2 **Definitions.**

(a) "Act" means the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq.

(b) "Commission," "Secretary," "commerce," "operator," "agent," "mine," and "person," have the meanings stated in section 3 of the Act.

(c) Words used in these rules have the meaning with which they are used in the Act.

(d) "A paper initiating a proceeding" or "initiating paper" is: a request for temporary relief under section 105(b)(2), 30 U.S.C. 815(b)(2); a complaint under section 105(c), 30 U.S.C. 815(c); a notice of contest under section 105(d), 30 U.S.C. 815(d); an application under section 107(e)(1), 30 U.S.C. 817(e)(1); or a complaint under section 111, 30 U.S.C. 821.

(e) "Paper" includes a brief, petition, motion, statement of affirmative defenses, answer, response and initiating paper.

(f) The term "Judge" means an Administrative Law Judge qualified pursuant to section 3105 of title 5, United States Code, and appointed by or transferred to the Commission under section 113 of the Act.

§ 2700.3 **Parties and representatives.**

(a) *Party status.* A complaining miner, applicant, or a representative of a miner under sections 105(c) and 111, 30 U.S.C. 815(c) and 821, an affected miner or his representative who has filed a notice of party status before hearing, and an intervenor, are parties. Affected miners or their representatives who state after the start of the hearing their desire to participate as parties shall, upon just terms, be freely accorded party status.

(b) *Intervention.* A motion for leave to intervene may be filed at any time before hearing on the merits. The motion shall set forth the interest of the petitioner, and show that intervention will expedite rather than delay the determination of issues. The Secretary may at any time intervene as of right in proceedings under sections 105(c)(3) and 111, 30 U.S.C. 815(c)(3) and 821.

(c) *Representatives.* A party may appear through a representative. These rules do not require representation by a lawyer, nor do they prohibit representation by persons not lawyers.

§ 2700.4 **Papers, responses, statement of affirmative defenses, answers to complaints.**

(a) *Responses not required; when to file voluntary response.* Unless these rules state otherwise, or a party is ordered otherwise, a response to a paper is not required. A voluntary response shall be filed within 10 days after service of the paper.

(b) *Statement of relief requested.* Every paper, except notices of contest, shall contain a short and plain statement of the relief requested and supporting grounds; a request under section 105(b)(2), 30 U.S.C. 815(b)(2), shall be accompanied by a detailed statement giving reasons for relief. A complaint under section 105(c) or 111, 30 U.S.C. 815(c) or 821, shall state the amount of time or the date from which the complainant was idle or out of work, and his regular rate of pay.

(c) *Answer to complaint required.* Within 20 days after service of a complaint under section 105(c) or 111, 30 U.S.C. 815(c) or 821, and within 10 days after service of a request for temporary relief under section 105(b)(2), 30 U.S.C. 815(b)(2), a person against whom the complaint was issued or who opposes the request shall file an answer with the Commission. An allegation of the complaint or request shall be deemed admitted unless it is denied or the answering party states that despite diligent inquiry he lacks sufficient knowledge to enable him to admit or deny the allegation.

(d) *Commerce coverage.* Any order, complaint, citation, application, or other similar paper issued or filed by the Secretary, and any complaint issued or filed by a miner, representative of miners, or applicant for employment is deemed to impliedly allege that the pertinent mine has products that enter commerce, or has operations or products which affect commerce. This implied allegation is admitted unless specifically denied in a voluntary response, answer, or statement of affirmative defense.

(e) *Statement of affirmative defense.* A statement of affirmative defense shall be filed within 15 days of service of the initiating paper or with an answer or voluntary response.

(f) *Reinstatement order proceedings.* (1) Prior to issuing any reinstatement order, the administrative law judge assigned to the matter shall conduct a preliminary proceeding at which any application of the Secretary for a reinstatement order under section 105(c)(2) shall be supported by a showing of (i) jurisdiction, and (ii) the basis of the Secretary's finding that the miner's complaint was not frivolously brought.

(2) If the administrative law judge finds that the Secretary has adequately shown jurisdiction and that the miner's complaint is not frivolously brought, the adminsitrative law judge shall immediately order the reinstatement of the miner pending final order on the complaint.

(3) No more than 20 days after issuance of the reinstatment order, a hearing shall be held on any application of an operator for modification or termination of the reinstatement order. At such hearing, the reinstatment order may be modified or terminated if the applicant for modification or termination shows:

(i) There is a substantial likelihood applicant will succeed on the merits; and

(ii) Such relief will not adversely affect the safety and health of miners.

(4) Any hearing under this paragraph shall not be a hearing on the merits of the miner's complaint, nor shall any modification or termination limit the right of a miner to proceed for reinstatement under section 105(c)(3) or the authority of the Secretary to issue a complaint under section 105(c)(2) of the Act.

(5) Any complaint filed by the Secretary under section 105(c) of the Act shall be filed within 90 days of the reinstatment order.

§ 2700.5 **Amendments to papers.**

(a) *Amendment of some initiating papers as of right.* A party who has filed a complaint under sections 105(c) or 111, 30 U.S.C. 815(c) or 821, a request for temporary relief under section 105(b)(2), 30 U.S.C. 815(b)(2), or an application under section 107(e)(1), 30 U.S.C. 817(e)(1), may amend his complaint, request, or application once as of right before a response is served, or if no response is served no later than issuance of notice of hearing.

(b) *Amendment of responses as of right.* A party who has filed a response

(d) *Number of copies.* One copy of a paper shall be filed with the judge.

day. When the period of time prescribed or allowed is less than 7 days,

swers to interrogatories may be required, in extraordinary circumstances.

An order approving a settlement proposal is a decision of a judge; the judge shall transmit to the Executive

20 days of the order. A party whose petition for interlocutory review has been granted, shall file any brief within 15 days after the granting of

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(b) *Amendment of responses as of right.* A party who has filed a response to a paper initiating a proceeding may amend his response before the hearing begins once as of right within 5 days after service of his voluntary response, and within 10 days after service of his required response.

(c) *Motion to amend.* A motion to amend a paper, whether made before, during, or after a hearing, shall be granted unless prejudice to an opposing party's presentation of his claim or defense cannot be cured without unreasonably delaying the proceeding.

(d) *Amendments to conform to issues tried.* An issue not raised in the papers but tried by the actual consent of the parties, express or implied, shall be treated as if it has been raised in the papers. The papers may be amended at any time, upon motion of a party, the judge, or the Commission, to reflect or confirm the trial by consent of an issue not raised in the papers. A failure to object to the introduction of evidence relevant only to an issue not so raised may be considered an indication of trial by consent.

(e) *Relation back of amendments.* A claim or defense raised in an amendment, and a claim asserted against a party added by a amendment, relates back to the date of the original paper, if (1) the claim or defense raised in the amendment arose out of the condition, conduct, transaction, or occurrence that was the subject of the original paper, and (2), in the case of an amendment adding a party, the added party has, within the limitation period set by law, received such notice of the claim that the presentation of his defense will not be prejudiced, and the original paper reflected a mistake concerning the identity of the proper party.

(f) *Amendment of notice of contest.* This rule does not authorize amendment of a notice of contest.

§ 2700.6 Filing of pleadings and other documents.

(a) *Where to file.* A paper not filed in connection with interlocutory review shall be filed, once a judge has been assigned to the proceeding, with the judge, unless his decision has been issued. In all other circumstances, a paper shall be filed with and addressed to the Executive Director of the Commission at: Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

(b) *Necessary information.* The first paper filed by a party shall state his address and business telephone number. A paper shall state the docket number of the case, if one has been assigned.

(c) *Effectiveness of filing.* Filing is effective upon receipt.

(d) *Number of copies.* One copy of a paper shall be filed with the judge. Seven copies of a paper shall be filed with the Commission; but if the filing party is not represented by a lawyer or other representative, one copy shall be filed.

(e) *Certificate.* Every paper filed shall be accompanied by a certificate of service.

§ 2700.7 Service of papers.

(a) *Service upon parties.* A copy of a filed paper shall be served upon all parties.

(b) *Service upon nonparties.* A copy of a paper initiating a proceeding, a settlement proposal, and a motion to withdraw either a citation, order, or other request for relief by the Secretary, shall, if filed before a hearing, be served by the filing upon the representatives of affected miners; if there are unrepresented miners, the operator shall serve a copy of the papers by posting it on the bulletin board referred to in section 109(a), 30 U.S.C. 819(a). A posted copy of a paper initiating a proceeding shall be accompanied by a visible notice informing affected miners of their right to participate as parties and that all relevant papers are available for inspection and copying. The notice shall state that a miner may become a party by filing a notice of party status with the Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006. Papers shall remain posted until the hearing begins or until earlier disposition. Proof of posting on the bulletin board shall be filed within 4 working days after posting.

(c) *Service of notice of hearing.* The operator shall serve a copy of the notice of hearing upon the representative of affected miners. If there are unrepresented miners, he shall post a copy of the notice as if it were a paper initiating a proceeding.

(d) *Exclusions from paragraphs (b) and (c).* Paragraphs (b) and (c) do not apply to cases initiated by complaints under sections 105(c) and 111, 30 U.S.C. 815(c) and 821.

(e) *Manner and effectiveness of service.* Unless otherwise ordered, service may be accomplished by first class mail or personal delivery. Service shall be effective upon mailing.

(f) *Service upon representative only.* Service upon a party appearing through a representative shall be made only upon the representative.

§ 2700.8 Computation of time.

(a) In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and Federal holidays shall be excluded in the computation.

(b) When service of a paper is by mail, 3 days shall be added to the time allowed by these rules for the filing of a response or other paper.

Subpart B—Hearings

§ 2800.10 Docketing; assignment of judge.

Upon receipt of a paper initiating a proceeding, including a notice of contest, the Executive Director shall assign a docket number to the proceeding. The docket number shall indicate whether the proceeding must be expedited. The Chairman, or the Chief Administrative Law Judge, if authorized by the Chairman, shall promptly assign an administrative law judge to hear the matter.

§ 2700.11 Discovery.

(a) *Exercise of authority.* This rule defines the manner and circumstances in which the authority in section 113(e), 30 U.S.C. 823(e), is to be exercised.

(b) *Discovery limited by judge.* A judge may limit discovery to expedite any proceeding.

(c) *Relevant evidence; privileges.* Only relevant evidence not validly claimed to be privileged may be discovered.

(d) *Names of miner witnesses and informants.* A judge shall not disclose or order a person to disclose to an operator or his agent the name of a miner who is expected by the judge to testify or who a party expects to summon or call as a witness. A judge shall not, except in extraordinary circumstances, disclose or order a person to disclose to an operator or his agent the name of an informat who is a miner.

(e) *Request for admissions.* A party may request admissions of another party. A statement in a request is admitted unless, within 10 days, it is denied, objected to on stated grounds, or the party served states that despite diligent inquiry he lacks sufficient knowledge to enable him to admit or deny. Filed requests and responses shall be admitted into the record without motion by a party but may later be struck as irrelevant or for other reasons.

(f) *Entry upon land.* A judge may order, for good cause shown, a party to permit a party or his agent to enter upon designated land to inspect and gather information.

(g) *Production of documents and objects.* A judge may order, for good cause shown, a party to produce books, papers, documents or objects.

(h) *Deposition and interrogatories.* Depositions may be compelled, and answers to interrogatories may be required, in extraordinary circumstances.

(i) *Subpenas.* The Commission or a judge may issue a subpena to testify or produce materials under section 113(e), 30 U.S.C. 823(e). A certificate of service shall be filed with the issuing person or body. A person served may move to revoke or modify a subpena within 5 days of service or at the hearing, whichever is sooner.

§ 2700.12 Expedited proceedings.

(a) Expedited proceedings shall be had if required by the Act, or if ordered by two Commissioners upon their own motion or motion of a party. A motion of a party to expedite proceedings may be served and filed by telegram, or may be read verbatim over the telephone if followed by a written motion served with dispatch.

(b) The Commission or a judge, in expedited proceedings, may waiver or modify any requirements in these rules. The judge shall order daily transcripts of the hearing, and may make other orders necessary to insure expedition. A petition for review of an interlocutory ruling of a judge during expedited proceedings will not be entertained, unless accompanied by a sworn statement that the interlocutory ruling will cause irreparable harm to a person.

(c) A hearing on the merits of the case shall not be scheduled with less than 4 days notice to the parties unless all parties to the proceeding consent to an earlier hearing.

§ 2700.13 Authority and duty of judges.

(a) A judge is authorized to: administer oaths and affirmations; require a party to state its position with respect to any issue; regulate the course of the hearing and maintain its decorum; hold conferences for the settlement or simplification of issues; hear reasonably short offers of proof; examine witnesses on his own motion; and take any other action authorized by law.

(b) A judge shall; conduct a fair and impartial hearing; assure that the facts are fully elicited, but without impairment of his impartiality; exclude irrelevant evidence on his own motion; and insure that persons entitled to an opportunity to participate as parties are given the notice required by these rules and the Act.

§ 2700.14 Decision of the judge.

On the day of his decision, the judge shall file with the Executive Director, the record, and as many copies of his decision as there are parties plus seven. After receipt of the record, the decision, and the correct number of copies, the Executive Director shall certify the record and promptly issue to each party a copy of the decision. An order approving a settlement proposal is a decision of a judge; the judge shall transmit to the Executive Director as many copies of such an order as there are parties plus three.

Subpart C—Review by the Commission

§ 2700.20 Petitions for discretionary review.

(a) *Length.* Petitions for discretionary review if more than 10 pages in length shall contain a table of contents and a table of authorities cited.

(b) *Authorities cited.* An unreviewed decision of a judge shall not be precedent binding upon the Commission and is not a principal authority under section 113(d)(2)(A)(iii) of the Act, 30 U.S.C. 823(d)(2)(A)(iii).

(c) *Denial of petition.* A petition not granted is deemed denied.

(d) Statements in opposition to petitions for discretionary review may be filed at the times and places specified in this section for the filing of petitions for discretionary review. Any statement shall contain a concise statement on each portion of the petition to which it is addressed.

§ 2700.21 Interlocutory review.

(a) *Petition for interlocutory review.* A party who desires review of an interlocutory ruling of a judge shall file, within 3 days after receipt of the ruling, if written, or within 5 days after notice of the ruling, if oral, seven copies of a petition for interlocutory review. The petition shall be accompanied by supporting documents, a copy of pertinent portions of the record, if available, and a copy of the ruling, if written. A judge shall reduce his ruling to writing upon the request of a party desiring interlocutory review.

(b) *Action upon the petition.* A petition for interlocutory review shall be granted when the judge and two Commissioners, or three Commissioners, certify that the ruling involves a controlling question of law or policy about which there is substantial ground for difference of opinion and that immediate review may materially expedite the proceeding.

(c) *Stays.* The filing or granting of a petition shall not stay the proceeding or the effect of a ruling unless otherwise ordered.

§ 2700.22 Briefs before the Commission.

(a) *Time for filing briefs.* A party whose petition for discretionary review has been granted, shall file any brief within 20 days after the granting of the petition. Other parties shall file any briefs within 20 days after the petitioner's brief is served or due, whichever is sooner. If the Commission orders review on its own motion, all parties shall file any briefs they wish considered by the Commission within 20 days of the order. A party whose petition for interlocutory review has been granted, shall file any brief within 15 days after the granting of the petition. Any responsive brief shall be filed within 10 days of service or due date of the petitioner's brief, whichever is sooner.

(b) *Length; table of contents or index.* Except by permission of the Commission, a brief shall have no more than 35 pages of text. Briefs in excess of 15 pages shall include a table of contents or index and a table of authorities cited.

(c) *Late filing; motion for extension of time to file brief.* The Commission may reject a brief not timely filed. A motion for extension of time shall not be granted except in an extraordinary circumstance; the burden of a heavy caseload, or a lack of personnel, does not constitute an extraordinary circumstance.

§ 2700.23 Review by a panel of Commissioners.

The Chairman may designate, on behalf of the Commission, three or more Commissioners to serve on a panel. Unless otherwise ordered by the Commission, a panel may exercise any authority of the Commission. A decision of a panel may be reviewed by the full Commission upon its own motion or upon motion of a party.

§ 2700.24 Oral argument before the Commission.

The Commission may, in its discretion, grant an opportunity for oral argument.

Subpart D—Miscellaneous

§ 2700.30 Special circumstances; waiver of rules.

In special circumstances not contemplated by the provisions of these rules, or for good cause shown, the Commission may, upon application by any party, or upon its own motion, waive any rule or make such orders as justice or the administration of the Act requires.

§ 2700.31 Settlement.

(a) *Policy.* Settlement is encouraged at all stages of a proceeding including the review stage.

(b) *Requirements.* A settlement proposal shall be consistent with the provisions and purposes of the Act and these rules. It shall include motions which if granted would finally dispose of the controversy, and shall be signed by all parties.

(c) *Service.* Settlement proposals shall be served upon represented and unrepresented, affected miners who are not parties in the manner prescribed by § 2700.7(b).

(d) *Action.* A settlement proposal shall not be approved until 10 days after service upon represented and unagency" within the meaning of sections 105 (a) and (b)(1)(A) of the Act, 30 U.S.C. 815 (a) and (b)(1)(A).

DATES: Comments must be received on or before December 15, 1978.

[4110-35-M]

[42 CFR Part 405]

[7035-01-M]

INTERSTATE COMMERCE

no cost. The intent is to improve our capability to detect and deter fraud and abuse. The Department has classi-

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(d) *Action.* A settlement proposal shall not be approved until 10 days after service upon represented and unrepresented miners who are not parties.

(e) *Motions to withdraw.* A motion to withdraw that is induced by a promise of another party shall be treated by the parties, the judge, and the Commission, as a settlement proposal.

§ 2700.32 Ex parte communications.

(a) There shall be no ex parte communication, with respect to the merits of any case not concluded, between the Commission, including any member, officer, or agent of the Commission who is employed in the decisional process, and any of the parties or intervenors.

(b) Any inquiries concerning filing requirements, the status of cases, or docket information shall be directed to the Office of the Executive Director of the Commission at: Federal Mine Safety and Health Review Commission, 1730 K Street NW., Washington, D.C. 20006.

(c) In the event an ex parte communication in violation of this section occurs, the Commission or the judge may make such orders or take such action as fairness requires. Upon notice and hearing, the Commission may take such disciplinary action as is appropriate in the circumstances against any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

(d) All ex parte communications in violation of this section shall be placed on the public record of the proceeding.

§ 2700.33 Relief from final order.

(a) Upon motion of a party or the Commission in the case of clerical errors, the Commission may correct clerical errors in a final order. Upon motion of a party and upon such terms as are just, the Commission may relieve a party from a final order for the following reasons: (1) Mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence not discoverable by due diligence; (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the order is void; (5) the order has been satisfied, released, or discharged, or a prior order upon which it is based has been reversed or otherwise vacated, or should no longer be given prospective effect; or (6) any other reason justifying relief. A party's motion shall be made within a reasonable time, before the filing of the record in a U.S. court of appeals, and, for reasons (1), (2), and (3), not more than 1 year after issuance of the order.

(b) *Exlusion.* This rule does not authorize relief from a final order "not subject to review by any court or agency" within the meaning of sections 105 (a) and (b)(1)(A) of the Act, 30 U.S.C. 815 (a) and (b)(1)(A).

§ 2700.34 Hearings before the Commission or members thereof.

Whenever the Commission deems it necessary in order to effectuate the purposes of the Act or to avoid unnecessary costs or delays, it may order that any proceeding which may have been instituted before it or a judge be transferred to and continued before it or any panel of three members of the Commission. The provisions of this part shall, insofar as applicable, govern proceedings before the Commission or any members pursuant to this section, and the powers granted to administrative law judges in such provisions shall, for the purpose of this section, be reserved to and exercised by the Commission or the members thereof who shall preside.

[FR Doc. 78-30777 Filed 10-30-78; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 45]

INDEPENDENT CONTRACTORS

Advanced Notice of Proposed Rulemaking

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: The Secretary of Labor is considering a regulation which will set criteria and procedures by which certain independent contractors performing services or construction at mines will be identified as operators by the Mine Safety and Health Administration (MSHA). When identified as operators, independent contractors would generally be held solely responsible for their violations of the Federal Mine Safety and Health Act of 1977 (Act), standards and regulations.

A draft of the independent contractor regulation has been mailed to persons known to be interested. All other interested persons may obtain a copy of the draft by submitting a request to the address provided below.

The Secretary is soliciting all relevant comments on the draft proposed rule. Suggestions detailing alternate procedures for identification of independent contractors as operators are also solicited. Interested persons should submit their comments to the address provided below. The draft of the regulation being considered for proposal may be changed in light of the comments received.

DATES: Comments must be received on or before December 15, 1978.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances, MSHA, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION:

Frank A. White, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. 22203, 703-235-1910.

Dated: October 25, 1978.

ECKEHARD MUESSIG,
Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-30773 Filed 10-30-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

MEDICARE PROGRAM

Cost to Related Organizations; Decision To Develop Regulations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Department is proposing a revision of medicare reimbursement regulations applicable to services, facilities, and supplies furnished to a provider of services by an organization related to the provider by common ownership or control. The revision will codify policy presently included in program instructions (Provider Reimbursement Manual HIM-15-1) and clarify existing regulations. This revision supplements the notice of proposed rulemaking published on August 17, 1978 (43 FR 36488), which provides specific rules for reimbursement of services, facilities, and supplies furnished by shared service organizations. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Bruce Oliver, Medicare Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 440, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-8224

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
Acting Adminstrator, Health Care Financing Administration.

[FR Doc. 78-30714 Filed 10-30-78; 8:45 am]

[4110-35-M]

[42 CFR Part 405]

MEDICARE PROGRAM

Withholding of Payments to Providers of Services and Other Suppliers of Services; Decision To Develop Regulations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The regulation would clarify due process procedures that must be followed when payments to providers, physicians, and suppliers of services under the Medicare program (title XVIII of the Social Security Act) are withheld because of suspected fraud or willful misrepresentation. The intent is to assure that due process procedures are adequate and clear. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Anthony Lovecchio, Office of program Integrity, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 532, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9588.

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-30716 Filed 10-30-78; 8:45 am]

[4110-35-M]

[42 CFR Parts 433, 455]

MEDICAID PROGRAM

Fraud in the Medical Assistance Program Verification of Services; Decision To Develop Regulations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Department is amending regulations to require all States to implement a written verification of services program with medicaid recipients. At present, only States with a medicaid management information system are required to do so. States would be permitted to initiate the program on a sample basis if the sample was sufficient to provide information regarding the extent and types of possible aberrant practices by medicaid providers. The regulations would require that the verification notification summarize the services claimed, request a response, and provide a means for the recipient to answer at no cost. The intent is to improve our capability to detect and deter fraud and abuse. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 588, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-5415.

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-30717 Filed 10-30-78; 8:45 am]

[4110-35-M]

[42 CFR Part 455]

MEDICAID PROGRAM

Procedures for the Recovery of Overpayments, Withholding of Payments When There Is Evidence of Fraud, and the Suspension or Exclusion of Providers Who Defraud or Abuse the Medicaid Program

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The proposed regulation would set forth State plan requirements for States to establish mechanisms for recovery of overpayments, withholding payments when there is evidence of fraud, and the suspension or exclusion of providers who defraud or abuse the medicaid (title XIX of the Social Security Act) program. The intent is to ensure that States have the authority to take administrative action when there is evidence of provider fraud or abuse. The Department has classified this as a policy significant regulation.

FOR FURTHER INFORMATION, CONTACT:

Irwin Cohen, Office of Program Integrity, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 588, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-5415.

Dated: October 23, 1978.

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 78-30715 Filed 10-30-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR PART 1201]

[Docket No. 36988]

UNIFORM SYSTEM OF ACCOUNTS FOR RAILROADS

Alternative Methods of Accounting for Railroad Track Structures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of study.

SUMMARY: This notice announces that the Interstate Commerce Commission is beginning a general study considering the adoption of depreciation accounting for railroad track structures. The study will consider the problems associated with any change to depreciation accounting as well as possible improvements to the existing betterment accounting rules.

DATES: Written responses and accompanying data should be filed with the Commission on or before January 2, 1978.

ADDRESSES: Send written responses to: Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Bryan Brown, Jr., phone 202-275-7448.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission is reexamining its accounting rules for railroad track property. To aid this effort, the Commission requests comments from the public on any matter relevant to this subject. Several areas of specific interest to the Commission are outlined below.

The Commission is reexamining the current use of retirement-replacement-betterment accounting (betterment accounting) in light of (1) the April 30, 1976 petition by the Department of Transportation to consider revision of the accounting for existing railroad track structures, and (2) the adoption of depreciation accounting for track structures by five railroads in reports to the Securities and Exchange Commission (SEC) and to the public. The Commission investigated the issue of betterment versus depreciation accounting some 20 years ago and reaffirmed the appropriateness of betterment accounting. However, the Commission believes the railroad industry environment has so changed over the years because of increased Federal subsidization, large scale abandonments, and rehabilitation projects

that a reexamination of this issue is warranted.

The Bureau of Accounts conducted

1-2. Is development of a standard definition for unit of property, which distinguishes capital expenditures

adopt depreciation accounting? If so, how should the beginning balance of accumulated depreciation be estab-

notices

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that a reexamination of this issue is warranted.

The Bureau of Accounts conducted an informal conference on February 15, 1978 and February 16, 1978 in Docket No. 36557, as an initial step in reopening the subject of depreciation versus betterment accounting for railroad track structures. No resolution of the problems associated with implementing depreciation accounting which reduce the reliability of the financial information was reached at the informal conference. Consequently, we seek to address the issues through publication of this advance notice of proposed rulemaking.

Theoretical arguments relevant to betterment verus depreciation accounting have been set forth in previous investigations without resolution. We believe any final decision can not be based on the theoretical arguments alone. The theoretical arguments are important and will be considered when a final decision is made. However, this study will seek to (1) address the implemention problems associated with depreciation accounting for railroad track structures, (2) address the issue of distortion of the income statement associated with charging massive rehabilitation expenditures of operating expense in the same year they are incurred, (3) consider solutions to the problem of accounting for impairments in economic value of a railroad line segment, and (4) the possible impact on the railroad industry's after tax cash flow.

SUBJECTS ON WHICH PUBLIC COMMENT IS SPECIFICALLY REQUESTED

1-1. Is it necessary to develop a uniform methodology in applying depreciation accounting to railroad track structures?

1-2. Is development of a standard definition for unit of property, which distinguishes capital expenditures from operating expenditures, feasible? If so, how should it be developed?

1-3. To distinguish between capital expenditures and operating expenditures, is routine or "spot" maintenance versus replacement or "programmed" maintenance a more effective criteria than using standard units of property criteria? If so, how should spot maintenance and programmed maintenance be defined?

a. What labor costs should be capitalized? Direct labor? Indirect labor?

b. Should overhead costs be capitalized? If so, how much and on what basis should these costs be allocated?

c. How should relaying of rail from one category of track to another be accounted for?

1 4. Should an estimate of service life apply to the entire track structure or its individual components?

a. Is it necessary or practical to apply separate depreciation rates to the same type of track component when made of different materials (e.g., concrete ties versus wooden ties)?

b. Should the volume of traffic moving over the tracks or the grade and curvature of the track result in different depreciation rates for a track component?

c. What method of life estimation is most appropriate under the circumstances (e.g., turnover method, simulated plant record method)?

d. Should the Commission consider adopting a straight-line method on a basis other than years (e.g., on a use basis) and if so, what should that basis be?

e. Should rail in place be depreciated in light of its high salvage value in comparison to its cost?

1-5. If ratable depreciation were required, can or should property accounts be restated to retroactively adopt depreciation accounting? If so, how should the beginning balance of accumulated depreciation be established? Also, should net worth be increased to reflect this new basis?

1-6. What would be the cost to implement depreciation accounting? Costs would include additional time and money spent for labor costs, revisions to the existing internal reporting system, additional data processing requirements, as well as possible anticipated increases in Federal, State, and local taxes.

2. Should massive track rehabilitation expenditures be capitalized as an alternative to expensing such costs (and possibly distorting the current period's financial statements) in the current period?

a. Under what circumstances would this accounting be appropriate?

b. How can or does a railroad differentiate between "normal" track maintenance, track rehabilitation and track improvement?

c. What problems, if any, can be seen in implementing this accounting?

3. Is accounting recognition of impairment in economic value of a railroad line segment necessary? If so, how should it be reported?

a. What criteria should be used to determine when impairment has occurred?

b. What are the problems in adopting such a procedure?

4. What would be the impact on after tax cash flow for either railroads individually or collectively?

Decided October 18, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham and Clapp.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78 30776 Filed 10-30-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

GUADALUPE ESCARPMENT WILDERNESS PROPOSAL

Public Hearing

Notice is hereby given that public hearings will be held at the time and locations listed below on a proposal for the designation of the Guadalupe Escarpment Wilderness Area, comprised of approximately 21,000 acres within the Lincoln National Forest and 1,800 acres managed by the Bureau of Land Management in Eddy County, State of New Mexico.

December 7, 1978; Albuquerque, N. Mex., at White Winrock Hotel from 1 to 5 p.m. and 7 to 10 p.m.
December 9, 1978; Carlsbad, N. Mex., at La Caverna Hotel from 1 to 5 p.m.
December 11, 1978; El Paso, Tex., at Central Inn from 1 to 5 p.m. and 7 to 10 p.m.

A wilderness proposal and draft environmental statement on the proposal may be obtained from the Forest Supervisor, Lincoln National Forest, Federal Building, 11th and New York, Alamogordo, N. Mex., 88310.

Individuals and organizations may express their views by appearing at this hearing or by submitting written comments for inclusion in the official record to the Regional Forester, U.S. Forest Service, 517 Gold Avenue, SW., Albuquerque, N. Mex. 87102, before January 15, 1979. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester, 517 Gold Avenue, SW., Albuquerque, N. Mex. 87102, prior to November 27, 1978.

Dated: October 24, 1978.

THOMAS C. NELSON,
Acting for Chief, Forest Service.

[FR Doc. 78 30711 Filed 10-30-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

UNUSED AUTHORITY PROCEEDINGS

GAO Clearance

AGENCY: Civil Aeronautics Board.

ACTION: Notice of GAO clearance for unused authority proceedings.

SUMMARY: The requirement for information specified in 14 CFR 302.1803, 1805, 1806, 1809, and 1910 (PR-180, 43 FR 49529, October 24, 1978) has not yet been cleared by the U.S. General Accounting Office (GAO) as required by the Federal Reports Act, as amended, 44 U.S.C. 3512 (Supp. 5, 1975). The submission is being reviewed by GAO under emergency clearance procedures, but processing of the applications will not begin until GAO has determined that the information required meets the requirements of the Federal Reports Act. The order in which documents have been or will be filed before GAO clearance, and the order in which they will be processed after clearance, are not affected by the clearance.

DATE: Issued under delegated authority on October 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5442.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 78 30740 Filed 10-30-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

COLUMBIA UNIVERSITY, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 20, 1978.

Regulations (15 CFR 301.9), issued under the cited act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 79-00012. Applicant: Columbia University, Department of Chemistry, Box 610 Havemeyer Hall, New York, N.Y. 10027. Article: Excimer Laser, Model EMG 500. Manufacturer: Lambda Physik, West Germany. Intended use of article: The article will be used to provide an intense source of ultraviolet coherent laser radiation in photochemical research. Principally, the article will be used to elucidate the kinetics of various reactions of organic molecules. It will also be used to study isotopic effects in chemical reactions. In addition, the article will be used by several graduate and post-doctoral students doing research and at the same time learning how to apply laser techniques to their research. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00013. Applicant: Veterans Administration Medical Center, Iowa City, Iowa 52240. Article: Hampel Micoperfusion Pump, Type III 2-50 nl/mn. Manufacturer: Wolfgang, Hampel, West Germany. Intended use of article: The article is intended to be used in a study designed to isolate the macula densa from the glomerular and perfuse the macula densa with varying concentrations of choloride at normal tubular flow rates. The effects of this perfusion the pre and post glomerular vascular resistances will then be evaluated with micropuncture techniques. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00015. Applicant: University of California Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: CO, Double Discharge Amplifier Kit. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used in a prototype front-end system consisting of all of the parts necessary for one of the six 225-joule beams. This prototype system will be used as a proof of principle of the concepts and techniques to be used in the Antares laser

system. Among the things to be tested are: the on-axis Cassegrain optical system to be used to extract energy

rabbit, and chick species; (b) developing teeth of young rodent; (c) adeno carcinomas and sarcomas from

Reasons: The applications relate to compatible accessories for instruments that have been previously imported

trathin sections. The objectives of

review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of

Room 6886C of the Department of Commerce Building, at 14th and Con-

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system. Among the things to be tested are: the on-axis Cassegrain optical system to be used to extract energy most efficiently from the preamplifier and driver; to measure the beam quality obtainable in a system like this; to evaluate effects of parasitic oscillation and retropulse damage, and, to establish confidence that the system will deliver the required energy. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00018. Applicant: University of New Orleans, Department of Chemistry, Lakefront Campus, New Orleans, LA. 70122. Article: High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System, Model FX-90Q and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used by a wide variety of chemists to study a wide variety of materials and phenomena including: Investigation of Zinc Binding in Biological Important Molecules and Investigation of Cobalt (II) Oxygen Carriers. Application received by Commissioner of Customs: October 12, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educatonal and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 78-30696 Filed 10-30-78; 8:45 am]

[3510-25-M]

CORNELL UNIVERSITY, ITHACA, N.Y., ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00274. Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, N.Y. 14853. Article: LKB 14800-1 CryoKit and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for preparing thin sections of (a) intestinal mucosa of human, rat, rabbit, and chick species; (b) developing teeth of young rodent; (c) adeno carcinomas and sarcomas from humans and rodents; (d) long bones of rodents including organ cultured explants; (e) mimosa leaves. These preparations will be studied in the ion microscope, and transmission and scanning electron microscopes with particular attention being given to the existence and location of diffusable ions (Na^+, K^+, Mg^{++}, Mn^{++} Cl^-, P^-). The general goal of the investigation is to further elucidate the specific location and the nature of the cellular involvement of diffusable ions in biological material. Application received by Commissioner of Customs: June 13, 1978. Advice submitted by the Department of Health, Education, and Welfare on: September 26, 1978.

Docket No. 78-00285. Applicant: Mayo Clinic, 200 First Street SW., Rochester, Minn. 55901. Article: Goniometer Stage, Pole Pieces and Edax System for EM 300 Electron Microscope. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is an accessory to an electron microscope which will be used for studies of nerve embedded into epoxy from experimental animals suffering from lead, arsenic, and thallium neuropathies. The cellular and subcellular distribution of the heavy metals will be investigated to determine the mechanism by which nerve fibers are damaged in these neuropathies. Application received by Commissioner of Customs: June 28, 1978. Advice submitted by the Department of Health, Education, and Welfare on: September 26, 1978.

Docket No. 78-00293. Applicant: Bureau of Biologics, Food and Drug Administration, Building 29, Room 514, 8800 Rockville Pike, Bethesda, Md. 20014. Article: H-5010 Scanning Attachment for Electron Microscope. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is an accessory to an electron miroscope which is being used in conducting ultrastructural studies pertinent to control and research activities concerned with biological products including viral, rickettsial and bacterial vaccines, allergenic products, blood and blood fractions, and diagnostic reagents. Application received by Commissioner of Customs: June 26, 1978. Advice submitted by the Department of Health, Education, and Welfare on: September 26, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 78-30695 Filed 10-30-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF AGRICULTURE—BELTSVILLE

Decision on application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00299. Applicant: U.S. Department of Agriculture, Science and Education Administration, FR, Room 205, Building 004, ARC-West Beltsville, Md. 20705. Article: LKB 2128-010 UM Ultrotome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies to be conducted on the pathological anatomy of higher plant cell interactions with virus, fungus, and bacterial pathogens; fungus-virus interactions; and virus-insect cell interactions. Studies will include investigations of the structural formation of viruses and virus-induced products of infection at the ultrastructural level. Chemical composition of diseased tissues is studied by histochemical and cytochemical methods in observations of thick and ultrathin sections. The objectives of these studies are to investigate pathogen-host interactions both structurally and chemically as a basis for developing improved methods of disease control with an increased understanding of host cell modifications and pathogen development in the processes of disease development.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the Department of Health, Education, and Welfare in its memorandum dated September 26, 1978, that: (1) Cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director Statutory
Import Programs Staff.

[FR Doc. 78-30694 Filed 10-30-78; 8:45 am]

[3510-25-M]

NATIONAL RADIO ASTRONOMY OBSERVATORY—TUCSON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00278. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRB2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver used in conjunction with a microwave antenna to measure the intensity, polarization, frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 105 to 111 gigahertz frequency range. The National Bureau of Standards (NBS) advises in its memorandum dated September 11, 1978 that: (1) The capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 78-30697 Filed 10-30-78; 8:45 am]

[3510-25-M]

PRINCETON UNIVERSITY

Decision on Applicotion for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00198. Applicant: Princeton University, P.O. Box 33, Princeton, N.J. 08540. Article: Differential Scanning Calorimeter (DSC) and Accessories. Manufacturer: Setaram, France. Intended use of article: The article is intended to be used to study the pyrolyses/steam gasification of all forms of biomass in a pressurized steam atmosphere. Heats of reaction and rates of gasification will be determined. Gaseous product composition and rates of species formation will also be measured.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article can use pressurized steam up to 1,000 pounds per square inch. The National Bureau of Standards advises in its memorandum dated September 22, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 78-30698 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA-LOS ANGELES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of

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Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00306. Applicant: University of California, Los Angeles, School of Engineering and Applied Science, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Lumonics TEA 600A, CO_2 Laser. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for far-infrared lasers development, a program which consists of using CO_2 lasers to optically pump molecular gases such as methyl fluoride, deuterium oxide and obtain laser action around 5 mm. These far-infrared lasers are to be used for Tokomak plasmas diagnostics. This part of a line of research in an attempt to find an alternative to oil and other fossil fuels as a source of electrical power.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a pulse length of 100 n sec. (.0000001 sec.). The National Bureau of Standards (NBS) advises in its memorandum dated September 19, 1978 that: (1) The capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30699 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA-SAN DIEGO, SCRIPPS INSTITUTE OF OCEANOGRAPHY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00288. Applicant: University of California, San Diego, Scripps Institute of Oceanography, Deep Sea Drilling Project A-031, La Jolla, Calif. 92093. Article: ROCK-EVAL Source Rock Analyzer, IFP-FINA Process and Spare Parts. Manufacturer: Technip Geoproduction, France. Intended use of article: The article is intended to be used to determine the genetic potential of sampled rocks to produce hydrocarbons thereby providing a measure useful for safety considerations which are primary in those drilling operation areas which are deemed to have a geologic setting conducive to hydrocarbon generation and/or accumulation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides real time analysis. The National Bureau of Standards advises in its memorandum dated September 27, 1978 that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30700 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA-SANTA CRUZ

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00120. Applicant: University of California, Purchasing Department, 1156 High Street, Santa Cruz, Calif. 95064. Article: Scintillation Plastic (Rohaglas 1921) and Accessories. Manufacturer: ROHM GmbH, West Germany. Intended use of article: The foreign article is intended to be used to study low grade scintillator strips which will locate the center of proton-initiated electromagnetic showers to measure some basic scattering amplitudes and determine the change of sub-constitutes of matter.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of the best possible attenuation length (about 3 meters) and highest light output (about 20 percent normal scintillation). The National Bureau of Standards advises in its memorandum dated September 7, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Program Staff.

[FR Doc. 78-30701 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CHICAGO, ARGONNE NATIONAL LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00307. Applicant: University of Chicago, Operator of Argonne National Labortory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: No. 512 Eulerian Cradle (Huber), with offset Phi circle, and accessory. Manufacturer: Robert Huber, Dissrakpionspechnick, West Germany. Intended use of article: The article is intended to be used for measurement of Bragg intensities during studies of single crystal inorganic and organic materials, e.g., platinocyanide complexes, TCNQ derivatives, etc.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactued in the United States.

Reasons: The foreign article can be used at liquid Helium temperatures using a two refrigeration unit. The National Bureau of Standards advises in its memorandum dated September 8, 1978, that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30702 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF MASSACHUSETTS-AMHERST

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00291. Applicant: University of Massachusetts, Department of Polymer Science and Engineering, Amherst, Mass. 01003. Article: High Pressure DTA Instrument. Manufacturer: Rigaku-Denki Co., Japan. Intended use of article: The article is intended to be used for the investigation of the thermal properties including transition temperatures and heats; heat capacities and transitional heat capacity changes of plymeric or plastic materials, crystalline or amorphorous. Experiments to be conducted will consist of measurements of the effect of pressure on glass transition and fusion temperatures.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a pressure range from 0-7000 kilograms per cubic centimeter. The National Bureau of Standards advises in its memorandum dated September 13, 1978 that: (1) The capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30703 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF ROCHESTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00163. Applicant: University of Rochester, 250 East River Road, Rochester, N.Y. 14623. Article: 2 (two) Imacon 675 Ultrafast streak cameras and accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used in studies of the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions to convert the laser photons to electrons and then sweep the accelerated electrons across a phosphor, transforming temporal to spatial variations. Using the known sweep rate, the length of the streaked laser output can be converted to time history and pulse widths.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant without excessive delay within the meaning of subsection 301.11(c) of the regulations at the time the foreign article was ordered (January 21, 1977).

Reasons: Excessive delivery time is described in subsection 301.11(c) of the regulations as follows:

Excessive delivery time. Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference be-

tween the delivery times quoted by domestic manufacturer and foreign manufacturer)

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-

Virus diseases of the following: Corn, soybeans, berries, grasses, ornamen-

identification of various microparticles

Sciences, Department of Gerontology, Texas Medical Center, 1300 Moursund

Decision: Applications approved. No instrument or apparatus of equivalent

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tween the delivery times quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

The applicant issued a purchase order, No. B26599C dated January 21, 1977, for the foreign article which required delivery of the first camera on May 30, 1977 and the second camera on June 30, 1977 after receipt of order (ARO). The National Bureau of Standards (NBS) advises in its memorandum dated August 24, 1978, that an equivalent domestic camera was demonstrated to the applicant by General Engineering and Applied Research Inc., Palo Alto, Calif. (GEAR) in June 1977, but that this camera was not demonstrated as available at the time the foreign article was ordered. On September 24, 1976, GEAR indicated to the applicant (in a request for quote relating to a prior purchase), that it could not predict a viable delivery schedule for its streak cameras. GEAR wrote to NBS on October 4, 1977 (after the foreign article was ordered), and, among other things, stated on page 3, "Regarding delivery, we have *tried* to maintain a 4-month ARO for the Pico-V and a 6-month ARO for the Pico-X (emphasis added)." The Department concludes that GEAR, as late as October 1977, could not be certain a fulfilling a contract with specific delivery times.

The applicant identified important projects (requiring useable date by middle 1977), which would be seriously impaired by the delay in receiving the equivalent domestic cameras. NBS advises in its memorandum dated above that the difference in delivery between the domestic instrument and the foreign article is pertinent because any delay of his proposed use would seriously impair his program.

Accordingly, we find that the combination of uncertain domestic availability in January 1977 and the difference in committment to prompt delivery between the domestic and foreign manufacturers amounts to "excessive delivery" within the meaning of subsection 301.11(c) as delay in delivery would seriously impair the timely accomplishment of the applicant's purposes at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30704 Filed 10-30-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF TENNESSEE ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00362. Applicant: University of Tennessee, College of Veterinary Medicine, P.O. Box 1071, Knoxville, Tenn. 37901. Article: Electron Microscope, Model 201C and Watt Haskris Water Chiller with accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in conducting the following experiments: (1) Hereditary muscular dystrophy—trace the sequential changes in effective muscles to determine the effect of age on the lesions from prenatal to adult life. (2) The retinas of dogs under anesthesia are exposed to various intensities of light and the retinas examined by electron microscopy for extent, rate and type of retinal degenerative change. (3) Animals with experimental myocardial ischemia are treated with lidocaine and the extent of the myocardial degeneration and necrosis is compared with that of controls. (4) Specimens of argentaffin cells will be obtained from different species of animals for anatomical characterization. Article ordered: July 1, 1978.

Docket No. 78-00364. Applicant: Ohio Agricultural Research and Development Center, Madison Hill, Wooster, Ohio 44691. Article: Electron Microscope, Model EM 400 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for research purposes on the following: (1) Virus diseases of the following: Corn, soybeans, berries, grasses, ornamentals, swine, cattle, and animal cell culture. (2) Bacterial DNA characterization. (3) Rumen bacteria morphology. (4) Nematode ultrastructure and morphology. (5) PBB-PCB toxicity in cattle. (6) Receptor morphology of insect antennae. (7) Mammillary development in cattle. (8) Viral serology (plant and animal). (9) Leaf surface bacterial relationships. (10) Muscle fiber degeneration (poultry and animals). (11) General animal pathology. (12) Cellular level effects of pollution and biological toxins. Article ordered: June 17, 1978.

Docket No. 78-00370. Applicant: The Regents of the University of California, Riverside, Materiel Management Department, Riverside, Calif. 92521. Article: Electron Microscope, Model EM 400 with ±60° Tilt Goniometer and Accessories. Manufacturer: Philips Electronics Insturments NVD, The Netherlands. The article is intended to be used for research in plant cell biology, as well as for other investigations on cell ultrastructure, development, and function. In particular, the article will be used for examinations of thin sections of tissue and isolated material, negatively stained and shadowed-preparations, and freeze-fractured and freeze-etched material. Three-dimensional determination of cell, organelle, and membrane organization will also be done, which includes spatial mapping of structural features of steriological determinations of their interrelationships. Determinations of structural relations integrated in series from the tissue through the cell to the ultrastructural level will be done. With the features of scanning electron microscopy and elemental analysis, which can be easily added to this instrument, identifications of particular atomic elements and the determination of their localization, distribution, and relative quantities within tissues and cells will be investigated. In addition, the article will be used in the course, Biology 211, to teach students the principles of specimen preparation and electron optics, as well as how to use the electron microscope. Article ordered: July 10, 1978.

Docket No. 78-00374. Applicant: Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minn. 55440. Article: Electron Microscope, Model H-500-3 and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for studies of asbestos and other mineral fibrous particles. Experiments will be conducted for enumeration and identification of fibrous mineral particulates in environmental samples, differentiation of structure between true asbestos, and mechanically derived microfibers and

identification of various microparticles in the occupational setting to determine exposure levels of the people of the state. This information will be used to determine the health significance of these exposures. Article ordered: June 9, 1978.

Docket No. 78-00375. Applicant: The Johns Hopkins University, Charles and 34th Streets, Baltimore, Md. 21218. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study the structure of cells, tissues, cell organelles, macromolecules, macromolecular assemblies, and viruses in order to learn of the molecular architecture of biological specimens relating to their function. In addition, the article will be used in a course entitled "Optical Methods in Biology" and in the students' thesis research. Article ordered: June 30, 1978.

Docket No. 78-00379. Applicant: The University of Alabama, Department of Biology, P.O. Box 1927, University, Ala. 35486. Article: Electron microscope, model EM 10A complete with accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of cell division, protozoan development, cytological localization of enzymes in hepatomas, virion morphology and nucleic acid structure, bacterial cell wall structure, striation spacing in fatigued metal, and crystallite sizing and topography. The proposed research will include the following: (1) A study of the comparative cytology and evolutionary affinities of the coccoid, zoospore-producing green algae; (2) Ultrastructure of the Cytoplasmic region containing the cytopharyngeal pouch in *Tetrahymena vorax;* (3) Ultrastructure of the attachment organelle in Oxymonad Flagellates from the Termite Reticulitermes flavipes; (4) Development of the Cytopharyngeal pouch in *Tetrahymena vorax;* (5) Cytochemical localization of Isozymes of aldehyde dehydrogenase in chemically reduced rat hepatomas; (6) Characterization of transducing phages for *Pseudomonas acidovorans;* (7) Cell wall ultrastructure of *Staphylococcus staphylolyticus;* (8) Fatigue crack growth studies; and (9) Crystallite size and surface topography studies of supported metal catalysis by electron microscopy. In addition, the article will be used in the course introduction to electron microscopy to familiarize the student with as many aspects of electron microscopy as possible, especially those which deal with the actual operation of the microscope. Application received by Commissioner of Customs: August 22, 1978.

Docket No. 78-00380. Applicant: Texas Research Institute of Mental Sciences, Department of Gerontology, Texas Medical Center, 1300 Moursund Avenue, Houston, Tex. 77030. Article: Electron microscope, model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used to study a variety of human and animal tissues including brain, liver, kidney, heart, and skeletal muscle. Subcellular fractions prepared from brain homogenates will also be examined. Subcellular processes associated with aging in the brain and other organs of both human and animal origins will be investigated. Also, studies will be conducted to further basic knowledge of molecular pharmacology and long-term drug effects on the subcellular organization of susceptible target tissues such as the brain and other vital organs of the body. Article ordered: July 31, 1978.

Docket No. 78-00386. Applicant: University of Kansas Medical Center, College of Health Sciences and Hospital, 39th and Rainbow Boulevard, Kansas City, Kans. 66103. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used for the study of ultrastructure of biological materials from all areas with emphasis on the study of tumor viruses and cells. Experiments involving characterization of tumor cells in vitro will be conducted to perfect these techniques so that new information may be obtained regarding the transformation of normal to malignant cells at the ultrastructural level. The article will also be used for technical, faculty and graduate student instruction in ultra technique in courses in Ultrastructural Histology. Application received by Commissioner of Customs: August 24, 1978.

Docket No. 78-00393. Applicant: Ohio State University, Botany Department, 1735 Neil Avenue, Columbus, Ohio 43210. Article: Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi (Perkin-Elmer), Japan. Intended use of article: The article is intended to be used to support the following research project: (1) An ultrastructural analysis of Paniceae (Gramineae), (2) membrane ultrastructure in response to TIBA and Ca^{2+}, (3) ultrastructural studies of the green algae, (4) Gametophyte development in ferns, (5) ultrastructural studies of aquatic fungi, and (6) electron microscopy of carboniferous pollen. The article will also be used in the course Electron Microscopy for Botanists, 693 to train students in electron microscopy techniques. Article ordered: July 21, 1978.

Comments: No Comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 79-30705 Filed 10-30-78; 8.45 am]

[3510-25-M]

UNIVERSITY OF TEXAS MEDICAL SCHOOL—HOUSTON ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 20, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30

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a.m. and 5 p.m., Monday through

mission Electron Microscope, Model

vising systems for the selective and

The article is intended to be used in

a. Applications or proposals for, and

tary, Sea Grant Review Panel, at the above address. Telephone: 202-634-

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a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 79-00014. Applicant: University of Texas Medical School at Houston, Department of Pathology, P.O. Box 20708, Houston, Tex. 77025. Article: Scanning Electron Microscope, Model JSM-35U and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used to examine a variety of specimens from patients with diseases for diagnostic and investigational purposes and for studies of various experimental models of human diseases as a means toward a better understanding of etiology, pathogenesis and control. These studies include: (1) Diagnostic studies of human renal and hepatic biopsies. (2) Diagnostic studies of human lung tissue and of experimental animal lung tissue. (3) Diagnostic studies of human blood and bone marrow specimens. (4) Studies of human tissue upon removal in surgery and freezing in cold stage accessory using low accelerating voltage to reduce specimen damage. (5) Studies of lung inclusions using X-ray analyzer for elemental analysis of trace elements contained in said inclusions. (6) Studies of brain and other nervous tissue in normal and diseased states. The article will also be used in training programs for medical and graduate students in electron microscopy and the use of it in biomedical studies and research. Undergraduates will also be trained in its use as a basis for technical careers and for further training and research in the Graduate School of Biomedical Sciences. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00017. Applicant: University of Chicago Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Ill. 60439. Article: High Temperature TG DTA Thermal Analyzer and Accessories. Manufacturer: Rigaku Corp., Japan. Intended use of article: The article is intended to be used for studying the processes of separating actinide elements (thorium, uranium, plutonium) from each other using metals and molten salts. Specific experiments include: (1) The establishment of phase diagrams (thorium/cadmium and thorium/cadmium/magnesium); (2) Measurement of heats of transition (thorium alloys); (3) Measurement of the losses of volatile components (cadmium/magnesium); and (4) Identification of intermetallic compounds. Application received by Commissioner of Customs: October 12, 1978.

Docket No. 79-00019. Applicant: Stanford University, 851 Welch Road, Palo Alto, Calif. 94304. Article: Transmission Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi-Perkin-Elmer, Japan. Intended use of article: The article is intended to be used extensively to study pathological tissue at a molecular and cellular level. The principal areas of research will include the following: (1) Study of renal tissue from kidney biopsies to determine the degree of immunological injury to the basement membrane of the glomeruli. (2) Research of lymphomas and Hodgkin's Disease in which a new thrust is being made to demonstrate surface antigens on tumor cells. (3) Advanced research on tissue obtained by endomyocardial biopsy from humans to determine whether viruses are the cause of myocarditis and cardiomyopathies. (4) Research to try to understand the mechanism of anticancer drug on heart muscle so that larger doses of the drug can be given to cure cancer without also causing heart disease. In addition, the article will be used for training surgical pathology trainees, and medical students in the surgical pathology rotations as well as training in electron microscopy—an essential skill for modern Pathologists. The article will also be used for instructional purposes for two courses: Advanced Analytical Chemistry and Physical Chemistry Laboratory. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00020. Applicant: California Institute of Technology, 1201 E., California Street, Pasadena, Calif. 91125. Article: Gas Chromatograph/Mass Spectrometer, Model MS-25 and accessories. Manufacturer: Kratos, Inc., AEI Scientific Instruments, United Kingdom. Intended use of article: The article is intended to be used for studies of small organic molecules (especially strained ring systems), heterocycles, larger intermediates formed in the attempted total synthesis of prostaglandins, neurotoxins, anti-biotics and other natural products, deuterated organic molecules, organophosphorus compounds, organometallic compounds of early transition metals, oxygen-carrying metal complexes, and various other organic and inorganic compounds. In addition, the products of the hydropyrolysis of coal and lignin will be studied; these are expected to range from CO and ethylene through benzene to compounds with molecular weights in the range 300-1500 with structures resembling that of the parent coal. Varied experiments will be conducted involving many different objectives, of which the following are representative: (a) Studies of intramolecular energy flow and utilization in large molecules under collisionless conditions, and development of schemes for deuterium isotope separation. (b) Devising systems for the selective and sensitive detection of organophosphorus compounds using chemical ionication mass spectrometry. (c) The development of catalysts for the conversion of synthesis gas ($CO+H_2$) to methane and higher alkanes by reduction with electron-deficient metallocenes. (d) Studies of selective isotopic enrichment by infrared-induced rearrangement of chemically identical but isotopically different molecules, as applied to isotope separation. (e) Studies of thermal reactions of high energy organic compounds which result in electronically excited states of product molecules, in order to determine the mechanisms of decomposition. (f) The production of 1,1-dialkyldiazenes (aminonitrenes or N-nitrenes) which are assumed to be intermediates in several chemical reactions. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00021. Applicant: Columbia University, Nevis Laboratories, 136 South Broadway, Irvington, N.Y. 10533. Article: Lead Glass Blocks (130 pcs.) Manufacturer: O'Hara Optical Glass Manufactuiring Co., Ltd., Japan. Intended use of article: The article is intended to be used in elementary Particle Physics experiments in which the lead glass will be mated to photomultiplier tubes and associated electronics. The assembly will be used to detect very high energy electrons and protons which deposit all their energy in the lead glass. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00022. Applicant: Mount Sinai School of Medicine of the City University of New York, One Gustave Levy Place, New York, N.Y. 10029. Article: Circular Diochroism Automatic Recording Spectropolarimeter, Model J-500A and accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of synthetic polypetides and nucleic acids. Experiments will be conducted to obtain circular dichroism spectra of the molecules and molecular complexes at various temperatures and concentrations. The objectives of these experiments are: (i) To develop quantitative methods of assessing the structure of proteins in solution; (ii) To study subtle changes of the environment of aromatic residues; (iii) To study protein subunit complexes and protein complexes with polysacharides and nucleic acids; and (iv) To compare predicted and experimental structures. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00023. Applicant: University of Maryland, College Park, Md. 20742. Article: Rheovibron Conversion Kit. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article is intended to be used in experiments involving the preparation of polymeric blends in a Brabender blender followed by the preparation of a film of the material by heating the blend under pressure in a laboratory press. After various thermal treatments as well as some structural measurements by other techniques the film is inserted directly into the sample chamber of the Rheovibron. The objectives of this investigation are to study molecular and phase interaction in polymer blends and to determine the compatibility of specific blends of hompolymers and copolymers produced from them. Application received by Commissioner of Customs: October 16, 1978.

Docket No. 79-00025. Applicant: The Johns Hopkins University School of Medicine, 720 Rutland Avenue, Baltimore, Md. 21205. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Indended use of article: The article is intended to be used for investigations which include ultrastructural studies on normal and pathologic animal tissues and cultured cells, developmental studies, cyto and histochemical studies, comparative neuroanatomy subcellular changes in cells induced by changes is their biochemical and physical environments, and tracing neuronal pathways, to further basic knowledge and gain an understanding of pathophysiology and treatment of neurological and psychic disorders. Application received by Commissioner of Customs: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-30706 Filed 10-30-78; 8:45 am]

[3510-12-M]

National Oceanic and Atmospheric Administration

SEA GRANT REVIEW PANEL

Meeting

The Sea Grant Review Panel will meet on November 8 and 9, 1978, from 8:30 a.m. to 4:30 p.m. on November 8 and from 9 a.m. to 3:30 p.m. on November 9, in the President's Conference Room, University of North Carolina General Administration Building, Chapel Hill, N.C.

The Panel was established in December 1976 under section 209 of the National Sea Grant Program Improvement Act (Pub. L. 94-461), and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under sections 205 and 206 of the act;

b. The Sea Grant Fellowship Program, established under section 208 of the act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia, (which are provided for in Section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under section 204(2) of the act and applied by the Director in accordance with section 204(c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

November 8, 1978 (8:30 a.m. to 4:30 p.m.)

8:30 a.m. Preliminary remarks and discussion of agenda.

8:45 a.m. A. Presentation by University of North Carolina.

11 a.m. B. Institutional and coherent area program discussions:
- University of Georgia
- University of Minnesota
- University of Hawaii
- University of Alaska
- Virginia Institute of Marine Sciences
- State University of New York/Cornell
- University of Maine/University of New Hampshire
- Mississippi-Alabama Sea Grant Consortium
- University of Maryland
- University of North Carolina
- University of Washington
- New Jersey Marine Sciences Consortium
- State University System of Florida

C. Sea Grant College Candidates Discussion.

The following are eligible to be considered on the basis of 3-year performance as institutional programs:
- University of Georgia
- University of Southern California

4:30 p.m. Recess.

November 9, 1978 (9 a.m. to 3:30 p.m.)

9 a.m. Discussion of budget.
Discussion of progress with national and international projects.
Discussion of the fellowships program.
Discussion of minorities' increased participation in Sea Grant.
Discussion with Sea Grant directors.

3:30 p.m. Adjourn.

All agenda items will be open to public attendance. Approximately 10 seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter upon written request addressed to the National Sea Grant Program, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

For further information, contact Mr. Arthur G. Alexiou, Executive Secretary, Sea Grant Review Panel, at the above address. Telephone: 202-634-4019.

Dated: October 25, 1978.

T. P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc. 78-30689 Filed 10-30-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Modification of Permit

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the regulations governing endangered species permits (50 CFR Part 222), Permit No. 223 issued to Dr. Louis Herman, Marine Mammal Laboratory, University of Hawaii, 1129 Ala Moana, Kewalo Basin, Honolulu, Hawaii 96814, on March 9, 1978 (43 FR 11729), is modified in the following manner:

Section B-1 has been changed to read, "Harassment is defined for the purposes of this section as alteration of an animal's behavior caused by the presence of an observer within the limits of the observational methods as described in section 5(a) of the Holder's application except that the minimum altitude of 500 feet for aerial observations will be maintained."

This modification is effective on October 31, 1978.

The permit as modified, and documentation pertaining to the modification are available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street Terminal Island, Calif. 90731.

Dated: October 20, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service

FR Doc. 78-30785 Filed 10-30-78; 8:45 am]

[3510-04-M]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and

are available for domestic and possibly foreign licensing in accordance with

Method of Preparation, filed January 14, 1975, patented January 31, 1978; not available NTIS.

filed August 11, 1976, patented June 28, 1977; not available NTIS.

and other technical data will usually

Patent application 908,602: Corn Kernel

Patent Application 889,797: High-Power Mi-crowaves from a Non-Isochronous Reflect-

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are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street, SW., Washington, D.C. 20324.

Patent Application 887,910: Long-Time Constant Clutter Tracker for Radar System, filed March 17, 1978.

Patent Application 888,797: Hot Wall Trunnion with Pressure Seal, filed March 21, 1978.

Patent Application 891,800: Gas Bearing Surface Coating, filed March 30, 1978.

Patent Application 891,873: Electrically Conductive Bonding Strap for Connecting Movable Parts, filed March 30, 1978.

Patent Application 891,876: Portable Optical Fiber Coupling Device, filed March 30, 1978.

Patent Application 893,868: Method and Apparatus for Adjusting and Locking a Linear Actuator, filed April 6, 1978.

Patent Application 893,869: Digital Eddy Current Inspection System, filed April 6, 1978.

Patent Application 896,832: Launch Lug Retractor Assembly, filed April 17, 1978.

Patent Application 896,859: Gas Flow Control System for a Turboshaft Engine, filed April 17, 1978.

Patent Application 896,861: Improved Carbon/Carbon Composite for Re-Entry Vehicle Applications, filed April 17, 1978.

Patent Application 898,048: Shift Mechanism for Aircraft Control System, filed April 20, 1978.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Ser. Div., Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,071,501: Water Soluble Adduct of Hydroxymethyl Phosphorous Compound and Ammonia or Amine Compound and Method of Preparation, filed January 14, 1975, patented January 31, 1978; not available NTIS.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

Patent Application 897,818: Differential Doppler Velocity Sensor, filed April 19, 1978.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,969,209: Automatic Electrochemical Ambient Air Monitor for Chloride and Chlorine, filed July 8, 1975, patented July 13, 1976; not available NTIS.

Patent 4,032,407: Tapered Bed Bioreactor, filed February 24, 1976, patented June 28, 1977; not available NTIS.

Patent 4,043,936: Biological Denitrification of High Concentration Nitrate Waste, filed February 24, 1976, patented August 23, 1977; not available NTIS.

Patent 4,046,593: Method for Collecting Spores from a Mold, filed June 17, 1976, patented September 6, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent Application 866,907: Anticancer and Antiviral Activity of 9-B-D-Arabinofuranosyl-2-Fluoroadenine, filed January 4, 1978.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent application 884,324: Process for the Preparation of Rare-Earth/Silicon Alloys, filed March 7, 1978.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent Application 868,157: Time Delay Computer Using Fuze Doppler for Air-To-Air Missiles, filed January 9, 1978.

Patent Application 890,099: Attitude Selective Aircrew Escape Control, filed March 27, 1978.

Patent Application 892,054: Microwave Radiometric Attitude Reference System, filed March 21, 1978.

Patent Application 896,062: Multimode Electrooptic Waveguide Switch, filed April 13, 1978.

Patent Application 897,237: Method and Apparatus for Measuring Adhesion of Particulate Materials, filed April 17, 1978.

Patent Application 899,194: Elevation Sampling Terrain Probe, filed April 24, 1978.

Patent Application 899,935: Multi-Refractory Films for Gallium Arsenide Devices, filed April 25, 1978.

Patent 3,994,752: Annealing Treatment for Controlling Warhead Fragmentation Size Distribution, filed October 23, 1973, patented November 30, 1976; not available NTIS.

Patent 4,018,676: Removal of Explosive Materials from Water by Chemical Interaction on Strongly Basic ton Exchange Resins, filed January 15, 1976, patented April 19, 1977; not available NTIS.

Patent 4,028,701: Quasi-Corner Reflectors for Electromagnetic Radiation, filed April 5, 1976, patented June 7, 1977; not available NTIS.

Patent 4,032,919: Device for Secant Correction of Azimuth Data in Tracking Radars, filed August 11, 1976, patented June 28, 1977; not available NTIS.

Patent 4,044,599: Test System for Evaluation of Armors Using Duplicate Fragments, filed March 1, 1976, patented August 30, 1977; not available NTIS.

Patent 4,051,414: Missile Adaptation Kit Assembly, filed December 28, 1964, patented September 27, 1977; not available NTIS.

Patent 4,058,275: Low Frequency Passive Guidance Method, filed December 28, 1970, patented November 15, 1977; not available NTIS.

Patent 4,062,709: Inhibited Fluorocarbon Pocket Propellant, filed September 25, 1968, patented December 13, 1977; not available NTIS.

Patent 4,067,013: Automatic Thresholding and Reference Circuit, filed November 12, 1976, patented January 3, 1978; not available NTIS.

Patent 4,070,573: Wide Angle Laser Seeker, filed October 21, 1976, patented January 24, 1978; not available NTIS.

Patent 4,073,985: Composite Dome, filed July 14, 1976, patented February 14, 1978; not available NTIS.

Patent 4,074,628: FAX Canister with a Bottom Burster Charge and Dispersion Control Ring, filed June 21, 1966, patented February 21, 1978; not available NTIS.

Patent 4,076,772: Large, Nonplanar Poly(Methyl Methacrylate) Pre-Holographic Element, filed March 29, 1976, patented February 28, 1978; not available NTIS.

Patent 4,078,495: Control After Burnout for Reaction Steered Missiles, filed August 15, 1974, patented March 14, 1978; not available NTIS.

Patent 4,079,082: Lasing Dyes Derived from Ter-and Quaterphenyl, filed April 28, 1975, patented March 14, 1978; not available NTIS.

Patent 4,081,784: Omnidirectional Monitor Buoy, filed October 1, 1976, patented March 28, 1978; not available NTIS.

[FR Doc. 78-30692 Filed 10-30-78; 8:45 am]

[3510-04-M]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for $4 ($8 outside North American Continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE AF/JACP,1900 Half Street SW., Washington, D.C. 20324

Patent 4,079,594: Fusible Heat Sink for a Cryogenic Refrigerator; filed January 12, 1977, patented March 21, 1978; not available NTIS.

Patent 4,081,136: Dual Manifold High Performance Throttleable Injector; filed January 21, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,137: Finned Surface Cooled Nozzle; filed January 5, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,157: Aircraft Conveyor Load Redistribution System; filed April 11, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,177: Break-Away Outrigger; filed March 10, 1977, patented March 28, 1978; not available NTIS.

Patent 4,081,744: Resistance Bridge Transducer Conditioning Circuit; filed November 10, 1976, patented March 28, 1978; not available NTIS.

Patent 4,081,785: Dual Class Amphiblous Target Discriminator; filed February 13, 1974, patented March 28, 1978; not available NTIS.

Patent 4,085,444: Random Action Event Switching Method and Apparatus for a Multiple Input Data Processing System; filed April 21, 1976, patented April 18, 1978; not available NTIS.

Patent 4,085,582: Wall and Nozzle Assembly for Colloidal Core Reactor; filed November 4, 1976, patented April 25, 1978; not available NTIS.

Patent 4,085,584: Barrier System for Dual-Pulse Rocket Motor; filed November 5, 1976, patented April 25, 1978; not available NTIS.

Patent 4,085,678: Kinetic Energy, Impact-Separated, Follow-Through Ungula Penetrator; filed April 25, 1977, patented April 25, 1978; not available NTIS.

Patent 4,085,679: Fuze for Explosive Magnetohydrodynamic Generator; filed December 23, 1976, patented April 25, 1978; not available NTIS.

Patent 4,086,590: Method and Apparatus for Improving the Slowly Moving Target Detection Capability of an AMTI Synthetic Aperture Radar; filed January 21, 1977, patented April 25, 1978; not available NTIS.

Patent 4,086,657: Five-Stage Four-Bit Complex Multiplier; filed August 18, 1976, patented April 25, 1978; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Service Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782

Patent application 869,891: Process for Increasing Oleoresin Synthesis in Pinus Species; filed January 16, 1978.

Patent application 908,602: Corn Kernel Snack Food; filed May 23, 1978.

Patent application 910,152: A Naturally Occurring Colorant for Food and Beverages; filed May 26, 1978.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

Patent application 848,041: High Speed, Wide Dynamic Range Analog-to-Digital Conversion; filed November 3, 1977.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 738,982: Ultrasonic Technique for Characterizing Skin Burns; filed November 4, 1976.

Patent application 755,100: Agent and Method for the Early Detection of Pregnancy; filed December 28, 1976.

Patent application 763,166: Multiple-Image Oscilloscope Camera; filed January 27, 1977.

Patent application 763,436: High-Resolution Radiography by Means of a Hodoscope, filed January 27, 1977.

Patent 3,979,295: Folded Membrane Dialyzer with Mechanically Sealed Edges; filed April 9, 1975, patented September 7, 1976; not available NTIS.

Patent 3,983,007: System for Sampling and Monitoring Microscopic Organisms and Substances; filed September 23, 1975, patented September 28, 1976; not available NTIS.

Patent 4,016,290: Method of Encapsulating Polyaminopolycarboxylic Acid Chelating Agents in Liposomes; filed November 10, 1975, patented April 5, 1977; not available NTIS.

Patent 4,016,886: Method for Localizing Heating in Tumor Tissue; filed November 26, 1974, patented April 12, 1977; not available NTIS.

Patent 4,019,079; Gas Injected Vacuum Switch; filed May 7, 1976, patented April 19, 1977; not available NTIS.

Patent 4,027,165: Ionization Detection System for Aerosols; filed February 17, 1976, patented May 31, 1977; not available NTIS.

Patent 4,027,239: Current Level Detector; filed November 25, 1975, patented May 31, 1977; not available NTIS.

Patent 4,048,325: Low Toxicity Method of Inhibiting Sickling of Sickle Erythrocytes; filed January 5, 1976, patented September 13, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent Application 861,911: Cutting Apparatus and Vertical Drive Mechanism Therefor; filed December 19, 1977.

Patent Application 866,666: Weld Current Decay Device; filed January 3, 1978.

Patent Application 877,200: Pressure Biased Shuttle Valve; filed February 13, 1978.

Patent Application 878,556: Ship Escape and Survival System; filed February 17, 1978.

Patent Application 882,724: Vertically Integrated Circuits; filed March 2, 1978.

Patent Application 883,430: Method for Determining Antenna Near-Fields from Measurements on a Spherical Surface; filed March 3, 1978.

Patent Application 883,557: Electro-Mechanical Low Backlash Cable Connector; filed March 6, 1978.

Patent Application 889,797: High-Power Microwaves from a Non-Isochronous Reflecting Electron System (NIRES); filed March 22, 1978.

Patent Application 893,548: VLF Loop Array Antenna; filed April 5, 1978.

Patent 3,877,287: Low Flow Gas or Liquid Calibrator; filed August 9, 1973, patented April 15, 1975; not available NTIS.

Patent 4,050,070: Programmable Microwave Modulator; filed June 1, 1976, patented September 20, 1977; not available NTIS.

Patent 4,053,680: Process for Bonding Polymers; filed December 4, 1975, patented October 11, 1977; not available NTIS.

Patent 4,056,746: Counterrotation Electric Motor; filed October 20, 1975, patented November 1, 1977; not available NTIS.

Patent 4,066,833: 2,3,7,8-Tetraazaspiro(4.4) Nonane, 2,3,7,8-Tetraazaspiro-(4.4)Nona-2,7-diene and Derivatives; filed November 22, 1976, patented January 3, 1978; not available NTIS.

Patent 4,070,094: Optical Waveguide Interferometer Modulator-Switch; filed August 25, 1975, patented January 24, 1978; not available NTIS.

Patent 4,070,101: Narrowband Wide Field of View Optical Filter; filed September 2, 1976, patented January 24, 1978; not available NTIS.

Patent 4,072,956: Multifrequency Array Using Common Phasors; filed May 17, 1976, patented February 7, 1978; not available NTIS.

Patent 4,073,010: Correlation Methods and Apparatus Utilizing Mellin Transforms; filed July 23, 1976, patented February 7, 1978; not available NTIS.

Patent 4,074,267: Device for Numerically Displaying VOR Bearing; filed May 17, 1976, patented February 14, 1978; not available NTIS.

Patent 4,075,319: Low Leaching Antifouling Organometallic Polyvinyls; filed June 24, 1976, patented Febuary 21, 1978; not available NTIS.

Patent 4,075,385: Anti-Reflective Coating for High Energy Optical Components; filed April 1, 1977, patented February 21, 1978; not available NTIS.

Patent 4,075,583: Low Loss Tuneable Filter; filed May 24, 1976, patented February 21, 1978; not available NTIS.

Patent 4,075,608: Multiple-Channel Data Switch; filed January 19, 1976, patented February 21, 1978; not available NTIS.

Patent 4,075,703: Recursive Filter Mean-Level Detector; filed November 1, 1976, patented February 21, 1978; not available NTIS.

Patent 4,076,381: On Line Electro-Optic Modulator; filed November 1, 1976, patented February 28, 1978; not available NTIS.

Patent 4,076,393: Thermal Stress-Relieving Coupling Member and Support; filed December 15, 1975, patented February 28, 1978; not available NTIS.

Patent 4,078,186: Magnetically Tuned, Surface Acoustic Wave Device; filed October 21, 1976, patented March 7, 1978; not available NTIS.

Patent 4,078,214: Microwave Crossover Switch; filed October 22, 1976, patented March 7, 1978; not available NTIS.

Patent 4,078,217: Microwave Isolation Switch; filed October 22, 1976, patented March 7, 1978; not available NTIS.

Patent 4,081,251: Process to Remove Iron Sulfide from Coal to Reduce Pollution; filed October 1, 1976, patented March 28, 1978; not available NTIS.

Patent 4,082,423: Fiber Optics Cable

system for certain specified categories

on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22.

Entries of cotton textile products in Cate-

OCTOBER 27, 1978

COMMISSIONER OF CUSTOMS,

[3810-71-M]

DEPARTMENT OF DEFENSE

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Patent 4,082,423: Fiber Optics Cable Strengthening Method and Means; filed August 19, 1976, patented April 4, 1978; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 860,532: Soil Activated Trap Door Dibble; filed December 14, 1977.

[FR Doc. 78-30693 Filed 10-30-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON APPAREL PRODUCTS FROM THE FEDERATIVE REPUBLIC OF BRAZIL

Additional Import Controls

OCTOBER 24, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton apparel from Brazil in category 359 at a level of 152,174 pounds during the agreement year which began on April 1, 1978 and extends through March 31, 1979.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408)).

SUMMARY: Under the terms of paragraph 16 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil, the Government of the United States has decided to control imports of cotton textile products in category 359, produced or manufactured in Brazil and exported to the United States during the 12-month period which began on April 1, 1978.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On July 12, 1978, there was published in the FEDERAL REGISTER (43 FR 29975) a letter dated July 7, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels or restraint under the new textile category system for certain specified categories of cotton textiles and cotton textile products, produced or manufactured in Brazil, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the 12-month period which began on April 1, 1978 and extends through March 31, 1979. The agreement also establishes consultation levels for categories, like category 359, which are not subject to specific limits. In accordance with the terms of the bilateral agreement, the U.S. Government has decided to control imports in category 359 at the specified consultation level of 700,000 square yards equivalent (152,174 pounds) for the 12-month period which began on April 1, 1978. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that imports in this category be limited to the designated level of restraint. The level has not been adjusted to reflect any imports during the period which began on April 1, 1978. Adjustments will be made to account for imports of 143,042 pounds during the period beginning on April 1, 1978 and extending through August 31, 1978.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

OCTOBER 24, 1978

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on July, 7, 1978, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products produced or manufactured in Brazil.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 30, 1978, and for the 12-month period beginning on April 1, 1978, and extending through March 31, 1979, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton textile products in Category 359, produced or manufactured in Brazil, in excess of 152,174 pounds.[1]

Entries of cotton textile products in Category 359, produced or manufactured in Brazil and exported to the United States before April 1, 1978, shall not be subject to this directive.

Cotton textile products in Category 359 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1977 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-30741 Filed 10-30-78; 8:45 am]

[3510-25-M]

ADJUSTING IMPORT LEVELS FOR CERTAIN COTTON APPAREL PRODUCTS FROM THE POLISH PEOPLE'S REPUBLIC

OCTOBER 27, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Amending the levels of restraint established for imports of certain men's and boys' cotton knit shirts, and other cotton apparel in Categories 338 and 359 from Poland under the terms of an amendment to the bilateral textile agreement.

(2) Controlling imports of cotton coats in Category 334 for the agreement year which began on January 1, 1978, at an increased level. (A detailed description of the textile categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).)

SUMMARY: The Governments of the United States and the Polish People's Republic have exchanged letters dated October 19 and 20, 1978, amending the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, among other things, to increase the levels of restraint for cotton textile products in Categories 334 and 359 and to decrease the level of restraint for Category 338, produced or manufactured in Poland and exported to the United States during the 12-month period which began on January 1, 1978.

EFFECTIVE DATE: November 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On March 22, 1978, there was published in the FEDERAL REGISTER (43 FR 11845) a letter dated March 17, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing specific levels of restraint for certain cotton, wool, and man-made fiber textile products from Poland, including Categories 338 and 359, during the 12-month period which began on January 1, 1978, pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of January 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic. The agreement also establishes consultation levels for catergories, such as Category 334, which are not subject to specific ceilings. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to amend the previously established levels of restraint for Categories 338 and 359 and also to control imports of cotton textile products in Category 334 at the designated level of restraint for the agreement year which began on January 1, 1978, in accordance with the amended bilateral agreement.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

OCTOBER 27, 1978

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool, and Man-made Fiber Textile Agreement of January 9 and 12, 1978, between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on November 1, 1978, the levels of restraint established in the directive of March 17, 1978, for Categories 338 and 359 as follows:

Category and Amended 12-Month Level of Restraint[1]
338—441,359 dozen, of which not more than 264,028 dozen[2] shall be in TSUSA 380.0651 and 380.0652.
359—660,000 pounds.

You are further directed, effective on November 1, 1978, to prohibit entry of cotton textile products in Category 334, produced or manufactured in Poland and exported to the United States during the 12-month period which began on January 1, 1978, in excess of the following level of restraint:

Category and Amended 12-Month Level of Restraint[1]
334—151,937 dozen, of which not more than 16,949 dozen shall be in all TSUSA numbers in the category except TSUSA 380.0611.

Cotton textile products in Category 334 that have been exported to the United States before the effective date of this directive shall not be denied entry under this directive.

Cotton textile products in Category 334 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-30844 Filed 10-30-78; 8:45 am]

[1] The level of restraint has not been adjusted to account for any imports after December 31, 1977.

[1] The level of restraint has not been adjusted to account for any imports after March 31, 1978. During the period beginning on April 1, 1978, and extending through August 31, 1978, 143,042 pounds have been imported.

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

TECHNOLOGY SUB-PANEL OF THE CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Closed Meeting; Correction

In FR Doc. 78-29138 appearing at page 47665 in the FEDERAL REGISTER of October 16, 1978, the date of the closed meeting of the Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee is corrected to November 15-16, 1978, vice October 31-November 1, 1978. Accordingly, in the seventh line of the notice the date is corrected to November 15-16, 1978; in the eighth line the date is corrected to November 15; and in the eleventh line the date is corrected to November 16.

Dated: October 26, 1978.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-30731 Filed 10-30-78; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows: Tuesday, December 5, 1978, Pomponio Plaza, Rosslyn, Va.

The entire meeting, commencing at 0900 hours, is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the growth and the potential implications of Soviet technology.

Dated: October 25, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-30681 Filed 10-30-78; 8:45 am]

[3128-01-M]

1. Opening remarks, including a review of

[6740-02-M]

Braden Deem is not proposing to make any additional investment in

Deem, as amended, is hereby granted:

(B) Braden Deem is authorized to

BRADEN-DEEM, INC. DOCKET NO. R178-21 BARNES NO. 1, WHITE NO. 1 AND ROBBINS NO. 1 WELLS CARVER-ROBBINS GAS FIELD, PRATT COUNTY,

V 43/211 OCT 31 1978

[3128-01-M]

DEPARTMENT OF ENERGY

VOLUNTRARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

I. A joint meeting of Subcommittees A and C of the Industry Advisory Board to the International Energy Agency (IEA) will be held on November 8, 1978, at the offices of Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y., beginning at 10 a.m. The agenda is as follows:

1. Opening remarks.
2. Framework for antitrust clearances of oil company activities in an emergency.

II. A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the offices of Texaco Inc., 2000 Westchester Avenue, White Plains, N.Y. on November 8, 1978, and at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., on November 9, 1978. The meeting will begin upon adjournment of the joint meeting of IAB Subcommittees A and C which is being held at the offices of Texaco at White Plains on November 8, and will be continued on November 9, at the offices of Exxon at New York. The agenda is as follows:

1. Opening remarks.
2. Follow-up work on framework for antitrust clearances of oil company activities in an emergency.
3. Computer logging of voluntary offers.
4. Considerations to be included in the design of future tests.
5. Questionnaire A and B reporting instructions.
6. Consumer stocks and reporting under IEA procedures.
7. Review Industry Supply Advisory Group (ISAG) paper on tonnage considerations in a crisis.
8. Emergency management manual revisions.
9. Secretariat report on harmonization of IEA EEC emergency data calculations and procedures.
10. Future work program.

III. A meeting of Subcommittee C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on November 8, 1978, at the offices of Texaco, Inc., 2000 Westchester Avenue, White Plains, N.Y., following adjournment of the joint meeting of IAB Subcommittees A and C which is being held at the offices of Texaco at White Plains on November 8. The agenda is as follows:

1. Opening remarks, including a review of developments since the last meeting.
2. Results of joint meeting with Subcommittee A.
3. Settlement of disputes.
4. Pricing in an emergency.
5. Extraordinary and additional costs.
6. Future work of Subcommittee C.

IV. A meeting of the Industry Advisory Board to the International Energy Agency (IEA) will be held on November 10, 1978, at the offices of Mobil Oil Corp., 150 East 42d Street, New York, N.Y., beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks by the Chairman including:
   A. Communications to and from the IEA.
   B. Report on Standing Group on Emergency Questions (SEQ) meeting of October 4, 1978.
2. Matters arising from the record note of IAB meeting on September 14, 1978.
3. Position of Reporting Companies under:
   A. EEC Competition regulations.
   B. U.S. Voluntary Agreement.
4. Report of Subcommittee C including:
   A. Opening remarks, including a review of developments since the last meeting.
   B. Results of joint meeting with Subcommittee A.
   C. Settlement of disputes.
   D. Pricing in an emergency.
   E. Extraordinary and additional costs.
   F. Future work of Subcommitted C.
5. Report of Subcommittee A including:
   A. Framework for antitrust clearances of oil companies' activities in an emergency.
   B. AST-2 follow-up activities.
   C. Consumer stocks and reporting under IEA procedures.
   D. Future work program.
6. Report of ISAG Manager including:
   A. ISAG/Secretariat operations manual.
   B. Tonnage analyses and forecasts.
   C. Reorganization of ISAG: continuity; training.
   D. Future work program
7. Selection of new IAB Chairman and ISAG Manager.
8. Future work program for the IAB.
9. Dates and venues of future meetings of IAB and Subcommittees.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Dated: October 25,1978.

ROBERT C. GOODWIN, Jr.,
Assistant General counsel for International Trade and Emergency Preparedness.

[FR Doc. 78-30640 Filed 10-30-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RI78-21]

BRADEN-DEEM, INC.

Order Granting Petition for Special Relief and Permitting Intervention

OCTOBER 23, 1978.

On December 7, 1977 Braden-Deem, Inc. (Braden Deem) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) for the sale of natural gas[1] to Panhandle Eastern Pipe Line Co. (Panhandle Eastern) from the White No. 1 Well, Robbins No. 1 Well and Barnes No. 1 Well in the Carver-Robbins Gas Field, Pratt County, Kans. Subsequently, Braden Deem filed and amended petition for special relief on March 21, 1978, and a second amended petition on March 28, 1978.

Braden Deem, an independent small producer, was issued a small producer certificate in Docket No. CS72—0151 on January 31, 1972. Braden Deem is currently receiving 35 cents per Mcf for the sale of this Gas.

Notice of Braden Deem's petition for special relief was issued by the Commission on March 7, 1978; notice of Braden Deem's second amended petition was issued on May 11, 1978. Both notices were published in the FEDERAL REGISTER. Panhandle Eastern Pipe Line Co. field a timely petition to intervene in the original petition for special relief.

In their second amended petition for special relief Braden Deem requests a rate of $1.10 per Mcf for the sale of this gas.[2] Braden Deem states that it will be necessary every three to 5 years to pull and repair bottom hole pumps, repair pumping units, overhaul the pumping unit engines, overhaul the compressors and compressor engines, and treat the formation with a calcium carbonate scale inhibitor to prevent the deposition of scale on bottom hole pumps. Brademn Deem states that it is not economical to continue producing gas from the subject wells at the current rate. Branden Deem filed with its petition for special relief executed amendments dated November 3 and 4, 1977 to its contract with Panhandle Eastern dated October 26, 1960, in which Panhandle Eastern agreed to pay the price for this gas authorized by the FERC.

[1] Braden Deem owns a 93.75 percent working interest in these wells; M. L. Sloan owns the remaining 6.25 percent working interest.

[2] In its original petition Braden Deem requested a rate of 83 cents per Mcf at 14.65 psia plus annual escalations of 14 cents per Mcf for the sale of this gas. In their first amended petition for special relief, Braden Deem requested a price of 97 cents per Mcf plus annual escalations of 14 cents per Mcf.

Braden Deem is not proposing to make any additional investment in these wells to recover the remaining gas. The petition does not meet the criteria for special relief set forth in § 2.76 of the Commission's regulations. Therefore, the petition will be considered as one seeking a rate in excess of the adjusted national rate pursuant to § 2.56(b)b of the Commission's regulations. The rate must be calculated on an "out of pocket" expense basis.

Based on data filed by Braden Deem, Staff has determined that the estimated production expenses over the remaning life of the project will be $241,082. Staff estimates that 218,813 Mcf of reserves attributable to the net working interest of Braden Deem remains to be recovered. Staff's cost study, using these expenses and reserves, indicates that a total rate of $1.10 per Mcf at 14.65 psia is required to recoup all out of pocket expenses associated with continuing production.[3]

Based on the record in this case, including Staff's cost analysis, the Commission concludes that the requested rate is cost supported and that it is in the public interest to grant relief.

The Commission finds. The petition for special relief by Braden Deem should be approved.

The Commission orders. (A) The petition for special relief filed by Braden Deem, as amended, is hereby granted;

(B) Braden Deem is authorized to collect a rate of $1.10 per Mcf at 14.65 psia for the sale of natural gas from the Barnes No. 1 Well, the White No. 1 Well and the Robbins No. 1 Well in the Carver-Robbins Gas Field, Pratt County, Kansas to Panhandle Eastern Pipe Line Co. effective as of the date of the Commission order subject to the condition set forth in Paragraph (C) below;

(C) Braden Deem must file a Notice of Independent Producer Rate Change reflecting the above authorized rate within 30 days of the date of the order herein.

(D) Panhandle Eastern is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene; *And provided, further,* That the admission of Panhandle Eastern in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any orders entered in this proceeding, and Panhandle Eastern agrees to accept the record as it now stands.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[3] See Appendix A.

APPENDIX A.—*Braden-Deem, Inc., Docket No. RI78-21, Barnes No. 1, White No. 1 and Robbins No. Wells, Carver-Robbins Gas Field, Pratt County, Kans.*

[Out-of-Pocket Unit Cost of Gas]

Line No. and item (a)	Barnes No. 1 (b)	White No. 1 (c)	Robbins No. 1 (d)	Total (e)
1. Net working interest volumes:				
2. Gas—Mcf at 14.65 psia	[1]57,304	[2]85,630	[3]75,879	218,813
3. Liquids—Bbl			[4]212	212
4. Cost of production:				
5. Production expenses	[5]$67,515	[6]$91,306	[7]$83,905	$242,726
6. Less cost allocated to liquid			[8](1,863)	(1,863)
7. Regulatory expense [9]	57	86	76	219
8. Total cost of production	67,572	91,392	82,118	241,082
9. Unit cost of gas (per Mcf):				
10. Cost of production [10]				1.10
11. Production tax				0
12. Total unit cost				1.10

[1] 74,846 Mcf times 0.765625 net working interest.
[2] 105,391 Mcf times 0.8125 net working interest.
[3] 95,890 Mcf times 0.79296875 net working interest.
[4] 267 Bbl times 0.79296875 net working interest.
[5] Based on a base year estimate of $6,251 escalated 5 pct/yr for the first 5 yr of an 8.9167-yr productive life.
[6] Based on a base year estimate of $6,892 escalated 5 pct/yr for the first 5 yr of a 10.8333-yr productive life.
[7] Based on a base year estimate of $7,201 escalated 5 pct/yr for the first 5 yr of an 9.5833-yr productive life.
[8] Line 5 of column (d) times line 4 of sheet 2.
[9] Line 2 times 0.1 cent per Mcf per opinion No. 749.
[10] Line 8 of column (e) divided by line 2 of column (e).

BRADEN-DEEM, INC. DOCKET NO. RI78-21 BARNES NO. 1, WHITE NO. 1 AND ROBBINS NO. 1 WELLS CARVER-ROBBINS GAS FIELD, PRATT COUNTY, KANSAS

Allocation of Costs (Modified Btu Method per Opinion No. 749)

Line No. and Item (a)	Robbins well amount (b)
1. Gas—MMBtu [1]	76,258
2. Liquids—MMBtu [2]	1,732
3. Total—MMBtu	77,990
4. Percentage allocated to liquid [3]	2.22

[1] 212 Bbls. times 5.448 MMBtu/Bbl. times 1.5 modifier.
[2] Line 2 divided by Line 3.

[FR Doc. 78-30663 Filed 10-30-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 9982]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHOD DESIGNATIONS

Bendix Model 8303 SO_2 Analyzer; Meloy Model NA530R NO_2 Analyzer; Meloy Model SA285E SO_2 Analyzer

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11252, 41 FR 52694), has designated two additional equivalent methods for the measurement of ambient concentrations of sulfur dioxide (SO_2) and one additional reference method for the measurement of ambient concentrations of nitrogen dioxide (NO_2). All three methods are automated methods (analyzers). The first and third are equivalent methods for SO_2 which employ the "flame photometric detection (FPD)" measurement principle. The other method is a reference method for NO_2, which uses the gas phase chemiluminescence measurement principle specified for NO_2 reference methods by Appendix F of 40 CFR Part 50 (as amended on December 1, 1976—41 FR 52688). The methods are as follows:

EQSA-1078-030, "Bendix Model 8303 Sulfur Analyzer," operated on either the 0-0.5 ppm range or the 0-1.0 ppm range.

This method is available from the Bendix Corp., Environmental and Process Instruments Division, Post Office Box 831, Lewisburg, W.Va., 24901. A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 42, December 7, 1977, page 61894 (43 FR 61894).

RFNA-1078-031, "Meloy Model NA530R Nitrogen Oxides Analyzer."

operated on the following ranges and time constant switch positions:

tronic Drive, Springfield, Va., 22151. A notice of receipt of application for this

be consulted to determine the feasibility of such upgrading

operating their air quality surveillance systems under 40 CFR 51.17(a). Addi-

in the appropriate docket and in a separate "Ex Parte Notebook," both in the Commission's Public Reference

manner in which a bank for cooperatives may offer participations in loans to other banks for cooperatives and fi-

V 4 3 / 2 1 1 OCT 31 1978

operated on the following ranges and time constant switch positions:

Range, ppm	Time constant setting
0-0.1*	4
0-0.25*	3 or 4
0-0.5	2, 3, or 4
0-1.0	2, 3, or 4

Operation of the analyzer requires an external vacuum pump, either Meloy Option N-10 or an equivalent pump capable of maintaining a vacuum of 200 torr (22 inches mercury vacuum) or better at the pump connection at the specified sample and ozone-air flowrates of 1200 and 200 cm³/min, respectively. The analyzer may be operated at temperatures between 10° and 40° C and at line voltages between 105 and 130 volts, with or without any of the following options:

N-1A	Automatic zero and span
N-2	Vacuum gauge
N-4	Digital panel meter
N-6	Remote control for zero and span
N-6B	Remote zero/span control and status (pulse)
N-6C	Remote zero/span control and status (timer)
N-9	Manual zero/span
N-10	Vacuum pump assembly (see alternate requirement above)
N-14B	Line transmitter
N-18	Rack mount conversion
N-18A	Rack mount conversion

This method is available from Meloy Laboratories, Inc., 6715 Electronic Drive, Springfield, VA 22151. A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 43, February 23, 1978, page 7473 (43 FR 7473).

EQSA-1078-032, Meloy "Model SA285E Sulfur Dioxide Analyzer," operated on the following ranges and time constant switch positions:

Range, ppb	Time constant setting
0-50*	1 or 10
0-100*	1 or 10
0-500	off, 1 or 10
0-1000	off, 1 or 10

The analyzer may be operated at temperatures between 10° and 40° C and at line voltages between 105 and 130 volts, with or without any of the following options:

S-5	Teflon coated block
S-14B	Line transmitter board
S-18	Rack mount conversion
S-18A	Rack mount conversion
S-21	Front panel digital meter
S-22	Remote zero/span control and status (timer)
S-22A	Remote zero/span control
S-22B	Remote zero/span control and status (pulse)
S-23	Auto zero adjust
S-23A	Auto/manual zero adjust
S-25	Press to read
S-26	Manual zero and span
S-27	Auto manual zero/span
S-28	Auto range and status
S-30	Auto reignite
S-32	Remote range control and status
S-35	Front panel digital meter with BCD output
S-37	Temperature status lights
S-38	Sampling mode status

This method is also available from Moloy Laboratories, Inc., 6715 Electronic Drive, Springfield, Va., 22151. A notice of receipt of application for this method appeared in the FEDERAL REGISTER, Volume 43, July 31, 1978, page 33311 (43 FR 33311).

*NOTE—With respect to the two Meloy analyzers, models NA530R (RFNA-1078-031) and SA285E (EQSA-1078-032), users should be aware that designation of ranges less than 0.5 ppm (500 ppb) are based on meeting the same absolute performance specifications required for the 0-0.5 ppm (0-500 ppb) range. EPA is considering—but has not yet established—proportionately more restrictive performance specifications applicable to ranges less than 0-0.5 ppm (500 ppb). Thus, designation of these lower ranges does not guarantee commensurably better performance than that obtained on the 0-0.5 ppm. (0-500 ppb) range.

A test analyzer representative of each of these methods has been tested by the respective applicant, in accordance with the test procedures specified in 40 CFR Part 53 as amended on December 1, 1976 (41 FR 52694). After reviewing the results of these tests and other information submitted by the respective applicants, EPA has determined, in accordance with Part 53, that these methods should be designated as either reference or equivalent methods as appropriate. The information submitted by the applicants will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As reference or equivalent methods, these methods are acceptable for use by States and other control agencies for purposes of § 51.17 (a) of 40 CFR Part 51 ("Requirements for Preparation, Adoption, and Submittal of Implementation Plans") as amended on February 18, 1975 (40 FR 7042). For such use, each method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see descriptions of the methods above). Vendor modifications of a designated method used for purposes of § 51.17(a) are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under § 51.17(a)(f) (41 FR 11255).

In general, designation applies to any analyzer which is identical to the analyzer described in the designation. In many cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. The conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been canceled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representations), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Environmental Monitoring and Support Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Designation of these reference and equivalent methods will provide assistance to the States in establishing and

operating their air quality surveillance systems under 40 CFR 51.17(a). Additional information concerning this action may be obtained by writing to the address given above.

Dated: October 25, 1978.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development.

[FR Doc. 78-30636 Filed 10-30-78; 8:45 am]

[6560-01-M]

[FRL 997-5]

ECOLOGY COMMITTEE OF THE SCIENCE ADVISORY BOARD

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Ecology Committee of the Science Advisory Board will be held beginning at 9:00 a.m. on November 20 and 21, 1978 in the Administrator's Conference Room (room 1112A), Crystal Mall, building 2, 1921 Jefferson Davis Highway, Arlington, Va.

This is the 18th meeting of the Ecology Committeee. The agenda includes a report on Science Advisory Board Activities; commentary on the report, "Mitigation Feasibility for the Keypone-Contaminated Hopewell/James River Areas", briefing relative to review of water quality criteria; report and discussion on EPA's Anticipatory Research Program and other selected programs in the Office of Research and Development; review of Ecology Committee activities and discussion of topics of current and future interest to the Committee.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Committee, 703-557-7720, by close of business November 15, 1978.

Dated: October 24, 1978.

RICHARD M. DOWD,
Staff Director Science Advisory Board.

[FR Doc. 78-30635 Filed 10-30-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

EX PARTE PRESENTATIONS IN INFORMAL RULEMAKINGS

OCTOBER 25, 1978.

The following is a list of *ex parte* presentations made during the week of October 16, 1978 in connection with informal rulemaking proceedings now pending at the Commission. Summaries of these presentations are available in the appropriate docket and in a separate "Ex Parte Notebook," both in the Commission's Public Reference Room (Room 239). The Public Reference Room is open Monday through Friday, 8 a.m. to 5:30 p.m. The duplicating contractor, Downtown Copy Center, 1114 21st Street NW., Washington, D.C. 20037, 202-452-1422, will provide, for a fee, copies of ex parte material. Responses will be accepted if made in accordance with the procedures outlined in the Commission's Notice of Inquiry in General Docket No. 78-167 (FCC 78-405), released June 14, 1978 (43 FR 27868), as amended by the Order and Further Notice of Inquiry (FCC 78-517) released July 18, 1978 (43 FR 32832.)

Docket No. 21116—Prohibit the marketing of external of external radio frequency amplifiers. Presentation to Commissioner Brown by Lawrence A. Rogers, Attorney at Law, Oct. 16, 1978.

Docket No. 21117—Type acceptance of equipment marketed in the Amateur Radio Service.

For additional information, call Joyce Butler at 632-7535.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-30733 Filed 10-30-78; 8:45 am]

[6705-01-M]

FARM CREDIT ADMINISTRATION

SEMIANNUAL AGENDA OF REGULATIONS

Pursuant to section 2 of Executive Order 12044, the Farm Credit Administration has established the following agenda of significant regulations which it will have under development and review during the period of November 1, 1978, through March 30, 1979.

SIGNIFICANT REGULATIONS UNDER DEVELOPMENT

12 CFR 612.2030—Nepotism. This regulation prohibits nepotism in the employment practices of the banks and associations of the Farm Credit System. The Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to (1) more clearly deseribe the employment relationships which are prohibited, (2) remove from coverage certain relationships which are so remote that it can reasonably be assumed that they do not influence the employment practices of the institutions, and (3) prohibit the employment of relatives in certain positions which are not now coverd by the regulation.

12 CFR 614.4334—Banks for Cooperatives. This regulation governs the manner in which a bank for cooperatives may offer participations in loans to other banks for cooperatives and financial institutions. Currently, Farm Credit Administration approval is required only for the form of the participation agreement used. In order to preclude the possibility that supplemental arrangements may be used to circumvent other requirements of the regulations, the Farm Credit Administration is considering amending this regulation pursuant to 12 U.S.C. 2243 and 2252 to require its approval of any supplemental agreements and modifications which directly affect such things as capitalization, interest, and loss-sharing.

Neither of the proposed amendments to the above regulations will result in (a) an annual effect upon the economy of $100 million or more, or (b) a major increase in costs or prices for individual industries, levels or government, or geographic regions. Therefore, a regulatory analysis of the type required by section 3 of Executive Order 12044 will not be prepared for these proposals.

SIGNIFICANT REGULATIONS SELECTED FOR REVIEW

12 CFR 615.5210—Annual Budget and Projections (net worth objectives). This regulation sets out requirements for budget and long range financial and operating projections of the banks and associations of the Farm Credit System.

12 CFR 618.8300—618.8359—Release of Information. These regulations govern the release of information concerning borrowers by officials of the Farm Credit institutions.

12 CFR 618.8430—Internal Controls. This regulation provides for the establishment of internal control policies to, among other things, effectively control and account for all funds, property, and other assets of the Farm Credit banks and associations.

STATUS OF REGULATIONS PREVIOUSLY SELECTED FOR REVIEW

On May 22, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 21985) a list of significant regulations which it selected for its initial review. The current status of those regulations is as follows:

12 CFR 612.2030—Nepotism. The Farm Credit Administration has under consideration an amendment to this regulation. See Significant Regulations under Development above. The proposed amendment has been submitted to the Farm Credit banks for comment.

12 CFR 614.4260 (c)—Banks for Cooperatives (season loans to finance commodities). On June 27, 1978, the Farm Credit Administration published in

the FEDERAL REGISTER (43 FR 27732) a final rule which amended this regula-

Dated: October 25, 1978.

[6210-01-M]

proval under section 3(a)(1) of the

U.S.C. 2311(c)(1). At the request of the staff, Assistant Attorney General James

Act") provides that certain types of State warranty requirements are inap-

the FEDERAL REGISTER (43 FR 27732) a final rule which amended this regulation to conform to a revised list of commodities authorized for price support programs under regulations of the Commodity Credit Corporation.

12 CFR 615.5120 (a)—Purchase Eligibility Requirements (farm credit investment funds). On October 16, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 47489) a final rule amending this regulation to clarify that Farm Credit Administration employees may not purchase these bonds.

12 CFR 615.5330 (a)—Banks for Co<operatives (surplus). On August 15, 1978, the Farm Credit Administration published in the FEDERAL REGISTER (43 FR 36052) a final rule amending this regulation to permit a bank for cooperatives to maintain in surplus an amount less than 25 percent of its outstanding capital stock when approved by the Farm Credit Administration.

For further information concerning any item of this agenda contact:

Mr. Lee R. Brobst, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza East, SW., Washington, D.C. 20578, 202-755-8927.

C. T. FREDRICKSON,
Acting Governor,
Farm Credit Administration.

[FR Doc. 78-30774 Filed 10-30-78; 8:45 am]

[6715-01-M]

FEDERAL ELECTION COMMISSION

[Notice 1978-8]

OPINION AND REGULATION INDEX

A new cumulative Index to Advisory Opinions and Opinions of Counsel (discontinued in April 1976) issued by the Federal Election Commission is now available for purchase in the Public Records Division of the Commission. The updated index includes a subject index and U.S. Code section index covering opinions issued from the establishment of the Federal Election Commission in April 1975 through August 1978, as well as an F.E.C. Regulation index covering 1977 and 1978 opinions.

Purchase price of the new Index is $4.20 to cover dupilcation costs, payable in advance. Checks should be made payable to: United States Treasurer. Person to contact: Mr. Craig Brightup, Public Records Division, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. Telephone: 202-523-4181.

Dated: October 25, 1978.

JOAN D. AIKENS,
Chairman for the
Federal Election Commission.

[FR Doc. 78-30732 Filed 10-30-78; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

CANCELLATION OF MEETING

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice was published in 43 FR 48015 on October 18, 1978, that meetings of the Federal Prevailing Rate Advisory Committee will be held on November 2, November 9, and November 30, 1978. Notice is hereby given that the meeting scheduled for November 2, 1978, has been canceled.

JEROME H. ROSS,
Chairman, Federal Prevailing
Rate Advisory Committee.

OCTOBER 27, 1978.

[FR Doc. 78-30859 Filed 10-30-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

ALMA BANCSHARES, INC.

Formation of Bank Holding Co.

Alma Bancshares, Inc., Alma, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank in Alma, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 24, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-30710 Filed 10-30-78; 8:45 am]

[6210-01-M]

CHARTER 95 CORP.

Formation of Bank Holding Co.

Charter 95 Corp., Hudson, Wis., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95 percent or more of the voting shares of The First National Bank of Hudson, Hudson, Wis. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 20, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-30708 Filed 10-30-78; 8:45 am]

[6210-01-M]

FIRST DANVERS CORP.

Formation of Bank Holding Co.

First Danvers Corporation, Bloomington, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent of the voting shares of The First National Bank of Danvers, Danvers, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the applicaton should submit views in writing to the Reserve Bank, to be received not later than November 20, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
Duputy Secretary
of the Board.

[FR Doc. 78-30707 Filed 10-30-78; 8:45 am]

[6210-01-M]

JADAM ENTERPRISES, INC.

Formation of Bank Holding Co.

Jadam Enterprises, Inc., Harlan, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94 percent of the voting shares of Farmers Savings Bank, Irwin, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 20, 1978.

Board of Governors of the Federal Reserve System, October 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary
of the Board.

[FR Doc. 78-30709 Filed 10-30-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

PREEMPTIVE EFFECT OF SECTION 111(c)(1) OF MAGNUSON-MOSS WARRANTY ACT

Wisconsin Mobile Home Warranty Law

AGENCY: Federal Trade Commission.

ACTION: Response to request for opinion.

SUMMARY: Published below is a letter with an analysis which responds to a request of the Wisconsin Attorney General for Commission interpretation of section 111(c)(1) of the Magnuson-Moss Warranty Act and its preemptive effect on Wisconsin's Mobile Home Warranty Law. The Commission has determined that several State requirements are rendered inapplicable to warranties complying with Federal law by section 111(c)(1).

FOR FURTHER INFORMATION CONTACT:

Rachel Miller, Attorney, Division of Product Reliability, 202-523-0425, or Charles Taylor, Attorney, Division of Product Reliability, 202-523-3660, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The letter and analysis follow.

Hon. Bronson C. La Follette
Attorney General
State of Wisconsin
Department of Justice
Madison, Wis. 53702

Dear Attorney General La Follette:

By letter dated February 22, 1978, you requested an opinion on whether any of the provisions of Wisconsin's mobile home warranty law and regulations (§ 218.14 Wis. Stats. and IND 14.50 Wis Admin. Code) are subject to or preempted by section 111(c)(1) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2311(c)(1). At the request of the staff, Assistant Attorney General James Jeffries supplemented your request by filing on March 16, 1978, an informal interpretation of the effect of the Wisconsin law. This letter is in reply to your request for a Commission opinion in this matter.

The Commission has concluded that the following two requirements of the Wisconsin law, and the related provisions of the regulations of the Wisconsin Department of Industry, Labor, and Human Relations, submitted with your request are affected by operation of section 111(c)(1) of the Warranty Act:

(1) Disclosure in the written warranty of the address where notice of problems is to be given. Section 218.14(1)(c)(1), Wis. Stats. IND 14.50(2)(c).

(2) Disclosure in the written warranty of the fact that unsuccessful repair is a breach of warranty, and that the consumer's right to proper repair continues regardless of whether the warranty period has expired. Section 218.14 (1)(c)(2), Wis. Stats.

These requirements are inapplicable to warranties which meet Federal requirements by operation of section 111(c)(1) of the Warranty Act.

Paragraph (2) of section 111(c) of the Warranty Act provides a procedure whereby States may petition the Commission for permission to enforce a State requirement which would otherwise be rendered inapplicable to written warranties complying with Federal standards by operation of paragraph (1) of section 111(c). Upon application of an appropriate State agency the Commission is required to intitate a rulemaking proceeding under section 109 of the Warranty Act to determine if such State requirement affords greater protection to consumers than Federal requirements and does not unduly burden interstate commerce. If the Commission makes such a finding, the State requirement will be applicable to written warranties for so long as the State effectively administers and enforces such provision.

A copy of the Commission's analysis of the effect of the Warranty Act on the Wisconsin State law provisions is enclosed. If upon consideration of this matter you desire the public rulemaking proceeding described above, for consideration of the preservation of the two affected statutory provisions, you should submit an application pursuant to section 111(c)(2) of the Warranty Act to the Secretary of the Commission.

You are invited to contact Rachel Miller, Attorney, Division of Product Reliability, 202-523-1753, or Charles Taylor, Attorney, Division of Product Reliability, 202-523-3660, Federal Trade Commission, Washington, D.C. 20580, should you have any questions concerning this matter.

By direction of the Commission.

[Signed]

CAROL M. THOMAS,
Secretary.

Enclosure.

ANALYSIS OF SECTION 111 OF MAGNUSON-MOSS WARRANTY ACT AND APPLICABILITY TO WISCONSIN MOBILE HOME WARRANTY LAWS

Section 111(c)(1)[1] of the Magnuson-Moss Warranty Act ("the Warranty Act") provides that certain types of State warranty requirements are inapplicable to written warranties complying with the Warranty Act. Section 111(c)(2)[2] provides that an appropriate State agency may apply to the Comisision for an exemption of any State warranty requirement from the preemptive effect of paragraph (1) of that section. Such an exception may be granted if after public hearings the Commission determines that the requirement meets the criteria set out in paragraph (2).

The Attorney General requests a Commission interpretation of paragraph (1) of section 111(c) and an opinion stating which provisions of Wisconsin's mobile home warranty requirements are affected by that paragraph. He has not requested exemption of any such affected requirements as provided in paragraph (2) of section 111(c); therefore the rulemaking procedure specified in the Act for exemption applications is not applicable in this instance. The Attorney General may choose later to request or not to request an exemption under the procedure of paragraph (2) for any provisions of Wisconsin law which the Commission determines are affected by section 111(c)(1) of the Warranty Act.

This analysis builds on the findings made by the Commission in the California determination,[3] which first considered the effect of the Magnuson-Moss Warranty Act on State warranty requirements. In general, the protections of the Warranty Act are in addition to, rather than in lieu of, warranty rights and remedies under State law.[4] Only a very narrow class of State requirements are "preempted" (that

[1] Section 111(c)(1). "Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder; (B) which is within the scope of an applicable requirement of sections 102, 103, and 104 (and rules implementing such sections), and (C) which is not identical to a requirement of section 102, 103, or 104 (or a rule thereunder), shall not be applicable to written warranties complying with such sections (or rules thereunder)."

[2] Section 111(c)(2). "If, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with section 109) that any requirement of such State covering any transacton to which this title applies (A) affords protection to consumers greater than the requirements of this title and (B) does not unduly burden interstate commerce, then such State requirement shall be applicable (notwithstanding the provisions of paragraph (1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement."

[3] Commission's Determination of Application of State of California, 42 FR 54004, Oct. 4, 1977 (hereinafter "California").

[4] Section 111(b)(1). "Nothing in this title shall invalidate or restrict any right or remedy of any consumer under State law or and other Federal law."

is, made inapplicable to warranties complying with the Federal requirements, by section 111(c)(1). Only requirements which relate to labeling or disclosure with respect to written warranties or performance thereunder; which are within the scope of an applicable requirement of sections 102, 103, and 104 (and rules implementing such sections); and which are not identical to a requirement of section 102, 103, or 104 (or a rule thereunder) are preempted.[5] Requirements which are not preempted are not affected by section 111(c)(1) and may be applied to warranties complying with the Warranty Act.

The Wisconsin requirements which are affected by section 111(c)(1) are those which require disclosure in the warranty document itself.[12] The scope of the Federal labeling requirements is set out in section 102 of the Warranty Act and in rules issued by the Commission. Section 102(a)(1) requires that the warranty be clear and conspicuous. Section 102(a)(2) requires that the warranty be available before the sale. Section 102(a)(3) requires that the warranty be readily available for examination by the consumer. Section 102(a)(4) requires that the warranty be made available to the consumer after the sale. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. Section 102(a)(6) requires that the warranty conspicuously designate whether it is a full or limited warranty. Section 102(a)(7) requires that the warranty clearly and conspicuously disclose the terms and conditions of the warranty. Section 102(b) requires that the warranty clearly and conspicuously disclose the duration of the warranty, the products or parts covered, the party to whom the warranty is extended, the steps the consumer must take to obtain performance, any limitations on the duration of implied warranties, any limitations on consequential damages, and the statement that the consumer has legal rights and may also have other rights which vary from State to State.

[5] Section 111(c)(1). "Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder; (B) which is within the scope of an applicable requirement of sections 102, 103, and 104 (and rules implementing such sections), and (C) which is not identical to a requirement of section 102, 103, or 104 (or a rule thereunder), shall not be applicable to written warranties complying with such sections (or rules thereunder)."

[12] Section 102(a)(1) requires that the warranty be clear and conspicuous. Section 102(a)(2) requires that the warranty be available before the sale. Section 102(a)(3) requires that the warranty be readily available for examination by the consumer. Section 102(a)(4) requires that the warranty be made available to the consumer after the sale. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. Section 102(a)(6) requires that the warranty conspicuously designate whether it is a full or limited warranty. Section 102(a)(7) requires that the warranty clearly and conspicuously disclose the terms and conditions of the warranty. Section 102(b) requires that the warranty clearly and conspicuously disclose the duration of the warranty, the products or parts covered, the party to whom the warranty is extended, the steps the consumer must take to obtain performance, any limitations on the duration of implied warranties, any limitations on consequential damages, and the statement that the consumer has legal rights and may also have other rights which vary from State to State.

Mr. James D. Jeffries, Assistant Attorney General of Wisconsin, informed the Commission's staff that Wisconsin's mobile home warranty law requires that the warranty be written in clear and unambiguous language. This requirement is not affected by section 111(c)(1) because it is not within the scope of section 102, 103, or 104 of the Warranty Act or rules thereunder. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific.

Wisconsin's requirement that the warranty be written in clear and unambiguous language is not affected by section 111(c)(1) because it is not within the scope of section 102, 103, or 104 of the Warranty Act or rules thereunder. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific.

Wisconsin's requirement that the warranty be written in clear and unambiguous language is not affected by section 111(c)(1) because it is not within the scope of section 102, 103, or 104 of the Warranty Act or rules thereunder. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific. Section 102(a)(5) requires that the warranty be expressed in simple and readily understood language. The Wisconsin requirement is not identical to section 102(a)(5) because it is more specific.

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is, made inapplicable to warranties complying with the Federal requirements).

The Commission has already made clear that, while allowing the use of uniform warranty documents is a goal of section 111, this goal is subordinate to that of permitting States to fashion their own scheme or warranty rights and remedies which may be more protective than the minimum level of protection of the Federal Act. Only State requirements which have certain specific characteristics are affected by the Federal Act. Those characteristics are: that the requirement does not create a right or remedy for consumers;[5] that it relates to written warranty labeling or disclosure;[6] that it is within the scope of a requirement of sections 102, 103, or 104 of the Warranty Act, or rules under one of these sections;[7] and that is not identical to that requirement.[8] Only if a State requirement has all these characteristics is it "preempted," or rendered inapplicable to warranties complying with Federal law, under section 111 of the Act.[9]

Thus, a State provision which merely creates consumer rights or remedies, without providing for disclosure of them,[10] would be entirely unaffected by the Warranty Act; that is, it would not be subject to "preemption." A provision which both creates a consumer right or remedy, and provides for its disclosure to consumers,[11] must be considered in two stages. The underlying right would continue to be effective in spite of any similarity with or difference from the Federal Act, since section 111(b) specifically preserves such rights and remedies. On the other hand, the method of disclosure of that right provided for in the State law must be considered as to whether it has the final two characteristics. If it does, then the method of disclosure in the State law is "preempted," though the underlying consumer right remains in effect. The Commission adopted this interpretation of section 111 in the course of its California determination because it is the only interpretation which gives meaning to both paragraphs (b) and (c) of that section and is consistent with the Act's legislative history.

In the California determination, the Commission defined the scope of its rule on disclosure of warranty terms, 16 CFR Part 701, to include any requirement that information appear in the warranty document itself.[12] The scope of the Federal labeling requirements, while discussed in the California determination, is not at issue in this analysis of Wisconsin law.

The California determination did not explicitly discuss the meaning of the last characteristic, that the State provision be "not identical to" a Federal disclosure or labeling requirement, although this was implicit in a number of determinations concerning mobile home requirements.[13] Its precise meaning is particularly important where, as here, a State law mandates the giving of a written warranty with certain specified terms.

The Commission interprets "identical to" to mean "having the same effect as" or "resulting in the same disclosure as." If the item of information required by the State to be disclosed in the written warranty would also be disclosed under a Federal disclosure provision, the State requirement is "identical to" the Federal requirement for purposes of section 111. It is not essential that the State provision contain the same words as the Federal provision, or incorporate the Federal provision by reference.

The Commission's rule on warranty disclosure [14] requires that up to 10 enumerated elements of a warranty be disclosed. Usually the manufacturer is free to choose the terms of a written warranty. However, when State law mandates that the written warranty contain certain terms, those mandated terms become terms of the warranty and thus must be disclosed under the Commission's rule. For example, when a State mandates a written warranty with a 1-year duration,[15] that duration must be disclosed under the Commission's rule. Since the 1-year duration of the warranty would have to be disclosed under both State and Federal law, the two requirements are "identical" requirements for purposes of section 111(c)(1).

On the other hand, if the mandatory provision which the State requires to be disclosed is one which the Federal rule does not require to be disclosed, such as a telephone number for giving notice of defects under the warranty,[16] then the State disclosure requirement is not identical to the Federal requirement. Thus if the State law requires disclosure of a term which is not 1 of the 10 elements enumerated in the Commission's rule, then the provision is rendered inapplicable to warranties complying with the Federal rule.

APPLICABILITY TO WISCONSIN MOBILE HOME WARRANTY LAWS

The following paragraphs discuss the specific provisions of the Wisconsin mobile home law [17] and whether or not each is made inapplicable by section 111(c)(1) to warranties complying with the Federal Act, and why. In each case, only the disclosure or labeling aspect is discussed; the underlying rights created by State law cannot in any case be invalidated or restricted by the Federal Act by virtue of section 111(b)(1).

SECTION 218.14(1)

Requires giving buyers a written warranty with certain mandatory terms on mobile homes. The requirement of disclosure of the existence of the warranty is not within the scope of the Federal disclosure rule, which merely establishes what must be disclosed in the warranty once the initial decision to issue a written warranty is decided.

Requires the mandatory 1-year duration to be disclosed. This provision requires the same information to be disclosed as 16 CFR 701.3(a)(4), that is, the duration of the written warranty. Thus it does not meet the "not identical" condition of section 111(c)(1)(C). The State requirement, therefore is not "preempted" or rendered inapplicable to warranties complying with Federal requirements. (Note that the mandatory 1-year duration itself is a consumer right which is preserved by section 111(b)(1).)

SECTION 218.14(1)(a)

Establishes the characteristics or properties which are covered by the mandatory warranty, specifically, that it meet certain standards. This provision requires the same disclosure in the warranty as 16 CFR 701.3(a)(2), "[a] clear description and identification of • • • characteristics, • • • or properties covered by • • • the warranty." It therefore is not affected by section 111(c)(1) of the Warranty Act.

SECTION 218.14(1)(b)

Establishes the characteristics or properties of the product which are covered by the warranty, specifically, that the product be defect-free and habitable. Like paragraph (a), this provision requires the same disclosure as 16 CFR 701.3(a)(2), and is therefore not affected by section 111(c)(1) of the Warranty Act.

Defines "reasonable care and maintenance." By letter of March 16, 1978, Mr. James D. Jeffries, Assistant Attorney General of Wisconsin, informed the staff informally that this definition need not appear in the written warranty document. Under this analysis it is not a disclosure or labeling requirement and is unaffected by section 111(c)(1) of the Warranty Act.

[5] Section 111(b)(1).
[6] Section 111(c)(1)(A).
[7] Section 111(c)(1)(B).
[8] Section 111(c)(1)(C).
[9] *See* California, Section II.
[10] For example, the UCC implied warranty of merchantability.
[11] For example, the requirement that repairs under California's statutory mobile home warranty be performed at the site of the mobile home.
[12] California, p. 54005.
[13] See Staff's Analysis, California Initial Notice, 41 FR 28361, at 28366, and text accompanying n. 27 (July 9, 1976).
[14] 16 CFR 701.3(a), 701.4.
[15] See, e.g., California Civil Code § 1797.3(b).
[16] See, e.g., California Civil Code § 1797.3(d). Note that this provision, otherwise preempted, was preserved under the Commission rulemaking procedures of sec. 111(c)(2).
[17] Sec. 218.14, Wis. Stats; Ind. 14.50 and 14.56 Wis. Admin. Code.

SECTION 218.14(1)(c)(1)

Defines who is responsible under the warranty. This provision requires a disclosure included in those of 16 CFR 701.3(a)(5), that is, identification of the warrantor in the warranty; therefore this requirement is not affected by section 111(c)(1) of the Warranty Act.

Requires disclosure of the warranty duration. Like section 218.14(1), this requirement is not affected by section 111(c)(1) of the Warranty Act.

Requires disclosure of the time within which the consumer must give notice of problems. This requires a disclosurre included in those required by 16 CFR 701.3(a)(5), that is, disclosure of what the consumer must do to get warranty service, and therefore is not affected by section 111(c)(1) of the Warranty Act.

Requires disclosure of the address where notice is to be given. This requirement is within the scope of 16 CFR 701.3(a)(5), but not identical to it. The Federal provision permits warrantors to include in the warranty a toll-free telephone number where warranty information may be obtained or where notice of defects may be given in addition to or instead of an address. Since the address is not required under Federal law if such a telephone number is given, this provision of Wisconsin law will not apply to warranties which meet the requirements of Federal law, by operation of section 111(c)(1) of the Warranty Act. The State of Wisconsin may file an application for preservation of this provision under the savings provision of section 111(c)(2) of the Warranty Act.

Requires disclosure that repairs will be made within 30 days of notice of the problem. This provision requires a disclosure included in those required by 16 CFR 701.3(a)(3). The latter provision requires a statement of what the warrantor undertakes to do under the warranty. Although usually a warrantor is not required to commit itself to performing within a set time, where by law or by choice the warrantor is commited to a certain time for repairs, that time becomes part of its undertaking to be disclosed under the Federal requirement. Therefore the State requirement is not affected by section 111(c)(1) of the Warranty Act.

Requires disclosure that repairs will be performed at the mobile home site. Like the previous requirement, this provision requires a disclosure also required by 16 CFR 701.3(a)(5).

Requires that manufacturers reimburse dealers for warranty repairs. Assistant Attorney General Jeffries has advised that this provision need not be disclosed in the warranty. Therefore, it is not a disclosure or labeling provision and thus is unaffected by section 111(c)(1) of the Warranty Act.

SECTION 218.14(1)(c)(2)

Requires disclosure of the fact that an unsuccessful repair is a breach of warranty, and that the consumer's right to proper repair continues regardless of whether the waranty period has expired. This disclosure requirement is not identical to any requirement of the Federal Act, and therefore it does not apply to warranties which meet the requirements of the Warranty Act. The substantive right created by this provision remains in effect; it is merely the requirement that the right be disclosed in the written warranty which is made inapplicable. The State of Wisconsin may file an application for preservation of this provision under the savings provision of section 111(c)(2).

SECTION 218.14(1)(d)

Requires disclosure of manadatory extension of the warranty for the amount of time the home is uninhabitable. This provision requires a disclosure included among those required by 16 CFR 701.3(a)(4), the measurement of warranty duration. This provision and section 218.14(1) establish that the mandatory duration of the warranty is 1 year's time during which the home is habitable. The provisions require further that this duration be disclosed; such a disclosure requirement is thus identical to the Federal requirement that the duration of a warranty be disclosed.

The other provisions of the Wisconsin law do not contain any requirements relating to disclosure or labeling, and are therefore unaffected by section 111(c)(1) of the Federal Act.

The following paragraphs discuss the effect of the Warranty on those Wisconsin administrative regulations [18] concerning mobile homes which differ from the Wisconsin mobile home law.

IND 14.50(2)(a)(1)

Requires disclosure of the fact that alterations not approved by the regulating agency can affect the continued validity of the warranty. This provision is a statement of parts, characteristics, components, and properties which are excluded from the warranty, which must be disclosed under 16 CFR 701.3(a)(2). The State requirement is therefore within the scope of the Federal provision but identical to it, and so is not affected by section 111(c)(1) of the Warranty Act.

IND 14.50(2)(a)(1)a

Requires disclosure of the fact that such alterations are not covered by the mandatory warranty. This also requires disclosures which 16 CFR § 701.3(a)(2) would require, and is not affected by section 111(c)(1) of the Warranty Act.

IND 14.50(2)(a)(1)b

Gives a definition of "alteration." In the above-mentioned letter of March 16, 1978, Mr. Jeffries stated that the regulation requires this definition to appear in the warranty document. This is merely a detailed description of those characteristics, etc., which are excluded from the warranty, and is not affected by section 111(c)(1) of the Warranty Act.

IND 14.50(2)(g)

Requires disclosure of the date of delivery of the home, on which date the warranty begins. This requires the same disclosures as 16 CFR 701.3(a)(4) requires, that is, disclosure of the date of commencement of the warranty if other than the date of purchase. Therefore the provision is not affected by section 111(c)(1) of the Warranty Act.

The other provisions of the regulation, IND 14.50 and 14.56, either do not concern labeling or disclosure, or are the same as those of the mobile home law and are affected as discussed above.

In summary, the following requirements of the Wisconsin mobile home law and regulations are rendered inapplicable to warranties which comply with the federal warranty requirements, by operation of section 111(c)(1) of the Warranty Act:

(1) Disclosure in the written warranty of the address where notice of problems is to be given. Section 218.14(1)(c)(1), Wis. Stats; IND 14.50(2)(c).

(2) Disclosure in the written warranty of the fact that unsuccessful repair is a breach of warranty, and that the consumer's right to proper repair continues regardless of whether the warranty period has expired. Section 218.14(1)(c)(2), Wis. Stats.

The other disclosure requirements of the law and regulations, as well as their substantive rights and remedies, are unaffected by section 111(c) of the Magnuson-Moss Act.

Wisconsin may apply to the Commission, under the procedure in section 111(c)(2), for preservation of either or both of the affected requirements. Those requirements will be preserved which the Commission finds, after a rulemaking proceeding under section

[18] IND 14.50, Wis. Admin. Code.

109 of the act, afford protection to consumers greater than the require-

ic literature reviews of experimental studies published from 1920 to 1978

tal Biology, 9650 Rockville Pike, Bethesda, Md 20014

The objectives of this program are:

Questions regarding the program-

[4110-08-M]

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109 of the act, afford protection to consumers greater than the requirements of the Warranty Act, and do not unduly burden interstate commerce.

By direction of the Commission dated September 28, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-30772 Filed 10-30-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

SELECT COMMITTEE ON GRAS SUBSTANCES

Request for Nominations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the opportunity for interested parties to nominate qualified scientists, particularly those versed in nutritional biochemistry, to serve on the Select Committee on GRAS Substances, which is expanding to 11 members. The Select Committee evaluates available information on the safety of food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction.

DATE: Nominations by November 30, 1978.

ADDRESS: Nominations to Dr. Kenneth A. Fisher, Director, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a study of food ingredients classified as GRAS or subject to a prior sanction. As part of this review, the available information relating to the safety of each such ingredient is being evaluated by a Select Committee on GRAS Substances selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology under a contract with FDA.

The Select Committee is considering biological information on GRAS Substances provided by a series of scientific literature reviews of experimental studies published from 1920 to 1978, and additional recent toxicological screening tests on certain of the substances and on human exposure from current levels of addition to foods and food consumption patterns obtained from a recent survey by the National Academy of Sciences. The Select Committee currently consists of the following individuals:

1. Joseph F. Borzelleca, Ph. D., Professor of Pharmacology, Medical College of Virginia, Health Sciences Division, Virginia Commonwealth University, Richmond, Va. 23298.
2. Harry G. Day, Sc. D., Professor Emeritus of Chemistry, Indiana University, Bloomington, Ind. 47401.
3. Samuel J. Fomon, M.D., Professor of Pediatrics, College of Medicine, University of Iowa, Iowa City, Iowa 52242.
4. Bert N. La Du, Jr., M.D., Ph. D., Professor and Chairman, Department of Pharmacology, University of Michigan Medical School, Medical Sciences, Room 6322, Ann Arbor, Mich. 48104.
5. John R. McCoy, V.M.D., Professor of Comparative Pathology, New Jersey College of Medicine and Dentistry, Rutgers Medical School, Box 101, Piscataway, N.J. 08854.
6. Gabriel L. Plaa, Ph. D., Professor and Chairman, Department of Pharamacology, Faculty of Medicine, University of Montreal, Case postale 6128, Montreal 101, Quebec, Canada.
7. Michael B. Shimkin, M.D., Professor of Community Medicine and Oncology, Department of Community Medicine, School of Medicine, University of California, San Diego, La Jolla, Calif. 92093.
8. Ralph G. H. Siu, Ph. D., Consultant, 4428 Albemarle Street NW., Washington, D.C. 20016.
9. John L. Wood, Ph. D., Distinguished Service Professor, Department of Biochemistry, University of Tennessee Medical Units, 894 Union Street, Room 210, Memphis, Tenn. 38101.
10. George W. Irving, Jr., Ph. D., Chairman, Life Sciences Research Office, Federation of American Societies for Experimental Biology, Bethesda, Md. 20014.

The Life Sciences Research Office plans to increase the size of the Select Committee working on this project to 11 members. Accordingly, notice is hereby provided for all interested parties to nominate additional qualified scientists, particularly those versed in nutritional biochemistry, to serve on the Select Committee. Nominations are invited from individuals and from consumer, industry, and professional organizations, and should be sent to Dr. Kenneth D. Fisher, Director, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Md. 20014.

Nominations must state that the person nominated is aware of the nomination, is interested in becoming involved in this effort, and appears to be free of conflict of interest. A complete curriculum vitae must be enclosed with each nomination. Nominations should be received by November 30, 1978.

Dated: October 26, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30664 Filed 10-30-78; 8:45 am]

[4110-03-M]

[Docket No. 78N-0368]

IMPROVING FDA REGULATIONS

Operation Common Sense Recodification Plan

AGENCY: Food and Drug Administration.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of its plan for reviewing and revising existing regulations under the Department of Health, Education, and Welfare's (HEW's) Operation Common Sense.

FOR FURTHER INFORMATION CONTACT:

Ronald J. Wylie, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In September 1977, anticipating the President's Executive Order No. 12044 on improving Government regulations, HEW initiated Operation Common Sense—a comprehensive program to simplify, shorten, and expedite the Department's regulations development process.

Notices published in the FEDERAL REGISTER to date that concern HEW's efforts to improve its regulations are as follows:

November 18, 1977, 42 FR 59555, Operation Common Sense.
March 24, 1978, 42 FR 12661, E.O. 12044.
May 30, 1978, 43 FR 23119, HEW response to Executive Order.

As part of Operation Common Sense, HEW has undertaken a 5-year program of reviewing and revising, as appropriate, all of its existing regulations.

The objectives of this program are:

1. To eliminate regulations that are unnecessary, outdated, or ineffectual;
2. To rewrite regulations so that they are as straightforward, understandable, and clear as possible;
3. To remove unproductive, burdensome requirements;
4. To revise regulations on the basis of experience since their issuance; and
5. To better organize and consolidate regulations.

To implement this program for its own regulations, FDA has prepared an Operation Common Sense Recodification Plan (1978-82). This plan covers all FDA regulations and presents the agency's projected schedule for reviewing them.

The opertation Common Sense Recodification Plan is available for public examination in, and copies may be obtained through, the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 25, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-30637 Filed 10-30-78; 8:45 am]

[4110-83-M]

Health Resources Administration

HEALTH CAREERS OPPORTUNITY PROGRAM

Grant Application Announcement

The office of Health Resources Opportunity, Health Resources Administration, announces that applications for fiscal year 1979 health careers opportunity program grants are now being accepted under the authority of section 787 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484). Based on projected requirements for currently active projects requiring continued support, and estimated $1,870,000 will be available for competitive awards in fiscal year 1979.

Section 787 authorizes the Secretary to make grants to public or nonprofit private health or educational entities for the purpose of assisting individuals from disadvantaged backgrounds to undertake education to enter a health profession. The proposed fiscal year 1979 program funding preference for the health careers opportunity program will be for admissions/retention projects in medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health and other health professions, e.g., health care administration, and health planning.

Questions regarding the programmatic aspects of these grants should be directed to:

Director, Division of Program Coordination, Office of Health Resources Opportunity, Health Resources Administration, Center Building, Room 10-50, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-7230

All fiscal year 1979 applications must be submitted to the Grants Management Officer, Bureau of Health Manpower, Postmarked on or before January 5, 1979. In addition, requests for application packets and questions regarding grants management policy should be directed to:

Grants Management Officer (HCOP), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6564.

Dated: October 19, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-30643 Filed 10-30-78; 8:45 am]

[4110-83-M]

START-UP ASSISTANCE

Application Announcement for Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 grants for start-up assistance are now being accepted under the authority of section 788(a) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 788(a) authorizes discretionary project grants to new schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry. A new school is eligible for a grant the year before it enrolls students and the first, second, and third years in which it has students enrolled.

The deadline for receipt of applications is November 20, 1978.

Questions concerning this grant program should be directed to:

Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-47, 3700 East-West Highway, Hyattsville, Md. 20782, phone 301-436-6564.

Dated: October 19, 1978.

HENRY A. FOLEY,
Administrator, Health Resources Administration.

[FR Doc. 78-30642 Filed 10-30-78; 8:45 am]

[4110-08-M]

National Institutes of Health

REPORT OF BIOASSAY OF 2,3,5,6-TETRACHLORO-4-NITROANISOLE FOR POSSIBLE CARCINOGENICITY

Availability

2,3,5,6 - Tetrachloro - 4 - nitroanisole (CAS 2438-88-2) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay for possible carcinogenicity of 2,3,5,6-Tetrachloro-4-nitroanisole was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an agricultural fungicide and acaricide. 2,3,5,6-Tetrachloro-4-nitroanisole was administered in the feed, at either of two concentrations, to groups of male and female animals of each species.

Under the conditions of this bioassay; dietary administration of 2,3,5,6-Tetrachloro-4-nitroanisole was not carcinogenic to male or female Fischer 344 rats or B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-30058 Filed 10-30-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF ANILINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

Aniline hydrochloride (CAS 142-04-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of aniline hydrochloride for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes. Aniline hydrochloride was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species,

with the exception of 49 female mice

(Catalog of Federal Domestic Assistance

mittees advisory to the National

[4110-08-M]

Md., 20014, telephone 301-496-5545, will provide summaries of the meeting

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of

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with the exception of 49 female mice in the high dose group.

Under the conditions of this bioassay, dietary administration of aniline hydrochloride was carcinogenic to male and female Fischer 344 rats, inducing hemangiosarcomas and a combination of fibrosarcomas and sarcomas NOS of the spleen and a combination of fibrosarcomas and sarcomas NOS of multiple body organs. There was no evidence of compound-induced carcinogenicity in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: October 17, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-30059 Filed 10-30-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF PIVALOLACTONE FOR POSSIBLE CARCINOGENICITY

Availability

Pivalolactone (CAS 1955-45-9) has been tested for cancer-causing activity with rats and mice in the bioassay program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: The bioassay of pivalolactone for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the production of polymers. Pivalolactone in water was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, pivalolactone was found to be carcinogenic to both male and female Fischer 344 rats, producing squamous-cell carcinomas and squamous-cell papillomas of the forestomach. This study provided no evidence for the carcinogenicity of pivalolactone in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014

Dated: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-30060 Filed 10-30-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 5-NITROACENAPHTHENE FOR POSSIBLE CARCINOGENICITY

Availability

5-Nitroacenaphthene (CAS 602-87-9) has been tested for cancercausing activity with rats and mice in the bioassay program, Divison of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 5-nitroacenaphthene for possible caricinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use for research purposes. 5-Nitroacenapthene was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species.

Under the conditions of this bioassay, 5-nitroacenaphthene was carcinogenic to Fischer 344 rats, causing increased incidences of malignant tumors of the ear canal and lung in both sexes, and of the clitoral gland and mammary gland in females. 5-Nitroacenaphthene was also carcinogenic to female but not male B6C3F1 mice, causing carcinomas of the liver and ovarian tumors.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

Dated: October 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-30061 Filed 10-30-78; 8:45 am]

[4110-08-M]

National Institutes of Health

NATIONAL CANCER INSTITUTE ADVISORY COMMITTEES

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: President's Cancer Panel.
Dates: December 12, 1978; 9:30 a.m. to adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports on activities of the President's Cancer Panel and the National Cancer Program.
Executive Secretary: Dr. Richard A. Tjalma, Address: Building 31, Room 11A46, National Institutes of Health. Phone: 301-496-5854.
Name of Committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: December 12, 1978; 9 a.m. to adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.
Executive Secretary: Dr. James M. Sontag. Address: Building 31, Room 3A16, National Institutes of Health. Phone: 301-496-5108.
Name of Committee: Data Evaluation/Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens.
Dates: December 13, 1978; 9 a.m. to adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To review available for bioassay reports and other matters relevant to data evaluation and risk assessment.
Executive Secretary: Dr. James M. Sontag. Address: Building 31, Room 3A16, National Institutes of Health. Phone: 301-496-5108.

Date: October 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30656 Filed 10-31-78; 8:45 am]

[4110-08-M]

DIVISION OF CANCER TREATMENT, NATIONAL CANCER INSTITUTE

Meeting

Notice is hereby given of the Cooperative Group Chairmen Meeting of the Clinical Investigations Branch, Division of Cancer Treatment, National Cancer Institute, December 11, 1978, Building 31, C Wing, Conference Room 8, Bethesda, Md. 20014.

This meeting will be open to the public from 1 p.m. to adjournment to discuss and review cooperative group clinical, operational, and procedural activities. Attendance by the public will be limited to space available.

For additional information, please contact Dr. Raymond B. Weiss, Chief, Clinical Investigations Branch, Division of Cancer Treatment, National Cancer Institute, National Institutes of Health, Room 8C03, Landow Building, Bethesda, Md. 20014.

Dated: October 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30655 Filed 10-30-78; 8:45 am]

[4110-08-M]

GENERAL CLINICAL RESEARCH CENTERS COMMITTEE, DIVISION OF RESEARCH RESOURCES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on December 7 and 8, 1978, in Conference Room 8, Building 31-C, National Institutes of Health, Bethesda, Md. 20014.

The meeting will be open to the public on December 7, 1978, from 9 a.m. to 11 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 7 from 11 a.m. to 5 p.m., and on December 8 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Md., 20014, telephone 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30653 Filed 10-30-78; 8:45 am]

[4110-08-M]

MENTAL RETARDATION RESEARCH COMMITTEE, NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on December 11-13, 1978, in the Landow Building, Room A, first floor, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on December 11 from 9 a.m. to 11 a.m. to discuss items relative to the Committee's activities including announcements by the Chief of the Mental Retardation and Developmental Disabilities Branch and the Executive Secretary of the Committee.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 11 from 11 a.m. to adjournment on December 13 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., Area Code 301, 496-1848, will provide a summary of the meeting and roster of committee members. Dr. Stanley L. Slater, Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room 7C16, National Institutes of Health, Bethesda, Md., Area Code 301, 496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30654 Filed 10-30-78; 8:45 am]

[4110-08-M]

NATIONAL ARTHRITIS ADVISORY BOARD, NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis Advisory Board on December 7, 1978, 9 a.m. to 5 p.m., at the Sheraton National, Columbia Pike and Washington Boulevard, Arlington, Va., to discuss the Board's activities and to continue its evaluation of the implementation of the long-range plan to combat arthritis. Exact room location will be announced later. The meeting will be open to the public. Attendance is limited to space available.

Further information may be obtained from Mr. William Plunkett, Executive Secretary, National Arthritis Advisory Board, Room 620, Federal Building, 7550 Wisconsin Avenue, Bethesda, Md., telephone 301-496-1991. Mr. James N. Fordham, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, 301-496-3583, will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health.)

Date: October 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30652 Filed 10-30-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER ADVISORY BOARD, PRESIDENT'S CANCER PANEL

Meeting Changes

Notice is hereby given of a change of dates and agenda items of the National Cancer Advisory Board and the President's Cancer Panel meeting, National Cancer Institute, November 20-21, 1978, Building 31C, Conference Room 6, Bethesda, Md. 20014, which was published in the FEDERAL REGISTER on October 13, 1978 (43 FR 47288).

This meeting will be held 1 day only, on November 20, 1978, from 9 a.m. to adjournment. Agenda items include an overview of NCI programs and a review of the Division of Cancer

Treatment Program, NCI, during the

the Heritage Conservation and Recreation Service before October 20, 1978.

Dated: October 20, 1978.

NEW YORK

Albany County

Utah County

American Fork, *Smith, Warren B., House,*

V 4 3 / 2 1 1 0 C 3 1 7 8

Treatment Program, NCI, during the morning session, and reports of activities of the President's Cancer Panel and the Director, National Cancer Program, NCI, during the afternoon session. The entire meeting will be open to the public. Attendance will be limited to space available.

For further information, please contact Dr. Thomas J. King, Director, Division of Cancer Research Resources and Centers, Building 31, Room 10A03, National Institutes of Health, Bethesda, Md. 20014, 401-496-5147.

Date: October 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30651 Filed 10-30-78; 8:45 am]

[4110-08]

TRANSPLANTATION BIOLOGY AND IMMUNOLOGY COMMITTEE, NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on November 16, 1978, at the National Institutes of Health, Westwood Building, Conference Room 740, Bethesda, Md.

This meeting will be open to the public from 9 a.m. until 12 noon on November 16 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 12 noon to adjournment on November 16 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone 301-496-7465 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Dated: October 25, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-30650 Filed 10-30-78; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA DESERT CONSERVATION AREA ADVISORY COMMITTEE

Meeting

Notice is hereby given in accordance with Public Laws 92-463 and 94-579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet November 30, December 1 and 2, 1978, in Riverside, Calif. The committee will hear staff and subcommittee reports, followed by public forums using a seminar format to consider the following resources and activities in the California Desert Conservation Area: Soil, air, and water resources; botanical resources; animal resources; scientific research and educational use of the area; livestock grazing; human impacts on desert resources; recovery or rehabilitation of desert resources.

The meetings will be held at Raincross Square, 3443 Orange Street, Riverside, Calif. 92501. Meetings will begin at 7 p.m., Thursday, November 30; 8 a.m., Friday, December 1; and 8 a.m., Saturday, December 2. The subcommittee on interim management will meet at 3 p.m., Thursday, November 30, 1978, in the same location, to review actions currently pending before the Bureau. All meetings of the committee and subcommittees will be open to the public and attendance is invited. Time will be provided at the conclusion of the seminars on Saturday afternoon, December 2, for brief statements by members of the public relative to topics under discussion by the committee.

Anyone wishing to submit a written statement or make an oral statement at the meeting should notify the Chairman, California Desert Conservation Area Advisory Committee, c/o Director, Desert Planning Staff, Bureau of Land Management, 3610 Central Avenue, Suite 402, Riverside, Calif. 92506, in advance of the meeting. Further information, including the meeting agenda, may be obtained from that address or State Director, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Sacramento, Calif. 95825.

Dated: October 20, 1978.

ED HASTEY,
State Director.

[FR Doc. 78-30722 Filed 10-30-78; 8:45 am]

[4310-84-M]

[M 41268]

MONTANA

Application

Correction

In FR Doc. 78-22409 appearing in the issue of Friday, August 11, 1978 on page 35751, the last line of the land description now reading "Sec. 18, Lots 9, 10, SE¼SW¼" should be corrected to read, "Sec. 19, Lots 9, 10, SE¼SW¼".

[4310-31-M]

Geological Survey

CONDA, IDAHO

Known Geothermal Resources Area

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as a known geothermal resources area effective January 1, 1978:

(12) IDAHO

CONDA KNOWN GEOTHERMAL RESOURCES AREA, BOISE MERIDIAN, IDAHO

T. 8 S., R. 37 E.
sec. 1, 2, 11, 12—All.

The area described aggregates 2,566.24 acres, more or less.

Dated: August 29, 1978.

WRIGHT C. SHELDON,
Acting Conservation Manager, Western Region.

[FR Doc 78-30723 Filed 10-30-78; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 20, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare cominents should be submitted by November 13, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

CALIFORNIA

Los Angeles County

Los Angeles, *Spring Street Financial District*, 354-704 S. Spring St.

CONNECTICUT

New London County

New London, *Downtown New London Historic District*, roughly bounded by Captain's Walk, Bank, Tilley and Washington Sts.

ILLINOIS

Adams County

Quincy, *Villa de Kathrine*, 532 S. 3rd St

IOWA

Union County

Creston, *U.S. Post Office*, Maple St.

MARYLAND

Charles County

Faulkner vicinity, *Mount Air*, W of Faulkner.

Prince George's County

Cheverly, *Mount Hope*, 1 Cheverly Circle.

MONTANA

Liberty County

Chester vicinity, *Rinehart-Leavitt Archeological Site.*

Toole County

Ledger vicinity, *Bootlegger Archeological Site.*

NEVADA

Douglas County

Minden, *Minden Flour Milling Company*, 6th St. and U.S. 395.

NEW JERSEY

Union County

Scotch Plains, *Scotch Plains School*, Park Ave.

NEW MEXICO

Grant County

Gila, *L.C. Ranch Headquarters*, off U.S. 260.

NEW YORK

Albany County

Albany, *Center Square/Hudson-Park Historic District*, roughly bounded by Park Ave., State, Lark and S. Swan Sts.

Columbia County

Clermont, Rinebeck, Red Hook, and Hyde Park, *Sixteen Mile District*, 16 mi. along Hudson River.

Oswego County

Pulaski vicinity, *Selkirk Lighthouse*, W. of Pulaski on Lake Rd.

Rensselaer County

Castleton-on-Hudson vicinity, *Staats, Joachim, House and Gerrit Staats Ruin*, N. of Castleton-on-Hudson on Staats Rd.

NORTH CAROLINA

Forsyth County

Winston-Salem, *South Trade Street Houses*, 434, 440, and 448 S. Trade St.

OREGON

Douglas County

Drain, *Drain, Charles D., Jr., House*, 100 E. Main St.

Wasco County

The Dalles, *Dalles Carnegie Library*, E. 4th and Washington Sts.
The Dalles, *Dalles Civic Auditorium*, E. 4th and Federal Sts.

Yamhill County

Dayton, *Hibbert, William, House*, 426 5th St.

SOUTH CAROLINA

Charleston County

Charleston, *Presqu'ile*, 2 Amherst St.

Hampton County

Hampton, *Hampton County Courthouse*, U.S. 278.

Spartanburg County

Spartanburg vicinity, *Nazareth Presbyterian Church*, SW. of Spartanburg off SC 296.

Sumter County

Sumter vicinity, *Rip Raps Plantation*, E. of Sumter on SC 378.

TEXAS

Culberson County

Van Horn, *First Presbyterian Church*, Fannin and 3rd Sts.

Harris County

Houston, *South Texas National Bank*, 215 Main St.

Washington County

Brenham, *Main Building, Blinn College*, 804 College Ave.

UTAH

Salt Lake County

Salt Lake City, *Fifth Ward Meetinghouse*, 740 S. 300 West.

Utah County

American Fork, *Smith, Warren B., House*, 589 E. Main St.

[FR Doc. 78-30372 Filed 10-30-78; 8:45 am]

[4510-26-10]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

CALIFORNIA STATE STANDARDS

Approval; California Plan

1. BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health, (hereinafter called Regional Administrator, OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973, notice was published in the FEDERAL REGISTER (38 FR 10717), of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards have been revised in accordance with Part 1953 to meet the requirement of adopting Federal Standard revisions and State initiated changes. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. By letter dated July 15, 1977, from Steven A. Jablonsky, Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, OSHA, and incorporated as part of the plan, the State submitted proof documents concerning standards equivalent to Federal amendments to Flammable and Combustible Liquids standards of 29 CFR 1910.106(a)(35), (1910.106(g)(3)(iv)(a) and (b), 1910.106(g)(3)(vi)(a), the storage and handling of Liquefied Petroleum Gases standard of 29 CFR 1910.110(b)(8)(ii), 1910.110(b)(14)(i), 1910.110(b)(14) (xiv) and (xv), 1910.110(e)(3)(ii), Powered Industrial Trucks standard of 29 CFR 1910.178(f)(1) and State initiated change to California General Industry Safety Orders Section 3203. Federal standards that were deleted but which

California did not delete are the Sani-

[4510-26-M]

U.S. Department of Labor, Occupational Safety and Health Adminis-

by posting a copy at all places where

that its veil scaffolds are multitiered scaffolds (usually four working levels),

V 4 3 / 2 1 1 OCT 31 1978

California did not delete are the Sanitation standard of 29 CFR 1910.141(d)(2)(i), the Material Handling and Storage standard of 29 CFR 1910.184(f)(6) and the Toxic and Hazardous Substance standard of 29 CFR 1910.1005 with the deletion of the laboratory activities of §§ 1910.1003, 1910.1004 and 1910.1006 through 1910.1016. These standards, which are contained in Title 8, Chapter 4 of the California Administrative Code were promulgated by the State after public hearings between the dates of January 1, 1977 and June 30, 1977.

2. DECISION

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The detailed standards comparison is available at the locations specified below.

3. LOCATION OF SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, OSHA, 450 Golden Gate Avenue, Room 9470, San Francisco, Calif. 94102 and California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, Calif. 94102; and the Technical Data Center, Room N2439R, 3d and Constitution Avenue NW., Washington D.C. 20210.

4. PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective October 31, 1978.

(Sec. 18, Pub. L. 91-956, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at San Francisco, Calif., this 26th day of July 1978.

GABRIEL J. GILLOTTI,
Regional Administrator, OSHA.

[FR Doc. 78-30759 Filed 10-30-78; 8:45 am]

[4510-26-M]

[V-78-9]

GERALD D. HINES INTERESTS

Application for Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of Gerald D. Hines Interests for a variance from the standard prescribed in 29 CFR 1910.66(b)(3), concerning power platforms for exterior building maintenance—design requirements.

DATES: The last date for interested persons to submit comments is November 30, 1978. The last date for affected employers and employees to request a hearing on the application is November 30, 1978.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address. Telephone: 202-523-7121, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building, Room 602, Dallas, Tex. 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 1100 No. 505 NASA Road I, Houston, Tex. 77058.

NOTICE OF APPLICATION

Notice is hereby given that Gerald D. Hines Interests, 2100 Post Oak Tower, Houston, Tex. 77056, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11, for a variance from the standards prescribed in 29 CFR 1910.66(b)(3) powered platforms for exterior maintenance—design requirements.

The address of the place of employment that will be affected by the application is as follows: Block 259 Development, 1100 Louisiana Street, Houston, Tex. 77002.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.66(b)(3), which states that all new powered platforms for exterior building maintenance shall meet the requirements for Part II and III of ANSI A120.1-1970. The ANSI standard requires that the design of the building or structure face in conjunction with the design of the building contact member on the working platforms shall provide continuous contact of the working platform with the building or structure in order to absorb wind forces and horizontal components of dead and live loads on the working platform.

The face of the building shall be provided with continuous T-rails, indented mullions, or equivalent guides which will positively engage building contact members on the working platform. On buildings where the working platform has a rise of less than 130 feet, guides providing positive engagement are not required.

The applicant contends that its design does not allow for continuous vertical mullions and, therefore, does not provide continuous T-rails or indented mullions required by ANSI A120.1-1970.

The applicant proposes to use an intermittent tie-in system using cable restraints at every third floor to restrict the horizontal movement, and to require that powered platforms used on the building be equipped with building face rollers. The applicant contends that this would provide a cable restraint device at a maximum vertical distance of 40-foot intervals in the areas served. The applicant states that the tie-in device would consist of an insert anchored to the concrete building column and projecting out to the face of granite cladding. A quick release pin will be used to attach the cable restraints to the anchor device. The applicant contends that the lower wing of the building is less than 130 feet high and, therefore, does not require the guides.

The applicant also contends that its alternative method of securing the powered platforms, as described above, is as safe and healthful as the requirements of the standard from which a variance is sought.

Signed at Washington, D.C. this 25th day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-30761 Filed 10-30-78; 8:45 am]

[4510-26-M]

[V-78-10]

RESEARCH-COTTRELL, INC.

Application for Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) denial of interim order.

SUMMARY: This notice announces the application of Research-Cottrell, Inc. for a variance and interim order from the standard prescribed in 29 CFR 1926.451(a) (1), (4), (5), and (10) concerning scaffolding—general requirements.

It also announces the denial of the request for an interim order to provide relief until a decision is rendered on the application for variance.

DATES: The last date for interested persons to submit comments is November 30, 1978. The last date for affected employers and employees to request a hearing on the application is November 30, 1978.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: 202-523-7121, or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building—Suite 2100, 3535 Market Street; Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, Progress Plaza, 49 North Progress Avenue, Harrisburg, Pa. 17109.

U.S. Department of Labor, Occupational Safety and Health Administration, Charleston National Plaza, Room 1726, 700 Virginia Street, Charleston, W.Va. 25301.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, Todd Mall, 2047 Canyon Road, Birmingham, Ala. 35216.

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 847, 1240 East Ninth Street, Cleveland, Ohio 44199.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445,) New York, NY., 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Building T3, Belle Mead GSA Depot, Belle Mead, N.J. 08502.

I. NOTICE OF APPLICATION

Notice is hereby given that Research-Cottrell, Inc., P.O. Box 750, Bound Brook, N.J. 08805, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655), and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for variance, from the standards prescribed in 29 CFR 1926.451(a) (1), (4), (5) and (10)

The addresses of the places of employment that will be affected by the application are as follows:

Susquehanna Power Station, Berwick, Pa.

Pleasants Power Station, Willow Island, W. Va.

Beleforte Power Station, Hollowood, Ala.

Perry Power Station, Perry, Ohio

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1926.451(a) (1), (4), (5), and (10) which sets general scaffolding requirements concerning toeboards, guardrail support spacing, and the maximum permissible spans for scaffold planks, respectively.

The applicant states that its Cooling Tower Division constructs reinforced concrete hyperbolic cooling towers currently ranging in sizes up to 450 feet in diameter and 560 feet in height. The unique shape of the thin-walled shell, called a veil, creates a constantly varying diameter in relation to height. The applicant contends that its veil scaffolds are multitiered scaffolds (usually four working levels), with the top level being the major work platform and the three lower levels being used for light auxiliary work. The top working levels are four planks wide, and the lower levels are two planks wide. The lower levels are hung from the underside of the top level by means of 2-inch by $\frac{3}{16}$-inch carbon steel straps. The applicant further contends that there are a few variations of design and operation between different veil scaffolds at the different worksites, but basically they are similar in nature.

The applicant states that the veil scaffolds, installed completely around the veil, on both faces of the forms, must be capable of contracting and then expanding during the course of construction of the veil. Typical movement would be from an original circumference of 1,100 feet in to 645 feet, and then out to 785 feet during construction of the veil.

The applicant states that the scaffolds and the forms are independently supported from one main support system. It also alleges that the forms and the scaffolds are not, and cannot be, connected to each other in any manner because they must move independently of each other. The scaffolds are hydraulically jacked approximately 5 feet, once each day, in slightly over 4-inch increments.

The applicant contends that its main support system consists of independent pairs of nearly vertical aluminum beams bolted together radially through the previously placed concrete. The forms are primarily secured in the web areas of the beams, and the scaffolds are primarily secured to the outside faces of the flanges of the beams by a dog-and-ratchet system. The number of beam-pair supports required for a particular cooling tower is a function of the design requirements for the structure. The number of beam-pair supports does not change during construction of a veil. The contraction and expansion of the scaffolding is accomplished by varying the distances between support points. The applicant contends that the guardrails, midrails, and scaffold plank arrangements have been designed to safely adjust to the changes in circumference.

The applicant states that it is providng a place of emplomeht as safe and healthful as § 1926.451(a)(4), which requires the use of toeboards on scaffolding more than 10 feet above the ground.

The applicant states that past attempts at toeboard installation have been unsatisfactory and have created additional hazards to the employees walking and working on the veil scaffolds. The applicant contends that it

has not been able to develop a safe

of wire rope cables operated from base

Section 1926.451(a)(5) states in part,

the same brackets that hold the guard-

Therefore, it does not appear from the facts presented that the applicant

Or the following Regional and Area Offices:

V 4 3 / 2 1 1 0 C 3 1 7 8

has not been able to develop a safe method of installing toeboards on the veil scaffolds that will: Serve the intended purpose for toeboards; be able to contract and expand; be able to be kept out of the walk and work areas on the scaffolds; and, be able to be kept tight against the scaffold planks.

The applicant states that because it has been unable to install a toeboard system to serve as "a barrier secured along the sides and ends of a platform to guard against the falling of material" (§ 1926.452(b)(31)), it has taken the following precautions to help prevent the falling of material, and to help prevent any material that might fall from striking anyone below:

(1) Limit the amount of loose material, such as reinforcing rods, on the scaffold to a 1-day supply.

(2) Tie loose material, such as buckets and wedges, to the scaffold or to the support beams so they cannot be accidentally knocked off.

(3) Use trash drums on the scaffolds for the proper disposal of trash and scrap thus preventing the loose waste from being kicked off the scaffolds.

(4) Completely enclose the exterior faces of the scaffolds with safety nets (6x6x½ nylon mesh) from the top guardrail on the top scaffold down to and completely under the botton level of scaffold.

(5) Instruct the employees working on the scaffolds of the necessity for helping prevent any material from falling.

(6) Prohibit work directly below the veil scaffolds while overhead work is being done. The one exception to this is covered in Item 10.

(7) Provide access between the ground and the viel scaffolds by means of a temporary stairtower on the outside face of the veil. Cover the exterior sides of the stairtower with chickenwire to help prevent material from falling.

(8) Install warning barricades and overhead work signs around the exterior face of the base of the structure to warn employees and other people of the overhead work.

(9) Install a covered walkway at the base of the structure to allow safe passage for employees who must pass under the work areas.

(10) Use one-lift mobile scaffolds with scaffold planks secured on the top of the scaffold, to provide overhead protection for the one to two employees who must work under the veil scaffolds while checking the alignment of the forms.

(11) Maintain a lifting area for materials in the center of the base slab (floor) and thus away from the overhead work. Material is lifted diagonally upward from the center of the base slab to the work areas on the scaffolds. The material is lifted by means of wire rope cables operated from base mounted drum hoists.

(12) Cover the base-mounted drum hoist locations with timber sheds, and locate them in the least susceptible locations within the structure.

(13) Instruct the drum hoist operators in the safest routes of travel to and from their operating locations.

(14) Install specific roadways in the base slab area for trucks delivering material to the central lift area, and post warning signs stating that pedestrians are to use the covered walkway.

(15) Conduct weekly safety training meetings for all employees to instruct and remind everyone of the proper safety methods, and to discuss any apparent hazards noticed on the worksite.

In addition to the above, the applicant proposes to install snow fence baricades and overhead work signs around the base of the structure, both on the inside and the outside of the structure, to warn employees and other people of the overhead work. The intent of the snow fence barricade is to serve as an "engineering control", a "physical barrier", against unintentional entrance into the area under the overhead work.

The applicant further proposes to install these snow fence barricades with the top of the fence approximately 4 feet high. It contends anchoring of the fence will depend on general conditions. Metal fence posts will be used if they can be driven into the ground.

Where ground conditions will not accept driven posts, concrete blocks will be used as anchors. In areas where the permanent concrete base slab has been installed inside the structure, the fence will be attached to the protruding reinforcing rods, or will be anchored used the concrete block method. Spacing of the posts or anchors will be determined through actual practice. However, the spacing will be adequate to support the fence in a neat, stable condition without unreasonable sag.

The applicant states that access through the fence will be provided by latching the end of a section of fence to an achor point. Thus, by deliberately removing the latched section, and pulling the fence aside, access can be gained into the fenced area. Access into the fenced area will require permission from a member of site supervision. Access will be permitted if the employee will be exposed to the overhead work.

The applicant states that the work practices described above and snow fence barricades will prevent any employee from being struck by a falling object, thus creating a work environment as safe as the use of a toeboard on the scaffold.

Section 1926.451(a)(5) states in part, that guardrail supports shall be at intervals not to exceed 8 feet. The applicant contends that its guardrail support spacing is established by the distant between the main support beams. The guardrail supports are connected to the pairs of aluminum beams at the main support points. When the veil scaffold is originally installed, the spacing between the support points may be 11 feet. During construction of the veil, the support spacing will reduce to approximately 7 feet and then will expand to approximately 8 feet at the top of the cooling tower.

The applicant further states that to maintain safe guardrails, it uses 1½-inch and 2-inch schedule 40 carbon steel pipe for the guardrails and midrails on the top level of the scaffolds, and 2 x 4 lumber on the lower levels.

The applicant contends that the 2-inch pipe guardrails and midrails on the top level of the *outside* scaffold are anchored at one end to the 3 by 4.1 channel iron posts. The opposite end of the pipe extends through a hole in the channel iron post thus allowing the changes in spacing between posts. Adjacent sections of guardrails and midrails are set at slightly different elevations to allow one section to pass the adjacent section. The excess length of pipe extends beyond the post and outside of the scaffold.

The applicant contends that the pipe guardrails and midrails on the top level of the *inside* scaffolds consists of a length of 1½-inch pipe anchored at one end to the 3 by 4.1 posts with the opposite end of the pipe inserted into a 2-inch pipe which is secured at its far end to the adjacent channel iron post. Contraction and expansion is obtained by the telescoping action of the pipes. Thes sections of pipe are designed to have at least 16 inches of telescoped overlap when the distance between supports are the maximum.

The applicant alleges that all work on the lower levels of the scaffolds, where 2 x 4 guardrails and midrails are provided, is a one- and two-man operation which involves light working loads. The outside face of each lower level is completely covered by the safety net.

The applicant contends that the guardrail spacing will provide a safe and healthful workplace for the veil scaffolds and a work area as safe as the 8-foot interval supports required by § 1926.451(a)(5).

Section 1926.451(a)(10)—Table L-3 states that the maximum permissible span is 10 feet. The applicant states that its scaffold plank spacing is governed by the same dimensions as its guardrail support spacing intervals. The scaffold planks are supported by the same brackets that hold the guardrail posts.

The applicant states that to maintain safe planks, it uses 2 x 12 inches R4S, grade 171A lumber for all planking on all levels of the scaffolds.

The applicant further states that within each bay, one end of each plank is cleated and wired to paired C3x2.1 support brackets for the top scaffold. The opposite ends of the planks rest on top of the planks in the adjacent bay. With the maximum spacing between support brackets, the 14-foot long planks overlap the adjacent planks by 24 inches and the adjacent support by 18 inches.

The applicant contends that the three outside planks on both of the top levels of scaffolding are bolted to a 1½ x 1½ x 3/16 angle iron scab on the underside of the planks near the midpoint of the span. The fourth plank, near the form, is hinged to the third plank to allow the fourth plank to be turned out of the way for form work prevented from being displaced or dropped. It is them folded back into place to close the opening between the form and the scaffold. The cleating together of the planks causes them to react to the working loads more as a single platform rather than as individual planks. The planking on the lower levels of scaffold is cleated and wired to a support bracket at one end and rides on top of the adjacent planking at the other end with a minimum overlap of 24 inches. Only work involving light working loads is performed from the planks on the lower levels. The lower levels of scaffolding are enclosed by the safety nets.

The applicant contends that the 2 x 12 planking and the planking system provides safety on the scaffolds, and a work area as safe as would have been required by § 1926.451(a)(10).

Denial of Interim Order

The applicant has also requested an interim order to be effected until a decision is rendered on the variance application.

Section 1926.451(a) (1), (4), (5), and (10) provides specific requirements for toeboards, guardrail support spacing intervals, and maximum permissible spans for scaffolding planks respectively.

It does not appear that the applicant has presented a method or specifications which will assure that employees will be protected to the degree required by the standards. While work practices and the concept of a physical barrier design to prevent unauthorized entry are theoretically sound, they are not always practicable. We have determined that employees could enter into the danger area of the vail to gain access to other areas.

Therefore, it does not appear from the facts presented that the applicant will be providing a place of employment as safe and healthful as the requirements of the standard from which a variance is sought. For these reasons pursuant to the authority in 29 CFR 1905.11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), the application for an interim order is denied.

Signed at Washington, D.C., this 25th day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-30762 Filed 10-30-78; 8:45 am]

[4510-26-M]

[V-78-8]

YOUNGSTOWN SHEET & TUBE CO.

Application for Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of application for variance.

SUMMARY: This notice announces the application of Youngstown Sheet & Tube Co. for a variance from the standard prescribed in 29 CFR 1910.179(n)(1) concerning the prohibition for loading a crane beyond its rated load.

Since a hearing has already been requested by the applicant, interested parties, including affected employers and employees, may file a request to present views and evidence, and to participate in the hearing. Such requests shall contain a statement of the position to be taken and a concise summary of the evidence to be introduced in support of that position.

A notice of "Hearing on Application for Variance" will appear in a future volume of the FEDERAL REGISTER.

DATE: The last date for interested persons to submit comments, to file requests to present views and evidence, and to participate in the hearing is November 30, 1978.

ADDRESS: Send comments and requests to participate in the hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone 202-523-7121.

Or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 32d Floor, Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 847, 1240 East Ninth Street, Cleveland, Ohio 44199.

Notice of Application

Notice is hereby given that Youngstown Sheet & Tube Co., Campbell Works, P.O. Box 900, Youngstown, Ohio 45501, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the standards prescribed in 29 CFR 1910.179(n)(1) concerning the prohibition for loading a crane beyond its rated load. The address of the place of employment that will be affected by the application is as follows:

Youngstown Sheet & Tube Co., Campbell Works, P.O. Box 900, Youngstown, Ohio 44501.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing, although one has already been requested by the applicant.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1910.179(n)(1), which states that cranes shall not be loaded beyond their rated loads except for test purposes.

The applicant states that it owns a Shaw Alliance overhead crane, identified as TM-6, that is located in the "Hall Shop" of the Coupling Department of the Continuous Tube Mill. The crane is rated at a 5-ton load capacity and is normally used to transport containers of threaded pipe sections within the "Hall Shop." These containers reach a maximum weight of 2 tons, or approximately 40 percent of the rated capacity.

The "Hall Shop" contains several Stamets boring machines, which were installed in 1939, and which are used to thread the pipe couplings manufactured by the applicant at its Campbell Works plant. The applicant contends that these machines presently require complete rebuilds by independent contractors. However, the "Hall Shop" is

brick walled, with small, low doors.

the area of the crane runway shall be

ministrator, Occupational Safety and

under section 18 of the Occupational

The information upon which the de-

[4510-28-M]

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brick walled, with small, low doors. The shop is also inaccessible to heavy equipment since it is located in the middle of the mill surrounded by other shops. There is no way in which higher-rated portable or traveling cranes could be brought into the "Hall Shop" to move the Stamets boring machines to the door of the "Hall Shop."

The applicant contends that when the Stamets machines are removed for rebuilding, they can be almost completely disassembled and moved in segments, thus lightening the load. However, when the rebuilt machines are returned to Youngstown, they can only be disassembled to a limited extent without destroying the integrity of the machines alinement. The machines will then weigh a maximum of approximately 10 tons each.

The applicant further contends that in moving these machines from their present locations to the door of the "Hall Shop" following rebuilding, they are to be lifted approximately 10 to 12 inches off the ground. The total length of the moves will vary with each machine, but it is expected to be less than 100 feet total for each of them.

Since 1976, crane TM-6 has been radio controlled. Other than the handling of the Stamets machines, the crane has not been used for any oversize loads. It receives both general weekly and monthly inspections, conducted by trained and qualified Youngstown personnel, including one hourly employee, who is a Union member, and one supervisor, representing management.

The applicant proposes that the following conditions be utilized when operating the Shaw Alliance 5-ton overhead remote controlled crane, TM-6, for loads beyond its rated capacity:

(a) The maintenance history of the crane, including reports of any prior special lifts, shall be reviewed;

(b) Structural, mechanical, and electrical components of the crane design shall be checked by a crane manufacturer or other qualified person, according to accepted crane design standards such as CMAA No. 70 or AISE No. 6;

(c) The crane supporting structure design shall be checked for conformance to AISE or other applicable design standards;

(d) A complete inspection of the crane as described in OSHA Standard 29 CFR 1910.179(j) shall be made just prior to making the lift. The crane support shall be inspected and any deterioration or damage shall be taken into consideration in design calculations;

(e) The lift shall be made under controlled conditions under the direction of an appointed person. In addition to these requirements, all personnel in the area of the crane runway shall be alerted;

(f) The operator shall test the crane at his special lift by lifting the load a short distance and setting the brakes;

(g) Complete records of the lift, including all distances moved, shall be placed on file where readily available to appointed personnel;

(h) After the special heavy lift is concluded, a thorough inspection shall be made of all critical parts of the crane;

(i) All special heavy lifts shall be made under the charge of maintenance or rigger supervision and performed by qualified crane operators;

(j) A complete inspection of crane No. TM-6, track, and supporting members shall be completed on a monthly basis with a signed report;

(k) While the special heavy load is suspended and being moved, tag lines and/or guide poles shall be used to control movement; hand guiding shall be prohibited except when final setdown guidance is required;

(l) Temporary machine supports shall be preset to eliminate employee exposure;

(m) The President of Local 1418, USWA, shall be notified 10 days in advance of any special heavy load lifts on crane No. TM-6; and,

(n) The President of Local 1418, will designate two Union Members to be present while the special heavy load lift is being conducted.

The applicant contends that the conditions described above are patterned after but are more stringent than those specified in Item 2-3.2.1.1 "Special Heavy Lifts," of the latest American National Safety Standard, ANSI B30.2.0-1976, *Overhead and Gantry Cranes (Top Running Bridge, Multiple Girder)*.

The applicant further states that no employees will be beneath the crane or its load during the lift, and that the only employees directly involved in the area of the lift will be those guiding the final setdown of the load.

The applicant contends that under the conditions, as described above, employee health and safety will be fully protected.

Signed at Washington, D.C., this 25th day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-30760 Filed 10-30-78; 8:45 am]

[4510-26-M]

WYOMING STATE STANDARDS

Approval

1. BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within 6 months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letters dated June 27, 1978, July 10, 1978, and September 28, 1978, from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to the 29 CFR 1910.1018 Occupational Exposure to Inorganic Arsenic which was published in FEDERAL REGISTER (43 FR 19584), Friday, May 5, 1978, and (43 FR 23472), Friday, June 30, 1978. These standards, which are contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry, were promulgated after hearings held on August 11, 1978, and by resolution adoption by the Wyoming Occupational Health and Safety Commission on August 11, 1978, and became effective on September 25, 1978, pursuant to section 27-278 Wyoming Status 1957 as amended 1973.

2. DECISION

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.

3. LOCATION OF SUPPLEMENTS FOR INSPECTION AND COPYING

A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver Colo. 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyo. 82001; and the Technical Data Center, Room N2439R, 200 Constitution Avenue NW, Washington, D.C. 20210.

4. PUBLIC PARTICIPATION

Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective October 31, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Denver, Colo., this 11th day of October, 1978.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 78-30758 Filed 10-30-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3783]

ALATEX, INC., ANDALA PLANT, ANDALUSIA, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3783: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 31, 1978 in response to a worker petition received on May 25, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at the Andala plant, in Andalusia, Ala., of Alatex, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alatex, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976 and increased to 64,446,000 units in 1977. U.S. imports of these articles increased from 16,011,000 units during the first quarter of 1977 to 17,168,000 units during the first quarter of 1978. The ratio of imports to domestic production increased from 36.2 percent in 1975, to 70.4 percent in 1976 and to 72.6 percent in 1977.

A survey conducted with the major customer of Alatex, Inc. indicated that this customer had substantially increased its purchases of imported men's dress shirts in 1977 compared to 1976 and continued importing men's dress shirts in the first half of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced at the Andala plant, Andalusia, Ala. of Alatex, Inc. contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Andala plant, in Andalusia, Ala., of Alatex, Inc., who became totally or partially separated from employment on or after May 4, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30586 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-4042—TA-W-4046]

ALATEX, INC. ANDALUSIA PLANT, ANDALUSIA, ALA. ET AL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA-W-4042, Alatex, Inc., Andalusia plant, Andalusia, Ala.; TA-W-4043, Alatex, Inc., Troy plant, Troy, Ala.; TA-W-4044, Alatex, Inc., Pike plant, Troy, Ala.; TA-W-4045, Alatex, Inc., Brantley plant, Brantley, Ala.; TA-W-4046, Alatex, Inc., Enterprise plant, Enterprise, Ala.

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4042, 4043, 4044, 4045, 4046: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 8, 1978 in response to worker petitions received on August 8, 1978 which were filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress shirts at the Andalusia, Troy, Pike, Brantley, and Enterprise plants (in Alabama) of Alatex, Inc.

The notice of investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Alatex, Inc., its customers, U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976 and increased to 64,446,000 units in 1977. U.S. imports of these articles increased from 16,011,000 units during the first quarter of 1977 to 17,168,000 units during the first quarter of 1978. The ratio of imports to domestic production increased from 36.2 percent in 1975, to 70.4 percent in 1976 and to 72.6 percent in 1977.

A survey conducted with the major customer of Alatex, Inc. indicated that this customer had substantially increased its purchases of imported men's dress shirts in 1977 compared to

1976 and continued importing men's

Union on behalf of workers and

same period of 1977. The ratio of imports to domestic production increased

that firm. In accordance with the pro-

The petitioners cite new evidence

creased from 2,252 thousand dozen in 1976 in 2,723 thousand dozen in 1977.

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1976 and continued importing men's dress shirts in the first half of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced at the Andalusia, Troy, Pike, Brantley, and Enterprise plants (in Alabama) of Alatex, Inc. contributed importantly to the decline in sales and production and to the total or partial separation of workers of these plants. In accordance with the provisions of the Act, I make the following certificatios:

All workers at the Andalusia, Ala. plant of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Troy plant in Troy, Ala. of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Pike plant in Troy, Ala. of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Brantley, Ala. plant of Alatex, Inc. who became totally or partially separated from employment on or after June 3, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974, and

All workers at the Enterprise, Ala. plant of Alatex, Inc. who became totally or partially separated from employment on or after June 2, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30587 Filed 10-30-78; 8:45 am]

[4510—23-M]

[TA-W-3165]

CATANIA CLOTHING CORP., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3165: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing men's suit coats and sportcoats at Catania Clothing Corp., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Catania Clothing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored suits increased from 3,106 thousand units in 1975 to 3,562 thousand units in 1976 and to 4,091 thousand units in 1977.

The import to domestic production ratio increased from 19 percent in 1976 to 20 percent in 1977.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976 and then declined to 6,269 thousand units in 1977 before increasing to 1,776 thousand units for the first quarter of 1978 from 1,323 thousand units for the first quarter of 1977.

A Department survey was conducted with manufacturers who contracted work to Catania Clothing. One manufacturer, which also acts as a retailer, decreased contract work with Catania and increased its purchases of imported men's suits and sportcoats from 1976 to 1977 and in the first quarter of 1978 compared to the first quarter of 1977. Another manufacturer, which decreased contract work with Catania, had lost sales to retail customers which increased imports of suits and coats from 1976 to 1977. Workers at this manufacturer's firm have been certified as eligible to apply for trade adjustment assistance.

Workers at Catania Clothing Corp. were previously certified as eligible to apply for trade adjustment assistance on January 23, 1976 (TA-W-291). That certification expired January 23, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's suit coats and sportcoats produced by Catania Clothing Corp., New York, N.Y., contributed importantly to the decline in production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification.

All workers of Catania Clothing Corp., New York, N.Y., who became totally or partially separated from employment on or after January 23, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30589 Filed 10-30-78; 8:45]

[4510-28-M]

[TA-W-3487]

CITY TERRANCE SPORTSWEAR, INC., NEWBURGH, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3487: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on March 31, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing rainwear at City Terrace Sportswear, Inc., Newburgh, N.Y. The investigation revealed that women's coats and raincoats are produced.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of City Terrace Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's raincoats increased from 191 thousand dozen in 1975 to 261 thousand dozen in 1976 and decreased to 242 thousand dozen in 1977. In the first quarter of 1978, imports increased to 129 thousand dozen compared to 84 thousand dozen in the same period of 1977. The ratio of imports to domestic production increased from 36.8 percent in 1975 to 45 percent in 1976 and decreased to 40.3 percent in 1977.

U.S. imports of women's, misses', and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and increased to 2,723 thousand dozen in 1977. In the first quarter of 1978 imports decreased to 572 thousand dozen compared to 590 thousand dozen in the same period of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

A survey of the manufacturer which contracts most of the production at City Terrace Sportswear, Inc., revealed decreased sales by the manufacturer in 1976 and 1977. A survey of this manufacturer's customers revealed that some of these customers had increased import purchases while decreasing their purchases from the manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's raincoats and other women's coats produced by City Terrace Sportswear, Inc., contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at City Terrace Sportswear, Inc., Newburgh, N.Y., who became totally or partially separated from employment on or after October 20, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30588 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3323]

DAVIS-LYNCH GLASS CO., STAR CITY, W. VA.

Affirmative Determination Regarding Application for Reconsideration

On September 25, 1978, the petitioners for workers and former workers of Davis-Lynch Glass Co. requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40075).

The petitioners cite new evidence that imports of glass lamp products, especially from Mexico, have resulted in lower sales of Davis-Lynch Glass Co. products and imply that the Department's survey of Davis-Lynch Glass Co.'s customers was inadequate.

CONCLUSION

After review of the application, I conclude that the claims of the petitioners are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30590 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3615]

DEL-BA COAT, INC., HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3615: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Del-Ba Coat, Inc., Hoboken, N.J. The investigation revealed that the company produced only ladies' coats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Del-Ba Coat, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Del-Ba Coat, Inc. worked in 1977 and 1978. Manufacturers that accounted for a significant portion of sales in 1977 reduced purchases from Del-Ba Coat, Inc. and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Del-Ba Coat, Inc., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Del-Ba Coat, Inc., Hoboken, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30591 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3726]

E PLUS E, INC., LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3726: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978 in response to a worker petition received on April 10, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' better dresses at E Plus E, Inc., Los Angeles, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-9). No public hearing was requested and none was held.

The information upon which the de-

[TA-W-3328]

ply tires. This is reflected both in in-

trial fire protection systems at Graviner, Inc., Mountainside, N.J. The

ers and former workers producing chain link fence and fittings at the

became totally or partially separated from employment on or after April 1, 1977, are

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The information upon which the determination was made was obtained principally from officials of E Plus E, Inc., its customers (manufacturer), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the total or partial separations, or threats thereof, and to the absolute decline in sales or production.

Imports of women's and misses' dresses decreased from 659,000 dozen in 1976 to 587,000 dozen in 1977. Imports increased from 114,000 dozen in the first quarter of 1977 to 194,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 4.6 percent in 1976 to 4 percent in 1977.

E Plus E produced ladies' dresses as a contractor for only one manufacturer until August 1978. That manufacturer reduced purchases from E Plus E but did not purchase imports. The manufacturer's sales did not decline in 1977 and in the first quarter of 1978 were higher than in the first quarter of 1977.

The manufacturer produces women's designer or couture ready-to-wear clothing, excluding sportswear. Industry sources and customers of the manufacturer who were surveyed indicated that price competition is not an important factor in the market for ladies' designer apparel.

CONCLUSION

After careful review I determine that all workers of E Plus E, Inc., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30592 Filed 10-30-78; 8:45 am]

[TA-W-3328]

GOODYEAR TIRE AND RUBBER CO., AKRON PLANT II, AKRON, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3328: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 9, 1978 in response to a worker petition received on February 24, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing passengger car tires at the Akron, Onio Plant II of Goodyear Tire and Rubber Co.

The Notice of investigation was published in the FEDEAL REGISTER on March 24, 1978 (43 FR 12401). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Goodyear Tire and Rubber Co., its customers, the Rubber Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of passenger car tires increased to 12,643 thousand units in 1976 compared to 9,940 thousand units in 1975 and increased to 13,077 thousand units in 1977. The ratio of imports to domestic production increased in 1976 compared to 1975 and then decreased in 1977 compared to 1976.

Goodyear's imports of bias passenger car tires increased 2,913.3 percent in 1976 compared to 1975 and decreased 88.1 percent in 1977 compared to 1976, but the 1977 figure was 260.0 percent higher than the 1975 level of company imports. Goodyear's imports of radial passenger car tires increased 374.6 percent in 1976 compared to 1975 and increased 12.7 percent in 1977 compared to 1976.

The Akron Plant II has been primarily a bias-ply production facility with approximately two-thirds of the plant's output being bias-ply and bias-belted passenger car tires in 1976 and 1977, the remaining being radial passenger tires. These tires are sold in the replacement market.

In the national tire market radials are rapidly replacing traditional bias-ply tires. This is reflected both in increased production of radials and increased imports which are believed to be predominately (over 90 percent) radials. Radial tires are directly competitive with bias tires.

Imported passenger car tires, predominantly of radial construction, are primarily targeted for the replacement market. This impacts on the Akron Plant II in two ways: The longer life of radials and the preference by consumers for imported radials which replace both domestically produced bias and radial passenger car tires.

The Department conducted a survey of the major customers of Goodyear Tire and Rubber Co. Some of these customers increased import purchases while decreasing tire purchases from domestic sources, including Goodyear in 1976, 1977 and the first half of 1978. Several customers claimed that tire imports were capturing an increasing share of growth in tire demand.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires produced at the Akron, Ohio Plant II of Goodyear Tire and Rubber Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Akron, Ohio Plant II of Goodyear Tire and Rubber Co. who became totally or partially separated from employment on or after August 27, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30593 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3872]

GRAVINER, INC., MOUNTAINSIDE, N.J.

Negative Determinotion Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3872: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 20, 1978, in response to a worker petition received on June 16, 1978, which was filed on behalf of workers and former workers producing industrial fire protection systems at Graviner, Inc., Mountainside, N.J. The notice of investigation incorrectly identified the petitioner.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Graviner, Inc., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act.

Workers at Graviner, Inc., were not engaged in the production of smoke detectors. They were engaged only in the testing and marketing of imported smoke detectors. Graviner, Inc., purchased the finished smoke detectors from Graviner, Ltd., in the United Kingdom. Each unit was tested at Graviner, Inc., at Mountainside, N.J. No workers involved in the testing of the smoke detectors worked solely or primarily on them.

CONCLUSION

After careful review, I determine that all workers employed in marketing services at Graviner, Inc., Mountainside, N.J., be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30594 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3537, 3537a]

HACKNEY CORP., BIRMINGHAM, ALA., COLUMBIANA, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3537 and 3537a: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 12, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing chain link fence and fittings at the Birmingham, Ala., plant of Hackney Corp.

The investigation was expanded to include the Columbiana, Ala., plant of the Hackney Corp. as well as distribution centers at Birmingham and Mobile, Ala., Louisville, Ky., Jacksonville, Fla., and Charlotte, N.C.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-9). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hackney Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of chain link fencing increased from 5.3 thousand short tons in 1975 to 8.7 thousand short tons in 1976. Imports decreased to 6.3 thousand short tons in 1977. Imports increased from 1.9 thousand short tons in the first quarter of 1977 to 3.7 thousand short tons in the first quarter of 1978.

U.S. imports of carbon steel pipe and tube increased from 1,542.5 thousand tons in 1975 to 1,820.7 thousand tons in 1976. Imports increased to 2,343.9 thousand tons in 1977. The ratio of imports to domestic production increased from 22.8 percent in 1975 to 35.8 percent in 1976, and increased to 38.5 percent in 1977.

A departmental survey of customers of Hackney Corp. indicated that customers accounting for a significant proportion of the subject firm's sales increased purchases of imported chain link fencing and fence components and decreased purchases from the subject firm in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with chain link fencing and fence components produced at the Birmingham and Columbiana, Ala., plants of Hackney Corp. contributed importantly to the decrease in sales and production and to the total or partial separations of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the plants and distribution centers of Hackney Corp., listed below, who became totally or partially separated from employment on or after April 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Plants: Birmingham, Ala., Columbiana, Ala.

Distribution centers: Birmingham, Ala., Mobile, Ala., Louisville, Ky., Jacksonville, Fla., Charlotte, N.C.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30595 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3315]

MAVEST, INC. AND MODERN MANUFACTURING CORP., TIMONIUM, MD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3315: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 7, 1978 in response to a worker petition received on February 21, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Mavest, Inc. and Modern Manufacturing Corp. in Timinium, Md. Subsequent investigation revealed the company primarily produces sportcoats.

Workers at Mavest, Inc. and Modern Manufacturing Corp. were previously certified as eligible to apply for adjustment assistance on July 7, 1975. That certification expired on July 7, 1977 (TA-W-24).

The Notice of Investigation was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11277). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mavest, Inc. and Modern Manufacturing Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the total or partial separations, or threats thereof, and to the absolute decline in sales or production.

Imports of women's and misses' dresses decreased from 659,000 dozen in 1976 to 587,000 dozen in 1977. Imports increased from 114,000 dozen in the first quarter of 1977 to 194,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 4.6 percent in 1976 to 4 percent in 1977.

E Plus E produced ladies' dresses as a contractor for only one manufacturer until August 1978. That manufacturer reduced purchases from E Plus E but did not purchase imports. The manufacturer's sales did not decline in 1977 and in the first quarter of 1978 were higher than in the first quarter of 1977.

The manufacturer produces women's designer or couture ready-to-wear clothing, excluding sportswear. Industry sources and customers of the manufacturer who were surveyed indicated that price competition is not an important factor in the market for ladies' designer apparel.

CONCLUSION

After careful review I determine that all workers of E Plus E, Inc., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30592 Filed 10-30-78; 8:45 am]

operations. The firm continues to sell off inventories of tubes produced at

public hearing was requested and none was held.

[4510-28-M]

[TA-W-3828]

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That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of men's dress coats and sportcoats declined from 6,965 thousands of units in 1976 to 6,269 thousands of units in 1977. For the period January through June 1977, imports again declined from 3,537 units to 3,237 units in the same period January through June 1978. Likewise, the ratio of imports to domestic production declined from 30.0 percent in 1976 to 26.5 percent in 1977.

CONCLUSIONS

After careful review I determine that all workers of Mavest, Inc. and Modern Manufacturing Corp. located in Timonium, Md. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30596 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3569]

PEN-JAY, INC., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3569: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 20, 1978 which was filed on behalf of workers and former workers producing ladies' vests, slacks and skirts at Pen-Jay, Inc., Fall River, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068-21069). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pen-Jay, Inc., its manufacturer, the National Cotton Council, of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

During 1976 and the first 8 months of 1977 a substantial proportion of Pen-Jay's business was comprised of contract work performed for a single manufacturer. With the cessation of orders to Pen-Jay, the manufacturer increased orders to other domestic contractors. Sales by the manufacturer increased in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Pen-Jay, Inc., Fall River, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30597 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-2956]

PARIS KNITTING MILLS, CARLSTADT, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 25, 1978 in response to a worker petition received on January 9, 1978, which was filed on behalf of workers and former workers producing women's knit apparel at Paris Knitting Mills, Inc., Carlstadt, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7068). No public hearing was requested and none was held.

During the course of the investigation it was established that all workers of Paris Knitting Mills, Inc. are included in a petition dated January 4, 1978. The petition for TA-W-2956 is dated January 5, 1978. In the event that more than one petition is received for the same group of workers, the earliest petition will stand and subsequent petitions will be terminated. The investigation has therefore been terminated.

Signed at Washington, D.C., this 25th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-30585 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3388]

RCA CORP., DEPTFORD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3388: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was intitiated on March 21, 1978 in response to a worker petition received on March 6, 1978 which was filed on behalf of workers and former workers marketing and distributing electronic receiving tubes at the Deptford, N.J. facility of RCA Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCA Corp., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all of the requirements have been met.

On May 9, 1976, the Department issued a certification of eligibility to apply for adjustment assistance applicable to workers of the Deptford, N.J. facility of RCA Corp. engaged in employment related to the production of electronic receiving tubes. (TA-W-625). That certification expired on May 9, 1978—2 years from its date of issuance.

The certification applicable to TA-W-625 covered workers involved in the sales and distribution of electronic receiving tubes formerly produced by RCA Corp. at a plant in Harrison, N.J. With the closure of the Harrison plant in March 1975, workers engaged in such activities were transferred to Cherry Hill and Deptford, N.J. Previous determinations by the Department (TEA-W-249 and TA-W-1198) covered workers involved directly in the production operations at Harrison.

RCA is continuing to gradually phase out its electronic receiving tube operations. The firm continues to sell off inventories of tubes produced at Harrison prior to its closure. As inventories are depleted, RCA reduces the workforce engaged in the sales and distribution of electronic receiving tubes at Deptford and at several regional locations (workers at the regional locations are considered Deptford employees). Thus, increased imports of electronic receiving tubes which resulted in the closure of RCA's Harrison plant continue to have an adverse impact on workers engaged in the sales and distribution of tubes formerly produced by RCA.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electronic receiving tubes formerly produced by RCA Corp. contributed importantly to the separation of workers engaged in employment related to the sales and distribution of such products by RCA's Deptford, N.J. facility. In accordance with the provisions of the Act, I make the following certification:

All workers of the Distributor and Special Products Division of RCA Corp., Deptford, N.J., engaged in employment related to the distribution and marketing of electronic receiving tubes, who became totally or partially separted from employment on or after May 9, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30598 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-4016]

TWINKLE UNDERGARMENT CO., INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4016: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 18, 1978 which was filed on behalf of workers and former workers producing ladies' undergarments at Twinkle Undergarment Co., New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-31). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Twinkle Undergarment Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses' and juniors' underwear declined in absolute terms from 1973 to 1974, increased from 1974 to 1975, and increased from 1975 to 1976. Imports increased 33 percent from 1,861 thousand dozens in 1976 to 2,470 thousand dozens in 1977. The ratios of imports to domestic production and consumption increased from 2.2 percent for both ratios in 1975 to 2.7 percent for both ratios in 1976.

The Department's survey of Twinkle Undergrament Co.'s customers revealed that respondents increased their purchases of imported ladies' panties (Twinkle's major product) in 1977 compared with 1976. Purchases from Twinkle Undergarment Co. were reduced during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases in imports of articles like or directly competitive with ladies' undergarments produced at Twinkle Undergarment Co., New York, N.Y. contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Twinkle Undergarment Co., Inc., New York, N.Y. who became totally or partially separated from employment on or after July 11, 1977 and before January 1, 1978 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers separated after January 1, 1978 are denied program benefits.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30599 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-2828]

VALLEY NITROGEN PRODUCERS, INC., HERCULES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2828: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 28, 1977 in response to a worker petition received on December 12, 1977, which was filed by the Oil, Chemical and Atomic Workers International Union on behalf of workers and former workers producing chemical fertilizers at Valley Nitrogen Producers, Inc., Hercules, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1554). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Valley Nitrogen Producers, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analyst and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of nitrogenous fertilizers and intermediate products increased from 1,827.6 thousands of short tons in 1975 to 2,190.8 thousands of short tons in 1976 and increased to 3,350.2 thousands of short tons in 1977. The ratio of imports to domestic production increased from 6.2 percent in 1976 to 10.3 percent in 1977.

Valley Nitrogen Producers, Inc. opened its Hercules, Calif. plant in October 1976. Production and employment remained stable through July 1977. Workers at Hercules went on strike on August 2, 1977 and remained on strike until the plant closure in November 1977. This strike was the dominant factor in the declines in sales and production at the Hercules plant.

CONCLUSION

After careful review, I determine that all workers of Mavest, Inc. and Modern Manufacturing Corp. located in Timonium, Md. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30596 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3569]

PEN-JAY, INC., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3569: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 20, 1978 which was filed on behalf of workers and former workers producing ladies' vests, slacks and skirts at Pen-Jay, Inc., Fall River, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068-21069). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pen-Jay, Inc., its manufacturer, the National Cotton Council, of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

During 1976 and the first 8 months of 1977 a substantial proportion of Pen-Jay's business was comprised of contract work performed for a single manufacturer. With the cessation of orders to Pen-Jay, the manufacturer increased orders to other domestic contractors. Sales by the manufacturer increased in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Pen-Jay, Inc., Fall River, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30597 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-2956]

PARIS KNITTING MILLS, CARLSTADT, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 25, 1978 in response to a worker petition received on January 9, 1978, which was filed on behalf of workers and former workers producing women's knit apparel at Paris Knitting Mills, Inc., Carlstadt, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7068). No public hearing was requested and none was held.

During the course of the investigation it was established that all workers of Paris Knitting Mills, Inc. are included in a petition dated January 4, 1978. The petition for TA-W-2956 is dated January 5, 1978. In the event that more than one petition is received for the same group of workers, the earliest petition will stand and subsequent petitions will be terminated. The investigation has therefore been terminated.

Signed at Washington, D.C., this 25th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-30585 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3388]

RCA CORP., DEPTFORD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3388: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was intitiated on March 21, 1978 in response to a worker petition received on March 6, 1978 which was filed on behalf of workers and former workers marketing and distributing electronic receiving tubes at the Deptford, N.J. facility of RCA Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on March 28, 1978 (43 FR 12967). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCA Corp., industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The investigation revealed that all of the requirements have been met.

On May 9, 1976, the Department issued a certification of eligibility to apply for adjustment assistance applicable to workers of the Deptford, N.J. facility of RCA Corp. engaged in employment related to the production of electronic receiving tubes. (TA-W-625). That certification expired on May 9, 1978—2 years from its date of issuance.

The certification applicable to TA-W-625 covered workers involved in the sales and distribution of electronic receiving tubes formerly produced by RCA Corp. at a plant in Harrison, N.J. With the closure of the Harrison plant in March 1975, workers engaged in such activities were transferred to Cherry Hill and Deptford, N.J. Previous determinations by the Department (TEA-W-249 and TA-W-1198) covered workers involved directly in the production operations at Harrison.

RCA is continuing to gradually phase out its electronic receiving tube

Petitioners meeting these eligibility requirements will be certified as eligi-

substantial interest in the subject matter of the investigations may re-

The petitions filed in this case are available for inspection at the Office

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CONCLUSION

After careful review, I determine that all workers of Valley Nitrogen Producers, Inc., Hercules, Calif. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30600 Filed 10-30-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
AVTEX Fibers, Inc. (ACTWU)	Front Royal, Va	Sept. 18, 1978	Sept. 12, 1978	TA-W-4,184	Rayon tire yarn and rayon staple fiber.
E & W of Manila, Inc. (workers)	Manila, Ark	Sept. 15, 1978	Sept. 6, 1978	TA-W-4,185	Blue jeans, fatigues, painter jeans, and different types of work pants.
Haspel Bros., Inc. (ACTWU)	New Orleans, La	Sept. 18, 1978	Sept. 12, 1978	TA-W-4,186	Men's suits.
Lilli Ann Corp. (ILGWU)	San Francisco, Calif	Sept. 8, 1978	Aug. 31, 1978	TA-W-4,187	Women's suits and coats.
Orange Country Coat Co., Inc. (ILGWU).	Newburgh, N.Y	Sept. 19, 1978	Sept. 15, 1978	TA-W-4,188	Sportswear, jackets, and vests.
Sharon Fabrics, Division of Mode Fabrics (workers).	New York, N.Y	Aug. 8, 1978	Aug. 5, 1978	TA-W-4,189	Shirtings (cloth) to be sold to the men's shirt trade.
Vicki Clothing Co., Inc. (ILGWU)	Newburgh, N.Y	Sept. 19, 1978	Sept. 15, 1978	TA-W-4,190	Storm coats for ladies.
Walworth Co., sales office (workers)	Hinsdale, Ill	Sept. 11, 1978	Sept. 6, 1978	TA-W-4,191	The selling of industrial valves to Walworth Co.'s customers.
Do	New York, N.Y	do	do	TA-W-4,198	Do.
Walworth Co., Columbus foundry (workers).	Columbus, Ohio	do	do	TA-W-4,199	Steel industrial valves.
Walworth Co. (workers)	King of Prussia, Pa	do	do	TA-W-4,200	Sales, distribution center, warehouse, and corporate headquarters.
Walworth Co., Aloyco plant (workers)	Linden, N.J	do	do	TA-W-4,201	Steel industrial valves.
Walworth Co., foundry (workers)	Elizabeth, N.J	do	do	TA-W-4,202	Do.
Walworth Co., sales office (workers)	Downey, Calif	do	do	TA-W-4,192	The selling of industrial valves to Walworth Co.'s customers.
Do	Oakland, Calif	do	do	TA-W-4,193	Do.
Do	Atlanta, Ga	do	do	TA-W-4,194	Do.
Do	Dallas, Tex	do	do	TA-W-4,195	Do.
Do	Houston, Tex	do	do	TA-W-4,196	Do.
Do	Westfield, N.J	do	do	TA-W-4,197	Do.

[FR Doc. 78—30605 Filed 10-30-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 10, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 13, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Apeco Corp. (company)	Des Plaines, Ill	Oct. 18, 1978	Oct. 12, 1978	TA-W-4,272	Corporate office.
Do	Elk Grove Village, Ill	do	do	TA-W-4,273	Provides credit collection, marketing, receiving and distribution (shipment) and engineering.
Apeco Corp. (company)	Melrose Par, Ill	do	do	TA-W-4,274	Toner for photocopy equipment.
Bethlehem Steel Corp. (workers)	do	Oct. 13, 1978	Oct. 10, 1978	TA-W-4,275	Provides air-condition and heat units service, janitor service and escort service within the building.
Bethlehem Steel Corp. Saucon Production Scheduling (workers).	Bethlehem, Pa	Oct. 10, 1978	Oct. 5, 1978	TA-W-4,276	The scheduling the operation of the Saucon Mills.
Brockton Sole & Plastic (workers)	Winchester, Tenn	Oct. 16, 1978	Oct. 15, 1978	TA-W-4,277	Heel base, soles and shanks for shoes and boots.
Knitcracker Sweet Ltd (company)	New York, N.Y	do	Oct. 9, 1978	TA-W-4,278	Buy and contract goods for ladies' sweaters and knit tops.
Offspring Industries, Inc. (workers)	Bronx, N.Y	Oct. 17, 1978	Oct. 12, 1978	TA-W-4,279	Junior and misses sweaters.
Slater Paper Box (workers)	Fall River, Mass	Oct. 16, 1978	Oct. 10, 1978	TA-W-4,280	Paper folding boxes.
The Hanna Furnace Corp. (USWA)	Buffalo, N.Y	Oct. 17, 1978	Oct. 13, 1978	TA-W-4,281	Merchant pig iron.
Tiara Footwear, Inc	Dover, N.H	do	do	TA-W-4,282	Women's casual footwear clogs and boots.

[FR Doc. 78-30455 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-4047]

ALATEX, INC., MONTGOMERY, ALA.

Certificotion Regarding Eligibillty To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4047: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigatjon was initiated on August 8, 1978 in response to a worker petition received on August 8, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers engaged in employment related to the warehousing and distribution of men's dress shirts at the Montgomery, Ala. Distribution Center of Alatex, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Alatex, Inc. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of men's and boys' woven dress and business shirts increased from 30,800,000 units in 1975 to 64,283,000 units in 1976 and increased to 64,446,000 units in 1977. U.S. imports of these articles increased from 16,011,000 units during the first quarter of 1977 to 17,168,000 units during the first quarter of 1978. The ratio of imports to domestic production increased from 36.2 percent in 1975, to 70.4 percent in 1976 and to 72.6 percent in 1977.

A survey conducted with the major customer of Alatex, Inc. indicated that this customer had substantially increased its purchases of imported men's dress shirts in 1977 compared to 1976 and continued importing men's dress shirts in the first half of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress shirts produced by Alatex, Inc. contributed importantly to the decline in sales and production and to the total or partial separation of workers at the Montgomery, Ala. Distribution Center of Alatex, Inc. In accordance with the provisions of the act, I make the following certification:

All workers at the Montgomery, Ala. Distribution Center of Alatex, Inc. who became totally or partially separated from employment on or after March 31, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30742 Filed 10-30-78; 8:45 am]

[4510-28-M]

CONCLUSION

After careful review, I determine

Clinton Engines Corp. began importing four cycle engines in August 1977.

ment of Commerce, the U.S International Trade Commission, industry an-

[4510-28-M]

All workers of the Cranford, N.J. plant of the Container Machinery Division of Kop-

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[4510-28-M]

[TA-W-3762]

ASARCON DIVISION OF ASARCO, INC., AND FEDERATED METALS CORP., PERTH AMBOY, N. J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3762: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on February 7, 1978 which was filed by the United Steelworkers of America on behalf of all workers producing copper rod and tubes and atomic shielding at the Perth Amboy plant of Asarco, Inc. The investigation revealed that Asarco produced cast alloy rod and tube and lead products (atomic shielding). These operations were sold to its subsidiary, Federated Metals Corp., in April 1977. The two operations are known as the Asarcon Division.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24834). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Asarco, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that sales and production of cast alloy rod and tube and lead products increased in quantity and value in the first 6 months of 1977 compared to the same period in 1976. When the labor contract with the United Steelworkers expired at the end of June 1977 there was a strike. The plant never reopened. In January 1978 Federated Metals completely shut down the Perth Amboy plant.

CONCLUSION

After careful review I determine that all workers engaged in employment related to the production of cast alloy rod and tube and lead products at the Asarcon Division of Asarco, Inc., and Federated Metals Corp., Perth Amboy, N.J., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-30743 Filed 10-30-78 8:45 am]

[4510-28-M]

[TA-W-3838]

CLINTON ENGINES CORP., MAQUOKETA, IOWA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3838: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on June 12, 1978 which was filed by the International Association of Machinists on behalf of workers and former workers producing motors for lawn mowers and air-cooled outboard motors at Clinton Engines Corp., Maquoketa, Iowa.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Clinton Engines Corporation, its customers, manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of gasoline engines under 11 horsepower excluding outboards increased both absolutely and relative to domestic production in 1977 from 1976 and in January-June 1978 from the same period in 1977. Imports of outboard motors increased in 1977 from 1976. Clinton Engines Corp. began importing four cycle engines in August 1977. Separations resulting from the termination of four cycle production occurred during the second half of 1977. Company imports of four cycle engines were terminated in July 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the motors for lawn mowers and air-cooled outboard motors produced at Clinton Engines Corp., Maquoketa, Iowa contributed importantly to the decline in production and to the total or partial separation of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Clinton Engines Corp., Maquoketa, Iowa who became totally or partially separated from employment on or after June 8, 1977 and before December 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated after December 31, 1977 are denied program benefits.

Signed at Washington, D.C. this 24th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30744 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3132]

GENERAL REFRACTORIES CO., U.S. DIVISION, CLAYSBURG, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3132: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 15, 1978, in response to a worker petition received on February 2, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing silica coke oven brick at the General Refractories Co., U.S. Division, Claysburg Works, Claysburg, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the U.S. Division of General Refractories Co., the U.S. Department of Commerce, the U.S International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of silica refractory products increased from 4,124 thousands of 9-inch brick equivalents in 1976 to 7,591 thousands of 9-inch brick equivalents in 1977. The ratio of imports to domestic production increased from 10 percent in 1976 to 26.1 percent in 1977. Imports increased from 911 thousands of 9-inch brick equivalents in the first 3 months of 1977 to 1,835 thousands of 9-inch brick equivalents in the same period of 1978. The ratio of imports to domestic production increased from 13.9 percent in the first 3 months of 1977 to 21.89 percent in the same period of 1978.

Refractory products are produced according to contracts awarded by customers on a competitive bid basis. Evidence developed during the course of the investigation revealed that bids lost by General Refractories to foreign refractory producers in 1977 constituted a major portion of the decline in Claysburg's sales in that year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with silica refractory products produced at the Claysburg, Pa., plant of the U.S. Division of the General Refractories Co. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Claysburg, Pa., plant of the U.S. Division of the General Refractories Co. who became totally or partially separated from employment on or after January 31, 1977, and before February 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated from employment after February 1, 1978, are denied program benefits.

Signed at Washington, D.C., this 25th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30745 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-3767]

KOPPERS CO., INC., CONTAINER MACHINERY DIVISION, CRANFORD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3767: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978, in response to a worker petition received on May 22, 1978, which was filed on behalf of workers of the Cranford, N.J. plant of the Container Machinery Division of Koppers Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-24635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Koppers Co., Inc., its customers, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of machinery for making corrugated boxes increased in value from $18 million in 1976 to $22.8 million in 1977. Imports increased from $12.4 million during January-June 1977 to $18.5 million during January-June 1978. Imports amounted to 13.5 percent of total domestic production in 1976 and 14.7 percent in 1977.

A survey conducted by the Department revealed that some customers who decreased purchases from the Container Machinery Division of Koppers Co., Inc., in 1977 and the first quarter of 1978 increased purchases of imported machinery during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with machinery for the corrugated box industry produced at the Cranford, N.J., plant of the Container Machinery Division of Koppers Co., Inc., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Cranford, N.J. plant of the Container Machinery Division of Koppers Company, Inc., who became totally or partially separated from employment on or after May 15, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc 78-30746 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-4035]

PYR-A-LARM, INC., DUBLIN, GA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4035: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on August 3, 1978, in response to a worker petition received on August 2, 1978, which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers producing residential smoke detectors at Pyr-A-Larm Inc., of Dublin, Ga.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pyr-A-Larm, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

U.S. imports of smoke detectors increased from 900,000 units in 1976 to 2,600,000 units in 1977, and further increased from 1,200,000 units in the first 6 months of 1977 to 1,700,000 units during the same period in 1978. The import-to-production ratio increased from 12.7 in 1976 to 25.0 in 1977, and from 23.1 in the first 6 months of 1977 to 23.3 during the same period in 1978.

The decline in the Dublin, Ga. plant's sales and employment is direct-

ly linked to the import influence in

The National Advisory Council on Economic Opportunity is authorized

praisal for the renewal of License No. SNM-145. On the basis of this appraisal

appraisal need not be prepared in connection with issuance of these amend-

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ly linked to the import influence in the industry. A major U.S. firm and a price leader in the U.S. market, imports 100 percent of its residential smoke detectors from Europe. This major firm increased its imports of smoke detectors 43 percent in 1977 compared to 1976 and 152 percent in the first 9 months of 1978 compared to the same period in 1977. Another major U.S. participant in the residential smoke detector industry imported virtually all of its products from Hong Kong in 1978 and increased its imports significantly over 1977. These import increases reduced the market share for Pyr-A-Larm and placed downward pressure on prices. As a consequence of this important development, inventories of domestically-produced smoke detectors grew, making it unprofitable for Pyr-A-Larm to continue production at former levels.

The Department's investigation revealed that company sales and production of smoke detectors by Pyr-A-Larm Inc., decreased significantly in the third quarter of 1978 compared to the same quarter in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with smoke detectors produced at the Dublin, Ga., plant of Pyr-A-Larm Inc., contributed importantly to the decline in sales and to the total or partial separation of the workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Dublin, Ga. plant of Pyr-A-Larm Inc., who became totally or partially separated from employment on or after June 15, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 24th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30747 Filed 10-30-78; 8:45 am]

[4510-28-M]

[TA-W-4015]

SPORN DRESS CO., FREEHOLD, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-4015: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 31, 1978, in response to a worker petition received on July 28, 1978, which was filed on behalf of all workers and former workers producing ladies' gowns, dresses, and pants suits at the Freehold, N.J., plant of the Sporn Dress Co.

Subsequent investigation revealed that ladies' dresses were the only product produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Sporn Dress Co., its customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

Imports of women's, misses', and children's dresses declined from 1,614 thousand dozen in 1976 to 1,420 thousand dozen in 1977. The ration of imports to domestic production of women's, misses', and children's dresses declined from 8 percent in 1976 to 6.7 percent in 1977.

The Department of Labor surveyed the only customer of the Spron Dress Co. This customer indicated it did not purchase imported dresses or use foreign contractors to produce dresses in 1976 and 1977.

CONCLUSION

After careful review, I determine that all workers of the Sporn Dress Company, Freehold, N.J., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of October 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-30748 Filed 10-30-78 8:45 am]

[4510-28-M]

[TA-W-2849]

UNION RAILROAD CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 26, 1978, the Director of the Office of Trade Adjustment Assistance issued a Notice of Termination of Investigation (43 FR 25500), in response to a petition which was filed by the Brotherhood of Locomotive Engineers on behalf of workers and former workers engaged in transporting of raw materials into the United States Steel Corp. plants, interplant moves, and finished products from the plants to interchange points at Union Railroad Co., East Pittsburgh, Pa. (TA-W-2849). The investigation was terminated on the grounds that the group of workers covered by the petition were included in a separate petition.

On the basis of additional information, the Director of the Office of Trade Adjustment Assistance has decided to reopen the investigation to determine the workers' eligibility for adjustment assistance.

Signed at Washington, D.C., this 24th day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-30749 Filed 10-30-78; 8:45 am]

[6820-41-M]

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

COMMITTEE AND COUNCIL MEETINGS

OCTOBER 26, 1978.

Pursuant to section 10 of the Federal Advisory Committee Act of 1972, notice is hereby given that the National Advisory Council on Economic Opportunity will hold two committee meetings on December 7, 1978, and have a full Council meeting on December 8, 1978. The committee and Council meetings will be held at the Council Office at 1725 K Street NW. (Room 405), Washington, D.C. All committee and Council meetings will begin at 9 a.m. and are open to the public.

On December 7, one committee of the Council will discuss health delivery systems as they affect the poor, welfare reform, inflation and related issues. Also on December 7, a committee of the Council will discuss policy issues involving community economic development and employment and training programs.

On December 8, the Council wil discuss and review committee reports and other relevant issues affecting antipoverty programs.

The National Advisory Council on Economic Opportunity is authorized by section 605 of the Community Services Act to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the office of the National Advisory Council on Economic Opportunity.

WALTER B. QUETSCH,
Executive Director.

[FR Doc. 78-30691 Filed 10-30-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON ADVANCED REACTORS

Meeting

The November 1, 1978 meeting of the ACRS Subcommittee on Advanced Reactors has been rescheduled to be held on Wednesday, December 6, 1978 in Room 1046, 1717 H Street, NW., Washington, D.C. 20555 to continue its review of matters related to the NRC sponsored research on the safety of advanced reactor designs. Notice of this meeting was published on October 17 and 20, 1878 (43 FR 47802 and 49080, respectively).

The agenda and all other matters pertaining to the meeting remain the same as announced in above cited FEDERAL REGISTER notices.

Dated: October 26, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-30666 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. 70-135]

BABCOCK & WILCOX NUCLEAR MATERIAL DIVISION, COMMERCIAL NUCLEAR FUEL FABRICATION PLANT, BOROUGH OF APOLLO, PA.

Negative Declaration Regarding Renewal of License No. SNM-145

The U. S. Nuclear Regulatory Commission (the Commission) has renewed Special Nuclear Material License SNM-145 for the continued operation of the B&W Nuclear Fuel Fabrication Plant at Apollo, Pa.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the renewal of License No. SNM-145. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal was not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Md. this 23d day of October 1978.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc 78-30668 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Dockets Nos. 50-317 and 50-318]

BALTIMORE GAS & ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 35 and 17 to Facility Operating Licenses Nos. DPR-53 and DPR-69, issued to Baltimore Gas & Electric Co. (the licensee), which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant units Nos. 1 and 2, located in Calvert County, Md. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to delete the requirements for 10 hydraulic snubbers on the unit No. 1 and 4 hydraulic snubbers on the unit No. 2 support systems associated with the Containment Charcoal Filter Dousing System.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated June 13, 1978, (2) Amendments Nos. 35 and 17 to Licenses Nos. DPR-53 and DPR-69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Md. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of October 1978.

For The Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-30669 Filed 10-27-78; 8:45 am]

[7590-01-M]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 41 to Facility Operating License No. DPR-26, issued to Consolidated Edison Co. of New York, Inc. (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 2 (the facility) located in Buchanan, Westchester County, N.Y. The amendment is effective as of the date of issuance.

The amendment changes the license to provide generalized provisions for sealed radioactive sources and changes the Technical Specifications to provide for standard surveillance requirements for these sources.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. [Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.]

The Commission has determined that the issuance of this amendment did not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendment dated October 6, 1978, (2) Amendment No. 41 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Indian Point Public Library, Broadway, Buchanan, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of October 1978.

For The Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-30670 Filed 10-27-78; 8:45 am]

[7590-01-M]

[Docket No. 50-286]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR-64, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, N.Y. The amendment is effective as of the date of issuance.

The amendment changes the license to provide generalized provisions for sealed radioactive sources and changes the Technical Specifications to provide for standard surveillance requirements for these sources.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. [Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.]

[7590-01-M]

EXPORTATION OF NUCLEAR FACILITIES OR

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The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 21, 1978, (2) Amendment No. 41 to License No. DPR-26, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 17th day of October 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-30670 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. 50-255]

CONSUMERS POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Provisional Operating License No. DPR-20, issued to Consumers Power Co. (the licensee), which revised the Technical Specifications for operation of the Palisades Plant, (the facility) located in Covert Township, Van Buren County, Mich. The amendment is effective as of its date of issuance.

The amendment authorizes deletion of a requirement to perform weekly monitoring of fish impingment on the intake traveling screens.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment did not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 24, 1976, as supplemented by letter dated October 28, 1977, (2) Amendment No. 44 to License No. DPR-20, and (3) the Commission's related transmittal letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 16th day of October 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-30671 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Issuance of Amendment To Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative (the licensee), which revised the Technical Specifications for operation of the La Crosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisc. The amendment is effective as of its date of issuance.

The amendment deletes the requirement for operable fire detectors in the Reactor Containment Building during the performance of the containment integrated leak rate test.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 27, 1978, (2) Amendment No. 14 to License No. DPR-45, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the La Cross Public Library, 800 Main Street, La Crosse, Wisc. 54601. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of October 1978.

For the Nuclear Regulatory Commission.

THOMAS V. WAMBACH,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-30672 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. 50-414]

DUKE POWER CO. NORTH CAROLINA MUNICIPAL POWER AGENCY NO. 1

Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-117, issued to the Duke Power Co. The amendment reflects a change in the ownership of the Catawba Nuclear Station, Unit 2 (the facility) located in York County, S.C. The amendment is effective as of its date of issuance.

The amendment adds the North Carolina Municipal Power Agency No. 1 as a co-owner of and co-applicant for the facility. The Duke Power Co. will retain sole responsibility for the design, construction, and operation of the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated May 15, 1978, and suplementary information dated September 11, 1978, (2) Amendment No. 1 to Construction Permit CPPR-117, (3) the Commission's related Safety Evaluation, and (4) the Environmental Impact Appraisal and Negative Declaration supporting Amendment No. 1 to that construction permit.

All of these items and other related material are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C., and at the local Public Document Room located at the York County Library, 325 South Oakland Avenue, Rock Hill, S.C. 29730.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 19th Day of October 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-30673 Filed 10-30-78; 8:45 am]

[7590-01-M]

EXPORTATION OF NUCLEAR FACILITIES OR MATERIALS

Applicotions for Licenses

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated this 20th day of October 1978, at Bethesda, Md.

For The Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Quantity special nuclear material in kilograms: Total element	Total isotope	End-use	Country of ultimate destination
Edlow International, Sept. 20, 1978, Sept. 25, 1978, XSNM01379.	Enriched uranium	19,858.8	487.3	Reload for Tarapur power station.	India.
Exxon Nuclear, Sept. 22, 1978, Sept. 26, 1978, XSNM01380.	do	55,400	1,940.4	Reload for Tihange I	Belgium.
Mitsubishi International, Sept. 14, 1978, Sept. 27, 1978, XU08434.	Natural uranium	583,511		For conversion to UF_6 for reimport.	Canada.
Mitsubishi International, Sept. 29, 1978, Oct. 10, 1978, SXNM01386.	Enriched uranium	16,341	545	Reload for Ikata I	Japan.
Science General Corp., Oct. 9, 1978, Oct. 13, 1978, XMAT0013.	Heavy water	8,510		To verify computer operation in a reactor control system.	Republic of China.
Nissho-Iwai America, Aug. 24, 1978, Aug. 31, 1978, XMAT005 (formerly XMAT0034).	do	6,001		Moderator to "Fugen" reactor	Japan.
Carpenter Technology, Aug. 18, 1978, Aug. 28, 1978, XCOM0035.	Zircaloy tubes	[1]600		Use in Atucha power reactor	Argentina.

[1] Calandria tubes, value $2,000,000.

[FR Doc. 78-30667 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. 50-466]

HOUSTON LIGHTING AND POWER CO., (ALLENS CREEK NUCLEAR GENERATING STATION, UNIT 1)

Order Scheduling Special Prehearing Conference

Pursuant to 10 CFR 2.751a, on November 17, 1978 (and on November 18th, if necessary) at 9:30 a.m. local time the Special Prehearing Conference will be held at the Host International Hotel, 18700 John F. Kennedy Boulevard, Houston, Tex. 77205 in order to:

a. Permit identification of the key issues in the proceeding;

b. Take any steps necessary for further identification of the issues;

c. Consider all intervention petitions to allow the presiding officer to make such preliminary or final determinations as to the parties to the proceeding, as may be appropriate; and

d. Establish a schedule for further actions in the proceeding.

Further, pursuant to 10 C.F.R. 2.714(b), as amended, not later than fifteen (15) days prior to the holding of the Special Prehearing Conference, any person who filed a petition for leave to intervene pursuant to the Corrected Notice Of Intervention Procedures published in the FEDERAL REGISTER on September 11, 1978 (43 FR 40328) shall file a supplement to this petition to intervene which must include a list of the contentions which petitioner seeks to have litigated in the matter and the bases for each contention set forth with reasonable specificity. Any person who filed a petition for leave to intervene pursuant to the Notice Of Intervention Procedures published in the FEDERAL REGISTER on May 31, 1978 (43 FR 23666) and complied with the Memorandum and Order Re: Persons Seeking Intervention And Scheduling Special Prehearing Conference dated August 14, 1978, may amend previously filed contentions not later than fifteen (15) days prior to the holding of the Special Prehearing Conference.

Limited Appearance statements will not be received at the above-mentioned [illegible] will be received at the

extension is for a reasonable period, the bases for which are set forth in a

[7590-01-M]

included as appendices to the Final Site Environmental Statement.

terest in the proceeding, (2) an allegation of a situation inconsistent with

the petition satisfied the requirements of 10 CFR 2.714.

Tex-La's seventeen member coopera-

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Limited Appearance statements will not be received at the above-mentioned conference, but will be received at any subsequent prehearing conference and/or at the beginning of the hearing.

It is so ordered.

Dated at Bethesda, Md. this 24th day of October, 1978.

For the Atomic Safety and Licensing Board.

SHELDON J. WOLFE, Esq.
Chairman.

[FR Doc 78-30674 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-275 and 50-323]

PACIFIC GAS AND ELECTRIC CO. DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2

Order Extending Construction Completion Dates

Pacific Gas & Electric Co. is the holder of Construction Permit Nos. CPPR-39 and CPPR-69 issued by the Atomic Energy Commission[1] on April 23, 1968 and December 9, 1970, respectively, for construction of the Diablo Canyon Nuclear Power Plant, Units 1 and 2, presently under construction at the Company's site in San Luis Obispo County, Calif.

On August 11, 1978 and August 23, 1978, Pacific Gas and Electric Company filed requests for extensions of the completion dates for Units 1 and 2.

On May 11, 1976 and September 10, 1976, the Commission's staff published Supplements 4 and 5 to the Safety Evaluation Report for the Diablo Canyon Nuclear Power Plant documenting the need for a reevaluation of the plant's seismic capabilities, the criteria to be used in the reevaluation and the staff's request that Pacific Gas & Electric Co. perform such a reevaluation. This reevaluation has resulted in significant modifications to upgrade the plant's seismic resistance. For Unit 1, additional time is required to complete the modifications and to conclude the licensing process. For Unit 2, additional time is required to complete the modifications by personnel who are giving priority to completing Unit 1.

This action involves no significant hazards consideration; good cause has been shown for the delays; an environmental statement, negative declaration or environmental impact appraisal need not be prepared in connection with the extension; and the requested extension is for a reasonable period, the bases for which are set forth in a staff evaluation of request for extension.

For further details with respect to this action, see (1) the applicant's requests for extension of the construction permit completion dates dated August 11, 1978 and August 23, 1978 and (2) the staff's related evaluation, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the Local Public Document Room located in San Luis Obispo County Free Library, P.O. Box X, San Luis Obispo, Calif. 93406.

It is hereby ordered that the latest completion date for CPPR-39 is extended from September 30, 1978 to April 30, 1979 for Unit 1 and the latest completion date for CPPR-69 is extended from December 31, 1978 to October 31, 1979 for Unit 2.

Date of Issuance: October 13, 1978.

For the Nuclear Regulatory Commission.

ROGER S. BOYD,
Director, Division of Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 78-30675 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket No. P-564-A]

PACIFIC GAS AND ELECTRIC CO. STANISLAUS NUCLEAR PROJECT, UNIT NO. 1

Reconstitution of Board

Elizabeth S. Bowers, Esq., was a member of the Atomic Safety and Licensing Board for the above proceeding. Because of a schedule conflict Mrs. Bowers is unable to continue her service on this board.

Accordingly, Seymour Wenner, Esq., whose address is 4807 Morgan Drive, Chevy Chase, Md. 20015, is appointed a Member of this Board. Reconstitution of the Board in this manner is in accordance with § 2.271 of the Commission's Rules of Practice, as amended.

Dated at Bethesda, Md. this 25th day of October 1978.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 78-30623 Filed 10-30-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-582 and 50-583]

SAN DIEGO GAS & ELECTRIC CO.

Availability of Final Site Environmental Statement for the Sundesert Nuclear Plant, Unit Nos. 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Site Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, relative to suitability of the proposed site for eventual construction of the Sundesert Nuclear Plant, Unit Nos. 1 and 2 by the San Diego Gas and Electric Company in Riverside County, Calif., is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Palo Verde Valley District Library, 125 West Chanslorway, Blythe, Calif., and the San Diego County Law Library, 1105 Front Street, San Diego, Calif. The Final Site Environmental Statement is also being made available at the Office of the Governor, Office of Planning and Research, 1400 Tenth Street, Sacramento, Calif., and the Southern California Association of Governments, Suite 1000, 600 South Commonwealth Avenue, Los Angeles, Calif.

In early 1978 following issuance of the Draft Environmental Statement, the California Public Utilities Commission issued an order to SDG&E to cease all expenditures on this project except as necessary to preserve the site and water supply for future use in meeting the electrical energy needs of Southern California. SDG&E then requested the NRC to continue the licensing effort with a view toward issuing the Final Environmental Statement for site suitability. Consequently, this Final Site Environmental Statement relative to determination of the suitability of the site for eventual construction of the Sundesert Nuclear plant is being issued. This statement is necessary for SDG&E and the Department of Interior to consummate exchange of ownership of the publicly-owned site for other lands; however, no hearings are presently contemplated by NRC.

The notice of availability of the Draft Environmental Statement for the Sundesert Nuclear Plant, Unit Nos. 1 and 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on February 6, 1978 (43 FR 4891). The comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Site Environmental Statement.

Copies of the Final Site Environmental Statement (Document No. NUREG-0455) may be purchased, at current rates, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 23rd day of October 1978.

For The Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-30677 Filed 10-30-78; 8:45 am]

[1] Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

[7590-01-M]

[Docket Nos. 50-445A, 50-446A]

TEXAS UTILITIES GENERATING CO., ET AL. (COMANCHE PEAK STEAM ELECTRIC STATION, UNITS 1 AND 2).

Order Granting Intervention Petitions and Notice of Special Prehearing Conference

I

OCTOBER 19, 1978.

Petitions for leave to intervene in this proceeding have been filed pursuant to the Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters (43 FR 34850, August 7, 1978). The State of Texas has intervened as "an interested state" pursuant to 10 CFR 2.715(c), and the Committee on Power for the Southwest has elected to make a limited <appearance in accordance with the provisions of 10 CFR 2.715(a). Without objection, both are granted leave to participate in these respective roles.

On September 6, 1978, a petition for leave to intervene was filed by Central and South West Corp. (CSW), a public utility holding company, and its four operating subsidiaries, Central Power & Light Co. (CPL), Public Service Co. of Oklahoma (PSO), Southwestern Electric Power Co. (SWEP), and West Texas Utilities Co. (WTU). The Applicant, Texas Utilities Generating Co. (TUGCO), filed an answer on September 21, 1978, objecting to portions of the petition and urging that no ruling be made on CSW's party status until contentions have been submitted and responded to. The Staff filed its response on September 26, 1978, supporting the adequacy of the CSW intervention petition.

Under the *Wolf Creek* criteria,[1] an intervening petitioner must set forth with reasonable particularity (1) an interest in the proceeding, (2) an allegation of a situation inconsistent with the specified antitrust laws, (3) a nexus between the alleged inconsistent situation and the activities to be licensed, and (4) a request for specific relief.

CSW is a registered public utility holding company whose subsidiaries' service areas adjoin those of the operating company subsidiaries of Texas Utilities Co. (TU), whose system is allegedly the largest in Texas. The TU subsidiaries are the applicants in this proceeding. CSW alleges that the policy of TU and Houston Lighting & Power Co. (HL&P) to refuse to deal with interstate utilities, denies its subsidiaries meaningful access to the Comanche Peak nuclear facility. It is also claimed that this intrastate policy denies some of the benefits of existing interconnections to some of its subsidiaries. These allegations constitute an adequate showing of interest under 10 CFR 2.714.

CSW alleges that TU and its subsidiaries have combined with others to refuse to deal with interstate utilities, and that it has used its dominance to monopolize and attempt to monopolize various relevant markets. These actions are asserted to be inconsistent with sections 1 and 2 of the Sherman Act and § 5 of the Federal Trade Commission Act (15 U.S.C. §§ 1, 2, 45). This is a sufficient pleading of a situation inconsistent with the antitrust laws.

CSW further alleges that TU has refused to grant interstate utilities access to Comanche Peak, and that the continuation of the policy would frustrate relief in another antitrust hearing (South Texas) because the intrastate only policy is enforced through the threat of disconnection by the combination of TU and HL&P, which are dominant in Texas. This pleading satisfies the nexus requirement of a connection between the anticompetitive situations and the licensed activities.

It is requested that any operating license be conditioned so as to effectively neutralize TU's intrastate only policy. This is an adequate request for relief in an antitrust licensing proceeding. Accordingly, CSW's petition for leave to intervene is granted.

II

By its petition for leave to intervene, filed on September 20, 1978, Tex-La Electric Cooperative, Inc. (Tex-La) sought to intervene in this proceeding on behalf of its seventeen member co<operatives which operate in Texas. TUGCO filed an answer on October 4, 1978, which denied the adequacy of the petition to show interest, a situation inconsistent with the antitrust laws, or nexus. The Staff's response filed October 10, 1978, considered that the petition satisfied the requirements of 10 CFR 2.714.

Tex-La's seventeen member cooperatives allegedly purchase substantial amounts of power at wholesale from TU through its subsidiary, TP&L. Its interest is to ensure that its members are not restricted from access to bulk power supplies from interstate or intrastate sources. Tex-La also asserts an interest in participating in the Comanche Peak Nuclear Facilities. These pleadings sufficiently assert a cognizable interest. Tex-La asserts that TU has conditioned its agreements with Tex-La and others to preclude the interstate transmission of electricity, that TU has restricted participation in Comanche Peak to intrastate utilities, and that TU's activities violate the antitrust laws. This is a sufficient allegation of a situation inconsistent with the antitrust laws, which should be refined by a statement of contentions within 15 days prior to the special prehearing conference under the provisions of 10 CFR 2.714.(b), as amended.

Tex-La further alleges that TU's intrastate restraint on participation in Comanche Peak is anticompetitive and constitutes the required nexus between the inconsistent situation and the licensed activities, citing *Louisiana Power & Light Co.* (Waterford Steam Electric Generating Station, Unit 3), CLI-73-25, 6 AEC 619, 620-21 (1973). These allegations sufficiently plead the nexus requirement.

Tex-La requests that the Comanche Peak operating license be conditioned to allow both interstate and intrastate access to the plants output, and to mandate an opportunity for Tex-La to participate in the facility. This request for relief satisfies the requirements of 10 CFR 2.714, as amended, and the request for leave to intervene is granted.

III

Notice is hereby given the parties that a special prehearing conference pursuant to the provisions of 10 CFR 2.751a, will be held at 9:30 a.m., local time, in the Nuclear Regulatory Commission Hearing Room, 5th Floor, located at 4350 East-West Highway, Bethesda, Md. 20014, on December 5, 1978.

Intervention petitions shall be supplemented to state contentions and the bases therefor reasonable specificity, in accordance with the provisions of 10 CFR 2.714(b), as amended.

It is so ordered.

Dated at Bethesda, Md. this 19th day of October 1978.

For the Atomic Safety and Licensing Board.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 78-30678 Filed 10-30-78; 8:45 am]

[1] Kansas Gas & Electric Co. (Wolf Creek Generating Station, Units No. 1), ALAB-279, 1 NRC 559 (1975).

[7590-01-M]

has prepared an environmental impact appraisal for the proposed amendment

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

Matters involved in SBA's consideration of the applicant include the gen-

(Catalog of Federal Domestic Assistance Program Number 59.011, Small Business In-

ments on a proposed extensive revision of Form 990, Return of Organization

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[7590-01-M]

[Docket No. 50-594; License No. XR-131]

WESTINGHOUSE ELECTRIC CORP.

Issuance of Facility Export License

Please take notice that no request for a hearing or a petition for leave to intervene having been filed following publication of notice of proposed action in the FEDERAL REGISTER on April 23, 1978 (page 18365) and the Nuclear Regulatory Commission having found that:

(a) The application filed by Westinghouse Electric Corp., Docket No. 50-594, complies with the requirements of the Atomic Energy Act, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, Code of Federal Regulations, and

(b) the reactors proposed to be exported are utilization facilities as defined in said Act and regulations, the Commission has issued License No. XR-131 to Westinghouse Electric Corp., Pittsburgh, Pa., authorizing the export of two power reactors with a thermal power level of 2,785 megawatts each to the Korea Electric Co., Seoul, Korea.

The export of the reactors to the Republic of Korea is within the purview of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea.

Dated at Bethesda, Md. this 19th day of October 1978.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 78-30680 Filed 10-30-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No 50-414]

CATAWBA NUCLEAR STATION, UNIT 2

Negative Declaration Regarding Proposed Amendment to the Construction Permit

The U.S. Nuclear Regulatory Comission (the Commission) is considering the issuance of an amendment to Construction Permit No. CPPR-117 issued to Duke Power Co. for the Catawba Nuclear Station, Unit 2, located in York County, S.C.

The amendment would authorize the addition of North Carolina Municipal Power Agency No. 1 as co-owner of the station with Duke Power Co.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the proposed amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the York County Library, 325 South Oakland Avenue, Rockhill, S.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 19th day of October, 1978.

For the Nuclear Regulatory Commission.

JAN A. NORRIS,
Acting Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-30712 Filed 10-30-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

NOTICE OF VISIT TO MAIL FACILITIES

OCTOBER 24, 1978

Notice is hereby given that employees of the Postal Rate Commission will visit bulk mail centers and facilities associated with the processing of bulk mail on November 7-9, 1978 for the purpose of observing these operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

A report of the visits will be on file in the Commission's docket room.

PLACES OF VISIT

Group 1—Buffalo, N.Y., Pittsburgh, Pa., Elmira, N.Y., Ithaca, N.Y., Slaterville Springs, N.Y.

Group 2—New Orleans, La., Mobile, Ala., Citronelle, Ala., Chinchula, Ala., Memphis, Tenn.

By direction of the Commission.

CYRIL J. PITTACK,
Acting Secretary.

[FR Doc. 30754 Filed 10-30-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Application No. 05/05-5135]

DEARBORN CAPITAL CORP.

Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. et seq.), has been filed by Dearborn Capital Corp. (applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1978).

The officers, directors, and stockholders of the applicant are as follows:

Robert C. Chambers, President, Treasurer, Director, 30105 Valley Side Drive, Farmington Hills, Mich. 48018.

Harold Gardner, Vice President, Secretary, 16700 Warwick, Detroit, Mich. 48219.

Robert B. Alexander, Director, 2254 Belmont, Ann Arbor, Mich. 48104.

Levi A. Jackson, Director, 1707 Orleans, Detroit, Mich. 48207.

David M. Sparling, Director, 18395 Pinebrook Northville, Mich. 48167.

Kenneth Whipple, Jr., Director, 29475 Briarbank Court, Southfield, Mich. 48034.

Ford Motor Co., 100 percent stockholder, The American Road, Dearborn, Mich. 48121.

Ford Motor Credit Co., Investment Adviser/Manager, The American Road, Dearborn, Mich. 48121.

The applicant, a Delaware corporation, with its principal place of business located at The American Road, Dearborn, Mich. 48121, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 1,000 shares of common stock.

The applicant will conduct its activities principally in the State of Michigan, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under section 301(d) of the act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social economic or disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than November 15, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Dearborn, Mich.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 23, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-30736 Filed 10-30-78; 8:45 am]

[8025-01-M]

F&F VENTURE CAPITAL CORP.

[License No. 09/09-5179]

Termination of License

Notice is hereby given that F&F Venture Capital Corporation (F&F), Route No. 1, Chino Airport, Chino, California 91710, has surrendered its license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

F&F was licensed by the Small Business Administration on January 28, 1975.

Under the authority vested by the Act and pursuant to 13 CFR 107.105 (1978), the surrender of F&F's license is hereby approved.

Accordingly, all rights, privileges and franchises derived from the license are hereby terminated.

(Catalog of Federal Domestic Assistance Program Number 59.011, Small Business Investment Companies.)

Dated: October 24, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-30737 Filed 10-30-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1538]

TEXAS

Declaration of Disaster Loan Area

Reeves County and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by excessive rainfall and flooding which occurred on September 26, 1978, through September 30, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 26, 1978, and for economic injury until the close of business on July 24, 1979, at: Small Business Administration, District Office, 712 Federal Office Building and U.S. Courthouse, Lubbock, Tex. 79401, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 24, 1978.

WILLIAM T. GENNETTI,
Acting Administrator.

[FR Doc. 78-30738 Filed 10-30-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

FORM 990, RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX

Proposed Revision

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of proposed revision of Form 990, Return of Organization Exempt from Income Tax, for 1979.

SUMMARY: As part of their forms simplification and reporting burden reduction efforts, the Internal Revenue Service is asking for public comments on a proposed extensive revision of Form 990, Return of Organization Exempt from Income Tax, for 1979. After considering all comments and suggestions, the Service will decide whether to adopt the proposed revision for 1979.

DATE: Written comments and suggestions should be mailed or delivered by December 15, 1978.

ADDRESS: Written comments and suggestions should be mailed or delivered to the Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert I. Brauer, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202-566-6150 (not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: The proposed revision provides the means for an organization to report the nature and amount of available resources, net changes in fund balances and the amounts expended for programs, fundraising and management and general purposes.

The proposed revision is simpler to complete for organizations that have gross receipts of $25,000 or less. A substantial number of organizations are in this category. They will have to complete: (1) Lines 1(f), 2, 3, 4, 5(e), 6, 7(e), 8(d), 9(e), 10, 14, and 15 of part I; (2) columns A and B of part II; (3) all of part III; (4) line 51 of part IV; and (5) all of part V. The specific instructions are keyed to the applicable line items and are explicit as to the information to be recorded thereon.

The Service is hopeful that this revised form will be adopted by states to meet their financial reporting requirements of charitable and other organizations.

Return preparers and organizations are cautioned not to make any program changes based on the proposed revision before it is adopted.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

Dated: October 24, 1978.

S. ALLEN WINBORNE,
Assistant Commissioner, Employee Plans, Exempt Organizations.

[4830-01-C]

Form 990 (19) Page 2

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[4830-01-C]

Form **990** Department of the Treasury Internal Revenue Service

Return of Organization Exempt from Income Tax

Under section 501(c) (except private foundation), 501(e) or (f) of the Internal Revenue Code

19

For the calendar year 19 , or fiscal year beginning , 19 , and ending , 19

Use IRS label. Otherwise, please print or type.	Name of organization	A Employer identification number (see instructions)
	Address (number and street)	B If exemption application is pending check here ▶ C If address changed check here . . . . . . ▶
	City or town, State, and ZIP code	D Fair market value of assets at end of year (see instructions) ▶

E Check applicable box—Exempt under section ▶ ☐ 501(c) ( ) (insert number), ☐ 501(e) OR ☐ 501(f).

F Is this a group return (see instruction K) filed for affiliates? ☐ Yes ☐ No. Is this a separate return filed by a group affiliate? ☐ Yes ☐ No. If "Yes" to either, give four-digit group exemption number . . . . ▶

Note: If your gross receipts are: (a) normally not more than $10,000 (see instruction U), check here ☐ and do not complete the rest of this return (see instruction C), OR (b) $25,000 or less (but normally more than $10,000), check here ☐ and complete ONLY the shaded items in Parts I, II and IV and all of Parts III and V (see instruction D).

All section 501(c)(3) organizations must also complete Schedule A (Form 990) and attach it to this return.

FOR DISCUSSION PURPOSES ONLY

Part I Analysis of Revenue, Expenses and Fund Balances

			Total	These columns are strictly optional—see instructions: Restricted	Unrestricted
Revenue	1 Contributions, gifts, grants and similar amounts received:				
	(a) Directly from the public				
	(b) Through professional fundraisers				
	(c) As allotments from fundraising organizations				
	(d) As government grants				
	(e) Other				
	(f) Total (add lines 1(a) through 1(e)) (attach schedule—see instructions)				
	2 Membership dues and assessments				
	3 Interest				
	4 Dividends				
	5 (a) Gross rents				
	(b) Less: Rental expenses				
	(c) Net rental income				
	6 Royalties				
	7 Capital gains:				
	(a) Gross amount received from sale of assets other than inventory				
	(b) Less: Cost or other basis and sales expenses of assets sold				
	(c) Net gain/loss (attach schedule)				
	8 (a) Gross sales				
	(b) Less: Returns and allowances				
	(c) Less: Cost of goods sold (attach schedule)				
	(d) Gross profit (loss)				
	9 Other revenue (state nature):				
	(a)				
	(b)				
	(c)				
	(d)				
	(e) Total (add lines 9(a) through 9(d))				
	10 Total revenue (add lines 1(f), 2, 3, 4, 5(c), 6, 7(c), 8(d) and 9(e))				
Expenses	11 Fundraising (from line 38(B))				
	12 Program services (from line 38(C))				
	13 Management and general (from line 38(D))				
	14 Total expenses (add lines 11 through 13)				
Fund Balances	15 Excess (deficit) for the year (subtract line 14 from line 10)				
	16 Fund balances or net worth, beginning of year (from line 61(A))				
	17 Other changes in fund balances or net worth (attach explanation)				
	18 Fund balances or net worth, end of year (add lines 15, 16 and 17)				

Part II Allocation of Expenses by Function

	Note: Do not include amounts reported on lines 5(b), 7(b) and 8(c) of Part I.	(A) Total	(B) Fundraising	(C) Program services	(D) Management and general
Expenses	19 Contributions, gifts, grants and similar amounts awarded (attach schedule)				
	20 Benefits disbursed to or for members				
	21 Compensation of officers, directors and trustees				
	22 Other salaries and wages				
	23 Pension plan contributions (enter amount of plans ▶ ....)				
	24 Other employee benefits				
	25 Payroll taxes				
	26 Fees for fundraising				
	27 Other professional services				
	28 Interest				
	29 Occupancy				
	30 Rental and maintenance of equipment				
	31 Printing and postage				
	32 Telephone				
	33 Supplies				
	34 Travel and entertainment				
	35 Other expenses (attach schedule)				
	36 Total expenses before depreciation (add lines 19 through 35)				
	37 Depreciation, depletion, etc.				
	38 Grand total (add lines 36 and 37). Enter here and on lines 11 through 13				

FOR DISCUSSION PURPOSES ONLY

Part III List of Officers, Directors and Trustees (See instructions)

(A) Name and address	(B) Title and time devoted to position	(C) Compensation	(D) Contributions to employee benefit plans	(E) Expense account and other allowances

V4

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Form 990 (19) Page 3

Part IV Balance Sheet

Assets	(A) Beginning of tax year	(B) End of tax year
39 Cash:		
(a) Savings and interest-bearing accounts		
(b) Other		
40 Accounts receivable ▶ ..... less allowance for doubtful accounts ▶		
41 (a) Notes receivable (attach schedule) ▶ ..... less allowance for doubtful accounts ▶		
(b) Loans to officers, directors and trustees (attach schedule)		
42 Inventories		
43 Government obligations:		
(a) U.S. and instrumentalities		
(b) State, subdivisions thereof, etc.		
44 Investments in nongovernmental bonds, etc. (attach schedule)		
45 Investments in corporate stocks (attach schedule)		
46 Mortgage loans (number of loans ▶ .....)		
47 Other investments (attach schedule)		
48 Depreciable (depletable) assets (attach schedule):		
(a) Beginning assets ▶ ..... less accumulated depreciation ▶		
(b) Ending assets ▶ ..... less accumulated depreciation ▶		
49 Land		
50 Other assets (attach schedule)		
51 Total assets		
Liabilities		
52 Accounts payable		
53 Contributions, gifts, grants, etc., payable		
54 (a) Bonds and notes payable (attach schedule)		
(b) Mortgages payable		
(c) Loans from officers, directors and trustees (attach schedule)		
55 Other liabilities (attach schedule)		
56 Total liabilities		
Fund Balances and Net Worth		

Note: *You must complete this section of the balance sheet based on the method of accounting you normally use. Please check either "Fund Accounting" or "All Others" and provide the information requested under the method you have checked.*

Fund Accounting	All Others
Check here ▶ ☐	Check here ▶ ☐
57 Current funds:	
(a) Unrestricted	
(b) Restricted	
58 Land, buildings and equipment	Capital stock or trust principal
59 Endowment and similar funds	Paid-in or capital surplus
60 Other	Retained earnings or accumulated income
61 Total fund balances	Total net worth
62 Total liabilities and fund balances/net worth	

FOR DISCUSSION PURPOSES ONLY

Form 990 (19) Page 4

Part V Statements Regarding Certain Activities

	Yes	No
63 Describe briefly the nature of the activities conducted in accomplishing your exempt purpose(s):		
64 Have you engaged in any activities not previously reported to the Internal Revenue Service? If "Yes," attach a detailed description of such activities.		
65 Have any changes not previously reported to the Internal Revenue Service been made in your organizing or governing documents? If "Yes," attach a copy of the changes.		
66 (a) Did you have unrelated business gross income of $1,000 or more during the year covered by this return?		
(b) Have you filed a tax return on Form 990–T, Exempt Organization Business Income Tax Return, for this year?		
(c) If you have gross sales or receipts from business activities not reported on Form 990–T, attach a statement explaining your reason for not reporting them on Form 990–T.		
67 Was there a liquidation, dissolution, termination, or substantial contraction during the year (see instructions)? If "Yes," attach a schedule of the dispositions for the year showing type of assets disposed of, the dates disposed, the cost or other basis, the fair market value on dates of disposition and the names and addresses of the recipients of the assets distributed.		
68 Are you related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization (see instructions)? If "Yes," enter the name of organization ▶ ..... and check whether it is ☐ exempt or ☐ nonexempt.		
69 (a) Enter amount expended, if any, directly or indirectly for political purposes		
(b) Did you file Form 1120–POL, U.S. Income Tax Return of Certain Political Organizations, for this year?		
70 Did your organization receive donated services or the use of facilities or equipment at no charge or at substantially less than fair rental value? If "Yes," you may if you choose indicate the value of such services or items here. Do not include this amount elsewhere on this return ▶		
The following statements should be completed ONLY by the organizations indicated.		
71 *Section 501(c)(5) or (6) organizations.*—Did you expend any amounts in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters or referendums (see instructions and section 1.162–20(c) of the Income Tax Regs.)? If "Yes," enter the total amount expended for this purpose		
72 *Section 501(c)(7).*—Enter amount of:		
(a) Initiation fees and capital contributions included on line 10		
(b) Gross receipts from general public from use of club facilities included in line 10 (see instructions)		
(c) Does your governing instrument or any written policy statement provide for discrimination against any person because of race, color or religion?		
73 *Section 501(c)(12) organizations*—Enter:		
(a) The total amount of gross income received from members or shareholders		
(b) The total amount of gross income received from other sources (do not net amounts due or paid to other sources against amounts due or received from them)		
74 *Public interest law firm.*—Attach information required by specific instruction for line 74.		

FOR DISCUSSION PURPOSES ONLY

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer Date	▶ Paid preparer's signature (see instructions)
▶ Title	▶ Paid preparer's address (or employer's name and address)

[4830–01–M]

ice, you should file the appropriate return. An organization acknowledging that is a private foundation for the purpose of section 509(a) of the Code, and that has not filed a timely return, may be subject to the penalty tax imposed by section 6684 of the Code.

counting regularly used by the organization in maintaining its books and records, unless

writing to include it in the group return and must also annually file with the central or-

O. *Information Returns and Forms That May Be Required.*—

The determination whether a significant disposition has occurred through a series of related dispositions will be determined from

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[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

INSTRUCTIONS FOR FORM 990—RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX

UNDER SECTION 501(C) (EXCEPT PRIVATE FOUNDATION), 501(E) OR (F) OF THE INTERNAL REVENUE CODE

(Section references are to the Internal Revenue Code, unless otherwise indicated)

General Instructions—Exempt Organizations (Under Section 6033)

Rounding Off to Whole-dollar Amounts

Money items may be shown as whole-dollar amounts by eliminating amounts less than 50 cents, and increasing amounts from 50 cents through 99 cents to the next higher dollar.

A. *Who Must File Form 990.*—An annual return on this form is required of organizations exempt from tax under section 501(a) of the Code (including foreign organizations and cooperative service organizations described in sections 501(e) and (f)) except the following:

(1) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (such as a men's or women's organization, religious school, mission society, or youth group).

(2) A school below college level affiliated with a church or operated by a religious order, even though it is not and integrated auxiliary of a church.

(3) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of that society are conducted in, or directed at persons in, foreign countries.

(4) An exclusively religious activity of any religious order.

(5) For tax years ending on or after December 31, 1976, an organization (other than a private foundation as described in (8) below) that normally has gross receipts in each taxable year of not more than $10,000.

(6) A State institution whose income is excluded from gross income under section 115.

(7) An organization described in section 501(c)(1). Section 501(c)(1) organizations are corporations organized under an Act of Congress that are:

(a) instrumentalities of the United States, and;

(b) exempt from Federal income taxes (under such Acts as amended and supplemented).

(8) A private foundation exempt under section 501(c)(3) and described in section 509(a). (Required to file Form 990-PF, Return of Private Foundation Exempt from Income Tax.)

(9) A stock bonus, pension, or profit-sharing trust which qualified under section 401. (See Form 5500, Annual Return/Report for Employee Benefit Plan.)

(10) A religious or apostolic organization described in section 501(d). (Required to file Form 1065, U.S. Partnership Return of Income.)

Return When Exempt Status Not Established.—If your application for exemption is pending with the Internal Revenue Service and you claim exempt status under section 501(a) prior to a determination by the Service, you should file the appropriate return. An organization acknowledging that is a private foundation should file Form 990-PF.

B. *Section 501(c)(3) Organizations.*—Section 501(c)(3) organizations (other than private foundations filing Form 990-PF) must also complete Schedule A (Form 990), Organization Exempt Under 501(c)(3) Supplementary Information.

C. *Filing Requirements Tests.*—You are exempted from filing Form 990 if your gross receipts are normally not more than $10,000. Your gross receipts are the sum of lines 1(f), 2, 3, 4, 5(a), 6, 7(a), 8(a), and 9(e) of Part I, plus the expenses of special fundraising events and activities deducted on line 9. (These expenses must be added back because line 9(e) reflects the net income rather than the gross amount received from the special fundraising events and activities reported on that line.) If you meet this exception we ask that you fill in only the heading of Form 990 and check the first box in the note above Part I. Send this information form to the service center for your area. This will help us keep our records current and we won't have to contact you later asking why a return wasn't filed.

D. *Shortened Return Format for Small Organizations.*—If your gross receipts (see instruction C for computation) are $25,000 or less but normally more than $10,000, you should complete only the shaded items in Parts I, II, and V and all of Parts III and IV. Be sure to check the second box in the note above Part I, Form 990, so that we know that you didn't have to complete all items, and you won't be subject to a penalty for and incomplete return.

E. *Complete Returns.*—All line items on Form 990 must be completed unless the organization has gross receipts of $25,000 or less. (If this exception applies, refer to instruction D.) There are items on Form 990 which may not be applicable to you, but for which we need and answer even if it is negative.

A penalty of $10 a day for failure to file a return under section 6652(d) (see instruction F below) may be charged if an incomplete return is submitted. If one or more line items on the return are not filled in we may consider the return incomplete or contact you for the missing information. Therefore, we urge that you be sure to make and entry in each part of the form, even those that do not apply to you. If a part or line item does not apply enter "N/A" (not applicable), or if a dollar amount is zero enter "—0—." Please make sure your return is complete before it is submitted. (See Rev. Rul. 77-462, 1977-1 C.B. 400.)

F. *Accounting Period.*—The return shall be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, the return shall be on the basis of the calendar year.

A group return (see "K" below) shall be on the basis of the established annual accounting period of the central organization.

To change your accounting period, file Form 1128, Application for Change in Accounting Period.

G. *Period to Be Covered by Return.*—File the 1979 return for the calendar year 1979 and fiscal years beginning in 1979. If the return is for a fiscal year, fill in the taxable year space at the top of the return.

H. *Accounting Methods.*—Gross income, receipts and disbursements must be computed in accordance with the method of accounting regularly used by the organization in maintaining its books and records, unless otherwise specified in the instructions.

I. *When and Where to File.*—This return must be filed on or before the 15th day of the fifth month following the close of the accounting period.

Requests for extension of time to file may be made by filing Form 2758, Application for Extension of Time to File.

In case of a complete liquidation, dissolution or termination file the return on or before the 15th day of the fifth month following complete liquidation, dissolution or termination.

If the principal office of the organization is located in—	Send the return to—
Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, or Vermont.	Internal Revenue Service Center, Andover, Mass. 05501
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, or Tennessee.	Internal Revenue Service Center, Atlanta, Ga. 31101
Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, or Wyoming.	Internal Revenue Service Center, Austin, Tex. 73301
Indiana, Kentucky, Michigan, Ohio, or West Virginia.	Internal Revenue Service Center, Cincinnati, Ohio 45999
Arizona, California, Hawaii, Nevada, or Utah.	Internal Revenue Service Center, Fresno, Calif. 93888
Alaska, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Washington, or Wisconsin.	Internal Revenue Service Center, Ogden, Utah 84201
Any other State, the District of Columbia, any U.S. possession or foreign country.	Internal Revenue Service Center, Philadelphia, Pa.19255

J. *Penalty for Failure to File on Time.*—If an organization fails to file the return on or before the due date, section 6652(d) imposes a penalty of $10 for each day the return is late (not to exceed $5,000), unless it can be shown that the failure was due to reasonable cause. The Internal Revenue Service may make written demand that the deliquent return be filed within a reasonable time after notice of mailing of the demand. The person failing to file the deliquent return (unless it can be shown to be due to reasonable cause) will have to pay $10 for each day (not to exceed $5,000) after the period expires, if more than one person is liable for failure to file the deliquent return, all such persons shall be jountly and severally liable with respect to such failure. (See section 6652(d).)

There are penalties for willful failure to file and, for filing fraudulent returns and statements. (See sections 7203, 7206, and 7207.)

K. *Group Return.*—A group return may be filed by a central, parent, or like organization for two or more local organizations, none of which are private foundations, provided the local organizations are: (a) affiliated with the central organization at the close of the central organization's annual accounting period; (b) subject to the general supervision or control of the central organization; and (c) exempt from tax under a group exemption letter which is currently in effect. Each local organization must annually authorize the central organization in

writing to include it in the group return and must also annually file with the central organization a declaration, under penalty of perjury, of the truth and completeness of the authorization and statements required by this form. The group return is in addition to the separate return of the central organization but instead of separate returns by the local organizations included in the group return. There shall be attached to such group return schedules showing separately: (a) the total number, names, addresses, and employer identification numbers of the local organizations included; and (b) the same information for those not included therein.

If no local organization included in the group return has more than $25,000 of gross receipts, a group return may be prepared in accordance with general instruction D.

Receipts by a central organization from organizations included in a group return need not be itemized in the central organization's separate return.

The four-digit group exemption number required in block "F," page 1 of the return, is not to be confused with the nine-digit employer identification number (EIN) required in block "A" in the heading of the return.

L. *Public Inspection of Form 990.*—The information reported on or with Form 990, including all attachments other than the list of contributors required with respect to line 6, Part I, will be made available for public inspection under section 6104(b). This applies both to information required by the form or instructions and to information furnished voluntarily.

The forms and attachments should be such quality that they can be reproduced photographically.

M. *Signature and Verification.*—The return must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other corporate officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign any return which he or she is required to file on behalf of a corporation. If the return is filed on behalf of a trust, it must be signed by the duly authorized trustee or trustees. The return must also be signed by any outside person, firm, or corporation who was paid for preparing it. If prepared by a paid firm or corporation, it should be signed in the name of the firm or corporation. The verification is not required if the return is prepared by a regular full-time employee of the organization.

N. *Form 990-T.*—Every organization exempt from tax under section 501(a), except organizations described in section 501(c)(1), must file a return on Form 990-T if it has gross income of $1,000 or more derived from business which is unrelated to the purpose on which the organization's exemption is based. There are special rules for foreign organizations; organizations described in sections 501(c)(7), (9) and (19); unrelated debt-financed income; rents; and income from controlled subsidiaries. Domestic organizations taxable at corporate rates must file a return on or before the 15th day of the 3d month following the close of the taxable year. Those taxable at trust rates must file on or before the 15th day of the 4th month. See Form 990-T. For further information, you may obtain *Publication 598*, Tax on Unrelated Business Income of Exempt Organizations, from your local Internal Revenue Service Office.

O. *Information Returns and Forms That May Be Required.*—

(1) Forms W-2 and W-3.—Employee's wage and tax statement, and transmittal of income and tax statements.

(2) Form W-2P.—Statement for recipients of annuities, pensions or retired pay.

(3) Form 1096—Annual summary and transmittal of U.S. information returns.

(4) Form 5452.—Corporate report of nontaxable dividends.

(5) Forms 1099—DIV, INT, MED, MISC, OID, PATR, and R.—Information returns for reporting certain dividends, interest, medical and health care payments, miscellaneous income, original issue discount, patronage dividends, and lump-sum distributions from profit-sharing and retirement plans.

P. *Attachments.*—If you need more space on forms or schedules, attach separate sheets and use the same arrangement as the printed forms, but show your totals on the printed forms. Be sure to put your name and employer identification number on these separate sheets.

Q. *Organizations Organized or Created in a Foreign Country or United States Possession.*—Amounts must be reported in United States currency (state conversion rate used) and information must be furnished in the English language. All items must be reported in aggregate including amounts from both within and without the United States.

R. *Liquidation, Dissolution, Termination or Substantial Contraction.*—In the case of liquidation, dissolution, termination or substantial contraction, organizations required to file this return shall attach a statement to the return showing the nature of liquidation, dissolution, termination or substantial contraction, and in the case of a complete liquidation of a corporation or termination or a trust, whether or not a final distribution of assets has been made and the date made. Such organizations will also attach a certified copy of the resolution or plan, if any, of liquidation, etc., together with all amendments or supplements not previously filed and a schedule indicating the names and addresses of all recipients of assets distributed in liquidation, dissolution or substantial contraction and the nature and fair market value of assets distributed to each such recipient.

If the organization ceases to exist, write *"Final Return"* at the top of the form.

Substantial Contraction.—The term "substantial contraction" shall include any partial liquidation or any other significant disposition of assets (other than transfers for full and adequate consideration or distributions out of current income).

A "significant disposition of assets" shall not include any disposition for a taxable year when the aggregate of:

(1) the dispositions for the taxable year, and

(2) where any disposition for the taxable year is part of a series of related dispositions made during prior taxable years, the total of the related dispositions made during such prior taxable years,

is less than 25 percent of the fair market value of the net assets of the organization at the beginning of the taxable year (in the case of (1) above) or at the beginning of the taxable year in which any of the series of related dispositions was made (in the case of (2) above).

The determination whether a significant disposition has occurred through a series of related dispositions will be determined from all the facts and circumstances of the particular case.

Label—Name, Address, and Employer Identification Number.—If you received a Form 990 from the Internal Revenue Service with a pre-addressed removable label, please affix the removable label to the name and address area of the return you file. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

You should have only one identification number. If you have more than one number and have not been advised which one to use, notify the appropriate Internal Revenue Service Center shown under instruction I above, of the numbers you have, the name and address to which each number was assigned, and the address of your principal office. The Service will then advise you which number to use.

T. *Fair Market Value of Assets at End of Year.*—Enter on page 1, under F, the total fair market value of securities for which market quotations are readily available plus the total fair market value of all of your other assets. If the fair market value of an asset is not readily ascertainable, you may use an estimated figure.

U. *Definitions:*

Gross Receipts for Purposes of this Return.—Gross receipts means the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses; including for example—cost of goods sold or cost of assets sold, cost of operations, or expenses of earnings, raising, or collecting such amounts. Thus, gross receipts includes but is not limited to (a) the gross amount received as contributions, gifts, grants and similar amounts without reduction for the expenses of raising and collecting such amounts; (b) the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts; (c) gross sales or receipts from business activities including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss from which may be required to be reported on Form 990-T; (d) the gross amount received from the sale of assets without reduction for the cost or other basis of the property and expense of sale; and (e) the gross amount received as investment income such as interest, dividends, rents and royalties. Instruction C indicates how to compute gross receipts.

Organizations Described in Section 501(c)(8).—In the case of organizations described in section 501(c)(8), where a local organization merely collects insurance premiums for the parent organization and forwards them to the parent without asserting any right to use them or otherwise derive benefit from their collection and the parent fully and currently reports the collection of those premiums, the premiums shall not be considered as gross receipts by the local organization. (Rev. Rul. 73-364, 1973-2 C.B. 393.)

Normally Not More Than $10,000.—For the purpose of instruction A(4) above, the annual gross receipts of an organization are normally not more than $10,000 if:

(1) in the case of an organization which has been in existence for one year or

only those line items in the Restricted and

Organizations in determining whether a

ceive some economic or physical benefit as a result of the service, facility, or product ob-

1(c). *Contributions, etc. received as allotments from fund raising organizations.*—Enter the total of contributions received in-

through (e). See the instructions for line 1 above for information regarding the schedule of contributors required in some circum-

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(1) in the case of an organization which has been in existence for one year or less, the organization has received, or donors have pledged to give, gross receipts of $15,000 or less during the first taxable year of the organization,
(2) in the case of an organization which has been in existence for more than one, but less than three years, the average of the gross receipts received by the organization in the first two taxable years is $12,000 or less, and
(3) in the case of an organization which has been in existence for three years or more, the average of the gross receipts received by the organization in the immediately preceding three years, including the year for which the return would be filed, is $10,000 or less.

SPECIFIC INSTRUCTIONS

PART I.—ANALYSIS OF REVENUE EXPENSES AND FUND BALANCES

Part I has three colums headed "Total," "Restricted," and "Unrestricted." All organizaitons required to file this return must complete the Total column and provide the information inquired in the line items to the left of that column.

The Restricted and Unrestricted columns are strictly for the optional use of organizations that want to reflect any externally imposed restrictions on the use of contributions, gifts, grants, endowment income, and other amounts received in the current year. These columns also provide a summarized accounting for the utilization of restricted funds received in the current year or in any prior year. Externally imposed restrictions primarily refer to those designated by donors and grantors as to the use of their separate contributions and grants and in the case of endowment gifts, the income earned by such funds. However, the term could also apply to restrictions imposed by any applicable State or Federal statute or regulations issued by an administrative agency of a State or the Federal Government. An appropriation of funds made at the discretion of the organization's governing body is not an externally imposed restriction.

The Restricted and Unrestricted columns are a breakdown of the information required to be reported in the Total column and the individual line items to the left of that column. Therefore, for any line item, the combined amount of the Restricted and Unrestricted columns should equal the figure reported in the Total column or to the left of that column.

When any externally imposed restriction on the use of funds lapses, the transfer to an unrestricted fund should be reported on line 17 of Part I by showing a decrease in the amount involved in the Restricted column and a corresponding increase in the Unrestricted column. These offsetting entries would result in a -0- entry in the Total column. The change would also be reflected in lines 57-61 of the fund balances section of the balance sheet in Part IV of the return. Do no show the transfer on lines 1-10 of Part I since those lines are for reporting the initial receipt or accrual of restricted and unrestricted amounts.

Although the IRS does not require any organization to complete the Restricted and Unrestricted columns, an organization that does so should follow the above instructions. Also, an organization may complete only those line items in the Restricted and Unrestricted columns that it chooses to complete and not all the applicable lines in those two columns.

Line 1—Contributions. Gifts, Grants, and Similar Amounts Received

Lines 1(a) through (e) are to be used to report amounts received as voluntary contributions: i.e., payments for which the payer (donor) does not receive full and adequate consideration from the recipient (donee) organization. (In the case of grants see the discussion below under the heading "Grants Equivalent to Contributions".) Income from fund raising events such as dinners, door-to-door sales of merchandise, raffles, carnivals, bingo games, and dances should not be reported as contributions received, but as either gross sales (line 8) if the sale of merchandise is involved, or other revenue (line 9) in all other circumstances. However, when the amount received or to be received from the payer exceeds the value of the consideration furnished by the filer, the excess represents a contribution and should be reported as such. When the recipient organization furnishes consideration having only nominal value, the entire amount received should be reported as a contribution. (See the instructions for line 2 for a discussion of when membership dues and assessments should be treated as contributions.)

On lines 1(a) through (f) do not report as a contribution received the value of any donated services rendered to the organization or similar items (such as the free use of facilities or equipment) for which a charitable contribution deduction is not allowable under section 170 of the Code. This applies whether the services or facilities are provided by individuals or organizations, including organizations that are exempt from tax. This amount may be reported in the block on line 70 of Part V.

Attach an itemized schedule (not subject to public inspection) where money, securities, or other property of $5,000 or more is received directly or indirectly from one person during the year showing the name, address, date received, and the total amount received from each such person.

An organization described in section 501(c)(3) which meets the 33⅓ percent support test of the regulations under section 170(b)(1)(A)(vi) (without regard to whether such organization otherwise qualifies as an organization described in section 170(b)(1)(A)) need only furnish the above information for a person contributing $5,000 or more if the contribution exceeds 2 percent of total contributions, bequests, and devises received by the organization during the year.

An organization need only report the name and address of the contributor where it has actual knowledge of the contributor. For instance, an organization need not require an employer which withholds contributions from the compensation of employees and pays over to the organization periodically the total of amounts withheld, to specify the amounts paid over with respect to a particular employee. In such case, unless the organization has actual knowledge that a particular employee gave more than $5,000 (and in excess of 2 percent if the above paragraph is applicable), the organization need report only the name and address of the employer and the total amount paid over.

Organizations in determining whether a person has contributed $5,000 or more need only aggregate gifts of $1,000 or more from such person. Separate and independent gifts need not be aggregated if less than $1,000. If a contribution is in the form of property where the fair market value is readily ascertainable (such as market quotations for securities), the description and fair market value must be submitted. If the fair market value of the property is not readily ascertainable, you may submit an estimated value.

The term "person" includes individuals, fiduciaries, partnerships, corporations, associations, trusts and exempt organizations.

Organizations described in section 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) that receive contributions or bequests to be used exclusively for the purposes described in sections 170(c)(4), 2055(a)(3), or 2522(a)(3), must attach a schedule with respect to all gifts which aggregate $1,000 or more from any one person showing (a) the name of the donor, (b) the amount of such contribution or bequest, (c) the specific purpose for which such contribution or bequest was given, and (d) the specific use to which such amount was put. In the case of an amount set aside for such purposes, the organization shall indicate the manner in which such amount is held (for instance, whether such amount is commingled with amounts held for other purposes). If the contribution or bequest was transferred to another organization, the schedule must include (a) the name of the transferee organization, (b) a description of the nature of such organization, and (c) a description of the relationship between the transferee and transferor organizations. Such organizations must also attach a statement showing the total dollar amount of contributions and bequests received for such purposes which are $1,000 or less.

Grants equivalent to contributions.—Only those grants that are equivalent to contributions should be reported on lines 1(a)-(c). As discussed in section 1.509 (a)-3(g) of the Income Tax Regulations, a grant is normally made to encourage the grantee organization to carry on certain programs or activities in furtherance of its exempt purposes. It may contain certain terms and conditions imposed by the grantor to ensure that the grantee's programs or activities are conducted in a manner compatible with the grantor's own programs and policies. The use of the grant funds may be restricted to one or more specific projects or activities of the grantee, as, for example, a voter registration drive or the restoration of a historically significant building.

A grant would still be equivalent to a contribution if the grantee performs a service or produces a work product which only incidently benefits the grantor. (See the examples in the instructions for line 1(d).) However, if the terms of a grant require that a specific service, facility, or product be provided the grantor—the purpose of which is to serve the direct and immediate needs of that grantor rather than primarily to confer a direct benefit upon the general public or that segment of the public served by the organization in the case of organizations other than those described in section 501(c)(3)—such grant does not represent a contribution but a payment for services and/or rental income depending upon the specific facts. In general, any payment made primarily to enable the payer to realize or receive some economic or physical benefit as a result of the service, facility, or product obtained should not be treated as a contribution.

As an example, assume that a public interest organization described in section 501(c)(4) makes a grant to another organization to conduct a nationwide survey using a scientific sampling method. The purpose of the survey is to determine voter attitudes on various issues in which the grantor has an interest. The grantor plans to use the survey results in planning its program for the next three years. Under these circumstances the grant to fund the survey does not represent a contibution since conducting the survey and furnishing the survey report primarily serve the direct and immediate needs of the grantor and the benefit to the grantor would be more than incidental. The grantee should treat the grant funds as other revenue (line 9) when they are taken into account as income.

Research leading to the developement of tangible products for the use or benefit of the payer should generally be treated as a service provided to serve the direct and immediate needs of the payer, whereas basic research or studies carried on in the physical or social sciences generally should not be so treated.

(a). *Contributions, etc. received directly from the public.*—Enter the total contributions, etc. received by the organization directly from the public. However, do not include any amounts received through a professional fundraiser which are required to be reported on line 1(b).

Amounts to be reported here include contributions, gifts, grants, etc. received from individuals, trusts, corporations, estates and foundations. Also to be included are contributions and grants from public charities and other exempt organizations that the not fund raising organizations (see instructions for line 1(c)) or affiliates of the filing organization (see instructions for line 1(e)). To the extent that membership dues and assessments represent contributions from the public rather than affiliated organizations, they should be reported on line 1(a).

Amounts contributed by any commercial co-venturer should be reported on line 1(a) as a contribution received directly from the public. These are amounts due to the donee organization for letting an outside organization or individual use its name in a sales promotion campaign in which the donor advertises that it will contribute a certain dollar amount to the named donee organization for each unit of a particular product or service sold or for each occurrence of a specified type.

1(b). *Contributions, etc. received through professional fundraisers.*—Enter the amount of contributions received from the public through any solicitation campaign conducted for the organization by a professional fundraiser. Under such an arrangement the fundraiser typically utilizes its own mailing list and conducts the mail campaign (or has employees who solicit contributions in person or by telephone), is compensated for certain direct costs such as printing and mailing expenses and employee salaries and is paid a fee that may be based on the use of the mailing list and the net contributions received (total contributions reduced by mailing list charges and/or direct expenses).

Do not include on line 1(b) contributions received through solicitation campaigns conducted by the organization itself.

1(c). *Contributions, etc. received as allotments from fund raising organizations.*—Enter the total of contributions received indirectly from the public through solicitation campaigns conducted by federated fund raising agencies (such as a United Way organization and certain sectarian federations) and similar fund raising organizations. These organizations conduct fund raising campaigns, normally within a single metropolitan area or some part of a particular State, and allot a portion of the net proceeds to each participating organization on the basis of the designations made by individual donors and other factors taken into account by the particular distribution formula utilized.

Contributions from public charities and other publicly supported organizations that are not fund raising agencies of the type described above should be reported on line 1(a) unless the donor and donee organization are affiliates. In the latter event, the donee should report such contributions on line 1(e).

1(d). *Contributions, etc. received as government grants.*—The discussion under Grants Equivalent to Contributions is particularly applicable to this line item. A grant or other payment from a governmental unit represents a contribution if the purpose of the payment is primarily to enable the donee to provide a service to, or maintain a facility for, the direct benefit of the public (even if part of the expense of providing such service or facility is paid for by the public) rather than to serve the direct and immediate needs of the grantor.

Following are examples of governmental grants and other payments that satisfy this requirement and therefore represent contributions.

(1) Amounts paid by a government unit for the construction or the maintenance of library or hospital facilities which are open to the public.
(2) Amounts paid under government programs to nursing homes or homes for the aged in order to provide health care or domiciliary services to residents of such facilities.
(3) Amounts paid to child placement or child guidance organizations under governmental programs serving children in the community.

The general public derives the primary benefit (and a direct one) from the above payments. Any benefit to the governmental unit itself would be indirect and insubstantial as compared to the public benefit.

1(a). *Other contributions, etc.*—Enter the aggregate amount of contributions, etc. received from all sources other than those covered by lines 1(a)—(d). As indicated by the instructions for line 1(a), contributions and grants from organizations affiliated with the donee organization should be reported on this line (1(e)).

A national organization's affiliates would include its local, State, and area chapters. The affiliates of any of these chapters would include both the national organization and any other chapter. An auxiliary or similar organization is an affiliate of the organization that it operates in close association with (whether or not there is any overlapping control) and to which it provides financial support or from which it receives such support.

1(f). *Total contributions, etc.*—Enter the total of the contributions, gifts, grants and similar amounts reported on lines 1(a) through (e). See the instructions for line 1 above for information regarding the schedule of contributors required in some circumstances.

2. *Membership dues and assessments.*—Enter the total of membership dues and assessments from members and affiliates for the year that do not represent contributions. The rationale applied in Revenue Rulings 54-565, 1954-2 C.B. 95, and 68-432, 1968-2 C.B. 104, is applicable in making this distinction. These rulings state that dues paid to a charitable organization are a form of contribution to the extent that the amount paid exceeded the monetary value of the benefits and privileges accruing (but whether or not availed of) to the dues payer as an incident of membership.

Examples of such benefits and privileges include subscriptions to publications, newsletters (other than those which merely provide information as to the activities of the organization), free or reduced rate admissions to events sponsored by the organization or the use of its facilities, and discounts on articles or services available for purchase by both members and nonmembers. Other intangible benefits, such as the right to attend meetings, vote or hold office in the organization and the publicity or distinction arising from being a member of the organization, may be disregarded in determining the value of the benefits of membership.

In the case of membership organizations, other than those described in section 501(c)(3), there are generally benefits or consideration received in return for the payment of dues and therefore the dues are not contributions. This is particularly true with organizations described in section 501(c)(5), 501(c)(6) or 501(c)(7), although the benefits accruing to members may be somewhat indirect.

When a dues payment is made primarily to provide financial support for the activities of the recipient organization rather than for the payer to derive certain benefits having more than nominal monetary value, that dues payment represents a contribution. The fact that benefits whose aggregate value is more than a nominal amount are available to the dues payer evidences that that person's intent (and that of all members of the same class) in paying the dues was to receive those benefits and not to make a contribution.

3. *Interest.*—Enter the total interest income for the year including interest on certain governmental obligations that is not subject to tax in accordance with section 103 of the Code, but excluding amounts earned on program-related investments (reportable on line 9). Program-related investments are those made for the primary purpose of accomplishing an exempt purpose consistent with the investing organization's exempt status rather than for the production of income. All income from loans, the purpose of which is to accomplish an exempt purpose, should be reported on line 9. Following are examples of such loans: scholarship loans; low interest loans to charitable organizations, indigents, or victims of a disaster; loans to affiliated organizations; and loans by a credit union to its members. Loans to officers, directors and trustees do not fall within this category.

4. *Dividends.*—Enter the total dividend income for the year, excluding any capital gains dividends which should be reported on line 7. Dividends on stock that represents a program-related investment (see instruc-

tions for line 3 for definition) should be reported on line 4. Dividends on stock that represents a program-related investment should be reported on line 9.

5. *Net rental income.*—Enter the net rental income for the year. Net rental income is the excess of rental income over the deductions directly connected with the production of such income. Rental income includes amounts received for the use of property or equipment, including charges for services that are incidental to the use of the property or equipment. Deductions directly connected with the production of rental income include depreciation, interest, taxes, and maintenance and repairs. Net rental income should be reported on line 5 even if the organization is not engaged in the business of renting property or equipment.

6. *Net gain or loss from sale of assets.*—Enter the net gain or loss from the sale of assets. Net gain or loss is the excess of the sales price over the cost or other basis of the assets sold. Cost or other basis includes the expenses of sale. Net gain or loss should be reported on line 6 even if the organization is not engaged in the business of selling property or equipment.

7. *Gross profit or loss from sales of inventory.*—Enter the gross profit or loss from sales of inventory. Gross profit or loss is the excess of the sales price over the cost of the inventory sold. Cost includes the expenses of sale. Gross profit or loss should be reported on line 7 even if the organization is not engaged in the business of selling inventory.

8. *Special events and activities.*—Enter the gross income from special events and activities. Special events and activities are those conducted by the organization to raise funds that are not ordinarily received by the organization as contributions, gifts, grants, or bequests. Gross income is the total amount received from special events and activities before any deductions. Special events and activities include, but are not limited to, dinners, door-to-door sales of merchandise, raffles, carnivals, bingo games, and dances. Gross income from special events and activities should be reported on line 8 even if the organization is not engaged in the business of conducting special events and activities.

9. *Other revenue.*—Enter the total of other revenue not reported on lines 1 through 8. Other revenue includes income from activities that are not substantially related to the organization's exempt purpose. Examples of other revenue are: income from the sale of assets other than inventory; income from the sale of inventory; income from special events and activities; income from the sale of publications; royalties; and income from the production of rental property. Other revenue does not include contributions, gifts, grants, or bequests received from the public or from affiliated organizations.

10. *Total revenue.*—Enter the total of lines 1 through 9.

11. *Fundraising.*—In the Total columns,

8(c) and 9 of Part I, all of the expenses paid or incurred by the organization (including those of affiliates) for the production of income, the management of property held for the production of income, and fundraising activities. Fundraising activities include, but are not limited to, the cost of printing and distributing fundraising solicitations, the cost of conducting special events and activities, and the cost of maintaining mailing lists for fundraising solicitations. Fundraising activities also include the salaries of and other compensation paid to or expenses paid or incurred for officers, directors, trustees, members of boards of governors or boards of directors, and employees of the organization who devote time to activities connected with raising funds. Fundraising activities do not include expenses paid or incurred for the conduct of activities undertaken primarily to accomplish the exempt purposes of the organization, even though income may be received from such activities.

Fundraising expenses also include the cost of any activity undertaken with the purpose of soliciting contributions, gifts, grants, or bequests, if, as part of the activity, there is any advertising which indicates that any person making contributions, gifts, grants, or bequests will be relieved from paying all or a part of the fair market value of goods, facilities, services, or anything else of value furnished by the organization in connection with the activity. Fundraising expenses also include the cost of any activity undertaken with the purpose of inducing persons to purchase goods, services, or facilities, if, as part of the activity, there is any advertising which indicates that any person purchasing goods, services, or facilities will contribute all or a part of the purchase price to the organization.

Fundraising expenses do not include the cost of preparing and distributing routine publications, such as newsletters, magazines, or annual reports, which include information concerning fundraising activities, unless the principal purpose of the publication is fundraising.

Fundraising expenses do not include the cost of any activity undertaken with the purpose of obtaining grants from foundations or governmental agencies.

12. *Payroll taxes.*—Enter the amount of Federal, State, and local payroll taxes for the year, but only those taxes that are imposed on the employer. Payroll taxes withheld from employees' wages should not be reported on this line.

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tions for line 3 for definition) should be reported on line 9.

5(a). *Gross rents.*—Enter the gross amount of rental income for the year from investment property. Do not include amounts that represent income from an exempt function (program service) which should be reported on line 9 (and the related expenses of which should be reported in column (C) of Part II). For example, an organization whose exempt purpose is to provide low-rental housing to persons with low income would derive exempt function income from such rentals. Renting office space or other facilities or equipment to unaffiliated exempt organizations does not give rise to income from an exempt function (and, therefore, should be reported on line 5(a)) unless the charge is materially below the fair rental value of the property, and the lesser's purpose in charging less than fair rental value was to assist the lessee in carrying out its exempt purposes. For purposes of completing Form 990 only, income derived from renting property to affiliated exempt organizations should be treated as exempt function income and reported on line 9.

5(b). *Rental expenses.*—Enter the total expenses paid or incurred that are attributable to the income reported on line 5(a). These expenses included depreciation if that expense is recorded on the organization's books of account.

5(c). *Net rental income.*—Enter the difference between lines 5(a) and 5(b). Any loss should be shown in parentheses.

6. *Royalties.*—Enter the total royalty income for the year from all sources.

7(a)-(c). *Capital gains.*—Attach a schedule showing with respect to each asset (whether or not depreciable) sold or exchanged: (a) date acquired, manner of acquisition, date sold, and to whom sold; (b) gross sales price; (c) cost, other basis, or value at time of acquisition if donated (state which); (d) expense of sale and cost of improvements subsequent to acquisition; and (e) if depreciable property, depreciation since acquisition.

Publicly traded securities.—In the case of sales of publicly traded securities through a broker, an organization may aggregate the gross sales price, the cost or other basis, and the expense of sale on all securities sold and report lump sum figures in lieu of the detailed reporting required in the above paragraph.

For purposes of this return, publicly traded securities include common and preferred stocks, bonds (including governmental obligations) and mutual fund shares which are listed and regularly traded in an over-the-counter market or on an established exchange and for which market quotations are published or otherwise readily available.

An exempt organization may use average cost basis in reporting gain or less from sales of securities, porvided such averaging is confined to sales reported for informational purposes only. For this purpose, when securities are sold, gain or loss may be computed by comparing the sales price with the average cost basis of the particular security.

The gross sale price should be entered on line 7(a) of Part I, the cost or other basis, expenses, etc. (less depreciation if applicable), should be aggregated and entered on line 7(b), and the net gain or loss entered on line 7(c). Capital gains dividends, the organization's share of capital gains and losses from a partnership, and capital gains distributions from trusts should be reported on lines 7(a) and 7(c) and the source indicated on the schedule described above.

8(a) through 8(d). *Gross profit on sales of inventory.*—On the appropriate line provided, enter the amount of gross sales, returns and allowances, cost of goods sold, and gross profit (or loss) from the sale of inventory items. These are items either produced by the organization itself for sales to others or purchased by the organization for resale. The latter does not include investments on which the organization anticipated deriving a profit through appreciation and subsequent sale. (Such sales should be reported on line 7.) Sales revenue and the related cost of goods sold should be reported on line 8 whether the sale of the merchandise involved constitutes an exempt function of the organization, unrelated trade or business, or a special fundraising event or activity.

9. *Other revenue.*—The amount of income from all sources not covered by lines 1 through 8 should be entered on lines 9(a) through 9(d). The nature of the income items should be stated in the spaces provided.

Reporting income from special fundraising events and activities.—Income from fundraising events and activities involving the sale of merchandise should be reported on line 8. Income from all other special fundraising events and activities such as dances, carnivals, bingo games, etc.—BUT NOT RECEIPTS REPRESENTING CONTRIBUTIONS—should be reported on line 9. In themselves, these fundraising activities do not accomplish an exempt purpose other than incidently. Their sole or primary purpose is to raise funds to finance the exempt activities of the organization.

For the above types of special fundraising events and activities that are reportable on line 9, report the net income from each such event or activity in the Total column of lines 9(a)-(d). A description of the event or activity generating the receipts, the amount received, and the total expenses incurred should be entered on the line to the left of the Total column or on an attached schedule. For example, a line entry might be "Dance receipts, $2,400; less expenses, $850" and the net income of $1,550 would be entered in the Total column.

For each special fundraising event or activity, attach a schedule reflecting the expenses incurred. Do not report these expenses in column (B) of Part II.

10. *Total revenue.*—Enter the total of lines 1 through 9.

Lines 11 through 14—Expenses

The completed schedule of expenses in Part II provides the information needed to complete the Total column of lines 11 through 14. In completing Part II, it is necessary to add together expenses of the same object classification (salaries, travel and entertainment, occupancy, etc.) to reflect the functional activity (fundraising, program services, or management and general) in connection with which they were paid or incurred, without regard to whether the expenses was financed out of restricted or unrestricted funds. In completing lines 11-14 of the Restricted and Unrestricted columns, it is necessary to resegragate these amounts to reflect the utilization of funds subject to externally imposed restrictions and those free of such restrictions.

11. *Fundraising.*—In the Total columns, enter the amount from column (B) of line 38.

12. *Program services.*—In the Total column, enter the amount from column (C) of line 38.

13. *Management and general.*—In the Total column, enter the amount from column (D) of line 38.

14. *Total expenses.*—In the Total column, enter the amount from column (A) of line 38.

Lines 15 through 18—Fund Balances

15. *Excess (deficit) for the year.*—Enter the difference between line 10 and line 14. If line 14 is greater than line 10, enter the deficit in parentheses.

16. *Fund balances or net worth, beginning of year.*—Enter the amount from column (A) of line 61.

17. *Other changes in fund balances or net worth.*—Attach a schedule explaining any changes in fund balances or net worth between the beginning and end of the year that are not accounted for by the excess or deficit on line 15. Transfers between restricted and unrestricted funds should be reflected in the Restricted and Unrestricted columns (by organizations that elect to complete those columns), but the net effect of such transfers would be -0- in the Total column.

18. *Fund balances or net worth, end of year.*—Enter the total of lines 15, 16, and 17. The figure in the Total column should equal the amount reported in column (B) of line 61.

PART II.—ALLOCATION OF EXPENSES BY FUNCTION

Part II reflects the organization's expenses by object classification (e.g., salaries, printing and postage, supplies) allocated into the three functional areas of fundraising (column (B)), program services (column (C)), and management and general (column (D)). These functional areas are explained below. Any expense item required to be reported on line 5(b), 7(b), 8(c) or 9 in Part I should not also be reported in Part II.

Organizations should follow their normal method of accounting in reporting their total expenses paid or incurred in column (A). If the filer's accounting system does not segregate expenses into categories that are readily compatible with columns (B), (C) and (D), any reasonable method may be used to allocate expenses among the three categories. Figures should be reasonably accurate if precise figures cannot be determined.

Expenses attributable solely to a specific function should be reported in the column appropriate for that function. Expenses such as officers' salaries that are attributable to several functions should be reflected as an expense of the separate functions on the basis of the time devoted by each of the officers. Some shared expenses such as occupancy, supplies, and depreciation of furniture and fixtures must be allocated among columns (B), (C) and (D) using an appropriate basis for each type of cost while other shared expenses should be reported in column (D) only. The instructions for the individual columns discuss this further.

Column (A). *Total.*—Column (A) is the total of columns (B), (C) and (D) for each line item in Part II. With the exception of those expenses reported on lines 5(b), 7(b), 8(c) and 9 of Part I, all of the expenses paid or incurred by the organization (including contributions awarded and depreciation expense, if any) should be reported in column (A).

Column (B). *Fundraising.*—Fundraising expenses include the total costs of soliciting (restricted and unrestricted) contributions, gifts, grants, etc. Both direct and indirect expenses, including allocable amounts of overhead and other shared costs, should be reported in column (B). Expenses incurred in connection with special fundraising events and activities such as dances, raffles, bingo games, carnivals, etc. should not be reported in this column or anywhere else in Part II. Such expenses should be reported on line 8 of Part I if the sale of merchandise is involved or on line 9 in all other circumstances. See the instructions for line 9 for additional discussion of the reporting of income and expenses from special fundraising events and activities.

Column (C) *Program services.*—Program services are those activities conducted by the organization that form the basis of the organization's qualification for exemption from tax as an organization described in section 501(c). When reporting these expenses, it does not matter whether these activities are self-funded (in whole or in part) or funded entirely out of contributions, investment income, accumulated income or any other source.

When an organization receives a grant requiring it to conduct research, produce a work product or perform a service either to meet the specific needs of the grantee or for the direct benefit of the public, the costs incurred represent program service expenses. These costs should not be treated as fund raising expenses even if the grant is reported as a contribution on line 1.

Column (D). *Management and general.*—This column is to be used to report those expenses which relate to the overall management and functioning of the organization rather than the direct supervision or conduct of fundraising activities or program services. Specific types of expenses that should be reported here include those attributable to meetings of the board of directors or similar group, committee and staff meetings, general legal services, accounting, personnel and other centralized functions, auditing, investment expenses other than those relating to rental income (line 5(b)), general liability insurance, preparation, publication and distribution of an annual report and office management. However, this is true only regarding expenses of a general nature and not expenses incurred in connection with a special meeting or other activity dealing with fund raising or specific program services.

Salaries of officers and their staffs and related expenses should be allocated to program services and fund raising on the basis of the officers' time devoted to those functions. Only the remainder should be reported as management and general expenses.

19. *Contributions, gifts, grants, and similar amounts awarded.*—Attach a schedule to support contributions, gifts, grants, scholarships, etc., showing: (a) each class of activity; (b) separate total for each activity; (c) name and address of donee and amount of distribution to donee; and (d) relationship of donee; if related by blood, marriage, adoption, or employment (including children of employees) to any person or corporation having an interest in the organization such as creator, donor, director, trustee, officer, etc. Activities should be classified according to purpose in greater detail than merely charitable, educational, religious, or scientific. For example, payments for nursing service, or laboratory construction, for fellowships, or for assistance to indigent families should be so identified. In case of payments for assistance to indigent families, the identity of the individual donees need not be reported on the attached schedule.

Although the actual distribution of cash, securities or other property is to be entered on line 19, column (C) the expenses in connection with the distributions are not to be included on that line, but should be entered on lines 21 through 37 of column (C).

Where the fair market value of the property at the time of disbursement is the measure of a contribution, the schedule must also show: (a) description of the contributed property; (b) book value of the contributed property; (c) the method used to determine the book value; and (d) the date of the gift. In such case the difference between fair market value and book value should be reflected in the books of account.

20. *Benefits disbursed to or for members.*—Organizations furnishing benefits to members or dependents (such as those organizations exempt under section 501(c)(8), 501(c)(9) or 501(c)(17)) attach a schedule showing amount of: (a) death, sickness, hospitalization, or disability benefits, (b) unemployment compensation benefits, and (c) other benefits (state nature). Do not report on this line the cost of benefits furnished officers and employees of the organization.

21. *Compensation of officers, directors, and trustees.*—Enter the aggregate amount of compensation of officers, directors, and trustees for the taxable year. The name, compensation, and other information relating to each officer, director, and trustee must be listed in Part III.

The organization's officers, directors, trustees, etc., should include in their income all payments and allowances made to them or on their behalf, unless the payments are specifically excluded by some provision of the Code. For more detailed information regarding the types of income to be reported here, please see Publication 525, Taxable Income and Nontaxable Income.

All organizations, except for certain ones exempt under section 501(c)(3), that pay salaries, wages, or other compensation to officers or other employees are generally liable for filing Forms 941 and 940 to report social security, withholding, and Federal unemployment taxes. Your exemption letter will state whether or not your organization is subject to these taxes.

22. *Other salaries and wages.*—Enter the aggregate salaries of all employees not reported on line 21.

23. *Pension plan contributions.*—Enter the employer's share of contributions to qualified and nonqualified pension plans for the year. Complete Form 5500 for your plan and file as a separate return. If you have more than one plan, complete a Form 5500 for each plan. File this form on or before the last day of the 7th month following the close of the plan year.

24. *Other employee benefits.*—Enter the amount of your contributions to employee benefit programs (e.g., insurance, health and welfare programs) that are not an incidental part of a pension plan included on line 23. Also, see instructions for Form 5500.

25. *Payroll taxes.*—Enter the amount of Federal, State, and local payroll taxes for the year, but only those taxes that are imposed on the employer. This would include the employer's share of FICA taxes, the FUTA tax, State unemployment compensation taxes, and other State and local payroll taxes. Do not include taxes (such as Federal and State income taxes and the employee's share of FICA tax) withheld from employees' salaries and paid over to the various governmental units.

26. *Fees for fundraising.*—Enter the amount paid or incurred as fees to outside fundraisers in connection with solicitation campaigns conducted by them and the receipts from which are reported on line 1(b). (See the instructions for line 1(b).) Also include fees paid or due to fundraisers for services such as providing consulting services in connection with a solicitation campaign conducted by the organization itself.

27. *Other professional services.*—Enter the total expense for the year for professional services including legal, accounting, investment advice, medical and other professional services not reported on line 26. Do not include amounts paid to employees of your organization.

28. *Interest.*—Enter the total interest expense for the year. Do not include any interest expense attributable to rental property which is reportable on line 5(b).

29. *Occupancy.*—Enter the aggregate amount paid of incurred for the use of office space or other facilities, heat, light, power, and other utilities other than that reported on line 32, outside janitorial services, and similar expenses.

30. *Rental and maintenance of equipment.*—Enter the total expense of renting and maintaining equipment other than automotive equipment. Include the latter on line 35 (other expenses) along with all other automobile operating costs.

31. *Printing and postage.*—Enter the total printing and postage costs for the year from all activities.

32. *Telephone.*—Enter the total telephone expense for the year. Telegram expenses may be included on this line or listed separately on line 35.

33. *Supplies.*—Enter the total cost of office, classroom, medical, and other supplies utilized during the year as determined under the organization's normal method of accounting for supplies.

34. *Travel and entertainment.*—Enter the total of all travel expenses (other than automobile operating costs reportable on line 35) and all entertainment costs for the year.

35. *Other expenses.*—Enter the total of all other expenses and attach a schedule reflecting the type and amount of each.

36. *Total expenses before depreciation.*—Enter the total of lines 19 through 35.

37. *Depreciation, depletion, etc.*—If your organization follows the accounting practice of recording depreciation, depletion, and similar expenses, enter the total of such expenses for the year. Include any depreciation (amortization) of leasehold improvements. If you do record depreciation, attach a schedule (or use Form 4562, Depreciation) showing: (a) description of property; (b) date acquired; (c) cost or other basis (exclude land); (d) depreciation allowed or allowable in prior years (e) method of computation; (f) rate (%) or life (years); and (g) depreciation this year (total additional first-year depreciation claimed must be shown on

a separate line of the depreciation schedule).

of such items in Part I or II of this return. (See instructions for line 1.) However, some

Public Law 94-568 provides, in part, that an organization described in section 501(c)

dents and therefore are not qualified for tax exemption under section

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a separate line of the depreciation schedule).

Attach Form T if a deduction is claimed for depletion of timber.

38. *Total.*—Enter the total of lines 36 and 37. The figures entered in columns (A), (B), (C), and (D) should be reported on lines 14, 11, 12, and 13, respectively, of the Total column in Part I.

PART III.—LIST OF OFFICERS, DIRECTORS AND TRUSTEES

Enter the amount of compensation and other payments made by the organization during its annual accounting period (or during the calendar year ending within such period) to the officers, directors, and trustees (or any person having responsibilities or powers similar to those of officers, directors, or trustees) of the organization.

Column (E). *Expense account and other allowances.*—Enter only those amounts that are includable in the gross income of the recipients (i.e., reportable on their separate income tax returns) because no accounting was provided the organization, because allowances or reimbursements exceeded the expenses incurred by the payee in rendering services to the organization, or for any other reason.

PART IV.—BALANCE SHEETS

The balance sheets should agree with the books of account or any differences should be reconciled.

Lines 57 through 61—Fund Balances and Net Worth Section

Fund Accounting

Organizations that use fund accounting should check the block in the left column and complete lines 57 through 61 using the line item captions in that column. Fund accounting is a procedure under which an organization segregates its assets, liabilities, and net worth into separate funds according to externally imposed restrictions on the use of certain assets, similar designations by the organization's governing board, and other amounts that are unrestricted as to use. Each fund is like a separate entity in that it has a self-balancing set of accounts reflecting assets, liabilities, equity (fund balance), "income", and expenses. Since these funds are actually components of a single entity, they are all included in that organization's own financial statements. Similar accounts in the various funds may or may not be consolidated in those statements according to the organization's preference and practice. Parts I, II, and IV of this form, however, require such consolidation. Recognition of the separate funds and the net changes within the various funds during the year is accomplished by the fund balances section (lines 57 through 61) of the balance sheet.

57(a). *Current funds, unrestricted.*—Enter the fund balance per books for the current unrestricted fund.

57(b). *Current funds, restricted.*—Enter the aggregate fund balances per books for all current restricted funds.

58. *Land, buildings and equipment fund.*—Enter the fund balance per books for the land, buildings and equipment fund (plant fund).

59. *Endowment and similar funds.*—Enter the aggregate fund balances per books for the (permanent) endowment fund, term endowment funds, and funds functioning as endowment (funds designated by the board to be retained and invested, with the income to be used for either general or specified purposes). The fund balances of the annuity and life income funds may be reported here if immaterial in amount or on line 60.

60. *Other funds.*—Enter the aggregate fund balances per books for all funds not reported on lines 57 through 59.

61. *Total fund balances.*—Enter the total of lines 57 through 60. The beginning of the year figure in column (A) should be carried over to the Total column in Part I at line 16. The end of year figure in column (B) should agree with the figure on line 18 of the Total column in Part I.

62. *Total liabilities and fund balances.*—Enter the total of lines 56 and 61. That total must equal the figure for total assests reported on line 51 for both the beginning and end of year.

All Others

All organizations that do not use fund accounting should check the block in the right column and report their net worth on lines 58 through 61.

58. *Capital stock or trust principal.*—For corporations, enter the balance per books in the capital stock accounts representing the par or stated value (or total amount received upon issuance in the case of stock with no par or stated value) of all classes of stock issued and, as yet, uncancelled. For trusts, enter the amount in the trust principal or corpus account.

59. *Paid-in or capital surplus.*—Enter the balance per books for all paid-in capital in excess of par or stated value for all stock issued and, as yet, uncancelled. Also, organizations that record them in such manner should include any paid-in capital representing donations from both stockholders and others. (Note: This does not apply to section 501(c)(3) organizations and most of the other organizations that file this form.) Any current year donations that would be included in the line 59 total must also be reported on line 1 of Part I.

60. *Retained earnings or accumulated income.*—For corporations, enter the balance in the retained earnings or similar account, less the cost of any treasury stock held by the corporation. For trusts, enter the balance per books in the accumulated income or similar account.

61. *Total net worth.*—Enter the total of lines 58 through 60. The beginning of the year figure in column (A) should be carried over to the Total column in Part I at line 16. The end of year figure in column (B) should agree with the figure on line 18 of the Total column in Part I.

62. *Total liabilities and net worth.*—Enter the total of lines 56 and 61. That total must equal the figure for total assets reported on line 51 for both the beginning and end of year.

PART V.—STATEMENTS REGARDING CERTAIN ACTIVITIES

63. *Description of activities.*—Provide a brief activities of the various exempt purpose activities you engaged in during the period covered by this return. Generally, these will include those program services, the expenses of which are reported in column (C) of Part II. See the instructions for column (C).

64. *Change in activities.*—Attach a statement explaining any significant changes in the nature of type of activities that you conduct in furtherance of your exempt purpose. These new or modified activities would be those not specified as being conducted currently or planned in your application for recognition of exemption or those not previously made known to the Internal Revenue Service by means of a letter to your key district director or by an attachment to your return for any prior year. Besides the commencement of new activities or the modification of existing ones, any major program activities that are being terminated should also be disclosed.

65. *Changes in organizing or governing documents.*—Attach a copy of any changes to your articles of incorporation, constitution, trust instrument or other organizing document or your bylaws or other governing document. When a significant number of changes are made, a copy of the entire organizing instrument or governing document, as revised, should also be provided.

66. *Unrelated business income.*—See general instruction N for a discussion of unrelated business income and the Form 990-T filing requirements for section 501(c) organizations having such income. All items of income and expense reported on Form 990-T must also be reported on Form 990 when the organization is required to file both forms.

67. *Liquidation, dissolution, termination, or substantial contraction.*—See general instruction R for definitions and instructions regarding the information required to be furnished in the event of a liquidation, dissolution, termination, or substantial contraction.

68. *Relation to other organizations.*—Answer this question "Yes" if a majority of the organization's governing body, officers, trustees or membership consists of individuals who are also officers, directors, trustees or members of any one other organization.

A strictly coincidental overlap of membership with another organization, i.e., where membership or affiliation with one organization is not a condition of membership in the other, should be disregarded.

Affiliation with any statewide or nationwide organization also should be disregarded.

69. *Expenditures for political purposes.*—An "expenditure for political purposes" is any expenditure intended to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected or appointed.

An expenditure includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

Section 501(c) organizations are required to file Form 1120-POL if the amount of their expenditures for political purposes and their net investment income each exceed $100 for the year.

Section 501(c) organizations that maintain separate segregated funds described in section 527(f)(3) should refer to the instructions for Form 1120-POL for filing requirements.

70. *Donated services or facilities.*—Organizations that receive donated services or the use of facilities or equipment at less than fair rental value should not report the value of such items in Part I or II of this return. (See instructions for line 1.) However, some organizations may want this information to be reflected on the return since, as discussed in instruction L, Form 990 is available for public inspection.

Organizations that maintain records indicating the amount and aggregate value of the donated services or use of assets may enter that information in the space provided on line 70. (The IRS does not require the maintenance of such records or the reporting of this information.) Also, estimates may be furnished where there is a clearly objective basis for measuring the value of donated services or facilities.

71. *Section 501(c)(5) or (6) organizations.*—Attempts to influence the opinion of the general public, or any segment of the general public, with respect to legislative matters or referendums consititute grassroots lobbying. Such lobbying may be explicit in the case of an advertisement which urges or encourages the public to contract members of a legislative body for the purpose of proposing, supporting, or opposing specific legislation. Grassroots lobbying may also be implicit in any advertisement or other communication directed at the public if the intent of the communication is to mold the public's opinion on a particular legislative matter or referendum. Any lobbying directed at the members of the organization is directed at "potential" members, employees of members, or stockholders of members would be. See section 1.162-20(c) of the income Tax Regulations for further discussion of grassroots lobbying.

72. *Clubs exempt under section 501(c)(7).*—A 501(c)(7) organization is permitted to receive up to 35 percent of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. Of the 35 percent, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public.

Gross receipts are defined for this purpose as those receipts from normal and usual activities of the club (that is, those activities it has traditionally conducted) including charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. However, where a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the formula: that is, such unusual income is not to be included in either the gross receipts of the club or in the permitted 35- or 15-percent allowances. On the other hand where college fraternities or sororities charge membership initiation fees, but no annual dues, such fees will be included in their gross receipts, notwithstanding that initiation fees are ordinarily excluded.

If an organization has outside income in excess of the 35-percent limit (or 15 percent in the case of gross receipts derived from nonmember use of a club's facilities), all the facts and circumstances are to be taken into account in determining whether the organization qualifies for exempt status.

If the application of the above rules does not affect the club's exempt status, the amount of income shown on line 72(b) must be reported on Form 990-T.

Public Law 94-568 provides, in part, that an organization described in section 501(c)(7) is not exempt from income tax for any taxable year beginning after October 20, 1976, if, at any time during such a taxable year, its governing instrument, operating procedures or any written policy statement provides for discrimination against any person on the basis of race, color or religion.

73. *Section 501(c)(12) organizations.*—For purposes of section 501(c)(12, the term "gross income" means gross receipts less cost of goods sold.

74. *Public interest law firms.*—Public interest law firms exempt under section 501(c)(3) or 501(c)(4) must attach a statement that sets forth the cases in litigation, or that have been litigated during the year. With respect to each such case, the statement must include a description of the matter in dispute and an explanation as to how the litigation will benefit the public generally. See Rev. Proc. 71-39, 1971-2 C.B. 575. The firms must also attach a report of all fees sought and recovered. See Rev. Proc. 75-13, 1975-1 C.B. 662, for procedures for the acceptance of attorneys' fees.

[FR Doc. 78-90684 Filed 10-30-78; 8:45 am]

[4830-01-M]

PRIVATE TAX—EXEMPT SCHOOLS

Public Comments on Proposed Revenue Procedure

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments.

SUMMARY: This document provides notice of an extension of time for submitting comments with respect to a proposed revenue procedure on private schools, and a December 5, 1978, public hearing on the proposed procedure.

DATES: Written comments by persons who wish to speak at the December 5, 1978 hearing, must be submitted by October 31, 1978. Outlines of oral comments by persons who wish to speak at the hearing must be submitted by November 20, 1978. Written comments by persons who do not wish to speak at the hearing must be submitted by December 5, 1978.

ADDRESS: Send comments and outlines to: Commissioner of Internal Revenue, Attn: E:EO, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

James E. Griffith, of the Exempt Organizations Division, Internal Revenue Service, Washington, D.C. 20224, 202-566-6181.

SUPPLEMENTARY INFORMATION: A proposed revenue procedure that sets forth guidelines the Internal Revenue Service will apply in determining whether certain private schools have racially discrimatory policies as to students and therefore are not qualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 was announced on August 21, 1978, in a news release (IR-2027), and also appeared in the FEDERAL REGISTER for Tuesday, August 22, 1978, at page 37296 (43 FR 37296). A public hearing on the proposed revenue procedure to be held December 5, 1978, was announced on October 13, 1978, in a news release (IR-2043), and also appeared in the FEDERAL REGISTER for Wednesday, October 18, 1978, at page 48091 (43 FR 48091). The proposed revenue procedure and the notice of public hearings stated that comments were to be delivered or mailed by October 23, 1978. For persons who wish to speak at the December 5, 1978 hearing, the date by which their comments must be delivered or mailed is hereby extended to October 31, 1978. For persons who do not wish to speak at the hearing, the date by which their comments must be submitted is hereby extended to December 5, 1978.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

W. E. WILLIAMS,
Acting Commissioner of Internal Revenue.

[FR Doc. 78-30683 Filed 10-30-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Office of the Secretary

TITANIUM DIOXIDE FROM BELGIUM, FRANCE, THE FEDERAL REPUBLIC OF GERMANY, AND THE UNITED KINGDOM

Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of titanium dioxide from Belgium, France, West Germany, and the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. There is substantial doubt that imports of the subject merchandise, allegedly at less than fair value, are causing, or are likely to cause, injury to an industry in the United States. Therefore, the case is being referred to the U.S. International Trade Com-

mission for a determination on the injury question.

industry's profit margins have eroded in the last 2 years, annual price in-

attempt will be made to publish notices of cancellation of hearings as

tion)—The Rock Island Motor Freight Co., and No. MC-F-13657, Century-Mer-

thority to transfer the operating rights of Norma Biornson, personal

This decision will become effective 30 days from the date of service.

mission for a determination on the injury question.

EFFECTIVE DATE: October 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 18, 1978, a petition in proper form was received pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel on behalf of SCM Corporation, New York, N.Y., alleging that titanium dioxide from Belgium, France, West Germany, and the United Kingdom is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act").

Titanium dioxide, TiO_2, is the primary white pigment consumed in the paint and coatings, paper and paper bond, and plastics industries. It is classifiable under item 473.70 of the Tariff Schedules of the United States.

It appears that foreign producers and some purchasers in the United States are related within the meaning of the Act and, therefore, it will be necessary to establish the exporter's sales price of the merchandise in the U.S. market.

Based upon the information set forth in the petition and that derived from the Customs Service's summary investigation, it appears that the margins of dumping may range from as low as 5 percent to as much as 37 percent depending on the source of the imports.

There is evidence on record concerning injury, or likelihood of injury, to the U.S. industry from the alleged less than fair value imports of titanium dioxide from Belgium, France, West Germany, and the United Kingdom. The petition indicates that the alleged less than fair value imports represent an increasing share of the U.S. market, having expanded from 4.1 percent of the U.S. market in 1973 to 10.2 percent in 1977. Although year-end stocks of titanium dioxide have grown continuously since 1973, preliminary reports show a small decline in 1977.

The petition also indicates that domestic production of titanium dioxide dropped 4 to 5 percent in 1977. However, the volume of overall domestic shipments and consumption has been rising. In addition, the capacity utilization of the domestic industry apparently has stablized with a substantial expansion of production capacity likely in the near future. Finally, although the petitioner has submitted information to demonstrate that the industry's profit margins have eroded in the last 2 years, annual price increases have occurred with the most recent increase made effective in June 1978. More importantly, if price supression does, in fact, exist, it may be a result of competition among domestic producers rather than a result of sales by foreign manufacturers at less than fair value.

On the basis of such evidence, it has been concluded that there is substantial doubt of injury or likelihood of injury to an industry in the United States by virtue of such imports from Belgium, France, West Germany, and the United Kingdom. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of this referral, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, this investigation will be terminated. Otherwise, the investigation will continue to conclusion.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 25, 1978.

[FR Doc. 78-30725 Filed 10-30-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 734]

ASSIGNMENT OF HEARINGS

OCTOBER 26, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-F-13608, Arkansas Best Freight System, Inc.—Control and Merger—Navajo Freight Lines, F.D. 28771, Arkansas Best Freight System, Inc. and F.D. 28772, Arkansas Best Freight, Inc., now assigned for Prehearing Conference on November 20, 1978, at Washington, DC is canceled.

No. MC 144285F, Bay Haven Marina, Inc., now assigned for hearing on November 15, 1978, at Chicago, IL is canceled.

No. MC 119988 (Sub-145F), Great western Trucking Co., Inc., now being assigned for hearing on December 11, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

No. MC 119777 (Sub-349F), Ligon Specialized Hauler, Inc., now being assigned for hearing on December 12, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

No. MC 134477 (Sub-228F), Schanno Transportation, Inc., now being assigned for hearing on January 23, 1979, (2 days), at Chicago, IL in a hearing room to be later designated.

No. MC 78228 (Sub-79F), J. Miller Express, Inc., now being assigned for hearing on January 25, 1979, (2 days), at Chicago, IL in a hearing room to be later designated.

No. MC 35358 (Sub-40F), Berger Transfer & Storage, Inc., now being assigned for hearing on January 30, 1979, (2 days), at Chicago, IL in a hearing room to be later designated.

No. MC 30032 (Sub-8F), Houdek Motor Service, Inc., now being assigned for hearing on February 1, 1979, (2 days), at Chicago, Il in a hearing room to be later designated.

No. MC 140829 (Sub-87F), Cargo Contract Carrier Corp., now being assigned for hearing on January 29, 1979, (1 day), at Chicago, IL in a hearing room to be later designated.

No. MC 144690 (Sub-1F), Cherry-Wink, Inc., now being assigned for hearing on December 14, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

No. MC 105045 (Sub-83F), R.L. Jeffries Trucking Co., Inc., now being assigned for hearing on December 18, 1978, (1 day), at Dallas, TX in a hearing room to be later designated.

No. MC 83835 (Sub-151F), Wales Transportation, Inc., now being assigned for hearing on December 19, 1978, (2 days), at Dallas, TX in a hearing room to be later designated.

No. MC 134906, Cape Air Freight, Inc. and No. MC 134906 (Sub-1, 2, 3, 4, 5, 6, and 7) Cape Air Freight, Inc. now assigned for continued hearing December 5, 1978 (9 days) at Louisville, KY in a hearing room to be later designated.

No. MC-F-13606, Crouse Cartage Co.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13622, Paris Motor Freight, Inc.—Purchase (Portion)—Rock Island Motor Transit Co. and No. MC-F-13631 Witte Transportation Co.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13649 Ideal Truck Lines, Inc.—Purchase (Portion)—The Rock Island Motor Freight Co., and No. MC-F-13657, Century-Mercury Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13663 Murphy Motor Freight Lines, Inc.—Purchase (Portion)—The Rock Island Motor Transit Company and No. MC-F-13668F, Garrison Motor Freight, Inc.—Purchase (Portion)—The Rock Island Motor Transit Co. and No. MC-F-13670 Winters Truck Line, Inc.—Purchase (Portion)—Rock Island Motor Transit Co. and No. MC 57393 (Sub-7F), Winters Truck Line, Inc., and No. MC-F-13691F, Jerry Simpson d.b.a. Thornton Transfer—Purchase (Portion)—The Rock Island Motor Transit Co. now assigned for pre-hearing conference November 27, 1978 at Washington, DC and will be held at the Office of the Interstate Commerce Commission. No MC 118159 (Sub-277F) National Refrigerated Transport, Inc., now assigned December 12, 1978 (1 day) at Denver, CO, and will be held at Room C-503 U.S. Courthouse 1929 Stout Street.

No. MC 107295 (Sub-73), Pre-Fab Transit Co., now assigned for hearing on October 31, 1978, at Boston, MA is postponed indefinitely.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30770 Filed 10-30-78; 8:45 am]

[7035-01-M]

Fourth Section Applications for Relief

OCTOBER 25, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43618, Trans-Continental Freight Bureau, Agent's No. 527, rates on sulphur dioxide, in tank cars, from Tacoma, WA, to Leeds, SC, and LeMoyne, AL, in Supp. 27 to its Tariff 2-P, ICC 1969, to become effective November 20, 1978. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30769 Filed 10-30-78; 8:45 am]

[7035-01-M]

[Notice No. 123]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 31, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC-77898. By application filed October 23, 1978, Norma Bjornson, individual and personal representative of Arthur B. Bjornson estate, d.b.a. Bjornson Truck Service, R.F.D., Ellsworth, WI 54011, seeks temporary authority to transfer the operating rights of Norma Bjornson, personal representative of Arthur B. Bjornson estate, individual, d.b.a. Bjornson Truck Service, R.F.D., Ellsworth, WI 54011, under section 210a(b). The transfer to Norma Bjornson, individual and personal representative of Arthur B. Bjornson estate, d.b.a. Bjornson Truck Service, of the operating rights of Norma Bjornson, personal representative of Arthur B. Bjornson estate, individual, is presently pending.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 78-30767 Filed 10-30-78; 8:45 am]

[7035-01-M]

[No. MC-133689 (Sub-104)]

OVERLAND EXPRESS, INC.

Extension—Farmers Union Central Exchange, Inc. (New Brighton, MN); Decision

Decided: October 20, 1978.

We have considered the application and the record in this proceeding, including the decision of the Administrative Law Judge, the exceptions filed by applicant and protestant Hilt Truck Line, Inc., the reply to applicant's exceptions filed by protestant Hilt, and the reply to protestant Hilt's exceptions filed by applicant.

The Administrative Law Judge recommended the granting to applicant of a certificate authorizing the operation described in the appendix to this decision.

The pleadings raise no new or material matters of fact or law not adequately considered and properly disposed of by the Administrative Law Judge in his decision, and are not of such nature as to require the issuance of a decision discussing the evidence in the light of the pleadings.

We find: The evidence considered in the light of the pleadings does not warrant a result different from that reached by the Administrative Law Judge. The statement of facts, the conclusions, and the findings of the Administrative Law Judge are proper and correct in all material respects, and are affirmed.

It is ordered: The application is granted to the extent set forth in the appendix and subject to the republication condition imposed there. A certificate will be issued if applicant complies with the appropriate requirements set forth in Code of Federal Regulations (49 CFR 1043, 1044, and 1307). Applicant must comply within 90 days after the date of service of this decision. If it fails to comply, the grant of authority will be void.

This decision will become effective 30 days from the date of service.

By the Commission, Division 2, Commissioners Stafford, Gresham, and Christian.

H. G. HOMME, JR.,
Acting Secretary.

APPENDIX

Service authorized

Operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of hardware, hand agricultural implements, agricultural implement parts, chemicals, appliances, heaters, furnaces, motor vehicle parts and accessories, feed, and iron and steel articles, from points in IL, IN, MO, MI, NJ, NY, OH, PA, and SC, to points in IA, MN, NE, ND, SD, and WI, restricted (1) against the transportation of commodities which, because of their size or weight, require the use of special equipment, and (2) to traffic destined to the facilities of Farmers Union Central Exchange, Inc. (Cenex) or of its member cooperatives.

Conditions

(1) A notice of the authority granted in this decision will be published in the FEDERAL REGISTER and, at the expiration of 30 days, this decision shall become effective as the decision of the Commission, provided that in the interim no party in interest has filed a petition for leave to intervene in this proceeding.

(2) The grant of authority and any existing authority held by applicant that it duplicates shall be construed as conferring a single operating right.

Notice

By this decision, this proceeding is rendered administratively final within the meaning of 49 CFR 1101.2(f) of the Commission's regulations; and, in accordance with the provisions of section 558(c) of the Administrative Procedure Act, any corresponding temporary authority expires and operations thereunder must cease upon the effective date of this decision, except that to the extent permanent authority is granted in this proceeding (and if partial, only to that extent) the corresponding temporary authority or portion thereof will continue in effect until a certificate or permit is issued and becomes effective. The filing of any further pleadings in this matter will not stay the expiration of the temporary authority related to the denied portion of the sought permanent authority.

NOTE.—This decision does not constitute authority to operate.

[FR Doc. 78-30771 Filed 10-30-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28884F]

RICHMOND RAILROAD CO.—ACQUISTION AND OPERATION—OVER DARDANELLE AND RUSSELLVILLE RAILROAD CO., IN POPE COUNTY, AR

Richmond Railroad Co., 1700 West Loop South, Houston, TX 77027, represented by Forrest R. Qualls, Rich-

mond Railroad Co., 1700 West Loop South, Houston, TX 77027, hereby specified action with respect to such application.

Wegznek, Melvin B. Werner, and David B. Wuehmann

[7035-01-M]

Commission's policy of simplifying grants of operating authority.

mediate points, and serving the junctions of (a) Interstate Hwy 10 and CA

V43/211 OC31 78

mond Railroad Co., 1700 West Loop South, Houston, TX 77027, hereby give notice that on the 18th day of October 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under section 1(18) of the Interstate Commerce Act for a decision approving and authorizing acquisition and operation of the entire system of the Dardanelle and Russellville Railroad Co., a wholly owned subsidiary of Applicant, which application is assigned Finance Docket No. 28884F.

Applicant has acquired all of the issued and outstanding stock of the Dardanelle and Russellville Railroad Co., (D&R), and proposed to merge the D&R into Applicant. Applicant will be the surviving corporation and will continue the operation of the railroad. The line is located entirely in Pope County, AR. The line has 5.22 miles of main line track and 1.27 miles of siding, a distance of 6.49 miles.

The operation of this line is necessary and desirable to provide common carrier rail service to industries along the line and in the area traversed by the line, and such other industries as may be reasonably expected to locate in the immediate area.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 C.F.R. 1108.8) in Ex Parte No. 55 (Sub-4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such affect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20424, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30768 Filed 10-30-78; 8:45 am]

[7035-01-M]

[Section 5a Application No. 24; Amendment No.3]

SAN FRANCISCO MOVER TARIFF BUREAU

OCTOBER 23, 1978.

The Commission is in receipt of an application in the above proceeding for approval of amendments to the approved agreement.

Filed July 7, 1978 by: Ann M. Pougiales, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104.

The amendments involve: Complete revision of presently approved agreement and changes to make the by-laws comply with Ex Parte 297 Sub 4.

The complete application may be inspected at the Office of the Commission, in Washington, DC.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 30 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

H.G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30765 Filed 10-30-78; 8:45 am]

[7035-01-M]

EMPLOYEE BOARD ON EDUCATION AND PRACTICE

Appointment of Members

On October 16, 1978, the Commission voted to appoint the following to the Employee Board on Education and Practice and Committee of Examiners:

EMPLOYEE BOARD ON EDUCATION AND PRACTICE

Thaddeus J. Harty, Jr., Chairman, Roy P. Liberman, and Ronald S. Young.

COMMITTEE OF EXAMINERS

Jane Dixon, William P. Geisenkotter, John Mattras, B. Scott Walker, Gerald C. Wegznek, Melvin B. Werner, and David B. Wuehmann.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-30766 Filed 10-30-78; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Decisions Vol. No. 20]

DECISION-NOTICE

Correction

In FR Doc. 78-23367 appearing on page 37301 in the issue of Tuesday, August 22, 1978, on page 37307, the first and second applications (MC 129788 (Sub-7F)) are duplicates; therefore, delete the second MC 129788 (Sub-7F) and insert the following application which was omitted from the original publication:

"MC 129788 (Sub-8F), filed July 7, 1978. Applicant: NASS TRUCK LINES, INC., A Delaware corporation, Box 'H', Wenona, IL 61377. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority granted to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages,* from Detroit, MI, to Decatur, Springfield, Champaign, and Jacksonville, IL. (Hearing site: Chicago, IL, or Washington, DC.)"

[1505-01-M]

[Decisions Volume No. 17]

DECISION-NOTICE

Correction

On page 33861 in the issue of Tuesday, August 1, 1978, on page 33868, first column, in MC 138328 (Sub-70F), the next to the last line should read as follows: "* * * MS, MO, NM, OK, and TN. (Hearing [site: Omaha, NE.)].".

On page 33870, in the middle column, in MC 144852 F, from the 14th line to the end of that paragraph, the text should read, "* * * States (except AK and HI), (2) materials, equipment, and supplies used in manufacture of new furniture, from points in the United States (except AK and HI), to facilities of Sirco Manufacturing, at or near (a) Missoula, MT and (b) Stevens Point, WI, under a continuing contract(s) with Sirco Manufacturing, of Missoula, MT. (Hearing site: Missoula, MT.)."

The file line was inadvertently omitted at the end of the document on page 33871. The file line should read: [FR Doc. 78-21099 Filed 7-31-78; 8:45 am].

[7035-01-M]

[Decisions Volume No. 41]

DECISION-NOTICE

Decided: October 16, 1978

The following applications are governed by special rule 247 of the Commission's rules of practices (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have beem modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

It is ordered: In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extend that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

By the Commission, review board number 2, members Eaton, and Liberman, board member Boyle not participating.

H. G. HOMME, Jr.,
Acting Secretary.

MC 730 (Sub-417F), filed August 30, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94598. Representative: A. G. Krebs (same as applicant). To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Beaumont, CA, and Pratt, KS, from Beaumont, CA, over Interstate Hwy 10 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction Interstate Hwy 25, then over Interstate Hwy 25 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Pratt, KS, and return over the same route, serving no intermediate points, and serving the junctions of (a) Interstate Hwy 10 and CA Hwy 86, (b) U.S. Hwys 60 and 80, (c) U.S. Hwy 60 and Interstate Hwy 25, (d) U.S. Hwys 54 and 60, and (e) U.S. Hwys 60 and 70, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (2) between San Diego, CA, and junction U.S. Hwys 60 and 70, from San Diego, CA, over Interstate Hwy 8 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction combined U.S. Hwys 70 and 82, then over combined U.S. Hwys 70 and 82 to junction U.S. Hwy 54, then over U.S. Hwy 54 to junction U.S. hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 60, and return over the same route, serving no intermediate points, and serving the junctions of (a) Interstate Hwy 8 and CA Hwy 86, (b) Interstate Hwy 10 and U.S. Hwy 89, and (c) U.S. Hwys 54 and 70, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (3) between junction Interstate Hwy 10 and CA hwy 86, and junction Interstate Hwy 8 and CA Hwy 86, over CA Hwy 86, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (4) between junction Interstate Hwy 25 and U.S. Hwy 60, and Albuquerque, NM over Interstate Hwy 25, serving no intermediate points, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations, (5) between junction U.S. Hwys 54 and 70, and junction U.S. Hwys 54 and 66, from junction U.S. Hwys 54 and 70, over U.S. Hwy 54 to junction U.S. Hwy 66 then over U.S. Hwy 66 to junction U.S. Hwy 54, and return over the same route, serving no intermediate points, and serving junction U.S. Hwys 54 and 60, for purposes of joinder only, as an alternate route for operating convenience only, in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or San Francisco, CA.)

MC 730 (Sub-421F), filed September 14, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Nevada corporation, 25 North Via Monte, P.O. Box 8004, Walnut Creek, CA 94596. Representative: R. N. Cooledge (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* in bulk, in tank vehicles, from the facilities of Union Carbide Corp., at or near Texas City, TX, to points in AL, AR, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC,

ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, and WY, restricted to the

points. (Hearing site: Indianapolis, IN, or Chicago, IL.)

facilities of Hoover Beverage Bottle Division of Hoover Universal, Inc., at

MC 63417 (Sub-167F), filed August 28, 1978. Applicant: BLUE RIDGE

and points in PA. (Hearing site: Washington, DC.)

Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox

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ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, and WY, restricted to the transportation of traffic originating at the named origin. (Hearing site: Houston, TX.)

MC 2066 (Sub-4F), filed August 11, 1978. Applicant: R. M. SULLIVAN TRANSPORTATION, INC., 649 Cottage Street, P.O. Box 155, Highland Station, Springfield, MA 01104. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of General Cable Corp., at Pownal, VT, on the one hand, and, on the other, points in CT, MA, NH, NJ, NY, and RI. (Hearing site: Washington, DC.)

MC 2633 (Sub-61F), filed August 31, 1978. Applicant: CROSSETT, INC., P.O. Box 946, Warren, PA 16365. Representative: Kenneth T. Johnson, Bankers Trust Building, Jamestown, NY 14701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, (1) from Warren, PA, to points in OH (except those points on and east of OH Hwy 14 from Cleveland to Unity, and those points on and north of OH Hwy 165 from Unity to the OH-PA State line), and (2) from Miles, OH, to points in Venango County, PA. (Hearing site: Buffalo, NY, or Pittsburgh, PA.)

MC 8768 (Sub-37F), filed September 26, 1978. Applicant: SECURITY VAN LINES, INC., 100 West Airline Hwy, Kenner, LA 70062. Representative: Donald Goldwasser, P.O. Box 830, Kenner, LA 70062. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in the United States (except AK, HI, and ND). (Hearing site: New Orleans, LA.)

MC 20824 (Sub-37F), filed August 7, 1978. Applicant: COMMERCIAL MOTOR FREIGHT, INC. OF INDIANA, 2141 South High School Road, Indianapolis, IN 46241. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Crowfordsville, IN, and Danville, IL, over Interstate Hwy 74, serving no intermediate points. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 21866 (Sub-107F), filed August 3, 1978. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and metal articles* from the facilities of Reading Industries, Inc., at Reading, PA, to points in the United States (exept AK, HI, and PA), and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from the destination points named in (1) above to the facilities of Reading Industries, Inc., at Reading, PA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 26396 (Sub-194F), filed August 7, 1978. Applicant: POPELKA TRUCKING CO., a corporation, d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *cement pipe*, and (2) *Fittings* for cement pipe, from Van Buren, AR, to those points in the United States in and west of MN, IA, MO, OK, TX, and LA (except AK and HI). (Hearing site: St. Louis, MO.)

MC 29886 (Sub-352F), filed August 8, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., an Indiana Corp., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pollution control equipment*, and (2) *equipment, materials, and supplies*, used in the manufacture and installation of pollution control equipment, (a) between the facilities of Envirotech Corp., at or near Winston-Salem, NC, Lebanon, PA, and Cleveland, OH, on the one hand, and, on the other, points in the United States (escept AK and HI), and (b) from Warrenton, MO, Newton Falls, OH, Fort Worth and San Antonio, TX, San Jose, CA, and New Haven, IN, to points in AL, IN, KS, KY, MO, OK, TN, and WI. (Hearing site: Philadelphia, PA, or Chicago, IL.)

MC 36918 (Sub-8F), filed September 13, 1978. Applicant: FASTWAY TRANSPORTATION, INC., a Delaware corporation, P.O. Box 383, 151 Morristown Road, Matawan, NJ 07747. Representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Hwy 34, Colts Neck, NJ 07722. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, between the facilities of Hoover Beverage Bottle Division of Hoover Universal, Inc., at New Castle, DE, on the one hand, and, on the other, points in CT, MA, NY, NJ, PA, and RI. (Hearing site: Newark, NJ, or New York, NY.)

MC 41404 (Sub-150F), filed August 9, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from the facilities of E. J. Brach & Sons, at or near Atlanta, GA, to AL, FL, LA, MS, NC, SC, and TN. (Hearing site: Chicago, IL, or Atlanta, GA.)

MC 52704 (Sub-179F), filed August 17, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Union Camp Corp., at or near Tifton, GA, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), from points in the United States (except AK and HI), to facilities of Union Camp Corp., at or near Tifton, GA. (Hearing site: Atlanta, GA.)

MC 57239 (Sub-40F), filed September 7, 1978. Applicant : RENNER'S EXPRESS, INC., P.O. Box 882, Indianapolis, IN 46206. Representative: Roland Rice, 501 Perpetual Building, 1111 E Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tobacco products*, from Louisville, KY, to Detroit, MI, restricted to the transportation of traffic originating at Louisville, KY. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 63417 (Sub-166F), filed August 23, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molded pulp products, molded peat products, and expanded foam plastic products*, from Florin, CA, to points in the United States in and west of WI, IL, KY, TN, and MS (except AK, CA, and HI). (Hearing site: Roanoke, VA, or Portland, ME.)

MC 63417 (Sub-167F), filed August 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating materials*, and (2) *materials and supplies* used in the installation of insulating materials, from Spring Hope, NC to points in DE, FL, GA, IN, KY, MD, NJ, NY, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Raleigh, NC, or Roanoke, VA.)

MC 63417 (Sub-168F), filed August 23, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded foam plastic products*, from Coldwater, MI, to Sylacauga, AL. (Hearing site: Roanoke, VA.)

MC 63417 (Sub-169F), filed August 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbers goods, vanities, and vanity cabinets*, (a) from Ford City, PA, and Salem, OH, to points in MS, and (b) from Tupelo, MS, to points in AR, LA, OK, and TX. (Hearing site: Pittsburgh, PA, or Roanoke, VA.)

MC 63417 (Sub-170F), filed August 28, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Incandescent bulbs*, and (2) *packaging materials*, between Lexington, KY, on the one hand, and, on the other, Bellevue, Cleveland, Ravenna, Warren, and Youngstown, OH. (Hearing site: Roanoke, VA, or Cleveland, OH.)

MC 65475 (Sub-18F), filed September 1, 1978. Applicant: JETCO, INC., a District of Columbia corporation, 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum articles and equipment, materials, and supplies* used in the manufacture of aluminum articles (except commodities in bulk), from Scottsboro, AL, Hawesville, KY, and New Madrid, MO, to the facilities of Howmet Aluminun Corp., at or near Lancaster, PA, and (2) *scrap aluminum* (except in bulk), from Lawrence and Taunton, MA, to Baltimore, MD, and points in PA. (Hearing site: Washington, DC.)

MC 82509 (Sub-5F), filed September 14, 1978. Applicant: RICHARD C. NOERR, JR., d.b.a. METAL TRANSPORT, P.O. Box 492, Lewistown, PA 17044. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass rods and unfinished brass shapes* (except commodities which because of size or weight require the use of special equipment), from the facilities of Cerro Metal Products, at or near (a) Bellefonte, PA, and (b) Weyers Cave, VA, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, (except Chickasha), PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC, and (2) *waste materials*, from (Hearing site: San Francisco, CA, or Harrisburg, PA.)

MC 94265 (Sub-280F), filed September 5, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: John J. Capo, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay, floor sweeping compounds, and floor sweeping absorbents* (except commodities in bulk), from the facilities used by Oil-Dri Corp., at or near Ochlocknee, GA, to points in DE, KS, IL, IN, IA, MD, MI, MN, MO, NE, OH, VA, WV, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 106398 (Sub-831F), filed August 31, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bars*, from the facilities of North Star Steel Co., at Wilton, IA, to points in AL, AZ, AR, FL, GA, LA, MS, NM, NC, OK, SC, TN, and TX. (Hearing site: Des Moines, IA.)

NOTE.—In view of the findings in MC 106398 (Sub-741) of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107295 (Sub-884F), filed September 1, 1978. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, roofing materials, and siding* (except commodities in bulk), from the facilities of the Roofing Division of Masonite Corp., (a) at Meridian, MS, to points in IL, IA, IN, KS, MO, OH, OK, and TX, and (b) at points in Pulaski County, AR, to points in NC, OH, SC, VA, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), from points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, to the origins named in (1)(a) and (b) above. (Hearing site: Atlanta, GA.)

MC 107515 (Sub-1171F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meatpacking houses*, as described in sections A and C of appendix I to the report in *descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near Estherville, IA, to points in AL, MS, TN, and KY, restricted to the transportation of traffic originating at the above named origin facilities and destined to the above named destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107515 (Sub-1172F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Manchester, NH, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Manchester, NH, or New York, NY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107515 (Sub-1173F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th Floor, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat*

products and meat byproducts, dairy products, and articles distributed by

MC 110012 (Sub-46F), filed August 4, 1978. Applicant: ROY WIDENER

meat packinghouses, as described in sections A and C of appendix I to the

address as applicant). To operate as a *common carrier*, by motor vehicle,

(except in bulk, in tank vehicles), from the facilities of Miami Margarine Co.,

NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, restricted to the

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products and meat byproducts, dairy products, and articles distributed by meatpacking houses, as described in sections A, B, and C of the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities used by John Morrell & Co., at or near Sioux Falls, SD, to points in AL, FL, GA, MS, NC, SC, KY, and TN, restricted to the transportation of traffic originating at the above named origin facilities and destined to the named destinations. (Hearing site: Chicago, IL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107515 (Sub-1174F), filed September 4, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Tower South, 3390 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Floor coverings and tufted textile products,* from points in GA on and north of U.S. Hwy 78 and on and west of U.S. Hwy 441, to points in IA, MN, and WI, and (2) *such commodities* as are dealt in by department stores (except foodstuffs and commodities in bulk), from Dalton, GA, to points in MN. (Hearing site: Atlanta, GA.)

NOTE.—Dual operations are at issue in this proceeding.

MC 107678 (Sub-67F), filed September 25, 1978. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherlund, 1150 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Asphalt compounds and roof coatings* (except commodities in bulk, in tank vehicles), from the facilities used by Gulf States Asphalt Co., Inc., at or near (a) Westwego, LA, and (b) Beaumont and Houston, TX, to those points in the United States in and east of ND, SD, NE, CO, NM, and AZ. (Hearing site: Houston, TX, or New Orleans, LA.)

MC 109124 (Sub-50F), filed August 10, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Talc and Talc tailings,* in bulk, from the facilities of Windsor Minerals in Windsor County, VT, to the facilities of CertainTeed Corp. at or near Avery, OH. (Hearing site: Washington, D.C.).

MC 110012 (Sub-46F), filed August 4, 1978. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *New furniture,* and (2) *materials,* and *supplies* used in the manufacture of new furniture (except commodities in bulk, in tank vehicles), from the facilities of American Furniture Co., Inc., at Martinsville, Marion, and Chilhowie, VA, to those points in the United States in and west of MI, OH, IN, IL, MO, TN, AL, and FL (except AK and HI). (Hearing site: Washington, D.C.

MC 111720 (Sub-21F), filed August 28, 1978. Applicant: WILLIAMS TRUCK SERVICE, INC., P.O. Box 40, Sioux Falls, SD 57101. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Howard Beef Processors, Inc., at or near Howard, SD, to points in IL, MI, MN, OH, and WI, under continuing contract(s) with Howard Beef Processors, Inc., of Howard, SD. (Hearing site: Sioux Falls, SD, or St. Paul, MN.)

MC 113362 (Sub-335F), filed August 10, 1978. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue NE., P.O. Box 429, Austin, MN 55912. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bentonite clay and lignite coal* (except commodities in bulk), from the facilities of American Colloid Co., in Crook and Weston Counties, WY, to points in AR, DE, CT, LA, ME, MD, MA, NH, NJ, NY, OK, PA, RI, TX, VT, and DC, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Denver, CO, or Chicago, IL.)

MC 113651 (Sub-285F), filed August 18, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides), from Arkansas City, KS and the facilities used by John Morrell & Co., or near Wichita, KS, to points in AL, FL, GA, MS, LA, KY, NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 113651 (Sub-286F), filed August 21, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides), from Chicago, IL, to points in MS. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 113855 (Sub-446F), filed September 6, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boilers, boiler accessories, and boiler parts,* from East Stroudsburg, PA, to points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 114273 (Sub-465F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides), from Arkansas City, KS and the facilities used by John Morrell & Co., or near Wichita, KS, to points in AL, FL, GA, MS, LA, KY, NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 113651 (Sub-286F), filed August 21, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk and hides), from Chicago, IL, to points in MS. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 113855 (Sub-446F), filed September 6, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a North Dakota corporation, 2450 Marion Road SE., Rochester, MN 55901. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boilers, boiler accessories, and boiler parts,* from East Stroudsburg, PA, to points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 114273 (Sub-465F), filed August 31, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, fittings, valves, hydrants,* and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of Clow Corp., at or near Buckhannon, WV, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and WI. Condition: In view of the findings in MC 114273 (Sub-147 and 252), of which official notice is taken, the certificate to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the certificate showing that it has been in full compliance with applicable regulations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 114457 (Sub-430F), filed August 24, 1978. Applicant: DART TRANSIT CO., a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Willis (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *such commodities as are dealt in by distributors of petroleum products, in mixed loads with petroleum and petroleum products, emulsified petroleum sizing, and gasoline additives in containers,* from the facilities of Texaco, Inc., in Jefferson County, TX, to points in the United States in and east of MT, WY, UT, and AZ. (Hearing site: Houston, TX, or St. Paul, MN.)

MC 114552 (Sub-174F), filed August 3, 1978. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials* used in the installation and application of roofing and building materials (except commodities in bulk), from Charleston Heights, SC, to points in AL, FL, GA, KY, NC, TN, and VA, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and application of roofing and building materials (except commodities in bulk), from the destination points in (1) above to Charleston Heights, SC. (Hearing site: Columbia or Charleston, SC.)

MC 114569 (Sub-245F), filed September 21, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. BOX 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from the facilities of Miami Margarine Co., at or near Albert Lea, MN, to points in AL, FL, GA, NE, NJ, NY, OH, PA, and WV. (Hearing site: Des Moines, IA, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 115654 (Sub-104F), filed August 9, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 13th and Pennsylvania Avenue NW., Washington, DC 2004. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Wrapping paper,* and (2) *scrap and waste paper,* between the facilities of Damsky Paper Co., at or near Birmingham, AL, on the one hand, and, on the other, points in GA, TN, KY, OH, IN, IL, MO, AR, LA, and MS. (Hearing site: Birmingham, AL.)

NOTE.—In view of the findings in MC 115654 (Sub-43) of which official notice is taken, the certificate to be issued here will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration) applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 116004 (Sub-50F), filed August 7, 1978. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes, P.O. Box 47112, Dallas, TX 75247. To operate as a *common carrier,* by motor vehicle, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commision, commodities in bulk, and those requiring special equipment), serving the facilities of Eagle Picher Industries, Inc., at or near Joplin, MO, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 117574 (Sub-316F), filed August 4, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Agricultural combines,* (2) *construction and industrial equipment,* and (3) *attachments, accessories, and parts* for the commodities in (1) and (2) above, from the facilities of Allis Chalmers Corp., at (1) Independence, MO, and (2) Topeka, KS, to points in AL, AR, CT, DE, FL, GA, IN, KY, LA, ME, MA, MD, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 117574 (Sub-318F), filed August 7, 1978. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except truck tractors), (2) *attachments, parts and equipment* designed for use with tractors, in mixed loads with tractors, (3) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of the commodities in (1) and (2) above, and (4) *equipment* designed for use with the commodities in (2) above, between the facilities used by International Harvester Co., in Harrison County, MS, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at or destined to the facilities used by International Harvester Co., in Harrison County, MS. (Hearing site: Chicago, IL, or Washington, DC.)

MC 118866 (Sub-13F), filed August 4, 1978. Applicant: PAUL L. ZAMBERLAN & SONS, INC., P.O. Box 15, Lewis Run, PA 16738. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 2005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brick,* from Clearfield and Bigler, PA, to points in DE, MD, MI, NJ, NY, OH, WV, and DC. (Hearing site: Pittsburgh, PA.)

MC 118883 (Sub-6F), filed August 24, 1978. Applicant: VAN E. HAMLETT, P.O. Box 8009, Osage Street, Nashville, TN 37208. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer materials* (except commodities in bulk, in tank vehicles), (2) *pesticides, in containers, in mixed loads with fertilizer,* and (3) *materials, equipment, and supplies* (except commodities in bulk, in tank vehicles) used in the manufacture of fertilizer and pesticides, (1) between the facilities used by W. R. Grace & Co., at or near (a) Nashville, TN, and (b) New Albany, IN, and Woodstock, TN, (2) between the facilities used by W. R. Grace & Co., at or near Nashville, TN, and Woodstock, TN, on the one hand, and, on the other, those points in KY on west of Interstate Hwy 75, (3) from

the facilities used by W. R. Grace & Co., at or near Albany, IN, to points in

carrier, by motor vehicle, over irregular routes, transporting: *Malt beve-*

ing: (1) *Asbestos, cement, and pipe* (except commodities in bulk), and (2)

points in OH. (Hearing site: Atlanta, GA.)

TX, to points in Barrow County, GA. (Hearing site: Atlanta, GA.)

MC 126542 (Sub-8F), filed August 7, 1978. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310,

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the facilities used by W. R. Grace & Co., at or near Albany, IN, to points in TN, and those points in KY on and west of Interstate Hwy 75, and (4) from Nashville, TN, to those points in KY on and west of Interstate Hwy 75. (Hearing site: Nashville, TN.)

MC 119441 (Sub-44F), filed August 21, 1978. Applicant: BAKER HI-WAY EXPRESS, INC., P.O. Box 506, 555 Commercial Parkway, Dover, OH 44622. Representative: E. H. van Deusen, 220 West Bridge Street, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay* (except in bulk), from points in Graves and Calloway Counties, KY and Henry and Weakley Counties, TN, to points in OH and PA. (Hearing site: Louisville, KY.)

MC 119099 (Sub-23F), filed September 20, 1978. Applicant: BJORKLUND TRUCKING, INC., First Avenue NE. and 8th Street, Buffalo, MN 55313. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chicago, Joliet, and Sterling, IL, to the facilities of Williams Steel and Hardware Co., at Minneapolis, MN, restricted to the transportation of traffic destined to the named destination. (Hearing site: Minneapolis, MN.)

MC 119656 (Sub-44F), filed August 7, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, over irregular routes, transporting: *Iron and steel articles*, between points in IL, IN, IA, KY, MI, OH, TN, and WI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 119656 (Sub-46F), filed August 8, 1978. Applicant: NORTH EXPRESS, INC., 219 Main Street, Winamac, IN 46996. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials and asbestos fiber cement pipe*, from the facilities of Johns-Manville Sales Corp., at Waukegan, IL, to points in IN, KY, MI, NY, OH, and PA, and (2) *insulation board*, from the facilities of Johns-Manville Sales Corp., at Rockdale, IL, to points in IN, KY, MI, NY, OH, and PA. (Hearing site: Chicago, IL.)

MC 119974 (Sub-76F), filed August 7, 1978. Applicant: L.C.L. TRANSIT CO. a corporation, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from the facilities of Miller Brewing Co., at Milwaukee, WI, to points in IL, IN, IA, MI, MN, MO, and OH. (Hearing site: Chicago, IL or Washington, DC.)

MC 121168 (Sub-8F), filed September 21, 1978. Applicant: BOOTH TRANSFER, INC., 4684 Leavenworth, P.O. Box 6076, Omaha, NE 68106. Representative: M. M. McMahon, (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meet by-products, and articles distributed by meat-packing houses*, as described in sections A and C of appendix I to the report in *descriptions in Motor Carrier Certificates*, 61, MCC 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the facilities of Palamera Beef Corp., at or near Omaha, NE, to points in CO, IL, IN, IA, KS, MN, MO, ND, SD, and WI. (Hearing site: Omaha, NE.)

MC 123285 (Sub-9F), filed September 5, 1978. Applicant: CLETEX TRUCKING, INC., P.O. Box 812, Cleburne, TX 76031. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Batesville, AR, to points in TX and OK. (Hearing site: Dallas, TX or Washington, DC.)

MC 123407 (Sub-488F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Door hardware and window hardware*, from Rice Lake, WI, to points in GA and NC. (Hearing site: St. Paul, MN.)

MC 123407 (Sub-489F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board* from Albuquerque, NM, to points in AL, AR, AZ, CA, CO, GA, IL, IN, KS, LA, MI, MO, MS, OH, PA, TN, TX, and WI. (Hearing site: Albuquerque, NM.)

MC 123407 (Sub-491F), filed August 28, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). . To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asbestos, cement, and pipe* (except commodities in bulk), and (2) *accessories, materials, and supplies* used in the installation of the commodities in (1) above (except commodities in bulk), from Hillsboro, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 123407 (Sub-495F), filed August 25, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy. 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). . To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, and millwork*, from points in MT, to points in the United States (except AK and HI). (Hearing site: Billings, MT or Portland, OR.)

MC 124078 (Sub-874F), filed September 18, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) from Atlanta, GA, to points in CT, LA, MD, MA, MS, NY, PA, TX, and VA, and (2) from points in LA and TX, to Atlanta, GA. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-875F), filed September 18, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hagerstown, MD, to points in DE, NJ, NC, PA, VA, WV, and DC. (Hearing site: Nashville, TN.)

MC 124078 (Sub-876F), filed September 18, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Northampton, PA, to Milwaukee, WI. (Hearing site: Pittsburgh, PA.)

MC 124078 (Sub-877F), filed September 20, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sodium silicate, dry barium carbonate, and dry strontium carbonate*, in bulk, in tank vehicles, from Cartersville, GA, to points in OH. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-878F), filed September 21, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

MC 124078 (Sub-879F), filed September 22, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toxaphene*, in bulk, in tank vehicles, from Brunswick, GA, to points in KS, MO, NE, and TN. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-880F), filed September 25, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *(1) Dry corn products*, from Danville, IL, to points in the United States (except AL, AK, FL, GA, HI, IN, KY, MI, MN, MO, NE, OH, TN, and WI), and (2) *dry soybean products*, from Danville, IL, to points in the United States (except AK, HI, IN, MI, OH, and WI). (Hearing site: Chicago, IL.)

MC 124078 (Sub-881F), filed September 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Demopolis, AL, to points in TX and OK. (Hearing site: Birmingham, AL.)

MC 124078 (Sub-882F), filed September 26, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, (1) from points in Barrow County GA, to points in AL, LA, MS, NJ, NC, OH, PA, SC, TN, and TX, and (2) from points in LA, NJ and TX, to points in Barrow County, GA. (Hearing site: Atlanta, GA.)

MC 124078 (Sub-883F), filed September 29, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Hartsville, SC, to points in AL, FL, MD, NJ, NY, OH, PA, TN, VA, WV, and DC. (Hearing site: Columbia, SC.)

MC 124160 (Sub-22F), filed September 13, 1978. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Representative: Lon Rodney Kump, 333 East 4th South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate and dry fertilizer*, from points in UT, to points in AZ, CO, NM, and WY. (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 124393 (Sub-2F), filed August 29, 1978. Applicant: FRANK POTTER TRUCKING CO., INC., P.O. Box 132, Boonville, MO 65233. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wax*, in tank vehicles, from Kalamazoo, MI, to Boonville, MO, under continuing contract(s) with Huebert Fiberboard, Inc., of Boonville, MO. (Hearing site: Jefferson City or Kansas City, MO.)

MC 125777 (Sub-228F), filed August 22, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and lime products*, in dump vehicles, from Maysville, KY, to points in IL, IN, MI, OH, PA, and WV. (Hearing site: Pittsburgh, PA).

MC 126118 (Sub-98F), filed September 26, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same adress as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages* (except commodities in bulk), from Evansville and Lawrenceburg, IN, Carthage, OH, Peoria, IL, Detroit, MI, and points in KY, to points in CA and NV. (Hearing site: San Francisco, CA, or Las Vegas, NV.)

NOTE.—Dual operations are at issue in this proceeding.

MC 126542 (Sub-8F), filed August 7, 1978. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in containers, from the facilities of Donoho Clay Co., at Anniston, AL, to points in NY, PA, KY, MD, OH, IN, IL, MI, WI, IA, MO, TX, and WV, and (2) *materials, equipment*, and *supplies* used in the manufacture and packaging of clay, from points in the destination states in (1) above, to the facilities of Donoho Clay Co., at Anniston, AL, under continuing contract(s) with Donoho Clay Co., of Anniston, AL. (Hearing site: Birmingham, AL.)

MC 127187 (Sub-41F), filed August 22, 1978. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, MN 56537. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, and dicalcium phosphate*, from Weeping Water, NE, to points in AZ, KS, LA, MO, NM, OK, TN, TX, and UT. (Hearing site: Minneapolis, MN.)

MC 127284 (Sub-4F), filed July 28, 1978. Applicant: DOMINION-CONSOLIDATED TRUCK LINES LTD., 775 The Queensway, Toronto, Ontario, Canada M8Z 1N2. Representative: William J. Hirsch, Attorney at Law, Suite 1125, 43 Court Street, Buffalo, NY 14202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Port Huron, MI, and the ports of entry on the international boundary line between the United States and Canada on the Detroit River, and (2) between Detroit, MI, and the ports of entry on the international boundary line between the United States and Canada on the St. Clair River restricted in (1) and (2) to the transportation of traffic originating at or destined to points in the Provinces of Quebec and Ontario, Canada. (Hearing site: Buffalo, NY.)

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1978. The Commission is presently considering

whether the policy statement should be modified, and is in communication with ap-

products, and articles distributed by meat-packing houses, as described in

and east of ND, SD, NE, KS, MO, AR, and LA. (Hearing site: St. Paul, MN.)

to Denver, CO. (Hearing site: St. Paul, MN.)

common carrier, by motor vehicle, over irregular routes, transporting:

operate as a *common carrier*, by motor vehicle, over irregular routes, trans-

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whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect.

MC 128235 (Sub-21F), filed September 5, 1978. Applicant: AL JOHNSON TRUCKING, INC., 1516 Marshall NE., Minneapolis, MN 55413. Representative: Earl Hacking, 1700 New Brighton Boulevard, Minneapolis, MN 55413. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, (1) from Omaha, NE, to Lakeville and Minneapolis, MN, (2) from La Crosse, WI, to Lakeville, MN, (3) from Fort Wayne, IN, to Minneapolis, MN, and (4) from Peoria, IL, to Moose Lake, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 128273 (Sub-316F), filed August 29, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or distributed by building materials supply houses (except commodities in bulk, in tank vehicles, and commodities which because of size or weight require the use of special equipment), between Kansas City, MO, on the one hand, and, on the other, points in the United States (except AK, HI, and MO), restricted to the transportation of traffic originating at or destined to the facilities of Zea Chemical & Research, at Kansas City, MO. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 129994 (Sub—31F), filed August 15, 1978. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Murray, UT 84107. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, and *materials and supplies* used in the manufacture, distribution, installation of gypsum wallboard, from points in Clark County, NV, points in UT and CA. (Hearing site: Los Angeles, CA, or Las Vegas, NV.)

MC 133119 (Sub-142F), filed September 26, 1978. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in sections A, B, and C of appendix I to the report in description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., at (a) Siouz Falls, SD and (b) Estherville and Sioux City, IA, to points in OK, LA, and TX, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Sioux Falls, SD.)

MC 133566 (Sub-116F), filed July 17, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, 1 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, in vehicles equipped with mechanical refrigeration, from the facilities used by Van Munching & Co., at (a) New York, NY, and (b) Newark, Elizabeth, and Secaucus, NJ, to points in CO, IA, IL, IN, KY, KS, MI, MN, MO, NE, OH, TN, and WI, restricted to the transportation of traffic moving in foreign commerce having an immediately prior movement by water and destined to the indicated destinations. (Hearing site: New York, NY, or Newark, NJ.)

MC 133566 (Sub—120F), filed August 8, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Charles W. Beinhauer, Suite 4959, 1 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of Schrafft Candy Co., (a) at Boston, MA, and (b) in Middlesex, Norfolk, Essex, and Suffolk Counties, MA, to points in AR, CO, IA, IN, KS, LA, NE, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Boston, MA, or New York, NY.)

MC 133689 (Sub-230F), filed September 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 1 Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pct foods and foodstuffs* (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, MO, AR, and LA. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-231F), filed September 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, and (2) *articles distributed by meat packinghouses*, as described in section C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of or used by Shenson Meat Co., Coast Packing Co., Inc., and Geo. A. Hormel & Co., at Omaha, NE, to points in GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: St. Paul, MN.)

MC 134323 (Sub-105F), filed August 29, 1978. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from the facilities of Magazine Shippers Association, Inc., at or near Bridgeport, CT, to points in AR, AL, MS, GA, FL, NC, and SC, under continuing contract(s) with Magazine Shippers Association, of Bridgeport, CT. (Hearing site: Bridgeport, CT, or Amarillo, TX.)

MC 134477 (Sub-261F), filed July 21, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from the facilities of Schrafft Candy Co., (a) at Boston, MA, and (b) in Middlesex, Norfolk, Essex, and Suffolk Counties, MA, to points in AR, CO, IA, IN, KS, LA, NE, OK, TN, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Boston, MA, or New York, NY.)

MC 133689 (Sub-230F), filed September 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 1 Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pct foods and foodstuffs* (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, MO, AR, and LA. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-268F), filed August 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, cocktail mixes, and bitters* (except malt beverages and commodities in bulk), from Minneapolis, MN, to Denver, CO. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-269F), filed August 28, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bone meal fertilizer* (except in bulk), from Reading, PA, to St. Paul, MN. (Hearing site: St. Paul, MN.)

MC 135213 (Sub-14F), filed August 30, 1978. Applicant: JOE GOOD d.b.a. GOOD TRANSPORTATION, P.O. Box 335, Lovell, WY 82431. Representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite and betonite products*, in containers from Greybull, WY, to points in AZ, CA, CO, ID, MT, NV, MN, OK, OR, TX, UT, and WA, under continuing contract(s) with Dresser Industries, Inc., of Houston, TX. (Hearing site: Houston, TX, or Denver, CO.)

MC 135469 (Sub-8F), filed September 21, 1978. Applicant: HAWKEYE TRANSPORT CO., a corporation, P.O. Box 126, Stanwood, IA 52337. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

MC 136315 (Sub-38F), filed September 5, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring*, (1) from the facilities of Bruce Hardwood Floors, at or near Center, TX, to points in AL, AR, GA, LA, MS, and TN, and (2) from the facilities of Bruce Hardwood Floors, at or near Jackson and Nashville, TN, to Center, TX. (Hearing site: Jackson, MS, or Dallas, TX.)

Note.—Dual operations are involved in this proceeding.

MC 136343 (Sub-151F), filed August 16, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, and *equipment, materials and supplies* used in the manufacture and sale of printed matter (except commodities in bulk), between the facilities of Independent News Co., at (a) Bethany, Bloomfield, Bristol, and North Haven, CT, (b) Springfield and Lowell, MN, (c) New York, Albany, and Buffalo, NY, (d) Philadelphia, PA, (e) Atlanta, GA, and (f) on the one hand, and, on the other, points in CA, CT, DE, FL, GA, IN, IL, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TX, VT, VA, WA, WV, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 136464 (Sub-40F), filed August 4, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sewing aids and display rocks* from Los Angeles and San Francisco, CA, to points in CT, and (2) (a) from New York, NY, to points in NJ, and (b) from New York, NY, and points in NJ, to points in MN, MI, OH, MO, and WI, under continuing contract(s) with Talon Division of Textron, Inc., of Meadville, PA. (Hearing site: Washington, DC.)

Note.—Dual operations are involved in this proceeding.

MC 136511 (Sub-25F), filed August 16, 1978. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from those points in TN in and east of Campbell, Anderson, Knox, and Blount Counties, to points in CA, OR, WA, ID, NV, AZ, MT, WY, UT, CO, NM, TX, OK, and LA. Condition: We have taken official notice of the decision in MC 136511 (Sub-7), et al., served July 13, 1978, in which applicant was found to be unfit. Accordingly, before an appropriate fitness finding can be made, applicant must submit written evidence in the form of verified statements demonstrating that it is fit, willing, and able properly to perform the service granted in this proceeding and to conform to the requirements of the Interstate Commerce Act and Commission's regulations. (Hearing site: Knoxvile, TN.)

MC 136605 (Sub-70F), filed September 1, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic pipe, asbestos cement pipe, and pipe fittings*, and (2) *accessories* used in the installation of the commodities in (1) above, from the facilities of Johns-Manville Sales Corp., at or (a) near McNary, OR, and (b) Stockton, CA, to points in MT, ID, UT, and WA. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 138104 (Sub-57F), filed August 14, 1978. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, in bulk, in dump vehicles, from the facilities of 3-M Co., at or near Little Rock, AR, to Dallas and Ennis, TX. (Hearing site: Forth Worth or Dallas, TX.)

MC 138308 (Sub-56F), filed September 26, 1978. Applicant: KLM, INC., a Texas corporation, Old Hwy 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by discount and variety stores (except foodstuffs and commodities in bulk), from points in the United States (except AK and HI), to the facilities of Gibson Distributors, Inc., at Dallas and Seagoville, TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of health and beauty aids (except commodities in bulk), from points in the United States (except AK and HI), to the facilities of Gibson Distributors, Inc., at Seagoville, TX, restricted in (1) and (2) above to the transportation of traffic destined to the named destination facilities. (Hearing site: Jackson, MS, or Dallas, TX.)

MC 138635 (Sub-16F), filed August 28, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood slat products, shades, draperies, dividers, and doors*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, from Westminster, CA, to Portland, OR. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 138741 (Sub-51F), filed August 18, 1978. Applicant: AMERICAN CEN-

TRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435.

DE, and PA, to the facilities of Pabst Brewing Co., at Pabst, GA. (Hearing

Bay, WI, under continuing contract(s) with The C. Reiss Coal Co., of Sheboy-

manufacture of health products, beauty products, and personal care

ities in bulk), from the destination points named in (1) above, to York,

MC 143820 (Sub-3F), August 31, 1978. Applicant: COSMO BALIO, 131

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TRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Lumber and lumber products*, between St. Joseph, MO, on the one hand, and on the other, points in AL, AR, CO, GA, IA, IL, KS, KY, LA, MI, MS, MO, NE, OH, OK, TN, TX, WI, and IN. (Hearing site: Kansas City, MO.)

MC 138741 (Sub-52F), filed August 21, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Lumber and lumber products*, from the facilities of Weyerhaeuser Co., at or near West Memphis, AR, to points in AL, GA, IA, IL, IN, KS, KY, LA, MS, MI, MO, NE, NY, OH, OK, TN, TX, and WI. (Hearing site: Chicago, IL.)

MC 138741 (Sub-53F), filed August 18, 1978. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Roofing and roofing materials* (except commodities in bulk, in tank vehicles), from Tuscaloosa, AL, to points in AR, GA, IN, KY, MO, MS, TX, TN, and OH. (Hearing site: Montgomery or Birmingham, AL.)

MC 138882 (Sub-130F), filed August 4, 1978. Applicant: WILEY SANDERS, INC., P.O. Drawer 707, Troy, AL 36801. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Bottles, toilet floats, and plastic articles*, from the facilities of Trio Products, Inc., at or near Thomasville, GA, to points in FL, TX, TN, LA, SC, NC, MO, KY, IL, IN, NJ, MI, OH, CA, CO, MS, and AL. (Hearing site: Montgomery, AL, or Atlanta, GA.)

MC 138882 (Sub-132F), filed August 8, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle over irregular routes transporting: (1) *Malt beverages*, from the facilities of Pabst Brewing Co., at Pabst, GA, to points in MD, NJ, VA, DE, and PA, and (2) *materials, equipment, and supplies* used in the manufacture and sale of malt beverages, from points in MD, NJ, VA, DE, and PA, to the facilities of Pabst Brewing Co., at Pabst, GA. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 139246 (Sub-5F), filed August 1, 1978. Applicant: LEON JONES FEED & GRAIN, INC., Route 3, Cumming, GA 30130. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish by-products, fish scrap, fish meal, and fish solubles*, from Beauford, Morehead City, and South Port, NC, to points in AL, GA, and TN. (Hearing site: Atlanta, GA.)

MC 139923 (Sub-48F), filed August 30, 1978. Applicant: MILLER TRUCKING CO. INC., P.O. Box Drawer "D", Stroud, OK 74079. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Zinc oxide and zinc dust* (except commodities in bulk), from the facilities of St. Joe Zinc Co., at or near Josephtown, PA, to points in CA and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 141197 (Sub-27F), filed August 28, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Kansas City, MO, to points in IA, KS, MO, NE, and OK. (Hearing site: Kansas City, MO.)

MC 141197 (Sub-28F), filed August 25, 1978. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, MO 64151. Representative: Tom K. Kretsinger, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in tank vehicles, from Muncie, KS, to points in MO. (Hearing site: Kansas City, MO.)

MC 141500 (Sub-8F), filed September 13, 1978. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 35, Kewaskum, WI 53040. Representative: Richard C. Alexander, Suite 412 Empire Building, 710 North Plankington Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coal and briquettes*, from Green Bay and Sheboygan, WI, to those points in IL on and north of IL Hwy 17; and (2) *petroleum coke*, from Joliet and South Chicago, IL, to Green Bay, WI, under continuing contract(s) with The C. Reiss Coal Co., of Sheboygan, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 141758 (Sub-2F), filed September 15, 1978. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of Lydall Eastern, Inc., at or near Covington, TN, to points in MO; and (2) *materials, equipment, and supplies* used in the manufacture of paper and paper products, from points in MO, to the facilities of Lydall Eastern, Inc., at or near Covington, TN, under continuing contract(s) with Lydall Eastern, Inc., of Manchester, CT. (Hearing site: Hartford, CT, or Washington, DC.)

MC 141759 (Sub-8F), filed September 19, 1978. Applicant: OHIO PACIFIC EXPRESS, 2385 South High Street, Columbus, OH 43207. Representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of glass and glass products (except commodities in bulk), between the facilities of Anchor Hocking Corp., at or near (a) Lancaster, OH, (b) Connellsville, Monaca, and Youngwood, PA, and (c) Chester, WV, on the one hand, and, on the other, points in AR, LA, OK, and TX, under continuing contract(s) with Anchor Hocking Corp., of Lancaster, OH. (Hearing site: Columbus, OH.)

MC 141774 (Sub-15F), filed August 7, 1978. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carbonated beverages*, (except alcoholic beverages), from Birmingham, AL, to MS, AR, and TN, and (2) *aluminum cans* and *steel cans*, from Tampa, FL, to Birmingham, AL. (Hearing site: Birmingham, AL, or Atlanta, GA.)

NOTE.—Dual operations are involved in this proceeding.

MC 141804 (Sub-120F), filed July 31, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a NU corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers of health products, beauty products, and personal care products, (a) from Hayward, CA, and Norman, OK, to Atlanta, GA, Dallas, TX, Lyndhurst, NJ, and Chicago, IL, (b) between Hayward, CA, and Norman, OK, and (c) from points in the United States (except AK and HI) to the facilities of Shaklee Corp. at or near (a) Hayward, CA and (b) Norman, OK, restricted (1) in (a) and (b) above to the transportation of traffic originating at or destined to the facilities of the Shaklee Corp., at or near the named points and (2) in (c) above to the transportation of traffic destined to the named destination facilities.

MC 141804 (Sub-127), filed August 14, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a NU corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Theatre chairs*, from Nashville, TN, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-128F), filed August 14, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., a NU corporation, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bicycles and bicycle parts*, from Azusa, Torrance, and City of Industry, CA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142157 (Sub-2F), filed June 27, 1978, previously noticed in the FEDERAL REGISTER issue of August 31, 1978. Applicant: LOBIANCO TRUCKING CO., INC., Crone Road, Rural Delivery 5, York, PA 17402. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and cooling equipment* which by reason of size or weight require the use of special equipment, from York, PA, to points in the United States (except AK, CT, DE, HI, MD, NJ, NY, OH, PA, DC, those points in VA on, north, and east of a line beginning at Virginia Beach, VA, and extending along U.S. Hwy 60 to its junction with U.S. Hwy 11, then along U.S. Hwy 11 to the VA-WV State line, and those in WV on and north of U.S. Hwy 50), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), from the destination points named in (1) above, to York, PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

NOTE.—This republication shows the commodity description in part (1) above.

MC 142559 (Sub-52F), filed September 15, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of *plastic compounds* (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 142672 (Sub-26F), filed August 7, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric lamps, lighting fixtures, Christmas tree lamp outfits, electric cord sets, dry cell batteries, and portable battery chargers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from Bellevue, Bucyrus, Circleville, Cleveland, Ravenna, Warren, and Youngstown, OH, and Lexington, KY, to points in LA, OK, and TX. (Hearing site: Cleveland, OH, or Little Rock, AR.)

NOTE.—Dual operations are involved in this proceeding.

MC 143775 (Sub-16F), filed September 5, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (1) from Mayville, WI, and Hoopeston and Princeville, IL, to points in ND, SD, NE, KS, MN, IA, MO, IL, WI, MI, IN, OH, KY, AL, GA, SC, NC, VA, WV, PA, MD, DE, NJ, NY, MA, RI, CT, NH, VT, ME, and DC, and (2) from New Belledeau and St. Francisville, LA, and Turkey, NC, to points in the United States (except AK and HI). (Hearing site: Phoenix, AZ.)

NOTE.—Dual operations are involved in this proceeding.

MC 143820 (Sub-3F), August 31, 1978. Applicant: COSMO BALIO, 131 East Broad Street, Frankfort, NY 13440. Representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, NY 13202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel plates, steel sheets, and steel coils*, from Gerard, Youngstown, Warren, Steubenville, and Cleveland, OH, New Castle, DE, Detroit, MI, and Norman, OK, to the facilities of Bossert Manufacturing Corp., at Utica, NY; and (2) *steel stampings*, from the facilities of Bossert Manufacturing Corp., at Utica, NY, to Ashatabula, Newark, Kenton, and Marysville, OH, Winchester, KY, New Castle, DE, Detroit, MI, New Castle, PA, and Norman, OK, under continuing contract(s) with Bossert Manufacturing Corp., Utica, NY. (Hearing site: Syracuse or Utica, NY.)

NOTE.—The person or persons who appear to be engaged in common control of applicant and any other regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 144228 (Sub-5F), September 14, 1978. Applicant: BAGLE TRANSPORT LINES, INC., 9632 Palo Pinto Road, Fort Worth, TX 76116. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from points in Collin, Eastland, and Tarrant Counties, TX, to points in the United States (except TX, AK, and HI), and (2) *Materials, equipment, and supplies* used in the manufacture of iron and steel articles, from points in the United States (except TX, AK, and HI), to points in Collin, Eastland, and Tarrant Counties, TX, under continuing contract(s) in (1) and (2) above with EBAA Iron, Inc., of Eastland, TX. (Hearing site: Fort Worth, or Dallas, TX.)

NOTE.—(1) The person or persons who it appears may be engaged in common control of applicant and any other regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary. (2) Dual operations may be involved.

MC 144484 (Sub-1F), July 31, 1978. Applicant: FREIGHTWAYS, INC., 412 East Second Street, Eldon, MO 65026. Representative: Darrell Webery (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by manufacturers or distributors of heat transfer, refrigeration, or air-conditioning units, (2) *parts and attach-*

ments for the commodities in (1) above, and (3) *materials, equipment,*

08096. To operate as a *contract carrier*, by motor vehicle, over irregular

are waste items, have no known use, that there is no market for these commodities,

Dillon, Marlboro, and Spartanburg Counties, SC, under continuing

NOTE.—The restriction and conditions contained in the grant of authority in this pro-

MOTOR LINES, a corporation, 520 North Court Street, P.O. Box 1427,

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ments for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between the facilities of Sundstrand Corp., at Camdenton, MO, on the one hand, and, on the other, points in TX, OK, KS, AR, MI, IN, TN, AL, OH, NE, ND, SD, WI, IL, MS, and GA. (Hearing site: Eldon or Jefferson City, MO.)

MC 144496 (Sub-1F), August 4, 1978. Applicant: ECKS TRUCKING, INC., 1081 Pleasant Street, Norwood, MA 02062. Representative: James F. Martin, Jr., 8 West Morse Road, Bellingham, MA 02019. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beverages*, and (2) *materials and supplies* used in the manufacture and distribution of beverages, between Walpole, MA, on the one hand, and, on the other, points in CT, ME, NH, NJ, NY, PA, RI, and VT, under continuing contract(s) with Charles V. Zarba, Inc., d.b.a. Walpole Bottling Co., of Walpole, MA. (Hearing site: Boston, MA.)

MC 144547 (Sub-2F), filed August 22, 1978. Applicant: DURA-VENT TRANSPORT CORP., 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th Street NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood stoves and coal stoves*, from Boston, MA, to Urbana, OH, Chicago, IL, Great Bend, KS, Petoskey, MI, Portage, WI, Memphis, TN, Fort Smith, AR, Portland, OR, Seattle, WA, and San Jose, CA, under continuing contract(s) with Southport Stoves, Inc., of Stratford, CT, (2) *masonry fireplace units, cast iron stoves, cast iron stove parts, and accessories, steel, and building materials*, from Detroit, MI, and Loudon, TN, to Salt Lake City, UT, Phoenix, AZ, Denver, CO, Albuquerque, NM, and Las Vegas, NV, under continuing contract(s) with Building Products Manufacturing Co., division of "Hutch" Manufacturing Co., of Detroit, MI, (3) *farm machinery, cast iron stoves, and steel stoves*, from Richmond, IN, to points in the United States (except AK and HI), under continuing contract(s) with Dunham Lehr, Inc., of Richmond, IN, and (4) *cast iron stoves and steel stoves*, from Richmond, IN, to points in the United States (except AK and HI), under continuing contract(s) with All Nighter Stove Works West, Inc., of Richmond, IN. (Hearing site: San Francisco, CA, or Washington, DC)

MC 144894 (Sub-1F), filed August 17, 1978. Applicant: BRANTLEY & FISHER TRANSPORT, INC., Rural Delivery No. 2, Box 401H, Absecon, NJ 08201. Representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, from Nashua, NH, to points in CA, IL, IN, IA, MN, ND, MO, TX, FL, and GA, under continuing contract(s) with the Bemis Co., Inc., of Nashua, NH. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 145106 (Sub-1F), filed August 8, 1978. Applicant: EDINA CARTAGE CO., a corporation, 1000 Taylor Avenue, Flat River, MO 63601. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Needles, syringes, and blood collection tubes*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from the facilities of Sherwood Medical Industries, division of Brunswick Corp., at or near Norfolk, NE, to points in the United States (except AK and HI), under continuing contracts(s) with Sherwood Medical Industries, division of Brunswick Corp., of Norfolk, NE. (Hearing site: Washington, DC.)

MC 145116F, filed July 27, 1978. Applicant: EASTERN SUPPLY COMPANY, INC., a Delaware corporation, Route 9, Freehold, NJ 07728. Representative: Robert J. Gaughran, 64 East Main Street, Freehold, NJ 07728. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garden and farm equipment materials, and supplies*, and (2) *agricultural commodities* otherwise exempt from economic regulation pursuant to section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with the commodities in (1) above, between points in Monmouth County, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Brock Farms, Inc., of Freehold, NJ. (Hearing site: Newark, NJ. or New York, NY.)

MC 145144F, filed August 7, 1978. Applicant: WALL TRUCKING, INC., 22 School Street, Shrewsbury, MA 01545. Representative: John F. O'Donnell, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste neutralized acid sludge and waste metal sludge*, except in tank vehicles, from Worcester, MA, to Waterbury, CT, and Lewiston, NY, under continuing contract(s) with Wyman-Gordon Co., of Worcester, MA. (Hearing site: Boston, MA.)

NOTE.—Applicant has filed a motion to dismiss on the grounds that the commodities are waste items, have no known use, that there is no market for these commodities, and that accordingly the commodities are not properly under the part II of the Interstate Commerce Act. This motion will be considered following the publication period.

MC 145149 (Sub-3F), filed September 26, 1978. Applicant: MATADOR SERVICE, INC., P.O. Box 2256, Wichita, KS 67201. Representative: Clyde N. Christey, Kansas Credit Union Building, Suite 110L, 1010 Tyler, Topeka, KS 66612. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anhydrous ammonia and nitrogen fertilizer solutions*, from the facilities of Farmland Industries, Inc., near Dodge City, KS, to points in CO, NE, OK, NM, and TX; (2) *anhydrous ammonia*, from the facilities of Farmland Industries, Inc., (a) near Farnsworth, TX, to points in CO, KS, NM, and OK, (b) near Enid, OK, to points in AR, CO, KS, MO, and TX, (c) near Barnesville and Benson, MN, to points in ND, SD, MT, and WI, and (d) near Hoag, NE, to points in IA, KS, and MO, and (3) *anydrous ammonia*, from the Mapco Pipeline Terminal facilities near Conway and Clay Center, KS, to points in MO and NE. (Hearing site: Kansas City, MO.)

MC 145202F, filed August 11, 1978. Applicant: K-LINES, LTD., 3125 South 11th Street, Council Bluffs, IA 51501. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, and *articles* distributed by meat-packing houses, as described in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), (1) from the facilities of American Beef Packers, Inc., in Pottawattamie County, IA, to points in FL and GA, under continuing contract(s) with American Beef Packers, Inc., of Oakland, IA, and (2) from the facilities of Coast Packing Co., of Omaha, Inc., at Omaha, NE, to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN, under continuing contract(s) with Coast Packing Co., of Omaha, Inc., of Omaha, NE. (Hearing site: Omaha, NE.)

MC 145227 (Sub-1F), filed August 21, 1978. Applicant: ROGERS TRANSPORTATION CO., INC., 1316 South Blount Street, Raleigh, NC 27611. Representative: David H. Permar, P.O. Box 527, Raleigh, NC 27602. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in NC, to points in Horry, Dillon, Marlboro, and Spartanburg Counties, SC, under continuing contract(s) with Rogers Oil Co., of Raleigh, NC. (Hearing site: Raleigh, NC.)

MC 145394F, filed August 7, 1978. Applicant: A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109. Representative: Robert M. Kaske, 2800 Falund Street, Rockford, IL 61109. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn equipment and parts for lawn equipment*, from Genoa, IL, to points in IN, IA, MN, and WI, and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, from points in IN, IA, MN, and WI, to Genoa, IL under continuing contract(s) in (1) and (2) above with Sycamore Manufacturing Co., of Genoa, IL. (Hearing site: Washington, DC, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 145409 (Sub-1F), filed September 25, 1978. Applicant: STA-GREEN TRANSPORTATION CO., INC., 321 North Anniston Avenue, Sylacauga, AL 35150. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and fertilizer ingredients, seed, and pesticides*, from the facilities used by Parker Fertilizer Co., Inc., in Talladega County, AL, to points in the United States (except AK and HI), and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in the United States (except AK and HI), to the facilities used by Parker Fertilizer Co., Inc., in Talladega County, AL. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 145429F, filed September 28, 1978. Applicant: MEL'S EXPRESS, LTD., P.O. Box 479, Bradford, Ontario, Canada LOG 1CO. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Juices, beverages, and citrus products*, from the facilities of Tropicana Products, Inc., at or near Bradenton and Ft. Pierce, FL, to the ports of entry on the international boundary line between the United States and Canada and in NY and MI, restricted to the transportation of traffic destined to points in the Province of Ontario, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Tampa, FL.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect. (Hearing site: Tampa, FL.)

MC 145438F, filed September 17, 1978. Applicant: ABC TRUCK CO., a corporation, 2724 LaMotte, Marlette, MI 48453. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in and used by producers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Heublein, Inc., of Hartford, CT. (Hearing site: Chicago, IL.)

MC 145439F, filed September 15, 1978. Applicant: DAVID STOCK, d.b.a. DAVID STOCK TRUCKING, Rural Route 1, Box 108, Newton, WI 53063. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fredricksburg, IA, Chicago, IL, Green Bay, Hilbert, Livingston, Mayville, Merrill, Milwaukee, Monroe, and Sheboygan, WI, to the facilities of Crescent Food Co., at or near Los Angeles, CA, under continuing contract(s) with Crescent Food Co., of Los Angeles, CA. (Hearing sites: Milwaukee, WI, or Chicago, IL.)

MC 145459F, filed September 6, 1978. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., P.O. Box 162, Mattoon, IL 61938. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Mattoon, IL, to Chicago, Decatur, and Villa Grove, IL, Indianapolis, IN, and St. Louis, MO. (Hearing site: Chicago, IL.)

MC 2908 (Sub-25F), filed September 14, 1978. Applicant: CAPITAL MOTOR LINES, a corporation, 520 North Court Street, P.O. Box 1427, Montgomery, AL 36102. Representative Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, transporting: (1) Over regular routes, *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between junction U.S. Hwy 80 and AL Hwy 28, near Coatopa, AL, and junction U.S. Hwy 80 and U.S. Hwy 11, near Cuba, AL: over U.S. Hwy 80, serving all intermediate points; and (2) over irregular routes, *passengers and their baggage*, in one-way and round-trip charter operations, between points in Sumter County, AL, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Meridian, MS, or Selma, AL.)

NOTE.—The person or persons who it appears may be engaged in common control between applicant and another regulated carrier must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 125156 (Sub-2F), filed August 4, 1978. Applicant: DAWSON'S CHARTER SERVICE, INC., Box 144, Sandy Spring, MD 20860. Representative: Donald J. Balsley, Jr., 1747 Pennsylvania Avenue NW., Suite 1050, Washington, DC 20006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Anne Arundel, Howard, Montgomery, and Prince Georges Counties, MD, and extending to points in DE, FL, GA, MD, NC, NJ, NY, PA, SC, TN, VA, WV, and DC. (Hearing site: Washington, DC.)

MC 130507F, filed June 26, 1978. Applicant: A. MARGARET PARROTT, d.b.a. PARROTT'S TOURS, 2191 Black River Street, Deckerville, MI 48427. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. To engage in operations, in interstate or foreign commerce, as a *broker* at Deckerville, MI, in arranging for the transportation of: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in St. Clair, Sanilac, Huron, Tuscola, Lapeer, Genesee, Saginaw, and Bay Counties, MI, and extending to points in the United States (including AK, but excluding HI.) (Hearing site: Lansing or Detroit, MI.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups

should be made in conformity with the requirements set forth in Tauck Tours, Inc.,

sunshine act meetings

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should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1952).

MC 130525F, filed September 6, 1978. Applicant: BLUE GRASS AUTOMOBILE CLUB, 155 Walnut Street, Lexington, KY 40501. Representative: Michael G. Paige (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Lexington, KY, in arranging for the transportation by motor vehicle, of: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, between points in the United States (including AK, but excluding HI). (Hearing site: Lexington, NY.)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in Tauck Tours, Inc., Extension—New York, NY, 54 MCC 291 (1952).

[FR Doc. 78-30616 Filed 10-30-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub L. 94-409), 5 U.S.C. 552(e)(3).

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Securities and Exchange Commission	7
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[6740-02-M]

1

OCTOBER 26, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

DATE AND TIME: Monday, October 30, 1978, at 2 p.m. and Tuesday, October 31, 1978, at 9:30 a.m. (if necessary).

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will meet in special session to consider United Gas Pipe Line Co., Docket No. RP 71-29 (Phase II).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2189-78 Filed 10-27-78; 10:37 am]

[6740-02-M]

2

OCTOBER 26, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

DATE AND TIME: Wednesday, November 1, 1978, at 2 p.m., and as necessary, Thursday, November 2, 1978, and Friday, November 3, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will meet in special session to begin consideration of implementing regulations under the Natural Gas Policy Act of 1978. These meetings will be for discussion only.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-2190-78 Filed 10-27-78; 10:37 am]

[6730-01-M]

3

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 49886, October 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., October 31, 1978.

CHANGES IN THE MEETING:

Addition of the following item to open session:

8. Agreements Nos. T-3453, T-3453-A, T-3565, T-3565-A, T-3567, and T-3567-A: Agreements regarding marine terminal facilities at San Juan, P.R. and Docket No. 76-41: Berthing of Seatrain vessels in San Juan, P.R.—Consideration or petition for stay.

Additon of the following item to closed session:

1. Docket No. 71-29: *Baton Rouge Marine Contractors, Inc.* v. *Cargill, Inc.*—Discussion of the record.

[S-2196-78 Filed 10-27-78; 3:54 pm]

[6735-01-M]

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

OCTOBER 27, 1978.

TIME AND DATE: 10 a.m., November 3, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following proceedings:

1. Peggs Run Coal Co. Inc., Docket No. IBMA 77-38.
2. Republic Steel Corp., Docket No. IBMA 77-39.

The following items will be considered by the Commission and carried over to the next regularly scheduled meetings:

3. Proposed Rules of Procedure.
4. Proposed Rules implementing the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION:

Philip Paschall, 202-653-5610.

[S-2195-78 Filed 10-27-78; 3:48 pm]

[6210-01-M]

5

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Monday, November 6, 1978.

PLACE: 20th Street and Constitution Avenue N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed salary structure adjustments at Federal Reserve Banks.
2. Proposed salary structures for officers of the Federal Reserve System.
3. Information on pricing of Federal Reserve services to be submitted to the Congress for consideration in connection with pending legislation dealing with fair competition among financial institutions and soundness of the commercial banking system.
4. Proposed purchases, under competitive bidding, of computer equipment within the Federal Reserve System.
5. Personnel actions (appointments, promotions, assignments, reassignments, and salary action) involving individual Federal Reserve System employees.
6. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 27, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2194-78 Filed 10-27-78; 2:48 am]

[7590-01-M]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, November 1 and Thursday, November 2, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

3. Briefing on memorandum of understanding with EPA (approximate ½ hour considered at the closed meeting may be considered pursuant to one or more

TUESDAY, OCTOBER 31, 1978
PART II

V 43/211 OCT 78

SUNSHINE ACT MEETINGS

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, NOVEMBER 1; 9:30 A.M.

1. Discussion of review of staff motion to withdraw its petition for review of ALAB-399 and review of ALAB-487, Consolidated Edison of New York, and related matters (approximate 1 hour, closed-exemption 10).
2. Discussion of classification of sensitive safeguards information (approximate 1 hour, closed-exemption 1).

WEDNESDAY, NOVEMBER 1; 2:30 P.M.

1. Briefing by DOE on feasibility of a nuclear siting policy based on the expansion of existing sites (approximate 1 hour, public meeting).
2. Briefing on proposed staff response to the J. Honicker petition for emergency and remedial action (approximate 1 hour, public meeting).
3. Affirmation of staff paper on burial of small quantities of radionuclides: Publication for public comment (approximate 10 minutes, public meeting).

THURSDAY, NOVEMBER 2; 9:30 A.M.

1. Joint meeting of NRC and ACRS:
a. Introduce new members.
b. Proposed participation of ACRS consultants in AS&LB hearings.
c. Proposed use of CRAC code for comparison of alternate sites.
d. Review of bases for combination of dynamic loads in nuclear facilities.
e. NRC Staff response to ACRS recommendations.
f. Nuclear powerplant reliability data system—Proposed mandatory requirement.
g. Proposed rule on licensing requirements for the storage of spent fuel in an independent spent fuel storage installation (approximate 1 hour, public meeting).
2. Briefing on discussions with HEW on the health effects of low-level radiation study (approximate ½ hour, public meeting).
3. Briefing on memorandum of understanding with EPA (approximate ½ hour public meeting).

THURSDAY, NOVEMBER 2; 1:30 P.M.

1. Commission review of supergrade audit report (approximate 1 hour, public meeting).
2. Briefing by DOE on status of INFCE (approximate 1 hour, closed-exemption 1).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

OCTOBER 25, 1978.

[S-2191-78 Filed 10-27-78; 10:37 am]

[8010-01-M]

7

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published October 27, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 31, 1978.

The meeting previously scheduled for Tuesday, October 31, 1978, at 10 a.m., has been rescheduled for Monday October 30, 1978, at 3 p.m.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans, Loomis, and Pollack determined that Commission business required the above change and that no earlier notice thereof was possible.

OCTOBER 26, 1978.

[S-2192-78 Filed 10-27-78; 10:37 am]

[7910-01-M]

8

RENEGOTIATION BOARD.

DATE AND TIME: Thursday, November 2, 1978; 2 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: IBM Corp., fiscal years ended December 31, 1969 and 1970.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: October 26, 1978.

GOODWIN CHASE,
Chairman.

[S-2193-78 Filed 10-27-78; 10:37 am]

federal register

TUESDAY, OCTOBER 31, 1978
PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

INTERNATIONAL TRADE COMMISSION

INTERSTATE COMMERCE COMMISSION

■

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

[7020-02-M]

An employee of the U.S.I.T.C. required to file this statement must also list the names of his creditors other than those to whom he may

Contesting record procedures: Director Personnel Division (same address as above).

Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular

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[7020-02-M]

INTERNATIONAL TRADE COMMISSION

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

AGENCY: United States International Trade Commission.

ACTION: Incorporation by reference of Privacy Act issuances.

SUMMARY: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

DATES: This document fulfills the annual notice requirements of the Privacy Act for 1978.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Esq. (523-0359)

APPROVAL OF THE DIRECTOR

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on October 4, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

System name: Employment and Financial Disclosure Records—U.S.I.T.C.

System location: Deputy Conselor for Employee Responsibilities and Conduct (Assistant to the General Counsel), Office of the General Counsel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

Categories of individuals covered by the system: 1. GS Employees: All current employees of the U.S.I.T.C. at grade 13 and above, or at a comparable pay level under other authority, and U.S.I.T.C. employees below GS-13, or at a comparable pay level under other authority, who are (1) responsible for making a decision or taking an action in regard to Commission contracting or procurement, (2) responsible for conducting investigative and research activities where the decision to be made or action to be taken could have an impact on any non-Federal enterprise, or (3) responsible for exercising the authority of any supervisory employee in the absence of such employee. Certain Commission employees within this class may not be required to file confidential statements of employment and financial disclosure if a determination is made pursuant to 19 CFR 200.735-114a that (1) the duties of the position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote, or (2) that the duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government. In addition, U.S.I.T.C. employees not required to file confidential statements of employment and financial interests, but who wish to voluntarily file such statements, are included.

2. Special Employees: All special employees of the U.S.I.T.C. file a Confidential Statement of Employment and Financial Interests for Special Government employees. "Special Government Employee" is defined at 18 U.S.C. 202 and includes, but is not limited to, experts, consultants and advisors hired for temporary duties either on a full-time or intermittent basis.

Categories of records in the system: 1. GS Employees: This system of records consists of a confidential statement of employment and financial interests. Employees of the U.S.I.T.C. required to file this statement must list the names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions: (a) with which the employee is connected as an employee, officer, owner, director, member, trustee, partner, advisor, or consultant; or (b) in which the employee has any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which the employee has any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

An employee of the U.S.I.T.C. required to file this statement must also list the names of his creditors other than those to whom he may be indebted by reason of a mortage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses such as household furnishings, automobiles, education, vacation and similar expenses.

Further, the U.S.I.T.C. employee required to file such a statement must list his interest in real property or rights in lands, other than property which he occupies as a personal residence. If any of the above information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, the employee must also list the names and addresses of such persons, the date upon which the employee requested that the information be supplied, and the nature of the subject matter involved.

2. Special Employees: This system of records consists of a confidential statement of employment and financial interests for special employees. The special employee must disclose all other federal agencies and other organizational segments of the U.S.I.T.C. in which he is presently employed. He must also name all corporations, companies, firms, State and local Governmental organizations, research organizations, and educational or other institutions in which he is serving as employee, officer, member, owner, trustee, director, expert, adviser, or consultant, with or without compensation.

The Special Employee must also disclose his financial interests by listing the names of all copporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions in which he has any financial interest in any amount through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

Authority for maintenance of the system: 1. The Confidential Statement of Employment and Financial Interests for GS-employees is required by section 402 of Executive Order 11222, dated May 8, 1965, prescribing standards of ethical conduct for Government officers and employees.

The confidential statement of employment and financial interest for special Government employees is required by section 306 of Executive Order 11222.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records and information in these records may be used:

a. By the Deputy Counselor for Employee Responsibilities and Conduct to determine whether or not an employee has a direct or indirect financial interest which conflicts substantially, or appears to conflict substantially, with his U.S.I.T.C. duties or responsibilities.

b. By the Deputy Counselor to determine whether a U.S.I.T.C. employee has engaged in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through U.S.I.T.C. employment.

c. For review by the Deputy Counselor. The Deputy Counselor is responsible for maintaining these records in confidence and may not disclose information from these records to other persons or agencies except as the Civil Service Commission or the Chairman of the U.S.I.T.C. may determine for good cause shown.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained in folders.

Retrievability: These records are indexed by the names of the individuals on whom they are maintained.

Safeguards: These records are kept in a locked filing cabinet in the office of the Deputy Counselor for Employee Responsibilities and Conduct (Assistant General Counsel), who is normally the only official with authorized access to them. However, the Statements of Employment and Financial Interest of the Deputy General Counsel (Assistant General Counsel) and of his immediate superior (the General Counsel) are submitted directly to the Counselor for Employee Responsibilities and Conduct (one of the U.S.I.T.C. commissioners).

Retention and disposal: These records are maintained by the Deputy Counselor while the employee is at the U.S.I.T.C. and for 5 years after the employee has left the U.S.I.T.C. Thereupon these records are destroyed.

System manager(s) and address: Deputy Counselor for Employee Responsibilities and Conduct (Assistant General Counsel), Office of the General Counsel, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

Notification procedure: Director, Personnel Division (same address as above).

Record access procedures: Director, Personnel Division (same address as above).

Contesting record procedures: Director Personnel Division (same address as above).

Record source categories: Information in this system is supplied by the individuals to whom the records pertain.

AVAILABILITY OF 1977 COMPILATION

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume 1 of the 1977 Compilation at page 48175 (42 FR 48175, September 22, 1977). The price of this Volume is six dollars and fifty cents.

Issued: October 16, 1978.

Kenneth R. Mason,
Secretary.

[FR Doc. 78-29984 Filed 10-30-78, 8:45 am]

[7035-01-M]

Retrievability: Indexed by name.

System manager(s) and address:

Record access procedures: Same as above.

Contesting record procedures: Same as above.

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[7035-01-M]

INTERSTATE COMMERCE COMMISSION

PRIVACY ACT OF 1974

Systems of Records

Pursuant to 5 U.S.C. 552a(e)(4) as added by Sec 3 of the Privacy Act of 1974, the Interstate Commerce Commission hereby publishes the Systems of Records as currently maintained by this agency. The Systems of Records identified in the notice published in the Federal Register at 42 FR 55434 continue in effect and except for their renumbering are republished in their entirety without change.

John P. Kratzke,
Privacy Officer.

Renumbering

Previous System Identification	New System Identification
ICC—I	32-20-001
ICC—II	32-20-002
ICC—III	32-20-003
ICC—IV	32-20-004
ICC—V	32-20-005
ICC—VI	32-20-006
ICC—VII	32-20-007
ICC—VIII	32-20-008
ICC—IX	32-20-009
ICC—X	32-20-0010
ICC—XI	32-20-0011
ICC—XII	32-20-0012

32-20-001

System name: Operating personnel files (Nonpermanent records), ICC.

System location: ICC Headquarters Bureaus and Offices, Washington, D.C., and Regional Detached Offices (49 CFR 1001).

Categories of individuals covered by the system: ICC employees.

Categories of records in the system: Working papers and documents developed during the course of an individual's employment which are not permanently retained. These will include the Standard Form 7B (OF 4B), Employee Record Card, and nonofficial records generally limited to information on experience, education, training, special qualifications and skills, position descriptions, performance appraisals and conduct. The Regional Managers' files may contain duplicate copies of official documents (SF 171, SF 50, etc.).

Authority for maintenance of the system: Federal Personnel Manual Supplement 293-31.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the use of operating officials as a source of data to initiate requests for personnel actions, to plan and schedule employee training, to counsel employees on their performance, to establish a basis for proposing commendations or disciplinary actions, and to carry out their personnel management responsibilities in general. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name.

Safeguards: Kept in locked file cabinets under direct control of responsible official.

Retention and disposal: Retained until employee leaves the agency through transfer or other separation and then forward to the Personnel Office where it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder, and then is destroyed.

System manager(s) and address:
Administrative Officer (Assistant), ICC
Headuarters Bureaus and Officers, Washington, D.C.
Regional Managers and Officer-in-charge—Detached Offices

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employees and their supervisors.

Systems exempted from certain provisions of the act: None.

32-20-002

System name: National Defense Executive Reserve files, ICC.

System location: Recruitment and assignment files Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423. Appointment files Personnel Office, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: Letters and/or memorandums addressed to members of the Commission's National Defense Executive Reserve or to staff involving recruitment of reservists.

Categories of records in the system: Letters, Memorandum or NDER Forms 1, 2, and 3, or Form BOp D11 concerning reservists' assignments or responsibilities in connection with the National Defense Executive Reserve program, letters of appointment and statement of understanding.

Authority for maintenance of the system: EO 11179 and EO 11490.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining management control system of the Commission's membership and staff responsibilities in connection therewith and of individuals selected to participate in the National Defense Executive Reserve program. The information in this system of records will be exchanged as a matter of routine use with the Federal Preparedness Agency, General Services Administration, in connection with both agencies' responsibilities for administering the National Defense Executive Reserve and Emergency Preparedness programs, assigned by Executive Orders Nos. 11179, dated September 22, 1964, and 11490, dated October 30, 1969. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulations, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and card file, 3 inch x 5 inch cards, basic control of quarterly computer printouts, membership listing of National Defense Executive Reserves, listing names, addresses and employment information about each reservist.

Retrievability: Files maintained by individual name.

Safeguards: Kept in locked file cabinets under control of responsible official.

Retention and disposal: Permanent for card file; correspondence and rosters, etc., three-year active file and then destroyed.

System manager(s) and address:
Recruitment and assignment files
Bureau of Operations
Assistant to the Director
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423
Appointment files
Director of Personnel
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None.

32-20-003

System name: Unit Medical Records, ICC.

System location: Occupational Health Unit, ICC 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: ICC employees.

Categories of records in the system: Contains employee's Name, date of birth, address, telephone number, Bureau or Office where employed, name of person to contact in case of emergency, name of employee's personal physician. Nurse's Notes visits and treatment in the Health Unit, records pertaining to blood donations and individual records of physical examinations, laboratory test results, x-rays and other individual health records with pertinent medical opinions.

Authority for maintenance of the system: Federal Personnel Manual Supplement 792-1.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintained expressly for the well-being of employees in relation to work assignments. For use of Director of Personnel in providing counseling services to employees and agency officials. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in the system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in indivual file folders.

Retrievability: Indexed by name.

Safeguards: Kept in locked file, with access only by the Occupational Health Nurse and/or Physician.

Retention and disposal: Retained unitl one year after the employee leaves the agency, and then destroyed. Upon separation, will be given to employee at his request or to his personal physician, if so desired.

System manager(s) and address:
Occupational Health Nurse
Room 1414
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None.

32-20-004

System name: Automated Personnel and Payroll System, ICC.

System location: Section of Systems Development, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: ICC employees.

Categories of records in the system: Contains the name, social security number, employee number, date of birth, employment status, leave status, pay status, tax status, insurance status, saving bond and charity deductions, time and attendance data, and the organization of each ICC employee.

Authority for maintenance of the system: 49 U.S.C. 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: File is used for the: Transfer of information to the Internal Revenue Service for wage, levy and tax requirements—transfer of information to the Treasury Department for completion of payroll processing—transfer of information to the American Federation of Government Employees, Graphic Arts International Union, and the Professional Association of the ICC for the processing of union dues—transfer of information to state and city revenue offices for tax unemployment processing—transfer of information to the Civil Service Commission for personnel requirements—employee separation and retirement processing—employee time attendance accounting—employee salary payment and deduction control—employee bond, charity and health benefits processing—employee leave control—employee parking assignment control—employee telephone directory—employee personnel action processing and control—Commission budget planning, monitoring and control—creation of internal management reports, summaries and work files which are located throughout the agency.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute of particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcement implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance as set forth in legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape.

Retrievability: Indexed by social security number.

Safeguards: Stored in secure computer facility under the supervision of the tape librarian.

Retention and disposal: Fifty-two week retention for files. A five-year retention period for year-end files. At the end of each of these periods, files are destroyed.

System manager(s) and address:
Chief Section of Systems Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None.

32-20-005

ity to reply exists, normal business production transactions, time

Categories of records in the system: These records include letters on virtually every subject. They are concentrated in three areas:

indicating or alleging that an individual or entity could be in violations of the Interstate Commerce Act. Such records could be arrest

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32-20-005

System name: Case Status System (Formal Case Control), ICC.

System location: Section of System Development, ICC 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: Adminstrative Law Judges and Attorney-Advisers who have been assigned to work on cases before the Commission—parties of record and parties to be advised of all proceedings.

Categories of records in the system: Contains the various processing stages that case passes through as it is reviewed by the Commission—contains Administrative Law Judge and Attorney-Adviser names who are responsible for various processing stages of the case—contains the names of parties of record and parties to be advised of all proceedings—contain hearing locations, when applicable—contains carrier identity.

Authority for maintenance of the system: Commission directive.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provides identification of all pending cases before the Commission—identifies older cases to expedite processing—identifies cases with normal time allowances—provides an area being processed within inventory of pending cases by stage of processing—identifies the responsible Administrative Law Judge or Attorney-Adviser and organizational unit responsible for various stages of case processing—identifies parties of record and parties to be advised of all proceedings for a given case—used to produce management reports located throughout the agency. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape and computer disk files.

Retrievability: Indexed by case and carrier identity and Administrative Law Judge or Attorney-Adviser name.

Safeguards: Stored in secure computer facility. Data base access is under the supervision of a data base administrator.

Retention and disposal: Records are maintained on each case until it has been decided. The record is then transferred to an inactive history file for permanent retention.

System manager(s) and address:
Chief, Section of System Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Carrier(s) involved, and commission staff.

Systems exempted from certain provisions of the act: None.

32-20-006

System name: Correspondence and Management Control, ICC.

System location: ICC Headquarters Bureaus and Offices Washington, D.C., and Regional Detached Offices (49 CFR 1001).

Categories of individuals covered by the system: Names of assignments with a control slip, including due dates for either individuals or sections within various organizational elements of the Commission covering letters, memoranda, or other inquiries for which responsibility to reply exists, normal business production transactions, time frames, on special projects, and all aspects of overall correspondence and workload control, as well as individual signed records for government property accountability.

Categories of records in the system: The overall Commission performance monitoring system incoporates a series of subsystems which identity the various measurements of productivity which are implicit in the operation of the Commission. Maintenacne of records on the performance and the production of Branches, Sections, Offices and individual employees is necessary to enable the Commission effectively manage its work load. These records include the names of individuals assigned to specific activities, the dates of assignments, dates products received, name of signer for correspondence which is going out, and general evaluation criteria of the individual performance of the element being monitored.

Authority for maintenance of the system: 49 U.S.C. 12, 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of the production of the total employee force of the interstate Commerce Commission and assurance that productivity is achieved by the employees assigned individual organizational elements. Additionally, to mainatin a suspense on specific actions being levied upon an individual to assure that the response is timely, as well as qualitative. Used for control of government property assuring individual accountability.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular NO. A-19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

Disclosure may be made to a congressional office from the record of an individual in respose to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both card, suspense special forms, and computer-related assignment records, are maintained to control the overall system. Maintained in sequence by the organizational element and/or the individual assigned to a special task, as well as cross-referenced by the number of the task involved.

Safeguards: Maintained at supervisory levels on an informal basis with access prohibited outside of the Commission.

Retention and disposal: One-year active operation and subsequently destroyed.

System manager(s) and address:
Managing Director
Interstate Commerce Commission
Room 2118
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None.

32-20-007

System name: Consumer Complaint System, ICC.

System location: Public Information and Consumer Affairs Office, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423. Headquarters, ICC Bureau and Offices, and Regional Detached Offices (49 CFR 1001).

Categories of individuals covered by the system: Letters received from consumers and/or shippers regarding the operation of the ICC or carriers subject to its regulations.

Categories of records in the system: These records include letters on virtually every subject. They are concentrated in three areas: complaints from individual consumers on household goods shipments, complaints from travelers on rail passenger facilities, and complaints from passengers on motor passenger facilities. Additionally, information on general subjects of the operation of the Interstate Commerce Commission and, specifically, shipper complaints against carrier practices and/or tariffs are included in overall complaint files. Files generally are accessed by name of individual complaining or subject of the complaint or name of the carrier against which the complaint is tendered. Notice is given that when complaints generate an investigative file portions of this overall file are extracted and exempted under the provisions and notice provided in the publication of ICC VIII, Preliminary Investigative Files, and ICC IX, Inforcement Files.

Authority for maintenance of the system: 49 U.S.C. 12, 18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to complaints from individuals, to correlate information received from individuals to assure policies are developed supporting the overall public interest in the regulatory process, to provide information to carriers relative to shortcomings they are experiencing, and take informal compliance action, as well as to transfer the files to formal investigative or enforcement action, when justified. This is a public file available for public review under the terms of the Freedom of Information Act. Individuals submitting special complaint correspondence to the Commission, unless identifying their desire to remain anonymous, will not be protected from disclosure of the information contained within the complaint letter. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in ths system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In conventional file cabinets, alphabetically, by sender, and potentially by subject of complaint, dispersed for filing to office have primary operational use.

Retrievability: Maintained in alphabetical order, by complainant, with potential cross-index for identification of entity against which the complaint has been made, and further cross-reference by subject of complaint.

Safeguards: Minimal, since the files are public in nature.

Retention and disposal: Maintained for approximately two years and then destroyed.

System manager(s) and address:
Public Information Officer, ICC
12th and Constitution Avenue, NW., Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Consumers and/or shippers.

Systems exempted from certain provisions of the act: None

32-20-008

System name: Preliminary Investigative Files, ICC.

System location: Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423, and Regional Detached Offices (49 CFR 1001).

Categories of individuals covered by the system: Suspected violators of the Interstate Commerce Act or ICC orders or regulations.

Categories of records in the system: These files contain information indicating or alleging that an individual or entity could be in violations of the Interstate Commerce Act. Such records could be arrest records from the various states received pursuant to Public Law 89-170, which allows cooperative agreements between the states and this Commission in the provision of information. For example, these files could contain warning letters involving alleged violations, miscellaneous correspondence, newspaper clippings, records of contacts with entities or individuals by Commission personnel, copies of preliminary investigation reports, and prior enforcement actions taken by the Interstate Commerce Commission or the courts because of violations of the Interstate Commerce Act.

Authority for maintenance of the system: 49 U.S.C. 12

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used employees of the Interstate Commerce Commission to administer the Act, increase compliance with orders, regulations and statutes for the regulation of surface transportation, and initiate appropriate enforcement action.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name of entity of individual.

Safeguards: Kept in locked file cabinets under direct control of responsible official.

Retention and disposal: Maintained for a minimum of five years and then destroyed.

System manager(s) and address:
Washington, D.C.:
Director, Bureau of Operations
Room 7115
Interstate Commerce Commission
12th and Constitution Ave. NW.,
Washington, D.C. 20423
Regional Detached Offices:
Regional Managers (49 CFR 1001)
Field Offices:
Officers in Charge (49 USC 1001)

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Author of letters.

Systems exempted from certain provisions of the act: Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a), except Subsections (b), (c) (1), and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2), this file is exempted from Subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7).

32-20-009

System name: Investigative and Enforcement Records, cross-indexed, ICC.

System location: Bureau of Enforcement (cross-indexed and central file) Interstate Commerce Commission, 12th and Constitution

Avenue, NW., Washington, D.C. 20423, and ICC Regional Offices

32-20-010

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of ICC Identifica-

usually includes the employee's name, address, and organization, the mode, purpose, dates and places of travel, the method and amount of

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Avenue, NW., Washington, D.C. 20423, and ICC Regional Offices (investigative files with assigned geographical jurisdiction).

Categories of individuals covered by the system: Individual, corporation, partnership or sole proprietorship, subject to enforcement actions being taken by the Interstate Commerce Commission as a result of preliminary investigations.

Categories of records in the system: The central cross-index contains the name and address of individual, partnership, corporation, or sole proprietorship, and includes a cross-reference to the enforcement file containing the investigative reports, as well as other information gathered as part of the criminal prosecution and/or civil forfeiture action. The basic cross-reference file does not contain significant information other than the name and address of the entity involved, but the cross-reference to the investigative file, which is maintained by case number, does provide access based upon individual name. Individual investigative and enforcement files are maintained by Enforcement file number, both at Headquarters and Regions.

Authority for maintenance of the system: 49 U.S.C 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to monitor and control the progress of enforcement actions, both within the Commission for civil forfeitures and in relationship with the Department of Justice on those actions that are going through the courts. The central cross index is the only practical method for access to the appropriate file based upon any individual identifier. Actual file information is used for prosecution of civil and criminal actions. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant, records in the system of records may be referred as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on folding 5 inch by 8 inch index cards.

Retrievability: Indexed by individual, partnership, corporation, or sole proprietorship (index). Actual files retrieved by enforcement file number.

Safeguards: Stored in a special room of the Bureau of Enforcement with Commission employees present during all duty hours (index).

Retention and disposal: Cards are maintained in the active cross-reference and indexing file while the file is open and transferred to the closed card section after the file is concluded.

System manager(s) and address:

Assistant Director
Bureau of Enforcement
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Preliminary investigative files (ICC VIII).

Systems exempted from certain provisions of the act: Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a) except Subsections (b), (c) (l) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10) and (11), and (i). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2) this file is exempted from Subsections (c)(3), (d), (e)(4)(G), (l) and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7).

32-20-010

System name: ICC employee parking permit applications for carpools, ICC.

System location: Section of Administrative Services, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: All individuals applying for, or assigned, parking facilities.

Categories of records in the system: ICC Form MD-21, Revised March 1975, Interstate Commerce Commission, Application for Parking Space, Contents: Carpool member names, home address, office telephone number, bureau or office, service computation date, vehicle license number, distance between residence and ICC and the name of the employer.

Authority for maintenance of the system: FDMR Temporary Regulations D-47, May 22, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use is to maintain control of assigned parking spaces. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order is issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 inch by 8 inch cards.

Retrievability: Indexed by location of parking space, number of carpool members and order of parking permit number.

Safeguards: Secured in locked metal, lateral file cabinet under the supervision of the space and services unit.

Retention and disposal: Cards are maintained for a three-year period and then discarded.

System manager(s) and address:

Chief, Building Services, Space Management Branch
Room 1315
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Individuals seeking parking facilities.

Systems exempted from certain provisions of the act: None.

32-20-011

System name: ICC Indentification System File.

System location: Interstate Commerce Commission, Section of Administrative Services, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: A. All ICC Headquarters employees.

B. All nongovernment employees requiring access to office space occupied in the ICC Headquarters Building in Washington, D.C.

C. All ICC employees issued investigative credentials.

Categories of records in the system: A. name, date of birth, social security number.

B. Name, organization (firm), social security number.

C. Name, title, Bureau or Office, credential number.

Authority for maintenance of the system: 49 CFR 1000.5.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of ICC Identification System. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regualtion, rule or order issued pursuant thereto, to relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained is this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A. 8 inch by 10 inch log book. B. 5 inch by 8 inch sheets. C. 5 inch by 8 inch sheet.

Retrievability: A. Indexed by date issued. B. Indexed by organization and date issued. C. Indexed by Bureau or Office and credential number.

Safeguards: All three segments of the identification system are stored in the Section of Administrative Services under the supervision of the Space and Services Unit.

Retention and disposal: Maintained two years after completion of log book, then destroyed. B. Maintained for two years after which cards are destroyed. C. Maintained until credential is returned and destroyed or marked retired upon separation of employee. Inactive records are stored two years and discarded.

System manager(s) and address:

Chief, Building Services, Space Management Branch
Section of Administrative Services
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None.

32-20-012

System name: Employee Travel Records, ICC.

System location: Budget and Fiscal Office, ICC, 12th and Constitution Avenue, NW., Washington, D.C. 20423.

Categories of individuals covered by the system: ICC employees.

Categories of records in the system: The record consists primarily of a series of standard and Commission forms and index file cards designed to record pertinent travel information. The information usually includes the employee's name, address, and organization, the mode, purpose, dates and places of travel, the method and amount of reimbursement and the amount of travel advance outstanding.

Authority for maintenance of the system: 49 U.S.C. 18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are available for any use by any person. The Commission uses these records to establish approval for travel on official business, the reimbursement of the employee for approved expenses, control of annual budget estimates, input to the Commission's internal accounting system and periodic and special reports required by agencies outside the Commission, and the compilation of information for internal management purposes. Portions of the file are made available to Commission management personnel for monitoring assigned functional and geographical areas of responsibility. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by employee name.

Safeguards: Kept in locked file cabinet under supervision of Budget and Fiscal Officer.

Retention and disposal: Records are destroyed in accordance with GSA retention schedules.

System manager(s) and address:

Chief, Budget and Fiscal Office
Room 1330
Interstate Commerce Commission
12th and Constitution Avenue, NW.,
Washington, D.C. 20423.

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None.

[FR Doc. 78-29985 Filed 10-31-78; 8:45 am]

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TUESDAY, OCTOBER 31, 1978
PART III

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TUESDAY, OCTOBER 31, 1978
PART III

Federal Register

DEPARTMENT OF ENERGY

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda

[3128-01-M]

tion has not been fully determined. Therefore, the agenda does not in-

antee program to clarify program cov-

It has not been determined whether a regulatory analysis is required.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as

crude oil prices by causing the entitlements program to be the primary de-

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[3128-01-M]

DEPARTMENT OF ENERGY

IMPROVING GOVERNMENT REGULATIONS

Semiannual Agenda of Significont Regulations

AGENCY: Department of Energy.

ACTION: Notice of regulations under development or review.

SUMMARY: In accordance with Executive Order 12044, "Improving Government Regulations," the Department of Energy (DOE) is publishing the first semiannual agenda of DOE regulations that are under development or review as of October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Kristina Clark (Office of General Counsel), Department of Energy, Federal Building, 12th and Pennsylvania Avenue, NW., Room 5146, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION: On March 23, 1978, the President promulgated Executive Order No. 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978). The Order set forth a number of measurcs which Federal agencies were to take in order to improve the process by which regulations administered by such agencies are developed and monitored. One of the objectives of the Order is to improve the degree of public participation in the regulatory development and review process, and to that end the Order requires, among other things, that each agency governed by the Order publish semiannually an agenda setting forth those of its significant regulations that are currently under development and/or review. The agenda is to describe such regulations, the need for and legal basis for the action being taken, and the status of regulations previously listed on the agenda. In addition, each item on the agenda is to include the name and telephone number of a knowledgeable agency official and, if possible, state whether a regulatory ananlysis is required. The agenda is also to include existing regulations scheduled to be reviewed for possible amendment.

Appended to this Notice is the first such regulatory agenda for the DOE. In an attempt to be as comprehensive as possible, the agenda is intended to include those DOE regulations, both significant and nonsignificant, that are under development or review as of October 13, 1978.

As a result of legislative action occurring after October 13, 1978, additional regulations may come under development or review. However, as of the time of preparation of this agenda the nature and scope of regulatory action required by this recent legislation has not been fully determined. Therefore, the agenda does not include regulations which may be developed pursuant to such legislation. DOE may publish a supplementary agenda containing this information in the near future.

The DOE is also currently developing a Departmental Order intended to implement generally the provisions of Executive Order No. 12044. That Departmental Order will, among other things, establish the procedures and criteria under which regulations will be reviewed and under which particular regulations will be determined to be significant or not significant. Although these procedures and criteria have not finally been established, the attached list of actions includes both significant and non-significant regulations that the offices within DOE having primary program responsibility have identified as being under development or review as of October 13, 1978.

Issued in Washington, D.C. on October 26, 1978.

JOHN F. O'LEARY,
Deputy Secretary.

CONSERVATION

1. *Program for state energy conservation plans.* DOE intends to propose changes in certain State energy conservation program measures including some technical amendments.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Policy and Conservation Act, Title III, Part C, Pub. L. 94-163, as amended.

Contact: John Rivera, 202-566-7442.

2. *Weatherization assistance.* DOE has proposed amendments to existing Weatherization Assistance Regulations for the purpose of improving efficiency of program administration.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Energy Conservation and Production Act, Title IV, Part A, Pub. L. 94-385.

Contact: Mary Bell, 202-566-3091.

3. *Industrial reporting.* DOE plans to propose several amendments to the industrial reporting program.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Policy and Conservation Act, Title III, Part D, Pub. L. 94-163, as amended.

Contact: Douglas Harvey, 202-376-4648.

4. *Electric and hybrid vehicle loan guarantees.* DOE plans to amend the electric and hybrid vehicle loan guarantee program to clarify program coverage.

It has not been determined whether a regulatory analysis is requred.

Status: No notice concerning the regulation has yet been published.

Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended.

Contact: Thomas Calhoun, 202-376-4747.

5. *Electric and hybrid vehicle planning grants.* DOE will promulgate rules to establish the requirements for grant applications under the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended.

Contact: Thomas Calhoun, 202-376-4747.

6. Energy conservation program for appliances. DOE plans to promulgate test procedures for heat pumps under the Energy Conservation Program for Appliances.

It has not been determined whether a regulatory analysis will be required.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Policy and Conservation Act, Title III, Part B, Pub. L. 94-163, as amended.

Contact: James Smith, 202-376-4814.

7. *Municipal and industrial waste reprocessing loan guarantees.* DOE will promulgate rules enabling DOE to guarantee loans for municipal and industrial waste reprocessing.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, Section 19(y), Pub. L. 93-577, as amended.

Contact: Don Walter, 202-376-1964.

8. *Building energy performance standards.* DOE intends to propose Federal standards for new residential and commercial buildings.

A decision as to whether a regulatory analysis is needed has not been made.

Status: No notice concerning the regulation has yet been published.

Authority: Energy Conservation and Production Act, Pub. L. 94-385.

Contact: Jim Brinkley, 202-376-4888.

9. *Federal energy management and planning guidelines.* DOE will promulgate guidelines, regulations and procedures which Federal agencies will use in preparing their individual energy conservation plans.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Executive Order 11912.

Contact: Paul Brumsby, 202-376-4017.

DEFENSE PROGRAMS

1. *Revision of 10 CFR, Part 795, "Safeguarding of Restricted Data".* DOE will revise and upgrade security requirements imposed on access permittees to the level imposed on DOE and DOE contractor personnel.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: 10 CFR, Part 795.

Contact: Harvey Lyon, 301-353-5106.

2. *Proposed revision of 10 CFR, Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material".* DOE will determine if current procedures expedite case processing and if current criteria are valid, particularly in light of recent court decisions.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: 10 CFR, Part 710.

Contact: Harvey Lyon, 301-353-5106.

ECOMOMIC REGULATORY ADMINISTRATION

CRUDE OIL

1. *Entitlements treatment for Alaska refineries.* DOE has proposed an amendment to the domestic crude oil allocation program to clarify the proper calculation of entitlements to be issued to certain refineries located in the State of Alaska, in order to avoid the potential for duplicate entitlement issuances for the same volume of crude oil.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

2. *Incentives for enhanced crude oil recovery.* By this continued rulemaking and request for comments DOE will determine whether additional price incentives are needed for tertiary enhanced recovery projects in order to provide for adequate capital commitment to such projects.

It has not been determined whether a regulatory analysis is required.

Status: DOE issued a final rule containing incentives for undertaking tertiary recovery projects. That Notice of Final Rule contained a Notice of Continued Rulemaking and Request for Comments.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Douglas Harnish, 202-254-7477.

3. *Petroleum substitute guidelines.* DOE will develop final guidelines for implementation of a program to grant entitlements benefits for petroleum substitutes.

A regulatory analysis is not required.

Status: Proposed guidelines have been issued. The final rule which the guidelines will implement has been issued.

Authority: Emergency Petroleum Allocation Act, Pub. L. 93-159, as amended.

Contact: David Welsh, 202-254-3336.

4. *Further rulemaking on entitlements for petroleum substitutes.* DOE may propose an amendment to the mandatory petroleum allocation regulations to expand the scope of the synthetic fuels which will qualify for designation as a petroleum substitute. Comments are now being received on the petroleum substitute guidelines, and will be evaluated, along with those received in response to the final rulemaking which the guidelines are intended to implement, in determining whether a further rulemaking is necessary.

It has not been determined whether a regulatory analysis is required.

Authority: Emergency Petroleum Allocation Act, Pub. L. 93-159, as amended.

Contact: David Welsh, 202-254-3336.

5. *Revision of the small refiner bias program.* An independent report was commissioned by DOE to study the current small refiner bias level under the entitlements program. DOE will propose revisions to the small refiner bias program.

A regulatory analysis will be completed.

Status: A report and a Notice of Inquiry concerning the report have been issued; hearings have been held.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

6. *Non-refining uses of price controlled crude oil.* DOE plans to amend the entitlements program to provide a mechanism to account for controlled domestic crude oil that is not covered by the program because the crude oil was not run in domestic refineries.

A regulatory analysis is not required.

Status: A notice of Inquiry and a Notice of Intent to issue a rulemaking has been issued

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

7. *Simplified crude oil price control program.* DOE may propose to simplify the mechanism for controling crude oil prices by causing the entitlements program to be the primary determinant of prices paid to crude oil producers.

A regulatory analysis will be completed.

Status. A Notice of Inquiry has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Norman Breckner, 202-254-7477.

8. *Revision of crude oil supplier purchaser rule.* The 1973 freeze on supplier/purchaser relationships is being further examined to determine whether it unduly inhibits competition or unnecessarily burdens producers and purchasers of domestic crude oil.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

9. *Canadian allocation program (CAP) revisions.* Amendments may be proposed to reflect the declining volumes of Canadian crude oil exports, the varying success refineries have had in finding non-Canadian supplies and the simplification of the administration and industry reporting requirements of CAP.

A regulatory analysis is not required.

Status: A Notice of Inguiry has been issued; hearings have been held.

Legal authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

10. *Crude oil resellers price rule.* DOE will evalute crude oil resale price rules to determine if modifications are needed.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning this regulations has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub L. 93-159, as amended.

Contact: Ralph Rohweder, 202-254-7268.

11. *Processing agreements.* DOE is considering whether to provide further guidance to retailers and refiners concerning the treatment of crude oil processing agreements under the Mandatory Petroleum Price Regulations.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been issued.

Authority: Energy Policy and Conservation Act, Pub. L. 94-163, as amended.

Contact: Ed Mampe, 202-254-7200.

12. *Marginal well incentive pricing.* DOE is considering amending the pe-

troleum price regulations to provide

Federal Energy Regulatory Commission.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Lloyd Costley, 202-254-8034.

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troleum price regulations to provide production incentivies for certain lower tier crude oil from wells which produce at low rates under conditions of high operating costs.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulations has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Douglas Harnish, 202-254-7477.

13. *Small stripper certification procedure.* DOE is considering the feasibility of adopting a procedure for small crude oil stripper producers to apply for a predetermination as to whether their wells qualify as stripper wells.

A regulatory analysis is not required.

Status: No notice has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 95-159, as amended.

Contact: Thomas Miller, 202-254-8580.

14. *Refinery ownership and certification regulations.* DOE is considering promulgating a regulation regarding what facilities qualify as refineries, certification procedures for refineries, and determination of refinery ownership.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Dennis Kourkoumelis, 202-254-5338.

15. *Transfer pricing and ocean transportation.* DOE is considering simplification or possible revision to standby regulatory and continuing information gathering status of rules concerning prices of future inter-affiliate transfers of imported crude oil. Relates to decontrol of refined products.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Dan Thomas, 202-254-7477.

ECONOMIC REGULATORY ADMINISTRATION

REFINED PRODUCTS

1. *Price rules for product exchanges.* DOE is revising procedures by which refiners, resellers and retailer will determine the increased costs applicable to products received in exchanges.

A regulatory analysis will be completed.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Dan Thomas, 202-254-7477.

2. *Middle distillate set-aside.* DOE is considering proposing a special rule to provide for a procedure whereby suppliers of home heating oil may be required to set aside a portion of their supplies for distribution by State energy offices in the event of emergency conditions which interrupt normal distribution systems.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: James Berry, 202-254-7477.

3. *NGL allocation revision.* DOE is amending the mandatory petrolem allocation regulations to correct various problems that appear to have arisen in the allocation of propane, butane and natural gasoline.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued; the Federal Energy Regulatory Commission has held hearings.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Reinstein, 202-254-9766.

4. *NGL price amendments—Further rule.* DOE has issued a rule to provide gas processors with passthroughs of actual nonproduct cost increases. DOE may propose a further notice or notices on a number of additional matters raised in prior proceedings to determine if additional rulemakings are needed.

It has not been determined whether a regulatory analysis is required.

Status: No further notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Roger Miller, 202-634-7610.

5. *Resubmissions and refiling of FEO-96, P110, and EIA-14 forms.* DOE has proposed to amend its petroleum price regulations concerning reporting requirements of refiners. Generally, it has been proposed that refiners would not be permitted to refile FEO-96 forms, FEA/DOE P110 forms, or DOE EIA-14 forms after 60 days from the date of the originial filing, except where expressly authorized by DOE regulation or order or where written permission is granted by DOE for good cause shown.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued; hearings have been held.

Contact: Lloyd Costley, 202-254-8034.

6. *Annual revision of fee free allocations under the mandatory oil import program.* DOE will revise the Mandatory Oil Import Program to reflect the fee-free allocation levels established by Presidential Proclamation 3279 for the next allocation year which begins on May 1, 1979.

No regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Presidential Proclamation 3279, as amemded.

Contact: Robert Goodwin, 202-566-9380.

7. *Entitlements export sales deduction exemption for bunker use of middle distillates.* ERA has been petitioned to establish a rule that would not require an entitlements deduction under the export sales provision of § 211.67(d)(2) for middle distillates used as bunker fuels. No determination has been made at this time as to whether a notice concerning this matter will be issued.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-7200.

ECONOMIC REGULATORY ADMINISTRATION

DECONTROL

1. *Motor gasoline exemption.* The DOE will decide whether to propose to Congress the deregulation of motor gasoline.

A regulatory analysis or equivalent will be completed.

Status: A Notice of Proposed Rulemaking has been issued and the exemption has been considered by the Federal Energy Regulatory Commission.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: William Caldwell, 202-254-8034.

2. *Aviation fuel decontrol.* DOE has issued a proposal to exempt kerojet and aviation gasoline from the mandatory petroleum allocation and price regulations, inasmuch as recent supplies and market conditions appear to justify ending both types of controls.

Findings issued concurrently with the Notice of Proposed Rulemaking are determined by ERA to satisfy the requirement for the preparation of a regulatory analysis for significant regulations which have a major economic impact.

Status: A Notice of Proposed Rulemaking has been issued and the exemption has been considered by the Federal Energy Regulatory Commission.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: William Caldwell, 202-254-8034.

3. *Decontrol of butane, natural gasoline, propane and natural gas liquids* (NGL's). DOE may propose rules to exempt butane, natural gasoline, propane, and NGL's from allocation and price controls.

A regulatory analysis will be completed.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Gerald Emmer, 202-254-7500.

4. *SNG feedstocks.* DOE will consider whether to issue a proposal to exempt SNG feedstocks from allocation controls.

No decision has been made as to the need for a regulatory analysis.

Status: No notice concerning this regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Bart House, 202-254-3905.

ECONOMIC REGULATORY ADMINISTRATION

EMERGENCY PREPAREDNESS

1. *International oil allocation.* DOE has proposed regulations to implement the oil sharing provisions of the International Energy Program. Comments received are currently being reviewed to determine the nature and scope of final standby rules on this subject.

It has not been determined whether a regulatory analysis is required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-3923.

2. *Contingency gasoline rationing plan.* DOE will promulgate a contingency rationing plan for diesel fuel and gasoline, to be implemented in the event of a severe nationwide gasoline shortage.

A regulatory analysis will be completed.

Status: A Notice of Proposed Rulemaking has been issued.

Legal authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

3. *Standby crude oil pricing and allocation regulations.* DOE has proposed changes to the crude oil pricing and allocation regulations on a standby basis, to be activated in the event of a significant supply interruption.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Robert Kane, 202-254-3923.

4. *Standby product pricing and allocation regulations.* DOE has proposed short-term changes to the product pricing and allocation regulations on a standby basis, to be activated in the event of a significant supply interruption. Comments received are currently under review.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Gerald Emmer, 202-254-7200.

5. *Development of long-term standby product allocation and price regulations.* DOE is considering additional standby regulations to devlop the Nation's emergency preparedness. This action is to identify and develop standby product measures to be implemented (on a long-term basis) is the event of a severe supply interruption.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet benn published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: William Caldwell, 202-254-7200.

ECOMONIC REGULATORY ADMINISTRATION

ENFORCEMENT

1. *Revision of remedial order regulations.* DOE will revise previous Federal Energy Administration remedial order regulations to provide review of proposed orders by the DOE Office of Hearings and Appeals. The revision will provide formal procedures for review of issues raised in each remedial order proceeding prior to the issuance of orders in final form.

A regulatory analysis is not required.

Status: An interim rule is in effect.

Authority: Department of Energy Organization Act, Pub. L. 95-91.

Contact: George Breznay, 202-254-9681.

2. *Procedural regulations for investigations.* DOE will propose revisions to Part 205 of the DOE regulations to clarify the procedures for issuance of subpenas during enforcement investigations and the requirements for conducting investigative interviews pursuant to subpenas. The proposal may include modification of the appeal procedures concerning subpenas.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Contact: Jerry Weiner, 202-632-5072.

3. *Proposed amendments to the civil and criminal penalty regulations, with particular regard to the definition "Notice of Non-compliance".* In its final report dated July 13, 1977, the Task Force on Compliance and enforcement recommended at page V-5, that the FEA reconsider the present definition of Notice of Non-compliance at 10 CFR 205.203(e)(2)(B) which states that such notices are limited to Remedial and Consent Orders. Notices of Non-compliance are "notices" given to corporate officials pursuant to the Energy Policy and Conservation Act as a precondition to their being subject to criminal penalties for a willful violation of regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (EPAA). The report recommended that Notices of Probable Violation (or any actual Notice of Non-compliance provided at any time) should also serve as Notices of Non-compliance (as the term had been defined previously). Pursuant to that recommendation, the DOE may propose to reopen the definition for reconsideration in order to assess whether it should be amended prospectively. The proposed rulemaking would seek to establish whether the definition should be expanded again to include Notices of Probable Violation, or to include all orders issued by the DOE pursuant to its authority under the EPAA, or should be amended in any other way.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159 as amended; Energy Policy and Conservation Act, Pub. L. 94-163, as amended.

Contact: Bryan Perilman, 202-254-8700.

ENERGY INFORMATION ADMINISTRATION

1. *Collection of foreign oil supply agreement information.* DOE will consider amending 10 CFR Part 215 which requires U.S. companies to report details of their foreign oil supply agreements. The most significant amendment would be extension of the amount of time allowed to report agreements.

It has not been determined whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, Pub. L. 95-91.

Contact: Bernadette Michalski, 202-634-1160.

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ENVIRONMENT

Authority: Department of Energy Organization Act, Pub. L. 95-91 and

clauses concerning organizational conflicts of interest, such as bias and

what standards will be followed in entering into cooperative agreements.

A regulatory analysis will be completed.

Contact: Daniel Ogden, 202-566-9615.

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ENVIRONMENT

1. *Implementation of floodplain and wetlands Executive orders.* Doe is required to issue regulations with respect to floodplain management. The Office of Environment proposes to combine the floodplain regulations with related wetlands requirements into one set of procedures to be coordinated with existing NEPA regulations.

No regulatory analysis is required.

Status: A Notice of Proposed Regulation has been issued.

Authority: Executive Order 11988; Executive Order 11990.

Contact: Carol Borgstrom, 202-566-9760.

2. *DOE NEPA regulations.* DOE has proposed regulation for compliance with the National Environmental Policy Act.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: National Environmental Policy Act.

Contact: Robert Stern, 202-566-9760.

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

1. *Comprehensive EEO regulations for all federally assisted DOE programs and activities.* EEO will develop comprehensive regulations to implement the Equal Employment Opportunity Requirements for all federally assisted DOE programs and activities.

A Regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Rehabilitation Act of 1973, Sec. 504; E.O. 11914; Title VI of 1964 Civil Rights Act.

Contact: Marion Bowden, 202-376-4663.

GENERAL COUNSEL

1. *Proposed regulations on standards of conduct for Department of Energy employees.* DOE is preparing regulations prescribing standards of conduct for employees of DOE as mandated by DOE Organization Act, section 601-608.

No regulatory analysis is required.

Status: A Notice of Proposed Regulation has been issued.

Authority: DOE Organization Act, section 601-608.

Contact: Ralph D. Goldenberg.

2. *Privacy Act regulations.* DOE will promulgate regulations to implement DOE compliance with 5 U.S.C. 552(a), Privacy Act of 1974. The rulemaking will provide Department-wide regulations to replace Privacy Act regulations implemented by FEA and ERDA which are presently in force.

A regulatory analysis is not required.

Status: No notice concerning the regulations has yet been published.

Authority: Department of Energy Organization Act, Pub. L. 95-91 and authorities incorporated by reference in 5 U.S.C. 552(a).

Contact: William Luck, 202-566-9296.

2. *DOE licensing regulations.* The resolution governs licensing of inventions owned or controlled by the Department of Energy. The regulation is needed to provide guidence to the public or procedures for obtaining nonexclusive and exclusive licenses and on standards under which such licenses may be granted and the terms and conditions of the licenses.

A regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974 42 U.S.C. 5908(g); the Atomic Energy Act of 1954 as amended, 42 U.S.C. 2186 and general authorities available to the Department due to transfer of functions from other agencies under the DOE Organization Act and other acts.

Contact: Robert Marchick, 301-353-4970.

3. *DOE administrative patent and copywrite infringement claims.* The regulations will provide policy and procedures for filing and processing administrative claims alleging infringement of U.S. patents and copy rights by or on behalf of the Department of Energy. The regulation is needed to provide guidance to the public as to requirements and procedures that will be followed in settling, denying, or otherwise disposing of administrative infrigement claims.

A regulatory analysis is required.

Status: No notice concerning this regulation has yet been published.

Authority: Department of Energy Organization Act 42 U.S.C. 7261, Energy Reorganization Act 42 U.S.C. 5817; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(g), 2223.

Contact: Jack Lever, 301-353-5093.

4. *Regulations for implementation of the Foreign Gifts and Decorations Act.* DOE will propose regulations to establish procedures and policies relating to the acceptance, use and disposition of gifts and decorations from foreign governments.

A regulatory analysis is not required.

Status: No notice concerning this regulation has yet been published.

Authority: Foreign Gifts and Decorations Act 5 U.S.C. 7342, as amended, Pub. L. 95-105 6977.

Contact: Ralph Goldenbery, 301-353-5285.

OFFICE OF PROCUREMENT AND CONTRACTS MANAGEMENT

1. *DOE organizational conflicts of interest.* The regulation will provide policies, procedures, and contract clauses concerning organizational conflicts of interest, such as bias and unfair competitive advantage. The regulation is needed to aid in identifying or mitigating potential organizational conflicts of interest before entering into contracts, agreements and other arrangements.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Department of Energy Organization Act, Pub. L. 95-91, Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93-577), as amended by Pub. L. 93-39; Federal Energy Administration Act of 1974 (Pub. L. 93-275), as amended by Pub. L. 95-70.

Contact: Martin Kestenbaum, 353-4541.

2. *DOE procurement regulations.* The regulation, along with the Federal Procurement Regulations, governs procurement by the Department of Energy. The regulation is needed to provide a wide range of implementation necessary to the Department's extensive procurement activities.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Department of Energy Organization Act, and general authorities available to the Department due to the transfer of functions from agencies conducting substantial procurement (e.g., the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Martin Kestenbaum, 353-4541.

3. *DOE assistance regulation.* The regulation provides general financial assistance policies and procedures (Subpart A General), and applicable to grants (Subpart B). The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in making grant awards.

A regulatory analysis is not required.

Status: A Notice of Proposed Rulemaking has been issued.

Authority: Department of Energy Organization Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Carl Blakely, 301-353-4692.

4. *DOE assistance regulation (Subpart C—Cooperative Agreements).* The regulation will provide polices and procedures concerning the use of cooperative agreements to award financial assistance. The regulation is needed to provide guidance to the public as to what requirements must be met and

what standards will be followed in entering into cooperative agreements.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Carl Blakely, 301-353-4692.

5. *DOE assistance regulation—Loans, Loan Guarantees, Price Supports, Other Incentives* (Subparts D, E, F). The regulation will provide policies and procedures concerning the use of loans, loan guarantees, price supports, and other methods to award financial assistance. The regulation is needed to provide guidance to the public as to what requirements must be met and what standards will be followed in entering into agreements.

A regulatory analysis is not required.

Status: No notice concerning this regulation has been published.

Authority: Department of Energy Act, section 644, and general authorities available to the Department due to the transfer of functions from other agencies (e.g. the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Carl Blakely, 301-353-4692.

6. *DOE property management regulation.* The regulation, along with Federal Property Management Regulations (FPMR), will generally govern the management of property of the Department. The regulation is needed to provide implementation of the FPMR necessary to manage the property for which the Department is responsible.

A regulatory analysis is not required.

Status: No notice concerning this regulation has been published.

Authority: Department of Energy Act, section 644, and general authorities available to the Department due to the transfer of functions from agencies which had substantial property for which they were responsible (e.g. the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and the Federal Nonnuclear Energy Research and Development Act of 1974).

Contact: Francis Roche, 301-353-3703.

RESOURCE APPLICATIONS

1. *OCS bidding regulations.* DOE is drafting proposed regulations to establish bidding systems to be used in the sale of oil and gas leases on the Outer Continental Shelf (OSC), and to provide coordination between DOE and Department of Interior in their implementation.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(2) Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

2. *Initial geothermal bidding system regulations.* DOE is drafting proposed regulations establishing the bidding system to be used for the sale of geothermal leases on Federal lands. The regulations will also establish the procedures to be followed by DOE and Department of Interior in carrying out their responsibilities regarding geothermal lease sales.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(2), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

3. *Royalty oil regulations.* DOE is preparing proposed regulations regarding the disposal of Government royalty oil taken in kind pursuant to section 302(b)(5) of the DOE Organization Act. These regulations would continue in a slightly modified form a program established and administered by the Department of Interior for the disposal of Government royalty oil.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(5), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

4. *Revision of geothermal loan guaranty regulations.* DOE intends to analyze, simplify, and amend the geothermal loan guarantee regulations, including environmental review procedures.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, Pub. L. 95-91.

Contact: Larry Falick, 202-566-6719.

5. *Power rate adjustment procedures.* Procedures will be established for Federal power authorities to contact their customers and encourage participation in rate-setting procedures. Procedures for public hearings conducted in consumers' communities will be developed.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Bonneville Project Act of 1927, as amended.

Contact: Daniel Ogden, 202-566-9615.

6. *Sequential bidding regulations.* DOE is preparing proposed regulations to establish a new bidding process, known as sequential bidding, for use in certain Outer Continental Shelf (OCS) oil and gas lease sales. The purpose of these regulations is to increase competition by increasing both the number of participants in an OCS lease sale and the number of bids submitted.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(1), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

7. *Loan guarantees for alternative fuel demonstration facilities.* DOE will promulgate rules enabling DOE to guarantee loans for alternative fuel demonstration facilities.

It has not been decided whether a regulatory analysis is required.

Status: No notice concerning the regulation has yet been published.

Authority: Federal Nonnuclear Energy Research and Development Act of 1974, section 19(b), Pub. L. 93-577, as amended.

Contact: Michael Perper, 202-376-9052.

8. *Post-sale competitive review regulations.* DOE is preparing proposed regulations to establish a process by which the Secretary of the Interior would perform a compctitive review of bids for Outer Continental Shelf oil and gas leases prior to their award to the highest qualified responsible bidder. The purpose of the regulation is to foster competition for Federal leases.

A regulatory analysis will be completed.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b)(1), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

9. *Coal regulations.* DOE is in the initial stages of analysis prior to preparation of regulations concerning bidding systems, competition and diligence. The purpose of these regulations would be to foster competition and establish diligence requirements.

Status: No notice concerning the regulation has yet been published.

Authority: Department of Energy Organization Act, section 302(b) (1), (2), (3), Pub. L. 95-91.

Contact: Robert Kalter, 202-566-9421.

10. *University coal research laboratories grants.* DOE will promulgate

rules which set forth criteria for selecting institutions to receive grants to

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rules which set forth criteria for selecting institutions to receive grants to establish university coal research laboratories.

A regulatory analysis is not required.

Status: No notice concerning the regulation has yet been published.

Authority: Surface Mining Control and Reclamation Act of 1977, Title 8, Pub. L. 95-87.

Contact: Richard Stephens, 202-376-9188.

[FR Doc. 78-30839 Filed 10-30-78; 8:45 am]

federal register

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Proposed Rulemaking

[3410-30-M]

DEPARTMENT OF AGRICULTURE

vider of meals) be defined in regulations in place of or in addition to "food

previously participated in the program, should receive preoperational

Such training must occur prior to the beginning of program operations.

duct sampling, and to all other State agencies that elect to use sampling.

be fully considered before final regulations are issued.

Sponsor budget approach. Under

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[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[17 CFR Part 225]

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is issuing proposed regulations for the Summer Food Service Program for Children as required by section 13 of the National School Lunch Act, as amended. It is intended that interested parties be given an opportunity to comment on these regulations prior to the publication of final regulations which is required by January 1.

DATE: To be assured of consideration, comments must be received on or before November 20, 1978.

ADDRESS: Written comments should be sent to Mr. Jordan Benderly, Acting Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of all written comments received will be available for inspection by the public during normal business hours in room 3300B Auditor's Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Mr. Benderly at the above address or by telephone at 202-447-8211.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program for Children is authorized by section 13 of the National School Lunch Act, as amended by Pub. L. 95-166, approved November 10, 1977. That section requires, in part, that the Department issue proposed regulations for the summer program annually by the first day of November. Final regulations must be issued by January 1 of each year.

Based on a year's experience administering the summer program under regulations issued on March 28, 1978 (43 FR 13020) and comments and suggestions received from various sources, including a national program meeting held in October of this year for the purpose of soliciting public comment, the Department has determined it appropriate to propose certain changes in program regulations. The following describes the proposed changes.

DEFINITIONS

Food service management company. It has been suggested that the term "vendor" (meaning a commercial provider of meals) be defined in regulations in place of or in addition to "food service management company." This latter term has the traditional meaning of a firm which provides management services in addition to meals. The Department recognizes the fact that most sponsors' food service contracts are with vendors not food service management companies. It is acknowledged that there is the potential for confusion based on the use of references to food service management companies in the act and regulations and a distinction made in industry between that term and vendor. Therefore, the Department proposes to include the definition of vendor within the definition of food service management company to point out the distinction. All references to food service management companies in the regulations thereby include vendors.

Rural. As a result of the legislative rural outreach mandate, the Department and many States conducted outreach last year. However, the Department has been criticized for not defining "rural" and not providing more guidance and assistance to the States in this area. This year the Department is proposing a definition of rural, establishing more specific objectives and developing a rural outreach plan. Special outreach attention will be directed to migrants and American Indians. The Department will provide information to the States to assist them in formulating and implementing rural outreach efforts. In addition, new provisions in the proposed rule, specifically in the management and administration plan require the State to detail its proposed activities in rural areas.

Areas in which poor economic conditions exist/migrants. Due to the nature of the migrant population, the Department recognizes the need to simplify documentation of program eligibility for the children of migrant workers. Therefore, it is proposed that the definition of "areas in which poor economic conditions exist" be expanded so that eligibility for the children of migrant workers may be based upon documentation provided by recognized migrant organizations, and may serve to support the eligibility of the children, as a group.

Another proposed provision to lessen the documentation requirement allows sponsors with the same sites for 2 consecutive years to submit new documentation every other year, rather than every year.

RESPONSIBILITIES OF STATE AGENCIES

Sponsor visits. Changes are proposed for State agency preoperational visits to sponsors. The first change would require the State agency to determine which applicant sponsors, aside from those which have never previously participated in the program, should receive preoperational visits. The purpose of this proposed change is to give the State agencies flexibility in determining when such visits are necessary. Last year this visit was required for all sponsors which would earn more than $50,000 in program reimbursement. However, the Department feels that the size of the sponsor's program in and of itself should not determine the need for a preoperational visit.

Facility inspections. A second provision would require each State agency, during the first 4 weeks of program operations, to provide for inspections of all program preparation facilities in the State. If a State agency cannot conduct these inspections, the 1 percent health inspection and meal quality test funds may be used for this purpose to contract out these inspections.

Sponsor/food service management company contract. Two new provisions are proposed in the sponsor and food service management company contract. The first would require the sponsor to pay the food service management company for all meals delivered in accordance with the contract. Sponsors have always had this contractual obligation, and this provision will serve to clarify this obligation as a regulatory requirement as well.

The second provision would require all nongovernmental sponsors whose contract or aggregate amount of contracts with one food service management company would exceed $10,000 to establish a special account for the deposit of payments by the State agency for operating costs. A separate special account would be required for each company under contract with a sponsor. Both parties to the contract would formally agree to an equitable distribution of the funds deposited to the account.

Food service restrictions. Under program regulations in effect last year, only residential camps were exempted from the requirement to serve supper beginning no later than 6 p.m. The proposed regulations would allow for State agencies to waive this requirement for any site, provided that special arrangements are made by the sponsor and the State agency to monitor these sites.

Training requirements. Proposed regulations expand the training requirements and require that State agencies make training available to food service management company representatives and health inspectors which will participate in the program in each State. While food service management companies and health departments are not required to attend this training, the Department believes that they would benefit from doing so. Such training must occur prior to the beginning of program operations.

Use of small and minority-owned business. In keeping with the legislative intent that sponsors make efforts to utilize small and minority-owned businesses as sources of supplies, State agencies are to encourage sponsors to use such businesses. To assist the States in this activity, the Department will provide information to State agencies on sources of financial and technical assistance for such businesses and suggests that State agencies familiarize themselves with local resources and assistance so that they can carry out this requirement in a meaningful fashion.

Audit requirements. State agencies continue to be responsible for audits of each sponsor on an every-other-year basis, in accordance with Federal Management Circulars. For those sponsors receiving less than $50,000 in program reimbursement, it is proposed that the cost of auditing them be borne solely by the State agency and be considered a legitimate State administrative expense. The Department believes that such sponsors do not receive enough program funds to cover the cost of such an audit.

Statistical sampling. The Department continues to support the use of statistical sampling techniques in the program. As in the past, the Department's Office of Audit will conduct statistical sampling in selected areas. In addition, the Department is proposing to require that State agencies conduct statistical sampling in a select number of the Nation's largest cities. It is in the large cities that the biggest problems with program operations have occurred in the past. These problems, if uncorrected, can lead to substantial dollar losses. The Department's principal interest in using statistical sampling is as a monitoring and management tool, not simply as a billing device. These selected State agencies would be required to have a system whereby adverse findings generated by sampling would be immediately communicated to sponsors and translated into corrective action. These States would consider sampling as one factor, along with other considerations, in the settlement of claims. The Department would expect greater weight to be given to sampling results in settling a claim in instances where a sponsor ignored the results and failed to institute corrective action after being duly notified, than in circumstances where a sponsor acted promptly to correct its deficiencies.

The Department recognizes that extensive training in this technique at all levels is essential if it is to work successfully. The Department is prepared to offer training to those State agencies that will be required to conduct sampling, and to all other State agencies that elect to use sampling.

PROGRAM MANAGEMENT AND ADMINISTRATION PLAN

Additional provisions. The Department has received several suggestions regarding this plan. In an effort to be responsive to these concerns several changes have been proposed in this section. Provisions have been added which require the State to define its priority areas of program expansion, its plan and schedules for training food service management company representatives and health inspectors, and its procedures for soliciting and insuring that timely comments or recommendations made by interested parties regarding this plan receive full consideration. The latter provision is primarily intended to serve as a method of providing for public involvement in the development of the plan. Plan approval for the upcoming summer will be delegated to the FNS Regional Offices and specific approval deadline dates will be established to facilitate timeliness of the complete process.

PAYMENT AND USE OF STATE ADMINISTRATIVE FUNDS

Assured funding level. The Department believes it is in the best interest of the program to facilitate advance planning to the greatest degree possible. Therefore, an assured administrative funding level to the States is proposed. This level would be an amount equal to the lesser of 80 percent of administrative funds earned based on program payments actually made within the State during the prior fiscal year, or, 80 percent of the estimated amount of administrative funds which could be earned in the current fiscal year, assuming, of course, that the State's actual expenditures equal or exceed that level. The States would be assured of receiving no less than this level unless FNS determines that the State failed to meet its responsibilities as contained in the regulations or did not make a good faith effort to implement its plan.

ADMINISTRATIVE PAYMENTS

The Department has proposed a method of funding sponsors for administrative costs which is based on budgets submitted by sponsors to the State agencies. The concept outlined in regulations is a new approach and has not been tested either on a selected basis or nationwide. Hence, comments are solicited on the specific proposal included in regulations, as well as the additional approaches discussed below. Comments on these approaches and other approaches which may surface during the comment period will be fully considered before final regulations are issued.

Sponsor budget approach. Under this approach, a State would be required to vary the rate of reimbursement it pays to individual sponsors, based on their individual needs. Under this approach, States would earn a total amount of money for distribution for sponsor administrative costs, and would then divide these funds up according to individual sponsor's needs as reflected in sponsor administrative budgets. Thus, while the State would earn a certain amount for each lunch served, it would pay some sponsors more per lunch than this amount, while others wuld receive less per lunch than this amount. (The total reimbursement that a State provided to all its sponsors for administrative costs could not, of course, exceed the total amount that the State earned.)

States would need to evaluate sponsor administrative budgets carefully, and have justification for the varying rates assigned. This approach allows flexibility to States to meet the needs of those sponsors who must incur higher administrative costs in order to run the program successfully.

That approach would require skilled administration by States. It would work best if all sponsor budgets were reviewed simultaneously, but this is not always entirely possible. States would also need to plan for contingencies if a sponsor which had been provided a lower-than-average rate served fewer meals than planned, while a sponsor given a higher-than-average rate served more meals than planned. Some mid-course adjustments in the rates provided to sponsors might be necessary in such a circumstance, in order that a State have sufficient funds to make its reimbursement payments.

States would be required, rather than simply permitted, to vary reimbursement rates. The basic purpose of this approach would be undermined if a State, instead of budgeting skillfully, simply assigned a uniform rate to all sponsors.

In conjunction with this approach, the Department would endeavor to provide guidance to State agencies to assist States in determining those categories of sponsors that may need higher administrative reimbursement rates. The Department is currently completing a study mandated by Public Law 95-166 which is intended to evaluate reimbursement levels for operating and administrative costs to determine if adjustments are needed. Based on the results of the study, if appropriate, FNS will provide State agencies with guidance regarding those types of sponsor characteristics that may justify higher administrative cost payment. State agencies may then

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use this guidance in determining sponsor payments. As an example, if the study so indicated, final regulations could specify that factors such as the following should be considered when assigning higher levels to certain sponsors for operating and administrative costs:

(1) Whether the sponsor will prepare meals on-site or contract with a food service management company.

(2) The proposed number of sites to be operated by the sponsor and the location of such sites.

(3) Resources available from other sources to finance the food service program.

ADDITIONAL APPROACHES TO SPONSOR ADMINISTRATIVE PAYMENTS

Consumer Price Index Set-Aside

This approach is a variation of the approach described above. Once again, States would earn a total amount of money and would distribute it according to sponsors' individual needs. Rates of reimbursement would again vary by sponsor. The principal difference is that under this approach, there would be a *minimum* per-meal reimbursement. So long as a sponsor's approved administrative budget (and actual costs), at least equalled this minimum, sponsors would receive reimbursement at least at this level.

The minimum reimbursement levels would be the reimbursement rates in effect during the summer of 1978, i.e., 7.25 cents per lunch and supper, 3.75 cents per breakfast, and 2.00 cents per snack. The State earning factors would be somewhat higher because they would be computed by indexing this past summer's reimbursement rates in accordance with the change in the food away from home series of the Consumer Price index for the 12-month period ending November 30, 1978. Thus, for every sponsor to which the State assigned the minimum rate, the State would have a small amount of funds available (the difference between last summer's rates and the new rates), to provide a higher payment to another sponsor which the State had determined to need additional assistance. This would allow States some flexibility to provide increased payments to sponsors needing such payments, while protecting other sponsors by providing a floor below which States could not reduce their payment rates. States would, of course, have less flexibility than under the first approach.

States would still need to practice the same type of skillful budgeting as would be required under the first alternative. States would still need to balance various sponsor budgets, and the number of meals served, to assure that they remained within the amount of funds available on a statewide basis.

The Department would plan, as under the first approach, to provide guidance as to sponsor characteristics to be considered in assigning higher rates of reimbursement, provided that the FNS study now nearing completion sufficiently identifies these characteristics.

Discretionary Additional Payments Approach

Under this approach, a State would not assign to a sponsor a reimbursement rate that was below the statewide earning factor unless the sponsor's administrative budget or actual costs dictated a lower rate. The State would earn ¾ cent per lunch and supper, ½ cent per breakfast, or ¼ cent per supplemental food beyond the statewide earning factor for every meal served. The aggregate amount of the additional reimbursement would constitute a pool of money which States could use to augment the administrative budgets of certain sponsors.

The assignment of such additional reimbursement would be up to the State. As in the Consumer Price Index Set-Aside Approach, this approach would allow States some flexibility to provide increased payments to sponsors needing such payments, while protecting other sponsors by providing a floor below which States could not reduce their payment rates. States would, again, have less flexibility than under the Sponsor Budget Approach, and would still need to practice skillful budgeting. This approach requires a slightly higher level of Federal expenditures which the Department may not be able to provide.

Assigned Additional Payments Approach

Under this approach, a State would not assign to a sponsor a reimbursement rate that was below the statewide earning factor, unless the sponsor's administrative budget or actual costs dictated a lower rate. These sponsors in need of additional reimbursement could receive higher rates, but these rates could not exceed the statewide earning factor by more than ¾ cent per lunch or supper, ½ cent per breakfast, or ¼ cent for supplemental food. This approach resolves the budgeting complexities otherwise faced by States, but in so doing it has two significant consequences: (1) It restricts the additional assistance that any sponsor may receive, and (2) it requires a slightly higher level of Federal expenditure, which the Department may not be able to provide.

Under this approach, as under the previous three alternatives, guidance would be made available concerning sponsor characteristics that may justify higher payment rates, if such guidance can be derived from the results of the study.

SUMMARY

The following summary illustrates each of the four approaches. The summary assumes, for the sake of illustration, that the basic statewide per meal earning factor for 1979 is 7.75 cents per lunch, as opposed to last summer's rate of 7.25 cents per lunch, in view of the adjusted CPI. Total reimbursement to sponsors in a State cannot exceed the total amount earned by the State.

Under the Sponsor Budget Approach, which is contained in the body of these proposed regulations, a State would earn 7.75 cents per lunch. Out of these funds, the State would pay some sponsors more than 7.75 cents per lunch and others less than 7.75 cents per lunch. There would be no minimum or maximum limit on the rate a State could provide any individual sponsor.

Under the CPI Set-Aside, the State would again earn 7.75 cents per lunch, and would again vary rates by sponsor. Sponsors would receive no less than 7.25 cents per lunch (last summer's rate). The State would use the difference to pay some sponsors more than 7.75 cents per lunch.

Under the Discretionary Additional Payment Approach, sponsors would receive 7.75 cents per lunch unless their administrative budget or costs failed to justify this level. States would also be allowed to make additional payments to sponsors needing additional assistance. There would be no limit on the rate a State could provide any such sponsor.

Under the Assigned Additional Payment Approach, sponsors would receive 7.75 cents per lunch unless their administrative budget or costs failed to justify this level. States would also be allowed to make additional payments to sponsors needing additional assistance, but total reimbursement to these sponsors could not exceed 8.25 cents per lunch.

DEVELOPMENTAL PROJECTS

The Department will also consider several developmental projects in selected areas. The purpose of the projects would be to test the feasibility of requiring that State agencies vary levels of payments to certain categories of sponsors by certain specified amounts. Comments on the desirability of such projects are welcome.

FUNDING EVALUATIONS

Last year's regulations provided for FNS to conduct initial and mid-program evaluations of State administrative costs. The Department believes that these evaluations are still necessary but proposed regulations give FNS more latitude in determining when to conduct such evaluations. Programmatic evaluations should be an ongoing responsibility of FNS and the two proposed fiscal evaluations should be viewed as one component of the evaluation process.

FOOD SERVICE REQUIREMENTS

Supplemental meal. The Department has received a few suggestions that the supplemental meal, as currently structured is not adequately covered by existing reimbursement rates. The Department has also received suggestions in the past that the portion sizes for the supplemental meal may not be appropriate. The Department is not making any changes in the portion sizes of, or reimbursement rates for, the supplement as this time, but is seeking further comment on this matter. If public comment and the results of the Department's food cost study so indicate, the Department will seriously consider making appropriate changes in final regulations.

COMMENT PERIOD

The Department is providing for a 20-day comment period on these regulations. It is recognized that this period of time is shorter than that normally allotted but legislation mandates that final regulations be published by January 1. Administering agencies at all levels must have an adequate amount of time to plan and prepare for the summer program. A delay in the issuance of regulations results in severe timing problems and hence the Department believes that it is in the best interest of the program and that the public will not be adversely affected by this shortened period. This determination has been made by Gene P. Dickey, Deputy Administrator, Special Nutrition Programs, Food and Nutrition Service, USDA.

Accordingly, the Department is issuing a proposed Part 225 as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—State Agency Provisions

225.4 Procedures for approval of sponsors and sites.
225.5 Responsibilities of State agencies.
225.6 Program management and administration plan.
225.7 Payment and use of State administrative funds.
225.8 Payments to State agencies and use of Program funds.

Subpart C—Sponsor Provisions

225.9 Requirements for participation.
225.10 Food service requirements.
225.11 Food service management companies.
225.12 Program payments.
225.13 Program payments procedures.
225.14 Claims against sponsors.

Subpart D—Miscellaneous Provisions

225.15 Procurement provisions.
225.16 Prohibitions.
225.17 Free meal policy.
225.18 Other provisions.
225.19 Program information.

AUTHORITY: Sec. 2, Pub. L. 95-166, 91 Stat. 1325 (42 U.S.C. 1761); Sec. 7, Pub. L. 91-248, 84 Stat. 211 (42 U.S.C. 1759a).

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program for Children to assist States through grants-in-aid to initiate, maintain, and expand nonprofit food service programs for children during the summer months and at other approved times. The food service to be provided under the program is similar to that provided under the National School Lunch and School Breakfast Programs and is intended to serve as a substitute for those programs for children who are on school vacation, except that it is primarily directed toward children from needy areas.

§ 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the program (excluding interest costs and operating costs).

(c) "Advance payments" means financial assistance made available to a sponsor for its operating costs or administrative costs prior to the end of the month in which such costs will be incurred.

(d) "Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendance in which at least 33⅓ percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined by information provided from departments of welfare, zoning commissions, census tracts, and recognized migrant organizations, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of program sites, or from other appropriate sources, or (2) an enrollment program in which at least 33⅓ percent of the children are eligible for free or reduced price school meals as determined by statements of eligibility based on the size and incomes of the families of the children enrolled.

(e) "Camps" means (1) residential summer camps which offer a regularly scheduled food service as part of an organized program for enrolled children and which serve up to four meals a day, and (2) nonresidential programs which offer a regularly scheduled organized cultural or recreational program for enrolled children and which serve such children four meals a day or three meals consisting of a breakfast, lunch and supper.

(f) "Children" means (1) persons 18 years of age and under, and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public school program established for the mentally or physically handicapped.

(g) "Costs of obtaining food" means costs related to obtaining agricultural commodities and other food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(h) "Continuous school calendar" means a situation in which all or part of the student body of a school are on a vacation for periods of 15 continuous school days or more during the period October through April.

(i) "Department" means the U.S. Department of Agriculture.

(j) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(k) "FNS" means the Food and Nutrition Service of the Department.

(l) "FNSRO" means the appropriate FNS Regional Office.

(m) "Food service management company" means a commercial enterprise or a nonprofit organization which contracts with a sponsor to manage any aspect of the food service. References to food service management companies in the Act and in this part shall include vendors which contract with a sponsor to prepare unitized meals, with or without milk.

(n) "Income accruing to the program" means all moneys (other than program payments) received by a sponsor for use in the program from Federal, State and local governments; from food sales to adults, and from any other source, including cash donations or grants.

(o) "Meals" means food which is served to children at a food service site at which children consume meals in a supervised setting.

(p) "Special account" means an account established by a sponsor for the purpose of receiving and disbursing funds for the program. Such account may be established by the sponsor in a bank, credit union, or other financial institution. Such account shall be established in the name of the sponsor and shall be separate from any other account of the sponsor. Such agreement shall cover the operation of the program during the period specified therein and may be

(iv) The simultaneous service of more than one meal to each child;

(2) The number of meals, by type, proposed to be served to children at

services to migrant communities in prior years. State agencies, when ap-

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(o) "Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

(p) "Milk" means fluid types of pasteurized flavored or unflavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

(q) "Needy children" means children from families whose income is at or below the applicable Secretary's Income Poverty Guideline for Determining Eligibility for Free and Reduced Price Meals.

(r) "OIG" means the Office of the Inspector General of the Department.

(s) "Operating costs" means the cost of operating a food service under the program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, and (4) rental and use allowances of equipment and space, but excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings, (iii) interest costs, (iv) the value of inkind donations, and (v) administrative costs; less income accruing to the program.

(t) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(u) "Program" means the Summer Food Service Program for Children authorized by section 13 of the Act.

(v) "Program funds" means financial assistance made available to State agencies for the purpose of making program payments.

(w) "Program payments" means financial assistance in the form of startup payments, advance payments or reimbursement to sponsors for operating and administrative costs.

(x) "Rural" means any county which is not a part of a Standard Metropolitan Statistical Area as defined by the Office of Management and Budget.

(y) "Secretary" means the Secretary of Agriculture.

(z) "Session" means a specified period of time during which an enrolled group of children attend camp.

(aa) "Site" means a physical location at which a sponsor provides or will provide a food service for children and at which children consume meals in a supervised setting.

(bb) "Special account" means an account between applicable sponsors and food service management companies with a State or federally insured bank in which operating costs payments are deposited by the State agency and released only in accordance with the terms of the special account agreement.

(cc) "Sponsors" means public or private nonprofit (1) camps and (2) nonresidential institutions which provide a year round service to the community, or provide a food service for the children of migrant workers, or provide a food service for a significant number of needy children which would not otherwise have reasonable access to the program. Such camps and institutions shall develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs. (Sponsors are referred to in the Act as "service institutions.")

(dd) "Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a food service and to establish appropriate management procedures therefor.

(ee) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(ff) "State agency" means the State educational agency or an alternate State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the program within the State.

§ 225.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in the administration of the program.

(b) Within the States, responsibility for the administration of the program shall be in the State agency, except that FNSRO shall administer the program in any State where the State agency is not permitted by law or is otherwise unable to disburse Federal funds paid to it under the program to any sponsor in the State. Each State agency shall notify the Department by each November 1 as to whether or not it intends to administer the program.

(c) Each State agency desiring to take part in the program shall enter into a written agreement with the Department for the adminsitration of the program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the program during the period specified therein and may be extended by consent of both parties.

(d) When the Secretary determines that the State is not operating the program in accordance with the provisions of this part, he shall, through FNSRO, assume the administration of the program in the State as provided for in § 225.18(b).

(e) FNSRO shall, in the States in which it administers the program, assume all responsibilities of State agencies set forth in this part.

Subpart B—State Agency Provisions

§ 225.4 Procedures for approval of sponsors and sites.

(a) The State agency shall determine the eligibility of applicant sponsors applying for participation in the program in accordance with the applicant sponsor eligibility criteria outlined in § 225.9(a).

(b) The State agency shall not approve the application of any applicant sponsor, identifiable through its organization or principals as a sponsor which participated previously and was seriously deficient in its program operations. In the event that an applicant sponsor's application is denied, the State agency shall inform such applicant sponsor of the procedure to request a review of the denial. The official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Serious deficiencies, which are grounds for nonapproval include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any startup or advance payments which exceeded the amount earned for serving eligible meals, or failure to submit all Claims for Reimbursement in any prior year: *Provided, however,* That failure to return any advance payments of Claims for Reimbursement which are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sites which include, but are not limited to, the following:

(i) Noncompliance with the between meal time requirements;

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to each child;

(v) The claiming of program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(c) Pending the outcome of a review of a denial of an application for program participation, the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (h) of this section, without regard to the application under review.

(d) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for program pariticpation or knowingly withholds information which may lead to the disapproval of its application. Complete information regarding the disapproval of an applicant sponsor on the basis of fraudulent submission of information shall be submitted by the State agency to OIG.

(e) The State agency shall develop, in accordance with the requirements of this part and such other guidance as furnished by the Department, a site information sheet, on which applicant sponsors shall provide, for each site, information to demonstrate or describe:

(1) An organized and supervised system for serving meals to attending children;

(2) The type or types of meals to be served and the times of service;

(3) Arrangements, within acceptable standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and if there are excess meals, arrangements for storing them until they are served;

(4) Arrangements for food service during periods of inclement weather;

(5) Access to a means of communication for making adjustments as needed in the number of meals delivered in accordance with the number of children attending daily at each site;

(6) The geographic area to be served by the site; and

(7) The percentage of children served by the site who meet the eligibility requirements for free or reduced price school meals.

(f) The State agency shall, when evaluating proposed sites, insure that:

(1) If not a camp, the proposed site serves an area in which poor economic conditions exist;

(2) The number of meals, by type, proposed to be served to children at the site does not exceed the number of children residing in the area to be served, or, if applicable, the number enrolled; and

(3) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal and that the total number of meals, by type, served to children at all sites does not exceed the number of children residing in the area.

(g) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size.

(h) The State agency shall use the following order of priority in approving sponsors to operate sites which propose to serve the same area or the same enrolled children:

(1) Applicant sponsors which are public or nonprofit private schools and other applicant sponsors which have demonstrated successful program performance in a prior year;

(2) Applicant sponsors which propose to prepare meals at their own facilities or which operate only one site;

(3) Applicant sponsors which propose to utilzed local school food facilities for the preparation of meals;

(4) Other sponsors which have demonstrated ability for successful program operations; and

(5) Applicant sponsors which plan to integrate the program with Federal, State, or local employment or training programs.

(i) State agencies may approve the application of an otherwise eligible applicant sponsor which does not provide a year-round service to the community which it proposes to serve under the program only if it is a residential camp, or an applicant sponsor which provides a food service for the children of migrant workers, or when a failure to do so would deny the program to an area in which poor economic conditions exist, or if a significant number of needy children will not have reasonable access to the program: *Provided, however,* That such an applicant sponsor shall not be approved to operate more than 50 sites. The State agency may approve applicant sponsors which provide a food service for the children of migrant workers to operate more than 50 sites if the State agency determines that such sponsors have adequate capabilities and facilities and have provided services to migrant communities in prior years. State agencies, when approving the applications of such applicant sponsors shall take particular care to insure that such applicant sponsors are timely in their program planning and thoroughly prepared to assume and carry out all program responsibilities.

(j) Applicant sponsors which qualify as camps shall be approved for reimbursement only for meals served free to children enrolled who meet the eligibility requirements for free and reduced price school meals.

§ 225.5 Responsibilities of State agencies.

(a) *State agency personnel.* Each State agency shall provide sufficient qualified consultative, technical, and managerial personnel to administer the program and monitor performance and to measure progress toward achieving program goals. The State agency shall assign specific program responsibilities to such personnel so as to insure that all applicable requirements under this part are met. All administrative personnel shall be employed and available for program duties at least 30 days prior to the State agency's sponsor application deadline date and all field staff personnel shall be employed and available at least 15 days prior to the beginning of program operations: *Provided, however,* That the State agency shall hire additional personnel subsequent to these dates if, due to unanticipated program growth or program irregularities, additional personnel are needed. State agencies may submit to FNSRO written requests for exceptions to these hiring dates. Such requests shall include information in sufficient detail for FNSRO to determine that the exception is necessary for and will not adversely affect optimal program administration and operation.

(b) *Program assistance.* Each State agency shall provide program assistance as follows:

(1) Each State agency shall visit, prior to the approval of the application, all applicant sponsors which have not participated in the program in the previous year and all applicant sponsors which participated in the previous year and have been determined by the State agency to need a preoperational visit. Grounds for such a visit include, but are not limited to, sponsors with sites which were terminated for cause in the previous year and sponsors which had sites in violation of the meal service requirements in the previous year. These visits shall be utilized to provide the State agency the opportunity to further assess the applicant sponsor's potential for successful program operations, assess information submitted on the application, and assure the State agency that the appli-

cant sponsor is aware of its responsibilities under the program.

pany, if applicable, promptly receive a copy of the review reports and are

(1) The sponsor shall provide to the food service management company a

specifications contained in the contract;

application deadline date: *Provided, however,* That the 30 days may be ex-

The service of supper shall begin no later than 6 p.m.: *Provided, however,*

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cant sponsor is aware of its responsibilities under the program.

(2) Each State agency shall, prior to approval, visit each new proposed nonschool site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(3) Each State agency shall, prior to approval of any site with a proposed average daily attendance of more than 300 children, visit each such site to evaluate its capability of serving the number of children expected: *Provided, however,* That the State agency may elect to not carry out such a preapproval evaluation if the site has been used under the program in a prior year and the State agency has documentation on file which supports the capability of the site and gives evidence of successful prior program operations at the site.

(4) Each State agency shall review during the first 4 weeks of operations, all sponsors which operate 10 or more sites, and, at a minimum, an average of 15 percent of the sites of such sponsors, to insure compliance with program regulations and with the Department's nondiscrimination regulations (Part 15 of this title) and other applicable instructions as issued by the Department.

(5) In addition to the review requirements described in paragraph (b)(4) of this section, each State agency which expects to receive more than $250,000 in State administrative funds shall meet additional review requirements for all sponsors which operate 10 or more sites and which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000. These additional requirements shall be to conduct reviews of an average of 75 percent of nonschool sites, and 25 percent of school sites, during the first 4 weeks of operation. In determining which sites shall be reviewed under this paragraph and under paragraph (b)(4) of this section, the State agency shall consider, at a minimum, whether or not the site has been used in prior years, the performance of the site in prior years, the performance of other sites operated by the same sponsor in both prior years and the current year and the performance of the applicable sponsor in prior years and in the current year.

(6) Each State agency shall, in addition, review 80 percent of the remaining sponsors, and an average of 10 percent of the remaining sites of such sponsors, at least once during the period of program operations.

(7) In the conduct of reviews, each State agency shall develop a monitoring system to insure that sponsors, including site personnel, and the appropriate food service management company, if applicable, promptly receive a copy of the review reports and are promptly notified of violations which might result in a program disallowance. Sponsors and site personnel shall be afforded every opportunity to make necessary corrections in a timely manner. In cases where corrective action of sites is not taken in accordance with this paragraph, and such sites are canceled, each State agency shall insure that food service management companies are notified of all sites which are canceled within a reasonable time.

(8) Documentation of program assistance and results of such assistance shall be maintained on file by the State agency.

(9) Each State agency shall during the first 4 weeks of program operations, provide for inspections of all facilities in its State in which food is prepared to be served in the program. Funds provided for in § 225.8(i) may be used for this purpose.

(c) *Program availability.* Each State agency shall, by February 1 of each fiscal year, announce the purpose, eligibility criteria, and availability of the program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a listing of potential sponsors which have not previously participated in the program, and shall contact such potential sponsors. State agencies shall identify rural areas which qualify for the program and actively seek eligible applicant sponsors to serve such areas. States shall identify priority outreach areas in accordance with FNS guidance, for targeting outreach efforts in such areas.

(d) *Financial management system for sponsors.* Each State agency shall establish a financial management system which is in compliance with attachment G of the Office of Management and Budget Circular A-102, under which sponsors shall maintain and report the information required in this part. The system shall also be consistent with the cost principles found in Federal Management Circular 74-4 and any applicable instruction issued by FNS.

(e) *Payment of claims.* A State agency may make full or partial reimbursement upon receipt of a claim for reimbursement from a sponsor, but shall first make any necessary adjustments in payments.

(f) *Sponsor and food service management company contract.* Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. The contract shall expressly and without exception provide that:

(1) The sponsor shall provide to the food service management company a list of State agency approved food service sites and shall notify the food service management company of all sites which have been approved or canceled subsequent to the submission of the initial approved site list. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(2) The food service management company shall maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State or local health certification for the facility in which it proposes to prepare meals for use in the program and it shall insure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being served. Such levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other establishments in the locality. Results of such inspections shall be submitted to the sponsor and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency upon which the bid was based;

(5) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, of the Department, and the U.S. General Accounting Office at any reasonable time and place, for a period of 3 years from the date of receipt of final payment under the contract;

(6) The sponsor and the food service management company shall operate in accordance with current program regulations;

(7) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this part, and shall not be paid for departures from the contract such as meals which are delivered to nonapproved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements and meal quality standards and food

specifications contained in the contract;

(8) Unitized meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meal orders shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(10) All meals served under the program shall meet the requirements of § 225.10;

(11) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs the sponsor incurs by obtaining meals from another source; and

(12) Each nongovernmental sponsor whose contract or aggregate amount of contracts with one food service management company exceeds $10,000 shall establish a special account for the deposit of payments by the State agency for operating costs. A separate special account as provided for in § 225.9(i) shall be established for each food service management company under contract with a sponsor.

(g) *Advance and startup payment procedures.* Each State agency shall inform sponsors of the procedure whereby, they may apply for advance program payments and advance administrative costs payments as provided for in § 225.13 and, where applicable, each State agency shall inform sponsors of the procedure whereby they may apply for startup payments provided for in § 225.12(c).

(h) *Use of onsite facilities or school food service facilities.* State agencies shall make a positive effort to encourage sponsors to use the sponsors' own facilities or the facilities of public or nonprofit private schools to the maximum extent feasible, in the preparation, service, and delivery of meals under the program.

(i) *Sponsor application deadline date.* Each State agency shall establish and inform all applicant sponsors of a deadline date for submission of a written application for participation in the program: *Provided, however,* That State agencies shall approve the application of an otherwise eligible applicant sponsor submitted after the date established by the State agency, when the failure to do so would deny the program to an area in which poor economic conditions exist or a significant number of needy children will not have reasonable access to the program. The State agency shall inform potential sponsors inquiring after the sponsor application deadline date of the possibility of approval if the sponsor qualifies under these terms. The State agency must act on all applications within 30 days after the sponsor application deadline date: *Provided, however,* That the 30 days may be extended upon approval by FNS. In the case of applicant sponsors which apply after the deadline date and qualify in accordance with the terms of this paragraph, the State agency shall act on such applications as soon as possible after receipt.

(j) *Meal service restriction.* (1) A State agency shall restrict to one meal service per day (i) any site determined to be in violation of the meal service requirements as set forth in this paragraph when corrective action is not taken within a reasonable time as determined by the State agency, and (ii) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the meal service requirements as set forth in this paragraph. If such action results in children not receiving any meals under the program, the State agency shall make every reasonable effort to locate another source of meal service for such children. In addition, the State agency shall not approve the service of more than one meal per day at any site unless each type of meal is delivered separately within 1 hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site.

(2) Meals which may be served under the program shall be breakfast, lunch, supper, and supplemental food served between such other meals. Only camps may be approved to serve supplemental food and also participate in the special milk program (7 CFR Part 215), provided that those camps keep separate records for each program. Except for camps, sponsors shall be approved to serve only up to three meals a day at each site, provided that at least one of the three meals is a supplement. Residential camps shall be approved to serve up to four meals a day, and nonresidential camps shall be approved to serve four meals a day or three meals consisting of a breakfast, lunch, and supper, provided that camps have the administrative capability and where applicable, the food preparation and holding facilities, and provided that the service period of different meals does not coincide or overlap. No sponsor shall be reimbursed for meals served outside of the meals service limitations contained in the subparagraph. No sponsor shall be approved for more than two supplements a day.

(3) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 6 p.m.: *Provided, however,* That a State agency may consider a waiver of this requirement for extenuating circumstances. Such waivers shall be granted only when the State agency and the sponsor insure that special arrangements shall be made to monitor these sites. In no case may the completion of supper end later than 8 p.m. None of the preceding time restrictions of this subparagraph shall apply to residential camps. The duration of the meal service shall be limited to 2 hours for lunch or supper and 1 hour for all other meals. Meals served outside of the period of approved meal service shall not be eligible for program payments. Any permanent changes in meal service pereiods must be approved by the State agency. Each sponsor shall serve only the type or types of meals for which it is approved in its agreement with the State agency.

(k) *Records and reports.* (1) Each State agency shall maintain current accounting records of its program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, and expenditures for administrative costs and operating costs. The records may be kept in their original form or on microfilm, and shall be retained for a period of 3 years after the date of submission of the final financial status report, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised by the audit. (2) No later than September 30 of each year, the State agency shall provide the Department with information on the scope of program operations within the State, including information on program levels in rural areas. (3) Each State agency shall report information on the use of program funds and on program operations to FNS on forms provided by FNS, as instructed by FNS.

(l) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the program, and shall take appropriate action to correct any irregularities. State agencies shall maintain on file all evidence relating to such investigations and actions. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate

(m) *Commodity distribution information.* A list of sponsors which are to receive food commodities, with accompanying information on the average daily number of eligible meals to be served by such sponsors, shall be prepared not later than June 1 of each

year by the State agency. Such a list shall contain only the names of spon-

agencies shall encourage sponsors to use small and minority-owned busi-

(5) State agencies shall provide FNS and OIG with full opportunity to con-

contracts between sponsors and food service management companies.

address or addresses of the company's food preparation and distribution facilities which will be used in the pro-

spection requirement if a facility was registered last summer and operated in accordance with program require-

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year by the State agency. Such a list shall contain only the names of sponsors which will prepare the meals to be served at their sites and the names of sponsors which have entered into an agreement with a school or school district for the preparation of meals to be served under the program. If the State agency is other than the agency of the State which handles the distribution of food commodities donated by the Department, this information shall be forwarded to the agency of the State which handles the distribution of donated commodities. The State agency shall be responsible for promptly revising the information to reflect additions or deletions of sponsors and for providing such adjustments in participation data as are determined necessary by the State agency. Availability of commodites and other foods which are not donated commodities but are in plentiful supply shall be summarized and made available to all sponsors upon the approval of their application for participation.

(n) *Training.* Each State agency shall plan for and carry out program training for sponsors, food service management company respresentatives, and health inspectors which will participate in the program in that State. Each State agency shall, prior to program operations, insure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of program administration and operations. Such training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of program training. State agencies are encouraged to utilize sponsors which have previously participated in the program in such training, and to train site personnel regarding their responsibilities. Training should be made available at convenient locations. Each State agency shall make available, prior to the beginning of program operations, training in all necessary areas of program administration for representatives from all food service management companies and each health department which will participate in the program in the current year.

(o) *Program materials.* Each State agency shall develop and make available in a timely manner all necessary program materials so that applicant sponsors have sufficient time to adequately prepare for their participation in the program.

(p) *Procurement provisions.* State agencies shall require sponsors to adhere to the procurement provision set forth in § 225.15 in addition to any other procurement provisions contained in this part. In addition, State agencies shall encourage sponsors to use small and minority-owned businesses, as sources of supplies and services. The Department will provide guidance on technical and financial assistance available to such businesses.

(q) *Management evaluation and audits.* (1) Each State agency shall insure that the requirements of this part are met and upon approval of applicant sponsors' applications whose total claims for reimbursement are expected to exceed $50,000 shall provide those sponsors with an audit guide to be used in the conduct of the audit required by § 225.9(k) and any other guidance necessary to enable them to comply with the requirements set out in § 225.9(k). The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department for the program.

(2) In accordance with the plan submitted under § 225.6(a)(14), the State agency shall provide for audits, at least once every 2 years, of all sponsors within the State. The audit requirement outlined in § 225.5(q)(1) may be included by the State to meet a portion of the requirement contained in this section. In addition, any audit of an organization which is conducted in accordance with the program audit guide and includes the program covered by this part may be included to meet a portion of the audit requirement contained in this section. The State agency shall provide for audits of sponsors whose total claims for reimbursement are expected to be less than $50,000 and the cost of such audits shall be considered an allowable State administrative expense. In no case may States require that sponsors earning less than $50,000 pay for the cost of such audits, in whole or in part. These audits shall be conducted by State agency internal auditors, State Auditors General, State Comptrollers, other comparable independent State audit groups, Certified Public Accountants or State licensed public accountants.

(3) Each State agency shall coordinate its monitoring review findings under paragraph (b) of this section and the audit reports provided for under § 225.9(k). Each State agency shall insure that monitoring is conducted to result in a representative review of the sponsor's operations under the program.

(4) While OIG shall rely to the fullest extent feasible upon State-sponsored audits, it shall, whenever it considers necessary, (i) make audits on State-wide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OIG with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any sponsor.

(6) The Department shall require State agencies to utilize statistical sampling procedures in audits, management evaluations, and other monitoring activities conducted in a select number of large cities that shall be chosen by the Department. State agencies may elect to utilize statistical sampling procedures in other areas. Such statistical sampling must be conducted in accordance with guidelines issued by the Department. The Department will provide training on these procedures to all State agencies, as requested. Whenever statistical sampling procedures are used, State agencies shall establish a system for prompt communication of adverse findings to sponsors and for corrective action by sponsors. State agencies that are required to use statistical sampling shall also consider sampling results as one factor in the settlement of claims. Greater weight should generally be given sampling results, when assessing claims, in instances where a sponsor has failed to take corrective action, after being notified of the results and their potential consequences, than in instances where a sponsor has acted promptly to correct its deficiencies.

(7) Use of program audit guide available from OIG is encouraged. When this guide is utilized, OIG will coordinate its audits with State-sponsored audits to form a network of intergovernmental audit systems.

(8) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations, or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

(r) *Food specifications and meal quality standards.* Each State agency shall, with the assistance of the Department, develop and make avialable to all sponsors minimum food specifications and model meal quality standards, which shall become part of the

contracts between sponsors and food service management companies.

(s) *Food quality and preparation facility inspection procedures.* Each State agency shall, with the funds authorized in § 225.8(i), establish a procedure for inspections of food preparation facilities and food service sites. The procedures for carrying out work such as inspections and testing shall be consistent with procedures used by local health authorities. Copies of the results of the inspections of the facilities of food service management companies shall be provided to the company, the sponsor, and the State agency.

(t) *Food service management company registration.* (1) Each State agency shall by February 1 provide to all food service management companies which participated in the program in either of the prior years in that State a notification of mandatory registration. Such notification shall contain at a minimum (i) a statement of the requirement for registration with the State agency as a prerequisite to participation in the program during the applicable fiscal year, (ii) a summary of those items which are required to be submitted in the application for registration as set forth in paragraph (u)(2) of this section, (iii) an enumeration of the specific criteria developed by the State agency upon which registrant eligibility shall be based, and (iv) other relevant information necessary to make application for registration. In addition, each State agency shall, by the same date, issue through the appropriate media a notification of mandatory registration and information necessary to make application for registration.

(2) By March 15 each food service management company which desires to participate in the program within the State during such fiscal year shall submit an application for registration to the State agency. At a minimum, registration shall require (i) submission of name and mailing address and any other names under which such food service management company presently or in the past 2 years has marketed its services, (ii) a certification that the food service management company meets applicable State and local health, safety, and sanitation standards, (iii) disclosure of past and present company owners, directors and officers, and their relationship, if any, to any sponsor or food service management company which participated in the program in the past 2 years, (iv) records of contract terminations, disallowances, and health, safety, and sanitation code violations related to prior program participation during the past 2 years, (v) records of any other contract terminations and health, safety, and sanitation code violations during the past 2 years, (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the program and the local officials responsible for the operation of such facilities, (vii) the number of meals which may be prepared in each preparation facility in a 24-hour period for use in the program, (viii) a certification that the food service management company will operate in accordance with current program regulations, and (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to nonapproved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time or meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company.

(3) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the program or if it is identifiable through its organization or principals as a food service management company which participated in the program during any previous year and was seriously deficient in its program operation. Serious deficiencies which are grounds for nonregistration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements, or program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which do not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with a prior program operation.

(4) The State agency shall provide for inspections prior to registration of all food service management companies' food preparation facilities listed on the applications for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall insure that such facility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of meals for use in the program. The State agency may waive this inspection requirement if a facility was registered last summer and operated in accordance with program requirements.

(5) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within 30 days after receipt of the complete application. The State agency shall inform any food service management company whose application for registration has been denied of the procedures to request a review of the denial as provided for in paragraph (w) of this section. The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(6) By April 15 of the current year, each State agency shall forward to the Department, on a form provided by FNS, information on all food service management companies which applied for registration to the State agency and their registration status. The Department shall allow any food service management company to review any information concerning that company which was submitted to FNS as required by this paragraph.

(7) A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year, if the State agency determines that the lack of registration could result in an area in which poor economic conditions exist not being served or a significant number of needy children not having reasonable access to the program.

(8) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted on the form is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(u) *Bid opening monitoring.* Each State agency shall have a representative present at all procurement bid openings of sponsors which expect to receive more than $100,000 in program payments.

(v) *Sponsor certifications.* Each State agency shall require applicant sponsors submitting program applications, site information sheets, program agreements or claims for reimbursement, and sponsors requesting advance payments, to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and Federal statutes.

(w) *Sponsor and food service management company hearing procedures.* (1) Each State agency shall establish a

of this procedure State agencies shall require each sponsor to submit a detailed administrative budget which the

(4) Estimated amount of program funds, by month, needed for administrative costs payments to sponsors;

meal quality tests, including the estimated number and frequency of such inspections and tests and a description

agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance

State during the prior fiscal year, or, 80 percent of that obtained by applying the formula to the estimated

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(w) *Sponsor and food service management company hearing procedures.* (1) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an applicant sponsor's application for participation, a sponsor's approved level of administrative costs, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a denial of a sponsor's site or a denial of a food service management company's registration.

(2) At a minimum the procedure shall provide that:

(i) The denied applicant be advised in writing of the grounds upon which the State agency based the denial;

(ii) The denied applicant be advised in writing that the request for review must be made within a specified time. The State agency may establish this period of time at not less than 1 week nor more than 2 weeks from the date of receipt of the letter of denial;

(iii) The denied applicant be afforded the opportunity to review any information upon which the denial was based;

(iv) The hearing official be an official other than the one directly responsible for the original determination;

(v) The review be held within 2 weeks of the date of the receipt of the request for review;

(vi) The applicant may refute the charges contained in the letter of denial either in person or by mailing written documentation to the reviewing official. The applicant may retain legal counsel, or may be represented by another person;

(vii) Within 3 days after the applicant's hearing, or within 3 days after receipt of written documentation, the reviewing official must make a determination based on a full review of the administrative record; and

(viii) The State agency must inform the applicant of the determination of the review by certified mail, return receipt requested. The determination by the State reviewing official is the final administrative determination to be afforded an applicant.

(x) *Advance payment estimates.* Each State agency shall, when determining the amount of advance operating costs payments to be made to each sponsor under § 225.13(d) make the best possible estimate based on the amount requested by the sponsor and any other data available to the State agency.

(y) *Sponsor's budget approval process.* Each State agency shall, based on guidance provided by the Department, develop a budget approval procedure for the purpose of determining amounts of administrative costs payments to be made to sponsors. As part of this procedure State agencies shall require each sponsor to submit a detailed administrative budget which the State shall evaluate to determine the level of administrative payments for which the sponsor is eligible. State agencies shall vary the levels of such payments taking into consideration (1) whether or not proposed administrative expenses are both allowable and reasonable; (2) variables such as the proposed number of sites, the location of sites, whether food will be prepared onsite or by a food service management company, and any other factors which are unique to a sponsor or group of sponsors, and (3) the availability of funding from other sources. State agencies shall be required to the extent practicable and within the funding limitations found in § 225.8(c) to meet the reasonable and necessary administrative expenses of each sponsor as set forth in the sponsor's budget. State agencies which fail to vary the levels of administrative costs payments to sponsors shall provide justification to FNS that the administrative expenses among sponsors within the State do not differ.

§ 225.6 Program management and administration plan.

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNSRO a program management and administration plan for that fiscal year. The plan shall have the original signature of the chief official (Commissioner or Superintendent) of the State agency. Approval of the plan by FNS shall be a prerequisite to the payment of program funds, or to the donation by the Department of any commodities for use in the program. The plan shall include the following information at a minimum:

(1) How the State plans to use program funds and funds from within the State to the maximum extent practicable to reach needy children, including needy children in rural areas. The State should clearly define its methods for assessing need, the total number of children reached by the program last year, its priority areas for program expansion, and its plans and schedule for informing potential sponsors of the availability of the program;

(2) Estimated number and type of sponsors expected to participate and estimated number of sites and average daily attendance, and a description of the estimating methods used, including data on the number of sponsors which participated in the prior year;

(3) Estimated amount of program funds, by month, needed for operating costs payments to sponsors;

(4) Estimated amount of program funds, by month, needed for administrative costs payments to sponsors;

(5) The State's plans and schedule for providing technical assistance and training for sponsors, food service management company representatives and health department officials, including the number of such training sessions planned and number of reviews planned, including data on the number of reviews conducted in the prior fiscal year;

(6) The State agency budget, by month and function on the use of State administrative funds, including, but not limited to staffing (part-time and full-time), salaries, travel and per diem;

(7) The State's plan to comply with the Department's standards for disbursing administrative costs payments to sponsors;

(8) The actions to be taken by the State agency to maximize the use of onsite meal preparation and the use of school food service facilities;

(9) The actions to be taken by the State to insure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15);

(10) The States plan for monitoring and inspecting sponsors, sites, and food service management companies and for insuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(11) The State's plan for timely and effective action on program violations;

(12) The State's plan and schedule for submission and approval of sponsor applications;

(13) The State's plan for determining the amounts and timing of program payments to sponsors and for disbursing such payments;

(14) The State's plan for insuring fiscal integrity by auditing sponsors as provided under § 225.5(q), including data on the number of audits performed in the prior fiscal year;

(15) The State's plan and procedure for registering food service management companies;

(16) The State's procedures for granting a hearing and prompt determination to any sponsor wishing to appeal a State's ruling denying its application for program participation, its site participation, its approved level of administrative costs, program advance payments, or program reimbursement and the State's procedure for granting a hearing and prompt determination to any food service management company wishing to appeal a State's ruling denying the food service management company registration in the State;

(17) The State's plan for utilizing the funds provided for under § 225.8(i) to provide for health inspections and meal quality tests, including the estimated number and frequency of such inspections and tests and a description of the arrangements made by the State with the agencies which will perform these services;

(18) The amount of non-Federal funds made available to the State through direct State appropriations for the program;

(19) An explanation of significant deviations in last year's actual program operations and administration from that proposed in the plan for last year; and

(20) The State's procedures for soliciting and insuring that timely coments or recommendations made by interested parties regarding this plan receive full consideration.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the program management and administration plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 days from the date of receipt of the program management and administrtion plan shall be afforded to make such comments.

(c) All plans shall be approved or acted on by March 15, or if it is submitted late, within 30 days following receipt of the plan. In cases where the plan initially submitted is not approved, the State agency and the approval authority shall work together to insure that changes to the plan, in the form of amendments, shall be submitted so that the plan shall be approved within 60 days following the initial submission of the plan.

§ 225.7 Payment and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for administrative expenses incurred in the program an amount equal to (1) 20 percent of the first $50,000 in program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $50,000 in program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next $100,000 in program funds properly payable to the State in the preceding fiscal year; and (4) 2 percent of any remaining funds properly payable to State in the preceding fiscal year: *Provided, however,* That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in program size from the preceding fiscal year as evidenced by information submitted in the State program management and administration plan and any other information available to FNS.

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which program funds are made available. State agencies may also use administrative funds for such other administrative expenses as set forth in their approved program management and administration plan.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by letter of credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 and in an amount not to exceed one-third of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. For States which did not receive any program funds during the fiscal year immediately preceding the fiscal year for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section and based on the estimates set forth in the approved program management and administration plan.

(e) The balance of State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the second funding assessment provided for in paragraph (g) of this section, and shall be in an amount equal to that obtained by applying the formula set forth in paragraph (a) of this section to the State's actual program size as determined by information obtained during the second funding assessment, less the amounts paid under paragraphs (c) and (d) of this section. As provided for in paragraph (g) of this section, further adjustments in the levels of State administrative funding paid or payable to a State may be made.

(f) Notwithstanding the levels of payments provided for in this section, each State agency shall at the time FNS approves the State's management and administration plan, be assured of receiving State administrative funding in an amount equal to the lesser of 80 percent of that obtained by applying the formula set forth in paragraph (a) of this section to the total amount of program payments made within the State during the prior fiscal year, or, 80 percent of that obtained by applying the formula to the estimated amount of program funds as contained in the management and administration plan. The State agency shall be assured that it will receive no less than these levels unless FNS determines that the State agency has failed or is failing to meet its responsibilities as contained in this part.

(g) FNSRO shall at the times it deems most appropriate conduct assessments of the need for program and State administrative funding within each State agency. At a minimum, such funding assessments shall be made at least twice during each fiscal year. The first of these assessments shall be conducted prior to the beginning of sponsor operations when FNSRO determines that there is adequate information available at the State agency upon which a reasonable projection of program size can be made. Based on information obtained during the initial assessment, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency to reflect changes in the size of the State's program as compared to that contained in its management and administration plan. The second assessment shall be conducted at some time during the period of program operations, but not later than August 1, or when information is available on the actual size of program operations. Immediately following such assessment, any remaining payment of State administrative funds shall be made to the State agency. Such payment may reflect adjustments in the level of State administrative funding, based on the information collected in the second assessment. FNS shall not decrease the amount of a State's administrative funds unless the State did not make reasonable efforts to administer the program as it proposed in its management and administration plan, or unless the State incurred expenses that were not necessary.

(h) In no event may the sum of the amounts properly payable under this section for a fiscal year exceed the total amount of expenditures incurred by the State agency for its administrative costs in the same fiscal year. Each State agency shall report to FNS information on the use, in the prior year, of program funds and State administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall make, prior to November 15 of each fiscal year, any adjustments necessary in the letter of credit to reflect actual expenditures in the prior fiscal year.

§ 225.8 Payments to State agencies and use of Program funds.

(e) The Secretary shall make available any remaining program funds due,

trative and operating budget, staffing and monitoring plan.

(e) Each applicant sponsor shall

agreements with the Department. Such agreements shall provide that the sponsor shall:

(10) Purchase, in as large quantities as may be efficiently utilized in the program, foods designated as plentiful

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§ 225.8 Payments to State agencies and use of Program funds.

(a) Upon approval of the State's program management and administration plan, the Secretary shall make available by letter of credit to the State agency program funds to be used to make start-up payments, where applicable, to sponsors as provided for in § 225.12(c).

(b) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available to each State agency by letter of credit program funds to be used by the State agency to make advance operating costs payments to sponsors in the months for which letter of credit is issued. The amount of each of these payments shall be equal to 65 percent of the amount derived by multiplying the number of operating days in the month times the average daily attendance by meal type as estimated in the State's approved program management and administration plan, times the maximum allowable rates payable to sponsors for operating costs payments as set forth in § 225.12(e).

(c) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available, by letter of credit, program funds to be used by the State agency to make advance administrative costs payments to sponsors. The amount of each of these payments shall be equal to one-third of the sum of the products obtained by multiplying: the estimated nuimber of breakfasts times 3.75 cents; the estimated number of lunches times 7.25 cents; the estimated number of suppers times 7.25 cents; and the estimated number of supplemental meals times 2.00 cents. The estimated number of meals shall be those which are contained in the approved program management and administration plan. FNS may make appropriate changes in the amounts of these payments based on information obtained during the conduct of the funding assessments provided for in § 225.7(g) and any other information available to FNS upon which determinations as to actual program size may be made.

(d) For sponsors which operate under a continuous school calendar, the Secretary shall make available program funds by letter of credit to the State agencies to make advance payments to sponsors in an amount equal to the amount needed by the State agencies to make advance program payments and advance administrative costs payments to such sponsors, as set forth in the State's approved program management and administrative plan, on the first day of the month prior to the month during which the food service will be conducted.

(e) The Secretary shall make available any remaining program funds due, no later than 60 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days after the sponsor's operation shall be deducted from the next monthly payment to the State.

(f) Program funds shall be used by State agencies to make program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(g) Each State agency shall release to FNS any program funds which it determines are unobligated as of Septemgber 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNS, and shall be accomplished by an adjustment in the State agency's letter of credit.

(h) The State agency may use in carrying out special developmental projects an amount up to 1 percent of program payments made in any fiscal year: *Provided, however,* That such projects have been included in the State's program management and administration plan and have been approved in writing by FNS.

(i) By April 15 of each fiscal year, the Secretary shall make available by letter of credit to each State agency an additional amount equal to 1 percent of program funds estimated to be needed by the State agency for program payments in the State's approved program management and administration plan and any amendments thereto for the current fiscal year. These funds shall be used solely to enable State or local health departments of other governmental agencies charged with health inspection function, to carry out health inspections and meal quality tests: *Provided, however,* That, if such agencies cannot perform such inspecitons or tests, the State agency may use such funds to contract with an independent agency to conduct either the inspection or the meal quality tests, or both. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.7(e) if such an adjustment is warranted. Program funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

Subpart C—Sponsor Provisions

§ 225.9 Requirements for participation.

(a) No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for program operations and accepts final financial and administrative responsibility for total program operations at all sites at which it proposes to conduct a food service;

(2) Has not been seriously deficient in operating the Program in prior years;

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualifies as a camp;

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site, including adequate personnel to visit all sites at least once in the first week of operation under the program, to promptly take such actions as are necessary to correct deficiencies found at the time of the initial visit, to review food service operations at every site at least once during the first 4 weeks of program operations, and thereafter to maintain a reasonable level of site monitoring. During these visits and reviews a monitoring form developed by the State agency shall be completed by the monitor;

(5) Provides an ongoing year-round service to the community which it proposes to serve under the program except as provided for in § 225.4(i);

(6) Certifies that all sites have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(7) Is a public or private nonprofit entity;

(8) If not a camp, provides documentation that its food service will serve children from an area in which poor economic conditions exist. If a camp, certifies that it will collect family-size and income information to support its Claim for Reimbursement; and

(9) If a summer school, is open to serve children in addition to those enrolled in the accredited school program or is a school serving children outside of the summer school hours.

(b) Applicant sponsors shall make written application to the State agency for participation in the Program as sponsors. Such application shall be made on a timely basis in accordance with the requirements of § 225.5(i).

(c) Each applicant sponsor shall submit, as part of the application, a site information sheet, as developed by the State agency, for each site where a food service operation is proposed.

(d) Applications shall include information in sufficient detail to enable the State agency to determine whether the applicant sponsor meets the criteria for participation in the program as set forth in paragraph (a) of this section and the extent of program payments needed, including requests for advance payments and start-up payments, if applicable, and administrative and operating budget, staffing and monitoring plan.

(e) Each applicant sponsor shall submit to the State agency, as part of the application for participation, a complete administrative budget for State agency review and approval. The budget shall contain a detailed itemization of the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to effectively determine the amount of administrative moneys needed by a sponsor to effectively and efficiently operate under the program. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(f) Each applicant sponsor shall submit to the State agency, along with its application, a plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.11, and a copy of its letter of engagement with a certified public accountant or an independent State or local government accountant if required under paragraph (k) of this section. In addition, the selected accountant shall within the first 2 weeks of operation under the Program, submit a copy of the management letter to the sponsor and to the State agency.

(g) Each applicant sponsor, except a camp, shall submit, along with its site information sheet, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist. For those sites at which applicant sponsors will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from a recognized migrant organization, which supports eligibility for those children as a group. When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. Therefore, for such sites applicant sponsors shall only be required to obtain new documentation every other year. Camps shall submit to the State agency, prior to filing their claims for reimbursement for each session or at such time as specified by the State agency, family-size and income information which documents the number of children enrolled in each session whose family incomes meet the eligibility requirements for free or reduced price school meals.

(h) Sponsors approved for participation in the Program shall enter into written agreements with the State agency, or in those States in which FNSRO administers the program, sponsors shall enter into written agreements with the Department. Such agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation or at some other time or times during the year for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in § 225.10 during a period designated as the meal service period by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are not eligible for free or reduced price school meals;

(4) Issue a policy statement in accordance with § 225.17;

(5) Hold training sessions for its administrative and site personnel with regard to program duties and allow no site to operate until site personnel have attended such training sessions. Training of site personnel, at a minimum, shall include: purpose of the program, site eligibility, recordkeeping, site operations, meal pattern requirements, and duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors under § 225.5(n) and sponsors shall provide training throughout the summer to ensure that administrative and site personnel are thoroughly knowledgeable in all requisite areas of program administration and operation and are provided with sufficient information to enable them to carry out their program responsibilities;

(6) Provide for an audit under any program agreement for which it may receive over $50,000 in program payments, as outlined in § 255.9(k);

(7) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period; except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who are eligibie for free or reduced price school meals. No permanent changes may be made in the time of any meal service period until such changes are approved by the State agency;

(8) Submit claims for reimbursement in accordance with procedures established by the State agency, and those stated in § 225.13(a);

(9) Maintain, in the storage, preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations;

(10) Purchase, in as large quantities as may be efficiently utilized in the program, foods designated as plentiful by the State agency or the Department;

(11) Accept and use, in as large quantities as may be efficiently utilized in the program, such foods as may be offered as a donation by the Department;

(12) Have access to facilities necessary for storing, preparing, and serving food;

(13) Maintain a financial management system as prescribed by the State agency;

(14) Maintain on file documentation of site visits in accordance with paragraph (a)(4) of this section;

(15) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. Such records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised by the audit; and

(16) Maintain children on site while meals are consumed.

(i) In addition to the provisions described in paragraph (h) of this section, all agreements between State agencies and sponsors shall provide that all nongovernmental sponsors whose contract or aggregate amount of contracts with one food service management company exceeds $10,000 shall agree to set up a special account with a State or federally insured bank for the deposit of program payments for operating costs payable to the sponsor by the State. The special account agreement must specify that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain other terms as are agreed to by both sponsor and food service management company, *Provided, however,* That such terms are not inconsistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank for the account described in this section shall be considered an allowable sponsor administrative cost.

(j) Upon notificiation of their approval, sponsors selected for participation in the program shall submit evidence to the State agency that they have advised the appropriate health

department of their intention to provide a food service during a specific

(i) One-half pint (1 cup) of milk as a beverage,

is used in the preparation of the components of all meals. In addition, the

food service management company shall remain responsible for assuring

unless such special requirements are

shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with

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department of their intention to provide a food service during a specific period at specific sites. Such evidence shall be in the form of a letter to the health department.

(k) Each sponsor whose total program payments under any Program agreements are expected to exceed $50,000 shall have an audit conducted of its program claims and the supporting documentation for those claims by an independent certified public accountant or an independent State or local government accountant and shall submit to the State agency a copy of the letter of engagement with the accounting firm or individual which is to conduct the audit. The sponsor's final claim for reimbursement under the agreement shall not be eligible for payment until the audit has been completed and the results have been reviewed by the State agency. The cost of the audit may be considered an administrative cost. All such audits shall be subject to review by the Department.

(l) Sponsors shall not claim reimbursement under Parts 210, 215, 220, or 226 of this chapter, or any other federally funded program for meals served under the program.

(m) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities, or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(n) Sponsors shall operate the food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or issued by the State agency which are not inconsistent with the provisions of this part.

§ 225.10 Food service requirements.

(a) Except as otherwise provided in this section and any appendices to this part, each meal served in the program shall contain, as a minimum, the indicated food components:

(1) A breakfast shall contain:

(i) One-half pint (1 cup) of milk as a beverage or on cereal or used in part for each purpose,

(ii) One-half cup serving of fruit or vegetable, or both or full-strength fruit or vegetable juice, and

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or ¾ cup (volume) or 1 ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(2) A lunch or supper shall contain:

(i) One-half pint (1 cup) of milk as a beverage,

(ii) Two ounces (edible portion as served) of cooked lean meat, poultry, or fish; or 2 ounces of cheese; or one egg; or ½ cup of cooked dry beans or peas; or 4 tablespoons of peanut butter; or an equivalent quantity of any combination of the above-listed foods. To be counted in meeting this requirement, these foods must be served as a main dish or in a main dish and one other menu item,

(iii) A three-fourths cup serving consisting of two or more vegetables or fruit, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour.

(3) Supplemental food shall contain two of the following four components:

(i) One-half pint (1 cup) of milk,

(ii) One ounce of meat or meat alternate,

(iii) Eight fluid ounces of full-strength fruit or vegetable juice (juices shall not be served when milk is served) or one cup of fruit or vegetable,

(iv) One slice of whole-grain or enriched bread, or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cereal, or an equivalent quantity of any combination of these foods.

(b) The quantities of food specified in subparagraphs (1) and (2) of paragraph (a) of this section are approximate amounts of food to serve 10 to 12 year-old boys and girls. Greater or lesser amounts of these foods may be served if participating children are older or younger and if the sponsor can demonstrate to the satisfaction of the State agency that it has the capability of controlling portion size so as to insure that variations in portion size are in accordance with the age levels of the children served.

(c) If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining delivery, the State agency may approve the service of breakfast, lunches, suppers, or supplemental food without milk during the emergency period.

(d) The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the Program. In such cases the State agency may approve the service of meals without milk, provided that an equivalent amount of canned, whole dry, or nonfat dry milk is used in the preparation of the components of all meals. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(e) In American Samoa, Guam, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands and the Northern Mariana Islands, the following variations from the meal requirements are authorized: A serving of a starchy vegetable, such as ufi, tanniers, yams, plantains, sweet potatoes, or a serving of enriched rice or enriched or whole-grain cereal products such as macaroni, dumplings, or noodles may be substituted for the bread requirement.

(f) Substitutions may be made by sponsors in paragraph (a) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such food. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statements shall be kept on file by the sponsor.

(g) FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(h) Sponsors approved to serve children under 1 year of age shall be required to comply with the applicable meal patterns contained in the Child Care Food Program regulations (7 CFR Part 226).

§ 225.11 Food service management companies.

(a) Any sponsor may contract with a food service management company for the preparation of unitized meals, with or without milk. Sponsors may, prior to issuance of bids, submit in writing to the State agency, requests for exceptions to unitizing certain components of a meal. Such requests shall include sufficient reasons for the State agency to determine that the exception is necessary to effectively meet the meal requirements of this part. Each State agency shall notify the sponsor in writing of its determination in a timely manner. Any sponsor may contract with a food service management company to operate its entire blood service: *Provided, however,* That a sponsor that so employs a food service management company shall remain responsible for assuring that the food service operation is in conformity with its agreement with the State agency and all applicable provisions of this part. Sponsors may contract only with food service management companies registered with the State in which the sponsor will operate, as provided for under § 225.5(t). A food service management company entering into a contract with a sponsor under the program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal. Any sponsor entering into a contract with a food service management company shall use the standard form of contract established by its State agency. For sponsors which are public institutions, sponsors desiring to contract only for the management of the program, and sponsors whose contract with a food service management company will not exceed $10,000 this may be their existing or usual form of contract if such form of contract has been submitted to and approved by the State agency. In any event, sponsors shall adhere to the procurement standards set forth in § 225.15. Each proposed additional provision to the established form of contract shall be submitted to the State agency for approval.

(1) In the absence of any State or local law, sponsors whose proposed contracts are subject to competitive bidding procedure shall; at a minimum, insure that:

(i) All proposed contracts shall be publicly announced at least once, not less than 14 days prior to the opening of bids, and the announcement shall include the time and place of the bid opening;

(ii) The bids shall be publicly opened;

(iii) All bidders shall be notified at least 14 days prior to the opening of the bids of the time and place of the bid opening; and

(iv) The State agency is notified at least 14 days prior to the opening of the bids, of the time and place of the bid opening.

(2) In addition, sponsor shall, at a minimum, when advertising for bids adhere to the following requirements:

(i) The invitation to bid shall not specify a minimum price;

(ii) The invitation to bid shall contain a cycle menu approved by the State agency upon which the bid shall be based;

(iii) The invitation to bid shall contain food specifications and meal quality standards approved by the State agency upon which the bid shall be based;

(iv) The invitation to bid shall not specify special meal requirements to meet the ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(v) Neither the invitation to bid nor the contract shall provide for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(vi) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service;

(vii) A copy of the health certification required in this section and a copy of the food service management company registration determination issued by the State agency shall be submitted by the food service management company with each bid;

(viii) Sponsors shall submit to the State agency copies of all bids received and the reason for selecting the food service management company chosen;

(ix) All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval within 5 working days of receipt.

(b) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of program operations.

(c) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(d) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract as determined by the State agency. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of such contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the bond within ten days of the awarding of the contract.

(e) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

(f) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.18(b).

§ 225.12 Program payments.

(a) Program payments shall be made to sponsors only after execution of and in accordance with the terms of the agreement with the State agency or the Department. No program payments shall be made for meals served at a site before the sponsor has received written notification of approval for the site from the State agency.

(b) Reimbursement shall be made to camps only for meals served to children whose eligibility is documented on the basis of family size and income information. Any nonresidential camp reduced to less than four meals per day under § 225.5(j)(1) shall continue to receive reimbursement for only those meals served to children eligible for free or reduced priced school meals.

(c) Sponsors which have executed an agreement may, at the discretion of the State agency, receive start-up payments not earlier than 2 months before beginning food service operations. Start-up payments shall not exceed 20 percent of the amount estimated by the State agency to be needed by a sponsor to administer the Program in accordance with the sponsor's approved administrative budget, as provided for under § 225.9(e). Start-up payments shall be deducted from the first advance payment made to a sponsor for allowable administrative costs.

(d) Payments to all sponsors for administrative costs shall, within the total amount of funds available to the State for sponsor administrative costs as prescribed by § 225.8(c), equal the full amount of administrative costs as approved in the sponsor's budget by the State agency. A sponsor's administrative budget shall be subject to subsequent review by the State agency, and based on such a review, the State agency may make adjustments in the level of administrative costs payments to the sponsor which reflect a change in the level of the sponsor's administrative function or the quality of the sponsor's administrative effort. No sponsor shall receive administrative costs payments in excess of actual administrative expenditures.

(e) Payment to a sponsor for operating costs shall not exceed 92.75 cents for each lunch or supper, 51.50 cents for a breakfast and 24.25 cents for supplemental food: *Provided, however,* That the total program payments paid to a sponsor for operating costs do not exceed the lesser of:

(1) The above rates times the meals by type actually served to eligible children during the Program operation, or

(2) The actual operating costs.

(f) Sponsors shall maintain accurate

tion requirements set forth in § 225.5(v), each sponsor shall certify

significant change in its project administrative costs since approval of

determines that a larger payment is necessary for the effective operation

utilized, first, to make program payments to sponsors for the period for which the funds were initially availa-

ficers, employees, or agents in contracting with and expending program payments. The officers, employees, or

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(2) The actual operating costs.

(f) Sponsors shall maintain accurate records to justify the operating costs and administrative costs claimed. Sponsors who wish to claim only for the costs of obtaining food shall maintain accurate records to justify their food costs. In no instance shall Program payments for the costs of obtaining food exceed the per meal operating costs payment rates.

(g) Sponsors shall plan for and prepare or order meals on the basis of participation trends, with the objective of providing only one meal per child at each meal service. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of meals needed and to reduce the resultant waste, any excess meals that are prepared or ordered may be served to children and may be claimed for reimbusement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. In monitoring the number of meals served at a site, the State agency shall withhold reimbursement for those meals served to children which exceed the number of children being served by the site when the State agency determines that the sponsor has not complied with the provisions of this paragraph.

§ 225.13 Program payment procedures.

(a) To be reimbursed under this part, each sponsor shall submit claims for reimbursement to the State agency monthly by the 10th day following the period of operations covered by the claim. Claims may be submitted more frequently at the discretion of the State agency. Sponsors whose final period of operation is less than 10 days in duration shall submit a combined claim covering the final period and the period immediately preceding the final period. The State agency shall not be responsible for acting upon any claim for reimbursement which is not received by the State agency within 30 days after the close of the sponsor's food service operations, except where the State agency determines that the claim has been filed late because of circumstances beyond the control of the sponsor. Appropriate payments may then be made if the claim submitted by the sponsor is valid.

(b) Claims for Reimbursement shall include data in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide the required information for program reports. In submitting a claim for reimbursement, in addition to the certification requirements set forth in § 225.5(v), each sponsor shall certify that records are available to support the claim.

(c) Not later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance operating costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however,* That the State agency shall not release the second month's advance operating costs payment to any sponsor which has not certified that it has held training sessions for its own personnel, including site personnel, with regard to program duties and responsibilities: *And provided, further,* That no advance operating costs payment shall be made for any month in which the sponsor will serve meals under the Program for less than 10 days. Requests by sponsors for advance operating costs payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(d) Each month's advance operating costs payment to any sponsor shall be in an amount equal to: (1) The total operating costs payment for meals served by such sponsor in the same calendar month of the preceding calendar year, or (2) 50 percent of the amount determined by the State agency to be needed by the sponsor for meals, if the sponsor contracts with a food service management company or (3) 65 percent of the amount determined by the State agency to be needed by the sponsor for meals, if the sponsor prepares its own meals, whichever amount is greater: *Provided, however,* That the advance operating costs payment may not exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance operating costs payment is made.

(e) Not later than June 1 and July 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance administrative costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however,* That (1) the State agency shall not release the second month's advance administrative cost payment to any sponsor until the sponsor has certified that it is operating the number of sites for which the administrative budget was approved, and that there has been no significant change in its project administrative costs since approval of the administrative budget, (2) no advance administrative costs payment shall be made for any month in which the sponsor will operate under the program for less than 10 days, and (3) in the case of a sponsor that operates less than ten (10) days in June but at least ten (10) days in August, the second month's advance administrative costs payment shall be made on August 15. Requests by sponsors for advance administrative costs payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(f) Each sponsor's first month's advance administrative costs payment shall be in an amount equal to one third of the amount established by the State agency to be needed by the sponsor to administer the program. Each sponsor's second month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. In the case of sponsors which will operate ten (10) days or more in only one month and thereby will qualify for only one advance administrative costs payment the State agency shall provide an advance administrative costs payment of no less than one-half and no more than two-thirds of the amount established by the State agency to be needed by the sponsor as indicated in its approved administrative budget. The State agency shall forward any remaining payment due to a sponsor no later than 45 days following receipt of valid claims: *Provided however,* That the State agency shall not pay any sponsor for its final claim until the sponsor has certified that it did operate all sites approved in the administrative budget and that there has been no significant change in the projected administrative costs since the preceding claim or, in the case of sponsors which will receive only one month's advance, that there has been no significant change in the projected administrative costs since payment of the initial advance administrative costs payment. The total program payment paid to a sponsor for administrative costs shall not exceed the lesser of: (1) The approved administrative budget and any amendments thereto or (2) actual expenditures incurred for administrative costs.

(g) The sum of any advance operating costs payment and any advance administrative costs payment to a sponsor for one month shall not exceed $40,000: *Provided, however,* That a State agency may make advance payments totalling more than $40,000 to a sponsor for a given month if the State determines that a larger payment is necessary for the effective operation of the program and the sponsor demonstrates sufficient administrative and management capability to justify a larger payment.

(h) Any prior program payment which is under dispute or which is part of a demand for recovery under § 225.14(a) or § 225.14(d) shall be deducted from any advance operating costs payment or advance administrative costs payment.

(i) If the State agency has reason to believe that a sponsor will not be able to submit a valid Claim for Reimbursement covering the period for which advance operating costs payments and advance administrative costs payments have been made the subsequent month's advance operating costs payment and advance administrative costs payment shall be withheld until such time as the State agency has received a valid claim. Sponsors shall repay advance program payments which are not subsequently deducted from a valid claim for reimbursement upon demand by the State agency. Any interest earned by a sponsor on advance operating costs payments and advance administrative costs payments shall be returned to the State agency. In States where FNSRO administers the program, such interest shall be returned to FNS.

§ 225.14 Claims against sponsors.

(a) State agencies shall disallow any portion of a claim for reimbursement and promptly recover any program payment made to a sponsor that was not properly payable under this part. State agencies shall use their own procedures to disallow claims and recover overpayments already made. This shall include court actions, where appropriate. However, the State agency shall notify the sponsor of the reasons for any disallowance or demand, and allow the sponsor full opportunity to submit evidence on appeal as provided for in § 225.5(w). If, in the determination of FNS, a State agency has acted in conformity with the provisions of this part and has made every reasonable effort to recover any overpayment, the State agency shall not be liable for failure to collect an overpayment.

(b) The State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of 3 years after the date of the submission of the final financial status report, except that, if audit findings have not been resolved, the records shall be retained beyond the 3-year period as long as required for the resolution of any issues raised in the audit.

(c) The amounts recovered by the State agency from sponsors may be utilized, first, to make program payments to sponsors for the period for which the funds were initially available, and second, to repay any State funds expended in the payment of claims for reimbursement under the program not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

(d) When a State agency disallows a claim for reimbursement or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the sponsor of the reasons for such disallowance or demand, and the sponsor shall have full opportunity to submit evidence as provided for in § 225.5(w) or to resubmit a claim for any amount disallowed or demanded.

(e) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts with respect to program operation, evidence found in audits, investigations or other reviews shall be a basis for nonpayment of claims for reimbursement.

Subpart D—Miscellaneous Provisions

§ 225.15 Procurement provisions.

(a) This section provides standards for use by sponsors in establishing procedures for the procurement of food, supplies, goods, and other services with program payments. These standards are furnished to insure that such goods and services are obtained in an effective manner and in compliance with the provisions of applicable Federal laws and Executive orders.

(b) The standards contained in this section do not relieve the sponsor of the contractual responsibilities arising under its contracts. The sponsor is the responsible authority, without recourse to the State agency and the Department regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into under the program. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authorities as may have proper jurisdiction.

(c) Sponsors may use their own procurement regulation which reflect applicable State and local law, rules and regulations: *Provided,* That procurements made with program payments adhere to the provisions outlined in the Office of Management and Budget Circulars A-102 and A-110 and to the standards set forth as follows:

(1) The sponsor shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending program payments. The officers, employees, or agents, of a sponsor shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors on their own behalf or for others. To the extent permissable by State or local laws, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the sponsor's officers, employees, or agents, or by contractors or their agents.

(2) All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The sponsor shall be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(3) All sponsors shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(i) Proposed procurement actions shall be reviewed by sponsor's officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(ii) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured: Such description shall not, in competitive procurements, contain features which unduly restrict competiton. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and, when so used, the specific features of the name brand which must be met by offerors should be clearly specified.

(iii) Positive efforts shall be made by the sponsors to utilize small business and minority owned business as sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing program payments.

(iv) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the program. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(v) Formal advertising, with adequate purchase description, sealed

bids, and public openings shall be the required method of procurement

Consideration shall be given to such matters as contractor integrity, record

less than 1½ times the basic rate of pay for all hours worked in excess of 8

this section. Applicant sponsors shall not be approved for participation

oral and documentary evidence presented at the hearing and made a part

writing of the termination and reason for the termination, together with the

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bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (3)(vi) below is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the sponsor, price and other factors considered. (Factors such as discounts, transportation costs and taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the sponsor. Any or all bids may be rejected when it is in the sponsor's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(vi) Procurements may be negotiated it it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the sponsor if:

(1) The public exigency will not permit the delay incident to advertising; or

(2) The material or service to be procured is available from only one person or firm: (All contemplated sole source procurements where the aggregate expenditure is expected to exced $5,000 shall be referred to the State agency for prior approval); or

(3) The aggregate amount involved does not exceed $10,000; or

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college or other educational institutions; or

(5) No acceptable bids have been received after formal advertising; or

(6) The purchases are for highly perishable materials, for materials or services where the prices are established by law, if procured at the lowest applicable price for technical items or equipment requiring standardization and interchangeability of parts with existing equipment for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture; or

(7) Otherwise authorized by law, rules, or regulations. Notwithstanding the existence of circumstances justifying negotiaton, competition shall be obtained to the maximum extent practicable.

(vii) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(viii) Procurement records or files for purchases in amounts in excess of $10,000 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(ix) A system for contract administration shall be maintained to assure contractual conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

(d) The sponsor shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subcontracts:

(1) Contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts in amounts which are in excess of $10,000 shall contain suitable provisions for termination by the sponsor, including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) All contracts awarded by sponsors and their contractors or ubcontractors having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

(4) Where applicable, all contracts awarded by sponsors in excess of $2,500 which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek.

(5) Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods, or for exploration into fields which directly concern public health, safety, or welfare, or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Department and the sponsor. The contractor shall be advised as to the source of additional information regarding these matters.

(6) All negotiated contracts (except those of $10,000 or less) awarded by sponsors shall include a provision to the effect that the State agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts, and transcriptions.

(7) Contracts and subcontracts of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the State agency and the regional office of the Environmental Protection Agency.

§ 225.16 Prohibitions.

(a) The value of benefits and assistance available under the program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(b) Expenditure of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

§ 225.17 Free meal policy.

(a) The State agency shall require each applicant sponsor to develop, at the time the applicant sponsor applies for program participation, a written policy statement concerning free meals to be used uniformly at all sites under its jurisdiction as required in this section. Applicant sponsors shall not be approved for participation unless the free meal policy statement has been approved.

(b) A sponsor which serves all meals free to attending children shall develop a policy statement which consists of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin, and that there is no discrimination in the course of the food service.

(c) A camp which serves meals at no separate charge to attending children shall develop a policy statement which consists of an assurance to the State agency that all children are served the same meals at no separate charge, regardless of race, color, or national origin and that there is no discrimination in the course of the food service.

(d) A camp which charges separately for meals shall develop a policy statement for determining eligibility for free meals which shall include the following:

(1) The specific criteria to be used in determining eligibility for free meals. The camp's standards of eligibility shall be in conformity with the State's family size and income standards for free and reduced price school meals.

(2) A description of the method or methods to be used in accepting applications from families for free meals.

(3) A description of the method or methods to be used to collect payments from those children paying the full price of the meal which will protect the anonymity of the children receiving a free meal.

(4) An assurance that the camp will establish a hearing procedure which provides: (i) A simple, publicly announced method for a family to make an oral or written request for a hearing; (ii) an opportunity for the family to be assisted or represented by an attorney or other person in presenting its appeal; (iii) an opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal; (iv) that the hearing shall be held with reasonable promptness and convenience to the family and that adequate notice shall be given to the family as to the time and place of the hearing; (v) an opportunity for the family to present oral or documentary evidence and agreements supporting its position without undue interference; (vi) an opportunity for the family to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses; (vii) that the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal; (viii) that the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record; (ix) that the family and any designated representatives shall be notified in writing of the decision of the hearing official; (x) that a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and (xi) that such written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the family or its representatives at any reasonable time and place during such period.

(5) An assurance that there will be no identification of free meal recipients and no discrimination against any child on the basis of race, color, or national origin.

(e) The hearing procedure prescribed under paragraph (d)(4) of this section shall be followed when a camp challenges the eligibility of any child for a free meal. During the pendency of the challenge, the child shall continue to receive the free meal to which he is entitled under the eligibility standards announced by the camp based upon the information supplied in the application made by the family.

(f) Each sponsor shall make available on an annual basis to the information media serving the area from which the sponsor draws its attendance a public release announcing the availability of free meals to children. Each camp shall make available on an annual basis to all participants an announcement of the availability of free meals to children meeting the approved eligibility criteria. The public announcement must also state that meals are available to all children in attendance without regard to race, color, or national origin.

§ 225.18 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the program shall be in accordance with Attachment K of the Office of Management and Budget Circular A-110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A-102 (42 FR 45828, September 12, 1977), whichever is applicable.

(b) *Termination for clause.* The Department may terminate a State agency's participation in the program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the program. The Department shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date and shall allow the State 30 days to respond. In instances where the State does respond the Department shall inform the State of its final determination no later than 30 days after the State responds. A State agency shall terminate a sponsor's participation in the program by written notice whenever it is determined by FNS or the State agency that the sponsor has failed to comply with the conditions of the program. When participation in the program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* The Department and the State agency may terminate the State agency's participation in the program in whole, or in part, when both parties agree that the continuation of the program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations, as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in accordance with this paragraph.

(d) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part: *Provided, however,* That such additional requirements shall not deny the program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the program. The State agency shall, prior to imposing any additional requirements, receive approval from FNSRO.

§ 225.19 Program information.

Persons desiring information concerning the program may write to the appropriate State agency or regional office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 33

North Avenue, Burlington, Mass. 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Northeast Regional Office, FNS, U.S. Department of Agriculture, 1 Vahlsing Center, Robbinsville, N.J. 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, Ga. 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Ill. 60605.

(e) In the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Dallas, Tex. 75202.

(f) In the States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Denver, Colo. 80211.

(g) In the States of Arizona, California, Hawaii, Nevada, American Samoa, Guam, and Trust Territories: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, San Francisco, Calif. 94108.

(h) In the States of Alaska, Idaho, Oregon, and Washington: Northwest Regional Office, FNS, U.S. Department of Agriculture, 1015 Third Avenue, Seattle, Wash. 98104.

(i) In the State of Iowa: Central Regional Office, FNS, U.S. Department of Agriculture, 911 Walnut Street, Kansas City, Mo. 64106.

(j) In the States of Kansas, Missouri, Nebraska, and Iowa: Central Regional Office, FNS, U.S. Department of Agriculture, 911 Walnut Street, Kansas City, Mo. 64106.

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North Avenue, Burlington, Mass. 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, N.J. 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street NW., Atlanta, Ga. 30309.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, Ill. 60605.

(e) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430D, Denver, Colo. 80211.

(f) In the States of Arkansas, Louisiana, New, Mexico, Oklahoma, and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5-C-30, Dallas, Tex. 75242.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, Calif. 94108.

(Catalog of Federal Domestic Assistance Programs No. 10.559.)

NOTE.—A draft impact analysis statement has been prepared and can be obtained by contacting Jordan Benderly, Acting Director, Child Care and Summer Programs Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-9072.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: October 27, 1978.

BARBARA COLEMAN,
Acting Administrator,
Food and Nutrition Service.

[FR Doc. 78-30906 Filed 10-30-78; 8:45 am]

federal register

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THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF ENERGY

Economic Regulatory Administration

"TRANSFER" OR "PLANT GATE" PRICING OF NATURAL GAS LIQUIDS BY GAS PROCESSORS AND REFINERS

[3128-01]

Title 10—Energy

No. ERA-R-77-5, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461, Washitions for rulemaking concerning the "transfer price" issue. These petitions in effect request us to stay the effec-

that we did not, and did not intend to, establish a new substantive rule concerning transfer pricing in our Sep-

group or class or persons that has such an interest, and to give a concise summary of your proposed oral pres-

time limitations permit it to be presented for answer.

The presiding office will announce

V 43 / 211 OCT 31 1978

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION [1]

[Docket No. ERA-R- 77-5]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

"Transfer" or "Plant Gate" Pricing of Natural Gas Liquids by Gas Processors and Refiners

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Suspension of effective date of amendment; notice of public hearing concerning certain rulemaking petitions.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby suspends until further notice the effective date of that portion of amendment No. 1 to subpart K of the Mandatory Petroleum Price Regulations (10 CFR 212.161 et seq.), issued on September 14, 1978 (43 FR 42984, Sept. 21, 1978), which would delete the phrase, "including transfers between affiliated entities," from the provisions of 10 CFR 212.161(a). All other amendments to subpart K set forth in the above-cited notice become effective as scheduled on November 1, 1978.

The ERA also hereby gives notice of a public hearing to receive comments upon certain matters raised in recent petitions for rulemaking concerning the subject of "transfer" or "plant gate" pricing of natural gas liquids under subpart K, namely, whether the prohibition on "transfer pricing" under subpart K should be eliminated or modified, and allegations of procedural deficiencies in deleting the phrase in question. In addition to gas processors, ERA hopes to hear from independent marketers of natural gas liquid products and consumer groups and other members of the public.

Nothing in this notice or in the issuance of this notice is to be construed as a revision or modification of the agency's previously stated position that "transfer" pricing is not permitted under the current provisions of subpart K.

DATES: Hearing dates: Washington, D.C. hearing: December 7, 1978, 9:30 a.m., and continued if necessary at 9:30 a.m., at the same location of the next day or days.

Requests to speak by November 24, 1978, 4:30 p.m.

ADDRESSES: Requests to speak to: Public Hearing Management, Docket No. ERA-R-77-5, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Washington, D.C. hearing: 2000 M Street NW., Room 2105, Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures) Economic Regulatory Administration, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, 202-254-5201.

Rue Dann (Media Relations), Department of Energy, 2000 M Street NW., Room 6308E Washington, D.C 20461, 202-254-8690.

Nancy E. Williams (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 8222, Washington, D.C. 20461, 202-632-8494.

Cliff G. Russell or Kristina Clark, (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 5138, Washington, D.C. 20461, 202-566-9567.

SUPPLEMENTARY INFORMATION:

I. Background and general purpose of this proceeding.
II. Hearing procedures.

I. Background and General Purpose of This Proceeding

On September 14, 1978 (43 FR 42984, September 21, 1978), we issued a final rule amending portions of subpart K of the mandatory Petroleum Price Regulations (10 CFR 212.161 et seq.). Subpart K generally governs the pricing of natural gas liquids (NGLs) and natural gas liquid products (NGL products) produced in natural gas processing plants. The principal purpose of the final rule was to provide specific rules for the calculation and passthrough of allowable processing and marketing costs in NGL and NGL product prices.

As part of the final rule, we adopted an amendment to 10 CFR 212.161 which, among other things, deleted the phrase, "including transfers between affiliated entities," from the provisions of § 212.161(a). This was done, for the reasons generally set forth in 43 FR 42984, at 42994-42996, primarily to clarify the application of the existing regulations. We recognized the possibility that there might be some policy reasons for making a prospective change to the regulations to permit "transfer" or "plant gate" pricing, but we did not believe that we had adequate information upon which to assess the reasons pro and con or the impact of such a change.

Since the issuance of the September 14 notice, we have received several petitions for rulemaking concerning the "transfer price" issue. These petitions in effect request us to stay the effective date of the deletion of the phrase, "including transfers between affiliated entities," and to initiate further rulemaking proceedings to adopt a "transfer" or "plant gate" price approach.

The petitions assert various reasons for their requests. Some assert that the interpretation embodied in the September 14 notice is erroneous, or that in any event the issue should be decided in the context of pending formal requests for interpretation. Some also allege that they were unaware that the "transfer pricing" issue was under consideration in this proceeding, and that they therefore did not have adequate opportunity to comment on the subject. They also allege that the use of a "transfer price" is pervasive throughout the industry, and that a failure to permit transfer or plant gate pricing would have a number of undesirable effects, including aggravation of price disparities in the NGL industry, reduction in NGL supplies, and disruption of royalty or "net-back" arrangements, among other things.

You may inspect and copy the pertinent petitions at the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C. 20461 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. We have received petitions from the following parties to date: Gulf Oil Corp., dated October 20, 1978; Standard Oil Co. (Indiana), dated October 24, 1978; MAPCO Inc., et al., dated October 24, 1978; and Exxon Co., U.S.A., dated October 26, 1978.

These matters deserve public discussion. We are therefore scheduling a hearing for the receipt of public comment upon certain matters raised in these petitions, in order to assess what if any further action on our part may be appropriate. In addition to gas processors, we specifically invite independent NGL product marketers and consumer groups to participate.

In connection with our decision to conduct a hearing on these matters, we have determined to, and do hereby, suspend until further notice the effective date of that portion of the September 14 amendments that would delete the phrase, "including transfers between affiliated entities," from § 212.161(a). All other provisions adopted in the September 14 notice become effective as scheduled on November 1, 1978.

Our purpose in suspending the effective date of the particular language change discussed above is merely to assure gas processors, who have alleged that substantial confusion and uncertainty within the industry will result in the absence of this action, that we did not, and did not intend to, establish a new substantive rule concerning transfer pricing in our September 14 notice. We adhere to the position that the prior regulations did not permit transfer pricing, and we are therefore of the view that the particular language change was unnecessary. Accordingly, neither the amendment deleting this phrase nor the suspension of the effective date of this amendment represents a substantive change. However, because it has been represented to us that the action we took has caused confusion and uncertainty, we have decided to suspend the effective date of this amendment until we have had adequate opportunity to evaluate the petitioners' assertions of the desirability of a change in Subpart K to permit "transfer pricing" and their allegations of procedural deficiencies in deleting the phrase in question.

[1] Chapter II will be renamed at a later date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

II. Hearing Procedures

A. Procedure for Requests to Make Oral Presentations

The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" section of this notice. If necessary to present all testimony, hearings will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation at the hearings. The request should contain a phone number where you may be contacted through the day before the hearing. Since it may be necessary to limit the number of persons making such presentations, you should be prepared to describe your interest in this proceeding, and why you are a proper representative of a group or class or persons that has such an interest, and to give a concise summary of your proposed oral presentation.

We will notify each person selected to be heard before 4:30 p.m., November 29, 1978. Persons scheduled to speak at the hearings must bring 100 copies of their statement to the appropriate address indicated in the "ADDRESSES" section of this notice before December 6, 4:30 p.m., for the Washington, D.C. hearing.

B. Conduct of the Hearings

We reserve the right to select the persons to be heard at these hearings; to limit, consistent with this notice, the subjects on which they may be heard; to schedule their respective presentations; an to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

We will designate a DOE official to preside at the hearings, which will not be judicial or evidentiary-type in nature. Questions may be asked only by those conducting the hearings. We will base our decisions on all information available to the DOE. At the conclusion of all initial oral statements, each person who has made an oral statement may make a rebuttal statement. The rebuttal statements wil be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearings. Such questions must be submitted to the address indicated above for requests to speak, for the location concerned, three days before the hearings. If you wish to ask a question at the hearings, you may submit it, in writing, to the presiding officer. We will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

The presiding office will announce any further procedural rules needed for the proper conduct of the hearing.

We will have transcripts of the hearings made and we will retain the entire record of the hearings, including the transcripts, and make them available for inspection at the ERA office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 8 a.m and 4:30 p.m, Monday through Friday. You may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel or postpone the hearing, we will make every effort to publish advance notice in the Federal Register of such cancellation or postponement. Morcover, we will notify all persons scheduled to testify at the hearings. However, it is not possible to give actual notice of cancellations or schedule changes to persons not identified to us as participants. Accordingly, persons desiring to attend a hearing are advised to contact us on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., October 30, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-30951 Filed 10-30-78; 11:28 am]

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